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Monday
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Presidential Documents

Title 3—

The President

Proclamation 6288 of October 11, 1990

White Cane Safety Day, 1990

By the President of the United States of America

A Proclamation

The white cane is a simple yet effective tool that enables many of America's citizens with visual impairments to enjoy greater independence and freedom of movement. This familiar device helps visually impaired individuals to navigate through their environment safely, avoiding physical barriers and hazards.

For millions of Americans, both those with visual disabilities and those without, the white cane is also a symbol of dignity and determination. It is a tangible reminder that those Americans who have impaired eyesight possess not only the desire but also the ability to lead full, independent, and productive lives.

Each year, during the observance of White Cane Safety Day, we renew our commitment to eliminating physical and attitudinal barriers that continue to hinder the full participation of blind persons in our society. On this White Cane Safety Day we also celebrate the Americans with Disabilities Act of 1990, which I signed into law on July 26, 1990. A declaration of equality for persons with disabilities, this historic legislation guarantees these citizens protection against discrimination as well as greater opportunities to participate in the mainstream of American life.

In recognition of the white cane and all that it symbolizes, the Congress, by Joint Resolution approved October 6, 1964, has authorized the President to designate October 15 of each year as "White Cane Safety Day."

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim October 15, 1990, as White Cane Safety Day. I urge all Americans to show respect for those who carry the white cane and to honor, through appropriate ceremonies and activities, their many achievements.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of October, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.

George Bush

[FR Doc. 90-24228
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Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV-90-127FR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Rename Pink Grapefruit as Red Grapefruit

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule changes the name for certain grapefruit covered under the marketing order for oranges, grapefruit, tangerines, and tangelos grown in Florida. All grapefruit currently classified as pink are reclassified red as the result of this action. The Citrus Administrative Committee (CAC) unanimously recommended this change to make the marketing order name conform with the name used by the Florida Citrus Commission (FCC) and to maintain standardized terminology within the Florida citrus industry.

EFFECTIVE DATE: October 15, 1990.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 475–3918.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Marketing Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

The rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are about 100 Florida citrus handlers subject to regulation under the marketing order covering oranges, grapefruit, tangerines, and tangelos grown in Florida. In addition, there are about 13,000 producers of these citrus fruits in Florida. There are also about 25 importers of grapefruit. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. A minority of these handlers and a majority of the producers and a majority of importers may be classified as small entities.

A proposed rule concerning this action was published in the Federal Register (55 FR 30922, July 30, 1990), with a 30-day comment period ending on August 29, 1990. No comments were received.

This action adds a new § 905.105 to the rules and regulations under the order to change the name of certain grapefruit from pink to red. Section 905.5 (7 CFR 905.5) of the marketing order defines fruit regulated under the marketing order and authorizes the addition of other fruit specified in § 905.4 (7 CFR 905.4), as recommended by the CAC and approved by the Secretary. This action merely changes the name of certain grapefruit.

This action also amends § 905.306 (7 CFR 905.306) of the rules and regulations, which specifies for both domestic and export markets minimum grade and size requirements for grapefruit grown in Florida. The entries for grapefruit in paragraph (a), Table I, and in paragraph (b), Table II, of § 905.306, are revised to change the term "pink" to "red" to bring these provisions of this section into conformity with the new name.

While the proposed rule indicated that certain grapefruit varieties were being redefined, the intent of the proposal was merely to change the name of certain classifications of grapefruit from pink to red, not redefine the varieties. Therefore, appropriate terminology changes have been made in this final rule to recognize this fact.

The CAC recommended this action following the Florida Citrus Commission's (FCC) action which changed the name of pink grapefruit to red grapefruit in that organization's citrus shipping manifests. The FCC made this change in light of production shifts to redder grapefruit varieties in Florida. This action is intended to make the marketing order grapefruit name the same as the FCC's name, thereby standardizing terminology and helping prevent industry and market confusion when grapefruit is referred to in marketing, cultural, and statistical materials. The marketing order has traditionally used the same terminology as that developed by the FCC to define the various classifications and groupings of Florida citrus, and this action maintains that practice.

Section 8e of the Act (7 U.S.C. 608e–1) provides that whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities. Section 8e also provides that whenever two or more marketing orders regulate the same commodity produced in different areas of the United States, the Secretary shall determine which area the imported commodity is in most direct competition with and apply the regulations for that area to the imported commodity.

Grapefruit import requirements are specified in § 944.106 (7 CFR part 944), and are effective under section 8e of the Act. That section requires that grapefruit imported into the United States must meet the same minimum grade and size requirements as those specified for each grapefruit variety listed in Table I of paragraph (a) in § 905.306. Since this action renames pink grapefruit as red grapefruit under the marketing order, the name changes also apply to the grapefruit import regulation. However, no change to the provisions of the import regulation is needed to implement this name change.

This action reflects the CAC's and the Department's appraisal of the need to make the name change for grapefruit, as hereinafter set forth. The Department's view is that this action will have a beneficial impact on producers and handlers since it maintains standardized terminology for grapefruit within the Florida citrus industry and should lessen the chances of market and industry confusion.

Based on the above, the Administrator of the AMS has determined that this change will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, the information and recommendations submitted by the CAC, and other available information, it is found that this action will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because: (1) Shipment of the 1990–91 season Florida grapefruit crop has begun and Florida grapefruit handlers should start using the new names as soon as possible; (2) Florida grapefruit handlers are aware of these terminology changes which were recommended by the CAC at a public meeting and they will need no additional time to make the changes; (3) this action should be implemented as soon as possible, so that standardized terms are used within the Florida grapefruit industry; (4) the proposed rule provided a 30-day comment period, and no comments were received; and (5) no useful purpose will be served by delaying the effective date until 30 days after publication.

List of Subjects in 7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

For the reasons set forth in the preamble, 7 CFR part 905 is amended to read as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

1. The authority citation for 7 CFR part 905 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. New § 905.105 is added to subpart—Rules and Regulations to read as follows:

Note: This section will appear in the annual Code of Federal Regulations.

§ 905.105 Grapefruit classifications.

Pursuant to § 905.5(m), the following classifications of grapefruit are renamed as follows:

(a) Marsh and other seedless grapefruit, excluding pink grapefruit, are renamed as Marsh and other seedless grapefruit, excluding red grapefruit;

(b) Duncan and other seeded grapefruit, excluding pink grapefruit, are renamed as Duncan and other seeded grapefruit, excluding red grapefruit;

(c) Pink seedless grapefruit, is renamed as Red seedless grapefruit;

(d) Pink seeded grapefruit, is renamed as Red seeded grapefruit.

3. Section 905.306 is amended by revising the entries for grapefruit in paragraph (a), Table I, and in paragraph (b), Table II, to read as follows:

Note: This section will appear in the annual Code of Federal Regulations.

§ 905.306 Orange, Grapefruit, Tangerine, and Tangelo Regulation 6.

(a) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
[illegible]FRUIT			
Seeded, except red	On and after 12/07/81	U.S. No. 1	3 1/16
Seeded, red	On and after 12/07/81	U.S. No. 1	3 1/16
Seedless, except red	03/05/90–08/19/90	U.S. No. 2 (External), U.S. No. 2 (Internal)	3 1/16
	On and after 08/20/90	Improved No. 2 (External), U.S. No. 1 (Internal)	3 1/16
Seedless, red	01/22/90–08/19/90	U.S. No. 2 (External), U.S. No. 2 (Internal)	3 1/16
	08/20/90–10/21/90	Improved No. 2 (External), U.S. No. 1 (Internal)	3 1/16
	On and after 10/22/90	Improved No. 2 (External), U.S. No. 1 (Internal)	3 1/16

(b) * * *

TABLE II

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
[illegible]RUIT			
Seeded, except red	On and after 12/07/81	U.S. No. 1	3 1/16
Seeded, red	On and after 12/07/81	U.S. No. 1	3 1/16
Seedless, except red	01/22/90–08/19/90	U.S. No. 2 (External), U.S. No. 1 (Internal)	3 1/16
	On and after 08/20/90	Improved No. 2 (External), U.S. No 1 (Internal)	3 1/16

TABLE II—Continued

Variety (1)	Regulation period (2)	Minimum grade (3)	Minimum diameter (inches) (4)
Seedless, red	03/05/90–06/19/90	U.S. No. 2 (External), U.S. No. 2 (Internal)	3⅛
	On and after 06/20/90	Improved No. 2 (External), U.S. No. 1 (Internal)	3⅛

Dated: October 10, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-24250 Filed 10-12-90; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 910

[Lemon Regulation 739]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to domestic markets during the period from October 14 through October 20, 1990. Consistent with program objectives, such action is needed to balance the supplies of fresh lemons with the demand for such lemons during the period specified. This action was recommended by the Lemon Administrative Committee (Committee), which is responsible for local administration of the lemon marketing order.

EFFECTIVE DATES: Regulation 739 (7 CFR part 910) is effective for the period from October 14 through October 20, 1990.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture (Department), room 2524–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 475–3861.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order 910 (7 CFR part 910), as amended, regulating the handling of lemons grown in California and Arizona. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the Act.

This final rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities as well as larger ones.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 70 handlers of lemons grown in California and Arizona subject to regulation under the lemon marketing order and aproximately 2,000 lemon producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona lemons may be classified as small entities.

The California-Arizona lemon industry is characterized by a large number of growers located over a wide area. The Committee's estimate of the 1990–91 production is 42,140 cars (one car equals 1,000 cartons at 38 pounds net weight each), compared to 37,861 cars during the 1989–90 season. The production area is divided into three districts which span California and Arizona. The Committee estimates District 1, central California, 1990–91 production at 6,600 cars compared to the 4,158 cars produced in 1989–90. In District 2, southern California, the crop is expected to be 24,700 cars compared to the 24,292 cars produced last year. In District 3, the California desert and Arizona, the Committee estimates a production of 10,840 cars compared to the 9,436 cars produced last year. On October 11, 1990, the National Agricultural Statistics Service will publish an estimate of the 1990–91 lemon crop.

The three basic outlets for California-Arizona lemons are the domestic fresh, export, and processing markets. The domestic (regulated) fresh market is a preferred market for California-Arizona lemons. Based on its crop estimate of 42,140 cars, the Committee estimates as of October 2 that about 42.5 percent of the 1990–91 crop will be utilized in fresh domestic channels (17,900 cars), compared with the 1989–90 total of 16,600 cars, about 44 percent of the total production of 37,861 cars in 1989–90. Fresh exports are projected at 20.1 percent of the total 1990–91 crop utilization compared with 22 percent in 1989–90. Processed and other uses would account for the residual 37.4 percent compared with 34 percent of the 1989–90 crop.

Volume regulations issued under the authority of the Act and Marketing Order No. 910 are intended to provide benefits to growers and consumers. Reduced fluctuations in supplies and prices result from regulating shipping levels and contribute to a more stable market. The intent of regulation is to achieve a more even distribution of lemons in the market throughout the marketing season and to avoid unreasonable fluctuations in supplies and prices.

Based on the Committee's marketing policy, the crop and market information provided by the Committee, and other information available to the Department, the costs of implementing the regulations are expected to be more than offset by the potential benefits of regulation.

Reporting and recordkeeping requirements under the lemon marketing order are required by the Committee from handlers of lemons. However, handlers in turn may require individual growers to utilize certain reporting and recordkeeping practices to enable handlers to carry out their functions. Costs incurred by handlers in connection with recordkeeping and reporting requirements may be passed on to growers.

The Committee submitted its marketing policy for the 1990-91 season to the Department on June 19. The marketing policy discussed, among other things, the potential use of volume and size regulations for the ensuing season. The Committee considered the use of volume regulation for the season. This marketing policy is available from the Committee or Ms. Rodriguez. The Department reviewed that policy with respect to administrative requirements and regulatory alternatives in order to determine if the use of volume regulations would be appropriate.

The Committee met publicly on October 9, 1990, in Redlands, California, to consider the current and prospective conditions of supply and demand and unanimously recommended that 325,000 cartons is the quantity of lemons deemed advisable to be shipped to fresh domestic markets during the specified week. The marketing information and data provided to the Committee and used in its deliberations were compiled by the Committee's staff or presented by Committee members at the meeting. This information included, but was not limited to, price data for the previous week from Department market news reports and other sources, the preceding week's shipments and shipments to date, crop conditions, weather and transportation conditions, and a reevaluation of the prior week's recommendation in view of the above.

The Department reviewed the Committee's recommendation in light of the Committee's projections as set forth in its 1990-91 marketing policy. This recommended amount is the same as the estimated projections in the Committee's current shipping schedule.

During the week ending on October 6, 1990, shipments of lemons to fresh domestic markets, including Canada, totaled 308,000 cartons compared with 282,000 cartons shipped during the week ending on October 7, 1989. Export shipments totaled 168,000 cartons compared with 184,000 cartons shipped during the week ending on October 7, 1989. Processing and other uses accounted for 227,000 cartons compared with 211,000 cartons shipped during the week ending on October 7, 1989.

Fresh domestic shipments to date for the 1990-91 season total 2,048,000 cartons compared with 2,215,000 cartons shipped by this time during the 1989-90 season. Export shipments total 1,201,000 cartons compared with 1,441,000 cartons shipped by this time during 1989-90. Processing and other use shipments total 2,215,000 cartons compared with 1,330,000 cartons shipped by this time during 1989-90.

For the week ending on October 6, 1990, regulated shipments of lemons to the fresh domestic market were 308,000 cartons on an adjusted allotment of 358,000 cartons which resulted in net undershipments of 50,000 cartons. Regulated shipments for the current week (October 7 through October 13, 1990) are estimated at 310,000 cartons on an adjusted allotment of 344,000 cartons. Thus, undershipments of 34,000 cartons could be carried over into the week ending on October 20, 1990.

The average f.o.b. shipping point price for the week ending on October 8, 1990, was $14.03 per carton based on a reported sales volume of 310,000 cartons compared with last week's average of $14.20 per carton on a reported sales volume of 207,000 cartons. The 1990-91 season average f.o.b. shipping point price to date is $13.13 per carton. The average f.o.b. shipping point price for the week ending on October 7, 1989, was $15.12 per carton; the season average f.o.b. shipping point price at this time during 1989-90 was $14.71 per carton.

The Department's Market News Service reported that, as of October 9, the demand for choice quality fruit is moderate and demand for first grade quality fruit is "fairly light". The market for 75's and first grade fruit ranging in size from 95's to 165's is lower while for 200's to 235's and 115's choice quality fruit, the market is higher. At the meeting, a Committee member commented that demand for lemons continues to be good. There is some inventory build-up on choice grade fruit and some softer build-up on fancy grade lemons in District 3. The Committee member indicated that volume regulation is still greatly desired to help ensure an orderly market. Another Committee member stated that demand is strong, especially on small-sized (140's and smaller) fancy grade fruit. The member also indicated that volume regulation is needed to prevent a disorderly market with District 2 winding down, production in District 3 peaking the District 1 soon beginning harvesting. The Committee unanimously recommended volume regulation for the period from October 14 through October 20, 1990.

Based upon fresh utilization levels indicated by the Committee and an econometric model developed by the Department, the California-Arizona 1989-91 season average fresh on-tree price is estimated at $6.88 per carton, 107 percent of the projected season average fresh on-tree parity equivalent price of $6.24 per carton. The California-Arizona 1989-90 season average fresh on-tree price is estimated at $9.02, 121 percent of the projected season average fresh on-tree parity equivalent price.

Limiting the quantity of lemons that may be shipped during the period from October 14 through October 20, 1990, would be consistent with the provisions of the marketing order by tending to establish and maintain, in the interest of producers and consumers, an orderly flow of lemons to market.

Based on considerations of supply and market conditions, it is found that this action will tend to effectuate the declared policy of the Act.

Based on the above information, the Administrator of the AMS has determined that issuance of this rule will not have a significant economic impact on a substantial number of small entities.

Pursuant to 5 U.S.C. 553, it is further found and determined that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register. This is because there is insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act.

In addition, market information needed for the formulation of the basis for this action was not available until October 9, 1990, and this action needs to be effective for the regulatory week which begins on October 14, 1990. Further, interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and handlers were apprised of its provisions and effective time. It is necessary, therefore, in order to effectuate the declared purposes of the Act, to make this regulatory provision effective as specified.

List of Subjects in 7 CFR Part 910

Lemons, Marketing agreements, and Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR part 910 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 910.1039 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 910.1039 Lemon Regulation 739.

The quantity of lemons grown in California and Arizona which may be handled during the period from October 14 through October 20, 1990, is established at 325,000 cartons.

Dated: October 10, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-24274 Filed 10-12-90; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 958

[Docket No. FV-90-122]

Onions Grown in Designated Counties in Idaho and Malheur County, Oregon; Final Rule to Revise Inspection Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department is adopting as a final rule the provisions of an interim final rule that allowed onions that have been inspected and certified as meeting marketing order requirements and that are subsequently peeled, chopped, sliced or otherwise further prepared for fresh market to be shipped without being reinspected. The intent of this action is to allow handlers of Idaho-Eastern Oregon onions to expand their markets and provide the trade with a product it desires.

EFFECTIVE DATES: November 14, 1990.

FOR FURTHER INFORMATION CONTACT: Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456, telephone (202) 447-2020.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 130 and Marketing Order No. 958 (7 CFR part 958), both as amended, regulating the handling of onions grown in certain designated counties in Idaho and Malheur County, Oregon. The marketing agreement and order are authorized by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This final rule has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 30 handlers and 450 producers of Idaho-Eastern Oregon onions under this marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers may be classified as small entities.

The vast majority of onions grown in the Idaho-Eastern Oregon production area are utilized in fresh market outlets. About 10 percent of the crop is processed. Onions destined for fresh markets are subject to the grade, size, maturity, pack and container requirements specified in § 958.328. Currently, fresh shipments are required to be at least U.S. No. 2 grade, with a minimum diameter of 1 inch for white varieties and 1⅛ inches for all other varieties.

Under the terms of the marketing order, onions that are shipped to processors for dehydration, canning, freezing, extraction or pickling are exempt from the handling regulation, subject to certain safeguard procedures. Exemptions are also provided for minimum quantities, certain types of onions (e.g. braided red onions) and onions for other specified purposes, including planting.

Onions subject to the handling regulation are required to be inspected by the Federal-State Inspection Service (FSIS) and be covered by a valid inspection certificate at the time of shipment. Pursuant to § 958.60(b) of the order, regarding, resorting or repacking any lot of onions invalidates any inspection certificate issued prior to rehandling. Handlers who ship onions that are regraded, resorted, repacked or in any other way further prepared for market are therefore required to have such onions reinspected.

The interim final rule was issued on July 25, 1990, and published in the Federal Register July 31, 1990. The interim final rule revised these inspection requirements by providing that onions that have been inspected and certified as meeting marketing order requirements and that are subsequently peeled, chopped, sliced or otherwise further prepared for fresh market, are exempt from the reinspection requirement. This action is authorized by §§ 958.53 and 958.60 of the marketing order.

Recently, there has been increased interest by handlers in the production area in mechanically peeling onions and marketing them as fresh onions. These onions are being prepared for use primarily by foodservice establishments. Such onions are for immediate use in the fresh form in salad bars and condiment stands. Onions that have been peeled, chopped or sliced are desired by the trade because of the convenience of handling the product. Foodservice operators are able to provide a quality product with minimal effort and reduced labor costs.

However, peeled onions are generally unable to meet the established minimum grade requirement because of the damage incurred during the peeling process. In addition to having the outer layers of skin removed, mechanically peeled onions often have their tops (stem ends) and bottoms (root ends) removed. During this process the inner, fleshy onion layers may also be cut. If the inner layers are cut, such onions are scored as having serious grade defects, and are unable to meet the minimum grade requirement. This would be true even though, prior to alteration, the onions had met marketing order requirements. The interim final rule provided that if onions meet the fresh market quality requirements prior to being peeled, sliced or chopped, handlers may ship these onions to fresh markets without reinspection. Therefore, such onions are not subject to reinspection subsequent to peeling, chopping or slicing. This action helps to expand markets for the Idaho-Eastern Oregon onion industry, and thereby improves returns to producers and handlers.

This action was unanimously recommended by the Idaho-Eastern Oregon Onion Committee (committee), the agency responsible for local administration of the marketing order. In its deliberations, the committee considered several alternative means of facilitating the movement of peeled,

chopped or sliced onions. Included was an exemption for such onions from all handling requirements, including that of an initial inspection. The committee rejected this option, however, because it believes that peeled onions compete directly in the marketplace with other fresh packed onions. As such, it is necessary that these onions be subject to the same minimum quality standards so as not to thwart the industry's objective of providing acceptable quality onions to all fresh market outlets. To allow uninspected cull onions to be used for this purpose would be contrary to this goal, which the industry believes is necessary to maintain and increase its share of the fresh onion market.

Safeguard procedures are established to ensure that only onions of acceptable quality are peeled, sliced or chopped for the fresh market. Handlers shipping onions for this purpose are required to submit to the committee a copy of the inspection certificate issued by the FSIS. This certificate will serve to verify that the onions had been inspected and the minimum marketing order requirements had been met. Such handlers are also required to document on forms provided by the committee, in quadruplicate, the intended use and destination of the onions, referencing the inspection certificate number. Two copies of such forms must be sent on shipment to the handler intending to peel, chop or slice the onions for fresh market, and one copy must be mailed to the committee. The handler responsible for peeling, chopping or slicing the onions is then required to document the weight of the finished product and promptly return one signed copy of the form to the committee.

Handlers in the production area that peel, slice or chop onions grown outside the production area are required to provide the committee with documentation to verify that the onions so handled were not subject to the initial inspection requirement.

These reporting requirements are necessary to enable the committee to determine whether peeled, sliced or chopped onions had been previously inspected and whether they were in compliance with the applicable minimum quality requirements.

The interim final rule also made minor revisions in the introductory paragraph and paragraphs (c) and (f) of § 958.328 that appear in this final rule. These revisions were needed to make conforming changes to those paragraphs.

In compliance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the information collection requirements contained in this final rule have been approved by the Office of Management and Budget (OMB), and have been assigned OMB No. 0581–0067.

The interim final rule published in the July 31, 1990, Federal Register (55 FR 31034) afforded interested person until August 30, 1990, to submit written comments. No comments were received.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 958

Marketing agreements, Onions, Reporting and recordkeeping requirements.

PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

1. The authority citation for 7 CFR part 958 continues to read as follows:

Authority: Sections. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

For the reasons set forth in the preamble, the interim final rule amending 7 CFR part 958 which was published at 55 FR 31034 on July 31, 1990, is adopted as a final rule without change.

Dated: October 10, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-24291 Filed 10-12-90; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8313]

RIN 1545-AP09

Exception From the Prohibition of Federal Guarantees—Permitted Investments of Tax-Exempt Bond Proceeds

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the prohibition of federal guarantees with respect to bonds the interest on which is excludable from gross income. The Tax Reform Act of 1984 changed the applicable law and, with certain exceptions, provides that interest on a bond issued by a state or local governmental unit is not excludable from gross income if payment of the bond's principal or interest is directly or indirectly guaranteed by the United States (or any agency or instrumentality thereof). These temporary regulations provide that investments in obligations issued by the Resolution Funding Corporation pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 are excepted from the prohibition of federal guarantees. The text of the temporary regulations set forth in this document also serves as the text of the notice of proposed regulations cross-referenced in the proposed rules section of this issue of the Federal Register.

EFFECTIVE DATE: These temporary regulations are effective for investments made on or after October 2, 1989.

FOR FURTHER INFORMATION CONTACT: William P. Cejudo, 202–566–3289 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document adds temporary regulations to the Income Tax Regulations (26 CFR part 1) under section 149(b) of the Internal Revenue Code. The provisions currently found in section 149(b) were added to the Code by section 622 of the Tax Reform Act of 1984, Public Law No. 98–369, 98 Stat. 694, 910–21.

Explanation of Provisions

Under section 149(b) of the Code, if a state or local bond is federally guaranteed, interest on the bond is not excludable from gross income under section 103(a). A bond is federally guaranteed if: (a) The payment in whole or in part of the bond's interest or principal is guaranteed by the United States (or any agency or instrumentality thereof), (b) a significant portion of the bond's proceeds are used to make federally guaranteed loans, (c) a significant portion of the bond's proceeds are invested in federally insured deposits in financial institutions, or (d) the payment of the bond's principal or interest is otherwise indirectly guaranteed in whole or in part by the United States (or any agency or instrumentality thereof). Without this

provision, a federally guaranteed state or local bond would be more attractive than either taxable federal securities or other state and local bonds lacking federal guarantees, because the bond would have the backing and safety of a federal obligation plus the federal tax exemption of a state or local obligation.

Section 149(b)(3)(B) of the Code lists four specific exceptions to the prohibition of a federal guarantee. It also allows as exceptions other investments permitted in regulations. These temporary regulations exempt investments in obligations issued by the Resolution Funding Corporation from the prohibition of federal guarantees. The regulations are effective for investments made on or after October 2, 1990.

Special Analyses

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a final Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is William P. Cejudo, Office of the Assistant Chief Counsel (Financial Institutions and Products), Internal Revenue Service. However, other personnel from the Service and Treasury Department participated in their development.

List of Subjects in 26 CFR 1.61—1.281–4

Deductions, Exemptions, Income taxes, Reporting and recordkeeping requirements, Taxable income.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—[AMENDED]

Paragraph 1. The authority for part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805 * * *

§ 1.149(b)(3)–1T also issued under 26 U.S.C. 149(b)(3)(B)(v).

Par. 2. The following new § 1.149(b)(3)–1T is added in the appropriate place:

§ 1.149(b)(3)–1T Permitted investments (temporary).

(a) *Exception under authority of section 149(b)(3)(B)(v).* Section 149(b)(1) does not apply to investments in obligations issued pursuant to section 21B(d)(3) of the Federal Home Loan Bank Act, as amended by section 511(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, or any successor provision to section 21B(d)(3) of the Federal Home Loan Bank Act as so amended.

(b) *Effective date.* This section applies to investments made on or after October 2, 1990.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

Approved: October 5, 1990.

Fred T. Goldberg, Jr.,
Commissioner of Internal Revenue.

Kenneth W. Gideon,
Assistant Secretary of the Treasury.

[FR Doc. 90–24219 Filed 10–10–90; 11:51 am]
BILLING CODE 4830–01–M

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26 CFR Parts 1 and 602

[T.D. 8315]

RIN 1545–AJ26

Look-Back Method for Long-term Contracts

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final Income Tax Regulations relating to the look-back method of section 460(b) of the Internal Revenue Code for long-term contract income reported under the percentage of completion method of accounting. The look-back method was enacted by the Tax Reform Act of 1986 (the "1986 Act"), Public Law 99–514, and amended by the Technical and Miscellaneous Revenue Act of 1988 (the "1988 Act"), Public Law 100–647, and the Revenue Reconciliation Act of 1989 (the "1989 Act"), Public Law 101–239. The purpose of the look-back method is to compensate for deferral or acceleration of contract income that results from the use of estimated, rather than actual, total contract price and contract costs in applying the percentage of completion method. Taxpayers are required to pay interest if long-term contract income is deferred, and are entitled to receive interest if long-term contract income is accelerated, under the percentage of completion method. These regulations provide the public with guidance as to how interest is computed under the look-back method, and also include simplified methods to reduce the complexity of computing interest under the look-back method.

EFFECTIVE DATE: These regulations are effective with respect to contracts entered into after February 28, 1986; however, § 1.460–6(d) (regarding the application of the simplified marginal impact method to domestic contracts of widely held pass-through entities) does not apply to any contract completed in a tax year for which the due date (determined with regard to extensions) of the return is before November 10, 1988.

FOR FURTHER INFORMATION CONTACT: Cheryl Oseekey of the Office of the Assistant Chief Counsel (Income Tax and Accounting), (202) 566–3024 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504 (h)) under control number 1545–1031. The estimated average annual burden per respondent is 13 hours and 55 minutes. This time estimate is included in the burden of Form 8697.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents may require greater or less time, depending on their particular circumstances.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:FP, Washington, DC 20224, and to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Background

On June 12, 1990, the Federal Register published proposed amendments to the Income Tax Regulations (26 CFR part 1) relating to the look-back method for long-term contracts under section 460(b) of the Internal Revenue Code. See 55 FR 23755. Written comments were submitted by seven organizations or individuals and a public hearing was held on August 24, 1990. The preamble to the proposed regulations stated that a Treasury Decision adopting the proposed regulations with respect to the simplified marginal impact method in § 1.460-6(d), and the delayed reapplication method in § 1.460-6(e), was expected to be issued no later than September 17, 1990.

This document adds new § 1.460-6 to part 1 of title 26 of the Code of Federal Regulations. These regulations conform the Income Tax Regulations to the requirements of section 460(b) of the Code, as enacted by section 804(a) of the 1988 Act and as amended by sections 1006(c)(2) and 5041(d) of the 1988 Act, and sections 7621(b) and 7811(e) of the 1989 Act.

Explanation of Provisions

In General

Section 460(b) of the Code provides that, upon the completion of any long-term contract, the look-back method is applied to amounts reported under the contract using the percentage of completion method. The percentage of completion method requires the use of estimates of total contract price and total contract costs for reporting income in years prior to the year of contract completion. The look-back method is intended to offset the time-value effects of using estimates during the life of a contract that differ from the actual amounts determined upon the completion of the contract.

Under the look-back method, taxpayers are required to pay interest if tax liability is deferred as a result of underestimating the total contract price or overestimating total contract costs. Conversely, taxpayers are entitled to receive interest if tax liability is accelerated as a result of overestimating the total contract price or underestimating total contract costs. The amount of interest a taxpayer is required to pay or is entitled to receive under the look-back method is computed by applying the overpayment rate established by section 6621(a)(1), compounded daily, to the difference between the tax liability reported and the tax liability that would have been reported if the taxpayer had reported income on the basis of the actual contract price and the actual contract costs instead of the estimated contract price and costs (the "hypothetical underpayment" or "hypothetical overpayment"). Congress provided the look-back method to prevent harsh results that would otherwise be produced by the percentage of completion method if, for example, an overall loss is experienced on a contract. H.R. Rep. No. 426, 99th Cong., 1st Sess. 628 (1985), 1986-3 (Vol. 2) C.B. 628.

The look-back method involves only the computation of interest with respect to hypothetical underpayments or overpayments of tax liability attributable to the use of estimated, rather than actual, contract price and contract costs and, accordingly, has no effect on the amount of tax liability reported for a previous tax year. For example, if the tax rates in effect during the second year of a 2-year contract are lower than tax rates in effect during the first year, and if contract income was accelerated to the first year of the contract because estimated contract costs were lower than actual contract costs, interest is credited to the taxpayer on the hypothetical overpayment of tax for the first year based on the tax rate actually in effect for that year. The taxpayer would not be entitled, however, to a refund representing the amount of tax that would have been saved by applying the lower tax rate in effect for the second tax year to the amount of income accelerated to the first year of the contract. The look-back method, therefore, by design only corrects for timing differences, not permanent differences in tax liability that result from over- or underestimation of contract price and costs. Accordingly, the look-back method does not replace the requirement to properly estimate total contract price and contract costs in reporting income under the percentage of completion method for each year of a contract. For this reason, taxpayers' estimates remain subject to verification upon audit. See Notice 89-15, 1989-1 C.B. 634, Q & A 24 through Q & A 27, for rules for estimating the total contract price and total contract costs.

Operation of the Look-Back Method

The amount of interest charged or credited to a taxpayer under the look-back method is generally computed in three steps. The first step is to reapply the percentage of completion method to completed contracts using the actual, rather than estimated, contract price and contract costs. Income from the contract is thus reallocated among prior tax years. The second step is to compare what the tax liability for each affected year would have been if income had been reported as reallocated under the look-back method with the tax liability that was previously determined. If, for any year, there is a difference between these two amounts, the difference is treated as a hypothetical underpayment or overpayment of tax. The third step is to apply the rate of interest on overpayments established by section 6621 of the Code, compounded daily, to the hypothetical underpayment or overpayment of tax, from the year of the underpayment or overpayment until the year the contract was completed. The result is the amount of interest to be paid by or credited to the taxpayer. The regulations illustrate the three steps involved in applying the look-back method.

Simplified Method

The regulations provide a "simplified marginal impact method," which generally simplifies the application of Step Two of the look-back method by eliminating the requirement to determine what a taxpayer's tax liability would have been if income were reported on the basis of actual contract price and actual contract costs. Under the simplified marginal impact method, a taxpayer reapplies the percentage of completion method, using the actual, rather than estimated, total contract price and total contract costs, to all contracts that are completed or adjusted in a particular year. The taxpayer then computes the aggregate marginal increase or decrease in income, from those contracts only, for each tax year affected by those contracts. This increase or decrease in income for each affected tax year is generally deemed to give rise to a hypothetical overpayment or underpayment of tax determined at the highest statutory tax rate in effect for that year under section 1, in the case of an individual, and section 11, in the case of a corporation (currently 28 percent and 34 percent, respectively).

In accordance with section 460(b)(4) of the Code, as added by section 5041 (d) of the 1988 Act, the simplified marginal impact method must be used with respect to income from domestic long-term contracts of a widely held partnership, S corporation, or trust. With respect to this required application, the simplified marginal impact method is applied at the entity rather than at the owner level. In addition, hypothetical overpayments or underpayments of tax liability are deemed to arise at the highest statutory tax rate in effect for the majority of the entity's owners without regard to the actual tax rates or tax attributes of each of the owners.

The regulations also make the simplified marginal impact method available in the case of contracts that are not subject to the statutory simplified method. This extension results from a concern about the administrative burdens that would be imposed on taxpayers in the absence of this simplified method. Considerable complexity arises because a taxpayer otherwise must fully recompute tax liability for several years at a time and, in addition, recompute tax liability multiple times for the same year when the look-back method is applied to a year for which the tax liability has previously been recomputed under the look-back method. Additional complexity results because the time period for determining the amount of interest charged or credited to a taxpayer must be adjusted when the look-back method affects tax attributes such as net operating loss or credit carryovers and carrybacks that change the time period that a hypothetical underpayment or overpayment of tax was actually available to the taxpayer or the government.

The simplified marginal impact method simplifies the computation of hypothetical overpayments and underpayments and, in some cases, the time period for charging or crediting interest. Therefore, the regulations also permit C corporations, owners of widely held pass-through entities with respect to foreign contracts, owners of closely held passthrough entities, and sole proprietors to elect the simplified marginal impact method. The simplified marginal impact method is made available to these taxpayers under the authority of section 460(h), which provides that the Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 460.

A taxpayer that either is required to or elects to use the simplified marginal impact method must apply the method to all of the taxpayer's completed long-term contracts. If, however, the amount of income originally reported with respect to a long-term contract for any redetermination year exceeds the amount of income reallocated under the look-back method with respect to that contract for that year (*i.e.*, using actual contract price and contract costs) by the lesser of $1,000,000 or 20 percent of the amount of income reallocated under the look-back method with respect to that contract for that year, the regulations provide that the Commissioner may require a taxpayer that uses the simplified marginal impact method to apply the look-back method to that contract as if the simplified method did not apply. In determining whether to exercise this authority, the district director may take into account whether the taxpayer overreported income for a purpose of receiving interest on a hypothetical overpayment determined at the highest statutory tax rate. The district director also may take into account whether the taxpayer underreported income for the year in question with respect to other contracts. Moreover, if the Form 8697 is examined for any completion year and a year in which income was overreported is open under the statute of limitations, an adjustment to tax, rather than to look-back interest, will be made if the taxpayer did not properly estimate contract price and contract costs and the taxpayer would otherwise be permitted to obtain a permanent tax benefit.

To prevent the running of interest in a taxpayer's favor on amounts in excess of the taxpayer's actual tax liability for any year, a hypothetical overpayment in the case of a taxpayer electing the simplified marginal impact method is limited to the taxpayer's actual tax liability for the year, taking into account net operating losses carried to that year. Representatives of the construction industry commented that this tax liability ceiling could make the simplified marginal impact method impractical for contractors who experience wide fluctuations in their taxable income from year to year. The final regulations, however, retain the tax liability ceiling as a necessary limitation on hypothetical overpayments to prevent those taxpayers who were excluded from the statutory simplified method from receiving an unintended windfall by use of the method. Moreover, to the extent that the ceiling is based on a taxpayer's overall tax liability, the profitability of some activities will either partially or fully offset the negative impact on the ceiling from less profitable activities.

The tax liability ceiling does not apply in the case of the required use of the simplified marginal impact method. In this context, application of the ceiling would be impractical and would defeat the purpose of the simplified marginal impact method because hypothetical overpayments are determined solely at the pass-through entity level. Several commentators requested that closely held pass-through entities electing to use the simplified marginal impact method also be permitted to apply the method at the entity level to further reduce complexity arising from the owner level application. To the extent that a pass-through entity is closely held, each owner's share of income from a contract, and thus the potential for distortion from an entity-level application of the simplified marginal impact method, is likely to increase and yet could not be practicably made subject to the tax liability ceiling. Consequently, the regulations do not permit application of the elective use of the simplified marginal impact method at the entity level.

Form 8697

The amount of interest due or to be refunded as a result of applying the look-back method is computed and reported on Form 8697 (Interest Computation Under the Look-back Method for Completed Long-term Contracts) for any tax year in which one or more long-term contracts are completed, or in which the contract price or contract costs are adjusted for one or more long-term contracts that were previously completed. Form 8697 is due no later than the due date (including extensions) of the tax return for the year of completion or adjustment. Form 8697 is filed with the same Internal Revenue Service Center with which a taxpayer's income tax return is filed.

In general each taxpayer that reports income from a long-term contract, or adjusts amounts attributable to a completed long-term contract, is required to file Form 8697 to apply the look-back method. In the case of a pass-through entity, such as a partnership or an S corporation, however, the regulations clarify that the owners or shareholders generally are required to file Form 8697 and are liable for, or entitled to receive, interest with respect to their distributive shares of income from a contract. However, widely held pass-through entities are required to apply the look-back method at the entity level with respect to income from domestic contracts.

Mid-Contract Change in Taxpayer

The proposed regulations provided rules for applying the look-back method when there is a mid-contract change in the taxpayer reporting income from a contract. As proposed, these rules require the completing taxpayer to apply the look-back method with respect to all years of the contract, including tax years of a predecessor taxpayer. Several commentators have indicated that taxable sales should be excluded from this rule and treated as a constructive completion of the contract, consistent with the prior law treatment of taxable sales of a long-term contract. In part, the proposed regulations reflected the

concern that a constructive completion would require the look-back method to be applied before actual completion of the contract and on the basis of estimates or, in the case of a sale of an entire business, on the basis of an allocation of the purchase price of the business, thereby producing results that may conflict with the purpose of the look-back method. In response, these commentators have stated that this concern is adequately alleviated by the tension in the taxable sale context between the seller's motivation to underallocate the purchase price to the contract (to minimize look-back interest) and the purchaser's motivation to overallocate the purchase price to the contract (to minimize the allocation to goodwill). In these final regulations, the treatment of mid-contract changes in the taxpayer is reserved for further consideration.

Scope of Look-Back Method

The regulations describe the scope of the look-back method, which generally includes all long-term contracts entered into after February 28, 1986, that are reported under the percentage of completion method or the percentage of completion-capitalized cost method. In the case of any long-term contract reported under the percentage of completion-capitalized cost method, interest is charged or credited to the taxpayer with respect to the percentage (40, 70, or 90, whichever applies) of the contract reported under the percentage of completion method.

Section 56(a)(3) provides that, in determining the amount of the alternative minimum taxable income for any tax year, the percentage of completion method of accounting (as modified by section 460(b)) is used in lieu of the method of accounting that is used for purposes of computing the regular tax. The regulations clarify that the look-back method accordingly applies to alternative minimum taxable income computed using the percentage of completion method as well as to regular taxable income.

De Minimis Exception

The 1988 Act amended section 460(b) to exempt from the look-back method certain long-term contracts that are not otherwise exempt from the required use of the percentage of completion method (or the percentage of completion-capitalized cost method). Under section 460(b)(3)(B), the look-back method does not apply to any contract completed within 2 years if the gross contract price does not exceed the lesser of $1,000,000 or 1 percent of the taxpayer's average annual gross receipts. The regulations clarify that this de minimis exception is mandatory, even if income from the contract was accelerated as a result of the use of inaccurate estimates of contract price and contract costs, so that the taxpayer would otherwise be entitled to receive interest on the resulting hypothetical overpayment of tax.

If the de minimis exception applies to a contract for regular taxable income, then the exception also applies for alternative minimum taxable income. Because of the adjustments required for computing alternative minimum taxable income, a taxpayer's gross receipts for alternative minimum tax purposes may differ from gross receipts for regular income tax purposes. Thus, if the criteria for meeting the de minimis exception were applied separately for alternative minimum tax purposes using alternative minimum tax gross receipts, a difference between alternative minimum tax gross receipts and regular tax gross receipts could cause a contract to qualify for the de minimis exception for regular tax purposes, but not for alternative minimum tax purposes, or vice versa. To prevent this result, the regulations provide that gross receipts are determined for purposes of section 460(b)(3)(B) by reference only to regular taxable income.

The de minimis exception was enacted in 1988, effective for qualifying contracts entered into after February 28, 1986, and, therefore, may apply to contracts for which a taxpayer has already applied the look-back method. Since the de minimis exception was enacted retroactively, taxpayers are permitted to file an amended Form 8697 to reverse the application of the look-back method to qualifying contracts.

Treatment of Look-Back Interest

In accordance with section 460(b)(1), interest required to be paid by a taxpayer is treated as an increase in tax for purposes of subtitle F of the Code (other than the estimated tax penalty); however, interest received by a taxpayer is not treated as a reduction in tax liability. Under the regulations, the determination of whether interest computed under the look-back method is treated as tax for this purpose is determined on a "net" basis for each filing year. Thus, if a taxpayer computes for the current filing year both hypothetical overpayments and hypothetical underpayments for prior years, the taxpayer has an increase in tax only if the interest computed on the underpayments for all those prior years exceeds the interest computed on the overpayments for all those prior years.

For purposes of determining taxable income under subtitle A of the Code, however, any amount of interest required to be paid by the taxpayer under the look-back method is treated as interest expense. Consistent with the proposed regulations, the final regulations provide that this interest expense is treated as interest expense arising from an underpayment of income tax. Thus, any look-back interest required to be paid in the case of an individual (including an individual owner of any pass-through entity) is treated as personal interest in accordance with § 1.163–9T(b)(2), even if that interest is attributable to long-term contract income of a trade or business.

Several commentators were of the view that the disallowance of a deduction for look-back interest is unfair to individual contractors that are not taxed as corporations. According to these commentators, look-back interest expense should not be subject to § 1.163–9T(b)(2) because it results from hypothetical, not actual tax liabilities. However, by its terms, § 1.163–9T(b)(2) generally applies to all interest relating to tax liabilities, including certain deferred tax liabilities that do not result from an error in the computation of tax. Further, in the legislative history underlying section 453A, which requires interest to be paid on deferred taxes arising from installment sales, Congress clarified that personal interest included interest relating to deferred taxes as well as actual tax deficiences. See H.R. Conf. Rep. No. 495, 100th Cong., 1st Sess. 930 (1987), 1987–3 C.B. 930. Interest expense required to be paid under the look-back method relates to the deferral of tax liability and, therefore, is within the scope of § 1.163–9T(b)(2).

With respect to interest that is refunded under the look-back method, the regulations similarly provide that, for purposes of subtitle A, this amount is taxable interest income. The regulations also clarify that interest computed under the look-back method at the entity level under the simplified marginal impact method is allocated among the owners (or beneficiaries) in the same manner that interest income and interest expense are allocated to owners (or beneficiaries) and subject to the requirements of section 704 and any other applicable rules.

Treatment of Change Orders

The regulations clarify that the look-back method is applied to all amounts attributable to a single long-term contract. Section 460(f), which defines the term "long-term contract,"

authorizes the Secretary to prescribe regulations that require (1) two or more contracts that are interdependent (by reason of pricing or otherwise) to be treated as a single contract, and (2) a single contract that is properly severed to be treated as multiple contracts. Notice 89–15, Q & A 37 and 38, provides that the rules for severing and aggregating contracts in § 1.451–3(e) determine what constitutes a single long-term contract for purposes of reporting income and allocating costs to long-term contracts under section 460. These rules apply for determining whether a change order or other similar agreement is treated as a separate contract or as part of the original contract. *Cf.* Notice 89–15, Q & A 11. Because the look-back method involves a hypothetical reapplication of the percentage of completion method (as modified by section 460), the same rules apply in determining what constitutes a single long-term contract for purposes of the look-back method. Accordingly, under the regulations, if a contract change order does not constitute a separate contract under the rules for severing and aggregating contracts, the revenue and expenses attributable to the change order are allocable under the look-back method to all tax years of the underlying contract.

Time at Which Look-Back Method is Applied

Section 460(b)(1)(B) of the Code requires the look-back method to be applied upon completion of a long-term contract, and then to be reapplied in any tax year in which there are post-completion adjustments to the contract price or contract costs.

Completion

The regulations define the term "completion" for this purpose to mean final completion and acceptance within the meaning of § 1.451–3(b)(2). With respect to any long-term contract, therefore, the look-back method generally is applied no later than the year in which the subject matter of the contract has been delivered and is available for use by the customer, even if the taxpayer expects to incur additional contract costs in a year subsequent to the completion year.

Although § 1.451–3(b)(2) determines the "time" for completion, the provisions in § 1.451–3(b)(2), and § 1.451–3(d) (which separate contract revenues and contract costs from a long-term contract in certain circumstances, such as in the case of a dispute or contract term relating to contingent compensation) do not apply for purposes of the look-back method. These provisions, which are designed to prevent inappropriate deferral of income and expenses by taxpayers using the completed contract method, are not relevant under the percentage of completion method. Moreover, these provisions are inconsistent with the requirement of section 460(b)(1)(b) to reapply the look-back method to amounts taken into account after completion, since their application would otherwise permit income from a long-term contract to be accounted for under a method of accounting that is not subject to the look-back method.

In addition, section 460(b)(1) requires any portion of the contract price not previously included in income to be included in income for the year immediately following the completion year, even if the taxpayer expects to incur additional contract costs in a year subsequent to the year immediately following the completion year. This rule does not apply for purposes of the look-back method, however. Thus, to the extent that a taxpayer incurs additional costs after the year immediately following the year of completion, the taxpayer will be entitled to receive interest under the look-back method to compensate for any acceleration of income that resulted from this requirement.

Post-Completion Reapplications

The regulations clarify that, after completion of a contract, section 460(b) generally requires the look-back method to be reapplied in any subsequent tax year in which additional contract revenues or contract costs are taken into account, or in which amounts previously taken into account as income or deductions are adjusted for any reason. In reapplying the look-back method when any amount is taken into account after completion, including when any amount of revenue that is taken into account in the year immediately following the year of completion by reason of section 460(b)(1), the regulations provide that only costs actually incurred as of the reapplication year are included in the denominator of the percentage of completion ratio. Section 460(b)(2) provides that these amounts may be taken into account, for purposes of reapplying the look-back method, at a value that is discounted from the time the amount is taken into account to the time of completion. The regulations clarify that amounts of contract revenue that are properly taken into account under the percentage of completion method at the time of, or prior to, contract completion are not discounted under this rule, even if received after contract completion.

Although section 460(b)(2) permits taxpayers to discount adjustments on a contract-by-contract basis, if a taxpayer discounts any adjustments relating to a particular contract, the taxpayer must discount all contract price or contract cost adjustments arising from the contract. See H.R. Rep. No. 247, 101st Cong., 1st Sess. 1411 (1989), which provides that adjustments to costs are to be treated in the same manner as adjustments to price.

The regulations provide a "delayed reapplication method" which, if elected, may reduce the number of times the look-back method is required to be reapplied for post-completion adjustments to a taxpayer's long-term contracts. Under the delayed reapplication method, taxpayers will be permitted to wait until the cumulative amount of adjustments to either the contract price or contract costs reaches a threshold of 10 percent of these amounts prior to adjustment or, if lesser, $1,000,000. To insure that all adjustments to the contract price are ultimately taken into account under the look-back method, a reapplication of the look-back method must be made (without regard to the thresholds) 5 years after the most recent application of the look-back method, or, if earlier, the year in which the taxpayer reasonably believes the contract is finally settled and closed.

Several commentators suggested that the look-back method should not have to be reapplied at any time after completion if the cumulative adjustments to net profit are de minimis. Because section 460(b) does not permit amounts attributable to a contract to be permanently forgiven from the application of the look-back method, the final regulations do not adopt this suggestion.

The regulations also do not reflect the comment that taxpayers be permitted to apply the look-back method prior to completion of a contract. Such a rule would unduly increase the complexity of the look-back method and, to the extent the regulations cannot require an early application, would be invoked selectively by taxpayers.

Special Analyses

It has been determined that these regulations are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations and, therefore, a final

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Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking for these regulations was submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Carol Conjura of the Office of Associate Chief Counsel (Technical), Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in their development.

List of Subjects

26 CFR 1.441–1 through 1.483–2

Income Taxes, Accounting, Deferred compensation plans.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

The following amendments to 26 CFR parts 1 and 602 are adopted:

PART 1—[AMENDED]

Paragraph 1. The authority for part 1 is amended by adding the following citation:

Authority: Sec. 7805, 68A Stat. 917; 26 U.S.C. 7805. * * * Section 1.460–6 is also issued under 26 U.S.C. 460(k).

Par. 2. New §§ 1.460–0 and 1.460–6 are added under the heading "Taxable Year for Which Items of Gross Income Included" to read as follows:

§ 1.460–0 Outline of regulations under section 460.

This section lists the paragraphs contained in §§ 1.460–1 through 1.460–6.

§ 1.460–1 Accounting for long-term contracts in general. [Reserved]
§ 1.460–2 Definition of long-term contract. [Reserved]
§ 1.460–3 Percentage of completion method. [Reserved]
§ 1.460–4 Percentage of completion-capitalized cost method. [Reserved]
§ 1.460–5 Cost allocation rules. [Reserved]
§ 1.460–6 Look-back method.
(a) In general.
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(2) Overview.
(b) Scope of look-back method.
(1) In general.
(2) Exceptions from section 460.
(3) De minimis exception.
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(c) Operation of the look-back method.
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(B) Completion.
(C) Discounting of contract price and contract cost adjustments subsequent to completion; election not to discount.
(1) General rule.
(2) Election not to discount.
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(2) Look-back Step One.
(i) Hypothetical reallocation of income among prior tax years.
(ii) Treatment of estimated future costs in year of completion.
(iii) Interim reestimates not considered.
(iv) Tax years in which income is affected.
(v) Costs incurred prior to contract execution; 10-percent method.
(A) General rule.
(B) Example.
(vi) Amount treated as contract price.
(A) General rule.
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(3) Look-back Step Two: Computation of hypothetical overpayment or underpayment of tax.
(i) In general.
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(i) In general.
(ii) Changes in the amount of a loss or credit carryback or carryover.
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(1) Introduction.
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(3) Anti-abuse rule.
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(i) Required use by certain pass-through entities.
(A) General rule.
(B) Closely held.
(C) Examples.
(D) Domestic contracts.
(1) General rule.
(2) Portion of contract income sourced.
(E) Application to foreign contracts.
(F) Effective date.
(ii) Elective use.
(A) General rule.
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(e) Delayed reapplication method.
(1) In general.
(2) Time and manner of making election.
(3) Examples.
(f) Look-back reporting.
(1) Procedure.
(2) Treatment of interest on return.
(i) General rule.
(ii) Timing of look-back interest.
(g) Mid-contract change in taxpayer. [Reserved]
(h) Examples.
(1) Overview.
(2) Step One.
(3) Step Two.
(4) Post-completion adjustments.
(5) Alternative minimum tax.
(6) Credit carryovers
(7) Net operating losses.
(8) Alternative minimum tax credit.
(9) Period for interest.

§ 1.460–7 Exempt long-term contracts. [Reserved]

§ 1.460–8 Changes in method of accounting. [Reserved]

§ 1.460–1 Accounting for long-term contracts in general. [Reserved]

§ 1.460–2 Definition of long-term contract. [Reserved]

§ 1.460–3 Percentage of completion method. [Reserved]

§ 1.460–4 Percentage of completion-capitalized cost method. [Reserved]

§ 1.460–5 Cost allocation rules. [Reserved]

§ 1.460–6 Look-back method.

(a) *In general*—(1) *Introduction.* With respect to income from any long-term contract reported under the percentage of completion method, a taxpayer is required to pay or is entitled to receive interest under section 460(b) on the amount of tax liability that is deferred or accelerated as a result of overestimating or underestimating total contract price or contract costs. Under this look-back method, taxpayers are required to pay interest for any deferral of tax liability resulting from the underestimation of the total contract price or the overestimation of total contract costs. Conversely, if the total contract price is overestimated or the total contract costs are underestimated, taxpayers are entitled to receive interest for any resulting acceleration of tax liability. The computation of the amount of deferred or accelerated tax liability under the look-back method is hypothetical; application of the look-back method does not result in an adjustment to the taxpayer's tax liability as originally reported, as reported on an amended return, or as adjusted on examination. Thus, the look-back method does not correct for differences in tax liability that result from over- or under-estimation of contract price and costs and that are permanent because, for example, tax rates change during the term of the contract.

(2) *Overview.* Paragraph (b) explains which situations require application of the look-back method to income from a long-term contract. Paragraph (c) explains the operation of the three computational steps for applying the look-back method. Paragraph (d) provides guidance concerning the simplified marginal impact method. Paragraph (e) provides an elective method to minimize the number of times the look-back method must be reapplied to a single long-term contract. Paragraph (f) describes the reporting requirements for the look-back method and the tax treatment of look-back interest. Paragraph (g) provides rules for applying the look-back method when there is a transaction that changes the taxpayer that reports income from a long-term contract prior to the completion of a contract. Paragraph (h) provides examples illustrating the three computational steps for applying the look-back method.

(b) *Scope of look-back method*—(1) *In general.* The look-back method applies to any income from a long-term contract within the meaning of section 460(f) that is required to be reported under the percentage of completion method (as modified by section 460) for regular income tax purposes or for alternative minimum tax purposes. If a taxpayer uses the percentage of completion-capitalized cost method for long-term contracts, the look-back method applies for regular tax purposes only to the portion (40, 70, or 90 percent, whichever applies) of the income from the contract that is reported under the percentage of completion method. The requirements of section 460 also apply to income and expenses attributable to activities that benefit any long-term contract entered into by a party related to the taxpayer within the meaning of section 707(b) or 267(b), determined without regard to section 267(f)(1)(A) and by substituting "80 percent" for "50 percent" with regard to the ownership of the stock of a C corporation. Therefore, to the extent that the percentage of completion method is required to be used with respect to income and expenses that are attributable to activities that benefit a related party's long-term contract, the look-back method also applies to these amounts, even if those activities are not performed under a contract entered into directly by the taxpayer.

(2) *Exceptions from section 460.* The look-back method generally does not apply to the regular taxable income from any long-term construction contract within the meaning of section 460(e)(4) that:

(i) Is a home construction contract within the meaning of section 460(e)(1)(A), or

(ii) Is not a home construction contract but is estimated to be completed within a 2-year period by a taxpayer whose average annual gross receipts for the 3 tax years preceding the tax year the contract is entered into do not exceed $10,000,000 (as provided in section 460(e)(1)(B)). These contracts are not subject to the look-back method for regular tax purposes, even if the taxpayer uses a version of the percentage of completion method permitted under § 1.451–3, unless the taxpayer has properly changed its method of accounting for these contracts to the percentage of completion method as modified by section 460(b). The look-back method, however, applies to the alternative minimum taxable income from a contract of this type, unless it is exempt from the required use of the percentage of completion method under section 56(a)(3).

(3) *De minimis exception.* Notwithstanding that the percentage of completion method is otherwise required to be used, the look-back method does not apply to any long-term contract that:

(i) Is completed within 2 years of the contract commencement date, and

(ii) Has a gross contract price (as of the completion of the contract) that does not exceed the lesser of $1,000,000 or 1 percent of the average annual gross receipts of the taxpayer for the 3 tax years preceding the tax year in which the contract is completed.

This de minimis exception is mandatory and, therefore, precludes application of the look-back method to any contract that meets the requirements of the exception. The de minimis exception applies for purposes of computing both regular taxable income and alternative minimum taxable income. Solely for this purpose, the determination of whether a long-term contract meets the gross receipts test for both alternative minimum tax and regular tax purposes is made based only on the taxpayer's regular taxable income.

(4) *Alternative minimum tax.* For purposes of computing alternative minimum taxable income, section 56(a)(3) generally requires long-term contracts within the meaning of section 460(f) (generally without regard to the exceptions in section 460(e)) to be accounted for using only the percentage of completion method as defined in section 460(b), including the look-back method of section 460(b), with respect to tax years beginning after December 31, 1986. However, section 56(a)(3) (and thus the look-back method) does not apply to any long-term contract entered into after June 20, 1988, and before the beginning of the first tax year that begins after September 30, 1990, that meets the conditions of both section 460(e)(1)(A) and clauses (i) and (ii) of section 460(e)(1)(B), and does not apply to any long-term contract entered into in a tax year that begins after September 30, 1990, that meets the conditions of section 460(e)(1)(A). A taxpayer that applies the percentage of completion method (and thus the look-back method) to income from a long-term contract only for purposes of determining alternative minimum taxable income, and not regular taxable income, must apply the look-back method to the alternative minimum taxable income in the year of contract completion and other filing years whether or not the taxpayer was liable for the alternative minimum tax for the filing year or for any prior year. Interest is computed under the look-back method to the extent that the taxpayer's total tax liability (including the alternative minimum tax liability) would have differed if the percentage of completion method had been applied using actual, rather than estimated, contract price and contract costs.

(5) *Effective date.* The look-back method, including the de minimis exception, applies to long-term contracts entered into after February 28, 1986. With respect to activities that are subject to section 460 solely because they benefit a long-term contract of a related party, the look-back method generally applies only if the related party's long-term contract was entered into after June 20, 1988, unless a principal purpose of the related-party arrangement is to avoid the requirements of section 460.

(c) *Operation of the look-back method*—(1) *Overview*—(i) *In general.* The amount of interest charged or credited to a taxpayer under the look-back method is computed in three steps. This paragraph (c) describes the three steps for applying the look-back method. These steps are illustrated by the examples in paragraph (h). The first step is to hypothetically reapply the percentage of completion method to all long-term contracts that are completed or adjusted in the current year (the "filing year"), using the actual, rather than estimated, total contract price and contract costs. Based on this reapplication, the taxpayer determines the amount of taxable income (and alternative minimum taxable income) that would have been reported for each year prior to the filing year that is affected by contracts completed or

adjusted in the filing year if the actual, rather than estimated, total contract price and costs had been used in applying the percentage of completion method to these contracts, and to any other contracts completed or adjusted in a year preceding the filing year. If the percentage of completion method only applies to alternative minimum taxable income for contracts completed or adjusted in the filing year, only alternative minimum taxable income is recomputed in the first step. The second step is to compare what the tax liability would have been under the percentage of completion method (as reapplied in the first step) for each tax year for which the tax liability is affected by income from contracts completed or adjusted in the filing year (a "redetermination year") with the most recent determination of tax liability for that year to produce a hypothetical underpayments or overpayment of tax. The third step is to apply the rate of interest on overpayments designated under section 6621 of the Code, compounded daily, to the hypothetical underpayment or overpayment of tax for each redetermination year to compute interest that runs, generally, from the due date (determined without regard to extensions) of the return for the redetermination year to the due date (determined without regard to extensions) of the return for the filing year. The net amount of interest computed under the third step is paid by or credited to the taxpayer for the filing year. Paragraph (d) provides a simplified marginal impact method that simplifies the second step—the computation of hypothetical underpayments or overpayments of tax liability for redetermination years—and, in some cases, the third step—the determination of the time period for computing interest.

(ii) *Post-completion revenue and expenses*—(A) *In general.* The look-back method is applied upon the completion of any long-term contract and (unless the taxpayer elects the delayed reapplication method of this section) is applied in any subsequent tax year for which there are taken into account any increases or decreases in either total contract price or total contract costs allocable to the contract under section 460(c) ("allocable contract costs") to the extent those increases or decreases were not previously taken into account under the percentage of completion method. Any year in which the look-back method must be reapplied is treated as a filing year. See Example (3) of paragraph (b)(4) for an illustration of how the look-back method is applied to post-completion adjustments.

(B) *Completion.* A contract is considered to be completed for purposes of the look-back method no later than the year in which final completion and acceptance within the meaning of § 1.451–3(b)(2) have occurred. Accordingly, determination of the completion year for any long-term contract is based on an analysis of all the relevant facts and circumstances, including the manner in which the parties to the contract deal with each other and with the subject matter of the contract and the nature of any work or costs remaining to be performed or incurred on the contract. Therefore, the first application of the look-back method must occur no later than the tax year in which the subject matter of the contract has been delivered and is available for use by the customer, even if the taxpayer reasonably expects at that time to incur additional allocable contract costs.

(C) *Discounting of contract price and contract cost adjustments subsequent to completion; election not to discount*—(*1*) *General rule.* The amount of any post-completion adjustment to the total contract price or contract costs is discounted, solely for purposes of applying the look-back method, from its value at the time the amount is taken into account in computing taxable income to its value at the completion of the contract. The discount rate for this purpose is the Federal mid-term rate under section 1274(d) in effect at the time the amount is properly taken into account. For purposes of applying the look-back method for the completion year, no amounts are discounted, even if they are received after the completion year.

(*2*) *Election not to discount.* Notwithstanding the general requirement to discount post-completion adjustments, a taxpayer may elect not to discount contract price and contract cost adjustments with respect to any contract. The election not to discount is to be made on a contract-by-contract basis and is binding with respect to all post-completion adjustments that arise with respect to a contract for which an election has been made. An election not to discount with respect to any contract is made by stating that an election is being made on the taxpayer's timely filed Federal income tax return (determined with regard to extensions) for the first tax year after completion in which the taxpayer takes into account (i.e., includes in income or deducts) any adjustment to the contract price or contract costs. See § 5h.6.

(*3*) *Year-end discounting convention.* In the absence of an election not to discount, any revisions to the contract price and contract costs must be discounted to their values as of the completion of the contract in reapplying the look-back method. For this purpose, the period of discounting is the period between the completion date of the contract and the date that any adjustment is taken into account in computing taxable income. Although taxpayers may use the period between the months in which these two events actually occur, in many cases, these dates may not be readily identifiable. Therefore, for administrative convenience, taxpayers are permitted to use the period between the end of the tax years in which these events occur as the period of discounting provided that the convention is used consistently with respect to all post-completion adjustments for all contracts of the taxpayer the adjustments to which are discounted. In that case, the taxpayer must use as the discount rate the Federal mid-term rate under section 1274(d) as of the end of the tax year in which any revision is taken into account in computing taxable income.

(D) *Revenue acceleration rule.* Section 460(b)(1) imposes a special rule that requires a taxpayer to include in gross income, for the tax year immediately following the year of completion, any previously unreported portion of the total contract price (including amounts that the taxpayer expects to receive in the future) determined as of that year, even if the percentage of completion ratio is less than 100 percent because the taxpayer expects to incur additional allocable contract costs in a later year. At the time any remaining portion of the contract price is includible in income under this rule, no offset against this income is permitted for estimated future contract costs. To achieve the requirement to report all remaining contract revenue without regard to additional estimated costs, a taxpayer must include only costs actually incurred through the end of the tax year in the denominator of the percentage of completion ratio in applying the percentage of completion method for any tax years after the year of completion. The look-back method also must be reapplied for the year immediately following the year of completion if any portion of the contract price is includible in income in that year by reason of section 460(b)(1). For purposes of reapplying the look-back method as a result of this inclusion in income, the taxpayer must only include in the denominator of the percentage of completion ratio the actual contract costs incurred as of the end of the year,

even if the taxpayer reasonably expects to incur additional allocable contract costs. To the extent that costs are incurred in a subsequent tax year, the look-back method is reapplied in that year (or a later year if the delayed reapplication method is used), and the taxpayer is entitled to receive interest for the post-completion adjustment to contract costs. Because this reapplication occurs subsequent to the completion year, only the cumulative costs incurred as of the end of the reapplication year are includible in the denominator of the percentage of completion ratio.

(2) *Look-back Step One*—(i) *Hypothetical reallocation of income among prior tax years.* For each filing year, a taxpayer must allocate total contract income among prior tax years, by hypothetically applying the percentage of completion method to all contracts that are completed or adjusted in the filing year using the rules of this paragraph (c)(2). The taxpayer must reallocate income from those contracts among all years preceding the filing year that are affected by those contracts using the total contract price and contract costs, as determined as of the end of the filing year ("actual contract price and costs"), rather than the estimated contract price and contract costs. The taxpayer then must determine the amount of taxable income and the amount of alternative minimum taxable income that would have been reported for each affected tax year preceding the filing year if the percentage of completion method had been applied on the basis of actual contract price and contract costs in reporting income from all contracts completed or adjusted in the filing year and in any preceding year. If the percentage of completion method only applies to alternative minimum taxable income from the contract, only alternative minimum taxable income is recomputed in the first step. For purposes of reallocating income (and costs if the 10-percent year changes for a taxpayer using the 10-percent method of section 460(b)(5)) under the look-back method, the method of computing the percentage of completion ratio is the same method used to report income from the contract on the taxpayer's return. (Thus, an election to use the 10-percent method or the simplified cost-to-cost method is taken into account). See Example (1) of paragraph (h)(2) for an illustration of Step One.

(ii) *Treatment of estimated future costs in year of completion.* If a taxpayer reasonably expects to incur additional allocable contract costs in a tax year subsequent to the year in which the contract is completed, the taxpayer includes the actual costs incurred as of the end of the completion year plus the additional allocable contract costs that are reasonably expected to be incurred (to the extent includible under the taxpayer's percentage of completion method) in the denominator of the percentage of completion ratio. The completion year is the only filing year for which the taxpayer may include additional estimated costs in the denominator of the percentage of completion ratio in applying the look-back method. If the look-back method is reapplied in any year after the completion year, only the cumulative costs incurred as of the end of the year of reapplication are includible in the denominator of the percentage of completion ratio in reapplying the look-back method.

(iii) *Interim reestimates not considered.* The look-back method cannot be applied to a contract before it is completed. Accordingly, for purposes of applying Step One, the actual total contract price and contract costs are substituted for the previous estimates of total contract price and contract costs only with respect to contracts that have been completed in the filing year and in a tax year preceding the filing year. No adjustments are made under Step One for contracts that have not been completed prior to the end of the current filing year, even if, as of the end of this year, the estimated total contract price or contract costs for these uncompleted contracts is different from the estimated amount that was used during any tax year for which taxable income is recomputed with respect to completed contracts under the look-back method for the current filing year.

(iv) *Tax years in which income is affected.* In general, because income under the percentage of completion method is generally reported as costs are incurred, the taxable income and alternative minimum taxable income are recomputed only for each year in which allocable contract costs were incurred. However, there will be exceptions to this general rule. For example, a taxpayer may be required to cumulatively adjust the income from a contract in a year in which no allocable contract costs are incurred if the estimated total contract price or contract costs was revised in that year. However, in applying the look-back method, no contract income is allocated to that year. Thus, there may be a difference between the amount of contract income originally reported for that year and the amount of contract income as reallocated. Similarly, because of the revenue acceleration rule of section 460(b)(1), income may be reported in the year immediately following the completion year even though no costs were incurred during that year and, in applying the look-back method in that year or another year, if additional costs are incurred or the contract price is adjusted in a later year, no income is allocated to the year immediately following the completion year.

(v) *Costs incurred prior to contract execution; 10-percent method*—(A) *General rule.* There are two situations in which allocable contract costs may be incurred without causing contract income to be reported under the percentage of completion method. First, allocable contract costs that are incurred in tax years prior to the tax year the contract is entered into are deductible in the tax year the contract is entered into, and no contract income is required to be reported in any of these prior tax years. The look-back method does not require allocation of contract income to tax years before the contract was entered into. Costs incurred prior to the year a contract is entered into are similarly first taken into account in the numerator of the percentage of completion ratio in the year the contract is entered into. Second, under the elective 10-percent method of section 460(b)(5), a taxpayer takes no contract revenues or contract costs into account until the tax year as of the close of which at least 10 percent of the total estimated contract costs are incurred (the 10-percent year). Instead, contract costs incurred in a tax year preceding the 10-percent year are deferred until the 10-percent year, at which time they are included in the numerator of the percentage of completion ratio and deducted from gross income. A taxpayer using the 10-percent method must also use the 10-percent method in applying the look-back method, using actual total contract costs to determine the 10-percent year. Thus, contract income is never reallocated to a year before the 10-percent year as determined on the basis of actual contract costs. If the 10-percent year is earlier as a result of applying Step One of the look-back method, contract costs incurred up to and including the new 10-percent year (as determined based on actual contract costs), are reallocated from the original 10-percent year to the new 10-percent, and costs incurred in later years but before the old 10-percent year are reallocated to those years. If the 10-percent year is later as a result of applying Step One of the look-back

method, contract costs incurred up to and including the new 10-percent year are reallocated from all prior years to the new 10-percent year. This is the only case in which costs are reallocated under the look-back method.

(B) *Example.* The application of the look-back method by a taxpayer using the 10-percent method is illustrated by the following example:

Example. Z elected to use the 10-percent method of section 460(b)(5) for reporting income under the percentage of completion method. Z entered into a contract in 1990 for a fixed price of $1,000x. During 1990, Z incurred allocable contract costs of $80x and estimated that it would incur a total of $800x for the entire contract. Since $80x is less than 10 percent of total estimated contract costs, Z reported no revenue from the contract in 1990 and deferred the $80x of costs incurred. In 1991, Z incurred an additional $620x of contract costs, and completed the contract. Accordingly, in its 1991 return, Z reported the entire contract price of $1,000x, and deducted the $620x of costs incurred in 1991 and the $80x of costs incurred in 1990.

Under section 460(b)(5), the 10-percent method applies both for reporting contract income and the look-back method. Under the look-back method, since the costs incurred in 1990 ($80x) exceed 10 percent of the actual total contract costs ($700x), Z is required to allocate $114x of contract revenue ($80x/$700x × $1,000x) and the $80x of costs incurred in 1990. Thus, application of the look-back method results in a net increase in taxable income for 1990 of $34x, solely for purposes of the look-back method.

(vi) *Amount treated as contract price*—(A) *General rule.* The amount that is treated as total contract price for purposes of applying the percentage of completion method and reapplying the percentage of completion method under the look-back method under Step One includes all amounts that the taxpayer expects to receive from the customer. Thus, amounts are treated as part of the contract price as soon as it is reasonably estimated that they will be received, even if the all-events test has not yet been met.

(B) *Contingencies.* Any amounts related to contingent rights or obligations, such as incentive fees or amounts in dispute, are not separated from the contract and accounted for under a non-long-term contract method of accounting, notwithstanding any provision in § 1.451–3(b)(2) (ii), (iii), (iv), and § 1.451–3(d) (2), (3), and (4), to the contrary. Instead, those amounts are treated as part of the total contract price in applying the percentage of completion method and the look-back method. For example, if an incentive fee under a contract to manufacture a satellite is payable to the taxpayer after a specified period of successful performance, the incentive fee is includible in the total contract price at the time and to the extent that it can reasonably be predicted that the performance objectives will be met, for purposes of both the percentage of completion method and the look-back method. Similarly, a portion of the contract price that is in dispute is included in the total contract price at the time and to the extent that the taxpayer can reasonably expect the dispute will be resolved in the taxpayer's favor (without regard to when the taxpayer receives payment for the amount in dispute or when the dispute is finally resolved).

(C) *Change orders.* In applying the look-back method, a change order with respect to a contract is not treated as a separate contract unless the change order would be treated as a separate contract under the rules for severing and aggregating contracts provided in § 1.451–3(e). Thus, if a change order is not treated as a separate contract, the contract price and contract costs attributable to the change order must be taken into account in allocating contract income to all tax years affected by the underlying contract.

(3) *Look-back Step Two: Computation of hypothetical overpayment or underpayment of tax*—(i) *In general.* Step Two involves the computation of a hypothetical overpayment or underpayment of tax for each year in which the tax liability is affected by income from contracts that are completed or adjusted in the filing year (a "redetermination year"). The application of Step Two depends on whether the taxpayer uses the simplified marginal impact method contained in paragraph (d) or the actual method described in this paragraph (c)(3). The remainder of this paragraph (c)(3) does not apply if a taxpayer uses the simplified marginal impact method.

(ii) *Redetermination of tax liability.* Under the method described in this paragraph (c)(3) (the "actual method"), a taxpayer, first, must determine what its regular and alternative minimum tax liability would have been for each redetermination year if the amounts of contract income allocated in Step One for all contracts completed or adjusted in the filing year and in any prior year were substituted for the amounts of contract income reported under the percentage of completion method on the taxpayer's original return (or as subsequently adjusted on examination, or by amended return). See Example (2) of paragraph (h)(3) for an illustration of Step Two.

(iii) *Hypothetical underpayment or overpayment.* After redetermining the income tax liability for each tax year affected by the reallocation of contract income, the taxpayer then determines the amount, if any, of the hypothetical underpayment or overpayment of tax for each of these redetermination years. The hypothetical underpayment or overpayment for each affected year is the difference between the tax liability as redetermined under the look-back method for that year and the amount of tax liability determined as of the latest of the following:

(A) The original return date;

(B) The date of a subsequently amended or adjusted return (if, however, the amended return is due to a carryback described in section 6611(f), see paragraph (c)(4)(iii)); or

(C) The last previous application of the look-back method (in which case, the previous hypothetical tax liability is used).

(iv) *Cumulative determination of tax liability.* The redetermination of tax liability resulting from previous applications of the look-back method is cumulative. Thus, for example, in computing the amount of a hypothetical overpayment or underpayment of tax for a redetermination year, the current hypothetical tax liability is compared to the hypothetical tax liability for that year determined as of the last previous application of the look-back method.

(v) *Years affected by look-back only.* A redetermination of income tax liability under Step Two is required for every tax year for which the tax liability would have been affected by a change in the amount of income or loss for any other year for which a redetermination is required. For example, if the allocation of contract income under Step One changed the amount of a net operating loss that was carried back to a year preceding the year the taxpayer entered into the contract, the tax liability for the earlier year must be redetermined.

(vi) *Definition of tax liability.* For purposes of Step Two, the income tax liability must be redetermined by taking into account all applicable additions to tax, credits, and net operating loss carrybacks and carryovers. Thus, the tax, if any, imposed under section 55 (relating to alternative minimum tax) must be taken into account. For example, if the taxpayer did not pay alternative minimum tax, but would have paid alternative minimum tax for that year if actual rather than estimated contract price and costs had been used in determining contract income for the year, the amount of any hypothetical overpayment or underpayment of tax must be determined by comparing the hypothetical total tax liability (including hypothetical alternative minimum tax

liability) with the actual tax liability for that year. The effect of taking these items into account in applying the look-back method is illustrated in Examples (4) through (7) of paragraphs (h)(5) through (h)(8) below.

(4) *Look-back Step Three: Calculation of interest on underpayment or overpayment*—(i) *In general.* After determining a hypothetical underpayment or overpayment of tax for each redetermination year, the taxpayer must determine the interest charged or credited on each of these amounts. Interest on the amount determined under Step Two is determined by applying the overpayment rate designated under section 6621, compounded daily. In general, the time period over which interest is charged on hypothetical underpayments or credited on hypothetical overpayments begins at the due date (not including extensions) of the return for the redetermination year for which the hypothetical underpayment or overpayment determined in Step Two is computed. This time period generally ends on the earlier of:

(A) The due date (not including extensions) of the return for the filing year, and

(B) The date both

(*1*) The income tax return for the filing year is filed, and

(*2*) The tax for that year has been paid in full. If a taxpayer uses the simplified marginal impact method contained in paragraph (d), the remainder of this paragraph (c)(4) does not apply.

(ii) *Changes in the amount of a loss or credit carryback or carryover.* The time period for determining interest may be different in cases involving loss or credit carrybacks or carryovers in order to properly reflect the time period during which the taxpayer (in the case of an underpayment) or the Government (in the case of an overpayment) had the use of the amount determined to be a hypothetical underpayment or overpayment. Thus, if a reallocation of contract income under Step One results in an increase or decrease to a net operating loss carryback (but not a carryforward), the interest due or to be refunded must be computed on the increase or decrease in tax attributable to the change to the carryback only from the due date (not including extensions) of the return for the redetermination year that generated the carryback and not from the due date of the return for the redetermination year in which the carryback was absorbed. In the case of a change in the amount of a carryover as a result of applying the lookback method, interest is computed from the due date of the return for the year in which the carryover was absorbed. See Examples (6) and (9) of paragraph (h)(6) for an illustration of these rules.

(iii) *Changes in the amount of tax liability that generated a subsequent refund.* If the amount of tax liability for a redetermination year (as reported on the taxpayer's original return, as subsequently adjusted on examination, as adjusted by amended return, or as redetermined by the last previous application of the look-back method) is decreased by the application of the look-back method, and any portion of the redetermination year tax liability was absorbed by a loss or credit carryback arising in a year subsequent to the redetermination year, the look-back method applies as follows to properly reflect the time period of the use of the tax overpayment. To the extent the amount of tax absorbed because of the carryback exceeds the total hypothetical tax liability for the year (as redetermined under the look-back method) the taxpayer is entitled to receive interest only until the due date (not including extensions) of the return for the year in which the carryback arose.

Example. Upon the completion of a long-term contract in 1990, the taxpayer redetermines its tax liability for 1988 under the look-back method. This redetermination results in a hypothetical reduction of tax liability from $1,500x (actual liability originally reported) to $1,200x (hypothetical liability). In addition, the taxpayer had already received a refund of some or all of the actual 1988 tax by carrying back a net operating loss (NOL) that arose in 1989. The time period over which interest would be computed on the hypothetical overpayment of $300x for 1988 would depend on the amount of the refund generated by the carryback, as illustrated by the following three alternative situations:

(A) If the amount refunded because of the NOL is $1,500x: interest is credited to the taxpayer on the entire hypothetical overpayment of $300x from the due date of the 1988 return, when the hypothetical overpayment occurred, until the due date of the 1989 return, when the taxpayer received a refund for the entire amount of the 1988 tax, including the hypothetical overpayment.

(B) If the amount refunded because of the NOL is $1,000x: interest is credited on the entire amount of the hypothetical overpayment of $300x from the due date of the 1988 return, when the hypothetical overpayment occurred, until the due date of the 1990 return. In this situation interest is credited until the due date of the return for the completion year of the contract, rather than the due date of the return for the year in which the carryback arose, because the amount refunded was less than the redetermined tax liability. Therefore, no portion of the hypothetical overpayment is treated as having been refunded to the taxpayer before the filing year.

(C) If the amount refunded because of the NOL is $1,200x—: interest is credited to the taxpayer on $100x ($1,200x—$1,100x) from the due date of the 1988 return until the due date of the 1989 return because only this portion of the total hypothetical overpayment is treated as having been refunded to the taxpayer before the filing year. However, the taxpayer did not receive a refund for the remaining $200x of the overpayment at that time and, therefore, is credited with interest on $200x through the due date of the tax return for 1990, the filing year. See Examples (10) and (11) of paragraph (h)(9) for a further illustration of this rule.

(iv) *Additional interest due on interest only after tax liability due.* For each filing year, taxpayers are required to file a Form 8697 (Interest Computation Under the Look-back Method for Completed Long-term Contracts) at the time the return for that filing year is filed to report the interest due or to be refunded under the look-back method. Even if the taxpayer has received an extension to file its income tax return for the filing year, look-back interest is computed with respect to the hypothetical increase (or decrease) in the tax liability determined under the look-back method only until the initial due date of that return (without regard to the extension). Interest is charged, unless the taxpayer otherwise has a refund that fully offsets the amount of interest due, (or credited) with respect to the amount of look-back interest due (or to be refunded) under the look-back method from the initial due date of the return through the date the return is filed. No interest is charged (or credited) after the due date of the return with respect to the amount of the hypothetical increases (or decreases) in tax liability determined under the look-back method.

(d) *Simplified marginal impact method*—(1) *Introduction.* This paragraph (d) provides a simplified method for calculating look-back interest. Any taxpayer may elect this simplified marginal impact method, except that pass-through entities described in paragraph (d)(4) of this section are required to apply the simplified marginal impact method at the entity level with respect to domestic contracts and the owners of those entities do not apply the look-back method to those contracts. Under the simplified marginal impact method, a taxpayer calculates the hypothetical underpayments or overpayments of tax for a prior year based on an assumed marginal tax rate. A taxpayer electing to use the simplified marginal impact method must use the method for each long-term contract for which it reports income (except with respect to domestic

contracts if the taxpayer is an owner in a widely held pass-through entity that is required to use the simplified marginal impact method at the entity level for those contracts).

(2) *Operation*—(i) *In general.* Under the simplified marginal impact method, income from those contracts that are completed or adjusted in the filing year is first reallocated in accordance with the procedures of Step One contained in paragraph (c)(2) of this section. Step Two is modified in the following manner. The hypothetical underpayment or overpayment of tax for each year of the contract (a "redetermination year") is determined by multiplying the applicable regular tax rate (as defined in paragraph (d)(2)(iii)) by the increase or decrease in regular taxable income (or, if it produces a greater amount, by multiplying the applicable alternative minimum tax rate by the increase or decrease in alternative minimum taxable income, whether or not the taxpayer would have been subject to the alternative minimum tax) that results from reallocating income to the tax year under Step One. Generally, the product of the alternative minimum tax rate and the increase or decrease in alternative minimum taxable income will be the greater of the two amounts described in the preceding sentence only with respect to contracts for which a taxpayer uses the full percentage of completion method only for alternative minimum tax purposes and uses the completed contract method, or the percentage of completion-capitalized cost method, for regular tax purposes. Step Three is then applied. Interest is credited to the taxpayer on the net overpayment and is charged to the taxpayer on the net underpayment for each redetermination year from the due date (determined without regard to extensions) of the return for the redetermination year until the earlier of

(A) The due date (determined without regard to extensions) of the return for the filing year, and

(B) The first date by which both the return is filed and the tax is fully paid.

(ii) *Applicable tax rate.* For purposes of determining hypothetical underpayments or overpayments of tax under the simplified marginal impact method, the applicable regular tax rate is the highest rate of tax in effect for the redetermination year under section 1 in the case of an individual and under section 11 in the case of a corporation. The applicable alternative minimum tax rate is the rate of tax in effect for the taxpayer under section 55(b)(1). The highest rate is determined without regard to the taxpayer's actual rate bracket and without regard to any additional surtax imposed for the purpose of phasing out multiple tax brackets or exemptions.

(iii) *Overpayment ceiling.* The net hypothetical overpayment of tax for any redetermination year is limited to the taxpayer's total federal income tax liability for the redetermination year reduced by the cumulative amount of net hypothetical overpayments of tax for that redetermination year resulting from earlier applications of the look-back method. If the reallocation of contract income results in a net overpayment of tax and this amount exceeds the actual tax liability (as of the filing year) for the redetermination year, as adjusted for past applications of the look-back method and taking into account net operating loss, capital loss, or credit carryovers and carrybacks to that year, the actual tax so adjusted is treated as the overpayment for the redetermination year. This overpayment ceiling does not apply when the simplified marginal impact method is applied at the entity level by a widely held pass-through entity in accordance with paragraph (d)(4) of this section.

(iv) *Example.* The application of the simplified marginal impact method is illustrated by the following example:

Example. Corporation X, a calendar-year taxpayer, reports income from long-term contracts and elected the simplified marginal impact method when it filed its income tax return for 1989. X uses only the percentage of completion method for both regular taxable income and alternative minimum taxable income. X completed contracts A, B, and C in 1989 and, therefore, was required to apply the look-back method in 1989. Income was actually reported for these contracts in 1987, 1988, and 1989. X's applicable tax rate, as determined under section 11, for the redetermination years 1987 and 1988 was 40 percent and 34 percent, respectively. The amount of contract income originally reported and reallocated for contracts A, B, and C, and the net overpayments and underpayments for the redetermination years are as follows:

	1987	1988
Contract A:		
Originally reported	$6,000x	$4,000x
Reallocated	3,000x	5,000x
Increase/(Decrease)	(3,000x)	1,000x
Contract B:		
Originally reported	6,000x	2,000x
Reallocated	7,000x	1,000x
Increase/(Decrease)	1,000x	(000x)
Contract C:		
Originally reported	5,000x	5,000x
Reallocated	4,000x	7,000x
Increase/(Decrease)	(4,000x)	2,000x
Net Increase/(Decrease)	(5,000x)	2,000x
Tentative (Underpayment)/Overpayment:		
@ 40	2,000x	
@ 34		(000x)
Ceiling:		
Actual Tax Liability (After Carryovers and Carrybacks)	1,000x	000x

Under the simplified marginal impact method, X determined a tentative hypothetical net overpayment for 1987 and a net underpayment for 1988. X determined these amounts by first aggregating the difference for contracts A, B, and C between the amount of contract price originally reported and the amount of contract price as reallocated and, then, applying the highest regular tax rate to the aggregate decrease in income for 1987 and the aggregate increase in income for 1988.

However, X's overpayment for 1987 is subject to a ceiling based on X's total tax liability. Because the tentative net overpayment of tax for 1987 exceeds the actual tax liability for that year after taking into account carryovers and carrybacks to that year, the final overpayment under the simplified marginal impact method is the amount of tax liability paid instead of the tentative net overpayment. Since application of the look-back method for 1988 results in a tentative underpayment of tax, it is not subject to a ceiling. If the look-back method is applied in 1991, the ceiling amount for 1987 will be zero and the ceiling amount for 1988 will be $1,360.

X is entitled to receive interest on the hypothetical overpayment from March 15, 1988, to March 15, 1990. X is required to pay interest on the underpayment from March 15, 1988, to March 15, 1990.

(3) *Anti-abuse rule.* If the simplified marginal impact method is used with respect to any long-term contract (including a contract of a widely held pass-through entity), the district director may recompute interest for the contract (including domestic contracts of widely held pass-through entities) under the look-back method using the actual method (and without regard to the simplified marginal impact method). The district director may make such a recomputation only if the amount of income originally reported with respect to the contract for any redetermination year exceeds the amount of income reallocated under the look-back method with respect to that contract for that year (using actual contract price and contract costs) by the lesser of $1,000,000 or 20 percent of the amount of income as reallocated (*i.e.*, based on actual contract price and contract costs) under the look-back method with respect to that contract for that year. In determining whether to exercise this authority upon examination of the Form 8697, the district director may take into account whether the taxpayer overreported income for a purpose of receiving interest under the look-back method on a hypothetical overpayment determined at the applicable tax rate.

The district director also may take into account whether the taxpayer underreported income for the year in question with respect to other contracts. Notwithstanding the look-back method, the district director may require an adjustment to the tax liability for any open tax year if the taxpayer did not apply the percentage of completion method properly on its original return.

(4) *Application*—(i) *Required use by certain pass-through entities*—(A) *General rule.* The simplified marginal impact method is required to be used with respect to income reported from domestic contracts by a pass-through entity that is either a partnership, an S corporation, or a trust, and that is not closely held. With respect to contracts described in the preceding sentence, the simplified marginal impact method is applied by the pass-through entity at the entity level. For determining the amount of any hypothetical underpayment or overpayment, the applicable regular and alternative minimum tax rates, respectively, are generally the highest rates of tax in effect for corporations under section 11 and section 55 (b)(1). However, the applicable regular and alternative minimum tax rates are the highest rates of tax imposed on individuals under section 1 and section 55 (b) (1) if, at all times during the redetermination year involved (*i.e.*, the year in which the hypothetical increase or decrease in income arises), more than 50 percent of the interests in the entity were held by individuals directly or through 1 or more pass-through entities.

(B) *Closely held.* A pass-through entity is closely held if, at any time during any redetermination year, 50 percent of more (by value) of the beneficial interests in that entity are held (directly or indirectly) by or for 5 or fewer persons. For this purpose, the term "person" has the same meaning as in section 7701(a)(1), except that a pass-through entity is not treated as a person. In addition, the constructive ownership rules of section 1563(e) apply by substituting the term "beneficial interest" for the term "stock" and by substituting the term "pass-through entity" for the term, "corporation" used in that section, as appropriate, for purposes of determining whether a beneficial interest in a pass-through entity is indirectly owned by any person.

(C) *Examples.* The following examples illustrate the application of the rules of paragraph (d)(4)(i):

Example (1). P, a partnership, began a long-term contract on March 1, 1988, and completed this contract in its tax year ending December 31, 1989. P used the percentage of completion method for all contract income. Substantially all of the income from the contract arose from U.S. sources. At all times during all of the years for which income was required to be reported under the contract, exactly 25 percent of the value of P's interests was owned by Corporation M. The remaining 75 percent of the value of P's interests was owned in equal shares by 15 unrelated individuals, who are also unrelated to Corporation M. M's ownership of P represents less than 50 percent of the value of the beneficial interests in P, and, therefore, viewed alone, is insufficient to make P a closely held partnership. In addition, because no 4 of the individual owners together own 25 percent or more of the remaining value of P's beneficial interests, there is no group of 5 owners that together own, directly or indirectly, 50 percent or more by value of the beneficial interests in P. Therefore, P is not closely held pass-through entity.

Because P is not a closely held pass-through entity, and because P completed the contract after the effective date of section 460(b)(4), P is required to use the simplified marginal impact method. Any interest computed under the look-back method will be paid to, or collected from, P, rather than its partners, and must be reported to each of the partners on Form 1065 as interest income or expense. Further, assume that, for the redetermination years, Corporation M is subject to alternative minimum tax at the rate of 20 percent and 3 of the individuals who own interests in P are subject to the highest marginal tax rate of 33 percent in 1988. Regardless of the actual marginal tax rates of its partners, P is required to determine the underpayment or overpayment of tax for each redetermination year at the entity level by applying a single rate to the increase or decrease in income resulting from the reallocation of contract income under the look-back method. Because more than 50 percent of the interests in P are held by individuals, P must use the highest rate specified in section 1 for each redetermination year. Thus, the rate applied by P is 50 percent for 1988, 38.5 percent for 1987, and 28 percent for 1988.

Example (2). Assume the same facts as in Example (1), except that one of the individuals, Individual I, who directly owns 5 percent of the value of the interests of P, also owns 100 percent of the stock of Corporation M. Section 1563(e) (4) of the Code provides that stock owned directly or indirectly by or for a corporation is considered to be owned by any person who owns 5 percent or more in value of its stock in that proportion which the value of the stock which that person so owns bears to the value of all the stock in that corporation. Because section 460(b)(4)(C)(iii) and this paragraph (d) (4) provide that rules similar to the constructive ownership rules of section 1563(e) apply in determining whether a pass-through entity is closely held, all of M's interest in P is attributed to I because I owns 100 percent of the value of the stock in M. Accordingly, because I's direct 5 percent and constructive 25 percent ownership of P, plus the interests owned by any 4 other individual partners, equals 50 percent or more of the value of the beneficial interests of P, P is a closely held pass-through entity within the meaning of section 460(b)(4)(C)(iii). Therefore, P cannot use the simplified marginal impact method at the entity level. Accordingly, each of the partners of P must separately apply the look-back method to their respective interests in the income and expenses attributable to the contract, but each partner may elect to use the simplified marginal impact method with respect to the partner's share of income from the contract.

(D) *Domestic contracts*—(1) General rule. A domestic contract is any contract substantially all of the income of which is from sources in the United States. For this purpose, "substantially all" of the income from a long-term contract is considered to be from United States sources if 95 percent or more of the gross income from the contract is from sources within the United States as determined under the rules in sections 861 through 865.

(2) *Portion of contract income sourced.* In determining whether substantially all of the gross income from a long-term contract is from United States sources, taxpayers must apply the allocation and apportionment principles of sections 861 through 865 only to the portion of the contract accounted for under the percentage of completion method. Under the percentage of completion method, gross income from a long-term contract includes all payments to be received under the contract (*i.e.*, any amounts treated as contract price). Similarly, all costs taken into account in the computation of taxable income under the percentage of completion method are deducted from gross income rather than added to a cost of goods sold account that reduces gross income. Therefore, allocable contract costs are not considered in determining whether a long-term contract is a domestic contract or a foreign contract, even if, under the taxpayer's facts, the allocation of contract costs to any portion of a contract not accounted for under the percentage of completion method would affect the relative percentages of United States and foreign source gross income from the entire contract if this portion of the contract were taken into account in applying the 95-percent test.

(E) *Application to foreign contracts.* If a widely held pass-through entity has some foreign contracts and some domestic contracts, the owners of the pass-through entity each apply the look-back method (using, if they elect, the simplified marginal impact method) to their respective share of the income and expense from foreign contracts. Moreover, in applying the look-back method to foreign contracts at the owner level, the owners do not take into

account their share of increases or decreases in contract income resulting from the application of the simplified marginal impact method with respect to domestic contracts at the entity level.

(F) *Effective date.* The simplified marginal impact method must be applied to pass-through entities described in paragraph (d)(4)(ii) of this section with respect to domestic contracts completed or adjusted in tax years for which the due date of the return (determined with regard to extensions) of the pass-through entity is after November 9, 1988.

(ii) *Elective use*—(A) *General rule.* As provided in paragraph (d)(4)(i) of this section, the simplified marginal impact method must be used by certain pass-through entities with respect to domestic contracts. C corporations, individuals, and owners of closely held pass-through entities may elect the simplified marginal impact method. Owners of other pass-through entities may also elect the simplified marginal impact method with respect to all contracts other than those for which the simplified marginal impact method is required to be applied at the entity level. This rule applies to foreign contracts of widely held pass-through entities. In the case of an electing owner in a pass-through entity, the simplified marginal impact method is applied at the owner level, instead of at the entity level, with respect to the owner's share of the long-term contract income and expense reported by the pass-through entity.

(B) *Election requirements.* A taxpayer elects the simplified marginal impact method by stating that the election is being made on a timely filed income tax return (determined with regard to extensions) for the first tax year the election is to apply. An election to use the simplified marginal impact method applies to all applications of the look-back method to all eligible long-term contracts for the tax year for which the election is made and for any subsequent tax year. The election may not be revoked without the consent of the Commissioner.

(C) *Consolidated group consistency rule.* In the case of a consolidated group of corporations within the meaning of section 1504(a), an election to use the simplified marginal impact method is made by the common parent of the group. The election is binding on all other affected members of the group (including members that join the group after the election is made with respect to all applications of the look-back method after joining). If a member subsequently leaves the group, the election remains binding as to that member unless the Commissioner consents to a revocation of the election. If a corporation using the simplified marginal impact method joins a group that does not use the method, the election is automatically revoked with respect to all applications of the look-back method after it joins the group.

(e) *Delayed reapplication method*—(1) *In general.* For purposes of reapplying the look-back method after the year of contract completion, a taxpayer may elect the delayed reapplication method to minimize the number of required reapplications of the look-back method. Under this method, the look-back method is reapplied after the year of completion of a contract (or after a subsequent application of the look-back method) only when the first one of the following conditions is met with respect to the contract:

(i) The net undiscounted value of increases or decreases in the contract price occurring since the time of the last application of the look-back method exceeds the lesser of $1,000,000 or 10 percent of the total contract price as of that time,

(ii) The net undiscounted value of increases or decreases in the contract costs occurring since the time of the last application of the look-back method exceeds the lesser of $1,000,000 or 10 percent of the total contract price as of that time,

(iii) The taxpayer goes out of existence,

(iv) The taxpayer reasonably believes the contract is finally settled and closed, or

(v) Neither condition (e)(1) (i), (ii), (iii), nor (iv) above is met by the end of the fifth tax year that begins after the last previous application of the look-back method.

(2) *Time and manner of making election.* An election to use the delayed reapplication method may be made for any filing year for which the due date of the return (determined with regard to extensions) is after June 12, 1990. The election is made by a statement to that effect on the taxpayer's timely filed Federal income tax return (determined with regard to extensions) for the first tax year the election is to be effective. An election to use the delayed reapplication method is binding with respect to all long-term contracts for which the look-back method would be reapplied without regard to the election in the year of election and any subsequent year unless the Commissioner consents to a revocation of the election. In the case of a consolidated group of corporations within the meaning of section 1504(a), an election to use the delayed reapplication method is made by the common parent of the group. The election is binding on all other affected members of the group (including members that join the group after the election is made with respect to contracts adjusted after joining). If a member subsequently leaves the group, the election remains binding as to that member unless the Commissioner consents to a revocation of the election. If a corporation that has made the election joins a consolidated group that has not made the election, the election is treated as revoked with respect to contracts adjusted after joining.

(3) *Examples.* The operation of this delayed reapplication method is illustrated by the following examples:

Example (1). X completes a contract in 1987, and applies the look-back method when its return for 1987 is filed. X properly uses $600,000 as the actual contract price in applying the look-back method. In 1990, as a result of the settlement of a dispute with its customer, X redetermines total contract price to be $640,000, and includes $40,000 in gross income. On its return for 1990, X states it is electing the delayed reapplication method. X is not required to reapply the look-back method at that time, because $40,000 does not exceed the lesser of $1,000,000 or 10 percent of the unadjusted contract price of $600,000, and 5 years have not passed since the last application of the look-back method.

Example (2). Assume the same facts as in Example (1), except that at the end of 1992, the fifth year after completion of the contract, no other adjustments to contract price or contract costs have occurred. X is required to reapply the look-back method in 1992 and, accordingly, redetermine its tax liability for each redetermination year. After redetermining the underpayment of tax for those years, X must compute the amount of interest charged on the underpayments. Although 1992 is the filing year, interest is due on the amount of each underpayment resulting from the adjustment only from the due date of the return for each redetermination year to the due date of the return for 1990 because the tax liability for the adjustment was fully paid in 1990. However, from the due of the 1990 return until the due date of the 1992 return, when the look-back method is reapplied for the adjustment, interest is due on the amount of interest attributable to the underpayments.

(f) *Look-back reporting*—(1) *Procedure.* The amount of any interest due or to be refunded as a result of applying the look-back method is computed and reported on Form 8697 for any filing year. In general, the look-back method is applied by and Form 8697 is filed by the taxpayer that reports income from a long-term contract. See paragraph (g) of this section to determine who is responsible for applying the look-back method when, prior to the completion of a long-term contract, there is a transaction that

changes the taxpayer that reports income from the contract.

(2) *Treatment of interest on return*—(i) *General rule.* The amount of interest required to be paid by a taxpayer is treated as an income tax under subtitle A, but only for purposes of subtitle F of the Code (other than sections 6654 and 6655), which adresses tax procedures and administration.

Thus, a taxpayer that fails to file Form 8697 with respect to interest required to be paid or that fails to pay the amount of interest due is subject to any applicable penalties under subtitle F, including, for example, a penalty for failing to file Form 8697. However, interest required to be paid under the look-back method is treated as interest expense for purposes of computing taxable income under subtitle A, even though it is treated as income tax liability for penalty purposes. Interest received under the look-back method is treated as taxable interest income for all purposes, and is not treated as a reduction in tax liability. The determination of whether or not interest computed under the look-back method is treated as tax is determined on a "net" basis for each filing year. Thus, if a taxpayer computes for the current filing year both hypothetical overpayments and hypothetical underpayments for prior years, the taxpayer has an increase in tax only if the interest computed on the underpayments for all those prior years exceeds the interest computed on the overpayments for all those prior years, for all contracts completed or adjusted for the year.

(ii) *Timing of look-back interest.* For purposes of determining taxable income under subtitle A of the Code, any amount of interest refunded to the taxpayer under the look-back method is includible in gross income as interest income in the tax year it is properly taken into account under the taxpayer's method of accounting for interest income. Any amount of interest required to be paid is taken into account as interest expense arising from an underpayment of income tax in the tax year it is properly taken into account under the taxpayer's method of accounting for interest expense. Thus, look-back interest required to be paid by an individual, or by a pass-through entity on behalf of an individual owner (or beneficiary) under the simplified marginal impact method, is personal # interest and, therefore, is disallowed in accordance with § 1.163-9T(b)(2). Interest determined at the entity level under the simplified marginal impact method is allocated among the owners (or beneficiaries) for reporting purposes in the same manner that interest income and interest expense are allocated to owners (or beneficiaries) and subject to the requirements of section 704 and any other applicable rules.

(g) *Mid-contract change in taxpayer.* [Reserved]

(h) *Examples*—(1) *Overview.* This paragraph provides computational examples of the rules of this section. Except as otherwise noted, the examples involve calendar-year taxpayers and involve long-term contracts subject to section 460 that are accounted for using the percentage of completion method, rather than the percentage of completion-capitalized cost method. If the percentage of completion-capitalized cost method were used by a taxpayer described in the examples, the amounts of contract income and expenses shown in the examples would be reduced, for purposes of determining regular taxable income, to the appropriate fraction (40, 70, or 90 percent) of contract items accounted for under the percentage of completion method. Tens of thousands of dollars ($ 00,000's) are omitted from the figures in the examples. The contracts described in the examples are assumed to be the taxpayers' only contracts that are subject to the look-back method of section 460. Except as otherwise stated, the examples assume that the taxpayer has no adjustments and preferences for purposes of section 55, so that alternative minimum taxable income is the same as taxable income, and no alternative minimum tax is imposed for the years involved. The examples assume that the taxpayer does not elect the 10-percent method, the simplified marginal impact method, or the delayed reapplication method.

(2) *Step One.* The following example illustrates the application of paragraph (c)(2):

Example (1). In 1988, W completes three long-term contracts, A, B, and C, entered into on January 1 of 1986, 1987, and 1988, respectively. For Contract A, W used the completed contract method of accounting. For Contract B, W used the percentage of completion-capitalized cost method of accounting, taking into account 60 percent of contract income under W's normal method of accounting, which was the completed contract method. For Contract C, W used the percentage of completion method of accounting. The total price for each contract was $1,000. In computing alternative minimum taxable income, W is required to use the percentage of completion method for Contracts B and C. W used regular tax costs for purposes of determining the degree of contract completion under the alternative minimum tax.

Contract A is not taken into account for purposes of applying the look-back method, because it is subject to neither section 460 nor section 56(a)(3). Thus, even if W had used the percentage of completion method as permitted under § 1.451-3, instead of the completed contract method, the look-back method would not be applicable because the Contract A was entered into before the effective date of section 460.

The actual costs allocated to Contracts B and C under section 460(c) and incurred in each year of the contract were as follows:

Contract	1987	1988	1989	Total
B	$200	$400	$200	$800
C	100	300	400	800

In applying the look-back method, the first step is to allocate the contract price among tax years preceding and including the completion year. That allocation would produce the following amounts of gross income for purposes of the regular tax. Note that no income from Contract C is allocated to 1987, the year before the contract was entered into, even though contract costs were incurred in 1987:

Contract	1987	1988	1989
B	$100 (40%X$200/$800X$1000)	$200 ((40%X$600/$800X$1000)-$100)	$700
C	0	500 ($400/$800X$1000)	500

Because the percentage of completion-capitalized cost method may not be used for alternative minimum tax purposes, the allocation of contract income would produce the following amounts of gross income for purposes of computing alternative minimum taxable income:

Contract	1987	1988	1989
B	$250 ($250/$500X$1000)	$500 ($500/$500X$1000)-$250	$250
C	0	500	500

(3) *Step Two.* The following example illustrates the application of paragraph (c)(3):

Example (i). (i) X enters into two long-term contracts (D and E) in 1988. X determines its tax liability for 1988 as follows:

e=estimate
a=amount originally reported (actual)
h=hypothetical

	1988		Total
	D	E	
1988 contract costs	$3,000e	$2,000e	
Total contract costs	6,000e	8,000e	
Total contract price	10,000e	10,000e	
1988 completion (%)	37.5e	25e	
1988 gross income	3,750e	2,500e	
Less, 1988 costs	(3,000e)	(2,000e)	
1988 net contract income	750e	500e	$1,250e
Other 1988 net income (loss)			(2,000e)
Taxable income (NOL)			(750e)
Tax			0e
Federal from NOL carryback fully absorbed in 1985, at 46%			345e

(ii) X completes Contract D during 1989. X determines its taxable income for 1989 as follows:

	1989		Total
	D	E	
1989 contract costs	$3,000a	0e	
Total contract costs	6,000a	8,000e	
Total contract price	10,000e	10,000e	
1989 completion (%)	100	22.2e	
1989 gross income/(loss)	4,250	($750e)	
Less, 1989 costs	($3,000a)	0e	
1989 net contract income	3,250e	($750e)	$2,572e
Other 1989 net income (loss)			0e
Taxable income (NOL)			2,572e
Tax at 34%			1,011e

(iii) For purposes of the look-back method, X must reallocate the actual total contract D price between 1988 and 1989 based on the actual total contract D costs. This results in the following hypothetical underpayment of tax for 1988 for purposes of the look-back method. Note that X does not reallocate the contract E price in applying the look-back method in 1989 because contract E has not been completed, even though X's estimate of contract E costs has changed. The following computation is only for purposes of applying the look-back method, and does not result in the assessment of a tax deficiency.

	1988		Total
	D	E	
1989 contract costs	$3,000a	$2,000e	
Total contract costs	6,000a	8,000e	
Total contract price	10,000e	10,000e	
1988 completion (%)	50a	25e	
1988 gross income	5,000h	2,500e	
Less, 1988 costs	(3,000a)	(2,000e)	
1988 net contract income	2,000h	500e	$2,500h
Other 1988 net income (loss)			(2,000a)
Taxable income (NOL)			500h
Tax at 34%			170h
Less, previously computed tax			—0a
Underpayment of 1988 tax			170h
Underpayment of 1985 tax from NOL carryback refund in 1988			345h

	1988		Total
	D	E	
Total [illegible] of tax			$18h

For purposes of any subsequent application of the look-back method for which 1989 is a redetermination year, because the reallocation of contract income and redetermination of tax liability are cumulative, X will use for 1989 the amount of contract D income and the amount of tax liability that would have been reported in 1989 if X had used actual contract costs instead of the amounts that were originally reported using the estimate of $9,000. Assuming no subsequent revisions (due to, for example, adjustments to contract D price and costs determined after the end of 1989), this amount would be determined as follows:

	1989		Total
	D	E	
1989 contract costs	$3,000a	0a	
Total contract costs	9,000a	$8,000a	
Total contract price	10,000a	10,000a	
1989 completion (%)	100a	22.2a	
1989 gross income	5,000h	(278a)	
Less, 1989 costs	(9,000a)	0a	
1989 net contract income	2,000h	(278a)	$1,722h
Other 1989 net income (loss)			0a
Taxable income (NOL)			1,722h
Tax at 34%			585h

(iv) X completes contract E during 1990. X determines its taxable income for 1990 as follows:

	1990		Total
	D	E	
1990 contract costs		$7,000a	
Total contract costs		8,000a	
Total contract price		10,000a	
1990 completion (%)		100a	
1990 gross income		7,778a	
Less, 1990 costs		(7,000a)	
1990 net contract income		778a	$778a
Other 1990 net income (loss)			0a
Taxable income (NOL)			778a
Tax at 34%			265a

(v) For purposes of the look-back method, X must reallocate the actual total contract E price between the 1988, 1989, and 1990, based on the actual total contract E costs.

This results in the following hypothetical overpayment of tax for 1988. Note that X uses the amount of income for contract D determined in the last previous application of the look-back method, and not the amount of income actually reported:

	1988		Total
	D	E	
1988 contract costs	$3,000a	$2,000a	
Total contract costs	96,000a	99,000a	
Total contract price	$10,000a	$10,000a	
1988 completion (%)	50a	22.2a	
1988 gross income	95,000h	$2,222h	
Less, 1988 costs	($3,000a)	($2,000a)	
1988 net contract income	$2,000h	$222h	$2,222h
Other 1988 net income (loss)			($2,000a)
Taxable income (NOL)			$222h
Tax at 34%			$75h
Less, previously computed tax (based on most recent application of the look-back method)			$179h
Overpayment of 1988 tax			$104h

In applying the look-back method in 1995, X again uses the amounts substituted as of the last previous application of the look-back method with respect to contract D. Thus, X computes its hypothetical underpayment for 1988 as follows:

	1988		Total
	D	E	
1988 contract costs	$3,000a	0a	
Total contract costs	$6,000a	$9,000a	
Total contract price	$10,000a	$10,000a	
1988 completion (%)	100a	22.2a	
1988 gross income	$5,000h	$0h	
Less, 1988 costs	($3,000a)	($0a)	
1988 net contract income	$2,000h	0a	$2,000h
Other 1988 net income (loss)			($0a)
Taxable income (NOL)			$2,000h
Tax at 34%			$680h
Less, previously computed tax			$585h
Underpayment of 1988 tax			$95h

For purposes of any subsequent application of the look-back method for which 1990 is a redetermination year, X will use for 1990 the amount of Contract E income, and the amount of tax liability, that was originally reported in 1990 because X's estimate of the total contract costs from $8,000 to $9,000 did not change after 1988. Without regard to any subsequent revisions, these amounts are the same as in the table in paragraph (h)(3)(iv) above.

(4) *Post-completion adjustments.* The following example illustrates the application of paragraph (c)(1)(ii):

Example (3). The facts are the same as in Example (2). In 1991, X settles a lawsuit against its customer in Contract E. The customer pays X an additional $3,000, without interest, in 1991. Applying the Federal mid-term rate then in effect, this $3,000 has a discounted value at the time of contract completion in 1990 of $2,700. X is required to apply the look-back method for 1991 even though no contract was completed in 1991. X must include the full $3,000 adjustment (which was not previously includible in total contract price) in gross income for 1991. X does not elect not to discount adjustments to the contract price or costs. Thus, X adjusts the contract price by the discounted amount of the adjustment and, therefore, uses $12,700 (not $13,000) for total Contract E price, rather than $10,000, which was used when the look-back method was first applied with respect to Contract E.

For purposes of the look-back method, X must allocate the revised total Contract E price of $12,700 between 1988, 1989 and 1990 based on the actual total Contract E costs, and compare the resulting revised tax liability with the tax liability determined for the last previous application of the look-back method involving those years. This results in the following hypothetical underpayments of tax for purposes of the look-back method:

r=revised

	1988		Total
	D	E	
1988 contract costs	$3,000a	$2,000a	
Total contract costs	$6,000a	$9,000a	
Total contract price	$10,000a	$12,700r	
1988 completion (%)	50a	22.2a	
1988 gross income	$5,000h	$2,822rh	
Less, 1988 costs	($3,000a)	($2,000a)	
1988 net contract income	$2,000h	822rh	$2,222rh
Other 1988 net income (loss)			($2,000a)
Taxable income			$822rh
Tax at 34%			$279rh
Less, previously computed tax			$75h
Underpayment of 1988 tax			$204rh

No Contract E costs were incurred in 1989, and there is no hypothetical underpayment for 1989.

	1990		
	D	E	Total
1990 contract costs		$7,000a	
Total contract costs		$9,000a	
Total contract price		$12,700r	
1990 completion (%)		100a	
1990 gross income		$3,878rh	
Less 1990 costs		($7,000a)	
1990 net contract income		$2,878rh	$2,878rh
Other 1990 net income (loss)			0a
Taxable income (NOL)			$2,878rh

	1990		
	D	E	Total
Tax at 34%			
Less, previously computed tax			
Underpayment of 1989 tax			

In 1992, X incurs an additional cost of $1,000 allocable to the contract, which was not previously includible in total contract costs. Applying the Federal mid-term rate then in effect, the $1,000 has a discounted value at the time of contract completion of $900. X deducts this additional $1,000 in expenses in 1992. Based on this increase in contract costs, X reapplies the look-back method, and determines the following hypothetical underpayments for 1988, 1989 and 1990 for purposes of the look-back method:

	1989		Total
	D	E	
1988 contract costs	$3,000a	$2,000a	
Total contract costs	$6,000a	$9,000a	
Total contract price	$10,000a	$12,700a	
1989 completion (%)	60a	20.4a	
1989 gross income	$5,000h	$2,592h	
Less, 1988 costs	($3,000a)	($2,000a)	
1988 net contract income	$2,000h	$592h	$2,592h
Other 1988 net income (loss)			($2,000a)
Taxable income (NOL)			$592h
Tax at 34%			$201h
Less, previously computed tax			$278h
Overpayment of 1989 tax			($77h)

No Contract E costs were incured in 1990, and there is no hypothetical underpayment for 1990.

	1990		Total
	D	E	
1990 contract costs			$7,000a
Total contract costs		$9,000a	
Total contract price		12,700a	
1990 completion (%)		92a	
1990 gross income		$1,071h	
Less, 1990 costs		(7,000a)	
1990 Net contract income		2,071h	$2,071h
Other 1990 net income (loss)			0a
Taxable income (NOL)			2,071h
Tax at 34%			704h
Less, previously computed tax			$978h
Overpayment of 1989 tax			($274h)

(5) *Alternative minimum tax.* The operation of the look-back method in the case of a taxpayer liable for the alternative minimum tax as provided in paragraph (c)(3)(vi) is illustrated by the following examples:

Example (i). Y enters into a long-term contract in 1988 that is completed in 1990. Y used regular tax costs for purposes of determining the degree of contract completion under the alternative minimum tax.

(i) Y determines its tax liability for 1988 as follows:

1988 contract costs	$6,000a
Total contract costs	$6,000a
Total contract price	$20,000a
1988 completion (%)	50a
1988 gross income	$10,000a
Less, 1988 contract costs	($4,000a)
1988 net contract income	$6,000a
Other 1988 net income/(loss)	($3,460a)
Taxable income	$2,600a
Regular tax at 34%	$884a
Adjustments and preferences to produce alternative minimum taxable income	$600a
Alternative minimum taxable income	$3,200a
Tentative minimum tax at 20%	640a
Tax liability	$884a

In 1989, Y determines the following amounts:

1989 contract costs	$3,000a
Total contract costs	$10,000a
Total contract price	$20,000a

(ii) For purposes of applying the look-back method, Y redetermines its tax liability for 1988, which results in a hypothetical overpayment of tax. This hypothetical

overpayment is determined by comparing Y's original regular tax liability for 1986 with the hypothetical total tax liability (including alternative minimum tax liability) for that year because Y would have paid the alternative minimum tax if Y had used its actual contract costs to report income:

1986 contract costs	$4,000a
Total contract costs	$10,000a
Total contract price	$20,000a
1986 completion(%)	40a
1986 gross income	$8,000b
less, 1986 contract costs	($4,000a)
1986 net contract income	$4,000b
Other 1986 net income/(loss)	($3,400a)
Taxable income	$600b
Regular tax at 34%	$204b
Adjustments and preferences to produce alternative minimum taxable income	$600a
Alternative minimum taxable income	$1,200b
Tentative minimum tax at 20%	$240b
Alternative minimum tax	$240b
Total tax liability	$540b
less, previously computed tax	$384a
Underpayment/(overpayment)	($144b)

(6) *Credit carryovers.* The operation of the look-back method in the case of credit carryovers as provided in paragraph (c)(3)(v) is illustrated by the following example:

Example (5). Z enters into a contract in 1986 that is completed in 1987. Z determines its tax liability for 1986 as follows:

1986 contract costs	$400a
Total contract costs	$1,000a
Total contract price	$2,000a
1986 completion (%)	40a
1986 gross income	$800a
Less, 1986 costs	($400a)
1986 net contract income	$400a
Other 1986 net income	$0a
Taxable income	$400a
Tax at 46%	$184a
Unused tax credits carried forward from 1985 allowable in 1986	$350a
Net tax due	$0a

Z determines the following amounts for 1987:

1987 contract costs	$400a
Total contract price	$2,000a
Total contract costs	$800a

If Z had used actual rather than estimated contract costs in determining gross income for 1986, Z would have reported tax liability of $276 (46%x$600) rather than $184. However, Z would have paid no additional tax for 1986 because its unused tax credits carried forward from 1985 would have been sufficient to offset this increased tax liability. Therefore, there is no hypothetical underpayment for 1986 for purposes of the look-back method. However, this hypothetical earlier use of the credit may increase the hypothetical tax liability for 1987 (or another subsequent year) for purposes of subsequent applications of the look-back method.

(7) *Net operating losses.* The operation of the look-back method in the case of net operating loss ("NOL") carryovers as provided in paragraph (c)(3)(v) is illustrated by the following example:

Example (6). A entered into a long-term contract in 1986, which was completed in 1987. A determined its tax liability for 1986 as follows:

1986 contract costs	$400a
Total contract costs	$1,000a
Total contract price	$2,000a
1986 completion (%)	40a
1986 gross income	$800a
Less, 1986 costs	($400a)
1986 net contract income	$400a
Other 1986 net income/(loss)	($1,000a)
Taxable income/(NOL)	($600a)
Tax	$0a

A elected to carry this loss forward to 1987 pursuant to section 172(b)(3)(C).

For 1987, A determined the following amounts:

1987 contract costs	$400a
Total contract costs	$800a
Total contract price	$2,000a

If actual rather than estimated contract costs had been used in determining gross income for 1986, A would have reported $1,000 of gross income from the contract rather than $800, and thus would have reported a loss of $400 rather than $600. However, since A would have paid no tax for 1986 regardless of whether actual or estimated contract costs had been used, A does not have an underpayment for 1986 for purposes of the look-back method. If A had, instead, carried back the 1986 NOL, and this NOL had been absorbed in the tax years 1983 through 1985, it would have resulted in refunds of tax for those years in 1986. When A applies the look-back method, a hypothetical underpayment of tax would have resulted for those years due to a hypothetical reduction in the amount that would have been refunded if income had been reported on the basis of actual contract costs. See Example (2)(iii).

(8) *Alternative minimum tax credit.* The following example illustrates the application of the look-back method if affected by the alternative minimum tax credit as provided in paragraph (c)(3)(vi):

(i) Example (4), above illustrates that the reallocation of contract income under the look-back method can result in a hypothetical underpayment or overpayment determined using the alternative minimum tax rate, even though the taxpayer actually paid only the regular tax for that year. However, application of the look-back method had no effect on the difference between the amount of alternative minimum taxable income and the amount of regular taxable income taken into account in that year because the taxpayer was required to use the percentage of completion method for both regular and alternative minimum tax purposes and used the same version of the percentage of completion method for both regular and alternative minimum tax purposes (*i.e.*, the taxpayer had made an election to use regular tax costs in determining the percentage of completion for purposes of computing alternative minimum taxable income).

(ii) The following example illustrates the application of the look-back method in the case of a taxpayer that does not use the percentage of completion method of accounting for long-term contracts in computing taxable income for regular tax purposes and thus must make an adjustment to taxable income to determine alternative minimum taxable income. The example also shows how interest is computed under the look-back method when the taxpayer is entitled to a credit under section 53 for minimum tax paid because of this adjustment.

Example (7). X is a taxpayer engaged in the construction of real property under contracts that are completed within a 24-month period and whose average annual gross receipts do not exceed $10,000,000. As permitted by section 460(e)(1)(B), X uses the completed contract method ("CCM") for regular tax purposes. However, X is engaged in the construction of commercial real property and, therefore, is required to use the percentage of completion method ("PCM") for alternative minimum tax ("AMT") purposes.

Assume that for 1988, 1989, and 1990, X has only one long-term contract, which is entered into in 1988 and completed in 1990. Assume further that X estimates gross income from the contract to be $2,000, total contract costs to be $1,000, and that the contract is 25 percent complete in 1988 and 75 percent complete in 1989. In 1990, the year of completion, the percentage of completion does not change but, upon completion, gross income from the contract is actually $3,000, instead of $2,000, and costs are actually $1,000.

For 1988, 1989, and 1990, X's income and tax liability using estimated contract price and costs are as follows:

Estimates	1988	1989	1990
Regular tax:			
Long-term:			
Contract-CCM	0	0	$2,000
Other income	0	$5,000	0
Total income	0	$5,000	$2,000
Tax @ 34%	0	$1,700	$680
AMT			
Gross income	$500	$1,000	$1,500
Deductions	$(250)	$(500)	$(250)
Total long-term:			
Contract-PCM	$250	$500	$1,250
Other income	0	$5,000	0
Total income	$250	$5,500	$1,250
Tax @ 20%	$50	$1,100	$250
Tentative Minimum Tax	$50	$1,100	$250
Regular Tax	0	$1,700	$680
Minimum Tax Credit	0	$(50)	0
Net Tax Liability	$50	$1,650	$680

When X files its tax return for 1990, X applies the look-back method to the contract. For 1988, 1989, and 1990, X's income and tax liability using actual contract price and costs are as follows:

Actual	1988	1989	1990
Regular tax:			
Long-term:			
Contract-CCM	0	0	$2,000
Other income	0	$5,000	0
Total income	0	$5,000	$2,000
Tax @ 34%	0	$1,700	$680
AMT			
Gross income	$750	$1,500	$750
Deductions	$(250)	$(500)	$(250)
Total long-term:			
Contract-PCM	$500	$1,000	$500
Other income	0	$5,000	0
Total income	$500	$6,000	$500
Tax @ 20%	$100	$1,200	$100
Tentative Minimum Tax	$100	$1,200	$100
Regular Tax	0	$1,700	$680
Minimum Tax Credit	0	$(100)	0
Net Tax Liability	$100	$1,600	$580
Underpayment	$50		
Overpayment		$50	

As shown above, application of the look-back method results in a hypothetical underpayment of $50 for 1988 because X was subject to the alternative minimum tax for that year. Interest is charged to X on this $50 underpayment from the due date of X's 1988 return until the due date of X's 1990 return.

In 1989, although X was required to compute alternative minimum taxable income using the percentage of completion method, X was not required to pay alternative minimum tax. Nevertheless, the look-back method must be applied to 1989 because use of actual rather than estimated contract price in computing alternative minimum taxable income for 1988 would have changed the amount of the alternative minimum tax credit carried to 1989. Interest is paid to X on the resulting $50 overpayment from the due date of X's 1989 return until the due date of X's 1990 return.

(9) *Period for interest.* The following Examples (8) through (11) illustrate how to determine the period for computing interest as provided in paragraph (c)(4):

Example (8). The facts are the same as in Example (6), except that the contract is completed in 1988, and A determined the following amounts for 1987 and 1988:

For 1987:	
1987 contract costs	0
Total contract costs	$1,000a
Total contract price	$2,000a
1987 completion (%)	40a
1987 gross income	0a
Less, 1987 costs	0a
Other 1987 net income	$800a
Net operating loss carryforward from 1986	$(800a)
Taxable income	0a
Tax	0a
For 1988:	
1988 contract costs	$400a
Total contract costs	$800a
Total contract price	$2,000a

If actual rather than estimated contract costs had been used in determining gross income for 1988, A would have reported $1,000 of gross income from the contract for 1988 rather than $800, and would have reported a net operating loss carryforward to 1987 of $400 rather than $800. Therefore, A would have reported taxable income of $200, and would have paid tax of $80 (*i.e.*, $200 × 40%) for 1987. The due date for filing A's Federal income tax return for its 1988 taxable year is March 15. A obtains an extension and files its 1988 return on September 15, 1989. Under the look-back method, A is required to pay interest on the amount of this hypothetical underpayment ($80) computed from the due date (determined without regard to extensions) for A's return for 1987 (not 1988, even though 1988 was the year in which the net operating loss arose) until March 15 (not September 15), the due date (without regard to extensions) of A's return for 1988. A is required to pay additional interest from March 15 until September 15 on the amount of interest outstanding as of March 15 with respect to the hypothetical underpayment of $80.

Example (9). The facts are the same as in Example (8), except that A carries the net operating loss of $800 back to 1986 rather than forward to 1987, and receives a refund of $276 ($800 reduction in 1986 taxable income × 40% rate in effect in 1986). As in Example (8), if actual contract costs had been used, A would have reported a loss for 1988

of $600 rather than $600. Thus, A would have received a refund of 1988 tax of $184 ($400 × 46%) rather than $276. Under the look-back method A is required to pay interest on the difference in these two amounts ($92) computed from the due date (determined without regard to extensions) of A's return for 1988 (the year in which the carryback arose rather than 1989, the year in which it was used) until the due date of A's return for 1989.

Example (10). B enters into a long-term contract in 1988 that is completed in 1989. B determines its 1988 tax liability as follows:

1988 contract costs	$400a
Total contract costs	$1,000e
Total contract price	$2,000e
1988 completion (%)	40e
1988 gross income	$800a
Less, 1988 costs	($400a)
1988 net contract income	$400a
Other 1988 net income	$2,000a
Taxable income	$2,400a
Tax at 46%	$1,104a

B determines its tax liability for 1987 as follows:

1987 contract costs	$400a
Total contract costs	$1,600e
Total contract price	$2,000e
1987 completion (%)	50e
1987 gross income	$200a
(+(50% × $2,000)—$800 previously reported) less, 1987 costs	($400a)
1987 net contract income	($200a)
Other 1987 net income/(loss)	($2,200a)
Taxable income (NOL)	($2,400a)
Tax	0a

Assume that B had no taxable income in either 1984 or 1985, so that the entire amount of the $2,400 net operating loss is carried back to 1988, and B receives a refund, with interest from the due date of B's 1987 return, of the entire $1,104 in tax that it paid for 1988.

In 1988, B determines the following amounts:

1988 contract costs	$800a
Total contract costs	$1,600a
Total contract price	$2,000a

If B had used actual contract costs rather than estimated costs in determining its gross income for 1988, B would have had gross income from the contract of $800 rather than $800, and thus would have had taxable income of $2,100 rather than $2,400, and would have paid tax of $966 rather than $1,104. B is entitled to receive interest on the difference between these two amounts, the hypothetical overpayment of tax of $138. Interest is computed from the due date (without regard to extensions) of B's return for 1988 until the due date for B's return for 1987. Interest stops running at this date, because B's hypothetical overpayment of tax ended when B filed its original 1987 return and received a refund for the carryback to 1988, and interest on this refund began to run only from the due date of B's 1987 return. See section 6611(f).

Example (11). C enters into a long-term contract in 1988, its first year in business, which is completed in 1989. C determines its tax liability for 1988 as follows:

1988 contract costs	$400a
Total contract costs	$1,000e
Total contract price	$2,000e
1988 completion (%)	40e
1988 gross income	$800a
less, 1988 costs	($400a)
1988 net contract income	$400a
Other 1988 net income	$2,000a
Taxable income (NOL)	$2,400a
Tax at 46%	$1,104a

C determines its tax liability for 1987 as follows:

1987 contract costs	$400a
Total contract costs	$1,066e
Total contract price	$2,000e
1987 completion (%)	75e
1987 gross income	$700a
Less, 1987 costs	($400a)
1987 net contract income	$300a
Other 1987 net income	($2,450a)
Taxable income (NOL)	($2,150a)
Tax	$10a

C carries back the net operating loss to 1988, and files an amended return for 1988, showing taxable income of $250, and receives a refund of $969 (46% x $2,150). Interest on this refund begins to run only as of the due date of C's 1987 return. See section 6611(f).

In 1988, when the contract is completed, C determines the following amounts:

1988 contract costs	$800a
Total contract costs	$1,600a
Total contract price	$2,000a

If C had used actual contract price and contract costs in determining gross income for 1988, it would have reported gross income from the contract of $500 rather than $600, taxable income of $2,100 rather than $2,400, and tax liability of $966 rather than $1,104.

If C had used actual contract price and contract costs in determining gross income for 1987, it would have reported gross income from the contract of $500 rather than $700, and would have reported a net operating loss of $2,350, rather than $2,150, which would have been carried back to 1986.

Under the look-back method, C receives interest with respect to a total 1988 hypothetical overpayment of $138 ($1,104 minus $966). C is credited with interest on $23 of this amount only from the due date of C's 1988 return until the due date of C's 1987 tax return, because this portion of C's total hypothetical overpayment for 1988 was refunded to C with interest computed from the due date of C's 1987 return and, therefore, was no longer held by the government. However, because the remainder of the total hypothetical overpayment of $115 was not refunded to C, C is credited with interest on this amount from the due date of C's 1988 return until the due date of C's 1988 tax return.

Under the look-back method, C receives no interest with respect to 1987, because C had no tax liability for 1987 using either estimated or actual contract price and costs.

§ 1.460-7 Exempt long-term contracts. [Reserved]

§ 1.460-8 Changes in method of accounting. [Reserved]

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 3. The authority for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 4. Section 602.101(c) is amended by adding in the appropriate place in the table:

"§ 1.460-8 . . . 1545-1031."

Fred T. Goldberg, Jr.,
Commissioner of Internal Revenue.

Approved: September 18, 1990.

Kenneth W. Gideon,
Assistant Secretary of the Treasury.

[FR Doc. 90-24131 Filed 10-12-90; 8:45 am]

BILLING CODE 4830-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2610 and 2622

Late Premium Payments and Employer Liability Underpayments and Overpayments; Interest Rate for Determining Variable Rate Premium; Amendments to Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This document notifies the public of the interest rate applicable to late premium payments and employer liability underpayments and overpayments for the calendar quarter beginning October 1, 1990. This interest rate is established quarterly by the Internal Revenue Service. This document also sets forth the interest rates for valuing unfunded vested benefits for premium purposes for plan years beginning in July through September of 1990. These interest rates are established pursuant to section 4006 of the Employee Retirement Income Security Act of 1974, as amended. The effect of these amendments is to advise plan sponsors and pension practitioners of these new interest rates.

EFFECTIVE DATE: October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Harold Ashner, Senior Counsel, Office of the General Counsel, Code 22500,

Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006; telephone (202) 778–8824 ((202) 778–8859 for TTY and TTD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: As part of title IV of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), the Pension Benefit Guaranty Corporation ("PBGC") collects premiums from ongoing plans to support the single-employer and multiemployer insurance programs. Under the single-employer program, the PBGC also collects employer liability from those persons described in ERISA section 4062(a). Under ERISA section 4007 and 29 CFR 2610.7, the interest rate to be charged on unpaid premiums is the rate established under section 6601 of the Internal Revenue Code ("Code"). Similarly, under 29 CFR 2622.7, the interest rate to be credited or charged with respect to overpayments or underpayments of employer liability is the section 6601 rate. These interest rates are published by the PBGC in Appendix A to the premium regulation and Appendix A to the employer liability regulation.

The Internal Revenue Service has announced that for the quarter beginning October 1, 1990, the interest charged on the underpayment of taxes will be at a rate of 11 percent. Accordingly, the PBGC is amending Appendix A to 29 CFR part 2610 and Appendix A to 29 CFR part 2622 to set forth this rate for the October 1–December 31, 1990 quarter.

Under ERISA section 4006(a)(3)(E)(iii)(II), in determining a single-employer plan's unfunded vested benefits for premium computation purposes, plans must use an interest rate equal to 80% of the annual yield on 30-year Treasury securities for the month preceding the beginning of the plan year for which premiums are being paid. Under § 2610.23(b)(1) of the premium regulation, this value is determined by reference to 30-year Treasury constant maturities as reported in Federal Reserve Statistical Releases G.13 and H.15. The PBGC publishes these rates in Appendix B to the regulation.

The PBGC publishes these monthly interest rates in Appendix B on a quarterly basis to coincide with the publication of the late payment interest rate set forth in Appendix A. (The PBGC publishes the Appendix A rates every quarter, regardless of whether the rate has changed.) Unlike the Appendix A rate, which is determined prospectively, the Appendix B rate is not known until a short time after the first of the month for which it applies. Accordingly, the PBGC is hereby amending Appendix B to part 2610 to add the vested benefits valuation rates for plan years beginning in July through September of 1990.

The appendices to 29 CFR parts 2610 and 2622 do not prescribe the interest rates under these regulations. Under both regulations, the Appendix A rates are the rates determined under section 6601(a) of the Code. The interest rates in Appendix B to part 2610 are prescribed by ERISA section 4006(a)(3)(E)(iii)(II) and § 2610.23(b)(1) of the regulation. These appendices merely collect and republish the interest rates in a convenient place. Thus, the interest rates in the appendices are informational only. Accordingly, the PBGC finds that notice of the public comment on these amendments would be unnecessary and contrary to the public interest. For the above reasons, the PBGC also believes that good cause exists for making these amendments effective immediately.

The PBGC has determined that none of these amendments is a "major rule" within the meaning of Executive Order 12291, because they will not have an annual effect on the economy of $100 million or more; nor create a major increase in costs or prices for consumers, individual industries, or geographic regions, nor have significant adverse effects on competition, employment, investment, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because no general notice of proposed rulemaking is required for these amendments, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 2610

Employee benefit plans, Penalties, Pension insurance, Pensions, and Reporting and recordkeeping requirements.

29 CFR Part 2622

Business and industry, Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements, and Small businesses.

In consideration of the foregoing, appendix A and appendix B to part 2610 and appendix A to part 2622 of chapter XXVI of title 29, Code of Federal Regulations, are hereby amended as follows:

PART 2610—PAYMENT OF PREMIUMS

1. The authority citation for part 2610 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1306, 1307, (1988), as amended by sec. 7861(h), Public Law 101–239, 103 Stat. 2106, 2242.

2. Appendix A to part 2610 is amended by adding a new entry for the quarter beginning October 1, 1990, to read as follows. The introductory text is republished for the convenience of the reader and remains unchanged.

Appendix A—Late Payment Interest Rates

The following table lists the late payment interest rates under § 2610.7(a) for the specified time periods:

From	Through	Interest rate (percent)
October 1, 1990	December 31, 1990	11

3. Appendix B to part 2610 is amended by adding to the table of interest rates therein new entries for premium payment years beginning in July through September of 1990, to read as follows. The introductory text is republished for the convenience of the reader and remains unchanged.

Appendix B—Interest Rates for Valuing Vested Benefits

The following table lists the required interest rates to be used in valuing a plan's vested benefits under § 2610.23(b) and in calculating a plan's adjusted vested benefits under § 2610.23(c)(1):

For premium payment years beginning in—	Required interest rate [1]
• • • • •	
July 1990	8.77
August 1990	8.89
September 1990	7.09

[1] The required interest rate listed above is equal to 85% of the annual yield for 30-year Treasury constant maturities, as reported in Federal Reserve Statistical Release G.13 and H.15 for the calendar month preceding the calendar month in which the premium payment year begins.

PART 2622—EMPLOYER LIABILITY FOR WITHDRAWALS FROM AND TERMINATIONS OF SINGLE-EMPLOYER PLANS

4. The authority citation for part 2622 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1362–1364, 1367–68, as amended by secs. 9312, 9313, Pub. L. 100–203, 101 Stat. 1330.

5. Appendix A to part 2622 is amended by adding a new entry for the quarter beginning October 1, 1990, to read as follows. The introductory text is republished for the convenience of the reader and remains unchanged.

Appendix A—Late Payment and Overpayment Interest Rates

The following table lists the late payment and overpayment interest rates under § 2622.7 for the specified time periods:

From	Through	Interest rate (percent)
• • • • •		
October 1, 1990..	December 31, 1990.	11

Issued in Washington, DC, the 9th day of October 1990.

James B. Lockhart III,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 90-24213 Filed 10-12-90; 8:45 am]

BILLING CODE 7708-01-M

29 CFR Part 2619

Valuation of Plan Benefits in Single-Employer Plans; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the regulation of Valuation of Plan Benefits in Single-Employer Plans contains the interest rates and factors for the period beginning November 1, 1990. The use of these interest rates and factors to value benefits is mandatory for some terminating single-employer pension plans and optional for others. The Pension Benefit Guaranty Corporation adjusts the interest rates and factors periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after November 1, 1990 and will remain in effect until the PBGC issues new interest rates and factors.

EFFECTIVE DATE: November 1, 1990.

FOR FURTHER INFORMATION CONTACT: J. Ronald Goldstein, Senior Counsel, Office of the General Counsel, Code 22500, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006, 202–778–8850 (202–778–8859 for TTY and TDD only). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation's ("PBGC's") regulation on Valuation of Plan Benefits in Single-Employer Plans (29 CFR part 2619) sets forth the methods for valuing plan benefits of terminating single-employer plans covered under Title IV of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Under ERISA section 4041(c), all plans wishing to terminate in a distress termination must value guaranteed benefits and "benefit liabilities", i.e., all benefits provided under the plan as of the plan termination date, using the formulas set forth in part 2619. Plans terminating in a standard termination may, for purposes of the Standard Termination Notice filed with PBGC, use these formulas to value benefit liabilities, although this is not required. (Such plans may value benefit liabilities that are payable as annuities on the basis of a qualifying bid obtained from an insurer.)

Appendix B in part 2619 sets forth the interest rates and factors that are to be used in the formulas contained in the regulation. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

The rates and factors currently in use have been in effect since October 1, 1990. This amendment adds to appendix B a new set of interest rates and factors for valuing benefits in plans that terminate on or after November 1, 1990, which set reflects an increase of ¼ percent in the immediate interest rate from 7¼ to 7¾ percent.

Generally, the interest rates and factors will be in effect for at least one month. However, any published rates and factors will remain in effect until such time as PBGC publishes another amendment changing them. Any change in the rates normally will be published in the Federal Register by the 15th of the month preceding the effective date of the new rates or as close to that date as circumstances permit.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest rates and factors promptly so that the rates can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in plans that will terminate on or after November 1, 1990, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, and Pensions.

In consideration of the foregoing, part 2619 of chapter XXVI, title 29, Code of Federal Regulations, is hereby amended as follows:

PART 2619—[AMENDED]

1. The authority citation for part 2619 is revised to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, and 1362 (1988).

2. Rate Set 87 of appendix B is revised and Rate Set 88 of appendix B is added to read as follows. The introductory text is published for the convenience of the reader and remains unchanged.

Appendix B—Interest Rates and Quantities Used To Value Immediate and Deferred Annuities

In the table that follows, the immediate annuity rate is used to value immediate annuities, to compute the quantity "C_y" for deferred annuities and to value both portions of a refund annuity. An interest rate of 5% shall be used to value death benefits other than the decreasing term insurance portion of a refund annuity. For deferred annuities, k_1, k_2, k_3, n_1, and n_2 are defined in § 2619.45.

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
87	10-1-90	11-1-90	7.50	1.0675	1.0550	1.0400	7	8
88	11-1-90		7.75	1.0700	1.0575	1.0400	7	8

James B. Lockhart III,
Executive Director, Pension Benefit Guaranty Corporation.
[FR Doc. 90-24214 Filed 10-12-90; 8:45 am]
BILLING CODE 7708-01-M

29 CFR Part 2644

Notice and Collection of Withdrawal Liability; Adoption of New Interest Rate

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Notice and Collection of Withdrawal Liability. That regulation incorporates certain interest rates published by another Federal agency. The effect of this amendment is to add to the appendix of that regulation the new interest rate in effect from July 1, 1990 to December 31, 1990.

EFFECTIVE DATE: July 1, 1990.

FOR FURTHER INFORMATION CONTACT: J. Ronald Goldstein, Senior Counsel, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006; telephone 202-778-8850 (202-778-8859 or TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Under section 4219(c) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), the Pension Benefit Guaranty Corporation ("the PBGC") promulgated a final regulation on Notice and Collection of Withdrawal Liability. That regulation, codified at 29 CFR part 2644, deals with the rate of interest to be charged by multiemployer pension plans on withdrawal liability payments that are overdue or in default, or to be credited by plans on overpayments of withdrawal liability. The regulation allows plans to set rates, subject to certain restrictions. Where a plan does not set the interest rate, § 2644.3(b) of the regulation provides that the rate to be charged or credited for any calendar quarter is the average quoted prime rate on short-term commercial loans for the fifteenth day (or the next business day if the fifteenth day is not a business day) of the month preceding the beginning of the quarter, as reported by the Board of Governors of the Federal Reserve System in Statistical Release H.15 ("Selected Interest Rates").

Because the regulation incorporates interest rates published in Statistical Release H.15, that release is the authoritative source for the rates that are to be applied under the regulation. As a convenience to persons using the regulation, however, the PBGC collects the applicable rates and republishes them in an appendix to part 2644. This amendment adds to this appendix the interest rates for both the July 1, 1990–September 30, 1990 quarter (for which publication was inadvertently omitted) and the October 1, 1990–December 31, 1990 quarter. The interest rate for both periods is 10 percent, which is the same rate that was in effect for the second quarter of 1990. The rates for the third and fourth calendar quarters are based on the prime rate in effect on June 15, 1990 and September 17, 1990, respectively.

The appendix to 29 CFR part 2644 does not prescribe interest rates under the regulation; the rates prescribed in the regulation are those published in Statistical Release H.15. The appendix merely collects and republishes the rates in a convenient place. Thus, the interest rates in the appendix are informational only. Accordingly, the PBGC finds that notice of and public comment on this amendment would be unnecessary and contrary to the public interest. For the above reasons, the PBGC also believes that good cause exists for making this amendment effective immediately.

The PBGC has determined that this amendment is not a "major rule" within the meaning of Executive Order 12291, because it will not have an annual effect on the economy of $100 million or more; nor create a major increase in costs or prices for consumers, individual industries, or geographic regions, nor have significant adverse effects on competition, employment, investment, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 2644

Employee benefit plans, Pensions.

In consideration of the foregoing, part 2644 of subchapter F of chapter XXVI of title 29, Code of Federal Regulations, is amended as follows:

PART 2644—NOTICE AND COLLECTION OF WITHDRAWAL LIABILITY

1. The authority citation for part 2644 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3) and 1399(c)(6).

Appendix A [Amended]

2. Appendix A is amended by adding to the end of the table therein two new entries as follows:

From	To	Date of quotation	Rate (percent)
07/01/90	09/30/90	06/15/90	10.00
10/01/90	12/31/90	09/17/90	10.00

James B. Lockhart III,
Executive Director, Pension Benefit Guaranty Corporation.
[FR Doc. 90-24216 Filed 10-12-90; 8:45 am]
BILLING CODE 7708-01-M

29 CFR Part 2676

Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal—Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR part 2676). The regulation prescribes rules for valuing benefits and certain assets of multiemployer plans under sections

BEST COPY AVAILABLE

4219(c)(1)(D) and 4281(b) of the Employee Retirement Income Security Act of 1974. Section 2676.15(c) of the regulation contains a table setting forth, for each calendar month, a series of interest rates to be used in any valuation performed as of a valuation date within that calendar month. On or about the fifteenth of each month, the PBGC publishes a new entry in the table for the following month, whether or not the rates are changing. This amendment adds to the table the rate series for the month of November 1990.

EFFECTIVE DATE: November 1, 1990.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington DC 20006; 202–778–8820 (202–778–8859 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The PBGC finds that notice of and public comment on this amendment would be impracticable and contrary to the public interest, and that there is good cause for making this amendment effective immediately. These findings are based on the need to have the interest rates in this amendment reflect market conditions that are as nearly current as possible and the need to issue the interest rates promptly so that they are available to the public before the beginning of the period to which they apply. (*See* 5 U.S.C. 553 (b) and (d).) Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

The PBGC has also determined that this amendment is not a "major rule" within the meaning of Executive Order 12291 because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 29 CFR Part 2676

Employee benefit plans and Pensions.

In consideration of the foregoing, part 2676 of subchapter H of chapter XXVI of title 29, Code of Federal Regulations, is amended as follows:

PART 2676—VALUATION OF PLAN BENEFITS AND PLAN ASSETS FOLLOWING MASS WITHDRAWAL

1. The authority citation for part 2676 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1399(c)(1)(D), and 1441(b)(1).

2. In § 2676.15, paragraph (c) is amended by adding to the end of the table of interest rates therein the following new entry:

§ 2676.15 Interest.

* * * * *

(c) *Interest rates.*

For valuation dates occurring in the month:	The values for i_t are:															
	i_1	i_2	i_3	i_4	i_5	i_6	i_7	i_8	i_9	i_{10}	i_{11}	i_{12}	i_{13}	i_{14}	i_{15}	i_n
* * *																
November 1990..	.09625	.0925	.0875	.0825	.0775	.07125	.07125	.07125	.07125	.07125	.065	.065	.065	.065	.065	.06

Issued at Washington, DC, on this 9th day of October 1990.

James B. Lockhart III,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 90-24218 Filed 10-12-90; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Los Angeles/Long Beach Regulation 90-11]

Security Zone Regulations; Port of Los Angeles, CA

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a security zone in the Port of Los Angeles, California, around any vessels moored at LA BERTHS 54 and 55 during the effective period of these regulations. The zone is needed to safeguard vessels involved in military equipment outloads at LA BERTHS 54 and 55 against destruction, loss, or injury from sabotage or other subversive acts, accidents, or causes of a similar nature. Entry into this zone is prohibited unless authorized by the captain of the port.

EFFECTIVE DATE: This regulation becomes effective at 00:01 A.M., October 4, 1990. It terminates at 12 midnight, October 31, 1990.

FOR FURTHER INFORMATION CONTACT: LT R.F. Shields at (213) 499–5570.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rule making was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent destruction, loss, or injury to vessels involved in military equipment outloads at LA berths 54 and 55.

Drafting Information

The drafters of this regulation are LT R.F. Shields, project officer for the captain of the port, and LCDR J.J. Jaskot, project attorney, Eleventh Coast Guard District Legal Office.

Discussion of Regulation

The incident requiring this regulation will begin 00:01 a.m., on October 4, 1990. This security zone is necessary to ensure the security of vessels involved in military equipment outloads at LA berths 54 and 55.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, subpart D of part 165 of title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 33 CFR 160.5.

2. A new section 165.T1112 is added to read as follows:

§ 165.T1112 Security Zone: Vessels Moored at Berths 54 and 55, Port of Los Angeles, California.

(a) *Location.* The following area is a security zone:

The waters of Los Angeles Harbor within 100 yards of any vessels moored at LA berths 54 and 55.

(b) *Effective Date.* This regulation becomes effective at 00:01 a.m., October 4, 1990. It terminates at 12 midnight, October 31, 1990.

(c) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited unless authorized by the captain of the port. Section 165.33 also contains other general requirements.

Dated: October 10, 1990.

J.S. Morris,

Captain, U.S. Coast Guard, Captain of the Port, Los Angeles/Long Beach.

[FR Doc. 90-24234 Filed 10-12-90; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MS-014; FRL 3851-6]

Approval and Promulgation of Implementation Plans Mississippi: Approval of Revisions to the Prevention of Significant Deterioration (PSD) Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is today approving revisions to the Mississippi State Implementation Plan (SIP). These revisions were submitted to EPA by the State of Mississippi through the Mississippi Department of Environmental Quality on July 16, 1990. The revisions being approved today incorporate by reference the federal PSD regulations into the Mississippi SIP.

EFFECTIVE DATES: This action will be effective December 14, 1990 unles notice is received within 30 days that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to Kay Prince of EPA Region IV's Air Programs Branch (see EPA Region IV address below). Copies of the material submitted may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Region IV Air Programs Branch, Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365

Air Quality Division, Bureau of Pollution Control, Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39209-0385

FOR FURTHER INFORMATION CONTACT: Kay Prince of the EPA Region IV Air Programs Branch at 404-347-2864 or FTS-257-2864 and at the above address.

SUPPLEMENTARY INFORMATION: On June 28, 1990, the Mississippi Commission on Environmental Quality adopted Regulation APC-S-5, "Regulations for the Prevention of Significant Deterioration of Air Quality." The State of Mississippi through the Department of Environmental Quality submitted the revisions to the Mississippi SIP to EPA on July 16, 1990, which became state effective on July 29, 1990. Mississippi requested that the revisions be adopted as part of the federally approved SIP. EPA is today approving Mississippi Regulation APC-S-5.

All of the subsections of 40 CFR 52.21 other than subsections (a) [Plan disapproval], (q) [public participation], (s) [Environmental impact statement], and (u) [Delegation of authority] are adopted and incorporated by reference as official regulations of the State of Mississippi. The term "administrator" as it appears in 40 CFR 52.21 means the Mississippi Environmental Quality Permit Board, except:

(1) In subparagraph (b)(3)(iii) [relating to "net emissions increase"], it means either the Mississippi Environmental Quality Permit Board or the Administrator of the United States Environmental Protection Agency (USEPA).

(2) In the following subsections it continues to mean the Administrator of the USEPA:

(a) (b)(17) [definition of "federally enforceable"];

(b) (f)(1)(v), (f)(3), (f)(4)(i) [Exclusions from increment consumption];

(c) (g)(1)-(g)(6) [Redesignation];

(d) (1)(2) [Air quality models];

(e) (p)(1)-(p)(f2) [Sources impacting Federal Class I areas];

(f) (t) [Disputed permits or redesignations].

The procedural requirements of 40 CFR 51.166(q) [excluding the phrase "The plan shall provide that-"] are adopted and incorporated by reference except:

(1) The phrase "specified time period" means thirty (30) days; and

(2) The words "one year" in subparagraph (q)(2) are replaced by the words "one hundred and fifty (150) days."

The term "Administrator" in subparagraph (q)(2)(iv) continues to mean the Administrator of the USEPA.

The regulation also requires transmittal to the Administrator of the USEPA a copy of each permit application filed under the Mississippi PSD Regulations and notification to the Administrator of USEPA of each significant action taken on the application.

The revisions being approved meet all of the requirements for incorporating the federal PSD regulations into the Mississippi SIP. Due to the simplicity of this action, no technical support document has been prepared.

Final Action:

EPA is today approving the revisions to the Mississippi PSD air quality regulations listed above. All of the revisions being approved are consistent with Agency policy.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

This action is being taken without prior proposal because the changes are noncontroversial and EPA anticipates no significant comments on them. The public should be advised that this action will be effective 60 days from date of this Federal Register notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a comment period.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the Office of

Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 14, 1990. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the State Implementation Plan for the State of Mississippi was approved by the Director of the Federal Register on July 1, 1982.

Dated: October 5, 1990.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52, chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

Subpart Z—Mississippi

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1270 is amended by adding paragraph (c)(21) to read as follows:

§ 52.1270 Identification of plan.

* * * * *

(c) * * *

(21) Revisions to APC–S–5 of the Mississippi Air Pollution Control Act which were submitted on July 16, 1990.

(i) *Incorporation by reference.* (A) Regulation APC–S–5, Regulations for the Prevention of Significant Deterioration of Air Quality, effective on July 29, 1990.

(ii) *Other material.* (A) Letter of July 16, 1990, from the Mississippi Department of Environmental Quality.

§ 52.1280 [Amended]

3. Section 52.1280 is amended by:

Removing paragraphs (a) and (b) and redesignating paragraph (c) as (a).

[FR Doc. 90-24212 Filed 10-12-90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-47; RM-6585, RM-6591]

Radio Broadcasting Services; Greenville and LaGrange, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 239A to Greenville, Georgia, at the request of Orchon Broadcasting Company. *See* 54 FR 12248, March 24, 1989. Channel 239A can be allotted to Greenville in compliance with the Commission's minimum distance separation requirements with a site restriction of 11.9 kilometers (7.4 miles) south to avoid a short-spacing to Station WKLS, Channel 241C, Atlanta, Georgia. The coordinates are North Latitude 32–55–45 and West Longitude 84–45–41. With this action, this proceeding is terminated.

DATES: Effective November 23, 1990; the window period for filing applications will open on November 26, 1990, and close on December 26, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–47, adopted September 19, 1990, and released October 9, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73:

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended].

2. Section 73.202(b), the Table of FM Allotments, is amended under Georgia by adding Greenville, Channel 239A.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24152 Filed 10-12-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-308; RM-7173]

Radio Broadcasting Services; Statesboro, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 275C3 for Channel 275A at Statesboro, Georgia, and modifies the construction permit of Station WUUF(FM) to specify operation on the higher class channel, at the request of Pamela H. Hodges. *See* 55 FR 25853, June 25, 1990. Channel 275C3 can be allotted to Statesboro, Georgia, in compliance with the Commission's minimum distance separation requirements with a site restriction 13.6 kilometers (8.5 miles) west in order to avoid a short-spacing to Station WIVY(FM), Channel 275C, Jacksonville, Florida, and to Station WBHC(FM), Channel 276A, Hampton, South Carolina. The coordinates for this allotment are North Latitude 32–24–00 and West Longitude 81–55–00. With this action, this proceeding is terminated.

EFFECTIVE DATE: November 23, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90–308, adopted September 21, 1990, and released October 9, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended].

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by removing Channel 275A and adding Channel 275C3 at Statesboro.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24151 Filed 10-12-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-578; RM-7167]

Radio Broadcasting Services; Ocean City, MD

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 295A to Ocean City, Maryland, as that community's third FM broadcast service, in response to a petition filed by Joseph A. Booth. See 55 FR 324, January 4, 1990. The coordinates for Channel 295A are 32-20-00 and 75-05-18.

DATES: Effective November 23, 1990; The window period for filing applications for Channel 295A at Ocean City, Maryland, will open on November 26, 1990, and close on December 26, 1990.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-578, adopted September 21, 1990, and released October 9, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended].

2. Section 73.202(b), the Table of FM Allotments, is amended under Maryland by adding Channel 295A at Ocean City.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24153 Filed 10-12-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-580; RM-7129]

Radio Broadcasting Services; McCleary, WA.

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 245C3 to McCleary, Washington, as that community's first FM service, in response to a petition filed by Susan M. Ciborosky. See 55 FR 9149, March 12, 1990. Canadian concurrence has been obtained at coordinates 47-02-30 and 123-16-28.

EFFECTIVE DATE: November 23, 1990; The window period for filing applications for Channel 245C3 at McCleary will open on November 26, 1990, and close on December 26, 1990.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-580, adopted September 21, 1990, and released October 9, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended].

2. Section 73.202(b), the Table of FM Allotments under Washington, is amended by adding McCleary, Channel 245C3.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24155 Filed 10-12-90; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 55, No. 199
Monday, October 15, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 984

[FV-90-388-PR]

Expenses and Assessment Rate for Walnuts Grown in California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize expenditures and establish an assessment rate under Marketing Order No. 984 for the 1990–91 marketing year established under the walnut marketing order. Funds to administer this program are derived from assessments on handlers. This action is needed in order for the Walnut Marketing Board (Board), the agency responsible for the administration of the order, to have sufficient funds to meet the expenses of operating the program. This facilitates program operations. An annual budget of expenses is prepared by the Board and submitted to the U.S. Department of Agriculture (Department) for approval.

DATES: Comments must be received by October 25, 1990.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, F&V, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456. All comments should reference the docket number and the date and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, room 2524–S, Washington, DC 20090–6456; telephone: (202) 475–3861.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Order No. 984 (7 CFR part 984), as amended, regulating the handling of walnuts grown in California. The marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This proposed rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this final rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 65 handlers of walnuts grown in California who are subject to regulations under the walnut marketing order and approximately 5,000 producers of walnuts in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual revenues of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of walnut producers and handlers may be classified as small entities.

The walnut marketing order requires that the assessment rate for a particular marketing year shall apply to all assessable walnuts handled from the beginning of such year. An annual budget of expenses is prepared by the Board and submitted to the Department for approval. The Board consists of handlers, producers, and a non-industry member. They are familiar with the Board's needs and with the costs for goods, services, and personnel in their local areas and are thus in a position to formulate an appropriate budget. The budget is formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the Board is derived by dividing anticipated expenses by expected shipments of walnuts. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the Board's expected expenses. The recommended budget and rate of assessment are usually acted upon by the Board shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, the budget and assessment rate approval must be expedited so that the Board will have funds to pay its expenses.

The Board met on September 14, 1990, and unanimously recommended 1990–91 marketing order expenditures of $1,703,505 and an assessment rate of $0.0088 per kernelweight pound of walnuts. Assessment income for the 1990–91 marketing year is estimated at $1,711,370 based on a merchantable supply of 194,474,000 kernelweight pounds of walnuts. Comparative actual expenditures in 1989–90 were $1,321,415 and the assessment rate was $0.0085 per kernelweight pound of walnuts. Estimated assessment income in 1989–90 was $1,539,707 based on a merchantable supply of 181,142,000 kernelweight pounds of walnuts.

Major budget categories for the 1990–91 marketing year $855,000 for the domestic market research and development program, $346,382 for walnut production research, $126,840 for administrative and office salaries, and $40,000 for walnut crop estimates. Comparable actual expenditures for the 1989–90 marketing year were $664,368, $298,122, $121,654, and $37,000 respectively. The domestic market research and development program increase from $664,368 to $855,000 is due to the Board's recommendation to further expand and improve existing markets and create new markets for California walnuts. The increase from $298,122 to $346,382 for walnut production research is due to seven new additional research projects that were recommended by the Board. The majority of these studies concern various methods to control codling moths which cause walnut tree damage. The increase in the administrative and

office salaries category reflects a 4.7 percent raise in administrative and office salaries which was recommended by the Board.

While this proposed action would impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. some of the additional costs may be passed on to producers. However, these costs would be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

Based on the foregoing, it is found and determined that a comment period of 10 days is appropriate because the budget and assessment rate approval for the program needs to be expedited. The Board needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis.

List of Subjects in 7 CFR Part 984

Marketing agreements, Reporting and recordkeeping requirements, and Walnuts.

For the reasons set forth in the preamble, 7 CFR part 984 is proposed to be amended as follows:

1. The authority citation for 7 CFR part 910 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

PART 984—WALNUTS GROWN IN CALIFORNIA

2. A new section 984.342 is added to read as follows:

§ 984.342 Expenses and assessment rate.

Expenses of $1,703,505 by the Walnut Marketing Board are authorized and an assessment rate of $0.0068 per kernelweight pound of merchantable walnuts is established for the 1990–91 marketing year ending on July 31, 1991. Unexpended funds from the 1989–90 fiscal year may be carried over as a reserve.

Dated: October 10, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-24249 Filed 10-12-90; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[FI-84-90]

RIN 1545-AP11

Exception from the Prohibition of Federal Guarantees—Permitted Investments of Tax-Exempt Bond Proceeds

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the rules and regulations portion of this issue of the Federal Register, the Internal Revenue Service is issuing temporary regulations relating to the prohibition of federal guarantees with respect to bonds the interest on which is excludable from gross income. The temporarty regulations provide that investments in obligations issued by the Resolution Funding Corporation pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 are excepted from the prohibition of federal guarantees. The text of the temporary regulations also serves as the comment document for this notice of proposed rulemaking.

DATES: Written comments and requests for a public hearing must be received by December 14, 1990. These regulations are proposed to be effective for investments made on or after October 2, 1990.

ADDRESSES: Send comments and requests for a public hearing to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R (FI–84–90), room 4429, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: William P. Cejudo, 202–566–3283 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations published in the rules and regulations portion of this issue of the Federal Register add new § 1.149(b)(3)–1T to the Income Tax Regualtions (26 CFR part 1). The new temporary regulations permit investments of tax-exempt bond proceeds in obligations issued by the Resolution Funding Corporation. The text of the new temporary regulations serves as a comment document for this notice of proposed rulemaking.

For the text of the temporary regulations, see T.D. 8313 published in the rules and regulations portion of this issue of the Federal Register.

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Comments and Requests for a Public Hearing

Before the adoption of these proposed regulations, consideration will be given to any written comments that are submitted (preferably a signed original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Internal Revenue Service by any person who also submits written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these proposed regulations is William P. Cejudo, Office of the Assistant Chief Counsel (Financial Institutions and Products), Internal Revenue Service. However, other personnel from the Service and Treasury Department participated in their development.

List of Subjects 26 CFR 1.61–1.281–4

Deductions, Exemptions, Income taxes, Reporting and recordkeeping requirements, Taxable income.

Proposed Amendments to the Regulations

The temporary regulations, T.D. 8313, published in the Rules and Regulations portion of this issue of the Federal Register, are hereby also proposed as final regulations under section 149 of the Internal Revenue Code.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 90-24220 Filed 10-10-90; 11:51 am]

BILLING CODE 4830-01-M

31 CFR Part 103

Proposed Amendment to the Bank Secrecy Act Regulations Relating to Recordkeeping for Funds Transfers by Banks and Transmittals of Funds by Other Financial Institutions

AGENCY: Departmental Offices, Treasury.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: To assist in the investigation and prosecution of money laundering and other financial crimes, Treasury is proposing enhanced recordkeeping requirements relating to funds transfers by banks and to transmittals of funds by other financial institutions subject to the Bank Secrecy Act. Each domestic bank involved in a funds transfer will have to retain certain information about the transfer. The amount and type of information will depend upon the bank's role in the funds transfer process. In addition, banks will be required to verify the name and address and obtain additional identifying information on originators and beneficieries of funds transfers who are not deposit accountholders. Financial institutions other than banks that transmit and receive funds will have similar recordkeeping requirements. Finally, the regulations permitting Treasury to target for reporting certain transactions with foreign financial institutions are proposed to be amended to permit Treasury to require reports of all funds transfers by banks and transmittals of funds by financial institutions other than banks.

DATES: Comments are due on November 29, 1990.

ADDRESSES: Comments should be sent to Amy G. Rudnick, Director, Office of Financial Enforcement, Office of the Assistant Secretary (Enforcement), Department of the Treasury, Room 4320, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Linda Noonan, Senior Counsel for Financial Enforcement, Office of the Assistant General Counsel (Enforcement), (202) 566-2941.

SUPPLEMENTARY INFORMATION: The Bank Secrecy Act, Public Law 91-508 (codified at 12 U.S.C. 1829b and 1951-1959, and 31 U.S.C. 5311-5328), authorizes the Secretary of the Treasury to require financial institutions to keep records and file reports that the Secretary determines have a high degree of usefulness in criminal, tax and regulatory matters. The primary purpose of the Bank Secrecy Act is to identify the sources, volumes and movements of moneys moving into and out of the country and through domestic financial institutions. See H.R. Rep. No. 975, 91st Cong., 2d Sess. 11-13 (1970). In exercising this far-reaching authority, Treasury has been mindful of issues concerning implications of foreign laws and has been careful not to encumber the free flow of legitimate international trade and commerce.

On October 31, 1989, Treasury published an Advance Notice of Proposed Rulemaking to deal with the problem of money laundering through the international funds transfer system. 54 FR 45769. Funds transfers are a series of messages to and through one or more banks that are intended to result in the payment of funds from one person to another. This usually is accomplished through a debit to the account of the person sending the money (the "originator") and a corresponding credit to the person receiving the funds (the "beneficiary").

Money laundering is a vital component of drug trafficking and other criminal activity throughout the world. Currently, illegal funds are being transferred domestically and from and to the United States and "cycled" through intricate money laundering schemes involving international payments, particularly funds transfers. Several recent money laundering operations, which have been discovered by Treasury and other Federal law enforcement agencies, such as Operations C-Chase and Polar Cap, are testaments to this phenomenon. In an April 26, 1989, submission to the Director, Office of National Drug Control Policy, reprinted in the Congressional Record of May 18, 1989, the American Bankers Association stated that, "Funds transfers, which are essentially unregulated, have emerged as the primary method by which high volume launderers ply their trade." 135 Cong. Rec. S5555.

The Advance Notice of Proposed Rulemaking focused on funds transfers through banks. There is also a serious money laundering problem involving non-bank financial institutions that are subject to recordkeeping and reporting requirements of the Bank Secrecy Act, such as transmitters of funds and telegraph companies. Therefore, this proposal also addresses recordkeeping by these financial institutions with respect to funds they transmit and receive.

Major Comments Received to the Advance Notice of Proposed Rulemaking

In the Advance Notice, Treasury set forth seven different regulatory proposals that it was considering implementing. There were a total of 114 comments on these proposals. Of those comments, 81 were from banks. The remainder were from non-bank financial institutions, trade associations, government agencies, and other miscellaneous institutions and individuals. Generally, most of the commenters noted their opposition to drugs and their desire to assist in fighting the problem. However, they also noted that the essence of the automated international payments system is the speed with which it moves funds and that anything which slows down the system would make United States banks less competitive. Most commenters also pointed out that the vast majority of international payments are legitimate.

In addition, many commenters noted that some of the proposals might violate foreign privacy laws and that Treasury should be sensitive to other countries' concerns. Other commenters suggested that the proposals, if adopted, would unreasonably burden the international payments system and financial institutions in general. The comments expressed concern that regulations would be costly to implement, and they suggested that Treasury focus on other money laundering "choke points," *e.g.*, the points where cash enters the financial system, to detect criminal activity.

Treasury appreciates the willingness of financial institutions to cooperate in combating drug trafficking and money laundering. In developing the regulations proposed today and in considering any final regulations, Treasury will balance the law enforcement need for the information against the costs to financial institutions and the effect on the payments system and the free flow of legitimate funds through the funds transfer process. Treasury understands that privacy laws in other countries may prohibit financial institutions from disclosing the names of customers to United States financial institutions on a routine basis, and has taken this into account in issuing the proposed regulations.

The comments also raised questions about the use of domestic funds transfers to launder money, and suggested that the regulations cover both domestic and international funds transfers. Currently, § 103.33 of the regulations, 31 CFR 103.33, requires only records on certain international funds transfers, not information on domestic funds transfers. In response to these comments, Treasury has included in the proposed regulations provisions that cover both domestic and international

funds transfers. Records on domestic funds transfers have been included because often it is impossible for a financial institution to know whether an incoming funds transfer originated abroad or whether an outgoing funds transfer is destined ultimately for a place outside the United States.

Comments Received on Specific Proposal

#1: Require a report or record by the financial institution originating or receiving an international wire transfer of funds for a customer which includes identifying and account information about the originator, beneficiary and the person on whose behalf the payment was made or received and whether the sender or receiver is aware of any separate payment instructions regarding the payment unknown to the financial institution.

#2: Require that all international wire transfer messages contain all known third party identifying information, e.g., account numbers, addresses, and names of the originator and beneficiary of the payment.

The vast majority of the comments received by Treasury were directed at these two proposals. Generally, if commenters expressed a preference, it was for recordkeeping, not reporting. In addition to the general comments, many commenters noted that the funds transfer system was highly automated with no manual review, and that any requirement to delay a transfer in order to verify information would disrupt international payments. The commenters requested that, if Treasury were to require reporting, the report contain only "knows" information, with the preference for it being filed electronically. Most commenters stated that it was easier to get information on transfers that originated in the United States, as opposed to transfers that originated from abroad, because United States financial institutions can more readily obtain information about transfers originating at their institutions. Many commenters noted that foreign financial institution privacy laws would prohibit foreign banks from providing the name of a foreign originator.

There was a split of opinion among the commenters on whether exemptions should be permitted to any reporting or recordkeeping requirements for funds transfers. Those expressing concern about exemptions were worried that the system would be modeled after the currency transaction reporting exemption system, *i.e.*, on an account-by-account basis. Those in favor of exemptions suggested a broad exception program instead, suggesting that exceptions be permitted for categories of transactions such as transfers conducted for: corporations traded on one of the public stock exchanges; the bank's own account; a company rated by one of the securities ratings services or recognized by a credit ratings service; public utilities; government agencies; and businesses who make regular transfers commensurate with their business activity.

Many commenters suggested some sort of monetary threshold for records or reports for funds transfers, such as $10,000. Several commenters stated that Treasury should be clearer about the terminology used, and that any regulation should use the same terminology as is used in proposed Uniform Commercial Code (UCC) Article 4A on funds transfers. There was concern over whether a transaction had to be refused or payment delayed if the required information was not available.

Finally, there also were questions concerning the ability of a financial institution to determine whether an apparently domestic funds transfer was part of an international payment. This is because where intermediary financial institutions are used in many funds transfers, the originating financial institution or beneficiary's financial institution may not be aware when a particular payment order relates to funds originating with an international funds transfer. Some commenters recommended that the same recordkeeping requirements be placed on all transfers—domestic and international. Several commenters noted that it would be administratively easier for them to keep the records on all transfers.

Treasury has decided to propose only enhanced recordkeeping requirements at this time. Reporting of international funds transfers or of categories of funds transfers is still under consideration. Treasury is considering either routine reporting or only reporting of suspicious funds transfers, based on a suspicious transfer profile developed by Treasury and supplemented by individual institutions. Treasury continues to be interested in comments on the concept of reporting and how reporting would relate to recordkeeping measures taken in response to this proposal.

Under the proposed regulations, domestic banks, depending upon their role in the funds transfer process (originator's bank, beneficiary's bank, or intermediary bank), will have to keep certain records on all funds transfers, regardless of amount. Generally, there are no exemptions from recordkeeping requirements under the Bank Secrecy Act. However, Treasury is proposing that funds transfers between domestic banks for their own accounts will be exempt from these recordkeeping requirements in view of the lack of law enforcement utility for such records. In the future, if Treasury proposes reporting of funds transfers, Treasury will consider other appropriate exemptions.

Treasury agrees that, in many situations, it is not apparent whether the funds involved in a funds transfer are domestic or international in origin. Treasury has determined that there is law enforcement value in having records of all transfers. Therefore, Treasury is proposing that the recordkeeping regulations apply to both international and domestic transfers.

#3: Require that prior to originating international payments on a customer's behalf, either through a book entry transfers of credit or through international wire transfers of funds, financial institutions apply model "know your customer" procedures to verify the legitimate nature of the customer's business and that the transfers are commensurate with legitimate business activities.

Many commenters stated that they felt that a "know your customer" procedure made good business sense. Many also noted, however, that the nature of funds transfers was different from the nature of currency transactions and that different procedures should be applicable. Most commenters have difficulty with any requirement that they verify the nature of the customer's business and the amount of the transactions, because they would be unable to determine prior to the transfer (or even after) that the customer's business was legitimate and that the amount of the funds transfer was commensurate with the customer's legitimate business. Several commenters asked Treasury to provide guidance or prescribe what the procedures would be and to propose uniform industry standards. More than one commenter noted that the guidelines should avoid reliance on subjective factors.

Several commenters felt that it was not part of their function as a financial institution to investigate in detail the legitimate nature of a customer's business. However, others thought that know your customer procedures should be extended to all areas of a financial institution in order to protect the financial institution against money laundering, and that they would have no problem in attempting to determine whether a funds transfer was commensurate with the customer's business. Several commenters already

have know your customer procedures. Some commenters suggested reviewing the funds transfer after it is completed so as not to disturb the payment process.

After consideration of the comments, Treasury has decided not to pursue this option at the present time, but plans to address this topic in the future in connection with mandatory and comprehensive know your customer procedures for financial institutions. In the meantime, Treasury is encouraged by the many financial institutions who have voluntarily instituted know your customer policies and procedures and reminds all financial institutions to familiarize themselves with their customers' activities to become aware of any suspicious activities or deviations from their normal activities in the funds transfer and other areas. Unless a financial institution knows its customers, it will be vulnerable to money laundering and will not be able to fulfill its obligation to report possible criminal violations of law. *See e.g.*, 12 CFR 21.12.

#4: Require special identification procedures and recordkeeping or reporting of international payments sent or received without established account relationships at financial institutions.

There was a consensus among the commenters, at least for those financial institutions who do PUPID (pay upon proper identification) funds transfers, that they are willing to put into place reasonable special identification procedures for noncustomers receiving funds transfers. Some suggested that the procedures not require more information than is currently required when filling out a Currency Transaction Report on currency transactions exceeding $10,000.

Many banks said that they do not originate funds transfers for nondeposit accountholders or that, if they permit them, they only originate payment orders for small amounts, (*e.g.*, $1,000) and rarely or never receive incoming transfers for nondeposit accountholders. Of those banks which receive these transfers, most said that they ask for at least one piece of identification before releasing the funds to the beneficiary.

Information on originators and beneficiaries who do not have account relationships with banks often is lacking or cannot be retrieved making it difficult for law enforcement authorities to trace funds transfers. Thus, after consideration of the comments, Treasury has decided to propose special identification procedures for funds transfers involving originators or beneficiaries of funds transfers who are nondeposit accountholders.

#5: Require that financial institutions develop a suspicious international wire transfer profile and report suspicious payments to Treasury; the profile might include certain criteria suggested by Treasury, for example, the presence of large currency deposits prior to an outgoing transfer or the existence of an incoming transfer followed by issuance of a cashier's check

It was the overwhelming opinion of the commenters that Treasury, not the financial institutions, should develop suspicious wire transfer profiles, or that financial institution regulators and/or a group of financial institutions should develop the profile. Many commenters felt that they did not have sufficient expertise to develop profiles on their own and indicated that it is often difficult to distinguish between suspicious and legitimate transactions. Some commenters pointed out that because the nature of a funds transfer is different from the nature of currency transactions, it is more difficult to determine what is suspicious activity.

Several commenters stressed that because the funds transfer system is automated and most payment orders are not reviewed before they go out, regulations requiring review prior to transmittal could stop the payment order, and impede the international payments system. Most commenters also noted that their internal computer systems are not integrated and that, as a result, they cannot determine what account activity preceded a funds transfer, *e.g.*, whether there had been a recent large cash deposit.

One bank commenter said that it produces a weekly suspected money laundering report and runs the information against variable parameters to identify activity that is suspicious in relationship to an account's overall activity. Another commenter said that it could use its current capability to sort funds transfer activity by customer and account officer and have the account officer identify unusual patterns of activity by certain customers. Some commenters noted that the guidelines should be objective, specific and clear so that the financial institution will not be "second-guessed" at a later date if they do not file a suspicious activity report.

After consideration of the comments, Treasury has decided not to require reporting of suspicious funds transfers at this time. However, Treasury is encouraged by the many financial institutions that have developed suspicious funds transfer profiles and encourages other financial institutions to develop their own programs to identify suspicious funds transfers and other suspicious activity. Treasury strongly urges financial institutions to report suspicious activity, including suspicious funds transfers, to the local office of the Internal Revenue Service's Criminal Investigation Division, and in the case of suspicious international wire transfers, notify the local office of the U.S. Customs Special Agent in Charge, and where applicable, also to file the required Criminal Referral Form with the bank regulatory agency. In order to prevent the use of financial institutions by money launderers and other criminals, currency transaction reporting and recordkeeping must be coupled with the reporting of possible violations of law or regulation.

#6: Require that: (A) when an institution, typically a bank, receives a 103.25 targeting order it must obtain to the extent possible, information from other domestic banks involved in the transfer regarding the identity of the originator or beneficiary of the transfer; and (B) that those other domestic banks cooperate in providing this information on a timely basis to the targeted institution

Because the recordkeeping requirements being proposed should obviate the need for financial institutions to obtain additional information from other financial institutions in order to respond to a targeting order issued under 31 CFR 103.25, Treasury has decided not to pursue this option.

#7: Add a category for international book transfers not involving wire transfers, such as transfers of credit in the books of a foreign and a domestic institution, to the 103.25 categories of information that may be requested.

Book transfers generally are transfers of credit between affiliated financial institutions. These institutions can be foreign and domestic branches or subsidiaries of the same financial institution corporation, for example, a corporation's New York branch and its U.K. branch. Transfers between affiliates may be made without use of any wholesale wire transfer systems through private communication systems or even by telephone. Under the Bank Secrecy Act regulations, 31 CFR part 103, a foreign branch is treated as a separate financial institution.

While most financial institutions offered no objection to this proposed provision, they raised several questions about Treasury's purpose in adding a category for international book transfers not involving the use of wholesale wire transfer systems to 31 CFR 103.25. The commenters requested that Treasury be very clear about what it was referring to

and asked Treasury to define all terms. Several commenters noted that they treated book transfers the same way as they treat all other types of funds transfers, and that book transfers should be subject to the same regulations as other funds transfers. Several commenters stated that they do not have foreign branches or do not do book transfers.

Treasury has decided to specify that records relating to all types of funds transfers by banks and transmittals of funds by financial institutions other than banks may be requested in any order issued under § 103.25. The term "funds transfer" as defined in the proposal would include book transfers. The proposal also specifies that if an order issued under § 103.25 calls for information about funds transfers or funds transmittals by financial institutions other than banks, all information required to be maintained with respect to the transfer required in proposed subsections 103.33 (e) and (f) could be required to be furnished.

Proposed Amendments

Several amendments are being proposed today.

Funds Transfers through Banks

Definitions

Initially, Treasury is proposing that several additions be made to the definitions section of the regulations, § 103.11, to cover the funds transfer terminology used in the other proposed regulations. 31 CRF 103.11. In response to the comments, most of the proposed definitions are based upon proposed UCC Article 4A definitions dealing with funds transfers.

A definition of *funds transfer* has been proposed. As noted above, a funds transfer is a series of transactions, beginning with the originator's payment order, made for the purpose of making payment to the beneficiary of the order. The term includes any payment order issued by the originator's bank or an intermediary bank intended to carry out the originator's payment order. Definitions of the various parties in a funds transfer also are being proposed. *The originator or originator of a payment order* is the person causing the initiation of a funds transfer. *The beneficiary or beneficiary of a payment order* is the person to be paid the proceeds of the funds transfer. The *originator's bank* is the first bank to send a payment order to carry out the originator's order. The *beneficiary's bank* is the bank that pays the beneficiary of the payment order. An *intermediary bank* is a financial institution in the funds transfer process which is neither the originator's nor the beneficiary's bank.

Example #1: Ashley Martin, a Kansas bookseller, wishes to send $5,000 to Allingham Books in London to pay for books she is selling at her store. She goes to her bank, the Bank of Main Street, and requests that $5,000 be transferred from her account to the account of Allingham Books in London at Kensington Bank. The Bank of Main Street uses a participant bank in the New York Clearinghouse's Interbank Payments System (CHIPS), CHIPSBank, with which it has a correspondent relationship, to make the transfer to the Kensington Bank, with which CHIPSBank has a correspondent relationship. In this example, Ashley Martin is the originator of the payment order; the Bank of Main Street is the originator's bank; Allingham Books is the beneficiary of the payment order; Kensington Bank is the beneficiary's bank, and CHIPSBank is the intermediary bank. Some funds transfers may have more than one intermediary bank in the funds transfer chain, depending upon the correspondent relationships of the banks involved.

The proposed regulations will require retention of the "date" of the funds transfer. There are two relevant dates, definitions of which are proposed. The *Execution Date* is the date upon which a payment order is to be issued; normally the execution date is the date upon which the order is received by the bank originating the funds transfer. The *Payment Date* of a funds transfer is the day on which the beneficiary's bank is to pay the beneficiary. Many times, these two dates are the same.

Example #2: John James of Chicago requests his bank to send $500 from his savings account on July 6 to his mother Mary Jones in Omaha, payable immediately. The bank receives the request for the transfer on July 6th and sends out the payment order the same day. Mary Jones' bank receives the payment order on July 6th and immediately credits her account for $500. In this example, July 6th is both the execution date and the payment date.

A definition of "payment order" also is being proposed. A *Payment Order* is an instruction of a person to a receiving bank transmitted orally, electronically, or in writing, to pay, or to cause another bank to pay, a fixed or determinable amount of money to a beneficiary (but does not include ACH payment orders) if: (a) The instruction does not state a condition to payment to the beneficiary other than time of payment; (b) the receiving bank is to be reimbursed by debiting an account of, or otherwise receiving payment from, the sender; and (c) the instruction is transmitted by the originator of the payment order directly to the originator's bank or to an agent, funds transfer system, or communication system for transmittal to the receiving bank.

This definition includes not only traditional funds transfers through wholesale wire transfer systems, but also covers book entries, and other ways of transmitting funds by banks, for example, through a bank's internal communication system that links its foreign and domestic affiliates.

Enhanced Recordkeeping for Funds Transfers

Treasury is proposing that financial institutions be required to retain specific information concerning funds transfers *except* funds transfer between domestic banks for their own accounts. Under current regulations, the only information required is a record of the advice, instruction, or request for international funds transfers over $10,000. However, the regulation does not specify what information must be contained in the record. As a result, many financial institutions have complete, comprehensive information on their funds transfers, while other financial institutions have almost none, making it very difficult for law enforcement to trace the money and for Treasury to use its targeting authority under 31 CFR 103.25 effectively. Drug and other illegal-source money is being sent through the funds transfer system domestically and internationally, in all amounts.

Treasury is proposing that the originator's bank retain the following information for each funds transfer:

(1) The name of the originator of the payment order, and the originator's account number, if applicable;

(2) Unless the originator is a publicly traded corporation, public utility, or government agency, the name of any person on whose behalf the funds transfer was originated, if different from the originator (1);

(3) The amount of the funds transfer;

(4) The execution date of the funds transfer;

(5) The payment instructions, if any;

(6) The identity of the beneficiary's bank; and

(7) The name of the beneficiary of the payment order, and the account number, if applicable.

Treasury also is proposing that a bank which acts as an intermediary bank retain whatever information it receives from the preceding bank, be it the originator's bank or another intermediary bank.

Finally, Treasury is proposing that a bank retain the following information for each funds transfer for which it is the beneficiary's bank:

(1) The name of the beneficiary of a payment order (whether or not a deposit accountholder), and the account number, if applicable;

(2) Unless the beneficiary is a publicly traded corporation, public utility or government agency, the name of any person on whose behalf the funds transfer was received, if different from the beneficiary (1);

(3) The amount of the funds transfer;

(4) The payment date of the funds transfer;

(5) The payment instructions, if any;

(6) The identity of the originator's bank; and

(7) The name of the originator of the payment order, and the account number, if applicable and known.

Treasury is proposing that these records be retrievable by the name of the originator and the account number of the originator, if applicable, for an originator's bank, and by the name of the beneficiary and the account number of the beneficiary, if applicable, for a beneficiary's bank. As with other records maintained under the Bank Secrecy Act, these records may be maintained on paper, microfilm or microfiche or magnetic tape so long as they are available in readable form when requested by the Treasury Department or other law enforcement or regulatory agency. *See* 31 CFR 103.32.

Treasury will consider comments regarding a possible delayed effective date for certain provisions until proposed changes in the format of wire transfer messages for wholesale wire transfer systems can accommodate the additional information.

The term "on whose behalf" has the same meaning that it has with respect to currency transactions reportable under 31 CFR 103.22. For further guidance in this area, financial institutions may refer to Bank Secrecy Act Administrative Ruling 88–8, dated December 21, 1988, (55 FR 1021, January 11, 1990) which discusses "on whose behalf" in the context of currency transactions reportable under 31 CFR 103.22.

Treasury continues to be receptive to alternative suggestions for recordkeeping that would minimize costs to banks without jeopardizing the underlying purpose of these regulations, including suggestions for possible additional exemptions from these requirements.

If in the future, Treasury requires reporting of funds transfers, the information reported may also include the address of the originator, for a report by an originator's bank, and the address of the beneficiary, for a beneficiary's bank.

Nondeposit Accountholder Transactions

Treasury is proposing special identification verification and recordkeeping procedures for a bank that acts as an originator's bank for a funds transfer for a customer who does not have a deposit account at the institution. Treasury is proposing that in that instance, prior to the initiation of the funds transfer, the bank must verify the name and address of the person requesting the funds transfer, and maintain a record, in addition to any other required information, of that person's name, address, social security number, and date of birth.

Similarly, if a bank acts as a beneficiary's bank for a customer who does not hold a deposit account at that institution, the bank must verify the name and address of the beneficiary and maintain a record, in addition to any other required information, of the beneficiary's name, address, social security number, and date of birth prior to payment of the funds.

Time Deadlines

Treasury is proposing that a domestic bank which acts as originator or originator's bank for a funds transfer have the required information prior to the initiation of the funds transfer. Because the originator's bank is located in the United States, the bank should be able to obtain the required information prior to initiating the particular payment order. The intermediary bank merely will retain whatever information is received from the originator's bank or intermediary bank preceding it in the chain of the funds transfer.

Treasury is proposing that a financial institution which acts as a beneficiary's bank for a beneficiary who is not a deposit accountholder have the required information prior to payment of the funds. A bank which acts as a beneficiary's bank with respect to a funds transfer for a deposit accountholder would be required to have the required information within 15 days after payment of the funds transfer to the beneficiary of the payment order if the information is not available at the time of payment.

In the case of a deposit accountholder, if the beneficiary's bank has been unable to secure the necessary information, including the name of the foreign originator, either from the information accompanying the payment order or by contacting the deposit accountholder, it shall nevertheless not be deemed to be in violation of the Bank Secrecy Act if: (1) It made a reasonable effort to secure such information, and (2) it maintains a list containing the names, addresses, and account numbers of the beneficiaries of payment orders on which there is incomplete information. The names, addresses and account numbers would be made available to the Secretary upon request. This is similar to the requirement to obtain taxpayer identification numbers by banks, securities brokers and dealers, casinos, and currency dealers and exchangers. 31 CFR 103.34(a); 31 CFR 103.35(a); 31 CFR 103.36(a); 31 CFR 103.37(a). Treasury suggests that possible "reasonable efforts" would include contacting the deposit accountholder by letter or telephone and then sending a follow-up letter if there is no response to the initial communication.

Treasury stresses that it is not requiring that United States financial institutions contact foreign financial institutions for any additional information. Treasury realizes that a foreign financial institution may be precluded from providing any information because of its financial privacy laws. Thus, Treasury is requiring that United States financial institutions obtain the necessary information from its U.S. customers. Treasury recognizes that in situations where both the originator and beneficiary are outside the U.S. all of the information may not be obtainable due to the operation of foreign secrecy laws. These transactions generally are of far less interest to U.S. law enforcement authorities than transactions that begin and end in the United States.

Nonbank Transmitters of Funds

As noted above, the proposed regulations impose parallel recordkeeping requirements on financial institutions subject to the recordkeeping and reporting requirements of the Bank Secrecy Act, other than banks, which transmit or receive funds for domestically and internationally. *See* 31 CFR 103.11(i). These institutions may be doing business as telegraph companies or check cashers or "fronting" as other businesses, typically as travel agencies. The methods of transmitting funds by nonbank financial institutions also are diverse. The funds may be transmitted through funds transfers through banks, through private communications systems or by a telephone directive to transfer credit in a corresponding nonbank financial institution, such as a foreign exchange dealer in Latin America. However accomplished, records relating to these transmittals of funds and their receipt are of

comparable law enforcement interest to records of funds transfers through banks.

Therefore, Treasury is proposing that financial institutions, other than banks, that transmit funds for customers or receive funds from other financial institutions or foreign financial agencies for payment to any person be required to retain specific information about such transmittals or receipts of funds.

A nonbank financial institution transmitting funds would be required to maintain a copy of any application or form the person initiating the transmittal completes and to record the following information prior to transmitting funds for any person or on its own behalf:

(A) The name, address, social security number, and date of birth of the person instructing that the funds be transmitted and the account number, if applicable;

(B) The name of any person on whose behalf the funds were transmitted if different from (A);

(C) The amount of funds transmitted;

(D) The date of the funds transmission;

(E) Any payment instructions;

(F) The identity of the person or financial institution receiving the funds on behalf of the recipient; and

(G) The name and address of the recipient of the funds transmitted, and account number, if applicable.

A nonbank financial institution receiving a transmittal of funds would be required to maintain a copy of any form or receipt the person receiving the funds completes and to record the following information prior to making payment to any person:

(A) The name, address, social security number, and date of birth of the person receiving the funds and the account number, if applicable;

(B) The name of any person on whose behalf the funds are received if different from (A);

(C) The amount of funds received;

(D) The date the funds were received;

(E) Any payment instructions;

(F) The identity of the person or financial institution transmitting the funds on behalf of the person who instructed transmittal of funds; and

(G) The name and address of the person who ordered the funds transmittal, and account number, if applicable and known.

As in the case of banks dealing with funds transfers for nondeposit accountholders, a nonbank financial institution transmitting funds would be required to verify and record the identity of the person instructing the transmittal prior to transmitting funds, and a nonbank financial institution receiving funds would be required to verify and record the identity of the person receiving payment prior to making payment.

Similar to records of funds transfers maintained by banks, nonbank financial institutions will be required to maintain these records such that they would be retrievable by Treasury or another law enforcement agency by the name of the person instructing the transmittal and by the account number of that person, if applicable, for a financial institution transmitting funds, and by the name of the recipient for financial institutions receiving funds. These records would have to be maintained on-site at the financial institution transmitting or receiving the funds and like all other records under the Bank Secrecy Act, would have to be retained for five years.

Treasury is receptive to alternative suggestions for recordkeeping that would minimize costs to non-bank financial institutions without jeopardizing the underlying purpose of these regulations.

The following are examples of the application of these recordkeeping requirements for nonbank financial institutions:

Example #3: Mary Daker, a California resident, wishes to send $2,500 to her son Peter in Maine. She goes into the local agent of a telegraph company, tenders the funds and arranges to have payment made to her son at the office of the agent of the telegraph company in Maine where Peter Daker then picks up the funds. The agency in California communicates the payment instruction to the agency in Maine through the telegraph company's private communication network and deposits the currency to the agency's own account in California.

The telegraph company agency in California is a nonbank financial institution and its transmittal of funds would be subject to the recordkeeping requirements of proposed § 103.33(g), including the requirement that Mary Daker's identity be verified and recorded. The record would have to be maintained on-site at the California agency. The telegraph company agency in Maine receiving the instruction to make payment to Peter is a nonbank financial institution receiving a transmittal of funds. It would be subject to the recordkeeping requirement of proposed § 103.33(f), including the requirement that Peter's identity be verified and recorded. The record would have to be maintained on-site at the Maine agency. There is no funds transfer involving a bank in this example.

Example #4: Sun and Fun Travel Agency, which also transmits funds on behalf of its customers is a financial institution for purposes of the Bank Secrecy Act regulations. Robert Smith is a customer who wishes to send $500 to his grandmother, Maria Smith, in Peru. Robert Smith gives $500 to Sun and Fun by a personal check. Sun and Fun contacts a foreign currency broker in Peru with which it has an established relationship. The currency broker debits an account in the name of Sun and Fun in Peru, and pays Maria Smith $500. Sun and Fun is acting as the transmitter of funds and must record this transaction prior to initiating it under proposed § 103.33(f). Sun and Fun deposits Robert Smith's check to its account at a local bank and this transaction would be subject to the recordkeeping requirement in proposed § 103.33(f)(2). Sometime later, Sun and Fun will originate a payment to the foreign currency broker covering a number of similar transactions by arranging a funds transfer through its bank to the account of the foreign currency broker in a bank in Peru. Sun and Fun's bank, as an originator bank, would be required at that time to make a record of the transaction as required by proposed § 103.33(e).

Example #5: Casa Check Casher in New York City operates out of a storefront in an ethnic community containing many recent immigrants. Casa is a financial institution under the Bank Secrecy Act regulations. A customer gives Casa $3,000 (in any form, *eg.*, cash, check or money order) to send to his mother in his native country. Casa does not have the ability to arrange for a transmittal of funds directly. Instead, Casa goes to Bank A, its local bank, where it has a deposit account and arranges for its account to be debited $3,000 and for that amount to be transferred through a funds transfer to Bank B, a bank in the native country of Casa's customer. Bank B will arrange payment to the customer's mother. In this situation, Casa would be required to keep the records required by proposed § 103.33(f)(1)(i) as a financial institution transmitting funds.

A separate record of the funds transfer originated by Casa's bank would be maintained by Bank A pursuant to proposed § 103.33(e)(1)(i). Casa would be the originator of the funds transfer. Its customer would be the person on whose behalf Casa was originating payment.

Targeting Orders

Treasury is proposing that in § 103.25, which permits Treasury to issue orders to financial institutions to require reports of certain types of transactions

with foreign financial agencies, be expanded to include in the case of a bank receiving an order, all funds transfers, including book entries, and in the case of financial institutions other than a bank, all transmittals or receipts of funds by the institution. The information that could be requested in the order would be the same information required to be maintained under proposed subsections 103.33 (f) and (g).

Example #4: Metrobank has branches in New York and London. James Smith, a customer of Metrobank in New York, wishes to make payment to Michael Blank, a customer of Metrobank in London, for some paintings. He requests Metrobank New York to debit his account $50,000 and credit it to Michael Blank in London. Metrobank New York telephones Metrobank London to convey Mr. Smith's payment order. The bank notes in its account records that $50,000 was moved from one of its accounts to another. Information required to be retained pursuant to proposed § 103.33(e) about this transaction could be requested in an order issued under § 103.25.

Submission of Comments

Treasury requests comments from all interested persons concerning the proposed amendments. While comments on all aspects of the regulations are welcome, Treasury is particularly interested in receiving comments on how long financial institutions will need to put new regulations into effect. Treasury also is interested in comments on the appropriate format for maintaining the required records in machine-readable form if it is determined to implement routine reporting in the future. All comments received before the closing date will be carefully considered. Oral comments must be reduced to writing and submitted to Treasury to receive consideration. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future action. The Treasury Department will not recognize any materials or comments, including the name of any person submitting comments, as confidential. Any material not intended to be disclosed to the public should not be included in comments. All comments submitted will be available for public inspection during the hours that the Treasury Library is open to the public. The Treasury Library is located in room 5030, 1500 Pennsylvania Ave., NW. Washington, DC 20220. Appointments must be made to view the comments. Persons wishing to view the comments submitted should contact the Office of Financial Enforcement at (202)566-8022.

Executive Order 12291

In the Advance Notice of Proposed Rulemaking, Treasury asked commenters to provide information about the cost of implementing the various proposals including the proposal for enhanced recordkeeping. Treasury did not receive detailed comments in this regard which would lead us to conclude that this proposed rule if adopted as a final rule, would be a major rule for purposes of Executive Order 12291. Therefore, we have no basis to believe that the proposal will have an annual effect on the economy of $100 million or more. It will not result in a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions. It will not have any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. A Regulatory Impact Analysis therefore is not required. However, Treasury will entertain comments on this point.

Regulatory Flexibility Act

It is hereby certified under section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. The requirements for recordkeeping will affect a number of small non-bank financial institutions, but we do not believe that the requirements will pose a substantial recordkeeping burden on those entities.

Paperwork Reduction Act

The collections of information contained in this Notice of Proposed Rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collections of information and the burden estimate should be directed to the Office of Financial Enforcement at the address noted above or to the Office of Management and Budget, Paperwork Reduction Project (1505-0063), Washington, DC 20503.

The collections of information in this regulation are authorized by 12 U.S.C. 1829b and 1951–1959 and 31 U.S.C. 5311–5326. The likely recordkeepers are banks that perform funds transfers or other financial institutions performing transmittals of funds for themselves or other persons.

Estimated total annual reporting and/or recordkeeping burden: 7.5 million hours.

Estimated average annual burden per respondent and/or recordkeeper: 187½ hours.

Estimated number of respondents and/or recordkeepers: 40,000

Estimated annual frequency of responses: Upon request.

Drafting Information

The principal author of this document is the Office of the Assistant General Counsel (Enforcement). However, personnel from other offices participated in its development.

List of Subjects in 31 CFR Part 103

Authority delegations (Government agencies), Banks and banking, Currency, Foreign banking, Investigations, Law Enforcement, Reporting and recordkeeping requirements, Taxes.

Proposed Amendment

For the reasons set forth in the preamble, it is proposed to amend 31 CFR part 103 as set forth below:

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

1. The authority citation for Part 103 would continue to read as follows:

Authority: Pub. L. 91–508, Title I, 84 Stat. 1114 (12 U.S.C. 1829b and 1951–1959; and the Currency and Foreign Transactions Reporting Act, Pub. L. 91–508, Title II, 84 Stat. 1118, as amended (31 U.S.C. 5311–5326).

2. It is proposed to amend § 103.11 by redesignating present paragraphs (c) through (h) as (e) through (j); present paragraphs (i) through (k) as (l) through (n); present paragraphs (l) and (m) as (q) and (r); present paragraphs (n) through (q) as (w) through (z); present paragraphs (r) through (u) as (aa) through (dd); and by adding new paragraphs (c), (d), (k), (o), (p), (s) (t), (u) and (v), all to read as follows:

§ 103.11 Meaning of Terms.

* * * * *

(c) *Beneficiary or Beneficiary of a payment order.* The beneficiary of a payment order, with respect to a funds transfer, is the person to be paid the proceeds of the funds transfer.

(d) *Beneficiary's bank.* The beneficiary's bank, with respect to a funds transfer, is the bank that pays the beneficiary of the payment order.

* * * * *

(k) *Execution Date.* In connection with a funds transfer, the execution date is the date upon which a payment order is to be issued; normally the execution date is the date upon which the order is received by the originator's bank.

* * * * *

(o) *Funds Transfer.* Funds transfer means the series of transactions, beginning with the originator's payment order, made for the purpose of making payment to the beneficiary of the order. The term includes any payment order issued by the originator's bank or an intermediary bank intended to carry out the originator's payment order. A funds transfer is completed by acceptance by the beneficiary's bank of a payment order for the benefit of the beneficiary of the originator's payment order.

(p) *Intermediary bank.* An intermediary bank, with respect to a funds transfer, is a bank in the funds transfer chain which is neither the originator's nor the beneficiary's bank.

* * * * *

(s) *Originator or originator of a payment order.* The originator of a payment order, with respect to a funds transfer, is the person causing the initiation of a funds transfer.

(t) *Originator's bank.* The originator's bank, with respect to a funds transfer, is the first bank to send a payment order to carry out the originator's order.

(u) *Payment date.* The payment date of a funds transfer means the day on which the amount of the order is payable to the beneficiary.

(v) *Payment Order.* A payment order means an instruction of a person given to a receiving bank, transmitted orally, electronically, or in writing, to pay, or to cause another bank to pay, a fixed or determinable amount of money to a beneficiary (but does not include ACH payment orders) if:

(1) The instruction does not state a condition to payment to the beneficiary other than time of payment;

(2) The receiving bank is to be reimbursed by debiting an account of, or otherwise receiving payment from, the sender; and

(3) The instruction is transmitted by the originator directly to the originator's bank or to an agent, funds transfer system, or communication system for transmittal to the receiving bank.

* * * * *

3. It is proposed to revise paragraph (b)(2) of § 103.25 to read as follows:

* * * * *

§ 103.25 Report of transactions with foreign financial agencies.

* * * * *

(b) * * *

(2) Funds transfers or transmittals of funds received by respondent financial institution from a foreign financial agency or sent by respondent financial institution to a foreign financial agency, including all information required to be maintained with respect to such transaction by subsections § 103.33(e) or (f) of this subpart.

4. It is proposed to amend § 103.33 by adding new paragraphs (e) and (f) to read as follows:

§ 103.33 Records to be made and retained by financial institutions.

* * * * *

(e)(1) A bank shall retain either the original or a microfilm or other copy or reproduction of—

(i) The following information for each funds transfer for which it is the originator's bank:

(A) The name of the originator of the payment order, and the account number, if applicable;

(B) Unless the originator is a publicly traded corporation, public utility or government agency, the name of any person on whose behalf the funds transfer was originated, if different from (A);

(C) The amount of the funds transfer;

(D) The execution date of the funds transfer;

(E) The payment instructions, if any;

(F) The identity of the beneficiary's bank; and

(G) The name of the beneficiary of the payment order, and the account number, if applicable.

(ii) When acting as an intermediary bank for a funds transfer, any information received by the institution by the originator's bank or another intermediary bank;

(iii) The following information for each funds transfer for which it is the beneficiary's bank:

(A) The name of the beneficiary of the payment order, and the account number, if applicable;

(B) Unless the beneficiary is a publicly traded corporation, public utility or government agency, the name of any person on whose behalf the funds transfer was received, if different from (A);

(C) The amount of the funds transfer;

(D) The payment date of the funds transfer;

(E) The payment instructions, if any;

(F) The identity of the originator's bank; and

(G) The name of the originator of the payment order, and the account number, if applicable and known by the beneficiary. (2)(i)(A) A bank which acts as the originator's bank with respect to a funds transfer for a deposit accountholder must obtain the information required in paragraph (f)(1)(i) prior to the initiation of the first payment order.

(B) Prior to acting as an originator's bank with respect to a funds transfer for a nondeposit accountholder, the financial institution must verify the originator's name and address by examination of a document that contains the name and address of the originator and record that information and the type and number of the identification documentation reviewed. The bank shall maintain a record, in addition to the information required in paragraph (e)(1)(i), of the person's name, address, social security number, and date of birth.

(ii)(A) A bank which acts as a beneficiary's bank with respect to a funds transfer for a deposit accountholder must obtain the information required in paragraph (e)(1)(iii) within 15 days after payment of the funds transfer to the beneficiary. In the event that a financial institution has been unable to secure the required information, it shall nevertheless not be deemed to be in violation of this section if

(*1*) it has made a reasonable effort to secure such information, and

(*2*) it maintains a list containing the names, addresses, and account numbers of those persons originating funds transfers on which there is incomplete information.

The names, addresses and account numbers shall be made available to the Secretary upon request.

(B) Prior to acting as a beneficiary's bank with respect to a funds transfer for a nondeposit accountholder, the bank must verify the name and address of the beneficiary of the funds transfer by examination of a document that contains the name and address of the beneficiary and record that information and the type and number of the identification document reviewed. In addition, the bank also must maintain a record, in addition to the information required in paragraph (e)(1)(iii), of the person's name, address, social security number and date of birth.

(3) The information required in paragraph (e)(1)(i) to be maintained by the originator's bank shall be retrievable by the name of the originator of the funds transfer and by the originator's account number, if applicable. The information required in paragraph (e)(1)(ii) to be maintained by the beneficiary's bank shall be retrievable by the name of the beneficiary of the funds transfer and by the account number of the beneficiary, if applicable.

(4) Funds transfers between domestic banks for their own accounts are not subject to the requirements of this paragraph (e).

(f)(1)(i) A financial institution (other than a bank) that transmits funds for a person or on its own behalf shall retain the original or a microfilm or other copy or reproduction of the following information or record with respect to each transmittal of funds:

(A) The name, address, social security number, and date of birth of the customer instructing that the funds be transmitted and the account number, if applicable;

(B) The name of any person on whose behalf the funds were transmitted if different from (A);

(C) The amount of funds transmitted;

(D) The date of the funds transmittal;

(E) Any payment instructions;

(F) The identity of the person or financial institution receiving the funds on behalf of the recipient;

(G) The name and address of the recipient of the funds transmitted, and account number, if applicable, and

(H) Any application or form completed by the person instructing the transmittal relating to the transmittal.

(ii) Prior to transmitting funds, the financial institution must verify the name and address of the person instructing the transmittal by examination of a document that contains the name and address of the person and record that information and the type and number of the identification document reviewed.

(2)(i) A financial institution (other than a bank) that receives funds for any person or on its own behalf, shall retain the original or a microfilm or other copy or reproduction of the following information with respect to each transmittal of funds it receives:

(A) The name, address, social security number, and date of birth of the person receiving the funds and the account number, if applicable;

(B) The name of any person on whose behalf the funds were received if different from (A);

(C) The amount of funds received;

(D) The date the funds were received;

(E) Any payment instructions;

(F) The identity of the person or financial institution transmitting the funds on behalf of the person who instructed transmittal of funds;

(G) The name and address of the person who ordered the funds transmittal, and account number, if applicable and known; and

(H) Any receipt or form completed by the recipient relating to the receipt of funds.

(ii) Prior to disbursing funds, the financial institution must verify the name and address of the person receiving the funds transmitted by examination of a document that contains the name and address of the recipient and record that information.

(3) The information required in paragraph (f)(1)(i) by the financial institution transmitting funds shall be retrievable by the name of the customer instructing the funds to be transmitted and by the customer's account number, if applicable, and shall be maintained at the location of the branch, agency or office of the financial institution making the transmittal. The information required in paragraph (f)(2)(i) by the financial institution receiving a transmission of funds shall be retrievable by name of the funds recipient of the funds transmitted and shall be maintained at the location of the branch, agency or office of the financial institution receiving the transmittal.

Dated: October 9, 1990.

Peter K. Nunez,

Assistant Secretary (Enforcement).

[FR Doc. 90-24196 Filed 10-12-90; 8:45 am]

BILLING CODE 4810-25-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-267, DA 90-1379]

Broadcast Services; AM Technical Assignment Criteria

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Commission extends the time for filing comments in its proceeding reviewing AM technical assignment criteria from October 15, 1990, to November 16, 1990, and the time for filing reply comments from November 14, 1990, to December 17, 1990. The deadline for submitting non-binding letters of intent to migrate to the expanded AM band is also extended from October 15, 1990, to November 16, 1990. The *Notice of Proposed Rulemaking* in this proceeding (FR Doc. 90-18020) may be found at 55 FR 31607 (August 3, 1990). The action is taken because of the complex technical matters at issue in this Docket.

DATES: Comments are now due on November 16, 1990, reply comments are due on December 17, 1990, and non-binding letters of intent to migrate to the expanded AM band are now due on November 16, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Henry Straube, Mass Media Bureau, (202) 632-6955.

SUPPLEMENTARY INFORMATION:

Order

Adopted: October 4, 1990.
Released: October 4, 1990.
By the Chief, Mass Media Bureau.

1. On July 13, 1990, the Commission released a *Notice of Proposed Rulemaking* in MM Docket 87-267 that proposes to revise the AM technical standards to bring about a reduction of interference in the existing AM band and proposes a means of implementing the expanded (1605kHz-1705kHz) AM band that became available for use on July 1, 1990.[1] The deadlines for filing comments and reply comments are currently October 15, 1990, and November 14, 1990, respectively. Non-binding letters of intent to migrate to the expanded AM band are currently due to be filed October 15, 1990.[2]

2. On September 26, 1990, a request for extension of these deadlines was filed by the Association of Federal Communications Consulting Engineers (AFCCE). That request asks for a sixty (60) day extension of the October 15, 1990, and November 14, 1990, comment and reply comment filing dates.

3. In support of its request for extension of the filing deadlines, the AFCCE argues that, given the complexity of the various proposed changes to the AM technical rules, additional time is required to perform the requisite analyses necessary for developing a comprehensive response.

4. While we agree with AFCCE that many of the proposed changes to our AM rules involve complex technical matters, we nevertheless believe that sufficient and thorough analyses of these proposals can be accomplished within an additional 30 day period.

5. Accordingly, *It is ordered* That the request to extend the comment and reply comment dates filed by the Association of Federal Communications Consulting Engineers *is granted to the extent indicated herein.* The dates for filing comments and reply comments on the NRPM *are extended* to November 16, 1990 and December 17, 1990, respectively. On our own motion, the deadline for filing non-biding letters of

[1] FCC 90-136, adopted April 12, 1990, 5 FCC Rcd 4381 (1990).

[2] 55 FR 31607 (August 3, 1990).

intent to migrate to the expanded band *is extended* to November 16, 1990. No further extension of these dates is contemplated.

6. This action is taken pursuant to authority found in §§ 4(i) and 303(r) of the Communications Act of 1934, as amended and §§ 0.204(b), 0.283, 1.46, and 1.45 of the Commission's Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Mass Media Bureau.

[FR Doc. 90-24150 Filed 10-12-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-437, RM-7284]

Radio Broadcasting Services; Marion and Orrville, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for a rule making filed on behalf of Marion Radio, Inc., permittee of Station WJAM-FM, Channel 248A, Marion, Alabama. Petitioner seeks the substitution of Channel 247A for Channel 248A, as well as a change in the community of license for WJAM-FM from Marion to Orrville, Alabama, and the concomitant modifications of its permit to specify operation on the substitute channel. Coordinates for Channel 247A at Orrville are 32-18-00 and 87-09-30.

DATES: Comments must be filed on or before November 30, 1990, and reply comments on or before December 17, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554 In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Marion Radio, Inc., Attn: Paul Reynolds, President, 415 North College, Greenville, AL 36037.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-437, adopted September 21, 1990, and released October 9, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24154 Filed 10-12-90; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 394

[FHWA Docket No. MC-90-2]

RIN 2125-AC49

Notification and Reporting of Accidents; Property Damage

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The FHWA proposes to amend its definition of a "reportable accident" for motor carriers operating in interstate commerce by changing the criterion for reporting accidents resulting in property damage under part 394 of the Federal Motor Carrier Safety Regulations (FMCSR). The current property dollar value assessment would be replaced with a "towaway" criterion. "Towaway" is defined as "one or more vehicles incurring disabling damage as a result of the accident and transported away from the scene by a tow truck or another vehicle." Integral to this definition is the term "disabling damage," which is defined to mean road vehicle damage which precludes departure of the vehicle from the scene of the accident in its usual operating manner in daylight after simple repairs. This proposed amendment does not affect the requirement to report accidents involving injury or death. This action is being taken in an effort to standardize and simplify State and motor carrier industry accident reporting procedures by removing the uncertainty of estimating a dollar value amount. The FHWA is also soliciting comments on two other potential changes: (1) Revising the FMCSR definition of a reportable accident to be consistent with the American National Standard Institute (ANSI) D-16 definition of a motor vehicle traffic accident and (2) removing the instructions for the preparation of the Motor Carrier Accident Reports, Forms MCS 50-T and 50-B, from § 394.20 of the FMCSRs, and printing the instructions on the back of the forms.

DATES: Written comments must be received on or before December 14, 1990.

ADDRESSES: Submit written, signed comments to FHWA Docket No. MC-90-2, room 4232, HCC-10, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Commenters may, in addition to submitting "hard copies" of their comments, submit a floppy disk (either 1.2Mb or 360Kb density) in a format that is compatible with either word processing programs, Word Perfect or WordStar. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m. ET, Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. William H. Blount, Office of Motor Carrier Standards, (202) 366-2981; Ms. Bonnie Bass, Office of Motor Carrier Information Management and Analysis (202) 366-0089, or Mr. Edward J. Mullaney, Office of the Chief Counsel, (202) 366-1353, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION:

Background

Public concern over accidents involving large trucks and buses remains strong. Each year about 4,500 [1]

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[1] Information abstracted from Fatal Accident Reporting System 1988: A Review of Information on Fatal Traffic Accidents in the United States in 1988, U.S. Department of Transportation, National Highway Traffic Safety Administration, Report DOT HS 807-345, March 1990.

people lose their lives in commercial motor carrier accidents. Yet, national truck accident statistics, which are based mainly on data from State police accident reports, vary tremendously from one Federal agency to another. The variations in truck accident statistics can be attributed in large part to differences in the States' definitions of accidents and vehicle types. The lack of uniformity among the States in the types of truck accident data collected and the inconsistency in the definitions of those data elements make nationwide analysis of interstate truck accident data very difficult and evaluation and comparison of data among the States virtually impossible.

Research Undertaken

In an effort to mitigate these problems, the FHWA contracted with the National Governors' Association (NGA) to identify a minimum set of truck accident data elements that could be collected and defined uniformly by all States. To do this, the NGA assembled a Technical Advisory Group (TAG) made up of State officials from law enforcement agencies, public safety departments, transportation departments and transportation associations. The TAG developed a set of 23 commercial motor vehicle accident data elements and associated definitions. The Governors, at their 1988 winter meeting, unanimously adopted a policy recommending that States collect information on commercial motor vehicle accidents using the same data elements and the same definitions. The NGA endorsed the inclusion of information on the driver, motor carrier, vehicle, roadway, environmental conditions, type of accident, accident events, involvement of hazardous materials and accident results. The collection of standard accident data will enable the States and the Federal government to more effectively evaluate safety programs designed to reduce the volume and severity of commercial motor vehicle accidents. The FHWA will be able to better understand the causes of commercial motor vehicle accidents and to propose more effective countermeasures by evaluating accident data.

Discussion

From the onset of the project, the TAG strived to develop a uniform data set that was objective, simple to understand, and easy to collect. In keeping with this approach, the TAG opted for a "towaway" definition in lieu of the traditional dollar value of damage to categorize accidents involving only property damage. In the opinion of the TAG, the "towaway" approach had several distinct advantages over the property damage dollar value estimate approach. First of all, a "towaway" criterion is observable. It is certainly much easier for the attending officer to determine if a vehicle was towed than to try to subjectively estimate the severity of the property damage and determine whether it exceeds a specified property damage dollar value threshold.

Second, the "towaway" approach is not affected by inflation. The effect of inflation on dollar amount thresholds has long been a problem. When the costs of repairs rise, more accidents will be reported, even though there may have been no increase in the number or severity of accidents. Therefore, a dollar amount threshold is not a good measure for historical comparison (i.e., trend analyses). The FHWA and some States have attempted to deal with this problem by adjusting their thresholds to account for inflation. (NGA, Capital Ideas, June 1988).

Third and perhaps most important, a "towaway" criterion provides for greater uniformity by eliminating the variation among the States caused by differing property damage thresholds. The NGA's June 1988 edition of Capital Ideas reported that 39 States use property damage thresholds ranging from $100 in Louisiana to $1,000 in Massachusetts. Investigating officers often have difficulty assessing the severity of the damage in terms of cost. As a result, accident statistics vary widely among States due mainly to the definition of a reportable accident based on a dollar value threshold.

At the Federal level, a major problem which results from the use of a property damage threshold is the need to regularly update the dollar value threshold in order to make property damage estimates comparable from year to year. On February 20, 1986, the FHWA published a final rule in the Federal Register (51 FR 6121) (FHWA Docket No. MC–117; Amendment Number 83–16), which raised the dollar value threshold for reporting property damage accidents from $2,000 to $4,200 based upon the increased cost of repairs and replacement of property. The FHWA believed that adopting any fixed figure for this criterion would be inappropriate because of the changing value of the dollar. Therefore, it was decided to update the $2,000 property damage criterion for reporting accidents by applying the Gross National Product (GNP) deflator to the 1979 figure, and to undertake an annual adjustment of the property damage amount used in defining "reportable accidents."

In 1987, the FHWA adjusted the accident reporting dollar value threshold to $4,400 (52 FR 7278, March 10, 1987). Since then, the FHWA has reviewed the process by which the accident reporting minimum is adjusted. The relatively minor adjustment of $200 provided by the annual review in arriving at the reporting threshold for 1987 did not provide enough benefit to offset the uncertainty of estimating the dollar value difference that would have been caused within the motor carrier industry. As a consequence, the FHWA considered foregoing adjustment of the formal reporting minimum unless the changes would be at a last 10 percent of the current reporting minimum, rounded to the nearest $500. The FHWA finds this process to be cumbersome, confusing and ineffective.

The FHWA reviewed State accident files in conjunction with staff from the National Highway Traffic Safety Administration (NHTSA) in order to determine the effect of amending the current definition of accidents involving reportable property damage only, as contained in 49 CFR 394.3. The FHWA identified only one State (Indiana) that included information on the dollar amount of property damage as well as whether a vehicle was towed from the scene of the accident. Based on an analysis of Indiana's 1987 truck accident data, it was estimated that 1,258 accidents had damage above the FHWA's $4,400 threshold. If the FHWA changed its definition to embrace the term "towaway," 1,790 accidents would need to have been reported instead of 1,258. In relative terms, however, the impact on the industry would be minor. In 1988, the vast majority of property damage accidents were reported by medium (20–99 vehicles) and large motor carriers (100 and over vehicles). Even so, in 1988, these carriers submitted an average of fewer than one property damage accident report (.8) per carrier. The FHWA estimates the impact of changing to a "towaway" definition would increase this number to about 1.1 property damage accident reports annually or require one additional accident report per carrier every 3 years. For small motor carriers (1–19 vehicles), which represent 94% of all interstate carriers, the impact would be even less because they submit an average of less than 1 property damage accident report every 10 years.

In addition, the FHWA believes there is a potential for long-term benefits to the industry from this change. When the FHWA accident reporting program,

Safetynet,[2] is operational in all States, the FHWA will reassess its program of requiring commercial motor carriers to report their accidents using the Form MCS 50–T or MCS 50–B.

In view of the foregoing, the FHWA is proposing to amend § 394.3 by revising paragraph (a)(3). This paragraph would replace the dollar value threshold criterion with a "towaway" criterion. Section 394.3(a)(3) will then read as follows: "One or more vehicles incurring disabling damage as a result of the accident and transported away from the scene by a two truck or another vehicle."

It is proposed to add § 394.5, Disabling damage, to make this definition identical to the definition found in section 2.3.10 of the ANSI D–16 "Manual On Classification of Motor Vehicle Traffic Accidents," 4th Edition, December 2, 1984. The FHWA believes this definition will be important to ensure that only serious motor carrier accidents are reported. The FHWA is seeking more information from interested parties on how adoption of the "towaway" definition would affect FHWA accident trends and whether it would be a significant additional burden on industry.

Other Issues Relating to Accident Reporting

The FHWA is also soliciting comments on two other issues: (1) Revising the Federal definition of an accident to be more consistent with the ANSI D–16 definition of a motor vehicle traffic accident and (2) removing the Forms MCS 50–T and 50–B preparation instructions from § 394.20 of the FMCSRs.

The FHWA is considering an amendment and requesting comments to that portion of the definition of "reportable accident" found at § 394.3(a) to be consistent with the ANSI D–16 definition of "traffic accident." The ANSI definition more precisely defines the circumstances under which an accident should or should not be reported. It includes the term "trafficway" to explain where the accident occurred as well as the type of accident to be reported. For the purposes of motor carriers, the term "trafficway" includes the roadway (travelled portion of the road), the shoulders of the road (if any) and the rest of the right-of-way between the shoulders and the boundaries of the adjacent property line. In a traffic accident, either the unstabilized situation must originate on a trafficway or a harmful event must occur on a trafficway. An "unstabilized situation" is a set of events not under human control. It originates when control is lost and terminates when control is regained or, in the absence of persons who are able to regain control, when all persons and property are at rest. A "harmful event" is the occurrence of an injury (bodily harm to a person) or damage (harm that causes reduction in monetary value of property).

A major effect of replacing the current FHWA definition with the ANSI D–16[3] definition is that motor carriers will be required to submit only a Form MCS 50–T or 50–B accident report to the FHWA for accidents that originated or occurred on a trafficway and not at such places as terminal yards or construction sites. This should have the effect of reducing the number of accidents that must be reported.

Another major effect of replacing the current FHWA definition of "reportable accident" with the ANSI D–16 definition is that it will also make the definition used by the FHWA consistent with the one used by the NHTSA.

The FHWA specifically requests comments on the following issues:

1. How important is it for the FHWA to continue to receive accident reports for accidents that originate or occur in places other than a trafficway?

2. What effect, if any, would the adoption of the ANSI D–16 standard definition have on the motor carrier industry?

3. Who is using the ANSI D–16 accident definitions?

4. What is ANSI D–16 specifically being used for?

5. Will FHWA adoption of the ANSI D–16 standard conflict with other definitions used by the nation's law enforcement agencies?

The FHWA is also soliciting comments on a proposal to remove the instructions for the preparation of Forms MCS 50–T and 50–B from § 394.20 of the FMCSRs because any revision to the Forms MCS 50–T and 50–B requires rulemaking action. The FHWA believes this is burdensome and hampers efforts to keep the information collected from the MCS 50–T and 50–B forms current and relevant.

To ensure that carriers have ready access to the MCS 50–T and 50–B instructions, the instructions would be printed on the back of the approved form, available from commercial distributors or from any FHWA field Office. The address and telephone number of the regional offices are listed in § 390.27 of the FMCSRs. The FHWA specifically requests comments on the following issues:

1. What advantages are there, if any, in keeping the Forms MCS 50–T and 50–B preparation instructions in the FMCSRs?

2. Would any group(s) be adversely affected if the instructions were removed and republished elsewhere?

Regulatory Impact

The impact of this proposal will not result in an annual effect on the economy of $100 million, a major increase in costs or prices, or have a significant adverse effect on the nation's economy. The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or a significant regulations under the regulatory policies and procedures of the Department of Transportation. The proposed revisions contained in this document would simplify State and motor carrier industry accident reporting procedures by removing the uncertainty of estimating a dollar value amount. Although more accidents would have to be reported, the actual impact on the industry would be minor. It is estimated that this proposal would result in the preparation of only one additional accident report per medium and large motor carrier every three years. For smaller motor carriers, this number would be even less. Therefore, a full regulatory evaluation is not required. Commenters may submit any data they may have regarding benefits and/or costs of this proposal.

For the foregoing reasons and under the criteria of the Regulatory Flexibility Act, the FHWA certifies that this action will not have a significant economic impact on a substantial number of small entities.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

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[2] Safetynet is an automated information management system designed to support the Motor Carrier Safety Assistance Program by allowing the safety performance of commercial motor carriers to be monitored by participating State and Federal DOT Offices.

[3] The ANSI D–16 definition of traffic accident is found in the Manual on Classification of Motor Vehicle Accidents. Copies may be purchased from the National Safety Council, 444 North Michigan Avenue, Chicago, Illinois 60611.

Federalism Assessment

This proposed rule would change the reporting threshold for motor carrier accidents that result in damage to property only. Nothing in this document directly preempts any State law or regulation. The FMCSRs establish minimum safety requirements which, at the present time, may be supplemented by the States, except for the adoption of inconsistent regulations. The statutory basis for Federal regulation of interstate commerce has been outlined above. A single issue is addressed in this proposed rule and does not involve policies that have federalism implications. This proposed rule would not limit the policymaking discretion of the States. Accordingly, it is certified that the policies contained in this document have been assessed in light of the principles, criteria, and requirements of the Federalism Executive Order.

Environmental Impact Assessment

This regulation does not significantly affect the environment. An environmental impact statement is not required under the National Environmental Policy Act of 1969.

List of Subjects in 49 CFR Part 394

Highway safety, Motor carriers, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Program Number, 20.217, Motor Carrier Safety)

Issued on: October 5, 1990.

T.D. Larson,

Administrator.

In consideration of the foregoing, the FHWA is proposing to amend part 394 of title 49, Code of Federal Regulations, to read as set forth below:

PART 394—[AMENDED]

1. The authority citation for part 394 continues to read as follows:

Authority: 49 U.S.C. App. 2505; 49 U.S.C. 504 and 3102; 49 CFR 1.48.

2. In § 394.3, paragraph (a)(3) is revised to read as follows:

§ 394.3 Definition of "reportable accident."

(a) * * *

(3) One or more vehicles incurring disabling damage as a result of the accident and transported away from the scene by a tow truck or another vehicle.

* * * * *

3. A new § 394.5 is added to read as follows:

§ 394.5 Disabling damage.

The term disabling damage means road vehicle damage which precludes departure of the vehicle from the scene of the accident in its usual operating manner in daylight after simple repairs.

(a) *Inclusions.* Vehicles which could be driven but would be further damaged if so driven.

(b) *Exclusions.* (1) Damage which can be remedied temporarily at the accident scene without special tools or parts other than tires.

(2) Tire disablement without other damage even if no spare tire is available.

(3) Headlamp or taillight damage, which would make nighttime driving hazardous but would not affect daytime driving.

(4) Damage to turn signals, horn, or windshield wipers which makes them inoperative.

§ 394.20 [Removed and Reserved]

4. Section 394.20 is removed and reserved.

[FR Doc. 90-24239 Filed 10-12-90; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 14

RIN 1018-AB22

Humane and Healthful Transport of Wild Mammals and Birds to the United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to amend a rule establishing standards for the humane and healthful transport of wild mammals and birds to the United States. The amendments are intended to alter provisions of the rule that rendered it difficult to enforce, that might have contributed to inhuman shipping conditions, or that would have been inappropriate or unrealistic for shippers, carriers, or importers.

DATES: The Service will consider comments received by December 14, 1990, in formulating a final rule.

ADDRESSES: Office of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Mr. Marshall P. Jones, Chief, Office of Management Authority, U.S. Fish and Wildlife Service, telephone (703) 358-2093.

SUPPLEMENTARY INFORMATION: The Lacey Act Amendments of 1981 (Publ L. 97-79, 95 Stat. 1073), enacted on November 16, 1981, required the Secretary of the Interior to prescribe requirements for the humane and healthful transport of wild animals and birds to the United States. This requirement was delegated to the Service, which held a public meeting on march 28, 1982, in Wahington, DC, to receive information and comments regarding the development of appropriate regulations. On June 30, 1982 (47 FR 28432), the Service published a notice of intent that summarized the issues raised and discussed at the March 28, 1982, public meeting and invited comments and recommendations from all interested persons. On December 4, 1985, the Service published a proposed rule (50 FR 49709-49736). Comments received in response to the notice of intent were summarized in that proposal. A final rule was published in the Federal Register on November 10, 1987 (52 FR 43274), and was to have taken effect on February 8, 1988. A notice correcting several typographical errors appeared in the Federal Register of December 3, 1987 (52 FR 46019).

Before the effective date of the final rule, the Service received a significant number of comments indicating the likelihood of impediments to its enforcement, the possibly inhumane treatment that could be brought about by compliance with some of its provisions, and the possibility that some of the rule's requirements could without good reason render the transport of some animals virtually impossible. In addition, the Service received indications that some air carriers were prepared to refuse all wildlife shipments bound for the United States because of a perceived inability to assure compliance with the new rule. Critics of the rule met with Service officials on January 22, 1988, to discuss their reservations over its implementation. Service officials also met during late January 1988 with representatives of groups supporting implementation of the rule. Subsequently, a decision was made to extend the effective date until August 1, 1988, so that a thorough evaluation could be conducted. Notice of the extension and of the opening of a 30-day comment period was published in the Federal Register of February 10, 1988 (53 FR 3894). A further notice of explanation appeared on March 17, 1988 (53 FR 8765).

On April 18, 1988, however, responding to a lawsuit seeking implementation of the November rule, the United States District Court for the District of Columbia issued a preliminary injunction ruling that delay of the effective date was without good cause. Consequently, the Service issued a notice of effective date and enforcement policy on April 27, 1988 (53 FR 15041) and a further notice of enforcement policy on May 23, 1988 (53 FR 18287).

On August 10, 1988, the Service published a notice of intent (53 FR 30077) indicating those provisions of the November 1987 rule that appeared to warrant amendment or clarification and inviting public comment to assist in developing a proposed rule. The comment period for that notice closed on September 9, 1988. The proposed rule presented below is based on analysis of the existing rule in the light of comments received since its adoption and is intended to embody a reasonable, enforceable, and effective means of promoting the humane and healthful transport of wild mammals and birds to the U.S.

A comparison of the newly proposed rule with the present version is presented below in section-by-section order. Where section numbers have been changed, existing sections are cited in square brackets. Minor changes intended to minimize redundancy, improve clarity of expression, or correct grammatical errors are not explained in detail.

Section-by-Section Analysis

Section 14.101 Purposes.

The purposes of the rule would remain unaltered.

Section 14.102 Definitions.

Several definitions would be added, deleted, or altered, as noted below.

Ambient air temperature. This definition would be reworded to clarify the intention that temperatures are to be measured outside, rather than within, primary enclosures.

Auxiliary ventilation. This definition would be added in order to avoid repetitive descriptions of the term in the text of the rule.

Carrier. This definition would remain unchanged, as recommended by several commenters.

Domesticated. This term would be newly defined in order to better indicate what animals are considered "wild," and therefore covered by the rule.

In advanced stages of pregnancy. This definition would be eliminated because the term is not used in either the current rule or the proposed revision.

Injured. Although it has been suggested that this term be defined in order to clarify its meaning in § 14.105(c), the Service believes that the meaning is clear without provision of a further regulatory definition. The term is intended to apply to animals suffering from unhealed injuries that are life-threatening or disabling.

Marine mammal. This term would be defined in the sense of its application for this rule.

Normal rigors of transportation. A new definition would be provided for this expression because the current definition is difficult to understand. The proposed version would refer to the unavoidable stress to an animal caused by transport. Several commenters recommended changes in the existing definition, and the Service has referred to these in formulating its proposal. The definition should be understood in relation to its use in § 14.105(b). The intention is that, before being accepted by a carrier, animals be certified by a qualified veterinarian as able to withstand the stresses that are unavoidably associated with transport.

Noxious machinery. This term is undefined in the current regulations and would not be defined in this proposal. In addition, the word "noxious" would be deleted from § 14.111. The current regulation requires that animals be protected from harassment by noxious machinery. The Service intends the proposed rule to require that animals not be exposed unnecessarily to machinery that makes noise; emits fumes, heat, or light; or causes vibrations, and consequently would add these descriptive terms to the proposed regulation.

Obvious distress. This term would remain undefined because it has no specialized meaning within the regulation.

Old-world primate. This definition would be deleted, along with the requirement in § 14.121 of the existing rule that animals so defined test negative for tuberculosis before being accepted by a carrier. The rationale for removing this requirement is explained below in the discussion of § 14.121.

Physical trauma. The Service finds no compelling reason to define this term in a way to alter its ordinary meaning.

Primary conveyance. Because of confusion regarding the intent of the existing definition, a new definition is proposed that would make it clear that any conveyance playing a significant role in transporting an animal to the United States is considered "primary", and that more than one "primary conveyance" may be employed during a given shipment.

Professionally-accepted standards. A minor alteration is proposed for this definition so that the noun "standards" would not be defined by an adjectival phrase.

Psychological trauma. A new definition would be provided in response to comments indicating that the existing definition is vague. The intent is to give a more objective and verifiable description of what is meant by this expression.

Recently given birth. This definition would be deleted because the term is not used in either the present rule or the proposed revision.

Unhealthy conditions. This definition would be deleted because the term is not used in either the current rule or this proposed revision.

Wild. This term would be newly defined in order to indicate the intended scope of the rule. The Service believes that the use of this term is sufficiently distinct in this regulation to warrant a definition separate from that of "wildlife" in 50 CFR 10.12.

Section 14.103 Prohibitions.

This section would not change.

Section 14.104 Translations.

The title of this section would be changed to better reflect its content. English translations of certificates would continue to be required. A clarifying change would indicate that this provision applies to health certificates only, since these are the only certificates required by the subpart.

Section 14.105 Consignment to carrier.

A veterinary examination would be required to be performed by a veterinarian whose qualifications are certified by the country in which transport begins. It is not intended that a carrier verify the qualifications of the examining veterinarian beyond ascertaining that he or she has been issued a license, certificate, or other documentation customarily used by the country to establish professional veterinary qualifications. The Service considers a requirement that the examining veterinarian be a salaried employee of the country in which the certificate is issued to be beyond its ability to enforce. Evidence of inadequate national certification procedures in a country of origin, however, may lead the Service not to accept certificates issued in that country. Any such intention not to accept certificates would be announced

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beforehand with an explanation for its basis.

The proposal would revise the upper and lower limits for the length of time before scheduled departure during which a shipment could be consigned to a carrier. The existing rule requires that consignment be between 6 and 10 hours before scheduled departure. The Service now believes that a lower limit of 2 hours is reasonable and consistent with normal consignment practices, and more particularly, considers the 6-hour lower limit to be potentially excessive. An upper limit of 8 hours appears to be sufficient to ensure that animals are transported expeditiously and are not kept in holding areas for excessive lengths of time. In addition, the upper limit is believed to be long enough to avoid the difficulty of having animals held for unreasonable periods on the ground because they could not be consigned to an airline, as feared by some respondents.

The requirement that transport be accomplished expeditiously and stopovers be minimized would be removed from this section because it is identical to a requirement in § 14.109, where it is more appropriately placed.

The proposal would not allow the transport of un-fledged chicks for purposes other than medical treatment, in addition to the existing restriction on transport of un-weaned mammals. Chicks that have not yet developed their adult plumage are difficult to identify correctly, more prone to disease, and more susceptible to the stresses and rigors of transportation.

Section 14.108 Primary enclosures.

This section would be reorganized for greater clarity, and several substantive changes would be introduced as well:

Compliance with the Live Animals Regulations (LAR) adopted by the International Air Transport Association (IATA) would still be required, but the statement that such compliance would meet minimum requirements for this subpart would be deleted as having no real significance and being possibly misleading. Similarly, the statement that enclosures are to comply with other requirements of this subpart would be deleted as redundant.

The size requirements for spacer bars (bars attached to enclosures to ensure adequate space for ventilation between enclosures) would be altered so that a bar would never be required to exceed 6 inches (15 centimeters) in width, although the existing requirement that its width equal at least 10% of the longer dimension of the side to which it is attached would be retained below that limit. Rather than requiring a proportionality relationship between the width of spacers and the number of animals contained within an enclosure, the required width would be doubled, up to the same limit of 6 inches (15 centimeters), for enclosures containing more than one animal. The Service believes that these changes will ensure that enclosures have adequate spacers, but not bars so large as to be potentially destabilizing. Despite objections from some commenters, the Service does not believe the 10% formula to be confusing.

The requirement for a paper lining in the bottom of an enclosure containing birds would be deleted, as recommended by most respondents. The Service recognizes that a paper liner or loose litter could become hazardous to birds during transport.

The requirement that an enclosure be marked "THIS SIDE UP" on one of its sides has been deleted because of the potential for confusion. The requirement for markings with arrows indicating upright position is believed to more appropriately ensure that the enclosure will be stowed in the proper position.

The requirement that instructions for care and copies of shipping documents be attached to enclosures is retained because of the necessity of such documents to insure humane conditions and allow adequate inspections. The Service does not consider it unreasonable to require that such documents be readily available.

Rather than specifying that a wooden float be placed in a water trough intended for birds, the proposal would allow a foam or sponge insert or other device to prevent spillage or drowning. The Service recognizes the potential danger that a wooden float could pose for some kinds of birds.

Section 14.107 Primary conveyance.

The requirement that an enclosure be positioned in the conveyance in such a way as to be easily removed in an emergency would be deleted as difficult to comply with in many circumstances and of little practical value in most emergencies that are likely during transport. In addition, placement for easy removal (e.g. near a doorway) could in some instances require the enclosure to be moved or off-loaded more frequently than would be consistent with humane treatment. The Service recognizes the concerns expressed by some commenters as to the necessity of this or a similar requirement, but declines to prescribe the positioning of enclosures within a conveyance in the absence of evidence that inconvenience of removal has contributed to inhumane conditions.

The provision requiring sufficient air for normal breathing, which has been challenged as unenforceable, would be deleted. Although there is evidence that lack of proper ventilation has contributed to inhumane transport conditions, the Service knows of no way to establish that particular instances of morbidity or mortality can be ascribed to insufficient air. It is hoped that the provisions requiring that enclosures be adequately vented and fitted with spacer bars, that cargo holds be pressurized, and that shipments be periodically observed will ensure that animals are able to breathe normally during transport.

Other requirements of this section would be retained substantially in their current form.

Section 14.109 Food and water.

The requirement that animals be provided "potable" water would be replaced by one that requires "water suitable for drinking" to avoid possible confusion with potability standards for drinking water intended for human consumption, which may not be suitable for some animals. It is understood that water provided for animals is to be clean and not a source of contagion. The Service considers "potable" and the term proposed to replace it to be functionally equivalent and this wording change to be without substantive effect on the regulation.

Because of the possibility that an animal arriving in the United States may have exhausted its supply of water or other source of moisture and that it may remain for some time before being claimed by a consignee, requirements have been added that it be observed periodically, fed according to the shipper's instructions and that water or another suitable source of moisture be made available as necessary upon arrival.

The requirement that veterinary care be provided if an animal is observed to be in distress during a stopover would be deleted from this section because it is understood to duplicate the similar requirement that is more properly located in § 14.109(a).

Section 14.109 Care in transit.

This section would be reorganized to improve clarity and reduce duplication. Paragraphs (e)–(g) of this section would be relocated to § 14.111, where they are more appropriately placed.

In addition, several substantive changes would be made. The requirement that an enclosure be inspected "as frequently as circumstances allow" would be deleted

because it is vague and could lead to disturbance of animals by too-frequent inspection. Inspection would continue to be required at least every 4 hours when an enclosure is accessible.

Provision would be made for an examining veterinarian to authorize a variation from the existing pressurization requirement when this would be advantageous to the animal being transported.

The text would be altered to indicate that a carrier is responsible to inspect for signs of distress, including those described in a document attached to an enclosure. The Service recognizes that normal behavior in some animals might be mistaken for distress by persons unfamiliar with them, and wishes to avoid the possibility of encouraging inappropriate attempts to alleviate non-existent "stress." The proposal requires shippers to affix a document with food, water, and care instructions, and signs of stress, to each enclosure; in the absence of such a document, the carrier remains responsible to inspect for signs of distress. The Service recognizes that some shippers may not know all of the signs of distress in the species being shipped, but urges shippers to indicate all available information on the aforementioned document.

At the suggestion of shippers, a carrier would be required to consult with the shipper before providing veterinary care to an animal in distress.

An allowance would be made for an examining veterinarian to specify temperatures outside the ranges generally required for mammals in transport when such temperatures would be more appropriate for a given kind of mammal. The Service recognizes that some mammals may require higher or lower temperatures than those specified in order to be shipped healthfully and humanely.

Section 14.110 Terminal facilities.

The requirement to separate species of primates in a holding area has been deleted and incorporated in § 14.123, in the specifications for primates.

Section 14.111 Handling.

Generally, provisions that duplicate requirements found elsewhere in the subpart would be eliminated from this section and editorial changes would be made to improve clarity. In lieu of defining the term "noxious," which is used in paragraph (e) of the current regulation, the primary disturbing effect that might be caused by machinery would be enumerated.

The requirement that animals be first loaded and last unloaded would be replaced by one that specifies loading as late as possible and unloading as early as possible. The Service has been persuaded by the comments of shippers that animals could be held within conveyances for excessive lengths of time or stowed in inaccessible areas of cargo holds if the provisions of the existing regulation are complied with.

The express requirement that incompatible animals not be held within visual or olfactory contact would be deleted as unnecessarily specific. The Service considers that the proposed provisions of § 14.111(c), requiring that incompatible animals not be held in proximity, provides an adequate mechanism to enforce reasonable separation of such animals.

Section 14.112 Other applicable provisions.

The existing section of this number, titled "Harm during shipment," has been deleted as essentially redundant. The Service will continue to consider evidence establishing compliance with temperature, pressure, and ventilation standards, including evidence provided through automatic instrumentation or personal observation, in evaluating possible violations of this subpart. The Service no longer considers it necessary, however, to include a section that essentially does no more than reinforce requirements contained in other sections.

Proposed § 14.112 would coordinate the general and specific provisions of part 14, so that both the requirements of §§ 14.101–14.111 and the specifications for particular groups would have to be complied with for a given shipment. This coordination is currently contained in a paragraph under "Consignment to carrier" within each set of specifications.

Specifications for Non-Human Primates

Section 14.121 Primary enclosures. [present § 14.122]

In the existing regulations, the section with this number is titled "Consignment to carrier for transport." As noted above, the portion of the section functioning to coordinate the general and specific provisions of the part would be deleted from each set of specifications, and the coordination would be accomplished by a new § 14.112.

The second paragraph of the existing section, which requires a negative tuberculosis test for old-world primates, would also be eliminated. The Service no longer believes that this one communicable disease should be singled out for screening while all others are subject only to the health certification requirements of § 14.105(b).

No substantive changes would be made to the provisions dealing with enclosures.

Section 14.111 Food and water. [present § 14.123]

No substantive changes would be made to this section.

Section 14.123 Care in transit. [present § 14.124]

This section would remain essentially unchanged except that the provisions now located in § 14.110(a), requiring separation of primate species in terminal facilities, would be incorporated. The Service believes that this provision is reasonable in light of the behavioral characteristics of primates, which make disease transmission a particular problem with members of this group. They may, for instance, throw food or feces between enclosures.

[present § 14.125]

This section would be deleted because it largely duplicates the general provisions of § 14.111. Requiring compliance with two sets of slightly different standards covering the same subject matter is likely to engender confusion and reduce enforceability.

Specifications for Marine Mammals

Section 14.131 Primary enclosures. [present § 14.132]

As explained above under § 14.121, the contents of the section now bearing this number would be deleted.

Only minor editorial changes and deletions of redundant provisions would be made to the provisions dealing with enclosures.

Section 14.132 Food and water. [present § 14.133

This section would be consolidated somewhat and shortened by removal of unnecessary explanatory language.

Section 14.133 Care in transit. [present § 14.134]

Only minor editorial changes to promote understanding would be made to this section.

[present § 14.135]

This entire section would be deleted for the reasons explained above under § 14.125.

Specifications for Elephants and Ungulates

Section 14.141 Consignment to carrier.

As noted above, the coordinating function now served by this section would be placed in new § 14.112. The remainder of existing § 14.141 would remain in this section.

Section 14.142 Primary enclosures.

The requirement to provide a water trough would be altered in order to make it more easily understandable and to avoid possible injuries to animals. Otherwise only clarifying changes would be made.

Specifications for Sloths, Bats, and Flying Lemurs (Cynocephalidae)

Section 14.151 Primary enclosures. [present § 14.122]

Starting with this section, all the remaining sections would be renumbered to eliminate a gap in the numerical series that is present in the existing regulations. In addition, the order of this set of specifications and those covering other terrestrial mammals would be reversed.

No substantive changes would be made in this section.

[present § 14.173]

This section would be deleted entirely for the reasons given above for previous similar sections.

Specifications for Other Terrestrial Mammals

Section 14.161 Primary enclosures. [present § 14.182]

Only minor clarifying changes would be made in this section.

[present § 14.153]

This section would be deleted entirely for the reasons explained above under § 14.125.

Specifications for Birds

All the sections dealing with birds would be consolidated under this set of specifications in order to reduce duplication.

Section 14.171 Consignment to carrier. [present §§ 14.181, 14.191, 14.201]

Other than the consolidation of these provisions in a single section, no substantive changes would be made.

Section 14.172 Primary enclosures. [present §§ 14.182, 14.192, 14.202]

This section would be reorganized, and the following substantive changes are proposed.

The confusing requirement that perching birds be afforded sufficient room to "stretch each wing" while perched would be replaced by one that there be sufficient space for all birds to perch simultaneously. This is believed to provide sufficient space for humane conditions when combined with a newly proposed limit of 50 birds in any one enclosure. In order to conform with the IATA Live Animals Regulations, large psittacine birds (longer than 23 cm, or 9 inches) are proposed to be limited to 25 birds in any one enclosure.

The requirement that the enclosure be large enough to permit perching without the tail feathers being damaged would be deleted because it is nearly impossible to enforce and is easily circumvented by plucking or clipping the feathers.

Section 14.173 Temperature standards. [present § 14.183, 14.193, 14.203]

This section would be renamed, and minor clarifying changes would be made to it.

[present §§ 14.184, 14.194, 14.204]

As with several similar sections above, these would be entirely deleted.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposal are hereby solicited.

Executive Order 12291 and the Regulatory Flexibility Act

It has been determined that the proposed revisions to 50 CFR part 14 do not constitute a "major" rule under the criteria established by Executive Order 12291. The revisions principally represent clarifications of existing provisions that are expected to make compliance more practical and enforcement more efficient. It has also been certified that these revisions will not have a significant economic effect on a substantial number of small entities as described by the Regulatory Flexibility Act. Small entities are already required to comply with the current regulations. It is expected that the proposed revisions would reduce the burden on small entities by making requirements clearer, but not more stringent.

Author

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List of Subjects in 50 CFR Part 14

Exports, Imports, Labeling, Reporting requirements, Transportation and Wildlife.

Proposed Regulation Promulgation

PART 14—[AMENDED]

Accordingly, it is hereby proposed to amend part 14 of chapter I of title 50 of the Code of Federal Regulations to read as follows:

1. The authority citation for part 14 reads as follows:

Authority: 16 U.S.C. 42; 16 U.S.C. 3371–3378; 16 U.S.C. 1538(d)–(f), 1540(f); 16 U.S.C. 1382; 16 U.S.C. 704, 712; 31 U.S.C. 483(a); 16 U.S.C. 852(c).

2. Subpart J is revised to read as follows:

Subpart J—Standards for the Humane and Healthful Transport of Wild Mammals and Birds to the United States

Sec.

14.101 Purposes.
14.102 Definitions.
14.103 Prohibitions.
14.104 Translations.
14.105 Consignment to carrier.
14.106 Primary enclosures.
14.107 Primary conveyance.
14.108 Food and water.
14.109 Care in transit.
14.110 Terminal facilities.
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14.112 Other applicable provisions.

Specifications for Non-Human Primates

14.121 Primary enclosures.
14.122 Food and water.
14.123 Care in transit.

Specifications for Marine Mammals (Cetaceans, Sirenians, Sea Otters, Pinnipeds, and Polar Bears)

14.131 Primary enclosures.
14.132 Food and water.
14.133 Care in transit.

Specifications for Elephants and Ungulates

14.141 Consignment to carrier.
14.142 Primary enclosures.

Specifications for Sloths, Bats, and Flying Lemurs

14.151 Primary enclosures.

Specifications for Other Terrestrial Mammals

14.161 Primary enclosures.

Specifications for Birds

14.171 Consignment to carrier.
14.172 Primary enclosures.
14.173 Temperature standards.

Subpart J—Standards for the Humane and Healthful Transport of Wild Mammals and Birds to the United States

§ 14.101 Purpose.

The purpose of this subpart is to prescribe importation requirements necessary to ensure that live mammals and birds shipped to the United States arrive alive, healthy, and uninjured and that transportation of such animals occurs under humane and healthful conditions. These regulations implement section 9(d) of the Lacey Act Amendments of 1981.

§ 14.102 Definitions.

In addition to the definitions contained in part 10 of this subchapter B, in this subpart—

Ambient air temperature means the temperature of the air surrounding a primary enclosure containing a wild mammal or bird.

Auxiliary ventilation means cooling provided by such means as vents, fans, blowers, or air conditioning.

Carrier means any person operating an airline, railroad, motor carrier, shipping line or other enterprise engaged in the business of transporting any wild mammal or bird for hire, for commercial purposes, or for exhibition.

Communicable disease means any contagious, infectious, or transmissible disease of wild mammals or birds.

Domesticated means belonging to a species that has been habituated through human genetic selection for many generations to living in close proximity to humans and that has been bred to fulfill human requirements for food, fiber, aesthetic enjoyment, or companionship, or as a subject of scientific research.

Do not tip means do not excessively rock or otherwise move from a vertical to a slanting position, knock over, or upset.

Handle means feed, manipulate, crate, shift, transfer, immobilize, restrain, treat or otherwise control the movement or activities of any wild mammal or bird.

Holding area means a designated area at or within a terminal facility that has been specially prepared to provide shelter and other requirements of wild mammals or birds being transported to the United States, and in which such mammals or birds are maintained prior to, during, or following such shipment.

Kept clean means maintained free from dirt, trash, refuse, excreta, remains from other cargo, and impurities of any type.

Marine mammal means an individual of a species of the orders Cetacea, Pinnipedia, or Sirenia, or a polar bear (*Ursus maritimus*) or sea otter (*Enhydra lutris*).

Non-compatible means not capable of existing together in harmony.

Non-human primate means any non-human member of the order Primates.

Normal rigors of transportation means the stress that wild animal can be expected to experience as a result of exposure to unaccustomed surroundings, unfamiliar confinement, caging, unfamiliar sounds, motions, and other conditions commonly encountered during transport.

Primary conveyance means any vehicle, vessel, or aircraft employed to transport an animal for a significant distance between its origin and destination.

Primary enclosure means any structure used to restrict a mammal or bird to a limited amount of space, such as a cage, room, pen, run, compartment, pool, hutch, or compartment thereof.

Professionally accepted standards means a level of practice established as acceptable by a body of qualified persons of the veterinary medical profession.

Psychological trauma means an episode of exposure to abnormally stressful conditions resulting in significant behavioral abnormality including, but not limited to, manifestations of unaccustomed aggressiveness, self-mutilation, or refusal of food or water.

Sanitize means to make physically clean and, as far as possible, free of toxic or infectious agents injurious to the health of wild mammals or birds.

Scheduled departure time means the time listed on a time-table of departures and arrivals or, in the absence of a time-table, means the time of departure agreed to by a carrier and shipper.

Shipper means any person, other than a carrier, involved in the transport of wild animals to the United States regardless of the purpose of such transport, e.g., exporter, importer, or agent.

Terrestrial mammals means mammals other than marine mammals.

Transport means to move, convey, carry, or ship by any means, or to deliver or receive for the purpose of movement, carriage, or shipment, by air, land, or sea.

Transporting device means any vehicle or device used to transport an animal between a primary conveyance and terminal facility, or in and around a terminal facility of a carrier, or within a primary conveyance.

Wild means belonging to a species that has not been domesticated, or belonging to a population of an otherwise domesticated species that has not been genetically altered for many generations by human intervention to render it compatible with close human contact.

§ 14.103 Prohibitions.

Unless the requirements of this subpart are fully satisfied, and all other legal requirements are met, it is unlawful for any person to transport to the United States, cause to be transported to the United States, or allow to be transported to the United States any live wild mammal or bird. It shall be unlawful for any person to import, to transport, or to cause or permit to be transported to the United States any wild mammal or bird under inhumane or unhealthful conditions or in violation of this subpart J.

§ 14.104 Translations.

Any health certificate required by this subpart to accompany a mammal or bird transported to the United States and written in a foreign language must be accompanied by an accurate English translation.

§ 14.105 Consignment to carrier.

(a) No carrier shall accept any live wild mammal or bird for transport to the United States that has not been examined within 10 days prior to commencement of transport to the United States by a veterinarian certified as qualified by the national government of the initial country from which the mammal or bird is being exported.

(b) A health certificate, signed by the examining veterinarian, stating that the animal has been examined, is healthy, appears to be free of any communicable disease, and is able to withstand the normal rigors of transport must accompany the mammal or bird. A mammal in the last trimester of pregnancy, if this is detectable using professionally accepted standards, shall not be accepted for transport to the United States except for medical treatment and unless the examining veterinarian certifies in writing that the animal has been examined, the state of pregnancy has been evaluated, and that despite the medical condition requiring treatment, the animal is physically able to withstand the normal rigors of transportation to the United States.

A nursing mother with young, an unweaned mammal unaccompanied by its mother, or an un-fledged bird, shall be transported only if necessary for medical treatment. An unweaned animal shall not be transported to the United States without its mother unless it is accompanied by an attendant.

(c) A sick or injured wild mammal or bird shall be permitted transport to the United States only if the primary purpose of such transport is for needed medical treatment and upon certification in writing by the examining veterinarian that the animal is able to withstand the normal rigors of travel in its present condition. A sick or injured animal shall be accompanied throughout the transport process by an individual qualified to care for and treat it. This individual shall be in possession of or have ready access to all medications to be administered during the transport.

(d) No carrier shall accept any wild mammal or bird for transport to the United States presented by the shipper less than 2 hours or more than 6 hours prior to the scheduled departure of the primary conveyance on which it is to be transported.

§ 14.106 Primary enclosures.

No carrier shall accept for transport to the United States any live wild mammal or bird in a primary enclosure that does not conform to the following requirements:

(a) The current container requirements of the Live Animal Regulations (LAR) adopted by the International Air Transport Association (IATA) shall be complied with by all parties transporting wild mammals or birds to the United States.

(b) A primary enclosure shall be constructed so that—

(1) The strength of the enclosure is sufficient to contain the mammal or bird and to withstand the normal effects of transport;

(2) The interior of the enclosure is free from any protrusion that could be injurious to the mammal or bird within;

(3) No part of the animal can extend or protrude outside of the primary enclosure in such a way as to cause injury to the contained animal, to nearby persons or animals, or to handlers of the primary enclosure;

(4) Access to the primary enclosure is closed and secured with an animal-proof device designed to prevent accidental opening and release of the mammal or bird;

(5) The opening of the enclosure is easily accessible for emergency removal of the mammal or bird by authorized personnel;

(6) The enclosure has sufficient opening to ensure adequate circulation of air at all times.

(7) The material of which the primary enclosure is constructed is not treated with any paint, preservative, or other chemical that is injurious or otherwise harmful to the health or well-being of mammals and birds.

(c) Unless the enclosure is permanently affixed in the primary conveyance or has an open top, as specified by LAR or below for certain large mammals, spacer bars allowing circulation of air around the enclosure shall be fitted to the exterior of its top, sides, and base. Spacer bars on an enclosure need extend no more than 6 inches (15 centimeters) from the surface of the enclosure. Within this 6-inch limit, the spacers on an enclosure containing one animal shall extend from the surface to which they are attached a distance equal to at least 10% of the longer dimension of the surface and the spacers on an enclosure containing more than one animal shall extend a distance equal to at least 20% of the longer dimension of the surface to which they are attached.

Hand-holds required by § 14.106(c) may serve as spacer bars for the sides of the enclosure to which they are attached. A primary enclosure constructed with one or more slanted or curved walls containing ventilation openings need not be fitted with spacer bars on such walls.

(d) An enclosure that is not permanently affixed within the primary conveyance shall have adequate hand-holds or other devices for lifting by hand or to facilitate lifting and carrying by machine. Such hand-holds or other devices shall be made an integral part of the enclosure, shall enable it to be lifted without excessive tipping, and shall be designed so that the person handling the enclosure will not come into contact with its contents.

(e) An enclosure shall have a solid, leak-proof bottom or removable, leak-proof collection tray under a slatted or wire mesh floor. The slatted or wire mesh floor shall be designed and constructed so that the spaces between the slats or the holes in the mesh cannot trap the limbs of animals contained within the enclosure. An enclosure for mammals shall contain unused absorbent litter on the solid bottom or in the leak-proof tray in sufficient quantity to absorb and cover excreta. This litter shall be safe and non-toxic and shall not resemble food normally consumed by the mammals. An enclosure used to transport marine mammals in water, in a water-proof enclosure, a sling, or on foam is exempt from the requirement to contain litter. An enclosure used to transport birds shall not contain litter.

(f) If an enclosure has been previously used to transport or store wild mammals or birds, it shall have been cleaned and sanitized in a manner that will destroy pathogenic agents and pests injurious to the health of mammals and birds before the enclosure can be re-used.

(g) An enclosure that is not permanently affixed in the primary conveyance shall be clearly marked in English on the outside of the top and one or more sides of the enclosure, in letters not less than 2.5 centimeters (1 inch) in height, "LIVE ANIMALS," "DO NOT TIP," "ONLY AUTHORIZED PERSONNEL MAY OPEN CONTAINER," and other appropriate or required instructions. All enclosure sides shall also be conspicuously marked on the outside with arrows to indicate the correct upright position of the enclosure. These arrows should extend up the sides of the enclosure so that the point of the arrow is visible and clearly indicates the top of the enclosure.

(h) Food and water instructions as specified in § 14.108, information regarding what constitutes obvious signs of stress (when known to the shipper) in the species being transported, and information about any drugs or medication to be administered by a qualified attendant or animal care expert shall be securely attached to each enclosure. Copies of shipping documents accompanying the shipment shall also be securely attached to the primary enclosure. Original documents shall be carried in the carrier's pouch or manifest container, or by the shipper's attendant travelling with the cargo.

(i) Any food and water troughs shall be securely attached to the interior of the enclosure in such a manner that the troughs can be filled from outside the enclosure. Any opening providing access to a trough shall be capable of being securely closed with an animal-proof device. A water trough in an enclosure containing birds shall contain a foam or sponge insert, a perforated wooden block, or other suitable device to prevent spillage or drowning.

(j) When an enclosure is permanently affixed within a primary conveyance so that its front opening is the only source of ventilation, the opening shall face the outside of the conveyance or an unobstructed aisle or passageway within the conveyance. The opening shall occupy at least 90 percent of the total surface area of the front wall of the enclosure and be covered with bars, wire mesh or smooth expanded metal mesh.

§ 14.107 Primary conveyance.

(a) The animal cargo space of a primary conveyance used to transport wild mammals or birds to the United States shall be designed, constructed, and maintained so as to ensure the humane and healthful transport of the animals.

(b) The cargo space shall be constructed and maintained so as to prevent the harmful ingress of engine exhaust fumes and gases produced by the conveyance.

(c) No wild mammal or bird shall be placed in a cargo space of a primary conveyance that does not provide sufficient air for it to breathe normally. Primary enclosures shall be positioned in a cargo space in such a manner that each animal has access to sufficient air for normal breathing.

(d) The interior of an animal cargo space shall be kept clean of disease-causing agents.

(e) A wild mammal or bird shall not be transported in a cargo space that contains any material, substance or device that may reasonably be expected to result in inhumane conditions or be injurious to its health unless all reasonable precautions are taken to prevent such conditions or injury.

§ 14.108 Food and water.

(a) No carrier shall accept any wild mammal or bird for transport to the United States unless written instructions from the shipper concerning the animal's food and water requirements are securely affixed to the outside of its primary enclosure. Such instructions shall be consistent with professionally accepted standards of care and include specifically the quantity of water required, the amount and type of food required, and the frequency of feeding and watering necessary to ensure that it is transported humanely and healthfully.

(b) A mammal or bird requiring drinking water shall have water suitable for drinking made available to it at all times prior to commencement of transport to the United States, during intermediate stop-overs, and upon arrival in the United States, or as directed by the shipper's written instructions.

(c) A mammal or bird that obtains moisture from fruits or other food shall be provided such food prior to commencement of transport to the United States, during stop-overs, and upon arrival in the United States, or as directed by the shipper's written instructions.

(d) During a stop-over or while still in the custody of the carrier after arrival in the United States, a mammal or bird in transit shall be observed no less frequently than once every four hours and given food and water according to the instructions required by § 14.106(a).

(e) The shipper shall be responsible for providing food to be made available during transport unless other arrangements are contracted for between shipper and carrier.

(f) Additional requirements for feeding and watering particular kinds of animals are found below in the specifications for the various groups.

§ 14.109 Care in transit.

(a) During transportation to the United States, including any stopovers during transport, the carrier shall visually inspect each primary enclosure not less than once every 4 hours, or in the case of air transport, every 4 hours whenever the cargo hold is accessible. During such inspections, the carrier shall verify that the ambient air temperature is within allowable limits, that enclosures have not been damaged, that adequate ventilation is being provided, and when transport is by air, that air pressure suitable to support live animals is maintained within the cargo area (pressure equivalent to a maximum altitude of 8000 feet or as otherwise specified in writing as not harmful by the examining veterinarian). During these observations the carrier shall also determine whether any animals are in obvious distress as described in documents attached to the enclosure. The absence of such a document or the absence of information as to signs of distress shall not remove responsibility from the carrier. The carrier shall attempt to correct any condition causing distress and shall consult the shipper concerning any possible need for veterinary care if no veterinarian or qualified attendant is traveling with the shipment.

(b) Unless otherwise allowed by the specifications below for particular groups of species or specified in writing by the examining veterinarian, the ambient air temperature in a holding area, transporting device, or primary conveyance containing mammals shall not be allowed to fall below 7.2 degrees C (45 degrees F), to exceed 23.9 degrees C (75 degrees F), nor to exceed 21.1 degrees C (70 degrees F) for more than 4 hours at a time. Auxiliary ventilation shall be provided when the ambient air temperature is 21.1 degrees C (70 degrees F) or higher. Temperature standards for birds are set out below in § 14.174.

§ 14.110 Terminal facilities.

(a) Any terminal facility used for wild mammal or bird transport in the country of export, stopover countries, or the United States shall contain an animal holding area or areas. No carrier or shipper shall co-mingle live animal shipments with inanimate cargo in an animal holding area.

(b) A carrier or shipper holding any wild mammal or bird in a terminal facility shall provide the following:

(1) A holding area cleaned and sanitized so as to destroy pathogenic agents, maintained so that there is no accumulation of debris or excreta, and in which vermin infestation is minimized;

(2) An effective program for the control of insects, ectoparasites, and pests of mammals or birds;

(3) Sufficient fresh air to allow the animals to breathe normally, with ventilation maintained so as to minimize drafts, odors, and moisture condensation;

(4) Ambient air temperatures maintained within prescribed limits as specified in § 14.109(b) or more specific temperature limits found below for particular species of animals.

§ 14.111 Handling.

(a) Care shall be exercised to avoid handling the primary enclosure in a manner likely to cause physical or psychological trauma to the mammal or bird.

(b) A primary enclosure used to move any mammal or bird shall not be dropped, tipped excessively, or otherwise mishandled and shall not be stacked or placed in a manner that may reasonably be expected to result in its falling or being tipped.

(c) Animals incompatible with one another shall not be crated together or held in close proximity.

(d) Transport of mammals or birds to the United States shall be accomplished by the carrier in the most expeditious manner, with the fewest stop-overs possible, and without unnecessary delays.

(e) Consistent with other procedures and requirements of the carrier, live wild mammals or birds shall be last loaded and first unloaded from an aircraft.

(f) A carrier shall not allow mammals or birds to remain for extended periods of time outside a holding area, and shall move them between a holding area and a primary conveyance as expeditiously as possible. A carrier or shipper maintaining mammals or birds in a holding area or transporting them to or from a holding area or between a holding area and a primary conveyance, shall provide the following:

(1) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect animals from the direct rays of the sun.

(2) *Shelter from precipitation.* Animals shall be provided protection so that they remain dry during rain, snow or other forms of precipitation.

(3) *Shelter from cold.* Animals shall be provided protection from cold when ambient air temperatures fall below 10 degrees C (50 degrees F). Protection shall include, but not be limited to, that provided by covering and heating of transporting devices.

(4) *Protection from harassment.* Animals shall be protected from disturbances, including, but not limited to, harassment by humans, other animals, or machinery that makes noise, emits fumes, heat, or light, or causes vibration.

§ 14.112 Other applicable provisions.

In addition to the provisions of §§ 14.103–14.111 above, the requirements of §§ 14.121–14.172 applicable for particular groups of animals shall be met for all shipments of wild mammals and birds covered by this part.

Specifications for Non-Human Primates

§ 14.121 Primary enclosures.

(a) No more than one primate shall be transported in a primary enclosure. However, a mother and her nursing young being transported to the United States for medical treatment, an established male-female pair, a family group, a pair of juvenile animals that have not reached puberty, or other pairs of animals that have been habitually housed together may be shipped in the same primary enclosure. Individually housed non-human primates of different species shall not be shipped together in an enclosure having more than one compartment.

(b) A primary enclosure used to transport a primate shall be large enough to ensure that the animal has sufficient space to turn around freely in a normal manner, lie down, stand up (as appropriate for the species), and sit in a normal upright position without its head touching the top of the enclosure. However, a primate may be restricted in its movements according to professionally accepted standards of care when greater freedom of movement would constitute a danger to the primate or to its handler or other persons.

(c) Except as provided in § 14.103(i), when ventilation openings are located on two opposite walls of a primary enclosure, the ventilation opening on each wall shall comprise at least 30 percent of the total surface area of the wall and be situated above the midline of the enclosure. If ventilation openings are located on all four walls of the enclosure, the openings on each wall shall comprise at least 20 percent of the total surface area of the wall and be situated above the midline of the primary enclosure.

§ 14.122 Food and water.

(a) A non-human primate shall be provided water suitable for drinking within 4 hours prior to commencement to transport to the United States unless the shipper's written instructions direct otherwise. A carrier shall provide suitable drinking water to any primate at least every 12 hours after acceptance for transport to the United States or as instructed by the shipper.

(b) After acceptance for transport, and unless otherwise instructed by the shipper, a carrier shall provide suitable food to any non-human primate at least once in each 24 hour period if it is an adult 1 year of age or over, and at least once every 12 hours if it is less than 1 year of age.

§ 14.123 Care in transit.

(a) A primate shall be observed for condition and given food and water according to the shipper's instructions during any intermediate stop that lasts more than 4 hours.

(b) Care shall be taken to keep enclosures containing primates sufficiently separated in the primary conveyance or holding area to minimize the risk of spread of disease from one species to another.

Specifications for Marine Mammals (Cetaceans, Sirenians, Sea Otters, Pinnipeds, and Polar Bears)

§ 14.131 Primary enclosures.

(a) A primary enclosure that is not open on top shall have air inlets situated at heights that provide cross ventilation at all levels and that are located on all four sides of the enclosure. Such ventilation openings shall comprise not less than 16 percent of the total surface area of each side of the enclosure.

(b) Straps, slings, harnesses, or other such devices used for body support or restraint when transporting marine mammals such as cetaceans or sirenians shall meet the following requirements:

(1) The devices shall not prevent attendants from having access to the mammal to administer care during transportation;

(2) The devices shall be equipped with sufficient padding to prevent trauma or injury at points of contact with the mammal's body;

(3) Slings or harnesses shall allow free movement of flippers outside of the harness or sling;

(4) The devices shall be capable of preventing the mammal from thrashing about and causing injury to itself, handlers, or other persons, but shall be designed so as not to cause injury to the mammal.

(c) A primary enclosure used to transport marine mammals shall be large enough to assure the following:

(1) A sea otter or polar bear has sufficient space to turn about freely with all four feet on the floor and to sit in an upright position, stand, or lie in a natural position;

(2) A pinniped has sufficient space to lie in a natural position;

(3) If a sling, harness or other supporting device is used, there are at least 3 inches of clearance between any body part and the primary enclosure;

(d) A marine mammal may be restricted in its movements according to professionally accepted standards of care when freedom of movement would constitute a danger to the animal or to handlers or other persons.

(e) All marine mammals contained in a given primary enclosure shall be of the same species and be maintained in compatible groups. A marine mammal that has not reached puberty shall not be transported in the same primary enclosure with an adult marine mammal other than its mother. Socially dependent animals (e.g., siblings, mother and offspring) transported in the same primary conveyance shall be allowed visual and, when appropriate for the species, olfactory contact. A female marine mammal shall not be transported in the same primary enclosure with any mature male marine mammal.

§ 14.132 Food and water.

A marine mammal shall not be transported for more than a period of 36 hours without being offered suitable food unless the shipper's written instructions or the shipper's attendant traveling with the mammal direct otherwise. After feeding, a marine mammal shall be rested for 6 hours prior to resuming transport.

§ 14.133 Care in transit.

(a) Any marine mammal shall be accompanied, in the same primary conveyance, by the shipper or an authorized representative of the shipper knowledgeable in marine mammal care to provide for the animal's health and well-being. The shipper or representative shall observe such marine mammals to determine whether or not they need veterinary care and shall provide or obtain any needed veterinary care as soon as possible. Care during transport shall include the following (on a species-specific basis):

(1) Keeping the skin moist or preventing the drying of the skin by such methods as covering with wet cloths,

spraying it with water or applying a non-toxic emollient;

(2) Assuring that the pectoral flippers (when applicable) are allowed freedom of movement at all times;

(3) Making adjustments in the position of the mammal when necessary to prevent necrosis of the skin at weight pressure points; and

(4) Calming the mammal to prevent struggling, thrashing, and other activity that may cause over-heating or physical trauma.

(b) Unless otherwise directed by a shipper or authorized representative, at least one-half of the floor area in a primary enclosure used to transport sea otters to the United States shall contain sufficient crushed ice or ice water to provide each otter with moisture necessary to maintain its hair coat by preventing it from drying and to minimize soiling of the hair coat with urine and fecal matter.

(c) A marine mammal exhibiting excited or otherwise dangerous behavior shall be taken from its primary enclosure except under extreme emergency conditions and then only by the shipper or other authorized individual who is capable of handling the animal safely.

Specifications for Elephants and Ungulates

§ 14.141 Consignment to carrier.

Species that grow antlers shall not be accepted for transport unless the antlers have been shed or surgically removed.

§ 14.142 Primary enclosures.

(a) Except as provided in § 14.106(j), when required ventilation openings are located on two opposite walls of the primary enclosure, these ventilation openings shall comprise at least 16 percent of the total surface area of each wall. When ventilation openings are located on all four walls of the primary enclosure, the openings shall comprise at least 8 percent of the total surface area of each wall. At least one-third of the minimum area required for ventilation shall be located on the lower one-half of the primary enclosure and at least one-third of the total minimum area required for ventilation shall be located on the upper one-half of the primary enclosure.

(b) No more than one elephant or ungulate shall be transported in a primary enclosure. However, a mother and nursing young may be shipped in the same primary enclosure if the shipment complies with the provisions of § 14.105(b).

(c) A primary enclosure used to transport an elephant or ungulate shall be large enough to allow the animal to lie or stand in a natural upright position with the head extended, but not large enough for the animal to roll over.

(d) A primary enclosure used to transport an elephant or ungulate with horns or tusks shall be designed and constructed to prevent the horns or tusks from becoming trapped or injuring the animal itself, other animals nearby, attendants, or cargo handlers.

(e) A primary enclosure for an elephant or ungulate shall be equipped with a removable water trough that can be securely hung within the enclosure above the floor and can be filled from outside the enclosure.

Specifications for Sloths, Bats, and Flying Lemurs

§ 14.151 Primary enclosures.

(a) Except as provided § 14.106(j) of this subpart, when required ventilation openings are located on two opposite walls of the primary enclosure, the ventilation openings shall comprise at least 16 percent of the total surface area of each wall. When ventilation openings are located on all four walls, the openings shall comprise at least 8 percent of the total surface area of each wall. At least one-third of the total minimum area required for ventilation of the primrary enclosure shall be located on the upper one-half of the primary enclosure.

(b) No more than one sloth, bat, or flying lemur (Cynocephalidae) shall be transported in a primary enclosure. However, a mother and her nursing young being transported for medical reasons, an established male-female pair, a family group, a pair of juvenile animals that have not reached puberty, or other groups of animals that have been habitually housed together may be shipped in the same primary enclosure.

(c) A primary enclosure used to transport sloths, bats, or flying lemurs shall be large enough to ensure that each animal has sufficient space to move freely and in a normal manner and shall have a wide perch, bar or mesh of suitable strength fitted under the top of the enclosure and spaced from it in such a way that the animals may hang from it in a natural position.

Specifications for Other Terrestrial Mammals

§ 14.161 Primary enclosures.

(a) Except as provided in § 14.106(j), when required ventilation openings are located on two opposite walls of the primary enclosure, these openings shall comprise at least 16 percent of the total surface area of each wall. When openings are located on all four walls of the enclosure, the openings shall comprise at least 8 percent of the total surface area of each wall. At least one-third of the minimum area required for ventilation shall be located on the lower one-half of the enclosure, and at least one-third of the total minimum area required for ventilation shall be located on the upper one-half of the enclosure.

(b) No more than one terrestrial mammal (other than rodents) shall be transported in a primary enclosure. However, a mother and her nursing young may be shipped in the same primary enclosure if the shipment complies with the provisions of § 14.105(b).

(c) More than one rodent may be transported in the same primary enclosure if they are members of the same species and are maintained in compatible groups. Rodents that are incompatible shall be transported in individual primary enclosures that are stored and transported so they are visually separated. A female with young being transported for medical reasons shall not be placed in a primary enclosure with other animals. The following chart specifies allowable densities for transporting rodents that fall within the specified weight limitations. Rodents weighing more than 5,000 grams shall be transported in individual enclosures.

DENSITY GUIDELINES FOR RODENTS

Wt. in grams of rodent	Max. No.	Space/animal		Ht. of box	
		cm^2	in^2	cm	in
220 or less	20	194	30	15	6
220–450	12	968	60	20	8
450–1,000	6	770	120	25	10
1,000–5,000	2	2,310	360	30	12

(d) A primary enclosure used to transport terrestrial mammals shall be large enough to ensure that each animal has sufficient space to turn around freely in a normal manner. The height of the primary enclosure shall provide adequate space for the animal to stand upright in a normal posture. The length of the primary enclosure shall be great enough to enable the animal to lie in a full prone position.

Specifications for Birds

§ 14.171 Consignment to carrier.

(a) A personally owned pet bird originally transported from the United States and being returned to this country with its original United States health certificate within 60 days of departure may be accepted by a carrier without a new veterinary examination.

(b) No carrier shall accept for transport to the United States any bird that was captured in the wild unless a qualified veterinarian, authorized by the national government of the country from which the bird is being exported, certifies that the bird has been held in captivity for at least 14 days.

§ 14.172 Primary enclosures.

(a) A primary enclosure for birds shall have ventilation openings on two vertical sides that comprise at least 16 percent of the surface area of each side and are positioned so as to decrease the likelihood of creating a draft.

(b) Perches shall be provided for birds that rest by perching. The diameter of the perch shall be sufficient to permit the birds to maintain a firm, comfortable grip. Perches shall be placed so that droppings do not fall into food or water troughs or onto other perched birds. There shall be enough head room to allow the birds to move onto and off the perches without touching the top of the enclosure.

(c) An enclosure used to transport one or more perching birds shall be large enough to ensure that each bird has sufficient perch space to perch comfortable at the same time. No more than 50 perching birds shall be transported in one primary enclosure, with the exception of large psittacines (longer than 25 cm, or 9 inches), which are limited to a maximum of 25 per primary enclosure.

(d) A primary enclosure used to transport a raptorial bird shall be large enough to transport the bird comfortably and to permit it to turn around freely and stretch its wings without injury. Only one raptorial bird shall be contained in a primary enclosure.

(e) A primary enclosure containing non-perching, non-raptorial birds shall be large enough for the birds to turn around, to lie down, to stand fully erect, and to change posture in a normal manner.

(f) Nectar-feeding birds shall either be transported in a primary enclosure equipped with feeding bottles accessible from outside the enclosure for replenishment, or hand-carried and fed in accordance with the written instructions of the shipper.

(g) Birds transported in the same primary enclosure shall be of the same species and be compatible with one another. Birds that are incompatible shall be placed in individual primary enclosures and these enclosures shall not be stored or transported in visual proximity to one another.

§ 14.173 Temperature standards.

The following standards shall apply for birds in holding areas, transporting devices, and primary conveyances, unless an examining veterinarian certifies in writing higher or lower temperatures that will not be harmful for a particular shipment:

(a) The ambient air temperature for perching birds shall not be allowed to fall below 12.8 degrees C (55 degrees F), to exceed 29.5 degrees C (85 degrees F), nor to exceed 26.7 degrees C (80 degrees F) for more than 4 hours. Auxiliary ventilation shall be provided when the ambient air temperature is higher than 26.7 degrees C (80 degrees F).

(b) The ambient air temperature for a raptorial bird shall not be allowed to fall below 7.2 degrees C (45 degrees F), to exceed 29.5 degrees C (85 degrees F), exceed 23.9 degrees C (75 degrees F) for more than 4 hours, nor to exceed 26.7 degrees C (80 degrees F) for more than 45 minutes. Auxiliary ventilation shall be provided when the ambient air temperature exceed 23.9 degrees C (75 degrees F).

(c) The ambient air temperature for non-perching, non-raptorial birds other than penguins or auks shall not be allowed to fall below 7.2 degrees C (45 degrees F), to exceed 29.5 degrees C (85 degrees F), nor to exceed 18.3 degrees C (65 degrees F) for more than 4 hours. Auxiliary ventilation shall be provided when the ambient air temperature exceed 23.9 degrees C (75 degrees F).

(d) The ambient air temperature for penguins and auks shall not be allowed to exceed 18.3 degrees C (65 degrees F) at any time. Auxiliary ventilation shall be provided when the ambient air temperature exceeds 15.6 degrees C (60 degrees F).

Dated: June 1, 1990.

Bruce Blanchard,

Acting Director, Fish and Wildlife Service.

[FR Doc. 90-24125 Filed 10-12-90; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 17

RIN 1018-AB42

Endangered and Threatened Wildlife and Plants; Proposal to List the Mussel Cumberland Pigtoe (Pleurobema gibberum) as an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to list the Cumberland pigtoe (*Pleurobema gibberum*) as an endangered species under the Endangered Species Act of 1973, as amended. This species is endemic to the Caney Fork River system (a Cumberland River tributary) in Grundy, Van Buren, Warren, and White Counties, Tennessee. Although presumably once widely distributed in the Caney Fork system, the species is presently known from short reaches in only four Caney Fork River tributaries. The species has been and continues to be impacted by water quality deterioration resulting from siltation contributed by coal mining and poor land use practices, by other water pollutants, and by impoundments. Comments and information are sought from the public on this proposal.

DATES: Comments from all interested parties must be received by December 14, 1990. Public hearing requests must be received by November 29, 1990.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Asheville Field Office, 100 Otis Street, Room 224, Asheville, North Carolina 28801 (704/259-0321). Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Richard G. Biggins (704/259-0321 or FTS 672-0321).

SUPPLEMENTARY INFORMATION:

Background

The Cumberland pigtoe mussel (*Pleurobema gibberum*), which was described by Lea (1838), is apparently endemic to the Caney Fork River System above the Great Falls Lake Dam is now located at the Great Falls), Cumberland River basin, Tennessee (Anderson 1990, Gordon and Layzer 1989). This small freshwater mussel (rarely exceeds 60 mm in length) has a triangular, compressed, somewhat heavy shell. The shell's outer surface on young individuals is a yellowish-brown color; adults have a dark mahogany shell. The inside of the shell is a distinctive peach to orange color (Anderson 1990). Like other freshwater mussels, this animal feeds by filtering food particles from the water. It has a complex reproductive cycle in which the mussel's larvae likely parasitize fish. The mussel's life span, parasitic host, and most aspects of its life history are unknown.

Historic mussel collection records reviewed by Anderson (1990) revealed that the Cumberland pigtoe has been reported from five Caney Fork River tributaries, all above the Great Falls Reservoir. Anderson (1990) conducted a

mussel survey of the Caney Fork River system above and below the Great Falls Reservoir and reported that the species is now restricted to isolated populations in short reaches of four Caney Fork tributaries—Barren Fork, Warren County; Calfkiller River, White County; Cane Creek, Van Buren County; and Collins River, Warren and Grundy Counties. Although the species likely occurred in the main stem of the Caney Fork and has been historically collected from Hickory Creek, no specimens were taken at the four sampling stations in the Hickory Creek system, nor was the mussel collected in any unimpounded reaches of Caney Fork River. It is believed that the species has now been extirpated from both of these areas. The mussel was also not taken in collections made in other Caney Fork tributaries—Big Creek, Big Hickory Creek, Charles Creek, Dry Branch Barren River, Falling Water River, Firescald Creek, Fultz Creek, Little Hickory Creek, Mountain Creek, Pine Creek, Rocky River, Sink Creek, Smith Fork, Smith Fork Creek, and West Fork Hickory Creek.

The Cumberland pigtoe's distribution has been impacted by such factors as impoundments and the general deterioration of water quality resulting from siltation and other pollutants contributed by coal mining, poor land use practices, and waste discharges. These factors continue to impact the species and its habitat. Because the populations inhabit only short river reaches, they are also very vulnerable to extirpation from accidental toxic chemical spills.

On December 8, 1989, the Service notified by mail (30 letters) the appropriate interested individuals, Federal and State agencies, and local governments within the species' present range that a status review was being conducted specifically to determine if the Cumberland pigtoe should be protected under the Act. A total of five written responses was received as a result of the December 8, 1989, notification. No objections to the potential listing of the Cumberland pigtoe were received. No additional information on the species' status and its former and present distribution was provided.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Cumberland pigtoe mussel (*Pleurobema gibberum*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Based on historic mussel collection records from the Cumberland River system (Anderson 1990, Gordon and Layzer 1989), the Cumberland pigtoe is restricted to the Caney Fork River basin above the Great Falls. Within this isolated river basin the species has been reported from only five Caney Fork River tributaries. However, historic mussel collection records from the upper Caney Fork system are very limited. Thus, considering the extent of the mussel's preferred habitat (riffle areas with sand and gravel with occasional mud and cobble substrates (Anderson 1990, Gordon and Layzer 1989)), which was inundated by the construction of Great Falls Reservoir at the site of the Great Falls in the 1910s, the species was likely much more widely distributed within the upper Caney Fork system than available records indicate.

Presently, the species is restricted to isolated populations in short reaches of four Caney Fork tributaries—Barren Fork, Warren County; Calfkiller River, White County; Cane Creek, Van Buren County; and Collins River, Warren and Grundy Counties (Anderson 1990). These populations are adversely affected by impoundments and the general deterioration of water quality resulting from siltation and other pollutants contributed by coal mining, poor land use practices, and waste discharges. Mussel populations in adjacent watersheds with similar geology (upper Duck and Elk Rivers) have already lost much of their mussel fauna because of poor land management practices and impoundments (Anderson 1990).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* There is no indication that overutilization has been a problem for this species. However, because of the mussel's restricted range, its slow growth rate, and low reproductive capacity, collection of the species could be a problem if specific locations of populations were known. Therefore, the present range of the species has been described only in general terms.

C. *Disease or predation.* Although the Cumberland pigtoe is consumed by predatory animals, there is no evidence that predation is a serious threat to the species. However, freshwater mussel die-offs have recently (early to mid-1980s) been reported throughout the Mississippi River basin (Richard Neves, Virginia Polytechnic Institute and State University, personal communication, 1989). The cause of the die-offs has not been determined, but significant losses have occurred in some populations.

D. *The inadequacy of existing regulatory mechanisms.* The State of Tennessee prohibits taking fish and wildlife, including freshwater mussels, for scientific purposes without a State collecting permit. However, the species is generally not protected from other threats. Federal listing will provide additional protection for the species from mussel collectors by requiring Federal endangered species permits to take the species and by requiring Federal agencies to consult with the Service when projects they fund, authorize, or carry out may adversely affect the species.

E. *Other natural or manmade factors affecting its continued existence.* As the Cumberland pigtoe is presently restricted to short river reaches, it is also very vulnerable to extirpation from accidental toxic chemical spills; and as the populated reaches are physically isolated from each other by impoundments, recolonization of any extirpated population would not be possible without human intervention. Additionally, because natural gene flow among populations is no longer possible, the long-term genetic viability of these remaining isolated populations is questionable.

The Service has carefully assessed the best scientific and commercial information regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list the Cumberland pigtoe mussel (*Pleurobema gibberum*) as endangered. Presently only four isolated populations are known to exist. Because of the restricted nature of these populations and their vulnerability, endangered status appears to be the most appropriate classification for the species. (See "Critical habitat" section for a discussion of why critical habitat is not being proposed for the Cumberland pigtoe mussel.)

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time the species is proposed to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for this species. Such

a determination would result in no known benefit to the species.

As part of the development of this proposed rule, Federal agencies were notified of the Cumberland pigtoe mussel's distribution, and they were requested to provide data on proposed Federal actions that might adversely affect the species. No specific projects were identified. Should any future projects occur in the Caney Fork system, the involved Federal agency will already have the distributional data needed to determine if the species may be impacted by their action. Thus, no additional benefits would accrue from critical habitat designation that would not also accrue from the listing of the species.

In addition, this species is rare, and taking for scientific purposes and private collecition could be a threat. The publication of critical habitat maps and other publicity accompanying critical habitat designation could increase that threat. The locations of populations of this species have consequently been described only in general terms in this proposed rule. Precise locality data would be available to appropriate Federal, State, and local governmental agencies from the Service office described in the "ADDRESSES" section.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in the destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The Service notified Federal agencies that may have programs affecting the species. No specific proposed Federal actions were identified. Federal activities that could occur and impact the species include, but are not limited to, the carrying out or the issuance of permits for hydroelectric facility construction and operation, reservoir construction, river channel maintenance, stream alterations, wastewater facility development, pesticide registration, and road and bridge construction. However, it has been the experience of the Service that nearly all section 7 consultations can be resolved so that the species is protected and the project objectives met.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities.

In some instances permits may be issued for a specified time to relieve undue economic hardship that would be suffered if such relief were not available. This species is not in trade, and such permit requests are not expected.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to the office described in the "ADDRESSES" section.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

References Cited

Anderson, R.M. 1990. Status survey of the Cumberland pigtoe pearly mussel, *Pleurobema gibberum*. Tennessee Cooperative Fishery Research Unit, Tennessee Technological University, Cookeville, Tennessee. Unpublished report. Submitted to the U.S. Fish and Wildlife Service, Asheville Field Office, Asheville, NC. 10 pp.

Gordon, M.E., and J.B. Layzer. 1989. Mussels (BIVALVIA: UNIONOIDAE) of the

Cumberland River: review of life histories and ecological relationships. U.S. Fish and Wild. Serv. Biol. Rep. 89(15). 99 pp.

Author

The primary author of this proposed rule is Richard G. Biggins (see "ADDRESSES" section) (704/259-0321 or FTS 672-0321).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and Recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500, unless otherwise noted.

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order under CLAMS, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
CLAMS:							
Pigtoe, Cumberland	*Pleurobema gibberum*	U.S.A. (TN)	NA	E		NA	NA

Dated: September 21, 1990.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 90-24223 Filed 10-12-90; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 17

RIN 1018-AB52

Endangered and Threatened Wildlife and Plants; To Determine the Uncompahgre Fritillary Butterfly To Be an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes a butterfly, the Uncompahgre fritillary (*Boloria acrocnema*), to be an endangered species. Critical habitat is not being proposed. This butterfly has been verified at only two major sites above 4,040 meters (13,200 ft.) elevation in the San Juan Mountains of southwestern Colorado. In 1989, the total known population was estimated to be less than 1,000 individuals. Taking by collectors, adverse climatic conditions, lack of protective regulations, small population size, and low genetic variation endanger the species. Its habitat is potentially threatened by trampling from humans and livestock. This proposal would implement the protection provided by the Endangered Species Act of 1973, as amended. Comments on this proposal are sought.

DATES: Comments from all interested parties must be received by December 14, 1990. Public hearing requests must be received by November 29, 1990.

ADDRESSES: Comments and materials concerning this proposal should be sent to the State Supervisor, Fish and Wildlife Enhancement, U.S. Fish and Wildlife Service, 730 Simms Street, Room 290, Golden, Colorado 80401. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. John Anderson, Biologist, Fish and Wildlife Enhancement, 529 25 1/2 Road, Suite B-113, Grand Junction, Colorado 81505 at (303) 243-2778 or FTS 322-0351.

SUPPLEMENTARY INFORMATION:

Background

The Uncompahgre fritillary butterfly was discovered on Mount Uncompahgre, Hinsdale County, Colorado, on July 30, 1978. It was subsequently described as a new species (*Boloria acrocnema*) by Gall and Sperling (1980). The butterfly also has been included in the genus *Clossiana* (Ferris 1984), although this name is more properly considered a subgenus of *Boloria*.

The most recent treatment of North American butterflies lists this taxon as a species (Ferris 1989). Other major books published in the last 10 years also consider the Uncompahgre fritillary to be a full species (Ferris and Brown 1981, Gall 1983, Pyle 1981). However, one recent book considers the Uncompahgre fritillary to be a subspecies (*Boloria improba* ssp. *acrocnema*) of the Dingy Arctic fritillary (*Boloria improba*) (Scott 1986). For the purpose of this listing action, the Service will recognize this taxon at the species level. If the Uncompahgre fritillary is later recognized as a subspecies of *B. improba*, the designation of this taxon as an endangered species will remain valid because section 3(15) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*) permits the listing of subspecies.

The Uncompahgre fritillary is a small butterfly with a 2-3 centimeter (1 in.) wingspan. Males have rusty brown wings criss-crossed with black bars; females' wings are somewhat lighter (Gall 1983). Underneath, the forewing is light ochre and the hindwing has a bold, white jagged bar dividing the crimson brown inner half from the purple-grey scaling on the outer wing surface. The body has a rusty brown thorax and a brownish black abdomen (Gall and Sperling 1980).

The Uncompahgre fritillary has the smallest total range of any North American butterfly species. Its habitat is limited to two verified major sites and two possible small colonies in the San Juan Mountains in Hinsdale County in southwestern Colorado. One major site is the type locality on Mount Uncompahgre, which is managed by the Forest Service. The second major site was discovered in 1982 on land managed by the Bureau of Land Management and is not generally known. Because of the potential threat from collecting, the location of this colony is referred to herein only as "site 2."

Despite numerous attempts to locate other populations, no other major populations have been verified. In 1988, three individuals were captured at one

new location and one individual was captured at another new location. These sites must be investigated to determine if they represent possible new colonies. There is a report of five colonies in the San Juan Mountains, but these unverified sites, if extant, have been kept secret by their discoverer. As the butterfly is found only in remote, generally inaccessible areas, it is possible that the species may occur in other mountain ranges in Colorado, but there have been no reports of the butterfly from these other mountain ranges.

All known populations are associated with large patches of snow willow (Salix nivalis) above 4,040 meters (13,200 ft.), which provide food and cover. The species has been found only on northeast-facing slopes, which are the coolest and wettest microhabitat available in the San Juans (Brussard and Britten 1980). The females lay their eggs on snow willow, which is also the larval food plant, while adults take nectar from a wide range of flowering alpine plants.

Brussard and Britten (1980) believe that the species has a biennial life history, which means that it requires 2 years to complete its life cycle. Eggs laid in 1980 (even-year brood) will be caterpillars in 1981 and mature into adults in 1982. Similarly, eggs laid in 1981 (odd-year brood) will become adults in 1983. The odd- and even-year broods function as essentially separate populations. It is assumed that odd- and even-year populations existed at both major sites historically, since there is anecdotal evidence that butterflies flew each year at these sites prior to 1987 (Brussard and Britten 1980).

During 1987 and 1988, field surveys and genetic studies were carried out by Dr. Peter Brussard and students under a contract funded by the Forest Service, Bureau of Land Management, and Fish and Wildlife Service (Brussard and Britten 1988). Though they visited over 50 sites that appeared to satisfy the butterfly's habitat requirements, they found only the few individuals at the two new sites previously mentioned.

These researchers believe there has been a decline in the butterfly's known population. The even-year broods at the two known sites appear to be declining, and the odd-year brood at the type locality may be extinct. The status of the odd-year brood at site 2 is unclear. On Mount Uncompahgre, the 1978 population (even-year brood) was estimated to be 632 individuals (Interagency Agreement 1984); the 1988 population was estimated to be 208 individuals (Brussard and Britten 1988). At site 2, the 1982 population was estimated to be between 1,000 and 1,500 individuals (Interagency Agreement 1984); the 1988 estimate was 300 individuals (Brussard and Britten 1988). There are anecdotal reports of an odd-year population at Mount Uncompahgre prior to 1987, but no Uncompahgre fritillaries were captured in 1987. The status of the odd-year population at site 2 is difficult to assess due to a lack of historical data on estimated population size. Assuming the species has a biennial life history, then adding the 1987 and 1988 data results in a total estimated population size at the two known sites of approximately 700 individuals.

Brussard and Britten (1988) also used electrophoretic techniques to examine population genetic variability. Their studies revealed low genetic variability in the Uncompahgre fritillary when compared to the level of genetic variability in fritillaries, in general. This low genetic variability would indicate less environmental adaptability, which would reduce its ability to adapt to a changing environment.

The species faces many threats. As it is one of the few new North American butterfly species discovered in the last half century, it is attractive to collectors. Its sedentary nature, weak flying ability, and tendency to fly low to the ground make it easy to collect. Possible overcollection is considered the greatest human-caused threat to the species. Other actual or potential threats to the species include adverse climatic conditions, lack of protective regulations, small population size, and low genetic variability. There is a minor potential threat from trampling by humans and livestock. The species' small population size, together with the threats listed above, justifies the proposal of the Uncompahgre fritillary butterfly as an endangered species.

On November 5, 1979, the Service was petitioned by Lawrence F. Gall to list the butterfly under provisions of the Endangered Species Act of 1973. In response, the Service published a notice of status review on the butterfly on February 8, 1980 (45 FR 8029), which solicited public comments. Comments from the public supported listing and protection under the Act, but the Service did not propose its listing. Subsequently, the Service included the butterfly in a notice of petition findings on January 20, 1984 (49 FR 2485), which stated that listing the butterfly was warranted but precluded, and noted that it was a category 2 species (a species which may be appropriate to list, but for which there is not enough biological data at the time to support the listing). Its status was changed from category 2 to category 1 (a species for which there is sufficient biological data on hand to support listing) in the Invertebrate Notice of Review published on May 22, 1984 (49 FR 21664). The Service made 1-year findings that listing the species was warranted but precluded on May 10, 1985 (50 FR 19761); January 9, 1986 (51 FR 996); June 30, 1987 (52 FR 24312); July 7, 1988 (53 FR 25511); December 29, 1988 (53 FR 52746); and April 25, 1990 (55 FR 17475). This proposal constitutes the final finding for the petitioned action.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Uncompahgre fritillary butterfly (*Boloria acrocnema*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The known populations of the butterfly are on Federal land. The Mount Uncompahgre habitat is in the Big Blue Wilderness in the Uncompahgre National Forest, while site 2 is in a wilderness study area on land administered by the Bureau of Land Management. Both areas are above timberline, hence there are no threats from logging. Mining activity does not appear to be a threat to the known populations. Historically, herds of sheep were driven over both mountains where the butterflies occur, but there is no grazing currently at the major sites.

The main hiking trail to the summit of Mount Uncompahgre bisects the colony on that mountain, but there seems to be no evidence that hikers or pack horses have damaged the nature of the butterfly's habitat. One day's observation by the author of this rule demonstrated that hikers do not linger or rest in the colony area. Moreover, pack horses are uncommon on this trail. A hiking trail passes near site 2, but routing changes were made to the trail to reduce the likelihood that hikers will deviate from the trail and cross through the butterfly site. Trampling of the colonies by collectors or biologists is a potential threat, but there has been no demonstrated habitat change due to this factor.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* The Uncompahgre fritillary

butterfly has been the subject of intense sampling by biologists and collectors since its discovery. In 1961, collection of the species for research or marketing to private collectors probably exceeded 100 adults, or up to 20 percent of the Mount Uncompahgre population (Interagency Agreement 1984). The genus *Boloria* is extremely popular with collectors. Specimens of *B. acrocnema* have been offered by dealers for prices exceeding $100 for males and even higher prices for females (Gall 1983). Collecting from small colonies or repeated handling and marking (particularly of females and/or in years of low abundance) could seriously damage the populations through loss of individuals and genetic variability. Collection of females dispersing from a colony also can reduce the probability that new colonies will be founded. Extremely small populations, such as those of the Uncompahgre fritillary, should not be subjected to undue pressure from collectors.

C. *Disease or predation.* There are no known diseases of the butterfly that could threaten its continued existence. Wilcove (1980) recorded an instance of direct predation on the butterfly by a brown-capped rosy finch (*Leucosticte australis*), and identified other potential avian predators. However, there is no indication as yet that predation is a significant threat.

D. *The inadequacy of existing regulatory mechanisms.* The Mount Uncompahgre site is in the Big Blue Wilderness. In addition to wilderness management restrictions, the Forest Service has prohibited the collection of butterflies on Mount Uncompahgre since 1984. There is no sheep grazing on the site at the present time, and there is a proposal to restrict horse use to an area downslope from the butterfly site. Nevertheless, it has been reported that some collectors may be collecting the species despite the ban. Site 2 is located in a wilderness study area. The Bureau of Land Management has terminated grazing in this area, but there is no prohibition against collecting. The Colorado Division of Wildlife does not possess the legal authority to protect the species. The Colorado Natural Areas Program has registered, but not yet designated, the Mount Uncompahgre site as a State Natural Area. This means that the site has been identified as one deserving special attention, but a management agreement has not been finalized. In 1984, the Forest Service and Bureau of Land Management signed an interagency agreement for the conservation of the Uncompahgre fritillary. The parties are implementing this agreement, but the level of implementation is limited by available funding.

These voluntary efforts on the part of the Forest Service, Bureau of Land Management, and the Colorado Natural Areas Program are commendable. Having identified the Uncompahgre fritillary as a species in need of protection, they have taken important steps to protect this species. However, the species-specific protections are discretionary and could be withdrawn or lapse in effectiveness if funding diminishes. Federal listing of the butterfly would provide a greater level of protection. Listing would ensure that Federal agencies would not take actions likely to jeopardize the species, and promote efforts toward species recovery. It would also allow for the prosecution of collectors under Federal law and provide for the issuance of permits to limit and manage those who wish to conduct scientific studies of the butterfly. Finally, it would improve the cooperating agencies' chances of obtaining additional funding to protect, research, and recover the species.

E. *Other natural or manmade factors affecting its continued existence.* Many other factors threaten the continued existence of the Uncompahgre fritillary. First, the butterfly exists only in the highest, wettest peaks in southwestern Colorado. Biologists who completed population surveys of the butterfly in 1987–88 believe that several recent drought years have stressed the butterfly, which evidently requires a cool and wet microhabitat to successfully complete development (Brussard and Britten 1989). Climatic stress may be a major factor underlying recent population declines.

If the species does have a biennial life history, then the possible extinction of the odd-year population at Mount Uncompahgre is cause for concern. Odd-year and even-year broods function essentially as separate populations. It may be possible for an extinct odd-year population to be reestablished if a few individuals from the even-year brood at the same site take 3 years instead of 2 to complete development, but reestablishment would be very slow.

The small population size and limited genetic variability of the species is itself a threat. The small size of the known populations makes them vulnerable to extinction from natural (*e.g.*, drought, exceptionally warm temperatures) or human (*e.g.*, overcollection) causes. In addition, random demographic effects (*e.g.*, skewed sex ratios) and/or the loss of alleles due to random genetic effects could cause permanent loss of one or both populations.

As noted earlier, this butterfly has the smallest known range of any North American species when the total area occupied by the two verified colonies are considered. Although small habitat size might normally be a threat in itself, the colonies are placed such that snow avalanches are not likely, and fire or other kinds of calamities are not likely.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list the Uncompahgre fritillary butterfly (*Boloria acrocnema*) as endangered. Since the species' discovery in 1978, only two major sites have been identified, and, based on available data, their populations have declined. The odd-year population at the type locality already may be extinct. Despite the administrative protections currently being implemented, the remaining populations are endangered by taking by collectors, adverse climatic conditions, lack of protective regulations, small population size, and low genetic variation. The species' habitat is potentially threatened by trampling from humans and livestock. These factors could lead to the species' extinction throughout all or a significant portion of its range.

The Service recognizes that listing the species may increase collection pressures due to the loss of protective anonymity. However, the Service is required to list species deserving of the Act's protection, and final listing will provide additional protection, as explained above, and encourage actions to recover the species.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time the species is proposed to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for the Uncompahgre fritillary. As discussed under Factor B in the "Summary of Factors Affecting the Species," possible overcollection of this butterfly is one of the major threats to its existence. Though some collectors know of the Mount Uncompahgre site, the exact location of site 2 is not generally known. Publication of the exact location of these sites would endanger the species further. The Forest Service and the Bureau of Land

Management, upon whose land the butterfly occurs, are aware of the location of the butterfly populations and the importance of protecting this species' habitat. Protection of this species' habitat will be addressed through the recovery process and through section 7 procedures.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Current Federal involvement and management for the species were discussed earlier. Long-term monitoring should be continued, as well as research into the species' life history and habitat requirements. If possible, artificial recolonization should be attempted to establish additional colonies in suitable habitat to reduce the risk of extinction.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. Requests for copies of the regulations on animals and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, Room 432, 4401 N. Fairfax Dr., Arlington, Virginia 22203 (703/358-2093, FTS 921-2093).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposal are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to the Uncompahgre fritillary;

(2) The location of any additional populations of the Uncompahgre fritillary and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range and distribution of this species; and

(4) Current or planned activities in the subject area and their possible impacts on the Uncompahgre fritillary.

Final promulgation of the regulation on the Uncompahgre fritillary will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to the State Supervisor (see **ADDRESSES**).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

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Author

The primary author of this proposed rule is Dr. Paul A. Opler, Office of Information Transfer, U.S. Fish and Wildlife Service, 1925 Fennock Place, Suite 212, Fort Collins, Colorado 80526 (303/490-5481; FTS 323-5481).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation

Proposed Regulation Promulgation

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99-625, 100 Stat. 3500, unless otherwise noted.

2. It is proposed to amend § 17.11(h) by adding the following in alphabetical order, under INSECTS to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

SPECIES								
Common name	Scientific name	Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
INSECTS							
Butterfly, Uncompahgre fritillary.	*Boloria acrocnema*	U.S.A. (CO)	NA	E		NA	NA

Dated: October 1, 1990.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 90-24224 Filed 10-12-90; 8:45 am]

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50 CFR Part 17

RIN 1018-AB52

Endangered and Threatened Wildlife and Plants; Proposal to Determine the Plant *Eutrema penlandii* (Penland alpine fen mustard) To Be a Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes that *Eutrema penlandii* (Penland alpine fen mustard) be designated a threatened species under the Endangered Species Act of 1973, as amended (Act). There are eight small occurrences, totalling 5,200 plants, over a 40 kilometer (25 mile) length of the Continental Divide in central Colorado. The species is found growing above 3,810 meters (12,500 feet) elevation on small calcareous wetlands with perennially subirrigated peat soils. Most sites are on Federal land (Forest Service and Bureau of Land Management). The species' fragile wetland habitat is threatened by desiccation from ditches and ruts from off-road vehicles and mining activities, as well as groundwater acidification from mine drainage. Some subpopulations not seen since 1980 are thought to be lost. A determination that *E. penlandii* is threatened would implement the Federal protection and recovery provisions provided by the Act. Comments and materials related to this proposal are solicited.

DATES: Comments from all interested parties must be received by December 14, 1990. Public hearing requests must be received by November 29, 1990.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Colorado State Supervisor, U.S. Fish and Wildlife Service, Fish and Wildlife Enhancement, 730 Simms Street, Room 290, Golden, Colorado 80401, or to the U.S. Fish and Wildlife Service, Western Colorado Sub-office, 529 25½ Road, Suite B-113, Grand Junction, Colorado 81505-8199. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above addresses.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Anderson, Botanist, at the above Grand Junction address (303/243-2778 or FTS 322-0351).

SUPPLEMENTARY INFORMATION:

Background

The Penland alpine fen mustard was first collected at "Hoosier Pass" in the Mosquito Range in 1936 by C.W.T. Penland, late professor at Colorado College, and recollected in 1948. A description was published a year later by R. Rollins (1950), an expert in the mustard family. The "Hoosier Pass" population, the type locality, is located at Hoosier Ridge in actuality. It contains approximately half the species' population and is the largest population known.

Eutrema penlandii is a small, herbaceous perennial, 3–8 centimeters (1.2–3.2 inches) tall. It is a shiny green, glabrous (hairless) plant with long-petioled (long-stemmed), heart-shaped basal leaves up to 35 centimeters (14 inches) long and clusters of small, white flowers 2–3.5 millimeters (approximately 0.1 inch) long atop the stems. The generic name refers to the hollow fruits (other mustards have an interior partition called a replum) that are small and rounded, 1.5 millimeter (0.06 inches) wide, and 4–8 millimeters (0.2–0.3 inches) long.

This taxon is closely related to *Eutrema edwardsii*, a circumboreal (inhabiting the northern regions of North America and Eurasia) species in the Arctic that also extends into the mountains of central Asia (Weber and Shashan 1955). Rollins (1982) chose to recognize *E. penlandii* at the species level. Weber (1987) treated this taxon as a subspecies of *E. edwardsii* (*E. edwardsii* ssp. *penlandii*).

For the purposes of this listing action, the Service will recognize this taxon at the species level. If *E. penlandii* is later recognized as a subspecies of *E. edwardsii*, the designation of this taxon as a threatened species will remain valid because section 3(15) of the Endangered Species Act (Act) of 1973, as amended, (16 U.S.C. 1532 *et seq.*) permits the listing of subspecies.

E. penlandii is highly habitat-specific and requires a combination of several environmental factors in its microenvironment. These factors include moss-covered peat fens with perennial subirrigation and calcareous (basic) substrate derived from limestone or dolomite above 3,810 meters (12,500 feet) in elevation. The peat mats form on small, flat benches in leeward cirques (steep-walled rounded glacial valleys) with persistent snowfields that provide the subirrigation. The conditions for maintaining these persistent snowfields only exist along this east-west trending portion of the Continental Divide. Most portions of the Continental Divide are north-south trending and are exposed to snow-melting winds.

This unique habitat is also significant biogeographically. As noted above, the nearest relative of *E. penlandii is E. edwardsii*, an Arctic circumboreal species. All other species of *Eutrema* occur in Asia. *E. penlandii* is thus an extremely disjunct species, separated by more than 1,600 kilometers (1,000 miles) from its nearest relative and the only representative of a primarily Asiatic genus in the lower 48 states. Other rare alpine taxa with Arctic affinities also occur on limestone in the Mosquito Range, either as separate species (*e.g., Sausseria weberi*) or disjunct species (*e.g., Armeria scabra* ssp. *sibirica, Braya glabella*, and *Braya humilis*). *E. penlandii* is the rarest of these, however. This biogeographic pattern, wherein a genus is represented by extremely disjunct species in central Asia and interior western North America, is represented, as well, by several other genera in the mustard family, including *Braya, Stroganowia, Smelowskia*, and *Parrya* (Rollins 1982). The alpine disjunctions have been interpreted as Pleistocene glacial relicts that migrated south from the Arctic along the glacial front and were left stranded in small pockets of habitat with the retreat of the glaciers. Alternatively, *E. penlandii* and others may be Tertiary relics of a more widespread northern hemisphere flora with a continental (interior) climate, which then migrated northward from the Canadian Rockies into the Arctic onto barren habitats newly opened along the front of the retreating glaciers (Weber 1987).

The second and third largest populations were the next discovered. W.A. Weber from the University of Colorado found these in 1967, south of Hoosier Ridge at Mosquito Pass and the Four Mile Creek cirque (between Mount Sheridan and Mount Sherman). Johnston et al. (1981) mapped out these three known populations at Hoosier Ridge, Mosquito Pass, and Mt. Sherman in a 1980 status report. The three populations extend over a 40 kilometer (25 mile) range along the Continental Divide, or approximately 10 kilometers (12 miles) in a straight line, and within 4 kilometers (2.5 miles) of the Continental Divide.

Federal action involving *E. penlandii* began with section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Fish and Wildlife Service (Service) published a notice (40 FR 27847) of its acceptance of this report as a petition within the context of section 4(c)(2), now section 4(b)(3)(A), of the Act and of its intention thereby to review the status of those plants. *E. penlandii* was included for review as endangered in the July 1, 1975, petition.

In 1976, the Service proposed the species for endangered status, along with 1,700 other plant species (41 FR 24535), but this proposal was eventually withdrawn in 1979 because a final rule had not been prepared within the time limits required under the 1978 Amendments to the Act. On December 15, 1980 (45 FR 82485), the Service published an updated notice reviewing the native plants being considered for classification as threatened or endangered. *E. penlandii* was included in this notice as a category 2 species. Category 2 consists of taxa for which there is some evidence of vulnerability, but for which there is not enough data to support listing proposals at that time.

Section 4(b)(3)(B) of the Endangered Species Act, as amended in 1982, required the Secretary of the Interior to make findings on certain petitions within 1 year of their receipt. Section 2(b)(1) of the Act's amendments of 1982 further required that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. Because the 1975 Smithsonian report was accepted as a petition, all the taxa contained in the notice, including *E. penlandii*, were treated as being newly petitioned on October 13, 1982.

Based on recommendations from Johnston et al. (1981), in November 28, 1983 (48 FR 53665), the Service dropped *E. penlandii* to category 3C, which consists of taxa that are no longer being considered for listing because they are more abundant and/or widespread than previously thought. In a notice published January 24, 1984 (49 FR 2485), the Service announced a "not warranted" finding on *E. penlandii* due to its reclassification to category 3C. This finding terminated the need for 1-year petition findings on the species. *E. penlandii* remained as a category 3C species in the September 27, 1985, Notice of Review (50 FR 39552). However, if additional information or changes in habitat indicated a significant decline in a taxon's status, it could be reconsidered for inclusion on the candidate list.

In a 1985–1986 reconnaissance survey, Steve O'Kane from the Colorado Natural Areas Program found one new, small population at Pennsylvania Creek consisting of 200 individuals on 0.4 hectares (1 acre). However, he was unable to relocate all of the 1980 occurrences. He also observed threats from ditching associated with renewed gold mining operations that could dessicate the peat fens' hydrologic regime (O'Kane 1988).

The Service funded a new status report through its Section 6 Cooperative Agreement with the Colorado Natural Areas Program in 1988. Only four new populations of 0.4–0.8 hectares (1–2 acres) each were found during the 1988 status survey, all within the previously documented range and representing only about 10 percent of the whole' species' population. Total numbers estimated for the Penland alpine fen mustard are eight populations, 5,200 individuals, and 25 hectares (62 acres) (Naumann 1988). Two subpopulations, at London Mountain Saddle below Mosquito Pass and the Dauntless Mine site below Mount Sherman, were not found again. Also, the dessicating effects of ditching from off-road vehicle ruts and mining activities were observed at several of the populations. For these reasons, Naumann (1988) recommended returning *E. penlandii* to the candidate list. On February 21, 1990, it was added to the 1990 Notice of Review (55 FR 6295) as a category 1 candidate species, which is a species for which the Service has substantial information to support a proposal to list as threatened or endangered.

Most Penland alpine fen mustard plants occur on Federal land: Hoosier Ridge (Forest Service); Mosquito Pass, London Mountain Saddle (Bureau of Land Management); as well as portions of other, smaller sites (Forest Service, Bureau of Land Management). Approximately 15 percent of the species' habitat is on private land (Naumann 1988).

Summary of Factors Affecting the Species

Section 4(a) (1) of the Endangered Species Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a) (1). These factors and their application to *Eutrema penlandii* (Penland alpine fen mustard) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Because of its high degree of habitat specificity, which requires the combination of several microenvironmental factors as described earlier, the Penland alpine fen mustard only occupies a small area in Colorado estimated at 25 hectares (62 acres) (Naumann 1988). This habitat is rare in Colorado, and most areas in Colorado with high potential as habitat were surveyed in 1988 (Naumann 1988). *E. penlandii* might be found in Wyoming and Montana, but specimens never have been collected outside Colorado. Therefore, few, if any, additional populations will likely be found, and any impacts to its habitat are significant.

Hydrology is the most fragile aspect of the Penland alpine fen mustard's habitat. Perennial subirrigation is required to maintain the peat fens. Ditching, from the ruts of off-road vehicle tracks or mining activity, can cause desiccation of a peat fen supporting Penland alpine fen mustard. The result can be loss of habitat and, consequently, plants. The Mosquito Pass/London Mountain Saddle site, which contains the second largest population, is in a popular recreational area, and active mines are in operation within this cirque of South Mosquito Creek. In addition, survey markers observed in 1988 mark the route of an annual burro race from Mosquito Pass to Alma, Colorado, through the population. The smaller populations at Mt. Sherman, Pennsylvania Mountain, Cooney Lake, and Buckskin Mountain have also been affected by ditching.

Calcareous substrate is another necessary habitat element for the Penland alpine fen mustard. Acid drainage from mine tailings can affect its habitat by lowering pH and changing it from basic to acidic, contributing to loss of plants. Small subpopulations at London Mountain Saddle below Mosquito Pass and the Dauntless Mine below Mt. Sherman that were observed in 1980 could not be found again in 1988 and were presumably lost due to ditching and acid mine drainage, respectively (Naumann 1988).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* No detrimental uses of these plants are known.

C. *Disease or Predation.* No such threats are known. There is evidence of pika and microtene rodent feeding on these plants, but the significance of such herbivory is unknown.

D. *The inadequacy of existing regulatory mechanisms.* No Federal or State laws protect *E. penlandii*. A Research Natural Area has been proposed for the Hoosier Ridge population on Forest Service land. Final designation is still pending. The Act would provide additional protection and encourage active management through the "Available Conservation Measures" discussed below.

E. *Other natural or manmade factors affecting its continued existence.* This species' pattern of rarity, with few small populations on small areas of specialized habitat, makes it particularly vulnerable to the threats described above.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Eutrema penlandii* as threatened. This species is a restricted endemic with threats to its fragile wetland habitat. At the present time, there is no acid mine drainage problem at the Hoosier Ridge site, which contains the largest *E. penlandii* population. Existing management at this site should be adequate to maintain the population (Naumann 1988). Nearly all other populations are threatened by acid mine drainage and/or off-road vehicle traffic. At their present level, these threats are not likely to result in species extinction in the foreseeable future. However, with these threats acting on *E. penlandii's* small populations and limited range, this species could become endangered within the foreseeable future throughout all or a significant portion of its range; thus, *E. penlandii* is a threatened species as defined by the Act. For reasons given below, it is not considered prudent to propose designation of critical habitat.

Critical Habitat

Section 4(a) (3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time the species is proposed to be listed as endangered or threatened. The Service finds that designation of critical habitat is not prudent for *E. penlandii* for the following reasons:

First, it may be inadvisable to designate critical habitat because the publication of detailed critical maps would expose this little-known species to the threat of deliberate taking and vandalism, when no such threat existed before.

Second, it is unlikely that designation of critical habitat will provide any benefits to the species beyond those achieved by species listing. Most plants occur on lands under Federal jurisdiction. In fact, the two largest populations (Hoosier Ridge: 2,000+ plants; Mosquito Pass/London Mountain Saddle: 1,300+ plants) occur on Federal land. Listed species on lands managed by a Federal agency are protected under section 7(a) (2) of the Act, which requires that the Federal agency insure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of the species. Per 50 CFR 17.61 and 17.71, it is also unlawful to remove and reduce to possession any listed plant from an area under Federal jurisdiction. Hence, there will be protective safeguards for plants on Federal lands following listing. Moreover, if the Forest Service designates the area containing the Hoosier Ridge population as a Research Natural Area, this is expected to provide additional protection, if only through notification.

All involved parties and landowners (public and private) have been or will be notified of the location and importance of protecting this species' habitat. Protection will be addressed through the consultation and recovery processes.

Consequently, it would not be prudent to determine critical habitat for *E. penlandii*.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to proposed or listed species and with respect to critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, Section 7(a)(2) requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

E. penlandii occurs primarily on Federal land administered by the Forest Service and Bureau of Land Management. Their involvement could include section 7 consultation on mining activities and land exchanges. A recreation plan is needed to manage off-road vehicle use. On both Federal and private land, the Service expects that listing would elevate the awareness of this plant's status and foster efforts aimed toward its conservation.

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exceptions that apply to all threatened plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale this species in interstate or foreign commerce, or to remove and reduce to possession the species from areas under Federal jurisdiction. Seeds from cultivated specimens are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. Certain exceptions apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.72 also provides for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances. With regard to *E. penlandii*, it is anticipated that few, if any, trade permits would ever be sought or issued since this species is not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, Room 432, 4401 N. Fairfax Drive, Arlington, Virginia 22203 (703/358-2093, FTS 921-2093).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any interested party concerning this proposal are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *E. penlandii*;

(2) The location of any additional populations of *E. penlandii* and reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of *E. penlandii*; and

(4) Current or planned activities in the subject area and their possible impacts on *E. penlandii*.

Final promulgation of the regulation on *E. penlandii* will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to the Colorado State Supervisor, U.S. Fish and Wildlife Service, Golden, Colorado (see **ADDRESSES** above).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

References Cited

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Weber, W.A., and S. Shushan. 1958. Additions to the flora of Colorado—II. University of Colorado Studies, Series in Biology 3:85-108.

Weber, W.A. 1987. Colorado flora: western slope. Colorado Associated University Press, Boulder, Colorado. 530 pp.

Author

The primary author of this proposed rule is John L. Anderson, Botanist, U.S. Fish and Wildlife Service, Grand Junction, Colorado (303/243-2778, FTS 322-0351; see **ADDRESSES** above).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record-keeping requirements, and Transportation

Proposed Regulation Promulgation

PART 17— [AMENDED]

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500, unless otherwise noted.

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order, under the family Brassicaceae to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

SPECIES		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Brassicaceae—Mustard family:						
Eutrema penlandii	Penland alpine fen mustard	U.S.A. (CO)	T		NA	NA

Dated: September 25, 1990.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 90-24225 Filed 10-12-90; 8:45 am]

BILLING CODE 4310-55-M

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Notices

Federal Register
Vol. 55, No. 199
Monday, October 15, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[No. LS-90-109]

Beef Promotion and Research; Board and State Beef Council Addresses

AGENCY: Agricultural Marketing Service; USDA.

ACTION: Notice.

SUMMARY: This document updates the Notice published in the Federal Register on Thursday, October 16, 1986 (51 FR 36832). This Notice (1) Updates the address of the Cattlemen's Beef Promotion and Research Board and the addresses of the initial 40 Qualified State Beef Councils; (2) adds the addresses of four (4) new Qualified State Beef Councils subsequently certified by the Board for a total of 44 State beef councils; and (3) deletes the column listing addresses to be used by persons requesting refunds of assessments since refunds are no longer authorized.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch (202) 382-1115.

SUPPLEMENTARY INFORMATION: Pursuant to the Beef Promotion and Research Act (7 U.S.C. 2901 et. seq.), a Beef Promotion and Research Order (Order) was published in the July 18, 1986, Federal Register (51 FR 26132). Regulations implementing the Order were published in the October 1, 1986, issue of the Federal Register (51 FR 35196).

The Order and the Regulations provide that, beginning October 1, 1986, cattle sold in the United States are subject to an assessment of $1 per head. Persons who collect assessments from producers under the Order and Regulations are required to remit those assessments to the Qualified State Beef Council in the State where they reside or to the Cattlemen's Beef Promotion and Research Board (Board) if there is no Qualified State Beef Council located in their State. Imported cattle, beef, and beef products are also subject to equivalent assessments; these are paid through the U.S. Customs Service.

The Beef Promotion and Research Act (7 U.S.C. 2901 et. seq.) required that a referendum be conducted by the Secretary 22 months after the issuance of the Order to determine if the Order shall be continued or suspended. Any person had the right to demand and receive from the Board a one-time refund during the period prior to the approval of the continuation of the order pursuant to the referendum. On May 10, 1988, the referendum was conducted and producers voted to continue the checkoff program. After the passage of the referendum, refunds were no longer available.

This Notice provides updated addresses for the original 40 Qualified State Beef Councils. Since the publication of these addresses in the Federal Register on October 16, 1986 (51 FR 36832), four (4) newly established State Beef Councils have been certified by the Board. General business and inquiries of these new State Councils should be forwarded to: (1) Delaware Beef Advisory Board, 4601 South Dupont Highway, Dover, Delaware 19901, (2) Hawaii Beef Industry Council, Seven Water Front Plaza, suite 400, 500 Ala Moana Boulevard, Honolulu, Hawaii 96813, (3) Maine Beef Industry Council, Maine Department of Agriculture, Deering Building, State House Station 28, Augusta, Maine 04333, and (4) Vermont Beef Industry Council, P.O. Box 7503, Monshire Museum, suite 200, Norwich, Vermont 05055. Addresses for remittance of assessments and accompanying reports may differ from those for general business and inquiries.

This Notice provides the current addresses of the Board and the 44 Qualified State Beef Councils have different addresses for different purposes. Accordingly, this notice includes two columns for such addresses; one for inquiries and general business and one for remitting assessments and accompanying reports. For inquiries and general business, the address of the Board is Cattlemen's Beef Promotion and Research Board, P.O. Box 3316, Englewood, Colorado 80155. For remitting assessments and accompanying reports, the address of the Board is Cattlemen's Beef Promotion and Research Board, P.O. Box 27-275, Kansas City, Missouri 64180-0001.

ADDRESSES OF THE QUALIFIED STATE BEEF COUNCILS

Inquiries and general business	Remit assessments and accompanying reports to—
Alabama Cattlemen's Association, P.O. Box 2499, Montgomery, AL 36102-2499.	Alabama Cattlemen's Association, P.O. Box 2499, Montgomery, AL 36102-2499.
Arizona Beef Council, 1401 N. 24th Street, Phoenix, AZ 85008.	Arizona Livestock Board, 1688 W. Adams Street, room 303, Phoenix AZ 85007.
Arkansas Beef Council, P.O. Box 31 (72203), 10720 Kanis Road, Little Rock, AR 72211.	Arkansas Revenue Div., Misc. Tax Section, P.O. Box 896, room 230, Little Rock, AR 72203.
California Beef Council, 551 Foster City Blvd., suite A, Foster City, CA 94404.	California Dept. of Food & Agr., Marketing Branch, 1220 N Street, room 210, Sacramento, CA 95814.
Colorado Beef Council, 6551 S. Revere Parkway, suite 120, Englewood, CO 80111.	Colorado Beef Council, 6551 S. Revere Parkway, suite 120, Englewood, CO 80111.
Delaware Beef Advisory Board, 4601 S. DuPont Hwy., Dover, DE 19901.	Delaware Beef Advisory Board, c/o Delaware Dept. of Ag.; 2320 S. DuPont Hwy., Dover, DE 19901.
Florida Beef Council, P.O. Box 1929 (32423-1929), 1818 North Bermuda, Kissimmee, FL 32741.	Florida Beef Council, P.O. Box 1929 (32742-1929) North, 1818 North Bermuda, Kissimmee, FL 32741.
Georgia Beef Board, 100 Cattlemen's Drive (31210), P.O. Box 11347, Macon, GA 31212.	Georgia Beef Board, 100 Cattlemen's Drive (31210), P.O. Box 11347, Macon, GA 31212.
Hawaii Beef Industry Council, Seven Water Front Plaza, suite 400, 500 Ala Moana Blvd., Honolulu, HI 96813.	Hawaii Beef Industry Council, Seven Water Front Plaza, suite 400, 500 Ala Moana Blvd., Honolulu, HI 96813.
Idaho Beef Council, 2120 Airport Way, Boise, ID 83705.	State of Idaho Brand Dept., 2120 Airport Way, Boise, ID 83705.
Illinois Beef Association, 993 Clocktower Drive, Springfield, IL 62704.	Illinois Beef Association, 993 Clocktower Drive, Springfield, IL 62704.
Indiana Beef Cattle Association, 8770 Guion Road, suite A, Indianapolis, IN 46268-3013.	Indiana Beef Cattle Association, 8770 Guion Road, suite A, Indianapolis, IN 46268-3013.
Iowa Beef Council, P.O. Box 451, 123 Airport Road, Ames, IA 50010.	Iowa Beef Council, P.O. Box 451, 123 Airport Road, Ames, IA 50010.
Kansas Beef Council, 6031 S.W. 37th, Topeka, KS 66614.	Kansas Beef Council, 6031 S.W. 37th, Topeka, KS 66614.
Kentucky Beef Cattle Association, 733 Red Mile Road, Lexington, KY 40504.	Kentucky Beef Cattle Association, 733 Red Mile Road, Lexington, KY 40504.

ADDRESSES OF THE QUALIFIED STATE BEEF COUNCILS—Continued

Inquiries and general business	Remit assessments and accompanying reports to—
Louisiana Beef Industry Council, 4921 I–10 Frontage Road, Port Allen, LA 70767.	Louisiana Beef Industry Council, 4921 I–10 Frontage Road, Port Allen, LA 70767.
Maine Beef Industry Council, Maine Dept. of Agriculture, Deering Bldg., State House Station 28, Augusta, ME 04333.	Main Beef Industry Council, Route 2, Box 185, Strong, ME 04983.
Maryland Beef Industry Council, University of Maryland, Animal Science Center, College Park, MD 20742.	Maryland Beef Industry Council, P.O. Box 259, Sykesville, MD 21784.
Michigan Beef Industry Commission, 2145 University Park Drive, suite 300, Okemos, MI 48864.	Michigan Beef Industry Commission, 2145 University Park Drive, suite 300, Okemos, MI 48864.
Minnesota Beef Council, 2950 Metro Drive, suite 211, Minneapolis, MN 55420.	Minnesota Beef Council, 2950 Metro Drive, suite 211, Minneapolis, MN 55420.
Mississippi Cattle Industry Board, 121 N. Jefferson, Jackson, MS 39201.	Mississippi Cattle Industry Board, 121 N. Jefferson, Jackson, MS 39201.
Missouri Beef Industry Council, 2015 Missouri Blvd., Jefferson City, MO 65109.	Missouri Beef Industry Council, c/o Missouri Dept. of Agr., P.O. Box 630, Jefferson City, MO 65102.
Montana Beef Council, P.O. Box 5396, Helena, MT 59604–5396.	Montana Dept. of Livstk., Capitol Station, Helena, MT 59620.
Nebraska Beef Industry Development Board, Rover Park, Bldg. 1, Unit 1, East Highway 30, Box 2408, Kearney, NE 68847–2408.	Nebraska Beef Industry Development Board, Rover Park, Bldg. 1, Unit 1, East Highway 30, Box 2408, Kearney, NE 68847–2408.
Nevada Beef Council, P.O. Box 11100 (89510), 350 Capitol Hill Road, Reno, NV 89502.	Nevada Beef Council, P.O. Box 11100 (89510), 350 Capitol Hill Road, Reno, NV 89502.
New Mexico Beef Council, 150 Louisiana N.E., suite C, P.O. Box 8430, Albuquerque, NM 87108.	New Mexico Beef Council, 150 Louisiana N.E., suite C, P.O. Box 8430, Albuquerque, NM 87108.
New York Beef Industry Council, R.D. #1, Box 85, Rome, NY 13440.	New York Beef Industry Council, R.D. #1, Box 85, Rome, NY 13440.
North Carolina Cattlemen's Association, 221 West Martin Street, Raleigh, NC 27611.	North Carolina Dept. of Agr., P.O. Box 27647, Raleigh, NC 27611.
North Dakota Beef Commission, 4023 N. State Street, Bismarck, ND 58501.	North Dakota Beef Commission, 4023 N. State Street, Bismarck, ND 58501.
Ohio Beef Council, P.O. Box 845, 283 S. State Street, suite 103, Westerville, OH 43081.	Ohio Beef Council, P.O. Box 845, 283 S. State Street, suite 103, Westerville, OH 43081.
Oklahoma Beef Commission, 312 NE 28th, room 108, Oklahoma, OK 73105.	Oklahoma Beef Commission, 312 NE 28th, room 108, Oklahoma City, OK 73105.
Oregon Beef Council, Lloyd Center Hotel, 1000 N.E. Multnomah Street, Portland, OR 97232.	Oregon Dept. of Agr., Livstk. Div., 635 Capitol Street, NE, Salem, OR 97310.
Pennsylvania Beef Council, 4714 Orchard Street, Harrisburg, PA 17109.	Pennsylvania Beef Council, 4714 Orchard Street, Harrisburg, PA 17109.
South Carolina Cattle and Beef Board, P.O. Box 11280, Columbia, SC 29211.	South Carolina Cattle and Beef Board, c/o S.C. Dept. of Agr., P.O. Box 11280, Columbia, SC 29211.
South Dakota Beef Industry Council, 108 W. Capitol, suite #7, P.O. Box 1037, Pierre, SD 57501.	South Dakota Beef Industry Council, 108 W. Capitol, suite #7, P.O. Box 1037, Pierre, SD 57501.
Tennessee Beef Industry Council, 109 Holiday Court, suite C–6, Franklin, TN 37064.	Tennessee Beef Industry Council, c/o Sovran Bank, P.O. Box 220, Franklin, TN 37064.
Texas Beef Industry Council, 8310 Capital of Texas Hwy. N, suite 440, Austin, TX 78731.	Texas Beef Industry Council, P.O. Box 149789, Austin, TX 78714–9789.
Utah Beef Council, 150 S. 6th E. suite 108, Salt Lake City, UT 84102.	Utah Dept. of Agr., 350 N. Redwood Road, Salt Lake City, UT 84116.
Vermont Beef Industry Council, P.O. Box 7503, Morshire Museum, suite 200, Norwich, VT 05055.	Vermont Beef Industry Council, P.O. Box 7503, Morshire Museum, suite 200, Norwich, VT 05055.
Virginia Cattle Industry Board, P.O. Box 176, U.S. Rt. 220, Daleville, VA 24083.	Virginia Cattle Industry Board, P.O. Box 176, U.S. Rt. 220, Daleville, VA 24083.
Washington State Beef Commission, suite 105, Denny Bldg., 2200 Sixth Ave., Seattle, WA 98121.	Washington State Beef Commission, Suite 105, Denny Bldg., 2200 Sixth Ave., Seattle, WA 98121.
West Virginia Beef Industry Council, Chancery Street, Buckhannon, WV 26201.	West Virginia Beef Industry Council, Chancery Street, Buckhannon, WV 26201.
Wisconsin Beef Council, 802 W. Broadway, #211, Madison, WI 53713.	Wisconsin Beef Council, P.O. Box 770, Madison, WI 53701–0770.
Wyoming Beef Council, P.O. Box 1243 (82003), 113 E. 20th Street, Cheyenne, WY 82001.	Wyoming Livstk. Board, P.O. Box 206, Cheyenne, WY 82201.

Authority: 7 U.S.C. 2901 et. seq.

* * * * *

Done at Washington, DC, on October 10, 1990.

Daniel Haley,
Administrator.

[FR Doc. 90–24248 Filed 10–12–90; 8:45 am]
BILLING CODE 3410–02–M

Forest Service

Rocky Mountain Region: Colorado, Kansas, Nebraska, South Dakota, Eastern Wyoming, Legal Notice of Appealable Decisions

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: Deciding Officers in the Rocky Mountain Region will publish notice of decisions subject to administrative appeal under 36 CFR part 217 in the legal notice section of the newspapers listed in the Supplementary Information section of this notice. As provided in 36 CFR 217.5, such notice shall constitute legal evidence that the agency has given timely and constructive notice of decisions that are subject to administrative appeal. Newspaper publication of notices of decisions is in addition to direct notice to those who have requested notice in writing and to those known to be interested in or affected by a specific decision.

DATES: Use of these newspapers for purposes of publishing legal notices of decisions subject to appeal under 36 CFR part 217 shall begin April 5, 1990.

FOR FURTHER INFORMATION CONTACT: John P. Halligan, Regional Appeals and Litigation Coordinator, Rocky Mountain Region, 11177 W. 8th Ave., Box 25127, Lakewood, Colorado 80225, Area Code 303–236–9430.

SUPPLEMENTARY INFORMATION: Deciding Officers in the Rocky Mountain Region will give legal notice of decisions subject to appeal under 36 CFR part 217 in the following newspapers which are listed by Forest Service unit. Where more than one newspaper is listed for any unit, the first newspaper listed is the primary newspaper which shall be used to constitute legal evidence that the agency has given timely and constructive notice of decisions that are subject to administrative appeal. As provided in 36 CFR 217.5(d), the timeframe for appeal shall be based on the date of publication of a notice of decision in the primary newspaper.

Decisions by the Regional Forester

The Denver Post, published daily in Denver, Denver County, Colorado, for decisions affecting National Forest System lands in the States of Colorado, Nebraska, Kansas, and eastern Wyoming and for any decision of Region-wide impact. In addition, notice of decisions made by the Regional Forester will also be published in the Rocky Mountain News, published daily in Denver, Denver County, Colorado.

Notice of decisions affecting National Forest System lands in the State of South Dakota will also be published in The Rapid City Journal, published daily in Rapid City, Pennington County, South Dakota.

For those decisions affecting a particular unit, the newspaper specific to that unit will be used.

Arapaho and Roosevelt National Forests, Colorado

Forest Supervisor Decisions

The Denver Post, published daily in Denver, Denver County, Colorado.

District Ranger Decisions

Redfeather and Estes-Poudre Districts: Coloradoan, published daily in Fort Collins, Larimer County, Colorado.

Pawnee District: Greeley Tribune, published daily in Greeley, Weld County, Colorado.

Boulder District: Boulder Daily Camera, published daily in Boulder, Boulder County, Colorado.

Clear Creek District: Clear Creek Courant, published weekly in Idaho Springs, Clear Creek County, Colorado.

Sulphur District: Sulphur Sky High News, published weekly in Granby, Grand County, Colorado.

Grand Mesa, Uncompahgre and Gunnison National Forests, Colorado

Forest Supervisor Decisions

Grand Junction Daily Sentinel, published daily in Grand Junction, Mesa County, Colorado.

District Ranger Decisions

Collbran and Grand Junction Districts: Grand Junction Daily Sentinel, published daily in Grand Junction, Mesa County, Colorado.

Paonia District: North Fork Times, published weekly in Paonia, Delta County, Colorado.

Cebolla and Taylor River Districts: Gunnison Country Times, published weekly in Gunnison, Gunnison County, Colorado.

Norwood District: Telluride Times-Journal, published weekly in Telluride, San Miguel County, Colorado.

Ouray District: Montrose Daily Press, published daily in Montrose, Montrose County, Colorado.

Pike and San Isabel National Forests

Forest Supervisor Decisions

Pueblo Chieftain, published daily in Pueblo, Pueblo County, Colorado.

District Ranger Decisions

San Carlos District: Pueblo Chieftain, published daily in Pueblo, Pueblo County, Colorado.

Comanche District: Plainsman Herald, published weekly in Springfield, Baca County, Colorado. In addition, notice of decisions made by the District Ranger will also be published in the La Junta Tribune Democrat, published daily in La Junta, Otero County, Colorado, and in the Ark Valley Journal, published weekly in La Junta, Otero County, Colorado.

Cimarron District: Tri-State News, published weekly in Elkhart, Morton County, Kansas.

South Platte District: Daily News Press, published daily in Castle Rock, Douglas County, Colorado. In addition, notice of decisions made by the District Ranger will also be published in the High Timber Times, published weekly in Conifer, Jefferson County, Colorado, and in the Fairplay Flume, published weekly in Fairplay, Park County, Colorado.

Leadville District: Herald Democrat, published weekly in Leadville, Lake County, Colorado.

Salida District: The Mountain Mail, published daily in Salida, Chaffee County, Colorado.

South Park District: Fairplay Flume, published weekly in Fairplay, Park County, Colorado.

Pikes Peak District: Gazette Telegraph, published daily in Colorado Springs, El Paso County, Colorado.

Rio Grande National Forest, Colorado

Forest Supervisor Decisions

Valley Courier, published daily in Alamosa, Alamosa County, Colorado.

District Ranger Decisions

Valley Courier, published daily in Alamosa, Alamosa County, Colorado.

Routt National Forest, Colorado

Forest Supervisor Decisions

Steamboat Pilot, published weekly in Steamboat Springs, Routt County, Colorado. In addition, for decisions affecting an individual district(s), the local district(s) newspaper will also be used.

District Ranger Decision

Bears Ears District: Northwest Colorado Daily Press, published daily in Craig, Moffat County, Colorado. In addition, notice of decisions by the District Ranger will also be published in the Hayden Valley Press, published weekly in Hayden, Routt County, Colorado, and in the Steamboat Pilot, published weekly in Steamboat Springs, Routt County, Colorado.

Yampa and Hahns Peak Districts: Steamboat Pilot, published weekly in Steamboat Springs, Routt County, Colorado.

Middle Park District: Middle Park Times, published weekly in Kremmling, Grand County, Colorado.

North Park District: Jackson County Star, published weekly in Walden, Jackson County, Colorado.

San Juan National Forest, Colorado

Forest Supervisor Decisions

Durango Herald, published daily in Durango, La Plata County, Colorado.

District Ranger Decisions

Durango Herald, published daily in Durango, La Plata County, Colorado.

White River National Forest, Colorado

Forest Supervisor Decisions

The Glenwood Post, published Monday through Friday in Glenwood Springs, Garfield County, Colorado.

District Ranger Decisions

Aspen District: Aspen Times, published weekly in Aspen, Pitkin County, Colorado.

Blanco District: Meeker Herald, published weekly in Meeker, Rio Blanco County, Colorado.

Dillon District: Summit Sentinel, published twice weekly in Frisco, Summit County, Colorado.

Eagle District: Eagle Valley Enterprise, published weekly in Eagle, Eagle County, Colorado.

Holy Cross District: Vail Trail, published weekly in Minturn, Eagle County, Colorado.

Rifle District: Rifle Telegram, published weekly in Rifle, Garfield County, Colorado.

Sopris District: Valley Journal, published weekly in Carbondale, Garfield County, Colorado.

Nebraska National Forest, Nebraska

Forest Supervisor Decisions

The Rapid City Journal, published daily in Rapid City, Pennington County, South Dakota for decisions affecting National Forest System lands in the State of South Dakota.

The Omaha World Herald, published daily in Omaha, Douglas County, Nebraska for decisions affecting National Forest System lands in the State of Nebraska.

District Ranger Decisions

Bessey District: The North Platte Telegraph, published daily in North Platte, Lincoln County, Nebraska.

Samuel R. McKelvie National Forest: The Valentine Newspaper, published weekly in Valentine, Cherry County, Nebraska.

Fall River and Wall Districts: The Rapid City Journal, published daily in Rapid City, Pennington County, South Dakota.

Pine Ridge District: The Chadron Record, published weekly in Chadron, Dawes County, Nebraska.

Black Hills National Forest, South Dakota and eastern Wyoming

Forest Supervisor Decisions

The Rapid City Journal, published daily in Rapid City, Pennington County, South Dakota.

District Ranger Decisions

The Rapid City Journal, published daily in Rapid City, Pennington County, South Dakota.

Bighorn National Forest, Wyoming

Forest Supervisor Decisions

Sheridan Press, published daily in Sheridan, Sheridan County, Wyoming. In addition, for decisions affecting an individual district(s), the local district(s) newspaper will be used (see listing below).

District Ranger Decisions

Tongue District: Sheridan Press, published daily in Sheridan, Sheridan County, Wyoming.

Buffalo District: Buffalo Bulletin, published weekly in Buffalo, Johnson County, Wyoming.

Medicine Wheel District: Lovell Chronicle, published weekly in Lovell, Big Horn County, Wyoming.

Tensleep District: Northern Wyoming Daily News, published daily in Worland, Washakie County, Wyoming.

Paintrock District: Greybull Standard, published weekly in Greybull, Big Horn County, Wyoming.

Medicine Bow National Forest, Wyoming

Forest Supervisor Decisions

Laramie Daily Boomerang, published daily in Laramie, Albany County, Wyoming.

District Ranger Decisions

Laramie District: Laramie Daily Boomerang, published daily in Laramie, Albany County, Wyoming.

Douglas District: Casper Star-Tribune, published daily in Casper, Natrona County, Wyoming.

Brush Creek and Hayden Districts: Rawlins Daily Times, published daily in Rawlins, Carbon County, Wyoming.

Shoshone National Forest, Wyoming

Forest Supervisor Decisions

Cody Enterprise, published twice weekly in Cody, Park County, Wyoming.

District Ranger Decisions

Clarks Fork District: Powell Tribune, published twice weekly in Powell, Park County, Wyoming.

Wapiti and Greybull Districts: Cody Enterprise, published twice weekly in Cody, Park County, Wyoming.

Wind River District: The Dubois Frontier, published weekly in Dubois, Teton County, Wyoming.

Lander District: Wyoming State Journal, published twice weekly in Lander, Fremont County, Wyoming.

Dated: October 5, 1990.

Eleanor S. Towns,

Acting Regional Forester.

[FR Doc. 90-24171 Filed 10-12-90; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Export Administration.

Title: Report of Requests for Restrictive Trade Practice or Boycott—Single or Multiple Transactions.

Form Number: BXA-621P and BXA-6051P; OMB—0694-0012

Type of Request: Extention of the expiration date of a currently approved collection.

Burden: 2,000 respondents; 34,000 reporting/recordkeeping hours. Average hours per respondent is 1 hr. for BXA-621P and 20 hrs. for BXA-6051P.

Needs and Uses: Used to carefully and accurately monitor requests for participation in foreign boycotts against countries friendly to the U.S. which are received by U.S. persons. Used to note trends in such boycott activity and to assist in carrying out U.S. policy of opposition to such boycotts. Submitted mainly by individuals or organizations that do business in the Middle East.

Affected Public: Businesses or other for-profit institutions; small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Marshall Mills, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Marshall Mills, OMB Desk Officer, room 3208 New Executive Office Building, Washington, DC 20503.

Dated: October 9, 1990.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 90-24169 Filed 10-12-90; 8:45 am]

BILLING CODE 3510-CW-M

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Export Administration.

Title: Foreign Availability Procedures and Criteria.

Form Number: Export Administration Regulations, § 791.8; OMB—0694-0004.

Type of Request: Extention of the expiration date of a currently approved collection.

Burden: 47 respondents; 4,935 reporting/recordkeeping hours. Average time per respondent is 105 hours

Needs and Uses: This information is collected in order to respond to requests by Congress and industry to make foreign availability determinations. Exporters are urged to submit data regarding the foreign product's technical characteristics and the availability of these products in foreign markets to determine if similar U.S. products should not be subject to export restrictions.

Affected Public: Businesses or other for-profit institutions; small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Marshall Mills, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Marshall Mills, OMB Desk Officer, room 3208 New Executive Office Building, Washington, DC 20503.

Dated: October 9, 1990.
Edward Michels,
Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 90-24191 Filed 10-12-90; 8:45 am]
BILLING CODE 3510-07-M

Bureau of the Census

Census Advisory Committee (CAC) of the American Economic Association (AEA), et al.; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463 as amended by Pub. L. 94-409), we are giving notice of a joint meeting followed by separate and jointly held (described below) meeting of the CAC of the AEA, CAC of the AMA, CAC of the ASA, and CAC on Population Statistics. The joint meeting will convene on October 18, 1990 at the Old Colony Inn, 625 First Street, Alexandria, Virginia 22313.

The CAC of the AEA is composed of nine members appointed by the president of the AEA. It advises the Director, Bureau of the Census, on technical matters, accuracy levels, and conceptual problems concerning economic surveys and censuses; reviews major aspects of the Census Bureau's programs; and advises on the role of analysis within the Census Bureau.

The CAC of the AMA is composed of nine members appointed by the president of the AMA. It advises the Director, Bureau of the Census, regarding the statistics that will help in marketing the Nation's products and services and on ways to make the statistics the most useful to users.

The CAC of the ASA is composed of 12 members appointed by the president of the ASA. It advises the Director, Bureau of the Census, on the Census Bureau's programs as a whole and on their various parts; considers priority issues in the planning of censuses and surveys; examines guiding principles, advises on questions of policy and procedures; and responds to Census Bureau requests for opinion concerning its operations.

The CAC on Populations Statistics is composed of four members appointed by the Secretary of Commerce and five members appointed by the president of the Population Association of America from the membership of that Association. The CAC on Population Statistics advises the Director, Bureau of the Census, on current programs and on plans for the decennial census of population.

The agenda for the October 18 combined meeting that will begin at 8:45 a.m. and end at 10:15 a.m. is: (1) Introductory remarks by the Director, Bureau of the Census; (2) economic and agriculture censuses update; (3) improving the quality of economic statistics (Boskin Report); (4) 1990 census update; and (5) the Census Bureau's international programs.

The agendas for the four committees in their separate and jointly held meeting that will begin at 10:30 a.m. and adjourn at 5:15 p.m. on October 18 are as follows:

The CAC of the AEA: (1) Census Bureau responses to recommendations and activities of special interest to the CAC of the AEA, (2) annual report on the work of the Center for Economic Studies, (3) report on the Recordkeeping Practices Survey (joint with the CAC of the AMA), (4) coping with budget cuts: the current industrial report experience (joint with the CAC of the AMA), and (5) report on the economic censuses advertising and response survey/response improvement strategy for the 1992 Economic Censuses (joint with the CAC of the AMA).

The CAC of the AMA: (1) Census Bureau responses to recommendations and activities of special interest to the CAC of the AMA, (2) Topologically Integrated Geographic Encoding and Referencing System (TIGER) (joint with the CAC of the ASA and on Population Statistics), (3) report on the Recordkeeping Practices Survey (joint with the CAC of the AEA), (4) coping with budget cuts: the current industrial report experience (joint with the CAC of the AEA), and (5) report on the economic censuses advertising and response survey/response improvement strategy for the 1992 Economic Censuses (joint with the CAC of the AEA).

The CAC of the ASA: (1) Census Bureau responses to recommendations and activities of special interest to the CAC of the ASA, (2) Topologically Integrated Geographic Encoding and Referencing System (TiGER) (joint with the CAC of the AMA and on Population Statistics), (3) report on findings/progress of enthnographic studies (joint with the CAC on Population Statistics), (4) preliminary census counts, postcensal estimates, and demographic analysis (joint with the CAC on Population Statistics), and (5) report on adjustment and the Post-Enumeration Survey (joint with the CAC on Population Statistics).

The CAC on Population Statistics: (1) Census Bureau responses to recommendations and activities of special interest, (2) Topologically Integrated Geographic Encoding and Referencing System (TIGER) (joint with the CAC of the AMA and ASA), (3) report on findings/progress of ethnographic studies (joint with the CAC of the ASA), (4) preliminary census counts, postcensal estimates, and demographic analysis (joint with the CAC of the ASA), and (5) report on adjustment and the Post-Enumeration Survey (joint with the CAC of the ASA).

The agendas for the October 19 meetings that will begin at 8:45 a.m. and adjourn at 1 p.m. are:

The CAC of the AEA: (1) Expansion of services (joint with the CAC of the AMA), (2) survey of minority-owned business enterprises (joint with the CAC of the AMA), (3) development and discussion of recommendations, and (4) closing session including (a) Continued committee and staff discussions, (b) plans and suggested agenda for next meeting, and (c) comments by outside observers.

The CAC of the AMA: (1) Expansion of services (joint with the CAC of the AEA), (2) survey of minority-owned business enterprises (joint with the CAC of the AEA), (3) development and discussion of recommendations, and (4) closing session including (a) Continued committee and staff discussions, (b) plans and suggested agenda for next meeting, and (c) comments by outside observers.

The CAC of the ASA: (1) Directions and plans for the statistical standards and methodology areas (joint with the CAC on Population Statistics), (2) further information and detail on the redesign of demographic surveys, (3) development and discussion of recommendations, and (4) closing session including (a) Continued committee and staff discussions (b) plans and suggested agenda for next meeting, and (c) comments by outside observers.

The CAC on Population Statistics: (1) directions and plans for the statistical standards and methodology area (joint with the CAC of the ASA), (2) 1990 census subject and supplementary reports, (3) development and discussion of recommendations, and (4) closing session including (a) Continued committee and staff discussions, (b) plans and suggested agenda for next meeting, and (c) comments by outside observers.

All meetings are open to the public, and a brief period is set aside on October 19 for public comment and questions. Those persons with extensive questions or statements must submit them in writing to the Census Bureau Committee Liaison Officer at least 3 days before the meeting.

Persons wishing additional information regarding these meetings or who wish to submit written statements may contact the Committee Liaison Officer, Mrs. Phyllis Van Tassel, Room 2423, Federal Building 3, Suitland, Maryland. (Mailing address: Washington DC 20233). Telephone: (301) 763-5410.

Dated: October 11, 1990.

Barbara Everitt Bryant,

Director, Bureau of the Census.

[FR Doc. 90-24360 Filed 10-12-90; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

[A-570-601]

Preliminary Results of Antidumping Duty Administrative Reviews: Tapered Roller Bearings and Parts Thereof From the People's Republic of China

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: In response to requests by the Timken Company, the Department of Commerce is conducting administrative reviews of the antidumping duty order on tapered roller bearings and parts thereof (TRBs) from the People's Republic of China (PRC). The reviews cover Premier Bearing and Equipment, a Hong Kong trading company and exporter of this merchandise to the United States. The first review covers the period from February 6, 1987, to May 31, 1988. The second review covers the period from June 1, 1988, to May 31, 1989. Using best information available, we preliminarily determine the dumping margin to be 0.97% for both reviews. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: October 15, 1990.

FOR FURTHER INFORMATION CONTACT: Kate Johnson or John Beck, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-4103 or (202) 377-3464, respectively.

SUPPLEMENTARY INFORMATION:

Background

The original investigation of TRBs from the PRC included two companies, the China National Machinery and Equipment Import and Export Corporation (CMEC), and Premier Bearing and Equipment (Premier). CMEC is a producer and exporter of the subject merchandise in the PRC and is unrelated to Premier. Premier is a Hong Kong trading company.

On May 27, 1987, the Department published in the Federal Register (52 FR 19748) the Final Determination of Sales at Less Than Fair Value on TRBs from the PRC. No margins were found on exports by CMEC. Therefore, CMEC was excluded from the determination. An Antidumping Duty Order covering Premier only was published on June 15, 1987 (52 FR 22637). Pursuant to an order by the Court of International Trade, Commerce amended the Final Determination of Sales at Less Than Fair Value and published a new order on February 28, 1990 (55 FR 6669). This new order included CMEC as well as Premier.

Administrative reviews were requested by the petitioner, Timken Company, on June 30, 1988 (1987/88 review), and June 30, 1989 (1988/89 review), in accordance with section 353.53(a) of the Commerce Regulations (19 CFR 353.53a(a) (1988)). We published a notice of initiation for the 1987/88 review on July 28, 1988 (53 FR 28423), and for the 1988/89 review on July 25, 1989 (54 FR 30915). The Department is now conducting these administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended ("the Tariff Act"). Since the order for CMEC was not published until February 28, 1990, CMEC has not been covered in these two administrative reviews.

Scope of review

The United States has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 *et. seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number.

Imports covered by these reviews are shipments of tapered roller bearings and parts thereof from the PRC. During the review period such merchandise was classifiable under items 680.30, 680.39, 681.10 and 692.32 of the Tariff Schedules of the United States (TSUS). The merchandise is currently classifiable under HTS item number 8482.20.00, 8482.91.00.60, 8482.99.30, 8483.20.40, 8483.20.80, 8483.30.80, 8483.90.20, 8483.90.30, and 8483.90.80. The HTS and TSUS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The reviews cover one exporter, Premier Bearing and Equipment, to the United States of tapered roller bearings and parts thereof. The first review covers the period February 6, 1987 through May 31, 1988. The second review covers the period June 1, 1988 through May 31, 1989.

Best Information Available

On August 16, 1988, the Department presented respondent with a questionnaire for the 1987/88 administrative review. On October 17, 1988, the Department received a response to this questionnaire. After reviewing the information contained in this response, the Department presented respondent with a deficiency letter on October 27, 1989. This letter included directions on model matching. The response to this letter was received on November 13, 1989. On October 10, 1989, the Department presented respondent with a questionnaire for the 1988/89 administrative reivew. The Department received a response to this questionnaire on December 18, 1989.

Since the respondent was not able to follow completely the model matching directions contained in the October 27 letter in the 1987/88 review, and no model matching directions had been provided in the questionnaire for the 1988/89 review, the Department presented a letter to respondent for each of the two administrative reviews on July 11, 1990. These letters requested clarification of certain parts of respondent's questionnaire responses and provided directions on model matching. These deficiency letters were supplemented by another Department letter presented to respondent on August 10, 1990, which provided additional instructions for model matching.

The new instructions requested that respondent match every U.S. product with the closest third country product on the basis of five matching characteristics used in past TRB cases. These characteristics included: outside diameter; inside diameter; width; dynamic load rating; and Y2 factor; all of which were explained in the August 10, 1990 letter. Respondent was required to separately list the measurements for each of these five characteristics for each U.S. and third country bearing. Respondent was then required to match every U.S. bearing with a third country bearing using the greatest single deviation method, which was fully explained in the letter. Respondent was also notified during the week of July 16, 1990, that it was to use sales to Turkey and Singapore in the first review and

sales to Taiwan in the second review as the basis for foreign market value.

On August 22, 1990, the Department received the responses to the July 11, 1990 and August 10, 1990 deficiency letters. These responses, however, did not include the list of the five matching characteristics for every U.S. and appropriate third country bearing. Furthermore, no information was provided regarding the acquisition cost of the bearings, which we indicated in our July 11, 1990 letter might be used as the basis for difference in merchandise adjustments. Therefore, it is impossible for the Department to use respondent's information for purposes of determining the most similar third country bearing with which to match every U.S. bearing and of applying a difference in merchandise adjustment. Since the information on the record is inadequate, we are using best information available (BIA) for purposes of these preliminary results.

In deciding what to use as best information available, 19 CFR 353.37(b) of the Department's regulations provides that the Department may take into account whether a party refused to provide requested information. Thus, the Department determines on a case-by-case basis what is best information available. When a company has cooperated with the Department's request for information but fails to provide the information requested in a timely manner or in the form required, the Department may assign the affected company the highest margin assigned that company in any previous review. Since these preliminary results are for the first two administrative reviews, we are using the margin rate (0.97%) calculated in the final determination of sales at less than fair value (52 FR 19748 (May 27, 1987)). We believe that this rate is the most appropriate basis for BIA because the rate from the final determination was calculated from verified information in the investigation and because respondent has attempted to cooperate with the Department.

Currency Conversion

In the original investigation we used the official exchange rates in effect on the dates of U.S. sales, in accordance with section 773(a)(1) of the Tariff Act, as amended by section 615 of the Trade and Tariff Act of 1984. All currency conversions were made at the rates certified by the Federal Reserve Bank.

Preliminary Results of the Review

We preliminarily determine the margin to be:

Manufacturer/ Exporter	Time period	Margin (percent)
Premier	5/08/87-05/31/88	0.97

The Department will issue appraisement instructions concerning Premier directly to the Customs Service upon completing of these administrative reviews.

Furthermore, the following deposit requirements will be effective upon publication of our final results of these administrative reviews for all shipments of Chinese TRBs entered, or withdrawn from warehouse, for consumption on or after that publication date, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for any shipments of this merchandise manufactured or exported by the remaining known manufacturers/exporters not covered in this review will continue to be at the rate published in the final determination of sales at less than fair value, as amended, for these firms (55 FR 6669, Feb. 26, 1990); (2) the cash deposit rate for Premier will be that established in the final results of these administrative reviews; and (3) the cash deposit rate for any future entries of this merchandise from a new producer and/or exporter, not covered in these administrative reviews or in the original investigation, whose first shipments occurred after May 31, 1989 and who is unrelated to the reviewed firm or any firm which was subject to the original investigation will be the same as the rate established for Premier. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Public Comment

In accordance with § 353.38 of the Department's regulations, case briefs or any other written comments must be submitted in at least ten copies to the Assistant Secretary for Import Administration no later than 30 days after the publication of these determinations, and rebuttal briefs no later than 37 days after publication of these determinations. In accordance with section 353.38(b) of the Department's regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Such hearing will be held 44 days after the publication of these determinations at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Interested parties who wish to participate in the hearing must submit a written request to the Assistant Secretary for Import Administration, Room B-099, at the above address within ten days of the publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed. In accordance with section 353.38(b) of the Department's regulations, an interested party may make an affirmative oral presentation only on arguments included in its briefs.

These administrative reviews and notice are in accordance with sections 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22(c)(5) (1989).

Dated: October 9, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90-24254 Filed 10-12-90; 8:45 am]

BILLING CODE 3510-DS-M

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897; 15 CFR 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with subsections 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in room 2841, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 90-167. *Applicant:* President and Fellows of Harvard College, Harvard Medical School, Richardson Building room 411, 25 Shattuck Street, Boston, MA 02115. *Instrument:* Stopped Flow Spectrophotometer, Model SF17MV. *Manufacturer:* Applied Photophysics Ltd., United Kingdom. *Intended Use:* The instrument will be used for studies of cells and vesicles, primarily human red cells, but also cells and vesicles prepared and purified from rat kidneys. The properties of the cells and vesicles investigated are those concerned with the transport of materials, primarily water, sodium, potassium and chloride

ions and sugar across the boundary membrane of the cell or vesicle. *Application Received by Commissioner of Customs* August 23, 1990.

Docket Number 90-168. *Applicant:* U.S. Environmental Protection Agency, Sabine Island, Gulf Breeze, FL 32561. *Instrument:* Electron Microscope, Model EM902/PC. *Manufacturer:* Carl Zeiss, Inc., West Germany. *Intended Use:* The instrument will be used to study biological materials including tissue samples from freshwater and marine organisms and preparations of microbial agents including viruses, bacteria, protozoans and fungi. Experiments will consist of: (1) Assessment of risk of MPCAs (natural and genetically altered) on non-target organisms and the assessment of their fate and survival in the aquatic environment, (2) bioassay exposures and tissue evaluations to determine effects of toxics and pesticides on marine organisms, (3) development of aquatic animals as carcinogen assay models and indicator species of carcinogens in the environment, (4) the study and diagnosis of disease causing organisms, and (5) studies to determine the effects of various xenobiotics and environmental stresses on host/parasite relationships. *Application Received by Commissioner of Customs:* August 23, 1990.

Docket Number: 90-169. *Applicant:* University of Maryland at Baltimore, Division of Procurement and Supply, 737 West Lombard Street, Baltimore, MD 21201-1401. *Instrument:* Electron Microscope, Model H-7000. *Manufacturer:* Hitachi, Japan. *Intended Use:* The instrument will be used for studies of organic brain tissues used in a variety of experiments aimed at identifying the morphological sequelae of neurotoxicity in the mammalian central nervous system in experimental animals. Neuroanatomical studies of schizophrenic and control brain tissue will be conducted. *Application Received by Commissioner of Customs:* August 27, 1990.

Docket Number: 90-170. *Applicant:* The Pennsylvania State University, 503 Dieke Bldg, University Park, PA 16802. *Instrument:* Radiation Detector, Model AB-5 and Accessories. *Manufacturer:* Pylon Electronic Development Co., Canada. *Intended Use:* The instrument will be used for the study of the distribution and abundance of radon in soil gas and the distribution and abundance of radium by use of radon analysis. In addition, the instrument will be used for educational purposes in the course Geosc 600/601, Thesis Research.

Docket Number: 90-171. *Applicant:* The University of Tennessee, Department of Anatomy and Neurobiology, 875 Monroe Avenue, Room 102, Memphis, TN 38163. *Instrument:* Electron Microscope, Model JEM-2000 EXII/SEG/DP/DP. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* The instrument will be used for experiments that include axonal tracing studies to determine the synaptic connections between neurons in various regions of the brain, intracellular staining studies to determine patterns of synaptic connections among neurons within a brain region and immunocytochemical studies of the localization of proteins and other substances within neurons of normal subjects and those with experimental or natural nervous system disorders. In addition, the instrument will be used for educational purposes in the course Anatomy and Neurobiology 824, Techniques in Neurobiology. *Application Received by Commissioner of Customs:* August 30, 1990.

Docket Number: 90-172. *Applicant:* University of California, San Diego, CA 92093. *Instrument:* Rotating Anode X-ray Generator Model FR-C. *Manufacturer:* Rigaku Corporation, Japan. *Intended Use:* The instrument will be used in a high speed data collection system for protein crystallography. The system will collect date to find the three-dimensional structure of proteins or enzymes using X-ray diffraction methods. *Application Received by Commissioner of Customs:* September 4, 1990.

Docket Number: 90-173. *Applicant:* U.S. Department of Commerce, NOAA, National Marine Fisheries Service, Northeast Fisheries Center, Woods Hole, MA 02543. *Instrument:* Water Temperature Sensor. *Manufacturer:* Scanmar A.S., Norway. *Intended Use:* The instrument is intended to be used to monitor trawl gear. Experiments will be conducted evaluating gear performance such as bottom type, currents and changes in gear configuration during vessel fishing power. Varying scopes and towing speeds and turning maneuvers will be utilized. *Application Received by Commissioner of Customs:* September 4, 1990.

Docket Number: 90-174. *Applicant:* University of Florida, Department of Chemistry, Gainesville, FL 32611-2046. *Instrument:* Mass Spectrometer, Model Magnetic Sector SIMS. *Manufacturer:* VG Instruments, United Kingdom. *Intended Use:* The instrument will be used in determinations of elemental compositions and distributions in surfaces and in studies of organic molecules adsorbed to surfaces. A wide variety of substances will be studied, including gallium arsenide, silicon, metals, polymers adsorbed to metals, plant and animal tissues. As an integral part of an undergraduate and graduate curriculum, the instrument provides example spectra for courses, a modern instrument for training of graduate students specializing in mass spectrometry, and training in the capabilities of modern mass spectrometry for students specializing in synthesis and other chemical areas. *Application Received by Commissioner of Customs:* September 9, 1990.

Docket Number: 90-176. *Applicant:* University of Tennessee-Memphis, 711 Jefferson Avenue, Ste 523, Memphis, TN 38163. *Instrument:* Automated Rapid Karyotyping for Chromosome Analysis, Model RK2. *Manufacturer:* Image Recognition Systems, Ltd., United Kingdom. *Intended Use:* The instrument will be used in experiments which related to the examination of several human disease conditions for chromosome abnormalities. These include diagnosis of genetic conditions such as Down's Syndrome. *Application Received by Commissioner of Customs:* September 7, 1990.

Docket Number: 90-177. *Applicant:* University of Medicine and Dentistry of New Jersey, 401 Haddon Avenue, Camden, NJ 08103. *Instrument:* Mass Spectrometer, SIRA Series-II. *Manufacturer:* VG Instruments, United Kingdom. *Intended Use:* The instrument will be used for measuring stable isotopes in body fluids, (urine, saliva and blood) as part of a research program to investigate protein and energy metabolism in AIDS patients. *Application Received by Commissioner of Customs:* September 10, 1990.

Docket Number: 90-178. Applicant: VA Medical Center, 4801 Linwood Boulevard, Kansas City, MO 64128. *Instrument:* Photomultiplier, Model PM-60. *Manufacturer:* Hi-Tech Ltd., United Kingdom. *Intended Use:* The instrument is an accessory to an existing stopped flow spectrophotometer which is used for the study of a group of enzymes of typical pyridine-nucleotide linked dehydrogenases, specifically focused on L-glutamate dehydrogenase from bovine liver and from Clostridium symbosium. *Application Received by Commissioner of Customs:* September 11, 1990.

Docket Number: 90-179. *Applicant:* University of Illinois at Urbana-Champaign, Purchasing Division, 506 South Wright Street, Urbana, IL 61801. *Instrument:* FTI Spectrometer System, Model DA 8.12. *Manufacturer:* Bomem, Canada. *Intended Use:* The instrument will be used in experiments to identify

those vibrational, electronic and magnetic excitations important to understand the special properties of the materials under study, e.g., the superconductivity of HTS's and the structure/property/impurity relationships in semiconductor heterostructures and in metallic or magnetic superlattices. In addition, the instrument will be used for educational purposes in the courses Physics 397 and Physics 497, Independent Study and Physics 499, Thesis Research.

Application Received by Commissioner of Customs: September 11, 1990.

Docket Number: 90–180. *Applicant:* University of California, Los Angeles, 405 Hilgard Avenue, Los Angeles, CA 90024. *Instrument:* Mass Spectrometer, Model VG Sector 54–30. *Manufacturer:* VG Isotech, United Kingdom. *Intended Use:* The instrument will be used for the study of natural geologic whole rock and separated mineral samples via the established Rb–Sr, Sm–Nd, U–Pb and Lu–Hf systematics. The principal goals are constraining the origin of Island Arc magmas, magma chamber processes and the mechanism of formation and differentiation of the lower crust by measuring the isotopic ratios of the above characteristic trace elements. Of particular interest is the development of a (geologically) short time scale chronometer. *Application Received by Commissioner of Customs:* September 11, 1990.

Docket Number: 90–181. Applicant: University of North Dakota, Center for Aerospace Sciences, P.O. Box 8216, University Station, Grand Forks, ND 58202. *Instrument:* NO_x Analyzer and O_3 Ozone Monitor, Model LMH–3. *Manufacturer:* Scintrex Inc., Canada. *Intended Use:* The instrument will be used in conjunction with others to study the transport by cumulus clouds of pollutants such as NO, NO_x, CO, CO_2, SO_2 and particulate. Another objective is the study of the formation of acidic species in cloud droplets. *Application Received by Commissioner of Customs:* September 11, 1990.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 90–24252 Filed 10–12–90; 8:45 am]

BILLING CODE 3510–DS–M

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with subsections 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in room 2841, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 89–177R.
Applicant: William Paterson College of New Jersey, 300 Pompton Road, Wayne, NJ 07470.
Instrument: Mass Spectrometer, Model JMS–DX303HF.
Manufacturer: JEOL, Ltd., Japan. Original notice of this resubmitted application was published in the Federal Register of August 1, 1989.

Docket Number: 89–191R.
Applicant: Ohio State University, Department of Physiological Chemistry, 333 West 10th Avenue, Columbus, OH 43210.
Instrument: Stopped Flow Spectrofluorimeter, Model SF.17MV.
Manufacturer: Applied Photophysics, United Kingdom. Original notice of this resubmitted application was published in the Federal Register of August 21, 1989.

Docket Number: 89–286R.
Applicant: University of Illinois, Urbana-Champaign, Purchasing Division, 506 So. Wright Street, Urbana, IL 61801.
Instrument: Mass Spectrometer System, Model VG 70–VSE.
Manufacturer: VG Analytical Ltd., United Kingdom. Original notice of this resubmitted application was published in the Federal Register of January 11, 1990.

Docket Number: 89–291R.
Applicant: University of Kentucky, College of Pharmacy, Rose Street Pharmacy Bldg., Lexington, KY 40536–0082.
Instrument: Mass Spectrometer, Model CONCEPT 1H.
Manufacturer: Kratos Analytical, United Kingdom. Original notice of this resubmitted application was published in the Federal Register of January 29, 1990.

Docket Number: 90–003R.
Applicant: University of Alaska-Fairbanks, Geophysical Institute, Fairbanks, AK 99775–0800.
Instrument: Fixed Frequency HF Radar System.
Manufacturer: Department of Physics, University of Adelaide, Australia. Original notice of this resubmitted application was published in the Federal Register of February 1, 1990.

Docket Number: 90–009R.
Applicant: University of Washington, Chemistry Department, Bagley Hall, BG–10, Seattle, WA 98195.
Instrument: Gas Chromatograph/Mass Spectrometer System, Model HV–1.
Manufacturer: Kratos Analytical, United Kingdom. Original notice of this resubmitted application was published in the Federal Register of February 21, 1990.

Docket Number: 90–040R.
Applicant: Pennsylvania State University, Department of Meteorology, 503 Walker Building, University Park, PA 16802.
Instrument: Two (2) Copper Lasers, Model CU15–A.
Manufacturer: Oxford Lasers, Ltd., United Kingdom. Original notice of this resubmitted application was published in the Federal Register of March 22, 1990.

Docket Number: 90–155.
Applicant: University of Minnesota, Department of Veterinary Biology, 1988 Fitch Avenue, St. Paul, MN 55108.
Instrument: Electron Microscope, Model JEM 1200EX.
Manufacturer: JEOL, Ltd., Japan.
Intended Use: The instrument will be used to study the ultrastructural anatomy of brain cells, cells from the retina of the eye, muscle cells, cells from the digestive tract, cells from the pancreas and various cell types from the blood. Various experiments will be conducted but the major endpoint of each will be to examine the tissue to observe the localization of certain chemicals or structures inside cells, to observe pathological changes that have occurred within the cells or in the tissue of interest or to examine the normal relationships of cells within a particular tissue. In addition, the instrument will be used on a one-to-one basis for training veterinary and graduate students and interns.
Application Received by Commissioner of Customs: August 8, 1990.

Docket Number: 90–157.
Applicant: Department of Geology, 1112 Turlington Hall, Gainesville, FL 32611.
Instrument: Upgrade of Mass Spectrometer, PRISM Series II with 10-Sample Cracker.
Manufacturer: VG Instruments, Ltd., United Kingdom.

Intended Use: The instrument will be used for the study of past changes in the Earth's climate and modern water cycle. It will also be used to introduce students to isotopic techniques in paleoclimatology and hydrology in courses in paleoceanography and hydrology.

Application Received by Commissioner of Customs: August 9, 1990.

Docket Number: 90-158. *Applicant:* Louisiana State University, Coastal Ecology Institute, Baton Rouge, LA 70803. *Instrument:* MC 100 Microcell and Model 781 Oxygen Meter. *Manufacturer:* Strathkelvin Instruments, United Kingdom. *Intended Use:* The instrument will be used to measure the oxygen evolution of phtoplankton as a by-product of photosynthesis. The photosynthesis measurements will be made at several sites monthly throughout Fourleague Bay, Louisiana in an attempt to determine the manner in which shallow waters interact with wetland to produce regions of high productivity. *Application Received by Commissioner of Customs:* August 10, 1990.

Docket Number: 90-159. *Applicant:* The Research Foundation of State University New York, Erie County Medical Center, 462 Grider Street, Buffalo, NY 14215. *Instrument:* Electron Microscope, Model H-7000. *Manufacturer:* Hitachi, Japan. *Intended Use:* The instrument will be used for studies of the following:

(a) Pathogenesis of gonococcal infections during human infection with emphasis on studies of the antigenic nature of the oligosaccharides of the lipooligosaccharide component of the organism,

(b) *Haemophilus influenzae* in secretions obtained from the middle ear during otitis media and from the cerebrospinal fluid after meningitis,

(c) Intracellular calmodulin traffic using immunoelectron microscopic analysis,

(d) Glucose transport protein in the brain of aged rats,

(e) Meningeal tissue for receptor to the meningococcal C capsular polysaccharide using anti-idiotype antibodies,

(f) Ultrastructural changes in cardiac and pulmonary tissue after experimental stress.

Application received by Commissioner of Customs: August 14, 1990.

Docket Number: 90-160. *Applicant:* Solar Energy Research Institute, 1617 Cole Blvd., Golden CO 80401. *Instrument:* Ultrasonic Anemometer, Model DAT-310. *Manufacturer:* Kaijo-Denki, Co. Ltd., Japan. *Intended Use:* The instrument will be used to study the 3-D structure of small-scale atmospheric turbulence related to the operation, efficiency and fatigue life of wind turbine generators and their component parts. *Application received by Commissioner of Customs:* August 14, 1990.

Docket Number: 90-161. *Applicant:* Oregon State University, College of Oceanography, Oceanography Administration Building 104, Corvallis, OR 97331-5503. *Instrument:* Towed Underwater Vehicle, Model SEASOR. *Manufacturer:* Chelsa Instruments, Ltd., United Kingdom. *Intended Use:* The instrument will be used in conjunction with existing conductivity-temperature depth sensors for the study of ocean circulation and hydrographic characteristics in the world's oceans. Primarily, measurements of the conductivity and temperature of seawater at depths of 0 to 300 meters will be made. Studies will concentrate on rapidly sampling the large-scale circulation and temperature-salinity structure of ocean areas. The information gained through use of the instrument will become part of the research projects of a number of M.Sc. and Ph.D candidates. *Application received by Commissioner of Customs:* August 14, 1990.

Docket Number: 90-162. *Applicant:* University of California, Department of Geological Sciences, Santa Barbara, CA 93106. *Instrument:* ICP Mass Spectrometer, Model, PlasmaQuad PQ2. *Manufacturer:* VG Elemental, United Kingdom. *Intended Use:* The instrument will be used for the analysis of natural waters (lake, river and ocean) and sedimentary materials (rocks, shells, ocean bottom sediments, etc.) which are collected for research purposes only or are received from nationally archived research collections. Experiments are generally of the form in which a suite of sample from a series of water bodies or sequence of rocks is analyzed to determine the natural distribution of trace elemental concentrations. *Application received by Commissioner of Customs:* August 15, 1990.

Docket Number: 90-163. *Applicant:* Texas Tech University Health Sciences Center, 3601 4th Street, Lubbock, TX 79430. *Instrument:* Electron Microscope Accessories. *Manufacturer:* Nissei Sangyo, Japan. *Intended Use:* The instruments are accessories to an existing electron microscope in a facility that provides basic research in areas of medical research and material science research. This research will involve elucidation of locating trace elements in tissue and elemental components in geological samples and the causes of failure in glass. *Application Received by Commissioner of Customs:* August 16, 1990.

Docket Number: 90-164. *Applicant:* The Pennsylvania State University, Department of Physics, 104 Davey Lab, University Park, PA 16802. *Instrument:* High-Resolution Low Energy Electron Diffraction System. *Manufacturer:* Leybold Vacuum Products, West Germany. *Intended Use:* The instrument will be used for studies of the nature of surface defects on single crystals and their effect on the ordering of adsorbed layers. *Application Received by Commissioner of Customs:* August 12, 1990.

Docket Number: 90-165. *Applicant:* The Pennsylvania State University, Aerospace Engineering Department, 233 Hammond Building, University Park, PA 16802. *Instrument:* 12-Channel Anemometer with Accessories. *Manufacturer:* AA Lab Systems, Ltd., Israel. *Intended Use:* The instrument will be used for the study of unsteady convective heat transfer in aircraft propulsion units. Detailed experiments in a turbine rig will be conducted in order to obtain a better understanding of unsteady heat transfer. The instrument will also be used for educational purposes in the course Aerospace Propulsion, Theory of Turbines Linary. *Application Received by Commissioner of Customs:* August 21, 1990.

Docket Number: 90-166. *Applicant:* University of California, Irvine, Department of Mechanical Engineering, Irvine, CA 92717. *Instrument:* Electron Microscope, Model CM 201 with Accessories. *Manufacturer:* N V Philips Electronics, The Netherlands. *Intended Use:* The instrument will be used for studies of ceramic, metals, and composite materials. Several different phenomena will be investigated including: gelation in sol-gel systems, grain boundary structure and chemistry in ceramic materials, structural characterization and chemical analyses of interfacial reactions at metal/ceramic interfaces, development of dislocation structure during creep in metallic alloys, and the development of defects in ceramics after high temperature deformation. The experiments to be conducted will involve the preparation of TEM samples during various stages of processing or after appropriate exposure to mechanical deformation or high temperature environments. In addition, the instrument will be used for educational purposes in the courses: (1)

Introduction to Electron Microscopy, (2) Advanced Transmission Electron Microscopy Techniques, (3) Materials Characterization Laboratory and (4) M.S. and Ph.D. Research. *Application Received by Commissioner of Customs:* August 21, 1990.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 90-24253 Filed 10-12-90; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Gulf of Mexico Fishery Management Council will hold a public meeting of the Florida/Alabama Habitat Advisory Panel on October 24, 1990, from 9 a.m. to 4 p.m. The meeting will be held at the Holiday Inn University Center, 316 West Tennessee Street, Tallahassee, FL. The panel will discuss propeller damage to seagrass beds, the Intracoastal Waterway maintenance dredging and associated spoil disposal problems, the Florida Growth Management Act/Wetland Protections, the regulatory functions Standard Operating Procedures in Jacksonville District, and the Alabama Coastal Waters Initiative.

For more information contact Wayne F. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 881, Tampa, FL; telephone: (813) 228-2815.

Dated: October 9, 1990.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90-24256 Filed 10-12-90; 8:45 am]

BILLING CODE 3510-22-M

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Gulf of Mexico Fishery Management Council will hold a public meeting of its Shrimp and Reef Advisory Panels (AP) on October 23, 1990, from 1 p.m. to 5 p.m. The meetings will be held at the New Orleans Airport Hilton & Conference Center, 901 Airline Highway, Kenner, LA. The following will be discussed:

The review of the Council's proposed amendment to the Reef Fish Fishery Management Plan (FMP) to modify the target date of January 1, 2000, implemented in 1990 for rebuilding the reef fish stocks in the Gulf of Mexico. The target date for rebuilding red snapper must be extended beyond the year 2000. Alternative rebuilding time periods will be evaluated and recommendations will be made for Council consideration. The Shrimp Advisory Panel will meet on October 24, 1990, from 8 a.m. to 12 p.m., to review draft Amendment #5 to the Shrimp Fishery Management Plan (FMP) that specifies a definition of overfishing for the Gulf shrimp fisheries and possible management actions to prevent overfishing.

The amendment would also set the cooperative seasonal closure of the Exclusive Economic Zone off Texas to conform with a recent change in the closure of state waters.

For more information contact Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 881, Tampa, FL; telephone: (813) 228-2815.

Dated: October 9, 1990.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90-24250 Filed 10-12-90; 8:45 am]

BILLING CODE 3510-22-M

Mid-Atlantic Fishery Management Council Public Meeting & Public Hearing

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Mid-Atlantic Fishery Management Council will hold a public meeting on October 31 and November 1, 1990. The meeting will be held at the Holiday Inn, 45 Industrial Highway, Essington, PA; telephone # (215) 521-2400. The Council will begin meeting on October 31 and 8:30 a.m., and adjourn on November 1 at approximately 12 noon.

The Council will discuss Amendment #1 to the Summer Flounder Fishery Management Plan (FMP), Amendment #3 to the Atlantic Mackerel, Squid and Butterfish Fishery Management Plan (FMP), the Overfishing Definition for the Billfish Fishery Management Plan (FMP), and other fishery management matters may be discussed as deemed necessary. The Council also may hold a closed session (not open to the public) to discuss personnel and/or national security matters.

Additionally, on October 31 at 7 p.m., there will be a public hearing on Amendment #3 to the Atlantic Mackerel, Squid and Butterfish Fishery Management Plan (FMP), and also on October 31 at 8 p.m., there will be another public hearing on the Overfishing Definition for the Billfish Fishery Management Plan (FMP).

For further information contact John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901; telephone: (302) 674-2331.

Dated: October 9, 1990.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90-24255 Filed 10-12-90; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1990 Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1990 commodities to be produced and a service to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: November 13, 1990.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: On August 17 and 24, 1990, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (55 F.R. 33748 and 34726) of proposed additions to Procurement List 1990, which was published on November 3, 1989 (54 F.R. 46540). After consideration of the material presented to it concerning capability of qualified workshops to produce the commodities and provide the service at a fair market price and impact of the addition on the current or most recent contractors, the Committee has determined that the commodities and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.6.

I certify that the following actions will not have a significant impact on a

substantial number of small entities. The major factors considered for this certification were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and service listed.

c. The actions will result in authorizing small entities to produce the commodities and provide the service procured by the Government.

Accordingly, the following commodities and service are hereby added to Procurement List 1990:

Commodities

Bandage, Gauze, Compressed, Camouflaged
6510-00-200-3185

Cap, Disposable
8415-00-NSH-0052
(Requirements of the Naval Supply Center, Bremerton, WA)

Coveralls, Disposable
8415-00-NSH-0049
(Requirements of the Naval Supply Center, Bremerton, WA)

Hood, Disposable
8415-00-NSH-0051
(Requirements of the Naval Supply Center, Bremerton, WA)

Shoe Cover, Disposable
8415-00-NSH-0053
(Requirements of the Naval Supply Center, Bremerton, WA)

Sleeves, Disposable
8415-00-NSH-0050
(Requirements of the Naval Supply Center, Bremerton, WA)

Trousers, Camouflage
8415-01-102-6285
8415-01-102-6286
8415-01-102-6287
8415-01-102-6288
8415-01-102-6289
8415-01-102-6290
8415-01-102-6291
8415-01-102-6292
8415-01-102-6293
8415-01-102-6294
8415-01-102-6295
8415-01-102-6296
8415-01-102-6297
8415-01-102-6298
8415-01-102-6299

Service

Assembly of Kit, Hot Food/Hot Drink
(7360-01-310-5131)

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,
Executive Director.

[FR Doc. 90-24147 Filed 10-12-90; 8:45 am]
BILLING CODE 6820-33-M

Procurement List 1990 Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1990 a commodity to be produced and services to be provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: November 13, 1990.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodity and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity and services to Procurement List 1990, which was published on November 2, 1989 (54 F.R. 46540):

Commodity

Bottle, Urine Specimen
6640-00-165-5778

Services

Janitorial/Custodial
A.A. Ribicoff Federal Building
450 Main Street
Hartford, Connecticut

Janitorial/Custodial
Army and Air Force Exchange Service
2727 LBJ Freeway
Dallas, Texas

Beverly L. Milkman,
Executive Director.

[FR Doc. 90-24148 Filed 10-12-90; 8:45 am]
BILLING CODE 6820-33-M

COMMODITY FUTURES TRADING COMMISSION

New York Cotton Exchange: Proposed Amendments Relating to the Two-Year U.S. Treasury Note Futures Contract and the Five-Year U.S. Treasury Note Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule changes.

SUMMARY: The New York Cotton Exchange ("NYCE" or "Exchange") has submitted proposed amendments to the Two-Year U.S. Treasury Note futures contract and the Five-Year U.S. Treasury Note futures contract. For each of the two futures contracts, the proposed amendment would convert the current book-entry physical delivery system to a cash settlement system based on the results of the U.S. Treasury Department's auction held during the contract month. The Acting Director of the Division of Economic Analysis ("Division") of the Commodity Futures Trading Commission ("Commission"), in accordance with section 5a(12) of the Commodity Exchange Act and acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that these proposals are of major economic significance. On behalf of the Commission, the Acting Division Director is requesting comment on these proposals.

DATES: Comments must be received on or before November 14, 1990.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to the amendments to the NYCE Two-Year U.S. Treasury Note futures contract and/or the amendments to the NYCE Five-Year U.S. Treasury Note futures contract.

FOR FURTHER INFORMATION CONTACT: Richard Shilts, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581; telephone (202) 254-7303.

SUPPLEMENTARY INFORMATION: The Exchange submitted proposed amendments for the two-year U.S. Treasury note futures contract and the five-year U.S. Treasury note futures contract that would:

(1) For both contracts, delete all rules relating to the current book-entry physical delivery system and replace

them with rules setting up a cash settlement system based upon the results obtained in the Treasury auction held during the calendar month in which the futures contract expires. The final cash settlement value shall be equal to 100 minus the stop-out yield as reported by the U.S. Treasury or its agent. The stop-out yield is the highest accepted by the Treasury in allocating the offering among competitive bidders at the Treasury auction.

(2) Increase the size of the trading unit for the two-year U.S. Treasury note futures contract to $500,000 from $200,000. Increase the size of the trading unit for the five-year U.S. Treasury note futures contract to $250,000 from $100,000.

(3) For each contract, change the pricing basis to an index based on the annual yield in basis points with a minimum allowable price fluctuation of ½ of 1 basis point (.005 of 1 percent of yield). The index shall be 100.00 minus the yield in basis points. This would replace the current pricing system based on a percentage of par and the minimum allowable price fluctuation of ¼ of 1/32 *i.e.*, 1/128) of 1 percent of par.

(4) For each contract, change the last trading day of expiring futures contracts to correspond to the day of the Treasury auction for the relevant Treasury note. Currently, the eighth last business day of the expiring contract month is the last trading day.

(5) For each contract, modify the provision for the spot month speculative position limit to reflect the size of the Treasury auction. Currently, the spot month speculative limit is 2,500 contracts effective two business days before the first delivery day. This existing limit would remain in effect throughout the expiring contract month under the proposal. However, effective on the business day following the announcement of the Treasury auction, the spot month speculative limit would be equal to the lesser of 2,500 contracts or 10 percent of the public offering amount announced by the Department of the Treasury.

In support of the proposals, the Exchange stated that:

> The Treasury issues debt on a regular basis so that the market will have a predictable schedule which should minimize the cost of issuing debt and maximize the capacity of the market to absorb such debt. Thus the dealers know what to expect, the amount of financing the Treasury needs to do, the maturity spectrum and when the issues will come to market. This information reduces the uncertainty when the Treasury comes to [illegible].
>
> The Treasury auctions notes on a yield basis. Competitive bidders bid yields to two decimal points for specific amounts of the issue.
>
> The stop out yield is determined by the bids the Treasury receives and the amount it needs to borrow. The average yield of those receiving an allocation is used to determine the coupon of the new note. The Treasury sets the coupon to the nearest ⅛ of 1% necessary to make the average price 100 or less. Once the coupon is set, each bidder is charged a price such that the yield to maturity on the security is equal to the bid yield. * * *
>
> * * * [I]nformation [about the auction] is widely disseminated through wire and news services. The official auction results are reliable, acceptable, publicly available and timely.

The Exchange further noted that there are several reasons why these contracts will not be subject to manipulation. In particular, the Exchange stated that:

> There is a broad participation in the auction process and there are no restrictions on who can participate in the auction. Primary dealers, banks, insurance companies, pension funds and corporations, foreign central banks and institutions as well as individuals with small amounts of money participate in the auctions * * *.
>
> There are limits on the amount of securities that any one entity can purchase through an auction. Individuals who bid noncompetitively are limited to one million dollars. Competitive bidders cannot takedown more that 35% of the public offering * * *.
>
> Primary dealers are expected to participate meaningfully in the auctions * * *. A dealer is expected to submit bids in every auction. At a minimum, the bids should be a percentage of the total being sold that is comparable to the dealer's share of total customer transaction volume reported to the Federal Reserve. A dealer is not required to be awarded a particular amount of securities, but the minimum amount of bids a dealer is expected to submit should be in a realistic price range relative to current market conditions * * *.
>
> The Federal Reserve does monitor positions of the primary dealers. Primary dealers must show the Federal Reserve Bank of New York a breakdown of their trading by type * * *.
>
> The stop-out yield is determined at the margin since it is the last accepted yield. There are no guarantees that a submitted bid will be the last bid accepted. Knowledge of the distribution and sizes of the bids for the total auction is not sufficient to guarantee that a bid will be the last accepted bid. This cash settlement procedure is not based on an average, where an abnormally low yield bid for a small amount of the issue could affect the computed average.
>
> To effectively manipulate the settlement procedure, it is necessary to take down the whole auction amount to guarantee setting the stop-out yield and to benefit from the manipulation it is necessary to have a long futures position in excess of the offering amount. This long futures positions, must be some multiple of the cash position to make the risk reward ratio worthwhile * * *.

On behalf of the Commission, the Division is seeking comment on the proposed amendments. In particular, the Division is seeking comment on the suitability of the proposed cash settlement of the subject Treasury note futures contracts based on the results of the stop-out yield at the U.S. Treasury auction, and whether this settlement procedure would be susceptible to price distortion or price manipulation.

Copies of the proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Copies of the amended terms and conditions of the Two-Year U.S. Treasury Note futures contract and the Five-Year U.S. Treasury Note futures contact can be obtained from the Office of Secretariat by mail at the above address, or by telephone at (202) 254–6314.

The materials submitted by the Exchange in support of the proposed amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR 145 (1987)). Requests for copies of such materials should be made to FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed amendments should send such material to Jean A Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, by the specified date.

Issued in Washington, DC, on October 9, 1990.

Paul M. Architzel,

Acting Director.

[FR Doc. 90-24175 Filed 10-12-90; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

Action: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number:

Police Record Check; DD Form 369; OMB Control Number 0704–0007.

Type of Request: Reinstatement.

Average Burden Hours/Minutes per Response: .033 hours.

Responses per Respondent: 1.

Number of Respondents: 141,400.

Annual Burden Hours: 4,666.

Annual Responses: 141,400.

Needs and Uses: Per sections 504, 505, and 520(a), title 10, U.S.C., applicants for enlistment must be screened to identify any discreditable involvement with police or other legal officials. Form is sent to FBI as part of the entrance National Agency Check. Results are used to determine general enlistment eligibility and job skill placement.

Affected Public: State and/or local governments.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Office: Dr. J. Timothy Sprehe.

Written comments and recommendations on the proposed information collection should be sent to Dr. J. Timothy Sprehe at Office of Management and Budget, Desk Officer, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written request for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202–4302.

Dated: October 9, 1990.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 90–24196 Filed 10–12–90; 8:45 am]

BILLING CODE 3810–01–M

Office of the Secretary

Meetings: DIA Advisory Board

AGENCY: Defense Intelligence Agency Advisory Board, Defense.

ACTION: Notice of cancellation of closed meeting.

SUMMARY: Notice is hereby given that the closed meeting of the DIA Advisory Board's DIA Modernization Panel scheduled for October 11, 1990, announced in the Federal Register on Tuesday, April 10, has been cancelled.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John G. Sutay, USAF, Chief, DIA Advisory Board Office, Washington, DC 20340–1328 (202/373–4930).

Dated: October 9, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–24195 Filed 10–12–90; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Privacy Act of 1974; New Record Systems

AGENCY: Department of the Army, DOD.

ACTION: Addition of Record Systems.

SUMMARY: The Department of the Army proposes to add two record systems to its inventory of record systems subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a). The system notices for the new systems are set forth below.

DATES: The proposed actions will be effective without further notice on November 14, 1990, unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to Ms. Alma Lopez, Office of Systems Management Branch (ASOP–MP) Ft. Huachuca, AZ 85613–5000.

SUPPLEMENTARY INFORMATION: The Department of the Army record system notices subject to the Privacy Act of 1974, as amended, have been published in the Federal Register as follows:

50 FR 22090, May 29, 1985 (DoD Compilation, changes follow)
51 FR 23576, Jun. 30, 1986
51 FR 30900, Aug. 29, 1986
51 FR 40479, Nov. 7, 1986
51 FR 44361, Dec. 9, 1986
52 FR 11847, Apr. 13, 1987
52 FR 18796, May 19, 1987
52 FR 25905, Jul. 9, 1987
52 FR 32329, Aug. 27, 1987
52 FR 43932, Nov. 17, 1987
53 FR 12971, Apr. 20, 1988
53 FR 16575, May 10, 1988
53 FR 21509, Jun. 8, 1988
53 FR 28247, Jul. 27, 1988
53 FR 28249, Jul. 27, 1988
53 FR 28430, Jul. 28, 1988
53 FR 34576, Sep. 7, 1988
53 FR 49586, Dec. 8, 1988
53 FR 51580, Dec. 22, 1988
54 FR 10034, Mar. 9, 1989
54 FR 11790, Mar. 22, 1989
54 FR 14835, Apr. 13, 1989
54 FR 46963, Nov. 8, 1989
54 FR 50368, Dec. 5, 1989
55 FR 13535, Apr. 13, 1990
55 FR 21897, May 30, 1990 (Army Address Directory)

The new systems reports, as required by 5 U.S.C. 522a(r), of the Privacy Act was submitted on October 2, 1990, to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget (OMB) pursuant to paragraph 4b of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 1985 (50 FR 52730, December 24, 1985).

Dated: October 9, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0690–400CE

SYSTEM NAME:

Corps of Engineers Automated Legal System (CEALS) Training Information Program.

SYSTEM LOCATION:

Main data base is the Corps of Engineers Automated Legal System computer, Army Engineer Automation Support Activity, 2500 First Street NW, Washington, DC 20001–1022, with input and access locations at Corps of Engineers field operating offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Corps of Engineers legal services employees in the headquarters and field operating offices.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to training courses completed by employees of the Corps of Engineers legal services offices. The system will provide a variety of data, training courses, conference or seminar subjects, training sources, costs and attendee's views and comments. Data stored within the system will include, but not be limited to, employee's name, office, office telephone number, and job series; training vendor's name, training location, training subject matter; course title and number; tuition cost; training dates; course evaluation and course referral.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4101, et seq., Government Employees Training Act of 1958; and Executive Order 9397.

PURPOSE(S):

To provide an automated system that will allow the Corps of Engineers legal services office to identify worthwhile, relevant and cost effective training opportunities; to assist in budget preparation and execution; to plan training; and to assist in developing and tracking budgets.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tapes/disks and printouts.

RETRIEVABILITY:

By individual's name, telephone number, office symbol, and job series; training vendor and location; training course title; subject area; tuition; referral and value.

SAFEGUARDS:

Access is restricted to authorized users in Corps of Engineers legal field operating offices. Computer records are maintained in a building protected by security guards. Printed records in field operating offices will be kept in locked offices.

RETENTION AND DISPOSAL:

Records will be retained for 5 years from the time they are entered into the data base, and then purged from the system.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Counsel, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, NW, Washington, DC 20314–1000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this record system should address written inquiries to the Chief Counsel, U.S. Army Corps of Engineers, ATTN: CECC–C, 20 Massachusetts Avenue, NW, Washington, DC 20314–1000.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the Chief Counsel, U.S. Army Corps of Engineers, ATTN: CECC–C, 20 Massachusetts Avenue, NW, Washington, DC 20314–1000.

CONTESTING RECORD PROCEDURE:

The Army's rules for accessing records and for contesting contents and appealing initial agency determinations are contained in Department of the Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Corps of Engineers Legal Services employees who have completed training.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A1110CE

SYSTEM NAME:

Recreational Use and Expenditure Survey on or Adjacent to Navigable Waters.

SYSTEM LOCATION:

Office of the Chief of Engineers, Headquarters, Department of the Army, 20 Massachusetts Avenue NW, Washington, DC 20314–1000 and the Engineer Division and District Offices. Official mailing addresses are published as an appendix to the Army's compilation of record system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Voluntary participants in recreational use and expenditure surveys on or adjacent to navigable waters.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, address, telephone number, county, survey ID, recreation activities, quantities of and expenditures for durable goods such as boating, fishing, hunting, and camping equipment, and ancillary support facilities such as boat lifts; expenditures for nondurable goods such as food, lodging, fishing, boating, hunting services and other expenses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

16 U.S.C. 460d, 33 U.S.C. 652 and 42 U.S.C. 1962.

PURPOSE(S):

To identify and evaluate recreation use and expenditures for impact assessment in environmental assessments, and environmental impact statements. Evaluations will be made for both existing and proposed projects.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING USERS AND PURPOSES OF SUCH USES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file cabinets and on magnetic tape or optical systems.

RETRIEVABILITY:

Records are retrieved by response number or by the participant's name.

SAFEGUARDS:

Records are maintained in areas accessible only to authorized persons having official need therefor. Records are housed in buildings protected by security guards or locked when not in use. Information in automated media is further protected by physical security devices: Access to or update of information in the system is protected through a system of passwords thereby preserving integrity of data.

RETENTION AND DISPOSAL:

Records are destroyed two years after termination of the study.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Chief of Engineers, Headquarters, Department of the Army, 20 Massachusetts Avenue NW., Washington, DC 20314–1000. Official mailing addresses are published as an appendix to the Army's compilation of record system notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Office of the Chief of Engineers, Headquarters, Department of the Army, 20 Massachusetts Avenue NW., Washington, DC 20314–1000.

Individual must provide full name, present address and telephone number, response number, specifics concerning the type of survey, if known, and the request must be signed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should write to the Office of the Chief of Engineers, Headquarters, Department of the Army, 20 Massachusetts Avenue NW., Washington, DC 20314–1000.

Individual must provide full name, present address and telephone number, response number, specifics concerning the type of survey, if known, and the request must be signed.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Department of the Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual and Army records and/or reports.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 90-24187 Filed 10-12-90; 8:45 am]
BILLING CODE 3810-01-M

DELAWARE RIVER BASIN COMMISSION

Proposed Amendment of Project Review Filing Fee Schedule

AGENCY: Delaware River Basin Commission.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: Notice is hereby given that the Delaware River Basin Commission will hold a public hearing in accordance with this notice to receive comments on proposed amendments to its schedule of project review filing fees for review of water resources projects.

DATES: The public hearing will be held on December 12, 1990 at 1:30 p.m.

ADDRESSES: The hearing will be held in the Goddard Conference Room of the Commission's offices at 25 State Police Drive, West Trenton, New Jersey. Written comments should be submitted to Susan M. Weisman, Commission Secretary, Delaware River Basin Commission, P.O. Box 7360, West Trenton, New Jersey 08628.

FOR FURTHER INFORMATION CONTACT: Susan M. Weisman, Commission Secretary, Delaware River Basin Commission, Telephone (609) 883–9500.

SUPPLEMENTARY INFORMATION: On June 28, 1972, the Commission adopted a regulation requiring that a filing fee be paid to the Commission at the time of filing applications pursuant to Section 3.8 of the Delaware River Basin Compact. Staff time and other costs incurred by the Commission in reviewing water resources projects proposed by other public agencies, private entities and individuals had become substantial and it was deemed timely and in the public interest to initiate a program of allocating a portion of the project review costs to the applicant or project sponsor. On April 23, 1975, the Commission amended the filing fee regulation by increasing the level of filing fees in recognition of the fact that revenues obtained from the filing fees since 1972 amounted to considerably less than the cost of administering the Commission's project review program. Although fee levels were increased, government agencies continued to be exempt from such filing fees.

At this time, the Commission is proposing amendments to its schedule of project review filing fees to make the project review program more self-sustaining. Proposed revision would: require filing fees for project review pursuant to Section 3.8 and Article 10 of the Delaware River Basin Compact; no longer exempt government agencies from such filing fees; and establish a new fee schedule, increasing the minimum fee to $1,000 for any project requiring Commission action. In addition, each substantial project modification following Commission action would require an additional filing fee.

The subject of the hearing will be as follows:

Amendment of Project Review Filing Fee Schedule

The proposed amendment would read as follows:

1. A filing fee shall be paid to the Commission, according to the schedule herein, at the time of filing each application for project review, pursuant to Section 3.8 and Article 10 of the Delaware River Basin Compact.

2. The project review filing fee is the greater of (a) or (b) as follows:

(a) minimum fee: $1,000 for any project that requires Commission action;

(b) alternative fee:

(1) 1/10 of 1% of project cost to $10,000,000;

(2) 1/20 of 1% of remaining cost above $10,000,000 but not to exceed a maximum fee of $50,000 as to any one project.

3. The project cost shall include the estimated costs of design, supervision of construction, legal services, contract administration, land, materials, equipment, construction and fabrication.

4. Revenues received pursuant to this regulation shall go into the Commission's general fund and be subject to specific appropriation by the Commission.

5. Each substantial project revision or modification following Commission action requires an additional filing fee.

6. These amendments become effective January 1, 1991.

Authority: Delaware River Basin Compact, 75 Stat. 688.

Dated: October 3, 1990.

Susan M. Weisman,

Secretary.

[FR Doc. 90–24170 Filed 10–12–90; 8:45 am]

BILLING CODE 6360–01–M

DEPARTMENT OF EDUCATION

National Advisory Committee on Accreditation and Institutional Eligibility; Meeting

AGENCY: National Advisory Committee on Accreditation and Institutional Eligibility, Education.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the proposed agenda of a meeting of the National Advisory Committee on Accreditation and Institutional Eligibility. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of its opportunity to attend and to extend an invitation to interested third parties to present comments on petitions for recognition of accrediting and state approval bodies.

DATES AND TIMES: November 13, 14, and 15—8:30 a.m. until 5 p.m.

LOCATION: To be announced in a further notice.

FOR FURTHER INFORMATION CONTACT: Steven G. Pappas, Executive Director, National Advisory Committee on Accreditation and Institutional Eligibility, U.S. Department of Education, 400 Maryland Avenue, SW., room 3915, ROB–3, Washington, DC 20202–5151, (202) 708–8888.

SUPPLEMENTARY INFORMATION: The National Advisory Committee on Accreditation and Institutional Eligibility is established under section 1205 of the Higher Education Act as amended by Public Law 98–374 (20 U.S.C. 1145). The Committee advises the Secretary of Education regarding his responsibility to publish a list of nationally recognized accrediting agencies and associations, State agencies recognized for the approval of public postsecondary vocational education, and State agencies recognized for the approval of nurse education. The Committee also advises the Secretary of Education on policy matters concerning recognition of accrediting and State approval bodies and institutional eligibility for participation in Federally funded programs.

AGENDA: The meeting on November 13–15 is open to the public. The Advisory Committee will review petitions and interim reports of accrediting agencies and State approval bodies related to continued recognition by the Secretary of Education. The Committee also will hear presentations by representatives of these following petitions and interims reports are scheduled to be reviewed:

1. Petitions for Renewal of Recognition as Nationally Recognized Accrediting Agencies and Associations

Accrediting Bureau of Health Education Schools.

Accrediting Council for Continuing for Education and Training, Accrediting Commission.

American Association for Marriage and Family Therapy, Commission on Accreditation for Marriage and Therapy Education.

American Medical Association, CAHEA: in cooperation with—Accreditation Review Committee for Educational Programs in Surgical Technology.

American Council for Construction Education.

American Speech-Language-Hearing Association, Educational Standards Board.

Association of Independent Colleges and Schools, Accrediting Commission.

Computing Sciences Accreditation Board, Inc., Computer Sciences Accreditation Commission.

Liaison Committee on Medical Education of the Council on Medical Education of the American Medical Association and the Executive Council of the Association of American Medical Colleges.

Middle States Association of Colleges and Schools, Commission on Higher Education.

Middle States Association of Colleges and Schools, Commission on Secondary Schools.

National Association of Schools of Theatre.

National Association of Trade and Technical Schools, Accrediting Commission.

National Home Study Council, Accrediting Commission.

New York State Board of Regents.

Southern Association of Colleges and Schools, Commission on Colleges.

Straight Chiropractic Academic Standards Association, Inc., Commission on Accreditation

U.S. Catholic Conference, Commission on Certification and Accreditation.

Western Association of Schools and Colleges, Accrediting Commission for Schools.

2. Interim Reports from National Recognized Accrediting Agencies and Associations /

Accrediting Council on Education in Journalism and Mass Communications, Accrediting Committee.

American Assembly of Collegiate Schools of Business, Accreditation Council.

American Association of Bible Colleges, Commission on Accrediting.

American Bar Association, Council of the Section of Legal Education and Admission to the Bar.

American Medical Association, CAHEA: in cooperation with—Committee on Accreditation of Specialist in Blood Bank Technology Schools, American Association of Blood Banks.

Curriculum Review Board, American Association of Medical Assistants' Endowment.

Cytotechnology Programs Review Committee, American Society of Cytology.

Joint Review Committee on Education Programs for the EMT-Paramedic.

Joint Review Committee on Education in Diagnostic Medical Sonography.

Joint Review Committee on Education in Radiologic Technology.

National Accrediting Agency for Clinical Laboratory Sciences.

American Optometric Association, Council on Optometric Education.

American Podiatric Medical Association, Council on Podiatric Medical Education.

American Psychological Association, Committee on Accreditation.

National Architectural Accrediting Board.

Southern Association of Colleges and Schools, Commission on Occupational Education Institutions.

Western Association of Schools and Colleges, Accrediting Commission for Senior Colleges and Universities.

3. Petitions for Renewal of Recognition as State Agencies for the Approval of Public Postsecondary Vocational Education

Minnesota State Board of Vocational-Technical Education.

Missouri State Board of Education.

New York State Board of Regents.

Utah State Board for Vocational Education.

Office of the Superintendent of Public Instruction, State of Washington.

4. Interim Reports From State Agencies For the Approval of Public Postsecondary Vocational Education

Arkansas State Board of Education.

5. Petitions for Renewal of Recognition as a State Agencies for the Approval of Nurse Education

Maryland State Board of Examiners of Nurses.

Missouri State Board of Nursing.

New York State Board of Regents, Nursing Education Unit.

Note: The Department urges third parties interested in commenting on any of the agencies and associations scheduled for review to submit their comments in writing by November 1, to Mr. Pappas at the above address.

While the Committee is required to accept all written materials up through the date of its meeting, the Committee strongly urges that written comments be submitted by November 1, to facilitate the work of the Committee by providing for advance review and analysis of third party positions. All petitions, interim reports, and those third party comments received in advance of the meeting will be available for public inspection in room 3036, ROB-3, 7th & D Street SW., Washington, DC between the hours of 8 a.m. and 4:20 p.m., Monday through Friday.

Also, requests for oral presentations before the Advisory Committee should be submitted in writing to Mr. Pappas by November 1, 1990. Requests should include names of all persons seeking an appearance, the organization they represent, and the purpose for which the presentation is requested. Time constraints may limit oral presentations.

The acceptance of written and oral third party comments is limited to issues relevant to an accrediting or State agency's compliance with the Secretary's recognition regulations (Criteria for Recognition).

A record will be made of the proceedings of the meeting and will be available for public inspection at the Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 3036, ROB-3) Washington, DC between the hours of 8 a.m. and 4:30 p.m. Monday through Friday.

Authority: 5 U.S.C.A. Appendix 2.

Dated: October 9, 1990.

Leonard L. Haynes III,

Assistant Secretary for Postsecondary Education.

[FR Doc. 90-24192 Filed 10-12-90; 8:45 am]

BILLING CODE 4000-01-M

Subject Area Committees #1 and #2; Teleconference

AGENCY: National Assessment Governing Board, Education.

ACTION: Notice of meetings.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming teleconference meetings of the Subject Area Committee #1, and the Subject Area Committee #2 of the National Assessment Governing Board. Notice of these meetings are required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: October 17, 1990, Subject Area Committee #1. October 18, 1990, Subject Area Committee #2.

TIME: 11 a.m. (e.d.t.), both dates.

PLACE: National Assessment Governing Board, Suite 7322, 1100 L Street, NW., Washington, DC, 20005-4013, Telephone: (202) 357-6938.

SUPPLEMENTARY INFORMATION:

CONTACT: The National Assessment Governing Board is established under section 406(i) of the General Education Provisions Act (GEPA) as amended by section 3403 of the National Assessment of Education Progress Improvement Act (NAEP Improvement Act), title III-C of the Augustus F. Hawkins—Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100-297), (20 USC 1221e-1).

The Board is established to advise the Commissioner of the National Center for Education Statistics on policies and actions needed to improve the form and use of the National Assessment of Educational Progress, and develop specifications for the design, methodology, analysis, and reporting of test results. The Board also is responsible for selecting subject areas to be assessed, identifying the objectives for each age and grade tested, and establishing standards and procedures for interstate and national comparisons. The Subject Area Committees of the National Assessment Governing Board will meet via teleconference on October 17, and October 18, 1990. Subject Area Committee #1 will meet on October 17, 1990 from 11 a.m. (e.d.t.) until the completion of business. Subject Area Committee #2 will meet on October 18, 1990 from 11 a.m. (e.d.t.) until the completion of business. Because these are teleconference meetings, facilities will be provided so the public will have access to the Committees' deliberations. The purpose of each meeting is to act on the Board's behalf to approve the final test items to be included in the 1991 field tests of the 1992 reading, writing, and mathematics assessments. Subject Area Committee #1 will review and approve the reading and writing items. Subject Area Committee #2 will review and approve the mathematics items. Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite 7322, 1100 L. Street, NW., Washington, DC., from 8:30 a.m. to 5 p.m.

Christopher T. Cross,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 90-24363 Filed 10-12-90; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Intent To Prepare an Environmental Impact Statement and Conduct a Public Scoping Meeting for the Proposed Hopkins CFB Repowering Project

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS), and to conduct a public scoping meeting to assess the environmental effects of the construction and operation of the proposed Circulating Fluidized Bed (CFB) Boiler at the Arvah B. Hopkins Station, Tallahassee, Florida.

SUMMARY: DOE announces its intent to prepare an EIS pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended, to evaluate the environmental impacts of the proposed construction and operation of a project proposed by the City of Tallahassee (CoT) in Florida. The proposed project involves repowering the Arvah B. Hopkins Generating Station Unit 2, a nominal 250-megawatt electric (MWe), natural gas-fired or oil-fired, boiler with a coal-fired atmosphere CFB boiler to provide steam to an existing turbine generator.

Preparation of the EIS will be in accordance with NEPA, the Council on Environmental Quality (CEQ) NEPA regulations (40 CFR 1500-1508), and the DOE NEPA guidelines (52 FR 47662, December 15, 1987). The purpose of this Notice is to invite public participation in the process that DOE will follow to comply with NEPA and to solicit public comments on the proposed scope and content of the EIS.

INVITATION TO COMMENT AND DATES: To ensure that the full range of issues related to this proposal are addressed, DOE invites comments on the proposed scope and content of the EIS from all interested parties. Written comments or suggestions to assist DOE in identifying significant environmental issues and the appropriate scope of the EIS will be considered in preparing the draft EIS and should be postmarked by November 14, 1990. Written comments postmarked after that date will be considered to the degree practicable.

DOE will also hold a public scoping meeting in which agencies, organizations, and the general public are invited to present oral comments or suggestions. The location, date, and time for the scoping meeting are provided in the section of this Notice entitled Scoping Meeting. Written and oral comments will be given equal weight and will be considered in determining the scope of the draft EIS. When the draft EIS is completed, its availability will be announced in the Federal Register, and public comments will again be solicited. Comments on the draft EIS will be considered in preparing the final EIS. Requests for copies of the draft and/or final EIS, or questions concerning the project, should be sent to Mr. Bruce J. Bevinger at the address noted below.

ADDRESS: Written comments or suggestions on the scope of the EIS, requests to speak at the scoping meeting, or questions concerning the project, should be directed to:

Bruce J. Bevinger, Environmental Specialist D06, U.S. Department of Energy, Morgantown Energy Technology Center (METC), P.O. Box 880, Morgantown, WV 26505, Telephone: (304) 291-4379. Envelopes should be labeled "Scoping for COT EIS."

FOR FURTHER INFORMATION CONTACT: For general information on the EIS Process, please contact:

Ms. Carol M. Borgstrom, Director, Office of NEPA Oversight (EH-25), U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20585, Tel. (202) 586-4600.

SUPPLEMENTARY INFORMATION:

Background and Need for the Proposed Action

Under terms of Public Law No. 99-190, Congress provided approximately $400 million to DOE to support the construction and operation of demonstration facilities selected for funding as part of DOE's CCT Demonstration Program. The CCT projects cover a broad spectrum of technologies having the following things in common: (1) all are intended to increase the use of coal in an environmentally acceptable manner and (2) all are ready to be proven at the demonstration level.

On February 17, 1988, DOE issued Program Opportunity Notice (PON) Number DE-PS01-88FE20986 for Round I of the CCT program, soliciting proposals to conduct cost-shared projects to demonstrate both "new" and "retrofit" applications of clean coal technologies, whether intended to displace oil and natural gas or to utilize coal more cleanly, efficiently, and/or economically than presently available (at the time of issuance of the PON) technology. In response to the solicitation, 51 proposals were received, including the City of Tallahassee's Hopkins CFB Repowering Project. Nine projects were selected by

DOE for negotiation in July 1990. In addition, a list of alternate candidates was established from which replacement selections could be made, should any of the original nine projects not proceed. On June 22, 1989, the aforementioned proposal by the CoT was selected for negotiation from the list of alternate candidates.

The CoT requested financial assistance from DOE to construct and operate the Hopkins CFB Repowering Project, which involves the repowering of the Unit 2 nominal 250-MWe natural gas-fired or oil-fired boiler with a coal-fired atmospheric CFB boiler to provide steam to an existing turbine generator. The boiler will be the largest of its type in the world. After construction and shakedown, Hopkins Unit 2 with its CFB boiler will be operated for a 24-month demonstration period, burning three or more different eastern coals. Final coal selection will be based on a fuels selection study to be completed early in the project. Cost, environmental, and technical data from the Hopkins CFB Project will be developed for use by the utility industry in evaluating this technology as a commercially viable power generation alternative.

Proposed Action

The DOE proposes to provide cost-shared funding to the City of Tallahassee for the construction and operation of the Hopkins CFB Repowering Project. The objective of the Hopkins CFB Repowering Project is to demonstrate the feasibility of using a CFB boiler for generating electricity from coal and to evaluate the technology with regard to performance that is efficient, economical, and environmentally acceptable. The work to be performed under the Cooperative Agreement between the CoT and DOE includes the design, construction, and operation of the demonstration project. The total cost of the project scope to be shared by the Government is estimated at $277 million, with DOE's share being approximately $75 million, or 27 percent of the total. Construction of the project is scheduled to begin in June 1992. Operation of the project during the 24-month demonstration period, scheduled to begin in November 1995, would provide the information and experience needed for future applications of the CFB technology at large scale commercial operations.

The existing 2-unit Hopkins power plant is located on a 230-acre site in Leon County, approximately 7.5 miles (12 km) west of the city of Tallahassee and approximately 1 mile north of the community of Norfleet. The plant consists of two oil/gas dual fuel steam boilers that each drives a steam turbine electric generator. There are also two combustion gas turbine electric generators that are used for peaking operations during high load periods. Combustion Gas Turbine 1 was installed in 1970 and can generate 16 MWe, and Combustion Gas Turbine 2 was installed in 1977 and has a 27-MWe capacity. The Hopkins plant also includes two evaporative cooling towers, fuel oil storage tanks, two exhaust stacks, an electrical switchyard, water supply wells, water treatment ponds, storage areas, and offices. Unit 1 has a 76-MWe capacity and was installed in 1971. Unit 2, which was installed in 1977 with a nominal 250-MWe capacity, will be repowered with a CFB boiler of the same nominal capacity.

The site is located atop a low east-west trending ridge in an area of low rolling terrain that once was shoreline sand dunes. The elevation differences in the area are small. Higher elevations tend to have sandy soil and are generally well drained, while lowland areas may be seasonally wet and/or subject to occasional flooding. The terrain supports various vegetation communities, depending on the elevation and soil type. Much of the surrounding area is forested with mature stands of deciduous and coniferous trees. The site property is bordered to the north and south by two small stream channels. The area around the site is primarily rural land, with some low-density residential development approximately 1 mile east and south of the plant. A main branch of the Seaboard Coast Line Railroad borders the site on the northeast.

The Hopkins CFB Repowering Project will occupy approximately 118 acres of the existing 230-acre site and will include the following additions to the existing power plant:

- A coal handling system to receive, store, crush, and convey coal.
- Limestone handling and sizing equipment.
- Repowering of the gas/oil-fueled steam generator with a CFB boiler.
- A baghouse to collect particulates.
- A stack to handle an increased volume of exhaust gas from burning coal.
- An ash storage and disposal system.
- A clay-lined coal pile and ash disposal runoff control system.
- Installation of new plant instrumentation and control system.

Alternatives

Under its authority pursuant to Pub. L. 99-190, DOE is presented with only two alternatives: (1) To cooperatively fund the proposed project; and (2) to decline to fund it (the "no action" alternative). In the latter case, the project would not contribute to the objective of the CCT program, which is to make available to the U.S. energy marketplace a number of advanced, more efficient, economically feasible, and environmentally acceptable, coal technologies. The facility probably would not be constructed and operated; therefore, potential environmental impacts resulting from the project would not occur.

DOE acknowledges the obligation to examine reasonable alternatives which are beyond its immediate authority to implement, but which could also meet the objectives of the CCT Program. DOE is requesting public comment on reasonable alternatives to the Hopkins CFB Repowering Project.

A Final Programmatic Environmental Impact Study (PEIS) for the CCT program was issued by DOE in November 1989 (DOE/EIS-0146). Two alternatives were evaluated in the PEIS: (1) The "no action" alternative, which assumed that the CCT program was not continued and that conventional coal-fired technologies with flue gas desulfurization and NO_x controls to meet New Source Performance Standards would continue to be used; and (2) the proposed action, which assumed that CCT projects were selected and funded, and that successfully demonstrated technologies would undergo widespread commercialization by the year 2010.

Identification of Environmental Issues

The following issues associated with the construction and operation of the Hopkins CFB Repowering Project will be considered in detail by DOE during its evaluation. This list is neither intended to be all inclusive, nor is it a predetermination of potential impacts. Additions to or deletions from this list may occur as a result of the scoping process.

(1) Air Quality: The effects of air emissions within the region surrounding the site.

(2) Water Resources and Water Quality: The qualitative and quantitative effects on water resources and other water users in the region.

(3) Socioeconomics: Potential bearing on communities that might be affected by the project.

(4) Land use: The potential consequences to land, utilities, transportation routes, and traffic patterns resulting from the project.

(5) Solid Waste: The environmental effects of generation, treatment, transport, storage, and disposal of solid wastes.

(8) Biological Resources: Potential disturbance or destruction of species, including the potential effects on threatened or endangered species of flora and fauna.

(7) Cultural Resources: Potential effects on historical, archaeological, scientific, or culturally important sites.

(8) Cumulative Impacts: NEPA requires that the EIS evaluate the potential cumulative effects of the various alternatives in relation to the past, present, and foreseeable future development (of any kind), both on-site and off-site. Cumulative impacts will be evaluated within the EIS for all important issues in the vicinity of the site.

Issues that are not considered significant will be discussed in less detail, or as appropriate to clarify and distinguish impacts among alternatives.

NEPA and the Scoping Process

DOE will comply with the NEPA process as outlined in the Council on Environmental Quality's Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR 1500–1508) and DOE's Guidelines for Compliance with the National Environmental Policy Act (52 FR 47662, December 15, 1987).

Scoping, which is an integral part of the NEPA process, is a procedure that solicits public input to the EIS process to ensure that: (1) Issues are identified early and properly studied; (2) issues of little significance do not consume time and effort; (3) the draft EIS is thorough and balanced; and (4) delays occasioned by an inadequate draft EIS are avoided (40 CFR 1501.7). The scope of issues to be addressed in a Draft EIS will be determined from written comments submitted by mail, or comments presented orally or in writing at the public scoping meeting. The results of the scoping process will be incorporated into a document called an Implementation Plan, which provides guidance for the preparation of an EIS.

The above preliminary identification of reasonable alternatives and environmental topics is not meant to be exhaustive or final. There will be some reasonable alternatives and potential environmental topics that, although not specified above, will be evaluated as part of the NEPA analysis and will be discussed in the EIS. DOE identified the reasonable alternatives and potential environmental topics shown above based on its experience with similar subjects that have been raised for other comparable DOE projects. DOE considers the scoping process to be open and dynamic in the sense that alternatives other than those given above may warrant examination, and new matters may be identified for potential evaluation. Interested parties are invited to participate in the scoping process to both refine the preliminary alternatives and environmental topics to arrive at significant issues to be analyzed in depth, and to eliminate from detailed study those alternatives and environmental matters that are not significant or pertinent.

The scoping process will involve all interested agencies (Federal, State, County, and local) groups, and members of the public. Comments are invited on both the alternatives and the topics to be considered in the EIS. A public scoping meeting will be held at the location on the date and at the time indicated below. This scoping meeting will be informal, with a presiding officer designated by DOE who will establish procedures governing the conduct of the meeting.

Scoping Meeting

In addition to receiving written comments, DOE will conduct a public scoping meeting to assist DOE in determining the appropriate scope of the EIS and the significant environmental issues to be addressed. The meeting is scheduled as follows:

Date: Tuesday, October 30, 1990
Time: 7:00 P.M.
Place: City Hall Commissioners Chambers, 300 South Adams Street, Tallahassee, Florida

The meeting will not be conducted as an evidentiary hearing, and those who choose to make statements may not be cross-examined by other speakers. To ensure that everyone who wishes to speak has a chance to do so, five minutes will be allotted to each speaker. Depending on the number of persons requesting to be heard, DOE may allow longer times for representatives of organizations. Persons wishing to speak on behalf of an organization should identify that organization in their request to speak. Persons who have not submitted a request to speak in advance may register to speak at the scoping meeting. They will be called on to present their comments as time permits. Both oral and written comments will be considered and will be given equal weight by DOE.

A complete transcript of the public scoping meeting will be retained by DOE and made available for inspection during business hours, Monday through Friday, at the Department of Energy Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, and at the Department of Energy, Morgantown Energy Technology Center, P.O. Box 880, 3610 Collins Ferry Road, Morgantown, West Virginia 26505. Additional copies of the public scoping meeting transcript will also be made available during normal business hours at the following location:

City of Tallahassee, Electric Department, City Hall, 300 South Adams Street, Tallahassee, Florida.

In addition, copies of the public scoping meeting transcript will be made available for purchase. Those interested parties who do not wish to submit comments or suggestions at this time, but who would like to receive a copy of the Draft EIS when it is prepared, should notify Bruce J. Buvinger, Environmental Specialist, Morgantown Energy Technology Center, at the address given in the INVITATION TO COMMENT AND DATES section of this Notice.

Signed in Washington, DC, this 11th day of October 1990, for the United States Department of Energy.

Paul L. Elsner,

Assistant Secretary, Environment, Safety and Health.

[FR Doc. 90-24305 Filed 10-12-90; 8:45 am]

BILLING CODE 6450-01-M

[Number DE-PS07-90ID13022]

Amendment No. 1 to Solicitation for Financial Assistance; Participation in the Department of Energy Electric and Hybrid Vehicle Site Operator Program

The U.S. Department of Energy (DOE), Idaho Operations Office, published a complete solicitation in the Federal Register (Vol. 55, No. 180, Page Numbers 38134 through 38137) on September 17, 1990, which requested applications on the basis of open competition, for cost sharing the test and evaluation of electric hybrid vehicles in support of its Electric and Hybrid Vehicle (EVH) Program. The purpose of Amendment No. 1 is to change the due dates contained therein (on Page No. 38137), as follows:

1. Applications are now due, 4 p.m., Mountain Daylight Time, November 16, 1990. Late applications will still be handled in accordance with 10 CFR 600.13.

2. Written questions regarding the solicitation are now due on October 19, 1990.

3. Selection is now expected to be made November 29, 1990.

4. Award(s) (earliest) is now expected to be made January 11, 1990.

Contact: Dallas L. Hoffer, Contracts Management Division, U.S. Department of Energy, Idaho Operations Office, 785

BEST COPY AVAILABLE

DOE Plant, Idaho Falls, Idaho 83402-2128.

E. Jeffrey Heyler,

Acting Director, Contracts Management Division.

[FR Doc. 90-24240 Filed 10-12-90; 8:45 am]

BILLING CODE 6450-01-M

Voluntary Agreement and Plan of Action to Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)), the following meeting notice is provided:

A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on Monday, October 22, 1990, at the offices of the Organization for Economic Cooperation and Development (OECD), 2, rue Andre Pascal, Paris, France, beginning at 9:30 a.m. The purpose of this meeting is to permit attendance by representatives of U.S. company members of the IAB at a meeting of the IEA's Standing Group on Emergency Questions (SEQ), which is scheduled to be held at the aforesaid location on that date.

The agenda for the meeting is under the control of the SEQ. It is expected that the following draft agenda will be followed:

Agenda

1. Adoption of the agenda.
2. Summary Record of SEQ Meeting of September 24, 1990.
3. IAB Meeting of October 18, 1990.
4. The Emergency Response Potential of IEA/OECD Countries (Draft Report by the SEQ to the IEA Government Board Meeting of October 31, 1990).
5. Emergency Reserve and Net Import Situation of IEA Countries.

—Emergency Reserve and Net Import Situation of IEA Member countries on July 1, 1990.

6. Emergency Data Systems.

—Simplification of Questionnaire C.
—Questionnaire B Data Quality.
—Base Period Final Consumption 2Q89-1Q90; Base Period Final Consumption 3Q89-2Q90.
—Monthly Oil Statistics to June 1990; Monthly Oil Statistics to July 1990.

7. Quarterly Oil Forecast 4Q90/3Q90.
8. Any of other business.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, the meeting is open only to representatives of members of the IAB, their counsel, representatives of the Departments of Energy, Justice, State, the Federal Trade Commission, and the General Accounting Office, representatives of Committees of the Congress, representatives of the IEA, representatives of members of the SEQ, representatives of the Commission of the European Communities, and invitees of the IAB, or the IEA.

Issued in Washington, DC, October 9, 1990.

Stephen A. Wakefield,

General Counsel.

[FR Doc. 90-24242 Filed 10-12-90; 8:45 am]

BILLING CODE 6450-01-M

Advisory Committee on Nuclear Facility Safety; Notice of Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Advisory Committee on Nuclear Facility Safety.

Date and Time: Tuesday, October 30, 1990, 8 a.m. to 6 p.m. Wednesday, October 31, 1990, 8 a.m. to 1 p.m.

Place: U.S. Department of Energy, Forrestal Building, room 1E-257, 1000 Independence Ave., SW., Washington, DC 20585.

Contact: Wallace R. Kornack, Executive Director, ACNFS, AC-21, 1000 Independence Ave., SW., Washington, DC 20585, 202/586-1770.

Purpose of the Committee: The Committee was established to provide the Secretary of Energy with advice and recommendations concerning the safety of the Department's production and utilization facilities, as defined in section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014).

Tentative Agenda

October 30, 1990

8 a.m.: Chairman John F. Ahearne Opens Meeting; Review of selected technical issues.
Noon: Lunch.
1 p.m.: Review of facility safety issues.
5:30 p.m.: Public comments.
6 p.m.: Meeting adjourned until next day.

October 31, 1990

8 a.m.: Review of selected technical issues; Committee Business; Subcommittee Reports.
1 p.m.: Meeting ends.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Wallace Kornack at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading room, 1E-190, Forrestal Building, 1000 Independence Ave., SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on October 10, 1990.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 90-24244 Filed 10-12-90; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. EL90-6-000, et al.]

Illinois Power Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

October 4, 1990.

Take notice that the following filings have been made with the Commission:

1. Illinois Power Co.

[Docket No. EL90-6-000]

Take notice that on October 1, 1990, Illinois Power Company tendered for filing its revised refund report in the above referenced docket.

Comment date: October 18, 1990, in accordance with Standard Paragraph E at the end of this notice.

2. Gulf States Utilities Co.

[Docket No. ER90-578-000]

Take notice that Gulf States Utilities Company (Gulf States) on September 26, 1990, tendered for filing a description of an oral agreement between Gulf States and Alabama Electric Cooperative, Inc. (AEC) for the short-term sale of up to 200 MW of replacement energy at a rate of 21.54 mills/kwh beginning September 8, 1990. On September 26, 1990, Gulf States supplemented this filing by tendering for filing a copy of a letter agreement between Gulf States and AEC memorializing the term of the oral agreement.

Gulf States states that it and AEC are currently negotiating an Interchange Agreement which, among other things, would provide for the sale and purchase of replacement energy. However, the negotiation of the Interchange Agreement will not be completed in time to allow for the short-term transaction beginning September 8, 1990.

Pursuant to § 35.11 of the Commission's regulations, Gulf States requests an effective date for the letter agreement of September 8, 1990, the date on which the short-term sale began. Gulf States requests a waiver of the notice requirements of the Federal Power Act

and the Commission's regulations to allow this effective date.

Copies of the filing were served on Alabama Electric Cooperative, Inc.

Comment date: October 18, 1990, in accordance with Standard Paragraph E at the end of this notice.

3. Multitrade Limited Partnership

[Docket No. ER90-485-000]

Take notice that on September 24, 1990, Multitrade Limited Partnership tendered for filing its response to Staff's request for additional information in the above referenced docket.

Comment date: October 18, 1990, in accordance with Standard Paragraph E at the end of this notice.

4. Northeast Utilities Service Co.

[Docket No. ER90-558-000]

Take notice that on September 26, 1990, Northeast Utilities Company (NUSCO) tendered for filing supplemental information regarding a proposed rate schedule, a System Energy Sales—Exchange Agreement between NUSCO and Green Mountain Power Corporation.

NUSCO states that the amendment was filed in response to a request from the Commission for additional information regarding maximum capacity charge rate.

NUSCO states that copies of this information have been mailed or delivered to each of the parties.

NUSCO requests that the Commission waive its standard notice periods and filing regulations to the extent necessary to permit the rate schedule to become effective February 1, 1988.

Comment date: October 18, 1990, in accordance with Standard Paragraph E at the end of this notice.

5. Cajun Electric Power Cooperative, Inc. v. Louisiana Power & Light Co.; Louisiana Energy and Power Authority v. Louisiana Power & Light Co.

[Docket Nos. EL90-12-001, EL90-15-001]

Take notice that on September 5, 1990, Louisiana Power & Light Company filed pursuant to the Federal Energy Regulatory Commission's May 3, 1990 order in these consolidated proceedings a plan for distribution to wholesale customers of appropriate proportional amounts of judgment proceeds which it had received from United Gas Pipe Line Company.

Comment date: October 18, 1990, in accordance with Standard Paragraph E at the end of this notice.

6. Gulf States Utilities Co.

[Docket No. ER90-583-000]

Take notice that Gulf States Utilities Company on September 25, 1990, tendered for filing (1) an Agreement For Wholesale Electric Service bwtween Gulf States Utilities Company (Gulf States) and Tex-La Electric Cooperative of Texas, Inc. (Tex-La) (Agreement), (2) Exhibit A to the Agreement, (3) Rate Schedule WPS—Wholesale Power Service, (4) Rider A to the Agreement, and (5) Service Schedule EP Emergency Power.

Gulf States states that Tex-La will become a new wholesale customers of Gulf States. The rates for the wholesale service to be provided to Tex-La as set forth in Rate Schedule WPS are the same as Gulf States' rates for wholesale service to other customers.

Gulf States requests an effective date for the Agreement and rate and service schedule so that service may begin on December 3, 1990.

Copies of the filing were served on Tex-La and each wholesale customer of Gulf States which purchases service under Rate Schedule WPS or a comparable rate schedule.

Comment date: October 18, 1990, in accordance with Standard Paragraph E at the end of the notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission are are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24186 Filed 10-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP91-3-000, et al.]

Florida Gas Transmission Co., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

[Docket Nos. CP91-3-000, CP91-4-000, CP91-5-000]

October 4, 1990.

Take notice that on October 1, 1990, Florida Gas Transmission Company (FGT), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. CP89-555-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[1]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under Section 284.223 of the Commission's Regulations, has been provided by FGT and is summarized in the attached appendix.

Comment date: November 19, 1990, in accordance with Standard Paragraph G at the end of this notice.

[1] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day average day annual MMBtu	Receipt [1] points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-3-000 (10-1-90)	Texaco Gas Marketing Inc. (marketer).	200,000 150,000 73,000,000	OTX, AL, FL, TX, LA, MS.	TX, LA, MS, AL, FL	9-23-90, ITS-1, interruptible.	ST90-4818-000, 9-10-90

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt[1] points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-6-000 (10-1-90)	Exxon Corporation (producer).	250,000 187,500 91,250,000	OTX, AL, FL, TX, LA, MS.	LA, MS, FL	2-23-90, ITS-1, Interruptible.	ST90-4623-000, 6-16-90
CP91-8-000 (10-1-90)	Tex/Con Gas Marketing Company (marketer).	250,000 187,500 91,250,000	OTX, AL, FL, TX, LA, MS.	TX, LA, MS, AL, FL	2-23-90, ITS-1, Interruptible.	ST90-4617-000, 6-16-90

[1] Offshore Texas is shown as OTX.

2. Southern Natural Gas Company

[Docket No. CP90-2310-000]

October 5, 1990.

Take notice that on September 28, 1990, Southern Natural Gas Company (Southern), Post Office Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP90-2310-000 an application pursuant to section 7(b) of the Natural Gas Act for an order granting permission and approval to abandon a field compressor and all appurtenances thereto, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern states that it requests authority to abandon its 600 horsepower No. 2 field compressor located at Southern's Corinne Compressor Station, Monroe County, Mississippi. Southern further states that the compressor it seeks to abandon was rented and installed, in November 1979, by Black Warrior Pipeline Company (BWP), a Mississippi intrastate pipeline owned by Southern, to effectuate the transportation of natural gas from the Corinne field to a local distribution company. Subsequently, Southern indicates that it acquired the rights to purchase such natural gas, liquidated BWP and acquired all of BWP's gathering and transmission facilities, including assignment of the commercial lease under which the subject compressor was rented and operated. The Commission approved Southern's acquisition and operation of BWP's facilities by order issued in Docket No. CP82-102-000 on February 22, 1982, 18 FERC ¶ 62,293 (1982), it is stated.

Southern states that on December 1, 1982, it purchased the rental compressor from the vendor under the authority of its blanket certificate of public convenience and necessity issued in Docket No. CP82-406-000, as reported in its annual blanket report. Southern further states that the compressor was installed and operated to receive natural gas supplies purchased by Southern from various wells in the Corinne Field, Monroe County, Mississippi and is no longer needed as a result of steadily decreasing deliverability in the Corrine Field. Furthermore, Southern indicates that it does not anticipate its need in the foreseeable future. Southern further indicates that in order to save maintenance expenses and to simplify the operation of the Corinne Compressor Station, it proposes to remove the compressor and sell it at book value to Sonat Intrastate-Alabama Inc. for use in its intrastate pipeline system in Alabama. The book value, calculated as of December 31, 1990, is approximately $115,610. It is stated that the proposed abandonment would not affect the capacity of Southern's pipeline system or require termination of any service to Southern's customers.

Comment date: October 26, 1990, in accordance with Standard Paragraph F at the end of this notice.

3. El Paso Natural Gas Company

[Docket No. CP91-8-000]

October 5, 1990.

Take notice that on October 1, 1990, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed a request with the Commission pursuant to Section 157.205 the Commission's Regulations under the Natural Gas Act (NGA), to provide an interruptible transportation service for Mar Oil and Gas Corporation (Mar Oil), under its blanket certificate issued in Docket No. CP88-433-000, all as more fully set forth in the request which is open for public inspection.

El Paso proposes an interruptible natural gas transportation service, under its FERC Rate Schedule T-1, of 1,030 MMBtu on peak days, 258 MMBtu on average days, and 94,170 MMBtu annually for Mar Oil. El Paso would transport the gas for Mar Oil's account from various receipt points on its system to two Jal, Lea County, New Mexico, delivery points. El Paso further states it commenced transporting natural gas for Mar Oil's account under Section 284.223(a) of the Regulations on August 24, 1990, as reported in Docket No. ST90-4727.

Comment date: November 19, 1990, in accordance with Standard Paragraph G at the end of this notice.

4. Florida Gas Transmission Company, U-T Offshore System, United Gas Pipeline Company

[Docket Nos. CP90-2336-000, CP90-2337-000, CP90-2338-000, CP90-2339-000, CP90-2340-000, and CP90-2341-000]

October 5, 1990.

Take notice that Applicants filed in the respective dockets prior notice requests pursuant to Sections 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under their blanket certificates pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[2]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Applicants state that each of the proposed services would be provided under an executed transportation agreement, and that Applicant would charge the rates and abive by the terms and conditions of the referenced transportation rate schedules.

Comment date: November 19, 1990, in accordance with Standard Paragraph G at the end of this notice.

[2] These prior notice requests are not consolidated.

Applicant: Florida Gas Transmission Company, 1400 Smith Street, Houston, TX 77002

Blanket Certificate Issued in Docket No.: CP89-555-000

Docket No. (date filed)	Shipper name	Peak day,[1] average annual	Points of		Start up date rate schedule	Related dockets[2]
			Receipt	Delivery		
CP90-2336-000 (09-28-90)	Coast Energy Group, Inc.	75,000 56,250 27,375,000	TX, LA, MI, AL, FL, Offshore TX.	TX, LA, MI, FL	08-10-90, ITS-1	ST90-4614-000
CP90-2337-000 (09-28-90)	Sonat Marketing Co.	250,000 187,500 91,250,000	TX, LA, MI, AL, FL, Offshore TX.	TX, LA, MI	09-06-90, ITS-1	ST90-4620-000
CP90-2338-000 (09-28-90)	End Users Supply System.	100,000 75,000 36,500,000	TX, LA, MI, AL, FL, Offshore TX.	TX, LA, MI, AL, FL	08-10-90, ITS-1	ST90-4624-000

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] If an ST docket is shown, 120-day transportation services was reported in it.

Applicant: U-T Offshore System, P.O. Box 1396, Houston, TX 77251

Blanket Certificate Issued in Docket No.: RP89-99-000

Docket No. (date filed)	Shipper name	Peak day, average annual [3]	Points of		Start up date, rate schedule	Related dockets[3]
			Receipt	Delivery		
CP90-2339-000 (09-28-90)	Union Pacific Resources, Company.	100,000 100,000 36,500,000	Offshore LA	LA	08-01-90, IT	ST90-4489-000

[3] Quantities are shown in Mcf unless otherwise indicated.

Applicant: United Gas Pipe Line Company, P.O. Box 1478, Houston, TX 77251-1478

Blanket Certificate Issued in Docket No.: CP88-6-000

Docket No. (date filed)	Shipper name	Peak day, average annual [4]	Points of		Start up date, rate schedule	Related dockets[4]
			Receipt	Delivery		
CP90-2340-000 (09-28-90)	Ashton Energy Company.	20,600 20,600 7,519,000	MS, LA	MI	08-10-90, ITS	ST90-4483-000
CP90-2341-000 (09-28-90)	Exxon Corporation Corp.	10,300 10,300 3,759,500	LA, TX	LA, TX	08-01-90, ITS	ST90-4335-000

[4] Quantities are shown in MMBtu unless otherwise indicated.

5. U-T Offshore System

[Docket Nos. CP90-2342-000, CP91-18-000, CP91-19-000]

October 5, 1990.

Take notice that on September 28, 1990, U-T Offshore System (UTOS), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP90-2342-000 and that on October 2, 1990, UTOS filed in Docket Nos. CP91-18-000 and CP91-19-000 requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on an interruptible basis pursuant to UTOS's Rate Schedule IT on behalf of various shippers under UTOS's blanket certificate issued by the Commission's Order No. 509, pursuant to section 7 of the Natural Gas Act, corresponding to the rates, terms and conditions filed in Docket No. RP89-99-000, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.[5]

Information applicable to each transaction, including the identity of the shipper, the peak day, average day and annual volumes, and the initiation service dates and related docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by UTOS and is summarized in the attached appendix. It is explained that the gas would be received by UTOS at existing points located in West Cameron Blocks 116 and 167, offshore Louisiana and would be redelivered for the various accounts at existing interconnections at the Johnson's Bayou Plant in Cameron Parish, Louisiana.

[5] These prior notice requests are not consolidated.

Docket No.	Shipper	Volumes—Mcf, peak day, Average Annual	Related Docket [1]	Commencement date
CP90-2343-000	Mid Con Marketing Corp	250,000 250,000 91,250,000	ST90-4728	Aug. 10, 1990.
CP91-18-000	TXG Gas Marketing Corp	120,000 120,000 43,800,000	ST90-4737	Aug. 14, 1990.
CP91-19-000	Consolidated Edison Company of New York	1,400,000 1,400,000 511,000,000	ST90-4749	Aug. 15, 1990.

[1] UTOS reported the 120-day transportation service in the referenced ST dockets.

6. Natural Gas Pipeline Company of America, ANR Pipeline Company, ANR Pipeline Company, ANR Pipeline Company, Colorado Interstate Gas Company, Colorado Interstate Gas Company

[Docket Nos. CP90-2300-000,[4] CP90-2301-000, CP90-2302-000, CP90-2303-000, CP90-2304-000, CP90-2305-000, CP90-2333-000.

October 5, 1990.

Take notice that on September 26, 1990, and September 28, 1990, the Applicants filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under their respective blanket certificate's issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction including the Applicant's address, the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicants and is included in the attached appendix.

The Applicants allege that they would provide the proposed service for each shipper under an executed transportation agreement and would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: November 19, 1990, in accordance with Standard Paragraph G at the end of this notice.

[4] These prior notice requests are not consolidated.

Docket No. (date filed)	Applicant	Shipper name	Peak day,avg., annual [1]	Points of Receipt	Points of Delivery	Start up date, rate schedule, service type	Related Dockets [2]
CP90-2300-000 (9-26-90)	Natural Gas Pipeline Co. of America, 701 East 22nd Street, Lombard, IL 60148.	Coastal Gas Marketing Company.	50,000 20,000 7,300,000	Various existing points.	Various existing points.	7-20-90, ITS, Interruptible.	CP86-582-000, ST90-4961-000
CP90-2301-000 (9-26-90)	ANR Pipeline Company, 500 Renaissance Center, Detroit, MI 48243.	Centran Corp	50,000 Dth 50,000 Dth 18,250,000 Dth	Various existing points.	Various existing points.	8-1-90, ITS Interruptible.	CP86-523-000, ST90-4397-000
CP90-2302-000 (9-26-90)	ANR Pipeline Company.	Bestreme Foods, Inc.	490 Dth 490 Dth 178,850 Dth	LA and offshore, LA.	WI	8-1-90, FTS-1, Firm.	CP86-532-000, ST90-5400-000
CP90-2303-000 (9-26-90)	ANR Pipeline Company.	Kohler Co	2,500 Dth	LA and	WI	6-1-90	CP86-532-000

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] The CP docket corresponds to Applicant's blanket transportation certificate. The ST docket indicates that 120-day transportation service was initiated under Section 284.223(a) of the Commission's Regulations.

7. Pontchartrain Natural Gas System

[Docket No. CP90-2281-000]

October 5, 1990.

Take notice that on September 24, 1990, Pontchartrain Natural Gas System (Pontchartrain), 1600 Smith, Suite 4775, Houston, Texas 77002, filed in Docket No. CP90-2281-000 an (NGA) application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing: 1) the continued exchange of up to 100,000 Mcf of natural gas per day between ANR Pipeline Company (ANR) and Pontchartrain, as successor to Bayou Interstate Pipeline System (Bayou), originally authorized in Docket No. CP64-68-001; and 2) Pontchartrain to be subject to the jurisdiction of the Federal Energy Regulatory Commission (Commission) pursuant to the NGA only with respect to the exchange transaction for which certificate authority is requested in this proceeding, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Pontchartrain states that it is a Hinshaw pipeline and that its facilities and operations are located wholly within the State of Louisiana. While this proposal would potentially allow 36,500,000 Mcf per year to be exchanged between Pontchartrain and ANR, Pontchartrain asserts that only 1,020,761

Mcf (1.1 percent of Pontchartrain's total throughput in 1989) was exchanged between Bayou and ANR during 1989. Accordingly, Pontchartrain requests that it be subject to the jurisdiction of the Commission under the Natural Gas Act only with respect to this proposal.

Pontchartrain states that Bayou, an affiliated company, proposes to abandon its exchange service with the ANR by assignment to Pontchartrain (Docket No. CP90-2282-000). Pontchartrain explains that Bayou currently sells its exchange volumes to Pontchartrain; however, if Bayou's requested abandonment is granted, Bayou would assign the purchase contracts for its total gas supply to Pontchartrain. Finally, because Bayou also proposes to abandon the requisite facilities for the exchange by selling to Acadian Gas Pipeline System (Acadian), an affiliated intrastate pipeline providing transportation pursuant to section 311 of the Natural Gas Act and subpart C of part 284 of the Commission's Regulations, Pontchartrain states that it would have to secure transportation services from Acadian to accomplish the continued delivery of the exchange volumes to itself.

Comment date: October 26, 1990, in accordance with Standard Paragraph F at the end of the notice.

8. United Gas Pipe Line Company

[Docket No. CP91-14-000]

October 5, 1990.

Take notice that on October 2, 1990, United Gas Pipe Line Company (United), Post Office Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP91-14-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to transport gas on an interruptible basis for Coast Energy Group (Coast), a marketer, under United's blanket certificate issued in Docket No. CP88-6-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United states that pursuant to a transportation service agreement dated October 24, 1989, it proposes to transport up to 30,000 Mcf per day for Coast. United states that it would receive the gas at specified points located in Louisiana and redeliver the gas at other specified points located in Louisiana. United estimates that the maximum day and average day volumes would be 30,900 million Btu and that the annual volumes would be 11,278,500 million Btu. It is stated that on September 1, 1990, United initiated a 120-day transportation service for Coast under § 284.223(a), as reported in Docket No. ST90-6750-000.

United further states that no facilities need be constructed to implement the service. United indicates that the service would continue on a month-to-month basis until terminated. United proposes to charge rates and abide by the terms and conditions of its Rate Schedule ITS.

Comment date: November 19, 1990, in accordance with Standard Paragraph G at this end of this notice.

9. Bayou Interstate Pipeline System

[Docket No. CP90-2283-000]

October 5, 1990.

Take notice that on September 24, 1990, Bayou Interstate Pipeline System (Bayou), 1600 Smith, Suite 4775, Houston, Texas 77002, filed in Docket No. CP90-2282-000 an application pursuant to section 7(b) of the Natural Gas Act (NGA) for authority to abandon the certificated facilities, authorizations and services granted in Docket No. CP84-66-001, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Bayou states that with the grant of this abandonment, it would wind up all of its activities and cease to be a "natural gas company" as defined in the NGA. Bayou requested that the effective date of such abandonment authorization be issued as expeditiously as possible in order to allow for Bayou's cessation of all its services by the end of calendar year 1990.

Bayou proposes to accomplish its abandonment, in part, by selling its facilities to Acadian Gas Pipeline System, an affiliated intrastate pipeline, and to Pelican Interstate Gas System, an affiliated interstate pipeline and by assigning its exchange service with ANR Pipeline Company to Pontchartrain Natural Gas System, an affiliated Hinshaw pipeline. Bayou states that other services and authorizations would be terminated, without assignment, on the date of the authorization requested herein. Lastly, Bayou asserts that the proposed abandonment would have no adverse impact on its customers.

Comment date: October 26, 1990, in accordance with Standard Paragraph F at the end of this notice.

10. Georgia-Pacific Corporation

[Docket No. CP90-2288-000]

October 5, 1990.

Take notice that on September 25, 1990, Georgia-Pacific Corporation (G-P), P.O. Box 105605, Atlanta Georgia 30348, filed in Docket No. CP90-2288-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain facilities which have previously been certificated for the transportation of natural gas for G-P's own use in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

G-P states that its certificated system is comprised of: (i) Approximately 2.5 miles of 24-inch pipeline extending from gathering facilities in the Monroe Field, Louisiana to compression facilities that are utilized to boost the pressure of gas purchases in the area to a level necessary to accommodate further transmission to G-P's pulp and paper plant at Crossett, Arkansas; (ii) three 350 horsepower (HP) compressors and one 750 HP compressor; (iii) approximately 2.8 miles of 12¾ inch pipeline from the outlet of the compression facilities extending generally northward; and (iv) 19.5 miles of 8⅝ inch pipeline extending from the 12-inch pipeline to G-P's plant. G-P states that these facilities are interconnected and have historically been utilized to provide natural gas to G-P's plant from G-P's own reserves as well as gas supplies purchased from producers in the Monroe Field.

G-P requests that it be authorized: (i) To abandon in place the approximately 2.8 miles of 12¾ inch pipeline; and (ii) to abandon by sale its 24-inch pipeline and the three 350 HP and one 750 HP compressors.

G-P further states that its pipeline facilities were constructed exclusively to bring gas for consumption at its plant to offset curtailments from its historical supplier, Mississippi River Transmission Corporation (MRT) in the early 1970's. G-P states that it has never utilized any of these facilities for the purchase and resale of natural gas or for the transportation of natural gas for others. Except for the fact that a state border was crossed in bringing these gas supplies to G-P's plant, G-P submits that no certificate authority would ever have been required.

G-P states that its solution to the MRT curtailments was to construct the 19.5 mile 8⅝ inch pipeline to bring its own production to its plant, 46 FPC 1209 (1971). In 1972, G-P concluded that the natural gas supply attached by its 8⅝ inch line was inadequte to provide the curtailment protection necessary to operate its plant. G-P states that it therefore developed additional reserves of its own in the Monroe Field as will as purchasing natural gas from an

unaffiliated producer in the same field. In order to attach the additional reserves, G–P states that it filed an application in Docket No. CP72–274 to extend the existing 8⅝ inch line by the construction of approximately 2.6 miles of 12-inch pipeline. G–P states that it also planned to construct and operate a 24-inch gathering line and compressor facilities to attach the available natural gas supplies and boost the pressure of the natural gas to allow entry into the proposed 12-inch line.

G–P submits that it did not originally seek certificated authority to construct and operate the 24-inch line and the compressor believing that such facilities were non-jurisdictional gathering facilities. However, during the course of the certificate proceeding involving the construction of the 12-inch line, G–P states that it agreed to amend its application to include these facilities.

G–P states that the certificate in Docket No. CP72–274, was granted, Opinion No. 669, 51 FPC 627 (1974), however, as a consequence of the natural gas supply shortage at the time, the Commission imposed certain volumetric limitations on G–P's use of its own supply line and also imposed certain restrictions on the end use to which G–P could put the gas at its plant.

In 1987, G–P states that it requested that the Commission remove the volumetric and end use restrictions imposed in Opinion No. 669 suggesting that the such controls were no longer required and were totally contrary to the competitive economic environment that the Commission was trying to create for natural gas nationwide. According to G–P, the Commission agreed and removed the restrictions, 41 FERC ¶61,248 (1987).

As a result of the elimination of the restrictions, G–P states that it diversified its natural gas supply. As a result of the diversification, G–P states that it no longer requires the continued use of all of its certificated facilities. G–P states that it now has an interconnection with Texas Gas Transmission Corporation (Texas Gas) on G–P's 8⅝ inch line, which has allowed G–P to contract for gas supplies from a number of sources and have the gas transported by Texas Gas. G–P states that it also has executed an interruptible transportation agreement with MRT and has reached agreement with an intrastate pipeline company in Louisiana to interconnect with G–P's facilities.

G–P states that it no longer requires, nor can it effectively utilize, these certificated facilities it owns south of the interconnections with Texas Gas and the intrastate pipeline. Those facilities consist of the 2.6 miles of 12-inch pipeline, the 24-inch pipeline and the compressor units between the two pipelines. G–P states that these portions of its facilities were only useful so long as the exclusive source of gas available to it was the low pressure gas from the Monroe Field. G–P states that it no longer produces its own gas nor contracts for the purchase of gas from that area. G–P further states that the gas supplies now transported by Texas Gas and the intrastate pipeline is high pressure gas which would prevent any of the Monroe Field gas to enter its system. Since it has never utilized these facilities to transport or sell gas to any other party, G–P states the abandonment will not adversely effect any other party.

While it can no longer utilize these facilities, G–P states that certain of them, namely the 24-inch line and the compressors, can be effectively utilized by producers in the Monroe Field to gather and compress natural gas for intrastate use. Once abandonment is granted, G–P proposes to abandon in place and put out of service the 2.6 miles of 12-inch pipeline. G–P states, however, that it has reached agreement with an independent producer operating in the Monroe Field, Mr. Jimmy Berry, to sell to him the 24-inch line and the compressors, as well as various small diameter gathering lines connected to the 24-inch line. G–P avers that the sale to Mr. Berry will afford him the opportunity to move his production, and that of other producers in the field, through these facilities to intrastate markets, without having to construct new facilities.

G–P states that at the west end of the 24-inch line is a gathering system owned and operated by Wintershall Pipeline Corporation which feeds into Wintershall's intrastate pipeline system in northern Louisiana. At the east end of the 24-inch line and compressors, G–P states there lies the intrastate pipeline facilities of Gulf States Pipeline Corporation. Thus, with very little operational adjustments, G–P states that the 24-inch line and compressor facilities can be put to efficient use by small producers in the area, allowing them to extract the maximum recoverable reserves from their wells in the Monroe Field.

According to G–P, these uses would clearly be intrastate in nature. Once abandoned, G–P avers that these facilities would not be used in interstate commerce since the 24-inch line and the compressors would no longer be connected with any certificated facilities, would not be used for sale or transportation in interstate commerce, and would be located entirely in the state of Louisiana. G–P submits that once the facilities are abandoned and sold to Mr. Berry, the 24-inch line and the compression facilities will no longer be jurisdictional under the Natural Gas Act, and G–P request that the Commission confirm this conclusion in an order granting abandonment in this proceeding.

Comment date: October 26, 1990, in accordance with Standard Paragraph F at the end of the notice.

11. Transwestern Pipeline Company, Transwestern Pipeline Company, Transwestern Pipeline Company, Arkla Energy Resources, a division of Arkla, Inc.

[Docket Nos. CP91–30–000, CP91–31–000, CP91–32–000, and CP91–40–000]

October 5, 1990.

Take notice that on October 1, 1990, Transwestern Pipeline Company, 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, and Arkla Energy Resources, a division of Arkla, Inc., 525 Milam Street, Shreveport, Louisiana 71151, (Applicants), filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under the blanket certificates issued in Docket No. CP86–133–000 and Docket No. CP88–820–000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[5]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under section 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

Comment date: November 19, 1990, in accordance with Standard Paragraph G at the end of this notice.

[5] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day average day annual MMBtu	Receipt points [1]	Delivery points	Contract date rate schedule service type	Related docket, start up date
CP91-30-000 (10-3-90)	Mesa Operating Limited Partnership (producer).	10,000 7,500 3,650,000	AZ, NM, OK, TX	AZ, NM, OK, TX	9-25-90, ITS-1, Interruptible.	ST90-4969-000, 9-25-90.
CP91-31-000 (10-3-90)	Access Energy Corporation (marketer).	100,000 75,000 36,500,000	AZ, NM, OK, TX	NM, OK, TX	7-17-90, ITS-1, Interruptible.	ST90-4957-000, 9-1-90.
CP91-32-000 (10-3-90)	Continental Natural Gas, Inc. (marketer).	50,000 37,500 18,250,000	AZ, NM, OK, TX	AZ, NM, OK, TX	7-3-90, ITS-1, Interruptible.	ST90-4968-000, 9-25-90.
CP91-40-000 (10-3-90)	Marathon Oil Company (producer).	40,000 40,000 14,600,000	OLA	OLA	9-1-90, IT-Gathering, Interruptible.	ST90-5407-000, 10-1-90.

[1] Offshore Louisiana is shown as OLA.

12. Transwestern Pipeline Company

[Docket No. CP91-29-000]

October 5, 1990.

Take notice that on October 5, 1990,[6] Transwestern Pipeline Company (Transwestern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP91-29-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Hadson Gas Systems, Inc. (Hadson), a marketer, under the blanket certificate issued in Docket No. CP88-133-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Transwestern states that pursuant to an agreement dated September 15, 1989, under its Rate Schedule ITS-1, it proposed to transport up to 100,000 MMBtu per day equivalent of natural gas for Hadson. Transwestern indicates that the gas would be transported from receipt points located in Arizona, New Mexico, Oklahoma, and Texas, and would be redelivered at delivery points located in New Mexico, Oklahoma, and Texas.

Transwestern advises that service under § 284.223(a) commenced May 5, 1990, as reported in Docket No. ST90-5345-000. Transwestern indicates that it would transport 75,000 MMBtu on an average day and 36,500 MMBtu annually.

Comment date: November 19, 1990, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commisison, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CR 157.20) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24189 Filed 10-12-90; 8:45 am]

BILLING CODE 6717-01-M

[6] Although the filing was received on October 3, 1990, the filing date corresponds with the date the filing fee was received, pursuant to Section 381.103(b)(2)(iii) of the Commission's Rules.

[Docket Nos. RP91-3-000, RP90-152-002, TM91-1-22-001, and TA90-1-22-004]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

October 5, 1990.

Take notice that on October 3, 1990, CNG Transmission Corporation (CNG) pursuant to section 4 of the Natural Gas Act, and part 154 of the Commission's Regulations (18 CFR part 154) files six (6) copies of the following revised tariff sheets to First Revised Volume No. 1 of its FERC Gas Tariff:

Alternate Second Revised First Revised Sheet No. 31
Second Substitute First Revised Sheet No. 31
First Revised Original Sheet No. 31
First Revised Original Sheet No. 32
First Revised First Revised Sheet No. 31
Second Revised Original Sheet No. 32

The filing is a limited general rate increase application made for the purposes of changing CNG's base tariff rates: (1) To include the costs of converting a portion of CNG's firm sales agreement with Texas Eastern Transmission Corporation ("Texas Eastern") and Texas Gas Transmission

Corporation ("Texas Gas") to firm transportation; and, (2) to repaginate certain tariff sheets as described in detail in the filing. The effective date of the tariff sheets is November 1, 1990, the same date that the conversion of the Texas Eastern and Texas Gas agreements will become effective. It is proposed that the limited rate increase remain in effect until January 10, 1991, at which time the base rates in CNG's Docket No. RP89-143 will become effective.

CNG has also filed repaginated tariff sheets to conform to the Commission's new pagination convention adopted as part of its electronic filing requirements.

CNG states that copies of the filing were served upon affected customers and interested State commissions.

Any person desiring to be heard or to protest such filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 and 385.211. All motions or protests should be filed on or before October 25, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24188 Filed 10-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER90-385-000 and EL90-34-000]

Pacific Gas and Electric Co., Northern California Power Agency v. Pacific Gas and Electric Co.; Initiation of Proceeding and Refund Effective Date

October 4, 1990.

Take notice that on September 28, 1990, the Commission issued an order in this proceeding initiating a proceeding under section 206 of the Federal Power Act, as amended by the Regulatory Fairness Act of 1988.

Refund effective date for proposed rates: December 14, 1990.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24183 Filed 10-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT91-1-000]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

October 5, 1990.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on October 1, 1990 tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies of the tariff sheets listed in appendix A of the filing.

Texas Eastern states that the purpose of this filing is to update Texas Eastern's FERC Gas Tariff, Fifth Revised Volume No. 1 to reflect new levels of service for Algonquin Gas Transmission Company, CNG Transmission Corporation, and National Fuel Gas Supply Corporation as provided in their CD-1, CD-2, and FT-1 Service Agreements and to reflect the execution of a new Service Agreement between Texas Gas Transmission Corporation and Texas Eastern under Rate Schedule FT-1.

The proposed effective date of the tariff sheets listed in Appendix A of the filing is November 1, 1990.

Texas Eastern states that copies of the filing were served on Texas Eastern's jurisdictional customers and interested State commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before October 16, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24187 Filed 10-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER90-382-000 and ER90-386-000]

Metropolitan Edison Co.; Initiation of Proceeding and Refund Effective Date

October 4, 1990.

Take notice that on September 28, 1990, the Commission issued an order in this proceeding initiating a proceeding under section 206 of the Federal Power Act, as amended by the Regulatory Fairness Act of 1988.

Refund effective date for proposed rates to Allegheny: December 14, 1990.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24184 Filed 10-12-90; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 90-67-NG]

ENSA Corporation; Application To Export Natural Gas to Mexico

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application to export natural gas to Mexico.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on October 1, 1990, of an application filed by Ensa Corporation (ENSA) for authorization to export up to 500 MMcf per day of natural gas to Mexico up to an aggregate of 912 Bcf over a five-year period beginning with the date of first export. ENSA proposes to export the natural gas through a new pipeline facility at the international border in Zapata County, Texas, and to sell the gas exported to Petroleos Mexicanos ("PEMEX"), the Mexican national oil and gas corporation, for resale to PEMEX' industrial customers in the region of Monterey, Mexico. As payment, ENSA will receive from PEMEX volumes of residual fuel oil, which the exported gas will displace in Mexican industrial applications.

The application is filed pursuant to section 3 of the Natural Gas Act (NGA) and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene, notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t., November 14, 1990.

ADDRESSES: Office of Fuels Programs, Office of Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Linda Silverman, Office of Fuels Programs, Office of Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-094, 1000

Independence Avenue, SW., Washington, DC 20585, (202) 586–7249.
Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, room 6E–042, GC–32, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: ENSA is a Texas corporation with its principal place of business in Dallas, Texas. The company, which will build and operate the new pipeline facility, the Laredo Pipeline, is applying to the Federal Energy Regulatory Commission (FERC) for authorization to construct the proposed new pipeline, which will consist of approximately 250 feet of thirty-six inch diameter pipeline, which then will interconnect with a new PEMEX pipeline to be constructed in Mexico.

The gas to be exported will originate in the South Texas area. Under the export proposal, ENSA will exchange the natural gas with PEMEX in return for residual fuel oil, which ENSA maintains is in high demand in U.S. markets. In support of its application, ENSA asserts that this exchange transaction will not reduce the net energy available to the United States because the exports of gas will be offset by the imports of residual oil. Also, the company holds that this exchange will improve the overall security of energy supply by reducing U.S. dependence on Persian Gulf oil. In addition, the company states that the gas to be exported is incremental to current market needs, and that its export will benefit domestic producers, who have suffered from the ongoing natural gas oversupply and depressed prices.

Discussions toward finalization of an export sales/exchange agreement between ENSA and PEMEX are currently proceeding. The export sales/exchange agreement with PEMEX will be filed with DOE when it is finalized. ENSA foresees entering into a long-term contract with PEMEX at an exchange value to be determined, but less than the BTU equivalent price of residual fuel oil. In exchange, ENSA will receive volumes of residual fuel oil in kind for import into the United States. ENSA contends that the intended agreement will provide for market-sensitive and competitive pricing for the natural gas to be exported, because those prices will be intrinsically related to the price on the international market of residual fuel oil, a competing energy source to natural gas. The precise exchange relationship of exported natural gas for residual fuel oil remains subject to final negotiation between ENSA and PEMEX, but ENSA attests that it, and not U.S. suppliers or consumers, will assume all risks should the contract terms diverge from market trends. According to the company, the five-year term of the requested authorization is the minimum sufficient to assure the security of the investment required in related pipeline facilities.

This export application will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204–111 and 0204–127. In reviewing natural gas export applications, domestic need for the gas to be exported is considered, and any other issues determined to be appropriate in a particular case, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. ENSA asserts that there is no regional or national need for the gas, particularly since the gas to be exported currently is in oversupply, any market need is fully expressed and satisfied without constraint within the same competitive market to which ENSA must itself turn for its supplies of gas, and, in light of the proposed U.S.-Mexican Free Trade Agreement, there are significant economic and international benefits to be obtained from the transaction. Parties opposing this arrangement bear the burden of overcoming this assertion.

ENSA indicates in its application that it will file quarterly reports detailing each export transaction.

NEPA Compliance

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321, *et seq.*) requires the DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until the DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application.

All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trail-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of ENSA's application is available for inspection and copying in the Office of Fuels Programs Docket room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 9, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90–24245 Filed 10–12–90; 8:45 am]
BILLING CODE 6450–01–M

[FE Docket No. 90-67-NG]

ICG Utilities (Manitoba) Ltd., Application for Blanket Authorization To Import and Export Natural Gas

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to import and export natural gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notices of receipt on July 30, 1990, of an application filed by ICG Utilities (Manitoba) Ltd. ("ICG") for blanket authorization to import and export natural gas from and to Canada. ICG seeks DOE authority to import up to 8 Bcf of natural gas from Canada and to export up to 8 Bcf of natural gas to Canada over a two-year term beginning on the date of first delivery.

ICG intends to use existing facilities in the United States for both imports and exports of natural gas. The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t., November 14, 1990.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Linda Silverman, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–094, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–7248.

Diana Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, room 6E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: ICG, a corporation organized and existing under the laws of the Province of Manitoba, Canada, has its principal place of business in Winnipeg, Manitoba. ICG's ultimate parent corporation is Westcoast Energy Inc., a company incorporated pursuant to the laws of Canada. The company inends to import or export natural gas under short-term or spot-market sales arrangements for its own account or as agent for other parties. The terms of each transaction, including price and volume, will depend on the market demand for natural gas and will be structured to meet competition in the market place. There will be no fixed purchase obligations in ICG's import/export contracts.

The decision on the application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In reviewing natural gas export applications, the domestic need for the gas to be exported is considered, and any other issues determined to be appropriate in a particular case, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that the proposed import authority would be in the public interest because it will allow ICG to store its system supplies in U.S. storage facilities and to increase the supply of competitively-priced Canadian natural gas for U.S. purchasers. Further, the company states that the export proposal will advance U.S. goals to reduce trade barriers and to encourage the operation of market forces to achieve a more competitive and efficient distribution of goods between the United States and Canada. Parties opposing the arrangement bear the burden of overcoming these assertions.

All parties should be aware that if the requested import/export is approved, the authorization would be conditioned on the filing of quarterly reports detailing each transaction.

NEPA Compliance

The National Environmental Policy Act (NEPA) 42 U.S.C. 4321 *et seq.*, requires the DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until the DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures by provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of ICG's application is available for inspection and copying in the Office of Fuels Programs Docket room, 3F–056 at the above address. The

docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 9, 1990.

Clifford P. Tomaszewski,
Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-24268 Filed 10-12-90; 8:45 am]
BILLING CODE 6450-01-M

[FE Docket No. 90-78-NG]

Ocean State Power; Application for Blanket Authorization To Import and Export Natural Gas

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to import and export natural gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on August 31, 1990, of an application filed by Ocean State Power (Ocean State) for blanket authorization to import from and export to Canada up to 36.5 Bcf of natural gas for a two-year term beginning on the date of first import or export delivery. Ocean State requests authority to import and export the natural gas at any point on the U.S./Canadian border where existing pipeline facilities are located. No new construction would be involved. Ocean State also states it will submit quarterly reports to FE detailing each transaction.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t., November 14, 1990.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Allyson C. Reilly, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-53, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6394

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, room 6E-042, GC-32, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6667

SUPPLEMENTARY INFORMATION: Ocean State is a Rhode Island general partnership with its principal place of business in Boston, Massachusetts. Ocean State has authority to import from ProGas Limited (ProGas) up to 50,000 Mcf per day of Canadian natural gas for a 20-year term for use as fuel in Ocean State's 250 megawatt combined-cycle congeneration facility located in Burrillville, Rhode Island. (1 ERA Para. 70,778 (1988); 1 ERA Para. 70,810 (1988); and 1 FE Para. 70,242 (1989)). According to Ocean State, during the winter months, very low temperatures can cause the cogeneration facilities fuel requirement to increase above the full volumes for which Ocean State has contracted from ProGas. The import authority sought by Ocean State would give it the flexibility to purchase supplemental Canadian supplies to provide the fuel requirements for transporting the 50,000 Mcf per day of natural gas from the international border to the facility, and any temporary increase in the facility's normal fuel requirement needs.

Ocean State anticipates that all or most of its natural gas supply will be utilized in the cogeneration facility, but seeks authority to export natural gas when the contracted Canadian supplies are in excess of the facility's requirements due primarily to changing climate conditions or maintenance activities. Ocean State also mentions that it will not require the full contracted-for ProGas volumes of natural gas scheduled for purchase and import beginning November 1, 1990; the full volumes will not be required until the congeneration facility begins commercial operation at the end of the year. The proposed export authority would give Ocean State the flexibility to market its surplus natural gas. The natural gas Ocean State proposes to export would be sold on a spot basis to various entities in Canada including, but not limited, to pipelines, local distribution companies, electric utilities and industrial customers. The specific terms of each import and export arrangement would be negotiated on an individual basis at market responsive prices.

The decision on the application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In reviewing natural gas export applications, the DOE considers the domestic need for the gas to be exported and any other issues determined to be appropriate in a particular case. However, since the source of the natural gas proposed to be exported involves only Canadian production and not sales of domestic gas to Canada, it is unnecessary to consider domestic need in connection with the export portion of Ocean State's proposal. Parties opposing the arrangement bear the burden of overcoming these assertions.

Nepa Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file

additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Ocean State's application is available for inspection and copying in the Office of Fuels Programs Docket room, 3F-056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 9, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-24243 Filed 10-12-90; 8:45 am]

BILLING CODE 6450-01-M

[Fe Docket No. 90-64-NG]

Tennessee Gas Pipeline Company; Order Granting Blanket Authorization To Export Natural Gas From the United States to Mexico or Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of an order granting blanket authorization to export natural gas to Mexico or Canada.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Tennessee Gas Pipeline Company (Tennessee) blanket authorization to export up to 200 Bcf of natural gas to Mexico or Canada over a two year period commencing on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 9, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-24241 Filed 10-12-90; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3852-4]

Underground Injection Control Program; Hazardous Waste Disposal Injection Restrictions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to grant case-by-case extension.

SUMMARY: EPA is proposing to grant the request from Celanese Engineering Resins, Inc., in Bishop, Texas, for a three-month extension of the November 8, 1990, effective date of the hazardous waste injection restrictions applicable to injected wastewaters with the hazardous waste codes: U001, U002, U019, U031, U056, U072, U080, U112, U115, U122, U123, U133, U134, U140, U154, U159, U161, U188, U226, D001, and F039. This action responds to a petition submitted under 40 CFR 148.4 according to procedures set out in 40 CFR 268.5, which allows any person to request that the Administrator grant, on a case-by-case basis, an extension of the applicable effective date based on a showing that the petitioner has entered into a binding contractual commitment to construct or otherwise provide adequate alternative treatment, recovery, or disposal capacity for the petitioner's waste. If this proposed action is finalized, Celanese Engineering Resins, Inc., can continue to inject the wastestream described above at the Bishop facility until February 8, 1991, but not later than this date without being subject to the prohibitions applicable to such wastes.

DATES: Comments on this notice must be received on or before November 13, 1990.

ADDRESSES: The public must send an original and two copies of their comments to: EPA, 1445 Ross Avenue, Dallas, Texas, 75202-2733. The docket for this action is located at EPA, 1445 Ross Avenue, Dallas, Texas 75202-2733, and is open during normal business hours from 8 a.m.-4 p.m. The public can review all docket materials by calling (214) 655-7160 to make an appointment.

FOR FURTHER INFORMATION CONTACT: For information contact Oscar Cabra, Jr. at (214) 655-7110 or Ronnie Crossland at (214) 655-7160.

Petition

A. Facility Summary

Celanese Engineer Resins, Inc., in Bishop, Texas, has petitioned EPA to grant them a three-month extension of the effective date of the hazardous waste injection restrictions applicable to the following wastes:

The specific hazardous liquid waste for which this case-by-case extension of the November 8, 1990 injection ban date is being sought include: U001, U002, U019, U031, U056, U072, U080, U112, U115, U122, U123, U133, U134, U140, U154, U159, U161, U188, U226, D001, and F039.

EPA is proposing to grant an extension of the effective date of the applicable restrictions for three months from the hazardous waste injection restrictions effective date of November 8, 1990 for this facility. The Celanese Engineering Resins, Inc., request and supporting documentation was available in the public docket for this rulemaking. Interested persons are invited to submit comments or written data on this petition. All Comments will be considered by EPA and addressed in a Federal Register notice stating the Agency's final decision to grant or deny the petition.

B. Description of Petitioning Facility

Celanese Engineering Resins, Inc., is a chemical manufacturing company which operates three hazardous waste injection wells in Bishop, Texas. Celanese manufactures industrial organic chemicals by the conversion of methane to methanol and further reacting the methanol and other aliphatic organics to produce formaldehyde, methylal, esters (n-butyl, n-propyl and ethyl acetates) pentaerythritol, trimethylolpropane, paraformaldehyde, Formcel formaldehyde, alcohols, aldehydes and glycols. Additionally, Celanese produces Celcon, Nylon, and Celanex engineering resins and bulk pharmaceuticals.

C. Case-by-Case Extension Petition Demonstrations

Celanese Engineering Resins, Inc.'s application for an extension of the effective date includes the following demonstrations:

40 CFR 268.5(a)(1) Celanese—Bishop has made a good-faith effort on a nationwide basis to locate and contract for adequate alternative treatment, recovery, or disposal

capacity, or to establish such capacity by the effective date of the applicable restrictions.

40 CFR 268.5(a)(2) Celanese—Bishop has entered into a binding contractual commitment to provide alternative treatment, recovery, or disposal capacity.

40 CFR 268.5(a)(3) Celanese—Bishop has shown that lack of alternative capacity is beyond its control.

40 CFR 268.5(a)(4) Celanese—Bishop has shown that there will be adequate alternative treatment, recovery, or disposal capacity for all the waste after the effective date established by the extension.

40 CFR 268.5(a)(5) Celanese—Bishop has provided a detailed schedule for obtaining alternative capacity, including dates.

40 CFR 268.5(a)(6) Celanese—Bishop has arranged for adequate capacity to manage the waste during the extension period.

40 CFR 268.5(a)(7) The surface impoundments or landfills used by Celanese—Bishop to manage the waste during the extension period will meet the requirements of 40 CFR 268.5(h)(2).

III. *EPA's Proposed Action*

For the reasons discussed above, the Agency believes that Celanese—Bishop's demonstrations have satisfied all the requirements for a case-by-case extension of the effective date of the hazardous waste injection restrictions applicable to U001, U002, U019, U031, U056, U072, U080, U112, U115, U122, U123, U133, U134, U140, U154, U159, U161, U188, U226, D001, and F039. Therefore, EPA is proposing to grant an extension of the November 8, 1990, effective date of the restrictions on U001, U002, U019, U031, U056, U072, U080, U112, U115, U122, U123, U133, U134, U140, U154, U159, U161, U188, U226, D001, and F039 for Celanese—Bishop. If the extension is granted, these wastes, which would not be prohibited from land disposal, could be injected over a three month period, starting from the effective date of November 8, 1990, but not later than February 8, 1991.

If Celanese—Bishop obtains a case-by-case extension, it would have to submit a progress report every two weeks after the date the extension is granted, addressing the progress being made to obtain alternative disposal capacity. The Agency must be notified of any change in the conditions specified in the petition. The extension would remain in effect unless Celanese—Bishop fails to make a good faith effort to meet the schedule for completion, the Agency denies or revokes any required permit, conditions certified in the application change, or if Celanese—Bishop violates any law or regulations implemented by EPA.

(Sections 1006, 2002(a), 3001, and 3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6924)).

Dated: October 5, 1990.

Myron O. Knudson,

Director, Water Management Division (6W), EPA Region 6.

[FR Doc. 90-24211 Filed 10-12-90; 8:45 am]

BILLING CODE 6560-50-M

[OPP-66144; FRL 3803-8]

Amitrole; Receipt of Request to Cancel Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of receipt.

SUMMARY: This Notice, pursuant to section 6 (f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.*, announces: (1) EPA's receipt of a request from Rhone-Poulenc, a registrant of amitrole pesticide products, to voluntarily cancel four of its registrations, (2) EPA's intention to approve and give effect to this request and (3) EPA's determination regarding the disposition of existing stocks of the affected products.

EPA's approval will be effective October 25, 1990. As of that date, all future sales or distribution of these amitrole products shall be in accordance with the terms and conditions described herein.

DATES: The cancellation of registration shall be effective October 25, 1990.

FOR FURTHER INFORMATION CONTACT: Philip J. Poli, Review Manager, Special Review Branch, Special Review and Registration Division (H7508C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Third floor, Westfield Bldg., 2805 Jefferson Davis Highway, Arlington, VA, (202) 308-8038.

SUPPLEMENTARY INFORMATION:

I. Introduction

By letter dated July 5, 1990, and received by EPA July 9, 1990, Rhone-Poulenc Ag Company, a registrant of the herbicide amitrole, submitted a request to EPA asking that four of its amitrole product registrations be cancelled. The products are EPA Registration No. 264-88 Weedazol® herbicide, 264-124 Amizine® herbicide, 264-196 Liquid Amizine® herbicide, and 264-226 Amitrol T® (Lawn and Garden). Rhone-Poulenc also submitted revised labels for two other amitrole products, Amitrol T® (Liquid Herbicide) and Amizol® (Industrial Herbicide), which would permit application by ground boom method only. The request to modify allowable application methods is being considered separately by the EPA and is not a part of this notice.

In another letter dated August 3, 1990, and received by EPA August 6, 1990, the registrant submitted a request seeking a provision for the disposition of existing stocks along with its voluntary cancellation request. Rhone-Poulenc requested a 1-year inventory disposal period for all four product registrations. Specifically, Rhone-Poulenc requested permission to distribute and/or sell existing stocks of the products for a period of 1-year. A copy of the registrant's letter requesting cancellation of these amitrole products, has been included in the public docket for the Amitrole Special Review.

II. Existing Stocks Determination

The EPA has reviewed the registrant's existing stocks request and has considered the amounts of stock represented to be in existence and under the control of the registrant. The Agency has determined that continued sale and use of existing stocks is not inconsistent with the purposes of the statute and will not have unreasonable adverse effects on the environment. Therefore, the registrant and its dealers may proceed according to the plan described in its request for cancellation, and that existing stocks may not be sold or distributed except as provided for in this notice. No affected amitrole product subject to this notice may be sold, distributed, or released for shipment by the registrant or its agents after September 1, 1991. Amitrole products, subject to this notice may be sold or distributed by a retailer, dealer, or others excluding the registrant or its agents after September 1, 1991. End-users may use supplies of these amitrole products until exhausted.

III. Conclusion

EPA has received and expects to approve the request described above effective October 25, 1990, incorporating the requested action and the decision governing the existing stocks provision as described above.

List of Affected Registrations

Active Ingredient	Registrant	Product Numbers
Amitrole	Rhone-Poulenc	264-98 264-124 264-196 264-329

Dated: October 3, 1990.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 90-24206 Filed 10-12-90; 8:45 am]

BILLING CODE 6560-50-F

[OPP-180000B; FRL 3798-3]

Dinoseb Pesticide Products; Continuation of Response Period for Submission of Claims for Indemnification

AGENCY: Environmental Protection Agency (EPA, the Agency).

ACTION: Final notice.

SUMMARY: This Notice amends a February 17, 1989 Federal Register Notice by announcing that EPA is continuing to accept claims for indemnification and/or requests for disposal for all suspended and cancelled dinoseb-containing pesticides under sections 15 and 19 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136m and 136q (prior to the FIFRA amendments of 1988). This Notice announces a new time frame for submitting claims for indemnification.

DATES: EPA is continuing to accept claims for indemnification. However, in order to expedite processing, claims for indemnification filed in response to this notice should be submitted by January 31, 1991, 2 months before the expiration date of the Agency's contract supporting the processing of claims.

ADDRESSES: All claims and requests filed in response to this Notice should be mailed to: Resource Management and Evaluation Branch (H-7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Attention: Ms. Guynin Myers.

FOR FURTHER INFORMATION CONTACT: By mail: Ms. Guynin Myers, Resource Management and Evaluation Branch (H-7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1002, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. (703) 557-5047

SUPPLEMENTARY INFORMATION: On February 17, 1989, EPA published in the Federal Register a notice announcing procedures for the submission of claims for indemnification and requests for disposal of dinoseb-containing pesticide products. In that notice, EPA stated that it was accepting claims for indemnification until August 15, 1989. In connection with the publication of the February 17, 1989 Notice, EPA conducted an extensive outreach effort to inform all dinoseb holders of the availability of this program. Despite EPA's efforts, a number of holders did not learn about the response period in time to submit claims by August 15, 1989. Further, publicity about the start of the dinoseb disposal operations has generated a number of inquiries from other holders about the availability of indemnification. Due to the unforeseen delay in initiating disposal operations, and to encourage owners of dinoseb products to dispose of dinoseb properly, EPA is issuing this Federal Register Notice announcing that it will continue to accept indemnification claims. In order to receive expedited processing, claims should be submitted before the expiration date of EPA's contract supporting the processing of claims.

Persons owning dinoseb who have not already submitted claims for indemnification are urged to contact EPA at the number listed above for copies of the necessary claim form and the Federal Register Notice of February 17, 1989. These persons should submit claims as soon as possible. Please note that the Agency has contracted with a firm to assist in processing of claims through March, 1991. Persons submitting new claims prior to the date established in this Federal Register notice will receive expedited consideration of their claims, up to the end of the support contract period. Claims received after March 31, 1991, will be processed by EPA staff only, and therefore, in such instances, claimants may experience delays in completion of the indemnification procedures.

Claimants also should be aware of the Federal statute of limitations for claims against the United States. Title 28 U.S.C. 2401(a) provides generally that any action concerning a claim against the United States shall be barred unless filed within 6 years of the date when the claim arose. This provision would bar a claimant from instituting any action to enforce a claim arising out of suspension and cancellation of any dinoseb product 6 years after the registration of the pesticide product was cancelled.

These dates apply only to the submission of claims for indemnification. Requests for disposal will continue to be accepted by the Agency until disposal operations are completed. Therefore, dinoseb holders who have not yet requested disposal should make every effort to do so immediately. Dinoseb holders also are reminded that they have a continuing responsibility to store the product safely and in accordance with all applicable Federal, State and local laws. For guidance on safe storage, holders are referred to the Federal Register Notice of February 17, 1989, (54 FR 7372). Copies are available from the address listed above. Additional guidance on storing dinoseb in accordance with the requirements of the Emergency Preparedness and Community Right to Know Act is available from the address listed above.

Dated: October 3, 1990.

Victor J. Kimm,

Acting Assistant Administrator, Office of Pesticides and Toxic Substances.

[FR Doc. 90-24206 Filed 10-12-90; 8:45 am]

BILLING CODE 6560-50-F

[FRL-3852-5]

Listing Decisions for Virginia Under Section 304(1) of the Clean Water Act

AGENCY: Environmental Protection Agency.

ACTION: Notice of amendment of final listing decisions for the Commonwealth of Virginia under § 304(1) of the Clean Water Act.

SUMMARY: Notice is hereby given of the United States Environmental Protection Agency's (U.S. EPA) decision to amend the final listing decisions for the Commonwealth of Virginia under section 304(1) of the Clean Water Act as amended by the Water Quality Act of 1987. This decision deletes the Westvaco Corporation's Covington Mill from the 304(l)(1)(C) list and the Jackson River, its receiving stream, from the 304(l)(1)(B) list. Several comments were received and considered in reaching this decision on or before the end of the comment period following the proposed decision published June 12, 1990.

DATES: Comments were due on or before July 12, 1990.

ADDRESSES: The administrative record containing the U.S. EPA's documentation supporting its amendment to the final lists will be on file and may be inspected at the U.S. EPA Region III office between the hours of 9 a.m. and 4 p.m., Monday through Friday except holidays. To make arrangements to examine the

administrative record contact Thomas Henry (3WM53), Permits Enforcement Branch, U.S. EPA, Region III, 841 Chestnut Building, Philadelphia, PA 19107, telephone (215) 597–8243, [FTS] 597–8243.

SUPPLEMENTARY INFORMATION: Following the close of the comment period on the proposed listing decisions pursuant to section 304(1) of the CWA, 33 U.S.C. 1314, the Regional Administrator considered the comments and petitions and issued a response to those comments and petitions regarding the Commonwealth of Virginia. The notice of final decision and notice of availability of response was published in the **Federal Register** on March 28, 1990.

Today's decision amends the final list by deleting Westvaco's Covington Mill from the 304(l)(1)(C) list ("C" list) and the receiving stream, the Jackson River, from the 304(l)(1)(B) list ("B" list). This decision is based on EPA Region III's discovery subsequent to March 20, 1990, that Westvaco had submitted sampling data to an EPA Headquarters Office prior to the end of the comment period which was not considered in the March 20th decision. This information indicated that the discharge for the period covered by the sampling from the Westvaco Covington Mill did not and would not cause the receiving stream, the Jackson River, to exceed the applicable water quality standard for dioxin. Since this information was available during the comment period and the Agency believes that it supports a determination that Westvaco's discharge will not cause the receiving stream to exceed the applicable water quality standard for dioxin, EPA Region III is removing Westvaco's Covington Mill and the Jackson River from the "C" and "B" lists, respectively.

EPA accepted comments concerning this decision for thirty days from the date of publication of the proposed decision in the **Federal Register** on June 12, 1990. Comments to the proposed delisting did not oppose the decision. EPA's response to those comments is available in the administrative record noted above.

Since EPA determined that Westvaco's Covington Mill should be removed from the "C" list, no individual control strategy pursuant to section 304(l)(1)(D) of CWA will be required for the mill. EPA notes favorably, however, that Westvaco has requested from the Commonwealth of Virginia a modification to its National Pollutant Discharge Elimination System permit to include a numeric limitation for dioxin. This modification is presently being developed by Virginia. Effluent limitations are established to protect the ambient water quality of the receiving stream.

Dated: September 27, 1990.

Edwin B. Erickson,

Regional Administrator, EPA Region III.

[FR Doc. 90-24210 Filed 10-12-90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

October 4, 1990.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632–7513. Persons wishing to comment on this information collection should contact Bruce McConnell, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395–3785.

OMB Number: 3060–0435

Title: Section 80.361, Frequencies for narrow-band direct-printing (NB–DP) and data transmissions

Action: New collection

Respondents: Individuals or households, state or local governments, nonprofit institutions and businesses or other for-profit (including small businesses)

Frequency of Response: On occasion

Estimated Annual Burden: 2 responses, 2 hours average burden per response; 4 hours total annual burden

Needs and Uses: The reporting requirement contained in Section 80.361 is necessary to require applicants to submit a showing of need to obtain new or additional narrow-band direct-printing (NB–DP) frequencies. Applicants for new or additional NB–DP frequencies are required to show the schedule of service of each currently licensed or proposed series of NB–DP frequencies and to show a need for additional frequencies based on at least a 40% usage of existing NB–DP frequencies.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-24136 Filed 10-12-90; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

October 5, 1990.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632–7513. Persons wishing to comment on this information collection should contact Bruce McConnell, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395–3785.

OMB Number: 3060–0054

Title: Application for Exemption From Ship Radio Station Requirements

Form Number: FCC Form 820

Action: Revision

Respondents: Individuals or households, and businesses or other for-profit (including small businesses)

Frequency of Response: On occasion

Estimated Annual Burden: 100 responses, 2.06 hours average burden per response; 206 hours total annual burden

Needs and Uses: In accordance with FCC Rules, applicants are required to complete FCC Form 820 to apply for exemption from radio provisions of statute, Treaty, or international agreement. The data is used by examiners to determine the applicants qualifications for the requested exemption. The revision of this information collection includes the fee processing data on the form and a slight increase in burden.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-24137 Filed 10-12-90; 8:45 am]

BILLING CODE 6712-01-M

Comments Invited on New York Metropolitan Area Regional Public Safety Plan Amendment

October 5, 1990.

The Commission has received a proposed amendment to the public safety radio communications plan for the New York Metropolitan Area (Region 8). Specifically, the Region 8 Tri-State Radio Planning Committee voted at its September 27, 1990, meeting to approve the following changes to their channel allotment plan:

Channel	Freq.	Change from	Change to
611	821/866.1500	Orange County, NY [1]	Belleville Township, NJ.
634	821/866.4375	Unassigned	New York City PD, NY.
672	821/866.8375	Unassigned	Danbury Police Dept., CT.
697	822/867.2750	Unassigned	Old Bridge Township, NJ.
710	822/867.4375	Unassigned	Belleville Township, NJ.
721	822/867.5900	Unassigned	Essex County Police, NJ.
728	822/867.6125	Leonia PD, NJ [2]	Scarsdale Fire Dept., NY.
733	822/867.6250	Orange County, NY [1]	New York City PD, NY.
746	822/867.6975	Unassigned	Old Bridge Township, NJ.
760	823/868.3625	Mercer County, NJ [1] and Dutchess County, NY [1]	Fairfield Township, NJ.
814	823/868.7675	Orange County, NY [1]	Belleville Township, NJ.
816	823/868.8125	Orange County, NY [1]	Newark Housing Auth., NJ.
819	823/868.8500	Unassigned	Essex County Police, NJ.
820	823/868.8625	Unassigned	Town of Fairfield, CT.
821	823/868.8750	Unassigned	Jersey City Police, NJ and Secaucus Police, NJ.

[1] This assignment was previously a pool assignment. See Notes 1 and 2, page 94 of the currently approved plan for FCC Region 8. These changes were coordinated and approved by the affected adjacent FCC region.
[2] Leonia Police Department notified FCC Region 8 that it wished to withdraw its assignment. The FCC Region 8 approved the withdrawal without prejudice.

Channel	Freq.	Current allotment	Additional allotment
606	821/866.1125	Mercer County, NJ [1] and Stamford, CT	Howell Township, NJ.
608	821/866.2625	Essex/Passaic Red Cross, NJ	Eastern Union County Red Cross, NJ
696	821/866.8625	CT State Police, CT	Old Bridge Township, NJ.
696	822/867.1375	CT State Police, CT	Old Bridge Township, NJ.
716	822/867.5625	Port Authority, NY	Danbury Police Dept., CT.
724	822/867.8375	Norwalk PD, CT	Maywood Police Dept., NJ.
756	823/868.0625	Babylon, NY and Orange County, NY [1]	Danbury Police Dept., CT.

[1] This assignment was previously a pool assignment. See Notes 1 and 2, page 94 of the currently approved plan for FCC Region 8. These changes were coordinated and approved by the affected adjacent FCC region.
[2] Leonia Police Department notified FCC Region 8 that it wished to withdraw its assignment. The FCC Region 8 approved the withdrawal without prejudice.

In accordance with the Commission's Report and Order in General Docket No. 87-112 implementing the Public Safety National Plan, parties are hereby given thirty days from the date of Federal Register publication of this public notice to file comments and fifteen days to reply to any comments filed. [See Report and Order, General Docket No. 87-112, 3 FCC Rcd 905 (1987), at paragraph 57.)

Region 8 consists of: Fairfield, Litchfield, New Haven, and Middlesex Counties, Connecticut; Bronx, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Sullivan, Ulster, Dutchess, and Westchester Counties, New York; Bergen, Essex, Hudson, Morris, Passaic, Sussex, Union, Warren, Middlesex, Somerset, Hunterdon, Mercer, and Monmouth Counties, New Jersey. (General Docket No. 87-112, 3 FCC Rcd 2113 (1988).)

Comments should be clearly identified as submissions to General Docket No. 88-476, New York Metropolitan Area—Region 8, and commenters should send an original and five copies to the Secretary, Federal Communications Commission, Washington, DC 20554.

Concurrent with this notice and comment period, Region 8 has opened a third window application period beginning October 1, 1990, and ending November 1, 1990. Any applications submitted after November 1, 1990, will be rejected.

Questions regarding this public notice may be directed to Maureen Cesaitis, Private Radio Bureau, (202) 632-6497.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-24158 Filed 10-12-90; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing

1. The Commission has before it the following groups of mutually exclusive applications for four new FM stations:

Applicant, City/State	File No.	MM docket No.
1		
A. Alice M. and Henry M. Ellenbogen d/b/a Simply Broadcasting, New Paltz, NY	BPH-880620MI	90-415
B. Creative Broadcasters, Inc., New Paltz, NY	BPH-880630MI	
C. Jeffery Busch, New Paltz, NY	BPH-880630MS	
D. Skytop Telecom, Inc., New Paltz, NY	BPH-880630MT	
E. Larry E. Snyder d/b/a Ben Kelly Radio, New Paltz, NY	BPH-880630MX	
F. Herndon A. Segal, New Paltz, NY	BPH-880630NC	

Applicant, City/State	File No.	MM docket No.
G. New Paltz Broadcasting, Inc., New Paltz, NY	BPH-880630NS	
Issue Heading and Applicants		
1. Site Availability, A,B,D,G		
2. Comparative, A–G		
3. Ultimate, A–G		
II		
A. Viera & Lloyd, Los Banos, CA	BH-880505MC	90–417
B. Amador & Rosalie Bustos, Los Banos, CA	BH-880505ME	
C. Los Banos Educational Services, Los Banos, CA	BH-880505MI	
Issue Heading and Applicants		
1. Noncommercial Educational Qualifications, C		
2. Environmental, A,B		
3. Air Hazard, C		
4. City Coverage, C		
5. Comparative, A,B,C		
6. Ultimate, A,B,C		
III		
A. Rising Sun Enterprises, Inc. c/o Helen Garrett, Reidland, KY	BPH-880117MD	90–414
B. Ladon Broadcasting Company, Inc., Reidland, KY	BPH-880117ML	
C. Whiting Enterprises, Inc., Reidland, KY	BPH-880118MC	
D. Marvin and Gentry, A Partnership, Reidland, KY	BPH-880118ME	
E. Jimmy Ray and Shelby Jean Baggett, Reidland, KY	BPH-880118MO	
Issue Heading and Applicants		
1. Comparative, A through E		
2. Ultimate, A through E		
IV		
A. The Pacific FM Limited Partnership, Oxnard, CA	BPH-880505MJ	90–416
B. Arthur S. Liu, Oxnard, CA	BPH-880505MM	
C. KEXT Broadcasters, Inc., Oxnard, CA	BPH-880505NB	
D. Spanglish Communications, Inc., Oxnard, CA	BPH-880505NG	
E. Patricia J. Jacobsen d/b/a Peacock Broadcasting, Oxnard, CA	BPH-880505NL	
F. Vince Lee Broadcasting Ltd., Oxnard, CA	BPH-880505NW	
G. B.F.J. Timm, Oxnard, CA	BPH-880505OE	
H. Raymond W. Clanton, Oxnard, CA	BPH-880505OG	
I. Radio Oxnard, Limited Partnership, Oxnard, CA	BPH-880505OO	
J. Townsend Broadcasting, Inc., Oxnard, CA	BPH-880505OW	
K. Charles S. Nelson, Oxnard, CA	BPH-880505PK	
L. Oxnard Broadcasting, Inc., Oxnard, CA	BPH-880504MQ	
M. Sherri Lynn McKinnon, Oxnard, CA	BPH-880505OV (Previously Returned)	
N. Borchard FM Broadcasting Co., Inc., Oxnard, CA	BPH-880505PA (Previously Returned)	
O. 1ST Broadcasting, Inc., Oxnard, CA	BPH-880505PF (Previously Returned)	
Issue Heading and Applicants		
1. Financial Qualifications, I		
2. Environmental, C,E,I		
3. Air Hazard, A,D,F,H,I,K		
4. Comparative, A–K		
5. Ultimate, A–K		

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issue whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

3. If there is any non-standardized issue in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division.

[FR Doc. 90–24149 Filed 10–12–90; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM

Fidelity Bancorporation, Inc., et al; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 5, 1990.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Fidelity Bancorporation, Inc.*, Dover, Delaware; to become a bank holding company by acquiring 100 percent of the voting shares of Fidelity Bank, Fort Worth, Texas.

2. *First National Bank of New Boston ESOP*, New Boston, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of New Boston Bancshares, Inc., New Boston, Texas, and thereby indirectly acquire First National Bank of New Boston, New Boston, Texas.

3. *Plains Bancorp Delaware, Inc.*, Wilmington, Delaware; to become a banking holding company by acquiring 100 percent of the voting shares of The First State Bank of Dimmitt, Texas.

4. *Plains Bancorp, Inc.*, Dimitt, Texas; to merge with Seagraves Bancshares, Inc., Seagraves, Texas, and thereby indirectly The First State Bank in Seagraves, Seagraves, Texas.

Board of Governors of the Federal Reserve System, October 9, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-24220 Filed 10-12-90; 8:45 am]

BILLING CODE 6210-01-M

Central Bancshares of the South, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 U.S.C. 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 5, 1990.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Central Bancshares of the South, Inc.*, Birmingham, Alabama, and Compass Bancshares, Inc., Houston, Texas; to acquire 100 percent of the voting shares of Plaza National Bank, Dallas, Texas.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Michigan Bank Corporation*, Holland, Michigan; to acquire 100 percent of the voting shares of FMB-Trust and Financial Services, National Association, Holland, Michigan.

2. *Readlyn Bancshares, Inc.*, St. Paul, Minnesota; to acquire 13.85 percent of the common stock and 12.5 percent of the preferred stock; Britt Bancshares, Inc., St. Paul, Minnesota; to acquire 17.85 percent of the common stock; and Tripoli Bancshares, Inc., St. Paul, Minnesota; to acquire 16.62 percent of the common stock and 20.0 percent of the preferred stock of Ashton Bancshares, Inc., Ashton, Iowa, and thereby indirectly acquire Ashton State Bank, Ashton, Iowa.

In connection with this application, Douglas Newman, Ashton, Iowa; Frank Tschida, St. Paul, Minnesota; Rex Eno, Cedar Rapids, Iowa; Mark Kravik, Osceola, Wisconsin; and James McMahill, Minnetonka, Minnesota, have applied to acquire 24.3 percent of the common stock and 67.5 percent of the preferred stock of Ashton Bancshares, Inc., Ashton, Iowa, and thereby indirectly acquire Ashton State Bank, Ashton, Iowa, pursuant to the Change in Bank Control Act, 12 U.S.C. 1817(j).

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Bank Corp.*, Fort Smith, Arkansas; to acquire 100 percent of the voting shares of Sequoyah County Bankshares, Inc., Sallisaw, Oklahoma, and thereby indirectly acquire National Bank of Sallisaw, Sallisaw, Oklahoma.

2. *First of Searcy, Inc.*, Searcy, Arkansas; to acquire at least 74.6 percent of the voting shares of Citizens Bancshares of Beebe, Inc., Beebe, Arkansas, and thereby indirectly acquire Citizens Bank, Beebe, Arkansas.

3. *First State Bancshares, Inc.*, Farmington, Missouri; to acquire 100 percent of the voting shares of First State Bank of St. Francois County, Bonne Terre, Missouri.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *F&M Bank Services, Inc.*, Derby, Kansas, to acquire Farmers and Merchants State Bank, Derby, Kansas.

Board of Governors of the Federal Reserve System, October 9, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-24228 Filed 10-12-90; 8:45 am]

BILLING CODE 6210-01-M

Norwest Corp., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition,

conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than November 5, 1990.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota; to enter into a lease agreement and option to purchase a general insurance agency business from Gilco Leasing, Inc., Omaha, Nebraska, and thereby engage in general insurance agency activities pursuant to § 225.25(b)(8) of the Board's Regulation Y. Comments on this application must be received by October 19, 1990.

B. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Assistant Vice President) 101 Market Street, San Francisco, California 94105:

1. *Banque Nationale de Paris*, Paris, France; to acquire BAII Capital Markets, Inc., New York, New York, and thereby engage in securities brokerage activities pursuant to § 225.25(b)(15) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 9, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-24227 Filed 10-12-90; 8:45 am]

BILLING CODE 6210-01-M

Signet Banking Corporation; Notice of Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 5, 1990.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Signet Banking Corporation*, Richmond, Virginia; to engage *de novo* through its subsidiary, Signet Trust Company, Richmond, Virginia, in serving as investment adviser to investment companies registered under the Investment Company Act of 1940 pursuant to § 225.25(b)(4)(ii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 9, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-24231 Filed 10-12-90; 8:45 am]

BILLING CODE 6210-01-M

John W. Troxell, Jr., et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 29, 1990.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *John W. Troxell, Jr.*, Allentown, Pennsylvania; to acquire an additional 3.7 percent of the voting shares of First Bath Corporation, Bath, Pennsylvania, for a total of 15.0 percent, and thereby indirectly acquire First National Bank of Bath, Bath, Pennsylvania.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Centra, Inc.*, Warren, Michigan; to acquire at least 10 percent but less than 25 percent of the voting shares of Citizens Banking Corporation, Flint, Michigan, and thereby indirectly acquire Commercial National Bank of Berwyn, Berwyn, Illinois; Citizens Commercial & Savings Bank, Flint, Michigan Second National Bank of Bay City, Bay City, Michigan; Grayling State Bank, Grayling, Michigan; Second National Bank of Saginaw, Saginaw, Michigan; and State Bank of Standish, Standish, Michigan.

2. *Nels Lindquist*, and Judith Lindquist; to each acquire 45.49 percent of the voting shares of Libanco, Inc., Gowrie, Iowa, and thereby indirectly acquire The First State Bank of Gowrie, Gowrie, Iowa.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 441 Locust Street, St. Louis, Missouri 63166:

1. *Raymond C. Burroughs*, Murphysboro, Illinois; to acquire 13.65 percent of the voting shares of City Bancorp, Inc., Murphysboro, Illinois, and thereby indirectly acquire The City National Bank of Murphysboro, Murphysboro, Illinois, as the result of a stock redemption.

D. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Kent Harrington*, Plainview, Minnesota; to acquire 0.66 percent of the voting shares of Plainview Bankshares, Inc., Plainview, Minnesota, and thereby

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indirectly acquire First National Bank of Plainview, Plainview, Minnesota.

E. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. James O. Haas, Berwyn, Pennsylvania; to acquire up to 100 percent of the voting shares of Pioneer Bank of Longmont, Longmont, Colorado.

2. William J. (Bill) Pasek, Kansas City, Missouri; to acquire 63.19 percent of the voting shares of ASB Bancshares, Inc., Archie, Missouri, and thereby indirectly acquire Archie State Bank, Archie, Missouri.

Board of Governors of the Federal Reserve System, October 9, 1990.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 90-24229 Filed 10-12-90; 8:45 am]
BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of the Assistant Secretary for Personnel Administration; Statement of Organization, Functions, and Delegations of Authority

Part A (Office of the Secretary) of the Statement of Organization, and Delegations of Authority for the Department of Health and Human Services (DHHS) is amended to reflect a realignment of functions in the Office of the Assistant Secretary for Personnel Administration. The change integrates the functions of the "Technical Services Center" into the "Personnel and Pay Systems Division", Office of Human Resource Information Management.

Specifically, chapter AH, Office of the Assistant Secretary for Personnel Administration, as last published at 53 FR 4720, February 17, 1988, is revised as follows:

In chapter AH, section AH.20 Functions, paragraph B.9 "Technical Services Center", remove the following: "9. Technical Services Center."

Dated: September 25, 1990.

Kevin R. Maley,
Assistant Secretary for Management and Budget.

[FR Doc. 90-24174 Filed 10-12-90; 8:45 am]
BILLING CODE 4150-04-M

Food and Drug Administration

Consumer Participation; Notice of Open Meeting

AGENCY: Food and Drug Administration; HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: Minneapolis District Office, chaired by Donald W. Aird, Consumer Affairs Officer. The topic to be discussed is food labeling proposals.

DATES: Tuesday, October 16, 1990, 11 a.m. to 1 p.m.

ADDRESSES: 106 Washburn Hall, 2305 East Fifth St., Duluth, MN 55812.

FOR FURTHER INFORMATION CONTACT: Donald P. Aird, Consumer Affairs Officer, Food and Drug Administration, 240 Hennepin Ave., Minneapolis, MN 55401, 612-334-4100.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: October 9, 1990.

Alan L. Hoeting,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-24216 Filed 10-12-90; 8:45 am]
BILLING CODE 4160-01-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: Dallas District Office, chaired by Gerald Sands, District Director. The topic to be discussed is food labeling proposals.

DATES: Monday, October 22, 1990, 10 a.m.

ADDRESSES: Food and Drug Administration, 1445 North Loop West, Suite 420, Houston, TX 77008.

FOR FURTHER INFORMATION CONTACT: Sheryl Lunnon-Baylor, Consumer Affairs Officer, Food and Drug Administration, 1445 North Loop West, Suite 420, Houston, TX 77008, 713-229-2322.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: October 9, 1990.

Alan L. Hoeting,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-24217 Filed 10-12-90; 8:45 am]
BILLING CODE 4160-01-M

Health Care Financing Administration

Statement of Organization, Functions, and Delegations of Authority

Part F. of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA), (Federal Register, Vol. 54, No. 12, p. 2229, dated Thursday January 19, 1989) is amended to reflect the establishment of the Physician Payment Reform Implementation Task Force in the Office of Program Operations Procedures, Bureau of Program Operations in the Office of the Associate Administrator for Operations. This task force will: (1) Design and oversee the operational activities related to the implementation of the Medicare Physician Payment Reform (PPR); (2) analyze, develop procedures and validate contractor data related to PPR; (3) test carrier instructional changes and conducts regional office and carrier training on PPR.

The specific amendment to part F. is described below:

- Section FP.20.A.3.e, Physician Payment Reform Implementation Task Force (FPA8-2) is added to reflect the establishment of a focal coordinating point for the development of new operational requirements. The new section reads as follows:

e. Physician Payment Reform Implementation Task Force (FPA8-2)

1. Designs and develops the activities related to the operational implementation of the Medicare Physician Payments Reform (PPR) provision of OBRA 89 (Section 6102).

2. Develops procedures and contractor operational instructions necessary to implement the January 1, 1992 PPR provisions.

3. Analyzes and validates contractor data to develop and monitor Physician Payment Reform.

4. Coordinates activities with Technical Advisory Groups, carriers and

other HCFA components for developing data analysis plans and instructions for Payment Policy Standardization implementation.

5. Develops the necessary test protocols and conducts tests of carrier instructional changes to determine accuracy of change and clarity of instructions.

6. Conducts regional office and carrier training on PPR. Develops guidelines and monitors carriers implementation of and compliance with educational activities.

This is a temporary organization that is expected to be in operation for approximately 2 years when its activities will be incorporated into other Office of Program Operations Procedures components.

Dated: October 2, 1990.

Robert A. Streimer,

Associate Administrator for Management.

[FR Doc. 90-24204 Filed 10-12-90; 8:45 am]

BILLING CODE 4120-03-M

National Institutes of Health

National Cancer Institute; Meeting (Division of Cancer Treatment Board of Scientific Counselors)

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, DCT, National Cancer Institute, National Institutes of Health, October 22-23, 1990, Building 1, Wilson Hall, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on October 22 from 8:30 a.m. to approximately 5:30 p.m., and again on October 23 from 8 a.m. until adjournment, to review program plans, concepts of contract recompetitions and budget for the DCT program. In addition, there will be scientific reviews by several programs in the Division. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92-463, the meeting will be closed to the public on October 22 from 5:30 p.m. to approximately 6:30 p.m., for the review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Committee Management Office, National Cancer Institute, Building 31, room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496-5708) will provide summaries of the meeting and rosters of committee members upon request.

Dr. Bruce A. Chabner, Director, Division of Cancer Treatment, National Cancer Institute, Building 31, room 3A52, National Institutes of Health, Bethesda, Maryland 20892 (301/496-4291) will furnish substantive program information.

Dated: October 3, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-24201 Filed 10-12-90; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Child Health and Human Development; Meeting of the Board of Scientific Counselors, NICHD

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Child Health and Human Development, December 7, 1990, in Building 31, room 2A52.

This meeting will be open to the public from 9 a.m. to 12 noon on December 7 for the review of the Intramural Research Program and scientific presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Public Law 92-463, the meeting will be closed to the public on December 7 from 1 p.m. to adjournment for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Mary Plummer, Committee Management Officer, NICHD, Executive Plaza North, room 520, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-1485, will provide a summary of the meeting and a roster of Board members, and substantive program information upon request.

Dated: October 3, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-24202 Filed 10-12-90; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Environmental Health Sciences; Meeting of Advisory Council on Hazardous Substances Research and Training

Pursuant to Public Law 92-463, notice is hereby given on a meeting to be held at the National Institutes of Health, Building 31-C, Conference Room 6, Bethesda, Maryland on October 25, 1990. The meeting will be open to the public and will begin at 8:30 a.m. and end at 5 p.m.

The Superfund Amendments and Reauthorization Act of 1986 (SARA) established a university-based, basic research and education program within NIEHS. The purpose of the meeting is to provide the Advisory Council on Hazardous Substances Research and Training the opportunity to learn the status of these programs, which were previously described in the Federal Register of November 28, 1986 (51 FR 43069-43092) and March 9, 1987 (52 FR 7213-7223).

Topics to be discussed at the meeting may include, but are not limited to, recent research findings from the 12 universities receiving NIEHS Superfund Hazardous Substances and Training grants and summaries of four Superfund research conferences convened by NIEHS in 1990: Biomarkers of Human Exposure; Biodegradation of Hazardous Substances; Measuring Pathways of Human Exposure at Superfund Sites; and Health Effects of Hazardous Waste Incineration By-Products. In addition, representatives from the Agency for Toxic Substances and Disease Registry, the Department of Defense, the Department of Energy, and the Environmental Protection Agency will brief the Advisory Council on the status of Superfund research programs managed by those agencies.

Attendance is limited only by space available. For futher information, please contact Mr. Daniel C. VanderMeer, Executive Secretary, NIEHS, P.O. Box 12233, Research Triangle Park, NC, 27709 or telephone (919) 541-3484. The government representative for this meeting will be Dr. Anne P. Sassaman.

(Catalog of Federal Domestic Assistance Program No. 13.143, NIEHS Superfund Hazardous Substances Basic Research and Training Program, NIH)

Dated: October 8, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-24200 Filed 10-12-90; 8:45 am]

BILLING CODE 4140-01-M

Social Security Administration

Supplemental Security Income Modernization Project; Meeting

AGENCY: Social Security Administration, HHS.

ACTION: Notice of meeting.

The Social Security Administration (SSA) announces a meeting of the Supplemental Security Income (SSI) Modernization Project (the Project). This notice also describes the proposed agenda, purpose, and structure of the Project.

DATES: November 7–8, 1990, 9 a.m. to 5 p.m.

ADDRESSES: Federal Building, room 305, 26 Federal Plaza, New York, NY 10278. (Use the Duane Street entrance to the building.)

FOR FURTHER INFORMATION CONTACT: SSI Modernization Project Staff, room 300, 6401 Security Boulevard, Baltimore, MD 21235, (301) 965–3571.

SUPPLEMENTARY INFORMATION: SSA is undertaking a comprehensive examination of the SSI program, reviewing its fundamental structure and purpose. The SSI program has been in operation over 16 years. The purpose of the Project is to determine if the SSI program is meeting and will continue to meet the needs of the population it is intended to serve in an efficient and caring manner, recognizing the constraints in the current fiscal climate.

The first phase of this Project is intended to create a dialogue that provides a full examination of how well the SSI program serves the needy, aged, blind, and disabled.

To begin this dialogue, the Commissioner has involved 25 people who are experts in the SSI program and/or related public policy areas. The experts include a wide range of representatives of the aged, blind, and disabled from private and nonprofit organizations and Federal and State government as well as former SSA staff. Like members of the public attending this meeting, the experts will be able to express their individual views and concerns about the SSI program. Dr. Arthur S. Fleming, former Secretary of Health, Education and Welfare, will chair the meeting. The purpose of this initial dialogue is to exchange ideas and existing information about the program. This exchange will facilitate the sharing of ideas among attendees' constituencies, including advocacy groups, state and local government and academicians. The outcome will be a more informed public that has an interest in bringing individually produced innovative ideas for change in the SSI program to the Modernization Project.

The meeting is open to the public to the extent that space is available. Public officials, representatives of professional and advocacy organizations, concerned citizens, and SSI applicants and recipients may speak and submit written comments on the issues to be discussed. (This is the fourth in a series of meetings to be held throughout the country. Each of these meetings will also be open to the public. All meetings will be announced in the Federal Register. If you are interested in the Project but cannot attend the meeting on November 7–8, 1990, please call the Project staff at (301) 965–3571 so we may notify you of future meetings.)

There will be a public comment portion of the meeting beginning in the afternoon of November 7, 1990. A second public comment session will be held on November 8, 1990, in the morning. In order to ensure that as many individuals as possible are given the opportunity to speak in the time allotted for public comment, each individual will be limited to a maximum of 10 minutes. Because of the time limitation, individuals are requested to present comments in their order of importance. A written copy of comments should be prepared and presented to us, preferably in advance of the meeting. To ensure our full understanding and consideration of all of each speaker's concerns, we welcome written comments that provide a detailed and elaborative discussion of the subjects presented orally, as well as further written comments on other issues not presented orally. Individuals unable to attend the meeting also may submit written comments. Written comments will receive the same consideration as oral comments.

To request to speak, please telephone the Project Staff, at (301) 965–3571, and provide the following: (1) Name; (2) business or residence address; (3) telephone number (including area code) during normal working hours; (4) capacity in which presentation will be made; e.g., public official, representative of an organization, or citizen; and (5) time of day desired. To guarantee an opportunity to speak, requests must be received by November 1, 1990. Late requests to speak will be honored, if time permits.

A transcript of the meeting will be available at an at-cost basis. Transcripts may be ordered from the Project Staff. The transcript and all written submissions will become part of the record of these meetings.

Dated: October 9, 1990.

Peter Spencer,

Director, SSI Modernization Project Staff.

[FR Doc. 90–24232 Filed 10–12–90; 8:45 am]

BILLING CODE 4190-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–050–00–4210–02; NV–930–00–00154]

Las Vegas District Advisory Council Meeting

AGENCY: Bureau of Land Management, Department of the Interior Notice is hereby given in accordance with Public Law 920463 that a meeting of the Bureau of Land Management, Las Vegas District Advisory Council will be held October 31, and November 1, 1990, at 9 a.m. to 1 p.m. (10/31), 9 a.m. to 4 p.m. (11/1) in the Las Vegas BLM District Office, Las Vegas, Nevada.

The meeting agenda will include:

1. Tortoise Habitat Conservation Plan—Update and Progress.
2. Wild Horse and Burro Program—Status Report.
3. Las Vegas District Sand and Gravel Program—Status Report.
4. Council Resolution on Sanitary Landfills.
5. Rocky Gap Road (Red Rock Canyon Recreation Area)—Status Report.
6. Public Comments.

Thursday, November 1, 1990. 9 a.m.–4 p.m.—Field trip and tour of the Red Rock Recreation Lands and Desert Tortoise Conservation Center in conjunction with the National Public Lands Advisory Council.

Advisory Council meetings are open to the public. Persons wishing to make oral statements to the Council must notify the District Manager, Bureau of Land Management, Las Vegas District, P.O. Box 26569, Las Vegas, Nevada 89125, prior to October 26, 1990.

Minutes of the meeting will be available, upon request, at the Las Vegas District Office on November 31, 1990.

Gary Ryan,

Associate District Manager, Las Vegas, Nevada.

[FR Doc. 90–24139 Filed 10–12–90; 8:45 am]

BILLING CODE 4310-HC-M

Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Susanville District Grazing Advisory Board, Susanville, CA.

ACTION: Notice of Meeting.

SUMMARY: Notice is hereby given that the Susanville District Grazing Advisory Board, created under the Secretary of Interior's discretionary authority on May 14, 1986, will meet on November 7, 1990.

The November 7 meeting will begin at 10 a.m. at the Surprise Resource Area Office, Bureau of Land Management, 602 Cressler Street, Cedarville, California.

Subjects to be covered during the meeting will include a report of progress on range improvements for FY 1990, proposed range improvements for FY 1991, a report on new and revised Allotment Management Plans (AMPs) for FY 1990, a discussion of cattleguard maintenance problems, a discussion of the proposed helicopter gathering of wild horses and burros for FY 1991, and a discussion of other items as appropriate.

The meeting is open to the public. Interested persons may make oral statements to the Board between 3 p.m. to 4:30 p.m. on November 7, 1990 or file a written statement for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 705 Hall Street, Susanville, California 96130 by November 1, 1990. Depending upon the number of persons wishing to make oral statements, a per person time limit may be established.

Summary minutes of the Board meeting will be maintained in the District Office, and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Robert J. Sherve,

Associate District Manager.

[FR Doc. 90-24161 Filed 10-12-90; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-00-4111-15; CACA 16346]

California: Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Public Law 97-451, a petition for reinstatement of oil and gas lease CACA 16346 for lands in Kern County, California, was timely filed and was accompanied by all required rentals and royalties accruing from May 1, 1990, the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $5.00 per acre and 16⅔ percent, respectively. Payment of a $500.00 administrative fee has been made.

Having met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease effective May 1, 1990, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above, and the reimbursement for cost of publication of this notice.

Dated: October 1, 1990.

Fred O'Ferrall,

Chief, Leasable Minerals Section

[FR Doc. 90-24164 Filed 10-12-90; 8:45 am]

BILLING CODE 4310-40-M

[NM-910-91-GPO-4111-15-403; NMNM 39120]

Proposed Reinstatement of Terminated Oil and Gas Lease; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provision of 43 CFR 3108.2-3, Yates Petroleum Corporation, petitioned for reinstatement of oil and gas lease NMNM 39210, covering the following described land located in Eddy County, New Mexico:

T. 20 S., R. 24 E.
Sec. 6, lots 3, 4, 5, 6, and 7, SE¼NW¼, E½SW¼;
Sec. 7, lots 1, 2, and 3;
Sec. 17, NE¼.

Containing 594.38 acres.

It has been shown to my satisfaction that failure to make timely payment of rental was due to inadvertence.

No valid lease has been issued affecting the lands. Payment of back rentals and administrative cost of $500.00 has been paid. Future rentals shall be at the rate of $5.00 per acre per year and royalties shall be at the rate of 16⅔ percent. Reimbursement for cost of the publication of this notice shall be paid by the lessee.

Reinstatement of the lease will be effective as of the date of termination, December 1, 1989.

Dated: October 3, 1990.

Dolores L. Vigil,

Chief, Adjudication Section.

[FR Doc. 90-24165 Filed 10-12-90; 8:45 am]

BILLING CODE 4310-FB-M

[CA-060-91-3115-10-DTNA]

Realty Action—Exchange, California

AGENCY: United States, Department of the Interior, Bureau of Land Management.

ACTION: Notice of Realty Action, Exchange of Public and Private Lands in San Bernadino and Kern Counties, CA 27415.

SUMMARY: The following public lands in San Bernadino County have been examined and determined suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716). Selected lands:

San Bernadino Meridian, California

T.11N., R.6W.
Section 30, Lot 5
Containing 21.88 acres of public land, more less.

In exchange for these lands, the United States will acquire the following private lands in Kern County from The Nature Conservancy. Offered lands:

Mount Diablo Meridian, California

T. 31S., R. 36E.
Section 15: SE¼NW¼
Containing 40 acres of non-Federal lands, more or less.

SUPPLEMENTARY INFORMATION: The purpose of the exchange is to acquire private land in the designated Desert Tortoise Research Natural Area. The designated area encompasses lands which have historically supported the highest and most stable population of tortoise within its range. The desert tortoise has been listed as a threatened species under the Endangered Species Act of 1973. Publication of this notice in the Federal Register segregates the public lands from the operation of the public land laws and the general mining laws, but not the mineral leasing laws. The segregative effect will end upon issuance of patent or two years from the date of publication, whichever occurs first.

The exchange will be on an equal value basis. Full equalization of value will be achieved by acreage adjustment or by cash payment in the amount not to exceed 25 percent of the fair market value of the selected lands.

Lands transferred out of Federal ownership will be subject to the following reservations terms and conditions.

1. A reservation of right-of-way to the United States for ditches and canals, pursuant to the Act of August 30, 1890 (43 U.S.C. 945).

2. A right-of-way for solar-electric generation facilities, Serial Number CA-18774, held by Luz Solar Partners, Ltd.

3. A right-of-way for electric power transmission facilities, Serial Number LA-0145482, held by Southern California Edison Company.

FOR FURTHER INFORMATION CONTACT: Tom Gey, Ridgecrest Resource Area (619) 375-7125. Information relating to this exchange is available for review at the Ridgecrest Resource Area Office, 300 South Richmond Road, Ridgecrest, California 93555.

DATES: For a period of 45 days from the date of first publication of this notice interested parties may submit comments to the District Manager, California Desert District Office, Bureau of Land Management, in care of the above address. Objections will be reviewed by the State Director, who may sustain, vacate, or modify this realty action. In the absence of objections, this realty action will become the final determination of the Department of the Interior.

Dated: October 2, 1990.

H.W. Riecken,

Acting District Manager.

[FR Doc. 90-24163 Filed 10-12-90; 8:45 am]

BILLING CODE 4310-40-M

[CO-942-01-4730-12]

Colorado: Filing of Plats of Survey

October 4, 1990.

The plats of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10 a.m., October 4, 1990.

The plat representing the dependent resurvey of a portion of the east boundary and subdivisional lines and the subdivision of section 1, T. 36 N., R. 17 W., New Mexico Principal Meridian, Colorado, Group No. 717, was accepted September 25, 1990.

The plat representing the dependent resurvey of portions of the west boundary of the Ute Ceded Lands, the Ninth Standard Parallel North (south boundary), the Second Guide Meridian West (east boundary), and subdivisional lines and the subdivision of certain sections, T. 37 N., R. 17 W., New Mexico Principal Meridian, Colorado, Group No. 717, was accepted September 25, 1990.

These surveys were executed to meet certain administrative needs of the Bureau of Reclamation.

The plat representing the dependent resurvey of portions of the Eighth Standard parallel North (south boundary) and the subdivisional lines and the subdivision of certain sections, T. 36 N., R. 2 W., New Mexico Principal Meridian, Colorado, Group No. 701, was accepted September 25, 1990.

This survey was executed to meet certain administrative needs of the Bureau of Indian Affairs.

The plat representing the dependent resurvey of portions of the subdivisional lines, subdivision of section 23, and the metes-and-bounds survey in this section, and the further subdivision of section 23, T. 2 N., R. 75 W., Sixth Principal Meridian, Colorado, Group No. 864, was accepted September 25, 1990.

This survey was executed to meet certain administrative needs of the U.S. Forest Service.

The plat representing the dependent resurvey of a portion of the subdivisional lines and subdivision of sections 25 and 36, the metes-and-bounds survey of lot 2, section 36, and an informative traverse of a portion of the Government Highline Canal, T. 2 N., R. 2 W., Ute Meridian, Colorado, Group No. 914, was accepted September 25, 1990.

This survey was executed to meet certain administrative needs of the Bureau.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado, 80215.

Gary L. Gibson,

Acting Chief, Cadastral Surveyor for Colorado.

[FR Doc. 90-24166 Filed 10-12-90; 8:45 am]

BILLING CODE 4310-JB-M

[CO-942-01-4730-12]

Colorado: Filing of Plats of Survey

October 4, 1990.

The plats of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10 a.m., October 4, 1990.

The plat representing the dependent resurvey of portions of the north boundary and the subdivisional lines and the subdivision of sections 6 and 7, T. 7 N., R. 96 W., Sixth Principal Meridian, Colorado, Group No. 828, was accepted September 11, 1990.

The plat representing the dependent resurvey of portions of the Twelfth Guide Meridian West (east boundary), north boundary and the subdivisional lines, and the subdivision of certain sections, T. 7 N., R. 97 W., Sixth Principal Meridian, Colorado, Group No. 828, was accepted September 11, 1990.

The plat (in two sheets) representing the dependent resurvey of portions of the east and north boundaries and subdivisional lines, the subdivision of certain sections, and the metes-and-bounds surveys in sections 18, 21, and 13, T. 41 N., R. 6 E., New Mexico Principal Meridian, Colorado, Group No. 861, was accepted September 11, 1990.

The plat representing the dependent resurvey of the west one half mile of the Sectional Correction Line between sections 30 and 31 and old Tract 38 (now designated as Tract 46B) and the metes-and-bounds survey of Tract 46A and a portion of Tract 46B, T. 19 S., R. 72 W., Sixth Principal Meridian, Colorado, Group No. 843, was accepted September 20, 1990.

These surveys were executed to meet certain administrative needs of this Bureau.

The plat representing the dependent resurvey of portions of the north boundary and subdivisional lines and the subdivision of section 3, T. 3 N., R. 88 W., Sixth Principal Meridian, Colorado, Group No. 844, was accepted September 19, 1990.

The plat representing the dependent resurvey of Tract 44 and a portion of Tract 45 and Tract 48, T. 9 N., R. 67 W., Sixth Principal Meridian, Colorado, Group No. 908, was accepted September 19, 1990.

These surveys were executed to meet certain administrative needs of the U.S. Forest Service.

The plat representing the dependent resurvey of the south boundary, T. 34 N., R. 5 W. (South of the Ute Line), New Mexico Principal Meridian, Colorado, Group No. 861, was accepted August 20, 1990.

This survey was executed to meet certain administrative needs of the Bureau of Indian Affairs.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado, 80215.

Gary L. Gibson,

Acting Chief, Cadastral Surveyor for Colorado.

[FR Doc. 90-24167 Filed 10-12-90; 8:45 am]

BILLING CODE 4310-JB-M

[CO-942-01-4730-12]

Colorado: Filing of Plats of Survey

October 4, 1990.

The plat representing the dependent resurvey of a portion of the east boundary and subdivisional lines and the subdivision of section 1, T. 36 N., R. 17 W., New Mexico Principal Meridian, Colorado, Group No. 717, was accepted September 25, 1990.

The plat representing the dependent resurvey of portions of the west boundary of the Ute Ceded Lands, the Ninth Standard Parallel North (south

boundary), the Second Guide Meridian West (east boundary), and subdivisional lines and the subdivision of certain sections, T. 37 S., R. 17 W., New Mexico Principal Meridian, Colorado, Group No. 717, was accepted September 25, 1990.

These surveys were executed to meet certain administrative needs of the Bureau of Reclamation.

The plat representing the dependent resurvey of portions of the Eighth Standard Parallel North (south boundary) and the subdivisional lines and the subdivision of certain sections, T. 33 N., R. 2 W., New Mexico Principal Meridian, Colorado, Group No. 764, was accepted September 25, 1990.

This survey was executed to meet certain administrative needs of the Bureau of Indian Affairs.

The plat representing the dependent resurvey of portions of the subdivisional lines, subdivision of section 23, and the metes-and-bounds survey in this section, and the further subdivision of section 23, T. 2 N., R. 75 W., Sixth Principal Meridian, Colorado, Group No. 884, was accepted September 25, 1990.

This survey was executed to meet certain administrative needs of the U.S. Forest Service.

The plat representing the dependent resurvey of a portion of the subdivisional lines and subdivision of sections 25 and 36, the metes-and-bounds survey of lot 2, section 36, and an informative traverse of a portion of the Government Highline Canal, T. 2 N., R. 2 W., Ute Meridian, Colorado, Group No. 914, was accepted September 25, 1990.

This survey was executed to meet certain administrative needs of this Bureau.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado, 80215.

Gary L. Gibson,

Acting Chief, Cadastral Surveyor for Colorado.

[FR Doc. 90-24168 Filed 10-12-90; 8:45 am]

BILLING CODE 4310-JB-M

[OR-942-00-4730-12 GP1-005]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Oregon State Office, Portland, Oregon, thirty (30) calendar days from the date of this publication.

Willamette Meridian

Oregon

T. 2 N., R. 3 W., accepted 9/14/90
T. 22 S., R. 3 W., accepted 9/28/90
T. 16 S., R. 8 W., accepted 9/28/90
T. 7 S., R. 3 E., accepted 9/14/90
T. 1 S., R. 47 E., accepted 8/31/90
T. 2 S., R. 47 E., accepted 8/31/90
T. 3 S., R. 47 E., accepted 8/31/90
T. 1 N., R. 48 E., accepted 8/31/90
T. 2 S., R. 48 E., accepted 8/31/90

If protests against a survey, as shown on any of the above plats, are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

The plats will be placed in the open files of the Oregon State Office, Bureau of Land Management, 1300 NE 44th Avenue, Portland, Oregon 97213, and will be available to the public as a matter of information only. Copies of the plats may be obtained from the above office upon required payment. A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey and subdivision.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 1300 N.E. 44th Avenue, P.O. Box 2965, Portland Oregon 97208.

Dated: September 28, 1990.

Robert E. Mollohan,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 90-24169 Filed 10-12-90; 8:45 am]

BILLING CODE 4310-33-M

[MT-920-00-4332-08]

Public Review of Mineral Survey Reports on Wilderness Study Areas (WSAs), Montana

ACTION: Notice of the availability of a Mineral Survey Report produced by the U.S. Geological Survey (USGS)/U.S. Bureau of Mines (USBM), on Bureau of Land Management (BLM) WSA in Montana. Announcement of a 60-day comment period to obtain previously unknown mineral information on the area.

SUMMARY: The Montana BLM is requesting the public to review a combined USGS and USBM "Mineral Survey Report" which has been completed for this preliminarily suitable WSA. If the public identifies significant differences in interpretation of the data presented in this report, or submits significant new minerals data for consideration, the BLM will request that USGS/USBM evaluate these comments in relation to their final Mineral Survey Report. The BLM will consider the USGS/USBM evaluations as well as the Mineral Survey Report in developing final wilderness suitability recommendations. A copy of the WSA report can be reviewed in BLM offices in Bilings and Butte, Montana.

DATES: New information will be accepted on the report until December 10, 1990.

ADDRESSES: Send information on report to the Deputy State Director, Division of Mineral Resources, Bureau of Land Management, Montana State Office, P.O. Box 36800, Billings, Montana 59107.

FOR FURTHER INFORMATION CONTACT: Jerry Klem, Bureau of Land Management, Montana State Office, P.O. Box 36800, Billings, Montana 59107, Telephone (406) 255-2825.

SUPPLEMENTARY INFORMATION: Section 603 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2785, directed the Secretary of the Interior to inventory lands having wilderness characteristics as described in the Wilderness Act of September 3, 1964, and from time to time report to the President his recommendations as to the suitability or nonsuitability of each area for preservation as wilderness. The USGS and USBM are charged with conducting mineral surveys for areas that have been preliminarily recommended suitable for inclusion into the wilderness system to determine the mineral values, if any, that may be present in such areas.

To ensure that all available minerals data are considered by the BLM prior to making its final wilderness suitability recommendations to the Secretary of the Interior, the Montana State Director is providing this public review and comment period. Usually, there is a 1- to 2-year lag time between actual field work and final printing of a Mineral Survey Report. New information may have been collected by the public during this lag time, or the public may have a

new interpretation of the data presented in the Mineral Survey Report. Any new data or new interpretations of data in the report will be assessed for its significance and validity by the BLM. Significant new minerals data or new interpretations of the minerals data will be forwarded to the USGS and USBM for further consideration. Evaluations received by the BLM from the USGS and USBM will be considered by the State Director in the final wilderness suitability recommendations.

Information requested from the public via this invitation is not limited to any specific energy or mineral resource. Information can be in the form of a letter and should be as specific as possible, and include:

1. The name and number of the subject WSA and Mineral Survey Report.

2. Mineral(s) of interest.

3. A map or land description by legal subdivision of the public land surveys or protracted surveys showing the specific parcel(s) of concern within the subject WSA.

4. Information and documents that depict the new data or reinterpretation of data.

5. The name, address, and phone number of the person who may be contacted by technical personnel of the BLM, USGS, or USBM assigned to review the information.

Geologic maps, cross-sections, drill hole records and sample analyses, etc., should be included. Public literature and reports may be cited. All information submitted and marked confidential will be treated as proprietary data, and will not be released to the public without consent.

New information will be accepted on the following Mineral Survey Report:

Mineral Resources of the Sleeping Giant Wilderness Study Area, Lewis and Clark County, Montana (Open File Report MT-041-7).

This report is available for review in BLM offices, but is not available for sale or removal from the office. Copies of the report may be purchased from: U.S. Geological Survey, Books and Open File Reports, P.O. Box 25425, Federal Center, Denver, CO 80225.

Dated: October 3, 1990.

Robert M. Fairchild,

Acting State Director.

[FR Doc. 90-24160 Filed 10-12-90; 8:45 am]

BILLING CODE 4310-DN-M

DEPARTMENT OF THE INTERIOR

[WY-930-01-4214-10; WYW 121656]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, has filed an application to withdraw 275.84 acres of National Forest System land for protection of the proposed Burgess Visitor Information Center Site while in the final development stages.

DATES: Comments and requests for a meeting should be received on or before January 14, 1991.

ADDRESSES: Comments and meeting requests should be sent to the Wyoming State Director, BLM, 2515 Warren Avenue, Cheyenne, Wyoming 82001.

FOR FURTHER INFORMATION CONTACT: Tamara Gertsch, BLM Wyoming State Office, 307-775-6115.

SUPPLEMENTARY INFORMATION: On September 17, 1990, the U.S. Department of Agriculture filed an application to withdraw the following described National Forest System land from location and entry under the United States mining laws, subject to valid existing rights:

Sixth Principal Meridian

Bighorn National Forest

T. 55 N., R. 88 W.,
Sec. 6, lots 1 and 2.
T. 56 N., R. 88 W.,
Sec. 31, SE¼;
Sec. 33, SW¼SW¼.

The areas described contain 275.84 acres in Sheridan County.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the Federal Register, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary uses which will be permitted during this segregative period are those uses within the statutory authorities pertinent to National Forest System land and subject to discretionary approval.

The temporary segregation of the land in connection with this withdrawal application shall not affect the administrative jurisdiction over the land, and the segregation shall not have the effect of authorizing any use of the land by the Department of Agriculture.

Dated: September 27, 1990.

James K. Muelda,

Deputy State Director, Wyoming State Office.

[FR Doc. 90-24162 Filed 10-12-90; 8:45 am]

BILLING CODE 4310-22-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application; Arenol Chemical Corp.

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on July 23, 1990, Arenol Chemical Corporation, 185 Meister Avenue, Somerville, New Jersey 08876, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Amphetamine (1100)	II
Methamphetamine (1105)	II
Phenylacetone (8501)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than November 14, 1990.

Dated: October 4, 1990.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 90-24206 Filed 10-12-90; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances, Registration; M.D. Pharmaceutical

By Notice dated January 30, 1990, and published in the Federal Register on February 9, 1990, (55 FR 4728), M.D. Pharmaceutical Inc., 3501 West Garry Avenue, Santa Ana, California 92704, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Diphenoxylate (9170)	II
Methylphenidate (1724)	II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: October 4, 1990.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 90-24207 Filed 10-12-90; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Registration

By Notice dated July 23, 1990, and published in the Federal Register on August 1, 1990, (55FR 31240), Radian Corporation, P.O. Box 201088, 8501 Mopac Boulevard, Austin, Texas 78759, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methaqualone (2565)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
3,4-methylenedioxyamphetamine (MDA)(7400).	I
3,4-methylenedioxymethamphetamine (MDMA)(7405).	I
Amphetamine, its salts, optical isomers, and salts of its optical isomers (1100).	II
Methamphetamine, its salts, isomers and salts of its isomers (1105).	II
Phencyclidine (7471)	II
Methadone (9250)	II
Fentanyl (9801)	II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: October 5, 1990.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 24209 Filed 10-12-90; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Comments on this information collection must be submitted on or before November 14, 1990.

ADDRESSES: Send comments to Ms. Susan Daisey, National Endowment for the Humanities, Grants Office, room 310, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (202–786–0494) and Mr. Daniel Chenok, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., room 3002, Washington, DC 20503 (202–395–7316).

FOR FURTHER INFORMATION CONTACT: Ms. Susan Daisey, National Endowment for the Humanities, Grants Office, room 310, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (202–786–0494) from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, or extensions, or reinstatements. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what the form will be used for; (6) an estimate of the number of responses; (7) the frequency of response; (8) an estimate of the total number of hours needed to fill out the form; (9) an estimate of the total annual reporting and recordkeepig burden. None of these entries are subject to 44 U.S.C. 3504(h).

Category: Revision

Title: NEH Teacher-Scholar Program for Elementary and Secondary School Teachers.

Form Number: 3136–0122.

Frequency of Collection: Annual.

Respondents: Individuals or households Academic scholars—teachers, administrators.

Use: The application instructions provide direction for preparing narrative and budgetary parts of applications for grant funds.

Estimated Number of Respondents: 500.

Frequency of Response: Once.

Estimated Hours for Respondents to Provide Information: 10 per respondent.

Estimated Total Annual Reporting and Recordkeeping Burden: 5,250 hours.

Thomas S. Kingston,

Assistant Chairman for Operations.

[FR Doc. 90-24235 Filed 10-12-90; 8:45 am]

BILLING CODE 7536-01-M

Music Advisory Panel Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Chorus Section) to the National Council on the Arts will be held on October 23, 1990 from 9 a.m.–6 p.m., October 24 from 8:30 a.m.–6 p.m. and October 25 from 8:30 a.m.–5 p.m. in room M14 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on October 25 from 3 p.m.–5 p.m. The topics will be policy discussion and guidelines review.

The remaining portions of this meeting on October 23 from 9 a.m.–6 p.m., October 24 from 8:30 a.m.–6 p.m. and October 25 from 8:30 a.m.–3 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the

determination of the Chairman of August 7, 1990, as amended, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any interested persons may attend, as observers, meetings, or portions thereof, of advisory panels which are open to the public.

Members of the public attending an open session of a meeting will be permitted to participate in the panel's discussions at the discretion of the chairman of the panel if the chairman is a full-time Federal employee. If the chairman is not a full-time Federal employee, then public participation will be permitted at the chairman's discretion with the approval of the full-time Federal employee in attendance at the meeting, in compliance with this guidance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: September 26, 1990.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90-24172 Filed 10-12-90; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

DASC Committee of Visitors: Meeting

The National Science Foundation announces the following meeting:

Name: DASC Committee of Visitors.

Date and Time: October 23-0 a.m.-5 p.m. October 23-8 a.m.-5 p.m.

Place: Room 417, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Thomas Weber, Director, Division of Advanced Scientific Computing, room 417, National Science Foundation, 202/357-7558.

Purpose of Meeting: Committee of Visitors triennial review, conduct and progress of the DASC Supercomputing Centers Program.

Reason for Closing: Reviewing proposals awarded and declined. The Committee of Visitors will have access to the ASC proposal jackets which contain privileged information. These matters are within exemptions (4) and (6) of U.S.C. 552b (c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90-24178 Filed 10-12-90; 8:45 am]

BILLING CODE 7555-01-M

Decision, Risk, and Management Science Advisory Panel; Meetings

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Decision, Risk, and Management Science.

Date/Time: October 28-27, 1990; 8:30 a.m. to 6:30 p.m. each day.

Place: National Science Foundation, 1800 G Street, NW., room 523, Washington, DC 20550.

Type of Meeting: Part Open—October 28, 5:30-6:30 p.m. Closed remainder.

Contact Persons: Dr. Robert Bordley, Program Director, (202) 357-7417, or Dr. L. Robin Keller, Program Director, (202) 357-7569, Decision, Risk, and Management Science, Division of Social and Economic National Science Foundation, Washington, DC 20550, room 336.

Purpose of Meeting: To provide advice and recommendations concerning support for research in decision, risk, and management science.

Agenda: Open—general discussion of trends and opportunities in decision, risk, and management science. Closed portion—To review and evaluate research proposals.

Reason for Closing: The proposals being reviewed include technical information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemption (4) and (6) of 5 U.S.C. 522b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90-24176 Filed 10-12-90; 8:45 am]

BILLING CODE 7555-01-M

Developmental Biology Advisory Panel: Meeting

Name: Advisory Panel for Development Biology.

Date and Time: October 31, November 1-2, 1990—8:30 am to 5.

Place: National Science Foundation, 1800 G Street NW., Washington, DC 20017.

Type of Meeting: Closed.

Contact Person: Dr. Thomas Brady, Program Director, Developmental Biology, room 321, National Science Foundation, Washington, DC 20550.

Purpose of Meeting: To provide advice and recommendations concerning support for research in Developmental Biology.

Agenda: Closed—To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data; such as salaries and personal with the proposals.

These matters are within exemptions (4) and (6) of U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90-24177 Filed 10-12-90; 8:45 am]

BILLING CODE 7555-01-M

Economics Advisory Panel; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Economics.

Date/Time: Thursday November 1, 1990; 9: a.m. to 5 p.m.; Friday, November 2, 1990; 9 a.m. to 5 p.m.; Saturday, November 3, 1990; 8:30 a.m. to 1:30 p.m.

Place: National Science Foundation, room 540, 1800 G Street NW., Washington, DC 20550.

Type of Meeting: Part Open—November 2, 1990, 12-1 p.m. Closed remainder.

Contact Person: Dr. Daniel H. Newlon, Program Director, Dr. Lynn A. Pollnow, Program Director, Dr. Ivy Broder, Program Director, Division of Social and Economic, room 336, National Science Foundation, Washington, DC 20550, telephone (202) 357-9674.

Purpose of Meeting: To provide advice and recommendations concerning support for research in economics.

Agenda: Open—general discussion of trends and opportunities. Closed portion—To review and evaluate research proposals.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 522b(c), Government in Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90-24180 Filed 10-12-90; 8:45 am]

BILLING CODE 7555-01-M

Ethics and Values Studies Advisory Panel; Meeting

The National Science Foundation announces the following:

Name: Advisory Panel for Ethics & Values Studies.

Date/Time: November 1, 1990, 8:30 a.m. to 5 p.m., November 2, 1990, 8:30 a.m. to 5 p.m.

Place: One Washington Circle Hotel, One Washington Circle, NW., The Board Room.

Type of Meeting: Part Open—Open November 2, 8:30 a.m. to 10:30 a.m. Closed remainder.

Contact: Vivian Weil, Program Director, Ethics and Values Studies, National Science Foundation, Washington, DC 20550, telephone (202) 357-9894, room 312.

Purpose of Panel Meeting: To provide advice and recommendations concerning support for research in Ethics and Values Studies in Science, Technology, and Society.

Agenda: Open—General discussion of approaches to "ethics" and "values" in the discourse of the physical and natural sciences, social sciences, and humanities disciplines.

Closed—To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90-24181 Filed 10-12-90; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for International Programs; Meeting

In accordance with the Federal Advisory Committee Act, Public Law 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for International Programs.

Date: October 30, 1990, 8:30 a.m. to 5 p.m., October 31, 1990, 8:30 a.m. to 5 p.m.

Place: National Science Foundation, 1800 G Street, NW., room 540, Washington, DC 20550.

Type of Meeting: Open.

Contact Person: Dr. Eduardo L. Feller, Executive Secretary, Division of International Programs, National Science Foundation, Washington, DC 20550, Telephone (202) 357-7913.

Summary of Mintues: May be obtained from contact person.

Purpose of Meeting: To provide advice, recommendations, and oversight related to support for international cooperation in science and engineering.

Tentative Agenda: *October 30:*

- Status report on international programs.
- Update on Europe initiatives.
- Update on Pacific Rim initiatives.
- Proposal to evaluate NSF contribution to ICSU.
- Programs with Latin America—Discussion.

October 31:

- International Human Resources—Discussion.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90-24178 Filed 10-12-90; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Scientific, Technological, and International Affairs, Amdt.; Meeting

Agenda of meeting has changed and is being reprinted in its entirety. Original notice appeared in Federal Register on—

Date and Time: October 17—1 p.m. to 6 p.m.; October 18—8 a.m. to 3 p.m.

Place: National Science Foundation, room 540, 1800 G Street NW., Washington, DC.

Type of Meeting: Open.

Contact Person: Dr. Marta Cehelsky, Directorate for Scientific, Technological, and International Affairs, National Science Foundation—room 1214, 1800 G Street NW., Washington, DC 20550, Telephone Number: 202-357-7615.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: Meeting of the Directorate-wide Advisory Committee.

Agenda:

(1) Reports: Organizational Changes (October 17: 1:00-3:35)
(2) Small Business Innovation and Research (SBIR) (October 17: 3:45-5:00)
(3) NSF and Industry: Current Activities, Possible Roles (October 17: 5:00-6:00)
(4) NSF and Industry, continued: (October 18: 8:00-10:00)
(5) Experimental Program to Stimulate Cooperative Research (EPSCoR) (October 18: 10:15-11:45)
(6) International Programs: USSR and Eastern Europe (October 18: 12:45-3)

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90-24182 Filed 10-12-90; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, DG-3005 (which should be mentioned in all correspondence concerning this draft guide), is titled "Standard Format and Content for Emergency Plans for Fuel Cycle and Materials Facilities" and is intended for Division 3, "Fuels and Materials Facilities." This regulatory guide is being developed to provide guidance acceptable to the NRC staff on the information to be included in emergency plans for fuel cycle and materials facilities. The guide also would establish a format for presenting the information.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on the guide. Comments should be accompanied by supporting data. Written comments may be submitted to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document room, 2120 L Street NW., Washington, DC. Comments will be most helpful if received by November 30, 1990.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with: (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Information Support Services. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a)

Dated at Rockville, Maryland, this 28th day of September 1990.

For the Nuclear Regulatory Commission.

Warren Minners,

Director, Division of Safety Issues Resolution, Office of Nuclear Regulatory Research.

[FR Doc. 90-24252 Filed 10-12-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-483]

Union Electric Co. Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-30, issued to the Union Electric Company (the licensee), for operation of the Callaway Plant located in Callaway County, Missouri.

The amendment would revise Technical Specification 3/4.7.1.7 to allow an exception to Technical Specification 4.0.4. The proposed amendment would allow sufficient plant conditions to be established for steam generator atmospheric steam dump valve surveillance after entry into a mode (Mode 3) for which the surveillance requirements apply.

The proposed amendment is required prior to entry into Mode 3 at the conclusion of the current refueling outage. Mode 3 is currently scheduled to be entered on November 4, 1990.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has porovided an evaluation indicating that the proposed change does not involve a significant hazards consideration under the Commission's regulations in 10 CFR 50.92 as follows:

The proposed change does not involve a significant hazards consideration because operation of Callaway Plant with this change would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. The change allows the surveillance for the ASD [Atmospheric Steam Dump] valves to be performed at conditions similar to those in which the valves would be required to function in the event of a SGTR [Steam Generator Tube Rupture]. Since no design change is being made the probability of an accident previously evaluated has not increased. The testing of valves at conditions similar to those anticipated when the valves are required to function provides assurance that the consequences of an accident and probability or consequences of a malfunction are not increased over those evaluated in the FSAR [Final Safety Analysis Report].

2. Create the possibility of a new or different kind of accident from any previously evaluated. This is based on the fact that no design changes are involved. The change provides assurance that the ASD valves will perform as designed.

3. Involve a significant reduction in a margin of safety. This change provides assurance that the ASD valves will perform as designed to mitigate the consequences of a postulated SGTR event. The margin of safety is not reduced.

Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within fifteen (15) days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice.

Written comments may also be delivered to room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By October 31, 1990, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document room, the Gelman Building, 2120 L Street NW., Washington, DC 20555 and at the Local Public Document Room located at the Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene, which must include a list of the contentions that are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the basis of the contention and a concise statement of the alleged facts or expert

opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidience and cross-examine witnesses.

If the amendment is issued before the expiration of 30-days, the Commission will make a final determination on the issue of no significant hazards considerations. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves a no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards considerations. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the Federal Register a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1 (800) 325-6000 (in Missouri 1 (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John N. Hannon: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and the Gerald Charnoff, Esq. and Thomas A. Baxter, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC, 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.174(d).

For further details with respect to this action, see the application for amendment dated September 28, 1990, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the Local Public Document Room, the Callaway County Public Library, 710 Court St., Fulton, Missouri, 65251.

Dated at Rockville, Maryland, this 9th day of October 1990.

For the Nuclear Regulatory Commission.

John N. Hannon,

Director, Project Directorate III-3, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90-24221 Filed 10-12-90; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-73]

Notice of Proposed Determination Under Section 304 of the Trade Act of 1974, as Amended, Regarding Thailand's Restrictions on Access to Its Cigarette Market; Request for Public Comment

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of, and request for written comments on, proposed determination under section 304 of the Trade Act of 1974 (the "Trade Act"), as amended, 19 U.S.C. 2414.

SUMMARY: Pursuant to section 304(a)(2) of the Trade Act, 19 U.S.C. 2414, as amended by section 1301 of the Omnibus Trade and Competitiveness Act of 1988, the United States Trade Representative ("USTR") is required to determine on or before November 25, 1990, whether United States' rights under a trade agreement are being denied by the Royal Thai Government's policies and practices with respect to the importation, distribution and sale of cigarettes and whether the Royal Thai Government practices at issue are unreasonable, and burden or restrict U.S. commerce, within the meaning of section 301(a)(1)(A) or 301(b)(1), 19 U.S.C. 2411(a)(1)(A) and 19 U.S.C. 2411(b)(1), respectively. The Trade Representative is also considering appropriate action (subject to the specific direction, if any, of the President) in response to the Royal Thai Government's practices. The USTR welcomes written comments regarding such determination or responsive action with respect to the subject Thai government practices.

DATES: Written comments from interested persons are due November 14, 1990.

ADDRESSES: Comments should be addressed to the Acting Chairman, section 301 Committee, Office of the United States Trade Representative, room 223, 600 17th Street, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Peter Collins, Director for Southeast Asian Affairs, (202) 395-6813, or Catherine Field, Associate General Counsel, (202) 395-3432.

SUPPLEMENTARY INFORMATION: On April 10, 1990, the United States Cigarette Export Association (CEA) filed a petition under section 302(a) of the Trade Act of 1974, as amended, 19 U.S.C. 2412(a), alleging that the Royal

Thai Government and its instrumentality, the Thailand Tobacco Monopoly (TTM), engaged in acts, policies and practices that are unreasonable or discriminate against imports and burden and restrict U.S. commerce. The Thai government maintains an effective ban on the importation of foreign cigarettes and prohibits foreign investment in cigarette manufacture. The petitioner alleged that these bans on importation and investment, combined with high tariffs, discriminatory domestic taxes and TTM distribution practices, deny U.S. firms fair and equitable market opportunities. Finally, the CEA alleged that Thai government restrictions on cigarette advertising are intended to put foreign cigarette brands at a competitive disadvantage.

On May 25, 1989, the Trade Representative initiated an investigation of the Thai government's policies and practices affecting fair and equitable access to the Thai cigarette market (54 FR 23724, June 2, 1989). On April 3, 1990, the GATT Council of Representatives ("GATT Council") authorized establishment of a dispute settlement panel, under GATT Article XXIII:2, to examine the United States' complaint regarding the effective ban on importation and discriminatory domestic taxes maintained by the Thai government. During the course of the panel proceedings, the Thai government issued ministerial regulations amending its tax policy with respect to cigarettes.

On September 21, 1990, the GATT dispute settlement panel issued a report concluding that Thailand's import restrictions on cigarettes are contrary to the provisions of GATT Article XI:1 and are not justified by Article XI:2(c)(i), Article XX(b), or paragraph 1(b) of Thailand's Protocol of Accession.

The panel recommended that the GATT Contracting Parties request Thailand to bring its import restrictions into conformity with its obligations under the GATT. These recommendations and the panel's report will be discussed at the GATT Council meeting on November 7, 1990.

Pursuant to section 304 of the Trade Act, the USTR is required to determine whether Thailand's policies and practices affecting access to the Thai cigarette market deny "rights to which the United States is entitled" under the GATT and whether such policies and practices are unreasonable and burden or restrict U.S. commerce. This determination must be made no later than November 23, 1990, which is 18 months after the date of initiation of this investigation.

In light of the GATT panel report on this matter, the Trade Representative proposes to determine that rights to which the United States is entitled under a trade agreement are violated by Thailand's restrictions on imports of cigarettes and that other policies and practices of the Thai government adversely affecting access to the Thai cigarette market, are unreasonable and constitute a burden or restriction on U.S. commerce.

PUBLIC COMMENT: The public is invited to comment on this proposed determination and on appropriate action that should be taken in response to Thailand's policies and practices. The comments submitted will be considered in determining actionability under section 301 and in recommending any action under section 301 to the USTR. All written submissions must be filed in accordance with 15 CFR 2006.8. Submissions are to be made in twenty (20) copies, in English, by noon on November 14, 1990 to Acting Chairman, Section 301 Committee, Office of the U.S. Trade Representative, room 223, 600 17th Street, NW., Washington, DC 20506.

Catherine E. Field,

Acting Chairman, Section 301 Committee.

[FR Doc. 90-24236 Filed 10-12-90; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[International Series Release No. 166; File No. 265-15]

Emerging Markets Advisory Committee; Meetings

AGENCY: Securities and Exchange Commission.

ACTION: Notice of meeting of the Security and Exchange Commission Emerging Markets Advisory Committee.

SUMMARY: This is to give notice that the Securities and Exchange Commission Emerging Markets Advisory Committee will conduct a meeting on October 23, 1990 in room 1C30 at the Commission's main offices, 450 Fifth Street NW., Washington, DC, beginning at 10 a.m. The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: Thomas L. Riesenberg, Office of General Counsel, (202) 272-3088, or Joseph G. Mari, Office of International Affairs, (202) 272-2306, Securities and Exchange Commission, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: In accordance with section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. app. 10a, the Securities and Exchange Commission Emerging Markets Advisory Committee hereby gives notice that it will conduct a meeting on October 23, 1990 in room 1C30 at the Commission's main offices, 450 Fifth Street NW., Washington, DC, beginning at 10 a.m. The meeting will consider and discuss requests for Commission technical assistance to emerging securities markets in Eastern Europe and elsewhere. There will also be a discussion regarding financial sector technical assistance being provided by U.S. government agencies to Eastern European countries. The meeting will be the second meeting of the Advisory Committee, and will be open to the public.

The Chairman has determined that this meeting should be held sooner than fifteen days after publication of this notice in the Federal Register in order to obtain the assistance of the Advisory Committee on areas in which Commission assistance has been requested and in view of prior scheduling commitments of the Committee members.

Dated: October 9, 1990.

Jonathan G. Katz,

Advisory Committee Management Officer.

[FR Doc. 90-24184 Filed 10-12-90; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Meeting To Discuss Rulemaking, Research and Enforcement Programs; Correction

AGENCY: National Highway Traffic Safety Administration.

ACTION: Notice; Correction.

SUMMARY: The National Highway Traffic Safety Administration is correcting the dates on an announcement of a NHTSA quarterly public meeting and a meeting on child safety seats, published on Friday, October 5, 1990, on page 40977 of the Federal Register.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Carnes, Office of Rulemaking, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Carnes telephone number is (202) 366-1810.

SUPPLEMENTARY INFORMATION: The following dates have been changed. The agency's quarterly public meeting will be held on November 16, 1990. Questions relating to the agency's rulemaking, research and enforcement programs, must be submitted in writing

by November 7, 1990. If sufficient time is available, questions received after the November 7, date may be answered at the meeting. A consolidated list of the questions submitted by November 7, 1990, and the issues to be discussed will be mailed to interested persons by November 9, 1990, and will also be available at the meeting. The meeting on child safety seats will also be held on November 10, 1990.

Issued on: October 10, 1990.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 90-24238 Filed 10-12-90; 8:45 am]

BILLING CODE 4910-59-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 199
Monday, October 15, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

NUCLEAR REGULATORY COMMISSION

DATE: Wednesday, October 17, 1990.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Wednesday, October 17

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting)

a. Petitions to Intervene and Requests for Hearing on Shoreham Operating License Amendment Proceeding
b. Kerr-McGee's Motion for a Hearing Under Section 274c

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To Verify the Status of Meetings Call (Recording)—(301) 492-0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill, (301) 492-1661.

Dated: October 10, 1990.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 90-24340 Filed 10-11-90; 2:14 pm]

BILLING CODE 7590-01-M

Corrections

Federal Register
Vol. 55, No. 199
Monday, October 15, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. 24344; Amdt. No. 25-72]

RIN 2120-AA47

Special Review: Transport Category Airplane Airworthiness Standards

Correction

In rule document 90-16852 beginning on page 29756 in the issue of Friday, July 20, 1990, make the following correction:

§ 25.629 [Corrected]

On page 29777, in the first column, in § 25.629(b)(1), in the next-to-last line, the expression "M" should read "M_D".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Chapter I

[T.D. 90-78]

RIN 1515-AA51

Customs Regulations Amendments to Conform With the Harmonized System of Tariff Classification

Correction

In rule document 90-23246 beginning on page 40162 in the issue of Tuesday, October 2, 1990, make the following corrections:

1. On page 40163, in the first column, in the 27th line "Article" was misspelled.

2. On the same page, in the same column, in the first full paragraph, in the third line "Harmonized" should be capitalized.

3. In the same paragraph, in the ninth line, "purposed" should read "proposed".

4. On page 40164, in the first column, in the fourth line, "subheadings" should read "subheading" (singular not plural).

5. On the same page, in the second column, under the heading "*Part 134*", in the last line of the second paragraph, "correct" should read "corrected".

6. On page 40167, in the table, in the first entry in the second column "Benzene" should be followed by a comma.

7. In the same table, in the last entry of the third column, in the third-from-last line, "spectroscopy" should be followed by a comma.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 90-AWA-3]

RIN 2120-AD61

Proposed Alteration of the St. Louis Terminal Control Area; Missouri

Correction

In proposed rule document 90-21555 beginning on page 37834 in the issue of Thursday, September 13, 1990, make the following corrections:

1. On page 37834, in the first column, under SUMMARY, in the ninth line, "TGA" should read "TCA"; and in the tenth line, "air" should read "aim".

2. On page 37836, in the second column, in the fifth paragraph, in the second line, "3,000" should read "3,500".

BILLING CODE 1505-01-D

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federal register

Monday
October 15, 1990

Part II

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 27 and 52
Federal Acquisition Regulation (FAR); Rights in Technical Data

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 27 and 52

Federal Acquisition Regulation (FAR); Rights in Technical Data

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Advanced notice of proposed rulemaking.

SUMMARY: The objective of this advanced notice of proposed rulemaking is to:

1. Establish a rule on technical data for use by all government agencies to replace the current Department of Defense FAR Supplement Interim Rule in subpart 227.4 and the current FAR rule in subpart 27.4; and

2. Implement section 1(b)(6) of Executive Order 12591. This section requires the development of a uniform policy which will permit contractors to retain rights to software, engineering drawings, and other technical data generated under government contracts awarded to them, in exchange for a royalty-free use of the data by or on behalf of the government.

It is the government's intent to develop regulations on rights in technical data that are fair and equitable to both the government and industry. This is a difficult task not only because of the complexity of the subject but also because the interests of the government and of industry on this subject may not always be compatible. Accordingly, this advanced notice of proposed rulemaking is being published in a preliminary form to encourage comments, suggestions, recommendations and rewrites. We will also conduct at least six public meetings to allow additional comments, discussions and presentations on this rule and on the subject of rights in technical data.

DATES: *Public Hearings*: Hearings will be conducted from 9 a.m. to 4:30 p.m. local time as indicated below:

Date	Room
Friday, October 26	Hall of Flags.
Monday, November 19	Hall of Flags.
Friday, December 7	Herman Lay Room.
Friday, December 21	Herman Lay Room.
Friday, January 11	Herman Lay Room.

Should additonal hearings be required, the dates, times and location will be published in a subsequent Federal Register.

Comment Date: Comments concerning this advanced notice of proposed rulemaking should be submitted to the address shown below on or before January 31, 1991.

ADDRESSES:

Public Hearings: U.S. Chamber of Commerce, 1615 "H" Street, NW, Washington DC 20062.

Comments: Interested parties should submit written comments to: Linda W. Neilson, Procurement Analyst, ODASD(P)/DARS, c/o OUSD(A)(M&RS), room 3D139, Pentagon, Washington, DC 20301-3062.

Please cite FAR/DAR Case 90-436 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Linda W. Neilson, telephone (703) 697-7266.

SUPPLEMENTARY INFORMATION:

I. Background

The objective of this rulemaking is to establish a regulation common to all government agencies which replaces the DFARS 1988 Interim Rule and the present FAR subpart 27 and addresses both government and industry concerns with the present DFARS coverage. Accordingly, this advanced notice of proposed rulemaking is being published in preliminary form to encourage public comments and suggestions. It is planned that, after the public hearings and receipt of comments, a proposed rule will be published for additional public comment.

Since 1984, the DoD FAR Supplement subpart 227.4, "Technical Data, Other Data, Computer Software, and Copyrights", has been extensively rewritten to implement three major statutory changes to rights in technical data.

In October 1984, the Fiscal Year 1985 DoD Authorization Act (Pub. L. 98-525, also entitled "The Defense Procurement Reform Act of 1985) was enacted and, in part, amended section 2320 of title 10. The purpose of this legislative change was to emphasize a balancing of both DoD's and the contractor's interests in rights in technical data, to prohibit DoD from requiring contractors to relinquish their proprietary interests in technical data in order to do business with the government, and, to create a due process procedure validating technical data. Public Law 99-500, the Fiscal Year 1987 DoD Authorization Act, was enacted in October 1986. This law, in part, further amended section 2320 of title 10 to require negotiations in mixed funding situations to apportion rights in technical data between the government and the contractor. This led to the creation of a third standard right, Government Purpose License Rights. Finally, in December 1987, Public Law 100-180 was enacted. Again, section 2320 of the title 10 was amended placing a stronger emphasis on the requirements to negotiate rights in a mixed funding situation, and among other changes, requiring DoD to develop definition for certain terms such as, "developed exclusively at private expense."

An interim DFARS rule was published in October 1988 and is currently in effect. This Interim Rule implements the statutory changes, enumerated above, on rights in technical data.

Public comments on the DFARS Interim Rule focused primarily in the following areas: (a) Data rights of industry and government in mixed funding situations; (b) definition of "developed"; (c) developed exclusively at private expense; (d) developed exclusively with government funds; (e) required for the performance of a government contract or subcontract; (f) introduction of government purpose license rights. Some comments asserted that the revisions were overly restrictive, would stifle private innovation, and would allow the government to obtain a contractor's design and manufacturing data for which the government has no requirement, and which are essential to a contractor's competitive position.

For civilian agencies, the FAR has been changed once to address and support the requirements of Public Law 98-577, Small Business and Federal Procurement Competition Enhancement Act of 1984.

Related legislation includes the Competition in Contracting Act (CICA) which encourages competitive reprocurement for government spare parts contracting to a greater extent than prior to 1984; and the Freedom of Information Act, which provides for release of government held documents in response to requests from the public, including from potential competitors.

The areas enumerated above have continued to be sources of difficulty between industry and government. This advanced notice of proposed rulemaking effort addresses the specific data rights issues as they relate to the acquisition of technical data.

II. Overview of the Advanced Notice

This advanced notice of proposed rulemaking consists of prescriptive material and clauses containing guidance on the protection and allocation of rights in data (including computer software), developed, delivered, or used in the performance of government contracts. In the interest of conciseness, not all provisions are discussed below; however comments are solicited on the entire rule.

A. Policy Summary

It is the government's policy to obtain only those rights in data that it needs; assure the protection of contractors' rights in proprietary interest in data; assure that a contractor does not have to relinquish legitimate rights it has in data as a condition for obtaining a government contract; and provide rights in data as incentives to contractors to commercialize the results of government funding.

B. Definitions

In this advanced notice of proposed rulemaking, some of the more controversial definitions have been revised. For example, the definitions of "Developed," "Developed Exclusively with Government Funds," and "Developed Exclusively at Private Expense," as they appear in the DFARS interim rule have been incorporated and revised to clarify how direct and indirect funding would be treated.

Some definitions have been changed, added, or combined to more appropriately reflect the application of rights in data, or to meet statutory requirements for DoD to define terms. Some of the definitions added are: "Data base," "Manuals and instructional materials," "Mixed funding," and "Restricted rights computer software." This advanced notice of proposed rulemaking provides for "Government purpose rights." A new definition of "Computer Software" has been drafted. It does not include data bases, manuals and instructional materials, or software documentation.

C. Allocation of Rights

This advanced notice of proposed rulemaking addresses four types of rights, Unlimited, Limited, Restricted, and Government Purpose. Unlimited, limited, and restricted rights are set forth in paragraph (b) of the clause at 52.227–14. (GPR) apply when the basic clause is used with Alternate II. All rights are discussed in 27.404 and are summarized below.

1. Unlimited Rights

The government acquires unlimited rights to data resulting directly from government funding unless the contrator is permitted to copyright, or acquire government purpose rights, for such data. In these latter instances, the contractor has exclusive commercial rights, subject to appropriate license rights to the government for government purposes. In addition, the government acquires with unlimited rights or a copyright license (where applicable) for government purposes in delivered data that is form, fit, and function data, certain manuals and instructional materials, corrections or changes to government furnished data, and other delivered data which the contractor has not protected, or is not protectable, as limited rights data or restricted rights computer software.

2. Limited Rights

The government acquires limited rights only to data pertaining to items, components, or processes developed exclusively at private expense and such data has been protected by the contractor. Under such rights, the government may not use the data for purposes of manufacture or reprocurement. The data may be used for other internal government purposes, and may be released outside the government for specified limited purposes provided the government makes it subject to prohibitions against further disclosure and use.

A contractor is required to place a prescribed notice on limited right data when delivered to the government. This advanced notice of proposed rulemaking sets forth the governments rights regarding the data and imposes obligations on the government to protect the data from unauthorized disclosure and use. The government may also elect by insertion of Alternate I, to allow the contractor to provide form, fit and function data in lieu of limited rights data.

3. Restricted Rights

The government acquires restricted rights only to computer software developed at private expense. Under such rights the computer software may be used and disclosed at restricted sites or locations (usually the CPU for which it was acquired unless otherwise agreed), with certain rights in the government to make copies for backup, safekeeping, and backup purposes. Such computer software will be subject to disclosure prohibitions if so protected by the contractor; otherwise the government acquires a copyright license for the stated purposes.

A contractor is required to place a prescribed notice on restricted rights data when delivered to the government. This advanced notice of proposed rulemaking sets forth the governments rights regarding the data and imposes obligation on the government to protect the data from unauthorized disclosure and use. The government may also elect, by insertion of Alternate I, to allow the contractor to provide form, fit, and function data in lieu of restricted rights data.

4. Government Purpose Rights

The contractor may acquire government purpose rights to technical data and computer software which otherwise would be subject to unlimited rights under certain circumstances if the contractor states an intention to commercialize the items, components, or processes to which the data pertains, or the computer software. Such rights will normally be applicable unless certain stated reasons (based on statutory requirements or programmatic needs) exist. Government purpose rights may also be negotiated in mixed funding situations.

Under government purpose rights, the contractor retains exclusive commercial rights, subject to a license to the government for all government purposes (including reprocurement), subject to appropriate disclosure prohibitions. Time limitations, after which the data reverts to unlimited rights data or copyrighted data normally apply to government purpose rights. Such rights are applicable by use of the basic clause with its Alternate II.

D. Copyright

The basic approach of current FAR 27.4 has been adopted regarding copyright of data first produced under contract by the contractor (see 27.404–5(c) of this advanced notice of proposed rulemaking.) This provides more commercial exclusivity to the contractor than under the existing DFARS Interim Rule.

Two procedural approaches are provided to enable a contractor to be permitted to copyright such data: (1) By specific request (either at the time of contract or during contract performance for identified data items); or (2) by automatic permission for all data except as otherwise stated in the contract. The former approach is provided in the basic clause in this advanced notice of proposed rulemaking, and the latter approach is available when the clause is used with its Alternative IV.

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Permission is to be granted under the former approach unless certain specifically stated reasons (based on programmatic needs or statutory requirements) exist. Permission is automatically granted for scientific and technical articles based on data first produced in the performance of the contract and published in academic, technical, or professional journals, symposia proceedings, or similar works. Permission also should be granted in all computer software procurements under a GSA Delegation of Procurement Authority (DPA).

E. Computer Software

This advanced notice of proposed rulemaking includes coverage of rights to computer software, as well as rights to technical data. However, definitional changes have been made to make more clear the distinction between computer software and technical data for the purpose of allocating restricted rights to privately developed computer software. Essentially, a functional definition of computer software has been adopted that includes all hierarchical levels of a computer program regardless of whether machine readable or human readable. Thus source code listings, design details, algorithms, processes, flow charts, formulas, and related material that would enable a computer program to be produced, created, or compiled receives the same treatment for rights purposes as executable code.

Concurrently, a definition of "data base" has been provided to enable data comprising a data base to be treated separately from computer software. Similarly, manuals and instructional material relating to a computer program are treated as data and not computer software.

The rights to privately developed computer software (i.e., restricted rights) are the same regardless of whether or not the software may be considered "commercial." However, for procedural convenience and simplicity, commercial computer software may be separately acquired under the clause at 52.227–19, Commercial Computer Software, for that purpose, rather than under the basic data rights clause (see paragraph 27.405(c) of this advanced notice proposed rulemaking.) This separate clause for commercial computer software is particularly directed to resolving any inconsistencies with a vendor's standard commercial license or lease agreement and the restricted right normally acquired by the government, as well as any pertinent Federal laws and regulations.

F. Notification and Negotiation of Data Rights

The provisions at 52.227–15 may be included in solicitations to require proposers to identify any data to be delivered with less than unlimited rights in data which qualifies as limited rights data or restricted rights computer software or data in which the proposer requests Government Purpose Rights. However, an offer may not be found unacceptable for purposes of award solely because the offeror refuses to sell or otherwise relinquish to the government rights in technical data to which the offeror is otherwise entitled under applicable law or regulation.

The advanced proposed rule at 27.405–2 provides guidance for those situations in which the parties cannot conclude negotiations of rights in data before contract award. Alternate III may be added to the clause at 52.227–14 to require the contractor to provide continuing notification of data to be delivered with other than unlimited rights after award and throughout the performance of the contract and gives the government the right to continue negotiation with regard to the rights to such data. The clause at 52.227–23 may also be used in these situations.

III. Issues Highlighted for Specific Consideration

A. Use of the Term "Required for Performance"

The definition, "required for performance of a government contract or subcontract", which is contained in the Defense FAR Supplement Interim Rule has been very controversial. Industry believes that this definition is harmful because it allows the government to acquire unlimited rights in independently initiated private development which occurred during performance of a government contract and where the product of the independent development is used in performance of the government contract. Industry wants the definition to be removed. The government believes that elimination of the definition is harmful because government would only be able to acquire unlimited rights when development is specified and fully funded. However, detailed specification of what an item, component, or process will finally be, is not always possible in the early development stages. DoD is also concerned that without the definition, contractors would be able to extract pieces of the development effort, privately develop it, and preclude government from acquiring unlimited rights.

This advanced notice of proposed rulemaking does not contain the definition of "required for performance" but does use the phrase "developed and necessary" for the performance of this contract in paragraph (b)(1)(i)(B) of the clause at 52.227–14, setting forth situations where the government acquires unlimited rights. We believe that the application of this concept has been narrowed in this advanced notice of proposed rulemaking. We recognize that further refinement may be possible.

We encourage comments and alternatives which would satisfy both industry and government's concerns. One such alternative may be to add language to 52.227–14 to state that during the performance of a contract to develop an item, the contractor may discover that it is necessary to develop some other item, component, or process in order to complete the contract, even though this other item, component, or process was not specified in the contract. In this event, the contractor will notify the government of this situation so that the parties can determine what rights the government should acquire. Another such alternative may be that when this type of situation arises the government acquire only Government Purpose Rights.

Comments on the manner in which the concept of "required for performance" is treated in the advanced proposed rule are encouraged.

B. Commercial Products

Rights in technical data for commercial products (other than commercial software) have not been addressed specifically in this advanced notice of proposed rulemaking. Issues include: Whether there should be separate coverage (recognizing that in certain circumstances for commercial products, other rights in data may exist); the definition of commercial products; and the allocation of rights to such products and their modifications (major and minor). It is possible that separate coverage may be more appropriate. Consideration may be given to such coverage in the final rule including consistency with the final rule of DFARS part 211 (Acquisition and Distribution of Commercial Products). The following is an outline of a suggested approach. Comments on the need for separate coverage and the following suggested approach are invited.

1. Definitions

"Commercial products" means items, including computer software, regularly used for other than government

purposes which, in the course of normal business operations:

(a) Have been sold or traded to the general public;

(b) Have been offered for sale to the general public at established prices but not yet sold;

(c) Although intended for sale or trade to the general public, have not yet been offered for sale but will be available for commercial delivery in a reasonable period of time;

(d) Are described in paragraphs (a), (b), or (c) above and would require only minor modification in order to meet the requirements of the procuring agency.

"Minor modification" means modification to a commercial product that does not alter the performance or physical characteristic of the product.

2. Minimum Government Needs

When the government procures commercial products or modified commercial products, the contractor should be required to provide to the government only that deliverable technical data as are normally delivered to its commercial customers, except for:

(i) Technical data required to properly maintain and repair the items when maintenance or repair is not otherwise the contractor's responsibility under the contract;

(ii) Technical data describing the proper operating or handling procedures for the items when such data are not customarily provided to the general public as part of an item's price;

(iii) Technical data required for training, installation, emergency repair, and overhaul;

(iv) Technical data describing the modifications made to the items in order to meet the requirements of the procuring agency.

3. Rights to Technical Data Pertaining to Commercial Products for Government Use

Items, components, or processes initially developed for and included in commercial products shall be considered items, components and processes developed at private expense. The government will acquire the same rights for data relating to these items, components or processes as are provided to commercial customers.

When the government requires technical data for a commercial product in a format different from, or supplemental to, that provided to commercial customers, the government will acquire the same rights as are provided to commercial customers, but may negotiate with the Contractor, or Subcontractor, to acquire additional government purpose rights, where appropriate.

4. Rights to Technical Data Pertaining to Modifications to Commercial Products for Government Use

When a commercial product is modified for Government use, the government will acquire government purpose rights to the technical data pertaining to the modification, except for

(i) Modifications which are fully funded by the Government and are segregable. The government may acquire unlimited rights to data pertaining to these modifications.

(ii) Modifications which are fully funded at private expense. The government will acquire the same rights as the commercial customer, or the same rights as the Government receives to the commercial product itself, to data pertinent to the modifications, but may negotiate with the Contractor, or Subcontractor, to acquire additional Government purpose rights, where appropriate.

(iii) Minor Modifications. Rights to data pertaining to a minor modification to a commercial product shall be the same as the rights to the data pertaining to the product modified.

Comments on the manner in which data rights for commercial products is treated in this advanced notice of proposed rulemaking are encouraged.

C. Concept of Segregability

Both 10 U.S.C. 2320 (for the DoD) and 41 U.S.C. 418a. (for the civilian agencies) require that the rights in technical data be determined on the basis of the funding of the development of the item, component, or process to which the technical data pertains. Industry has expressed concern that if the funding test is applied at a total product or system level, industry may lose its proprietary interests in data to lower level components which it developed at its own expense. This advanced notice of proposed rulemaking addresses this concern by specifying at 27.402(c) and 27.404(a)(4) that the principle of segregability will be used and that items, components, processes, and computer software will be identified at the lowest practical identifiable level, and the funding test will then be applied at this level.

Comments on the manner in which segregability is treated in the advanced notice of proposed rulemaking are encouraged.

D. Treatment of Government Purpose Rights

The treatment of government purpose rights would be expanded to make it clear that such rights are available either as an incentive to achieve commercial use of items, components, processes, or computer software developed in the performance of a government contract, or to provide a balancing of interests in mixed funding situations. Such rights would apply when the clause at 52.227–14 is used with its Alternate II. A discussion of such rights is at 27.404–4, and the procedures for acquiring them are at 27.405–2. Such rights would be available, for commercialization, when requested by the contractor along with a statement of an intent to commercialize the item, component, process or computer software that will be, or has been, developed under contract to which the data pertains. The request may be made either prior to contract or after contract award. The request for government purpose rights would be granted unless certain specified exceptions exist.

Also, government purpose rights may be requested, and made subject to negotiations, for technical data pertaining to any item, component, process, or computer software developed with mixed funding. This may occur either prior to contract, or during contract performance when the post award notification and negotiation procedures of 27.405–4 are used.

Comments on the manner in which government purpose rights are treated in this advanced notice of proposed rulemaking are encouraged.

List of Subjects in 48 CFR Parts 27 and 52

Government procurement.

Linda E. Greene,

Deputy Director, Defense Acquisition Regulatory System.

Therefore, it is proposed that 48 CFR parts 27 and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 27 and 52 continues to read as follows:

Authority. 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

PART 27—PATENTS, DATA, AND COPYRIGHTS

2. Subpart 27.4 is revised to read as follows:

Subpart 27.4—Rights in Data and Copyrights

Sec.
27.400 Scope of subpart.
27.401 Definitions.
27.402 Policy.
27.403 Rights in data—General.
27.404 Rights in data.
27.404-1 Unlimited rights data.
27.404-2 Limited rights data.
27.404-3 Restricted rights computer software.
27.404-4 Government purpose rights.
27.404-5 Copyrighted data.
27.404-6 Release, publication, and use of data.
27.404-7 Contractor licensing.
27.405 Notification and negotiation procedures.
27.405-1 Notification.
27.405-2 Negotiation of Government purpose rights.
27.405-3 Additional negotiations.
27.405-4 Postaward notification.
27.405-5 Negotiation factors.
27.406 Other data rights provisions.
27.407 Omitted, nonconforming, and unauthorized markings (validation).
27.407-1 Omitted and nonconforming markings.
27.407-2 Unauthorized markings and validations.
27.408 Acquisition of data, general procedures.
27.409 Rights to technical data in successful proposals.
27.410 Solicitation provisions and contract clauses.

27.400 Scope of subpart.

This subpart prescribes policies, procedures, and contract clauses for executive agencies with respect to the rights (including copyright) in, and the acquisition of, data (including technical data and computer software) produced, furnished, or specifically used in the performance of a Government contract or subcontract.

27.401 Definitions.

Computer software, as used in this subpart, means—

(1) Computer programs which are data comprising a series of instructions, rules, routines or statements which allow or cause a computer to execute an operation or series of operations; and

(2) Data comprising source code listings, design details algorithms, processes, flow charts, formulae, and related material that would enable the computer program to be produced, created, or compiled.

Data, as used in this subpart, means recorded information, regardless of form, the media on which it may be recorded, or the method of recording. The term includes, but is not limited to, technical data and computer software and computer data bases. The term does not include data incidental to the administration of a contract, such as financial, administrative, cost and pricing, or management information.

Data base, as used in this subpart, means a collection of data recorded in a form capable of, and for the purpose of, being stored in, processed, and operated on by a computer. The term does not include computer software.

Detailed design, manufacturing, or process data, as used in this subpart, means technical data of sufficient detail to enable the essentially identical reproduction, or manufacture, of an item, component, or the performance of process, to which the data pertains.

Developed, as used in this subpart, means that the item, component, process, or computer software exists and is workable. To exist the item or component must have been constructed or the process or computer program practiced. To be workable the item, component, process, or computer program has been analyzed or tested sufficiently to demonstrate to reasonable people skilled in the applicable art that there is a high probability that it will operate as intended. Whether, how much, and what type of analysis or testing is required to establish workability depends on the nature of the item, component, process, or computer software, and the state of the art. To be considered "developed" the item, component, process, or computer software need not be at the stage where it could be offered for sale or sold on the commercial market, nor must the item, component, process, or computer software be actually reduced to practice within the meaning of title 35 of the United States Code.

Developed exclusively with Government (Federal) funds, as used in this subpart, means, in connection with an item, component, process, or computer software, that the cost of development was paid for in whole by the Government. Independent research and development and bid and proposal costs, as defined in 31.205-18 (whether or not included in a formal independent research and development program), and costs allocated to overhead accounts in accordance with the Cost Accounting Standards (CAS) for those contracts covered by CAS, or in accordance with generally accepted accounting principles for those contracts not covered by CAS, are not considered to be costs of "development" with Federal funds for purposes of this definition.

Developed exclusively at private expense, as used in this subpart, means, in connection with an item, component, process, or computer software that no part of the cost of development was charged to the Government, with the express understanding that independent research and development and bid and proposal costs, as defined in 31.205-18 (whether or not included in a formal independent research and development program), and costs allocated to overhead accounts in accordance with the Cost Accounting Standards (CAS) for those contracts covered by CAS, or in accordance not covered by CAS, are not to be considered development costs charged to the Government for purposes of this definition.

Form, fit, and function data, as used in this supbpart, means data relating to items, components, or processes or computer programs that are sufficient to enable physical and functional interchangeability, as well as data identifying source(s), size, configuration, mating and attachment characteristics, functional characteristics, and performance requirements.

Government purpose rights, as used in this subpart, means the rights of the Government to use, duplicate, and disclose detailed design, manufacturing, and process data and computer software by or on behalf of the Government, including disclosure outside the Government for any Government purpose. Data that may be subject to Government purpose rights will be specifically identified in the contract under which such rights are acquired, and the Governments's rights to use, duplicate, and disclose such data are as set forth in the Government Purpose Rights Notice of Alternate II, if included in the Data Rights clause of the contract as discussed in 27.404-4(a).

Limited rights data, as used in this subpart, means data pertaining to items, components, and processes developed exclusively at private expense, except as may be provided otherwise in 27.404-1, provided that such data has not been disclosed, furnished, or released to the Government or to others without restriction on further disclosure and use or is otherwise publicly available. The Government's rights to use, duplicate, and disclose limited rights data are as set forth in the Limited Rights Notice of the data rights clause of the contract, as discussed in 27.404-2(b).

Manuals and instructional materials, as used in this subpart, means data necessary for the installation, operation, maintenance and repair, or training with respect to any item, component, process, or computer software.

Mixed funding, as used in this subpart, means, with respect to Government Purpose rights, that both Government funds and private funds were used for the development of an

item, component, process, or computer software and the respective contributions of the Government and the contractor are not readily segregable. The items, components, processes, or computer software to which mixed funding applies must be by agreement of the parties and identified in the contract. Mixed funding cannot be created by application of normal or incidental contract overhead accounts, or by application of contractor funds arising from required contract performance, such as cost overruns, and claims for out of scope work.

Restricted rights computer software, as used in this subpart, means computer software developed exclusively at private expense, except as may be provided otherwise in 27.404–1, provided that such computer software has not been disclosed, furnished, or released to the Government or to others without restrictions on further disclosure and use, or is not publicly available. The Government's rights to use, duplicate, or disclose restricted computer software are as set forth in the Restricted Rights Notice of the data rights clause of the contract, as discussed in 27.404–3(b).

Technical data, as used in this subpart, means data which are of a scientific or technical nature. Technical data does not include computer software, but does include manuals and instructional materials and technical data formatted as a computer data base.

Unlimited rights, as used in this subpart, means the rights of the Government in data to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so.

27.402 Policy.

Data and the rights pertaining thereto acquired under contract by the Government require a balancing of diverse interests.

(a) *The Government's interest.* The Government has extensive needs for many kinds of data to carry out its many missions and programs. Agencies require data to obtain competition from suppliers, to fulfill responsibilities for dissemination and publication of the results of their activities, and to ensure appropriate utilization of the results of research, development, and demonstration activities, including the dissemination of information to foster technological innovation. Some agencies, such as the Department of Defense, have important additional needs for data since they must maintain an extensive logistical network capable of the repair and operation of its equipment and competitive replenishment of its inventories.

(b) *The contractor's interest.* Commercial and nonprofit organizations have many property rights in intellectual property such as rights in technical data and computer software. Improper disclosure of such information can result in loss of their property rights and their competitive advantages and can cause serious economic harm. Protection of computer software as restricted rights computer software and other data as limited rights data is necessary to encourage contractors to participate in Government programs and to develop and apply innovative concepts to such programs.

(c) *Balancing of the interests.* (1) The Government shall balance these interests by only obtaining the minimum rights in technical data and computer software consistent with its needs, and by assuring protection for a contractor's legitimate intellectual property rights. Efforts should be made to segregate items, components, processes, and computer software developed exclusively with Government funds from those developed exclusively at private expense at the lowest practical identifiable level to minimize the necessity of negotiating mixed funding situations.

(2) The contracting officer will consider the needs of the Government and the interest of the contractor. To this end, the contracting officer will consider whether the item, component, process, or computer software will be competitively acquired, whether repair and overhaul work will be needed, whether the repair or replacement parts will be commercial parts, whether the item may be procured by form, fit, and function data, performance specification or detailed design data, and similar considerations. The contracting officer should use the least intrusive procedure to fill the Government's needs in order to protect the contractor's legitimate economic interests. In no event shall a contractor be required to sell its rights to data to the Government as a condition for obtaining the award of a Government contract.

(3) Acquiring, maintaining, storing, retrieving, protecting, and distributing data are costly and burdensome to the Government. Therefore, it is necessary to carefully review data needs to avoid acquisition of unnecessary data.

27.403 Rights in Data—General.

(a) All contracts that require data to be produced, furnished, acquired, or specifically used in meeting contract requirements, must contain terms that delineate the respective rights of the Government and the contractor regarding the use, duplication, and disclosure of such data, except for certain categories of contracts, such as supply contracts resulting from sealed bidding, which in accordance with agency procedures, require only existing data, other than limited rights data and restricted rights computer software, to be delivered, and reproduction rights are not needed for such data. In general, the Rights in Data clause at 52.227–14, with appropriate Alternatives, is to be used for that purpose. This clause sets forth the conditions under which the Government acquires unlimited rights, limited rights, restricted rights, Government purpose rights, or a copyright license, as well as the scope of, and limitations and restrictions on the exercise of such rights, discussed in detail at 27.404. However, in certain contracts either the subject matter of the contract, or the intended use of the data, may require the use of another data rights clause, or may not require the use of any data rights clause, as described in 27.405.

(b) In selecting a data rights clause, it is important to note that any such clause does not specify the data (in terms of type, quantity, or quality) that is to be delivered, but only the respective rights of the Government and the contractor to use, disclose, or reproduce such data. Accordingly, the contract should also include appropriate schedule provisions to specify the data to be delivered (i.e., the acquisition of data). The basic policies and procedures for the acquisition of data are set forth in 27.408, and may be implemented in more detail in agency supplements or agency directives on data requirements consistent with such policies and procedures, as needed to meet specific agency needs.

27.404 Rights in data.

27.404–1 Unlimited rights data.

(a)(1) Under the basic rights in data clause at 52.227–14 the Government acquires unlimited rights in the following data, unless provided otherwise for copyrighted data, as discussed in 27.404–5, or unless such data are agreed to be subject to Government purpose rights, as discussed in 27.404–4—

(i) Data first produced in the performance of a Government contract, including but not limited to—

(A) Technical data pertaining to items, components, processes, or computer software developed exclusively at Government expense; and

(B) Technical data and computer software resulting directly from the performance of experimental, developmental, or research work specified as an element of performance under a Government contract; or data produced during and necessary for the performance of a Government contract.

(ii) Form, fit, and function data delivered or furnished for use in the performance of a Government contract;

(iii) Manuals and instructional materials furnished or required to be furnished for the installation, operation, maintenance and repair, or training with respect to any item, component, process, or for the installation, maintenance, operation, and training with respect to any computer software, that are required to be, or in fact, delivered or furnished for use in the performance of this contract;

(iv) All data which was in fact delivered or furnished for use in the performance of this contract which constitutes a correction or change to data furnished to the contractor by the Government; and

(v) All other data required to be or in fact delivered or furnished for use in the performance of this contract unless provided otherwise for limited rights data or restricted rights computer software.

(2) Data which has been released, furnished, or disclosed to the Government, or to others, without restrictions on further use or disclosure, or is otherwise publicly available, are unlimited rights data, unless published under copyright. If any of the foregoing data are published copyrighted data with the notice of 17 U.S.C. 401 and 402, the Government acquires such data under a copyright license rather than with unlimited rights. See 27.404–5.

(3) If any of the foregoing data have been identified in the contract as being subject to Government purpose rights, then the Government shall obtain a license for Government purposes only, for an agreed-to period, after which the data will become unlimited rights data or copyrighted data, as applicable. See 27.404–4.

(b) When the Government has unlimited rights in data, including computer software in the possession of the contractor, no payment will be made for rights of use of such data in performance of Government contracts or for the later delivery to the Government of such data. The contractor shall be entitled to compensation for converting computer software or other data into the prescribed form, if necessary, for reproduction and delivery to the Government.

(c) The application of the clause also results in the Government's obtaining unlimited rights to data bases consisting of the data described in paragraph (a) of this subsection; however, a data base may also contain data subject to limitations, as discussed in 27.404–2.

27.404–2 Limited rights data.

(a) The clause at 52.227–14 enables the contractor to protect data that qualifies as limited rights data (as that term is defined) and such data is not data to which the Government obtains unlimited rights by the terms of subparagraph (b)(1) of the basic clause at 52.227–14. This protection may be achieved by either marking such data with a prescribed Limited Rights Notice when delivered to the Government; or, if the clause is used with Alternate I, by withholding the qualifying data from delivery and furnishing form, fit, and function data (with unlimited rights) in lieu thereof. In order to determine whether limited rights data are to be acquired or are to be withheld by use of the clause with Alternate I, see the procedures at 27.405.

(b)(1) The limited rights acquired by the Government are set forth in the Limited Rights Notice of subparagraph (b)(2) of the clause at 52.227–14. Data subject to the Notice will not, without permission of the contractor, be used by the Government for purposes of manufacture and will not be disclosed outside the Government except for the specific purposes set forth in the Notice, and then only if the Government makes the disclosure subject to prohibition against further use and disclosure by the recipient.

(2) The specific purposes set forth in the Notice are—

(i) Emergency repair and overhaul; and

(ii) Release or disclosure of technical data (other than detailed design, manufacturing, or process data) to, or use of such data by, a foreign government or agency thereof, as the interests of the United States Government may require, for evaluation and informational purposes.

(3) Agencies may adapt and add the following additional specific purposes to the Limited Rights Notice:

(i) Use (except for manufacture) by a contractor under a service contract (of the type defined in 37.101).

(ii) Evaluation by non-Governmental evaluators.

(iii) Use (except for manufacture) by other contractors participating in the Government's program of which the specific contract is part, for information and use in connection with the work to be performed under each contract.

(4) Agencies subject to 10 U.S.C. 2302 must notify the contractor of the release of limited rights data outside of the Government.

(5) If pursuant to negotiations under 27.405, limited rights are to expire at a certain time, then the Notice must be modified to indicate the expiration date of the limited rights, and expressly state the rights that apply thereafter.

(c)(1) Rather than requiring the delivery of limited rights data with the Limited Rights Notice, the contracting officer may, by the use of Alternate I, permit the contractor to identify and withhold such data from delivery and require the delivery of only form, fit and function data (with unlimited rights) in lieu thereof. However, if the Government has a need to obtain specific items of limited rights data, the contracting officer may, notwithstanding the use of Alternate I, either specify the delivery of such data items in the contract, or by written request during contract performance, obtain the delivery of data that has been withheld or identified as withholdable. Any such data so delivered will be treated as limited rights data in accordance with paragraph (b) of this subsection. In addition, if agreed during negotiations, the contract may specifically identify limited rights data that are not to be delivered.

(2) Alternate I also provides that the contracting officer, or his representatives, at all reasonable times up to 3 years after delivery of the data, or final payment under this contract, whichever is later, may inspect at the contractor's facility or other appropriate site, any data (and records relating to such data) withheld as limited rights data or restricted rights computer software pursuant to subparagraph (c)(1) of this subsection for purposes of evaluating performance under this contract or verifying that such data was properly withheld.

(d) Data stored in a data base and data resulting from the manipulation thereof are not computer software, as defined in 27.401, but are technical data or other data and must be treated accordingly. If such data qualifies as limited rights data, it must be marked, and must be protected from disclosure. A data base could also contain Government purpose rights data, and copyrighted data. If a data base is not marked with appropriate legends or copyright notices, it will be assumed to be data subject to unlimited rights.

27.404-3 Restricted rights computer software.

(a) The clause at 52.227-14 enables the contractor to protect qualifying restricted rights computer software provided that such software is not data to which the Government obtains unlimited rights by the terms of subparagraph (b)(1) of the Rights in Data clause at 52.227-14. This protection may be achieved by either marking such computer software with a prescribed Restricted Rights Notice when delivered to the Government; or, if the clause is used with Alternate I, by withholding the qualifying computer software from delivery and furnishing form, fit and function data (with unlimited rights) in lieu thereof. In order to determine whether restricted computer software is to be acquired by the use of Alternate I, or are to be made subject to specific agreement in the contract, see the procedures of 27.405.

(b)(1) The restricted rights normally acquired by the Government are set forth in the Restricted Rights Notice of subparagraph (b)(3) of the clause at 52.227-14, and are to be the standard restricted rights unless modified pursuant to subparagraph (b)(2) of this subsection. Under the standard rights, restricted rights computer software will not be used or reproduced by the Government, nor disclosed outside the Government, except for—

(i) Use, or copying for use, in or with the computer or computers for which it was acquired, including use at any Government installation to which such computer or computers may be transferred;

(ii) Use, or copy for use, in or with a backup or replacement computer if any computer for which it was acquired becomes inoperative;

(iii) Reproduction for safekeeping (archives) or backup purposes;

(iv) Modification, adaptation, or combination with other computer software, provided that only the portions of the derivative software consisting of the restricted rights computer software are to be made subject to the same restricted rights; and

(v) Disclosure to and reproduction for use by contractors under a service contract (of the type defined in 37.101) subject to the same restrictions under which the Government acquired the restricted rights computer software.

(2) If pursuant to negotiations under 27.405-3, the restricted rights are to expire after a time certain, then the Notice must be modified to indicate the expiration date of the restricted rights and expressly state the rights that apply thereafter.

(3) Alternate I also provides that the contracting officer, or his representative, at all reasonable times up to 3 years after delivery of the data, or final payment under this contract, whichever is later, may inspect at the contractor's facility or other appropriate site, any data (and records relating to such data) withheld as limited rights data or restricted rights computer software pursuant to subparagraph (a) of this subsection for purposes of evaluating performance under this contract or verifying that such data was properly withheld.

(4) When the Government has unlimited rights in data, including computer software in the possession of the contractor, no payment will be made for rights of use of such software in performance of Government contracts or for the later delivery to the Government of such computer software. The contractor shall be entitled to compensation for converting the software into the prescribed form, if necessary, for reproduction and delivery to the Government. Agencies may prescribe a clause, or use the provision at 52.227-15, which requires the contractor to represent that the computer software has not previously been delivered to the Government with unlimited rights.

(5) The restricted rights notice set forth in the clause at 52.227-14 are the minimum rights the Government normally obtains with restricted computer software, and will automatically apply. Greater rights and variations may be negotiated, see 27.405, consistent with the purposes of the contract. For example, consideration should be given to networking, remote accessing, and multiple use needs. Any variation or modification to the rights in the restricted rights notice must be stated in the contract as a schedule or attachment or the restricted rights notice appropriately modified.

(6) If restricted rights computer software is delivered with the copyright notice of 17 U.S.C. 401, it will be presumed to be published copyrighted computer software licensed to the Government with rights of the same scope of subparagraph (b)(1) of this subsection but without disclosure prohibitions unless the contractor includes the following statement with such copyright notice: "Unpublished—rights reserved under the copyright laws of the United States."

(c) Additional marking instructions. (1) Where it is impractical to include the full Restricted Rights Notice on restricted rights computer software, the following short form notice may be used in lieu thereof:

Restricted Rights Notice—Short Form

Use, reproduction, or disclosure is subject to restrictions set forth in the Long Form Notice of

Contract No. _____ with (contractor name) (and subcontractor and subcontractor No., if appropriate.)

(End of notice)

(2) If the software is embedded, or it is commercially impractical to mark it with human readable text, then the symbol R and the clause date (of the contract) in brackets or a box, as [R-6/90] may be used. This shall be read to mean that the restricted rights computer software is subject to the rights of the Government in the Long Form Notice, in effect at the date indicated next to the symbol. The symbol shall not be used to mark human readable material. In the event the contract contains any variation or modification to the rights of the Government set forth in the Long Form Notice, then the contract number must also be cited.

(3)(i) If non-standard rights are negotiated, then the Long Form Legend must be modified accordingly, and the heading "Notice of Non-Standard Rights" is to be included immediately below the main heading of "Restricted Rights Notice—Long Form".

(ii) If it is impractical to include the Long Form Notice, then the "Restricted Rights Notice—Short Form" may be used, modified to include the heading "Notice of Non-Standard Rights" immediately below the main heading of the notice.

(d) Existing commercial computer software. Existing commercial computer software (i.e., privately developed computer software normally vended commercially under a license or lease agreement restricting use, disclosure, or reproduction) may be acquired under the procedures set forth in 27.405(c). This includes furnishing such software as part of a system, separately priced, under a contract containing the clause at 52.227-14. In this case, the clause at 52.227-19, Commercial Computer Software, may also be included in the contract [see 27.405(c)(6)].

27.404-4 Government purpose rights.

(a) Government purpose rights enable a contractor to retain limited exclusive commercial rights to certain technical data pertaining to items, components, or processes, or to computer software, the development of which is funded in whole or in part by the Government. The Government obtains a license of sufficient scope to allow the technical data, or computer software, to be used, duplicated, and disclosed (including disclosure outside the Government) by

or on behalf of the Government for Governmental purposes. Any disclosure of such data outside the Government will be made subject to prohibitions against any further use, duplication, or disclosure by the recipient so as to preserve the contractor's limited exclusive commercial rights in the technical data or computer software.

(b) Government purpose rights, which require the use of Alternate II to the clause at 52.227–14 to be applicable, may be used to either—

(1) Provide an incentive for the contractor to achieve commercial use of items, components, processes, or computer software developed in the performance of the contract;

(2) Provide a balancing of interests for any item, component, process, or computer software developed as the result of mixed funded research or developmental efforts, such that the respective contributions of the Government and the contractor are not readily segregable; or

(3) Where the Government and contractor otherwise may mutually agree upon such rights.

(c) The request for Government purpose rights should be made in the contractor's proposal, to the extent practicable. Where it is not possible to anticipate the data involved at contract award, such request should be made as soon as possible after award, but no later than the date for delivery of the data. Procedures for notification and negotiation of Government purpose rights are at 27.405–2.

(d) Efforts should be made to segregate items, components, processes, and computer software at the lowest practical identifiable level so that Government purpose rights will not be applied unnecessarily to data pertaining to items, components, processes or computer software developed exclusively at private expense or exclusively at Government expense.

(e) Government purpose rights are to be made subject to time limitations pursuant to negotiations with the contractor. After expiration of the agreed time period the data will be subject to unlimited rights or copyright, as discussed at 27.405–2(a).

(f) Any data delivered under the contract that is subject to Government purpose rights shall not be disclosed outside the Government, or disclosed beyond the approved uses permitted by the Notice, unless the data is made subject to prohibitions against further use, duplication, or disclosure for other than Government purposes. To this end, subparagraph (d)(2) of the Rights in Data clause at 52.227–14, obligates contractors receiving restrictively marked data from the Government to abide by such prohibitions. Thus, data subject to Government purpose rights may be released to any contractor with a contract containing such a clause for use for Government purposes without a separate nondisclosure agreement. Any other release, including a release for reprocurement, requires a nondisclosure statement. For agencies with numerous contractors on their bidding lists, a blanket nondisclosure statement may be signed by contractors on the bidding list, obviating the need for individual agreements for each procurement. If a contractor has signed a previous nondisclosure agreement, the earlier agreement may be provided. Agencies may develop their own nondisclosure agreements, or may use the nondisclosure agreement at 52.227–26, which they may modify to suit the circumstances of the procurement.

(g) Contractors who intend to commercialize the items, components, or processes, or computer software, may elect to copyright the data pertaining thereto. In this case, if the contracting officer consents to copyright, then copyright should be used in lieu of Government purpose rights as the vehicle for commercialization for published material, and the Government will obtain a copyright license as detailed in 27.404–5.

27.404–5 Copyrighted data.

(a) In general, copyright law gives the copyright owner exclusive rights to—

(1) Reproduce the copyrighted work;

(2) Prepare derivative works;

(3) Distribute copies to the public;

(4) Perform the copyrighted work publicly; and

(5) Display the copyrighted work publicly.

(b) The recipient of a work with notice of copyright, even if published, available for sale, or otherwise distributed, is precluded from carrying out the acts set forth in paragraph (a) of this subsection without a license or authorization from the copyright owner. This applies to all data delivered to the Government with copyright notice, and to any further distribution the Government may make of the data, whether such data was first produced in the performance of the contract or not. The Government's policies in permitting a contractor to establish claim to copyright subsisting in data first produced under the contract, the notice requirements for all data delivered to the Government, and the scope of the license rights acquired by the Government for all delivered data, are set forth in paragraph (c) of this subsection.

(c) Data first produced in the performance of contract. (1) The basic Rights in Data clause at 52.227–14, provides that the contractor may establish claim to copyright, without prior approval from the contracting officer, any scientific and technical articles based on or containing data first produced in the performance of a contract, and published in academic, technical or professional journals, symposia proceedings, or similar works. The prior express written permission of the contracting officer is required to establish claim to copyright for all other data first produced in the performance of the contract. In general, permission to establish claim to copyright, if given, may enhance appropriate transfer or dissemination of such data and the commercialization of items, components, processes or computer software to which it pertains. Permission to copyright should be granted in all software procurement under a GSA Delegation of Procurement Authority (DPA). The request should be in writing and may be made either prior to award, or during contract performance. It should identify the data involved or furnish copies of the data for which permission is requested, as well as a statement as to the intended publication or dissemination media, or other purpose for which copyright is requested. The request will normally be granted unless—

(i) The data consist of a report (and its supporting information) that represents the official views of the agency, or the agency is required by statute or regulation to prepare such a report;

(ii) The data are intended primarily for internal use by the Government;

(iii) The data are of the type that the agency distributes to the public under an agency program to disseminate such information;

(iv) The contracting officer determines that limitations on distribution of the data are in the national interest;

(v) The contracting officer determines that the data should be disseminated without restriction, or

(vi) The data falls into the categories of a special situation or existing work, in which case consult 27.405–1.

(2) Agencies may also grant blanket permission for contractors to establish claim to copyright subsisting in all data first produced in the performance of the contract without further request being made by the contractor by use of the clause at 52.227–14 with Alternate IV. Normally, Alternate IV should be used in contracts for basic or applied research to be performed solely by colleges or universities, unless the

purpose of the contract is to develop data, such as computer software, intended for distribution to the public, or use in solicitations, by the Government. It may also be used in other contracts on a case by case basis or for certain categories as provided in agency supplements. In any contract where Alternate IV is used, the contract may exclude any data or categories of data from the blanket permission to copyright, in accordance with agency procedures, either by express provisions in the contract or the addition of an appropriate subparagraph to Alternate IV, as below:

(c)(3) Notwithstanding the permission to copyright in this paragraph (c) the Contractor may not establish claim to copyright subsisting in the following data or categories of data first produced in the performance of this contract:

(i) _____ and (ii) _____ [The agency shall insert appropriate data or categories of data].

(3) Whenever a Contractor establishes claim to copyright subsisting in data first produced under a contract, the Government obtains the following licenses for Government use. For data other than computer software, the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, or worldwide license for all such data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by and on behalf of the Government. For computer software, the Contractor grants to the Government and others acting on its behalf, a paid-up nonexclusive, irrevocable worldwide license in all such copyrighted computer software to reproduce, prepare derivative works, and perform publicly and display publicly, by and on behalf of the Government. This license for computer software does not include the right to distribute copies to the public.

(4) When claim to copyright is made, and the Contractor has published or intends to publish under copyright, the Contractor shall affix the applicable copyright notice of 17 U.S.C. 401 or 402 and acknowledgment of Government sponsorship (including contract number) to the data when such data are delivered to the Government, as well as when the data are published or deposited for registration as a published work in the U.S. Copyright Office.

(5) Agencies may, on a case by case basis, or by a class basis, obtain a license of different scope than set forth in subparagraph (c)(3) of this subsection, if the agency determines that such different license will enhance the transfer or dissemination of any data first produced under the contract, and will not interfere with the Government's proposed use of the data, or any international agreements. If a different license is obtained, the scope of the license must be stated in a conspicuous place on the medium on which the data is recorded, and the license must be included in the contract. Lessor rights in copyright may not be negotiated except in accordance with agency procedures.

(d) Data not first produced in the performance of this contract. The contractor shall not, without prior written permission of the contracting officer, incorporate into data delivered under this contract, any data not first produced in the performance of this contract and which contains the copyright notice of 17 U.S.C. 401 or 402, unless the contractor identifies such data and grants to the Government, or acquires on its behalf, a license of the same scope as set forth in subparagraph (c)(1) of the clause at 52.227–14, provided, however, that if such data are restricted rights computer software the Government shall acquire a copyright license of the scope set forth in the Long Form Restricted Rights Notice, in the clause at 52.227–14, if the clause is included in the contract, or as may otherwise be agreed in a collateral agreement incorporated into the contract.

(e) Removal of copyright notices. (1) The Government agrees not to remove any copyright notices placed on data pursuant to paragraph (c) of the clause at 52.227–14, and to include such notices on all reproductions by the Government of the data.

(2) If the contracting officer believes data is improperly marked with a copyright notice, the contracting officer may request, in writing, a copy of the permission to establish a claim to copyright, or if such permission was automatic, under Alternate IV, the contracting officer may request justification that the data did not fall within an exception to automatic copyright. The contractor should be provided 60 days to furnish such evidence; if the copyright cannot be justified then the copyright notice may be removed, provided that the data has not been publicly distributed or sold, in which case, the contractor should be required to assign the copyright to the United States.

27.404–6 Release, publications, and use of data.

(a) In paragraph (d) of the clause at 52.227–14, Rights in Data, subparagraph (d)(1) recognizes the fact that normally the contractor has the right to use, release to others, reproduce, distribute, or publish data first produced in the performance of a contract, except to the extent such data may be subject to export control or national security laws and regulations. In addition, to the extent the contractor receives or is given access to data that is necessary for the performance of the contract from or by the Government or others acting on behalf of the Government, and the data are limited rights data, restricted rights computer software or Government purpose rights data, or contains other restrictive markings applied by or approved by the Government, subparagraph (d)(2) of the clause at 52.227–14 provides an agreement with the contractor to treat the data in accordance with the markings, unless otherwise specifically authorized by the contracting officer. Such agreement is deemed to satisfy the requirements regarding use, disclosure, or reproduction prohibitions of the Limited Rights, Restricted Rights, or Government Purpose Rights Notices of the clause at 52.227–14.

(b) Agencies may (except as provided in subparagraph (a)(4) of this subsection), on a contract-by-contract basis if approved by the head of the contracting activity or if specifically authorized in their FAR Supplement, place limitations or restrictions on the contractor's right to use, release to others, reproduce, distribute, or publish any data first produced in the performance of the contract, including a requirement to assign copyright to the Government or another party, either by adding a subparagraph (d)(3) to the Rights in Data clause at 52.227–14, or by express limitations or restrictions in the contract, for any of the following purposes:

(1) The furtherance of established programs or statutory requirements of the agency such that the release to others, distribution, publication, or exercise of copyright by the contractor would be inconsistent with such established programs or statutory requirements;

(2) Avoidance of release to others, distribution, publication, or exercise of copyright by the contractor, that would be contrary to statutory or regulatory (other than under this subpart) requirements regarding the data; or

(3) Prevention of the unauthorized or inadvertent release or dissemination of the data contrary to agency statutory requirements or national policy regarding the disclosure of technical information, even if unclassified.

(c) If the purpose of subdivision (a)(2)(iii) of this subsection exists, and the data in question is of the type that the agency would otherwise afford the contractor Government purpose rights, agencies should consider affording such rights limited to disclosure and use within the United States (see 27.405-2(b)) rather than prohibiting release to others, distribution or publication by the contractor. Such limitations may also be coupled with a direction to the contractor to distribute the data to other designated persons or entities for use in the United States, subject to prohibition against further disclosure and use. However, any such limitations are to be applied to the disclosure and use of specifically identified data, not on the basis of the nationality, place of incorporation, or place of business of the contractor. In addition, any such limitations to be imposed on any disclosure and use of the data for Governmental purposes must not restrict competition for the acquisition of goods and services by or on behalf of the Government.

(d) No restrictions pursuant to subparagraph (a)(2) of this subsection are to be placed on the release, distribution, or publication of the results of basic or applied research under contracts with universities and colleges. (For the purpose of this prohibition, restriction on the release, distribution, or publication of computer software that has been, readily can be, or is intended to be, developed to the point of practical application are not considered restrictions on the release, distribution, or publication of the results of basic or applied research). In addition, no restrictions pursuant to subparagraph (a)(2) of this subsection are to be imposed on the right of any contractor to use the data itself, internal to the organizational element of the contractor developing the data, for the contractor's own purposes.

27.404-7 Contractor licensing.

(a) To the extent that the Government obtains rights to use the data, no payment will be made to either the developer or the third party for use of the data within the rights already granted the Government.

(b) A contractor or subcontractor may not be prohibited from receiving from a third party a fee or royalty for the use of technical data pertaining to an item, component, or process developed exclusively at private expense by the contractor or subcontractor, except as otherwise specifically provided by law.

27.405 Notification and negotiation procedures.

27.405-1 Notification.

(a) Notification requirements. Offerors are required by the provision at 52.227-15 to notify the Government of any asserted restrictions on the Government's right to use or disclose technical data or computer software. This notification advises the contracting officer of the contractor's or any subcontractor's intended use of items, components, processes, to which the data pertains or any computer software that—

(1) Have been developed exclusively at private expense and the contractor asserts either limited rights or restricted rights;

(2) Have been developed in part at private expense and further development will be with Government funds under the contract; or

(3) Will be developed exclusively with Government funds for which the contractor or subcontractor requests Government purpose rights for commercialization.

(b) Items, components, processes, or computer software do not need to be identified if no data is required to be delivered, or if the required data will be delivered with unlimited rights.

(c) The notification must be signed by an authorized official of the offeror that represents that the listing is complete, accurate, and current.

(d) Notification contents. To be complete the notification must:

(1) Specifically identify the items, components, processes, or computer software to which the data pertains.

(2) Identify the limitations on the Government's right to use the data (limited rights, restricted rights or Government purpose license rights) including identification of the earliest expiration date for each limitation.

(e)(1) The contracting officer should rely on the representation provided with the contractor's notification. Detailed supporting information normally should not be requested unless circumstances exist to question the validity of the assertion. While the contractor or subcontractor is obligated to justify the assertions, the contracting officer should only obtain enough information to determine if the assertion is reasonable and to evaluate its likely impact on the Government.

(2) However, after receipt of the offerors' proposals, the Government may verify that the offerors submitted the information required by the provision at 52.227-15, and request additional supporting information to satisfy the contracting officer that the offeror has a reasonable basis for asserting or requesting other than unlimited rights in data pertaining to the items, components, processes, or computer software in question. Failure to submit the notification with the offer should be treated as a correctable minor irregularity (see 15.607). However, if an offeror refuses to submit the notification, refuses to furnish reasonable supporting information, or refuses to sign a representation that it is accurate, complete, and current, then the offer may be deemed to be unacceptable.

(3) The information provided by the offeror may also be used in the source selection process (e.g., life cycle cost analyses). However, in no event may an offer be found unacceptable for purposes of contract award solely because the offeror refuses to sell or otherwise relinquish to the Government rights in technical data to which the offeror is otherwise entitled under applicable law or regulation.

(f)(1) Based on the review of the information provided by the offeror, and any additional information developed, the contracting officer may determine:

(i) To use the clause at 52.227-14 with Alternate I, which permits the contractor to withhold qualifying limited rights and restricted rights data from delivery, subject to a subsequent request for delivery (see 27.404-2 and 27.404-3) with a Limited Rights Notice or a Restricted Rights Notice, respectively. Such Notice may also be challenged in accordance with the procedures at 27.407. Data withheld is subject to inspection as provided in Alternate I.

(ii) To use the clause at 52.227-14, without Alternate I, in which case the data that qualifies as limited rights and restricted rights data will be delivered with the Limited Rights Notice or the Restricted Rights Computer Software Notice. Such notices are subject to challenge in accordance with the procedures at 27.407.

(2) After the contracting officer has made the determination in subparagraph (f)(1) of this subsection, the contracting officer may develop appropriate provisions to be included in the contract to identify the data asserted to be limited rights data or restricted rights computer software or, if impractical to do so, may require continuing notification during contract performance of the data to be delivered with other than unlimited rights, by use of the clause with Alternate III (see 27.405-4). However, such identification or notification is not dispositive of any rights to the data.

27.405-2 Negotiation of Government purpose rights.

(a) If, in response to the notification requirements, or subsequent clarifications, the offeror identifies items, components, processes, or computer software, that have been or will be developed in part at private expense and in part with Government funds, and requests Government purpose rights, or identifies items, components, processes, or software, that will be developed exclusively at Government expense, and requests Government purpose rights with respect thereto for purposes of commercialization, then the procedures set forth in subparagraphs (a)(1) and (a)(2) of this subsection shall be followed—

(1) Efforts should be made to separate items, components, processes, or software to the lowest practical identifiable level, so that Government purpose rights will not be applied unnecessarily to data pertaining to items, components, processes, or computer software, developed exclusively at private expense, or exclusively at Government expense.

(2) Government purpose rights are effected by agreement of the contracting officer and by the inclusion of Alternate II in the clause at 52.227–14 and specifically identifying in the contract the items, components, processes, or computer software to which the data to be made subject to such rights pertains. The contractor must request Government purpose rights and present supporting documentation, as follows:

(i) In the event of a claim of mixed funding, the contractor must include with the request some evidence of either a significant prior investment, or some documentation regarding a cost sharing effort with the Government for the development of an item, component, process or computer software.

(ii) In the event of an intent to commercialize any item, component, process, or computer software, that will be or has been developed with Government funds in the performance of a contract, the contractor must request Government purpose rights, and support the request by making a positive statement of intent to commercialize the item, component prices, or computer software.

(3) If the contractor requests Government purpose rights and has presented documentation as required by subparagraph (a)(2) of this subsection, the request should be granted, except when—

(i) The contracting officer determines that there is a need to competitively seek reprocurement of any or all of the items, components, processes, or computer software involving a large number of potential competitors, as for items such as spare and repair parts or it would otherwise unduly impede any future related procurement, or

(ii) The data should be made available for dissemination, as to disclose the results of research and development efforts or studies, especially if the agency has established programs pursuant to statute, regulation, or policy to disseminate the data or promote commercialization of any or all of the items, components, processes, or computer software, and determines Government purpose rights to be inconsistent with such programs; or

(iii) It is otherwise inconsistent with law or agency regulation.

(4) In the event the contractor requests Government purpose rights after award, the contracting officer may include Alternate II to the clause at 52.227–14 and identify in the contract the items, components, processes, or computer software to which the data to be made subject to such rights pertains.

(5)(i) Where the item, component, process, or computer software will be, or has been, developed exclusively with Government funds, the period for Government purpose rights shall run for a date certain from the time the data have been reduced to tangible form, but in any event, not later than from when the data are released to third parties, or are delivered to the Government, whichever comes first. After the expiration of the period, the data will become subject to unlimited rights or to the appropriate copyright license. The period normally should not be less than 3 nor more than 5 years, unless a longer period is approved in accordance with agency procedures.

(ii) Where the item, component, process, or computer software will be or has been developed partially with Government funds and partially with private funds, the period for Government purpose rights shall be negotiated, with 5 years as a guideline for negotiations. Negotiation factors are discussed at 27.405–5. The agreed date shall then be included in all Government Purpose Rights Notices.

(6) Time limitations may be extended if other interested parties have not requested access to the data, there is no requirement to disclose to meet a specified Government need, and the contractor provides consideration for remarking the data with new legends.

(b)(1) In the event an agency desires to afford Government purpose rights for the purpose of commercializing data but concomitantly wishes to prevent unauthorized or inadvertent transfer of such data contrary to the agency's statutory requirements or policies, the contractor's rights under Government purpose rights may be limited to disclosure and use within the United States by suitable modifications to subparagraph (b)(4) of Alternate II of the clause at 52.227–14. (See also 27.404–6(a)(3)).

(2) In addition, if the data is of the type that an agency desires to disseminate within the United States or has established policies or programs for that purpose, the contractor may be directed to distribute the data to other entities designated by the agency for use in the United States, subject to prohibition against further disclosure and use.

27.405-3 Additional negotiations.

(a) If the offeror or the contractor asserts rights in data, either as part of the Notification process, or subsequently, the contracting officer shall normally proceed as indicated in 27.405–1 and 27.405–2. Under certain circumstances, however, it may be necessary to conduct additional negotiations. For example, it may be difficult to ascertain the respective funding for the development of the item, component, process, or computer software to which the data pertains; the Government may require greater rights to satisfy its requirements; negotiations may not be completed by contract award; or the contractor may offer contractual consideration for the Government to take Government Purpose rights instead of unlimited rights. This will require the procedures in this subsection to be followed.

(b)(1) If the Government needs greater than limited or restricted rights in data, such as to develop alternate sources, then the contracting officer may negotiate with the contractor, or the subcontractor asserting such rights, to acquire additional rights and technical assistance, where appropriate. Before acquiring additional rights, the contracting officer should consider alternatives, such as—

(i) Developing alternative items, components, processes, or computer software; or

(ii) Obtaining a commitment by the contractor or subcontractor to qualify additional sources. Greater rights may be obtained by negotiation of a lump sum fee, royalty, Government purpose rights, or other arrangement. Any greater rights shall be identified as a contract line item, and the standard Notice language should be modified accordingly if appropriate. The

contracting officer shall not acquire greater rights unless—

(A) There is a need for disclosure of the data outside the Government; and

(B) The specific rights are required for competitive procurement, and the anticipated savings from competition are likely to exceed the acquisition cost of the additional rights in data.

(2) To the extent such additional rights are acquired, the rights and the item, component, process, or computer software to which they pertain will be identified in the contract.

(3) In the event that the offeror is unable to identify all data subject to other than unlimited rights, or if the offeror and contracting officer are unable to conclude agreement on the identification of such data in the contract before award, then award may be made subject to Alternate III being added to the basic rights in Data clause at 52.227–14. This Alternate adds paragraph (j) to the clause which permits continued notification and negotiation after award.

(4) In this event, the assertions of the contractor must be identified in the contract as a schedule or attachment, in order to facilitate the review of contractors' assertions of data rights to provide a basis for acquisition planning, and subsequent negotiation. Since the contracting officer cannot undertake a complete review of all data to be delivered with other than unlimited rights, the contracting officer need only have a reasonable basis to add such data to the schedule or attachment. Any listing of such data should not be construed as an agreement by the Government of ultimate data rights. The Government reserves its rights to a complete validation, if it appears the data is mismarked.

(5) Whenever greater or lesser rights have been negotiated, the contract must reflect the results of the bargain. Therefore, contracting officers must develop appropriate language for contract inclusion, or may use the clause at 52.227–28 to identify the results of this agreement.

27.406–4 Postaward notification and negotiation.

(a) Notification of data to be delivered with other than unlimited rights and negotiations will be conducted to the maximum practicable extent prior to contract award. However, if there are numerous offerors or there are urgent circumstances, the contracting officer may determine that preaward negotiations are impracticable. This determination must be approved at a level higher than the contracting officer, or such other level as may be prescribed by agency procedures. The contracting officer will notify the contractor that preaward negotiations are impractical, and that the contractor may provide notification to the contracting officer after award of those items, components, processes, or computer software for which other than unlimited rights in the data pertaining thereto are to be asserted. The contracting officer shall add Alternate III to the clause at 52.227–14 to provide for such continuing notification and provide agreement to add the results of such identification in the contract of the data to be delivered with other than unlimited rights.

(b) In accordance with agency procedures, the contract shall include a time schedule for negotiation of data rights if agreement cannot be achieved.

(c) Once Alternate III is added, then the schedule or attachment may be updated through the life of the contract, but not later than the date of the delivery of the data, to address additional assertions by the contractor or subcontractors under the notification process, to incorporate the results of Government reviews and challenges, and to specifically identify or describe all data to be delivered with other than unlimited rights. Such changes are to be made by bilateral modifications to the contract.

27.406–5 Negotiation factors.

The contracting officer shall consider, as appropriate, the following factors when negotiating rights in data:

(a) The acquisition strategy for the item or system, including logistics support.

(b) Whether the item or system, or related logistics support, will be competed.

(c) Timing of such competitions.

(d) The economic life of the technology and whether it can be commercialized.

(e) Funding contributions of the respective parties.

(f) Development of alternative sources for industrial mobilization or other purposes.

(g) Other factors, such as unique contractor qualifications or expertise contributing to the configuration management or development of the item, component, process or computer software.

27.406 Other data rights provisions.

(a) Special data situations. (1) The clause at 52.227–17, Rights in Data—Special Situations, is to be used in contracts (or may be made applicable to portions thereof) that are primarily for the production or compilation of data (other than limited rights data or restricted rights computer software) for the Government's own use, or when there is a specific need to limit distribution and use of the data and/or to obtain indemnity for liabilities that may arise out of the content, performance, or disclosure of the data. Examples are contracts for—

(i) The production of audiovisual works, including motion pictures or television recordings with or without accompanying sound, or for the preparation of motion picture scripts, musical compositions, sound tracks, translation, adaptation, and the like;

(ii) Histories of the respective agencies, departments, services, or units;

(iii) Surveys of Government establishments;

(iv) Works pertaining to the instruction or guidance of Government officers and employees in the discharge of their official duties or works pertaining to recruiting, morale, training, or consular guidance;

(v) The compilation of reports, books, studies, surveys, or similar documents, that do not involve research, development, or experimental work;

(vi) The collection of data containing personally identifiable information such that disclosure would violate the right of privacy or publicity of an individual to whom the information relates;

(vii) Investigatory reports; and

(viii) The development, accumulation, or compilation of data, other than that resulting from research, development, or experimental work performed by a contractor, the early release of which could prejudice competitive acquisition activities, or agency enforcement or regulatory activities.

(2) The contract may specify the purposes and conditions (including time limitations) under which the data may be used, released, or reproduced other than for contract performance. Contracts for the production of audiovisual works, sound recordings, etc., may include limitations in connection with talent releases, music licenses, and the like that are consistent with the purposes for which the works are acquired.

(3) Subdivision (c)(1)(ii) of the clause at 52.227.17, Rights in Data, Special Situations, enables the Government to obtain assignments of copyright in any data first produced in the performance of the contract. It may be deleted if the contracting officer determines that such assignment is not needed to further the objectives of the contract.

(4) Paragraph (e) of the clause at 52.227–14, which requires the contractor to indemnify the Government against

any liability incurred as the result of any violation of trade secrets, copyrights, right of privacy or publicity, or any libelous or other unlawful matter arising out of or contained in any production or compilation of data that are subject to the clause. It may be deleted or limited in scope where the contracting officer determines that, because of the nature of the particular data involved, such liability will not arise.

(b) Acquisition of existing audiovisual and similar works. (1) The clause at 52.227–18, Rights in Data-Existing Works, is for use in contracts exclusively for the acquisition (without modification) of existing motion pictures; television recordings; dramatic and literary works, pantomimes and choreographic works; pictorial, graphic, and sculptural works; and works of a similar nature. The contract may set forth limitations consistent with purposes for which the works covered by the contract are being acquired. Examples of these limitations are—

(i) Means of exhibition or transmission;

(ii) Time;

(iii) Type of audience; and

(iv) Geographic location.

(2) If the contract requires that works of the type indicated in subparagraph (b)(1) of this subsection are to be modified through editing, translation, or addition of subject matter, etc., rather than purchasing in existing form, the clause at 52.227–17, Data Rights—Special Situations, is to be used in lieu of the clause at 52.227–18. (See 27.406(a).)

(c) Acquisition of existing commercial computer software. (1) When contracting from other than GSA's multiple award schedule for the acquisition of existing commercial computer software (i.e., privately developed software normally vended commercially under a license or lease agreement restricting use, disclosure, and reproduction), the contract or purchase order must specifically address the Government's rights to use, disclose or reproduce the software. These rights must be sufficient for the Government to fulfill the need for which the software is being acquired. This includes commercial software that is furnished as part of a system and is separately priced. The contracting officer may presume that the software is commercial if the software is used regularly for other than Government purposes and is sold, licensed or leased in significant quantities to the general public at established market or catalog prices.

(2) The requirements of subparagraph (c)(1) of this section may be accomplished by using the clause at 52.227–19 or such rights may be negotiated and set forth in the contract using the guidance for restricted rights set forth in 27.404–3.

(3) The purpose of the clause at 52.227–19 is to supersede any portions of the vendor's standard commercial license, lease, or purchase agreement that are inconsistent with the restricted rights acquired by the Government and any pertinent Federal laws, the Federal Acquisition Regulation, and agency supplements. The vendor should be made aware of the clause's purpose and effect, and, when used, it must be incorporated into and made a part of the purchase order or contract under which the commercial computer software is being acquired.

(4) The guidance concerning the rights set forth in 27.404–3, as well as those in paragraph (d) of the clause at 52.227–19, normally are the minimum rights the Government should accept. Any variation must be negotiated and set forth in the contract or purchase order. Examples of additional rights that may be acquired are those necessary for site licenses, networking purposes, or for use of software from remote terminals communicating with a host computer where the software is located, and similar interface needs. If the computer software is to be acquired with unlimited rights, the contract should so state.

(5) If the acquisition is by lease or license, the disposition of the software (by returning or destruction, for example) at the end of the lease or license period must be addressed. Paragraph (f) of the clause at 52.227–19 deals with this issue.

(6) If the clause at 52.227–19 is not used, caution must be exercised in accepting a vendor's terms and conditions, since they may be directed to commercial sales and may not be appropriate for a Government situation. The contract terms shall take precedence over the vendor's license, lease, or purchase agreement. If the clause at 52.227–19 is used, inconsistencies in the vendor's standard commercial agreement regarding the Government's right to use, disclose, or reproduce the computer software are reconciled by that clause.

(7) The clause at 52.227–19 also applies to manuals and instructional materials the vendor normally supplies with the commercial computer software. Such material is to be acquired with unlimited rights unless bearing a copyright license to use and reproduce such materials for Government purposes. If other data, such as noncommercial software, or technical data, is to be acquired, then the clause at 52.227–19 is not applicable to such additional data and the clause at 52.227–14 must be used.

(8) Where the contract also contains the clause at 52.227–14, the contract should either identify the computer software to which the clause at 52.227–19 is to apply or require the contracting officer's approval prior to acquisition of such software.

(9) If a prime contractor under a contract containing the clause at 52.227–14 acquires existing commercial computer software from a subcontractor (at any tier) for delivery to or for use on behalf of the Government, the contracting officer may either authorize the use of the clause at 52.227–19 for that purpose, or approve any variations to or limitations on the restricted rights set forth in the clause at 52.227–14 in a collateral agreement incorporated in and made part of the contract.

(d) Other existing data and works. (1) Except for existing audiovisual and similar works as discussed in paragraph (b) of this subsection, and existing computer software as discussed in paragraph (c) of this subsection, no clause contained in this subpart is required to be included in—

(i) Contracts solely for the acquisition of books, periodicals, and other printed items in the exact form in which such items are to be obtained unless reproduction rights are to be acquired, or

(ii) Other contracts (as contracts that result from sealed bidding) that require only existing data (other than limited rights data) to be delivered and such data are available without disclosure prohibitions, unless reproduction rights are to be obtained. If the reproduction rights are to be obtained in any contract of the type described in 27.406 (b) or (d), such rights must be specifically set forth in the contract. No clause in this subpart is required to be included in contracts substantially for on line data base services which are available to the general public without restriction.

(e) Contracts awarded under the Small Business Innovative Research Program are to use the clause at 52.227–20, Rights in Data-SBIR Program. The clause is to be used in all Phase I and Phase II contract awards. It is the only data rights clause to be used in Small Business Innovative Research Program contracts, and its use is limited to such contracts. For additional guidance, consult the Small Business Policy Directive 85–01–2, and agency implementation.

27.407 Omitted, nonconforming and unauthorized markings.

27.407-1 Omitted and nonconforming markings.

(a) Data delivered under a contract containing the clause at 52.227-14, Rights in Data, without appropriate legends, or without a copyright notice, will be presumed to have been delivered with unlimited rights, and the Government assumes no liability for the disclosure, use, or reproduction of such data. However, to the extent the data has not been disclosed, the contractor may within 6 months (or longer period in accordance with agency procedures), request permission of the contracting officer to have omitted notices placed on qualifying data, at the contractor's expense. The contracting officer may agree to so permit if the contractor—

(1) Identifies the data for which notice is to be added;

(2) Demonstrates that the omission was inadvertent;

(3) Establishes that the use of the notice is authorized; and

(4) Acknowledges that the Government has no liability with respect to any disclosure or use of any such data made prior to the addition of the notice or resulting from the omission of the notice.

(b) If the data appears to be data that the contractor is authorized to mark, but the marking is nonconforming, then the Government shall use the data as if the marking were proper, and the contractor shall be required to correct the markings to conform to the contract. Nonconforming means markings which appear to assert rights in data, but do not conform to the prescribed notices authorized by the clause at 52.227-14, Rights in Data. If the contractor fails to correct the markings within 60 days after notice, the Government may correct the markings at the contractor's expense. Since interpretation of nonconforming markings is judgmental by the Government, the contractor should not assume that such markings are adequate to protect rights. If the notices appear to address only internal contractor distribution, or are unclear, and the contractor does not adequately clarify the issue, the contracting officer may decide that the nonconforming notices are not notices of data restrictions and may strike them or ignore them. The contracting officer may also, if the notice or legend is nonconforming, correct the notice unilaterally.

27.407-2 Unauthorized markings and validation.

(a) General. A contractor or subcontractor may be required to validate restrictive markings on data if the contracting officer has a reasonable basis to believe that the data does not qualify as limited rights data or restricted rights computer software (see 27.404-2 and 27.404-3). There are two types of requirements and procedures for the validation of (i.e., challenge to) restrictive markings on data. The statutory requirements of 10 U.S.C. 2321 and 41 U.S.C. 253d are implemented by the clause at 52.227-24, Validation of Technical Data Markings (Statutory). This clause establishes the procedures for technical data (but not computer software) for all contracts by agencies subject to title 10 of the United States Code as well as for technical data (but not computer software) for major systems contracts or for the support of major systems (as defined in 41 U.S.C. 403) by agencies subject to title III of the Federal Property and Administrative Services Act of 1949. The clause at 52.227-25, Validation of Computer Software and Data Markings (Nonstatutory), establishes the procedures for validation of computer software in all contracts for all agencies, as well as for all other data except for technical data in the aforementioned contracts.

(b) Request for information prior to validation. (1) The contracting officer may request the contractor or subcontractor to furnish a written explanation for any restriction asserted on the right of the Government or others acting on its behalf to use, duplicate, or disclose the data. The period provided for the contractor's response is to be a reasonable time (not to exceed 90 days) established by the contracting officer, taking into account the availability and volume of the information needed for a complete response. The request shall state it does not constitute a formal challenge.

(2) Paragraph (b) of the clauses at 52.227-24 and 52.227-25 requires the contractor or subcontractor to have procedures to ensure proper marking of data, and maintain records to justify such markings.

(c) If the contracting officer determines a formal challenge to the asserted restrictive markings is warranted, then the procedures therefor set in either the clause at 52.227-24 or 52.227-25, as applicable, are to be followed.

(d) In order to comply with the statutory requirements of 10 U.S.C. 2321, the following also applies to any challenges made pursuant to the clause at 52.227-24:

(1) The contracting officer, after consulting with the activity having an interest in the validity of the markings, must determine, after reviewing all available information, that there are reasonable grounds to question the validity of a restrictive marking, and that continued adherence to the restriction would make subsequent competition impracticable or the contractor or subcontractor fails to adequately respond to the prechallenge request within a reasonable period of time. The contracting officer must document this determination for the file.

(2) Data must be challenged no later than 3 years after delivery to the Government, or 3 years after final payment under the contract, whichever is later. The contracting officer may challenge a restriction at any time if the data—

(i) Are publicly available without disclosure restrictions;

(ii) Have been furnished to the Government without restriction; or

(iii) Have otherwise been made available without restriction.

(e) Even though there are no statutory limits on challenges under the clause at 52.227-25, efforts should be made to raise and resolve questions the contracting officer may have regarding asserted restrictions within a reasonable period of time after delivery of the data involved.

27.408 Acquisition of data—general procedures.

(a) *General.* (1) It is the Government's practice to determine, to the extent feasible, its data requirements in time for inclusion in solicitations. The data requirements may be subject to revision during contract negotiations. Since the cost of preparation, reformatting, maintenance and updating, cataloging, and storage of data represent an expense to both the Government and the contractor, efforts should be made to keep the contract data requirements to a minimum, consistent with the purposes of the contract.

(2) To the extent feasible, all known data requirements, including time and place for delivery and any limitations and restrictions to be imposed on the contractor in the handling of data, shall be specified in the contract. Whenever practicable, data requirements shall be set out as separate contract line items. In establishing the contract data requirements and in specifying data items to be delivered by a contractor, agencies may develop their own procedures for listing, specifying,

identifying source, assuring delivery, and handling any data required to be delivered, first produced, or specifically used in the performance of the contract.

(3) Data delivery requirements should not require that a contractor provide the Government, as a condition of the procurement, unlimited rights in data that qualify as limited rights data or restricted computer software. Rather, form, fit, and function data may be furnished, if the contracting officer elects to use the clause at 52.227–14, Rights in Data, with Alternate I, or qualifying data may be furnished with limited rights notices or restricted rights notices, as discussed in 27.404–2 and 27.404–3, and as provided for in subparagraphs (b)(2) and (b)(3) of the clause at 52.227–14. If additional rights are needed, as data for a reprocurement data package, then this need should be clearly set forth in the solicitation and the contractor fairly compensated for such greater rights.

(b) *Additional data ordering.* (1) Recognizing that in some contracting situations, such as experimental, developmental, research, or demonstration contracts, it may not be feasible to ascertain all the data requirements at the time of contracting, the clause 52.227–16, Additional Data Ordering, may be used to enable the subsequent ordering by the contracting officer of additional data first produced or specifically used in the performance of such contracts as the actual requirements become known. The clause shall normally be used in solicitations and contracts involving experimental, developmental, research, or demonstration work (other than basic or applied research to be performed under a contract solely by a university or college when the contract amount will be $500,000 or less) unless all the requirements for data are believed to be known at the time and specified in the contract. It may be used in other contracts, such as for production or supply, but the contractor must be informed of the categories of data to which it may apply. If the contract is for basic or applied research to be performed by a university or college, and the contracting officer believes the contract effort will in the future exceed $500,000, even though the initial award does not, the contracting officer may include the clause in the initial award.

(2) Data may be ordered under the clause at 52.227–16, Additional Data Ordering, at any time during contract performance or within 3 years after acceptance of all items to be delivered under the contract. The contractor is to be compensated for converting the data into prescribed form, for reproduction, and for delivery. In order to minimize storage costs for the retention of data, the contractor may be relieved of retention requirements for specified data items by the contracting officer at any time during the retention period required by the clause. The contracting officer may permit the contractor to identify and specify in the contract data not to be ordered for delivery under the Additional Data Ordering clause if such data are not necessary to meet the Government's requirements for data. Also, the contracting officer may alter the Additional Data Ordering clause by deleting the term "or specifically used" in paragraph (a) thereof if delivery of such data are not necessary to meet the Government's requirements for data. Any data that are ordered under this clause will be subject to the clause at 52.227–14, Rights in Data, and data authorized to be withheld under such clause will not be required to be delivered under the Additional Data Ordering clause, except by written order of the contracting officer.

(c) *Acceptance of data.* Acceptability of technical data delivered under a contract shall be in accordance with the appropriate contract clause as required by subpart 46.3 and the clause at 52.227–21, Technical Data Certification, Revision, and Withholding of Payment, when it is included in the contract.

(d) *Technical data certification, revision, and withholding of payment.* (1) In order to assure the technical data needed are delivered in a timely manner and are complete, accurate, and satisfy the requirements of the contract, the clause at 52.227–21, Technical Data Certification, Revision, and Withholding of Payment, is to be included in all contracts as prescribed by agency supplements. The clause requires the contractor, upon delivery of technical data to certify, that to the best of its knowledge and belief, such data are complete, accurate, and comply with contract requirements. It also provides for corrections of any deficiencies in the data. The contracting officer may request revisions of the data to reflect engineering design changes made during performance of the contract and affecting form, fit, and function of the items the data depict. Further included is the authority for the contracting officer to withhold payment under the contract to assure timely delivery of the technical data and/or assure correction of the technical data are not complete, accurate, and in compliance with contract requirements.

(2) The contracting officer should consider all remedies when data do not comply with the contract. Remedies may include reduction of progress payments, withholding final payment, contract termination and a reduction in contract price or fee. The clause permits withholding up to 10 percent of the contract price unless a lesser amount is specified in the contract or the Alternate paragraph (c) is specified by agency procedures. The contracting officer shall determine the amount to be withheld after considering the estimated value of the data to the Government. Payment shall not be withheld when nondelivery results from causes beyond the control and without the fault or negligence of the contractor.

(3) When the clause at 52.227–21 is used, the section of the contract specifying data delivery requirements shall expressly identify those line items of technical data to which the clause applies. Upon delivery of such technical data, the contracting officer or designee shall review the technical data in the contractor's relating certification to assure that the data are complete, accurate, and comply with contract requirements. If not, the contractor is to be requested to correct the deficiencies, and payment may be withheld until such is done. Final payment should not be made under the contract until it has been determined that the delivery requirements of those line items of data to which the clause applies have been satisfactorily met.

27.409 Rights to technical data in successful proposals.

(a) Contracting officers may, in consideration of contract award, desire to acquire unlimited rights in technical data (but not commercial or financial information) contained in a successful proposal upon which a contract award is based. However, before such unlimited rights are acquired, the prospective contractor must be afforded the opportunity either—

(1) To advise the contracting officer that the technical data, or portions thereof (to be identified by the prospective contractor) are covered by any restrictive notice regarding the disclosure and use of proposal information authorized by subpart 15.4 or 15.5 (or any agency supplement thereto), and request that such protection be maintained by excluding the data from the Government's rights; or

(2) To establish to the contracting officer's satisfaction that identified portions of the technical data do not relate directly to or will not be utilized in the work to be performed under the contract, and request that such portions

be excluded from the Government's rights.

(b) If unlimited rights to technical data in successful proposals, as set forth in paragraph (a) of this section, are to be acquired, it shall be by use of the clause at 52.227–23, Rights to Proposal Data. Any excluded technical data will be identified by inserting appropriate proposal page numbers in the clause. This clause enables identification of data to be excluded from the Government's rights, as discussed in paragraph (a) of this section. Such exclusion is not dispositive of the protective status of the data, but any excluded technical data, as well as any commercial and financial information contained in the proposal, will remain subject to the policies in subpart 15.4 or 15.5 (and agency supplements thereto) relating to proposal information (i.e., will be used for evaluation purposes only). If the clause at 52.227–23, Rights to Proposal Data, is included in a contract, the prospective contractor must be specifically afforded the opportunity to exclude technical data as set forth in paragraph (a) of this section, and the contract file must reflect that fact. If there is a need to have access to any of the excluded technical data during contract performance, consideration must be given to their acquisition as limited rights data, if they so qualify, in accordance with 27.404–2.

27.410 Solicitation provisions and contract clauses.

(a)(1) The contracting officer shall insert the clause at 52.227–14, Rights in Data, including its Alternates, as authorized, or other appropriate clauses, as prescribed in this section in solicitations and contracts if data will be developed, produced, furnished, or acquired under the contract, unless the contract is—

(i) For special situations, set forth in 27.408(a), but the clause at 52.227–14 shall be included in the contract and made applicable to data other than that produced or compiled for the special situations set forth in 27.408(a);

(ii) For the acquisition of existing works as set forth in 27.408(b);

(iii) To be performed outside the United States, its possessions, and Puerto Rico, in which case agencies may prescribe an alternate clause.

(iv) For architect service or construction work, in which case agencies may utilize the clause at 52.227–17, Rights in Data-Special Situations, or may prescribe different clauses;

(v) For contracts under the Small Business Innovation Research Program, see paragraph (l) of this section.

(vi) For the management, operation, design, or construction of a Government facility to perform research, development, or production work, in which cases agencies may prescribe different clauses see paragraph (p) of this section; or

(vii) Exclusively for existing commercial computer software as set forth in 27.408(c).

(2) In all contracts and solicitations containing the clause at 52.227–14, the contracting officer shall in accordance with 27.407–2—

(i) Insert the clause at 52.227–24, Validation of Technical Data Markings (Statutory), if the solicitation and contract are by an agency subject to title 10 of the United States Code or by an agency subject to title III of the Federal Property and Administrative Services Act of 1949 for major systems or the support thereof, unless in either instance only computer software is to be furnished for use by or on behalf of the Government; and

(ii) Insert the clause at 52.227–25, Validation of Computer Software and Data Markings (Nonstatutory)—

(A) Whenever computer software is to be delivered or furnished for use by or on behalf of the Government; or

(B) If the clause at 52.227–24 is not inserted whether or not computer software is to be delivered or furnished.

(b) In accordance with 27.405–1(f), if a contracting officer determines it is unnecessary to obtain the delivery of limited rights data, or restricted rights data, the clause shall be used with its Alternate I. (See also 27.404–2(a) and 27.404–3(a).)

(c) The clause at 52.227–14 is to be used with its Alternate II if in accordance with the procedures at 27.405–2, the contracting officer has determined Government purpose rights are appropriate. If a nondisclosure agreement is required, agencies may use the clause at 52.227–26 or prescribe their own.

(d) The clause at 52.227–14 is to be used with its Alternate III if negotiations are necessary in accordance with 27.405–4. Also, the clause at 52.227–28 may be used in situations in which post award negotiation of data rights may be necessary with regard to specific data deliverables.

(e) The clause at 52.227–14 shall be used with its Alternate IV in contracts for basic or applied research (other than those for the management or operation of Government facilities or where international agreements require otherwise), to be performed solely by universities and colleges.

(f) The clause at 52.227–14 may be used with its Alternate IV in other contracts if in accordance with 27.404–5(c)(2) an agency determines to grant blanket permission for the contractor to establish claim to copyright subsisting in all data first produced without further request being made by the contractor.

(g) The contracting officer shall insert the provision at 52.227–15, Notification of Data Deliverables With Other Than Unlimited Rights, in all solicitations containing the clause at 52.227–14. the offeror's response will aid the contracting officer in determining which, if any, of the Alternates are appropriate in accordance with 27.405.

(h) The contracting officer shall normally insert the clause at 52.227–16, Additional Data Ordering, in solicitations and contracts involving experimental, developmental, research, or demonstration work (other than basic or applied research to be performed solely by a university or college where the contract amount will be $500,000 or less) unless all the requirements for data are believed to be known at the time of contracting and specified in the contract. This clause may also be used in other contracts, such as supply or production when considered appropriate in accordance with 27.408(b).

(i) In accordance with 27.408(c), the contracting officers shall insert the clause at 52.227–17, Rights in Data—Special Situations, in solicitations and contracts primarily for the production or compilation of data (other than limited rights data or restricted rights computer software) for the Government's internal use, or when there is specific need to limit distribution and use of the data and/or to obtain indemnity for liabilities that may arise out of the content, performance, or disclosure of the data. Examples of such contracts are set forth in 27.408(a). The contract may specify the purposes and conditions (including time limitations) under which the data may be used, released, or reproduced by the contractor for other than contract performance. Contracts for the production of audiovisual works, sound recordings, etc., may include limitations in connection with talent releases, music licenses, and the like that are consistent with the purposes for which the data is required.

(j) The contracting officer shall insert the clause at 52.227–18, Rights in Data—Existing Works, in solicitations and contracts exclusively for the acquisition, without modification, of existing audiovisual and similar works of the type set forth in 27.408(b). The contract may set forth limitations consistent with the purposes for which work is being acquired. The clause at 52.227–17, Rights in Data—Special Situations, shall be

used if existing works are to be modified, as by editing, translation, addition of subject matter, etc.

(k)(1) In accordance with 27.406(c), when contracting (other than from GSA's Multiple Award Schedule contracts) for the acquisition of existing computer software, the clause at 52.227–19, Commercial Computer Software, may be used in the solicitation and contract. This clause may also be used in contracts containing the clause at 52.227–14, Rights in Data. In any event, the contracting officer shall assure that the contract contains terms to obtain sufficient rights for the Government to fulfill the need for which the software is being acquired and is otherwise consistent with 27.404–3(b)(1).

(2) The contracting officer may, in any solicitation and contract containing the clause at 52.227–19, insert the clause at 52.227–25, Validation of Computer Software and Data Markings (Nonstatutory), where the contracting officer desires the rights to challenge the restrictive markings on delivered computer software that is subject to the clause at 52.227–19.

(l) The clause at 52.227–20, Rights in Data—SBIR Program, shall be used in all Phase I and Phase II contracts awarded established pursuant to Public Law 97–219 (The Small Business Innovation Development Act of 1982).

(m) While no specific clause of this subpart is required to be included in contracts solely for the acquisition, without disclosure prohibitions, of books, publications, and similar items in the exact form in which such items exist prior to the request for purchase (i.e., the off-the-shelf purchase of such items), if reproduction rights are to be acquired the contract shall include terms addressing such rights. (See. 27.406(d).)

(n) [Reserved]

(o) Agencies may prescribe in their procedures the clause at 52.227–17, Rights in Data—Special Situations, or prescribe, as appropriate, clauses for architect-engineer services and construction work.

(p) Agencies may prescribe clauses in contracts for management, operation, design, or construction of Government-owned research, development, or production facilities, and in contracts and subcontracts in support of programs being conducted at such facilities.

(q) The contracting officer shall insert the clause at 52.227–21, Technical Data Certification, Revision, and Withholding of Payment, in all contracts, with the suitable alternative selected in contracts for major systems acquisitions or for support of major systems acquisitions.

(r) [Reserved]

(s) In accordance with 27.408, if a contracting officer desires to acquire unlimited rights in technical data contained in a successful proposal upon which a contract award is based, the contracting officer shall insert the clause at 52.227–23, Rights to Proposal Data. Rights to technical data in a proposal are not acquired by mere incorporation by reference of the proposal in the contract, and if a proposal is incorporated by reference, 27.408 must be followed to assure that such rights are appropriately addressed.

3. Subpart 27.7 is added to read as follows:

Subpart 27.7—Infringement of Patents and Copyrights

Sec.
27.700 Scope.
27.701 Policy.
27.702 Requirements of an administrative claim.
27.703 Processing administrative claims.

Subpart 27.7—Infringement of Patents and Copyrights

27.700 Scope.

This subpart prescribes policy and procedures for the processing of administrative claims asserted against an agency for infringement of patents and copyrights.

27.701 Policy.

A Government agency should take all necessary steps to settle administratively, to deny, or otherwise to dispose of claims of infringement of privately owned rights in patented inventions or copyrighted works prior to suit against the Government; and should prescribe policy, procedures, and instructions with respect to the processing of such claims.

27.702 Requirements of an administrative claim.

Under applicable statutes, including those tolling statutes of limitation (35 U.S.C. 286 for patents and 28 U.S.C. 1498(b) for copyright), a patent or copyright infringement claim for compensation must be actually communicated to and received by the Government agency. A claim must be in writing and include the following:

(a) An allegation of infringement.

(b) A request for compensation, either expressed or implied.

(c) A citation of the patents or copyrighted works alleged to be infringed.

(d) In the case of a patent infringement claim, a sufficient designation of the alleged infringing items or processes to permit identification, or, in the case of a copyright infringement claim, a sufficient designation of the alleged infringing works and/or practices to permit identification and investigation.

(e) A designation of at least one claim of each patent and copyright alleged to be infringed.

(f) As an alternative to paragraphs (d) and (e) of this section, a certification that the claimant has made a bona fide attempt to determine the items or processes which are alleged to infringe the patents, or the works or practices alleged to infringe the copyrights, but was unable to do so, giving reasons, and stating a reasonable basis for the claimant's belief that the patents or copyrighted works are being infringed.

27.703 Processing administrative claims.

(a) Correspondence received by an agency from an owner of a patent or copyright alleging infringement of such patent or copyright by the agency shall be promptly forwarded to the agency's designee for processing of claims alleging infringement of patents or copyrights.

(b) The contractors are required by the clause at 52.227–2, Notice and Assistance Regarding Patent and Copyright Infringement—

(1) To notify the contracting officer of all claims of infringement that come to the contractor's attention in connection with performing a Government contract; and

(2) When requested, to assist the Government with any evidence and information in its possession in connection with any claims against the Government made before suit has been instituted on account of any alleged patent or copyright arising out of or resulting from the contract performance (see 27.202–1).

(c) The contracting officer shall notify the Government agency's designee for processing infringement claims of all claims of infringement that come to the contracting officer's attention.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 52.227–14 is revised to read as follows:

52.227–14 Rights in Data.

The contracting officer shall use this clause and Alternates in accordance with 27.410–1(a) through (f):

Rights in Data (XXX 1990)

(a) Definitions.

Computer software, as used in this clause, means—

(1) Computer programs which are data comprising a series of instructions, rules,

routines, or statements which allow or cause a computer to perform an operation or series of operations; and

(2) Data comprising source code listings, design details, algorithms, processes, flow charts, formulae, and related material that would enable the computer program to be produced, created, or compiled.

Data, as used in this clause, means recorded information, regardless of form, the media on which it may be recorded, or the method of recording. The term includes, but is not limited to, technical data and computer software, and computer data bases. The term does not include data incidental to the administration of this contract, such as financial, administrative, cost and pricing, or management information.

Data base, as used in this clause, means a collection of data recorded in a form capable of, and for the purpose of, being stored in, processed and operated on by a computer. The term does not include computer software.

Detailed design, manufacturing, or process data, as used in this clause, means technical data of sufficient detail to enable the essentially identical reproduction or manufacture of an item, component, or the performance of a process, to which the data pertains.

Developed, as used in this clause, means that the item, component, process, or computer software exists and is workable. To exist, the item or component must have been constructed or the process or computer program practiced. To be workable, the item, component, process, or computer program has been analyzed or tested sufficiently to demonstrate to reasonable people, skilled in the applicable art, that there is a high probability that it will operate as intended. Whether, how much, and what type of analysis or testing is required to establish workability depends on the nature of the item, component, process, or computer software, and the state of the art. To be considered "developed," the item, component, process, or computer software need not be at the stage where it could be offered for sale or sold on the commercial market, nor must the item, component, process, or computer software be actually reduced to practice within the meaning of Title 35 of the United States Code.

Developed exclusively with Government (Federal) funds, as used in this clause, means, in connection with an item, component, process, or computer software, that the cost of development was paid for in whole by the Government. Independent research and development and bid and proposal costs, as defined in 31.205–18, (whether or not included in a formal independent research and development program), and costs allocated to overhead accounts in accordance with the Cost Accounting Standards (CAS) for those contracts covered by CAS, or in accordance with generally accepted accounting principles for those contracts not covered by CAS, are not considered to be costs of "development" with Federal funds for purposes of this definition.

Developed exclusively at private expense, as used in this clause, means, in connection with an item, component, process, or computer software, that no part of the cost of development was charged to the Government, with the express understanding that independent research and development and bid and proposal costs, as defined in 31.205–18 (whether or not included in a formal independent research and development program), and costs allocated to overhead accounts in accordance with the Cost Accounting Standards (CAS) for those contractors covered by CAS, or in accordance with generally accepted accounting principles for those contracts not covered by CAS, are not to be considered development costs charged to the Government for purposes of this definition.

Form, fit, and function data, as used in this clause, means data relating to items, components, processes, or computer programs that are sufficient to enable physical and functional interchangeability as well as data identifying source(s), size, configuration, mating and attachment characteristics, functional characteristics, and performance requirements.

Government purpose rights, as used in this clause, means the rights of the Government to use, duplicate, and disclose detailed design, manufacturing, and process data and computer software, by or on behalf of the Government, including disclosure outside the Government for any Government purpose. Data that may be subject to Government purpose rights will be specifically identified in this contract, and the Government's rights to use, duplicate, and disclose such data are as set forth in the Government Purpose Rights Notice of alternate II, if included in this clause.

Limited rights data, as used in this clause, means data pertaining to items, components, and processes developed exclusively at private expense, except as may be provided otherwise in subparagraph (b)(1) of this clause, provided that such data have not been disclosed, furnished, or released to the Government or to others without restriction on further disclosure and use or are otherwise publicly available. The Government's rights to use, duplicate, and disclose limited rights data are as set forth in the Limited Rights Notice of subparagraph (b)(2) of this clause.

Manuals and instructional materials, as used in this clause, means data necessary for the installation, operation, maintenance and repair, or training with respect to any item, component, process, or computer software.

Mixed funding, as used in this clause, means with respect to Government purpose rights that both Government funds and private funds were used for the development of an item, component, process, or computer software and the respective contributions of the Government and the contractor are not readily segregable. The items, components, processes, or computer software to which mixed funding applies must be by agreement of the parties and identified in the contract. It cannot be created by application of normal or incidental contract overhead accounts, or by application of contractor funds arising from required contract performance, such as cost overruns, and claims for out of scope work.

Restricted rights computer software, as used in this clause, means computer software developed exclusively at private expense, except as may be provided otherwise in subparagraph (b)(1) of this clause, provided that such computer software has not been disclosed, furnished, or released to the Government or to others without restrictions on further disclosure and use, or is not publicly available. The Government's rights to use, duplicate, or disclose restricted rights computer software are as set forth in the Restricted Rights Notice of subparagraph (b)(3) of this clause.

Technical data, as used in this clause, means data which are of a scientific or technical nature. Technical data does not include computer software, but does include manuals and instructional materials and technical data formatted as a computer data base.

Unlimited rights, as used in this clause, means the rights of the Government to data to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so.

(b) Rights acquired by the Government.

(1) *Unlimited rights.* Unless otherwise provided in paragraph (c) of this clause regarding copyright, or as provided in subparagraph (b)(4) of this clause for Government purpose rights if included in this clause, the Government shall have unlimited rights in—

(i) Data first produced in the performance of this contract, including but no limited to—

(A) Technical data pertaining to items, components, processes, or computer software developed exclusively at Government expense; or

(B) Technical data and computer software resulting directly from the performance of experimental, developmental, or research work specified as an element of performance under this contract; or that has been developed during and were necessary for the performance of this contract.

(ii) Form, fit, and function data delivered or furnished for use in the performance of this contract;

(iii) Manuals and instructional materials furnished or required to be furnished for the installation, operation, maintenance and repair, or training with respect to any item, component, process or for the installation, maintenance, operation, and training with respect to any computer program required to be, or in fact, delivered or furnished for use in the performance of this contract;

(iv) All data which was in fact delivered or furnished for use in the performance of this contract which constitutes a correction or change to data furnished to the contractor by the Government; and

(v) All other data required to be or in fact delivered or furnished for use in the performance of this contract unless provided otherwise for limited rights data or restricted rights computer software in accordance with subparagraphs (b) (2) and (3) of this clause.

(2) *Limited rights.* The Government shall have limited rights as set forth in the Notice below in any data required to be or in fact delivered or furnished for use in the performance of this contract, and such data

are limited rights data, *provided* the following "Limited Rights Notice" is affixed to the data:

Limited Rights Notice

(a) Contract (and subcontract, if applicable) No. Contractor (and subcontractor, if applicable):

(b) These data are subject to the following limited rights. These data may be reproduced and used by the Government with the limitation that these data will not, without the written permission of the Contractor or as expressly permitted in this contract, be used for purposes of manufacture or disclosed outside the Government; except that the Government may disclose these data outside the Government for the following purposes, provided the Government makes such disclosure subject to prohibition against further use and disclosure:

(1) Emergency repair and overhaul.

(2) Release or disclosure of technical data (other than detailed design, manufacturing, or process data) to, or use of such data by, a foreign government or agency thereof as the interests of the United States may require for evaluational or informational purposes.

(c) This notice shall be marked on any reproduction of these data, in whole or in part."

(End of notice)

(3) *Restricted rights.* (i) The Government shall have restricted rights as set forth in the Notice below, in any computer software required to be or in fact delivered or furnished for use in the performance of this contract, and such computer software is restricted rights computer software, *provided* the following "Restricted Rights Notice" is affixed to the computer software:

Restricted Rights Notice—Long Form

(a) This computer software is submitted with restricted rights under Government Contract No. _____ with _____ (and Subcontract No. _____ with _____, if appropriate). It may not be used, reproduced, or disclosed by the Government except as provided in paragraph (b) of this Notice.

(b) This computer software may be—

(1) Used, or copied for use, in or with the computer or computers for which it was acquired, including use at any Government installation to which such computer or computers may be transferred;

(2) Used, or copied for use, in a backup or replacement computer if any computer for which it was acquired is inoperative or is replaced;

(3) Reproduced for safekeeping (archives) or backup purposes;

(4) Modified, adapted, or combined with other computer software, provided that only the portions of the derivative software consisting of the restricted rights computer software are to be made subject to the same restricted rights; and

(5) Disclosed to and reproduced for use by Contractors under a service contract (of the type defined in 37.101) in accordance with subparagraphs (b)(1) through (b)(4) of this Notice provided the Government makes such disclosure or reproduction subject to these restricted rights.

(c) Notwithstanding the foregoing, if this computer software has been published under copyright, it is licensed to the Government, without disclosure prohibitions, with the rights set forth in the restricted rights notice above.

(d) This Notice shall be marked on any reproduction of this computer software, in whole or in part."

(End of notice)

(ii) Where it is impractical to include the Restricted Rights Notice—Long Form on restricted rights computer software, the following short form Notice may be used in lieu thereof.

Restricted Rights Notice—Short Form

Use, reproduction, or disclosure is subject to restrictions set forth in the Long Form Notice of Contract No. _____ with _____ (and Subcontract No. _____ with _____, if appropriate).

(End of notice)

(iii) If the software is embedded, or it is commercially impractical to mark it with human readable text, then the symbol R and the clause date (mo/yr) in brackets or a box, as [R-8/90], may be used. This will be read to mean restricted rights software, subject to the rights of the Government as described in the Long Form Notice, in effect as of the date indicated next to the symbol. The symbol shall not be used to mark human readable material. In the event the contract contains any variation to the rights in the Long Form Notice, then the contract number must also be cited.

(iv) If restricted rights computer software is delivered with the copyright notice of 17 U.S.C. 401, the software will be presumed to be published copyrighted computer software licensed to the Government without disclosure prohibitions, with the minimum rights set forth in paragraph (b) of this clause, unless the Contractor includes the following statement with such copyright notice: "Unpublished—rights reserved under the Copyright Laws of the United States."

(c) *Copyright*—(1) *Data first produced in the performance of the contract.* Unless provided otherwise in this contract, the Contractor may establish, without prior approval of the Contracting Officer, claim to copyright subsisting in scientific and technical articles based on or containing data first produced in the performance of this contract and published in academic, technical or professional journals, symposia proceedings, or similar works. The prior, express written consent of the Contracting Officer is required to establish claim to copyright subsisting in all other data first produced in the performance of this contract. When claim to copyright is made, and the Contractor has published or intends to publish under copyright, the Contractor shall affix the applicable copyright notice of 17 U.S.C. 401 or 402 and acknowledgment of Government sponsorship (including contract number) to the data when such data are delivered to the Government, as well as when the data are published or deposited for registration as a published work in the U.S. Copyright Office. For data other than computer software, the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, or worldwide license for all such data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by and on behalf of the Government. For computer software, the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, or worldwide license in such copyrighted computer software to reproduce, prepare derivative works, and perform publicly and display publicly, by and on behalf of the Government.

(2) *Data not first produced in the performance of this contract.* The Contractor shall not, without prior written permission of the Contracting Officer, incorporate into data delivered under this contract any data not first produced in the performance of this contract and which contains the copyright notice of 17 U.S.C. 401 or 402, unless the Contractor identifies such data and grants to the Government, or acquires on its behalf, a license of the same scope as set forth in subparagraph (c)(1) of this clause; *provided*, however, that if such data are restricted rights computer software the Government shall acquire a copyright license of the scope set forth in the "Restricted Rights Notice" of subparagraph (b)(3) of this clause if included in this contract or as otherwise may be provided in a collateral agreement incorporated in or made part of this contract.

(3) *Removal of copyright notices.* The Government agrees not to remove any authorized copyright notices placed on data pursuant to this paragraph (c), and to include such notices on all Government reproductions of the data. Should data first produced under this contract be improperly copyrighted, the Government may remove such notices or, at its discretion, demand that the copyright be assigned to the United States. Upon such demand, the Contractor agrees to so assign the copyright.

(d) *Release, publication and use of data.* (1) The Contractor shall have the right to use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Contractor in the performance of this contract, except to the extent such data may be subject to Federal export control or national security laws or regulations, or unless otherwise provided in this paragraph (d) or expressly set forth in this contract.

(2) The Contractor agrees that to the extent it receives or is given access to any data necessary for the performance of this contract which are subject to a Limited Rights, Restricted Rights, or Government Purpose Rights Notice, or contain other restrictive markings, the Contractor shall treat the data in accordance with such Notices or markings unless otherwise specifically authorized in writing by the Contracting Officer.

(e) *Omitted or Incorrect markings.* (1) Data delivered to the Government without an authorized legend as required by paragraph (b) of this clause, or an authorized copyright notice required by paragraph (c) of this clause, shall be deemed to have been furnished with unlimited rights, and the Government assumes no liability for the

disclosure, use, or reproduction of such data. However, to the extent the data has not been disclosed without restriction outside the Government, the Contractor may request, within 6 months after delivery of such data, permission to have notices placed on qualifying data at the Contractor's expense, and the Contracting Officer may agree to do so if the Contractor—

(i) Identifies the data to which the omitted notice is to be applied;

(ii) Demonstrates that the omission of the notice was inadvertent;

(iii) Establishes that the use of the proposed notice is authorized; and

(iv) Acknowledges that the Government has no liability with respect to the disclosure, use, or reproduction of any such data made prior to the addition of the notice or resulting from the omission of the notice.

(2) The Contracting Officer may also—

(i) Permit correction at the Contractor's expense of nonconforming notices if the Contractor identifies the data on which correction of the notice is to be made, and demonstrates that the correct notice is authorized; or

(ii) Correct any nonconforming notices.

(f) *Unauthorized marking of data.* Notwithstanding any other provisions of this contract concerning inspection or acceptance, if any data delivered under this contract are marked with the notices specified in paragraph (b) of this clause that are not justified by this clause or by any other terms of this contract, or if such data bears any other restrictive or limiting markings not authorized by this contract, the Contracting Officer may at any time either return the data to the Contractor, or challenge the alleged restrictions in accordance with the procedures set forth in the Validation clause of this contract.

(g) *Subcontracting.* (1) The Contractor has the responsibility to obtain from its subcontractors all data and rights necessary to fulfill the Contractor's obligations under this contract. To this end, the Contractor shall use this same clause, suitably altered to identify the parties, in all subcontracts. No other clause or agreement shall be used without express written consent of the Contracting Officer, obtained in accordance with agency procedures.

(2) Data other than unlimited rights data may be submitted by a subcontractor directly to the Government, rather than through any higher tier Contractor.

(3) The Contractor shall ensure that subcontractor rights are protected by including any subcontractor allegations of rights on appropriate notification procedures.

(4) In no event shall the Contractor offer its obligations to recognize and protect subcontractor rights in technical data as a defense for failing to satisfy its contractual obligations to the Government. The Contractor shall not obligate itself to provide rights in data to the Government unless such rights have previously been obtained from the subcontractors. The Contractor must satisfy its contractual obligations to the Government while ensuring that the rights afforded subcontractors under 10 U.S.C. 2320 and 2321 are protected.

(h) *Relationship to patents.* Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any licenses or other right otherwise granted to the Government.

(i) *Limitation on charges.* The Contractor recognizes that the Government is not obligated to pay or allow to be paid, any charges for data that the Government has a right to use and disclose to others without restriction, including payments by subcontractors and payments by foreign governments under either the Foreign Military Sale Program or the Military Assistance Program. The Contractor agrees to refund any such payments.

[End of clause]

Alternate I (XXX 1990). As prescribed by 27.410(b), the Contracting Officer may use *Alternate I* if it is determined that it is unnecessary to obtain delivery of limited rights or restricted rights data. Note: If Alternate II is not chosen, paragraph (b)(4) of the clause should be designated "Reserved."

(b)(5) When data other than that listed in subparagraph (b)(1) of this clause are specified to be delivered in the performance of this contract and such data are limited rights data, or restricted rights computer software, the Contractor shall, unless specifically directed otherwise in writing by the Contracting Officer, withhold such data and not furnish them to the Government. However, as a condition to withholding the data, the Contractor must identify the data and furnish form, fit, and function data in lieu thereof. Notwithstanding this provision, the Contracting Officer may, at any time by written request, identify and specify the delivery of such withheld data. If delivery of such data is required, the Contractor may protect his rights by use of the Notices in paragraph (b)(2) or (b)(3), as applicable, of this clause, or (b)(4), if this clause contains a subparagraph (b)(4). The Contracting Officer, or his representative, at all reasonable times up to 3 years after delivery of the data, or final payment under this contract, whichever is later, may inspect at the Contractor's facility or other appropriate site, any data (and records relating to such data) withheld as limited rights data or restricted rights data pursuant to the above paragraph for purposes of evaluating performance under this contract or verifying that such data was properly withheld.

Alternate II (XXX 1990). As prescribed by 27.410(c), the Contracting Officer may use *Alternate II* with the clause at 52.227–14 if Government purpose rights are to be granted.

(b)(4) *Government purpose rights.* (i) The Government shall have Government purpose rights, as set forth in the Notice below in detailed design manufacturing and process data pertaining to items, components, processes and computer software for which the parties have agreed to such rights and specifically identified in this contract, *provided* the following "Government Purpose Rights Notice" is affixed to such data or computer software—

Government Purpose Rights Notice

(a) Contract [and subcontract No., if applicable) No. _____ Contractor [and subcontractor, if applicable]: _____

(b) These technical data and computer software are subject to Government purpose rights. These technical data and computer software may be used, duplicated, and disclosed by or on behalf of the Government for any Government purpose, including disclosure outside the Government for such purposes.

(c) The disclosure prohibitions under these Government purposes rights shall be effective until _____ *[insert date certain]*, after which date the Government shall have unlimited rights in these technical data and computer software.

(d) This notice shall be marked on any reproduction of these data, in whole or in part.

Alternate III (XXX 1990). As prescribed by 27.410(d), *Alternate III* is to be used with the clause at 52.227–14 if postaward negotiations are necessary in accordance with 27.405–4.

(j) *Notice of Limitations on Government Rights and subsequent negotiation.* (1) The Offeror or Contractor shall notify and continue to notify the Contracting Officer of its or its potential subcontractor's use during performance of the contract, or any subcontract, of items, components, processes, and associated data, and computer software, which—

(i) Have been developed exclusively at private expense;

(ii) Have been developed in part at private expense; and

(iii) Embody technology that has been developed exclusively with Government funds which the offeror, Contractor, or subcontractor desires exclusive rights to commercialize.

(2) Such notification shall be added to any listing developed under the Notification provision (52.227–15), if any, and the listing shall subsequently be incorporated into this contract, and may be modified by mutual consent throughout the life of this contract, but no later than delivery of the data in question. The Contracting Officer may negotiate and continue to negotiate with the Contractor using the procedures of 27.405–2 regarding the listing. The listing is intended to facilitate review and acceptance of data by the Government and does not waive or modify the rights of the Government to challenge the data under the clause at 52.227–25.

(3) Notification is not required with respect to items, components, processes and computer software if no data are to be delivered with other than unlimited rights, or if the data are delivered with unlimited rights.

(4) Upon request, the Contractor or subcontractor will provide sufficient information to enable the Contracting Officer to identify and evaluate the Contractor's assertions.

(k) *Identification of restrictions on Government rights.* Data shall not be tendered to the Government with other than unlimited rights unless the data has been identified under the provision at 52.227–15, prior to award, or identified under the notification procedure of *Alternate III*, if after award.

(l) *Disputes.* In the case of an item, component, or process that is developed in part at private expense, if, after exhausting

all reasonable efforts, the parties fail to agree to apportionment of the rights in technical data furnished under this contract by the date established in the contract for agreement, or within any extension established by the Contracting Officer, then the Contracting Officer may establish the respective rights of the parties subject to Contractor appeal as provided in the disputes clause of this contract. In any event, the Contractor shall proceed with completion of the contract.
(End of clause)

Alternate I. (XXX 1990). As prescribed by 27.410 (e) and (f), substitute the following subparagraph (c)(1) in the clause if automatic copyright is desired.

(c) *Copyright.* (1) Data first produced in the performance of the contract. Except as otherwise specifically provided in this contract, the Contractor may establish claim to copyright subsisting in any data first produced in the performance of this contract. When claim to copyright is made, the Contractor shall affix the applicable copyright notice of 17 U.S.C. 401 or 402 and acknowledgment of Government sponsorship (including contract number) to the data when such data are delivered to the Government, as well as when the data are published or deposited for registration as a published work in the U.S. Copyright Office. For data other than computer software, the Contractor grants to the Government and others acting on its behalf, a paid-up, nonexclusive, irrevocable, or worldwide license for all such data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by and on behalf of the Government. For computer software, the Contractor grants to the Government and others acting on its behalf, a paid-up nonexclusive, irrevocable, or worldwide license in such copyrighted computer software to reproduce, prepare derivative works, and perform publicly and display publicly, by and on behalf of the Government.

5. Section 52.227–15 is revised to read as follows:

52.227.15 Notification of Data Deliverables With Other Than Unlimited Rights.

As prescribed in 27.410(g), the contracting officer shall insert this provision in all solicitations containing the clause at 52.227–14:

Notification of Data Deliverables With Other Than Unlimited Rights (XXX 1990)

(a) This solicitation sets forth the work to be performed, if a contract award results, and the Government's known requirements for data (as defined in 27.401.) Any resulting contract may also provide the Government with the option to order additional data under the Additional Data Ordering Clause at 52.227–16, if included in the contract. Rights in data delivered under any resultant contract will be subject to the Rights in Data Clause at 52.227–14 that is to be included in this contract.

(b) The offeror's proposal, or response, to this solicitation shall, to the extent feasible, complete the representation of this clause to either state that no data with other than unlimited rights data will be delivered, or identify all data to be delivered with other than unlimited rights. Any such identification is to be used for purposes of establishing a baseline for negotiation with the Contracting Officer, and not as an agreement by either party of the ultimate status of the rights.

(c) Representation concerning data rights. The Offeror has reviewed the data requirements of this solicitation and states—
(check the appropriate box)

(1) All of the data proposed for fulfilling the data requirements specified in *this* solicitation shall be delivered with unlimited rights.

(2) All of the data proposed for fulfilling the data requirements specified in *tis* solicitation, except as noted below, shall be delivered with unlimited rights.

(i) The following data pertaining to items, components, processes have been developed exclusively at private expense, and the offeror intends to deliver such data with limited rights:

(List data deliverable and lowest segregable item, component, or process to which it pertains.)

(ii) The following computer software has been developed at private expense, and the offeror intends to deliver such data with restricted rights:

(List data deliverable and computer software to which it pertains.)

(iii) The following data pertaining to items, components, processes, or computer software have been or are to be developed with mixed funding, and the Offeror requests that such data be made subject to Government purpose rights:

(List data deliverable and lowest segregable item, component, process, or computer software to which it pertains.)

(iv) The following data pertaining to items, components, processes, or computer software have been developed exclusively at Government expense, and the offeror requests that such data be made subject to Government purpose rights:

(List data deliverable and lowest segregable item, component, process, or computer software to which it pertains.)

(3) The offeror has not previously delivered or is not obligated to deliver under a Government contact the same or substantially the same data (as defined in 52.227–14) which may be required to be delivered under this contract except as indicated below.
(End of provision)

6. Section 52.227–16 is revised to read as follows:

52.227–17 Additional Data Ordering.

As prescribed in 27.410(h), the contracting officer shall insert the following clause:

Additional Data Ordering (XXX 1990)

(a) In addition to the data (as defined in the clause at 52.227–14, Rights in Data, or other equivalent clause included in this contract) specified elsewhere in this contract to be delivered, the Contracting Officer may, at any time during contract performance or within a period of 3 years after acceptance of all items to be delivered under this contract or the termination of this contract, order any data first produced or specifically used in the performance of this contract.

(b) The Rights in Data clause, or other equivalent clause included in this contract, is applicable to all data ordered under this Additional Data Ordering clause. Nothing contained in this clause shall require the Contractor to deliver any data, the withholding of which is authorized by the Rights in Data clause or other equivalent clause of this contract, or, data which are specifically identified in this contract as not subject to this clause.

(c) The obligation to deliver the data of a subcontractor, pertaining to an item obtained from the subcontractor, shall expire 3 years after the date the prime Contractor accepts the last delivery of that item from that subcontractor under this contract.

(d) When data are or are to be delivered under this clause, the Contractor will be paid the actual costs, if any, incurred in converting the data into the prescribed form, for reproduction and delivery.
(End of clause)

7. Section 52.227–17 is revised to read as follows:

52.227–17 Rights in Data—Special Situations.

As prescribed in 27.410(i), the contracting officer shall insert the following clause:

Rights in Data—Special Situations (XXX 1990)

(a) *Definitions.*

Data, as used in this clause, means recorded information, regardless of form, the media on which it may be recorded, or the method of recording. The term includes, but is not limited to, technical data and computer software. Data incidental to the administration of this contract, such as financial, administrative, cost and pricing, or management information are not subject to this clause.

Unlimited rights, as used in this clause, means the rights of the Government in data to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so.

(b) *Allocation of rights.*

(1) The government shall have—

(i) Unlimited rights in all data delivered under this contract, and in all data first produced in the performance of this contract, unless otherwise provided in paragraph (c) of this clause regarding copyrights.

(ii) The right to limit exercise of claim to copyright in data first produced in the performance of this contract, and to obtain assignment of copyright in such data in accordance with subparagraph (c)(1) of this clause.

(iii) The right to limit the release and use of certain data in accordance with paragraph (d) of this clause.

(2) The Contractor shall have, to the extent permission is granted in accordance with

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subparagraph (c)(1) of this clause, the right to establish claim to copyright subsisting in data first produced in the performance of this contract.

(c) *Copyright.* (1) *Data first produced in the performance of this contract.* (i) The Contractor agrees not to assert, establish, or authorize others to assert or establish any claim to copyright subsisting in any data first produced in the performance of this contract without prior written permission of the Contracting Officer. When claim to copyright is made and the Contractor has published or intends to publish under copyright, the Contractor shall affix the applicable copyright notice of 17 U.S.C. 401 or 402 and acknowledgment of Government sponsorship (including contract number) to the data when such data are delivered to the Government, as well as when the data are published or deposited for registration of a published work in the U.S. Copyright Office. The Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, or worldwide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government.

(ii) If the Government desires to obtain copyright in data first produced in the performance of this contract and permission has not been granted as set forth in subdivision (c)(1)(i) of this clause, the Contracting Officer may direct the Contractor to establish, or authorize the establishment of, claim to copyright in such data and to assign, or obtain the assignment of, such copyright to the Government or its designated assignee, and the Contractor agrees to assign as directed.

(2) *Data not first produced in the performance of this contract.* The Contractor shall not, without prior written permission of the Contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract and which contain the copyright notice of 17 U.S.C. 401 or 402, unless the Contractor identifies such data and grants to the Government, or acquires on the Government's behalf, a license of the same scope as set forth in subparagraph (c)(1) of this clause.

(d) *Release and use restrictions.* Except as otherwise specifically provided for in this contract, the Contractor shall not use for purposes other than the performance of this contract, nor shall the Contractor release, reproduce, distribute, or publish any data first produced in the performance of this contract, nor authorize others to do so, without prior written permission of the Contracting Officer.

(e) *Indemnity.* The Contractor shall indemnify the Government and its officers, agents, and employees, acting for the Government, against any liability, including costs and expenses, incurred as a result of the violation of trade secrets, copyrights, or right of privacy or publicity, arising out of the creation, delivery, publication, or use of any data furnished under this contract; or any libelous or other unlawful matter contained in such data. The provisions of this paragraph do not apply unless the Government provides notice to the Contractor, as soon as practicable, of any claim or suit, affords the Contractor an opportunity under applicable laws, rules, or regulations to participate in the defense thereof, and obtains the Contractor's consent to the settlement of any suit or claim other than as required by final decree of a court of competent jurisdiction; nor do these provisions apply to material furnished to the Contractor by the Government and incorporated in data to which this clause applies.

(End of clause)

8. Section 52.227–18 is revised to read as follows:

52.227–18 Rights in Data—Existing Works.

The contracting officer shall use this clause in accordance with the instructions at 27.410(j):

Rights in Data—Existing Works (XXX 1990)

(a) The Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, or worldwide license to reproduce, prepare derivative works, and perform publicly and display publicly, by or on behalf of the Government, for all the material or subject matter called for under this contract, or for which this clause is specifically made applicable.

(b) The Contractor shall indemnify the Government and its officers, agents, and employees, acting for the Government, against any liability, including costs and expenses, incurred as the result of the violation of trade secrets, copyrights, or right of privacy or publicity, arising out of the creation, delivery, publication, or use of any data furnished under this contract, or any libelous or other unlawful matter contained in such data. The provisions of this paragraph do not apply unless the Government provides notice to the Contractor, as soon as practicable, of any claim or suit, affords the Contractor an opportunity under applicable laws, rules, or regulations to participate in the defense thereof, and obtains the Contractor's consent to the settlement of any suit or claim other than as required by final decree of a court of competent jurisdiction; nor do these provisions apply to material furnished to the Contractor by the Government and incorporated in data to which this clause applies.

(End of clause)

9. Section 52.227–19 is revised to read as follows:

52.227–19 Commercial Computer Software.

The contracting officer shall use this clause in accordance with the instructions as 27.410(k).

Commercial Computer Software (XXX 1990)

(a) Commercial computer software, as used in this clause, is privately developed and existing software normally vended in the commercial market under a license or lease agreement. Contracting Officers may presume that software which is regularly used for other than Governmental purposes and is sold in significant quantities to the general public at established catalog or market prices is commercial.

(b) Any commercial computer software delivered under this purchase order or contract that has been developed at private expense and claimed as restricted rights computer software shall be subject to the restricted rights in paragraph (d) of this clause. Where the Contractor proposes its commercial software license and without regard to when submitted—

(1) Only those portions consistent with Federal laws, the Federal Acquisition Regulation, and this clause, including paragraph (d) of this clause, are incorporated into and made a part of this contract;

(2) The signing of any agreement, license, or registration form or card, and its return to the Contractor by the Contracting Officer or user, is only for the purposes of receiving updates, correction notices, and similar activities, and shall not create any obligation or alter any of the terms and conditions of this contract; and

(3) If that license provides rights to licensees greater than those stated in subparagraph (d)(2) of this clause, then the Government shall receive those greater rights.

(c) By shipment or delivery to the Government of the specified computer software, the Contractor unconditionally accepts the terms and conditions of this clause and agrees that the clause, including the incorporated license, constitutes the entire agreement between the parties concerning rights in the computer software.

(d) The following restricted rights shall apply:

(1) The computer software may not be used, reproduced, or disclosed by the Government except as provided below or otherwise expressly stated in the purchase order or contract.

(2) The computer software may be—

(i) Used, copied for use, in or with any computer owned or leased by, or on behalf of, the Government; provided the software is not used, nor copied for use, in or with more than one computer simultaneously, unless otherwise permitted by the license incorporated under paragraph (b) of this clause;

(ii) Reproduced for safekeeping (archives) or backup purposes;

(iii) Modified, adapted, or combined with other computer software, provided that only the modified, adapted, or combined portions of the derivative software consisting of restricted software shall be subject to the same restricted rights; or

(iv) Disclosed and reproduced for use by the Government's Contractors or their subcontractors in accordance with the restricted rights in subdivisions (d)(1) (i), (ii), and (iii) of this clause, provided they have the Government's permission to use the computer software and agree to prevent unauthorized use and disclosure.

(3) Notwithstanding the foregoing, if the computer software has been published under copyright, it is license to the Government, without disclosure prohibitions, with the

rights in subparagraphs (b) and (c) of this clause.

(e) The computer software may be marked with any appropriate notice consistent with the rights in subparagraphs (b) through (d) of this clause.

(e) The Government and others acting on its behalf shall have the right to use, disclose, and reproduce, for any purpose whatsoever, any manuals and instructional material provided under this purchase order or contract, unless such manuals and instructional materials bear a copyright notice. In that case the Government and others acting on its behalf shall have a license under copyright to use and reproduce such manuals and instructional materials for Government purposes only, without disclosure prohibitions.

(f) Whenever operational use of any commercial computer software delivered under this purchase order or contract is no longer needed, or has been discontinued permanently by the Government or a Government Contractor, the Government or the Contractor shall, unless required to return the software to the vendor or Contractor under this purchase order or contract, have the right to dispose of the computer software by any destructive means sufficient to render its usability impractical by subsequent users. At the time of such destruction or disposal, the restrictive rights set forth in paragraph (d) of this clause and any incorporated license provisions in the vendor or Contractor's commercial software agreement shall terminate automatically.

(g) Disputes as to validation of data rights under this clause shall be subject to the procedures stated in the clause at 52.227–25, if included in this contract. All other disputes shall be subject to the Disputes clause of this contract.

(End of clause)

10. Section 52.227–20 is revised to read as follows:

52.227–20 Rights in data—SBIR program.

As prescribed by 27.410(1), the contracting officer shall insert this clause.

Rights in Data—SBIR Program

(a) *Definitions.*

Computer software, as used in this clause, means computer programs which are data comprising a series of instructions, rules, routines, or statements which allow or cause a computer to execute an operation or series of operations, and data comprising source code listings, design details, algorithms, processes, flow charts, formulas, and related material that would enable the program to be produced, created or compiled.

Data, as used in this clause, means recorded information, regardless of form, the media on which it may be recorded, or the method of recording. The term includes but is not limited to, technical data and computer software, and computer data bases. The term does not include data incidental to the administration of this contract, such as financial, administrative, cost or pricing, or management information.

Data base, as used in this clause, means a collection of data recorded in a form capable of, and for the purpose of, being stored in, and processed and operated on by a computer. The term does not include computer software.

Detailed design, manufacturing or process data, as used in this clause, means technical data of sufficient detail to enable the essentially identical reproduction or manufacture, of an item, component, or the performance of a process, to which the data pertains.

Form, fit, and function data, as used in this clause, means data relating to items, components, processes, or computer software that are sufficient to enable physical and functional interchangeability as well as data identifying source(s), size, configuration, mating and attachment characteristics, functional characteristics, and performance requirements.

Limited rights data, as used in this clause, means data pertaining to items, components, and processes developed exclusively at private expense, except as may be provided otherwise in subparagraph (b)(1) of this clause, provided that such data have not been disclosed, furnished, or released to the Government or to others without restriction on further disclosure and use or are otherwise publicly available. The Government's rights to use, duplicate, and disclose limited rights data are as set forth in the Limited Rights Notice of paragraph (d) of this clause.

Manuals and instructional materials, as used in this clause, means data necessary for the installation, operation, maintenance and repair, or training with respect to any item, component, process, or computer software.

Restricted rights computer software, as used in this clause, means computer software developed exclusively at private expense, except as may be provided otherwise in subparagraph (b)(1) of this clause, provided that such computer software has not been disclosed, furnished, or released to the Government or to others without restriction on further disclosure and use, or is not publicly available. The Government's rights to use, duplicate or disclose restricted rights computer software are as set forth in the Restricted Rights Notice of paragraph (e) of this clause.

SBIR data, as used in this clause, means data first produced by the Contractor in performance of this small business innovation research contract issued under the authority of 15 U.S.C. 638 (Pub. L. 97–219, Small Business Innovation Development Act of 1982) which data are not generally known, and which data have not been made available to others without obligation as to its confidentiality by the Contractor, or are not otherwise available to the Government.

SBIR rights, as used in this clause, means the rights in SBIR data set forth in the SBIR Rights Notice of paragraph (c) of this clause.

Technical data, as used in this clause, means that data which are of a scientific or technical nature. Technical data does not include computer software, but does include manuals and instructional materials and technical data formatted as a computer data base.

Unlimited rights, as used in this clause, means the rights of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose and to have or permit others to do so.

(b) *Allocation of rights.* (1) The Government shall have unlimited rights in—

(i) Data specifically identified in this contract as data to be delivered without restriction;

(ii) Form, fit, and function data delivered or furnished for use in the performance of this contract;

(iii) Data delivered under this contract (except for restricted computer software) that constitute manuals and instructional and training materials furnished with respect to any item, component, process, or computer program required to be or, in fact, delivered or furnished for use in the performance of this contract;

(iv) All data which was in fact delivered or furnished which constitute a correction or change to data furnished by the United States; and

(v) All other data required to be or, in fact, delivered in the performance of this contract unless provided otherwise for SBIR data in accordance with paragraph (c) of this clause or for limited rights data or restricted rights computer software in accordance with paragraphs (d) and (e), respectively, of this clause.

(2) The Contractor shall have the right to—

(i) Protect SBIR rights in SBIR data delivered under this contract in the manner and to the extent provided in paragraph (c) of this clause;

(ii) Subject to paragraph (h) of this clause, withhold from delivery those data which are limited rights data or restricted rights computer software to the extent provided in paragraphs (d) and (e) of this clause, respectively;

(iii) Substantiate use of, add, or correct SBIR rights or copyrights notices and to take other appropriate action, in accordance with paragraph (g) of this clause; and

(iv) Establish claim to copyright subsisting in data first produced in the performance of this contract to the extent provided in subparagraph (f)(1) of this clause.

(c) *Rights to SBIR data.* (1) The Contractor is authorized to affix the following "SBIR rights Notice" to SBIR data delivered under this contract and the Government will thereafter treat the data, in accordance with such Notice:

SBIR Rights Notice (XXX 1990)

These SBIR data are furnished with SBIR rights under Contract No. _____ with_____ (and subcontract_____ with subcontractor_____, if appropriate.) For a period of 2 years after acceptance of all items to be delivered under this contract, the Government agrees to use these data for Government purposes only, and they shall not be disclosed outside the Government (including disclosure for procurement purposes) during such period without permission of the Contractor, except that, subject to the foregoing use and disclosure prohibitions, such data may be disclosed for use by support Contractors. After the

aforesaid 3-year period, the Government has a royalty-free license to use, and to authorize others to use on its behalf, these data for Government purposes, but is relieved of all disclosure prohibitions and assumes no liability for unauthorized use of these data by third parties. This Notice shall be affixed to any reproductions of these data, in whole or in part.

(End of notice)

(2) The Government's sole obligation with respect to any SBIR data shall be as set forth in this paragraph (c).

(d) *Limited rights.* The Government shall have limited rights in any data required to be or in fact delivered or furnished for use in the performance of this contract provided such data are limited rights data and the following 'Limited Rights Notice' is affixed to the data:

Limited Rights Notice

(a) Contract No. _____ and Contractor _____ (Subcontract No._____ and Subcontractor _____, if applicable.)

(b) These data are subject to limited rights. These data may be reproduced and used by the Government with the limitation that these data will not, without the written permission of the Contractor, be used for purposes of manufacture nor disclosed outside the Government except that the Government may disclose these data outside the Government for the following purposes, provided the Government makes such disclosure subject to prohibition against further use and disclosure and notifies the Contractor:

(1) Emergency repairs and overhaul.

(2) Release or disclosure of technical data (other than detailed manufacturing or process data) to, or use of such data by, a foreign government that is in the interests of the United States and is required for evaluation purposes.

(c) This Notice shall be marked on any complete or partial reproduction of these data.

(End of notice)

(e) *Restricted rights computer software.* The Government shall have only the restricted rights set forth in the Notice below in any computer software required to be or in fact delivered or furnished for use in the performance of this contract, provided such computer software is restricted rights computer software and the following "Restricted Rights Notice" is affixed to the computer software:

Restricted Rights Notice

(a) This computer software is submitted with restricted rights under Government Contract No. _____ with _____ (and Subcontract No. _____ with _____, if appropriate.) It may not be used, reproduced, or disclosed by the Government except as provided in paragraph (b) of this Notice.

(b) This computer software may be—

(1) Used or copied for use in or with the computer or computers for which it was acquired, including the use at any Government installation to which such computer or computers may be transferred;

(2) Used or copied for use in a backup or replacement computer if any computer for which it was acquired is inoperative or is replaced;

(3) Reproduced for safekeeping (archival) or backup purposes;

(4) Modified, adapted, or combined with other computer software, provided that only the portions of the derivative software consisting of the restricted rights computer software are made subject to the same restricted rights; or

(5) Disclosed to and reproduced for use by support service Contractors in accordance with subparagraphs (b) (1) through (4) of this Notice, provided the Government makes such disclosure or reproduction subject to these restricted rights.

(c) Notwithstanding the foregoing, if this computer software has been published under copyright, it is licensed to the Government, without disclosure prohibitions, with the rights set forth in this restricted rights notice.

(d) This Notice shall be marked on any complete or partial reproduction of this computer software.

(End of notice)

(f) *Copyright.* (1) *Data first produced in the performance of this contract.* Except as otherwise specifically provided in this contract, the Contractor may establish claim to copyright subsisting in any data first produced in the performance of this contract. If claim to copyright is made, the Contractor shall affix the applicable copyright notice of 17 U.S.C. 401 or 402 and acknowledgment of Government sponsorship (including contract number) to the data when such data are delivered to the Government, as well as when the data are published or deposited for registration as a published work in the U.S. Copyright Office. For data other than computer software the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, or worldwide license to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government for all such data. For computer software the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, or worldwide license for all such computer software to reproduce, prepare derivative works, and perform publicly and display publicly, by or on behalf of the Government.

(2) *Data not first produced in the performance of this contract.* The Contractor shall not, without prior written permission of the Contracting Officer, incorporate in data delivered under this contract, any data that are not first produced in the performance of this contract and that contain the copyright notice of 17 U.S.C. 401 or 402, unless the Contractor identifies such data and grants to the Government, or acquires on its behalf, a license of the same scope as set forth in subparagraph (f)(1) of this clause.

(3) *Removal of copyright notices.* The Government agrees not to remove any copyright notices placed on data pursuant to this paragraph (f), and to include such notices on all reproductions of the data.

(g) *Omitted or incorrect markings.* (1) Data delivered to the Government without any notice authorized by paragraph (d) of this clause, and without a copyright notice, shall be deemed to have been furnished with unlimited rights, and the Government assumes no liability for the disclosure, use, or reproduction of such data. However, to the extent the data have not been disclosed without restriction outside the Government, the Contractor may request, within 6 months (or a longer time approved by the Contracting Officer for good cause shown) after discovery of such data, permission to have notices placed on qualifying data at the Contractor's expense. The Contracting Officer may agree to do so if the Contractor—

(i) Identifies the data to which the omitted notice is to be applied;

(ii) Demonstrates that the omission of the notice was inadvertent;

(iii) Establishment that the use of the proposed notice is authorized; and

(iv) Acknowledges that the Government has no liability with respect to the disclosure or use of any such data made prior to the addition of the notice or resulting from the omission of the notice.

(2) The Contracting Officer may also—

(i) Permit correction, at the Contractor's expense, of incorrect notices if the Contractor identifies the data on which correction of the notice is to be made and demonstrates that the correct notice is authorized; or

(ii) Correct any incorrect notices.

(h) *Protection of limited rights data.* When data other than that listed in subparagraph (b)(1) of this clause are specified to be delivered under this contract, and such data qualify as either limited rights data or restricted rights computer software, the Contractor shall withhold such data and not furnish them to the Government under this contract. As a condition to this withholding, the Contractor shall identify the data being withheld and furnish form, fit, and function data in lieu thereof. However, the Contracting Office may, at any time by written request, identify and specify the delivery of such withheld data. If delivery of such data is required, the Contractor may protect his rights by use of the Notices in paragraphs (d) and (e) of this clause.

(i) *Subcontracting.* The Contractor has the responsibility to obtain from its subcontractors all data and rights therein necessary to fulfill the Contractor's obligation to the Government under this contract. If a subcontractor refuses to accept terms affording the Government such rights, the Contractor shall promptly bring such refusal to the attention of the Contracting Officer and not proceed with subcontract award without further authorization.

(j) *Relationship to patents.* Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government.

(End of clause)

11. Section 52.227–21 is revised to read as follows:

52.227-21 Technical data certification, revision, and withholding of payment.

As prescribed in 27.410(q), the contracting officer shall insert the following clause.

Technical Data Certification, Revision, and Withholding of payment (XXX 1990)

(a) This clause shall apply to all technical data that have been specified in this contract as being subject to this clause. It shall apply to all such data delivered, or required to be delivered, at any time during contract performance or within 3 years after acceptance of all items (other than technical data) delivered under this contract unless a different period is set forth herein. The Contracting Officer may release the Contractor from all or part of the requirements of this clause for specifically identified technical data items at any time during the period covered by this clause.

(b) Certification of technical data conformity.

(1) All data that are subject to this clause shall be accompanied by the following certification upon delivery:

Certification of data conformity

The Contractor, _____, hereby certifies that the data delivered under Government contract number _____ (and subcontract number _____, if appropriate,) are complete, accurate, and comply with all the requirements of the contract concerning such technical data. Date of Certification: _____ Name and Title of Certifying Official: _____.

(End of certification)

This written certification shall be dated and the certifying official (identified by name and title) shall be duly authorized to bind the Contractor by the certification.

(2) Data delivered under this contract may be subject to reviews by the Government during preparation and prior to acceptance. Data are also subject to review(s) by the Government subsequent to acceptance. Such review(s) may be conducted ancillary to other reviews, such as in-process reviews of configuration audit reviews.

(3) The Government shall rely on the certification set out in subparagraph (b)(1) of this clause in accepting delivery of the data, and, in consideration thereof, may request correction of any deficiencies at any time during the period covered by this clause. These corrections shall be made at the expense of the Contractor. Unauthorized markings on data shall not be considered a data deficiency, but will be treated in accordance with 27.407-1, Unauthorized Markings and Validation.

(4) *Data revision.* At the Contracting Officer's request, the Contractor agrees to revise data subject to this clause to reflect engineering design changes made during the performance of this contract and affecting the form, fit, and function of any deliverable item (other than technical data.) The Contractor may submit a request for an equitable adjustment to the terms of the contract for any revisions to data made pursuant to this paragraph.

(c) *Withholding of payment.* (1) If data specified to be delivered under this contract are not delivered within the time specified by this contract or are deficient upon delivery [including have restrictive markings not identified in the notification list described in the provision at 52.227-15 and in the contract,] the Contracting Officer may, until such data are accepted by the Government, withhold payment to the Contractor of 10 percent of the total contract price unless a lesser withholding amount is specified in the contract, OR, if in accordance with agency procedures this paragraph is superseded by paragraph (d) of this clause. Payments shall not be withheld nor any other action taken pursuant to this paragraph when the Contractor's failure to make timely delivery or to deliver such data without deficiencies arose out of causes beyond the control and without the fault of negligence of the Contractor.

(2) The withholding of any amount or subsequent payment to the Contractor shall not be construed as a waiver of any rights accruing to the Government under this contract.

Alternate I (XXX 1990). (c) *Withholding of payment.* At any time before final payment under this contract, the Contracting Officer may withhold payment until a reserve not exceeding $100,000 or 5 percent of the contract value, whichever is less, if the Contractor fails to—

(1) Make timely delivery of technical data required by this contract;

(2) Provide the certification required by subparagraph (b)(1) of this clause;

(3) Make the corrections required under subparagraph (b)(3) of this clause; or

(4) Make revisions requested under subparagraph (b)(4) of this clause.

(i) Such reserve or balance shall be withheld until the Contracting Officer has determined the Contractor has delivered the data and/or has made the required corrections or revisions. Withholdings shall not be made if the failure to make timely delivery, and/or the deficiencies relating to delivered data, arose out of causes beyond the control of the Contractor and without the fault or negligence of the Contractor.

(ii) The Contracting Officer may decrease or increase the sums withheld up to the sums authorized in subparagraph (d) of this clause. The withholding of any amount under this subparagraph, or the subsequent payment, shall not be construed as a waiver of any Government rights.

(End of Clause)

12. Section 52.227-23 is revised to read as follows:

52.227-23 Rights to proposal data.

As prescribed in 27.410(s), insert the following clause:

Rights to Proposal Data (XXX 1990)

Except for data contained on pages ____, it is agreed that as a condition of award of this contract, and notwithstanding the conditions of any notice appearing thereon the Government shall have unlimited rights (as defined in the Rights in Data—General clause contained in this contract) in and to the technical data contained in the proposal dated _____, upon which this contract is based.

(End of clause)

13. Section 52.227-24 is added to read as follows:

52.227-24 Validation of technical data markings (statutory).

As prescribed in 27.410(a)(2)(i) this clause is to be used for all challenges of technical data based on 10 U.S.C. 2321 or 41 U.S.C. 253d:

Validation of Technical Data Markings (Statutory) (XXX 1990)

(a) The terms used in this clause are defined in the clause at 52.227-14, Rights in Data.

(b) The Contractor and subcontractor at any tier shall maintain records sufficient to reasonably justify the validity of any markings that impose restrictions on the Government or others to use, duplicate, or disclose technical data delivered or required to be delivered under the contract or subcontract, and shall furnish to the Contracting Officer written justification for any such markings in response to a challenge under paragraph (d) of this clause.

(c) *Prechallenge request for information.* The Contracting Officer may request the Contractor or subcontractor to furnish a written explanation for any restriction asserted by the Contractor or subcontractor on the right of the United States or others to use, duplicate, or disclose technical data. The Contractor or subcontractor shall submit such data within the time period stated by the Contracting Officer, which period shall not exceed 90 days. If, upon review of the explanation submitted, and any other information available, the Contracting Officer may acquiesce in the restriction, or may challenge the restriction in accordance with the procedures for formal challenge.

(d) *Formal challenge.* Notwithstanding any provision in this contract concerning inspection and acceptance, if the Contracting Officer determines that a challenge to the restrictive markings is warranted, the Contracting Officer shall send a written challenge to the Contractor or subcontractor asserting such restriction, and such challenge shall—

(1) State the specific grounds for challenging the asserted restriction;

(2) Require a response within 60 days justifying and providing sufficient evidence as to the current validity of the asserted restriction;

(3) Request to be notified if the data has been validated within the past 3 years, or if another Contractor is challenging the data, or challenges the data during the process of this challenge; and

(4) State that failure to respond to the challenge notice may result in a final decision of the Contracting Officer. The Contracting Officer may extend the challenge period if the Contractor submits a written request for additional time for a period not to exceed 90 days.

(5) State that the Contractor's or subcontractor's written response shall be considered a claim within the meaning of the Contract Disputes Act (41 U.S.C. 601, et. seq)

and must be certified as prescribed in 53.227 regardless of dollar amount.

(e) *Final decision when the Contractor or subcontractor fails to respond.* Upon failure to respond within the time period of the challenge notice, the Contracting Officer will issue a final decision in accordance with the Disputes clause of this contract pertaining to the validity of the restriction. The Contracting Officer will proceed with section (g) before release or disclosure of the data outside the Government.

(f) *Final decision when the Contractor or subcontractor responds.* If the Contracting Officer determines that the response has justified the validity of the restrictive marking, the Contracting Officer will issue a final decision to that effect. If the Contracting Officer determines that the validity of the restrictive marking is not justified, the Contracting Officer shall issue a decision to that effect. Final decisions shall be made within 60 days of the Contractor's response, unless the Contracting Officer determines that additional time is required, in which case the Contracting Officer shall notify the Contractor or subcontractor of such an additional time period within 60 days of the receipt of the response to the challenge notice.

(g) After the issuance of a final decision under either paragraph (e) or (f) of this clause, the Government will continue to be bound by the asserted restriction for a period of 90 days from the date of the Contracting Officer's final decision in order to permit the Contractor to avail itself of administrative or judicial review. If the decision is not appealed to a Board of Contract Appeals, or if notice of intent to appeal to the Claims Court is not provided to the Contracting Officer within the 90 days, the Government may cancel or ignore the markings and the failure of the Contractor or subcontractor to pursue appropriate remedies shall constitute consent to that action.

(h) If the decision of the Contracting Officer is properly appealed, the Government will continue to be bound by the asserted restriction until the appeal or suit is decided. Notwithstanding the foregoing, if the Head of the Agency determines, on a nondelegable basis, following notice to the Contractor, that urgent and compelling circumstances exist that will not permit awaiting a decision of the Board or Claims Court, the Head of the Agency may authorize release, and the Contractor's remedy will be to pursue damages against the United States in the appropriate forum.

(End of clause)

14. Section 52.227–25 is added to read as follows:

52.227–25 Validation of computer software and data markings (nonstatutory).

As prescribed by 27.410(2)(ii), the Contracting Officer shall insert the following clause.

Validation of Computer Software and Data Markings (Nonstatutory) (XXX 1990)

(a) Terms used in this clause are defined in the clause at 52.227–14, Rights in Data. This clause applies to all computer software and data delivered under this contract or subcontract except technical data subject to the clause at 52.227–24 pursuant to the requirements of 10 U.S.C. 2321 and 41 U.S.C. 253d.

(b) The Contractor or subcontractor at any tier is responsible for maintaining records adequate to justify the validity of any markings that impose restrictions on the Government or others to use, disclose, or duplicate data (including computer software and technical data). The Contractor or subcontractor shall provide such justification when requested by the Contracting Officer. No restrictive markings shall be placed upon data except in accordance with the terms and conditions of this contract or any subcontract issued hereunder.

(c) *Request for information.* The Contracting Officer may request the Contractor or subcontractor to furnish a written explanation for any restriction asserted by the Contractor or subcontractor on the right of the Government or others acting on its behalf to use, duplicate, or disclose data delivered under this contract or any subcontract hereunder. The Contractor or subcontractor shall submit such explanation within the time period stated by the Contracting Officer, which period shall not exceed 90 days. Upon review of the explanation submitted, and any other information available, the Contracting Officer may acquiesce in the restriction, or may challenge the restriction in accordance with the procedures below.

(d) *Challenge.* Notwithstanding any provision in this contract or any subcontract hereunder concerning inspection and acceptance, if the Contracting Officer determines that a challenge to the restrictive markings is warranted, the Contracting Officer shall send a written challenge to the Contractor or subcontractor asserting such restriction, and such challenge shall—

(1) Identify the data for which the challenge is being made;

(2) State the specific grounds for challenging the asserted restriction;

(3) Require a response within 60 days justifying and providing sufficient evidence as to the current validity of the asserted restriction; and

(4) State that failure to respond to the challenge notice may result in a final decision of the Contracting Officer. The Contracting Officer may extend the challenge period if the Contractor or subcontractor submits a written request for additional time for a period not to exceed 90 days.

(e) *Final decision when the Contractor or subcontractor fails to respond.* Upon failure to respond within the time period of the challenge notice, the Contracting Officer will issue a final decision based on that fact and so notify the Contractor or subcontractor, and the Contractor or subcontractor agree that subject to an abeyance period of 15 days after such notification, the Government shall thereafter have the right to cancel or ignore the markings and the data will no longer be made subject to any disclosure prohibitions.

(f) Final decision when the Contractor or subcontractor responds—

(1) A final decision shall be made within 60 days of the Contractor's or subcontractor's response unless the Contracting Officer determines that additional time is required, in which case the Contracting Officer shall notify the Contractor or subcontractor of such an additional time period within 60 days of the receipt of the response to the challenge notice.

(2) If the Contracting Officer determines that the response has justified the validity of the restrictive marking, or the Contracting Officer has determined not to pursue the challenge further, the Contracting Officer shall notify the Contractor or subcontractor.

(3) If the Contracting Officer determines that the validity of the restrictive marking is not justified, the Contracting Officer shall issue a decision to that effect, which decision shall become the final agency decision and the Contractor or subcontractor will be so notified.

(4) In the event the Contracting Officer determines that the validity of the restrictive markings is not justified, the Government agrees to continue to abide by the restrictive markings for an abeyance period of 15 days from the date the Contractor or subcontractor receives notice of the Contracting Officer's final decision in order to permit the Contractor or subcontractor to avail itself of administrative or judicial review, and the Contractor or subcontractor agree that the Government shall thereafter have the right to cancel or ignore the markings and the data will no longer be subject to disclosure prohibitions if no action for administrative or judicial review is filed.

(g) Except to the extent the Government's action occurs as the result of the final disposition pursuant to administrative or judicial review, and any appeals thereof, nothing in this clause shall preclude a Contractor or subcontractor from bringing a claim for damages under the Contract Disputes Act, including pursuant to the Disputes clause of this contract, that may arise as the result of the Government's cancelling or ignoring restrictive markings on data, to the extent permitted by law.

(h) *Subcontracting.* This clause shall be included in all subcontracts of any tier that require the use of the clause at 52.227–14, or 52.227–23, as appropriate, unless all data to be delivered to the Government or a higher tier subcontractor is only technical data subject to the clause at 52.227–24.

(End of clause)

15. Section 52.227–26 is added to read as follows:

52.227–26 Standard non-disclosure agreement.

As prescribed in 27.410(c), the contracting officer shall insert the following clause:

Standard Non-Disclosure Agreement (XXX 1990)

The undersigned, (name), as the authorized representative of (company), (hereinafter, "the licensee") requests technical data subject to Government purpose rights for the purpose of Government procurement, i.e., to compete for, perform, or to prepare to

competes for, or perform, Government contracts. In consideration therefore—

1. Licensee agrees that the Government purpose rights data identified in this agreement shall be used only for Government purposes.

2. Licensee agrees to provide written notice and a copy of the nondisclosure agreement to the Contractor whose name appears in the Government purpose rights legend (hereinafter referred to as the "Contractor") whenever it receives Government purpose rights data. The notification shall identify the Government purpose rights data, the date and place of its receipt, and the source from which the data was received.

3. Licensee shall not, without prior written permission of the Contractor, provide or disclose any Government purpose rights data to any other company, person, or entity, except its subcontractors. The licensee agrees that disclosing Government purpose rights data to any subcontractors shall be accomplished only for the purpose of performing subcontracts under the Government contract and shall not occur until the subcontractor has executed the Standard Non-Disclosure Agreement.

4. Licensee agrees not to use Government purpose rights data for commercial purposes.

5. Licensee agrees to adopt operating procedures and physical security measures designed to protect the Government purpose rights data from inadvertent disclosure or release to unauthorized third parties.

6. Licensee agrees that any Government purpose rights data are provided "as is" without any representation as to suitability or warranty whatsoever, and without any obligation on the part of the Government to make any additions or alterations to Government purpose rights data. Any additions or alterations to the Government purpose rights data must be obtained directly from the Contractor whose name appears in the Government purpose rights legend or from other lawful sources.

7. Licensee agrees to indemnify the United States Government, its agents, and employees from every liability arising out of, or in any way related to, the misuse or unauthorized disclosure by the licensee, its employees, or agents of any Government purpose rights data it received. Licensee will hold the United States, its agent, and employees harmless against every such claim or liability, including attorney fees, costs, and expenses, arising out of the misuse of unauthorized disclosure of any Government purpose rights data supplied to the licensee hereunder.

8. Execution of this nondisclosure agreement by the licensee or any of its authorized subcontractors is for the benefit of the Contractor identified in the Government purpose rights legend on any data received. Any such Contractor is a third party beneficiary of the nondisclosure agreement who may have the rights of direct action against the licensee to enforce such agreement or to seek damages which may result from any breach of the agreement.

9. Licensee agrees that the Government may also seek any remedy available to enforce this agreement including, but not limited to, application for a court order prohibiting misuse or unauthorized disclosure of information in breach of the agreement. Licensee agrees to pay court costs and reasonable attorneys fees incurred by the Government in any such a suit in which the Government substantially prevails.

10. Nothing in this agreement prohibits the Contractor from entering into an agreement directly with the Contractor with respect to the use of the data. Such agreements may involve commercial uses of the data, the purchase of any additional data or alterations to the data, technical assistance reasonably needed to use the data, or other subjects as deemed appropriate by the licensee and the Contractor.

11. This agreement shall be effective only for so long as the data remains subject to Government purpose rights which period is until _____ or such longer period as that date may be extended.

_____

Date

_____

Signature

_____

Title

(End of clause)

18. Section 52.227-23 is added to read as follows:

52.227-23 Listing and procedures for subsequent negotiation of rights in data.

As prescribed in 27.410(d), the contracting officer may insert this clause in contracts in which negotiation of rights in data will continue after contract award.

Listing and Procedures for Subsequent Negotiation of Rights in Data (XXX 1990)

1. Pursuant to the Notification provision of this contract, 52.227-15, the Contractor has identified those items that are intended to be delivered with other than unlimited rights.

2. At the time of award of this contract, and as a result of negotiations pursuant to 27.405, the parties have agreed on either lesser or greater rights in the following:

Data deliverable	Item, component, process, or computer program	Consideration	Rights	Time period

3. If the Contracting Officer has determined that preaward negotiation is impractical, then the Contractor and Contracting Officer agree to enter into negotiations pursuant to the following schedule: provided: however, that such agreement must be reached no later than the delivery of the data in question.

4. If the parties take no action, then it is agreed that the parties have decided not to undertake negotiation of the assertion, and that the asserted rights will be marked on the delivered data; subject however to the right of the Government to undertake formal validation in accordance with 27.407. Since the listing is to facilitate identification and review, it is expressly not a predetermination of rights in data.

(End of clause)

[FR Doc. 90-24200 Filed 10-13-90; 8:45 am]

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Part III

The President

Proclamation 6201—Fire Prevention Week, 1990

Proclamation 6202—National Breast Cancer Awareness Month, 1990

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Title 3—

The President

Proclamation 6261 of October 11, 1990

Fire Prevention Week, 1990

By the President of the United States of America

A Proclamation

Each year, thousands of Americans are killed by fire. Tens of thousands more suffer from fire-related injuries. Tragically, the overwhelming majority of these fire deaths and injuries occur in places where people tend to feel most secure: their homes.

Although no one is immune to the threat of fire, our most vulnerable citizens—older Americans and children—are at greatest risk. Protecting the lives of these individuals and reducing the total number of deaths and injuries from fires in the United States require the sustained involvement and concern of all Americans and continued cooperation between the public and private sectors.

Throughout the year, numerous agencies and associations sponsor programs aimed at preventing fires that may cause death and injury. These local and national programs have conveyed the concerns of our Nation's fire service organizations to the public. They have helped people to recognize the destructive power of fire, and they have demonstrated what we can do, both individually and collectively, to protect ourselves from becoming victims of fire. All of these programs carry a vital message: each of us has the ability—and, indeed, a responsibility—to protect our families, our property, and our environment.

The National Fire Protection Association, which initiated Fire Prevention Week, has announced the theme of this year's observance: "Make Your Place Firesafe: Hunt for Home Hazards." This theme underscores the importance of recognizing dangers and taking measures to eliminate them. For example, every homeowner should install and maintain household smoke detectors; keep exits clear; avoid careless smoking; and store matches and lighters out of the reach of children. Homeowners should ensure that heating equipment is in good working order, and they should keep heating appliances at least 3 feet away from anything that can burn. Combustible or flammable liquids should be stored in proper containers, away from heat or flame, and electrical cords should be checked for cracks and frays. These and other simple steps can save lives.

Sharing the concerns of the National Fire Protection Association, the United States Fire Administration is coordinating public education campaigns designed to promote private-public partnerships for fire prevention.

Our Nation owes a debt of gratitude to these organizations and to all those individuals who are committed to preventing deaths and injuries from fire, including the members of the National Fire Academy; the International Association of Fire Chiefs; the International Association of Fire Fighters; the International Association of Black Professional Fire Fighters; the Fire Service Caucus Institute; the National Volunteer Fire Council; the International Society of Fire Service Instructors; the Fire Marshals Association of North America; the State Fire Marshals Association; and all other allied organizations.

Each year, the National Fallen Fire Fighters Memorial Service, held at the National Fire Academy in Emmitsburg, Maryland, honors those men and women who have answered their last alarm as volunteer or career fire fighters. On October 14, 1990, relatives and friends of fire fighters killed in the line of duty and representatives from the Nation's fire service organizations will gather to remember and pray for these heroic individuals. This week, as we make a special effort to identify and eliminate potential fire hazards in our homes and places of business, let us gratefully remember those fire fighters who have given their lives in the line of duty.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the week beginning October 7, 1990, as Fire Prevention Week. I call upon the people of the United States to plan and participate in fire prevention activities not only this week, but throughout the year. I also ask all Americans to join me in honoring the memory of those fire fighters who have made the ultimate sacrifice to protect the lives and property of their neighbors.

IN WITNESS WHEREOF, I have hereunto set my hand this Eleventh day of October, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.

George Bush

[FR Doc. 90-24408
Filed 10-11-90; 3:08 pm]
Billing code 3195-01-M

Editorial note: For the President's remarks of Oct. 11, 1990, on signing Proclamation 6201, see the *Weekly Compilation of Presidential Documents* (vol. 26, no. 41).

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Presidential Documents

Proclamation 6282 of October 11, 1990

National Breast Cancer Awareness Month, 1990

By the President of the United States of America

A Proclamation

During 1990 alone, an estimated 150,000 American women will get breast cancer; some 44,000 of them are expected to die from it. Such dire projections, however, need not become a reality in the future. Today we know that deaths from breast cancer can be significantly reduced if the cancer is found in its early, more treatable stages of development. The United States Department of Health and Human Services reports that as much as a 30 percent drop in the breast cancer death rate is possible if women follow early detection guidelines.

Thirteen major public and private health organizations, including the National Cancer Institute and the American Cancer Society, have agreed upon the following screening guidelines for breast cancer: A woman between the ages of 40 and 49 should have a mammogram every 1 to 2 years, as well as an annual breast examination by her physician; after age 50, both the mammogram and the breast exam should be done annually. The National Cancer Institute and the American Cancer Society also recommend monthly breast self-exams.

Research has led to important advances in treatment for victims of breast cancer. Women whose breast cancer is detected in its early stages can be treated with much less extensive surgery than in the past. At early stages, lumpectomy plus radiation, rather than mastectomy or full removal of the breast, is an option, but lumpectomy is viable only for those women whose cancer has been detected early.

Health care professionals throughout the United States are working hard to encourage women to follow the breast cancer screening guidelines developed by the National Cancer Institute and other organizations. Many private voluntary associations and concerned individuals are also spreading the word about the importance of early detection and urging women who are age 40 and older to obtain regular screenings. Some businesses are offering screening to their employees. This month we reaffirm our determination to carry on such efforts and encourage other health care providers, employers, charitable organizations, and community groups to follow suit.

Today we have the knowledge and technology necessary to find and to treat breast cancer in its earliest stages. Let us put these resources to work to save the lives of American women.

To enhance public awareness of the importance of regular screenings for breast cancer, the Congress, by Senate Joint Resolution 301, has designated the month of October 1990 as "National Breast Cancer Awareness Month" and has authorized and requested the President to issue a proclamation in observance of this month.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the month of October 1990 as National Breast Cancer Awareness Month. I invite the Governors of the 50 States and the Commonwealth of Puerto Rico, as well as the appropriate officials of all other areas under the flag of the United States, to issue similar proclamations. I also ask all Americans—in particular, health care providers, insurance companies, employers, and members of charitable associations and community groups—to join in this special effort to promote awareness of breast cancer.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of October, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.

George Bush

[FR Doc. 90-24178
Filed 10-12-90; 10:11 am]
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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523-6641. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.J. Res. 683/Pub. L. 101-413

To designate October 6, 1990, as "German-American Day". (Oct. 11, 1990; 104 Stat. 898; 1 page) Price: $1.00

H.J. Res. 602/Pub. L. 101-414

To designate the month of October 1990 as "Country Music Month". (Oct. 11, 1990; 104 Stat. 899; 1 page) Price: $1.00

S.J. Res. 301/Pub. L. 101-415

Designating October 1990 as "National Breast Cancer Awareness Month". (Oct. 11, 1990; 104 Stat. 900; 2 pages) Price: $1.00

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $620.00 domestic, $155.00 additional for foreign mailing.

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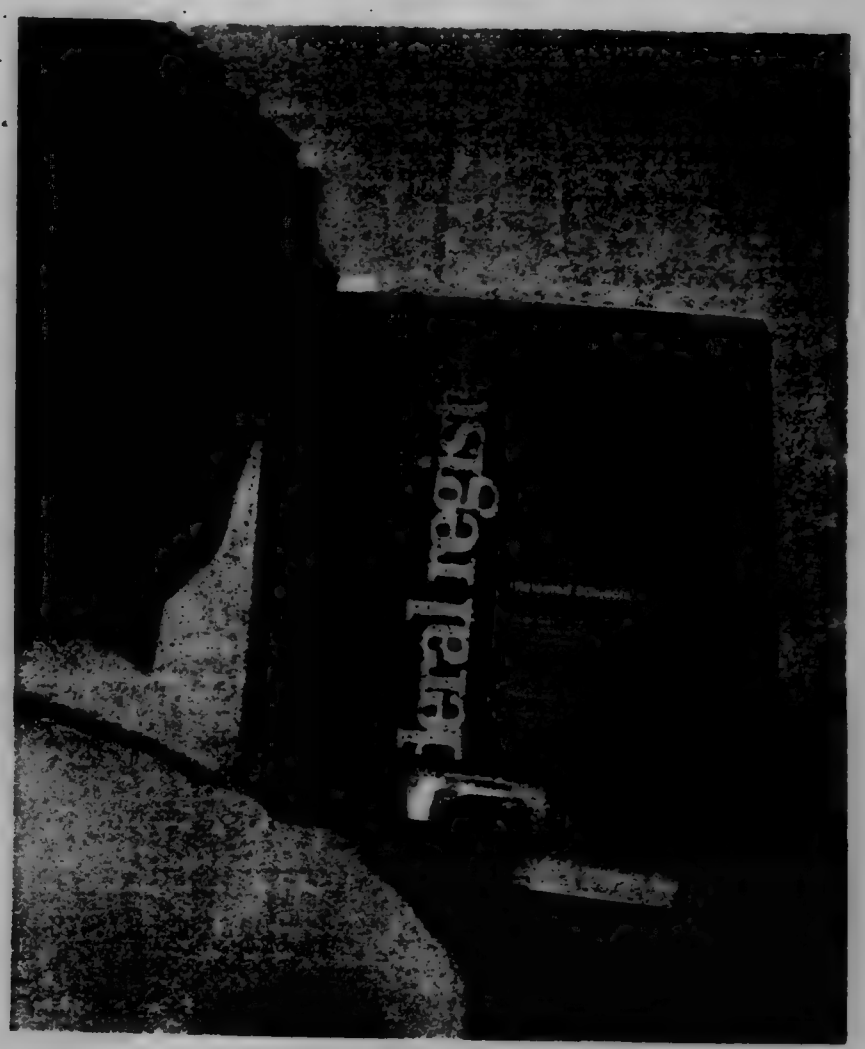

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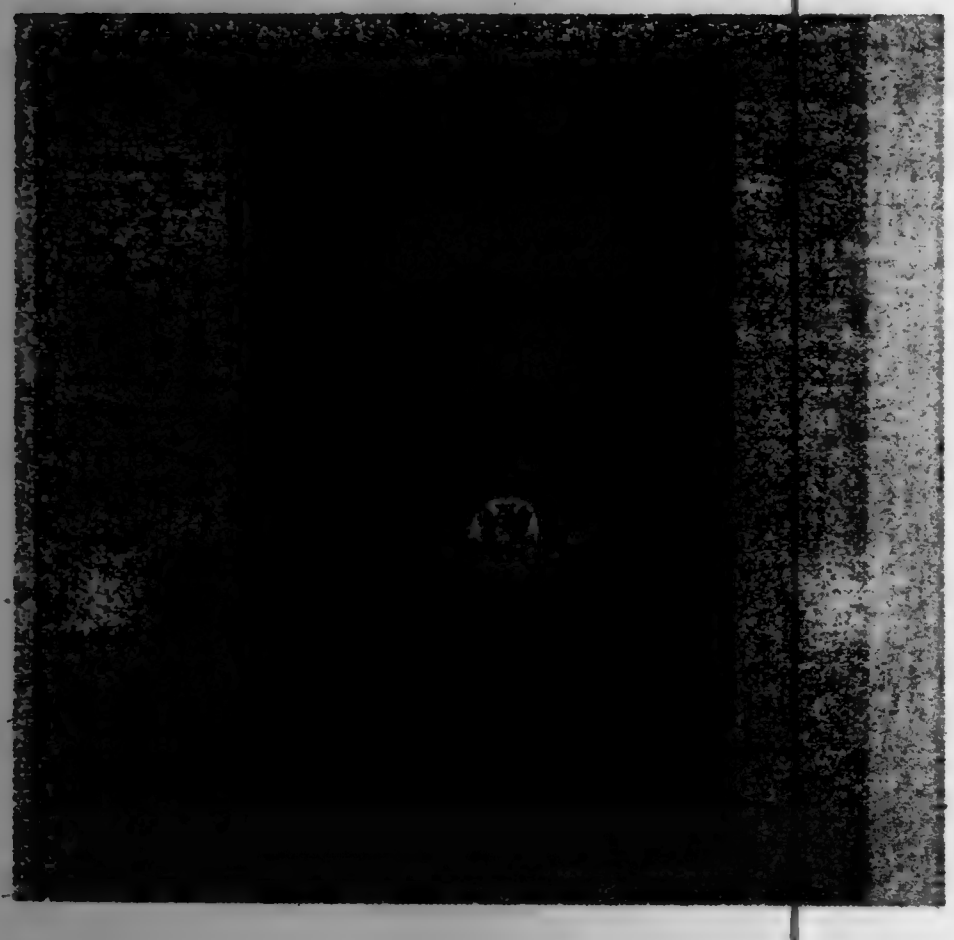

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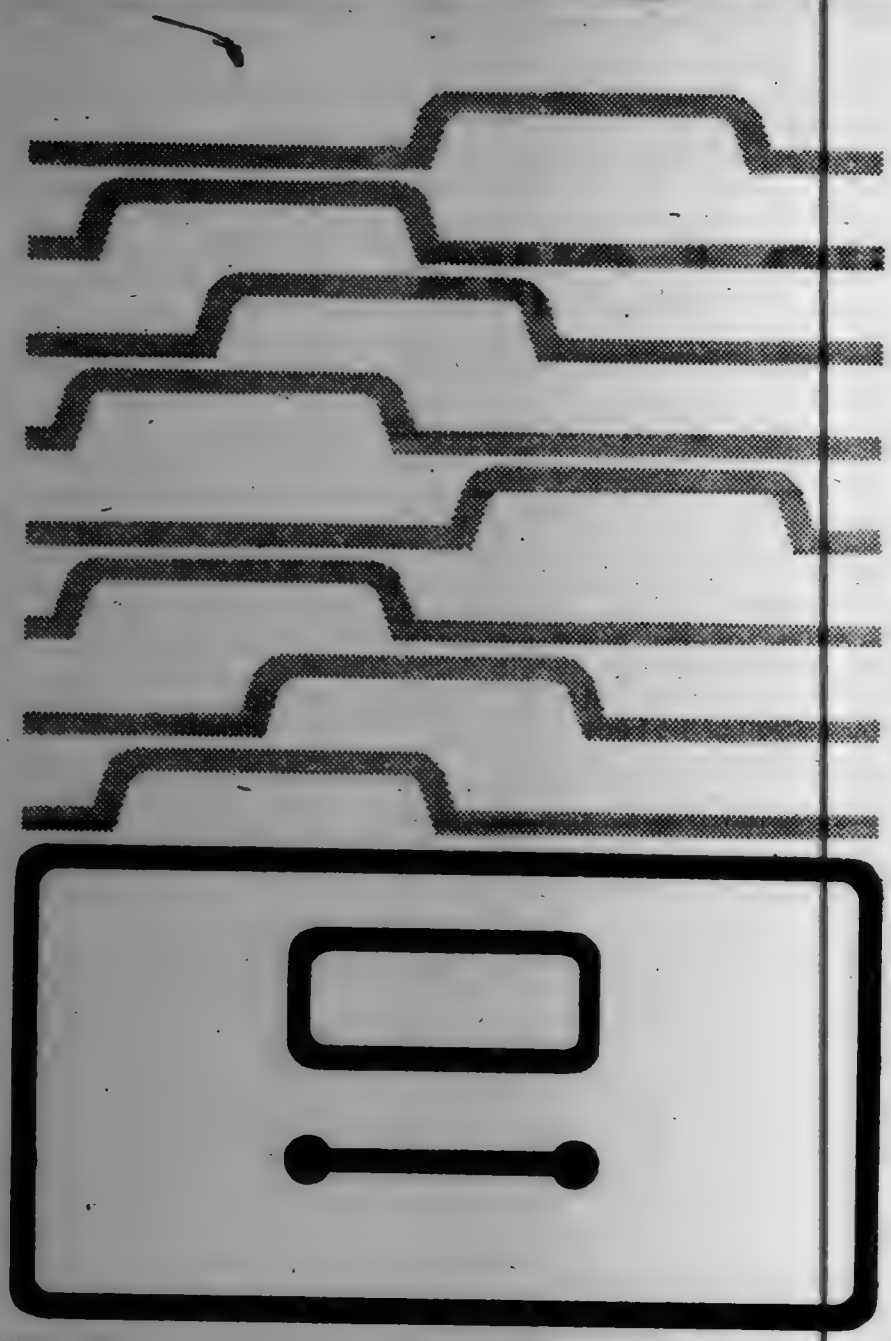

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Federal Register
Vol. 55, No. 200
Tuesday, October 16, 1990

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 955

[Docket No. FV-90-199]

Vidalia Onions Grown in Georgia; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate under Marketing Order 955 for the 1990–91 fiscal period. Authorization of this budget will permit the Vidalia Onion Committee to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATE: September 16, 1990, through September 15, 1991.

FOR FURTHER INFORMATION CONTACT: Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone 202–447–2020.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 955 (7 CFR part 955), regulating the handling of Vidalia onions grown in Georgia. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this final rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 145 handlers and 250 producers of Vidalia onions in that portion of Georgia covered under this marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of Vidalia onion producers and handlers may be classified as small entities.

The budget of expenses for the 1990–91 fiscal year was prepared by the Vidalia Onion Committee (committee), the agency responsible for local administration of the marketing order, and submitted to the Department of Agriculture for approval. The members of the committee are handlers and producers of Vidalia onions. They are familiar with the committee's needs and with the costs for goods, services and personnel in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the committee was derived by dividing anticipated expenses by expected shipments of Vidalia onions. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the committee's expected expenses.

The committee met on August 16, 1990, and unanimously recommended a 1990–91 budget of $182,753. Last season's budget was $157,808. Major expense items include contract management fees in the amount of $40,000 (22 percent of the budget), $85,832 for marketing development, and $30,000 for production research. Expenditures for marketing development and production research projects are up a combined total of $46,245 over last year.

The committee also unanimously recommended an assessment rate of $0.10 per 50-pound bag, the same rate as last season's. This rate, when applied to shipments of 1.75 million 50-pound bags of onions, would yield $175,000 in assessment revenue. This amount, when added to $4,500 from miscellaneous income (*e.g.*, interest revenue) and $3,253 from the reserve fund, would be adequate to cover budgeted expenses.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

A proposed rule was published in the Federal Register on September 18, 1990 (55 CFR 33337). That document contained a proposal to add § 955.203 to authorize expenses and establish an assessment rate for the committee. That rule provided that interested persons could file comments through September 28, 1990. No comments were received.

After consideration of all relevant material, including that set forth in the proposal, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

This action should be expedited because the committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1990–91 fiscal period for the program began on September 16, 1990, and the marketing order requires that the rate of assessment apply to all assessable Vidalia onions handled during the fiscal period. In addition, handlers are aware of this action which was recommended by the committee at a public meeting. Therefore, it is found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register (5 U.S.C. 553) because the committee needs to have sufficient funds to pay its expenses

which are incurred on a continuous basis.

List of Subjects in 7 CFR Part 955

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 955 is amended as follows:

PART 955—VIDALIA ONIONS GROWN IN GEORGIA

1. The authority citation for 7 CFR part 955 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. A new § 955.209 is added to read as follows:

Note: This section will not be published in the Code of Federal Regulations.

§ 955.209 Expenses and assessment rate.

Expenses of $162,753 by the Vidalia Onion Committee are authorized and an assessment rate of $0.10 per 50-pound bag of Vidalia onions is established for the fiscal period ending September 15, 1991. Unexpended funds may be carried over as a reserve.

Dated: October 10, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-24322 Filed 10-15-90; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 981

[AMS-FV-90-115FR]

Almonds Grown in California; Changes to the Administrative Rules and Regulations Concerning Crediting for Marketing Promotion and Paid Advertising Expenditures

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule changes the administrative rules and regulations established under the Federal marketing order for California almonds. The changes provide handlers with additional opportunities to receive credit against their assessments for their own brand or generic advertising and promotion activities. The changes: (1) Allow handlers credit for in-store supermarket advertisements using light emitting diode (LED) signs; (2) relax restrictions under which handlers may receive credit for in-store supermarket advertisements using fixed position media; (3) require handlers wishing to receive credit for unreimbursed advertising expenditures in foreign markets pursuant to a contract with the Foreign Agriculture Service (FAS) or the California Department of Food and Agriculture (CDFA) to provide the Almond Board of California (Board) with a certification and supporting documentation that such handlers will not be reimbursed for such advertising by one of those organizations; (4) allow handlers credit for brand advertising in all foreign countries where California almonds are sold, when substantiated by applicable rate cards, rather than only in certain specified foreign countries as is currently authorized; and (5) increase the credit for certain mail order promotion costs from $25,000 to 25 percent of a handler's annual creditable obligation or $25,000, whichever is greater. This action is based on a recommendation of the Board, which is responsible for local administration of the order, and other available information.

EFFECTIVE DATE: October 16, 1990.

FOR FURTHER INFORMATION CONTACT: Allen Belden, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 475-3923.

SUPPLEMENTARY INFORMATION: This final rule is issued under marketing agreement and Order No. 981 (7 CFR Part 981), both as amended, hereinafter referred to as the order, regulating the handling of almonds grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 95 handlers of almonds who are subject to regulation under the almond marketing order and approximately 7,000 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms have been defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California almonds may be classified as small entities.

This action provides handlers of California almonds with several additional opportunities to receive credit against the creditable portion of their annual assessments under the order. This action: (1) Allows handlers credit for in-store supermarket advertisements using LED signs; (2) relaxes restrictions under which handlers may receive credit for in-store supermarket advertisements using fixed position media; (3) allows handlers credit for brand advertising in all foreign countries where California almonds are sold, when substantiated by applicable rate cards, rather than only in certain specified foreign countries as is currently authorized; and (4) increases the credit for certain mail order promotion costs from $25,000 to 25 percent of a handler's annual creditable assessment obligation or $25,000, whichever is greater. It is the view of AMS that these changes allow almond handlers greater flexibility in the advertising methods for which they may receive credit, while not imposing any additional costs on handlers.

This action also establishes a new provision concerning an existing regulation which prevents handlers from receiving credit for their foreign advertising expenditures which are reimbursed by the FAS or CDFA. This action requires handlers to certify on Board form "ABC Form 31" (also known as "Handler Claim for Advertising Credit") that expenditures pertaining to foreign advertising claims submitted to the Board for credit will not be reimbursed by the FAS or CDFA. This will be accomplished by adding additional language to a certification currently included on "ABC Form 31," whereby handlers certify that the information provided on that form and supporting documents are complete and correct. The action also requires handlers to submit to the Board copies of all claims for reimbursement filed with the FAS or CDFA so that Board staff could cross-check to ensure that credit is not granted under the order in

cases where reimbursement by the FAS or CDFA occurs. It is the view of the AMS that adding additional language to the certification on "ABC Form 31" will not impose any additional burden or costs on handlers as all handlers wishing to receive credit for their own marketing promotion and paid advertising activities under the order must currently sign this certification. It is also the view of the AMS that the cost to handlers of providing the and Board with copies of all claims for reimbursement filed with the FAS or CDFA will average approximately $3.00 per claim and that the estimated total number of claims which will be filed each year by all handlers is 100.

This action revises § 981.441 of Subpart—Administrative Rules and Regulations and is based on a unanimous recommendations of the Board and other available information.

Section 981.41(c) of the order provides that the Board, with the approval of the Secretary, may allow handlers to receive credit for their direct marketing promotion expenditures, including paid advertising, against that portion of such handlers' assessment obligations which is designated for marketing promotion, including paid advertising. That paragraph also provides that handlers shall not receive credit for allowable expeditures that would exceed the amount of such creditable assessments. Section 981.41(e) further provides that before crediting is undertaken, and after recommendations are received from the Board, the Secretary shall prescribe appropriate rules and regulations as are necessary to effectively administer the order provisions for crediting handler marketing promotion and paid advertising expenditures.

Section 981.441 currently prescribes rules and regulations to regulate crediting for marketing promotion, including paid advertising. This final rule revises § 981.441(c)(3), concerning crediting of payments to advertising media in domestic markets; § 981.441(c)(4), concerning crediting of payments to advertising media in foreign markets; and § 981.441(d)(1), concerning crediting for marketing promotion expenditures.

This final rule revises § 981.441(c)(3) by changing subparagraph (i)(E) in two ways. The first change allows handlers to receive credit against their creditable assessments for 100 percent of such handlers' payments for in-store supermarket generic or brand advertising using LED signs. This is a new form of in-store supermarket advertising now being offered by advertising firms, which the industry would like to utilize. Currently, handlers may only receive credit for in-store supermarket advertisement using fixed position or video media. Handlers wishing to receive credit for in-store supermarket advertisements using LED signs will be required to show such advertisements on an in-aisle LED screen running specific product messages on a rotating basis.

As with in-store supermarket advertising using fixed position or video media, handlers will have to conduct this type of LED advertising through an advertising firm. The advertising firm or company which specializes in the production of LED advertisements and the placement of those advertisements will pay the retail food store for displaying the advertisement. Therefore, the payment to the retail food store will not come directly from the handler. This procedure will allow the Board to differentiate payments for this type of creditable advertising from other types of payments often made by handlers to retail food stores, such as payments for shelf space, which are not creditable expenditures. This is necessary as both payments for advertising and for shelf space are customarily consolidated under the general heading "advertising" on invoices from retailers to handlers.

The second change to § 981.441 (c)(3)(i)(E) relaxes a restriction on credit for in-store supermarket advertisements using fixed position media. Section 981.441(c)(3)(i)(E) currently requires that fixed position advertisements for which handlers may receive credit must include two or more of the following: (1) Processed color displays enclosed in plastic frames and mounted on supermarket shopping carts, (2) overhead directories enclosed in frames placed at the end or middle of supermarket aisles, and (3) processed color advertisements enclosed in frames and mounted on a supermarket shelf. The change allows handlers to receive credit if only one of those three types of fixed position advertisements is conducted. When provisions for crediting fixed position advertisements were first added to the rules and regulations, the Board believed that two of the three types of advertising would be necessary to conduct an effective fixed position advertising campaign. Standard practice in the industry at that time required the use of at least two of the three types of advertising. The Board now reports that standard industry practice has changed, allowing handlers to purchase fixed position advertising utilizing only one of the three types. Handlers should be allowed to take advantage of this new opportunity.

There are two changes to § 981.441(c)(4). The first change revises paragraph (i) of that section. Section 981.441(c)(4)(i) currently allows credit for handler's unreimbursed media expenditures for advertising in any foreign market pursuant to a contract with FAS or CDFA provided that the advertisements meet certain conditions specified elsewhere in § 981.441. The change requires handlers to certify on "ABC Form 31" that they are not filing claims with the Board for expenditures which have been or will be reimbursed by the FAS or CDFA. The change also requires handlers to submit to the Board copies of all claims filed with the FAS or CDFA for reimbursement so that Board staff can cross-check those claims against claims filed with the Board to ensure that credit is not granted in cases where reimbursement by the FAS or CDFA occurs.

The second change to § 981.441(c)(4) changes paragraph (ii) to allow handlers who advertise in foreign countries without a contract with the FAS or CDFA to receive credit for media expenditures for brand advertising in all foreign countries where California almonds are sold and where payments for such expenditures can be compared to applicable rate cards. Currently, § 981.441(c)(4)(ii) allows handlers to receive credit for such expenditures in 22 specified foreign countries. In the past, the Board recommended additions to the list of the specified foreign countries where rate cards were available, so that Board staff could substantiate handler claims for credit as reasonable and appropriate. The Board has recommended that credit be made available in all foreign countries where applicable rate cards are available. Accordingly, the list of specified foreign countries is no longer necessary. It will be the responsibility of the individual handler to submit the applicable rate card to Board staff.

This final rule to revise § 981.441(d)(1) revises paragraph (iii)(B) to increase the credit for certain mail order promotion costs from $25,000 per handler per crop year to $25,000 or 25 percent of a handler's creditable assessment obligation per handler per crop year, whichever is greater. Mail order promotion costs for which credit is allowed under the order are expenditures for the purchase of mailing lists and for envelopes and postage to mail promotional materials The Board believes that the current $25,000 limit is too restrictive and, therefore, should be relaxed.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the new information collection provisions that are included in this final

rule have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB No. 0581-0071.

Based on the above, the Administrator of the AMS has determined that the issuance of this final rule will not have a significant economic impact on a substantial number of small entities.

Notice of this action was published in the Federal Register on March 14, 1990 (55 FR 9457), inviting written comments from interested persons through April 13, 1990. The comment period was extended to May 14, 1990, by a notice published in the Federal Register on April 26, 1990 [55 FR 17618]. One comment was received from Brian C. Leighton, an attorney representing an almond handler Cal-Almond, Inc. (Cal-Almond).

Cal-Almond indicated that the proposals to allow handlers credit for in-store supermarket advertisements using LED signs and to relax restrictions under which handlers may receive credit for in-store supermarket advertisements using fixed position media would benefit only those few handlers who have a retail brand name. Cal-Almond pointed out that only a small percentage of California almonds are sold domestically as branded consumer items, whereas the vast majority of California almonds are sold for export or as ingredient items to food manufacturers. Cal-Almond believes that the majority of the provisions currently comprising § 981.441 of the order's administrative rules and regulations benefit those handlers with a retail brand name. However, section 981.441 has been amended fifteen times since its inception in 1972, and many of those amendments have added provisions designed to provide opportunities for handlers who do not have a brand name to receive credit. Moreover, it is the AMS's view that all almond advertising and promotion activities benefits all handlers by increasing demand for all almonds.

Cal-Almond indicated that the proposed change to allow handlers credit against their assessments for brand advertising in all foreign countries where California almonds are sold would benefit the large handlers with a retail brand as much, if not more, than it would benefit handlers without a retail brand name. Concerning the proposed increase in the credit for certain mail order promotion costs, Cal-Almond indicated that handlers can not recoup the amount of money spent on mail order advertising in profits from mail order sales. Both of these proposed changes were based on recommendations made by Cal-Almond at the November 29, 1989, meeting of the Board's Public Relations and Advertising Committee (Committee). The recommendations were subsequently adopted by the Committee and the Board and recommended to the AMS. In the comment, Cal-Almond indicated that Cal-Almond is still generally in favor of two changes. As stated previously, it is the AMS's view that all almond advertising and promotion activities benefit all handlers by increasing demand for all almonds.

Cal-Almond made several other recommendations to change the rules and regulations contained in § 981.441 at the November 29 meeting which were not adopted by the Committee. In the comment, Cal-Almond asked the AMS to consider the recommendations which were not adopted by the Committee. Cal-Almond requested the AMS to either adopt those recommendations as part of this final rule or to issue a new proposed rule inviting comments from interested persons on the recommendations. However, the additional changes proposed by Cal-Almond were not contained in the proposed rule in this proceeding and, therefore, would be outside the scope of the proposed rule in this action. Thus, it would be inappropriate for Cal-Almond's proposals to be adopted herein. In connection with the request for issuance of a new proposed rule inviting comments from interested parties on the recommendations, that request will be responded to separately from this rulemaking.

In its comment, Cal-Almond argued that its rights under the First Amendment of the United States Constitution are violated as a result of the advertising and assessment provisions of part 981. We disagree. It has been and is AMS's position that all provisions of the order are authorized under the Act, and that the Act, order, and regulations in no way violate the First Amendment rights of Cal-Almond.

For the reasons stated above, Cal-Almond's comments are denied unless otherwise provided herein.

After consideration of all relevant matter presented, including the Board's recommendation, the comment received, and other available information, it is found that the changes hereinafter set forth will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register in that: (1) The regulation provides handlers with additional flexibility in crediting advertising and promotion expenditures, and handlers should have the opportunity to utilize this increased flexibility as soon as possible; (2) handlers are aware of this action and need no additional time to comply; and (3) no useful purpose would be served by delaying the effective date of this action.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 981 is amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 981 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Subpart—Administrative Rules and Regulations

2. Section 981.441 is amended by revising paragraphs (c)(3)(i), (c)(4)(i), (c)(4)(ii), and (d)(1)(iii)(B) to read as follows:

§ 981.441 Crediting for marketing promotion including paid advertising.

* * * * *

(c) * * *

(3) * * *

(i) For 100 percent of a handler's payment to an advertising medium:

(A) For a generic advertisement of California almonds;

(B) For an advertisement of the handler's brand of almonds;

(C) When either of these advertisements includes reference to a complementary commodity or product;

(D) For a trade media advertisement that displays branded food products containing almonds, or announces a handler's future promotion activities, including joint promotions, and the entire expenditure is borne by the handler;

(E) For in-store supermarket advertisements using fixed position, video media, or light emitting diode (LED) signs, when such payments are made through an advertising firm or company which specializes in the production of LED advertisements and the placement of those advertisements: (*1*) Fixed position advertisements must include one or more of the following: (*i*) Processed color displays enclosed in plastic frames and mounted on supermarket shopping carts; (*ii*)

overhead directories enclosed in frames placed at the end or middle of supermarket aisles; or (*iii*) processed color advertisements enclosed in frames and mounted on a supermarket shelf; (*2*) Video advertisements must be shown on a fixed video monitor running television commercials or infomercials for specific products on a rotating basis; (*3*) LED advertisements must be shown on an in-aisle LED screen running specific product messages on a rotating basis; or

(F) For processed color displays enclosed in frames mounted on fixtures outside and in front of retail food stores when payments are made through an advertising firm.

* * * * *

(4) * * *

(i) For handlers' unreimbursed media expenditures for advertising in any foreign market pursuant to a contract with the Foreign Agricultural Service, U.S. Department of Agriculture, and/or the California Department of Food and Agriculture, provided the advertisements meet the requirements of paragraphs (c) (2) and (3) of this section and the limitations of paragraphs (c)(5) (i) and (ii) of this section. Such advertising in foreign markets shall not be creditable unless the handler certifies on ABC Form 31 that said handler was not and will not be reimbursed for such advertising by the Foreign Agricultural Service or the California Department of Food and Agriculture and submits to the Board copies of all claims for reimbursement filed with the Foreign Agriculture Service and/or the California Department of Food and Agriculture.

(ii) For a handler's media expenditures for brand advertising in any country where California almonds are sold, credit shall be allowed when claims are substantiated by applicable rate cards. The provisions of this section applicable to domestic advertising shall also apply to the crediting of advertising in these markets.

* * * * *

(d) * * *

(1) * * *

(iii) * * *

(B) Credit for mail order promotion shall be limited to a total of $25,000 or 25 percent of a handler's creditable assessment per crop year, whichever is greater.

Dated: October 10, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-24329 Filed 10-15-90; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1106

[DA-90-084]

Milk in the Southwest Plains Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends, for the months of September 1990 through January 1991, certain shipping standards for supply plants under the Southwest Plains order. The action was requested by Kraft, Inc., Associated Milk Producers, Inc., and Mid-America Dairymen, Inc. This action is necessary to eliminate costly and inefficient movements of milk from supply plants that would have to be made to assure the continued pricing and pooling of milk of producers who have historically supplied the market's fluid milk needs.

EFFECTIVE DATE: September 1, 1990.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-2089.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued September 18, 1990; published September 24, 1990 (55 FR 39003).

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This final rule has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and the criterion in Executive Order 12291 and has been determined to be a "non-major" rule.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and of the order regulating the handling of milk in the Southwest Plains marketing area.

Notice of proposed rulemaking was published in the Federal Register on September 24, 1990 (55 FR 39003) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon. No views in opposition were received.

After consideration of all relevant material, including the proposal in the notice, the comments received, and other available information, it is hereby found and determined that for the months of September 1990 through January 1991 the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In § 1106.6, the words "during the month."

2. In § 1106.7(b)(1), the words," of February through August until any month of such period in which less than 20 percent of the milk received or diverted as previously specified, is shipped to plants described in paragraph (a) or (e) of this section. A plant not meeting such 20 percent requirement in any month of such February-August period shall be qualified in any remaining month of such period only if transfers and diversions pursuant to paragraph (b)(2) of this section to plants described in paragraph (a) or (e) of this section are not less than 50 percent of receipts or diversions, as previously specified."

Statement of Consideration

This action, for September 1990 through January 1991, suspends the shipping standards for supply plants that were previously associated with the market. The order defines a supply plant as a plant from which fluid milk products are transferred or diverted to distributing plants during the month. It further provides that in order to be pooled under the order during the months of September through January, 50 percent of a supply plant's receipts must be shipped to distributing plants each month. Also, a supply plant that was pooled during each of the immediately preceding months of September through January shall continue to be pooled during the following months of February through August if 20 percent of its receipts are shipped to distributing plants. This action will remove all shipping standards during the months of September 1990 through January 1991 for supply plants that were pooled under the order during the immediately preceding September through January period.

The suspension was requested by Kraft, Inc., a handler who operates a supply plant that is pooled under the

order. This action is also supported by Associated Milk Producers, Inc., and Mid-America Dairymen, Inc., cooperative associations that represent a substantial number of producers who supply the market. These organizations contend that there are ample supplies of direct-ship milk located near to distributing plants that are available to supply the fluid milk needs of such plants during the months of September 1990 through January 1991. Thus, these organizations contend that supplemental shipments from supply plants will not be needed during such months. In the absence of a suspension action, these organizations say, costly and inefficient movements of milk from supply plants would have to be made to assure the continued pooling of milk of dairy farmers who have historically supplied the market's fluid milk needs.

As a result of production increases, it is reasonable to conclude that supplemental shipments of milk from supply plants will not be necessary to meet the fluid needs of distributing plants during the months of September 1990 through January 1991. Therefore, this suspension will allow handlers to avoid making costly and inefficient shipments of milk from supply plants that would otherwise have to be made to assure the continued pooling of milk of dairy farmers who have historically supplied the market's fluid milk needs.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that the action will permit milk that has been historically associated with the market to continue to be priced under the order without costly and inefficient shipments of milk from supply plants;

(b) This suspension does not require of person affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. No comments were filed in opposition to this action.

Therefore, good cause exists for making this order effective less than 30 days from date of publication in the Federal Register.

List of Subjects in 7 CFR Part 1106

Milk marketing orders.

It is therefore ordered, That the following provisions in §§ 1106.6 and 1106.7 of the Southwest Plains order (7 CFR 1106.6 and 1107.7) are hereby suspended for September 1990 through January 1991.

PART 1106—MILK IN THE SOUTHWEST PLAINS MARKETING AREA

1. The authority citation for 7 CFR part 1106 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 1106.6 [Suspended in part]

2. In § 1106.6, the words "during the month" are suspended from September 1, 1990, through January 31, 1991.

§ 1106.7 [Suspended in part]

3. In § 1106.7(b)(1), the words, "of February through August until any month of such period in which less than 20 percent of the milk received or diverted as previously specified, is shipped to plants described in paragraph (a) or (e) of this section. A plant not meeting such 20 percent requirement in any month of such February–August period shall be qualified in any remaining month of such period only if transfers and diversions pursuant to paragraph (b)(2) of this section to plants described in paragraph (a) or (e) of this section are not less than 50 percent of receipts or diversions, as previously specified" are suspended from September 1, 1990, through January 31, 1991.

Signed at Washington, DC, on October 5, 1990.

John E. Frydenlund,
Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 90-24247 Filed 10-15-90; 8:45 am]
BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Parts 1924, 1933 and 1944

Self-Help Technical Assistance Grants

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) is revising and redesignating its regulations for Self-Help Housing Technical Assistance Grants. This action is necessary to comply with OMB circulars and Departmental regulations. The intended effect is to encourage more communities to participate in the program by permitting an organization with fewer employees to participate. It also permits the use of a predevelopment agreement to test the feasibility of the program in a community before making a major commitment of resources. It requires that organizations have a board of local representation, change the method of accounting of tasks to be performed by family labor, and increases the amount of family labor in the building of homes. It incorporates, by reference or direct quote, Departmental regulations that significantly affect participating grantees.

EFFECTIVE DATE: November 15, 1990.

FOR FURTHER INFORMATION CONTACT: Matt Felber, Branch Chief, Single Family Housing, Processing Division, Farmers Home Administration, USDA, Room 5342, South Agriculture Building, Washington, DC 20250, Telephone (202) 382–1474.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1 which implements Executive Order 12291, and has been determined to be nonmajor, because there is no substantial change from practices under existing rules that would have an annual effect on the economy of $100 million or more. There is no major increase in cost or prices for consumers, individual industries, Federal, State, or local governmental agencies or geographic region; or significant adverse effects on completion, employments, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354), the Administrator of the Farmers Home Administration, has determined that this action will not have a significant economic impact on a substantial number of rural communities. It is estimated that less than 100 communities will be affected annually.

This program activity is listed in the Catalog of Federal Domestic Assistance under number 10.420. This program/activity is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940–J, "Intergovernmental Review of Farmers Home Administration Programs and Activities." (Available in any FmHA Office.)

This document has been reviewed in accordance with 7 CFR part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major

Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

Background

A proposed rule was published in the Federal Register (54 FR 17751), Tuesday, April 25, 1989. Written comments were solicited for 60 days. Comments were received from 36 respondents inside and outside the Agency. The respondents from outside the Agency were special interest organizations. Comments were received on 122 specific sections or paragraphs which involved 20 different areas within the proposed regulation.

Discussion

All respondents commenting on § 1944.401 expressed their support of the Agency's effort to emphasize the serving of very low-income households. Several recommended that specific guidelines be incorporated in this section to clarify that grantees must serve 40 percent very low-income households in their program. We incorporated the language which states "Very low-income families must receive a priority for recruitment and participation may not comprise less than the percentage stated in subpart L of part 1940 of this chapter of those assisted in any grant period."

Two comments were received concerning grant purposes. One respondent favored authorizing one organization to assist other organizations to provide technical and supervisory assistance to eligible families. The other respondent expressed difficulty in determining how to monitor and evaluate grants made to one organization to assist another organization which provides technical and supervisory assistance to eligible families.

Currently, four regional technical and management assistance contractors provide the service authorized in § 1944.402(b). Section 1944.402 enables the Agency to either contract or award grants to organizations to assist other organizations to apply for a grant or to assist an existing grantee. Funding a variety of organizations via contracts or grants is authorized by the law governing the program (42 U.S.C. 1490c). Monitoring and/or evaluating of the organization would be performed based on specific terms of a contract or grant agreement. The purpose of this revision is to afford special needs applicants maximum technical assistance. The self-help grant program is complex and small in number of total grantees. These two factors result in scattered expertise. The revision would alleviate this problem.

An array of comments were received concerning § 1944.403. One respondent asked if the period of the grant is to be determined by the grantee or FmHA. Currently, over 90 percent of grantees are funded for a 24 month grant period. Approximately all of these grantees proposed 24 month grant periods and were approved by FmHA. That is why the general guideline of a 24 month maximum is adopted in § 1944.403(b). Since the grant period has to be flexible enough to meet different needs, the maximum period for an agreement will be based on sound evaluation by FmHA. It was not thought necessary to establish an absolute maximum term.

To eliminate the possibility of double counting of families who drop out of the self-help association, one respondent recommended that a new sentence be added to what is now § 1944.403(f) as follows: "The number of equivalent units for any group can never exceed the number of planned or completed houses for the group." That recommendation had merit and is adopted.

Another respondent asked whether site acquisition and development costs used in determining the equivalent value of modest housing is the typical or the actual self-help family site acquisition and development costs. Historically, program reviews and quarterly grantee evaluations data demonstrate that there is no significant cost difference for site acquisition and development costs between self-help and non self-help ventures. Therefore, § 1944.403(g) does not differentiate between self-help or non self-help site acquisition and development.

Two respondents requested consideration to changing the language in what is now § 1944.403(i) to permit less than four and greater than ten families to participate in a self-help association. We added the word "generally" to the paragraph to permit less than four and greater than ten families to participate.

Seven responses were offered concerning the definition of participating families in what is now § 1944.403(k). Five of the seven responses recommended that self-help families not be restricted to those utilizing section 502 loans. Several logical reasons for families utilization of other loan funds were offered. One particular group, Native Americans living on reservations, are not easily served by section 502 loans and are more readily served by non-section 502 loans. We agree and have changed the regulation to permit financing by other sources provided the families meet the Department of Housing and Urban Development income guidelines. Two respondents advocated that participants physically unable to perform required labor tasks should have the right to seek labor assistant friends and relatives with the groups concurrence. FmHA takes the position that only in a unique situation should labor substitution be permitted. It is the Agency's experience that substitute labor has often resulted in disruption of group dynamics resulting in participant quarrels and prolonged completion of the construction period. However, the State Director has the authority to permit substitute labor on a case-by-case basis.

Concerns were raised by two respondents concerning required labor tasks. In addition, we received overwhelming negative comments about Exhibit B-2, Breakdown of Construction Development for Determining Percentage Construction Completed, from grantees, Agency personnel and former self-help participants. Many of those comments had merit as they articulated different circumstances that could influence which tasks can be successfully completed by families. Circumstances such as climate, soil type, skill of construction supervisors and safety were cited. FmHA revised Exhibit B-2 by eliminating reference to required labor tasks and refining the list of labor tasks. Grantees are now afforded the convenience of selecting any labor tasks, at a minimum, that represent 65 percent of the total labor tasks presented in this exhibit. The language was changed in what is now § 1944.403(k) to conform with Exhibit B-2.

Several respondents desired to have those families involved in self-help rehabilitation, which is primarily the self-help method, and very low-income families included in the definition of participating family. Both of these requests were granted.

Eight respondents requested that counseling for past self-help participants and/or the assisting of County FmHA office personnel with borrower delinquency and inventoried property problems be included in what is now § 1944.403(n). These are amicable offers by grantee organizations, however, neither of these activities are authorized by the law.

In addition to changes made to § 1944.403 as a result of comments received, definitions of the terms "direct costs" and "indirect costs" were added because these terms help identify the authorized uses of grant funds.

Paragraph (d)(2) of § 1944.404, Eligibility which proposed to require grantees to have a broad-based membership to number at least 30 people was criticized by numerous individuals and interest groups. The Agency received documentation from some respondents that illustrated that some State laws and organizational charters, particularly Community Action Agencies, could not comply with it or could comply only with gross organizational restructuring to satisfy the proposed requirements. The evidence was compelling enough to result in the removal of that requirement. An expanded § 1944.404(d) replaced the entire proposed paragraph because other portions of the paragraph were changed upon the recommendations of several respondents as discussed below.

Two respondents questioned the Agency's objective of requiring grantees to list in its Articles of Incorporation, Purpose, "be a corporation organized for the primary purpose of assisting very low- and low-income families to obtain adequate housing." The Agency withdrew this language and added two new criteria under § 1944.405(d). The new criteria recognize that they may have other primary purposes. This modification was made in recognition that many organizations are created to address a variety of social issues.

One respondent requested that the proposed § 1944.404(d)(1) be eliminated because it represents a repeat of §§ 1944.404(a), 1944.404(b) (1) and (2), and 1944.404(c). We agree with the respondent's assessment and eliminated the proposed statement.

A discussion on the appropriate number of members of Board of Directors were offered by four respondents. All four respondents offered their opinion that the proposed statement on board membership did not offer needed flexibility. The proposed statement was totally consistent with the language existing in 7 CFR part 1933, subpart I. This provision has caused little, if any, impediments to applicant processing during the existence of the program. It is our opinion that a five member board is the minimum number that can adequately represent an organization. We elected not to change the minimum number of board members. However, we agree that there is no need to establish a maximum number of board members and have, therefore, deleted the requirement that the board generally not exceed nine members.

Two respondents pointed out to us that (d)(5) of § 1944.404 was an administrative rather than an eligibility criteria. There view was correct and that paragraph is deleted.

Many comments were received concerning authorized use of funds in § 1944.405. Most comments supported the various authorized usage while recommending better ways of stating language. One respondent did recommend that paragraphs (a), (b), (c), (f), (g) and (j) be excluded because all the listed authorized items are included in Office of Management and Budget (OMB) Circulars A–122 or A–110. We determined not to exclude any of the items as some were more specific than those promulgated in the aforementioned circulars. This specificity is needed to address some of the unique features of the Self-Help Technical Assistance Grant Program.

Several respondents commenting on the authorized use of grant funds to fund tax deferred pension plans either recommended that it not be allowable or that the Agency establish limits. It is the Agency's position that nonprofit organizations delivering services to the public which enhance our ability to meet our objectives should receive reasonable fringe benefits. FmHA believes that OMB Circulars and Departmental Regulations found in 7 CFR parts 3015 and 3016 adequately provide appropriate guidelines for determining the reasonability of grantee expenditures in their specific geographical area. Grantees are not given "Carte Blanche" as one respondent suggested. Tax deferred pension plans which were formally addressed in § 1944.405(f) of the proposed rule are now covered in § 1944.405(d). The limits on payments into such a plan were removed so that the grantee would be allowed to use the grant funds to pay whatever was reasonable in the area. A new § 1944.405(f) was added to permit the payment of grantee's general liability insurance and special audit costs associated with self-help activities.

Allowing boards of directors to authorize out of state travel by grantee personnel was favorably addressed by all respondents commenting on § 1944.405(g), except one, who recommended that the approval authority be retained by FmHA. It is our position that the grantee organization undertaking the grant should have the ability to properly manage the program so that the program objectives and goals are accomplished. The grantee organization is in better position to determine when an out of state trip is needed and who should make the trip. The authorization given to the grantee organizations is a reasonable display of the Agency's confidence in grantee organizations' competence.

One respondent recommended that payment of reasonable expenses incurred by board members not exceed those paid FmHA County Committee members. The nature of tasks performed by grantee board members and committee members are more dissimilar than similar. Typically, committee members only perform tasks at a convened committee meeting, while board members perform official organizational tasks on a more frequent basis.

We are aware of organizations that operate in large geographical areas that have board representation from throughout the area. Often it is not feasible for board members to return to his/her personal residence on the day of the meeting because of lateness of meetings and travel distances. For those members it is appropriate to authorize reimbursement for mileage and per diem.

The membership of the grantee organization is the primary component responsible to FmHA for grantee performance. Historically, salaried employees rather than the board have guided grantee organization. It is our policy that the board get more involved in the direction of the organization including supervision of salaried employees. Therefore authorizing expenses for board members to attend meetings significantly facilitates their ability to be actively involved in organizational matters and to interact with FmHA at all levels. All costs associated with board travel will not exceed established Federal Government regulations.

Regarding § 1944.405(d), several respondents recommended that the Agency be guided by OMB Circular A–122, Attachment B, Paragraph 46. This recommendation was accepted and § 1944.405(d) is changed accordingly.

Almost every comment received concerning the average TA cost per unit found in § 1944.407(a) suggested that 15 percent rather than 12 percent would be more accurate a measure. Examples of grantees that we have determined to be efficient were evaluated by us to determine which percentage is more plausible in representing cost per unit. The evaluation revealed that 15 percent better represents a cost that is both sufficiently flexible to the grantee organization and efficient to the Government.

An inadvertent error appeared in this proposed rule making pertaining to § 1944.407(b). It was our intent to state that an average TA cost per unit not

exceed the difference between the equivalent value of modest homes in the area and the average mortgage of the participating families minus $1,000—rather than plus $1,000 as stated in the proposed rule. Some respondents supported minus $1,000 and others advocated plus $1,000. We determined that our initial intent to require a minus $1,000 is appropriate. The objective of this requirement is to ensure that there is a minimum positive net savings to the Government.

After reviewing comments some changes were incorporated in § 1944.410, Processing preapplications, applications, and completing grant dockets. Several respondents suggested that to require an applicant to submit financial statements that are less than six months old was not practical. One respondent pointed out that the organization has annual audits and if it is undergoing an audit then the most current statement would be a year old. We changed the less than six months requirement to no more than 12 months.

Comments received on § 1944.410(a)(4) indicated opposition to the Agency requiring evidences of community support. One commentator stated that we were turning the program into a "local signoff" situation. We agree that requiring full endorsement of the program by a new community may be expecting too much. However, we believe that the success of the project is dependent on there being evidence of local support and such evidence is required in the final rule. We did add a sentence explaining what can constitute evidence of local support. We believe this sentence serves to clarify what was intended.

In commenting on § 1944.410(d), several respondents advocated expanding the availability of the predevelopment grant to existing grantees. The most typical reason given by respondents was that some existing grantees might desire to initiate additional grants in other geographical areas but because they are not authorized to do that they would be faced with the same dilemma as a new applicant. This is a good observation although it was not the intent to limit the predevelopment grant to only first time applicants. Language was added to provide for the inclusion of existing grantees and to make clear that the grant is available only once for a defined area.

With regard to the first paragraph of § 1944.417, one comment asked whether it is FmHA's responsibility to help the grantee to avoid cases of fraud and abuse. Without reservation, it is the Agency's belief that it is. It is always appropriate to identify conditions that make the Government vulnerable to fraud and abuse. For example, there are documented cases where grantees purchased certain equipment because it was less expensive, but had to constantly replace it, resulting in a higher cost. The guidance from FmHA to the grantee to purchase equipment of a durable quality on a sound cost basis and to properly maintain it would afford the prevention of abuse and/or waste. As FmHA and the grantee share the same objective of placing eligible households in safe, sound and sanitary housing it follows that we should attempt to aid in preventing or at least reducing the cases of fraud and abuse rather than reacting to the situations once they occur.

In commenting on § 1944.417, one respondent recommended clear instructions concerning the District Director's responsibility in processing an unacceptable request for funds by grantees. The following language was recommended "if the explanation is not acceptable, immediately notify the grantee and request the amount of funds that appear reasonable for the next 30 days on Form FmHA 440–57, so that delivery may be possible by the first of the next month." We believe that the recommended language better expresses our objective of complying with OMB Circular A–122 while maintaining our ability to expeditiously process requests for warranted funds. The recommendation is adopted in § 1944.417(a)(2)(ii).

Another respondent expressed the opinion that 15 days is not enough time for a grantee to prepare and submit Exhibit B. There is no such requirement in § 1944.417(b). It is expected that no grantee would wait to the end of an evaluation period to initiate the completion of its quarterly report. Rather, the grantee would update report data periodically during the reporting period, consequently reducing its task at quarter's end to making final adjustments. Quarterly reporting is required by FmHA and the grantee can certainly make more frequent internal evaluations if it wishes.

All comments received on § 1944.419, final grantee evaluation, were supportive of the proposed action. Several recommendations were made to improve the evaluation process. Two respondents recommended that the evaluation be conducted between the 18th and 20th month to provide for a more meaningful evaluation. In considering these comments, we changed the paragraph to recognize that the evaluation needs to occur near the end of the grant period without specifying the exact months in which it should occur. We also agree that it is not beneficial to evaluate a grantee during the last month of its grant, and the revision reflects this position.

Some respondents recommended various manipulations of the evaluation rating system found in § 1944.419(b). Some recommended increasing credit for those exceeding proposed agreement goals while others recommended that all criteria listed in § 1944.419(a) be met for an acceptable rating and that an outstanding rating be given if the grantee exceeds the goals by at least 20 percent for any one item. Other respondents expressed their concerns as to the treatment of external influences affecting the evaluation process. Most advocated the delineating of parameters of acceptable performance levels. One respondent asked "If the grantee falls short of the projected number by five or ten percent, does this mean that they have not met the goal and therefore cannot be evaluated positively? Likewise, if a grantee meets 90 percent of its goals for units completed, and spends 90 or 95 percent of the approved grant funds, does this mean that they have not met those two criteria?"

The answer to each of these concerns will be found in all the available factual information. The rating of each proposed goal will always be objective, that is, the grantee proposed to construct 30 units and it either did or did not. However, the consideration of external causes that might have prevented the attainment of goals will impact the final rating. Typical examples of external factors are prolonged unfavorable weather, lack of loan funds and a delay in the processing of loan applications. Exhibit B, Evaluation Report of Self-Help Technical Assistance Grants, completed in a thorough and accurate manner will go a long way to provide supporting documentation of external factors. The National Office will make a continuous concerted effort to enhance the utilization of this Exhibit by the grantee, and District and State FmHA Offices.

Under the new method of evaluation objectivity is enhanced while subjectivity is greatly reduced. The grantee has the ability to know at all times the status of its progress toward its proposed goals and the opportunity to revise those goals. No modifications are incorporated to address the respondents concerns on this issue. The regulations provide that even a grantee that receives an unacceptable rating may be awarded a new grant by a State Director if it is determined as stated in § 1944.421 that the reasons causing the

previous unacceptable rating have been removed or will be removed with the approval of the new grant.

In commenting on § 1944.421, several respondents suggested a better way of refunding existing grantees to work in an expanded geographical area and to afford existing grantees utilization of the predevelopment grant. The suggested wordage offered by one respondent was adopted to address the concerns.

Response to the proposed § 1942.422 concerning audit and other report requirements almost always centered on when an audit should be required. Several respondents recommended that consideration be given to using the grantee's fiscal year as an appropriate time to audit. Other respondents recommended that OMB Circular A–128, Audits of State and Local Governments, and the proposed OMB Circular A–133, Audits of Institutions of Higher Education and Other Nonprofit Organizations, be followed.

The Agency has no objection to permitting grantees to have their grants audited at the end of their fiscal year if it is more appropriate than at the end of the Government's fiscal year. The fiscal year provision is added in § 1944.422. OMB Circular A–133 is now referenced. Attachment F of OMB Circular A–110 parallels the audit requirement of OMB Circular A–128. Departmental regulation 7 CFR part 3015 at § 3015.77 directs the use of OMB Circular A–110 when auditing nonprofit organizations. It is the objective of 7 CFR parts 3015 and 3016 to uniformly require multiple funded grantees to undergo a single annual audit.

One respondent asked if requiring a grantee to supply the Agency with its audit no later than 90 days following the expiration of the agreement supersedes OMB requirements. Section 3015.120(b)(3) of 7 CFR part 3015 in part supersedes OMB requirements. Section 3015.120(b)(3) of 7 CFR part 3015 in part states "Within a maximum period of 90 days following the date of expiration or termination of a grant, all financial performance and related reports required by the terms of the agreement shall be submitted to the awarding agency". Thus, § 1944.422 complies fully with Departmental regulations.

The final comment received referencing audits deserves discussion. The respondent asked if a close out audit of the grant program was required or necessary. The respondent stated that the request for a close out audit is clearly not in the spirit of the Single Audit Act of 1984 and may not be allowable under it. The self-help grant program is governed by 7 CFR parts 3015 and 3016. Section 3015.120(c)(3) of part 3015 states that final audit procedures as outlined in Attachment L of OMB Circular A–102 and Attachment K of OMB Circular A–110 are not a required part of the grant or subgrant closeout procedures. However, it further states "If a USDA agency considers a final audit to be necessary, it shall contact the Office of Inspector General (OIG) Region within which the recipient or subrecipient is located and inform OIG of the situation." OIG is responsible for final audits. FmHA will comply with this procedure and will make the decision to request a final audit by OIG when it is determined by FmHA to be appropriate.

In regards to § 1944.422, two respondents questioned whether grantees have the authority to request audits of borrower accounts. One of these respondents stated that requiring the grantee to have these accounts audited raises questions of legal liability and that auditing the accounts should be FmHA's responsibility.

There are two areas of grantee activity involving the handling of Section 502 loan funds for the participating families. The first is in the area of financial supervision as outlined in § 1944.403(o)(8) of proposed regulation. The second is when the grantee acts in the capacity of a construction manager and, if determined qualified by the District Director, in accordance with § 1924.6(c) of 7 CFR part 1924, subpart A may receive direct payments for materials and necessary contract work.

It is these two areas that, based on past investigations and audits, are most vulnerable to unauthorized use of funds and/or fraud. Therefore, we are stressing that these areas of grantee responsibility be specifically addressed in any required audit. The State Director will determine the extent to which the audit will include the grantee's handling of Section 502 loan funds, based on the degree to which the grantee is involved and what is necessary to identify any abuse. The audit coverage may range from a random sampling accounting to a complete audit of every account.

Many responses to § 1944.423 loan packaging were submitted and all opposed the statement, "A grantee should never place itself in a position where it appears to disagree with the eligibility decision of FmHA." One respondent did offer a recommendation that better expresses FmHA original intent. The questioned sentence is removed and replaced by the respondent's recommended statement which stresses that a grantee must work cooperatively with FmHA and within program regulations and must recognize that FmHA has the ultimate loan approval authority.

One alert respondent rightly pointed out that § 1944.426(b)(1) appeared to contradict § 1944.417(b)(2) which said the State Director cannot take termination action without prior approval of the National Office. No such written authorization is required by § 1944.426(b)(1). It was the intent of § 1944.417(b)(2) to limit the written authorization requirement to suspensions. The terms closeout and termination are deleted from § 1944.417(b)(2).

Comments received concerning § 1944.427, Grantee self-evaluation, were totally favorable. However, some recommended that the organization be given the flexibility to modify Exhibit E or to develop and utilize their own evaluation. FmHA will require all grantees to utilize Exhibit E but has no objections to grantees supplementing their internal evaluation with other criteria.

Some respondents requested that a section to give exception authority be added. While we see the value of such a paragraph, so many of the requirements in the regulation are based on OMB Circulars and Departmental regulations, that it would be very difficult to consider requests for exceptions.

Several candid comments were rendered by respondents referencing paragraph (e)(3)(i)(J) of Exhibit A. One comment suggested modifying the paragraph to promote mutual accountability.

It remains FmHA policy to continue to emphasize the serving of very low-income households by self-help grantees. The two unique and vital features of the self-help grant program are family labor contribution and the serving of those households that have no other means of obtaining homeownership save self-help. Therefore, FmHA requires self-help grantees to serve a minimum established percentage of very low-income and feels justified to terminate a grantee who does not accomplish this minimum requirement. However, as stated in § 1944.417, FmHA has a responsibility to help the grantee be successful. The tools of evaluation will be utilized by FmHA to promote and facilitate that responsibility. Inclusive evaluation of the grantee's performance by FmHA is a must.

Exhibit B, Mutual Self-Help Housing Guidelines has always been incorporated in 7 CFR part 1944, subpart A as Exhibit B. The decision was made to move the exhibit from subpart A to subpart I, because it is more related to

the latter regulation. FmHA now believes that this exhibit is more appropriate as a guide and would assist aspiring grantees if its contents were part of a handbook. Therefore, FmHA will undertake the task of providing a Self-Help Housing Handbook and remove the exhibit from subpart A, and appropriate updates and place it in the proposed handbook. The removal of the exhibit from subpart I was supported by several respondents. With the deletion of Exhibit B, proposed Exhibits C, D, E, F and G becomes Exhibits B, C, D, E and F, respectively.

A significant number of respondents questioned why no financial information is requested on what is now Exhibit B, Evaluation Report of Self-Help Technical Assistance Grants. Form SF–270, Request for Advance or Reimbursement, is the only authorized instrument to be used in reporting financial information concerning the grant. Therefore, the use of Form SF–270 in conjunction with Exhibit B accomplishes what respondents want.

Perhaps the most demonstrative comments were received on what is now Exhibit B–3, Breakdown of Construction Completed. Comments on this exhibit were received primarily from grantee organizations but a significant number of former self-help borrowers also submitted comments. All respondents in both groups advocated the elimination of required labor tasks. All recommended a required percentage of total labor tasks selected by participants and/or FmHA field personnel.

For five years, senior Agency officials have conducted on site evaluations of self-help housing construction in more than ten States. The evaluators were alarmed at what they observed and what they learned from Agency field personnel, grantees, and self-help families. Substantial subcontracting was the rule and family contributed labor was found to be the exception.

The mutual self-help program not only provides eligible rural households with homeownership but also affords them the opportunity to learn construction skills and to develop a spirit of teamwork. Significantly eliminating the practice of "sweat equity" does not achieve the major objectives of mutual self-help.

Agency representatives participated in four conferences sponsored by four Regional Technical and Management Assistance Contractors. Over ninety percent of all active grantees, aspiring grantees and field FmHA personnel also attended and participated in the conferences. The conferences facilitated unabridged dialogue and were held after the proposed rule was published in the Federal Register.

From discussions and documented evidence, it became clear to FmHA that to require families to adhere to uniformed mandated labor tasks was not feasible. Factors such as local and state building code, climate, skill levels of families, type of house and skill levels of construction personnel had to be considered. FmHA adopted the recommendations of the vast majority of respondents and removed the mandated list of labor tasks and gave flexibility to grantees by permitting them to select a minimum of 65 percent of labor tasks listed in Exhibit B–2. Also the list of the tasks contained in this exhibit were changed to provide clarity by explaining what each term meant.

Several respondents wanted the proposed split between construction and preconstruction credit to remain at 70/30 respectively. It is not FmHA intention to minimize the importance of preconstruction activities, although greater emphasis is given to construction activities. The timely construction of houses with maximum family labor is of utmost importance. Changing the construction/preconstruction ratio from 70/30 to 80/20 is a well thought out decision and will better serve to maintain program creditability because actual labor is emphasized even more than non-labor tasks were in the past.

Two respondents questioned why the total of all labor tasks equals 100 percent rather than 80 percent. The 100 percent total of labor tasks has no relationship to the 80/20 split. Likewise, a grantee successfully completing all preconstruction tasks would be credited with a total of 100 percent.

Additional minor changes were also made to the regulation of a clarifying nature or to delete extraneous material.

List of Subjects

7 CFR Part 1924

Agriculture, Construction, Management, Construction and repair, Energy Conservation, Housing, Loan programs—Agriculture, Low and moderate income housing.

7 CFR Parts 1933 and 1944

Grant Program—Housing and Community development; Indians; Low and moderate income housing; Non-profit organization; Rural housing; and Reporting requirements.

Therefore, FmHA amends chapter XVIII, title 7, Code of Federal Regulations as follows:

PART 1924—GENERAL

1. The authority citation for part 1924 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; sec. 10 Pub L. 99–357, 88 Stat. 292; 7 CFR 2.23; 7 CFR 2.70

Subpart A—Planning and Performing Construction and Other Development

2. Section 1924.8 is amended by revising the last sentence in paragraph (c) to read as follows:

§ 1924.8 Mutual self-help method.

* * * * *

(c) * * * In the case of RH loans to families being assisted by Self-Help Technical Assistance (TA) grants in accordance with subpart I of part 1944 of this chapter, the County Supervisor may countersign checks for materials and necessary contract work made payable directly to the TA grantee, provided the District Director determines that:

* * * * *

PART 1933—LOAN AND GRANT PROGRAM (GROUP)

3. Part 1933 is removed and reserved.

PART 1944—HOUSING

4. The authority citation for part 1944 continues to read as follows:

Authority: 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

5. Subpart I, consisting of §§ 1944.401–1944.450 and Exhibits A–F, is added to read as follows:

Subpart I—Self-Help Technical Assistance Grants

Sec.

1944.401 Objective.
1944.402 Grant purposes.
1944.403 Definitions.
1944.404 Eligibility.
1944.405 Authorized use of grant funds.
1944.406 Prohibited use of grant funds.
1944.407 Limitations.
1944.408 [Reserved]
1944.409 Executive Order 12372.
1944.410 Processing preapplications, applications, and completing grant dockets.
1944.411 Conditions for approving a grant.
1944.412 Docket preparation.
1944.413 Grant approval.
1944.414 [Reserved]
1944.415 Grant approval and other approving authorities.
1944.416 Grant closing.
1944.417 Servicing actions after grant closing.
1944.418 [Reserved]
1944.419 Final grantee evaluation.
1944.420 Extension or revision of the grant agreement.

Sec.
1944.421 Refunding of an existing grantee.
1944.422 Audit and other report requirements.
1944.423 Loan packaging and 502 RH application submittal.
1944.424 Dwelling construction and standards.
1944.425 Handling and accounting for borrower loan funds.
1944.426 Grant closeout.
1944.427 Grantee self-evaluation.
1944.428-1944.449 [Reserved]
1944.450 OMB Control Number.

Exhibits to Subpart I

Exhibit A—Self-Help Technical Assistance Grant Agreement

Exhibit B—Evaluation Report of Self-Help Technical Assistance (TA) Grants

Exhibit B-1—Instructions for Preparation of Evaluation Report of Self-Help Technical Assistance Grants

Exhibit B-2—Breakdown of Construction Development for Determining Percentage Construction Completed

Exhibit B-3—Pre-construction and Construction Phase Breakdown

Exhibit C—Amendment to Self-Help Technical Assistance Grant Agreement

Exhibit D—Self-Help Technical Assistance Grant Predevelopment Agreement

Exhibit E—Guidance for Recipients of Self-HelpTechnical Assistance Grants (Section 523 of Housing Act of 1949)

Exhibit F—Site Option Loan to Technical Assistance Grantees

* * * * *

Subpart I—Self-Help Technical Assistance Grants

§ 1944.401 Objective.

This subpart sets forth the policies and procedures and delegates authority for providing Technical Assistance (TA) funds to eligible applicants to finance programs of technical and supervisory assistance for self-help housing, as authorized under section 523 of the Housing Act of 1949. This financial assistance may pay part or all of the cost of developing, administering, or coordinating programs of technical and supervisory assistance to aid needy very low- and low-income families in carrying out self-help housing efforts in rural areas. Very low-income families must receive a priority for recruitment and participation and may not comprise less than the percentage stated in subpart L of part 1940 of this chapter of those assisted in any grant. The primary purpose is to fund organizations that are willing to locate and work with families that otherwise do not qualify as homeowners. Generally, these are families below 50 percent of median incomes, living in substandard housing, and/or lacking the skills to be good homeowners. Grantees will comply with the nondiscrimination regulation subpart E of part 1901 of this chapter which states that no person in the United States shall, on the grounds of race, color, national origin, sex, religion, marital status, mental or physical handicap, or age, be excluded from participating in, be denied the benefits of, or be subject to discrimination in connection with the use of grant funds and all provisions of the Fair Housing Act of 1968.

§ 1944.402 Grant purposes.

Farmers Home Administration (FmHA) may contract or make a grant to an organization to:

(a) Give technical and supervisory assistance to eligible very low- and low-income families as defined in Exhibit C of subpart A of this part, in carrying out self-help housing efforts.

(b) Assist other organizations to provide technical and supervisory assistance to eligible families.

(c) Develop a final application, recruit families and related activities necessary to participate under paragraph (a) of this section.

§ 1944.403 Definitions.

(a) *Agreement.* The Self-Help Technical Assistance Agreement, which is a document signed by FmHA and the grantee, sets forth the terms and conditions under which TA funds will be made available. (Exhibit A of this subpart).

(b) *Agreement period (or grant period).* The period of time for which an agreement is in force. Generally, the period will not exceed 24 months.

(c) *Date of completion.* The date when all work under a grant is completed or the date in the TA grant agreement, or any supplement or amendment to it, when Federal assistance ends.

(d) *Direct costs.* Those costs that are specifically identified with a particular project or activity. Grantees receiving funds from a single grant source would consider all costs as direct costs.

(e) *Disallowed costs.* Those charges to a grant which FmHA determines cannot be authorized.

(f) *Equivalent units.* Equivalent units represent the "theoretical number of units" arrived at by adding the equivalent percentage of completion figure for each family in the self-help program (pre-construction and actual construction) together at any given date during program operations. The sum of the percentage of completion figures for all participant families represent the total number of "theoretical units" completed at any point in time. Equivalent units are useful in measuring progress during the period of the grant and are not a measurement of actual accomplishments. The number of equivalent units for any group can never exceed the number of planned or completed houses for that group.

(g) *Equivalent value of a modest house.* The equivalent value of a modest house is the typical cost of a recent contractor-built FmHA financed home in the area plus the actual or projected costs of an acceptable site and site development. If FmHA has not financed a contractor-built house during the last twelve months, the value will be established by use of the Marshall and Swift cost handbook or a similar type of handbook. Equivalent value of a modest house is established by FmHA.

(h) *Indirect costs.* Those costs that are incurred for common or joint objectives and therefore, cannot be readily and specifically identified with a particular project or activity, e.g., self-help.

(i) *Mutual self-help.* The construction method by which participating families organized in groups generally of 4 to 10 families utilize their own labor to reduce the total construction cost of their homes. Participating families complete construction work on their homes by an exchange of labor with one another. The mutual self-help method must be used for new construction.

(j) *Organization.* (1) A State, political subdivision, or public nonprofit corporation (including Indian tribes or Tribal corporations); or

(2) A private nonprofit corporation that is owned and controlled by private persons or interests and is organized and operated for purposes other than making gains or profits for the corporation and is legally precluded from distributing any gains or profits to its members.

(k) *Participating family.* Individuals and/or their families who agree to build homes by the mutual self-help method and rehabilitate homes by the self-help method. Participants are families with very low- or low-incomes who have the ability to furnish their share of the required labor input regardless of the handicap, age, race, color, national origin, religion, family status, or sex of the head of household. The participating family must be approved for a Section 502 RH loan or similar loans from other Federal, state, and private lenders that uses income guidelines substantially similar to the Department of Housing and Urban Development before the start of construction, have sufficient time available to assist in building their own homes, and show a desire to work with other families. Each family in the group must contribute labor on each other's

homes to accomplish the 65 percent of the total 100 percent of tasks listed in Exhibit B-2 of this subpart. A participating family may use a substitute to perform the labor with prior approval of the Grantee and the FmHA State Director. A substitute is only permitted when the participating family is incapacitated.

(l) *Self-help.* The construction method by which an individual family utilizes their labor to reduce the construction cost of their home without an exchange of labor between participating families. Unless otherwise authorized by the District Director, this method is only funded for repair and rehabilitation type construction.

(m) *Sponsor.* An existing entity that is willing and able to assist an applicant, with or without charge, in applying for a grant and in carrying out responsibilities under the agreement. Examples of sponsors are local rural electric cooperatives, institutions of higher education, community action agencies and other self-help grantees. Also, when available, regional technical and management assistance contractors may qualify to serve as a sponsor at no charge.

(n) *Technical assistance.* The organizing and supervising of groups of families in the construction of their own homes including:

(1) Recruiting families who are interested in sharing labor in the construction of each other's homes and assisting such families in obtaining housing loans.

(2) Conducting meetings of the families to explain the self-help program and subjects related to home ownership, such as loan payments, taxes, insurance, maintenance, and upkeep of the property.

(3) Helping families in planning and developing activities that lead to the acquisition and development of suitable building sites.

(4) Assisting families in selecting or developing house plans for homes which will meet their needs and which they can afford.

(5) Assisting families in obtaining cost estimates for construction materials and any contracting that may be required.

(6) Providing assistance in the preparation of loan applications.

(7) Providing construction supervision and training for families while they construct their homes.

(8) Providing financial supervision to individual families with section 502 Rural Housing (RH) loans which will minimize the time and effort required by FmHA in processing borrower expenditures for materials and contract services.

(9) Assisting families in solving other housing problems.

(o) *Termination of a grant.* The cancellation of Federal assistance, in whole or in part, at any time before the date of completion.

§ 1944.404 Eligibility.

To receive a grant, the applicant must:

(a) Be an organization as defined in § 1944.403(j) of this subpart.

(b) Have the financial, legal, administrative, and actual capacity to assume and carry out the responsibilities imposed by the Agreement. To meet the requirement of actual capacity it must either:

(1) Have necessary background and experience with proven ability to perform responsibly in the field of mutual self-help or other business management or administrative ventures which indicate an ability to perform responsibility in the field of mutual self-help; or

(2) Be sponsored by an organization with background experience, and ability, which agrees in writing to help the applicant to carry out its responsibilities.

(c) Legally obligate itself to administer TA funds, provide adequate accounting of the expenditure of such funds, and comply with the Agreement and FmHA regulations.

(d) If the organization is a private nonprofit corporation, be a corporation that:

(1) Is organized under State and local laws.

(2) Is qualified under section 501(c)(3) of the Internal Revenue Code of 1950.

(3) Has as one of its purposes the production of affordable housing.

(4) Has a Board of Directors which consist of not less than five.

§ 1944.405 Authorized use of grant funds.

(a) Payment of salaries of personnel as authorized in the Agreement.

(b) Payment of necessary and reasonable office expenses such as office rental, office utilities, and office equipment rental. The purchase of office equipment is permissible when the grantee determines it to be more economical than renting. As a general rule, these types of expenses would be classified as indirect costs in multiple funded organizations.

(c) Purchase of office supplies such as paper, pens, pencils, and trade magazines.

(d) Payment of necessary employee benefit costs including but not limited to items such as Worker's Compensation, employer's share of social security, health benefits, and a reasonable tax deferred pension plan for permanent employees.

(e) Purchase, lease, or maintenance of power or specialty tools such as a power saw, electric drill, sabre saw, ladders, and scaffolds, which are needed by the participating families. The participating families, however, are expected to provide their own hand tools such as hammers and handsaws.

(f) Payment of liability insurance and special purpose audit costs associated with self-help activites. These would be considered direct costs, even though the grantee's general liability insurance cost and the cost of audits for the organization are generally indirect costs.

(g) Payment of reasonable fees for training of grantee personnel including board members. This may include the cost of travel and per diem to attend in or out-of-State training as authorized by the board of directors and, when necessary, for the employee to do the current job. These costs are generally direct costs.

(h) Payment of services rendered by a sponsor or other organization after the grant is closed and when it is determined the sponsor can provide the necessary services which will result in an overall reduction in the cost of assistance. Typically, this will be limited to new grantees and an existing grantee for the period of time that its size or activity does not justify a full staff. A full staff is a full or part-time director, project worker, secretary-bookkeeper, and a construction supervisor. This type of cost is generally direct.

(i) Payment of certain consulting and legal costs required in the administration of the grant if such service is not available without cost. This does not include legal expenses for claims against the Federal Government. (Legal costs that may be incurred by the organization for the benefit of the participating families may be paid with prior approval of the State Director).

(j) Payments of the cost of an accountant to set up an accounting system and perform audits that may be required. Generally, these costs are indirect.

(k) Payments of reasonable expenses of board members for attending regular or special board meetings. These costs are indirect.

§ 1944.406 Prohibited use of grant funds.

(a) Hiring personnel specifically for the purpose of performing any of the construction work for participating families in the self-help projects.

(b) Buying real estate or building materials or other property of any kind for participating families.

(c) Paying any debts, expenses, or costs which should be the responsibility of the participating families in the self-help projects.

(d) Paying for training of an employee as authorized by Attachment B of OMB Circular A-122.

(e) Paying costs other than approved indirect (including salaries) that are not directly related to helping very low- and low-income families obtain housing consistent with the objectives of this program.

§ 1944.407 Limitations.

The amount of the TA grant depends on the experience and capability of the applicant and must be justified based on the number of families to be assisted. As a guide, the maximum grant amounts for any grant period will be limited to:

(a) An average TA cost equivalent per unit of no more than 15 percent of the cost of equivalent value of modest homes built in the area. (Upon request, the County Supervisor will provide the grantee the average cost of modest homes for the area); or

(b) An average TA cost per equivalent unit that does not exceed the difference between the equivalent value of modest homes in the area and the average mortgage of the participating families minus $1,000; or

(c) A TA per equivalent unit cost that does not exceed an amount established by the State Director. The State Director may authorize a greater TA cost than paragraph (a) or (b) of this section when needed to accomplish a particular objective, such as requiring the grantee to serve very low-income families, remote areas, or similar situations; or

(d) A negotiated amount for repair and rehabilitation type proposals. At a minimum, applicants applying for repair and rehabilitation grants must include information on the proximity of the houses in a project, the typical needed repairs, and the cost savings between self-help and contractor rehabilitation and repair.

§ 1944.408 [Reserved]

§ 1944.409 Executive Order 12372.

The self-help program is subject to the provision of Executive Order 12372 which requires intergovernmental consultation with State and local officials. Under subpart J of part 1940 of this chapter (available in any FmHA office), new applicants for the self-help program must submit their Statement of Activities to the State single point of contact prior to submitting their preapplication to FmHA. The name of the point of contact is available from the FmHA State Office.

§ 1944.410 Processing preapplications, applications, and completing grant dockets.

(a) *Form SF-424, "Application for Federal Assistance."* Form SF-424 in an original and one copy must be submitted by the applicant to the District Director. It will be used to establish communication between the applicant and FmHA, determine the applicant's eligibility, determine how well the project can compete with similar applications from other organizations and eliminate any proposals which have little or no chance for Federal funding before applicants incur significant expenditures for preparing an application. In addition, the following information will be attached to and become a part of the preapplication:

(1) Complete information about the applicant's previous experience and capacity to carry out the objective of the agreement.

(2) If the applicant organization is already formed, a copy of or an accurate reference to the specific provisions of State law under which the applicant is organized; a certified copy of the applicant's Articles of Incorporation and Bylaws or other evidence of corporate existence; certificate of incorporation for other than public bodies; evidence of good standing from the State when the corporation has been in existence 1 year or more; the names and addresses of the applicant's members, directors, and officers; and, if another organization is a member of the applicant-organization, its name, address, and principal business. If the applicant is not already formed, attach copies of the proposed organizational documents demonstrating compliance with § 1944.404(d) of this subpart.

(3) A current (no more than 12 months old) dated and signed financial statement showing the amounts and specific nature of assets and liabilities together with information on the repayment schedule and status of any debt owed by the applicant. If the applicant is being sponsored by another organization, the same type of financial statement also must be provided by the applicant's sponsor.

(4) A narrative statement which includes information about the amount of the grant funds being requested, area(s) to be served, need for self-help housing in the area(s), the number of self-help units proposed to be built, rehabilitated or repaired during the agreement period, housing conditions of low-income families in the area and reasons why families need self-help assistance. Evidence should be provided that the communities support the activity and that there are low-income families willing to contribute their labor in order to obtain adequate housing. Evidence of community support may be letters of support from local officials, individuals and community organizations. The pre-application may contain information such as census materials, local planning studies, surveys, or other readily available information which indicates a need in the area for housing of the type and cost to be provided by the proposed self-help TA program.

(5) A plan of how the organization proposes to reach very low-income families living in houses that are deteriorated, dilapidated, overcrowded, and/or lacking plumbing facilities.

(6) A proposed budget which will be prepared on SF-424A, "Budget Information (Non-Construction Programs)" will be completed to address applicable assurances as outlined in § 3015.205 of 7 CFR part 3015. State and local Government will include an assurance that the grantee shall comply with all applicable Federal statutes and regulations in effect with respect to the periods for which it receives grant funding. The State and local governments shall also comply with 7 CFR part 3016.

(7) A preliminary survey as to the availability of lots and projected cost of the sites.

(8) A list of other activities the applicant is engaged in and expects to continue, and a statement as to other sources of funding and whether it will have sufficient funds to assure continued operation of the other activities for at least the period of the agreement. If multi-funded, its cost allocation plan or indirect cost rate must be part of the pre-application.

(9) Whether assistance under paragraph (d) of this section is requested and a brief narrative identifying the need, amount of funds needed, and projected time period.

(10) If a project is planned for five or more housing lots or units, an Affirmative Fair Marketing Plan is required. The plan will be in effect until the completion of the project.

(b) *Preapplication review.* (1) The District Director, within 30 days of receipt of the preapplication, Form SF-424, and all other required information and material will complete a thorough review for completeness, accuracy, and conformance to program policy and regulations. Incomplete preapplications will be returned to the applicant for completion. The applicant should be given the name of the regional technical assistance contractor. The County Supervisor in the prospective county will be contacted as to the need for the

program in the proposed area and if the necessary resources are available to the grantee. This will include a discussion of the number of 502 and 504 units that will need to be committed to the grantee and the potential work impact on the office during the grant period. If it is determined that the County Office lacks the resources (either personnel or funds) to process all loan requests in a timely manner, the District Director must communicate this need to the State Director along with a recommended solution. (Lack of resources at the county level are not grounds to deny a request). After the District Director has determined that the preapplication is complete and accurate, the District Director will assemble the material in an applicant case file and forward it to the State Director. The case file, as a minimum, must contain the following:

(i) Form SF–424,

(ii) Original and one copy of Form FmHA 1940–20, "Request for Environmental Information,"

(iii) Eligibility recommendations, and

(iv) HUD Form 935.2 "Affirmative Fair Housing Marketing Plan", if applicable.

(2) The State Director may, if needed, submit the organizational documents with any comments or questions to the Office of General Counsel (OGC) for a preliminary opinion as to whether the applicant is or will be a legal organization of the type required by these regulations and for advice on any other aspects of the preapplication.

(3) The State Director, if unable to determine eligibility or qualifications with the advice of the OGC, may submit the preapplication to the National Office for review. The preapplication will contain all memoranda from OGC giving the results of its review. The State Director will identify in the transmittal memorandum to the National Office the specific problem and will recommend possible solutions and any information about the applicant which would be helpful to the National Office in reaching a decision.

(4) After an eligibility determination has been made, which should be completed within 30 days unless OGC is involved, the State Director will:

(i) If the applicant is eligible, contact the National Office as to the availability of funds or submit the proposal to the National Office for authorization if the requested amount exceeds the State Director's approval authority. If funds are available, the final review officer, either the State Director or the Assistant Administrator, Housing will issue a letter of conditions that the applicant must meet and direct the District Director to issue Form AD–622, "Notice of Preapplication Review Action."

(ii) If the applicant is determined not eligible, the State Director will direct the District Director to issue Form AD–622.

(c) *Form AD–622, "Notice of Preapplication Review Action."* (1) If the applicant is eligible and after the State Director has returned the preapplication information and the executed original Form FmHA 1940–20 to the District Office, the District Director will, within 10 days, prepare and issue Form AD–622. The original Form AD–622 will be signed and delivered to the applicant along with the letter of conditions, a copy to the applicant's case file, a copy to the County Supervisor, and a copy to the State Director.

(2) If the applicant is not eligible and after the State Director has returned the preapplication information, the District Director will within 5 days notify the applicant on Form AD–622. The notification will inform the applicant that an appeal of the decision may be made to the National Appeals Staff under subpart B of part 1900 of this chapter.

(3) If the applicant is eligible and no grant or loan funds are available, the State Director will return the preapplication information to the District Director who will, within 10 days, notify the applicant on Form AD–622. The notification will explain the facts concerning the lack of funding and that FmHA will notify them when funding will be available. This is not an appealable decision.

(d) *Self-help technical assistance grant predevelopment agreement.* If the grantee requested predevelopment assistance and the State Director determines that the applicant lacks the financial resources to meet the conditions of grant approval, a grant of up to $10,000 and for up to six months will be made in order for the applicant to provide what is required by paragraph (e) of this section. Exhibit D of this subpart will be used for this purpose. Existing grantees proposing to operate in an area different from the area that they are currently funded to operate are eligible for this grant. However, this grant is available only once for a defined area. This grant is available only after the letter of conditions has been issued. Denial of this assistance is an appealable decision under subpart B of part 1900 of this chapter.

(e) *Form SF–424, "Application for Federal Assistance."* The applicant will submit Form SF–424 in an original and one copy to the District Director. The application should provide a detailed proposal of its goals including:

(1) Names, addresses, number in household, and total annual household income of families who have been contacted by the applicant and are interested in participating in a self-help housing project. Community organizations including minority organizations may be used as a source of names of people interested in self-help housing.

(2) Proof that the first group of prospective participating self-help families have qualified for financial assistance.

(3) Evidence that lots are optioned by the prospective participating self-help families for the first group. Evidence that lots are available for the remaining groups.

(4) Detailed cost estimates of houses to be built by the mutual self-help method. Plans and specifications should be submitted with the cost estimates.

(5) Proposed staffing need, including qualifications, experience, proposed hiring schedule, and availability of any prospective employees.

(6) Name, address, and official position of the applicant's representative or representatives authorized to act for the applicant and work with FmHA.

(7) Budget information including a detailed budget for the Agreement period based upon the needs outlined in the proposal. SF 424A will be completed to furnish the budget information.

(8) Indirect or direct cost policy and proposed indirect cost rate developed in accordance with 7 CFR part 3015 and part 3016.

(9) Personnel procedures and practices that will be established or are in existence. Forms to be used should be submitted with the application.

(10) A proposed monthly activities schedule showing the proposed dates for starting and completing the recruitment, loan processing and construction phases for each group of participant families.

§ 1944.411 Conditions for approving a grant.

A grant may be approved for an eligible applicant when the conditions in the letter of conditions are met and the following conditions are present:

(a) The applicant has or can hire, or contract directly or indirectly with, qualified people to carry out its responsibilities in administering the grant.

(b) The applicant has met all of the conditions listed in § 1944.410(e) of this subpart.

(c) The grantee furnishes a signed statement that it complies with the requirements of the Departmental Regulations found in 7 CFR part 3015 and part 3016.

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(d) A resolution has been adopted by the board of directors which authorizes the appropriate officer to execute Exhibit A of this subpart and Form FmHA 400–1, "Equal Opportunity Agreement."

(e) The grantee has fidelity bonding as covered in 7 CFR part 3015 if a nonprofit organization or, if a State or local government, to the extent required in 7 CFR part 3016.

(f) The grantee has agreed by completing SF–424E, "Assurances-Non Constitutional Programs," that it will establish a recordkeeping system that is certifiable by a certified public accountant that it adequately meets the Agreement.

(g) The grantee has established an interest bearing checking account on which at least two bonded officials will sign all checks issued and understands that interest earned in excess of $250.00 annually must be submitted to FmHA quarterly. (The use of minority depository institutions is encouraged.)

(h) The grantee has developed an agreement to be executed by the grantee and the self-help participants which clearly sets forth what is expected of each and has incorporated Exhibit B–2 of this subpart which clearly shows what work is expected of the participating family.

§ 1944.412 Docket preparation.

When the application and all items required for the complete docket have been received, the District Director will thoroughly examine it to insure the application has been properly and accurately prepared and that it includes the required dates and signatures. The docket items will be assembled and distributed by the District Director in the following order:

Form No.	Name of form or document	Total No. of copies	Signed by applicant	No. for agreement docket	Copy for applicant
SF–424	Application for Federal Assistance	3	1	1-O and 1C	1-C
AD–622	Notice of Preapplication Review Action	2		1-C	
FmHA 1940–1	Request for Obligation of Funds	4	2	1-O and 2C	1-C
FmHA 400–4	Assurance Agreement	2	1	1-O	1-C
	HUD Form 935.2, Affirmative Fair Housing Marketing Plan	3	1	1-O and 1C	1-C
	Certified Copy Authorizing Resolution	1	1	1-O	
	Self-Help Technical Assistance Grant Agreement (Exhibit A)	2	1	1-O	1-C
	Any Personnel Forms to be used	2		1-O	1-C

O=Original.
C=Copy.

§ 1944.413 Grant approval.

(a) *Approval of grant.* Within 30 days of the grantee meeting the conditions of § 1944.411 of this subpart or, if applicable, signing Exhibit D, the approving official will:

(1) Execute and distribute Form FmHA 1940–1 in accordance with the Forms Manual Insert (FMI).

(2) After the Finance Office acknowledges that funds are obligated, request an initial advance of funds on Form FmHA 440–57, "Acknowledgment of Obligated Funds/Check Request," in accordance with the FMI. The amount of this request should cover the applicant's needs for the remainder of the month in which the grant is closed plus the next month. Subsequent advances will cover only a one-month period.

(b) *Cancellation of an approved grant.* An approved grant may be canceled before closing if the applicant is no longer eligible, the proposal is no longer feasible, or the applicant requests cancellation. Cancellation will be accomplished as follows:

(1) The District Director will prepare Form FmHA 1940–10, "Cancellation of U.S. Treasury Check and/or Obligation," according to the FMI and send it to the State Director with the reasons for cancellation. If the State Director approves the request, Form FmHA 1940–10 will be returned to the District Office for processing in accordance with the FMI.

(2) The District Director will notify the applicant of the cancellation and the right to appeal under subpart B of part 1900 of this chapter. If the applicant requested the cancellation, no appeal rights are provided, but the applicant will still be notified of the cancellation.

(c) *Disapproval of grant.* If a grant is disapproved after the docket has been developed, the approving official will state the reason on the original Form FmHA 1940–1, or in a memorandum to the District Director. The District Director will notify the applicant in writing of the disapproval and the reason for disapproval. Also, the notification will inform the applicant of its appeal rights under subpart B of part 1900 of this chapter.

§ 1944.414 [Reserved]

§ 1944.415 Grant approval and other approving authorities.

(a) The State Director is authorized to approve or disapprove TA grants under this subpart. For a grant in excess of $300,000, or in the case of a grant amendment when the amount of the grant plus any unexpended funds from a previous grant will exceed $400,000, prior written consent of the National Office is required. In such cases, the docket, along with the State Director's recommendations, must be submitted to the National Office for review.

(b) The State Director may approve a grant not to exceed $10,000 to an eligible organization under § 1944.410(d) of this subpart. The grant must be limited to 6 months and funds must be used for the development of the final application, family recruitment, and related activities as explained in § 1944.410(e) of this subpart. The amount of this grant will not be included in figuring TA cost per units.

(c) The authority to contract for services is limited to the Administrator of FmHA.

(d) Monthly expenditures of the grantee will normally be approved by the District Director unless:

(1) The grantee operates in only one county, in which case the authority may be delegated to the County Supervisor.

(2) The grantee operates in more than one FmHA District, in which case the State Director will designate the approving official.

(3) The grantee operates in more than one State Director's jurisdiction, in which case the Administrator will designate the approving official.

(4) The expenditure is under contract authority, in which case the Contracting Official Representative will approve the monthly expenditure.

§ 1944.416 Grant closing.

The grant is closed on the date the Agreement is executed as defined in § 1944.403(a) by the applicant and the Government. Funds may not be advanced prior to the signing of the

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Agreement. The District Director or Assistant District Director are authorized to execute the Agreement for FmHA. Person(s) authorized by resolution may sign for the applicant.

§ 1944.417 Servicing actions after grant closing.

FmHA has a responsibility to help the grantee be successful and help the grantee avoid cases of fraud and abuse. Servicing actions also include correlating activities between the grantee and FmHA to the benefit of the participating families. The amount of servicing actions needed will vary in accordance with the experience of the grantee, but as minimum the following actions are required:

(a) Monthly, the grantee will provide the District Director with a request for additional funds on Form SF–270, "Request for Advance or Reimbursement." This request need only show the amount of funds used during the previous month, amount of unspent funds, projected need for the next 30 days, and written justification if the request exceeds the projected need for the next 30 days. This request must be in the District Director's office fifteen days prior to the beginning of the month. Upon receipt of the grantee's request, the District Director will:

(1) If the request appears to be in order, process Form FmHA 440–57 so that delivery of the check will be possible on the first of the next month.

(2) If the request does not appear to be in order, immediately contact the grantee to resolve the problem. After the contact:

(i) If the explanation is acceptable, process Form FmHA 440–57 so delivery may be possible by the first of the next month, or

(ii) If the explanation is not acceptable, immediately notify the grantee and request the amount of funds that appear reasonable for the next 30 days on Form FmHA 440–57, so that delivery may be possible by the first of the next month. Unapproved funds that are later approved will be added to the next month's request.

(b) Quarterly, the grantee will submit Exhibit B of this subpart in an original and three copies to the County Supervisor on or before January 15, April 15, July 15, and October 15 which will verify its progress toward meeting the objectives stated in the Agreement and the application. The County Supervisor will immediately complete the County Office review part and forward the report to the District Office. After Exhibit C is received in the District Office, a meeting should be scheduled between the grantee, District Director, and the County supervisor since this is an opportune time for both the grantee and FmHA to review progress to date and make necessary adjustments for the future. This meeting is required if the grantee was previously identified as a problem grantee or will be identified as a problem grantee at this time. Regardless of whether a meeting will be held, the following will be done:

(1) Exhibit B and other information will be evaluated to determine progress made to date. The District Director will comment on Exhibit B as to whether the grantee is ahead or behind schedule in each of the following areas:

(i) *Assisting the projected number of families.*

(ii) *Serving very low-income applicants.* Is the grantee reaching a minimum of very low-income families as required in Exhibit A, Attachment 2 to subpart L of part 1940 of this chapter (available in any FmHA office).

(iii) *Equivalent units (EUs).* Is the number of EUs completed representative of lapse in time of the grant? For example, if 25 percent of the grant period has elapsed, are 25 percent of the number of EUs completed?

(iv) *Labor contributions by the family.* Are the families working together and are they completing the labor tasks as established on Exhibit B–2?

(2) The District Director will submit Exhibit B to the State Director who will evaluate the quarterly report along with the District Director's comments. If the State Director determines the grantee is progressing satisfactorily, the State Director will sign and forward Exhibit B to the National Office. However, if the State Director determines the grantee is not performing as expected, the State Director will notify the grantee that it has been classified a "High Risk" grantee. The notice will specify the deficiencies and inform the grantee of proposed remedies for noncompliance. The notice will advise the grantee that FmHA is available to assist and provide the name and address of an organization that is under contract with FmHA to assist them. The State Director will forward a copy of Exhibit B, District Directors comments, and the reasons for classifying them as "High Risk" to the National Office, Single Family Housing, Special Programs Branch. When the period of time provided for corrective action has expired, an assessment will be made of the progress by the grantee toward correcting the situation. If the State Director determines:

(i) The situation has been corrected or reasonable progress has been made toward correcting the situation, the "High Risk" status will be lifted and the grantee so notified.

(ii) The situation has not been corrected but it is correctable if additional time is granted, an extension will be issued.

(iii) The situation has not been corrected and it is unlikely to be corrected if given additional time, the grant will be terminated under § 1944.428(b)(1) of this subpart.

§ 1944.418 [Reserved]

§ 1944.419 Final grantee evaluation.

Near the end of the grant period but prior to the last month, an evaluation of the grantee will be conducted by FmHA. The State Director may use FmHA employees or an organization under contract to FmHA to provide the evaluation. The evaluation is to determine how successful the grantee was in meeting goals and objectives as defined in the agreement, application, this regulation, and any amendments.

(a) This is a quantitative evaluation of the grantee to determine if it met its goals in:

(1) Assisting the project number of families in obtaining adequate housing.

(2) Meeting the goal of assisting very low-income families.

(3) Meeting the family labor requirement in § 1944.411(h) and Exhibit B–2 of this subpart.

(4) Keeping costs within the guides set in § 1944.407.

(5) Meeting order objectives in the Agreement.

(b) The evaluation is a narrative addressed to the State Director with a copy of the National Office, Single Family Housing Processing Division. It will be in 3 parts, namely; findings, recommendations, and an overall rating. The rating will be either unacceptable, acceptable, or outstanding, as follows:

(1) Outstanding if the grantee met or exceeded all of the goals in paragraph (a) of this section.

(2) Acceptable if the grantee met or exceeded all of the goals as defined in paragraph (a) except two.

(3) Unacceptable if the grantee failed to obtain an acceptable rating.

(c) After the State Director has reviewed the evaluation, a copy will be mailed to the grantee. The grantee may request a review of the evaluation with the District Director. This review is for clarification of the material and to dispute the findings if they are known to be wrong. The rating is not open for discussion except to the extent it can be proven that the findings do not support the rating. If this is the case, the District

Director will file an amendment to the State Director.

§ 1944.420 Extension or revision of the grant agreement.

The State Director may authorize the District Director to execute on behalf of the Government, Exhibit C of this subpart, at any time during the grant period provided:

(a) The extension period is for no more than one year from the final date of the existing Agreement.

(b) The need for the extension is clearly justified.

(c) If additional funds are needed, a revised budget is submitted with complete justification, and

(d) The grantee is within the guidelines in § 1944.407 of this subpart or the State Director determines that the best interest of the Government will be served by the extension.

§ 1944.421 Refunding of an existing grantee.

Grantees wishing to continue with self-help efforts after the end of the current grant plus any extensions should file Form SF–424, in accordance with § 1944.410(e). It is recommended that it be filed at least 6 months before the end of the current grant period. Funds from the existing grant may be used to meet the conditions of a new grant to serve the same or redefined geographic area. If the grantee is targeting a different geographic area, a new preapplication must be submitted in accordance with § 1944.410 and the grantee may apply for a predevelopment grant in accordance with § 1944.410(d). In addition to meeting the conditions of an applicant as defined in § 1944.411 of this subpart, the grantee must also have received or will receive an acceptable rating on its current grant unless an exception is granted by the State Director. The State Director may grant an exception to the rating if it is determined that the reasons causing the previous unacceptable rating have been removed or will be removed with the approval of this grant.

§ 1944.422 Audit and other report requirements.

The grantee must submit an audit to the appropriate FmHA District Office annually (or biannually if a State or local government with authority to do a less frequent audit requests it) and within 90 days of the end of the grantee's fiscal year, grant period, or termination of the grant. The audit, conducted by the grantee's auditors, is to be performed in accordance with Generally Accepted Government Auditing Standards (GAGAS), using the publication "Standards for Audit of Governmental Organizations, Programs, Activities and Functions" developed by the Comptroller General of the United States in 1981, and any subsequent revisions. In addition, the audits are also to be performed in accordance with 7 CFR parts 3015 and 3016 and FmHA requirements as specified in this subpart. Audits of borrower loan funds will be required. The number of borrower accounts audited will be determined by the auditor. In incidences where it is difficult to determine the appropriate number of accounts to be audited, auditors should be authorized by the State Director to audit the lesser of 10 loans or 10 percent of total loans.

(a) *Nonprofit organizations and others.* If determined necessary these organizations are to be audited in accordance with FmHA requirements OMB Circular A–110, A–133, and 7 CFR part 3015. These requirements also apply to public hospitals, public colleges, and universities if they are excluded from the audit requirements of paragraph (b) of this section.

(1) An audit conducted by the grantee's auditor shall be supplied to the FmHA District Director as soon as possible but in no case later than ninety (90) days following the period covered by the grant agreement.

(2) Auditors shall promptly notify United States Department of Agriculture's Office of the Inspector General Regional Inspector General and the FmHA District Office, in writing, of any indication of fraud, abuse, or illegal acts in grantees use of grant funds or in the handling of borrowers accounts.

(3) Nonprofit organizations that receive less than $25,000 a year in Federal financial assistance need not be audited.

(b) *State and local governments and Indian tribes.* These organizations are to be audited in accordance with this subpart and 7 CFR part 3016. The grantee will forward completed audits to the appropriate Federal cognizant agency and a copy to the FmHA District Director. "Cognizant agency" means the Federal agency assigned by OMB Circular A–128. Within USDA, and OIG shall fulfill cognizant agency responsibilities. Smaller grantees not assigned a cognizant agency by OMB should contact the Federal agency that provided the most funds. When USDA is designated as the cognizant agency or when it has been determined by the borrower that FmHA provided the major portion of Federal financial assistance, the State Director will contact the appropriate USDA OIG Regional Inspector General. FmHA and the borrower shall coordinate all proposed audit plans with the appropriate USDA OIG.

(1) State and local governments and Indian tribes that receive $25,000 or more a year in Federal financial assistance shall have an audit made in accordance with 7 CFR part 3016.

(2) State and local and Indian tribes that receive less than $25,000 a year in Federal financial assistance shall be exempt from 7 CFR part 3016.

(3) Public hospitals and public colleges and universities may be excluded by the State Director from OMB Circular A–128 audit requirements. If such entities are excluded, audits shall be made in accordance with paragraph (a) of this section.

§ 1944.423 Loan packaging and 502 RH application submittal.

A grantee is required to assist 502 RH applicants in submitting their application for a RH loan. Loan packaging will be performed in accordance with Exhibit A of subpart A of part 1944 of this chapter; therefore, it is important that the grantee be trained at an early date in the packaging of RH loans. Typically, this training should take place before the first applications are submitted to the County Office and before the grant is closed. A grantee should become very knowledgeable of FmHA's eligibility requirements but must understand that only FmHA can approve or deny an applicant assistance. Grantee must work cooperatively with FmHA in the 502 loan approval process and must work within the regulations for the 502 program and recognize FmHA's ultimate decision making authority to approve or deny loans. However, the grantee may ask for clarification that may be helpful in working with future applicants. Grant funds may not be used to pay any expense in connection with an appeal that the applicant may file or pursue.

§ 1944.424 Dwelling construction and standards.

All construction will be performed in accordance with subpart A of part 1924 of this chapter. The planned work must meet the building requirements of subpart A of part 1944 of this chapter and meet the Development Standards as defined in subpart A of part 1924 of this chapter and in any local codes. Sites and site developments must conform to the requirements of subpart C of part 1924 of this chapter.

§ 1944.425 Handling and accounting for borrower loan funds.

Grantees will be required to administer borrower loan funds during the construction phases. The extent of their involvement will depend on the experience of the grantee and the

amount of authority delegated to them by the District Director in accordance with § 1924.6(c) of subpart A of part 1924 of this chapter. Training should include FmHA's non-discrimination policies in receiving applications.

§ 1944.426 Grant closeout.

(a) *Grant purposes completed.* Promptly after the date of completion, grant closeout actions will be taken to allow the orderly discontinuance of grantee activity.

(1) The grantee will immediately refund to FmHA any balance of grant funds advanced that are not committed for the payment of authorized expenses as prescribed in § 1951.58(j) of FmHA Instruction 1951–B (available in any FmHA office).

(2) The grantee will furnish Form SF–269A, "Financial Status Report (short form)" to FmHA within 90 days after the date of completion of the grant. All other financial, performance, and other reports required as a condition of the grant also will be completed.

(3) After the grant closeout, FmHA retains the right to recover any disallowed costs which are discovered as a result of the final audit. Subpart M of part 1951 of this chapter will be used by FmHA to recover any unauthorized expenditures.

(4) The grantee will provide FmHA an audit conforming to those requirements established in this part, including audits of self-help borrower accounts.

(5) Upon request from the recipient, any allowable reimbursable cost not covered by previous payments shall be promptly paid by FmHA.

(b) *Grant purposes not completed*—(1) *Notification of termination.* The State Director will promptly notify the grantee and the National Office in writing of the termination action including the specific reasons for the decision and the effective date of the termination. The notification to the grantee will specify that if the grantee believes the reason for the proposed termination can be resolved, the grantee should, within 15 calendar days of the date of this notification, contact the State Director in writing requesting a meeting for further consideration. The meeting will be an informal proceeding at which the grantee will be given the opportunity to provide whatever additional information it believes should be considered in reaching a decision concerning the case. The grantee may have an attorney or any other person present at the meeting if desired. Within 7 calendar days of the meeting, the State Director will determine what action to take.

(i) If the State Director determines that termination is not necessary, the grantee will be informed by letter along with the District Director.

(ii) If the State Director determines that termination of the grant is appropriate, he/she will promptly inform the grantee by the use of Exhibit B–3 of subpart B of part 1900 of this chapter.

(2) *National Office review.* (i) Upon receipt of a request from a grantee that the decision of the State Director be reconsidered, the National Office will make a preliminary decision concerning the continued funding of the grantee during the appeal period. Written notification of the decision will be given to the State Director and grantee.

(ii) The National Office will then obtain a comprehensive report on the matter from the State Office. This information will be considered together with any additional information that may be provided by the grantee.

(c) *Grant suspension.* When the grantee has failed to comply with the terms of the agreement, the District Director will promptly report the facts to the State Director. The State Director will consider termination or suspension of the grant usually only after a Grantee has been classified as "high risk" in accordance with § 1944.417(b)(2) of this subpart. When the State Director determines that the grantee has a reasonable potential to correct deficiencies the grant may be suspended. The State Director will request written authorization from the National Office to suspend a grantee. The suspension will adhere to 7 CFR parts 3015 and 3016. The grantee will be notified of the grant suspension in writing by the State Director. The State Director will also promptly inform the grantee of its rights to appeal the decision by use of Exhibit B–3 of subpart B of part 1900 of this chapter.

(d) *Grant termination.* The State Director may terminate the grant agreement whenever FmHA determines that the grantee has failed to comply with terms of the Agreement. The reasons for termination may include, but are not limited to, such problems as listed in paragraph (e)(3)(i) of Exhibit A of this subpart. The State Director may also withhold further disbursement of grant funds and prohibit the grantee from incurring additional obligations of grant funds with written approval of the National Office. FmHA will allow all necessary and proper costs which grantee could not reasonably avoid.

(i) *Termination for cause.* The grant agreement may be terminated in whole, or in part, at any time before date of completion, whenever FmHA determines that the grantee has failed to comply with terms of the Agreement. The State Director will notify the grantee in writing giving the reasons for the action and inform the grantee of its rights of appeal by use of Exhibit B–3 of subpart B of part 1900 of this chapter.

(ii) *Termination for convenience.* FmHA or the grantee may terminate the grant in whole, or in part, when both parties agree that the continuation of the grant would not produce beneficial results. The two parties will agree in writing to the termination conditions including the effective date. No notice of rights of appeal will be issued by FmHA.

§ 1944.427 Grantee self-evaluation.

Annually or more often, the board of directors will evaluate their own self-help program. Exhibit E of this subpart is provided for that purpose. It is also recommended that they review their personnel policy, any audits that may have been conducted and other reports to determine if they need to make adjustments in order to prevent fraud and abuse, and meet the goals in the current grant agreement.

§§ 1944.429–1944.449 [Reserved]

§ 1944.450 OMB control number.

The reporting and recordkeeping requirements contained in this regulation have ben approved by the Office of Management and Budget and have been assigned OMB control number 0575–0043. Public reporting burden for this collection of information is estimated to vary from 10 minutes to 18 hours per response, with an average of 1.17 hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, room 404–W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB# 0575–0043), Washington, DC 20503.

Exhibits to Subpart I

Exhibit A—Self-Help Technical Assistance Grant Agreement

THIS GRANT AGREEMENT dated _____, 19____, is between _____

_____

a nonprofit corporation ("Grantee"), organized and operating under

_____

(authorizing State statute)

and the United States of America acting through the Farmers Home Administration, Department of Agriculture ("FmHA").

In consideration of financial assistance in the amount of $_____ (called "Grant Funds") to be made available by FmHA to Grantee under section 523(b)(1)(A) of the Housing Act of 1949 to be used in (specify area to be served) _____ for the purpose of providing a program of technical and supervisory assistance which will aid low-income families in carrying out mutual self-help housing efforts. Grantee will provide such a program in accordance with the terms of this Agreement and FmHA regulations.

Definitions:

Date of Completion means the date when all work under a grant is completed or the date in the TA Grant Agreement, or any supplement or amendment thereto, on which Federal assistance ends.

Disallowed costs are those charges to a grant which the FmHA determines cannot be authorized.

Grant Closeout is the process by which the grant operation is concluded at the expiration of the grant period or following a decision to terminate the grant.

Termination of a grant means the cancellation of Federal assistance, in whole of in part, under a grant at any time prior to the date of completion.

Terms of agreement:

(a) This Agreement shall terminate _____ years from this date unless extended or sooner terminated under paragraphs (e) and (f) of this Agreement.

(b) Grantee shall carry out the self-help housing activity described in the application docket which is attached to and made a part of this Agreement. Grantee will be bound by the conditions set forth in the docket, 7 CFR part 1944, subpart I, and the further conditions set forth in this Agreement. If any of the conditions in the docket are inconsistent with those in the Agreement or subpart I of part 1944, the latter will govern. A waiver of any condition must be in writing and must be signed by an authorized representative of FmHA.

(c) Grantee shall use grant funds only for the purposes and activities specified in FmHA regulations and in the application docket approved by FmHA including the approved budget. Any uses not provided for in the approved budget must be approved in writing by FmHA in advance.

(d) If Grantee is a private nonprofit corporation, expenses charged for travel or per diem will not exceed the rates paid FmHA employees for similar expenses. If Grantee is a public body, the rates will be those that are allowable under the customary practice in the government of which Grantee is a part; if none are customary, the FmHA rates will be the maximum allowed.

(e) Grant closeout and termination procedures will be as follows:

(1) Promptly after the date of completion or a decision to terminate a grant, grant closeout actions are to be taken to allow the orderly discontinuation of Grantee activity.

(i) Grantee shall immediately refund to FmHA any uncommitted balance of grant funds.

(ii) Grantee will furnish to FmHA within 90 days after the date of completion of the grant a "Financial Status Report", Form SF–269A. All financial, performance, and other reports required as a condition of the grant will also be completed.

(iii) Grantee shall account for any property acquired with technical assistance (TA) grant funds, or otherwise received from FmHA.

(iv) After the grant closeout, FmHA retains the right to recover any disallowed costs which may be discovered as a result of any audit.

(2) When there is reasonable evidence that Grantee has failed to comply with the terms of this Agreement, the State Director may determine Grantee as "high risk". A "high risk" Grantee will be supervised to the extent necessary to protect the Government's interest and to help Grantee overcome the deficiencies.

(3) Grant termination will be based on the following:

(i) *Termination for cause.* This grant may be terminated in whole, or in part, 90 days after a Grantee has been classified as "high risk" if the State Director determines that Grantee has failed to correct previous deficiencies and is unlikely to correct such items if additional time is allowed. The reasons for termination may include, but are not limited to, such problems as:

(A) Actual TA costs significantly exceeding the amount stipulated in the proposal.

(B) The number of homes being built is significantly less than proposed construction or is not on schedule.

(C) The cost of housing not being appropriate for the self-help program.

(D) Failure of Grantee to only use grant funds for authorized purposes.

(E) Failure of Grantee to submit adequate and timely reports of its operation.

(F) Failure of Grantee to require families to work together in groups by the mutual self-help method in the case of new construction.

(G) Serious or repetitive violation of any of the provisions of any laws administered by FmHA or any regulation issued under those laws.

(H) Violation of any nondiscrimination or equal opportunity requirement administered by FmHA in connection with any FmHA programs.

(I) Failure to establish an accounting system acceptable to FmHA.

(J) Failure to serve very low-income families.

(K) Failure to recruit families from substandard housing.

(ii) *Termination for convenience.* FmHA or Grantee may terminate the grant in whole, or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in case of partial termination, the portion to be terminated.

(4) To terminate a grant for cause, FmHA shall promptly notify Grantee in writing of the determination and the reasons for and the effective date of the whole or partial termination. Grantee will be advised of its appeal rights under 7 CFR part 1900, subpart B.

(f) An extension of this grant agreement may be approved by FmHA provided, in its opinion, the extension is justified and there is a likelihood that the Grantee can accomplish the goals set out and approved in the application docket during the period of the extension.

(g) Grant funds may not be used to pay obligations incurred before the date of this Agreement. Grantee will not obligate grant funds after the grant termination or completion date.

(h) As requested and in the manner specified by FmHA, the Grantee must make quarterly reports, Exhibit C of this subpart (on 1/15, 4/15, 7/15 and 10/15 of each year), and a financial status report at the end of the grant period, and permit on-site inspections of program progress by FmHA representatives. FmHA may require progress reports more frequently if it deems necessary. Grantee must also comply with the audit requirements found in § 1944.422 of subpart I of 7 CFR part 1944, if applicable. Grantee will maintain records and accounts, including property, personnel and financial records, to assure a proper accounting of all grant funds. These records will be made available to FmHA for auditing purposes and will be retained by Grantee for three years after the termination or completion of this grant.

(i) Acquisition and disposal of personal equipment and supplies should comply with subpart R of 7 CFR part 3015 and subpart C of 7 CFR part 3016.

(j) Results of the program assisted by grant funds may be published by Grantee without prior review by FmHA, provided that such publications acknowledge the support provided by funds pursuant to the provisions of Title V of the Housing Act of 1949, 42 U.S.C. 1471, *et seq.*, and that five copies of each such publication are furnished to the local representative of FmHA.

(k) Grantee certifies that no person or organization has been employed or retained to solicit or secure this grant for a commission, percentage, brokerage, or contingent fee.

(l) Grantee shall comply with all civil rights laws and the FmHA regulations implementing these laws.

(m) In all hiring or employment made possible by or resulting from this grant, Grantee: (1) Will not discriminate against any employee or applicant for employment because of race, religion, color, sex, marital status, national origin, age, or mental or physical handicap, and (2) will take affirmative action to insure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex, marital status, national origin, or mental or physical handicap. This requirement shall apply to, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In the event Grantee signs a contract which would be covered by any Executive Order, law, or regulation prohibiting discrimination, Grantee shall

include in the contract the "Equal Employment Clause" as specified by FmHA.

(n) It is understood and agreed by Grantee that any assistance granted under this Agreement will be administered subject to the limitations of Title V of the Housing Act of 1949 as amended, 42 U.S.C. 1471 *et seq.*, and related regulations, and that rights granted to FmHA in this Agreement or elsewhere may be exercised by it in its sole discretion to carry out the purposes of the assistance, and protect FmHA's financial interest.

(o) Grantee will maintain a code or standards of conduct which will govern the performance of its officers, employees, or agents. Grantee's officers, employees, or agents will neither solicit nor accept gratuities, favors, or anything of monetary value from suppliers, contractors, or others doing business with the grantee. To the extent permissible by State or local law, rules, or regulations such standards will provide for penalties, sanctions, or other disciplinary actions to be taken for violations of such standards.

(p) Grantee shall not hire or permit to be hired any person in a staff position or as a participant if that person or a member of that person's immediate household is employed in an administrative capacity by the organization, unless waived by the State Director. (For the purpose of this section, the term "household" means all persons sharing the same dwelling, whether related or not).

(q) Grantee's board members or employees shall not directly or indirectly participate, for financial gain, in any transactions involving the organization or the participating families. This includes activities such as selling real estate, building material, supplies, and services.

(r) Grantee will retain all financial records, supporting documents, statistical records, and other records pertinent to this agreement for 3 years, and affirms that it is fully aware of the provisions of the Administrative Remedies for False Claims and Statements Act, 31 U.S.C. 3801, *et seq.*

By _____
(Signature)

_____
(Title)
GRANTEE

By _____
(Signature)

_____
(Title)
FARMERS HOME ADMINISTRATION

Exhibit B—Evaluation Report of Self-Help Technical Assistance (TA) Grants

Evaluation for Quarter Ending: (1) _____, 19____

1. a. Name of Grantee: (2) _____
   b. Address: (3) _____
   c. Area the grant serves: (4) _____
2. Date of Agreement: (5) _____ Time Extended (6) _____
3. a. Equivalent unit increase during quarter:
(7) _____
First Month
(8) _____
Second Month
(9) _____
Third Month
   b. Cumulative total number of Equivalent Units since beginning of grant:
(10) _____
Total to Date
4. a. Method of Construction:
   Stick built _____%, Panelized _____%, Combined _____%
   b. Number of bedrooms per house built this grant period:
2BR, _____
3BR, _____
   c. Household size this Quarter:
1 person _____,
2 persons _____,
3 persons _____,
4 persons _____,
5 persons _____
   d. Number of houses under construction this grant period, but started during previous grant period: _____
5. a. Number of houses proposed under this grant:
(11) _____
   b. Number of houses completed under this grant:
(12) _____
   c. Number of houses currently under construction:
(13) _____
   d. Number of families in pre construction:
(14) _____
   e. Number of Construction Supervisors:
(15) _____
   f. Number of TA employees:
(16) _____
6. a. Average time needed to construct a single house:
(17) _____
   b. Number of months between submission of self-help borrower's docket and approval/rejection:
(18) _____
   c. Number and percentage of loan docket rejections during reporting period: _____
(19) _____
7. a. Did any of the following adversely affect the Grantee's ability to accomplish program objectives?

	YES	NO
TA Staff Turnover	_____	_____
FmHA Staff Turnover	_____	_____
Bad Weather	_____	_____
Loan Processing Delays	_____	_____
Site Acquisition and Development	_____	_____
Unavailable Loan/Grant Funds	_____	_____
Lack of Participants	_____	_____
Communication between FmHA/Grantee	_____	_____

8. Attach information concerning number of families contacted, number who have indicated a willingness to be a participating family, number of mutual self-help groups organized, progress on any construction started, and any problems relating to the operation of this grant.

I certify that the statements made above are true to the best of my knowledge and belief.

(20) _____
(Date)

(21) _____
(Title)
GRANTEE
(22) _____
(Signature)

County Office Review

I have reviewed the above information which I have found to be substantially correct. Must be completed by County Office.
Comment: Must be completed (23)
Average appraisal value of units financed this Quarter:

_____

Average amount loan per unit financed this Quarter:

_____

(24) _____
(Date)
(25) _____
County Supervisor

District Office Review

Comment: Must be completed (26)
(27) _____
Date
(28) _____
District Director

State Office Review

Comment: Must be completed (29)
(30) _____
Date
(31) _____
State Office Representative

Exhibit B-1—Instructions for Preparation of Evaluation Report of Self-Help Technical Assistance Grants

Exhibit B will be used by all Technical Assistance (TA) Grantees obtaining self-help TA grants. This attachment provides the grantee and FmHA a uniform method of reporting the performance progress of self-help projects. The TA Grantee will prepare an original and 4 copies of the attachment. The TA Grantee will sign the original and 3 copies and forward it to the local FmHA County Office. The TA Grantee will keep the unsigned copy for its records.

The evaluation report will be completed in accordance with the following:

1. Enter the date the quarter ends either March 31, June 30, September 30, or December 31 and the year.
2. Enter the full name of the TA Grantee organization.
3. Enter the complete mailing address of the TA Grantee organization.
4. Enter the area served by the grant.
5. Enter the date of the initial self-help TA grant agreement.
6. Enter the time of any extension self-help TA grant agreement(s).
7. Insert the number of equivalent units (EU) completed the first/second/third month of the quarter using steps 1, 2, and 3 of Exhibit B-2.
8. Insert the number of EU's completed the second month of the quarter by using steps 1, 2, and 3 of Exhibit B-2.
9. Insert the number of EU's completed the third month of the quarter by using steps 1, 2, and 3 of Exhibit B-2.

10. Add items (7), (8), and (9) to the total from the previous quarterly report to obtain the cumulative total number of EU's. This total is the cumulative total number of EU's for the project.

11. Enter the number of houses planned in the TA Grantee proposal(s).

12. Enter the number of houses completed and occupied since the beginning of the grant.

13. Enter the number of houses that are under construction at the end of this quarter.

14. Enter the number of families in the pre-construction phase.

15. Enter the total number of construction supervisor(s) paid with TA grant funds.

16. Enter the number of employees paid with TA grant funds including those listed in item 15.

17. Insert the average elapsed time needed per house from excavation to final inspection by FmHA to complete construction of a house. If no self-help homes have been completed by this grantee, use other projects or your best estimate as a guide.

18. Enter the number of months it takes on average to approve or reject a borrower's docket once it's submitted.

19. Enter number and percent of dockets submitted and rejected this quarter.

20. Enter date of Exhibit submittal.

21. Insert title of the Grantee or authorized representative.

22. Signature of Grantee or authorized representative.

23. County Supervisor must answer questions concerning market value and loan amount and also should insert comments concerning progress of construction, success of the project and any problems that the organization may have.

24. Insert date of County Supervisor's review.

25. Signature of County Supervisor.

26. District Director representative should insert his/her comments concerning items listed in § 1944.417(b)(1) of 1944-I.

27. Insert date of District Director review.

28. Signature of District Director or representative.

29. Insert State Office comments.

30. Insert date of State Office review.

31. Signature of State Office representative.

Exhibit B-2—Breakdown of Construction Development for Determining Percentage Construction Completed

	In percent—		
	With slab on grade	With crawl space	With basement
1. Excavation	3	5	6
The removal of earth to allow the construction of a foundation or basement.			
2. Footing, Foundations, columns	8	8	11
Footing: Construction of the spreading course or courses at the base or bottom of a foundation wall, pier, or column. Foundation: Construction of the supporting portion of a structure below the first floor construction, or below grade, including footing.			
3. Floor slab or framing	5	4	4
The floor slab consist of concrete, usually reinforced, poured over gravel and a vapor barrier with perimeter insulation to prevent heat loss.			
4. Subflooring	0	1	1
The installation of materials used for flooring that is laid directly on the joist and serving the purpose of a floor during construction prior installation of the finish floor.			
5. Wall framing sheathing	7	7	6
The construction process of putting together and erecting the skeleton parts of a building's walls (the rough lumber work) and, for the exterior walls, covering with sheathing (plywood, waferboard, oriented strand board or lumber) and insulating board to close up the side walls prior to the installation of finish materials on the surface.			
6. Roof and ceiling framing, sheathing	6	6	5
The process, or method, of putting the parts of a roof, such as truss, rafters, ridge and plates in position. Ceiling joist support the overhead interior lining of a room. Roof sheathing is any sheet material, such as plywood or particleboard, connected to the roof rafters or truss to act as a base for sheathing felt, shingles or other roof covers.			
7. Roofing	5	5	4
The installation of a material that acts as a roof covering, making it impervious to the weather, such as shingles over sheathing felt, tile, or slate.			
8. Siding, exterior trim, porches	7	7	6
The installation of lumber, panel products or other materials intended for use as the exterior wall covering including all trim.			
9. Windows and exterior doors	9	9	8
The installation of all exterior windows and doors. This includes securely fastening windows and doors plumb and level, square and true and adjusting sash, screens and hardware for smooth and proper operation.			
10. Plumbing—roughed in	3	2	3
Subject to local codes and regulations the installation of all parts of the plumbing system which must be completed prior to the installation of plumbing fixtures or appliances. This includes drain, waste, and vent piping, water supply, and the necessary built-in fixture supports.			
11. Sewage disposal	1	1	1
Subject to local codes and regulations the construction and installation of a wastewater disposal system consisting of a house sewer, a pretreatment unit (*e.g.*, septic tank, individual package treatment plant), an acceptable absorption system (subsurface absorption field, seepage pit, or subsurface absorption bed). The system shall be designed to receive all sanitary sewage (bathroom, kitchen and laundry) from the dwelling, but not footing or roof drainage. It shall be designed so that gases generated anywhere in the system can easily flow back to the building sewer stack.			
12. Heating—roughed in	1	1	1
Subject to local codes and regulations the installation of ducts and/or piping and the necessary supports to minimize the cutting of walls and joist. This rough in is done before finish wall and floor installed.			
13. Electrical—roughed in	2	2	2

	In percent—		
	With slab on grade	With crawl space	With basement
Subject to local codes and regulations the installation of conduit or cable and the location of switch, light, and outlet boxes with wires ready to connect. This roughing-in work is done before the dry wall finish is applied, and before the insulation is placed in the walls and ceiling.			
14. Insulation	2	2	2
The installation of any material used in walls, floors, and ceilings to prevent heat transmission as required by FmHA Instruction 1924–A, Exhibit D of 7 CFR of part 1924, subpart A.			
15. Dry wall	8	8	7
Dry walling is covering the interior walls using sheets of gypsum board and taped joints.			
16. Basement or porch floor, steps	1	1	6
The construction of basement or porch floors and steps whether wood or concrete.			
17. Heating—finished	3	3	3
Subject to local codes and regulations the installation of registers, grilles and thermostats.			
18. Flooring covering	6	6	5
The installation of the "finish flooring" (the material used as the final wearing surface that is applied to a floor). Floor covering include numerous flooring materials such as wood materials, vinyl, linoleum, cork, plastic, carpet and other materials in tile or sheet form.			
19. Interior carpentry, trim, doors	6	6	5
Installing visible interior finish work (molding and/or trim), including covering joints around window and door openings. The installation of an interior door including frames and trim.			
20. Cabinets and counter tops	1	1	1
Securing cabinets and counter tops (usually requiring only fastening to the wall or floor) that are plumb and level, square and true.			
21. Interior painting	4	4	3
Cleaning and preparation of all interior surfaces and applying paint in strict accordance with the paint manufacturer's instructions.			
22. Exterior painting	1	1	1
Cleaning and preparation of all exterior surfaces and applying paint in strict accordance with the paint manufacturer's instructions.			
23. Plumbing—complete fixtures	4	4	3
Subject to local codes and regulations the installation of a receptor or device which requires both a water supply connection and a discharge to the drainage system, such as water closets, lavatories, bathtubs or sinks. Also, the installation of an energized household appliance with plumbing connections, such as a clothes washer, water heater, dishwasher or garbage grinder.			
24. Electrical—complete fixtures	1	1	1
Subject to local codes and regulations the installation of the fixtures, the switches, and switch plates. This is usually done after the dry wall finish is applied.			
25. Finish hardware	1	1	1
The installation of all the visible, functional hardware in a house that has a finish appearance, including such features as hinges, locks, catches, pulls, knobs, and clothes hooks.			
26. Gutters and downspouts	1	1	1
The installation of a shallow channel of wood, metal, or PVC (gutters) positioned just below and following along the eaves of the house for the purpose of collecting and diverting water from a roof to a vertical pipe (downspouts) used to carry rainwater from the roof to the ground by way of a splash block or into a drainage system.			
27. Grading, paving, landscaping	3	3	3
Landscaping includes final grading, planting of shrubs and trees, and seeding or sodding of lawn areas. Final grading includes the best available routing of runoff water to assure that house and adjacent homes will not be endangered by the path of water runoff. The minimum slope should be 6" in 10' or 5% from the foundation of the home. Paving includes both driveways and walks.			
Total	100	100	100

Exhibit B–3—Pre-Construction and Construction Phase Breakdown

I. *General.* This Exhibit will be used by Farmers Home Administration (FmHA) and the Grantee in determining Grantee performance as required in § 1944.417(b) of this subpart.

II. *Determining technical assistance (TA) cost per unit.*

A. Equivalent units are used to measure progress at any time during the period of the grant. It is necessary because self-help grantees have several groups of families in various stages of progress during the period of the grant. The following formula has been developed to provide a more accurate method of determining progress.

FORMULA

Phase breakdown	In percent—	
	Value of each phase	Cumulative
Pre-construction:		
Phase I	10	10
Phase II	10	10
Construction:		
Phase III	80	21–100

E. Using the Description of Phase Breakdown as a guide, the project staff selects the total percentage pertinent to the stage the self-help group is in and multiplies that percentage by the number of families (units) in the group. The result is the equivalent number of units completed. No credit may be given for Phase I, if the application is rejected. When this computation has been completed for each group that falls within Phases I–III, the total number of equivalent units is divided into the total grant funds expended to that date. The result is the TA cost per unit at that stage of the program's progress.

C. The definition of pre-construction and construction phases described are follows:

Pre-Construction

Phase I: Hold community meetings; conduct interviews; obtain house plans; prepare cost estimates; begin search for land; submit family applications to the lender; lender runs credit check; applications. Lender either approves or rejects.

Phase II: Organize an association of section 502 Rural Housing eligible families; association conducts weekly meetings at which required lender forms are discussed and completed; house plans and land sites are selected; outside speakers explain and discuss taxes, insurance, how to keep a checking account, how interest is computed, home maintenance, decorating, and landscaping; etc.; completed loan dockets for each family are submitted to the lender. Family loan dockets are reviewed and recommendations made as to the loan amounts requested; the lender reviews family loan dockets; preliminary title search of each proposed building site is begun; requests loan check from Finance Office; when check arrives, final title search is made, loan closed, checking accounts opened, and construction begun.

Construction: The grantee will utilize Exhibit B-2 which outlines 27 construction tasks to determine the percentage of completed construction activities.

D. The computation of equivalent units and TA costs will be computed as follows:

Exhibit C will be used for recording the following information and construction in this example which starts January 1.

Step 1

Both the grantee and FmHA review the FmHA loan application records to determine the percentage of completion for each family in the pre-construction phase of the program. These are Phases I–III. Total these percentages to find the number of "equivalent units" (EUs) completed at that date during pre-construction. For example, if there are eight families in Group #2 and all have completed the 20 percent phase of pre-construction, then there would be 1.6 EUs in the pre-construction phase of the program as of that date. Each phase must be completed before it is considered in the calculation.

Step 2

Refer to the records of construction progress for families in the construction Phase III. As of that date, the director totals the percentage of completion figures for each family as follows:

Askew	0.45
Whited	0.40
Martinez	0.40
Gonzalez	0.38
Sherry	0.34
Duran	0.33
Johnson	0.13
Harvey	0.31
EUs	2.92

Total production in the construction phase is therefore 2.92 EUs as of that date.

Step 3

Add the pre-construction and construction subtotals together:

Pre-construction	1.60
Construction	2.92
Total EUs	4.52

This provides the total EUs of production during the first three months of operation. Steps 1, 2, and 3 will be used to complete items 7, 8 and 9 of Exhibit B of this subpart.

III. *Preparation:*

Compile Exhibit B of this subpart in an original and four copies. The exhibit will be signed by the TA Grantee. Submit the original and three copies of the exhibit quarterly to FmHA County Office on or before January 15, April 15, July 15, and October 15, of each year for the quarters ending March 31, June 30, September 30, and December 31 of each year. The District Director will keep the original and forward two copies to the State Office. The State Office will forward one copy to the National Office. The State Office will prepare information concerning TA grants closed within 30 days of the end of a quarter on the next quarterly report.

Exhibit C—Amendment to Self-Help Technical Assistance Grant Agreement

This Agreement dated, _____ 19____ between _____

a nonprofit corporation ("Grantee"), organized and operating under

_____

(authorizing State Statute)

and the United States of America acting through the Farmers Home Administration, Department of Agriculture ("FmHA"), amends the "Self-Help Technical Assistance Grant Agreement" between the parties dated _____ 19____, ("Agreement").

The Agreement is amended by providing additional financial assistance in the amount of _____ to be made available by FmHA to Grantee pursuant to section 523 of Title V of the Housing Act of 1949 for the purpose of assisting in providing a program of technical and supervisory assistance which will aid low-income families in carrying out mutual self-help housing efforts; or

The Agreement is amended by changing the completion date specified in convenant 1 from _____ to _____ and by making the following attachments to this amendment: (List and identify proposal and any other documents pertinent to the grant.)

Agreed to this ____ day of ____ 19____.

_____

(Name of Grantee)

By _____

(Signature)

_____

(Title)

United States of America

By _____

(Signature)

_____

(Title)

Farmers Home Administration

Exhibit D—Self-Help Technical Assistance Grant Predevelopment Agreement

This grant predevelopment agreement dated, ____ 19____, is between

_____

a nonprofit corporation ["Grantee"], organized and operating under

_____

[authorizing State statute]

and the United States of America acting through the Farmers Home Administration, Department of Agriculture ("FmHA").

In consideration of financial assistance in the amount of $____ ("Grant Funds") to be made available by FmHA to Grantee under section 523 (b)(1)(A) of the Housing Act of 1949 to be used in [specify area to be served) _____ for the purpose of developing a program of technical and supervisory assistance which will aid low-income families in carrying out mutual self-help housing efforts, Grantee will provide such a program in accordance with the terms of this Agreement and FmHA regulations.

Grant funds will be used for authorized purposes as contained in § 1944.410(d) of 7 CFR part 1944, subpart I, as necessary, to develop a complete program for a self-help TA grant. This will include recruitment, screening, loan packaging and related activities for prospective self-help participants.

Agreed to this ____ day of ____ 19____.

_____

(Name of Grantee)

By _____

(Signature)

_____

(Title)

United States of America

By _____

(Signature)

_____

(Title)

Farmers Home Administration

Exhibit E—Guidance for Recipients of Self-Help Technical Assistance Grants (Section 523 of Housing Act of 1949)

7 CFR part 1944, subpart I provides the specific details of this grant program. The following is a list of some functions of the grant recipients taken from this subpart. With the list are questions we request to be answered by the recipients to reduce the potential for fraud, waste, unauthorized use

or mismanagement of these grant funds. We suggest the Board of Directors answer these questions every six months by conducting their own review. Paid staff should not be permitted to complete this evaluation.

A. Family Labor Contribution

1. Does your organization maintain a list of each family and a running total of hours worked (when and on what activity)?..... Yes No
2. Are there records of discussions with participating families counselling them when the family contribution is falling behind?..... Yes No
3. Are there obstacles which prevent the family from performing the required tasks?..... Yes No

B. Use of Grant Funds

1. Were grant funds used to pay salaries or other expenses of personnel not directly associated with this grant?..... Yes No
2. Were grant funds used to pay for construction work for participating families?..... Yes No
3. Were all purchases or rentals (item and cost) of office equipment authorized?..... Yes No
4. Are all office expenses authorized by 7 CFR part 1944, subpart I?..... Yes No
5. Was a record of long distance telephone calls maintained and was that log and telephone checked?..... Yes No
6. Was all travel and mileage incurred for official business and properly authorized in advance?..... Yes No
7. Were mileage and per diem rates within authorized levels?..... Yes No
8. Were participating families charged for use of tools?..... Yes No
9. Were grant funds expended to train grant personnel?..... Yes No
10. Was training appropriate for the individual trainee?..... Yes No
11. Were any technical or consultant services obtained for participating families?..... Yes No
12. Were the provided technical or consultant services appropriate in type and cost?..... Yes No

C. Financial Responsibilities

1. Does each invoice paid by the grant recipient match the purchase order?..... Yes No
2. Does each invoice paid by the borrower and FmHA match the purchase order?..... Yes No
3. Were purchases made from the appropriate vendors?..... Yes No
4. Are the invoices and itemized statements totalled for materials purchased for individual families?..... Yes No
5. Is there a record of deposits and withdrawals to account for all loan funds?..... Yes No
6. Are checks from grant funds signed by the Board Treasurer and Executive Director?..... Yes No
7. Are grant funds deposited in an interest bearing account?..... Yes No
8. Are checks from loan funds prepared by the grant recipient for the borrower's and lender's signature?..... Yes No
9. Are checks from loan funds accompanied by accurate invoices?..... Yes No
10. Are any borrower loan funds including interests, deposited in grantee accounts?..... Yes No
11. Are checks from loan funds submitted to FmHA more often than once every 30 days?..... Yes No
12. Is the reconciliation of bank statements for both grant and loan funds completed on a monthly basis?..... Yes No
13. If the person who issues the checks also reconciles them, does the Executive Director review this activity?..... Yes No
14. Are materials purchased in bulk approved by the Executive Director?..... Yes No
15. Was the amount of materials determined by both the Executive Director and construction staff?..... Yes No
16. Were any participating families consulted about the purchase of materials?..... Yes No
17. Were savings accomplished by the bulk purchase method?.. Yes No
18. Did the Executive Director review the purchase order and the ultimate use of the materials?..... Yes No
19. Are materials covered by insurance when stored by grantee?..... Yes No

D. Reporting

1. Are "Requests for Advance or Reimbursement" made once monthly to the FmHA District Office?..... Yes No
2. Has the grant recipient engaged a certified public Accountant (CPA) or CPA firm to review their operations on a regular basis: (Annually is preferable but every two years and at the end or the grant period are requirements)?..... Yes No
3. Are the quarterly evaluation reports submitted on time to the County Supervisor?..... Yes No

What, if any, problems exist that need to be corrected for effective management of the grant project?

Date

President, Board of Directors

(Period covered by report _____)

Answer Key

The following answers should help your organization in assessing its vulnerability to fraud, waste, and abuse. You should take actions to correct practices that now generate an answer different from the key.

Question	Answer
A. 1	Yes
A. 2	Yes
A. 3	Yes
B. 1	No
B. 2	No
B. 3	Yes
B. 4	Yes
B. 5	Yes
B. 6	Yes
B. 7	Yes
B. 8	No
B. 9	Yes
B. 10	Yes
B. 11	Yes
B. 12	Yes
C. 1	Yes
C. 2	Yes
C. 3	Yes
C. 4	Yes
C. 5	Yes
C. 6	Yes
C. 7	No
C. 8	Yes
C. 9	Yes
C. 10	No
C. 11	No
C. 12	Yes
C. 13	Yes
C. 14	Yes
C. 15	Yes
C. 16	Yes
C. 17	Yes
C. 18	Yes
C. 19	Yes
D. 1	Yes
D. 2	Yes
D. 3	Yes

Exhibit F—Site Option Loan to Technical Assistance Grantees

I. *Objectives.* The objective of a Site Option (SO) loan under Section 523(b)(1)(B) of Title V of the Housing Act of 1949 is to enable technical assistance (TA) grantees to establish revolving fund accounts to obtain options on land needed to make sites available to families that will build their own homes by the self-help method. An SO loan will be considered only when sites cannot be made available by other means including a regular Rural Housing Site (RHS) loan.

II. *Eligibility requirements.* To be eligible for an SO loan, the applicant must be a TA grantee that is currently operating in a satisfactory manner under a TA grant agreement. If the SO loan applicant has applied for TA funds but is not already a TA grantee and it appears that the TA grant will be made, the SO loan may be approved but not closed until the TA grant is closed.

III. *Loan purposes.* Loans may be made only as necessary to enable eligible applicants to establish revolving accounts with which to obtain options on land that will be needed as building sites by self-help families participating in the TA self-help housing program. Loans will not be made to pay the full purchase price of land but only for the minimum amounts necessary to obtain an option from the seller. The option should be for as long as necessary but in no case should the option be for less than 90 days.

IV. *Limitations.*

(A) If the amount of an SO loan will exceed $10,000, the prior consent of the National Office shall be obtained before approval.

(B) The amount of the SO loan should not exceed 15 percent of the purchase price of the land expected to be under option at any one time, unless a higher percent is authorized by the State Director when other land is not available or the particular area requires more down payment than elsewhere or similar circumstances exist.

(C) Form FmHA 440–36, "Option to Purchase Real Property," will be used without modification in all cases for obtaining options under this subpart.

(D) The limitations of § 1822.269(b) (1) and (2) of subpart F of part 1822 of this chapter (FmHA Instruction 444.8, paragraphs VI B (1) and (2)) concerning land purchase will apply to options purchased under this subpart.

V. *Rates and terms.*

(A) *Interest.* Loans will be made at an interest rate of 5 percent.

(B) *Repayment period.* Each SO loan will be repaid in one installment which will include the entire principal balance and accrued interest. The maximum repayment period for each SO loan will be the applicant's remaining TA grant funding period.

(1) A shorter repayment period will be established if SO funds will not be needed for the entire TA grant funding period.

(2) If a regular RHS loan is to be processed, the SO loan should be scheduled for repayment when RHS loan funds will be available to purchase the land and repay the amount of SO funds advanced on the option, unless SO loan funds will still be needed to purchase other options. Under no circumstances, however, will the repayment period exceed the applicant's remaining TA grant funding period.

VI. *Processing application.*

(A) *Form of application:* The application for assistance will be in the form of a letter to the FmHA County Supervisor having jurisdiction over the area of the proposed site to be optioned. The letter will be signed by the applicant or its authorized representative and contain, as a minimum, the following information:

(1) A description of the proposed option that shows a legal description of the land, option price, purchase price, and terms of the option. If more than one site is to be purchased, a schedule of the proposed options should be included.

(2) Information to verify that a regular RHS loan cannot be processed in time to secure the option.

(3) Proposed method repayment of the SO loan.

(4) Resolution from the applicant's governing body authorizing the application for an SO loan from FmHA.

(B) *Responsibility of the County Supervisor.* Upon receipt of an SO loan application, the County Supervisor will:

(1) Determine whether the applicant is eligible. If the applicant is not eligible, or the loan cannot be made for other reasons, the application may be rejected by the County Supervisor with the concurrence of the District Director. The reasons for the rejection should be clearly stated and provided, in writing to the applicant. The applicant will have the right to have the decision reviewed following the procedure established in subpart B of part 1900 of this chapter.

(2) Review and verify the accuracy of the information provided.

(3) Make an inspection and a memorandum appraisal of each proposed site "as is." The appraisal will include a narrative statement as to whether the site has been recently sold, verify that the seller is the owner of the property, and indicate whether the purchase price is acceptable based on the selling price of similar properties in the area.

(4) Indicate whether or not it appears that, considering the location and cost of development, adequate building sites can be provided at reasonable costs.

(5) If the option is for a tract of land on which 5 or more sites are proposed, the County Supervisor will forward to the District Director with recommendations as defined in § 1924.119 of subpart C of part 1924 of this chapter.

(6) If approval is recommended, prepare and have the applicant execute Form FmHA 1940–1, "Request for Obligation of Funds," for the amount needed. Copies of the form will be distributed as provided in the Forms Manual Insert (FMI).

(7) Forward the SO loan application and the applicant's TA application or TA docket to the State Director. The submission will include the appraisal report and the County Supervisor's comments and recommendations.

VII. *Loan approval authority and State Office actions.*

The State Director is authorized to approve SO loans developed in accordance with this Exhibit. The approval or disapproval of the loan will be handled in the same manner as provided in § 1822.272 of subpart F of part 1822 of this chapter (FmHA Instruction 444.8, paragraph XII). SO loans will be established in Automated Multiple Housing Accounting System (AMAS) using Form FmHA 1944–51, "Multiple Family Housing Obligation Fund Analysis". The Issue Loan/Grant checks transaction will be used to request a check for SO loans.

VIII. *Loan closing.*

(A) *General.* Loan closing instructions will be provided by the Office of the General Counsel (OGC) to ensure that the Promissory Note is properly completed and executed. The County Supervisor may then close the loan.

(B) *Security for the loan.* The loan will be secured by a Promissory Note properly executed by the grantee using Form FmHA 1940–16, "Promissory Note." A lien on the optioned real estate will not be taken.

(1) The "kind of loan" block on the note will read "SO loan."

(2) The note will be modified to show that the only installment on the loan will be the final installment.

(C) *Loan is closed.* The loan will be considered closed when the note is executed and the loan check delivered to the grantee.

IX. *Establishment of SO loan revolving account.*

(A) Supervised bank accounts will not be used for SO loans.

(B) Grantee will deposit SO loan funds in a depository institution of its choice. The use of minority institutions is encouraged. Such funds will remain separate from any other account of the grantee and shall be established as an SO revolving account.

(C) Checks drawn on the revolving account will be for the sole purpose of purchasing land options and must be signed by at least two authorized officials of the grantee who have been properly bonded in accordance with § 1944.411 (e) and (g) of this subpart.

(D) Grantees will not expend funds for any options until the site and the option form have been reviewed and approved by the County Supervisor.

(1) SO funds will not be left unused in the revolving account in excess of 60 days.

(2) If the funds are not used for the intended purpose within the 60 days specified above, the unused portion will be refunded on the account.

(E) When funds become available for repayment of the SO loan, such funds will be deposited in the revolving account for the purchase of additional site options if needed. If such funds are not needed to purchase more options, they will be applied on the SO loan.

X. *Source of funds.*

SO loans will be funded from the self-help housing land development fund.

Subpart K—Technical and Supervisory Assistance Grants

§ 1944.550 [Removed and reserved]

6. Section 1944.550 is removed and reserved.

Dated: August 31, 1990.

La Verne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 90–24237 Filed 10–15–90; 8:45 am]

BILLING CODE 3410–07–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-NM-83-AD; Amdt. 39-6774]

Airworthiness Directives; Boeing Model 757 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Model 757 series airplanes, which currently requires repetitive operational testing of fuel boost pump bypass valves. That action was prompted by a determination that small amounts of water on the valves may freeze and prevent valve operation. This condition, if not corrected, could result in the loss of both engines in the event all aircraft fuel boost pumps were lost (e.g., loss of electrical power to pumps). This amendment also requires specific terminating action for the repetitive operational tests.

EFFECTIVE DATE: November 21, 1990.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examine at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

FOR FURTHER INFORMATION CONTACT: Mr. G. Michael Collins, Seattle Aircraft Certification Office, Propulsion Branch, ANM-140S; telephone (206) 227-2660. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 88-08-04, Amendment 39-5895 (53 FR 12376, April 14, 1988), applicable to Boeing Model 757 series airplanes, to require repetitive operational testing of fuel boost pump bypass valves and also require specific terminating action for the repetitive operational testing, was published in the Federal Register on April 18, 1990 (55 FR 14428).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter requested that the compliance period for the modification be increased from the proposed 3,000 to 4,000 hours time-in-service. This was requested in order to allow accomplishment of the modification during scheduled main base visits. The FAA concurs. This AD requires repeated operational testing until the modification is accomplished. Because the operational testing requirement serves as an interim safety measure, the FAA has determined that the extension of the compliance time to 4,000 hours for the modification will not have an adverse impact on safety. The final rule has been revised accordingly.

Since issuance of the Notice, the FAA has reviewed and approved Boeing Alert Service Bulletin 757-28A0017, Revision 3, dated April 26, 1990, which revises the operational check of the bypass valve for proper operation following accomplishment of the modification. This revision to the service bulletin also updates the list of affected airplanes to reflect current ownership and also to include an optional bracket installation. The final rule has been revised to allow modification in accordance with this revision of the service bulletin.

Paragraph C. of the final rule has been revised to specify the current procedure for submitting request for approval of alternate means of compliance.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 204 Model 757 series airplanes of the affected design in the worldwide fleet. It is estimated that 123 airplanes of U.S. registry will be affected by this AD, that it will take approximately 40 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $196,800.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39--[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) [Revised Pub. L. 97-449, January 12, 1983]; and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding Amendment 39-5895 (53 FR 12376, April 14, 1988), AD 88-08-04, with the following new airworthiness directive:

Boeing: Applies to Model 757 series airplanes, listed in Boeing Alert Service Bulletin 757-28A0017, Revision 2, dated January 4, 1990, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent engine flameout due to boost pump bypass valve freezing, accomplish the following:

A. Prior to the accumulation of 150 flight hours after May 4, 1988 (the effective date of Amendment 39-5895, AD 88-08-04), and thereafter at intervals not to exceed 300 flight hours, perform an operational test of the fuel boost pump bypass valves in accordance with Boeing Alert Service Bulletin 757-28A0017, dated February 11, 1988; or Part I of Revision 2, dated January 4, 1990; or Part I of Revision 3, dated April 26, 1990.

B. Within the next 4,000 hours time-in-service after the effective date of this amendment, modify the fuel boost pump bypass valves in accordance with Part II of Boeing Alert Service Bulletin 757-28A0017, Revision 2, dated January 4, 1990, or Revision 3, dated April 26, 1990. This constitutes terminating action for the repetitive tests required by paragraph A. of this AD.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

This amendment supersedes Amendment 39–6825, AD 86–06–04.

This amendment becomes effective November 21, 1990.

Issued in Renton, Washington, on October 4, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-24281 Filed 10-15-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-123-AD; Amdt. 39-6776]

Airworthiness Directives; Boeing Model 767 Series Airplanes Equipped With BFGoodrich Escape Slides and Slide/Rafts

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, which requires inspection and modification of certain escape slides and slide-rafts. This amendment is prompted by reports of failure of the escape slides and slide/rafts due to equipment malfunctions. This condition, if not corrected, could result in unusable escape slides and slide/rafts, and jeopardize successful emergency evacuation of the airplane.

EFFECTIVE DATE: November 21, 1990.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplanes Group, P.O. Box 3707, Seattle, Washington 98124; and BFGoodrich Company, Aircraft Evacuation Systems, 3414 South 5th Street, Phoenix, Arizona 85040. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Jayson B. Claar, Seattle Aircraft Certification Office, Airframe Branch, ANM–120S; telephone (206) 227–2784. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to Boeing Model 767 series airplanes, which requires inspection and modification of certain escape slides and slide/rafts, was published in the Federal Register on July 7, 1990 (55 FR 28656).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

The Air Transport Association (ATA) of America commented on behalf of its member airlines:

Some member airlines stated that the FAA's justification for revising the compliance time from 40 to 20 months appears to be based on an attempt to require the accomplishment of the modification at the same time as the inspections required by AD 86–06–06. These commenters noted that the slides and slide/rafts installed on their fleets are not subject to the requirements of AD 86–06–06 and most are scheduled for inspections/overhaul at 36-month intervals. They requested that the proposed compliance time be changed back to 40 months. As justification for such a change, the commenters indicated that the service history and reliability of the slides and slide/rafts does not demonstrate a need for an early removal to accomplish the proposed modifications. Further, one commenter indicated that the slide manufacturer's service bulletin refers to the modifications as "product improvements" and, therefore, requested that the modifications be required to be accomplished at the "next regularly scheduled overhaul."

The FAA does not concur that an extension of the proposed compliance time is warranted. Although part of the reason for selecting the 20-month compliance time was to align the modification with the requirements of AD 86–06–06, it was by no means the only reason. In developing an appropriate compliance time, the FAA considered the safety implications, parts availability, and normal maintenance schedules for timely accomplishment of the modification. In consideration of these items, as well as the reports of numerous failures of the slides and slide/rafts in service, the FAA determined that 20 months represented the maximum interval of time allowable wherein the modifications could reasonably be accomplished and an acceptable level of safety could be maintained. The FAA does not concur with the suggestion that the modification be accomplished at "the next regularly scheduled overhaul;" since maintenance schedules may vary from operator to operator, there would be no assurance that the inspection will be accomplished within 20 months. The FAA has determined that, in requiring compliance within 20 months, only 30% of all slides and slide/rafts will be required to be removed from airplanes prior to their "regularly scheduled overhaul."

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 275 Model 767 series airplanes of the affected design in the worldwide fleet. It is estimated that 106 airplanes of U.S. registry will be affected by this AD, that it will take approximately 80 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. It is estimated that the required parts will cost $2,125 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $564,450.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to Model 767 series airplanes, equipped with BFGoodrich escape slides and slide/rafts identified in BFGoodrich Service Bulletin 25-212, dated October 27, 1988, certificated in any category. Compliance required within the next 20 months after the effective date of this AD, unless previously accomplished.

To provide satisfactory reliability of the evacuation system, accomplish the following:

A. Modify the escape slides and slide/rafts in accordance with BFGoodrich Service Bulletin 25-212, dated October 27, 1988.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes Group, P.O. Box 3707, Seattle, Washington 98124; and BFGoodrich Company, Aircraft Evacuation Systems, 3414 South 5th Street, Phoenix, Arizona 85040. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SE., Renton, Washington.

This amendment becomes effective November 21, 1990.

Issued in Renton, Washington, on October 4, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-24280 Filed 10-15-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 90-NM-69-AD; Amdt. 39-6769]

Airworthiness Directives; McDonnell Douglas Model DC-10-10, DC-10-15, DC-10-30 (Except KC-10A), and DC-10-40 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to McDonnell Douglas Model DC-10 series airplanes, which requires repetitive inspections and replacement of the fuel tank manifold drain/outboard fill valves. This amendment is prompted by reports of in-service failures of fuel tank manifold drain/outboard fill valves on the Model KC-10A airplane. This condition, if not corrected, could result in valve fuel leakage in the wing outboard leading edge area, and the possibility of localized in-flight or ground fire.

EFFECTIVE DATE: November 16, 1990.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: DC-10 Technical Publications, C1-HDR (54-60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond Vakili, Aerospace Engineer, Propulsion Branch, ANM-140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; telephone (213) 988-5282.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to McDonnell Douglas Model DC-10-10, DC-10-15, DC-10-30 (except KC-10A), and DC-10-40 series airplanes, which requires repetitive inspections and replacement of the fuel tank manifold drain/outboard fill valves, was published in the Federal Register on June 1, 1990 (55 FR 22367).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter requested that the AD allow the option of placarding a defective valve inoperative in accordance with the provisions of the Minimum Equipment List (MEL). The commenter stated that this option might be necessary because of the limited time to complete the inspection and the possibility of depleting the inventory of serviceable spare valves. The FAA does not concur. The FAA has determined that the availability of parts is not a problem at this time. However, in the event the problem should arise, operators always have the option of submitting an alternate means of compliance request to the FAA, which provides an equivalent level of safety in accordance with the provision in paragraph C. of this AD.

The aircraft manufacturer and the valve manufacturer commented that only a limited number of valves, identified in the McDonnell Douglas DC-10 Service Bulletin A28-196, are covered by warranty and will be exchanged free of cost. The FAA concurs. The cost impact estimate of the final rule has been corrected accordingly.

The aircraft manufacturer commented that there has been no failure of the fuel tank manifold drain/outboard fill valve on any in-service McDonnell Douglas DC-10's, as stated in the preamble to the Notice. The FAA concurs; however, the valves on the Model DC-10 are similar to the valves utilized in the KC-10A aerial refueling boom manifold scavenge shutoff valve and, thus, the same potential for failure exists on the Model DC-10 series airplanes.

In addition, the manufacturer suggested that the Model KC-10A airplane be included in the applicability of the final rule. The FAA does not concur. The Model KC-10A airplanes were specifically excluded in the NPRM because maintenance actions have been in effect to inspect and remove suspect valves from United States Air Force operated Model KC-10A airplanes. However, the FAA is reviewing these actions and will determine if further rulemaking action is necessary.

Paragraph A. of the final rule has been revised to clarify the actions required in the event that a defective valve is found as a result of the required inspections. Although these actions are specified in

the referenced service bulletin, they were not iterated in the Notice.

Paragraph C. of the final rule has been revised to specify the current procedure for submitting requests for approval of alternate means of compliance.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed with the changes previously described. The FAA has determined that these changes will neither significantly increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 376 Model DC–10–10, DC–10–15, DC–10–30 (except KC–10A), and DC–10–40 series airplanes of the affected design in the worldwide fleet. It is estimated that 183 airplanes of U.S. registry will be affected by this AD, that it will take approximately 5 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The cost of parts is $800 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is $183,000.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Applies to Model DC–10–10, DC–10–15, DC–10–30 (except KC–10A), and DC–10–40 series airplanes, as listed in McDonnell Douglas DC–10 Service Bulletin A28–196, dated March 30, 1990, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent valve fuel leakage into the wing outboard leading edge area and the possibility of localized in-flight or ground fire, accomplish the following:

A. Within 120 days after the effective date of this AD, and thereafter, at intervals not to exceed 12 months, inspect the manifold drain/outboard fill valves, Part Number AF18C–57, in accordance with the procedures described in McDonnell Douglas DC–10 Service Bulletin A28–196, dated March 30, 1990. If any valve has valve top displacement, prior to further flight, replace the valve with a new like or serviceable valve. Continue to perform the repetitive inspections required by this paragraph until the valves are replaced in accordance with the paragraph B. of this AD.

B. Within 24 months after the effective date of this AD, replace the manifold drain/outboard fill valves, Part Number AF18C–57, with new valves, Part Number AF18C–57A, in accordance with the procedures described in McDonnell Douglas DC–10 Service Bulletin A28–196, dated March 30, 1990. The replacement of Part Number AF18C–57 with Part Number AF18C–57A constitutes terminating action for this AD.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Inspector (PI), who will either concur or comment and then send it to the Manager, Los Angeles Aircraft Certification Office.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: DC–10 Technical Publications, C1–HDR (54–60). These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

This amendment becomes effective November 19, 1990.

Issued in Renton, Washington, on October 2, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–24282 Filed 10–15–90; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 90–AGL–3]

Alteration of VOR Federal Airways V–158 and V–420

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the descriptions of VOR Federal Airways V–158 and V–420 located in the State of Illinois. The airway change to V–158 will provide an airway to join the V–128 bypass routing around Chicago O'Hare Air Traffic Control Tower (ATCT) airspace for aircraft arriving from the northwest. Also, this action removes that segment of the airway along V–420 between the Bradford very high frequency omnidirectional radio range and tactical air navigational aid (VORTAC) to the Malta intersection, which is not being used by Air Traffic Control (ATC).

EFFECTIVE DATE: 0901 u.t.c., December 13, 1990.

FOR FURTHER INFORMATION CONTACT: Jesse B. Bogan, Jr., Airspace and Obstruction Evaluation Branch (ATP–240) Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9253.

SUPPLEMENTARY INFORMATION:

History

On May 15, 1990, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter the descriptions of VOR Federal Airways V–158 and V–420 located in the State of Illinois (55 FR 20167). This airway change will provide a bypass routing in the vicinity of Chicago, IL, and eliminate a segment of an airway which is not being used by ATC. Interested parties

were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

The Rule

This amendment to part 71 of the Federal Aviation Regulations alters the descriptions of VOR Federal Airways V–158 and V–420 located in the State of Illinois. The airway change to V–158 will provide an airway to join the V–128 bypass routing around Chicago O'Hare ATCT airspace for aircraft arriving from the northwest. The section of the airway between the Bradford VORTAC and the Malta intersection along V–420 is not being used by ATC. Therefore, we are removing that section of V–420 between the Bradford VORTAC and the Malta intersection.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. § 71.123 is amended as follows:

V–158 [Amended]

By removing the words "Polo, IL." and substituting the words "Polo, IL; to the INT Polo 122° and Rockford, IL, 169° radials."

V–420 [Revised]

From Green Bay, WI; via Traverse City, MI; Gaylord, MI; to Alpena, MI.

Issued in Washington, DC, on September 27, 1990.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 90–24283 Filed 10–15–90; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 90–ASO–11]

Amendment to Control Zone and Transition Area, Palm Beach, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; delay of effective date.

SUMMARY: The effective date of the FAA final rule as published in the **Federal Register** on September 12, 1990, Volume 55, page 37458, has been changed from October 18, 1990, to December 13, 1990.

EFFECTIVE DATE: 0901 u.t.c., December 13, 1990.

FOR FURTHER INFORMATION CONTACT: James G. Walters, (404) 763–7646.

Issued in East Point, Georgia, on September 20, 1990.

Don Case,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 90–24288 Filed 10–15–90; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 90–ASO–12]

Establishment of Control Zone, Glynco Jetport, Brunswick, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes a part-time control zone at the Glynco Jetport, Brunswick, GA. This action will provide additional controlled airspace for protection of instrument flight rules (IFR) aeronautical operations. The hours of operation of the control zone initially will be established by Notice to Airmen (NOTAM). Thereafter, the date and time of operation will be published in the Airport/Facility Directory.

EFFECTIVE DATE: 0901 u.t.c., December 13, 1990.

FOR FURTHER INFORMATION CONTACT: James G. Walters, Airspace Section, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 763–7646.

SUPPLEMENTARY INFORMATION:

History

On July 17, 1990, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish the Glynco Jetport Control Zone at Brunswick, GA (55) FR (29068). The proposed action would lower the base of controlled airspace from 700 feet above ground level to the surface in the vicinity of Glynco Jetport for protection of IFR aeronautical operations. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.171 of part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6F dated January 2, 1990.

The Rule

This amendment to part 71 of the Federal Aviation Regulations establishes a part-time control zone at the Glynco Jetport, Brunswick, GA. This action lowers the base of controlled airspace from 700 feet above ground level to the surface in vicinity of the airport for protection of IFR aircraft. Initially, the hours of operation of the control zone will be established by NOTAM. Thereafter, the date and time of operation will be published in the Airport/Facility Directory.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it

is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Public Law 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Brunswick Glynco Jetport, GA [New]

Within a 5-mile radius of Glynco Jetport (latitude 31°15'32" N., longitude 81°27'59" W.), excluding that airspace within the Brunswick Malcolm-McKinnon, GA, control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Issued in East Point, Georgia, on September 19, 1990.

Dan Cass,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 90-24206 Filed 10-15-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 90-ASO-6]

Revision of Control Zone and Transition Area, Tupelo, MS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; delay of effective date.

SUMMARY: The effective date of the FAA final rule as published in the Federal Register on September 11, 1990, Volume 55, page 37512, has been changed from October 18, 1990, to December 13, 1990.

EFFECTIVE DATE: 0901 u.t.c. December 13, 1990.

FOR FURTHER INFORMATION CONTACT: James G. Walters (404) 763-7646.

Issued in East Point, Georgia, on September 20, 1990.

Dan Cass,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 90-24207 Filed 10-15-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 90-AEA-14]

Alteration of Control Zone and Transition Area; Erie, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice modifies the Control Zone and 700 foot Transition Area established at the Erie International Airport, Erie, PA, due to the revision of air traffic control procedures in the area. This action reduces that amount of controlled airspace to that which is actually required by the FAA to contain aircraft operating under instrument flight rules.

EFFECTIVE DATE: 0901 u.t.c. December 13, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis L. Brewington, Airspace Specialist, System Management Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 917-0857.

SUPPLEMENTARY INFORMATION:

History

On June 21, 1990, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the Control Zone and 700 foot Transition Area at Erie, PA, due to the reorganization of air traffic control procedures in the area (55 FR 29634). The proposed action would return that amount of controlled airspace not needed by the FAA to contain arriving and departing aircraft operating under instrument flight rules at the Erie International Airport, Erie, PA, back to the general public.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments on the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Sections 71.171 and 71.181 of part 71 of the Federal Aviation Regulations were republished in FAA Handbook 7400.8F, January 2, 1990.

The Rule

This amendment to part 71 of the Federal Aviation Regulations reduces the Control Zone and 700 foot Transition Area established at Erie, PA, due to the reorganization of air traffic control procedures in the area.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Erie, PA [Revised]

Within a 5-mile radius of the center of Erie International Airport, Erie, PA (lat. 42°04'54" N., long. 80°10'36" W.); extending NE of the 5-mile radius area from within 4.5 miles NW of the Erie VORTAC 054°(T) 068°(M) Radial to 4 miles SE of the Erie ILS localizer NE course then extending SW from a point located along the Erie ILS localizer NE course 10.5 miles NE of lat. 42°07'30" N., long. 80°05'27" W. to the 5-mile radius area.

§ 71.181 [Amended]

3. Section 71.181 is amended as follows:

Erie, PA [Revised]

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center of Erie International Airport, Erie, PA (lat. 42°04'54" N., long. 80°10'36" W.); extending NE of the 8.5-mile radius area from within 5 miles NW of the Erie VORTAC 054°(T) 060°(M) Radial to 5 miles SE of the Erie ILS localizer NE course then extending SW from a point located along the Erie ILS localizer NE course 11.5 miles NE of lat. 42°07'30" N., long. 80°05'37" W. to the 8.5-mile radius area.

Issued in Jamaica, New York, on September 13, 1990.

Gary W. Tucker,

Manager, Air Traffic Division.

[FR Doc. 90-24284 Filed 10-15-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 90-AEA-01]

Establishment of Transition Area; Milton, WV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice establishes a new 700 foot Transition Area at Milton, WV, due to the establishment of a Standard Instrument Approach Procedure (SIAP) to the Ona Airpark, Milton, WV. This action establishes that amount of controlled airspace which is deemed necessary by the FAA to segregate aircraft operating under instrument flight rules from those operating under visual flight rules in controlled airspace. Additionally, the status of the airport is changed from VFR to IFR.

EFFECTIVE DATE: 0901 u.t.c. December 13, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis L. Brewington, Airspace Specialist, System Management Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 917-0857.

SUPPLEMENTARY INFORMATION:

History

On April 6, 1990, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish a new 700 foot Transition area at Milton, WV, for the Ona Airpark due to the establishment of a new SIAP for the airport (55 FR 17632). The proposed action would establish that amount of controlled airspace which is deemed necessary by the FAA to contain arriving and departing aircraft from the Ona Airpark, Milton, WV, operating under instrument flight rules.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. One comment was received on the proposal.

It was noted that a military training route (MTR), which is used by high-performance military aircraft, is established over the Ona Airpark. It was suggested that the FAA suspend implementation of the SIAP and Transition Area. This was due to concerns for potential conflicts between controlled aircraft executing the SIAP and uncontrolled aircraft operating along the MTR. The military training route in question has been realigned with an effective date prior to the implementation of the new SIAP and Transition Area. The FAA finds that further delay of the implementation of the SIAP and 700 foot Transition Area is not warranted. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6F, January 2, 1990.

The Rule

This amendment to part 71 of the Federal Aviation Regulations establishes a new 700 foot Transition Area at Milton, WV, to contain arriving and departing aircraft at the Ona Airpark due to the development of a new SIAP to this airport. This area will be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with appropriate IFR procedures.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Milton, WV [New]

That airspace extending upward from 700 feet above the surface within a 8.5-mile radius of the center, lat. 38°26'26"N., long. 82°12'05"W., of Ona Airpark, Milton, WV; within 4 miles either side of the Charleston VORTAC 285°(T) 286°(M) radial extending from 11.5 miles northwest of the VORTAC to the 8.5-mile radius area.

Issued in Jamaica, New York, on September 13, 1990.

Gary W. Tucker,

Manager, Air Traffic Division.

[FR Doc. 90-24285 Filed 10-15-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6804

[AZ-930-4214-10; AZA-13396, AZA-13400, AZA-13401, AZA-13402, AZA-24743]

Revocation, Modification, and Transfer of Jurisdiction of Reclamation Withdrawals; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes in part three Secretarial orders which withdrew lands in Yuma, Arizona, for the Colorado River Survey and the Yuma Project. Additionally, it modifies and transfers jurisdiction to a part of a fourth Secretarial order which withdrew the same land for the Colorado River Storage Project. This land totaling 26.794 acres is now excess to the needs of the Bureau of Reclamation and is needed by the Department of the Navy. The

Department of the Navy presently utilizes the facilities constructed on the parcel by the Bureau of Reclamation as an integral part of the Marine Corps Air Station operation in Yuma. The land has been and will remain closed to surface entry and mining.

EFFECTIVE DATE: October 16, 1990.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM, Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, 602-640-5509.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Orders dated July 2, 1902, January 31, 1903, and September 30, 1904, which withdrew lands for the Colorado River Survey and the Yuma Project are hereby revoked insofar as they affect the following described land:

Gila and Salt River Meridian

T. 9 S., R. 23 W.,
Sec. 11, Tract B.

The area described contains 26.794 acres in Yuma County.

2. The Secretarial Order dated March 14, 1929, which withdrew the following described land for the Colorado River Storage Project is hereby modified and jurisdiction transferred from the Bureau of Reclamation to the Department of the Navy, subject to valid existing rights, for use as an administrative site. The land will remain withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C., ch. 2).

Gila and Salt River Meridian

T. 9 S., R. 23 W.,
Sec. 11, Tract B.

The area described contains 26.794 acres in Yuma County.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

Dated: October 10, 1990.

Dave O'Neal,
Assistant Secretary of the Interior.

[FR Doc. 90-24272 Filed 10-15-90; 8:45 am]
BILLING CODE 4310-02-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 264

[Docket No. 90804-0224]

RIN 0648-AA48

United States Standards for Grades of Frozen Fish Blocks

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Interim final rule with request for comments.

SUMMARY: NOAA is revising the U.S. Standards for Grades of Frozen Fish Blocks used in NMFS's National Seafood Inspection Program. Participation in the program by industry members is voluntary. This will update the Standards for Grades to reflect such things as technical advances in fish processing equipment, increased industry size, a larger number of processed species, at-sea processing, and a Codex Alimentarius standard for Quick Frozen Blocks of Fish Fillet, Minced Fish Flesh and Mixtures of Fillets and Minced Fish Flesh (hereafter referred to as the CODEX Standard for Quick Frozen Blocks of Fish Fillets). The revised standards are issued as an interim rule to encourage comments from those using the standards before issuing a final rule.

DATES: Interim rule effective November 15, 1990. The incorporation by reference of the publication listed in the regulations is approved by the Director of the Federal Register as of November 15, 1990; comments must be received on or before October 16, 1991.

ADDRESSES: Comments should be sent to Thomas J. Moreau, Director, Technical Services Unit, Inspection Services Division, F/TS45, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Earl C. Johnston, Chief, Standards and Specification Branch, NMFS, 508-281-9219.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Standards for Grades of Frozen Fish Blocks (50 CFR part 264, subpart A) provide a system for Federal and state inspectors to classify frozen fish blocks by quality into U.S. Grade Categories (*i.e.*, grades A, B, and Substandard) and allow identification of a product quality level for the benefit of the consumer and industry. The standards are used by inspectors in NMFS's National Seafood Inspection Program. Industry participation in the program is voluntary. The existing standards for frozen fish blocks were first issued by the Department of the Interior in 1964 and reissued by the Department of Commerce in 1977. Since then, numerous technological advances and changes have occurred in the fish processing industry. Among these are:

1. The use of factory ships capable of harvesting and processing fish into frozen fish blocks while at sea.

2. The increasing variety of species being processed into frozen fish blocks.

3. The continued growth of a large industry utilizing frozen fish blocks in their products.

4. The technological advancements made in the equipment used by the fish processing industry.

5. The adoption of a Codex Alimentarius Commission Standard for Quick Frozen Blocks of Fish Fillets (Alinorm 89/18 Appendix II).

These advances and changes prompted industry members to seek to have the standards revised. The revised Standards for Frozen Fish Fillet Blocks were developed during Technical Working Group meetings with participation from industry and user groups. The revised standards were applied to 661 samples and the results were examined and evaluated. The major changes to the current standards are:

1. Determination of Grade

The current Standards for Grades (§ 264.111(a)) have a maximum score of 100 and a minimum score of 0. The revised Standards for Grades (§ 264.104(f)) are based on a perfect score of 0 (no physical defects).

2. Sampling

a. Sample unit size. The revised Standards for Grades (§ 264.104(b)) use the whole block for thawed state evaluations. The current Standards for Grades (§§ 264.121(b)(1) and 264.121(b)(2)) use a 5-pound (2.27 kg) subsample unit for thawed state evaluations. This change allows a more thorough evaluation of the entire block.

b. Sampling plan. Due to the change in sample unit size, the revised Standards for Grades (§ 264.106) include a modified sampling plan with comparable statistical confidence that was developed to reflect the increase in sample unit size while reducing the cost involved in destructive sampling.

3. Frozen State Evaluations

a. Improper fill. The revised Standards for Grades (§ 284.104(e)(5)) incorporate a depth requirement for point assessment. (See § 284.121(a)(6) for current Standards for Grades definition of improper fill).

b. Color. The assessment for this defect appears in the frozen state evaluation (§ 284.121(a)(1)) in the current Standard for Grades. It has been moved to the thawed state evaluation section in the revised Standards for Grades (§ 284.104(e)(9)) to permit a more thorough examination of the product for this defect.

4. Thawed State Evaluations

a. Belly flaps (napes). This defect does not appear in the current Standards for Grades. Under the revised Standards for Grades (§ 284.104(e)(6)), points for this defect will be assessed if the allowable tolerance of 15 percent by declared weight is exceeded.

b. Bones. In response to concerns and comments expressed by consumers, this defect in the revised Standards for Grades (§ 284.104(e)(15)) has been redefined into measurable quantities. The measurements are based on those developed by the international Codex Alimentarius Commission's Standard for Quick Frozen Blocks of Fish Fillets (Alinorm 89/18 Appendix II). The current Standards for Grades (§ 284.121(b)(2)) are based on a subjective interpretation of the definition of a "potentially harmful" bone.

c. Parasites. This defect does not appear in the current Standards for Grades. In response to consumer concerns and comments, it has been incorporated into the revised Standards for Grades (§ 284.104(e)(17)) and covers metazoan parasites and parasitic copepods.

d. Viscera, roe and lace. These defects do not appear in the current Standards for Grades. These defects were incorporated into the revised Standards for Grades (§ 284.104(e)(10) because the flatfish species that exhibit these defects are being processed into blocks in greater quantities.

5. Thawed State Defect Points

The revised Standards for Grades express the defect points from the thawed state evaluations (excluding belly flaps) on a per pound (kilogram) basis (§ 284.104(f)). That is, points assessed from §§ 284.104(e)(7) through 284.104(e)(17) will be added together and the sum divided by the declared weight of the block.

Comments and Responses

A proposed rule with request for comments was published on September 21, 1989 (54 FR 38981). At the end of the 45-day comment period, few comments had been received. Several commenters requested an extension to the comment period to have sufficient time to study the proposed rule and submit comments. Notice of a 30-day extension of the comment period was published on December 29, 1989 (54 FR 53660).

Six letters were received during the comment period: Two from industry, two from Government, one from a private consultant, and one from a hotel corporation. All commenters concurred with the revision, with a few minor comments and questions.

One letter from the industry suggested increasing the defect points for bone to the same level as for parasites. Since all bones, including pin bones, are now being counted as defects, the revised standards are much tighter on bones than the current standards. Large or excessive bone is more severely penalized than parasites. The industry member also commented on the method of removing attached belly flaps (napes). NOAA feels this is adequately addressed in the revised Standards for Grades and will also elaborate on this in the Inspector's Instructions.

Another industry comment concerned the heading of the revised Standards for Grades, suggesting it be changed to include the word "fillets." NOAA concurs, feeling that this would eliminate any confusion between market styles of frozen fish blocks, and has made the change.

The consultant's comment letter questioned the need to cook three 4–6 ounce (113.4 to 170.1 g) portions per sample unit. NOAA disagrees because it believes this amount of cooked product is necessary to fully evaluate the flavor, odor and texture of the product; no change was made in the interim final rule.

One commenter wanted to know if the defects were based on declared or actual weight. NOAA agrees that this should be specified and has inserted the word "declared" in §§ 284.104(e)(6) and 284.104(f) in the interim final rule to clarify the revised Standards for Grades. The same individual also commented that the defect definitions were too general in nature, and needed to be expanded upon. NOAA feels that all defects are adequately defined in the Standards for Grades. However, defects will be elaborated upon in the Inspector's Instructions (See § 284.101 of the Standards for Grades).

One comment received from the hotel corporation objected to the short initial comment period. However, the comment period was extended for 30 days and no further comments were received from this commenter.

One commenter concurred with the revision without further comment.

Request for Comments

The revised standards should facilitate trade in frozen fish fillet blocks and will allow consumers to select and purchase a greater variety of fish products on the basis of identified quality. The revised standards are issued as an interim final rule to allow further input on their adequacy and application. Interested persons are invited to submit written comments and suggestions or objections to these revised Standards for Grades during the interim rule period (see "ADDRESSES"). The comments will be reviewed and adjustments, if necessary, will be made to the revised Standards for Grades before publication as a final rule.

Classification

This action is categorically excluded from the requirement to prepare an environmental assessment by NOAA Directive 02–10.

The Assistant Administrator for Fisheries, NOAA, has determined that this rule is not a "major rule" requiring preparation of a regulatory impact analysis under E.O. 12291. This rule will not have an effect on the economy of $100 million or more; will not cause a major increase in costs or prices; and will not have a significant adverse effect on competition, employment, investment, productivity or innovation.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. This rule is expected to facilitate grading and trade in fish fillet block while not imposing any new costs on industry. As a result, a regulatory flexibility analysis was not prepared.

This rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

List of Subjects in 50 CFR Part 284

Food grades and standards, Seafood, Incorporation by reference.

BEST COPY AVAILABLE

Dated: October 5, 1990.

Samuel W. McKeen,

Program Management Officer for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 264 is amended as follows:

PART 264—UNITED STATES STANDARDS FOR GRADES OF FROZEN FISH BLOCKS

1. The authority citation for part 264 is revised to read as follows:

Authority: 7 U.S.C. 1621–1630; Reorganization Plan No. 4 of 1970 (84 Stat. 2090).

2. Part 264, subpart A is revised to read as follows:

Subpart A—United States Standards for Grades of Frozen Fish Fillet Blocks

Sec.

264.101 Scope and product description.
264.102 [Reserved]
264.103 Grades.
264.104 Grade determination.
264.105 Tolerances for lot certification.
264.106 Hygiene.
264.107 Methods of analysis.
264.108 Sampling plan for fish blocks.

Subpart A—United States Standards for Grades of Frozen Fish Fillet Blocks

§ 264.101 Scope and product description.

(a) These U.S. Standards for Grades apply to frozen fish blocks which are rectangularly shaped masses made from a single species of fish flesh. They are made from fillets or fillet pieces that are either skin-on and scaled or skinless. Blocks processed from skin-on fish flesh shall be so labeled. The blocks shall not contain minced or comminuted fish flesh. The blocks shall not be made by restructuring (reworking) pieces of fish blocks into the shape of a fish block.

(b) These Standards for Grades are implemented in accordance with guidance set forth in part II of NOAA Handbook 25, "Inspector's Instructions for Grading Frozen Fish Blocks."

§ 264.102 [Reserved]

§ 264.103 Grades.

(a) U.S. Grade A fish blocks shall:

(1) Possess good flavor and odor in accordance with § 264.104; and

(2) Comply with the limits for physical defects for U.S. Grade A quality in accordance with § 264.104.

(b) U.S. Grade B fish blocks shall:

(1) Possess reasonably good flavor and odor in accordance with § 264.104; and

(2) Comply with the limits for physical defects for U.S. Grade B quality in accordance with § 264.104.

(c) U.S. Grade C fish blocks shall:

(1) Possess reasonably good flavor and odor in accordance with § 264.104; and

(2) Comply with the limits for physical defects for U.S. Grade C quality in accordance with § 264.104.

(d) Substandard fish blocks shall fail to meet one or more of the requirements given in paragraphs (a), (b), and (c) of this section for U.S. Grades A, B, and C.

§ 264.104 Grade determination.

(a) *Procedures for grade determination.* The grade shall be determined by evaluating a product in the frozen, thawed and cooked states according to paragraphs of this section—namely, sampling; flavor and odor; physical defects; listing defect points; and grade assignment.

(b) *Sampling.* Sampling shall be done in accordance with the sampling plan given in § 264.108.

(1) For examination in the frozen state and the thawed state, a sample unit is one fish block.

(2) For examination in the cooked state, a sample unit is at least three 4- to 6-ounce (113.4 to 170.1 g) samples which are taken from a thawed sample unit.

(c) *Evaluation of flavor and odor.* (1) *Good* flavor and odor (essential quality requirements for a U.S. Grade A product) mean that the raw product has the odor and the cooked product has the flavor and odor characteristics of the indicated species of fish and are free from off-flavors and off-odors of any kind.

(2) *Reasonably good* flavor and odor (minimum requirements of a U.S. Grade B and a U.S. Grade C product) mean that the raw product or the cooked product is lacking in good odor (for the raw product) or good flavor and odor (for the cooked product) which is characteristic of the indicated species. Both the raw and the cooked products are free from objectionable off-flavors and off-odors of any kind.

(d) *Examination for physical defects.* Each sample unit shall be examined for physical defects using the list of definitions of defects given in paragraph (e) of this section.

(e) *Definitions of physical defects*—(1) *Dehydration.* This defect refers to loss of moisture from the surface of a fish block during frozen storage. Affected areas have a whitish appearance.

(i) *Moderate dehydration* masks the surface color of the product and affects more than 5 percent up to and including 15 percent of the surface area. If more than 15 percent of the surface area is affected, each additional 15 percent of surface area affected is another instance. Moderate dehydration can be readily removed by scraping with a blunt instrument.

(ii) *Excessive dehydration* masks the normal flesh color and penetrates the product. It affects more than 5 percent up to and including 10 percent of the surface area. If more than 10 percent of the surface area is affected, each additional 10 percent of surface area affected is another instance. Excessive dehydration requires a knife or other sharp instrument to remove.

(2) *Uniformity of block size.* This defect refers to the degree of conformity to the declared size. It includes deviations from the standard length, width or thickness. Only one deviation for each dimension shall be counted.

(i) *Moderate.* A deviation of length and width of ⅛ inch (0.32 cm) or more up to and including ¼ inch (0.64 cm). A deviation of thickness of 1/16 inch (0.16 cm) or more up to and including ⅛ inch (0.32 cm).

(ii) *Excessive.* If over ¼ inch (0.64 cm), each additional ⅛ inch (0.32 cm) of length and width is another instance. If over ⅛ (0.32 cm), each additional 1/16 inch (0.16 cm) of thickness is another instance.

(3) *Underweight* refers to underweight deviations from the stated weight.

(i) *Slight.* From 0.1 ounce (2.84 g) up to and including 1.0 ounce (28.35 g).

(ii) *Moderate.* Over 1.0 ounce (28.35 g) up to and including 4.0 ounces (113.4 g).

(iii) *Excessive.* If over 4.0 ounces (113.4 g), each additional 1.0 ounce (28.35 g) is another instance.

(4) *Angles.* An acceptable edge angle is an angle formed by two adjoining surfaces whose apex (deviation from 90 degrees) is within ⅜ inch (0.95 cm) off a carpenter's square placed along its surfaces. An acceptable corner angle is an angle formed by three adjoining surfaces whose apex is within ⅜ inch (0.95 cm) of a carpenter's square.

(5) *Improper fill.* This defect refers to voids, air pockets, ice pockets, ragged edges, bumps, depressions, damage, and imbedded packaging material, each of which is greater than ⅛ inch (0.32 cm) in depth, and which would result in product loss after cutting. It is estimated by determining the minimum number of 1-ounce (28.35 g) model units that could be affected adversely. For the purpose of estimating product loss, the 1-ounce (28.35 g) model unit shall have the dimensions 4×1×⅝ inch (10.16×2.54×1.59 cm). The total number of model units that would be affected adversely is the number of instances.

(6) *Belly flaps (Napes)* may be either loose or attached to a fillet or part of a fillet. The maximum amount of belly flaps should not exceed 15 percent by

declared weight of the block. If this amount does exceed 15 percent, each additional 5 percent by declared weight is another instance.

(7) *Blood spots.* Each lump or mass of clotted blood greater than 3/16 inch (0.48 cm) up to and including 3/8 inch (0.95 cm) in any dimension is an instance. If a blood spot is larger than 3/8 inch (0.95 cm), each additional 3/16 inch (0.48 cm) is another instance.

(8) *Bruises* include distinct, unnatural, dark, reddish, grayish, or brownish off-colors due to diffused blood. Each instance is each bruise larger than 0.5 square inch (3.32 cm^2) and less than 1.5 square inch (9.68 cm^2). For each bruise 1.5 square inch (9.68 cm^2) or larger, each additional complete 1.0 square inch (6.45 cm^2) is another instance.

(9) *Discoloration* refers to deviations from reasonably uniform color characteristics of the species used, such as melanin deposits, yellowing, rusting or other kinds of discoloration of the fish flesh.

(i) *Moderate.* A noticeable but moderate degree which is greater than 0.5 square inch (3.23 cm^2) up to and including 1.5 square inch (9.68 cm^2) is one instance. If the discoloration is greater than 1.5 square inch (9.68 cm^2), each additional complete 1.0 square inch (6.45 cm^2) is another instance.

(ii) *Excessive.* An excessive degree of discoloration which is greater than 0.5 square inch (3.23 cm^2) up to and including 1.5 square inch (9.68 cm^2) is one instance. If the discoloration is greater than 1.5 square inch (9.68 cm^2) each additional complete 1.0 square inch (6.45 cm^2) is another instance.

(10) *Viscera, roe and lace.* Viscera and roe refer to any portion of the internal organs. Each occurrence of viscera and roe is an instance. Lace (frill) is a piece of tissue adhering to the edge of a flatfish (Order *Pleuronectiformes*) fillet. For each lace, each 1/2 inch (1.27 cm) is each instance.

(11) *Skin.* In skinless fish blocks, each piece of skin larger than 0.5 square inch (3.23 cm^2) up to and including 1.0 square inch (6.45 cm^2) is an instance. For each piece of skin that is larger than 1.0 square inch (6.45 cm^2), each additional complete 0.5 square inch (3.23 cm^2) in area is another instance. For pieces of skin smaller than 0.5 square inch (3.23 cm^2), the number of 0.5-square-inch (3.23 cm^2) squares fully or partially occupied after collecting these pieces on a grid is the number of instances.

(12) *Membrane (black belly lining).* Each piece of membrane (black belly lining) larger than 0.5 square inch (3.23 cm^2) up to and including 1.5 square inch (9.68 cm^2) is an instance. For pieces of membrane (black belly lining) that are larger than 1.5 square inch (9.68 cm^2), each additional complete 0.5 square inch (3.23 cm^2) in area is another instance.

(13) *Scales*—(i) *For skin-on fillets that have been scaled,* an instance is an area of scales over 0.5 square inch (3.23 cm^2) up to and including 1.5 square inch (9.68 cm^2). If the area is greater than 1.5 square inch (9.68 cm^2), each additional complete 1.0 square inch (6.45 cm^2) is another instance. Loose scales are counted and instances are deducted in the same manner as for skinless fillets.

(ii) *For skinless fillets,* the first five to ten loose scales is an instance. If there are more than ten loose scales, each additional complete count of five loose scales is another instance.

(14) *Foreign material.* Any harmless material not derived from fish, such as packaging material. Each occurrence is an instance.

(15) *Bones (including pin bone and fin bone).*

(i) Each bone defect is a bone or part of a bone whose maximum profile is 3/16 inch (0.48 cm) or more in length, or at least 1/32 inch (0.08 cm) in shaft diameter or width, or, for bone chips, a longest dimension of at least 3/16 inch (0.48 cm).

(ii) An excessive degree of bone defect is each bone whose maximum profile can not be fitted into a rectangle, drawn on a flat, solid surface, that has a length of 1 3/16 inch (3.02 cm) and a width of 3/8 inch (0.95 cm).

(16) *Fins or part fins.* This defect refers to two or more bones connected by membrane, including internal or external bones, or both, in a cluster.

(i) *Moderate.* Connected by membrane in a cluster, no internal bone.

(ii) *Excessive.* Connected by membrane in a cluster with internal bone.

(17) *Parasites.*—(i) *Metazoan parasites.* Each such parasite or fragment of such a parasite that is detected is an instance.

(ii) *Parasitic copepods.* Each such parasite or a fragment of such a parasite that is detected is an instance.

(18) *Texture* means that the cooked product has the textural characteristics of the indicated species of fish. It does not include any abnormal textural characteristics such as mushy, soft, gelatinous, tough, dry or rubbery.

(i) *Moderate.* Moderately abnormal textural characteristics.

(ii) *Excessive.* Excessively abnormal textural characteristics.

(f) *Listing defect points.* When a sample unit is examined for physical defects using the list of defect definitions given in paragraph (e) of this section, defects are noted and numerical values are assigned in accordance with Table 1. The numbers assigned to defects in Table 1 are points. For examination in the frozen state and for belly flaps and texture, the defect points are added together. For examination of defects number 7 through 17 in the thawed state, the defect points are added together and this sum is divided by the declared weight of the sample unit in pounds. Express the result to the nearest whole number. Then add the sum of defects points for the frozen state and for belly flaps and texture to the sum of defect points for the thawed state expressed on a per pound basis. This result is used to determine the sample unit grade. The scoring system is based on a perfect score of zero (no physical defects).

(g) *Grade assignment.* Each sample unit will be assigned its grade in accordance with the limits for defects summarized as follows:

Grade assignment	Flavor and odor	Maximum number of defect points
U.S. Grade A	Good	15
U.S. Grade B	Reasonably good	30
U.S. Grade C	Reasonably good	60

If a sample unit has been assigned a grade for flavor and odor that is different from the grade indicated by the number of defect points, the sample unit grade will be the lower grade.

TABLE 1—DEFECT TABLE FOR A FISH FILLET BLOCK SAMPLE UNIT

[Size of a sample unit is given in § 284.104(b).]

Defect description	Degree	Point value
1. Dehydration		
Moderate (easily scraped)		
Affecting 5 to 15% of surface area	Each instance	3
Each additional 15% of surface area affected	Each additional instance	7

TABLE 1—DEFECT TABLE FOR A FISH FILLET BLOCK SAMPLE UNIT—Continued

[Size of a sample unit is given in § 264.104(b).]

Defect description	Degree	Point value
Excessive (difficult to scrape)		
Affecting 5 to 10% of surface area	Each instance	7
Each additional 10% of surface area affected	Each additional instance	16
2. Uniformity of block size		
Deviation from each dimension		
Moderate		
Length, width; ⅛ inch to ¼ inch (0.32 to 0.64 cm)	Each instance	3
Thickness; 1/16 inch to ⅛ inch (0.16 to 0.32 cm)	Each instance	3
Excessive		
Length, width; each additional ⅛ inch (0.32 cm)	Each additional instance	8
Thickness; each additional 1/16 inch (0.16 cm)	Each additional instance	6
3. Underweight		
Slight		
0.1 ounce to 1.0 ounce (2.84 to 28.35 g)	Each instance	3
Over 1.0 to 4.0 ounce (28.35 to 113.40 g)	Each instance	11
Excessive		
Over 4.0 ounce (113.40 g), each additional 1.0 ounce (28.35 g)	Each additional instance	16
4. Angles		
Edge angle—apex should be within ⅜ inch (0.95 cm)	Each unacceptable edge	1
Corner angle—apex should be within ⅜ inch (0.95 cm)	Each unacceptable corner	1
5. Improper fill		
If over ⅛ inch (0.32 cm) deep, minimum number of 1-ounce (28.35 g) units affected	Each instance	1
Thawed State		
6. Belly flaps (Napes)		
If over 18%, each additional 5%	Each instance	16
7. Blood spots		
Each spot greater than 3/16 inch to ⅜ inch (0.48 to 0.95 cm)	Each instance	2
If spot over ⅜ inch (0.95 cm), each additional 3/16 inch (0.48 cm)	Each additional instance	4
8. Bruises		
Each bruise 0.5 square inch (3.23 cm^2) to 1.5 square inch (9.68 cm^2)	Each instance	2
If bruise 1.5 square inch (9.68 cm^2) or larger, each additional 1.0 square inch (6.45 cm^2)	Each additional instance	2
9. Discoloration		
Moderate degree, over 0.5 square inch (3.23 cm^2) to 1.5 square inch (9.68 cm^2)	Each instance	4
Moderate degree, over 1.5 square inch (9.68 cm^2), each additional 1.0 square inch (6.45 cm^2).	Each additional instance	4
Excessive degree, over 0.5 square inch (3.23 cm^2) to 1.5 square inch (9.68 cm^2)	Each instance	16
Excessive degree, over 1.5 square inch (9.68 cm^2), each additional 1.0 square inch (6.45 cm^2).	Each additional instance	16
10. Viscera, roe and lace		
Viscera, roe; each occurrence	Each instance	8
Lace (frills), each ⅛ inch (1.27 cm)	Each instance	8
11. Skin (applies to skinless fish blocks)		
Each piece over 0.5 square inch (3.23 cm^2) to 1.0 square inch (6.45 cm^2)	Each instance	2
If pieces over 1.0 square inch (6.45 cm^2), each additional 0.5 square inch (3.23 cm^2)	Each additional instance	10
If pieces under 0.5 square inch (3.23 cm^2), number of 0.5 square inch (3.23 cm^2) squares occupied.	Each instance	6
12. Membrane (black belly lining)		
Each piece over 0.5 square inch (3.23 cm^2) to 1.5 square inch (9.68 cm^2)	Each instance	4
Over 1.5 square inch (9.68 cm^2), each additional 0.5 square inch (3.23 cm^2)	Each additional instance	10
13A. Scales		
For skin-on fillets that have been scaled, an area over 0.5 square inch (3.23 cm^2) to 1.5 square inch (9.68 cm^2).	Each instance	2
If area over 1.5 square inch (9.68 cm^2), each additional 1.0 square inch (6.45 cm^2)	Each additional instance	2
13B. Scales		
For skinless fillets, the first 9 to 10 loose scales	Each instance	2
If over 10 loose scales, each additional 5 loose scales	Each additional instance	2
14. Foreign Material		
Harmless material	Each instance	16
15. Bones		
Each bone defect as defined	Each instance	16
Each excessive degree of bone defect as defined	Each instance	48
16. Fins or part fins		
Moderate (no internal bone)	Each instance	16
Excessive (with internal bone)	Each instance	48
17 Parasites		
Each metazoan parasite or fragment of it as defined	Each instance	36
Each parasitic copepod or fragment of it as defined	Each instance	36

TABLE 1—DEFECT TABLE FOR A FISH FILLET BLOCK SAMPLE UNIT—Continued

[Size of a sample unit is given in § 264.104(b).]

Defect description	Degree	Point value
Cooked State		
18 Texture		
Moderate degree	Moderate	8
Excessive Degree as defined	Excessive	31

§ 264.105 Tolerances for lot certification.

(a) The grade assigned to a lot is the grade indicated by the average of the total scores, provided that the number of sample units in the next lower grade for both physical defects and flavor and odor does exceed the acceptance number as indicated in the sampling plans contained in § 264.106 and the provisions of 50 CFR 260.21. In 50 CFR 260.21, the four score points are additive, not substractive.

(b) The grade assigned to a lot is one grade below the majority of all the sample unit grades if either:

(1) The number of sample units in the next lower grade does exceed the acceptance number as given in the sampling plans contained in § 264.106; or

(2) The grade of any one of the sample units is more than one grade below the majority of all the sample unit grades.

§ 264.106 Hygiene.

All lots to be assigned a grade shall be processed and maintained in accordance with §§ 260.98 through 260.104 of this subchapter and of the good manufacturing practice regulations contained in 21 CFR part 110.

§ 264.107 Methods of analysis.

Product samples will be analyzed in accordance with the "Official Methods of Analysis"of the Association of Official Analytical Chemists (AOAC), Fourteenth Edition (1984), § 18.004 (page 331) plus § 32.059 and 32.060 (page 613) of the Thirteenth Edition (1980), § 18.003 (page 285) plus §§ 32.050 and 32.051 (page 543) which are incorporated by reference. Copies of the AOAC methods may be obtained from AOAC, 2200 Wilson Blvd., Suite 400, Arlington, VA 22201. These methods are incorporated as they exist on the date of approval. A notice of any change in the sections of the AOAC methods cited herein will be published in the Federal Register.

§ 264.108 Sampling plan for fish blocks.

Lot size (No. of blocks)	Sampling size (No. of blocks to be tested) (n)	Acceptance No.[1] (c)
15 or less	2	0
16-50	3	0
51-150	5	1
151-500	8	1
501-3200	13	2
3201-35000	20	3
Over 35000	32	5

[1] For interpretation of this column in grading, see § 264.105.

[FR Doc. 90-24258 Filed 10-15-90; 8:45 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 200
Tuesday, October 16, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Summary Notice No. PR-90-29]

Petition for Rulemaking—Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before December 17, 1990.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Petition Docket No. 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on October 9, 1990.

Denise Donohue Hall,

Manager, Program Management Staff, Office of the Chief Counsel.

Petitions for Rulemaking

Docket No.: 26333

Petitioner: United States Parachute Association

Regulations Affected: 14 CFR section 105.43(b) (2) and (3)

Description of Petition: To change the requirement for an assist device to be used for the static line direct deployment of ram-air main canopies.

Petitioner's Reason for the Request: The petitioner believes the change would be in the public interest as it would allow skydiving schools to use static line direct deployment for ram-air canopies without an assist device. The petitioner believes this will result in the improved reliability of equipment used by skydiving students and will result in less wear and tear on this equipment, thereby extending its service life and reducing operating expenses.

[FR Doc. 90-24279 Filed 10-15-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 90-CE-37-AD]

Airworthiness Directives; Glasflugel Models H301 Libelle, H301B Libelle, Standard Libelle, Standard Libelle 201, Standard Libelle 201B, Standard Libelle 203, Kestrel 604, and BS-1 Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new Airworthiness Directive (AD), applicable to certain Glasflugel Libelle, Kestrel, and BS-1 Series gliders, which would supersede AD 71-16-06 and AD 88-07-05. Operational experience has shown that replacement of the MIL-W-83420D or MIL-W-1511A cables every 500 hours time-in-service (TIS), as currently required by these ADs, should not be mandatory. The proposed AD would require replacement of the hemp core rudder cables with MIL-W-83420D or MIL-W-1511A cables, plus repetitive inspections of these cables every 100 hours TIS, and the elimination of the current 500-hour TIS replacement intervals.

DATES: Comments must be received on or before December 4, 1990.

ADDRESSES: Technical Note (TN) No. 201-26, 301-33, 401-20, and 501-4, all dated March 15, 1987, applicable to this AD, may be obtained from Hansjorg Streifeneder, Glasflaser Flugzeug Service GmbH, Hofener Weg, 7431 Grabenstetten, Federal Republic of Germany (FRG). This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90-CE-37-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Heinz Hellebrand, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, 15 Rue de la Loi B-1040 Brussels, Belgium, Telephone 513.38.30, extension 2710; or Herman Belderok, Small Airplane Directorate, Aircraft Certification Service, FAA, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 426-6932; Facsimile (816) 426-2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report, summarizing each FAA-public contact concerned with the subetance of this proposal, will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90-CE-37-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

AD 88-07-05, Amendment 39-5865 (53 FR 9434, March 23, 1988), required inspection and replacement at 500-hour time-in-service (TIS) intervals of the original hemp core rudder control cables installed in certain Glasflugel Libelle, Kestrel, and BS-1 Series gliders. The actions of this AD eliminated the necessity of AD 71-16-06, Amendment 39-1253, but AD 71-16-06 was inadvertently left on the books.

Subsequently, the Federal Republic of Germany (FRG) Civil Airworthiness Authority (LBA), which has responsibility and authority to maintain the continued airworthiness of these gliders in the FRG, has determined that based upon general operational experience, the replacement of MIL-W-83420D or MIL-W-1511A cables every 500 hours TIS is unduly conservative and not justified.

The FAA relies upon the certification of the LBA, combined with FAA review of pertinent documentation, in finding compliance of the design of these gliders with the applicable United States airworthiness requirements, and the airworthiness and conformity of products of this design, certificated for operation in the United States. The FAA has examined the available information related to the issuance of Hansjorg Streifeneder TN No. 201-26, 301-33, 401-20, and 501-4, and the LBA finding that, based upon general operational experience, the repetitive replacement of the MIL-W-83420D or MIL-W-1511A cables is not justified.

Based on the foregoing, the FAA has determined that the condition addressed by Hansjorg Streifeneder TN No. 201-26, 301-33, 401-20, and 501-4 is one that may exist on other products of the same type design, certificated for operation in the United States, and that the repetitive replacement of the MIL-W-83420D or MIL-W-1511A rudder control cables every 500 hours TIS is not justified.

Consequently, the proposed AD would require replacement of the hemp core rudder cables with MIL-W-83420D or MIL-W-1511A cables, plus repetitive inspection of these cables every 100 hours TIS, and the elimination of the current 500-hour TIS replacement intervals. The proposed AD would supersede AD 88-07-05, Amendment 39-5865 and AD 71-16-06, Amendment 39-1253, which should have been superseded by AD 88-07-05.

The FAA has determined there are approximately 179 gliders affected by the proposed AD. There is no cost in eliminating the repetitive replacement of the rudder control cables per the proposed AD. Therefore, since there is no cost of compliance with the proposed AD, there will not be a financial impact on any small business entities operating these gliders.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small business entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding AD 71-16-06, Amendment 39-1253, and AD 88-07-05, Amendment 39-5865, with the following new AD:

Glasflugel: Applies to Models H301 Libelle, H301B Libelle, Standard Libelle, Standard Libelle 201, Standard Libelle 201B, Standard Libelle 203, Kestrel 604, and BS-1 (all serial numbers) gliders, certificated in any category.

Compliance: Required as indicated after the effective date of this AD, unless already accomplished.

To prevent failures in the rudder control system, accomplish the following:

(a) Within the next 25 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished per AD 71-16-06, Amendment No. 39-1253, or AD 88-07-05, Amendment 39-5865, replace all DIN specification 655, 6 x 7 rudder cables with a diameter of 2.5mm (0.098 in.) having a hemp core, with a 7 x 7, 5/32 inch cable, manufactured in accordance with MIL-W-83420D or MIL-W-1511A, with cable connections constructed in accordance with Actions 2 of Hansjorg Streifeneder Technical Note No. 201-26, 301-33, 401-20, 501-4, all dated March 15, 1987.

(b) Within the next 100 hours TIS after the replacement of the cables required in paragraph (a) of this AD, and thereafter at intervals not to exceed 100 hours TIS, visually inspect the rudder cables for wear, fraying, corrosion, twisting or other damage. If damaged cables are found, prior to further flight replace the damaged cables with cables and connections as specified in paragraph (a) of this AD.

(c) An alternate method of compliance or adjustment of the initial or repetitive compliance times, which provides an equivalent level of safety, may be approved by the Manager, Brussels Aircraft Certification Office, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, 15 Rue de la Loi B-1000 Brussels, Belgium.

Note: The request should be forwarded through an FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Office.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Hansjorg Streifeneder, Glasfaser Flugzeug Service, GmbH, Hofener Weg, D-7431 Grabenstetten, Federal Republic of Germany; or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel,

Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

This AD supersedes AD 71-16-06, Amendment 39-1253, and AD 68-07-05, Amendment 39-6886.

Issued in Kansas City, Missouri, on September 28, 1990.

Don C. Jacobsen,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-24229 Filed 10-15-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 904

Arkansas Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSM is announcing the receipt of a proposed amendment to the Arkansas permanent regulatory program (hereinafter referred to as the Arkansas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Arkansas rules pertaining to applicability, definitions, coal exploration, probable hydrologic consequences (PHC) determinations, transportation and support facilities, bonding, impoundments, coal mine waste, revegetation, and roads. The amendment is intended to revise the State program to be consistent with corresponding Federal standards.

This notice sets forth the times and locations that the Arkansas program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received by 4 p.m., c.s.t. November 15, 1990. If requested, a public hearing of the proposed amendment will be held on November 13, 1990. Request to present oral testimony at the hearing must be received by 4 p.m., c.d.t. on October 31, 1990.

ADDRESSES: Written comments should be mailed or hand delivered to James H. Moncrief at the address listed below.

Copies of the Arkansas program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Tulsa Field Office.

James H. Moncrief, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, suite 550, Tulsa, OK 74135, Telephone: (918) 581-6430.

Arkansas Department of Pollution Control and Ecology, Mining Reclamation Division, 8001 National Drive, Little Rock, AR 72209, Telephone: (501) 570-2170.

FOR FURTHER INFORMATION CONTACT: James H. Moncrief, Director, Tulsa Field Office, on telephone number (918) 581-6430.

SUPPLEMENTARY INFORMATION:

I. Background on the Arkansas Program

On November 21, 1980, the Secretary of the Interior conditionally approved the Arkansas program. General background information on the Arkansas program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Arkansas program, were published in the November 21, 1980, Federal Register (45 FR 77003). Subsequent actions concerning the Arkansas program and program amendments are at 30 CFR 904.12, 904.15, and 904.16.

II. Proposed Amendment

By letter dated September 27, 1990 (administrative record No. AR-413), Arkansas submitted a proposed amendment to its program pursuant to SMCRA. Arkansas submitted the proposed amendment in response to a November 8, 1989, letter that OSM sent to Arkansas in accordance with 30 CFR 732.17(c). Arkansas proposes to amend its program by revising existing rules or adding new rules concerning applicability, definitions, coal exploration, PHC determinations, transportation and support facilities, bonding, impoundments, coal mine waste, revegetation, and roads. Specifically, Arkansas proposes to amend Arkansas Surface Coal Mining and Reclamation Code sections: 700.10, applicability 701.5, definitions; 776.11, general requirement for coal exploration of less than 250 tons; 780.21, PHC determinations; 780.37, transportation facilities; 780.38 and 784.27, support facilities; 800.11, incremental bonding; 815.15, performance standards for coal exploration; 815.17, requirements for a coal exploration permit; 816.49, impoundments; 816.84, coal mine waste impounding structures; 816.116 and 816.17, success standards for revegetation; and 816.150 and 816.151, roads.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Arkansas program.

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Tulsa Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under "FOR FURTHER INFORMATION CONTACT" by 4 p.m., c.d.t. on October 31, 1990. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests a hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to

discuss the proposed amendment may request a meeting by contacting the person listed under "FOR FURTHER INFORMATION CONTACT." All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under "ADDRESSES." A written summary of each meeting will be made a part of the administrative record.

List of Subjects in 30 CFR Part 934

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 4, 1990.

Raymond L. Lowrie,

Assistant Director, Western Support Center.

[FR Doc. 90-24206 Filed 10-15-90; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 57

RIN 0905-AD01

Educational Assistance to Individuals from Disadvantaged Backgrounds

AGENCY: Public Health Service, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed regulation would revise the regulations governing the program for Educational Assistance to Individuals from Disadvantaged Backgrounds authorized by section 787 of the Public Health Service Act (the Act), to implement amendments made by the Health Professions Reauthorization Act of 1988, by adding: (1) A definition for "community-based program"; (2) a requirement for certain schools, during a 3-year period, to increase their first-year enrollments of disadvantaged individuals by at least 20 percent over the base year of 1987; (3) a statutory priority in the award of grants, beginning in Fiscal Year 1992, to schools that attain specified increases in their enrollments of disadvantaged individuals; (4) a 10 percent funding set-aside obligation for community-based programs; and (5) a change in the amount of grant funds obligated to institutions of higher education from 80 percent to 70 percent. In addition, this notice also proposes changes to conform the existing regulations with amendments made by the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990, the Drug-Free Workplace Act of 1988, the Health Professions Training Assistance Act of 1985, the Compact of Free Association Act of 1985, the Omnibus Budget Reconciliation Act of 1981, and other changes which are ministerial and clarifying in nature. The Department believes that these proposed amendments will provide eligible schools and entities a stronger base to carry out programs to continue to identify, recruit, and assist individuals from disadvantaged backgrounds that are underrepresented in the health professions to enter and graduate from health and allied health professions schools.

DATES: As discussed below, comments are invited. To be considered, comments must be received by December 17, 1990.

ADDRESSES: Written comments should be addressed to Fitzhugh Mullan, M.D., Director, Bureau of Health Professions (BHPr), Health Resources and Services Administration, room 8-05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. All comments received will be available for public inspection and copying at the Office of Program Development, BHPr, room 8A-55, Parklawn Building, at the above address weekdays (Federal holidays excepted) between the hours of 8:30 am. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Clay E. Simpson, Jr., Ph.D., Director, Division of Disadvantaged Assistance, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8A-09, 5600 Fishers Lane, Rockville, Maryland 20857; telephone number: 301 443-2100.

SUPPLEMENTARY INFORMATION: Section 787 of the Act, as amended by the Health Professions Reauthorization Act of 1988, Title VI of Pub L. 100-607, authorizes the Secretary to make grants to schools of medicine, osteopathic medicine, public health, dentistry, veterinary medicine, optometry, pharmacy, allied health, chiropractic and podiatric medicine, and public and private nonprofit schools which offer graduate programs in clinical psychology, and other public or private nonprofit health or educational entities to carry out programs which assist individuals from disadvantaged backgrounds to enter and graduate from health professions and allied health professions schools. Regulations governing the Grants for Educational Assistance to Individuals from Disadvantaged Backgrounds are codified at 42 CFR part 57, subpart S.

The proposed provisions are described below, according to the sections of the regulations they affect.

Section 57.1802 "Definitions"

The Department is proposing to add the following definition to this section:

Community-based program means a program whose organizational headquarters is located in and which primarily serves: A Metropolitan Statistical Area, as designated by the Office of Management and Budget; a Bureau of Economic Analysis, U.S. Department of Commerce designated nonmetropolitan economic area; a county; or Indian tribe(s) as defined in 42 CFR 36.102(c), i.e., an Indian tribe, band, nation, rancheria, Pueblo, colony or community, including an Alaska Native Village or regional or village corporation.

This definition is necessary to incorporate the statutory requirement that 10 percent of the amount of funds appropriated during any fiscal year be set aside for community-based programs. The Secretary believes that any institution offering such a program, headquartered in a defined locality and serving predominantly that local population, is community based. The Department is proposing to use the areas specified because: (1) Metropolitan Statistical Areas and nonmetropolitan economic areas, as defined by the U.S. Department of Commerce, are recognized distinct geographic localities, (2) counties are clearly delineated local areas, and (3) Indian tribe areas, not delineated above, are defined under 42 CFR part 36 governing Indian Health Programs (§ 36.102(c)). Each of these areas is viewed as constituting a community.

Section 57.1804 "Who is Eligible for Educational Assistance?"

The Department is proposing to amend § 57.1804, by adding a new eligibility requirement that an individual must "have completed at least the junior year of high school (or its equivalent)", in order to receive educational assistance.

This requirement is necessary to target resources, in the earliest phase of the educational pathway toward a health or allied health career, to an educational level of students who have made tentative decisions and demonstrated interest in acquiring some of the knowledge and skills needed to seriously consider pursuing a health career.

Section 57.1805 "Program Requirements"

The Department is proposing to amend § 57.1805 by making a separate paragraph (c) from the existing requirement under paragraph (a)(5) of this section that the grantee must carry out at least two of the five purposes,

even if grant funds are requested or awarded for only one of them.

In addition, Public Law 100–607 added a requirement that schools of medicine, osteopathic medicine, public health, dentistry, veterinary medicine, optometry, pharmacy, allied health, chiropractic, podiatric medicine, and public and private nonprofit schools that offer graduate programs in clinical psychology that receive a grant under the program must, during a period of 3 years, commencing on the date of the award of the grant, increase their first-year enrollments of individuals from disadvantaged backgrounds by at least 20 percent over enrollments in the base year of 1987.

This requirement is applicable only to those schools that have a proportionate enrollment of individuals from disadvantaged backgrounds that is less than 200 percent of the national average percentage of such individuals in all schools of each health professions discipline. The effect of this requirement will not be seen until Fiscal Year 1992, when schools which have achieved this increase will be given a funding priority.

Accordingly, the Department is further proposing to amend § 57.1805 by adding a new paragraph (d) to require that schools subject to this provision submit an assurance to the Secretary that they will meet the specified increases.

Section 57.1806 "How Will Applications Be Evaluated?"

The Department is proposing to add statutory language under a new paragraph (b) which specifies that of the amounts appropriated under this section for any fiscal year—

1. 10 percent shall be obligated for community-based programs,

2. 70 percent shall be obligated for grants to institutions of higher education, and

3. Not more than 5 percent of such funds may be obligated for grants having the primary purpose of informing individuals about the existence and general nature of health careers.

The NPRM also proposes to incorporate statutory funding priorities under a new paragraph (c), which requires the Secretary to give priority in funding to the following schools, beginning in Fiscal Year 1992:

1. A school which previously received a grant under this subpart and increased its first-year enrollment of individuals from disadvantaged backgrounds by at least 20 percent over that enrollment in the base year 1987 by the end of 3 years from the date of the award of the Health Career Opportunity Program Grant; and

2. A school which had not previously received a grant under this subpart that increased its first-year enrollment of individuals from disadvantaged backgrounds by at least 20 percent over that enrollment in base year 1987, over any period of time.

Further, a provision is added in paragraph (c) to state that the Secretary will also consider other special factors relating to national needs as the Secretary may from time to time announce in the Federal Register. This action is necessary to provide flexibility in program management by enabling this training grant program to be more responsive to the emerging and changing public health care needs of the Nation.

For example, in Fiscal Year 1990, a priority is being given to applicants from health professions schools and allied health training centers for baccalaureate or higher level programs in specified disciplines that have a disadvantaged student enrollment of 35 percent or more, or can document over the past 3-year period a 10 percent increase in the number of first-year enrollees who are disadvantaged, or can document a 90 percent retention rate of disadvantaged students of the most recent graduating class.

Section 57.1808 "For What Purposes May Grant Funds Be Spent?"

The Department is proposing to add "associate degree", in paragraph (c)(2), as another level of a student's educational development at which grant funds could be offered to provide the student with expenses to cover one round trip from his or her residence and the training site if the student is not receiving educational assistance during that period of training.

The NPRM also proposes to amend § 57.1808, paragraph (d), by incorporating the statutory authority for "stipend" support, which allows for payments to be made to an individual under a fellowship or training grant in accordance with preestablished levels to provide for the individuals living expenses during the period of training. Consequently, paragraph (d)(1) is further revised to remove the requirement that a student establish a temporary new residence if the training site is beyond a reasonable commuting distance as a condition for receiving stipend support.

In addition to the changes proposed above, a number of technical and clarifying changes are included to conform the existing regulations with amendments made by Public Law 100–607; Public Law 101–121, the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990; Public Law 100–690, the Drug-Free Workplace Act of 1988; Public Law 99–129, the Health Professions Training Assistance Act of 1985; Public Law 99–239, the Compact of Free Association Act of 1985; and Public Law 97–35, the Omnibus Budget Reconciliation Act of 1981, and current departmental grants policy language. These revisions are summarized below according to the section number and headings of the regulations:

1. Revise § 57.1802, entitled "*Definitions.*", to change the following terms:

(a) The definition of "health professions"—

(1) By revising the disciplines of "osteopathy" and "podiatry" to read "osteopathic medicine" and "podiatric medicine", in accordance with Public Law 100–607;

(2) By adding the disciplines of "health administration" in accordance with Public Law 97–35, "chiropractic" in accordance with Public Law 99–129, and "clinical psychology", in accordance with Public Law 100–607.

(b) The definition of "health professions schools"—

(1) By revising the reference to schools of "osteopathy" and "podiatry" to read "osteopathic medicine" and "podiatric medicine", in accordance with Public Law 100–607;

(2) By adding schools of "chiropractic" in accordance with Public Law 99–129, "graduate programs in health administration", in accordance with Public Law 97–35, and "graduate programs in clinical psychology", in accordance with Public Law 100–607.

(c) The definition of "nonprofit" to reflect the change in the statutory language made by Public Law 97–35.

(d) The definition of "school of allied health" by adding the phrase "or hospital-based educational entity", in accordance with Public Law 100–607.

(e) The definition of "Secretary" to reflect current departmental policy language.

(f) The definition of "State" to update those entities which, for purposes of this grant program, are viewed as a State, by inserting after the "Trust Territory of the Pacific Islands" the following: "(the Republic of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia", in accordance with Public Law 99–239.

2. Revise § 57.1803, entitled "Who is eligible to apply for a grant?", under paragraph (a), to provide current departmental grants policy language and to add a sentence to reflect that eligible institutions may submit an application as the Secretary may prescribe, and to add a footnote which provides the address for obtaining application forms and instructions. The application

number and the Office of Management and Budget approval number are also provided in the footnote.

3. Revise § 57.1804, entitled "Who is eligible for educational assistance?", to incorporate in paragraph (a) concerning an eligible individual's citizenship status, the Immigration and Naturalization Service policy as it relates to the admission into the United States, its territories and possessions, of citizens of the Republic of the Marshall Islands and the Federated States of Micronesia (formerly entities of the Trust Territory of the Pacific Islands), in accordance with Public Law 99–239;

4. Revise § 57.1807, entitled "How long does grant support last?", to:

(a) Remove the second sentence in paragraph (b) regarding the submission of a separate application to receive consideration for continued support and relocate a modified sentence regarding continuation support at the end of paragraph (c) to reflect current departmental grants policy language.

(b) Remove in paragraph (c) the phrase "commits or obligates the Federal Government" and reinsert in its place "shall commit or obligate the United States" to reflect current departmental grants policy language, and

(c) Remove paragraph (d), concerning federally-obligated grant funds, and relocate it in § 57.1808, entitled "For what purposes may grant funds be spent?";

5. Revise § 57.1808, entitled "For what purposes may grant funds be spent?", by:

(a) Removing paragraph (b) concerning expenditures that cannot be spent with grant funds and adding this information into paragraph (e), and

(b) Adding a new paragraph (b) on the expenditure of any balance of federally-obligated grant funds in order to reflect current departmental grants policy language.

6. Revise § 57.1809, entitled "What additional Department regulations apply to grantees?", by:

(a) Changing the citation number "45 CFR part 50, subpart D" to read "42 CFR part 50, subpart D,"

(b) Changing the footnote number and the footnote reference in the text cited after "45 CFR part 83" from "1" to "2", and

(c) Adding new Code of Federal Regulations citations to the regulations to bring this grant program into compliance with governmentwide requirements established for this Department under—

(1) 45 CFR part 76, in accordance with Public Law 100–690, title V, subtitle D, the Drug-Free Workplace Act of 1988, enacted on November 18, 1988, and a Notice and Interim-Final Rules, published in the Federal Register on January 31, 1989 (54 FR 4946), and

(2) 45 CFR part 93, in accordance with Public Law 101–121, section 319, the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990, enacted on October 23, 1989, and an Interim-Final Rule, published in the Federal Register on February 26, 1990 (55 FR 6736).

Regulatory Flexibility Act and Executive Order 12291

These regulations govern a financial assistance program in which participation is voluntary. The rule will not exceed the threshold level of $100 million established in section (b) of Executive Order 12291. For these reasons, the Secretary has determined that this rule is not a major rule under Executive Order 12291 and a regulatory impact analysis is not required. Further, because the rule does not have a significant economic impact on a substantial number of small entities, a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980 is not required.

Paperwork Reduction Act of 1980

This proposed rule contains information collections which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. The title, description, and respondent description of the information collections are shown below with an estimate of the annual reporting and recordkeeping burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Title: Grants for Educational Assistance to Individuals from Disadvantaged Backgrounds.

Description: Each grantee must meet the requirements of section 705 of the Act concerning audit and inspection.

Description of Respondents: State and local governments, nonprofit institutions.

Estimated Annual Reporting and Recordkeeping Burden:

Section number	Annual No. of respondents	Annual frequency	Average burden per response	Annual burden hours
57.1803	(This section contains a reporting burden which has already been cleared under OMB Nos. 0915-0060 and 0915-0061.)			
57.1810 [1]	160	1	4	640

[1] Grantee institutions must submit an audit report, every 2 years as required by section 705 of the PHS Act. It has been estimated that the audit requires approximately 8 hours. This burden has been prorated over 2 years, producing an annual burden of 4 hours per grantee.

We have submitted a copy of this proposed rule to OMB for its review of these information collections. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the agency official designated for this purpose whose name appears in this preamble, and to the Office of Information and Regulatory Affairs, OMB, Washington, DC 20503.

List of Subjects in 42 CFR Part 57

Dental health, Education of the disadvantaged, Educational facilities, Educational study programs, Grant programs-education, Grant programs-health, Health facilities, Health professions, Loan programs-health, Medical and dental schools, Student aid.

Accordingly, 42 CFR part 57, subpart S is proposed to be amended as set forth below:

Dated: June 20, 1990.

James O. Mason,

Assistant Secretary for Health.

Approved: September 27, 1990

Louis W. Sullivan,

Secretary.

(*Catalog of Federal Domestic Assistance*, No. 13.822, Health Careers Opportunity Program)

PART 57—GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES, EDUCATIONAL IMPROVEMENTS, SCHOLARSHIPS AND STUDENT LOANS

Subpart S—Educational Assistance to Individuals from Disadvantaged Backgrounds

1. The authority citation for subpart S is revised to read as follows:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); Sec. 787, Public Health Service Act, 90 Stat. 2317, as amended by 95 Stat. 623, 99 Stat. 941, and 102 Stat. 3131–3132 (42 U.S.C. 295g–7).

2. Section 57.1802 is amended by adding the definition of "community-based program" and by revising the definitions of "health professions", "health professions schools", "nonprofit", "school of allied health", "Secretary", and "State" to read as follows:

§ 57.1802 Definitions.

* * * * *

Community-based program means a program whose organizational headquarters is located in and which primarily serves: A Metropolitan Statistical Area, as designated by the Office of Management and Budget; a Bureau of Economic Analysis, U.S. Department of Commerce designated nonmetropolitan economic area; a county; or Indian tribe(s) as defined in 42 CFR 36.102(c), i.e., an Indian tribe, band, nation, rancheria, Pueblo, colony or community, including an Alaska Native Village or regional or village corporation.

Health professions means the professions of medicine, dentistry, osteopathic medicine, pharmacy, optometry, podiatric medicine, veterinary medicine, public health, chiropractic, health administration, and clinical psychology.

Health professions schools means schools of medicine, dentistry, osteopathic medicine, pharmacy, optometry, podiatric medicine, veterinary medicine, public health, chiropractic, graduate programs in health administration, or graduate programs in clinical psychology, as defined in section 701(4) of the Act and as accredited in section 701(5) of the Act.

* * * * *

Nonprofit refers to the status of an entity owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

School of allied health means a public or private nonprofit college, junior college, university or hospital-based educational entity which provides or is accredited to provide a degree program in an allied health discipline and which meets all the criteria in section 701(10) of the Act.

Secretary means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.

State includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands (the Republic of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia.

3. Section 57.1803 is amended by revising paragraph (a) to read as follows:

§ 57.1803 Who is eligible to apply for a grant?

(a) Health professions schools, schools of allied health, and public or private nonprofit health or educational entities which are located in a State and provide health or educational programs as one of their major functions may apply for a grant under this subpart. Each eligible applicant desiring a grant under this subpart shall submit an application in the form and at such time as the Secretary may prescribe.[1]

* * * * *

4. Section 57.1804 is amended by revising paragraph (a), by redesignating paragraph (b) as (c), and by adding a new paragraph (b) to read as follows:

§ 57.1804 Who is eligible for educational assistance?

* * * * *

(a) Be a resident of the United States and either a citizen or national of the United States, an alien lawfully admitted for permanent residence in the United States, a citizen of the Commonwealth of the Northern Mariana Islands, a citizen of the Trust Territory of the Pacific Islands (TTPI) (consisting of the Republic of Palau), or a citizen of the Republic of the Marshall Islands or the Federated States of Micronesia (both formerly part of the TTPI);

(b) Have completed at least the junior year of high school (or its equivalent); and

* * * * *

5. Section 57.1805 is amended by removing the last sentence in paragraph (a)(5); by redesignating paragraph (b) as (c); and by adding new paragraphs (b) and (d) to read as follows:

§ 57.1805 Program requirements.

* * * * *

(b) The grantee must carry out at least two of the five purposes, even if grant funds are requested or awarded for only one of them.

* * * * *

(d) Grantees which: (1) Are schools of medicine, osteopathic medicine, public health, dentistry, veterinary medicine, optometry, pharmacy, allied health, chiropractic, podiatric medicine, and public and private nonprofit schools that offer graduate programs in clinical psychology; and

(2) Have a proportionate enrollment of individuals from disadvantaged backgrounds that is less than 200 percent of the national average percentage of such individuals in all schools of each health professions discipline must assure the Secretary that during a period of 3 years, commencing on the date of the award of the grant, they will increase their first-year enrollment of individuals from disadvantaged backgrounds by at least 20 percent over enrollments in the base year of 1987.

6. Section 57.1806 is amended by redesignating paragraphs (a) through (f) as paragraphs (1) through (6) and designating the introductory text as paragraph (a); by designating the concluding text of the section as paragraph (b) and revising it; and by adding a new paragraph (c) to read as follows:

§ 57.1806 How will applications be evaluated?

* * * * *

(b) Within the limits of funds available, the Secretary will award grants to approved applicants with projects that will best promote the purposes of section 787 of the Act. Of the amounts appropriated under this section for any fiscal year, 10 percent shall be obligated for community-based programs and 70 percent shall be obligated for grants to institutions of higher education and not more than 5 percent of such funds may be obligated for grants having the primary purpose of informing individuals about the existence and general nature of health careers. Section 787(a)(2)(G) authorizes

[1] Applications and instructions (Form PHS 6025–1, OMB #0915–0060) may be obtained from the Grants Management Officer, Bureau of Health Professions, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

the payment of such stipends as the Secretary may approve for participants in a project for any period of education at any school eligible for a grant under this subpart.

(c) *Funding priority.* (1) In determining the funding of applications approved under paragraph (a) of this section, the Secretary shall give priority to schools described in § 57.1805(d), beginning in Fiscal Year 1992—

(i) Which previously received a grant under this subpart and increased its first-year enrollment of individuals from disadvantaged backgrounds by at least 20 percent over that enrollment in the base year 1987 by the end of 3 years from the date of the award of the HCOP grant; and

(ii) Which had not previously received a grant under this subpart that increased its first-year enrollment of individuals from disadvantaged backgrounds by at least 20 percent over that enrollment in the base year 1987, over any period of time.

(2) In addition, should specific needs warrant, the Secretary will also consider other special factors relating to national needs as the Secretary may from time to time announce in the Federal Register.

7. Section 57.1807 is amended by removing the second sentence in paragraph (b), by removing paragraph (d), and by revising paragraph (c) to read as follows:

§ 57.1807 How long does grant support last?

* * * * *

(c) Neither the approval of any application nor the award of any grant shall commit or obligate the United States in any way to make any additional, supplemental, continuation or other award with respect to any approved application or portion of an approved application. For continuation support, grantees must make separate application at such times and in such a form as the Secretary may prescribe.

8. Section 57.1808 is amended by revising paragraph (b), the introductory text to paragraph (c), paragraph (c)(2), the introductory text to paragraph (d), paragraph (d)(1), and paragraph (e) to read as follows:

§ 57.1808 For what purpose may grant funds be spent?

* * * * *

(b) Any balance of federally-obligated grant funds remaining unobligated by the grantee at the end of a budget period may be carried forward provided specific approval is granted by the Secretary. If at any time during the budget period it becomes apparent to the Secretary that the amount of Federal funds provided and made available to the grantee for that period, including any unobligated balance carried forward from prior periods, exceeds the grantee's needs for the period, the Secretary may adjust the amounts provided by withdrawing the excess. A budget period is an interval of time (usually 12 months) into which the project period is divided for funding and reporting purposes.

(c) The grantee may spend grant funds to provide one round trip for each individual in the program between his or her residence and the training site if:

* * * * *

(2) The educational assistance is not offered at a time when the individual would be at the training site as a student in a regular course of education leading to a high school diploma, associate degree, undergraduate degree, or degree in the health or allied health professions.

(d) The grantee may spend grant funds to pay individuals in the program a stipend when the grantee determines that:

(1) The condition in paragraph (c)(2) of this section exists;

* * * * *

(e) The grantee may not spend grant funds to pay tuition or fees, train program staff, retrain health professionals, or for sectarian instruction, or for any religious purpose.

9. Section 57.1809 is amended by revising the number in the citation of "45 CFR part 50, subpart D" to read "42 CFR part 50, subpart D;" by revising the footnote number and the footnote reference in the text cited after "45 CFR part 83" from "1" to "2"; and by adding in numerical order the following new CFR citations to read as follows:

§ 57.1809 What additional Department regulations apply to grantees?

* * * * *

45 CFR Part 76—Governmentwide Debarment and Suspension (non-procurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)

* * * * *

45 CFR Part 93—New Restrictions on Lobbying

[FR Doc. 90-24283 Filed 10-15-90; 8:45 am]
BILLING CODE 4160-15-M

Notices

Federal Register
Vol. 55, No. 200
Tuesday, October 16, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

National Commission on Wildfire Disasters; Nominations

AGENCY: Forest Service, USDA.

ACTION: Notice; extension of nomination period.

SUMMARY: In a notice published Thursday, September 6, 1990, (55 FR 36673), the Department of Agriculture invited nominations of agencies, organizations, and interested persons to serve as members of the National Commission on Wildfire Disasters. This Commission is authorized by the Wildfire Disaster Recovery Act of 1989. Due to a delay in sending the direct notices by mail, the date for receiving nominations is extended to November 2, 1990.

DATES: Nominations must be received in writing by Friday, November 2, 1990.

ADDRESSES: Send written nominations to Chief (5100), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090.

FOR FURTHER INFORMATION CONTACT: Dennis W. Pendleton, Fire and Aviation Management Staff, Forest Service (202) 453-8511.

Dated: October 10, 1990.

Allen J. West,

Deputy Chief, State and Private Forestry.

[FR Doc. 90-24273 Filed 10-15-90; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-479-801]

Antidumping Duty Order; Industrial Nitrocellulose From Yugoslavia

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: In its investigation, the U.S. Department of Commerce determined that industrial nitrocellulose from Yugoslavia was being sold in the United States at less than fair value. In a separate investigation, the U.S. International Trade Commission (ITC) determined that a U.S. industry is being materially injured by reason of imports of industrial nitrocellulose from Yugoslavia.

Therefore, based on these findings, all unliquidated entries or warehouse withdrawals of industrial nitrocellulose for consumption from Yugoslavia made on or after April 24, 1990, the date on which the Department published its "Preliminary Determination" notice in the Federal Register, will be liable for the possible assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, and withdrawals from warehouse, for consumption made on or after the date of publication of this antidumping duty order in the Federal Register.

EFFECTIVE DATE: October 16, 1990.

FOR FURTHER INFORMATION CONTACT: Karmi Leiman or Bradford Ward, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-3498 or 377-5288, respectively.

SUPPLEMENTARY INFORMATION: The product covered by this order is industrial nitrocellulose, currently classifiable under HTS subheading 3912.20.00. The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive as to the scope of the product coverage.

Industrial nitrocellulose is a dry, white, amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent, and is produced from the reaction of cellulose with nitric acid. Industrial nitrocellulose is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. The scope of this order does not include explosive grade nitrocellulose, which has a nitrogen content of greater than 12.2 percent.

In accordance with section 735(a) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)), on August 21, 1990, the Department made its final determination that industrial nitrocellulose from Yugoslavia is being sold at less than fair value (55 FR 34046, August 27, 1990). On June 28, 1990, in accordance with section 735(d) of the Act (19 U.S.C. 1673d(d)), the ITC notified the Department that such imports materially injure a U.S. industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department will direct U.S. Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of industrial nitrocellulose from Yugoslavia. These antidumping duties will be assessed on all unliquidated entries of industrial nitrocellulose from Yugoslavia entered, or withdrawn from warehouse, for consumption on or after April 24, 1990, the date on which the Department published its "Preliminary Determination" notice in the Federal Register (55 FR 7763).

On or after the date of publication of this notice in the Federal Register, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below:

Manufacturers/producers/exporters	Margin percentage
Milan Blagojevic	10.81
All others	10.81

This notice constitutes an antidumping duty order with respect to industrial nitrocellulose from Yugoslavia, pursuant to section 736(a) of the Act (19 U.S.C. 1673e(a)). Interested parties may contact the Central Records Unit, Room B-099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act (19 U.S.C. 1673e(a)) and 19 CFR 353.21.

Dated: October 11, 1990.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration

[FR Doc. 90-24481 Filed 10-15-90; 8:45 am]

BILLING CODE 3510-DS-M

ACTION: Notice of application for an amendment to an Export Trade Certificate of Review.

Export Trade Certificate of Review

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an amendment to an Export Trade Certificate of Review. This notice summarizes the amendment and requests comments relevant to whether the amended Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the Federal Register identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether the Certificate should be amended. An original and five (5) copies should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, room 1800H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 90-A0005."

OETCA has received the following application for an amendment to Export Trade Certificate of Review No. 90-00005, which was issued on August 10, 1990 (55 FR 33740, August 17, 1990). The applicant has requested expedited review of the application.

Summary of the Application

Applicant: California Kiwifruit Commission ("CKC"), 1540 River Park Drive, suite 110, Sacramento, California 95815.
Contact: Jennifer K. Wirick, Esquire.
Telephone: (202) 347-9300.
Application No.: 90-A0005.
Date Deemed Submitted: October 5, 1990.
Request for Amended "Members":

CKC seeks to amend its Certificate to add California Kiwifruit Exporters Association as a "Member" within the meaning of § 325.2(1) of the Regulations (15 CFR 325.2 (1)).

Dated: October 11, 1990.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 90-24335 Filed 10-15-90; 8:45 am]

BILLING CODE 3510-DR-M

Export Trade Certificate of Review

ACTION: Notice of application for an amendment to an Export Trade Certificate of Review.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an amendment to an Export Trade Certificate of Review. This notice summarizes the amendment and requests comments relevant to whether the amended Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the Federal Register identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether the Certificate should be amended. An original and five (5) copies should be submitted not later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, room 1800H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 88-00017, which was issued on May 26, 1989 (54 FR 24932, June 12, 1989). The Certificate has been previously amended (see 55 FR 14100, April 16, 1990).

Summary of the Application

Applicant: Construction Industry Manufacturers, Association ("CIMA"), 111 East Wisconsin Avenue, suite 940, Milwaukee, Wisconsin 53202.
Contact: J. William Peterson, Director of Government Affairs.
Telephone: 202/479-2866.
Application No.: 88-3A017.
Date Deemed Submitted: October 5, 1990.
Request For Amended "Members":

CIMA seeks to amend its Certificate to:

1. Add the following companies as "Members" within the meaning of § 325.2(1) of the Regulations (15 CFR 325.2(1)): LaBounty Manufacturing, Inc., Two Harbors, Minnesota, and Gehl Company, West Bend, Wisconsin;
2. Delete Caterpillar Inc. and J.I. Case Company as "Members" of the Certificate; and
3. Delete paragraph 7 of the "Export Trade Activities and Methods of Operation" from the Certificate. Paragraph 7 limits the discussion and exchange of price information when designated Members engage in the

certified export trade activities and methods of operation with respect to particular products.

Dated: October 11, 1990.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 90-24336 Filed 10-15-90; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Army

Armed Forces Institute of Pathology, Scientific Advisory Board; Open Meeting

In order to comply with section 10(a)(2) of the Federal Advisory Committee Act (Pub. Law 92-463), notice is hereby given of a meeting of the Armed Forces Institute of Pathology's Scientific Advisory Board, November 7 and 8, 1990, at 0830 hours in the Director's Conference room, Armed Forces Institute of Pathology, Washington, DC 20306-6000. This meeting will be open to the public.

The proposed agenda will include professional discussion of the mission of the Armed Forces Institute of Pathology relating to consultation, education and research. The Executive Secretary from whom substantive program information may be obtained is Colonel John S. Jewell, Executive Officer, Armed Forces Institute of Pathology, Washington, DC 20306-6000, telephone: (202) 576-2900.

Kenneth L. Denton,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 90-24294 Filed 10-15-90; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10221-001, Utah]

Beaver City Corp.; Availability of Environmental Assessment

October 9, 1990.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for minor license for the proposed Beaver City Canyon Upper Project located on Beaver Creek in Beaver County near Beaver City, Utah, and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the proposed project, with appropriate mitigation measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3308, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24275 Filed 10-15-90; 8:45 am]

BILLING CODE 6717-01-M

Application Filed with the Commission

October 9, 1990.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection.

a. *Type of filing:* Transfer of License.

b. *Project No.:* 2233-021.

c. *Date filed:* September 27, 1990.

d. *Applicant:* James River II, Inc., Portland General Electric Co., and Smurfit Newsprint Corporation (Transferors) and Simpson Paper (Oregon) Company, Portland General Electric Co., and Smurfit Newsprint Corporation (Transferees).

e. *Name of project:* Williamette Falls.

f. *Location:* On the Williamette River in Clakamas County, Oregon.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant contact:* Priscilla W. Derick, Perkins Coie, 411-108th Avenue NE., Suite 1800, Bellevue, WA 98004, (206) 453-7311.

i. *Commission contact:* Mr. James Hunter, (202) 357-0883.

j. *Comment date:* November 12, 1990.

k. *Description of proposed action:* On June 21, 1960, a major license was issued for the construction, operation, and maintenance of the Williamette Falls Project. James River II, Inc. proposes to transfer its interests and obligations under the license to Simpson Paper (Oregon) Company. The proposed transfer will not change the operation of the project or the use of project power. The Transferors certify that they have fully complied with the terms and conditions of the license. The Transferees accept all the terms and conditions of the license and agree to be bound thereby to the same extent as though they were the original licensee.

1. This notice also consists of the following standard paragraphs: B and C.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "RECOMMENDATIONS FOR TERMS AND CONDITIONS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATIONS," "PROTEST" or "MOTION TO INTERVENE," as applicable, and the project number of the particular application to which the filing is in response. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to: the Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027-UPC, at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the applicant specified in the particular application.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24276 Filed 10-15-90; 8:45 am]

BILLING CODE 6717-01-M

Office of Energy Research

Basic Energy Sciences Advisory Committee; Renewal

Pursuant to section 14(a)(2)(A) of the Federal Advisory Committee Act, and § 101-6.1015 of the Final Rule on Federal Advisory Committee Management (41 CFR 101-6.1015), and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the Basic Energy Sciences Advisory Committee has been

renewed for a 2-year period. The Committee will continue to provide advice to the Director, Office of Energy Research, on the Basic Energy Sciences (BES) program.

The renewal of the Basic Energy Sciences Advisory Committee charter has been determined to be essential the conduct of the Department's business and to be in the public interest in connection with the performance of duties imposed upon the Department of Energy by law. The Committee will operate in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), the Department of Energy Organization Act (Pub. L. 95-91), and regulations and directives implementing those statutes.

The Committee will continue to be balanced with representatives of national laboratories, industry, and universities involved in basic energy sciences. Particular attention will continue to be paid to obtaining a balance of disciplines, interests, experiences, points of view, and geography.

Further information regarding this advisory committee can be obtained from Elinor Donnelly (202-586-3448).

Issued in Washington, DC, on October 11, 1990.

J. Robert Franklin,

Deputy Advisory Committee, Management Officer.

[FR Doc. 90-24337 Filed 10-15-90; 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

[FE Docket No. 90-74-NG]

Goetz Energy Corp.; Application To Export Natural Gas to and Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for authorization to export natural gas to and import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on August 24, 1990, of an application filed by Goetz Energy Corporation (Goetz) for authorization to export to Canada at St. Clair, Michigan, up to 25,000 Mcf per day of natural gas plus such additional gas as may be required for fuel use, and to import from Canada at Grand Island, New York, up to 25,000 Mcf per day of natural gas over a fifteen year period. The application was amended by a letter that was received by DOE/FE on September 28, 1990. Goetz anticipates purchasing the natural gas from southwestern U.S. producers under long-term contracts lasting five to fifteen years. It intends to utilize firm transportation service on the proposed Empire State Pipeline, whose applications for construction currently are pending before the New York State Public Service Commission and the Federal Energy Regulatory Commission (FERC). Goetz also has entered into or is negotiating agreements for firm transportation with ANR Pipeline Company (ANR), Great Lakes Transmission Company (Great Lakes), TransCanada Pipelines, and Union Gas Limited (Union).

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t., November 15, 1990.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F-056, FE-50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Linda Silverman, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F-094, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-7249

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: Goetz is a New York corporation whose principal place of business is in Buffalo, New York. The company is a marketer of natural gas and petroleum products to customers in a territory that includes Buffalo, Rochester, and Syracuse, New York.

Goetz currently relies on CNG Transmission Corporation (CNG) to provide interruptible transportation for its customers behind interconnecting local distribution companies encompassing Rochester Gas and Electric Corporation, Niagara Mohawk Power Corporation, and specific areas of New York State Electric and Gas Corporation. The company also is dependent upon National Fuel Supply Corporation (NFSC) to provide interruptible transportation for its customers behind National Fuel Distribution Corporation (NFDC). Goetz is attempting to secure firm natural gas supplies and transportation in order to reduce its dependence upon CNG and NFSC and to obtain alternative natural gas supplies and firm transportation at competitive prices and on favorable terms. The company maintains that this will result in a total delivered cost of natural gas that, during the term of the arrangements, is competitive with existing and other sources of natural gas.

According to the application, the same gas would be exported and imported solely as part of a transportation arrangement, and would not be sold or stored in Canada; consequently, DOE does not believe that it is necessary to consider in its evaluation domestic need for the gas with respect to the proposed export, nor competitiveness, need for the gas, or security of supply with respect to the proposed import. DOE will consider the impact of the transportation arrangement on the availability of gas in markets served by the proposed Empire State Pipeline and by the pipeline systems of Great Lakes, ANR, and United.

The applicant asserts that delivery of the subject natural gas will not deprive the United States or any region of the country of needed natural gas and will further the goal of providing additional volumes of natural gas to the northeastern United States. Parties opposing the arrangement bear the burden of overcoming these assertions.

All parties should be aware that if the requested export/import arrangement is approved, the authorization would be conditioned on the filing of quarterly reports indicating the volume of natural gas exported and imported.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*, requires the DOE to give appropriate consideration to the environmental effects of its proposed actions. FERC currently is performing an environmental review of the impacts of constructing and operating the proposed facilities related to the Empire State Pipeline project in FERC Docket Nos. CP 90-316 and CP 90-317. The DOE will independently review the results of the FERC environmental evaluation of this project in the course of making its own environmental determination. No final decision will be issued in this proceeding until the DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Goetz' application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 11, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-24338 Filed 10-15-90; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3852-7]

Science Advisory Board, Meetings of Standing Committees, Open Meeting—October 25-26, 1990

Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given that five of the permanent, Standing Committees of the U.S. EPA's Science Advisory Board (SAB) will hold public meetings on October 25-26, 1990 in the Washington, DC. metropolitan area. Information concerning each Committee and its meeting is given below. For further information concerning a particular committee, please contact the SAB Staff member(s) listed for that committee.

Environmental Engineering Committee: The Environmental Engineering Committee (EEC) will meet at U.S. Environmental Protection Agency Headquarters, Waterside Mall Conference Center, Room 2-South, 401 M Street, SW., Washington, DC, 20460. This meeting will start at 9:00 a.m. on Thursday, October 25th and 8:30 a.m. on Friday, October 26th and will adjourn no later than 3:00 p.m. on October 26th.

The main purpose of this meeting will be to plan EEC review activities for Fiscal Year (FY) 1991 and to receive briefings on additional possible review topics for FY 1991 and beyond. The FY 1991 topics to be discussed include, but are not limited to the following: review of treatability studies applicable to Superfund sites, a follow-up study to examine the Agency's pollution prevention strategy, review of the Office of Research and Development's (ORD's) global climate mitigation plans, a planned consultation/review of ORD's constructed wetlands program for treatment of wastewater streams, ORD's research plans for bioremediation technology development, follow-up review with the Office of Solid Waste (OSW) on the EEC's self-initiated study on leachability. Other possible review topics will be discussed as they are made available to the EEC prior to the meeting and as time permits. It is anticipated that two reports (Municipal Solid Waste Review and the Leachability Report) which are being finalized by Subcommittees of the EEC will have some discussion and closure comments at this meeting. SAB contacts are: Dr. K. Jack Kooyoomjian, Designated Federal Official, and Mrs. Marcy Jolly, Staff Secretary.

Ecological Processes and Effects Committee: The Ecological Processes and Effects Committee (EPEC) will meet on October 25-26, 1990 at the Holiday Inn, 550 C Street, SW., Washington, DC, 20024. This meeting will start at 9:00 a.m. on October 25th and will adjourn no later than 1:00 p.m. on October 26th.

The main purpose of this meeting will be to plan EPEC review activities for FY 1991 nd to receive briefings on current regulatory activities. The SAB contacts are: Dr. Edward Bender, Designated Federal Official, and Mrs. Frances Dolby, Staff Secretary.

Drinking Water Committee: The Drinking Water Committee will meet on October 25-26, 1990 at the Holiday Inn, 550 C Street, SW., Washington, DC 20024. This meeting will start at 8:30 a.m. on October 25th and will adjourn no later than 1:00 p.m. October 26th.

The main purpose of this meeting will be to review the criteria document for trihalomethanes and receive briefings on current regulatory activities. Documentation for this meeting is available from Ms. Jennifer Orme, Office of Drinking Water, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, telephone (202) 382-7586. SAB contacts are: Dr. C. Richard Cothern, Designated Federal Official, and Ms. Darlene Sewell, Staff Secretary.

Radiation Advisory Committee: The Radiation Advisory Committee (RAC) will meet on October 25-26, 1990 at the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. On October 25th, the Committee will meet in the Administrator's Conference Room (Room 1101/1103 West Tower), and on October 26th, the Committee will meet in Room 9-North, Waterside Mall Conference Center. The meeting will begin at 9:00 a.m. on October 25th and adjourn no later than 2:00 p.m. on October 26th.

The Committee will consider its priorities and schedules for FY91, be briefed on EPA radiation related activities (including the Idaho Radionuclide Exposure Study report), and consider reports now in preparation

including such issues as: Radionuclides in drinking water, the national survey for radon in schools, and the correlation of short-term and long-term tests for radon. SAB contacts are: Mrs. Kathleen Conway, Designated Federal Official, and Mrs. Dorothy Clark, Staff Secretary.

Environmental Health Committee: The Environmental Health Committee will meet on October 25–26, 1990 in the Howard Johnson Hotel, 2650 Jefferson Davis Highway, Arlington, Virginia 22202. The hotel telephone number is (703)–684–7200. The meeting will start at 9:00 a.m. on October 25th, and will adjourn no later than 5:00 p.m. on October 26th.

The main purpose of this meeting is to consult with the EPA's Office of Toxic Substances (OTS) on issues related to formaldehyde exposure, to review a proposed methodology for the calculation of Inhalation Reference Concentrations (RfCs—the estimate of a daily inhalation exposure (of a given agent) to the human population that is likely to be without an appreciable risk of deleterious non-cancer effects during a lifetime), to receive a briefing from the EPA Risk Assessment Forum on current risk assessment issues, and to discuss the Committee's plans for reviews during Fiscal 1991.

Anyone desiring additional information on the formaldehyde topic should contact Dr. Vanessa Vu, Office of Toxic Substances, (TS–796), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, telephone (202)–382–4356. For information on the RfC topic, contact Dr. Chon Shoaf, Environmental Criteria and Assessment Office, (MD–52), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone (919)–541–4144. The SAB contacts are: Mr. Samuel Rondberg, Designated Federal Official and Ms. Mary Winston, Staff Secretary.

SUPPLEMENTARY INFORMATION: All meetings are open to the public. Any member of the public wishing further information on any meeting, or those who wish to submit written or oral comments concerning any issue given above, should contact the appropriate Designated Federal Official. Agendas and Committee rosters are available from the appropriate Staff Secretary. SAB Staff may be reached at: Science Advisory Board (A101F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, telephone (202) 382–2552, or FAX (202) 475–9693. Requests to provide oral comments at any of the meetings should be made to the appropriate DFO no later than October 12, 1990. The SAB expects that the public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total of ten minutes. Speakers are asked to provide 20 copies of their written remarks to the SAB Staff no later than the day of the meeting. Seating at all meetings will be on a first come basis.

Dated: October 1, 1990.

Donald G. Barnes,

Director, Science Advisory Board.

[FR Doc. 90–24406 Filed 10–15–90; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; Port Authority of New York and New Jersey/Maher Terminals, Inc.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC., Office of the Federal Maritime Commission, 1100 L Street, NW., room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–010694–004.

Title: Port Authority of New York and New Jersey/Maher Terminals, Inc. Terminal Agreement.

Parties: Port Authority of New York and New Jersey/Maher Terminals, Inc.

Synopsis: The Agreement amends the parties' basic agreement to provide for extending the term of the agreement. The Agreement's term will expire on the earlier of: October 31, 1990; or, the day preceding the date of commencement of the term of a new lease proposed to be entered into by the parties.

By Order of the Federal Maritime Commission.

Dated: October 10, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90–24271 Filed 10–15–90; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Alaska Sightseeing Tours, Inc., West Leasing, Inc. and West Travel, Inc., 4th and Battery Bldg., suite 700, Seattle, WA 98121.

Vessel: Spirit of Alaska.

Dated: October 5, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90–24302 Filed 10–15–90; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of August 21, 1990

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on August 21, 1990.[1] The directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting suggests that economic activity is continuing to expand at a relatively slow pace. After a sizable rise in May and June, total nonfarm payroll employment registered a large decline in July, much but not all of which reflected layoffs of temporary census workers. The civilian unemployment rate rose to 5.5 percent in July, just above the narrow range that had prevailed for an extended period. Industrial production was unchanged in July after rising appreciably in the second quarter. Retail sales rose considerably on balance over June and July after declines in earlier months. Available indicators point to a sluggish trend in business capital spending. Residential construction weakened further in July. The nominal

[1] Copies of the Record of policy actions of the Committee for the meeting of August 21, 1990, are available upon request to The Board of Governors of the Federal Reserve System, Washington, DC 20551.

U.S. merchandise trade deficit narrowed sharply in June; for the second quarter, the trade deficit was substantially reduced from its first-quarter rate. Consumer prices rose appreciably further in June and July, while producer prices were about unchanged over the two months. The latest data on labor costs suggest no improvement in underlying trends. Crude oil prices have risen sharply over the last several weeks.

Short-term interest rates have fallen somewhat since the Committee meeting on July 2–3, while rates in bond markets have risen appreciably, as oil prices have increased. The trade-weighted foreign exchange value of the dollar in terms of the other G–10 currencies declined considerably over the intermeeting period.

M2 grew slowly in June and July, while M3 was little changed; available data for August suggest a partial rebound in both aggregates. Growth of M2 and especially of M3 has been damped by the continuing contraction of deposits at thrift institutions resulting from the restructuring of the thrift industry. Through July, expansion of both M2 and M3 was estimated to be in the lower portions of their respective ranges for 1990. Expansion of total domestic nonfinancial debt appears to have been near the midpoint of its monitoring range.

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability, promote growth in output on sustainable basis, and contribute to an improved pattern of international transactions. In furtherance of these objectives, the Committee at its meeting in July reaffirmed the range it had established in February for M2 growth of 3 to 7 percent, measured from the fourth quarter of 1989 to the fourth quarter of 1990. The Committee in July also retained the monitoring range of 5 to 9 percent for the year that it had set for growth of total domestic nonfinancial debt. With regard to M3, the Committee recognized that the ongoing restructuring of thrift depository institutions had depressed its growth relative to spending and total credit more than anticipated. Taking account of the unexpectedly strong M3 velocity, the Committee decided in July to reduce the 1990 range to 1 to 5 percent. For 1991, the Committee agreed on provisional ranges for monetary growth, measured from the fourth quarter of 1990 to the fourth quarter of 1991, of 2½ to 6½ percent for M2 and 1 to 5 percent for M3. The Committee tentatively set the associated monitoring range for growth of total domestic non-financial debt at 4½ to 8½ percent for 1991. The behavior of the monetary aggregates will continue to be evaluated in the light of progress toward price level stability, movements in their velocities, and developments in the economy and financial markets.

In the implementation of policy for the immediate future, the Committee seeks to maintain the existing degree of pressure on reserve positions. Taking account of progress toward price stability, the strength of the business expansion, the behavior of the monetary aggregates, and developments in foreign exchange and domestic financial markets, slightly greater reserve restraint might or somewhat lesser reserve restraint would be acceptable in the intermeeting period. The contemplated reserve conditions are expected to be consistent with growth of M2 and M3 over the period from June through September at annual rates of about 4 and 2½ percent respectively. The Chairman may call for Committee consultation if it appears to the Manager for Domestic Operations that reserve conditions during the period before the next meeting are likely to be associated with a federal funds rate persistently outside a range of 6 to 10 percent.

By order of the Federal Open Market Committee, October 10, 1990.

Normand Bernard,

Assistant Secretary Federal Open Market Committee.

[FR Doc. 90-24297 Filed 10-15-90; 8:45 am]

BILLING CODE 6210-01-M

Robert L. and Claudia A. Beauprez; Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than October 31, 1990.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Robert L. and Claudia A. Beauprez, Lafayette, Colorado; to acquire an additional 38.03 percent of the voting shares of Front Range Capital Corporation, Lafayette, Colorado, and thereby indirectly acquire Bank VII, Lafayette, Colorado.

Board of Governors of the Federal Reserve System, October 10, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-24298 Filed 10-15-90; 8:45 am]

BILLING CODE 6210-01-M

First Union Corporation, et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated

or the offices of the Board of Governors not later than November 6, 1990.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President), 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Union Corporation*, Charlotte, North Carolina; to engage *de novo* through its subsidiary, First Union Securities, Inc., Charlotte, North Carolina, in buying and selling loans and others extensions of credit and loan servicing for its own account or the account of other pursuant to § 225.25(b)(1); and including personal or real property leases which serve as the functional equivalent of extensions of credit to the leases of the property pursuant to § 225.25(b)(5) of the Board's Regulation Y.

B. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Assistant Vice President), 101 Market Street, San Francisco, California 94105:

1. *West Coast Bancorp*, Newport, Oregon; to engage *de novo* in making, acquiring, servicing and brokering loans pursuant to § 225.25(b)(1); and leasing personal and real property pursuant to § 225.25(b)(5) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 10, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-24299 Filed 10-15-90; 8:45 am]

BILLING CODE 6210-01-M

Paloma Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 6, 1990.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Paloma Bancshares, Inc., Paloma, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Paloma Exchange Bank, Paloma, Illinois.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Decatur Investment, Inc., Oberlin, Kansas; to merge with Western Kansas Investment, Inc., Winona, Kansas, and thereby indirectly acquire The Bank, Oakley, Kansas.

Board of Governors of the Federal Reserve System, October 10, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-24300 Filed 10-15-90; 8:45 am]

BILLING CODE 6210-01-M

Peotone Bancorp, Inc., Peotone, IL; Applications To Engage de Novo in Permissible Nonbanking Activities; Correction

This notice corrects a previous Federal Register Notice (FR Doc. 90-22752) published at page 39323 of the issue for Wednesday, September 26, 1990.

Under the Federal Reserve Bank of Chicago, the entry for Peotone Bancorp, Inc. is amended to read as follows:

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Peotone Bancorp, Inc., Peotone, Illinois; to engage *de novo* through its subsidiary, Rock River Bancorporation, Inc., Oregon, Illinois, in providing general insurance agency services including life insurance, health insurance, property and casualty insurance, and fixed rate annuities in a town with a population of less than 5,000, pursuant to § 225.25(b)(8)(iii) of the Board's Regulation Y. These activities will be conducted in Oregon, Illinois. Applicant also will engage in credit life insurance as agent for insurance that is directly related to an extension of credit by Rock River Bancorporation or any of its subsidiaries and limited to assuring the repayment of the outstanding balance due on the extension of credit in the event of death, disability, or involuntary unemployment of the debtor, pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

In addition, the heading should have read as set forth above.

Comments on this application must be received by October 31, 1990.

Board of Governors of the Federal Reserve System, October 10, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-24301 Filed 10-15-90; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

BEST COPY AVAILABLE

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 091790 AND 092890

Name of Acquiring Person, Name of Acquired Person, Name of Acquired Entity	PMN No.	Date terminated
Pacific Telesis Group, CCI Newco, Inc., CCI Newco, Inc.	90-2084	09/17/90
Primark Corporation, Champion International Corporation, Champion International Corporation	90-2092	09/18/90
Thorn EMI plc, Filmtrax plc, Filmtrax plc	90-2120	09/18/90
Dr. Med Hartmut Krekemeyer, Charter Medical Corporation, Charter Suburban Hospital of Memphis, Inc.	90-2135	09/18/90
Kyow Hakko Kogyo Co. Ltd., NCNB Corporation, NCNB Lease Investments, Inc.	90-2109	09/20/90
Bank of Montreal, UJB Financial Corp., United Jersey Bank and First Valley Bank	90-2125	09/20/90
Edison Brothers Stores, Inc., Irving G. Katz, Webster Clothes, Inc.	90-2066	09/21/90
Kendry Trust, Natick Simon Developers Limited Partnership, Natick Simon Developers Limited Partnership	90-2085	09/21/90
General Electric Company, The Travelers Corporation, Travelers Mortgage Services, Inc.	90-2072	09/21/90
Canadian Pacific Limited, Metropolitan Life Insurance Company, MetHotels, Inc.	90-2106	09/21/90
Ford Motor Company, Transamerica Corporation, Transamerica Fleet Leasing Corporation	90-2132	09/21/90
O. Bruton Smith, L.G. DeWitt, Atlanta International Raceway, Inc.	90-2133	09/21/90
K Mart Corporation, Officemax, Inc., Officemax, Inc.	90-2157	09/21/90
GeoQuest International, Inc., The Dun & Bradstreet Corporation, Petroleum Information Corporation	90-2092	09/24/90
David J. McGrath, Jr., Greyhound Dial Corporation, Greyhound C&D, Inc. & Consultants & Designers, Inc.	90-2146	09/24/90
New Line Cinema Corporation, Cintex Entertainment Inc., Cintex Entertainment Inc., et al.	90-2155	09/24/90
Viktor and Therese Klehart, Gary A. Sandy, G.W. Sandy, Inc.	90-2117	09/25/90
Cimenteries CBR S.A., David L. Horowitz, Standard Concrete Products, Inc.,	90-2122	09/25/90
Oroda Cement Co., Ltd., CalMat Co., California Portland Cement Company	90-2123	09/25/90
Richard M. and Rebecca I. Adler Trust, Atlantic Richfield Co., Atlantic Richfield Co.	90-2136	09/25/90
Nippon Yusen, K.K. Philip F. Anschutz, Rio Grande Industries, Inc.	90-2142	09/25/90
Antah Holdings Berhad, Pool Energy Services C., Associated Offools, Inc.	90-2161	09/25/90
Mrs. Noor Sultan Hashwani, The Prudential Insurance Company of America, The Prudential Insurance Company of America	90-2162	09/25/90
O.K.I. Supply Co., Ira L. Rennert, Baring Sales, Inc.	90-2064	09/26/90
UniHealth America, Valley Health Services, Inc., Valley Health Services, Inc.	90-2089	09/26/90
Buhrmann-Tetterode N.V., Lucas Bros, Inc., Lucas Bros, Inc.	90-2141	09/26/90
George S. Holmeister, Allied Products Corporation, Allied Products Corp's South Bend Stamping Division	90-2077	09/27/90
Henry Crown and Company (Not Incorporated), William M. Bauce, Bauce Cellular Inc.	90-2100	09/27/90
Hewlett-Packard Company, ASK Computer Systems, Inc., SK Computer Systems Inc.	90-2143	09/27/90
Cable TV Fund 15-A, Ltd., Glenn R. Jones, Jones Intercable, Inc.	90-2144	09/27/90
Mr. Tore Staubo, Penrod Drilling Corporation, Penrod Drilling Corporation	90-2150	09/27/90
General Motors Corporation, ASK Computer Systems, Inc., K Computer Systems Inc.	90-2158	09/27/90
Natural Gas Clearing House, Mesa Limited Partnership, Mesa Operating Limited Partnership	90-2176	09/27/90
Unilever N.V., Imperial Chemical Industries PLC, ICI Americas Inc.	90-2171	09/28/90
T. Chatani & Co., Ltd., Empco Holdings, Corp., Empco Holdings, Corp.	90-2175	09/28/90
Ford Motor Company, Frank Stronach, Ligma Corporation	90-2180	09/28/90
ITT Corporation, American General Corporation, American General Finance, Inc.	90-2181	09/28/90
BellSouth Corporation, PacifiCorp, T.U. International, Inc.	90-2186	09/28/90

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Renee A. Horton, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition Room 303, Washington, DC 20580, (202) 326-3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 90-24219 Filed 10-15-90; 8:45 am]

BILLING CODE 6750-01-M

[File No. 892-3178]

Guild Mortgage Co.; Proposed Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, a San Diego, Ca., corporation to accurately calculate and disclose the annual percentage rate, finance charge, payment schedule and other information required by Regulation Z; to make adjustments to the accounts of consumers listed; and for adjustments resulting from mortgage insurance errors, to pay consumer redress totalling approximately $500,000 over a five-year-period.

DATES: Comments must be received on or before December 17, 1990.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Carole Reynolds or Stephen Cohen, FTC/S-4429, Washington, DC 20580. (202) 326-3230 or 326-3222.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order To Cease and Desist

In the Matter of Guild Mortgage Co., a corporation.

The agreement herein, by and between Guild Mortgage Company (hereinafter sometimes referred to as "proposed respondent") by its duly authorized officer and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Guild Mortgage Company is a corporation organized, existing, and doing business under and by virtue of the laws of the state of California, with its principal office and place of business located at 4180 Ruffin Road, San Diego, California 92123. Proposed respondent admits all the jurisdictional facts set

forth in the draft complaint here attached.

2. Proposed respondent waives:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

d. All claims under the Equal Access to Justice Act.

3. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of the complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

4. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of the complaint here attached.

5. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to the proposed respondent, (a) Issue its complaint corresponding in form and substance with the draft of the complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (b) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

6. Proposed respondent has read the proposed complaint and order contemplated hereby. Proposed respondent understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

Definitions

For purposes of this Order, the following definitions apply:

1. *Composite APR* means a blend of interest rates as described in § 226.17(c)(1)–10 of the Federal Reserve Board's Official Staff Commentary to Regulation Z;

2. *First adjustment date* is the date on which the consumer's monthly payment of principal and interest is first changed, in accordance with the terms set forth in the consumer's note or adjustable rate rider;

3. *Original TIL disclosure* is the last TIL disclosure given to a consumer by respondent before consummation of the loan.

I.

It is ordered that respondent Guild Mortgage Company, a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or any other device, in connection with any extension of consumer credit in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Failing to disclose accurately in its discounted adjustable rate mortgages a composite annual percentage rate and, thereby, failing to disclose accurately the annual percentage rate and the finance charge, as required by sections 106, 107 and 128 of the Truth in Lending Act, 15 U.S.C. 1605, 1606 and 1638, and §§ 226.4, 226.22, and 226.18 (d) and (e) of Regulation Z, 12 CFR 226.4, 226.22 and 226.18 (d) and (e) and § 226.17(c)(1) of Regulation Z, 12 CFR 226.17(c)(1), as more fully set out in § 226.17(c)(1)–10 of the Federal Reserve Board's Official Staff Commentary to Regulation Z, 12 CFR 226.17(c)(1)–10.

2. Failing to disclose accurately the annual percentage rate and finance charge, as required by sections 106, 107 and 128 of the Truth in Lending Act, 15 U.S.C. 1605, 1606 and 1638, and §§ 226.4, 226.22 and 226.18 (d) and (e) of Regulation Z, 12 CFR 226.4, 226.22 and 226.18 (d) and (e).

3. Failing to include the premiums for mortgage insurance when computing the annual percentage rate, finance charge, and number, amount and timing of payments scheduled to repay the obligation, as required by sections 106, 107 and 128 of the Truth in Lending Act, 15 U.S.C. 1605, 1606 and 1638, and §§ 226.4, 226.22 and 226.18 (d), (e) and (g) of Regulation Z, 12 CFR 226.4, 226.22 and 226.18 (d), (e) and (g).

4. Failing to disclose accurately the number, amount, and timing of payments scheduled to repay the obligation, as required by section 128 of the Truth in Lending Act, 15 U.S.C. 1638, and § 226.18(g) of Regulation Z, 12 CFR 226.18(g).

5. Failing to make all disclosures determined in accordance with sections 106 and 107 of the Truth in Lending Act, 15 U.S.C. 1605 and 1606, and §§ 226.4 and 226.22, in the manner, form and amount required by §§ 226.17, 226.18, 226.19 and 226.20 of Regulation Z, 12 CFR 226.17, 226.18, 226.19 and 226.20.

II.

It is further ordered that:

A. In accordance with section 108(e) of the TILA, 15 U.S.C. 1607, and as shown on the attached Exhibits 1 (adjustable rate mortgage list), 2 (mortgage insurance premium list), and 3 (adjustable rate mortgage and mortgage insurance premium list), respondent shall make adjustments to the current and past accounts of each consumer listed who was extended credit by respondent; except, any adjustment relating solely to respondent's failure to use a composite annual percentage rate shall be limited to the time period up to the first adjustment date;

B. For those adjustments resulting from mortgage insurance premium errors, respondent shall refund the mortgage insurance premium collected to date as shown on Exhibits 2 and 3;

C. Not later than thirty (30) days following the date of service of this order, for those consumers listed on Exhibits 2 and 3, respondent shall have either cancelled the remaining mortgage insurance or taken whatever action is necessary so that the applicable consumer is not charged for any additional mortgage insurance premiums for the life of the loan;

D. Respondent shall have a five-year period in which to complete the adjustments described in paragraphs A and B; except, where the amount of the adjustment is $200 or less, the adjustment shall be completed by the end of the first year. Each consumer listed on Exhibits 1, 2, and 3 shall receive payment from respondent for at least one fifth of the applicable adjustment for that consumer no later than the last day of each calendar year beginning with the current year.

III.

It is further ordered that all payment adjustments required by this order shall be made by mailing the consumer a check by first class mail, certified, return receipt requested, to the current or last known address of each such consumer.

IV.

It is further ordered that by not later than thirty (30) days from the date of service of this order, respondent shall send a letter by first class mail to all consumers listed on Exhibits 2 and 3, eliminating the consumer's liability for future mortgage insurance premiums.

V.

It is further ordered that respondent shall maintain for at least six (6) years from the date of service of this order and, upon request, make available to the Federal Trade Commission for inspection and copying, all records and documents necessary to demonstrate fully its compliance with this order.

VI.

It is further ordered that respondent, its successors and assigns, shall distribute a copy of this order to any present or future officers, agents, representatives, and employees having responsibility with respect to the subject matter of this order and that respondent, its successors and assigns, shall secure from each such person a signed statement acknowledging receipt of said order.

VII.

It is further ordered that respondent shall promptly notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

VIII.

It is further ordered that respondent shall, within one hundred and twenty (120) days of the date of service of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order. Within thirty (30) days of the end of each year for five years, starting with the current year, respondent shall forward a copy of all checks mailed to consumers in that year to the Federal Trade Commission, Enforcement Division, Washington, DC 20580.

IX.

It is further ordered that respondent shall have the right to request modification of this order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from respondent Guild Mortgage Company.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint alleges that respondent has failed to disclose accurately a composite annual percentage rate and has underdisclosed the annual percentage rate and finance charge in its discounted adjustable rate mortgages, in violation of §§ 226.4, 226.22 and 226.18 (d) and (e) of Regulation Z, and § 226.17(c)(1) of Regulation Z, as more fully set out in §§ 226.17(c)(1)–8 and 226.17(c)(1)–10 of the Federal Reserve Board's Official Staff Commentary to Regulation Z. The complaint also alleges that respondent has failed to include premiums for mortgage insurance in the annual percentage rate, finance charge and payment schedule, in violation of §§ 226.4, 226.22, and 226.18 (d), (e) and (g) of Regulation Z.

The proposed order requires respondent to accurately calculate and disclose the annual percentage rate, finance charge, payment schedule and other information required by Regulation Z, in connection with respondent's extensions of consumer credit.

The proposed order also requires respondent, in accordance with section 108(e) of the Truth in Lending Act, 15 U.S.C. 1607, to make adjustments to the accounts of consumers as shown on three attached lists. Exhibit 1 contains the adjustments for adjustable rate mortgage errors; Exhibit 2 contains the adjustments for mortgage insurance errors; and Exhibit 3 contains the adjustments for loans involving both adjustable rate mortgage and mortgage insurance errors. Those adjustments relating to respondent's failure to use a composite annual percentage rate are limited to the time period up to the first date at which the interest rate is adjusted on the loan.

For adjustments resulting from mortgage insurance errors, respondent is required to refund to consumers the premiums collected to date, as shown on Exhibits 2 and 3. Additionally, not later than 30 days after service of the order, respondent must either cancel the remaining mortgage insurance on these loans or take other action to ensure that the consumer is not charged for mortgage insurance for the remainder of the loan. Respondents must also notify consumers with mortgage insurance errors that their obligation has decreased accordingly.

Respondent has five years to complete the adjustments, except that where the adjustment is $200 or less respondent must provide it by the end of the first year. For adjustments greater than $200, respondent is required to provide at least one fifth of the amount each year to the consumer, starting with the current year. The adjustments must be made by providing a check to applicable consumers.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,
Secretary.

Dissenting Statement of Commissioner Andrew J. Strenio, Jr. Guild Mortgage Co.

I have voted against this proposed consent agreement because good law and sound policy considerations support requiring respondent Guild Mortgage Company to fully redress consumers for its alleged violations of the Truth-in-Lending Act ("TILA"). In my view, the company should not have been allowed a 0.25% "tolerance" deduction.

With respect to the law, it is at the very least a colorable argument that section 108(e)(1)(B)(i) of the TILA (15 U.S.C. 1607(e)(1)(B)(i))—which provides that in determining whether an APR disclosure error has occurred, and in

calculating any adjustment, a tolerance not to exceed 0.25% will be granted—specifies a tolerance only for the purpose of determining whether a case is worth pursuing and that full sanctions apply for all cases over this threshold figure.

As to policy, the goals of restitution and deterrence are clearly furthered by insisting upon full redress. Restitution is incomplete when injured consumers—who have suffered financial loss through no fault of their own—have to swallow a 0.25% "penalty" payment that is allowed to remain in the pockets of an alleged law violator. Deterrence is weakened when financial institutions are allowed to benefit from sloppiness or worse to the tune of 0.25%. To analogize to traffic enforcement, it may be appropriate for a number of reasons not to prosecute drivers going 5 or fewer miles per hour over the speed limit. However, individuals caught going 10 miles over the limit must pay fines based upon an excess of 10—not 5—miles per hour. The same type of approach makes sense here.

Accordingly, I respectfully dissent from the majority's decision to provisionally accept the consent for public comment.

[FR Doc. 90-24366 Filed 10-15-90; 8:45 am]
BILLING CODE 6750-01-M

[File Nos. 892-3226 and 892-3144]

IVF Australia, Ltd., et al., and NME Hospitals, Inc.; Proposed Consent Agreements With Analyses To Aid Public Comment; Corrections

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreements; corrections.

SUMMARY: This document concerns the Federal Register Notices containing these consent agreements, which were published on Friday, September 14, 1990 (55 FR 37960, 37962). The Notices indicated that comments on the agreements must be received on or before November 13, 1990. Because the proposed consent agreements were actually placed on the public record on September 27, 1990, the public comment period will actually expire on—and comments on the agreement therefore must instead be received on or before—November 26, 1990.

DATES: Comments must be received on or before November 26, 1990.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th Street and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Michael McCarey, FTC/H-374, Washington, DC 20580, (202) 326-2966.

Donald S. Clark,
Secretary.

[FR Doc. 90-24365 Filed 10-15-90; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR-29]

Availability of Draft Toxicological Profiles

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR); Public Health Service (PHS); Department of Health and Human Services (DHHS).

ACTION: Notice.

SUMMARY: This notice announces the expected availability of the fourth set of 30 draft toxicological documents profiling 36 hazardous substances prepared by ATSDR for review and comment.

The Superfund Amendments and Reauthorization Act (SARA) (Pub. L. 99-499) amends the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) (42 U.S.C. 9601 *et seq.*) by establishing certain requirements for the ATSDR and the Environmental Protection Agency (EPA) with regard to hazardous substances which are most commonly found at facilities on the CERCLA National Priorities List (NPL). Among these statutory requirements is a mandate for the Administrator of ATSDR to prepare toxicological profiles for each substance included on the priority lists of hazardous substances. These lists identified the 200 hazardous substances which both Agencies determined pose the most significant potential threat to human health. The first list was published in the Federal Register on April 17, 1987, (52 FR 12866). The second list was published on October 20, 1988, (53 FR 41280).

These profiles were prepared according to guidelines developed to meet the requirements of CERCLA (42 U.S.C. 9604 (i)(3)). Although we are confident that the key studies for each of the substances were considered during the profile development process, this Federal Register notice solicits any additional studies, particularly unpublished data and ongoing studies, which will be evaluated for possible addition to the profile now or in the future.

Availability

The following draft toxicological profiles are expected to be publicly available on or about October 17, 1990.

Document	Hazardous substance	CAS Number
1	Aluminum	7429-90-5
2	Antimony	7440-36-0
3	Barium	7440-39-3
4	2,3-Benzofuran	271-89-6
5	Boron	7440-42-8
6	Bromomethane	74-83-9
7	1,3-Butadiene	106-99-0
8	2-Butanone	78-93-3
9	Carbon Disulfide	75-15-0
10	Cobalt	7440-48-4
11	Cresols	1319-77-3
	o-Cresol	108-39-4
	m-Cresol	108-44-5
	p-Cresol	95-48-7
12	Dibromochloropropane.	109-64-8
	1,2-Dibromo-3-chloropropane.	96-12-8
13	1,2-Dibromoethane	106-93-4
14	2,4-Dichlorophenol	120-83-2
15	cis-1,3-Dichloropropene.	10061-01-5
	trans-1,3-Dichloropropene.	10061-02-6
16	Endosulfan	115-29-7
	Endosulfan Alpha	959-98-8
	Endosulfan Beta	33213-65-9
	Endosulfan Sulfate	1031-07-8
17[1]	Fluorides	16984-48-8
	Hydrogen Fluoride	7664-39-3
	Fluorine (F)	7782-41-4
18	2-Hexanone	591-78-6
19	Manganese	7439-96-5
20	Methyl Mercaptan	74-93-1
21	Methyl Parathion	298-00-0
22	Mustard "Gas"	505-60-2
23	Nickel	7440-02-0
	2-Nitrophenol	88-75-5
	4-Nitrophenol	100-02-7
24	Pyridine	110-86-1
25	Styrene	100-42-5
26	Thallium	7440-28-0
27	Tin	7440-31-5
28	1,2,3-Trichloropropane.	96-18-4
29	Vanadium	7440-62-2
30	Vinyl acetate	108-05-4

[1] The Toxicological Profile for Fluorides will be available for public comment at a later date. The availability of the Toxicological Profile For Public Comment will be announced in the Federal Register when it becomes available.

The public comment period for each document will end on February 15, 1991. The close of the comment period will also be indicated on the front of each document. In order to assure consideration by ATSDR, comments must be received by the Division of Toxicology, Agency for Toxic Substances and Disease Registry, Mailstop E-29, 1600 Clifton Rd., Atlanta, GA 30333 on or before the close of the public comment period. Comments received after the close of the public comment period will be considered at

the discretion of ATSDR based upon what is deemed to be in the best interest of the general public.

Requests for draft toxicological profiles must be in writing and should be sent to the Division of Toxicology, Agency for Toxic Substances and Disease Registry, Mailstop E-29, 1600 Clifton Rd., Atlanta, GA 30333.

Please specify the profiled hazardous substances you wish to receive. ATSDR reserves the right to provide only one copy of each profile requested free of charge. In the case of extended distribution delays, requestors will be notified.

Written comments and other data submitted in response to this notice and the draft toxicological profiles should bear the docket control number ATSDR-29. Send one copy of all comments and five copies of all supporting documents to the Division of Toxicology at the above address by the end of the comment period. All written comments and draft profiles will be available for public inspection at the ATSDR, Building 33, Executive Park Drive, Atlanta, Georgia, from 8 a.m. until 4:30 p.m., Monday through Friday, except for legal holidays. Because all public comments regarding ATSDR toxicological profiles are available for public inspection, no confidential business information should be submitted in response to this notice.

SUPPLEMENTARY INFORMATION:

Background

CERCLA, as amended by SARA, requires ATSDR to prepare (1) Lists of hazardous substances in order of priority, (2) toxicological profiles of those substances, and (3) a research program to fill data gaps associated with the substances.

In compliance with section 104(i)(2)(A) of CERCLA, ATSDR and EPA published on April 17, 1987 (52 FR 12866), the first priority list of 100 hazardous substances. On October 20, 1988, the second priority list of 100 hazardous substances was published in the Federal Register (53 FR 41280). Both priority lists were further divided into groups of 25 chemicals.

Section 104(i)(3) of CERCLA as amended, outlines the content of these profiles. Each profile is required to include an examination, summary and interpretation of available toxicological information and epidemiologic evaluations. This information and data are to be used to ascertain the levels of significant human exposure for the substance and the associated health effects. The profiles must also include a determination of whether adequate information on the health effects of each substance is available or in the process of development. When adequate information is not available, ATSDR, in cooperation with the National Toxicology Program (NTP), is required to assure the initiation of a program of research designed to determine these health effects.

These profiles issued as "Drafts for Public Comment" represent the agency's best efforts to provide important toxicological information on priority hazardous substances in compliance with the substantive and procedural requirements of section 104(i)(3). As in the past, we are seeking, before February 15, 1991, public comments and additional information which may be used to supplement these profiles. The agency will continue to conduct the profile development process in the same open manner as was done with the first three sets of documents. ATSDR remains committed to providing a public comment period for these documents as a means to best serve public health and our constituency.

This fourth set of toxicological profiles will be provided by ATSDR to the States and made available to the public. Profiles issued after the public comment period will be provided to the States and generally distributed through the National Technical Information Service.

This notice announces the projected availability of the fourth set of 30 documents profiling 36 hazardous substances. The documents have undergone extensive internal review and have been subjected to scientific and technical peer review by outside experts.

Dated: October 10, 1990.

William L. Roper,

Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 90-24312 Filed 10-15-90; 8:45 am]

BILLING CODE 4160-70-M

Food and Drug Administration

[Docket No. 90N-0449]

Drug Export; AUSAB® rDNA EIA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Abbott Laboratories, Inc., has filed an application requesting approval for the export of the biological product AUSAB® rDNA EIA to Japan.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Carl J. Chancey, Center for Biologics Evaluation and Research (HFB-124), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8191.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of biological products that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet the requirement, the agency is providing notice that Abbott Laboratories, Diagnostics Division, Abbott Park, IL 60064, has filed an application requesting approval for the export of the biological product AUSAB® rDNA EIA to Japan. AUSAB® rDNA EIA is a solid phase enzyme immunoassay for the qualitative detection of antibody to Hepatitis B Surface Antigen (anti-HBs) in serum or plasma. The application was received and filed in the Center for Biologics Evaluation and Research on September 24, 1990, which shall be considered the filing date for purposes of the act.

Interested persons may submit information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by October 26, 1990, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate

consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 352 (21 U.S.C. 352)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated under 21 CFR 5.44.

Dated: September 28, 1990.

Thomas S. Benze,

Director, Office of Compliance, Center for Biologics Evaluation and Research.

[FR Doc. 90-24305 Filed 10-15-90; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committee; Amendment of Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending a public advisory committee meeting notice of the Gastroenterology-Urology Devices Panel to be held on October 18, 1990. The amendment reflects a revision in the Open committee discussion section that published in the Federal Register of September 25, 1990 (55 FR 39212).

FOR FURTHER INFORMATION CONTACT: Ruth W. Hubbard, Center for Devices and Radiological Health (HFZ-20), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1220.

SUPPLEMENTARY INFORMATION: In FR Doc. 90-22657, appearing at page 39212 in the Federal Register of September 25, 1990, the following correction is made under the heading "Gastroenterology-Urology Devices Panel": On the same page, 3d column, the Open committee discussion paragraph is revised to read as follows:

Open committee discussion. The committee will discuss a premarket approval application for a device to treat urinary incontinence.

Dated: October 10, 1990.

Alan L. Hoeting,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-24304 Filed 10-15-90; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Public Law 92-463, the Annual Report for the following Health Resources and Service Administration's Federal Advisory Committee has been filed with the Library of Congress:

Commission on the National Nursing Shortage

Copies are available to the public for inspection at the Library of Congress Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, DC, or weekdays between 8 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Law Library, HHS North Building, Room G-619, 330 Independence Avenue, SW., Washington, DC, telephone (202) 245-6791. Copies may be obtained from: Dr. Caroline Burnett, Senior Consultant, Commission on the National Nursing Shortage, Room 14A-40, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-0577.

Dated: October 11, 1990.

Jackie E. Bowen,

Advisory Committee Management Officer, HRSA.

[FR Doc. 90-24307 Filed 10-15-90; 8:45 am]

BILLING CODE 4160-15-M

Advisory Council Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of November 1990:

NAME: HRSA Aids Advisory Committee.

TIME: November 1-2, 1990, 9 a.m.

PLACE: Ramada Inn Bethesda, 8400 Wisconsin Avenue, Bethesda, MD 20814.

The meeting is open to the public.

PURPOSE: The Committee advises the Secretary with respect to health professional education, patient care/health care delivery to HIV-infected individuals, and research relating to transmission, prevention and treatment of HIV infection.

AGENDA: The meeting will tentatively include welcome and opening remarks; update on programmatic, legislative and budgetary issues of the Health Resources and Services Administration's HIV/AIDS programs; discussion of Ryan White comprehensive AIDS Resources Emergency (CARE) Act of 1990; and health personnel training issues.

Anyone requiring information regarding the subject Committee should contact Dr. Samuel C. Mathews, Executive Secretary, HRSA AIDS Advisory Committee, Health Resources and Services Administration, room 14A-11, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-4566.

Agenda items are subject to change as priorities dictate.

Dated: October 11, 1990.

Jackie E. Bowen,

Advisory Committee Management Officer, HRSA.

[FR Doc. 90-24308 Filed 10-15-90; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-90-3160]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESS: Interested persons are invited to submit comment regarding these proposals. Comments should refer to the proposal by name and should be sent to: Scott Jacobs, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information

submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 44 U.S.C. 3535(d).

Dated: October 1, 1990.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Procedures for Appealing Section 8 Rent Adjustment.

Office: Housing.

Description of the need for the information and its proposed use: Owners in certain cooperative, subsidized, and 202 projects were rent increases were denied may appeal by letter to the Department through the Field Office and then the Regional Office.

Form number: None.

Respondents: Businesses or Other For-Profit, Federal Agencies or Employees, and Non-Profit Institutions.

Frequency of submission: At time of an appeal.

Reporting burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Appeal Letter	1,250		1		2		2,500

Total estimated burden hours: 2,500.

Status: New.

Contact: Michelle McLaurin, HUD, (202) 708–3944; Scott Jacobs, OMB, (202) 395–6880.

Date: October 1, 1990.

Proposal: 1. Monthly Digest of Current Housing Situation; 2. Quarterly Supplement.

Office: Housing.

Description of the need for the information and its proposed use: The survey will provide a timely series of comprehensive information detailing interest rates and the availability of financing for FHA-insured and conventional first mortgage home loans as well as trends in the home construction market, as required by the 1983 Housing Act pertaining to Section 235 loans.

Form number: HUD-2499, 2499–A.

Respondents: Businesses or Other For-Profit.

Frequency of submission: Monthly and Quarterly.

Reporting burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Forms HUD–2499 and 2499–A	300		16		.167		800

Total estimated burden hours: 800.

Status: Extension.

Contact: Jim Schneider, HUD, (202) 708–1271; Scott Jacobs, MOB, (202) 395–6880.

Date: October 1, 1990.

[FR Doc. 90-24282 Filed 10-15-90; 8:45 am]

BILLING CODE 4210-01-M

Office of Housing

[Docket No. N-90-3159]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to:

Scott Jacobs, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th. Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35). It is also requested that OMB complete its review within three weeks.

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and, (9) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 7(d) of the Department of Housing and Urban Development Act 42 U.S.C. 3535(d).

Dated: September 28, 1990.

Arthur J. Hill,

Acting Assistant Secretary for Housing—Federal Housing Commissioner.

Proposal: Service Coordinators in section 202, 202/8 and 202/236 Housing: Project application to HUD, Annual report and recordkeeping requirements.

Office: Housing.

Description of the need for the information and its proposed use: HUD is implementing a new policy to allow Service Coordinators as an eligible expense in the section 202, 202/8 or 202/236 project operating budget. The Notice announcing the policy requires that each eligible project wanting to avail themselves of a Services Coordinator submit an application to HUD for approval. Additionally, the approved project must repost annually, by mail, to HUD with information related to implementation of the service coordination function. This information is necessary for HUD to determine the success of the function in operation, and to determine the extent to which, if any, the policy must be fine-tuned over time. Finally, each project must keep secured files on each case managed by the Service Coordinator. It is necessary to keep records on activities undertaken, and to keep them available for a year after case termination, in case medical or other reasons occur necessitating access.

Form Number: N/A.

Respondents: Section 202, 202/8 and 202/236 projects.

Frequency of Responses: Initial application, then annually.

Reporting Burden:

	No. of respondents	×	Frequency of record keeping	×	Hours per response	=	Burden hours
Application to HUD	600		1		2		1,200
Annual reports	600		1		1		600

Recordkeeping Requirements:

	No. of recordkeepers	×	Annual hrs/ per recordkeeper	×	Total recordkeeping hours
client/appli. files	600		5.66		3,396

Total Estimated Burden Hours: 5,196

Status: New

Contact: Jerold S. Nachison, HUD (202) 708–2866, Scott Jacobs, OMB (202) 395–6880.

Date: September 20, 1990.

Supporting Statement for:

HUD Notice: Service Coordinators in Section 202, 202/8 and Section 202/236 Housing

1. Justification

(a) Program Description

A Service Coordinator is a social services staff position which is hired by the project administrator/management company and is responsible for assuring that the residents of the project are linked to the supportive services they need to continue independent living in that project. Sections 202, 202/8 and Section 202/236 projects can immediately move to request approval to bring such staff on board.

This policy recognizes the aging-in-place phenomenon that is taking place among the residents of HUD housing. The initial populations have become significantly older, with anecdotal evidence appearing to show that the average age upon initial occupancy is in the late 70s. Recent data shows that between 1985–88, 63 percent of new admissions to section 202/8 projects were over 66 and 70 percent were over 70 years of age.

We have also learned that project managers in projects for the elderly, generally, do not have the training and skills necessary to deal both with an increasingly frail population and the non-elderly handicapped who need support services. Also, housing managers, generally, do not have the time available to function as "social services" staff on a regular ongoing basis.

The Service Coordinator is the person who works with the tenants in need of support, refers them for assessment, links them with service providers in the community and monitors provision of services. He/she is the missing and necessary link to improving the quality of life for frail and non-elderly handicapped residents of housing for the elderly, and is part of and a key support to the management team of a project.

He/she works closely with management to ensure that the tenant (and the family) are assisted in getting the service necessary to continue residence in the project, or, if necessary, to assist with the decision to move to a higher level of care. The Service Coordinator does not provide support services directly or do other administrative duties normally associated with project management.

(b) Authority.

Current HUD statutes and regulations on development and management of section 202, 202/8 and 202/236 projects are silent regarding the use of a Service Coordinator as a part of the management team, as described above. Until recently, HUD field offices generally considered such a function unnecessary. With aging in place becoming a more accepted phenomenon, however, some Field Offices have allowed the position to be established, and Region X developed a Regional position. This Notice sets a clear and uniform national standard. After Paperwork clearance, a Federal Register Notice will be published in addition to the HUD Notice.

Certainly, the citations noted below clearly infer the need for management to deal with the problem of residents receiving appropriate support services. These citations are:

Section 202(f) of the Housing Act of 1959 requires that Housing and related facilities assisted therein will be in appropriate support of, and supported by, applicable State and local plans * * * Providing an assured range of necessary services for individuals occupying such housing.

Section 209 of the Housing and Community Development Act of 1974 requires HUD to consult with the Secretary of HHS to insure that special projects for the elderly and handicapped shall meet acceptable standards of design and provide quality services and management consistent with the needs of the occupants.

Section 162(c) of the Housing and Community Development Act of 1987

requires supportive service plans in all section 202 housing, describing the served populations, range of necessary services, manner in which the services will be provided, and the extent of State and local funds available for services provision.

Section 101(a) of the Housing and Urban Development Reform Act of 1989 requires, in part, that section 202 projects be of sufficient size to accommodate facilities for supportive services appropriate to the needs of frail elderly residents.

2. Need for Information

The attached Notice has completed Departmental clearance, with the exception of the OMB Paperwork Review. The information collection stated in the HUD Notice is necessary for the following reasons:

(i) A budget amendment is needed to hire/contract for a Service Coordinator, projects must apply for, and get approval, for the activity, per the budgeted rent increase process stated in Handbook 4350.1, chapter 7 (OMB number 2502-0324).

(ii) Projects must collect intake information on each applicant and keep secured files containing information regarding people being served. And,

(iii) projects must report to HUD annually on the service coordinator function. This reporting is necessary for HUD to learn what the projects are actually doing, and to enable us to fine-tune Service Coordinator requirements, as appropriate.

Purpose and Use: Each information requirement is described below:

(a) Intake Information and Client Files (See Notice section IV.C(2), pps. 11-12)

Each resident who is assisted by the Service Coordinator must fill out a brief intake form. This intake form (developed by the project) is filed along with other information collected/arranged for by the Coordinator during the course of serving that individual over the years. Such will include a case management plan, a monitoring plan and follow-up with community agencies as appropriate, and follow-up, other information brought to the services coordinators's attention, notes of meeting with client/family and friends, and disposition of the case.

(b) Application to HUD for Service Coordinator Approval (see Notice, section IV.F, pps. 13-15). The application for a Service Coordinator is what section 202, 202/8 or 202/236 project submits to HUD for approval to modify its budget for the forthcoming project year. This requirement must conform to the procedures stated in Handbook 4350.1, chapter 7, "Processing Budgeted Rent Increase", and include the additional material requested in the Notice. This request is developed on a one-time basis, individually, by any project wanting to request approval to institute such a position.

(c) Project Reporting (see Notice section V.C. pg. 19) The annual project report is a brief narrative providing data and covering activities done by the Service Coordinator that year. This information will be used by the Loan Servicer to validate the function and to learn of problems which need attention from the field office, primarily in coordinating with other agencies. From time to time HUD Washington may request HUD field offices to prepare summations from this data for policy purposes or use in a possible study of the service coordination function in operation.

3. Use of Improved Information Technology

None—As HUD gains experience with this program, and we determine which information needs can be standardized, we may go to automated reporting, or delete the annual requirement.

4. Duplication

No other forms or reports will be used for the purposes specified above.

5. Availability of Similar Information

Similar information is not available from any other source.

6. Small Organizations

Projects wanting to receive approval for a Service Coordinator will submit the application to gain the approval. As a part of the application, the project certifies willingness to keep project files and submit the annual report.

7. Consequence of Less Frequent Data Collection

Having the projects mail in a brief report annually is the smallest requirement we could impose for monitoring necessary to start-up a new effort.

8. Special Circumstances Related to 5 CFR 1320.6

There are not any special circumstances required by this collection.

9. No Outside Consultation Is Required

10. Assurance of Confidentiality

See Notice, section IV.D(2), pg. 12. Each project is required to maintain the files in a secured location and maintain confidentiality of information related to any individual, per the Privacy Act of 1974.

11. Sensitive Questions

The information contained in the application to HUD for approval of a Service Coordinator and the annual report from the project to the field office are non-sensitive.

12. Estimate of the Cost to the Federal Government

The bulk of the work consists of reviewing and approving the initial, one-time request by field office staff. The review and case management of individual clients is done by the Service Coordinator and the files are not normally reviewed by HUD staff. Field Office staff may, on occasion, sample these files on-site reviews. The annual report from the projects will be reviewed by field office staff and may be utilized in an on-site review. Also, if problems are cited, the field office may become involved in problem resolution.

TOTAL ESTIMATED FEDERAL REVIEW TIME BY HOURS

	Reports	FO profess.	FO clerical	Elderly (HUD), hsg. profess. [3]	Elderly clerical
Application to HUD [1]	600	1,200	150	140	0
Client appli/Files [2]	20,000	[4] 350	0	0	0
Annual Report [2]	600	[4] 75	0	0	0
Total	21,000	1625	150	140	0

[1] We expect to review approximately 600 applications in FY 1991. The number may be slightly higher in FY 1992, and then decrease drastically in FY 1993, as those projects most in need of approval will be applied.

[2] We expect client files to go up by at least three-quarters in FY 1993 from FY 1992, based on new project approvals (and termination of some cases handled in FY 1991). After FY 1993, the total number of files will increase slowly, if at all, dependent on the approval of new projects for service coordinators and both turnover and increasing frailty among current residents. There will not be any HUD field reviews of Service Coordinators, hence no file reviews, prior to FY 1992.

[3] Annual reports will not be submitted by projects before FY 1992. In FY 1993 the number submitted should double, then increase slowly, annually, depending on the number of new approvals.
[4] We expect there will be lots of telephone contact between the field offices and headquarters regarding approval of Service Coordinators, particularly during FY 1991.
[5] See Note 2.
[6] See Note 3.

Total professional time @ $33/hour=1,745×$29.=$50,605.
Total clerical time @ $15/hr=150×$15.00=$2,250.
Estimate of costs to respondents:
Cost to respondents is estimated at $20/hr and includes overhead:
600 applications @ 2 hours preparation each=600×2×$20.=$24,000 (each year, FY 1991 and FY 1992].
600 annual reports @ 1 hour each=600×$20.=$12,000 (FY 1991, $24,000 in FY 1992).
20,000 files established @ .17 hrs each=3,400×$20.=$68,000 (each year, FY 1991 and FY 1992).

13. Tabulation of Reporting Burden

Info. collected	No. of respondents—17.1×	No. respondents per response—17.2=	Total an. responses—17.3×	Hrs/respon.—17.4	Total hrs.—17.5
Application to HUD	600	1	600	2	1,200
Annual reports	600	1	600	1	600

RECORDKEEPING REQUIREMENTS—CLIENT/APPLICATION FILES

No. of recordkeepers—18.1×	Annual hrs. per recordkeeper—18.2×	Total recordkeeping hours—18.3×
600	5.66	3,396
Total Burden		5,196

14. N/A

15. N/A

Special Attention of:

Notice

All Regional Administrators, Directors, Office of Regional Housing, Field Office Managers, Directors, Housing Management and Housing Development Divisions, (Category A and B Offices).

Issued:
Expires.

Cross References:
Handbooks 4350.1, 4640.1.

Subject:

Service Coordinators in Section 202, 202/8 and Section 202/236 housing.

The purpose of this notice is to allow the hiring of Service Coordinators in Section 202, 202/8 and Section 202/236 housing for the elderly as an eligible expense in the operating budget. This notice implements the Secretary's July 26, 1989 commitment for support of "case managers" in HUD housing to the Select Committee on Aging of the U.S. House of Representatives. This opportunity to hire a Service Coordinator as an eligible project expense may be extended to other HUD assisted programs later. The policy denoted herein supercedes current policy on Service Coordinators developed by Region X.

A Service Coordinator is a social services staff person who is hired by the project administrator/management company. The Coordinator is responsible for assuring that the residents of the project are linked to the supportive services they need to continue independent living in that project.

Field Office staff are responsible for notifying all owners/borrowers of eligible projects of this policy. The project application, file keeping and reporting process is approved per OMB Number

The policy stated wherein does not apply to group homes or independent living complexes designed solely for the non-elderly handicapped. These projects already are allowed staff which perform the functions described in this notice.

Depending on effectiveness of the start-up, and lessons learned through our experience, this policy may be extended to other projects in the HUD-insured and assisted inventory (*e.g.*, section 221(d), 221, 236 public housing, Section 8 project-based, *etc.*) in the next year or so. Please note that State Housing Finance Agency and Farmers Home Administration section 515/8 projects should contact their respective offices if they wish to hire a Service Coordinator. Also, HUD does not approve Service Coordinators for Section 8 non-insured projects. If the owners of such a project wishes to hire a Service Coordinator, they may do so without applying to HUD.

I. Background

Federally-assisted projects for the elderly have been experiencing aging in place among their residents. The initial populations have become significantly older and frail, and the average age of new tenants moving into projects has increased to the point that anecdotal information on the average age of residents at rent-up indicates that it may be in the early to late 70's. The 1988 National Survey of Section 202 indicated that for new residents admitted between 1985–1988 28 percent are over 85 years of age and 70 percent are over 70 years of age.

Additionally, there are growing numbers of non-elderly handicapped, such as the physically disabled and the chronically mentally ill (CMI), who are residing in projects for the elderly and also need effective supportive services in order to remain in an independent living environment. This increases in age and frailty and service needs of both long-time residents and new tenants puts increasing pressure on management to deal with the supportive service needs of those individuals to enable them to remain in their apartments as long as possible.

Project management has developed many methods to attempt to meet the resultant need for services. In some cases, HUD has allowed the hiring of a social services person to work with elderly residents. In others, cooperative agreements have been developed by the project with local service organizations to provide volunteer staff and/or services. In most cases, the question has not been formally addressed to, or formally acted upon by HUD, so the project manager has been the person to whom the residents turn for help with their supportive service needs.

What has become clear, however, is that housing managers in projects for the elderly, generally, do not have the training and skills necessary to deal both with an increasingly frail population and the non-elderly handicapped who need support services. While the training of managers in frailty, aging in place and the coordination of supportive services is necessary, and a critical component of a successful management team approach to dealing with the frail and the non-elderly handicapped in these buildings, housing managers do not generally have the time available to function as "social services" staff on a regular, ongoing basis.

Thus, the Service Coordinator (the individual who does case work with the frail elderly, or non-elderly handicapped, residents in need of support, refers them for assessment, links them with service providers in the community and monitors the provision of the services) is the missing and necessary link to improving the quality of life for both the frail and non-elderly handicapped residents of HUD-assisted

housing built for the elderly. This individual (or individuals) is a key support to, and part of, the management team of a project. He/she works closely with management to ensure that the individual (and the family) are assisted in getting the services necessary to continue residency in that project, or, if necessary, to assist with the decision to move to a higher level of care.

Additionally, there may be some cost savings to management and to other Federal programs through the use of Service Coordinators, which can indirectly offset some or all of the dollars invested in the Coordinator(s). These savings come primarily in two areas:

A. There will be some decrease in unit turnover. Projects currently utilizing Service Coordinators note a decrease in move-outs, due to the provision of supportive services, thus, reducing the time when the unit(s) is/are not producing income. Also, refurbishing costs of an apartment after a move-out have been reported up to $1,368/unit.

Related to unit turnover is that service coordination may prevent an individual from moving to a care facility for some period of time, *e.g.*, three months. In such cases, currently, there is both the cost of subsidy for the vacant unit (which is held for the individual) and the Medicaid or State costs of subsidizing the higher level of care.

Finally, at the point of move-out, there is some evidence of lessened refurbishing costs to the project in cases where there is help in the apartment with housekeeping and meal preparation. Thus, service coordination enables management to effectively keep individual apartments in better shape than they might be if the tenant declined in functional ability on their own.

B. There is a possibility of savings to Medicaid or State funds, if the Service Coordinator is effective in linking the individual to in-home services, rather than institutional forms of care. While studies of this phenomenon vary widely, the potential is for an effective saving of thousands of dollars annually, per individual. The savings accrue to Medicaid, the State share of Medicaid, and/or both.

II. Functions of a Service Coordinator

The major functions are:

A. Provides general case management, and referral services to all residents needing such assistance.

May provide formal case management (*i.e.*, evaluation of health, psychological and social needs and the development of a case plan for services) for a resident when such service is not available through the general community (this will be primarily in rural areas).

B. Establishes linkages with all agencies and service providers in the community; sets up a directory of providers for use by both project staff and residents.

C. Refers and links the residents of the project to service providers in the general community; these are: *e.g.*, formal assessment, personal assistance, homemaker, meals-on-wheels, transportation, counseling, occasional visiting nurse, preventive health screening/wellness, legal or other advocacy. Develops case plans in coordination with formal assessment services.

The service coordinator must not be assigned responsibilities as the recreational or activities director, providing support services directly, or assisting with other administrative work normally associated with the project(s).

D. Educates residents on service availability, application procedures, client rights, etc.

E. Monitors the ongoing provision of services from community agencies and keeps the case management and provider agency current with the progress of the individual.

F. Sets up volunteer support programs with service organizations in the community.

G. Helps the residents build informal support networks with other residents, family and friends.

H. Educates other staff on the management team on issues related to aging in place and services coordination, to help them to better work with and assist the residents.

III. Basic Qualifications of a Service Coordinator

A. A Bachelor of Social Work (BSW) or degree in Gerontology, Psychology or Counseling is preferable; a college degree is fully acceptable; a Master of Social Work (MSW) may be preferable in team situations in which a professional supervises a number of non-professional or paraprofessional "aides," (see "NOTE" under III(E), below).

Note: There may be cases in which a project can justify hiring a non-degreed individual. Such situations should be carefully considered and not rejected out of hand.

B. 2–3 years experience in social service delivery with senior citizens. Some supervisory or management experience is desirable.

C. Demonstrated working knowledge of supportive services and other resources for senior citizens in the jurisdiction in which the project is located.

D. Ability to advocate, problem-solve and provide results for the elderly served.

E. Strong writing and organizational skills.

Note: In situations where the management of a building(s) wants to create a services "team" in which a Service Coordinator supervises one or more "aides" (people usually without a qualifying degree), the Coordinator should have appropriate professional staff experience and prior supervisory or management experience.

It is desireable, but certainly not required for "aides" to have a college degree; they should, however, have appropriate experience in working with the elderly. Another option for management in structuring an "aide" situation would be to set up intern programs with local colleges and universities to assist in carrying out some of the functions noted under Section II above, or to provide planning guidance to staff or provide program evaluation/assessment functions.

IV. Considerations for HUD Approval of Service Coordinator(s)

A. General Factors

Any owner/manager must consider the following factors in: (a) determining whether a Services Coordinator is needed in a specific project or geographic grouping thereof; and, (b) determining the extent to which one or more Service Coordinators, and at what level, should be hired. These factors are only guidelines, not rigid rules.

Note: The Field Office should also consider whether or not the service coordination function is currently being provided in the project on a regular and ongoing basis by the owner/sponsor/borrower or a community agency.

1. Frailty levels of the tenants (the management of the building must have some knowledge of the needs of the tenants and should be able to so document) within the building, *e.g.*, 50 percent of the residents appear to have difficulty with one or more Activities of Daily Living (ADLs) and/or Instrumental Activities of Daily Living (IADLs).

Note: There will be non-elderly handicapped who meet this definition of frailty, as will some elderly under the age of 70. Thus, consideration of frailty levels may be more important than age of the residents (see number 2, below).

Support service programs typically include in their eligibility requirements some need for assistance in ADLs or IADLs. The ADLs include: Transfer; mobility, dressing; bathing; toileting; and eating. The IADLs include: Light and heavy housework, laundry, preparing meals, shopping for groceries; getting around outside, going places outside of walking distance; managing money; making telephone calls.

The minimum number of ADLs or IADLs required for eligibility will vary from state to state, and to some degree, among the jurisdictions within the states. There will also be variance among the jurisdictions regarding the strictness of the assessment used in determining the need for assistance.

Note: For comparison, HUD's Congregate Housing Services Program (CHSP), which funds supportive services directly for both the elderly and non-elderly handicapped, uses a condensed level of need, requiring that participants need assistance in THREE or more of the ADL/IADL categories (see Handbook 4640.1, chapter 1, pg. 1–11 "Minimum Requirements of ADL and IADL").

2. The median age of the tenants who are elderly (generally, the median age of the elderly tenants will be in their seventies or higher).

3. Age of the building (the need may be greater in those structures for the elderly in occupancy before 1980).

Note: HUD is not requiring project management to assess residents as a condition for receiving approval for hiring a service coordinator. Rather, the proposal to HUD (see Paragraph IV(F), following) should be able to show (through anecdotal information or other) the degree of need in the structures proposed for coverage.

B. Staffing Patterns

There are several possible staffing configurations for Service Coordinator positions. Conceptually, these relate to the numbers of persons served, size of the building(s) and degree of frailty of the persons served. The configurations are:

1. A part-time person serving one or more buildings.

2. A full-time person serving one or more buildings.

3. A full-time "director" and one or more full or part-time persons serving, usually, more than one building.

In all cases the project owner/borrower must determine to whom the Service Coordinator will report, establish that relationship in the position description and justify the placement in the request to HUD. This is especially critical in a third-party situation, in which the Coordinator may be outstationed from the project, or may be serving a number of projects.

There will be situations in which the owner/sponsor/management of one building is unable or unwilling to take on the burden of a full or part-time person for what may be seen initially as a minimal case load.

In addition to outright hiring, we encourage owners/borrowers of buildings in the same geographic locality (small or otherwise) to consider:

(1) Contracting directly with an area agency on aging or local providers for service coordination and/or case management on a fee-for-service-basis;

(2) Pooling (combining) resources so that full-time or part-time staff person(s), or a "team," can be shared or rotated among several structures, to the extent feasible; or,

(3) Donating commercial or other space to a provider agency(ies) in return for the agency's providing the service coordination.

Additionally, the HUD Field Offices and project management must consider the case in which a Section 202 or 202/8 project is physically connected to, *e.g.*, a Section 221(d) or a Section 236 project. In these cases, Field Offices may entertain proposals from the management of such combined projects, in which the Service Coordinator works for the management of and serves the residents of both projects.

C. Staffing Guidance

Generally, the greater the number of units in a building (or complex of buildings), the easier it is to justify a Service Coordinator, regardless of the level of frailty. Through listening to extensive anecdotal comments, and discussion with both Field Office staff and project managers in five Regions, we have learned that there appears to be a wide range in the caseloads of existing social service personnel in HUD projects. This leads us to conclude, therefore, that it is inopportune for HUD to set up rigid staffing standards at this time.

However, we believe some guidance is useful for both HUD Field Office staff and Project Administrators in establishing Service Coordinator positions, particularly when used in conjunction with paragraphs IV(A) and (B), prior.

Please note that the following is guidance—not hard and fixed requirements. It is important for HUD field offices to offer leeway so that we can learn what works best in these buildings, than be rigid about what constitutes an "appropriate" level of service coordinator in a project.

(1) Projects under 30 units. Such projects are only encouraged to use one of the options under paragraph IV(B), above, concerning contracting directly or pooling of resources.

In each of the following cases, contracting or pooling is encouraged.

(2) Projects of 30–50 units. This could normally support no more than about one one-quarter to half-time position.

(3) Projects of 51–100 units. This could normally support about one three-quarter time person.

(4) Projects of 101–150 units. This could normally support about one full-time person. There may be some need for additional assistance.

(5) Projects of 151–200 units. This could normally support one full time person with some part-time assistance, or two part-time persons.

(6) Projects over 200 units. This might normally support at least 1½ persons.

Each Field Office and project owner/borrower should consider discussing the proposed Service Coordinator level PRIOR to the actual request to HUD. We expect that each discussion will reflect a case-by-case approach, on merits, rather than use of the "guidelines" as a strict rule.

D. Other Requirements

1. Sustaining Occupancy

Each owner/borrower proposing to hire a Services Coordinator must have a project which has reached sustaining occupancy, that is, 95 percent occupied. Sustaining occupancy is necessary to assure that the project has a positive cash flow before another cost is added to management.

In cases where occupancy is less than 95 percent, however, consideration may be given to a Coordinator if the position can be clearly justified and explained as a marketing tool to increase occupancy in the project. Also, we do not intend that a Field Office automatically eliminate a Service Coordinator from a project's budget, if in a subsequent year, the occupancy level has fallen below 95 percent.

2. Client Files

Each owner/borrower proposing to provide a Service Coordinator as part of their operating budget must agree to keep certain files on the clients served by the Coordinator, derived from Handbook 4640.1, appendix 9, section IV.D.

These files must be kept in a secured location and accessible ONLY to the Service Coordinator, and the project manager/administrator to the extent necessary. The project must maintain confidentiality of information related to any individual, per the Privacy Act of 1974.

Projects which contract-out the Service Coordinator function must include in their third-party contract an agreement for that third-party to keep files as required by HUD, with reporting to project management on a basis consistent with that necessary for meeting HUD reporting requirements.

The files must contain:

1. Intake form, including information on referrals to community agencies.

2. Case management plan.

3. Quarterly monitoring plan and follow-up, as appropriate.

4. Information related to any reports, alleged or otherwise, of human or civil rights abuse, adult abuse of any type (*i.e.*, mental, physical, financial), violations of personal property or dignity, and follow-up, case resolution, or status, as appropriate.

5. Results of all monitoring and agency follow-up.

6. Notes on all meetings with client/family members.

7. Disposition/termination of case.

E. Cost

Projects must propose funding of Service Coordinators as a line item in the project's annual budget. If the project cannot pay for the Coordinator out of current income or residual receipts it may propose using a rent increase (Section 8 or directly on the tenants for the old Section 202 or 202/236 projects without Section 8), through the annual budgeted rent increase process.

Whether the Service Coordinator is proposed for funding out of (1) the current income stream, (2) residual receipts, or, (3) Section 8 or other rent increase, the proposal should only cover funds necessary for salary(ies) and related administrative expenses (which may include office equipment, supplies, car allowance, xeroxing, etc., and the cost of contracting out the service).

F. Submission Requirements from Projects

Any project owner/borrower wanting to request approval to hire (or contract-out for) a Service Coordinator(s) must make such request in writing to the Chief, Loan Management Branch, in the HUD Field Office under whose jurisdiction the project is located, with a copy to the Community Services Advisor (CSA), if applicable (project owners/borrower should check with their Loan servicer to determine if there is a CSA in that office, or someone assigned especially to work with supportive service issues).

Projects are strongly advised to submit the request for approval as far in advance of the next budget year as possible, so that it does not become an issue at the time of budget approval. When approved, the project may include the funds as part of its next year's budget submission.

The request must conform to the procedures stated in Handbook 4350.1, chapter 7, "Processing Budgeted Rent Increase" and must be clearly stated as a request to: (1) use either excess income or residual receipts, or (2) a Section 8 or other rent increase.

The following items must be covered in the submission:

1. An explanation of the need, with a request for approval. At a minimum, the request must address the items covered in paragraph V(A)(2)(b-e and h).

2. Explanation for the salary proposed for the Service Coordinator(s), and related administrative costs (or the costs of contracting-out, including the unit cost).

The owner/borrower must provide evidence that the proposed salary level(s) are consistent with similar jobs in the local employment market, and that it is consistant with current management team responsibilities and salaries.

If a Section 8 rent increase is requested, a justification is necessary which clearly

explains why the current income stream and/or residual receipts are insufficient.

3. Position description(s) for the position(s) involved. This description must include the functions of the position and clearly state the relationship between the Service Coordinator and the project manager/administrator and other members of the management team.

Owners/borrowers proposing to physically locate a Service Coordinator in-house must certify that there is sufficient office space available, including space for confidential meetings, and a location to secure files.

4. Certification agreeing to provide the information under paragraph V(C), following, annually by mail to the field office as a condition for continued approval of a Service Coordinator position.

5. For projects proposing to contract-out the service, a copy of the proposed contract with the third party provider must be included.

This contract should include, at a minimum: Beginning and end dates of contract, number of staff hired, explanation of duties, rate(s) of pay/units of service to be provided, location of office(s), storage and access to files, relationship with other members of the management team, responsibilities and relationship of both contractor and project(s), and the certification noted in paragraph IV(F)(4), above.

6. For projects proposing to swap commercial or other space in exchange for a Coordinator, a copy of the proposed agreement must be included. The contract must deal with the specifics of the swap, and cover the appropriate stipulations noted in paragraph IV(F)(5), above.

In cases where management proposes to utilize a swap for non-commercial space, the request must clearly show that the normal activities of the residents of the building will not be adversely affected by the utilization of this space.

7. For projects proposing to share one or more Service Coordinators/aides, the proposal must provide an explanation of how the arrangement will work, where ultimate responsibility lies for the hiring and firing of the Coordinator or aides, and a copy of the proposed agreement between/among the owners/borrowers to cover space sharing, salary(ies), expenses and the allocation of days and hours between/among the buildings.

C. Projects under the Congregate Housing Services Program (CHSP)

There are a number of Section 202 projects for the elderly which receive CHSP funds for project directors (which may serve as Service Coordinators) or Service Coordinators and supportive services. As the service coordination function is now an eligible project expense, the projects with CHSP must request approval of a Service Coordinator(s) under the operating budget, per paragraph IV(F), above, and partially discontinue the funding of the position under CHSP. The only functions which would normally remain within the CHSP budget are those necessary specifically to administer CHSP (*e.g.*, process reimbursement vouchers, write quarterly and annual reports, supervise directly hired service providers and meals staff, etc.).

The project director/Service Coordinator in such projects continues to serve the CHSP, but must also expand to serve the rest of the tenant body, if not now doing so. Thus, additional staff hours may be added to the position of the incumbent in place, OR an additional person(s) may be hired on some basis. Alternatively, the CHSP functions may become a more limited, administrative, role with the expansion of the Coordinator function throughout the building.

A current part-time Coordinator could be proposed for full-time, with appropriate justification. Also, the funds currently assigned to the Coordinator function, but not longer eligible for support of that function of the position may be used for additional support services for CHSP clients, consistent with future guidance to be published by HUD.

The approval of a Service Coordinator for these projects, per this Notice, must be consistent with the next annual budget cycle under the CHSP.

For Example, if a CHSP project's renewal date is April 21, 1991, and its regular annual budget cycle begins on February 1, 1991, that project (in its regular budget submission or earlier) must request approval of the Service Coordinator, to be effective April 21, 1991. In such cases, project management must explain (in addition to the requirements of paragraph IV(F), above) how the time allotted to the Service Coordinator prior to the allowance of a Coordinator as an eligible project expense has been allocated between those non-CHSP specific functions, *e.g.*, case management, case monitoring, resident education, and those CHSP-specific duties noted above. On April 21, 1991, the Coordinator would become covered by the project's operating budget.

V. Reporting

A. Field Office Report to the Regions on Service Coordinators

Each Field Office must report to the Regional Office beginning 395 days after the publication date of this Notice, and annually thereafter. The reports are based on the information provided by projects in their request for approval to the Field Office during the reporting period (Field Offices should use the form HUD–92453 at appendix A). It should only cover information regarding projects which were approved for Service Coordinators in that 12-month period. The report should be sent to the Regional Administrator by the Field Office Manager.

The purpose of this report is to provide information necessary for the Regions to report to Headquarters on: (1) the number of projects adding a Service Coordinator to their staff; (2) a data profile on the types of projects and internal situations regarding the need for Service Coordinators; and, (3) a Regional estimate of additional Section 8 costs engendered.

The report must be sent to the Regional Office even if no projects within the Field Offices' jurisdiction requested approval for a Service Coordinator during the covered period. In such cases, the memorandum should state simply that no projects requested approval for a service coordinator during the reporting period.

The following information must be submitted:

1. Report on each category of project as follows: small projects (under 51 units), medium projects (51–100 units), and large project (101+units).

2. For each category, above, provide the following information for each annual period:

a. number of projects requesting approval for a Service Coordinator.

b. average age of the elderly.

c. average number of non-elderly handicapped.

d. major frailty types noted (list by type and by numbers of projects in which occurred).

e. number of services staff hired per project (median, range).

f. number of projects using current income, excess reserves or residual receipts to fully pay for the Service Coordinator(s).

g. number of "old" Section 202 or Section 202/236 projects (*i.e.*, those in occupancy prior to 1978) passing on the cost of the Coordinator directly to the tenants through a rent increase.

h. average amount of monthly rent increase.

i. number of projects using a Section 8 rent increase to pay for the position(s).

for those using Section 8,

—The total annual additional cost within the Field Office, and,

—The average cost per project

j. number of projects denied approval for a Service Coordinator.

B. Regional Report to Headquarters

Each Region, must aggregate all data collected and report to Headquarters within 45 days of the field office deadline to the Regional Office. This is, at 440 days after the effective date of this Notice, and at annual increments. (Regions should use the reporting form HUD–92453–A at appendix B). The Regional Administrator should send the report to Margaret Milner, Deputy Director, Office of Elderly and Assisted Housing, ATTN: Jerry Nachison.

C. Project Reporting/Field Office Management Review

Each project approved for a Service Coordinator per this Notice is required to report annually to the Field Office regarding the activities of that function (see paragraph IV(F)(4), prior). This report, developed by the Service Coordinator, must be mailed to the Field Office annually, ATTN: Loan Management Branch Chief, with the reporting due date based upon date of the Field Office's approval of the Service Coordinator function:

The information requested is as follows:

1. a. Number of staff actually hired on an ongoing basis.

b. Average number of hours worked per person.

c. Median case load per person.

d. Median amount of time per case.

2. Case Information—a. Types of services utilized (list).

b. Agencies providing services (list).

c. Average number of units of service provided/per agency/per service type.

d. Problems noted by project in getting access to services for particular needs.

Problems noted in obtaining services by the project should be reported to the Field Office Director of Management, for assistance, or to the Field Office CSA, if such a position has been established.

The required information should be written-up in list/narrative format and mailed to the appropriate loan services in the Field Office. If there is a CSA, or another staff person designated with responsibility in the supportive services area in that Field Office, he/she should review the report and make appropriate recommendations to the loan servicer for action.

Per Handbook 4350.1, chapter 8, "Project Monitoring", as modified by former Deputy Assistant Secretary Barksdale's May 20, 1983 memorandum, each Field Office is required to perform a project management review, with normal practice essentially being a biennial review, unless the project is considered "troubled."

When doing an on-site review, the Field Office should include a review on the adequacy of the service coordination function, based upon discussions with management, a review of the adequacy of the client files (looking at a 10 percent sample of files, or a maximum of 10 cases), file notes and review of the reports submitted by the project. This portion of the review would be done by the loan servicer, or the Field Office CSA, or supportive services person if one is in that office, and travel funds are available to send the additional staff person.

Findings should be written-up in narrative format as an addendum to Form HUD 9834B, "Management Review Questionnaire" and summarized on the Form HUD-9834, "Management Review Report", under section 5, General Management Practices, which is sent to the project manager. Problematic findings should be discussed with the Headquarters Desk Officer prior to their being shared with the project.

Copies of problematic reviews concerning the operation of the service coordination function should be sent by the Chief, Loan Management Branch, to the Regional Director of Housing Management for his/her information, and Headquarters, per paragraph V(E), above. Headquarters staff will consult with the Field Office, as appropriate.

Regional Desk Officers for technical issues related to this Notice are: Otelia Hebert, Regions I, III, VI and VII, RoseMary Sunderland, Regions II, IV and V, and Dee Ann Walker, Regions VIII, IX and X.

Arthur J. Hill,

Acting Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 90-24291 Filed 10-15-90; 8:45 am]

BILLING CODE 4210-27-M

Office of the Regional Administrator—Regional Housing Commissioner

[Docket No. D-90-992]

Acting Regional Administrator, Region IV (Atlanta); Designation

AGENCY: Department of Housing and Urban Development.

ACTION: Designation.

SUMMARY: Updates the designation of officials who may serve as Acting Regional Administrator for Region IV.

EFFECTIVE DATE: September 11, 1990.

FOR FURTHER INFORMATION CONTACT: H.E. Rollins, Director, Management Systems Division, Office of Administration, Atlanta Regional Office, Department of Housing and Urban Development, room 634, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303-3388, 404-331-5190.

Designation of Acting Regional Administrator for Region IV

Each of the officials appointed to the following positions is designated to serve as Acting Regional Administrator during the absence of, or vacancy in the position of, the Regional Administrator, with all the powers, functions, and duties redelegated or assigned to the Regional Administrator: Provided, That no official is authorized to serve as Acting Regional Administrator unless all other employees whose names or titles precede his/hers in this designation are unable to serve by reason of absence:

1. Deputy Regional Administrator
2. Director, Office of Housing
3. Director, Office of Administration
4. Director, Office of Public Housing
5. Director, Office of Community Planning and Development
6. Regional Counsel
7. Director, Office of Fair Housing and Equal Opportunity
8. Georgia Program Coordinator
9. Director, Program Planning and Evaluation
10. Director, Operational Support Division

This designation supersedes the designation effective November 3, 1988 (53 FR 52510, December 28, 1988).

(Delegation of Authority by the Secretary effective May 4, 1982, (27 FR 4319, May 4, 1982); Dept. Interim Order II (31 FR 815, January 21, 1966)

This designation shall be effective as of September 11, 1990.

Raymond A. Harris,

Regional Administrator—Regional Housing Commissioner, Region IV (Atlanta).

[FR Doc. 90-24289 Filed 10-15-90; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-010-01-4410-06; 1784-010]

Arizona Strip District Advisory Council, Field Tours; Meeting

AGENCY: Bureau of Land Management, Arizona Strip District, Interior.

ACTION: Notice of two field tours and a meeting.

SUMMARY: The Arizona Strip District Advisory Council will tour the Paria Plateau and Marble Canyon area and discuss the Proposed Arizona Strip District Resource Management Plan and other resource management issues.

The Arizona Strip District Grazing Advisory Board will tour the Shivwits Resource area and review range conditions and discuss maintenance of projects.

DATES: The Advisory Council will begin their tour at the Marble Canyon Lodge, Marble Canyon, Arizona November 14, 1990, at 8 a.m., A half day meeting will be held on November 15, 1990 at the Grand Canyon River Education facility at Lees Ferry beginning at 8 a.m.

The Grazing Board Tour will begin at the Arizona Strip District (Office 390 N. 3050 E., St. George, Utah) on November 16, 1990 at 8 a.m.

FOR FURTHER INFORMATION CONTACT: G. William Lamb, District Manager, 390 N. 3050 E., St. George, Utah 84770 (Phone 801/673-3545).

SUPPLEMENTARY INFORMATION: The tours and meeting are open to the public, but the public must provide their own transportation for the tours. The Advisory Council will consider both oral and written statements from the public at 8 a.m. Thursday November 15, 1990. The Grazing Board will consider oral and written comments any time during the tour. People interested in commenting should contact BLM at 801/673-3545 at least 5 days in advance.

Dated: October 5, 1990.

G. William Lamb,

Arizona Strip District Manager.

[FR Doc. 90-24290 Filed 10-15-90; 8:45 am]

BILLING CODE 4310-32-M

Bureau of Reclamation

Quarterly Status Tabulation of Water Service and Repayment Contract Negotiations

AGENCY: Bureau of Reclamation, Department of the Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given of proposed contractual actions pending through December 1990. This notice is one of a variety of means being used to inform the public about proposed contractual actions for water service and repayment. The Bureau of Reclamation announcements of individual repayment and water service contract actions will be published in the

Federal Register and in newspapers of general circulation in the areas determined by the Bureau of Reclamation to be affected by the proposed action. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation requirements do not apply to proposed contracts for the sale of surplus or interim irrigation water for a term of 1 year or less. The Secretary of the Interior or the district may invite the public to observe any contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act if the Bureau determines that the contract action may or will have "significant" environmental effects.

ADDRESSES: The identity of the approving officer, and other information pertaining to a specific contract proposal, may be obtained by calling or writing the appropriate regional office at the address and telephone number given for each region in the supplementary information.

FOR FURTHER INFORMATION CONTACT: Dick L. Porter, Chief, Contracts & Repayment, Bureau of Reclamation, 1849 C St. NW., Washington, DC 20240; telephone (202) 208-3014, (FTS) 268-3014.

SUPPLEMENTARY INFORMATION: Pursuant to section 226 of the Reclamation Reform Act of 1982 (96 Stat. 1273), and to § 426-20 of the rules and regulations published in the Federal Register dated December 6, 1983, Vol. 48, page 54785, the Bureau of Reclamation will publish notice of proposed or amendatory repayment contract actions or any contract for the delivery of water for irrigation or other uses in newspapers of general circulation in the affected area at least 60 days prior to contract execution and, Pursuant to the "Final Revised Public Participation Procedures" for water service and repayment contract negotiations, published in the Federal Register dated February 22, 1982, Vol. 47, page 7763, a tabulation is provided below of all proposed contractual actions in each of the five Reclamation regions. Each proposed action listed is, or is expected to be, in some stage of the contract negotiation process during October, November, or December of 1990. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the Regional Directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved.

This notice is one of a variety of means being used to inform the public about proposed contractual actions. Individual notices of intent to negotiate, and other appropriate announcements, are made in the Federal Register for those actions found to have widespread public interest. When this is the case, the date of publication is given.

Acronym Definitions Used Herein

(FR) Federal Register
(ID) Irrigation District
(IDD) Irrigation and Drainage District
(M&I) Municipal and Industrial
(D&MC) Drainage and Minor Construction
(R&B) Rehabilitation and Betterment
(O&M) Operation and Maintenance
(CAP) Central Arizona Project
(CUP) Central Utah Project
(CVP) Central Valley Project
(P-SMBP) Pick-Sloan Missouri Basin Program
(CRSP) Colorado River Storage Project
(SRPA) Small Reclamation Projects Act
(BCP) Boulder Canyon Project

Pacific Northwest Region

Bureau of Reclamation, 550 West Fort Street, Box 043, Boise, Idaho 83724-0043, telephone (208) 334-1894.

1. *Cascade Reservoir Water Users, Boise Project, ID:* Repayment contracts for irrigation and municipal and industrial water; 19,201 acre-feet of stored water in Cascade Reservoir.

2. *Individual Irrigators, M&I, and Miscellaneous Water Users, Pacific Northwest Region, Idaho, Montana, Oregon, and Washington:* Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

3. *Rogue River Basin Water Users, Rogue River Basin Project, Oregon:* Water service contracts; $5 per acre-foot or $50 minimum per annum for terms up to 40 years.

4. *Willamette Basin Water Users, Willamette Basin Project, Oregon:* Water service contracts; $1.50 per acre-foot or $50 minimum per annum for terms up to 40 years.

5. *Irrigation Districts and Similar Water User Entities:* Amendatory repayment and water service contracts; purpose is to conform to the Reclamation Reform Act of 1982 (Pub L. 97-293).

6. *Forty-four Palisades Reservoir Shareholders, Minidoka Project, Idaho-Wyoming:* Contract amendments to extend term for which contract water may be subleased to other parties.

7. *City of Cle Elum, Yakima Project, Washington:* Amendatory or replacement M&I water service contract; 2,200 acre-feet (1,350 gallons per minute) annually for a term of up to 40 years.

8. *Three Irrigation Districts, Flathead Indian Irrigation Project:* Repayment of costs associated with rehabilitation of irrigation facilities.

9. *Baker Valley Irrigation District, Baker Project, Oregon:* Irrigation water service contract on a surplus interruptible basis to serve up to 13,000 acres; sale of excess capacity in Mason Reservoir (Phillips Lake) for a term of up to 40 years.

10. *Crooked River Project, Oregon:* Irrigation repayment or water service contracts with several individuals and with North Unit Irrigation District for a total of up to 25,000 acre-feet of storage space in Prineville Reservoir (Arthur R. Bowman Dam).

11. *Various Projects, PN Region:* R&B contracts for replacement of needle valves at storage dams.

12. *Minidoka-Palisades Project:* Repayment contract with Palisades Water Users Inc., for additional 500 acre-feet of storage space in Palisades Reservoir.

13. *Willow Creek Project, Oregon:* Repayment or water service contracts for a total of up to 3,500 acre-feet of storage space in Willow Creek Reservoir.

14. *Four Project Spaceholders, Minidoka-Palisades Project, Idaho-Wyoming:* Contract amendments to provide for rental of water to other parties.

15. *Bridgeport Irrigation District, Chief Joseph Dam Project, Washington:* Warren Act contract for the use of an irrigation outlet in Chief Joseph Dam.

16. *Five Irrigation Districts, Arrowrock Division of the Boise Project, Idaho:* Repayment contracts for Safety-of-Dams repair to Deer Flat Dam.

17. *State of Wyoming, Palisades Project, Idaho:* Proposed repayment contract with the State of Wyoming for the sale of 33,000 acre-feet of noncontracted space in Palisades Reservoir.

18. *Herniston Irrigation District, Umatilla Project, Oregon:* Repayment contract for reimbursable cost for Safety-of-Dams repairs to Cold Springs Dam.

19. *Ochoco Irrigation District and Various Individual Spaceholders, Crooked River Project, Oregon:*

Repayment contract for reimbursable cost for Safety-of-Dams repairs to Arthur R. Bowman Dam and Ochoco Dams.

20. *The Dalles Irrigation District, Oregon:* SRPA loan repayment contract; $2,000,000 proposed loan obligation.

21. *Oroville-Tonasket Irrigation District, Chief Joseph Dam Project, Washington:* SRPA loan repayment contract; $661,500 proposed loan obligation.

22. *State of Idaho, Payette Division of the Boise Project, Idaho:* Proposed repayment contracts with the State of Idaho for the sale of uncontracted space in Cascade and Deadwood Reservoirs.

Mid-Pacific Region

Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825–1898, telephone (916) 978–5030.

1. *Tuolumne Regional Water District, CVP, California:* Water service contract, up to 9,000 acre-feet from New Melones Reservoir.

2. *Calaveras County Water District, CVP, California:* Water service contract, up to 2,000 acre-feet from New Melones Reservoir; FR notice published February 5, 1982, Vol. 47, page 5473.

3. *Individual irrigators, M&I, and miscellaneous water users, Mid-Pacific Region, California, Oregon, and Nevada:* Temporary (interim) water service contracts for available project water for irrigation, M&I or fish and wildlife purposes providing up to 10,000 acre-feet of water annually for terms up to 5 years; Temporary Warren Act contracts for use of project facilities for terms up to 1 year; Long-term contracts for similar service for up to 1,000 acre-feet of water annually.

Note: Copies of the standard form of temporary water service contract for the various types of service are available, upon written request, from the Regional Director at the address shown above.

4. *Friant Unit Contractors, CVP, California:* Renewal of existing long-term water service contracts with numerous contractors on the Friant-Kern Canal whose contracts expire 1990–1997 with two contracts expiring later. Water quantities in existing contracts range from 1,200 to 175,440 acre-feet.

5. *ID's and similar water user entities:* Amendatory repayment and water service contracts; purpose is to conform to the Reclamation Reform Act of 1982 (P.L. 97-293).

6. *State of California, CVP, California:* Contract(s) for, (1) Sale of interim water to the Department of Water Resources for use by the State Water Project Contractors, and (2) acquisition of conveyance capacity in the California Aqueduct for use by the CVP, as contemplated in the Coordinated Operation Agreement.

7. *Madera ID, Madera Canal, CVP, California:* Warren Act contract to convey and/or store nonproject water through project facilities.

8. *County of Tulare, CVP, California:* Amendatory water service contract, to provide an additional 1,908 acre-feet and reallocate 400 acre-feet of water from the Ducor ID for a total increase of 2,308 acre-feet.

9. *Shasta Dam Area Public Utilities District, CVP, California:* Renewal/Increase of M&I water supply contract. Less than 6,000 acre-feet.

10. *U.S. Fish and Wildlife Service, CVP, California:* Long-term contract for water supply for Federal refuge in Grasslands area of California.

11. *North Kern Water Storage District, Buena Vista Water Storage District, Tulare Lake Basin Water Storage District, and Hacienda Water District, Kern River Project, California:* Amendatory contract to provide storage space for M&I water.

12. *Contra Costa Water District, CVP, California:* Amendatory water service contract to add an additional point of delivery to accommodate the District's proposed Los Vaqueros project. Amendment will also conform contract to current water ratesetting policies.

13. *San Juan Suburban Water District, CVP, California:* Amend Contract No. 14–06–200–152A to provide for the current CVP water rates to conform the contract with the provisions of section 105 and 106 of Pub. L. 99–546.

14. *Centerville Community Services District, CVP, California:* Water service contract for up to 800 acre-feet of M&I water annually.

15. *Shasta County Water Agency, CVP, California:* Amendatory water service contract to provide for reduction in annual entitlement of 800 acre-feet.

16. *Central Valley Project, California:* Amendatory contracts to include the provision of the Act of July 2, 1956 (70 Stat. 483) and/or the Act of June 21, 1963 (77 Stat. 68) in existing water service contracts.

17. *California Department of Corrections, CVP, California:* Water service for up to 1,000 acre-feet of water annually to serve the Sierra Conservation Center (a State prison) near Jamestown, California.

18. *Redwood Valley Water District, SRPA, California:* Amendatory loan repayment contract.

19. *Placer County Water Agency, CVP, California:* Amend Contract No. 14–06–200–5082A to provide for the current CVP water rates.

20. *Broadview Water District, CVP, California:* Amend Contract No. 14–06–200–8082 to provide for change in point of diversion, right to construct new turnout on the San Luis Canal, and contract renewal.

21. *Sutter Butte Mutual Water Company, CVP, California:* Water service contract for a long-term supplemental water supply. Contract will assure Company's water users an alternate water supply during periods of deficiency in their appropriative water rights. Annual water quantity not determined at this time.

22. *Paramount Citrus Association, CVP, California:* Contract to convey nonproject water through Federal facilities with exemption of RRA under 426.18. Up to 4,000 acre-feet of water to be transferred through Friant-Kern Canal for delivery to Southern San Joaquin Municipal District.

23. *Butte Slough Irrigation Company, CVP, California:* Water service contract for a long-term supplemental water supply. Contract will assure Company's water users an alternate water supply during periods of deficiency in their appropriative water rights. Annual water quantity not determined at this time.

24. *Lindsay-Strathmore ID, Friant-Kern Canal, CVP, California:* Warren Act contract to convey and/or store nonproject water through project facilities.

25. *Madera ID, Hidden Unit, CVP, California:* Renewal of existing water service contract for 24,000 acre-feet of water which expires February 29, 1992.

26. *Chowchilla WD, Buchanan Unit, CVP, California:* Renewal of existing water service contract for 24,000 acre-feet of water which expires February 28, 1991.

27. *Truckee Carson Irrigation District, Newlands Project, Nevada:* Warren Act contract to convey and/or store nonproject water in Project facilities.

28. *Truckee Carson Irrigation District, Newlands Project, Nevada:* Contract for repayment of construction costs of Newlands Project.

29. *Santa Barbara County Water Agency, Cachuma Project, California:* Repayment contract for reimbursement of funds expended under the Emergency Fund Act for continuation of water service.

30. *San Luis and Delta-Mendota Water Users Authority, CVP, California:* Financing agreement to provide for replacement of impellers at Tracy Pumping Plant.

31. *San Luis Water District, CVP, California:* Amendatory water service contract to provide that the District pay

full operation and maintenance (O&M) rate for all deliveries resulting from Axbderian Pumping Plant enlargement and the cost of service rate for such deliveries beginning in 1996 and each year thereafter.

32. *United Water Conservation District, SRPA, California:* Amendatory loan repayment contract.

Lower Colorado Region

Bureau of Reclamation, P.O. Box 427 (Nevada Highway and Park Street), Boulder City, Nevada 89005, telephone (702) 293-8536.

1. *Agricultural and M&I water users, CAP, Arizona:* Water service subcontracts; a certain percent of available supply for irrigation entities and up to 640,000 acre-feet per year for M&I use.

2. *Southern Arizona Water Rights Settlement Act:* Sale of up to 28,200 acre-feet per year of municipal effluent to the City of Tucson, Arizona.

3. *Contracts with five agricultural entities located near the Colorado River, BCP, Arizona:* Water service contracts for up to 1,920 acre-feet per year total.

4. *Gila River Indian Community, CAP, Arizona:* Water service contract for delivery of up to 173,100 acre-feet per year.

5. *ID's and similar water user entities:* Amendatory repayment and water service contracts; purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

6. *Indian and non-Indian agricultural and M&I water users, CAP, Arizona:* Contracts for repayment of Federal expenditures for construction of distribution systems.

7. *State of Arizona, BCP, Arizona:* Contract for an undetermined amount of Colorado River water for M&I use and for agricultural use and related purposes on state-owned land.

8. *Imperial ID and/or the Coachella Valley Water District, California:* Contract providing for exchange of up to 10,000 acre-feet of water per year from a well field to be constructed adjacent to the All-American Canal (AAC) for an equivalent quantity and quality of Colorado River water and for O&M of the well field, Lower Colorado Water Supply Project, California.

9. *Lower Colorado Water Supply Project, California:* Water service and repayment contracts with nonagricultural users in California adjacent to the Colorado River for an aggregate consumptive use of up to 10,000 acre-feet of Colorado River water per year in exchange for an equivalent amount of water to be pumped into the AAC from a well field to be constructed adjacent to the canal.

10. Hutchison present perfected rights contract amendment to reflect the transfer of part of the right to Winterhaven, California, Supreme Court Decree in *Arizona* v. *California* and BCP.

11. Winterhaven present perfected rights contract for a portion of Hutchison Present Perfected Rights transferred to Winterhaven, Supreme Court Decree in *Arizona* v. *California* and BCP.

12. *County of San Bernardino, SRPA, California:* Repayment contract for a $29.6 million loan.

13. *Tohono O'Odham Nation, SRPA, Arizona:* Repayment contract for a $7.3 million loan for the Schuk Toak District.

14. *Sturges Trust, Supreme Court Decree in Arizona* v. *California and BCP, Arizona:* Contract for delivery of 8,500 acre-feet of Colorado River water per year for agricultural use as recommended by the State of Arizona and to recognize a 780 acre-feet present perfected right to the use of Colorado River water.

15. *Fort Mohave Indian Reservation, Supreme Court Decree in Arizona* v. *California and BCP, Arizona:* Contract for delivery of Colorado River water for its Federal establishment present perfected right, totaling 122,648 acre-feet of diversions annually.

16. *Colorado River Commission of Nevada, BCP, Nevada:* A surplus water contract which would allow them to utilize Colorado River water for M&I purposes when available.

17. *BCP, Arizona:* Contracts for additional allocations of Colorado River water to cities located along the Colorado River in Arizona for up to 15,076 acre-feet per year as recommended by the Arizona Department of Water Resources.

18. *National Park Service for Lake Mead National Recreation Area, Supreme Court decree in Arizona* v. *California and BCP in Arizona and Nevada:* Memorandum of Understanding for delivery of Colorado River water for its Federal establishment present perfected right of 500 acre-feet of diversions annually, and the Federal establishment perfected right pursuant to Executive Order No. 5125 (April 25, 1930).

19. *Eastern Municipal Water District, SRPA, California:* Repayment contract for $31 million loan.

Upper Colorado Region:

Bureau of Reclamation, P.O. Box 11568, 125 South State Street, Salt Lake City, Utah 84147, telephone (801) 524–5495.

1. *Individual irrigators, M&I, and miscellaneous water users, Utah, Wyoming, Colorado, and New Mexico:* Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

(a) *The Benevolent and Protective Order of the Elks, Lodge No. 1747, Farmington, New Mexico:* Navajo Reservoir water service contract; 20 acre-feet per year for municipal use; contract term for 40 years from execution.

2. *Southern Ute Indian Tribe, Animas-La Plata Project, Colorado:* Repayment contract for 26,500 acre-feet per year for M&I use and 2,600 acre-feet per year for irrigation use in Phase One and 700 acre-feet in Phase Two. Contract terms to be consistent with binding cost sharing agreement and water rights settlement agreement in principle.

3. *Ute Mountain Ute Tribe, Animas-La Plata Project, Colorado and New Mexico:* Repayment contract; 6,000 acre-feet per year for M&I use in Colorado; 26,400 acre-feet per year for irrigation use in Colorado; 900 acre-feet per year for irrigation use in New Mexico. Contract terms to be consistent with binding cost-sharing agreement and water rights settlement agreement.

4. *Navajo Indian Tribe, Animas-La Plata Project, New Mexico.* Repayment contract for 7,600 acre-feet per year for M&I use.

5. *La Plata Conservancy District, Animas-La Plata Project, New Mexico:* Repayment contract for 9,900 acre-feet per year for irrigation use.

6. *Uintah Water Conservancy District, Jensen Unit, Central Utah Project, Utah:* Amendatory repayment contract to reduce municipal and industrial water supply and corresponding repayment obligation.

7. *Vermejo Conservancy District, Vermejo Project, New Mexico:* Amendatory contract to relieve the district of further repayment obligation, presently exceeding $2 million, pursuant to Public Law 96–550.

8. *Conejos Water Conservancy District, San Luis Valley Project, Colorado:* Amendatory contract to place OM&R costs on a variable basis commensurate with the availability of project water.

9. *Weber Basin Water Conservancy District, Weber Basin Project, Utah:* Repayment Contract for Rehabilitation and Betterment work of selected project facilities.

Great Plains Region

Bureau of Reclamation, P.O. Box 36900, Federal Building, 316 North 26th Street, Billings, Montana 59107–6900, telephone (406) 657–6413.

1. *Individual irrigators, Municipal and Industrial (M&I), and miscellaneous water users, Great Plains Region: Montana, Wyoming, North Dakota, South Dakota, Colorado, Kansas, Nebraska, Oklahoma, and Texas:* Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

2. *Fort Shaw Irrigation District, Sun River Project, Montana:* R&B loan repayment contract; up to $1.5 million.

3. *Owl Creek Irrigation District, Owl Creek Unit, P–SMBP, Wyoming:* Amendatory water service contract to reflect reduced water supply benefits being received from Anchor Reservoir.

4. *Green Mountain Reservoir, Colorado-Big Thompson Project, Colorado:* Water service contracts; contract negotiations for sale of water from the marketable yield to water users within the Colorado River Basin of Western Colorado.

5. *Ruedi Reservoir, Fryingpan-Arkansas Project, Colorado:* Water service contracts; proposed second round contract negotiations for sale of agricultural, municipal, domestic and industrial water from the regulatory capacity of Ruedi Reservoir.

6. *Cedar Bluff Irrigation District No. 6, Cedar Bluff Unit, P–SMBP, Kansas:* Repayment contract; pending passage of Congressional legislation, terminate the Cedar Bluff Irrigation District's contract. The use of the District's portion of the reservoir storage capacity will be sold to the State of Kansas for fish, wildlife, recreation, and other purposes.

7. *Frenchman Valley Irrigation District, Frenchman Unit, P–SMBP, Nebraska:* Pending passage of congressional legislation, renegotiate District's existing contract to reduce payments based on payment ability and reduced water supply.

8. *Department of Natural Resources and Conservation, Montana:* SRPA Grant and loan contract for rehabilitation of Middle Creek Dam to meet required safety criteria and to increase reservoir storage capacity by 1,917 acre-feet which will be utilized for irrigation and municipal purposes.

9. *Garrison Diversion Unit, P–SMBP, North Dakota:* Repayment contract; Renegotiation of the master repayment contract with Garrison Diversion Conservancy District to bring the terms in line with the Garrison Diversion Unit Reformulation Act of 1986. Negotiation of repayment contracts with irrigators and M&I users.

10. *Corn Creek Irrigation District, Glendo Unit, P–SMBP, Wyoming:* Repayment contract for 10,350 acre-feet of supplemental irrigation water from Glendo Reservoir.

11. *Glen Elder Unit, P–SMBP, Kansas:* Negotiations for long-term contracts for agricultural water service from Waconda Lake.

12. *Foss Reservoir Master Conservancy District, Washita Basin Project, Oklahoma:* Amendatory repayment contract for remedial work.

13. *Arbuckle Master Conservancy District, Arbuckle Project, Oklahoma:* Contract for the repayment of costs incurred by the United States for the construction of the Sulphur, Oklahoma, pipeline and pumping plant (if constructed).

14. *Board of Water Commissioners of the City and County of Denver, the Colorado River Water Conservation District, and the Northern Colorado Water Conservancy District, Colorado-Big Thompson Project, Colorado:* Operating agreement for substitution of water in the proposed Muddy Creek or Rock Creek Reservoir for Green Mountain Reservoir water.

15. *Sargent Irrigation District, Middle Loup Division, P–SMBP, Nebraska:* R&B loan repayment contract not to exceed $2,435,000.

16. *Chinook Water Users Association, Milk River Project, Montana:* SRPA contract for loan of up to $6,000,000 for improvements to the Association's water conveyance system.

17. *Heart River Unit, Dickinson Subunit, P–SMBP, North Dakota:* Renegotiate Water Service Contract No. 179r–1412 with the City of Dickinson. Existing contract expired September 24, 1990.

18. *Malta Irrigation District, Malta Division, Milk River Project, Montana:* R&B contract for repayment of $5,600,000 loan.

19. *Midvale Irrigation District, Riverton Unit, P–SMBP, Wyoming:* Long-term contract for water service from Boysen Reservoir.

20. *Tom Green County Water Control and Improvement District No. 1, San Angelo Project, Texas:* Amendatory contract to increase irrigable acreage within the project.

21. East Bench Irrigation District, East Bench Unit, P-SMBP, deferment of semiannual payment of $21,800 due December 31, 1990. The deferment is due to extremely low water levels in Clark Canyon Reservoir.

22. *Palmetto Bend Project, Texas:* Amendment of the tripartite contract among the United States, the Lavaca-Navidad River Authority and the Texas Water Development Board to transfer the Board's remaining repayment obligation and interest in the Palmetto Bend Project to the Authority.

23. *City of Havre, Milk River Project, Montana:* New long-term water service contract for up to 2,800 acre-feet annually.

24. *Lakeview Irrigation District, Shoshone Project, Wyoming:* New long-term water service contract for up to 15,000 acre-feet of water annually from Buffalo Bill Reservoir.

25. *City of Rapid City, Rapid Valley Unit, P–SMBP, South Dakota:* Long-term water service contract renewal for approximately 7,000 acre-feet of water from Pactola Reservoir.

Opportunity for public participation and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

(1) Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

(2) Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of the Bureau of Reclamation.

(3) All written correspondence regarding proposed contracts will be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

(4) Written comments on proposed contract or contract action must be submitted to the appropriate Bureau of Reclamation officials at locations and within the time limits set forth in the advance public notices.

(5) All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

(6) Copies of specific proposed contracts may be obtained from the appropriate Regional Director or his designated public contact as they become available for review and comment.

(7) In the event modifications are made in the form of a proposed contract, the appropriate Regional Director shall determine whether republication of the notice and/or extension of the 60-day comment period is necessary.

Factors which shall be considered in making such a determination shall

include, but are not limited to: (i) The significance of the impact(s) of the modification, and (ii) the public interest which has been expressed over the course of the negotiations. As a minimum, the Regional Director shall furnish revised contracts to all parties who requested the contract in response to the initial public notice.

Dated: October 10, 1990.

Dennis B. Underwood,

Commissioner.

[FR Doc. 90-24224 Filed 10-15-90; 8:45 am]

BILLING CODE 4310-55-M

Fish and Wildlife Service

Receipt of Application for a Permit

The following applicant has applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Erie Zoological Society, Erie, PA. PRT 749376.

The applicant requests a permit to export one captive-bred Bengal tiger (*Panthera tigris*) to Parque Zoologico Nacional, in the Republic of Dominica, for purposes of captive-breeding and zoological display.

Documents and other information submitted with this application are available to the public during normal business hours (7:45 a.m. to 4:15 p.m.) room 430, 4401 N. Fairfax Dr., Arlington VA 22203, or by writing to the Director, U.S. Office of Management Authority, 4401 N. Fairfax Drive, room 433, Arlington, VA 22203.

Interested persons may comment on this application within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: October 11, 1990.

Karen Wilson,

Acting Chief, Branch of Permits, U.S. Office of Management Authority.

[FR Doc. 90-24213 Filed 10-15-90; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Information Collection Requirements for Subpart B, Exploration and Development and Production Plans

AGENCY: Minerals Management Service, Interior.

ACTION: Request for comments on the information collection requirements for Subpart B—Exploration and Development and Production Plans, 30 CFR Part 250 (OMB No. 1010-0049).

SUMMARY: The Minerals Management Service (MMS), as part of its continuing effort to reduce the paperwork and respondent burden required by the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. 3501 *et seq.*), provides the general public, industry, and State and other Federal agencies an opportunity to comment on current and proposed information collection requirements. The MMS will evaluate all comments and will revise reporting and recordkeeping requirements, as appropriate, to minimize respondent burdens. This notice specifically requests comments regarding the information collection burdens imposed by MMS regulations on lessees that plan to conduct exploration, development, and production activities in the Outer Continental Shelf (OCS). Comments will be used in the preparation of an information collection request to be submitted to the Office of Management and Budget (OMB) for the renewal of information collection authorizations.

DATES: Comments may be submitted on or before November 15, 1990.

ADDRESSES: Comments and suggestions on these collection requirements should be submitted to Gerald D. Rhodes, Chief, Branch of Rules, Orders, and Standards, Offshore Rules and Operations Division, Mail Stop 4700, Minerals Management Service, 381 Elden Street, Herndon, Virginia 22070-4817, with copies to the Bureau Clearance Officer, Mail Stop 2300, 381 Elden Street, Herndon, Virginia 22070-4817 and to the Office of Management and Budget, Paperwork Reduction Project (1010-0049), Washington, DC 20503, telephone (202) 395-7340.

FOR FURTHER INFORMATION CONTACT: Copies of the current information collection requirements and supporting material may be obtained by contacting Gerald D. Rhodes, Chief, Branch of Rules, Orders, and Standards; telephone (703) 787-1600 or (FTS) 393-1600.

SUPPLEMENTARY INFORMATION:

I. Background

The OCS Lands Act, 43 U.S.C. 1331 *et seq.*, requires the holders of OCS oil and gas and sulphur leases to submit Exploration or Development and Production Plans to the Secretary of the Interior (Secretary) prior to commencing exploration, development, or production activities. To carry out these responsibilities, the Secretary has authorized the Director of MMS to issue regulations governing OCS oil and gas and sulphur lease operations. The rules implementing the requirements and associated information collections for Exploration and Development and Production Plans are contained in 30 CFR part 250, subpart B—Exploration and Development and Production Plans. The information collected under subpart B is analyzed and evaluated by MMS engineers, geologists, geophysicists, and environmental scientists to ensure that planned operations will not adversely affect the marine, coastal, or human environment. The information collected is also reviewed by affected States for consistency with approved Coastal Zone Management Plans.

The Paperwork Reduction Act of 1980 requires MMS to obtain approval of the information collection requirements for subpart B from OMB. The MMS obtained approval for the information collection requirements for subpart B in January 1988 during the restructuring and consolidation of the offshore operating regulations under 30 CFR part 250. This information collection was approved by OMB through January 31, 1991.

II. Current Actions

The MMS is preparing an information collection request that will be submitted to OMB in order to obtain renewal of the authorization for information collections under subpart B. An information collection authorization request must contain a description of the information collection requirements, statements justifying their collection, and responses to comments from individuals affected by the information collection. This notice provides a brief description of the information collection requirements for subpart B and the estimated burden for industry to prepare the information.

III. Request for Comments

The sections of subpart B that contain information collection requirements are listed below, along with MMS's estimates of the number of requests or annual plans submitted, preparation time per response or plan, and total burden hours for each requirement. The total burden for submitting plans has been calculated by multiplying the estimated number of initial and revised Exploration and Development and Production Plans that will be submitted in a year by the estimated time to prepare each initial and revised plan. The MMS requests the oil and gas and sulphur industries and other interested parties to comment on these information collection requirements, including comments regarding the clarity of the information requirements, availability of

required information, estimated burden hours, and frequency of collection.

(a) *Section 250.31 Preliminary activities.* Notification of the type, scope, and timing of preliminary activities—100 requests to submit notification per year, 1 hour per response, 100 total burden hours.

(b) *Section 250.33 Exploration plan.* Detailed descriptions of the exploration activities, including type of drilling unit to be used, well information, geologic information, new technology used, onshore support infrastructure, waste disposal, meteorological conditions, physical oceanography, onsite flora and fauna, environmentally sensitive areas, local archaeological and cultural resources, assessment of effects, coastal zone consistency certificate, responsible individuals, and other information as required by the Regional Supervisor—300 initial Exploration Plans submitted per year, 480 hours per initial plan, 300 revised Exploration Plans submitted per year, 80 hours per revised plan, 168,000 total burden hours.

(c) *Section 250.34 Development and production plan.* Detailed descriptions of development and production activities, including schedule of activities, types of drilling vessels or platforms, location of pipelines, geological and geophysical information, environmental safeguards, satisfaction of lease stipulations, reservoir engineering practices, drilling and completion programs, new technology, drilling fluids, waste disposal, onshore support facilities, existing environment, archaeological and cultural resources, aquatic biota, environmentally sensitive areas, physical oceanography, meteorological conditions, other uses of the area, assessment of effects, alternatives to activities, coastal zone consistency certificate, responsible individuals, and other information as required by the Regional Supervisor—100 initial Development and Production Plans submitted per year, 480 hours per initial plan, 200 revised Development and Production Plans submitted per year, 80 hours per revised plan, 64,000 total burden hours.

The total annual information collection burden on lessees for subpart B is 232,100 hours.

Comments submitted in response to this notice will be summarized and/or included in the information collection authorization request submitted to OMB for approval of this information collection. These comments will also become a matter of public record.

Authority: Section 204, Pub. L. 95-372, 92 Stat. 629 (43 U.S.C. 1334).

Dated: October 4, 1990.

Ed Cassidy,

Deputy Director, Minerals Management Service.

[FR Doc. 90-24287 Filed 10-15-90; 8:45 am]

BILLING CODE 4310-MR-M

Information Collection Requirements for Subpart E, Well-Completion Operations

AGENCY: Minerals Management Service, Interior.

ACTION: Request for comments on the information collection requirements for Subpart E—Well-Completion Operations, 30 CFR part 250 (OMB No. 1010-0067).

SUMMARY: The Minerals Management Service (MMS), as part of its continuing effort to reduce the paperwork and respondent burden (required by the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. 3501 *et seq.*), provides the general public, industry, and State and other Federal agencies an opportunity to comment on current and proposed information collection requirements. The MMS will evaluate all comments and will revise reporting and recordkeeping requirements, as appropriate, to minimize respondent burdens. This notice specifically requests comments regarding the information collection burdens imposed by MMS regulations on lessees that conduct well-completion operations in the Outer Continental Shelf (OCS). Comments will be used in the preparation of an information collection request to be submitted to the Office of Management and Budget (OMB) for the renewal of information collection authorizations.

DATES: Comments may be submitted on or before November 15, 1990.

ADDRESSES: Comments and suggestions on these collection requirements should be submitted to Gerald D. Rhodes; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division, Mail Stop 4700, Minerals Management Service, 381 Elden Street, Herndon, Virginia 22070-4817, with copies to the Bureau Clearance Officer, Mail Stop 2300, 381 Elden Street, Herndon, Virginia 22070-4817 and to the Office of Management and Budget, Paperwork Reduction Project (1010-0067), Washington, DC 20503, telephone (202) 395-7340.

FOR FURTHER INFORMATION CONTACT: Copies of the current information collection requirements and supporting material may be obtained by contacting Gerald D. Rhodes, Chief, Branch of Rules, Orders, and Standards, telephone (703) 787-1600 or (FTS) 393-1600.

SUPPLEMENTARY INFORMATION:

I. Background

The OCS Lands Act, 43 U.S.C. 1331 *et seq.*, gives the Secretary of the Interior (Secretary) the responsibility to preserve, protect, and develop oil and gas resources in the OCS in a manner which is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; balance orderly energy resources development with protection of the human, marine, and coastal environment; ensure the public a fair and equitable return on OCS resources; and preserve and maintain free enterprise competition.

The Paperwork Reduction Act of 1980 requires MMS to obtain approval of the information collection requirements for subpart E from OMB. The MMS obtained approval for the information collection requirements for subpart E in January 1988 during the restructuring and consolidation of the offshore operating regulations under 30 CFR part 250. This information collection was approved by OMB through January 31, 1991.

II. Current Actions

The MMS is preparing an information collection request that will be submitted to OMB in order to obtain renewal of the authorization for information collections for subpart E. An information collection authorization request must contain a description of the information collection requirements, statements justifying their collection, and responses to comments from individuals affected by the information collection. This notice provides a brief description of the information collection requirements for subpart E and the estimated burden for industry to prepare the information.

III. Request for Comments

The sections of subpart E that contain information collection requirements are listed below, along with MMS's estimates of the average number of annual responses, completion time per response, recordkeeping hours per lessee, and burden hours for each requirement. The burden hours have been calculated by multiplying the estimated number of well-completion activities (500) that will likely occur on OCS oil and gas leases during the next year by the estimated time to prepare the required information or recordkeeping.

The MMS requests the oil and gas industry and other interested parties to comment on these information collection requirements, including comments regarding the clarity of the information requirements, availability of required information, estimated burden hours, and frequency of collection.

(a) *Section 250.70 Crew instructions.* Record date and time of crew safety meetings

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—0 responses per year, 0 hours per response, 80 hours of recordkeeping (1 recordkeeping entry per crew ×2 crews per completion ×200 completions ×0.05 hours per entry), 80 burden hours.

(b) *Section 250.81 Traveling-block safety device.* Record results of weekly operational check of safety device —0 responses per year, 0 hours per response, 80 hours of recordkeeping (1 operational check per week × average of 2 weeks per completion operation ×200 completions ×0.05 hours recordkeeping time per entry), 80 burden hours.

(c) *Section 250.85 Blowout prevention equipment.* Well-control procedure for annular preventer when expected surface pressure exceeds rated working pressure submitted to District Supervisor, as appropriate —10 responses per year, 1.0 hour per response, 0 hours of recordkeeping, 10 burden hours.

(d) *Section 250.89 Blowout preventer system testing, records, and drills.* Record pressure testing, actuations, and inspections of the blowout preventer system, system components, and marine risers or record reason for postponing testing —0 responses per year, 0 hours per response, 196 hours of recordkeeping (470 tests ×0.4 hours to document test + 30 postponed tests ×2.2 hours to document reason for test delay —188 + 8 hours of recordkeeping), 196 burden hours.

(e) *Section 250.87 Tubing and wellhead equipment.* Casing shall be pressure tested, calipered, or otherwise evaluated every 30 days following prolonged operations that could damage casing, and results should be submitted to the District Supervisor —10 responses per year, 0.5 hours per response, 0 hour of recordkeeping, 5 burden hours.

The total annual information collection burden on lessees for subpart E is 308 hours.

Comments submitted in response to this notice will be summarized and/or included in the information collection request submitted to OMB for approval of this information collection. These comments will also become a matter of public record.

Authority: Sec. 204, Pub. L. 95-372, 92 Stat. 629 (43 U.S.C. 1334).

Dated: October 4, 1990.

Ed Cassidy,

Deputy Director, Minerals Management Service.

[FR Doc. 90-24289 Filed 10-15-90; 8:45 am]

BILLING CODE 4310-MR-M

Information Collection Requirements for Subpart F, Well-Workover Operations

AGENCY: Minerals Management Service, Interior.

ACTION: Request for comments on the information collection requirements for Subpart F—Well-Workover Operations, 30 CFR part 250 (OMB No. 1010-0043).

SUMMARY: The Minerals Management Service (MMS), as part of its continuing effort to reduce the paperwork and respondent burden required by the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. 3501 *et seq.*), provides the general public, industry, and State and other Federal agencies an opportunity to comment on current and proposed information collection requirements. The MMS will evaluate all comments and will revise reporting and recordkeeping requirements, as appropriate, to minimize respondent burdens. This notice specifically requests comments regarding the information collection burdens imposed by MMS regulations on lessees that conduct well-workover operations in the Outer Continental Shelf (OCS). Comments will be used in the preparation of an information collection request to be submitted to the Office of Management and Budget (OMB) for the renewal of information collection authorizations.

DATES: Comments may be submitted on or before November 15, 1990.

ADDRESSES: Comments and suggestions on these collection requirements should be submitted to Gerald D. Rhodes; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 4700; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070-4817, with copies to the Bureau Clearance Officer; Mail Stop 2300; 381 Elden Street; Herndon, Virginia 22070-4817 and to the Office of Management and Budget; Paperwork Reduction Project (1010-0043); Washington, DC 20503, telephone (202) 395-7340.

FOR FURTHER INFORMATION CONTACT: Copies of the current information collection requirements and supporting material may be obtained by contacting Gerald D. Rhodes; Chief, Branch of Rules, Orders, and Standards; telephone (703) 787-1600 or (FTS) 393-1600.

SUPPLEMENTARY INFORMATION:

I. Background

The OCS Lands Act, 43 U.S.C. 1331 *et seq.*, gives the Secretary of the Interior (Secretary) the responsibility to preserve, protect, and develop oil and gas resources in the OCS in a manner which is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; balance orderly energy resources development with protection of the human, marine, and coastal environment; ensure the public a fair and equitable return on OCS resources; and preserve and maintain free enterprise competition. To carry out these responsibilities, the Secretary has authorized the Director of MMS to issue rules governing OCS oil and gas and sulphur lease operations. The rules governing well-workover operations are contained in 30 CFR part 250, Subpart F—Well-Workover Operations.

The Paperwork Reduction Act of 1980 requires MMS to obtain approval of the information collection requirements for subpart F from OMB. The MMS obtained approval for the information collection requirements for subpart F in January 1988 during the restructuring and consolidation of the offshore operating regulations under 30 CFR part 250. This information collection was approved by OMB through January 31, 1991.

II. Current Actions

The MMS is preparing an information collection request that will be submitted to OMB in order to obtain renewal of the authorization for information collections for subpart F. An information collection authorization request must contain a description of the information collection requirements, statements justifying their collection, and responses to comments from individuals affected by the information collection. This notice provides a brief description of the information collection requirements for subpart F and the estimated burden for industry to prepare the information.

III. Request for Comments

The sections of subpart F that contain information collection requirements are listed below, along with MMS's estimates of the average number of annual responses, completion time per response, recordkeeping hours per lessee, and burden hours for each requirement. The burden hours have been calculated by multiplying the estimated number of well-workover activities (400) that will likely occur on OCS oil and gas leases during the next year and the estimated time to prepare the required information or recordkeeping. The MMS requests the oil and gas and sulphur industries and other interested parties to comment on these information collection requirements, including comments regarding the clarity of the information requirements, availability of required information, estimated burden hours, and frequency of collection.

(a) *Section 250.89 Crew instructions.* Record date and time of crew safety meetings—0 responses per year, 0 hours per response, 40 hours of recordkeeping (1 recordkeeping entry per crew x 2 crews per workover x 400 workovers x 0.05 hours per entry), 40 burden hours.

(b) *Section 250.101 Traveling-block safety device.* Record results of weekly operational check of safety device—0 responses per year, 0 hours per response, 40 hours of recordkeeping (1 operational check per week x average of 2 weeks per workover operation x 400 workovers x 0.05 hours recordkeeping time per entry), 40 burden hours.

(c) *Section 250.105 Blowout prevention equipment.* Well-control procedure for annular preventer when expected surface pressure exceeds rated working pressure submitted to District Supervisor, as appropriate—10 responses per year, 1.0 hours per response, 0 hours of recordkeeping, 10 burden hours.

(d) *Section 250.108 Blowout preventer system testing, records, and drills.* Record pressure testing, actuations, and inspections of the blowout preventer system, system components, and marine risers or record reason for postponing testing—0 responses per year, 0 hours per response, 155 hours of recordkeeping (375 tests x 0.4 hours to document test + 25 postponed tests x 0.2 hours to document reason for test delay = 150 + 5 hours of recordkeeping), 155 burden hours.

(e) *Section 250.107 Tubing and wellhead equipment.* Casing shall be pressure tested, calipered, or otherwise evaluated every 30 days following prolonged operations that could damage casing, and results should be submitted to the District Supervisor—10 responses per year, 0.5 hours per response, 0 hours of recordkeeping, 5 burden hours.

The total annual information collection burden on lessees for subpart F is estimated to be 250 hours.

Comments submitted in response to this notice will be summarized and/or included in the information collection request submitted to OMB for approval of this information collection. These comments will also become a matter of public record.

Authority: Section 204, Pub. L. 95-372, 92 Stat. 629 (43 U.S.C. 1334).

Dated: October 4, 1990.

Ed Cassidy,

Deputy Director, Minerals Management Service.

[FR Doc. 90-24268 Filed 10-15-90; 8:45 am]

BILLING CODE 4310-MR-M

Information Collection Requirements for Subpart G, Abandonment of Wells

AGENCY: Minerals Management Service, Interior.

ACTION: Request for comments on the information collection requirements for Subpart G—Abandonment of Wells, 30 CFR part 250 (OMB No. 1010-0079).

SUMMARY: The Minerals Management Service (MMS), as part of its continuing effort to reduce the paperwork and respondent burden (required by the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. 3501 *et seq.*), provides the general public, industry, and State and other Federal agencies an opportunity to comment on current and proposed information collection requirements. The MMS will evaluate all comments and will revise reporting and recordkeeping requirements, as appropriate, to minimize respondent burdens. This notice specifically requests comments regarding the information collection burdens imposed by MMS regulations on lessees that plan to maintain the temporarily abandoned status of a well drilled under an oil and gas or sulphur lease in the Outer Continental Shelf (OCS). Comments will be used in the preparation of an information collection request to be submitted to the Office of Management and Budget (OMB) for the renewal of information collection authorizations.

DATES: Comments may be submitted on or before November 15, 1990.

ADDRESSES: Comments and suggestions on these collection requirements should be submitted to Gerald D. Rhodes, Chief, Branch of Rules, Orders, and Standards, Offshore Rules and Operations Division, Mail Stop 4700, Minerals Management Service, 381 Elden Street, Herndon, Virginia 22070-4817, with copies to the Bureau Clearance Officer, Mail Stop 2300, 381 Elden Street, Herndon, Virginia 22070-4817 and to the Office of Management and Budget, Paperwork Reduction Project (1010-0079), Washington, DC 20503, telephone (202) 395-7340.

FOR FURTHER INFORMATION CONTACT: Copies of the current information collection requirements and supporting material may be obtained by contacting Gerald D. Rhodes, Chief, Branch of Rules, Orders, and Standards, telephone (703) 787-1600 or (FTS) 393-1600.

SUPPLEMENTARY INFORMATION:

I. Background

The OCS Lands Act, 43 U.S.C. 1331 *et seq.*, gives the Secretary of the Interior (Secretary) the responsibility to preserve, protect, and develop oil and gas resources in the OCS in an appropriate manner. The OCS Lands Act requires the holders of OCS oil and gas and sulphur leases to conduct operations using technology, precautions, and techniques sufficient to prevent or minimize physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health. To carry out these responsibilities, the Secretary has authorized the Director of MMS to issue regulations governing OCS oil and gas and sulphur lease operations. The rules governing the temporary abandonment of a drilling well are contained in 30 CFR Part 250, Subpart G—Abandonment of Wells. The information collected under Subpart G is evaluated by MMS to determine the necessity for allowing a well to remain in a temporarily abandoned status.

The Paperwork Reduction Act of 1980 requires MMS to obtain approval of the information collection requirements for subpart G from OMB. The MMS obtained approval for the information collection requirements for subpart G in January 1988 during the restructuring and consolidation of the offshore operating regulations under 30 CFR part 250. This information collection was approved by OMB through January 31, 1991.

II. Current Actions

The MMS is preparing an information collection request that will be submitted to OMB in order to obtain renewal of the authorization for information collections for subpart G. An information collection authorization request must contain a description of the information collection requirements, statements justifying their collection, and responses to comments from individuals affected by the information collection. This notice provides a brief description of the information collection requirements for subpart G and the estimated burden for industry to complete the required information.

III. Request for Comments

The section of subpart G that contains an information collection requirement is listed below, along with MMS's estimates of the number of annual reports, completion time per report, and total burden hours for the requirement. The total burden for reporting has been calculated by multiplying the estimated number of reentry reports that will be submitted in a year by the estimated time to complete each report. The MMS requests the oil and gas and sulphur industries and other interested parties to comment on these information collection requirements, including comments regarding the clarity of the information requirements, availability of required information, estimated burden hours, and frequency of collection.

Section 250.113 Temporary abandonment. An annual report describing plans for reentry to complete or permanently abandon well—1,000 reports per year, 0.25 hours per report, 250 total burden hours.

The total annual information collection burden on lessees for subpart G is 250 hours.

Comments submitted in response to this notice will be summarized and/or included in the information collection package submitted to OMB for approval of this information collection. These comments will also become a matter of public record.

Authority: Sec. 204, Pub. L. 95-372, 92 Stat. 629 (43 U.S.C. 1334).

Dated: October 4, 1990.

Ed Cassidy,

Deputy Director, Minerals Management Service.

[FR Doc. 90-24289 Filed 10-15-90; 8:45 am]

BILLING CODE 4310-MR-M

Information Collection Requirements for Prospecting for Minerals Other Than Oil, Gas, and Sulphur in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Request for comments on the information collection requirements for Prospecting for Minerals Other Than Oil, Gas, and Sulphur in the Outer Continental Shelf, 30 CFR part 280 (OMB No. 1010-0072).

SUMMARY: The Minerals Management Service (MMS), as part of its continuing effort to reduce the paperwork and respondent burden (required by the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. 3501 *et seq.*), provides the general public, industry, and State and other Federal agencies an opportunity to comment on current and proposed information collection requirements. The MMS will evaluate all comments and will revise reporting and recordkeeping requirements, as appropriate, to minimize respondent burdens. This notice specifically requests comments regarding the information collection burdens imposed by MMS regulations on Prospecting for Minerals Other Than Oil, Gas, and Sulphur in the Outer Continental Shelf (OCS). Comments will be used in the preparation of an information collection request to be submitted to the Office of Management and Budget (OMB) for the renewal of information collection authorizations.

DATE: Comments may be submitted on or before November 15, 1990.

ADDRESSES: Comments and suggestions on these collection requirements should be submitted to Gerald D. Rhodes, Chief, Branch of Rules, Orders, and Standards, Offshore Rules and Operations Division, Mail Stop 4700, Minerals Management Service, 381 Elden Street, Herndon, Virginia 22070-4817, with copies to the Bureau Clearance Officer, Mail Stop 2300, 381 Elden Street, Herndon, Virginia 22070-4817 and to the Office of Management and Budget, Paperwork Reduction Project (1010-0072), Washington, DC 20503, telephone (202) 395-7340.

FOR FURTHER INFORMATION CONTACT: Copies of the current information collection requirements and supporting material may be obtained by contacting Gerald D. Rhodes, Chief, Branch of Rules, Orders, and Standards, telephone (703) 787-1600 or (FTS) 393-1600.

SUPPLEMENTARY INFORMATION:

I. Background

Section 8(k) of the OCS Lands Act, 43 U.S.C. 1337, authorizes the Secretary of the Interior (Secretary) "* * * to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding leases of any mineral other than oil, gas, and sulphur in any area of the Outer Continental Shelf not then under lease for such mineral upon such royalty, rental, and other terms and conditions as the Secretary may prescribe * * *." To carry out these responsibilities, the Secretary has authorized the Director of MMS to issue rules governing the prospecting for minerals other than oil, gas, and sulphur. These rules are contained in 30 CFR Part 280—Prospecting for Minerals Other than Oil, Gas, and Sulphur in the OCS (Prospecting).

The Paperwork Reduction Act of 1980 requires MMS to obtain approval of the information collection requirements for Prospecting from OMB. The MMS submitted an information collection authorization request for renewal in October 1989 and received approval for this information collection through January 1991.

II. Current Actions

The MMS is preparing an information collection request that will be submitted to OMB in order to obtain renewal of the information collection authorizations for Prospecting. An information collection authorization request must contain a description of the information collection requirements, statements justifying their collection, and responses to comments from individuals affected by the information collection. This notice provides a brief description of the information collection requirements for Prospecting and the estimated burden for industry to prepare the information.

III. Request for Comments

The sections of Prospecting that contain information collection requirements are listed below, along with MMS's estimates of the average number of annual responses, completion time per response, recordkeeping hours, and total burden hours for each requirement. The MMS requests the marine mining industry and other interested parties to comment on these information collection requirements, including comments regarding the clarity of the information requirements, availability of required information, estimated burden hours, and frequency of collection.

(a) *Section 280.5 Application for a prospecting or scientific research permit.* An application for a prospecting permit shall include name, address, and nationality of permittee and person(s) directly responsible for conducting the activities; description and map of the area(s) covered by the application; time covered by term of permit; description and schedule of activities to be conducted; prospecting plan; and indication of which data and information in the prospecting application are considered proprietary. An application for a scientific research permit shall include name of the person conducting the proposed research; type of research activity and manner in which it will be conducted; location of the proposed research activity designated on a map, plat, or chart; schedule for proposed scientific research activity; proposed time and manner in which the information and data resulting from the research will be made available to the public for inspection and reproduction; agreement that the information and data resulting from the scientific research activity will not be sold or withheld for exclusive use; name, registry number, registered owner, and port of registry of vessels used in the operation; and scientific research plan—0 applications per year, 10 hours per application, 0 hours of recordkeeping, 90 burden hours.

(b) *Section 280.6 Prospecting or scientific research plan.* The plan shall include identification of the mineral(s) or material(s) of interest; description of the activities to be conducted; type(s) of equipment to be used; name, registration, and mobile communication system of vessel(s); maps showing location of proposed activities and proposed survey grids for each surveying method; schedule for proposed activity; anticipated environmental consequences of proposed activity; mitigation measures used to avoid or minimize adverse environmental impacts of proposed activities; a plan for monitoring the effects of the activities on the environment; known archaeological resources in the area of the proposed activities; description of any potential conflicts with other uses or users in the permit area; and a drilling plan if appropriate—0 plans per year, 10 hours per plan, 0 hours of recordkeeping, 90 burden hours.

(c) *Section 280.7 Obligations of persons.* The permittee shall notify the Director of a substantial change from the approved plan—4 responses per year, 3 hours per response, 0 hours of recordkeeping, 12 burden hours.

(d) *Section 260.8 Reporting.* The quarterly report shall include a summary of the prospecting or scientific research activities conducted prior to the end of the reporting period and the results obtained—36 reports per year, 3.8 hours per report, 0 hours of recordkeeping, 136 burden hours.

(e) *Section 260.8 Reporting.* The final report shall include description of the work performed; charts, maps, or plats depicting the area and blocks in which any activities were conducted; dates actual activities were performed; summary of any mineral occurrences encountered including location, environmental features, and the nature and degree of adverse effects on the environment, aquatic life, archaeological resources, or other uses of the area; report of the results of the environmental monitoring; and descriptions of other activities conducted as specified by the Director—6 reports per year, 30 hours per report, 0 hours of recordkeeping, 270 burden hours.

(f) *Section 260.8 Reporting.* The permittee shall notify the Director of all serious accidents, any death or serious injury, or fire or explosion connected with any activity conducted—one response per year, 1 hour per response, 0 hours of recordkeeping, 1 burden hour.

(g) *Section 260.9 Recordkeeping.* A representative split of each geological sample and a quarter longitudinal segment of each core shall be available for inspection at the convenience of the Director for 1 year, and data and information collected under a permit, including environmental data and information; geological and geophysical data and information; drill logs; analyses of cores, cuttings, and samples; and maps and navigation tapes showing the location where samples were taken and test drilling conducted, shall be kept available for 3 years at a location approved by the Director—6 responses per year, 0 hours per response, 54 hours of recordkeeping, 54 burden hours.

The total annual information collection burden on permittees for Prospecting is estimated to be 653 hours.

Comments submitted in response to this notice will be summarized and/or included in the information collection request submitted to OMB for approval of this information collection. These comments will also become a matter of public record.

Authority: Section 204, Pub. L. 95-372, 92 Stat. 629 (43 U.S.C. 1337).

Dated: October 4, 1990.

Ed Cassidy,

Deputy Director, Minerals Management Service.

[FR Doc. 90-24270 Filed 10-15-90; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

National Register of Historic Places; Proposed NHL Boundaries

The National Park Service has been working to establish boundaries for all National Historic Landmarks for which no specific boundary was identified at the time of designation, and therefore, are without a clear delineation of the amount of property involved. The results of such designation make it important that we define specific boundaries for each landmark.

In accordance with the National Historic Landmark program regulations 36 CFR Part 65, the National Park Service notifies owners, public officials and other interested parties and provides them with an opportunity to make comments on the proposed boundaries.

Comments on the proposed boundaries will be received for 60 days after the date of this notice. Please address replies to Jerry L. Rogers, Associate Director, Cultural Resources, and Keeper of the National Register of Historic Places, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, Attention: Chief of Registration (202) 343-9536. Copies of the documentation of the landmarks and their proposed boundaries, including maps may be obtained from that same office.

Carol D. Shull,

Chief of Registration, National Register of Historic Places, Interagency Resources Division.

Hull-Rust-Mahoning National Historic Landmark St. Louis County, MN

Verbal Boundary Description:

The west one-quarter of the district includes southwestern, western, and northwestern boundaries of the district. These are drawn to include all historic mines associated with the large continuous Hull-Rust-Mahoning pit. They follow the southern and western rims of the historic mines in this area or straight lines connecting the rims (as with the Morton, Carmi, and Lamberton mines). The decision to follow the west and north edges of section 3 T58N R21W was determined by the local description of the mine leases in this area and by the total inaccessibility of this portion of the district. The northwest boundary of the district heads east to meet the north rim of the Kerr Mine which itself is part of the continuous large Hull-Rust-Mahoning pit.

Biltmore National Historic Landmark Ashville, NC

Verbal Boundary Description:

Beginning at the intersection of McDowell Street and the private road, proceed west along the southern curb of the private road, when the private road curves south, continue in the same westward direction to the south bank of the French Broad River; thence west along said bank 1.5 miles, thence southwest to the opposite bank of the river; thence northwest to the 2000' contour line; thence southwest to the east curb of Brevard Road; thence southerly along said curb to its intersection with Interstate 26; thence southeast along the west curb of Interstate 26 to the north curb of the Blue Ridge Parkway; thence follow said curb southeast, east, north, east, and northeast to the west curb of 2000, more or less, to a point; thence north to the southern curb of Cedar Cliff Road; thence northeast along said curb to its intersection with the west curb of Vanderbilt Forest Road; thence northerly along said curb to the point of origin.

Long Wharf and Custom House Block National Historic Landmark Boston, MA

Verbal Boundary Description:

Beginning at the intersection of the outer line of the southern bulkhead of Long Wharf and a line of convenience parallel to and 40 feet west of the west wall of the brick warehouse known as the Chart House; thence, northerly along said line of convenience 190 feet to a point; thence, easterly along a second line of convenience drawn at a right angle to the first approximately 170 feet to the northern bulkhead of Long Wharf; thence, easterly along the outer line of said northern bulkhead of Long Wharf (approximately 430 feet), southerly along the outer line of the eastern bulkhead of Long Wharf (approximately 220 feet), and westerly along the outer line of the southern bulkhead of Long Wharf (approximately 580 feet) to the point of beginning.

[FR Doc. 90-24281 Filed 10-15-90; 8:45 am]

BILLING CODE 4310-70-M

Mississippi River Coordinating Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets the schedule for the forthcoming meeting of the Mississippi River Coordinating Commission. Notice of this meeting is required under the Federal Advisory Committee Act.

DATES: October 26, 1990; 8:30 a.m. to 12 a.m.

ADDRESSES: Council Chambers, Metropolitan Council, Mears Park Centre, 230 East Fifth Street, St. Paul, Minnesota.

FOR FURTHER INFORMATION CONTACT: Norman J. Reigle, Superintendent, Mississippi National River and Recreation Area, Post Office Box 85456, St. Paul, MN 55165-0456 (612-290-4160).

SUPPLEMENTARY INFORMATION: The Mississippi River Coordinating Commission was established by Pub. L. 100-696, November 18, 1988.

Dated: September 28, 1990.

Don H. Castleberry,

Regional Director, Midwest Region.

[FR Doc. 90-24259 Filed 10-15-90; 8:45 am]

BILLING CODE 4310-70-M

Upper Delaware Scenic and Recreational River

AGENCY: National Park Service; Upper Delaware Citizens Advisory Council.

ACTION: Notice of change of meeting date.

SUMMARY: This notice changes the date of the October, 1990, meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting change is required under the Federal Advisory Committee Act.

DATE: November 2, 1990.

TYPE OF MEETING: Business.

ADDRESSES: Town of Tusten Hall, Bridge Street, Narrowsburg, New York.

Press Releases containing specific information regarding the subject of the monthly meeting will be published in the following area newspapers:

The Sullivan County Democrat
The Times Herald Record
The River Reporter
The Tri-state Gazette
The Pike County Dispatch
The Wayne Independent
The Hawley News Eagle
The Weekly Almanac

Announcements of cancellation due to inclement weather will be made by radio stations WDNH, WDLC, WSUL, and WVOS.

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent; Upper Delaware Scenic and Recreational River, P.O. Box C, Narrowsburg, New York 12764-0159; 717-729-8251.

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Public Law 95-625, 16 U.S.C. s1724 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation and implementation of the management plan, and on programs which relate to land and water use in the Upper Delaware Region.

All meetings are open to the public. Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Upper Delaware Citizens Advisory Council, P.O. Box 84, Narrowsburg, New York 12764. Minutes of the meeting will be available for inspection four weeks after the meeting, at the permanent headquarters of the Upper Delaware Scenic and Recreational River, River Road, 1-¾ miles north of Narrowsburg, New York; Damascus Township, Pennsylvania.

James W. Coleman, Jr.,

Regional Director, Mid-Atlantic Region.

[FR Doc. 90-24260 Filed 10-15-90; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period September and October 1990.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-24,674; Remington Building Products, Millen, GA

TA-W-24,658; Woodstock Die Cast, Woodstock IL

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-24,683; Diebold, Inc., Canton, OH

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-24,696; Pharmacia Diagnostics, Inc., Fairfield, NJ

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-24,697; Phoenix Tube, New Brunswick, NJ

The investigation revealed that criterion (1) has not been met. A significant number or proportion of the workers did not become totally or partially separated as required for certification.

TA-W-24,668; Kessler Knitting & Dye Div., Grand Rapids, MI

Increased imports did not contribute importantly to worker separations.

Affirmative Determinations

TA-W-24,721; QED Exploration, Inc., Denver, CO

A certification was issued covering all workers separated on or after July 28, 1989 and before October 1, 1990.

TA-W-24,659; D.T.W., Inc., Three River, MI

A certification was issued covering all workers separated on or after July 17, 1989.

TA-W-24,667; Kessler, Inc., Wayland, MI

A certification was issued covering all workers separated on or after July 17, 1989.

TA-W-24,662; Elkay Industries, Inc., Wilkes-Barre, PA

A certification was issued covering all workers separated on or after June 15, 1989.

TA-W-24,662A; Elkay Industries, Inc., New York, NY

A certification was issued covering all workers separated on or after June 15, 1989.

TA-W-24,662B; Elkay Industries, Inc., Sumter, SC

A certification was issued covering all workers separated on or after June 15, 1989.

TA-W-24,662C; Elkay Industries, Inc., Coward, SC

A certification was issued covering all workers separated on or after June 15, 1989.

TA-W-24,662D; Elkay Industries, Inc., Camden, SC

A certification was issued covering all workers separated on or after June 15, 1989.

TA-W-24,662E; Elkay Industries, Inc., Heath Springs, SC

A certification was issued covering all workers separated on or after June 15, 1989.

TA-W-24,662F; Elkay Industries, Inc., Olanta, SC

A certification was issued covering all workers separated on or after June 15, 1989.

TA-W-24,662G; Elkay Industries, Inc., Holly Hill, SC

A certification was issued covering all workers separated on or after June 15, 1989.

TA-W-24,662H; Elkay Industries, Inc., Cheraw, SC

A certification was issued covering all workers separated on or after June 15, 1989.

TA-W-24,662I; Elkay Industries, Inc., Williston, SC

A certification was issued covering all workers separated on or after June 15, 1989.

TA-W-24,662J; Elkay Industries, Inc., Turbeville, SC

A certification was issued covering all workers separated on or after June 15, 1989.

I hereby certify that the aforementioned determinations were issued during the month of September and October 1990. Copies of these determinations are available for inspection in Room C4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons to write to the above address.

Dated: October 10, 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90-24316 Filed 10-15-90; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period September 1990.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-24,701; Ted Butcher, Inc., Sequim, WA

TA-W-24,649; Package machinery Co., Reed Div., Stafford Springs, CT

TA-W-24,703; Watervliet Paper Co., Watervliet, MI

TA-W-24,632; Anchor Hocking Packaging Co., Connellsville, PA

TA-W-24,640; J.L. Coombs, Inc., Phillip, ME

TA-W-24,653; Signal Apparel, Inc., New Tazewell, TN

TA-W-24,685; Fairset Manufacturing Co., New York, NY

TA-W-24,650; Welchem, Inc., Houston, TX

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-24,675; Royal Canin U.S.A., Inc., Everson, PA

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-24,700; Smithkline Beecham, Bristol, TN

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-24,690; Gaylord Container Corp., Baltimore, OH

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-24,690; Kamen Instrumention, Colorado Springs, CO

Increased imports did not contribute importantly to worker separations

TA-W-24,664; Fourply, Inc, Grants Pass, OR

U.S. imports of softwood plywood were negligible.

TA-W-24,636; Fryburg Trucking Service, Inc., Belfield, ND

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-24,646; Mike Byrd Casing Crews, Inc., Hamlin, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-24,679; Bohemia, Inc., Culp Creek, OR

U.S. imports of softwood were negligible during the relevant time period.

TA-W-24,666; Halstead Industries, Inc., Zelienople, PA

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-24,717; Joshi Technologies International, Tulsa, OK

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-24,673; Prairie Producing Co., Houston, TX

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-24,680; Bradford Pipe, Inc., Titusville, PA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-24,681; Bradford, Inc., Bradford, PA

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

Certifications

TA-W-24,647; Nelson Drilling, Inc., Gillette, WY

A certification was issued covering all workers separated on or after July 9, 1989.

TA-W-24,654; Terex Corp., Northwest Engineering, Green Bay, WI

A certification was issued covering all workers separated on or after July 10, 1989.

TA-W-24,652; DOG Shake Co., Inc., Amanda Park, WA

A certification was issued covering all workers separated on or after July 12, 1989.

TA–W–24,698; Schott Electronics, Inc., Seymour, CT

A certification was issued covering all workers separated on or after July 23, 1989.

TA–W–24,618; Oxford of Covington, Covington, GA

A certification was issued covering all workers separated on or after June 29, 1989.

TA–W–24,631; American Lantern Co., Newport, AR

A certification was issued covering all workers separated on or after July 8, 1989.

TA–W–24,720; Nidec Corp., Torrington, CT

A certification was issued covering all workers separated on or after July 27, 1989.

TA–W–24,677; Thor Energy, Shreveport, LA

A certification was issued covering all workers separated on or after July 12, 1989.

TA–W–24,665; General Electric Motor Division, Holland, MI

A certification was issued covering all workers separated on or after July 16, 1989.

TA–W–24,668; Skagit Shake Co., Concrete, WA

A certification was issued covering all workers separated on or after July 11, 1989.

TA–W–24,663; Fisher Price, Inc., Holland, NY

A certification was issued covering all workers separated on or after July 20, 1989.

TA–W–24,670; MGM, Inc., Mohall, ND

A certification was issued covering all workers separated on or after July 16, 1989.

I hereby certify that the aforementioned determinations were issued during the month of September 1990. Copies of these determinations are available for inspection in Room C4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: October 4, 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90-24317 Filed 10-15-90; 8:45 am]

BILLING CODE 4510-30-M

Job Training Partnership Act: Announcement of Proposed Noncompetitive Grant Award

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of intent to award a noncompetitive grant.

SUMMARY: The Employment and Training Administration (ETA) announces its intent to modify our current grant on a non-competitive basis with the National Youth Employment Coalition for the provision of Specialized Services under the authority of the Job Training Partnership Act (JTPA).

DATES: It is anticipated that this grant agreement will be executed by November 9, 1990, and will be funded for one year. Submit comments by 4:45 p.m. (Eastern Time), on October 31, 1990.

ADDRESSES: Submit comments regarding this proposed assistance award to: U.S. Department of Labor, Employment and Training Administration, Room C–4305, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Charlotte Adams; Reference FR–DAA–001–01.

SUPPLEMENTARY INFORMATION: The Employment and Training Administration (ETA) announces its intent to modify its current grant with the National Youth Employment Coalition. The grantee will promote the development of coalitions at the local level among training and employment service providers and private sector employers, to identify and test more effective cooperative approaches and strategies for enhancing long-term training and job opportunities for youth. Funds for this activity are authorized by the Job Training Partnership Act (JTPA), as amended, Title IV—Federally Administered Programs. The proposed funding is approximately $50,000 for a one-year period.

Signed at Washington, DC, on October 3, 1990.

Robert D. Parham,

ETA Grant Officer.

[FR Doc. 90-24321 Filed 10-15-90; 8:45 am]

BILLING CODE 4510-30-M

[TA–W–24,551]

Helmerich and Payne, Inc. Iraan, TX; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Helmerich and Payne, Inc., Iraan, Texas. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–24,551; Helmerich and Payne, Incorporated Iraan, Texas (October 4, 1990)

Signed at Washington, DC, this 10th day of October, 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90-24318 Filed 10-15-90; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M–90–145–C]

Rawl Sales and Processing Co.; Petition for Modification of Application of Mandatory Safety Standard

Rawl Sales and Processing Company, P.O. Box 722, Matewan, West Virginia 25678 has filed a petition to modify the application of 30 CFR 75.900 (low- and medium-voltage circuits serving three-phase alternating current equipment; circuit breakers) to its Rocky Hollow Mine (I.D. No. 46–05195) located in Mingo County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that low- and medium-voltage power circuits serving three-phase alternating current equipment be protected by suitable circuit breakers of adequate interrupting capacity which are properly tested and maintained. Such breakers are required to be equipped with devices to provide protection against undervoltage, grounded phase, short circuit, and overcurrent.

2. As an alternate method, petitioner proposes to use shunt-trip circuit breakers and relays to obtain undervoltage protection with specific equipment and procedures as outlined in the petition.

3. The use of undervoltage circuit breakers creates an extremely hazardous safety condition. Whenever the power blinks, workers are dashing to each belt drive location to reset the circuit breakers. A sense of urgency often causes the workers to take unplanned actions which places their safety and that of their fellow workers in jeopardy.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1990. Copies of the petition are available for inspection at that address.

Dated: October 10, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-24319 Filed 10-15-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-90-143-C]

Wolf-Creek Collieries Co.; Petition for Modification of Application of Mandatory Safety Standard

Wolf-Creek Collieries Company, Caller 802, Lovely, Kentucky 41231, has filed a petition to modify the application of 30 CFR 75.900 (low- and medium-voltage circuits serving three-phase alternating current equipment; circuit breakers) to its No. 4 Mine (I.D. No. 15-04020) located in Martin County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that low- and medium-voltage power circuits serving three-phase alternating current equipment be protected by suitable circuit breakers of adequate interrupting capacity which are properly tested and maintained as prescribed by the Secretary and that such breakers be equipped with devices to provide protection against undervoltage, grounded phase, short circuit, and overcurrent.

2. The petitioner states that application of the standard would result in a diminution of safety for the following reasons:

(a) The mine is an old, extensively worked mine which has frequent power outages and an inconsistent power supply.

(b) After each power outage, a worker must go to each pump location and reset the breakers before the pumps will resume operating. This results in hasty, unplanned travel to old abandoned areas of the mine.

(c) Some areas of the mine accumulate water during the time involved in resetting power to the pumps.

3. The petitioner feels that the use of pump power contactors would provide the same degree of protection as the standard.

4. For these reasons, the petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1990. Copies of the petition are available for inspection at that address.

Dated: October 10, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-24320 Filed 10-15-90; 8:45 am]

BILLING CODE 4510-43-M

THE LIBRARY OF CONGRESS

National Film Preservation Board; Public Meeting, Dayton, OH

November 1, 1990.

AGENCY: Library of Congress, National Film Preservation Board.

ACTION: Notice of public meeting.

This notice is issued pursuant to Public Law 100-446, The National Film Preservation Act of 1988, 2 U.S.C. 178, by Dr. James H. Billington, the Librarian of Congress, to inform the public that the next meeting of the National Film Preservation Board will be held in Dayton, Ohio. The meeting will be held on Thursday, November 1, 1990 at 1:30 p.m., at Wright State University, University Center, room 155. The meeting site is located on the campus of Wright State University on University Center Drive. If necessary, the Board will also meet on Friday, November 2, at 9:30 a.m., at the same location.

For more information on the meeting location call the Library of Congress Public Information Office (202) 707-5000.

FOR FURTHER INFORMATION CONTACT: Eric Schwartz, Counsel, The National Film Preservation Board, Library of Congress, Washington, DC 20540. Telephone: (202) 707-8350.

Dated: October 11, 1990.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 90-24314 Filed 10-15-90; 8:45 am]

BILLING CODE 1410-03-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 90-79]

NASA Advisory Council (NAC), Space Science and Applications Advisory Committee (SSAAC), Life Sciences Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science and Applications Advisory Committee, Life Sciences Subcommittee.

DATES: October 23, 1990, 8:30 a.m. to 5:30 p.m.; and October 24, 1990, 8:30 a.m. to 1:15 p.m.

ADDRESSES: Holiday Inn-Capitol, Columbia B Room, 500 C Street, SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald J. White, Code SB, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-2126).

SUPPLEMENTARY INFORMATION: The Space Science and Applications Advisory Committee consults with and advises the NASA Office of Space Science and Applications (OSSA) on long-range plans for, work in progress on, and accomplishments of NASA's Space Science and Applications programs. The Life Science Subcommittee provides advice to the Life Sciences Division concerning all of its programs in the space life sciences. the Subcommittee will meet to discuss Life Sciences status and issues, activities of the Office of Space Science and Applications, and reports on Life Sciences activities. The Subcommittee is chaired by Dr. Francis J. Haddy and is composed of 22 members. The meeting will be closed October 24, from 12:15 p.m. to 1:15 p.m. to discuss and evaluate qualifications of candidates being considered for membership on the Subcommittee. Such discussions would invade the privacy of the individuals involved. Since this session will be concerned with matters listed in 5 U.S.C. 552(c) (6), it has been determined that the meeting will be closed to the public

for this period of time. The remainder of the meeting will be open to the public up to the capacity of the room (approximately 45 including Subcommittee members). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

TYPE OF MEETING: Open—except for a closed session as noted in the agenda below.

Agenda

Tuesday, October 23

8:30 a.m.—Introductory Remarks.
8:45 a.m.—Office of Space Science and Applications Status.
9:30 a.m.—Life Sciences Status.
10:45 a.m.—Reports on Activities of Other Advisory Committees.
11:15 a.m.—Summary of Life Sciences Activities.
1:30 p.m.—Review of Life Sciences Report to Space Science and Applications Advisory Committee (SSAAC).
2:30 p.m.—Search for Extraterrestrial Intelligence (SETI) Program Overview.
3:30 p.m.—NASA Activities Related to Biospheric Research Program and Earth Observing system (EOS).
4:30 p.m.—New Life Sciences Strategic Plan/Revision of "Rationale * * * " Document.
5:30 p.m.—Adjourn.

Wednesday, October 24

8:30 a.m.—Life Sciences Report to SSAAC.
9:30 a.m.—Lifesat Update: Relation to Radiation Program.
11:15 a.m.—Committee Strategy and Actions.
12:15 p.m.—Closed Session.
1:15 p.m.—Adjourn.

Dated: October 10, 1990.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 90-24331 Filed 10-15-90; 8:45 am]

BILLING CODE 7510-01-M

[Notice 90-86]

NASA Advisory Council (NAC), Space Science and Applications Advisory Committee (SSAAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science and Applications Advisory Committee.

DATES: October 31, 1990, 8:30 a.m. to 5:30 p.m.; November 1, 1990, 8:30 a.m. to 5:30 p.m.; and November 2, 1990, 8:30 a.m. to 3 p.m.

ADDRESSES: The National Aeronautics and Space Administration, 600 Independence Avenue SW., room 226A, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph K. Alexander, Code S, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1430).

SUPPLEMENTARY INFORMATION: The Space Science and Applications Advisory Committee consults with and advises the NASA Office of Space Science and Applications (OSSA) on long range plans for, work in progress on, and accomplishments of NASA's Space Science and Applications programs. The Committee will meet to discuss the Office of Space Science and Applications (OSSA) Program Status, Fiscal Year 1991 and Future Issues. The Committee is chaired by Dr. Berrien Moore and is composed of 28 members. The meeting will be open to the public up to the capacity of the room (approximately 50 including Committee members). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Type of Meeting: Open.

Agenda

Wednesday, October 31

8:30 a.m.—Introductory Remarks.
8:45 a.m.—Office of Space Science and Applications (OSSA) Overview.
10:40 a.m.—Committee Discussion.
1:15 p.m.—Report on Hubble Space Telescope.
2 p.m.—Report on Magellan.
2:30 p.m.—Report on Comet Rendezvous Asteroid Flyby (CRAF)/Cassini.
3:30 p.m.—OSSA Program Issues.
4:30 p.m.—Committee Discussion.
5:30 p.m.—Adjourn.

Thursday, November 1

8:30 a.m.—Committee Business.
8:45 a.m.—Report on the Space Station Science and Applications Advisory Subcommittee (SSSAAS).
9:15 a.m.—Report on Exploration Science Working Group (EXSWG).
9:45 a.m.—Divisional Discussions.
5:30 p.m.—Adjourn.

Friday, November 2

8:30 a.m.—Writing Groups.
11:30 a.m.—Committee Discussion.
1:30 p.m.—Meeting with the OSSA Associate Administrator.
3 p.m.—Adjourn.

Dated: October 10, 1990.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 90-24332 Filed 10-15-90; 8:45 am]

BILLING CODE 7510-01-M

[Notice 90-81]

NASA Advisory Council (NAC), Space Station Science and Applications Advisory Subcommittee (SSSAAS); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Station Science and Applications Advisory Subcommittee (SSSAAS).

DATES: October 29, 1990, 8:30 a.m. to 10 p.m.; October 30, 1990, 8 a.m. to 10 p.m.; and October 31, 1990, 8 a.m. to 2 p.m.

ADDRESSES: Greenbelt Marriott Hotel, 6400 Ivy Lane, Greenbelt, MD 20770.

FOR FURTHER INFORMATION CONTACT: Mr. Robert C. Rhome, Code S, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1425).

SUPPLEMENTARY INFORMATION: The Space Station Science and Applications Advisory Subcommittee (SSSAAS) reports to the Space Science and Applications Advisory Committee (SSAAC) and consults with and advises the NASA Office of Space Science and Applications (OSSA) on the new capabilities to be made available by the Space Station program and how these may be most effectively utilized. It also advises the NASA Space Station Freedom Office on how the Space Station program may most effectively support potential science and applications users. The Subcommittee will meet to receive reports from NASA Division representatives and discuss issues relating to Space Station Freedom. The Subcommittee is chaired by Dr. Robert J. Bayuzick and is composed of 20 members. The meeting will be closed on Tuesday, October 30, 1990, at 7:30 p.m.–10 p.m. to allow for a discussion on qualifications of individuals being considered for membership to the Space Station Science and Applications Advisory

Subcommittee. Such a discussion would invade the privacy of the individuals involved. Since this session will be concerned with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that the meeting will be closed to the public for this period of time. The remainder of the meeting will be open to the public up to the seating capacity of the room (approximately 50 people including members of the Group). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Type of Meeting: Open—except for a closed session, as noted in the agenda below.

Agenda

Monday, October 29

8:30 a.m.—Opening Remarks.
9 a.m.—Outlook of Space Science and Applications Outlook-Fiscal Year 1991.
9:30 a.m.—Reports on Space Station Freedom (SSF).
11 a.m.—Science Utilization Management (SUM) Support of the SSF Preliminary Review Process.
11:30 a.m.—Multilateral Science Working Group Status.
1 p.m.—Bartering and Cooperative Programs Status.
1:30 p.m.—Exploration and Technology SSF Utilization Plans.
2:15 p.m.—Office of Commercial Programs SSF Utilization Plans.
3 p.m.—Splinter Group Sessions.
7:30 p.m.—Splinter Group Sessions.
10 p.m.—Adjourn.

Tuesday, October 30

8 a.m.—Utilization Technical Working Group (UTWG).
8:45 a.m.—Small Attached and Rapid Response (SARR) Project Status.
9:45 a.m.—Robotics Laboratory Briefing.
1 p.m.—SSF Data Management System Briefing.
3:30 p.m.—Reports on Office of Space Science and Applications (OSSA) Data Issues Update.
4 p.m.—Science Operations Workshop, Plenary Discussions and Findings.
7:30 p.m.—Closed session.
10 p.m.—Adjourn.

Wednesday, October 31

8 a.m.—Woods Hole Response Plan.
9 a.m.—Splinter Group Sessions.
10:30 a.m.—Early Utilization of SSF.
12 p.m.—Working Lunch—Splinter Group Sessions.
2 p.m.—Adjourn.

Dated: October 10, 1990.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 90-24333 Filed 10-15-90; 8:45 am]

BILLING CODE 7510-01-M

[Notice 90-82]

NASA Advisory Council (NAC), Space Science and Applications Advisory Committee (SSAAC), Microgravity Science and Applications Advisory Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science and Applicantions Advisory Committee, Microgravity Science and Applications Advisory Subcommittee.

DATES: October 30, 1990, 9 a.m. to 4 p.m.

ADDRESSES: National Aeronautics and Space Administration, 600 Independence Avenue, SW., room 226A, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Roger K. Crouch, Code SN, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1490).

SUPPLEMENTARY INFORMATION: The Space Science and Applications Advisory Committee consults with and advises the NASA Office of Space Science and Applications (OSSA) on long range plans for, and work in progress on, and accomplishments of NASA's Space Science and Applications programs. The Microgravity Science and Applications Advisory Subcommittee provides advice to the Microgravity Science and Applications Division concerning all of its programs in the microgravity sciences. The Subcommittee will meet to review the current status of the Microgravity Science and Applications Division. The Subcommittee is chaired by Dr. Dudley Saville and is composed of 7 members. The meeting will be open to the public up to the capacity of the room (approximately 20 including Subcommittee members). It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Type of Meeting: Open.

Agenda

Tuesday, October 30

9 a.m.—Introduction and Review of Current Status of the Microgravity Science and Applications Division.
10 a.m.—Discussion of the Role of the Prinicipal Investigator in Flight Hardware Development.
1 p.m.—Discussion of Science Objectives of the Division.
3 p.m.—Summary and Conclusions.
4 p.m.—Adjourn.

Dated: October 10, 1990.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 90-24334 Filed 10-15-90; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

Public Disclosure of Selected General Licensee Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for public comment.

SUMMARY: Any device used under the general license in § 31.5 must be manufactured and distributed under a specific license issued by the NRC or by an Agreement State. The device must be so designed that it can be oprated by persons with no training in radiological protection. Usually it is required that installation, servicing and periodic testing of the device be performed by a specific licensee, usually the device vendor, whose training and experience with radiation have been evaluated by a regulatory agency. When the user no longer needs the device, it must be transferred to a specific licensee for disposal. Persons obtaining devices for use under a general license are identified to the NRC in quarterly reports of transfers. These reports are submitted by the specifically licensed distributors. The NRC is considering releasing the names and addresses of the general licensees identified in the quarterly reports of transfer. The NRC is soliciting comments whether this information should be made public.

DATE: Submit comments by November 15, 1990. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received by this date.

ADDRESSES: Submit written comments to: David L. Meyer, Chief, Regulatory Publications Branch, Division of

Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Hand deliver comments to 7920 Norfolk Avenue, Bethesda, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays.

FOR FURTHER INFORMATION CONTACT: Donnie H. Grimsley, Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 492–7211.

SUPPLEMENTARY INFORMATION: The NRC and the Agreement States regulate the distribution and use of all products within the United States that contain byproduct material. The NRC classifies the regulatory control of byproduct material into one of three categories: specific license, general license, or exempt from regulations. The classification depends on the type, quantity and use of the material.

Specific licenses are issued to persons who have filed an application demonstrating that their training, experience, equipment and facilities are adequate to perform the requested task to meet the NRC public health and safety protection requirements.

There are many products containing radioactive material that can be used by the general public and industry without extensive radiation safety program. These products contain relatively small amounts of radioactive materials that are sealed within the device (sealed source) so that they can be used by persons without radiological training. The products containing byproduct material, along with small amounts of source material, fall under the category of general licenses. General licenses are in effect for persons using certain radioactive material without the filing of an application with the Commission.

Devices used under the general licenses must be manufactured and distributed under a specific license. The specific license may be issued by the NRC or by an Agreement State. The radiation safety of the device design is evaluated against regulatory requirements prior to being listed on a specific authorizing distribution to general licensees.

Those who obtain devices under the general license are listed in the manufacturers quarterly reports of transfer to the NRC. Agreement State distributors have similar reporting requirements in that they are required to notify the NRC when they sell generally licensed devices in areas under NRC jurisdiction.

The general license policy was implemented in 1969 by the AEC as a means of simplifying the specific license process where a case-by-case determination of the adequacy of qualification is not necessary. A generally licensed device uses radioactive material contained in a sealed source within a shielded device. The device is designed with inherent radiation safety features so that it can be used by persons without radiation training or experience beyond precautions which can be placed on a label or simple instruction guide.

The quarterly reports of transfer have, in the past, been withheld from public disclosure under 10 CFR 2.270. The NRC is considering making public the names and addresses of its general licensees because it now has an automated general license data base which allows it to extract the names and addresses of NRC general licensees without revealing any confidential data associated with the reports of transfer.

The NRC is proposing to place this information in its Public Document Room and update it semi-annually. Agreement State general licensees are not included in this data base and would, therefore, be excluded from the information that would be made publicly available in the NRC Public Document Room.

Any person who requests this type of information under the jurisdiction of an Agreement State should contact the Agreement State directly. NRC is soliciting public comments to determine whether this information should now be made public.

Dated at Bethesda, Maryland, this 10th day of October 1990.

For the Nuclear Regulatory Commission.

Donnie H. Grimsley,

Director, Division of Freedom of Information and Publications Services, Office of Administration.

[FR Doc. 90-24126 Filed 10-15-90; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended October 5, 1990

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket number: 47126

Date filed: October 2, 1990
Parties: Members of the International Air Transport Association
Subject: Canada-Europe Expedited Resolutions
Proposed effective date. October 28, 1990

Docket number: 47128

Date filed: October 5, 1990
Parties: Members of the International Air Transport Association
Subject: USA–Europe Agreement
Proposed effective date: January 1, 1991

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 90-24277 Filed 10-15-90; 8:45 am]

BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed During the Week Ended October 5, 1990

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order a tentative order or in appropriate cases a final order without further proceedings.

Docket number: 47105

Date filed: October 1, 1990
Due date for answers conforming applications, or motion to modify scope: October 29, 1990
Description. Application of Air Micronesia, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations, applies for an amendment to its certificate of public convenience and necessity for Route 170 to engage in foreign air transportation of persons, property and mail between Guam/Saipan and Seoul, Korea, and between Guam/Saipan and Taipei, Taiwan.

Docket number: 47129

Date filed: October 5, 1990
Due date for answers conforming applications, or motion to modify scope: November 2, 1990
Description: Application of American Airlines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations, applies for a certificate of public convenience and necessity so as to authorize foreign air

transportation of persons, property, and mail between Miami, Florida, and Mexico City, Mexico.

Phyllis T. Kaylor,
Chief, Documentary Services Division.

[FR Doc. 90-24278 Filed 10-15-90; 8:45 am]
BILLING CODE 4910-62-M

Federal Aviation Administration

[Summary Notice No. PE-90-42]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before: November 5, 1990.

ADDRESSES: Send comments on any petition in triplicate to:

Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Petition Docket No. _____, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on October 9, 1990.

Denise Donohue Hall,
Manager, Program Management Staff, Office of the Chief Counsel.

Petitions for Exemption

Docket No.: 18631
Petitioner: International Aerobatic Club
Sections of the FAR affected: 14 CFR 91.22(a)(1)
Description of relief sought: To extend Exemption No. 2889, as amended, which allows petitioner's members to participate and practice for participation in aerobatic competitions without meeting the fuel requirements for flight under visual flight rules. Exemption No. 2889, as amended, will expire on March 31, 1991.

Docket no.: 26348
Petitioner: United Airlines
Sections of the FAR affected: 14 CFR 121.417
Description of relief sought: To allow petitioner to accomplish the one-time emergency firefighting training for its crewmembers by using simulation rather than an actual fire.

[FR Doc. 90-24290 Filed 10-15-90; 8:45 am]
BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: Salt Lake County, UT

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for the proposed highway project in Salt Lake County, UT.

FOR FURTHER INFORMATION CONTACT: Bill Gedris, Environmental Coordinator, Federal Highway Administration, 2520 West 4700 South, Suite 9A, Salt Lake City, Utah 84118, Telephone: (801) 524-5141; or Tom Smith, Preconstruction Engineer, Utah Department of Transportation, District Two, 2060 South 2400 West, Salt Lake City, Utah 84104, Telephone: (801) 975-4806.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Utah Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to extend the planned West Valley Highway approximately 6 miles from 12600 South to a connection with I-15 near Draper or a Redwood Road connection south of Bluffdale in Salt Lake County, Utah. The proposed extension would provide increased traffic capacity for the west side of the Salt Lake City metropolitan area as a component of the planned West Valley Highway which is presently under various stages of design.

The concept of a West Valley Highway has been included in long-range transportation planning for the Salt Lake Valley for nearly 30 years and has received considerable public and political attention during the past several years. The extension proposed here will be an obvious and necessary component of that facility. Alternatives under consideration include (1) Taking no action, (2) using alternate travel routes, and (3) constructing the extension on one of several alternative alignments. Incorporated into and analyzed with the various build alternatives will be design variations of grade and alignment.

A scoping document describing the proposed action and soliciting comments, concerns, and issues will be sent to all appropriate Federal, State, and local agencies, and to private organizations and individuals expected to be interested in the project. A public scoping meeting will be scheduled and held in the city of Riverton in October of 1990. Notice of additional public scoping meetings to present information and solicit comments relative to alternatives for consideration and possible impacts will be given as the proposed project proceeds. Upon release of the draft EIS for public and agency review and comment, public notice will be given of the time and place for a public hearing to be held to receive comments.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or UDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations impending Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: October 5, 1990.

Donald P. Steinke,
Division administrator, Salt Lake City, Utah.

[FR Doc. 90-24303 Filed 10-15-90; 8:45 am]
BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: October 10, 1990.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New
Form Number: IRS Form 8455
Type: Volunteer Opportunity Survey
Description: The Volunteer Opportunity Survey provides the IRS Taxpayer Education Coordinators with information which they use in giving training and/or orientation to individuals who volunteer for any of the Internal Revenue Service's eight volunteer and education programs.
Respondents: Individuals or households, Federal agencies or employees, Non-profit institutions, Small businesses or organizations.
Estimated Number of Respondents: 40,000.
Estimated Burden Hours Per Respondent: 10 minutes.
Frequency of Response: On occasion and Annually
Estimated Total Reporting Burden: 6,664 hours.
Clearance Officer: Garrick Shear, (202) 535-4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, room 3001 New Executive Office Building, Washington DC 20503.

Lois K. Holland,
Departmental Reports, Management Officer
[FR Doc. 90-24315 Filed 10-15-90; 8:45 am]
BILLING CODE 4830-01-M

Office of Thrift Supervision

Superior Federal Savings Association; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Superior Federal Savings Association, Cleveland, Ohio, on October 5, 1990.

Dated: October 9, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,
Executive Secretary
[FR Doc. 90-24330 Filed 10-15-90; 8:45 am]
BILLING CODE 6720-01-M

Replacement of Conservator With Receiver; First Federal Savings and Loan Association of Central Indiana

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for First Federal Savings and Loan Association of Central Indiana, Anderson, Indiana, OTS Docket No. 8704, with the Resolution Trust Corporation as sole Receiver for the Association on October 5, 1990.

Dated: October 9, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,
Executive Secretary
[FR Doc. 90-24327 Filed 10-15-90; 8:45 am]
BILLING CODE 6720-01-M

Replacement of Conservator With Receiver, Midwest Savings Association, F. A.

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5 (d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift supervision duly replaced the Resolution Trust Corporation as Conservator for Midwest Savings Association, F.A., Minneapolis, Minnesota, with the Resolution Trust Corporation as sole Receiver for the Association on October 5, 1990.

Dated: October 9, 1990.

By the Office of Thrift Supervision,

Nadine Y. Washington,
Executive Secretary
[FR Doc. 90-24328 Filed 10-15-90; 8:45 am]
BILLING CODE 6720-01-M

Appointment of Receiver, Superior Savings Association,

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(C) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Superior Savings Association, Cleveland, Ohio, Docket No. 1640, on October 5, 1990.

Dated: October 9, 1990.

By the Office of Thrift Supervision,

Nadine Y. Washington,
Executive Secretary
[FR Doc. 90-24329 Filed 10-15-90; 8:45 am]
BILLING CODE 6720-01-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 200
Tuesday, October 16, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR; COMMISSION HEARING

There will be a public hearing on the draft Five Year Plan/Work Plan of the Blackstone River Valley National Heritage Corridor Commission. Notice is hereby given in accordance with section 552(b) of title 5, United States Code, that this hearing will be held. The Commission was established pursuant to Public Law 99-647, in order to protect and interpret the nationally significant resources of the Blackstone Valley.

PLACE: Unitarian Church Hall, 13 Maple Street, Mendon, MA

DATE: October 27, 1990

TIME: 10:00 AM to 12:00 Noon

This is the opportunity for individuals, groups, or local governments to comment on the proposed work plan for the National Heritage Corridor. Projects which are consistent with the approved Plan for the National Heritage Corridor may be advocated at the hearing. Comments or presentations will be limited to 4 minutes each.

Comments may also be provided in writing. Comments received by October 22 will be brought to public attention at the Public Hearing. Written comments may be any length. All comments must be received in Commission Headquarters no later than October 30, 1990.

Copies of the Five Year Plan or the National Heritage Corridor Plan ("Cultural Heritage and Land Management Plan") may be obtained at Commission Headquarters.

Mailing address and phone: Blackstone River Valley NHC Commission, P.O. Box 34, Uxbridge, MA 01569, 508-278-9400

Street Address: 21 Mendon Street, Uxbridge, MA

Carol Dandrade,

Acting Executive Director, Blackstone River Valley National Heritage Corridor.

[FR Doc. 90-24432 Filed 10-12-90; 12:57 pm]

BILLING CODE 4310-70-M

BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR

Meeting of the Commission

Notice is hereby given in accordance with section 552b of title 5, United States Code, that a meeting of the Blackstone River Valley National Heritage Corridor Commission will be held on Thursday, November 1, 1990.

The Commission was established pursuant to Public Law 99-647. The purpose of the Commission is to assist federal, state and local authorities in the development and implementation of an integrated resource management plan for those lands and waters within the Corridor.

The meeting will convene at 7:00 p.m. at Blackstone Senior Center, Blackstone Municipal Building, St. Paul Street, Blackstone, MA for the following reasons:

1. Report of the Chairman.
2. Report of the Treasurer.
3. Report of the Executive Subcommittee for Budget and Administration: Work Plan/Five Year Plan; Policy Development Initiative.
4. Report of the Tourism and Economic Development Subcommittee.
5. Report of the Planning Subcommittee.
6. Report of the Public Information and Education Subcommittee.
7. Status of Corridor Legislation.
8. Report of the Town of Blackstone.
9. Public Comments.

It is anticipated that about twenty people will be able to attend the session in addition to the Commission members.

Interested persons may make oral or written presentations to the Commission or file written statements. Such requests should be made prior to the meeting to: James Pepper, Executive Director, Blackstone River Valley National Heritage Corridor Commission, P.O. Box 34, Uxbridge, MA 01569. Telephone (508) 278-9400 or (508) 278-5124.

Further information concerning this meeting may be obtained from James Pepper, Executive Director of the Commission at the address below.

James Pepper,

Executive Director, Blackstone River Valley National Heritage Corridor Commission.

[FR Doc. 90-24489 Filed 10-12-90; 3:52 pm]

BILLING CODE 4310-70-M

FEDERAL ENERGY REGULATORY COMMISSION

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: October 10, 1990, 55 FR 41308.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: October 10, 1990, 10:00 a.m.

CHANGE IN THE MEETING: The following docket numbers have been added to the Agenda scheduled for October 10, 1990:

Item No., Docket No., and Company

CAG-8 CP78-124-017, Northern Border Pipeline Company
CAG-38 RP89-191-000, Northwest Pipeline Corporation

Lois D. Cashell,

Secretary.

[FR Doc. 90-24503 Filed 10-12-90; 4:01 pm]

BILLING CODE 6712-01-M

INTERNATIONAL TRADE COMMISSION

[USITC SE-90-24]

TIME AND DATE: Tuesday, October 23, 1990 at 10:30 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes
3. Ratifications
4. Petitions and Complaints
5. Inv. No. 731-TA-455(F) (Certain Laser Light-Scattering Instruments and Parts Thereof from Japan)—briefing and vote.
6. Any items left over from previous agenda

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 252-1000.

Dated: October 9, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-24452 Filed 10-12-90; 12:57 pm]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Parole Commission

Record of Vote

Authority: Public Law 94-409; 5 U.S.C. Section 552b.

I, Benjamin F. Baer, Chairman of the United States Parole Commission, presided at a meeting of said Commission which started at two o'clock p.m. on Friday, September 21, 1990 at the Commission's Central Office, 550 Friendship Boulevard, Chevy Chase, Maryland 20815, by conference telephone call. This meeting ending at or about 3:30 p.m. The purpose of this meeting was to discuss appropriate policy for the Commission to follow in compliance with the appellate court

decision rendered in *Rizzo* v. *Armstrong*, No. 89–55389 (9th Cir. August 30, 1990) (opinion to be published). This matter required immediate consideration. Seven Commissioners were in attendance, constituting a quorum when the vote for early consideration was submitted.

Upon motion duly made, seconded, and carried, the following Commissioners voted that Commission business required immediate consideration of the matters discussed: Benjamin F. Baer, Cameron M. Batjer, Jasper Clay, Jr., Vincent Fechtel, Jr., Carol Pavilack Getty, Daniel Lopez, and Victor M.F. Reyes.

In witness whereof, I make this official record of the vote taken for immediate consideration of the matters discussed at the meeting and authorize this record to be made available to the public.

Dated: September 21, 1990.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 90–24487 Filed 10–12–90; 2:19 pm]

BILLING CODE 4401–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of October 15, 22, 29, and November 5, 1990.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of October 15

Monday, October 15

10:00 a.m.—Briefing on Regulatory Impact Survey Recommendations [Public Meeting]

2:00 p.m.—Briefing on Decoupling Siting Requirements from Future Designs and Update of Source Term Matters (Public Meeting)

Wednesday, October 17

11:30 a.m.—Affirmation/Discussion and Vote (Public Meeting)

a. Petitions to Intervene and Requests for Hearing in Shoreham Operating License Amendment Proceeding

b. Kerr-McGee's Motion for a Hearing Under section 274

Week of October 22—Tentative

Thursday, October 25

10:00 a.m.—Periodic Briefing on Industry Implementation of Generic Safety Issues (Public Meeting)

Friday, October 26

10:00 a.m.—Briefing on NUMARC's Perspective of the State of the Nuclear Industry (Public Meeting)

11:30 a.m.—Affirmation/Discussion and Vote (PUBLIC MEETING) (if needed)

Week of October 29—Tentative

Monday, October 29

10:00 a.m.—Briefing on Issues Raised by the Provision Requiring Title Transfer of Low Level Waste (Public Meeting)

Tuesday, October 30

10:00 a.m.—Briefing on Nonprescriptive Nuclear Safety Regulation (Public Meeting)

Wednesday, October 31

10:00 a.m.—Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

11:30 a.m.—Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of November 5—Tentative

Thursday, November 8

10:00 a.m.—Briefing on Progress of Research in the Area of Organization and Management (Public Meeting)

2:00 p.m.—Periodic Meeting with the Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)

3:30 p.m.—Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

TO VERIFY THE STATUS OF MEETINGS CALL: (Recording)—(301) 492–0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492–1661.

Dated: October 11, 1990.

William M. Hill, Jr.

Office of the Secretary

[FR Doc. 90–24502 Filed 10–12–90; 4:06 pm]

BILLING CODE 8016–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [55 FR 40994 October 5, 1990].

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Tuesday, October 2, 1990.

CHANGE IN THE MEETING: Additional item.

The following additional item was considered at a closed meeting on Tuesday, October 9, 1990, at 2:30 p.m.

Institution and settlement of administrative proceeding of an enforcement nature.

Commissioner Lochner, as duty officer, voted to consider the items listed for the closed meeting in closed session.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Jonathan Gottlieb at (202) 272–2200.

Dated: October 10, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–24401 Filed 10–11–90; 5:00 pm]

BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 55, No. 200
Tuesday, October 16, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 90N-0279]

Grain Processing Corp.; Premarket Approval of Pure-Dent® B851 Absorbable Dusting Powder

Correction

In notice document 90-23116 beginning on page 40009 in the issue of Monday, October 1, 1990, make the following correction:

On page 40009, in the third column, under **SUPPLEMENTARY INFORMATION**, in the third line, "Muscatinge, IA" should read "Muscatine, IA".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 90N-0244]

Sorin Biomedica, S.p.A.; Premarket Approval of EBK

Correction

In notice document 90-23119 appearing on page 40010 in the issue of Monday, October 1, 1990, make the following corrections:

On page 40010, in the second column:

1. Under **SUMMARY**, in the fifth line, and under **SUPPLEMENTARY INFORMATION**, in the fourth line, "Stillwater, NM" should read "Stillwater, MN".

2. At **FOR FURTHER INFORMATION CONTACT**, in the third line, "(HFZ-410)" should read "(HFZ-440)".

3. Under **SUPPLEMENTARY INFORMATION**, in the second paragraph, in the first line, "December 8, 1926" should read "December 6, 1990".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 90N-0245]

Sorin Biomedica, S. p. A.; Premarket Approval of AB-HAVK

Correction

In notice document 90-23120 beginning on page 40010 in the issue of Monday, October 1, 1990, make the following correction:

On page 40011, in the second column, in the seventh line from the top, "part 21" should read "part 12".

BILLING CODE 1505-01-D

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federal register

Tuesday
October 18, 1988

Part II

Department of Transportation

Coast Guard

46 CFR Parts 38, 54, 98, and 151
Intervals for Required Internal Examination and Hydrostatic Testing of Pressure Vessel Type Cargo Tanks on Barges; Final Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 38, 54, 98, and 151

[CGD 89-054]

RIN 2115-AG16

Intervals for Required Internal Examination and Hydrostatic Testing of Pressure Vessel Type Cargo Tanks on Barges

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the regulations that govern internal inspection and hydrostatic test intervals for pressure vessel type cargo tanks on barges that transport liquefied gaseous cargoes and Grade A flammable liquids. This action adopts the interim final rule published on December 11, 1989 as a final rule with changes.

EFFECTIVE DATE: This rulemaking is effective on October 16, 1990.

FOR FURTHER INFORMATION CONTACT: LCDR William C. Bennett, Standards Development Branch, Office of Marine Safety, Security, and Environmental Protection, telephone (202)–267–1161. Normal working hours are between 8 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

SUPPLEMENTARY INFORMATION: On December 11, 1989, an interim final rule (IFR) entitled Intervals for Required Internal Examination and Hydrostatic Testing of Pressure Vessel Type Cargo Tanks on Barges, was published in the Federal Register (54 FR 50958). The Coast Guard received 8 letters commenting on the IFR. A public hearing was not requested and one was not held.

Drafting Information

The principal persons involved in drafting this proposal are: LCDR William C. Bennett, Project Manager, and Mr. Nick Grasselli, Project Counsel, Office of Chief Counsel.

Background and Purpose

On September 8, 1987, following industry requests that the Coast Guard review and amend existing inspection requirements, a notice of proposed rulemaking (NPRM), entitled Intervals for Required Internal Examination and Hydrostatic Testing of Pressure Vessel Type Cargo Tanks on Barges, was published in the Federal Register (52 FR 33841). The NPRM proposed to extend the internal examination interval from 8 years to 10 years for most pressure vessel type cargo tanks (PVCTs) carrying cargoes which qualified for a maximum internal examination interval of 8 years. Tanks dedicated to propylene oxide service would have to be internally examined at a maximum interval of 10 years, and the periodic hydrostatic testing requirement would be removed. The single most controversial proposal of the NPRM concerned nondestructive testing of PVCTs subject to the proposed 10 year internal examination interval. The rules proposed in the NPRM required these tanks to undergo nondestructive testing after 25 years of service and every 5 years thereafter. New design and fabrication requirements for tanks, which are permitted by regulation to be constructed as Class II and III pressure vessels, were also proposed.

As a result of the comments received, changes were made to the NPRM and on December 11, 1989, the IFR was published in the Federal Register (54 FR 50958). In the FR the internal examination interval was left at 10 years for most PVCTs. The nondestructive testing requirement for PVCTs subject to the 10 year internal examination interval was changed to start at the first internal examination conducted after the tanks are 30 years old or older, and to be performed at 10 year intervals. As a result, the internal examination and nondestructive testing can now be coordinated and conducted at the same time.

Another change made in the IFR, which had been considered but not proposed in the NPRM, was the extension of the internal examination and hydrostatic test interval for PVCTs in chlorine service from two to three years. This change was not adopted in the NPRM because the Coast Guard was reluctant to propose regulatory requirements less stringent than standards set for other modes of bulk chlorine transportation.

The Coast Guard decided to publish the IFR instead of a final rule to allow a comment period for the changes made concerning the hydrostatic test and internal examination intervals for PVCTs in chlorine service. The IFR comment period expired on March 12, 1990. No comments were received concerning the chlorine tank hydrostatic test and internal examination intervals. However, 8 comments were received concerning alignment of the intervals for testing excess flow valves and safety relief valves with hydrostatic test, internal examination, and drydocking intervals.

This rulemaking adopts the IFR, and changes the intervals for testing the excess flow valves and safety relief valves on PVCTs in chlorine service, as discussed below, effective immediately upon publication. Since the only changes being made are corrective or provide relief to owners and operators of barges with chlorine tanks, a delayed effective date is unnecessary. Therefore, the Coast Guard finds good cause to make this rulemaking effective upon publication in the Federal Register.

Discussion of Comments and Changes

1. *Section 38.25–1.* One comment pointed out that although the new 10 year internal examination interval lines up with the regular intervals for drydocking, internal structural examinations, and inspections for certification, it does not line up with the 4 year interval for testing of safety relief valves on tanks carrying liquified flammable gas and other Subchapter D and I cargoes. The comment proposed that the safety relief valve test interval for tanks carrying these cargoes be changed from 4 to 5 years, to line up with drydock and other inspection and examination requirements. The Coast Guard has determined it is imprudent to extend the interval beyond 4 years. Most safety relief valves on tanks carrying Subchapter D and I cargoes are mounted on manifolds or the tanks themselves, exposed to the weather and mechanical abuse. When tested at the required 4 year intervals, the safety relief valves exhibit many setting and adjustment problems and it has become common for the owners or operators to "swap out" the valves with ones which have been rebuilt and bench tested. For these reasons, the present 4 year safety relief valve test interval has not been increased to 5 years.

2. *Table 54.01–5(b).* When this table, titled Pressure Vessel Classification, was revised and published in the IFR, several footnote numbers were inadvertently left out of the table. Table 54.01–5(b) is republished with corrections.

3. *Part 151.* Seven of the comments pointed out that even though the internal examination and hydrostatic test interval for PVCTs in chlorine service was now 3 years, 46 CFR 151.04–5 (g) and (i) still required the excess flow valves and safety relief valves for these tanks to be tested every 2 years at the time of the inspection for certification. This effectively negated the advantages of the 3 year internal examination and hydrostatic test intervals, because the tanks must be emptied and gas-freed in order to test the valves. They requested that the excess flow and safety relief valve test intervals be extended to 3 years also.

These types of valves on chlorine tanks are not subject to excessive mechanical abuse or exposure to the weather, being protected by weathertight metallic domes. The valves in service on shoreside chlorine tanks which are tested every 3 to 6 years have not experienced any problems. Therefore, the Coast Guard is changing the 2 year interval for tests of excess flow valves and safety relief valves in chlorine service to 3 years, which will be alignment with the new 3 year internal exam and hydrostatic test requirements.

Regulatory Evaluation

The Coast Guard considers these regulations to be non-major under Executive Order 12291 and non-significant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). A regulatory evaluation has been prepared and placed in the public docket as required by the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5, dated May 22, 1980). It may be inspected or copied at the Marine Safety Council, U.S. Coast Guard Headquarters, Room 3406, 2100 Second Street SW., Washington, DC 20593–0001, between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Because the economic impact as a result of the changes to the excess flow valve and safety relief valve test intervals for chlorine tanks is so minimal, the Coast Guard finds that no further economic evaluation is necessary.

Regulatory Flexibility Act

These regulations would affect companies that own or operate barges carrying cargoes in PVCTs; some of these companies may be small entities. For this rulemaking, the Coast Guard considered a small entity to be one operating a single barge. The amendments will provide an economic benefit to these barge owners and operators by reducing the frequency of costly inspections. The Coast Guard does not consider this economic impact to be significant. The estimated cost savings of $1,042 per barge per year represents about 2 days revenue for this type of barge. The Coast Guard has identified ten companies as small entities. The Coast Guard certifies in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

These regulations contain information collection requirements. These items were submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and OMB approved them. The affected section numbers are §§ 38.25–3, 98.25–97, and 151.04–7. The corresponding OMB Control Number is 2115–0583.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

Reduced tank cleaning will result in a slight reduction in air and water pollution. Due to the small number of barges that would be affected by these regulations, this slight reduction is considered insignificant. The use of more sophisticated examination methods on older cargo tanks is expected to decrease the probability of catastrophic tank failure and improve the reliability of these tanks. This effect is more important as a safety benefit because an uncontrolled release of the type of cargo generally carried in these tanks presents an immediate threat to life but the gases tend to rapidly dissipate, thereby posing no known persistent environmental threat. The Coast Guard considered the environmental impact of these regulations and concluded that preparation of an environmental impact statement is not necessary. An environmental assessment and a finding of no significant impact are available in the rulemaking docket for inspection or copying at the Marine Safety Council, U.S. Coast Guard Headquarters, Room 3406, 2100 Second Street SW., Washington, DC 20593–0001, between 7 a.m. and 4 p.m., Monday and Friday, except Federal holidays.

List of Subjects

46 CFR Part 38

Cargo vessels, Fire prevention, Gases, Hazardous materials transportation, Incorporation by reference, Marine safety.

46 CFR Part 54

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 98

Cargo vessels, Hazardous materials transportation, Incorporation by reference, Marine safety.

46 CFR Part 151

Cargo vessels, Hazardous materials transportation, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements.

For the reasons set out above, the interim final rule amending title 46, chapter I, of the Code of Federal Regulations, which was published at 54 FR 50958 on December 11, 1989, is adopted as a final rule with the following changes:

PART 54—PRESSURE VESSELS

1. The authority citation for part 54 continues to read as follows:

Authority: 33 U.S.C. 1509; 43 U.S.C. 1333; 46 U.S.C. 3306, 3703, 5115; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46.

§ 54.01–5 [Amended]

2. In § 54.01–5, Table 54.01–5(b) is revised to read as follows:

* * * * *

TABLE 54.01–5(b)—PRESSURE VESSEL CLASSIFICATION [8]

Class	Service contents	Class limits on pressure and temperature	Joint requirements [4,6,7]	Radiography requirements, section VIII, ASME Code [4,7]	Post weld heat treatment required [4,7]	Shop inspect. required	Plan approval required
I	(a) Vapor or gas. (b) Liquid (c) Hazardous materials [3]	Over 600 p.s.i. or 700°F Over 600 p.s.i. or 400°F	(1) For category A; (1) or (2) For category B. All categories C and D must have full penetration welds extending through the entire thickness of the vessel wall or nozzle wall.	Full on all butt joints regardless of thickness. Exceptions listed in Table UCS–57 of ASME Code do not apply.	For carbon or low alloy steel, in accordance with Table UCS–56, regardless of thickness. For other materials, in accordance with section VIII, ASME Code.	Yes [4]	Yes [4].

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TABLE 54.01-5(b)—PRESSURE VESSEL CLASSIFICATION [8]—Continued

Class	Service contents	Class limits on pressure and temperature	Joint requirements [4,6,7]	Radiography requirements, section VIII, ASME Code [5,7]	Post weld heat treatment required [6,7]	Shop inspect. required	Plan approval required
I-L Low temperature.	(a) Vapor or gas.	Over 250 p.s.i. and service temperature below 0°F	(1) for categories A and B. All categories C and D must have full penetration welds extending through the entire thickness of the vessel wall or nozzle wall. No backing rings or strips left in place.	Full on all butt joints regardless of thickness. Exceptions listed in Table UCS-57 of ASME Code do not apply.	For carbon or low alloy steel, in accordance with Table UCS-56, regardless of thickness. For other materials, in accordance with section VIII, ASME Code.	Yes	Yes.
	(b) Liquid	Over 250 p.s.i. and service temperature below 0°F					
	(c) Hazardous materials [3]						
II	(a) Vapor or gas.	30 through 600 p.s.i. or 275° through 700°F	(1) or (2) for category A. (1), (2), or (3) for category B. Categories C and D in accordance with UW-12 of ASME Code.	Spot, unless exempted by UW-11(c) of ASME Code.	In accordance with section, VIII of ASME Code.	Yes [4]	Yes [4].
	(b) Liquid	250 through 600 p.s.i. or 250° through 400°F					
	(c) Hazardous materials [3,5,6]						
II-L Low temperature.	(a) Vapor or gas.	0 through 250 p.s.i. and service temperature below 0°F	(1) for category A; (1) or (2) for category B. All categories C and D must have full penetration welds extending through the entire thickness of the vessel wall or nozzle wall.	Spot. The exemption of UW-11(c) of ASME Code does not apply.	Same as for I-L except that mechanical stress relief may be substituted if allowed under Subpart 54.30 of this chapter.	Yes	Yes.
	(b) Liquid	0 through 250 p.s.i. and service temperature below 0°F					
	(c) Hazardous materials [3]						
III	(a) Vapor or gas.	Under 30 p.s.i. and 0° through 275°F	In accordance with Section VIII of ASME Code.	Spot, unless exempted UW-11(c) of ASME Code.	In accordance with Section VIII of ASME Code.	Yes [4]	Yes [4]
	(b) Liquid	Under 200 p.s.i. and 0° through 350°F					
	(c) Hazardous materials [3,5,6]						

[1] Welded joint categories are defined under UW-3 of the ASME Code. Joint types are described in Table UW-12 of the ASME Code, and numbered "(1)," "(2)", etc.

[2] See § 54.20-2.
[3] See §§ 54.25-9(c) and 54.25-10(d).
[4] See §§ 54.01-15 and 54.10-3 for exemptions.
[5] Specific requirements modifying Table UCS-56 of the ASME Code are found in § 54.25-7.
[6] See § 54.20-3 (c) and (f)
[7] Applies only to welded pressure vessels.
[8] Does not include special requirements for heat exchanger. Section 54.01-2 contains an explanation of these special requirements.

PART 151—BARGES CARRYING BULK LIQUID HAZARDOUS MATERIAL CARGOES

3. The authority citation for part 151 continues to read as follows:

Authority: 33 U.S.C. 1903(b); 46 U.S.C. 3703; 49 CFR 1.46.

4. In § 151.50–31, paragraphs (q) through (s) are redesignated as paragraphs (r) through (t), respectively, and new paragraph (q) is added to read as follows:

§ 151.50–31 Chlorine.

* * * * *

(q) During each internal inspection, each cargo tank excess flow valve and safety relief valve must be inspected and tested in accordance with paragraphs (g) and (i) of § 151.04–5 of this chapter.

* * * * *

Signed: August 16, 1990.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 90-22568 Filed 10-15-90; 8:45 am]
BILLING CODE 4910-14-M

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federal register

Tuesday
October 16, 1990

Part III

The President

Proclamation 6203—National Disability Employment Awareness Month, 1990

Proclamation 6204—National Forest Products Week, 1990

Proclamation 6205—Country Music Month, 1990

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Federal Register
Vol. 55, No. 200
Tuesday, October 16, 1990

Presidential Documents

Title 3—

The President

Proclamation 6283 of October 12, 1990

National Disability Employment Awareness Month, 1990

By the President of the United States of America

A Proclamation

The United States' ability to remain strong and prosperous in the increasingly technological, increasingly competitive global marketplace will be determined, in large part, by our success in harnessing the energy, creativity, and talent of all our citizens. A great many of those among the estimated 43 million Americans who have disabilities are both eager and able to help our country meet the challenges of our rapidly changing world. Recognizing this rich source of human potential and providing these individuals with greater opportunities to bring their knowledge, ideas, and commitment to the workplace is, therefore, not only a moral imperative, but also a crucial investment in our Nation's future.

Over the years, the United States has made significant progress in facilitating the movement of persons with disabilities into the mainstream of American life. We have opened doors to education and business, and we have developed effective rehabilitation and training programs that are helping millions of people with disabilities to become skilled, productive workers. Advances in technology and the removal of architectural barriers and other obstacles in housing, transportation, and the workplace have also enabled Americans with disabilities to enjoy greater freedom, independence, and mobility.

While Americans with disabilities have made many advances in education, public accommodations, and employment, we know that more doors remain to be opened. Thus, it was with great pleasure that I signed into law on July 26 historic new civil rights legislation—the Americans with Disabilities Act of 1990. Expanding upon the goals of the Rehabilitation Act of 1973, this legislation is the world's first comprehensive declaration of equality for persons with disabilities. The Americans with Disabilities Act prohibits employers covered by the act from discriminating against qualified applicants or employees on the basis of a disability; it guarantees persons with disabilities access to public accommodations, such as offices, hotels, and shopping centers; and it calls for improved access to transportation, State and local government services, and telecommunications as well.

The Americans with Disabilities Act of 1990 reaffirms our national commitment to providing persons with disabilities equal opportunities to participate in the social and economic life of our country. During this year's observance of National Disability Employment Awareness Month, we not only celebrate the enactment of this legislation, but also recognize the many contributions that persons with disabilities have made, and continue to make, in the Nation's workplace.

The Congress, by Joint Resolution approved August 11, 1945, as amended (36 U.S.C. 155), has called for the designation of the month of October of each year as "National Disability Employment Awareness Month." This special month is a time for all Americans to join together in recognizing the unlimited potential of persons with disabilities and in renewing our determination to provide equal employment opportunities for them.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the month of October 1990 as National Disability Employment Awareness Month. I call upon the people of the United States to continue working to guarantee for Americans with disabilities equal employment opportunities and the full rights and privileges of citizenship.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of October, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.

George Bush

[FR Doc. 90-24000
Filed 10-15-90; 9:05 am]
Billing code 3195-01-M

VOL 55 ISS 200 OCT 16 1990 UMI

Presidential Documents

Proclamation 6304 of October 12, 1990

National Forest Products Week, 1990

By the President of the United States of America

A Proclamation

Ever since the first American colonists described for their contemporaries in Europe the splendor of the New World, this country's forests have been recognized around the globe for their majestic beauty. However, our forests have also been an invaluable resource, one that has played a singularly important role in the building of our Nation. Centuries ago, our forests provided Native Americans and European settlers with a variety of foods and raw materials for shelter, tools, and fuel. As the Nation expanded westward, they provided the timbers necessary to build ships and railroads for transportation and commerce, as well as telegraph and telephone lines.

Today we continue to rely on our Nation's forests and forest products in a multitude of ways. Forests serve as the habitat for much of our Nation's wildlife and provide a peaceful, scenic setting for family outings and other recreational activities. They also continue to provide raw materials for fuel, construction, and a variety of wood and paper products.

Although we have the choice of many different building products, we continue to value wood for our homes and furnishings. Wood is strong and durable, yet also flexible and versatile. New technology and techniques for its treatment, preservation, and design continue to increase its usefulness.

The Department of Agriculture reports that forest products contribute 4 percent to the Gross National Product and account for almost 2 million jobs in wood manufacturing and related industries and an estimated $25 billion in annual wages to working men and women. According to the Department, the forest industry ranks among the top 10 employers in 48 of the 50 States. Forest products thus make a significant contribution to our Nation's economic strength and progress, as well as to our individual physical comfort and well-being.

Unfortunately, in the past, our ancestors did not always recognize the need for careful stewardship of our forest resources. Taking for granted this country's vast, dense forests and striving to meet the great and urgent demands of a growing Nation led to rapid and sometimes wasteful use of forest resources. Forest cut-out and move-out practices were, for too long, assumed to be an inevitable part of development, while conservation strategies were viewed as a limitation on progress. Fortunately, however, a more enlightened view of forest management eventually emerged. Farsighted leaders such as President Theodore Roosevelt and Gifford Pinchot, the Nation's first trained forester, successfully contended that systematic and scientific management of our forests could guarantee their productivity for years to come.

While it is clear that forests can be used to meet consumer needs, it is also clear that they must be replenished in a timely manner—especially when natural regeneration does not appear to be sufficient. Over the years careful studies and experience have helped us to improve management of this precious, yet renewable, resource. Indeed, today's forest managers view the forest as a whole ecosystem that, when handled wisely, can ensure a sustained yield of forest products. Policies and practices developed according to this view are compatible with other environmental interests such as water-

shed and wildlife protection. Targeting research to develop more environmentally sensitive methods of harvesting forest products and increasing cooperation among government and private forest managers are keys to successful stewardship of this vital natural resource.

Each of us has a stake in the stewardship of our Nation's forests. Ensuring that our children and our children's children are able to enjoy abundant natural resources and a healthy environment calls for personal action. Accordingly, local governments are rapidly organizing recycling programs in which every citizen can participate. Each American can also make a difference by planting trees. Through Federal efforts such as the America the Beautiful initiative, every State, community, and individual in the Nation will have the opportunity to help plant and maintain nearly 1 billion trees per year across the country. These trees, planted in both urban and rural areas, will stand in addition to the more than 2 billion trees planted regularly through previously established government programs and existing private efforts.

In recognition of the value of our forests, the Congress, by Public Law 86–753 (36 U.S.C. 163), designated the week beginning on the third Sunday in October of each year as "National Forest Products Week" and authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week beginning October 21, 1990, as National Forest Products Week and call upon all Americans to observe that week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of October, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.

George Bush

[FR Doc. 90-24021
Filed 10-15-90; 9:39 am]
Billing code 3195-01-M

VOL 55 ISS 200 OC 16 1990 UMI

Presidential Documents

Proclamation 6235 of October 12, 1990

Country Music Month, 1990

By the President of the United States of America

A Proclamation

Whether they tap their feet to the spirited sound of bluegrass or quietly hum along with the soulful melodies of traditional ballads, millions of Americans—and, indeed, fans around the world—enjoy listening to country music each day. However, country music is more than a favorite source of entertainment; it is also a rich and colorful expression of the hopes, experiences, and values of the American people.

Encompassing a wide range of musical genres, from folk songs and religious hymns to rhythm and blues, country music reflects our Nation's cultural diversity as well as the aspirations and ideals that unite us. It springs from the heart of America and speaks eloquently of our history, our faith in God, our devotion to family, and our appreciation for the value of freedom and hard work. With its simple melodies and timeless, universal themes, country music appeals to listeners of all ages and from all walks of life.

The popularity of country music, both throughout the Nation and throughout the world, is a great tribute to generations of talented American composers, musicians, lyricists, and singers. This month, we gratefully acknowledge their many gifts to us and proudly celebrate the uniquely American art form that is country music.

The Congress, by House Joint Resolution 603, has designated October 1990 as "Country Music Month" and has authorized and requested the President to issue a proclamation in observance of this month.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim October 1990 as Country Music Month. I invite all Americans to observe this month with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of October, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.

George Bush

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Part IV

Office of Management and Budget

Final OMB Sequester Report to the President and Congress for Fiscal Year 1991; Report Transmittal

OFFICE OF MANAGEMENT AND BUDGET

Final OMB Sequester Report to the President and Congress for Fiscal Year 1991

AGENCY: Office of Management and Budget.

ACTION: Report Transmittal.

SUMMARY: This notice transmits the *Final OMB Sequester Report to the President and Congress for Fiscal Year 1991* as required by the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119)

Dated: October 15, 1990.

Richard G. Darman,

Director.

BILLING CODE 3110-01-M

FINAL OMB SEQUESTER REPORT TO THE PRESIDENT AND CONGRESS FOR FISCAL YEAR 1991

NOTICE

There should be no release of this document until 12 noon (E.D.T.), Monday, October 15, 1990.

October 15, 1990

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

The following is the text of a letter transmitting the *Final OMB Sequester Report to the President and Congress for Fiscal Year 1991.*

October 15, 1990

The President
The White House
Washington, DC 20500

Dear Mr. President:

Enclosed please find the *Final OMB Sequester Report to the President and Congress for Fiscal Year 1991.* It has been prepared in accordance with the requirements of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100–119).

As required by law, the budget estimates contained in this report are based on economic and technical assumptions published by the Office of Management and Budget in the July 16th Mid-Session Review, and on laws enacted and final regulations promulgated as of October 10, 1990.

The report finds that, under current law, sequestration is necessary in order to meet the Gramm-Rudman-Hollings (G-R-H) deficit reduction target. Accordingly, a final Presidential sequestration order has been prepared for issuance today. The Further Continuing Appropriations Act of 1991 (Public Law 101–412), however, has suspended until October 19th implementation of reductions required under the final order.

This final sequester report estimates the fiscal year 1991 G-R-H baseline deficit (which is very substantially different from the current estimate of the consolidated budget deficit) to be $147.3 billion, $83.3 billion above the $64 billion deficit target. This G-R-H deficit estimate strictly adheres to the requirements of the G-R-H law. Consequently, it reflects events that are likely not to happen, such as the expiration of the food stamp program, or the failure to increase funding authority for S&L case resolutions. And it does *not* reflect updated economic assumptions. By making reasonable assumptions, such as the continuation of the food stamp program and additional funding for S&L case resolutions, and adjusting for the most recent economic forecast, the current baseline consolidated deficit for 1991 is estimated to be $295.0 billion.

This report provides calculations of the amounts and percentages by which various budgetary resources would be reduced under the assumption of a necessary $83.3 billion sequester. As required by law, the report includes projected budget baseline levels, Mid-Session economic assumptions, a discussion of the sequestration calculations, and comparisons with the estimates provided by the Director of the Congressional Budget Office in his report.

Respectfully yours,

Richard G. Darman
Director

Enclosure

IDENTICAL LETTERS SENT TO HONORABLE DAN QUAYLE AND HONORABLE THOMAS S. FOLEY

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GENERAL NOTES

1. All years referred to are fiscal years unless otherwise noted.
2. Details in the tables and text may not add to totals because of rounding.
3. Unless otherwise noted, the source of all data in this report is the Office of Management and Budget.
4. Unless otherwise noted, "the Act" refers to the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100–119).

I. THE G-R-H BASELINE DEFICIT

The Balanced Budget and Emergency Deficit Control Act of 1985, as amended, (commonly known as Gramm-Rudman-Hollings, or G-R-H) sets deficit targets for 1991 through 1993. The Act requires automatic reductions in selected programs (a sequester) to achieve these targets if they cannot be reached through the legislative process. The table below shows the deficit targets specified in the Act. Except in 1993, the Act allows a $10 billion margin-of-error. However, if the deficit exceeds the sequester trigger level, which is $74 billion in 1991, the Act requires a sequester sufficient to reduce the baseline deficit to the target level—$64 billion in 1991.

Deficit Targets

(In billions of dollars)

Fiscal Year	Target Deficit	Sequester Trigger
1991	64.0	74.0
1992	28.0	38.0
1993	zero	zero

Under the Act, the Director of the Office of Management and Budget (OMB) is obliged to determine each year whether or not sequestration is necessary and, if so, the magnitude of the sequester. The Congressional Budget Office (CBO) is obliged to prepare independently its own sequestration reports. The CBO reports are transmitted to the Director of OMB and to Congress, and provide a basis for comparison against which Congress and others may assess the OMB reports. The OMB reports to the President and the Congress provide the basis for sequestration orders to be issued by the President. The timetable for the OMB and CBO reports and Presidential orders for calendar year 1990 is as follows:

Report or Order	Date
Snapshot date for initial OMB and CBO report	August 15th
Initial CBO report	August 20th
Initial OMB report	August 25th
Initial Presidential order	August 25th
Final CBO report	October 10th
Final OMB report	October 15th
Final Presidential order	October 15th

OMB issued an estimate of the G-R-H baseline deficit in the Mid-Session Review of the Budget, which was published on July 16, 1990. Under the Act, subsequent G-R-H reports must use the economic and technical assumptions used in the Mid-Session Review. Both the OMB and CBO initial sequestration reports are based on laws enacted and regulations promulgated as final as of August 15th (the snapshot date). The final reports, however, do not share a common snapshot date. Rather, the G-R-H law requires that the final reports be based on laws enacted and final regulations promulgated by the latest possible date before the reports are issued. The CBO final report was issued on October 10th. Because no changes in law after the CBO snapshot date affected the OMB G-R-H baseline estimates, both the OMB and CBO final reports reflect the same enacted legislation and final regulations.

As required by the Act, this report:

- estimates the 1991 G-R-H baseline deficit, using the economic and technical assumptions indicated in the Mid-Session Review;
- calculates the sequester amounts required; and
- presents and explains significant differences between the estimates in this report and the estimates in the CBO report.

Baseline Estimates

This report shows the current-law G-R-H baseline deficit (which is different from the current estimate of the consolidated budget deficit) to be $147.3 billion, $83.3 billion above the $64 billion deficit target specified in the Act for 1991 and $73.3 billion above the level that would trigger a sequester. As shown in Table 1, OMB's current 1991 G-R-H baseline estimate for receipts is $1,121.4 billion. G-R-H baseline outlays are estimated to total $1,268.8 billion. These estimates include the receipts and outlays of the off-budget social security trust funds, although social security benefits themselves are exempt from sequestration.

The G-R-H baseline estimates assume that current law for revenues and spending authority (including most entitlements) will continue unchanged, and that expiring provisions of law providing revenues and spending authority will terminate as scheduled, except as provided in the G-R-H Act.[1] Because no 1991 appropriations bills have been enacted, baseline estimates for discretionary spending accounts are based on the 1990 appropriations adjusted for inflation and pay costs.

By following the specifications set forth in the Act for developing the baseline, the G-R-H estimates in this report include no adjustments for anomalies that result from the requirements of the Act. For instance, the G-R-H estimates assume that in 1991 the authorization for the food stamp program will expire and that the 1990 decennial census will be repeated in 1991. The latter certainly will not occur, and the former is highly unlikely. Nonetheless, the G-R-H Act requires that the baseline be calculated as if these unlikely events were reality.

In addition, the Act requires that G-R-H estimates of the Resolution Trust Corporation (RTC) net outlays be constrained by the current law limit on the availability of RTC funding as provided by the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) of 1989 (Public Law 101–73). It now appears that the RTC may reach the $50 billion limit in early 1991. For G-R-H baseline purposes, therefore, the RTC must be treated as if it were to run out of funds. Assuming no additional funding, RTC outlays could range from $-14 billion to $14 billion. The G-R-H estimates use a figure in the middle of this range, producing RTC outlays for 1991 of about $0.1 billion. In reality, RTC net outlays for 1991 are likely to exceed $88 billion—but, since this requires a change of law, the G-R-H baseline does not reflect this fact.

Although the Iraqi invasion of Kuwait has had a substantial impact on oil prices and other economic factors, these economic effects are not reflected in this report. The G-R-H law requires that the estimates in this report use the Mid-Session Review economic assumptions. For purposes of estimating the current baseline consolidated deficit, however, it seems reasonable to use updated economic and technical assumptions and to make other adjustments, such as assuming continuation of the food stamp program and additional funding for RTC. Under these assumptions, the baseline consolidated deficit for 1991 is currently estimated to be $295.0 billion. (This estimate excludes savings that would result from enactment of legislation consistent with the Budget Summit Agreement and the Congresional budget resolution.)

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[1] The G-R-H Act allows for continuation of expiring programs in the following cases: excise taxes dedicated to a trust fund (but not spending authority in that trust fund); Commodity Credit Corporation price support programs; contract authority for transportation trust funds; and authority to provide insurance through the Federal Housing Administration fund.

Table 1.—G-R-H Baseline Totals for 1991

(In billions of dollars)

	Laws and regulations in effect as of:			
	January 1, 1990	July 10, 1990	August 15, 1990	October 10, 1990
G-R-H Receipts	1,121.7	1,121.7	1,121.7	1,121.4
G-R-H Outlays	1,269.4	1,270.1	1,271.2	1,268.8
G-R-H Deficit	147.6	148.4	149.4	147.3

Memorandum: Current Baseline Consolidated Deficit: $295.0 billion.

OMB's estimate of the G-R-H baseline deficit is further affected by a technical spendout requirement specified in the G-R-H Act. The Act requires that in developing the G-R-H baseline the Director of OMB shall assume that the aggregate spendout rate (the ratio of new outlays to new budgetary resources) from sequesterable discretionary resources for defense programs not differ by more than one-half percentage point from the comparable rate contained in the sequester report submitted for the previous fiscal year. The Act applies the same requirement to nondefense programs. The estimates for defense programs meet this requirement. To meet the requirement for nondefense programs, however, a $0.1 billion upward adjustment of the estimated outlays from new budgetary resources is needed in order to bring the aggregate spendout rate within one-half a percentage point of the benchmark rate.

Final Sequester Order

Because these estimates indicate that a sequester would be required for 1991 under current law, the President is required to issue a final sequester order to withhold funds necessary to reduce outlays by $83.3 billion. The final order for 1991 will be issued today, but its implementation has been suspended until October 19th under the Further Continuing Appropriations Act of 1991 (Public Law 101–412).

Given the unprecedented size of the sequester estimated in the Mid-Session Review and the August initial sequester report, agencies and departments were required to develop detailed plans to manage sequesterable programs. In addition to various programmatic reductions, these plans include reductions-in-force, furloughs, and hiring freezes to reduce staff costs. Because the sequester estimate in this report is of the same magnitude as the August estimate, these plans would in general still apply if the final sequester order were implemented. For an illustrative description of the programmatic impact of a potential $100 billion sequester, see pages 18 through 38 in the Mid-Session Review of the Budget.

Changes Since January

Estimates of the G-R-H baseline using current economic and technical assumptions but assuming laws and regulations in effect on January 1, 1990, produce a fiscal year 1991 deficit of $147.6 billion. Table 2 shows the impact on this estimated deficit of legislation enacted and final regulations promulgated since January. In total, these policy changes have reduced the baseline deficit by $0.3 billion.

The Dire Emergency Supplemental Appropriations Act of 1990 (Public Law 101–302) increased the 1991 baseline deficit by $0.7 billion. As a result of the embargo of Iraq, defaults on loans guaranteed by the Commodity Credit Corporation and the Export-Import Bank are expected to increase, adding $0.9 billion in outlays.

Since August 15th, the snapshot date for the initial sequester report, the G-R-H baseline deficit has been reduced by $2.1 billion. An increase in the deposit insurance premium paid by banks to the Bank Insurance Fund is anticipated to yield $1.2 billion in additional collections in 1991. Establishment of the 1991 Federal pay raise of 3.5 percent effective January 1991 reduces outlays by $0.9 billion

because the final pay raise is lower than the previous baseline estimate, which was calculated according to the G-R-H rules. Legislation enacted since August 15th has reduced the deficit by about $0.1 billion.

Table 2.—G-R-H Baseline Deficits for 1991—Based on Laws in Effect in January, July, August, and October

(In billions of dollars)

January G-R-H baseline deficit	147.8
Changes in law January 1st–July 10th:	
1990 supplemental appropriations (Public Law 101–302)	0.7
Other (including debt service)	0.1
Subtotal, changes in law January 1st–July 10th	0.8
July (Mid-Session Review) G-R-H baseline deficit	148.4
Changes in law July 10th–August 15th:	
Executive Orders 12722–12725	0.9
Other (including debt service)	0.1
Subtotal, changes in law July 10th–August 15th	1.0
August G-R-H baseline deficit	149.4
Changes in law August 15th–October 10th:	
Desert Shield authority in 1991 continuing appropriations (Public Law 101–403)	0.4
Customs and Trade Act of 1990 (Public Law 101–382)	-0.4
Establishment of 1991 Federal pay raise (net)	-0.9
Bank Insurance Fund assessment rate increase	-1.2
Other (including debt service)	-0.1
Subtotal, changes in law August 15th–October 10th	-2.1
October G-R-H baseline deficit	147.3
MEMORANDUM	
Net deficit reduction achieved January 1st–October 10th	0.5

II. ECONOMIC ASSUMPTIONS

The principal economic assumptions underlying the G-R-H baseline estimates for 1991 are shown in Table 3. The Act requires the OMB Director to publish an estimate of the rate of real GNP growth for the last two quarters of fiscal year 1990 and for each quarter of fiscal year 1991. These estimates are shown in Table 4. Notwithstanding significant intervening events (such as those in the Mideast), these economic assumptions are the same as those used by OMB for its Mid-Session Review of the Budget—as required by law. They are *not* current estimates. They are far too optimistic. They are merely the estimates required by law.

Table 3.—Economic Assumptions

(Fiscal year 1991)

Gross National Product:	
Current dollars (in billions of dollars)	5,853.6
Percent change, year over year	7.0
Constant dollars (in billions of dollars)	4,311.4
Percent change, year over year	2.6
GNP Implicit Price Deflator (percent change, year over year) [1]	4.3
CPI-W (percent change, year over year)	4.3
Civilian Unemployment Rate (percent, fiscal year average)	5.7
Interest Rates (fiscal year average):	
91-day Treasury bills	7.2
10-year Treasury notes	8.2

[1] As required under the Act, the discretionary program inflation adjustment and pay raise costs are estimated using the increase in the GNP deflator (4.2 percent) from the economic assumptions presented in January. All other estimates in this report, however, use the economic assumptions presented in the Mid-Session Review of the Budget and shown in this table.

Table 4.—Real Economic Growth Rates by Quarter

(In percent, annual rates)

FY 1990			FY 1991			
Actual		Estimate	Estimates			
Jan.–Mar. 1990 [1]	Apr.–June 1990 [2]	July–Sept. 1990	Oct.–Dec. 1990	Jan.–Mar. 1991	Apr.–June 1991	July–Sept. 1991
1.3	2.2	2.5	2.8	2.8	2.8	3.0

[1] As reported by the Department of Commerce (May 24, 1990) and used in the Mid-Session Review of the Budget. Subsequently, the Department of Commerce revised the "actual" for January–March 1990 to 1.7 percent. Pursuant to the Act, OMB may not update the Mid-Session figure for purposes of estimating the G-R-H baseline.

[2] On September 25, 1990, the Department of Commerce reported a "final" estimate for April–June 1990 of 0.4 percent.

III. COMPOSITION OF G-R-H BASELINE OUTLAYS AND RESOURCES SUBJECT TO SEQUESTER

For defense and nondefense programs combined, an estimated $919.6 billion in outlays, or 72 percent of total outlays, are associated with budgetary resources exempt from sequestration under current law. This total for exempt programs includes military personnel accounts, which the President has chosen to exempt under authority provided in the G-R-H Act. The burden of sequestration, therefore, falls on programs that comprise the remaining 28 percent of budget outlays. Of these outlays, defense programs account for 35 percent, special rule nondefense programs account for 31 percent, and other nondefense programs account for 34 percent.

Table 5 provides further detail on the G-R-H baseline outlay estimates for 1991 under current law. An estimated $120.8 billion of 1991 outlays for defense programs, or 39 percent of total defense outlays, are associated with budgetary resources subject to an across-the-board percentage reduction.

An estimated $228.3 billion of outlays for nondefense programs, or 24 percent of total nondefense outlays, are associated with sequesterable budgetary resources under current law. About $106.2 billion of these outlays, or 11 percent of total nondefense outlays, are for programs with automatic spending increases and for certain special rule programs, the largest of which is medicare. The Act limits the extent of spending reductions for these programs. Of the total estimated 1991 nondefense outlays of $962.8 billion, an estimated $120.1 billion—about 12 percent of nondefense outlays—are associated with budgetary resources subject to an across-the-board percentage reduction.[2] An estimated $734.5 billion of nondefense outlays, or 76 percent of total nondefense outlays, are exempt from sequestration.

A sequester does not reduce outlays directly; rather, it permanently cancels budget authority and other authority to obligate and expend funds (except that special rules apply to amounts sequestered in special and trust funds). For defense programs, sequesterable budgetary resources consist of new budget authority provided for 1991 and unobligated balances of budget authority provided in previous years. For nondefense programs, the sequesterable budgetary resources are new budget authority; new direct loan obligations, commitments, or limitations; new guaranteed loan commitments or limitations; obligation limitations; and spending authority as defined in Section 401(c)(2) of the Congressional Budget Act of 1974. This definition of spending authority includes various mandatory and permanent appropriations, as well as Federal payments financed by offsetting collections that are credited to budget accounts.

The Act exempts a number of programs and activities of the Federal Government from the sequestration process. As shown in Table 5, the largest are social security benefits, net interest, certain low-income programs, most Federal retirement and disability benefits, veterans compensation and pensions, and regular State unemployment insurance benefits. Also exempt from sequestration are prior legal obligations of the Government in certain specified budget accounts. Outlays from obligated or unobligated balances of prior-year appropriations for nondefense programs are generally not subject to sequestration.

Federal administrative expenses for most otherwise exempt programs and activities, however, are sequesterable, including programs that are self-supporting. Although budgetary resources available for Federal pay are subject to sequestration, the Act provides that rates of pay for civilian employees (and rates of basic pay, basic subsistence allowances, and basic quarter allowances for members of the uniformed services), or any scheduled pay increases, may not be reduced pursuant to a sequestration order.

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[2] The estimated $120.1 billion nondefense total subject to across-the-board reduction excludes $5.7 billion of 1992 outlays for Commodity Credit Corporation (CCC) that would also be subject to a 1991 sequester.

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Certain programs and activities, while not exempt, are subject to special rules that have the effect of limiting the amount of the spending reduction. For example, the sequestration reduction for medicare, veterans medical care, and certain health programs (but not for the administrative expenses of these programs) is limited to two percent annually. In addition, the total amount of the automatic spending increases in three programs specified in the Act is sequesterable, but the program bases are exempt. Although the Federal share of extended unemployment benefits is sequesterable, if States act to increase their share by the amount of the reduction in the Federal share, total budget outlays, which include both the Federal and State shares, will not be changed by the sequestration.

For credit programs, the measures governing sequesterable budgetary resources are direct loan obligations and guaranteed loan commitments. In the event of a sequester, the Act requires that credit limitations enacted in annual appropriations acts be reduced, and that *de facto* limitations be imposed on both types of new credit activity where there is no enacted limitation.

Table 5.—Composition of G-R-H Baseline Outlay Estimates for 1991

(Dollar amounts in billions)

	Outlays	Percent of Total
Defense programs: [1]		
Subject to across-the-board reduction	120.8	9.5
Exempt from sequestration [2]	185.2	14.6
Subtotal, defense programs	305.9	24.1
Nondefense programs:		
Subject to sequestration:		
Certain programs with automatic spending increases [3]	1.4	0.1
Certain special rule programs [4]	106.6	8.4
Subject to across-the-board reductions [5]	120.1	9.5
Subtotal, subject to sequestration	228.3	18.0
Exempt from sequestration:		
Social security	264.6	20.9
Federal retirement, disability, and workers compensation	70.8	5.6
Earned income tax credit	4.7	0.4
Low-income programs [6]	82.7	6.5
Veterans compensation and pensions	15.9	1.3
State unemployment benefits	18.3	1.4
Offsetting receipts and collections	-64.6	-5.1
Net interest	192.1	15.1
Other [7]	150.0	11.8
Subtotal, exempt from sequestration	734.5	57.9
Subtotal, nondefense programs	962.8	75.9
Total	1,268.8	100.0

[1] Function 050, excluding Federal Emergency Management Agency (FEMA) programs.
[2] Largely outlays from military personnel accounts and obligated balances.
[3] National Wool Act, special milk, and vocational rehabilitation programs.
[4] Guaranteed student loans, foster care and adoption assistance, medicare, veterans medical care, and other health programs.
[5] Excludes $5.7 billion in estimated 1992 outlays for CCC that would be subject to a 1991 sequester.
[6] Family support payment, child nutrition, medicaid, food stamps, SSI, and WIC.
[7] Outlays from prior year appropriations, certain prior legal obligations, and other exempt programs.

IV. SEQUESTRATION CALCULATIONS

This report indicates that, under current law, an outlay reduction of $83.3 billion, the difference between the current baseline deficit and the target of $64 billion, is required. The reductions are determined using the following steps, as shown in Table 6.

First, one-half of the required deficit reduction is assigned to defense programs (budget accounts in the national defense function, 050, excluding the Federal Emergency Management Agency) and the other half to nondefense programs.

Second, the savings from eliminating automatic spending increases in three specific programs, which are listed in Table 7, are applied to the required reduction in outlays for nondefense programs. The amount of savings from eliminating these adjustments in 1991 is $58 million.

Third, the amount of outlay savings to be obtained from programs subject to other special sequestration rules, also listed in Table 7, is then calculated. The estimated savings from these special rule programs, $1.8 billion for 1991, are applied toward the required spending reductions in nondefense programs.

Table 6.—Sequestration Calculations for 1991

(Dollar amounts in billions)

	Estimate
Required deficit reduction	83.3
Defense programs: [1]	
Total required outlay reductions	41.7
Estimated outlays associated with across-the-board sequesterable budgetary resources [2]	120.8
Uniform reduction percentage	34.5%
Nondefense programs:	
Total required outlay reductions	41.7
Estimated savings from automatic spending increases	0.1
Estimated savings from the application of special rules	1.8
Amount remaining to be obtained from uniform percentage reductions of budgetary resources	39.8
Estimated outlays associated with across-the-board sequesterable budgetary resources [3]	125.8
Uniform reduction percentage	31.6%

[1] Function 050, excluding FEMA programs.
[2] Reflects Presidential exemption of military personnel accounts.
[3] Includes $5.7 billion in estimated 1992 outlays for the CCC and $3.5 billion in outlays from offsetting collections that are subject to a 1991 sequester.

The reductions in defense programs and remaining reductions in nondefense programs are applied to budgetary resources on a uniform percentage basis, computed separately for each category. The uniform reduction percentages are computed from outlay estimates. The remaining outlay savings to be achieved separately in defense and nondefense spending are divided by the estimated outlays associated with sequesterable budgetary resources in each category. The two resulting uniform reduction percentages for defense and nondefense are then applied separately to all of the remaining sequesterable budgetary resources (budget authority, credit authority, and other spending authority) in each category.

Under current estimates, the uniform percentage reduction is 31.6 percent for nondefense programs. For defense programs, on August 10, 1990, the Director of OMB notified Congress of the

President's intent to exempt the military personnel accounts from sequestration, as permitted by the G-R-H Act. For the remaining defense programs subject to sequester, the uniform percentage reduction is 34.5 percent.

The Act requires special calculations to achieve the uniform percentage reduction for child support enforcement (CSE). The Federal matching rate on most CSE expenditures would be reduced from 66 percent to 40 percent, and the rate for computer-related expenditures and genetic testing would be reduced from 90 percent to 54 percent. Nondefense savings from the across-the-board reductions also include $1.8 billion of 1992 outlay savings from the Commodity Credit Corporation (CCC). Under the Act, CCC outlay reductions in 1992 resulting from contract adjustments made in 1991 following a sequester are to be credited to the overall outlay reduction required in 1991.

Table 7.—Programs Subject to Special Sequestration Rules

(Outlay amounts in millions of dollars)

	Required Outlay Reductions	Scheduled Increase (percent)
Programs with Automatic Spending Increases Subject to Sequestration:		
National Wool Act [1]	5	4.8
Special milk program [2]	—	—
Vocational rehabilitation [3]	53	4.5
Total	58	
Other Programs Subject to Special Sequestration Rules:		
Guaranteed student loans	36	
Foster care and adoption assistance	4	
Health programs with sequester limited to 2 percent:		
Medicare	1,598	
Veterans medical care and other health programs	207	
Total	1,844	

[1] Payment increases are based on changes in the wool parity price.

[2] Benefits are indexed to the Producer Price Index for Fresh Processed Milk. No automatic increase is projected for 1991.

[3] The automatic spending increase for this program is specified in the program's authorizing legislation and requires an annual percent increase in funding for the State grant and Indian set-aside portions of the program equal to the percentage change in the Consumer Price Index for urban consumers over the past year.

Table 8.—G-R-H Pre- and Post-Sequester Baseline Estimates for 1991 by Function

(In billions of dollars)

Function	October Baseline		Post-Sequester		Sequester Estimate	
	Budget Authority	Outlays	Budget Authority	Outlays	Budget Authority	Outlays
National defense	313.2	306.3	233.0	264.5	80.2	41.7
International affairs	19.9	18.2	12.5	15.0	6.4	3.2
General science, space, and technology	15.2	15.2	10.4	12.5	4.8	2.9
Energy	6.8	6.0	4.8	3.3	2.1	1.8
Natural resources and environment	18.9	18.8	11.8	14.2	7.1	4.4
Agriculture [1]	19.0	14.3	16.7	11.8	2.3	2.5
Commerce and housing credit	17.2	15.0	16.0	13.4	1.2	1.6
Transportation	32.2	30.9	22.2	27.3	10.0	3.5
Community and regional development	8.4	8.1	7.1	7.6	2.3	0.6
Education, training, employment, and social services	43.7	42.5	32.8	38.7	10.8	3.8
Health	68.2	67.0	62.3	64.7	5.9	2.3
Medicare	122.9	105.4	122.9	103.1	•	2.3
Income security	179.5	148.3	173.8	143.4	5.7	2.9
Social security	340.6	286.9	340.6	286.3	—	0.6
Veterans benefits and services	31.9	31.5	30.7	30.4	1.2	0.9
Administration of justice	13.2	12.3	8.9	9.1	4.4	3.2
General government	12.7	11.8	8.5	8.4	4.2	3.4
Net interest [2]	192.1	192.1	188.3	188.3	3.8	3.8
Allowances (spendout rate adjustment)	—	0.1	—	•	—	•
Undistributed offsetting receipts	-38.4	-38.4	-38.4	-38.4	—	—
Total	1,416.2	1,298.8	1,265.7	1,183.4	152.6	85.3

• $50 million or less.

[1] Estimates exclude $5.7 billion of 1992 CCC budget authority and outlays that would be subject to a 1991 sequester of $1.8 billion.

[2] Estimates reflect the $3.8 billion debt service reduction that would result from the sequester.

Table 9.—G-R-H Pre- and Post-Sequester Baseline Estimates for 1991 by Agency

(In billions of dollars)

Agency	October Baseline		Post-Sequester		Sequester Estimate	
	Budget Authority	Outlays	Budget Authority	Outlays	Budget Authority	Outlays
Legislative Branch	2.3	2.4	1.7	1.8	0.7	0.6
The Judiciary	1.8	1.8	1.3	1.3	0.5	0.5
Executive Office of the President	0.3	0.3	0.2	0.2	0.1	0.1
Funds Appropriated to the President	12.9	12.1	8.5	10.4	4.5	1.7
Agriculture [1]	43.0	35.2	37.8	29.8	5.4	5.4
Commerce	3.8	3.3	2.6	2.8	1.2	1.0
Defense—Military	302.5	296.8	225.9	258.4	76.6	38.4
Defense—Civil	38.7	29.3	37.5	25.6	1.1	0.8
Education	25.7	25.0	19.4	23.6	6.3	1.4
Energy	15.2	13.9	9.6	10.1	5.6	3.8
Health and Human Services, except Social Security	234.7	216.0	226.2	208.5	8.5	7.5
Health and Human Services, Social Security	336.6	262.9	336.6	262.3	—	0.6
Housing and Urban Development	18.2	23.2	13.6	22.6	4.6	0.6
Interior	6.5	6.2	4.0	4.4	2.5	1.8
Justice	9.7	8.8	6.6	6.7	3.1	2.1
Labor	32.2	28.1	30.3	26.8	1.9	1.3
State	4.5	3.9	3.3	3.1	1.2	0.9
Transportation	31.2	29.9	21.5	26.5	9.7	3.3
Treasury [2]	276.6	275.5	270.1	269.3	6.6	6.2
Veterans Affairs	31.7	31.2	30.6	30.3	1.2	0.9
Environmental Protection Agency	5.6	5.7	3.8	5.2	1.8	0.5
General Services Administration	1.8	0.9	1.2	0.8	0.6	0.2
National Aeronautics and Space Administration	12.9	12.9	8.8	10.8	4.1	2.5
Office of Personnel Management	58.8	36.7	57.7	36.7	1.1	0.1
Small Business Administration	1.0	0.5	0.7	0.3	0.3	0.2
Other independent agencies	19.6	19.3	16.3	17.2	3.3	2.1
Allowances (spendout rate adjustment)	—	0.1	—	*	—	*
Undistributed offsetting receipts	-109.6	-109.9	-109.6	-109.6	—	—
Total	1,416.2	1,266.9	1,205.7	1,183.4	152.5	85.3

*$50 million or less.

[1] Estimates exclude $5.7 billion of 1992 CCC budget authority and outlays that would be subject to a 1991 sequester of $1.8 billion.

[2] Estimates reflect the $1.8 billion debt service reduction that would result from the sequester.

V. COMPARISONS WITH CONGRESSIONAL BUDGET OFFICE ESTIMATES

As shown in Table 10, the Congressional Budget Office (CBO) estimates in its final sequester report a baseline deficit for 1991 of $163.4 billion, $16.1 billion above the final OMB G-R-H baseline estimate of $147.3 billion. Under CBO assumptions, a sequester of $99.4 billion would be triggered if no further policy changes were made, while OMB estimates that a sequester of $83.3 billion would be required. This section provides the comparisons between OMB and CBO estimates that are required by the G-R-H Act.

Table 10.—Differences Between OMB and CBO G-R-H Baselines

(In billions of dollars)

	Outlays	Receipts	Deficit
OMB baseline	1,268.8	1,121.4	147.3
Changes due to:			
Conceptual differences:			
Food stamps	18.0	—	18.0
Airport and airway trust fund	—	-0.9	0.9
Other (largely debt service)	0.8	—	0.8
Subtotal, conceptual	18.9	-0.9	19.7
Economic assumptions:			
Level of GNP and incomes	—	-6.4	6.4
Interest (including debt service)	-1.0	-0.4	-0.6
Inflation and cost-of-living adjustments	-3.2	—	-3.2
Subtotal, economic	-4.2	-6.8	2.6
Technical:			
Resolution Trust Corporation	7.9	—	7.9
Other deposit insurance	2.1	—	2.1
Medicare and medicaid	-2.4	—	-2.4
Net interest (including debt service)	-2.4	—	-2.4
Other	-2.1	9.3	-11.4
Subtotal, technical	3.1	9.3	-6.2
Total differences	17.7	1.6	16.1
CBO baseline	1,286.5	1,123.1	163.4

Different economic assumptions account for $2.6 billion of the difference between OMB and CBO baseline deficit estimates. CBO forecasts slower real growth and lower interest and inflation rates than OMB. As a result, CBO estimates lower incomes and thus lower receipts, lower interest costs, and lower inflation adjustments for outlays. Technical estimating differences offset $6.3 billion of the difference in the baseline deficit estimates, as discussed below. Conceptual differences between the OMB and CBO estimates account for $19.7 billion. The primary conceptual difference stems from a different legal interpretation of the G-R-H law as it pertains to the expiration of the authority to appropriate funds for the food stamp program beyond 1990. OMB holds the view that the G-R-H baseline rules preclude counting new funds for food stamps in the absence of reauthorization, while CBO holds a contrary view.

Technical differences include $9.3 billion higher receipts under CBO assumptions, due to different estimating assumptions and assumed levels of capital gains realizations, and $3.1 billion higher

outlays under CBO assumptions. The technical difference for outlays is the net of $9.9 billion higher outlays for the Resolution Trust Corporation (RTC) and other deposit insurance programs, and $6.9 billion lower CBO estimates for medicare and medicaid, net interest, and other programs. The higher CBO estimate for the RTC reflects differences in OMB and CBO assumptions about how much of the $50 billion available to that agency will be spent on savings and loan case resolutions in fiscal year 1990 and how much in fiscal year 1991.

The Act requires three comparisons of differences between OMB and CBO estimates. Table 11 shows, by type of sequesterable resource for defense and nondefense programs, the amount of budgetary resources that would be sequestered using the OMB estimate of the required outlay reductions and CBO's estimating methodology. Table 12 identifies differences between OMB and CBO estimates of the aggregate amount of resources to be sequestered by type of resource for defense and nondefense programs. Table 13 identifies differences for accounts where OMB and CBO estimates of sequesterable resources differ by $5 million or more. Explanations of these differences are presented in the footnotes, which appear at the end of the table.

Table 11.—Budgetary Resource Reductions Using CBO Assumptions

(In billions of dollars)

	Sequester Amount
Defense programs: [1]	
Budget authority	50.0
Unobligated balances	12.3
Nondefense programs:	
Budget authority	55.5
Budget authority—special rules	0.3
401C authority	13.5
401C authority—use of offsetting collections	0.7
401C authority—special rules	1.9
Obligation limitation and other 401C authority	8.3
Direct loan limitation	5.9
Direct loan floor	0.6
Loan guarantee limitation	58.6
Guaranteed loan floor	—
MEMORANDUM: Aggregate outlay reductions required—$43.3 billion	

Source: Congressional Budget Office.
[1] Function 050, excluding FEMA programs.

Table 12.—Differences Between OMB and CBO Sequestrable Resources by Resource Type

(In millions of dollars)

DEFENSE	
Budget authority subject to across-the-board reductions:	
CBO estimate	232,270
Difference:	
Procurement	-603
Operation and maintenance	413
Research, development, test, and evaluation	142
Other	59
Total, difference	11
OMB estimate	232,281
401(c) authority:	
CBO and OMB estimate	21
Unobligated balances—defense:	
CBO estimate	38,581
Difference:	
Procurement	602
Atomic energy defense activities	-500
Research, development, test, and evaluation	383
Military construction	184
Family housing	64
Total, difference	714
OMB estimate	39,295
NONDEFENSE	
Budget authority subject to across-the-board reductions:	
CBO estimate	188,076
Difference:	
Federal buildings fund	1,699
Uranium supply and enrichment activities [1]	-1,489
Clean coal technology [1]	-958
Conservation reserve program	455
Family support payments to States [1]	-419
Disaster loan fund	375
Payments to States for family support activities	350
Public broadcasting fund [1]	-299
Housing assistance	-270
FMS interest buydown	-270
Unanticipated needs for natural disasters	-207
Departmental administration, Department of Energy [1]	-160
SPR petroleum [1]	-136
Veterans readjustment benefits	-115
Other	-757
Total, difference	-2,180
OMB estimate	185,896
Budget authority—automatic spending increases:	
CBO and OMB estimate	69
Budget authority—special rules:	
CBO estimate	267
Difference	-9
OMB estimate	258

Table 12.—Differences Between OMB and CBO Sequesterable Resources by Resource Type—Continued

(In millions of dollars)

401(c) authority:	
CBO estimate	34,207
Difference:	
Commodity Credit Corporation fund (includes 1992)	-974
Clean coal technology [1]	956
Family support payments to States [1]	362
Public broadcasting fund [1]	299
Unemployment trust fund (unemployment compensation) [1]	113
Supplemental annuity pension fund	112
Other	450
Total, difference	1,318
OMB estimate	35,525
401(c) authority—offsetting collections:	
CBO estimate	2,126
Difference:	
Uranium supply and enrichment activities [1]	1,298
Departmental administration, Department of Energy [1]	183
Other	-30
Total, difference	1,441
OMB estimate	3,567
401(c) authority—automatic spending increases:	
CBO estimate	3
Commodity Credit Corporation fund	2
OMB estimate	5
401(c) authority—special rules: [2]	
CBO estimate	1,801
Difference:	
Federal supplementary medical insurance trust fund [1]	-146
Other	-12
Total, difference	-158
OMB estimate	1,643
Obligation limitation:	
CBO estimate	26,633
Difference:	
Federal supplementary medical insurance trust fund [1]	110
Unemployment trust fund (unemployment compensation) [1]	-102
Other	-120
Total, difference	-112
OMB estimate	26,521
Direct loan limitation:	
CBO estimate	18,907
Difference:	
Commodity Credit Corporation fund	2,081
Other	-17
Total, difference	2,064
OMB estimate	20,972

Table 12.—Differences Between OMB and CBO Sequestrable Resources by Resource Type—Continued

(In millions of dollars)

Direct loan flocr:	
CBO estimate	2,050
Rural electrification and telephone revolving fund	4
OMB estimate	2,054
Guaranteed loan limitation:	
CBO estimate	188,833
Difference:	
Federal ship financing fund, fishing vessels	378
Commodity Credit Corporation fund	200
FHA insurance	149
Guarantees of mortgage-backed securities	82
Other	70
Total, difference	875
OMB estimate	189,408

[1] All or a substantial portion of the difference is the result of different classification by resource type.
[2] CBO calls this resource group "Obligation limitation—special rules."

Table 13.—Detailed List of Sequestrable Resources for Which OMB and CBO Estimates Differ by More Than $5 Million

(In thousands of dollars)

Account Title	Resource	OMB Base	CBO Base	Difference	Explanation
Legislative Branch					
Senate					
Senate items (01-00-0110-001-A)	Budget Authority	384,136	392,500	8,364	1
House of Representatives					
Salaries and expenses (01-10-0400-001-A)	Budget Authority	548,000	561,223	12,123	1
Government Printing Office					
Office of Superintendent of Documents: Salaries and expenses (01-00-0201-806-A)	Budget Authority	17,007	25,347	8,340	1,2
Government Printing Office revolving fund (01-00-4005-000-A)	401(C) Authority—Oil. Coll.	0	38,363	38,363	4
	Obligation limitation	36,363	0	−36,363	4
General Accounting Office					
Salaries and expenses (01-05-0107-001-A)	Budget Authority	378,654	386,138	7,484	1
The Judiciary					
Courts of Appeals, District Courts and Other Services					
Salaries and expenses (02-25-0609-752-A)	Budget Authority	1,209,848	1,230,286	20,438	1
Registry administration (02-25-5161-752-A)	401(C) Authority	3,000	12,000	8,990	5
Funds Appropriated to the President					
Unanticipated Needs					
Unanticipated needs for natural disasters (04-88-0099-453-A)	Budget Authority	0	200,750	200,750	2
International Security Assistance					
Foreign Military Financing (04-69-1082-152-A)	Budget Authority	5,030,402	5,021,232	−9,170	1
Economic support fund (04-69-1037-152-A)	Budget Authority	4,132,559	4,086,628	−45,931	1,2
Agency for International Development					
Functional development assistance program (04-14-1021-151-A)	Budget Authority	1,210,000	1,290,454	−19,546	1,2,12
Development fund for Africa (04-14-1014-151-A)	Budget Authority	801,454	594,686	−6,768	1,12
Operating expenses, Agency for International Development (04-14-1000-151-A)	Budget Authority	447,700	454,926	7,226	1,2
Military Sales Programs					
FMS interest buydown (04-97-0082-152-A)	Budget Authority	0	270,000	270,000	12
Department of Agriculture					
Agricultural Research Service					
Agricultural Research Service (05-15-1402-352-A)	Budget Authority	610,318	618,535	8,217	1
Foreign Assistance Programs					
Overseas, PL 480, foreign assistance programs, Agriculture (05-97-0274-151-A)	Obligation limitation	1,587,468	1,582,424	−5,044	1
Agricultural Stabilization and Conservation Service					
Salaries and expenses (05-46-3303-351-A)	Budget Authority	11,575	110	−11,465	3
	401(C) Authority—Oil. Coll.	23,588	51,588	28,012	5
Conservation reserve program (05-46-2319-302-A)	Budget Authority	1,878,038	1,423,443	−454,595	5
Commodity Credit Corporation					
Commodity Credit Corporation Fund (05-98-4336-351-A)	401(C) Authority	4,548,549	4,795,000	246,451	5
	401(C) Authority	5,712,394	6,440,000	727,606	5
	Direct Loan Limitation	10,006,000	7,918,000	−2,091,000	5
	Guaranteed Loan Limitation	5,500,000	5,300,000	−200,000	5
Rural Electrification Administration					
Reimbursement to the Rural elec. and tel. assets, land ins. (05-72-3101-371-A)	Budget Authority	277,700	250,287	−27,413	5
Rural electrification and telephone revolving fund (05-72-4230-371-A)	Direct Loan Limitation	3,468,538	3,478,594	−10,054	1
Farmers Home Administration					
Salaries and expenses (05-75-3001-452-A)	Budget Authority	441,588	449,820	8,232	1
Agricultural Credit Insurance Fund (05-75-4140-351-A)	401(C) Authority—Oil. Coll.	162,151	192,000	29,849	5
	Direct Loan Limitation	1,671,400	1,654,744	−16,656	1,12
	Guaranteed Loan Limitation	3,164,287	3,158,214	−6,073	1
Rural Housing Insurance Fund (Appr.) (05-75-4141-371-A)	401(C) Authority—Oil. Coll.	88,052	40,630	−47,422	5
Rural development loan fund (05-75-4235-452-A)	Budget Authority	17,470	0	−17,470	5
Soil Conservation Service					
Conservation operations (05-75-1010-352-A)	Budget Authority	490,095	500,071	9,976	1
Animal and Plant Health Inspection Service					
Salaries and expenses (05-75-1000-352-A)	Budget Authority	370,260	375,231	4,971	1
	401(C) Authority—Oil. Coll.	29,559	23,112	−6,447	5

Table 13.—Detailed List of Sequestrable Resources for Which OMB and CBO Estimates Differ by More Than $5 Million—Continued

(In thousands of dollars)

Account Title	Resource	OMB Base	CBO Base	Difference	Explanation
Food Safety and Inspection Service					
Salaries and expenses (05-89-3709-054-A)	Budget Authority	439,473	447,790	8,317	1
	401(C) Authority—Off. Coll.	39,599	54,099	15,414	6
Food and Nutrition Service					
Food stamp program (05-94-3506-605-A)	Budget Authority	0	33,332	33,332	6
Child nutrition programs (05-94-3539-605-A)	Budget Authority	4,135	9,944	5,809	6
Forest Service					
National forest system (05-89-1105-302-A)	Budget Authority	1,197,468	1,218,035	20,577	1,6
Forest service fire fighting (05-89-1111-302-A)	Budget Authority	845,311	854,200	8,889	1
Forest Service permanent appropriations (05-89-8922-302-A)	Budget Authority	0	8,082	8,082	3
Forest Service permanent appropriations (05-89-8921-605-A)	401(C) Authority	377,425	338,995	-38,430	3
Department of Commerce					
Bureau of the Census					
Periodic censuses and programs (06-07-0400-376-A)	Budget Authority	1,462,890	1,568,089	85,199	1
National Oceanic and Atmospheric Administration					
Operations, research, and facilities (06-48-1450-306-A)	Budget Authority	1,230,012	1,241,897	11,885	1
Federal ship financing fund, fishing vessels (06-48-4417-376-A)	401(C) Authority	5,400	0	-5,400	4
	401(C) Authority—Off. Coll.	0	6,559	6,559	4
	Guaranteed Loan Limitation	490,000	194,000	-296,000	5
Department of Defense—Military					
Operation and Maintenance					
Operation and maintenance, Army (97-10-2020-051-A)	Budget Authority	24,299,226	23,781,123	-518,097	1,2
Operation and maintenance, Navy (97-10-1804-051-A)	Budget Authority	26,001,028	25,894,587	-106,442	1,2
Operation and maintenance, Marine Corps (97-10-1106-051-A)	Budget Authority	1,891,853	1,897,435	5,582	1,2
Operation and maintenance, Air Force (97-10-3400-051-A)	Budget Authority	23,018,829	22,383,719	-635,110	1,2
Operation and maintenance, Defense agencies (97-10-0100-051-A)	Budget Authority	8,130,714	8,161,668	30,954	1,2
Operation and maintenance, Air Force Reserve (97-10-3740-051-A)	Budget Authority	1,049,265	1,054,811	5,546	1,2
Operation and maintenance, Air National Guard (97-10-3840-051-A)	Budget Authority	2,107,575	2,113,076	5,501	1,2
Drug interdiction Defense (97-10-0105-051-A)	Budget Authority	30,646	462,008	431,361	2
Environmental restoration, Defense (97-10-0810-051-A)	Budget Authority	0	625,144	625,144	2
Procurement					
Aircraft procurement, Army (97-15-2031-051-A)	Budget Authority	3,844,510	3,864,099	19,589	1,3
	Unobligated Balances—Defense	702,737	686,737	-16,000	10
Missile procurement, Army (97-15-2032-051-A)	Budget Authority	2,587,493	2,547,582	-39,911	1,2
	Unobligated Balances—Defense	661,666	691,399	-69,799	10
Procurement of weapons and tracked combat vehicles, Army (97-15-2033-051-A)	Budget Authority	2,505,306	2,656,178	148,792	1,3
	Unobligated Balances—Defense	1,057,334	1,051,834	-5,500	10
Procurement of ammunition, Army (97-15-2034-051-A)	Budget Authority	2,917,267	2,931,887	14,640	1,3
	Unobligated Balances—Defense	246,335	201,135	-45,200	10
Other procurement, Army (97-15-2035-051-A)	Budget Authority	3,915,979	3,885,117	30,441	1,3
	Unobligated Balances—Defense	1,166,911	1,062,811	-104,099	10
Aircraft procurement, Navy (97-15-1506-051-A)	Budget Authority	9,543,082	9,639,849	96,767	1,3
	Unobligated Balances—Defense	1,381,476	1,331,476	-50,000	10
Weapons procurement, Navy (97-15-1507-051-A)	Budget Authority	5,529,682	5,519,634	-9,368	1,3
	Unobligated Balances—Defense	1,411,075	1,353,274	-57,801	10
Shipbuilding and conversion, Navy (97-15-1611-051-A)	Budget Authority	11,682,257	11,972,284	290,027	1,3
Other procurement, Navy (97-15-1810-051-A)	Budget Authority	7,891,196	8,071,773	180,577	1,3
	Unobligated Balances—Defense	3,815,916	3,801,416	-14,500	10
Procurement, Marine Corps (97-15-1109-051-A)	Budget Authority	1,210,886	1,102,388	-108,498	1,3
	Unobligated Balances—Defense	282,301	267,101	-15,200	10
Aircraft procurement, Air Force (97-15-3010-051-A)	Budget Authority	16,037,765	16,088,413	50,719	1,3
	Unobligated Balances—Defense	7,132,538	7,067,884	-64,654	10
Missile procurement, Air Force (97-15-3020-051-A)	Budget Authority	5,594,129	5,664,166	270,088	1,3
	Unobligated Balances—Defense	2,536,961	2,496,919	-139,042	10
Other procurement, Air Force (97-15-3080-051-A)	Budget Authority	8,639,264	8,591,464	-047,800	1,3
	Unobligated Balances—Defense	2,083,539	2,033,884	-49,705	10
Procurement, Defense agencies (97-15-0350-051-A)	Budget Authority	1,287,918	1,210,884	-76,934	1,2
National Guard and Reserve Equipment (97-15-0350-051-A)	Budget Authority	1,850,246	994,669	-43,577	1,2
Research, Development, Test, and Evaluation					
Research, development, test, and evaluation, Army (97-20-2040-051-A)	Budget Authority	5,548,445	5,580,710	32,265	1,2
	Unobligated Balances—Defense	551,349	389,349	-62,000	10
Research, development, test, and evaluation, Navy (97-25-1319-051-A)	Budget Authority	9,894,825	9,787,918	-86,907	1,3
	Unobligated Balances—Defense	440,048	414,048	-26,000	10
Research, development, test, and evaluation, Air Force (97-25-3600-051-A)	Budget Authority	14,035,405	13,959,665	-75,340	1,3
	Unobligated Balances—Defense	1,374,192	1,060,834	-100,358	10
Research, development, test, and evaluation, Defense agencies (97-25-0400-051-A)	Budget Authority	8,388,291	8,396,726	13,435	1,3
	Unobligated Balances—Defense	994,858	960,858	-35,000	10

Table 18.—Detailed List of Segregatable Resources for Which OMB and CBO Estimates Differ by More Than $5 Million—Continued

(In thousands of dollars)

Account Title	Resource	OMB Base	CBO Base	Difference	Explanation
Military Construction					
Military construction, Army (97-05-0000-051-A)	Unobligated Balances—Defense	355,094	340,758	-14,336	10
Military construction, Navy (97-05-1205-051-A)	Unobligated Balances—Defense	420,192	399,542	-20,650	10
Military construction, Air Force (97-05-0300-051-A)	Budget Authority	1,223,016	1,218,140	-4,876	1,2
	Unobligated Balances—Defense	558,559	527,659	-27,900	10
Military construction, Defense agencies (97-05-0800-051-A)	Unobligated Balances—Defense	353,056	347,056	-6,000	10
North Atlantic Treaty Organization Infrastructure (97-05-0600-051-A)	Unobligated Balances—Defense	19,231	0	-19,231	10
Military construction, Army National Guard (97-05-0500-051-A)	Unobligated Balances—Defense	93,727	100,727	7,000	10
Family Housing					
Family housing, Army (97-05-0700-051-A)	Unobligated Balances—Defense	92,575	83,540	-9,035	10
Family housing, Air Force (97-05-0704-051-A)	Unobligated Balances—Defense	57,959	0	-57,959	10
Revolving and Management Funds					
Army Industrial fund (97-40-4560-051-A)	Budget Authority	31,932	0	-31,932	2
Department of Defense—Civil					
Corps of Engineers—Civil					
Operation and maintenance, general (96-10-3123-301-A)	Budget Authority	1,287,849	1,289,669	+1,820	1,12
Rivers and harbors contributed funds (96-10-8862-301-A)	401(c) Authority	205,509	145,809	-59,700	5
Harbor maintenance trust fund (96-10-8863-301-A)	Budget Authority	160,491	192,582	32,091	12
Department of Education					
Office of Elementary and Secondary Education					
Compensatory education for the disadvantaged (91-10-0900-001-A)	Budget Authority	5,368,832	5,359,865	-10,967	1
Office of Special Education and Rehabilitative Serv.					
Special institutions for the handicapped (91-20-0900-001-A)	Budget Authority	0	5,000	5,000	1,3
Special institutions for the handicapped (Gallaudet) (91-20-0900-001-C)	Budget Authority	31,939	0	-31,939	1,3
Special institutions for the handicapped (APVIB) (91-20-0900-001-D)	Budget Authority	5,000	0	-5,000	1,3
Special institutions for the handicapped (91-20-0900-002-A)	Budget Authority	0	197,002	197,002	1,3
Special institutions for the handicapped (NTID) (91-20-0900-002-B)	Budget Authority	37,305	0	-37,305	1,3
Special institutions for the handicapped (Gallaudet) (91-20-0900-002-C)	Budget Authority	46,854	0	-46,854	1,3
Office of Postsecondary Education					
Student financial assistance (91-40-0900-002-A)	Budget Authority	6,340,355	6,335,336	-14,799	1
Departmental Management					
Salaries and expenses (Elementary, secondary and vocational ed) (91-30-0900-001-A)	Budget Authority	22,400	0	-22,400	1,3
Salaries and expenses (Higher education) (91-30-0900-002-A)	Budget Authority	30,000	0	-30,000	1,3
Salaries and expenses (Research and general education aids) (91-30-0900-003-A)	Budget Authority	100,772	286,000	185,228	1,3
Salaries and expenses (Social services) (91-30-0900-004-A)	Budget Authority	32,700	0	-32,700	1,3
Department of Energy					
Atomic Energy Defense Activities					
Atomic energy defense activities (89-10-0000-050-A)	Budget Authority	10,009,970	10,005,256	-4,707	1
	Unobligated Balances—Defense	0	300,000	300,000	10
Energy Programs					
Uranium supply and enrichment activities (19-20-0000-271-A)	Budget Authority	0	1,449,091	1,449,091	4,12
	401(c) Authority—Oil. Coll.	1,327,769	0	-1,327,769	4,12
Energy conservation (Energy conservation) (89-20-0010-272-A)	Budget Authority	393,910	401,925	8,015	7,12
SPR petroleum (89-20-0232-274-A)	Budget Authority	324,510	308,787	133,477	4,12
	401(c) Authority	184,000	50,000	-84,210	45,12
Clean Coal Technology (19-20-0305-271-A)	Budget Authority	0	500,000	500,000	4
	401(c) Authority	500,000	0	-500,000	4
Isotope production and distribution fund (19-20-0109-271-A)	401(c) Authority—Oil. Coll.	10,240	0	-10,240	8
Departmental Administration					
Departmental administration (Energy information, policy, and mgt) (89-10-0000-270-A)	Budget Authority	280,575	300,515	19,140	1,4
	401(c) Authority—Oil. Coll.	163,413	0	-163,413	1,4
Department of Health and Human Services					
Food and Drug Administration					
Program expenses (95-10-0000-051-A)	Budget Authority	615,317	627,055	11,738	1
Health Care Financing Administration					
Federal hospital insurance trust fund (93-20-8005-071-A)	Obligation Limitation	1,830,204	1,821,204	-9,000	1
FHI 2% split (3-0-1) (93-20-8005-071-C)	Obligat. Exts.—Spec. Rules	1,100,000	1,300,000	30,000	5
Federal supplementary medical insurance trust fund (93-10-8004-071-A)	Obligation Limitation	1,400,000	1,329,000	-100,321	1
FSMI 2% split (3-0-1) (93-20-8004-071-C)	Obligat. Exts.—Spec. Rules	400,000	554,000	140,000	11

Table 15.—Detailed List of Sequestrable Resources for Which OMB and CBO Estimates Differ by More Than $5 Million—Continued

(In thousands of dollars)

Account Title	Resource	OMB Base	CBO Base	Difference	Explanation
Social Security Administration					
Supplemental security income program (28-00-0406-000-A)	Budget Authority	827,884	840,376	12,492	1
Family Support Administration					
Family support payments to States (CB) (28-70-1501-000-B)	Budget Authority	1,169,589	1,556,080	776,491	4,5
	401(C) Authority	552,401	0	−552,401	4,5
Community services block grant (28-70-1504-000-A)	Budget Authority	387,038	412,372	13,334	1,4
	401(C) Authority	8,041	0	−8,041	1,4
Payments to States for Family Support Activities (28-70-1520-001-A)	Budget Authority	0	20,000	20,000	6
Payments to States for Family Support Activities (28-70-1520-002-A)	Budget Authority	1,000,000	850,000	−150,000	6
Interim assistance to States for legalization (28-70-1502-000-A)	401(C) Authority	840,000	840,000	70,000	6
Health and Human Services Social Security					
Social Security					
Federal old-age and survivors insurance trust fund (16-05-8060-451-A)	Obligation limitation	1,666,297	1,727,525	41,228	1
Federal disability insurance trust fund (16-05-8007-451-A)	Obligation limitation	837,700	847,169	9,469	1
Department of Housing and Urban Development					
Housing Programs					
Subsidized housing programs (housing assistance) (25-02-0164-604-A)	Budget Authority	7,559,268	8,921,285	1,362,017	1,5,12
Asst. for the renewal of expiring section 8 subsidy cont. (25-02-0164-604-A)	Budget Authority	1,122,844	0	−1,122,844	1,5,12
FHA Mutual Mortgage and Cooperative Housing Insurance Fund (25-02-4070-571-A)	Guaranteed Loan Limitation	69,345,170	69,272,000	−73,170	1,3,5
FHA general and special risk insurance funds (25-02-4072-571-A)	Guaranteed Loan Limitation	11,895,469	11,819,000	−74,469	1,5
Rental housing assistance fund (25-02-4041-604-A)	401(C) Authority—Oil. Coll.	70,000	69,000	−69,000	6
Government National Mortgage Association					
Guarantees of mortgage-backed securities (25-04-4238-571-A)	Guaranteed Loan Limitation	69,052,783	84,982,946	−91,719	5
Community Planning and Development					
Community development grants (25-58-0160-451-A)	Budget Authority	3,014,407	3,049,575	35,168	1
Rehabilitation loan fund (25-70-4035-451-A)	Direct Loan Limitation	57,548	70,000	−12,548	10
Department of the Interior					
Bureau of Land Management					
Management of lands and resources (10-04-1106-302-A)	Budget Authority	484,853	491,400	7,448	1
Oregon and California grant lands (10-04-1116-302-A)	Budget Authority	88,856	89,304	32,758	1,12
Firefighting (10-04-1119-302-A)	Budget Authority	570,400	602,000	31,579	1,2
Miscellaneous permanent appropriations (10-04-9921-306-A)	401(C) Authority	142,304	139,000	−42,695	6
Minerals Management Service					
Payments to states from receipts under Mineral Leasing Act (10-00-5000-000-A)	401(C) Authority	551,000	490,770	−60,000	6
Bureau of Reclamation					
Colorado River Dam Fund, Boulder Canyon Project (10-10-5000-001-A)	401(C) Authority	59,335	39,458	−22,877	6
Reclamation trust funds (10-10-8070-001-A)	401(C) Authority	97,195	56,364	−40,831	6
Fish and Wildlife Service					
Construction (10-16-1612-306-A)	Budget Authority	56,356	71,935	+5,579	1
Land acquisition (10-16-5020-303-A)	Budget Authority	89,758	102,000	8,242	1,12
Miscellaneous permanent appropriations (10-16-9925-305-A)	401(C) Authority	134,000	144,200	5,700	6
Sport fish restoration (10-19-8151-305-A)	401(C) Authority	212,439	208,000	−4,439	6
National Park Service					
Operation of the national park system (10-04-1036-606-A)	Budget Authority	700,700	813,948	12,648	1
Construction (10-04-1039-306-A)	Budget Authority	317,488	288,392	−85,197	1
Bureau of Indian Affairs					
Operation of Indian programs (tribe and regional development) (10-76-2100-488-A)	Budget Authority	838,573	814,887	6,304	1
Construction (10-76-2301-452-A)	Budget Authority	153,471	157,418	−44,388	1,12
White Earth Settlement Fund (10-76-2204-452-A)	401(C) Authority	8,000	0	−4,000	5
Revolving fund for loans (10-76-4409-452-A)	401(C) Authority—Oil. Coll.	10,000	0	−10,000	6
Office of Territorial Affairs					
Administration of territories (10-00-0112-606-A)	Budget Authority	39,040	44,355	−5,304	6
Department of Justice					
Legal Activities					
Salaries and expenses, United States Attorneys (11-00-0322-760-A)	Budget Authority	840,400	840,760	6,357	1
Federal Bureau of Investigation					
Salaries and expenses (11-10-0200-751-A)	Budget Authority	1,764,474	1,769,742	39,268	1

Table 1B—Detailed List of Sequestrable Resources for Which OMB and CBO Estimates Differ by More Than $5 Million—Continued

(In thousands of dollars)

Account Title	Resource	OMB Base	CBO Base	Difference	Explanation
Drug Enforcement Administration					
Salaries and expenses (11-15-1115-751-A)	Budget Authority	571,501	579,008	7,507	1
Immigration and Naturalization Service					
Salaries and expenses (11-15-1337-751-A)	Budget Authority	577,207	591,804	14,597	1
Immigration user fee (11-15-5387-751-A)	451(C) Authority	103,149	100,299	-2,850	8
Immigration examinations fee (11-15-5389-751-A)	451(C) Authority	167,229	93,006	-47,223	8
Federal Prison System					
Salaries and expenses (11-15-1060-752-A)	Budget Authority	1,175,700	1,194,205	18,405	1
Department of Labor					
Employment and Training Administration					
Training and employment services (12-15-0174-599-A)	Budget Authority	4,999,858	4,997,252	-2,606	1
Federal unemployment benefits and allowances (12-15-0326-601-A)	Budget Authority	188,509	188,009	-500	5
Unemployment trust fund (Training and employment) (12-15-8042-604-A)	Obligation limitation	1,134,189	1,142,809	7,691	1
Unemployment trust fund (Unemployment compensation) (12-15-8042-660-A)	451(C) Authority	112,808	0	-112,808	5
	Obligation limitation	1,887,528	1,988,224	101,796	1
Pension Benefit Guaranty Corporation					
Pension Benefit Guaranty Corporation fund (16-15-4204-603-A)	Obligation limitation	44,000	76,000	32,000	7
Employment Standards Administration					
Black lung disability trust fund (16-15-8144-601-A)	Budget Authority	33,340	0	-33,340	4
	Obligation limitation	0	54,016	54,016	4
Department of State					
Administration of Foreign Affairs					
Salaries and expenses (14-15-0115-153-A)	Budget Authority	1,857,235	1,880,185	22,950	1
Other					
Migration and refugee assistance (14-15-1143-151-A)	Budget Authority	448,499	497,307	14,807	8
United States emergency refugee and migration assistance fund (14-15-8048-151-A)	Budget Authority	88,388	72,778	-15,594	8
Department of Transportation					
Federal Highway Administration					
Federal-aid highways (21-15-8083-401-A)	Obligation limitation	13,723,000	13,706,000	-17,000	1
Federal Railroad Administration					
Regional rail reorganization program (21-15-1139-401-A)	Budget Authority	28	10,258	10,230	6
Federal Aviation Administration					
Operations (21-15-1501-402-A)	Budget Authority	5,141,291	5,199,548	58,257	1
Trust fund share of FAA Operations (21-15-8301-402-A)	Budget Authority	841,000	856,197	15,197	1
Coast Guard					
Operating expenses (21-15-0201-402-A)	Budget Authority	2,128,466	2,149,066	22,600	1
Pollution fund (21-15-5183-304-A)	451(C) Authority	0	8,799	8,799	3
Offshore oil pollution compensation fund (21-15-5187-304-A)	Obligation limitation	0	82,219	82,219	3
Deepwater port liability fund (21-15-5170-304-A)	Obligation limitation	0	51,544	51,544	3
Oil spill liability trust fund (21-15-8185-304-A)	451(C) Authority	75,000	0	-75,000	3,5
Department of the Treasury					
Financial Management Service					
Salaries and expenses (15-15-1250-008-A)	Budget Authority	236,822	280,230	43,401	4
United States Customs Service					
Salaries and expenses (15-15-0500-251-A)	Budget Authority	1,109,266	1,128,111	18,845	1
	451(C) Authority	157,135	164,140	7,005	8
Internal Revenue Service					
Processing tax returns and assistance (15-15-0210-000-A)	Budget Authority	1,671,000	1,689,728	18,728	1
Tax Law Enforcement (15-15-0220-000-A)	Budget Authority	2,732,171	2,808,998	77,827	1
United States Secret Service					
Salaries and expenses (15-15-1400-751-A)	Budget Authority	381,335	387,632	6,297	1

Table 13.—Detailed List of Sequestrable Resources for Which OMB and CBO Estimates Differ by More Than $5 Million—Continued

(In thousands of dollars)

Account Title	Resource	OMB Base	CBO Base	Difference	Explanation
Department of Veterans Affairs					
Veterans Benefits Administration					
Burial benefits and miscellaneous assistance (29-10-0155-701-A)	Budget Authority	143,100	133,000	-10,100	6
Readjustment benefits (29-10-0137-702-A)	Budget Authority	808,500	898,000	114,000	6
Veterans Health Service and Research Administration					
Medical care (29-10-0160-703-A)	Budget Authority	000,502	000,700	00,000	5,12
Departmental Administration					
General operating expenses (29-00-0101-705-A)	Budget Authority	845,917	000,000	10,000	1
Environmental Protection Agency					
Salaries and expenses (20-00-0000-804-A)	Budget Authority	000,000	014,000	14,701	1
General Services Administration					
Real Property Activities					
Federal buildings fund (29-00-4542-804-A)	Budget Authority	1,725,017	00,000	-1,000,000	10
National Aeronautics and Space Administration					
Research and development (Space flight) (29-00-0100-250-A)	Budget Authority	2,400,104	2,400,007	-6,107	1
Research and development (Space science, applications, etc) (29-00-0100-254-A)	Budget Authority	2,007,007	2,000,105	-17,000	1
Space Flight, Control, and Data Comm. (space flight) (29-00-0105-250-A)	Budget Authority	3,010,100	3,000,121	-270,000	1,2
Space Flight, Control, and Data Comm. (supporting act.) (29-00-0105-255-A)	Budget Authority	000,000	1,014,000	101,000	1,2
Construction of facilities (Space flight) (29-00-0107-250-A)	Budget Authority	100,045	000,000	00,000	1,2
Research and program management (Space flight) (29-00-0100-250-A)	Budget Authority	040,742	004,072	14,000	1
Research and program management (Space science, applications, etc) (29-00-0100-254-A).	Budget Authority	070,000	000,720	10,000	1
Research and program management (Air transportation) (29-00-0100-400-A)	Budget Authority	411,004	410,010	7,212	1
Small Business Administration					
Salaries and expenses (29-00-0100-376-A)	Budget Authority	000,040	000,007	-20,700	1,2
Business loan and investment fund (29-00-4154-376-A)	Budget Authority	77,020	0	-77,000	5
	Guaranteed Loan Limitation	4,004,001	4,070,400	-0,000	1
Disaster loan fund (29-00-4150-450-A)	Budget Authority	070,000	0	-070,000	12
	Direct Loan Limitation	000,000	411,000	01,000	12
Surety bond guarantees revolving fund (29-00-4156-376-A)	Guaranteed Loan Limitation	1,000,400	1,000,000	-02,400	1
Other Independent Agencies					
Corporation for Public Broadcasting					
Public broadcasting fund (22-00-0151-503-A)	Budget Authority	0	000,070	000,070	4
	401(C) Authority	000,070	0	-000,070	4
District of Columbia					
Federal payment to the District of Columbia (33-45-1700-808-B)	Budget Authority	040,001	070,040	101,007	5
	401(C) Authority	00,000	0	-00,000	5
Federal payment to D.C. (water and sewer services) (33-40-1700-808-B)	Budget Authority	0,000	0	-0,000	5
Federal payment to D.C. (retirement funds) (33-40-1700-808-C)	Budget Authority	04,007	0	-04,007	5
Federal payment to D.C. (St. Elizabeth's Hospital) (33-40-1700-808-D)	Budget Authority	10,000	0	-10,000	5
Federal payment to D.C. (Inaugural Expenses) (33-40-1700-808-E)	Budget Authority	00,100	0	-00,100	5
Export-Import Bank of the United States					
Export-Import Bank of the United States (33-00-4027-155-A)	Guaranteed Loan Limitation	10,000,400	10,000,004	-00,000	1
Federal Emergency Management Agency					
Disaster relief (34-00-0100-453-A)	Budget Authority	1,000,400	1,000,000	-0,102	1,2
Railroad Retirement Board					
Supplemental Annuity Pension Fund (60-10-0312-601-A)	401(C) Authority	111,000	0	-111,000	5
Tennessee Valley Authority					
TVA fund (Energy supply) (49-00-4110-271-A)	Obligation limitation	00,001	0	-00,004	5

Table 13.—Detailed List of Sequestrable Resources for Which OMB and CBO Estimates Differ by More Than $5 Million—Continued
(In thousands of dollars)

Account Title	Resource	OMB Base	CBO Base	Difference	Explanation
United States Information Agency					
Salaries and expenses (91-10-0201-154-0)	Budget Authority	661,408	670,286	8,878	1

Explanation:
1 Different adjustment factors for increased personnel costs and nonpay inflation.
2 Different assumptions about enacted 1990 levels, including transfers and rescissions.
3 Different account structure.
4 Different resource type classification.
5 Different assumptions about resource levels under current law for mandatory programs.
6 OMB classifies as sequestrable; CBO as exempt.
7 OMB classifies as exempt; CBO as sequestrable.
8 OMB over.
9 CBO over.
10 Technical estimating difference for unobligated balances due to rescissions.
11 Different assumptions regarding historical response of programs to payment reductions.
12 Different estimating techniques.
13 Different scoring of previously authorized housing/urban projects.

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APPENDIX: OCTOBER SEQUESTERABLE BASELINE AND REDUCTIONS BY AGENCY AND BUDGET ACCOUNT

(Fiscal year 1991; in thousands of dollars)

Percentages Used:
Nondefense, 31.6 percent
Defense, 34.5 percent

G-R-H Sequester Amounts
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Legislative Branch		
Senate		
Senate items (01-05-0110-A):		
Budget Authority	364,130	121,267
Outlays	356,399	119,419
Congressional use of foreign currency, Senate (01-05-0139-A):		
401(C) Authority	1,575	499
Outlays	1,575	499
House of Representatives		
Mileage of Members (01-10-0000-A):		
Budget Authority	219	69
Outlays	119	38
Salaries and expenses (01-10-0400-A):		
Budget Authority	549,000	173,908
Outlays	525,976	166,624
Congressional use of foreign currency, House of Representatives (01-10-0400-A):		
401(C) Authority	3,300	1,082
Outlays	3,300	1,082
Joint Items		
Joint Economic Committee (01-12-0101-A):		
Budget Authority	3,597	1,137
Outlays	3,417	1,080
Joint Committee on Printing (01-12-0102-A):		
Budget Authority	1,202	380
Outlays	1,120	354
Special Services Office (01-12-0150-A):		
Budget Authority	240	76
Outlays	240	76
Joint Committee on Taxation (01-12-0400-A):		
Budget Authority	4,498	1,612
Outlays	4,021	1,271
Office of the Attending Physician (01-12-0420-A):		
Budget Authority	1,457	460
Outlays	1,457	460
General expenses, Capitol police (01-12-0470-A):		
Budget Authority	1,555	616
Outlays	1,769	559
Capitol Police Board (01-12-0474-A):		
Budget Authority	57,300	18,135
Outlays	55,007	17,391
Official mail costs (01-12-0525-A):		
Budget Authority	160,178	32,604
Outlays	160,178	32,604
Capitol Guide Service (01-12-0170-A):		
Budget Authority	1,375	434
Outlays	1,273	402
Statements of appropriations (01-12-0460-A):		
Budget Authority	21	7
Congressional Budget Office		
Salaries and expenses (01-14-0100-A):		
Budget Authority	20,027	6,329
Outlays	18,384	5,809
Architect of the Capital		
Botanic Garden, Salaries and Expenses (01-15-0100-A):		
Budget Authority	129,764	41,002
401(C) Authority—Oil. Coll.	120	38
Outlays	97,035	30,913
Library of Congress		
Salaries and expenses (01-20-0101-A):		
Budget Authority	169,842	53,184
401(C) Authority—Oil. Coll.	5,000	1,581
Outlays	140,758	44,488
Copyright Office: Salaries and expenses (01-20-0102-A):		
Budget Authority	12,550	3,968
401(C) Authority—Oil. Coll.	14,000	4,425

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Outlays	25,129	7,941
Congressional Research Service: Salaries and expenses (01-20-0127-A):		
Budget Authority	47,712	15,077
Outlays	43,276	13,675
Books for the blind and physically handicapped: Salaries and expenses (01-20-0141-A):		
Budget Authority	38,575	12,221
Outlays	14,425	4,568
Furniture and furnishings (01-20-0149-A):		
Budget Authority	2,657	840
Outlays	1,969	622
Gift and trust fund accounts (01-20-8874-A):		
Obligation limitation	328	104
Government Printing Office		
Congressional printing and binding (01-30-0203-A):		
Budget Authority	77,263	24,415
Outlays	64,128	20,264
Office of Superintendent of Documents: Salaries and expenses (01-30-0201-A):		
Budget Authority	17,007	5,374
Outlays	10,714	3,386
Government Printing Office revolving fund (01-30-4535-A):		
Obligation limitation	38,369	12,129
General Accounting Office		
Salaries and expenses (01-35-0107-A):		
Budget Authority	378,664	119,685
Outlays	331,100	104,628
United States Tax Court		
Salaries and expenses (01-40-0100-A):		
Budget Authority	29,296	9,258
Outlays	25,458	8,045
Tax Court independent counsel, U.S. Tax Court (01-40-5023-A):		
401(C) Authority	10	3
Outlays	10	3
Legislative Branch Boards and Commissions		
National Commission on Acquired Immune Deficiency Syndrome (01-45-1205-A):		
Budget Authority	1,036	328
Outlays	831	263
Commission on Security and Cooperation in Europe: Salaries and expenses (01-45-0110-A):		
Budget Authority	874	276
Outlays	818	258
National Commission on Children (01-45-1092-A):		
Budget Authority	1,384	437
Outlays	1,312	415
International conferences and contingencies: House, Senate cap (01-45-0500-A):		
401(C) Authority	340	107
Outlays	340	107
Copyright Royalty Tribunal: Salaries and expenses (01-45-8210-A):		
Budget Authority	104	33
Outlays	58	18
Biomedical Ethics: Salaries and expenses (01-45-0409-A):		
Budget Authority	636	191
Outlays	636	191
U.S. Bipartisan Commission on Comprehensive Health Care (01-45-1105-A):		
Budget Authority	486	154
Outlays	486	154
Office of Technology Assessment		
Salaries and expenses (01-50-0702-A):		
Budget Authority	18,140	6,048
Outlays	15,101	4,772

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Total, Legislative Branch:		
Budget Authority	2,047,470	647,000
401(C) Authority	5,295	1,679
401(C) Authority—Oil. Coll.	20,517	6,484
Obligation limitation	38,711	12,233
Outlays	1,884,909	599,312
The Judiciary		
Supreme Court of the United States		
Salaries and expenses (02-05-0100-A):		
Budget Authority	17,035	5,385
Outlays	11,847	3,690
Care of the building and grounds (02-05-0103-A):		
Budget Authority	4,582	1,436
Outlays	4,151	1,312
United States Court of Appeals for Federal Circuit		
Salaries and expenses (02-07-0510-A):		
Budget Authority	7,844	2,479
Outlays	6,740	2,130
United States Court of International Trade		
Salaries and expenses (02-15-0400-A):		
Budget Authority	7,656	2,420
Outlays	7,286	2,307
Courts of Appeals, District Courts and Other Services		
Salaries and expenses (02-25-0220-A):		
Budget Authority	1,308,043	413,510
401(C) Authority	7,500	2,370
401(C) Authority—Oil. Coll.	37,100	11,724
Outlays	1,243,165	392,850
Defender services (02-25-0222-A):		
Budget Authority	127,091	40,181
Outlays	123,402	39,016
Fees of jurors and commissioners (02-25-0224-A):		
Budget Authority	60,408	19,098
Outlays	49,837	15,748
Court security (02-25-0500-A):		
Budget Authority	60,326	19,081
Outlays	55,874	17,359
Registry administration (02-25-5101-A):		
401(C) Authority	3,500	1,106
Outlays	3,500	1,106
Administrative Office of the United States Courts		
Salaries and expenses (02-20-0527-A):		
Budget Authority	35,099	11,092
Outlays	29,122	9,203
Federal Judicial Center		
Salaries and expenses (02-30-0525-A):		
Budget Authority	13,005	4,110
Outlays	10,535	3,329
Judiciary Retirement Funds		
Payment to Judicial Officers' Retirement Fund (02-05-0941-A):		
Budget Authority	5,039	1,593
Total, The Judiciary:		
Budget Authority	1,847,786	583,703
401(C) Authority	11,000	3,476
401(C) Authority—Oil. Coll.	37,100	11,724
Outlays	1,535,071	485,239
Executive Office of the President		
The White House Office		
Salaries and expenses (03-10-0110-A):		
Budget Authority	31,455	9,581
Outlays	29,052	8,994

G-R-H Sequester Amounts—Continued

(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Executive Residence at the White House		
Operating expenses (03-50-0210-A):		
Budget Authority	7,035	2,249
401(C) Authority—Oil. Coll.	540	171
Outlays	6,595	2,113
Official Residence of the Vice President		
Operating expenses (03-21-0211-A):		
Budget Authority	390	199
Outlays	406	129
Special Assistance to the President		
Salaries and expenses (03-20-1454-A):		
Budget Authority	2,369	758
Outlays	2,145	678
Council of Economic Advisers		
Salaries and expenses (03-20-1500-A):		
Budget Authority	2,894	946
Outlays	2,686	849
Council/Office on Environmental Quality		
Council on Environmental Quality and Office of Environmental Quality (03-51-1453-A):		
Budget Authority	1,528	482
Outlays	1,373	434
Office of Policy Development		
Salaries and expenses (03-35-2700-A):		
Budget Authority	3,208	1,012
Outlays	2,538	800
National Security Council		
Salaries and expenses (03-39-2000-A):		
Budget Authority	5,598	1,766
Outlays	4,223	1,334
National Space Council		
Salaries and expenses (03-38-0320-A):		
Budget Authority	1,023	323
Outlays	718	226
National Critical Materials Council		
Salaries and expenses (03-41-0111-A):		
Budget Authority	413	130
Outlays	372	118
Office of Administration		
Salaries and expenses (03-42-0038-A):		
Budget Authority	19,358	6,110
Outlays	18,221	5,126
Office of Management and Budget		
Salaries and Expenses (03-45-0300-A):		
Budget Authority	46,155	14,585
Outlays	42,469	13,417
Office of Federal Procurement Policy: Salaries and expenses (03-45-0201-A):		
Budget Authority	2,734	864
Outlays	2,426	767
Office of National Drug Control Policy		
Salaries and Expenses (03-47-1457-A):		
Budget Authority	38,487	12,165
Outlays	23,617	7,463
Special forfeiture fund (03-47-5051-A):		
Budget Authority	113,578	35,891
Outlays	55,709	17,945
Office of Science and Technology Policy		
Salaries and expenses (03-48-0910-A):		
Budget Authority	2,948	931
Outlays	1,769	559

G-R-H Sequester Amounts—Continued

(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Office of the United States Trade Representative		
Salaries and expenses (03-00-0400-A):		
Budget Authority	16,517	5,221
Outlays	16,486	5,211
Total, Executive Office of the President:		
Budget Authority	258,073	81,158
401(C) Authority—Oil. Coll.	540	171
Outlays	233,595	69,038
Funds Appropriated to the President		
Unanticipated Needs		
Unanticipated needs (04-88-0257-A):		
Budget Authority	1,042	329
Outlays	1,000	316
Investment in Management Improvement		
Investment in Management Improvement (04-88-0061-A):		
Budget Authority	521	165
Outlays	391	124
International Security Assistance		
Foreign Military Financing (04-08-1082-A):		
Budget Authority	5,030,402	1,588,807
Direct Loan Limitation	421,232	133,109
Outlays	1,766,976	558,363
Economic support fund (04-08-1037-A):		
Budget Authority	4,132,559	1,305,899
Outlays	2,065,623	652,650
International military education and training (04-08-1081-A):		
Budget Authority	48,178	15,549
Outlays	24,589	7,770
Peacekeeping operations (04-08-1032-A):		
Budget Authority	34,148	10,791
Outlays	23,563	7,446
Multilateral Assistance		
Contribution to the International Bank for Reconstruction and Development (04-12-0077-A):		
Budget Authority	51,877	16,395
Outlays	5,196	1,639
Contribution to the International Development Association (04-12-0073-A):		
Budget Authority	1,001,207	316,381
Outlays	147,564	46,630
Contribution to the International Finance Corporation (04-12-0078-A):		
Budget Authority	77,740	24,566
Contribution to the Inter-American Development Bank (04-12-0072-A):		
Budget Authority	99,620	31,479
Outlays	4,920	1,555
Contribution to the Asian Development Bank (04-12-0076-A):		
Budget Authority	182,322	57,614
Contribution to the African Development Fund (04-12-0079-A):		
Budget Authority	108,940	34,425
Contribution to the African Development Bank (04-12-0082-A):		
Budget Authority	9,882	3,126
Outlays	9,882	3,126
International organizations and programs (04-12-1005-A):		
Budget Authority	285,051	90,096
Outlays	214,259	67,706
Agency for International Development		
Functional development assistance program (04-14-1021-A):		
Budget Authority	1,310,000	413,960
Outlays	102,998	32,537
Development fund for Africa (04-14-1814-A):		
Budget Authority	601,484	190,068
Outlays	48,119	15,206

G-R-H Sequester Amounts—Continued

(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Special assistance initiative (04-14-1018-A):		
Budget Authority	165,088	52,167
Outlays	29,685	9,379
American schools and hospitals abroad (04-14-1019-A):		
Budget Authority	59,449	18,788
Outlays	15,764	4,982
International disaster assistance (04-14-1035-A):		
Budget Authority	31,149	9,846
Outlays	7,797	2,481
Operating expenses, Agency for International Development (04-14-1000-A):		
Budget Authority	447,769	141,474
Outlays	326,777	103,269
Operating expenses of the AID Office of Inspector General (04-14-1007-A):		
Budget Authority	31,782	10,044
Outlays	23,762	7,510
Housing and other credit guaranty programs (04-14-4040-A):		
401(C) Authority—Oil. Coll.	7,219	2,280
Guaranteed Loan Limitation	520,552	164,494
Outlays	7,219	2,280
Private sector revolving fund (04-14-4241-A):		
Budget Authority	5,167	1,633
Direct Loan Limitation	3,631	1,147
Guaranteed Loan Limitation	94,666	29,920
Trade and Development Program		
Trade and development program (04-16-1001-A):		
Budget Authority	32,871	10,371
Outlays	8,305	2,599
Peace Corps		
Peace Corps (04-16-0100-A):		
Budget Authority	172,831	54,605
Outlays	141,205	44,629
Overseas Private Investment Corporation		
Overseas Private Investment Corporation (04-38-4038-A):		
401(C) Authority—Oil. Coll.	12,912	4,080
Direct Loan Limitation	29,758	9,407
Guaranteed Loan Limitation	220,422	69,658
Outlays	14,577	4,606
Inter-American Foundation		
Inter-American Foundation (04-29-4231-A):		
Budget Authority	17,895	5,654
401(C) Authority—Oil. Coll.	10,009	3,163
Outlays	16,748	5,324
African Development Foundation		
African Development Foundation (04-34-0702-A):		
Budget Authority	9,259	2,914
Outlays	4,979	1,573
International Monetary Programs		
Contribution to Enhanced Struct Adjust Facility of the IMF (04-35-0005-A):		
Budget Authority	145,299	45,909
Outlays	2,905	918
Military Sales Programs		
Special defense acquisition fund (04-97-4116-A):		
Obligation limitation	285,000	90,060
Foreign military sales trust fund (04-97-8242-A):		
401(C) Authority—Oil. Coll.	270,000	85,320
Outlays	270,000	85,320
Special Assistance for Central America		
Central American reconstruction assistance (04-88-1033-A):		
Budget Authority	27,487	8,686
Outlays	27,487	8,686
Total, Funds Appropriated to the President:		
Budget Authority	14,102,216	4,455,501
401(C) Authority—Oil. Coll.	303,120	94,940

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G-R-H Sequester Amounts—Continued

(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Obligation limitation	359,000	59,000
Direct Loan Limitation	445,913	445,913
Guaranteed Loan Limitation	235,910	234,147
Outlays	5,341,830	1,660,917
Department of Agriculture		
Office of the Secretary		
Office of the Secretary (05-00-0115-A):		
Budget Authority	7,288	2,478
Outlays	7,542	2,565
Gifts and bequests (05-00-0500-A):		
401(C) Authority	2,339	795
Outlays	2,641	845
Departmental Administration		
Departmental administration (05-00-0120-A):		
Budget Authority	22,284	7,247
Outlays	16,717	5,288
Hazardous Waste Management (05-00-0500-A):		
Budget Authority	20,764	6,581
Outlays	16,161	5,382
Office of budget and program analysis (05-00-0600-A):		
Budget Authority	4,788	1,488
Outlays	4,035	1,275
Rental payments and building operations and maintenance (05-00-0117-A):		
Budget Authority	75,039	23,716
Outlays	67,918	21,175
Advisory committees (05-00-0110-A):		
Budget Authority	1,559	492
Outlays	1,154	365
Office of Governmental and Public Affairs		
Office of Public Affairs (05-00-0130-A):		
Budget Authority	8,946	2,795
Outlays	8,091	1,525
Office of the Inspector General		
Office of the Inspector General (05-00-0300-A):		
Budget Authority	53,927	17,841
Outlays	48,388	15,607
Office of the General Counsel		
Office of the General Counsel (05-10-0300-A):		
Budget Authority	22,616	7,388
Outlays	25,825	8,264
Agricultural Research Service		
Agricultural Research Service (05-10-1400-A):		
Budget Authority	610,318	192,880
401(C) Authority—Oil. Coll.	3,800	1,198
Outlays	475,376	150,219
Buildings and facilities (05-10-1401-A):		
Budget Authority	11,128	3,515
Outlays	2,213	699
Cooperative State Research Service		
Cooperative State Research Service (05-34-1500-A):		
Budget Authority	399,847	126,039
401(C) Authority	2,369	801
Outlays	224,884	71,044
Extension Service		
Extension Service (05-37-0905-A):		
Budget Authority	384,578	121,359
401(C) Authority—Oil. Coll.	246	77
Outlays	341,849	108,825
National Agricultural Library		
National Agricultural Library (05-39-0200-A):		
Budget Authority	15,388	4,531
Outlays	11,466	3,630

G-R-H Sequester Amounts—Continued

(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
National Agricultural Statistics Service		
National Agricultural Statistics Service (05-39-1801-A):		
Budget Authority	69,859	22,012
401(C) Authority—Oil. Coll.	1,717	543
Outlays	61,745	19,511
Economic Research Service		
Economic Research Service (05-39-1701-A):		
Budget Authority	52,764	16,573
Outlays	44,576	14,086
World Agricultural Outlook Board		
World agricultural outlook board (05-39-2100-A):		
Budget Authority	1,987	626
Outlays	1,589	502
Foreign Agricultural Service		
Foreign Agricultural Service (05-61-2100-A):		
Budget Authority	105,574	33,261
Outlays	85,458	26,884
Office of International Cooperation and Development		
Office of International Cooperation and Development (05-53-3200-A):		
Budget Authority	6,282	1,998
Outlays	5,292	1,665
Scientific activities overseas (05-53-1904-A):		
Budget Authority	912	288
Outlays	547	173
Foreign Assistance Programs		
Expenses, PL 480, foreign assistance programs, Agriculture (05-57-2274-A):		
Budget Authority	1,020,321	322,421
Obligation limitation	1,587,468	501,648
Direct Loan Limitation	822,763	259,993
Outlays	1,020,321	322,421
Agricultural Stabilization and Conservation Service		
Salaries and expenses (05-60-3200-A):		
Budget Authority	11,575	3,658
401(C) Authority—Oil. Coll.	23,999	7,580
Outlays	24,089	7,615
Agricultural conservation program (05-60-3315-A):		
Budget Authority	190,026	60,048
Outlays	87,223	27,562
Colorado river basin salinity control program (05-60-3318-A):		
Budget Authority	10,775	3,405
Outlays	5,368	1,703
Conservation reserve program (05-60-3319-A):		
Budget Authority	1,878,038	593,480
Outlays	1,310,385	414,262
Water Bank program (05-60-3320-A):		
Budget Authority	12,754	4,030
Outlays	1,849	584
Emergency conservation program (05-60-3316-A):		
Budget Authority	31,184	9,854
Outlays	16,218	5,124
Forestry incentives program (05-60-3330-A):		
Budget Authority	12,969	4,098
Outlays	4,280	1,352
Federal Crop Insurance Corporation		
Administrative and operating expenses (05-63-2707-A):		
Budget Authority	247,866	78,108
Outlays	176,850	55,865
Commodity Credit Corporation		
Commodity Credit Corporation Fund (05-65-4336-A):		
401(C) Authority	10,260,943	3,242,455
Direct Loan Limitation	10,000,008	3,160,000

G-R-H Sequester Amounts—Continued

(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Guaranteed Loan Limitation	5,500,000	1,738,000
Outlays	10,290,948	3,342,488
Commodity Credit Corporation Fund (05-65-4336-A):		
401(C) Authority—ASI	5,400	5,400
Outlays	5,400	5,400
Rural Electrification Administration		
Salaries and expenses (05-72-3100-A):		
Budget Authority	32,714	10,339
Outlays	26,442	8,354
Reimbursement to the Rural electric and telephone revolving fund for int. (05-72-3101-A):		
Budget Authority	277,700	87,788
Outlays	277,700	87,753
Purchase of Rural Telephone Bank capital stock (05-72-3102-A):		
Budget Authority	29,016	9,453
Outlays	29,016	9,453
Rural communication development fund (05-72-4012-A):		
Budget Authority	1,284	399
Outlays	1,284	399
Rural electrification and telephone revolving fund (05-72-4230-A):		
Budget Authority	5,202	1,644
Direct Loan Limitation	3,488,536	1,102,376
Direct Loan Floor	1,869,736	590,838
Outlays	234,588	74,130
Rural telephone bank (05-72-4231-A):		
Direct Loan Limitation	219,363	69,325
Direct Loan Floor	184,491	58,298
Outlays	9,116	2,881
Farmers Home Administration		
Salaries and expenses (05-75-2001-A):		
Budget Authority	441,086	139,388
Outlays	402,915	127,321
Rural water and waste disposal grants (05-75-2048-A):		
Budget Authority	218,423	68,358
Outlays	8,857	2,799
Rural community fire protection grants (05-75-2067-A):		
Budget Authority	3,221	1,018
Outlays	1,454	459
Rural housing for domestic farm labor (05-75-2074-A):		
Budget Authority	11,310	3,576
Outlays	113	36
Mutual and self-help housing (05-75-2096-A):		
Budget Authority	8,068	2,549
Outlays	725	229
Very low income housing repair grants (05-75-2264-A):		
Budget Authority	13,025	4,116
Outlays	12,370	3,910
Compensation for construction defects (05-75-2271-A):		
Budget Authority	529	169
Outlays	259	82
Rural housing preservation grants (05-75-2070-A):		
Budget Authority	19,944	6,302
Outlays	569	180
Rural development grants (05-75-2065-A):		
Budget Authority	17,095	5,402
Outlays	2,566	810
Agricultural credit insurance fund (05-75-4140-A):		
Budget Authority	3,691	1,128
401(C) Authority—Oil. Coll.	162,191	51,249
Direct Loan Limitation	1,671,488	528,162
Guaranteed Loan Limitation	3,104,207	980,916
Outlays	1,248,882	394,605
Self-help housing land development fund (05-75-4222-A):		
Direct Loan Limitation	521	165
Outlays	130	41
Rural housing insurance fund (05-75-4141-A):		
401(C) Authority—Oil. Coll.	86,052	27,188
Obligation limitation	308,700	97,548
Direct Loan Limitation	1,885,770	595,908

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G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Outlays	1,232,578	369,021
Rural development insurance fund (05-75-4155-A):		
401(C) Authority—Oil. Coll.	970	367
Direct Loan Limitation	483,350	145,418
Guaranteed Loan Limitation	201,491	63,632
Outlays	32,572	10,259
Rural development loan fund (05-75-4235-A):		
Budget Authority	17,470	5,521
Direct Loan Limitation	30,107	9,364
Outlays	2,011	635
Soil Conservation Service		
Conservation operations (05-75-1000-A):		
Budget Authority	498,886	157,916
401(C) Authority—Oil. Coll.	10,079	3,185
Outlays	467,213	147,636
Watershed planning (05-75-1266-A):		
Budget Authority	9,190	2,904
401(C) Authority—Oil. Coll.	236	75
Outlays	8,139	2,572
River basin surveys and investigations (05-75-1009-A):		
Budget Authority	12,801	4,046
401(C) Authority—Oil. Coll.	289	91
Outlays	12,302	3,887
Watershed and flood prevention operations (05-75-1072-A):		
Budget Authority	251,641	79,529
401(C) Authority—Oil. Coll.	8,892	2,810
Outlays	156,709	50,468
Great plains conservation program (05-75-1202-A):		
Budget Authority	21,757	6,876
401(C) Authority—Oil. Coll.	20	6
Outlays	9,476	2,994
Resource conservation and development (05-75-1016-A):		
Budget Authority	25,405	8,576
401(C) Authority—Oil. Coll.	1,013	320
Outlays	25,008	7,900
Miscellaneous contributed funds (05-79-8216-A):		
401(C) Authority	560	177
Outlays	392	124
Animal and Plant Health Inspection Service		
Salaries and expenses (05-79-1600-A):		
Budget Authority	370,200	117,032
401(C) Authority—Oil. Coll.	28,580	9,047
Outlays	354,197	111,966
Buildings and facilities (05-79-1601-A):		
Budget Authority	14,179	4,478
Outlays	9,894	3,130
Federal Grain Inspection Service		
Salaries and expenses (05-80-3400-A):		
Budget Authority	8,525	2,694
Outlays	7,328	2,316
Inspection and weighing services (05-80-4255-A):		
401(C) Authority—Oil. Coll.	37,164	11,744
Outlays	37,164	11,744
Agricultural Marketing Service		
Marketing services (05-81-2500-A):		
Budget Authority	34,548	10,917
401(C) Authority—Oil. Coll.	40,381	12,760
Outlays	67,080	21,207
Payments to States and possessions (05-81-2501-A):		
Budget Authority	1,288	407
Outlays	935	166
Perishable Agricultural Commodities Act fund (05-81-5070-A):		
401(C) Authority	5,575	1,762
Outlays	3,764	1,189
Funds for strengthening markets, income, and supply (section 32) (05-81-5500-A):		
401(C) Authority	370,277	116,988
Outlays	44,062	13,923

E-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Miscellaneous trust funds (05-81-9972-A):		
401(C) Authority	97,660	27,710
Outlays	66,266	21,140
Milk market orders assessment fund (05-81-5112-A):		
401(C) Authority—Oil. Coll.	41,032	12,966
Outlays	41,032	12,966
Office of Transportation		
Office of Transportation (05-82-2000-A):		
Budget Authority	2,487	786
Outlays	2,092	661
Food Safety and Inspection Service		
Salaries and expenses (05-85-3700-A):		
Budget Authority	438,473	138,567
401(C) Authority—Oil. Coll.	38,586	12,196
Outlays	443,594	140,176
Exp. and refunds, insp. and grading (05-85-8127-A):		
401(C) Authority	1,208	378
Outlays	977	309
Food and Nutrition Service		
Food programs administration (05-84-3508-A):		
Budget Authority	95,529	30,188
Outlays	85,018	26,868
Child nutrition programs (05-84-3530-A):		
Budget Authority	4,135	1,307
Outlays	4,135	1,307
Supplemental feeding programs (05-84-3510-A):		
Budget Authority	5,000	1,580
Outlays	5,000	1,580
Food donations programs for selected groups (05-84-3500-A):		
Budget Authority	344,174	77,199
Outlays	199,819	63,079
Temporary emergency food assistance program (05-84-3535-A):		
Budget Authority	51,915	16,405
Outlays	30,899	9,761
Human Nutrition Information Service		
Human Nutrition Information Service (05-86-3501-A):		
Budget Authority	8,497	2,573
Outlays	5,371	1,697
Packers and Stockyards Administration		
Packers and Stockyards Administration (05-80-2600-A):		
Budget Authority	9,956	3,147
Outlays	9,092	2,899
Agricultural Cooperative Service		
Agricultural Cooperative Service (05-80-3200-A):		
Budget Authority	4,916	1,552
Outlays	3,520	1,112
Forest Service		
National forest system (05-86-1105-A):		
Budget Authority	1,197,468	378,287
Outlays	1,053,554	329,666
Construction (05-86-1106-A):		
Budget Authority	231,221	73,059
401(C) Authority—Oil. Coll.	2,595	820
Outlays	103,095	32,559
Forest research (05-86-1104-A):		
Budget Authority	158,166	49,339
401(C) Authority—Oil. Coll.	1,019	322
Outlays	125,391	39,596
State and private forestry (05-86-1105-A):		
Budget Authority	116,787	36,892
401(C) Authority—Oil. Coll.	604	191
Outlays	62,647	19,786
Forest service fire fighting (05-86-1111-A):		
Budget Authority	848,311	267,116
Outlays	821,884	259,669

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Range betterment fund (05-86-5207-A):		
Budget Authority	4,570	1,444
Outlays	5,711	1,175
Land acquisition (05-86-5004-A):		
Budget Authority	68,660	20,804
Outlays	17,841	5,660
Acquisition of lands for nat'l forests (05-86-5268-A):		
Budget Authority	1,100	348
Outlays	627	198
Acq. of lands to complete land exchanges (05-86-5210-A):		
Budget Authority	1,105	349
Outlays	859	313
Operations and maintenance of quarters (05-86-5210-A):		
401(C) Authority	5,695	1,801
Outlays	1,591	504
Forest Service permanent appropriations (05-86-5000-A):		
401(C) Authority	145,104	45,889
Outlays	134,701	42,594
Forest Service permanent appropriations (05-86-5021-A):		
401(C) Authority	377,435	119,299
Outlays	350,595	110,799
Working capital fund (05-86-4565-A):		
401(C) Authority—Oil. Coll.	16,191	5,192
Outlays	16,191	5,192
Reforestation trust fund (05-86-5040-A):		
401(C) Authority	33,099	9,460
Outlays	29,916	9,460
Cooperative work trust fund (05-86-5003-A):		
401(C) Authority	329,992	104,123
Outlays	272,289	86,005
Gifts, donations, bequests for forest and rangeland research (05-86-5004-A):		
Budget Authority	29	9
Outlays	29	9
Total, Department of Agriculture:		
Budget Authority	11,123,411	3,514,990
401(C) Authority	11,527,578	3,674,540
401(C) Authority—Oil. Coll.	503,531	159,169
401(C) Authority—ASI	5,400	5,400
Obligation limitation	1,999,229	999,229
Direct Loan Limitation	10,871,222	3,893,239
Direct Loan Floor	2,054,229	649,134
Guaranteed Loan Limitation	8,595,714	2,691,957
Outlays	23,541,389	7,553,167
Department of Commerce		
General Administration		
Salaries and expenses (06-86-0125-A):		
Budget Authority	28,577	8,157
Outlays	27,769	8,772
Office of the Inspector General (06-86-0130-A):		
Budget Authority	13,884	4,387
Outlays	11,371	4,259
Economic Development Administration		
Grants and loans administration (06-86-0125-A):		
Budget Authority	28,459	8,945
Outlays	23,185	7,327
Economic development assistance programs (06-86-0200-A):		
Budget Authority	169,892	69,648
Guaranteed Loan Limitation	165,375	61,739
Outlays	19,882	6,280
Bureau of the Census		
Salaries and expenses (06-87-0401-A):		
Budget Authority	104,889	32,976
401(C) Authority—Oil. Coll.	8,089	2,589
Outlays	100,892	31,787
Periodic censuses and programs (06-87-0402-A):		
Budget Authority	1,488,899	468,096
Outlays	1,309,399	412,012

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Economic and Statistical Analysis		
Salaries and expenses (06-48-0500-A):		
Budget Authority	32,999	16,172
401(C) Authority—Oil Coll.	285	135
Outlays	23,043	8,170
International Trade Administration		
Operations and administration (06-35-1250-A):		
Budget Authority	107,891	59,345
401(C) Authority—Oil Coll.	14,659	4,914
Outlays	140,569	48,482
Export Administration		
Operations and administration (06-35-0300-A):		
Budget Authority	48,139	13,832
Outlays	35,969	13,597
Minority Business Development Agency		
Minority business development (06-48-0201-A):		
Budget Authority	41,404	13,894
Outlays	21,658	6,946
United States Travel and Tourism Administration		
Salaries and expenses (06-48-0700-A):		
Budget Authority	14,711	4,846
401(C) Authority—Oil Coll.	1,490	488
Outlays	12,483	3,945
National Oceanic and Atmospheric Administration		
Operations, research, and facilities (06-48-1450-A):		
Budget Authority	1,330,812	420,537
401(C) Authority—Oil Coll.	15,315	4,840
Outlays	923,148	291,715
Fisheries Promotional Fund (06-48-5120-A):		
Budget Authority	2,664	858
Outlays	1,149	363
Promote and develop fishery products and research (06-48-5139-A):		
401(C) Authority	2,536	782
Outlays	1,291	456
Fishing vessel and gear damage compensation fund (06-48-5119-A):		
Budget Authority	100	34
Outlays	100	34
Fishermen's contingency fund (06-48-5120-A):		
Budget Authority	765	242
Outlays	727	230
Foreign fishing observer fund (06-48-5122-A):		
Budget Authority	2,045	646
Outlays	1,395	651
Coastal energy impact fund (06-48-4315-A):		
401(C) Authority—Oil Coll.	8,060	2,528
Outlays	8,035	2,539
Federal ship financing fund, fishing vessels (06-48-4417-A):		
401(C) Authority	5,408	1,705
Guaranteed Loan Limitation	480,000	151,680
Outlays	5,316	1,681
Advisory corallow services program (06-48-0105-A):		
Budget Authority	30,825	9,741
Outlays	30,825	9,741
Patent and Trademark Office		
Salaries and expenses (06-01-1000-A):		
Budget Authority	88,474	28,274
401(C) Authority—Oil Coll.	[241,529	76,362
Outlays	288,942	91,359
Technology Administration		
Salaries and Expenses (06-60-1100-A):		
Budget Authority	4,035	1,276
Outlays	3,471	1,097

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Information products and services (06-48-0546-A):		
401(C) Authority	53,000	16,746
Outlays	39,257	12,415
National Institute of Standards and Technology		
Scientific and technical research and services (06-55-0500-A):		
Budget Authority	170,288	55,511
Outlays	132,855	41,979
Working capital fund (06-55-4550-A):		
Budget Authority	562	178
Outlays	282	89
National Telecommunications and Information Administration		
Salaries and expenses (06-60-0550-A):		
Budget Authority	14,593	4,611
Outlays	11,875	3,989
Public telecommunications facilities, planning and construction (06-48-0321-A):		
Budget Authority	30,826	9,595
Outlays	2,417	764
Total, Department of Commerce:		
Budget Authority	3,942,365	1,214,188
401(C) Authority	60,086	18,248
401(C) Authority—Oil Coll.	290,380	91,445
Guaranteed Loan Limitation	675,375	213,418
Outlays	3,222,799	1,018,380
Department of Defense—Military		
Operation and Maintenance		
Operation and maintenance, Army (07-10-2020-A):		
Budget Authority	24,799,220	8,383,231
Outlays	19,779,394	6,823,859
Operation and maintenance, Navy (07-10-1804-A):		
Budget Authority	28,601,038	8,970,336
Outlays	20,620,800	6,507,178
Operation and maintenance, Marine Corps (07-10-1106-A):		
Budget Authority	1,881,853	649,239
Outlays	1,369,599	472,648
Operation and maintenance, Air Force (07-10-3400-A):		
Budget Authority	23,018,829	7,941,498
Outlays	17,655,442	6,091,127
Operation and maintenance, Defense agencies (07-10-0100-A):		
Budget Authority	8,120,714	2,805,096
Outlays	6,811,107	2,384,332
Office of the Inspector General (07-10-0107-A):		
Budget Authority	100,806	34,759
Unobligated Balances—		
Defense	19	7
Outlays	75,663	26,104
Operation and maintenance, Army Reserve (07-10-2080-A):		
Budget Authority	907,916	313,231
Outlays	690,015	238,055
Operation and maintenance, Navy Reserve (07-10-1806-A):		
Budget Authority	961,962	331,864
Outlays	807,972	278,750
Operation and maintenance, Marine Corps Reserve (07-10-1107-A):		
Budget Authority	91,722	28,194
Outlays	86,639	20,299
Operation and maintenance, Air Force Reserve (07-10-3740-A):		
Budget Authority	1,049,285	361,996
Outlays	845,788	291,789
Operation and maintenance, Army National Guard (07-10-2065-A):		
Budget Authority	1,845,704	571,288
Outlays	1,511,813	521,576

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Operation and maintenance, Air National Guard (07-10-3840-A):		
Budget Authority	2,167,575	727,140
Outlays	1,700,999	570,509
National Board for the Promotion of Rifle Practice, Army (07-10-1705-A):		
Budget Authority	4,823	1,666
Outlays	2,655	916
Court of Military Appeals, Defense (07-10-0104-A):		
Budget Authority	4,106	1,417
Outlays	3,451	1,191
Drug interdiction Defense (07-48-0105-A):		
Budget Authority	30,645	10,573
Outlays	12,258	4,229
Goodwill Games (07-10-0108-A):		
Budget Authority	15,132	5,221
Outlays	12,108	4,177
Foreign currency fluctuations, Defense (07-10-0801-A):		
Unobligated Balances—		
Defense	288,188	183,219
Environmental restoration, Defense (07-10-0810-A):		
Unobligated Balances—		
Defense	211	73
Outlays	116	40
Humanitarian Assistance (07-10-0818-A):		
Budget Authority	10,421	3,595
Outlays	7,828	2,825
Restoration of the Rocky Mountain Arsenal (07-10-8098-A):		
401(C) Authority	21,300	7,348
Unobligated Balances—		
Defense	29,889	10,309
Outlays	21,300	7,348
Procurement		
Aircraft procurement, Army (07-15-2031-A):		
Budget Authority	3,844,518	1,326,358
Unobligated Balances—		
Defense	702,737	242,444
Outlays	591,142	203,944
Missile procurement, Army (07-15-2032-A):		
Budget Authority	2,587,409	892,654
Unobligated Balances—		
Defense	651,980	224,926
Outlays	161,998	55,879
Procurement of weapons and tracked combat vehicles, Army (07-15-2033-A):		
Budget Authority	2,535,390	874,710
Unobligated Balances—		
Defense	1,097,934	378,589
Outlays	36,327	12,533
Procurement of ammunition, Army (07-15-2034-A):		
Budget Authority	2,917,357	695,999
Unobligated Balances—		
Defense	246,335	84,986
Outlays	769,655	265,531
Other procurement, Army (07-15-2035-A):		
Budget Authority	3,515,678	1,212,609
Unobligated Balances—		
Defense	1,166,811	402,491
Outlays	430,496	148,499
Aircraft procurement, Navy (07-15-1506-A):		
Budget Authority	9,543,052	3,292,553
Unobligated Balances—		
Defense	1,861,479	642,209
Outlays	1,539,612	531,186
Weapons procurement, Navy (07-15-1507-A):		
Budget Authority	5,538,022	1,907,186
Unobligated Balances—		
Defense	1,411,075	486,821
Outlays	624,519	215,459
Shipbuilding and conversion, Navy (07-15-1611-A):		
Budget Authority	11,682,207	4,030,341
Unobligated Balances—		
Defense	8,438,096	2,911,463

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Outlays	894,892	877,974
Other procurement, Navy (97-15-1810-A):		
Budget Authority	7,891,185	2,716,946
Unobligated Balances—		
Defense	3,810,915	1,317,971
Outlays	1,275,421	440,889
Procurement, Marine Corps (97-15-1109-A):		
Budget Authority	1,210,886	417,799
Unobligated Balances—		
Defense	222,291	76,721
Outlays	225,916	77,991
Aircraft procurement, Air Force (97-15-3010-A):		
Budget Authority	16,987,799	5,859,056
Unobligated Balances—		
Defense	7,132,559	2,460,756
Outlays	925,819	319,749
Missile procurement, Air Force (97-15-3020-A):		
Budget Authority	5,584,125	2,271,534
Unobligated Balances—		
Defense	2,599,551	875,939
Outlays	1,670,355	646,977
Other procurement, Air Force (97-15-3080-A):		
Budget Authority	8,839,204	3,048,586
Unobligated Balances—		
Defense	2,093,599	722,291
Outlays	6,275,459	2,165,029
Procurement, Defense agencies (97-15-0300-A):		
Budget Authority	1,367,519	472,694
Unobligated Balances—		
Defense	592,269	[1]205,005
Outlays	507,459	175,573
National Guard and Reserve Equipment (97-15-0350-A):		
Budget Authority	1,003,748	355,435
Unobligated Balances—		
Defense	478,659	164,566
Outlays	162,765	56,154
Defense Production Act purchases (97-15-0390-A):		
Budget Authority	45,305	15,630
Unobligated Balances—		
Defense	47,527	16,401
Chemical agents and munitions destruction, Defense (97-15-0360-A):		
Budget Authority	264,868	91,399
Unobligated Balances—		
Defense	17,267	5,994
Outlays	167,812	57,852

Research, Development, Test, and Evaluation

Research, development, test, and evaluation, Army (97-20-2040-A):		
Budget Authority	5,546,445	1,913,524
Unobligated Balances—		
Defense	351,249	121,216
Outlays	3,007,876	1,037,717
Research, development, test, and evaluation, Navy (97-20-1319-A):		
Budget Authority	9,894,825	3,416,295
Unobligated Balances—		
Defense	440,018	151,917
Outlays	5,781,925	1,994,709
Research, development, test, and evaluation, Air Force (97-20-3600-A):		
Budget Authority	14,038,466	4,843,299
Unobligated Balances—		
Defense	1,574,192	543,359
Outlays	8,148,745	2,810,881
Research, development, test, and evaluation, Defense agencies (97-20-0400-A):		
Budget Authority	8,368,291	2,882,235
Unobligated Balances—		
Defense	984,699	339,721
Outlays	5,030,849	1,735,599

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Developmental test and evaluation, Defense (97-20-0400-A):		
Budget Authority	185,766	64,088
Unobligated Balances—		
Defense	32,758	11,299
Outlays	48,985	16,899
Operational test and evaluation, Defense (97-20-0460-A):		
Budget Authority	16,259	4,574
Unobligated Balances—		
Defense	1,658	699
Outlays	886	259

Military Construction

Military construction, Army (97-25-0300-A):		
Budget Authority	758,254	261,598
Unobligated Balances—		
Defense	336,094	116,011
Outlays	350,892	121,027
Military construction, Navy (97-25-1205-A):		
Budget Authority	1,166,294	402,345
Unobligated Balances—		
Defense	420,102	144,955
Outlays	291,705	99,905
Military construction, Air Force (97-25-0300-A):		
Budget Authority	1,220,916	422,149
Unobligated Balances—		
Defense	588,550	192,709
Outlays	294,000	101,490
Military construction, Defense agencies (97-25-0500-A):		
Budget Authority	531,240	183,279
Unobligated Balances—		
Defense	353,696	122,025
Outlays	169,891	42,742
North Atlantic Treaty Organization infrastructure (97-25-0004-A):		
Budget Authority	418,706	144,799
Unobligated Balances—		
Defense	18,291	6,315
Outlays	87,707	30,267
Military construction, Army National Guard (97-25-2085-A):		
Budget Authority	249,171	86,069
Unobligated Balances—		
Defense	99,727	32,298
Outlays	34,849	8,264
Military construction, Air National Guard (97-25-3830-A):		
Budget Authority	245,773	84,792
Unobligated Balances—		
Defense	104,178	35,942
Outlays	27,386	9,659
Military construction, Army Reserve (97-25-2086-A):		
Budget Authority	169,284	58,459
Unobligated Balances—		
Defense	35,916	12,899
Outlays	18,571	6,441
Military construction, Naval Reserve (97-25-1235-A):		
Budget Authority	93,977	30,347
Unobligated Balances—		
Defense	16,546	5,838
Outlays	9,756	3,368
Military construction, Air Force Reserve (97-25-3730-A):		
Budget Authority	46,140	15,939
Unobligated Balances—		
Defense	12,169	4,196
Outlays	6,452	2,226
Base realignment and closure account (97-25-0100-A):		
Budget Authority	521,668	179,745
Unobligated Balances—		
Defense	95,099	33,335
Outlays	253,016	76,249

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Foreign currency fluctuations, construction (97-25-0500-A):		
Unobligated Balances—		
Defense	182,401	62,897

Family Housing

Family housing, Army (97-30-0700-A):		
Budget Authority	1,668,894	575,589
Unobligated Balances—		
Defense	92,975	32,076
Outlays	1,054,551	363,699
Family housing, Navy and Marine Corps (97-30-0750-A):		
Budget Authority	691,559	238,509
Unobligated Balances—		
Defense	137,624	47,457
Outlays	415,015	143,130
Family housing, Air Force (97-30-0754-A):		
Budget Authority	953,544	312,789
Unobligated Balances—		
Defense	57,559	19,853
Outlays	554,695	191,289
Family housing, Defense agencies (97-30-0760-A):		
Budget Authority	22,011	7,591
Unobligated Balances—		
Defense	70	24
Outlays	16,116	5,216

Revolving and Management Funds

National Defense Stockpile transaction fund (97-49-4555-A):		
Unobligated Balances—		
Defense	421,539	145,331
Air Force stock fund (97-49-4921-A):		
Budget Authority	113,766	39,229
Outlays	45,149	15,570
Army industrial fund (97-49-4930-A):		
Budget Authority	34,092	10,713
Outlays	12,119	4,178
Emergency response fund (97-49-4965-A):		
Budget Authority	104,289	35,949
Unobligated Balances—		
Defense	100,699	34,709
Total, Department of Defense—Military:		
Budget Authority	232,974,457	79,915,699
401(C) Authority	21,259	7,349
Unobligated Balances—		
Defense	38,294,947	13,859,787
Outlays	114,139,949	39,570,216

Department of Defense—Civil

Cemeterial Expenses, Army

Salaries and expenses (97-05-1605-A):		
Budget Authority	12,699	4,676
Outlays	9,659	3,041

Corps of Engineers—Civil

General investigations (96-10-0121-A):		
Budget Authority	194,694	67,541
Outlays	94,227	32,679
Construction, general (96-10-0123-A):		
Budget Authority	1,898,991	910,719
401(C) Authority—Oil. Coll.	259	79
Outlays	493,852	187,265
Operation and maintenance, general (96-10-0133-A):		
Budget Authority	1,269,104	497,899
401(C) Authority—Oil. Coll.	3,000	1,215
Outlays	1,839,185	699,697
Regulatory Program (96-10-3128-A):		
Budget Authority	71,891	22,291
Outlays	67,761	21,455
Flood control and coastal emergencies (96-10-0125-A):		
Budget Authority	20,830	6,995
Outlays	16,479	5,532

G-R-H Sequester Amounts—Continued

(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
General expenses (69-10-0124-A):		
Budget Authority	147,895	48,795
Outlays	118,316	37,380
Flood control, Mississippi River and tributaries (69-10-3112-A):		
Budget Authority	341,897	169,735
401(C) Authority—Oil. Coll.	195	62
Outlays	241,884	79,176
Permanent appropriations (69-10-8221-A):		
401(C) Authority	12,669	8,792
Outlays	49	16
Revolving fund (69-10-4092-A):		
Budget Authority	16,274	9,247
Outlays	8,229	2,588
Inland waterways trust fund (69-10-8501-A):		
Budget Authority	122,245	35,829
Outlays	78,547	23,178
Rivers and harbors contributed funds (69-10-8042-A):		
401(C) Authority	205,559	64,939
Outlays	99,145	30,282
Harbor maintenance trust fund (69-10-8863-A):		
Budget Authority	169,461	53,234
Outlays	169,461	53,234

Soldiers' and Airmen's Home

Operation and maintenance (69-20-8901-A):		
Budget Authority	49,358	12,793
401(C) Authority—Oil. Coll.	144	46
Outlays	35,468	11,295
Capital outlay (69-20-8902-A):		
Budget Authority	9,788	3,087
Outlays	3,419	1,099

Forest and Wildlife Conservation, Military Reservations

Wildlife conservation (69-50-8385-A):		
401(C) Authority	2,209	695
Outlays	1,459	459

The Mildred and Claude Pepper Foundation

Mildred and Claude Pepper Foundation (69-51-0699-A):		
Budget Authority	10,429	3,289
Outlays	10,429	3,289
Total, Department of Defense—Civil:		
Budget Authority	3,388,296	1,070,702
401(C) Authority	219,709	69,425
401(C) Authority—Oil. Coll.	4,089	1,288
Outlays	2,379,541	751,539

Department of Education

Office of Elementary and Secondary Education

Compensatory education for the disadvantaged (18-10-0302-A):		
Budget Authority	6,393,632	1,797,851
Outlays	671,236	212,118
Impact aid (18-10-0102-A):		
Budget Authority	769,111	241,143
Outlays	814,489	164,181
School improvement programs (18-10-0800-A):		
Budget Authority	1,477,227	466,804
Outlays	177,284	56,015
Indian education (18-10-0101-A):		
Budget Authority	76,711	24,241
Outlays	11,229	3,548

Office of Bilingual Education and Minority Languages Affairs

Bilingual and Immigrant Education (18-45-0300-A):		
Budget Authority	193,529	62,125
Outlays	23,591	7,455

G-R-H Sequester Amounts—Continued

(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Office of Special Education and Rehabilitative Services		
Education for the handicapped (18-20-0300-A):		
Budget Authority	2,141,575	676,738
Outlays	294,558	93,009
Rehabilitation services and handicapped research (18-20-0321-A):		
Budget Authority	292,285	92,592
Outlays	201,958	63,819
Rehab svcs/handicap resrch split for G-R-H: ASI (G-R-H) (18-20-0301-B):		
Budget Authority—ASI	68,782	68,782
Outlays	82,982	82,982
Special institutions for the handicapped (NTID) (18-20-0804-B):		
Budget Authority	37,595	11,877
Outlays	36,184	11,428
Special institutions for the handicapped (Gallaudet) (18-20-0804-C):		
Budget Authority	70,483	22,273
Outlays	67,250	21,254
Special institutions for the handicapped (APHS) (18-20-0804-D):		
Budget Authority	5,901	1,865
Outlays	5,901	1,865

Office of Vocational and Adult Education

Vocational and adult education (18-25-0400-A):		
Budget Authority	1,189,613	368,598
401(C) Authority	7,148	2,259
Outlays	141,213	44,623

Office of Postsecondary Education

Student financial assistance (18-40-0200-A):		
Budget Authority	6,340,325	2,003,543
Outlays	1,174,049	370,999
Guaranteed student loans (18-40-0220-A):		
401(C) Authority—Spec. Rules	44,573	44,573
Outlays	35,858	35,858
Higher education (18-40-0201-A):		
Budget Authority	650,760	205,641
Outlays	95,118	30,057
Howard University (18-40-0803-A):		
Budget Authority	180,169	60,074
Outlays	181,473	57,345
College housing and academic facilities loans (18-40-0242-A):		
Budget Authority	39,768	12,548
Direct Loan Limitation	31,250	9,878
Outlays	6,789	2,145
College housing loans (18-40-4250-A):		
401(C) Authority—Oil. Coll.	50	16
Outlays	50	16

Office of Educational Research and Improvement

Research, statistics and improvement of practice (18-50-1100-A):		
Budget Authority	99,242	31,360
Outlays	42,674	13,485
Libraries (18-50-0104-A):		
Budget Authority	142,385	44,994
Outlays	51,244	16,193

Departmental Management

Program Administration (18-80-0001-A):		
Budget Authority	284,667	89,955
Outlays	236,270	74,661
Office for Civil Rights (18-80-0700-A):		
Budget Authority	46,419	14,668
Outlays	38,539	12,175

G-R-H Sequester Amounts—Continued

(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Office of the Inspector General (18-80-1400-A):		
Budget Authority	24,090	7,609
Outlays	19,977	6,313
Total, Department of Education:		
Budget Authority	19,812,690	6,197,589
Budget Authority—ASI	68,782	68,782
401(C) Authority	7,198	2,259
401(C) Authority—Oil. Coll.	50	16
401(C) Authority—Spec. Rules	44,573	44,573
Direct Loan Limitation	31,250	9,878
Outlays	4,149,706	1,371,923

Department of Energy

Atomic Energy Defense Activities

Atomic energy defense activities (19-10-0228-A):		
Budget Authority	10,050,893	3,467,466
Outlays	6,532,911	2,253,854

Energy Programs

General science and research activities (19-20-0222-A):		
Budget Authority	1,144,971	361,779
Outlays	865,522	273,505
Energy supply, R&D activities (19-20-0224-A):		
Budget Authority	2,276,895	719,420
Outlays	1,138,322	359,710
Uranium supply and enrichment activities (19-20-0226-A):		
401(C) Authority—Oil. Coll.	1,287,700	406,913
Outlays	1,287,700	406,913
Fossil energy research and development (19-20-0215-A):		
Budget Authority	435,891	137,723
Outlays	174,362	55,089
Naval petroleum and shale reserves (19-20-0219-A):		
Budget Authority	197,391	62,379
Outlays	108,595	34,307
Energy conservation (19-20-0215-A):		
Budget Authority	383,518	121,152
Outlays	76,552	24,190
Strategic petroleum reserve (19-20-0218-A):		
Budget Authority	200,562	63,378
Outlays	110,359	34,858
SPR petroleum (19-20-0233-A):		
Budget Authority	224,590	70,952
401(C) Authority	184,858	58,402
Outlays	373,089	117,896
Energy information administration (19-20-0210-A):		
Budget Authority	67,004	21,172
Outlays	43,552	13,762
Emergency preparedness (19-20-0234-A):		
Budget Authority	6,823	2,156
Outlays	5,459	1,725
Economic regulation (19-20-0217-A):		
Budget Authority	19,050	6,023
Outlays	13,342	4,216
Federal Energy Regulatory Commission (19-20-0212-A):		
Budget Authority	120,357	38,033
Outlays	106,994	34,427
Geothermal resources development fund (19-20-0206-A):		
Budget Authority	80	25
Outlays	80	25
Clean Coal Technology (19-20-0235-A):		
401(C) Authority	958,066	302,806
Outlays	148,032	46,789
Payments to states under Federal Power Act (19-20-8105-A):		
401(C) Authority	2,300	745
Nuclear waste disposal fund (19-20-8227-A):		
Budget Authority	367,466	97,153
Outlays	153,723	48,579
Isotope production and distribution fund (19-20-4186-A):		
Budget Authority	16,699	5,274
401(C) Authority—Oil. Coll.	16,293	5,123

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Outlays	10,345	5,103
Power Marketing Administration		
Operation and maintenance, Alaska Power Administration (19-89-0304-A):		
Budget Authority	1,500	601
Outlays	1,500	476
Operation and maintenance, Southeastern Power Administration (19-50-0302-A):		
Budget Authority	305	122
Outlays	327	103
Operation and maintenance, Southwestern Power Administration (19-53-0302-A):		
Budget Authority	5,012	1,990
Outlays	3,737	1,191
Construction, rehabilitation, operation and maintenance, WAPA (19-50-5068-A):		
Budget Authority	43,035	16,899
Outlays	70,369	6,127
Bonneville Power Administration fund (19-89-4045-A):		
401(C) Authority—Oil. Coll.	45,805	14,479
Outlays	45,899	14,479
Colorado river basins power marketing fund, WAPA (19-89-4452-A):		
401(C) Authority—Oil. Coll.	7,668	2,469
Outlays	7,668	2,423
Departmental Administration		
Departmental administration (19-89-0228-A):		
Budget Authority	268,375	65,846
401(C) Authority—Oil. Coll.	183,413	57,958
Outlays	312,632	69,782
Office of the Inspector General (19-89-0236-A):		
Budget Authority	23,885	7,447
Outlays	23,885	7,447
Total, Department of Energy:		
Budget Authority	15,734,484	5,283,570
401(C) Authority	1,145,161	361,228
401(C) Authority—Oil. Coll.	1,540,824	486,900
Outlays	11,571,372	3,845,577
Department of Health and Human Services		
Food and Drug Administration		
Program expenses (09-10-0908-A):		
Budget Authority	615,317	194,448
Outlays	617,116	193,488
Buildings and facilities (09-10-0908-A):		
Budget Authority	8,791	2,779
Outlays	1,305	412
Revolving fund for certification and other services (09-10-4258-A):		
401(C) Authority—Oil. Coll.	5,259	1,661
Outlays	5,259	1,661
Health Resources and Services		
Health resources and services (09-15-0300-A):		
Budget Authority	1,284,718	406,131
401(C) Authority—Oil. Coll.	365	115
Outlays	694,444	219,285
Health resources and services 2% split (G-R-H) (09-15-0300-C):		
Budget Authority—Spec.		
Rules	16,559	16,559
Outlays	8,280	8,280
Vaccine improvement program trust fund (09-15-0170-A):		
Budget Authority	5,127	1,209
Outlays	5,059	1,357
Indian Health		
Tribal Health Administration (09-17-0300-A):		
Budget Authority	82,010	28,929
Outlays	67,399	21,299

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Tribal and Federal Health Services 2% split (G-R-H) (09-17-0300-C):		
Budget Authority—Spec.		
Rules	22,709	22,709
401(C) Authority—Spec.		
Rules	69	69
Outlays	16,695	16,695
Indian health facilities 2% split (G-R-H) (09-17-0301-C):		
Budget Authority—Spec.		
Rules	1,469	1,469
Outlays	705	705
Centers for Disease Control		
Disease control, research, and training (09-20-0943-A):		
Budget Authority	1,168,239	369,169
401(C) Authority	348	109
Outlays	942,570	299,005
National Institutes of Health		
National Cancer Institute (09-25-0940-A):		
Budget Authority	1,702,946	539,836
Outlays	893,662	283,437
National Heart, Lung and Blood Institute (09-25-0972-A):		
Budget Authority	1,117,361	353,066
Outlays	525,592	166,084
National Institute of Dental Research (09-25-0973-A):		
Budget Authority	141,497	44,694
Outlays	77,569	24,506
National Inst. of Diabetes, and Digestive and Kidney Diseases (09-25-0994-A):		
Budget Authority	603,699	191,714
Outlays	104,699	81,225
National Institute of Neurological Disorders and Stroke (09-25-0969-A):		
Budget Authority	510,599	161,469
Outlays	269,492	85,209
National Institute of Allergy and Infectious Diseases (09-25-0995-A):		
Budget Authority	857,289	274,205
Outlays	288,198	91,557
National Institute of General Medical Sciences (09-25-0991-A):		
Budget Authority	710,412	224,481
Outlays	255,726	80,813
National Institute of Child Health and Human Development (09-25-0944-A):		
Budget Authority	461,497	145,539
Outlays	152,302	48,167
National Eye Institute (09-25-0967-A):		
Budget Authority	246,245	77,918
Outlays	91,844	29,709
National Institute of Environmental Health Sciences (09-25-0962-A):		
Budget Authority	235,282	75,599
Outlays	132,599	41,991
National Institute on Aging (09-25-0140-A):		
Budget Authority	240,459	76,042
Outlays	82,295	26,015
National Inst. of Arthritis and Musculoskeletal and Skin Diseases (09-25-0999-A):		
Budget Authority	175,017	55,521
Outlays	72,449	22,992
NID and Other Communicative Disorders (09-25-0968-A):		
Budget Authority	122,910	38,716
Outlays	69,599	19,599
Research resources (09-25-0940-A):		
Budget Authority	368,799	116,612
Outlays	234,279	74,091
National Center for Nursing Research (09-25-0999-A):		
Budget Authority	180,175	71,116
Outlays	5,699	1,797

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
National Center for Human Genome Research (09-25-0991-A):		
Budget Authority	62,827	19,864
Outlays	31,787	9,999
John E. Fogarty International Center (09-25-0910-A):		
Budget Authority	16,165	5,109
Outlays	7,701	2,402
National Library of Medicine (09-25-0977-A):		
Budget Authority	85,274	26,949
Outlays	51,597	16,307
Office of the Director (09-25-0942-A):		
Budget Authority	111,510	35,249
401(C) Authority	260	82
Outlays	82,797	16,694
Buildings and facilities (09-25-0999-A):		
Budget Authority	69,999	22,099
Outlays	15,321	4,699
Alcohol, Drug Abuse, and Mental Health Administration		
Alcohol, drug abuse, and mental health (09-29-1201-A):		
Budget Authority	2,735,127	864,616
Outlays	890,259	282,592
Federal subsidy for St. Elizabeths Hospital (09-29-1203-A):		
Budget Authority	46,788	5,927
Outlays	46,788	5,927
Office of Assistant Secretary for Health		
Public health service management (09-97-1101-A):		
Budget Authority	79,599	25,099
Outlays	47,765	15,109
Medical treatment effectiveness (09-97-1102-A):		
Budget Authority	27,599	8,694
Outlays	15,595	4,917
Health Care Financing Administration		
Program management (09-29-0511-A):		
Budget Authority	101,599	32,119
Outlays	104,599	33,119
Federal hospital insurance trust fund (09-29-0505-A):		
401(C) Authority	103,535	32,599
Obligation limitation	1,037,301	327,940
Outlays	833,599	272,237
FWI 2% split (G-R-H) (09-29-0505-C):		
Obligat. limit.—Spec. Rules	1,193,599	1,193,599
Outlays	1,193,599	1,193,599
Federal supplementary medical insurance trust fund (09-29-8304-A):		
401(C) Authority	37,599	11,781
Obligation limitation	1,499,599	494,475
Outlays	1,204,599	412,599
FSMI 2% split (G-R-H) (09-29-8304-C):		
Obligat. limit.—Spec. Rules	499,599	499,599
Outlays	499,599	499,599
Social Security Administration		
Special benefits for disabled coal miners (09-29-0409-A):		
Budget Authority	7,115	2,240
Outlays	7,115	2,240
Supplemental security income program (09-29-0406-A):		
Budget Authority	827,594	261,392
Outlays	827,594	261,392
Family Support Administration		
Program administration (09-70-1502-A):		
Budget Authority	69,599	22,107
401(C) Authority—Oil. Coll.	417	132
Outlays	62,512	19,255
Family support payment to States (CSE) (09-70-1501-A):		
Budget Authority	1,103,599	348,545
401(C) Authority	362,451	114,519
Outlays	1,023,599	323,191

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Low income home energy assistance (75-70-1552-A):		
Budget Authority	1,533,600	475,139
Outlays	1,508,291	482,377
Refugee and Entrant Assistance (75-70-1503-A):		
Budget Authority	360,594	123,418
Outlays	253,897	89,322
Community services block grant (75-70-1534-A):		
Budget Authority	367,000	125,473
401(C) Authority	8,001	2,541
Outlays	278,535	88,330
Payments to States for Family Support Activities (75-70-1550-A):		
Budget Authority	1,000,000	310,000
Outlays	763,099	241,108
Interim assistance to States for legalization (75-70-1555-A):		
401(C) Authority	840,000	265,440
Outlays	252,535	79,869
Human Development Services		
Social services block grant (75-80-1534-A):		
Budget Authority	2,800,000	884,800
Outlays	2,800,000	849,800
Human development services (75-80-1030-A):		
Budget Authority	3,009,713	999,999
Outlays	1,770,670	561,999
Payments to State for foster care and adoption assistance (75-80-1545-A):		
Budget Authority–Spec.		
Rules	5,132	5,132
Outlays	3,669	3,669
Policy Management		
General Departmental administration (75-80-0120-A):		
Budget Authority	62,662	20,131
Outlays	57,884	18,291
Office of the Inspector General (75-80-0130-A):		
Budget Authority	52,891	16,714
Outlays	38,079	12,036
Office for Civil Rights (75-80-0125-A):		
Budget Authority	16,126	5,726
Outlays	14,468	5,213
Office of Consumer Affairs (75-80-0131-A):		
Budget Authority	1,916	606
Outlays	1,536	485
Policy research (75-80-0122-A):		
Budget Authority	5,214	1,648
Outlays	2,088	659
Total, Department of Health and Human Services:		
Budget Authority	25,647,148	8,091,285
Budget Authority–Spec.		
Rules	39,875	39,875
401(C) Authority	1,342,612	424,202
401(C) Authority–Oil. Coll.	4,012	1,268
401(C) Authority–Spec.		
Rules	66	66
Obligation limitation	2,597,662	792,421
Obligat. lmt.–Spec. Rules	1,000,000	1,000,000
Outlays	23,104,495	7,494,777
Health and Human Services Social Security		
Social Security		
Federal old-age and survivors insurance trust fund (16-05-8062-A):		
Obligation limitation	1,930,297	592,570
Outlays	1,462,570	459,614
Federal disability insurance trust fund (16-05-8007-A):		
Obligation limitation	537,700	169,553
Outlays	460,240	145,282
Total, Health and Human Services Social Security:		
Obligation limitation	2,221,000	762,000
Outlays	1,861,882	587,256

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Department of Housing and Urban Development		
Housing Programs		
Subsidized housing programs (25-03-0184-A):		
Budget Authority	7,528,368	2,378,994
Outlays	71,957	22,736
Asst. for the renewal of expiring section 8 subsidy cont. (25-82-0194-A):		
Budget Authority	1,122,944	354,819
Outlays	61,532	19,444
Congregate services program (25-83-0178-A):		
Budget Authority	6,074	1,919
Housing counseling assistance (25-82-0156-A):		
Budget Authority	3,581	1,136
Section 8 moderate rehab. single room occupancy (25-82-0195-A):		
Budget Authority	76,259	24,098
Outlays	3,045	962
Manufactured home inspection and monitoring (25-82-0271-A):		
401(C) Authority	7,320	2,313
Outlays	6,500	2,054
Interstate land sales (25-82-0270-A):		
401(C) Authority	600	190
Outlays	600	190
FHA Mutual Mortgage and Cooperative Housing Insurance Fund (25-82-4079-A):		
Obligation limitation	227,388	71,855
Direct Loan Limitation	74,258	23,466
Guaranteed Loan Limitation	69,346,176	20,940,079
Outlays	227,388	71,855
FHA general and special risk insurance funds (25-82-4075-A):		
Obligation limitation	178,945	56,553
Direct Loan Limitation	16,633	5,258
Guaranteed Loan Limitation	11,560,486	3,653,546
Outlays	178,945	56,553
Housing for the elderly or handicapped fund (25-82-4116-A):		
Direct Loan Limitation	492,516	155,635
Rental housing assistance fund (25-82-4041-A):		
401(C) Authority–Oil. Coll.	70,000	22,120
Outlays	70,000	22,120
Nonprofit sponsor assistance (25-82-4042-A):		
Direct Loan Limitation	1,114	352
Nehemiah Housing Opportunity Fund (25-82-4071-A):		
Budget Authority	25,220	7,970
Public and Indian Housing Programs		
Payments for operation of low income housing projects (25-83-0163-A):		
Budget Authority	1,940,368	614,108
Outlays	883,438	282,326
Government National Mortgage Association		
Guarantees of mortgage-backed securities (25-84-4238-A):		
401(C) Authority–Oil. Coll.	5,950	1,880
Guaranteed Loan Limitation	85,082,753	26,889,149
Outlays	5,950	1,880
Community Planning and Development		
Community development grants (25-80-0162-A):		
Budget Authority	3,014,473	952,579
Guaranteed Loan Limitation	147,722	46,669
Outlays	121,500	38,394
Rental rehabilitation grants (25-80-4083-A):		
Budget Authority	132,380	42,142
Urban homesteading (25-80-0171-A):		
Budget Authority	13,541	4,278
Outlays	13,541	4,278
Emergency shelter grants program (25-80-0181-A):		
Budget Authority	76,237	24,091
Outlays	11,438	3,614

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Transitional and supportive housing demonstration programs (25-80-0188-A):		
Budget Authority	132,192	41,760
Rental Housing Assistance for the Homeless (25-80-0187-A):		
Budget Authority	11,191	3,536
Outlays	5,585	1,764
Rehabilitation loan fund (25-88-4035-A):		
401(C) Authority–Oil. Coll.	13,709	4,330
Direct Loan Limitation	87,549	27,665
Outlays	29,585	9,350
Policy Development and Research		
Research and technology (25-89-0180-A):		
Budget Authority	21,286	6,726
Outlays	6,365	2,018
Fair Housing and Equal Opportunity		
Fair housing activities (25-89-0144-A):		
Budget Authority	12,852	4,058
Outlays	1,940	613
Management and Administration		
Salaries and expenses, including transfer of funds (25-85-0143-A):		
Budget Authority	358,128	113,086
Outlays	276,345	87,308
Office of the Inspector General (25-85-0189-A):		
Budget Authority	24,705	7,807
Outlays	19,029	6,011
Total, Department of Housing and Urban Development:		
Budget Authority	14,594,726	4,593,494
401(C) Authority	7,920	2,503
401(C) Authority–Oil. Coll.	89,259	28,200
Obligation limitation	407,333	128,718
Direct Loan Limitation	672,099	212,374
Guaranteed Loan Limitation	162,150,193	51,230,443
Outlays	2,005,843	633,847
Department of the Interior		
Bureau of Land Management		
Management of lands and resources (10-04-1109-A):		
Budget Authority	454,029	143,471
Outlays	394,569	124,629
Construction and access (10-04-1110-A):		
Budget Authority	11,152	3,524
Outlays	2,769	881
Payments in lieu of taxes (10-04-1114-A):		
Budget Authority	109,419	34,574
Outlays	109,419	34,574
Oregon and California grant lands (10-04-1116-A):		
Budget Authority	66,659	21,047
Outlays	49,269	15,575
Special acquisition of lands and minerals (10-04-1117-A):		
401(C) Authority	1,300	411
Outlays	1,300	411
Firefighting (10-04-1118-A):		
Budget Authority	276,469	87,371
Outlays	193,549	61,169
Land acquisition (10-04-5003-A):		
Budget Authority	16,018	5,062
Outlays	2,409	759
Range improvements (10-04-5135-A):		
Budget Authority	10,162	3,211
Outlays	6,409	2,023
Service charges, deposits, and forfeitures (10-04-5017-A):		
Budget Authority	6,259	1,978
Outlays	5,509	1,739
Operation and maintenance of quarters (10-04-5048-A):		
401(C) Authority	250	79
Outlays	219	69
Miscellaneous permanent appropriations (10-04-9922)-A):		
401(C) Authority	146,866	46,418
Outlays	146,466	46,555

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Miscellaneous trust funds (10-84-8971-A):		
Budget Authority	100	32
401(C) Authority	600	169
Outlays	357	113
Minerals Management Service		
Leasing and equity management (10-05-1917-A):		
Budget Authority	183,399	57,845
Outlays	128,399	40,501
Payments to states from receipts under Mineral Leasing Act (10-08-5003-A):		
401(C) Authority	531,505	167,583
Outlays	531,505	167,583
Office of Surface Mining Reclamation and Enforcement		
Regulation and technology (10-08-1801-A):		
Budget Authority	107,041	33,825
Outlays	63,118	19,945
Abandoned mine reclamation fund (10-08-8015-A):		
Budget Authority	200,836	63,405
Outlays	68,326	21,577
Bureau of Reclamation		
Construction program (10-10-0384-A):		
Budget Authority	680,171	214,624
401(C) Authority—Oil. Coll.	34,000	10,744
Outlays	605,400	191,309
Loan program (10-10-3887-A):		
Budget Authority	35,057	11,076
Direct Loan Limitation	31,922	10,087
Outlays	21,589	6,813
General investigations (10-10-5085-A):		
Budget Authority	11,842	3,742
Outlays	7,627	2,410
Emergency fund (10-10-8043-A):		
Budget Authority	1,627	525
Outlays	621	196
Operation and maintenance (10-10-5384-A):		
Budget Authority	218,031	68,888
401(C) Authority—Oil. Coll.	8,143	2,573
Outlays	177,553	56,107
General administrative expenses (10-10-5085-A):		
Budget Authority	49,277	15,572
Outlays	44,349	14,014
Colorado River Dam Fund, Boulder Canyon Project (10-10-5656-A):		
Budget Authority	−3,262	−1,031
401(C) Authority	53,336	16,854
Outlays	29,662	9,367
Miscellaneous permanent appropriations (10-10-8922-A):		
401(C) Authority	280	88
Outlays	224	71
Lower Colorado River basin development fund (10-10-4079-A):		
401(C) Authority—Oil. Coll.	98,821	30,595
Outlays	98,821	30,595
Upper Colorado River basin fund (10-10-4081-A):		
401(C) Authority—Oil. Coll.	31,804	9,967
Outlays	31,804	9,967
Working capital fund (10-10-4524-A):		
Budget Authority	8,709	2,760
Outlays	6,967	2,204
Reclamation trust funds (10-10-8070-A):		
401(C) Authority	97,185	30,714
Outlays	77,997	24,619
Geological Survey		
Surveys, investigations and research (10-12-0804-A):		
Budget Authority	522,553	165,127
401(C) Authority	250	79
401(C) Authority—Oil. Coll.	76,427	24,703
Outlays	574,572	181,999

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Operation and maintenance of quarters (10-13-5285-A):		
401(C) Authority	55	17
Outlays	45	14
Bureau of Mines		
Mines and minerals (10-14-8888-A):		
Budget Authority	185,811	58,718
Outlays	121,148	38,283
Helium fund (10-14-4053-A):		
401(C) Authority—Oil. Coll.	4,594	1,442
Outlays	4,594	1,442
Fish and Wildlife Service		
Resource management (10-18-1611-A):		
Budget Authority	418,299	131,548
401(C) Authority—Oil. Coll.	4,396	1,380
Outlays	337,099	106,502
Construction (10-18-1612-A):		
Budget Authority	80,356	25,296
Outlays	16,057	5,077
Land acquisition (10-18-5020-A):		
Budget Authority	98,722	30,564
Outlays	43,525	13,754
Migratory bird conservation account (10-18-5137-A):		
401(C) Authority	31,009	9,966
Outlays	21,704	6,858
North American Wetlands Conservation Fund (10-18-5241-A):		
401(C) Authority	10,000	3,160
Outlays	7,000	2,212
National wildlife refuge fund (10-18-5291-A):		
Budget Authority	9,257	2,935
401(C) Authority	6,294	1,990
Outlays	11,465	3,623
Operations and maintenance of quarters (10-18-5056-A):		
401(C) Authority	1,800	572
Outlays	840	266
Miscellaneous permanent appropriations (10-18-8925-A):		
401(C) Authority	134,500	42,502
Outlays	40,380	12,761
Sport fish restoration (10-18-8151-A):		
401(C) Authority	212,498	67,118
Outlays	93,729	30,136
Contributed funds (10-18-8216-A):		
401(C) Authority	5,600	1,770
Outlays	1,776	561
African elephant conservation fund (10-18-8154-A):		
401(C) Authority	1,300	411
Outlays	260	82
National Park Service		
Operation of the national park system (10-24-1036-A):		
Budget Authority	799,709	252,705
401(C) Authority—Oil. Coll.	2,800	885
Outlays	602,576	190,414
National recreation and preservation (10-24-1042-A):		
Budget Authority	16,694	5,272
Outlays	12,469	3,947
Construction (10-24-1038-A):		
Budget Authority	317,429	100,306
401(C) Authority—Oil. Coll.	11,000	3,476
Outlays	59,815	18,922
John F. Kennedy Center for the Performing Arts (10-24-1036-A):		
Budget Authority	9,499	3,002
Outlays	4,399	1,394
Illinois and Michigan Canal National Heritage Corridor Commission (10-24-1043-A):		
Budget Authority	260	82
Outlays	196	62
Land acquisition (10-24-5235-A):		
Budget Authority	125,651	39,705
401(C) Authority	30,000	9,480
Outlays	49,979	15,800

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Historic preservation fund (10-24-5140-A):		
Budget Authority	54,295	16,838
Outlays	11,289	3,567
Operations and maintenance of quarters (10-24-5048-A):		
401(C) Authority	8,795	2,779
Outlays	5,859	1,851
Miscellaneous permanent appropriations (10-24-8924-A):		
401(C) Authority	999	316
Outlays	116	37
Bureau of Indian Affairs		
Operation of Indian programs (10-78-2100-A):		
Budget Authority	1,094,143	356,209
401(C) Authority—Oil. Coll.	2,000	632
Outlays	831,701	276,055
Construction (10-78-2301-A):		
Budget Authority	183,471	57,977
Outlays	45,825	14,481
White Earth Settlement Fund (10-78-2254-A):		
401(C) Authority	6,000	1,896
Outlays	6,000	1,896
Payment to the Navajo Rehabilitation Trust Fund (10-78-2368-A):		
Budget Authority	834	264
Outlays	834	264
Operations and maintenance of quarters (10-78-8321-A):		
401(C) Authority	6,336	2,000
Outlays	834	267
Miscellaneous permanent appropriations (10-78-8325-A):		
401(C) Authority	68,141	21,538
Outlays	7,572	2,393
Revolving fund for loans (10-78-4409-A):		
401(C) Authority—Oil. Coll.	10,000	3,441
Direct Loan Limitation	8,000	2,844
Outlays	11,000	3,264
Indian loan guaranty and insurance fund (10-78-4410-A):		
Budget Authority	4,916	1,569
Guaranteed Loan Limitation	45,000	14,229
Outlays	3,586	1,137
Navajo Rehabilitation Trust Fund (10-78-8368-A):		
401(C) Authority	872	276
Outlays	872	276
Cooperative fund (Papago) (10-78-8366-A):		
401(C) Authority	866	274
Office of Territorial Affairs		
Administration of territories (10-82-0412-A):		
Budget Authority	50,846	16,088
Outlays	25,580	8,086
Trust Territory of the Pacific Islands (10-82-0414-A):		
Budget Authority	34,316	10,942
Outlays	30,535	9,649
Compact of free association (10-82-0415-A):		
Budget Authority	22,348	7,091
Outlays	19,662	6,253
Office of the Secretary		
Salaries and Expenses (10-84-0102-A):		
Budget Authority	62,429	19,736
Outlays	47,186	14,919
Construction management (10-84-0103-A):		
Budget Authority	1,575	502
Outlays	1,056	334
Oil spill emergency fund (10-84-0115-A):		
Budget Authority	7,376	2,337
Outlays	7,376	2,337
Office of the Solicitor		
Office of the Solicitor (10-86-0107-A):		
Budget Authority	26,396	8,346
Outlays	23,719	7,499

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Office of Inspector General		
Office of Inspector General (10-89-0104-A):		
Budget Authority	21,312	6,705
Outlays	18,182	6,080
National Indian Gaming Commission		
National Indian Gaming Commission (10-39-0110-A):		
Budget Authority	282	246
Outlays	264	222
Total, Department of the Interior:		
Budget Authority	8,309,023	2,992,958
401(C) Authority	1,357,241	438,889
401(C) Authority—Oil. Coll.	284,845	89,947
Direct Loan Limitation	49,922	13,278
Guaranteed Loan Limitation	45,000	14,220
Outlays	5,791,228	1,811,101
Department of Justice		
General Administration		
Salaries and expenses (11-05-0125-A):		
Budget Authority	103,459	31,745
Outlays	85,971	26,440
Office of the Inspector General (11-05-0328-A):		
Budget Authority	31,284	9,769
Outlays	29,292	9,394
United States Parole Commission		
Salaries and expenses (11-05-1071-A):		
Budget Authority	10,999	3,459
Outlays	9,465	2,978
Legal Activities		
Salaries and expenses, General legal activities (11-05-0128-A):		
Budget Authority	307,138	97,059
Outlays	267,218	84,438
Salaries and expenses, Antitrust Division (11-05-0315-A):		
Budget Authority	35,940	10,248
401(C) Authority—Oil. Coll.	20,000	6,320
Outlays	49,446	15,625
Salaries and expenses, Foreign Claims Settlement Commission (11-05-0100-A):		
Budget Authority	459	146
Outlays	392	125
Salaries and expenses, United States Attorneys (11-05-0322-A):		
Budget Authority	549,403	170,767
Outlays	475,555	150,276
Salaries and expenses, United States Marshals Service (11-05-0324-A):		
Budget Authority	285,407	89,721
401(C) Authority—Oil. Coll.	58	18
Outlays	233,558	73,867
Support of United States prisoners (11-05-1035-A):		
Budget Authority	165,088	52,168
Outlays	99,053	31,301
Fees and expenses of witnesses (11-05-0311-A):		
Budget Authority	70,929	22,318
Outlays	48,549	15,845
Salaries and expenses, Community Relations Service (11-05-0330-A):		
Budget Authority	32,140	9,524
Outlays	25,618	8,085
Independent counsel (11-05-0327-A):		
401(C) Authority	4,288	1,284
Outlays	4,000	1,284
Civil Liberties Public Education Fund (11-05-0329-A):		
401(C) Authority	500,000	158,000
Outlays	500,000	158,000
United States trustee system fund (11-05-0370-A):		
Budget Authority	62,535	19,791
Outlays	55,291	17,765

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Assets forfeiture fund (11-05-5042-A):		
Budget Authority	103,101	32,589
401(C) Authority	272,000	85,952
Outlays	150,040	47,413
Interagency Law Enforcement		
Organized crime drug enforcement (11-07-0323-A):		
Budget Authority	223,948	70,748
Outlays	172,448	54,481
Federal Bureau of Investigation		
Salaries and expenses (11-10-0200-A):		
Budget Authority	1,754,474	554,414
401(C) Authority—Oil. Coll.	29,352	9,431
Outlays	1,408,125	444,599
Drug Enforcement Administration		
Salaries and expenses (11-12-1100-A):		
Budget Authority	571,551	180,618
401(C) Authority—Oil. Coll.	1,509	474
Outlays	430,163	135,932
Immigration and Naturalization Service		
Salaries and expenses (11-15-1217-A):		
Budget Authority	877,287	277,225
401(C) Authority—Oil. Coll.	3,817	1,205
Outlays	705,847	222,984
Immigration emergency fund (11-15-5218-A):		
Budget Authority	36,470	11,585
Immigration legalization (11-15-5086-A):		
401(C) Authority	33,053	10,457
Outlays	33,053	10,457
Immigration user fee (11-15-5087-A):		
401(C) Authority	125,142	39,545
Outlays	125,142	39,545
Immigration examinations fee (11-15-5088-A):		
401(C) Authority	157,233	49,696
Outlays	157,233	49,696
Federal Prison System		
Salaries and expenses (11-20-1060-A):		
Budget Authority	1,175,762	371,547
401(C) Authority—Oil. Coll.	12,746	4,028
Outlays	1,103,871	348,823
National Institute of Corrections (11-20-1064-A):		
Budget Authority	10,389	3,283
Outlays	4,156	1,313
Buildings and facilities (11-20-1003-A):		
Budget Authority	1,455,588	459,569
Outlays	145,560	45,957
Federal Prison Industries, Incorporated (11-20-4500-A):		
Obligation limitation	2,965	937
Outlays	2,965	937
Office of Justice Programs		
Justice assistance (11-21-0401-A):		
Budget Authority	840,077	265,264
Outlays	140,847	44,486
Public safety officers' benefits (11-21-0403-A):		
Budget Authority	26,079	8,240
Outlays	26,075	8,240
Crime Victims Fund (11-21-5041-A):		
401(C) Authority	125,000	39,500
Outlays	62,500	19,750
Total, Department of Justice:		
Budget Authority	8,475,269	2,676,193
401(C) Authority	1,216,468	384,404
401(C) Authority—Oil. Coll.	56,473	18,477
Obligation limitation	2,965	937
Outlays	6,542,409	2,067,404

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Department of Labor		
Employment and Training Administration		
Program administration (12-05-0172-A):		
Budget Authority	67,370	21,281
Outlays	49,850	15,756
Training and employment services (12-05-0174-A):		
Budget Authority	4,093,932	1,293,688
Outlays	205,979	65,090
Community service employment for older Americans (12-05-0175-A):		
Budget Authority	382,427	120,847
Outlays	68,837	21,752
Federal unemployment benefits and allowances (12-05-0339-A):		
Budget Authority	288,500	85,162
Outlays	210,000	66,457
State unemployment insurance and employment services (12-05-0179-A):		
Budget Authority	22,924	7,244
Outlays	5,566	1,765
Unemployment trust fund (12-05-8042-A):		
401(C) Authority	112,808	35,645
Obligation limitation	3,031,000	953,016
Outlays	2,497,788	789,302
Labor-Management Services		
Salaries and expenses (12-10-0104-A):		
Budget Authority	77,082	24,339
Outlays	85,979	28,947
Pension Benefit Guaranty Corporation		
Pension Benefit Guaranty Corporation fund (12-12-4204-A):		
Obligation limitation	44,000	13,923
Outlays	44,000	13,923
Employment Standards Administration		
Salaries and expenses (12-15-0105-A):		
Budget Authority	225,256	71,196
401(C) Authority—Oil. Coll.	1,275	403
Outlays	197,355	62,427
Black lung disability trust fund (12-15-8144-A):		
Budget Authority	53,349	16,858
Outlays	53,349	16,858
Special workers' compensation expenses (12-15-8971-A):		
Obligation limitation	1,057	334
Outlays	1,057	334
Occupational Safety and Health Administration		
Salaries and expenses (12-16-0150-A):		
Budget Authority	278,256	87,939
Outlays	242,508	76,631
Mine Safety and Health Administration		
Salaries and expenses (12-16-1200-A):		
Budget Authority	175,202	55,364
Outlays	158,463	50,071
Bureau of Labor Statistics		
Salaries and expenses (12-20-0200-A):		
Budget Authority	200,816	63,465
401(C) Authority—Oil. Coll.	1,109	345
Outlays	164,532	51,984
Departmental Management		
Salaries and expenses (12-25-0105-A):		
Budget Authority	121,956	38,532
401(C) Authority—Oil. Coll.	425	134
Outlays	102,726	32,462
Inspector General salaries and expenses (12-25-0108-A):		
Budget Authority	43,145	13,634
Outlays	31,949	10,094

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Total, Department of Labor:		
Budget Authority	6,911,019	1,000,400
401(C) Authority	112,600	35,645
401(C) Authority—Oil. Coll.	2,800	885
Obligation limitation	3,076,815	972,279
Outlays	4,110,142	1,230,804
Department of State		
Administration of Foreign Affairs		
Salaries and expenses (14-05-0113-A):		
Budget Authority	1,857,228	580,044
Outlays	1,475,111	466,135
Office of the Inspector General (14-05-0529-A):		
Budget Authority	21,466	6,768
Outlays	21,057	6,657
Acquisition and maintenance of buildings abroad (14-05-0536-A):		
Budget Authority	305,466	96,538
Outlays	59,206	17,701
Representation allowances (14-05-0545-A):		
Budget Authority	4,766	1,515
Outlays	4,122	1,308
Protection of foreign missions and officials (14-05-0529-A):		
Budget Authority	9,462	2,988
Outlays	7,661	2,427
Emergencies in the diplomatic and consular service (14-05-0522-A):		
Budget Authority	4,839	1,526
Outlays	3,429	1,084
Payment to the American Institute in Taiwan (14-05-0523-A):		
Budget Authority	11,916	3,939
Outlays	8,591	2,715
International Organizations and Conferences		
Contributions to international organizations (14-10-1139-A):		
Budget Authority	640,769	202,466
401(C) Authority—Oil. Coll.	46	13
Outlays	609,781	192,575
Contributions for international peacekeeping activities (14-10-1124-A):		
Budget Authority	84,464	26,687
Outlays	84,464	26,687
International conferences and contingencies (14-10-1125-A):		
Budget Authority	6,515	2,059
Outlays	4,451	1,406
International Commissions		
Salaries and expenses, IBWC (14-15-1099-A):		
Budget Authority	10,895	3,442
Outlays	8,898	3,099
Construction, IBWC (14-15-1079-A):		
Budget Authority	11,536	8,771
Outlays	5,937	1,888
American sections, international commissions (14-15-1002-A):		
Budget Authority	4,928	1,491
Outlays	3,662	1,154
International fisheries commissions (14-15-1007-A):		
Budget Authority	12,657	4,000
Outlays	12,657	4,000
Other		
Migration and refugee assistance (14-05-1143-A):		
Budget Authority	448,488	141,691
Outlays	334,848	105,811
United States emergency refugee and migration assistance fund (14-05-0340-A):		
Budget Authority	86,329	27,269
Outlays	44,169	13,955
International narcotics control (14-05-1102-A):		
Budget Authority	117,764	37,220
Outlays	35,369	11,180

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Anti-terrorism assistance (14-05-0114-A):		
Budget Authority	16,266	5,264
Outlays	8,914	2,827
U.S. bilateral science and technology agreements (14-05-1151-A):		
Budget Authority	4,198	1,326
Outlays	4,198	1,326
Soviet-East European research and training (14-05-0118-A):		
Budget Authority	4,798	1,515
Outlays	4,798	1,515
Payment to the Asia Foundation (14-05-0525-A):		
Budget Authority	14,494	4,577
Outlays	12,557	4,000
International Center, Washington, D.C. (14-05-0151-A):		
401(C) Authority	1,284	405
Outlays	1,284	405
Fisherman's protective fund (14-05-0116-A):		
Budget Authority	1,042	329
Outlays	1,042	329
Fisherman's guaranty fund (14-05-0121-A):		
Budget Authority	888	280
Outlays	888	280
Total, Department of State:		
Budget Authority	3,685,149	1,164,597
401(C) Authority	1,284	405
401(C) Authority—Oil. Coll.	46	13
Outlays	2,753,888	870,264
Department of Transportation		
Federal Highway Administration		
Motor carrier safety (21-05-0552-A):		
Budget Authority	34,660	10,939
Outlays	26,046	8,223
Railroad-highway crossings demonstration projects (21-05-0557-A):		
Budget Authority	5,150	1,626
Outlays	1,031	326
Miscellaneous appropriations (21-05-0511-A):		
Budget Authority	152,226	48,100
Outlays	30,446	9,621
Federal-aid highways (21-05-0563-A):		
Budget Authority	1,942,000	625,279
401(C) Authority	14,101,139	4,455,599
Obligation limitation	12,722,620	4,020,411
Outlays	2,372,620	749,614
Highway-related safety grants (21-05-0019-A):		
401(C) Authority	18,000	3,195
Obligation limitation	8,771	3,090
Outlays	1,554	817
Baltimore-Washington Parkway (21-05-0514-A):		
Budget Authority	12,466	3,939
Outlays	2,466	788
Trust fund share of other highway programs (21-05-0005-A):		
Budget Authority	10,313	3,259
Outlays	2,062	652
Highway safety research and development (21-05-0217-A):		
Budget Authority	6,317	1,996
Outlays	1,266	399
Motor carrier safety grants (21-05-0018-A):		
401(C) Authority	62,540	19,766
Obligation limitation	62,540	19,766
Outlays	27,258	8,616
Miscellaneous trust funds—Highway (21-05-0572-A):		
Budget Authority	65,024	20,550
Outlays	13,165	4,160
University transportation centers (21-05-0005-A):		
Budget Authority	5,194	1,641
Outlays	1,039	329
Right-of-way revolving fund (trust revolving fund) (21-05-8402-A):		
Direct Loan Limitation	44,185	13,962
Outlays	44,183	13,962

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
National Highway Traffic Safety Administration		
Operations and research (21-10-0550-A):		
Budget Authority	76,490	24,149
Outlays	49,888	15,759
Trust fund share of operations and research (21-10-8016-A):		
Budget Authority	39,899	10,454
Outlays	21,850	6,901
State and community highway safety grants (21-10-0559-A):		
401(C) Authority	125,000	39,818
Obligation limitation	130,166	43,018
Outlays	85,894	17,894
Federal Railroad Administration		
Office of the Administrator (21-10-0700-A):		
Budget Authority	36,427	7,169
Outlays	17,599	5,495
Railroad safety (21-10-0702-A):		
Budget Authority	32,990	10,399
Outlays	26,242	8,282
Railroad safety research and development (21-10-0745-A):		
Budget Authority	5,857	3,149
Outlays	5,576	1,859
Commuter rail service (21-10-0747-A):		
Budget Authority	5,127	1,669
Outlays	550	178
Settlements of railroad litigation (21-10-0750-A):		
Budget Authority	235	74
Outlays	235	74
Northeast corridor improvement program (21-10-0125-A):		
Budget Authority	25,460	8,648
Outlays	5,094	1,818
Grants to National Railroad Passenger Corporation (21-10-0704-A):		
Budget Authority	539,092	182,185
Outlays	502,185	163,579
Amtrak Corridor Improvement Loans (21-10-0726-A):		
Budget Authority	3,647	1,182
Outlays	1,824	576
Regional rail reorganization program (21-10-4109-A):		
Budget Authority	20	7
Outlays	20	7
Urban Mass Transportation Administration		
Administrative expenses (21-20-1120-A):		
Budget Authority	33,125	10,469
Outlays	29,516	9,452
Research, training and human resources (21-20-1121-A):		
Budget Authority	10,309	3,569
Outlays	2,578	857
Interstate transfer grants (21-20-1127-A):		
Budget Authority	108,229	32,539
Outlays	8,324	1,559
Washington metro (21-20-1128-A):		
Budget Authority	88,524	27,924
Outlays	1,788	599
Formula grants (21-20-1129-A):		
Budget Authority	1,888,284	595,195
Outlays	547,516	172,589
Discretionary grants (21-20-0191-A):		
401(C) Authority	1,402,889	442,456
Obligation limitation	1,164,516	374,244
Outlays	89,169	18,697
Federal Aviation Administration		
Operations (21-20-1301-A):		
Budget Authority	3,141,291	990,699
401(C) Authority—Oil. Coll.	14,494	4,577
Outlays	2,573,585	811,453
Aircraft purchase loan guarantee program (21-20-1350-A):		
Budget Authority	150	47
Outlays	150	47

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Grants-in-aid for airports (Airport and airway trust fund) (21-25-0109-A):		
401(C) Authority	1,000,000	500,000
Obligation limitation	1,455,000	459,230
Outlays	237,000	75,002
Facilities and equipment (Airport and airway trust fund) (21-25-0107-A):		
Budget Authority	1,795,401	569,721
401(C) Authority—Oil. Coll.	49,000	15,750
Outlays	370,000	117,180
Research, engineering and development (Airport and airway trust fund) (21-25-0108-A):		
Budget Authority	177,253	56,021
401(C) Authority—Oil. Coll.	350	111
Outlays	121,811	38,459
Trust fund share of FAA Operations (21-25-8104-A):		
Budget Authority	841,000	265,782
Outlays	841,000	265,282
Coast Guard		
Operating expenses (21-20-0201-A):		
Budget Authority	2,126,496	671,993
401(C) Authority—Oil. Coll.	5,715	1,807
Outlays	1,812,721	572,829
Acquisition, construction, and improvements (21-20-0240-A):		
Budget Authority	462,819	146,258
Outlays	59,760	18,049
Alteration of bridges (21-20-0204-A):		
Budget Authority	2,421	765
Outlays	557	176
Retired pay (Coast Guard) (21-20-0201-A):		
Budget Authority	39,325	12,427
Outlays	39,325	12,427
Reserve training (21-20-0202-A):		
Budget Authority	74,077	23,408
Outlays	68,232	20,929
Research, development, test, and evaluation (21-20-0245-A):		
Budget Authority	21,297	6,730
Outlays	7,212	2,279
Boat safety (21-20-0140-A):		
Budget Authority	60,392	19,087
Outlays	40,764	12,882
Oil spill liability trust fund (21-20-8125-A):		
Budget Authority	5,000	1,580
401(C) Authority	75,000	23,700
Outlays	36,125	11,418
Maritime Administration		
Operations and training (21-35-1750-A):		
Budget Authority	69,821	22,063
Outlays	59,869	18,920
Ready reserve force (21-35-1710-A):		
Budget Authority	92,738	29,305
Outlays	71,408	24,570
Federal ship financing fund (21-35-4301-A):		
401(C) Authority—Oil. Coll.	7,209	2,287
Obligation limitation	4,048	1,277
Outlays	7,209	2,287
Saint Lawrence Seaway Development Corporation		
Saint Lawrence Seaway Development Corporation (21-49-4089-A):		
401(C) Authority—Oil. Coll.	1,400	442
Outlays	1,400	442
Operations and maintenance (21-49-8980-A):		
Budget Authority	11,848	3,744
Outlays	11,848	3,744
Office of the Inspector General		
Salaries and expenses (21-45-0128-A):		
Budget Authority	32,552	10,485
Outlays	28,524	9,018

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Research and Special Programs Administration		
Research and special programs (21-50-0104-A):		
Budget Authority	17,823	5,648
Outlays	11,756	3,728
Pipeline safety (21-50-5172-A):		
Budget Authority	10,584	3,345
Outlays	8,468	2,676
Office of the Secretary		
Salaries and expenses (21-55-0102-A):		
Budget Authority	57,467	18,166
Outlays	51,738	16,350
Transportation planning, research, and development (21-55-0142-A):		
Budget Authority	7,020	2,221
Outlays	2,791	882
Payments to air carriers, DOT (21-55-0150-A):		
Budget Authority	31,930	10,099
Outlays	25,544	8,072
Commission on aviation security and terrorism (21-55-1850-A):		
Budget Authority	1,042	329
Working capital fund (21-55-4520-A):		
Budget Authority	4,626	1,462
Outlays	4,626	1,462
Total, Department of Transportation:		
Budget Authority	13,248,728	4,189,589
401(C) Authority	17,574,679	5,553,569
401(C) Authority—Oil. Coll.	79,112	25,000
Obligation limitation	15,694,586	4,959,953
Direct Loan Limitation	44,153	13,952
Outlays	10,523,929	3,327,630
Department of the Treasury		
Salaries and expenses (15-05-0101-A):		
Budget Authority	60,493	18,118
401(C) Authority—Oil. Coll.	309	97
Outlays	53,005	16,759
International affairs (15-05-0171-A):		
Budget Authority	26,047	8,231
401(C) Authority—Oil. Coll.	5,532	1,760
Outlays	28,324	8,950
Office of the Inspector General (15-05-0106-A):		
Budget Authority	15,790	4,990
Outlays	13,842	4,311
Federal Law Enforcement Training Center		
Salaries and expenses (15-05-0104-A):		
Budget Authority	36,978	11,685
Outlays	33,280	10,516
Acquisitions, construction, improvements, and related expenses (15-09-0105-A):		
Budget Authority	15,690	4,958
Outlays	7,815	2,470
Financial Management Service		
Salaries and expenses (15-10-1501-A):		
Budget Authority	235,822	74,520
Outlays	190,309	60,136
Saint Lawrence Seaway toll rebate program (15-10-8565-A):		
Budget Authority	10,461	3,288
Outlays	10,304	3,256
Bureau of Alcohol, Tobacco and Firearms		
Salaries and expenses (15-15-1000-A):		
Budget Authority	275,028	86,908
Outlays	247,522	78,217
United States Customs Service		
Salaries and expenses (15-15-8882-A):		
Budget Authority	1,109,295	350,537
401(C) Authority	157,125	49,652
401(C) Authority—Oil. Coll.	16,559	5,230

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Outlays	1,053,467	332,858
Operation and maintenance, air interdiction program (15-15-0804-A):		
Budget Authority	240,035	75,852
Outlays	132,021	41,719
Customs forfeiture fund (15-15-5003-A):		
Budget Authority	15,479	4,891
401(C) Authority	34,516	10,905
Outlays	49,866	15,757
Payments from forfeited assets (15-15-5686-A):		
401(C) Authority	40,000	12,640
Outlays	40,000	12,640
Customs services at small airports (15-15-5894-A):		
Budget Authority	2,241	708
Outlays	2,241	708
Refunds, transfers and expenses, unclaimed and abandoned goods (15-15-8789-A):		
401(C) Authority	17,819	5,631
Outlays	17,819	5,631
Bureau of Engraving and Printing		
Bureau of Engraving and Printing fund (15-20-4502-A):		
401(C) Authority—Oil. Coll.	32,331	10,217
Outlays	32,331	10,217
United States Mint		
Salaries and expenses (15-25-1618-A):		
Budget Authority	52,130	16,473
401(C) Authority—Oil. Coll.	106,419	33,628
Outlays	157,725	49,841
Bureau of the Public Debt		
Administering the public debt (15-35-0560-A):		
Budget Authority	291,998	92,831
Outlays	177,153	55,990
Internal Revenue Service		
Administration and Management (15-45-0911-A):		
Budget Authority	74,078	23,405
Outlays	66,699	21,087
Processing tax returns and assistance (15-45-0912-A):		
Budget Authority	1,921,631	607,235
Outlays	1,520,011	480,323
Tax Law Enforcement (15-45-0913-A):		
Budget Authority	3,732,171	1,179,396
Outlays	3,355,222	1,060,256
Reimbursement to State and Local Law Enforcement Agencies (15-45-5098-A):		
401(C) Authority	100	32
Outlays	100	32
Federal tax lien revolving fund (15-45-4413-A):		
401(C) Authority—Oil. Coll.	6,000	1,896
Outlays	6,000	1,896
United States Secret Service		
Salaries and expenses (15-55-1400-A):		
Budget Authority	381,323	120,498
Outlays	325,023	102,707
Contribution for annuity benefits (15-55-1407-A):		
401(C) Authority	18,000	5,688
Outlays	18,000	5,688
Total, Department of the Treasury:		
Budget Authority	8,408,608	2,658,487
401(C) Authority	267,554	84,548
401(C) Authority—Oil. Coll.	187,238	59,148
Outlays	7,547,972	2,385,180
Department of Veterans Affairs		
Veterans Benefits Administration		
Burial benefits and miscellaneous assistance (29-90-0155-A):		
Budget Authority	143,100	45,220
Outlays	142,916	45,161

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Readjustment benefits (29-10-0137-A):		
Budget Authority	888,888	75,888
Outlays	818,888	68,288
Veterans Health Services and Research Administration		
Medical care (29-20-0160-A):		
Budget Authority	888,888	888,487
Outlays	783,888	881,128
Medical care (29-20-0160-O):		
Budget Authority—Spec. Rules	217,913	217,913
401(C) Authority—Spec. Rules	837	837
Outlays	182,884	182,884
Medical and prosthetic research (29-20-0161-A):		
Budget Authority	221,488	88,888
Outlays	183,232	181,881
Medical administration and miscellaneous operating expenses (29-20-0152-A):		
Budget Authority	48,022	15,388
Outlays	88,382	8,888
Grants to the Republic of the Philippines (29-20-0164-A):		
Budget Authority	813	102
Outlays	48	15
Departmental Administration		
General operating expenses (29-30-0151-A):		
Budget Authority	845,817	887,129
Outlays	777,882	845,751
Office of the Inspector General (29-30-0170-A):		
Budget Authority	22,888	7,888
Outlays	21,180	8,888
Grants for the construction of State veterans cemeteries (29-30-0183-A):		
Budget Authority	4,488	1,412
Outlays	7	2
Construction, major projects (29-30-0110-A):		
Budget Authority	425,781	134,888
Outlays	19,582	6,188
Construction, minor projects (29-30-0111-A):		
Budget Authority	98,812	30,933
Outlays	48,888	15,788
Grants for construction of state extended care facilities (29-30-0181-A):		
Budget Authority	48,888	13,888
Parking garage revolving fund (29-30-4534-A):		
Budget Authority	28,742	9,388
Outlays	1,487	478
Total, Department of Veterans Affairs:		
Budget Authority	3,028,187	888,278
Budget Authority—Spec. Rules	217,913	217,913
401(C) Authority—Spec. Rules	837	837
Outlays	2,388,574	872,912
Environmental Protection Agency		
Salaries and expenses (20-68-0200-A):		
Budget Authority	888,888	284,288
401(C) Authority—Oil. Coll.	2,200	888
Outlays	778,184	845,848
Office of the Inspector General (20-68-0112-A):		
Budget Authority	32,191	10,172
Outlays	18,344	8,103
Research and development (20-68-0107-A):		
Budget Authority	238,838	88,718
401(C) Authority—Oil. Coll.	5,000	1,588
Outlays	88,128	28,081
Abatement, control, and compliance (20-68-0108-A):		
Budget Authority	832,281	282,884
Outlays	388,888	122,888

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Buildings and facilities (20-68-0118-A):		
Budget Authority	18,887	4,888
Outlays	2,888	788
Construction grants (20-68-0103-A):		
Budget Authority	2,888,848	881,481
Outlays	88,288	78,888
Revolving fund for certification and other services (20-68-4311-A):		
401(C) Authority—Oil. Coll.	1,288	378
Outlays	888	48
Registration and expedited processing revolving fund (20-68-4310-A):		
401(C) Authority—Oil. Coll.	18,888	5,888
Outlays	14,788	4,887
Hazardous substance superfund (20-68-0140-A):		
Budget Authority	1,584,288	888,827
401(C) Authority—Oil. Coll.	13,288	4,171
Obligation limitation	227,488	71,874
Outlays	848,822	188,878
Leaking underground storage tank trust fund (20-68-8188-A):		
Budget Authority	77,288	84,888
Obligation limitation	8,877	1,888
Outlays	22,182	7,818
Total, Environmental Protection Agency:		
Budget Authority	5,728,888	1,887,727
401(C) Authority—Oil. Coll.	37,888	11,881
Obligation limitation	233,827	78,784
Outlays	1,888,488	838,712
General Services Administration		
Real Property Activities		
Federal buildings fund (23-45-4542-A):		
Budget Authority	1,725,817	545,285
401(C) Authority—Oil. Coll.	6,888	2,188
Outlays	351,138	110,857
Personal Property Activities		
Federal supply service (23-18-0116-A):		
Budget Authority	48,828	15,388
Outlays	43,418	13,728
Expenses of transportation audit contracts (23-18-8088-A):		
401(C) Authority	15,788	4,988
Outlays	418	138
Information Resources Management Service		
Operating expenses, information resources management service (23-18-8888-A):		
Budget Authority	33,831	10,881
Outlays	15,078	4,788
Federal Property Resources Activities		
Operating expenses, federal property resources service (23-25-8533-A):		
Budget Authority	11,532	3,644
Outlays	8,948	2,828
Real property relocation (23-25-8526-A):		
Budget Authority	8,778	2,815
Outlays	758	238
Expenses, disposal of surplus real and related personal property (23-25-8254-A):		
401(C) Authority	3,888	1,281
Outlays	3,522	1,113
General Activities		
General management and administration, salaries and expenses (23-35-0110-A):		
Budget Authority	141,828	44,782
Outlays	98,504	30,488
Office of Inspector General (23-85-0118-A):		
Budget Authority	27,288	8,818
Outlays	24,011	7,887

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Allowances and office staff for former Presidents (23-88-0105-A):		
Budget Authority	1,482	488
Outlays	1,288	487
Consumer information center fund (23-88-4548-A):		
Budget Authority	1,388	448
401(C) Authority—Oil. Coll.	884	124
Outlays	782	281
Total, General Services Administration:		
Budget Authority	2,881,888	888,788
401(C) Authority	18,888	8,888
401(C) Authority—Oil. Coll.	7,484	2,384
Outlays	848,888	182,488
National Aeronautics and Space Administration		
Research and development (28-88-0100-A):		
Budget Authority	5,488,282	1,727,381
401(C) Authority—Oil. Coll.	10,781	3,487
Outlays	2,888,848	887,848
Space flight, control, and data communications (28-88-0102-A):		
Budget Authority	4,722,881	1,488,888
401(C) Authority	118,888	88,878
401(C) Authority—Oil. Coll.	38,875	8,248
Outlays	3,274,878	1,888,148
Construction of facilities (28-88-0181-A):		
Budget Authority	428,288	138,388
Outlays	84,881	7,728
Research and program management (28-88-0103-A):		
Budget Authority	2,187,887	888,882
401(C) Authority—Oil. Coll.	4,181	1,388
Outlays	1,812,488	872,748
Office of the Inspector General (28-88-0108-A):		
Budget Authority	8,082	8,878
Outlays	7,728	2,442
Science, Space and Technology Education Trust Fund (28-88-8078-A):		
401(C) Authority	1,888	878
Outlays	1,288	878
Total, National Aeronautics and Space Administration:		
Budget Authority	12,744,278	4,887,888
401(C) Authority	114,888	88,288
401(C) Authority—Oil. Coll.	40,887	12,888
Outlays	8,028,072	2,887,788
Office of Personnel Management		
Salaries and expenses (27-88-0108-A):		
Budget Authority	118,548	38,818
Outlays	108,778	81,887
Office of the Inspector General (27-88-0402-A):		
Budget Authority	2,888	948
Outlays	2,848	888
Government payment for annuitants, employees health benefits (27-88-0208-A):		
Budget Authority	3,888,888	1,188,882
Government payment for annuitants, employ. life insur. benefit (27-88-0888-A):		
Budget Authority	8,848	1,888
Outlays	8,718	1,884
Revolving fund (27-88-4571-A):		
401(C) Authority—Oil. Coll.	782	888
Outlays	782	888
Civil service retirement and disability fund (27-88-8188-A):		
Obligation limitation	88,718	81,718
Outlays	87,884	81,488
Employees health benefits fund (27-88-8440-A):		
Obligation limitation	14,883	4,887
Outlays	14,888	4,887
Employees life insurance fund (27-88-8424-A):		
Obligation limitation	1,118	884
Outlays	1,118	884

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Federal employees health benefits fund (91-88-8445-A):		
Obligation limitation	210	88
Outlays	210	88
Total, Office of Personnel Management:		
Budget Authority	3,694,189	1,149,282
401(C) Authority—Off. Coll.	782	289
Obligation limitation	84,910	35,662
Outlays	230,282	84,249
Small Business Administration		
Salaries and expenses (59-80-0100-A):		
Budget Authority	283,845	104,282
Outlays	257,707	95,915
Office of the Inspector General (59-80-0300-A):		
Budget Authority	7,707	2,495
Outlays	6,368	2,167
Business loan and investment fund (59-80-4154-A):		
Budget Authority	77,629	24,591
Direct Loan Limitation	77,629	24,591
Guaranteed Loan Limitation	4,994,097	1,466,169
Outlays	91,899	16,194
Disaster loan fund (59-80-4155-A):		
Budget Authority	575,000	118,830
Direct Loan Limitation	350,000	110,000
Outlays	140,000	44,240
Surety bond guarantees revolving fund (59-80-4156-A):		
Guaranteed Loan Limitation	1,532,400	484,236
Total, Small Business Administration:		
Budget Authority	883,579	288,698
Direct Loan Limitation	427,629	135,191
Guaranteed Loan Limitation	6,216,481	1,964,401
Outlays	488,885	152,476
Other Independent Agencies		
ACTION		
Operating expenses (90-01-0100-A):		
Budget Authority	180,276	57,947
Outlays	166,441	53,319
Administrative Conference of the United States		
Salaries and expenses (95-05-1700-A):		
Budget Authority	1,941	613
Outlays	1,569	521
Advisory Commission on Conferences in Ocean Shipping		
Advisory Comm on Conferences in Ocean Shipping: S and E (95-10-2200-A):		
Budget Authority	311	98
Advisory Commission on Intergovernmental Relations		
Salaries and expenses (95-15-0100-A):		
Budget Authority	1,345	425
Outlays	1,222	386
Advisory Committee on Federal Pay		
Salaries and expenses (95-33-1000-A):		
Budget Authority	214	68
Outlays	202	64
Advisory Council on Historic Preservation		
Salaries and expenses (95-55-0300-A):		
Budget Authority	1,973	626
Outlays	1,808	571
American Battle Monuments Commission		
Salaries and expenses (95-60-0100-A):		
Budget Authority	16,889	5,274
Outlays	15,057	4,469

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Appalachian Regional Commission		
Appalachian regional development programs (95-40-0300-A):		
Budget Authority	164,129	49,705
Outlays	12,329	3,896
Architectural and Transportion Barriers Compliance Board		
Salaries and expenses (95-45-0500-A):		
Budget Authority	2,508	834
Outlays	1,791	595
Arms Control and Disarmament Agency		
Arms control and disarmament activities (95-88-0100-A):		
Budget Authority	34,817	11,002
Outlays	29,596	9,352
Barry Goldwater Scholarship Foundation		
Barry Goldwater Scholarship and Excellence in Education Foundation (95-76-8291-A):		
401(C) Authority	3,486	1,104
Outlays	1,575	498
Board for International Broadcasting		
Grants and expenses (95-85-1145-A):		
Budget Authority	197,980	62,562
Outlays	192,041	60,685
Israel Relay Station (95-85-1146-A):		
Budget Authority	190,708	60,264
Outlays	57,212	18,079
Christopher Columbus Quincentennary Jubilee Commission		
Salaries and expenses (91-50-0550-A):		
Budget Authority	226	71
Outlays	226	71
Gifts and donations (91-50-8095-A):		
401(C) Authority	28	9
Outlays	27	9
Commission for Preservation of America's Heritage Abroad		
Salaries and Expenses (91-50-3700-A):		
Budget Authority	207	65
Outlays	207	65
Commission for Study of International Migration and Cooperative Economic Development		
Comm. for the Study of Int. Mig. and Coop. Econ. Dev: S (91-55-1400-A):		
Budget Authority	1,341	424
Outlays	872	276
Commission of Fine Arts		
Salaries and expenses (91-60-2500-A):		
Budget Authority	530	167
Outlays	486	154
National capital arts and cultural affairs (91-60-2502-A):		
Budget Authority	5,555	1,757
Outlays	5,555	1,757
Commission on Agricultural Workers		
Commission on Agricultural Workers: Salaries and expens (91-65-0057-A):		
Budget Authority	799	252
Outlays	651	206
Commission on Civil Rights		
Salaries and expenses (91-75-1600-A):		
Budget Authority	5,944	1,879
Outlays	5,599	1,770

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Comm on the Bicentennial of the U.S. Constitution		
Salaries and expenses (95-15-8554-A):		
Budget Authority	15,329	4,847
Outlays	10,657	3,368
Commission on the Ukraine Famine		
Commission on the Ukraine Famine: Salaries and expenses (95-95-0050-A):		
Budget Authority	101	32
Outlays	101	32
Committee for Purchase from the Blind and Other Severely Handicapped		
Salaries and expenses (95-46-8550-A):		
Budget Authority	1,655	543
Outlays	991	313
Commodity Futures Trading Commission		
Commodity Futures Trading Commission (95-88-4100-A):		
Budget Authority	40,512	12,807
Outlays	35,141	11,421
Competitiveness Policy Council		
Competitiveness policy council (92-88-8750-A):		
Budget Authority	761	247
Outlays	703	222
Consumer Product Safety Commission		
Product safety (92-85-0100-A):		
Budget Authority	35,472	11,527
401(C) Authority—Off. Coll.	16	5
Outlays	31,016	9,801
Corporation for Public Broadcasting		
Public broadcasting fund (95-86-0151-A):		
401(C) Authority	288,578	94,443
Outlays	288,578	94,443
Court of Veterans Appeals		
Salaries and expenses (95-88-0300-A):		
Budget Authority	4,038	1,302
Outlays	3,443	1,089
Practice registration fee (95-88-5115-A):		
401(C) Authority	6	2
Defense Nuclear Facilities Safety Board		
Salaries and expenses (95-25-3500-A):		
Budget Authority	7,191	2,477
Unobligated Balances—Defense	252	87
Outlays	7,078	2,441
Delaware River Basin Commission		
Salaries and expenses (95-33-0100-A):		
Budget Authority	221	70
Outlays	205	65
Contribution to Delaware River Basin Commission (95-99-8102-A):		
Budget Authority	354	112
Outlays	354	112
District of Columbia		
Federal payment to the District of Columbia (95-40-1700-A):		
Budget Authority	448,531	141,732
401(C) Authority	20,305	6,415
Outlays	463,881	146,166
Federal payment to D.C. (water and sewer services) (95-40-1700-B):		
Budget Authority	8,000	2,528
Outlays	8,000	2,528

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Federal payment to D.C. (retirement funds) (53-45-1709-C):		
Budget Authority	54,257	17,145
Outlays	54,257	17,145
Federal payment to D.C. (St. Elizabeth's Hospital) (53-45-1709-D):		
Budget Authority	15,839	4,939
Outlays	15,839	4,939
Federal payment to D.C. (municipal expenses) (53-45-1703-E):		
Budget Authority	33,109	10,461
Outlays	33,109	10,461
Equal Employment Opportunity Commission		
Salaries and expenses (53-70-0120-A):		
Budget Authority	192,991	59,262
Outlays	169,797	53,059
Export-Import Bank of the United States		
Export-Import Bank of the United States (53-85-4027-A):		
Budget Authority	134,977	42,021
Obligation limitation	22,935	7,112
Direct Loan Limitation	638,100	201,849
Guaranteed loan Limitation	10,819,400	3,355,729
Outlays	61,414	19,407
Farm Credit System Assistance Board		
Revolving fund for administrative expenses (54-15-4132-A):		
Obligation limitation	2,288	729
Outlays	−44	−4
Federal Communications Commission		
Salaries and expenses (54-55-0100-A):		
Budget Authority	112,607	35,394
Outlays	105,307	33,271
Federal Election Commission		
Salaries and expenses (54-45-4000-A):		
Budget Authority	16,091	5,075
Outlays	14,294	4,466
Federal Emergency Management Agency		
Disaster relief (54-80-0104-A):		
Budget Authority	1,303,488	411,905
Outlays	183,889	54,589
Salaries and expenses (54-80-0100-A):		
Budget Authority	155,497	49,108
Outlays	129,997	41,057
Emergency management planning and assistance (54-80-0101-A):		
Budget Authority	327,139	103,374
Outlays	164,525	49,557
Office of the Inspector General (54-80-0300-A):		
Budget Authority	2,989	999
Outlays	2,474	782
Emergency food-and-shelter program (54-80-0100-A):		
Budget Authority	135,559	42,839
Outlays	135,559	42,839
National insurance development fund (54-80-4235-A):		
401(C) Authority	242	76
Outlays	242	76
Federal Labor Relations Authority		
Salaries and expenses (54-60-0100-A):		
Budget Authority	18,825	5,791
Outlays	15,032	4,949
Federal Maritime Commission		
Salaries and expenses (54-60-0100-A):		
Budget Authority	16,084	5,080
Outlays	14,372	4,542

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Federal Mediation and Conciliation Service		
Salaries and expenses (54-70-0100-A):		
Budget Authority	27,839	8,723
Outlays	24,201	7,653
Federal Mine Safety and Health Review Commission		
Salaries and expenses (54-75-2500-A):		
Budget Authority	4,223	1,334
Outlays	3,743	1,183
Federal Trade Commission		
Salaries and expenses (54-45-0100-A):		
Budget Authority	55,714	19,554
401(C) Authority—Off. Coll.	20,089	6,329
Outlays	76,360	24,732
Franklin Delano Roosevelt Memorial Commission		
Salaries and expenses (54-50-0700-A):		
Budget Authority	29	9
Outlays	27	8
Harry S Truman Scholarship Foundation		
Harry S Truman memorial scholarship trust fund (85-86-8295-A):		
Obligation limitation	3,102	980
Outlays	2,656	839
Institute of American Indian and Alaska Native Culture and Arts Development		
Salaries and expenses (85-25-2500-A):		
Budget Authority	4,466	1,410
Outlays	4,466	1,410
Institute of Museum Services		
Institute of Museum Services (85-86-0300-A):		
Budget Authority	23,627	7,466
Outlays	6,192	1,957
Intelligence Community Staff		
Intelligence community staff (95-95-0400-A):		
Budget Authority	29,199	10,074
Outlays	16,569	5,716
Interagency Council on the Homeless		
Interagency Council on the Homeless (95-40-1300-A):		
Budget Authority	1,135	359
Outlays	1,089	402
International Cultural and Trade Center Commission		
International Cultural and Trade Center Commission: Salaries and expenses (95-50-1800-A):		
Budget Authority	1,122	355
Outlays	1,088	337
International Trade Commission		
Salaries and expenses (95-60-0100-A):		
Budget Authority	40,076	13,884
Outlays	33,522	11,041
Interstate Commerce Commission		
Salaries and expenses (95-70-0100-A):		
Budget Authority	43,588	14,048
Outlays	40,094	13,018
Interstate Commission on the Potomac River Basin		
Contribution to Interstate Commission on the Potomac Rl (95-80-0440-A):		
Budget Authority	308	107
Outlays	308	97

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Japan-United States Friendship Commission		
Japan-United States friendship trust fund (95-45-8288-A):		
Budget Authority	1,267	394
Outlays	1,347	394
Legal Services Corporation		
Payment to the Legal Services Corporation (95-80-0351-A):		
Budget Authority	333,333	104,333
Outlays	267,272	83,779
Marine Mammal Commission		
Salaries and expenses (95-70-0300-A):		
Budget Authority	1,039	316
Outlays	797	243
Martin Luther King, Jr. Federal Holiday Commission		
Salaries and expenses (95-75-0300-A):		
Budget Authority	243	−80
Outlays	382	76
Merit Systems Protection Board		
Salaries and expenses (95-60-0100-A):		
Budget Authority	21,339	6,650
Outlays	20,339	6,451
National Archives and Records Administration		
Operating expenses (57-10-0500-A):		
Budget Authority	139,805	41,931
Outlays	100,297	30,089
National archives trust fund (57-45-8030-A):		
401(C) Authority—Off. Coll.	11,101	3,333
Outlays	11,101	3,333
National Capital Planning Commission		
Salaries and expenses (57-30-0500-A):		
Budget Authority	5,216	1,617
Outlays	5,201	1,599
National Commission on American Indian, Alaska Native, and Native Hawaiian Housing		
Salaries and Expenses (57-47-0300-A):		
Budget Authority	921	185
Outlays	382	76
National Commission on Libraries and Information Science		
Salaries and expenses (57-40-2700-A):		
Budget Authority	701	247
Outlays	625	188
White House conference on library and information services (57-40-2701-A):		
Budget Authority	3,389	1,054
Outlays	995	319
Nat Comm on Severely Distressed Housing		
Salaries and expenses (57-49-0320-A):		
Budget Authority	2,021	606
Outlays	208	62
National Commission to Prevent Infant Mortality		
National Commission to Prevent Infant Mortality (57-40-1000-A):		
Budget Authority	417	125
Outlays	417	125
National Council on Disability		
Salaries and expenses (95-60-0300-A):		
Budget Authority	1,000	299
Outlays	1,048	303

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
National Endowment for the Arts		
National Endowment for the Arts: Grants and administration (59-8105-0-1-A):		
Budget Authority	177,691	55,951
Outlays	58,695	18,528
National Endowment for the Humanities		
National Endowment for the Humanities: Grants and admin (59-8203-0-1-A):		
Budget Authority	103,492	31,993
Outlays	74,350	23,519
National Institute of Building Sciences		
Payment to the National Institute of Building Sciences (59-8301-0-1-A):		
Budget Authority	513	162
Outlays	513	162
National Labor Relations Board		
Salaries and expenses (59-45-0105-0-1):		
Budget Authority	145,919	45,116
Outlays	135,288	42,744
National Mediation Board		
Salaries and expenses (59-45-0109-0-1):		
Budget Authority	6,548	2,101
Outlays	5,053	1,597
National Science Foundation		
Research and related activities (59-59-0100-0-1):		
Budget Authority	1,775,999	561,529
Outlays	999,338	291,021
Academic Research Facilities (59-59-0103-0-1):		
Budget Authority	20,517	6,463
Outlays	2,052	648
Office of the Inspector General (59-59-0300-0-1):		
Budget Authority	2,857	848
Outlays	2,534	891
U.S. Antarctic program activities (59-59-0200-0-1):		
Budget Authority	74,575	23,582
Outlays	37,113	11,728
U.S. Antarctic Logistical Support Activities (59-59-0202-0-1):		
Budget Authority	83,078	26,253
Outlays	41,123	12,995
Science and engineering education activities (59-59-0106-0-1):		
Budget Authority	212,844	67,259
Outlays	91,714	10,022
National Transportation Safety Board		
Salaries and expenses (59-68-0210-0-1):		
Budget Authority	26,362	8,332
Outlays	25,811	8,158
Neighborhood Reinvestment Corporation		
Payment to the Neighborhood Reinvestment Corporation (59-76-1329-0-1):		
Budget Authority	27,999	8,743
Outlays	27,999	8,743
Nuclear Regulatory Commission		
Salaries and expenses (59-05-0300-0-1):		
Budget Authority	455,829	144,042
Outlays	341,972	108,032
Office of the Inspector General (59-05-0303-0-1):		
Budget Authority	2,585	946
Outlays	2,216	700
Nuclear Waste Technical Review Board		
Nuclear Waste Technical Review Board: Salaries and Expe (59-05-0509-0-1):		
Budget Authority	2,051	648
Outlays	1,512	478

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Occupational Safety and Health Review Commission		
Salaries and expenses (59-10-0100-0-1):		
Budget Authority	5,257	1,577
Outlays	5,256	1,887
Office of Government Ethics		
Salaries and expenses (59-39-1100-0-1):		
Budget Authority	3,508	1,108
Outlays	3,371	1,066
Office of Navajo and Hopi Indian Relocation		
Salaries and expenses (59-21-1100-0-1):		
Budget Authority	37,556	11,592
Outlays	13,982	4,317
Office of Special Counsel		
Salaries and expenses (59-32-0106-0-1):		
Budget Authority	5,320	1,681
Outlays	4,347	1,583
Office of the Nuclear Waste Negotiator		
Salaries and expenses (59-25-0010-0-1):		
Budget Authority	2,061	648
Pennsylvania Avenue Development Corporation		
Salaries and expenses (59-50-0100-0-1):		
Budget Authority	2,474	782
Outlays	2,003	633
Public development (59-50-0102-0-1):		
Budget Authority	3,282	1,037
Outlays	2,462	778
Land acquisition and development fund (59-50-4084-0-1):		
Budget Authority	104	33
401(C) Authority—Oil. Coll.	3,000	948
Outlays	3,104	981
Postal Service, Payments to the Postal Service		
Payment to the Postal Service fund (59-95-1001-0-1):		
Budget Authority	472,469	149,309
Outlays	472,469	149,309
Payment to the Postal Service fund for nonprofit Subsidies (59-95-1004-0-1):		
Budget Authority	37,955	11,994
Outlays	37,955	11,994
President's Comm on Catastrophic Nuclear Accidents		
Presidential Commission on Catastrophic Nuclear Accidents (59-75-2200-0-1):		
Budget Authority	375	118
Outlays	375	118
Railroad Retirement Board		
Rail Industry Pension Fund (45-10-8011-0-1):		
Obligation limitation	33,774	10,673
Outlays	33,774	10,673
Supplemental Annuity Pension Fund (45-10-8012-0-1):		
401(C) Authority	111,820	35,335
Obligation limitation	2,298	725
Outlays	55,099	17,576
Railroad social security equivalent benefit account (45-10-8010-0-1):		
Obligation limitation	32,753	10,350
Outlays	32,753	10,350
Securities and Exchange Commission		
Salaries and expenses (45-30-0100-0-1):		
Budget Authority	173,551	54,842
Outlays	146,323	46,232

G-R-H Sequester Amounts—Continued
(In thousands of dollars)

Account Title	Sequester Base	Sequester Amount
Selective Service System		
Salaries and expenses (45-45-0400-0-1):		
Budget Authority	35,044	8,256
Outlays	22,321	7,052
Smithsonian Institution		
Salaries and expenses (45-55-0100-0-1):		
Budget Authority	234,212	74,011
Outlays	207,347	65,522
Construction and improvements, National Zoological Park (45-55-0129-0-1):		
Budget Authority	6,694	2,115
Outlays	2,712	852
Repair and restoration of buildings (45-55-0130-0-1):		
Budget Authority	27,681	8,716
Outlays	11,532	3,488
Construction (45-55-0132-0-1):		
Budget Authority	8,671	2,740
Outlays	3,288	1,038
Salaries and expenses, National Gallery of Art (45-55-0200-0-1):		
Budget Authority	41,229	13,218
Outlays	35,675	11,539
Repair, restoration and renovation of buildings (45-55-0204-0-1):		
Budget Authority	1,888	971
Outlays	188	69
Salaries and expenses, Woodrow Wilson International Center (45-55-0400-0-1):		
Budget Authority	4,809	1,523
Outlays	2,691	842
Endowment challenge fund (45-55-0189-0-1):		
401(C) Authority	270	85
Outlays	270	85
Canal Zone biological area fund (45-55-8195-0-1):		
401(C) Authority	150	47
Outlays	135	43
State Justice Institute		
State Justice Institute (45-55-0052-0-1):		
Budget Authority	12,285	3,914
Outlays	3,650	976
Susquehanna River Basin Commission		
Salaries and expenses (45-75-0500-0-1):		
Budget Authority	206	65
Outlays	194	61
Contribution to Susquehanna River Basin Commission (45-75-0501-0-1):		
Budget Authority	283	89
Outlays	283	89
Tennessee Valley Authority		
Tennessee Valley Authority fund (45-80-4110-0-1):		
Budget Authority	124,257	39,295
401(C) Authority—Oil. Coll.	59,554	18,828
Obligation limitation	60,454	19,103
Outlays	83,530	26,269
United States Holocaust Memorial Council		
Holocaust Memorial Council (41-05-8500-0-1):		
Budget Authority	2,305	728
Outlays	1,833	596
United States Information Agency		
Salaries and expenses (41-10-0201-0-1):		
401(C) Authority—Oil. Coll.	7,834	2,476
Outlays	7,834	2,476
Salaries and expenses (41-10-0201-0-1):		
Budget Authority	691,488	220,005
Outlays	549,696	173,856

G-R-H Sequester Amounts—Continued

Account Title	Sequester Base	Sequester Amount
Office of the Inspector General (41-10-0390-A):		
Budget Authority	3,800	1,291
Outlays	3,049	991
Educational and cultural exchange program (41-10-0230-A):		
Budget Authority	164,766	52,066
Outlays	84,039	26,563
National Endowment for Democracy (41-10-0210-A):		
Budget Authority	17,475	5,522
Outlays	8,291	2,620
Radio broadcasting to Cuba (41-10-0205-A):		
Budget Authority	13,059	4,127
Outlays	10,166	3,213
East West Center (41-10-0235-A):		
Budget Authority	21,266	6,727
Outlays	21,266	6,727
Radio construction (41-10-0204-A):		
Budget Authority	87,587	27,677
Outlays	16,642	5,259
United States Institute of Peace		
Operating expenses (41-15-1300-A):		
Budget Authority	7,366	2,469
Outlays	7,366	2,469

G-R-H Sequester Amounts—Continued

Account Title	Sequester Base	Sequester Amount
United States Sentencing Commission		
Salaries and expenses (41-35-0035-A):		
Budget Authority	7,442	2,352
Outlays	6,849	2,164
Total, Other Independent Agencies:		
Budget Authority	10,018,979	3,167,804
401(C) Authority	435,181	137,518
401(C) Authority—Oil. Coll.	100,979	31,909
Obligation limitation	157,178	49,668
Direct Loan Limitation	638,100	201,649
Guaranteed Loan Limitation	10,818,406	3,355,799
Unobligated Balances—		
Defense	252	87
Outlays	8,554,326	-2,072,596
Allowances		
G-R-H aggregate spendout rate requirement (91-05-8070-A):		
Outlays	70,000	22,129
Total, Allowances:		
Outlays	70,000	22,129
Total Government:		
Budget Authority	418,177,042	139,680,109
Budget Authority—ASI	68,762	68,762

G-R-H Sequester Amounts—Continued

Account Title	Sequester Base	Sequester Amount
Budget Authority—Spec.		
Rules	357,788	357,788
401(C) Authority	35,846,191	11,288,167
401(C) Authority—Oil. Coll.	3,585,881	1,127,169
401(C) Authority—ASI	5,409	5,409
401(C) Authority—Spec.		
Rules	45,146	45,146
Obligation limitation	29,629,911	9,328,019
Obligat. limit.—Spec. Rules	1,888,089	1,888,089
Direct Loan Limitation	29,971,570	9,437,995
Direct Loan Floor	2,854,289	848,134
Guaranteed Loan Limitation	169,469,914	53,352,991
Unobligated Balances—		
Defense	39,229,199	12,350,044
Outlays	249,544,316	83,344,355

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Part V

The President

Final Order of October 15, 1990: Emergency Deficit Control Measures for Fiscal Year 1991

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Presidential Documents

Title 3—

The President

Final Order of October 15, 1990

Emergency Deficit Control Measures for Fiscal Year 1991

By the authority vested in me as President by the statutes of the United States of America, including section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177), as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100–119) (hereafter referred to as "the Act"), I hereby order that the following actions shall be taken to implement the sequestrations and reductions determined by the Director of the Office of Management and Budget as set forth in his report dated October 15, 1990, under section 251 of the Act:

(1) Each automatic spending increase that would, but for the provisions of the Act, take effect during fiscal year 1991 is permanently sequestered or reduced as provided in section 252.

(2) The following are sequestered as provided in section 252: new budget authority; unobligated balances; new loan guarantee commitments or limitations; new direct loan obligations, commitments, or limitations; spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974, as amended; and obligation limitations.

(3) For accounts making payments otherwise required by substantive law, the head of each Department or agency is directed to modify the calculation of each such payment to the extent necessary to reduce the estimate of total required payments for the fiscal year by the amount specified by the Director of the Office of Management and Budget in his report of October 15, 1990.

(4) For accounts making commitments for guaranteed loans as authorized by substantive law, the head of each Department or agency is directed to reduce the level of such commitments or obligations to the extent necessary to conform to the limitations established by the Act and specified by the Director of the Office of Management and Budget in his report of October 15, 1990.

All reductions and sequestrations shall be made in strict accordance with the specifications of the October 15th report of the Director of the Office of Management and Budget and the requirements of section 252(b).

This order supersedes the Initial Order issued on August 25, 1990.

This order shall be published in the Federal Register.

George Bush

THE WHITE HOUSE,
October 15, 1990.

[FR Doc. 90-24612
Filed 10-15-90; 1:21 pm]
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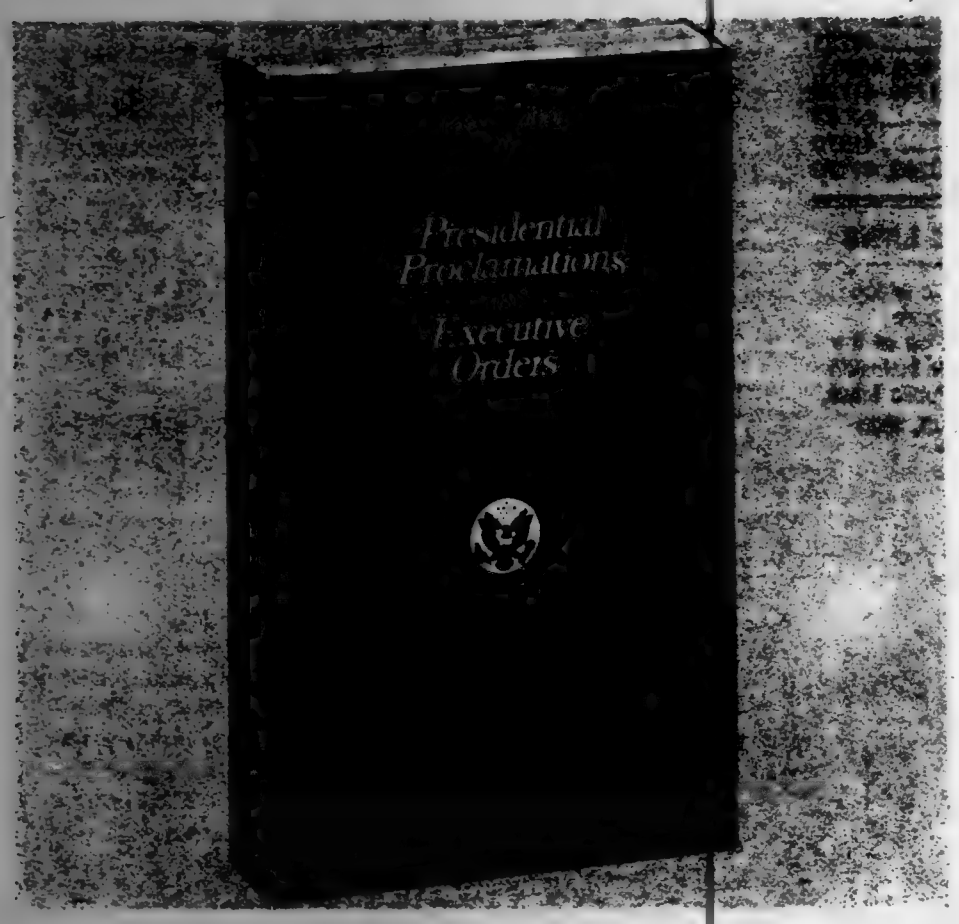

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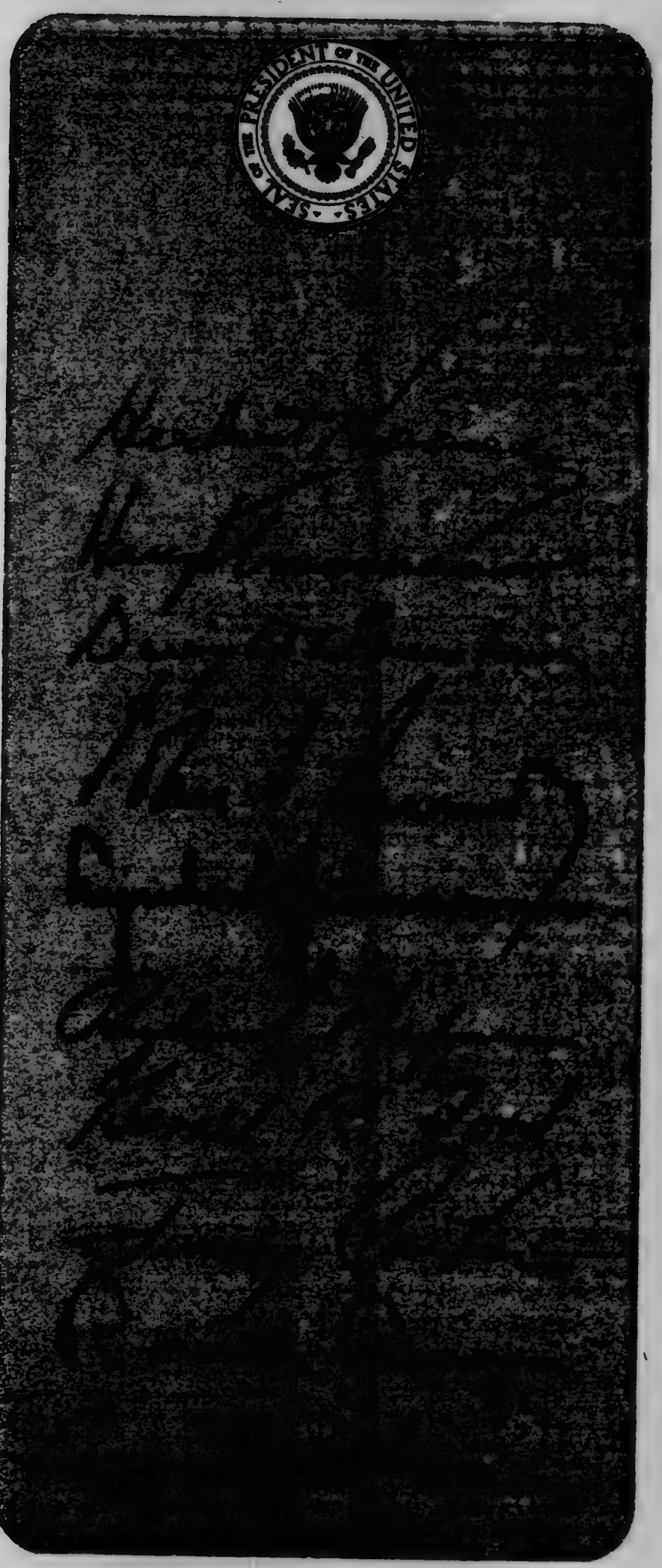

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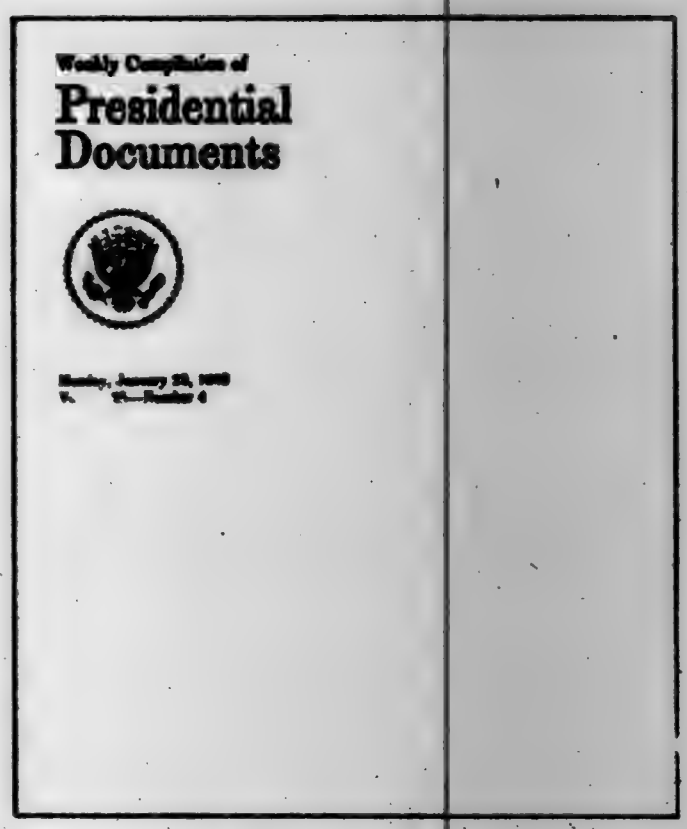

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Presidential Documents

Title 3—

The President

Presidential Determination No. 91–3 of October 12, 1990

Determination of FY 1991 Refugee Admissions Numbers and Authorization of In-Country Refugee Status Pursuant to Sections 207 and 101 (a) (42), Respectively, of the Immigration and Nationality Act

Memorandum for the United States Coordinator for Refugee Affairs

In accordance with section 207 of the Immigration and Nationality Act ("the Act") (8 U.S.C. 1157), and after appropriate consultation with the Congress, I hereby make the following determinations and authorize the following actions:

a. The admission of up to 131,000 refugees to the United States during FY 1991 is justified by humanitarian concerns or is otherwise in the national interest; provided, however, that this number shall be understood as including persons admitted to the United States during FY 1991 with Federal refugee resettlement assistance under the Amerasian admissions program, as provided in paragraph (b) below.

Ten thousand of these admissions numbers shall be set aside for private sector admissions initiatives, and may be used for any region. The admission of refugees using these numbers shall be contingent upon the availability of private sector funding sufficient to cover the reasonable costs of such admissions.

b. The 131,000 admissions shall be allocated among refugees of special humanitarian concern to the United States as described in the documentation presented to the Congress during the consultations that preceded this determination and in accordance with the following regional allocations; provided, however, that the number allocated to the East Asia region shall include the number of persons admitted to the United States during FY 1991 with Federal refugee resettlement assistance under section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988, as contained in section 101(e) of Public Law 100–202 (Amerasians and their family members):

Africa	6,000
East Asia	32,000
Soviet Union	50,000
Eastern Europe	5,000
Near East/South Asia	9,000
Latin America/Caribbean	3,100
Not Designated	10,000*

* Funded by the private sector.

Utilization of the 121,000 federally funded admissions numbers shall be limited by such public and private funds as shall be available to the Department of State and the Department of Health and Human Services for refugee and Amerasian admissions in FY 1991. You are hereby authorized and directed to so advise the judiciary committees of the Congress.

Unused admissions numbers allocated to a particular region within the 121,000 federally funded ceiling may be transferred to one or more other regions if there is an overriding need for greater numbers for the region or regions to which the numbers are being transferred. You are hereby authorized and directed to consult with the judiciary committees of the Congress prior to any such reallocation.

The 10,000 privately funded admissions not designated for any country or region may be used for refugees of special humanitarian concern to the United States in any region of the world at any time during the fiscal year. You are hereby authorized and directed to notify the judiciary committees of the Congress in advance of the intended use of these numbers.

An additional 5,000 refugee admissions numbers shall be made available during FY 1991 for the adjustment to permanent resident status under section 209(b) of the Act (8 U.S.C. 1159[b]) of aliens who have been granted asylum in the United States under section 208 of the Act (8 U.S.C. 1158), as this is justified by humanitarian concerns or is otherwise in the national interest.

In accordance with section 101(a)(42) of the Act (8 U.S.C. 1101(a)(42)), I also specify, after appropriate consultation with the Congress, that the following persons may, if otherwise qualified, be considered refugees for the purpose of admission to the United States while still within their countries of nationality or habitual residence:

a. Persons in Vietnam and Laos who have past or present ties to the United States or who have been or currently are in reeducation camps in Vietnam or seminar camps in Laos, and their accompanying family members.

b. Present and former political prisoners, persons in imminent danger of loss of life, and other persons of compelling concern to the United States in countries of Latin America and the Caribbean, and their accompanying family members.

c. Persons in Cuba who are (1) in immediate danger of loss of life and for whom there appears to be no alternative to resettlement in the United States, or (2) are of compelling concern to the United States, such as former or present political prisoners, dissidents, or human rights and religious activists, or (3) were employed by the United States Government for at least 1 year prior to the claim for refugee status; and their accompanying family members.

d. Persons in the Soviet Union and Romania.

You are hereby authorized and directed to report this determination to the Congress immediately and to arrange for its publication in the Federal Register.

George Bush

cc: The Secretary of State
The Attorney General
The Secretary of Health and Human Services

THE WHITE HOUSE,
Washington, October 12, 1990.

[FR Doc. 90-24280
Filed 10-15-90; 12:45 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 55, No. 201
Wednesday, October 17, 1990

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 90-199]

Imported Fire Ant Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that amended the imported fire ant quarantine and regulations by designating all or portions of the following as generally infested areas: Five counties in Alabama, four counties in Arkansas, four counties in Mississippi, four counties in South Carolina, three counties in Tennessee, and seven counties in Texas. The action expanded the regulated areas and imposed certain restrictions on the interstate movement of regulated articles. The action was necessary to prevent the artificial spread of the imported fire ant.

EFFECTIVE DATE: November 16, 1990.

FOR FURTHER INFORMATION CONTACT: Milton C. Holmes, Senior Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, room 642, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8247.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule published in the Federal Register and effective on July 12, 1990 (55 FR 28596-28598, Docket No. 90-101), we amended the imported Fire Ant regulations in 7 CFR 301.81-2a by designating all or portions of the following counties as generally infested areas: De Kalb, Jackson, Lauderdale, Limestone, and Madison Counties in Alabama; Desha, Grant, Jefferson, and Lincoln Counties in Arkansas; Bolivar, Leflore, Sunflower, and Tallahatchie Counties in Mississippi; Chester, Greenwood, McCormick, and Newberry Counties in South Carolina; Hardin, Hardeman, and McNairy Counties in Tennessee; and Edwards, Hamilton, Kimble, McMullen, Midland, Real, and Uvalde Counties in Texas.

Comments on the interim rule were required to be received on or before September 10, 1990. We received one comment from a State Department of Agriculture. The commenter supported the interim rule as necessary to protect against introduction of the imported fire ant. The facts in the interim rule still provide a basis for the rule.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

This action affects the interstate movement of regulated articles from specified areas in Alabama, Arkansas, Mississippi, South Carolina, Tennessee, and Texas. Thousands of small entities move these articles interstate from these States, and many more thousands of small entities move these articles interstate from other States.

However, based on information compiled by the Department, we have determined that approximately 136 small entities within the newly regulated areas move articles interstate from the specified areas in those States. Further, the overall economic impact from this action is estimated to be approximately $14,000.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The regulations in this subpart contain no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

List of Subjects in 7 CFR Part 301

Agricultural commodities, Imported fire ant, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we are adopting as a final rule, without change, the interim rule amending 7 CFR 301.81-2a that was published at 55 FR 28596-28598 on July 12, 1990.

(Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164-167; 7 CFR 2.17, 2.51, and 371.2(c).

Done in Washington, DC, this 11th day of October 1990.

Robert Melland,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-24369 Filed 10-16-90; 8:45 am]

BILLING CODE 3410-34-M

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7 CFR Part 301

[Docket No. 90-198]

Mediterranean Fruit Fly; Removal From the Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the Mediterranean fruit fly regulations by removing portions of the quarantined area in Los Angeles County near Glendora, Pomona, and Valinda, from

the list of quarantined areas in California. We have determined that the Mediterranean fruit fly has been eradicated from the area and that the restrictions are no longer necessary. This action relieves unnecessary restrictions on the interstate movement of regulated articles from the area.

DATES: Interim rule effective October 12, 1990. Consideration will be given only to comments received on or before December 17, 1990.

ADDRESSES: To help ensure that your comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 90-199. Comments received may be inspected at USDA, room 1141, South Building, 14th and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Milton C. Holmes, Senior Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, room 642, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8247.

SUPPLEMENTARY INFORMATION:

Background

The Mediterranean fruit fly, *Ceratitis capitata* (Wiedemann), is one of the world's most destructive pests of numerous fruits and vegetables, especially citrus fruits. The Mediterranean fruit fly (Medfly) can cause serious economic losses. Heavy infestations can cause complete loss of crops, and losses of 25 to 50 percent are not uncommon. The short life cycle of this pest permits the rapid development of serious outbreaks.

We established the Mediterranean fruit fly regulations and quarantined an area in Los Angeles County, California (7 CFR 301.78 *et seq.*; referred to below as the regulations), in a document effective August 23, 1989, and published in the Federal Register on August 29, 1989 (54 FR 35629-35635, Docket Number 89-146). We have published a series of interim rules amending these regulations by adding or removing certain portions of Los Angeles, Orange, San Bernardino, and Santa Clara Counties, California, from the list of quarantined areas. Amendments affecting California were made effective on September 14, October 11, November 17, and December 7, 1989; and on January 3, January 25, February 16, March 9, May 9, June 1, August 3, September 6, September 14, and September 21, 1990. (54 FR 36643-36645, Docket Number 89-169; 54 FR 42478-42480, Docket Number 89-182; 54 FR 48571-48572, Docket Number 89-202; 54 FR 51189-51191, Docket Number 89-206; 55 FR 712-715, Docket Number 89-212; 55 FR 3037-3039, Docket Number 89-227; 55 FR 6353-6355, Docket Number 90-014; 55 FR 9719-9721, Docket Number 90-031; 55 FR 19241-19243, Docket Number 90-050; 55 FR 22320-22323, Docket Number 90-061; 55 FR 32236-32238, Docket Number 90-151; 55 FR 37097-37098, Docket Number 90-175; 55 FR 38529-38530, Docket Number 90-178; and FR 39261-39262, Docket Number 90-182).

Based on insect trapping surveys by inspectors of California State and county agencies and by inspectors of the Animal and Plant Health Inspection Service (APHIS), we have determined that the Medfly has been eradicated from portions of the quarantined area in California in Los Angeles County, near Glendora, Pomona, and Valinda. The last finding of the Medfly was made on April 16, 1990, in the Glendora area; on April 18, 1990, in the Pomona area, and on April 25, 1990, in the area near Valinda. Since then, no evidence of infestations has been found in these areas. We have determined that the Medfly no longer exists in these areas. Therefore, we are removing these areas from the list of areas in § 301.78.3(c) quarantined because of the Mediterranean fruit fly. A description of the areas that remain quarantined is set forth in full in the rule portion of this document.

Emergency Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that an emergency situation exists that warrants publication of this interim rule without prior opportunity for public comment. The areas in California affected by this document were quarantined due to the possibility that the Mediterranean fruit fly could spread to noninfested areas of the United States. Since this situation no longer exists, and the continued quarantined status of these areas would impose unnecessary regulatory restrictions on the public, we have taken immediate action to remove restrictions from the noninfested areas.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these conditions, there is good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments received within 60 days of publication of this interim rule in the Federal Register. After the comment period closes, we will publish another document in the Federal Register, including a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

This regulation affects the interstate movement of regulated articles from portions of Los Angeles County in California. Within the regulated area being removed there are approximately 695 entities that could be affected, including 60 nurseries, 219 fruit/produce vendors, 3 swap meets, 24 commercial growers, 1 farmers market, 237 yard maintenance services, 150 mobile vendors, and 1 dehydrator site.

The effect of this rule on these entities should be insignificant since most of these small entities handle regulated articles primarily for local intrastate movement, not interstate movement, and the distribution of these articles was not affected by the regulatory provisions we are removing.

Many of these entities also handle other items in addition to the previously regulated articles so that the effect, if any, on these entities is minimal. Further, the conditions in the Mediterranean fruit fly regulations and treatments in the Plant Protection and Quarantine Treatment Manual, incorporated by reference in the regulations, allowed interstate movement of most articles without significant added costs.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have

a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The regulations in this subpart contain no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation, Incorporated by reference, Mediterranean fruit fly.

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for 7 CFR part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. Section 301.75–3, paragraph (c), is revised to read as follows:

§ 301.75–3 Quarantined areas.

* * * * *

(c) The areas described below are designated as quarantined areas:

California

Los Angeles and Orange Counties

That portion of the counties in the San Gabriel Valley, Brea, Lakewood, and Los Angeles areas bounded by a line drawn as follows: Beginning at the intersection of Interstate Highway 210 and Interstate 605; then southerly along Interstate 605 to its intersection with State Highway 60; then easterly along this highway to its intersection with the Los Angeles-San Bernardino County line; then southerly and westerly along this county line to its intersection with the Los Angeles-Orange County line; then westerly along this line to its intersection with State Highway 57; then southerly along this highway to its intersection with Chapman Avenue; then westerly along this avenue to its intersection with Commonwealth Avenue; then southerly and westerly along this avenue to its intersection with Beach Boulevard; then southerly along this boulevard to its intersection with Lincoln Avenue; then westerly along this avenue to its intersection with Carson Street; then westerly along this street to its intersection with Lakewood Boulevard; then northerly along this boulevard to its intersection with Del Amo Boulevard; then westerly along this boulevard to its intersection with Downey Avenue; then northerly along this avenue to its intersection with Artesia Boulevard; then westerly along this boulevard to its intersection with Interstate Highway 710; then northerly along this highway to its intersection with State Highway 60; then westerly along this highway to its intersection with Soto Street; then northeasterly along this street to its intersection with Whittier Boulevard; then westerly along this boulevard to its intersection with 6th Street; then northwesterly along this street to its intersection with Broadway; then southwesterly along Broadway to its intersection with Interstate Highway 10; then westerly along this highway to its intersection with La Brea Avenue; then northerly along this avenue to its intersection with Hollywood Boulevard; then easterly along this boulevard to its intersection with Highland Avenue; then northerly along this avenue to its intersection with U.S. Highway 101; then northwesterly along this highway to its intersection with State Highway 134; then easterly along this highway to its intersection with Interstate Highway 210; then easterly along this highway to the point of beginning.

Done in Washington, DC, this 12th day of October 1990.

Robert Melland,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90–24460 Filed 10–16–90; 8:45 am]

BILLING CODE 3410–34–M

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7 CFR Part 301

[Docket No. 90–092]

Witchweed Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the list of suppressive areas under the witchweed quarantine and regulations by adding and deleting areas in North Carolina and South Carolina. These changes affect 13 counties in North Carolina and 3 counties in South Carolina. These actions are necessary in order to impose certain restrictions on the interstate movement of regulated articles to prevent the artificial spread of witchweed and to delete unnecessary restrictions on the interstate movement of regulated articles.

DATES: Interim rule effective October 17, 1990. Consideration will be given only to comments received on or before December 17, 1990.

ADDRESSES: To help ensure that your comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 90–092. Comments may be inspected at USDA, room 1141, South Building, 14th and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 pm., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas G. Flanigan, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, room 646, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8247.

SUPPLEMENTARY INFORMATION:

Background

Witchweed is a parasitic plant that causes degeneration of corn, sorghum, and other grassy crops. It has been found in the United States only in parts of North Carolina and South Carolina.

The witchweed quarantine and regulations (contained in 7 CFR 301.80 *et seq.*, and referred to below as the regulations) quarantine the States of North Carolina and South Carolina and restrict the interstate movement of certain witchweed hosts from regulated areas in the quarantined States for the purpose of preventing the artificial spread of witchweed.

Regulated areas for witchweed are designated as either suppressive areas or generally infested areas. Restrictions are imposed on the interstate movement of regulated articles from both types of areas in order to prevent the artificial movement of witchweed into noninfested areas. However, the eradication of witchweed is undertaken as an objective only in areas designated as suppressive areas. Currently, there are no areas designated as generally infested areas.

Designation of Areas as Suppressive Areas

We are amending the list of suppressive areas by adding areas in Craven, Duplin, Greene, Lenoir, Pender, and Pitt Counties in North Carolina, and areas in Florence and Horry Counties in South Carolina to the list of suppressive areas in § 301.80–2a of the regulations.

The rule portion of this document lists the suppressive areas for each county. Nonfarm areas, if any, are listed first; farms are then listed alphabetically.

Removal of Areas from List of Regulated Areas

We are also amending the list of suppressive areas by removing areas in Columbus, Craven, Cumberland, Duplin, Greene, Harnett, Hoke, Lenoir, Pender,

Richmond, Sampson, and Wayne Counties in North Carolina, and areas in Florence, Horry, and Marlboro Counties in South Carolina from § 301.80-2a of the regulations. As a result of this action, there are no longer any regulated areas in Hoke and Richmond Counties, North Carolina or in Marlboro County, South Carolina.

We are taking this action because we have determined that witchweed no longer occurs in these areas and there is no longer a basis to continue listing these areas as suppressive areas for the purpose of preventing the artificial spread of witchweed. Therefore, we are removing these areas from the list of suppressive areas in order to remove unnecessary restrictions on the movement of articles designated as witchweed regulated articles.

Emergency Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that a situation exists that warrants publication of this interim rule without prior opportunity for public comment. Because of the possibility that witchweed could be spread artificially to noninfested areas of the United States, it is necessary to act immediately to control its spread. Also, where witchweed no longer occurs, immediate action is needed to delete unnecessary restrictions on the interstate movement of regulated articles.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these conditions, there is good cause under 5 U.S.C. 553 to make it effective upon publication in the Federal Register. We will consider comments received within 60 days of publication of this interim rule in the Federal Register. After the comment period closes, we will publish another document in the Federal Register, including a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an estimated annual effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

This action affects the interstate movement of regulated articles from specified areas in North Carolina and South Carolina. Based on information compiled by the Department, we have determined that approximately 281,000 small entities move these articles interstate from North Carolina and South Carolina. However, this action affects only 67 of these entities, by removing 50 entities from regulation and placing 9 new entities under regulation. We have determined that the 50 deregulated entities will realize combined annual savings of approximately $3,350, or an average of $67.00 each, in regulatory and control costs. We estimate that the 9 newly regulated entities will need to invest approximately $135 each, per year, in order to comply with our regulations.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This interim rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

The program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant pests, Plants (Agriculture), Quarantine, Transportation, Witchweed.

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162 and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. Section 301.80-2a is revised to read as follows:

§ 301.80-2a Regulated areas; suppressive areas.

The civil divisions and parts of civil divisions described below are designated as witchweed regulated areas within the meaning of this subpart.

North Carolina

(1) *Generally infested areas.* None.
(2) *Suppressive areas.*
Bladen County. The entire county.
Columbus County. The part of the county lying north and west of a line that begins at a point where State Highway 410 intersects the Bladen-Columbus County line, then south along this road to its junction with U.S. Highway 76, then west along U.S. Highway 76 to its junction with State Secondary Road 1356, then south along this road to its junction with the North Carolina-South Carolina border, where the line ends.

The Brown, Annie, farm located on the west side of State Highway 11 and 0.8 mile south of the junction of this road with State Highway 87.

The Harmon, Thelma, (formerly the Lloyd Spaulding farm) located in the southeast corner of the junction of State Secondary Roads 1736 and 1713.

The Jacobs, Thomas, farm located 0.2 mile north of State Secondary Road 1847 and 1 mile northeast of the junction of this road with State Secondary Road 1740.

The Walters, Eugene, farm located on the southeast side of a farm road 0.2 mile southeast of its intersection with State Highway 131 at a point opposite the junction of this highway with State Secondary Road 1530.

Craven County. The Chapman, Idel M., farm located on the west side of State Secondary Road 1459 and 0.1 mile north of the junction with State Secondary Road 1468 with this road and 0.2 mile off the west side of State Secondary Road 1459.

Cumberland County. That area bounded by a line beginning at a point where U.S. Highway 401 intersects the Cumberland-Hoke County line, then east along this highway to its intersection with the Fayetteville city limits, then south, east, and northeast along these city limits to its junction with U.S. Highway 301 north, then northeast along this highway to its junction with U.S. Interstate 95, then northeast along this interstate to its junction with U.S. Highway 13, then east and northeast along this highway to its intersection with the Cumberland-Sampson County line, then southerly along this county line to its junction with the Bladen-Cumberland County line, then westerly along this county line to its junction with the Cumberland-Robeson County line, then northwesterly along this county line to its junction with the Cumberland-Hoke County line, then northwesterly along this county line to the point of beginning.

The Contrell, C.T., farm located on the west side of State Secondary Road 1400 at its junction with State Secondary Road 1401.

The Elliott, W.H., farm located on the south side of State Secondary Road 1609 and 0.5 mile east of its junction with State Secondary Road 1710.

The Gerald, Rufus, farm located on the east side of State Secondary Road 1818 and 0.5 mile north of its intersection with U.S. Highway 13.

The Holiday, Waddell, farm located on the south side of State Secondary Road 3122 and its junction with State Secondary Road 1402.

The Jackson, J.T., farm located on the west side of State Secondary Road 1403 and 0.7 mile north of its junction with U.S. Highway 401.

The Lockamy, Earl, farm located on the west side of U.S. Highway 301 and 0.3 mile south of its junction with State Secondary Road 1802.

The Lovick, Eugene, farm located on the north side of State Secondary Road 1732 and 0.9 mile west of its junction with U.S. Highway 301.

The Matthews, Isiah, farm located on a private road off the east side of U.S. Highway 301 and 0.1 mile north of its junction with State Secondary Road 1722.

The McKeithan, Sarah E., farm located on the west side of U.S. Highway 301 and 0.3 mile north of its junction with State Secondary Road 1815.

The McLaurin, Burnice, farm located on the north side of State Secondary Road 1720 and 0.7 mile east of its intersection with State Secondary Road 1719.

The McLaurin, Elwood, farm located on the west side of U.S. Highway 301 and 0.2 mile north of its junction with State Secondary Road 1823.

The McLaurin, George, farm located on the north side of State Secondary Road 1722 and 0.4 mile west of its junction with U.S. Highway 301.

The McLaurin, Greg, farm located on the south side of State Secondary Road 1722 and 0.3 mile west of its junction with U.S. Highway 301.

The McLaurin, McLaurin, farm located on the north side of State Secondary Road 1722 and 0.5 mile west of its junction with U.S. Highway 301.

The McLaurin, Octavious, farm located on the north side of State Secondary Road 1722 and 0.51 mile west of its junction with U.S. Highway 301.

The McMillan, Vander, farm located on the west side of U.S. Highway 301 and 0.5 mile north of its junction with State Secondary Road 1722.

The Melvin, Edith, farm located on the east side of State Secondary Road 1800 and 1.7 miles north of its intersection with State Secondary Road 1815.

The Pruitt, K.D., farm located on the west side of U.S. Highway 13 and 0.6 mile north of its intersection with State Secondary Road 1818.

The Roberts, Christine Dawson, farm located on the south side of State Secondary Road 1714 and 0.5 mile west of its junction with State Secondary Road 1718.

The Shirman, Harry, farm located on the west side of State Secondary Road 1400 and 0.1 mile south of its junction with State Secondary Road 1401.

The Smith, Agnes, farm located on the south side of State Secondary Road 1720 and 0.7 mile east of its intersection with State Secondary Road 1719.

The Smith, Larry Don, farm located on a private road off the west side of U.S. Highway 301 and 0.2 mile south of its junction with State Secondary Road 1722.

The Underwood, Olive T., farm located on the east side of State Secondary Road 1723 and 0.8 mile south of its junction with State Secondary Road 1722.

The Valentine, Ike, farm located on the west side of State Secondary Road 1402 and 0.9 mile south of its junction with State Secondary Road 1400.

The Vann, W.E., farm located on the northwest side of State Secondary Road 1819 at its junction with State Secondary Road 1813.

Duplin County. The Grand, Pietro, farm located 0.2 mile southwest of the end of State Secondary Road 1951.

The Hamilton, John, farm located on both sides of State Secondary Road 1921 and 1.4 miles southeast of the junction of this road and State Secondary Road 1922.

The Holland, William, farm located on the west side of U.S. Highway 117 at the junction of State Secondary Road 1908.

The Lee, Daphne, farm located on the south side of State Highway 24 and 0.3 mile east of its intersection with State Secondary Road 1737.

The Lewis, Merle S., farm located on both sides of North Carolina Secondary Road 1808 and .25 miles east of its intersection with North Carolina State Road 1004.

The Miller, O'Berry, farm located on the north side of State Secondary Road 1700, and 0.1 mile east of its junction with State Highway 11.

The Phillips, Hubert, farm located on the east side of State Secondary Road 1375 and 0.7 mile northwest of its junction with State Highway 24.

The Thomas, J.R., farm located on the south side of State Secondary Road 1700 and 1.8 miles east of the intersection of this road and State Secondary Road 1701.

The Tyner, J.R., farm located on the south side of State Highway 24 and the east side of State Secondary Road 1737 at the intersection of this road.

Greene County. The Applewhite, Claudia, farm located on the west side of North Carolina State Road 1419 and 0.2 mile south of the junction of this road and North Carolina State Highway 903.

The Carmon, James E., farm located on the east side of State Secondary Road 1004 and 0.4 mile south of its junction with State Highway 903.

The Dun, Jo, Estate farm located 1 mile south of Maury on the northeast side of State Secondary Road 1441 and 0.5 mile west of its junction with State Secondary Road 1413.

The Dunn, Theodore S., farm located on the east side of North Carolina Secondary Road 1413 and in the northeast junction with this road and North Carolina Secondary Road 1417.

The Edwards, Joe E., farm located on the west side of State Secondary Road 1413 and 0.4 mile north of its junction with State Secondary Road 1403.

The Nethersett, Lawrence, farm located on the north side of State Secondary Road 1409 and 3 miles southeast of its junction with U.S. Highway 13.

The Warren, Francis, farm located on the west side of State Secondary Road 1418 and 0.3 mile north of its junction with State Secondary Road 1419.

Hornett County. The Dove, Ira, farm located on the southeast side of State Secondary Road 1105 and 0.7 mile southwest of its junction with State Highway 24/27.

The Farrel, David, farm located on the west side of State Secondary Road 1201 and 0.2 mile northwest of its junction with State Highway 27.

The Forthberry, Bennett, farm located on the south side of State Secondary Road 1141 and 0.4 mile east of the junction of this road with State Secondary Road 1139.

The Grey, Charlie, farm located on the west side of State Secondary Road 1111 and 0.8 mile south of its junction with State Highway 24.

The Hicks, Vashti, farm located on the south side of State Secondary Road 2039 and 0.4 mile west of its junction with State Secondary Road 2031.

The Hobbs, Marvin, farm located on the southwest side of State Secondary Road 2072 and 1 mile northwest of its junction with State Secondary Road 2033.

The Hobbs, R.C., farm located on the southwest side of State Secondary Road 2072 and 1.1 miles northwest of its junction with State Secondary Road 2033.

The McNeil, Raymond F., farm located on the east side of State Secondary Road 1201 and north of its junction with State Secondary Road 1202.

The Pennington, Albert J., farm located on the southwest side of State Secondary Road 1110 and 0.3 mile east of its junction with State Secondary Road 1108.

The Spaulding, James, farm located on the north side of State Secondary Road 1141 and 1.3 miles east of its junction with State Secondary Road 1139.

The Thomas, Floyd E., farm located on the northeast side of State Secondary Road 1148 and 0.2 mile north of its junction with State Secondary Road 1117.

The Walker, N.A., farm located on the east side of State Secondary Road 2042 and 0.9 mile southwest of its junction with State Secondary Road 2039.

Lenoir County. The Faulkner, Isabelle, farm located on both sides of State Secondary Road 1809 and 0.5 mile east of its junction with State Secondary Road 1720.

The Hill, Nannie T., farm located in the east junction of State Highway 55 and State Secondary Road 1161.

The Ivey, Lelland, farm located on the northeast side of North Carolina Secondary Road 1324 at its junction with North Carolina Secondary Road 1307.

The Pelletier, Roger, farm located on the northeast side of State Secondary Road 1318 and 0.3 mile northwest of its junction with State Secondary Road 1318.

The Taylor, Heber, No. 2, farm located on the south side of State Secondary Road 1161.

0.3 mile east of its junction with State Highway 55.

Pender County. The Anderson, Julius W., farm located on both sides of State Secondary Road 1135 and 0.9 mile northwest of its junction with State Secondary Road 1107.

The Barnhill, Frank, farm located on the south side of State Highway 210 and 0.1 mile of the junction of this highway and State Secondary Road 1120.

The Batson, Arthur, farm located on the east side of State Secondary Road 1411 and 1.5 miles east of its intersection with U.S. Highway 117.

The Burns, T.C., farm located 0.8 mile northeast of State Secondary Road 1104 and 1 mile northwest of the junction of this road and State Secondary Road 1107.

The Corbett Farming Co., farm located on a field road 1.7 miles east of U.S. Highway 117 and 0.3 mile south of its intersection with State Secondary Road 1411.

The Corbett, Robert L., farm located on both sides of State Highway 210 and 0.5 mile northwest of its junction with State Secondary Road 1120.

The Dees, Betty, farm located 0.6 mile east of State Secondary Road 1411 and 1.5 miles east of its intersection with U.S. Highway 117.

The Frizzel, F.P., farm located on the north side of State Secondary Road 1103 and 0.6 mile west of its junction with State Secondary Road 1133.

The Flynn, B.S., farm located on the north side of State Road 1108 at its junction with State Road 1107.

The Hardie, George, farm located on the north side of a field road 0.4 mile east of State Secondary Road 1104 and 0.2 mile northeast of its intersection with Lyon Canal.

The Henry, Mary E., farm located 0.1 mile south of State Secondary Road 1130 and 0.2 mile east of its intersection with the Pender-Bladen County line.

The Hicks, Carol, farm located on the south side of State Highway 210 and 0.8 mile east of its intersection with U.S. Highway 117.

The Kea, Nora, farm located 0.1 mile west of the west end of State Secondary Road 1138.

The Keith, F.R., farm located on both sides of State Secondary Road 1130 and 0.7 mile west of the junction of this road and State Highway 210.

The Keith, James R., farm located on 0.8 mile northeast of State Road 1104 and 1 mile northwest of its junction of this road with State Road 1107.

The Keith, Sprunt, farm located on the southwest side of State Secondary Road 1130 and at the Pender-Bladen County line.

The Lanier, Adonah, farm located on the southeast side of State Secondary Road 1411 and 1.4 miles east of its intersection with U.S. Highway 117.

The Larkins, C.E., farm located on the southwest side of State Secondary Road 1102 and 0.2 mile southeast with the Pender-Bladen County line.

The Larkins, Maggie, estate located on the northeast side of State Secondary Road 1102 and 0.2 mile southeast along this road to its intersection with the Pender-Bladen County line.

The Malloy, Pete, No. 1 farm located on both sides of State Highway 210 and the east side of State Secondary Road 1200.

The Malloy, Pete, No. 2 farm located on both sides of State Highway 210 and 1.3 miles east of the intersection of this highway and U.S. Highway 117.

The Manuel, George, farm located 0.1 mile south of State Highway 210 and 0.2 mile west of its junction with State Secondary Road 1103.

The Marshall, Crawford, farm located on the north side of State Secondary Road 1103 and 0.6 mile west of its junction with State Secondary Road 1133.

The Marshall, Milvin, farm located on the north side of State Secondary Road 1103 and 0.6 mile east of the southern junction of this road and State Secondary Road 1104.

The Nixon, Ross, farm located on both sides of State Highway 210 and on the west side of State Secondary Road 1599.

The Peterson, Grady, farm located on the north side of a field road 0.2 mile east of State Secondary Road 1104 and northeast of its intersection with Lyon Canal.

The Pridgen, Pete, farm located on the southwest side of State Secondary Road 1103 and 0.3 mile southeast of its junction with State Highway 210.

The Taylor, Bill, farm located on the west side of State Secondary Road 1104 and 2.0 miles south of the northernmost intersection of this road with State Secondary Road 1103.

The Terrell, Nancy, farm located on a field road 2.8 miles east of U.S. Highway 117 and 0.3 mile south of its intersection with State Secondary Road 1411.

The Williams, Leroy, farm located on the south side of State Secondary Road 1600 and at the south end of State Secondary Road 1599.

Pitt County. The Hodges, M.B., farm located 1.1 miles north of Grifton on the east side of State Secondary Road 1907 and 1.1 miles north of the injunction of U.S. Highway 118.

Robeson County. The entire county.

Sampson County. That area bounded by a line beginning at a point where State Secondary Road 1927 intersects the Sampson-Duplin County line, then southerly and easterly along this county line to its junction with the Sampson-Pender County line, then southwesterly along this county line to its junction with the Sampson-Bladen County line, then northwesterly along this county line to its junction with the Sampson-Cumberland County line, then northwesterly, north, and northeast along this county line to its junction with the Sampson-Harnett County line, then easterly along this county line to its junction with the Sampson-Johnston County line, then southeast along this county line to its intersection with State Highway 242, then south along this highway to its junction with U.S. Highway 421, then southeast along this highway to its intersection with U.S. Highway 13, then east along this highway to its junction with State Secondary Road 1945, then east along this road to its intersection with U.S. Highway 701, then south along this highway to its junction with State Highway 403, then east along this highway to its junction with State Secondary Road 1919, then east along this road to its intersection with State Secondary Road 1939, then southerly along this road to its junction with State Secondary Road 1934, then southerly along this road to its junction with State Secondary Road 1911, then southerly along this road to its junction with State Secondary Road 1927, then southerly along this road to the point of beginning.

The Hawley, William, farm located on the southwest side of State Secondary Road 1731 and 2.5 miles west of its intersection with State Secondary Road 1725.

The Jackson, Tony, farm located on the northwest side of the intersection of State Secondary Roads 1740 and 1742.

The Swain, Robert W., farm located on the northeast side of State Secondary Road 1740 and 1.0 mile northwest of its intersection with State Secondary Road 1742.

The Weeks, Glenn, farm located on the south side of State Secondary Road 1737 and 1.1 mile east of U.S. Highway 701.

Wayne County. The Broadhurst, Johnny Lee, farm located on the north side of State Secondary Road 1744, 1.2 miles northeast of the intersection of this road and State Secondary Road 1915.

The Daniels, Riley, farm located on the east side of State Secondary Road 1915, 0.1 mile south of the junction of this road and State Secondary Road 1120.

The Gautier, Rosa Mae, farm located on the east side of State Secondary Road 1915 and 0.8 mile south of the junction of this road and State Secondary Road 1914.

The Georgia-Pacific Corp., farm located on the north side of State Secondary Road 2010 at the junction of this road and State Secondary Road 1936.

The Greenfield, Charlie, farm located on both sides of State Secondary Road 1915 and 0.2 mile north of the junction of this road and State Secondary Road 1914.

The Greenfield, Mattie, farm located on the north side of State Secondary Road 1914, 0.9 mile east of the junction of this road and State Secondary Road 1915.

The Greenfield, William, No. 1, farm located 4 miles west of the Seven Springs on State Secondary Road 1744, 0.2 mile west of the junction of this road and State Secondary Road 1913.

The Haggin, Joe, No. 2, farm located on the east side of State Secondary Road 1931 and 1.1 miles northeast of its intersection with State Secondary Road 1120.

The Ham, Thedy, Estate, farm located on the west side of State Secondary Road 1913, 0.5 mile south of the junction of this road and State Highway 111.

The Humphrey, Josephine, farm located on the east side of State Secondary Road 1932 and 0.2 mile north of its intersection with State Secondary Road 1120.

The Lofton, Mary F., farm located on the south side of State Secondary Road 1745 and 0.1 mile west of its junction with State Secondary Road 1952.

The O'Quinn, Earl, farm located on the north side of State Secondary Road 1914, 0.4 mile east of the junction of this road and State Secondary Road 1915.

The Raynor, Early, No. 1, farm located on the south side of U.S. Highway 13 and 0.3

mile east of its junction with State Secondary Road 1207.

The Sasser, Johnny, farm located on the west side of State Secondary Road 1931 and 0.3 mile south of its junction with State Secondary Road 1930.

The Smith, Allen J., farm located on both sides of State Secondary Road 1963 and 0.8 mile north of State Highway 55.

The Wayne County Landfill property located on the southeast side of State Secondary Road 1728 and 0.5 mile northeast of its junction with State Highway 111.

South Carolina

(1) *Generally infested areas.* None.

(2) *Suppressive areas.*

Dillon County. The entire county.

Florence County. The Isgett, Otto, Estate farm located on the southeast side of State Secondary Road 24 and 1.4 mile east of the junction of this road and State Secondary Road 57.

The Munn, F.M., farm located on the southeast side of State Secondary Road 24 at the intersection with Jeffries Creed. This intersection being 1.6 mile northeast of the junction of State Secondary Road 24 and State Secondary Road 57.

Horry County. That area bounded by a line beginning at a point where State Secondary Highway 33 intersects the South Carolina-North Carolina State line and extending south along this highway to its intersection with State Secondary Highway 306, then west along this highway to its intersection with State Secondary Highway 142, then south along this highway to its junction with State Primary Highway 9, then northwest along this highway to its intersection with State Secondary Highway 59, then southwest and south along this highway to its junction with State Primary Highway 917, then southwest along this highway to its intersection with State Secondary Highway 19, then south and southeast along Highway 19 to its intersection with U.S. Highway 701 at Allsbrook, then northeast along this highway to its intersection with State Primary Highway 9, then southeast and south along this highway to its intersection with the Waccamaw River, then northeast along this river to its intersection with the South Carolina-North Carolina State line, then southeast along this State line to its intersection with U.S. Highway 17, then southwest along this highway to its junction with State Primary Highway 90, then west along this highway to its intersection with a dirt road known as Telephone Road, this intersection being 1.3 miles west of Wampee, then southwest and south along Telephone Road to its end, then northwest along a projected line for 1.9 miles to its junction with Jones Big Swamp, then northwest along this swamp to its junction with the Waccamaw River, then west along this river to its intersection with Stanley Creek, then north along this creek 1.8 miles, then northwest along this creek 2.8 miles, then north along a line projected from a point beginning at the end of the main run of this creek, and extending north to the junction of this line with State Primary Highway 905, then southwest along this highway to its junction with State Secondary Highway 19, then north along this highway 2.4 miles to its junction with a dirt road.

Then southwest along this road to its intersection with Maple Swamp, then north along this swamp to its intersection with State Secondary Highway 65, then southwest along this highway to its junction with U.S. Highway 701, then south along this highway to its intersection with U.S. Highway 501, then northwest along this highway to its intersection with State Secondary Highway 548, then west along this highway to its junction with a dirt road, then west along a dirt road to its junction with State Secondary Highway 78, then north along this highway to its junction with State Secondary Highway 301, then northeast along this highway to its junction with U.S. Highway 501, then southeast along this highway to its junction with State Secondary Highway 501, then north along this highway to its intersection with State Secondary Highway 97, then east 0.2 mile to its intersection with a dirt road, then north along this dirt road to its junction with State Primary Highway 319, then northwest along this highway to its junction with State Secondary Highway 131, then east and north along this highway to its intersection with Loosing Swamp, then west and northwest along this swamp to its intersection with State Secondary Highway 45, then southwest along this highway to its junction with State Secondary Highway 129, then northwest along this highway to its junction with U.S. Highway 501, then northwest along the latter highway to its intersection with Little Pee Dee River, then northwest along this river to its junction with the Lumber River, then northeast along this river to its intersection with the South Carolina-North Carolina State line, then southeast along this State line to the point of beginning, excluding the area within the corporate limits of the towns of Conway and Loris.

The Alford, Alex, farm located on the south side of a dirt road and being 2 miles southwest and west of the junction of this dirt road and State Secondary Highway 99, this junction being 1.75 miles north of the junction of this highway and State Secondary Highway 97.

The Cooper, Thomas B., farm located northeast of a dirt road and 0.75 mile northwest of the intersection of this dirt road with rural paved road No. 108, this intersection being 2.25 miles northeast of the junction of rural paved road No. 109 with rural paved road No. 78.

The Cox, Nancy T., farm located on the northwest corner of the intersection of two dirt roads. This intersection being 0.8 mile northeast of the junction of State Secondary Road 105 and State Secondary Road 377. One of the dirt roads is an extension of State Secondary Road 105.

The Cox, Velma, farm located on the west side of a dirt road and 1.0 mile northwest of junction of this dirt road and State Primary Highway 90. This junction being 3.2 miles south of junction of State Primary Highway 90 and State Secondary Road 31.

The Harden, John, farm located on the northwest side of a dirt road and 0.4 mile northeast of junction of this dirt road with the junction of State Secondary Roads 105 and 377.

The Holmes, Marie T., farm located on the west side of dirt road and 0.7 mile northwest of this dirt road with its junction with State Primary Highway 90. This junction being 3.2 miles south of junction of State Primary Highway 90 and State Secondary Road 31.

The Livingston, W.S., farm located on the south side of a dirt road and 0.8 mile east of its junction with a second dirt road, this junction being 0.5 mile south of the junction of the second dirt road and State Primary Highway 90, this junction being 0.8 mile south of junction of State Primary Highway 90 and State Secondary Road 31.

The Martin, Denisle E., farm located on the east side of State Primary Highway 90 and 0.9 mile northeast of the junction of this highway and State Secondary Highway 377.

The Vaugh, Ruth, farm located on the east side of a dirt road and 0.7 mile northwest of this dirt road and its junction with State Primary Highway 90. This junction being 3.2 miles south of junction of this State Primary Highway 90 and State Secondary Road 31.

Marion County. The entire county.

Done in Washington, DC, this 11th day of October, 1990.

Robert Melland,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-24287 Filed 10-16-90; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103 and 214

[Order No. 1447-90]

Withdrawal of Approval for School or School System To Enroll Foreign Students

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule revises the procedures and authority to withdraw approval for a school to enroll foreign students. It corrects an existing procedure where an initial hearing is conducted outside the Immigration and Naturalization Service (Service) but an appeal is taken within the Service. Under the revised rule, a district director within the Service has authority to withdraw school approval, and that decision may be appealed to the Associate Commissioner, Examinations.

EFFECTIVE DATE: October 17, 1990.

FOR FURTHER INFORMATION CONTACT: Joanna London, Senior Trial Attorney, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536. Telephone: (202) 514-2395.

SUPPLEMENTARY INFORMATION: On November 5, 1986, the Immigration and Naturalization Service (Service) published a notice of proposed rulemaking in the Federal Register (51 FR 40207). The Service received four comments in response. The commenters uniformly opposed the proposal to have the district directors of the Service make the initial determination to withdraw school approval, with an appeal to the Associate Commissioner, Examinations, although they agreed that the present procedure is anomalous and should be changed. Two commenters urged that, instead of the procedure proposed, the present hearing before an immigration judge be retained, with the appeal going to the Board of Immigration Appeals. Having considered these comments, the Service nevertheless has decided that a decision by a district director with a right to appeal to the Associate Commissioner, Examinations, satisfies the due process of law requirement in these cases.

Two commenters also urged the Service to withdraw the proposal and wait until discussions are completed with the National Association of Foreign Student Affairs on a more comprehensive revision of the regulations regarding sanctions against noncomplying schools. However, the Service believes that the anomaly in the present procedure needs to be corrected as soon as possible. Any further revision can be made at a future time. After due consideration of all the comments received, the Department has determined to publish the final rule using virtually the same language as the proposed rule.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule will not have a significant adverse impact on a substantial number of small entities.

This rule contains collection requirements; however, they are exempt from the Paperwork Reduction Act requirements in accordance with 5 CFR 1320.3(c)

This is not a major rule as defined in section 1(b) of E.O. 12291, nor does this rule have federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612.

List of Subjects

8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Immigration, Privacy, Reporting and recordkeeping requirements, Surety bonds.

8 CFR Part 214

Administrative practice and procedure, Aliens, Employment, Foreign officials, Health professions, Immigration, Reporting and recordkeeping requirements, Schools, Students.

For the reasons set out in the preamble, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 552, 552a; 8 U.S.C. 1101, 1103, 1201, 1304; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557; 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

2. In § 103.1, paragraph (f)(2)(ix) is revised to read as follows:

§ 103.1 Delegations of authority.

* * * * *

(f) * * *

(2) * * *

(ix) Decisions of district directors regarding withdrawal of approval of schools for attendance by foreign students under § 214.4 of this chapter.

* * * * *

PART 214—NONIMMIGRANT CLASSES

3. The authority citation for part 214 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1184, 1186a, 1187, and 8 CFR part 2.

4. In § 214.4, paragraphs (b) through (h) are revised to read as follows:

§ 214.4 Withdrawal of school approval.

* * * * *

(b) *Notice.* Whenever a district director has reason to believe that an approved school or school system in his/her district is no longer entitled to approval, a proceeding shall be commenced by service upon its designated official a notice of intention to withdraw the approval. The notice shall inform the designated official of the school or school system of the grounds upon which it is intended to withdraw its approval. The notice shall also inform the school or school system that it may, within 30 days of the date of service of the notice, submit written representations under oath supported by documentary evidence setting forth reasons why the approval should not be withdrawn and that the school or school system may, at the time of filing the answer, request in writing an interview before the district director in support of the written answer.

(c) *Assistance of counsel.* The school or school system shall also be informed in the notice of intent to withdraw approval that it may be assisted or represented by counsel of its choice qualified under part 292 of this chapter, at no expense to the Government, in preparation of its answer or in connection with the interview.

(d) *Allegations admitted or no answer filed.* If the school or school system admits all of the allegations in the notice of intent to withdraw approval, or if the school or school system fails to file an answer within the 30-day period, the district director shall withdraw the approval previously granted and he/she shall notify the designated school official of the decision. No appeal shall lie from the district director's decision if all allegations are admitted or no answer is filed within the 30-day period.

(e) *Allegations denied.* If the school or school system denies the allegations in the notice of intent to withdraw approval, then the school or school system shall, in its answer, provide all information or evidence on which the answer is based.

(f) *Interview requested.* (1) If in its answer to the notice of intent to withdraw approval the school or school system requests an interview, the school or school system shall be given notice of the date set for the interview.

(2) A summary of the information provided by the school or school system at the interview shall be prepared and included in the record. In the discretion of the district director, the interview may be recorded.

(g) *Decision.* The decision of the district director shall be in writing and shall include a discussion of the evidence and findings as to withdrawal. The decision shall contain an order either withdrawing approval or granting continued approval. The written decision shall be served upon the school or school system, together with the notice of the right to appeal pursuant to part 103 of this chapter.

(h) *Appeal.* Any appeal shall be taken within 15 days after the service of the written decision. The reasons for the appeal shall be stated in the notice of appeal, Form I–290B, and supported by a statement or brief specifically setting forth the grounds for contesting the withdrawal of the approval.

* * * * *

§ 214.4 [Amended]

5. Section 214.4 is further amended by removing paragraphs 214.4 (i), (j), and (k).

Dated: October 10, 1990.
Dick Thornburgh,
Attorney General.
[FR Doc. 90-24369 Filed 10-16-90; 8:45 am]
BILLING CODE 4410-19-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 11

[Docket No. 90-071]

RIN: 0579-AA92

Horse Protection Inspection Guidelines

AGENCY: Animal and Plant Health Inspection Service, USDA.
ACTION: Final rule.

SUMMARY: We are amending the Horse Protection regulations to expand and clarify the procedures to be followed by Designated Qualified Persons in conducting inspections at horse shows, exhibitions, and sales or auctions. These amendments are necessary to better protect horses under the Horse Protection Act.

EFFECTIVE DATE: November 16, 1990.
FOR FURTHER INFORMATION CONTACT: Dr. R.L. Crawford, Director, Animal Care Staff, Regulatory Enforcement and Animal Care, APHIS, USDA, room 269, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7833.
SUPPLEMENTARY INFORMATION:

Background

The practice known as "soring" is the causing of suffering in show horses to affect their performance in the show ring. In 1970, Congress passed the Horse Protection Act (15 U.S.C. 1821-1831), referred to below as the Act, to eliminate the practice of soring, by prohibiting the showing or selling of sored horses. Exercising our rulemaking power under the Act, we issued regulations published at 9 CFR part 11, referred to below as the regulations, that prohibit devices and methods that might sore horses. In 1976, in response to an amendment to the Act, we established guidelines under which show managements must, to avoid liability for any sore horses which are shown, hire individuals trained to conduct preshow inspections. These individuals, referred to as Designated Qualified Persons (DQP's), are trained and licensed under industry-sponsored DQP programs that we certify and monitor.

The requirements for DQP licensing are set forth in § 11.7 of the regulations. As part of the licensing process, prospective DQP's are trained in procedures we have established for examining a horse prior to exhibition or sale. The inspection procedures include both examination by palpation of the horse's pasterns and visual examination of the horse. In response to concerns of both the horse industry and animal welfare organizations that the guidelines for preshow DQP examination of a horse were not detailed enough to ensure a uniform and adequate inspection of all horses examined by DQP's, we published in the Federal Register an advance notice of proposed rulemaking on May 12, 1989 (54 FR 20605-20608, Docket No. 89-057), in which we solicited comments on how best to clarify and make more specific the DQP inspection procedures, so as to detect more effectively horses that are sore. We received seven comments in response to our notice. After review of the comments, we published a proposal in the Federal Register on March 28, 1990 (55 FR 11365-11367, Docket No. 89-222), to expand and make more specific the regulations regarding inspection of horses.

Comments on Proposed Rule

We invited written comments on our proposed rule, requiring that they be received on or before April 27, 1990. We received eight comments on the proposed rule by that date. The comments were from State agriculture officials, representatives of horse associations, representatives of animal protection associations, and horse owners and exhibitors. One commenter supported the proposal as written. Another commenter supported the proposed provisions but recommended other changes to the regulations. The remainder of the commenters either suggested changes to the proposed provisions or suggested interpretations of the proposed provisions for enforcement purposes. We carefully considered all comments prior to finalizing the proposed rule.

Preshow Observation of Horses' Movement

We proposed to specify procedures for the DQP to follow in conducting preshow inspections. We proposed that the DQP shall direct the custodian of the horse to walk and/or turn the horse in a manner that allows the DQP to determine whether the horse exhibits signs of soreness. While watching the horse move, the DQP would determine whether the horse moves in a free and easy manner and whether it is free of any signs of soreness, such as unusual posture, distressed expression, or a reluctance to move.

Several commenters recommended that walking a horse in a serpentine or "figure-8" pattern be made mandatory. One commenter stated that indicia of soreness are very likely to appear when a horse is forced to cross over its forelegs when turning. We agree that a horse that has been sored will likely give indications of that soreness when turning, and the wording in our proposal was intended to make it clear that a DQP should require such movement when necessary to help determine if a horse is sore. To clarify that intent, we are rewording the provisions as proposed to state that the DQP shall direct the custodian of the horse to walk and turn the horse in a manner that allows the DQP to determine whether the horse exhibits signs of soreness.

Preshow Inspection Techniques

We proposed that the DQP would be required to follow certain specified procedures in physically examining a horse. We proposed that the DQP shall digitally palpate the front limbs of the horse, with particular emphasis on the pasterns. Under our proposal, the DQP would be required to examine the posterior surface of the pastern by picking up the foot and examining the posterior (flexor) surface. The DQP would be further required to apply digital pressure to the pocket (sulcus), including the bulbs of the heel, and continue the palpation to the medial and lateral surfaces of the pastern, being careful to observe for responses to pain in the horse. The DQP would also be required to extend the foot and leg of the horse, while continuing to hold onto the pastern, to examine the front (extensor) surfaces, including the coronary band. We also proposed that the DQP may examine the rear limbs of the horse in like manner when he deems it necessary.

We proposed to specify that the DQP examine the horse to ensure that those pads, other devices, and substances prohibited by § 11.2 of the regulations are not used, that the DQP ensure that the restrictions on workouts and performances specified in § 11.2(d) are complied with, and that the DQP ensure that the "scar rule" provisions in § 11.3 of the regulations are not violated. We also proposed that the DQP may carry out additional inspection procedures as he deems necessary to determine whether a horse is sore.

One commenter suggested that the requirement that the front limbs of the horse be palpated should be expanded to state specifically that the DQP must

inspect and palpate the leg from the knee downward, with particular emphasis on the fetlock and pastern areas. The commenter's recommendation is consistent with the intent of our proposal, and we agree that making the proposed provision more specific will clarify our intent. We are therefore requiring in § 11.21(a)(2) that the DQP digitally palpate the front limbs of the horse, from knee to hoof, with particular emphasis on the pasterns and fetlocks.

One commenter recommended that DQP's be required to check for soreness from above the knee on the foreleg. We do not agree that examination above the knee is necessary. Soring between the knee and shoulder has not generally been evident and, if present, can be detected by observing the horse's movement.

One commenter recommended that the proposed requirement that the DQP inspect for violations of the "scar" rule be written more specifically to state that the DQP must look underneath any long hair on the fetlock and pastern for evidence of scarring or generalized edema violative of the scar rule. While we believe that the proposed provisions make it clear that inspections must include examinations for scar rule violations, we believe our intent can be strengthened with further clarification. We are therefore adding wording to the proposed provisions in § 11.21(a)(2) to require that the DQP shall inspect the horse to determine whether the scar rule provisions are being complied with, and particularly whether there is any evidence of inflammation, edema, or proliferating granuloma tissue.

Several commenters stated that any horse with puffy pasterns should be turned down at inspection as exhibiting evidence of soring. We do not agree that puffiness alone should be grounds for disqualification. Such a condition can be caused by a number of factors unrelated to soring, such as long-term standing, vascular problems, or insect bites.

One commenter stated that the regulations should prohibit long hair on the fetlock and pasterns, except for breeds for which "feathers" are part of the breed show standard. The commenter, stating that long hair tends to interfere with both visual examination and palpation, recommended that the hair be required to be clipped to no more than ¼ inch. We are making no changes based on this comment. Adequate inspections can be made of horses with long hair, and we do not believe that it is necessary or reasonable to prescribe a maximum hair length.

One commenter stated that enough evidence exists that soring of horses' rear limbs takes place to require that rear limbs be inspected at least from the hock downward on a routine basis, with particular emphasis given to the back of the pastern. The commenter recommended that, as a minimum, the regulations specify when inspection of the rear legs is necessary. Based on our experience conducting inspections at shows, we do not agree that the soring of horses' rear limbs is prevalent enough to warrant including their examination for every horse inspected prior to showing. However, we agree that the rear limbs of each horse that is inspected after showing should be examined. (The regulations require that all Tennessee Walking horses and racking horses tyed first in their class or event be inspected.) We are therefore requiring in this final rule that postshow examinations shall include inspection of the horse's rear limbs. The inspection required for the rear limbs will be the same as that required for the front limbs. In addition to requiring that postshow inspection include examination of a horse's rear limbs, we are also providing in this final rule that a DQP may examine the rear limbs of any horse during preshow inspection if he deems it necessary.

One commenter stated that the DQP guidelines should set forth the kinds of reactions that are symptomatic of soring. While we believe that it would be instructive to regulated parties to include general guidance on symptoms of soring, and have done so in this final rule, we do not agree that it is appropriate to attempt to include an exhaustive list of symptoms in the regulations. To adequately protect horses, a degree of discretion must be left to the inspector in detecting symptoms of soring. However, as general guidance, we are providing in this final rule that those horses that show signs of pain response on physical examination, have poor mobility, cannot move freely, or have difficulty walking or turning shall be considered sore. We are also specifying that all horses in violation of the scar rule shall be considered sore.

One commenter recommended that the regulations specify that no horse may be brought to a DQP inspection more than one class in advance. The commenter recommended further that, following inspection, the horse not be permitted to return to its stall or trailer. We agree that the possibility exists that a horse that has passed preshow inspection could, in certain situations, be sored before entering the show ring. We are therefore including in this final rule a provision that DQP's shall not inspect horses more than one class ahead of the time the inspected horses are to be shown. We are providing further that inspected horses are to be held in a designated area that is under observation by the DQP's or Department inspectors, and that the horses shall not be allowed to leave the designated area before showing.

One commenter stated that a limit should be set on the number of people permitted to enter the holding area after inspection. We agree that such a limit would reduce the possibility of soring after inspection, and are providing in this final rule that only the horse, the rider, and either a groom or trainer will be allowed in the designated areas.

One commenter stated that the regulations should require DQP's to weigh all action devices and measure all pad assemblies to determine compliance with the regulations. Proposed § 11.21(a)(3) only requires DQP's to observe and inspect horses to determine compliance with the provisions in § 11.2, including, among other things, pads and action devices. We agree with the comment that action devices, pads, and other equipment should be weighed and measured to assure compliance with the regulations. We are therefore changing our proposal based on this comment.

Several commenters recommended that the temperature, and the pulse and respiration rates, be taken of all horses suspected of being sore. The commenters stated that a sore horse will quite often have an elevated temperature, as well as an elevated pulse and respiration rate. We are making no changes based on this recommendation. We do not consider temperature, and pulse and respiration rates, valid diagnoses of sore horses. A horse that is warmed up will generally show some or all of the described conditions and, conversely, soring will not necessarily elicit such symptoms.

One commenter recommended that, when a horse is suspected of being sore, and it has not been determined that the soreness is solely in the pastern area, it be required that the horse have its shoes pulled and be checked for pressure shoeing. Another commenter recommended that shoes be pulled at the end of a show from all horses placing first or second in championship classes. We are making no changes based on these comments. Under the current regulations, inspectors already have the authority to pull shoes when they deem it necessary. We do not consider it advisable to require the removal of shoes unless there is some

reason to believe that removing the shoes will provide evidence of soring. Requiring routine pulling of shoes would not only be unnecessarily costly, it would also increase the chances of damaging the horse's hooves.

One commenter stated that when a horse displays a sore way of moving, its rear legs should be palpated for soreness, edema, or scars. We do not agree that incidence of soring in the rear legs has been prevalent enough to require preshow palpation of the rear legs on a routine basis. It is the DQP's prerogative to check the rear legs when he or she considers it necessary. Because of the danger to inspectors that can exist when palpating the rear legs of a horse, we do not consider it advisable or necessary to require such palpation prior to the horse's showing, unless some indication is given that the rear legs have been sored.

One commenter stated that when a horse is suspected of being sore, and the DQP cannot find the cause of the soreness, examination of the horse with hoof testers should be required. Hoof testers are devices for detecting pain in a horse's hoof. We do not consider it advisable to require DQP's to use hoof testers. Hoof testers, when not used by experts, can provide false readings and can be potentially harmful to a horse. Although some DQP's possess the expertise to use hoof testers, many have not had the training or experience to use them effectively, and we do not consider the use of such devices necessary in detecting soring on a routine basis.

Several commenters recommended that prior to actual inspection for soring, the horse be checked for alligator clips in the mouth, under the tail, on the vulva and on the sheath. Such clips, if used, can distract a horse from the DQP's inspection. Based on our experience inspecting horses at shows, we do not consider the use of alligator clips prevalent enough to require the DQP to look for them in every case, and are making no changes based on the commenters' recommendation. However, we do believe that DQP's should be observant for any signs of abnormal behavior in a horse.

Several commenters stated that during inspection, the horse should not be held by a trainer, groom, or exhibitor, to help prevent the practice of "stewarding." Stewarding is the training or handling of a horse in such a way that it does not react to pain during inspection. One commenter recommended that, during inspection, a handler be required to stand to the side of a horse, rather than in front of it, to guard against stewarding. We do not agree that it would be advisable to prohibit trainers, grooms, and exhibitors from holding a horse during inspection. Such persons can have a calming influence on the horse being inspected, and can therefore facilitate the inspection process and help safeguard the personnel conducting the inspection. We also do not consider it advisable to specify where the person holding the horse should stand, because the best position for holding a horse will vary from case to case. We agree with the commenters, however, that, to conduct adequate inspections, it is necessary to ensure that the person holding the horse does not interfere with the examination procedures. To this end, we are including in § 11.21(a)(4) a provision that provides that the DQP shall not inspect a horse if it is presented in any manner that might cause the horse not to react to a DQP's examination. We are providing that the DQP shall instruct the custodian of the horse to control it by holding the reins approximately 18 inches from the bit shank. Further, we are providing that a horse shall not be inspected if whips, cigarette smoke, or other actions or paraphernalia are used to distract the horse during examination.

Several commenters recommended that blood be drawn from any horse found to be sore, and be screened for chemicals used in the soring. We do not believe that it is necessary or advisable to require such a procedure. In addition to presenting the risk of infecting the horse, such a process would not be cost-effective. If a horse is determined to be sore, a violation has already occurred, and it is not necessary to determine whether specific chemicals are present in the horse's blood.

In § 11.21(a)(3) of our proposal, we provided that as part of the required inspection procedures, the DQP shall observe and inspect the horse to determine whether the provisions of § 11.2 of the regulations are complied with. In the supplementary information of our proposal, we stated that such a determination would include the DQP's ensuring that the restrictions on workouts and performances specified in § 11.2(d) are complied with. Such restrictions limit the length of workouts for 2-year-old horses. One commenter stated that it would be a practical impossibility for the DQP to monitor the workouts of these horses. The commenter stated that the inspection areas provided to the DQP are in most instances some distance from, and out of clear view of, the show ring. According to the commenter, because of this positioning it would be unworkable for the DQP, who must inspect and observe the horses preshow, to also be required to monitor the show ring. The commenter, representing a number of horse industry associations, stated that, according to current industry practice, the judge who is officiating the show enforces the time limitations set forth in § 11.2(d). Based on these concerns, the commenter requested that proposed § 11.21(a)(3) be deleted.

We do not consider it appropriate to delete § 11.21(a)(3), which we continue to believe is necessary to ensure that the DQP determines that the pads, other devices, and substances prohibited by § 11.2 are not used. We agree with the commenter, however, that it is not practical to make it the DQP's responsibility to also ensure that the time limitations on workouts for 2-year-old horses are complied with. We are therefore amending § 11.21(a)(3) of our proposal to make it clear that such monitoring of workouts will not be the DQP's responsibility.

Several commenters stated that the inspection area should be open to viewing by the general public. We are making no changes to the proposal based on this comment. While nothing in the regulations prohibits viewing of inspections by the public, how visible the inspection area is will necessarily vary from case to case. In many cases it would interfere with the efficiency of the inspection and the safety of personnel to allow unlimited access to the inspection area.

One commenter stated that some leeway should be granted the DQP in determining how detailed the inspection procedure should be. The commenter expressed the opinion that it may not be necessary for every horse in every show to be palpated and observed in motion. One of the reasons we initiated rulemaking regarding DQP inspection procedures was to help ensure uniformity in inspections at horse shows across the country. Our own experience, as well as recommendations made by the horse industry and animal welfare organizations, had indicated the need for more uniform procedures. We therefore do not agree with the commenter that a DQP should be given the discretion to "pass" certain horses without inspection, and we are not including such a provision in this final rule.

One commenter recommended that the regulations provide that the DQP be allowed to examine a horse without interference until making a decision with regard to the horse. It is unclear to us what type of interference the commenter is referring to, and we are making no changes based on this comment. However, we will examine the issue of whether DQP's are being

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interfered with in conducting inspections and will take whatever action is appropriate.

Unloading and Barn Areas

We stated in the proposed rule our belief that inspection of horses in the unloading and barn areas of show or sale grounds would enable a DQP to detect soreness in horses and other violations of the regulations, such as the use of prohibited substances. In order to establish effective procedures for such inspections, we proposed to require that horse industry organizations or associations that are seeking, or that have been granted, certification of a DQP program submit to the Department for approval procedures for conducting such inspections. Under the proposal, those associations and organizations seeking DQP program certification would be required to submit the procedures for approval along with the other information required for Department approval under current § 11.7(b). Those organizations or associations with DQP programs that have already been certified will have 30 days from the publication date of this document to receive Department approval of such procedures.

Several commenters addressed the proposed provision that DQP programs have in place procedures for inspection of horses in the unloading and barn areas of show or sale grounds, prior to the horses' being shown. Two commenters recommended that the regulations not mandate mass inspection in the barn area. One of those commenters recommended that all proposed provisions regarding inspections in barn and unloading areas be deleted. The commenters stated that a major volume of barn-area inspections would deplete manpower and other resources that could be used most efficiently to ensure a high level of inspection of horses entering or leaving the show ring. Both commenters stated that any soring that would be detected in the unloading or barn areas would also be detected during the normal preshow examination. One of the commenters recommended that any requirements for inspections in barn and unloading areas allow for exemptions for small shows.

Conversely, another commenter recommended that the regulations require observation of horses being unloaded, and that the regulations require and empower the inspector to remove leg wraps at the time of unloading. The commenter recommended further that the regulations require regular inspection of barn areas during a show, in order to view horses and to examine those showing signs of soreness, and that the DQP be empowered during such inspections to check leg wrappings, tack boxes, and other equipment for illegal substances.

While we believe that in many cases DQP inspections in unloading and barn areas can be a valuable tool in detecting soring, we do not believe that it is appropriate to specify in the regulations that unloading and barn areas must be inspected at every show. Horse shows vary so greatly in size, physical layout, and duration that it would not be practical to make barn and unloading area inspections mandatory in all cases. As one commenter pointed out, many shows are for one night only, have no permanent stables, and are poorly lit outside the immediate show area. We continue to believe, however, that in many cases monitoring of barns and unloading areas can facilitate the detection of soring, and we are including in this final rule the requirement that DQP programs include procedures for monitoring of horses in the unloading and barn areas of show or sale grounds, as well as preparation and warmup areas and other such areas, prior to the horses being shown. To emphasize the authority of the DQP to conduct inspections wherever he deems necessary, we are revising § 11.7(b)(6) as proposed to provide that such procedures may include inspection of any horse that is stabled, loaded on a trailer, being prepared for show, exhibition, sale, or auction, being exercised, or that is otherwise on the grounds of, or present at, any horse show, horse exhibition, or horse sale or auction.

With regard to the recommendation of one commenter that DQP's be given the authority to check equipment for illegal substances, such authority already exists under § 11.2(b) of the current regulations.

Additional Issues

One commenter stated that, in light of the additional inspection responsibilities contemplated by the proposed rule, the regulations should require that shows with more than 100 entries have two or more DQP's. We agree that the more entries in a show, the greater the time or personnel needed to complete preshow inspections in an adequate fashion. The horse industry already recognizes this fact, and is currently voluntarily assigning two or more DQP's to large shows. Consistent with industry practice, and in recognition of the practical requirements of large shows, we are providing in this final rule that if more than 100 entries are entered in a show, the show shall have at least two DQP's employed on the grounds.

Section 11.21(c) of the proposed provisions stated that the DQP shall assess appropriate penalties for violations, as set forth in the rule book of the certified program under which the DQP is licensed, and shall report all violations, in accordance with § 11.20(b)(3). One commenter correctly noted that, under current practice, DQP's are responsible for identifying horses in violation of the regulations, and for disqualifying these horses from competition or sale, but are not responsible for assessing penalties. Under the current system, penalties are assessed by the certifying organization. The commenter stated that this system helps ensure a uniform, consistent, and equitable assessment of penalties. We agree with the commenter that it would be inappropriate to transfer the responsibility for assessing penalties to the DQP, and are providing in this final rule that the certified DQP organization shall be responsible for assessing penalties.

One commenter stated that we should consult with the American Association of Equine Practitioners for suggestions on an effective inspection procedure. In formulating the regulations, we drew on our own enforcement experience under the Act, on comments from the public, and on scientific data available to us. Among the veterinary professionals on our staff is a member of the American Association of Equine Practitioners.

A number of the issues addressed by the commenters were outside the scope of the proposal. In particular, several commenters recommended that specific provisions be included in the regulations regarding the types of penalties to be imposed for violations of the regulations. Other commenters recommended changes or additions to the regulations regarding who should be licensed as a DQP, and what sort of violations, by whom, should lead to decertification of a DQP program. Several commenters either recommended changes to the scar rule provisions in § 11.3, requested the prohibition of the use of action devices and other items or equipment, or requested restrictions on or examination of the equipment that may be taken into holding areas after inspection. As noted, these issues are outside the scope of the proposed provisions. However, we will carefully review each of these recommendations, and will take whatever action is appropriate regarding them.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291 and Departmental Regulation 1512–1, and have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million, will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The changes to the regulations specify the procedures Designated Qualified Persons (DQP's) must follow when inspecting horses in accordance with the Horse Protection Act regulations. The changes will help ensure that the procedures that DQP's are already trained in are uniformly followed. Additionally, the regulations require that DQP programs include procedures for inspection of horses in unloading and barn areas. We expect that implementation of these regulations will cause no change in the number of shows inspected by DQP's. Although we are providing in this rule that shows with more than 100 entries must have at least two DQP's, such a practice is already being followed by the horse industry. We do not believe that the cost to show management for a DQP's services will increase as a result of these changes.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 11

Animal welfare, Horses, Humane animal handling, Soring of horses.

Accordingly, 9 CFR part 11 is amended as follows:

PART 11—HORSE PROTECTION REGULATIONS

1. The authority citation for part 11 continues to read as follows:

Authority: 15 U.S.C 1823, 1824, 1825, and 1828, 44 U.S.C. 3506.

2. In § 11.7, paragraphs (b) (6), (7), and (8) are redesignated as paragraphs (b) (7), (8), and (9), respectively, and a new paragraph (b)(6) is added to read as follows:

§ 11.7 Certification and licensing of designated qualified persons (DQP's).

* * * * *

(b) * * *

(6) Procedures for monitoring horses in the unloading, preparation, warmup, and barn areas, or other such areas. Such monitoring may include any horse that is stabled, loaded on a trailer, being prepared for show, exhibition, sale, or auction, or exercised, or that is otherwise on the grounds of, or present at, any horse show, horse exhibition, or horse sale or auction.

* * * * *

§ 11.7 [Amended]

3. In § 11.7, paragraph (f)(1), the first sentence is revised to read as follows: "Each horse industry organization or association having a DQP program certified by the Department shall issue a written warning to any DQP whom it has licensed who violates the rules, regulations, by-laws, or standards of conduct promulgated by such horse industry organization or association pursuant to this section, who fails to follow the procedures set forth in § 11.21 of this part, or who otherwise carries out his duties and responsibilities in a less than satisfactory manner, and shall cancel the license of any DQP after a second violation. * * *"

§ 11.7 [Amended]

4. In § 11.7, paragraph (g), the first sentence is revised to read as follows: "Any horse industry organization or association having a Department certified DQP program that has not received Department approval of the inspection procedures provided for in paragraph (b)(6) of this section, or that otherwise fails to comply with the requirements contained in this section, may have such certification of its DQP program revoked, unless, upon written notification from the Department of such failure to comply with the requirements in this section, such organization or association takes immediate action to rectify such failure and takes appropriate steps to prevent a recurrence of such noncompliance within the time period specified in the Department notification, or otherwise adequately explains such failure to comply to the satisfaction of the Department. * * *"

§ 11.20 [Amended]

5. In § 11.20, paragraph (b)(2), the third sentence is revised to read as follows: "* * * Such physical examination shall be conducted in accordance with the inspection procedures provided for in § 11.21 of this part."

6. In § 11.20, a new paragraph (c) is added to read as follows:

§ 11.20 Responsibilities and liabilities of management.

* * * * *

(c) The management of any horse show, exhibition, sale, or auction that designates and appoints a DQP to inspect horses shall appoint and designate at least two DQP's when more than 100 horses are entered.

* * * * *

7. Sections 11.21 and 11.22 are redesignated as §§ 11.22 and 11.23 respectively, and a new § 11.21 is added to read as follows:

§ 11.21 Inspection procedures for designated qualified persons (DQP's).

(a)(1) During the preshow inspection, the DQP shall direct the custodian of the horse to walk and turn the horse in a manner that allows the DQP to determine whether the horse exhibits signs of soreness. The DQP shall determine whether the horse moves in a free and easy manner and is free of any signs of soreness.

(2) The DQP shall digitally palpate the front limbs of the horse from knee to hoof, with particular emphasis on the pasterns and fetlocks. The DQP shall examine the posterior surface of the pastern by picking up the foot and examining the posterior (flexor) surface. The DQP shall apply digital pressure to the pocket (sulcus), including the bulbs of the heel, and continue the palpation to the medial and lateral surfaces of the pastern, being careful to observe for responses to pain in the horse. While continuing to hold onto the pastern, the DQP shall extend the foot and leg of the horse to examine the front (extensor) surfaces, including the coronary band. The DQP shall examine in a like manner the rear limbs of all horses inspected after showing, and may examine the rear limbs of any horses examined preshow when he deems it necessary. While carrying out the procedures set forth in this paragraph, the DQP shall also inspect the horse to determine whether the provisions of § 11.3 of this part are being complied with, and particularly whether there is any evidence of inflammation, edema, or proliferating granuloma tissue.

(3) The DQP shall observe and inspect all horses for compliance with the

provisions set forth in § 11.2(a) through § 11.2(c) of this part. All action devices, pads and other equipment shall be weighed and/or measured to determine if they are in compliance with the regulations.

(4) The DQP shall instruct the custodian of the horse to control it by holding the reins approximately 18 inches from the bit shank. The DQP shall not be required to examine a horse if it is presented in a manner that might cause the horse not to react to a DQP's examination, or if whips, cigarette smoke, or other actions or paraphernalia are used to distract a horse during examination. All such incidents shall be reported to the show management and the DQP licensing organization.

(b) The DQP shall inspect horses no more than one class ahead of the time the inspected horses are to be shown. Inspected horses shall be held in a designated area that is under observation by the DQP or Veterinary Services representative. Horses shall not be permitted to leave the designated area before showing. Only the horse, the rider, and either a groom or trainer shall be allowed in the designated area.

(c) The DQP may carry out additional inspection procedures as he deems necessary to determine whether the horse is sore.

(d) The certified DQP organization shall assess appropriate penalties for violations, as set forth in the rule book of the certified program under which the DQP is licensed, or as set forth by the Department, and shall report all violations, in accordance with § 11.20(b)(3) of this part.

§ 11.24 [Amended]

8. In § 11.24, paragraph (a), first sentence, the words "§ 11.21(a)(1) through § 11.21(a)(6)" are removed, and the words "§ 11.22(a) (1) through (6)" are added in their place.

Done in Washington, DC, this 11th day of October 1990.

Robert Melland,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-24290 Filed 10-16-90; 8:45 am]

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9 CFR Part 78

[Docket 90-162]

Validated Brucellosis-Free States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the brucellosis regulations concerning the interstate movement of swine by adding North Carolina to the list of validated brucellosis-free States. We have determined that North Carolina meets the criteria for classification as a validated brucellosis-free State. This action relieves certain restrictions on moving breeding swine from North Carolina.

EFFECTIVE DATE: Interim rule effective October 17, 1990. Consideration will be given only to comments received on or before December 17, 1990.

ADDRESSES: To help ensure that your comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 90-162. Comments received may be inspected at USDA, room 1141, South Building, 14th and Independence Avenue SW., Washington, DC, between 8 am. and 4:30 pm., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Delorias M. Lenard, Senior Staff Veterinarian, Swine Diseases Staff, VS, APHIS, USDA, room 735, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7767.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease affecting animals and man, caused by bacteria of the genus *Brucella*. The brucellosis regulations contained in 9 CFR part 78 (referred to below as the regulations) prescribe conditions for the interstate movement of cattle, bison, and swine.

Under the swine brucellosis regulations, States, herds, and individual animals are classified according to their brucellosis status. Interstate movement requirements for swine are based upon the disease status of the herd or State from which the animal originates.

We are amending § 78.43 of the regulations, which lists validated brucellosis-free States, to include North Carolina. Validated brucellosis-free status is based on a State having:

(1) The necessary authorities for classification as a validated brucellosis-free State for swine;

(2) No known focus of swine brucellosis at the time of validation and completion of one of several methods of surveillance; or no diagnosed case of swine brucellosis in the 12 month period preceding the classification, and a statistical analysis of the combined results of certain tests that indicate the testing is equivalent to either complete herd testing or slaughter surveillance during a period chosen by the State; and

(3) Certification by the appropriate State animal health official, the Veterinarian in Charge and the Deputy Administrator.

After reviewing its brucellosis program records, we have concluded that North Carolina meets the criteria for classification as a validated brucellosis-free State. We are therefore adding North Carolina to the list of States in § 78.43. This action relieves certain restrictions on moving breeding swine from North Carolina.

Immediate Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is warranted to remove unnecessary restrictions on the interstate movement of breeding swine from North Carolina.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these conditions, and because this rule relieves a regulatory restriction, there is good cause under 5 U.S.C. 553 to make it effective upon publication. We will consider comments received within 60 days of publication of this interim rule in the Federal Register. After the comment period closes, we will publish another document in the Federal Register, including a discussion of any comments we receive and any amendments we make to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

Herd owners in North Carolina will be affected by this action. It will allow breeding swine to be moved interstate from North Carolina without being tested for brucellosis. Approximately 1,100 sows are tested annually for brucellosis, at an average cost to the seller of $5.00 per test, in order to be eligible for interstate movement from North Carolina. Using these numbers, we estimate that removing the testing requirement would result in a potential annual savings of $5,500 for swine herd owners in North Carolina. Of the approximately 3,000 swine herd owners nationwide who regularly ship breeding swine interstate, 92 regularly ship breeding swine interstate from North Carolina. All of these herd owners would be considered small entities.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

List of Subjects in 9 CFR part 78

Animal diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

Accordingly, we are amending 9 CFR Part 78 as follows:

PART 78—BRUCELLOSIS

1. The authority citation for part 78 continues to read as follows:

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 78.43 [Amended]

2. Section 78.43 is amended by adding "North Carolina," immediately after "New York,".

Done in Washington, DC, this 11th day of October 1990.

Robert Melland,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-24388 Filed 10-16-90; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL HOUSING FINANCE BOARD

12 CFR PARTS 931, 933, 936, 938, 940, 941, 942, and 944

[No. 90-105]

Federal Home Loan Bank System; Technical Amendments

AGENCY: The Federal Housing Finance Board.

ACTION: Final rule; Technical amendments.

SUMMARY: The Federal Housing Finance Board ("FHFB") is amending its regulations in eight parts by removing those provisions that were inadvertently published in the Federal Register on September 5, 1989 (54 FR 36757). The provisions duplicate the old Federal Home Loan Bank Board ("FHLBB") regulations retained by the Office of Thrift Supervision pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), Public Law No. 101–73, 103 Stat. 183, signed into law on August 9, 1989.

EFFECTIVE DATE: October 17, 1990.

FOR FURTHER INFORMATION CONTACT: Charles Szlenker, Attorney, Office of General Counsel, (202) 408–2554, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

A. General

FIRREA abolished the FHLBB and established the FHFB as an independent regulatory agency in the executive branch of the Government responsible for overseeing the Federal home loan banks.

The regulations concerning the Federal Home Loan Bank System had been issued under the authority of the former FHLBB. Section 402(h) of FIRREA preserves the authority of the FHLBB regulations unless terminated or superseded by the appropriate successor agency.

On September 5, 1989, when the FHFB established 12 CFR chapter IX and redesignated its regulations into this chapter (54 FR 36757), it noted that technical amendments would be made at a later date.

The FHFB is today publishing these changes to its regulations.

B. Administrative Procedure Act

No new substantive regulations are being adopted that are not made necessary by changes in the statutory authority pursuant to which the FHFB will operate. Since this rule contains no substantive changes, the FHFB promulgates this final rule as a matter of agency organization and management. Therefore, for good cause shown under 5 U.S.C. 553(a)(2) and (b)(3), this rule is exempt from the notice and comment requirements of the Administrative Procedure Act and the 30-day delay in the effective date pursuant to 5 U.S.C. 553(d)(3).

C. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this regulation, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply.

List of Subjects

12 CFR Parts 931 and 940

Federal home loan banks.

12 CFR Part 933

Federal home loan banks, Mortgages, Reporting and recordkeeping requirements.

12 CFR Part 936

Advertising, Federal home loan banks.

12 CFR Part 938

Advertising, Civil Rights, Credit, Fair housing, Federal home loan banks, Mortgages, Reporting and recordkeeping requirements, Signs and symbols.

12 CFR Part 941

Credit, Federal home loan banks.

12 CFR Part 942

Consumer protection, Electronic funds transfers, Federal home loan banks.

12 CFR Part 944

Credit, Federal home loan banks, Intergovernmental relations, Trade practices.

Accordingly, the FHFB hereby amends chapter IX, title 12, Code of Federal Regulations, set forth below.

CHAPTER IX—FEDERAL HOUSING FINANCE BOARD

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

PART 931—DEFINITIONS

1. The authority citation for part 931 continues to read as follows:

Authority: Secs. 2A, 2B, as added by sec. 702, 103 Stat. 413, 414 (12 U.S.C. 1422a, 1422b).

§ 931.6 [Removed]

2. Part 931 is amended by removing § 931.6.

PART 933—MEMBERS OF THE BANKS

3. The authority citation for part 933 continues to read as follows:

Authority: Secs. 2A, 2B, as added by sec. 702, 103 Stat. 413, 414 (12 U.S.C. 1422a, 1422b); sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 303, 96 Stat. 1521, as amended (12 U.S.C. 1691, 1691a); sec. 202 (b), 87 Stat 982, as amended (42 U.S.C. 4106(b)).

§§ 933.13 and 933.31

[Removed]

4. Part 933 is amended by removing § 933.13 and the undesignated centerhead "LIQUIDITY" immediately preceding the section and by removing § 933.31 and the undesignated centerhead "FLOOD INSURANCE" immediately preceding the section.

PART 936—ADVERTISING OF ACCOUNTS

5. Part 936 is removed and reserved.

PART 938—NONDISCRIMINATION REQUIREMENTS

6. Part 938 is removed and reserved.

PART 940—STATEMENTS OF POLICY

7. The authority citation for part 940 continues to read as follows:

Authority: Sec. 11, 47 Stat. 733, as amended (12 U.S.C. 1431); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 802–806, 91 Stat. 1147–1148 (12 U.S.C. 2901 *et seq.*); sec. 701, as added by sec. 303, 96 Stat. 1541 (15 U.S.C 1691); sec. 18, 19 Stat. 144, as amended (42 U.S.C. 1981); secs. 801–819, 82 Stat. 81–89, as amended (42 U.S.C. 3601–3619); EO 11063, 27 FR 11527.

§ 940.4 and 940.6 [Removed]

8. Part 940 is amended by removing §§ 940.4 and 940.6.

PART 941—RULINGS OF THE FORMER FEDERAL HOME LOAN BANK BOARD OR THE BOARD OF DIRECTORS, FEDERAL HOUSING FINANCE BOARD

9. Part 941 is removed and reserved.

PART 942—ELECTRONIC FUND TRANSFERS

10. Part 942 is removed and reserved.

PART 944—PROHIBITED CONSUMER CREDIT PRACTICES

11. Part 944 is removed and reserved.

By the Federal Housing Finance Board.

Dated: October 4, 1990.

Jack Kemp,

Chairman.

[FR Doc. 90-24378 Filed 10-16-90; 8:45 am]

BILLING CODE 6725-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 122

Direct Loans—Statutory and Administrative Limits

AGENCY: Small Business Administration (SBA).

ACTION: Technical amendment.

SUMMARY: This document corrects § 122.7–1 of SBA regulations (13 CFR 122.7–1). Such section is concerned with the statutory and administrative limits for SBA direct loans and it inadvertently dropped a sentence which has been codified in the regulations for several years. Such sentence relates to the authority of SBA regional administrators to authorize direct loans which exceed the administrative limit but not the statutory limit.

EFFECTIVE DATE: September 5, 1989.

FOR FURTHER INFORMATION CONTACT: Harr D. Kempler, Chief Counsel for Business Loans, Small Business Administration, room 722, 1441 L Street NW., Washington, DC 20416, Tel. (202) 653–6757.

List of Subjects in 13 CFR Part 122

Business loans

Pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)) and section 302 of Public Law 100–656, SBA hereby amends part 122, chapter I, title 13, Code of Federal Regulations, as follows:

PART 122—[AMENDED]

1. The authority citation for part 122 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6) and 636(a).

§ 122.7–1 [Amended]

2. Section 122.7–1 is amended by adding a new sentence after the second sentence to read as follows: "Regional Administrators may authorize, in writing, the acceptance of an application that exceeds the administrative but not the statutory limit."

Dated: October 5, 1990.

Susan Engeleiter,

Administrator.

[FR Doc. 90-24359 Filed 10-16-90; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM87-28-003; Order No. 527]

18 CFR Part 381

Revision of Rate Schedule Filings Under Sections 205 and 206 of the Federal Power Act

Issued October 10, 1990.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is adopting a final rule expanding the fees schedule in § 381.502 of the regulations for electric rate schedule filings under sections 205 and 206 of the Federal Power Act from its present two classes to five classes. Under the new rule, incoming filings will be assigned to one of five fee classes based on the type of filing, ranging from the simplest rate schedule filings to the most complex. The Commission will collect reduced fees for certain small, short-term transactions, and for filings by certain small entities. For rate schedule filings supported by Period II data, the fee, although reduced 50% from the actual cost to the Commission, will be higher than the current fee ($23,930 vs. $6,120).

EFFECTIVE DATE: The final rule is effective October 11, 1990.

FOR FURTHER INFORMATION CONTACT: Betty N. Toepfer, Office of the General Counsel, Federal Energy Regulatory Commission, 825 N. Capitol Street, NW., Washington, DC 20426, (202) 208–0464.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the Federal Register, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this final rule will be available on CIPS for 30 days from the date of issuance. The complete

text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

Before Commissioners: Martin L. Allday, Chairman; Charles A. Trabandt, Elizabeth Anne Moler and Jerry J. Langdon.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is revising § 381.502 of its regulations, which sets forth the fees for rate schedule filings under sections 205 and 206 of the Federal Power Act (FPA).

Under the new rule, incoming filings will be assigned to one of five fee classes based on the type of filing, ranging from the simplest rate schedule filings to the most complex. No fee is assessed for Class I. For Classes II, III, and IV, the fee is based on the actual cost to the Commission of processing an average filing within that class. For Class V, the fee is based on less than full cost recovery. The Commission is also granting categorical reductions in fees for small, short-term transactions and for small entities.

The Commission is issuing the Final Rule herein in substantial conformity with the Notice of Proposed Rulemaking (NOPR) in this docket.[1] Some minor changes and explanations have been made in order to clarify the proposed regulatory text.

II. Background

The Commission is authorized under the Independent Offices Appropriations Act of 1952 (IOAA) to establish fees for the services and benefits it provides.[2] In addition, the Commission is authorized under the Omnibus Budget Reconciliation Act of 1986 (OBRA) to "assess and collect fees and annual charges in any fiscal year in amounts equal to all of the costs incurred by the Commission in that fiscal year." [3]

The principal administrative interpretation of the IOAA is the Office of Management and Budget's Circular A-25,[4] which states that a fee should be assessed against each identifiable recipient of a measurable unit or amount of Government service or property from which the recipient derives a special benefit.[5] The IOAA, OMB Circular A-25 and subsequent case law have established certain criteria that must be met in levying a fee. In establishing its fees, the Commission must: (1) Identify the service for which the fee is to be assessed;[6] (2) explain why the particular service benefits the identifiable recipient more that it benefits others in the industry or the general public;[7] (3) base the fee on as small a category of service as practical;[8] and (4) demonstrate calculation of the cost basis of each fee assessed.[9] This last criterion is satisfied when the Commission presents a reasonable, but not necessarily exact, relationship between its costs and the fee assessed.[10]

The Commission's present two-class fee schedule for filings under FPA sections 205 and 206 was established in a rulemaking proceeding initiated with issuance of a notice of proposed rulemaking on November 5, 1987.[11] In the NOPR which led to the present two-class fee structure, the Commission proposed consolidating all rate filings under FPA section 205 and 206 in one fee category, believing that a single filing fee category would make it easier for eletric utilities to pay, and for the Commission to collect, these fees.[12]

In Order No. 494, issued April 6, 1988, the Commission adopted a final rule that established two fee categories for rate filings under FPA sections 205 and 206. Under the final rule, all electric utility rate schedule filings, except those that have no effect on the rate the utility charges or that involve only rate decreases, were subject to a single fee. The excepted filings were not subject to any fee.[13] In Order No. 494-A, issued June 6, 1988,[14] the Commission denied a request for rehearing of its decision to consolidate the electric rate filing fees into two categories. The final rule was appealed to the U.S. Court of Appeals for the District of Columbia Circuit. In response to a motion by the Commission, the court remanded the rule for further consideration.

In the NOPR issued May 24, 1990,[15] the Commission proposed instituting a five-class filing fee system for rate schedule filings under the FPA. The five-part classification was intended to reflect more accurately the relationship between the cost to the Commission to process rate schedule fiilngs and the fees charged. In addition, categorical reductions were proposed in order to ameliorate potential unfairness or hardship, and in order not to discourage certain types of filings. The NOPR

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[1] 55 FR 22,808 (1990); 51 FERC ¶ 61,211 (1990).

[2] 31 U.S.C. 483(a) (1988). The Commission established fees applicable to rate schedule filings under FPA sections 205 and 206 in Order No. 435, 50 FR 40,347 (1985), FERC Statutes and Regulations, Regulations Preambles 1982-1985 ¶ 30,803 (1985); and in Order No. 494, 53 FR 15,376 (1988), III FERC Statutes and Regulations ¶ 30,819 (1988).

[3] 42 U.S.C. 7871 (a)(1) (1988). The Commission established annual charges in Order No. 472, 52 FR 21,263 (1987), III FERC Statutes and Regulations ¶ 30,768 (1987). All costs recovered through filing fees under the IOAA are subtracted from the costs that are otherwise to be collected by means of these annual charges.

[4] Issued as Bureau of the Budget Circular A-25 (September 23, 1959). The United States Supreme Court has expressed general approval for the interpretation of the IOAA embodied in Circular A-25. Federal Power Commission v. New England Power Co., 415 U.S. 345, 349-51 (1974).

[5] A "special benefit" accrues when a Government-rendered service "enables the beneficiary to obtain more immediate or substantial gains or values (which may or may not be measurable in monetary terms) than those which accrue to the general public. * * * [p]rovides business stability or assures public confidence in the business activity of the beneficiary. * * * or [i]s performed at the request of the recipient and is above and beyond the services regularly received by the same industry or group or [by] the general public." OMB Circular A-25 ¶ 3(a)(1).

[6] National Cable Television Association, Inc. v. FCC, 554 F.2d 1094, 1100 (D.C. Cir. 1976) (the agency "must identify the activity which justifies each particular fee it assesses"). See also Federal Power Commission v. New England Power Co., 415 U.S. at 349-361.

[7] Electronic Industries Association v. FCC, 554 F.2d 1109, 1114 (D.C. Cir. 1976).

[8] *Id.* at 1116 ("we interpret the statute and the Supreme Court decisions to require reasonable particularization of the basis for the fees, accomplished by an allocation of costs to the smallest unit that is practical.").

[9] *Id.* at 1117 ("This involves (a) an allocation of specific direct and indirect expenses which form the cost basis for the fee to the smallest practical unit; (b) exclusion of any expenses incurred to serve an independent public interest; and (c) a public explanation of the specific expenses included in the cost basis for a particular fee, and an explanation of the criteria used to include or exclude particular terms.").

[10] National Cable Television Association, Inc. v. FCC, 554 F.2d at 1105-06 ("Any computation * * * must necessarily be based on numerous approximations and can only be expected to be accurate within reasonable limits. It is sufficient for the Commission to identify the specific items of direct or indirect cost incurred in providing each service or benefit for which it seeks to assess a fee, and then to divide that cost among the members of the recipient class * * * in such a way as to assess each a fee which is roughly proportional to the 'value' which that member thereby received.").

[11] 52 FR 42,812 (1987), FERC Statutes and Regulations, Proposed Regulations 1982-1987 ¶ 32,454 (1987). The two-class system replaced the three-class system that had been promulgated in Order No. 435. The three-class system consisted of: Class 1, "Filings having no effect on the rate the utility charges or involving only rate decreases;" Class 2, "Filings that have an effect on the rate the utility charges and that are not supported by Period II data;" and Class 3, "Filings that involve the submission of Period II cost of service data." See 18 CFR 381.302-381.304 (1988).

[12] Under the then-existing three-class fee classification system, the Commission had found it administratively difficult to make a prompt and accurate determination of the appropriate fees because of ambiguous, multiple and misclassified filings.

[13] The Commission decided that administrative convenience supported eliminating fees for filings that would have no effect on rates or would involve only rate decreases.

[14] 43 FERC ¶ 61,404 (1988).

[15] 55 FR 22,809 (1990); 51 FERC ¶ 61,211 (1990).

granted a thirty-day period for the filing of comments which ended July 5, 1990.

III. Discussion

A. Number of Fee Categories, General Comments

The Commission received comments on the NOPR from ten entities. Allegheny Power System (Allegheny) and Marshall Lancaster filed comments on June 20, 1990. Consumers Power Company (Consumers) filed comments on June 29, 1990. Wisconsin Public Power Incorporated System (WPPI) filed comments on July 2, 1990. Union Electric Company (Union), the Yadkin Group,[16] Public System,[17] and the CIPS Group [18] each filed comments on July 5, 1990. On August 10, 1990, the CIPS Group also filed a motion for separate resolution. Untimely comments were received from Detroit Edison Company on July 6, 1990, and the United States Small Business Administration (SBA) on July 13, 1990.[19]

All entities that filed comments generally supported the proposed rule. According to one typical comment, "[i]n general the NOPR proposes a reasonable and easily applied classification of electric rate schedule filings." [20] All commenters, except the SBA, disagreed with at least one aspect of the rule or with the application of the rule to their filings.

Detroit Edison asserted that four classes would suffice, and recommended combining Classes III and IV. According to Detroit Edison, these classes are "very similar in nature, price and requirements." [21] In response, the Commission notes that no one will be injured if the Commission has two filing fee categories for the filings assigned to Classes III and IV. Moreover, Class III and Class IV filings require different analyses. Rate increase filings supported by abbreviated cost of service data typically require less review than those supported by Period I historical data. In any event, the fee for each class will be based on the cost to the Commission of processing the filings in that class. If the Commission combined Class III and Class IV, as requested by Detroit Edison, and if the filings presently included in Class II resulted in significantly different processing costs from those required by the filings presently included in Class IV, one category of filings would inadvertently subsidize the other category.

Detroit Edison also proposed the creation of a new class for "the filing of mergers." [22] As Detroit Edison points out, merger filings can be very complex and time consuming. The principal merger filing is, of course, a corporate application under section 203 of the FPA. The fee for a corporate application is established by § 381.509 of the Commission's regulations and is beyond the scope of this rulemaking.[23] Nevertheless, an approved merger of jurisdictional entities can often result in various rate schedule filings. The number and type of such rate schedule filings varies with each merger. Thus, the Commission will analyze and assess fees for rate schedule filings made pursuant to sections 205 and 206 of the FPA on the basis of each separate filing, even when such filings result from a merger.

B. Recommendations for Fee Reductions

A number of commenters state that the Commission should assess a lower fee for certain types of filings. Allegheny, for example, notes that although the amount of FERC staff analysis required for a Period II rate filing "will not necessarily vary with the amount of the increase requested, the amount of the fee seems excessive for small, fairly infrequent rate increases.[24] Allegheny suggests either a graduated fee, related to the amount of the proposed increase, or a lower fee for filings proposing increases below a specific cap, *e.g.*, $1 million or less. Allegheny's comments fail to take into account the Commission's obligation to act in accordance with the IOAA, in particular the requirement that the fee be based on the cost to the government of providing the service or benefit. The IOAA does not recognize, as a basis for a permissible fee, the amount of monetary benefit to the recipient.[25]

Union also proposes that the Commission expand Class I filings to include rate increases which are "minor in nature." [26] Union suggests a categorical reduction for all energy transactions that are one year or less in duration, and for capacity transactions of 100 MW or less.[27] If the Commission were to adopt the first part of Union's proposal, jurisdictional entities could avoid full filing fees simply by judiciously drafting their contracts. For example, to avoid paying a fee, an entity could make numerous separate contracts of less than a year's duration. Union's comments also fail to consider the Commission's obligation to act in accordance with the IOAA, basing fees on the cost to the government of providing the service or benefit.

The Commission has recognized the problem that is at the heart of Allegheny's and Union's requests for fee reductions. The Commission has proposed categorical reductions in fees for certain transactions. Allegheny's proposal for a graduated fee and Union's suggestion concerning certain capacity and energy transactions would simply change the threshold for categorical reductions proposed by the Commission. Allegheny and Union have not advanced a compelling reason for replacing the thresholds for categorical reductions in the proposed rule.

Detroit Edison also proposes a reduced fee (*e.g.*, 25% of the standard fee) for Class V filings arising from settlements to which the concurrence of all affected parties has been obtained. Adoption of such a reduction would fail to take into account the IOAA requirement that fees be directly related to the amount of work performed by the Commission in order to confer a benefit on the recipient. There is no factual basis upon which Commission can find that a filing to which all affected parties have agreed requires less review time.

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[16] The Yadkin Group consists of Yadkin Inc., Tapoco, Inc., Long Sault, Inc. and Alcoa Generating Corporation.

[17] Public System consists of the American Public Power Association (APPA); the National Rural Electric Cooperative Association (NRECA); the Florida Municipal Power Agency (FMPA); the Michigan Municipal Electric Association (MMEA); the City of Azusa, California; the City of Colton, California Electric Department; the Braintree, Massachusetts Electric Light Department; the Chicopee, Massachusetts Municipal Lighting Plant; the Holyoke, Massachusetts Gas & Electric Department; the North Attleborough, Massachusetts Electric Department; the South Hadley, Massachusetts Electric Light Department; and the Burlington, Vermont Electric Department.

[18] The CIPS Groups consists of Central Illinois Public Service Company, Central Power and Light Company, Commonwealth Edison Company, Southwestern Electric Power Company and West Texas Utilities Company.

[19] Neither Detroit Edison nor the SBA has moved for an extension of the time to file comments, as provided by Rule 2008 of the Commission's Rules of Practice and Procedure, 18 CFR 2008 (1990). Nevertheless, the Commission, in its discretion, has considered the arguments asserted in these late comments.

[20] Comments of Consumers Power Company (Consumers' Comments) at 2.

[21] Comments of Detroit Edison Company (Detroit Edison's Comments) at 1.

[22] Detroit Edison's Comments at 3.

[23] 18 CFR 381.509 (1990).

[24] Comments of Allegheny Power System (Allegheny's Comments) at 1.

[25] See, *e.g.*, Order No. 484, Filing Fees under the Independent Offices Appropriations Act of 1952, 53 FR 15,374 (1988).

[26] Comments of Union Electric Company (Union's Comments) at 1. Union proposes that minor rate changes include increases of less than $10,000 per year or less than 2%, and cases where all parties have agreed to a formula-based rate, and the inputs to that formula are uncontested and current.

[27] Union contends that filing fees, "even as currently proposed, will act as a disincentive for creating schedules to fulfill short-term needs for both major and non-major utilities." Union's Comments at 1.

Thus, the Commission has no basis for granting a reduced fee for such filings.

C. Categorical Reductions [28]

None of the commenters opposed the Commission's proposed 60 percent reduction below the Commission's costs for Class V filings. Although WPPI and SBA strongly supported the Commission's proposal for a reduction in fees for utilities other than major utilities, most commenters addressing the subject objected to the Commission's proposed 60 percent categorical reduction in fees for those entities. Most commenters objecting to categorical reductions claimed that the reductions are underinclusive.

Union, for example, opposed categorical reductions because,

> [i]t is not fair or reasonable to charge the major utilities higher fees simply because they supposedly have the funds to pay. If the fees are to be based at least partially on costs [incurred by the Commission], they should be based on costs with few, if any, exceptions.[29]

Detroit Edison commented that the distinction between major and other than major utilities, which results in some reduced filing fees for other than major utilities, "is unduly discriminatory, and completely ignores the fact that major utilities can also have minor filings." [30]

The commenters who opposed categorical reductions appear to share a misconception. Under the final rule, the Commission will not charge major utilities fees that are any higher than the actual cost to the Commission of processing their filings. Thus, major utilites will not substitute other utilities through filing fees. As noted above, the Commission is granting categorical reductions, in a limited set of circumstances, to relieve the burden imposed by filing fees on certian small entities and certain small transactions.

Public Systems concurs with the Commission's proposal for a 60 percent categorical reduction for filings made by utilities other than major utilities. However, Public Systems does not believe that the reduction goes far enough to relieve smaller entities from the burdens imposed by filing fees. According to Public Systems, filing fees are often borne by the customer rather than the filing utility.[31] Thus, Public Systems claims, for rate filings that pertain to only a single customer, the customer, often a utility other than a major utility, pays a substantial fee. To reduce the burden on small customers, Public Systems proposes that the Commission extend a categorical reduction in fee to filing utilities for transactions involving customers whose electrical load is 25 MW or less.

The Commission declines to adopt the proposal of Public Systems. The Commission imposes fees on filing utilities. The Commission cannot reduce its fees simply because some utilities shift the burden of paying the Commission's fee to other parties. Apportionment of fees between parties prior to filing, if any, is not the responsibility of the Commission other than as may become an issue involving rate case expenses in a rate proceeding. The final rule reflects the Commission's determination not to make any changes in the proposed categorical reductions.

D. Proposals for Changes in Fee Classes

Several commenters advanced specific proposals for placing certain filings in classes other than those assigned by the proposed rule. The CIPS Group, for example, proposes that certain filings assigned by the proposed rule to Class III be included instead in Class II. The proposed rule assigns all rate increase filings supported by abbreviated cost-of-service data to Class III. The CIPS Group concedes that this classification is appropriate "the *first* time that the Commission examines a rate for a given electric service supported by abbreviated cost-of-service data." [32] However, the CIPS Group argues that "once the Commission examines the underlying cost-of-service data and has approved or accepted the rate" the Commission should charge a lower fee "when the utility proposes to extend the same rate for the same service to other similarly situated customers." [33] The CIPS Group claims that "it is counterintuitive that the Commission would continually undertake the same analysis [when] the utility proposes to extend the same rate for the same service to other similarly situated customers." [34] The CIPS Group maintains that the Commission's costs are minimal in reviewing such filings and that the fee should reflect those minimal costs. The CIPS Group suggests "a bright line, easily administered." [35] According to the CIPS Group, "filings supported by abbreviated cost of service data that have not been previously reviewed by the Commission [should be] Class III filings; filings to place new customers on a utility's existing rate schedule or to increase a customer's rate to a level that has already been accepted for other customers [should be] Class II filings." In proposing this demarcation, the CIPS Group also argues the filings to place new customers on an existing rate schedule require the same staff analysis of a filing to increase a customer's rate to a preapproved level.

The Commission rejects the CIPS Group's contention. The filings identified in the CIPS Group's comments will be retained in Class III. Whenever an applicant submits cost-of-service data in support of a rate, staff analysis is required. Even when that data has been recently reviewed in connection with the same rate to a similarly situated customer, the Commission must determine whether the customer is a member of the proposed customer class and whether the existing rate level continues to be appropriate for the customer group, as modified.

Consumers also argues for changes in Class II. Although Consumers does not object to classifying initial rate schedules in Class II, Consumers urges that the Commission separate "for fee determination purposes" filings to add customers to existing rate schedules. In Consumers' view, adding customers to an existing rate schedule should require less staff review time and should cost less than reviewing initial rate schedules.

The Commission gave considerable thought to the formation of the categories set forth in the proposed rule. Although the Commission acknowledges that there may be minor differences in the amount of time needed to analyze various filings, the Commission does not deem those differences to be significant. No two idividual filings will require exactly the same amount of time to analyze. Only implementation of a direct billing system would eliminate those differences. In the judgment of the Commission, the costs of a direct billing system would far outweigh its benefits.

It is well settled that the Commission may include "adminstrative efficiency" as one of its goals in creating a filing fee system. The Comission's purpose in this rule is to establish general classes for filings that are reasonably comparable. the Commission cannot, however, eliminate every difference that may

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[28] The proposed rule provides that the filing fees due from utilities other than major utilities and the filing fees due in connection with certain small transactions will be reduced by 60 percent. These categorical reductions are intended to relieve the burden imposed by filing fees on those entities and transactions.

[29] Union's Comment's at 2.

[30] Detroit Edison's Comments at 1.

[31] Comments of Public Systems at 3.

[32] Comments of Central Illinois Public Service Comany, Central Power and Light Company, Commonwealth Edison Company, Southwestern Electric Power Company and West Texas Utilities Company (CIPS Groups' Comments) at 18.

[33] *Id.*

[34] *Id.*

[35] *Id.* at 19.

exist between filings without imposing substantial and unjustifiable costs. Although individual rate increases may well vary in the complexity and length of analysis required by the Commission staff, this variation does not necessarily require that the Commission establish additional filing fee classes.

E. Cost and Work-Month Data

The CIPS Group requests that the Commission "place in the public record the work-months and cost per work-month underlying the proposed fees," and calls some of the amounts cited "questionable." [36] The CIPS Groups requests that the Commission "demonstrate a calculation of the cost basis of each fee assessed." [37]

In *Electronic Industries*, the court set forth the general rule for disclosing the basis for fees:

[W]e interpret the statute [IOAA] and the Supreme Court decisions to require reasonable particularization of the basis for the fees, accomplished by an allocation of costs to the smallest unit that is practical * * *. Classification is always a difficult problem, involving as it does the drawing of lines, but the solution is not to group dissimilar entities together. The Commission must examine its expenses and set forth the maximum particularization of costs which it conveniently can make, so that the correctness of its actions can be reviewed. [38]

In accordance with this rule, the Commission will amplify the discussion of the cost basis of the fees. As in previous rulemakings, the fee schedule proposed by the Commission is designed to account for all types of recoverable costs attributable to a particular Commission service, and not merely the salaries of the employees who review the notices, applications, and requests. The costs used to calculate the fees include: Salaries and benefits, travel, rents, communications and utilities, printing, other services, supplies and equipment.

The Commission's calculation of the costs of providing each of the services represented by a fee category is directly related to the amount of time that the Commission spends providing each of the services. The fees are based on information obtained through the Commission's Payroll Utilization Reporting System (PURS) and Key Indicator Case Tracking System (KICTS) which provide information on staff time and caseload. This information represents the best available record in the agency. Time is reported in work-months. A work-month is defined in the Commission's regulations [39] as the amount of work represented by one employee's devotion of 100 percent of his or her time for one month.

In accordance with Commission practice, filings are generally assigned docket numbers and are referred to as "docketed activities". First, the work-months reported for a specific type of docketed activity are added to a *pro-rata* share of the work-months reported for the relevant support activities. These support activities are essential to the completion of any docketed activity. Direct work-months plus support work-months represent the total number of work-months dedicated to a class of docketed activity for a year. This total is divided by the number of completions in the class of docketed activities for that year. The resulting figure represents the average number of work-months required to complete one proceeding in that class of docketed activities. Second, the Commission uses figures provided by its Associate Executive Director, Financial Management, to derive the average cost of a work-month. For purposes of this rule, the average cost of a work-month is based upon the Commission's average yearly cost per employee for Fiscal Years 1987, 1988, and 1989. This average yearly cost is divided by 12 to yield an average employee cost per work-month. Third, in order to determine the cost of the activity, the Commission multiplies the average cost per work-month by the average number of work-months required to complete the activity.

The following table summarizes, for Classes II through V, the total number of work-months and completions, the average cost per completion, the item cost, and the actual fee. This table reflects completions and work-month data for Fiscal Year 1987. [40]

[36] CIPS Group's Comments at 12.

[37] *Id.*

[38] Electronic Industries Association v. FCC, 554 F.2d 1328, 1338 (D.C. Cir. 1976).

[39] 18 CFR 381.102 (1990).

[40] In Fy 87, the Commission employed a three-class fee system that is roughly comparable to the five-class system outlined in the proposed rule. Thus, FY 87 is the most recent year for which roughly comparable work-month and completion data are available. Consequently, the Commission has chosen not to employ work-month and completion data from FY 88, FY 89 or FY 90, years in which the two-class fee system was in effect.

Class	Compl.	Total Wms	Wm/Compl.	Avg. Emp. Cost	Item cost	Fee
Class I	N/A	N/A	N/A	N/A	N/A	N/A
Class II	349	177.7	0.509	$5,838	$2,971.51	$2,970
Class III	373	276.8	0.747	5,836	4,362.14	4,360
Class IV	373	276.8	0.747	5,836	4,362.14	4,360
Class V	15	123.0	8.200	5,836	47,859.20	[41] 23,920

F. Requests for Clarification

Commenters [42] asked the Commission to clarify several aspects of the proposed rule. Commenter Marshall Lancaster suggested an amendment to the regulatory language to make clear that filings by customers, as well as those by filing utilities, may qualify as Class I items. [43] These regulations apply to customers as well as utilities. The proposed regulatory text defines each of the five filing Classes by reference to "filings under sections 205 and 206 of the Federal Power Act." Section 206(a) of the FPA clearly contemplates filings by customers. [44] There is therefore no need to change the text of the final rule to address Mr. Lancaster's concern. [44]

Consumers object to the inclusion of electric facilities charges in Class II. Consumers claims that electric facilities charges should not be treated any differently than any other charges. According to Consumers, to the extent that filings related to electric facilities charges involve increases or decreases in rates, they are already included in the other classes.

The Commission agrees with Consumers that any filing that includes an electric facilities charge and will result in a rate increase or decrease will be assessed a fee for Class I, Class III, Class IV or Class V, as appropriate. Only filings for new facilities charges to new customers (*i.e.*, initial rate filings involving facilities charges) will be included in Class II.

The CIPS Group and the Yadkin Group ask the Commission to clarify the

[41] Note that the Fee for Class V ($23,920) is reduced by 50% from actual Commission costs ($47,859).

[42] Comments of Marshall Lancaster at 1.

[43] 16 U.S.C. 824e(a) (1988).

[44] We will, however, clarify that no fee will be due for any filing initiated by a customer under section 206 of the FPA.

filing class to which the Commission will assign certificates of concurrence when the concurring party proposes no rate change of its own. The Commission has given jurisdictional entities the option of filing certificates of concurrence, "where two or more public utilities are parties to the same rate schedule." [45] The Commission has required that a certificate of concurrence be accompanied by a filing fee equal in amount to the fee required from the utility making the full rate schedule filing. This requirement has two bases. First, if the Commission did not provide for the filing of a certificate of concurrence, the concurring utility would be required to make a complete filing. In that event, the concurring utility would be assessed an identical filing fee. Second, where it is necessary to review cost data for both the filing utility and the concurring utility, the Commission incurs significant costs attributable both to the filing and the certificate of concurrence.

The CIPS Group argues that "where one utility files a certificate of concurrence simply to signify its concurrence in a rate change by another party [or] to an interconnection or other agreement between utilities," no additional filing fee should be required.[46] The Yadkin Group makes the same argument.[47]

The Commission agrees with the contention of the CIPS Group and the Yadkin Group that a certificate of concurrence which is filed by a utility solely for the purpose of signifying its assent to a rate increase, an interconnection, or other agreement filed by another utility should not be assessed a fee. In such instances, the certificate of conncurrence is not considered a rate schedule filing because the party filing the concurrence is not proposing to provide service. Utilities must recognize, however, that if both the filing utility and the concurring utility are proposing to provide service or change rates for such service, the Commission must examine each utility's costs and will assess the appropriate fee to each utility.

WPPI asks the Commission to clarify the category to which certain filings involving formula rates will be assigned. WPPI asks specifically about fees that will be imposed for filings necessitated by one transmission service agreement that it has with a major utility. According to WPPI, that agreement includes an agreed-upon rate that will be adjusted annually to reflect changes in the embedded cost of the major utility's transmission system.[48] An element of that cost, by agreement, will reflect the Commission's generic rate of return on equity for the average electric utility. By prior order, the Commission ordered the major utility to specify the initial rate of return on equity to be utilized and commit to file any subsequent charges thereto under part 35 of the Commission's regulations.[49] WPPI argues that this filing "will simply notice the fact that a rate is being adjusted pursuant to a formula in an approved contract [and will not] modify the rate as between the supplier and the customer." [50] WPPI believes that filings which implement formula rates in approved contracts in accordance with the terms of an agreement and which do not modify the formula should be treated as Class I filings.

In general, filings which implement formula rates and which do not modify the formula will not be assessed a fee. However, consistent with its prior practice, the Commission will consider changes in the rate of return on equity to be a change in the formula and will require a fee under the rule for filings reflecting such change if such change results in a rate increase. If the change results in a rate decrease the filing will be a Class I filing and no fee will be charged.

G. Impact of the Final Rule on Prior Proceedings

As indicated above, the Commission's prior rules on filing fees have been the subject of significant litigation.[51] In addition, pending before the Commission are a number of appeals of staff action relating to filing fees.[52] The CIPS Group requests, both in its comments and in a motion for separate resolution of remanded cases filed in this proceeding, that the Commission resolve the remanded proceedings and the appeals of staff action apart from its issuance of the final rule here.

Public Systems also notes that it is party to several pending proceedings related to fees. Public Systems asks that the matters at issue in those proceedings be resolved here.

The Commission will not resolve the remanded proceedings and the pending appeals of staff action here. The final rule is intended to apply prospectively only. The Commission will resolve the remanded proceedings and all appeals from staff action relating to filing fees in separate orders.

IV. Summary

Following is a summary of the electric rate filing fee categories and fees authorized by this rule.

Class I Rate Filings

Definition—filings that involve only rate decreases or that have no effect on the rate the utility charges.

Fee—there is no fee.

Class II Rate Filings

Definition—filings that have an effect on the rate the utility charges but do not involve rate decreases or rate increases.

Fee—the fee is $2,970; the fee with a 60 percent categorical reduction is $1,180.

Class III Rate Filings

Definition—rate increase filings that qualify for the abbreviated cost-of-service information filing requirements as defined in § 35.13(a)(2) of the Commission's regulations.

Fee—the fee is $4,360; the fee with a 60 percent categorical reduction is $1,740.

Class IV Rate Filings

Definition—rate increase filings that qualify for the submission of only Period I cost-of-service information (or Period I and abbreviated cost-of-service information) as defined in § 35.13(d)(1) of the Commission's regulations.

Fee—the fee is $4,360; the fee with a 60 percent categorical reduction is $1,740.

Class V Rate Filings

Definition—rate increase filings that require the submission of Period II cost-of-service information (either alone or in conjunction with either Period I or abbreviated cost-of-service information)

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[45] 18 CFR 35.1(a) (1990).

[46] CIPS Group's Comments at 10.

[47] Comments on Behalf of Yadkin, Inc., Tapoco Inc., Long Sault, Inc. and Alcoa Generating Corporation (Yadkin Group's Comments) at 2.

[48] Comments of Wisconsin Public Power Incorporated System (WPPI's Comments) at 3–8.

[49] Northern States Power Company (Minnesota), 31 FERC ¶ 61,072 (1985).

[50] WPPI's Comments at 8.

[51] See, e.g., Southwestern Electric Power Company v. FERC, Nos. 88–1507, 1218 and 1848 (D.C. Cir., remanded Aug. 11, 1989) (Challenge of fees imposed under the Commission's Order No. 425, effective Nov. 4, 1985 through May 20, 1986); Central Illinois Public Service Company v. FERC, No. 88–1848 (D.C. Cir., remanded Aug. 11, 1989) (Challenge of fees imposed under the Commission's Order Nos. 494 and 494–A, effective May 31, 1988).

[52] See, e.g., Central Illinois Public Service Company, Docket No. ER89–430–001; Union Electric Company, Docket No. ER89–527–001; Southwestern Electric Power Company, ER89–571–001; Southwestern Electric Power Company, ER90–127–001; and Arizona Public Service Company, ER90–143–001.

See also appeals of staff action of the annual notices of update of filing fees in Docket Nos. RM89–25–003, RM89–8–004, RM89–30–004, RM89–25–002, RM89–21–003, RM89–29–010, RM89–14–002, RM87–29–002 and RM89–29–001.

as defined in § 35.13 (d)(2) of the Commission's regulations.

Fee—the fee is $23,030; the fee with a 50 percent categorical reduction is $9,570.

V. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (RFA)[53] generally requires a description and analysis of rules that will have a significant economic impact on a substantial number of small entities. The categorical reductions authorized for certain filings by specific types of small entities will have a favorable financial impact on small entities. In addition, the revised classification of filing fee schedules as a whole may lessen the economic impact of certain filing fees that might otherwise fluctuate too high. The Commission believes, therefore, that issuance of this rule will have in the aggregate a beneficial impact on small entities rather than a negative impact. The Commission concludes, therefore, that this impact will not be "significant" within the meaning of the RFA. Accordingly, the Commission certifies that issuance of this rule will not have a "significant economic impact on a substantial number of small entities".

VI. Environmental Statement

The Commission concludes that issuance of this rule will not represent a major federal action having a significant adverse effect on the human environment under the Commission regulations implementing the National Environmental Policy Act.[54] This rule is procedural in nature and therefore falls within the categorical exemptions provided in the Commission's regulations. Consequently, neither an environmental impact statement nor an environmental assessment are required.[55]

VII. Information Collection Statement

The Office of Management and Budget (OMB)[56] requires that OMB approve certain information collection requirements imposed by agency rule. The regulations in this proceeding will not impose any information collection requirements. Therefore the Commission will not submit these regulations to OMB for review and approval.

VIII. Effective Date

Generally, a rule becomes effective not less than 30 days after publication in the Federal Register. A rule may become effective sooner if it is an interpretative rule, a statement of policy, or if the agency finds good cause to make it effective sooner.[57]

As noted above, this final rule replaces a rule that was the subject of litigation and that was remanded to the Commission, upon its own motion, from the United States Court of Appeals for the D.C. Circuit. Having reconsidered its prior rules regarding fees, and having devised a schedule of fees that provided for fee reductions for filings in classes II, III, and IV, the Commission finds good cause to make this final rule effective one day after issuance.

List of Subjects in 18 CFR Part 381

Reporting and recordkeeping requirements, Utilities.

In consideration of the foregoing, the Commission amends part 381, chapter I, title 18 of the *Code of Federal Regulations* as set forth below.

By the Commission.

Lois D. Cashell,

Secretary.

PART 381—FEES

1. The authority citation for part 381 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); E.O. 12009, 3 C.F.R. 1978 Comp., p. 142; Independent Offices Appropriations Act, 31 U.S.C. 9701 (1982); Natural Gas Act, 15 U.S.C. 717–717w (1988); Federal Power Act, 16 U.S.C. 791–828c (1988); Public Utility Regulatory Policies Act, 16 U.S.C. 2601–2645 (1988); Interstate Commerce Act, 49 U.S.C. 1–27 (1976); Omnibus Budget Reconciliation Act of 1986, Pub. L. 99–509, Title III, Subtitle E, Sec. 3401 (October 21, 1986).

2. Section 381.302 is revised to read as follows:

§ 381.302 Rate Schedule Filings under sections 205 and 206 of the Federal Power Act.

(a) Unless the Commission orders direct billing under § 381.107 or otherwise, the fees established for rate schedule filings under sections 205 and 206 of the Federal Power Act will be determined within one of five filing classes, as provided in paragraphs (b), (c), (d), (e) and (f) of this section. Fees filed under this paragraph must be submitted in accordance with subpart A of this part and part 35 of this chapter.

(b) Class I rate schedule filing. (1) *Definition.* For purposes of this section, "Class I rate schedule filings" are those filings under sections 205 and 206 of the Federal Power Act that involve only rate decreases or that have no effect on the rate the utility charges.

(2) *Fee.* There is no fee for a Class I rate schedule filing.

(c) Class II rate schedule filing. (1) *Definition.* For purposes of this section, "Class II rate schedule filings" are those filings under sections 205 and 206 of the Federal Power Act that have an effect on the rate the utility charges but do not involve rate decreases or rate increases.

(2) *Fee.* (i) Except as provided in paragraph (c)(2)(ii) and (iii) of this section, the fee is $2,670.

(ii) For transactions involving fewer than 10 megawatts of capacity or 10 megawatts per hour of energy for periods of six months or less, the fee is $1,180.

(iii) For utilities other than major utilities, as defined in part 101, General Instructions, of this chapter, the fee is $1,180.

(d) Class III rate schedule filing. (1) *Definition.* For purposes of this section, "Class III rate schedule filings" are those rate increase filings under sections 205 and 206 of the Federal Power Act that qualify for the abbreviated cost-of-service information filing requirements as defined in § 35.13(a)(2) of this chapter.

(2) *Fee.* (i) Except as provided in paragraph (d)(2) (ii) and (iii) of this section, the fee is $4,360.

(ii) For transactions involving fewer than 10 megawatts of capacity or 10 megawatts per hour of energy for periods of six months or less, the fee is $1,740.

(iii) For utilities other than major utilities, as defined in part 101, General Instructions, of this chapter, the fee is $1,740.

(e) Class IV rate schedule filing. (1) *Definition.* For purposes of this section, "Class IV rate schedule filings" are those rate increase filings under sections 205 and 206 of the Federal Power Act that qualify for the submission of only Period I cost-of-service information (or Period I and abbreviated cost-of-service information) as defined in § 35.13(d)(1) of this chapter.

(2) *Fee.* (i) Except as provided in paragraph (e)(2)(ii) of this section, the fee is $4,360.

(ii) For utilities other than major utilities, as defined in part 101, General Instructions, of this chapter, the fee is $1,740.

(f) Class V rate schedule filing. (1) *Definition.* For purposes of this section, "Class V rate schedule filings" are those rate increase filings under sections 205 and 206 of the Federal Power Act that require the submission of Period II cost-of-service information (either alone or in

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[53] 5 U.S.C. 605–612 (1988).

[54] 18 CFR 380.1–380.11 (1990).

[55] See 18 CFR 380.4(a)(1) (1988).

[56] 5 CFR 1320.13 (1988).

[57] 5 U.S.C. 553(d) (1988).

conjunction with either Period I or abbreviated cost-of-service information) as defined in § 35.13(d)(2) of this chapter.

(2) *Fee.* (i) Except as provided in paragraph (f)(2)(ii) of this section, the fee is $23,930.

(ii) For utilities other than major utilities, as defined in part 101, General Instructions, of this chapter, the fee is $9,570.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8316]

RIN 1545-AJ96

Cooperative housing corporations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains amendments to the Income Tax Regulations under section 216 of the Internal Revenue Code of 1986, relating to cooperative housing corporations. Section 216 of the Code was amended by the Tax Reform Act of 1986. The regulations provide cooperative housing corporations and tenant-stockholders with guidance needed to comply with the law.

EFFECTIVE DATE: The regulations are effective for taxable years beginning after December 31, 1986.

FOR FURTHER INFORMATION CONTACT: Lisa J. Shuman, 202-566-4840 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this final regulation has been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1545-1041. The estimated annual burden per respondent or recordkeeper varies from 15 minutes to 1 hour, depending on individual circumstances.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents or recordkeepers may require greater or less time depending on their particular circumstances.

Comments regarding the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the above named contact person at the Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, and to the Office of Information and Regulatory Affairs, Attention: Desk Officer for the Internal Revenue Service, Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

Background

On Friday, May 27, 1988, the Federal Register published (53 FR 19,312) proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 216 of the Internal Revenue Code. These amendments were proposed to conform the regulations to section 844 of the Tax Reform Act of 1986 (100 Stat. 2285). A public hearing was not requested and none was held. Several comments were received. After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision.

Explanation of Provisions

The Act expanded the definition of a tenant-stockholder under section 216(b)(2) to include persons other than individuals. Prior to its amendment by the Act, section 216(b)(2) restricted the definition of tenant-stockholders generally to individuals.

Section 216(b)(3)(B) provides an elective alternative to the proportionate share rule contained in section 216(b)(3)(A) for determining the amount a tenant-stockholder may deduct on account of real estate taxes and interest. Previously, the proportionate share rule required that a tenant-stockholder's share of the cooperative housing corporation's interest and real estate taxes bear the same ratio to the total amount of the corporation's interest and real estate taxes that the amount of stock held by the tenant-stockholder bore to the total outstanding amount of stock of the corporation.

Under the elective alternative, for taxable years beginning after 1986, if the corporation allocates to each tenant-stockholder a portion of the interest or real estate taxes or both that reasonably reflects the cost of these items to the corporation attributable to each tenant-stockholder's dwelling unit (and each unit's share of the common areas), the corporation may make an election under which the tenant-stockholder's proportionate share of the corporation's interest or real estate taxes will equal the amount or amounts separately allocated. The regulations incorporate the procedure for making this election that was prescribed in the temporary regulations under § 5h.5 (relating to elections under the Tax Reform Act of 1986). Those temporary regulations relating to this election will be superseded by these regulations.

In order to make the election under section 216(b)(3)(B), the regulations provide that the cooperative housing corporation must furnish to each tenant-stockholder a written statement showing the amount of real estate taxes or interest (or both) allocated to the tenant-stockholder by January 31 of the year following the first calendar year that includes any period to which the election applies. The January 31 deadline for making the election coincides with the deadline under section 6050H(d) and (g) imposed upon the cooperative for furnishing a statement to each tenant-stockholder of the total mortgage interest received from each tenant-stockholder. One comment suggested deletion of the January 31 deadline in the proposed regulation and stated that the cooperative's failure to distribute a statement of the reasonable allocation to one shareholder by January 31 should not preclude the corporation from making the election. This suggestion was not adopted. The January 31 deadline provides a reasonable time period for the corporation to furnish the requisite information on the allocation to its tenant-stockholders and is consistent with the policy underlying section 6050H(d) of furnishing information to the tenant-stockholders on a timely basis.

The proposed regulations provided several examples of circumstances whereby an allocation of the cooperative housing corporation's interest and taxes would meet the requirement that the allocation reasonably reflect the cost to the corporation of the interest and taxes attributable to the tenant-stockholder's unit. One of the comments received suggested that an additional example be provided to illustrate that an allocation of taxes to the tenant-stockholders may take into account the reduction of real estate taxes under local law for senior citizen tenant-stockholders. An additional example has been provided to accommodate this suggestion.

Section 216(b)(5) as amended provides that in certain circumstances a person may be eligible for tenant-stockholder status despite an agreement with the cooperative housing corporation that the person or the person's nominee may not occupy the house or apartment without

the prior approval of the cooperative housing corporation. The regulations reflect this change for taxable years beginning after 1986, but no inference is to be drawn as to the effect of such agreements in prior years on the eligibility of a person as a tenant-stockholder.

For taxable years beginning after 1986, section 216(c) was amended by the Act to provide for a carry forward to the succeeding taxable year of any amount disallowed as a deduction for depreciation because it exceeded the tenant-stockholder's adjusted basis in his or her stock in the cooperative housing corporation at the end of the taxable year.

Section 216(d) was added by the Act to clarify that amounts paid or incurred by a cooperative housing corporation which are chargeable to the corporation's capital account may not be deducted by a stockholder. Such amounts, however, are to be added to the adjusted basis of the stockholder's stock in the cooperative housing corporation. The regulations reflect this clarification. No inference is to be drawn, however, as to the treatment of such amounts in taxable years beginning prior to 1987. In response to a comment, the regulations have been revised to include additional examples of expenditures that are chargeable to a corporation's capital account.

Special Analyses

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a final Regulatory Flexibility Analysis is not required.

Drafting Information

The principal author of these regulations is David L. Click, Office of the Assistant Chief Counsel (Passthroughs and Special Industries), Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in their development.

List of Subjects

26 CFR 1.61–1 through 1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR chapter I, parts 1 and 602 are amended as follows:

PART 1—[AMENDED]

Paragraph 1. The authority for part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805. * * * section 1.216–2 also issued under 26 U.S.C. 216(d).

Par. 2. Section 1.216–1 is amended as follows:

1. In paragraph (a) introductory text, the first sentence is amended by removing the words "An individual who qualifies as a" and by adding in their place the word "A".

2. In paragraph (c)(1), the second sentence is amended by removing the language "paragraph (f)" and adding in its place the language "paragraph (g)". Paragraph (c)(2) is redesignated as paragraph (c)(3) and is amended by adding at the end thereof three new examples to read as set forth below.

3. New paragraph (c)(2) is added immediately preceding newly redesignated paragraph (c)(3) to read as set forth below.

4. In paragraph (d)(1), the last sentence is amended by removing the language "paragraph (f)" and by adding in its place the language "paragraph (g)". Paragraph (d)(2) is revised to read as set forth below.

5. Paragraph (e) is revised to read as set forth below.

6. Paragraphs (c), (d), (e), (f), and (g) are redesignated as paragraphs (d), (e), (f), (g) and (h), respectively.

7. New paragraph (c) is added immediately preceding newly redesignated paragraph (d) to read as set forth below.

1.216–1 Amounts representing taxes and interest paid to cooperative housing corporations.

* * * * *

(c) *Disallowance of deduction for certain payments to the corporation.* For taxable years beginning after December 31, 1986, no deduction shall be allowed to a stockholder during any taxable year for any amount paid or accrued to a cooperative housing corporation (in excess of the stockholder's proportionate share of the items described in paragraphs (a) (1) and (2) of this section) which is allocable to amounts that are paid or incurred at any time by the cooperative housing corporation and which is chargeable to the corporation's capital account. Examples of expenditures chargeable to the corporation's capital account include the cost of paving a community parking lot, the purchase of a new boiler or roof, and the payment of the principal of the corporation's building mortgage. The adjusted basis of the stockholder's stock in such corporation shall be increased by the amount of such disallowance. This paragraph may be illustrated by the following example:

Example. The X corporation is a cooperative housing corporation within the meaning of section 216. In 1988 X uses $275,000 that it received from its shareholders in such year to purchase and place in service a new boiler. The $275,000 will be chargeable to the corporation's capital account. A owns 10% of the shares of X and uses in a trade or business the dwelling unit appurtenant to A's shares and was responsible for paying 10% of the cost of the boiler. A is thus responsible for $27,500 of the cost of the boiler, which amount A will not be able to deduct currently. A will, however, add the $27,500 to A's basis for A's shares in X.

(d) *Tenant-stockholder's proportionate share.* * * *

(2) *Special rule*—(i) *In general.* For taxable years beginning after December 31, 1986, if a cooperative housing corporation allocates to each tenant-stockholder a portion of the real estate taxes or interest (or both) that reasonably reflects the cost to the corporation of the taxes or interest attributable to each tenant-stockholder's dwelling unit (and the unit's share of the common areas), the cooperative housing corporation may elect to treat the amounts so allocated as the tenant-stockholders' proportionate shares.

(ii) *Time and manner of making election.* The election referred to in paragraph (d)(2)(i) of this section is effective only if, by January 31 of the year following the first calendar year that includes any period to which the election applies, the cooperative housing corporation furnishes to each person that is a tenant-stockholder during that period a written statement showing the amount of real estate taxes or interest (or both) allocated to the tenant-stockholder with respect to the tenant-stockholder's dwelling unit or units and share of common areas for that period. The election must be made by attaching a statement to the corporation's timely filed tax return (taking extensions into account) for the first taxable year for which the election is to be effective. The statement must contain the name, address, and taxpayer identification number of the cooperative housing corporation, identify the election as an election under section 216(b)(3)(B)(ii) of

the Code, indicate whether the election is being made with respect to the allocation of real estate taxes or interest (or both), and include a description of the method of allocation being elected. The election applies for the taxable year and succeeding taxable years. It is revocable only with the consent of the Commissioner and will be binding on all tenant-stockholders.

(iii) *Reasonable allocation.* It is reasonable to allocate to each tenant-stockholder a portion of the real estate taxes or interest (or both) that bears the same ratio to the cooperative housing corporation's total interest or real estate taxes as the fair market value of each dwelling unit (including the unit's share of the common areas) bears to the fair market value of all the dwelling units with respect to which stock is outstanding (including stock held by the corporation) at the time of allocation. If real estate taxes are separately assessed on each dwelling unit by the relevant taxing authority, an allocation of real estates taxes to tenant-stockholders based on separate assessments is a reasonable allocation. If one or more of the tenant-stockholders prepays any portion of the principal of the indebtedness and gives rise to interest, an allocation of interest to those tenant-stockholders will be a reasonable allocation of interest if the allocation is reduced to reflect the reduction in the debt service attributable to the prepayment. In addition, similar kinds of allocations may also be reasonable, depending on the facts and circumstances.

(3) *Examples.* * * *

Example (3). The X Corporation is a cooperative housing corporation within the meaning of section 216. In 1987, it acquires for $1,000,000 a building containing 10 category A apartments, 10 category B apartments, and 10 category C apartments. The value of each category A apartment is $20,000, of each category B apartment is $30,000 and of each category C apartment is $50,000. X issues 1 share of stock to each of the 30 tenant-stockholders, each share carrying the right to occupy one of the apartments. X allocates the real estate taxes and interest to the tenant-stockholders on the basis of the fair market value of their respective apartments. Since the total fair market value of all of the apartments is $1,000,000, the allocation of taxes and interest to each tenant-stockholder that has the right to occupy a category A apartment is 2/100 ($20,000/$1,000,000). Similarly, the allocation of taxes and interest to each tenant-stockholder who has a right to occupy a category B apartment is 3/100 ($30,000/$1,000,000) and of a category C apartment is 5/100 ($50,000/$1,000,000). X may elect in accordance with the rules described in paragraph (d)(2) of this section to treat the amounts so allocated as each tenant-stockholder's proportionate share of real estate taxes and interest.

Example (4). The Y Corporation is a cooperative housing corporation within the meaning of section 216. In 1987, it acquires a housing development containing 5 detached houses for $1,500,000, incurring an indebtedness of $1,000,000 for the purchase of the property. Each house is valued at $300,000, although the shares appurtenant to those houses have been sold to tenant-stockholders for $100,000. Y issues one share of stock to each of the five tenant-stockholders, each share carrying the right to occupy one of the houses. A, a tenant-stockholder, prepays all of the corporation's indebtedness allocable to A's house. The periodic charges payable to Y by A are reduced commensurately with the reduction in Y's debt service. Because no part of the indebtedness remains outstanding with respect to A's house, A's share of the interest expense is $0. The other four tenant-stockholders do not prepay their share of the indebtedness. Accordingly, 1/4 of the interest is allocated to each of the tenant-stockholders other than A. Y may elect in accordance with the rules described in paragraph (d)(2) of this section to treat the amounts so allocated as each tenant-stockholder's proportionate share of interest.

Example (5). The Z Corporation is a cooperative housing corporation within the meaning of section 216. In 1987, it acquires a building containing 10 apartments. One of the apartments is occupied by a senior citizen. Under local law, a senior citizen who owns and occupies a residential apartment is entitled to a $500 reduction in local property taxes assessed upon the apartment. As a result, Z corporation is eligible under local law for a reduction in local property taxes assessed upon the building. Z's real estate tax assessment for the year would have been $10,000, however, with the senior citizen reduction, the assessment is $9,500. The proprietary lease provides for a reduced maintenance fee to the senior citizen tenant-stockholder in accordance with the real estate tax reduction. Accordingly, each apartment owner is assessed $1,000 for local real estate taxes, except the senior citizen tenant-stockholder, who is assessed $500. Z may elect in accordance with the rules described in paragraph (d)(2) of this section to treat the amounts so allocated as each tenant-stockholder's proportionate share of taxes.

(e) *Cooperative housing corporation.* * * *

(2) *Right of occupancy.* Each stockholder of the corporation, whether or not the stockholder qualifies as a tenant-stockholder under section 216(b)(2) and paragraph (f) of this section, must be entitled to occupy for dwelling purposes an apartment in a building or a unit in a housing development owned or leased by such corporation. The stockholder is not required to occupy the premises. The right as against the corporation to occupy the premises is sufficient. Such right must be conferred on each stockholder solely by reasons of his or her ownership of stock in the corporation. That is, the stock must entitle the owner thereof either to occupy the premises or to a lease of the premises. The fact that the right to continue to occupy the premises is dependent upon the payment of charges to the corporation in the nature of rentals or assessments is immaterial. For taxable years beginning after December 31, 1988, the fact that, by agreement with the cooperative housing corporation, a person or his nominee may not occupy the house or apartment without the prior approval of such corporation will not be taken into account for purposes of this paragraph in the following cases.

(i) In any case where a person acquires stock of the cooperative housing corporation by operation of law, by inheritance, or by foreclosure (or by instrument in lieu of foreclosure),

(ii) In any case where a person other than an individual acquires stock in the cooperative housing corporation, and

(iii) In any case where the person from whom the corporation has acquired the apartments or houses (or leaseholds therein) acquires any stock of the cooperative housing corporation from the corporation not later than one year after the date on which the apartments or houses (or leaseholds therein) are transferred to the corporation by such person. For purposes of the preceding sentence, paragraphs (e)(2) (i) and (ii) of this section will not apply to acquisitions of stock by foreclosure by the person from whom the corporation has acquired the apartments or houses (or leaseholds therein).

* * * * *

(f) *Tenant-stockholder.* The term "tenant-stockholder" means a person that is a stockholder in a cooperative housing corporation, as defined in section 216(b)(1) and paragraph (e) of this section, and whose stock is fully paid up in an amount at least equal to an amount shown to the satisfaction of the district director as bearing a reasonable relationship to the portion of the fair market value, as of the date of the original issuance of the stock, of the corporation's equity in the building and the land on which it is situated that is attributable to the apartment or housing unit which such person is entitled to occupy (within the meaning of paragraph (e)(2) of this section).

Notwithstanding the preceding sentence, for taxable years beginning before January 1, 1987, tenant-stockholders include only individuals, certain lending institutions, and certain persons from whom the cooperative housing corporation has acquired the apartments or houses (or leaseholds thereon).

* * * * *

Par. 3. Section 1.216–2 is amended by revising paragraph (c) to read as follows:

§ 1.216–2 Treatment as property subject to depreciation.

* * * * *

(c) *Limitation.* If the allowance for depreciation for the taxable year determined in accordance with the provisions of paragraph (b) of this section exceeds the adjusted basis (provided in section 1011) of the stock described in paragraph (a) of this section allocable to the tenant-stockholder's proprietary lease or right of tenancy used in a trade or business or for the production of income, such excess is not allowable as a deduction. For taxable years beginning after December 31, 1986, such excess, subject to the provisions of this paragraph (c), is allowable as a deduction for depreciation in the succeeding taxable year. To determine the portion of the adjusted basis of such stock which is allocable to such proprietary lease or right of tenancy, the adjusted basis is reduced by taking into account the same factors as are taken into account under paragraph (b)(1) of this section in determining the allowance for depreciation.

* * * * *

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 4. The authority for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 5. Section 602.101(c) is amended by inserting in the appropriate phrase in table "1.216–1(d)(2) . . . 1545–1041".

Fred T. Goldberg, Jr.,
Commissioner of Internal Revenue.

Approved: September 24, 1990.

Kenneth W. Gideon,
Assistant Secretary of the Treasury.

[FR Doc. 90–24341 Filed 10–16–90; 8:45 am]
BILLING CODE 4830–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Los Angeles/Long Beach Reg. 90–12]

Security Zone Regulations; Port of Los Angeles, CA

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a security zone in the Port of Los Angeles, California, around any vessels, including Lighter Aboard Ship (LASH) barges, moored at, or transiting between LA Berths 107, 108, 109, 219, 220, 221, 222, and 223 during the effective period of these regulations. The zone is needed to safeguard vessels and LASH barges involved in military equipment outloads at LA Berths 107, 108, 109, 219, 220, 221, 222, and 223 against destruction, loss, or injury from sabotage or other subversive acts, accidents, or causes of a similar nature. Entry into this zone is prohibited unless authorized by the captain of the port.

EFFECTIVE DATES: This regulation becomes effective at 00:01 a.m., October 6, 1990. It terminates at 12:00 midnight, October 31, 1990.

FOR FURTHER INFORMATION CONTACT: Lt. R. F. Shields at (213) 499–5570.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rule making was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent destruction, loss, or injury to vessels and LASH barges involved in military equipment outloads at, or transiting between, LA Berths 107, 108, 109, 219, 220, 221, 222, and 223.

Drafting Information

The drafters of this regulation are Lt. R. F. Shields, project officer for the captain of the port, and LCdr. J.J. Jaskot, project attorney, Eleventh Coast Guard District Legal Office.

Discussion of Regulation

The incident requiring this regulation will begin 00:01 a.m., on October 6, 1990. This security zone is necessary to ensure the security of vessels and LASH barges involved in military equipment outloads at, or transiting between LA Berths 107, 108, 109, 219, 220, 221, 222, and 223.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, subpart D of part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 33 CFR 160.5.

2. A new § 165.T1113 is added to read as follows:

§ 165.T1113 Security zone: vessels and LASH barges moored at, or transiting between, berths 107, 108, 109, 219, 220, 221, 222, and 223, Port of Los Angeles, California

(a) *Location.* The following area is a security zone: The waters of Los Angeles Harbor within 100 yards of any vessels moored at, or transiting between, LA Berths 107, 108, 109, 219, 220, 221, 222, and 223.

(b) *Effective date.* This regulation becomes effective at 00:01 a.m., October 6, 1990. It terminates at 12:00 midnight, October 31, 1990.

(c) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited unless authorized by the captain of the port. Section 165.33 also contains other general requirements.

Dated: October 4, 1990.

J.B. Morris,
Captain, U.S. Coast Guard, Captain of the Port, Los Angeles/Long Beach.

[FR Doc. 90–24428 Filed 10–16–90; 8:45 am]
BILLING CODE 4910–14–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations; Arkansas et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are determined for the communities listed below.

The base (100-year) flood elevations are the basis for the floodplain management measures that the

community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the Federal Register for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L.90–448)), 42 U.S.C. 4001–4128, and 44 CFR part 67. An opportunity for the community or individuals to appeal proposed determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for floodplain management in flood-prone areas in accordance with 44 CFR part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 12291, so no regulatory analyses have been prepared. It does not involve any collection of information for purposes of the Paperwork Reduction Act.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E. O. 12127.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. No appeal was made during the ninety-day period and the proposed base flood elevations have not been changed.

State, city/town/county, source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
ARKANSAS	
Garland County (unincorporated areas) FEMA Docket No. 6998)	
Mason Creek:	
At confluence with Ouachita River	*405
Approximately 400 feet upstream of State Route 227	*426
Ouachita River:	
Approximately 3.3 miles downstream of confluence of Spencer Bay (Gulpha Creek)	*316
At the upstream side of Carpenter Dam (Shoreline of Lake Hamilton)	*403
At the downstream side of Blakely Mountain Dam	*406
Gulpha Creek:	
At U.S. Route 270	*318
Approximately 1,400 feet upstream of U.S. Route 70C	*500
Gulpha Creek Tributary No. 1:	
Approximately 80 feet upstream of U.S. Route 70C	*581
Approximately 900 feet upstream of U.S. Route 70C	*597
Middle Branch Gulpha Creek:	
Approximately 200 feet downstream of Mill Creek Road	*449
Approximately 100 feet upstream of Mill Creek Road	*462
Molly Creek:	
At the confluence with Ouachita River	*404
Approximately 125 feet downstream of Raven Drive	*408
Maps available for inspection at the County Courthouse, Ouachita Avenue, Hot Springs, Arkansas.	
IOWA	
Columbus Junction (city), Louisa County (FEMA Docket No. 6998)	
Iowa River:	
About 0.40 mile downstream of State Highway 92	*597
About 500 feet upstream of State Highway 70	*598
Maps available for inspection at the City Hall, 119 Walnut, Columbus Junction, Iowa.	
Fredonia (city), Louisa County (FEMA Docket No. 6998)	
Iowa River: Within community	*598
Maps available for inspection at the City Hall, Columbus Junction, Iowa.	
Louisa County (unincorporated areas) (FEMA Docket No. 6998)	
Iowa River:	
At mouth	*545
At northeast county boundary	*610
Mississippi River:	
At southeast county boundary	*543
At northeast county boundary	*554
Cedar River:	
At mouth	*598
At north county boundary	*660
Mosestine Slough: One mile east of City of Grandview	*630
Maps available for inspection at the County Zoning Administration Office, County Courthouse, Wapello, Iowa.	
Wapello (city), Louisa County (FEMA Docket No. 6998)	
Iowa River:	
About 1.0 mile downstream of State Highway 99	*597
About 1.0 mile downstream of State Highway 99	*573
Maps available for inspection at the City Hall, 337 North Second Street, Wapello, Iowa.	
KENTUCKY	
Grayson County, (unincorporated areas) (FEMA Docket No. 6998)	
Taylor Fork:	
About 800 feet upstream of mouth	*507
About 1900 feet upstream of Bloomington Church Road	*560
Caney Creek:	
About 1700 feet downstream of State Route 736	*462
About 1000 feet downstream of State Route 70	*471
North Fork:	
About 1100 feet upstream of mouth	*472
About 1.95 miles upstream of State Route 70	*476
Maps available for inspection at the County Courthouse, Litchfield, Kentucky.	
Henderson County (unincorporated areas) (FEMA Docket No. 6998)	
Green River:	
At mouth	*359
At county boundary	*360
Ohio River:	
At western county boundary	*371
About 5.5 miles upstream of eastern county boundary	*386
Wilson Creek:	
At mouth	*378
About 2000 feet upstream of Wilson Station Road	*385
East Fork Canoe Creek:	
At mouth	*361
Just downstream of Pennyrile Parkway	*401
Just upstream of Pennyrile Parkway	405
Just upstream of Cox Road	*406
Canoe Creek:	
At divergence with Sellers Ditch	*378
About 3900 feet upstream of confluence of East Fork Canoe Creek	*382
Sellers Ditch:	
At confluence with Canoe Creek	*377
At divergence with Canoe Creek	*378
Maps available for inspection at the County Courthouse, Henderson, Kentucky.	
McLean County (unincorporated areas) (FEMA Docket No. 6991)	
Buck Creek:	
About 1400 feet downstream of State Highway 1080	*395
About 1300 feet upstream of U.S. Route 431	*409
Buck Creek Tributary:	
At mouth	*401
About 2400 feet upstream of U.S. Route 431	*406
Myer Creek:	
At mouth	*399
Just upstream of State Route 81	*403
Green River:	
About 9.2 miles downstream of State Route 69	*389
About 3900 feet upstream of Southern County Boundary	*394
Overflow Ditch:	
At confluence with Buck Creek Tributary	*405
At divergence with Buck Creek	*409
Maps available for inspection at the County Courthouse, Calhoun, Kentucky.	

State, city/town/county, source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)

State, city/town/county, source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
[illegible] County (unincorporated areas) (FEMA Docket No. 6998)	
Ohio River:	
At downstream county boundary	*418
At upstream county boundary	*442
Otter Creek:	
At mouth	*440
About 500 feet upstream of State Route 1616	*392
Dry Branch:	
At mouth	*395
At confluence of Gander Branch	*399
Gander Branch:	
At confluence with Dry Branch	*399
About 1500 feet upstream of State Route 1650	*407
Maps available for inspection at the County Courthouse, Brandenburg, Kentucky.	
Muhlenberg County (unincorporated areas) (FEMA Docket No. 6998)	
Caney Creek:	
About 1500 feet downstream of Powderly Cutoff Road	*403
About 0.85 mile upstream of State Route 189	*444
Little Cypress Creek:	
At mouth	*392
About 3000 feet upstream of Bethel Morgan Road	*423
Sandlick Creek:	
At mouth	*401
About 1.74 miles upstream of Cypress Run	*433
Green River:	
About 2.75 miles downstream of CSX railroad	*394
Just upstream of Lock and Dam No. 3	*405
Maps available for inspection at the County Courthouse, Greenville, Kentucky.	
Taylor County (unincorporated areas) (FEMA Docket No. 6998)	
Robinson Creek:	
About 0.8 mile downstream of State Route 70	*722
About 2,460 feet upstream of Montreac Road	*805
Yellow Creek:	
At mouth	*795
About 2.65 miles upstream of Montreac Road	*869
Maps available for inspection at the County Courthouse, Campbellsville, Kentucky.	
MINNESOTA	
Fort Ripley (city), Crow Wing County (FEMA Docket No. 6991)	
Mississippi River:	
At southern county boundary	*1145
About 2300 feet upstream of confluence of Nokasippi River	*1152
Maps available for inspection at the City Clerk's Home, Route 1, Box 34A, Fort Ripley, Minnesota.	
Litchfield (city), Meeker County (FEMA Docket No. 6991)	
Jewett Creek:	
About 1000 feet downstream of North Armstrong Avenue	*1105
Just upstream of North Sibley Avenue	*1110
About 1060 feet upstream of West 4th Street	*1113
Lake Ripley: Along shoreline	*1128
Maps available for inspection at the Zoning Administrator's Office, City Hall, 120 North Marshall Avenue, Litchfield, Minnesota.	
Pipestone (city), Pipestone County (FEMA Docket No. 6991)	
Main Ditch:	
About 200 feet downstream of Hiawatha Avenue	*1716
Just downstream of County Highway 69	*1758
Maps available for inspection at the City Administrator's Office, City Hall, 119 2nd Avenue, SW., Pipestone, Minnesota.	
MISSISSIPPI	
Alcorn County (unincorporated areas) (FEMA Docket No. 6987)	
Cane Creek:	
Just upstream of U.S Highway 72	*430
Just downstream of Wenasoga Road	*439
Turner Creek:	
About 1800 feet downstream of Norfolk Southern Railway	*446
Just downstream of Norfolk Southern Railway	*450
Just upstream of Norfolk Southern Railway	*446
Just downstream of Wenasoga Road	*464
Just upstream of Wenasoga Road	*470
About 800 feet upstream of Wenasoga Road	*472
Bridge Creek:	
About 1100 feet downstream of Whitmore Levee Road	*405
About 0.7 mile upstream of Illinois Central Railroad	*422
Maps available for inspection at the Chancery Clerk's Office, County Courthouse, Corinth, Mississippi.	
Burnsville (city), Tishomingo County (FEMA Docket No. 6987)	
Tennessee Tombigbee River: Within community	*420
Maps available for inspection at the City Clerk's Office, City Hall, Burnsville, Mississippi.	
Lafayette County (unincorporated areas) (FEMA Docket No. 6987)	
Hudson Creek:	
At mouth	*286
About 1.3 miles upstream of county road	*293
Otter Creek:	
About 400 feet downstream of confluence of Hudson Creek	*286
About 0.9 mile upstream of county road	*315
West Goose Valley Creek:	
At Mouth	*308
About 1.0 mile upstream of State Highway 6	*354
East Goose Valley Creek:	
About 500 feet downstream of confluence of West Goose Valley Creek	*306
About 1800 feet upstream of State Highway 6 Bypass	*370
Davidson Creek:	
About 2.6 miles upstream of mouth	*318
About 1500 feet downstream of State Highway 314	*356
Sunny Branch:	
About 1800 feet upstream of mouth	*299
Just downstream of Grade Control Structure No. 3	*317
Just upstream of Grade Control Structure No. 3	*322
Just downstream of Grade Control Structure No. 4	*326
About 400 feet upstream of Grade Control Structure No. 4	*260
Sardis Lake: Within community	
Maps available for inspection at the Chancery Clerk's Office, County Courthouse, Oxford, Mississippi.	
Marshall County (unincorporated areas) (FEMA Docket No. 6987)	
Byhalia Creek:	
About 1.2 miles downstream of State Highway 309	*305
About 2.2 miles upstream of Burlington Northern Railroad	*367
Norconnah Creek Lateral B:	
About 1800 feet downstream of northern county boundary	*333
About 1.4 miles upstream of Dunn Road	*373
Sardis Lake: Within community	*266
Maps available for inspection at the Board of Supervisor's Office, County Courthouse, Holly Springs, Mississippi.	
NEBRASKA	
Omaha (city), and Extraterritorial Jurisdiction, Douglas County (FEMA Docket No. 6998)	
Big Papillion Creek:	
About 750 feet downstream of Harrison Street	*1003
Just downstream of Union Pacific Railroad	*1016
Just upstream of Union Pacific Railroad	*1029
About 1.12 miles upstream of State Street	*1062
West Papillion Creek:	
Just downstream of Harrison Street	*1042
About 0.86 mile upstream of Old Lincoln Highway	*1133
Cole Creek:	
At mouth	*1041
About 350 feet downstream of Maple Street	*1076
Just upstream of Maple Street	*1084
Just downstream of Military Avenue	*1094
Just upstream of Military Avenue	*1103
Just downstream of Radick Avenue	*1143
Hall Creek:	
Just upstream of Harrison Street	*1054
Just downstream of Interstate 80	*1071
Just upstream of Interstate 80	*1089
Just downstream of L Street	*1086
Just upstream of L Street	*1099
Just downstream of Union Pacific Railroad	*1107
Just upstream of Union Pacific Railroad	*1116
Just downstream of West Center Road	*1126
Just upstream of West Center Road	*1135
Just downstream of Pacific Street	*1181
North Branch West Papillion Creek: At mouth	*1109
Little Papillion Creek: At mouth	*1009
Boulder Crest Reservoir: Within community	*1118
Maps available for inspection at the Planning Department, Omaha-Douglas Civic Center, 1819 Farnham Street, Omaha, Nebraska.	
NEW JERSEY	
Andover (Borough), Sussex County (FEMA Docket No. 6987)	
Kymers Brook:	
Approximately 240 feet downstream of the downstream corporate limits	*575
Approximately 50 feet upstream of U.S. Route 206	*681
Maps are available for inspection at the Borough Municipal Building, Andover, New Jersey.	
Green (township), Sussex County (FEMA Docket 6987)	
Pequest River:	
Downstream corporate limits	*544
Upstream corporate limits	*568
Kymers Brook:	
At the confluence with the Pequest River	*568
Upstream corporate limits	*671
Maps available for inspection at the Green Township Municipal Building, Tranquility, New Jersey.	
NEW MEXICO	
Eddy County (unincorporated areas) (FEMA Docket No. 6998)	
Hackberry Draw:	
At confluence with Southern Canal	*3,139
Approximately 1,250 feet upstream of Jones Street	*3,202
Maps available for inspection at the County Courthouse, Carlsbad, New Mexico.	
NEW YORK	
Alden (town) Erie County (FEMA Docket No. 6998)	
Elliott Creek:	
Approximately 160 feet upstream of Crittenden Street	*817
At County Line Road	*834
Maps available for inspection at the Town Hall, 11901 Broadway, Alden, New York.	

State, city/town/county, source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Newport (town), Herkimer County (FEMA Docket No. 6960)	
West Canada Creek:	
Approximately 1,420 feet upstream of Newport Hydroelectric Dam	*649
Approximately 4,290 feet upstream of Newport Hydroelectric Dam	*649
Maps available for inspection at the Town Barn, West Street, Newport, New York.	
North Castle (town), Westchester County (FEMA Docket No. 6967)	
Bear Gutter Creek:	
Approximately 25' downstream of State Route 120	*356
Approximately 0.4 mile upstream of State Route 22	*369
Byram River:	
Approximately 75' downstream of Interstate Route 684 South	*365
Approximately 0.2 mile upstream of Byram Lake Road	*430
Wampus River:	
Confluence with Byram River	*370
Approximately 440' upstream of Wampus Lakes Road	*481
Tributary 1 to Wampus River:	
Confluence with Wampus River	*372
Approximately 1,540' upstream of Orchard Drive	*476
Tributary 2 to Wampus River:	
Confluence with Wampus River	*369
Approximately 0.7 mile upstream of Fareway Road	*523
Tributary 3 to Wampus River:	
Confluence with Wampus River	*418
Approximately 0.4 mile upstream of Wayne Valley Road	*486
Maps available for inspection at the Building Department, 17 Bedford Road, Armonk, New York.	
Pound Ridge (town), Westchester County (FEMA Docket No. 6967)	
Mill River:	
Approximately 50 feet downstream of corporate limits	*332
Confluence of Tributary to Mill River	*374
Tributary to Mill River:	
At confluence with Mill River	*374
Approximately 650 feet upstream of South Bedford Road	*413
Tributary to Laurel Reservoir:	
At downstream corporate limits	*344
Approximately 1,120 feet upstream of State Route 304	*391
Maps available for inspection at the Town House, Pound Ridge, New York.	
Rochester (town), Ulster County (FEMA Docket No. 6966)	
Rondout Creek:	
Downstream corporate limits	*195
Approximately 0.75 mile downstream of Main Street	*236
Rochester Creek:	
Approximately 0.6 mile upstream of State Route 209	*244
Approximately 0.55 mile upstream of Mettacahonts Road	*308
Tributary 1 to Rochester Creek:	
Confluence with Rochester Creek	*244
Approximately 1,450 feet upstream of Mill Hill Road	*268
Mill Brook:	
Confluence with Rochester Creek	*257
Approximately 600 feet upstream of Queens Highway	*279
Tributary 1 to Mill Brook:	
Confluence with Mill Brook	*276
Approximately 1,800 feet upstream of Queens Highway	*281

State, city/town/county, source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Maps available for inspection at the Building Department, Town Hall-Annex, Accord, New York.	
Thompson (town), Sullivan County (FEMA Docket No. 6961)	
Neversink River:	
Approximately 150 feet downstream of the downstream corporate limits	*990
At the upstream corporate limits	*1,088
East Mongaup River:	
At confluence with Mongaup River	*1,149
Approximately 1 mile downstream of Harris road	*1,176
Tributary to Neversink River:	
At confluence with Neversink River	*1,045
At Wolf Lake Dam	*1,250
Mongaup River:	
At confluence with Swinging Bridge Reservoir	*1,075
At confluence of East Mongaup River and Middle Mongaup River	*1,143
Middle Mongaup River:	
At confluence with Mongaup River	*1,143
At upstream corporate limits	*1,234
Sackett Lake Outlet:	
Approximately 1,000 feet downstream of County Route 45	*1,268
At confluence of Sackett Lake	*1,231
Swinging Bridge Reservoir: Entire shoreline within community	*1,075
Maps available for inspection at the Town Hall, Route 42 N, Monticello, New York.	
OHIO	
Madison County (unincorporated areas) (FEMA Docket No. 6960)	
Oak Run:	
About 300 feet upstream of Old Springfield Road	*1041
About 0.8 mile upstream of Old Springfield Road	*1051
Glade Run:	
Just downstream of U.S. Route 40	*979
About 1.16 miles upstream of U.S. Route 40	*989
Little Darby Creek:	
About 3.0 miles downstream of U.S. Route 40	*969
About 0.56 mile upstream of Middle Pike	*989
Big Darby Creek:	
About 1.85 miles downstream of U.S. Route 40	*957
About 0.73 mile upstream of Cemetery Pike	*915
Maps available for inspection at the County Courthouse, London, Ohio.	
Roseville (village), Muskingum and Perry Counties (FEMA Docket No. 6967)	
Moxahala Creek:	
About 1300 feet downstream of Main Street	*734
About 600 feet upstream of Athens Road	*742
Maps available for inspection at the City Hall, 841 North Main Street, Roseville, Ohio.	
OKLAHOMA	
Dover (town), Kingfisher County (FEMA Docket No. 6966)	
Turkey Creek—West Overflow:	
Downstream corporate limits	*1,095
0.3 mile north along Oklahoma-Kansas-Texas Railroad from intersection with Red Fork Drive	*1,099
Turkey Creek—East Overflow:	
Approximately 470 feet south of Boundary Street	*1,092
At intersection of Vine Street and Chisolm Avenue	*1,094
Maps available for inspection at the City Hall, 101 North Chisolm, Dover, Oklahoma.	
Sequoyah County (unincorporated areas) (FEMA Docket No. 6967)	
Arkansas River:	
Approximately 940 feet downstream of U.S. Route 64	*419

State, city/town/county, source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Approximately 1.55 mile upstream of U.S. Route 64	*421
At Interstate Route 40	*477
At a point approximately 1,600 feet upstream of U.S. Route 64 and State Route 100	*492
Illinois River:	
At confluence with Arkansas River	*478
At Tenkiller Ferry Dam	*519
Sallisaw Creek:	
Approximately 1.75 miles downstream of Interstate Route 40	*477
Approximately 4 miles upstream of Union Pacific Railroad bridge	*549
Approximately 0.75 mile downstream of Kansas City Southern Railway bridge	*573
Approximately 0.61 mile upstream of Kansas City Southern Railway bridge	*618
Little Sallisaw Creek:	
Approximately 1.3 miles upstream of confluence with Sallisaw Creek	*457
At U.S. Route 64	*495
Little Skin Bayou:	
Approximately 0.2 mile upstream of confluence with Big Skin Bayou	*448
Approximately 0.71 mile upstream of Flat Rock Road	*556
Hog Creek:	
At confluence with Little Sallisaw Creek	*464
Approximately 0.84 mile upstream of State Route 101	*550
Camp Creek:	
Approximately 2.4 miles upstream of confluence with Arkansas River	*413
Approximately 1.06 miles upstream of Section Line Road	*505
Shiloh Creek:	
At Interstate 40	*495
Approximately 50 feet upstream of Kansas City Southern Railway	*537
Stream A:	
Approximately 1,180 feet downstream of Roland Road	*429
Approximately 50 feet downstream of U.S. Route 64	*433
Teague Branch:	
At confluence with Little Skin Bayou	*452
At Interstate Route 40	*486
Orion Creek:	
Approximately 1,000 feet downstream of Section Line Road	*496
Approximately 1,200 feet upstream of Kansas City Southern Railway bridge	*566
Old Possum Branch:	
At confluence with Camp Creek	*479
Approximately 1,000 feet upstream of Section Line Road	*568
Tributary 1:	
At confluence with Little Sallisaw Creek	*469
Approximately 600 feet downstream of Interstate Route 40	*497
Stream B:	
Approximately 1,000 feet upstream of confluence with Stream A	*480
Approximately 460 feet upstream of Dorcas Street	*497
Tributary 2:	
At confluence with Little Sallisaw Creek	*478
Downstream side of Cedar Street	*518
Orion Creek Tributary:	
Approximately 600 feet upstream of confluence with Orion Creek	*594
Approximately 1,100 feet upstream of confluence with Orion Creek	*668
West Branch of Tributary 2:	
Approximately 200 feet upstream of confluence with Tributary 2	*501
Approximately .4 mile upstream of Cedar Street	*560
Maps available for inspection at the ASCS Board, 101 McGee Drive, Sallisaw, Oklahoma.	
PENNSYLVANIA	
Canal (township), Venango County (FEMA Docket No. 6966)	
French Creek:	
Approximately 700 feet downstream of downstream corporate limits	*1,027

State, city/town/county, source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Approximately 500 feet downstream of T-680 (proposed)	*1,040
Maps available for inspection at the Township Secretary's home, R.D. 1, Box 99A, Carlton, Pennsylvania.	
Cooperstown (borough), Venango County (FEMA Docket No. 6997)	
Sugar Creek:	
Approximately 200 feet downstream of downstream corporate limits	*1,121
Approximately 250 feet upstream of upstream corporate limits	*1,134
Lake Creek:	
At confluence with Sugar Creek	*1,123
Approximately 120 feet upstream of upstream corporate limits	*1,148
Maps available for inspection at the Borough Secretary's home, West Riverside Drive, Cooperstown, Pennsylvania.	
Davidson (township), Sullivan County (FEMA Docket No. 6979)	
Muncy Creek:	
At downstream corporate limits	*787
Approximately 1.5 miles upstream to T-309 (Peck Road)	*980
Maps available for inspection at the Township Building, Muncy Valley, Pennsylvania.	
Hempfield (township), Mercer County (FEMA Docket No. 6999)	
Shenango River:	
At downstream corporate limits	*930
At upstream corporate limits	*952
Little Shenango River:	
At downstream corporate limits	*928
At upstream corporate limits	*939
Maps available for inspection at the Township Building, 276 South Mercer Street, Greenville, Pennsylvania.	
Pine Creek (township), Jefferson County (FEMA Docket No. 6999)	
Sandy Lick Creek:	
At Pittsburgh and Shawmut Railroad	*1,222
Approximately 300 feet upstream of CONRAIL	*1,241
Mill Creek:	
At the confluence with Sandy Lick Creek	*1,226
Approximately 0.8 mile upstream of confluence with Sandy Lick Creek	*1,246
Fiscville Run:	
At the confluence with Sandy Lick Creek	*1,222
Upstream corporate limits	*1,231
Maps available for inspection at the Township Building, Route 332, Brockville, Pennsylvania.	
President (township), Venango County (FEMA) Docket No. 6999)	
Allegheny River:	
At downstream corporate limits	*1,007
At upstream corporate limits	*1,041
Maps available for inspection at the Township Building, Green Oaks, Pennsylvania.	
SOUTH CAROLINA	
Williamsburg County (unincorporated areas) (FEMA Docket No. 6999)	
Black River:	
About 1000 feet downstream of State Route 41	*13
About 4.9 miles upstream of U.S. Route 52	*46
Maps available for inspection at the County Complex, Kingstree, South Carolina.	
TEXAS	
Blanco County (unincorporated areas) (FEMA Docket No. 6997)	
Pedernales River:	
Approximately 40 miles above confluence with Colorado River (Lake Travis)	*1,036
Approximately 2,930 feet upstream of U.S. Route 281	*1,138
Town Creek:	
At confluence with Pedernales River	*1,123
At City of Johnson City corporate limits	*1,151
Deer Creek:	
At confluence with Pedernales River	*1,125
At private road approximately 1,840 feet upstream of Bretendale Road	*1,266
Maps available for inspection at the Blanco County Courthouse, Johnson City, Texas.	
Bowie (city), Montague County (FEMA Docket No. 6999)	
Brushy Creek:	
Approximately 0.83 mile upstream of Jakarta Street	*1,040
Approximately 0.7 mile downstream of State Route 59	*1,048
Brushy Creek Tributary A:	
Approximately 0.36 mile upstream of confluence with Brushy Creek	*1,033
Approximately 65 feet downstream of Gallia Street	*1,088
Maps available for inspection at the City Hall, Bowie, Texas.	
Diboll (city), Angelina County (FEMA Docket No. 6999)	
White Oak Creek:	
At U.S. Route 59, downstream corporate limits	*174
Approximately 1.2 miles upstream of Harris Street	*224
Maps available for inspection at the City Hall, 400 Kenley, Diboll, Texas.	
Johnson City (city), Blanco County (FEMA Docket No. 6997)	
Town Creek:	
Downstream corporate limits	*1,151
Approximately 66 feet upstream of U.S. Route 281	*1,160
Deer Creek:	
At the upstream side of old U.S. Route 290	*1,184
Approximately 450 feet upstream of old U.S. Route 290	*1,196
Maps available for inspection at the City Hall, Johnson City, Texas.	
Lampasas County (unincorporated areas) (FEMA Docket No. 6997)	
Clark Creek:	
Approximately 1,875 feet downstream of FM 2657	*1,033
Approximately 0.85 mile upstream of FM 2657 or at County Route 134	*1,095
Stream BC-1:	
Approximately 510 feet downstream of U.S. Route 190	*976
Approximately 940 feet upstream of Apache Trail	*1,034
Stream CC-1:	
At the downstream County boundary	*977
Approximately 130 feet upstream of FM 2657	*1,044
Colorado River:	
At the downstream County boundary	*1,061
Approximately 900 feet upstream of downstream County boundary	*1,070
Maps available for inspection at the Lampasas County Courthouse, Judges Office, Lampasas, Texas.	
Montague County (unincorporated areas) (FEMA Docket No. 6999)	
Brushy Creek:	
At Jakarta Street	*1,030
At the upstream side of FM Route 1816	*1,095
Brushy Creek Tributary A:	
At the confluence with Brushy Creek	*1,080
At the upstream side of Gallia Street	*1,059
Big Sandy Creek:	
Approximately 0.85 mile upstream of confluence with Lake Amon G. Carter	*934
Approximately 400 feet upstream of County Road	*952
Herring Branch:	
At the confluence with Lake Amon G. Carter	*934
Approximately 1.84 miles upstream of the confluence with Lake Amon G. Carter	*936
Lake Nocona: Entire shoreline within community	*938
Lake Amon G. Carter: Entire shoreline within community	*934
Maps available for inspection at the Montague County Courthouse, Montague, Texas.	
Stephens County (unincorporated areas) (FEMA Docket No. 6997)	
Hubbard Creek Lake:	
Damon Hubbard Creek	*1,184
Approximately 500 feet upstream of State Route 576	*1,209
Gunsolus Creek:	
Approximately 0.6 mile downstream of FM 267	*1,170
Approximately 485 feet upstream of Valley Street	*1,191
Stream BK-2: Approximately 0.8 mile upstream of Live Oak Avenue	*1,214
Stream BK-3: Approximately 1,630 feet upstream of confluence with Gunsolus Creek	*1,191
Maps available for inspection at the Stephens County Courthouse, Breckenridge, Texas.	
Young County (unincorporated areas) FEMA Docket No. 6997)	
Mud Creek:	
At confluence with Salt Creek	*1,173
At Camp Road	*1,203
Salt Creek:	
Approximately 0.5 mile upstream of confluence with Brazos River	*1,036
At County boundary	*1,196
Dry Creek:	
At confluence with Salt Creek	*1,086
Approximately 3 miles upstream of FM Route 2179	*1,097
Salt Creek West Branch:	
At confluence with Salt Creek	*1,187
Just downstream of FM Route 2175	*1,220
Stream GR-1:	
At confluence with Farmers Branch	*1,068
Approximately 1,450 feet upstream of confluence with Farmers Branch	*1,079
Farmers Branch:	
Approximately 2 miles upstream of confluence with Salt Creek	*1,047
Approximately 1,100 feet upstream of confluence of Stream GR-1	*1,068
Stream GR-2:	
At confluence with Dry Creek	*1,063
Approximately 150 feet downstream of City of Graham corporate limits	*1,062
Maps available for inspection at the Young County Courthouse, Graham, Texas.	
VIRGINIA	
Clintwood (town), Dickenson County (FEMA Docket No. 6999)	
Holly Creek:	
Approximately 0.7 mile downstream of Long Street	*1,629
Approximately 312 feet upstream of T-1008 (Fairground Hollow Road)	*1,781
Maps available for inspection at the Town Hall, Main Street, Clintwood, Virginia.	
Dickenson County (unincorporated areas) (FEMA Docket No. 6999)	
McClure River:	
At confluence with Russell Fork	*1,264
Approximately 1,550 feet upstream of State Route 652	*1,522
Holly Creek:	
Approximately .7 mile downstream of Long Street	*1,629
Approximately 312 feet upstream of T-1008 (Fairground Hollow Road)	*1,781

State, city/town/county, source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Russell Prater Creek:	
At confluence with Russell Fork	*1,258
Approximately 1.1 miles upstream of confluence with Russell Fork	*1,322
Russell Fork:	
Approximately .6 mile downstream of State Route 83	*1,257
Approximately 1,400 feet upstream of State Route 83	*1,271
Maps available for inspection at the Board of Supervisor's Room, County Courthouse, Clintwood, Virginia.	
James City County (unincorporated areas) (FEMA Docket No. 6969)	
York River:	
Shoreline at State Route 605 (extended)	*7
At confluence of Ware Creek	*9
James River: Entire length within community	*8.5
Chickahominy River: Entire length within community	*8.5
Powhatan Creek:	
At confluence with James River	*8.5
At confluence of Long Hill Swamp and Chisel Run	*20
Long Hill Swamp:	
At confluence with Powhatan Creek	*20
Approximately 1.2 miles upstream of State Route 612 Bridge	*32
Chisel Run:	
At confluence with Powhatan Creek	*20
Approximately .6 mile upstream of State Route 612 Bridge	*28
West Tributary to Long Hill Swamp:	
At confluence with Long Hill Swamp	*36
Approximately 1.3 miles upstream of State route 612 Bridge	*56
East Tributary to Chisel Run:	
At confluence with Chisel Run	*36
Approximately 2,250 feet upstream of confluence with Chisel Run	*42
Maps available for inspection at Building E, Department of Code Compliance, 101-E Mounts Bay Road, Williamsburg, Virginia.	
King William County (unincorporated areas) (FEMA Docket No. 6969)	
Pamunkey River and adjoining estuaries: Entire shoreline within community	*8.0
Mattaponi River:	
At downstream corporate limits	*8.0
At upstream corporate limits	*57
Manquin Creek:	
Approximately 1.4 miles downstream of State Route 615	*17
Approximately 700 feet upstream of U.S. Route 360	*48
Maps available for inspection at the County Planning Office, Courthouse, King William, Virginia.	
WEST VIRGINIA	
Elizabeth (town), Wirt County (FEMA Docket No. 6967)	
Little Kanawha River:	
Downstream corporate limits	*624
Upstream corporate limits	*628
Maps available for inspection at the Town Office, Elizabeth, West Virginia.	
Meadow Bridge (town), Fayette County (FEMA Docket No. 6967)	
Meadow Creek:	
Downstream corporate limits	*2,395
Upstream corporate limits	*2,450
Laurel Branch:	
Confluence with Meadow Creek	*2,420
Upstream corporate limits	*2,432
Maps available for inspection at the Town Hall, Meadow Bridge, West Virginia.	
WISCONSIN	
Amherst (village), Portage County (FEMA Docket No. 6967)	
Tomorrow River:	
About 0.59 mile downstream of Wilson Street	*1036
About 2300 feet upstream of Amherst Dam	*1044
Maps available for inspection at the Village Hall, 161 Mill Street, Amherst, Wisconsin.	
Sun Prairie (city), Dane County (FEMA Docket No. 6969)	
Koshkonong Creek:	
About 1,450 feet upstream of Bird Street	*822
Just upstream of Musket Ridge	*891
Token Creek: Within community	*866
Maps available for inspection at the City Hall, 124 Columbus Street, Sun Prairie, Wisconsin.	
Westfield (village), Marquette County (FEMA Docket No. 6967)	
Westfield Creek:	
About 360 feet downstream of U.S. Highway 51	*838
Just downstream of Spring Street Bridge/Dam	*849
About 0.54 mile upstream of West Fourth Street	*866
Maps available for inspection at the Village Hall, 109 East Third Street, Westfield, Wisconsin.	

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. Any appeals of the proposed base flood elevations which were received have been resolved by the Agency.

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
PENNSYLVANIA	
Shade (township), Somerset County (FEMA Docket No. 6971)	
Dark Shade Creek:	
Approximately 900 feet downstream of S.R. 6448	*2,149
Approximately 120 feet upstream of confluence of Little Dark Shade Creek	*2,154
Little Dark Shade Creek:	
Approximately 0.4 mile downstream of S.R. 160	*2,156
Approximately .28 mile upstream of S.R. 160	*2,165
Laurel Run:	
At the confluence with Dark Shade Creek	*2,154
Approximately 1.2 miles upstream of the downstream crossing of T-720	*2,379
Maps available for inspection at the Shade Township Building, Route 160, Cairnbrook, Pennsylvania.	
VIRGINIA	
Brunswick County (unincorporated areas) (FEMA Docket No. 6969)	
Great Creek:	
Approximately .4 mile downstream of confluence of Sandy Branch	
At Great Creek Dam	*165
	*195
Rosse Creek:	
At confluence with Great Creek	*171
Approximately 1.4 miles upstream of confluence of Rocky Run	*194
Maps available for inspection at the County Administrator's Office, 102 Tobacco Street, Lawrenceville, Virginia.	

Issued: October 9, 1990.

C. M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 90-24482 Filed 10-16-90; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-491; RM-6945]

Radio Broadcasting Services; Brantley, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 262A to Brantley, Alabama, as that community's second local FM broadcast service, in response to a petition for rule making filed on behalf of Crenshaw Broadcasting Company. See 54 FR 48283, November 22, 1989. Coordinates used for Channel 262A at Brantley are 31-36-00 86-17-44. (See Supplementary Information, *infra.*) With this action, the proceeding is terminated.

DATES: Effective November 26, 1990; the window period for filing applications on Channel 262A at Brantley, Alabama, will open on November 27, 1990, and close on December 27, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530. Questions related to the window application filing process should be addressed to the Audio Services Division, FM Branch, Mass Media Bureau, (202) 632-0394.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-491, adopted September 24, 1990, and released October 11, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800.

BEST COPY AVAILABLE

2100 M Street, NW., Suite 140, Washington, DC 20037.

Interested parties should note that the petition for rule making in this proceeding was filed prior to October 2, 1990, and therefore, applicants for Channel 282A at Brantley may avail themselves of the provisions of 73.213(c) of the Commission's Rules. See 47 CFR 73.213(c).

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by adding Channel 282A at Brantley.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24348 Filed 10-16-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-453; RM-6951]

Radio Broadcasting Services; Hampton, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 293C3 for Channel 296A at Hampton, Arkansas, and modifies the license of Southern Arkansas Radio for Station KKOL(FM), as requested, to specify operation on the higher powered channel, thereby providing that community with an expanded coverage area FM service. See 54 FR 43068, October 20, 1989. Coordinates used for Channel 293C3 at Hampton are 33-35-00 and 92-16-00. With this action, the proceeding is terminated.

EFFECTIVE DATE: November 26, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-453, adopted September 21, 1990, and released October 12, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments for Arkansas, is amended by removing Channel 296A and adding Channel 293C3 at Hampton.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24415 Filed 10-16-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-200; RM-7143]

Radio Broadcasting Services; Newberry, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document, at the request of Newberry Broadcasting Corporation, substitutes Channel 263C3 for Channel 263A at Newberry, Florida, and modifies its construction permit for Station WNFQ(FM) to specify operation on the higher powered channel. See 55 FR 17463, April 25, 1990. Channel 263C3 can be allotted to Newberry, Florida, in compliance with the Commission's minimum distance separation requirements with a site restriction of 13.4 kilometers (8.4 miles) west, in order to avoid a short-spacing to Station WYGC, Channel 265A, Gainesville, Florida. The coordinates for Channel 263C3 at Newberry are North Latitude 29-39-21 and West Longitude 82-44-49. With this action, this proceeding is terminated.

EFFECTIVE DATE: November 26, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-200, adopted September 24, 1990, and released October 10, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[Amended]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing Channel 263A and adding Channel 263C3 at Newberry.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24349 Filed 10-16-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-612; RM-7103]

Radio Broadcasting Services; Key Colony Beach, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document, at the request of Richard L. Silva, substitutes Channel 288C2 for Channel 288A at Key Colony Beach, Florida, and modifies the construction permit of Station WKKB(FM) to specify the higher class channel. See, 55 FR 02254, January 23, 1990. Channel 288C2 can be allotted to Key Colony Beach in compliance with the minimum distance separation requirements of the Commission's Rules, with a site restriction of 16.1 kilometers (10.0 miles) west of the community. The coordinates are North Latitude 24-42-28 and West Longitude 81-06-13. With this action, this proceeding is terminated.

EFFECTIVE DATE: November 26, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-612.

adopted September 24, 1990, and released October 11, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing Channel 288A and adding Channel 288C2 at Key Colony Beach.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24348 Filed 10-16-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-522; RM-6929]

Radio Broadcasting Services; Royston, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 279C3 for Channel 279A at Royston, Georgia, and modifies the license of Station WPUP(FM) to specify operation on the higher class channel. See 54 FR 46774, November 28, 1989. Channel 279C3 can be allotted to Royston in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.2 kilometers (6.3 miles) northwest in order to avoid a short-spacing to the licensed site of Station WLWZ, Channel 280A, Easley, South Carolina. The coordinates are North Latitude 34-19-59 and West Longitude 83-12-17. With this action, this proceeding is terminated.

EFFECTIVE DATE: November 26, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-522, adopted September 21, 1990, and released October 11, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73:

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by removing Channel 279A and adding Channel 279C3 at Royston.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24350 Filed 10-16-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-310; RM-7190]

Radio Broadcasting Services; Tennille, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 280A to Tennille, Georgia, as that community's first local broadcast service at the request of Michael K. Garner. See 55 FR 28222, June 27, 1990. Channel 280A can be allotted to Tennille, Georgia, in compliance with the Commission's minimum distance separation requirements without a site restriction. The coordinates for this allotment are North Latitude 32-56-24 and West Longitude 82-48-06. With this action, this proceeding is terminated.

DATES: Effective November 26, 1990; The window period for filing applications will open on November 27, 1990, and close on December 27, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-310, adopted September 21, 1990, and released October 11, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by adding Channel 280A at Tennille.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24351 Filed 10-16-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-198; RM-7125]

Radio Broadcasting Services; LeRoy, IL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 281B for Channel 281B1 at LeRoy, Illinois, and modifies its construction permit for Station WRXZ(FM) to specify operation on the higher powered channel at the request of McLean County Broadcasters, Inc. See 55 FR 17462, April 25, 1990. Channel 281B can be allotted to LeRoy, Illinois, in compliance with the Commission's minimum distance separation requirements with a site restriction of 29.0 kilometers (18 miles) northeast, in order to avoid a short-spacing to a construction permit for Station WCBH, Channel 282B1, Casey, Illinois, and the licensed sites of Station WJMK(FM), Channel 282B, Chicago, Illinois, and Station WKKX(FM) Channel 281C2, Jerseyville, Illinois. the coordinates for

this allotment are North Latitude 40-30-10 and West Longitude 88-28-59. With this action, this proceeding is terminated.

EFFECTIVE DATES: November 26, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, [202] 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-196, adopted September 25, 1990, and released October 12, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Illinois, is amended by removing Channel 281B1 and adding Channel 281B at LeRoy.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24417 Filed 10-16-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-197; RM-7132]

Radio Broadcasting Services; Arcola, IL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 300A to Arcola, Illinois, as that community's first local broadcast service at the request of Walnut Point Broadcasters. See 55 FR 17462, April 25, 1990. Channel 300A can be allotted to Arcola, Illinois, in compliance with the minimum distance separation requirements of the Commission's Rules without a site restriction. The coordinates for this allotment are North Latitude 39-41-00 and West Longitude 88-18-30. With this action, this proceeding is terminated.

DATES: Effective November 26, 1990; The window period for filing applications will open on November 17, 1990, and close on December 27, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-197, adopted September 21, 1990, and released October 12, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Illinois, is amended by adding Channel 300A at Arcola.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24418 Filed 10-16-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-210; RM-7163]

Radio Broadcasting Services; Glasgow, KY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document, at the request of WOVO Broadcasting, Inc., substitutes Channel 287C3 for Channel 288A at Glasgow, Kentucky, and modifies the license for Station WOVO(FM) to specify operation on Channel 287C3. See 55 FR 17770, April 27, 1990. Channel 287C3 can be allotted to Glasgow, Kentucky, in compliance with the Commission's minimum distance separation requirements with a site restriction of 18.9 kilometers (11.8 miles) southeast, in order to avoid a short-spacing to Station WYNG(FM), Channel 287B, Evansville, Indiana and Station WCLC(FM), Channel 286A, Jamestown, Tennessee. The coordinates for this allotment are North Latitude 36-53-33 and West Longitude 85-44-48. With this action, this proceeding is terminated.

EFFECTIVE DATE: November 26, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-210, adopted September 24, 1990, and released October 10, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Kentucky, is amended by removing Channel 288A and adding Channel 287C3 at Glasgow.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24345 Filed 10-16-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-414; RM-6923]

Radio Broadcasting Services; Indianola, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 245C3 for Channel 245A at Indianola, Mississippi, in response to a petition filed by Walter Gray Gilbert. We shall also modify the construction permit for Channel 245A to specify

operation on Channel 245C3. The coordinates for Channel 2453C are 33–31–41 and 90–39–15.

EFFECTIVE DATE: November 26, 1990.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–414, adopted September 24, 1990, and released October 11, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Mississippi, is amended by removing Channel 245A and adding Channel 245C3 at Indianola.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–24347 Filed 10–16–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–519; RM–6856]

Radio Broadcasting Services; West Rutland, VT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 298C3 for Channel 298A at West Rutland, Vermont, and modifies the construction permit for Station WVNH(FM) to specify the higher class channel in response to a petition filed by Brian Dodge. See 54 FR 49780, December 1, 1989. Canadian concurrence has been obtained at coordinates 43–39–40 and 72–53–25.

EFFECTIVE DATE: November 26, 1990.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–519, adopted September 21, 1990, and released October 12, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Vermont, is amended by removing Channel 298A and adding Channel 298C3 at West Rutland.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–24416 Filed 10–16–90; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1201

[Docket No. 40047]

Revision to Minimum Rule for Railroads' Property Units

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: This decision increases the minimum rule for capitalization of a railroad's property units from $2,000 to $5,000. That is, when the acquisition cost for new road property (or additions to existing units) is less than $5,000, the cost may be charged to operating expenses. Additionally, the minimum capitalization level (rounded to the nearest $100) will be adjusted by the June Producer Price Index for all commodities when the aggregate adjustment is $500 or more. The adjusted capitalization level will be effective on January 1 of the following year. The reason for and intended effect of the change is to reduce recordkeeping costs for railroads. A Notice of Proposed Rulemaking (NPR) was published in the Federal Register on July 20, 1988 at 53 FR 27374–75. The revised rules are set forth below.

EFFECTIVE DATE: The revision is effective as of January 1, 1991.

FOR FURTHER INFORMATION CONTACT: Brian A. Holmes, (202) 275–7510 (TDD for hearing impaired (202) 275–1721).

SUPPLEMENTARY INFORMATION: The Commission is amending its regulations to increase the minimum rule for capitalization of railroad property units from $2,000 to $5,000, and to adjust this amount annually by increments of at least $500 after applying the Producer Price Index for all commodities. The purpose of the revision is to reduce the burden associated with the accounting for minor items of property. The applicable index and adjusted minimum capitalization level will be published in the Federal Register annually. This revision is effective for the reporting year beginning January 1, 1991.

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423 or call (202) 289–4357/4359. Assistance for the hearing impaired is available through TDD Services (202) 275–1721.

This revision will not have a significant economic impact on a substantial number of small entities and this decision will not significantly affect the quality of the human environment or the conservation of energy resources.

It is estimated that no additional burden hours per response are required to complete this collection of information. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments concerning the accuracy of this burden estimate or suggestions for reducing this burden should be directed to both the Interstate Commerce Commission, Commission Service Section, room 2203, Washington, DC 20423, and the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503.

This revision for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C.

chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the regulation and supporting documents may be obtained from the Agency Clearance Officer, Darlene Proctor (202) 275-7322. Comments regarding this information collection should be addressed to Darlene Proctor, Interstate Commerce Commission, room 2121, Washington, DC 20423 and to Wayne Brough, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503.

List of Subjects in 49 CFR Part 1201

Railroads, Uniform system of accounts.

Decided: October 5, 1990.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Lamboley, and Emmett. Commissioner Lamboley did not participate in the disposition of this proceeding.

Sidney L. Strickland, Jr.,
Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1201 of the Code of Federal Regulations is amended as follows:

PART 1201—RAILROAD COMPANIES

1. The authority citation for part 1201 continues to read as follows:

Authority: 5 U.S.C. 553 and 49 U.S.C. 11166.

Subpart A [Amended]

2. In subpart A, the Instructions for Property Accounts is amended by revising Instruction 2-2, and in Instruction 2-9, by revising paragraph (a), removing paragraph (b) and redesignating paragraph (c) as paragraph (b).

INSTRUCTIONS FOR PROPERTY ACCOUNTS

* * * * *

2-2 *Minimum rule applicable to additions to property.* An exception to the rule in Instruction 2-1 is that when the cost of acquisition of units of road property and of additions to existing units of road property (other than land and tracks) is less than $5,000, such costs may be charged to operating expenses. This amount (rounded to the nearest $100) will be adjusted by the June Producer Price Index for all commodities when an aggregate adjustment is $500 or more. The revision will be published in the Federal Register and be effective as of January 1 of the following year. The carrier shall not parcel expenditures under a general plan bringing the accounting for such expenditures within this minimum rule. An amount of less than the current minimum capitalization level, for the railroad as a whole or for individual property accounts may be adopted for purposes of this rule provided the carrier first notifies the Commission of the amount it proposes to adopt and thereafter makes no change in the amount unless authorized by the Commission. An amount adopted shall be adhered to in reporting property changes for valuation purposes.

* * * * *

2-9 *Additions and retirements of other than units of property.* (a) When an item of road or equipment property, other than a complete unit, is added to the plant and the addition is not a replacement, the cost thereof shall be accounted for in the same manner as an addition of a complete unit of property, subject to the minimum rule applicable to road property (see Instruction 2-2). When an item of property other than a complete unit (minor item) is replaced, independent of the complete unit of which it is a part, the cost of replacement shall be treated as maintenance and charged to operating expenses. If the replacement constitutes an improvement then the cost of replacement should be accounted for as a rebuilding expenditure under Instruction 2-12.

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[FR Doc. 90-24468 Filed 10-16-90; 8:45 am]
BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 55, No. 201
Wednesday, October 17, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 3

[Docket No. 90-18]

Risk-Based Capital Guidelines Amendments

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is proposing to amend the risk-based capital guidelines applicable to national banks. These amendments would make a variety of changes in the provisions relating to (1) The definition of central government, (2) the unused portion of commitments, (3) the calculation of the amount of the allowance for loan and lease losses included in Tier 2 capital, (4) the calculation of the limitationi on subordinated debt and intermediate term preferred stock in Tier 2 capital, (5) the redemption of capital instruments, (6) the authority of the OCC to permit supervisory goodwill as capital, (7) the 25% limitation on qualifying intangibles, (8) local currency claims guaranteed by non-OECD central governments, (9) claims on non-OECD central banks, (10) assets sold with recourse, and (11) the definition of credit card lines.

The purposes of these proposed amendments is to clarify certain questions of interpretation and implementation that have arisen since the guidelines were adopted and to make a limited number of technical changes for greater consistency with the risk-based capital guidelines of the other Federal bank regulatory agencies, the Agreement on International Convergence of Capital Measurement and Capital Standards of July 1988, as reported by the Basle Committee on Banking Supervision (the Basle Agreement), other OCC regulations, and the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law No. 101-73, 103 Stat. 183 (FIRREA). While the proposed amendments are clarifying and/or technical in nature, some of the changes may have a substantive effect on national banks. The OCC invites comments on all aspects of the proposed amendments.

DATES: Comments must be submitted on or before December 17, 1990.

ADDRESSES: Interested persons are invited to submit written comments to Docket No. [90-18], Communications Division, Fifth Floor, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, Southwest, Washington, DC 20219. Attention: Karen Carter. Comments will be available for inspection and photocopying at that address.

FOR FURTHER INFORMATION CONTACT: Jennifer C. Kelly, National Bank Examiner, Supervision Policy/Research Division, (202) 447-1164; Mark Winer, Associate Director, Economic and Policy Analysis, (202) 447-1924; C. Stewart Goddin, Senior International Economic Advisor, Multinational and Regional Bank Analysis, (202) 447-1747; Eugene W. Green, Deputy Director, Bank Accounting, (202) 287-4723; or Richard H. Cleva, Senior Attorney, or Ronald Shimabukuro, Senior Attorney, Legal Advisory Services Division, (202) 447-1083.

SUPPLEMENTARY INFORMATION:

Background

The OCC's final risk-based capital guidelines were published in the Federal Register on January 27, 1989 (54 FR 4168) (codified at 12 CFR part 3 appendix A). The risk-based capital guidelines impose capital requirements that are sensitive to the risk profiles of financial institutions. The guidelines implement the Basle Agreement and were developed in cooperation with the Federal Deposit Insurance Corporation and the Federal Reserve Board.

The purpose of this proposal is to clarify certain questions which have arisen regarding implementation of the guidelines and to make technical changes to achieve greater consistency with the risk-based capital guidelines of the other banking agencies, other OCC regulations, the Basle Agreement, and FIRREA. While the action taken in this proposal and its proposed amendments is clarifying or technical in nature, some aspects may have a substantive impact on national banks. The OCC invites comments on all aspects of this proposal. A description of the proposed amendments follows:

Discussion of Proposed Amendments

(1) Definition of Central Government—Section 1(c)(5)

The OCC is proposing to amend the definition of central government to clarify that the term central government includes the central bank of the central government. To eliminate redundancy, the OCC is also proposing to amend the provision relating to local currency claims on or guaranteed by the central government or the central bank in non-OECD countries, by deleting the phrase "central bank." As a further clarification, the definition of central government will specify that the United States central bank includes the 12 Federal Reserve Banks.

(2) Unused Portion of Commitments—Sections 1(c)(18), 1(c)(28), and 3(b)(4)(ii)

The OCC is proposing to amend the provisions relating to the unused portion of commitments. Under the current risk-based capital guidelines, an unused commitment with an original maturity of one year or less qualifies for the zero percent conversion factor. An unused commitment with an original maturity beyond one year also may qualify for the zero percent conversion factor provided that the commitment is both unconditionally cancelable at any time and subject to a separate credit review before each drawing under the commitment.

The OCC recognizes that, in certain instances, there are commitments with an expiration date longer than one year for which the requirement of a separate credit review before each drawing is not practical. For example, this is the case with home equity lines of credit which are accessed by the writing of a check. In these arrangements, the OCC believes that a separate credit review, conducted at periodic intervals, would serve the same purpose of monitoring and reassessing the bank's exposure. If the review is conducted and the credit fully reevaluated at least annually, and the bank then determines to continue the commitment rather than to exercise its unconditional right to cancel, then the commitment would be similar, in terms

of the bank's exposure to the borrower, to one that expired in one year.

The OCC proposes to include commitments with such an annual review as qualifying for the zero percent conversion factor.

To accomplish this change, the OCC is proposing to amend the listing in section 3(b)(4)(ii) of those unused commitments with an original maturity of greater than one year which can qualify for the zero percent conversion factor to include those with at least an annual credit review, as well as those with a credit review before each draw; provided in either case that the commitment is unconditionally cancelable, with or without cause, at the option of the issuing bank at any time. (The OCC's definition of "unconditionally cancelable" includes the requirements that the commitment be cancelable "with or without cause" and "at any time.")

While this proposed amendment would permit home equity lines of credit and other commitments which are subject to at least an annual review to qualify for the zero percent conversion factor, the OCC emphasizes that the review must be a normal practice of the bank, and must actually be performed and documented. The review must provide a sufficiently detailed analysis of the borrower's current financial capacity to support the continuation of the line of credit.

In addition, the OCC proposes to amend the definition of "original maturity." First, the definition is amended so that it addresses only the scheduled expiration date of a commitment. This is a conforming change, since the portion of the current definition that addresses unconditionally cancelable commitments is superseded by the amendment to section 3(b)(4)(ii) discussed above. Second, the OCC also proposes to amend the discussion of the scheduled expiration date of a commitment in order to clarify the treatment of a commitment that can be renewed or extended beyond its stated expiration date. Commitments often contain provisions for their renewal or extension beyond the original stated expiration date. General renewal of a commitment with a short-term stated expiration date can result in a commitment which is long-term in effect. The proposed amendment clarifies that a short-term commitment that can be renewed or extended will qualify for the zero percent conversion factor as a commitment with an original maturity of one year or less only if the bank conducts a thorough reconsideration of the commitment, including its terms and conditions, and a thorough review of the customer's creditworthiness, at the time of the renewal or extension.

Additionally, the OCC proposes to amend the definition of "unconditionally cancelable" in section 1(c)(28) by moving the text of footnote 18 from section 3(b)(4)(ii) to the end of section 1(c)(28) and incorporating it as part of the definition. The proposed transfer is purely technical. It consolidates the explanation of the term "unconditionally cancelable" in one place (*i.e.*, in the definition).

(3) Amount of Allowance for Loan and Lease Losses in Tier 2 Capital—Section 2(b)(1)(footnote 3)

The OCC is proposing to amend footnote 3 in order to clarify the method for calculating the amount of the allowance for loan and lease losses (ALLL) that may be included in Tier 2 capital. Subject to the transition rules and to the overall limitations on Tier 2 capital, the ALLL may be included in Tier 2 capital only up to a maximum of 1.24% of risk-weighted assets. Assets that are required to be deducted from capital should also not be included in establishing the amount of risk-weighted assets from which to derive the 1.25% figure for includable ALLL.

Generally, any asset deducted from a bank's capital in computing the numerator of the risk-based capital ratio is not included as part of the bank's risk-weighted assets, and thus is not part of the denominator of the bank's risk-based capital ratio. *See* 12 CFR part 3 appendix A, Section 3 (last sentence of first paragraph). For example, goodwill other non-qualifying intangibles, and qualifying intangibles in excess of the 25% limit would be deducted in determining both capital and risk-weighted assets. Thus, these items are deducted in establishing the "gross sum" of risk-weighted assets used for computing the 1.25% figure for includable ALLL.

In addition, under footnote 3 certain other items (*e.g.*, excess ALLL, allocated transfer risk reserves, reserves against other real estate owned, and other special reserves) may also be deducted from risk-weighted assets in computing the denominator of the capital ratio, even though they continue to be included in the "gross sum" of risk-weighted assets used in calculating the 1.25% amount of includable ALLL. In footnote 3, "gross sum" is intended to mean initial risk-weighted assets less the required deductions corresponding to capital deductions but prior to the deductions for reserves which are allowed for final risk-weighted assets (for inclusion in the denominator of the capital ratio).

(4) Calculation of the Limitation on Subordinated Debt and Intermediate Term Preferred Stock—Section 2(b)(4)

The OCC is proposing to amend the language in section 2(b)(4). The new language is intended to clarify that, in calculating capital, the 50% limitation on term subordinated debt and intermediate-term preferred stock and any related surplus must be based on Tier 1 capital after the required deductions have been made under section 2(c). This proposed change in language is simply a clarification and does not represent any change in method of calculating the qualifying amount of term subordinated debt and intermediate-term preferred stock.

(5) Redemption of Capital Instruments—Section 2(b)(4)

The OCC proposes to amend footnote 5 to clarify that prior OCC approval is required for the redemption of capital instruments. Footnote 5 permits the redemption of certain capital instruments prior to maturity under the risk-based capital guidelines, as long as the instruments are redeemed with the proceeds of, or replaced by, a like amount of similar or higher quality capital instruments. As presently worded, the footnote states that such redemptions may occur without the prior approval of the OCC. This is inconsistent with 12 CFR 3.100(f)(1)(vii) and 5.47(f)(3)(i) which require prior OCC approval before the redemption of capital instruments in general.

The OCC also proposes to amend footnote 5 to clarify that, although replacement by similar capital instruments may be the typical reason for allowing redemption, the OCC retains the authority to allow redemption in other circumstances in which the bank would continue to have adequate capital after redemption. The amendment also clarifies that the OCC may disallow redemption even in cases of proposed replacement by other capital instruments. The OCC's determinations regarding requests for redemption of capital instruments are made on a case-by-case basis, taking into account all the circumstances and an overall assessment of the bank's capital. This is similar to the scope of OCC discretion under 12 CFR 3.100(f)(1)(vii) and 5.47(f)(3)(i).

(6) Authority of OCC To Permit Supervisory Goodwill as Capital—Section 2(c)(1)(i) (footnote 6)

The OCC proposes to delete footnote 6 concerning the capital treatment of certain goodwill. The risk-based capital guidelines require all goodwill to be deducted from Tier 1 capital. In footnote 6 the OCC retained the discretionary authority not to require the deduction of goodwill acquired in connection with a supervisory merger with a problem or failed depository institution in the calculation of capital. The OCC proposes to delete footnote 6. This proposal implements section 18(n) of the Federal Deposit Insurance Act (12 CFR 1828(n)), as added by section 221 of FIRREA. In relevant part, section 221 provides:

> No appropriate Federal banking agency shall allow any insured depository institutions to include an unidentifiable intangible asset in its calculation of compliance with the appropriate capital standard, if such unidentifiable intangible asset was acquired after April 12, 1989, except to the extent permitted under section 5(t) of the Home Owners' Loan Act.

The exceptions referred to in section 5(t) of the Home Owners' Loan Act, as amended by section 301 of FIRREA, relate to thrift institutions. Moreover, since 1985, the OCC has required national banks to deduct unidentified intangibles from capital. Therefore, since it would not be a change from current OCC practice, the removal of this footnote will not have a significant effect on national banks.

(7) 25% Limitation on Qualifying Intangibles Includable in Tier 1 Capital—Section 2(c)(2)(ii)

Under the OCC's current risk-based capital guidelines, intangible assets are generally deducted from Tier 1 capital in calculating a bank's risk-based capital ratio. However, certain intangible assets which meet specified criteria ("qualifying intangibles") need not be deducted. Purchased mortgage servicing rights are the archetypical example of qualifying intangibles under the current risk-based capital guidelines. In the OCC's guidelines, the amount of such qualifying intangibles that may be included in Tier 1 capital is strictly limited to a maximum of 25% of total Tier 1 capital.

On the other hand, in the Federal Reserve Board's guidelines, all intangible assets will be monitored and amounts in excess of 25% of Tier 1 capital (which is defined as net of goodwill) will be subject to particularly close scrutiny. The Board also reserves the right to deduct all intangible assets, on a case-by-case basis, in making an overall assessment of capital adequacy. Under the Federal Deposit Insurance Corporation's (FDIC) guidelines, all intangible assets other than mortgage servicing rights are deducted from Tier 1 capital, bu the FDIC may allow other intangible assets to be included upon explicit approval in specific cases. In the FDIC's current guidelines, there is no express limit on the amount of intangible assets that may be included. Recently, however, the FDIC proposed substantial revisions in its capital treatment for purchased mortgage servicing rights. See 55 FR 4618 (February 9, 1990).

There has been growing concern regarding the treatment of purchased mortgage servicing rights for risk-based capital and other bank supervisory purposes. Questions have also arisen regarding what other intangible assets, if any, might be appropriately includable in Tier 1 capital. To address these issues, the OCC has decided to seek more extensive information and comment and to evaluate its overall regulatory treatment of purchased mortgage servicing rights and other intangibles. As a result, the OCC has issued an advanced notice of proposed rulemaking on the risk-based capital treatment of purchased mortgage servicing rights and other intangibles. See 55 FR 40843 (October 5, 1990).

At the present time, the OCC is retaining the provisions in its current risk-based capital guidelines. Those provisons would remain in effect while the broader evaluation process is underway. That process eventually may result in proposed revisions to the guidelines. However, the OCC does propose immediately to consider two narrower changes within its current guidelines. The OCC requests comment on (1) Whether the OCC should add provisions for some degree of case-by-case discretion to its current strict 25% limitation and (2) whether the OCC should continue to use total Tier 1 capital as the base for the 25% limit or use Tier 1 net of goodwill and other disallowed intangibles.

(8) Local Currency Claims Guaranteed by Non-OECD Central Governments—Section 3(a)(1)(v) and Section 3(a)(2)

The OCC is proposing to clarify that only those local currency claims that are unconditionally guaranteed by the central governments of non-OECD countires would qualify for the zero risk weight category to the extent that the bank has local currency liabilities in that country. Local currency claims which are conditionally guaranteed by the central governments of non-OECD countries are assigned to the 20% risk weight category to the extent that the bank has local currency liabilities in that country. This proposed amendment would provide the same distinction among conditional and unconditional guarantees by non-OECD central governments afforded guarantees by OECD central governments.

(9) Claims on Non-OECD Central Banks—Section 3(a)(1)(v) and Section 3(a)(2)(ii)

In order to provide comparable treatment for all central government entities within a non-OECD country, the OCC proposes that claims on non-OECD central banks, other than local currency claims offset by local currency liabilities, should be assigned to the 100% risk weight category . This realignment would be accomplished by removing claims on non-OECD central banks with a residual maturity of one year or less from the 20% risk weight.

(10) Scope of Provision on Assets Sold with Recourse—Section 3(b)(1)(iii) (footnote 14)

The OCC proposes to amend footnote 14 (regarding assets sold with recourse) to clarify the original meaning of the footnote and to provide certain exceptions. Assets sold with recourse (but not reported on the balance sheet) are included in the risk-based capital provisions for off-balance sheet activities. Such asset sales are included for capital purposes even though the sale with recourse qualifies for sales treatment under the Call Report. Given current Call Report rules, this category encompasses mortgage sales into certain government-sponsored programs and also certain sales in private residential mortgage loan pools in which less than significant recourse is retained. The OCC proposes to add language to make the intent of this provision clearer. The OCC also proposes to create an exception for mortgage sales in which the bank retains insignificant recourse and meets certain other conditions.

The risk-based capital guidelines contain provisions for risk weighing off-balance sheet activities. Among the off-balance sheet activities listed in the guidelines are assets sold under an agreement to repurchase and "assets sold with recourse," to the extent that these assets are not reported on a national bank's statement of condition. These items carry a 100% credit conversion factor. Under the current risk-based capital guidelines, the entire outstanding amount of the asset sold with recourse (and not only the amount of recourse) is converted at the 100%

conversion factor in determining the on-balance sheet credit equivalent.

The meaning of "assets sold with recourse" was explained by a reference to the Call Report instructions in footnote 14:

> For risk-based capital purposes, the definition of the sale of assets with recourse, including one-to-four family residential mortgage loans, is the same as the definition contained in the instructions for the preparation of the Consolidated Reports of Condition and Income (the Call Report).

The OCC has become aware of potential misunderstanding of the treatment of assets sold with recourse under these provisions in the risk-based capital guidelines. Footnote 14 refers to the Call Report instructions. The Call Report instructions regarding asset sales with recourse (both for residential mortgages and for other assets) contain lengthy explanations of the required reporting treatment for the sale of assets, including: (1) A general rule that assets sold with recourse remain on the selling bank's blance sheet; (2) a general implicit definition of what constitutes recourse (essentially, the retention of any risk of loss); (3) various exceptions whereby certain types of risk retention do not constitute recourse; (4) exceptions for reporting purposes whereby certain residential mortgage loan sales may be treated as sales for reporting purposes, even though recourse is technically retained, because the amount of recourse is not significant and certain other coditions are met; and (5) exceptions for reporting purposes whereby residential or agricultural mortgage loan sales in certain government-sponsored programs may be treated as sales for reporting purposes, even though significant or even full recourse was retained. For example, an exception is provided for residential mortgage loan sales with recourse under programs of the Federal National Mortgage Association (FNMA) and the Federal Home Loan Mortgage Corporation (FHLMC). Another exception (which allows treatment as a sale for Call Report purposes to the same extent that the transaction is reported as a sale under generally accepted accounting principles) is provided for agricultural mortgage loan sales with recourse under programs of the Federal Agricultural Mortgage Corporation (Farmer Mac).

The reference to the Call Report instructions in footnote 14 is meant to refer to the discussion of what constitutes recourse, what forms of risk retention do not constitute recourse, and thus in general what would be an asset sold with recourse (items 2 and 3 above). It is not intended to incorporate for risk-based capital purposes the Call Report exceptions under which a transfer may be reported as a sale even though recourse was retained (items 4 and 5 above; but item 4 is discussed further below). The Call Report exceptions pertain only to how certain transactions are to be reported on the Call Report (as either on or off the balance sheet) and have no applicability for risk-based capital purposes. If the same reporting exceptions that caused an asset sold with recourse to go into the class of off-balance sheet activities would also exempt the asset from the capital charge for off-balance sheet activities, then the off-balance sheet capital provisions for assets sold with recourse would not apply to anything. In this regard, it should also be noted that the Basle Agreement specifically provides that asset sales with recourse, where the credit risk remains with the bank, are off-balance sheet items with a 100% credit conversion factor.

The OCC intends that this risk-based capital provision for off-balance sheet activities covers assets sold with recourse, but which are not reported on the bank's balance sheet (except as discussed below), irrespective of the fact that such assets are treated as sales for balance sheet reporting purposes in the Call Report. It is proposed to modify the language in footnote 14 to clarify this intention. Under current Call Report rules for sales treatment, the category of assets sold with recourse that are off the balance sheet includes mortgages sold with recourse under FNMA, FHLMC, and Farmer Mac programs. Therefore, such assets are covered by this risk-based capital provision. If the Call Report rules were to change to allow other assets sold with recourse to no longer be reported on the balance sheet, then the coverage of this off-balance sheet item would increase correspondingly.

However, the OCC does not intend that mortgage sales with less than significant risk of loss that meet certain criteria should be included in "assets sold with recourse" under risk-based capital. The OCC proposes that mortgage sales in which the bank has retained only minimal risk and has already provided for all potential loss would not be considered assets sold with recourse for risk-based capital purposes, as long as the following three conditions are met: (1) The bank has not retained more than a minimal risk of loss; (2) the maximum amount of exposure to loss which the bank has retained at the time of the transfer is equal to or less than the amount of probable loss that the bank has reasonably estimated that it will incur on the transferred mortgages; and (3) the bank has created a liability account or other special reserve in an amount equal to its maximum exposure. The amount of this reserve may not be included in capital for the purpose of determining compliance with either the risk-based capital requirement or the leverage ratio; nor may it be included in the allowance for loan and lease losses.

This proposed treatment under the risk-based capital guidelines generally corresponds to the current Call Report treatment for certain private residential mortgage sales (item 4 above). But it would also include sales under the government programs (FNMA, FHLMC, Farmer Mac), if the sales met the criteria. The OCC believes this treatment is warranted for risk-based capital because in the circumstances of these transactions, while there is retention of some risk, it has already been provided for in the special reserve and therefore there is no longer "recourse" such that capital must be required for the whole asset sold.

The OCC believes that the present proposed changes are necessary in order to clarify the requirements under the current risk-based capital guidelines which become effective on December 31, 1990. However, the overall treatment of asset sales that involve retained risk or recourse is being reviewed by the OCC, along with the other members of the Federal Financial Institutions Examination Council (FFIEC). This review has resulted in the issuance of a request for comments by the FFIEC published on June 29, 1990, in the **Federal Register**. See 55 FR 26766 (June 29, 1990).

(11) Credit Card Lines and Other Related Plans—Section 3(b)(4)(iii)

The OCC is proposing to revise the definition of credit card lines to include other related plans. As explained in the preamble to the original risk-based capital guidelines (54 FR 4174), the OCC intended to expand the definition of credit card lines to include other related plans, as defined in the Call Report. This would include overdraft checking plans and credit advances under a credit card plan accessed by check.

The OCC invites comments on all aspects of the proposed amendments to appendix A of 12 CFR part 3.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Comptroller of the Currency certifies that these changes, if adopted, will not have a significant economic impact on a

substantial number of small entities. These changes are technical in nature and should have a minimal effect on national banks regardless of size.

Executive Order 12291

The OCC has determined that this proposal does not constitute a major rule within the meaning of Executive Order 12291. Accordingly, a Regulatory Impact Analysis will not be required on the grounds that this revision (1) Would not have an annual effect on the economy of $100 million or more, (2) would not result in a major increase in the cost of bank operations or governmental supervision, and (3) would not have a significant adverse effect on competition (foreign or domestic), employment, investment, productivity, or innovation.

List of Subjects in 12 CFR Part 3

Administrative practice and procedure, National banks, Reporting and recordkeeping requirements, Capital Risk.

Authority and Issuance

For the reasons set forth in the preamble, appendix A of title 12, part 3 of the Code of Federal Regulations is proposed to be amended as set forth below.

PART 3—[AMENDED]

1. The authority citation for part 3 continues to read as follows:

Authority: 12 U.S.C. 93a, 161, 1818; and 12 U.S.C. 3907 and 3909.

Appendix A [Amended]

2. Section 1 of appendix A is amended by revising paragraphs (c)(5), (c)(16), and (c)(26) to read as follows:

Section 1. Purposes, Applicability of Guidelines, and Definitions.

* * * * *

(c) * * *

(5) *Central government* means the national governing authority of a country; it includes the departments of ministries and agencies of the central government and the central bank. The U.S. Central Bank includes the 12 Federal Reserve Banks. The definition does not include the following: State, provincial or local governments; commercial enterprises owned by the central government, which are entities engaged in activities involving trade, commerce or profit that are generally conducted or performed in the private sector of the United States economy; and non-central government entities whose obligations are guaranteed by the central government.

* * * * *

(16) *Original maturity* means, with respect to a commitment, the earliest date after a commitment is made on which the commitment is scheduled to expire (*i.e.*, it will reach its stated maturity and cease to be binding on either party), *provided that either:*

(i) the commitment is not subject to extension or renewal and will actually expire on its stated expiration date, or

(ii) if the commitment is subject to extension or renewal beyond its stated expiration date, the stated expiration date will be deemed the original maturity only if the extension or renewal must be based upon terms and conditions independently negotiated in good faith with the customer at the time of the extension or renewal and upon a new, *bona fide* credit analysis utilizing current information on financial condition and trends.

* * * * *

(26) *Unconditionally cancelable* means, with respect to a commitment-type lending arrangement, that the bank may, at any time, with or without cause, refuse to advance funds or extend credit under the facility. In the case of home equity lines of credit, the bank is deemed able to unconditionally cancel the commitment if it can, at its option, prohibit additional extensions of credit, reduce the line, and terminate the commitment to the full extent permitted by relevant Federal law.

* * * * *

Appendix A [Amended]

3. Footnote 3 of paragraph (b)(1) of section 2 of appendix A is amended by inserting the following sentence after the first sentence in the footnote:

[3] The gross sum of risk-weighted assets used in this calculation includes all risk-weighted assets, with the exception of the assets required to be deducted under section 3 in establishing risk-weighted assets (*i.e.*, the assets required to be deducted from capital under section 2(c)).* * *

Appendix A [Amended]

4. Paragraph (b)(4) of section 2 of appendix A is amended by inserting before the period in the first sentence the phrase "as calculated after deductions pursuant to section 2(c) of this appendix".

Appendix A [Amended]

5. Footnote 5 of paragraph (b)(4) of section 2 of appendix A is revised to read as follows:

[5] Capital instruments may be redeemed prior to maturity with the prior approval of the OCC. The OCC typically will consider requests for the redemption of capital instruments when the instruments are to be redeemed with the proceeds of, or replaced by, a like amount of a similar or higher quality capital instrument. However, the OCC reserves the authority to deny redemption in such circumstances or to allow redemption in other circumstances, based upon its evaluation of the circumstances of each case. The OCC must be notified in writing of any request for redemption at least 30 days in advance of such redemption pursuant to the procedures in 12 CFR 5.46.

Appendix A [Amended]

6. The footnote designator 6 in the text is removed and footnote 6 of paragraph (c)(1)(i) of section 2 of appendix A is removed and reserved.

Appendix A [Amended]

7. Section 3 of appendix A is amended by revising paragraphs (a)(1)(v) and (a)(2)(ii) and adding paragraph (a)(2)(xiii).

Section 3. Risk Categories/Weights for on-Balance Sheet Assets and Off-Balance Sheet Items.

* * * * *

(a) * * *

(1) * * *

(v) Local currency claims on or unconditionally guaranteed by central governments of non-OECD countries, to the extent the bank has local currency liabilities in that country. Any amount of such claims that exceed the amount of the bank's local currency liabilities is assigned to the 100% risk category of section 3(a)(4) of this appendix A.

* * * * *

(2) * * *

(ii) Claims on, or guaranteed by depository institutions, other than the central bank, incorporated in a non-OECD country, with a residual maturity of one year or less.

* * * * *

(xiii) That portion of local currency claims conditionally guaranteed by central governments of non-OECD countries, to the extent the bank has local currency liabilities in that country.

* * * * *

Appendix A [Amended]

8. Footnote 14 of paragraph (b)(1)(iii) of section 3 of appendix A is revised to read as follows:

[14] For risk-based capital purposes, the definition of the sale of assets with recourse, including one-to-four family residential mortgages, is generally the same as the definition contained in the Instructions for the Preparation of the Consolidated Reports of Condition and Income (the Call Report). Assets which are sold in transactions in which the bank retains risk in a manner which constitutes recourse under the Call Report instructions, but which are not reported on the bank's statement of condition, are included in this section 3(b)(1)(iii), even though the Call Report allows such transfers to be reported as sales. However, mortgage loans sold in transactions in which the bank retains only an insignificant amount of risk and makes concurrent provision for that risk will not be considered assets sold with

recourse under section 3. In order to qualify, such transactions must meet three conditions: (1) The bank has not retained more than a minimal risk of loss; (2) the maximum amount of exposure to loss which the bank has retained is equal to or less than the amount of probable loss that the bank has reasonably estimated that it will incur on the transferred mortgages; and (3) the bank has created a liability account or other special reserve in an amount equal to its maximum exposure. The amount of this reserve may not be included in capital for the purpose of determining compliance with either the risk-based capital requirement or the leverage ratio; nor may it be included in the allowance for loan and lease losses.

Appendix A [Amended]

9. Section 3 of appendix A amended by revising paragraphs (b)(4)(ii) and (b)(4)(iii) to read as follows:

(b) * * *
(4) * * *

(ii) Unused commitments with an original maturity of greater than one year, if they are unconditionally cancelable [18] at any time at the option of the bank and the bank has the contractual right to make, and in fact does make, either—

(A) A separate credit decision based upon the borrower's current financial condition, before each drawing under the lending facility, or

(B) An annual (or more frequent) credit review based upon the borrower's current financial condition to determine whether or not the lending facility should be continued; and

(iii) The unused portion of retail credit card lines or other related plans that are unconditionally cancelable by the bank in accordance with applicable law.

* * * * *

Dated: September 19, 1990.

Robert L. Clarke,
Comptroller of the Currency.

[FR Doc. 90-24447 Filed 10-16-90; 8:45 am]
BILLING CODE 4810-33-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

[Regulation H, Regulation Y; Docket No. R-0709]

Capital; Capital Adequacy Guidelines

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Reserve Board is proposing several modifications, clarifications, and technical changes to the risk-based capital guidelines. The modifications and technical changes relate to the: (1) Treatment of certain assets sold with recourse; (2) redemption of perpetual preferred stock; (3) treatment of supervisory goodwill in the definition of capital; and (4) treatment of claims on non-OECD central banks.

The purpose of these modifications, clarifications, and technical changes is to make the Board's risk-based capital framework consistent with recent international interpretations of the risk-based capital accord (Basel Accord) and with the current or proposed treatment of certain items by the other federal banking agencies. In addition, certain of the proposed modifications to the language of the Board's risk-based capital guidelines are intended to bring the guidelines into closer conformity with current Federal Reserve supervisory practices. In light of the importance of the modifications and clarifications described in this Notice, their overall consistency with the spirit and intent of the risk-based capital framework and the Basel Accord, and the need to ensure that risks are backed by an appropriate level of capital, it is intended that the modifications and clarifications be incorporated into the guidelines by the end of 1990, or as soon as possible thereafter. Year-end 1990 is the date upon which the interim risk-based capital ratios first take effect; the final guidelines take effect at the end of 1992. Because the modifications and clarifications require adjustments in the language of the risk-based capital guidelines, the Board will accept and consider comments from the public for a 60-day comment period.

DATES: Comments on the modifications, clarifications, and technical changes should be submitted on or before December 17, 1990.

ADDRESSES: Comments, which should refer to docket No. R-0709, may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551; or delivered to room B-2223, Eccles Building, between 8:45 a.m. and 5:15 p.m. weekdays. Comments may be inspected in Room B-1122 between 9 a.m. and 5 p.m. weekdays, except as provided in § 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8.

FOR FURTHER INFORMATION CONTACT: Roger T. Cole, Assistant Director (202/452-2618), Rhoger H. Pugh, Manager (202/728-5883), Norah Barger, Senior Financial Analyst (202/452-2402), Thomas R. Boemio, Senior Financial Analyst (202/452-2982), Division of Banking Supervision and Regulation; Michael J. O'Rourke, Senior Attorney (202/452-3288) or Mark J. Tenhundfeld, Attorney (202/452-3612), Legal Division. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), Earnestine Hill or Dorothea Thompson (202/452-3544).

SUPPLEMENTARY INFORMATION:

I. Background

Since the Board initially published its risk-based capital guidelines, some questions have arisen concerning how certain recourse transactions involving credit risk are to be captured by the framework. In addition, certain interpretations and clarifications have emerged from international and domestic discussions among supervisory authorities. Finally, the enactment of the Financial Institutions, Reform, Recovery, and Enforcement Act of 1989 (FIRREA) affects the treatment of goodwill for capital purposes. Accordingly, the Board has proposed the following modifications and clarifications in order to address these developments.

The modifications and clarifications outlined in this notice will: (1) Ensure that certain off-balance sheet credit exposures, particularly sales of residential mortgages with recourse, are adequately captured in the risk-based capital framework; (2) implement interpretations agreed to by supervisory authorities represented on the Basle Committee on Supervision; and (3) foster consistency between the Federal Reserve's treatment of certain transactions for risk-based capital purposes and the current or proposed treatment of such transactions by the other federal banking agencies.

II. Modifications, Clarifications, and Technical Changes

1. Treatment of Sales of Assets (Including Residential Mortgages) With Recourse

It is a basic tenet of the Basle Accord, and of the risk-based capital guidelines of the three federal banking agencies, that all forms of credit risk, whether on- or off-balance sheet, are to be taken into account in calculating an institution's risk-based capital ratio.[1] In view of this

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[18] See paragraph (c)(28) of section 1 of appendix A to this part.

[1] In order to conform to the principles established in the Basle Accord, the Board's risk-based capital guidelines cover credit risks retained when an institution sells an asset, obtained in the issuance of a financial guarantee, or acquired in any other manner. This could be done directly through the issuance of any form of direct credit enhancement or indirectly through the acquisition of an asset or obligation.

principle and in light of questions that have arisen regarding the application of the risk-based guidelines to the sale of certain assets with recourse, the Federal Reserve Board believes that it is necessary to modify the language of the guidelines in order to clarify that credit risks stemming from residential mortgage recourse sales are subject to an appropriate capital charge.

In general, so-called recourse "sales" allow the buyer of a loan or pools of loans to put back to the seller, that is, require the seller to repurchase, loans that are not performing as agreed. This, in effect, means that the credit risk associated with the loans remains with the "seller." The modifications and clarifications to the language of the risk-based capital guidelines could clarify the treatment for risk-based capital purposes of the sale of certain assets with recourse, primarily the sale of residential mortgages with recourse.

In defining assets sold with recourse for risk-based capital purposes, the U.S. banking agencies incorporated the longstanding "general rule" definition contained in the commercial bank Call Report instructions. This general rule states that a transfer of assets is to be reported as a true sale, and, therefore, taken off the balance sheet, only if the transferring (that is, selling) institution (i) Retains no risk of loss from the assets transferred resulting from any cause, including a recourse provision, and (ii) has no obligation to any party for the payment of principal or interest on the assets transferred.

Under the longstanding general rule, a transfer involving any retention by the seller of recourse or risk of loss, even if limited under the terms of the transfer agreement, is considered a borrowing transaction, as opposed to a sale, and the entire amount of the assets "transferred" must remain on the books of the "selling" institution. The general rule was intentionally adopted by the banking agencies for supervisory policy reasons and has been in effect for reporting and primary capital (leverage) ratio purposes for many years. The principal reason for adopting the rule was to ensure that institutions retaining any credit risk through recourse provisions would be required under capital-to-total assets (leverage) ratios to maintain capital against these transactions.

In 1985, the banking agencies considered adopting FASB 77 for regulatory reporting purposes in lieu of the general Call Report rule.[8] However, given capital adequacy considerations and other supervisory concerns, the banking agencies expressly decided not to adopt FASB 77. Rather, the agencies, under the auspices of the Examination Council, chose to reaffirm the general Call Report rule for bank reporting and leverage ratio purposes.

The regulatory (Call Report) definition of sales of assets with recourse in the special case of pools of residential mortgages differs from the general rule just described. In particular, the Call Report instructions state that for regulatory reporting purposes, any transfers of residential mortgage loan pools under government programs, such as the Federal National Mortgage Association (FNMA) and the Federal Home Loan Mortgage Corporation (FHLMC), will be treated as sales. It should be noted that such treatment is related to the reporting of these items and was never intended to preclude taking account of the risks associated with the transactions in assessing a banking organization's overall capital adequacy. In addition, the Call Report instructions state that transfers of pools of residential mortgages to private obligors (not under the government programs) are to be reported as sales when the selling bank does not retain any significant risk of loss.[9]

These regulatory reporting definitions were developed at a time when the disposition or transfer of residential mortgages under the government programs involved little or no recourse and the amount of possible loss under the private transactions was considered to be insignificant. Thus, no major policy concerns existed regarding the possibility that the "selling" party in these transactions could retain a significant measure of credit risk that was not adequately backed by capital. As discussed below, however, this situation has changed over time.

The Board's risk-based capital guidelines incorporated the general Call Report definition of sales of assets with recourse and also made specific reference to the Call Report treatment of the sale of 1-to-4 family residential mortgages with recourse. The intent of the guidelines was to incorporate into the risk-based capital framework the supervisory principle implicit in the general Call Report rule, that is, if the seller retains any risk of loss, the transaction would require capital support. Despite this, the reference to the Call Report treatment of the sale of 1-to-4 family residential mortgages has apparently led some to believe that such transactions could be excluded entirely from the risk-based capital framework, regardless of the amount of credit risk involved in these transactions.

The exclusion from capital requirements of transactions with a significant amount of credit risk would be inconsistent with the principles of risk-based capital and was not intended when the Board issued its risk-based capital guidelines. In this regard, it should be noted that the Federal Reserve's risk-based capital guidelines contain the statement that "* * * asset sales with recourse (to the extent not included on the balance sheet) * * * are converted at 100 percent." This would have the effect of applying a capital charge to such transactions.

The treatment of asset sales with recourse, including the transfer of residential mortgages with recourse, is of particular importance since it has become apparent that the "sales" of residential mortgages under the government programs can involve either no recourse, or recourse of up to 100 percent to the "seller"—a distinct departure from the situation that existed when the regulatory reporting definition of "residential mortgages sold with recourse" was initially adopted. Thus, the incorporation in the risk-based capital guidelines of the Call Report definition of residential mortgages sold with recourse has been interpreted by some as allowing sales of residential mortgages under the government programs with up to 100 percent recourse to escape a capital charge.

If such treatment were permitted, banking organizations would not have to maintain any capital to support the credit risks associated with recourse arrangements, even though these risks associated with recourse arrangements, even though these risks would be the same as if they continued to hold the assets directly on their books. For this reason, the Federal Reserve is clarifying the language in the risk-based capital guidelines to ensure that 1-to-4 family residential mortgage sales with recourse are not exempt from an appropriate capital charge.

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[8] GAAP, as set forth in Financial Accounting Standards Board Statement No. 77 (FASB 77), permits a transfer of assets with recourse to be treated as a sale if: (a) Control of the future economic benefits is surrendered; (b) the amount of the seller's obligation under the recourse provisions can be reasonably estimated; and (c) the assets cannot be returned to the seller except pursuant to the recourse provisions. When sales treatment is accorded, the seller's estimated liability for any loss under the recourse provisions must be provided for.

[9] The Call Report instructions state that in a private transaction, recourse is considered significant if at the time of the transfer the maximum contractual exposure under the recourse provision (or through retention of a subordinated interest in the mortgages) is greater than the amount of probable loss that the bank has reasonably estimated it will incur on the transferred mortgages.

To achieve this objective, the modified language would provide for risk-based capital purposes that assets sold with recourse (that are not already on the balance sheet), including residential mortgages, are to be treated by the selling institution like any other direct credit substitute or financial guarantee. Thus, such off-balance sheet obligations would be converted at 100 percent to an on-balance sheet credit equivalent amount and assigned to the appropriate risk category, typically 50 percent in the case of residential mortgages. In general, this would have the effect of putting a 4 percent capital charge on the entire amount of residential mortgage loans sold with recourse.

An exception under this proposal would be allowed where the maximum possible recourse obligation, at the time of the transfer, is less than the expected loss on the transferred assets and the banking organization establishes and maintains a liability or specifically identified (non-capital) reserve for an amount equal to the maximum loss possible under the recourse provision. Such a liability or reserve would mean that the maximum possible loss under the recourse arrangement would in effect be deducted from capital "up front," and the originating or selling institution would not suffer any further loss under the recourse obligation. Under such conditions, no additional capital would be required and the amount of the liability created to cover the maximum possible loss under the recourse agreement would not be included in capital.

Clarifying in the proposed manner that residential mortgage sales with recourse incur a capital charge is desirable for several reasons.

First, it would ensure that the Federal Reserve's treatment for risk-based capital purposes of residential mortgage sale with recourse is consistent with (i) The general regulatory rule on asset sales with recourse long employed by the Federal banking agencies and (ii) the existing or proposed treatment of the other Federal banking agencies.

Second, addressing the residential mortgage issue will ensure consistency with the intent of the Basle Accord, which requires capital backing for all on- and off-balance sheet credit risks.

Third, addressing the mortgage exception will enable the depository institution regulatory agencies to deal with a number of broad issues pertaining to recourse in a consistent fashion going forward.[4]

With reference to the second point above regarding the consistency with the Accord, it should be noted that the terms and provisions of the Basle Accord apply to commercial banks on a consolidated basis. In this regard, under the approach described above, commercial banks will be required to back their recourse transactions with capital when the interim risk-based capital ratios become effective at year-end 1990, or upon the effective date of the clarification, whichever is later. While the Basle Accord does not apply to companies that own banks, the Accord does caution that bank ownership structures or affiliations with other firms not be allowed to weaken the capital position of the bank or expose the bank to undue risks. The Board has chosen to apply risk-based capital requirements similar to those in the Basle Accord to bank holding companies. In this regard, there are certain limited differences between the risk-based capital guidelines for banks and bank holding companies. In view of this, the Board invites comments on whether it might be appropriate in the case of bank holding companies, as distinct from commercial banks, to consider a brief transition or phase-in arrangement for the full risk-based capital requirements with respect to the sale of residential mortgages with recourse completed prior to the publication of this Notice. Such treatment would only be contemplated in the case of assets sold with recourse by bank holding companies or their nonbank subsidiaries. In considering this point, commenters are asked to address whether the credit risks of the recourse arrangements to the bank holding company selling the assets are any different from the risks to the holding company if the assets were held directly on the holding company's books.

In general, under the Board's recommended approach, 4 percent capital would normally be required against the entire amount of residential mortgages sold with recourse. However, this approach would not mean that banking organizations would be unable to sell or securitize residential mortgages, or that they would be unable to provide limited recourse or certain other credit enhancements to support sales of mortgage pools. For example, banking organizations always have the clear option to sell assets outright, without any recourse, thereby avoiding a capital charge altogther. Moreover, there are several ways banking organizations can provide credit enhancements and still sell assets without recourse, or with limited recourse, and either incur no capital charge or a reduced capital charge.

First, banking organizations can establish a spread account that provides a cushion of protection to the purchasers of securitized assets, while at the same time insulating the selling banking organization from losses arising from the transaction. Funds can be placed in the account directly by the selling institution through a charge against earnings or capital, or can accumulate in the account based upon the difference between the rate paid to the purchasers of the securities and the higher yield earned on the underlying assets. Under these arrangements, any losses on the underlying assets would be charged against the spread account. So long as such losses can only be charged against the spread account and cannot adversely affect the originating bank's capital or future earnings, no additional capital would be charged for transactions employing this technique. Indeed, the banking agencies do not view such arrangements as recourse transactions and these spread accounts have been used successfully to securitize credit card and automobile receivables. Moreover, these arrangements can be supplemented or enhanced by the originating or selling bank's purchase of a standby letter of credit from a third party guarantor in order to protect the purchasers from losses on the securitized assets.

Second, transactions can be structured in such a way that the seller and the buyer proportionately share in any losses, that is, on a *pro rata* basis. For example, if a bank sells assets of $1,000,000 and the buyer agrees to absorb 90 percent of any losses while the seller will absorb the other 10 percent, the selling bank would only have to maintain capital against $100,000, as opposed to the entire amount of the asset transferred.

Third, as noted above, with respect to the sale of mortgages either under the government programs or in private transactions, banking organizations can avoid a capital charge by (1) limiting their maximum recourse obligation to an amount that is less than the expected loss on the transferred pool of mortgages at the time of the transfer and (2) establishing and maintaining a liability or a specifically identified non-capital reserve for the maximum amount

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[4] As explained more fully below, a project under the auspices of the Federal Financial Institutions Examination Council (FFIEC) is focusing on the types of recourse arrangements employed by banking organizations, the incorporation of recourse transactions into lending limitations, the supervisory and capital treatment of limited recourse, and regulatory reporting implications.

of possible loss under the recourse provision. This provision would give banking organizations engaged in recourse transactions an incentive to limit recourse and take a charge against capital for their maximum possible loss under the recourse arrangement. Given the uncertainties that can surround recourse obligations, such incentives would appear to have a sound prudential and supervisory justification.

As a general rule, this treatment should not result in extraordinary or unwarranted new capital requirements for most banking organizations. This is because prudently run institutions have always had the responsibility to monitor off-balance sheet risk-taking and back such activities with adequate capital, regardless of how the transactions have been treated for regulatory reporting or regulatory capital purposes.

FFIEC Study on Recourse

In light of the matters discussed in this notice, as well as other emerging concerns relating to recourse transactions, the staffs of the banking agencies recognize the need to address in a comprehensive fashion the reporting, supervisory, and capital adequacy issues stemming from the sale of assets with recourse. In this regard, the federal depository institution regulatory agencies, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), have requested public comment on how to define recourse and how to treat various types of recourse for purposes of regulatory reporting, capital adequacy, and lending limits. This interagency effort is also focusing on a number of related issues, including cases where assets are sold with limited recourse.

2. Redemption of Perpetual Preferred Stock

The Board's risk-based capital guidelines currently indicate that banking organizations should consult with the Federal Reserve before redeeming permanent equity instruments or debt capital instruments prior to their stated maturity. A limited exception to this rule is provided for instruments redeemed with the proceeds of a higher form of capital, if the capital position of the banking organization is deemed fully adequate by the Federal Reserve. As a practical matter, it has long been expected that banking organizations would consult with the Federal Reserve when contemplating redemptions of core capital in order to give the Federal Reserve an opportunity to determine the impact of the redemption on the organization's financial condition.

The Basle Committee on Supervision has arrived at a consensus that the redemption of perpetual preferred stock should only be permitted at the issuer's option and only with the prior approval of the supervisory authority. This approach is not inconsistent with the Federal Reserve's current practice as set forth above, and is consistent with requirements contained in letters sent by the Board in connection with the review of capital plans submitted by bank holding companies seeking to engage in Section 20 securities underwriting activities. These letters stipulated that any redemption of perpetual preferred stock could be only at the bank holding companies' option and only with prior approval from the Federal Reserve.

As a result of the Basle interpretation, the Federal Reserve Board is proposing to amend the language of its risk-based capital guidelines to clarify that the approval of the Board is necessary prior to the redemption of any perpetual preferred stock.

3. Treatment of Supervisory Goodwill

Currently, the Board's risk-based capital guidelines, consistent with the Basle Accord, require that goodwill be deducted from Teir 1 capital. However, the guidelines contain a footnote that was intended to give the Federal Reserve the option to make an exception in those very limited situtations in which banking organizations acquired goodwill in the past in connection with supervisory mergers with troubled or failed depository institutions. The wording of the footnote could also be interpreted as accommodating the possible future inclusion in capital of goodwill stemming from the merger of troubled or failed institutions. As a matter of policy, the Federal Reserve does not give credit for goodwill in assessing the capital of institutions involved in supervisory mergers. Indeed, institutions making acquisitions are normally required to exceed minimum capital levels without undue reliance on intangible assets, particularly goodwill. In addition, FIRREA prohibits the regulatory agencies from allowing goodwill to be included in the calculation of capital if the goodwill was acquired after April 12, 1989. Thus, the Board is proposing to delete the footnote that appears to suggest the possibility that supervisory goodwill acquired in the future could be included in the definition of capital for risk-based capital purposes.

4. Claims on Central Banks

The Basle Accord assigns all claims on OECD commercial banks and short-term claims on non-OECD commercial banks to the 20 percent risk category. On the other hand, long-term claims on non-OECD commercial banks, and all claims on non-OECD central governments are assigned to the 100 percent risk category. Claims on OECD governments and central banks are assigned to the zero percent risk category.

In promulgating their risk-based capital guidelines, the U.S. banking agencies' allowed claims on non-OECD central banks to be in the same risk category as short-term claims on non-OECD commercial banks on the assumption that claims on central banks should not be in a higher category than claims on commercial banks. However, further discussions among international supervisors have led to a consensus that claims on central banks should be in the same risk category as claims on the corresponding central governments. This will have little impact on OECD central banks since claims on OECD central banks and governments are already assigned to the zero percent risk category. On the other hand, the Basle Committee on Supervision has held that claims on non-OECD central banks, which could involve an element of transfer risk, should be assigned to the same 100 percent risk category as claims on their central governments.

Incorporation of this change into the U.S. banking agencies' capital guidelines, which is necessary to ensure consistency with the Basle framework, will have the practical effect of moving claims on non-OECD central banks that involve an element of transfer risk from the 20 percent to the 100 percent risk category. As already noted, this will have no effect on the treatment of claims on central banks in OECD countries since all claims on these institutions are already assigned to the same risk category as OECD central governments, that is, to the zero percent risk category.

As a result of the Basle interpretation, the Federal Reserve Board is proposing to amend the language of its risk-based capital guidelines to provide that claims on central banks are to be assigned to the same risk category as claims on the respective central governments.

III. Regulatory Flexibility Act Analysis

The Federal Reserve Board does not believe that adoption of this proposal would have a significant economic impact on a substantial number of small business entities (in this case, small banking organizations), in accord with the spirit and purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*.). In

additions, consistent with current policy, these guidelines generally will not apply to bank holding companies with consolidated assets of less than $150 million.

List of Subjects

12 CFR Part 208

Accounting, Agricultural loan losses, Applications, Appraisals, Banks, Banking, Capital adequacy, Confidential business information, Currency, Dividend payments, Federal Reserve System, Publication of reports of condition, Reporting and recordkeeping requirements, Securities, State member banks.

12 CFR Part 225

Administrative practice and procedure, Appraisals, Banks, Banking, Capital adequacy, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities, State member banks.

For the reasons set forth in this notice, and pursuant to the Board's authority under section 5(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(b)), and section 910 of the International Lending Supervision Act of 1983 (12 U.S.C. 3909), the Board proposes to amend 12 CFR parts 208 and 225 as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

1. The authority citation for part 208 continues to read as follows:

Authority: Sections 9, 11(a), 11(c), 19, 21, 25, and 25(a) of the Federal Reserve Act, as amended (12 U.S.C. 321–338, 248(a), 248(c), 461, 481–486, 601, and 611, respectively); sections 4 and 13(j) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1814 and 1823(j), respectively); section 7(a) of the International Banking Act of 1978 (12 U.S.C. 3105); sections 907–910 of the International Lending Supervision Act of 1983 (12 U.S.C. 3906–3909); sections 2, 12(b), 12(g), 12(i), 16(c)(1), 17, 17A, and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78b, 78*l*(b), 78*l*(g), 78*l*(i), 78o–4(c)(5), 78q, 78q–1, and 78w, respectively); section 5155 of the Revised Statutes (12 U.S.C. 36) as amended by the McFadden Act of 1927; and sections 1101–1122 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. 3310 and 3331–3351).

Appendix A [Amended]

2. A new sentence is added immediately following the first sentence of the first paragraph under "II. A. 1. b. Perpetual preferred stock" of appendix A to Part 208 to read as follows:

II. Definition of Qualifying Capital for the Risk-Based Capital Ratio

* * * * *

A. * * *

1. * * *

b. * * * Consistent with these provisions, any perpetual preferred stock with a redemption feature may qualify as capital *only if* the redemption is subject to prior approval of the Federal Reserve. * * *

* * * * *

Appendix A [Amended]

3. In appendix A to part 208, in II. B. 1., the footnote designator 14 in the text is removed and footnote 14 is removed and reserved.

Appendix A [Amended]

4. The last two sentences of footnote 30 under "III. C. 2. Category 2: 20 percent" of appendix A to part 208 are removed.

Appendix A [Amended]

5. Two new sentences are added immediately following the second sentence of the seventh paragraph under "II. D. 1. Items with a 100 percent conversion factor" of appendix A to part 208 to read as follows:

III. Procedures for Computing Weighted Risk Assets and Off-Balance Sheet Items

* * * * *

D. * * *

1. * * *

* * * Accordingly, the entire amount of any assets transferred with recourse that are not already included on the balance sheet, including pools of one-to-four family residential mortgages, are to be converted at 100 percent and assigned to the risk weight appropriate to the obligor, or if relevant, the nature of any collateral or guarantees. The only exception involves transfers of pools of residential mortgages that have been made with insignificant recourse for which a liability or specific non-capital reserve has been established and is maintained for the maximum amount of possible loss under the recourse provision. * * *

* * * * *

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

1. The authority citation for part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1831i, 1843(c)(8), 1844(b), 3106, 3108, 3907, 3909, 3510, and 3331–3351.

Appendix A [Amended]

2. A new sentence is added immediately following the first sentence of the first paragraph under "II. A. 1. b. Perpetual preferred stock of appendix A to part 225 to read as follows:

II. Definition of Qualifying Capital for the Risk Based Capital Ratio

* * * * *

A. * * *

1. * * *

b. * * * Consistent with these provisions, any perpetual preferred stock with a redemption feature may qualify as capital *only if* the redemption is subject to prior approval of the Federal Reserve. * * *

* * * * *

Appendix A [Amended]

3. In appendix A to part 225, in II. B., the footnote designator 15 in the text is removed and footnote 15 is removed and reserved.

Appendix A [Amended]

4. The last two sentences of footnote 33 under "III. C. 2. Category 2: 20 percent" of appendix A to part 225 are removed.

Appendix A [Amended]

5. Two new sentences are added to the end of footnote 48 under "III. D. 1. Items with a 100 percent conversion factor" of appendix A to part 225 to read as follows:

[48] * * * Accordingly, the entire amount of any assets transferred with recourse that are not already included on the balance sheet, including pools of one-to-four family residential mortgages, are to be converted at 100 percent and assigned to the risk weight appropriate to the obligor, or if relevant, the nature of any collateral or guarantees. The only exception involves transfers of pools of residential mortgages that have been made with insignificant recourse for which a liability or specific non-capital reserve has been established and is maintained for the maximum amount of possible loss under the recourse provision.

Board of Governors of the Federal Reserve System, October 11, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90-24425 Filed 10-16-90; 8:45 am]

BILLING CODE 6210-01-M

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12 CFR Part 226

[Reg. Z; Doc. No. R-0709]

Truth in Lending; Intent To Make Determination of Effect on State Law; New Mexico

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of intent to make preemption determination.

SUMMARY: The Board is publishing for comment a proposed determination that certain provisions in the law of New

Mexico are not inconsistent with the Truth in Lending Act and Regulation Z and therefore are not preempted.

DATES: Comments must be received on or before December 14, 1990.

ADDRESSES: Comments should refer to Docket No. R-0706 and be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551. They may be delivered to room B-2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays or delivered to the guard station in the Eccles Building Courtyard on 20th Street, NW. (between Constitution Avenue and C Street, NW.) any time. All comments received at the above address will be available for inspection and copying by any member of the public in the Freedom of Information Office, room B-1122 of the Eccles Building between 9 a.m. and 5 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: Sharon Bowman, Staff Attorney, Division of Consumer and Community Affairs, at (202) 452-3667. For the hearing impaired only, contact Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf (TDD), at (202) 452-3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

(1) General

The Board has received a request for a determination that certain provisions of New Mexico law are inconsistent with the Truth in Lending Act and Regulation Z and therefore preempted. Section 111(a)(1) of the Truth in Lending Act authorizes the Board to determine whether any inconsistency exists between chapters 1, 2, and 3 of the federal act or the implementing provisions of the regulation and state laws.

Section 226.28(a)(1) of Regulation Z, which implements section 111(a)(1) of the Truth in Lending Act, provides that state requirements are inconsistent with, and therefore preempted by, the federal provision if the state law requires a creditor to make disclosures or take actions that contradict the requirements of federal law. A state law is contradictory, and therefore preempted, if it significantly impedes the operation of the federal law or interferes with the purposes of the federal law. Under § 226.28(a)(1), a state law is contradictory, for example, if it requires the use of the same term for a different amount or a different meaning than the federal law, or if it requires the use of a different term than the federal law to describe the same item.

The procedure for requesting a determination and the general procedures followed in making a determination are contained in appendix A to 12 CFR part 226. These proposed preemption determinations are issued under authority delegated to the Director of the Division of Consumer and Community Affairs, as set forth in the Board's Rules Regarding Delegation of Authority (12 CFR 265.2(h)(3)).

In previous preemption determinations (48 FR 4454, February 1, 1983) the Board developed principles to be applied in making preemption determinations. These principles require that preemption should occur only in those transactions in which an actual inconsistency exists between the state and federal laws. In addition, a state law is not inconsistent merely because it requires more information than federal law or requires disclosure in transactions where federal law requires none.

Preemption determinations are generally limited to those provisions of state law identified in the request for a determination. At the Board's discretion, however, other state provisions that may be affected by the federal law also will be addressed.

(2) Discussion of Specific Request and Proposed Determination

The Board has been asked to determine whether provisions of sections 58-8-11.2(A) and 58-8-11.3 of the New Mexico Loan Disclosure Act regarding disclosures for certain credit transactions and penalties for noncompliance are inconsistent with and therefore preempted by provisions of the Truth in Lending Act and Regulation Z (12 CFR part 226) that regulate disclosures for closed-end credit and provide penalties for noncompliance.

A preliminary issue is whether there is any inconsistency between the state and federal definitions of "creditor." There is no significant substantive difference in the definitions, although the federal law is more specific. While federal law, unlike state law, requires disclosure of the identity of the creditor in § 226.18(a) of Regulation Z, the definition of the term "creditor" is relevant only with regard to coverage of the respective rules. Therefore, there is no basis for preempting the state law definition.

State officials have confirmed that section 58-8-11.2(D) of the state law permits creditors to substitute federal disclosures for those required under state law (although creditors are required to provide any additional state disclosures that are not addressed under federal law). The requesting party nevertheless asks for a determination of whether the state disclosures are preempted.

Disclosures Under the New Mexico Loan Disclosure Act Section 58-8-11.2(A) and Section 226.18 of Regulation Z

The requesting party asks for a determination as to possible inconsistency between the state and federal requirements for disclosures for closed-end credit transactions. (Although the state provisions generally apply to all types of consumer credit transactions, the requesting party asks for a determination based only on federal disclosures relating to closed-end credit to be given before consummation of the transaction.) Section 58-8-11.2(A) of the New Mexico Loan Disclosure Act requires the following disclosures in a credit transaction:

(1) The total principal amount of the loan or purchase as well as the amount or item to be received by the borrower or purchaser;

(2) The purpose of the loan and the date the loan was made;

(3) The interest rate * * * including all charges or costs stated as a percent per month and percent per year;

(4) The number, amount, and timing of payments * * * including any required minimum installments;

(5) The term of the loan;

(6) Any penalties for prepayment of the loan;

(7) The total amount to be repaid;

(8) For variable rate transactions, a disclosure of the circumstances under which the rate will vary and identification of any index to which the rate is tied; and

(9) A description of the legal and financial consequences of the borrower's failure to meet the repayment terms of the agreement and any penalties imposed for such failure.

Section 226.18 of Regulation Z requires disclosure of, among other items:

(1) The "amount financed," the "annual percentage rate," and the "total of payments," using those terms;

(2) The number, amounts, and timing of payments required to repay the obligation;

(3) Any penalty that may be imposed if the obligation is prepaid in full in cases where the finance charge is calculated by applying a rate to the unpaid principal balance;

(4) Depending on the type of variable-rate transaction, either the circumstances under which the rate may

increase (including any index to which the rate is tied) or the fact that the loan is variable rate and that certain disclosures were given earlier; and

(3) A statement that the borrower should refer to the appropriate contract document for information about nonpayment and default.

A review of the state provisions and conversation with the relevant state official indicate that the state law does not require the use of specific terminology in any of the disclosures required under section 56-8-11.2(A). Therefore, state law would not require, for example, the use of a different term than the federal law to describe the same item, and thus would not require a creditor to make disclosures that contradict the federal law.

The Board proposes to determine that the disclosures required under section 56-8-11.2(A), as they relate to closed-end transactions, are not preempted by the federal law since a creditor can comply with both the state and federal provisions, and the requirement of additional information under state law does not by itself contradict federal law. Since Regulation Z requires the disclosures under § 226.18 to be segregated from everything else, however, any additional information provided must be separate from the federal disclosures.

State law also imposes penalties for noncompliance with the state requirements. Under section 56-8-11.3, creditors may "forfeit all interest, charges or other advantage" for the transaction. The requesting party seeks a determination whether the state provision is preempted by the federal remedies provided under section 130 of the Truth in Lending Act (15 U.S.C.A. 1640). Since the existence of a separate remedy under state law for violation of state law provisions does not by itself contradict federal law, the Board proposes to determine that the state law provision is not preempted. This proposed determination, of course, does not extend to the issue of whether dual remedies always will be recoverable under state and federal law.

(3) Comment requested

The Board requests comment on the consistency with the federal law of the provisions in the New Mexico statute discussed above. After the close of the comment period and analysis of the comments received, notice of final action on the proposal will be published in the Federal Register.

List of Subjects in 12 CFR Part 226

Advertising; Banks; Banking; Consumer protection; Credit; Federal Reserve System; Finance; Penalties; Rate limitations; Truth in lending.

Board of Governors of the Federal Reserve System, October 11, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90-24428 Filed 10-16-90; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[GEN Docket No. 90-357; DA 90-1412]

Amendment of the Commission's Rules With Regard To Establishment and Regulation of New Digital Audio Radio Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment and reply comment period.

SUMMARY: At the request of the Association of Independent Television Stations, the Association of Maximum Service Telecasters, Inc., Bonneville International Corporation, the National Association of Broadcasters, and Tribune Broadcasting Company (Requesting Parties), the Commission is extending the comment period in this proceeding to November 13, 1990, and the reply comment period to December 14, 1990. The Requesting Parties state that the Commission has undertaken a broad reexamination of the provision of radio services in the United States. They claim that a brief extension of time will enable commenters to provide more refined input with respect to the issues raised in this proceeding. As the Commission desires as complete a record as possible to assist in formulating its digital audio radio service proposals, this request for additional time is warranted.

DATES: Comments are now due on or before November 13, 1990 and reply comments are now due on or before December 14, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Damon C. Ladson, Frequency Allocations Branch, Office of Engineering and Technology, (202) 653-8106.

SUPPLEMENTARY INFORMATION:

Order Granting Extension of Time

Adopted: October 9, 1990.

Released: October 10, 1990.

By the Office of Engineering and Technology:

1. The Association of Independent Television Stations, the Association of Maximum Service Telecasters, Inc., Bonneville International Corporation, the National Association of Broadcasters, and Tribune Broadcasting Company (Requesting Parties), have jointly requested an extension of the comment and reply comment periods in the above proceeding to November 26, 1990, and December 28, 1990, respectively. Comments are currently due October 12, 1990, and reply comments are currently due November 13, 1990. See Notice of Inquiry (Notice), GEN Docket No. 90-357, 5 FCC Rcd 5237 (1990), 55 FR 34940, August 27, 1990.

2. The Requesting Parties state that the Commission has undertaken nothing less than a broad reexamination of the provision of radio services in the United States. They note that the Commission's Second Notice of Inquiry in preparation for the 1992 World Administrative Radio Conference (WARC NOI) also requests comment on the possible allocation of spectrum for digital audio radio services. The requesting parties claim that the record in this proceeding and in the WARC NOI would benefit from coordinated consideration of these interrelated issues. They also claim that a modest extension of time will enable commenters to provide the Commission with more refined and specific input with respect to the issues raised in the digital audio radio services proceeding.

3. We believe that additional time for filing comments and reply comments is warranted. The Commission desires as complete a record as possible to assist in formulating its digital audio radio service proposals. However, we believe that a thirty day extension of the comment and reply comment periods should be sufficient. Accordingly, pursuant to authority found in section 4(i), 302, and 303 of the Communications Act of 1934, as amended, *it is ordered* that the comment period in this proceeding *is extended* to November 13, 1990, and the reply comment period *is extended* to December 14, 1990.

Federal Communications Commission.

Thomas P. Stanley,

Chief Engineer.

[FR Doc. 90-24423 Filed 10-16-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 64 and 68

[CC Docket No. 90-313; DA 90-1383]

Operator Service Providers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of time.

SUMMARY: In this rulemaking proceeding (55 FR 29839, July 29, 1990), the Commission originally ordered that reply comments be filed by October 9, 1990. This document extends the filing period for reply comments an additional two weeks, to October 23, 1990. Congress has recently passed the Telephone Operator Consumer Services Improvement Act of 1990, S. 1660, 101st Cong., 2d Sess. (1990). This extension is intended to provide time for interested parties to address in their reply comments: (1) Any new issues raised by the Act; (2) the relationship between the Act and issues already raised in this proceeding; and (3) the need, if any, for a Further Notice of Proposed Rule Making.

DATES: Reply comments must be filed on or before October 23, 1990.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kurt A. Schroeder, Enforcement Division, Common Carrier Bureau, (202) 632-4587.

SUPPLEMENTARY INFORMATION:

ORDER

In the matter of policies and rules concerning operator service providers.

[DA 90-1383; CC Docket No. 90-313; RM-6787]

Adopted: October 5, 1990;
Released: October 5, 1990.
By the Chief, Common Carrier Bureau:

1. In the above-captioned proceeding, the Commission, *inter alia*, ordered that reply comments be filed by October 9, 1990. *Policies and Rules concerning Operator Service Providers*, Notice of Proposed Rule Making, 5 FCC Rcd 4630, 4636 (1990) ("NPRM"). During the pendency of this proceeding, Congress has been considering legislation that addresses many of the same issues, as well as additional related issues. On October 1 and October 3, respectfully, the Senate and the House of Representatives passed the Telephone Operator Consumer Services Improvement Act of 1990, S. 1660, 101st Cong., 2d Sess. (1990) ("Operator Services Act").

2. Although the Operator Services Act has not as of this point been signed into law by the President, we think it would nevertheless be helpful if the provisions of the Act were considered by interested parties in any reply comments they may file in the rule making proceeding. In order to provide ample time for such consideration, on our own motion[1] we extend the period for filing reply comments an additional two weeks, to October 23, 1990. We also ask interested parties to address, as part of their replies, three areas of concern: (1) Any new issues raised by the Operator Services Act; (2) the relationship between the Act and issues already raised in the NPRM; and (3) the need, if any, for a Further Notice of Proposed Rule Making.

3. Accordingly, *it is ordered*, Pursuant to authority delegated in § 0.291 of the Commission's Rules, 47 CFR 0.291, that the filing period for reply comments on matters discussed in the above-referenced Notice of Proposed Rule Making and on matters discussed in this order is extended to October 23, 1990.

Federal Communications Commission.
Richard M. Firestone,
Chief, Common Carrier Bureau.

[FR Doc. 90-24343 Filed 10-16-90; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88-308; RM-6233]

Television Broadcasting Services; Nogales, AZ

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of proposal.

SUMMARY: This document dismisses a joint petition filed on behalf of Mountain States Broadcasting, licensee of television Station KMSB-TV, Channel 11, Tucson-Nogales, AZ, and the City of Nogales, based upon Mountain States' withdrawal of interest. Mountain States had requested the allotment of UHF television Channel 66 to Nogales as that community's first commercial television service. See 51 FR 26562, July 24, 1986. With this action, the proceeding is terminated.

ADDRESSES: Federal Communication Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 88-308, adopted September 21, 1990, and released October 12, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.
Kathleen B. Levitz,
Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24420 Filed 10-16-90; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-440, RM-7452]

Radio Broadcasting Services; Central Valley, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petiton for rule making filed on behalf of Quality Broadcasters of California, Ltd., licensee of Station KNNN(FM), Channel 257A, Central Valley, California, seeking the substitution of FM Channel 257C3 for Channel 257A and modification of its license accordingly. Coordinates for this proposal are 40-33-46 and 122-27-07.

DATES: Comments must be filed on or before December 3, 1990, and reply comments on or before December 18, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Roger J. Metzler, Esq., McQuaid, Beford, Clausen & Metzler, 650 California Street, Suite 800, San Francisco, CA 94108

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-440, adopted September 25, 1990, and released October 12, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M

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[1] We note that the Operator Service providers of America ("OSPA") and the American Public Communications Council ("APCC") have each moved for an extention of the reply comment filing period, both citing the recent legislation. *See* OSPA, Request for Extension of Time (dated Oct. 4, 1990); APCC, Request for Short Extension of Time (dated Oct. 3, 1990).

Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.120(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24421 Filed 10-16-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-438, RM-7441]

Radio Broadcasting Services; Dock Junction, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Lorraine M. Wiggins ("petitioner"), requesting the substitution of Channel 290C3 for Channel 290A at Dock Junction, Georgia, and modification of her construction permit (FBH–870910MJ) to specify operation on the higher class channel. Channel 290C3 can be allotted to Dock Junction in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.5 kilometers (1.6 miles) east of the community. The coordinates for this allotment are North Latitude 31–11–30 and West Longitude 81–28–50. In accordance with §1.420(g) of the Commission's Rules, competing expressions of interest in the use of Channel 290C3 at Dock Junction will not be considered, and petitioner will not be required to demonstrate the availability of an additional equivalent channel for use by such interested parties.

DATES: Comments must be filed on or before December 3, 1990, and reply comments on or before December 18, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Vincent A. Pepper, Ellen S. Mandell, Pepper & Corazzini, 1776 K Street, NW., Washington, DC 20006, (Attorneys for petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–438, adopted September 24, 1990, and released October 11, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24354 Filed 10-16-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-439, RM-7324]

Radio Broadcasting Services; Cave City, KY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Steven W. Newberry requesting the substitution of Channel 279C3 for Channel 279A at Cave City, Kentucky, and modification of the license for Station WHHT(FM) to specify operation on Channel 279C3. Channel 279C3 can be allotted to Cave City in compliance with the Commission's minimum distance separation requirements with a site restriction of 17.2 kilometers (10.7 miles) south of the city. The coordinates for this allotment are North Latitude 36–59–39 and West Longitude 86–01–48. In accordance with § 1.420(g) of the Commission's Rules, competing expressions of interest for use of Channel 279C3 at Cave City will not be considered and petitioner will not be required to demonstrate the availability of an additional equivalent channel for use by such interested parties.

DATES: Comments must be filed on or before December 3, 1990, and reply comments on or before December 18, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: John F. Garziglia, Pepper & Corazzini, 1776 K Street, NW., suite 200, Washington, DC 20006 (Attorney for Steven W. Newberry).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–439, adopted September 24, 1990, and released October 10, 1990. The full text of this Comission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not appy to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the mater is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this

one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24353 Filed 10-16-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-433, RM-6795]

Radio Broadcasting Services; Denmark, SC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of.

SUMMARY: The Commission, at the request of Hugh David Jett d/b/a Denmark Communications, dismisses his request to allot Channel 239A to Denmark, South Carolina, as the community's first local FM service. See 54 FR 41469, October 10, 1989. No party expressed an intent to apply for the channel, if allotted. With this action, this proceeding is terminated.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket 89-433, adopted September 25, 1990, and released October 12, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcript Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24419 Filed 10-16-90; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 552

[Docket No. 88-20; Notice 2]

RIN 2127-AC87

Federal Motor Vehicle Safety Standards; Occupant Crash Protection; Seat Belt Assemblies

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Termination of rulemaking.

SUMMARY: This notice terminates a rulemaking begun by NHTSA when it granted a petition from Mr. Edward Horkey requesting that it amend the requirements for safety belt retractors in Standard No. 208, *Occupant Crash Protection*, and Standard No. 209, *Seat Belt Assemblies*. Based on responses to a notice requesting public comments and agency review and analysis, the agency has concluded that further rulemaking is not warranted. The agency has been unable to establish that amending the requirements for safety belt retractors would provide any significant safety benefits.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Cohen, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202) 366-4911.

SUPPLEMENTARY INFORMATION: After granting two petitions for rulemaking about the effect of rear impacts on vehicle occupants, the agency consolidated them in a notice requesting comments. (54 FR 40897, October 4, 1989). The first petition, from Mr. Kenneth J. Saczalski of Environmental Research and Safety Technologists, requested the agency to amend the seat back requirements in Standard No. 207, *Seating Systems* (49 CFR 571.207). The second petition, from Mr. Edward J. Horkey of Horkey & Associates, requested the agency to amend the requirements for safety belt retractors, in Standard No. 208, *Occupant Crash Protection* (49 CFR 571.208) and Standard No. 209, *Seat Belt Assemblies* (49 CFR 571.209). This notice terminates rulemaking related to Mr. Horkey's petition, but does not affect Mr. Saczalski's petition, which the agency is still evaluating.

Mr. Horkey's petition requested rulemaking to change the type of safety belt retractor mechanisms required in passenger cars. He submitted information to illustrate his claim that in a rear impact, the occupant may suffer an injury caused by what he terms the "slingshot effect." This phenomenon is also known as a "rebound effect." Mr. Horkey theorized that in a real impact, an occupant is pushed rearward against the setback, which stores the energy and then propels the occupant forward. He continued that after the occupant is pushed rearward by the rear impact, the vehicle deceleration sensitive emergency locking retractor (ELR) on some safety belts can move to the unlocked position if there is no tension in the belt. The petitioner believes that, as a result, when the occupant is thrown forward, he or she is more likely to strike the vehicle's interior surfaces because the belt does not restrain the occupant's forward motion if the ELR is not locked. Mr. Horkey therefore concluded that it is "necessary to change the type of mechanism used in automobile seat belts currently installed in most American automobiles as they are ineffective in many rear end collisions." He requested the agency require the "use (of) the older rotary inertia real type mechanism."

The agency requested comments about the slingshot effect and safety belt retractors in the October 1989 notice. Among the relevant questions posed in that notice were ones concerning data on injury frequency and severity in rear-impacts attributable to the slingshot effect, the adequacy of the Standard No. 209's current requirements on retractors, real-world experiences with dual-mode retractors, and anticipated safety benefits, costs, and consumer acceptance of the requested retractors. Dual-mode retractors are ELRs with two inertial sensing modes: one mode is sensitive to webbing acceleration, the other vehicle acceleration. The notice explained that—

> As more information becomes available, the agency will be able to determine what appropriate measures, if any, are needed to address this situation. NHTSA emphasizes that the grant of these petitions and the issuance of this request for comments does not necessarily mean that a notice of proposed rulemaking (NPRM) will follow. In accordance with statutory criteria, NHTSA will determine whether to issue an NPRM after it evaluates the comments it receives.

The notice elicited responses from the petitioners, ten manufacturers, two engineering consulting firms, and a safety organization. The consensus among commenters was that the slingshot effect, while theoretically possible, does not pose a significant threat to safety. As for dual-mode retractors, most commenters believed that aside from consumer convenience,

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there was no reason to require them absent a demonstrated safety need. A few manufacturers, which use dual-mode retractors, commented that such retractors are effective for occupant protection.

After evaluating the Horkey petition, the docket comments, and studies about rear impact crashes, the agency has decided to terminate further action in this rulemaking. The petitioner submitted no data to support amending the requirements for safety belt retractors. Further, the agency's review of the Fatal Accident Reporting System (FARS), National Accident Sampling System (NASS), and state accident data indicates that, at present, the slingshot effect does not pose a significant risk to safety and safety belts and their retractors provide effective protection to occupants in rear impacts. (Partyka, Susan; "Belt Effectiveness in Pickup Trucks and Passenger Cars by Crash Direction and Accident Year, National Center for Statistics and Analysis," DOT HS 807285, June 1988; Partyka, Susan; "Fatalities in Rear-Impacted Small Cars," National Center for Statistics and Analysis, DOT HS 807294, June 1988.)

According to a recent analysis of NASS accident statistics for 1981–1988, safety belts provide protection to the head, face, and chest of passenger car drivers involved in rear impact similar to that provided in frontal impact. (Partyka, Susan; "Comparisons of Belt Effectiveness in Preventing Chest, Head, and Face Injuries in Front and Rear Impacts," August 1990). The studies indicate that safety belts are providing occupant crash protection in rear crashes. As such, the agency is unable to establish that any significant safety benefits would be derived by amending the requirements for safety belt retractors. In addition, out of thousands of consumer complaints, the agency's complaints file disclosed 45 concerning the alleged failure of safety belts in rear impacts between 1981 and March 1990.

Similarly, a paper sponsored by the Society of Automotive Engineers (SAE) determined that safety belts are beneficial in rear impacts because they minimize relative motion of the upper body with respect to the seat back and help control rebound motion. The paper concluded that under delta Vs (i.e., changes in velocity, measuring impact severity) of 11 to 20 mph, seat rebound is not likely to occur and thus no slingshot effect would be produced. (Strother, Charles; and James, Michael; "Evaluation of Seat Back Strength and Seat Back Effectiveness in Rear Impacts," SAE 872214, November 1987.)

There is insufficient evidence that the safety belt retractors now required are ineffective in rear impacts. Thus, there currently is insufficient justification for proceeding with further rulemaking on the petitioner's requested amendment. The agency has been unable to establish that any significant safety benefits would be derived by amending the requirements for safety belt retractors. In addition, the amendment would result in increased costs for some manufacturers. The agency therefore is terminating the rulemaking because there is no reasonable probability that the petitioner's request would be adopted at the conclusion of a rulemaking. The agency nevertheless will continue to monitor the overall problem of injuries from rear impact, especially in connection with its analysis of the Saczalski petition to amend the seat back strength requirements in Standard No. 207. Any further research into strengthening seat backs will incorporate consideration of possible consequences on retractor functioning and overall safety belt performance in rear impact crashes.

Issued on: October 11, 1990.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 90-24365 Filed 10-16-90; 8:45 am]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 55, No. 201
Wednesday, October 17, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of International Cooperation and Development; Solicitation of Proposals

AGENCY: Office of International Cooperation and Development (OICD), USDA.

ACTION: Solicitation of proposals.

ACTIVITY: The Agency for International Development (A.I.D.) and the U.S. Department of Agriculture are interested in commissioning a study on reforestation to address global climate change/global warming and the production of a booklet on this topic. This activity will be sponsored by A.I.D.'s Office of Forestry, Environment and Natural Resources through its Forestry Support Program which is managed jointly by USDA's Forest Service and Office of International Cooperation and Development (OICD).

Authority: Section 1458 of the National Agricultural Research, Extension and Teaching Policy Act of 1977, as amended (7 U.S.C. 3291), and the Food Security Act of 1985 (Pub. L. 99–198).

OICD announces the availability of funds in fiscal year 1991 (FY 1991) to commission a state supported university with a strong international forestry department to undertake this study. The activity will be handled on a cost reimbursable basis for all costs associated with the research, writing, editing, and production of 500 copies of this study. The objective of the proposed study is to produce a short booklet which stimulates ideas of what A.I.D. and its partners can do to address global climate change through the management of trees. The study should address current practices worth considering and list A.I.D., world Food Projects and other organizations' projects, which illustrate them. Examples should include trees planted in natural forests as enrichment plantings, agroforestry plantings in farmers fields, woodlots, and block plantations. The study should include realistic expectations of various scales of tree planting efforts on global climate change. The target audience will be professional environmentalists and conservation leaders (not formally trained in forestry) in the State department, EPA, etc.

The booklet produced should be comparable in length and production values to that of the A.I.D. report "Conserving Tropical Forests and Biological Diversity" (copies available upon request). The total cost of this proposed study and the production of the booklet is anticipated to be less than $21,000. OICD would like to target 1 January 1991 as the date for having a final product ready for distribution.

Based on the above, this is a formal request for application. Proposals should be received at the below-noted address not later than 16 November 1990. Further information on this activity may be obtained from the undersigned, as follows:

USDA/OICD-Admin Service, 430 McGregor Bldg. Washington DC 20250–4300, Telephone 202/653–9151, Facsimile 202/653–8715.

Dated: October 5, 1990.

Nancy J. Croft,
Contracting Officer.

[FR Doc. 90–24422 Filed 10–16–90; 8:45 am]
BILLING CODE 3410–09–M

Agricultural Research Service

National Arboretum Advisory Council; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463), the Agricultural Research Service announces the following meeting:

Name: National Arboretum Advisory Council.

Date: October 29–30, 1990.

Time:

8:30 a.m.–4:30 p.m., October 29.

8:30 a.m.–3 p.m., October 30.

Place: U.S. National Arboretum, 3501 New York Avenue, NE., Washington, DC.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permits.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: To review progress of the National Arboretum relating to congressional mandate of research and education concerning trees and plant life. The Council submits its recommendations to the Secretary of Agriculture.

Contact Person: Howard J. Brooks, Executive Secretary, National Arboretum Advisory Council, room 234 BG–005 BARC–W, Beltsville, MD 20705. Telephone: AC 301/344–3912.

Done at Beltsville, Maryland, this 3rd day of October 1990.

Howard J. Brooks,
Executive Secretary, National Arboretum Advisory Council.

[FR Doc. 90–24475 Filed 10–16–90; 8:45 am]
BILLING CODE 3410–03–M

Agricultural Stabilization and Conservation Service

Feed Grain Donations for the Standing Rock Sioux Tribe of the Standing Rock Indian Reservation in North Dakota and South Dakota

Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Standing Rock Sioux Tribe of the Standing Rock Indian Reservation in North Dakota and South Dakota has been materially increased and become acute because of severe and prolonged drought, thereby creating a serious shortage of feed and causing increased economic distress. This reservation is designated for Indian use and is utilized by members of the Standing Rock Sioux Tribe for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation (CCC) for livestock feed for such needy members of the Tribe will not displace or interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing lands of the Tribe to be acute distress areas and authorize the donation of feed grain owned by the

CCC to livestock owners who are determined by the Bureau of Indian Affairs, United States Department of the Interior, to be needy members of the tribe utilizing such lands. These donations by the CCC may commence upon October 15, 1990, and shall be made available through May 15, 1991, or such other date as may be stated in a notice issued by the USDA.

Signed at Washington, DC on October 11, 1990.

Keith D. Bjerke,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 90-24456 Filed 10-16-90; 8:45 am]

BILLING CODE 3410-05-M

Fire-cured (Type 21), Fire-cured (Types 22-23), Virginia Sun-cured (Type 37), and Cigar-Filler and Binder (Types 42, 43 44, 53, 54 & 55) Tobaccos; 1990-91 Marketing Quotas and Acreage Allotments

AGENCY: Agricultural Stabilization and Conservation Service, (ASCS), U.S. Department of Agriculture, (USDA).

ACTION: Notice of Determination of 1990-91 Marketing Quotas and Acreage Allotments.

SUMMARY: The purpose of this notice is to affirm determinations which were made by the Secretary of Agriculture on March 1, 1990, with respect to the 1990 crops of fire-cured (type 21), fire-cured (types 22-23), Virginia sun-cured (type 37), and cigar-filler and binder (types 42-44 & 53-55) tobaccos. In addition to other determinations, the Secretary declared national acreage allotments for the following kinds of tobaccos: fire-cured (type 21), 4,315 acres; fire-cured (types 22-23), 15,071 acres; Virginia sun-cured (type 37), 285 acres; and cigar-filler and binder (types 42-44 & 53-55), 11,963 acres.

This notice also affirms the proclamation made by the Secretary that marketing quotas will be in effect for cigar filler and binder (types 43-44; 53-55) tobacco for the three marketing years beginning October 1, 1990 and sets forth the results of the referendum held during the period March 28-30, 1990, in which producers of cigar filler and binder tobacco approved marketing quotas for the 1990-91, 1991-92, and 1992-93 marketing years.

EFFECTIVE DATE: March 1, 1990.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Agricultural Economist, Commodity Analysis Division, ASCS, Room 3736 South Building, P.O. Box 2415, Washington, DC 20013, (202) 447-8839. The final Regulatory Impact Analysis describing the options considered in developing this notice and the impact of implementing each option is available on request from Robert L. Tarczy.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512-1 and has been classified "not major." This action has been classified "not major" since implementation of these determinations will not result in: (1) An annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographical regions, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this notice applies are: Title—Commodity Loans and Purchases; Number 10.051, as set forth in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since ASCS or Commodity Credit Corporation (CCC) are not required by 5 U.S.C. 553 or any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

The purpose of this notice is to affirm the determinations of the national marketing quotas for the 1990 crops of fire-cured (type 21), fire-cured (types 22-23), Virginia sun-cured (type 37), and cigar-filler and binder (types 42-44 & 53-55) tobacco which were announced by the Secretary on March 1, 1990, and to set forth certain other determinations with respect to these kinds of tobacco. On March 1, 1990, the Secretary also announced that a referendum would be conducted by mail with respect to cigar filler and binder tobacco.

During the period March 28-30, 1990, eligible cigar filler and binder producers voted in a referendum to determine whether such producers disapprove marketing quotas for the 1990-91, 1991-92, and 1992-93 marketing years for this tobacco. Of the producers voting, 84.8 percent favored marketing quotas for cigar filler and binder tobacco. Accordingly, a quota for this kind is in effect for the 1990-91 marketing year.

In accordance with section 312(a) of the Agricultural Adjustment Act of 1938, as amended [the "Act"], the Secretary of Agriculture is required to proclaim not later than March 1 of any marketing year with respect to any kind of tobacco, other than burley and flue-cured tobacco, a national marketing quota for any such kind of tobacco for each of the next three marketing years if such marketing year is the last year of three consecutive years for which marketing quotas previously proclaimed will be in effect. With respect to cigar filler and binder tobacco, the 1992-93 marketing year is the last year of three such consecutive years. Accordingly, a marketing quota for cigar filler and binder tobacco is proclaimed for each of the three marketing years beginning October 1, 1990, October 1, 1991, and October 1, 1992. Section 312 and 313 of the Act also provide that the Secretary shall announce the reserve supply level and the total supply of fire-cured [type 21], fire-cured (types 22-23), Virginia sun-cured (type 37), and cigar-filler and binder (types 42-44 & 53-55) tobaccos for the marketing year beginning October 1, 1990, and the amounts of the national marketing quotas, national acreage allotments, and national acreage factors for apportioning the national acreage allotments (less reserves) to old farms, and the amounts of the national reserves and parts thereof available for (a) new farms and (b) making corrections and adjusting inequities in old farm allotments for fire-cured (type 21), fire-cured (types 22-23), Virginia sun-cured (type 37), cigar-filler and binder (types 42-44 & 53-55) tobaccos for the 1990-91 marketing year.

Section 312(b) of the Act provides, in part, that the amount of the national marketing quota for a kind of tobacco is the total quantity of that kind of tobacco which may be marketed which will make available during such marketing year a supply of such tobacco equal to the reserve supply level. Since producers of these kinds of tobacco generally produce less than their respective national acreage allotments, it has been determined that a larger quota would be necessary to make available production equal to the reserve supply level. The amount of the national marketing quota so announced may, not later than the following March 1, be increased by not more than 20 percent if the Secretary determines that

such increase is necessary in order to meet market demands or to avoid undue restriction of marketings in adjusting the total supply to the reserve supply level.

Section 301(b)(14)(B) of the Act defines "reserve supply level" as the normal supply, plus 5 percent thereof, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty. The "normal supply" is defined in section 301(b)(10)(B) of the Act as a normal year's domestic consumption and efforts, plus 175 percent of a normal year's domestic use and 65 percent of a normal year's exports as an allowance for a normal year's carryover. A "normal year's domestic consumption" is defined in section 301(b)(11)(B) of the Act as the average quantity produced and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

A "normal year's exports" is defined in section 301(b)(12) of the Act as the average quantity produced in and exported from the United States during the 10 marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

On February 8, 1990, a Notice of Proposed Determination was published (55 FR 4461) in which interested persons were requested to comment with respect to these issues.

Discussion of Comments

Ten written responses were received in response to the Notice of Proposed Determination. In addition, several recommendations were received by phone. A summary of these comments by kind of tobacco is as follows:

Fire-cured (type 21) tobacco: Three comments were received by phone. They recommended that the marketing quotas established for this kind of tobacco be the same as those for 1989 marketing year.

Fire-cured (type 22–23) tobacco: Eight comments were received. Recommendations ranged from no change in quota to 15 percent increase from the 1989 marketing quota.

Virginia sun-cured (type 37) tobacco: Three comments were received by phone. They recommended that marketing quotas established for this kind of tobacco be established at the same level which was applicable for the 1989 marketing year.

Cigar-filler and binder (types 42–44 & 53–55) tobacco: Two comments were received. These comments ranged from a 10 percent increase in quota to a 15 percent increase in quota from the 1989 marketing year.

Based upon a review of these comments and the latest available statistics of the Federal Government, the following determination have been made.

Fire-cured (Type 21) Tobacco

The yearly average quantity of fire-cured (type 21) tobacco produced in the United States, which is estimated to have been consumed in the United States, during the 10 marketing years preceding the 1989–90 marketing year was approximately 2.1 million pounds. The average annual quantity of fire-cured (type 21) tobacco produced in the United States and the 1989–90 marketing year was 2.7 million pounds (farm sales weight basis). Both domestic use and exports have trended downward. Accordingly, a normal year's domestic consumption has been determined to be 1.4 million pounds and a normal year's exports have been determined to be 2.5 million pounds. Application of the formula prescribed by section 301(b)(14)(B) of the Act results in a reserve supply level of 8.3 million pounds.

Manufacturers and dealers reported stocks of fire-cured (type 21) tobacco held on October 1, 1989, of 6.5 million pounds. The 1989 fire-cured (type 21) tobacco crop is estimated to be 2.7 million pounds. Therefore, the total supply of fire-cured (type 21) tobacco for the 1989–90 marketing year is 9.2 million pounds. During the 1989–90 marketing year, it is estimated that disappearance will total approximately 3.0 million pounds. By deducting this disappearance from the total supply, a carryover of 6.2 million pounds at the beginning of the 1990–91 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1990, is 2.1 million pounds. This represents the quantity of fire-cured (type 21) tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level.

During the past 5 years, less than half of the announced national marketing quota has been produced. Accordingly, it has been determined that a national marketing quota of 4.3 million pounds is necessary to make available production of 2.1 million pounds. In accordance with section 312(b) of the Act, it has been further determined that the 1990–91 national marketing quota must be increased by 20 percent in order to avoid undue restriction of marketings. This results in a national marketing quota of 5.2 million pounds for the 1990–91 marketing year.

In accordance with section 313(g) of the Act, the 1990–91 national marketing quota divided by the 1986–88, 3-year national average yield of 1,202 pounds per acre results in a 1990 national acreage allotment of 4,315.35 acres.

Pursuant to the provisions of section 313(g) of the Act, a national acreage factor of 1.9 is determined by dividing the national acreage allotment, less a national reserve of 31.0 acres, by the total of 1990 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the Act for apportioning the national acreage allotment, less the national reserve, to old farms.

Fire-cured (Types 22–23) Tobacco

The yearly average quantity of fire-cured (types 22–23) tobacco produced in the United States estimated to have been consumed in the United States during the 10 years preceding the 1990–91 marketing year was approximately 17.4 million pounds. The average annual quantity of fire-cured (types 22–23) tobacco produced in the United States and exported during the 10 marketing years preceding the 1989–90 marketing year was 18.3 million pounds (farm-sales weight basis). Both domestic use and exports are erratic. Accordingly, a normal year's domestic consumption has been determined to be 20.3 million pounds and a normal year's exports have been determined to be 21.4 million pounds. Application of the formula prescribed by section 301(b)(14)(B) of the Act results in a reserve supply level of 95.7 million pounds.

Manufacturers and dealers reported stocks of fire-cured (types 22–23) tobacco on October 1, 1989, of 75.8 million pounds. The 1989 fire-cured (types 22–23) crop is estimated to be 27.3 million pounds. Therefore, the total supply of fire-cured (types 22–23) tobacco for the marketing year beginning October 1, 1989, is 103.1 million pounds. During the 1989–90 marketing year, it is estimated that disappearance will total approximately 33.0 million pounds. By deducting this disappearance from the total supply, a carryover of 70.1 million pounds at the beginning of the 1990–91 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1990, is 25.6 million pounds. This represents the quantity of fire-cured (types 22–23) tobacco which may be marketed which will make

available during the 1990–91 marketing year a supply equal to the reserve supply level. During the past 5 years, slightly less than 95 percent of the announced national marketing quota has been produced. Accordingly, it has been determined that a national marketing quota for the 1990–91 marketing year of 27.4 million pounds is necessary to make available production of 25.6 million pounds. In accordance with section 312(b) of the Act, it has been further determiend that the 1990–91 national marketing quota must be inceased by 20 percent in order to avoid undue restriction of marketings. This results in a natioal marketing quota for the 1990–91 marketing year of 32.9 million pounds.

In accordance with section 313(g) of the Act, the national marketing quota for the 1990–91 marketing year has been divided by the 1985–89, 5-year national average yield of 2,183 pounds per acre, to obtain a national acreage allotment of 15,071.00 acres, for the 1990–91 marketing year.

Pursuant to the provisions of section 313(g) of the Act, a national acreage factor of 1.05 is determined by dividing the national acreage allotment for the 1990–91 marketing year less a national reserve of 96 acres by the total of the 1990 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the Act for apportioning the national acreage allotment, less the national reserve, to old farms.

Virginia Sun-cured (Type 37) Tobacco

The yearly average quantity of Virginia sun-cured tobacco prodced in the United States which is estimated to have been consumed in the United States during the 10 marketing years preceding the 1989–90 marketing year was approximately 410 thousand pounds. The average annual quantity produced in the United States and exported during the same period was approximately 130 thousand pounds (farm-sales weight basis). Both domestic use and exports have shown a downward trend. Accordingly, a quantity of 100 thousand pounds has been determined to be a normal year's domestic consumption and a quantity of 100 thousand pounds has been determined to be a normal year's exports. Application of the formula prescribed by section 301(b)(14)(B) of the Act results in a reserve supply level of 462 thousand pounds.

Manufacturers and dealers reported stocks of Virginia sun-cured (type 37) tobacco held on October 1, 1989 of 500 thousand pounds. The 1989 Virginia sun-cured (type 37) tobacco crop is estimated to be 100 thousand pounds. Therefore, the total supply of Virginia sun-cured (type 37) tobacco for the 1989–90 marketing year is 600 thousand pounds. During the 1989–90 marketing year, it is estimated that disappearance will total approximately 300 thousand pounds. By deducting this disappearance from the total supply, a carryover of 300 thousand pounds at the beginning of the 1990–91 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1990, is 162 thousand pounds. This represents the quantity of Virginia sun-cured tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. During the last 5 years, less than one-half of the announced national marketing quota has been produced. Accordingly, it has been determined that a national marketing quota of 329 thousand pounds is necessary to make available production of 162 thousand pounds. Accordingly, the national marketing quota for the 1990–91 marketing year is 329 thousand pounds.

In accordance with section 313(g) of the Act, the 1990–91 national marketing quota divided by the 1985–89, 5-year national average yield of 1,155 pounds per acre results in a 1990 national acreage allotment of 284.85 acres.

Pursuant to the provisions of section 313(g) of the Act, a national acreage factor of 1.0 is determined by dividing the national acreage allotment, less a national reserve of 2 acres, by the total of the 1990 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the Act for apportioning the national acreage allotment, less the national reserve, to old farms.

Cigar-filler and Binder (Types 42–44 & 53–55) Tobacco

The yearly average quantity of cigar-filler and binder (types 42–44 & 53–55) tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 years preceding the 1989–90 marketing year was approximately 21.3 million pounds. The average annual quantity of cigar-filler and binder (types 42–44 & 53–55) tobacco produced in the United States and exported from the United States during the 10 marketing years preceding the 1989–90 marketing year was very small. Domestic use has trended downward and exports are almost non-existent. Accordingly, a normal year's domestic consumption has been established at 15.0 million pounds while a normal year's exports has been established at zero million pounds. Application of the formula prescribed by section 301(b)(14)(B) the Act results in a reserve supply level of 43.3 million pounds.

Manufacturers and dealers report stocks of cigar-filler and binder (types 42–44 & 53–55) tobacco held on October 1, 1989, of 33.7 million pounds. The 1989 cigar-filler and binder crop is estimated to be 9.4 million pounds. Therefore, the total supply of cigar-filler and binder (types 42–44 & 53–55) tobacco for the 1989–90 marketing year is 43.1 million pounds. During the 1989–90 marketing year, it is estimated that disappearance will total about 14.0 million pounds. By deducting this disappearance from the total supply, a carryover of 29.1 million pounds at the beginning of the 1990–91 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1990, is 14.2 million pounds. This represents the quantity of cigar-filler and binder tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. it is expected that approximately 70 percent of the announced national marketing quota will be produced in the upcoming season. Accordingly, it has been determined that a 1990–91 national marketing quota of 20.3 million pounds is necessary to make available production of 14.2 million pounds. Increasing the quota by 20 percent in accordance with Section 312(b) of the Act to 24.3 million pounds is necessary to avoid undue restriction of marketings. This results in a national marketing quota for the 1990–91 marketing year of 24.3 million pounds.

In accordance with section 313(g) of the Act, the 1990–91 national marketing quota of 24.3 million pounds divided by the 1985–89, 5-year national average yield of 2,033 pounds per acre results in a 1990–91 national average allotment of 11,952.78 acres.

Pursuant to the provisions of section 313(g), a national acreage factor of 1.15 is determined by dividing the national acreage allotment, less a national reserve of 79 acres, by the total of the 1990 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in section 313(g) for apportioning the national acreage allotment, less the national reserve, to old farms.

Accordingly, the following determinations announced by the

Secretary of Agriculture on March 1, 1990, are affirmed:

Proclamations of National Marketing Quotas for Cigar Filler and Binder

Since the 1989–90 marketing year is the last of three consecutive years for which marketing quotas previously proclaimed will be in effect for cigar filler and binder tobacco, a national marketing quota for such kind of tobacco for each of the three marketing years beginning October 1, 1990, October 1, 1991, and October 1, 1992 is proclaimed.

Determinations for the 1990–91 Marketing Years of Fire-cured (Type 21), Fire-cured (Types 22–23), Virginia Sun-cured (Type 37), and Cigar-filler and Binder (Types 42–44 and 53–55) Tobacco

Referendum Results

Marketing quotas shall be in effect for the 1990–91 marketing year for cigar filler and binder tobacco. In a referendum held during the period March 26–30, 1990, 84.8 percent of producers of cigar filler and binder tobacco voted in favor of marketing quotas.

The following is a summary, by State, of the results of each referedum:

	Total votes	Yes votes	No votes	Percent yes votes
Minnesota	13	8	5	61.5
Ohio	71	41	30	57.8
Wisconsin	1,668	1,437	231	86.2

With respect to fire-cured (type 21) tobacco for the marketing year beginning October 1, 1990:

(a) *Reserve supply level.* The reserve supply level for fire-cured (type 21) tobacco is 8.3 million pounds.

(b) *Total supply.* The total supply of fire-cured (type 21) tobacco for the marketing year beginning October 1, 1989, is 9.2 million pounds.

(c) *Carryover.* The estimated carryover of fire-cured (type 21) tobacco for the marketing year beginning October 1, 1990, is 6.2 million pounds.

(d) *National marketing quota.* The 1990–91 national marketing quota for fire-cured (type 21) tobacco for the marketing year beginning October 1, 1990, is 5.2 million pounds.

(e) *National acreage allotment.* The national acreage allotment is 4,315.35 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments is 1.0.

(g) *National reserve.* The national acreage reserve is 31 acres of which 10 acres are made available for the 1990 new farms and 21 acres are made available for making corrections and adjusting inequities in old farm allotments.

With respect to fire-cured (types 22–23) tobacco for the marketing year beginning October 1, 1990:

(a) *Reserve supply level.* The reserve supply level for fire-cured (types 22–23) tobacco is 95.7 million pounds.

(b) *Total supply.* The total supply of fire-cured (types 22–23) tobacco for the marketing year beginning October 1, 1989, is 103.1 million pounds.

(c) *Carryover.* The estimated carryover of fire-cured (types 22–23) tobacco for the marketing year beginning October 1, 1990, is 70.1 million pounds.

(d) *National marketing quota.* The 1990–91 national marketing quota for fire-cured (types 22–23) tobacco for the marketing year beginning October 1, 1990, is 32.9 million pounds.

(e) *National acreage allotment.* The national acreage allotment is 15,071.00 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1990–91 marketing year is 1.05.

(g) *National reserve.* The national acreage reserve is 66 acres of which 20 acres are made available for the 1990 new farms, and 66 acres are made available for making corrections and adjusting inequities in old farm allotments.

With respect to Virginia sun-cured (type 37) tobacco for the marketing year beginning October 1, 1990:

(a) *Reserve supply level.* The reserve supply level for Virginia sun-cured (type 37) tobacco is 462 thousand pounds.

(b) *Total supply.* The total supply of Virginia sun-cured (type 37) tobacco for the marketing year beginning October 1, 1989, is 600 thousand pounds.

(c) *Carryover.* The estimated carryover of Virginia sun-cured (type 37) tobacco for the marketing year beginning October 1, 1990, is 300 thousand pounds.

(d) *National marketing quota.* The national marketing quota for Virginia sun-cured (type 37) tobacco for the marketing year beginning October 1, 1990, is 329 thousand pounds.

(e) *National acreage allotment.* The national acreage allotment is 284.85 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1990–91 marketing year is 1.0.

(g) *National reserve.* The national acreage reserve is 2.0 acres, of which 1.0 acres are made available for 1990 new farms, and 1.0 acres are made available for making corrections and adjusting inequities in old farm allotments.

With respect to cigar-filler and binder (types 42–44 & 53–55) tobacco for the marketing year beginning October 1, 1990:

(a) *Reserve supply level.* The reserve supply level for cigar-filler and binder (types 42–44 & 53–55) tobacco is 43.3 million pounds.

(b) *Total supply.* The total supply of cigar-filler and binder (types 42–44 & 53–55) tobacco for the marketing year beginning October 1, 1989, is 43.1 million pounds.

(c) *Carryover.* The estimated carryover of cigar-filler and binder (types 42–44 & 53–55) tobacco for the marketing year beginning October 1, 1990, is 29.1 million pounds.

(d) *National marketing quota.* The amount of the national marketing quota for cigar-filler and binder (types 42–44, 53–55) tobacco for the marketing year beginning October 1, 1990, is 24.3 million pounds.

(e) *National acreage allotment.* The national acreage allotment is 11,952.78 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1990–91 marketing year is 1.15.

(g) *National reserve.* The national acreage reserve is 79.0 acres, of which 70.0 acres are made available for 1990 new farms, and 9.0 acres are made available for making corrections and adjusting inequities in old farm allotments.

Authority: 7 U.S.C. 1301, 1312, 1313, 1375.

Signed at Washington, DC on October 11, 1990.

Keith D. Bjerke,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 90–24457 Filed 10–16–90; 8:45 am]

BILLING CODE 3410–05–M

Animal and Plant Health Inspection Service

[Docket No. 90–195]

Availability of Environmental Assessment and Finding of No Significant Impact Relative to Issuance of a Permit of Field Test Genetically Engineered Cotton Plants

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an environmental assessment and finding of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of a permit of Monsanto Agricultural Company to allow the field testing in Kauai County, Hawaii, of cotton plants genetically engineered to contain either a gene encoding resistance to certain lepidopteran insects or genes encoding tolerance to the herbicide glyphosate. The assessment provides a basis for the conclusion that the field testing of these genetically engineered cotton plants will not present a risk of the introduction or dissemination of a plant pest and will not have a significant impact on the quality of the human environment. Based on this finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

ADDRESSES: Copies of the environmental assessment and finding of no significant impact are available for public inspection at Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Catherine Joyce, Biotechnologist, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 844, Federal Building, 6505 Belcrest Road, Hyattsville, MD, 20782, (301) 436-7612. For copies of the environmental assessment and finding of no significant impact, write Mr. Clayton Givens at this same address. The environmental assessment should be requested under permit number 90-177-01.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 regulate the introduction (importation, interestate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article can be introduced into the United States. The regulations set forth procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906, June 16, 1987).

The Monsanto Agricultural Company, of St. Louis, Missouri, has submitted an application for a permit for release into the environment, to field test cotton plants genetically engineered to contain either a gene encoding resistance to certain lepidopteran insects or genes encoding tolerance to the herbicide glyphosate. The field trial will take place in Kauai County, Hawaii.

In the course of reviewing the permit application, APHIS assessed the impact on the environment of releasing the cotton plants under the conditions described in the Monsanto Agricultural Company application. APHIS concluded that the field testing will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment.

The environmental assessment and finding of no significant impact, which are based on data submitted by Monsanto Agricultural Company, as well as a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental impacts associated with conducting the field testing.

The facts supporting APHIS' finding of no significant impact are summarized below and are contained in the environmental assessment.

1. Genes encoding either resistance to certain lepidopteran insects or tolerance to the herbicide glyphosate have been inserted into the cotton chromosome. In nature, chromosomal genetic material can only be transferred to other sexually compatible plants by cross-pollination. In this field trial, the introduced genes cannot spread to other plants by cross-pollination because the field test plot is a sufficient distance from any sexually compatible plants.

2. None of the introduced genes confer on cotton any plant pest characteristics. Traits that lead to weediness in plants are polygenic traits and cannot be conferred by adding a single gene.

3. None of the genes for glyphosate tolerance nor the gene for insect resistance were derived from plant pests.

4. Select noncoding regulatory regions derived from plant pests have been incorporated into the plant DNA but do not confer on cotton any plant pest characteristics.

5. None of the introduced genes provide the transformed cotton plants with any apparent selective advantage over nontransformed cotton in the ability to be disseminated or to become established in the environment.

6. The vector used to transfer the genes to cotton plants has been evaluated for its use in this specific experiment and does not pose a plant pest risk in this experiment. The vector, although derived from a DNA sequence with known plant pest potential, has been disarmed; that is, genes that are necessary for producing plant disease have been removed from the vector.

7. The vector agent, the bacterium that was used to deliver the vector DNA and the genes into the plant cell, has been shown to be eliminated and no longer associated with the transformed cotton plants.

8. Horizontal movement of the introduced genes is not possible. The vector acts by delivering and gene to the plant genome (i.e., chromosomal DNA). The vector does not survive in the plants.

9. Glyphosate is one of the new herbicides that is rapidly degraded in the environment. It has been shown to be less toxic to animals than many herbicides commonly used.

10. Delta-endotoxin is an polypeptide that kills select lepidopteran insects upon ingestion. Delta-endotoxin is not toxic to other insects, wild or domestic birds, fish or mammals. Because of its safety, its topical application on vegetable crops is permitted up to harvest date.

11. The field test site is small, with a total area of less than 4 acres.

The environmental assessment and finding of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*). (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts, 1500-1509), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381-50384, August 28, 1979, and 44 FR 51272-51274, August 31, 1979).

Done in Washington, DC, this 11th day of October 1990.

Robert Melland,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-24481 Filed 10-16-90; 8:45 am]

BILLING CODE 3410-34-M

[Docket No. 90-190]

Availability of Environmental Assessment and Finding of No Significant Impact Relative to Issuance of a Permit to Field Test Genetically Engineered Cotton Plants

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an environmental assessment and finding of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of a permit to Calgene, Inc., to allow the field testing in Maui County, Hawaii, of cotton plants genetically engineered to contain either a gene conferring resistance to certain lepidopteran insects and a gene conferring tolerance to the herbicide bromoxynil; or only the gene conferring tolerance to the herbicide bromoxynil. The assessment provides a basis for the conclusion that the field testing of these genetically engineered cotton plants will not present a risk of the introduction or dissemination of a plant pest and will not have a significant impact on the quality of the human environment. Based on this finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

ADDRESSES: Copies of the environmental assessment and finding of no significant impact are available for public inspection at Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Michael Schechtman, Biotechnologist, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 846, Federal Building, 6505 Belcrest Road, Hyattsville, MD, 20782, (301) 436-7612. For copies of the environmental assessment and finding of no significant impact, write Mr. Clayton Givens at this same address. The environmental assessment should be requested under permit number 90-108-03.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article can be introduced into the United States. The regulations set forth procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906, June 16, 1987).

Calgene, Inc., of Davis, California, has submitted an application for a permit for release into the environment, to field test cotton plants genetically engineered to contain a gene conferring resistance to certain lepidopteran insects and a gene conferring tolerance to the herbicide bromoxynil; or only the gene conferring tolerance to the herbicide bromoxynil. The field trial will take place in Maui County, Hawaii.

In the course of reviewing the permit application, APHIS assessed the impact on the environment of releasing the cotton plants under the conditions described in the Calgene, Inc., application. APHIS concluded that the field testing will not present a risk of plant pest introduction of dissemination and will not have a significant impact on the quality of the human environment.

The environmental assessment and finding of no significant impact, which are based on data submitted by Calgene, Inc., as well as a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental impacts associated with conducting the field testing.

The facts supporting APHIS' finding of no significant impact are summarized below and are contained in the environmental assessment.

1. A gene for insect resistance and one for resistance to the herbicide bromoxynil have been inserted into the cotton chromosome. In nature, chromosomal genetic material from plants can only be transferred to other sexually compatible plants by cross-pollination. In this field trial, the introduced gene(s) cannot spread to other plants by cross-pollination because the field test plot is sufficiently distant from any sexually compatible plants susceptible to cross-pollination.

2. Neither the introduced genes, nor their gene products, confers on cotton any plant pest characteristics.

3. Neither the microorganism from which the gene for insect resistance was isolated, nor the microorganism from which the gene for herbicide resistance was isolated, is a plant pest.

4. The vector used to transfer the resistance genes to cotton plants has been evaluated for its use in this specific experiment and does not pose a plant pest risk herein. The vector, although derived from a DNA sequence with known plant pest potential, has been disarmed; that is, genes that are necessary for producing plant disease have been removed from the vector. The vector has been tested and shown not to be pathogenic to any susceptible plants.

5. The vector agent, the bacterium that was used to deliver the vector DNA and the 2 resistance genes into the plant cells, has been shown to be eliminated and no longer associated with the transformed cotton plants.

6. Horizontal movement of the introduced genes is not known to be possible. The vector acts by delivering and inserting the gene into the cotton genome (i.e., chromosomal DNA). The vector does not survive in the transformed plants. No mechanism that can transfer an inserted gene from a chromosome of a transformed plant to a chromosome of another organism has been shown to exist in nature.

7. The toxic polypeptide produced by the insect resistance gene is called delta-endotoxin. Upon ingestion, the toxin kills only lepidopteran insects. Delta-endotoxin is not toxin to most other insects, birds, fish, or mammals. Because of its safety, its topical application on vegetable crops is permitted up to date of harvest.

8. Bromoxynil is a herbicide that rapidly degrades in the environment. It has been shown to be less toxic to animals than many other herbicides commonly used.

9. Regulatory sequences, derived from plant pest organisms and necessary for the function of the inserted genes, have also been transferred to recipient cotton, but these sequences confer no plant pest property on the plants.

10. The herbicide tolerance gene and the insect resistance gene provide the transformed cotton plants with little or no selective advantage over nontransformed cotton plants in their ability to disseminate or to become established in the environment.

11. The test is to take place on a small field site, with approximately 8.2 acres to be utilized for the planting of transgenic cotton.

12. At the conclusion of the test, seeds will be collected and saved, and all plant material remaining at the test site will be killed by applying herbicide and cultivating the plot. The site will subsequently be monitored, and any volunteer cotton that may arise will be killed through cultivation and herbicide application as required.

The environmental assessment and finding of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Done in Washington, DC, this 11th day of October 1990.

Robert Melland,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-24456 Filed 10-16-90; 8:45 am]

BILLING CODE 3410-34-M

[Docket No. 90-185]

Availability of Environmental Assessment and Finding of No Significant Impact Relative to Issuance of a Permit to Field Test Genetically Engineered Soybean Plant

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an environmental assessment and finding of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of a permit to Monsanto Agricultural Company, to allow the field testing in Isabela, Puerto Rico, of soybean plants genetically engineered to express a gene encoding a modified 5-enolpyruvylshikimate-3-phosphate synthase which is not inhibited by the herbicide glyphosate. The assessment provides a basis for the conclusion that the field testing of these genetically engineered soybean plants will not present a risk of the introduction or dissemination of a plant pest and will not have a significant impact on the quality of the human environment. Based on this finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

ADDRESSES: Copies of the environmental assessment and finding of no significant impact are available for public inspection at Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Quentin B. Kubicek, Biotechnologist, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 841, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7612. For copies of the environmental assessment and finding of no significant impact, write to Mr. Clayton Givens at this same address. The environmental assessment should be requested under permit number 90–184–01.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article can be introduced into the United States. The regulations set forth procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22908, June 16, 1987).

Monsanto Agricultural Company, of St. Louis, Missouri, has submitted an application for a permit to release into the environment, to field test soybean plants genetically engineered to express a gene encoding a modified 5-enolpyruvylshikimate-3-phosphate synthase which is not inhibited by the herbicide glyphosate. The field trial will take place in Isabela, Puerto Rico.

In the course of reviewing the permit application, APHIS assessed the impact on the environment of releasing the soybean plants under the conditions described in the Monsanto Agricultural Company application. APHIS concluded that the field testing will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment.

The environmental assessment and finding of no significant impact, which are based on data submitted by Monsanto Agricultural Company, as well as a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental impacts associated with conducting the field testing.

The facts supporting APHIS' finding of no significant impact are summarized below and are contained in the environmental assessment.

1. A gene encoding a modified 5-enolpyruvylshikimate-3-phosphate synthase which is not inhibited by the herbicide glyphosate has been inserted into a soybean chromosome. In nature, chromosomal genetic material of soybean can only be transferred to another sexually compatible plant by cross-pollination. In this field trial, the introduced gene will not spread to another plant by cross-pollination because the field test plot is a sufficient distance from any sexually compatible plant with which a transgenic soybean plant might cross-pollinate.

2. Neither the 5-enolpyruvylshikimate-3-phosphate synthase gene itself, nor its gene product, confers on soybean any plant pest characteristic. Traits, such as weediness, are polygenic and cannot be conferred to another plant by adding a single gene.

3. The plant species from which the 5-enolpyruvylshikimate-3-phosphate synthase gene was isolated are not plant pests.

4. The 5-enolpyruvylshikimate-3-phosphate synthase gene does not provide any transgenic soybean with any apparent selective advantage over nontransgenic soybean in its ability to be disseminated or to become established in the environment.

5. The vectors used to transfer the 5-enolpyruvylshikimate-3-phosphate synthase gene to soybean have been evaluated for their use in this specific experiment and to not pose a plant pest risk. The vectors, although derived from a DNA sequence with known plant pest potential, have been disarmed; that is, genes that are necessary for producing plant disease have been removed from the vector. The vectors have been tested and shown to be not pathogenic to a susceptible plant.

6. The vector agent, a bacterium that was used to deliver the vector DNA and the 5-enolpyruvylshikimate-3-phosphate synthase gene into the plant cell, has been shown to be eliminated and no

longer associated with any transformed soybean.

7. Horizontal movement of the introduced gene is not known to be possible. The foreign DNA is stably integrated into the soybean genome.

8. Glyphosate is a herbicide that is rapidly degraded in the environment. It has been shown to be less toxic to animals than many herbicides commonly used.

9. The field test site is relatively small and is located on a private research farm that is surrounded by a chain linked fence.

The environmental assessment and finding of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Done in Washington, DC, this 11th day of October 1990.

Robert Melland,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-24459 Filed 10-16-90; 8:45 am]

BILLING CODE 3410-34-M

Rural Electrification Administration

Poudre Valley Rural Electric Association; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Finding of no significant impact relating to the construction of a new headquarters/warehouse facility in Larimer County, Colorado.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended, the Council on Environmental Quality Regulations (40 CFR parts 1500–1508), and REA Environmental Policies and Procedures (7 CFR part 1794), has made a Finding of No Significant Impact (FONSI) with respect to the construction of a new headquarters/warehouse facility in Larimer County, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Martin G. Seipel, Director, Southwest Area—Electric, Rural Electrification Administration, room 0207, Agriculture South Building, Washington, DC 20250, telephone: (202) 382-8448. Copies of the EA and FONSI can be obtained from REA at the address provided above or at the office of Poudre Valley Rural Electric Association, P.O. Box 1727, Fort Collins, Colorado 80522.

SUPPLEMENTARY INFORMATION: REA, in accordance with its environmental policies and procedures, required that Poudre Valley Rural Electric Association (Poudre Valley) develop a Borrower's Environmental Report (BER) reflecting the potential impacts of the proposed facility. The BER, which includes input from Federal, State and local agencies, has been adopted as REA's Environmental Assessment (EA) for the project in accordance with 7 CFR 1794.61. REA has concluded that the BER represents an accurate assessment of the environmental impacts of the project. The project will allow Poudre Valley to meet its present and future needs in the area.

The proposed headquarters/warehouse facility will be located on a 17.3 hectare (43.3 acre) site along State Highway 392 approximately 3.2 kilometers (2.0 miles) northeast of the city of Loveland, Colorado. The property is in the NW ¼ of the NW ¼ of Section 23, Township 6 North, Range 68 West of the 6th P.M., Larimer County. Appoximately 8.1 hectares (20.0 acres) of land will be disturbed. The facilities will consist of 3,344 square meter (36,000 square foot) office building, a 2,230 square meter (24,000 square foot) warehouse and a 186 square meter (2,000 square foot) meeting room. Other facilities include an outside storage area and parking facilities.

Alternatives examined by the proposed project included the no action alternatives and alternative sites. The alternative sites included the following locations Alternative site #1 is located adjacent to Swede Lake on Larimer County Road Number 38. Alternative site #2 is also located on Larimer County Road Number 38 approximately 1.8 kilometers (1.0 mile) from Interstate 25. Alternative site #3 is located on Larimer County Road Number 38 approximately 3.2 kilometers (2.0 miles) from Interstate 25. Alternative site #4 is located on Weld County Road Number 74 approximately 9.0 kilometers (5.0 miles) west of Interstate 25. REA determined that the proposed project will meet Poudre Valley's existing and future needs and will have no significant impact on the environment.

REA has concluded that its approval to allow Poudre Valley to construct the proposed project does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, REA has reached a FONSI with respect to its action related to the project.

In accordance with REA Environmental Policies and Procedures, 7 CFR part 1794, Poudre Valley published a notice and advertisement in the *Fort Collins Coloradoan* and the *Windsor Beacon*. The newspapers have a general circulation in Larimer County, Colorado. The notice described the project, announced the availability of the BER for review, how copies could be obtained and gave addresses where comments could be sent. The public was given at least 30 days to respond and submit comments. No responses were received by Poudre Valley or REA.

As a result of its independent evaluation, REA concluded that approval to construct the proposed project will not constitute a major Federal action significantly affecting the quality of the human environment. REA hereby reaches a Finding of No Significant Impact with respect to the proposed project in accordance with 7 CFR part 1794.

Dated: October 11, 1990.

John H. Arnesen,

Assistant Administrator—Electric.

[FR Doc. 90-24478 Filed 10-16-90; 8:45 am]

BILLING CODE 3410-15-M

Wells Rural Electric Co.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Finding of no significant impact relating to the construction of a new district headquarters/warehouse facility in Tooele County, Utah.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended, the Council on Environmental Quality Regulations (40 CFR parts 1500–1508), and REA Environmental Policies and Procedures (7 CFR part 1794), has made a Finding of No Significant Impact (FONSI) with respect to the construction of a new district headquarters/warehouse facility in Tooele County, Utah.

FOR INFORMATION CONTACT: Mr. Martin G. Seipel, Director, Southwest Area—Electric, Rural Electrification Administration, room 0207, Agriculture South Building, Washington, DC 20250, telephone: (202) 382-8448. Copies of the EA and FONSI can be obtained from REA at the address provided above or at the office of Wells Rural Electric

Company, P.O. Box 365, Wells, Nevada 89835.

SUPPLEMENTARY INFORMATION: REA, in accordance with its essential policies and procedures, required that Wells Rural Electric Company (Wells) develop a Borrower's Environmental Report (BER) reflecting the potential impacts of the proposed facility. The BER, which includes input from Federal, State and local agencies, has been adopted as REA's Environmental Assessment (EA) for the project in accordance with 7 CFR 1794.61. REA has concluded that the BER represents an accurate assessment of the environmental impacts of the project. The project will allow Wells to meet its present and future needs in the area.

The proposed headquarters/warehouse facility will be located on a 5.8 hectares (14.3 acre) site along U.S. Highway 40 within the city limits of Wendover, Utah. The property is in Section 17, Township 6 South, Range 19 West of the 6th P.M., Tooele County. Approximately 1.7 hectares (4.3 acres) of land will be disturbed. The facilities will consist of an office building, a warehouse, a maintenance yard and parking facilities.

Alternative examined for the proposed project included the no action alternative and alternative sites. Wells considered other sites over 2.8 hectares (7.0 acres); however, only Stateline Properties was willing to make the necessary trade with Wells.

REA determined that the proposed project will meet Well's existing and future needs and will have no significant impact on the environment.

REA has concluded that its approval to allow Wells to construct the proposed project does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, REA has reached a FONSI with respect to its action related to the project.

In accordance with REA Environmental Policies and Procedures, 7 CFR part 1794, Wells published a notice and advertisement in the *High Desert Advocate*. The newspaper has a general circulation in Toole County, Utah. The notice described the project, announced the availability of the BER for review, how copies could be obtained and gave addresses where comments could be sent. The public was given at least 30 days to respond and submit comments. No responses were received by Wells or REA.

As a result of its independent evaluation, REA concluded that approval to construct the proposed project will not constitute a major Federal action significantly affecting the quality of the human environment. REA hereby reaches a Finding of No Significant Impact with respect to the proposed project in accordance with 7 CFR part 1794.

Dated: October 11, 1990.

John H. Arnesen,

Assistant Administrator—Electric.

[FR Doc. 90-24474 Filed 10-16-90; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF COMMERCE

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration.

Title: Economic Survey of Recreational Reef Fish Fishermen—Gulf of Mexico.

Form Number: No form number assigned.

Type of request: New collection.

Burden: 1200 respondents; 1038 reporting hours; average hours per response—.865 hours.

Needs and uses: The reef fish fishery in the Gulf of Mexico is heavily fished. This project will collect recreational economic data from reef fish anglers for development of economic models useful in assisting management regulatory decisions.

Affected public: Individuals or households.

Frequency: This is a one-time survey, with individuals reporting one or two times.

Respondent's obligation: Voluntary.

OMB desk officer: Ronald Minsk, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230. Written comments and recommendations for the proposed information collection should be sent to Ronald Minsk, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 11, 1990.

Edward Michals,

Department Clearance Officer, Office of Management and Organization.

[FR Doc. 90-24391 Filed 10-16-90; 8:45 am]

BILLING CODE 3510-CW-M

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Export Administration.

Title: Quarterly Report of the Loan or Sale of Aircraft Equipment Parts, Accessories, and Components by Airlines.

Form number: Export Administration Regulations, § 776.8; OMB—0694-0035.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 1 respondent reporting quarterly; 2 reporting hours. Average hours per respondent is ½ hour. 190 recordkeepers; 817 recordkeeping hours. Average hours per recordkeeper is 4.3 hours. Total reporting/recordkeeping burden is 819 hours.

Needs and uses: This collection of information is primarily a recordkeeping requirement for airlines operating abroad that provide U.S. commodities for maintenance, repair, or operation of aircraft. In the event that the airline is prohibited by foreign government regulation or statute from permitting a U.S. Government representative to inspect these records, the airline must submit a report of such transactions at the end of each calendar quarter.

Affected public: Businesses or other for-profit institutions; small businesses or organizations.

Frequency: On occasion; quarterly.

Respondent's obligation: Required to obtain or retain a benefit.

OMB desk officer: Marshall Mills, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Marshall Mills, OMB Desk Officer Room 3208 New Executive Office Building, Washington, DC 20503.

Dated: October 16, 1990.
Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 90-24302 Filed 10-16-90; 8:45 am]
BILLING CODE 3510-CW-M

Bureau of Export Administration

[Docket No. 900945-0245]

Foreign Availability Assessment: General Purpose Single Beam Side Scan Sonar Systems With or Without a Sub-Bottom Profiler

AGENCY: Office of Foreign Availability, Bureau of Export Administration, Commerce.

ACTION: Notice of initiation of an assessment and request for comments.

SUMMARY: Pursuant to section 5(f) of the Export Administration Act of 1979, as amended (EAA), the Office of Foreign Availability (OFA) is initiating an assessment of the foreign availability to controlled countries of general purpose single beam side scan sonar systems with or without sub-bottom profilers. OFA is seeking public comments on the foreign availability of these items worldwide.

DATE: The period for submission of information will close November 16, 1990.

ADDRESSES: Submit information relating to this foreign availability assessment to: Anatoli Welihozkiy, Office of Foreign Availability, Bureau of Export Administration, U.S. Department of Commerce, room SB-097, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230.

The public record concerning this notice will be maintained in the Bureau of Export Administration's Freedom of Information Record Inspection Facility, room 4518, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Ronald Rolfe, Office of Foreign Availability, Department of Commerce, Washington, DC 20230, Telephone (202) 377-0074.

SUPPLEMENTARY INFORMATION: Under sections 5(f) and 5(h) of the EAA, OFA assessment the foreign availability of goods and technology whose export is controlled for national security reasons. Part 791 of the Export Administration Regulations (EAR) (15 CFR Part 730 *et seq.*) establishes the foreign availability procedures and criteria. OFA is publishing this notice pursuant to sections 5(f)(3) and 5(f)(9) of the EAA.

On August 15, 1990, OFA accepted for filing a foreign availability submission pursuant to section 5(f) of the EAA relating to the decontrol to controlled countries of general purpose single beam side scan sonars and sub-bottom profilers capable of operating at depths exceeding 1,000 meters. These items are controlled for national security reasons under Export Control Commodity Number (ECCN) 1510A of the Commodity Control List (CCL) (15 CFR 799.1, Supp. 1): Marine or terrestrial acoustic or ultrasonic systems or equipment.

Upon acceptance of the submission, OFA initiated a foreign availability assessment of the item. By January 15, 1991, consistent with the requirements of the EAA, the Department intends to submit for publication in the Federal Register its determination of the foreign availability of the item.

To assist OFA in assessing such foreign availability, any person may submit relevant information to OFA at the above address.

The following information would be especially useful:

—Product names and model designations of the U.S. and non-U.S. items;
—Names and locations of non-U.S. sources;
—Key performance elements, attributes, and characteristics of the items on which quality comparisons may be made;
—Non-U.S. sources' production quantities and/or sales of any allegedly comparable item;
—An estimate of market demand and the potential economic impact of the control on the U.S. item;
—Extent to which any allegedly comparable item is based on U.S. technology;
—Product names, model designations, and value of U.S. controlled parts and components incorporated in any allegedly comparable item; and
—Information supporting the proposition that the foreign item is in fact available to the country or countries for which foreign availability is alleged.

Evidence supporting such relevant information may include, but is not limited to: Foreign manufacturers' catalogs, brochures, or operations or maintenance manuals; articles from reputable trade publications; photographs; and depositions based upon eyewitness accounts. Supplement No. 1 to part 791 of the EAR provides additional examples of evidence that would be helpful to the investigation.

OFA will also accept comments or information accompanied by a request that part or all of the material be treated confidentially because of its proprietary nature or for any other reason. The information for which confidential treatment is requested should be submitted. The top of each page should be marked with the term "Confidential Information." OFA either will accept the submission in confidence or, if the submission fails to meet the standards for confidential treatment, return it. A non-confidential summary must accompany such submissions of confidential information. The summary will be made available for public inspection.

Information OFA accepts as privileged under section (b)(3) or (4) of the Freedom of Information Act (5 U.S.C. 522) will be kept confidential and will not be available for public inspection, except as authorized by law. Communications from agencies of the United States Government and foreign governments will not be made available for public inspection.

All other information received in response to this notice will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires written comments. Oral comments must be followed by written memoranda, which also will be a matter of public record and will be available for public review and copying.

The public record of information received in response to this notice will be maintained in the Bureau of Export Administration's Freedom of Information Records Inspection Facility, room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of title 15 of the Code of Federal Regulations.

Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration, Freedom of Information Officer, at the above address or by calling (202) 377-2593.

Because of the strict statutory time limitations in which Commerce must make its determination, the period for

submission of relevant information will close November 16, 1990. The Department will consider all information received before the close of the comment period in developing the assessment. Information received after the end of the period will be considered if possible, but its consideration cannot be assured. Accordingly, the Department encourages persons who wish to provide information related to this foreign availability submission to do so at the earliest possible time to permit the Department the fullest consideration of the information.

Dated: October 11, 1990.

Michael F. Galvin,

Assistant Secretary for Export Administration.

[FR Doc. 90-24424 Filed 10-16-90; 8:45 am]

BILLING CODE 3510-DT-M

National Oceanic and Atmospheric Administration

Marine Mammals; Issuance of Permit; Dr. Gerald L. Kooyman (P16K)

On August 17, 1990, notice was published in the Federal Register (55 FR 33743) that an application had been filed by Dr. Gerald L. Kooyman, Physiological Research Laboratory, Scripps Institution of Oceanography, University of California, 221 Scholander Hall, La Jolla, California 92093, to bleach mark up to 10 leopard seals (*Hydrurga leptonyx*) incidental to ongoing emperor penguin studies.

Notice is hereby given that on September 27, 1990, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Permit for the above taking, subject to certain conditions set forth therein.

The Permit and supporting documentation are available for review in the following offices:

By appointment: Permit Division, Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, Suite 7324, Silver Spring, MD 20910; and Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731–7415.

Dated: September 27, 1990.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 90-24469 Filed 10-16-90; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Determinations: USCENTCOM; Free Mail Privileges for Service Members

Under the provisions of section 3401(a)(1) of title 39, United States Code, as amended by Public Law 101–384, and pursuant to Executive Order 12556, the Secretary of Defense, Mr. Richard B. Cheney, has authorized free mail privileges for Service members assigned to USCENTCOM. This includes members located in the countries of Kuwait, Saudi Arabia, United Arab Emirates, Oman, Bahrain, Qatar, and the waters adjacent thereto to include the Red Sea, Arabian Gulf, North Arabian Sea north of Latitude 10 degrees North and west of 68 degrees East Longitude, East Mediterranean east of 27 degrees East, and Gulf of Aden, and those hospitalized as a result of disease or injury in that designated area.

Dated: October 12, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-24472 Filed 10-16-90; 8:45 am]

BILLING CODE 3810-01-M

Medical and Dental Reimbursement Rates for Fiscal Year 1991

Notice is hereby given that the Deputy Comptroller of the Department of Defense (Management Systems), in an October 3, 1990, memorandum, established the following reimbursement rates for inpatient and outpatient medical and dental care provided during fiscal year 1991:

The following reimbursement rates shall be charged for inpatient and outpatient medical and dental care for FY 1991.

	International military education and training	Other Federal agency sponsored patients	Other
Per Inpatient Day:			
Burn Unit	$1,220	$2,047	$2,176
General	220	565	[1] 803
Military Dependents		8.55	
Per Outpatient Visit	25	[2] 67	71
Per FAA Air Traffic Controller Examination	N/A	91	N/A

[1] The following daily rates (subdivisions of charges) will be used to bill third party payers pursuant to the provisions of 10 U.S.C. 1095. Hospital—$306; Physician—30; Ancillary—205; Total—$802.

[2] DoD civilian employees located in overseas areas shall be rendered a bill when services are performed. Payment is due 60 days from the date of the bill.

Dated: October 12, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-24471 Filed 10-16-90; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Military Traffic Management Command, DoD

SUBJECT: Notice.

ACTION: Proposed revision to appendix A, Paragraph 44.f.(2), (page A–20), of DOD 4500.34–R, The Personal Property Traffic Management Regulation (PPTMR), to follow the use of upright wardrobe cartons for containerized domestic and international shipment of personal property, and request for public comment.

EFFECTIVE DATE: April 1, 1991.

SUMMARY: The Military Traffic Management Command (MTMC) proposes to revise appendix A, paragraph 44.f.(2), of the PPTMR to read as follows: "Either upright wardrobes or flat wardrobe cartons will be used in containerized domestic or international codes of service (Codes 2, 4, 5, 6, and T), at the option of the service member. If the member expresses no preference, the carrier may select the type of wardrobe used." The remainder of PPTMR paragraph 44.f would remain unchanged. This change would be effective April 1, 1991. Since this change will directly involve the carrier industry, MTMC requests public comment on the proposed review.

COMMENTS: Comments must be submitted on or before November 16, 1990.

ADDRESSES: Comments on the proposed revision should be addressed to Directorate of Personal Property, Headquarters, Military Traffic Management Command, ATTN: MTPP–QS, 5611 Columbia Pike, room 423, Falls Church, VA 22041–5050.

FOR FURTHER INFORMATION CONTACT: Mr. Lee Strong (Supervisory Traffic Management Specialist), (703) 756–0751.

Kenneth L. Denton,

Alternate Army Federal Register, Liaison Officer.

[FR Doc. 90-24377 Filed 10-16-90; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Public Hearing for Draft Environmental Impact Statement for Realignment of Naval Station Puget Sound at Sand Point, Seattle, WA

Pursuant to Council on Environmental Quality regulations (40 CFR parts 1500–1508) implementing procedural provisions of the National Environmental Policy Act (NEPA), the Department of the Navy prepared and filed with the U.S. Environmental Protection Agency the Draft Environmental Impact Statement (DEIS) for proposed realignment of Naval Station Puget Sound (NSPS) at Sand Point, Seattle, Washington.

The DEIS has been distributed to various federal, state, and local agencies, elected officials, special interest groups and the media. A limited number of single copies are available at the address listed at the end of this notice.

A public hearing to inform the public of the DEIS findings and to solicit comments will be held on November 7, 1990, beginning 7 pm, in the Ginny Stevens Hearing Room of the Snohomish County Administration Building, 3000 Rockefeller Avenue, Everett, Washington; and on November 8, 1990, beginning 7 pm, in Building 9, National Oceanic and Atmospheric Administration (NOAA) Western Regional Center, 7600 Sand Point Way, Seattle, Washington.

The public hearings will be conducted by the U.S. Navy. Federal, state, and local agencies and interested parties are invited and urged to be present or represented at the hearing. Oral statements will be heard and transcribed by a stenographer; however, to assure accuracy of the record, all statements should be submitted in writing. All statements, both oral and written, will become part of the public record on this study. Equal weight will be given to both oral and written statements.

In the interest of available time, each speaker will be asked to limit their oral comments to five (5) minutes. If longer statements are to be presented, they should be summarized at the public hearing and submitted in writing either at the hearing or mailed to the address listed at the end of this announcement. All written statements must be postmarked by November 26, 1990, to become part of the official record.

Pursuant to the Base Closure and Realignment Act of 1988 (Pub. L. 100–526), in response to recommendations of the Secretary of Defense Commission on Base Realignments and Closures, the Navy was directed to relocate support units at NSPS Sand Point to a site closer to NSPS Everett. Congress exempted this realignment decision from the provisions of NEPA, but required that NEPA be applied as appropriate to the implementation of the decision.

The proposed action involves the relocation of the Commissary/Exchange complex, Family Service Center, Auto Hobby Shop, Arts and Crafts Shop, Education Services Office, and some administrative functions from NSPS Sand Point to a site near NSPS Everett. In addition, playgrounds, sports fields and courts, and parking areas are proposed for the new site.

Three alternative sites for these facilities have been identified: Alternative 1 is a site located about nine miles northeast of NSPS Everett and about four miles from Marysville, within Snohomish County; Alternative 2 is a site located about seven miles north of NSPS Everett and about two miles northwest of Marysville, within the Tulalip Indian Reservation; Alternative 3 is a site located about four miles south of NSPS Everett and about two miles northeast of Paine Field, within the City of Everett. All three sites are presently vacant and are being prepared for development by the current owners.

Possible impacts resulting from development of these sites include significant increased traffic at an alternative site with a decrease in traffic at NSPS Sand Point. Increased air emissions resulting from traffic at alternative sites 1 or 2 is not expected to exceed air quality standards; carbon monoxide levels are approaching the air quality standard in the vicinity of alternative site 3 and increased air emissions will add to this level. Wetlands on alternative site 1 are being mapped and a filling and mitigation plan has been submitted to the Corps of Engineers. The present owner will mitigate any wetland filling prior to Navy acquisition of the site should the Navy choose this alternative; no wetlands are present on sites 2 or 3. Bald eagles and peregrine falcons have been sighted in the vicinity of alternative sites 1 and 2; a Biological Assessment determined that these sites do not serve as critical habitat for these endangered species.

Additional information concerning this notice may be obtained by contracting the Commanding Officer, Engineering Field Activity Northwest, Naval Facilities Engineering Command, 3505 NW Anderson Hill Road, Silverdale, Washington 94055–0720 (Attn: Mr. Don Morris (Code 09EP3) (telephone (206) 476–1091).

Dated: October 12, 1990.

Wayne Bowden,

Lieutenant, JAGC, USNR, Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 90-24467 Filed 10-16-90; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

[CFDA No. 84.031A]

Strengthening Institutions Program; Invitations for Applications for New Awards for Fiscal Year 1991

Purpose of program: Provide grants to eligible institutions of higher education to improve their academic quality, institutional management, and fiscal stability to enable institutions to become self-sufficient.

Deadline for transmittal of applications: January 18, 1991.

Deadline for transmittal of intergovernmental comments: March 18, 1991.

Applications available: Applications will be mailed by November 16, 1990, to the Office of the President of all institutions that are designated eligible to apply for a grant under the Strengthening Institutions Program.

Available funds: $20,131,000.

Estimated range of awards: $20,000 to $25,000 for planning grants; $125,000 to $500,000 for development grants.

Average size of awards: $23,000 for planning grants; $185,000 per year for one- to three-year development grants; $450,000 per year for four- and five-year development grants.

Project period: Up to 12 months for planning grants; up to 60 months for development grants.

Estimated number of awards: 12 planning grants and 95 development grants.

Note: The Department is not bound by any estimates in this notice.

Special funding considerations: In tie-breaking situations described in § 607.23 of the Strengthening Institutions Program regulations, 34 CFR 607.23, the Secretary awards additional points under § § 607.21 and 607.22 to an application from an institution which has an endowment fund of which the current market value, per FTE student, is less than the average, per FTE student, at similar type institutions; or which has expenditures for library materials, per FTE student, which are less than the average, per FTE student, at similar type institutions. For the purposes of these funding considerations, an applicant must be able to demonstrate that the

current market value of its endowment fund, per FTE student, or expenditures for library materials, per FTE student, is less than the following national averages for base year 1987–88.

	Average market value of endowment fund, per FTE	Average library expenditures for materials, per FTE
Two-year Public Institutions	$62.50	$99.00
Two-year Nonprofit, Private Institutions	2,000.00	42.00
Four-year Public Institutions	1,000.00	120.00
Four-year Nonprofit, Private Institutions	21,000.00	172.00

Applicable regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 78, 82, 85, and 86; and (b) the Strengthening Institutions Program Regulations 34 CFR part 607.

For information, contact: Dr. Louis J. Venuto, U.S. Department of Education, 400 Maryland Avenue, SW., room 3042, ROB–3, Washington, DC 20202–5335. Telephone: (202) 708–8839.

Authority: 20 U.S.C. 1057.

Dated: September 25, 1990.

Leonard L. Haynes III,

Assistant Secretary for Postsecondary Education.

[FR Doc. 90–24367 Filed 10–16–90; 8:45 am]

BILLING CODE 4000–01–M

Executive Committee; Teleconference

AGENCY: National Assessment Governing Board, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming teleconference meeting of the Executive Committee of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: Thursday, November 1, 1990.

TIME: 11 a.m. (e.s.t.).

PLACE: National Assessment Governing Board, Suite 7322, 1100 L Street NW., Washington, DC

FOR FURTHER INFORMATION CONTACT: Roy Truby, Executive Director, National Assessment Governing Board, Suite 7322, 1100 L Street NW., Washington, DC, 20005–4013, telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION CONTACT: The National Assessment Governing Board is established under section 406(i) of the General Education Provisions Act (GEPA) as amended by section 3403 of the National Assessment of Educational Progress Improvement Act (NAEP Improvement Act), Title III–C of the Augustus F. Hawkins—Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100–297), (20 U.S.C. 1221e–1).

The Board is established to advise the Commissioner of the National Center for Education Statistics on policies and actions needed to improve the form and use of the National Assessment of Educational Progress, and develop specifications for the design, methodology, analysis and reporting of test results. The Board also is responsible for selecting subject areas to be assessed, identifying the objectives for each age and grade tested, and establishing standards and procedures for interstate and national comparisons. The Executive Committee of the National Assessment Governing Board will meet via teleconference on November 1, 1990 from 11 a.m. (e.s.t.) until the completion of business. Because this is a teleconference meeting, facilities will be provided so the public will have access to the Committee's deliberations. The proposed agenda includes preparation of the agenda for the November meeting of the Board.

Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite 7322, 1100 L Street, NW., Washington, DC, from 8:30 a.m. to 5 p.m.

Christopher T. Cross,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 90–24375 Filed 10–16–90; 8:45 am]

BILLING CODE 4000–01–M

Office of Postsecondary Education

Perkins Loan, College Work-Study and Supplemental Educational Opportunity Grant Programs; Closing Date for Institutions To File Application for Institutional Eligibility and Certification for Participation in Campus-Based Programs

AGENCY: Department of Education.

ACTION: Notice of closing date for institutions to file an "Application for Institutional Eligibility and Certification" (ED Form E–40–34P, OMB #1840–0098) to participate in the Perkins Loan, College Work-Study and Supplemental Educational Opportunity Grant Programs for the 1991–92 Award Year.

SUMMARY: The Secretary invites currently ineligible institutions of higher education that filed a Fiscal Operations Report and Application to Participate (FISAP) (ED Form 646–1) in one or more of the "campus-based programs" for the 1991–92 award year to submit to the Secretary an "Application for Institutional Eligibility and Certification" and all documents required for an eligibility determination.

The campus-based programs are the Perkins Loan Program, the College Work-Study Program and the Supplemental Educational Opportunity Grant Program and are authorized by Title IV of the Higher Education Act of 1965, as amended. The 1991–92 award year is July 1, 1991 through June 30, 1992.

DATES:

Closing date for filing application and required documents. To participate in a campus-based program in the 1991–92 award year, a currently ineligible institution must mail or hand-deliver its "Application for Institutional Eligibility and Certification" along with all documents required for an eligibility determination on or before January 11, 1991. The application and all documents must be submitted to the Division of Eligibility and Certification at the address indicated below.

ADDRESSES:

Applications and required documents delivered by mail. An institutional eligibility application and required documents delivered by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: DEC/DCMAS/OPE, room 3633, Regional Office Building 3, 400 Maryland Avenue, SW., Washington, DC 20202–4725.

An applicant must show proof of mailing consisting of one of the following: (1) A legibly dated U.S. Postal Service postmark; (2) a legible mail receipt with the date of mailing stamped by the U.S. Postal Service; (3) a dated shipping label, invoice or receipt from a commercial carrier; or (4) any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying

on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Institutions that submit eligibility applications and required documents after the closing date, will not be considered for funding under the campus-based programs for award year 1991–92.

Applications and required documents delivered by hand. An institutional eligibility application and required documents delivered by hand must be taken to the U.S. Department of Education, Application Control Center, room 3633, Regional Office Building 3, 7th and D Streets, SW., Washington, DC. The Application Control Center will accept hand-delivered applications between 8 a.m. and 4:30 p.m. (Eastern Standard Time) daily, except Saturdays, Sundays and Federal holidays. An application for eligibility and required documents for the 1991–92 award year that are delivered by hand will not be accepted after 4:30 p.m. on the closing date.

SUPPLEMENTARY INFORMATION: Under the three campus-based programs, the Secretary allocates funds to eligible institutions of higher education. The Secretary will not allocate funds under the campus-based programs for award year 1991–92 to any currently ineligible institution unless the institution files its "Application for Institutional Eligibility and Certification" and other required documents by the closing date. If the institution submits its eligibility application or other required documents after the closing date, the Secretary will use this application in determining the institution's eligibility to participate in the campus-based programs beginning with the 1992–93 award year.

For purposes of this notice, ineligible institutions only include:

(1) An institution that has not been designated as an eligible institution by the Secretary but has previously filed a FISAP.

(2) An off-campus site of an eligible institution that is currently not included in the Department's eligibility certification for that eligible institution, but has been included in the institution's 1991–92 FISAP.

(3) A branch campus that is currently part of an eligible institution, but has filed its own FISAP and is seeking eligibility as a separate institution of higher education.

The Secretary wishes to advise institutions that the institutional eligibility form, "Application for Institutional Eligibility and Certification" should not be confused with the FISAP form that institutions were required to submit by September 7, 1990 for paper FISAP filers and September 28, 1990 for electronic FISAP filers, in order to be considered for funds under the campus-based programs for the 1991–92 award year.

Applicable Regulations

The following regulations apply to the campus-based programs:

(1) Student Assistance General Provisions, 34 CFR part 668.

(2) Perkins Loan Program, 34 CFR part 674.

(3) College Work-Study Program, 34 CFR part 675.

(4) Supplemental Educational Opportunity Grant Program, 34 CFR part 676.

(5) Institutional Eligibility Under the Higher Education Act of 1965, as amended, 34 CFR part 600.

(6) New Restrictions on Lobbying, 34 CFR part 82.

(7) Government-Wide Debarment and Suspension (Nonprocurement) and Government-Wide Requirements for Drug-Free Workplace (Grants), 34 CFR part 85.

(8) Drug-Free Schools and Campuses, 34 CFR part 86.

FOR FURTHER INFORMATION CONTACT:

For information concerning designation of eligibility, contact Carol F. Sperry, Director, Division of Eligibility and Certification, Office of Postsecondary Education, U.S. Department of Education, Room 3030, Regional Office Building 3, 400 Maryland Avenue, SW., Washington, DC 20202–5242. Telephone: (202) 708–4906.

For technical assistance concerning the FISAP and/or other operational procedures of the campus-based programs, contact: Robert R. Coates, Chief, Campus-Based Programs Branch, Division of Program Operations and Systems, Room 4636, Regional Office Building 3, 400 Maryland Avenue, SW., Washington, DC 20202–5347. Telephone: (202) 708–9711.

(Authority: 20 U.S.C. 1806 *et seq.*; 42 U.S.C. 2751 *et seq.*; and 20 U.S.C. 1070b *et seq.*)

(Catalog of Federal Domestic Assistance, Supplemental Educational Opportunity Grant Program, 84.007; College Work-Study Program, 84.033; Perkins Loan Program, 84.038)

Dated: September 13, 1990.

Leonard L. Haynes III,

Assistant Secretary for Postsecondary Education.

[FR Doc. 90-24306 Filed 10-16-90; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EF91-4011-000, et al.]

Southwestern Power Administration, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

October 9, 1990.

Take notice that the following filings have been made with the Commission:

1. Southwestern Power Administration

[Docket No. EF91-4011-000]

Take notice that on October 2, 1990, the Deputy Secretary, U.S. Department of Energy, submitted for filing the following Southwestern Power Administration System rates to the Commission for confirmation and approval on a final basis, pursuant to the authority vested in the Commission by Delegation Order No. 0204-108, as amended May 301, 1986 (51 FR 19744):

Rate Schedule P-90A, Peaking Power
Rate Schedule P-90B, Peaking Power through Oklahoma Utility Companies and/or Oklahoma Municipal Power Authority
Rate Schedule F-90-B, Firm Power through Oklahoma Utility Companies
Rate Schedule TDC-90, Transmission Service
Rate Schedule EE-90, Excess Energy
Rate Schedule IC-90, Interruptible Capacity

The System rates were confirmed and approved on an interim basis by the Deputy Secretary of Energy in Rate Order No. SWPA-23 for the period October 1, 1990, through September 30, 1994. The Deputy Secretary of Energy has submitted the rates to the Commission for confirmation and approval on a final basis for the same period.

The System rate schedules would increase ultimate annual revenue by $12,365,000 from $86,216,000 to $98,581,200 primarily to recover projected increases in annual operating expenses for the generation and transmission facilities. This would occur in two steps; the first effective October 1, 1990, and the second April 1, 1992. The first step, 60 percent of the total, would increase annual revenues by $7,419,000, or 8.6 percent, while the second step, 40 percent of the total, would increase annual revenues by an additional $4,946,000, or 5.8 percent. The first step would be accomplished primarily through an increase in the basic monthly demand charges for sales of Federal hydroelectric power and energy, although a slight increase in the base energy charge and decreases in the conditions of service charged for both 60

kV and load center, or below 69 kV, deliveries affect revenues as well. The second step would be accomplished through an additional increase in the base energy charge. Also, a credit, specifically designed for each customer, would apply against the purchased power adder component of the rate schedules to refund both excess revenues and interest accrued on such revenues, collected in the purchased power deferral account during recent years of favorable water conditions. This credit is intended to effectively equalize the customers' average purchased power adder cost and should reduce the deferral account to a level needed both to cover system purchases under one year of critical water conditions and to allow the account to be essentially self-sustaining by acruing annual interest approximately equal to average annual purchase costs. The credit will offset much, and in some cases all, of the immediate effect of the rate increase for the majority of customers, except those to which the purchased power adder does not apply who will experience an initial increase of about 12 percent followed by about a four percent additional increase (upon implementation of the second step of the rate) in their basic 1200 hour peaking service. The total increase is derived about 78 percent from the basic peaking and firm service (54 percent demand and 24 percent energy) and about 22 percent from non-firm energy sales. The proposal also includes continuation of a provision for Southwestern's Administrator, at his discretion, to adjust the purchased power adder annually, under a formula-type rate, up to $0.0005 per kilowatthour as necessary, with notification to the Commission.

Comment date: October 25, 1990, in accordance with Standard Paragraph E at the end of this notice.

2. Entergy Power, Inc.

[Docket No. ER90-590-000]

Take notice that on September 12, 1990, Entergy Power, Inc. tendered for filing a certificate of concurrence for the Power Coordination, Interchange and Transmission Service Agreement (PCITA), accepted for filing by the Commission in Docket No. ER90-38-000, and copies of the executed PCITA. Entergy states that service under this agreement commenced on August 28, 1990.

Comment date: October 23, 1990, in accordance with Standard Paragraph E at the end of this notice.

3. Washington Water power Co.

[Docket No. ER91-4-000]

Take notice that the Washington Water Power Company (WWP), on October 1, 1990 tendered for filing a standby energy sale agreement for electric service to Sierra Pacific Power Company (SSP) delivered at Washington's border. WWP states that the energy will be made available to SPP July 1, 1990 through August 31, 1990. WWP will provide 25 Mw of standby energy.

Copies of this filing were served upon SPP.

Comment date: October 23, 1990, in accordance with Standard Paragraph E at the end of this notice.

4. Indiana Michigan Power Co.

[Docket No. ER90-594-000]

Take notice that on September 25, 1990, Indiana Michigan Power Company (I&M) tendered for filing revised rates to be substituted for rates previously filed by I&M in Docket Nos. ER90-269-000 through ER90-273-000. I&M states that the rates in its September 25, 1990 filing are intended to be substituted for the rates previously filed that are scheduled to become effective October 21, 1990, subject to refund. I&M states that the revised rates reflect a lower rate of return, in keeping with a retail rate order issued by the Indiana Utility Regulatory Commission on August 24, 1990. I&M states that the revised rates to be substituted for those scheduled to go into effect in Docket No. ER90-269-000 also reflect an adjustment resulting from revised demand billing requirements for Michigan Power Company in Docket No. ER90-269-000.

Comment date: October 23, 1990, in accordance with Standard Paragraph E at the end of this notice.

5. Wisconsin Public Service Corp.

[Docket No. ER90-593-000]

Take notice that on September 26, 1990, Wisconsin Public Service Corporation (WPS) tendered for filing an executive Supplement to the Service Agreement between WPS and Citizens Power and Light Corporation. The Supplement provides for non-firm transmission service under the T-1 Transmission Tariff filed by WPS April 5, 1990, in Docket No. ER90-314-000.

WPS requests that the Commission grant waiver of its notice requirements in order to allow the supplement to become effective on September 23, 1990, the date on which Citizens requested that service begin.

Comment date: October 23, 1990, in accordance with Standard Paragraph E at the end of this notice.

6. Washington Water Power Co.

[Docket No. ER91-6-000]

Take notice that the Washington Water Power Company on October 1, 1990 tendered for filing a capacity and energy sale agreement for electric service to Public Utility District No. 1 of Pend Oreille county (Pend Oreille) delivered at Washington's points of interconnection with the Bonneville Power Administration (BPA). WWP states that the energy will be made available to Pend Oreille August 1, 1990 through June 31, 1991. The Agreement provides for WWP to make available 5 Mw of capacity and firm energy up to a limit of 5 Mwh per hour for each hour in the month.

Copies of this filing were served upon Pend Oreille.

Comment date: October 23, 1990, in accordance with Standard Paragraph E at the end of this notice.

7. Washington Water Power Co.

[Docket No. ER91-5-000]

Take notice that the Washington Water Power Company (WWP) on October 1, 1990 tendered for filing a five-year agreement for electric service to City of Seattle. Department of Lighting (Seattle) for replacement energy for Seattle's High Ross Reservior delivered at Washington's interconnection with Bonneville Power Administration (BPA), Bell Substation, or as agreed upon by both parties. Washington will schedule a deliver to Seattle during the January 1 through June 30 period for each of the 1990-91 through 1994-95 operating year up to a maximum of 130,000 Mwh energy.

Copies of this filing were served upon Seattle.

Comment date: October 23, 1990, in accordance with Standard Paragraph E at the end of this notice.

8. Interstate Power Co.

[Docket No. ER91-8-000]

Take notice that on October 1, 1990, Interstate Power Company tendered for filing a Firm Power Interchange Transaction Agreement between Interstate Power Company and Minnesota Power & Light Company. Under this Agreement, Interstate Power Company will sell up to 50 MW of firm power in accordance with Service Schedule J of the Mid-Continent Area in accordance with Service Schedule J of the Mid-Continent Area Power Pool Agreement. This Agreement provides for firm power sales during the MAPP winter seasons only (six month seasons starting November 1 and ending April

30, inclusive) commencing November 1, 1990 and ending April 30, 1993.

Comment date: October 23, 1990, in accordance with Standard Paragraph E at the end of this notice.

9. El Paso Electric Co.

[Docket No. ER91-1-000]

Take notice that on October 1, 1990, El Paso Electric Company (El Paso) tendered for filing an executed San Juan/Four Corners-Coronado Firm Transmission Service Agreement between El Paso and Salt River Project Agricultural Improvement and Power District (Salt River Project). Pursuant the Agreement, El Paso provides firm transmission service of up to 50 MW to Salt River Project.

El Paso asks that the filing become effective as anticipated in the parties Agreement on April 19, 1990. Accordingly, waiver of notice is requested.

Comment date: October 25, 1990, in accordance with Standard Paragraph E at the end of this notice.

10. El Paso Electric Co.

[Docket No. ER91-2-000]

Take notice that on October 1, 1990, El Paso Electric Company (EPE) tendered for filing a Notice of Cancellation of a contract for the sale of energy by El Paso Electric Company to San Diego Gas & Electric Company (SDG&E) together with a Certificate of Concurrence by SDG&E.

El Paso asks that the filing become effective on June 22, 1990. Accordingly, waiver of notice is requested.

Comment date: October 23, 1990, in accordance with Standard Paragraph E at the end of this notice.

11. Washington Water Power Co.

[Docket No. ER91-3-000]

Take notice that on October 1, 1990, Washington Water Power Company (WWP) tendered for filing a power sale agreement providing for delivery to California Department of Water Resources (CDWR) at the Oregon-California border. WWP states that the energy will be made available to CDWR July 1, 1990 through November 30, 1990. The Agreement provides for WWP to make available to CDWR 93 MW of capacity and associated energy @ 80% load factor.

Copies of this filing were served upon CDWR.

Comment date: October 23, 1990, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24367 Filed 10-16-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP91-20-000, et al.]

Trunkline Gas Co., et al.; Natural Gas Certificate Filings

October 9, 1990.

Take notice that the following filings have been made with the Commission:

1. Trunkline Gas Co.

Docket No. CP91-20-000]

Take notice that on October 2, 1990, Trunkline Gas Company (Trunkline), Post Office Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP91-20-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for Catamount Natural Gas, Inc. (Catamount), under Trunkline's blanket certificate issued in Docket No. CP86-586-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Trunkline proposes to transport on an interruptible basis up to 150,000 Mcf of natural gas on a peak day, 50,000 Mcf on an average day, and 25,000 Mcf on an annual basis for Catamount. Trunkline states that it would perform the transportation service for Catamount under Trunkline's Rate Schedule PT. Trunkline indicates that it would receive the gas from various existing points of interconnection in the states of Illinois, Louisiana, Tennessee, and Texas; from the Panhandle Eastern Pipe Line Company point of interconnection at Douglas County, Illinois; and from the areas of offshore Louisiana and offshore Texas. Trunkline states that it would then deliver the gas, less fuel and unaccounted for line loss, to Midwestern Gas Transmission in Vermilion County, Illinois.

It is explained that the service commenced June 1, 1990, under the automatic authorization provision of § 284.223 of the Commission's Regulations, as reported in Docket No. ST91-44. Trunkline indicates that no new facilities would be necessary to provide the subject service.

Comment date: November 23, 1990, in accordance Standard Paragraph G at the end of this notice.

2. Arkla Energy Resources, a division of Arkla, Inc. Stingray Pipeline Co.

[Docket No. CP91-41-000; Docket No. CP91-48-000]

Take notice that Arkla Energy Resources, a division of Arkla, Inc., 525 Milam Street, Shreveport, Louisiana 71151, and Stingray Pipeline Company, P.O. Box 1642, Houston, Texas 77251-1642, (Applicants), filed in the above-referenced dockets prior notice requests pursuant to § 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under the blanket certificates issued in Docket No. CP86-820-000 and Order No. 509 [1], respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[2]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

Comment date: November 23, 1990, in accordance with Standard Paragraph G at the end of this notice.

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[1] Corresponding to the rates, terms and conditions specified in Docket No. RP88-70.

[2] These prior notice requests are not consolidated.

Docket number (date filed)	Shipper name (Type)	Peak Day average day annual MMBtu	Receipt [1] points	Delivery points	Contract date rate schedule service type	Related Docket, start up date
CP91-41-000 (10-3-90)	Enron Gas Marketing, Inc. (Enron) (Marketer)	75,000 [2] 50,000 27,375,000	OK	TX	5-1-90, FT, Firm	ST90-3804, 6-11-90.
CP91-48-000 (10-4-90)	Access Energy Corporation (Marketer)	100,000 40,000 14,600,000	LA, OLA	TX	5-8-89, ITS, Interruptible.	ST90-4414, 8-1-90.

[1] Offshore Louisiana and offshore Texas are shown as OLA and OTX.
[2] AEM also proposes an auxiliary overrun service for interruptible deliveries of up to 50,000 MMBtu on a peak day, 50,000 MMBtu on an average day and 18,250,000 MMBtu on an annual basis pursuant to Enron's Rate Schedule FT-A0S.

3. Florida Gas Transmission Co.

[Docket Nos. CP90-2315-000 and CP90-2316-000]

Take notice that on September 27, 1990, Florida Gas Transmission Company, 1400 Smith Street, Houston, Texas 77002, filed in the respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. RP88-50 *et al.*, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commision and open to public inspection.[3]

A summary of each transportation service which includes the shippers identity, the peak day, average day and annual volumes, the receipt point(s), the delivery point(s), the applicable rate schedule, and the docket number and service commencement date of the 120-day automatic authorization under § 284.233 of the Commission's Regulations is provided in the attached appendix.

Comment date: November 23, 1990, in accordance with Standard paragraph G at the end of this notice.

[3] These prior notice requests are not consolidated.

Docket number (date filed)	Applicant	Shipper name	Peak Day [1] average annual	Points of Receipt	Delivery	Start up date rate schedule	Related [2] dockets
CP90-2315-000(9-27-90)	Florida Gas Transmission Company.	Reliance Gas Marketing company.	50,000 37,500 18,250,000	Offshore TX, TX, LA, MS, AL, FL	TX, LA, AL, FL	8-7-90 ITS-1	RP88-50 *et al.* ST90-4621-000.
CP90-2316-000 (9-9-90)	Florida Gas Transmission Company.	PPG Industries Inc..	60,000 45,000 21,900,000	Offshore TX, TX, LA, MS, AL, FL	LA	8-7-90, ITSp1	RP88-50 *et al.* ST90-4622-000.

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] The RP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

4. Williston Basin Interstate Pipeline Co.

[Docket No. CP91-15-000,[4] CP91-16-000, CP91-17-000]

Take notice that on October 2, 1990, Williston Basin Interstate Pipeline Company, filed in the above referenced dockets, prior notice requests pursuant to §157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under the authorization issued in Docket No. CP88-8-000 issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under §284.223 of the Commission's Regulations has been provided by the United States and is included in the attached appendix.

The Applicant also states that it would provide the service for each shipper under an executed transportation agreement, and that the United would charge rates and abide by the terms and conditions of the referenced transportation rate schedule(s).

Comment date: November 23, 1990, in accordance with Standard Paragraph G at the end of this notice.

[4] These prior notice requests are not consolidated.

Docket number (date filed)	Applicant	Shipper name	Peak day [1] average annual	Points of Receipt	Points of Delivery	Start up date rate schedule	Related [2] dockets
CP91-15-000 (10-3-90)	Williston Basin Interstate Pipeline Company, Suite 300, 304 East Rosser Avenue, Bismarck, N.D. 58501.	Western Gas Processors, Ltd..	50,800 15,200 18,469,000	WY	WY, ND	9-1-90, IT-1	CP89-1116-000. ST90-4755-000.

Docket number (date filed)	Applicant	Shipper name	Peak day [1] average annual	Points of		Start up date rate schedule	Related [2] dockets
				Receipt	Delivery		
CP91-16-000 (10-2-90)	Williston Basin Interstate Pipeline Company, Suite 200, 304 East Rosser Avenue, Bismarck, N.D. 58501.	Western Gas Processors, Ltd.	228,645 21,700 82,725,425	ND, MT, WY	WY, MT, ND	9-1-90, IT-1	CP89-1118-000. ST90-4754-000.
CP91-17-000 (10-2-90)	Williston Basin Interstate Pipeline Company, Suite 200, 304 East Rosser Avenue, Bismarck, N.D. 58501.	Chevron, U.S.A., Inc.	13,148 2,200 4,799,020	ND, MT, WY	ND, WY	9-1-90, IT-1	CP89-1118-000. ST90-4752-000.

[1] Quantities are shown in dekatherms unless otherwise indicated.
[2] The CP docket corresponds to applicant's transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

5. United Gas Pipe Line Co.

[Docket No. CP91-7-000]

Take notice that on October 1, 1990, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478 filed a request with the Commission in Docket No. CP91-7-000 pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to construct and operate a two-inch delivery tap and related facilities needed to transport natural gas for Cataphote Incorporated (Cataphote), an end-user, under United's blanket certificates, issued in Docket Nos. CP82-430-000 and CP88-6-000, respectively, all as more fully set forth in the request which is open to public inspection.

United proposes an interruptible natural gas transportation service, under its FERC Rate Schedule ITS, of 2,500 Mcf on peak and average days, and 912,500 Mcf annually for Cataphote. United would receive the gas for Cataphote's account at various points on its pipeline sysetm and delivery equivalent volumes via the proposed delivery tap at Cataphote's Rankin County, Mississippi, plant. United estimates that it would spend $45,649 to construct and operate the proposed tap. Cataphote would reimburse United for all construction costs.

Comment date: November 23, 1990, in accordance with Standard Paragraph G at the end of this notice.

6. National Gas Pipeline Co.

[Docket Nos. CP91-44-000, CP91-45-000, CP91-46-000, CP91-47-000

Take notice that on October 4, 1990, National Gas Pipeline Company of America (Applicant), 701 East 22nd Street, Lombard, Illinois 60148, filed in the above referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate in Docket No. CP86-582-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[3]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Applicant states that each of the proposed services would be provided under an executed transportation agreement, and that Applicant would charge the rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: November 23, 1990, in accordance with Standard Paragraph G at the end of this notice.

[3] These prior notice requests are not consolidated.

Docket number (date filed)	Shipper name	Peak day [1] average day annual	Receipt points [2]	Delivery points	Start up date rate schedule service type	Related [3] docket contract date
CP91-44-000 (10-4-90)	Vesta Energy Company	4,200 2,500 912,500	AR, CO, IA, IL, KS, LA, OLA, MO, NE, NM, OK, TX, OTX.	LA, OLA, OK, TX, IA, OTX, IL, NM, CO.	8-4-90, ITS, Interruptible.	ST90-4597-000, 7-20-90.
CP91-45-000 (10-4-90)	Enron Gas Marketing Inc.	100,000 60,000 21,900,000	AR, CO, IA, LA, IL, KS, LA, OLA, MO, NE, NM, OK, TX, OTX.	LA, OLA, OK, TX, IA, OTX, IL, NM, CO.	8-4-90, ITS, Interruptible.	ST90-4415-000, 5-7-90.
CP91-46-000 (10-4-90)	Transworld Oil, U.S.A., Inc.	100,000 40,000 14,600,000	TX, LA, OK, AR	LA, TX, AR	8-1-90, ITS, Interruptible.	ST90-4417-000, 5-4-90.
CP91-47-000 (10-4-90)	Sun Operating Limited Partnership.	200,000 75,000 29,375,000	TX, OTX, LA, OLA, IL, OK, AR.	TX	8-1-90, ITS, Interruptible.	ST90-4418-000, 2-21-90.

[1] Quantities are shown in MMBtu and additional volumes may be accepted pursuant to the overrun provisions of Applicant's Rate Schedule ITS.
[2] Offshore Louisiana and offshore Texas are shown as OLA and OTX.
[3] If an ST docket is shown, 120-day transportation services was reported in it.

BEST COPY AVAILABLE

7. Panhandle Eastern Pipe Line Co. and Colorado Interstate Gas Co.

[Docket No. CP90-34-000, Docket No. CP90-35-000]

Take notice that on October 2, 1990, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251-1642, and Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, jointly referred to as Applicants, filed pursuant to section 7 of the National Gas Act to amend the terms of an existing system-wide Gas Purchase, Transportation, and Exchange Agreement (Master Agreement) dated December 1, 1978, which was certificated by the Commission on May 7, 1980, in Docket Nos. CP80-34 and CP80-35 and has been amended, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that they have executed an Amendment to the Master Agreement dated August 31, 1990, which includes certain operational changes, new transportation rates, contract quantities with a volume adjustment option, and a request by Panhandle to implement a means for the recovery of a portion of the costs incurred for shippers electing to utilize Panhandle's service rights.

Applicants further state that subsequent to certification by the Commission and acceptance by the Applicants, certain tariff filings would be required to incorporate the Amendment. CIG proposes to make the appropriate corresponding changes to its Rate Schedule X-36 of its FERC Gas Tariff, Original Volume No. 2 and Panhandle proposes to make the appropriate corresponding changes to its Rate Schedule TSE-4 of its FERC Gas Tariff, Original Volume No. 2 and to its Rate Schedule PT-Firm and PT-Interruptible of its FERC Gas Tariff, Original Volume No. 1.

Comment date: October 30, 1990, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

8. El Paso Natural Gas Co.

[Docket No. CP91-1-000]

Take notice that on October 1, 1990, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP91-1-000 an application pursuant to section 7(b) of the Natural Gas Act for permision and approval to abandon from interstate service by sale to Phillips 66 Natural Gas Company (Phillips), certain certificated pipeline, gathering and well-tie facilities, with appurtenances, principally located in Andrews County, Texas [6] and hereinafter referred to as the "South Andrews Gathering System", and the related service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

El Paso states that it seeks to abandon the following certicates facilities: (i) The South Andrews to TXL Plant Line, consisting of approximately 22.7 miles of 20-inch pipeline and necessary appurtenances; and (ii) approximately 60.1 miles of certificated gathering and well-tie pipelines and appurtenances ranging in size from 2⅜ inch to 20 inch. According to El Paso, the system also includes a lift-gas system consisting of approximately 32.3 miles of non-certificated pipeline ranging in size from 2⅜ inch to 6⅝ inch to 8⅝ inch.

According to El Paso, the South Andrews Gathering System, was initially constructed in 1957 to gather and compress significant quantities of casinghead gas received from the West Fuhrman-Mascho, Block 9, Wemac, South Andrews and Midland Farms Northeast Fields in Andrews County, Texas, so as to satisfy the increasing natural gas demands on its system. The system in 1957 consisted of approximately 9,000 horsepower (hp) of field compression constituting the South Andrews Field Plant; one dehydration unit at the plant with a capacity of 20 MMcf per day (MMcfd) of natural gas; approximately 60 miles of gathering and well-tie pipeline facilities; the South Andrews Plant to Shell Oil Company's TXL Plant Line; and a 4½ inch fuel line extending approximately 11 miles from El Paso's Snyder Line to the to South Andrews Field Plant.[7] El Paso states that, as designed, the system permitted it to deliver approximately 20.5 MMcfd of natural gas to the TXL Plant.

In 1959, as a result of increased drilling activities in the fields supporting the South Andrews Field Plant, El Paso states that it constructed approximately 12.1 miles of 8-⅝ inch pipeline extending from its 20-inch Goldsmith-Dumas Line to the South Andrews Field Plant to provide additional quantities of gas to producers located behind the plant for lift gas and lease use, 21 FPC 474 (1959). El Paso states that the lift gas fuel was provided under the terms of the various casinghead gas purchase contracts between El Paso and the produces situated behind the plant. In 1961, El Paso states that it installed an additional 1,700 hp of compression at its South Andrews Field Plant to handle the additional volumes of casinghead gas attributable to the successful drilling of additional wells, 25 FPC 125 (1961). With the installation of this horsepower, El Paso states that its South Andrews Gathering System could deliver up to approximately 35 MMcfd of gas to the TXL Plant.

El Paso states that as a result of declining gas production in the area in the early 1970's and a reduced need by the producers for recycling and lift gas operations due to depletion of the liquid hydrocarbon supply, El Paso determined that it no longer needed the compression serving the plant, the lift recycling service and, as well, the dehydration plant. Accordingly, El Paso states that in 1976 it abandoned the South Andrews Field Plant consisting of 11,660 hp of compression and one 20 MMcfd dehydration unit, 56 FPC 358 (1976). Due in large part of the abandonment of the plant, El Paso states that it no longer needed and subsequently abandoned the 8-⅝ inch fuel pipeline extending from the Goldsmith-Dumas Line to the South Andrews Field Plant.[8]

El Paso states that it is continuing its transition from being primarily a merchant to being a major gas transporter. Similarly, El Paso states that the remaining producers with gas in the South Andrews Gathering System during the transition period no longer make their sales to El Paso and now sell directly to others with El Paso providing the gathering and transportation services.

Due to the precipitous decline in gas from the fields behind the system and changes in its market environment, less than 1000 Mcfd of gas is now received by El Paso from the system. El Paso states that a maximum of only up to 125 Mcfd of that quantity is system supply gas. El Paso states that it is using only a small fraction of the designed gathering capacity of the South Andrews Gathering System, while continuing to incur direct operating and maintenance costs.

According to El Paso, it no longer requires the assured access to the remaining gas supply provided by the system due to the present and projected low demand for its system supply gas. Moreover, El Paso states that it is unable to utilize sufficient capacity of the system to warrant its continued

[6] El Paso states that the facilities are predominantly located in Andrews County, Texas; however, a segment of one pipeline facility extends into Ector County, Texas.

[7] 18 FPC 1354 (1958), *as amended*, 17 FPC 438 (1957).

[8] El Paso states that it abandoned the fuel line under its blanket certificate in Docket No. CP82-435-000, as reported to the Commission on April 30, 1990.

ownership and operation. Considering these conditions, El Paso believes that its continued operation of this gathering system would frustrate its goal of optimizing system operations. Accordingly, El Paso decided to sell the South Andrews Gathering System to Phillips pursuant to an Agreement of Sale Concerning the South Andrews Gathering System (Agreement), dated July 17, 1990.

It states that Phillips intends to operate the South Andrews Gathering System as a non-jurisdictional gathering system. The operation of the South Andrews facilities as an integrated non-jurisdictional gathering system will, according to El Paso, greatly benefit producers in the South Andrews production area and El Paso's transportation customers who are end-users of gas produced from the area. Producers in the area will benefit by having an additional experienced competitor offering gathering and processing services for their production. El Paso states that its mainline transportation customers will benefit from alternative gathering and processing services and from greater supply diversity.

After abandonment of the South Andrews System, El Paso states that it will have minor purchase obligations of approximately 125 Mcfd remaining for gas located in the production area. El Paso states that the related gas purchase contracts have various expiration dates, ranging from December 31, 1990 to January 1, 1995. In addition, El Paso states that, to date, it has permanently released approximately 299 Mcfd of production from the South Andrews area. According to El Paso, the sale of the system will not prevent it from honoring its remaining contractual obligations in the area because Phillips has agreed to provide gathering and processing services for El Paso's remaining gas in the South Andrews production area. El Paso states that Phillips also is endeavoring to enter into contracts for gathering and processing services to all other producers in the production area.

El Paso states that it will abandon no gas supply as a direct result of the abandonment of the South Andrews Gathering System; therefore, its ability to render existing sales for resale service to its customers will not be impaired. El Paso avers that it makes no sales directly from any of the facilities proposed to be abandoned. Furthermore, El Paso states that open access transportation will continue to be provided, and Phillips has represented its commitment to non-discriminatory access and operation of the gathering facilities upon acquistion.

Additionally, it is stated that the abandonment will require no changes in El Paso's FERC Gas Tariff and no significant changed in its rates will result therefrom.

El Paso states that there will be no adverse environmental effects from the proposed abandonment. Accordingly, El Paso states that it believes the proposed action does not constitute a major federal action significantly effecting the quality of the human environment and thus not subject to the requirements of the National Environmental Policy Act of 1969. In El Paso's judgement, and environmental analysis for the instant proposal is not necessary.

Comment date: October 30, 1990, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 383.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission's file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to §157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretry.

[FR Doc. 90-24365 Filed 10-16-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-6-000]

ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff

October 10, 1990.

Take notice that ANR Pipeline Company ("ANR") on October 5, 1990 tendered for filing as part of its Original Volume No. 1 of its FERC Gas Tariff, six copies each of the following tariff sheets:

Thirty-Second Revised Sheet No. 18
Alternate Thirty-Second Sheet No. 18
Sixth Revised Sheet No. 88
Sixth Revised Sheet No. 89
Sixth Revised Sheet No. 90
Fifth Revised Sheet No. 90A
Second Revised Sheet No. 90A.1
Original Sheet No. 130
Original Sheet No. 131

ANR states that the above-referenced tariff sheets are being filed under § 2.104 of the Commission's Regulations to implement partial recovery of approximately $11.0 million of additional buyout buydown costs. Under the proposed filing, ANR is proposing to absorb twenty five percent of its buyout buydown costs, to recover twenty-five percent of such costs through a fixed monthly charge applicable to its Rate Schedules CD-1, MC-1 and SGS-1 sales customers and to recover up to fifty percent of such costs through a volumetric buyout buydown surcharge of 0.29¢ per Dth applicable to each sales, transportation and storage Rate Schedule, where appropriate, under Original Volumes Nos. 1, 1-A, 2 and 3 of

ANR's FERC Gas Tariff, but all subject to reservation of rights to make changes, including to achieve 100 percent cost recovery by increased direct charge recovery.

ANR has requested that the Commission accept this filing, to become effective November 5, 1990.

ANR states that copies of the filing were served upon all of its Volume Nos. 1, 1–A, 2 and 3 customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Commission, 825 North Capitol Street, NE., Washington, DC 20426 by October 17, 1990, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate actions to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–24370 Filed 10–16–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MT90–3–006]

Columbia Gulf Transmission Co.; Proposed Changes in FERC Gas Tariff

October 10, 1990.

Take notice that on October 3, 1990, Columbia Gulf Transmission Company, (Columbia Gulf) tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497–A and § 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, First Revised Volume No. 1, to be effective November 3, 1990.

Second Revised Sheet No. 071
Third Revised Sheet No. 094
Second Revised Sheet No. 098
Second Revised Sheet No. 099
Second Revised Sheet No. 112
Third Revised Sheet No. 125
Second Revised Sheet No. 126
Second Revised Sheet No. 127
Second Revised Sheet No. 147
Second Revised Sheet No. 160
Second Revised Sheet No. 161
Second Revised Sheet No. 162
Second Revised Sheet No. 177
Third Revised Sheet No. 189
Second Revised Sheet No. 191
Second Revised Sheet No. 192

Columbia Gulf states that these tariff sheets are being filed to update certain information which is required to be maintained in its tariff under the provisions of Order Nos. 497, *et seq.* Specifically, Columbia Gulf is removing references to Columbia Natural Resources, Inc. (CRN), in order to reflect that CNR meets the exemption under § 161.2 of the Commission's Regulations, excluding it from the definition of "marketing affiliate." In addition, Columbia Gulf is making a minor revision to its transportation tariffs, in order to reflect the impact of a recent Commission order.

Any person desiring to be heard or to protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR §§ 385.214 and 385.211. All such motions or protests must be filed by October 25, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

FR Doc. 90–24371 Filed 10–16–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. MT90–3–004, and MG89–11–001]

Columbia Gas Transmission Corp., Proposed Changes in FERC Gas Tariff

October 10, 1990

Take notice that on October 3, 1990, Columbia Gas Transmission Corporation, (Columbia) tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497-A and § 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, First Revised Vomume No. 1, to be effective November 3, 1990:

Third Revised Sheet No. 41
First Revised Sheet No. 54
First Revised Sheet No. 55
Third Revised Sheet No. 61
First Revised Sheet No. 74
Second Revised Sheet No. 214
Second Revised Sheet No. 220

Columbia states that these tariff sheets are being filed to update certain information which is required to be maintained in its tariff under the provisions of Order Nos.497, *et seq.* Specifically, Columbia is removing references to Columbia Natural Resources, Inc. (CNR), in order to reflect that CNR meets the exemption under § 161.2 of the Commission's Regulations, excluding it from the definition of "marketing affiliate." In addition, Columbia is making a minor revision to its transportation tariffs, in order to reflect the impact of a recent Commission order.

Any person desiring to be heard or to protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR §§ 385.214 and 385.211. All such motions or protests must be filed by October 25, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–24372 Filed 10–16–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GP90–15–000]

El Paso Natural Gas Co. v. Kaneb Energy Co. and Kaneb Operating Co., Ltd.; Complaint

October 10, 1990.

Take notice that on September 17, 1990, El Paso Natural Gas Company (El Paso) filed a complaint under Rule 206 of the Commission's Rules of Practice and Procedure against Kaneb Energy Company and Kaneb Operating Company Ltd. (Kaneb). El Paso alleges that it purchased natural gas from Kaneb under a May 15, 1965 contract, and that Kaneb charged El Paso the incorrect maximum lawful price for certain production after September 1980. According to El Paso, Kaneb priced the gas under section 108 of the Natural Gas Policy Act of 1978, when the gas was not entitled to that price. El Paso states that the amount of the overcharge is $1,142,512.69. El Paso has requested Kaneb to refund the amount but no refund has been made. El Paso states that it is unable to make billing adjustments because it has no ongoing contractual relation with Kaneb. El Paso requests that the Commission issue an order directing Kaneb to refund the overcharges plus interest.

Any person desiring to be heard or to intervene should file a motion to intervene or protest in accordance with rules 214 (18 CFR 385.214 (1990)) or 211 (18 CFR 385.211 (1990)) of the

Commission's Rules of Practice and Procedure. All motions to intervene or protests should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before November 9, 1990. All protests will be considered by the Commission but will not serve to make protestant parties to the proceeding. Any person wishing to become a party must file a motion to intervene in accordance with rule 214. Copies of the complaint are on file with the Commission and are available for public inspection. Answers to the complaint shall be due on or before November 9, 1990.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24374 Filed 10-16-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-3-007]

Williston Basin Interstate Pipeline Co., Change in FERC Gas Tariffs

October 10, 1990.

Take notice that on October 4, 1990, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, tendered for filing certain revised tariff sheets to Original Volume No. 2 of its FERC Gas Tariff.

Williston Basin states that the tariff sheets were filed in compliance with the Commission's Order dated September 19, 1990 in the instant docket.

Williston Basin states that copies of this filing were served on Williston Basin's jurisdictional customers and interested state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before October 17, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24373 Filed 10-16-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89-36-008, CP89-273-003, CP89-286-003, CP87-107-004, CP87-108-008, CP89-330-002, TA91-1-62-001 & TM91-1-62-001]

Viking Gas Transmission Co.; Tariff Filing

October 10, 1990.

Take notice that on October 4, 1990, Viking Gas Transmission Company (Viking) filed the following revised tariff sheets to its FERC Gas Tariff to be effective as follows:

To be effective November 1, 1989:

Original Volume No. 1

Substitute Second Revised Sheet No. 11

To be effective October 1, 1990:

Original Volume No. 1

Substitute Third Revised Sheet No. 11
Third Revised Sheet No. 12
Substitute First Revised Sheet No. 13
First Revised Sheet No. 61D
First Revised Sheet No. 170
First Revised Sheet No. 200

Original Volume No. 2

First Revised Sheet Nos. 111-113
Substitute First Revised Sheet Nos. 114-115

To be effective November 1, 1990:

Original Volume No. 1

Tenth Revised Sheet No. 6
Fourth Revised Sheet No. 11
First Revised Sheet No. 60
First Revised Sheet No. 74

Original Volume No. 2

Third Revised Sheet No. 55
Second Revised Sheet No. 72
Second Revised Sheet No. 114

The purpose of this filing is (1) To further implement the terms of the Stipulation and Agreement filed by Viking in Docket Nos. RP89-36, *et al.*, on November 21, 1989 (the Stipulation), including the reduction of fuel and loss percentages and the incorporation of settlement rates into Viking's recent Annual PGA filing, (2) to adjust the Index of Purchasers to reflect the partial abandonment of sales service to ANR Pipeline Company, as authorized by the Commission's Order issued on June 27, 1990 in Docket No. CP88-338, (3) to implement a minor revision regarding certain requested changes in transportation service on Viking, and (4) to correct certain inadvertent errors made in Viking's August 31, 1990 filing in Docket Nos. RP89-36 and CP89-273, (August 31 Filing), which was accepted by the Commission's Order issued on September 28, 1990.

Viking states that a copy of this filing is being served on all affected customers and state commissions as shown on the attached list and parties in the above-referenced dockets, and is available for public inspection during regular business hours in a convenient form and place at Viking's offices in the Tenneco Building, Houston, Texas.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 17, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24369 Filed 10-16-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TM91-1-49-001 and TQ91-1-49-001]

Williston Basin Interstate Pipeline Co.; Annual Charge Adjustment Filing

October 10, 1990.

Williston Basin Interstate Pipeline Company (Williston Basin), on October 4, 1990, submitted for filing as part of its FERC Gas Tariff the following revised tariff sheets:

First Revised Volume No. 1

Substitute Twenty-ninth Revised Sheet No. 10

Original Volume No. 1-A

Substitute Twenty-second Revised Sheet No. 11
Substitute Twenty-eighth Revised Sheet No. 12

Original Volume No. 1-B

Substitute Seventeenth Revised Sheet No. 10
Substitute Seventeenth Revised Sheet No. 11

Original Volume No. 2

Substitute Thirty-first Revised Sheet No. 10
Substitute Twenty-third Revised Sheet No. 11B

The proposed effective date of the tariff sheets is November 1, 1990.

Williston Basin states that the instant filing is being made pursuant to the Commission's Order Accepting and Rejecting Tariff Sheets and Clarifying Annual Charge Bills, issued September 28, 1990 in Docket Nos. RM87-3-000, *et al.*, and the General Terms and Conditions of Williston Basin's FERC Gas Tariff (First Revised Volume No. 1,

section 30; Original Volume No. 1–A, section 27; and Original Volume No. 1–B, section 25). The filing incorporates an ACA surcharge of .220 cents per Mcf (.206 cents per dkt on the Williston Basin system), as authorized by the Commission's Order of September 26, 1990.

Also included for filing is Substitute Twenty-seventh Revised Sheet No. 10 of Williston Basin's First Revised Volume No. 1 FERC Gas Tariff which incorporates gas cost-related changes submitted in the Company's purchased gas cost adjustment compliance filing of September 14, 1990 in Docket Nos. TA90–1–49–000 and TA90–1–49–001 into the previously filed ACA tariff sheets accepted by the Commission's September 26, 1990 Order. This tariff sheet is to be effective October 1, 1990.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before October 17, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are availablle for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–24360 Filed 10–16–90; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders During the Week of August 13 Through August 17, 1990

During the week of August 13 through August 17, 1990, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Robert L. Jackman, 8/17/90, LFA–0061

Robert L. Jackman filed an Appeal from a denial by the Freedom of Information and Privacy Acts Branch (FOI Office) of a Freedom of Information Request. The FOI Office denied Jackman's request because it found that it was so broad and lacking in specificity that it could not determine what records Jackman sought or locate any such records with a reasonable amount of effort. The DOE agreed that Jackman's request for all information on energy demand for electricity was overbroad and did not satisfy the requirement that FOIA requests reasonably describe the records sought. Nonetheless, the DOE noted that Jackman stated that he especially wanted studies by a particular research institute. The DOE remanded the matter for a determination on whether a request for studies by this research institute reasonably described the records sought. The DOE also found that the FOI Office had failed to respond to one item of Jackman's request and remanded that portion of the request for a determination. Accordingly, the Appeal was granted in part.

Implementation of Special Refund Procedures

West Coast Oil Co., 8/15/90, KEF–0142

The DOE Issued a Decision and Order implementing procedures for the disbursement of $99,727, plus accrued interest, obtained by the DOE under the terms of a consent order entered into with West Coast Oil Co. (West Coast) on June 28, 1989. The funds were paid by West Coast towards the settlement of alleged violations of the DOE price and allocation regulations relating to transactions by West Coast involving the marketing of refined petroleum products during the period September 1, 1973 through June 30, 1976. The DOE determined that it will distribute these funds in two stages. In the first stage, the DOE will accept claims from identifiable purchasers of petroleum products from West Coast who may have been injured by the alleged overcharges. If any funds remain after meritorious claims are paid in the first stage, they will be used for indirect restitution in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1988 (PODRA), 15 U.S.C. 4501–07. Purchasers of regulated petroleum products from West Coast during the period September 1, 1973 through June 30, 1976 may file Applications for Refund from the West Coast consent order fund. Applications for Refund must be postmarked by September 30, 1991. Instructions for the completion of refund applications are set forth in the Decision.

Refund Applications

Brothers Truck Rental Co., et al., 8/17/90, RF272–68878, et al.

The DOE issued a Decision and Order concerning 11 Applications for Refund filed in the subpart V crude oil refund proceeding. During the period August 19, 1973 through January 27, 1981, seven of the applicants were resellers of refined petroleum products and the remaining four applicants were engaged in the business of renting and/or leasing motorized vehicles. All 11 applicants are considered resellers for the purposes of the subpart V crude oil refund proceeding. Because none of the applicants demonstrated that it was injured due to crude oil overcharges, the applicants were found ineligible for crude oil refund monies. Accordingly, the 11 Applications for Refund considered in the Decision were denied.

Corning Glass Works, 8/15/90, RF272–141, RD272–141

The DOE issued a Decision and Order granting a refund from crude oil overcharge funds to Corning Glass Works, a specialty glass manufacturer. In reaching its determination, the DOE rejected objections to the applicant's claim submitted by a group of States and denied the States' Motion for Discovery. The DOE held that industry-wide econometric data, with no particular reference to the applicant, is insufficient to rebut the presumption of injury for individual end-users. The DOE also stated that the mere contention that an industry had the ability to pass through overcharges is not convincing evidence that a particular claimant was likely, in fact, to have passed through the crude oil overcharges. Accordingly, Corning Glass Works was granted a refund of $48,702

Emerson Electric Company, 8/16/90, RF272–5989, RD272–5989

The DOE issued a Decision and Order granting a refund from crude oil overcharge funds to Emerson Electric Company based on its purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. A group of 28 States and two territories of the United States (the States) filed a pleading objecting to and commenting on the application. The States submitted an affidavit by an economist stating that Emerson was able to pass through all costs to its customers. The DOE determined that the evidence offered by the States was insufficient to rebut the presumption of end-user injury and that the applicant should receive a refund. In addition, the States filed a Motion for Discovery which was denied. The refund granted in this Decision is $50,620. Emerson Electric Company will be eligible for

additional refunds as additional crude oil overcharge funds become available.

Exxon Corporation/Alberto Barreras Rivera et al., 8/15/90, RF307–5134 et al.

The DOE issued a Decision and Order concerning seven Applications for Refund filed in the Exxon Corporation special refund proceeding. Each of the applicants purchased directly from Exxon and was a reseller whose allocable share is less than $5,000. Each of the applicants based its volume claim on Exxon-generated volume sheets and estimated figures for certain years not included on the Exxon sheets. The DOE approved the use of estimates where the estimates were reasonable and the applicants submitted written explanations of their estimation methodologies. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $12,750 ($9,428 principal plus $3,322 interest).

Exxon Corporation/Florida Power & Light Co., 8/15/90, RF307–8845

The DOE issued a Decision and Order concerning an Application for Refund filed by Florida Power & Light Co. (FPL) in the Exxon Corporation special refund proceeding. FPL purchases refined petroleum products from Exxon during the consent order period. FPL purchased these products both directly from Exxon and indirectly from Belcher Oil Co. (Belcher), a firm that has been granted an Exxon refund under the medium-range presumption of injury. In accordance with prior Decisions, FPL's claim was therefore considered under the procedures used to evaluate direct purchase claims. FPL established that 100 percent of the refined petroleum products purchased from Belcher originated with Exxon. Therefore, the DOE granted FPL a refund based on 100 percent of its purchases from Exxon and Belcher. FPL, a public utility, certified that it will notify the appropriate regulatory body of any refund received and that it will pass through the amount of the refund to its customers. The amount of the refund granted in this Decision is $1,485,615 ($1,098,584 principal plus $387,031 interest).

Gulf Oil Corporation/Kirk Brown's Gulf, 8/17/90, RR300–11

The DOE issued a Decision and Order concerning a Motion for Reconsideration submitted on behalf of Kirk Brown's Gulf in the Gulf Oil Corporation special refund proceeding by Mike Shields, an agent of Federal Refunds, Inc. On January 19, 1990, the original Application for Refund submitted on behalf of Kirk Brown's Gulf was dismissed in a letter. On January 29, 1990, the DOE received a first Motion for Reconsideration on behalf of Kirk Brown's. This initial Motion for Reconsideration was denied in a May 1, 1990 Decision and Order. *Gulf Oil Corp./Kirk Brown's Gulf*, 20 DOE ¶ 85,282 (1990). Mr. Shields then submitted a second Motion for Reconsideration on May 21, 1990 which was considered in this Decision and Order. In this Decision, it was found that the applicant was able to demonstrate that it did purchase Gulf products during the Gulf consent order period and therefore was granted a refund using a presumption of injury. The refund granted to Kirk Brown's Gulf, which includes principal and interest, is $316.

Lee Dyeing Co. of North Carolina, Inc., 8/15/90, RA272–27

The DOE issued a Supplemental Order to Lee Dyeing Co. of North Carolina, Inc. (Lee). On July 13, 1990, the DOE granted a refund of $2,215 to Lee in *Gabel Farms, et al.*, Case Nos. RF272–62001, *et al.* Since that Decision inadvertently reduced Lee's refund claim, Lee was granted an additional refund of $437 based on 545,705 additional gallons of petroleum products purchased during the consent order period.

Shell Oil Company/Moby Dick Wash Systems, Inc., 8/16/90, RF315–6218

The DOE issued a Supplemental Order to Moby Dick Wash Systems, Inc. in the Shell Oil Company special refund proceeding. In an earlier Decision, the DOE had granted a refund to Moby Dick based on purchases of 2,239,309 gallons of Shell petroleum products. The DOE later determined that Moby Dick's refund should have been based on a figure of 12,239,309 gallons. Accordingly, the DOE granted Moby Dick an additional refund of $2,910 ($2,260 in principal plus $650 in interest) based on the 10,000,000 gallons that were inadvertently omitted when its first refund was calculated.

Texaco Inc./Fairview Texaco, 8/15/90, RF321–1935, RF321–8224

The DOE issued a Decision and Order denying duplicate Applications for Refund filed in the Texaco Inc. special refund proceedings by Fairview Texaco. The applications were denied because one of the claims contained a false certification.

Texaco Inc./Joe's Texaco, 8/16/90, RF321–1522, RF321–8222

The DOE issued a Decision and Order denying duplicate refund applications filed in the Texaco Inc. special refund proceeding by Joe's Texaco. The applicant filed two refund applications for the same Texaco purchases. In both applications, the applicant certified that it had filed or authorized the filing of only one refund application in the Texaco proceeding. In view of the false certification, the DOE determined that both refund applications should be denied.

Texaco Inc./Mike's Downtown Texaco, Berthoud's Texaco #1, 8/13/90, RF321–2647, RF321–7989

The DOE issued a Decision and Order denying duplicate refund applications filed in the Texaco Inc. special refund proceeding by one applicant for the same outlet under the names Mike's Downtown Texaco and Berthoud's Texaco #1. In both applications, the applicant certified that it had filed or authorized the filing of only one refund application in the Texaco proceeding. In view of the false certification, the DOE determined that both refund applications should be denied.

Texaco Inc./Nerland Oil Co., Inc. et al., 8/16/90, RF321–1802 et al.

The DOE issued a Decision and Order concerning 27 Applications for Refund filed in the Texaco Inc. subpart V special refund proceeding. Each applicant purchased directly from Texaco and was a reseller whose allocable share is less than $10,000. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. The total of the refund granted in this Decision is $54,505 ($46,416 principal plus $8,009 interest).

Texaco Inc./Ray's Texaco, 8/13/90, RF321–4645, RF321–7596

The DOE issued a Decision and Order denying duplicate refund applications filed in the Texaco Inc. special refund proceeding by Ray's Texaco. The applicant filed two refund applications for the same Texaco purchases. In both applications, the applicant certified that it had filed or authorized the filing of only one refund application in the Texaco proceeding. In view of the false certification, the DOE determined that both refund applications should be denied.

Texaco Inc./Surfside Texaco, 8/15/90 RF321–4495, RF321–8213

The DOE issued a Decision and Order denying duplicate Applications for Refund filed in the Texaco Inc. special refund proceeding by Surfside Texaco. The applications were denied because one of the claims contained a false certification.

Texaco Inc./Wong's Texaco, 8/17/90 RF321–1888, RF321–4522

The DOE issued a Decision and Order in the Texaco Inc. refund proceeding concerning two Applications for Refund filed by an owner of a retail service station. One application was filed on March 13, 1990, and the other application was filed on April 30, 1990. Both applications were denied on the grounds that they were duplicates of one another and the owner falsely certified in the April 30 application that he had not previously filed another Texaco refund application.

Refund Applications

The Office of Hearings and Appeals granted refunds to refund applicants in the following Decision and Orders:

Name	Case No.	Date
Exxon Corp./Tom & Ron's Exxon et al.	RF307–2557	8/14/90
Shell Oil Co./Samuel Lazar et al.	RF315–254	8/13/90

Dismissals

The following submissions were dismissed:

Name	Case No.
Adams Shell Auto Care	RF315–1040
American Frozen Foods, Inc.	RF272–70490
Bonray Drilling Corp.	RF272–36170
Butterfield Shell	RF315–5316
Cedar Shell	RF315–5975
Dead River Petroleum Co.	RF307–8
Harold J. Rhodes, Sr.	RF315–63
Russell Townsend	RF272–31072
Slattery Associates, Inc.	RF272–32232
Steve's Shell	RF315–7955

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy guidelines*, a commercially published loose leaf reporter system.

Dated: October 11, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 90–24488 Filed 10–16–90; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Decisions and Orders; Week of August 20 Through August 24, 1990

During the week of August 20 through August 24, 1990 the decisions and orders summarized below were issued with respect to applications for refund or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Refund Applications

Connecticut Natural Gas Corp. et al., 8/22/90; RF272–32479 et al.

The DOE issued a Decision and Order granting refunds to 16 purchasers of refined petroleum products in the subpart V crude oil refund proceeding. Each applicant was an end-user of the refined products which form the basis of its refund claim and therefore was not required to demonstrate injury. The refunds approved in this Decision total $71,433.

Exxon Corporation/Chapman & Main Car Wash, 8/22/90; RF307–10139

The DOE issued a Decision and Order rescinding a refund that was granted in a December 11, 1989 Decision to Chapman & Main Car Wash. Energy Refunds, Inc., who represented Chapman, informed the DOE that its client could not be located and returned the check. Therefore, the refund of $152 ($121 principal plus $31 interest) was redeposited into the Exxon escrow account.

Exxon Corporation/E.I. Kane, Inc., 8/21/90; RF307–6434

The DOE issued a Decision and Order denying an Application for Refund filed by E.I. Kane, Inc. In *Exxon Corp.*, 17 ¶ 85,590 (1988), the DOE stated that applicants must submit documentation of the volume of Exxon product they purchased during the consent order period. Since the applicant could not document its claim, it was ineligible to receive a refund. Accordingly, this application was denied.

Exxon Corporation/Monserrate Colon Serrano et al., 8/23/90; RF307–9251 et al.

The DOE issued a Decision and Order denying seven Applications for Refund filed in the Exxon Corporation special refund proceeding. Each applicant claimed that it purchased directly from Exxon, but did not submit documentation verifying its purchases. The DOE determined that each applicant was ineligible to receive a refund based on insufficient documentation. Accordingly, the seven Applications were denied.

Exxon Corporation/S.K. Harrell Oil Company, 8/24/90, RF307–9302, RF307–10147

The DOE issued a Decision and Order concerning two Applications for Refund filed in the Exxon Corporation special refund proceeding. Both applications were based on the purchases of Exxon products by S.K. Harrell Oil Company. One application, filed by Joseph Harrell, the current owner of Harrell Oil, was denied because the right to a refund was not transferred to him from the previous owner. S.K. Harrell, the previous owner, was found eligible to receive a refund because he was the owner of S.K. Harrell Oil Company during the consent order period. The sum of the refund granted was $6,627 ($5,000 principal plus $1,627 interest.)

Exxon Corp./Smith's Car Care Center, Victor C. Smith, 8/23/90, RR307–8, RR307–10

The DOE issued a Decision and Order regarding a Motion for Modification and a Motion for Reconsideration of a Supplemental Decision and Order issued on June 27, 1990. In the June 27 Decision, the DOE rescinded a duplicate refund granted in the Exxon refund proceeding to Victor C. Smith d/b/a/ Smith's Car Care Center and directed Mr. Smith to show cause why an earlier refund granted to him in the Exxon proceeding should not also be rescinded. In considering the reconsideration motion, the DOE rejected Mr. Smith's request that no interest be assessed on the amount of money that he was required to repay, but permitted him to make the repayment in eight monthly installments. The DOE also permitted Mr. Smith to retain his earlier Exxon refund. Accordingly, the Motion for Reconsideration was granted in part. The Motion for Modification was dismissed at the request of the movant.

Exxon Corporation/Stewart's Exxon, 8/23/90, RF307–10146

The DOE issued a Decision and Order granting a refund to Stewart's Exxon. Stewart's Exxon was previously granted a refund in a Decision and Order dated July 20, 1990 based on an incorrect gallonage figure. The DOE found that Stewart's was eligible to receive a refund based on additional gallonage. Accordingly, Stewart's was granted a refund of $163 ($123 principal plus 440 interest.)

Exxon Corporation/System Fuels, Inc., 8/24/90, RF307–8637

The DOE issued a Decision and Order granting an Application for Refund filed by System Fuels, Inc. in the Exxon Corporation special refund proceeding. System Fuels purchased products directly from Exxon on behalf of four electric utility companies, Arkansas Power & Light Co., Louisiana Power & Light Co., Mississippi Power & Light, and New Orleans Public Service, Inc. The Decision directs System Fuels to pass through the entire refund to the four public utilities it supplies, and those four utilities are in turn required to pass the refund through to their customers. The sum of the refund granted in this Decision is $36,194 ($27,310 principal plus $8,884 interest).

Gulf Oil Corporation/Ray's Gulf, et al., 8/22/90, RF300–10913, et al.

The Department of Energy issued a Decision and Order regarding five Applications for Refund filed by Akin Energy, Inc. on behalf of retailers of Gulf refined products. Four of these Applicants originally filed Applications through Petroleum Association Development Corporation (PAD). The Applications filed by PAD were dismissed. It was determined that each of the five Applications considered in this Decision ordered that the checks be mailed to Akin Energy, Inc. These Applicants were granted refunds using presumptions of injury. The total amount of the refunds granted in this Decision and Order, including interest, is $13,882.

Gulf Oil Corp./Water Street Gulf Service, et al., 8/22/90, RTF300–10108, et al.

The Office of Hearings and Appeals (OHA) granted seven Applications for Refund submitted on behalf of various applicants by Energy Watch, Inc. (EWI), a private filing service. The OHA found that EWI had not submitted any information that demonstrated that the applicants were in business during the latter portion of the Gulf II consent order period (1977–81) and therefore granted refunds that were based exclusively on purchases that were made in the early portion of the consent order period (1973–1976) and that were adequately substantiated. The sum of the refunds granted in this Decision and Order was $3,685.

Mich-I-Penn Oil & Grease Co., et al., 8/22/90, RF272–29731, et al.

The DOE issued a Decision and order concerning five Applications for Refund filed in the subpart V crude oil special refund proceeding. Each Applicant was either a reseller or retailer during the period August 19, 1973 through January 27, 1981. Because none of the Applicants demonstrated that it was injured due to the crude oil overcharges, the Applicants were ineligible for a crude oil refund and the Applications were denied.

Shell Oil Company/Dalton Petroleum, Inc. et al., 8/23/90, RF315–501 et al.

The DOE issued a Decision and Order granting 10 Applications for Refund submitted by four different companies in the Shell Oil Company special refund proceeding. Each company submitted multiple refund claims, but was granted a single refund under the medium-sized reseller injury presumption based upon the total purchase volume claimed in all of its refund claims. The total volume approved in this Decision was 125,975,731 gallons, and the total of the refunds granted was $25,752 ($20,000 in principal and $5,752 in interest).

Shell Oil Company/Renfro Valley Shell, 8/23/90, RF315–4912

The DOE issued a Decision and Order granting an Application for Refund filed in the Shell Oil Company special refund proceeding by Renfro Valley Shell, a retailer of Shell products. The applicant purchased indirectly from Shell and was a reseller whose allocable share was less than $5,000. As the supplier of the applicant had not filed for a Shell refund, the applicant was granted a refund equal to its full allocable share plus a proportionate share of the interest that has accrued on the Shell escrow account. The amount of the refund granted in the Decision was $342 ($266 prinicipal plus $76 interest).

Texaco Inc./Bendel's Texaco, 8/22/90, RF321–3303, RF321–8175

The DOE issued a Decision and Order denying duplicate Applications for Refund filed in the Texaco Inc. special refund proceeding by Bendel's Texaco. The Applications were denied because one of the claims contained a false certification.

Texaco Inc./Joe Glorioso Texaco Service Station, 8/23/90, RF321–1117, RF321–8384

The DOE issued a Decision and Order concerning two Applications for Refund filed in the Texaco Inc. special refund proceeding by Joe Glorioso Texaco Service Station. Since the initial application was signed prior to the issuance of the Decision and Order implementing refund procedures for the Texaco proceeding, the applicant was required by that Decision to recertify its application. The applicant filed a recertification on March 30, 1990. Four months later it filed another application, in which it certified that it had not filed any other refund application in the Texaco proceeding. In view of this false certification, the DOE determined that both refund applications should be denied.

Texaco Inc./Joe's Texaco et al., 8/22/90, RF321–2423 et al.

The DOE issued a Decision and Order concerning 62 Applications for Refund filed in the Texaco Inc. Special refund proceeding. Each of the applicants purchased directly from Texaco and was a reseller whose allocable share is less than $10,000. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $254,939 ($217,066 principal and $37,839 interest)

Texaco Inc./Turbyfill Texaco, T&S Texaco, 8/23/90, RF321–1863, RF321–3206, RF321–5773

The DOE issued a Decision and Order denying three Applications for Refund filed in the Texaco Inc. special refund proceeding by Charles W. Turbyfill. The applicant filed three refund applications for the same Texaco purchases. In each application, the applicant certified that it had filed or Authorized the filing of only one refund application in the Texaco proceeding. In view of the false certifications, the DOE determined that all three refund applications should be denied.

Refund Applications

The Office of Hearings and Appeals granted refunds to refund applicants in the following Decisions and Orders:

Name	Case No.	Date
Atlantic Richfield Co./Louis Aquilar's Arco et al.	RF304–10000	8/23/90
E.D.G., Inc./Dunbar's Texaco.	RF211–12	8/24/90
Exxon Corp./Carl's Exxon Service et al.	RF307–8809	8/21/90
Exxon Corp./Chatham Esso et al.	RF307–3040	8/21/90
Exxon Corp./Highway 70 Exxon et al.	RF307–825	8/24/90
Exxon Corp./White's Exxon Service Center, Warf & Son Exxon Station, Reives Exxon.	RF307–1926 RF307–1928 RF307–6225.	8/23/90
Global Terminal & Container Services, Inc. et al.	RF272–77048	8/21/90
Gulf Oil Corp./John White's Gulf et al.	RF300–10814	8/24/90
Gulf Oil Corp./ Rainbow Signs Co., Inc, et al.	RF300–8823	8/24/90
Jack T. Baillie Co., Inc. et al.	RF272–77001	8/21/90
Kingwood Mining Co.	RF272–78439	8/24/90
Texaco Inc./Horn's Texaco et al.	RF321–418	8/23/90

Dismissals

The following submissions were dismissed:

Name	Case No.
Bob's Garage Service	RF307-1938
Bedwell Oil Co., Inc	RF321-3091
Bogers Oil Co	RF321-7005
Chuck's Getty *et al* (See Attached List).	RF321-2378
Clair's Exxon *et al* (See Attached List).	RF307-9816
Dan's Getty	RF321-5955
E. Saenz Tijerina	RF321-1583
Eastover Exxon	RF307-0553
Frank Harrell	RF272-50730
H. Paul Cook, Inc	RF304-11662
Johnsonbury Texaco	RF321-7606
L Street Exxon	RF307-6552
Leatherwood Motor Coah Corporation *et al* (See Attached List).	RF272-60191
Main Street Texaco	RF321-6624
Mill Lake Exxon	RF307-7243
Sims Gulf Service	RF300-9180
Sines & Sons, Inc	RF321-7310
Skyway Gulf	RF300-9174
Southern Avenue	RF307-6453
Sowders Gulf Service	RF300-9128
The Dow Chemical Company	RF272-60020
Turner's Exxon	RF307-1603
Wayne's University Exxon	RF307-1827
Williams Exxon	RF307-1921
Village Gulf	RF300-11230

Service List

RF321-2378

Chuck's Getty, c/o Charles R. Carlson, 2217 N. Portland, Oklahoma, City, OK 73107.

RF321-2383

Buster's Service Station, c/o George Strausberger, 4 Main Road, Lehighton, PA 18235.

RF321-2394

Arnold Nixon, Rt. 1, Box 24, Higbee, MO 65257.

RF321-2401

Sauder Service Center, c/o Charley L. Dahlem, 1002 Denker, Wichita, KS 67216.

RF321-2400

Schnobrich & Turbes Oil Co., c/o Florian Schnobrich, 1104 S. State Street, New Ulm, MN 56073.

RF321-2405

North Avenue Getty, S/S, c/o Louis Siano, 720 North Ave., New Rochelle, NY 10801.

APPENDIX

Case No.	Applicant Name & Address
RF307-9816	Clair's Exxon, Clair Proper, Jr., Main Street, Hydetown, PA 16328.
RF307-9819	Exxon Service Station #235, Charlie Mac Grabert, 918 S. Pierce St., Amarillo, TX 79101.
RF307-9832	Wayne Dalton Exxon Serv., Harold Dalton, 835 E. Park Row Drive, Arlington, TX 76010.
RF307-9863	Duval Exxon, Joe & Jessie Moreno, 43 & Duval, Austin, TX 7R751.
RF307-9865	Pflum's Exxon #2, Fred Pflum, 2000 Del Rio, Atascadero, CA 93422.
RF307-9867	Jeff's Exxon, Nancy Stewart, 634 W. Main St., Santa Maria, CA 93454.
RF307-9882	Westwood Exxon Car Care Center, Dorothy Bowerstock, 7003 W. Hwy. 90, San Antonio, TX 78227.

RF321-2407

Long's Skelly Service c/o Kenneth C. Long, 804 18th Ave., Franklin, NE 68938.

RF321-2410

Leffler's Getty, c/o Richard Leffler, 1101 North St., Jim Thorpe, PA 18229.

RF321-2418

J&G Getty, c/o Guelfo Pivano, 416-10th St., Union City, NJ 07087.

RF321-2419

Fox's Getty, c/o Clarence Fox, 110 Greenwich St., Belvidere, NJ 07823.

RF321-4195

Rosewall's Getty Service; c/o Chester Rosewall, 1049 Rae Dr., Vineland, NJ 08360.

RF321-6382

Struble Gas Service, c/o Marge Struble, 902 N. Spruce, Kingman, KS 67068.

APPENDIX

Case No.	Case Name
RF272-60191	Leatherwood Motor Coach Corporation.
RF272-60204	Ron's Moving.
RF272-60207	Continental Foods, Inc.
RF272-65636	Enoch Caldwell.
RF272-65655	Truck Service Inc.
RF272-65663	Ecology Paper Products Co., Inc.
RF272-65912	T.W. Mortaw.
RF272-66045	Guthmiller Trucking.
RF272-66331	Myers Trucking.
RF272-67192	Colvind Glass Shop.
RF272-69152	Townsend's Inc.
RF272-70283	Construction Litter Control.
RF272-70290	Davidson Transportation Agency, Inc.
RF272-70293	Kilber Excavating.
RF272-70294	Tripp Motor Service.
RF272-70233	Memphis Delivery Service, Inc.
RF272-70351	Gary Booth Trucking.
RF272-70354	Don Vas Trucking.
RF272-72823	Lloyd Green Trucking.
RF272-74877	Robert J. Sauls.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: October 11, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 90-24485 Filed 10-16-90; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of August 27 Through August 31, 1990

During the week of August 27 through August 31, 1990 the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Natural Resources Defense Council, 8/28/90; KFA-0024

The Natural Resources Defense Council (NRDC) filed an Appeal from a denial by the Deputy Assistant Secretary for Uranium Enrichment of a Request for Information which it had submitted under the Freedom of Information Act. Because the responsive material had been jointly prepared with the Central Intelligence Agency (CIA), the DOE referred the request to the CIA for an additional classification review. The DOE found that the document containing the responsive information was properly classified as National Security Information by the CIA and therefore had been correctly withheld pursuant to Exemptions 1 and 3 of the FOIA. The DOE also found that certain portions of the document which did not contain responsive information were properly classified by the DOE as Restricted Data and therefore were also withholdable under Exemption 3. Accordingly, the DOE denied the Appeal in its entirety.

Y. Shanmugadhasan, 8/28/90; HFA-0266

Y. Shanmughasan (Shanmughasan) filed an Appeal from a determination issued by the Director, Program Support Division of the Office of Military Application of the Department of Energy. The Determination denied a Request for Information which

Shanmughasan had filed with the DOE's San Francisco Operations Office. Shanmugadhasan requested copies of all issues of the DOE's Abstracts of Weapons Data Reports (AWDR). In considering the Appeal, the DOE determined that the withheld information had properly been classified as Restricted Data, Formerly Restricted Data or as National Security Information and that Exemptions 1 and 3 protected these documents from being released pursuant to the FOIA.

Refund Applications

Atlantic Richfield Co./Kelley Williamson Co.; Watkins Oil Co., Inc., 8/31/90; RF304–2152, RF304–2154

The DOE issued a Decision and Order concerning Applications for Refund filed by Kelley Williamson Co. and Watkins Oil Co., Inc. in the Atlantic Richfield Company special refund proceeding. The firms submitted information which indicated that they were spot purchasers of Arco products and, thus, ineligible for a refund. Although allowed an opportunity to rebut this presumption, the applicants failed to submit the necessary material evidence needed to rebut the spot purchaser presumption. Accordingly, both applications were denied.

Clover Trading Co., Inc.; 8/30/90; RF272–48346

The DOE issued a Decision and Order granting an Application for Refund filed in the crude oil special refund proceeding. The Applicant was a foreign flag ocean carrier which purchased 19,004,278 gallons of domestic petroleum products during controls, none of which were purchased from the Panama canal zone. The applicant was therefore granted a refund of $15,203.

Cotter & Co., Inc.; 8/27/90; RF272–33548

The DOE issued a Decision and Order denying an Application for Refund in the subpart V Crude Oil refund proceeding. Since Cotter & Company previously released its rights to all other crude oil refunds by signing the Waiver and Release required for its Stripper Well Surface Transporters claim, the DOE determined the firm was not eligible for a refund in this proceeding. Accordingly, Cotter & Company's Application for Refund was denied.

Edwards & Sons Trucking, Carroll L. Edwards, 8/28/90; RC272–94, RC272–95

The DOE issued a Decision and Order concerning two Applications for Refund which were granted in an earlier Decision and Order, *Blackwell Land Company, Inc., et al.*, 20 DOE ¶_____, Case Nos. RF272–66519, *et al.* (July 27, 1990) (*Blackwell Land*). In *Blackwell Land*, the DOE granted Edwards & Sons Trucking a refund of $354 based on its purchases of 442,500 gallons of refined petroleum products and also granted Carroll L. Edwards a refund of $457 based on its purchases of 571,500 gallons of refined petroleum products. However, because the gallonage claims of both applicants were overstated, thus resulting in inflated refund amounts granted to these two applicants, the present Decision and Order rescinded *Blackwell Land* with respect to these two claims. Additionally, the DOE directed that the refund checks issued to these two applicants be voided and that no further refund checks be issued to these applicants at this time based upon the volume claims stated in *Blackwell Land*.

Exxon Corp./ Williams' Exxon, 8/29/90; RF307–9915

The DOE issued a Decision and Order denying an Application for Refund. This application was based on the purchases of Exxon products by Williams' Exxon. In *Exxon* the DOE required that resellers or end-users submit documentation of the volume of Exxon product they purchased during the consent order period. Since the applicant could not document its claim, it was ineligible to receive a refund. Accordingly, the application was denied.

Federal-Hoffman, Inc., 8/29/90, RF272–430

The Department of Energy (DOE) issued a Decision and Order granting a refund from crude oil overcharge funds to Federal Hoffman, Inc. based on its purchases of No. 2 and No. 6 fuel oil, propane and gasoline during the period August 19, 1973 through January 27, 1981. The applicant consumed these petroleum products in the manufacture of small arms ammunition and determined its claim using contemporaneous records. Because the applicant was an end-user of the products it claimed for a refund, it was presumed injured. The applicant also requested a refund based upon purchases of glycol. It was determined that glycol was not a product which was covered by the regulatory program established under the Emergency Petroleum Allocation Act (EPAA), and therefore the purchases of glycol were not considered eligible for a refund. The total refund amount granted based upon purchases of No. 2 and No. 6 fuel oil, propane and gasoline is $11,103.

Getty Oil Co./Lessee's Service Station, 8/27/90, RR265–3

The DOE issued a Decision and Order granting a supplemental refund to Lessee's Service Station in the Getty Oil Company special refund proceeding. Based on documentation of additional purchases of Getty gasoline and a showing of significantly changed circumstances, the DOE approved an additional $856 in principal plus accrued interest of $322.

Gulf Oil Corp./Bursey and Johnson Gulf, 8/27/90, RF300–10036, RF300–11455

The Office of Hearings and Appeals (OHA) granted two Applications for Refund submitted on behalf of Bursey and Johnson Gulf by Mr. Ollie Bursey and Mr. Artis Johnson. The OHA found that Mr. Bursey and Mr. Johnson had operated the business as equal partners during a portion of the consent order period. Therefore, the refund that corresponded to this time period was split between the two parties on a 50/50 basis. However, Mr. Johnson received 100 percent of the refund for the periods that predated and postdated the existence of the partnership, as he operated the business as a sole proprietorship during these periods. The two Applications were approved under the small claims presumption of injury. The total volume considered in this Decision and Order was 3,044,214 gallons of covered petroleum products and the total sum of the refunds granted was $2,801.

Montana Sulphur & Chemical Co., 8/30/90, RF272–36050, RD272–36050

The DOE issued a Decision and Order granting in part an Application for Refund filed by Montana Sulphur & Chemical Co. (Montana) in the subpart V crude oil proceeding. A group of 28 States and two territories filed an objection to Montana's claim and a Motion for Discovery. In that Decision, the DOE determined that two of the products purchased by Montana, refinery gas and acid gas, could not form the basis for a refund in the crude oil proceeding. After examining the regulatory history and language of the Emergency Petroleum Allocation Act (EPAA), the DOE found that neither product was regulated under its provisions. The DOE granted Montana a refund of $264 based upon its purchases of eligible products. Since the determination granted only a small portion of Montana's claim, the States' submissions were dismissed.

Shell Oil Co. Koch Marketing Co., 8/31/90; RF315–6001 et al.

The DOE issued a decision and Order granting eight Applications for Refund filed by Koch Marketing Co., in the Shell

Oil Company special refund proceeding. Koch was granted a refund under the presumption of mid-level claimants. The total refund granted in the Decision was $7,963 ($6,185 principal plus $1,778 in interest).

Shupe Brothers Co., 8/29/90; RF272-5994, RD272-5994

The DOE issued a Decision and Order granting a refund from crude oil overcharge funds to Shupe Brothers Company (Shupe) based on its purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. A group of twenty-eight states and two territories of the United States (the States) filed a pleading objecting to and commenting on the application. The DOE determined that the evidence offered by the States was insufficient to rebut the presumption of end-user injury and that the applicant should receive a refund. In addition, the States filed a Motion for Discovery which was denied. The refund granted in this Decision is $12,013. Shupe Brothers Company will be eligible for additional refunds as additional crude oil overcharge funds become available.

South African Airways, et al., 8/30/90; RF272-0244 et al., RD272-0244 et al.

Twenty-nine foreign airlines (Airlines) filed Applications for Refund from the subpart V crude oil overcharge monies based upon their purchases of non-bonded aviation fuel which their planes consumed as fuel. A group of thirty States and two Territories of the United States (collectively "the States") filed objections opposing the receipt of refunds by the Carriers, on the basis that: (i) Sales of non-bonded aviation fuel to the Airlines were price-exempt "export sales" under 10 CFR 212.53 and, as a matter of law, foreign firms cannot claim refunds since they never were intended to benefit under DOE's price control program, and (ii) as a factual matter, the Airlines were able to pass through a substantial part of increased fuel costs by virtue of regulations administered by the Civil Aeronautics Board (CAB) and therefore were not injured by crude oil overcharges. In connection with these objections, the States also filed a Motion connection with these objections, the States also filed a Motion for Discovery in each proceeding. In considering the States' objections, the DOE determined that: (i) Sales of non-bonded aviation fuel were specifically excluded from the "export sales" exemption under 10 CFR 212.53(c), and the Airlines were not disqualified from receiving refunds simply because of their foreign status, and (ii) the CAB regulations cited by the States did not constitute a means of automatically passing through increased fuel costs; nor had the States established that the Airlines systematically passed through increased fuel costs as a matter of industry practice. On the basis of these determinations, the DOE further determined that the States had failed to justify discovery with respect to the Airlines' refund claims. Accordingly, the Airlines' Applications for Refund were approved and the States' Motions for Discovery were denied. The total of the refunds granted in this decision is $3,692,061.

Southwestern Bell Telephone Co., 8/29/90; RF272-18896

The DOE issued a Decision and Order concerning an Application for Refund filed in the crude oil special refund proceeding being conducted by the DOE under 10 CFR part 205, subpart V. The DOE determined that the refund claim was meritorious and granted a refund of $100,985. The DOE denied the States' Objections, finding that the industry-wide econometric data submitted by the States did not rebut the presumption that the Applicant was injured by the crude oil overcharges.

Starr Transit Co., Inc.; Acustar; Standard Properties; Great Coastal Express, Inc., 8/27/90; RF272-61995, RF272-74164, RF272-74876, RF272-76487

The Department of Energy issued a Decision and Order concerning four Applications for Refund submitted by firms that purchased refined petroleum products during the period August 19, 1973, through January 27, 1981. The four applicants requested refunds based on their respective purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981 pursuant to the provisions of 10 CFR part 205, subpart V (subpart V). In this Decision, it was determined that in each case either the applicant firm or an affiliated firm was granted a refund from the Surface Transporters Escrow, thereby precluding the applicant firm from eligibility for a subpart V crude oil refund. Thus, the four firms considered in this Decision are ineligible for subpart V crude oil refunds and the Applications for Refund were dismissed.

Texaco Inc./Al's Texaco, 8/28/90; RF321-738, RF321-5992

The DOE issued a Decision and Order concerning two Applications for Refund filed in the Texaco Inc. special refund proceeding by Al's Texaco. Since the initial application was signed prior to the issuance of the Decision and Order implementing refund procedures for the Texaco proceeding, the applicant was required by that Decision to recertify its application. The applicant filed a recertification on April 5, 1990. Two months later it filed another application, in which it certified that it had filed only one refund application in the Texaco proceeding. In view of this false certification, the DOE determined that both refund applications should be denied.

Texaco Inc./Callahan's Texaco, 8/29/90; RF321-2966, RF321-8408

The DOE issued a Decision and Order denying duplicate Applications for Refund filed in the Texaco Inc. special refund proceeding by Callahan's Texaco. The applicant filed two Texaco refund applications for the same purchases. In both applications, the applicant certified that it had filed or authorized the filing of only one refund application in the Texaco Proceeding. In view of the false certification, the DOE determined that both refund applications should be denied.

Texaco Inc./Dixon's Texaco, 8/28/90, RF321-976, RF321-8420

The DOE issued a Decision and Order denying duplicate Applications for Refund filed in the Texaco Inc. special refund proceeding by Dixon's Texaco. The Applications were denied because one of the claims contained a false certification.

Texaco Inc./John F. Barrett et al., 8/30/90, RF321-2761 et al.

The DOE issued a Decision and Order concerning 18 Applications for Refund filed in the Texaco Inc. Subpart V special refund proceeding. Each applicant purchased directly from Texaco and was a reseller whose allocable share is greater than $10,000 or an end-user. In lieu of making a detailed showing of injury to receive its full allocable share, each reseller applicant elected to limit its claim to $10,000 or 50 percent of its allocable share, whichever is greater. The total of the refunds granted in this Decision is $218,342 ($185,933 principal plus $32,409 interest).

Texaco Inc./Keitzer Texaco Warren's Texaco 8/28/90; RF321-4764, RF321-4765, RF321-5575, RF321-5576

The DOE issued a Decision and Order denying duplicate refund applications in the Texaco Inc.subpart V special refund proceeding on behalf of Keizer Texaco and Warren's Texaco. In the duplicate filings, the applicant certified that it had only filed one refund application in the Texaco proceeding. In view of these

false certifications, the DOE determined that the applications should be denied.

Texaco Inc./Labadie Oil Co., et al. 8/27/90, RF321–2428 et al.

The DOE issued a Decision and Order concerning 13 Applications for Refund filed in the Texaco Inc. special refund proceeding. Each firm purchased directly from Texaco and was a reseller of Texaco products. Each firm's allocable share exceeds $10,000. In lieu of making an injury showing to receive its full allocable share, each applicant elected to accept the larger of $10,000 or 50 percent of its allocable share up to 50,000. The sum of the refunds granted in this Decision is $254,787 ($216,970 principal and $37,817 interest).

Texaco Inc./Mac's Texaco Super Service et al., 8/27/90, RF321–2800 et al.

The DOE issued a Decision and Order concerning 44 Applications for Refund filed in the Texaco Inc. Subpart V special refund proceeding. Each applicant purchased directly from Texaco and was a reseller whose allocable share is less than $10,000 or an end-user. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. The total refund amount granted in this Decision is $150,311 ($127,997 principal plus $22,314 interest).

Wm. Mueller & Sons Inc. Azzarelli Construction Co., 8/29/90, RF272–12681, RF272–12819

The DOE issued a Decision and Order granting a refund from crude oil overcharge funds to Wm. Meuller & Sons Inc. and Azzarelli Construction Company based on their purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. A group of twenty-eight states and two territories of the United States (the States) filed pleadings objecting to and commenting on the applications. The States submitted affidavits by an economist stating that the applicants were able to pass through crude oil overcharges to their customers. The DOE determined that the evidence offered by the States was insufficient to rebut the presumption of end-user injury and that the applicants should receive refunds. The sum of the refunds granted in this Decision is $28,775. The applicants will be eligible for additional refunds as additional crude oil overcharge funds become available.

Refund Applications

The Office of Hearings and Appeals granted refunds to refund applicants in the following Decisions and Orders:

Name	Case No.	Date
Buckhart Sand & Gravel Co. Inc., Big River Industries, Inc.	RF272-24972 ... RF272-29040 ...	8/29/90
Exxon Corp./Boerster Carolina Company, Waterman Steamship Corp.	RF307-8722 ... RF307-8215 ...	8/29/90
Pickett Cooperative et al.	RF272-80242 ...	8/30/90
Vernon Manor Section 1 et al.	RF272-80058 ...	8/30/90

Dismissals

The following submissions were dismissed:

Name	Case No.
Beach Plaza Shell	RF315-9807
Bellemeade Shell	RF315-9806
Camden County Board of Chosen Freeholders.	RF272-75879
Corner Grocery	RF300-7826
Dan Mar Enterprises	RF307-9858
Dan's Mission Exxon	RF307-9857
Franc Pajek Company	LFA-0065
Koch Marketing Co.	RF315-8953 thru RF315-8967
McKee's Texaco	RF321-5968
Mike's Texaco	RF321-3430
Miller Gulf Service	RF300-7277
Stormer Shell	RF315-9805
Town of Dobbins Heights	RF272-80019
Wingate Shell	RF315-9553

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: October 11, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 90–24484 Filed 10–16–90; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Decisions and Orders; Week of September 3 Through September 7, 1990

During the week of September 3 through September 7, 1990, the decisions and orders summarized below were issued with respect to applications for refund or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Refund Applications

City of Bellevue, 9/6/90; RRF272–57

The Department of Energy issued a Decision and Order regarding a Motion for Reconsideration filed in the crude oil proceeding by the City of Bellevue, Washington, (Bellevue), an end-user of petroleum products. The OHA had received two Applications for Refund filed by the City of Bellevue (Case Nos. RF272–15067 and RF272–69864). On January 17, 1990, the OHA dismissed one of these Applications for Refund (Case No. RF272–69864) as a duplicate. In its Motion for Reconsideration, Bellevue explained that the Application for Refund that was dismissed was not a duplicate. In this decision, Bellevue was granted a refund in the amount of $469 using the end-use presumption of injury.

Gulf Oil Corp./AP Propane, Inc., 9/4/90, RF300–6825

The Department of Energy issued a Decision and Order regarding an Application for Refund filed in the Gulf Oil Corporation special refund proceeding by AP Propane, Inc. UGI Corporation, an affiliate of AP Propane, Inc., already received a refund in the Gulf proceeding based upon a presumption of injury because it was a public utility. The DOE held that AP Propane, Inc. was nevertheless eligible to receive a refund based upon the reseller presumption of injury. The total amount of the refund granted to AP Propane, Inc. including interest, is $22,424.

Shell Oil Co./Westfield Fuel Co., Inc., 9/4/90, RF315–10035

The DOE issued a Supplemental Order which corrected the refund and purchase volume granted to Westfield Shell in an August 1, 1990, Decision and Order. *Shell Oil Company/Graymount Standard et al.* The purchase volume of Westfield Shell should have been listed as 2,277,797 gallons, and Westfield Shell should receive a total refund of $658 (comprised of $515 in principal and $143 in interest).

Texaco Inc./Ellis Robertson Corp., West St. Texas, 9/7/90; RF321–6398, RF321–9310

The DOE issued a Decision and Order denying duplicate refund applications from the Texaco Inc. consent order fund filed by one applicant under the names Ellis Robertson Corp. and West St. Texaco. In both applications, the applicant certified that it had filed only one refund application in the Texaco refund proceeding. In view of the false certification, the DOE determined that

both refund applications should be denied.

Texaco Inc./Gandy Oil Co. et al., 9/7/90; RF321-5420 et al.

The DOE issued a Decision and Order concerning 22 Applications for Refund filed in the Texaco, Inc. special refund proceeding. Each of the applicants purchased product directly from Texaco and was a reseller whose allocable share is less than $10,000. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $68,969 ($58,730 principal and $10,239 interest).

Texaco Inc./Interstate Texaco, 9/7/90; RF321-1076, RF321, 6029, RF321-6539

The DOE issued a Decision and Order concerning three Applications for Refund filed in the Texaco, Inc. special refund proceeding by Interstate Texaco. The applicant filed three refund applications for the same Texaco purchases. In each application, the applicant certified that it had filed or authorized the filing of only one refund application in the Texaco refund proceeding. In view of the false certifications, the DOE determined that all three refund applications should be denied.

Texaco Inc./Jack Lane Texaco et al., 9/5/90; RF321-1910 et al.

The DOE issued a Decision and Order concerning 13 Applications for Refund filed in the Texaco, Inc. subpart V special refund proceeding. Each applicant purchased product directly from Texaco and was a reseller whose allocable share is less than $10,000 or an end-user. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. The total of the refunds granted in this Decision is $39,715 ($33,821 principal plus $5,894 interest).

Texaco Inc./Jim's Texaco, 9/6/90; RF321-1104, RF321-6741, RF321-5940

The DOE issued a Decision and Order concerning three Applications for Refund filed in the Texaco, Inc. special refund proceeding by Jim's Texaco. The initial application was filed on March 9, 1990. Since it was signed prior to the issuance of the Decision and Order implementing refund procedures for the Texaco proceeding, and was not recertified, the DOE determined that this application should be dismissed. The applicant filed a second application on May 24, 1990 and one week later filed a third application, in which he certified that he had filed only one refund application in the Texaco proceeding. In view of this false certification, the DOE determined that the second and third refund applications should be denied.

Texaco Inc./Langer's Texaco, 9/8/90, RF321-581, RF321-6406

The DOE issued a Decision and Order denying duplicate refund applications filed in the Texaco Inc. special refund proceeding by Langer's Texaco. The applications were denied because one of the claims contained a false certification.

Texaco Inc./Sumter County School Board et al., 9/7/90, RF321-3000 et al.

The DOE issued a Decision and Order concerning 50 Applications for Refund filed in the Texaco, Inc. special refund proceeding. Each of the applicants purchased product directly from Texaco and was either an end-user or a reseller whose allocable share is less than $10,000. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $135,230 ($115,159 principal and $20,071 interest).

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Case Name	Case No.	Date
Atlantic Richfield Co./Dillsburg Grain & Milling Co. *et al.*	RF304-4471	9/6/90
Atlantic Richfield Co./Paul J. Martin, Inc. *et al.*	RF304-2720	9/6/90
Atlantic Richfield Co./Pat ARCO *et al.*	RF304-6149	9/5/90
Gulf Oil Corp./Coy Nutt Gulf Station, Coy W. Nutt's Southside Gulf, West Main Gulf.	RF300-11780, RF300-11781, RF300-11782	9/7/90
Gulf Oil Corp./ Jaudon's Gulf *et al.*	RF300-8946	9/6/90
Gulf Oil Corp./Wright Industries, Inc.	RF300-5252	9/4/90
Shell Oil Co./Indiana Harbor Belt Railroad *et al.*	RF315-3568	9/7/90
Texaco Inc./Belmont Texaco.	RF321-607, RF321-6883	9/7/90
Texaco Inc./Craig's Texaco Service.	RF321-34, RF321-6098	9/7/90
Texaco Inc./Starr's Service.	RF321-536, RF321-4497	9/7/90

Dismissals

The following submissions were dismissed:

Name	Case No.
Airport Texaco Service	RF321-6833
Borough of Plum	RF304-3325
D.N. Kelley & Son, Inc.	RF321-6761
Floyd Dickerson	RF304-11432
G.R. Sorber & Sons, Inc.	RF304-4469
Harrison County Road Dept.	RF321-5172
Heskett Texaco Service Station.	RF321-370
John's Gulf Service	RF300-10336
Joshua C. King	RF304-10461
Odom's Texaco	RF321-5930
Pitt's Gulf	RF300-10005
Rocky Hill Oil Service	RF321-6827, RF321-7006
Sunset Fuel Co.	RF304-10565
Tom's Service Center	RF321-6450
Trooper Heat & Fuel Co., Inc.	RF304-4505
Westside Texaco	RF321-1267
Woodlawn Texaco	RF321-1294

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: October 11, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 90-24453 Filed 10-16-90; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

October 11, 1990.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on

this information collection should contact Bruce McConnell. Office of management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395–3785.

OMB Number: 3060–0019.

Title: Application for Radio Station License or Modification Thereof Under part 23 or 25.

Form Number: FCC Form 403.

Action: Extension.

Respondents: Businesses or other for-profit (including small businesses).

Frequency of response: On occasion.

Estimated annual burden: 6,000 responses: 5 hours average burden per response; 30,000 hours total annual burden.

Needs and Uses: The FCC 403 form is used to license the operations of all transmit/receive and receive-only satellite earth station facilities in the Domestic Fixed-Satellite Service (part 25) and the International Fixed Public Radiocommunication Service (part 23). It is also used to make certain minor changes in the existing operations of earth stations. The form is used by FCC staff to determine the applicant's eligibility to operate earth station facilities and to receive requested modifications to earth station facilities

Federal Communications Commission.
Donna R. Searcy,
Secretary.
[FR Doc. 90–24414 Filed 10–16–90; 8:45 am]
BILLING CODE 6712–01–M

Meeting of the Systems Subcommittee of the FCC Advisory Committee on Advanced Television Service

October 11, 1990.

The eleventh meeting of the Systems Subcommittee of the Advisory Committee on Advanced Television Service is being rescheduled. It will be held on November 6, 1990 at 10 a.m., 6th floor, PBS Building, 1320 Braddock Place, Alexandria, Virginia.

The agenda for the meeting will consist of:

1. Introductory Remarks.
2. Approval of Agenda.
3. Approval of Minutes from 21 June 1990 Meeting.
4. Status of Open Action Items from the Previous Meeting.
5. Report of CCIR IWP 11/9 Meeting in Tokyo.
6. Report on Status of Subjective Test Materials.
7. Report by Working Party 1 (Systems Analysis).
   A. Status of Technical Analysis of Systems.
8. Report by Working Party 2 (System Evaluation and Testing).
   A. Report on Test Procedures Plans.
   B. Status of Laboratories.
   —Status of Format Converter.
9. Report by Working Party 3 (Economic Assessment).
10. Report by Working Party 4 (System Standard).
11. Open Discussion.
12. Next Meeting.

All interested parties are invited to attend. Those interested may also submit written statements at the meeting. Oral statements and discussion will be permitted under the direction of the Committee Chairman.

Any questions regarding this meeting should be directed to Bruce Franca at (202) 632–7060.

Federal Communications Commission.
Donna R. Searcy,
Secretary.
[FR Doc. 90–24342 Filed 10–16–90; 8:45 am]
BILLING CODE 6712–01–M

Maines Broadcasting Co., et al.; Applications for Consolidated Hearing

1. The Commission has before it the following groups of mutually exclusive applications for four new FM stations:

Applicant, City and State	File No.	MM docket No.
I		
A. Maines Broadcasting Company; Saginaw, MI.	BPH-880825MN	90–422
B. Saginaw Bay Broadcasting, Inc.; Saginaw, MI.	BPH-880825MZ	.....
C. Thomas M. Eells; Saginaw, MI.	BPH-880825NO	.....
D. Hicks Broadcasting Corporation; Saginaw, MI.	BPH-880825NS	.....
Issue Heading and Applicant 1. Air Hazard, C and D 2. Comparative, All applicants 3. Ultimate, All applicants		
II		
A. North Country Broadcasting; Malone, NY.	BPH-881116MA	90–425
B. Lila Lou Couturier; Malone, NY.	BPH-881116MB	.....
C. Malone FM, Inc.; Malone, NY.	BPH-881117MA	.....
Issue Heading and Applicant(s) 1. See Apendix, C 2. Air Hazard, B,C 3. Comparative, A,B,C 4. Ultimate, A,B,C		
III		
A. Joseph R. Soucise & Benjamin L. Mevorach, A General Partnership; North Windham, ME.	BPH-880118MI	90–426
B. Ella M. Dodge; North Windham, ME.	BPH-880119MJ	.....
C. Sebago Broadcasting Company; North Windham, ME.	BPH-880119MS	.....
Issue Heading and Applicants 1. Air Hazard, A–C 2. Comparative, A–C 3. Ultimate, A–C		
IV		
A. Marion Radio Corporation; Barrackville, WV.	BPH-881208MH	90–419
B. T.C. Monte, Inc.; Barrackville, WV.	BPH-881208MI	.....
C. Rosemary C. Fantasia; Barrackville, WV.	BPH-881208ML	.....
D. Roger F. Weigle; Barrackville, WV.	BPH-881208MM	.....
Issue Heading and Applicants 1. Comparative, ALL 2. Ultimate, ALL		

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

3. If there is any non-standardized issue in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor,

International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division.

Appendix (Malone, New York)

1. To determine whether Thomas L. Root, son of Joanne Root, is an undisclosed party-in-interest in Malone FM's application, and if so, what effect that has on its basic qualifications to be a Commission licensee.

[FR Doc. 90-24344 Filed 10-16-90; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35).

Type: Revision of 3067–0009.

Title: Disaster Assistance Registration/Application; Receptionist Screening Form.

Abstract: The Federal Emergency Management Agency (FEMA) uses FEMA Form 90–69, Disaster Assistance Registration/Application (English version) and FEMA Form 90–69A, Disaster Assistance Registration/Application (Spanish version) only in Presidentially declared major disasters to register individuals for disaster assistance. Respondents are individuals, families, businesses, or non-profit organizations. Agency interviews complete the application from by noting oral responses from applicants, who apply for recovery assistance.

The Receptionist Screening Form is used to obtain preliminary information needed to determine whether the disaster victim has limited or extensive needs. Those disaster victims with limited needs are referred directly to the agency providing benefits to meet those needs. Those with extensive needs complete FEMA Form 90–69 or 90–69A to initiate the eligibility determination process for the Disaster Housing Assistance program (administered by FEMA) and the Individual and Family Grant program (administrated by the States under FEMA regulations). These froms are currently undergoing automation for direct computer entry.

Type of Respondents: Individuals and households, Farms, Businesses or other for-profit, Non-profit institutions, and Small businesses or organizations.

Estimate of Total Annual Reporting and Recordkeeping Burden: 136,000.

Number of Respondents: 408,000.

Estimated Average Burden Hours per Response: 20 Minutes.

Frequency of Response: Information is collected only in Presidentially declared major disasters.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Borror, (202) 646–2624, 500 C Street, SW., Washington, DC 20472.

Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to: The FEMA Clearance Officer at the above address; and to Gary Waxman, (202) 395–7340, Office of Management and Budget, 3235 New Executive Office Building, Washington, DC 20503 within four weeks of this notice.

Dated: October 5, 1990.

Wesley C. Moore,

Director, Office of Administrative Support.

[FR Doc. 90-24478 Filed 10-16-90; 8:45 am]

BILLING CODE 6718-01-M

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35).

Type: Extension of 3067–0039.

Title: Recertification for Continued Assistance.

Abstract: The Disaster Relief Act of 1974 (Public Law 93–288) as amended by the Robert T. Stafford Act (Pub. L. 100–707) authorizes the President to provide Temporary Housing Assistance to or on behalf of individuals and families who from the results of receiving the initial temporary housing assistance have requested continued housing assistance. Continued housing assistance is based upon need and proof by the occupant that the initial assistance was used for the purposes intended by law.

FEMA Form 90–71, Recertification for Continued Assistance, is the form FEMA uses to document information provided by the occupant concerning their relocation efforts and needs for continued assistance. This documentation supports decisions regarding continuation or termination of assistance. This form is completed either by the occupant or a FEMA representative.

Type of Respondents: Individuals or households.

Estimate of Total Annual Reporting and Recordkeeping Burden: 167 Hours.

Number of Respondents: 1,000.

Estimated Average Burden Hours per Response: 10 Minutes.

Frequency of Response: On occasion.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Borror, (202) 646–2624, 500 C Street, SW., Washington, DC 20472.

Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to: The FEMA Clearance Officer at the above address; and to Gary Waxman, (202) 395–7340, Office of Management and Budget, 3235 New Executive Office Building, Washington, DC 20503 within four weeks of this notice.

Dated: October 10, 1990.

Wesley C. Moore,

Director, Office of Administrative Support.

[FR Doc. 90-24479 Filed 10-16-90; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 90-26]

General Steamship Corp., Ltd., et al. v. City of Long Beach Harbor Department; Filing of Complaint and Assignment

Notice is given that a complaint was served October 11, 1990, which complaint was filed by General Steamship Corporation, Ltd.; Interocean Steamship Corporation; Kerr Steamship Company, Inc.; Transmarine Navigation Corporation; Williams Dimond & Co.; Atlantic Container Line; Blue Star Line Ltd.; Columbus Line; d'Amico Line; EAC Lines; Evergreen Line; French Line (CGM); Grancolombiana Line; Hanjin Container Lines; Hapag-Lloyd A.G.; Hyundai Merchant Marine (USA), Inc.; Italian Line; "K" Line; Maersk Line; Mexican Line; Mitsui O.S.K. Lines; Naviera Interamericana "Navicana"; Nedlloyd Lines; Neptune Orient Line; Norsk Pacific Steamship Co.; NYK Line; OOCL (USA), Inc.; Polynesia Line; Senator Line; Shinwa Line; Showa Line; Sploesa Plovba; Star Shipping A/S; Taiwan Navigation Co.; Toko Line; Yang Ming Line; and Zim Container Service (collectively designated "Complainants") against City of Long

Beach Harbor Department ("Respondent"). Complainants allege that Respondent has violated sections 10 (d)(1), and (b)(12) of the Shipping Act of 1984, 46 U.S.C. app. 1709 (d)(1) and (b)(12), by instituting and enforcing procedures for identifying and collecting damages to berthing premises and by reinstituting vicarious liability upon agents for physical loss and damage claims in breach of the settlement agreement and in violation of the Commission's final order approving said settlement agreement in Commission Docket No. 83-46.

This proceeding has been assigned to Administrative Law Judge Norman D. Kline ("Presiding Officer"). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by October 11, 1991, and the final decision of the Commission shall be issued by February 10, 1992.

Joseph C. Polking,
Secretary.

[FR Doc. 90-24361 Filed 10-16-90; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Employee Thrift Advisory Council; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), a notice is hereby given of the following committee meeting:

Name: Employee Thrift Advisory Council.

Time and date: 10 a.m., October 30, 1990.

Place: Fifth Floor Conference Room, Federal Retirement Thrift Investment Board, 805 Fifteenth Street, NW., Washington, DC.

Status: Open

Matters to be considered: Approval of the minutes of the July 10, 1990, meeting; report of the Executive Director on the status of the Thrift Savings Plan; changes in, and distribution of, new Thrift Savings Plan materials; status of Voice Response System (VRS); status of implementation of new legislation and regulations; and new business.

Any interested person may attend, appear before, or file statements with the Council. For further information contact John J. O'Meara, Committee Management Officer, on (202) 523-5967.

Dated: October 12, 1990.

Francis X. Cavanaugh,
Executive Director.

[FR Doc. 90-24478 Filed 10-16-90; 8:45 am]
BILLING CODE 6710-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

ENVIRONMENTAL PROTECTION AGENCY

[ATSDR-27]

Fourth List of Hazardous Substances That Will Be the Subject of Toxicological Profiles

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Public Health Service (PHS), Department of Health and Human Services (DHHS), and Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund), as amended by the Superfund Amendments and Reauthorization Act (SARA), establishes certain requirements for ATSDR (of DHHS) and EPA with regard to hazardous substances that are most commonly found at facilities on the CERCLA National Priorities List (NPL). Section 104(i)(2) of CERCLA (42 U.S.C. 9604(i)(2) requires the two agencies to prepare a list of at least 100 hazardous substances most commonly found at NPL sites or facilities that pose the most significant potential threat to human health (52 FR 12866, April 17, 1987). CERCLA also requires the agencies to revise the priority list to include 100 or more additional hazardous substances (53 FR 41280, October 20, 1988), and to include at least 25 additional hazardous substances in each of the three successive years following the 1988 revision (54 FR 43615, October 26, 1989).

This notice contains the required list of 25 additional substances and provides a summary of the procedure used to generate this list. The ATSDR is developing a data base containing additional information on the frequency of occurrence of substances at NPL sites and potential for human exposure at these sites. The agencies intend to revise the algorithm used in the ranking activity in order to incorporate new information. The lists of hazardous substances will be reevaluated using the revised algorithm and the substances will be re-ranked if appropriate. Upon completion, the list that results from this evaluation will be published in the Federal Register.

ADDRESSES: Comments on this notice should bear the docket control number [ATSDR-27], and should be submitted to:

ATSDR, Division of Toxicology, Mail Stop E-29, 1600 Clifton Rd., NE., Atlanta, GA 30333.

All comments will be placed in a publicly accessible docket; therefore please do not send confidential business information.

FOR FURTHER INFORMATION CONTACT: The Division of Toxicology, ATSDR, Atlanta, GA 404-639-6000 or FTS 236-6000.

LIST OF SUBSTANCES: The following newly listed 25 hazardous substances are shown in the order of their Chemical Abstract Service (CAS) numbers.

CAS Number	Name of compound (Synonym)
50-31-7	Trichlorobenzene.
71-36-3	1-Butanol (n-Butyl alcohol).
77-73-6	Dicyclopentadiene.
87-61-6	1,2,3-Trichlorobenzene.
88-85-7	2-sec-Butyl-4,6-dinitrophenol (Dinoseb).
95-94-3	1,2,4,5-Tetrachlorobenzene.
98-82-8	1-(methylethyl)-benzene (Cumene).
99-65-0	1,3-Dinitrobenzene.
99-99-0	4-Nitrotoluene.
100-44-7	Benzyl chloride.
103-65-1	n-Propyl benzene.
106-48-9	4-Chlorophenol.
107-92-6	Butanoic acid (Butyric acid).
108-60-1	Bis(2-chloro-1-methylethyl) ether.
109-06-8	2-Methylpyridine.
110-00-9	Furan.
121-69-7	Dimethyl aniline (N,N-Dimethylaniline).
123-86-4	n-Butyl acetate (Acetic acid, butyl ester).
141-78-6	Ethyl acetate (Acetic acid, ethyl ester).
622-97-9	p-Methyl styrene.
637-50-3	Propenyl benzene.
3268-87-9	Octachlorodibenzo-p-dioxin.
7647-10-0	Hydrochloric acid.
7664-38-2	Phosphoric acid.
39638-32-9	Bis(2-chloroisopropyl) ether.

SUPPLEMENTARY INFORMATION:

I. Background

Section 104(i) of CERCLA (42 U.S.C. 9604(i)), as amended, requires the preparation of: (1) A list of hazardous substances found at NPL sites (in order

of priority, (2) toxicological profiles of those substance, and (3) the initiation of a research program to fill data gaps associated with the substances.

A priority list of the first 100 substances was published (52 FR 12866, April 17, 1987), with a short summary of the procedure used by ATSDR and EPA to compile the list. In that notice, the agencies solicited public comment on the approach adopted for evaluating and ranking hazardous substances found at NPL sites, and announced the intention to refine the listing process in response to these comments and ongoing efforts by the agencies to improve the listing process.

A second priority list of 100 additional substances was published (53 FR 41280, October 20, 1988). At that time, the procedure used to prepare the second priority list was summarized.

For the most part, the same procedure was used in the activity initiated to generate the third list of 25 substances (54 FR 43615, October 26, 1989) and the fourth list of 25 substances that appears in this notice. The approach used in the activity initiated to generate the third and fourth lists is summarized below.

ATSDR and EPA solicit public comment on this approach; such comments should be submitted in accordance with the instructions given in this notice. ATSDR and EPA will continue to seek improvements in the listing process as future revisions of the list are prepared. All comments previously received are in the public file for this notice. A more detailed description of the revised listing methodology is contained in support documents which have been placed in the public file and are available for public review (see unit V of this notice).

II. Review of Methodology for Selecting Substances on the First List

A. General Approach for the First List

To obtain the first list of 100 hazardous substances, ATSDR and EPA defined a subset of the 717 hazardous substances which formed the CERCLA list (under section 102 of CERCLA). The subset was defined as those hazardous substances which EPA has identified at National Priorities List (NPL) sites. To rank the substances within this subset, three criteria were considered: (1) Toxicity, (2) frequency of occurrence at NPL sites or facilities, and (3) potential for human exposure. These criteria reflect the requirements of section 104(i)(2) of CERCLA (42 U.S.C. 9604(i)(2)). To develop a detailed ranking system employing these criteria, ATSDR and EPA first reviewed a number of hazard scoring systems for their applicability to the ranking criterion of toxicity. From all the approaches considered, the Reportable Quantity (RQ) scoring scheme was selected for ranking toxicity of the 100 priority substances. The RQ scoring scheme is described in several Federal Register documents (50 FR 13456, April 4, 1985; 51 FR 34534, September 29, 1986; and 52 FR 8140, March 16, 1987).

The second criterion used by ATSDR and EPA to prepare the first priority list of hazardous substances was the frequency of occurrence at NPL sites. Data from the Contract Laboratory Program (CLP) statistical data base was used for determining frequency of occurrence. The CLP is an EPA program which provides a range of chemical analysis services at hazardous waste sites. The CLP statistical data base represents a random, stratified sample of sites and waste samples from those sites that were analyzed under CLP Routine Analytical Services (RAS) contracts from 1980 to 1984. The data base provides information on the percentage of sites at which a substance was detected at least once in any medium (i.e., frequency of occurrence) and the average and range of concentration for each medium or matrix (e.g., soil, ground water, drums).

The third criterion used to prepare the first priority list of hazardous substances was the potential for human exposure. ATSDR and EPA evaluated various sources of data associated with this criterion, and selected the CLP survey data to derive a rough estimate of potential for human exposure to hazardous substances at NPL sites. Three types of exposure-related data from the CLP survey were used: the average concentration of the candidate substances detected in ground water and surface water across the 358 NPL sites included in the CLP survey; the frequency detection of those substances in ground water and surface water across the 358 sites; and whether the substances has been selected for detailed exposure and risk assessment at Superfund Remedial sites.

B. Generation of the First List

Using the ranking factors described above, as well as some minor criteria, ATSDR and EPA developed an algorithm incorporating these criteria to calculate a hazard index value for each candidate substance. This algorithm served as the basis for generating the rank of the first 100 substances.

The starting point for the hazard index calculation was the subset of hazardous substances which EPA had identified at NPL sites based on the site percent data from the CLP survey. The agencies divided the site percent data value for each substance (representing frequency of occurrence) by the lowest RQ value for the substance (based on acute toxicity, chronic toxicity, or potential carcinogenicity) to generate a site index for each substance. ATSDR and EPA ranked the candidate substances based on their site indices. The agencies then calculated an exposure index for each substance by ranking them based on the three exposure-related factors (with each factor receiving equal weight). The final step in the algorithm was to combine the site index rank and the exposure index value to obtain a hazard index for each substance. The substances were prioritized based on their hazard indices.

For purposes of assessing hazardous substances in toxicity profiles, ATSDR and EPA combined some of the candidate substances into groups. If substances are stereoisomers of one another, are readily metabolized to other substances on the list, or generally are characterized as mixtures with respect to toxicity and/or frequency of occurrence, they were grouped together and occupy only one position on the priority list. Examples of these types of substances include: heptachlor and heptachlor epoxide; endrin and endrin aldehyde; and PCBs.

III. Methodology for Selecting Substances on the Second, Third, and Fourth Lists

A. Bases for Improvements in Methodology for Selecting Substances

After publication of the first priority list of hazardous substances, ATSDR and EPA solicited public comment and conducted critical reviews of the above-described prioritizing method in order to identify potential improvements. The procedure used to generate the second 100 substances was a modified version of that used to rank the first 100. The modifications reflect an effort to: (1) Improve data acquisition for data-poor substances of the second list, and (2) adapt the method to data sources that provide a more complete description of exposure to substances found at NPL sites. The ranking algorithm used to generate the third and fourth lists is the same version as that used for the second list. However, several new sources of exposure and frequency of occurrence data were used as inputs for the algorithm.

B. Determinction of the Frequency of Occurrence Criterion of the Ranking Methodology

In the procedure for selection of the first 100 priority substances, the number of NPL sites at which a substance is found was estimated from the CLP statistical data base. For selection of the second 100 priority substances, two additional estimates of frequency of occurrence were employed, the NPL technical (NPLt) data base, and the CLP Special Analytical Services (SAS) data base. For the development of the third and fourth lists, the View data base (described below) was substituted for NPLt, and the CLP Analytical Results data base (CARD) was added to supplement the CLP statistical data base (described above). The View, CARD, and SAS data bases are described below.

The View data base has been developed by ATSDR's Exposure and Disease Registry Branch (EDRB) for use in selecting sites for Exposure Registry development. View is built upon EPA's NPLt data base supplemented with information from ATSDR Health Assessment and Health Consultation documents. View currently contains updated verified frequency of occurrence data for all of the 1,177 NPL sites. The View data base was used as a replacement for the NPLt data base as a source of frequency of occurrence data for the algorithm.

CARD contains information generated by recent CLP Routine Analytical Services (RAS) contracts. Only CARD data from NPL sites was used as a source of frequency of occurrence data for the algorithm.

The final source of additional information used to estimate frequency of occurrence was the SAS data base. This data base contains information on the occurrence of substances which do not appear in the CLP statistical data base for methodological reasons. Most of the information in the CLP statistical data base is obtained under the RAS program, in which samples submitted for analysis are screened for certain target chemicals; additional substances are then determined by matching their mass spectra to known standards. A request for determination of a substance under SAS may occur when there is reason to believe that a specific hazardous compound is present in a sample at a concentration below the detection limit of the RAS, or when there is reason to believe that a specific hazardous substance which is not a target substance may be present in a sample.

The SAS data files were examined to identify substances with five or more requests for SAS which are not present in the CLP statistical data base. Those substances were then examined further to determine the number of NPL sites at which the substance had actually been detected. This number was then divided by the total number of NPL sites to obtain a site percent frequency.

The overall site percent value used for a particular substance was the highest of the CLP statistical data base site percent (as determined by either RAS or SAS data), the View data base site percent, and the CARD site percent.

C. Determination of the Exposure Component of the Ranking Methodology

For the preparation of the second list, ATSDR and EPA expanded the bases for evaluating the potential for human exposure to the priority substances in two ways: (1) By considering the air and soil as additional routes of potential exposure, and (2) by considering additional data bases reflecting the potential for human exposure to the substances.

The potential for exposure to candidate substances through soil was considered by incorporating data on soil concentrations from the CLP statistical data base in the calculation of an exposure index for each substance. To estimate the potential for air exposure, ATSDR and EPA used an indirect method, since no data are readily available on actual air concentrations of the candidate substances at NPL sites. Retention time on a gas chromatography column was used to estimate the potential for air migration since these values correlate positively with boiling point, which in turn correlates negatively with volatility. For the development of the third and fourth lists, the agencies used boiling points as a correlate of potential for air migration because they were more readily available for the substances to be ranked. The potential for air exposure was included in the calculation of an overall exposure index.

Exposure potential also was represented in the second 100 ranking procedure through the incorporation of eight separate data sources. The data sources used were:

CLP statistical data base (CLPs)
NPL Technical data base (NPLt)
National Human Adipose Tissue Survey (NHATS)
Department of Transportation Hazardous Materials Information System (DOT/HMIS)
Acute Hazardous Events data base (AHE)
National Response Center data base (NRC)
Removal Tracking System data base (RTC)
NEXIS

This source list was modified for the development of the third and fourth lists to exclude NPLt and include the following additional sources:

CLP Analytical Results data bas (CARD)
View data base
Toxic Release Inventory (TRI)

Information from these sources was incorporated in one of two ways: (1) As part of the water, soil and air exposure potential rank (boiling point, and CARD and CLP concentration data) or (2) as a weighting factor applied to the overall exposure rank (NHATS, DOT/HMIS, AHE, NRC, NEXIS, RTS, TRI). When no NPL site soil or water concentration data were available to determine the exposure potential rank, information on frequency of occurrence at sites was used as an alternate. The ten data bases used to estimate exposure potential in the activity initiated to generate the third and fourth lists are described below.

CLP Statistical Data Base

The CLPs contains data on the frequency of occurrence and media concentration of chemicals found at NPL and other hazardous waste sites. The data base was derived from CLP Routine Analytical Service (RAS) analyses and contains concentrations of specific chemicals found in soil, ground water, and surface water from a subset of the total NPL sites. Only the information from NPL sites was used to estimate exposure potential in the activity initiated to generate the third and fourth lists.

National Human Adipose Tissue Survey

The NHATS data base contains chemical analysis data of human adipose tissue collected from individuals in hospitals across the United States. Information is available for 372 substances, derived from 600 individual adipose tissue samples that were pooled into 46 composite samples (approximately 17 individual samples per composite). This data base gives some indication of the degree to which the population of the United States has been exposed to the substances detected. The ATSDR and EPA considered occurrence of a substance in human tissue to be an indication of potential for significant human exposure, and therefore assigned greater weight to the exposure index for such substances.

Department of Transportation Hazardous Materials Information System

The DOT/HMIS data base contains information concerning accidental release of hazardous substances during transportation. A written report must be

submitted to HMIS within 15 days of the accidential release. The reports contain an identification of the substance released and an accounting of any injuries or fatalities resulting from the release. The ATSDR and EPA considered occurrence of a substance in the HMIS data base to be an indication of potential for significant human exposure at facilities on the NPL, and therefore ATSDR and EPA assigned greater weight to the exposure index for such candidate substances.

Acute Hazardous Events Data Base

The AHE data base was developed by the EPA, following the tragic release of a toxic substance in Bhopal, India, to provide information concerning sudden, accidential releases of toxic chemicals in the United States. The main purpose of the data base is to characterize the kinds of events releasing acutely toxic substances, the substances involved, and the causative factors leading to their release. The ATSDR and EPA considered occurrence of a substance in the AHE data base to be an indication of potential for significant human exposure at facilities on the NPL; therefore, ATSDR and EPA assigned greater weight to the exposure index for such candidate substances.

National Response Center Data Base

The NRC data base contains information concerning hazardous substance releases exceeding the RQ, pipeline failures and certain transportation incidents involving hazardous substances, and certain releases of toxic or flammable gases. ATSDR and EPA considered the occurrence of a candidate substance in this data base for any releases that resulted in death, injury, or evacuation, to be an indication of potential for significant human exposure at facilities on the NPL. Consequently the agencies increased the weight of the exposure index for any candidate substances listed in the NRC.

Removal Tracking System Data Base

The RTS data base describes activities undertaken to clean up a site under the Superfund removal program. It lists the materials of concern that triggered a removal action and frequently lists other major contaminants being addressed at a site. ATSDR and EPA considered that the occurrence of a candidate substance in this data base indicates potential for significant human exposure. Consequently the agencies increased the weight of the exposure index for any candidate substances listed in the RTS.

NEXIS

The NEXIS information system contains full-text articles reporting the release of toxic substances in over 125 newspapers, newsletters, and wire services. ATSDR and EPA considered the reporting in this data base of release of a candidate substance which led to human death, injury, or evacuation, to be a significant indicator of potential for significant human exposure at facilities on the NPL. Consequently, the agencies increased the weight of the exposure index for any such substance.

CLP Analytical Results Data Base

The CARD contains soil and water monitoring information generated by all CLP RAS contracts starting on or after January 1, 1988. Substance geometric mean soil and water concentration data from NPL sites in CARD was used to estimate exposure potential for development of the third and fourth lists.

View Data Base

The View data base is built upon EPA's NPLt data base supplemented with information from ATSDR Health Assessment and Health Consultation documents. View currently contains updated verified frequency of occurrence data for all of the 1,177 NPL sites.

Toxic Release Inventory

Section 313 of the Emergency Planning and Community Right-To-Know Act (also known as SARA title III) requires EPA to establish a computerized national data base of toxic chemical emissions from manufacturing facilities throughout the United States. This Toxic Release Inventory is a composite of over 70,000 submissions of toxic release inventory reports filed on section 313 chemicals. Industry is required to submit these forms annually to EPA and the states. The data currently available represent releases in 1987. Information in the data base includes quantitative estimates of releases to air, water, and soil, facility information including storage data, and waste treatment data. Reported release in the TRI data base were used to weight the exposure index for candidate substances.

D. Determination of the Toxicity Component of the Ranking Methodology

ATSDR and EPA decided to continue to use the Reportable Quantity (RQ) approach as a hazard scoring system, for the same reasons that guided its choice for the first and second priority list of hazardous substances. This approach provides the most complete characterization of toxicity of all hazard scoring systems reviewed by the agencies.

The reportable quantity ranking scheme was developed by EPA to set RQs for hazardous substances as required by CERCLA. Each RQ category corresponds to a weight, in pounds, for which releases must be reported to the Coast Guard's NRC. Section 103 of CERCLA (42 U.S.C. 9603) requires immediate notification from any person in charge of a vessel or an offshore or onshore facility that releases an amount of a hazardous substance equal to or greater than its RQ. RQs are developed for individual chemicals and waste streams that have already been designed under CERCLA as hazardous substances.

Each CERCLA hazardous substance is assigned to one of five RQ categories based on chronic toxicity, acute toxicity, carcinogenicity, acquatic toxicity, and ignitability and reactivity. RQs are determined for each criterion separately, and the lowest of these is selected as the RQ for the substance. Only values for acute and chronic mammalian toxicity or carcinogenicity were considered for developing the third and fourth lists of 25 hazardous substances.

Some of the candidate hazardous substances have not yet been assigned RQ values. In these cases, the ATSDR and EPA used the expertise of EPA's Office of Toxic Substances (OTS) to evaluate the potential health hazards associated with new chemicals submitted to the Premanufacture Notice Program. OTS employs a panel of toxicologists to assign a level of concern for the potential for toxicity, based upon the available experimental data, physical-chemical properties, toxicities of analogous substances, and toxicities of possible metabolites of the substance, or the substance, or of substances analogous to possible metabolites. On this basis, the level of concern for potential toxicity was adjusted to a five-point scale to coincide with the five-point RQ scale. This value was then used to represent the RQ value in the ranking algorithm.

IV. Generation of the Third and Fourth Lists

The ATSDR and the EPA generated an algorithm to rank the hazard potential of each candidate substance. The starting point for the hazard index calculation was the subset of hazardous substances which EPA had identified at NPL sites by means of the View data base, the CARD, the CLPSD or the SAS data base. The agencies divided the site percent value for each substance

(representing frequency-of-occurrence) by the lowest RQ value for the substance (based on acute toxicity, chronic toxicity, or potential carcinogenicity) to generate a site index for each substance. ATSDR and EPA ranked the candidate substances based on their site indices, then calculated an exposure potential index for each substance. This index was based upon water concentration, soil concentration, and the boiling point of each substance, or frequency of occurrence (if no other information was available). The final step in the algorithm was to combine the site index rank and the exposure index value to obtain a hazard index for each candidate substance. The activity resulted in the ranking of substances; substances in the third and fourth lists were selected from this ranking. The fourth list of substances is composed of the 25 previously unlisted substances which have the highest hazard potential based on their hazard indices.

The algorithm for calculating the hazard index is described in greater detail in the support document of this notice, which is contained in the public file.

V. Administrative Record

ATSDR and EPA are establishing a single administrative record entitled ATSDR-27 for materials pertaining to this notice. All materials received as a result of this notice will be included in the public file which is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays, at the Agency for Toxic Substances and Disease Registry, Building 33, Executive Park Drive, Atlanta, GA.

For the Agency for Toxic Substances and Disease Registry.

Dated: September 27, 1990.

William L. Roper,

Administrator, Agency for Toxic Substances and Disease Registry.

For the Environmental Protection Agency

Linda J. Fisher,

Assistant Administrator, Office of Pesticides and Toxic Substances.

[FR Doc. 90-24362 Filed 10-16-90; 8:45 am]

BILLING CODE 4160-70-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 90P-0271]

Eggnog Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Pevely Dairy Co. to market test a product designated as "light eggnog" that deviates from the U.S. standard of identity for eggnog (21 CFR 131.170). The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the product.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than January 15, 1991.

FOR FURTHER INFORMATION CONTACT: Joanne Travers, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St., SW., Washington, DC 20204, 202-485-0106.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been used to Pevely Dairy Co., 1001 South Grand Blvd., St. Louis, MO 63104-1084.

The permit covers limited interstate marketing tests of a product that deviates from the U.S. standard of identity for eggnog in 21 CFR 131.170 in that: (1) The fat content of the product is reduced from 8 grams to 2 grams, and (2) sufficient vitamin A palmitate is added to ensure that 4-fluid-ounce (118.5-milliliter) serving of the product contains 8 percent of the U.S. Recommended Daily Allowance for vitamin A. The product meets all requirements of the standard with the exception of these deviations. The purpose of the variation is to offer consumers a product that is nutritionally equivalent but contains fewer calories and less fat.

For the purpose of this permit, the name of the product is "light eggnog." The principal display panel of the label must include the statements "reduced calories" and "reduced fat" following the name. In addition, the label must bear the comparative statements "⅓ less calories" and "75% less fat than regular eggnog".

The product complies with the reduced calories labeling requirements in 21 CFR 105.66(d). In accordance with FDA's current views, reduced fat food labeling is acceptable because there is at least a 50-percent reduction in the fat content of the product. The information panel of the label will bear nutrition labeling in accordance with 21 CFR 101.9.

This permit provides for the temporary marketing of 21,960 cases, containing 16 one-quart (1946-milliliter) containers each, of the test product. The test product is to be manufactured at Pevely Dairy Co., 1001 South Grand Blvd., St. Louis, MO 63104, Plant No. 29-496, and will be distributed in St. Louis, MO, eastern Missouri, Illinois, Indiana, Kentucky, and Tennessee.

Each of the ingredients used in the food must be stated on the label as required by the applicable sections of 21 CFR part 101. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than January 15, 1991.

Dated: October 5, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90-24411 Filed 10-16-90; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETINGS: The following advisory committee meetings are announced:

Anti-Infective Drugs Advisory Committee

Date, time, and place. November 1 and 2, 1990, 8 a.m., Conference Rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, November 1, 1990, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 5 p.m.; open public hearing, November 2, 1990, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 4 p.m.; closed committee deliberations, 4 p.m. to 5 p.m.; Gretchen Hascall, Center for Drug Evaluation and Research (HFD-9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4695. A meeting agenda and list

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of committee members will be available upon request.

General function of the committee. The committee reviews and evaluates data relating to the safety and effectiveness of marketed and investigational human drugs for use in infectious and ophthalmic disorders.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before October 22, 1990, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On November 1, 1990, the committee will discuss various draft guidelines for antimicrobial agents prepared by the Infectious Diseases Society of America in fulfillment of its contract with FDA. Specific guidelines to be discussed include: gynecologic infections, skin and skin structure infections, bone and joint infections, urinary tract infections, surgical prophylaxis, gastrointestinal infections, central nervous system infections, respiratory tract infections, endocarditis, bacteremia, sexually transmitted diseases, intra-abdominal infections, fever in the neutropenic patient, and general microbiology.

On November 2, 1990, 9 a.m. to 12 m., the committee will discuss the draft general guidelines of the above contract. From 1 p.m. to 5 p.m., the committee will continue to discuss any of the topics from the November 1, 1990 agenda which were not previously discussed or which need further discussion.

Closed committee deliberations. The committee may discuss trade secret and/or confidential commercial information regarding a pending new drug application. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

General Hospital and Personal Use Devices Panel

Date, time, and place. November 30, 1990, 10:30 a.m., First Floor Conference Room, Piccard Bldg., 1390 Piccard Dr., Rockville, MD.

Type of meeting and contact person. Open public hearing, 10:30 a.m. to 11:30 a.m., unless public participation does not last that long; open committee discussion, 11:30 a.m. to 4 p.m.; closed presentation of data, 4 p.m. to 4:30 p.m.; Amalie C. Mattan, Center for Devices and Radiological Health (HFZ–420), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1225.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before November 8, 1990, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a premarket approval application (PMA) for an implanted subcutaneous intraspinal catheter.

Closed presentation of data. The committee may discuss trade secret and/or confidential commercial information regarding the above PMA. This portion of the meeting will be closed to permit discussion of the information (5 U.S.C. 552b(c)(4)).

Orthopedic and Rehabilitation Devices Panel

Date, time, and place. November 30, 1990, 8 a.m., First Floor Auditorium, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 10 a.m.; closed presentation of data, 10 a.m. to 10:10 a.m.; open committee discussion, 10:25 a.m. to 11:25 a.m.; closed presentation of data, 11:25 a.m. to 11:35 a.m.; open committee discussion, 1 p.m. to 2 p.m.; closed presentation of data, 2 p.m. to 2:10 p.m.; open committee discussion, 2:25 p.m. to 3:25 p.m.; closed presentation of data, 3:25 p.m. to 3:35 p.m.; Marie A. Schroeder, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1036.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, informaton, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before November 23, 1990, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss premarket approval applications (PMA's) for a porous-metal coated total hip prosthesis, a stair climbing wheelchair, an anterior cruciate ligament augmentation device, and a bone growth stimulator.

Closed presentation of data. The committee will discuss trade secret and/or confidential commercial information regarding materials, design, and/or manufacturing information for the above mentioned PMA's. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentation by participants.

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Meetings of advisory committee shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI–35), Food and Drug Administration, Rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner, with the concurrence of the Chief Council, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FDCA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature of disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessons to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: October 12, 1990.

James S. Benson,

Acting Commissioner of Food and Drugs.

[FR Doc. 90–24560 Filed 10–15–90; 10:39 am]

BILLING CODE 4160-01-M

Public Health Service

Advisory Committee on the Food and Drug Administration

ACTION: Correction notice.

SUMMARY: The notice announcing the schedule of subcommittee meetings, printed in the August 7th Federal Register on page 32153, incorrectly identified the meeting time for the second meeting of the Foods, Cosmetics, and Veterinary Medicine subcommittee.

The second meeting of the Foods, Cosmetics, and Veterinary Medicine subcommittee will take place on Friday, October 26, 1990 from 8:30 a.m. to 5 p.m. The meeting is open to the public and will be held in the Humphrey Auditorium on the first floor of the Humphrey Building located at 200 Independence Avenue, SW., Washington, DC, 20201. Public registration will begin at 8 a.m.

FOR FURTHER INFORMATION CONTACT: Sheryl Rosenthal, Advisory Committee on the Food and Drug Administration, Department of Health and Human Services, room 740–G Humphrey Building, 200 Independence Ave., SW., Washington, DC 20201. Telephone number (202) 245–7306.

Dated: October 11, 1990.

Eric M. Katz,

Executive Director, Advisory Committee on the Food and Drug Administration.

[FR Doc. 90–24394 Filed 10–16–90; 8:45 am]

BILLING CODE 4160-01-M

Social Security Administration

Supplemental Security Income Modernization Project; Rescheduled Meeting

AGENCY: Social Security Administration, HHS.

ACTION: Notice of rescheduled meeting.

SUMMARY: Notice is hereby given that the meeting of the Supplemental Security Income (SSI) Modernization Project (the Project) that was to be held at the Harold Washington Social Security Center, First Floor Central Auditorium, 600 West Madison, Chicago, IL 60606 on October 23 and 24, 1990, has been rescheduled. The meeting will be held at the same location, but has been rescheduled for December 4 and 5, 1990. This notice supersedes the original notice of this meeting published on September 25, 1990 at 55 FR 39214.

DATES: December 4–5, 1990, 9 a.m. to 5 p.m.

ADDRESSES: Harold Washington Social Security Center, First Floor Central Auditorium, 600 West Madison, Chicago, Illinois 60606.

FOR FURTHER INFORMATION CONTACT: SSI Modernization Project Staff, room

300, 6401 Security Boulevard, Baltimore, MD 21235, (301) 965–3571.

SUPPLEMENTARY INFORMATION: The meeting of the SSI Modernization Project has been rescheduled. This notice supersedes the original notice of this meeting published on September 25, 1990 at 55 FR 39214.

The Social Security Administration [SSA] is undertaking a comprehensive examination of the SSI program, reviewing its fundamental structure and purpose. The purpose of the Project is to determine if the SSI program is meeting and will continue to meet the needs of the population it is intended to serve in an efficient and caring manner, recognizing the constraints in the current fiscal climate.

As part of the first phase of this Project, this notice announces a public meeting that is intended to create a dialogue that provides a full examination and how well the SSI program serves the needy, aged, blind, and disabled.

The meeting is open to the public to the extent that space is available. Public officials, representatives of professional and advocacy organizations, concerned citizens, and SSI applicants and recipients may speak and submit written comments on the issues to be discussed.

There will be a public comment portion of the meeting beginning in the afternoon of December 4, 1990. A second public comment session will be held on December 5, 1990, in the morning. In order to ensure that as many individuals as possible are given the opportunity to speak in the time allotted for public comment, each individual will be limited to a maximum of 10 minutes. Because of the time limitation, individuals are requested to present comments in their order of importance. A written copy of comments should be prepared and presented to us, preferably in advance of the meeting. To ensure our full understanding and consideration of each speaker's concerns, we welcome written comments that provide a detailed and elaborative discussion of the subjects presented orally, as well as further written comments on other issues not presented orally. Individuals unable to attend the meeting also may submit written comments. Written comments will receive the same consideration as oral comments.

To request to speak, please telephone the Project Staff, at (301) 965–3571, and provide the following: (1) Name; (2) business or residence address; (3) telephone number (including area code) during normal working hours; (4) capacity in which presentation will be made; e.g., public official, representative of an organization, or citizen; and (5) time of day desired. To guarantee an opportunity to speak, requests must be received by November 30, 1990. Late requests to speak will be honored, if time permits.

A transcript of the meeting will be available on an at-cost basis. Transcripts may be ordered from the Project Staff. The transcript and all written submissions will become part of the record of these meetings.

Dated: October 11, 1990.

Peter Spencer,

Executive Staff Director, SSI Modernization Project.

[FR Doc. 90-24430 Filed 10-16-90; 8:45 am]

BILLING CODE 4190-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK-910-01-4830-02-ADVB]

Northern Alaska Advisory Council; Meeting

The public meeting of BLM's Northern Alaska Advisory Council scheduled for October 24, 1990, has been cancelled and will be rescheduled. The date will be published 30 days prior to the new meeting.

For information, contact the Public Affairs Office, Bureau of Land Management, 1150 University Avenue, Fairbanks, Alaska 99709, telephone (907) 474-2231.

Dated: October 10, 1990.

Roger Bolstad,

Designated District Manager.

[FR Doc. 90-24450 Filed 10-16-90; 8:45 am]

BILLING CODE 4310-JA-M

[U-61568]

Utah; Proposed Reinstatement of Terminated Oil and Gas Lease

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97–451), a petition for reinstatement of oil and gas lease U–61568 for lands in Grand County, Utah, was timely filed and required rentals and royalties accruing from June 1, 1990, the date of termination, have been paid.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5.00 per acre and 16⅔ percent, respectively. The $500 administrative fee has been paid and the lessee has reimbursed the Bureau of Land Management for the cost of publishing this notice.

Having met all the requirements for reinstatement of lease U–61568 as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective June 1, 1990, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Ted D. Stephenson,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 90-24448 Filed 10-16-90; 8:45 am]

BILLING CODE 4310-DQ-M

[UT-942-01-4212-13; U-61287]

Issuance of Land Exchange Conveyance Document; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Exchange of public and private lands.

SUMMARY: This action informs the public of the conveyance of 1,164.20 acres of public land out of Federal ownership. This action will also open 1,636.61 acres of reconveyed lands to surface entry.

FOR FURTHER INFORMATION CONTACT: Mike Barnes, BLM Utah State Office, 324 South State Street, P.O. Box 45155, Salt Lake City, Utah 84145–0155, 801–539–4119.

SUPPLEMENTARY INFORMATION:

1. The United States has issued an exchange conveyance document to Thomas E. Flinders and Linda A. Flinders, for the following described lands pursuant to section 206 of the Act of October 21, 1976, 90 Stat. 2756; 43 U.S.C. 1716:

Salt Lake Meridian, Utah

T. 13 N., R. 9 W.,
Sec. 3, Lots 1, 2, 3, and 4;
T. 14 N., R. 9 W.,
Sec. 32, E½E½;
Sec. 33, All;
Sec. 34, SE¼SW¼, SE¼.
Containing 1,164.20 acres.

2. In exchange for these lands, the United States acquired the surface of the following described lands.

Salt Lake Meridian, Utah

T. 9 N., R. 15 W.,
Sec. 12, SW¼NW¼, NW¼SW¼;
T. 10 N., R. 14 W.,
Sec. 31, All;
T. 12 N., R. 11 W.,
Sec. 29, All;
T. 7 N., R. 18 W.,
Sec. 3, Lots 1, 2, S½NE¼, N½SW¼SW¼, SE¼SW¼SW¼, SE¼SW¼, SE¼.
Containing 1,636.61 acres.

3. At 7:45 a.m., on November 16, 1990, the lands described in paragraph 2 will be open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 7:45 a.m., on the date stated above, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

4. The purpose of this exchange was to acquire non-federal lands which have high public historical values due to the existence of the abandoned Transcontinental Railroad Grade.

James M. Parker,
State Director.

[FR Doc. 90-24449 Filed 10-16-90; 8:45 am]
BILLING CODE 4310-GG-M

Bureau of Reclamation

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information reproduced below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau clearance officer listed below and the Office of Management and Budget, Paperwork Reduction Project (****-****), Washington, DC 20503; telephone 202-395-7340.

Title: Buried Pipeline Performance Survey.

OMB approval number: ****-****.

Abstract: It is essential to safety, liability, and economic considerations that information be collected from operators and owners of Reclamation-installed pipelines concerning failures encountered, service provided, and maintenance required for the various pipeline systems. The information will be used to ascertain the most reliable and economical types of pipeline for new and replacement closed conduit systems, to assist in providing adequate maintenance planning, and to ensure adequate safety precautions.

Bureau form number: none.

Frequency: One-time.

Description of respondents: Managers of Reclamation-installed pipelines.

Estimated completion time: 6 hours.

Annual Responses: 360.

Annual Burden Hours: 2160.

Bureau Clearance Officers: Mr. Antonio Alcon, Acting Chief, Publications and Records Management Branch, Bureau of Reclamation, P.O. Box 25007, Denver, Colorado, 80225-0007, 303-236-6669; or Ms. Nancy Smith, Alternate Bureau Clearance Officer, 303-236-6470.

Dated: September 27, 1990.

Margaret W. Sibley,
Deputy Commissioner.

[FR Doc. 90-24163 Filed 10-16-90; 8:45 am]
BILLING CODE 4310-09-M

Minerals Management Service

Outer Continental Shelf; Availability of Proposed Notice of Sale, Central Gulf of Mexico; Oil and Gas Lease Sale 131

Gulf of Mexico Outer Continental Shelf (OCS); Notice of Availability of Proposed Notice of Sale, Central Gulf of Mexico, Oil and Gas Lease Sale 131.

With regard to oil and gas leasing on the OCS, the Secretary of the Interior, pursuant to section 19 of the OCS Lands Act, as amended, provides the affected States the opportunity to review the proposed Notice of Sale.

The proposed Notice of Sale for Sale 131, Central Gulf of Mexico, may be obtained by written request to the Public Information Unit, Gulf of Mexico Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123-2394, or by telephone (504) 736-2519.

The final Notice of Sale will be published in the **Federal Register** at least 30 days prior to the date of bid opening. Bid opening is scheduled for March 1991.

This Notice of Availability is hereby published, pursuant to 30 CFR 256.29(c), as a matter of information to the public.

Dated: October 11, 1990.

Barry A. Williamson,
Director, Minerals Management Service.

[FR Doc. 90-24412 Filed 10-16-90; 8:45 am]
BILLING CODE 4310-MR-M

National Park Service

Delaware and Lehigh Navigation Canal National Heritage Corridor; Meeting

AGENCY: National Park Service; Delaware and Lehigh Navigation Canal National Heritage Corridor Commission.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission.

DATE: November 17, 1990.

INCLEMENT WEATHER RESCHEDULE DATE: None.

ADDRESS: Public Safety Building, Room 206, 10 East Church Street, Bethlehem, PA.

FOR FURTHER INFORMATION CONTACT: Deirdre Gibson, Division of Park and Resource Planning, Mid-Atlantic Regional Office, National Park Service, 200 Custom House, 200 Chestnut Street, Philadelphia, PA 19106, 215-597-8426.

SUPPLEMENTARY INFORMATION: The Commission was established by Public Law 100-692 to assist the Commonwealth and its political subdivisions in planning and implementing an integrated strategy for protecting and promoting cultural, historical and natural resources. The Commission will report to the Secretary of the Interior and to Congress. The agenda for the meeting will focus on the planning process.

The meeting will be open to the public. Any member of the public may file a written statement concerning agenda items. The statement should be addressed to National Park Service, Mid-Atlantic Regional Office, Division of Park and Resource Planning, 200 Custom House, 200 Chestnut Street, Philadelphia, PA, 19106, attention: Deirdre Gibson.

Minutes of the meeting will be available for inspection four weeks after the meeting, at the above-named address.

Charles P. Clapper, Jr.,
Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 90-24429 Filed 10-16-90; 8:45 am]
BILLING CODE 4310-70-M

National Register of Historic Places, Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 6, 1990. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluations may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written

comments should be submitted by November 1, 1990.

Carol D. Shull,

Chief of Registration, National Register.

COLORADO

Jefferson County

Bear Creek Canyon Scenic Mountain Drive Denver Mountain Parks MPS), CO 74 section between Morrison and Idledale, Morrison vicinity, 90001706

Bergen Park (Denver Mountain Parks MPS), CO 74 S of I-40, Evergreen vicinity, 90001707

Colorow Point Park (Denver Mountain Parks MPS), 900 Colorow Rd., Golden vicinity, 90001712

Corwina Park O'Fallon Park, Pence Park (Denver Mountain Parks MPS), Roughly area SE of jct. of Kittredge & Myers Gulch Rds., Evergreen vicinity, 90001708

Dedisse Park (Denver Mountain Parks and Parkways MPS), 29614 Upper Bear Creek Rd., Evergreen vicinity, 90001709

Genesee Park (Denver Mountain Parks MPS), 26771 Genesee Ln., Golden vicinity, 90001710

Lariat Trail Scenic Mountain Drive (Denver Mountain Parks MPS), Lookout Mountain Rd. S of US 6 to Golden Reservoir, Golden vicinity, 90001711

Lookout Mountain Park (Denver Mountain Parks MPS), 987 1/2 Lookout Mountain Rd., Golden vicinity, 90001713

DELAWARE

New Castle County

Hersey—Duncan House, 2116 Ducan Rd., Mill Creek Hundred, Wilmington vicinity, 90001714

Noaman's Creek School, Jct. of Philadelphia Pike and Darley Rd., Brandywine Creek, Claymont, 90001715

Sussex County

Chipman Potato House (Sweet Potato Houses of Sussex County MPS), Jct of DE 465 & 465A, Laurel vicinity, 90001691

Collins Potato House (Sweet Potato Houses of Sussex County MPS), Jct of DE 509 & DE 510A, Laurel vicinity, 90001692

Dickerson Potato House (Sweet Potato Houses of Sussex County MPS), Jct of De 494 & DE 496, Delmar vicinity, 90001693

Hearn Potato House (Sweet Potato Houses of Sussex County MPS), 6 mi. N jct. of DE 74 & DE 62, Laurel vicinity, 90001694

Hitch, E. L. Potato House (Sweet Potato Houses of Sussex County MPS), Jct. of DE 460 & 480, Laurel vicinity, 90001695

Moore Potato House (Sweet Potato Houses of Sussex County MPS), SE of jct. of DE 72 and DE 463, Laurel vicinity, 90001696

Phillips Potato House (Sweet Potato Houses of Sussex County MPS), SW of jct. of DE 492 & DE 492A, Laurel vicinity, 90001697

Ralph Potato House (Sweet Potato Houses of Sussex County MPS), SE of jct. of DE 493 & DE 494, Laurel vicinity, 90001698

Rider Potato House (Sweet Potato Houses of Sussex County MPS), SE of jct. of DE 506 & DE 505, Laurel vicinity, 90001699

Stanley Potato House (Sweet Potato Houses of Sussex County MPS), N of jct. of DE 66 & DE 451, Laurel vicinity, 90001700

West Potato House (Sweet Potato Houses of Sussex County, MPS), US 13 N of jct. with DE 454A, Delmar vicinity, 90001701

Wright Potato House (Sweet Potato House of Sussex County MPS), SW of jct. of DE 24 & DE 510, Laurel vicinity, 90001702

DISTRICT OF COLUMBIA

District of Columbia (State equivalent)

Blagden Alley—Naylor Court Historic District, Bounded by O, 9th, M, and 19th Sts., Washington, 90001734

FLORIDA

Collier County

Parker House, 660 Eighty Ave. S., Maples, 90001732

IDAHO

Ada County

Capitol Boulevard Memorial Bridge, Capitol Blvd. over the Boise R., Boise, 90001717

Villeneuve, Charles and Martha, House, 7575 Moon Valley Rd., Eagle, 90001731

Bannock County

A. F. R. Building, 501 N. Main St., Pocatello, 90001737

ILLINOIS

Cook County

Oak Lawn School, 9326 S. Cook Ave., Oak Lawn, 90001725

Kendall County

Reorganized Church of Jesus Christ of Latter Day Saints, 304 S. Center Ave., Plano, 90001724

La Salle County

Ransom Water Tower, Plumb St. between Cartier & Columbus, Ransom, 90001723

Lee County

Whitney, Col. Nathan, House, 1620 Whitney Rd., Franlkin Grove vicinity, 90001726

Warren County

Patton Block Building, 88 & 90 Public Square, Monmouth, 90001727

INDIANA

Grant County

Grant County Jail and Sheriff's Residence, 215E. 3rd St., Marion, 83004526

IOWA

Clay County

Wanata State Park, (CCC Properties in Iowa State Parks MPS), S. of Jct. of Co. Rd. M27 and IA 10, Peterson vicinity, 90001677

Delaware County

Backbone State Park, Cabin—Bathing Area (Area A) (CCC Properties in Iowa State Parks MPS), Jct. of Co. Hwy. W69 & Co. Hwy. C54, Dundee vicinity, 90001681

Backbone State Park, Picnicking, Hiking & Camping Area (Area B) (CCC Properties in Iowa State Parks MPS), Jct. of Co. Hwy. W69 & Co. Hwy. C54, Dundee vicinity, 90001682

Backbone State Park, Richmond Springs (Area C) (CCC Properties in Iowa State Parks MPS), Jct. of Co. Hwy. W69 & Co. Hwy. C54, Dundee vicinity, 90001683

Dickinson County

Gull Point State Park, Area A (CCC Properties in Iowa State Parks MPS), Off IA 86 on W Shore of W Okoboji Lake, Milford vicinity, 90001661

Gull Point State Park, Area B (CCC Properties in Iowa State Parks MPS), Off IA 86 on W Shore of W Okoboji Lake, Milford vicinity, 90001662

Pikes Peak State Park (CCC Properties in Iowa State Parks MPS), W of jct. of IA 9 and US 71, Spirit Lake vicinity, 90001675

Pillsbury Point State Park (CCC Properties in Iowa State Parks MPS), Off US 71 W of Minnewashta Lake, Arnolds Park, 90001674

Trappers Bay State Park (CCC Properties in Iowa State Parks MPS), N of jct. of IA 219 & IA 9, Lake Park vicinity, 90001676

Franklin County

Beeds Lake State Park, Civilian Conservation Corps Area (CCC Properties in Iowa State Parks MPS), Jct. of IA 3 & IA 134, Hampton vicinity, 90001672

Guthrie County

Springbrook State Park, Civilian Conservation Corps Area (CCC Properties in Iowa State Parks MPS), Jct. of IA 384 & Co. Hwy. F25, Guthrie Center vicinity, 90001671

Hancock County

Pilot Knob State Park, Observation Tower (Area 2) (CCC Properties in Iowa State Parks MPS), S of Jct. of IA 9 and IA 332, Forest City vicinity, 90001686

Pilot Knob State Park, Picnic Shelter (Area 3) (CCC Properties in Iowa State Parks MPS), S of Jct. of IA 9 and IA 332, Forest City vicinity, 90001687

Pilot Knob State Park, Amphitheater (Area 4) (CCC Properties in Iowa State Parks MPS), S of Jct. of IA 9 and IA 332, Forest City vicinity, 90001688

Pilot Knob State Park, Portals (Area 5a) (CCC Properties in Iowa State Parks MPS), S of Jct. of IA 9 and IA 332, Forest City vicinity, 90001689

Pilot Knob State Park, Trail Area (Area 6a-6b) (CCC Properties in Iowa State Parks MPS), S of jct. of IA 9 and IA 332, Forest City vicinity, 90001690

Henry County

Geode State Park, Civilian Conservation Corps Area (CCC Properties in Iowa State Parks MPS), Co. Rd. X28 E of Lowell, Danvile vicinity, 90001673

Mahaska County

Lake Keomah State Park, Bathhouse—Lodge Area (Area A) (CCC Properties in Iowa State Parks MPS), Off IA 371 S of jct. with IA 92, Oskaloosa vicinity, 90001685

Lake Keonah State Park, Erosion Control Area (Area B) (CCC Properties in Iowa State Parks MPS), Off IA 371 S of jct. with IA 92, Oskaloosa vicinity, 90001687

Sac County

Blackhawk State Park, Wildlife Preserve Area (Area A) (CCC Properties in Iowa

State Parks MPS), S of jct. of US 71 and Co. Hwy. M39, Lake View, 90001673
Blackhawk State Park, Black Hawk Preserve (Area B) (CCC Properties in Iowa State Parks MPS), S of jct. of US 71 and Co. Hwy. M39, Lake View, 90001676
Blackhawk State Park, Denison Beach Area (Area C) (CCC Properties in Iowa State Parks MPS), S of jct. of US 71 and Co. Hwy. M39, Lake View, 90001680

Van Buren County

Lacy—Keosauqua State Park, Lodge and Picnic Area (Area A) (CCC Properties in Iowa State Parks MPS), Off 1A 1 on S bank of Des Moines R., Keosauqua vicinity, 90001668
Lacey—Keosauqua State Park, Picnic and Custodial Group (Area B) (CCC Properties in Iowa State Parks MPS), Off 1A 1 on S bank of Des Moines R., Keosauqua vicinity, 90001669
Lacey—Keosauqua State Park, Bathing Area (Area C) (CCC Properties in Iowa State Parks MPS), Off IA 1 on S bank of Des Moines R., Keosauqua vicinity, 90001670

Warren County

Lake Ahquabi State Park, Picnic Area (Area A) (CCC Properties in Iowa State Parks MPS), 1650 118th Ave., Indianola vicinity, 90001662
Lake Ahquabi State Park, Bathhouse Area (Area B) (CCC Properties in Iowa State Parks MPS), 1650 118th Ave., Indian vicinity, 90001664
Lake Ahquabi State Park, Refectory Area (Area C) (CCC Properties in Iowa State Parks MPS), 1650 118th Ave., Indianola vicinity, 90001665

Webster County

Dolliver Memorial State Park, Entrance Area (Area A) (CCC Properties in Iowa State Parks MPS), N of 1A 50 on Des Moines R., Lehigh vicinity, 90001654
Dolliver Memorial State Park, Picnic, Hiking & Maintenance Area (Area B) (CCC Properties in Iowa State Parks MPS), N of 1A 50 on Des Moines R., Lehigh vicinity, 90001655

LOUISIANA

Lincoln Parish

Ruston State Bank, 107 N. Trenton St., Ruston, 90001730

Richland Parish

Rhynes, Nonnie Roark, Memorial Library, 206 S. Louise St., Rayville, 90001736

MARYLAND

Somerset County

Rock Creek Methodist Episcopal Church, Deal Island Rd. NE of Scotts Cove, Chance, 90001718
St. Peter's Methodist Episcopal Church, Jct. of Old Crisfield—Marion Rd. & Heart's Ease Rd. Hopewell vicinity, 90001721

MASSACHUSETTS

Norfolk County

Massachusetts Fields School, Jct. of Rawson Rd. & Beach St., Quincy, 90001729

Plymouth County

Lincoln Historic District, Roughly, North & South Sts. from West to Water Sts., Main St. S to Garriana Rd. & Lincoln St. & Fearing Rd. N to Miles, Hingham, 90001728

Worcester County

First Methodist Church, 75 Walnut St., Clinton, 90001720

MICHIGAN

Ingham County

St. Mary Cathedral, 229 Seymour St., Lansing, 90001718

TEXAS

Lubbock County

Tubbe—Carlisle House, 602 Fulton Ave., Lubbock, 90001719

Val Verde County

Seven Mile Ranch Archeological District, Address Restricted, Comstock vicinity, 90001723

WASHINGTON

Yakima County

Buckeye Ranch House, 10661 WA 410, Naches vicinity, 90001735

WISCONSIN

Columbia County

Columbus Public Library (Public Library Facilities of Wisconsin MPS), 112 S. Dickason Blvd., Columbus, 90001704
Cox, Angie Williams, Library (Public Library Facilities of Wisconsin MPS), 129 N. Main St., Pardeeville, 90001703

Dodge County

Hutchinson Memorial Library (Public Library Facilities of Wisconsin MPS), 228 N. High St., Randolph, 90001705

In order to assist in the preservation of the following property, the commenting period has been waived:

MICHIGAN

Ingham Co.

Penfil Apartments, 108—110 S. Hosmer St., Lansing 90001654

[FR Doc. 90-24407 Filed 10-16-90; 8:45 am]
BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-300]

Certain Doxorubicin and Preparations Containing Same; Commission Decision To Terminate Investigation With Final Determination of No Violation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has decided to terminate the above-captioned investigation with a final determination of no violation of section 337 (19 U.S.C. 1337). The Commission has also decided to (1) deny complainant's motion to certify additional evidence into the record and to impose sanctions ("motion to certify"); (2) deny complainant's motion for leave to reply to the responses of the Cetus respondents and the Commission investigative attorney to its motion to certify; (3) grant the Commission investigative attorney's motion to supplement his response to complainant's petition for review; and (4) deny as moot the Commission investigative attorney's motion to strike the supplemental submission to complainant's motion to certify.

ADDRESSES: Copies of the Commission's opinion, the initial determination (ID) of the presiding administrative law judge (ALJ) and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-252-1000.

FOR FURTHER INFORMATION CONTACT: Wayne Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-252-1092.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

SUPPLEMENTARY INFORMATION: On May 21, 1990, the presiding ALJ issued an ID finding no violation of section 337 in the subject investigation. On July 5, 1990, the Commission determined to review the ID in its entirety. On July 26, 1990, Erbamont filed a motion to certify additional evidence into the record and to impose sanctions against the Cetus respondents ("motion to certify"). On August 1, 1990, the Commission investigative attorney filed a motion for leave to supplement his response to complainant's petition for review. On August 9, 1990, the Commission investigative attorney filed a motion to strike the supplemental submission to complainant's motion to certify. On August 14, 1990, complainant filed a motion for leave to reply to responses to its motion to certify.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and § 210.54-.56

of the Commission's Interim Rules of Practice and Procedure (19 CFR 210.54–.56 (1990)).

By order of the Commission.

Issued: October 6, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-24464 Filed 10-16-90; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 332-297]

Likely Impact of a Free Trade Agreement With Mexico on the United States

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and request for comments.

EFFECTIVE DATE: October 10, 1990.

FOR FURTHER INFORMATION CONTACT: Joanne Guth (202–252–1264), Trade Reports Division, Office of Economics, and Robert W. Wallace (202–252–1458), Textiles Division, Office of Industries, U.S. International Trade Commission, Washington, DC 20436.

SUMMARY: Following receipt on September 28, 1990, of a request from the Committee on Ways and Means of the U.S. House of Representatives and the Committee on Finance of the U.S. Senate, the Commission instituted investigation No. 332–297 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide information relating to the implications for the United States of a U.S.-Mexico free trade agreement.

More specifically, the Committees requested that the Commission in its report provide the following: (1) An overview of recent events significantly influencing U.S.-Mexico economic relations, including a profile of Mexico's trade and investment patterns; (2) a summary of the likely impact of the proposed free trade agreement with Mexico on the U.S. economy in general; (3) a summary of the likely impact on major U.S. industries and other sectors, including agriculture, that would be most affected by the proposed free trade agreement with Mexico; and (4) an indication of the regions in the United States that would be most affected by the proposed free trade agreement with Mexico and a summary of the nature of these effects. Because Canada may participate in the proposed negotiations, the Committees requested that the Commission also analyze, to the extent feasible, the three-way interrelationship and the impact on U.S.-Canada and on U.S.-Mexico trade if Canada does join an agreement.

The Committees requested that the Commission submit its report by February 1, 1991.

WRITTEN SUBMISSIONS: Interested persons are invited to submit written statements concerning the investigation. The Commission is particularly interested in learning about completed or ongoing research on the regional economic impact, as well as the overall impact on the United States, of the proposed free trade agreement. Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection to interested persons by the Office of the Secretary to the Commission. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted at the earliest possible date and should be received no later than November 26, 1990. All submissions should be addressed to the Secretary to the Commission at the Commission's office in Washington, DC.

Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 252–1809.

By order of the Commission.

Issued: October 11, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 24465 Filed 10–16–90; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731–TA–445 (Final)]

Industrial Nitrocellulose From Yugoslavia

Determination

On the basis of the record [1] developed in the subject investigation, the Commission unanimously determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act), that an industry in the United States is materially injured by reason of imports from Yugoslavia of industrial nitrocellulose,[2] provided for in subheading 3912.20.0 of the Harmonized Tariff Schedule of the United States (previously classified in items 445.25 of the former Tariff Schedules of the United States), that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective April 19, 1990, following a preliminary determination by the Department of Commerce that imports of industrial nitrocellulose from Yugoslavia were being sold at LTFV within the meaning of section 733(a) of the act (19 U.S.C. 1673b(a)). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of May 9, 1990 (55 FR 19367). the hearing was held in Washington, DC, on May 29, 1990, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on October 5, 1990. the views of the Commission are contained in USITC Publication 2324 (October 1990), entitled "Industrial Nitrocellulose from Yugoslavia: Determination of the Commission in Investigation No. 731–TA–445 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

By order of the Commission.

Issued: October 9, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90–24463 Filed 10–16–90; 8:45 am]

BILLING CODE 7020-02-M

[1] The record is defined in § 207.2(h) of the Commission's Rules of Practice and Procedure (19 CFR 201.2(h)).

[2] Industrial nitrocellulose is a dry, white, amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent, which is produced from the reaction of cellulose with nitric acid. Industrial nitrocellulose is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. The scope of this investigation does not include explosive grade nitrocellulose, which has a nitrogen content of greater than 12.2 percent.

[Investigations Nos 701-TA-304 (Prelim.) and 731-TA-470-472 (Prelim.)]

Silicon Metal From Argentina, Brazil, and the People's Republic of China

Determinations

On the basis of the record [1] developed in investigation No. 701-TA-304 (Preliminary) the Commission unanimously determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Brazil of silicon metal [2] that are alleged to be subsidized by the Government of Brazil.

The Commission further unanimously determines, on the basis of the record developed in investigations Nos. 731-TA-470-472 (Preliminary), pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reasons of imports from Argentina, Brazil, and the People's Republic of China (China) of silicon metal [3] that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On August 24, 1990, a petition was filed with the U.S. International Trade Commission and the U.S. Department of Commerce by the merchant-producer members of the U.S. silicon metal industry,[4] alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized imports of silicon metal from Brazil and LTFV imports of silicon metal from Argentina, Brazil, and China. Accordingly, effective August 24, 1990, the Commission instituted countervailing duty investigation No. 701-TA-304 (Preliminary) and antidumping investigations Nos. 731-TA-470-472 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of September 5, 1990 (55 FR 36330). The conference was held in Washington, DC, on September 14, 1990, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in these investigations to the Secretary of Commerce on October 5, 1990. The views of the Commission are contained in USITC Publication 2325 (October 1990), entitled "Silicon Metal from Argentina, Brazil, and the People's Republic of China: Determinations of the Commission in Investigations Nos. 701-TA-304 and 731-TA-470-472 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

By order of the Commission.

Issued: October 11, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-24466 Filed 10-16-90; 8:45 am]

BILLING CODE 7020-02-M

[1] The record is defined in § 207.2(h) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(h)).

[2] The merchandise covered by this investigation is silicon metal containing at least 96.00 but less than 99.99 percent of silicon by weight. The subject merchandise is used primarily as an alloying agent for aluminum and in the chemical industry as a precursor to silicones. Silicon metal is currently provided for in subheadings 2804.69.10 and 2804.69.50 of the *Harmonized Tariff Schedule of the United States (HTS)* as a chemical product, but is commonly referred to as a metal. Semiconductor-grade silicon (silicon metal containing by weight not less than 99.99 percent of silicon and provided for in subheading 2804.61.00 of the HTS) is not subject to this investigation.

[3] The merchandise covered by these investigations is identical to that in investigation No. 701-TA-304 (Preliminary).

[4] The petitioners in the investigations with respect to imports from Argentina and China are American Alloys, Inc., Pittsburgh, PA; Elkem Metals Co., Pittsburgh, PA; Globe Metallurgical, Inc., Cleveland, OH; Silicon Metalinch Inc., Seattle, WA; SiMETCO, Inc., Canton, OH; and SKW Alloys, Inc.; Niagara Falls, NY. Elkem Metals Co., and SKW Alloys, Inc. are not petitioners in the investigations with respect to imports from Brazil.

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on August 24, 1990, a proposed Consent Decree in *United States* v. *Baker Pacific Corporation*, Civil Action CV-F-90-227 REC, was lodged with the United States District Court for the Eastern District of California. The Complaint sought civil penalties and other relief against Baker Pacific Corporation, Inc., pursuant to sections 112(c), 113 and 114 of the Clean Air Act ("Act"), 42 U.S.C. 7412(c), 7413 and 7414. The defendants' violations involved failure to notify the EPA in writing prior to scheduled renovations of facilities containing friable asbestos material, in violation of the notification requirements of the National Emission Standards for Hazardous Pollutants ("NESHAP") for asbestos, 40 CFR part 61, subpart M.

The proposed Consent Decree requires Baker Pacific Corporation to pay $26,000 in settlement of the United States' claims for civil penalties. The defendant is subject to a one year injunction against violation of notice requirements of the Act or the asbestos NESHAP.

The United States Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environmental and Natural Resource Division, United States Department of Justice, Post Office Box 7611, Washington, DC 20044. Comments should refer to *United States* v. *Baker Pacific Corporation*, 90-5-2-1-1272.

The proposed Consent Decree may be examined at the Office of the United States Attorney, 4304 Federal Building, 1130 O Street, Fresno, California 93721, and at the offices of the Environmental Protection Agency, Region 9, 1235 Mission Street, San Francisco, CA. The proposed Consent Decree may be examined at the Environmental Enforcement Section Document Center, 1333 F Street, NW., suite 600, Washington, DC 20004, 202-237-7629. A copy of the proposed consent decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $3.75 ($0.25 per page) payable to "Consent Decree Library."

Barry M. Hartman,

Acting Assistant Attorney General, Environmental and Natural Resources Division.

[FR Doc. 90-24382 Filed 10-16-90; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on September 27, 1990, a proposed Consent Decree in *United States* v. *Green Mountain Power Corp., et al.*, Civil Action No. 88-307 was lodged with the United States District Court for the District of Vermont. The proposed Consent Decree concerns a portion of the Pine Street Canal Site in Burlington, Vermont, known as the Maltex Pond. The proposed Consent Decree requires the settlors to reimburse

the United States for a portion of its past costs regarding the Maltex Pond. The settlors have paid $945,000 into an escrow account, and this sum, plus interest earned (minus the service fee of the escrow agent) thereon, will be paid to the United States after entry by the Court of the Consent Decree. The United States' declaratory judgment claims will be dismissed without prejudice.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Green Mountain Power Corp., et al.*, D.J. Ref. 90-11-3-469.

The proposed Consent Decree may be examined at the office of the United States Attorney, District of Vermont, Federal Building, 3rd floor, 151 West Street, Rutland, Vermont 05701 and at the Region 1 Office of the Environmental Protection Agency, JFK Federal Building, Boston, Mass. 02203. "The proposed Consent Decree may be examined at the Environmental Enforcement Section Document Center, 1333 F Street, NW., suite 600, Washington, DC 20004, 202/347-7829. A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of *$17.25* (25 cents per page reproduction cost) payable to Aspen Systems Corporation.

Richard B. Stewart,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 90-24378 Filed 10-16-90; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT of JUSTICE

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with the policy of the Department of Justice, 28 CFR 50.7, and pursuant to section 122(d)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9622(d)(2), notice is hereby given that proposed Consent Decree in *United States* v. *Tucson Airport Authority et al.* was lodged on September 27, 1990, with the United States District Court for the District of Arizona. This action was brought pursuant to sections 106 and 107 of CERCLA, 42 U.S.C. 9606-07.

Under this Consent Decree, the Settling Parties agree to implement the remedial action selected by the U.S. Environmental Protection Agency ("EPA") pertaining to cleanup of contaminated groundwater at the Tucson International Airport Area Superfund Site, located in Tucson, Arizona. The Settling Parties are the Tucson Airport Authority, the City of Tucson, Hughes Aircraft Co., the United State Air Force, and the McDonnell-Douglas Corporation. Essentially, the Settling Parties have agreed to construct and operate a groundwater extraction and treatment system to treat groundwater that is contaminated with volatile organic compounds. The treated water, which will meet applicable Federal and State cleanup levels, will be fed into the City of Tucson's drinking water system.

In addition, the settling Parties will reimburse the EPA for the costs it incurred relating to the Tucson Airport Site, in the amount of 2.334 million, and will reimburse EPA for its costs in overseeing the work performed under the Consent Decree.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of 45 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530. All comments should refer to *United States* v. *Tucson Airport Authority*, D.J. Ref. 90-11-3-369.

The proposed Consent Decree may be examined at the Office of the United Attorney, Acapulco Building, suite 310, 110 S. Church Street, Tucson, Arizona 85701 and at the Region IX office of the U.S. Environmental Protection Agency, 1235 Mission St., San Francisco, California 94105. A copy of the proposed Consent Decree may also be examined at the Environmental Enforcement Section, Environment and Natural Resources Division, United States Department of Justice, room 1515, Tenth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained by mail from the Environmental Enforcement Section Document Center 1333 of F Street, NW., suite 600, Washington, DC 20004, Telephone Number (202) 347-2072. Any request for a copy of the proposed Consent Decree should be accompanied by a check in the amount of $25.50 for copying costs ($0.25 per page) payable to "United States Treasurer."

Richard B. Stewart,

Assistant Attorney General, Environment and Natural Resources Divisions, United States Department of Justice.

[FR Doc. 90-24383 Filed 10-16-90; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on October 5, 1990 a proposed Consent Decree in *United States* v. *Washington Circle Theatre Corp.* (D.D.C.), Civil Action No. *90-2451-RCL*, was lodged with the United States District Court for the District of Columbia. The Consent Decree concerns a violation of the Asbestos National Emission Standards for Hazardous Air Pollutants ("NESHAP"), 40 CFR part 61.140, *et seq.*, and the Clean Air Act, 42 U.S.C. 7401, *et seq.*, ("the Act"). The proposed Consent Decree requires defendant Washington Circle Theatre Corporation ("defendant") and certain related entities and individuals (1) to pay a civil penalty of $9,000.00; (2) to comply with the asbestos NESHAP and the Act in the future; (3) to notify EPA of all renovation or demolition work performed by them in the future; and (4) to insure that their employees attend asbestos removal classes prior to performing any work on a demolition of renovation involving asbestos.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Washington Circle Theatre Corp.* D.J. No. 90-5-2-1-1317.

The proposed Consent Decree may be examined at the office of the United States Attorney for the District of Columbia, 555 4th Street, NW., Washington, DC 20001, and the U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. The Decree may also be examined at the Environmental Enforcement Section Document Center, 1333 F Street NW., suite 600, Washington, DC 20004, 202-347-7829. A copy of the proposed consent decree may be obtained in

person or by mail from the Document Center. In request a copy of the proposed consent decree, please enclose a check in the amount of $4.00 (25 cents per page reproduction cost) payable to Consent Decree Library.

George Van Cleve,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 90-24378 Filed 10-16-90; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984—the SQL Access Group

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"). The SQL Access Group ("the Group") on August 31, 1990 has filed an additional written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing additions to its membership. The additional notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

On March 1, 1990, the Group filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to section 6(b) of the Act on April 5, 1990 (55 FR 12750). On June 5, 1990, the Group filed an additional written notification. The Department published a notice in the Federal Register in response to the additional notification on July 18, 1990 (55 FR 29277).

The identities of the additional parties to the Group are:

E.I. duPont de Nemours & Company, Information Systems Department, Nemours Building, Wilmington, DE 19898.

GUPTA Technologies, 1040 Marsh Road, Menlo Park, CA 94025.

Lotus Development Corporation, 1 Rogers Street, Cambridge, MA 02141.

Micro Decisionware, 2995 Wilderness Place, Boulder, CO 80301.

Microrim, 3925 159th Avenue NE., Redmond, WA 98073-9722.

Microsoft Corporation, One Microsoft Way, Box 97017, Redmond, WA 98052-6399.

Novell, Inc., 5918 West Courtyard Dr., Austin, TX 78730.

Sybase, Inc., 6475 Christie Ave., Emeryville, CA 94608.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 90-24381 Filed 10-16-90; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

DATE, TIME AND PLACE: November 13, 1990, 9:30 am-12:00 noon, Rm. S-2217, PHBldg., Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210.

PURPOSE: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. section 552(c)(1). The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

FOR FURTHER INFORMATION, CONTACT: Fernand Lavallee, Director, Trade Advisory Group, Phone: (202) 523-2752.

Signed at Washington, DC, this 11th day of October 1990.

Shellyn G. McCaffrey,

Deputy Under Secretary, International Affairs.

[FR Doc. 90-24455 Filed 10-16-90; 8:45 am]

BILLING CODE 4510-28-M

Employment and Training Administration

Advisory Panel on the Dictionary of Occupational Titles; Appointment of Members

This is to announce the appointment of members to the Advisory Panel on the Dictionary of Occupational Titles (APDOT), established under the provisions of the Federal Advisory Committee Act (Pub. L. 92-463).

The membership of the Committee is as follows:

Ms. Dixie Sommers—Chair, Deputy Administrator, Ohio Bureau of Employment Services.

Mr. Ken Baker, Director of Marketing, Freeman White Architects.

Mr. Raymond Isaac Barnes, Resource Center Administrator, Texas Department of Commerce.

Dr. Sue Berryman, Director, Institute on Education and Economy.

Mr. Manfred Emmerich, Director, Employment Service Division, North Carolina Employment Security Commission.

Dr. Marilyn K. Gowing, Assistant Director for Personnel Research & Development, Office of Personnel Management.

Mr. Reese Hammond, Formerly, Director, Education & Training, International Union of Operating Engineers.

Dr. Carole M. Johnson, Chancellor, Minnesota State Board of Technical Colleges.

Dr. Anita Lancaster, Assistant Director of Accession Policy, Office of the Assistant Secretary of Defense, (Force Management & Personnel).

Dr. Malcolm Morrison, Director of Research & Program Development, National Association of Rehabilitation Facilities.

Dr. Kenneth Pearlman, District Manager, American Telephone & Telegraph.

Dr. Richard Santos, Professor, University of New Mexico.

Mr. Charles Tetro, President, Training and Development Corporation.

The members were selected as representatives from the user community and other interested entities in Government, vocational training education, private sector including employers, and academia and will serve until August 28, 1992. Ms. Dixie Sommers will serve Committee Chairperson.

Signed at Washington, DC, this 10th day of October 1990.

Roberta T. Jones,

Assistant Secretary for Employment and Training.

[FR Doc. 90-24470 Filed 10-16-90; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

Transfer of Acceptance From DuPont to AMETEK for the Dupont Series Noise Dosimeters

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: The Mine Safety and Health Administration (MSHA) is hereby notifying the mining community of the transfer of acceptances from DuPont to AMETEK for the Dupont series noice dosimeters.

FOR FURTHER INFORMATION CONTACT: Robert G. Peluso, Chief, Pittsburgh Health Technology Center, Mine Safety and Health Administration, 4800 Forbes Avenue, Pittsburgh, PA 14212, (412) 721-8256.

SUPPLEMENTARY INFORMATION: On September 12, 1978, the Mine Safety and Health Administration (MSHA)

published a final rule that became effective on October 1, 1978 and amended the mandatory health standards governing noise dosimeters (43 FR 40760). Those amendments to 30 CFR parts 70 and 71 permitted the use of personal noise dosimeters to make required noise exposure measurements in coal mines and set forth the procedures to be followed in taking such noise measurements. When noise exposure measurements and surveys required by parts 70 and 71 are taken by personal noise dosimeters, the dosimeters must be acceptable to MSHA.

The test and criteria used by MSHA to determine acceptability of personal noise dosimeters are published in "MSHA Test Procedures and Acceptability Criteria for Noise Dosimeters", MSHA Informational Report IR-1072.

On June 18, 1990, the Mansfield & Green Division of AMETEK purchased the DuPont Company's air and noise monitoring instruments product line. AMETEK has requested the transfer of MSHA acceptance if the following three dosimeters from DuPont to AMETEK: Mark-I, Mark-II, and Mark-III dosimeters. AMETEK has certified that no design changes affecting the functional performance of these dosimeters have or will be made under AMETEK's ownership without prior consultation with MSHA. This notice transfers the acceptance of the DuPont Mark-I, Mark-II, and Mark-III to AMETEK.

Dated: October 11, 1990.

Patricia W. Silvey,

Director, Office of Standards Regulations and Variances.

[FR Doc. 90-24436 Filed 10-16-90; 8:45 am]

BILLING CODE 4510-43-M

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 90-70; Exemption App. No. D-8219 et al.]

Grant of Individual Exemptions; Minyard-Big Tex Employees Profit Sharing Plan and Trust et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the Federal Register of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Minyard-Big Tex Employees Profit Sharing Plan and Trust (the Plan) Located in Dallas, Texas

[Prohibited Transaction Exemption 90-70; Exemption App. No. D-8219]

Exemption

The restrictions of section 406 (a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale by the Plan of a parcel of improved commercial real estate (the Property) to Minyard Properties, Inc., a party in interest with respect to the Plan; provided that the terms of the sale are not less favorable to the Plan than similar terms negotiated at arm's length between unrelated third parties; and provided further that the sales price is the greater of $145,000 or the fair market value of the Property on the date of the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 25, 1990 at 55 FR 25910.

FOR FURTHER INFORMATION CONTACT: Angelena C. Le Blanc of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

Sedco Forex Resources, Inc. Profit Sharing Plan (the Plan) Located in New York, NY

[Prohibited Transaction Exemption 90-71; Exemption App. No. D-8270]

Exemption

The restrictions of section 406 (a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to proposed cash sale by the Plan of three promissory notes (the Notes) to Schlumberger Technology Corporation, a party in interest with respect to the Plan, for the greater of $7,072,719 or the fair market value of the Notes on the date of the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 14, 1990 at 55 FR 33187.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Baton Rouge Clinic Retirement Plan and Trust (the Plan) Located in Baton Rouge, Louisiana

[Prohibited Transaction Exemption 90-72; Exemption App. No. D-8349]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed purchase by the self-directed account (the Account) in the Plan of Herbert Dyer, M.D., of certain parcels of

real property (collectively, the Properties) from Dyer Development Corporation, a party in interest with respect to the Plan, provided the Account pays the lesser of $66,500 or the aggregate fair market value of the Properties at the time of the purchase.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on September 6, 1990 at 55 FR 36721/36722.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department, telephone (202) 523-8194. (This is not a toll-free number).

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is subject to the exemption.

Signed at Washington, DC, this 12th day of October, 1990.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 90-24454 Filed 10-16-90; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-6189 et al.]

Proposed Exemptions; Philippe Investment Management, Inc. (PIM) et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this Federal Register Notice. Comments and request for a hearing should state the reasons for the writer's interest in pending exemption.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, room N-5671, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, room N-5507, 200 Constitution Avenue NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the Federal Register. Such notice shall include a copy of the notice of pendency of the exemption as published in the Federal Register and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1957) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Philippe Investment Management, Inc. (PIM) Located in New York, NY

[Application No. D-8125]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply, to the acquisition, sale or redemption of limited partnership units (the Units) between pension plans (the Plans) investing in the International Small Float Fund (the Limited Partnership) and PIM, the general partner of the Limited Partnership and a party in interest with respect to the Plans, provided:

(a) A Plan pays no more or receives no less for a Unit than the Plan would have paid or received in an arm's length transaction with an unrelated party;

(b) Such acquisition, sale or redemption is expressly authorized in writing by a fiduciary of a Plan who is independent of PIM and who has acknowledged in writing that the Plan is an "accredited investor" as defined in Rule 501 of Regulation D of the Securities Act of 1933 and that the fiduciary has not relied upon the advice of PIM with respect to the acquisition, sale or redemption; and

(c) No fees or commissions are paid by any Plan by reason of the acquisition, sale or redemption of Units in the Limited Partnership.

Summary of facts and Representations

1. PIM, which maintains its headquarters at 122 East 42nd Street, New York, New York, is an investment

adviser registered under the Investment Advisers Act of 1940. PIM is also an investment manager within the meaning of section 3(38) of the Act. In this capacity, PIM selects stocks of foreign companies that, in its opinion, offer the potential for capital appreciation. PIM directs the trustee of each plan it serves as to transactions in such companies. Each plan holds a portfolio of stock in foreign companies which have been selected and managed by PIM. As of September 30, 1989, PIM's total assets and shareholder equity were $400,000 and $375,000, respectively. Also as of September 30, 1989, the total assets managed by PIM were $461 million.

PIM presently serves as investment manager to the following pension plans: Public Employees' Retirement Association of Colorado, State of Oregon Public Employees Retirement System Fund, Pension Plans of GTE Service Corporation and Associates, Iowa Public Employees Retirement System, and Pension Plans for Schlumberger Surenco, S.A. and Schlumberger Overseas, S.A. and their Affiliates. PIM expects to serve as investment manager to a maximum of fifteen large pension plans. Some of these plans are (or will be) subject to the provisions of the Act. Other plans are government plans within the meaning of section 3(32) of the Act and foreign pension plans of foreign employers.

2. Codafin (Codafin) is a Luxembourg corporation engaged in providing administrative services in Europe. Codafin is 50 percent owned by Pan Holding, S.A., a closed-end Luxembourg investment company of which the two majority owners of PIM, Alain and Beatrice Philippe (the Philippes), hold in the aggregate less than 20 percent of such entity.

3. Societe d'Analyses Economiques at Financieres (SAEF), a French corporation, is majority owned by the Philippes. SAEF will provide accounting services and management of trading activities to the Limited Partnership described herein.

4. PIM has identified a certain type of foreign security which it believes will offer the potential for capital appreciation, i.e., common stock which has a small "float". This type of security (the Small Float Stock) trades in a thin public market. Although companies which issue Small Float Stock may be relatively small, some companies may be quite large with much of their stock being privately-held. On occasion, PIM has invested the assets of plans it manages in Small Float Stock and it would like to expand this practice. However, as the number of plans advised by PIM has grown, PIM represents that administrative problems have made investing in Small Float Stock on an individual basis virtually impossible since each transaction entails duplicative directions on behalf of each plan. More importantly, because the volume of trading activity is small, PIM explains that significant problems may arise in ensuring that each plan participates equitably in PIM's selections. PIM attributes these problems to: (a) The execution, by plan trustees, of PIM's instructions at different times resulting in the payment (or receipt) by such plans of different prices for the same security; (b) limited quantities of a particular type of Small Float Stock which prevent PIM from allocating such stock among the plans in meaningful amounts; and (c) the payment by plans of higher brokerage and custodial fees stemming from the fact that shares are not acquired or sold in a single transaction.

5. To solve these problems and thus be able to expand the service of selecting and managing Small Float Stock, PIM proposes to form the Limited Partnership. Under the proposal, a Plan wishing to invest a portion of its assets in Small Float Stock will become a limited partner in the Limited Partnership provided such Plan has total assets in excess of $1 billion and qualifies as an "accredited investor" within the context of Regulation D of the Securities Act of 1933. PIM will serve as the corporate general partner of the Limited Partnership and act as its investment manager. The Limited Partnership will maintain a portfolio of Small Float Stock and in connection with executing the Limited Partnership Agreement (the Limited Partnership Agreement), a Plan will receive a security issued by the Limited Partnership. That security will be a limited partnership unit representing an undivided interest in the Limited Partnership's portfolio. The Units, which will be valued monthly at the pro rata share of the net asset value of the Limited Partnership, will not be registered under the Securities Act of 1933. Further, PIM explains that the Units will be held by Chase Manhattan Bank (Chase), an unrelated entity, under an arrangement that complies with the indicia of ownership requirements of section 404(b) of the Act and the regulations promulgated under 29 CFR 2550.404(b)–1.

6. Once the Limited Partnership is operational, it is expected that PIM will no longer select Small Float Stock on an individual account basis for those Plans that invest in the Limited Partnership. However, during a brief transition period, PIM may continue to manage Small Float Stock investments for a plan on both an individual account basis and through the Limited Partnership. Because of restrictions that prevent a Plan from transferring Small Float Stock from an individual account to the Limited Partnership and a provision in the Limited Partnership Agreement requiring that interests in the Limited Partnership be purchased by a Plan in cash, a Plan may hold shares of the same Small Float Stock that is held by the Limited Partnership. PIM believes that this situation will not occur if market conditions improve to such an extent that PIM is able to sell Small Float Stock that is held directly by Plans in individual accounts before the Limited Partnership becomes functional.

7. PIM requests prospective exemptive relief for the acquisition, sale or redemption of Units in the Limited Partnership between it and the participating Plans since these transactions may result in prohibited transactions in violation of the Act. In particular, PIM explains that a prohibited transaction may arise from a Plan's acquisition of Units in the Limited Partnership if the Plan has previously entered into an investment management agreement with PIM and PIM is managing the plan's account on an individual basis as a fiduciary to such Plan. If a Plan wishes to change the nature of its investment from a single account investment to an investment in the Limited Partnership, PIM states that the initial purchase of Units in the Limited Partnership by the Plan would give rise to prohibited transaction because of the pre-existing service provider relationship between it and the participating Plan.

PIM also asserts that a prohibited transaction may arise upon a subsequent purchase of Units in the Limited Partnership between it and a participating Plan. Although PIM states that it is aware of the fact that a Plan's initial purchase of Units in the Limited Partnership would not be a prohibited transaction in the absence of a party is interest relationship existing between it and the Plan, PIM notes that a subsequent purchase would give rise to a prohibited transaction since the party in interest relationship would then be established.

8. The decision of any Plan to invest in the Limited Partnership will be left solely up to each independent Plan fiduciary. The participating Plan fiduciary must also acknowledge in writing that he or she is not relying upon the advice of PIM to invest in the Limited Partnership.

9. PIM represents that it does not act as an investment adviser within the meaning of section 3(21)(A)(ii) of the Act to a Plan which proposes to invest in the Limited Partnership because in each instance, the Plan trustee who makes the investment decision has agreed not to rely on PIM's advice as a primary basis for plan investments and such Plan fiduciary is specifically required to so acknowledge in every instance. PIM represents that the decision to invest in the Limited Partnership will be made by an unrelated Plan fiduciary acting on the basis of his or her own investigation into the advisability of investing in the Limited Partnership.[1]

To the extent that in the ordinary course of business, PIM or any of its affiliates provide investment advice to a participating Plan within the meaning of regulation 29 CFR 2510.3-21(c) (1)(ii)(B) and recommends an investment of the Plan's assets in the Limited Partnership, the presence of an unrelated second fiduciary action on the investment adviser's recommendations on behalf of the Plan is not sufficient to insulate the adviser from fiduciary liability under section 406(b) of the Act. (See Advisory Opinions 84-03A and 84-04A, issued by the Department on January 4, 1984.) The Department is unable to conclude that fiduciary self-dealing of this type (if present) is in the interests or protective of the Plans and their participants and beneficiaries and, accordingly, has limited exemptive relief for the acquisition, redemption or sale of Units in the Limited Partnership to section 406(a) violations only.

10. Units in the Limited Partnership will be offered to participating Plans pursuant to a Memorandum (the Memorandum). This document describes the Limited Partnership, the parties involved and their rights, the investment objectives of the Limited Partnership with respect to Small Float Stock, the operations and management of the Limited Partnership and the fees that will be paid to PIM by the Limited Partnership. Attached to the Memorandum will be a copy of the Limited Partnership Agreement by which the independent Plan fiduciaries agree to participate in the Limited Partnership.

11. Although no minimum price has been established for a Unit, it is expected that each Plan will invest not less than $1 million in the Limited Partnership. The contribution will be paid in cash. Additional investments may be made by a Plan fiduciary in increments of $100,000. Thus, a Plan fiduciary will determine how much to contribute to the Limited Partnership and such Plan will receive a pro rata interest in the Limited Partnership based upon its capital account balance as compared to the capital account balances of the other partners.

PIM's contribution to the Limited Partnership will, at all times, equal the lesser of one percent of the total capital contributions of all Limited Partners or $500,000. In exchange for its contribution, PIM will receive a pro rata interest in the Limited Partnership based upon its capital account balance as compared to the capital account balances of the partners.

12. The Limited Partnership Agreement will provide that any Plan will be able to redeem all or part of its interest in the Limited Partnership without penalty upon 60 days prior written notice, effective as of the end of a given month. Redemption may be in cash or in kind at the option of PIM. If redemption is in kind, the Plan will receive, to the extent practicable a pro rata share of Small Float Stock and other assets contained in the Limited Partnership's portfolio. If redemption is in cash, the amount distributed will be reduced by any custodial or brokerage fees incurred in reducing such capital accounts to cash. No other commissions or fees will be paid to anyone, including PIM, with respect to any acquisition, sale or redemption by a Plan of a Unit issued by the Limited Partnership.

13. Limited Partnership Units may not be sold or transferred to a third party without PIM's consent. Because the Units will not be registered under the Securities Act of 1933, they will be subject to the restrictions on transfer imposed thereby and under applicable state securities laws. The Limited Partnership may be dissolved upon the bankruptcy or dissolution of PIM or in the event the holders in value of 66⅔ percent of the Limited Partnership Units vote to dissolve the Limited Partnership (or to remove PIM). In addition, PIM can determine at any time to dissolve the Limited Partnership.

14. As general partner of the Limited Partnership and investment manager to the participating Plans, PIM's fee for investment advisory services will be a percentage of the value of the assets under management. The same fee schedule will apply to all investing Plans. That percentage schedule will also be the same percentage schedule provided under each Plan's investment management agreement with PIM wherein PIM manages Plan assets on an individual basis.[2] In calculating the fee, each Plan's share of assets under management by PIM through the Limited Partnership will be aggregated with those under management pursuant to the Plan's current investment contract and the total fee will be payable to PIM. The fee will be paid quarterly and the fee percentage will decline as the amount of a Plan's investment in the Limited Partnership increases. Further, each Plan may elect, at the outset, and upon 60 days prior written notice, to have investment advisory fees relating to assets under management by the Limited Partnership paid out of the Plan's Limited Partnership account.

In addition, PIM intends to enter into, and pay, out of the investment management fee it receives, all expenses relating to (a) a contract for certain administrative services provided by Codafin and (b) a contract for accounting services and management of trading activities provided by SAEF. PIM states that all other expenses of the Limited Partnership will be paid out of the Limited Partnership's assets provided such expenses qualify as "direct expenses" within the meaning of regulation 29 CFR 2550.408c-2(b)(3).[3]

15. Each Plan will also be billed directly by the the Limited Partnership for its pro rata portion of custodial fees which are currently the responsibility of each Plan. The Limited Partnership arrangement will not alter this, other than to require payment of such fees by the Limited Partnership, on behalf of a custodian, rather than by each Plan directly to its own custodian. PIM believes that this arrangement will reduce overall custodial fees because trades in Small Float Stock will be made through Chase on behalf of all Plans. Brokerage fees will continue to be charged against assests, the only difference being that the assets will be in the Limited Partnership's account rather than in each Plan's individual account. Neither the custodian nor any broker will be related to PIM.[4]

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[1] An investing Plan will also pay the same investment management fee to PIM if it invests in the Limited Partnership and in an individual account managed by PIM during the transitional period that is described above.

[2] PIM represents that the fees it, Codafin, and SAEF receive for services rendered to the Limited Partnership will comply with the terms of section 408(b)(2) of the Act and the regulations promulgated thereunder. However, the Department expresses no opinion, in this notice of proposed exemption, on whether such service arrangements will meet the terms and conditions of section 408(b)(2) of the Act.

[3] PIM has advised that the custodial and brokerage fees paid by the Limited Partnership to Chase and the brokers will satisfy the terms and conditions of section 408(b)(2) of the Act. The Department expresses no opinion on whether these fees will meet the statutory requirements of section 408(b)(2) of the Act.

16. Although the Limited Partnership Agreement does not require that the Limited Partnership be audited, PIM will provide unaudited financial reports on an annual basis to the investing Plans. The books and financial records of the Limited Partnership will also be available for inspection by any Plan fiduciary at all times during regular business hours.

17. In summary, it is represented that the subject transactions will meet the statutory criteria for an exemption under section 408(a) of the Act because: (a) Independent fiduciaries of the participating Plans will maintain complete discretion with respect to the investment of the participating Plans' assets in the Limited Partnership; (b) fiduciaries of the Plans will have the opportunity to redeem their investments in Small Float Stock pursuant to applicable provisions of the Limited Partnership Agreement and in such fiduciaries' individual discretion; and (c) the fees charged by PIM to the participating Plans are based upon a percentage of the assets under management and such fees will be the same regardless of whether a Plan's assets are invested in the Limited Partnership, in an individual account or in both investment structures.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

United Artists Communications, Inc. (Rowley United Division) Retirement Plan (the Plan), located in Dallas, Texas

[Application No. D-8366]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed cash sale (the Sale) of certain real property (the Property) from the Plan to United Artists Realty Corporation (UARC), a party in interest with respect to the Plan, provided that the Plan receives no less than either the sum of $165,000 or the fair market value of the Property at the time of the Sale.

Summary of Facts and Representations

1. The sponsoring employer of the Plan is United Artists Theater Circuit, Inc., a Maryland corporation (the Employer). It is wholly owned by United Artists Holdings, Inc., a Delaware corporation, which in turn is wholly owned by United Artists Entertainment Company, a Delaware corporation, which is a publicly held company with 56.6 percent of its voting shares owned by Tele-Communications, Inc., a Delaware corporation, also publicly held. United Artists Entertainment Company owns 100 percent of the outstanding stock of UARC, a Delaware corporation, which owns substantially all of the real estate used by the aforesaid affiliated corporations.

The principal office of Tele-Communications, Inc. is Regency Plaza One, 4643 South Ulster, Denver, Colorado. The principal office of United Artists Entertainment Company, and each of its subsidiary corporations, is One Bill Daniels Center, 2930 East 3rd Avenue, Denver, Colorado. The "Rowley United" divisional office of the Employer is at 1900 South Central Expressway, Dallas, Texas.

The Employer is a national motion picture exhibitor which operates theaters in numerous locations throughout the country. The Rowley Division of the Employer operates theaters throughout the Southwestern part of the United States.

2. The Plan is a profit sharing plan with approximately 419 participants and total assets of $3,198,327.31, as of December 31, 1989. The fiduciary of the Plan is its Board of Trustees, consisting of two individuals: Messrs. Robert Chapman, an employee of the Employer, who is a manager of a number of its theaters and Lonnie Taylor, a former employee of the Employer, who is an accountant. The Plan has been frozen as to further contributions since September 30, 1987, and proposes to liquidate and distribute its assets and terminate as soon as economically feasible. Liquidation of the assets of the Plan has been delayed because of its inability to sell the Property and because of litigation, initiated on July 28, 1983, by the Department in the United States District Court, Northern District of Texas, Dallas Division. The Department alleged violations of fiduciary duties and the prohibited transaction provisions of the Act by the former fiduciaries.[5] The case was tried, appealed, and finally settled on August 15, 1990, with the defendant fiduciaries resigning and paying the sum of $387,385.91 to the Plan for distribution to its participants and former participants.[6]

3. The Property is a parking lot located along the north side of Young Street, approximately 90 feet east of Harwood Street in Dallas, Texas. It consists of approximately 7,988 square feet of which 1,392 square feet is subject to a street easement, leaving 6,596 square feet with parking lot improvements consisting of two metal carports, asphalt paving, and concrete sidewalks and curbs. The Property was originally purchased by the Plan from Texas School Book Depository, an unrelated party, on May 1, 1950, for the consideration of $21,250. On August 19, 1985, the Plan sold the Property to CBD Properties-Dallas #28, a Texas general partnership. The consideration for the sale was $400,000. The sum of $100,000 was paid in cash and the balance of $300,000 was evidenced by a non-recourse note which provided for quarterly installment payments of $9,933.52, including an interest charge of 12 percent, with the final balance to become due and payable on September 1, 1990. The note was secured by a deed of trust on the Property. During 1987, the purchaser defaulted on the note. After a period of time, during which discussions were held and additional payments were made on the note, a foreclosure was made on August 2, 1988. The Plan was the only bidder at the foreclosure and thereby it reacquired the Property. Following the foreclosure the Plan leased the Property to an unrelated party, Parking Company of America, on a month-to-month basis for a rental of 50 percent of the gross.

Since the Property has been foreclosed and reacquired by the PLan, the Property has been continually listed for sale with Steven S. Lampinstein, formerly associated with Letwin & Company, Inc. and currently with Lampinstein Company, both commercial real estate brokers. No offers to purchase have been received by the Plan, although Mr. Lampinstein has had continuously on the Property a "for sale" sign since its listing.

4. The Property was appraised by Mr. Kevin R. Cavasos determined that the fair market value of the Property, as of December 20, 1989, was $165,000. His conclusion was represented to have been developed and prepared in conformity with the requirements of the Uniform Standards of Professional Appraisal Practice and the Code of Professional Ethics and the Standards of

[5] The subject Property was not involved in the litigation.

[6] Donovan vs. Rowley et al., CA 3-83-1285-T, July 28, 1983, and Dole vs. Rowley et al., Fifth Circuit No. 88-7046, August 15, 1990.

Professional Practice of the American Insitute of Real Estate Appraisers.

5. The applicant represents that the purpose of the contemplated Sale of the Property to UARC, the affiliate of the Employer, is to facilitate the liquidation and distribution of the assets of the Plan so that the Plan can be terminated. Also, the applicant represents that because of the depressed demand in the Texas real estate market, and particularly the area in which the Property is located, the Plan will suffer a significant financial loss if the Sale is not consummated with UARC. It is also represented that the Sale will permit the Plan to avoid an additional delay in finding a buyer with the probability of having to discount the appraised fair market value, which is a common occurrence in the current real estate market in Texas. Further advantages of the proposed Sale are represented to be that the purchase price will be paid in cash with no real estate broker or other expenses incurred by the Plan. Furthermore, although the Property is leased, during 1989 it was a non-producing asset for the Plan because taxes exceeded revenues generated by the rentals.

6. In summary, the applicant represents that the proposed transaction will satisfy the statutory criteria of section 408(a) of the Act because (a) the Sale will be a one-time transaction for cash with no fees or other expenses incurred by the Plan; (b) UARC will pay the greater of either the sum of $165,000 or the fair market value on the date of the sale; (c) the fair market value will be determined by a qualified, independent appraiser; and (d) the Sale will permit the Plan to expeditiously dispose of the Property and distribute benefits to the participants of the Plan.

FOR FURTHER INFORMATION CONTACT: Mr. C. E. Beaver of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

PACCO, Inc. Profit Sharing Plan (the Plan), Located in Olympia, Washington

[Application No. D–8410]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a) and 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sales by the Plan of the parcel of real property and a note to IRECO Incorporated (IRECO), a party in interest with respect to the Plan, provided the Plan receives no less than fair market value for the real property and the higher of fair market value or the principal balance plus accrued interest for the note at the time of sale.

Summary of Facts and Representations

1. IRECO, a Salt Lake City, Utah, corporation, with its various subsidiaries is a major manufacturer of explosives having worldwide sales. IRECO purchased PACCO, Inc. (PACCO), based in Olympia, Washington, through an acquisition of stock in January 1988. The Plan is a profit sharing and 401(k) salary reduction plan which originally was established by PACCO. The Plan was frozen on June 30, 1989, and was terminated effective December 31, 1989. As of April 6, 1990, the Plan had 42 participants and total assets of approximately $273,250. The four trustees of the Plan are former employees of PACCO and are currently exployed by IRECO.

2. The real property which is the subject of the proposed transaction (the Maytown Property) is a parcel of approximately 12.3 acres of undeveloped land located at the Maytown Interchange in the State of Washington. The Maytown Property is the remaining parcel of a larger tract of land which was acquired by the Plan in two parcels in December 1980. The sellers of the land were unrelated to PACCO and the Plan. The Plan initially purchased the land as an investment which was expected to appreciate in value, and the two parcels were combined since they are contiguous. The value of the combined parcel of land increased at first but later fell, according to the applicant due to a recession in the State of Washington in 1982 and a subsequent decrease in the value of raw acreage in the area of the subject land. The total cost of the Plan of acquiring and holding the combined parcel was approximately $509,000, and the Plan earned only a small amount of income from the land.[1]

The combined parcel was offered for sale at various intervals between May 1986 and February 1989. Prior to that time, earlier efforts had been to sell such real property. In February 1989, most of the combined parcel, except for the Maytown Property, was sold to Black Hills Cattle and Timber Company, Inc., a party which is unrelated to IRECO and the Plan. The selling price was $310,000 less a ten percent commission and other costs of sale. The Plan extended credit to the buyer in connection with the sale. The unpaid balance of $235,000, as of July 16, 1990, on the sale note (the Note) is payable at 12 percent interest with annual interest only payments due each February and the principal balance due in February 1999. The Note is secured by a first deed of trust on the parcel of land which was sold in the transaction.

3. The Plan obtained an appraisal on the Maytown Property from Joel P. Mills (Mills), a real estate appraiser located in Centralia, Washington. The applicant represents that Mills is independent of IRECO and the Plan. According to Mills, the site of the subject property is zoned for planned industrial development. Utilizing the market comparison approach to value, Mills estimated that as of March 1, 1990, the fair market value of the Maytown Property was approximately $85,000.

4. The Plan obtained a letter from Richard N. Shisler (Shisler) concerning the value of the Note. The applicant represents that Shisler also is independent of IRECO and the Plan. Shisler served until recently as a vice president and loan manager of Sterling Savings and Loan Association, Western Division, of Chehalis, Washington. Shisler states that he has reviewed the Note and the related deed of trust. Shisler has considered that the property securing the Note is generally unimproved, that the mode of payment is annual, and that the Note does not have an established payment history. In view of these factors as well as current interest rate trends, Shisler estimated that as of April 4, 1990, the Note had a market value of $190,000.

5. The Maytown Property has been on the market since October 1988, with very little buyer interest reported. According to Gene W. Weaver, a real estate developer in Rochester, Washington, the lack of buyer interest was due in large part to the fact that most of the Maytown Property is taken up by a large gravel pit. The Plan now proposes to sell the Maytown Property and the Note to IRECO. IRECO will pay the higher of $85,000 or fair market value at the time of sale for the Maytown Property based on an updated independent appraisal. For the Note, IRECO will pay the higher of current fair market value or the outstanding principal balance plus accrued interest

[1] The Department expresses no opinion as to whether Plan fiduciaries violated any of the fiduciary responsibility provisions of part 4 of title I of the Act in holding real property which produced little income and which was depreciating in value for an extended period of time.

at the time of sale.[6] IRECO has no use for the Maytown Property and intends to sell such property as soon as a buyer can be found. The sales of both the Maytown Property and the Note will be entirely for cash, and the Plan will pay no fees or commissions. The transactions will enable the Plan to receive cash for these illiquid assets so that the proceeds may be distributed to the participants pursuant to the termination of the Plan.

8. In summary, the applicant represents that the proposed transactions will satisfy the statutory criteria of section 408(a) of the Act because: (1) The fair market values of the Maytown Property and the Note will be established by persons who are independent of IRECO and the Plan; IRECO will pay the higher of fair market value or the current principal balance plus accrued interest for the Note; (3) the transactions will be entirely for cash; and (4) the sales will facilitate the distribution of the assets of the Plan to its participants.

Tax Consequences of Transactions

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value, such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Code, including sections 401(a)(4), 404, and 415.

FOR FURTHER INFORMATION CONTACT: Paul Kelty of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 12th day of October, 1990.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 90–24453 Filed 10–16–90; 8:45 am]

BILLING CODE 4510–29–M

[6] The applicant represents that the amount by which the sales price for the Note exceeds its fair market value, if treated as an employer contribution to the Plan, when added to the balance of the annual additions to the Plan, will not exceed the limitation prescribed by section 415 of the Code.

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) and Advisory Committee on Nuclear Waste (ACNW); Proposed Meetings

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittees and meetings of the ACRS full Committee, and of the ACNW, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published September 19, 1990 (55 FR 38617). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the Federal Register approximately 15 days (or more) prior to the meeting. It is expected that sessions of ACRS full Committee and ACNW meetings designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee and ACNW meetings begin at 8:30 a.m. and ACRS Subcommittee and ACNW Working Group meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during ACRS full Committee and ACNW meetings and when ACRS Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the November 1990 ACRS and ACNW full Committee meetings can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committees (telephone: 301/492–4600 (recording) or 301/492–7288, Attn: Barbara Jo White) between 7:30 a.m. and 4:15 p.m., Eastern Time.

ACRS Committee Meetings

Improved Light Water Reactors, October 31, 1990, Bethesda, MD. The Subcommittee will discuss and review the latest NRC staff proposal regarding the level of design detail under 10 CFR Part 52.

Advanced Boiling Water Reactors (GE), October 31, 1990, Bethesda, MD. The Subcommittee will review the physical separation and general plant layout for the GE/ABWR design.

Advanced Pressurized Water Reactors, November 1, 1990, Bethesda, MD. The Subcommittee will discuss the licensing review basis document for CE System 80+ design.

Plant Operations, November 1, 1990, Bethesda, MD. The Subcommittee will be briefed on the NRC/NUMARC effort concerning reconsitution of design basis documentation for nuclear power plants.

Thermal Hydraulic Phenomena, November 6, 1990, Bethesda, MD. The Subcommittee will discuss the status of the NRC staff's program on interfacing systems loss of coolant accidents (ISLOCA).

Joint Containment Systems and Structural Engineering, November 7, 1990, Bethesda, MD. The Subcommittees will discuss containment design criteria for future plants.

FTOL Conversion, December 5, 1990 (tentative), Bethesda, MD. The Subcommittee will discuss the FTOL conversion for Palisades.

Improved Light Water Reactors, Date to be determined (November/December), Bethesda, MD. The Subcommittee will review the EPRI ALWR Requirements Document (Roll-up) for the Evolutionary Designs.

Materials and Metallurgy, Date to be determined (December, tentative), Bethesda, MD. The Subcommittee will review the proposed resolution of Generic Issue 29, "Bolting Degradation or Failure in Nuclear Power Plants."

Joint Computers in Nuclear Power Plant Operations and Instrumentation and Control Systems, Date to be determined (December/January 1991), Bethesda, MD. The Subcommittees will discuss the use of computers and solid-state control logic in nuclear power plant operations.

Auxiliary and Secondary Systems, Date to be determined (January 1991, tentative), Bethesda, MD. The Subcommittee will discuss matters concerning fire protection and mitigation in nuclear power plants.

TVA Plant Licensing and Restart, Date to be determined (mid-late January 1991), Huntsville, AL. The Subcommittee will review the planned restart of Browns Ferry Unit 2.

Joint Plant Operations and Probabilistic Risk Assessment, Date to be determined (January/February) Bethesda, MD. The Subcommittee will begin review of the NRC staff's Action Plan to evaluate the risk from nuclear power plant shutdown operations.

Joint Thermal Hydraulic Phenomena and Core Performance, Date to be determined (January/February), Bethesda, MD. The Subcommittee will continue its review of the issues pertaining to BWR core power stability.

Joint Regulatory Activities and Containment Systems, Date to be determined, Bethesda, MD. The Subcommittees will review the proposed final revision to appendix J to 10 CFR part 50, "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors," and an associated Regulatory Guide.

Severe Accidents, Date to be determined, Bethesda, MD. The Subcommittee will discuss elements of the Severe Accident Research Program (SARP).

Defueling/Fuel Pool Storage, Date to be determined, Bethesda, MD. The Subcommittee will discuss the proposed standard review plan for reviewing safety analysis reports for dry metallic spent fuel storage casks.

ACRS Full Committee Meetings

367th ACRS Meeting, November 8–10, 1990, Bethesda, MD. Items are tentatively scheduled.

*A. *Severe Accident Risks: An Assessment for Five U.S. Nuclear Power Plants (NUREG–1150) (Open)*, Continue preparation of ACRS report to the NRC regarding the merits and use of this document.

*B. *Reactor Operating Experience (Open/Closed)*—Briefing and discussion regarding lessons learned from nuclear power plant operating experience including problems with the operability of safety systems from noncondensible gasses, loss of off-site power and main steam isolation valve closure events at the Brunswick nuclear station, and a feedwater transient and subsequent failure of the RCIC system which occurred at the Pilgrim nuclear station.

*C. *Meeting with NRC Commissioners (Open)*—Discuss safety-related issues on matters that the Committee has been or is in the process of reviewing.

*D. *10 CFR part 55, Fitness for Duty Requirements for Licensed Operators (Open)*—Review and report on the proposed final version of the Fitness for Duty Rule.

*E. *NRC Regulatory Impact Survey (Open)*—Briefing and discussion of proposed NRC actions resulting from the regulatory impact survey. Prepare ACRS report to NRC, as appropriate.

*F. *Biological Effects of Ionizing Radiation (Open)*—Briefing regarding Report V of the National Research Council Committee on the Biological Effects of Ionizing Radiation.

*G. *ACRS Subcommittee Activities (Open)*—Reports and discussion of ACRS subcommittee activities regarding assigned safety-related matters such as the proposed containment design criteria for future plants, interfacing systems LOCA, and reconstitution of design basis documentation.

*H. *Radioactive Waste Disposal (Open)*—Briefing and discussion regarding the report on Rethinking High-Level Radioactive Waste Disposal prepared by the National Research Council Board on Radioactive Waste Management.

*I. *Combustion Engineering System 80+ and General Electric ABWR Designs (Open/Closed)*—Review and report on proposed License Review Basis (LRB) for CE System 80+ design.

*J. *Standardized Nuclear Plant, Westinghouse SP/90 Design (Open/Closed)*—Review and comment on the proposed PDA for this standardized nuclear plant.

*K. *Performance of Solenoid Valves at Nuclear Power Plants (Open)*—Briefing on the status of AEOD's work on the evaluation of solenoid valve problems at nuclear power plants.

*L. *Anticipated ACRS Activities (Open)*—Discuss anticipated ACRS subcommittee activities and items proposed for consideration by the full Committee. Proposed dates for CY 1991 ACRS full Committee meetings will also be discussed. Incomplete items from previous Committee meetings will be discussed as time and availability of information permit.

*M. *Appointment of ACRS Members (Open/Closed)*—Discuss the status of appointment of candidates recommended as nominees for appointment to the Committee.

*N. *Level of Design Detail for Standardized Nuclear Plants (Open)*—ACRS subcommittee report and discussion of the level of design detail required to license a standardized nuclear plant under 10 CFR part 52, Early Site Permits; Standard Design Certification; and Combined Licenses for Nuclear Power Plants.

368th ACRS Meeting, December 6–8, 1990—Agenda to be announced.

ACNW Full Committee and Working Group Meetings

ACNW Working Group Meeting on Human Intrusion, October 23, 1990, Bethesda, MD. The Working Group will examine how human intrusion at a high-level waste repository will be dealt with under 10 CFR Part 60 considerations and guidance from 40 CFR 191 Appendix B. This will include discussion of the WIPP experience and will be designed to explore the range of current thinking from various groups.

25th ACNW Meeting, October 24–25, 1990, Bethesda, MD. Items are tentatively scheduled.

*A. The Committee will be briefed by the DHLWM staff on the "Phase I Demonstration of the Nuclear Regulatory Commission's Capability to Conduct a Performance Assessment for an HLW Repository."

*B. The Committee will be briefed on a recent report by Sandia National Laboratories which concluded that there is reasonable confidence that compliance of the WIPP facility with the EPA standards is achievable.

*C. The Committee will hear a briefing for information on Performance Assessment Methodology for an LLW site by NMSS.

*D. The Committee will be briefed by members of NRC's Nuclear Safety

Research Review Committee relative to its findings on the NRC's radioactive waste research program.

*E. The Committee will discuss the complexities and problems associated with licensing an LLW disposal facility, particularly with respect to siting and the NRC-state interface.

*F. The Committee will hear an overview of NRC's Waste Management related research program.

*G. The Committee will be briefed on progress by the Human Intrusion Working Group and may discuss upcoming plans for a Working Group on Carbon-14 release mechanisms from a high-level repository.

*H. A discussion with an ACNW consultant on developments related to the Technical Assessment Review of the Geologic and Geophysical evidence pertaining to structural geology in the vicinity of the proposed exploratory shaft facility.

*I. The Committee will discuss anticipated and proposed Committee activities, meeting agenda, administrative, and organizational matters, as appropriate. The members will also discuss matters and specific issues which were not completed during previous meetings as time and availability of information permit.

ACNW Working Group Meeting on Carbon-14, October 25, 1990, Bethesda, MD. The Working Group will be briefed on the potential problems that could arise at a high-level repository as a result of carbon-14 release and migration. This will include a discussion of EPA release limits for this radionuclide.

ACNW Meeting scheduled for November 26-27, 1990 has been cancelled.

ACNW Working Group Meeting on Mixed Wastes, December 10, 1990, Bethesda, MD. The Working Group will review and discuss the interchangeability (if any) of EPA requirements for land burial of hazardous materials and the NRC LLW disposal site requirements, particularly as related to the disposal of mixed wastes.

ACNW Working Group Meeting on Expert Judgment, December 11, 1990, Bethesda, MD. The Working Group will review and discuss the use of expert judgment in conducting performance assessments of HLW repositories and LLW sites and potential problems that could arise with the use of expert judgment.

26th ACNW Meeting, December 12-14, 1990, Bethesda, MD. Items are tentatively scheduled:

*A. The Committee will meet with the Commissioners to discuss items of mutual interest (tentative).

*B. The Committee will be briefed by the DHLWM staff on the results of their reviews of the Study Plans for characterization of volcanic features and mineralogy, petrology, and chemistry of transport pathways (tentative).

*C. The Committee will discuss the NRC staff's Study Plan, Review Plan, and Staff Plan for reviewing the Site Characterization progress reports.

*D. The Committee will begin to consider 10 CFR Part 60, high-level waste repository subsystem performance requirements regarding their conformance with the EPA high-level waste standards.

*E. The Committee will be briefed by the Division of High-Level Waste Management and HLW staff on the Technical Position on Repository Design Thermal Loads.

*F. The Committee will discuss anticipated and proposed Committee activities, meeting agenda, administrative, and organizational matters, as appropriate. The members will also discuss matters and specific issues which were not completed during preview meetings as time and availability of information permit.

Dated: October 11, 1990.

Samuel J. Chilk,

Acting Advisory Committee Management Officer.

[FR Doc. 90-24435 Filed 10-16-90; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Advanced Boiling Water Reactors (GE); Meeting

The Subcommittee on Advanced Boiling Water Reactors (GE) will hold a meeting on October 31, 1990, room P-110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, October 31, 1990—11:00 a.m. until the conclusion of business

The Subcommittee will review the physical separation and general plant layout for the GE/ABWR design.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the General Electric, NRC staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Medhat M. El-Zeftawy (telephone 301/492-8901) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: October 10, 1990.

Paul Boehnert,

Senior Staff Engineer.

[FR Doc. 90-24433 Filed 10-16-90; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Plant Operations; Meeting

The Subcommittee on Plant Operations will hold a meeting on November 1, 1990, room P-110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, November 1, 1990—1 p.m. until the conclusion of business

The Subcommittee will be briefed on the NRC/NUMARC effort concerning reconstitution of design basis documentation for nuclear power plants.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept,

and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Paul Boehnert (telephone 301/492–8558) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: October 10, 1990.

Richard P. Savio,

Assistant Executive Director.

[FR Doc. 90–24434 Filed 10–16–90; 8:45 am]

BILLING CODE 7590–01–M

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97–415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from September 24, 1990 through October 4, 1990. The last biweekly notice was published on October 3, 1990 (55 FR 40455).

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, D.C. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By November 16, 1990, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C. 20555 and at the Local Public Document Room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to

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rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (Project Director): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C., and at the local public document room for the particular facility involved.

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendment request: August 23, 1990, as supplemented on September 28, 1990.

Description of amendment request: The proposed Technical Specifications (TS) changes specific titles of managers throughout the Administrative Section 6.0 to be consistent with the organization as of October 1, 1990. TS 6.5.12 deletes specific titles for members of the Plant Operations and Safety Review Committee (POSRC), denotes the areas of expertise for the POSRC members, and adds a requirement for the Plant General Manager to appoint the POSRC members. A new TS 6.5.1.3 specifies that the POSRC Chairman is appointed by the Plant General Manager. Several TS in Section 6.5 are renumbered, some removed, and changes to the POSRC functions are proposed. A new TS 6.5.1.6d is added requiring root cause analysis and recommendation of corrective actions.

The following TS Sections were added to describe the use of committees or individuals to perform selected reviews in lieu of review by the POSRC: TS 6.5.2 Procedure Review Committee including Sections 6.5.2.1 Function, 6.5.2.2 Composition, 6.5.2.3 Chairman, 6.5.2.4 Alternates, 6.5.2.7 Authority and 6.5.2.8 Records. TS 6.5.3 Qualified Review Programs including Sections 6.5.3.1 Function, 6.5.3.2 Responsibilities, 6.5.3.3 Authority, 6.5.3.4 Records and 6.5.3.5 Training and Qualification. Several TS in Section 6.8 Procedures were reorganized, renumbered, and new conditions relating to the Procedure Review Committee and Qualified Review Program were added.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92.

The licensee has evaluated the proposed amendment against the standards provided above and determined that operation of the facility in accordance with the proposed amendment would not:

[1] involve a significant increase in the probability or consequences of an accident previously evaluated; or

These proposed changes which will allow for a more efficient operation of POSRC, along with more extensive procedural review, will not impact existing accident conditions or assumptions and thus, will not increase the probability or consequences of a previously evaluated accident.

[2] create the possibility of a new or different type of accident from any accident previously evaluated; or

Because the proposed changes will not change operation of any plant system nor require physical modification to any requirement, a new or different type accident cannot be created.

[3] involve a significant reduction in a margin of safety.

None of the proposed changes will have a direct impact on margin of safety of any Technical Specification; however, the importance of maintaining a strong POSRC is fully recognized as being necessary for safe operation.

POSRC will continue to represent the same areas of expertise and to meet the experience and training provision of ANSI N18.1-1971. Even though supervisory personnel will no longer be required to serve as POSRC members, the proposed experience and training level requirements are the same or

greater. Furthermore, individuals will be chosen who have a broad perspective on plant operation and safety. These restrictions coupled with appointments to POSRC being made by the Plant General Manager, who has ultimate responsibility for safe plant operation, will ensure that there will be no degradation of required expertise on POSRC. Improvements are foreseen in organizational effectiveness by not requiring General Supervisors to serve on POSRC, thus allowing more time for the General Supervisors to devote to managing their individual sections. Furthermore, more emphasis can be placed on other matters of safety significance by the establishment of the Procedure Review Committee and a Qualified Review Program to review selected procedures as determined by the Plant General Manager. The Procedure Review Committee and Qualified Review Program conform to guidance contained in Chapter 13.4 of NUREG-0800, "Standard Review Plan." Both of these programs describe what is to be reviewed and how this determination is made, provide for inter-disciplinary review of subject matter, document the review, and forward the recommendation to the appropriate members of management.

All of the proposed changes are designed to strengthen POSRC and make it operate more effectively by focusing its attention on significant safety issues, and at the same time allow for a more rigorous review of selected procedures by committees or individuals not knowledgeable. As such, the proposed changes will not impact on any margin of safety either directly or indirectly.

The staff has reviewed and agrees with the licensee's analysis of the significant hazards consideration determination. Based on the review and the above discussion, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Calvert County Library, Prince Frederick Maryland.

Attorney for licensee: Jay E. Silbert, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, DC 20037.

NRC Project Director: Robert A. Capra

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendment request: August 28, 1990

Description of amendment request: The proposed changes would revise Technical Specification Surveillance Requirement 4.0.2 by deleting the requirement that the combined time interval for any three consecutive surveillance intervals is not to exceed 3.25 times the specified surveillance interval. The proposed change is based on the guidance of the Nuclear Regulatory Commission's Generic Letter 89-14, "Line-Item Improvements in Technical Specifications - Removal of the 3.25 Limit on Extending Surveillance Intervals." The supporting Bases for Technical Specification 4.0.2 are also revised to reflect the requested changes.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92.

The licensee has evaluated the proposed amendments against the standards provided above and has determined that operation of the facilities in accordance with the proposed amendments would not:

[1] Involve a significant increase in the probability or consequences of an accident previously evaluated:

The surveillance intervals will continue to be constrained by the 25% limit of Technical Specification 4.0.2. The 3.25 surveillance interval provision was not considered in any safety analyses. Any risk associated with exceeding the 3.25 limit is outweighted by the risk associated with a forced shutdown to perform surveillances which would normally be performed during a refueling outage. In addition, for those surveillances which are routinely performed during plant operation, the flexibility to schedule surveillances to avoid plant conditions which are less conducive to surveillances represents a positive safety benefit. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

[2] Create the possibility of a new or different type of accident from any accident previously evaluated:

The proposed change would not result in any physical alteration to any plant system nor would there be a change in the method in which any safety-related system performs its function. The change would not result in any equipment being operated in a manner different than that in which it was designed to be operated. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any previously evaluated.

[3] Involve a significant reduction in a margin of safety:

Deletion of the 3.25 limit will not significantly affect the performance of equipment required to maintain the margin of safety as defined in the Technical Specification Bases and the Safety Analysis Report [Updated Final Safety Analysis Report]. Rather, it will reduce the potential for interrupting normal plant operation due to surveillance scheduling. Surveillance intervals will continue to be constrained by the 1.25 limit. The added flexibility in scheduling surveillances afforded by deletion of the 3.25 limit should have a positive safety benefit by allowing surveillances to be performed under appropriate plant conditions. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The staff has reviewed and agrees with the licensee's analysis of the significant hazards consideration determination. Based on the review and the above discussion, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Calvert County Library, Prince Frederick Maryland.

Attorney for licensee: Jay E. Silbert, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, DC 20037.

NRC Project Director: Robert A. Capra

Carolina Power & Light Company, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: September 19, 1990.

Description of amendment request: The proposed amendment would revise numerous Technical Specifications (TS) in support of the Cycle 4 refueling and operations for Shearon Harris Nuclear Power Plant, Unit 1 (Harris). Specifically, the proposed amendment would relocate certain numerical values for several cycle-specific core operating limits and restrictions from the Harris TS to the existing Harris Core Operating Limits Report (COLR). These cycle-specific parameters include: the moderator temperature coefficient, the heat flux hot channel factor, the normalized axial peaking factor, and the enthalpy rise hot channel factor. In addition, the proposed amendment also makes several administrative changes which clarify the definition and use of the term F sub-delta H, enthalpy rise hot channel factor, and provides descriptive phrases to better enable plant personnel to identify the location of information which has been removed from the TS and relocated to other plant documents.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Carolina Power & Light Company (the licensee) has reviewed the proposed changes and has determined that the requested amendment does not involve a significant hazards consideration for the following reasons:

1) The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The removal of additional cycle-specific core operating limits from the [Shearon Harris Nuclear Power Plant, Unit 1] SHNPP Technical Specifications has no influence or impact on the probability or consequences of any accident previously evaluated. The cycle-specific core operating limits, although not in Technical Specifications, will be followed in the operation of SHNPP. The proposed amendment still requires exactly the same actions to be taken when or if limits are exceeded as is required by current Technical Specifications. Each accident analysis addressed in the SHNPP Final Safety Analysis Report (FSAR) will be examined with respect to changes in cycle-dependent parameters, which are obtained from application of the NRC-approved reload design methodologies, to ensure that the transient evaluation of new reloads are [SIC] bounded by previously accepted analyses. This examination, which will be performed per requirements of 10 CFR 50.59, ensures that future reloads will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The administrative changes clarifying the definition and use of the term F sub-delta H and providing word enhancements to better enable plant personnel to identify the location of information which has been removed from the Technical Specifications to other plant documents are strictly administrative in nature and as such, do not significantly increase the probability or consequences of an accident previously evaluated.

Thus it is concluded that there is not a significant increase in the probability or consequences of an accident previously evaluated.

2) The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

As stated earlier, the removal of the additional cycle specific variables has no influence or impact, nor does it contribute in any way to the probability or consequences of an accident. No safety-related equipment, safety function, or plant operations will be altered as a result of this proposed change. The cycle specific variable[s] are calculated using the NRC-approved methods and submitted to the NRC to allow the Staff to continue to trend the values of these limits. The Technical Specifications will continue to require operation within the required core operating limits and appropriate actions will be taken when or if limits are exceeded.

The administrative changes clarifying the definition and use of the term F sub-delta H and providing word enhancements to better enable plant personnel to identify the location of information which has been removed from the Technical Specifications to other plant documents are strictly administrative in nature and as such, do not create the possibility of a new or different type of accident from any accident previously evaluated.

Therefore, the proposed amendment does not in any way create the possibility of a new or different kind of accident from any accident previously evaluated.

3) The proposed amendment does not result in a significant reduction in the margin of safety.

The margin of safety is not affected by the removal of additional cycle-specific core operating limits from the Technical Specifications. The margin of safety presently provided by current Technical Specifications remains unchanged. Appropriate measures exist to control the values of these cycle-specific limits. The proposed amendment continues to require operation within the core limits as obtained from the NRC-approved reload design methodologies and appropriate actions to be taken when or if limits are violated remain unchanged.

The development of the limits for future reloads will continue to conform to those methods described in NRC-approved documentation. In addition, each future reload will involve a 10 CFR 50.59 safety review to assure that operation of the unit within the cycle specific limits will not involve a significant reduction in a margin of safety.

The administrative changes clarifying the definition and use of the term F sub-delta H and providing word enhancements to better enable plant personnel to identify the location of information which has been removed from the Technical Specifications to other plant documents are strictly administrative in nature and as such, do not result in a significant reduction in the margin of safety.

Therefore, the proposed changes are administrative in nature and do not impact the operation of SHNPP in manner that involves a reduction in the margin of safety.

The licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: August 21, 1990

Description of amendment request: The proposed amendment would modify the description of the Steam Generator Low Water Level Reactor trip. The current description in the Technical Specifications describes this trip setpoint as "Not lower than the center line of the feedwater ring, which is located 6,-0" below normal water level." The feedwater ring on the replacement steam generators is located approximately four inches higher in relation to normal water level. Normal water level is not a specified level in the techical specifications; therefore, this change proposes to reference the steam generator low water level trip solely to the location of the feedwater ring. Specifically, the proposed amendment would modify Item 5, Steam Generator Low Water Level, of Table 2.3.1, *Reactor Protective System Trip Setting Limits.*

Basis for proposed no significant hazards consideration determination:

The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The licensee provided an analysis that addressed the above three standards in the amendment application. Consumers Power Corporation has reviewed the proposed changes and determined that a significant hazards consideration does not exist because operation of the Palisades Plant in accordance with these changes would:

1. not involve a significant increase in the probability or consequences of an accident previously evaluated. The change only affects the description of the low level steam generator reactor trip setpoint. The steam generator secondary water inventory below the trip setpoint is larger for the new steam generators, assuring adequate time for a safe and orderly plant shutdown and preventing steam generator dryout. The plant response to a loss of feedwater event has not been altered. Therefore, the

probability or consequences of an accident have not been affected.
2. not create the possibility of a new or different kind of accident from any previously evaluated. The loss of feedwater flow events have not been affected. The low level trip setpoint will still assure proper system response to prevent PCS overpressurization. Therefore, no new or different kind of accident is created.
3. not involve a significant reduction in the margin of safety. The trip setpoint for the new steam generators will provide for a larger secondary inventory, therefore providing greater greater [sic] time to preventing steam generator dryout in a loss of feedwater event and assuring that the PCS design pressure will not be exceeded. The margin of safety is, therefore, not affected.

Based on the previous discussions, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated; does not create the possibility of a new or different kind of accident from any accident previously evaluated; and does not involve a reduction in the required margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussions, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esq., Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: Robert Pierson.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: August 21, 1990

Description of amendment request: The proposed amendment would remove requirements that are no longer necessary due to the requirements added, in amendment 130, to section 4.0.5 of the Technical Specifications. Additionally, inappropriate bases statements that pertain to the original steam generator tube plugging criteria would be deleted. Specifically, the following changes are proposed: (1) delete TS Section 3.1.1e and revise the basis pages; (2) change Section 3.1.5 basis; and (3) delete Section 4.4 and the associated basis.

TS Section 3.1.1e contains the primary and secondary hydrostatic and leak test pressure and temperature requirements. TS Section 3.1.5 delineates Primary Coolant System Leakage Limits. TS Section 4.4 contains leak test requirements, in addition to primary coolant system post repair weld examination requirements.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The licensee provided an analysis that addressed the above three standards in the amendment application. Consumers Power Corporation has reviewed the proposed changes and determined that a significant hazards consideration does not exist because operation of the Palisades Plant in accordance with these changes would:

1. Not involve a significant increase in the probability or consequences of an accident previously evaluated. This determination is made because the leak test, hydrostatic test and NDE requirements will be governed by the provisions of Technical Specification 4.0.5 and the applicable edition and addenda of Section XI of the ASME B&PV Code as required by 10 CFR 50.55a. Furthermore, procedural controls will assure that the code allowable maximum differential pressures are not exceeded for the PCS and secondary systems. Procedures are also established to assure that the welding of PCS components are within code requirements. This Technical Specifications change does not involve any change in the probability of PCS component failure. Further, the change has no effect on engineered safety systems and therefore the consequences of an accident are not changed.
2. Not create the possibility of a new or different kind of accident from any previously evaluated. Again the ASME code requirements assure that the appropriate test pressures are established and not exceeded. In addition, there are administrative procedures and programs in place to provide assurance that this change in the Technical Specifications will not result in overpressurization of the PCS or secondary system components or degradation of components. Therefore no new or different accident from any previously evaluated will be created.
3. Not involve a significant reduction in the margin of safety. Implementation of the appropriate Code requirements specified in TS 4.0.5 and Section XI of the ASME B&PV Code will assure that maximum allowable pressures are not exceeded and ASME Code NDE requirements are met, therefore, there will be no reduction in the margin of safety with respect to the plant operation.

Based on the previous discussions, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated; does not create the possibility of a new or different kind of accident from any accident previously evaluated; and does not involve a reduction in the required margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussions the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esq., Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: Robert Pierson.

Entergy Operations, Inc., Docket No. 50-313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: September 20, 1990

Description of amendment request: The proposed change to the Arkansas Nuclear One, Unit 1 (ANO-1) Technical Specification (TS) Surveillance Requirement (SR) 4.6.1.5 would replace the existing requirement to periodically (once every 18 months) verify the charging capability of each Emergency Diesel Generator (EDG) starting air compressor with a requirement to periodically (once every 31 days) verify that the starting air receiver tanks are at or above the required minimum pressure.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from

any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee provided an analysis that addressed the above three standards in the amendment application. The licensee stated that the changes do not involve a significant hazards consideration for the following reasons:

Criterion 1 - Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed change involves a surveillance requirement for a plant accident mitigation feature support system (the EDG starting air system) and therefore does not involve an increase in the probability of [occurrence] of an accident previously evaluated. The proposed change maintains equivalent protection, in that the ability of the support system to perform its intended function is maintained, and therefore does not involve an increase in the consequences of previously evaluated accidents.

Criterion 2 - Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The proposed change modifies a support system surveillance requirement to address the more appropriate parameter of interest which is periodically verified to assure the support system will perform its intended function. This change has no effect on any accident precursors, and therefore does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3 - Does Not Involve a Significant Reduction in the Margin of Safety.

As the proposed change will maintain the periodic verification of the support system's capability to perform its intended function, equivalent protection to that of the existing specification will be maintained. Therefore the margin of safety will not be reduced.

The NRC staff has reviewed the licensee's no significant hazards consideration determination and agrees with its conclusion. Therefore, the staff proposes to determine that the requested amendment involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell, & Reynolds, 1400 L Street, N.W., Washington, DC 20005-3502

NRC Project Director: Theordore R. Quay, Acting

Florida Power and Light Company, et al., Docket Nos. 50-335 and 50-389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of amendment requests: August 27, 1990 and modified September 27, 1990

Description of amendment requests: These amendments would revise Section 6.0, Administrative Controls, by adding more general organizational titles and correcting a typographical error.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee provided the following discussion regarding the above three criteria.

Criterion 1

The changes being proposed are administrative in nature and do not affect assumptions contained in plant safety analyses, the physical design and/or operation of the plant, nor do they affect Technical Specifications that preserve safety analysis assumptions. Therefore, the proposed changes do not affect the probability or consequences of accidents previously analyzed.

Criterion 2

The changes being proposed are administrative in nature and will not lead to material procedure changes or to physical modifications. Therefore, the proposed changes do not create the possibility of a new or different kind of accident.

Criterion 3

The changes being proposed are administrative in nature and do not relate to or modify the safety margins defined in, and maintained by, the Technical Specifications. The NRC will continue to be informed of organizational changes through controlled mechanisms. The Topical Quality Assurance Report provides a detailed description of organization and responsibilities as well as detailed organizational charts.

Changes to the Topical Quality Assurance Report are governed by 10 CFR 50.54(a)(3). Changes to the Topical Quality Assurance Report description that reduce commitments previously accepted by the NRC require NRC approval prior to implementation. FPL will continue to inform the NRC of organizational changes affecting [the] St. Lucie Plant.

Therefore, the proposed changes do not involve any reduction in a margin of safety.

Based on the above, we have determined that the amendment request does not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the probability of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety; and therefore does not involve a significant hazards consideration.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the staff proposes to determine that the proposed changes to the TS do not involve a significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954-9003

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, N.W., Washington, DC 20036

NRC Project Director: Herbert N. Berkow

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: September 6, 1990, as supplemented September 17, 1990.

Description of amendment request: The proposed amendment would revise the Fort Calhoun Station's Technical Specifications to address two administrative items. These changes are as follows:

Page 3-62a References: The reference to "FSAR" is changed to read "USAR."

Page 5-3 Composition: In order to maintain independence between the Plant Review Committee and its auditing entities, the Manager of the Safety Review Group and the Manager of Quality Assurance and Quality Control are being replaced by the Assistant Plant Manager and a Reactor Engineer. These replacements are being added to maintain the breath and depth of technical knowledge.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously

evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee provided an analysis that addressed the above three standards in the amendment application as follows:

The proposed change does not involve significant hazards consideration because operation of Fort Calhoun Station in accordance with this change would not:

1. Involve a significant increase in the probability or consequence of an accident previously evaluated. This change is administrative only. This change should change committee membership and corrects a reference only and would not effect previously evaluated accidents.
2. Create the possibility of a new or different kind of accident from any previously evaluated. This change contains only administrative changes. No new or different modes of operation are proposed for the plant.
3. Involve a significant reduction in the margin of safety. This change contains only administrative changes and, as such, does not result in a decrease in the margin of safety.

The NRC staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Attorney for licensee: LeBoeuf, Lamb, Leiby, and MacRae, 1333 New Hampshire Avenue, N.W., Washington, DC 20036

NRC Project Director: Theodore R. Quay, Acting

Public Service Company of Colorado (PSC), Docket No. 50-267, Fort St. Vrain Nuclear Generating Station (FSV), Weld County, Colorado

Date of amendment request: September 14, 1990

Description of amendment request: FSV was permanently shutdown on August 18, 1989. One third of the spent fuel has been removed from the reactor vessel and transferred to the fuel storage wells. As the spent fuel elements were removed from the core, Defueling Elements have been placed in defueled regions to provide mechanical stability. Each Defueling Element is unfueled and is poisoned with boron carbide pins. These pins exceed the negative reactivity of the control rods that are removed from each fueled element before it is removed from the reactor.

PSC proposes to amend the Technical Specifications (TS) to allow permanent removal of the Control Rod Drive and Orifice Assemblies (CRDOAs) from defueled regions of the reactor.

Basis for proposed no significant hazards consideration determination: The Commission has made a proposed determination that the amendment involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92(c), this means that the operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has evaluated the proposed changes against the above standards as required by 10 CFR 50.91(a) and has concluded that:

A. The changes do not involve a significant increase in the probability or consequences of an accident previously evaluated (10 CFR50.92(c)(1)) because the negative reactivity contribution of an unfueled and poisoned Defueling Element more than compensates for the negative reactivity lost with the removal of the control rods from that core region.

Also, the spent fuel fission products have decayed such that shutdown cooling is not significantly impacted by the changes in flow distribution with CRDOA removal.

B. The changes do not create the possibility of a new or different kind of accident from any accident previously evaluated (10 CFR 50.92(c)(2)) because FSV has been permanently shutdown since August 18, 1990 and decay heat is greatly reduced. Therefore, the removal of the CRDOAs from defueled regions can not result in any changes in decay heat accident possibilities. Also, shutdown reactivity is not decreased by the proposed removal of CRDOAs. Therefore, the possibility of a inadvertent criticality is not increased.

C. The changes do not involve a significant reduction in a margin of safety (10 CFR 50.92(c)(3)) because the proposed changes would still provide adequate protection of fuel remaining in the reactor core from any decay heat generated or reactivity generated accidents.

Therefore, based on its review, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Greeley Public Library, City Complex Building, Greeley, Colorado 80631

Attorney for licensee: J. K. Tarpey, Public Service Company Building, Room 900, 550 15th Street, Denver, Colorado 80202

NRC Project Director: Seymour H. Weiss

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: May 18, 1990, and May 31, 1990. These submittals supersede any previous submittals.

Description of amendment request: The proposed amendment would revise the Technical Specifications Facility Operating License Nos. DPR-70 and DPR-75 in response to the revised reporting requirements of Generic Letter 83-43, to reflect revised primary coolant specific activity reporting requirements of Generic Letter 85-19, to reflect organizational changes, and to provide editorial corrections to the technical specifications. The specific proposed changes are as follows:

1. Change definition 1.27 from "REPORTABLE OCCURRENCE" to "REPORTABLE EVENT", referencing 10 CFR 50.73. Also editorial corrections are made to definition 1.32, "STAGGERED TEST BASIS".

2. (Unit 2 only). Editorial revision of Specification 4.2.2.2(c) to incorporate the change to the relationship between the limit for fractional thermal power operation and rated thermal power, as approved in Amendment 6 to the SGS Unit 2 Technical Specifications. Revise Specification 4.2.2.2(e) and B 3/4.2.3 to reference 6.9.1.9.

3. Revision of Specifications 3.3.3.8, 3.3.3.9 and 3.11.2 to delete reference to Specification 6.9.1.9.b and to provide editorial corrections.

4. Revise Table 4.4-2, Steam Generator Tube Inspection, Specifications 4.4.5.5 and B 3/4.4.5 (Unit 1) and Specifications 4.4.5.5 and B 3/4.4.5 (Unit 2), to delete reference to Section 6.9.1 and add the reporting requirements applicable to steam generator tube degradation. Similarly revise Specification 4.6.1.6.2 for containment degradation reporting requirements.

Unit 2 Specification 4.8.1.1.4 is being revised to replace reference to Section 6.9.1 with 6.9.2 (Special Reports) for diesel generator failures.

5. Revision of Section 3.4.8 (Unit 1) and 3.4.9 (Unit 2) to eliminate those reactor coolant system specific activity limit requirement deemed unnecessary by NRC Generic Letter 85-19. The

corresponding BASES sections are revised accordingly.

6. Revision of Specifications 3.11.1.2, 3.11.1.3, 3.11.2.2, 3.11.2.3, 3.11.2.4, 3.11.4, 3.12.1, 3/4.12.2 and 3/4.12.3 to delete reference to Licensee Event Reports and/or to provide editorial corrections. Revise 3.11.2.4 to state that Specification 3.0.3 is not applicable.

7. Revision to tables 3.12-2 and 4.12-1 to change the reporting levels and lower limits of detection of radioactivity concentrations of tritium and I-131 for the radiological environmental monitoring program. The changes will allow higher activity levels provided that drinking water pathways are not involved. Also, an editorial correction to table 4.12-1 is made to change "Cs-136" to "Cs 134".

8. Change "General Manager - Nuclear Safety Review" to "General Manager - Quality Assurance and Nuclear Safety" throughout Chapter 6.

9. Revise Section 6.2.2 to delete Specification 6.2.2(c), which is redundant to Table 6.2-1; delete references to "Health Physics technician" and provide editorial corrections to Unit 1. Revise table 6.2-1 to include the minimum shift staffing requirements for the radiation protection techniciana.

10. Revision of Specifications 6.2.3.1, 6.3.1 and 6.4.2 to reflect shift Technical Advisor accountability to the "Senior Nuclear" Shift Supervisor, Radiation Protection Manager qualifications, and organizational responsibility for Fire Brigade training, respectively.

Revise Section 6.4.1 to replace reference to 10 CFR Part 55, Appedix A and supplemental requirements, with a general reference to 10 CFR Part 55.

11. Revision to Specifications 6.5.1.2, 6.5.1.3 and 6.5.1.5 to change the SORC composition and rules concerning alternate members and quorum requirements, respectively.

12. Revise Specification 6.5.1.6 to simplify the SORC responsibilities with respect to internal distribution of reports. Revise 6.5.1.6(a) to require SORC review of procedure changes only if a 10 CFR 50.59 safety evaluation is required. Revise 6.5.1.6(f) and 6.5.1.6(i) to delete reference to the General Manager - Nuclear Safety Review. Revise 6.5.1.6(j), 6.5.1.6(k) and 6.5.1.6(l) to require SORC review of changes to the Security Plan, Emeregency Plan or Fire Protection Plan and their implementing procedures only if a 10 CFR 50.59 safety evaluation is required (or an evaluation under 10 CFR 50.54(p) for Security Plan or 10 CFR 50.54(q) for Emergency Plan changes). Revise Specification 6.5.3.2(d) to replace the reference to safety significant issues with a reference to 10 CFR 50.59.

Provide editorial clairification to Specification 6.5.1.6(e), with regard to SORC recommendations of approval or disapproval of items to the General Manager - Salem Operations.

13. Revise Section 6.5.2 to reflect the proposed Nuclear Safety department configuration. The Manager - Offsite Safety Review and the Manager - Onsite Safety Review will be replaced by the Manager - Nuclear Safety, who will have management responsibility for both the Offsite Safety Review (OSR) staff and the Onsite Safety Review Group (SRG).

14. Revise Specification 6.5.2.3 to clarify the use of consultants by the Nuclear Safety Department. Provide editorial revisions to Specification 6.5.2.4. Delete the miscellaneous OSR activities at the end of Specification 6.5.2.4.1. Revise 6.5.2.4.2(g) to add the phrase "that could affect nuclear safety."

15. Revision to Specification 6.5.2.4.3(i) and 6.5.2.4.3(j) to specify that either offsite fire protection engineers or independent fire protection consultants will be utilized for the fire protection and loss prevention program implementation audits, with an outside consultant being used at least once per 30 months.

16. Delete Specification 6.5.2.7 and insert new Specification 6.5.2.4.4. This will clarify that the record requirements described therein pertain specifically to the OSR staff. The proposed change will also increase the allowable time periods for forwarding reports of reviews and audits.

17. Revise Section 6.5.3 to replace "NSR" with "the OSR staff".

18. Revision of the title of Section 6.9 to delete reference to REPORTABLE OCCURRENCES. Revision to Section 6.9.1 and 6.9.2 to include the correct NRC mailing addresses and refer specifically to USNRC Region I. Revision to Specification 6.9.1.4 to delete requirements for submittal of the initial Annual Report.

19. Revise Specification 6.9.1.5a to replace "film badge measurements" with "self reading dosimeter measurements".

Addition of Specification 6.9.1.5c to include primary coolant specific activity analyses results among the annual reports.

20. Deletion of Specifications 6.9.1.7, 6.9.1.8 and 6.9.1.9 to reflect reporting requirements of 10 CFR 50.73, consistent with NRC Generic Letter 83-43. Renumbering of Specifications 6.9.1.10 and 6.9.1.11 and other editorial revisions.

21. Revision of the requirements of Specification 6.9.1.7 (formerly 6.9.1.10) regarding radiological sampling location maps submitted with the Annual Radiological Environmental Operating Report.

22. Inclusion of Specification 6.9.1.9 to revise the schedular requirements for submittal of the Radial Peaking Factor Limit Report. For Unit 2, revise B 3/4.2.3 to reference 6.9.1.9.

23. Revision of Section 6.10.1 to change "REPORTABLE OCCURRENCES" to "REPORTABLE EVENTS", to delete the five year storage requirement for reactor tests and experiments and reflect the record storage requiremnts of 10 CFR 50.59.

24. Revision of Section Section 6.10.2 to reflect the succession of the Nuclear Review Board by the Offsite Safety Review staff, to reflect the record storage requirements of 10 CFR 50.59 and to provide editorial corrections.

25. Addition of a footnote to Sections 6.12.1 and 6.12.2 to define radiation intensity as it is used to determine whether an areas is a High Radiation Area. 6.12.1 is also revised to delete reference to "Health Physicist" and to provide editorial corrections. 6.12.2 is being revised to reflect the "Senior Nuclear Shift Supervisor" title.

Revision 2 of this change request proposed adding the provisions of 10 CFR 20.203(c)(4), to Section 6.12.1. These provisions allow a high radiation area established for thirty days or less to be controlled via direct surveillance. A telephone conference call was held between PSE&G and NRC (NRR and Region I) personnel, on March 13, 1990, to discuss this proposed change. The consensus reached was that the provisions of 10 CFR 20.203(c)(4) could be applied to high radiation areas without changing the current Technical Specifications. Therefore, the change has been removed from this revision of the change request. PSE&G requests that the agreement that 10 CFR 20.203(c)(4) does not conflict with the present Technical Specifications be documented in the NRC Safety Evaluation Report for this License Change Request.

26. Revision of Section 6.15.1 to change "FSAR" to "UFSAR" and to provide editorial corrections.

27. (Unit 1 only). Revision of Section 6.16 to delete references to past deadlines for Environmental Qualification compliance.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed

amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has provided an analysis of no significant hazards considerations with the request for the license amendment. The licensee's analysis of the proposed amendment against the three standards in 10 CFR 50.92 is reproduced below:

The proposed changes to the Technical Specifications:

1. Do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Those proposed changes which are administrative in nature do not impact any accident analyses used to support operation of the Salem Nuclear Generating Stations. Furthermore, the proposed changes do not involve any reduction in management effectiveness, nor do they adversely affect the design or operation of any systems or components important to safety. Consequently, the reliability of the performance of plant safety functions is not adversely affected.

The proposed changes to Section 3.4.8 of Unit 1 and 3.4.9 of Unit 2 delete the action statement requiring discontinuation of operation if primary coolant specific activity exceeds 1.0 [microcuries per gram] for 800 hours (or 10% of unit total annual operating time) during any 12 month period. The activity limits of Figure 3.4-1 and 100/E [microcuries per gram] will still apply. These limits are bounded by the assumptions used in the steam generator tube rupture accident analysis described in UFSAR Section 15.4.4, which bases primary coolant activity on 1% defective fuel cladding. Therefore, the Technical Specifications will continue to assure that the 2 hour exclusion area dose in the event of a steam generator tube rupture accident analysis would be a small fraction of the 10 CFR 100 limits.

Furthermore, deletion of the 800 hour limit has been endorsed by the NRC in Generic Letter 85-19. The NRC's position is predicated on promulgation of 10 CFR 50.72 reporting requirements and improvements made in fuel management subsequent to initial development of the primary coolant specific activity limits. Generic Letter 85-19 states that "[l]icensees are expected to continue to monitor activity in the primary coolant and ... maintain it at a reasonably low level (i.e., accumulated time with high iodine activity should not approach 800 hours)". PSE&G recognizes the significance of coolant activity and will continue to monitor and control accumulated specific activity levels.

The proposed increases to the reporting levels of radioactivity and lower limits of detection for tritium and I-131 (Section 3/4.12) do not increase the probability or consequences of an accident. Since the current values are based on 40 CFR 141 requirements for drinking water supplies, this proposed change revises those levels in cases where no drinking water pathways are potentially affected. The reporting levels and LLD for tritium and I-131 will continue to be a small fraction of the levels allowed by 10 CFR 20.

Therefore, it may be concluded that the proposed changes to not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not adversely affect the design or operation of any systems or components important to safety. No physical plant modifications or new operational configurations will result from these proposed changes. Therefore, it may be concluded that the proposed changes to not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Do not involve a significant reduction in a margin of safety.

With the exception of the deletion of the 800 hour limit on primary coolant specific activity and revision of radiological environmental monitoring parameters discussed above, the changes proposed herein potentially affecting parameters defining margins for safety affect only their administrative aspects and do not allow for any reduction in a margin of safety. The proposed changes to Specification 6.9.1.9 regarding F_{xy} reporting requirements will not reduce the margin of safety associated with the heat flux hot channel factor (F_q), since the same methodology will be used to define the acceptable limits.

The proposed change to specific activity limits does not involve a significant reduction in a margin of safety. The limits of Figure 3.4-1, which are bounded by the assumption of 1% defective fuel clad for the steam generator tube rupture accident analysis, will still apply. Also, the change has been endorsed by the NRC via Generic Letter 85-19.

The proposed change to the radiological environmental monitoring program does not involve a significant reduction in a margin of safety. The program will still implement Section IV.B to 10 CFR 50, Appendix I. As stated above, the proposed changes do not affect compliance with 10 CFR 20. The proposed change deletes radioactivity concentration values associated with 40 CFR 141 in cases where it is not applicable (i.e., no drinking water pathways are involved). Therefore, it may be concluded that the proposed changes do not involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's submittal and significant hazards analysis and concurs with the licensee's determination as to whether the proposed amendment involves a significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Bishop, Cook, Purcell and Reynolds, 1400 L Street, N.W., Washington, DC 20005-3502

NRC Project Director: Walter R. Butler

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: June 29, 1990

Description of amendment request: The proposed amendment would change the Ginna Technical Specfications to incorporate additional specifications and Action Statements regarding required operability of the Ginna station auxiliary electrical systems. Offsite power system reconfiguration modifications will increase the availability margin of the offsite system by dedicating a 34.5 to 4.16 kilovolt, transformer to each of the two offsite (preferred power) transmission lines. The modified system provides a second source of preferred power in that two independent offsite power sources with separate transformers are available.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee addressed the above three standards in the amendment application. In regard to the three standards, the licensee provided the following analysis.

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated. The existing design of the station auxiliary electrical system before modifications is less reliable in that loss of the one offsite transformer would result in immediate reliance of the onsite power system. The onsite diesel generators, used to backup the station offsite electrical system, would not be immediately relied upon

with the proposed modification and corresponding amendment.

(2) Since the reliance of the two standby onsite diesel generators are still required as backup in the proposed modification, use of the modified specification would not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Because the offsite power system meets the requirements of existing licensing commitments, the operating margin would be improved by dedicating two independent offsite sources with separate transformers. Use of the modified specification would therefore not involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based upon this review, the staff agrees with the licensee's analysis.

Based upon the above discussion, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Attorney for licensee: Nicholas S. Reynolds, Bishop, Cook, Purcell & Reynolds, 1400 L Street, N.W., Washington, DC 20005-3502

NRC Acting Project Director: Victor Nerses

Southern California Edison Company, et al., Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of amendment request: September 28, 1990.

Description of amendment request: Proposed Change No. 233, which was submitted by Amendment Application No. 180, proposes to revise the Technical Specifications and to add a license condition in order to address single failure problems that were recently identified by the licensee.

During the current Cycle 11 outage, the licensee is making modifications to the Safeguards Load Sequencing System (SLSS) to resolve single failure concerns. The modifications to the SLSS will require a change to the existing Technical Specifications and the licensee has proposed to make the following changes in this regard:

G7eOP2Add operability requirements in Table 3.5.1-1 of Technical Specification 3.5.1, Reactor Trip System Instrumentation, for instrumentation that senses undervoltage on both 4160 volt buses and trips the reactor.

G7eOP2Include a description of the revised SLSS actuation logic in the Basis section of Technical Specification 3.7.1, Auxiliary Electrical Supply.

G7eOP2Specify surveillance requirements for the 4160 volt electrical buses in Table 4.1.1 of Technical Specification 4.1.1, Operational Safety Items.

G7eOP2Change the definition of a SISLOP [Safety Injection Signal with Concurrent Loss of Power] condition to be a SIS and concurrent loss of respective 4160 volt bus rather than a SIS and concurrent loss of both buses in Technical Specification 4.4, Emergency Power System Periodic Testing.

The licensee has also determined that the automatic transfer switches and inverters that supply power to vital buses 1, 2, 3, and 3A must be replaced with components that provide retransfer capability in order to resolve a different single failure problem. However, replacement parts are not readily available, therefore, the licensee has proposed to add the following license condition to paragraph 3 of Provisional Operating License DPR-13:

N. Plant Modification to Eliminate Single Failure Susceptibility of Vital Bus Automatic Transfer Function

Southern California Edison Company shall modify the electrical distribution system to ensure that the availability of a power source for vital buses 1, 2, 3, and 3A is not subject to a single failure susceptibility. The plant modification shall satisfy the design requirements of the safety-related portions of the existing electrical distribution system and shall be operable prior to restart from the Cycle 12 refueling outage.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided the following no significant hazards consideration determination:

1. Will operation of the facility in accordance with these proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

Sequencer Logic Deficiency

The only accidents evaluated in the Updated Final Safety Analysis Report (UFSAR) that are related to the proposed Technical Specification changes are a LOCA or MSLB. Safe shutdown from both of these events is assured, in part, by automatic injection of borated water into the Reactor Coolant System (RCS) by the Safety Injection System. A SIS is automatically initiated by either low pressure in the pressurizer or high containment pressure. Reliable operation of the Safety Injection System is assured by i) two separate and independent pumping trains * for delivering borated water to the RCS and ii) two emergency diesel generators for powering Safety Injection System equipment during loss of off-site power conditions.

The SLSS starts and loads the diesel generators and provides proper sequencing of the ECCS loads onto the ECCS buses. This proposed change reflects plant modifications that are being performed during the current refueling outage. The modification will change the SLSS actuation logic so that each sequencer starts and loads its respective diesel and sequences the ECCS loads upon receipt of a SIS concurrent with the loss of its respective electrical bus rather than upon a SIS and loss of both buses. In addition, separate trip signals indicative of loss of both 4160 volt buses are being created outside of the SLSS to retain the logic for reactor trip upon loss of off-site power (i.e., loss of both 4160 volt buses). These plant modifications do not affect the Safety Injection System logic initiating circuits or the probability of spurious reactor trips.

Operation of SONGS 1 in accordance with this proposed change will not increase the probability or consequences of an accident previously evaluated. Rather, the plant modifications reflected by this change assure that ECCS operation will be initiated within the time frame assumed by the MSLB and LOCA safety analyses presented in Sections 15.2 and 15.16 of the UFSAR.

Vital Bus Automatic Transfer

Due to the vital bus transfer single failure susceptibility in the SONGS 1 electrical distribution system, the consequences of a LOCA or MSLB could be more serious than previously concluded by the UFSAR accident analyses. The probability of a LOCA or MSLB occurring is unaffected by the single failure susceptibility.

If the vital buses were being powered from their backup power source, failure of that power source would lead to a temporary loss of all vital bus electrical power. Such an occurrence may prevent automatic actuation of the safeguards required to avoid core damage following a LOCA/MSLB. This possibility stems from the lack of automatic retransfer capability from the vital bus backup power source (480 volt motor control center number 2) to the primary source (DC Bus. No. 1). Electrical power could eventually be restored to the buses by the operator manually transferring to the primary source.

SCE plans to implement a design modification during the Cycle 12 refueling outage to eliminate the possibility of the above single failure scenario. In addition, SCE has concluded that operation throughout Cycle 11 with the current plant configuration does not represent a significant increase in the consequences of a LOCA/MSLB because such a series of events is highly unlikely to occur. All of the following circumstances would have to exist to temporarily lose power to one or more of the vital buses.

Occurrence of a LOCA or MSLB.

Sufficient short circuiting of unqualified electrical loads on the vital buses to cause automatic transfer to the backup power source.

Failure of the vital bus backup power source (Train B 480 volt motor control

* During ground detection activities, one pumping train may be inoperable for a limited period in accordance with Technical Specification 3.7.1, Action G.

center number 2) after an automatic transfer.

SCE has performed a PRA for this scenario to confirm that operation with the current plant configuration for a limited period does not represent a significant risk of core damage and/or adverse consequences to the public. The results of that analysis show that the risk of core damage due to this single failure susceptibility is less than 6×10^{-7} per year. Therefore, continued plant operation throughout Cycle 11 with the existing vital bus configuration does not represent a significant increase in the consequences of an accident previously evaluated.

2. Will operation of the facility in accordance with these proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No

Sequencer Logic Deficiency

The proposed Technical Specification changes do not introduce the possibility for any new accidents. The plant changes that accompany this proposed change do not affect the requirements for generation of a SIS or initiation of a reactor trip. All new circuits, cabling, and terminations are being installed to satisfy seismic category A requirements and physical and electrical separation criteria for safety-related systems.

In addition, SCE has confirmed that operation of one of the two trains of the Safety Injection System in a sequenced mode (SISLOP) concurrent with the other train in a block-loaded mode (SIS only) will not result in any adverse consequences. Once the plant changes are complete, at least one safety injection train would operate upon receipt of a SIS and a concurrent loss of one of the two 4160 volt buses.

Vital Bus Automatic Transfer

The design for the plant modification that will eliminate the vital bus automatic transfer single failure susceptibility is not yet final. SCE will complete the necessary design modification in accordance with all applicable regulatory requirements to assure that the revised electrical distribution system does not introduce the possibility of any new accidents.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No

Sequencer Logic Deficiency

The proposed Technical Specification changes reflect plant changes that are being performed to eliminate three single failure scenarios that potentially could have delayed initiation of safety injection after a LOCA or MSLB and concurrent loss of off-site power. In each case, the resulting delay could have been beyond the timing assumed in the analyses described in UFSAR Sections 15.2 and 15.15 for a MSLB and LOCA. The plant changes dictate that safety injection operation will be initiated upon receipt of a SIS and concurrent loss of one rather than both 4160 volt electrical buses to assure there is no reduction in a margin of safety.

Vital Bus Automatic Transfer

Interim operation during Cycle 11 with the present vital bus automatic transfer capability involves a slight chance that the plant may not be able to automatically initiate required safeguards following a LOCA/MSLB. However, SCE has concluded that the potential for this event is not significant since the probability of its occurrence is estimated to be less than 6×10^{-7} per year. The design for the plant modification that will eliminate this single failure concern will be installed during the Cycle 12 refueling outage to maintain all existing margins of safety.

The NRC staff has reviewed the analysis and, based on that review, it appears that the three criteria are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713.

Attorney for licensee: James Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770.

NRC Project Director: James E. Dyer, Acting

Tennessee Valley Authority, Docket No. 50-328 Sequoyah Nuclear Plant, Unit 2, Hamilton County, Tennessee

Date of amendment request: August 31, 1990 (TS 90-11)

Description of amendment request: The Tennessee Valley Authority (TVA) proposed to modify the Sequoyah Nuclear Plant (SQN), Unit 2, Technical Specifications (TSs). The proposed changes would revise Surveillance Requirement (SR) 4.6.1.2.a and the associated bases Section 3/4.6.1.2, "Containment Leakage," to delete the requirement that the third containment Type A test for Unit 2 during the 10-year service period shall be conducted during the outage for the 10-year unit inservice inspections (ISIs). SR 4.6.1.2.a requires that three Type A tests (containment integrated leak rate tests [CILRT]) be conducted at approximately 3-year intervals during each 10-year service period. Currently, the SR states that the third test of each set is required to be conducted during shutdown for the 10-year unit ISIs. This SR implements the requirements of 10 CFR 50, Appendix J, III.D.1(a) and ISIs are required by 10 CFR 10.55.a. The proposed change would allow the third Type A test and the 10-year ISIs to be uncoupled and performed during separate refueling outages.

Basis for proposed no significant hazards consideration determination: In its application, TVA provided the following information on the proposed TS changes:

The third Type A test of the first 10-year service period for SQN Unit 2 is presently scheduled to commence toward the end of the Unit 2 Cycle 5 refueling outage (May 1992).

TVA intends to conduct the SQN Unit 2, 10-year ISI during the Unit 2 Cycle 6 refueling outage (October-November 1993). ...SQN Unit 2 was shut down by TVA on August 21, 1985. SQN Unit 2 remained in a cold shutdown condition (Mode 5) over a 3-year period. Unit 2 returned to full power operation on May 31, 1988. The 3-year shutdown period resulted in adjustments to the Unit 2, 10-year ISI interval in accordance with the provisions of ASME [American Society of Mechanical Engineers Code] Section XI, Article IWA-2400(c). The adjustment in the 10-year ISI interval imposed separate timeframes for the scheduled performance of the Unit 2 CILRT and the scheduled 10-year ISI. To account for this separation, TVA is submitting the enclosed request that would allow the third Unit 2 CILRT and the 10-year ISI to be uncoupled and performed in separate refueling outages.

The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has provided the following analysis:

TVA has evaluated the proposed technical specification (TS) change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of Sequoyah Nuclear Plant (SQN) in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The uncoupling of the third Type A test schedule from the 10-year in-service inspection (ISI) schedule does not involve a change in the test and inspection methodology or acceptance criteria from those previously analyzed in the SQN Final Safety Analysis Report. The proposed change does not involve a change to the facility or modifications to equipment, components, or hardware; therefore, the probability or consequences of an accident previously evaluated have not increased.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed change would allow separate timeframes for the required performance of the third Type A test and the scheduled 10-year ISI[s]. This separation does not introduce any new type of accident or malfunction since the surveillance test frequency, acceptance criteria, and test and inspection methods remain unchanged. Conducting the third Type A test in a separate outage from the 10-year ISI will not result in any design or hardware changes and therefore does not create the possibility for a

new or different kind of accident from any previously analyzed.

(3) Involve a significant reduction in a margin of safety.

The proposed change will not reduce the margin of safety as defined in the bases of SQN TS. The bases for TS 3/4 6.1.2, "Containment Leakage," states, "The surveillance testing for measuring leakage rates are consistent with the requirements of Appendix J of 10 CFR 50." Compliance with the 10 CFR 50, Appendix J requirements would continue to be maintained with the single exception that allows the third Type A test and the 10-year ISI[s] not to be performed during a common unit outage. This uncoupling causes no reduction in the margin of safety since no changes were made to the containment test frequency or the containment leakage limits assumed in the accident analysis [and the change in the schedule for the 10-year ISIs is in accordance with the ASME code].

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendment involves no significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Project Director: Frederick J. Hebdon

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the Federal Register on the day and page cited. This notice does not extend the notice period of the original notice.

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of amendment request: April 26, 1990, supplemented June 13, 1990

Brief description of amendment request: The proposed amendment would change the Rancho Seco Physical Security Plan. The proposed amendment would revise paragraph 2.C.(3) to the Rancho Seco license allowing the removal of vital areas and other modifications that would allow the licensee to reduce the size of the Rancho Seco facility's security force. The licensee based the amendment request on the following: (1) the reactor was permanently shut down on June 7, 1989, (2) the reactor was defueled on December 8, 1989 and all fuel is currently stored in the onsite spent fuel pool, (3) the premise that a radiological release would not result in a whole body dose in excess of 10 CFR Part 100, and (4) that an act of sabotage that would result in a dose in excess of these limits is not a credible event.

Date of publication of individual notice in Federal Register: September 21, 1990

Expiration date of individual notice: October 22, 1990

Local Public Document Room location: Martin Luther King Regional Library, 7340 24th Street Bypass, Sacramento, California 95822

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the Federal Register as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Projects.

Alabama Power Company, Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama.

Date of amendments request: June 15, 1990

Brief Description of amendments: The amendments revise Technical Specifications 4.8.2.3.2.c.5 and 4.8.2.5.2.c.5 to delete the equivalent load profiles provided in table form that are associated with the battery service test. The tables are replaced with a statement requiring that the batteries be tested by subjecting them to an equivalent load profile based on anticipated breaker operations required during loss-of-offsite power and loss-of-collant accident conditions. The equivalent load profiles are defined in the Final Safety Analysis Report.

Date of issuance: October 1, 1990

Effective date: October 1, 1990

Amendment Nos.: 84 and 77

Facility Operating License Nos. NPF-2 and NPF-8. Amendments revise the Technical Specifications.

Date of initial notice in Federal Register: July 11, 1990 (55 FR 28473) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 1, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Houston-Love Memorial

Library, 212 W. Burdeshaw Street, P. O. Box 1369, Dothan, Alabama 36302

Commonwealth Edison Company, Docket Nos. 50-237 and 50-249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Date of application for amendments: September 29, 1989 and February 1, 1990

Brief description of amendments: This amendment changes the Dresden Units 2 and 3 Technical Specifications to reflect modifications to the Standby Liquid Control System and the addition of a Recirculation Pump Trip, which have been installed to comply with the requirements of the Anticipated Transient Without Scram Rule (10 CFR 50.62).

Date of issuance: October 2, 1990

Effective date: October 2, 1990

Amendment Nos.: 113 and 109

Provisional and Facility Operating License Nos. DPR-19 and DPR-25. The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: November 15, 1989 (54 FR 47600) The February 1, 1990 submittal provided additional clarifying information and did not change the initial no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 2, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of application for amendment: July 24, 1989

Brief description of amendment: This amendment revises the Technical Specification (TS) by specifying the normal flow path for primary containment nitrogen control (vent/makeup) and pressure control when operating in operational conditions 1, 2, and 3.

Date of issuance: September 25, 1990

Effective date: September 25, 1990

Amendment No.: 58

Facility Operating License No. NPF-43: The amendment revises the Technical Specifications

Date of initial notice in Federal Register: September 5, 1990 (55 FR 36339) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 25, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Duquesne Light Company, Docket No. 50-412, Beaver Valley Power Station, Unit No. 2, Shippingport, Pennsylvania

Date of application for amendment: April 16, 1990

Brief description of amendment: The amendment modifies the Appendix A Technical Specifications (TSs) to remove existing requirements on the reactor coolant resistance temperature detector (RTD) manifold instrumentation, and to replace them with requirements for fast-response thermowell-mounted RTDs.

Date of issuance: September 25, 1990

Effective date: September 25, 1990

Amendment No. 33

Facility Operating License No. NPF-73. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 30, 1990 (55 FR 21970) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 25, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Mississippi Power & Light Company, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: April 27, 1990, as revised July 5, 1990, August 6, 1990, August 9, 1990, August 20, 1990, and September 11, 1990.

Brief description of amendment: The amendment revises the Technical Specifications (TS) and Bases by adding requirements for the operation and use of the alternate decay heat removal system (ADHRS) during future outages. In addition, the amendment requires automatic isolation of the reactor vessel and automatic initiation and injection of water into the reactor for one of the two emergency core cooling system (ECCS) subsystems required to be operable during cold shutdown and refueling to mitigate inadvertent reactor vessel drainage.

Date of issuance: September 24, 1990

Effective date: September 24, 1990

Amendment No: 70

Facility Operating License No. NPF-29. Amendment revises the Technical Specifications.

Date of initial notice in Federal Register: July 25, 1990 (55 FR 30296) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 24, 1990

No significant hazards consideration comments received: No

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

Entergy Operations, Inc., Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: July 25, 1990

Brief description of amendment: The amendment revised the Technical Specifications to change the organizational structure and position titles to reflect the changes brought about by the transfer of operations to Entergy Operations, Inc.

Date of issuance: October 2, 1990

Effective date: October 2, 1990

Amendment No.: 63

Facility Operating License No. NPF-38. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 22, 1990 (55 FR 34369) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 2, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: May 10, 1990

Brief description of amendment: This amendment updates the 18-month emergency diesel generator load testing requirements to reflect increased generating capacity. The amendment also removes surveillance requirements on block load timers in modes 5 and 6, and deletes two notes that are no longer applicable.

Date of issuance: September 24, 1990

Effective date: September 24, 1990

Amendment No.: 131

Facility Operating License No. DPR-72. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 22, 1990 (55 FR 34370) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 24, 1990

No significant hazards consideration comments received: No.

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 32629

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of application for amendment: January 5, 1990

Brief description of amendment: Removes the 3.25 Technical Specification limit on extending surveillance intervals as proposed in NRC Generic Letter 89-14.

Date of issuance: September 25, 1990

Effective date: September 25, 1990

Amendment No.: 155

Facility Operating License No. DPR-50. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: March 7, 1990 (55 FR 8225) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated September 25, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of application for amendment: July 28, 1989

Brief description of amendment: Revises surveillance frequencies for two types of instruments and corrects various clerical errors in the Technical Specifications.

Date of issuance: September 25, 1990

Effective date: September 25, 1990

Amendment No.: 156

Facility Operating License No. DPR-50. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: September 6, 1989 (54 FR 37048) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated September 25, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of application for amendment: January 18, 1990

Brief description of amendment: Corrects numerous typographical, reference, and format errors in the License and Technical Specifications.

Date of Issuance: September 25, 1990

Effective date: September 25, 1990

Amendment No.: 157

Facility Operating License No. DPR-50. Amendment revised the License and Technical Specifications.

Date of initial notice in Federal Register: March 21, 1990 (55 FR 10534) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated September 25, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of amendment request: March 19, 1990

Brief description of amendment: The amendment adds new surveillance requirements to Technical Specification 4.9.8.2 for a new frame mounted auxiliary hoist on the fuel building fuel handling platform. The new hoist will be used to move control rods between primary containment and the fuel building.

Date of issuance: September 27, 1990

Effective date: September 27, 1990

Amendment No.: 48

Facility Operating License No. NPF-47. The amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 30, 1990 (55 FR 21971) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 27, 1990

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of amendment request: March 21, 1989, and supplemented by letter dated August 3, 1990

Brief description of amendment: The amendment revised the Limiting Condition for Operation Action statement, surveillance requirements and Bases for Technical Specification 3/4.7.4 relating to snubbers. The changes eliminate redundant requirements and refer to implementation of the Inservice Inspection Plan to fulfill the inspection requirements as they apply to snubbers.

Date of issuance: September 27, 1990

Effective date: September 27, 1990

Amendment No.: 49

Facility Operating License No. NPF-47. The amendment revised the Technical Specifications.

Date of initial notice in Federal Register: April 19, 1989 (54 FR 15828). The August 3, 1990, submittal provided additional clarifying information and did not change the initial no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 27, 1990

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of amendment request: August 22, 1990

Brief description of amendment: The amendment revised Technical Specification 3/4.7.1.2, "Ultimate Heat Sink," to increase the allowable ultimate heat sink basin temperature from 82° F to 88° F. The change allows GSU to use the ultimate heat sink to cool plant equipment when normal service water is removed from service and when normal service water nears its design of 95° F and adequate temperature differentials are unobtainable.

Date of issuance: October 4, 1990

Effective date: October 4, 1990

Amendment No.: 50

Facility Operating License No. NPF-47. The amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 31, 1990 (55 FR 35743) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 4, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of application for amendment: February 5, 1988

Description of amendment request: The change clarified the divisional assignments and logic arrangements of the reactor water level and high drywell pressure inputs to the CRVICS.

Date of issuance: September 25, 1990

Effective date: September 25, 1990

Amendment No.: 48

Facility Operating License No. NPF-62. The amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 13, 1988 (53 FR 26525) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 25, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: The Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy, Center, Linn County, Iowa

Date of application for amendment: March 31, 1988

Brief description of amendment: The amendment revised the Technical Specifications by changing the iodine reporting requirements from a special report to an annual report, consistent with NRC Generic Letter 85-19. Other administrative changes were made to correct omissions or deletions of items previously approved, to clarify wording and to update surveillance requirements.

Date of issuance: September 28, 1990

Effective date: September 28, 1990

Amendment No.: 170

Facility Operating License No. DPR-49. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 25, 1990 (55 FR 30300) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 28, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S. E., Cedar Rapids, Iowa 52401.

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: July 10, 1990

Brief description of amendment: The amendment modifies Millstone Unit 3 Technical Specification (TS) Table 3.3-6, "Remote Shutdown Instrumentation," to correct an editorial error and TS Table 4.3-6, "Remote Shutdown Monitoring Instrumaniatoin Surveillance Requirements," to provide a footnote concerning the source range count rate.

Date of issuance: September 28, 1990

Effective date: September 28, 1990

Amendment No.: 58

Facility Operating License No. NPF-49. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 22, 1990 (55 FR 34378) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 28, 1990

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of application for amendment: June 1, 1990

Brief description of amendment: This amendment revised the Technical Specifications to reflect two fire protection modifications which the licensee intends to implement during the fall 1990 refueling outage. These modifications will replace the existing suppression pool water temperature indication (actually the water temperature at the suction of the 'A' Residual Heat Removal pump) at the Remote Shutdown Panel (RSP) with direct temperature indication of the suppression pool water and will provide for the control of emergency power to the Reactor Core Isolation Cooling System steam supply line inboard containment isolation valve from the RSP.

Date of issuance: September 19, 1990

Effective date: October 1, 1990

Amendment No. 45

Facility Operating License No. NPF-39. This amendment revised the Technical Specifications and/or License.

Date of initial notice in Federal Register: June 27, 1990 (55 FR 26286) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 19, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Philadelphia Electric Company, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendment: October 11, 1989 and April 9, 1990

Brief description of amendment: The amendments revised the Technical Specifications to specify the number of suppression chamber to drywell vacuum breaker pairs which are required to be operable as three rather than four pairs.

Date of issuance: October 2, 1990

Effective date: October 2, 1990

Amendment No. 146 and 9

Facility Operating License Nos. NPF-39 and NPF-85. This amendment revised the Technical Specifications.

Date of initial notice in Federal Register: November 15, 1989 (54 FR 47607) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 2, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Portland General Electric Company et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: November 9, 1987 as supplemented by letter dated February 25, 1988.

Brief description of amendment: The proposed amendment would revise Trojan Technical Specification (TS) Section 3.9.9, "Containment Ventilation Isolation System," (CVIS), by changing the modes in which the TS would be applicable from "MODE 6" to "During CORE ALTERATIONS or movement of irradiated fuel within the Containment."

Date of issuance: October 1, 1990

Effective date: October 1, 1990

Amendment No.: 165

Facilities Operating License No. NPF-1: Amendment changed the Technical Specifications.

Date of initial notice in Federal Register: September 21, 1988 (53 FR 36679) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 1, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Branford Price Millar Library, Portland State University, 934 S.W. Harrison Street, P.O. Box 1151, Portland, Oregon 97207.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: March 13, 1990

Brief description of amendment: The amendment revises Surveillance Requirement 4.9.F.8 to correctly identify the location of the Independent Power Supplies circuit breakers.

Date of issuance: September 27, 1990

Effective date: September 27, 1990

Amendment No.: 165

Facility Operating License No. DPR-59: Amendment revised the Technical Specification.

Date of initial notice in Federal Register: July 11, 1990 (55 FR 28481) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 27, 1990

No significant hazards consideration comments received: No

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Tennessee Valley Authority, Docket No. 50-327, Sequoyah Nuclear Plant, Unit 1, Hamilton County, Tennessee

Date of application for amendment: May 21, 1990 (TS 90-14)

Brief description of amendment: This amendment modifies the Sequoyah Nuclear Plant, Unit 1, Technical Specifications (TSs). The changes revise valve nomenclature in TS Table 3.8.-2, Containment Isolation Valves. The nomenclature of 14 sampling valves in the TS table is changed from flow control valve (FCV) to flow solenoid valve (FSV). The Unit 1 valves were changed in the Unit 1 Cycle 4 refueling outage. In its application, the licensee also requested changes to Table 3.6-2 of the Sequoyah Unit 2 TSs. As requested, these changes will be issued after the valves are replaced in the Unit 2 Cycle 4 refueling outage which began in September 1990.

Date of issuance: September 20, 1990

Effective date: September 20, 1990

Amendment No.: 145

Facility Operating License No. DPR-77: Amendment revised the Unit 1 Technical Specifications.

Date of initial notice in Federal Register: June 27, 1990 (55 FR 26206) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 20, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: July 20, 1990 (TS 90-15)

Brief description of amendments: The amendments modify the Sequoyah Nuclear Plant (SQN), Units 1 and 2, Technical Specifications (TSs). The changes revise the Action Statement "c", for Limiting Condition for Operation (LCO) 3.9.2 on source range neutron flux monitors for refueling operations, to add a statement that the provisions of TS 3.0.4 are not applicable to LCO 3.9.2. TS 3.0.4 states that the licensee may not have the reactor enter an operational mode or other specified condition unless the conditions for the LCO are met without reliance on provisions contained in the action requirements. This provision in TS 3.0.4 does not prevent passage through operational modes as required to comply with action statement requirements. Exceptions in the TSs to TS 3.0.4 are stated in the individual specifications. The changes in the amendments provide such an exception for LCO 3.9.2 to allow the reactor to enter the refueling operational mode without meeting LCO 3.9.2 (i.e. without having as a minimum two operable source range monitors). Refueling is Operational Mode 6 with fuel in the reactor vessel and the reactor vessel head closure bolts less than fully tensioned or the head removed.

Date of issuance: September 21, 1990

Effective date: September 21, 1990

Amendment Nos.: 146 and 127

Facility Operating Licenses Nos. DPR-77 and DPR-79: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: August 22, 1990 (55 FR 34382) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 21, 1990

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket No. 50-328, Sequoyah Nuclear Plant, Unit 2 Hamilton County, Tennessee

Date of application for amendment: December 8, 1989 as supplemented by letter dated March 15, 1990 (TS 89-18)

Brief description of amendment: The amendment deletes Surveillance Requirement (SR) 4.6.2.d.1 of the Sequoyah Nuclear Plant, Unit 2, Technical Specifications (TSs). This SR required verification of the automatic isolation and interlock function of the residual heat removal (RHR) system which was used to protect the RHR system from the reactor coolant system pressure when the pressure is above 700 psi gauge. The autoclosure interlock function is being removed from the RHR system in the current Unit 2 Cycle 4 refueling outage.

The application also proposed changes to the Unit 1 TSs. These changes were issued in the staff's letter dated May 9, 1990 during the Unit 1 Cycle 4 refueling outage.

Date of issuance: October 1, 1990

Effective date: October 1, 1990

Amendment No.: 128

Facility Operating License No. DPR-79: Amendments revised the Unit 2 Technical Specifications.

Date of initial notice in Federal Register: January 24, 1990 (55 FR 2446) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 1, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket No. 50-328, Sequoyah Nuclear Plant, Unit 2, Hamilton County, Tennessee

Date of application for amendment: January 12, 1990 which superseded the application dated December 2, 1988 (TS 88-42)

Brief description of amendment: This amendment modifies the Sequoyah Nuclear Plant, Unit 2, Technical Specifications (TSs). The changes revise the trip setpoint and allowable value units for the intermediate range (IR) nuclear flux detectors and revise the applicability requirements for the source range (SR) nuclear flux detectors. These changes account for the fact that this equipment will be replaced at Unit 2 during the current Unit 2 Cycle 4 refueling outage. This is part of the equipment upgrade at Sequoyah to comply with Regulatory Guide 1.97.

The application dated January 12, 1990 superseded the previous application for TS Change Request 88-42, dated December 2, 1988. The proposed changes for Sequoyah Unit 1 were issued by letter dated April 27, 1990 during the Unit 1 Cycle 4 refueling outage.

Date of issuance: October 2, 1990

Effective date: October 2, 1990

Amendment No.: 129

Facility Operating Licenses No. DPR-79: Amendment revised the Unit 2 Technical Specifications.

Date of initial notice in Federal Register: February 7, 1990 (55 FR 4278) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 2, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: July 2, 1990

Brief description of amendment: The technical specification change revises Specification 4.0.2 and its associated Bases to modify the existing surveillance interval extension provisions as provided by Generic Letter 89-14, "Line-Item Improvements in Technical Specifications - Removal of the 3.25 Limit on Extending Surveillance Intervals."

Date of Issuance: October 3, 1990

Effective date: October 3, 1990

Amendment No.: 41

Facility Operating License No. NPF-42. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 8, 1990 (55 FR 32334) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 3, 1990

No significant hazards consideration comments received: No.

Local Public Document Room Location: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing. For exigent circumstances, the Commission has either issued a Federal Register notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C., and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By November 16, 1990, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted

with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C. 20555 and at the Local Public Document Room for the particular facility involved.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (Project Director): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Portland General Electric Company et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: September 21, 1990

Brief description of amendment: The amendment changed Trojan Technical Specification Table 3.6-1 to allow the main steam to Auxiliary Feedwater pump turbine-driven supply valves to be tested at power, and to correct the number designations of the valves as listed in the table.

Date of issuance: September 28, 1990

Effective date: September 28, 1990

Amendment No.: 164

Facilities Operating License No: NPF-1: Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards determination: No.

The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated September 28, 1990.

Attorney for licensee: Leonard A. Girard, Esq., Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204.

Local Public Document Room location: Portland State University Library, 731 S.W. Harrison Street, Portland, Oregon 97207.

NRC Project Director: James E. Dyer, Acting

Dated at Rockville, Maryland, this 10th day of October 1990.

For the Nuclear Regulatory Commission

Steven A. Varga,

Director, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation

[Doc. 90-24325 Filed 10-16-90; 8:45 am]

BILLING CODE 7590-01-D

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-28524; International Series Release No. 169; File No. SR-BSE-90-15]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to the Listing of Index Warrants Based on the Nikkei Index

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 4, 1990, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The BSE proposes to amend its rules to allow it to trade, both on a listed and Unlisted Trading Privileges ("UTP") basis, index warrants based on the Nikkei Stock Average Index ("Nikkei"), a price-weighted index consisting of 225

stocks listed and trade on the Tokyo Stock Exchange ("TKE").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and statutory basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The BSE is submitting the proposed rule change in order to allow the Exchange to trade index warrants based on the Nikkei Index. The Nikkei Index is a widely used indicator of the performance of the Japanese equity market because it consists of 225 highly-capitalized, actively-traded Japanese stocks traded on the TKE. The Nikkei is continuously updated on the basis of trading activity during the TKE trading day session at one-minute intervals on a real-time basis by Nihon Keisai Shimbun, Inc. of Japan ("NKS"). The Commission previously has approved the listing of Nikkei index warrants on the American Stock Exchange ("AMEX").[1]

Such warrant issued will conform to the BSE listing guidelines as proposed in BSE filing SR–BSE–90–02,[2] which provide that: (1) The issuer shall have assets in excess of $100,000,000 and otherwise substantially exceed the financial listing criteria of the BSE; (2) the term of the warrants shall be for a period ranging from one to five years from the date of issuance; and (3) the minimum public distribution of such issues shall be 1,000,000 warrants together with a minimum of 400 public holders, and have an aggregate market value of $4,000,000. In addition, Nikkei Index warrants listed on another national securities exchange would be eligible for trading on the BSE.

Nikkei index warrants will be direct obligations of their issuer subject to cash-settlement during their term, and either exercisable throughout their life (*i.e.*, American style) or exercisable only on their expiration date (*i.e.*, European style). Upon exercise, or at the warrant expiration date (if not exercisable prior to such date), the holder of a warrant structured as a "put" would receive payment in U.S. dollars to the extent that the Nikkei Index has declined below a pre-stated cash settlement value. Conversely, holders of a warrant structured as a "call" would, upon exercise or at expiration, receive payment in U.S. dollars to the extent that the Nikkei Index has increased above the pre-stated cash settlement value. If "out-of-the-money" at the time of expiration, the warrants would expire worthless.

Trading in Nikkei warrants will be subject to several safeguards designed to ensure investor protection. In SR–BSE–90–02, the BSE proposed suitability standards applicable to recommendations to customers of index warrants and transactions in customer accounts. Specifically, the proposed amendments to the BSE's rules will make options suitability standards applicable to recommendations regarding index warrants. For warrants based on foreign indexes, the Exchange also recommends that index warrants be sold only to options-approved accounts. In addition, the proposed amendments will require a Senior Registered Options Principal ("SROP") or a Registered Options Principal ("ROP"), to approve and initial a discretionary order in index warrants on the day the order is executed. Finally, prior to the commencement of trading, the BSE will distribute a circular to its membership calling attention to the specific risks associated with Nikkei Index warrants.

Due to the fact that the BSE is not the Designated Options Examining Authority ("DOEA") for any of its member firms, BSE members with public customers trading Nikkei Index warrants will be required to have a SROP or ROP designated and qualified in accordance with the rules of the self-regulatory organization ("SRO") that is the DOEA for the BSE member. This will ensure that BSE members with public customers trading index warrants will have an options compliance infrastructure in place to ensure compliance with the proposed account opening and suitability requirements. This requirement will also ensure that BSE members trading index warrants will be subject to oversight by an SRO experienced in regulating options.

The Commission has noted that the trading of index warrants based on a foreign index requires an adequate mechanism for sharing surveillance information with respect to the index's component stocks. In this regard, the BSE is ensuring that there will be an adequate mechanism for the sharing of surveillance information with respect to the Nikkei's component stocks.

The Exchange believes that the proposed rule change is consistent with the requirements of the Act, and, in particular, section 6(b)(5), as the warrants are designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and are not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The BSE does not believe that the proposed rule change will impose an inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed

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[1] See Securities Exchange Act Release No. 27385 (December 22, 1989), 55 FR 378.

[2] As of the date of this release, SR–BSE–90–02 has not been approved by the Commission. Approval of SR–BSE–90–02 must occur before approval of the Exchange's proposal to list warrants based on the Nikkei.

with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 7, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 10, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-24404 Filed 10-16-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-28529; International Series Rel. No. 173; File No. SR-BSE-90-14]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to the Listing of Index Warrants Based on the Deutscher Aktienindex (DAX)

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 4, 1990, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The BSE proposes to amend its rules to allow it to trade, both on a listed and Unlisted Trading Privileges ("UTP") basis, index warrants based on the Deutscher Aktienindex ("DAX"), a capitalization-weighted index of 30 leading German stocks trading on the Frankfurt Stock Exchange ("FSE").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and statutory basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The BSE is submitting the proposed rule change in order to allow the Exchange to trade index warrants based on the DAX. The DAX, a widely used indicator of the performance of the West German Equity Market, is comprised of 30 blue chip stocks with substantial market capitalization traded on the FSE. The DAX is continuously updated on the basis of trading activity, throughout each trading day session. It is calculated and disseminated by the FSE. Adjustments to the DAX are made by the FSE in consultation with the Federation of German Stock Exchanges and the Borsen-Zeitung.

Such warrant issues will conform to the BSE listing guidelines as proposed in BSE filing SR-BSE-90-02,[1] which provide that: (1) The issuer shall have assets in excess of $100,000,000 and otherwise substantially exceed the financial listing criteria of the BSE; (2) the term of the warrants shall be for a period ranging from one to five years from the date of issuance; and (3) the minimum public distribution of such issues shall be 1,000,000 warrants together with a minimum of 400 public holders, and have an aggregate market value of $4,000,000. In addition, warrants which have been approved for trading on another national securities exchange would be eligible for listing on the BSE.

DAX index warrants will be direct obligations of their issuer subject to cash-settlement during their term, and either exercisable throughout their life (*i.e.*, American style) or exercisable only on their expiration date (*i.e.*, European style). Upon exercise or at the warrant expiration date (if not exercisable prior to such date), the holder of a warrant structured as a "put" would receive payment in U.S. dollars to the extent that the DAX Index has declined below a pre-stated cash settlement value. Conversely, holders of a warrant structured as a "call" would, upon exercise or at expiration, receive payment in U.S. dollars to the extent that the DAX Index has increased above the pre-stated cash settlement value. If "out-of-the-money" at the time of expiration, the warrants would expire worthless.

Trading in DAX warrants will be subject to several safeguards designed to ensure investor protection. In SR-BSE-90-02, the BSE proposed suitability standards applicable to recommendations to customers of index warrants and transactions in customer accounts. Specifically, the proposed amendments to the BSE's rules will make options suitability standards applicable to recommendations regarding index warrants, so that members or member organizations will be required to have reasonable grounds to believe that recommended index warrant transactions are suitable for their customer, and customers, are able to evaluate and bear the risks of the proposed transactions. The Exchange also recommends that index warrants be sold only to options-approved accounts. In addition, the proposed amendments will require a Senior Registered Options Principal ("SROP") or a Registered Options Principal ("ROP"), to approve and initial a discretionary order in index warrants on the day the order is executed. Finally, prior to the commencement of trading, the BSE will distribute a circular to its membership calling attention to the specific risks associated with index warrants.

Due to the fact that the BSE is not the Designated Options Examining Authority ("DOE") for any of its member firms, BSE members with public customers trading DAX warrants will be required to have a SROP or ROP designated and qualified in accordance with the rules of the self-regulatory organization ("SRO") that is the DOEA for the BSE member. This will ensure that BSE members with public customers trading index warrants will have an options compliance infrastructure in place to ensure compliance with the warrants account opening and suitability requirements. This requirement will also ensure that BSE members trading index warrants will be subject to oversight by an SRO experienced in regulating options.

The Commission has noted that the trading of warrants based on a foreign index requires an adequate mechanism for sharing surveillance information with respect to the index's component

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[1] As of the date of this release, SR-BSE-90-02 has not been approved by the Commission. Approval of SR-BSE-90-02 must occur before approval of the Exchange's proposal to list warrants based on the DAX.

stocks. In this regard, the BSE is ensuring that there will be an adequate mechanism for the sharing of surveillance information with respect to the DAX's component stocks.

The Exchange believes that the proposed rule change is consistent with the requirements of the Act, and, in particular, section 6(b)(5), as the warrants are designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and are not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The BSE does not believe that the proposed rule change will impose an inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 7, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 11, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-24443 Filed 10-16-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-28537; File No. SR-CBOE-90-22]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Nominees

On July 9, 1990, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,[1] and rule 19b-4 thereunder,[2] a proposed rule change to amend its rules to delete the ability of an individual owner or lessee of a transferable membership to authorize a "nominee" to represent his or her membership.

The proposed rule change was published for comment in Securities Exchange Act Release No. 28248 (July 20, 1990), 55 FR 30772. No comments have been received regarding the proposed rule change, however, the Commission did receive two comment letters on a related filing that the CBOE took into consideration when preparing the current proposal. These letters are discussed below.

I. Introduction and Background

On June 4, 1990, the Commission approved on an accelerated basis a CBOE proposal to clarify and consolidate its rules governing nominees, create a new inactive nominee membership classification and redefine the rules governing membership application procedures.[3] Specifically, the Commission approved, among others, the following rule changes. First, rule 1.1(mm) was added to define the term "nominee" as "an individual who is authorized by the owner or lessee of a regular, *transferable* membership, in accordance with rule 3.8, to conduct business on the floor of the Exchange and to represent such owner or lessee in all matters relating to the Exchange." (Emphasis added) A "non-transferable" membership is defined in § 2.5 of the CBOE's Constitution as a membership acquired pursuant to paragraph (b) of Article FIFTH of the CBOE's Certificate of Incorporation. Therefore, Chicago Board of Trade ("CBT") exerciser memberships would be "non-transferable" and unable to designate a "nominee."

Second, a new rule 3.8 (former rule 3.8 was modified slightly and redesignated as rule 3.9) was added to provide that every member organization that owns or leases a membership must designate a "nominee" to represent the organization with respect to such membership in all matters relating to the Exchange. Rule 3.8 also provides that an individual owner or lessee of a "transferable" membership has the right to use a "nominee" to represent the membership in all matters relating to the Exchange. In addition, rule 3.8 governs the guaranty by members and member organizations of obligations created by their respective nominee(s) arising out of such nominee's representation on their behalf. Finally, rule 3.8 sets forth the eligibility requirements for nominees and establishes the framework for the designation of inactive nominees.

In approving these rule changes the Commission believed that, by specifying more clearly in the CBOE's rules the procedures applicable to nominees, the Exchange community and prospective members or member organizations would be better informed of the requirements for obtaining nominee status as well as the rights and obligations of nominees. In particular, the Commission found that these rule changes were consistent with the requirements of sections 6(c)(3) and 6(b)(2) of the Act because they serve to further the ability of the CBOE to examine and verify the qualifications of an applicant to become a member and

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1990).

[3] Securities Exchange Act Release No. 28062 (June 4, 1990), 55 FR 23621 (order approving file No. SR-CBOE-90-09) ("original nominee filing"). The purpose for the new inactive nominee status is to provide a "parking space" for approved nominees who would be immediately available to replace effective nominees in the event of an unexpected illness, vacations or other absences. In the past, members have accommodated nominee changes by changing nominees from special to regular memberships to avoid the delays of the application procedure. On June 1, 1990, the special memberships expired. Accordingly, the CBOE proposed the creation of an inactive nominee to continue to provide a means for timely changes in nominees.

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the natural persons associated with such an applicant.

After approval of the original filing, but prior to the expiration date for comment on the original filing, the Commission received two comment letters from the CBT requesting the Commission to reconsider and rescind the rule change.[4]

In its comment letters the CBT asserted that the newly approved CBOE rule 3.8(a) impermissibly restricts the rights of CBT exercisers to use their CBOE membership.[5] The CBT argues that, by restricting the ability to designate nominees to transferable membership, the CBOE has violated its Certificate of Incorporation as well as the provisions of the Act which require the Exchange to follow its own rules, proscribe anti-competitive Exchange action, and prohibit discrimination among Exchange members.

Specifically, the CBT alleges that CBT exercisers who own non-transferable memberships, as defined in § 2.5 of the CBOE Constitution, have been denied the right of a full CBOE membership because under new CBOE rule 3.8 individual CBOE members who have purchased their seats outright have the ability to designate nominees, while CBT exercisers do not. Accordingly, the CBT argues that CBT exercisers are not afforded the full panoply of membership rights that regular CBOE members are entitled to, in contravention of the CBOE's rules. In addition, the CBT argues that, by the CBOE's own rules, a "nominee" applies solely to member organizations, and therefore, has no relevance whatsoever to individual CBOE members.

II. The Proposal

In the present proposal, the CBOE has proposed amendments to its rules 1.1(nnn), 3.8, 3.9 and 3.10, in order to delete the ability of an individual owner or lessee of a transferable membership to authorize a nominee to represent his or her membership.[6] Upon further reflection resulting from the CBT's comments and Commission review, the CBOE decided to end its policy of allowing individual owners or lessees of transferable memberships to designate nominees to represent their memberships without equal treatment provided to individual non-transferable memberships, *i.e.* CBT exercisers. The CBOE proposes to accomplish this by eliminating the ability of any individual member (or lessee thereof) to designate a nominee. Member organizations, as necessitated by their corporate or partnership structure, will continue to be required to designate nominees.

After careful consideration of the comments received, applicable statutory provisions and the CBOE's own charter and rules, the Commission believes that the CBOE's proposal to limit the use of a "nominee" solely to "member organizations" is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5) and 6(b)(8) of the Act.[7] These sections provide, among other things, that the rules of the CBOE shall not be designed to permit unfair discrimination between broker/dealers and impose a burden on competition unnecessary or inappropriate in furtherance of the Act's purposes. The Commission believes that by eliminating the use of a "nominee" for all individual CBOE members, it will end the disparate treatment between transferable and non-transferable memberships in regard to nominees.

The elimination of the ability of regular, transferable, individual CBOE memberships to designate nominees will ensure that CBT exercisers have membership rights identical to regular CBOE members. The Commission finds that the CBOE's proposal to eliminate this differential treatment of CBT exercisers is consistent with the objectives and purposes of both the CBOE rules and Certificate of Incorporation, as well as the Act itself.

In addition, it is reasonable for the CBOE to restrict the ability to designate nominees to member organizations only. The CBOE needs to know which individual of a member organization will act as a nominee and represent it in matters before the Exchange. With respect to individual members, the Commission believes that it is appropriate for the CBOE to require the person to represent him or herself before the Exchange.

Finally, the Commission did not receive any comment letters on this filing from either the CBT or individual members of the CBOE. Thus, the Commission did not receive any objections to the CBOE's proposed means to address the disparity created by the original nominee filing.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[8] that the proposed rule change (SR–CBOE–90–22), eliminating the use of a "nominee" by individual members, is accordingly approved.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.[9]

Dated: October 10, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-24444 Filed 10-16-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-28528; File No. SR-CSE-90-11]

Self-Regulatory Organizations; Cincinnati Stock Exchange, Inc.; Order Approving Proposed Rule Change and Notice and Order Granting Accelerated Approval to Amendment No. 1 Relating to New Listing Criteria

On June 22, 1990, the Cincinnati Stock Exchange, Inc. ("CSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and rule 19b–4 thereunder,[2] a proposed rule change to amend CSE Article IV, § 1.3 to provide listing guidelines to accommodate securities not otherwise covered under current CSE listing requirements.[3] Subsequently, on September 26, 1990, the Exchange submitted Amendment No. 1 to this proposal.[4]

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[4] *See* letters from Thomas R. Donovan, President and Chief Executive Officer of the CBT, to Jonathan G. Katz, Secretary, SEC, dated June 20 and 25, 1990.

[5] The CBT formed the CBOE in 1972 as a separate, independent legal entity. The CBOE recognized the "special contribution" that CBT members made to the organization and development of the CBOE by conferring special benefits upon CBT members. In particular, Article FIFTH of the CBOE's Certificate of Incorporation grants individual CBT members the right to become a full CBOE member, with all the rights and privileges afforded all other individual CBOE members, without cost, upon exercise of such right.

[6] The amendments to CBOE Rules in this filing concern the definition of a nominee (rule 1.1), the use of a nominee (rules 3.8), applications procedures and approval or disapproval (rule 3.9), and the effectiveness of membership applications (rule 3.10). In all cases, the amendments or revisions to the named rules clarify that only member organizations (or lessees thereof), not individual memberships, can designate a nominee.

[7] 15 U.S.C. 78f(b)(5), (b)(8) (1988).

[8] 15 U.S.C. 78s(b)(2) (1982).

[9] 17 CFR 200.30–3(a)(12) (1989).

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1989).

[3] See Article IV, §§ 1.3(1)–(4) of the CSE Rules for the current listing criteria. The proposed listing guidelines to accommodate securities not covered under § 1.3(1)–(4) will be set forth under proposed § 1.3(5).

[4] Amendment No. 1 consists of non-substantive, stylistic changes to the specific language of the original proposal as set forth in Exhibit A to File No. SR-CSE-90-11, and adds an interpretation to the current CSE Rules in order to explicitly make the suitability rule applicable to products listed pursuant to proposed § 1.3(5). For the language of this interpretation, *see* note 12, *infra*. In addition, on October 1, 1990, the CSE submitted a letter to the Commission requesting accelerated approval of Amendment No. 1. See letter from Kevin B. Fogarty,

Continued

The proposed rule change was noticed in Securities Exchange Act Release No. 28233 (July 19, 1990), 55 FR 30769 (July 27, 1990). No comments were received on the proposal.

I. Introduction

The CSE is interested in listing and trading new securities which have features borrowed from more than one category of currently listed securities in order to accommodate the desire expressed by issuers and underwriters for new, innovative financing vehicles. These new products will be comprised of both equity and debt ("hybrid securities"), but the particular objectives being sought, as well as general market conditions, ultimately will determine the exact form of the new products.[5]

The CSE has proposed guidelines for listing these new issues.[6] Because the hybrid securities may assume different forms, however, the CSE desires listing guidelines which possess the flexibility to accommodate all such hybrid securities, avoiding any need to add new provisions to its listing crtieria in the future. The guidelines set forth in proposed § 1.3(5) are intended to provide the desired flexibility to consider the listing of new securities on a case-by-case basis, in light of the suitability of the issue for auction market trading. The guidelines set forth in proposed § 1.3(5), however, are not intended to accommodate the listing of securities that raise new regulatory issues, and, therefore, would require a separate filing with the Commission pursuant to rule 19b–4 under the Act.[7]

II. Description of Proposal

(A) Listing Criteria

The listing requirements in proposed § 1.3(5)(b) are intended to accommodate major issuers with assets of $100 million and stockholders' equity of $10 million.[8] Such issuers generally will be expected to meet the earnings criteria set forth in § 1.3(1).[9] Issuers not meeting these criteria generally will be required to have assets in excess of $200 million and stockholders' equity of $10 million, or alternatively, assets in excess of $100 million and stockholders' equity of $20 million.

The distribution criteria in proposed § 1.3(5)(c) will be comparable to the current criteria in § 1.3(1) for equity issues, [10] except that when trading is expected to occur in much larger than average trading units (*e.g.*, $1,000 principal amount) a minimum of 100 holders will be expected. The aggregate market value of issues listed under subsection (5)(d) will be expected to be at least $20 million.

Additionally, under proposed subsection (5)(e), where such an instrument contains cash settlement provisions, settlement will be required to be made in U.S. dollars. Furthermore, where the instrument contains mandatory redemption provisions, the redemption price must be at least $3 per unit.

Finally, the Exchange proposes to apply the guidelines for continued listing contained in section 3. Delisting, to proposed § 1.3(5)(a) securities as appropriate, in light of the specific nature of the securities (*i.e.*, debt/equity characteristics).

(B) Membership Circular

Because securities listed for trading under proposed § 1.3(5)(a) most likely will be comprised of both equity and debt characteristics, the Exchange will determine, prior to trading, which issues require the distribution of a membership circular. The membership circular is intended to inform member firms of their compliance responsibilities with regard to the particular issue.[11] In making the determination to distribute a membership circular, the Exchange will evaluate the nature and complexity of each issue by considering, among other things, the unit size and term of the issue; cash-settlement, exercise or call provisions; characteristics that may affect payment of dividends and/or appreciation potential; whether the securities are primarily of retail or institutional interest; and any other features of the issue that might entail special risks not normally associated with securities currently listed on the Exchange.

III. Commission's Findings

The Commission finds that the CSE's proposal to add § 1.3(5) to article IV of its Rules is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5) of the Act.[12] Sepecifically, the Commission believes that the proposal is consistent with the section 6(b)(5) requirement that the rules of an exchange be designed to promote just and equitable principles of trade and not permit unfair discrimination between customers, issuers, brokers, or dealers. In this regard, the Commission believes

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Vice President, Market Regulation, CSE, to Mary Revell, Branch Chief, Exchange Regulation, SEC, dated September 28, 1990.

[5] For example, such products may take the form of fixed face amount debt securities which incorporate an opportunity, at maturity, to receive an amount in excess of par based upon the performance of an index; equity securities issued by a U.S. subsidiary of a non-U.S. company which afford full access to dividend payments; or warrants to purchase debt securities and "out" rights issued by a listed company affiliate which allow holders to put their common stock back to the issuer at the initial public offering price on a specific date after the initial public offering.

[6] Certain of the other national stock exchanges also have recognized the growing need for the listing and trading of new, innovative financial instruments, and, therefore, have submitted proposed rule changes to the Commission to establish listing guidelines for these new products. For example, the New York Stock Exchange, Inc. ("NYSE") and the Midwest Stock Exchange, Inc. ("MSE") recently adopted specific listing guidelines covering contingent value rights ("CVRs") (See Securities Exchange Act Release No. 28072 (May 30, 1990), 55 FR 23166 (June 6, 1990) (order approving the NYSE proposal to provide guidelines to list CVRs); Securities Exchange Act Release No. 28143 (June 25, 1990), 55 FR 27317 (July 2, 1990) (order granting accelerated approval of MSE's proposal to provide guidelines to list CVRs)). Moreover, the Commission recently approved both American Stock Exchange, Inc. ("Amex") and NYSE proposals to provide listing guidelines to accommodate hybrid securities which are substantially similar to the CSE's proposal (See Securities Exchange Act Release No. 27753 (March 1, 1990), 55 FR 8624 (March 8, 1990) (order approving File No. SR–Amex–89–29); Securities Exchange Act Release No. 28217 (July 18, 1990) (order granting accelerated approval to File No. SR–NYSE–89–30)).

[7] Certain of the securities that have raised significant new regulatory issues in the past include Americus Trusts (See Securities Exchange Act Release No. 21863 (March 18, 1985), 50 FR 11972 (March 26, 1985) (File No. SR–Amex–84–35)); currency warrants See Securities Exchange Act Release No. 24555 (June 5, 1987, 52 FR 22570 (June 12, 1987) (file No. SR–Amex–87–15) (proposal to list warrants on foreign currencies); index warrants (See Securities Exchange Act Release No. 26162 (October 3, 1988), 53 FR 39632 (October 12, 1988) (order approving File No. SR–Amex–87–27) (listing guidelines for foreign currency and index warrants) and Securities Exchange Act Release No. 27565 (December 22, 1989), 55 FR 376 (January 4, 1990) (file No. SR–Amex–89–22) (proposal to list index warrants based on the Nikkei Stock Average)); and unbundled stock units ("USUs") (See File Nos. SR–NYSE–89–39 and 89–40 (proposals to list USUs and constituent securities which were subsequently withdrawn by the NYSE)).

[8] The requirements of proposed § 1.3(5) substantially exceed the CSE's standard listing criteria for equities. See § 1.3(1)(a) which requires net tangible assets of at least $2 million.

[9] The earnings criteria pursuant to § 1.3(1) require net earnings of $200,000 annually before taxes for two prior years excluding non-recurring income.

[10] The standard distribution criteria pursuant to § 1.3(1) requires at least 250,000 shares outstanding with a minimum of 1,000 recordholders.

[11] Pursuant to proposed CSE rule 3.7, Interpretations and Policies .01, recommendations made in connection with products listed pursuant to Article IV, § 1.3(5) shall comply with the provisions of CSE rule 3.7(a). Further, no member shall recommend to a customer a transaction in any such product unless the member has a reasonable basis for believing at the time of making the recommendation that the customer has such knowledge and experience in financial matters that he may reasonably be expected to be capable of evaluating the risks of the recommended transaction and is financially able to bear the risks of the recommended position.

[12] 15 U.S.C. 78f (1982).

that the proposed listing guidelines applicable to new, innovative securities will provide the flexibility desired by the CSE, while helping to ensure that only the more financially substantial companies are eligible to have their new issues listed on the Exchange. Proposed § 1.3(5), therefore, should provide a more efficient and expedient process for listing new securities, and will protect investors and the public interest by ensuring that the financial products listed on the CSE have met predetermined financial criteria established by the Exchange,[15] an important consideration due to the additional or contingent financial obligations created by these instruments.

In addition the Commission believes that the portion of proposed § 1.3(5) relating to the membership circular addresses the additional regulatory concerns raised by these products. Because these products combine features of equity, debt and securities derivative products, they may be more risky and complex than straight issues of stock, bonds, or equity warrants. The Commission believes, therefore, that the portion of the proposed rule change requiring the Exchange to evaluate the nature and complexity of each issue in order to determine whether to distribute a membership circular indicating member firm compliance responsibilities will provide the CSE with the ability to address, in a flexible manner, any potential sales practice problems and questions that may arise in connection with these new issues. Moreover, the Commission believes that the distribution of this circular should help to ensure that brokers make a careful and detailed determination of a customer's suitability for a specific hybrid product prior to recommending the product to the investor.

Additionally, the Commission believes that the proposed rule change is consistent with the requirements of section 6(b)(5) of the Act because it relates only to those securities which are similar to products currently listed for trading on the Exchange. If a new product raises novel or significant regulatory issues, the CSE must file a proposed rule change so that the Commission would have an opportunity to review the regulatory structure of the product.[16]

Moreover, the Commission recently approved substantially similar proposed rule changes submitted by the Amex and the NYSE which adopted listing criteria for hybrid securities.[17] The Commission believes that by allowing issuers to list hybrid securities on the CSE as well, competition between the exchanges will be enhanced, a result which will improve exchange market trading.

Finally, the Commission finds good cause to approve Amendment No. 1 prior to the thirtieth day after the date of publication of notice of filing in the Federal Register. As indicated previously, Amendment No. 1 contains, in part, nonsubstantive, stylistic change to the original proposal as set forth in Exhibit A to File No. SR-CSE-90-11.[18] The Commission believes that this portion of the amendment does not necessitate the solicitation of public comment prior to its approval Amendment No. 1, however, also seeks to add an interpretation to current CSE rule 3.7 in order to explicitly make the heightened suitability rule applicable to products listed pursuant to proposed § 1.3(5). In regard to this substantive portion of the amendment, the Commission believes accelerated approval also in warranted due to the fact that in identical proposal to amend CSE rule 3.7 already has been noticed for public comment as part of CSE's proposed rule change relating to the listing of index warrants.[19] The statutory comment period for this proposal has since expired and no comment letters were received on the proposal. Moreover, the suitability language proposed by the CSE for hybrid products is virtually identical to that of other exchanges whose filings for hybrid products have been approved by the Commission.[20]

Interested persons are invited to submit written data, views and arguments concerning the amendment to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CSE. All submissions should refer to File No. SR-CSE-90-11 and should be submitted by November 7, 1990.

It is therefore ordered, pursuant to section 19(b)(2) of the Act [21] that the proposed rule change is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[22]

Dated: October 11, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-24445 Filed 10-16-90; 8:45 am]

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[Release No. 34-28518; File No. SR-DTC-90-06]

Self-Regulatory Organizations; The Depository Trust Co.; Order Granting Temporary Approval of Proposed Rule Change Implementing Commercial Paper Program

I. Introduction

On May 8, 1990, the Depository Trust Company ("DTC") filed a proposed rule change (File No. SR-90-06) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] The proposed rule change would permit DTC to add commercial paper ("CP") transactions to its same-day funds settlement ("SDFS") system. Notice of the proposed rule change appeared in the Federal Register on July 27, 1990.[2] No comments were received.[3] As

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[15] This standard, however, would not preclude the CSE from submitting specific standards for other companies to have similar securities traded on the Exchange.

[16] See note 6, *supra*.

[17] See Securities Exchange Act Release No. 28237 (July 26, 1990), 55 FR 31626 (notice File No. SR-CSE-90-10).

[18] See note 8, *supra*. See also NYSE Rule 723 and Amex Rule 923 for the specific suitability language used by these two exchanges.

[19] See note 5, *supra*.

[20] See note 4, *supra*.

[21] 15 U.S.C. 78s(b)(2) (1982).

[22] 17 CFR 200.30-3(a)(12) (1989).

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] See Securities Exchange Act Release No. 28230 (July 20, 1990), 55 FR 30773.

[3] The Commission notes that DTC sent an initial CP proposal to its participants and others for consideration in October 1989 and received 27 written responses. After a series of meetings with some of the respondents, DTC modified and expanded the CP proposal and reissued it in July 1990. DTC received 11 written comments on the revised proposal. In general, these commentators urged DTC to proceed with its proposal to offer a CP program and encourage DTC to do so as expeditiously as possible.

discussed below, the Commission is approving DTC's proposal on a temporary basis for a period of 18 months.

II. Description.

DTC proposes to make certain issues of CP eligible for processing in the SDFS system. As with other SDFS-eligible securities, DTC will establish procedures for electronic deposit of CP, book-entry transfers of CP versus payment, maturity and redemption processing and default administration. CP transactions generally will be subject to the same procedures and safeguards currently available in the SDFS system. However, as discussed below, DTC will modify certain SDFS procedures to accommodate the issuance and processing of CP transactions in the SDFS system.

A. Eligibility Criteria

CP eligible for the DTC program will generally be CP rated on one of the top two rating categories by two of five nationally recognized CP rating agencies.[4] If only one of these agencies rates an issuer's CP in one of the two top rating categories, DTC will make such issues eligible if at least one other agency gives the issuer's program an investment-grade rating.[5] DTC will later consider whether CP other than that described above should be made eligible, but only after substantial experience with the CP program.

If, after CP becomes eligible, a ratings agency warns that a particular issuer's CP may be downgraded, DTC nevertheless will continue accepting new issuances of such CP. For SDFS collateral valuation purposes, DTC will devalue paper of that issuer in the DTC system to zero if a downgrading of one notch by the agency issuing the warning would cause the CP to fall below DTC's eligibility criteria. However, to prevent such an action from creating inquidity concerns for its participants, DTC will devalue the CP to zero on the day after such downgrading occurs. If CP is actually downgraded below the rating for eligibility, DTC will discontinue accepting new issuances of such CP, but will keep it eligible for depository services until it matures.

B. SDFS Controls.

The fundamental risk in the SDFS system is that a participant will default on its payment obligation. To minimize this risk, DTC's proposes to subject CP transactions to the same safeguard currently incorporated into the SDFS system: (1) Net debit collateralization, (2) net debit caps, (3) receiver-authorized deliveries, (4) net and net-net settlement, and (5) SDFS fund. Moreover, DTC's proposal modified certain of these controls and adds further safeguards to protect against systemic risks associated with a CP issuer's default. These safeguards are discussed below.

1. *Net Debit Collateralization.* This control requires a participant to maintain in its account at all times during the processing day until settlement is completed, collateral at least equal in value to the participant's net settlement debit. The chief source of collateral is the securities received versus payment from other participants that created the net settlement debit. Additional sources are the participant's contribution to the SDFS fund, and any securities in the participant's account other than those received versus payment that day that have been designated as collateral by the participant (*e.g.*, a dealer participant's inventory). In the event the collateral in the account is insufficient to permit completion on the proposed delivery or receipt, DTC will block the delivery and recycle the transaction until the participant has collateral with value sufficient to cover any net debit in its account. The value of collateral is based on current market values of the securities comprising the collateral less a "haircut" of generally 2%[6] with respect to transactions versus payment, DTC always stands between the deliverer and designated receiver as a purchaser of the securities, to protect deliverers and establish its legal basis to pledge the collateral securities if necessary.

2. *SDFS Fund.* The SDFS fund is primarily a ready source of cash or collateral for DTC to draw upon in the event of a participant default. Each participant in the SDFS system must contribute to the SDFS fund an amount equal to the greater of $250,000 or 5% of its average daily gross SDFS debits and credits during the prior month.[7] At a minimum, $200,000 of the deposit must be in cash, and the remainder may be made in certain types of liquid securities.[8] In addition to require deposits, participants may deposit more cash or securities in order to increase their SDFS collateral and adjustable net debit cap ("voluntary contributions"). DTC pays interest on required and voluntary cash deposits according to the rate it earns on overnight repurchase agreements, and passes through interest received on deposited securities.

In addition to providing liquidity, the SDFS fund also "self-insures" risks in the SDFS system, but only to the extent of participants' required deposits. In the event of participant default in which DTC suffers a loss, DTC may allocate the loss among certain participants by assessing the SDFS fund on a prorata basis. Participants' required deposits can be used repetitively for this purpose, and they must replace their required deposit as many times as necessary to cover the loss and restore the fund.[9]

3. *Net Debit Caps.* In order to protect against the potential risk of participant default, DTC will establish a "net debit cap" for each participant. DTC will set each participant's net debit cap at the lesser of:

(1) An adjustable fund-based cap that is:

- 15 times the participant's required and voluntary deposits to the SDFS fund; [10] and

(2) A fixed credit-based cap that itself is the lesser of:

- 75% of DTC's lines of credit;
- An amount, if any, determined by the participant's settling bank; and
- An amount, if any, determined by DTC.

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[4] These ratings agencies are Standard and Poors ("S&P"); Moodys Investor Services ("Moodys"); Fitch Investor Services; McCarthy, Crisanti, Maffei; and Duff and Phelps.

[5] For example, S&P and Moodys' investment grade ratings for CP range from A–1 to A–3 and from P–1 to P–3, respectively.

[6] DTC will determine the fair market value of the CP being processed through the SDFS system on a daily basis by monitoring the interest rates at which CP is being issued on a particular day.

[7] The Commission recently approved, on a temporary basis, a proposal by DTC to cap the SDFS fund at $400 million. Under this proposal, the level of a participant's required contribution to the SDFS fund may fall below the 5% level described above in the event the dollar amount of the gross daily activity in the SDFS system exceeds $6 billion. For a more detailed explanation of this proposal and its potential effect on DTC and its participants, see Securities Exchange Act Release No. 28015 (October 3, 1990), 55 FR _____

[8] Under DTC's rules, a participant's contribution to the participants fund may be satisfied by depositing unmatured debt obligations of the United States or instrumentalities of the United States, municipal general obligations bonds that are rated in the top two rating categories by a national statistical ratings organization ("NSRO") or non-convertable corporate debt rated in the highest category by an NSRO. However, the first $200,000 of such deposit must be made in the form of cash. See DTC Rule 4.

[9] Participants may limit their liability by withdrawing from DTC, provided they do so within the time frames and in the manner specified by DTC's rules and procedures. Participants who exercise their right to withdraw from DTC can limit their liability for pro-rata assessments to twice the amount of their required contributions to the SDFS fund.

[10] The Commission recently approved a related DTC proposal to increase the adjustable fund-based cap from 10 times a participants's required and voluntary deposits to the SDFS fund to 15 times such amount. See Securities Exchange Act Release No. 28424 (September 11, 1990) 55 FR 38428.

The adjustable fund-based cap protects against abnormal intra-day net debit peaks that are out of line with a participant's prior month's average daily activity level, the basis for the participant's required deposit to the SDFS fund. An underwriter's distribution of an unusually large new securities issue is a typical cause of such peaks. Participants whose net debits approach or reach their caps during the processing day can lower their net debits and thus stay under their caps by wiring Fed funds to DTC. Alternatively, they can raise their adjustable caps as appropriate by making voluntary deposits to the SDFS fund.

The first element of the fixed credit-based cap reduces the possibility that failures to settle by more than one participant would causes DTC to exceed its lines of credit. That element presently equals 75% of: (a) A $50 million line of credit with Bankers Trust, (b) a $50 million internal line of credit against DTC's unclaimed dividend and interest account, and (c) $127 million cash deposits to the SDFS Fund, or a total of $227 million. Participants cannot increase their fixed net debit caps.

4. *Receiver-Authorized Deliveries.* The receiver-authorized delivery ("RAD") control permit each SDFS participant to control transfers of securities and funds to its account. Under RAD, a participant may set a dollar limit on securities deliveries and payment orders which are directed to its account by any other participant. If the delivery or payment order exceeds this limit, the participant must approve this delivery or payment order before DTC posts the debit or credit to its account. A participant can get a different dollar level for each other participant, thus establishing a bilateral credit limit within SDFS. Thus, the RAD control enables the participant to exercise its own credit judgment of each other participant. It also reduces the need for the participant to reclaim (return) erroneous transactions to originators after they are posted to its account. This, in turn, reduces the incidence and financial impact of reclamations attempted by the participant.

5. *Net and Net-Net Settlement.* The SDFS system provides three levels of debit reduction in the course of daily money settlement. On the first, participant level, a participant's gross settlement debits due to its receives versus payment from other participants are reduced by its gross settlement credits due to its deliveries versus payment to other participants. The resulting net settlement debit is that of the participant as a counterparty. On the second, participant levels, the participant's counterparty net settlement debit is reduced due to transactions not involving any other participant. These transactions are settlement progress payments made by the participant itself and, to a much lesser, sporadic extent, securities principal payments made to it by issuers' redemption agents. The resulting final net debit is the participant's settlement obligation to DTC, and is the net debit DTC would have to deal with should the participant fail to settle.

On the third, settling bank level, the participant's final net settlement debit is merged with the final net settlement debits or credits of other participants for which its settling bank settles. The resulting final net-net settlement debit is the settling bank's obligation to DTC at end of day. It is the net-net debit DTC would have to deal with should the settling bank fail to settle on time.[11]

C. Special CP Modifications

In addition to subjecting CP transactions to existing SDFS controls, DTC will modify these controls by prohibiting participants from transferring CP received-versus-payment that day in a transaction free-of-payment unless the participant either has paid its net settlement debit or is in a net credit position that day. This restriction assures DTC that CP received by a participant versus payment remains available to be resold or pledged to deliverers if the participant fails to settle with DTC. Although CP trades normally range in size from $5 million to $50 million, CP trades often can range up to $100 million to $200 million. To reduce the chance of CP transactions being blocked and recycled, DTC will limit the maximum size of valued CP deliveries, pledge and releases in the SDFS system to $50 million, the limit on government securities deliveries in the Federal Reserve's book-entry system.[12] If a participant inadvertently enters a valued transaction with a face value of more than $50 million, DTC will reject it.

D. Redemption Processing

DTC will process CP redemptions in the following manner. The night before the date CP matures, DTC will sweep maturing CP from participants' accounts and will initiate book-entry deliveries of matured CP versus payment from the accounts of participants holding the CP at the close of business on the day before maturity date to the accounts of participants acting as paying agents for that issue.[13] DTC will sweep matured CP whether or not it is pledged or segregated, but will hold in escrow the maturity proceeds collected on pledged CP unit its release from the status.

A maturity presentment will not be posted to a participant's account if the paying agent bank's collateral monitor or net debit cap does not allow it to be posted. Instead, the maturity presentment will pend in the SDFS system in accordance with the normal SDFS recycle algorithm. However, the RAD procedure will not be available to paying agent banks in connection with maturity presentment processing.

DTC will recycle maturity presentments until approximately five minutes after the cutoff time for approval of deliveries under RAD procedures. Maturity presentments not posted to participant accounts by the recycle cutoff time will be dropped from the SDFS system and reported to the affected participants. DTC will not clear matured CP from its records at the end of the processing day if it is still in presenting participants' accounts. Instead, DTC automatically will initiate valued maturity presentments of the matured CP the next day to the paying agent bank's account.

If a paying agent bank determines to refuse payment on maturity presentments because of an issuer default, the paying agent must notify DTC before 3 p.m. (Eastern Time), the traditional deadline for such decisions and DTC will inform its participants through a PTS broadcast message. In this case, or if DTC confirms an issuer's bankruptcy before 3 p.m., DTC will recredit the maturity presentments to presenting participants' accounts, thus offsetting settlement credits in those accounts, without regard to SDFS controls. In the event of an issuer

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[11] Viewing daily average debits on these three levels for 1989: (1) All participants' counterparty net settlement debits were $549 million, or 32.2% of all participants' gross settlement debits of $1,707 million; (2) all participants' final net settlement debits were $177 million, or 10.4% of all participants' gross settlement debits of $1,707 million; and, (3) all settling banks, final net-net settlement debits were $64 million, or 3.8% of all participants' gross settlement debits of $1,707 million. This means that had there been an "average settlement day" in 1989 on which all debit participants had fails to settle, DTC would have had to finance and resolve their final net settlement debits of $177 million; or instead if all debit settling banks and failed to settle, DTC would have had to finance and resolve their final net-net settlement debits of $64 million.

[12] See Board of Governors of the Federal Reserve System, Interim Policy Statement Regarding Risks on Large-Dollar Wire Transfer Systems, 52 FR 29235 at 29261 (August 6, 1987).

[13] Under DTC's proposal, an issuer must designate one DTC participant as its paying agent to whom CP will be presented at maturity.

default or bankruptcy after 3 p.m. DTC will look to the paying agent, as principal, to satisfy the issuer's payment obligation. In the event the paying agent fails to satisfy its payment obligations, including the payment of the default CP issuer's maturity presentments, DTC will deem the paying agent participant to be in default, the DTC will follow special default procedures.[14] Assuming the paying agent pays DTC for the matured CP, the paying agent would be required to claim against the issuer who defaulted.

Consistent with DTC's proposed cap on the dollar value of any single delivery, when initiating maturity presentments, DTC will break down a participant's maturing position with a face value of more than $50 million into multiple maturity presentments with $50 million face values and a maturity presentment for any remaining face value, and will allot each maturity presentment's settlement value in the same proportion that each maturity presentment's face value bears to the total face value.

E. Participant Default Procedures

Under its rules, DTC will not transfer securities free or versus payment unless the deliverer's and receiver's collateral monitor will not be negative and such transfer is within their net debit caps.[15] If the transaction occurs after DTC's cutoff time (*i.e.*, after 4:30 p.m.) the counterparty must be the deliverer's or receiver's settling bank.[16]

Even if a transaction for value meets all these requirements, it will not be deemed to be final under DTC's rules until: (a) DTC determines that the receiver has a credit balance at the end of the day; (b) the receiver pays its negative settlement balance; or (c) the receiver transfer, withdraws or pledges the securities and all of the other tests described above are satisfied. Until a transaction is final, DTC retains intraday title to securities in transfer.

In general, if a DTC participant fails to pay its net settlement debit at the end of the day,[17] DTC will attempt to manage the default to reduce the potential for a cascade of other participant defaults. Among other things, DTC will attempt to cover or finance the amount of the default on the day of the default and, the next day, allocate any losses that may result if the default has not been cured.

More specifically, DTC may: (a) pledge any or all net additions (*i.e.*, SDFS securities subject to incomplete transactions and SDFS securities finally credited to a participant to the extent they do not comprise its minimum amount) [18] to non-defaulting participants (up to the amount of their credit balances) or a bank to secure a loan to DTC; or (b) resell any of the defaulting participant's net additions that are subject to incomplete transactions to the deliverer, to the public or to DTC.

Even though a defaulting participant may have converted an incomplete transaction into a complete transaction by redelivering the securities, DTC may take other securities from the defaulting participant equivalent to the securities so converted ("deemed net additions") that are subject to incomplete transactions and resell them to the deliverer.[19] In this case, DTC will increase the defaulting participant's gross debit balance by the greater of (a) the settlement value of the resale; or (b) the 100% of the fair market value of such securities. After this action, DTC may buy-in the redelivered securities and charge any loss or pass through any gain to the defaulting participant.[20]

If the defaulting participant is solvent and wires Fed funds to DTC by 10 a.m. the next business day, DTC will repay the loan from the line-of-credit bank, obtain the release of any pledged SDFS securities that were pledged to the bank, restore the SDFS fund and deliver the pledged SDFS securities to the defaulting participant. DTC will charge interest to the defaulting participant and pay it to the SDFS fund (since participants earn interest on their cash deposits to the SDFS fund) and, if applicable, to the line-of-credit bank. If emergency net credit reductions were necessary on the day of default, DTC will credit the SDFS accounts of participants whose net credits were reduced the prior day and will pay interest to those participants whose net credits were reduced the prior day.

If the defaulting participant does not wire Fed funds to DTC by 10 a.m. or is insolvent, DTC will allocate any losses resulting from the default to those participants who delivered securities to the defaulting participant. DTC will effect this loss allocation by reselling to deliverers SDFS securities which are the subject of incomplete deliveries to the defaulting participant's account (to the extent DTC did not effect such resales in the prior afternoon), and will charge the deliverers' settlement accounts and credit the defaulting participant's settlement account accordingly. If necessary, DTC may pledge securities to its line-of-credit banks to fund the default pending settlement of liquidation transactions in the defaulting participant's account.

F. Concurrent Issuer and Participant Default

The particular risk to DTC in processing CP is an issuer's default combined with a participant's failure to settle deliveries versus payment of that

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[14] See note 19, *infra*.

[15] See DTC Rule 10.

[16] This allows participants to raise funds by pledging securities to their settling bank.

[17] A participant fails to settle its net debit when DTC receives a refusal message from the participant's settling bank or when the settling bank fails to settle its net-net debit on time.

[18] A participant's minimum amount with respect to any issue of securities is equal to such amount as DTC may determine, or as the participant may inform DTC, constitutes customer securities. See DTC Rule 8.

[19] DTC will not invade the opening balance in the account except for those securities the participant has designated as available for collateral. DTC also will not invade securities in the segregated account.

[20] More specifically, in the event of participant default, DTC will take the following steps in order to achieve settlement: (1) Use the participant's cash deposit to the SDFS fund; (2) Use all participants' cash deposits to the SDFS fund; (3) Use mandatory and voluntary securities deposits to the SDFS fund and pledge them to a line-of-credit bank; (4) Use SDFS securities collateral in the defaulting participant's account (other than securities which are the subject of incomplete deliveries to the account that day and might be resold to deliverer the next day) and pledge it to a line of credit bank [DTC will not use securities in the participant's segregated account or minimum amount]; and (5) Finally, DTC will use SDFS securities which are the subject of incomplete deliveries to the defaulting participant's account and might be resold to deliverers the next day and pledge them to a line of credit bank.

If DTC's line of credit is not adequate to cover the default or if DTC knows the defaulting participant is insolvent, DTC will make net credit reductions for participants who initiated SDFS securities deliveries to the defaulting participant that day. DTC will limit the reduction to the amount of the net credit due to transactions with the defaulting participant.

As an alternative to net credit reductions, DTC will resell to deliverers SDFS securities which are the subject of incomplete deliveries to the defaulting participant, charge the deliverers' settlement accounts and credit the defaulting participant's settlement account. DTC will resell on a last-in, first-out ("LIFO") basis incomplete-delivery securities where all of the securities remain in the defaulting participant's account. Then, as necessary, DTC will resell incomplete-delivery securities where only a portion of the securities remain in the defaulting participant's account in a sequence based on the percentage of securities remaining and their market value.

If the resales would occur late in the day, DTC will attempt not to disrupt the SDFS settlement process by reselling securities that would transform participants' net credits into net debits, or by reselling securities to participants already in net debit positions. Instead, DTC may borrow from participants who initiated deliveries to the account of the defaulting participant that day. Such borrowing will be secured by the pledge of the securities previously delivered to the defaulting participant. DTC will take this step only after determining in accordance with the sell sequence described in the preceding paragraph that it will resell the securities or return payment orders to deliveries the next day if the participant has not cured its default.

issuer's CP. In this event, DTC will notify the sequence in which it allocates collateral and reduces net settlement debits in a defaulting participant's account. As described above, in the event of a participant default, DTC will resell securities and return payment orders to deliverers on a LIFO basis; in the event of an issuer default on the same day, DTC will resell and sell out securities other than a defaulting issuer's CP before reselling the defaulting issuer's CP or returning payment orders. This sequence attempts to reduce the possibility of multiple failures to settle after an issuer's default by returning to participants marketable collateral to the maximum extent possible.

Second, in an event of an issuer's default before 3 p.m. DTC will automatically recredit devalued maturity presentment CP to the presenter and new issuance CP to the issuing agent, and participants will then settle this matter outside DTC. DTC will not automatically recredit devalued secondary market CP to the delivering participant.

In the event of an issuer's default after 3 p.m., DTC will not automatically recredit devalued maturity presentment CP, new issuance CP or secondary market CP, but will expect the paying agent to pay DTC amounts due on the presented CP, even though the issuer has defaulted. If the paying agent fails to settle its payment obligation, DTC will apply its default procedures, as modified to limit the potential for other participant defaults. DTC will simulate application of the default procedures it will use the next day in the event the default is not cured. DTC will determine from this simulation whether it will be able to eliminate completely the participant's net debit the following morning by reselling to deliverers and selling out securities other than the defaulting issuer's CP or will have to resell some or all of the defaulting issuer's CP and return payment orders as well.

For the portion of the participant's net debit that DTC would be able to eliminate the next day by reselling to deliverers and selling out securities other than the defaulting issuer's CP, DTC will borrow overnight against its credit lines, secured by the pledge of those securities. If some new debit remains that DBT would be able to eliminate only by reselling the defaulting issuer's CP and returning payment orders to deliverers, DTC will borrow overnight from the deliverers, with such loans collateralized by the pledge of the defaulting issuer's CP.

If the defaulting participant settles the following morning, DTC will repay the delivering participants. If the defaulting participant cannot cure the default, DTC will allocate any loss incurred by reselling the defaulting issuer's securities to the delivering participants.

G. Phased Implementation and Disaster Recovery Capabilities

DTC's proposal recognizes that DTC cannot, at this time, assure participants that DTC's CP processing services will be available in spite of a disaster affecting DTC's primary processing site. Accordingly, the proposal would limit eligible CP to prevent participants from relying on DTC for CP services to the exclusion of existing CP clearance and settlement procedures. In this manner, existing CP clearance and settlement procedures will serve as a primary back-up to DTC facilities in the event that a disaster disables those facilities.

DTC's capacity to recover from a disaster such as a fire or flood disabling its computer center are thorough and frequently tested.[21] They involve switching external and internal communication lines for all DTC systems from its New York location at 55 Water Street to a backup facility in Philadelphia. DTC believes any catastrophe disabling its computer center should be transparent to its participants after an 18 to 24 hour recovery period required to move data files to Philadelphia.[22]

DTC has been investigating means to reduce the recovery period for the SDFS system to three hours or less by 1992. Its current approach is to build on the interim plan discussed below and function at an alternate site in New York until all DTC systems can be recovered in Philadelphia. DTC anticipates that a proposal for establishing a three hour disaster recovery capability will be ready for participant review in late 1990.

DTC will begin phasing-in CP into the SDFS system in October 1990, and will thereafter add other issuer's CP to the SDFS system on a gradual basis. Until DTC's interim SDFS system disaster recovery procedures are replaced by a permanent plan, no dealer or issuing/paying agent will be allowed to have all of its eligible CP business phased into the SDFS system. This procedure will require all issuing/paying agents to maintain the capability to process physically CP until DTC's permanent disaster recovery plan is fully implemented.

Until DTC implements a more permanent disaster recovery plan, DTC and its participants would use interim recovery procedures developed by DTC. Under these interim procedures, depending upon the time of day a disaster occurs and the volume of CP already processed in SDFS up to that time, either DTC will complete settlement for the CP transactions already completed in the SDFS system with the expectation that participants will settle any remaining business ex-DTC, or participants will settle all business that day ex-DTC.[23] DTC

[21] In the event of a power blackout, DTC's utilizes diesel powered generators and an uninterruptible power supply to maintain its transaction processing operations.

[22] DTC currently maintains a separate back-up facility in Philadelphia and tests the transfer of its operations from its main site to its back-up facility on a quarterly basis.

[23] The time of day at which a disaster strikes would determine the procedures to be followed. In general, DTC's interim disaster recovery plan calls for DTC to facilitate settlement among participants for that portion of the CP business that was posted on DTC's books up to the time of the disaster and to provide participants with the information necessary for them to process the remainder of their CP business on a physical basis outside of DTC until DTC has recovered its book-entry processing capabilities. Four disaster scenarios are examined below.

A. Disaster strikes DTC's main computer facility in the early morning hours before DTC has opened for business that day. CP cannot be processed via DTC at all on this day; the system will not be available for at least 18 hours.

1. Basically, issuance of CP would operate as it had before the initiation of the CP program. The issuer or dealer would transmit issuance data including denomination requirements to the issuing agents ("IA") which would use those instructions to issue the paper. IAs would issue physical paper and dealers and custodians would accept physical deliveries. A dealer or other participant wishing to deliver or pledge previously issued CP in its DTC account would have to issue a due bill. Releases of pledges on DTC's books also would have to be done by due bills.

2. In order for maturities to be processed outside DTC this day, DTC will provide paying agents ("PA") with a report of the owners and pledges on DTC's books at the close of the prior day's business of all CP maturing on this day or a prior day. Included on the report will be DTC's authorization and instructions for the PA to pay maturity proceeds to the participants and pledges listed therein.

B. Disaster strikes DTC's main computer facility before 1 p.m. (ET). Some, but not all, maturity presentments have been posted on DTC's books; others are recyling. Some but not all, CP issuances have been posted; others have not been entered into the system or are recycling. All DTC transaction logs at its main facility have been destroyed.

1. Any issuances entered into the DTC system before the disaster will be treated as if they never entered the system. These issuances and any other CP to be issued this day would have to be issued physically and settled outside DTC. Issuers and dealers would have to promptly communicate denomination requirements to IAs. Although IAs would have to physically re-issue any CP issued via DTC earlier in the day, the amount of this paper would be small since many IAs generally do not begin heavy issuance activity until about 1 p.m. (ET).

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2. Any other deliveries entered into the DTC system before the disaster would be treated as if they never entered the system. Consequently, other deliveries, pledges and releases to be done this day involving previously issued CP on DTC's books would have to do done with due bills.

3. At this point in the day, some maturity presentments would have been posted, others would still be recycling. All would be treated as if they had never been initiated by DTC.

4. Any settlement progress payments wired to DTC's account before the disaster struck will be returned to the sending bank by DTC.

C. Disaster strikes DTC's main computer facility between 1 p.m. (ET) and 3:30 p.m. (ET). Many (or all) valued maturity presentments have been posted; others (or none) are recycling. Many (or all) valued CP issuances have been posted; others (or none) have not been entered into the system or are recycling. Final money settlement figures have not been produced by DTC. All DTC transaction logs at its main facility have been destroyed.

At this point in the day, it is too late for IAs to re-issue physically all CP issued via DTC this day. Threfore, DTC would facilitate settlement among participants for that portion of the CP business that was posted on DTC's books up to the point of the disaster.

1. DTC will make available alternate site transaction log details on hardcopy reports for pick-up by participants. The reports will list all posted transactions and, separately, transactions that were recycling or pending RAD approval at the time of the disaster. All deliveries reported as recycling or pending RAD approval, or to be done during the remainder of the day, would be done physically, if at all. Issuers and dealers would have to promptly communicate denomination requirements to IAs for all physicall issuance.

2. Any other deliveries, or pledges and releases, not on the alternate site hardcopy report of posted transactions, or reported as recycling or pending RAD approval, or to de done during the remainder of the day, would have to be done with due bills.

3. DTC will provide PAs and presenting participants with reports of all maturity presentments that were not posted on its books at the time the disaster occurred. These transactions would have to settle outside DTC.

4. DTC will work by phone with settling banks having an interim net-net debit (as derived by DTC from the transaction details on the alternate site log) to collect those funds over Fedwire, and will pay out funds over Fedwire to settling banks having an interim net-net credit (as derived by DTC from the transaction details on the alternate site log).

D. Disaster strikes DTC's main computer facility after 3:30 p.m. All valued maturity presentments have been posted; those that were recycling and did not "make" have dropped. All valued new issuances have been posted; those that were recycling and did not "make" have dropped. Final settling bank net-net settlement figures have been produced by DTC. All DTC transaction logs at its main facility have been destroyed.

1. To aid participants in determining exactly which issuances are reflected in the final settlement figures, DTC will make available alternate site transaction log details on hardcopy reports for pick-up by participants. The reports will list all posted transactions and, separately, transactions that were recycling or pending RAD approval at the time of the disaster. Any issuances that did not "make" could be identified from this information.

2. Maturity presentments that did not "make" could be identified from the alternate site transaction log report furnished to participants. Since it would be too late in the day to act on them, DTC will not provide PAs and presenting participants with reports of maturity presentments that were not posted on its books at the time the disaster occurred. These maturity presentments, if any, will be included in the reports DTC produces on the day after the disaster.

DTC believes that this interim approach is appropriate because DTC will not have phased all eligible CP processed by any dealer or agent into the SDSF system, and participants will not have dismantled the bulk of their physical CP processing capabilities.

III. DTC's Rationale

DTC believes that its proposal is consistent with Section 17A of the Act because it will promote the prompt and accurate clearance and settlement of CP transactions.

IV. Discussion

Section 17A of the Act provides that the rules of a clearing agency must promote the prompt and accurate clearance and settlement of securities transactions.[24] In addition, Section 17A also provides that such rules must promote the safeguarding of funds and securities in the possession or control of a clearing agency, or for which it is responsible.[25] As discussed below, the Commission believes that DTC's proposal is consistent with the Act.

DTC's proposal will reduce the costs and inefficiencies associated with the physical clearance and settlement of CP transactions by bringing the benefits of centralized, automated book-entry clearance and settlement to the CP market.[26] For example, issuers will not be required to print physical CP certificates, and dealers' clearing banks will not be required to check that they received the correct number of certificates in the proper denominations and that such certificates are in good deliverable form. Second, issuers and dealers will not be required to deliver, by messenger, physical certificates to various banks within a short period of time. In addition to reducing labor costs, this also decreases the potential for loss, theft or destruction of certificates. Third, because many CP dealers already participate in the SDFS system, their CP-related money settlement obligations could be netted with their other SDFS-related money settlement obligations, thus reducing the number and dollar amount of these obligations.

The Commission also believes that DTC's proposal promotes the safeguarding of funds and securities by reducing the potential for participant default. In the current physical processing environment, CP issuers, dealers and investors are subject to a substantial degree of credit risk.[27] For example, issuing agent banks typically deliver CP before receiving payment from the dealer's clearing bank. Similarly, the dealer's clearing bank usually delivers CP to custodial banks for investors before it receives payment from these banks. This exposes these banks to the risk that intermediaries processing the CP will become insolvent before making payment to the issuing agent bank or dealer's clearing bank, or may refuse to pay these banks. By providing the means for these transactions to be effected on a delivery-versus-payment basis, DTC's proposal could reduce the credit risk exposure of CP market participants. Other safeguards built into the SDFS system, as modified by DTC's proposal, also protect CP issuers, dealers and investors against financial loss. For example, DTC establishes participation standards and prevents participants from incurring net debits that are unusually large in relation to their prior month's settlement activity by imposing adjustable net debit caps on their activity. In addition, by requiring all transactions versus payment in the SDFS system to be fully collateralized, and by maintaining a participants fund composed of cash and liquid securities,[28] DTC should have sufficient liquid collateral to draw against in the event of participant default. Finally, to mitigate the systemic risk concerns that may arise in the event a CP issuer defaults on the same day that a participant fails to pay for the issuer's CP, DTC has altered the order in which deliveries made to the defaulting participant will be repledged to deliverers on the day of default.[29]

3. Final settlement figures will be derived by DTC from the transaction details on the alternate site log so, despite the disaster, participants will settle with DTC for the day. DTC will work by phone with settling banks having a net-net debit to collect those funds over Fedwire, and will pay out funds over Fedwire to settling banks having a net-net credit.

[24] 15 U.S.C. 78q-1(b)(3)(F) (1982).

[25] *Id.*

[26] Current CP issuance, clearance and settlement procedures are costly, inefficient and labor-intensive. For example, in the case of dealer-placed CP, an issuer will typically inform the dealer of the total dollar amount of CP that it desires to sell on the morning of the day of issuance. The dealer's sales force will then sell the issuer's CP until approximately 12:30 p.m. After completing such sales, the dealer will inform the issuer's agent bank of the total dollar amount and maturity of CP sold, identify the various purchasers of the CP, and instruct the bank to deliver the CP via messenger to the dealer's clearing bank. The dealer's clearing bank will typically receive the CP by 2:15 p.m. and will deliver the CP via messengers to investors' custodial banks by 3 p.m.

[27] Credit risk is the risk that the credit quality of one party to a transaction deteriorates to the extent that it is unable to fulfill its obligations on settlement date.

[28] See note 8, *supra*.

[29] The Commission also notes that DTC's proposal may reduce the risk to the payments system created by intraday overdrafts associated

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DTC's proposal to phase-in CP into the SDFS system and to tie this phase-in to DTC's progress in establishing an off-site disaster recovery facility that can become fully operational within three hours after a system failure is both prudent and appropriate. As the Commission has previously stated in its Automation Review Policy Statement ("Policy Statement"), because of the impact systems failures have on public investors and broker-dealer risk exposure, it is appropriate for self-regulatory organizations to take certain steps to ensure that their automated systems have the capacity to accommodate present and reasonably anticipated volume levels, are not susceptible to internal or external threat, and respond adequately to localized emergency conditions, such as a power outage.[20] By taking steps to establish an off-site disaster recovery facility with a three hour recovery time and by tying the expansion of the CP program to its progress in establishing such a facility, the Commission believes DTC is acting in a manner consistent with the Policy Statement.

Finally, notwithstanding the foregoing safeguards, the Commission emphasizes that it remains concerned that the cap on the SDFS fund may increase DTC's risk exposure in the event of participant default as the volume of CP processed in the SDFS system increases. As discussed in a recent order concerning, among other things, DTC's proposal to implement the cap,[21] this cap may have the practical effect of reducing the aggregate amount of readily accessible collateral available to DTC by decreasing the level of collateral each participant must maintain in relation to its average daily gross settlement activity in the SDFS system. Although all transactions versus payment in the SDFS system are fully collateralized, the Commission believes this may adversely affect DTC's ability to "self-fund" a participant default and increase DTC's reliance on third party lenders during periods of market stress. Accordingly, the Commission expects to revisit this issue with DTC at the end of the temporary approval period.[22]

V. Conclusion

For the reasons stated above, the Commission finds that DTC's proposal is consistent with section 17A of the Act.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR–DTC–90–08) be, and hereby is, approved on a temporary basis through April 30, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 5, 1990.

Margaret H. McFarland,

Deputy Secretary.

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[Rel. No. 34-28525; File No. SR-NASD-90-51]

Self-Regulatory Organizations; Notice of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Enhancements to the Order Confirmation Transaction System

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") 15 U.S.C. 78s(b)(1), notice is hereby given that on September 26, 1990 the National Association Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organizations Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing technical enhancements to the NASD's Order Confirmation Transaction System ("OCT") that will provide improved functionality to NASD members using the system.

II. Self-Regulatory Organizations Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organizations Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The NASD is seeking approval for certain technical enhancements to the Order Confirmation Transaction System ("OCT") service. The OCT service, implemented in January 1988, was designed to expand the communication facilities available to support the continuous, orderly operation of the NASDAQ marketplace, especially during volatile or unusual market conditions such as those of October, 1987. OCT facilitates the execution and processing of orders by providing an alternate method of negotiating trades when traditional telephone negotiation is difficult or infeasible. The Report by the SECs Division of Market Regulation, *The October 1987 Market Break*, noted that the communication and negotiation of over-the-counter orders during the market break was at times delayed due to the unreliability of telephone access to market makers during periods of unprecedented high volume. The OCT system was developed to address precisely this type of problem by offering an alternative means of communication between order entry firms and market makers. OCT was made available to NASDAQ participants with Level 2/3 terminals and valid clearing arrangements because OCT provided not only a vehicle for acceptance or rejection of orders, but an automated method for confirming and comparing trades for processing through clearing.

Currently, order entry participants with clearing arrangements may direct an agency or principal order to a single market maker of choice through OCT to effect an execution. After receiving the order on the NASDAQ screen, the market maker must either accept the

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with the current method of issuing and redeeming CP. For example, issuers redeem CP in the morning but are not paid for CP sold that day until later in the afternoon. This disparity in payment flows may create a daylight overdraft in the paying agent's bank account at its Federal Reserve Bank. In the interval between payment of redemption amounts and receipts of issuance proceeds, the Federal Reserve Bank is, in effect, extending credit to the paying agent bank. Thus, the Federal Reserve Bank is exposed to the risk that the paying agency bank may become insolvent before it repays the Federal Reserve Bank.

[20] See Securities Exchange Act Release No. 27445 (November 16, 1989), 54 FR 48703.

[21] See note 7, *supra*.

[22] In this regard, DTC has noted that one of its safeguards against participant default is the quality of CP eligible for deposit at DTC. The Commission recently published for comment amendments to Rule 2a–7 under the Investment Company Act of 1940. See Investment Company Act Release No. 17589 (July 17, 1990), 55 FR 30238. These amendments incorporate standards that are more stringent than the standards that DTC has proposed under the CP program. The Commission expects to revisit with DTC, during the next eighteen months, whether the standards DTC uses to determine which CP is eligible for deposit should conform to those standards that the Commission ultimately determines to adopt under the Investment Company Act.

order as is, decline it, or counter with a different size and/or price. Each order or counter stays in force for three minutes. If no response is made before that time, the order *"times-out"* and is removed from active status.

The market maker can counter an order only once; the order entry firm can enter an order and counter once. Both sides also have the ability to accept or decline orders, or to let orders time-out. The net result, however, is that the communications flexibility embodied in the system is far more limited than that available through voice communication. The proposed enhancements to the system are designed to remedy these current limitations by taking greater advantages of the technical capabilities inherent in this automated environment.

Proposed Enhancements to the Order Confirmation Transaction Service

The proposed enhancements to OCT are designed to improve market efficiency through enhanced system functionality and the provision of greater flexibility to market makers and order entry firms in the use of this automated support system. These enhancements are logical extensions of the OCT service that will enable orders to be entered, negotiated, executed and locked-in without resort to verbal contact between trading rooms. Specific capabilities include a broadcast feature that enables order entry firms to display an order to all market makers in an issue; improved screen negotiation, including the ability to send multiple counter offers; the potential for one or more partial executions of orders; and the addition of menu-driven functions.

The enhanced flexibility in the system allows the order entry firm to preference a specific market maker, as in current OCT, but will also permit showing the order to all market makers in the security. This feature automates the ability in today's trading environment to telephone several market makers in a security in order to execute an order. In addition to entering the normal trade information (side, size, price, etc.), the order entry firm can: (1) Increase the time in force to up to 99 minutes; (2) specify a day order; or (3) indicate whether price and/or size are negotiable or whether a specific minimum quantity is acceptable. The addition of these elements gives the recipient a maximum amount of information with which to formulate a response.

The ability to respond has also been enhanced—a market maker may accept, counter, or decline an OCT order. If a market maker counters, negotiations are considered in progress and all other counters enter a queue, to be sent to the order entry from on a first in/first out basis, after negotiations with the first party are completed. Negotiations are conducted between the two parties by exchanging counters until agreement is reached.

One of the most important general enhancements of the new design is the use of menus and function keys to limit the keystrokes necessary to interact with OCT on-screen displays. Using the menus available on the NASDAQ Workstation ™ [1] the user can, after targeting the order/counter in the new OCT area: (1) retrieve order entry and negotiation masks; (2) accept an order, (3) cancel an order or counter; (4) decline an order or counter; or (5) insert a preformatted message in the memo area or an order to counter. The menu bar encourages the system's use by pre-programming certain functions and by allowing the trader to access the system without labor intensive activity.

A scan capability is available to participants to view executed trades, unexpired counters, open orders and expired orders. Cancellation of orders and counters, as well as acceptance of orders can be made through the scan function. Several scan entry parameters (e.g., by security, or by order entry firm for broadcast orders, etc.) allow the user to view information of interest. The user can also increase the information available by registering specific securities in a watch file. This allows interested participants to view incoming orders for those securities in which they are interested.

In order to further increase efficiency and reduce risk, executed trades will be processed through the Automated Confirmation Transaction service for Risk Management calculations and for submission to the National Securities Clearing Corporation. This will assure that all OCT trades are added into the Risk Management daily thresholds, and are reported both for trade reporting and clearance purposes.

The enhanced OCT system will be available to all NASDAQ Workstation ™ and Digital Interface Service subscribers that maintain a valid clearing arrangement with a clearing agency register with the Commission pursuant to section 17A of the Act, and will be subject to the terms and conditions of the participant agreements covering each service.

The NASD believes that the proposed rule change is consistent with sections 15A(b)(6) and 11A(a)(1)(B) and (C)(i) of the Act. Section 15A(b)(6) requires that the rules of a national securities association be designed to "foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market." Sections 11A(a)(1)(B) and (C)(i) set forth the Congressional goal of achieving more efficient and effective market operations and the economically efficient execution of transactions through new data processing and communications techniques. The OCT system provides participants with another vehicle to negotiate, execute, and compare transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change imposes any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comment

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written

[1] Due to the on-going phase out of Harris terminals that is designed to upgrade the functionality and capabilities available to market makers, the memo function for OCT will be available only on NASDAQ Workstations.

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by November 7, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: October 10, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-24408 Filed 10-16-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-28225; International Series Release No. 170; File No. SR-PHLX-90-27]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Listing of Index Warrants Based on the TOPIX Index

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 18, 1990, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PHLX is proposing to trade on a listed as well as Unlisted Trading Privileges ("UTP") basis index warrants based on the Tokyo Stock Price ("TOPIC") Index. The TOPIX is a broadbased, capitalization-weighted index consisting of all the stocks listed on the First Section of the Tokyo Stock Exchange ("TKE"). [1] In accordance with the requirements set forth in Securities Exchange Act Release No. 28286 (July 28, 1990), 55 FR 31275 ("Index Warrant Approval Order"), the PHLX has submitted this filing pursuant to Rule 19b-4 under the Act to obtain Commission approval to list these warrants.

[1] There are 1,105 common stocks listed on the First Section of the TKE.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and statutory basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In the Index Warrant Approval Order, the Commission approved amendments to the PHLX's rules permitting the listing of index warrants based on established market indexes, foreign and domestic.

In approving the aforementioned amendments, the Commission expressed interest in the impact of additional index products on U.S. markets and stated that the PHLX would be required to submit for Commission approval any specific index warrants that it proposed to trade. The PHLX is now proposing to list index warrants based on the TOPIX Index, an internationally recognized, capitalization-weighted index consisting of all the stocks listed and traded on the First Section of the TKE. The TOPIC Index is a widely used indicator of the performance of the Japanese Equity Market. The TOPIX Index is calculated and managed by the TKE.

Such index warrant issues will conform to the amended PHLX listing requirements set forth in the generic index warrant approval order, which provide that : (1) The issuer shall have assets in excess of $100,000,000; (2) the minimum public distribution of such issues shall be 1,000,000 warrants with a minimum of 400 public holders of those warrants; and (3) the aggregate market value of such issues shall be $4,000,000; or (4) that the warrants have already been approved for trading on another national securities exchange.

TOPIX index warrants will be direct obligations of their issuer subject to case-settlement during their term, and either exercisable throughout their life (*i.e.*, American style) or exercisable only on their expiration date (*i.e.*, European style). Upon exercise, or at the warrant expiration date (if not exercisable prior to such date), the holder of a warrant structured as a "put" would receive payment in U.S. dollars to the extent that the TOPIX has declined below a pre-stated cash settlement value. Conversely, holders of a warrant structured as a "call" would, upon exercise or at expiration, receive payment in U.S. dollars to the extent that the TOPIX Index has increased above the pre-stated cash settlement value. If "out-of-the-money" at the time of expiration, the warrants would expire worthless.

Trading in TOPIX warrants will be subject to several safeguards approved in the Index Warrant Approval Order which are designed to ensure investor protection. First, the options suitability standard will apply to recommendations to customers of TOPIX warrants. Second, the Exchange recommends that the warrants be sold only to investors whose accounts have been approved for options trading. If, however, a member or member organization undertakes to effect a transaction in warrants for a customer whose account has not been so approved, the options suitability standard will nevertheless apply to that transaction. Third, prior to trading in TOPIX warrants, the PHLX proposes to distribute to its membership a circular describing the risks associated with trading in TOPIX warrants. Fourth, a Senior Registered Options Principal ("SROP") or a Registered Options Principal ("ROP") will be required to approve and initial a discretionary order in index warrants on the day the order is entered. The SROP will also be required to review the acceptance of each discretionary account to determine that the ROP has a reasonable basis to believe that the customer was able to understand and bear the risks of the proposed transaction, thus ensuring that investors will be offered an explanation of the special characteristics and rules applicable to the trading of index warrants.

The Commission notes that with respect to foreign index warrants, there should be an adequate mechanism for sharing surveillance information with respect to the index's component stocks (*i.e.*, the sharing of surveillance information between the PHLX and the exchange on which the index's component stocks are traded). Accordingly, the PHLX is currently negotiating with representatives of the TKE to secure a mutual surveillance information sharing agreement with respect to trading in securities underlying the TOPIX Index.

The Exchange believes that the proposed rule change is consistent with the requirements of the Act, and, in particular, section 6(b)(5), as the TOPIX warrants are designed to promote just and equitable principles of trade and serve to facilitate transactions in securities by offering an innovative financing technique for issuers as well as the opportunity for U.S. warrant purchasers to hedge against or speculate on stock market fluctuations in Japan. In addition, the proposed rule change is consistent with that portion of section 6(b)(5) providing that the rules of the Exchange are to be designed to prevent fraudulent and manipulative acts and practices and to remove impediments to and perfect the mechanism of a free and open market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose an inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 7, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 10, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-24405 Filed 10-16-90; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES EXCHANGE COMMISSION

[Rel. No. 34-28520; File No. SR-SSE-90-01]

Self-Regulatory Organizations; Spokane Stock Exchange, Inc.; Order Granting Temporary Approval of Proposed Rule Change Relating to Amendments to its Constitution and Rules

I. Introduction

The Spokane Stock Exchange, Inc. ("SSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission" or "SEC") on May 29, 1990, a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] to revise the Exchange's Constitution and to adopt the National Association of Securities Dealers' ("NASD") Rules of Fair Practice. Amendment No. 1, which clarified certain language in proposed Article VIII, section 1, was submitted to the Commission on July 31, 1990.[3] Amendments No. 2 and 3, which amended the SSE's trading rules in proposed article XV to clarify certain language in section 13 and to add section 17 to specifically prohibit fictitious trades, wash transactions, and prearranged trades were submitted to the Commission on September 11, 1990 and September 13, 1990.[4]

The proposed rule change was published for comment in Securities Exchange Act Release No. 28151 (June 26, 1990), 55 FR 27736 (July 5, 1990). No comments were received on the proposal.[5]

II. The Proposal

The purpose of the amendments is to provide a formal Constitution for the Exchange. The Constitution will establish more efficient procedures for the election of Exchange members, the function of its committees, the election of its officers, the conduct of Exchange business, and for the discipline of its members and will adopt rules governing trading activities. The proposed rule change represents the first comprehensive revision to the SSE Constitution since the establishment of the Exchange in the 1930's,[6] and the first

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1989).

[3] See letter from Lawrence R. Small, Counsel to the SSE, Paine, Hamblen, Coffin, Brooke & Miller, to Diana Luka-Hopson, Commission, dated July 30, 1990. The amendment corrected an apparent conflict between Sections 1 and 2 of proposed Article VIII by amending Section 1 in order to clarify that the President, as provided in Section 2, shall appoint Exchange committee members, with the approval of a majority of other members of the Board.

[4] See letters from Lawrence R. Small, Counsel to the SSE, Paine, Hamblen, Coffin, Brooke & Miller to Diana Luka-Hopson, Commission, dated September 10, 1990 and September 12, 1990. Amendment No. 2 amended Article XV, Section 13 to redesignate its subsections as (a)-(g) and to revise certain language in order to clarify that any member desiring to trade for his or her own account may do so at the current market price at the time of trade. Amendment No. 2 also expanded a provision prohibiting prearranged trades, which is contained in the SSE's current Constitution, to include a prohibition against all fraudulent devices, including fictitious trades and wash transactions in new Section 17, Article XV. This provision is substantially similar to a proposal submitted by the SSE in its 1988 proposed rule change. The 1988 proposal was noticed in Securities Exchange Act Release No. 24570 (June 10, 1987), 52 FR 22120 (June 17, 1987) (File No. SR-SSE-88-01). No comments were received on the proposal. Finally, Amendment No. 2 and 3 clarified Article XV, Section 13(d)'s provision for all-or-none cross transactions in order to provide that the proposed procedures would apply to the offer as well as to the bid.

[5] A resolution approving the rule change in its entirety was adopted by the Exchange members on May 22, 1990.

[6] The Exchange initially submitted a proposal to revise its Constitution in 1977. See Securities Exchange Act Release No. 14114 (October 20, 1977), 42 FR 61344 (December 2, 1977) (File No. SR-SSE-77-01). The Exchange subsequently submitted several modifications to its filing. See letter from Lawrence R. Small, Counsel to the SSE, Paine, Lowe, Coffin, Hamblen & Brooke, to Thomas Etter, SEC, dated January 24, 1983; letter from Lawrence R. Small to Thomas Etter, SEC, dated October 24, 1984; letter from Lawrence R. Small to Thomas Etter, SEC, dated September 5, 1984; letter from Lawrence R. Small to Judith Axe, SEC, dated July 25, 1985; and letter from Lawrence R. Small to Joe Weinhoff, SEC, dated April 20, 1978.

On April 18, 1988, the Exchange submitted to the Commission a proposal to revise its Constitution and to adopt Rules of Fair Practice. See Securities Exchange Act Release No. 24570 (June 10, 1987), 52 FR 22120 (June 17, 1987) (File No. SR-SSE-88-01). On two occasions, the Exchange submitted to the Commission modifications to its proposal. See letter from Lawrence R. Small to Robert Sevigny, SEC, dated May 5, 1989 and letter from Lawrence R.

Continued

Commission approval of the Exchange's Constitution.

The proposed Constitution contains many technical sections. The major substantive changes are described below.[7]

A. Board of Governors

The Exchange proposes to restructure the composition and powers of its Board of Governors ("Board"). Currently, the Board is composed of five regular Exchange members. The Exchange proposes that the Board will be composed of five members, elected annually, and one representative of issuers and one representative of investors, for a total of seven Board members. The issuer and investor representatives, who may not be associated with an Exchange member, broker or dealer, will be selected by the Board. These Board members would be officers of the Exchange and, therefore, have authority and responsibility to determine policy, rules, and regulations of the Exchange.

The Exchange also proposes certain amendments to the jurisdiction and responsibilities of the Board. Amended Article IV, Section 1 would specify that the Board shall determine, among other things, the manner in which its members are nominated and elected and shall elect a President, Vice-President, Secretary, and Treasurer and such other officers as may be necessary. In addition, Section 1 of Article IV would specify that the President, Vice President, Secretary, and Treasurer must be members of the Board.[8] Article IV, Section 1 also would provide that the Board shall appoint and dissolve Committees of the Exchange, define, alter, and regulate jurisdiction of officers as provided in the Constitution, and examine all complaints against Exchange members and take disciplinary action as required.

The Exchange proposes to add a new Section 6 to Article IV in order to delineate the Board's supervisory authority over members and member organizations in connection with their conduct or business related to the Exchange. New Section 6 of Article IV would provide that the Board shall have general supervisory authority over members, member organizations, and their offices and that the Board, through its representatives, may examine all aspects of their business conduct. The Board's supervision, as a result of this proposal, would extend to all matters relating to dealings on the Exchange and over all matters relating to the collection, dissemination, use of quotes and reports of prices on the Exchange. Moreover, Article IV, Section 6 would expressly provide that unless specifically enumerated in the Constitution or by the Act, nothing shall otherwise limit the authority of the Board to review trading and other activities of Exchange members.

The SSE proposes certain other amendments to new Article VI relating to Board procedure. Amended Article IV, Section 2, would specify that all vacancies on the Board must be filled by a majority vote of the remaining Board members, who would appoint additional members to serve until the next annual election or until their successor is elected or appointed. New Article IV, Section 5 would specify that the term of office for a Board member is one year, or until a successor is elected.

B. Officers

The Exchange proposes to revise the provisions of its Constitution with respect to the duties and responsibilities of Exchange officers. Section 1 of new Article V would provide that officers of the Exchange will hold their positions subject to the pleasure of the Board and will perform their responsibilities without compensation, other than the reimbursement of expenses, unless compensation is approved by the board.

New Article V, Section 2, formerly Article IV, would amend the executive powers of the President in order to provide that the President is responsible for implementing and carrying out the policies and goals established by the Board. In addition, Article V, Section 2 would provide that the President shall be the presiding officer for all meetings of the Board or of the Exchange membership and would have all powers and duties as customarily pertain to the office, including powers conferred upon the President by the Board. Similarly, new Section 3 of Article V, would amend the powers of the Vice President to provide that the Vice President shall have all powers and duties as customarily pertain to the office, including powers conferred upon the Vice President by the Board.

New Section 4 of Article V, formerly Article VI, would set forth the duties of the Treasurer. The Exchange proposes to specify that the Treasurer must present a report on finances at regular Exchange meetings and have such further duties as customarily pertain to the office, including those powers conferred upon the Treasurer by the Board. New section 5 of Article V, would set forth the duties of the Secretary. The Exchange proposes to amend this provision in order to remove language stating that the Secretary shall be appointed by the Board [9] and providing that the Secretary shall be the accountant to the Exchange. The Exchange also proposes to provide that the Secretary shall have all powers and duties as customarily pertain to the office.

Finally, the Exchange proposes to add a new section 6 to article V which would establish the position of Compliance/Surveillance Officer of the Exchange. Article V, section 6 would provide that although the Compliance/Surveillance Officer shall be an employee of the Exchange, he or she will have all powers of the Board in its supervision of members including the power to review member books and records upon request. Moreover, the Exchange proposes that the Compliance/Surveillance Officer monitor and investigate quotations, trading and other activities of members for compliance with the rules of the Exchange and the federal securities laws. The Compliance/Surveillance Officer would have to report to the Board or its designated committee the findings of his or her investigations of member trading for disciplinary action.

C. Elections

The Exchange also proposes to revise its procedures for the conduct of its elections and notice of its meetings. The Exchange proposes that members in good standing are entitled to vote at any meeting or election of the Exchange.[10]

D. Committees

The Exchange proposes revisions to current Article XI to establish and define the jurisdiction of five standing

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Small to Robert Sevigny, SEC, dated April 28, 1989. By letter of May 24, 1990, the SSE withdrew File No. SR-SSE-89-01 and submitted the current rule filing, File No. SR-SSE-90-01. See letter from Lawrence R. Small to Chief of the Branch of Exchange Regulation, SEC, dated May 24, 1990.

[7] For example, the current SSE Constitution does not contain a definitional section. The Exchange proposes to amend and replace existing Article II, Government, in order to establish a new section on definitions. The text of the Exchange's proposal as well as subsequent amendments are available at the Commission's Public Reference Section and at the principal office of the Exchange.

[8] Currently, Article III does not require that the Secretary of the Exchange be a Board member. The SSE Constitution provides that the Secretary shall be appointed by a majority vote of the Board. *See* SSE Constitution, Article III, Section 1 and Article VII, Section 1.

[9] The Exchange now proposes to establish the office of the Secretary as an elected position.

[10] Proposed Article VI, Section 3 would define a member in good standing as a member whose dues are not delinquent and who is not subject to disciplinary action of the type that restricts the member's ability to exercise the privileges granted by the Constitution.

committees of the Exchange: The Membership Committee, the Resolution of Disputes Committee, the Listing Committee, the Auditing Committee, and the Compliance Committee.[11] Committee members would have to be Exchange members or persons associated with an Exchange member.

The Exchange proposes to replace the current Committee on Rules and Commissions with the proposed Committee on Resolution of Disputes and to revise and simplify the Committee's procedures. This Committee would investigate and decide all claims and matters of difference between members of the Exchange submitted to it by any member and between members of the Exchange and non-members submitted to the Committee at the request of the non-member. In addition, the Exchange proposes to specify, in new article VIII, that the procedures constitute a non-binding dispute resolution. As an alternative, the Exchange proposes to provide that, with respect to claims between members, a member may request that the claim be submitted to arbitration under the Securities Industry Conference on Arbitration ("SICA") Code.[12] Finally, the Exchange proposes to remove from the current Committee on Rules and Disputes the enforcement of exchange rules [13] and to delete its authority to set commission rates.[14]

The Exchange proposes to separate the current Committee on Auditing and Listing into two committees. Proposed article VIII, section 1 would establish the authority of the Listing Committee to propose rules and procedures to the Board for the listing of securities,[15] to review listing applications and recommend action on the application to the Board, to recommend that the Board suspend trading in securities, and to recommend to the Board that a corporation be delisted from the Exchange. In this way, the Exchange proposes to remove the Auditing and Listing Committee's current authority to suspend trading or delist a security and place the final authority for such action with the Board.[16] The Exchange also proposes to amend the provisions relating to the new Auditing Committee to provide that one of the three committee members must be the Exchange Treasurer and to require the assistance of an independent public accountant by the Auditing Committee in preparing its reports and recommendations to the Board.

The Exchange proposes to establish a new Compliance Committee.[17] Proposed Article VIII, section 1 would require that the Compliance Committee supervise and ensure compliance with Exchange Rules and the federal securities laws. Article VIII, section 1 also would provide that one of the Compliance Committee's members shall be the President of the Exchange. Further, article VIII, section 1 would provide that the Committee, as delegated by the Board, shall have the power to investigate and recommend disciplinary action to the Board for violations of Exchange Rules or the federal securities laws and have the power to employ counsel and a compliance officer.

The Exchange also proposes to establish certain requirements which would apply to all standing committees of the Exchange. Proposed article VIII, section 2 would provide that the President, with the approval of the majority of the Board, would appoint the members of the Exchange's standing committees. Proposed article VIII, section 3 would establish certain procedural requirements, section 4 would require that each committee have at least one member who is not an officer or governor of the Exchange, and section 5 would establish a revised procedure for appeals of standing committee decisions.[18]

The Exchange proposes to adopt new article XVII [19] to specify that the Board and Exchange committees shall have the authority to promulgate rules necessary to carry out the objectives of the Exchange and the committees, respectively. Section 3 of article XVII would provide that any rules promulgated by the Board or committees must be adopted by a majority vote of members present, and only if a quorum then exists.

E. Conflicts of Interest

The Exchange proposes to adopt Article IX, Sections 1 and 2, to address conflicts of interest.[20] The Exchange proposes to amend its current conflict of interest provision to provide that no person shall participate in the consideration of any matter in which that person or his or her firm is personally interested.[21]

F. Membership

The Exchange proposes to establish procedures for the acceptance of members of the Exchange. Currently, the SSE's membership application and eligibility requirements are set forth in article XIII of the Constitution.[22] New Article X, Section 2 would provide the procedures for membership application and review by the membership committee, establish eligibility requirements,[23] provide for approval of

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[11] Currently, Article XI of the SSE Constitution provides for Committees on Membership, Rules and Commissions, Auditing and Listing, Securities, and Publicity and Entertainment.

[12] Further, Article VIII directs the Committee to encourage all non-members to submit their claims to the NASD for resolution.

[13] The Exchange proposes to transfer, and expand, this authority to the new Compliance Committee.

[14] Similarly, the Exchange proposes to delete current Article XIX which sets forth the Exchange's commission rules. Section 6(e) of the Act prohibits national securities exchanges from imposing any schedule or otherwise fixing the rates of commission charged by its members. See 15 U.S.C. 78f (1982).

[15] Currently, the SSE's listing standards are contained in the application for listing of securities on the Exchange. In reviewing a corporation's application for listing on the Exchange, the SSE appraises the applicant in light of the following general requirements: 250,000 shares publicly held and 900 stockholders. The SSE also reviews the net tangible assets and earnings record of the applicant.

[16] In addition, proposed Article VIII would establish the procedure by which the Board, acting on recommendation of the Committee, may suspend trading in securities. Revised Article VIII also deletes the Auditing and Listing Committee's discretionary authority to permit dealings in securities on a "when issued" basis.

[17] Proposed Article VIII, Section 1 would require that this Committee meet not less than once per month and otherwise at the call of the President. The proposal also would require that the Compliance Committee present a written report to the Exchange membership concerning the Committee's activities.

[18] The Exchange's current appeal procedures are found in Article XII, Sections 1 and 2. The Exchange proposes to move current Article IX, Election and Notice, to new Article VI.

[19] The Exchange proposes to delete current Article XVII, Expulsion and Suspension from Membership.

[20] The Exchange currently incorporates its conflicts of interest provision in Article III, Section 4.

[21] Proposed Article IX, Section 1 would also provide that the President or a majority of the Board of Governors, if the President is the interested member, shall designate another member to replace the interested member in the case of a conflict.

[22] Existing Article XIII provides for two classes of membership and sets forth age and citizenship requirements, limits the number of Exchange members, establishes membership fees, requires signatures of the Exchange Constitution and provides that membership is personal. The proposed Constitution provides for just one class of membership. Proposed Article X, Section 1 provides that any person who meets the requirement for a member, as defined in Article II, may become a member of the Exchange. Proposed Article II, Section 1 defines a member as a natural person who is a member of the Exchange and also provides that a member may be associated as a member with no more that one member organization. Proposed Article II, Section 1 provides that a member organization generally must be registered as a broker or dealer in securities under the Act.

[23] Proposed Article X, Section 2 provides that the Membership Committee shall determine whether

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the application by the Committee, and also provide for Board review of the application in the event that the application is rejected by the Committee. In addition, Article X, Section 2 would require that the Board notify the Commission of action to deny membership in accordance with Section 19(d)(1) of the Act.[24]

The Exchange also provides that dues would be set by the Board, which must notify members of dues for the coming year at the annual meeting, and specify that dues, fees, and other charges shall be allocated equitably among members, issuers, and other persons using Exchange facilities.

G. Disciplinary Procedures

The Exchange proposes to establish new procedures for Disciplinary Action in proposed Article XIII. The Exchange currently does not have a separate Article in its Constitution for disciplinary action. Instead, its disciplinary provisions are incorporated into current Article XVII, Sections 5 and 6, which govern expulsion and suspension from membership. Proposed Article XIII, Section 1 would provide that the Exchange, through a majority vote of Board members, will have the power to fine, suspend, expel, or otherwise discipline a member for conduct inconsistent with just and equitable principles of trade.[25] Article XIII, Section 2 would establish the requirements for a disciplinary proceeding conducted by the Board. The procedures include the requirement that the Board bring specific charges, provide notice of the charges and the opportunity to defend against such charges, and the requirement that the Secretary of the Board keep a record of all proceedings. Article XIII, Section 3 would grant the Board the power to summarily suspend a member, or a person associated with a member, who is expelled or suspended from any self-regulatory organization or barred or suspended from being associated with a member of any self-regulatory organization. In addition, Section 3 of Article XIII would allow the Board to suspend any member who is in such financial or operating difficulty, has failed to meet his or her obligations, or is insolvent[26] so that the Board determines and notifies the Commission that the member cannot be permitted to continue to do business as a member with safety to investors, creditors, and other members of the Exchange. Proposed Section 4 of Article XIII would provide that any person aggrieved by a summary suspension shall be promptly afforded an opportunity for a hearing before the Board. This hearing would be conducted in accordance with the procedures outlined above in Section 2 of Article XIII and Section 6 of the Act.[27] Finally, Article XIII, Section 5 would provide rule making authority to the Board to implement the provisions of this Article.

H. Conduct of Business

The Exchange proposes to adopt new rules for the transaction and conduct of business on the Exchange in proposed Article XV.[28] Section 4 of Article XV would delete current provisions which allow a non-member to represent a member on the floor in that member's absence and instead provide that a member may designate another member, referred to as a "designated representative," to conduct trading on his or her behalf. New Section 5 of Article XV would amend current Section 6 of Article XVIII, Units of Trading, to provide that the Board shall determine, and publish, the units of trading on Board lots.[29] New Article XV, Section 7 would be amended to revise the delivery period for regular way transactions.[30]

The Exchange proposes certain revisions to its current bid and offer rules in Article XVIII, Sections, 10, 11, 12, 13, 14, 15 and 16. New Article XV, Section 8 would delete the current schedule of permissible price variance and provide that bids and offers shall be raised or lowered in accordance with a schedule set by the Board. Section 9 of new Article XV would provide that all bids made and clearly established and all offers made and clearly established in accordance with the rules of the Exchange shall be binding. New Section 10 of Article XV would amend the Exchange's rules governing precedence of bids to delete a provision which allows the priority of bid to be transferred from one member to another. The Exchange proposes to incorporate current Article XVIII, Sections 14 and 15, precedence of bids and precedence of offers, into proposed Article XV, Section 11 and current Article XVIII, Section 16, claims of priority of bids and offers, into proposed Article XV, Section 12.

The Exchange proposes to revise substantially its trading rules. Article XV, Section 13 would permit any member desiring to trade for his or her own account to do so at current market prices at time of trade. Revised Section 13 of Article XV would require that a member charge a fair and reasonable commission on agency transactions but prohibit a service fee or charge on dealer transactions. Any mark-up or mark-down of dealer transactions must be reasonable under the standards of the NASD's Rules of Fair Practice. The SSE's cross trade rules would require that the trading ticket for each transaction be acknowledged in writing by the caller,[31] Secretary of another person designated by the Board. The rules would continue to provide that it is the member's responsibility to obtain proper certification, and that the failure to do so shall subject the member to disciplinary proceedings. Article XV, Section 13 also would establish the procedure for all-or-none cross transactions and provide for a price variance schedule as adopted and published by the Board.

The Exchange proposes to adopt Article XV, Section 17 to amend current Article XVIII, Section 20 in order to prohibit wash transactions, fictitious trades, and prearranged trades. Moreover, Section 17 would provide that

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the applicant is subject to a statutory disqualification, as set forth in Section 9(c)(2) of the Act, and whether the applicant meets standards of financial responsibility as established by the Board in accordance with Section 6(c)(3) of the Act. Moreover, the applicant must meet such standards of training, experience, and competence prescribed by the Board and not be engaged in or likely to be engaged in acts or practices inconsistent with just and equitable principle of trade. The applicant also must be willing to sign the Constitution.

[24] *See* 15 U.S.C. 78s(d)(1) and (2) (1982). Section 19(d)(2) provides for Commission review of self-regulatory organization ("SRO") action which is required to be filed under section 19(d)(1).

[25] Proposed Article XIII, Section 1 would provide that any willful violation of any provision of the Act, any rule or regulation adopted thereunder, any provision of the Constitution or Exchange Rules or any refusal to submit information requested by any SRO, the SEC or an Exchange Committee shall be considered conduct or proceeding inconsistent with just and equitable principles of trade for purposes of this provision.

[26] The term obligation refers to Exchange dues or charges.

[27] Section 6(b)(7) of the Act requires that the rules of an exchange provide a fair procedure for the disciplining of members and persons associated with members. Section 6(d) sets forth the procedural requirements for disciplinary proceedings.

[28] The Exchange proposes to move the provisions of current Article XV, Transfer of Membership, to proposed Article XII.

[29] A Board lot is the specified number of shares one must take on the bid or ask.

[30] The Exchange proposes to require that delivery be made at the office of the purchaser on, but not before, the fifth business day following the date of the transaction; however, if the seller tenders delivery before the fifth business day, acceptance shall be at the purchaser's option, and the purchaser's rejection would be without prejudice to his or her rights.

[31] The caller would keep track of the cross trades. The caller would be the executing broker doing the cross who would record the cross in his dour her records. The Exchange designated official would record the transaction for the Exchange.

an Exchange member who gives, or, with knowledge executes an order for the purchase or sale of securities which would involve no change in ownership shall be deemed guilty of conduct or proceeding inconsistent with just and equitable principles of trade and disciplined as proscribed in Article XIII, Section 1 of the SSE's proposed Constitution.[23]

The Exchange proposes to amend current Section 19 of Article XVIII to prohibit a member from carrying on any business other than normal Exchange business on the floor or the Exchange. The Exchange proposes to delete references to "ex-interest" orders in current Article XVIII, Section 21 and incorporate the remaining provisions of this section into proposed Section 15 of Article XV. Finally, the Exchange proposes to amend its reporting requirements for transactions in listed securities off the Exchange floor, found in existing Article XVIII, Section 22 and proposed Article XV, Section 16 to provide that members and member firms report by the opening bell of the trading session: (1) name of issuer; (2) number of shares; (3) price per share; (4) executing brokers; and (5) whether the trade was executed on an agency or dealer basis for customer transactions.

The Exchange proposes to adopt, in new Article XVI, antifraud rules and the NASD's Rules of Fair Practice.[24] Article XVI, Section 1 would specify the Exchange members must observe just and equitable principles of trade.[24] Article XVI, Section 2 would direct the Board to adopt the NASD's Rules of Fair Practice, as applied, unless expressly amended by the Exchange, and as interpreted or construed by the NASD. Article XVI, Section 2 also would provide that the Board may amend the Rules of Fair Practice as they apply to Exchange members, without securing the approval of Exchange members, so long as the amendments would not conflict with the Constitution, the Act, or the NASD Rules of Fair Practice and interpretations. Finally, Section 3 of Article XVI, among other things, would specify that any transaction in a listed security which is not effected through Exchange facilities shall not be considered part of the trading volume or reported as a transaction on the Exchange.

III. Discussion and Conclusion

The Commission has reviewed carefully the revisions to the SSE's Constitution to determine whether the proposed modifications are consistent with the Act. The Commission believes that the proposed Constitution is consistent with the requirements of the Act, and, in particular, with Sections 6 and 19 of the Act.[25] Section 6 sets forth certain requirements for national securities exchanges regarding, among other things, Exchange membership, selection of directors, the administration and enforcement of Exchange rules, and the imposition of disciplinary sanctions on members by the Exchange.

The Exchange has been operating without an approved Constitution. At a minimum, Commission approval of this rule change represents significant improvement by providing the Exchange with a valid Constitution. In addition, the proposed rule change corrects many of the substantive inadequacies and problems of the existing Constitution, and is more consistent with the fulfillment of SSE's responsibilities as a national securities exchange.[26]

The Commission believes that the proposed modifications to the Constitutional provisions regarding the composition and powers of the Board are consistent with the Act. In particular, the Commission believes that the proposed amendments regarding the composition of the Board are consistent with section 6(b)(3) of the Act. Section 6(b)(3) of the Act requires that the rules of an exchange assure of fair representation of its members in the selection of its directors and administration of its affairs and provides that one or more directors represent issuers and investors and not be associated with a member of the exchange or a broker or dealer. The Commission believes that the proposed amendments are designed to comply with this requirement by providing for two public representatives on the Board of the Exchange and ensuring adequate representation of Exchange members on the Board.

The Commission believes that the proposed amendments regarding the powers of the board are consistent with section 6(b)(1) of the Act. Section 6(b)(1) of the Act requires that an exchange be organized and have the capacity to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members with the Act, the rules and regulations thereunder, and the rules of the exchange. The Commission believes that the proposed amendments are designed to comply with this requirement by expressly providing that the board shall have general supervisory authority over members, member organizations, and their offices to examine all aspects of their business conduct as well as the authority to examine all complaints against Exchange members and take disciplinary action as required.

Similarly, the Commission believes that the proposed amendments regarding the duties and responsibilities of Exchange officers are consistent with section 6(b)(1) of the Act. The Commission believes that the proposed amendments are designed to comply with the section 6(b)(i) requirements noted above by strengthening the authority of the Exchange's current officers, establishing the office of the Secretary as an elected Exchange position, and creating the position of Compliance/Surveillance Officer of the Exchange. Because the Compliance/Surveillance Officer will have all the powers of the Board in its supervision of members and will monitor and investigate quotations, trading and other activities of members for compliance with Exchange rules and the federal securities laws, the proposal should strengthen significantly the Exchange's compliance procedures and the Exchange's ability to monitor transactions executed on the Exchange.

The Commission believes that the proposed modifications to the Constitutional provisions regarding Exchange committees are consistent with the Act. In particular, the Commission believes that the proposed committees are designed to provide an operational structure for the Exchange to undertake its obligations as a national securities exchange.

The Commission believes that the proposed amendment which establishes the Committee on Resolution of Disputes is consistent with section 6(b)(5) of the Act which requires that the rules of an exchange promote just and equitable principles of trade, and, in general, protect investors and the public interest. The provision provides for a non-binding dispute resolution process conducted by the Committee. Because all exchange members are NASD

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[23] *See supra* note 25 and accompanying text for a summary of the SSE's proposed disciplinary provisions.

[24] All members of the SSE currently also are members of the NASD.

[24] Currently, Sections 2 and 3 of Article XVII, which governs Expulsion and Suspension from Membership, prohibits conduct inconsistent with just and equitable principles of trade and provides for expulsion, suspension, or another form of discipline for members who violate this prohibition.

[25] 15 U.S.C. 78f and 78s (1982).

[26] The Commission is approving the proposed rule change and revisions to the SSE's Constitution because the Commission believes that it is important for the SSE to operate with a Commission approved Constitution and rules. Approval of this proposed rule change, however, does not represent a ratification of the SSE's overall performance as a national securities exchange.

members, arbitration, through the NASD, will be available to provide members and the public with an impartial forum for the resolution of their disputes.

The Commission believes that the proposed amendment which establishes an Auditing Committee on a Listing Committee is consistent with section 6(b)(3) of the Act. Because the provision regarding the Listing Committee establishes authority for the Committee to propose rules governing the listing of securities, to review listing applications, to make recommendations to the Board, and to recommend to the Board the suspension of trading or delisting of a security, and sets forth the procedure by which the Board may suspend or delist securities, the Commission believes that the proposal is designed to promote just and equitable principles of trade by insuring independent review of listing applications, suspension of trading, or the delisting of a security while also providing for prompt Board action to suspend trading. Because the provision regarding the auditing Committee will require that one of its members be the Treasurer of the Exchange and require the assistance of an independent public accountant in preparing the Committee's reports and recommendations to the Board, the Commission believes that the proposal is designed to prevent fraudulent and manipulative acts and practices and to protect investigators and the public interest by insuring expertise as well as independent oversight in the auditing of Exchange accounts and vouchers.

The Commission believes that the proposed amendment which establishes the Compliance Committee as a standing committee of the Exchange is consistent with section 6(b)(1) of the Act. The Commission believes that the proposal is designed to comply with section 6(b)(1) by requiring that the Committee prepare and supervise compliance with Exchange rules and the federal Securities laws through its power to investigate and recommend disciplinary action to the Board and its power to employ counsel and a compliance officer.

In addition, the Commission does not believe that the proposed changes to the Constitution will impose restrictions on the Exchange's membership greater than those restrictions permitted by the Act. The Commission notes that the Exchange's proposed modifications to its membership eligibility standards (existing Article XIII, Section 1; revised Article X, Section 2) reflect the requirements in section 6(c)(2) of the Act with respect to statutory disqualification, section 6(c)(3) with respect to financial responsibility and operational capacity of a registered broker or dealer, and section 6(c)(4) with respect to the limitation on the number of Exchange members. [37] The Commission believes that the proposal also is consistent with section 6(b)(7) of the Act in that it should provide a fair procedure for the denial of membership to any person seeking membership as set forth in section 6(d)(2). Moreover, the Commission finds that the proposed revisions are consistent with section 19(d)(1) of the Act. Section 19(d)(1) of the Act requires, among other things, that exchanges notify the Commission of action to deny membership. Section 19(d)(2) provides for Commission review of exchange action which is required to be filed under section 19(d)(1).

The Commission believes that the proposed revisions to the Exchange's disciplinary procedures are consistent with section 6(b)(6) of the Act. Section 6(b)(6) of the Act requires that the rule of an exchange provide that its members and persons associated with its members shall be appropriately disciplined for violations of the provisions of the Act, the rules or regulations thereunder and the rules of the exchange by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member or any other fitting sanction. The powers and responsibilities proposed for the Board in proposed Article XIII are designed to be consistent with the provisions of the Act in that the Board, through a majority vote of its members, will have the authority to fine, suspend, expel, or otherwise discipline a member for conduct inconsistent with just and equitable principles of trade. Further, the Board will have the ability to summarily suspend a member or a person associated with a member who is a member of and is expelled or suspended from any SRO or barred or suspended from being associated with a member of any SRO. The Board also will have the authority to suspend a member who is in financial or operating difficulty, has failed to meet his or her obligations or is insolvent. The Commission believes that this should enable the Exchange to carry out the requirement of section 6(b)(6) that the rules of an exchange provide that its members be appropriately disciplined for violations of Exchange rules or requirements under the Act.

The Commission also believes that the proposed disciplinary procedures are consistent with sections 6(b)(7) and 6(d) of the Act. Section 6(b)(7) of the Act requires that the rules of an exchange provide a fair procedure for the disciplining of members and persons associated with members. Section 6(d) sets forth the procedural requirements for disciplinary proceedings. The Commission finds that the proposal reflects the requirements set forth in sections 6(b)(7) and 6(d)(1), including the requirement that the Board bring specific charges, provide the member or person associated with a member notice of the charges and the opportunity to defend against such charges, keep a record of the proceedings, support a determination to impose a disciplinary sanction with a statement setting forth the charges, the specific provisions of the Act or rules which are deemed to be violated, and the sanctions imposed. Similarly, the Commission believes that proposal for summary suspension by the Board incorporates the grounds for summary suspension and the opportunity for a hearing before the Board as provided under section 6(d)(3) of the Act.

The Commission believes that the proposed modifications to the Exchange's transaction and conduct of business rules are consistent with the Act. In particular, the Commission believes that the proposed revisions comply with section 6(b)(5) in that the revised rules are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism of a free and open market through more efficient and comprehensive trading rules.

The Commission believes that the Exchange's proposal to adopt the NASD's Rules of Fair Practice also is consistent with section 6(b)(5) of the Act. In particular, the adoption of the Rules of Fair Practice, as interpreted and applied by the NASD, is designed to prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade. The SSE is an adjunct to the regional over-the-counter market, and is open for only a short period each day. Accordingly, it is sufficient for such a market to adopt NASD fair practice rules. Should the nature and operation of the Exchange

[37] The Commission notes that section 6(c)(1) also requires that a national securities exchange deny membership to any person, other than a natural person, which is not a registered broker or dealer or any natural person who is not, or is not associated with, a registered broker or dealer.

expand or change, it might have to adopt different or additional rules of its own. Moreover, the proposed Constitution reflects the fact that the SSE operates in a limited fashion and is exempt from transaction reporting under Section 11A of the Act.[38] Before the Exchange's operations expand or diversify, the Commission would need to review the Constitution to determine if it was sufficient to account for these changes.

The Commission notes that the proposed amendment to the Exchange's lost or stolen securities provision in new Article XVII, which specifies that all members must comply with Commission rules on this subject, requires compliance with Exchange Act Rule 17f–1 which sets forth the Commission's rules for reporting and inquiry of missing, lost, counterfeit, or stolen securities. The Commission believes that the proposal should promote section 6(b)(5)'s requirement that exchange rules prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade.

Finally, the Commission believes that the various clarifying modifications proposed by the Exchange with respect to the definition of terms used in the Constitution, the duties and powers of the Board, the duties and responsibilities of Exchange officers, elections and notices of meetings, vacancies in office, Exchange committees, conflicts of interest, transfer of membership, listing of securities, office addresses, partnerships, and branch offices, and other amendments to the Constitution are designed to prevent fraudulent and manipulative acts and practices, and in general to protect investors and the public interest, as required by section 6(b)(5) of the Act.

In sum, the Commission believes preliminarily that the proposed rule change is designed to correct many of the substantive inadequacies of the SSE's current Constitution. The Commission also believes preliminarily that the proposed revisions to the SSE's Constitution and the adoption of the NASD's Rules of Fair Practice by the SSE as the rules of the Exchange should result in operation of the Exchange which is more consistent with the fulfillment of the SSE's obligations as a national securities exchange. However, in order to allow the Commission sufficient time to assess the effects of the revised Constitution and adoption of the NASD Rules of Fair Practice on Exchange operations, the Commission has determined to approve the proposed rule change for a temporary three year period.

The Commission expects to review the determinations made in this Order within three years to consider whether to permanently approve the revisions to the Constitution. During this time period, the Commission will monitor and oversee SSE's operations through review of proposed rule changes, [39] notices to members,[40] and disciplinary actions [41] and through other oversight actions. In order to provide the Commission with sufficient time to review whether permanent approval of the SSE Constitution is warranted, the SSE should submit a proposed rule change to the Commission on or before June 1, 1993 containing further revisions to the Constitution, if necessary, and requesting permanent approval of the Constitution, as revised.

It is therefore ordered, pursuant to section 19(b)(2) [42] of the Act, that the proposed rule change is approved for a three year period ending on October 5, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[43]

Dated: October 5, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–24403 Filed 10–16–90; 8:45 am]

BILLING CODE 8010–01–M

[38] The Commission granted the SSE an exemption from the reporting requirement in former Exchange Act Rule 17a–15. *See* Securities Exchange Act Release No. 14661 (April 11, 1978), 43 FR 16662. Rule 17a–15 is now redesignated as Exchange Act Rule 11Aa3–1 under the Act. In its Release adopting Rule 11Aa3–1, the Commission stated that the redesignation of the Rule under Section 11A of the Act would not affect the status of Rule 17a–15 exemptions which do not directly conflict with a provision of Rule 11Aa3–1. *See* Securities Exchange Act Release No. 19889 (February 19, 1980), 45 FR 12377.

[39] Section 19(b) of the Act and Rule 19b–4 thereunder [17 CFR 240.19b–4 (1989)] require a national securities exchange to file with the Commission for review and approval all proposed rule changes, including changes to its Constitution, rules, and procedures.

[40] Rule 6a–3 [17 CFR 240.6a–3 (1989)] under Section 6(a) of the Act requires a national securities exchange to file with the Commission, within ten days of release, three copies of any material, including notices, circulars, bulletins, lists, or periodicals issued or generally made available to members of the exchange.

[41] Section 19(d) of the Act and Rule 19(d)–1 thereunder [17 CFR 240.19d–1 (1989)] require SROs to report to the Commission notice of final disciplinary actions, denials, bars, or limitations respecting membership, association, participation or access to services, and summary suspensions.

[42] 15 U.S.C. 78s(b)(2) (1982).

[43] 17 CFR 200.30–3(a)(12) (1989).

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34–28321; File No. SR–PHLX–90–19]

Self-Regulatory Organizations; Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Execution of Orders Transmitted to the Exchange by Means of the PACE System

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 23, 1990, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes the following amendments to Exchange rule 229's supplementary material.

Paragraph .05

Currently, only round-lot market orders up to 500 shares and partial round-lot orders ("PRL's") up to 599 shares are eligible for automated execution through the Philadelphia Stock Exchange Automated Communication and Execution ("PACE") system. The amended rule will allow a PHLX specialist to establish an eligible order size greater than 500 shares for PACE system automated execution.

Paragraph .06

Currently, this section provides for execution of market orders (round-lots, odd-lots and PRL's up to 1,099 shares) at the New York market opening price. The amended rule will provide for execution of market orders of a size greater than 1,099 shares and up to 5,000 shares at the New York market opening price if received at least three minutes prior to such opening.

Paragraph .07(a)

Currently, this section provides that market orders (round-lots of 500 shares and PRL's up to 599 shares) entered after the opening will be executed on the PACE quote. Since the PACE quote is composed of the best bid/ask quote among the American, Boston,

Cincinnati, Midwest, New York, Pacific or Philadelphia Stock Exchanges, or the Intermarket Trading System/Computer Assisted Execution System ("ITS/CAES") quote, as appropriate, the automated execution of a round-lot market order at the PACE quote may occur at a price outside the New York market high-low for the day up to the time the order is entered. Certain users of the system wish to avoid such an occurrence. In an effort to accommodate such users, they may opt for automated execution of all orders up to 599 shares at the PACE quote except for those which would be executed at a price outside the New York market high-low for the day up to the time the order is entered. The latter orders would be executed manually rather than in an automated fashion at a price at or within the New York market high-low.

Paragraph 7(b)

Currently, this section provides that market orders (round-lots of 600 to 1,000 shares and PRL's of 601 to 1,099 shares) entered after the opening, shall not be subject to the execution parameters set forth in Rule 229 and shall be executed in accordance with other applicable rules of the Exchange. The amended rule will extend such provisions to cover orders of a size greater than 1099 shares which the specialist agrees to accept.

Paragraph 10(a)

Currently, this section provides that round-lot limit orders up to 500 shares and the round lot portion of PRL limit orders up to 599 shares shall be executed based on an accumulation of volume (1,000 shares) at the limit order price on any Exchange eligible to compose the PACE quote. The amended rule provides for execution of such orders based on accumulation of volume (1,000 shares) at the limit order price on the New York market. In addition, because stocks selling below $1.00 have different trading characteristics, generally are traded in fractional increments of sixteenths, are not eligible for ITS, and usually have greater sizes for which bids and offers are available, limit orders in such stocks will not be executed under the same volume formula as other stocks and, instead, will be executed under the standards set forth in paragraph .10(b).

In its rule change SR–Phlx–89–44,[1] the Exchange noted that each stock has unique trading characteristics. Because of this, specialists established order size eligibility of either 2,500 shares or 5,000 shares on a stock by stock basis. The Exchange now proposes to modify its approach by having three tiers of order size eligibility, i.e., Tier I: 1 to 599 shares; Tier II: 600 to 3,099 shares; Tier III: 4,000 to 5,000 shares. Orders in each tier will be executed under the terms of the proposed rule. Except under unusual circumstances, the specialist must remain committed to his order size eligibility elections for at least six (6) months thereby providing stability and continuity to the list of issues in the program. Under exceptional or extraordinary circumstances, the Floor Procedure Committee may grant a specialist's withdrawal from the program.

Paragraph .17

Finally, Phlx proposes to add a new Paragraph .17 which states that "(o)rders received by 4 p.m. Eastern Time as determined electronically by the PACE system are eligible for execution. Orders received after such time will be rejected and returned to the order entry firm." The purpose of this provision is to clarify the treatment of orders which are entered by PACE users near the close.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

By providing a more balanced and competitive order delivery and execution process for participants in the PACE system, the resulting efficiency will translate into improved reporting and reduced burdens on processing mechanisms, such as the PACE system.

The proposed rule change will result in more efficient executions and reporting of transactions. Implementation of the changes will be consistent with section 11A(a)(1) of the Act which encourages the use of new data processing and communication techniques which create the opportunity for more efficient and effective market operations and assures economically efficient execution of securities transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition.

C. Self-Regulatory Organization's Statements on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the Federal Register or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–90–19 and should be submitted by November 7, 1990.

[1] *See* Securities Exchange Act Release No. 27233 (October 3, 1989), 54 FR 41233 (October 12, 1989) [Order approving revised PACE limit order execution criteria].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 5, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-24448 Filed 10-16-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17782; International Series Rel. No. 172; 812-7527]

The Emerging Germany Fund Inc.; Application

October 11, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: The Emerging Germany Fund Inc. (the "Fund").

RELEVANT 1940 ACT SECTIONS: Order requested under section 6(c) of the 1940 Act for exemption from the provisions of section 12(d)(3) of the 1940 Act and rule 12d3-1 thereunder.

SUMMARY OF APPLICATION: The Fund seeks an order under Section 6(c) of the 1940 Act exempting it and any other registered investment company for which Dresdner Bank AG or any of its subsidiaries or affiliates may serve as investment adviser or manager from the prohibitions of section 12(d)(3) of the 1940 Act to the extent necessary to allow them to acquire securities of foreign issuers engaged in securities-related activities in accordance with the conditions of proposed amendments to Rule 12d3-1 under the 1940 Act.

FILING DATES: The application was filed on June 1, 1990 and amended on July 25 and September 21, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving the Fund with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 13, 1990, and should be accompanied by proof of service on the Fund, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. The Fund, c/o ABD Securities Corporation, One Battery Park Plaza, New York, New York 10004, Attention: Martin J. Bentsen, Esq.

FOR FURTHER INFORMATION CONTACT: H.R. Hallock, Jr., Special Counsel, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 738-1400).

Applicant's Representations

1. The Fund is a non-diversified, closed-end management investment company registered under the 1940 Act. The Fund's investment objective is to obtain long-term capital appreciation by investing primarily in equity and equity-linked securities of medium and smaller-sized West German companies. The Fund will seek to achieve its objective primarily by investing in West German companies that are likely, in the opinion of the Fund's investment adviser, to benefit from political, legal and economic developments in East Germany and in other countries in Eastern Europe.

2. The Fund's investment adviser is Asset Management Advisors of Dresdner Bank-Gesellschaft fuer Vermoegens-anlageberatung mbH ("AMA"), a corporation organized under the laws of West Germany, and the Fund's manager and administrator is ABD Securities Corporation ("ABD Securities"), a corporation organized under the laws of the State of Delaware. Dresdner Bank AG ("Dresdner Bank"), a corporation organized under the laws of West Germany, owns 100% and 75% of the outstanding voting equity securities of AMA and ABD Securities, respectively.

3. The Fund wishes to diversify its portfolio further by being permitted to invest in securities of West German and other foreign issuers that, in their most recent fiscal years, derived more than 15% of their gross revenues from their activities as a broker, dealer, underwriter or investment adviser ("securities-related activities").

4. The Fund seeks an exemption from section 12(d)(3) of the 1940 Act and rule 12d3-1 thereunder to enable it to invest in securities of foreign securities companies to the extent allowed in the proposed amendments to rule 12d3-1 ("Proposed Amended rule 12d3-1"). *See* Investment Company Act Release No. 17099 (Aug. 3, 1989). Proposed Amended rule 12d3-1 would, among other things, facilitate the acquisition by the Fund of equity securities issued by foreign securities companies.

5. The Fund also seeks to have any order issued on the application apply to any other registered investment company (the "Prospective Funds") for which AMA, ABD Securities or Dresdner Bank or any of Dresdner Banks' other subsidiaries or affiliates may in the future serve as investment adviser or manager.

Applicant's Legal Analysis

1. Section 12(d)(3) of the 1940 Act generally prohibits an investment company from acquiring any security issued by any person who is a broker, dealer, underwriter or investment adviser. Rule 12d3-1 under the 1940 Act provides an exemption from section 12(d)(3) for investment companies acquiring securities of an issuer that derived more than 15% of its gross revenues in its most recent fiscal year from securities-related activities, provided the acquisitions satisfy certain conditions set forth in the rule.

2. Subparagraph (b)(4) of rule 12d3-1 provides that "any equity security of the issuer * * * (must be) a 'margin security' as defined in Regulation T promulgated by the Board of Governors of the Federal Reserve System." Although "margin securities" by definition historically have been securities that are principally traded in the United States, certain equity securities issued outside the United States can now qualify as margin securities under recent amendments to Regulation T. In particular, any foreign equity security meeting specified qualification requirements will be eligible for marginability, provided that it appears on the list of "foreign margin stocks" to be published quarterly by the Board of Governors. Until such lists are available, however, most securities issued outside the United States will not be "margin securities" for purposes of rule 12d3-1.

3. Proposed Amended rule 12d3-1 provides that the "margin security" requirement would be excused if the acquiring company purchases the equity securities of foreign securities companies that meet criteria comparable to those applicable to equity securities of United States securities-related businesses. The criteria, as set forth in the proposed amendments, "are based particularly on the policies that underlie the requirements for inclusion on the list of over-the-counter margin stocks." Investment Company Act Release No. 17099 (Aug. 3, 1989).

BEST COPY AVAILABLE

Applicant's Condition

The Fund agrees that the following condition may be imposed in any order of the SEC granting the requested exemptive relief:

The Fund and the Prospective Funds will comply with the provisions of the proposed amendments to rule 12b-1 [Investment Company Act Release No. 17099 (Aug. 3, 1990)], and as such amendments may be reproposed, adopted, or amended.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-24399 Filed 10-16-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17784; 812-7452]

Equitable Capital Partners II, L.P., et al.; Application

October 9, 1990.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Equitable Capital Partners II, L.P. (the "Enhanced Yield Fund"), Equitable Capital Partners (Retirement Fund) II, L.P. (the "Enhanced Yield Retirement Fund") (the "Partnerships"), and Equitable Capital Management Corporation ("Equitable Capital").

RELEVANT 1940 ACT SECTIONS: Order requested under section 6(c) granting an exemption from sections 2(a)(19) and 2(a)(9)(D).

SUMMARY OF APPLICATION: Applicants seek an order determining that (a) The Independent General Partners (as hereinafter defined) of each Partnership will not be "interested persons" of such Partnership or of Equitable Capital, which is the managing general partner of and investment adviser to each Partnership solely by virtue of being general partners of the Partnership and co-partners of Equitable Capital, (b) the Independent General Partners of a Partnership will not be "interested persons" of such Partnership solely by virtue of their service as independent general partners of the other Partnership or Equitable Capital Partners, L.P. and Equitable Capital Partners (Retirement Fund), L.P. (the "Equitable Capital Partners I Partnerships"), and (c) persons who become limited partners (the "Limited Partners") of a Partnership who own less than 5% of the Units (as hereinafter defined) in such Partnership will not be "Affiliated persons" of the Partnership or any of its Limited Partners solely by reason of their status as Limited Partners.

FILING DATES: The application was filed on October 2, 1989, and amendments thereto were filed on June 12, 1990 and October 5, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 5, 1990, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC. 450 5th Street, NW., Washington, DC 20549. Applicants, 1285 Avenue of the Americas, New York, New York 10019, Attention: James P. Pappas, Senior Vice President.

FOR FURTHER INFORMATION CONTACT: Robert B. Carroll, Staff Attorney, at (202) 272-3043, or Jeremy N. Rubenstein, Branch Chief, at (202) 272-3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 738-1400).

Applicants' Representations

1. Each Partnership is a newly-formed limited partnership organized under Delaware law that will operate as a business development company pursuant to section 54 of the 1940 Act. The Partnerships have filed a joint registration statement (File No. 33-32015) on Form N-2 under the Securities Act of 1933 (the "1933 Act") with respect to an offering of units of limited partnership interest in the Partnerships (collectively, for both Partnerships, the "Units").

2. The general partners of each Partnership will consist of the Independent General Partners (defined to be individuals who are natural persons and who are are not "interested persons" of such Partnership within the meaning of the 1940 Act) and Equitable Capital, as managing general partner (the "Managing General Partner"). The general partners, except the Managing General Partner, will be natural persons. Consistent with the requirements of section 56(a) of the 1940 Act, a majority of the general partners of a Partnership will be Independent General Partners. Each Partnership will be managed solely by the Independent General Partners thereof, except with regard to those specific activities of such Partnership for which Equitable Capital, in its capacity as the Managing General Partner or as the investment adviser of such Partnership, will be responsible. The Independent General Partners of a Partnership will provide overall guidance and supervision of Partnership operations and will assume the responsibilities and obligations imposed by the 1940 Act on directors and general partners who are not interested persons of a business development company.

3. The Managing General Partner will be responsible for purchasing investments for a Partnership which have been approved by the Independent General Partners, providing administrative services to the Partnership, and admitting additional or assignee Limited Partners to the Partnership. Equitable Capital will also act as the investment adviser to each Partnership pursuant to an investment advisory agreement between Equitable Capital and each Partnership. Under each advisory agreement, Equitable Capital will be responsible for the identification of all investments to be made by the respective Partnership and will perform other functions carried out by the investment adviser to a business development company. Equitable Capital, an indirect, wholly owned subsidiary of The Equitable Life Assurance Society of the United States is a registered investment adviser under the Investment Advisers Act of 1940 (the "Advisers Act").

4. Each partnership agreement will provide that (i) The Independent General Partners may be removed either for cause by the action of two-thirds of the remaining Independent General Partners or by a majority vote of the Limited Partners and (ii) the Managing General Partner of a Partnership may be removed either by a majority of the Independent General Partners of such Partnership or by a majority vote of its Limited Partners. Each partnership agreement will also provide that the Managing General Partner will not resign or withdraw unless a successor Managing General Partner has been appointed and consented to by the Limited Partners of such Partnership in compliance with such partnership

agreement and the provisions of sections 15(a), 15(c), and 15(f) of the 1940 Act.

5. The Limited Partners of a Partnership have no right to control such Partnership's business, but may exercise certain rights and powers of a Limited Partner under the partnership agreement, including voting rights and the giving of consents and approvals provided for in such partnership agreement. Limited Partners will be afforded all voting rights required by the 1940 Act. If a Limited Partner transfers his interest in the Partnership in a manner which is effective under the partnership agreement, the Managing General Partner will either promptly consent to take all necessary actions to insure that such purchaser, assignee, or transferee of record, as the case may be, shall become a substituted Limited Partner or, if such consent is withheld, the Managing General Partner shall be deemed to be a Limited Partner with respect to such interests and exercise the voting rights under the 1940 Act in accordance with the written instructions of the purchaser, assignee, or transferee of record, as the case may be. Each partnership agreement will obligate the general partners of such Partnership to take all such action which may be necessary or appropriate to protect the limited liability of the Limited Partners. As insurance policy to provide coverage to persons who become Limited Partners in the Partnership has not been obtained. The Independent General Partners of each Partnership will review periodically the question of the appropriateness of obtaining an errors and omissions insurance policy for the Partnership.

6. The Partnerships have been organized as limited partnerships because it is believed that the partnership form is a more appropriate investment vehicle for a closed-end entity of limited duration which will make a limited number of investments. Each Partnership will terminate upon the liquidation of their investments, but no later than December 31, 2000 (or ten years from the final closing of the sale of units of limited partnership interest in such Partnership, if later).

7. The Equitable Capital Partners I Partnerships and Equitable Capital have received an order substantially identical to the one requested hereby. *See* Investment Company Act Release No. 16444 (June 21, 1988). The Independent General Partners also serve as the independent general partners of the Equitable Capital I Partnerships.

Applicants' Legal Analysis

1. Applicants request that each Partnership and the Independent General Partners of each Partnership be exempted from the provisions of section 2(a)(19) of the 1940 Act to the extent that the Independent General Partners otherwise would be deemed to be "interested persons" of a Partnership or of Equitable Capital as the Managing General Partner and investment adviser of a Partnership solely because such Independent General Partners are general partners of a Partnership and co-partners of Equitable Capital. Each Partnership has been structured so that the Independent General Partners are the functional equivalent of the non-interested directors of an incorporated business development company. Section 2(a)(19) of the 1940 Act excludes from the definition of "interested persons" of an investment company those individuals who would be "interested persons" solely because they are directors of an investment company, but there is no equivalent exception for partners of an investment company.

2. The Independent General Partners of a Partnership may be deemed to be "interested persons" of such Partnership solely by virtue of their service as Independent General Partners of the other Partnership or the Equitable Capital Partners I Partnerships. Applicants believe that service by the same individuals as Independent General Partners of each Partnership and each Equitable Capital Partners I Partnership, a relationship similar to one in which an individual serves as a director of multiple investment companies in the same complex, will be beneficial to the Partnerships. Thus, applicants further request that the Independent General Partners of each Partnership be exempted from the provisions of section 2(a)(19) to the extent that they otherwise would be deemed to be "interested persons" of such Partnership solely by virtue of their service as Independent General Partners of the other Partnership or each Equitable Capital Partners I Partnership.

3. Applicants further request that any Limited Partner owning less than 5% of the Units of a Partnership not be deemed an "affiliated person" of the Partnership or any of its other partners under section 2(a)(3)(D) of the 1940 Act solely by reason of its status as a Limited Partner. Since such Limited Partners have no exclusion under the Act comparable to that provided under section 2(a)(3) to corporate shareholders with less than a 5% ownership interest, the requested relief will place investments in the Partnerships on a footing more equal with investments in business development companies organized as corporations.

Applicants' Conditions

As a condition to the requested relief, applicants will comply with the following conditions with respect to each of the Partnerships:

1. The general partners, except the Managing General Partner, will be natural persons. A majority of the general partners will not be interested persons of the Partnership.

2. The Independent General Partners will assume the responsibilities and obligations imposed by the 1940 Act and the regulations thereunder on directors or general partners of a business development company. The Independent General partners will assume the responsibilities and obligations imposed by the 1940 Act and the regulations thereunder on directors and general partners who are not interested persons of a business development company.

3. The partnership agreement will provide that the Managing General Partner will not resign or withdraw unless a successor Managing General Partner has been appointed in accordance with the partnership agreement and the provisions of sections 150(a), 15(c), and 15(f) of the 1940 Act.

4. The Limited Partners of the Partnership will be afforded all of the voting rights required by the 1940 Act. The Partnership will obtain an opinion of counsel that the voting rights provided to the Limited Partners do not subject the Limited Partners to liability as general partners under Delaware law. If a Limited Partner transfers his interest in the Partnership in a manner which is effective under the partnership agreement, the Managing General Partner will either promptly consent to take all necessary actions to insure that such purchaser, assignee, or transferee of record, as the case may be, shall become a substituted Limited Partner or, if such consent is withheld, the Managing General Partner shall be deemed to be a Limited Partner with respect to such interests and exercise the voting rights under the 1940 Act in accordance with the written instructions of the purchaser, assignee, or transferee of record, as the case may be.

5. The Partnership will obtain an opinion of counsel that the distributions and allocations provided for in the partnership agreement are permissible under section 205 of the Advisers Act and under section 15(a) of the 1940 Act. Except to the extent that the partnership agreement allocates income, gain, and loss *pro rata* to all partners in proportion to their capital contributions,

the Managing General Partner and all other investment advisers to the Partnership will not receive or be allocated any portion of capital gains or capital appreciation if, as a result, amounts distributable in respect to cumulative allocations, or payments, of capital gains or capital appreciation to such person would exceed twenty percent of cumulative realized capital gains, net of realized capital losses and unrealized capital depreciation.

6. The Partnership will obtain an opinion of counsel that the current structure of the Partnership will entitle it to be taxed as a partnership for federal income tax purposes.

7. If, under the Partnership Agreement, the Partnership is or becomes authorized to make in-kind distributions of portfolio securities to its Partners, no such in-kind distributions will be made until such time as the Partnership has obtained a no-action letter from the staff of the SEC, or alternatively, has obtained an order pursuant to section 206A of the Advisers Act permitting such distribution.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-24436 Filed 10-16-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17782; 812-7530]

Greater Washington Investors, Inc., et al.; Application

October 9, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("Act").

APPLICANTS: Greater Washington Investors, Inc. ("GWI"), Greater Washington Investments, Inc. ("Investments"), and The Venture Fund of Washington, L.P. ("Venture Fund").

RELEVANT ACT SECTIONS: Sections 17(d), 57(a)(4), and rule 17d-1.

SUMMARY OF APPLICATION: Applicants seek an order under section 17(d) and rule 17d-1 permitting GWI to engage in certain joint transactions with Venture Fund, an affiliated person of GWI, that would otherwise be prohibited by section 57(a)(4).

FILING DATE: The application was filed on June 5, 1990, and amended on September 12, 1990 and October 1, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 5, 1990, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549; Applicants, 5454 Wisconsin Ave., Chevy Chase, MD 20815.

FOR FURTHER INFORMATION CONTACT: Nicholas D. Thomas, Staff Attorney, at (202) 504-2283, or Jeremy N. Rubenstein, Branch Chief, at (202) 272-3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 738-1400).

Applicants' Representations

1. GWI was originally organized under the laws of the District of Columbia in 1959 as a small business investment company ("SBIC") licensed by the Small Business Administration ("SBA"). In 1987, GWI completed a reorganization which included re-incorporation in the State of Delaware by merging with a newly-created Delaware corporation and restructuring its activities by transferring to a newly-created wholly-owned subsidiary, Investments, its SBIC license and certain assets and liabilities. Investments is registered under the Act as a closed-end, management investment company. GWI has elected to be regulated as a business development company pursuant to section 54 of the Act.

2. GWI and Investments share an eleven-member board of directors, the majority of whom are not "interested persons" within the meaning of section 2(a)(19) of the Act.

3. GWI is a venture capital company that invests principally in companies that offer significant long-term growth prospects. GWI also participates in the financing of later-stage companies and leveraged buy-outs in a broad range of industry segments. Investments, in accordance with SBA regulations, is restricted to investing in qualified small business concerns. It is the policy of GWI to concentrate its investments in the equity securities of portfolio companies while Investments concentrates its investments in the debt securities of portfolio companies.

4. Venture Fund is a Delaware venture capital limited partnership organized in August 1989. The limited partners are 15 institutions and other accredited investors each of whom contributed at least $20,000 to the Fund's initial capital of $13 million. Venture Fund has not registered as an investment company in reliance on the exception contained in section 3(c)(1) of the Act. The general partner of Venture Fund is American Venture Partners, L.P. ("AVP"), a Virginia limited partnership. The managing general partners of AVP are Stephen W. Ritterbush and Richard P. Whitney. Mr. Ritterbush also is a limited partner of Venture Fund. The investment policy of Venture Fund is to invest principally in the equity securities of emerging technology companies in the Washington, DC area.

5. On January 2, 1990, Mr. Rittenbush and Mr. Whitney became President and Senior Vice President, respectively, of both GWI and Investments.

6. Applicants propose, subject to receipt of an order, to allow GWI and Venture Fund to co-invest in portfolio companies under terms designed to ensure that the investments are consistent with the protection of GWI's investors and the policies and purposes of the Act.

7. Because GWI and Venture Fund may be under common control, as "control" is defined in section 2(a)(9) of the Act, the two entities may be affiliated persons of one another, as "affiliated person" is defined in section 2(a)(3) of the Act. Therefore, GWI and Venture Fund may be prohibited, under section 57(a)(4) of the Act, from engaging in joint transactions unless they receive an order under section 17(d) and rule 17d-1 allowing such joint transactions.

Applicants' Legal Conclusions

1. Applicants assert that the terms of the proposed arrangement are not less advantageous to GWI than they are to Venture Fund. The co-investment program and the transactions contemplated therein are consistent with the provisions, policies and purposes of the Act since both GWI and Venture Fund would be offered the opportunity to participate in the transactions on an equal basis. For these reasons, applicants assert that the

co-investment program meets the standards for granting exemptive relief under sections 17(d) and 57(a)(4) of the Act and rule 17d–1 thereunder.

2. Applicants submit that allowing joint investments between GWI and Venture fund is justified on the basis of the protection incorporated in the conditions set forth below and the significant potential benefits to GWI. The conditions place substantive responsibilities on the non-interested directors of GWI and ensure that these directors are provided with all the information necessary to discharge their responsibilities. The conditions are designed to ensure that Venture Fund will not be favored in the apportioning of investment opportunities.

3. Applicants state that the co-investment program will increase favorable investment opportunities for GWI. Such tandem investing will make larger amounts of capital available for portfolio companies, thus permitting GWI to invest on more favorable terms and to exert a greater influence in the management and operations of these portfolio companies. Applicants submit that the proposed co-investment program will not subject GWI to overreaching by Venture Fund or any of its affiliates or otherwise disadvantage GWI.

Applicants' Conditions

Applicants have agreed that any relief will be subject to the following conditions:[1]

1. The non-interested directors of GWI will approve co-investment transactions in advance. The directors of GWI, including the non-interested directors, will be provided with periodic information, compiled by the officers of GWI (the "Managers"), listing all venture capital investments made by Venture Fund.

2. (a) Before a co-investment transaction will be effected, the Managers will make an initial determination on behalf of GWI regarding investment suitability. Following this determination, a written investment presentation respecting the proposed co-investment transaction will be made to the directors of GWI. The Managers will maintain at GWI's office a copy of the written records detailing the factors considered in any such preliminary determination.

(b) Information regarding the manager's preliminary determinations referred to in (a) will be reviewed by the board of directors of GWI, including the non-interested directors. Such board, including a majority of the non-interested directors, will make an independent decision as to whether, and how much, to participate in an investment based on what is appropriate under the circumstances. If a majority of the non-interested directors of GWI determines that the amount proposed to be invested by GWI is not sufficient to obtain an investment position that they consider appropriate under the circumstances, GWI will not participate in the joint investment. Similarly, GWI will not participate in a co-investment transaction if a majority of its non-interested directors determines that the amount proposed to be invested is an amount in excess of that which is determined to be appropriate under the circumstances (the non-interested directors of GWI may, however, make a determination that GWI take less than its full allocation, pursuant to condition 4 below). GWI will only make a joint investment with Venture Fund if a majority of its non-interested directors concludes, after consideration of all information deemed relevant, that the investment by Venture Fund would not disadvantage GWI in the making of such investment, in maintaining GWI's investment position, or in disposing of such investment, and that participation by GWI would not be on a basis different from or less advantageous than that of Venture Fund. The non-interested directors will maintain at GWI's office written records of the factors considered in any decision regarding the proposed investment.

(c) The non-interested directors of GWI will, for purposes of reviewing each such recommendation of the Managers, request such additional information from the Managers as the non-interested directors deem necessary to the exercise of their reasonable business judgment, and they will also employ such experts, including lawyers and accountants, as they deem appropriate to the reasonable exercise of this oversight function.

3. The directors of GWI, including a majority of the non-interested directors, will make their own decision and have the right to decide not to participate in a particular investment with Venture Fund. There will be no consideration paid to the Managers (or affiliated persons of such persons), directly or indirectly, including without limitation any type of brokerage commission, in connection with a co-investment transaction; with the exception of commitment and similar fees paid by portfolio companies to GWI and Venture Fund in proportion to their respective investment in such portfolio companies. However, the Managers will continue to receive amounts under their management fee and expense reimbursement arrangements with Venture Fund (as described in the application) or may participate indirectly in a co-investment transaction through their existing partnership interest in Venture Fund.

4. GWI and Venture Fund will be entitled to consider purchasing a portion of each co-investment transaction equal to the ratio of that entity's net assets to the total net assets of both entities. Either co-investor may determine not to take its full allocation, as long as, with respect to GWI, a majority of the non-interested directors determines that to do so would not be in the best interest of GWI. If either GWI or Venture Fund decides to participate in an investment opportunity offered pursuant to the co-investment program to a lesser extent than its full allocation, the other co-investor may increase its participation by any amount up to the amount declined by the other party. If GWI or Venture Fund declines to participate in an investment opportunity offered pursuant to the co-investment program, the other co-investing partner shall have the right to pursue such investment independently.

5. All co-investment transactions will consist of the same class of securities, including the same registration rights (if any) and other rights related thereto, purchased at the same unit consideration and on the same terms and conditions, and the approvals will be made in the same time period.

6. GWI and Venture Fund will participate in the disposition of securities held by them as co-investments on a proportionate basis and on the same terms and conditions (a "lock-step" disposition). If Venture Fund elects to dispose of a security purchased in a co-investment with GWI, notice of the proposed sale will be given to the non-interested directors of GWI at the earliest practical time. GWI and Venture Fund will participate in the disposition of such security on a lock-step basis, unless the non-interested directors of GWI determine that GWI should not participate in such sale or not participate on a lock-step basis. GWI may refuse to participate on a lock-step basis in the disposition of securities sold by venture Fund only when its non-interested directors find that the retention or sale, as the case may be, of the securities is fair to GWI and that GWI's participation or choice not to

[1] These conditions are meant to apply to GWI as a consolidated entity. Therefore, even though Investments is not specifically mentioned in the conditions, it is intended that Investments, as a wholly-owned subsidiary of GWI, will participate in the co-investment program.

participate in the sale is not the result of overreaching by Venture Fund or its affiliates. If the non-interested directors of GWI do not make such a finding, then GWI must participate in such sale on the basis of a lock-step disposition. If at any time the result of a proposed disposition of any portfolio security held by GWI would be to alter the proportionate holdings of each class of securities held by GWI and Venture Fund, then the non-interested directors of GWI must determine that such a result is fair to GWI and is not the result of overreaching by Venture Fund or its affiliates. The non-interested directors will record in the records of GWI the basis of their decision as to whther to paticipate in such sale.

7. If Venture Fund determines that it should make a follow-on investment (an additional investment in the same entity) in a particular portfolio company whose securities are held by GWI and Venture Fund or that it should exercise warrants or other rights to purchase securities of such an issuer, notice of such transaction will be provided to GWI, including its non-interested diretors, at the earliest practical time. The Managers will formulate a recommendation as to the proposed participation by GWI in a follow-on investment and provide the recommendation to the non-interested directors of GWI along with notice of the total amount of the follow-on investment. GWI's non-interested directors will make the determination with respect to follow-on investments. Follow-on investments will be made available to GWI and Venture Fund based on a ratio derived by comparing the total net assets of each with the total amount of the available follow-on investment. Follow-on investments will be subject to the same approval procedures as those required for initial investments. GWI will participate in such investment only if a majority of its non-interested directors determines that such action is in the best interest of GWI. The non-interested directors of GWI will record in GWI's records the Manager's recommendation and their decision as to whether to engage in a follow-on transaction with respect to that portfolio company, as well as the basis for such decision.

8. A decision by GWI (a) Not to participate in a co-investment transaction, (b) to take less or more than its full allocation, or (c) not to sell, exchange, or otherwise dispose of a co-investment in the same manner and at the same time as Venture Fund shall include a finding that such decision is fair and reasonable to GWI and not the result of overreaching of GWI or its stockholders by Venture Fund. The non-interested directors of GWI will be provided quarterly for review all information concerning co-investments made by GWI and Venture Fund, including co-investments in which one or both entities declined to participate, so they may determine whether all investments made during the preceding quarter, including those investments they declined, compiled with the conditions set forth above. In addition, at least annually, as well as during any quarter in which a co-investment was made, the non-interested directors will consider the continuing appropriateness of the standards established for investments by GWI. The non-interested directors will consider whether use of such standards continues to be in the best interest of GWI and its shareholders and does not involve overreaching of GWI or its shareholders on the part of any party concerned.

9. No non-interested director of GWI will have any relationship with Venture Fund or its affiliates except for their co-director relationship with the Managers of GWI.

10. Any exemptive relief granted by the SEC on this application will pertain only so long as Investments remains a wholly-owned subsidiary of GWI.

11. The non-interested directors of GWI will maintain the records required by section 57(f)(3) of the Act and will comply with the provisions of section 57(h) of such Act, and will otherwise maintain all records required by the Act. All records referred to or required under these conditions will be preserved permanently and available for inspection by the SEC.

12. No director of GWI nor any affiliate of any Manager of GWI other than Venture Fund (pursuant to any order issued in this application) will participate in a transaction with GWI unless a separate exemptive order with respect to such transaction has been obtained. For this purpose, the term "participate" shall not include either the Managers' existing partner interests in, or their normal management fee and expense reimbursement arrangements with, Venture Fund.

13. No co-investment transaction will be made pursuant to the requested order respecting portfolio companies in which Venture Fund or any affiliated person of any applicant has previously acquired an interest, provided that this prohibition shall not be applicable to any previous investment specifically permitted by an order of the SEC.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Security.

[FR Doc. 90-24440 Filed 10-16-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17765; 812-7382]

MarketMaster Trust, et al.; Application

October 9, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: MarketMaster Trust (the "Trust"), Sovran Bank, N.A. ("Sovran"), and TBC Funds Distributor, Inc. ("TBC").

RELEVANT 1940 ACT SECTIONS: Exemption requested under section 6(c) from sections 18(f), 18(g), and 18(i).

SUMMARY OF APPLICATION: Applicants seek an order to permit portfolios of the Trust to sell two classes of shares representing interests in the same portfolio, which classes would be identical except for the allocation of certain expenses attributable to a Shareholder Servicing Plan, voting rights, exchange privileges, and class designation. Future portfolios of the Trust would be entitled to rely on any relief granted on the application subject to the same representations and conditions as applicable to the existing portfolios.

FILING DATES: The application was filed on September 18, 1989, and amended on April 6, 1990, August 16, 1990, and September 28, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 2, 1990, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants: MarketMaster Trust,

Bellevue Park Corporate Center, 103 Bellevue Parkway, Wilmington, Delaware 19809; Sovran Bank, N.A., Sovran Center, 12th and Main Streets, Richmond, Virginia 23219; and TBC Funds Distributor, Inc., One Boston Place, Boston, Massachusetts 02108.

FOR FURTHER INFORMATION CONTACT: Barbara Chretien-Dar, Staff Attorney, at (202) 272–3022, or Stephanie M. Monaco, Branch Chief, at (202) 272–3030 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231–3282 (in Maryland (301) 738–1400).

Applicants' Representations

1. The Trust is a Massachusetts business trust registered under the 1940 Act as an open-end management investment company. The Trust offers shares representing interests in the following investment portfolios: Money Market Fund, Tax Exempt Fund, and Government Fund (hereinafter referred to as the "Money Market Funds"), and Value Fund, Managed Bond Fund, Virginia Municipal Bond Fund, and Maryland Municipal Bond Fund (hereinafter referred to as the "Non-Money Market Funds") (the Money Market Funds and the Non-Money Market Funds are collectively referred to as the "Funds"). Shares of the Funds are or will be sold by TBC, a registered broker/dealer. Sovran or a affiliate serves or will serve as the Funds' investment adviser. Provident Institutional Management Corporation ("PIMC") serves as the subadviser to the Tax Exempt Fund. The Boston Company Advisors, Inc. ("Boston Advisors") or Provident Financial Processing Corporation ("PFPC") serves or will serve as administrator for each Fund. Provident National Bank ("Provident") serves or will serve as each Fund's custodian.

2. The Trust proposes to offer two classes of shares in the indicated Funds. One class of shares ("Investor Shares") would be sold pursuant to a Shareholder Servicing Plan (the "Plan"), while the other class of shares would have no such plan ("Trust Shares").

3. Trust Shares are or will be sold primarily to Sovran and its affiliated and correspondent banks (the "Banks") acting on behalf of their respective customers at net asset value without the imposition of a sales load. Investor Shares are or will be sold to the public through financial institutions which may be banks, brokers, or dealers. Investor Shares in the Money Market Funds will be sold at their net asset value per share without the imposition of a sales load. Investor Shares in the Non-Money Market Funds are or will be sold at their net asset value plus a front-end sales load ranging from 0.5% to 4.5% of the offering price per share (depending on the size of the purchase).

4. As a result of increased competition for the assets of public investors, the Trust proposes to tailor certain shareholder services and related expenses to the investment needs of particular investors. In order to accomplish this, and to expand its marketing alternatives, the Trust intends to adopt the proposed Plan for its Investor Shares. The Plan would be adopted by the Trust pursuant to procedures under rule 12b–1, except that shareholders would not enjoy the voting rights specified in rule 12b–1. Upon implementation of the Plan, the dividends and distributions and net asset value per share of the Investor Shares would be calculated by the same method (with the necessary adjustments described below) and be determined at the same times as the dividends and distributions and net asset value per share of the respective Trust Shares of the same Fund. Unlike the Trust Shares, however, the Investor Shares would bear the expenses incurred under the Plan. Investor Shares and Trust Shares in each Fund also would have different exchange privileges: Investor Shares would be exchangeable only for Investor Shares in another Fund, while Trust Shares would have no exchange privileges.

5. Pursuant to the Plan, the Trust would enter into servicing agreements ("Servicing Agreements") with financial institutions ("Service Organizations") requiring them to provide administrative services to their customers who beneficially own Investor Shares. Administrative shareholder support services under the proposed Plan would not duplicate the services provided to the Funds by Sovran, PIMC, Boston Advisors, PFPC, TBC, and Provident (the "Service Contractors"). Services provided by the Service Contractors relate to the internal operations of the Funds, such as portfolio management, custody of assets, maintenance of books and records, or to the Funds' relationship with its holders of record, such as forwarding proxies and shareholder reports, processing purchase and redemption orders, and distribution of prospectuses. In contrast, the administrative shareholder support services to be provided by Service Organizations would constitute services to the beneficial owners of Investor Shares.

6. Under the Plan, a Fund would pay a Service Organization for its administrative services according to the Plan and the related Servicing Agreement ("Service Payments"). The Plan presently provides for Service Payments not exceeding .25% of the average daily net asset value of each Fund's Investor shares on an annualized basis.

7. Trust Shares will not be subject to any Plan and are purchased by the Banks in their capacity as fiduciaries for certain accounts, such as living trusts, irrevocable trusts, foundations, endowments, retirement plans, and agency or custodial accounts. The Bank, in turn, provide services for the beneficial owners of Trust Shares, such as determining the appropriateness of investments, working with attorneys or accountants under the terms of fiduciary relationship, providing tax information, preparing and sending account statements, responding to inquiries, forwarding shareholder communications, and establishing and maintaining account records. The Trust and its Service Contractors do not provide any service to holders of Trust Shares that they do not provide to holders of Investor Shares.

8. Since the Investor Shares of the Non-Money Market Funds would bear the Service Payments, the net income of and the dividends payable to the Investor Shares would be lower than the net income of and the dividends payable to the Trust Shares of the same Fund. Similarly, because of such Service Payments, to the extent that a Non-Money Market Fund had undistributed net income, the net asset value of its Investor Shares would be lower than the net asset value of its Trust Shares. Dividends paid to each class of shares of a Non-Money Market Fund would, however, be declared and paid (and the net asset value of each class would be determined) on the same days and at the same times, and, except as noted with respect to the expenses of Service Payments, would be determined in the same manner and paid in the same amounts.

9. With regard to the Money Market Funds, the net asset value of all outstanding shares representing interests in the same Money Market Fund would be computed on the same days and at the same times by adding the value of all portfolio securities and other assets belonging to such Money Market Fund, subtracting the liabilities charged to such Money Market Fund, and dividing the result by the number of

outstanding shares. Since it is expected both classes of shares of the Money Market Funds will be valued at $1.00 per share, the gross income would be allocated on a *pro rata* basis to each outstanding share in the Money Market Fund regardless of class, and all non-class expenses (such as advisory, administrative, custodial, and transfer agency fees) incurred by the Money Market Fund would be borne on a *pro rata* basis by such outstanding shares, except for the Service Payments that are borne solely by the Investor Shares. Therefore, the net income of (and dividends payable to) the Investor Shares would be somewhat different than the net income of (and dividends payable to) the Trust Shares in the same Money Market Fund. Dividends paid to each class of shares in a Money Market Fund would, however, be declared and paid on the same days and at the same times, and, except as noted with respect to the Service Payments, would be determined in the same manner and paid in the same amounts.

Applicants' Legal Analysis

10. The Trust requests an exemptive order pursuant to section 6(c) of the 1940 Act to the extent that the proposed implementation of the Plan with respect to the Investor Shares might be deemed: (1) To result in a "senior security" within the meaning of section 18(g) and to be prohibited by section 18(f)(1) of such Act; and (2) to violate the equal voting provisions of section 18(i) of the 1940 Act. The implementation of the Plan and differing transfer agency expenses may result in stock of a class having "priority over (another) class as to distribution of assets or payment of dividends" and having unequal voting rights because Investor Shares would bear the expense of Service Payments and would enjoy exclusive voting rights, if any, with respect to matters concerning the Plan as described herein. The Trust asserts that the proposed allocation of expenses and voting rights is equitable and would not discriminate against any group of shareholders. Investors purchasing Investor Shares would bear the costs associated with Plan services, but would enjoy exclusive shareholder voting rights with respect to matters affecting the Plan. Conversely, investors purchasing Trust Shares would not bear those expenses or exercise those voting rights. Moreover, all holders of Shares are expected to benefit from the proposed arrangement since certain of the Funds's fixed costs will be spread over a greater number of shareholders.

11. The Trust believes that by implementing the Plan with respect to the Investor Shares, the Funds may achieve added flexibility in meeting the service and investment needs of shareholders and future investors. If the Plan is implemented, the expense of Service Payments would be borne by those shareholders who benefit from such services and not by the holders of Trust Shares. This objective might be achieved by creating additional investment portfolios each of which would duplicate a Fund and be designed for customers of Service Organizations, but the Trust believes that this alternative would be inefficient and unnecessary because it would incur unnecessary accounting and bookkeeping costs and effective investment management of the additional portfolios would be impaired. The Trust submits that unless the additional portfolios grew at a sufficient rate and to a sufficient size, they could be faced with liquidity and diversification problems.

12. The Trust also asserts that the proposed arrangement would not involve borrowings and would not affect the Funds' existing assets or reserves. Nor would the proposed arrangement increase the speculative character of the shares in a Fund, since all shares would participate *pro rata* in the Fund's income and expenses, with the exception of the proposed Service Payments. Accordingly, the Trust submits that the requested exemption is appropriate in the public interest and consistent with the protection in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

Applicants' Conditions

The Applicants agree that any order granting the requested relief shall be subject to the following conditions:

1. Each Fund's Investor Shares and Trust Shares will represent interests in the same portfolio of investments of a Fund, and be identical in all respects, except as set forth below. The only differences between Investor Shares and Trust Shares of the same Fund will relate solely to: (a) Priorities with respect to the payment of dividends and distribution and such priorities will reflect only the impact of the Service Payments made under the Plan and Servicing Agreements, and any other incremental expenses subsequently identified that should be properly allocated to one class and which are approved by the Commission pursuant to an amended order, (b) differing net asset values between Investor Shares and Trust Shares of Non-Money Market Funds resulting from the allocation of Service Payments and of Fund non-class expenses and income in proportion to each class' net asset value, (c) voting rights on matters which pertain to the Plan and Servicing Agreements, (d) different exchange privileges of the Investor Shares and Trust Shares, and (e) designation of each class of Shares of a Fund.

2. The Trustees of the Trust, including a majority of the independent Trustees, will approve the different classes of shares (the "Multi-Class System"). The minutes of the meetings of the Trustees of the Trust regarding the deliberations of the Trustees with respect to the approvals necessary to implement the Multi-Class System will reflect in detail the reasons for the Trustees' determination that the proposed Multi-Class System is in the best interests of both the Funds and their shareholders and such minutes will be available for inspection by the SEC staff and will be preserved for a period of not less than six years, the first two years in an easily accessible place.

3. On an ongoing basis, the Trustees of the Trust, pursuant to their fiduciary responsibilities under the 1940 Act and otherwise, will monitor each Fund for the existence of any material conflicts between the interests of the two classes of shares. The Trustees, including a majority of the independent Trustees, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. The Funds' investment adviser and distributor will be responsible for reporting any potential or existing conflicts to the Trustees. If a conflict arises, the Funds' investment adviser and distributor at their own cost will remedy such conflict up to and including establishing a new registered management investment company.

4. The Plan will be adopted and operated in accordance with the procedures set forth in rule 12b-1(b) through (f) as if the expenditures made thereunder were subject to rule 12b-1, except that shareholders will not enjoy the voting rights specified in rule 12b-1. In evaluating the Plan, the Trustees will specifically consider whether (a) The Plan is in the best interest of the Investor Shares and their shareholders, (b) the services to be performed pursuant to the Plan are required for the operation of the Investor Shares, (c) the Service Organizations can provide service at least equal, in nature and quality, to those provided by others, including the Trust, providing similar services, and (d) the fees for such services are fair and reasonable in light of the usual and customary charges

made by other entities, especially non-affiliated entities, for services of the same nature and quality.

5. Each Servicing Agreement entered into pursuant to the Plan will contain a representation by the Service Organization that any compensation payable to the Service Organization in connection with the investment of its customers' assets in a Fund (a) Will be disclosed by it to its customers, (b) will be authorized by its customers, and (c) will not result in an excessive fee to the Service Organization.

6. Each Servicing Agreement entered into pursuant to the Plan will provide that, in the event an issue pertaining to the Plan is submitted for shareholder approval, each Service Organization will vote any shares held for its own account in the same proportion as the vote of those shares held for its customers' accounts.

7. The Trustees of the Trust will receive quarterly and annual statements concerning shareholder servicing expenditures complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the servicing of a particular class of shares will be used to justify any servicing fee charged to that class. Expenditures not related to the servicing of a particular class will not be presented to the Trustees to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent Trustees in the exercise of their fiduciary duties.

8. Dividends or other distributions paid by a Fund with respect to each class of its shares will be calculated in the same manner, at the same time, on the same day, and will be in proportion to each share class' respective net asset value, except that any Service Payments relating to a class of Investor Shares under the Plan and Servicing Agreements will be borne exclusively by such Investor Shares.

9. The methodology and procedures for calculating the net asset value and dividend/distributions of Investor Shares and Trust Shares in a Fund and the proper allocation of expenses between Investor Shares and Trust Shares in each Fund have been reviewed by an expert (the "Expert") who has rendered a report to the Applicants, which has been provided to the staff of the SEC, that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Trust that the calculations and allocations are being made properly. The reports of the Expert shall be filed as part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the 1940 Act. The work papers of the Expert with respect to such reports, following request by the Trust (which the Trust agrees to provide), will be available for inspection by the SEC staff upon the written request to the Trust for such work papers by a senior member of the Division of Investment Management, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director and any Regional Administrators or Associate and Assistant Administrators. The initial report of the Expert is a "Special Purpose" report on the "Design of a System" and the ongoing reports will be "Special Purpose" reports on the "Design of a System and Certain Compliance Tests" as defined and described in Statement of Auditing Standards No. 44 of the American Institute of Certified Public Accountants ("AICPA"), as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

10. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends/distributions of Investor Shares and Trust Shares of a Fund and the proper allocation of expenses between Investor Shares and Trust Shares of each Fund, and this representation has been concurred with by the Expert in the initial report referred to in condition 9 above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in condition 9 above. Applicants will take immediate corrective measures if this representation is not concurred in by the Expert or appropriate substitute Expert.

11. The prospectus of each Fund will contain a statement to the effect that a salesperson and any other person entitled to receive compensation for selling or servicing Fund shares may receive different compensation with respect to one particular class of shares over another in the Fund.

12. The Distributor will adopt compliance standards, substantially in the form of Exhibit E to the application, as to when each class of shares may appropriately be sold to particular investors. Applicants will require all persons selling shares of a Fund to agree to conform to such standards.

13. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the Trustees of the Trust with respect to the Plan and Servicing Agreements and the Multi-Class System will be set forth in guidelines which will be furnished to the Trustees.

14. Each Fund will disclose the respective expenses, performance data, distribution arrangements, services, fees, sales loads, and exchange privileges applicable to each class of shares in every prospectus, regardless of whether all classes of shares are offered through each prospectus. Each Fund will disclose the respective expenses and performance data applicable to all classes of shares in every shareholder report. To the extent any advertisement or sales literature describes the expenses or performance data applicable to any class of shares, it will also disclose the respective expenses and/or performance data applicable to all classes of shares. The information provided by Applicants for publication in any newspaper or similar listing of each Fund's net asset value and public offering price will present each class of shares separately.

15. The Applicants acknowledge that the grant of the exemptive order requested by the application will not imply SEC approval, authorization, or acquiescence in any particular level of payments that each Fund may make pursuant to its Plan in reliance on the exemptive order.

16. The Money Market Funds and any future portfolio of the Trust that allocates non-class expenses *pro rata* to each share regardless of class will have more than one class of shares outstanding only when and for so long as they declare dividends on a daily basis, accrue Service Payments daily, and have received undertakings from the Service Organizations that are entitled to receive Service Payments waiving such portion of any such payments to the extent necessary to assure that payments (if any) required to be accrued by Investor Shares on any day do not exceed the income to be accrued to such Investor Shares that day. In this manner, the net asset value per share for both Investor Shares and Trust Shares in the Money Market Funds and any such future portfolio will remain the same.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-24441 Filed 10-16-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 35-25163]

Public Utility Holding Company Filings

October 5, 1990.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by October 29, 1990 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/permitted to become effective.

Allegheny Generating Co. (70-7548)

Allegheny Generating Company ("AGC"), 320 Park Avenue, New York, New York 10022, a subsidiary of Allegheny Power System, a registered holding company has filed a post-effective amendment under sections 6(a) and 7 of the Act and rule 50(a)(5) thereunder.

By prior Commission order in this matter (HCAR No. 24769, December 5, 1988), AGC was authorized to issue and sell in one or more transactions, from time-to-time through December 31, 1990, an aggregate principal amount not exceeding $150 million of its medium-term notes ("Notes") with maturities from nine months to ten years. No Notes have been sold pursuant to the December 5, 1988 order, which expires on December 31, 1990. AGC requests that the authority previously granted by the Commission be extended to December 31, 1992.

Indiana Michigan Power Co. (70-7714)

Indiana Michigan Power Company ("I&M"), 1 Riverside Plaza, Columbus, Ohio 43215, an electric public-utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed a declaration under sections 6(a) and 7 of the Act and rule 50(a)(5) thereunder.

I&M proposes to issue and sell, from time-to-time through December 31, 1991, up to $80 million aggregated principal amount of unsecured promissory notes with a maturity not less than nine months nor more than fifteen years ("Notes") to one or more commercial banks or other financial institutional pursuant to a proposed term loan agreement ("Term Loan Agreement"). The Term Loan Agreement would provide that the Notes bear interest at either a fixed rate, floating rate or combination thereof. I&M proposes to issue and sell the Notes under an exception from the competitive bidding requirements of rule 50 under subsection (a)(5) thereunder.

Any proceeds realized from the sale of the Notes will be used by I&M to pay unsecured short-term indebtedness or for other corporate purposes.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-24436 Filed 10-16-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17783; 811-6180]

The Seagate Funds; Application

October 11, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: The Seagate Funds.

RELEVANT 1940 ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on July 20, 1990, and amended on September 21, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 5, 1990, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 1900 East Dublin-Granville Road, Columbus, Ohio 43229, Attn: Cynthia Lee Lindsey.

FOR FURTHER INFORMATION CONTACT: Brion R. Thompson, Special Counsel, at (202) 272-3567 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231-2382 (in Maryland (301) 738-1400).

Applicant's Representations

1. Applicant was organized as a Massachusetts business trust on May 15, 1987. Applicant registered under the 1940 Act and filed a Registration Statement on Form N-1A under the 1940 Act and the Securities Act of 1933 on May 21, 1987. The registration statement became effective with respect to the offering of an indefinite number of its shares on August 7, 1987.

2. On November 20, 1989, the board of Trustees of Applicant (including a majority of the Trustees who were not interested persons under section 2(a)(19)) approved and recommended to the shareholders of Applicant an Asset Purchase and Liquidation Agreement (the "Agreement") by and between Applicant and The Emblem Fund ("Emblem"), a registered open-end, diversified, management, investment company (File No. 811-4852). The Agreement, approved by the Trustee in accordance with the requirements of rule 17a-8 under the 1940 Act, provided for: (a) The transfer of the portfolio securities and other assets of Applicant's seven investment portfolios, subject to all liabilities, in kind to Emblem in exchange for shares of the corresponding Emblem portfolios having an aggregate net asset value equal to the

aggregate net asset value of the assets so transferred, and the distribution of such Emblem shares to applicant's shareholders in liquidation of Applicant so that each shareholder of Applicant's portfolios would receive shares of corresponding Emblem portfolios with an aggregate net asset value equal to the aggregate net asset value of such shareholder's shares of Applicant's portfolios, and (b) the termination of Applicant.

3. A combined Proxy Statement/Prospectus was mailed to Applicant's shareholders on or about April 3, 1990. On May 9, 1990, the required majority of Applicant's shareholders approved the Agreement and the transactions to be effected thereunder.

4. On May 18, 1990, pursuant to the Agreement, Applicant transferred all of the assets and liabilities of its respective investment portfolios, including all securities of each portfolio, to corresponding investment portfolios of Emblem in exchange for shares of those Emblem portfolios. Applicant thereafter liquidated its portfolio by distributing shares of Emblem's portfolios, such that shareholders of Applicant's portfolios received that number of shares of the corresponding Emblem portfolio with an aggregate net asset value equal to the aggregate net asset value of his or her shares of Applicant's portfolios.

5. As of the close of business on May 18, 1990, there were outstanding 136,627,301.69 shares of the Seagate Treasury Obligations Fund having an aggregate net asset value of $136,627,301.69 ($1.00 per share); 79,844,697.01 shares of the Seagate Prime Obligations Fund having an aggregate net asset value of $79,844,697.01 ($1.00 per share); 43,303,899.83 shares of the Seagate Tax-Exempt Fund having an aggregate net asset value of $43,303,899.83 ($1.00 per share); 1,267,754.556 shares of the Seagate Stock Fund having an aggregate net asset value of $14,591,854.97 ($11.51 per share); 3,197,101.471 shares of the Seagate Intermediate Government Obligations fund having an aggregate net asset value of $32,130,899.79 ($10.05 per share); 644,091.054 shares of the Seagate Tax-Free Bond Fund having an aggregate net asset value of $6,370,080.052 ($9.89 per share); and 1,030,662.469 shares of the Seagate International Growth and Income Fund having an aggregate net asset value of $10,533,370.64 ($10.22 per share).

6. Applicant's shareholders received an aggregate of 136,627,301.69 shares of the Emblem U.S. Government Portfolio having a net asset value on May 18, 1990 of $136,627,301.69 ($1.00 per share); 79,844,697.01 shares of the Emblem Prime Obligations Portfolios having a net asset value on May 18, 1990 of $79,844,697.01 ($1.00 per share); 43,303,899.83 shares of the Emblem Tax-Exempt Portfolio having a net asset value on May 18, 1990 of $43,303,899.83 ($1.00 per share); 1,379,192.341 shares of the Emblem Relative Value Equity Portfolio having a net asset value on May 18, 1990 of $14,591,854.97 ($10.58 per share); 3,231,099.98 shares of the Emblem Government Obligations Portfolio having a net asset value on May 18, 1990 of $32,130,899.79 ($10.00 per share); 637,006.052 shares of the Emblem Ohio Tax-Free Bond Portfolio having a net asset value on May 18, 1990 of $6,370,066.52 ($10.00 per share); and 1,053,337.064 shares of the Emblem International Growth and Income Portfolio having a net asset value on May 18, 1990 of $10,533,370.64 ($10.00 per share) in exchange for Applicant's assets. These shares of Emblem were thereafter distributed by Applicant to its shareholders in liquidation of Applicant.

7. The expenses incurred under the Agreement (including, without limitation, legal and accounting fees and expenses and the costs of preparing, printing and mailing proxy material to the shareholders of the Applicant) were borne by The Winsbury Company, which serves as the Manager, Administrator, and Distributor of Applicant, and the Society National Bank, which serves as the investment adviser to nine of the ten Emblem portfolios and sub-adviser to the tenth.

8. Applicant is not a party to any litigation or administrative proceedings; Applicant has no assets, debts or other liabilities.

9. Applicant has no shareholders, and is engaged only in those business activities necessary for the winding up of its affairs. On or before the effective date of the order requested, Applicant will be terminated pursuant to the provisions of its Declaration of Trust and Massachusetts law. Applicant represents that it will continue to file with the SEC all reports required by rules 30a–1 and 30b–2 under the 1940 Act until the order requested is granted.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-24400 Filed 10-16-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC–17782; 812–7452]

Transamerica Cash Reserve, Inc. and Transamerica Current Interest, Inc.

October 5, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("Act").

APPLICANT: Transamerica Current Interest, Inc. ("Current Interest"), on behalf of one of its portfolios known as Transamerica Premium Cash Account ("PCA"), and Transamerica Cash Reserve, Inc., a Maryland corporation ("TCR") (collectively, "Applicants").

RELEVANT 1940 ACT SECTIONS: Order requested pursuant to section 17(b) for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants seek an order permitting TCR to acquire substantially all of the assets and certain liabilities of PCA in exchange for shares of TCR.

FILING DATE: The application was filed on June 21, 1990 and amended on September 28, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 1, 1990, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SAC, 450 5th Street NW., Washington, DC 20549. Transamerica Cash Reserve, Inc., Box 2438, Los Angeles, California 90051. Transamerica Current Interest, Inc., 1099 Louisiana, Houston, Texas 77002.

FOR FURTHER INFORMATION CONTACT: Kimberly Warren, Esq., Staff Attorney, at (202) 272–3028, or Max Berueffy, Branch Chief, at (202) 272–3018 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier

at (800) 231-3282 (in Maryland (310) 738-1400).

Applicant's Representations

1. TCR and Current Interest are each registered under the Act as open-end, diversified, management investment companies. PCA is one of three diversified portfolios of Current Interest.

2. Subject to, and contingent upon, the affirmative vote of the holders of at least a majority of the outstanding shares of PCA, TCR proposes to acquire the assets of PCA in exchange for shares of TCR (the "Reorganization"). Pursuant to the terms of an agreement and plan of reorganization by and between TCR and Current Interest (the "Agreement"), TCR would acquire all of the assets and liabilities of PCA in exchange for shares of TCR having an aggregate net asset value equal to the aggregate value of the net assets of PCA being exchanged. PCA would then distribute the TCR shares to the PCA shareholders on a pro rata basis in liquidation of PCA. PCA will endeavor to discharge all of its known liabilities and obligations prior to the date of the proposed exchange (the "Exchange Date"). TCR will assume all liabilities of PCA reflected on an unaudited statement of assets and liabilities prepared in accordance with generally accepted accounting principles dated as of the close of business on the Exchange Date. TCR will not assume any other liabilities of PCA, whether absolute or contingent, known or unknown, accrued or unaccrued.

3. Under the Agreement, each Applicant will bear all of its own expenses of the proposed transaction, except to the extent that such expenses may be assumed by their respective investment advisers.

4. The consummation of the Reorganization is subject to certain conditions, including that Applicants shall have received all necessary consents, permits, and orders from federal, state and local regulatory authorities (including the SEC).

5. The prospectus/proxy statement to be sent to shareholders of PCA will include a description of the material aspects of the Reorganization, information about TCR, a comparison of Applicants and pertinent financial information regarding Applicants. The Agreement will be appended as an exhibit to the prospectus/proxy statement.

6. Transamerica Investment Services, Inc., a Delaware corporation ("TCR Adviser"), serves as the investment adviser to TCR. TCR Adviser is a wholly-owned subsidiary of Transamerica Corporation, a Delaware corporation ("Transamerica"). Transamerica Financial Resources, Inc., a Delaware corporation ("TCR Distributor"), serves as the distributor of shares of TCR. TCR Distributor is a wholly-owned subsidiary of Transamerica.

7. Transamerica Fund Management Company, a Delaware corporation ("PCA Adviser"), serves as the investment adviser to PCA. PCA Adviser is a wholly-owned subsidiary of Transamerica Criterion Group, Inc., a Delaware corporation ("Criterion Group"), which in turn is a wholly-owned subsidiary of Transamerica. Transamerica Fund Distributors, Inc., a Maryland corporation ("PCA Distributor"), serves as the distributor of shares of PCA. PCA Distributor is a wholly-owned subsidiary of PCA Adviser.

8. TCR may change its investment advisory arrangements upon consummation of the proposed Reorganization. The Board of Directors of TCR has approved agreements pursuant to which PCA Adviser would serve as the investment adviser of TCR and TCR Adviser would serve as the sub-investment adviser of TCR, subject in each case to the receipt of the necessary approval by TCR shareholders. TCR expects to seek and obtain these approvals prior to the Exchange Date.

Applicants' Legal Analysis

1. As of April 30, 1990, Transamerica, through companies controlled by it, owned approximately 68.9% of TCR's shares and approximately 2.5% of PCA's shares.

2. The exchange of PCA's assets for TCR shares in connection with the Reorganization could be deemed to be an affiliated transaction prohibited under section 17 of the Act absent a prior exemption from that section by the SEC. For example: (a) TCR and Current Interest may be deemed to be under the common control of Transamerica and, therefore, "affiliated persons" of one another; (b) TCR may be deemed to be an "affiliated person of an affiliated person" of PCA; or (c) TCR may be deemed to be an "affiliated person" of the principal underwriter of Current Interest to the extent that TCR and PCA Distributor are deemed to be under the common control of Transamerica. Similarly, Current Interest may be deemed to be an "affiliated person" of the principal underwriter of TCR to the extent that Current Interest and TCR Distributor are deemed to be under the common control of Transamerica.

3. Applicants believe that the proposed Reorganization meets the standards for an exemption from the provisions of section 17 of the Act. In support of this belief, they state that the terms of the Reorganization are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the Reorganization is consistent with the investment policies of each Applicant, as well as the general purposes and policies of the Act for the reasons stated below.

4. The directors of Current Interest and TCR, including the non-interested directors of each, have decided to adopt the Agreement and in the case of the Current Interest Board, recommend its approval by shareholders of PCA. In reaching this decision, the respective boards determined that the proposed transaction would be in the best interests of the shareholders of each of the Applicants and that the consummation of such transaction would not result in the dilution of the interests of any of the existing shareholders of either Applicant. Among the factors considered by the boards were: the compatibility of the Applicants' investment objectives; the advantages to Applicants of eliminating the competition and duplication of effort involved in offering shares of open-end investment companies having similar investment objectives; the comparative performance and expense ratios of Applicants; and, the costs and tax consequences of the proposed transaction. Since each Applicant has different non-interested directors, Applicants submit that the foregoing factors were fully considered from the perspective of each Applicant.

5. Shareholders of PCA will benefit from the flexibility and greater diversity of investments available from a portfolio of TCR's size. Shareholders of TCR should benefit from the proposed transaction through the increase in TCR's total net assets, as well as from the increase in the investment diversification of TCR that can be obtained therefrom. In addition, the Reorganization will not affect the rights of TCR shareholders.

6. While Applicants do not believe that the present transaction fits within the specific exemption provided by rule 17a-8, since they may be affiliated persons for reasons other than those set forth in the Rule, Applicants submit that the policy considerations which support exempting the type of transaction contemplated by rule 17a-8 from the provisions of section 17(a) on the grounds of general consistency with the policy of section 17(a) on the grounds of general consistency with the policy of the Act are equally applicable to the proposed transaction. Applicants

represent that the directors of each Applicant including the non-interested directors, have made the findings required by that Rule.

Conditions to the Requested Relief

If the requested order is granted, Applicants expressly consent to the following conditions:

1. The number of shares of TCR to be issued in exchange for PCA's assets will be determined on the basis of the aggregate value of the assets and liabilities of PCA to be transferred and the net asset value per share of TCR, both fixed as of the close of business on the New York Stock Exchange on the Exchange Date. The aggregate value of the assets and liabilities of PCA to be acquired by TCR and the net asset value of the TCR shares to be issued therefor will each be determined in accordance with the procedures set forth in TCR's then current prospectus and statement of additional information.

2. The Reorganization will conform to the requirements of rule 17a–8 under the Act, to the extent that: (a) The directors of TCR and Current Interest, including a majority of the directors who are not interested persons of TCR or Current Interest, shall have determined that participation in the Reorganization is in the best interest of TCR and PCA, after considering all relevant factors including, among other things, that the interests of the existing shareholders of TCR and PCA shall not be diluted as a result of effecting the Reorganization, and (b) such findings, and the bases upon which the findings were made, shall have been recorded fully in the minute books of TCR and Current Interest.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–24442 Filed 10–16–90; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made such a submission.

DATES: Comments should be submitted on or before November 16, 1990. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: William Cline, Small Business Administration, 1441 L Street, NW., room 200, Washington, DC 20416, Telephone: (202) 653–8538.

OMB Reviewer: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Title: Small Business Development Center Counseling Evaluation Form
Form No.: SBA Form 1419
Frequency: Annually
Description of Respondents: Recipients of SBDC Counseling Services
Annual Responses: 7,000
Annual Burden: 8,470

Title: Request for Counseling
Form No.: SBA Form 641
Frequency: On occasion
Description of Respondents: Recipients of SBA Score Counseling
Annual Responses: 450,000
Annual Burden: 54,000

Title: Counselor's Case Report
Form No.: SBA Form 641A
Frequency: On occasion
Description of Respondents: SBI and SCORE Counselors
Annual Responses: 450,000
Annual Burden: 90,000

William Cline,

Chief, Administrative Information Branch.

[FR Doc. 90–24355 Filed 10–16–90; 8:45 am]

BILLING CODE 8025–01–M

Region I Advisory Council Public Meeting

The U.S. Small Business Administration Region I Advisory Council, located in the geographical area of Boston, will hold a public meeting at 10 a.m. on Monday, November 15, 1990, at the U.S. Small Business Administration, 155 Federal Street, 9th Floor, Boston, Massachusetts, to discuss such matters as may be presented by members, staff of the Small Business Administration or others present.

For further information, write or call Raymond R. Arruda, Special Assistant to the Regional Administrator, U.S. Small Business Administration, 155 Federal Street, 9th Floor, Boston, Massachusetts 02110, telephone (617) 451–2030.

Dated: October 5, 1990.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 90–24356 Filed 10–16–90; 8:45 am]

BILLING CODE 8025–01–M

Region VI Advisory Council; Public Meeting

The U.S. Small Business Administration Region VI Advisory Council, located in the geographical area of Dallas, will hold a public meeting at 9 a.m. on Thursday, November 15, 1990, at the Dallas/Fort Worth International Trade Resource Center, World Trade Center, 2050 Stemmons Freeway, Suite 150, Dallas, Texas, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call James S. Reed, District Director, U.S. Small Business Administration, 1100 Commerce Street, room 3C36, Dallas, Texas 75242, phone (214) 767–0605.

Dated: October 5, 1990.

Jean M. Nowak,

Director, Office of Advisory Council.

[FR Doc. 90–24357 Filed 10–16–90; 8:45 am]

BILLING CODE 8025–01–M

Region VI Advisory Council; Public Meeting

The U.S. Small Business Administration Region VI Advisory Council, located in the geographical area of San Antonio, will hold a public meeting at 9 a.m. on Thursday, November 1, 1990, at the North Star Executive Center, 7400 Blanco Road, Suite 200, San Antonio, Texas, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Julio G. Perez, District Director, U.S. Small Business Administration, North Star Executive Center, 7400 Blanco Road, Suite 200, San Antonio, Texas 78216–4300 phone (512) 229–4501.

Dated: October 5, 1990.

Jean M. Nowak,

Director, Office of Advisory Council.

[FR Doc. 90–24358 Filed 10–16–90; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGDS 90-34]

Lower Mississippi River Waterway Safety Advisory Committee; VTS Subcommittee Meetings

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of three meetings of the VTS Subcommittee of the Lower Mississippi River Waterway Safety Advisory Committee. The meetings will be held on Thursday, November 8, 1990; Thursday, November 29, 1990; and Thursday December 13, 1990. The meetings will be held at the New Orleans-Baton Rouge Steamship Pilots Association office, 3200 River Road Suite 7, Jefferson, Louisiana. The meetings are scheduled to begin at 10:30 a.m. The agenda for the meetings consists of the following items:

1. Call to order.
2. Recommendations for a proposed New Orleans Vessel Traffic Service.
3. Adjournment.

The meetings are open to the public. Members of the public may present written or oral statements at the meetings.

Additional information may be obtained from Commander C.T. Bohner, USCG, Executive Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (oan), room 1209, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130-3396, telephone number (504) 589-3074.

Dated: October 10, 1990.

J.M. Loy,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 90-24427 Filed 10-16-90; 8:45 am]

BILLING CODE 4910-14-M

Maritime Administration

[Docket S-636]

American Maritime Transport, Inc.; Application for a Waiver of Section 804 of the Merchant Marine Act, 1936, as amended, to Permit the Acquisition of an Interest in or Charter of Foreign-Flag Vessels

By application of September 28, 1990, American Maritime Transport, Inc. (AMT) requests the waiver to permit acquisition of an interest in or chartering of nine foreign-flag crude product, combination or dry bulk vessels. AMT requests that the waiver extend through October 9, 1994, the termination date of its last Operating-Differential Subsidy Agreement (ODSA), Contract MA/MSB-166.

AMT believes that its request is consistent with previous grants of waivers of section 804 and thus states that it will provide every reasonable assurance that neither operating-differential subsidy monies received up to now nor those due during the remaining period of the ODSA contract will be used in any way that would violate the intent of the subsidy program.

AMT currently operates a fleet of three subsidized vessels: GOLDEN ENDEAVOR, ULTRAMAR, and ULTRASEA. These vessels range in DWT from 82,199-91,847 and were built in 1973-74. The vessels currently serve the worldwide liquid and dry bulk market.

In support of its instant application, AMT contends that its request for consideration is to enable AMT to explore new shipping opportunities that will promote growth and expansion. As it is unable to effectively compete in foreign trade with its present fleet, and the opportunities to secure construction/operational subsidies for future U.S.-flag vessels appears unlikely, AMT sees no alternative but to pursue modern, competitive tonnage in the foreign-flag market.

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm, or corporation having any interest in such application within the meaning of section 804 of the Act and desiring to submit comments concerning the application, must file written comments in triplicate with the Secretary, Maritime Administration, room 7300, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Comments must be received no later than 5 p.m. on October 31, 1990.

This notice is published as a matter of discretion and publication should in no way be considered a favorable or unfavorable decision on the application, as filed or as may be amended. The Maritime Administration will consider any comments submitted and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 [Operating-Differential Subsidies])

By Order of the Maritime Administrator.

Dated: October 12, 1990.

James E. Saari,

Secretary.

[FR Doc. 90-24452 Filed 10-16-90; 8:45 am]

BILLING CODE 4910-81-M

National Highway Traffic Safety Administration

Denial of Petition for a Defect Investigation

This notice sets forth the reasons for the denial of a petition submitted to NHTSA pursuant to section 124 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (Act), 15 U.S.C. 1381 *et seq.*

On June 25, 1990, the Institute for Injury Reduction, Public Citizen, and the Center for Auto Safety, petitioned NHTSA to undertake a defect investigation of Jeep CJ-5 and CJ-7 utility vehicles manufactured by American Motors Corporation (AMC), or to re-open prior NHTSA investigations. The petition requested NHTSA to investigate the alleged "undue, unnecessary, and defective propensity of the CJ vehicles to roll over," AMC's knowledge of an alleged "suspension system defect, i.e., a failure-prone shackle pin;" and the adequacy of the rollbar assembly on the vehicles.

NHTSA has decided to deny the petition. After an extensive injury—involving the expenditure of far more agency resources and effort than in most formal investigations—the agency has concluded that there is no reasonable possibility that further investigation would lead to a determination of the existence of a safety-related defect with respect to any of the allegations referred to in the petition and that it would be inappropriate to expend further agency resources on these allegations.

NHTSA's Office of Defects Investigation has prepared a full report that describes in detail the alleged defects, the agency's analysis of those allegations, and the basis for its decision to deny the petition. Interested persons may obtain copies of that report by contacting the Technical Reference Division, NAD-52, room 5108B, 400 7th Street SW., Washington, DC 20590, (202) 366-2768. A brief summary of that report is set forth in this notice.

Background Information

There were 609,356 CJ-5 and CJ-7 vehicles sold from 1973 through 1986 (281,253 1972 through 1983 CJ-5 vehicles and 328,103 1976 through 1986 CJ-7 vehicles). NHTSA estimates that approximately 420,000 CJs are still

registered for highway use. The CJ–7 is similar to the CJ–5, but it has a 10 inch longer wheelbase to accommodate an automatic transmission.

The agency considered the rollover propensity of the CJ–5 during 1980 and 1981 in response to two separate petitions for a defect investigation alleging an unreasonably high off-road (DP80–002) and on-road (DP81–018) rollover propensity in those vehicles. The petitions were denied because there was no evidence of a safety defect in the vehicles that would cause them to roll over.

Analysis of Rollover Propensity

NHTSA's National Center for Statistics and Analysis (NCSA) evaluated the rollover experience of the CJ vehicles relative to other light utility vehicles using data from four states (Maryland, Utah, New Mexico, and Michigan) that had the most accurate and usable data. NCSA used logistic regression, focussing primarily on a comparison of the ratio for each vehicle of single vehicle, first-event rollovers to all single vehicle accidents. (A "first-event rollover" is an incident in which the first harmful event was a rollover.) This analysis was selected because it normalizes the rollover involvement for the vehicles in terms of vehicle population and inherently minimizes driver influences. The data was adjusted to eliminate the effects of environmental and demographic factors, such as the location of the crash (rural vs. urban; straight road versus curved road) and driver characteristics, such as age and sex. While the CJs' rollover frequency is at the high end of the range, they do not stand out significantly when compared to many other similar vehicles.

The CJ fleet was divided into "early" (pre-1981) and "late" (1981 and later) fleets. This was done to reflect the fact that AMC made two changes in the early 1980s—making stabilizer bars standard equipment for all CJs and widening the track width of the CJ–7—that would be expected to reduce the likelihood of rollover. While the later model CJs had a somewhat lower likelihood of rollover than the earlier versions, the data demonstrates that neither group stood out from the other similar vehicles to an extent that would justify further investigation by the agency.

This conclusion is supported by a recent ODI survey of utility vehicles that revealed that CJs have been modified by their owners far more frequently than other light utility vehicles. Indeed, over 65% of CJ5s and over 50% of CJ7s have been modified significantly. In many cases, these modifications, such as larger tires and wheels and higher suspensions than those furnished by AMC, would increase the rollover propensity of the vehicle. Thus, even if the accident data had indicated that CJs were significantly more likely to experience a rollover than other utility vehicles, the fact that they have been modified far more than their peers would cast doubt as to whether that data indicated the existence of a safety-related defect that cold be attributed to the vehicle as it was manufactured by AMC.

Shackle Pins

Shackle pins connect one end of the vehicle's springs to the body. The petition alleges that the shackle pins used in early CJs, prior to a design change implemented by AMC in mid-1982, would break in a side impact, with a resultant rollover. In support of this allegation, the petition pointed to incidents where shackle pins broke on two assembly lines due to over-torquing and during side impact tests of pre-production model year 1982 CJ7s, which were equipped with new, longer axles.

NHTSA's review of all available information, including accident reports, testing, laboratory investigations, and design changes, does not indicate the existence of a safety-related defect. For example, NCSA analyzed the state accident data to see if CJs equipped with the original shackle pin have rolled over more frequently than other comparable vehicles after being struck in the side by another vehicle. Although there is much less relevant data available, the data indicates that there is no basis to believe that any shackle pins are breaking in use or that the vehicles equipped with the original shackle pins are more likely to roll over after being struck in the side than other, similar vehicles.

Rollbar

NHTSA has previously conducted an extensive investigation of the adequacy of the rollbar in 1973–1978 CJs. That investigation (EA78–072) was closed because the information and evidence available to the agency did not warrant a determination of a safety-related defect. Although the petitioners did not submit any additional information on this issue with their petition, we have reviewed updated information supplied by Chrysler Corporation in response to our current inquiry. This additional data does not suggest the existence of a defect, and there is still no basis for the agency to open a defect investigation regarding the CJ's rollbar.

Conclusion

The decision to deny the petition for a defect investigation should not be read as a determination by this agency that CJs are "safe" or that drivers of CJs need not be concerned about the possibility of rollover. All light utility vehicles are much more likely to roll over than passenger cars. For this reason, NHTSA requires manufacturers of these vehicles to permanently attach a conspicuous sticker to the vehicle to alert the driver that its handling and maneuvering characteristics require him or her to exercise special care to avoid a rollover or other loss of control. In addition, the data demonstrates that, within this class of vehicles, the CJ rollover propensity is higher than average, particulary when equipped with certain common modifications. These facts, however, while they are properly of concern to drivers and owners of CJs, could not in themselves support a determination by NHTSA of a safety-related defect under the Safety Act. Therefore, the agency has no basis on which to grant the petition for an additional investigation.

Authority: Sec. 124, Pub. L. 93–492; 88 Stat. 1470 (15 U.S.C. 1410a); delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: October 11, 1990.

Michael B. Brownlee,

Acting Associate Administrator for Enforcement.

[FR Doc. 90–24364 Filed 10–16–90; 8:45 am]

BILLING CODE 4910–59–M

Office of Hearings

[Docket No. 47030]

United States-United Kingdom Regional Airport Case; Erratum

The Notice of Revised Hearing Date issued on October 5, 1990 [1] states an incorrect time. The hearing will start on October 15, 1990 at 10 a.m. (local time) in room 5332, 400 7th Street, SW., Nassif Building, Department of Transportation, Washington, DC. On subsequent days there may be an earlier starting time.

If the state of budget negotiations allows an uninterrupted hearing, all of the proceedings will occur at the above address.

Burton S. Kolko,

Administrative Law Judge.

[FR Doc. 90–24366 Filed 10–16–90; 8:45 am]

BILLING CODE 4910–62–M

[1] Note: This document was published in the Federal Register issue of Friday, October 12, 1990 (55 FR 41653).

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Paul Strand" (see list [1]) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign lender. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art, Washington, DC, beginning on or about December 2, 1990, to on or about February 3, 1991; at the Art Institute of Chicago, Chicago, Illinois, beginning on or about May 26, 1991, to on or about July 21, 1991; the Saint Louis Art Museum, St. Louis, Missouri, beginning on or about August 11, 1991, to on or about October 6, 1991; the Museum of Fine Arts, Houston, Texas, beginning on or about November 10, 1991, to on or about January 12, 1992; the Whitney Museum of American Art, New York, N.Y., beginning on or about March 12, 1992, to on or about May 15, 1992; and the M. H. de Young Memorial Museum of the Fine Arts Museums of San Francisco, San Francisco, California, beginning on or about June 14, 1992, to on or about August 16, 1992, is in the national interest.

Public notice of this determination is ordered to be published in the Federal Register.

Dated: October 15, 1990.

Alberto J. Mora,

General Counsel.

[FR Doc. 90-24649 Filed 10-15-90; 4:22 pm]

BILLING CODE 8230-01-M

[1] A copy of this letter may be obtained by contacting Mr. R. Wallace Stuart of the Office of the General Counsel of USIA. The telephone number is 202/619-5078, and the address is room 700, U.S. Information Agency, 301 Fourth Street, SW., Washington, DC 20547.

Sunshine Act Meetings

Federal Register
Vol. 55, No. 201
Wednesday, October 17, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

October 10, 1990.

TIME AND DATE: 10:00 a.m., Thursday, October 18, 1990.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Closed [Pursuant to 5 U.S.C. § 552b(c)(10)].

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Secretary of Labor on behalf of Price and Vacha v. Jim Walter Resources*, Docket No. SE 87-128-D (Issues include consideration of Jim Walter Resources' Motion for Reconsideration.)

It was determined by a unanimous vote of Commissioners that this meeting be held in closed session.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5629, (202) 708-9300 for TDD Relay, 1-800-877-8339 for Toll Free.

Jean H. Ellen,
Agenda Clerk.
[FR Doc. 90-24552 Filed 10-15-90; 9:45 am]
BILLING CODE 6735-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 55 FR 41308, October 10, 1990.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11:00 a.m., Monday, October 15, 1990.

CHANGES IN THE MEETING: Addition of the following closed item(s) to the meeting:

Consideration of issues related to legislative matter. (This item was originally announced for a closed meeting on September 28, 1990.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: October 15, 1990.
Jennifer J. Johnson,
Associate Secretary of the Board.
[FR Doc. 90-24648 Filed 10-15-90; 3:47 pm]
BILLING CODE 6210-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m., Tuesday, October 23, 1990.

PLACE: Board Room, Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

STATUS: The first two items are open to the public. The last three items are closed under Exemption 10 of the Government in Sunshine Act.

MATTERS TO BE CONSIDERED:
1. Railroad Accident Report: Collision of Amtrak Passenger Train with Tractor Semitrailer, Stockton, California, December 19, 1989.
2. Recommendations to FAA and NASA: Incidents of NASA Airplanes Descending Through ATC-Assigned Altitudes and Conflicting with Other Aircraft.
3. Opinion and Order: Administrator v. Smith, Docket SE-8577; disposition of respondent's and Administrator's appeals.
4. Opinion and Order: Administrator v. Trockmorton, Docket SE-8605; disposition of appeals of Administrator and respondent.
5. Opinion and Order: Administrator v. Hrobak, Docket SE-8650; disposition of the Administrator's appeal.

News Media Contact: Mike Benson 382-6600.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382-6525.

Dated: October 12, 1990.
Bea Hardesty,
Federal Register Liaison Officer.
[FR Doc. 90-24553 Filed 10-15-90; 9:45 am]
BILLING CODE 7533-01-M

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Meeting Notice

TIME AND DATE: Subcommittee meetings 7:00 p.m., October 28, 1990 Full Board 8:00 a.m., October 29, 1990.

PLACE: Uniformed Services University of the Health Sciences, Room D3-001, 4301 Jones Bridge Road, Bethesda, Maryland 20814-4799.

STATUS: Open—under "Government in the Sunshine Act" (5 U.S.C. 552b(e)(3)).

MATTERS TO BE CONSIDERED:

7:00 p.m. Subcommittee Meetings—Reports on Planning & Oversight
8:00 a.m. Meeting—Board of Regents

(1) Approval of Minutes—September 24, 1990; (2) Faculty Matters; (3) Report—Admissions; (4) Report—Associate Dean for Operations; (5) Report—Dean, Military Medicine Education Institute; (6) Report—Oversight and Planning Committees; (7) Report—President, USUHS; (8) Comments—Members, Board of Regents; (9) Comments—Chairman, Board of Regents

New Business

CONTACT PERSON FOR MORE INFORMATION: Charles R. Mannix, Executive Secretary of the Board of Regents, 202/295-3028.

Dated: December 12, 1990.
L.M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.
[FR Doc. 90-24548 Filed 10-15-90; 9:26 am]
BILLING CODE 3810-01-M

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Meeting Notice

TIME AND DATE: Executive Committee of the Board of Regents, 8:00 a.m., Monday, October 15, 1990.

PLACE: Uniformed Services University of the Health Sciences, Room D3-001, 4301 Jones Bridge Road, Bethesda, Maryland 20814-4799.

STATUS: Open—under "Government in the Sunshine Act" (5 U.S.C. 552b(e)(3)).

MATTERS TO BE CONSIDERED:

8:00 a.m. Meeting—Executive Committee—Board of Regents

(1) Faculty Matters; (2) Review of University Reorganization Plan; (3) Review of Action Necessary in Event of Financial Exigency; (4) Comments—Chairman, Board of Regents; (5) Comments—Members, Board of Regents.

New Business

CONTACT PERSON FOR MORE INFORMATION: Charles R. Mannix, Executive Secretary of the Board of Regents, 202/295-3028.

Dated: October 12, 1990.
L.M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.
[FR Doc. 90-24549 Filed 10-15-90; 9:45 am]
BILLING CODE 3810-01-M

Corrections

Federal Register
Vol. 55, No. 201
Wednesday, October 17, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Groundfish and Crab Fisheries of the Bering Sea and Aleutian Islands Area, Groundfish Fisheries of the Gulf of Alaska, and Pacific Halibut Fisheries Off the State of Alaska

Correction

In the correction to notice document 90-19984 appearing on page 38004 in the issue of Friday, September 14, 1990, make the following correction:

In the second column, in the fourteenth line, the page number "34725", should read "34726".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EC90-18-000, et al.]

Union Electric Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Correction

In notice document 90-21966 beginning on page 38380 in the issue of Tuesday, September 18, 1990, make the following correction:

In the third column, under "4. Wisconsin Power and Light Co." the docket line should read "[Docket No. ER 90-573-000]".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. TQ91-1-63-000 and TM91-1-63-001]

Carnegie Natural Gas Co.; Proposed Changes in FERC Gas Tariff

Correction

In notice document 90-23691 beginning on page 41129 in the issue of Tuesday, October 9, 1990, the docket line was omitted and should read as set forth above.

BILLING CODE 1505-01-D

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Regulation Z; Docket No. R-0687]

Truth in Lending; Home Equity Disclosure and Substantive Rule

Correction

In rule document 90-21974 beginning on page 38310 in the issue of Tuesday, September 18, 1990, make the following corrections:

§ 226.5b [Corrected]

1. On page 38312, in the second column, under § 226.5b(f)(3)(i), in the second line "extension" should read "extensions".

§ 226.9 [Corrected]

2. On the same page, in the same column, under § 226.9(c)(3), in the fourth line from the bottom of the page, "actions" should read "action".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Reg. No. 16]

RIN 0960-AB40

Supplemental Security Income for the Aged, Blind, and Disabled; Payment of Benefits, Overpayments and Underpayments—Overpayment Defined

Correction

In rule document 90-19411 beginning on page 33667 in the issue of Friday, August 17, 1990 make the following corrections:

1. On page 33667, in the second column, in the second full paragraph, in line 14 "Countable" should read "countable" (lowercase), and in the third from last line of that same paragraph, "willful" was misspelled.

§ 416.570 [Corrected]

2. On page 33669, in the first column, under § 416.570, in the fifth line from the bottom of the page, and in the second column, in the third line from top of the page, "XIX" should read "XVIII".

BILLING CODE 1505-01-D

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Under Secretary

[Docket No. D-90-836; FR-2837]

Redelegation of Authority to Chief Financial Officer Regarding Audit Management Functions

Correction

In notice document 90-21837 beginning on page 38163, in the issue of Monday, September 17, 1990, make the following correction:

On page 38164, in the first column, in the fifth paragraph, in the first and second lines "expected" should read "excepted".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-CE-30-AD; Amdt. 39-6741]

Airworthiness Directives; Christen Industries, Inc., Model A-1 (Husky) Airplanes

Correction

In rule document 90-21641 beginning on page 38049, in the issue of Monday, September, 17, 1990, make the following correction:

On page 38049, in the second column, the docket line, should read as set forth above.

BILLING CODE 1505-01-D

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federal register

Wednesday
October 17, 1990

Part II

Department of Education

34 CFR Part 770

Library Services and Construction Act State-Administered Program; Notice of Proposed Rulemaking

BEST COPY AVAILABLE

DEPARTMENT OF EDUCATION

34 CFR Part 770

RIN 1850-AA30

Library Services and Construction Act State-Administered Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend regulations governing the Library Services and Construction Act State-Administered Program. These proposed regulations would implement the Library Services and Construction Act (LSCA) Amendments of 1990 (Pub. L. 101-254).

DATES: Comments must be received on or before December 3, 1990.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Mr. Robert Klassen, Director, Public Library Support Staff, U.S. Department of Education, 400 Maryland Avenue SW., (Capitol Building, room 402L), Washington, DC 20202-5571.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Robert Klassen, Telephone: (202) 357-6303.

SUPPLEMENTARY INFORMATION: The LSCA Amendments of 1990 (Pub. L. 101-254), enacted on March 15, 1990, authorizes Federal assistance through fiscal year 1994 for titles I through III of the Act, and makes other changes.

1990 Amendments to the Statute

(1) Title I (Library Services) is amended by expanding specific purposes to include intergenerational programs that match older adult volunteers with school children after school to help them improve their reading skills, mobile library programs for child-care centers, library literacy center coordinated by the State library agency, and materials and programs aimed at preventing and eliminating drug abuse. Other amendments allow the State to make subgrants to library systems or networks that include libraries other than public libraries, and assist libraries in making effective use of technology to improve services. Ratable reductions of grants to major urban resource libraries, to the extent that Federal allocations to the State are reduced, or the 1990 Census shows the population of the city has decreased, are allowed, along with ratable reductions of maintenance-of-effort for institutional library services and library services to the physically handicapped to the extent that the populations served have declined.

(2) Title II (Public Library Construction) amendments allow libraries to acquire substantial technological equipment, whether or not it is part of the construction of a library facility. They also add a requirement that grantees follow policies and procedures in the construction of public libraries that will promote the preservation of resources to be used in the facilities.

(3) Title III (Interlibrary Cooperation and Resource Sharing) amendments allow for the development of the technological capacity of libraries for interlibrary cooperation and resource sharing and provide that public and school libraries that cooperate to make school library resources available to the public when school is not in session may be reimbursed for those expenses. A new section 305 authorizes the use of title III funds for preservation programs which are to be based on a statewide preservation cooperation plan that identifies preservation objectives and specifies methods by which the State library agency will work with libraries and other organizations concerned with preservation to develop plans, training, and service programs to ensure that endangered resources are preserved systematically.

Major Changes to the Regulations

The following proposed regulatory amendments reflect changes in the authorizing statute. As a result of these changes, various sections or paragraphs have been renumbered. Some of the revisions are minor; others are more significant. Among the provisions in the regulations implementing changes in the authorizing statute are the following:

- The definition for handicapped would be deleted because the Act now contains a definition for "handicapped individuals."
- The regulations would specify many new activities for which the Secretary may provide assistance under the Act, including the following:
  - —Intergenerational projects using adult volunteers to help latchkey children develop reading skills;
  - —Library services to child-care centers;
  - —Model library literacy centers to reduce the number of illiterate individuals and enhance their employment opportunities;
  - —Materials and projects aimed at preventing and eliminating drug abuse; and
  - —Making effective use of technology.
- The regulations would describe new preservation projects that the Secretary may fund under title III, and would permit a State to include in its long-range program a Statewide preservation cooperation plan.
- The regulations would permit Title I grantees to make subgrants to library systems or networks that include libraries other than public libraries.
- The regulations would permit use of Title II grant funds for remodeling to ensure safe working environments.
- The regulations would also require an assurance that libraries receiving any funds under the Act will not discriminate in providing space for public meetings.
- The regulations would permit ratable reductions in expenditures for State institutional library services and library services for the physically handicapped, and in maintenance of support for major urban resource libraries in certain circumstances.
- The regulations would modify the maintenance-of-effort requirements under title I of the Act. In essence, these changes would add specificity by identifying two discrete categories of expenditure requirements: State aid to public libraries and library systems and State funds expended for statewide development of public library services.

In addition, the regulations provide criteria for waiver of the maintenance-of-effort requirements in the preceding paragraph.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. Under this State-Administered program, grants for public library services, for public library construction and technology enhancement, and for interlibrary cooperation and resource sharing are available only to States and State library administrative agencies. States and State agencies are not considered to be small entities under the Regulatory Flexibility Act. To the extent that these regulations have an impact on small entities, they implement statutory requirements. The regulations concerning this program do not impose any non-statutory requirements that will

have a significant economic impact on the small entities affected.

Paperwork Reduction Act of 1980

Sections 770.20, 770.21, 770.22, 770.23 and 770.24 contain information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these sections to the Office of Management and Budget (OMB) for its review. (44 U.S.C. 3504(h))

States are eligible to apply for grants under these regulations. The Department needs and uses the information to make grants. Annual public reporting burden for this collection of information is estimated to average 31 hours per response for 54 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, room 3002, New Executive Office Building, Washington, DC 20503; Attention: Daniel J. Chenok.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and to the regulations in 34 CFR part 79. The objective of this Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program. (Please note that Federally recognized Indian tribal governments are not subject to Executive Order 12372.)

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

The Secretary particularly requests comments on § 770.41(b) to determine if the guidance provided is sufficiently clear concerning events leading to and resulting from a waiver of the maintenance-of-effort, §§ 770.41(b)(2) and 770.42(b) on criteria for waiver of maintenance-of-effort requirements, and how the Secretary determines that the population of the institutionalized and physically handicapped has declined, respectively.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in room 402L, Capital Building, 555 New Jersey Avenue NW., Washington, DC., Monday through Friday of each week except Federal holidays, between the hours of 8:30 a.m. and 4 p.m.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 770

Aging—libraries, Child-care centers, Construction—libraries, Correctional institutions—libraries, Drug abuse, Education, Education of disadvantaged, Grant programs—education, Handicapped, Libraries, Limited English-speaking proficiency, Literacy, Mental health programs—libraries, Network(s), Penal institutions—libraries, Preservation, Prisons—libraries, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Numbers: 84.034 Library Services; 84.154 Public Library Construction; 84.035 Interlibrary Cooperation and Resource Sharing)

Dated: October 11, 1990.

Lauro F. Cavazos,

Secretary of Education.

The Secretary proposes to amend title 34 of the Code of Federal Regulations by revising part 770 to read as follow:

PART 770—THE LIBRARY SERVICES AND CONSTRUCTION ACT STATE-ADMINISTERED PROGRAM

Subpart A—General

Sec.

770.1 The Library Services and Construction Act State-Administered Program.
770.2 Who is eligible to apply for a grant under the State-Administered Program?
770.3 What regulations apply to the State-Administered Program?
770.4 What definitions apply to the State-Administered Program?

Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

770.10 What types of projects may be funded under Public Library Services grants?
770.11 What types of projects may be funded under Public Library Construction and Technology Enhancement grants?
770.12 What types of projects may be funded under Interlibrary Cooperation and Resource Sharing grants?

Subpart C—How Does a State Apply for a Grant?

770.20 What must a State do to receive a grant under the State-Administered Program?
770.21 What must a State plan include?
770.22 What must a State include in a basic State plan?
770.23 What must a State include in a long-range program?
770.24 What must a State include in an annual program?

Subpart D—[Reserved]

Subpart E—What Conditions Must Be Met by a State and Its Subgrantees?

770.40 What matching requirements apply to a Public Library Services grant?
770.41 What are the basic maintenance-of-effort requirements for a Public Library Services grant?
770.42 What other maintenance-of-effort requirements apply to a Public Library Services grant?
770.43 What maintenance of Federal support is required for major urban resource libraries?
770.44 What are a State's financial obligations under a Public Library Construction and Technology Enhancement grant?
770.45 What other financial obligations does a recipient have under a Public Library Construction and Technology Enhancement grant?
770.46 What administrative costs are allowable under the State-Administered Program?

Subpart F—What Are the Administrative Responsibilities of a State and Its Subgrantees?

770.50 Under what circumstances must a State provide an applicant with an opportunity for a hearing?

Authority: 20 U.S.C. 351 *et seq.*, unless otherwise noted.

Subpart A—General

§ 770.1 The Library Services and Construction Act State-Administered Program.

Under the Library Services and Construction Act State-Administered Program—referred to in this part as the State-Administered Program—the Secretary provides Federal funds to assist States to—

(a) Extend and improve public library services;

(b) Construct, renovate and enhance the technology of public libraries; and

(c) Develop and strengthen interlibrary cooperation, resource sharing, and the preservation of library resources.

(Authority: 20 U.S.C. 351, 355, 355b, 355f)

§ 770.2 Who is eligible to apply for a grant under the State-Administered Program?

Under the State-Administered Program the following parties are eligible to apply:

(a) States are eligible to apply to the Secretary for—

(1) Public Library services grants under title I of the Act;

(2) Public Library Construction and Technology Enhancement grants under title II of the Act; and

(3) Interlibrary Cooperation and Resource Sharing grants under title III of the Act.

(b)(1) Public libraries are eligible to apply to their respective States for subgrants under each type of grant specified in paragraph (a) of this section.

(2) Library systems or networks that include libraries other than public libraries are eligible to apply for a subgrant under title I of the Act if the purpose of the subgrant is to improve services for public library patrons.

(3) In the case of Interlibrary Cooperation and Resource Sharing grants, a State may also permit other types of libraries to apply for subgrants.

(Authority: 20 U.S.C. 351d, 352, 355a, 355e)

§ 770.3 What regulations apply to the State-Administered Program?

The following regulations apply to the State-Administered Program:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals and Nonprofit Organization), part 76 (State-Administered Programs), part 77 (Definitions that Apply to Department Regulations), part 79 (Intergovernmental Review of Department of Education Programs and Activities), part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments), part 81 (General Education Provisions Act—Enforcement), part 82 (New Restrictions on Lobbying), part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants), and part 86 Drug-Free Schools and Campuses.

(b) The regulations in this part 770.

(Authority: 20 U.S.C. 351 *et seq.*)

§ 770.4 What definitions apply to the State-Administered Program?

(a) *Definitions in the Act.* The following terms used in this part are defined in section 3 of the Act:

Adult with limited literacy skills
Annual program
Basic State plan
Construction
Educationally disadvantaged adult
Handicapped individual
Hawaiian native
Indian tribe
Library service
Library services for the physically handicapped
Long-range program
Major urban resource library
Network
Public library
Public Library Services
State Advisory Council on Libraries
State institutional library services
State library administrative agency
Technology enhancement

(b) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Acquisition
Applicant
Application
Department
EDGAR
Facilities
Fiscal year
Grant
Grantee
Nonprofit
Private
Project
Public
Secretary
State
Subgrant
Subgrantee

(c) *Other definitions that apply to this part.* The following definitions apply to this part:

Act means the Library Services and Construction Act, as amended.

Community information referral center means a center that provides information and makes referrals to link people in need of services to appropriate resources.

Disadvantaged means persons whose socio-economic or educational deprivation or whose cultural isolation from the general community may preclude them from benefiting from public library services to the same extent as the general community benefits from these services.

Illiteracy means the inability of an individual to read, write, or comprehend or to perform basic arithmetical computations.

Interlibrary cooperation means the systematic and effective coordination of the resources of school, public, academic, and special libraries and information centers.

Interlibrary Cooperation and Resource Sharing grants means Federal financial assistance provided by the Secretary under title III of the Act.

Library materials means books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microforms, pictorial works, graphic works, musical scores, maps, charts, globes, sound recordings, slides, films, filmstrips processed video and magnetic tapes, computer software, and materials designed specifically for the handicapped.

Limited English-speaking proficiency, when used with reference to individuals, means individuals who—

(1)(i) Were not born in the United States or whose native tongue is a language other than English;

(ii) Come from environments where a language other than English is dominant; or

(iii) Are American Indian and Alaskan Natives and who come from environments where a language other than English has had a significant impact on their level of English language proficiency; and

(2) Because of one of the reasons listed in paragraph (1) of this definition, have sufficient difficulty speaking, reading, writing, or understanding the English language to be denied the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in society.

Literacy means the ability of an individual to read, write, and comprehend and to perform basic arithmetic computations.

Literacy program means a project or activity designed to help individuals improve their ability to read, write, or comprehend or to perform basic arithmetical computations.

Public Library Construction and Technology Enhancement grants means Federal financial assistance provided by the Secretary under title II of the Act.

Public Library Services grants means Federal financial assistance provided by the Secretary under title I of the Act.

(Authority: 20 U.S.C. 351 *et seq.*)

Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

§ 770.10 What types of projects may be funded under Public Library Services grants?

(a) The Secretary awards Public Library Services grants to assist projects

designed to plan for, establish, extend, or improve public library services.

(b) The types of projects referred to in paragraph (a) of this section may include, but are not restricted to, the following:

(1) Extending public library services to areas and populations that lack these services.

(2) Improving public library services to ensure that these services are adequate to meet the needs of specific areas and populations.

(3)(i) Making public library services accessible to individuals who, because of a disadvantage, are unable to benefit from public library services regularly made available to the general public.

(ii) These disadvantages include, but are not restricted to, distance, residence, handicap, age, literacy level, and limited English-speaking proficiency.

(4) Establishing, expanding, and operating programs to improve State and local public library services for—

(i) The elderly;

(ii) The institutionalized;

(iii) The physically handicapped; and

(iv) The disadvantaged in urban and rural areas.

(5) Adapting public library services to meet particular needs of individuals.

(6) Assisting libraries to serve as community information referral centers.

(7) Assisting libraries in providing literacy programs for adults and school dropouts.

(8) Establishing and supporting model library literacy centers, coordinated by the State library administrative agency with other interested State agencies and nonprofit organizations to reduce the number of functionally illiterate individuals and to help them reach full employment.

(9) Assisting libraries in developing intergenerational library programs that will match older adult volunteers with libraries interested in developing after school literacy and reading skills programs for unsupervised children during afterschool hours.

(10) Assisting libraries in providing mobile library services and programs to licensed or certified child-care providers or child-care centers.

(11) Assisting libraries in providing and displaying educational materials, and conducting community programs aimed at preventing and eliminating drug abuse, in cooperation with local education agencies, or other agencies or organizations.

(12) Strengthening the capacity of the State library to meet the needs of the people of the State with regard to library services, facilities, and resources.

(13) Supporting and expanding the services of major urban resource libraries that meet the demands of individual users and other libraries.

(14) Assisting public libraries in making effective use of technology to improve library and information services.

(15) Strengthening metropolitan libraries that serve as national or regional resource centers.

(Authority: 20 U.S.C. 351(a), 351a, 352, 353)

§ 770.11 What types of projects may be funded under Public Library Construction and Technology Enhancement grants?

The Secretary awards Public Library Construction and Technology Enhancement grants to assist projects designed to carry out construction, remodeling and technology enhancement including the following:

(a) Construction of new buildings.

(b) Acquisition, expansion, remodeling, and alteration of existing buildings.

(c) Purchase, lease, and installation of equipment for any building referred to in paragraphs (a) and (b) of this section. As used in this paragraph "equipment" includes the following:

(1) Machinery.

(2) Utilities.

(3) Built-in equipment.

(4) Information and building technologies.

(5) Video and telecommunications equipment.

(6) Enclosures or structures necessary to house the types of items listed in paragraphs (c)(1) through (5) of this section.

(7) All other items necessary for the functioning of a particular facility to provide for public library services.

(d) Remodeling to meet the standards of the Architectural Barriers Act of 1968.

(e) Remodeling designed to ensure safe working environments and to conserve energy.

(f) Renovation or remodeling to accommodate new technologies.

(g) Purchase of existing historic buildings for conversion to public libraries.

(h) Technology enhancement.

(i) Any combination of activities referred to in paragraphs (a) through (h) of this section (including architect's fees and the cost of acquisition of land).

(Authority: 20 U.S.C. 351a(2), 355a, 355c; EO 11490, as amended)

§ 770.12 What types of projects may be funded under Interlibrary Cooperation and Resource Sharing grants?

The Secretary awards Interlibrary Cooperation and Resource Sharing grants to assist projects designed to enable various types of libraries to share resources and materials. These types of projects include the following:

(a) Planning for, and taking other steps leading to the development of, cooperative library networks. Planning may include—

(1) Development of a statewide resource sharing plan directed toward attaining compliance with section 306 of the Act; or

(2) One or more of the items listed in section 304(c) of the Act.

(b) Establishing, expanding, or operating local, regional, or interstate cooperative library networks.

(c) Developing the technological capacity of libraries for interlibrary cooperation and resource sharing.

(d) Developing and implementing a statewide preservation cooperation plan for systematically preserving endangered library and information resources. Such a plan is to be developed in consultation with such parties and agencies as—

(1) The State archives;

(2) Historical societies;

(3) Libraries;

(4) Scholarly organizations; and

(5) Other interested parties.

Further, the State library administrative agency may contract with other agencies or institutions for part or all of the preservation activities in the plan.

(Authority: 20 U.S.C. 351(a), 355e–1(a), 355e–2)

Subpart C—How Does a State Apply for a Grant?

§ 770.20 What must a State do to receive a grant under the State-Administered Program?

(a) In order to receive a grant under the State-Administered Program, a State must—

(1) Establish a State Advisory Council on Libraries; and

(2) After consulting with the council, submit to the Secretary by the various dates established by the Secretary the three parts of a State plan, as described in § 770.21.

(b) The Secretary does not consider the other parts of the plan until the Secretary has approved the basic State plan.

(Authority: 20 U.S.C. 351d(a))

§ 770.21 What must a State plan include?

A State plan must consist of the following three parts:

(a)(1) A basic State plan, as described in § 770.22, covering a five-year period.

(2) The State shall submit one basic plan to cover all types of grants provided under this program.

(i) Public Library Services grants.
(ii) Public Library Construction and Technology Enhancement grants.
(iii) Interlibrary Cooperation and Resource Sharing grants.

(b)(1) A long-range program, as described in § 770.23, covering a period of not fewer than three years and not more than five years.

(2) The State library administrative agency shall develop the long-range program—

(i) With the advice and assistance of the State Advisory Council or Libraries; and

(ii) In consultation with the Secretary.

(3) The State shall—

(i) Submit a long-range program that provides a comprehensive description of the State's identified library needs and a description of the activities to be taken toward meeting those needs supported with the assistance of the LSCA State-Administered Program;

(ii) Review the program each year;

(iii) Revise the program each year according to changing needs and the results of evaluations and surveys; and

(iv) Submit the revised program to the Secretary.

(c) An annual program, as described in § 770.24, for each type of grant for which the State is applying.

(Authority: 20 U.S.C. 351d(a))

§ 770.22 What must a State include in a basic State plan?

A State shall include the following in its basic State plan:

(a) Assurance that the State library administrative agency—

(1) Will administer or supervise the administration of all programs and projects in the State assisted under the State-Administered Program;

(2) Has the fiscal and legal authority and capability to administer or supervise the administration of programs and projects assisted under the State-Administered Program;

(3) Has established or will establish policies, priorities, criteria, and procedures necessary to implement the program in the State;

(4)(i) Will make the reports the Secretary reasonably requires to—

(A) Carry out the Secretary's functions under the program; and

(B) Determine the extent to which funds provided under the program have been effective in carrying out the purposes of the program;

(ii) Will include in these reports, if requested by the Secretary, reports of evaluations made under the State plan; and

(iii) Will make the reports in the form and containing the information reasonably required by the Secretary; and

(5)(i) Will keep the records the Secretary finds necessary to assure the correctness and verification of the reports referred to in paragraph (a)(4) of this section; and

(ii) Will give the Secretary access to the records as the Secretary finds necessary.

(b) Assurances that—

(1) Any funds paid to the State under a long-range program and an annual program will be expended only for the purposes for which the funds have been authorized and appropriated;

(2) The State has adopted the necessary fiscal control and fund accounting procedures to assure proper disbursement of, and to account for, Federal funds paid—

(i) To the State under the State-Administered Program; and

(ii) By the State to any other agency under the program;

(3) The State will give priority to programs and projects designed to carry out the following objectives:

(i) To improve access to public library resources and services for the least served populations in the State, including—

(A) Projects for individuals with limited English-speaking proficiency;

(B) Projects for individuals who are handicapped; and

(C) Projects in urban and rural areas.

(ii) To serve the elderly.

(iii) To combat illiteracy.

(iv) To increase library services and access to services through effective use of technology; and

(4) Libraries within the State that receive funds under this Act will not discriminate on the basis of race, religion, age, gender, national origin, or handicapping condition in providing space for public meetings.

(Authority: 20 U.S.C. 351a(11), 351d(b))

§ 770.23 What must a State include in a long-range program?

(a) A State shall include the following in a long-range program covering all activities under the State-Administered Program:

(1) A comprehensive description of the State's identified present and projected library needs.

(2) A plan for meeting those identified needs with Federal funds made available through the appropriate type of grant under the State-Administered Program.

(3)(i) The State's policies, priorities, criteria, and procedures for administering this type of grant and appropriate subgrants under the State-Administered Program.

(ii) A description of how the State plans to implement the priorities in § 770.22(b)(3).

(4) A description of the State's policies and procedures regarding each of the following:

(i) The periodic evaluation of the effectiveness of projects supported under this type of grant in measurable terms appropriate to the purpose of the program and the project.

(ii) The appropriate dissemination of project evaluations and other information pertaining to these projects.

(iii) The coordination of projects assisted under this type of grant with similar library programs and projects operated by other libraries, institutions, and agencies in the State.

(b) In the case of an application for a Public Library Construction and Technology Enhancement grant, the State shall also include in its long-range program the policies and procedures to be followed by the State library administrative agency in providing an opportunity for a hearing to a local or other public agency whose application for a subgrant is denied.

(c) In the case of an application for an Interlibrary Cooperation and Resource Sharing grant, the State shall also include the following in its long-range program:

(1) A statewide resource sharing plan directed toward attaining compliance with the provisions of section 304 of the Act. In developing the plan, the State library agency, with the assistance of the State Advisory Council on Libraries, shall consider recommendations from current and potential participating institutions in interlibrary cooperation and resource sharing projects authorized under the Act.

(2) An identification of interlibrary cooperation and resource sharing objectives to be achieved during the period covered by the basic State plan and the long-range program. These objectives may include, but are not restricted to, one or more of the items listed in section 304(c) of the Act.

(3)(i) A State that intends to use Federal funds for the preservation of library materials shall also include in its long-range program a statewide preservation cooperation plan (preservation plan) that—

(A) Identifies the preservation objectives to be achieved during the period covered by the long-range program; and

(B) Specifies the methods by which endangered library and information resources are to be preserved systematically.

(ii) In developing the preservation plan, a State shall consult with parties and agencies such as the State archives, historical societies, libraries, scholarly organizations, and other interested parties.

(iii) In carrying out the preservation plan, a State shall work with libraries, archives, historical societies, scholarly organizations and other agencies, within or outside the State, in planning, education and training, coordinating, outreach and public information, and service programs.

(Authority: 20 U.S.C. 351(a), 351a(12), 351d(a)(d), 355c, 355e, 355e-2, 355e-3)

§ 770.24 What must a State include in an annual program?

(a) A State shall include the following in an annual program:

(1) A description of the projects and activities the State plans to carry out—and the basis upon which the State plans to award subgrants—during the specified year with regard to public library services, public library construction and technology enhancement, or interlibrary cooperation and resource sharing, as appropriate.

(2) A description of how these projects and activities would—

(i) Be consistent with purposes specified in the Act and in §§ 770.10, 770.11, or § 770.12, as appropriate;

(ii) Fulfill the objectives of the State's long-range program or the update of the long-range program; and

(iii) Meet the needs identified by the State in the long-range program.

(3) A description of the criteria the State plans to use in allocating funds.

(4)(i) A demonstration that the manner in which the State proposes to carry out the annual program is consistent with the policies, criteria, priorities, and procedures specified in the long-range program or update of the long-range program.

(ii) In meeting this requirement, the State shall address, among other items, policies and procedures regarding evaluations, dissemination, and coordination, as described in § 770.23(a)(4).

(5) A description of how proposed projects and activities are to be based on the results of evaluations described in § 770.23(a)(4)(i) undertaken according to the long-range program.

(6) A demonstration that proposed projects and activities would meet the assurance given by the State in its basic State plan to implement the priorities specified in § 770.22(c), if appropriate.

(7) The amount of Federal funds the State plans to spend to carry out its administrative functions under the grant, as specified in § 770.43.

(b) In the case of an application for a Public Library Services grant, the State shall also include the following in its annual program:

(1) The criteria the State plans to use to ensure that the State meets the financial obligations specified in § 770.40, § 770.41 and § 770.42.

(2) A description of how the State plans to allocate funds to support and expand library services of major urban resource libraries if—

(i) The sum appropriated for the year exceeds the amount specified in section 102(c)(1) of the Act; and

(ii) The State has one or more cities with populations of at least 100,000 individuals.

(3) A description of how the State plans to use funds for projects and activities for the elderly.

(4) A description of how the State plans to use funds to make public library services and programs more accessible to handicapped individuals.

(5)(i) To enable the Secretary to make a determination of payment under section 7(a) of the Act (Payments), a statement of the amounts the State will have available for expenditure for the proposed projects and activities during the period covered by the annual program from—

(A) State sources; and

(B) Local sources.

(ii) The State may not include in-kind contributions among the amounts the State declares it will have available for expenditure under paragraph (b)(5)(i) of this section.

(c) In the case of an application for a Public Library Construction and Technology enhancement grant, the State shall also include in its annual program a description of how the State plans to—

(1) Use funds that year, consistent with the long-range program, for approved construction projects in areas of the State lacking the library facilities necessary to provide adequate public library services; and

(2) Follow policies and procedures in the construction of the public libraries that will promote the preservation of library and information resources to be used in the facilities.

(d) In the case of an application for an Interlibrary Cooperation and Resource Sharing grant, the State shall also include in its annual program a description of how the proposed projects and activities would meet the requirements of the Act with respect to—

(1) The statewide resources sharing plan;

(2) The interlibrary cooperation and resource sharing objectives identified in the long-range program; and

(3) If applicable, the statewide preservation cooperation plan as described in § 770.23(c)(3).

(Authority: 20 U.S.C. 351, 351a(13), 351d(a), (b)(4); 351e(a)(1), 354, 355c, 355e-2, 355e-3)

Subpart D [Reserved]

Subpart E—What Conditions Must Be Met by a State and Its Subgrantees?

§ 770.40 What matching requirements apply to a Public Library Services grant?

In order to receive a Public Library Services grant, a State shall have available, from State and local sources, for expenditure for the projects and activities proposed in its annual program an amount that equals or exceeds the difference between—

(a) The cost of carrying out the State's annual program; and

(b) The Federal share of these costs, as specified in section 7(b) of the Act.

(Authority: 20 U.S.C. 351e(b), 354)

§ 770.41 What are the basic maintenance-of-effort requirements for a Public Library Services grant?

(a) *Basic maintenance-of-effort.* In order to receive a Public Library Services grant, a State shall have available for expenditure—

(1) For State aid to public libraries and library systems, an aggregate amount equal to 90 percent of the amount actually expended by the State for those purposes in the second preceding fiscal year; and.

(2) For the State library administrative agency, or the part of the State library administrative agency charged by State law with extending and developing public library services throughout the State, an aggregate amount equal to 90 percent of the amount actually expended for those purposes in the second preceding fiscal year.

(b) *Waiver.* (1) The Secretary may waive the basic maintenance-of-effort requirements, if the Secretary determines that application of paragraph (a) of this section would be unjust or unreasonable in light of exceptional extenuating circumstances.

(2) The circumstances under which the Secretary may waive the basic maintenance-of-effort requirements included, but are not limited to, the following:

(i) A natural disaster affecting the State.

(ii) A precipitous decline in the financial resources of the State, except that the Secretary does not consider the

effect of State tax initiatives or referenda in determining whether to grant a waiver.

(3)(i) If the Secretary grants a waiver under this section, the amount of funds that the State library administrative agency is otherwise entitled to receive under this part is not reduced.

(ii) In determining the basic maintenance-of-effort for any year following the fiscal year for which a waiver is granted, the State agency shall expend at least 90 percent of the amount that it should have expended in the waiver year had the waiver not been granted.

Example: In fiscal year 1991 a State library administrative agency obtains a waiver under this section because it will have available for expenditure for FY 1991 less than 90 percent of its actual expenditures in the second preceding year (1989) due to exceptional extenuating circumstances. In determining whether the agency meets the basic maintenance-of-effort requirements for fiscal year 1993, the State agency must have available for expenditure at least 90 percent of its actual expenditures for 1989, the second fiscal year preceding the year for which the waiver was granted, and not 90 percent of its actual expenditures in FY 1991 (the wavier year). Thus, if the State agency expended $3,000,000 in FY 1989, $2,800,000 in FY 1990, and only $2,500,000 in FY 1991, when it should have expended $2,700,000 (90 percent of $3,000,000) but obtained a waiver instead, then in FY 1993 it must expend 90 percent of $2,700,000, for a total of $2,430,000, rather than 90 percent of $2,500,000 (the amount it actually expended in FY 1991), or $2,250,000.

(Authority: 20 U.S.C. 351e(a))

§ 770.42 What other maintenance-of-effort requirements apply to a Public Library Services grant?

(a) In addition to the requirements in § 770.41, in order to receive a Public Library Services grant a State shall spend for State institutional library services and library services to the physicially handicapped, from Federal, State, and local sources, an amount not less than the amount that the State spent from those sources for those services during the second preceding fiscal year.

(b) The Secretary ratably reduces the amount that a State is required to spend for institutional library services and library services to the physically handicapped to the extent that—

(1) The Federal allocation for the State's Public Library Services grant is reduced; and

(2) The Secretary determines that the populations served by those expenditures have declined.

(Authority: 20 U.S.C. 351e)

§ 770.43 What maintenance of Federal support is required for major urban resource libraries?

(a) If the amount of a Public Library Services grant requires a State agency to allocate funds to support and expand library services of major urban resource libraries (see sections 102(a)(3) and (c) of the Act and § 770.23(b)(2)), the State agency may not reduce the amount it pays to an urban resource library below the amount that it paid to that library in the preceding fiscal year.

(b) The Secretary ratably reduces the amount that a State agency must pay under paragraph (a) of this section to the extent that—

(1) The Federal allocation to the State agency for its Public Library Services grant is reduced for the applicable fiscal year; or

(2) The 1990 Census shows that the population of the city served under paragraph (a) of this section has decreased.

(Authority: 20 U.S.C. 353(c))

§ 770.44 What are a State's financial obligations under a Public Library Construction and Technology Enhancement grant?

(a) A State that receives a Public Library Construction and Technology Enhancement grant shall provide, from State or local sources or both, the difference between—

(1) The costs of project financed under the grant for that year; and

(2) The Federal share of these costs, as specified in section 7(b) of the Act.

(b) In case of any individual project under a Public Library Construction and Technology Enhancement grant, at least one half of the total cost must be supplied by State or local sources or both.

(Authority: 20 U.S.C. 351e(b), 355b(b))

§ 770.45 What other financial obligation does a recipient have under a Public Library Construction and Technology Enhancement grant?

(a) Unless released from the obligation under paragraph (c) of this section, a recipient of Federal financial assistance under a Public Library Construction and Technology Enhancement grant—or the recipient's successor in title or possession—shall repay to the United States on request an amount as specified in paragraph (b) of this section if within 20 years of the completion of construction of the library facility—or part of a facility—for which the assistance was received—

(1) The recipient or its successor ceases or fails to be a public or nonprofit institution; or

(2) The facility ceases to be used as a library facility.

(b) The amount the recipient or its successor is obligated to repay is an amount that equals—

(1) The value of the facility or part of the facility at the time of the occurrence specified in paragraph (a)(1) or (a)(2) of this section, multiplied by—

(2) The ratio of—

(i) The amount of Federal assistance under the grant or subgrant; to

(ii) The cost of the facility or part of the facility for which the assistance was received.

Example: In 1977 a local public library completed a project to enlarge its reading room. The project had been assisted by a subgrant from the State under a Public Library Construction grant. The total cost of the project was $300,000; the subgrant had amounted to $120,000 a ratio of 2 to 5 or 40 percent of the cost.

In 1989 the local library moves to another district, and the facility for which it received assistance in 1977 ceases to be used as a library facility. It is determined that the part of the facility for which assistance was received has a current market value of $400,000.

The United States is entitled to recover from the local public library an amount equal to 40 percent of the current market value of the facility or portion of the facility assisted with Federal funds; that is, 40 percent of $400,000 or $160,000.

(c) The Secretary may decide, for good cause, to release the recipient from its obligation under paragraph (a) of this section.

(d) The provisions of this section apply to any facility constructed at any time with assistance under Title II of the Act.

(Authority: 20 U.S.C. 355b)

§ 770.46 What administrative costs are allowable under the State-Administered Program?

(a) A State library administrative agency may spend funds received under a Public Library Services grant and funds received under a Public Library Construction and Technology Enhancement grant to carry out its administrative functions under a Public Library Services grant, a Public Library Construction and Technology Enhancement grant, and an Interlibrary Cooperation and Resource Sharing grant.

(b) The total amount the agency may spend to carry out its administrative functions under all of these grants

during any year may not exceed the amount specified in section 8 of the Act (Administrative Cost).

(c) The agency may spend the funds for administrative costs in connection with the following activities:

(1) Administration of the State plan, including obtaining the services of consultants.

(2) Statewide planning for and evaluation of library services

(3) Dissemination of information concerning library services.

(4) Activities of the State Advisory Council on Libraries and of any other advisory groups and panels necessary to assist the State library administrative agency in carrying out its functions.

(Authority: 20 U.S.C. 351f, 353(b))

Subpart F—What Are the Administrative Responsibilities of a State and Its Subgrantees?

§ 770.50 Under what circumstance must a State provide an applicant with an opportunity for a hearing?

(a)(1) In the case of a Public Library Construction and Technology Enhancement grant, if a State denies funds to a local or other public agency that applies for a subgrant for construction of public library facilities, the State library administrative agency shall give the local or other public agency an opportunity for a hearing.

(2) The provision in 34 CFR 76.401(b) (which exempts State agencies from having to offer an opportunity for a hearing under certain State-administered programs) does not apply to Public Library Construction and Technology Enhancement grants.

(b) In providing opportunity for a hearing, the State library administrative agency shall follow the appropriate policies and procedures included in the State's long-range program for the Public Library Construction and Technology Enhancement grant.

(Authority: 20 U.S.C. 355c)

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Part III

Department of Energy

Office of Conservation and Renewable Energy

10 CFR Part 430

Energy Conservation Program for Consumer Products; Final Rule Regarding Test Procedures and Energy Conservation Standards for Water Heaters

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 430

[Docket No. CAS-RM-79-106]

Energy Conservation Program for Consumer Products; Final Rule Regarding Test Procedures and Energy Conservation Standards for Water Heaters

AGENCY: Office of Conservation and Renewable Energy, Department of Energy.

ACTION: Final rule.

SUMMARY: The Energy Conservation Program for Consumer Products is conducted under the Energy Policy and Conservation Act, as amended. Energy conservation standards for most types of major household appliances, including water heaters, are among the required Program elements. The legislation also requires the Department to establish standard methods of testing covered products. In the case of any amended test procedure, moreover, the Department must determine to what extent the amended test procedure would alter the measured efficiency of the related energy conservation standard and make appropriate corrections to the standard.

The purposes of the final rule announced today are (i) to improve and refine the test procedure for water heaters and (ii) to amend the energy conservation standards for electric water heaters in order to reflect the changes in measured efficiency caused by the revised test procedure. There is no change to the standard for gas and oil water heaters resulting from the revised test procedure.

In addition, today's rule also corrects the effective date of standards for mobile home furnaces in § 430.32(e) that was incorrectly published on February 7, 1990, 54 FR 6077. The correct effective date is September 1, 1988.

DATES: The effective date for this document is April 15, 1991. The effective date of standards for mobile home furnaces in § 430.32(e) is September 1, 1990.

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SUPPLEMENTARY INFORMATION:

I. Background

A. Program Requirements

Part B of title III of the Energy Policy and Conservation Act (EPCA), Public Law 94-163, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95-619, the National Appliance Energy Conservation Act (NAECA) of 1987, Public Law 100-12, and the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100-357, created the Energy Conservation Program for Consumer Products other than Automobiles (Program).[1] The thirteen consumer products currently subject to this program (often referred to hereafter as "covered products") include water heaters, the subject of today's rulemaking.

Under the Act, the Program consists essentially of three parts: testing, labeling, and Federal energy conservation standards. The Department of Energy (DOE or Department), in consultation with the National Institute of Standards and Technology (NIST) (formerly National Bureau of Standards), is required to amend or establish new test procedures as appropriate for each of the covered products. Section 323. The purpose of the test procedures is to produce test results which measure the energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle or period of use and shall not be unduly burdensome to conduct. Section 323(b)(3). A test procedure is not required if DOE determines by rule that one cannot be developed. Section 323(d)(1). One hundred and eighty days after a test procedure for a product is adopted, no manufacturer may represent the energy consumption of, or the cost of energy consumed by, the product except as reflected in tests conducted according to the DOE procedure. Section 323(c)(2). However, the one hundred and eighty day period referred to in section 323(c)(2) may be extended for a period of up to an additional one hundred and eighty days if the Secretary determines that the requirements of section 323(c)(2) would impose undue burden. Section 323(c)(3). Test procedures appear at 10 CFR part 430, subpart B.

[1] Part B of title III of EPCA, as amended, is referred to in this final rule as the "Act." Part B of title III is codified at 42 U.S.C. 6291-6309.

Section 323(e) of the Act requires DOE to determine to what extent, if any, a proposed test procedure would alter the measured energy efficiency or measured energy use of any covered product as determined under the existing test procedure. If DOE determines that an amended test procedure would alter the measured efficiency or measured energy use of a covered product, DOE is required to amend the related energy conservation standard accordingly. In determining the amended standard, DOE is required to measure the energy efficiency or energy use of representative samples of covered products which minimally comply with the existing standard. The average efficiency of these representative samples, tested using the amended test procedure, constitutes the amended standard. Section 323(e)(2).

B. Test Procedures

The initial water heater test procedures were prescribed by notice issued September 27, 1977, 42 FR 54110 (October 4, 1977). These original procedures coupled laboratory tests and calculations to obtain estimates of energy efficiency for storage type electric, gas and oil water heaters. The laboratory tests consisted of a "cold start recovery efficiency test," which measured the ability of a water heater to heat cold water, and a "standby loss test," which measured the energy loss of a water heater when not providing heated water. Recovery efficiency and percent standby loss are then mathematically combined in the calculations to obtain an energy factor, DOE's overall measure of water heater efficiency. Also, the original procedures included calculations for determining the annual energy consumption and annual operating costs. DOE amended the water heater test procedures by notice issued August 30, 1978, in order to prescribe a "measure of a water heater's useful capacity called first hour rating," where useful capacity was the maximum hourly demand which could be met by the water heater. 44 FR 52632 (September 7, 1979).

By notice published in the Federal Register on February 8, 1984, (1984 proposal), DOE proposed to amend its test procedures for water heaters. 49 FR 4870. The purpose of the 1984 proposal was threefold: First, to extend coverage of the test procedures to heat pump water heaters, a relatively new water heater design not previously covered by the test procedures; second, to add a method of testing to determine the first hour rating of water heaters equipped with thermal compensating dip tubes

which provide a more constant outlet water temperature by controlling the mixing of incoming cold water with stored hot water; and third, to make modifications to the test procedures that would yield more accurate determinations of energy efficiency and cost of operation for gas, oil and electric storage water heaters.

By notice published March 16, 1984, DOE, on request of the water heater industry, extended the comment period 42 days and rescheduled the March 15, 1984, public hearing to April 26, 1984. 49 FR 10071.

In comments received in 1984 and throughout 1985, numerous parties requested that DOE withdraw the 1984 proposal and wait until a more comprehensive proposal could be developed. Most notably, on October 2–3, 1985, DOE and NIST hosted a forum on testing and rating procedures for consumer products which was attended by manufacturers, utilities, States, and public interest groups. At the forum, there was unanimous agreement that DOE should withdraw the 1984 proposal and initiate the development of a single test procedure method which would be applicable to all types of residential type water heaters, including the instantaneous type of water heaters.

By notice published March 13, 1987 (1987 proposal) DOE proposed a single test procedure for all types of water heaters, including instantaneous type water heaters. 52 FR 7972. The 1987 proposal also addressed the matter of four test procedure waivers where four manufacturers of water heaters had received allowance to test certain water heaters under modified test procedures. Since publication of the 1987 proposal, a fifth manufacturer has received a test procedure waiver. The 1987 proposal would extend these modifications to all manufacturers of similar designs and thereby would terminate the five individual waivers. The five waivers are: A.O. Smith Corporation for its gas water heaters equipped with thermal compensating dip tube, 47 FR 53942 (November 30, 1982), and four manufacturers of water heaters with large thermal mass designs: Bock Water Heaters Inc., 50 FR 47106 (November 14, 1985), modified 51 FR 21975 (June 17, 1986), Ford Products Inc., 50 FR 50678 (December 11, 1985), modified 51 FR 18659 (May 21, 1986), Lochinvar Water Heaters, Inc., 51 FR 22986 (June 24, 1986), and Aero Environmental Limited, 53 FR 9667 (March 24, 1988).

The major issues covered in the 1987 proposal included:

(1) Extending the test procedure to cover heat pump water heaters and instantaneous type water heaters;

(2) Revising the method of test for all water heaters from a no draw test to a 24-hour simulated use test which includes a six-hour draw test; and

(3) Revising the first hour rating test from a calculated estimate to a direct measure for determining a water heater's ability to supply hot water.

By notice published on January 17, 1989 (1989 proposal) the Department proposed to amend the energy conservation standards of title 10, part 430, of the Code of Federal Regulations for water heaters to reflect the changes in measured efficiency which would be caused by a newly revised test procedure. 54 FR 1600. The 1989 proposal discussed all the comments made on the revision of the test procedure proposed in the 1987 proposal and included the newly revised test procedure which incorporated those comments and which was used to determine the 1989 proposed conservation standard. Furthermore, the 1989 proposal stated that the newly revised test procedure was not included for comment except in regard to the manufacturers' ability to replicate the DOE methodology in complying with the proposed efficiency standards, and indicated that the newly revised test procedure contained in the 1989 proposal would be made final when the revised standard levels for water heaters were made final. Today's notice finalizes the test procedure included in the 1989 proposal as modified by DOE in consideration of those comments dealing with the manufacturers' ability to replicate the DOE methodology in complying with the proposed standards. Today's notice also corrects various typographical errors contained in the 1989 proposal, several of which were initially identified in a correction notice published by DOE in the February 9, 1989, Federal Register. 54 FR 6384.

Today's rule amends appendix E of subpart B of 10 CFR part 430. This new test procedure is effective 180 days after publication of today's final rule. Section 323(c)(2) of the Act specifies that effective 180 days after an amended or new test procedure applicable to a covered product is prescribed, no manufacturer may make a representation with respect to energy use or efficiency of such product or the cost of energy consumed by such product, unless the product is tested in accordance with such amended or new test procedure. Section 323(c)(3) of the Act allows for an extension of an additional 180 days of the aforesaid effective date if the Secretary determines upon petition that the requirements of section 323(2) would impose an undue burden. The extant test procedure will remain in effect until the effective date of today's amendment for the purpose of rating existing water heaters. After the effective date of the amended test procedure, all calculations of energy efficiency or energy use of water heaters or cost of energy consumed by water heaters are to be based on the new test procedure. Consequently, all water heaters must be retested using the test procedure announced today.

C. Energy Conservation Standards

NAECA added a definition for water heaters, as follows:

The term "water heaters" means a product which utilizes oil, gas, or electricity to heat potable water for use outside the heater upon demand, including—

(A) storage type units which heat and store water at a thermostatically controlled temperature, including gas storage water heaters with an input of 75,000 Btu per hour or less, oil storage water heaters with an input of 105,000 Btu per hour or less, and electric storage water heaters with an input of 12 kilowatts or less;

(B) instantaneous type units which heat water but contain no more than one gallon of water per 4,000 Btu per hour of input, including gas instantaneous water heaters with an input of 200,000 Btu per hour or less, oil instantaneous water heaters with an input of 210,000 Btu per hour or less, and electric instantaneous water heaters with an input of 12 kilowatts or less; and

(C) heat pump type units, with a maximum current rating of 24 amperes at a voltage no greater than 250 volts, which are products designed to transfer thermal energy from one temperature level to a higher temperature level for the purpose of heating water, including all ancillary equipment such as fans, storage tanks, pumps, or controls necessary for the device to perform its function.

NAECA also prescribes energy conservation standards for 11 types of appliances including the following standards for gas, oil-fired, and electric water heaters.

Product class	Energy factor
1. Gas water heater	.62 – (.0019 × Rated storage volume in gallons).
2. Oil water heater	.59 – (.0019 × Rated storage volume in gallons).
3. Electric water heater	.95 – (.00132 × Rated storage volume in gallons).

These standards are effective for products manufactured on or after January 1, 1990.

Section 323(e) of the Act requires DOE to determine to what extent, if any, a proposed test procedure would alter the

measured efficiency or measured energy use of any covered product as determined under the existing test procedure. Today's final rule satisfies this requirement with respect to the 1989 proposal. Furthermore, section 323(e) requires DOE to test a representative sample of covered products that minimally complies with the existing standard using the proposed test procedures; today's final rule is based on testing a sample of units in accordance with the 1989 proposal which has been revised as discussed, *infra*. Based on the testing, DOE has determined that the standard for electric water heaters shall be changed to: .93 −(.00132×Rated storage volume in gallons). The standards for gas and oil water heaters shall remain unchanged.

Section 323(e) of the Act also provides that models of covered products in use before the date on which the amended energy conservation standard becomes effective (or revisions of such models that come into use after such date and have the same energy efficiency or energy use characteristics) that comply with the energy conservation standard applicable to such covered products on the day before such date shall be deemed to comply with the amended energy conservation standard.

Today's rule, by establishing test procedures for heat pump water heaters and gas fueled instantaneous water heaters, also extends the coverage of the standards to these products. Heat pump water heaters must meet the energy standards for electric water heaters and gas fueled instantaneous water heaters must meet the energy standards for gas water heaters. In the case of gas fueled instantaneous water heaters, the rated storage volume may be zero.

II. Discussion

A. Test procedures

DOE is setting forth herein the final amended test procedures which incorporate changes made to the 1989 proposal. Several comments were received in regard to correcting typographical errors and relating to a manufacturer's ability to replicate the DOE methodology in complying with the new efficiency standards.

Specification of Electrical Supply Voltage

Shu Miyazaki (Miyazaki) states the current test procedure specifies that the electrical supply voltage be maintained to within +/− 1 percent of the center of the voltage range specified by the manufacturer. (Miyazaki, No. 74 at 2).[2] Miyazaki maintains that this specification will result in different first hour ratings for three identical storage-type water heaters in which only the specified supply voltage varies. Miyazaki believes that it is absolutely necessary to test all electric water heaters at the same voltage.

Miyazaki is correct in stating that different first hour ratings will result if identical storage type-water heaters are tested with supply voltages which vary in magnitude. However, the Department believes it is important that water heaters should be tested at the manufacturers' specified voltage rating. For the vast majority of storage-type water heaters, a fixed voltage is given on the rating plate rather than a specified range. Heat pump water heater manufacturers typically specify a voltage range. These various voltage ratings are not all the same. It does not seem appropriate to require a commercial test laboratory to select, for example, a 240 volt supply voltage when the rating plate specifies a range of 210 to 230 volts. Thus DOE concludes that the test procedure should not be altered as suggested by Miyazaki.

Heat Traps

Public Utility District Number 1 (PUD1) of Snohomish County, Washington State, comments that it currently operates a rebate program which offers residential customers a $50 rebate if they replace their existing electric water heater with an energy-efficient one. (PUD1, No. 67, at 1). Qualification for the rebate program is based upon the energy factors published within The Gas Appliance Manufacturers Association (GAMA) "Consumers' Directory of Certified Efficiency Ratings." The issue in question relates to the testing of the unit with heat traps if they are supplied with the water heater but are not made an integral part of the unit. PUD1 states that since there is no guarantee that the heat traps will actually be installed, the energy factor and Energy Guide label should not reflect the addition of any accessories, i.e., heat traps.

Section 4.3 of the proposed test procedure states "if heat traps and/or piping insulation are supplied with the water heater, then they shall be installed for testing." The Department agrees that there is no way to guarantee that these items will be installed when the water heater is placed into service. However, if a unit is supplied with heat traps and/or piping insulation by the manufacturer, DOE believes it is reasonable to assume that these items will be used. Therefore, DOE finds that the test procedure not be changed to address the issue raised.

Definition of Instantaneous Water Heaters

GAMA suggests that the definition of instantaneous water heaters be revised to include a criterion which limits the outlet temperature to 180 °F or less. (GAMA, No. 78, at 2; and No. 87, at 3). GAMA contends that this criterion is a common point of differentiation between commercial and residential water heaters. GAMA further states that the 180 °F criterion is already included in the definitions for gas, electric, and oil storage-type water heaters in the test procedures. In particular GAMA suggests the following:

> Gas fueled instantaneous water heater means a water heater which utilizes gas as the energy source controlled manually or automatically by a water flow activated control or a combination of water flow and thermostatic control, which is designed to deliver water at a controlled temperature of less than 180 °F, and which has an input greater than 50,000 Btu per hour and less than 200,000 Btu per hour, and a manufacturer's specified storage capacity of less than 2 gallons.

DOE agrees with the above definition of a gas fueled instantaneous water heater and has incorporated it within the test procedure.

Copper Tubing

GAMA states that the reference to copper tubing in section 4.3 of the test procedure should be clarified to specify the type used for water lines, i.e., Type "L" hard copper tubing, as opposed to copper tubing used for refrigerant lines. (GAMA, No. 78, at 2).

DOE concurs with GAMA on this issue and has changed the statement from "Copper tubing, the same size as the connections on the water heater shall be connected to the tank and extend 24 inches in length" to "Type 'L' hard copper tubing, the same size as the connections on the water heater, shall be connected to the tank and extend 24 inches in length."

Location of Storage Tank Temperature Measurement Probes

GAMA recommends that in addition to utilizing the anodic device opening or the relief valve opening to insert the temperature measurement probes within a storage-type water heater, the use of the hot water outlet opening should also be permitted. (GAMA, No. 78, at 2 and

[2] Comments on the 1984, 1987, and 1989 proposed rules were assigned docket numbers and are numbered consecutively.

3). Specifically, GAMA recommends that section 4.5 of the proposed test procedure be modified as follows:

The temperature sensors shall be installed either through (1) the anodic device opening; (2) the relief valve opening; or (3) the hot water outlet. If installed through the relief valve opening or the hot water outlet, a tee fitting or outlet piping, as applicable, is installed as close as possible to its original location. If the hot water outlet includes a heat trap, the heat trap shall be installed on top of the tee fitting. Added fittings shall be covered with thermal insulation having an R value of 4 hr ft °F/Btu.

DOE agrees with the recommendation and in section 4.5 of the test procedure has adopted GAMA's recommended language to permit the installation of the temperature measurement probes through the hot water outlet.

Prescribed Value of Density of Water

GAMA notes that the value of the density of water, 8.214 lbm/gal for 58 °F, is incorrect in section 5.1.1. (GAMA, No. 78, at 3).

Section 5.1.1 has been changed to remove the incorrect number and to require the use of the density of water at the appropriate temperature which will vary due to allowable tolerances during each test.

Prescribed Value of Specific Heat

GAMA requests that values for specific heat be prescribed throughout the test procedure. (GAMA, No. 78, at 3).

The values for specific heat cannot be prescribed in advance since they are dependent on the inlet and outlet water temperatures which will vary due to allowable tolerances during each test. Accordingly, this suggestion is rejected.

First Hour Rating Test

GAMA does not understand why a draw is initiated to activate the heating element(s) or burner unit prior to the first hour rating test if the mean tank temperature is within the specified temperature range. (GAMA, No. 78, at 3).

The purpose of the draw noted by GAMA was to eliminate the possibility that the beginning of the first hour rating test would coincide with the heating element or burner unit being activated to recover the tank from standby losses. DOE believed that this could cause repeatability problems. However, through continuing testing at NIST, DOE has discovered that this would not be a problem and the requirement of the draw has been eliminated.

Test Setup for Table Top Water Heaters

GAMA states that the attachment of two feet of copper tubing rising vertically from table top water heaters is inappropriate. (GAMA, No. 87, at 2). GAMA states that for this type of water heater the pipes are run horizontally out from the tank and subsequently downward. GAMA suggests that the following statement be added to section 4.3 of the revised test procedure:

A water heater 36 inches high or less (commonly referred to as an under counter or table top model) intended for installation either beneath, adjacent to or in conjunction with a counter shall have the inlet and outlet connections configured as illustrated in Figure 4. If the water heater is not factory equipped with pipe to extend the field connection point of the water lines to outside of the jacket or cabinet, copper tubing shall be used to extend the water line horizontally to the exterior of the jacket or cabinet.

DOE concurs with the above statement. The test procedure has been changed to incorporate the information into section 4.3.

First-Hour Rating

GAMA states that the purpose of the first-hour rating is to provide a means of grouping models of similar capability for the "Ranges of Comparability" established by the Federal Trade Commission (FTC) labelling rules. (GAMA, No. 88, at 2 and 3). GAMA states that in general the revised first-hour rating will have a uniform effect on all water heaters. GAMA contends that the models in the 58 to 64 gallon FTC range of comparability may move to the 65 to 74 gallon range as a result of the proposed first-hour rating procedure. GAMA states that the same models will still be grouped together as comparable models. It further contends that there is no benefit to revising the first-hour rating test, and that the new test will create an unwarranted need for retesting.

According to GAMA, test data collected by Electrical Testing Laboratories (ETL) indicates that the hour-long first-hour rating test provides a value practically the same as the first-hour rating determined using the current test procedure. GAMA believes that the revised first-hour rating test will have a minimal effect on the measured first-hour rating and the current procedure is as appropriate as the proposed first-hour rating test.

GAMA believes that DOE should retain the current first-hour rating test and add an optional calculation method to take into account that the proposed test procedure conditions (mean tank temperature, flow rate, inlet water temperature and ambient temperature) differ from those in the existing test procedure.

DOE notes that the existing procedure interrupts the electrical power or fuel supply to the water heater during the first-hour rating procedure. Imposing a one hour power or fuel interruption is an extremely unlikely mode of operation for residential water heaters. Secondly, the current procedure requires a computation which is an attempt to determine how much additional usable hot water would be generated if 100 percent of the thermal input to the tank, less standby losses, heats the water contained within the storage tank to a usable temperature. This can result in significant error due to the fact that only a portion of the thermal input to the tank would produce usable water. The ability to convert thermal input to usable hot water is a function of the water heater design. Several water heater manufacturers are currently designing and manufacturing water heaters which maximize the conversion of thermal input into usable hot water. The existing test procedure does not give credit to the manufacturers of these innovative products.

GAMA's contention that the proposed test procedure provides a value practically the same as the first-hour rating using the existing test procedure is incorrect. For water heaters which employ two heating elements, the results of tests conducted by NIST show that the first-hour rating using the proposed test procedure yields approximately 95 percent of that obtained using the existing test procedure. For two of the three water heaters tested at NIST which employed a single heating element, the first-hour rating results were significantly less, up to 30 percent, when the proposed test procedure was used as compared to the existing test procedure.

The first hour rating within the existing test procedure combines a measured quantity, the number of gallons removed during a single draw, with a computed quantity, the ability of the water heater to produce hot water within a given time interval. The computed quantity significantly over-predicts the capability of some water heaters, in particular, electric water heaters with a single element, to produce water above a prescribed temperature level. There are two reasons for this over-prediction. First, the computation procedure assumes that the energy supplied during the interval between the time at which the thermostat(s) acts to energize a heating element and the end of the hour is supplied only to the portion of water within the tank, which would be removed during a subsequent draw. This is a reasonably good assumption for electric water heaters which employ

dual elements, since the upper element is used to first heat the water in the upper portion of the water heater. However, for tanks which employ a single element, the water heater may not be able to elevate the temperature above the required minimum outlet temperature. Additionally, the calculation procedure does not take into account the mixing which occurs between the cold entering water and the water within the storage tank during the removal of hot water.

The first hour rating is gaining recognition as a sizing criterion for selecting water heaters. Because of this, the Department believes that it is beneficial to improve the accuracy of the test, as discussed above, especially the relative rankings to recognize water heater designs which improve the first hour rating. This would allow the selection of a "smaller" water heater which could meet the consumers needs and save energy by having smaller standby losses. Therefore, DOE is retaining the proposed first hour rating with one minor adjustment.

Through continuing testing at NIST, DOE discovered that under certain conditions the proposed first hour rating test could be non-repeatable because of thermostat variability. To preclude any unacceptable repeatability problems, DOE is today publishing a slightly revised first hour rating test procedure from that previously proposed. As published, if a draw is underway at the end of the hour, that draw is completed. However, if a draw is not underway, instead of drawing the tank down to T_{min} at that time, the test is continued until the tank recovers and then a final draw is performed. In both cases the water drawn over the total duration of the test is prorated to one hour.

Computation of Standby Losses

GAMA comments that the revised test procedure gives a significantly different measure of standby loss because of the shortened standby period. (GAMA, No. 87, at 3 and 4). GAMA states that although the standby loss measurement in the revised test procedure is adequate for the way in which it is utilized, it should not be used for other purposes outside the framework of the test procedure, since it is an abbreviated, less precise method in relation to the 48-hour standby loss test method within the current test procedure. GAMA contends that the inclusion of a specific calculation for standby loss in the revised test procedure is an implicit invitation to use this standby loss value for other purposes for which it is not suited. GAMA concludes that this term should be deleted.

GAMA is incorrect in stating that the reason the revised test procedure gives a different measure of standby loss, in comparison to the existing test procedure, is due to the decreased test duration. A different standby loss measurement is obtained because the inlet and outlet piping arrangement has been changed. In the proposed test procedure, two feet of vertical uninsulated copper piping are connected to both the inlet and outlet ports of the water heater. The existing test procedure utilizes insulated galvanized piping configured in such a manner as to form an external heat trap. In fact, GAMA clearly points out this difference and its impact on standby losses in its comments addressing the proposed amended energy conservation standards for electric water heaters. Accordingly, GAMA's recommendation is not adopted.

Section 6.1.4

GAMA states that it would simplify matters if an equation within section 6.1.4 were formulated in such a manner so that a number which is usually negative would not be subtracted from another number. (GAMA, No. 87, at 4).

GAMA is correct in noting that the form of the equation will usually result in a negative number being subtracted from another number. However, DOE believes that the form of the equation is more conceptually correct than that proposed by GAMA in that a higher ending tank temperature represents a positive energy input which is then subtracted. Additionally, DOE does not believe that the current equation is difficult to use and does not agree with changing the equations within section 6.1.4.

Off-Peak Water Heaters

The number of comments received by DOE concerning "off-peak" water heaters exceeded that on any other subject. American Electric Power, Appalachian Power Company, Columbus Southern Power, Indiana Michigan Power Company, Kentucky Power Company, Ohio Power Company, and Wheeling Power Company comment they are pleased that DOE intends to explore various concepts for testing these units. These utilities state that "off-peak" water heating is an important element in both their Energy Management and Load Management Programs. They also state that the current test procedure does not accurately show the energy conservation benefits provided by "off-peak" water heaters.

DOE contracted with NIST to test an electric "off-peak" type water heater using today's test procedure. The water heater was tested using several different "off-peak" schedules as well as a test in the normal fully-on mode. The result of these tests was that the energy factor essentially stayed constant regardless of whether the tank was tested "off-peak" or not. NIST thus concluded that there is no need for a test procedure which differs from today's test procedure to determine the energy factor of off-peak water heaters.

DOE recognizes that where off-peak electric rates are offered by utilities, customers may obtain economic benefits by using "off-peak" water heaters. However, based on the efficiency tests conducted by NIST, DOE has determined that today's test procedure is adequate to measure the energy factor of "off-peak" water heaters.

B. Standards

DOE is herein amending the energy efficiency standards for water heaters to reflect the changes necessitated by the revised test procedures. Several comments were received regarding the proposed revision to the standards and they are discussed below:

Rated Volume

The California Energy Commission (CEC) states that it presumes the allowable energy factor is computed by subtracting from a constant the product of a second constant times the measured volume. (CEC, No. 82 at 1 and 2). However, within the proposed rule, the term "rated storage volume" is used in the computation of the Federal energy conservation standards for water heaters. CEC further states that since the meaning of the term "rated volume" as commonly used in the industry is quite different from DOE's intent in the proposed rule, the word "rated" should be dropped from the rule. It also notes that footnote number one in the proposed standard referring to the definition of "rated storage volume" is referenced only to gas water heaters, not to oil or electric water heaters.

In a related matter, GAMA suggests that DOE adopt the following language as the definition for "rated storage volume": "The water storage capacity of a water heater as specified by the manufacturer." This definition would be substituted for the reference to the tank capacity measurements set forth in the current DOE water heater efficiency test procedures. (GAMA, No. 78, at 1).

At the time of the proposed rule, there was not a definition of "rated storage volume." It was DOE's intention to define "rated storage volume" as the measured volume for use in the

standard. However, upon further consideration, and for purposes of the instant rule, DOE accepts the arguments set forth in the comments regarding industry usage and has defined "rated storage volume" to mean the water storage capacity of a water heater, in gallons, as specified by the manufacturer, i.e., the "rated volume". Additionally, the footnote in the standard has been modified to indicate that this definition applies to all types of water heaters.

However, the Department has some concern about this use of "rated storage volume" in the standard because the measure of this quantity seems to be relatively uncontrolled and by specifying a large "rated volume" a manufacturer can lower the standard level that a water heater must meet. In oral testimony at the January 1989 public hearings, DOE staff pointed out that all the water heaters tested by NIST in support of this rule had measured volumes smaller than the "rated volume." GAMA staff replied that this difference was due to manufacturing tolerance. While DOE does not have enough data to be statistically significant, it questions whether the difference in rated and measured volume is due solely to manufacturing tolerance. If that were the case, one would expect some measured volumes to be above the "rated volume" and some to be below. All 13 water heaters tested had measured volumes lower than the "rated volume". Further, oral testimony by GAMA at the January, 1989 public hearings indicated that "the vast majority are below the rated number." However, at the same time, DOE is not aware of any evidence or data which suggests that abuse or consumer detriment has resulted from use of the definition advocated by the industry; and, the definition DOE is adopting for this rule has previously been adopted by the Z-21 Subcommittee on Standards for Gas Water Heaters.

Additionally, at the public hearings, DOE staff asked GAMA if there were limits as to how high the "rated volume" could be relative to the measured volume. It was stated that this difference was limited by adherence to the testing agency's specifications for safety. However, DOE notes that one of the six electric water heaters and one of the five gas water heaters tested by NIST in support of today's rule exceeded this limit. Thus, again some uncertainty exists with regard to which criterion to use.

As a consequence, DOE will continue to test water heaters and collect data on rated versus measured volume. Depending upon the results of those tests, as well as experience under the rule adopted today, DOE may consider revising the definition of "rated storage volume" in connection with the next water heater standards review.

Inclusion of Heat Pump Water Heaters

GAMA states that residential heat pump water heaters are included as a covered product in NAECA and that they are subject to minimum efficiency requirements. (GAMA, No. 78, at 1).

DOE agrees and notes that by establishing test procedures for heat pump water heaters, today's rule extends standards coverage to these products. DOE also notes that since heat pump water heaters use electric power, they are covered under the requirements for electric water heaters. DOE will consider separate standards for heat pump water heaters on the next review cycle for water heater standards in 1992.

Amended Energy Efficiency Standards

GAMA states that it agrees with the proposal to retain unchanged the conservation standards for gas and oil water heaters. (GAMA, No. 88). Testing, conducted at ETL for GAMA, yielded results which were consistent with DOE's data and the conclusion reflected in DOE's proposal for gas and oil water heaters. However, GAMA does not agree with the proposed amended energy conservation standards for electric water heaters. GAMA proposes that the minimum efficiency standard for residential electric water heaters be lowered by 0.04 rather than 0.02. GAMA states that while the average difference of all the test results from ETL is less than 0.04, the differences are greater for the small volume models. GAMA further states that since these small volume models represent the majority of electric water heater shipments, the adjustment should be weighted to acknowledge this. The models selected for the ETL tests, according to GAMA, represent less popular models or models with special design features, such as models factory equipped with heat traps, low-boy and table top models.

On the other hand, the American Gas Association (AGA) challenges DOE's proposal to lower the energy efficiency standard for electric water heaters. (AGA, No. 84). It believes that DOE selected an inadequate sample of electric water heaters to test under the amended test procedure and that the models selected by DOE are not truly representative of the universe of electric water heaters available. According to AGA, given these shortcomings in the amended test procedure's methodology, AGA does not believe that DOE can justify lowering the statutorily-established minimum efficiency standard for electric water heaters.

AGA urges DOE to conduct additional independent testing of water heaters to verify the differences in test methods before DOE amends the statutory minimum efficiency level. AGA states that the number of units tested at NIST represents less than 1 percent of the 1,000 basic models of electric water heaters available. AGA further states that testing should be performed on 20- and 100-gallon models and on models with high efficiency factors.

In closing, AGA states that it does not believe DOE has put forward sufficient justification to lower the statutory minimum standard for electric water heaters. AGA asserts that the DOE proposal has taken the expedient approach of lowering the statutory mandated minimum efficiency level rather than requiring electric water heaters to comply with the statute.

In response to GAMA and AGA, DOE notes that NAECA requires that efficiency standards shall be revised whenever the test procedures are revised so that units that minimally met the standards under the old test procedure will meet the revised standard under the new test procedure. In other words, a unit that met the standards under a test procedure is not allowed to fail to meet the standard just because the test procedure has changed. DOE agrees that the units tested are not representative of the complete universe of water heaters. However, under NAECA the models tested need not be representative of the entire product universe; rather they should be representative of those models which marginally comply with the standard. Because the effect of the test procedure on the majority of models which exceed the standards is not relevant to the pass-fail issue, the pertinent question thus is: what is the effect of the new test procedure on those models that only minimally meet the standard? The six electric units tested by NIST for DOE meet this criterion.

As stated above, GAMA submitted test results of several water heaters tested by ETL using both the old and revised test procedures to support its claim that the constant in the equation for the electric water heater standard should be lowered by 0.04. However, the units submitted by GAMA were not those marginally at the standard. Therefore, most of these test results are not applicable to the question at hand.

DOE recognizes that the number of marginal units tested is limited but believes that they fairly represent

marginal units and that using the average of these results is appropriate. The results of these tests were reported in the 1989 Proposal as Tables 1, 2, and 3. Therefore, DOE has elected to modify the standard as proposed in the 1989 Proposal by lowering the first term of the energy factor equation for electric water heaters by 0.02, which is the average reduction of the electric units tested, and by leaving the standard for oil and gas water heaters unchanged.

In selecting this standard based on average test results, it is recognized that some particular marginal water heaters might not meet the new standard.

It should be noted that any basic model that was manufactured before the effective date of today's final rule, regardless of when the individual unit was in fact manufactured, and which was certified as meeting the standard using the old test procedure, is grandfathered under NAECA as complying with today's standard.

DOE is also concerned over the test results obtained by NIST and those submitted by GAMA in that for the great majority of units tested, the measured values for energy factor were less than that reported in the GAMA directory. If this situation was brought to DOE's attention by one party complaining against another, DOE believes that in an enforcement proceeding the basic model could be found in noncompliance.

III. Correction of Effective Date for Mobile Home Furnaces Efficiency Standards

In reviewing the final rule regarding certification and enforcement of regulations related to energy conservation standards for consumer products published February 7, 1989, in the Federal Register (54 FR 6077), DOE noted that the effective date listed for mobile home furnaces efficiency standards, January 1, 1990, was incorrect. The correct date is September 1, 1990. Today's notice makes that correction.

IV. Other Reviews

A. Environmental Review

Pursuant to section 7(c)(2) of the Federal Energy Administration Act of 1974 (FEAA) (15 U.S.C. 761–796), a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for comments concerning the impact of this proposal on the quality of the environment.

Since the amended test procedures under the Program will be used only to standardize the measurement of energy usage and the energy efficiency standards have been adjusted accordingly to achieve no net change in energy usage, today's rule will not affect the quality or distribution of energy usage, and will not result in any environmental impacts. DOE, therefore, has determined that amending the test procedures and adjusting the energy efficiency standards accordingly under the Program do not individually or cumulatively have a significant effect on the human environment. Consequently, neither an Environmental Impact Statement nor an Environmental Assessment is required for today's rule.

B. Review Under Executive Order 12291

The final rule has been reviewed in accordance with Executive Order 12291, 46 FR 13193 (February 19, 1981), which directs that all regulations achieve their intended goals without imposing unnecessary burdens on the economy, on individuals, on public or private organizations, or on State and local governments. Executive Order 12291 also requires that regulatory impact analyses be prepared for "major rules," which it defines as any regulation that is likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The final rule amends already existing test procedures for water heaters and correspondingly adjusts the energy efficiency standards. Accordingly, DOE has determined that any burden imposed on any person, industry, or government entity by the amendment of extant procedures is not significant enough to bring the final rule within the definition of "major rule."

In accordance with section 3(c)(3) of Executive Order 12291, which applies to rules other than major rules, the final rule was submitted to the Office of Management and Budget (OMB) for review without a regulatory impact analysis.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–612, requires that an agency prepare an initial regulatory flexibility analysis to be published at the time the proposed rule is published. This requirement (which appears in section 603) does not apply if the agency "certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." DOE certified in the notice of proposed rulemaking, and does so again, that the rule, which affects manufacturers of water heaters, will not have significant economic impact, but rather simply improves the test procedures and adjusts the related energy efficiency standards accordingly. Therefore, DOE certifies that the final rule, as promulgated, will not have a "significant economic impact on a substantial number of small entities."

D. Federalism Review

Executive Order 12612, 52 FR 41685 (October 30, 1987), requires that regulations or rules be reviewed for any substantial direct effects on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government. If there are sufficient substantial direct effects, then Executive Order 12612 requires preparation of a Federalism assessment to be used in all decisions involved in promulgating and implementing a regulation or a rule.

By operation of the statute, standards under the Program initially preempt inconsistent State regulations. Thus, in theory these standards could be said to have a substantial direct effect on State governments. Today's water heater standards provisions, however, have the practical effect of maintaining the *status quo* of the statutory standards levels. Thus the revised standards provisions will have no added substantive or negative effect on States. Based on the foregoing, DOE has concluded that preparation of a Federalism assessment for this rulemaking was not warranted.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Energy conservation, Household appliances.

In consideration of the foregoing, the Department of Energy amends part 430 of chapter II of title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, DC, October 1, 1990.

J. Michael Davis,

Assistant Secretary, Conservation and Renewable Energy.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

1. The authority citation for part 430 continues to read as follows:

Authority: Energy Policy and Conservation Act, title III, part B, as amended by National Energy Conservation Policy Act, title IV, part 2, National Appliance Energy Conservation Act of 1987, and National Appliance Energy

Conservation Amendments of 1988 (42 U.S.C. 6291–6309).

§ 430.22 [Amended]

2. Section 430.22 is amended by revising paragraphs (e)(1) and (e)(2) and by adding paragraph (e)(4) to read as follows:

* * * * *

(e) *Water Heaters.* (1) The estimated annual operating cost for water heaters shall be—

(i) For a gas or oil water heater, the product of the annual energy consumption, determined according to section 6.1.8 or 6.2.5 of appendix E of this subpart, times the representative average unit cost of gas or oil, as appropriate, in dollars per Btu as provided by the Secretary, the resulting product then being rounded off to the nearest dollar per year.

(ii) For an electric water heater, the product of the annual energy consumption, determined according to section 6.1.8 or 6.2.5 of appendix E of this subpart, times the representative average unit cost of electricity in dollars per kilowatt-hour as provided by the Secretary, divided by 3412 Btu per kilowatt-hour, the resulting quotient then being rounded off to the nearest dollar per year.

(2) The energy factor for the water heaters shall be—

(i) For a gas or oil water heater, as determined by section 6.1.7 or 6.2.4 of appendix E of this subpart rounded off to the nearest 0.01.

(ii) For an electric water heater, as determined by section 6.1.7 or 6.2.4 of appendix E of this subpart rounded off to the nearest 0.01.

* * * * *

(4) The alternative uniform test method for measuring the energy consumption of untested water heaters shall be that set forth in section 7.0 of appendix E of this subpart.

3. Appendix E to subpart B of part 430 is revised to read as follows:

Appendix E to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Water Heaters

1. Definitions

1.1. *Cut-in* means the time or water temperature when a water heater thermostat has acted to increase the energy or fuel input to the heating elements, compressor, or burner.

1.2. *Cut-out* means the time or water temperature when a water heater thermostat has acted to reduce to a minimum the energy or fuel input to the heating elements, compressor, or burners.

1.3. *Design Power Rating* means the nominal power rating that a water heater manufacturer assigns to a particular design of water heater, expressed in kilowatts or Btu per hour as appropriate.

1.4. *Energy Factor* means a measure of water heater overall efficiency.

1.5. *First Hour Rating* means the amount of hot water the water heater can supply in one hour of operation.

1.6. *Heat Trap* means a device which can be integrally connected, or independently attached, to the hot and/or cold water pipe connections of a water heater such that the device will develop a thermal or mechanical seal to minimize the recirculation of water due to thermal convection between the water heater tank and its connecting pipes.

1.7. *Recovery Efficiency* means the ratio of energy delivered to the water to the energy content of the fuel consumed by the water heater.

1.8. *Standby* means the time during which water is not being withdrawn from the water heater. There are two standby time intervals used within this test procedure: $\tau_{sby,1}$ represents the elapsed time between the time at which the maximum mean tank temperature is observed after the sixth draw and the end of the 24 hour test; $\tau_{sby,2}$ represents the total time during the 24 hour simulated use test when water was not being withdrawn from the water heater.

1.9. *Gas fueled storage water heater* means a water heater which utilizes gas as the energy source and which is designed to heat and store water at a thermostatically controlled temperature of less than 180 °F with an input of 75,000 Btu per hour or less and a manufacturers specified storage capacity of not less than 20 gallons nor more than 100 gallons.

1.10 *Electric storage water heater* means a water heater which utilizes electricity as the energy source and which is designed to heat and store water at a thermostatically controlled temperature of less than 180 °F with an input of 12 kilowatts or less and a manufacturers specified storage capacity of not less than 20 gallons nor more than 120 gallons.

1.11 *Oil storage water heater* means a water heater which utilizes oil as the energy source and which is designed to heat and store water at a thermostatically controlled temperature of less than 180 °F with an energy input of 105,000 Btu per hour or less, and which has a manufacturers specified storage capacity of 50 gallons or less.

1.12 *Gas fueled instantaneous water heater* means a water heater which utilizes gas as the energy source controlled manually or automatically by a water flow activated control or a combination of water flow and thermostatic control, which is designed to deliver water at a controlled temperature of less than 180 °F, and which has an input greater than 50,000 Btu per hour and less than 200,000 Btu per hour, and a manufacturers specified storage capacity of less than 2 gallons.

1.13 *Heat pump water heater* means a water heater which utilizes electricity as the energy source with a maximum current rating of 24 amperes at a voltage no greater than 250 volts, and which is designed to transfer thermal energy from one temperature level to a higher temperature level for the purpose of heating water, including all auxiliary equipment such as fans, storage tanks, pumps, or controls necessary for the device to perform its function.

1.14 *ASHRAE Standard 41.1–86* means the standard published in 1986 by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. and titled Standard Measurement Guide: Section on Temperature Measurements.

1.15. *ASTM–D–2156–80* means the test standard published in 1980 by the American Society of Testing and Measurements and titled Method for Smoke Density in Flue Gases from Burning Distillate Fuels.

1.16. "Rated Storage Volume" means the water storage capacity of a water heater, in gallons, as specified by the manufacturer.

2. Test Conditions

2.1. *Installation Requirements.* Tests shall be performed with the water heater and instrumentation installed in accordance with section 4.

2.2. *Ambient Air Temperature.* The ambient air temperature, shall be controlled to a value between 65.0 °F and 70.0 °F on a continuous basis. For heat pump water heaters maintain the dry bulb temperature at 67.5 ± 1 °F. Additionally, for heat pump water heaters the relative humidity shall be maintained between 49 and 51 percent.

2.3. *Supply Water Temperature.* The temperature of the water being supplied to the water heater shall be maintained at 58 ± 2 °F throughout the test.

2.4. *Storage Tank Temperature.* The average temperature of the water within the storage tank shall be set to 135 ± 5 °F.

2.5. *Supply Water Pressure.* During the test when water is not being withdrawn, the supply pressure shall be maintained between 40 psig and the maximum allowable pressure specified by the water heater manufacturer.

2.6. *Electrical and/or Fossil Fuel Supply.*

2.6.1. *Electrical.* Maintain the electrical supply voltage to within ± 1 percent of the center of the voltage range specified by the water heater and/or heat pump manufacturer.

2.6.2. *Natural Gas.* Maintain the supply pressure in accordance with the manufacturer's specifications. If the supply pressure is not specified, maintain a supply pressure of 7 to 10 inches of water column. If the water heater is equipped with a gas appliance pressure regulator, the regulator outlet pressure shall be within ± 10% of the manufacturer's specified manifold pressure. Use natural gas with a higher heating value of approximately 1,025 Btu per standard cubic foot.

2.6.3. *Propane Gas.* Maintain the supply pressure in accordance with the manufacturer's specifications. If the supply pressure is not specified, maintain a supply pressure of 11 to 13 inches of water column. If the water heater is equipped with a gas appliance pressure regulator, the regulator outlet pressure shall be within ± 10% of the manufacturer's specified manifold pressure. Use propane gas with a higher heating value of approximately 2,500 Btu per standard cubic foot.

2.6.4. *Fuel Oil Supply.* Maintain an uninterrupted supply of fuel oil. Use fuel oil

with a heating value of approximately 138,700 Btu per gallon.

3. Instrumentation

3.1. *Pressure Measurements.* Pressure measuring instruments shall have an error no greater than the following values:

Item measured	Instrument accuracy	Instrument precision
Gas pressure	±0.1 inch of water column.	±0.05 inch of water column
Atmospheric pressure.	±0.1 inch of mercury column.	±0.05 inch of mercury column
Water pressure	±1.0 pounds per square inch.	±0.50 pounds per square inch

3.2 *Temperature Measurement*

3.2.1. *Measurement.* Temperature measurements shall be made in accordance with the Standard Measurement Guide: Section on Temperature Measurements, ASHRAE Standard 41.1–86.

3.2.2. *Accuracy and Precision.* The accuracy and precision of the instruments, including their associated readout devices, shall be within the limits as follows:

Item measured	Instrument accuracy	Instrument precision
Air dry bulb temperature	±0.2°F	±0.1°F
Air wet bulb temperature	±0.2°F	±0.1°F
Inlet and outlet water temperatures	±0.2°F	±0.1°F
Storage tank temperature	±0.5°F	±0.25°F

3.2.3. *Scale Division.* In no case shall the smallest scale division of the instrument or instrument system exceed 2 times the specified precision.

3.2.4. *Temperature Difference.* Temperature difference between the entering and leaving water may be measured with any of the following:

a. A Thermopile
b. Calibrated resistance thermometers
c. Precision thermometers
d. Calibrated thermistors
e. Calibrated thermocouples
f. Quartz thermometers

3.2.5. *Thermopile Construction.* If a thermopile is used, it shall be made from calibrated thermocouple wire taken from a single spool. Extension wires to the recording device shall also be made from that same spool.

3.2.6. *Time Constant.* The time constant of the instruments used to measure the inlet and outlet water temperatures shall be no greater than 5 seconds.

3.3 *Liquid Flow Measurements.* The accuracy of the liquid flow rate measurement, using the calibration if furnished, shall be equal to or less than ± 1% of the measured value in mass units per unit time.

3.4. *Electric Energy.* The electrical energy used shall be measured with an instrument and associated readout device that are accurate within ± 1% of the reading.

3.5. *Fossil Fuels.* The quantity of fuel used by the water heater shall be measured with an instrument and associated readout device that is accurate within ± 1% of the reading.

3.6. *Mass Measurements.* Mass measurements shall be made measured with instruments that are accurate within ± 1% of the reading or 0.1 lbm, whichever is greater.

3.7. *Heating Value.* The higher heating value of the natural gas, propane, or fuel oil shall be measured with an instrument and associated readout device that is accurate within ± 1% of the reading. The heating value of natural gas and propane must be corrected for local temperature and pressure conditions.

3.8. *Time.* The elapsed time measurements shall be measured with an instrument that is accurate within ± 0.5 seconds per hour.

4. Installation

4.1. *Water Heating Mounting.* A water heater designed to be free standing shall be installed according to the manufacturer's directions on a ¾ inch thick plywood platform supported by three 2 × 6 inch runners. If the water heater is not approved for installation on combustible flooring, suitable non-combustible material shall be placed between it and the platform. For heat pump water heaters without a storage tank supplied by the manufacturer, connections shall be made with a storage tank as described in section 4.2.3 and in accordance with manufacturer-published installation instructions. The storage tank and heat pump section shall be placed on platform(s) constructed as previously described. If installation materials are not provided by the heat pump manufacturer, use uninsulated 8 foot long connecting hoses, having an inside diameter of ¾ inch. Wall mounted water heaters shall be installed in accordance with manufacturer-published installation instructions on a simulated wall section made from ¾ inch plywood and 2 × 4 inch studs. Placement in the test room shall be in an area protected from drafts.

4.2. *Water Supply.* The water supply shall be capable of delivering water at conditions as specified in section 2.

4.3. *Water Inlet and Outlet Configuration.* Inlet and outlet piping connections shall be configured as illustrated in Figures 1, 2, or 3 except a water heater 36 inches high or less, (commonly referred to as an under counter or table top model) intended for installation either beneath, adjacent to or in conjunction with a counter shall have the inlet and outlet connections configured as illustrated in Figures 4a and 4b. Type "L" hard copper tubing, the same size as the connections on the water heater shall be connected to the tank and extend 24 inches in length. If a water heater 36 inches high or less is not factory equipped with pipe to extend the field connection point of the water heater lines to outside of the jacket or cabinet, type "L" hard copper tubing shall be used to extend the water line horizontally to the exterior of the jacket or cabinet. Unions may be utilized to facilitate installation and removal of the piping arrangements. A pressure gauge and diaphragm expansion tank shall be installed in the supply water piping at a location upstream of the 24 inch cold water inlet pipe. An appropriately rated pressure and temperature relief valve shall be installed on all water heaters at the port specified by the manufacturer. Discharge piping for the relief valve shall be non-metallic. If heat traps and/or piping insulation and/or pressure relief valve insulation are supplied with the water heater, then they shall be installed for testing. Clearance shall be provided such that none of the piping contacts other surfaces in the test room.

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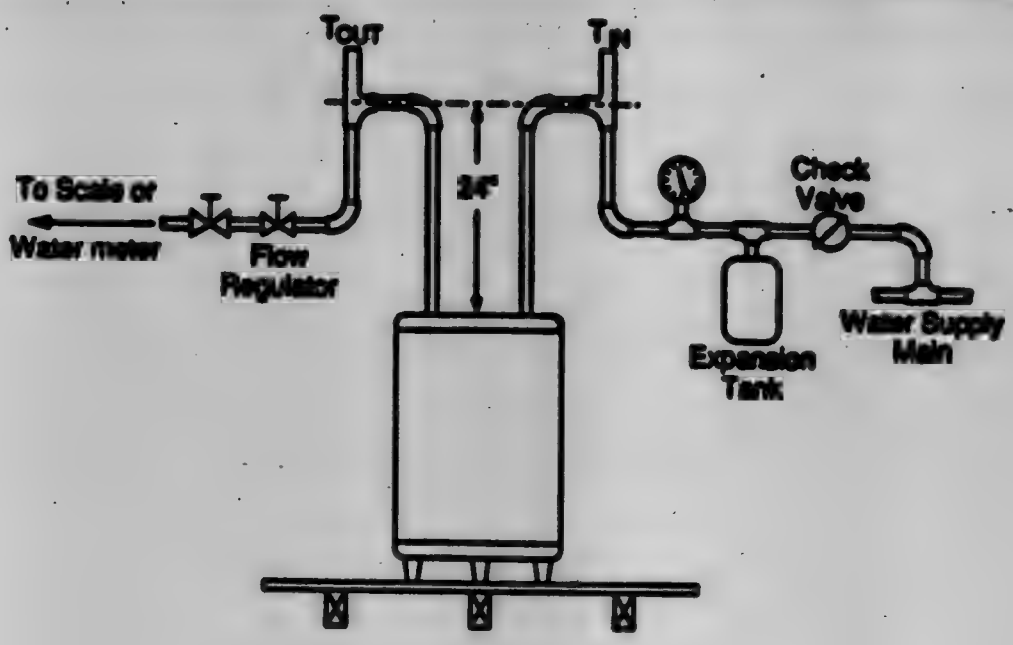

Figure 1

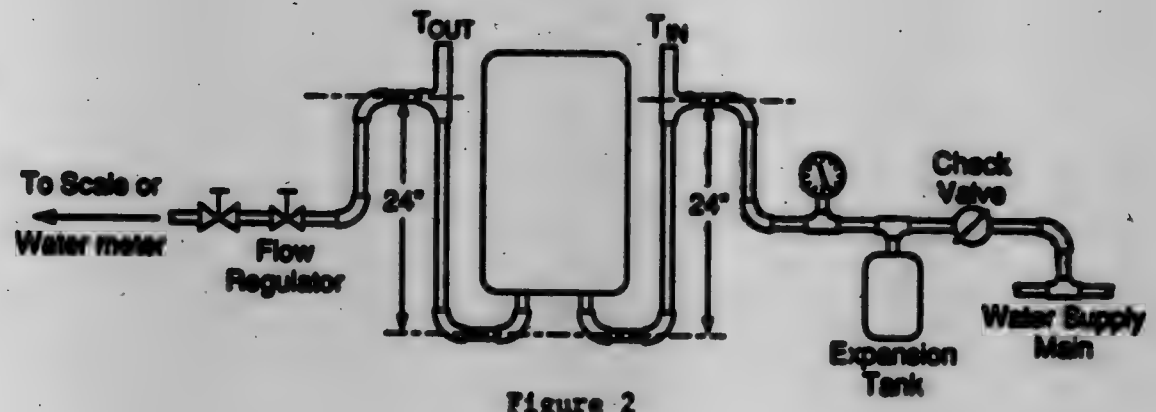

Figure 2

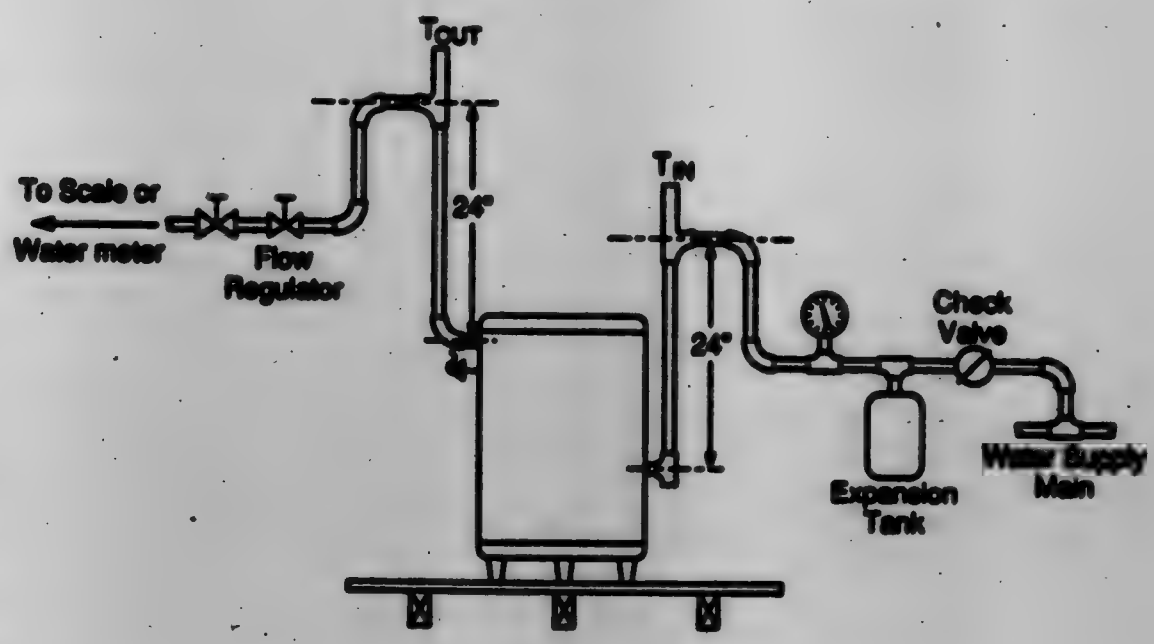

Figure 3

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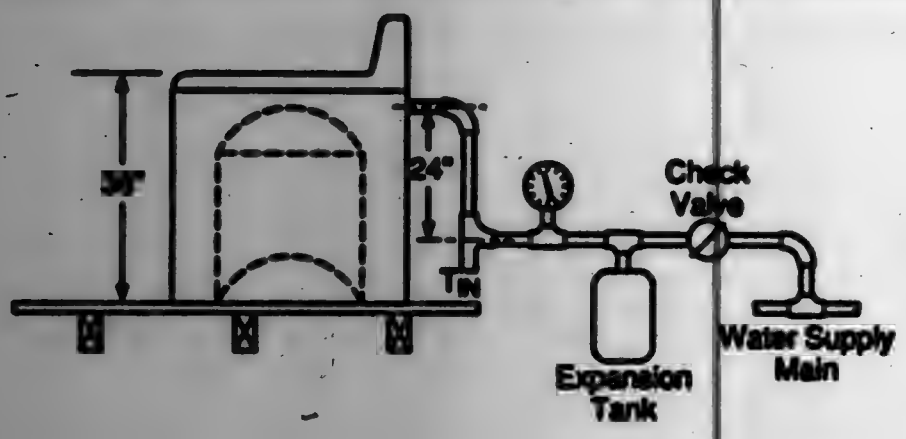

Figure 4a.

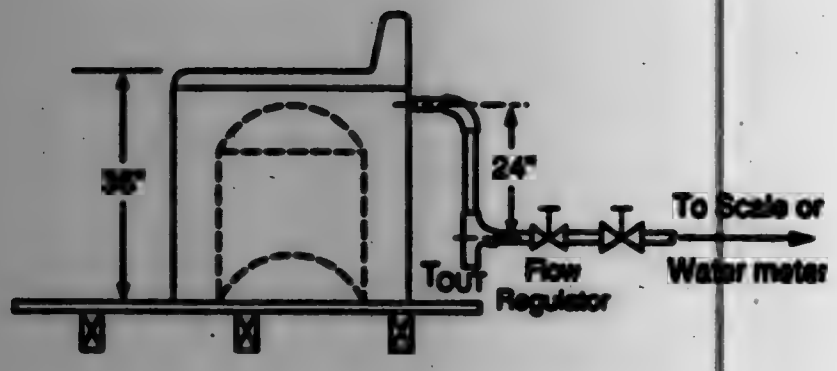

Figure 4b.

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4.4. *Fuel and/or Electrical Power and Energy Consumption.* Install one or more instruments which measure, as appropriate, the quantity and rate of electrical energy and/or fossil fuel consumption in accordance with section 3.

4.5. *Internal Storage Tank Temperature Measurements.* Install six temperature measurement sensors inside the water heater tank with a vertical distance of at least four inches between successive sensors. A temperature sensor shall be positioned at the vertical midpoint of each of the six equal volume nodes with the tank. Nodes designate the equal volumes used to evenly partition the total volume of the tank. As much as is possible, the temperature sensor should be positioned away from any heating elements, anodic protective devices, tank walls, and flue pipe walls. If the tank cannot accommodate six temperature sensors and meet the installation requirements specified above, install the maximum number of sensors which comply with the installation requirements. The temperature sensors shall be installed either through: (1) The anodic device opening; (2) the relief valve opening; or (3) the hot water outlet. If installed through the relief valve opening or the hot water outlet, a tee fitting or outlet piping, as applicable, shall be installed as close as possible to its original location. If the hot water outlet includes a heat trap, the heat trap shall be installed on top of the tee fitting. Added fittings shall be covered with thermal insulation having an R value of 4 hr-ft²-°F/Btu.

4.6. *Ambient Temperature.* The ambient air temperature shall be measured approximately at the vertical mid-point of the heater and approximately 2 feet from the surface of the water heater. The sensor shall be shielded against radiation.

4.7. *Inlet and Outlet Water Temperature Measurements.* Install temperature sensors in the cold-water inlet pipe and hot-water outlet pipe as shown in Figures 1, 2, or 3, as applicable.

4.8. *Flow Control.* A flow control valve shall be installed to provide flow as specified within section 5.

4.9. *Flue Requirements.*

4.9.1. *Oil-Fired Water Heaters.* Establish a draft at the flue collar as specified in the manufacturer's literature. Establish the draft by using a sufficient length of vent pipe connected to the water heater flue outlet and directed vertically upward. For an oil-fired water heater having a horizontally discharging draft hood outlet, a 90 degree elbow having a diameter equal to the largest flue collar size of the draft hood shall be connected to the draft hood outlet. A length of vent pipe sufficient to establish the draft shall be connected to the elbow fitting and oriented to discharge vertically upward. Direct vent oil-fired water heaters should be installed with venting equipment as specified in the manufacturer's instructions, using the minimum vertical and horizontal lengths of vent pipe recommended by the manufacturer.

4.9.2. *Gas-Fired Water Heaters.* Establish a natural draft in the following manner. For gas-fired water heaters having a vertically discharging draft hood outlet, a 5 foot vertical vent pipe extension having a diameter equal to the largest flue collar size of the draft hood shall be connected to the draft hood outlet. For gas-fired water heaters having a horizontally discharging draft hood outlet, a 90 degree elbow having a diameter equal to the largest flue collar size of the draft hood shall be connected to the draft hood outlet. A 5 foot length of vent pipe shall be connected to the elbow and oriented to discharge vertically upward.

Direct vent gas-fired water heaters shall be installed with venting equipment specified in the manufacturer's instructions using the minimum vertical and horizontal lengths of vent pipe recommended by the manufacturer.

4.9.3. *Heat Pump Water Heater Storage Tank.* The tank to be used for testing a heat pump water heater without a tank supplied by the manufacturer shall be an electric storage type water heater having a volume of 47.0 gallons ± 1 gallon with an Energy Factor of 0.87 ± .01 as determined in accordance with section 5.1.7 with two 4.5 kW heating elements controlled in such a manner as to prevent both elements from operating simultaneously.

5. Test Procedure

5.1. *Storage Tank and Heat Pump Water Heaters.*

5.1.1. *Determination of Storage Tank Volume.* Determine the storage capacity, V_s, of the water heater under test, in gallons, by subtracting the tare weight—measured while the tank is empty—from the gross weight of the storage tank completely filled with water with all air eliminated and line pressure applied as described in section 2.5, and dividing the resulting net weight by the density of water at the appropriate temperature.

5.1.2. *Setting the Thermostat for a Thermostatically Operated Water Heater.* Starting with a tank of supply water, initiate normal operation of the water heater. After cutout, observe the mean tank temperature (based on the six temperature sensors) every minute until the maximum value is observed. Determine whether this maximum value of the mean tank temperature is within the range of 135°F ±5°F. If not, turn off the water heater, adjust the thermostat, and refill the tank with supply water. Then, initiate normal operation of the water heater, and once again determine the maximum mean tank temperature after cut-out. Repeat this sequence until the maximum mean tank temperature after cut-out is within the range of 135°F ±5°F. If a water heater has two thermostats, the thermostat which controls the upper heating element shall be set first to yield a maximum water temperature of 135°F ±5°F as measured by the temperature tank sensors above the upper heating element. The thermostat which controls the lower heating element shall then be set to yield a maximum mean tank temperature of 135°F ±5°F. For heat pump water heaters, which control an auxiliary resistance element, the thermostat shall be set in accordance with the manufacturer's installation instructions.

5.1.3. *Power Input Determination.* For all water heaters except electric types having immersed heating elements and initiate normal operation and determine the power input, P, to the main burners (including pilot light power, if any) after 15 minutes of operation. If the water heater is equipped with a gas appliance pressure regulator, the regulator outlet pressure shall be set within ±10% of that recommended by the manufacturer. For oil fired water heaters the fuel pump pressure shall be within ±10% of the manufacturer's specified pump pressure. All burners shall be adjusted to achieve an hourly Btu rating that is within ±2% of the value specified by the manufacturer. For an oil-fired water heater, adjust the burner to give a CO_2 reading recommended by the manufacturer and an hourly Btu rating that is within ±2% of that specified by the manufacturer. Smoke in the flue may not exceed No. 1 smoke as measured by the procedure in ASTM-D-2156-65. Gas- and oil-fired water instantaneous water heaters shall have the burners adjusted to the manufacturer's maximum firing rate value.

5.1.4. *First Hour Rating Test.* Establish normal water heater operation with the maximum mean tank temperature within the range specified in section 5.1.2. Begin the first hour rating test after the thermostat has acted to reduce the electrical power or fuel input to the water heater and the maximum storage tank temperature has been achieved. If the water heater incorporates a heat-pump, wait until both the heat pump and electrical heating element(s) have ceased to supply energy to the storage tank. Record the time, oil, gas and/or electrical meter readings as appropriate. Do not interrupt electrical power and/or fuel to the water heater. The rate of water withdrawal shall be 3.00±0.25 gallons per minute. Draw and collect water withdrawn from the water heater in a suitable container for the purpose of determining its weight at the conclusion of the test. During the draw record the inlet and outlet fluid temperature beginning 15 seconds after the start and at every subsequent 5 second interval throughout the duration of each draw. Alternatively, a water meter may be used to directly measure the volume of water withdrawn. Record the maximum outlet temperature which occurs during the draw as T_{max}. The withdrawal of water shall continue until the outlet temperature drops to a value 25°F below T_{max}, defined as T_{min}, at which time the draw shall be terminated. Record the average outlet temperature and mass removed as T_{out} and M_t, respectively. If the thermostat acts to reduce the supply of fuel to the main burner or electrical input to the upper heating element of a multiple element electric water heater, or electrical input to a water heater having a single element or multiple elements which operate simultaneously, before one hour has elapsed, initiate a second draw. During the draw record the outlet fluid temperatures beginning 15 seconds after initiating the draw and at every subsequent 5 second interval throughout the duration of each draw until the outlet temperature drops to T_{min}, at which time the draw is terminated. Record the average outlet temperatures as well as the mass removed. Continue this sequence of events until one hour has elapsed. If a draw is currently taking place, continue the draw until the outlet temperature reaches T_{min}, and record the elapsed time between the

previously recorded time, at the beginning of the first draw, and the termination of this final draw as τ_{fin}. If a draw is not taking place at the end of one hour, wait until the thermostat acts to reduce the supply of fuel to the main burner or electrical input to the upper heating element of a multiple element electric water heater, or electrical input to a water heater having a single element or multiple elements which operate simultaneously, to initiate the final draw. During the final draw, record the outlet fluid temperature beginning 15 seconds after initiating the draw and at every subsequent 5 second intervals throughout the duration of the draw until the outlet temperature drops to T_{min}, at which time the draw is terminated. Record the elapsed time between the previously recorded time, at the beginning of the first draw, and the termination of the final draw as τ_{fin}. In either case, record the outlet temperatures and the mass removed during the final draw.

5.1.5. *24 Hour Simulated Use Test.* During the simulated use test, a total of 64.3 gallons are removed. With the water heater turned off, fill the water heater with supply water and apply pressure as described in section 2.1.5. Turn on the water heater and associated heat pump unit, if present. Wait until cutout occurs at 135°F ±5°F, as specified in section 2.1.4. After the cutout occurs, measure the mean tank temperature using the temperature sensors described in section 4.5 every minute until the maximum mean storage tank temperature is achieved. The water heater may be operated through up to three successive cycles of drawing 10 gallons per draw, permitting recovery between each draw, prior to the start of the test. Record at this time (designated as $\tau=0$), the mean tank temperature (T_m), and the oil, gas, and electrical energy measurements as appropriate. Begin the 24 hour simulated use test by drawing an amount of water out of the water heater equivalent to one-sixth of the daily hot water usage, 64.3 gallons. Record the average storage tank and ambient temperature every 15 minutes throughout the 24 hour simulated use test unless recovery or a draw is occurring. At elapsed time intervals of one, two, three, four and five hours from $\tau=0$), initiate additional draws removing an amount of water equivalent to one-sixth of 64.3 gallons, with the maximum allowable deviation for any single draw being ±0.5 gallons. The quantity of water drawn during the sixth draw shall be increased or decreased as necessary such that the total volume of water withdrawn shall be equal to 64.3±1.0 gallons.

All draws during the simulated use test are to be made at flow rates of 3.0±0.25 gallons per minute. Measurements of the inlet and outlet temperatures shall be made beginning 15 seconds after the draw is initiated and at every subsequent 5 second interval throughout the duration of each draw. The arithmetic mean of the hot water discharge temperature and the cold water inlet temperature shall be determined for each draw. Record the scale or meter reading, as appropriate, after each draw. At the end of the recovery period following the first draw, record the maximum mean tank temperature observed after cut-out, $T_{max,1}$, and the energy consumed, Q_1 for oil, gas, and heat pump water heaters including auxiliary energy such as pilot lights, pumps, fans, etc. For heat pump water heaters Q_1 is the sum of the energy consumed by the heat pump and the electrical heating elements(s).

At the end of the recovery period following the sixth draw, record the total electric and/or fuel energy consumption, Q_{tot}, and the scale reading or the meter reading, as appropriate. If a water scale is used, determine the net weight of the water withdrawn, M_{draw} in pounds. Record the maximum value of the mean tank temperature after cutout as $\overline{T}_m$. Except as noted below, allow the water heater to remain in the standby mode until 24 hours have elapsed from the start of the test, $\tau=0$. Prevent the water heater from beginning a recovery cycle during the last hour of the test by turning off the electric power to the electrical heating elements and heat pump, if present, or by turning down the fuel supply to the main burner at an elapsed time of 23 hours. If a recovery is taking place at an elapsed time of 23 hours, wait until the recovery is complete before reducing the electrical and/or fuel supply to the water heater. At 24 hours, record the mean tank temperature, $\overline{T}_{24}$, and the electric and/or fuel instrument readings. Determine the total energy consumption during the entire 24 hour simulated use test, Q. Record the time interval between the time at which the maximum mean tank temperature is observed after the sixth draw and the end of the 24 hour test as $\tau_{rec,2}$. Record the time during which water was not being withdrawn from the water heater during the entire 24 hour period as $\tau_{idle,2}$.

5.2 Instantaneous Water Heaters

5.2.1. *Setting the Outlet Discharge Temperature.* Initiate normal operation of the water heater at the full input rating. Monitor the discharge water temperature and set to a value of 135°F ± 5°F in accordance with the manufacturer's instructions. If the water heater is not capable of providing 3.00 ± 0.25 gallons per minute then adjust the flow rate as necessary to achieve the specified discharge water temperature. Record the corresponding flow rate as V_{max}. If the instantaneous water heater incorporates a controller which permits continous burner operation at a reduced input rate, adjust the flow rate as necessary to achieve a discharge water temperature of 135° ± 5°F while maintaining the minimum input rate. Record the corresponding flow rate, V_{min}. If an outlet temperature of 135° ± 5°F cannot be achieved at the minimum allowable flow rate permitted by the instantaneous water heater, record the flow rate as V_{min} and the outlet temperature as T_{min}.

5.2.2. *Power Input Determination.* For oil and gas flow actuated water heaters, adjust the burners to the maximum firing rate value specified by the manufacturer.

5.2.3. *First Hour Rating Test for Instantaneous Water Heaters.* Establish normal heater operation at the maximum input rate with the discharge water temperature set in accordance with section 5.2.1. Record the time, oil, and/or gas meters as appropriate. Do not interrupt electrical or fuel to the water heater. Draw and collect water withdrawn from the water heater, while recording the inlet and outlet fluid temperatures beginning 15 seconds after the draw is initiated and at every subsequent 5 second interval throughout the duration of the draw in a suitable container for the purpose of determining its weight at the conclusion of the test. Alternatively, a water meter may be used to directly measure the value of water withdrawn. At the end of one hour terminate the draw. Determine the mass of water withdrawn, M_{draw}, in pounds, or the volume of water withdrawn, V_{draw}, in gallons with an error no greater than 2 percent.

5.2.4. 24 Hour Simulated Use Test

5.2.4.1. *Fixed Input Instantaneous Water Heaters.* Establish normal operation with the discharge water temperature and flow rate set to values of 135°F ± 5°F and V_{max}, respectively. Record the oil, gas, and electrical energy measurements, as appropriate. Begin the 24 hour simulated use test by drawing an amount of water out of the water heater equivalent to one-sixth of the daily hot water usage, 64.3 gallons. At elapsed time intervals of one, two, three, four, and five hours from $\tau=0$, initiate additional draws removing an amount of water equivalent to one-sixth of 64.3 gallons, with the maximum allowable deviation for any single draw being ± 0.5 gallons. The quantity of water drawn during the sixth draw shall be increased or decreased as necessary such that the total volume of water withdrawn shall be equal to 64.3±1.0 gallons. Measurements of the inlet and outlet water temperatures shall be made beginning 15 seconds after the draw is initiated and at every 5 second interval throughout the duration of the draw. The arithmetic mean of the hot water discharge temperature and the cold water inlet temperature shall be determined for each draw. Record the scale or meter reading, as appropriate, after each draw. At the end of the recovery period following the first draw, record the energy consumed, Q_1. Allow the water heater to remain in the standby mode until exactly 24 hours have elapsed from the start of the test, $\tau=0$. At 24 hours, record the electric and/or fuel instrument readings. Determine the energy consumption during the entire 24 hour simulated use test, Q.

5.2.4.2. *Variable Input Instantaneous Water Heaters.* If the instantaneous water heater incorporates a controller which permits continuous burner operation at a reduced input rate, the first three draws shall be conducted using the maximum flow rate, V_{max}, while removing an amount of water equivalent to one-sixth of 64.3 gallons, with the maximum allowable deviation for any one of the three draws being ± 0.5 gallons. The second three draws shall be conducted at V_{min}. If an outlet temperature of 135° ± 5°F could not be achieved at the minimum flow rate permitted by the instantaneous water heater, the last three draws should be lengthened such that the volume removed is equivalent to

$$V_{s.s.s} = \frac{54.3}{8} \cdot \left[\frac{77°F}{T_{min} - 58°F} \right]$$

with the maximum allowable definition for any one of the three draws being ± 0.5 gallons. The quantity of water drawn during the sixth draw shall be increased or decreased as necessary such that the total volume of water withdrawn shall be equal to $32.15 + 3 \cdot V_{s.s.s} \pm 1.0$ gallons. Measurements of the inlet and outlet water temperatures shall be made beginning 15 seconds after the draw is initiated and at every 5 second interval throughout the duration of the draw. Determine the arithmetic mean of the hot water discharge temperature and the cold water inlet temperature for each draw. Record the scale or meter reading, as appropriate, after each draw. At the end of the recovery period following the first draw, record the energy consumption, $Q_{r,\ min}$. Record the energy consumed prior to the fourth draw and at the end of the recovery period following the fourth draw, $Q_{r,\ max}$.

Allow the water heater to remain in the standby mode until exactly 24 hours have elapsed from the start of the test, $\tau = 0$. At 24 hours, record the electric and/or fuel instrument readings. Determine the energy consumption during the entire 24 hours simulated use test, Q.

6. Computations

6.1 *Storage Tank Water Heaters.*

6.1.1. *Storage Tank Capacity.* The storage tank capacity is computed using the following—

$$V_{st} = (W_f - W_t)/\rho$$

where V_{st} is the storage capacity of the water heater, gallons

W_f is the weight of the storage tank completely filled with water, lbm

W_t is the tare weight of the empty storage tank, lbm

ρ is the density of water at the appropriate temperature, lbm/gal.

6.1.2. First Hour Rating Computation. Compute the first hour rating as

$$F_{hr} = \frac{60}{\tau_{fhr}} \sum_{i=1}^{n} \frac{M_i(T_{del.\ i} - T_{in.i})}{\rho(135°F - 58°F)}$$

Which may be expressed as

$$F_{hr} = \frac{60}{\tau_{fhr}} \sum_{i=1}^{n} \frac{M_i(T_{del.\ i} - T_{in.i})}{\rho(77°F)}$$

where M_i represents the mass removed during the ith draw of the first hour rating test, lbm

$T_{del.\ i}$ is the average delivery temperature for the ith draw which occurred during the first hour rating test, °F

τ_{fhr} represents the elasped time recorded during the first hour rating test, minutes

$T_{in.i}$ is the average inlet temperature for the ith draw which occurred during the first hour rating test, °F

ρ represents the density of water at the average delivery temperature, lbm/gal

and n represents the number of draws which occur during the test If a water meter is used in lieu of a scale, the first hour rating is

$$F_{hr} = \frac{60}{\tau_{fhr}} \sum_{i=1}^{n} \frac{V_i(T_{del.i} - T_{in.i})}{77°F}$$

where V_i represents the volume removed during the ith draw of the first hour rating test, gal

6.1.3 *Recovery Efficiency.* The recovery efficiency for gas, oil, and heat pump storage type water heaters is computed as

$$\eta_r = \frac{M_1 C_{p1}(T_{del.1} - T_{in.1})}{Q_r} + \frac{V_{st}\rho C_{p2}(T_{max.1} - \bar{T}_a)}{Q_r}$$

where M_1 is the mass withdrawn during the first draw, lbm

C_{p1} is the specific heat of water at the average temperature $(\bar{T}_{del.1} + T_{in.1})/2$, btu/lbm °F

$\bar{T}_{del.1}$ is the average delivery temperature for the first draw, °F

$T_{in.1}$ is the average inlet temperature for the first draw, °F

V_{st} is the storage tank capacity, gal

ρ is the density of water at the average temperature $(T_{max.1} + \bar{T}_a)/2$, lbm/gal

C_{p2} is the specific heat of water at the average temperature $(T_{max.1} + \bar{T}_a)/2$, Btu/lbm °F

$T_{max.1}$ is the maximum mean tank temperature recorded after cutout following the first draw, °F

$\bar{T}_a$ is the maximum mean tank temperature recorded prior to the first draw, °F

and Q_r is the total energy used by the water heater between cutout prior to the first draw and cutout following the first draw, including auxiliary energy such as pilot lights, pumps, fans, etc., Btu. (Electrical auxiliary energy shall be converted to thermal energy using the following conversion: 1kWh = 3412.76 Btu.)

The recovery efficiency for electric water heaters with immersed heating elements is assumed to be 98 percent.

6.1.4. *Hourly Standby Losses.* The hourly standby losses are computed as

$$Q_{hr} = \left[Q_{sby} - \frac{MC_p(\bar{T}_{24} - T_m)}{\eta_r} \right] \Big/ \tau_{sby.1}$$

where Q_{hr} is the hourly standby energy losses of the water heater, Btu/hr

Q_{sby} is the total energy consumer by the water heater between the time at which the maximum mean tank temperature is observed after the sixth draw and the end of the 24 hour test period, Btu

M is the mass of the water within the storage tank, lbm

C_p is the specific heat of water at the average temperature $(\bar{T}_{24} + T_m)/2$, Btu/lbm °F

$\bar{T}_{24}$ is the mean tank temperature at the end of the 24 hour test period, °F

T_m is the maximum mean tank temperature observed after the sixth draw, °F

and $\tau_{sby.1}$ is the elapsed time between the time at which the maximum mean tank temperature is observed after the sixth draw and the end of the 24 hour test period, hours

The standby heat loss coefficient for the tank is computed as—

$$UA = \frac{Q_{hr}}{\bar{T}_{t.sby} - \bar{T}_{a.sby}}$$

where $\bar{T}_{t.sby}$ is the average storage tank temperature between the time at which the maximum mean tank temperature is observed after the sixth draw and the end of the 24 hour test period, °F

$\bar{T}_{a.sby}$ is the average ambient temperature between the time at which the maximum mean tank temperature is observed after the sixth draw and the end of the 24 hour test period, °F

and UA is the standby heat loss coefficient of the storage tank.

$$\frac{\text{BTU}}{\text{hr °F}}$$

6.1.5. Daily Water Heating Energy Consumption. The daily water heating energy consumption, Q_s is computed as

$$Q_s = Q - \frac{C_p M(T_{ss} - T_s)}{\eta_t}$$

where Q is the total energy used by the water heater during the 24 hours simulated use test including auxiliary energy such as pilot lights, pumps, fans, etc., Btu
C_p is the specific heat of water at the average temperature $(T_{ss}+T_s)/2$, Btu/lbm °F
M is the mass of water within the storge tank, lbm
T_{ss} is the average tank temperature at the conclusion of the 24 hours simulated use test, °F
T_s is the average tank temperature at the beginning of the 24 hours simulated use test, recorded one minute before the first draw is initiated °F
and η_t is the recovery efficiency of the hot water heater, dimensionless.

6.1.6. *Adjusted Daily Water Heating Energy Consumption.* The adjusted daily water heating energy consumption, Q_{sa}, takes into account that the temperature difference between the storage tank and surrounding ambient temperature may not be the nominal value of 67.5°F (135°F − 67.5°F) due to the 10°F allowable variation in storage tank temperature, 135 ± 5°F, and the 5°F allowable variation in surrounding ambient temperature 65°F to 70°F. The adjusted daily water heating energy consumption is computed as

$$Q_{sa} = Q_s - [(T_{stby} - T_{a,stby}] - (135°F - 67.5°F)]UA\tau_{stby,2}$$

where Q_{sa} is the adjusted daily water heating consumption, Btu
T_{stby} is the mean tank temperature during the total standby portion, $\tau_{stby,2}$, of the 24 hour test, °F
$T_{a,stby}$ is the average ambient temperature during the total standby portion, $\tau_{stby,2}$, of the 24 hour test, °F
UA is the standby heat loss coefficient for the storage tank, Btu/hr°F
and $\tau_{stby,2}$ is the number of hours during the 24 hour simulated test when water was not being withdrawn from the water heater

A modification is also needed to take into account that the temperature difference between the outlet water temperature and supply water temperature may not be equivalent to the nominal value of 77°F (135°F−58°F). The following equations adjust the experimental data to a nominal 77°F temperature rise.

The energy used to heat water, Btu per day, may be computed as—

$$Q_{hw} = \sum_{i=1}^{6} \frac{M_i C_{pi}(T_{del,i} - T_{in,i})}{\eta_t}$$

where M_i is the mass withdrawn for the ith draw (i=1 to 6), lbm
C_{pi} is the specific heat of water, Btu/lbm °F

The energy required to heat the same quantity of water over a 77 °F temperature rise, Btu per day, is

$$Q_{hw,77} = \sum_{i=1}^{6} \frac{M_i C_{pi}(135°F - 58°F)}{\eta_t}$$

The difference between these two values is—

$$Q_{hwa} = Q_{hw,77} - Q_{hw}$$

which must be added to the adjusted daily water heating energy consumption value. Thus, the daily energy consumption value which takes into account that the temperature difference between the storage tank and ambient temperature may not be 67.5°F and the temperature rise across the storage tank may not be 77°F is—

$$Q_{da} = Q_{sa} + Q_{hwa}$$

6.1.7. Energy Factor. The energy factor, E_f, is computed as—

$$E_f = \sum_{i=1}^{6} \frac{M_i C_{pi}(135°F - 58°F)}{Q_{da}}$$

where Q_{da} is the modified daily water heating energy consumption as computed in accordance with Section 6.1.6, Btu

6.1.8. Annual Energy Consumption

The annual energy consumption for storage type and heat pump water heaters is computed as—

$$E_{annual} = Q_{da} \cdot 365$$

where Q_{da} is the modified daily energy consumption value, Btu per day and 365 is the number of days within a year, days

6.2. Instantaneous Hot Water Heaters.

6.2.1. *First Hour Rating Computation.* Compute the first hour rating as

$$F_{hr} = \frac{M(T_{del} - T_{in})}{\rho(135°F - 58°F)}$$

which may be expressed as—

$$F_{hr} = \frac{M(T_{del} - T_{in})}{\rho(77°F)}$$

where M represents the mass removed during the one hour continuous draw, lbm
T_{del} is the average delivery temperature, °F
T_{in} is the average inlet temperature, °F
and ρ represents the density of water at the average delivery temperature, lbm/gal

If a water meter is used in lieu of a scale the first hour rating is computed as—

$$F_{hr} = \frac{V(T_{del} - T_{in})}{77°F}$$

where V represents the volume of water removed during the one hour continuous draw, gal

6.2.2. Recovery Efficiency

6.2.2.1. *Fixed Input Instantaneous Water Heaters.* The recovery efficiency is computed as

$$\eta_t = \frac{M_1 C_{p1}(T_{del,1} - T_{in,1})}{Q_r}$$

where M_1 is the mass withdrawn during the first draw, lbm
C_{p1} is the specific heat of water at the average temperature $(T_{del,1}+T_{in,1})/2$, Btu/lbm°F
$T_{del,1}$ is the average delivery temperature for the first draw, °F
$T_{in,1}$ is the average inlet temperature for the first draw, °F
and Q_r is the total energy used by the water heater between cutout prior to the first draw and cutout following the first draw, including auxiliary energy such as pilot lights, pumps, fans, etc., Btu

6.2.2.2. Variable Input Instantaneous Water Heaters

For instantaneous water heaters which have a variable firing rate, two recovery efficiency values are computed, one at the maximum input rate and one at the minimum input rate. The recovery efficiency used in subsequent computations is taken as the average of these two values. The maximum recovery efficiency is computed as

$$\eta_{t,max} = \frac{M_1 C_{p1}(T_{del,1} - T_{in,1})}{Q_{r,max}}$$

where M_1 is the mass withdrawn during the first draw, lbm
C_{p1} is the specific heat of water at the average temperature $(T_{del,1}+T_{in,1})/2$, Btu/lbm °F
$T_{del,1}$ is the average delivery temperature for the first draw, °F
$T_{in,1}$ is the average inlet temperature for the first draw, °F
and $Q_{r,max}$ is the total energy used by the water heater between cutout prior to the first draw and cutout following the first draw, including auxiliary energy such as pilot light, Btu

The minimum recovery efficiency is computed as—

$$\eta_{r,min} = \frac{M_4 C_{p4}(T_{del,4} - T_{in,4})}{Q_{r,min}}$$

where M_4 is the mass withdrawn during the fourth draw, lbm
C_{p4} is the specific heat of water, Btu/lbm °F
$T_{del,4}$ is the average delivery temperature for the fourth draw, °F
$T_{in,4}$ is the average inlet temperature for the first draw, °F
and $Q_{r,min}$ is the total energy consumed immediately prior to the fourth draw and cutout following the fourth draw, including auxiliary energy such as pilot lights, Btu

The recovery efficiency is computed as—

$$\eta_r = \frac{\eta_{r,max} + \eta_{r,min}}{2}$$

6.2.3. *Daily Water Heating Energy Consumption.* The daily water heating energy consumption, Q_d is computed as—

$$Q_d = Q$$

where Q is the energy used by the flow actuated water heater during the 24 hour simulated use test

A modification is needed to take into account that the temperature difference between the outlet water temperature and supply water temperature may not be equivalent to the nominal value of 77 °F (135 °F − 58 °F). The following equations adjust the experimental data to a nominal 77 °F temperature rise.

The energy used to heat water may be computed as—

$$Q_{mw} = \sum_{i=1}^{6} \frac{M_i C_{pi}(T_{del,i} - T_{in,i})}{\eta_r}$$

The energy required to heat the same quantity of water over a 77 °F temperature rise is—

$$Q_{mw,77} = \sum_{i=1}^{6} \frac{M_i C_{pi}(135°F - 58°F)}{\eta_r}$$

The difference between these two values is—

$$Q_{mwc} = Q_{mw,77} - Q_{mw}$$

which must be added to the daily water heating energy consumption value. Thus, the daily energy consumption value which takes into account that the temperature rise across the storage tank may not be 77 °F is—

$$Q_{dm} = Q_d + Q_{mwc}$$

6.2.4. *Energy Factor.* The energy factor, E_f is computed as—

$$E_f = \sum_{i=1}^{6} \frac{M_i C_{pi}(135°F - 58°F)}{Q_{dm}}$$

where Q_{dm} is the daily water heating energy consumption as computed in accordance with section 6.2.3., Btu
M_i is the mass associated with the ith draw, lbm
C_{pi} is the specific heat of water computed at a temperature of (58 °F + 135 °F)/2, Btu/lbm °F
$T_{del,i}$ is the average delivery temperature for the ith draw, °F
and $T_{in,i}$ is the average inlet temperature for the ith draw, °F

6.2.5. *Annual Energy Consumption.* The annual energy consumption for instantaneous type water heaters is computed as—

$$E_{annual} = Q_{dm} * 365$$

where Q_{dm} is the modified daily energy consumption, Btu per day
and 365 is the number of days within a year, days.

7. Ratings for Untested Models

In order to relieve the test burden to manufacturers who offer water heaters which differ only in fuel type or power input, ratings for untested models may be established in accordance with the following procedures. In lieu of the following procedures a manufacturer may elect to test the unit for which a rating is sought.

7.1. *Gas Water Heaters.* Ratings obtained for gas water heaters using natural gas can be used for an identical water heater which utilizes propane gas if the input ratings are within 10 percent.

7.2. Electric Water Heaters

7.2.1. *First Hour Rating.* If an electric storage type water heater is available with more than one input rating, the manufacturer shall designate the standard input rating and the water heater need only be tested with heating elements at the designated standard input ratings. The first hour ratings for units having power input rating less than the designated standard input rating shall be assigned a first hour rating equivalent to the first draw of the first hour rating for the electric water heater with the standard input rating. For units having power inputs greater than the designated standard input rating, the first hour rating shall be equivalent to that measured for the water heater with the standard input rating.

7.2.2. *Energy Factor.* The energy factor for identical electric storage type water heaters, with the exception of heating element wattage, may use the energy factor obtained during testing of the water heater with the designated standard input rating.

§ 430.31 [Amended]

4. Section 430.31, *Purpose and Scope,* is amended by adding the following sentence at the end of the section to read as follows:

* * * Basic models of covered products manufactured before the date on which an amended energy conservation standard becomes effective (or revisions of such models manufactured after such date and have the same energy efficiency or energy use characteristics) that comply with the energy conservation standard applicable to such covered products on the day before such date shall be deemed to comply with the amended energy conservation standard.

§ 430.32 [Amended]

5. Section 430.32, *Energy conservation standards and effective dates,* is amended by revising paragraph (d), and by revising the effective date of entry "2." in paragraph (e) to read "09/01/90." The revised paragraph (d) reads as set forth below:

* * * * *

(d) *Water heaters.*

The energy factor of water heaters shall not be less than the following products manufactured on or after the indicated dates:

Product class	Energy factor, as of Jan. 1, 1990	Energy factor, as of April 15, 1991
1. Gas Water Heater.	0.62 − (.0019 × Rated Storage Volume in gallons).	0.62 − (.0019 × Rated Storage Volume in gallons).
2. Oil Water Heater.	0.59 − (.0019 × Rated Storage Volume in gallons).	0.59 − (.0019 × Rated Storage Volume in gallons).
3. Electric Water Heater.	0.95 − (.00132 × Rated Storage Volume in gallons).	0.93 − (.00132 × Rated Volume Storage in gallons).

Note: Rated Storage Volume = the water storage capacity of a water heater, in gallons, as specified by the manufacturer.

* * * * *

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H.R. 5643/Pub. L. 101-416

To grant a temporary extension on the authority under which the Government may accept the voluntary services of private-sector executives; to clarify the status of Federal employees assigned to private-sector positions while participating in an executive exchange program; and for other purposes. (Oct. 12, 1990; 104 Stat. 930; 2 pages) Price: $1.00

H.J. Res. 395/Pub. L. 101-417

To commemorate the centennial of the creation by Congress of Yosemite National Park. (Oct. 12, 1990; 104 Stat. 934; 2 pages) Price: $1.00

H.J. Res. 462/Pub. L. 101-418

Designating March 1991 as "Irish-American Heritage Month". (Oct. 12, 1990; 104 Stat. 936; 1 page) Price: $1.00

S. 1736/Pub. L. 101-419

To convey certain Oregon and California Railroad Grant Lands in Josephine County, Oregon, to the Rogue Community College District, and for other purposes. (Oct. 12, 1990; 104 Stat. 937; 1 page) Price: $1.00

S. 2995/Pub. L. 101-420

To amend section 5948 of title 5, United States Code, to reauthorize physicians comparability allowances. (Oct. 12, 1990; 104 Stat. 938; 1 page) Price: $1.00

H.R. 3597/Pub. L. 101-421

Drug and Alcohol Dependent Offenders Treatment Act of 1990. (Oct. 12, 1990; 104 Stat. 939; 1 page) Price: $1.00

H.R. 3597/Pub. L. 101-422

To authorize appropriations for the Administrative Conference of the United States for fiscal years 1991, 1992, 1993, and 1994, and for other purposes. (Oct. 12, 1990; 104 Stat. 940; 2 pages) Price: $1.00

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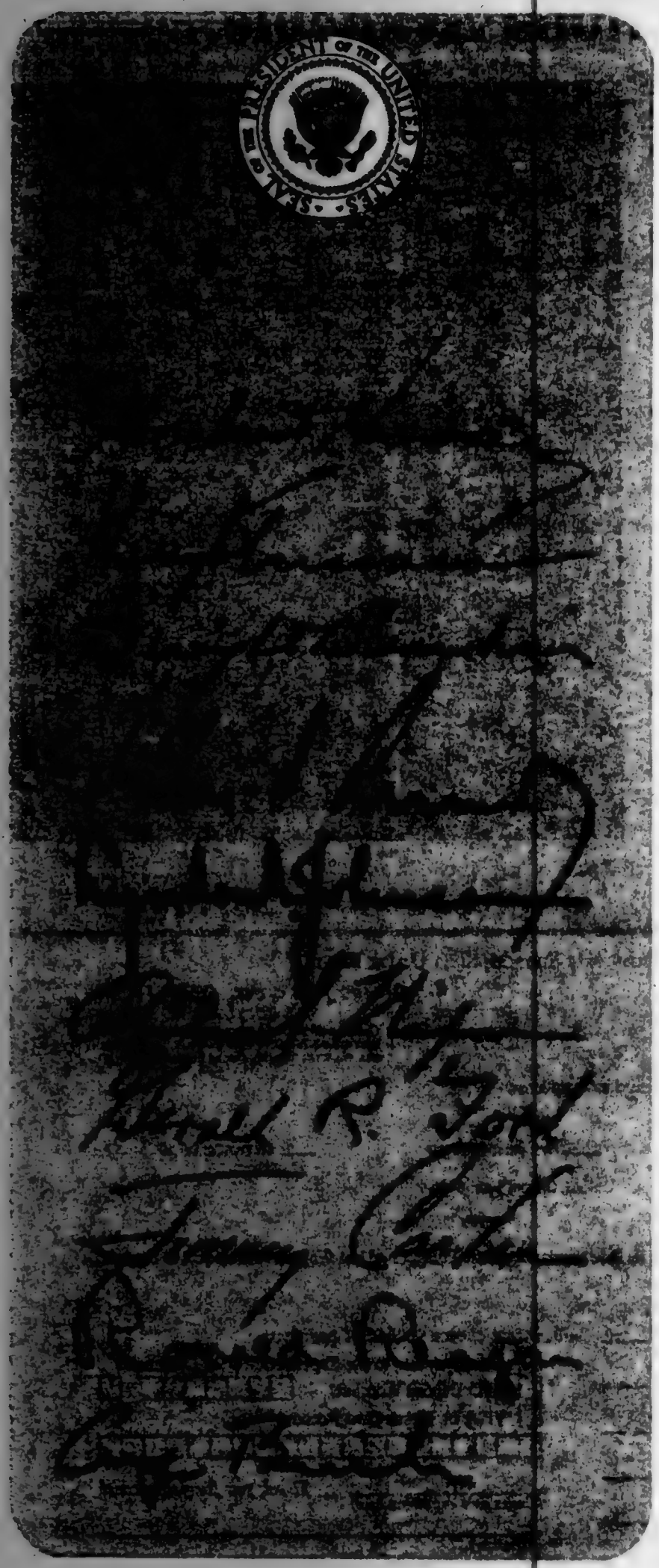

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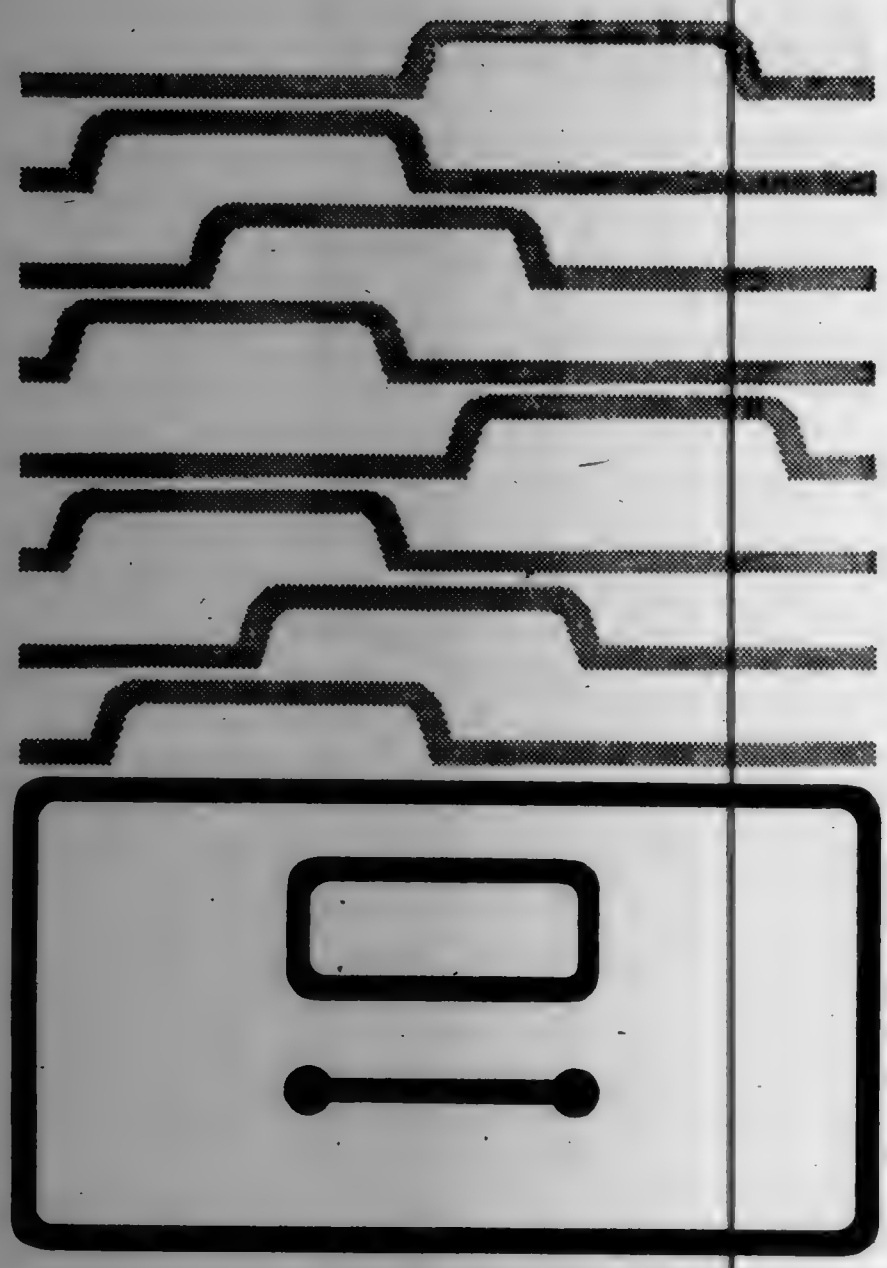

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Rules and Regulations

Federal Register
Vol. 55, No. 202
Thursday, October 18, 1990

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

[Docket No. FV-90-161]

Kiwifruit Grown in California; Final Rule To Revise Grade, Tray Weight and Inspection Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule requires fresh shipments of California kiwifruit to meet a minimum grade requirement of a modified U.S. No. 1 grade (to be known as KAC No. 1 quality) rather than the current modified U.S. No. 2 grade. It also reduces the recently established minimum weight requirement for Sizes 38 to 40 kiwifruit packed in trays from 7 to 6¾ pounds. The minimum weight requirements are also changed to provide that a simple average of the weight of the fruit packed in all sample trays taken from a given lot must meet the specified minimum net weight, rather than that the fruit packed in at least 90 percent of those sample trays must meet the minimum weight. Finally, this rule reduces the time period for which inspection certificates remain valid from January 15 of each year to December 1 of the previous year. These actions should result in better quality kiwifruit being provided to consumers, reduced packing costs, and more uniformity in tray-packed kiwifruit.

EFFECTIVE DATE: October 18, 1990.

FOR FURTHER INFORMATION CONTACT: Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456, telephone (202) 447-2020.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Marketing Order No. 920 (7 CFR part 920), regulating the handling of kiwifruit grown in California. The marketing agreement and order are authorized by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This rule has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 100 handlers of California kiwifruit subject to regulation under the marketing order, and approximately 1,200 producers in the production area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of the producers and about 35 percent of the handlers of California kiwifruit may be classified as small entities.

Under the terms of the marketing order, fresh market shipments of kiwifruit are required to be inspected and are subject to grade, size, maturity, pack and container requirements. The handling requirements for fresh California kiwifruit are specified in 7 CFR 920.302 (as amended at 55 FR 5668, February 16, 1990). Current requirements include specifications that such shipments be at least Size 49 and contain a minimum of 6.5 percent soluble solids. Also included in the handling regulation are a minimum grade requirement and a number of pack and container requirements, including minimum net weight requirements for kiwifruit packed in trays.

At a meeting held on April 20, 1990, the Kiwifruit Administrative Committee (KAC), the agency responsible for local administration of the marketing order, recommended changes in the existing quality, tray weight and inspection requirements to become effective on or about October 1, 1990.

Upon the basis of the KAC's recommendation, this rule revises the current minimum grade requirement from a modified U.S. No. 2 grade to a KAC No. 1 quality. This rule also reduces the minimum weight requirement for Sizes 38 to 40 packed in trays from 7 to 6¾ pounds. The minimum weight provisions are also revised so that a simple average of the weight of the fruit packed in all sample trays taken from a given lot must meet the specified minimum net weight rather than that the fruit packed in at least 90 percent of the sample trays must meet the minimum weight. Additionally, this rule reduces the time period for which inspection certificates remain effective from January 15 to December 1 of each marketing season.

The current minimum grade requirement for fresh shipments of kiwifruit is a combination of the U.S. No. 1 and U.S. No. 2 grade requirements as set forth in the U.S. Standards for Grades of Kiwifruit (7 CFR 51.2335-51.2340) (U.S. Standards). The KAC recommended that the minimum grade requirement established under the order be changed to KAC No. 1 quality rather than the current modified U.S. No. 2 grade.

Most of the basic requirements of the U.S. No. 1 and U.S. No. 2 grades are the same, including specifications that the fruit be of similar varietal characteristics, mature and carefully packed. The two basic grade requirements that differ relate to cleanness and shape. U.S. No. 1 grade fruit must be "clean" and "fairly well formed" whereas U.S. No. 2 grade fruit need only be "fairly clean" and "not badly misshapen."

The U.S. Standards also lists a number of grade defects, which include bruises, growth cracks and discoloration. While the listed defects are the same for the U.S. No. 1 and U.S.

No. 2 grades, the allowable damage from these defects varies. The U.S. No. 1 grade requirement is that the fruit be free from damage by these defects, and an 8 percent allowance is provided for fruit which fails to meet the grade requirements. Included in this 8 percent is a tolerance of 4 percent for defects causing serious damage, including in this amount not more than 1 percent for fruit affected by internal breakdown or decay. The U.S. No. 2 grade requirement is less stringent, providing that the fruit must be free from serious damage by defects. A total of 8 percent is provided for fruit failing to meet the grade requirements. Therefore, U.S. No. 2 grade kiwifruit is provided twice the allowance for serious damage as is U.S. No. 1 grade fruit.

The current minimum grade requirement for California kiwifruit is a U.S. No. 2 grade, but the allowances for defects are limited to those provided under the U.S. No. 1 grade. Hence, aside from the basic grade requirements relating to cleanness and shape, the current minimum quality requirement is comparable to a U.S. No. 1 grade. The KAC therefore unanimously recommended that the minimum grade requirement be changed to a KAC No. 1 quality. This change reflects the fact that the current minimum grade requirement is closer to a U.S. No. 1 grade than a U.S. No. 2 grade. All minimum grade requirements will be those of the U.S. No. 1 grade, except that relating to shape, which will still be the U.S. No. 2 grade requirement. The only requirement that differs from those currently in effect relates to cleanness. California kiwifruit will be required to be "clean" as a result of this action rather than only "fairly clean."

By far, the majority of kiwifruit shipped from California exceeds the current minimum grade requirement. During the 1989–90 season, 46 percent of total kiwifruit shipments was U.S. Fancy grade and 50 percent was U.S. No. 1 grade. Only 4 percent graded the modified U.S. No. 2, primarily due to misshapen fruit. This final action will therefore have a minimal impact on the volume of kiwifruit that may be shipped to fresh markets. This change should benefit growers and shippers by more accurately classifying the minimum quality of kiwifruit shipped from the production area.

About 65 percent of the 1989 kiwifruit crop was shipped to fresh market in trays. Trays used to pack kiwifruit have cell compartments to hold individual pieces of fruit. All standard trays have the same dimensions, and the number of cell compartments varies according to the size of the fruit being packed. The size of the fruit packed in these containers is denoted by count, i.e., the number of pieces of fruit packed in the tray. There are currently 17 sizes packed in trays, ranging from Size 49 (the smallest size permitted to be shipped) to Size 21. The most prevalent sizes are 36, 39 and 42 which in 1989–90 accounted for about 82 percent of the trays packed.

On October 10, 1989, kiwifruit packed in trays became subject to minimum net weight requirements for the first time. The established minimum net weights vary with the size of the fruit packed, with the smallest fruit subject to the lowest specified minimum net weight. For example, fruit of Size 44 or smaller packed in trays is required to weigh at least 6½ pounds per tray, and fruit of Size 34 and larger must weigh at least 7½ pounds per tray. These net weight requirements were established to eliminate the wide variances that previously existed in the weight of fruit packed in trays and any resulting buyer dissatisfaction.

This final rule reduces the specified minimum net weight for Sizes 38 to 40 from 7 to 6⅞ pounds. The KAC reports that problems were encountered during the 1989–90 season by shippers packing these sizes, which accounted for 31 percent of the trays packed. Such shippers had difficulty in meeting the 7 pound minimum net weight requirement. According to the KAC's 1989–90 weight study, kiwifruit in this size category lost an average weight of about 0.13 pounds per tray during storage, more than most other size classifications. In order to reduce the risk of failing to meet the minimum net weight requirement, some shippers may have been "overstuffing" trays of Sizes 38 to 40 kiwifruit. That is, they pack several oversized pieces of fruit in each tray to ensure meeting the specified minimum net weight of 7 pounds. This practice could reduce the uniformity of the kiwifruit packed in trays. It also may result in a reduction of the quality of the packed fruit, since oversized kiwifruit placed in cell compartments are more susceptible to bruising during handling.

This rule reduces the specified minimum net weight for Sizes 38 to 40 kiwifruit by one-eighth of a pound to reduce the risk of such fruit failing to meet the established minimum net weight requirement. This action should also reduce any such practice of overstuffing which will tend to increase fruit quality and the uniformity of tray-packed fruit.

In applying the minimum net weight requirements for tray-packed kiwifruit, the Federal-State Inspection Service pulls a number of sample trays from each lot being inspected in accordance with its inspection procedures. Thus, not all tray-packed fruit is weighed; only that fruit which is packed in the sample trays is weighed.

When the minimum net weight requirements first became effective in October 1989, they specified that the kiwifruit packed in at least 90 percent of the sample trays taken from each lot had to meet the applicable specified minimum net weight. This tolerance was provided to allow for reasonable variations that occur in kiwifruit packing operations, while maintaining the objective of standardizing the weight of fruit packed in trays.

The KAC subsequently met on November 21, 1989, and unanimously recommended relaxing the minimum net weight tolerance for kiwifruit packed in trays for the remainder of the 1989–90 season. This change, which became effective on February 16, 1990, provided that kiwifruit packed in only 80 percent of the sample trays taken from each lot had to meet the specified minimum net weight.

Kiwifruit grown in California is typically harvested in late September or early October. The fruit is packed shortly after harvest and placed into storage until shipment. The shipping season generally extends through the following May.

About 55 percent of the harvested fruit is inspected as it is being packed, prior to storage. While the majority of fruit is inspected prior to storage, some handlers have their fruit inspected after storage just prior to shipment. Because of potential weight changes during storage, such handlers were uncertain as to whether their packed fruit will be able to meet the established minimum net weight requirements. This was the reason the tolerance for underweight kiwifruit packed in trays was doubled for the remainder of the 1989–90 season.

The KAC has now recommended that the tray weight requirements be revised to provide that a simple average of the weight of kiwifruit packed in all sample trays taken from a given lot be required to meet the specified minimum net weight. The KAC reports that few kiwifruit shippers experienced difficulty meeting the minimum tray weight requirements with the 20 percent underweight allowance during the 1989–90 season. This was primarily due to the fact that some shippers may have overstuffed trays rather than risk failing to meet the weight requirements. As previously indicated, this practice can result in reduced fruit quality and a lack of uniformity in tray-packed fruit. For

example, the KAC's weight survey results for 1989–90 shows that Size 39 kiwifruit packed in trays (with a specified minimum net weight of 7 pounds) ranged in weight from 6.50 to 8.06 pounds. Likewise, Size 42 kiwifruit (with a minimum of 6.75 pounds) ranged from 6.44 to 7.94 pounds. Hence, the practice of overstuffing may result in a lack of uniformity in the sizes packed in trays, contrary to the objective of the minimum net weight requirements.

Using the average weight of fruit packed in all sample trays should also reduce any such practice of overstuffing.

As previously indicated, kiwifruit may be packed and inspected well in advance of the time it is shipped. Because kiwifruit is perishable and may deteriorate in quality during storage, a limit has been established on the length of time for which an inspection certificate is valid. Currently, inspection certificates are valid until January 15 of the marketing season or 21 days from the date of inspection, whichever is later. The KAC unanimously recommended that this requirement be revised to provide that such certificates be valid only until December 1 of the applicable marketing season or for 21 days, whichever is later.

The current January 15 date was established in 1985. At that time, it appeared that kiwifruit harvested in October maintained its quality through the following mid-January. Recent problems with black sooty mold have resulted in the KAC reevaluating this position.

Black sooty mold occurs on stored kiwifruit that has had its exterior exposed to kiwifruit juice. The juice is not noticeable during packing or inspection, but subsequently becomes a medium for the growth of black sooty mold which usually first appears three to four weeks after packing.

The current January 15 date allows kiwifruit that has been packed and inspected up to 3½ months earlier (i.e., in early October) to be shipped without being reinspected. The KAC is concerned that often kiwifruit is shipped prior to the January 15 expiration date of the inspection certificate, but after this mold may have contaminated the fruit. Reducing the time period during which inspection certificates are valid and requiring a second inspection on shipments made after December 1 should reduce the occurrence of black sooty mold on kiwifruit shipped to fresh markets. This action will provide that kiwifruit could be inspected a maximum of about two months before shipment, since kiwifruit harvest and packing typically begins in October.

Reducing the time period during which inspection certificates remain valid could result in additional inspection costs to kiwifruit handlers. However, these costs should be more than offset by increased sales resulting from higher quality kiwifruit being provided to consumers.

A proposed rule was published in the August 28, 1990, Federal Register (55 FR 35146) and afforded interested persons until September 27, 1990, to submit written comments. Two kiwifruit growers filed comments in support of this rule. The provisions of this final rule are the same as those which appeared in the proposed rule except that the reference to KAC No. 1 has been changed to KAC No. 1 quality with conforming changes to better express the requirements established in the handling regulation.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the KAC and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register (5 U.S.C. 553) because the shipping season starts in October and therefore this rule should be implemented as soon as possible. Further, handlers are aware of this rule, which was recommended by the KAC at a public meeting.

List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements.

For the reasons set forth in the preamble, 7 CFR part 920 is amended as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 920 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 920.302 is amended by revising paragraphs (a)(1), (a)(4)(ii) and (b)(1) to read as follows:

Note: This section will appear in the annual Code of Federal Regulations.

§ 920.302 Grade, size, pack, and container regulations.

(a) * * *

(1) *Grade requirements.* Fresh shipments of kiwifruit shall be at least KAC No. 1 quality.

* * * * *

(4) * * *

(ii) Kiwifruit packed in containers with cell compartments, cardboard fillers or molded trays shall be of proper size for the cells, fillers or molds in which they are packed. Such fruit shall be fairly uniform in size. When packed in closed containers the size shall be indicated by marking the container with the numerical count, and the contents shall conform to the marked count. The fruit packed in such containers shall meet the following minimum weight requirements at the time of initial inspection:

Size designation of fruit	Minimum net weight of fruit (lbs.)
34 or larger	7.5
35 to 37	7.25
38 to 40	6.875
41 to 43	6.75
44 and smaller	6.50

The average weight of all sample units in a lot must meet the specified minimum net weight, but no sample unit may be more than ¼-pound or 4 ounces less than such weight.

* * * * *

(b) *Definitions.* (1) The term "KAC No. 1 quality" means kiwifruit that meets the requirements of the U.S. No. 1 grade as defined in the United States Standards for Grades of Kiwifruit (7 CFR 51.2335 through 51.2340), except that kiwifruit meeting the KAC No. 1 quality requirement shall be subject to the basic requirement of the U.S. No. 2 grade that the kiwifruit be "not badly misshapen." The terms "fairly uniform in size" and "diameter" mean the same as defined in the U.S. Standards for Grades of Kiwifruit.

* * * * *

3. Section 920.155 is revised to read as follows:

§ 920.155 Inspection requirement.

Certification of any kiwifruit which is inspected and certified as meeting grade, size, quality, or maturity requirements in effect pursuant to

§ 920.52 or § 920.53 during each fiscal year shall be valid until December 1 of such year or 21 days from the date of inspection, whichever is later.

Dated: October 12, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-24600 Filed 10-17-90; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1772

REA Specifications for Telephone Materials and Equipment

ACTION: Final rule.

SUMMARY: The Rural Electrification Administration (REA) hereby amends 7 CFR 1772.97, Incorporation by Reference of Telephone Standards and Specifications, by withdrawing several specifications for telephone materials and equipment. These specifications are being withdrawn for one or more of these reasons:

1. The materials or equipment covered by the REA specification have become obsolete because of changes in technology;
2. There is very limited use of the materials or equipment in the REA telephone program;
3. The content of the REA specification has been incorporated into another REA specification; or
4. The materials or equipment covered by the REA specification are no longer financed by REA.

The withdrawal of these REA specifications will have a minimal impact on REA borrowers and manufacturers. The Federal Government will benefit by not incurring the administrative cost of maintaining and printing these specifications.

EFFECTIVE DATE: This final rule is effective October 18, 1990.

FOR FURTHER INFORMATION CONTACT: William F. Albrecht, Director, Telecommunications Staff Division, Rural Electrification Administration, room 2835 South Building, U.S. Department of Agriculture, Washington, DC 20250-1500, telephone number (202) 382-8663.

SUPPLEMENTARY INFORMATION: This rule is issued in conformity with Executive Order 12291, Federal Regulation. This action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) result in significant adverse effects on competition, employment, investment, or productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets and, therefore, has been determined to be "not major."

This action does not fall within the scope of the Regulatory Flexibility Act. REA has concluded that promulgation of this rule would not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq. (1975)) and, therefore, does not require an environmental impact statement or an environmental assessment.

This regulation contains no information or record keeping requirement which requires approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 et seq.).

This program is listed in the catalog of Federal Domestic Assistance under No. 10.851, Rural Telephone Loans and Loan Guarantees, and 10.852, Rural Telephone Bank Loans. For the reasons set forth in the final rule related Notice to 7 CFR 3015, subpart V (50 FR 47034, November 14, 1985), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Background

REA has issued a series of publications which serve to implement the policy, procedures, and requirements for administering its loan and loan guarantee programs and the security instruments which provide for and secure REA financing. In these publications, REA issues standards and specifications for the construction of telephone facilities financed by REA. Over the years there have been many technical changes in telephony. These continual changes in technology have caused a constant change in the kinds of materials and equipment used to build telephone systems. The REA telephone borrower, in order to provide modern up-to-date telephone service at a reasonable cost, must utilize new products as they become available. Naturally this rendered many of the older products obsolete. REA is withdrawing the following specifications:

BULLETINS REMOVED FROM INCORPORATION BY REFERENCE

Bulletin No.	Specification No.	Title
345-4	PE-16	REA Specification for Wood Crossarms (solid and laminated), Transmission Timbers and Pole Keys.
345-18	PE-20	REA Specification for Plastic-Insulated, Plastic-Jacket Station Wire.
345-27	PE-31	REA Specification for D-66/H-66 Junction Impedance Compensators.
345-30	PE-40	REA Specification for Ringing Generator Equipment.
345-46	PE-48	REA Specification for Clamps to Support Figure 8 Distribution Wire.
.....	PC-58	REA Specification for Station Installation.
345-53	PE-70	REA Specification for Encapsulation, Splice Closure and Pressure Blocks.
345-59	PE-71	REA Specification for Inside Wiring Cable.
345-61	PE-72	REA Specification for Switchboard Cable.
345-80	PE-75	REA Specification for Flat Oval Telephone Cords.
345-82	PE-82	REA Specification for Wood Telephone Pedestal Stubs.
345-166	Form 524	REA General Specification for Common Control Central Office Equipment.
345-169	Form 558	REA Specification for Dial Central Office Equipment.

Two of the REA bulletins being withdrawn, 345-166, REA General Specification for Common Control Central Office Equipment, Form 524; and 345-169, REA Specification for Dial Central Office Equipment, Form 558, are in this category. REA Bulletin 345-30, REA Specification for Ringing Generator Equipment, PE-40, has been incorporated into REA Bulletin 345-165, REA General Specification for Digital, Stored Program Controlled Central Office Equipment, Form 522. REA Bulletin 345-82, REA Specification for Wood Telephone Pedestal Stubs, PE-82, is being incorporated into the specifications for wood poles. REA Bulletins 345-4, REA Specification for Wood Crossarms (solid and laminated), Transmission Timbers and Pole Keys, PE-16; 345-27, REA Specification for D-66/H-66 Junction Impedance Compensators, PE-31; 345-46, REA Specification for Support Clamps for Use with Figure 8 Distribution Wire and

Figure 8 Cable, PE–48; 345–53, REA Specification for Encapsulation, Splice Closure, and Pressure Blocks, PE–70; and 345–61, REA Specification for Switchboard Cable, PE–72, are examples where there is very limited use of the material or equipment in the REA telephone program. In February 1983 REA revised its policy concerning the financing of station apparatus and associated inside wiring. Except as otherwise determined by the Administrator, these items will be financed by borrowers from general funds or non-REA loans. Since REA no longer finances materials and equipment in this category, REA Bulletins 345–18, REA Specification for Plastic-Insulated, Plastic-Jacketed Station Wire, PE–20; 345–59, REA Specification for Inside Wiring Cable, PE–71; 345–80, REA Specification for Flat Oval Telephone Cords, PE–75; and PC–5B (No Bulletin Number), REA Standard for Station Installation are being withdrawn.

List of Subjects in 7 CFR Part 1722

Loan programs—Communications, Telecommunications, Telephone, Incorporation by reference.

PART 1772—[AMENDED]

In view of the above, REA hereby amends 7 CFR part 1772 by withdrawing the REA specifications for telephone materials and equipment listed in the Supplementary Information section above.

1. The authority cited for part 1772 will continue to read as follows:

Authority: 7 U.S.C. 901 et seq., 7 U.S.C. 1921 et seq.

§ 1772.97 [Amended]

2. The table in § 1772.97 is amended by removing the following entries:

REA bulletin No.	Specification No.	Date last issued	Title of standard or specification
345–4	PE–16	Jan. 1972	REA specification for wood crossarms (solid and laminated) Transmission timbers and pole keys.
345–18	PE–20	Aug. 1974	REA specification for plastic-insulated, plastic-jacketed station wire.
345–27	PE–31	Feb. 1974	REA specification for D–66/H–88 junction impedance compensators.
345–30	PE–40	Feb. 1971	REA specification for ringing generator equipment.
345–46	PE–48	July 1968	REA specification for support clamps for use with figure 8 distribution wire and figure 8 cable.
345–53	PC–5B	Apr. 1961	REA standard for station installations.
	PE–70	Mar. 1971	REA specification for encapsulation, splice closure, and pressure blocks.
345–59	PE–71	Mar. 1971	REA specification for inside wiring cable.
345–61	PE–72	Mar. 1971	REA specification for switchboard cable.
345–80	PE–75	July 1978	REA specification for flat oval telephone cords.
345–82	PE–82	June 1980	REA specification for wood telephone pedestal stubs.
345–166	Form 524	Jan. 1976	REA general specification for common control central office equipment.
345–169	Form 558	Sept. 1986	REA specification for dial central office equipment.

Dated: September 24, 1990.

Gary C. Byrne,

Administrator.

[FR Doc. 90–24601 Filed 10–17–90; 8:45 am]

BILLING CODE 3410–15–M

FARM CREDIT ADMINISTRATION

12 CFR Part 615

RIN 3052–AA84

Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Correction

AGENCY: Farm Credit Administration.

ACTION: Final rule; correction.

SUMMARY: The Farm Credit Administration (FCA) is correcting an error that appeared in the final rule that amended the regulation setting forth lending authorities and lending requirements for Farm Credit banks and associations, reconciling, where necessary the authorities of institutions created under the restructuring provisions of the Agricultural Credit Act of 1987. The final rule appeared in the **Federal Register** on June 19, 1990 (55 FR 24861).

EFFECTIVE DATE: July 30, 1990.

FOR FURTHER INFORMATION CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: In preparing the final rule for publication in the **Federal Register**, one of the amendatory instructions on page 24868 was incorrectly stated.

PART 615—FUNDING AND FISCAL AFFAIRS LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS

Subpart G—Deposit of Funds

1. On page 24868, first column, amendatory instruction #49, the words "of these regulations" were inadvertently omitted. Amendatory

instruction #49 is revised to correctly read as follows:

§ 615.5180 [Correction]

49. Section 615.5180 is amended by removing the reference "§ 614.4060(d) of these regulations" and adding in its place, "section 3.7(b) of the Act" in paragraph (b); and by revising paragraph (a) to read as follows:

Dated: October 11, 1990.

Curtis M. Anderson,

Secretary, Farm Credit Administration.

[FR Doc. 90-24524 Filed 10-17-90; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners; Modification of Procedures for Forfeiture of Time Under Parole Supervision

AGENCY: United States Parole Commission, Justice.

ACTION: Interim general statement of policy with request for public comment.

SUMMARY: The Parole Commission is adopting a statement of policy to bring its parole revocation decisions into compliance with *Rizzo* v. *Armstrong*, F.2d (9th Cir. August 30, 1990), a decision holding that the forfeiture of the time that a parole violator has spent under parole supervision ("street time") is discretionary, and not a mandatory penalty under 18 U.S.C. 4210(b)(2) (1976). The statement of policy sets forth the Ninth Circuit's requirement for a discretionary decision, and explains how the Commission intends to exercise the discretion which the Ninth Circuit reads into the law. The Commission's policy will be to make forfeiture the general rule, and to limit the discretionary granting of credit for "street time" to those cases in which neither the seriousness of the parole violation behavior, nor the future risk potential of the parole violator, warrants an extension of the sentence. This policy will be limited to revocation hearings conducted within the Ninth Circuit after October 15, 1990.

DATES: Effective October 22, 1990. Public comment must be received by December 22, 1990.

ADDRESSES: Comments should be sent to: General Counsel, U.S. Parole Commission, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815. Attn: Public Comment File.

FOR FURTHER INFORMATION CONTACT: Pamela Posch, Paralegal Specialist, Office of the General Counsel, U.S. Parole Commission, Telephone (301) 492-5959.

SUPPLEMENTARY INFORMATION: Although three U.S. Courts of Appeals have previously upheld the Parole Commission's view that 18 U.S.C. 4210(b)(2) makes the forfeiture of a parole violator's street time automatic, the Ninth Circuit has chosen to rule that the Commission must exercise discretion before ordering forfeiture pursuant to the regulation governing forfeiture of street time, 28 CFR 2.52(c)(2). Compliance with this reading of the law will oblige the Commission to take a procedural step not required by 28 CFR 2.52(c)(2).

The Commission has decided to adopt a general statement of policy (with limited applicability to revocation hearings conducted in the Ninth Circuit) to establish this additional procedural requirement. This statement will give notice to individuals affected by *Rizzo* v. *Armstrong* as to the manner in which the agency intends to exercise the discretion required of it by the court.

The purpose of forfeiture

Forfeiture of street time is a penalty that follows the revocation of parole or mandatory release. It results in an extension of the violator's sentence that returns him to prison to serve the balance of the sentence that stood before him on the day he was released to parole. Otherwise, a parolee nearing the end of his term would have no incentive to avoid serious violations of his parole, because the remaining sentence would afford little or no scope for the Commission to return him to prison.

Forfeiture of street time does not, however, necessarily keep the parole violator in prison for the maximum period possible. The reparole guidelines, at 28 CFR 2.21, ensure that reimprisonment is not longer than required by the seriousness of the parole violation behavior, and reparoles under these guidelines are frequently ordered by the Commission. Hence forfeiture also serves the important remedial purpose of providing a second period of parole supervision for reparoled prisoners. Moreover, the early termination-of-sentence provisions of 18 U.S.C. 4211 ensure that a successful parolee is not kept under supervision longer than necessary just because his sentence had been previously extended by forfeiture of street time under 18 U.S.C. 4210(b)(2).

Hence, these provisions provide built-in restrictions on the potential impact of street time forfeiture, and prevent any forfeiture order from unduly prolonging either reimprisonment or supervision. On the other hand, if the violation is a serious new crime, or if the parolee persistently disregards the conditions of parole, forfeiture permits the Commission to require such an individual to remain in prison for the maximum sentence originally imposed by the sentence court, without credit for time on parole.

Explanation of the policy

In view of these factors, the Commission considers that the best policy is generally to order forfeiture of all street time except in those cases in which forfeiture would clearly not serve a useful purpose. Cases in which forfeiture may not be needed are usually those involving misdemeanor, rather than felony, offenses. If the parolee is also in the "very good" risk category (on the salient factor score at 28 CFR 2.20), it may be possible to determine that the remainder of the sentence will permit a sanction that is adequate to deter future violations, without need for an extended period of renewed supervision to monitor the parolee's progress. In these cases, all or any part of the parole violator's street time may be credited without jeopardizing the public safety. This conclusion drawe strength from the research upon which the Commission's early termination guidelines at 28 CFR 2.43 are based.

In cases involving violent behavior or a repetition of the parolee's original crime, however, the Commission could not responsibly forgo the additional jurisdiction granted to it by forfeiture of street time. Moreover, the Commission finds no evidence of Congressional intent that forfeiture should be, in any sense, an extraordinary penalty, as opposed to the normal consequence of a violation that falls within 18 U.S.C. 4210(b)(2).

Implementation of the policy

This policy will not apply to special parole terms, or to forfeitures under 18 U.S.C. 4210(c) (*e.g.*, absconders from supervision). It will not require suspension of any provision of 28 CFR 2.52, but requires only an additional procedural step before the forfeiture order mandated by 2.52(c)(2) can be entered in the Ninth Circuit. That regulation remains in effect, and the policy statement will be added to 2.52 as an appendix with exclusive and special applicability to the Ninth Circuit, in

conformity with the law as set forth in *Rizzo* v. *Armstrong*.

Although *Rizzo* v. *Armstrong* is subject to continued appellate review, and the Commission intends to withdraw the policy if *Rizzo* v. *Armstrong* is overturned, the immediate need to comply with the law of the Ninth Circuit constitutes good cause for the Commission not to delay the effective date of this policy by 30 days, pursuant to 5 U.S.C. 553(d)(3). Notice and public comment is, however, required by 18 U.S.C. 4218(a) (1976). Following the closing of the public comment period, the Commission will adopt and publish a final statement of policy.

This policy statement will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, prisoners, probabtion and parole.

PART 2—[AMENDED]

1. The authority citation for part 2 continues to read as follows:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

2. 28 CFR part 2 is amended by adding the following General Statement of Policy as an Appendix to 28 CFR 2.52:

Appendix

General Statement of Policy

In the case of any revocation hearing conducted within the Ninth Circuit, the Commission will exercise discretion in determining whether or not to order forfeiture of all or part of the time spent on parole pursuant to 18 U.S.C. 4210(b)(2). The Commission's policy shall be to consider granting credit for time on parole in the case of a parole violator originally classified in the very good risk category (pursuant to 28 CFR 2.20) if the following conditions are met. The conviction must not be for a felony offense. The parole violation behavior (the offense of conviction plus any other violations) must be non-violent, and not involve a repeat of the parole violator's original offense behavior. Further, an adequate period of reimprisonment pursuant to the reparole guidelines at 28 CFR 2.21, and an adequate period of renewed supervision following release from reimprisonment or reinstatement to supervision, must be available without forfeiting street time. In the case of a parole violator originally classified in other than the "very good" risk category, it shall be the Commission's policy to order the forfeiture of all time spent on parole absent extraordinary circumstances. In no instance will the Commission grant credit in the case of a repeat violator on the current sentence.

Dated: September 28, 1990.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 90-24546 Filed 10-17-90; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD1-90-173]

Drawbridge Operation Regulations; Piscataqua River, Maine/New Hampshire

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: At the request of New Hampshire Department of Transportation and the Maine-New Hampshire Interstate Bridge Authority (M–NHIBA), the Coast Guard is temporarily amending the regulations governing the Sarah M. Long (Route 1 Bypass) drawbridge over Piscataqua River, at mile 4.0, between Kittery, Maine and Portsmouth, New Hampshire. The regulation amendment temporarily suspends through 31 October 1990, the requirements to maintain the secondary recreational channel in the fully open position except for the passage of trains and to limit the number of openings for commercial vessels less than 100 gross tons and recreational vessels between 7 a.m. and 7 p.m. This change is being made because the lifting mechanism for the secondary recreational draw experienced a mechanical failure and problems have been experienced in obtaining replacement parts. This action will permit rail traffic to maintain access across the bridge until May 1991, will relieve the bridge owner of the burden of having to open the secondary draw through 15 May 1991 or until parts are received, and still provide for the reasonable needs of navigation by suspending limited opening requirements for the main draw until 31 October 1990.

EFFECTIVE DATE: These regulations become effective on October 5, 1990 and terminate on October 31, 1990.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, First Coast Guard District, (212) 668–7170.

SUPPLEMENTARY INFORMATION: This temporary deviation from the regulations is issued under 33 CFR 117.35(d). A Notice of Final Temporary Rulemaking Docket Number CGD1–90–111 was published in the Federal Register (55 FR 29575; 20 July 1990). This temporary rule permitted the bridge owner to maintain the secondary draw in the closed position until the end of August when repairs were expected to be completed or rail service not required for several months.

Drafting Information

The drafters of these regulations are Waverly W. Gregory, Jr., project officer, and Lieutenant John Gately, project attorney.

Discussion of Final Temporary Regulations

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for these regulations and good cause exists for making them effect in less than 30 days after Federal Register Publication. Publishing a Notice of Proposed Rulemaking and delaying its effective date would be contrary to the public interest since the implementation of these regulations are merely an extension of the previously published situation. Additionally, these regulations are less restrictive to marine traffic because the main draw will open on signal. NHDOT has indicated that repair parts have been difficult to procure with cost exceeding $16,000. Additionally, the railroad and the facility it services have indicated a need to continue to maintain the secondary draw closed, from September through November 1990, to permit rail service to continue. Discussions with NHDOT revealed that approximately four commercial vessels under 100 gross tons, ten sportfishing and various recreational were affected by the secondary draw closure. NHDOT proposed suspending the requirement of limiting the openings of the main draw to twice an hour through 31 October 1990 to minimize the impact on marine traffic and because of the reduced highway traffic and the fact that the main draw was required to open on signal from 1 November through 15 May.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. This is based upon the fact that the closure of the secondary draw will not prevent the passage of any vessels because the main draw will be opened on signal. Since the economic impact of these regulations is expected to be

minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

Federalism Implication Assessment

This action has been analyzed under the principles and criteria in Executive Order 12612, and it has been determined that this proposed rule does not have sufficient federalism implications to warrant preparation of a federal assessment.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.531(c) (1) and (2) and section 117.700(c) (1) and (2) are suspended through October 31, 1990 and section 117.531(c)(3) and section 117.700(c)(3) are added to read as follows through October 31, 1990. Because this is a temporary rule, these paragraphs will not be codified in the CFR.

Maine

§ 117.531 Piscataqua River.

* * * * *

(c) The draw of the Sarah M. Long (Route 1 Bypass) bridge, mile 4.0, shall open as follows:

(1) * * *

(2) * * *

(3) Repair of secondary recreational draw. The main ship channel draw shall open on signal at all times. The secondary recreational draw need not be opened for the passage of any vessel and paragraphs (c)(1) and (c)(2) above are suspended through October 31, 1990.

New Hampshire

§ 117.700 Piscataqua River.

* * * * *

(c) The draw of the Sarah M. Long (Route 1 Bypass) bridge, mile 4.0, shall open as follows:

(1) * * *

(2) * * *

(3) Repair of secondary recreational draw. The main ship channel draw shall open on signal at all times. The secondary recreational draw need not be opened for the passage of any vessel and paragraphs (c)(1) and (c)(2) above are suspended through October 31, 1990.

Dated: October 5, 1990.

P.L. Collins,

Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. 90-24594 Filed 10-17-90; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900-AD60

Use of For-Profit Agencies in Programs of Employment Services and Independent Living

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The amendments conform Department of Veterans Affairs (VA) regulations to changes made by recent legislation. These changes allow VA to use for-profit agencies and organizations to provide employment services and programs of independent living services for veterans receiving assistance under the vocational rehabilitation program. Previously the agency could only use its own staff and resources or the resources of other public or private nonprofit entities to provide these services. The effect of these changes is to broaden the types of agencies and organizations which may be used to provide the services needed to carry out the veteran's rehabilitation program.

EFFECTIVE DATE: These amendments are effective November 18, 1988, the date on which the law was enacted.

FOR FURTHER INFORMATION CONTACT: Morris Triestman, Rehabilitation Consultant, Policy and Program Development, Vocational Rehabilitation and Education Service, Veterans Benefits Administration, Department of Veterans Affairs, (202) 233-6496.

SUPPLEMENTARY INFORMATION: Public Law 100-689, Veterans' Benefits and Programs Improvement Act of 1988 authorizes VA to use for-profit agencies under certain conditions to provide services needed to carry out programs of independent living services or furnish employment services. Interested persons were given 30 days in which to furnish comments, suggestions or objections to the proposed amendments. Since no comments were received, these amendments are adopted as final rules.

These regulatory amendments are retroactively effective. They are liberalizing, interpretive rules which implement statutory provisions. Moreover, the VA finds that good cause exists for making these rules, like the section of the law which they implement, retroactively effective to the date of enactment. A delayed effective date would be contrary to statutory design; would complicate implementation of these provisions of law; and might result in denial of a benefit to a veteran who is entitled by law to that benefit.

These amendments do not meet the criteria for major rules as contained in Executive Order 12291, Federal Regulations. The proposal will not have a $100 million annual effect on the economy, will not cause a major increase in costs or prices, and will not have any other significant adverse effects on the economy.

The Secretary certifies that these amendments will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), these proposed rules are therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that the amendments simply conform VA regulations to changes made by law. No new regulatory burdens are imposed on small entities by these amendments.

(The Catalog of Federal Domestic Assistance Number is 64.116.)

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs, Loan programs, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: September 27, 1990.

Edward J. Derwinski,

Secretary of Veterans Affairs.

38 CFR part 21, Vocational Rehabilitation and Education is amended as follows:

PART 21—[AMENDED]

The authority citation for part 21, subpart A, continues to read as follows:

Authority: 38 U.S.C. 210(c)

§ 21.100 [Amended]

2. In § 21.100, paragraph (c) is revised to read as follows:

* * * * *

(c) Coordination with other VA elements and other Federal, State, and local programs. Implementation of programs of independent living services

and assistance will generally require extensive coordination with other VA and non-VA programs. If appropriate arrangements cannot be made to provide these services through VA, other governmental, private nonprofit and for-profit agencies and facilities may be used to secure necessary services if the requirements contained in § 21.294 are met.

(Authority: 38 U.S.C. 220, 1500, 1520, Pub. L. 100-689)

§ 21.162 [Amended]

3. In § 21.162, paragraph (c)(3) is removed and the authority citation at the end of the section is revised to read as follows:

* * * * *

(Authority: 38 U.S.C. (a)(15), Pub. L. 99-576, Pub. L. 100-689)

4. In § 21.252, paragraph (a)(1)(v) is revised, paragraph (a)(1)(vi) is added, paragraph (d)(3) is revised and the authority lines following (a)(1)(vi) and (d)(3) are revised to read as follows:

§ 21.252 Job development and placement services.

(a) * * *

(1) * * *

(v) The services of any other public, or nonprofit organization having placement services available; and

(vi) Any for-profit agency in a case in which it has been determined that comparable services are not available through public and nonprofit agencies and comparable services cannot be provided cost-effectively by the public and nonprofit agencies listed in this paragraph.

(Authority: 38 U.S.C. 1517(a)(2), Pub. L. 100-689)

* * * * *

(d) Interagency coordination. * * *

* * * * *

(3) Other public, for-profit and nonprofit agencies providing employment and related services.

(Authority: 38 U.S.C. 1516, 1517, Pub. L. 100-689)

§ 21.294 [Amended]

5. In § 21.294, paragraphs (b)(2) and (b)(3) and (c) are revised, paragraph (b)(4) is added, the authority citation following (b)(2) is revised and the authority citation following paragraph (c) is added to read as follows:

* * * * *

(b) *Selecting a facility for provision of independent living services.*

* * * * *

(2) VA may use public and nonprofit agencies and facilities to furnish independent living services. Public and nonprofit facilities may be:

(i) VHS&RA facilities which provide independent living services;

(ii) Facilities which meet standards established by the State rehabilitation agency for rehabilitation facilities or for providers of independent living services;

(iii) Facilities which are neither approved nor disapproved by the State rehabilitation agency, but are determined by VA as able to provide the services necessary in an individual veteran's case.

(3) VA also may use for-profit agencies and organizations to furnish programs of independent living services only if services comparable in effectiveness to those provided by for-profit agencies and organizations:

(i) Are not available through public or nonprofit agencies or the Veterans Health Service and Research Administration (VHS&RA); or

(ii) Cannot be obtained cost-effectively from public or nonprofit agencies or the facilities of VHS&RA.

(4) In addition to the criteria described in paragraph (b)(3)(i) of this section for public and private nonprofit agencies; for-profit agencies and organizations must meet any additional standards established by local, state (including the State rehabilitation agency), and Federal agencies which are applicable to for-profit facilities and agencies offering independent living services.

(Authority: 38 U.S.C. 1515, 1520, Pub. L. 99-576, Pub. L. 100-689)

(c) *Use of facilities.* VA policy shall be to use VA facilities, if available, to provide rehabilitation services for veterans in a rehabilitation program under chapter 31. Non-VA facilities may be used to provide rehabilitation services only when necessary services are not readily available at a VHS&RA facility. This policy shall be implemented in accordance with the provisions of paragraph (b) of this section in the case of the use of for-profit facilities to provide programs of independent living services, or in the case of employment services, provision of such services by non-VA sources is permitted under § 21.252.

(Authority: 38 U.S.C. 1515, Pub. L. 100-689)

* * * * *

[FR Doc. 90-24808 Filed 10-17-90; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 3861-7]

Approval and Promulgation of Air Quality Implementation Plans; Oklahoma; Gas Sweetening and Sulfur Recovery Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice approves a revision to Oklahoma Air Pollution Control Regulation (OAPCR) 3.4(c)(1)(C) "Gas Sweetening and Sulfur Recovery Regulations" which was submitted by the Governor on March 31, 1988. EPA has reviewed the revision and proposed approval on May 15, 1989 at 54 FR 20985. No comments were received on the proposal. In summary, EPA's review found the regulation less stringent in some cases than the corresponding New Source Performance Standard (NSPS), subpart LLL, but is nevertheless granting approval because the State will apply the NSPS in those cases.

EFFECTIVE DATE: This rule will become effective on November 19, 1990.

ADDRESSES: Copies of the documents relevant to this notice are available for public inspection during normal business hours at the following offices.

Environmental Protection Agency Region 6, Air Programs Branch (6T-AN), 1445 Ross Avenue, Dallas, Texas 75202

Oklahoma State Department of Health (OSDH), Air Quality Service, 1000 Northeast 10th Street, Oklahoma City, Oklahoma 73152

Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Gregg Guthrie, phone (214) 655-7214, or (FTS) 255-7214.

SUPPLEMENTARY INFORMATION: Under its Federally approved State Implementation Plan (SIP), Oklahoma regulates sulfur dioxide emissions from new and modified sulfur recovery plants under OAPCR 3.4(c)(1)(C), which sets emission limits, monitoring/recordkeeping requirements, and performance testing requirements for such facilities. EPA initially approved these regulatory provisions, which were then part of OAPCR 16, at 41 FR 32860, and subsequently approved a clarifying revision at 49 FR 17758. EPA proposed approval of today's revision on May 15, 1989, at 54 FR 20985. No comments were

received on the proposal. For a complete discussion of the background associated with this rulemaking, please refer to the proposed approval notice at 54 FR 20885.

EPA's review found the regulation less stringent in some cases than the corresponding New Source Performance Standard (NSPS), subpart LLL, which EPA promulgated on October 1, 1985, at 50 FR 40158. EPA is nevertheless granting approval because the State will apply the NSPS in those cases.

The State's revision also constitutes a relaxation of the Federally approved SIP for Oklahoma. However, EPA is granting approval because the relaxation will not interfere with maintenance of the National Ambient Air Quality Standard (NAAQS) for sulfur dioxide in Oklahoma or contiguous states. Prior to the revision, the standard was applied to no sources in Oklahoma and the revision does not, therefore change the emission limits applicable to any existing sources. Hence there is no change in circumstances which might jeopardize the effectiveness of the State's Prevention of Significant Deterioration (PSD) program, which EPA approved at 48 FR 38635.

Final Action

The EPA is today approving OAPCR 3.4(c)(1)(C) "Gas Sweetening and Sulfur Recovery Plants" as submitted on March 31, 1986.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Process

Under 5 U.S.C. 605(b), I certify that this SIP approval will not have a significant economic impact on a substantial number of small entities. (*See* 46 FR 8709)

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 17, 1990. This action may not be challenged later in proceedings to enforce its requirements (*See* 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Note: Incorporation by reference of the State Implementation Plan for the State of Oklahoma was approved by the Director of the Federal Register on July 1, 1982.

Authority: 42 U.S.C. 7401–7642.

Dated: October 2, 1990.

William K. Reilly,

Administrator.

40 CFR part 52, subpart LL, is amended as follows:

PART 52—[Amended]

Subpart LL—Oklahoma

1. The Authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1920 is amended by adding paragraph (c)(35) to read as follows:

§ 52.1920 Identification of plan

* * * * *

(c) * * *

(35) May 8, 1985, revisions to Oklahoma Air Pollution Control Regulation 3.4.(c)(1)(C) "Gas Sweetening and Sulfur Recovery Plants" were submitted by the Governor on March 31, 1986.

(i) Incorporation by reference

(A) Amendments to Oklahoma Air Pollution Control Regulation 3.4(c)(1)(C) (Gas Sweetening and Sulfur Recovery Plants); adopted May 8, 1985, by the Oklahoma Air Quality Council.

* * * * *

[FR Doc. 90–24547 Filed 10–17–90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 82 and 83

Federal Crime Insurance Program

RIN 3067–AB52

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This final rule increases the Federal Crime Insurance Program (FCIP) rates which apply to commercial properties located in eligible states. It also authorizes reclassification of commercial businesses and separate classifications for burglary and robbery premiums. Definitions of alarm systems are modified to enforce a higher and more effective standard of protection.

EFFECTIVE DATE: September 30, 1990. This rule will be effective for FCIP business on and after September 30, 1990 and renewal policies not already billed to existing policyholders.

FOR FURTHER INFORMATION CONTACT: Kimber A. Wald, Federal Emergency Management Agency, Federal Insurance Administration, Donohoe Building, 500 C Street, SW., Room 433, Washington, DC 20472, Telephone Number (202) 646–3440.

SUPPLEMENTARY INFORMATION: On July 24, 1990 FEMA published for comment in the **Federal Register** (Vol. 55, No. 1422, pp. 30008–30014) a proposed rule containing revisions to the existing Federal Insurance Administration regulations. These amendments to the FCIP regulations are the result of the experience gained over the past nineteen years the Program has been in operation.

The current commercial rating program under the CIP was instituted in 1985. That change was instituted to more closely realign the Program with the underwriting and rating methods used by the private insurance sector. The Program was expanded at that time for 3 classes to 6 premium classes. Premiun class relativities were based on industry rating values, the amount of insurance relativities, gross receipts classifications, and the philosophy of a single countrywide rating territory. At that time, the entire rating structure was adjusted to produce a 35% revenue level increase.

In 1987, rates were uniformly increased by 10% and risk and alarm classifications were revised. In 1988, the assignment of business classes to premium classes were reviewed and changed. In 1989, another uniform rate increase of 5% was made.

In spite of the above revisions, in order to approach a more self-sustaining status, the Federal Insurance Adminstration will need to impose an overall rate increase of approximately 15% to offset heavy losses under commercial coverage and the higher-than-average administrative expenses associated with operating a single-line residual market program.

However, inasmuch as the enabling legislation that authorized the Program requires that crime insurance be made available at affordable rates for purposes of comparison, the FIA has maintained on ongoing study of rating of crime insurance coverages provided by the voluntary insurance market.

In this regard, the recent study conducted by FCIP's servicing carrier, NCSI, and its actuary, Tillinghast, indicate that the Insurance Services Office (ISO) advisory rates has increased five times since 1985, a rate of increase far in excess of FCIP rates. However, although a substantial FCIP rate increase would be appropriate, the Administrator proposes a rate increase of only 15%, the maximum allowable by

recent controlling legislation, and for commercial classes only. Residential risk experience has been self-sustaining and therefore, is not subject to an increase.

To provide an incentive for hazard mitigation, the Federal Crime Insurance Program allows rate credits for various types of alarm systems. However, experience has demonstrated that to maintain the integrity of these credits, it is necessary to reinforce the definitions of the alarm descriptions to assure that the discounts are given only to properly qualified installations which will prevent or reduce the likelihood of loss. FCIP studies have shown that Underwriters Laboratories, Inc. (UL) is the most competent organization that quality controls most providers, manufacturers and servicing companies involved in the burglary protection field. Consequently, this rule would require UL certification of Central Station Alarm Systems when repetitive losses indicate a growing problem for a specific risk.

The inability of many alarm systems to reduce losses arises from the fact that some insureds have installed alarms which they purchased from department stores, hardware stores, electronic stores or drug stores. Many times these insureds, not having the training necessary to correctly put the equipment in service, installed the apparatus but were unable to make its operation reliable. In addition, other business owners who had silent or local alarms installed by alarm companies subsequently found that regular maintenance was not supplied and repair of a malfunctioning alarm was difficult to obtain.

Some of the Central Station systems, in an effort to reduce the price of their installation, have eliminated a basic requirement of an effective system—they did not have "line security" in the hook up. Without line security, the phone wire or electric lines cold be cut, and the alarm rendered useless. Of course, with line security such a disruption would trigger the alarm. This will be a requirement in order to qualify as a Central Station System.

Another oversight with respect to some Central Stations with Guard Response has resulted from the failure to supply the guards with keys to the premises. An alarm sounds, the guards respond but cannot enter the property until the owner comes to the site from home or picks up the message on his telephone answering service, which on a weekend may mean a considerable delay.

So that the current insureds may have sufficient time to meet these tightened requirements we are notifying insureds and their alarm companies directly by mail. FCIP will require that the insured have an alarm company complete a certificate outlining the type of equipment, its operation, and the service it supplies.

These efforts are designed to assure that the protective devices upon which the Program's insureds must rely are able to provide the enhanced protection of which they should be capable. Such improved protection can reduce losses and may also help make it possible for insureds to qualify for crime insurance protection under the overall property protection policies offered in the private insurance market.

The Tillinghast actuarial study also recommended a number of changes to the commercial business classifications due to poor loss experiences. These changes are set forth in section 83.24(d).

No written comments were received during the comment period.

FEMA has determined, based upon an Environmental Assessment, that the final rule does not have significant impact upon the quality of the human environment. As a result, an Environmental Impact Statement will not be prepared. A finding of no significant impact is included in the formal docket files and is available for public inspection and copying at the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

The final rule does not have a significant economic impact on a substantial number of small entities and has not undergone regulatory flexibility analysis.

The final rule is not a "major rule" as defined in Executive Order 12291, dated February 17, 1981, and hence, no regulatory analysis has been prepared.

FEMA has determined that this final rule does not contain a collection of information requirement as described in section 3504(b) of the Paperwork Reduction Act.

List of Subjects in 44 CFR Parts 62, 63

Federal crime insurance program.

Accordingly, 44 CFR parts 62 and 63 are amended as follows:

PART 62—PROTECTIVE DEVICE REQUIREMENTS

1. The authority citation for part 62 continues to read as follows:

Authority: 12 U.S.C. 1749bbb, *et seq;* Reorganization Plan No. 3 of 1978; EO 12127.

Subpart A—General

2. In § 62.1 paragraphs (b), (c), (i) and (j) are revised to read as follows:

§ 62.1 Definitions.

* * * * *

(b) *Central station, supervised service alarm system* means a silent alarm system that is professionally installed and is regularly maintained, that is constantly in operation, that is equipped with a telephone and electricity line security mechanism that activates the alarm if either line is cut, and which signals upon any breach of a door, window (including storefront windows and unbarred skylights), or other accessible opening to the protected premises, at a private sentry or guard headquarters that is attended and monitored 24 hours a day, that dispatches guards to the protected premises for which they have keys immediately upon the activation of the alarm, that periodically checks the operation and effectiveness of the system, and that notifies law enforcement authorities as soon as a breach of the premises is confirmed;

(c) *Central station, supervised alarm system (without guard dispatch)* means a silent alarm system that is professionally installed and is regularly maintained that is constantly in operation, that is equipped with a telephone and electricity line security mechanisms that activates the alarm if either line is cut, and which signals upon any breach of a door, windows (including store front windows and unbarred skylights), or other accessible opening to the protected premises, at an office of the law enforcement authorities or at an office of an independent agency, located at a distance from the protected property, which has trained operators continually on duty twenty-four (24) hours a day to receive signals and to notify law enforcement authorities as soon as any breach of the premises is confirmed;

* * * * *

(i) *Local alarm system* means an alarm system that is professionally installed and is regularly maintained, that signals loudly at the premises by means of one or more tamper-protected sounding devices upon any breach of a door, window (including storefront windows and unbarred skylights), or other accessible opening to the protected premises;

(j) *Silent alarm system* means an alarm system that is professionally installed and is regularly maintained, that signals at a local other than the location where it is installed upon any

breach of a door, window (including storefront windows and unbarred skylights, or other accessible opening to the protected premises;

3. Section 82.1 is further amended to add a new definition under a new paragraph (n) to read as follows:

§ 82.1 Definitions.

* * * * *

(n) *Central station, supervised service alarm system* that is professionally installed and is regularly maintained, and is certified by Underwriters Laboratory (U/L) means a silent alarm system that is constantly in operation, that is equipped with a telephone and electricity line security mechanism that activates the alarm if either line is cut, and which signals upon any breach of a door, window (including storefront windows and unbarred skylights), or other accessible opening to the protected premises, at a private sentry or guard headquarters that is attended and monitored 24 hours a day, that dispatches guards to the protected premises for which they have keys immediately upon the activation of the alarm, that periodically checks the operation and effectiveness of the system, and that notifies law enforcement authorities as soon as a breach of the premises is confirmed;

4. Section 82.2 is amended to add new paragraphs (d) and (e) to read as follows:

§ 82.2 Purpose of protective device requirements.

* * * * *

(d) As a further control on claims frequency and severity, the following minimum protective device requirements apply if the policyholder has had 2 or more claims each for a payment of $500 or more, in the immediate 3 years preceding the period ending 4 months prior to renewal.

Premium class	Protective device code
6	A
5	A
4	C
3	C
2	C
1	N/A

(e) For those policyholders with no claims in the immediate 3 years preceding the period ending 4 months prior to renewal, protective device requirements are liberalized as follows:

Premium class	Protective device code
6	C
5	C
4	D
3	E
2	E
1	N/A

5. In § 82.5 paragraph (b) is revised to read as follows:

* * * * *

§ 82.5 Inspection of commercial premises.

(b) Coverage under a commercial crime insurance policy indemnifying against burglary losses shall not commence unless it is determined that the premises sought to be insured complies with all applicable protective device requirements. Provided, that all commercial premises whose exterior doors and accessible openings are found upon inspection to be protected by central station supervised service alarm systems or silent alarm systems (as those systems are defined in paragraphs (b), (c), (i), (j) and (n) of § 82.1 shall not be required to comply with the provisions of paragraphs (b) and (e) of § 82.31 pertaining to the protection of those exterior doors and accessible openings by such devices as bars, grillwork, and other physical barriers. The benefit of this provision, therefore, applies also to commercial premises which, because of their particularly high risk inventories of merchandise continue to be required by paragraphs (f) (1) and (2) of § 82.31 to have exterior doors and accessible openings protected by specific types of alarm systems, namely, supervised service alarm systems for the highest risk inventories and silent alarm systems for less high risk inventories.

* * * * *

6. Section 82.31, paragraph (f) is revised in its entirety to read as follows:

§ 82.31 Minimum standards for industrial and commercial properties.

* * * * *

(f) The following types of establishments whose inventories pose a particularly serious risk shall, as a minimum, in addition to the requirements of paragraphs (a), (b), and (d) of this section be protected by the type of alarm system indicated. If the system specified in paragraphs (f)(1) and (f)(2) of this section is not available in the community in which the premises are located, the type of system specified in paragraph (f)(3) of this section shall be permitted.

(1) Central Station (with Guard dispatch) supervised service alarm system shall be required for the following businesses:

(i) Beer/Wine (wholesale)
(ii) Boutiques
(iii) Cameras/Photo/Film Processing
(iv) Clothing Children's 12 & Under
(v) Clothing Mfg./Tailoring
(vi) Clothing Men's
(vii) Clothing Women's
(viii) Drug Stores
(ix) Drugs (wholesale)
(x) Electrical Appliances/Parts
(xi) Food Stuffs (wholesale)
(xii) Gasoline Service Station
(xiii) Gift Store/Costume Jewelry
(xiv) Jewelry
(xv) Leather Products
(xvi) Liquor Stores
(xvii) Pawn Brokers
(xviii) Precious Metals/Electroplating (retail)
(xix) Radio/TV/Electronic Equip.
(xx) Record Shop
(xxi) Savings & Loans/Banks
(xxii) Shoe Stores
(xxiii) Tobacco Dealers (wholesale)
(xxiv) Used Clothing/Shoe Repair/Thrift Stores
(xxv) Variety/Department Stores

(2) Central Station (without Guard dispatch) supervised service alarm system shall be required for the following businesses:

(i) Antique Stores
(ii) Art Supplies
(iii) Auto Parts—no service
(iv) Beauty & Health Supplies
(v) Beer/Wine with Food (retail)
(vi) Candy/Nuts Stores
(vii) Dry Goods—Textile/Sewing
(viii) Furniture/Home Furnishings
(ix) Furriers
(x) Grocery Stores/Deli/Health Food Stores
(xi) Guns/Ammunition
(xii) Liquor (wholesale)
(xiii) Meat/Poultry/Fish Dealers
(xiv) Motorbikes/Bicycles
(xv) Music Stores/Instruments
(xvi) Pet Stores/Kennels
(xvii) Precious Metals/Electroplating (storage)
(xviii) Sports Goods/General
(xix) Tobacco Dealers (retail)
(xx) Wig Shops

(3) Silent or Local Alarm system shall be required for the following businesses:

(i) All Risks Not Otherwise Classified
(ii) Amusement Enterprises
(iii) Art Galleries
(iv) Auto Parts—sales/service
(v) Beach Concessions
(vi) Beauty/Barber Shops
(vii) Billiard/Pool Parlors
(viii) Building Contractors/Materials
(ix) Check Cashing/Money Exchange/Collectors

(x) Clubs (serving alcohol)
(xi) Coin/Stamp Shop
(xii) Discos/Dance Halls/Pavilions
(xiii) Distributors—Variety/Nonalcoholic
(xiv) Donut/Pastry/Coffee Shop (seated)
(xv) Dry Cleaners
(xvi) Fast Food/Bakery/Donut (carryout)
(xvii) Fine Arts
(xviii) Flea Markets/Auction Houses
(xix) Florists
(xx) Fruit/Newspaper Stands
(xxi) Funeral Homes
(xxii) Garages/Auto Repair
(xxiii) Golf & Other Prof. Sports Shops
(xxiv) Hardware/Housewares
(xxv) Health Clubs/Massage Parlors
(xxvi) Hobby/Toys/Novelty
(xxvii) Hotel/Motel/Apartments
(xxviii) Industrial Materials/Metal Work
(xxix) Laundries
(xxx) Marine/Aircraft—Sales/Service
(xxxi) Medical Supplies
(xxxii) Nursing/Convalescent Homes
(xxxiii) Office Supplies/Equipment
(xxxiv) Parking/Rental Cars/Car Wash/Taxi Office
(xxxv) Photographers Studios
(xxxvi) Professional Services
(xxxvii) Radio/TV/Elec Eq. (service only)
(xxxviii) Realty/Insurance/Travel/Employment Agency
(xxxix) Restaurant/Caterer
(xl) Schools/Day Care
(xli) Security/Locksmiths/Alarms
(xlii) Specialized Clothing—Sportswear/Lingerie
(xliii) Stationery/Books/Printing/Paper
(xliv) Vending Machines
(xlv) Vending Machines

* * * * *

7. In § 83.24, paragraph (d) is revised in its entirety to read as follows:

§ 83.24 Classification of commercial risks.

* * * * *

(d) Following are minimum alarm requirements for various classifications of businesses:

Code	Business description	Class		Alarm type
		Burglary	Robbery	
A1	NOC	3	4	D
02	Amusement enterprises	2	3	D
B1	Antique stores	3	4	C
C1	Art galleries	3	4	D
39	Art supplies	5	5	C
D1	Auto parts—no service	2	2	C
03	Auto parts—sales/service	2	2	D
47	Beach concessions	3	4	D
32	Beauty/barber shops	2	2	D
41	Beauty & health supplies	3	4	C
C6	Beer/wine with food (retail)	5	5	C
F1	Beer/wine (wholesale)	6	6	B
04	Billiard/pool parlors	3	4	D
70	Boutiques	6	6	B
05	Bowling lanes/skating rinks	2	3	E
34	Building contractors/materials	2	3	D
06	Cameras/photo/film processing	5	5	B
43	Candy/nuts stores	3	4	C
G1	Check cashing/money exchange/collectors	4	6	D
J1	Churches/charities/public properties	1	1	E
36	Clothing children 12 & under	5	2	B
I1	Clothing mfg./tailoring	3	6	B
22	Clothing man's	6	5	B
30	Clothing women's	6	6	B
07	Clubs (serving alcohol)	3	4	D
K1	Coin/stamp shop	3	4	D
08	Discos/dance halls/pavilions	2	3	D
60	Distributors—variety/Nonalcoholic	2	4	D
C5	Donut/pastry/coffee shop (seated)	3	4	D
09	Drug stores	5	4	B
L1	Drugs (wholesale)	5	6	B
10	Dry cleaners	5	5	D
38	Dry Goods—textile/sewing	3	4	C
11	Electrical appliances/parts	5	5	B
E1	Fast food/bakery/donut (carryout)	4	3	D
35	Fine arts	2	3	D
78	Flea markets/auction houses	2	3	D
40	Florists	2	4	D
M1	Food stuffs (wholesale)	3	5	B
N1	Fruit/newspaper stands	4	3	D
45	Funeral homes	2	3	D
421	Furniture/home furnishings	4	3	C
12	Furriers	5	5	C
13	Garages/auto repair	3	3	D
14	Gasoline service station	5	4	B
44	Gift store/costume jewelry	6	4	B
15	Golf & other prof. sports shops	2	3	D
16	Grocery stores/deli/health food stores	5	5	C
17	Guns/ammunition	6	6	C
46	Hardware/housewares	3	4	D
C2	Health clubs/massage parlors	2	3	D
80	Hobby/toys/novelty	3	4	D
48	Hotel/motel/apartments	2	3	D
01	Industrial materials/metal work	2	3	D
18	Jewelry	3	6	B
19	Laundries	2	3	D
52	Leather products	6	4	B
20	Liquor stores	2	2	B
P1	Liquor (wholesale)	4	2	C
37	Marine/aircraft—sales/service	3	4	D
21	Meat/poultry/fish dealers	2	3	C
54	Medical supplies	2	2	D
Q1	Motorbikes/bicycles	3	4	C
56	Music stores/instruments	3	4	C
33	Nursing/convalescent homes	2	3	D
C3	Office supplies/equipment	2	3	D
58	Parking/rental cars/car wash/taxi office	2	2	D
23	Pawn brokers	4	2	B
76	Pet stores/kennels	3	4	C
R1	Photographers studios	2	3	D
S1	Precious metals/electroplating (storage)	6	6	C
C8	Precious metals/electroplating (retail, wholesale, mfg.)	4	2	B
74	Professional services	2	2	D
24	Radio/TV/electronic equip	6	5	B
C4	Radio/TV/elec eq. (service only)	2	3	D
62	Realty/insurance/travel/employment agency	2	3	D
T1	Record shop	5	4	B
25	Restaurant/caterer	3	4	D
26	Savings & loans/banks	4	3	B
66	Schools/day care	2	3	D
64	Security/locksmiths/alarms	2	4	D
68	Shoe stores	6	5	B
H1	Specialized clothing-sportswear/lingerie	4	2	D
U1	Sports goods/general	5	2	C
60	Stationery/books/printing/paper	3	4	D
27	Tavern/bar/lounge	4	4	D
V1	Taxi/limousines (robbery only)	2	3	E
28	Theatres	2	3	E
29	Tobacco dealers (retail)	5	5	C
C9	Tobacco dealers (wholesale)	3	4	B
72	Used clothing/shoe repair/thrift stores	5	5	B
W1	Variety/department stores	6	6	B
X1	Vending machines	2	3	D
Y1	Wig shops	5	2	C

8. In Section 83.25 paragraph (e) is revised in its entirety to read as follows:

§ 83.25 Commercial crime insurance rates.

* * * * *

(e) The following tables shall be used to determine rates for commercial risks:

FEDERAL CRIME INSURANCE PROGRAM; COMMERCIAL CRIME INSURANCE RATES, SEPTEMBER 1990

Amount of insurance	Gross receipts—Annual premiums											
	Less than $100,000 option		$100,000 to $199,999 option		$200,000 to $299,999 option		$300,000 to $499,999 option		$500,000 to $999,999 option		$1,000,000 or greater option	
	1	2	1	2	1	2	1	2	1	2	1	2
Class 1:												
$1,000	$86	$128	$132	$192	$132	$192	$176	$256	$220	$320	$352	$512
$2,000	151	229	242	344	242	344	322	458	403	573	644	916
$3,000	234	330	351	495	351	495	466	660	585	826	936	1,321

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FEDERAL CRIME INSURANCE PROGRAM, COMMERCIAL CRIME INSURANCE RATES, SEPTEMBER 1990—Continued

Amount of insurance	Gross receipts—Annual premiums											
	Less than $100,000 option		$100,000 to $199,999 option		$200,000 to $299,999 option		$300,000 to $499,999 option		$500,000 to $999,999 option		$1,000,000 or greater option	
	1	2	1	2	1	2	1	2	1	2	1	2
$4,000	302	422	453	634	453	634	604	845	755	1,056	1,207	1,690
$5,000	345	477	515	716	515	716	686	955	858	1,194	1,373	1,910
$6,000	375	525	562	787	562	787	750	1,050	937	1,312	1,500	2,099
$7,000	394	557	591	835	591	835	788	1,114	986	1,392	1,577	2,227
$8,000	412	581	618	867	618	867	824	1,183	1,030	1,470	1,647	2,365
$9,000	419	602	628	902	628	902	838	1,203	1,047	1,504	1,676	2,406
$10,000	451	625	647	937	647	937	862	1,249	1,078	1,562	1,725	2,499
$11,000	464	681	696	1,021	696	1,021	928	1,362	1,159	1,702	1,855	2,724
$12,000	488	727	733	1,091	733	1,091	977	1,454	1,221	1,818	1,954	2,908
$13,000	500	749	750	1,123	750	1,123	1,000	1,498	1,250	1,872	1,998	2,995
$14,000	506	760	759	1,140	759	1,140	1,012	1,521	1,265	1,901	2,024	3,041
$15,000	513	772	770	1,158	770	1,158	1,026	1,544	1,283	1,930	2,052	3,087
Class 2:												
$1,000	103	154	156	230	156	230	211	307	264	384	422	614
$2,000	185	275	280	412	280	412	386	550	483	687	775	1,100
$3,000	281	366	421	594	421	594	562	793	702	991	1,124	1,585
$4,000	362	507	543	760	543	760	724	1,014	906	1,267	1,449	2,026
$5,000	412	573	618	859	618	859	824	1,146	1,030	1,432	1,647	2,292
$6,000	450	630	675	945	675	945	900	1,260	1,125	1,574	1,799	2,519
$7,000	470	668	710	1,002	710	1,002	946	1,336	1,183	1,670	1,892	2,673
$8,000	494	710	741	1,064	741	1,064	988	1,419	1,236	1,774	1,977	2,839
$9,000	503	722	754	1,083	754	1,083	1,005	1,444	1,257	1,805	2,011	2,888
$10,000	517	750	776	1,124	776	1,124	1,035	1,499	1,294	1,874	2,070	2,998
$11,000	557	817	835	1,226	835	1,226	1,113	1,634	1,391	2,043	2,226	3,269
$12,000	586	872	879	1,309	879	1,309	1,172	1,745	1,466	2,181	2,344	3,490
$13,000	600	899	900	1,348	900	1,348	1,200	1,797	1,500	2,246	2,399	3,594
$14,000	607	912	911	1,369	911	1,369	1,214	1,825	1,518	2,281	2,429	3,650
$15,000	616	926	923	1,389	923	1,389	1,231	1,852	1,539	2,316	2,463	3,705
Class 3:												
$1,000	119	160	178	240	178	240	238	320	297	400	475	640
$2,000	217	286	326	430	326	430	435	573	544	716	870	1,146
$3,000	316	413	474	619	474	619	632	826	790	1,032	1,264	1,651
$4,000	407	528	611	792	611	792	815	1,056	1,019	1,320	1,630	2,112
$5,000	469	607	695	895	695	895	927	1,194	1,158	1,492	1,853	2,387
$6,000	508	658	759	984	759	984	1,012	1,312	1,265	1,640	2,024	2,624
$7,000	532	688	795	1,044	795	1,044	1,064	1,392	1,331	1,740	2,129	2,784
$8,000	556	720	834	1,109	834	1,109	1,112	1,478	1,390	1,848	2,224	2,957
$9,000	585	752	848	1,128	848	1,128	1,131	1,504	1,414	1,880	2,262	3,008
$10,000	602	781	873	1,171	873	1,171	1,164	1,562	1,456	1,952	2,328	3,123
$11,000	626	851	939	1,277	939	1,277	1,252	1,702	1,565	2,128	2,504	3,405
$12,000	639	909	959	1,363	959	1,363	1,319	1,818	1,648	2,272	2,637	3,635
$13,000	675	936	1,012	1,404	1,012	1,404	1,350	1,872	1,687	2,340	2,699	3,744
$14,000	683	950	1,025	1,426	1,025	1,426	1,366	1,901	1,709	2,376	2,732	3,802
$15,000	693	965	1,039	1,447	1,039	1,447	1,385	1,930	1,732	2,412	2,770	3,859
Class 4:												
$1,000	126	168	181	250	181	250	255	333	319	416	510	666
$2,000	236	299	350	447	350	447	467	596	584	745	934	1,191
$3,000	339	420	509	644	509	644	679	859	849	1,073	1,358	1,717
$4,000	436	549	657	824	657	824	875	1,098	1,094	1,373	1,751	2,196
$5,000	499	621	746	931	746	931	995	1,241	1,244	1,552	1,991	2,483
$6,000	544	682	815	1,023	815	1,023	1,087	1,364	1,359	1,706	2,174	2,729
$7,000	572	724	857	1,086	857	1,086	1,143	1,448	1,429	1,810	2,287	2,895
$8,000	597	769	896	1,153	896	1,153	1,194	1,536	1,493	1,922	2,388	3,075
$9,000	607	782	911	1,173	911	1,173	1,215	1,564	1,518	1,955	2,430	3,129
$10,000	625	812	938	1,218	938	1,218	1,250	1,624	1,563	2,030	2,501	3,248
$11,000	672	885	1,009	1,328	1,009	1,328	1,345	1,770	1,681	2,213	2,690	3,541
$12,000	709	945	1,062	1,416	1,062	1,416	1,416	1,890	1,770	2,363	2,833	3,781
$13,000	725	973	1,087	1,460	1,087	1,460	1,450	1,947	1,812	2,434	2,899	3,894
$14,000	734	988	1,101	1,483	1,101	1,483	1,467	1,977	1,834	2,471	2,935	3,954
$15,000	744	1,008	1,116	1,505	1,116	1,505	1,488	2,007	1,860	2,508	2,976	4,014
Class 5:												
$1,000	132	173	198	259	198	259	264	346	330	432	528	691
$2,000	242	309	362	464	362	464	483	619	604	773	966	1,237
$3,000	351	446	527	669	527	669	702	892	878	1,115	1,404	1,783
$4,000	452	570	679	855	679	855	906	1,140	1,132	1,426	1,811	2,281
$5,000	515	645	772	967	772	967	1,030	1,289	1,287	1,611	2,059	2,578
$6,000	562	706	843	1,060	843	1,060	1,125	1,417	1,406	1,771	2,248	2,834
$7,000	597	752	897	1,128	897	1,128	1,193	1,503	1,496	1,879	2,395	3,007
$8,000	618	799	927	1,196	927	1,196	1,236	1,597	1,544	1,995	2,471	3,193
$9,000	665	812	942	1,218	942	1,218	1,257	1,624	1,571	2,030	2,513	3,249
$10,000	647	845	970	1,265	970	1,265	1,294	1,687	1,617	2,109	2,587	3,373
$11,000	686	918	1,045	1,379	1,043	1,379	1,391	1,839	1,739	2,298	2,783	3,677
$12,000	733	982	1,099	1,472	1,099	1,472	1,465	1,963	1,832	2,454	2,898	3,926
$13,000	768	1,011	1,125	1,516	1,125	1,516	1,500	2,022	1,874	2,527	2,999	4,044
$14,000	748	1,085	1,139	1,540	1,139	1,540	1,518	2,053	1,898	2,566	3,096	4,106

FEDERAL CRIME INSURANCE PROGRAM, COMMERCIAL CRIME INSURANCE RATES, SEPTEMBER 1990—Continued

Amount of insurance	Gross receipts—Annual premiums											
	Less than $100,000 option		$100,000 to $199,999 option		$200,000 to $299,999 option		$300,000 to $499,999 option		$500,000 to $999,999 option		$1,000,000 or greater option	
	1	2	1	2	1	2	1	2	1	2	1	2
$15,000	770	1,042	1,154	1,563	1,154	1,563	1,539	2,084	1,924	2,605	3,078	4,166
Class 6:												
$1,000	151	158	227	237	227	237	303	316	378	395	606	632
$2,000	277	283	415	424	415	424	554	565	692	707	1,107	1,131
$3,000	402	408	604	611	604	611	806	815	1,006	1,018	1,610	1,630
$4,000	519	521	778	782	778	782	1,038	1,042	1,297	1,303	2,075	2,085
$5,000	590	589	885	884	885	884	1,180	1,178	1,475	1,473	2,360	2,357
$6,000	644	648	967	971	967	971	1,290	1,295	1,611	1,619	2,578	2,590
$7,000	678	687	1,017	1,031	1,017	1,031	1,355	1,374	1,694	1,718	2,711	2,748
$8,000	706	730	1,062	1,095	1,062	1,095	1,416	1,459	1,770	1,824	2,832	2,919
$9,000	720	742	1,080	1,114	1,080	1,114	1,440	1,485	1,800	1,858	2,880	2,969
$10,000	741	771	1,112	1,156	1,112	1,156	1,482	1,542	1,853	1,927	2,965	3,083
$11,000	797	840	1,196	1,260	1,196	1,260	1,594	1,681	1,993	2,101	3,189	3,361
$12,000	840	897	1,259	1,346	1,259	1,346	1,679	1,794	2,099	2,243	3,358	3,589
$13,000	859	934	1,288	1,366	1,289	1,366	1,718	1,848	2,148	2,310	3,437	3,696
$14,000	870	936	1,305	1,407	1,305	1,407	1,740	1,876	2,175	2,346	3,479	3,753
$15,000	882	952	1,323	1,429	1,323	1,429	1,764	1,905	2,205	2,381	3,528	3,810

Option 1: Burglary only.
Option 2: Robbery only.
Option 3: A combination of coverages under options 1 and 2 in uniform or varying amounts. The premium for option 3 is the sum of the rates for amounts of coverage selected under options 1 and 2.
Discounts on these rates are afforded for businesses with alarm systems/safes. A discount of 10% is given for policies with option 3.

9. In section 83.25 paragraph (f) is revised to read as follows:

* * * * *

§ 83.25 Commercial crime insurance rates.

(f) If the premises are protected by an acceptable burglar alarm system, class E safe, supervised safe alarm system, holdup alarm or armored car service, premium discounts shall be permitted as follows:

I. BURGLARY CREDITS

PREMISES ALARM SYSTEM

Code	Safe Alarmed	Class E or better	Safe Not Alarmed	
		Other/safe	Class E or better	Other/none
E None	.60	.95	.85	1.00
D Local or Silent*	.70	.75	.75	.80
C Central Station wo/Guard	.65	.75	.70	.80
B Central Station w/Guard/Keys	.60	.70	.65	.75
A Central Station (UL) Approved	.55	.65	.60	.70

*Professionally installed with maintenance.

Note: Multiply the burglary premium by the appropriate factor.

II. ROBBERY CREDITS

PROTECTION SERVICE

Hold up buttons	Armored car	None
Yes	0.85	0.90
No	.95	1.00

Note: Multiply the robbery premium by the appropriate factor.

Package Discount

Apply a factor of .90 to the total premium if both burglary and robbery are purchased.

(50 FR 18497, Apr. 28, 1985, as amended at 53 FR 11276, Apr. 6, 1988; 54 FR 31662, Aug. 1, 1989)

These amendments are issued under 12 U.S.C. 1749bbb–17.

Dated: October 10, 1990.

C.M. "Bud" Schauerte,

Federal Insurance Administrator.

[FR Doc. 90–24480 Filed 10–17–90; 8:45 am]

BILLING CODE 6718–21–M

FEDERAL MARITIME COMMISSION

46 CFR Parts 502 and 510

[Docket No. 90–27]

Denial of Federal Benefits to Drug Traffickers and Possessors

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: 21 U.S.C. 853a, enacted as part of the Anti-Drug Abuse Act of 1988 (Pub. L. 100–690), states that Federal benefits shall be withheld in certain circumstances from individuals who have been convicted of drug distribution or possession in Federal or State courts. In this proceeding the Commission adopts a certification process to implement the requirements of 21 U.S.C. 853a. Because this matter involves agency practice and procedure, it is being issued as a final rule under 5 U.S.C. 553(b)(3)(A).

EFFECTIVE DATE: October 18, 1990.

FOR FURTHER INFORMATION CONTACT: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Room 11101, Washington, DC 20573–0001, (202) 523–5725.

SUPPLEMENTARY INFORMATION: Federal agencies must implement and enforce the requirements of 21 U.S.C. 853a, which provides that Federal benefits are not to be granted to certain individuals

who are convicted in Federal or State courts of either distribution or possession of controlled substances, after September 1, 1989. A "Federal benefit" is defined in 21 U.S.C. 853a(d) as "the issuance of any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States." Licenses issued by the Federal Maritime Commission ("Commission" or "FMC") to operate as ocean freight forwarders under section 19 of the Shipping Act of 1984, 46 U.S.C. app. 1718, are "Federal benefits" as defined in 21 U.S.C. 853a(d). A grant of a non-attorney admissions to practice under 46 CFR 502.27 is also such a "Federal benefit."

To ensure that authority is not issued to individuals who have been convicted after September 1, 1989, of drug trafficking or possession and who are subject to the Federal benefits ban of 21 U.S.C. 853a, the Commission is establishing a procedure requiring applicants for FMC authority to certify that they are not ineligible to receive authority because of drug convictions. Because the statute only applies to individuals, this certification requirement will only affect an individual applicant who applies for authority in his or her own name. Corporations, joint owners or partnerships will not be required to complete the certification. The certification will be required for all individual applications that involve requests for licenses as ocean freight forwarders and for all non-attorney applicants for admission to practice before the Commission. The certification will be incorporated in the FMC's application form (FMC–18 Rev.) and the application for admission to practice form (FMC–12) which are currently under revision.

The Federal Maritime Commission has determined that this proposed rule is not a "major rule" as defined in Executive Order 12291, 46 FR 12193, February 27, 1981, because it will not result in: (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individuals industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effect on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Chairman of the Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., that this proposed rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units, and small governmental jurisdictions.

The Commission has determined to issue this rule as a final rule, without prior notice or opportunity to comment. If an individual is banned by 21 U.S.C. 853a from receiving Federal benefits, the Commission has no discretion in the matter. The rules adopted herein merely establish a practice and procedure for implementing the ban and are thereby exempt from notice and comment requirements pursuant to 5 U.S.C. 553(b)(3)(A). The Commission similarly finds good cause for making the rules effective upon publication pursuant to 5 U.S.C. 553(d)(3).

List of Subjects

46 CFR Part 502

Administrative practice and procedure.

46 CFR Part 510

Freight forwarders.

For the reasons set forth above, parts 502 and 510 of 46 CFR are amended as follows:

PART 502—RULES OF PRACTICE AND PROCEDURE

1. The authority citation of part 502 is revised to read as follows:

Authority: 5 U.S.C. 504, 551, 552, 553, 559; 12 U.S.C. 1141j(a); 18 U.S.C. 207; 26 U.S.C. 501(c)(3); 28 U.S.C. 2112(a); 46 U.S.C. app. 817, 820, 821, 826, 841a, 1114(b), 1705, 1707–1711, 1713–1716; E.O. 11222 of May 8, 1965 (30 FR 6469); and 21 U.S.C. 853a.

2. Section 502.27 is amended by redesignating current paragraph (a) as (a)(1) and by adding a new paragraph (a)(2) to read as follows.

§ 502.27 Persons not attorneys at law.

(a) * * *

(2) All applicants must complete the following certification:

I, _____ (Name _____, certify under penalty of perjury under the laws of the United States, that I have not been convicted, after September 1, 1989, of any Federal or State offense involving the distribution or possession of a controlled substance, or that if I have been so convicted, I am not ineligible to receive Federal benefits, either by court order or operation of law, pursuant to 21 U.S.C. 853a.

* * * * *

PART 510—LICENSING OF OCEAN FREIGHT FORWARDERS

1. The authority citation for part 510 is revised to read as follows.

Authority: 5 U.S.C. 553, 46 U.S.C. app. 1702, 1707, 1709, 1710, 1712, 1714, 1716, and 1718; 21 U.S.C. 853a.

2. Section 510.12 is amended by redesignating current paragraph (a) as (a)(1) and by adding a new paragraph (a)(2) to read as follows.

§ 510.12 Application for license.

(a) * * *

(2) An individual who is applying for a license in his or her own name must complete the following certification.

I, _____ (Name) _____, certify under penalty of perjury under the laws of the United States, that I have not been convicted, after September 1, 1989, of any Federal or State offense involving the distribution or possession of a controlled substance, or that if I have been so convicted, I am not ineligible to receive Federal benefits, either by court order or operation of law, pursuant to 21 U.S.C. 853a.

* * * * *

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 90–24501 Filed 10–17–90; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90–13; RM–7090]

Radio Broadcasting Services; White Hall, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 283A to White Hall, Arkansas, as that community's first local broadcast service, in response to a petition for rule making filed by Carl Jones. See 55 FR 4205, February 7, 1990. Although the petitioner did not file an expression of interest in pursuing the proposal, supporting comments were filed on behalf of Brantley Broadcast Associates. Coordinates for Channel 283A at White Hall are 34–15–15 and 92–01–49. With this action, the proceeding is terminated.

DATES: Effective November 29, 1990; the window period for filing applications on Channel 283A at White Hall, Arkansas, will open on November 30, 1990, and close on December 31, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530. Questions related to the window application filing process should be addressed to the Audio Services Division, FM Branch, Mass Media Bureau, (202) 632–0954.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–13, adopted September 25, 1990, and released October 15, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended under Arkansas, by adding White Hall, Channel 283A.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–24616 Filed 10–17–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–474; RM–6930]

Radio Broadcasting Services; Brookings, SD

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Dakota Broadcasting, Inc., substitutes Channel 229C1 for Channel 229C2 at Brookings, South Dakota, and modifies its license for Station KGKG to specify operation on the higher powered channel. *See* 54 FR 47372, November 14, 1989. Channel 229C1 can be allotted to Brookings in compliance with the Commission's minimum distance separation requirements with a site restriction of 26.8 kilometers (16.6 miles) west to avoid a short-spacing to Station KTSB, Channel 230C2, Sioux Center, Iowa, and to unoccupied but applied-for Channel 230A at Granite Falls, Minnesota. The coordinates for Channel 229C1 at Brookings are North Latitude 44–22–44 and West Longitude 97–06–54. With this action, this proceeding is terminated.

EFFECTIVE DATE: November 29, 1990.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–474, adopted September 25, 1990, and released October 15, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments under South Dakota, is amended by removing Channel 229C2 and adding Channel 229C1 at Brookings.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–24620 Filed 10–17–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–568; RM–7024]

Radio Broadcasting Services; Clifton, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Bosque Broadcasting Corp., substitutes Channel 277C3 for Channel 277A at Clifton, Texas, and modifies the construction permit of Station KWOW(FM) to specify operation on the higher powered channel. *See* 54 FR 52424, December 21, 1989. Channel 277C3 can be allotted to Clifton in compliance with the Commission's minimum distance separation requirements with a site restriction of 12.7 kilometers (7.9 miles) east to accommodate petitioner's desired transmitter site. The coordinates for Channel 277C3 at Clifton are North Latitude 31–47–30 and West Longitude 97–26–35. With this action, this proceeding is terminated.

EFFECTIVE DATE: November 29, 1990.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–568, adopted September 25, 1990, and released October 15, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments under Texas, is amended by removing Channel 277A and adding Channel 277C3 at Clifton.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–24621 Filed 10–17–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–16; RM–7117]

Radio Broadcasting Services; Yuma, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 236C for Channel 236C2 at Yuma, Arizona, and modifies the license

of UNO Broadcasting Corporation for Station KTTI(FM), as requested, to specify operation on the higher powered channel, thereby providing that community with a second wide coverage area FM service. *See* 55 FR 4631, February 9, 1990. Coordinates used for Channel 236C at Yuma are 32–40–22 and 114–20–13. With this action, the proceeding is terminated.

EFFECTIVE DATE: November 29, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90–19, adopted September 25, 1990, and released October 15, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR PART 73—[AMENDED]

1. Authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments for Arizona, is amended by removing Channel 236C2 and adding Channel 236C at Yuma.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–24617 Filed 10–17–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–202; RM–7134]

Radio Broadcasting Services; Barstow, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 232B1 for Channel 232A at Barstow, California, and modifies the license of First American Communications Corp. for Station KDUC(FM), as requested, to specify operation on the higher powered channel, thereby providing that community with an expanded coverage area FM service. *See* 55 FR 15248, April 23, 1990. Coordinates used for Channel 232B1 at Barstow are 34–58–15 and 117–02–22. With this action, the proceeding is terminated.

EFFECTIVE DATE: November 29, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90–202, adopted September 25, 1990, and released October 15, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by removing Channel 232A and adding Channel 232B1 at Barstow.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–24618 Filed 10–17–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–569; RM–7025]

Radio Broadcasting Services; Belle Chasse, Louisiana

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 275C3 for Channel 275A at Belle Chasse, Louisiana, and modifies the construction permit for Station KNOK(FM) to specify operation on the new channel, in response to a petition filed by First Belle Chasse Media Group. *See* 54 FR 52422, December 21, 1989. The coordinates for Channel 275C3 are 29–52–06 and 89–53–38.

EFFECTIVE DATE: November 29, 1990.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–569, adopted September 25, 1990, and released October 15, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Louisiana, is amended by removing Channel 275A and adding Channel 275C3 at Belle Chasse.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–24619 Filed 10–17–90; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

48 CFR Parts 306, 316, 332, 333, and 352

Acquisition Regulation; Miscellaneous Amendments

AGENCY: Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: The Department of Health and Human Services is amending its acquisition regulation (HHSAR), title 48, Code of Federal Regulations, chapter 3, to make several administrative changes.

EFFECTIVE DATE: October 18, 1990.

FOR FURTHER INFORMATION CONTACT: Ed Lanham, Procurement Analyst, Division of Acquisition Policy, telephone (202) 245–6890.

SUPPLEMENTARY INFORMATION: The Department is amending its acquisition regulation to make several nomenclature designations in parts 306, 332, and 333.

The major changes being effected are encompassed in part 352. Subpart 352.3, Provision and Clause Matrices, is being removed because it is no longer considered useful by the majority of the Department's contracting activities, due, in part, to the revised and updated Federal Acquisition Regulation matrices, and the increase in the use of automated contract preparation systems. Subpart 352.2, Texts of Provisions and Clauses, is being amended by removing two contract clauses, and by adding a contract clause to provide pertinent information formerly contained in one of the removed clauses. A brief instruction is being added to part 316 that describes the information contained in the second clause being removed.

The Department of Health and Human Sevices adheres to the policy that the public, or certain elements comprising it, should have the opportunity to provide comments on regulations which may have an impact on them. The Department had determined, however, that this rule contains no amendments that would have a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of the Department. As a result, the Department is not requesting comments on these acquisition regulations, and is publishing them as a final rule.

In regard to the foregoing paragraph, we note that the contract clause being prescribed notifies certain types of organizations as to how bid and proposal costs and independent research and development costs are to be treated by the Department. However, this is not new policy that is being established. The treatment of these two areas has been described in the "Allowable Cost and Payment" clause (352.216–7) which is being removed. Since the corresponding Federal Acquisition Regulation (FAR) clause at section 52.216–7 is to be used in its place, the Department is establishing the new clause to continue to describe its policy in regard to the treatment of bid and proposal costs and independent research and development costs. The FAR "Allowable Cost and Payment" clause does not address these costs.

The Department of Health and Human Services certifies this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*); therefore, no regulatory flexibility statement has been prepared. Furthermore, this document does not contain information collection requirements needing approval by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et. seq.*).

The provisions of this regulation are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

List of Subjects in 48 CFR Parts 306, 316, 332, 333, and 352

Government procurement.

Accordingly, the Department of Health and Human Services amends 48 CFR chapter 3 as set forth below.

Dated: October 5, 1990.

James F. Trickett,

Deputy Assistant Secretary for Management and Acquisition.

As indicated in the preamble, chapter 3 of title 48 Code of Federal Regulations is amended as shown.

1. The authority citation for parts 306, 316, 332, 333, and 352 continues to read as follows: .

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

PART 306—[AMENDED]

306.501 [Amended]

2. Section 306.501 is amended by adding "AHCPR—Executive Officer, Agency for Health Care Policy and Research" after the designation "ADAMHA" and before the designation "CDC."

PART 316—[AMENDED]

Subpart 316.3 [Amended]

3. Subpart 316.3 is amended by adding section 316.307 as follows:

316.307 Contract clauses.

(a) If the contract is with a hospital (profit or nonprofit), modify the "Allowable Cost and Payment" clause at FAR 52.216–7 by deleting from paragraph (a) the words "subpart 31.2 of the Federal Acquisition Regulation (FAR)" and substituting "45 CFR part 74 appendix E."

(j) The contracting officer shall insert the clause at 352.216–72, Additional Cost Principles, in solicitations and resultant cost-reimbursement contracts with nonprofit organizations, as identified in OMB Circular A–122.

PART 332—[AMENDED]

332.402 [Amended]

4. Paragraph (e) of section 332.402 is amended by removing the wording following "respective", including the last sentence, and adding the term "principal official responsible for acquisition (PORA)."

332.406 [Amended]

5. Paragraph (c)(2) of section 332.406 is amended by removing, in the first sentence, the phrase "appropriate official indicated in 306.501" and adding the acronym "PORA."

332.407 [Amended]

6. Paragraph (d) of section 332.407 is amended by removing in the first sentence, the phrase "officials referenced in 332.402(e) are" and adding the phrase "PORA is."

332.409–1 [Amended]

7. Section 332.409–1 is amended by removing the phrase "approving official cited in 332.402(e)" and adding the acronym "PORA", and by removing the word "letter" and adding the word "memorandum."

332.501–2 [Amended]

8. Paragraph (a)(3) of section 332.501–2 is amended by removing the words "official referenced in 332.402(e)." and adding the term "principal official responsible for acquisition (PORA)."

PART 333—[AMENDED]

333.104 [Amended]

9. Paragraph (b)(1) of section 333.104 is amended by removing "head of the contracting activity," and adding "principal official responsible for acquisition (PORA),". Paragraph (c)(2) is amended by removing "head of the contracting activity," and adding the acronym "PORA,".

PART 352—[AMENDED]

352.216–7 [Removed]

10. Section 352.216–7 is removed.

352.216–71 [Removed]

11. Section 352.216–71 is removed.

352.216–72 [Added]

12. Section 352.216–72 is added to read as follows:

352.216–72 Additional cost principles.

As prescribed in 316.307(j), insert the following clause in all solicitations and resultant cost-reimbursement contracts with nonprofit organizations, as identified in OMB Circular A–122.

Additional Cost Principles (Oct 90)

(a) *Bid and proposal costs.* (1) Bid and proposal costs are the immediate costs of preparing bids, proposals, and applications for potential Federal and non-Federal contracts, grants, and agreements, including the development of scientific, cost, and other data needed to support the bids, proposals, and applications.

(2) Bid and proposal costs of the current accounting period are allowable as indirect costs.

(3) Bid and proposal costs of past accounting periods are unallowable in the current period. However, if the organization's established practice is to treat these costs by some other method, they may be accepted if they are found to be reasonable and equitable.

(4) Bid and proposal costs do not include independent research and development costs covered by the following paragraph, or preaward costs covered by paragraph 33 of Attachment B to OMB Circular A–122.

(b) *Independent research and development costs.* (1) Independent research and development is research and development conducted by an organization which is not sponsored by Federal or non-Federal contracts, grants, or other agreements.

(2) Independent research and development shall be allocated its proportionate share of indirect costs on the same basis as the allocation of indirect costs to sponsored research and development.

(3) The costs of independent research and development, including its proportionate share of indirect costs, are unallowable.

(End of clause)

352.3 [Removed]

13. Subpart 352.3 is removed in its entirety.

[FR Doc. 90–24393 Filed 10–17–90; 8:45 am]

BILLING CODE 4150–04–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1048

[Ex Parte No. MC–37 (Sub-No. 40)]

Commercial Zones and Terminal Areas

AGENCY: Interstate Commerce Commission.

ACTION: Final rule; technical amendments.

SUMMARY: By an advance notice of proposed rulemaking (ANPR) (52 FR 15357, April 28, 1987) this proceeding was instituted to reexamine the Commission's commercial zone and terminal area regulations. By notice of proposed rulemaking (NPR) (53 FR 155, January 5, 1988), the Commission proposed to expand commercial zones (49 CFR part 1048) and terminal areas of motor carriers and freight forwarders of household goods (49 CFR part 1049) by revising the population-mileage formula (49 CFR 1048.101). Due to the passage of time, however, the statistical data contained in the record is obsolete. Until the results of the 1990 Census are available, the Commission will defer any further consideration of modifying the size of commercial zones and terminal areas. This rule eliminates surplusage and unnecessary sections of the existing rule, and updates a statutory citation.

EFFECTIVE DATE: November 17, 1990.

FOR FURTHER INFORMATION CONTACT: Samuel Taylor or Richard B. Felder, (202) 275–7181, (202) 275–7691. [TDD for hearing impaired: (202) 275–1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision in Ex Parte No. MC–37 (Sub-No. 40). To obtain a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 275–1721.]

List of Subjects in 49 CFR Part 1048

Commercial zones, Motor carriers.

For the reasons set forth in the preamble, title 49, chapter X; part 1048 of the Code of Federal Regulations is amended as follows:

PART 1048—COMMERCIAL ZONES

1. The authority citation for part 1048 continues to read as follows:

Authority: 49 U.S.C. 10321 and 10526 and 5 U.S.C. 553.

§ 1048.13 and 1048.15 [Removed]

§ 1048.14 [Redesignated as § 1048.13]

§§ 1048.16 through 1048.21 [Redesignated as §§ 1048.14 through 1048.19]

2. In part 1048, §§ 1048.13 and 1048.15 are removed and §§ 1048.14 is redesignated as §§ 1048.13 and §§ 1048.16 through 1048.21 are redesignated as §§ 1048.14 through 1048.19. In newly redesignated §§ 1048.15 the cite to 49 U.S.C. 10526(b) is revised to read: 49 U.S.C. 10526 (b)(1).

Decided: October 5, 1990.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Lamboley, and Emmett. Commissioner Lamboley did not participate in the disposition of this proceeding.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90–24606 Filed 10–17–90; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 91046–0006]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of prohibition of retention of groundfish.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), is prohibiting further retention of pollock by vessels fishing in the Bering Sea subarea and is requiring that pollock be treated in the same manner as prohibited species from 12 noon, Alaska local time, October 13, 1990, through December 31, 1990. This action is necessary to prevent the total allowable catch (TAC) for pollock in the Bering Sea subarea from being exceeded before the end of the year. The intent of this action is to ensure optimum use of groundfish while conserving pollock stocks.

EFFECTIVE DATES: 12 noon, Alaska local time (a.l.t.), October 13, 1990, through midnight, a.l.t. December 31, 1990.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, Resource Management Specialist, NMFS, 907–586–7229.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Bering Sea/Aleutian Islands Groundfish (FMP) governs the groundfish fishery in the Exclusive Economic Zone within the Bering Sea and Aleutian Islands (BSAI) management area under the Magnuson Fishery Conservation and Management Act. The FMP was developed by the North Pacific Fishery Management Council and is implemented by regulations codified at 50 CFR 611.93 and 50 CFR part 675.

Section 675.20(a)(1) of the implementing regulations establishes an optimum yield (OY) range of 1.4 to 2.0 million metric tons (mt) for all groundfish species in the BSAI management area. TACs for target species and the "other species" category are specified annually within the OY range and apportioned by subarea under § 675.20(a)(2)(i).

The initial 1990 TAC specified for pollock in the Bering Sea subarea was 1,088,000 mt, all of which was apportioned to domestic annual processing (DAP) (55 FR 1434; January 16, 1990). At the same time, an initial apportionment of 22,451 mt from the

reserve was made to joint venture processing (JVP) under authority of § 675.20(b)(1)(i) as an amount of pollock deemed likely to be harvested incidentally during JVP directed fishing for yellowfin sole and other flatfish. These actions brought the combined pollock TAC in the Bering Sea subarea for DAH to 1,110,451 mt. On June 24, 1990, an additional 300 mt from the reserve was appropriated to JVP pollock (55 FR 26206, June 27, 1990); bringing the combined DAH pollock TAC in the Bering Sea subarea to 1,110,751 mt. On August 31, 1990, an additional 200,000 mt of pollock was apportioned from the reserve to DAP pollock (55 FR 36652; September 6, 1990), resulting in a revised DAP pollock TAC of 1,288,000 mt and a revised DAH pollock TAC of 1,310,751 mt. On July 1, 1990 (55 FR 27823; July 6, 1990), the JVP flatfish fishery was closed due to its attainment of prohibited species catch for Pacific halibut, leaving 354 mt of pollock unharvested. The 354 mt of pollock unused by JVP fishing operations will be used by DAP, resulting in current TAC for DAP pollock management of 1,288,354 mt and no net change to DAH pollock TAC.

Under § 675.20(a)(9), when the Regional Director determines that the TAC of any target species or the "other species" category has been achieved prior to the end of a fishing year, the Secretary of Commerce will publish a notice in the **Federal Register** requiring that species or the "other species" be treated in the same manner as prohibited species, as described in § 675.20(c), for the remainder of the fishing year.

The Regional Director has determined that the TAC for pollock will be reached on October 13, 1990. Therefore, he is issuing this notice under authority of § 675.20(a)(9) and is prohibiting retention of pollock by vessels in the Bering Sea subarea and is requiring that pollock be treated in the same manner as prohibited species under §675.20(c) from noon, a.l.t., October 13, 1990, through midnight, a.l.t., December 31, 1990.

Classification

The Assistant Administrator for Fisheries, NOAA, finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment or to delay the effective date of this notice. This action is taken under § 675.20(a)(9) and § 675.20(c) and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 675

Fish, Fisheries, Reordkeeping and reporting requirements.

Authority: 16 U.S.C. 1801, *et seq.*

Dated: October 12, 1990.

Richard H. Schaefer,

Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90-24532 Filed 10-15-90; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 202
Thursday, October 18, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[FV-90-173PR]

Lemons Grown in California and Arizona; Proposed Weekly Levels of Volume Regulation for the 1990-91 Season

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on the need for regulation of the quantity of fresh Califonia-Arizona lemons that may be shipped to domestic markets, the shipping schedule, and the application of volume regulation for the 1990–91 lemon season. Consistent with program objectives, such action may be needed in order to establish and maintain orderly marketing conditions throughout the 1990–91 fiscal year. This proposal is based on a marketing policy which was unanimously adopted by the Lemon Administrative Committee (Committee) on June 19, 1990, and later amended on August 14, 1990. The Committee is responsible for the local administration of the marketing order covering lemons grown in California and Arizona.

DATES: Comments must be received by November 19, 1990.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent in triplicate to the Docket Clerk, Room 2525–S, F&V, AMS, USDA, P.O. Box. 96456, Washington, DC 20090–6456. Such comments should reference the docket number and the date and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2524–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 475–3861.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Order No. 910 (7 CFR part 91), as amended, regulating the handling of lemons grown in California and Arizona, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1973, as amended, (7 U.S.C. 601–674), hereinafter referred to as the "Act."

This proposed rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 70 handlers of California-Arizona lemons who are subject to regulation under the marketing order and approximately 2,000 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,00, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of producers and handlers of California-Arizona lemons may be classified as small entities.

The declaration of policy in the Act includes a provision concerning the establishment and maintenance of such orderly marketing conditions as will provide, in the interest of producers and consumers, an orderly flow of the supply of an agricultural commodity throughout its normal marketing season in order to avoid unreasonable fluctuations in supplies and prices. Limiting the quantity of lemons that each handler may handle on a weekly basis may contribute to these objectives.

The Committee may recommend to the Secretary the utilization of volume regulation under the order. The major reason for the use of volume regulations is to establish and maintain orderly marketing conditions for lemons. Such regulation can at the same time benefit consumers by maintaining adequate supplies of lemons in the marketplace. Thus, volume regulation can be a valuable tool in achieving the goal of market stabilization for California-Arizona lemons.

Prior to evaluating the appropriate level of volume regulation to recommend for a particular week, the Committee considers the following factors: (1) The quantity of lemons in storage; (2) the available amount of lemons for shipment to the principal markets; (3) the trend in consumer income; (4) present and predicted weather conditions; (5) present and prospective prices of lemons; and (6) other relevant factors.

The order also provides a variety of provisions designed to provide handlers with marketing flexibility within an established volume regulation week. When volume regulation is established for a given week, the Committee, calculates the quantity of lemons (allotment) which may be handled by each handler. Certain provisions of the order allow handlers to ship lemons in excess of their allotments, within specified limits, in response to marketing opportunities. Handlers who want to ship more than their allotment are permitted to overship that amount by one car (one car equals 1,000 cartons at 38 pounds net weight each) or by 20 percent of their allotment level, whichever is greater. A handler may overship in a given week, but the overshipment must be offset against the following week's allotment. Handlers may also ship less than their allotment during a given week which would give them the opportunity to ship more than their allotment during the following week. Handlers may also request upward adjustments and/or on-tree certification to increase their average weekly picks. This allows them to receive and ship a larger amount of lemons during a particular week or weeks. The order also provides off-bloom allotment which allows handlers to handle off-bloom lemons and receive allotment for such lemons prior to the picking of their normal lemon crop.

Further, handlers may borrow allotment from other handlers who choose to ship less than their allotment or who cannot fully utilize their allotment. These provisions allow handler flexibility.

In addition, lemons which are handled or disposed of in the following outlets are exempt from volume regulation: (a) Charitable institutions or relief organizations for distribution by such agencies; (b) processing into by-products, including juice; (c) export markets; (d) gift packages; and (e) livestock feed. The marketing and distribution of limited amounts of organic lemons is also exempt from volume regulation, and the Committee may exempt from volume and size regulations any grower, other than one whose principal occupation is food distribution, who sells directly to consumers.

Pursuant to § 910.50 of the order, the Committee is required to submit a marketing policy to the Secretary prior to August 15 recommending volume regulations for the current season. The order authorizes volume and size regulations applicable to fresh shipments of California-Arizona lemons to markets in the United States and to Canada.

The Committee adopted its marketing policy for the 1990–91 fiscal year at its June 19, 1990, meeting in Los Angeles, California. Other meetings to develop, discuss and review the Committee's marketing policy were held on May 22, May 30, June 5, and June 12 in Los Angeles, California. Furthermore, the Committee revised the marketing policy at its August 14 meeting in Los Angeles, California. In addition to Committee members, industry members were present at these meetings.

Preliminary estimates indicate the California-Arizona lemon crop at 42,140 cars for the 1990–91 fiscal year compared to the 37,881 cars produced last year. The 1990–91 crop estimate of 42,140 cars was recently revised at the Committee's October 2 meeting in Los Angeles, California. The Committee estimates District 1, central California, 1990–91 production at 6,600 cars compared to the 4,158 cars produced in 1989–90. In District 2, southern California, the crop is expected to be 24,700 cars compared to the 24,292 cars produced last year. In District 3, the California desert and Arizona, the Committee estimates a production of 10,840 cars compared to the 9,436 cars produced last year.

Based on the most recent data available, the preliminary 1989–90 season average on-tree price for fresh California-Arizona lemons is $8.53 per carton. This is 114 percent of the 1989-90 season average parity equivalent price, which is $7.47 per carton. The estimate for the 1990–91 season average on-tree price for California-Arizona fresh lemons is $9.54 per carton. This is 116 percent of the estimated 1990–91 season parity equivalent price, which is $8.20 per carton.

Currently, there is a size regulation in effect for lemons grown in California and Arizona which limits the handling of domestic fresh lemons to size 235's (1.82 inches in diameter) and larger in all districts. Size composition of fresh shipments of lemons normally peak in the mid-sizes, 140's and 165's, with 80 percent to 85 percent of the lemon crop averaging 165's (2.13 inches in diameter) and larger. The Committee projects that size composition for the 1990–91 fiscal year will follow the same pattern.

California-Arizona lemons are typically shipped and disposed of in three major distribution channels—domestic fresh, export fresh, and by-products. The fresh outlets are the most profitable, and the best quality fruit usually goes to these markets. The by-products channel (mostly frozen, concentrated lemon juice) is a low-value salvage outlet for the remaining fruit.

In terms of total crop utilization, the Committee estimates as of October 2 that approximately 17,900 cars of the 1990–91 crop (42.5 percent) will be utilized in fresh domestic markets compared with 16,600 cars (44 percent) in 1989–90; fresh exports are projected at 8,500 cars (20.1 percent of the total 1990–91 crop) compared to 7,678 cars (22 percent) in 1989–90; and 15,740 cars (37.4 percent of the 1990–91 lemon crop) will be utilized in by-product channels and other forms of processing compared with 12,770 cars (34 percent) in 1989–90.

Expressed in terms of percentages, California-Arizona lemons shipped to fresh domestic markets in 1990–91 could increase by 7 percent from 1989–90 estimates; export shipments could increase by 10 percent from 1989–90 estimates; and utilization in by-product channels and other forms of processing in 1990–91 may increase by 18 percent from 1989–90.

It is the Department's view, based on the Committee's deliberations and the marketing policy, that the Committee is likely to recommend the implementation of volume regulation for all or a portion of the 1990–91 fiscal year. Committee recommendations for volume regulation are in response to several prospective problems that can potentially change crop and market conditions. These problems include inadequate water supplies which poses a threat to the quantity and quality of California-Arizona lemon supplies, the spread of the Mediterranean fruit fly in southern California and the Mexican fruit fly in southern California. In addition to these prospective problems, growers and handlers may encounter the normal problems associated with the production, frost protection, storage prevention of sour rot or other decay organisms, packaging, and marketing of California-Arizona lemons.

Furthermore, Committee recommendations for volume regulations during the 1990–91 fiscal year may vary from the estimated shipping projections. Factors that may stimulate increased fresh lemon consumption and necessitate a Committee recommendation for volume regulation in excess of the shipping schedule include: (1) Significant changes in weather patterns in major consuming areas; (2) a regional or national concern for health; or (3) promotional efforts by industry marketing organizations. Factors that could adversely affect lemon demand in the marketplace and necessitate a recommendation for volume regulation at a lower level than indicated by the shipping schedule include: (1) Significant changes in weather conditions; (2) the size composition of existing supplies; (3) the condition of the fruit; (4) transportation problems, or (5) extreme supply fluctuations created by competitive imports.

Based on the information available to it, the Committee recommended to the Secretary a proposed weekly schedule of the quantities of California-Arizona lemons that can be shipped from the week ending on December 22, 1990, to the week ending on August 3, 1991, if volume regulation is recommended, approved and implemented during such period. The recommended shipping schedule is based on the initial crop estimate and covers the entire fiscal year. Due to the anticipated normal distribution of lemon sizes and crop conditions, the Committee estimates that fresh domestic shipments this season will be 17,900 cars. This figure may be adjusted to reflect revised crop estimates throughout the season. This proposed rule reflects the shipping schedule beginning with the week ending on December 22, 1990. Any rule that is adopted would not be expected to be finalized until December. The shipping schedule is proposed to be specified in a new § 910.1048 of the rules and regulations.

The Department requests that comments be submitted on the need for volume regulation during the 1990–91 fiscal year, the proposed shipping schedule, and the onset and duration of

volume regulation. Commenters proposing alternative levels of shipments and beginning and ending dates for regulation, including no regulation, for the 1990-91 season should provide as much information as possible in support of their suggested alternatives.

The Department will analyze comments received in response to this proposed rule and, if warranted, issue a final rule which would include an analysis of the comments received. Throughout the season, the Committee meets on a weekly basis to consider current and prospective marketing conditions. If this rule is adopted and regulation is implemented during the 1990-91 fiscal year, the Committee would be expected to recommend, as necessary, amendments to the allotment levels of the upcoming week and to provide adequate justification for levels of regulation different from the established shipping schedule. If warranted, the Department would issue a rule amending the established schedule.

This proposed rule is based on information currently available. As more information became available, the Committee may find it necessary to recommend to the Secretary to revise the shipping schedule proposed herein. The Committee recommended and amended the marketing policy at its August 14 meeting in Los Angeles, California. The Department will consider the Committee's recommendations and take whatever action is appropriate under the order to achieve the order's purposes and objectives.

Based on the above information, the Administrator of the AMS has determined that issuance of this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 910

Lemons, Marketing agreements, and Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 910 is proposed to be amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR part 910 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. A new § 910.1048 would be added to read as follows:

§ 910.1048 Lemon regulation.

The shipping schedule below establishes the quantities of lemons grown in California and Arizona which may be handled during the specific weeks as follows:

	Week ending		Cartons
(a)	December	22	330,000
(b)		29	399,000
(c)	January	5	299,000
(d)		12	299,000
(e)		19	254,000
(f)		26	310,000
(g)	February	2	268,000
(h)		9	268,000
(i)		16	310,000
(j)		23	330,000
(k)	March	2	341,000
(l)		9	351,000
(m)		16	351,000
(n)		23	330,000
(o)		30	346,000
(p)	April	6	346,000
(q)		13	346,000
(r)		20	351,000
(s)		27	372,000
(t)	May	4	392,000
(u)		11	413,000
(v)		18	413,000
(w)		25	392,000
(x)	June	1	403,000
(y)		8	423,000
(z)		15	413,000
(aa)		22	413,000
(bb)		29	397,000
(cc)	July	6	403,000
(dd)		13	403,000
(ee)		20	382,000
(ff)		27	361,000
(gg)	August	3	351,000

Dated: October 12, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-24602 Filed 10-17-90; 8:45 am]

BILLING CODE 3410-02-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1500

Infant Cushions and Pillows Filled With Foam Plastic Beads or Other Granular Material; Request for Comments and Information

AGENCY: Consumer Product Safety Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Based on information currently available to the Commission, the Commission has reason to believe that unreasonable risks of injury and death may be associated with certain infant cushions. Existing Commission regulations do not specifically address the risks of injury and death posed by this product. This advance notice of proposed rulemaking ("ANPR") initiates a rulemaking proceeding under the authority of the Federal Hazardous Substances Act ("FHSA"). One result of the proceeding could be the promulgation of a rule banning these infant cushions.

The Commission solicits written comments from interested persons concerning the risks of injury and death, and the regulatory alternatives discussed in this notice, as well as other possible means to address these risks. The Commission invites any interested persons to submit an existing standard or a statement of intent to modify or develop a voluntary standard to address the risks of injury described in this notice.

DATES: Written comments and submissions in response to this notice must be received by the Commission by November 19, 1990.

ADDRESSES: Comments should be mailed, preferably in five (5) copies, to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to the Office of the Secretary, Consumer Product Safety Commission, Room 536, 5401 Westbard Avenue, Bethesda, Maryland; telephone (301) 492-6800.

FOR FURTHER INFORMATION CONTACT: Catherine E. Kelsey, Office of Program Management and Budget, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492-6554.

SUPPLEMENTARY INFORMATION:

A. Background

During the winter of 1989–1990, staff in the Commission's Directorate for Compliance and Administrative Litigation ("Compliance") became aware of a significant number of infant deaths that appeared to be connected with the use of infant cushions or pillows filled with foam plastic beads or other granular material (hereinafter referred to as "infant cushions"). As of August 1, 1990, the Commission has identified a total of thirty-two incidents (thirty deaths, one injury and one non-injury incident) involving the product. Because of the possibility of unreported incidents, the actual number of deaths connected with these infant cushions may be higher.

These infant cushions (also known, among other names, as "baby bean bag pillows," "bean bag cushions," and the like) may vary in size, fabric, and other aspects of construction, but they do have certain elements in common. Generally, the cushions are constructed of a flexible fabric cover that encloses a

loose granular material such as polystyrene foam beads or pellets. The cushions are capable of being flattened so a child can lie prone on the cushions, and are capable of conforming to the body or face of an infant. They are intended or promoted for use by children under one year of age. Although the size of the cushions varies, they have generally measured approximately 23 to 24 inches long, 11 to 18 inches wide, and 4 to 5 inches thick. (See Reference No. 1.)

The size of the cushions and the contents of the promotional materials suggest the cushions would be used most often by children under 6 months of age. Nearly all reported incidents occurred with infants under 4 months old. The staff of the Commission's Directorate for Health Sciences believes that it is likely that the infant cushions either contributed to, or were the significant factor in, many of these infant deaths. (See Reference No. 8.) Further discussion of incident scenarios is set forth in the section entitled "Risk of Injury."

The Commission learned of the increasing number of incidents apparently connected with this product. At the staff's request, product manufacturers agreed to recall the infant cushions on the market. In March 1990, the Commission issued a warning to the public that infant cushions posed a potential suffocation hazard to infants. On April 19, 1990, the Chairman of the Commission announced that six manufacturers had agreed to recall their products and to cease future production of the cushions. On April 30, 1990, the Commission identified five additional manufacturers who had agreed to recall their products and to cease production. The Commission also identified one manufacturer that had previously gone out of business. Finally, in July 1990, the Commission identified an additional manufacturer, not previously known, that also agreed to recall its product and cease production. (See Reference No. 6.)

Although the Commission's actions have informed many consumers of the risks associated with this product, and have resulted in the removal of these cushions from the market, the Commission is concerned that future production of the same or similar products will occur. In fact, the Commission staff has already received an inquiry concerning future marketing of the product. Moreover, the infant cushions have a simple design and are easy to manufacture. Thus, the Commission is considering a rulemaking procedure that could ban infant cushions in order to keep them permanently out of commerce.

B. Statutory Authority

This proceeding is conducted under provisions of the FHSA, 15 U.S.C. 1261 *et seq.* Section 2(f)(1)(D) of the FHSA defines the term "hazardous substance" to include any toy or other article intended for use by children which the Commission determines, by regulation, presents an electrical, mechanical, or thermal hazard. 15 U.S.C. 1261(f)(1)(D). An article may present a mechanical hazard if, "in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture presents an unreasonable risk of personal injury or illness (1) from fracture, fragmentation, or disassembly of the article, (2) from propulsion of the article (or any part of accessory thereof), (3) from points or other protrusions, surfaces, edges, openings, or closures, (4) from moving parts, (5) from lack or insufficiency of controls to reduce or stop motion, (6) as a result of self-adhering characteristics of the article, (7) because the article (or any part or accessory thereof) may be aspirated or ingested, (8) because of instability, or (9) because of any other aspect of the article's design or manufacture." 15 U.S.C. 1261(s).

Under section 2(q)(1)(A) of the FHSA, a toy, or other article intended for use by children which is or contains a hazardous substance susceptible to access by a child is a "banned hazardous substance." 15 U.S.C. 1261(q)(1)(A).

A proceeding to promulgate a regulation determining that a toy or other children's article presents an electrical, mechanical, or thermal hazard is governed by the requirements set forth in section 3(f) through 3(i) of the FHSA. 15 U.S.C. 1262 (e)(1)–(i). First, the Commission must issue an advance notice of proposed rulemaking ("ANPR") as provided in section 3(f). 15 U.S.C. 1262(f). If the Commission decides to continue the rulemaking proceeding after considering responses to the ANPR, the Commission must publish the text of the proposed rule along with a preliminary regulatory analysis in accordance with section 3(h) of the FHSA. 15 U.S.C. 1262(h). If the Commission then wishes to issue a final rule, it must publish the text of the final rule and a final regulatory analysis that includes the elements stated in section 3(i)(1) of the FHSA. 15 U.S.C. 1262(i)(1). Before the Comission may issue a final regulation it must make findings concerning voluntary standards, the relationship of the costs and benefits of the rule, and the burden imposed by the regulation. 15 U.S.C. 1262(i)(2).

Thus, once the Commission declares that a toy or other children's article presents an electrical, mechanical, or thermal hazard, that product is considered banned. For example, under existing Commission regulations, toys or other articles intended for children under three years of age, that present a choking, aspiration, or ingestion hazard due to small parts are banned hazardous substances. 16 CFR 1500.18(a)(9).

C. The Product's Characteristics and Uses

The Commission has identified twelve firms that have manufactured infant cushions. These firms have manufactured approximately one million cushions, mostly since 1987. The cushions vary in size and other features, but generally measure approximately 23 to 24 inches long, 11 to 18 inches wide, and 4 to 5 inches thick. The thickness changes with use of the cushion because the cushion is easily depressed as the filling materials shift. (See Reference Nos. 1 and 3.)

The Commission believes that the essential features of the cushions are as follows: the cushions (1) have a flexible fabric [1] covering; (2) are loosely filled with a granular material such as, but not limited to, polystyrene beads or pellets; (3) are easily flattened so that a child can lie prone on the cushion; (4) are capable of conforming to the body or face of an infant; and (5) are intended or promoted for use by children under one year of age. Based on current information, the staff believes that these five elements form the basis for a definition of the product. (See Reference No. 1.) Some cushions have had additional features such as a cardboard stabilizer board, and waist and crotch restraining straps. These optional features are not essential to a definition of the product. The Commission seeks comments concerning the characteristics essential to a definition of the product.

The promotional literature accompanying many infant cushions contain pictures and descriptions that suggest uses and product characteristics. Common themes include: (1) use for infants as well as older children (some cushions have age recommendations, all of which include young babies); (2) use by small children, often infants, when sleeping or napping in a crib or carriage; (3) use of the cushion by small children and infants as a prop in a shopping cart, stroller, or lap, or while feeding; (4) use by infants placed in a variety of positions—face up on the cushion, face down on the

[1] The Commission is considering defining "fabric" in the definition of infant cushion with the definition of that term in section 2(f) of the Flammable Fabrics Act: "any material * * * woven, knitted, felted, or otherwise produced from or in combination with any natural or synthetic fiber, film, or substitute therefor * * *." 15 U.S.C. 1191(f).

cushion, entirely on the cushion, and head and torso on the cushion. (See Reference No. 5.)

Some cushions have displayed labels with safety messages. For instance, one such label stated: "WARNING—THIS QUALITY PRODUCT WAS DESIGNED FOR BABY'S COMFORT AND NOT AS A SAFETY DEVICE. NEVER LEAVE YOUR CHILD UNATTENDED. IF A TEAR OCCURS, REPAIR IMMEDIATELY." At least eight incidents where a child was found dead lying face down on a cushion involved products which had labels warning never to leave child unattended. Further discussion of issues concerning labeling may be found in the section of the ANPR entitled "Labeling."

The Commission's Division of Human Factors has concluded that the cushion is likely to be used most for infants less than six months of age. From birth to six months, children spend most of their time lying down or sitting supported since they cannot yet sit unsupported, crawl, climb, stand, or walk. For children in this age group, the cushion is likely to be used as a mattress on which to sleep. In all incidents for which parental motivation could be established, parents stated that children were placed on the cushion to sleep. Often the product was used as a mattress in a bassinet, crib, or on a bed. (See Reference No. 5.)

The Commission's Human Factors staff identified several aspects of the product—such as its size, shape, promotional literature, and its similarity to a bed pillow—that would tend to lead to its use as a mattress. The cushions may also be used to confine infants, who normally sleep in cribs, to a regular bed to keep them from rolling off the bed. When the cushion is used as a mattress or to confine an infant to a bed, the infant is likely to be placed stomach down, and left unattended. (See Reference No. 5.)

The cushion may also be used as a prop to support a child while the child is feeding, or is sitting in a grocery cart, stroller, high chair, walker, baby swing, child carrier, or car seat. When the cushion is used as a prop, infants are likely to be placed on the cushion face up, with a parent nearby. The Commission has no reports of deaths or injuries occurring when the cushion was used as a prop. (See Reference No. 5.)

Approximately one million of these cushions have been manufactured and sold. Based on an average use of six months per child in an average family of two children, total exposure to these products is likely to be about 1 million product years of intermittent use. The cushions range in price (retail) from $8 to $40, averaging $16.25, for total retail revenues of approximately $15.6 million from the product. (See Reference No. 3.)

D. Risks of Injury and Death

The Incidents

This proceeding is concerned with unreasonable risks of injury and death which may occur when a child is placed on an infant cushion. The Commission has identified thirty-two incidents involving these cushions since September of 1987. Of these incidents, thirty resulted in death, one in brain damage, and one (of a child under the cushion) did not result in injury. During this same period, the Commission has also received reports of seventeen infant suffocation deaths involving "pillows." (See Reference No. 2.) This data indicates the suffocation hazard presented to infants by regular pillows. The actual number of incidents involving infant cushions may be higher than thirty-two as infant cushions may also have been involved in unreported incidents in which the cause was identified as sudden infant death syndrome ("SIDS"). See discussion below.

As of August 1, 1990, the Commission had received reports of thirty-two incidents identified as involving infant cushions. All but three of the victims ranged from 4 weeks to 3 months of age.[2] All but one of the victims were placed on the cushions to sleep, some overnight and some for a nap. Usually, the child was placed completely on the cushion, although in a few incidents, it appeared that the cushion supported only the head. The children were all found in a prone, stomach-down position. (See Reference No. 5.)

Often the cushion was used on a bed, crib, or bassinet. In most incidents, infants were placed on the cushion in the prone position to sleep. When the cushion is used as a mattress, or to confine infants to a bed, infants are likely to be placed in the prone position, since this is generally the position in which an infant is placed to sleep. (See Reference No. 5.) Although a newborn infant lying on its stomach may be able to lift its head from a firm mattress surface and turn it to the side, such movement may not be possible on the softer, conforming cushion.

Even though infants can roll over at an early age (according to one study, approximately fifty percent of children 2½ months old can roll completely in any direction on a firm surface), they may not do so to avoid suffocation. (See Reference No. 5.) An infant would have to rely on reflexes. A newborn's reflexes to avoid smothering include vigorously mouthing an object that is covering the nose and mouth, and then twisting the head violently from side to side. However, these actions may be likely to fail due to the conforming properties of the cushion, and would be likely to bury the head deeper. Moreover, as many as 50% of newborns and 30% of 3-month-old infants are unable to breathe through their mouths. (See Reference No. 5.)

In six incidents reported to the Commission, the infants rolled over on the cushion. In one fatality, a two month old fell asleep on her side while propped up on an infant cushion in front of the television. The parent carried the infant on the cushion to the bedroom and placed the child on the cushion in the crib. The child was found dead face-down the next morning. (See Reference No. 5.)

When the cushion is used as a mattress, the infant is likely to be left unattended. However, even if an adult were in the room, he or she may not realize that the child is suffocating on the cushion. Fatal incidents have occurred while a caretaker or monitoring device was present in the same room as the infant.

Possible Factors Involved in the Incidents

The Commission's Directorate of Health Sciences has identified the following factors that may be involved in deaths and injuries associated with infant cushions. (1) Pediatricians and other medical experts have traditionally cautioned against using pillows in cribs or beds where infants sleep, due to possible respiratory obstruction. Pillows can increase the respiratory resistance 30 to 40 fold. (2) Wetting the fabric will further increase breathing resistance. A pillow or cushion may become wet because an infant's reflex action to suffocation is to mouth the obstruction. (3) As many as 30 to 50 percent of infants three months of age or less are reported to be unable to breathe through their mouths if their nasal passages become obstructed. (4) Hyperthermia (overheating), due to excessive clothing or bedding, can increase an infant's oxygen needs and stimulate rapid breathing. Decreased ability for evaporative cooling occurs when a

[2] Two of these three incidents involved older infants and were somewhat unusual. The oldest victim, who was 9 months old, had broken collar bones which may have impaired his movement and contributed to his death. The Commission received one report of an incident, not resulting in injury, in which a 4 month old was found underneath an infant cushion. The infant had been in the crib with the cushion, but not on top of the cushion.

prone infant's face is buried in compressible bedding. (5) Infants lying prone with their faces in soft, compressible bedding may be susceptible to rebreathing, which occurs when exhaled carbon dioxide is trapped around the infant's face displacing oxygen and causing the baby to breathe decreased levels of oxygen. (See Reference Nos. 7 and 8.)

In twenty-seven of the thirty fatal cases reported, the deaths associated with infant cushions were reported as being due to SIDS, which is currently considered the most common cause of death for infants 28 days to 12 months in age. SIDS is a diagnosis by exclusion, generally defined as any sudden death of an infant or young child that is unexpected by history and in which a thorough autopsy fails to identify an adequate cause for death.

A diagnosis of SIDS and involvement of an infant cushion are not mutually exclusive. Researchers have found that in many cases SIDs victims were recovering from respiratory infections or had other breathing problems. If the respiratory function of some SIDS-prone infants is already compromised, any additional respiratory effort induced by lying prone on an infant cushion could further contribute to their inability to breathe normally.

Some researchers have noted an association between SIDS and the prone sleeping position. (See Reference No. 4.) Various researchers have suggested that the association between SIDS and infants sleeping in the prone position could be due to: (1) physical obstruction of the respiratory tract due to pressure on the nose and mouth; (2) respiratory obstruction due to suffocation by the bedding; (3) hyperthermia due to excessive clothing and bedding, and decreased heat dissipation from the face; or (4) a combination of some or all of these. (See Reference No. 4.)

Based on all of the above information, the staff believes that it is likely that infant cushions were a significant factor in these infant deaths. (See Reference No. 8.)

E. Labeling

Based on current information, the Commission's Division of Human Factors does not believe that any form of labeling would have a significant effect in preventing the suffocation hazard associated with infant cushions.

Some cushions on the market had safety labels and promotional material with this or a similar message: "WARNING—NEVER LEAVE YOUR CHILD UNATTENDED." At least eight of the products involved in incidents had such a label. In three of these cases the caretakers indicated that they had read the label. (See Reference No. 5.)

The Commission's Division of Human Factors found several problems with these safety messages. The messages were not conspicuous, but were attached next to a typical mattress/pillow tag. The labels were not written in safety labeling format, and were difficult to read because the messages used all capital letters and were not divided into word clusters. The warning labels did not identify the hazard (infants under 6 months lying face down), or the consequences of not following instructions (suffocation). The message not to leave the child unattended was contrary to the traditional use of a cushion, namely to sleep on it, unattended. The products' promotional material contained pictures of babies, apparently unattended, on the cushion. The juxtaposition of this warning concerning unattended babies with a statement that tears should be repaired immediately also added to confusion because it misdirects attention from the suffocation hazard.

The Commission is concerned that any label on or with the cushions may not be read and/or followed. Studies have shown that the likelihood of noticing and reading a label increases as the perceived hazard of a product increases. Familiarity with the same or a similar product may diminish the perception of a hazard. Other research has indicated that a consumer's assumptions about the simplicity of operation of a product strongly influences whether instructions will be read. These general findings about the factors influencing a consumer's tendency to notice or read a label may indicate that a consumer is not likely to read a label on these cushions. Consumers would likely perceive the cushions as having a low hazard rating. The cushions are similar to bed pillows which are familiar and which most people do not generally consider to be hazardous. The cushions are also simple to use. Because parents of a newborn infant may be eager to seek information about baby products, however, they may be more likely than other consumers to notice and read labels. (See Reference No. 5.)

Whether a warning label would be followed involves similar considerations. Studies suggest that the perceived hazard of a product, especially the likelihood of injury more than the severity of injury, influences a person's tendency to act upon warnings. Past knowledge of, or experience with, a product may influence an individual's perception of risk. If behavior requested on a label conflicts with this knowledge, the label may not adequately motivate conforming behavior. The cost of complying with a label's instructions (that is, the time and effort required to follow the label instructions) is another factor in determining whether labels will be followed. Generally, the higher the cost of complying, the less effective the warnings will be. (See Reference No. 5.)

In the case of infant cushions, labels may contradict a consumer's existing view that pillows are not hazardous. The belief that an infant can turn its head from side to side and roll over may further diminish a consumer's appreciation of the hazard of suffocation. Any instruction that an infant should never lie on its stomach on the cushion also contradicts existing belief that babies should be placed on their stomachs to avoid the possibility of choking on vomit. Moreover, as a consumer uses the cushion without incident, any perception of hazard may decrease. With the hazard of suffocation, there is rarely a warning of a "near-miss" which would raise the hazard perception for "next time." (See Reference No. 5.)

The perceived cost of complying with the label or instructions may be high because the instructions must be followed throughout the product's use. Parents may attempt to find a way to use the product "safely" but not according to the label. Even use in accordance with a label may not be sufficient. For example, parents may place the child face up on the cushion, or they may remain in the same room with the child or use a monitor in the child's room. However, in six fatal incidents the child evidently rolled over on the cushion. Two other fatalities involved infants who had a monitor placed in the room. And at least one other fatality occurred while the caretaker was in the same room with an unobstructed view of the infant. Even if an infant is not placed on the cushion "to sleep," the infant may fall asleep. (See Reference No. 5.)

F. Regulatory Alternatives Under Consideration

The Commission is considering alternatives to reduce the number of injuries and deaths related to infant cushions. The primary alternative being considered is banning these infant cushions. A significant number of deaths have resulted in the relatively few years in which the product has been on the market. Although an aggressive recall action has removed the product from the market at this time, the Commission believes that more permanent action

may be necessary to protect the public adequately.

Another alternative is labeling the cushions. Requiring labeling on the cushions would allow the manufacture and distribution of some cushions. The Commission is concerned that labeling may not provide adequate safety for the public, and would not sufficiently reduce the risk of suffocation. Considerations related to labeling are discussed above in the section titled "Labeling."

The Commission is not aware of any voluntary standards in effect that apply to this product. The Commission has learned of two British standards (developed by the British Standards Institute) for similar, but not identical, products.

The first standard, BS 4578:1970 (adopted by the British Standards Institute in 1970 and readopted in 1985 without changes) is a voluntary standard for small infant pillows. The standard specifies requirements for hardness (depth of depression) and permeability to air. It also requires that any pillow which is to be used as "a pram-support pillow, or in a cot" must have a label stating that it is not recommended that very young infants lie on the pillow. Commission staff have been informed that, since the standard became effective, infant pillows have disappeared from the market in Great Britain.

The second standard, BS 6595 (adopted by the British Standards Institute in 1984 and by the British Parliament), applies to "baby nests," which are papoose-like baby carriers. This is a mandatory standard that contains requirements similar to, but more stringent than, those in the voluntary standard for infant pillows. (See Reference No. 9.)

The Commission staff is pursuing further information concerning these British requirements for hardness and air permeability. Because the Commission staff believes that other factors may be involved in the incidents with infant cushions, the staff is uncertain whether these standards, as currently written, would adequately address the problem. See discussion entitled "Possible Factors Involved in the Incidents."

G. Solicitation of Information and Comments

This ANPR is the first step of a proceeding which could result in banning all such infant cushions. All interested persons are invited to submit to the Commission their comments on any aspect of the alternatives discussed above. Specifically, in accordance with section 3(f) of the FHSA, the Commission solicits:

(1) Written comments with respect to the risk of injury identified by the Commission, the regulatory alternatives being considered, and other possible alternatives for addressing the risk.

(2) Any existing standard or portion of a standard which could be issued as a proposed regulation.

(3) A statement of intention to modify or develop a voluntary standard to address the risk of injury discussed in this notice, along with a description of a plan to do so.

All comments and submissions should be addressed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, and received no later than November 19, 1990.

Dated: October 12, 1990.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Reference Documents

The following documents contain information relevant to this rulemaking proceeding and are available for inspection at the Office of the Secretary, Consumer Product Safety Commission, room 528, 5401 Westbard Avenue, Bethesda, Maryland:

1. Memorandum from Margaret Neily, ESME, to Frank Brauer, EXPB, dated June 19, 1990, entitled Suggested Definition of Infant Bean Bag Cushion/Pillows.

2. Memorandum from James Eisele, EPHA, to Frank E. Brauer, EXPB, dated August 17, 1990, entitled "Bean Bag" and Other Pillow Incidents Reported.

3. Memorandum from William W. Zamula, ECSS and Anthony C. Homan, ECPA, to Frank E. Brauer, EXPB, dated July 19, 1990, entitled Infant Pillows.

4. Memorandum from Sharee Pepper, HSPS, to Frank Brauer, Project Manager, PSA Team, dated June 29, 1990, entitled PSA Request No. 5356.

5. Memorandum from Shelley Waters Deppa, EPHF, to Frank E. Brauer, EX-PM, dated July 9, 1990, entitled Infant Bean Bag Cushion.

6. CPSC Press Releases No. 90-42, dated March 6, 1990; Nos. 90-73, 90-74, 90-77 through 90-81, dated April 19, 1990; Nos. 90-83 through 90-89, 90-90, dated April 30, 1990; and No. 90-127, dated July 17, 1990.

7. Memorandum from Frank E. Brauer and Cathy Downs, EXPB, to the Commission, dated July 20, 1990, entitled Infant Cushions/Pillows: Recommendation.

8. Memorandum from Sharee Pepper, HSPS, to Frank Brauer and Cathy Downs, EXPB, dated July 31, 1990, entitled Infant suffocation and bean bag pillows.

9. Memorandum from Margaret Neily, ESME, to Frank E. Brauer, EXPB, dated August 15, 1990, entitled Summary of British Standards Related to Infant Bean Bag Hazards.

[FR Doc. 90-24613 Filed 10-17-90; 8:45 am]
BILLING CODE 6355-01-M

DELAWARE RIVER BASIN COMMISSION

18 CFR Part 401

Proposed Amendments to Administrative Manual on Rules of Practice and Procedure Public Hearing

AGENCY: Delaware River Basin Commission.

ACTION: Proposed rules and public hearing.

SUMMARY: Notice is hereby given that the Delaware River Basin Commission will hold a public hearing to receive comments on proposed amendments to its Rules of Practice and Procedure in relation to Commission review of landfill projects. The hearing will be part of the Commissions' regular business meeting which is open to the public.

On June 25, 1969 the Commission adopted Resolution No. 69-7 amending its Rules of Practice and Procedure relating to review of landfill projects limited to disposal of solid inert wastes. Resolution No. 69-7 also adopted the policy that sanitary landfill projects containing organic or liquid wastes that might have a substantial effect on water resources of the Basin would be referred to the Commission for review only in those cases where no state-level review and permit system is in effect; where broad regional consequences are anticipated; or where the standards or criteria used in state-level review are not adequate to protect the water of the Basin for the purposes prescribed in the Comprehensive Plan.

The Commission has recently reviewed this policy and now proposes to amend the Rules of Practice and Procedure by codifying this policy.

DATES: The public hearing is scheduled for Wednesday, December 12, 1990 beginning at 1 p.m. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

ADDRESSES: The hearing will be held in the Goddard Conference Room of the Commission's offices at 25 State Police Drive, West Trenton, New Jersey. Written comments should be submitted to Susan M. Weisman, Delaware River Basin Commission, P.O. Box 7360, West Trenton, New Jersey 08628.

FOR FURTHER INFORMATION CONTACT: Susan M. Weisman, Commission Secretary, Delaware River Commission: Telephone (609) 883–9500.

The subject of the hearing will be as follows:

Amendments to the Administrative Manual - Rules of Practice and Procedure

List of Subjects in 18 CFR Part 401

Administrative practice and procedure, Environmental impact statements, Freedom of information, Water pollution control, Water resources.

It is proposed to amend part 401 as follows:

PART 401—[AMENDED]

1. The authority citation for part 401 continues to read as follows:

Authority: Delaware River Basin Compact, 75 Stat. 688.

§ 401.35 [Amended]

2. Section 401.35(a)(15) is redesignated as § 401.35(a)(16).

3. New § 401.35(a)(15) is added to read as follows:

§ 401.35 [Amended]

(15) Landfill projects which may contain organic or liquid wastes that have a substantial effect on water resources of the Basin, unless, no state-level review and permit system is in effect; broad regional consequences are anticipated; or the standards or criteria used in state-level review are not adequate to protect the waters of the Basin for the purposes prescribed in the Comprehensive Plan.

§ 401.35 [Amended]

4. Section 401.35(b)(15) is redesignated as § 401.35(b)(16).

§ 401.35 [Amended]

5. New § 401.35(b)(15) is added to read as follows:

(15) Landfills and solid waste disposal facilities affecting the water resources of the Basin.

6. These amendments become effective upon adoption of the final rule by the Commission.

(Delaware River Basin Commission, 75 Stat. 688)

Dated: October 9, 1990.

Susan M. Weisman,

Secretary.

[FR Doc. 90–24490 Filed 10–17–90; 8:45 am]

BILLING CODE 6360-10-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 918

Louisiana Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; reopening and extension of comment period on proposed amendment.

SUMMARY: OSM is announcing receipt of revisions pertaining to a previously proposed amendment to the Louisiana permanent regulatory program (hereinafter, the "Louisiana program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions pertain to definitions, coal exploration, certification of road and impoundment designs by land surveyors, confidentially of permit application information, inspection and enforcement, permit revisions, bonding, impoundments, blasting, excess spoil fills, coal processing waste, revegetation, hydrology, cultural and historic resources, prime farmland, probable hydrologic consequences, and completeness determinations for permit applications. The amendment is intended to revise the State program to be consistent with the corresponding Federal standards.

This notice sets forth the times and locations that the Louisiana program and proposed amendment to that program are available for public inspection, and the reopened comment period during which interested persons may submit written comments on the proposed revised amendment.

DATES: Written comments must be received by 4 p.m., c.d.t. November 2, 1990.

ADDRESSES: Written comments should be mailed or hand delivered to James H. Moncrief at the address listed below.

Copies of the Louisiana program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Tulsa Field Office.

James H. Moncrief, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly drive, Suite 500, Tulsa, OK 74135, Telephone: (918) 581–6430

Department of Natural Resources, Office of Conservation, 625 N. 4th Street, Baton Rouge, LA 70804, Telephone: (504) 342–5515.

FOR FURTHER INFORMATION CONTACT: James H. Moncrief, Director, Tulsa Field Office, or telephone number (918) 581–6430.

SUPPLEMENTARY INFORMATION:

I. Background on the Louisiana Program

On October 10, 1980, the Secretary of the Interior conditionally approved the Louisiana program. General background information on the Louisiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Louisiana program can be found in the October 10, 1980, **Federal Register** (45 FR 67340). Subsequent actions concerning Louisiana's program can be found at 30 CFR 918.16.

II. Proposed Amendment

By letter dated January 19, 1990, (administrative record No. LA–295), Louisiana submitted a proposed amendment to its program under SMCRA. Louisiana submitted the proposed amendment in response to letters dated July 9, 1986.

(Administrative record No. LA–285), June 9, 1987

(Administrative record No. LA–281), December 12, 1988

(Administrative record No. LA–289), May 11, 1989

(Administrative record No. LA–291), and November 16, 1989

(Administrative record No. LA–294), that OSM sent to Louisiana in accordance with 30 CFR 732.17(c).

OSM published a notice in the February 20, 1990, **Federal Register** (55 FR 5858) announcing receipt of the January 19, 1990, proposed amendment and inviting public comment on its adequacy. The public comment period closed on March 22, 1990.

During its review of the January 19, 1990, proposed amendment, OSM identified concerns relating to definitions, coal exploration, certification of road and impoundment designs by land surveyors, confidentiality of permit application information, inspection and enforcement, permit revisions, bonding, impoundments, blasting, excess spoil fills, coal processing waste, revegetation, and hydrology. OSM notified Louisiana of its concerns by letters dated April 27 and July 6, 1990 (administrative record Nos. LA–304 and LA–306).

By letters dated August 14 and September 7, 1990, (administrative record Nos. LA–306 and LA–311), Louisiana submitted to OSM a revised proposed amendment.

In the revised amendment, Louisiana responded to OSM's letters of concern with policy statements and revised regulations. The policy statements concern the confidentiality of information for surface coal mining permit applications, violation review criteria for blaster certification requirements (policy statement No. PS–1), improvidently issued permits (policy statement No. PS–2), and Clean Water Act water quality standards (policy statement No. PS–3). The revised regulations are Louisiana Surface Mining Regulations (LSMR) 105.A.61, definition of "mine plan area;" LSMR 105.A.128, definition of "road;" LSMR 105.A.131, definition of "self-bond;" LSMR 105.A.160, definition of "valid existing rights;" LSMR 2105.B.6, 2109.A.6, and 2109.B, coal exploration; LSMR 2725.A.3, 2737.B, 53136.A, and 5333.A.2, certification of road and impoundment designs by land surveyors; LSMR 3113.C.1, ownership and control; LSMR 3505.A.1, permit revisions; LSMR 4303.G.2, bonding; LSMR 5333.A.5.a, impoundments; LSMR 5365.M, excess spoil fills; LSMR 5361.C.2, coal processing waste; LSMR 53123, revegetation success standards; LSMR 53123.C.3, normal husbandry practices; and LSMR 53125, tree and shrub stocking.

In the revised amendment, Louisiana also responded to previously unaddressed requirements of OSM's (1) June 9, 1987, 30 CFR Part 732 letter, with revisions at LSMR 2111.A.3.a and 3115.P, concerning cultural and historic resources, and (2) April 28, 1989, issue letter for a withdrawn Louisiana amendment, with revisions at LSMR 5509.A.2, concerning reclaimed prime farmland, and LSMR 2523.A, concerning probable hydrologic consequences.

In the revised amendment, Louisiana also included State-initiated revisions at LSMR 4303.C, concerning bonding, and LSMR 2113.B, concerning completeness determinations for permit applications.

Public Comment Procedures

OSM is reopening the comment period on the proposed Louisiana program amendment to provide the public an opportunity to reconsider the adequacy of the amendment in light of the additional materials dated August 14 and September 7, 1990. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Louisiana program.

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Tulsa Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

List of Subjects in 30 CFR Part 918

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 9, 1990.

Raymond L. Lowrie,

Assistant Director, Western Support Center.

[FR Doc. 90–24558 Filed 10–17–90; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AD03

Veterans Education; The Veterans Benefits and Programs Improvement Act and Montgomery GI Bill

AGENCY: Department of Veterans Affairs.

ACTION: Proposed regulations.

SUMMARY: The Veterans' Benefits and Programs Improvement Act of 1988 contains several provisions which affect the Montgomery GI Bill-Active Duty. These include liberalizing the eligibility requirements for this program, providing a death benefit in this program, permitting cooperative training in this program, permitting refresher, remedial and deficiency training in this program, providing tutorial assistance to veterans and servicemembers in this program, and liberalizing the standards for determining extensions to a veteran's basic period of eligibility. This proposal will acquaint the public with the way in which the Department of Veterans Affairs will administer the new provisions of law.

DATES: Comments must be received on or before November 19, 1990. Comments will be available for public inspection until November 27, 1990. It is proposed to make the revisions to these regulations and the new regulations contained in this proposal effective on the same date as the provisions of law on which they are based. Consequently, it is proposed to make the revisions to the following regulations retroactively effective on July 1, 1985: that portion of § 21.7042(a)(5), those portions of § 21.7042(b) (6) and (7), that portion of § 21.7072 dealing with discharges for a preexisting medical condition, § 21.7140(g), and § 21.7280. It is proposed to make the revisions to the following regulations retroactively effective on October 1, 1987: that portion of § 21.7042(a)(5), those portions of § 21.7042(b) (6) and (7) and that portion of § 21.7072 dealing with involuntary discharges for the convenience of the government as the result of a reduction in force. It is proposed to make the revisions to the following sections retroactively effective on November 18, 1988: § 21.7020(b)(38), § 21.7042(a)(3), § 21.7042(b) (2), (3) and (4), § 21.7042 (d), (e) and (f), § 21.7044(a), that portion of § 21.7044(b) dealing with eligibility criteria for veterans who are committed to serve four years in the Selected Reserve before they begin serving on active duty, § 21.7044(c), § 21.7050, § 21.7051 and § 21.7072(c). It is also proposed to make the new regulations, § 21.7141 and § 21.7079, retroactively effective on November 18, 1988. It is proposed to make the revisions to the following regulations retroactively effective on January 1, 1989: § 21.7020(b)(39), that portion of § 21.7076 dealing with cooperative training, § 21.7136, § 21.7137, § 21.7138, § 21.7220 and that portion of § 21.7222 dealing with cooperative training. It is proposed to make the revisions to the following regulations retroactively effective on June 1, 1989: § 21.7020(b)(19) and § 21.7122(e) It is proposed to make the following regulations retroactively effective on August 15, 1989: § 21.7020(b)(26), that portion of § 21.7076 dealing with tutorial assistance, § 21.7110, § 21.7122(b), and that portion of § 21.7222 dealing with refresher and deficiency training.

ADDRESSES: Send written comments to: Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 132 of the above address between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (except holidays) until November 27, 1990.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Education Policy and Program Administration, Vocational Rehabilitation and Education Service, Veterans Benefits Administration, (202) 233–2092.

SUPPLEMENTARY INFORMATION: The Department of Veterans Affairs is proposing to amend various regulations and to add other regulations in order to implement several provisions of Pub L. 100–689 which affect the Montgomery GI Bill-Active Duty. These provisions provide for a death benefit under the Montgomery GI Bill-Active Duty; provide for cooperative training in the Montgomery GI Bill-Active Duty; permit refresher and remedial training in that program; allow for the payment of tutorial assistance to veterans enrolled under the Montgomery GI Bill-Active Duty; provide that the disabling effects of chronic alcoholism will not be considered to be the result of willful misconduct when the Department of Veterans Affairs determines whether or not a veteran training under the Montgomery GI Bill-Active Duty is entitled to an extension of the period of eligibility due to a disability; and liberalize some of the eligibility requirements for the Montgomery GI Bill-Active Duty. The changes in law concerning willful misconduct as to disabling effects of chronic alcoholism do not apply to the compensation and pension programs.

VA has determined that these amended regulations do not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulations will not have a $100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary of Veterans Affairs has certified that these amended regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), the amended regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the regulations affect only individuals. They will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

The Catalog of Federal Domestic Assistance number for the program affected by this regulation is 64.124.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: August 28, 1990.

Edward J. Derwinski,

Secretary of Veterans Affairs.

38 CFR part 21, Vocational Rehabilitation and Education is proposed to be amended as follows:

PART 21—[AMENDED]

1. In § 21.7020 paragraphs (b)(19) and (b)(26) are revised and paragraphs (b)(38) through (b)(40) are added to read as follows:

§ 21.7020 Definitions.

* * * * *

(b) Other definitions—

* * * * *

(19) *Mitigating circumstances.* (i) The term "mitigating circumstances" means circumstances beyond the veteran's or servicemember's control which prevent him or her from continuously pursuing a program of education. The following circumstances are representative of those which VA considers to be mitigating. This list is not all-inclusive.

(A) An illness of the veteran or servicemember;

(C) An unavoidable change in the veteran's conditions of employment;

(D) An unavoidable geographical transfer resulting from the veteran's employment;

(E) Immediate family or financial obligations beyond the control of the veteran which require him or her to suspend pursuit of the program of education to obtain employment;

(F) Discontinuance of the course by the educational institution;

(G) Unanticipated active duty military service, including active duty for training;

(H) Unanticipated difficulties in caring for the veteran's or eligible person's child or children.

(ii) In the first instance of a withdrawal after May 31, 1989, from a course or courses for which the veteran received educational assistance under title 38, U.S. Code, VA will consider that mitigating circumstances exist with respect to courses totaling not more than six semester hours or the equivalent.

(Authority: 38 U.S.C. 1434, 1780(a)(1); Pub L 100–689) (Jun. 1, 1989)

* * * * *

(26) *Refresher course.* The term "refresher course" means—

(i) Either a course at the elementary or secondary level to review or update material previously covered in a course that has been satisfactorily completed, or

(ii) A course which permits an individual to update knowledge and skills or be instructed in the technological advances which have occurred in the individual's field of employment and which is necessary to enable the individual to pursue an approved program of education.

(Authority 38 U.S.C. 1434(a); Pub. L. 100–689) (Nov. 18, 1988)

* * * * *

(38) *Disabling effects of chronic alcoholism.* (i) The term "disabling effects of chronic alcoholism" means alcohol-induced physical or mental disorders or both, such as habitual intoxication, withdrawal, delirium, amnesia, dementia, and other like manifestations of chronic alcoholism which, in the particular case—

(A) Have been medically diagnosed as manifestations of alcohol dependency or chronic alcohol abuse; and

(B) Are determined to have prevented commencement or completion of the affected individual's chosen program of education.

(ii) A diagnosis of alcoholism; chronic alcoholism, alcohol-dependency, chronic alcohol abuse, etc., in and of itself, does not satisfy the definition of this term.

(iii) Injury sustained by a veteran as a proximate and immediate result of activity undertaken by the veteran while physically or mentally unqualified to do so due to alcoholic intoxication is not considered a disabling effect of chronic alcoholism.

(Authority: 38 U.S.C. 105, 1431(d); Pub. L. 100–689) (Nov. 18, 1988)

(39) *Cooperative course.* The term "cooperative course" means a full-time program of education which consists of institutional courses and alternate phases of training in a business or industrial establishment with the training in the business of industrial establishment being strictly supplemental to the institutional portion.

(Authority: 38 U.S.C 1402, 1662(a) ; Pub. L. 100–689) (Jan. 1, 1989)

(40) *Open period.* The term open period means a period of time beginning on December 1, 1988, and ending on June 30, 1989.

(Authority: 38 U.S.C. 1418; Pub. L. 100–689)] (Nov. 18, 1988)

2. In § 21.7042 paragraphs (a)(3) and (a)(5) (i) through (v) are revised to read as follows:

§ 21.7042 Basic eligibility requirements.

(a) * * *

(3) The individual must complete the requirements of a secondary school diploma (or an equivalency certificate) before completing the service requirements of this paragraph; and

(Authority: 38 U.S.C. 1411) (Nov. 18, 1988)

(5) * * *

(i) For a service-connected disability; or

(ii) For a medical condition which preexisted service on active duty and which VA determines is not service connected; or (Jul. 1, 1985)

(iii) Under 10 U.S.C. 1173 (hardship discharge); or

(iv) For convenience of the government—

(A) After completing at least 20 continuous months of active duty if his or her initial obligated period of active duty is less than three years; or

(B) After completing 30 continuous months of active duty if his or her initial obligated period of active duty is at least three years; or

(v) Involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

(Authority: 38 U.S.C. 1411; Pub. L. 98-525, Pub. L. 99-576, Pub. L. 100-689) (Oct. 1, 1987)

3. In § 21.7042 paragraphs (b)(2) through (b)(4) and (b)(6) through (b)(8) are revised and (b)(9) is added to read as follows:

§ 21.7042 Basic eligibility requirements.

* * * * *

(b) * * *

(2) The individual must complete the requirements of a secondary school diploma (or an equivalency certificate) before completing the service requirements of this paragraph;

(3) Except as provided in subparagraph (6) of this paragraph, the individual must serve at least two years of continuous active duty in the Armed Forces characterized by the Secretary concerned as honorable service.

(4) Except as provided in subparagraph (7) of this paragraph, after completion of active duty service the individual must serve at least four continuous years service in the Selected Reserve, during which the individual must satisfactorily participate in training as prescribed by the Secretary concerned.

(Authority: 38 U.S.C. 1412; Pub. L. 100-689) (Nov. 18, 1988)

(6) An individual is exempt from serving two years on active duty as provided in subparagraph (3) of this paragraph when the individual is discharged or released from the Armed Forces during those two years—

(i) For a service-connected disability; or

(ii) For a medical condition which preexisted such service on active duty and which VA determines is not service connected; or (Jul. 1, 1985)

(iii) Under 10 U.S.C. 1173 (hardship discharge); or

(iv) In the case of an individual discharged or released after 20 months of such service, for the convenience of the Government; or

(v) Involuntarily for convenience of the Government as a result of a reduction in force as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy (Oct. 1, 1987).

(7) An individual is exempt from serving four years in the Selected Reserve as provided in subparagraph (4) of this paragraph when—

(i) After completion of the active duty service required by this paragraph the individual serves a continuous period of service in the Selected Reserve and is discharged or released from service in the Selected Reserve—

(A) For a service-connected disability; or

(B) For a medical condition which preexisted the individual's becoming a member of the Selected Reserve and which VA determines is not service connected; or (Jul. 1, 1985)

(C) Under 10 U.S.C. 1173 (hardship discharge); or

(D) After a minimum of 30 months of such service for the convenience of the Government; or

(E) Involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

(ii) The individual is obligated at the beginning of the two years active duty described in subparagraph (3) of this paragraph to serve the four years in the Selected Reserve as described in subparagraph (4) of this paragraph, and during the two years of active duty service he or she is discharged or released from active duty in the Armed Forces—

(A) For a service-connected disability; or

(B) For a medical condition which preexisted that period of active duty and which VA determines is not service connected. (Oct. 1, 1987)

(8) For purposes of determining continuity of Selected Reserve service, the Secretary concerned may prescribe by regulation a maximum period of time during which the individual is considered to have continuous service in the Selected Reserve even though he or she—

(i) Is unable to locate a unit of the Selected Reserve of the individual's Armed Force that the individual is eligible to join or that has a vacancy; or

(ii) Is not attached to a unit of the Selected Reserve for any reason prescribed by the Secretary concerned by regulation other than those stated in subdivision (i) of this subparagraph.

(9) Any decision as to the continuity of an individual's service in the Selected Reserve made by the Department of Defense or the Department of Transportation under regulations described in subparagraph (8) of this subparagraph shall be binding upon VA.

(Authority: 38 U.S.C. 1411, 1412, Pub. L. 98-525, Pub. L. 100-689) (July 1, 1985, Oct. 1, 1987)

4. In § 21.7042 paragraph (c) through (f) are redesignated as paragraphs (d) through (g) and a new paragraph (c) is added to read as follows:

§ 21.7042 Basic eligibility requirements.

* * * * *

(c) Eligibility based on withdrawal of election not to enroll. As stated in paragraph (f) of this section, a veteran or servicemember who elects not to enroll in this educational assistance program is generally not eligible for educational assistance. However, such a person may establish eligibility by meeting the requirements of this paragraph.

(1) The individual must withdraw an election not to enroll. Only someone who meets the provisions of this subparagraph may make this withdrawal. Such a withdrawal is irrevocable. The withdrawal may only be made during the period beginning on December 1, 1988, and ending on June 30, 1989, by a servicemember who—

(i) Must have first become a member of the Armed Forces or first entered on active duty as a member of the Armed Forces during the period beginning July 1, 1985, and ending June 30, 1988;

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(ii) As of the day of withdrawal of the election must have served continuously on active duty without a break in service since the date the individual first became a member of the Armed Forces or first entered on active duty as a member of the Armed Forces;

(iii) Must be serving on active duty on the day he or she withdraws the election;

(iv) Withdraws the election in the form prescribed by the Secretary of Defense or in the case of the Coast Guard by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy

(2) The individual must continue to serve the period of service that the individual was obligated to serve on December 1, 1988.

(3) The individual must either—

(i) Complete the period of service that he or she was obligated to serve on December 1, 1988, which, if an individual's initial obligated period of service was scheduled to end after November 30, 1988, but he or she extended an enlistment or reenlisted, before December 1, 1988, VA will require that the individual complete the extension or reenlistment; or

(ii) Before completing the period of service he or she was obligated to serve on December 1, 1988, the individual is discharged or released from active duty for—

(A) A service-connected disability; or

(B) A medical condition which preexisted that period of service and which the Secretary determines is not service connected; or

(C) Hardship (10 U.S.C. 1173); or

(iii) Before completing the period of service he or she was obligated to serve on December 1, 1988, have been

(A) Discharged or released from active duty for the convenience of the Government after completing not less than 20 months of that period of service, if such period was less than three years; or 30 months, if that period was at least three years; or

(B) Involuntarily discharged or released from active duty for the convenience of the government as a result of a reduction in force as determined by the Secretary concerned in accordance with regulations prescribed by the Secretary of Defense.

(4) Before completing the service he or she was obligated to serve on December 1, 1988, the individual must complete the requirements of a secondary school diploma (or an equivalency certificate).

(5) Upon completion of the period of service he or she was obligated to serve on December 1, 1988, the individual must—

(i) Be discharged from service with an honorable discharge, be placed on the retired list, be transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or be placed on the temporary disability retired list; or

(ii) Continue on active duty; or

(iii) Be released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

(Authority: 38 U.S.C. 1418) (Nov. 18, 1988)

* * * * *

5. In § 21.7042 the title of redesignated paragraph (e), and redesignated paragraphs (e)(1)(ii), (e)(2), (f)(1), and (g)(2) through (g)(3) are revised and paragraph (g)(4) is added to read as follows:

§ 21.7042 Basic eligibility requirements.

* * * * *

(e) Eligibility to receive educational assistance while serving a qualifying period of active duty.

(1) * * *

(ii) Has completed the requirements of a secondary school diploma (or an equivalency certificate) before beginning training;

* * * * *

(2) Subject to subparagraph (3) of this paragraph, VA will consider an individual to have met the requirements of paragraph (b) of this section when he or she—

(i) Has met the active duty requirements of paragraph (b) of this section;

(ii) Is committed to serve 4 years in the Selected Reserve; and

(iii) Has completed the requirements of a secondary school diploma (or an equivalency certificate) before beginning the training for which he or she wishes to receive educational assistance.

* * * * *

(f) Restrictions on establishing eligibility.

(1) An individual who, after June 30, 1985, first becomes a member of the Armed Forces, may elect not to receive educational assistance under 38 U.S.C. ch. 30. This election must be made at the time the individual initially enters on active duty as a member of the Armed Forces. An individual who makes such an election is not eligible for educational assistance under 38 U.S.C. ch. 30 unless he or she withdraws the election as provided in paragraph (c) of this section.

Authority: 38 U.S.C. 1418; Pub. L. 100-689) (Nov. 18, 1988)

* * * * *

(g) * * *

(2) The basic pay of an individual who withdraws an election not to receive educational assistance under 38 U.S.C. ch. 30 as described in paragraph (c) of this section shall be reduced by

(i) $1,200, or

(ii) In the case of an individual whose discharge or release from active duty prevents the reduction of the individual's basic pay by $1,200, an amount less than $1,200.

(3) The basic pay of any individual who makes the election described in paragraph (e)(1) of this section and who does not withdraw that election will not be subject to the reduction described in either subparagraph (1) or subparagraph (2) of this paragraph.

(4) If through administrative error or other reason the basic pay of an individual described in paragraph (a), (b), (c) or (d) of this section is not reduced as provided in subparagraph (1) or (2) of this paragraph, the failure to make the reduction will have no effect on his or her eligibility, but may negate or reduce the entitlement to educational assistance under 38 U.S.C. ch 30 determined as provided in § 21.7073 for an individual described in paragraph (c) of this section.

(Authority: 38 U.S.C. 1411, 1412, 1418; Pub. L. 98-525, Pub. L. 100-689) (Nov. 18, 1988)

6. In § 21.7044 paragraphs (a)(3), (a)(4), (b)(3) through (b)(9), the title of paragraph (c), paragraph (c)(1)(ii) through (c)(2) introductory text and (c)(2)(iii) are revised and paragraphs (b)(10) and (b)(11) are added to read as follows:

§ 21.7044 Persons with 38 U.S.C. chapter 34 eligibility.

(a) * * *

(3) The individual must either—

(i) Complete the requirements of a secondary school diploma or an equivalency certificate before January 1, 1990; or

(ii) Successfully complete the equivalent of 12 semester hours in a program leading to a standard college degree. This may be done at any time.

(4) After June 30, 1985—

(i) The individual must serve at least three years continuous active duty in the Armed Forces; or

(ii) The individual must be discharged or released from active duty—

(A) For a service-connected disability; or

(B) For a medical condition which preexisted the individual's service on active duty and which VA determines is not service connected,

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(C) Under 10 U.S.C. 1173 (hardship discharge); or

(D) For the convenience of the government provided the individual completes at least 30 months of active duty; or

(E) Involuntarily for convenience of the government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

(Authority: 38 U.S.C. 1411(a)(1)(B))

* * * * *

(b) * * *

(3) The individual must either—

(i) Complete the requirements for a secondary school diploma (or an equivalency certificate) before completing the service requirements of this paragraph; or

(ii) Successfully complete the equivalent of 12 semester hours in a program of education leading to a standard college degree. This may be done at any time.

(4) The individual must have been on active duty on October 19, 1984, and have served without a break in service from October 19, 1984, through June 30, 1985.

(5) After June 30, 1985, the individual must—

(i) Except as provided in subparagraph (6) of this paragraph, serve at least two years of continuous active duty in the Armed Forces characterized by the Secretary concerned as honorable service; and

(ii) Except as provided in subparagraph (7) of this paragraph, after completion of this active duty service, the individual must serve at least four continuous years service in the Selected Reserve, during which the individual must participate satisfactorily in training as prescribed by the Secretary concerned.

(Authority: 38 U.S.C. 1412(b))

(6) The individual also must—

(i) Be discharged from service with an honorable discharge; or

(ii) Be placed on the retired list; or

(iii) Be transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized by the Secretary concerned as honorable service, or

(iv) Continue on active duty, or

(v) Continue in the Selected Reserve.

(7) An individual is exempt from serving two years on active duty as provided in subparagraph (3) of this paragraph when he or she is discharged or released during those two years—

(i) For a service-connected disability, or

(ii) For a medical condition which preexisted such service on active duty and which VA determines is not service-connected, or

(iii) Under 10 U.S.C. 1173 (hardship discharge), or

(iv) For convenience of the government provided the individual completes at least 20 months of active duty, or

(v) Involuntarily, for the convenience of the government as a result of a reduction in force as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

(8) An individual is exempt from serving four years in the Selected Reserve as provided in subparagraph (5) of this paragraph when—

(i) After completion of the active duty required by this paragraph he or she serves a continuous period of service in the Selected Reserve, and

(A) Is discharged for a service-connected disability, or

(B) Is discharged for a medical condition which preexisted the individual's becoming a member of the Selected Reserve and which VA determines is not service connected, or

(C) Is discharged for hardship, or

(D) Is discharged or released after a minimum of 30 months service in the Selected Reserve for convenience of the government, or

(E) Is discharged involuntarily for the convenience of the government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, or

(ii) The individual is obligated at the beginning of the two years active duty described in subparagraph (3) of this paragraph to serve the four years in the Selected Reserve as described in subparagraph [(5)] of this paragraph, and during the two years of active duty service he or she is discharged or released from active duty in the Armed Forces—

(A) For a service-connected disability, or

(B) For a medical condition which preexisted that period of active duty and which VA determines is not service connected.

(9) A veteran who has completed the active duty service required by this paragraph and has made a commitment (as determined by the Secretary concerned) to serve four continuous years in the Selected Reserve may pursue a program of education with basic educational assistance while performing the required Selected Reserve service.

(10) For the purpose of determining continuity of Selected Reserve service, the Secretary concerned may prescribe by regulation a maximum period of time during which the individual is considered to have continuous service in the Selected Reserve even though he or she—

(i) Is unable to locate a unit of the Selected Reserve of the individual's Armed Force that the individual is eligible to join or that has a vacancy, or

(ii) Is not attached to a unit of the Selected Reserve for any reason prescribed by the Secretary concerned by regulation other than those stated in subdivision (i) of this subparagraph.

(11) Any decision as to the continuity of an individual's service in the Selected Reserve made by the Department of Defense or the Department of Transportation under regulations described in subparagraph (9) or (10) of this paragraph shall be binding upon VA.

(Authority: 38 U.S.C. 1411, 1412, 1416, Pub. L. 98-525, 100-689) (Jul. 1, 1985)

(c) Eligibility to receive educational assistance while serving a qualifying period of active duty.

(1) * * *

(ii) Completes the requirements of a secondary school diploma (or an equivalency certificate) before January 1, 1990, or successfully completes the equivalent of 12 semester hours in a program of education leading to a standard college degree,

(iii) Serves at least 2 years of continuous active duty in the Armed Forces; and

(iv) Remains on active duty.

(2) Subject to subparagraph (3) of this paragraph, VA will consider an individual to have met the requirements of this section, when he or she—

(Authority: 38 U.S.C. 1411, 1412, 1416; Pub. L. 100-689) (Nov. 18, 1988)

* * * * *

(iii) Has completed the requirements of a secondary school diploma (or equivalency certificate) or successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree before

beginning the training for which he or she wishes to receive educational assistance.

(Authority: 38 U.S.C. 1411, 1412, 1413; Pub. L. 100-689) (Nov. 18, 1988)

* * * * *

7. In § 21.7050 paragraph (a)(2) is revised to read as follows:

§ 21.7050 Ending dates of eligibility.

(a) * * *

(2) 10 years from the date on which the veteran meets the requirement for four years service in the Selected Reserve found in § 21.7042(b) and § 21.7044(b).

(Authority: 38 U.S.C. 1431 (a); Pub. L. 98-525, Pub. L. 100-689) (Nov. 18, 1988)

* * * * *

8. In § 21.7051 paragraph (a)(2) is revised to read as follows:

§ 21.7051 Extended period of eligibility.

(a) * * *

(2) The veteran was prevented from initiating or completing the chosen program of education within the otherwise applicable eligibility period because of a physical or mental disability that did not result from the veteran's willful misconduct. VA will not consider the disabling effects of chronic alcoholism to be the result of willful misconduct. (See § 21.7020(b)(38)) It must be clearly established by medical evidence that such a program of education was medically infeasible. VA will not consider a veteran who is disabled for a period of 30 days or less as having been prevented from initiating or completing a chosen program, unless the evidence establishes that the veteran was prevented from enrolling or reenrolling in the chosen program or—

(Authority: 38 U.S.C. 105, 1431(d); Pub. L. 98-525, Pub. L. 100-689) (Nov. 18, 1988)

9. In § 21.7072 introductory text is added and paragraphs (a), (b)(1), and (c)(1) are revised to read as follows:

§ 21.7072 Entitlement to basic educational assistance.

The provisions of this section apply to all veterans and servicemembers except to those to whom § 21.7073 applies.

(a) Most individuals are entitled to 36 months of assistance. Except as provided in paragraphs (b), (c) and (d) and in § 21.7073, a veteran or servicemember who is eligible for basic educational assistance is entitled to 36 months of basic educational assistance (or the equivalent thereof in part-time educational assistance) [38 U.S.C. 1413; Pub. L. 98-525) (Nov. 18, 1988).

(b) * * *

(1) Except as provided in § 21.7073, when the provisions of this subparagraph are met an eligible individual is entitled to one month of basic educational assistance (or equivalent thereof in part-time basic educational assistance) for each month of the individual's continuous active duty service which the individual serves after June 30, 1985, and, in the case of an individual who had no previous eligibility under 38 U.S.C. ch. 34, is part of the individual's initial obligated period of active duty. Except as provided in § 21.7073, VA will apply this subparagraph when the individual—

(i) Establishes eligibility through meeting the eligibility requirements of § 21.7042 or § 21.7044,

(ii) Serves less than 36 months of continuous active duty service after June 30, 1985 (or less than 24 continuous months of a qualifying obligated period of active duty service after June 30, 1985, if his or her initial obligated period of active duty is less than 3 years), and

(iii) Is discharged or released from active duty either—

(A) For a service-connected disability, or

(B) For a medical condition which preexisted the individual's service on active duty and which VA determines is not service connected,

(C) Under 10 U.S.C. 1173 (hardship discharge), or

(D) Involuntarily for the convenience of the government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

(Authority: 38 U.S.C. 1413(a); Pub. L. 100-689) (Jul. 1, 1985) (Oct. 1, 1987)

* * * * *

(c) * * *

(1) Except as provided in § 21.7073, when the provisions of this subparagraph are met, an individual is entitled to one month of basic educational assistance (or the equivalent thereof in part-time basic educational assistance) for each month of the individual's active duty service after June 30, 1985, and in the case of an individual who had no previous eligibility under 38 U.S.C. ch. 34, is the individual's initial obligated period of active duty. An individual is entitled to one month of basic educational assistance (or the equivalent thereof in part-time basic educational assistance for each four months served by the individual in the Selected Reserve after June 30, 1985, (other than a month in which the individual serves on active duty). VA will apply the provisions of this subparagraph when the individual—

(Authority: 38 U.S.C. 1412(b); Pub. L. 100-689) (Jul. 1, 1985)

10. Section 21.7073 is added to read as follows:

§ 21.7073 Entitlement for some individuals who establish eligibility during the open period.

(a) Individuals to whom this section applies. The provisions of this section apply to a veteran or servicemember who—

(1) Establishes eligibility by withdrawing an election not to enroll as provided in § 21.7042(c);

(2) Has less than $1,200 deducted from his or her military pay; and

(3) Before completing the period of service which the individual was obligated to serve on December 1, 1988, the individual—

(i) Is discharged or released from active duty for—

(A) A service-connected disability, or

(B) A medical condition which preexisted that service, or

(C) Hardship; or

(ii) Is discharged or released from active duty for the convenience of the government after completing not less than 20 months of that period of service, if that period was less than three years, or 30 months, if that period was at least three years; or

(iii) Is involuntarily discharged or released from active duty for the convenience of the government as a result of a reduction in force, as determined by the Secretary concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

(Authority: 38 U.S.C. 1412(c); Pub. L. 100-689) (Nov. 18, 1988)

(b) Entitlement. A veteran described in paragraph (a) of this section is entitled to a number of months of basic educational assistance (or equivalent thereof in part-time basic educational assistance) equal to the lesser of—

(1) A number of months determined by multiplying 36 by a fraction the numerator of which is the amount by which the basic pay of the individual has been reduced as provided in § 21.7042(e)(2) and the denominator of which is $1,200, or

(2) The number of months the veteran has served on continuous active duty after June 30, 1985.

(Authority: 38 U.S.C. 1412(c); Pub. L. 100-689) (Nov. 18, 1988)

§ 21.7076 [Amended]

11. In § 21.7076(b)(1) remove the words "VA will make a change against entitlement" and add, in their place, the words "Except for those pursuing correspondence training, cooperative training, or apprenticeship or other on-job training, and those receiving tutorial assistance VA will make a charge against entitlement—(Nov. 18, 1988, Jan. 1, 1989)"

12. In § 21.7076 add paragraph (d)(7) and (d)(8) to read as follows:

§ 21.7076 Entitlement charges.

* * * * *

(d) * * *

(7) When a veteran is pursuing a program of education through cooperative training, VA will make a charge against entitlement of 80 percent of a month for each month in which the veteran is receiving payment at the rate for cooperative training. If the veteran is pursuing cooperative training for a portion of a month, VA will make a charge against entitlement on the basis of total elapsed time (80 percent of a day for each day of pursuit).

(Authority: 38 U.S.C. 1432(d); Pub. L. 100-689) (Jan. 1, 1989)

(8) If an individual is paid tutorial assistance as provided in § 21.7141, the following provisions will apply.

(i) There will be no charge to entitlement for the first $600 of tutorial assistance paid to an individual under 38 U.S.C. ch. 30.

(ii) VA will make a charge against the period of entitlement of one month for each amount of tutorial assistance paid under 38 U.S.C. ch. 30, to the individual in excess of $600 that is equal to the amount of monthly educational assistance the individual is otherwise eligible to receive for full-time pursuit of a residence course as provided in §§ 21.7136, 21.7137 and 21.7138, as appropriate. When the amount of tutorial assistance paid to the individual in excess of $600 is less than the amount of monthly educational assistance the individual is otherwise eligible to receive, the entitlement charge will be prorated.

(Authority: 38 U.S.C. 1419; Pub L. 100-689) (Nov. 18, 1988)

13 In § 21.7110 paragraph (a) is revised to read as follows:

§ 21.7110 Selection of a program of education.

(a) General requirement. In order to receive educational assistance an individual must either be pursuing an approved program of education or be pursuing refresher or deficiency courses, or other preparatory or special education or training courses necessary to enable the individual to pursue an approved program of education.

(Authority: 38 U.S.C. 1414, 1423, 1434; Pub. L. 98-525, Pub. L. 100-689) (Aug. 15, 1989)

* * * * *

14. In § 21.7122 paragraphs (b) and (e)(5) are revised to read as follows:

§ 21.7122 Courses precluded.

* * * * *

(b) Courses outside a program of education. VA will not pay educational assistance for an enrollment in any course which is not part of a veteran's or servicemember's program of education (unless the veteran or servicemember is enrolled in refresher courses (including courses which will permit the veteran or servicemember to update knowledge and skills or be instructed in the technological advances which have occurred in the veteran's or servicemember's field of employment), deficiency courses, or other preparatory or special education or training courses necessary to enable the veteran or servicemember to pursue an approved program of education)—

(Authority: 38 U.S.C. 1402(3), 1434, 1652(b); Pub. L. 98-525) (Aug. 15, 1989)

* * * * *

(e) * * *

(5) Except as provided in § 21.4252(j), a course from which the veteran or servicemember withdrew without mitigating circumstances, or

(Authority: 38 U.S.C. 1780(a)(4); Pub. L. 100-689) (Jun. 1, 1989)

* * * * *

15. In § 21.7136 paragraphs (a)(3), (b)(3) and (d)(3) are added and paragraph (c)(1) introductory text is revised to read as follows:

§ 21.7136 Rates of payment of basic educational assistance.

(a) * * *

(3) Except as otherwise provided in this section, the monthly rate of basic educational assistance payable to a veteran who is pursuing a cooperative course is $240.

(Authority: 38 U.S.C. 1432(d); Pub. L. 100-689) (Jan. 1, 1989)

* * * * *

(b) * * *

(3) Except as otherwise provided in this section, the monthly rate of basic educational assistance payable is $200 when—

(i) The veteran's initial obligated period of active duty is less than three years,

(ii) The veteran has not served and is not committed to serve in the Selected Reserve for a period of four years, and

(iii) The veteran is pursuing a cooperative course.

(Authority: 38 U.S.C. 1432(d); Pub. L. 100-689) (Jan. 1, 1989)

* * * * *

(c) * * *

(1) For individuals other than those pursuing cooperative training, or apprenticeship or other on job training it may not exceed—

* * * * *

(d) * * *

(3) For individuals pursuing cooperative training, it may not exceed $320 per month.

(Authority: 38 U.S.C. 1423(d)

16. In § 21.7137 paragraphs (a)(1), (d)(1) and (d)(3) are revised to read as follows:

§ 21.7137 Rates of payment of basic educational assistance for individuals with remaining entitlement under 38 U.S.C. chapter 34.

(a) Minimum rates.

(1) Except as otherwise provided in this section, the monthly rate of basic educational assistance will be the rate taken from the following table.

Training	Monthly rate			Additional for each additional dependent
	No dependents	One dependent	Two dependents	
Full time	$488.00	$524.00	$555.00	$16.00
¾ time	366.50	393.00	416.50	12.00
½ time	244.00	262.00	277.50	8.50
Less than ½ but more than ¼ time	[1] 244.00			
¼ time or less	[1] 122.00			
Cooperative	361.60	382.00	401.60	9.20

[1] See paragraph (b).

(38 U.S.C. 1415(c), 1432(d); Pub. L. 98-525, Pub. L. 100-689) (Jan. 1, 1989)

* * * * *

(d) * * *

(1) For individuals other than those pursuing cooperative training, an apprenticeship or other on-job training it may not exceed—

* * * * *

(3) For individual pursuing cooperative training, it may not exceed $320 per month.

(Authority: 38 U.S.C. 1432(d)) (Jan. 1, 1989)

* * * * *

17. In § 21.7136 paragraphs (a)(1) and (b)(1) are revised and paragraph (b)(3) is added to read as follows:

§ 21.7136 Rates of supplemental educational assistance.

(a) Rates for veterans.

(1) Except for a veteran pursuing apprenticeship or other on-job training, the rate of supplemental educational assistance payable to a veteran is at least the rate stated in this table.

Training	Monthly rate
Full time	$300.
¾ time	225.
½ time	150.
Less than ½ but more than ¼ time.	150 See paragraph (c).
¼ time or less	75 See paragraph (c).
Cooperative	240.

(Authority: 38 U.S.C. 1415(d), 1422, 1432(d); Pub. L. 98-525, Pub. L. 100-689 (Jan. 1, 1989)

* * * * *

(b) Increase in supplemental educational assistance rates ("kicker").

(1) For an individual other than one pursuing an apprenticeship or other on-job training or cooperative training it may not exceed—

(Authority: 38 U.S.C. 1432(d) (Jan. 1, 1989)

* * * * *

(3) For an individual pursuing cooperative training, it may not exceed $240 per month.

(Authority: 38 U.S.C. 1422(b), 1432(d) (Jan. 1, 1989)

* * * * *

18. In § 21.7140 paragraph (g) is added to read as follows:

§ 21.7140 Certifications and release of payments.

* * * * *

(g) *Payments of accrued benefits.* Educational assistance remaining due and unpaid at the date of the servicemember's or veteran's death is payable under the provisions of § 3.1000 of this chapter.

(Authority: 38 U.S.C. 1417(b); Pub. L. 100-689) (Jul. 1, 1985)

19. § 21.7141 is added to read as follows:

§ 21.7141 Tutorial assistance.

(a) Entitlement to tutorial assistance.

(1) An individual who is otherwise eligible to receive benefits under the Montgomery GI Bill—Active Duty nay receive supplemental monetary assistance to provide tutorial services if he or she—

(i) Is pursuing a post-secondary educational program on a half-time or greater basis at an educational institution, and

(ii) Has a deficiency in a subject which is indispensable to the satisfactory pursuit of an approved program of education.

(2) This supplemental monetary assistance shall be termed tutorial assistance.

(Authority: 38 U.S.C. 1419, 1692; Pub. L. 100-689) (Nov. 18, 1988)

(b) Application for tutorial assistance. The application for tutorial assistance shall be in the form prescribed by the Secretary and shall contain such information as the Secretary may require.

(Authority: 38 U.S.C. 1419, 3001; Pub. L. 100-689) (Nov. 18, 1988)

(c) Approval of tutorial assistance. The Department of Veterans Affairs will approve an application for tutorial assistance when—

(1) The educational institution where the individual is pursuing a program of education certifies that—

(i) Individualized tutorial assistance is essential to correct a definiency in a specified subject or subjects required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of an approved program of education;

(ii) The tutor selected—

(A) Is qualified; and

(B) Is not the parent, spouse, child, brother or sister of the individual; and

(iii) The charges for this assistance do not exceed the customary charges for such tutorial assistance; and

(2) The assistance is furnished on an individual basis.

(Authority: 38 U.S.C. 1419, 1692; Pub. L. 100-689) (Nov. 18, 1988)

(d) Limitations on tutorial assistance.

(1) The Department of Veterans Affairs will authorize tutorial assistance in an amount not to exceed $100 per month.

(2) Tutorial assistance provided under this section will not exceed a maximum of $1,200.

(Authority: 38 U.S.C. 1419, 1692; Pub. L. 100-689) (Nov. 18, 1988)

20. In § 21.7220 paragraph (b)(9) is revised to read as follows:

§ 21.7220 Course approval.

* * * * *

(9) Section 21.4265—Practical training approved as institutional training. (Jan. 1, 1989).

* * * * *

21. In § 21.7222 paragraphs (f) and (g) are removed, paragraphs (h) and (i) redesignated (f) and (g) and paragraphs (d) and (e) are revised to read as follows:

§ 21.7222 Courses and enrollments which may not be approved.

* * * * * * *

(d) A course, or a combination of courses consisting of institutional agricultural courses and concurrent agricultural employment commonly called a farm cooperative course; or

(e) An independent study course which does not lead to a standard college degree.

(Authority: 38 U.S.C. 1434, 1673; Pub. L. 98-525, Pub. L. 99-576, Pub. L. 100-689) (Jan. 1, 1989, Aug. 15, 1989)

* * * * * * *

22. § 21.7280 is added to read as follows:

§ 21.7280 Death benefit.

(a) Overview. VA will pay a death benefit under 38 U.S.C. ch. 30 when an individual's death meets the criteria of this section; the individual is survived by someone described in this section; and the amount of educational assistance paid or payable to the individual is less than the amount reduced from the individual's basic pay.

(Authority: 38 U.S.C. 1417; Pub. L. 100-689) (Jul. 1, 1985)

(b) Necessary criteria for death benefit. VA may pay a death benefit under 38 U.S.C. ch. 30 only if—

(1) The individual dies while on active duty,

(2) The death of the individual is service connected. In determining if the death is service-connected, VA will apply the provisions of § 3.312 of this chapter; and

(3) Either—

(i) At the time of the individual's death he or she is entitled to basic educational assistance through having met the eligibility requirements of § 21.7042, or

(ii) At the time of the individual's death he or she is on active duty with the Armed Forces and but for the minimum service requirements of § 21.7042(a) (2) or § 21.7042(b) (3) or (4) would be entitled to basic educational assistance through having met the eligibility requirements of § 21.7042.

(Authority: 38 U.S.C. 1417(a); Pub. L. 100-689) (Jul. 1, 1985)

(c) *Payee.* (1) VA shall pay a death benefit to the living person or persons in the order listed in this paragraph:

(i) The beneficiary or beneficiaries designated by the individual under the individual's Servicemen's Group Life Insurance Policy;

(ii) The surviving spouse of the individual;

(iii) The surviving child or children of the individual, in equal shares;

(iv) The surviving parent or parents of the individual in equal shares.

(2) If none of the persons listed in this subparagraph is living, VA shall not pay a death benefit under this section.

(Authority: 38 U.S.C. 1417(a)(2); Pub. L. 100-689) (Jul. 1, 1985)

(d) *Amount of death benefit.* (1) The amount of any payment made under this section shall be equal to—

(i) The amount reduced from the individual's basic pay as provided in § 21.7042(f) less—

(ii) The total of—

(A) The amount of educational assistance that has been paid to the individual under 38 U.S.C. ch. 30; and

(B) The amount of accrued benefits paid or payable with respect to the individual.

(2) VA shall pay no death benefit when the amount determined by subparagraph (1) of this paragraph is zero or less than zero.

(Authority: 38 U.S.C. 1417 (b) and (c); Pub. L. 100-689) (Jul. 1, 1985)

[FR Doc. 90-24089 Filed 10-17-90; 8:45 am]

BILLING CODE 8320-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 15

RIN 3067-AD65

Conduct in Buildings and on Grounds at the National Emergency Training Center

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: This proposed rule prescribes the standards of conduct for persons entering onto the premises at the FEMA National Emergency Training Center (NETC) in Emmitsburg, Maryland. Currently there is no standard of conduct for visitors, contractors, guests or students at NETC. This proposed rule is adapted from the General Services Administration regulations concerning Conduct on Federal Property, is revised to be agency specific and is applicable to the NETC facility owned by FEMA and under its custody and control. The implementation of the proposed rule at NETC will provide a basis for corrective action in instances of violation(s) of the standard of conduct at the NETC facility.

DATES: Comments must be submitted on or before December 17, 1990.

ADDRESSES: Submit written comments, in duplicate, to the Rules Docket Clerk, Federal Emergency Management Agency, Room 840, 500 C Street, SW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Ronald P. Face, Jr., Chief, NETC Operations and Support Division, Office of Training, Federal Emergency Management Agency, National Emergency Training Center, 16825 South Seton Avenue, Emmitsburg, Maryland 21727, Telephone (301) 447-1223.

SUPPLEMENTARY INFORMATION: This proposed rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. It will not have an annual effect on the economy of $100 million or more; will not result in a major increase in costs or prices to consumers, individual industries, Federal, State, or local agencies, or geographic regions; and will not have a significant adverse impact on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign based enterprises in domestic or export markets.

This Part applies to Federal, State, and local agencies. In accordance with the Regulatory Flexibility Act of 1980, it is hereby certified that this proposed rule will not have a significant economic impact on a substantial number of small entities.

This rule does not contain information requirements that are subject to the Paper Work Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and OMB implementing regulations 5 CFR Part 1320.

The regulation in this Part provides guidance to Federal, State and local agencies which may or may not take an action which could be subject to environmental documentation requirements. This guidance has no environmental consequences and it is determined, under FEMA's regulation published in 44 CFR 10.8, that it is not necessary to prepare either an environmental assessment or an environmental impact statement.

In promulgating these rules, FEMA has considered the President's Executive Order on Federalism issued on October 26, 1987 (E.O. 12612, 52 FR 41685). The purpose of the order is to assure the appropriate division of governmental responsibilities between national government and the States. The problem dealt with in this part is national in scope.

List of Subjects in 44 CFR Part 15

Federal buildings and facilities; Penalties; Security measures.

PART 15 [AMENDED]

Accordingly, chapter 1, part 15, title 44, Code of Federal Regulations is proposed to be amended by adding a new subpart B to part 15 to read as follows:

Subpart B—Conduct at the National Emergency Training Center

Sec.

15.31 Purpose.
15.32 Applicability.
15.33 Inspection.
15.34 Preservation of property.
15.35 Conformity with signs and directions.
15.36 Disturbances.
15.37 Gambling.
15.38 Alcoholic beverages and narcotics.
15.39 Soliciting, vending and debt collection.
15.40 Distribution of handbills.
15.41 Photographs and other depictions.
15.42 Dogs and other animals.
15.43 Vehicular and pedestrian traffic.
15.44 Weapons and explosives.
15.45 Penalties.
15.46 Other laws.

Authorities: EO 11222; EO 12148, Federal Fire Prevention and Control Act of 1974, Pub. L. 93-498, 15 U.S.C. 2201, *et seq.*

Subpart B—Conduct at the National Emergency Training Center

§ 15.31 Purpose.

To set forth the National Emergency Training Center (NETC) policy and procedure relating to the NETC grounds and buildings and to the conduct of all persons entering, while on, and leaving the NETC, and actions to be taken for violation of these rules and regulations.

§ 15.32 Applicability.

This subpart applies to all property known as the "National Emergency Training Center," located on 16825 South Seton Avenue in Emmitsburg, Maryland, which is owned, operated and controlled by the Federal Emergency Management Agency (FEMA) and to all persons entering, while on, or leaving the property.

§ 15.33 Inspection.

All vehicles, packages, handbags, briefcases, and other containers brought into, while on, or being removed from NETC may be subject to inspection. A full search of a person may accompany an arrest or apprehension.

§ 15.34 Preservation of property.

The improper disposal of rubbish at NETC, the willful destruction of or damage to property, the theft of property, the creation of any hazard to persons or things, the throwing of articles of any kind from or at a building, or the climbing upon the roof or any part of the building is prohibited.

§ 15.35 Conformity with signs and directions.

Persons in and on the NETC shall at all times comply with official signs of a prohibitory, regulatory, or directory nature and with the direction of the security force or other authorized individuals.

§ 15.36 Disturbances.

Any unwarranted loitering, disorderly conduct, or other conduct at NETC which creates loud or unusual noise or a nuisance; which unreasonably obstructs the usual use of classrooms, dormitory rooms, entrances, foyers, lobbies, corridors, offices, elevators, stairways, roadways or parking lots; which otherwise impedes or disrupts the performance of official duties by Government employees or Government contractors; which interferes with the delivery of the educational program; or which prevents the general public from obtaining the services provided on the property in a timely manner, is prohibited.

§ 15.37 Gambling.

Participating in games for money or other personal property or the operating of gambling devices, the conduct of a lottery or pool, or the selling or purchasing of numbers tickets at NETC is prohibited.

§ 15.38 Alcoholic beverages and narcotics.

Operating a motor vehicle at NETC by a person under the influence of alcoholic beverages, narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines is prohibited. Entering upon, or while in the property under the influence of or using or possessing any narcotic drug, hallucinogen, marijuana, barbiturate, or amphetamine is prohibited.This prohibition shall not apply in cases where the drug has been prescribed for a patient by a licensed physician. Entering upon the property, or being on the property under the influence of alcoholic beverages is prohibited. Bringing alcoholic beverages, narcotic drugs, hallucinogens, marijuana, barbiturates or amphetamines onto the premises of NETC is prohibited unless the individual has been authorized. The use of alcoholic beverages on the property is prohibited except in the Student Center and other locations and occasions as authorized in writing by the Director, Office of Training, FEMA, or his/her designee.

§ 15.39 Soliciting, vending and debt collection.

Soliciting alms and contributions, commercial or political solicitation and vending of all kinds, displaying or distributing commercial advertising, or collecting private debts at NETC are prohibited. This does not apply to:

(a) Approved national or local fund drives for health, welfare, or other purposes as authorized by the "Manual on Fund Raising Within the Federal Service" issued by the U.S. Office of Personnel Management and sponsored or approved by the occupant agencies (all such drives must have the prior approval of the Director, Office of Training, FEMA or his/her designee);

(b) Concessions or personal notices posted by employees on authorized bulletin boards; and

(c) Solicitation of labor organization membership or dues authorized by occupant agencies under the Civil Service Reform Act of 1978 Title 5, United States Code, Section 1101.

§ 15.40 Distribution of handbills.

The distribution of materials such as pamphlets, handbills, and/or flyers, and the displaying of placards or posting of materials on bulletin boards or elsewhere at NETC is prohibited except as authorized above or when such distribution of displays are conducted as part of authorized government activity.

§ 15.41 Photographs and other depictions.

Photographs may be taken inside classroom or office areas only with the consent of the occupants. Except where security regulations apply or a Federal court order or rule prohibits it, photographs may be taken in entrances, lobbies, foyers, corridors, or auditoriums when used for public meetings. Subject to the foregoing prohibitions, photographs for advertising and commercial purposes may be taken only with written permission of the Assistant Director/Chief, NETC Operations and Support Division or other authorized official where the photographs are to be taken.

§ 15.42 Dogs and other animals.

Dogs and other animals, except for seeing eye dogs or other guide dogs, shall not be brought into the buildings at NETC for other than official purposes.

§ 15.43 Vehicular and pedestrian traffic.

(a) Drivers of all vehicles entering or while at NETC shall drive in a careful and safe manner at all times and shall comply with the parking and vehicle registration/requirements (except parking of four hours or less), signals and directions or security personnel and all posted traffic signs;

(b) The blocking of entrances, driveways, walks, loading platforms, or fire hydrants on the property is prohibited; and

(c) Parking without authority, parking in unauthorized locations or parking contrary to the direction of posted signs is prohbiited. Vehicles parked in violation, where warning signs are posted, shall be subject to removal at the owner's risk and expense. The Director, Office of Training or his/her designee may supplement this paragraph from time to time by issuing and posting such specific traffic directives as may be required. When issued and posted, such directives shall have the same force and effect as if made a part hereof. Proof that a motor vehicle was parked in violation of these regulations or other directives may be taken as evidence that the registered owner was responsible for the violation.

§ 15.44 Weapons and explosives.

No person entering or while at NETC shall carry or possess firearms, other dangerous or deadly weapons, explosives, or items intended to be used to fabricate an explosive or incendiary device, either openly or concealed, except for official purposes (i.e., Federal, State or local law enforcement; when authorized by the Director, Office of Training; or his designee or contract security forces when authorized by the contract project officer) and in accordance with FEMA policy governing the possession of firearms.

§ 15.45 Penalties.

(a) Misconduct: Any misconduct will be processed and disposed of in accordance with FEMA/NETC policy or instruction.

(b) Parking violations: Vehicles parked in violation of State law, FEMA or NETC Instruction shall be subject to towing at the owner's expense.

§ 15.46 Other laws.

Nothing contained in this subpart shall be construed to abrogate any other Federal laws or any State and local laws and regulations applicable to the National Emergency Training Center premises. This subpart supplements the penal provisions of Title 18, United States Code, relating to Crimes and Criminal Procedure, which apply without regard to the place of the offense and those penal provisions which apply in areas under the special maritime and territorial jurisdiction of the United States, as defined in 18 U.S.C. 7. However, the content of this subpart supersedes those provisions of State law which are made Federal criminal offenses by virtue of the Assimilated Crime Act (18 U.S.C. 13) to

the extent that they are in conflict with this subpart. State and local criminal laws are applicable as such only to the extent that authority in that regard has been reserved to the State by the State constitution or statute or vested in the State by Federal statute.

Dated: October 5, 1990.

Laura B. Hackbirdon,

Acting Director, Office of Training.

[FR Doc. 90-24977 Filed 10-17-90; 8:45 am]

BILLING CODE 6715-01-M

ACTION

45 CFR Part 1235

Locally Generated Contributions in Older American Volunteer Programs

AGENCY: Action.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: ACTION, the federal domestic volunteer agency, is issuing a notice of proposed rulemaking to explain its policy on locally generated contributions for ACTION grantees in the Older American Volunteer Programs. This proposed rule implements section 224 of the Domestic Volunteer Service Act of 1973, as amended, (DVSA), which provides that when locally generated contributions made to Older American Volunteer Programs are in excess of the required non-Federal match, the Director of ACTION may not restrict the manner in which the contributions are expended, if the expenditures are not inconsistent with the DVSA. The proposed rule sets forth definitions for terms used within section 224 as well as implementation guidance and a statement of policy on section 224.

DATES: Comments must be submitted on or before November 19, 1990.

ADDRESSES: Comments should be sent to John Seal, Executive Officer, ACTION, 1100 Vermont Avenue, NW., room 10100, Washington, DC 20525.

FOR FURTHER INFORMATION CONTACT: John Seal, Executive Officer, ACTION, at 202-634-9380 (FTS 634-9380).

SUPPLEMENTARY INFORMATION:

I. Introduction and Background.
II. Opportunity for Public Comment
III. Executive Order 12291, Regulatory Flexibility Act, and Paperwork Reduction Act.

I. Introduction and Background

The 1984 amendments to the Domestic volunteer Service Act of 1973, Public Law 98-113 (DVSA), added section 224. (A minor technical amendment was added in the 1988 amendments.) Section 224 currently provides:

> Whenever locally generated contributions made to volunteer projects for older Americans under this title are in excess of the amount required by the Director, the Director may not restrict the manner in which such contributions are expended if expenditures from locally generated contributions are not inconsistent with the provisions of this Act.

Section 224 was added to provide grantees greater flexibility in the use of the non-Federal contributions that exceed the matching amounts required by ACTION. ACTION's implementation of section 224 is based on the Agency's interpretation of the Congressional intent, as set forth in the legislative history.

In its report accompanying S. 1128, the Senate Committee on Labor and Human Resources stated, in pertinent part:

> The intent of the new section is to change current ACTION policy of controlling the detail of all project expenditures, even those financed by non-federal contributions over and above the required match. The Committee agrees that greater local determination must be provided. Decisions as to whether vans should be purchased, staff training be conducted, client related transportation be provided and the like, can appropriately be made by project directors closest to the day-to-day project operation. In addition, the Committee notes examples of where ACTION policy of controlling non-federal funds has conflicted with policies of the local entities making contributions to OAVP projects—state civil service salary scales for project directors have been higher than those allowed by ACTION; state requirements for transportation and meal reimbursement have been denied by ACTION. The Committee agrees that organizations contributing non-federal dollars to the OAVP should be able to participate in directing the expenditures of their contributions, as long as they comply with the intent of the Domestic Volunteer Service Act.
>
> The Committee expects that expenditure of locally contributed funds will be used to enhance the effective operation of individual projects, and will not be used for purposes that would be contrary to the intent of the Domestic Volunteer Service Act. The Committee recognizes the need for flexibility in the expenditure of locally raised support—some non-federal funding sources may wish to contribute funds for specific purposes; in addition, individual projects must respond to local needs requirements, circumstances, and policies. The Committee believes its amendment will provide for an effective balance between the federal responsibility of federal dollars and local sponsors' responsibility to manage projects in keeping with local policies, needs, and funding opportunities.
>
> The Committee is concerned about accountability here is the overall management of any federally sponsored program. The ACTION agency is responsible for oversight of the Older American Volunteer Programs. It expects that project budgets will reflect true costs of the program. Accurate records of proposed and actual expenditures of the locally controlled non-federal dollars in excess of the required match still must be reflected in project budgets to insure they are spent within the intent of the statute or published regulations.

S. Rep. No. 182, 98th Cong. 1st Sess. 16-71 (1983).

II. Opportunity for Public Comment

Interested persons are invited to submit written comments to ACTION. Comments should be sent to John Seal, Executive Officer, ACTION, 1100 Vermont Avenue, NW., Room 10100, Washington, DC 20525. Comments must be submitted on or before the date listed earlier in this notice.

III. Executive Order 12291, Regulatory Flexibility Act, and Paperwork Reduction Act

The proposed rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this proposed rule will not have a significant impact on small business entities. The provisions of the Paperwork Reduction Act do not apply as this action will not create any new record keeping or reporting burdens or substantially increase costs to the Government and the public.

List of Subjects in 45 CFR Part 1235

Aged, Grant programs-social programs, Volunteers.

For the reasons set forth in the preamble, chapter XII, title 45 of the Code of Federal Regulations is proposed to be amended as follows:

Part 1235 is added to read as follows.

PART 1235—LOCALLY GENERATED CONTRIBUTIONS IN OLDER AMERICAN VOLUNTEER PROGRAMS

Sec.
1235.1 Definitions.
1235.2 Implementation guidance.
1235.3 Statement of policy.

Appendix to Part 1235—Interpretation of Audit Procedures

Authority: 42 U.S.C. 5024, 42 U.S.C. 5060.

§ 1235.1 Definitions.

As used in this part and in section 224 of the Domestic Volunteer Service Act of 1973, as amended, the following definitions shall apply:

(a) *Director* means the Director of ACTION.

(b) *Locally Generated Contributions* means all contributions generated by the grantee in support of the grant, including

non-ACTION Federal, State, local government and privately raised contributions.

(c) *Amount Required by the Director* means the proportion of the non-Federal contribution (including in-kind contributions) for a grant or contract made under the Domestic Volunteer Service Act of 1973, as amended, required by the Director in order to receive ACTION funds. This proportion is generally 10% for the Foster Grandparent Program/Senior Companion Program (FGP/SCP) and generally 10%, 20%, and 30% for the Retired Senior Volunteer Program (RSVP) in the first, second, and subsequent years respectively. The "amount required by the Director" is also called the "local match."

(d) *In Excess of the Amount Required by the Director* means of the total locally generated contributions, the amount over and above the percentage match (generally 10% for FGP/SCP and 10%, 20% and 30% for RSVP in the first, second, and subsequent years respectively) required by the Director of ACTION to be raised from non-ACTION sources to support the grant.

(e) *Inconsistent with the Provisions of This Act* means expenditures not in support of ACTION programs, as defined by the Domestic Volunteer Service Act of 1973, as amended. For example:

(1) Inconsistency with the age threshold for volunteers for all Older American Volunteer Programs (OAVP).

(2) Inconsistency with the low income test for the FGP and SCP programs.

(3) Variations from the approved stipend levels for the FGP and SCP programs.

(4) Inconsistency with the prohibition against political activity under all of the OAVP programs.

(5) Unreasonable cost for a low-cost volunteer program.

§ 1235.2 Implementation guidance.

ACTION's implementation of section 224 of the DVSA is based on fundamental principles regarding the Congressional intent of the Section as well as the Executive Branch's policy on Federal financial assistance to grantees. These principles include:

(a) That ACTION may not restrict grantees' use of excess contributions as long as those expenditures are "not inconsistent" with the Domestic Volunteer Service Act of 1973, as amended.

(b) That grantees are to fully account for and document expenditures of non-Federal contributions, regardless of whether they are used to meet ACTION's local match requirement or are in excess of the requirement.

(c) That all expenditures in support of a Federal grant can be audited by the responsible Federal agency or by independent auditors performing audits pursuant to OMB Circulars A-128 and A-133. Copies of OMB Circulars A-128 and A-133 are available at ACTION, 1100 Vermont Avenue, NW., Room 9200, Washington, DC 20525.

§ 1235.3 Statement of policy.

(a) Expenditures of locally generated non-Federal contributions required by the Director as matching funds must meet the requirements specified in ACTION's Grants Management and Program Operations Handbook, ACTION Order 2850.2, as amended, and the Domestic Volunteer Service Act of 1973, as amended. Copies of ACTION's Grants Management and Program Operations Handbook, ACTION Order 2850.2, as amended, are available at ACTION, 1100 Vermont Avenue, NW., Room 9200, Washington, DC 20525.

(b) All expenditures by the grantee of Federal and non-Federal funds (including expenditures from excess locally generated contributions) in support of the grant are subject to ACTION authorized audits.

(c) ACTION will not restrict the manner in which locally generated contributions in excess of the required match are expended if these expenditures are not inconsistent with the Domestic Volunteer Service Act of 1973, as amended.

Appendix to Part 1235—Interpretation of Audit Procedures

I. Because questions regarding the implementation of section 224 often concern auditing procedures, this Appendix explains how audits will be conducted in relation to this part. This part does not create any new auditing requirements.

II. Consistent with establishd law, audits of grantees authorized by ACTION will be conducted in the following manner:

(a) All expenditures in support of a Federal grant can be audited. Adequate financial records and supporting documentation must be kept for both cash and in-kind contributions (see ACTION's Grants Management Handbook for Grantees, ACTION Order 2550.2).

III. Three definitions are important to understand in relation to ACTION authorized audits:

(a) The term "questioned cost," pursuant to the Inspector General Act of 1978, as amended, 5 U.S.C. Appendix 3, means an expenditure of grant funds that is questioned by the Inspector General because of:

(1) An alleged violation of a provision of the Domestic Volunteer Service Act of 1973, as amended, or other law, regulation, or grant governing the expenditure of funds by the grantee;

(2) A finding that, at the time of an audit the cost is not supported by adequate documentation; or

(3) A finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable.

(b) The term "disallowed cost" means a questioned cost valued to Federal or local match expenditures that ACTION management, in a management decision, has sustained or agreed should not be charged to the Government.

(c) The term "program finding" means a questioned cost identified as from the grantee's *excess* locally generated contributions which are referred to ACTION program staff for management consideration.

IV. When costs are questioned from locally generated contributions, ACTION's auditors will distinguish between costs as part of the *local match* and costs as part of the *excess contribution*.

V. If a questioned cost is identified as part of the grantee's local match requirement, the cost may be disallowed by ACTION. If the grantee has raised locally generated contributions in excess of the matching requirement and these expenditures are not questioned, and are consistent with the DVSA of 1973, as amended, for local match expenditures, they may be substituted for the disallowed costs in order for the grantee to meet its matching requirement. If not enough expenditures from excess contributions exists to substitute for the disallowed costs, the grantee will be deemed as not having met the local match requirement.

VI. If a cost is questioned which the grantee identifies as from its excess locally generated contributions, it will be identified by the auditor as a program finding. Program findings by the Inspector General may include, but are not limited to:

(a) Inadequate records to document the expenditures and provide assurance of the grantee's internal controls over the use of its cash and in kind contributions; and

(b) Evidence that expenditures were made that are inconsistent with the Domestic Volunteer Service Act of 1973, as amended.

VII. Once program findings are identified, they would be referred to ACTION's program management staff for appropriate corrective steps. Costs identified as program findings would not be disallowed, but program decisions may be made to take steps, including but not limited to:

(a) Requiring the grantee to adhere to stated program goals and objectives as a condition for future funding;

(b) Requiring the grantee to adopt a stronger financial management and control system; and

(c) Reducing funding in the subsequent year.

Signed in Washington, DC October 12, 1990.

Jane A. Kenny,

Director of ACTION.

[FR Doc. 90-24577 Filed 10-17-90; 8:45 am]

BILLING CODE 6050-28-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 36

[CC Docket No. 80-286, FCC 90-306]

Common Carrier Services; Revise the Definition of "Study Area"

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The FCC tentatively concludes that the current defintion of study area, which freezes study area boundaries as they were on November 15, 1984, should be changed. The proposed rules would allow carriers to change or establish new study areas within a single state including those study areas with exchanges in bordering states sharing a community of interest without waivers or approvals from the FCC when they: (a) Combine existing study areas after merger of affiliate operations; or (b) purchase exchanges from or sell exchanges to unaffiliated parties. The FCC proposes that the new procedure would apply only if the parties involved notify the state agencies that they plan to change their study areas if the transaction is approved and only if the state agencies do not oppose the changes. If no review procedures apply in a state, the parties must notify that state, before applying to the FCC, of their intention to revise study areas. It is also proposed that each carrier provide the FCC with information regarding the transaction. The issue is referred to the CC Docket No. 80-286 Joint Board for its recommendations.

DATES: Comments on the FCC's specific proposals may be filed on or before November 30, 1990. Reply comments may be filed on or before December 14, 1990.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington DC 20554.

FOR FURTHER INFORMATION CONTACT: Eugene Gold, telephone (202) 634-1861.

SUPPLEMENTARY INFORMATION: The following collection of information contained in this proposed rule has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act. Copies of the submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M St., NW., Suite 140, Washington, DC 20037. Persons wishing to comment on this information collection should direct their comments to Bruce McConnell, (202) 395-3785, Office of Management and Budget, Room 3235, NEOB, Washington, DC 20503. A copy of any comments should also be sent to the Federal Communications Commission, Office of Managing Director, Washington, DC 20554. For further information, contact Jerry Cowden, Federal Communications Commission, (202) 632-7513.

OMB number: None.

Title: Amendment of part 36 of the Commission's Rules and Establishment of a Joint Board (Proposal to Redefine Study Area) (CC Docket No. 80-286).

Action: Proposed New Collection.

Respondents: Businesses or other for profit.

Frequency of response: On occasion.

Estimated annual burden: 12 responses; 24 hours total; 2 hours average burden per response.

Needs and Uses: The NPRM proposes to revise the present definition of study area to allow for changes if a company is merging affiliates and combing study areas or is buying or selling exchanges. Carriers that combine study areas or sell or purchase telephone exchanges will be required to submit a page summary listing the impact the action will have on the high cost fund. The information will be used to monitor the effect such action can have on the high cost fund

Summary of Notice of Proposed Rulemaking

This is a summary of the FCC's Notice of Proposed Rulemaking, Amendment of part 36 of the Commission's Rule and Establishment of a Joint Board, CC Docket No. 80-286, FCC 90-306, adopted September 4, 1990 and released October 10, 1990. The full text of the FCC's decision is available for inspection and copying during normal business hours in the FCC Dockets Branch, Room 230, 1919 M Street, NW., Washington, DC 20554. The complete text of this decision will be published in the *FCC Record* and may also be purchased from the FCC's copy contractor, International Transcription Services (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

A study area is a geographical region generally composed of a telephone company's exchanges within a single state. There are instances, however, where a telephone holding company may have several operating telephone company subsidiaries within a single state and each one or a combination of these may constitute a study area. There are also cases where a single study area is composed of exchanges located in bordering states which share a community of interest. Study areas are used as the geographical territory for local telephone companies to report their costs and revenues. They are also used for computing high cost support and access related elements.

Under the current definition of study area, the boundaries of study areas were frozen as they were on November 15, 1984. The freezing of study area boundaries was intended to prevent carriers from adjusting the boundaries to isolate high cost areas and increase high cost support. Although it appears to have been successful in meeting that objective, the freeze has also prevented other changes in boundaries, such as would result from the sale of an exchange or the merger of affiliate operations, which were not part of the original objective. This has given rise to numerous requests for waiver of the study area definition, including a request for a blanket waiver filed by Telephone and Data Systems, Inc. (TDS), which is addressed in this proceeding.

The TDS petition requesting a blanket waiver of part 36 of the FCC's Rules seeks to remove the regulatory burden on carriers in obtaining, and on the FCC in processing, individual waivers for study area consolidations that do not jeopardize FCC policy because the effects on separations and high cost support are immaterial. TDS concludes that the blanket waiver would save the FCC and carriers the time, effort, and money required to secure waivers of FCC rules that were not designed to apply in the context of consolidations.

The Missouri Public Service Commission and the Arkansas Public Service Commission (Missouri and Arkansas), filing jointly, and NARUC oppose the requested waiver. Missouri and Arkansas express two primary concerns: (1) That the carriers will manipulate study area boundaries, resulting in study areas that are inconsistent with state ratemaking; and (2) that a blanket waiver is, in effect, the same as a change in the rules and granting the waiver would circumvent the requirement that part 36 rule changes must be referred to the Joint Board. Missouri and Arkansas feel that the FCC should retain the current arrangement whereby the Common Carrier Bureau reviews waiver requests and then issues an order. If the FCC decides not to retain the current arrangement, they request that we consider any change in the study area definition in a rulemaking proceeding. NARUC also opposes the blanket waiver and urges that the issues be considered in a rulemaking proceeding.

The FCC does not believe that a blanket waiver is the most desirable

method of addressing exceptions to the study area definition, especially in view of the concerns expressed by the states. The FCC does feel, however, that there may be merit to a change in the rules relating to study area boundaries. Consequently, the NPRM treats TDS's waiver petition as a petition for rulemaking and seeks comments concerning the circumstances under which the FCC should allow carriers to change their study area boundaries. The NPRM refers this matter to the CC Docket 80-286 Joint Board.

The NPRM tentatively concludes that the rules should allow carriers to change or establish new study area boundaries without FCC approval when they merge affiliate operations into a new study area within a single state or when exchanges are sold to unaffiliated entities. The NPRM also requests comment on whether carriers will manipulate study areas so as to shift revenue requirements to state jurisdictions if allowed to change study area boundaries without prior FCC approval.

The FCC proposes that the new procedures should apply only if the parties involved in the merger of affiliate operations or sales transactions notify the state agencies that they plan to change their study areas if the transaction is approved and only if the state agencies do not oppose the changes. Carriers would also be required to certify that they have notified the affected states of their plans, and where applicable, obtained state approval of these plans.

If a state, however, does not have any review or approval process relating to sales transactions, the NPRM would require the carriers to notify that state, before applying to the FCC, of their intention to revise study areas. Cost-based carriers would have the option of revising their SPF and COE Local Switching Equipment—Category 3 allocation factors in the case of affiliate mergers or deletion of exchanges by a selling carrier.

The NPRM tentatively proposes that each carrier that seeks to change a study area pursuant to the new procedure also provide the Commission with relevant information regarding the transaction. The FCC would review the changes and the information, and if it does not stay, reject, modify, or condition such a change within 60 days from receiving notice of the proposal, the change would take effect.

Ordering Clauses

1. Interested parties may file comments in response to this Notice no later than November 30, 1990 and reply comments no later than December 14, 1990. In accordance with §§ 1.415 and 1.419 of the Commission's Rules, parties must serve an original and five copies on the Secretary of this Commission. Parties must also serve copies on the Joint Board members and staff listed in Appendix B and on the Commission's contractor for public records duplication, International Transcription Services, Inc., 2100 M Street NW. Suite 140, Washington, DC 20037, (202) 857-3800. Copies of the comments will be available for inspection in the Commission's Docket Reference Room 1919 M Street NW, Room 239, Washington, DC 20554.

2 Accordingly, pursuant to sections 4(i), 201-205, 218, 221(c), 403 and 410 of the Communications Act, as amended, 47 U.S.C. 154(i), 201-205, 218, 221(c), 403, and 410, The Joint Board in CC Docket No. 80-286 shall review the comments, proposals, and data filed in response to this Notice and prepare a recommendation to this Commission on the issues raised herein.

List of Subjects for 47 CFR Part 36

Appendix—glossary, Local switching equipment, Exchange line cable and wire facilities, Reporting and recordkeeping requirements.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Rules Section

Part 36 of title 47 of the Code of Federal Regulations is proposed to be amended as follows:

1. The authority citation for part 36 continues to read:

Authority: 47 U.S.C. Secs. 151, 151(i) and (j), 205, 221(c), 403 and 410.

2. The definition of "study area" contained in Appendix-Glossary is proposed to be revised to read as follows:

Appendix—Glossary

* * * * *

Study Area

A geographical region generally composed of a telephone company's exchanges within a single state. There are instances, however, where a telephone holding company may have several telephone company subsidiaries within a single state and each one of a combination of subsidiaries are separate study areas. There are also cases where a single study area is composed of a telephone company's exchanges located in bordering states which share a community of interests.

* * * * *

3. Section 36.2 is proposed to be amended by revising the section heading and adding paragraphs (f) through (j) to read as follows:

§ 36.2 Fundamental principles and procedures

* * * * *

(f) Study area boundaries shall be frozen as they were on November 15, 1984 except for subsequent:

(1) combining of study areas by a carrier after merger of affiliate operations within a single state including those study areas with exchanges in bordering states sharing a community of interest, and

(2) sales transactions between unaffiliated entities involving the sale and purchase of exchanges within a single state including exchanges in bordering states sharing a community of interest.

(g) If a carrier is selling exchanges located within a single study area, it must delete these exchanges from the existing study area, and form one study area from the remaining exchanges. If a carrier is buying exchanges located within a single study area and a single state, it must combine the purchased exchanges with an existing study area of that carrier in that state to form one study area or if the carrier has no study areas in the state, the carrier must form only one new study area. For selling and buying carriers having existing study areas which cross state bounderies as a community of interest, the acquired or existing exchanges located in different states may not be separated because of the sale or purchase. The revised study area must encompass all the exchanges in an existing study area if a carrier has one in either state.

(h) A carrier that proposes to change a study area pursuant to § 36.2(f) shall file the following information with the Commission:

(1) A description of the transaction giving rise to the proposed change, including the names of the carriers, companies and holding companies, cooperatives, and exchanges that are being merged, sold, or bought;

(2) The state(s) in which the existing and proposed study areas are located;

(3) Certification that the carrier has notified the agency or agencies having jurisdiction over intrastate telephone operations in the states listed in § 36.2(h)(2) that a change in study area will be proposed and that the carrier has obtained all state approval required to make that change;

(4) Any conditions imposed by the state agency or agencies in granting approval;

(5) The number of access lines and cost per access line for the existing and proposed study areas; and

(6) The amount of high cost support for each of the existing study areas and the estimated amount of high cost support for the proposed study area.

(i) A proposed study area change filed pursuant to § 36.2(f) shall be deemed to be effective if not stayed, rejected, modified, or conditioned by the Commission within 60 days of the filing date of the notification.

(j) In the case of a new study area, the purchasing carrier shall use the transitional Subscriber Plant Factors (SPFs) and COE Category 3 factors of the selling carrier for the remainder of the transition period. A carrier that proposes to add exchange(s) to or delete exchange(s) from an existing study, and computes its investment and expenses on a cost basis, has the option to recompute its transitional SPF prescribed in § 36.154 and transitional factor for COE Local Switching Equipment—Category 3 prescribed in § 36.125 for the revised study area boundaries. If the carrier exercises these options, it shall provide the following information to the Commission.

(1) The 1981 Subscriber Plant Factors (SPFs) for each of the existing study areas, the estimated SPF for the proposed study area if it has been in existence in 1981, the present transitional SPFs for each of the existing study areas, and an estimated transitional SPF for the proposed study area;

(2) The present investment for non-traffic sensitive loop plant for each of the existing study areas and for the proposed study area;

(3) The present transitional factors for COE—Local Switching Equipment—Category 3 for each of the existing study areas and an estimated transitional factor for COE—Local Switching Equipment—Category 3 for proposed study area; and

(4) The A component and B component specified in § 36.125 for each of the existing study areas and for the proposed study area.

[FR Doc. 90-24622 Filed 10-17-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-462; FRS-6852]

Television Broadcasting Services; Colorado Springs, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of proposal.

SUMMARY: This document dismisses a petition filed on behalf of the University of Southern Colorado, licensee of noncommercial educational Station KTSC–TV, Channel *8, Pueblo, Colorado, based upon its withdrawal of interest. The petitioner had requested the allotment of UHF television Channel *66 to Colorado Springs, Colorado, as that community's first local noncommercial educational television service. See 54 FR 45771, October 31, 1989. With this action, the proceeding is terminated.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–462, adopted September 25, 1990, and released October 15, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24623 Filed 10-17-90; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

48 CFR Part 245

Acquisition Regulations; Reports of Government Property

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule and request for comments.

SUMMARY: The Defense Acquisition Regulatory System is considering a change to the Defense Federal Acquisition Regulation Supplement (DFARS) at section 245.505–14, Reports of Government Property, and DD Form 1662, "DoD Property in the Custody of Contractors." The proposed change will require contractors to report in item 17 of the DD Form 1662, their beginning and ending balances for government furnished material that is in work-in-process. Contractors are already required to report in item 17 all material that is in inventor. Contractors will not be required to report consumables, such as grease, nuts, bolts, paint, etc., once these items move out of inventory and into production. The reverse of the DD Form 1662 will be revised to provide these additional reporting instructions.

DATES: Comments on the proposed change should be submitted in writing to the address shown below on or before November 19, 1990, to be considered in formulating the final rule. Please cite DAR Case 90–006 in all correspondence concerning this proposed rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulatory System, ATTN: Col(s) Nancy L. Ladd, Director, DAR System, ODASD(P)/DARS/ c/o OUSD(A)(M&RS) Room 3D139, The Pentagon, Washington, DC 20301–3062

FOR FURTHER INFORMATION CONTACT: Col(s) Nancy L. Ladd, telephone (703) 697–7266.

SUPPLEMENTARY INFORMATION:

A. Background

The proposed DFARS revision will improve the accuracy and completeness of government furnished materials reported by contrators on the DD Form 1662, "DoD Property in the Custody of Contractors".

Contractors are required by FAR 52.245–1, Property, to establish and maintain an accountability system for all government property furnished to them under contract. This DFARS revision does not affect this accountability requirement, but simply expands the reporting requirement to include all materials, excluding consumables in production, that are in the contractor's possession, whether in inventory or production.

Note. The DD Form 1662 is currently being revised and will be issued upon issuance of a final rule. No changes will be made to the front side of the DD Form 1662. The reporting instructions on the reverse side will be modified to add "item 17". Item 17 will substantially read as follows: "Government furnished materials reported in the beginning and ending balance will include all GFM in the contractor's custody, excluding consumables in production.

B. Regulatory Flexibility Act

It is not anticipated that the proposed rule will have a significant impact on a substantial number of small businesses within the meaning of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 et

seq. The revision to reporting GFM will not have a significant impact on small businesses because it requires contractors to report the values that they are already required to maintain as a matter of accountability in their production control records.

C. Paperwork Reduction Act

This proposed rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Part 245

Government procurement.

Nancy L. Ladd,

Colonel (sel), USAF Director, Defense Acquisition Regulatory System.

Therefore, it is proposed that 48 CFR part 245 be amended as follows:

PART 245—GOVERNMENT PROPERTY

1. The authority citation for 48 CFR part 245 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and FAR subpart 1.3.

2. Section 245.505–14 is revised to read as follows:

245.505–14 Reports of Government property.

The contractor's property control system shall provide an annual report, for contracts with Government property, of all DoD property for which the contractor is accountable. The report shall be prepared in accordance with the requirements of DD Form 1662, DoD Property in the Custody of Contractors (or approved substitute), including instructions on the reverse of the form. Prime contractors are responsible for reporting all Government property accountable to the contract, including that at subcontractor and alternate locations. The report shall be furnished, in duplicate, to the property administrator no later than October 31 of each year.

[FR Doc. 90–24517 Filed 10–17–90; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Finding on a Petition to List the Florida Black Bear

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of finding on petition.

SUMMARY: The U.S. Fish and Wildlife Service announces a 90-day petition finding for a petition to amend the List of Endangered and Threatened Wildlife by adding the Florida black bear (*Ursus americanus floridanus*) as a threatened species. Substantial information has been presented to indicate that the petitioned action may be warranted. Comments and information pertaining to this notice are sought from the public.

DATES: The finding announced in this notice was made in September 1990. Comments and information may be submitted until further notice.

ADDRESSES: Information, comments, or questions should be sent to the Field Supervisor, Jacksonville Field Office, Fish and Wildlife Service, 3100 University Boulevard South, suite 120, Jacksonville, Florida 32216.

FOR FURTHER INFORMATION CONTACT: David J. Wesley, Field Supervisor, at the above address (telephone 904/791–2580 or FTS 946–2580).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended in 1982 (16 U.S.C. 1531 *et seq.*), requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the Federal Register. If the finding is positive, the Service is also required to promptly commence a review of the species.

In a letter dated May 20, 1990, and received by the Service on June 11, 1990, Ms. Ingeborg Hutchison of Lake Geneva, Florida, petitioned the Service to list the Florida black bear (*Ursus americanus floridanus*) as a threatened species. The petition cites the following factors as threats to the Florida black bear: (1) Illegal hunting by beekeepers, gall-bladder poachers, and others; (2) loss and fragmentation of critical habitat; (3) hunting pressure; and (4) road mortality.

According to Hall (1981), the Florida black bear is primarily restricted to Florida, with its range extending into Georgia (the Okefenokee Swamp area) and southern Alabama, terminating just about at the Alabama-Mississippi State line. Westward, the Florida black bear is replaced by the Louisiana black bear (*U. a. luteolus*); that subspecies was proposed for Federal listing as a threatened species on June 21, 1990 (55 FR 25341). North of its range, the Florida black bear is replaced by the eastern black bear (*U. a. americanus*), the most widespread of the 16 currently recognized subspecies of black bear.

The Florida black bear is listed as threatened by the Florida Game and Fresh Water Fish Commission (section 39–27.003–005, Florida Administrative Code), with the exceptions of bears in Baker and Columbia Counties and Apalachicola National Forest, where the threatened designation does not apply and where regulated hunts are allowed. The subspecies is also considered threatened by the Florida Committee on Rare and Endangered Plants and Animals, based on habitat loss (Williams 1978). The Georgia Division of Game and Fish currently allows limited hunting of the Florida black bear in the 5 counties adjoining the Okefenokee Swamp, where a healthy population of 600 to 700 bears is believed to exist. The Alabama Division of Game and Fish considers the black bear to be a game species, but no open season currently is permitted due to the low number of black bears in that State. The main population is restricted to rivers and swamps north of Mobile Bay.

The Service included the Florida black bear as a category 2 candidate for listing in its December 30, 1982 (47 FR 58454) and September 18, 1985 (50 FR 37958) vertebrate notices of review, and in its January 6, 1989 (54 FR 554) animal notice of review. These notices include animals which are considered candidates for listing as endangered or threatened species. Category 2 candidates are those for which a listing proposal is possibly appropriate, but for which conclusive data on biological vulnerability and threat are not currently available to support such a proposal. Category 2 species are actively under review for potential listing.

Before deciding whether or not to propose the listing of the Florida black bear as an endangered or threatened species, the Service needs further information on the conservation status of the Florida black bear. Further information about the taxonomic status of this species is also of interest. During the review of the Louisiana black bear for proposed listing, it was suggested by one authority that the Louisiana and Florida black bears, and possibly other southeastern coastal plain bear populations, may constitute a single subspecies.

Despite the need for further information, the Service has determined that Ms. Hutchinson's petition, combined with other available data, provides substantial information indicating that the requested action may

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be warranted. The Service would appreciate any additional relevant data, comments, and suggestions from the public, governmental agencies, the scientific community, or any interested party concerning potential listing of the Florida black bear.

Author

This notice was prepared by Dr. Michael M. Bentzien (see ADDRESSES section above).

References

Hall, E.R. 1981. The mammals of North America. Vol. II: 947-961. John Wiley and Sons, New York.

Williams, L.E., Jr. 1978. Florida black bear. Pp. 23-25 in J.N. Layne ed., Rare and endangered biota of Florida. Vol. I: Mammals. University Presses of Florida, Gainesville.

Authority

The Authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Dated: October 12, 1990.

Bruce Blanchard,

Acting Director, Fish and Wildlife Service.

[FR Doc. 90-24225 Filed 10-17-90; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 55, No. 202
Thursday, October 18, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

October 12, 1990.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404–W Admin. Bldg., Washington, DC 20250, (202) 447–2118.

New Collection

• Forest Service, Communications Site Land Use Permit, FS–2700–4a, Annually. Individuals or households; State or local governments; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations; 8,417 responses; 7,267 hours; not applicable under 3504(h) Mark Scheibel, (202) 453–8358.

Correction From Previous Notice

• Foreign Agricultural Service, Licensing of Sugar Free From Quota, Submitted as an Emergency clearance instead of a Revision.

Donald E. Hulcher,

Acting Departmental Clearance Officer.

[FR Doc. 90–24529 Filed 10–17–90; 8:45 am]

BILLING CODE 3410–01–M

Federal Grain Inspection Service

Advisory Committee Meeting

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of the following committee meeting:

Name: Federal Grain Inspection Service Advisory Committee.

Date: November 8, 1990.

Place: Capitol Holiday Inn, 550 C Street, Southwest, Washington, DC 20024.

Time: 8:30 a.m.

Purpose: To provide advice to the Administrator of the Federal Grain Inspection Service with respect to the implementation of the U.S. Grain Standards Act.

The agenda includes (1) status of financial matters, (2) cost savings through automation, (3) Financial Subcommittee report, (4) international monitoring activities, (5) international standards activities, (6) moisture reference methods, (7) safety activities, and (7) Grain Quality Improvement Act task force report.

The meeting will be open to the public. Public participation will be limited to written statements unless otherwise requested by the Committee Chairman. Persons, other than members, who wish to address the Committee or submit written statements before or after the meeting should contact John C. Foltz Administrator, FGIS, U.S. Department of Agriculture, P.O. Box 96454, Washington, DC 20090–6454, telephone (202) 382–0219.

Dated: October 12, 1990.

D.R. Galliart,

Acting Administrator.

[FR Doc. 90–24603 Filed 10–17–90; 8:45 am]

BILLING CODE 3410–EN–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Automated Manufacturing Equipment Technical Advisory Committee; Closed Meeting

A meeting of the Automated Manufacturing Equipment Technical Advisory Committee will be held October 30, 1990, 9:30 a.m. in the Herbert C. Hoover Building, room 1629, 14th Street & Pennsylvania Avenue, NW., Washington, DC. The meeting is called on short notice due to the unanticipated results of recent negotiations of COCOM (Coordinating Committee for Multilateral Export Controls). The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to automated manufacturing equipment and related technology.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on January 5, 1990, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC 20230. For further information, contact Lee Ann Carpenter on (202) 377–2583.

Dated: October 11, 1990.

Betty A. Ferrell,

Director, Technical Advisory Committee Unit.

[FR Doc. 90–24526 Filed 10–17–90; 8:45 am]

BILLING CODE 3510–DT–M

Joint Meeting of the Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee and the Computer Systems Technical Advisory Committee; Notice of Closed Meeting

A joint meeting of the Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee (CPTAC) and the Computer Systems Technical Advisory Committee (CSTAC) will be held November 14, 1990, 9:30 a.m., in the Herbert C. Hoover Building, room 1628, 14th Street & Pennsylvania Avenue, NW., Washington, DC. The CPTAC advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to computer peripherals, components, and related test equipment or technology. The CSTAC advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to computer systems or technology.

The Committees will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on January 5, 1990, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC 20230. For further information, contact Lee Ann Carpenter on (202) 377–2583.

Dated: October 15, 1990.

Betty Anne Ferrell,

Director, Technical Advisory Unit.

[FR Doc. 90-24572 Filed 10-17-90; 8:45 am]

BILLING CODE 3510-07-M

Electronic Instrumentation Technical Advisory Committee; Notice of Closed Meeting

A meeting of the Electronic Instrumentation Technical Advisory Committee will be held November 15, 1990, 9 a.m., in the Herbert C. Hoover Building, room 1628, 14th Street & Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to electronics and related equipment and technology.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on January 5, 1990, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC 20230. For further information, contact Lee Ann Carpenter on (202) 377–2583.

Dated: October 15, 1990.

Betty Anne Ferrell,

Director, Technical Advisory Unit.

[FR Doc. 90-24571 Filed 10-17-90; 8:45 am]

BILLING CODE 3510-07-M

Transportation and Related Equipment Technical Advisory Committee; Closed Meeting

A meeting of the Transportation and Related Equipment Technical Advisory Committee will be held November 16, 1990, at 9:30 a.m., in the Herbert C. Hoover Building, room 1628, 14th Street and Constitution Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to transportation and related equipment or technology. The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 12, 1990, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC. For further information, call Ruth D. Fitts at 202–377–4959.

Dated: October 11, 1990.

Betty A. Ferrell,

Director, Technical Advisory Committee Unit, Office of Technology and Policy Analysis.

[FR Doc. 90-24527 Filed 10-17-90; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

[A-588-035]

Cadium from Japan; Determination Not To Revoke Antidumping Finding

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of determination not to revoke antidumping finding.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the antidumping finding on cadmium from Japan.

EFFECTIVE DATE: October 18, 1990.

FOR FURTHER INFORMATION CONTACT: Dennis U. Askey or John R. Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377–3601.

SUPPLEMENTARY INFORMATION:

Background

On August 2, 1990, the Department of Commerce (the Department) published in the Federal Register (55 FR 31419) its intent to revoke the antidumping finding on cadmium from Japan (37 FR 15760, August 4, 1972).

The Department may revoke an antidumping finding if the Secretary concludes that the finding is no longer of interest to interested parties. We had not received a request for an administrative review of this finding for the last four consecutive annual anniversary months and, therefore, published a notice of intent to revoke pursuant to section 19 CFR 353.25(d)(4) of the Department's regulations (19 CFR 353.25(d)(4)(1989)).

On August 31, 1990, the Zinc Corporation of America, an interested party, objected to our intent to revoke the finding. Therefore, we no longer intend to revoke the finding.

Dated: October 11, 1990.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 90-24522 Filed 10-17-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-020]

Titanium Sponge From Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On June 12, 1990, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on titanium sponge from Japan. The review covers three manufacturers, Osaka Titanium, Showa Denko K.K. and Toho Titanium, and their exports of Japanese titanium sponge to the United States for the periods November 1, 1986 through October 31, 1987, and November 1, 1987 through October 31, 1988.

We gave interested parties an opportunity to comment on our preliminary results. At the request of the petitioner and one respondent, we held a public hearing on July 26, 1990. Based on our analysis of the comments received, we have changed the final results from those presented in our preliminary results of review.

EFFECTIVE DATE: October 18, 1990.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill or Maureen Flannery, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On June 12, 1990, the Department of Commerce (the Department) published in the Federal Register (55 FR 23779) the preliminary results of its administrative review of the antidumping duty order on titanium sponge from Japan (49 FR 47053, November 30, 1984). We have now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature.

On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by this review are shipments of unwrought titanium sponge, which is a porous, brittle metal which has a high strength-to-weight ratio and is highly ductile. It is an intermediate product used to produce titanium ingots, slabs, billets, plates, and sheets. During the review period, such merchandise was classifiable under item 629.1420 of the Tariff Schedules of the United States Annotated ("TSUSA"). This merchandise is currently classifiable under HTS item 8108.10.50.10. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers three firms, Osaka Titanium (Osaka), Showa Denko K.K. (Showa) and Toho Titanium (Toho), and their exports of Japanese titanium sponge to the United States for the periods November 1, 1986 through October 31, 1987, and November 1, 1987 through October 31, 1988.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from the petitioner, RMI Company (RMI), and two respondents, Showa and Toho. At the request of petitioner and one respondent, we held a public hearing on July 26, 1990.

Comment 1

Petitioner contends that the Department erred in using Toho's dumping margin from the third administrative review as best information available (BIA) for Showa, because most of Toho's imports during the period of review were subject to a long-term contract entered into in 1986. If the rate for Showa must be based upon Toho's data, petitioner contends that the Department should disregard the shipments within the minimum quantity specified in the contract and calculate the BIA dumping margin for Showa based only on Toho's shipments which exceeded the minimum quantity during the period of review.

Department's Position

It is the Department's longstanding practice in conducting administrative reviews to use BIA when a firm fails to respond to the dumping questionnaire or submits an inadequate response. In such circumstances, it is also departmental practice to base BIA on the higher of the company's own previous rate or the highest rate calculated for a responding firm in the current review. Since Toho was the only responding firm, the Department used Toho's rate as the BIA rate for Showa during the third review. Once we apply BIA, we do not delve into whether the basis of the rate is comparable to the other company's experience. We determined that use of the Toho rate was consistent with past practice.

Comment 2

Petitioner claims that finance expenses calculated for the preliminary determination are understated because they are calculated on the basis of Showa's consolidated corporate-wide financing costs, sales and assets. Petitioner asserts that, in this case, the fungibility of money theory that underpins this calculation "ignores a fundamental precept of the Department's cost of production methodology—i.e., that cost calculations are to be based on actual costs."

Showa claims that the Department correctly calculated finance costs on a consolidated basis.

Department's Position

We agree with Showa that the calculation of finance expenses on a consolidated basis is appropriate. The Department recognizes the fungible nature of a corporation's capital structure, i.e., both debt and equity. Therefore, the actual cost of financing for Showa is the consolidated financing expenses of the corporation as a whole.

See Antifriction Bearings and Parts Thereof from the Federal Republic of Germany, 54 FR 19075, May 3, 1989, Comment 3. Accordingly, we have allocated finance expenses to each product based on the ratio of interest expenses to cost of sales (COS) shown in the consolidated Showa Denko K.K. financial statements.

Comment 3

Petitioner argues that by using eighteen months of cost of production (COP) data (July 1987 to December 1988) to develop material costs, the Department set a time frame which requires capture of other costs. Other reported costs included in the financial data for this period included write-downs and write-offs of titanium sponge assets.

Showa claims that the Department correctly excluded write-offs from cost of production calculations because they are "extraordinary items" which are not costs in the "normal course" of business. *Antifriction Bearings and Parts Thereof from the Federal Republic of Germany* and *Daewoo Electronics* v. *U.S.* Showa claims that if these write-offs are determined to be appropriately included, then they should be amortized over a number of years.

Department's Position

We disagree with Showa. Showa incurred losses as a result of building and equipment write-downs. Although these expenses may have been recorded on Showa's books after the period of review, generally accepted accounting principles (GAAP) recognize these expenses as being wholly allocable to the fiscal year in which they were incurred, not to a specific date. Therefore, the Department allocated a share of these expenses to the period of review on the basis of COS. The Department did not amortize the loss over future years because losses are expensed in the year when incurred, and the expense is not an asset which would provide any future benefit.

Contrary to Showa's claim, in *Antifriction Bearings and Parts Thereof from the Federal Republic of Germany*, the Department concluded that the respondent's restructuring expenses were not extraordinary.

Comment 4

Petitioner claims that the "pool" of G&A expenses included in the Department's SG&A expense calculation for Showa was understated.

Petitioner further argues that the Department must recalculate the SG&A expense burden using an allocation of SG&A expenses based on COS ratio rather than on quantity, value of sales, personnel, or assets ratios.

Showa claims that SG&A expenses as submitted are based on its accounting records which are kept in accordance with Japanese GAAP. Showa relies on Portable Electric Typewriters from Japan, 52 FR 1506, 1509, January 14, 1987, for its argument that the Department "accepts allocation methods reflected in the company's books as long as the books are kept in accordance with GAAP and do not distort actual costs."

Department's Position

We agree with Showa that the G&A expenses were appropriately quantified and allocated to titanium sponge operations. The G&A expenses included in the calculation were based on financial statement "Sales and Management" expenses reported for the three related companies. It is the Department's practice to accept allocation methods reflected in the company's books as long as the books are kept in accordance with GAAP and do not distort costs. The G&A expenses were allocated to the product on the basis of Showa Titanium's COS as reported in its financial statements. The G&A expenses included 100% of expenses incurred by Showa Titanium and a relative portion of G&A expenses incurred by Toyama Showa and Showa Denko which had been allocated to Showa Titanium in the normal course of business operations.

Comment 5

Toho claims that the Department incorrectly used the date of shipment as the date of sale for sales in the third and fourth reviews that were above the minimum quantities as set forth in Toho's contract. The Department should have used the date of delivery instructions as the date of sale for these transactions.

Toho further points out that the delivery instructions for the third review were submitted to the Department on August 22, 1988. For the fourth review, Toho indicated that the dates of the delivery instructions were not furnished because the Department did not request such information.

Department's Position

The Department has revised its analysis by using the date of delivery instructions as the date of sale for those sales over the minimum quantity set forth in the contract for the third and fourth administrative reviews. When Toho submitted its questionnaire response for the fourth administrative review, the Department had not published the final results of the second administrative review (54 FR 13403, April 3, 1989). In that review, the Department determined to use Toho's long-term contract date as the date of sale for the minimum quantity set forth in the contract, and the delivery instructions date as the date of sale for the sales that exceeded the minimum quantity. Because Toho did not know how the Department would resolve the issue regarding date of sale at the time it submitted its questionnaire response, Toho did not know that it should provide the date of delivery instructions. We requested dates of delivery instructions for the third administrative review, but failed to request such information for the fourth administrative review. As a result, for the fourth review, the Department has used the date of delivery instructions, which Toho submitted in its pre-hearing brief, as the date of sale for sales exceeding the minimum contract quantity.

Comment 6

Toho contends that the Department double-counted Toho's SG&A in its calculation of the cost of production for the COP viability test in the fourth administrative review. On sales through Mitsui, the Department included in the COP the sum of Toho's indirect selling expenses and Mitsui's indirect selling expenses, even though Toho's indirect selling expenses had already been separately included in the COP.

Department's Position

We agree. Accordingly, we have revised our calculations to avoid the double-counting of Toho's indirect selling expenses.

Comment 7

Toho claims that the Department overstated research and development (R&D) costs by including product-specific R&D for products other than titanium sponge. Toho further claims that the R&D costs relating to titanium sponge have been classified in Toho's factory overhead accounts since July 1, 1987.

Petitioner claims that excluding general R&D reported in Toho's SG&A accounts would artificially lower the cost of producing titanium sponge.

Department's Position

We agree with petitioner. The Department captured a portion of general R&D, in addition to product-specific R&D, in the calculation of cost for constructed value. Toho's reclassification of titanium sponge R&D costs to factory overhead does not preclude the capture of a portion of

general R&D costs for the calculation of constructed value.

In its pre-hearing brief, Toho explained that the R&D included as part of SG&A relates partially to general R&D and partially to product-specific R&D for non-titanium products. Toho also provided details of the organization of the R&D department. This information would have been necessary were we to exclude some R&D costs in calculating the constructed value. However, because those data were presented for the first time in the pre-hearing brief, it constituted new information submitted after the applicable deadline and could not be used in the final results of review. *See* 19 CFR 353.31(a)(ii). No other data on R&D were submitted by Toho prior to submission of the pre-hearing brief. Therefore, we did not use this information.

Comment 8

Toho claims that the long-term financing expense should be allocated based on fixed asset values for the machinery and equipment used in the production of titanium sponge.

The petitioner claims that if Toho's view prevails, the Department should establish a uniform method for allocating financing expenses within the titanium sponge industry. This method should reflect the realities of the industry and should be applied to both Toho and Showa.

Department's Position

We disagree with Toho. The Department considers financing expenses to be general expenses of the company, not expenses specific to the product. Unless there are unusual circumstances in the corporation's organization, the financing expense should be allocated over all production operations of the company. Therefore, we have allocated such expenses based on COS.

Comment 9

Toho claims that the Department should include notes receivable with the accounts receivable for the calculation of the offset to interest expense, using evidence set forth in its responses of May 30, 1989 and August 18, 1989.

Department's Position

We disagree. The Department determined that information submitted in Toho's May 30, 1989 and August 18, 1989 responses did not provide sufficient detail as to specific customers, balances of notes receivable at the end of Toho's fiscal year. Lacking specific data regarding the composition of notes receivable, the Department was unable to include any amounts for notes receivable in the calculation of the financing expense offset. Certain data presented in Toho's brief regarding the makeup of notes payable were not available before the preliminary results of review and constitutes information that was untimely submitted and may not be used in the final results of review. *See* 19 CFR 353.31(a)(ii).

Comment 10

Showa argues that the Department erred in recalculating material input costs to account for beginning inventories for magnesium, magnesium dichloride, LPG, recycled magnesium dichloride and scrap. Showa claims that the inventory values reported in its response are weighted-average inventory values calculated on a monthly basis which include the beginning inventory values plus purchases for each month.

Department's Position

We disagree with Showa. Although Showa claims to use a "rolling weighted average" in its November 1988 response, the calculations in the "Inventory and Internal Production Schedule" do not reflect a rolling weighted average, because the beginning inventory values for materials were not included in the weighted average calculations. The Department recalculated the material costs to include the beginning inventory values in the weighted-average calculation.

Comment 11

Showa claims that the Department erred in recalculating Showa's credit expense against material input costs because it failed to recognize that the scrap and magnesium dichloride produced are later sold or used in the production process.

Petitioner asserts that the Department should deny an offset to the cost of producing titanium sponge for magnesium dichloride which was neither resold nor reused during the period.

Department's Position

We disagree with Showa. The offset for magnesium dichloride has been calculated using the full amount of magnesium dichloride produced, because it is routinely used further in the production of titanium sponge. However, the scrap component of the credit expense has been calculated using only the amount of scrap actually sold, because there is no guarantee that the scrap will be disposed of, and revenue earned, until it is actually sold.

Additionally, the credit against material input costs has been recalculated to exclude the credit relating to disposal of titanium tetrachloride. Because titanium tetrachloride is an intermediate product, and not a by-product, the cost of producing titanium sponge should not be reduced by revenue earned from sales of excess titanium tetrachloride. *See Titanium Sponge from Japan*, 49 FR 39688, October 1, 1984, Comment 5.

Comment 12

Showa claims that the Department should allocate the scrap credit to titanium sponge sales only, because the scrap is produced in the final production stages.

Department's Position

We agree with Showa. The Department has recalculated the credit expense for scrap, attributing all revenue from the sales of scrap to the cost of titanium sponge rather than to sales of titanium tetrachloride and magnesium dichloride. The Department has no reason to believe that scrap is produced other than in the final stages of the production process.

Final Results of the Review

As a result of the comments received, we have determined that the following margins exist:

Manufacturer/ Exporter	Period of review	Margin (percent)
Osaka Titanium/ Sumitomo	11/01/86–10/31/87	[1] 0
	11/01/87–10/31/88	[1] 0
Showa Titanium/ Showa Denko K.K.	11/01/86–10/31/87	2.07
	11/01/87–10/31/88	8.26
Toho Titanium/ Mitsui	11/01/86–10/31/87	2.07
	11/01/87–10/31/88	16.39

[1] No shipments during the period; rate is from the last review in which there were shipments.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above for Toho Titanium/Mitsui and Showa Titanium/Showa Denko K.K. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for in section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties shall be required on entries of this merchandise from Toho and Showa based on the

above margins. Since the dumping margin for Osaka for the November 1, 1987 through October 31, 1988 period is zero, no cash deposit shall be required on entries of this merchandise from that firm.

For any future entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after October 31, 1988, and who is unrelated to any reviewed firm or any previously reviewed firm, a cash deposit of 18.39 percent shall be required. These cash deposit requirements and waiver are effective for all shipments of Japanese titanium sponge entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22 of the Department's regulations (19 CFR 353.22).

Dated: October 9, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90-24520 Filed 10-17-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-[illegible]]

Certain Welded Carbon Steel Pipe and Tube Products From Turkey; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On March 29, 1990, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on certain welded carbon steel pipe and tube products from Turkey. The review covers one manufacturer/exporter of this merchandise to the United States, Borusan, and the period May 1, 1987 through April 30, 1988.

We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have changed the preliminary results.

EFFECTIVE DATE: October 18, 1990.

FOR FURTHER INFORMATION CONTACT: Dennis U. Askey or John R. Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923/3601.

SUPPLEMENTARY INFORMATION:

Background

On March 29, 1990, the Department of Commerce (the Department) published in the **Federal Register** (55 FR 11633) the preliminary results of its administrative review of the antidumping duty order on certain welded carbon steel pipe and tube products from Turkey. We have now completed that review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).

Imports covered by this review are shipments of certain welded carbon steel pipe and tube products with an outside diameter of 0.375 inches or more but not over 16 inches, of any wall thickness, classifiable during this review period under Tariff Schedules of the United States Annotated (TSUSA) items 610.3231, 610.3234, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258, and 610.4925. These items are currently classifiable under Harmonized Tariff Schedule (HTS) item numbers 7306.30.50 and 7306.30.10. These products, commonly referred to in the industry as standard pipe or tube, are produced to various American Society for Testing and Materials (ASTM) specifications, most notably A-120, A-53, or A-135. The TSUSA and HTS item numbers are provided for convenience and for Customs purposes. The written description remains dispositive.

This review covers one manufacturer/exporter to the United States of certain Turkish standard welded carbon steel pipes and tubes, Borusan, and the period May 1, 1987 through April 30, 1988.

Analysis of Comments Received

Comment 1:

Borusan contends that the Department should have accepted its weighted-average methodology for duty drawback for the entire period of review, and, therefore, erred in using best information available (BIA) rather than Borusan's claimed amount. The Department approved the use of weighted-average duty drawback amounts in the original investigation and in the last administrative review. During the period of this review, however, the duty on hot-rolled steel coil was abolished pursuant to an export incentive license issued on May 21, 1987, three weeks into the review period. Borusan argues that, since the Department did not explicitly request additional information concerning these changes, it is not justified in stating that Borusan failed to provide that information.

The petitioner observes that, based on the substantial legal and factual changes that occurred in Turkey during this review period, the respondent should have incorporated adequate data in its response to reflect these changes. Borusan should not have assumed that the Department would use the same methodology used in prior reviews.

Department's Position:

We agree with the petitioner. Contrary to Borusan's assertion that we never requested the information, in our questionnaire we specifically requested all information supporting all claimed adjustments. A respondent cannot rely on data submitted in prior reviews to support a claimed adjustment in a current review; rather, it has an affirmative responsibility to provide information supporting each requested adjustment. We note that Borusan did provide us with the additional information to support this claim after publication of the preliminary results of our review. However, because the information was untimely submitted we have not considered it in these final results. As BIA we used the weighted-average methodology used in the last review for U.S. sales prior to May 21, 1987. (*See Final Results of Administrative Review; Certain Standard Welded Carbon Steel Pipes and Tubes from Turkey* (53 FR 39632, October 11, 1988.)

Comment 2:

Borusan asserts the Department should have made an adjustment for taxes and duties paid on imported zinc over the entire period of review, since such zinc was not subject to an export incentive license. Since zinc is used to manufacture galvanized steel pipe, Borusan argues that the Department should grant an adjustment for the duties paid on imported zinc used to manufacture these pipes. Although the tax was reduced substantially early in the review period, a portion of the HIF tax remained in force on both hot-rolled coil and zinc from May 20, 1987 through the end of the period of review.

Department's Position:

We agree and have adjusted our calculations accordingly.

Comment 3:

According to the respondent, the Department's denial of Borusan's claimed adjustment for the guarantee fee expense for U.S. sales made after May 21, 1987, is an error because the fee

remained in effect during the entire period of review. Borusan argues that the Department should grant this pro-rated weight-averaged adjustment as either a duty drawback expense or a circumstance-of-sale adjustment.

The petitioner counters that the Department was correct in denying Borusan's claimed adjustment for guarantee fee expenses because Borusan failed to furnish the Department with adequate documentation to support this claim.

Department's Position:

We agree with the respondent. We are satisfied that the guarantee fee was in effect during the entire period of review. Therefore, this constitutes a difference in circumstances of sale, and we adjusted FMV for this expense using the weighted-average duty drawback methodology used in the last review, since this is a reasonable allocation method.

Comment 4:

Borusan states that the Department, as a result of clerical error, failed to grant its claim for late payment credit expenses incurred in the home market. The petitioner argues that late payment costs are not a difference in circumstances of sale, because late payments can have no effect on a price which is set according to credit terms determined at the time of sale. Borusan has not attempted to show that late payment credit costs were a factor in its pricing decisions, and under the statute the adjustment should be denied.

Department's Position:

We agree with the respondent. In the *Final Results of Administrative Review; Certain Welded Carbon Steel Pipe and Tube Products From Turkey* (53 FR 39632, October 11, 1988), Department's Position on Comment #3, we stated: "We consider late payment credit costs as direct expenses, in keeping with past Departmental practice (*see Certain Tapered Journal Roller Bearings and Parts Thereof from Italy* (49 FR 2278, January 19, 1984)). In making a circumstance-of-sale adjustment for differences in credit expenses, we consider the actual difference in payment experience, including late payment costs, in the two markets, and not merely the offered terms of payment because the offered terms do not necessarily reflect the actual payment experience." Accordingly, we have adjusted FMV for this expense in this review.

Comment 5:

The petitioner urges the Department to disregard the related-party home market sales because the sales were not at arm's length. The petitioner also requests that the Department explain the test it uses in deciding whether or not to disregard related-party sales.

Borusan and the petitioner agree that the Department's exclusion of sales to unrelated parties was due to clerical error.

Borusan argues that there is no evidence on record to justify the exclusion of related-party sales. If the Department nevertheless excludes related-party sales, the Department has not disclosed what standards it relies on in determining whether or not to consider related-party sales.

Department's Position:

In the preliminary results we excluded unrelated-party sales due to a programming error. We have corrected the error and have revised our calculations to include unrelated-party sales.

We disagree with Borusan that no evidence exists in the record to exclude related-party sales. The Department will ordinarily only consider related-party sales if it is satisfied that the price is comparable to the price at which such or similar merchandise is sold to unrelated parties (19 CFR 353.45 (a)). When we reviewed Borusan's related-party and unrelated-party home market sales data, we determined that for similar quantities of merchandise, the prices to related parties were often inexplicably lower than prices to unrelated parties. Therefore, we were not satisfied that sales to related parties were made at arm's length, and thus we disregarded those sales for comparison purposes.

Comment 6:

Borusan states that the Department incorrectly adjusted for Borusan's claimed difference in merchandise, which involved differences between U.S. plain-end pipes and home market threaded and coupled pipes.

Department's Position:

We agree. We have made this difference-in-merchandise adjustment, as requested by Borusan. However, where no difference-in-merchandise amount was provided, we made no adjustment.

Comment 7:

The petitioner and Borusan assert that the Department failed to include data bases that contained additional U.S. sales.

Department's Position:

We agree and have included these in our calculations.

Comment 8:

The petitioner notes that although the Department correctly made an upward adjustment for countervailing duties paid, it failed to make a downward adjustment to USP for the rebate that Borusan was providing to importers, as was done in the prior review. The petitioner urges that the Department make this adjustment to compensate for this rebate or reimbursement to importers. The petitioner reasons that the respondent does not receive the same return on sales to the United States as it receives on sales in its home market, because the exporter in effect remits the subsidy to the importer through the rebate.

The respondent counters that making this adjustment would be inconsistent with Article VI of the General Agreement on Tariffs and Trade (GATT), which provides that:

> No product of the territory of any contracting party shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization.

Department's Position:

As in the last review, we agree with the petitioner and have made the adjustment for the rebate. Borusan has an agreement with its importers wherein it refunds to the importers the amount of the estimated CVD that the importer paid. Borusan's agreement to reimburse the importer for the CVD is tantamount to a rebate or a reduction in the U.S. sales price, and the corresponding adjustment is appropriate.

The GATT provision referred to by Borusan would apply only if we failed to adjust USP by the amount of the CVD in accordance with section 772(d)(1)(D) of the Tariff Act, thus subjecting the respondent to CVD and, in failing to make the adjustment, subjecting the respondent to antidumping duties for the same situation. Such is not the case in this review. We made an appropriate upward adjustment for the amount of the CVD. We then made a corresponding downward adjustment for the rebate Borusan provides to the importer. The rebate just happens to be fixed by Borusan at the amount of the estimated CVD.

Comment 9:

The petitioner urges the Department to include sales of BS 1387L pipe in its model-match comparisons. BS 1387L pipe is commonly known in the industry

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as "standard pipe," notwithstanding the specifications under which it is produced. The Department should consider this product as such or similar to the U.S. merchandise and should include it in its comparisons.

The respondent urges the Department to continue to use DIN 2440 pipe instead of BS 1387L pipe, because the former is more similar to ASTM A–120 Sch. 40 pipe sold in the U.S. market than is the latter. DIN 2440 pipe has a wall thickness of 2.65 mm, while BS 1387L pipe has a wall thickness of 2.0 mm. The ASTM A–120 Sch. 40 pipe sold to the United States has a wall thickness of 2.77 mm. All other dimensions, except length, are approximately the same. Length is not a significant factor for purposes of computing costs on a per-ton basis. Obviously the wall thickness of the DIN 2440 pipe is closer to the wall thickness of ASTM A–120 Sch. 40 pipe than is that of BS 1387L pipe.

Department's Position:

We consider the DIN 2440 pipe to be more similar to ASTM A–120 Sch. 40 pipe than is BS 1387L pipe because its wall thickness is more similar to the U.S. product than is that of the BS 1387L pipe.

Further, we agree with the respondent that length is not a factor when sales are made on a per-ton basis. Therefore, we used DIN 2440 pipe for comparison to the ASTM A–120 Sch. 40 pipe sold to the United States.

Final Results of the Review

As a result of the comments received, we have revised our preliminary results and the final margin is:

Manufacturer	Time period	Margin (percent)
Borusan	5/1/87–4/30/88	3.00

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between the U.S. price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for in section 751(a) of the Tariff Act, a cash deposit of estimated antidumping duties of 3.00 percent shall be required for Borusan. For any shipments of this merchandise manufactured or exported by the remaining known manufacturers and/or exporters not covered in this review, the cash deposit will continue to be at the rates published for these firms in the final results of the last review (56 FR 39832, October 1, 1988). For any future entries of this merchandise from a new exporter, not covered in this or prior reviews, whose first shipments occurred after April 30, 1988, and who is unrelated to the reviewed firm or any previously reviewed firm, a cash deposit of 3.00 percent shall be required. We note that this is in addition to any required cash deposits of estimated countervailing duties. These deposit requirements are effective for all shipments of certain Turkish welded carbon steel pipe and tube products entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: October 9, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-24521 Filed 10-17-90; 8:45 am]

BILLING CODE 3510-DS-M

[C–201–008]

Iron-Metal Construction Castings From Mexico; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On July 13, 1990, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on iron-metal construction castings from Mexico. We have now completed that review and determine the total bounty or grant during the period January 1, 1986 through August 23, 1986 to be 0.06 percent *ad valorem*. In accordance with 19 CFR 355.7, any rate less than 0.50 percent *ad valorem* is *de minimis*.

EFFECTIVE DATE: October 18, 1990.

FOR FURTHER INFORMATION CONTACT: Laurie Goldman or Paul McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On July 13, 1990, the Department of Commerce (the Department) published in the Federal Register (55 FR 28797) the preliminary results of its administrative review of the countervailing duty order on iron-metal construction castings from Mexico (48 FR 8834; March 2, 1983). On September 27, 1990 the Department revoked the countervailing duty order on iron-metal construction castings from Mexico effective August 24, 1986 (55 FR 39498). The Department has now completed its administrative review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).

Scope of Review

Imports covered by this review are shipments of Mexican iron-metal construction castings (castings), including manhole covers, rings and frames, cleanout covers and grates, meter boxes and valve boxes. These castings are commonly called municipal or public works castings. During the review period, such merchandise was classifiable under item numbers 657.0950, 657.0990, 657.2540 and 657.2550 of the *Tariff Schedules of the United States Annotated*. This merchandise is currently classifiable under item numbers 7325.10.0010 and 7325.10.0050 of the *Harmonized Tariff Schedule* (HTS). The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

As a result of the revocation of this countervailing duty order, the review covers only the period from January 1, 1986 through August 23, 1986. We reviewed the following fourteen programs: (1) FOMEX; (2) FOGAIN; (3) Article 15 loans; (4) Certificates of Fiscal Promotion (CEPROFI); (5) delay of payments on loans; (6) Fund for Industrial Development (FONEI); (7) Certificado de Devolucion de Impuestos (CEDI); (8) NDP preferential discounts; (9) Bancomext loans; (10) FOMIN; (11) FIDEIN; (12) state tax incentives; (13) Import duty reductions and exemptions; and (14) delay of payments to PEMEX of fuel charges.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received no comments.

Final Results of Review

As a result of our review, we determine the total bounty or grant to be 0.06 percent *ad valorem* for the period January 1, 1986 through August 23, 1986. In accordance with 19 CFR 355.7, any rate less than 0.50 percent *ad valorem* is *de minimis*.

Therefore, the Department will instruct the Customs Service to liquidate, without regard to countervailing duties, all shipments of this merchandise exported on or after

January 1, 1986 and entered, or withdrawn from warehouse, for consumption on or before August 23, 1986.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: October 10, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90-24525 Filed 10-17-90; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificates of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of issuance of an Export Trade Certification of Review, Application No. 90-00011.

SUMMARY: The Department of Commerce, has issued an Export Trade Certificate of Review to Strand International, Inc. (SI). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing title III are found at 15 CFR part 325 (1990) (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade:

Products

Medical supplies, including latex examination gloves and computer software.

Services

Hotel and food/beverage outlet management, hospitality consulting, and hospitality recruiting.

Export Markets:

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation:

To engage in Export Trade in the Export Markets, SI may:

1. Enter into exclusive agreements with Suppliers for the export of Products and/or Services to the Export Markets. "Exclusive" means that SI may agree not to act as an Export Intermediary for anyone other than that Supplier without that Supplier's authorization, and that Supplier may agree not to otherwise sell, directly or indirectly, into Export Markets in which SI serves that Supplier.

2. Enter into exclusive agreements with Export Intermediaries for the export of Products and/or Services to the Export Markets. "Exclusive" means that SI may agree to deal in Products and/or Services in Export Markets only through that Export Intermediary, and that Export Intermediary may agree not to represent anyone other than SI in the sale of Products and/or Services in Export Markets.

3. Establish the price of Products and/or Services for sale in the Export Markets.

A copy of the Certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, room 4102, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230.

Dated: October 10, 1990.

George Muller,

Director, Office of Export Trading, Company Affairs.

[FR Doc. 90-24519 Filed 10-17-90; 8:45 am]

BILLING CODE 3510-DR-M

Short-Supply Review: Certain Type 409 CB Welding Quality Stainless Steel Wire Rod

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice of short-supply review and request for comments; certain type 409 CB welding quality stainless steel wire rod.

SUMMARY: The Secretary of Commerce ("Secretary") hereby announces a review and request for comments on a short-supply request for 245 metric tons of certain Type 409 CB welding quality stainless steel wire rod for the fourth quarter of 1990 and the first quarter of 1991 under Article 8 of the U.S.-EC steel arrangement and Paragraph 8 of the U.S.-Japan steel arrangement.

SHORT-SUPPLY REVIEW NUMBER: 25.

SUPPLEMENTARY INFORMATION: Pursuant to section 4(b)(3)(B) of the Steel Trade Liberalization Program Implementation Act, Public Law No. 101-221, 103 Stat. 1886 (1989) ("the Act"), and § 357.104(b) of the Department of Commerce's Short-Supply Regulations (19 CFR 357.104(b)), the Secretary hereby announces that a short-supply determination is under review with respect to certain Type 409 CB welding quality stainless steel wire rod used in the automotive industry for exhaust systems. On October 9, 1990, the Secretary received an adequate petition from National-Standard Company ("National-Standard") requesting a short-supply allowance for 245 metric tons of this product for the fourth quarter of 1990 and the first quarter of 1991 under Article 8 of the Arrangement Between the European Coal and Steel Community and the European Economic Community, and the Government of the United States of America Concerning Trade in Certain Steel Products and Paragraph 8 of the Arrangement Between the Government of Japan and the Government of the United States of America Concerning Trade in Certain Steel Products. National-Standard requested short supply due to both the inability of the potential domestic supplier to produce material meeting its specifications and the unavailability of export licenses for National-Standard's foreign suppliers.

The requested material meets the following specifications:

1. *Chemistry:*

	Range	Aim
Carbon	0.08 Max.	Low.
Manganese	0.45-0.75 Max.	0.55-0.75.
Phosphorus	0.020 Max.	
Sulfur	0.020 Max.	
Silicon	0.45-0.75 Max.	0.55-0.75.
Nickel	0.50 Max.	
Chromium	11.00-12.00	
Molybdenum	0.50 Max.	Low.
Iron	Balance	
Copper	0.25 Max.	Low.
Aluminum	0.10 Max.	

	Range	Aim
Columbium	100C Min./.60 Max.	
Co+Ti+V=< 0.50		

2. *Size:* 0.218 inch (5.5mm) Diameter.
3. *Size Tolerance:* ±0.008 inch (0.20mm).
4. *Condition:* Hot-rolled, annealed and pickled rod for redraw.
5. *Tensile:* 70,000 PSI Max.
6. *Reduction:* 75% Min.
7. *Inclusions:* #3 Heavy Max.
8. *Grain Size:* Aim ASTM 4 to 7.
9. *Ovality:* 0.011 inch (0.28mm) Max.
10. *Surface:*

Individual surface imperfections: 0.006 inch (0.152mm) max.
Cumulative surface imperfections: 0.012 inch (0.305mm) max.

11. *Metallurgical Structure:* Tensile and Reduction—Average results on 10% sample. (Minimum 2 samples).

Section 4(b)(4)(B)(ii) of the Act and 357.106(b)(2) of Commerce's Short-Supply Regulations require the Secretary to make a determination with respect to a short-supply petition not later than the 30th day after the petition is filed, unless the Secretary finds that one of the following conditions exists: (1) The raw steelmaking capacity utilization in the United States equals or exceeds 90 percent; (2) the importation of additional quantities of the requested steel product was authorized by the Secretary during each of the two immediately preceding years; or (3) the requested steel product is not produced in the United States. The Secretary finds that none of these conditions exist with respect to the requested product, and therefore, the Secretary will determine whether this product is in short supply not later than November 8, 1990.

Comments: Interested parties wishing to comment upon this review must send written comments not later than October 25, 1990 to the Secretary of Commerce, Attention: Import Administration, room 7866, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW., Washington, DC. 20230. Interested parties may file replies to any comments submitted. All replies must be filed not later than 5 days after October 25, 1990. All documents submitted to the Secretary shall be accompanied by four copies. Interested parties shall certify that the factual information contained in any submission they make is accurate and complete to the best of their knowledge.

Any person who submits information in connection with a short-supply review may designate that information, or any part thereof, as proprietary, thereby requesting that the Secretary treat that information as proprietary. Information that the Secretary designates as proprietary will not be disclosed to any person (other than officers or employees of the United States Government who are directly concerned with the short-supply determination) without the consent of the submitter unless disclosure is ordered by a court of competent jurisdiction.

Each submission of proprietary information shall be accompanied by a full public summary or approximated presentation of all proprietary information which will be placed in the public record. All comments concerning this review must reference the above noted short-supply review number.

FOR FURTHER INFORMATION CONTACT: Millie Mack or Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, room 7866, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230, (202) 377-1395 or (202) 377-0159.

Dated: October 10, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90-24523 Filed 10-17-90; 8:45 am]

BILLING CODE 3510-DS-M

University of Wisconsin—Madison; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This is a decision pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4204, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Decision: Denied. Applicant has failed to establish that domestic instruments of equivalent scientific value to the foreign instrument for the intended purposes are not available.

Reasons: Section 301.5(e)(4) of the regulations requires the denial of applications that have been denied without prejudice to resubmission if they are not resubmitted within the specified time period. This is the case for the docket below.

Docket Number: 89-255.

Applicant: University of Wisconsin—Madison, Department of Anthropology, Madison, WI 53706.

Instrument: Mass Spectrometer, Model 251EM and Accessories.

Manufacturer: Finnigan Corporation, West Germany.

Date of Denial Without Prejudice to Resubmission: June 29, 1990.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 90-24524 Filed 10-17-90; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Notice of Proposed Boundary Change for the Narragansett Bay National Estuarine Research Reserve

Notice is hereby given that the Marine and Estuarine Management Division, Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, is considering the State of Rhode Island's request to expand the boundary of the Narragansett Bay National Estuarine Research Reserve (Reserve).

The Reserve was designated in 1980 pursuant to section 315 of the Coastal Zone Management Act of 1972, as amended. The Reserve currently includes 1,035 acres of land on Prudence, Patience and Hope Islands and 1,591 acres of water adjoining the islands out to the 18-foot isobath. The land area includes 737 acres on Prudence Island, 204 acres on Patience Island and 94 acres of Hope Island.

The State of Rhode Island requests NOAA approval to expand the Reserve's boundary on Prudence Island to include two parcels commonly known as the Barre and Little properties. The Barre property, owned by the State of Rhode Island, includes approximately 47 acres which is half of the Nag Creek salt marsh system, and the adjacent uplands (115 acres), providing a protective buffer for the tidal wetlands. The Little property, recently purchased by The Nature Conservancy, includes approximately 60 acres and has more than 800 feet of shoreline along the western side of Prudence Island and an extensive salt marsh and adjacent upland.

Any person wishing to comment on the proposed boundary expansion may forward written comments to Ms. Susan Durden, Manager, Atlantic and Great Lakes Region, Marine and Estuarine Management Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric

Administration, 1825 Connecticut Avenue, NW., suite 714, Washington, DC 20235. Comments must be submitted no later than thirty calendar days from issuance of this notice.

Federal Domestic Assistance Catalog Number 11.420, Coastal Zone Management Estuarine Sanctuaries

Dated: October 5, 1990.

Virginia K. Tippie,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 90-24586 Filed 10-17-90; 8:45 am]

BILLING CODE 3510-08-M

[Docket No. 900848-0248]

Taking and Importing of Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of proposed determination to accept an alternative international observer program.

SUMMARY: The Under Secretary for Oceans and Atmosphere proposes to modify the current determination for the international observer program which is administered by the Inter-American Tropical Tuna Commission (IATTC) on behalf of Ecuador, Mexico, Panama, Vanuatu, Venezuela, and any subsequent harvesting nation which applies to NOAA for a yellowfin tuna importation finding. The Under Secretary proposes to find that the international program is acceptable at a level of 75 percent observer coverage for fishing trips in 1991 and proposes to increase the required level of observer coverage to 90 percent for fishing trips of nations in 1992 and for subsequent fishing seasons. This level of observer coverage will provide sufficiently reliable documentary evidence of the average dolphin mortality rate for each participating harvesting nation.

DATES: This proposed determination is effective January 1, 1991. Comments on this proposed determination are invited and must be postmarked on or before December 17, 1990.

ADDRESSES: Comments may be mailed to E.C. Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, room 2005, Terminal Island, CA 90731.

FOR FURTHER INFORMATION CONTACT: E.C. Fullerton, Regional Director, or J. Gary Smith, Deputy Regional Director, Southwest Region, NMFS, at (213) 514-6196.

SUPPLEMENTARY INFORMATION: In the 1988 reauthorization of the Marine Mammal Protection Act (MMPA), the U.S. Congress amended the Act to add new importation requirements for nations exporting to the United States yellowfin tuna that were caught with purse seine nets in the eastern tropical Pacific Ocean (ETP). The amendments, among other things, required that the rate of incidental mortality be monitored by observers under the IATTC dolphin program or an equivalent international program in which the United States participates and which achieves an observer coverage rate no less than that achieved by the U.S. fleet. Congress, however, provided that the Secretary of Commerce may approve an alternate observer program 60 days after publishing the alternate proposal in the Federal Register along with the reasons it will provide sufficiently reliable documentary evidence of the average marine mammal mortality rate by each harvesting nation.

On May 10, 1989, NMFS published in the Federal Register (54 FR 20171) a proposed determination that, for the 1989 fishing year, 33 percent coverage of a harvesting nation's purse seine fleet's fishing trips during the year by IATTC observers would provide sufficiently reliable estimates of the average dolphin mortality rates of those fleets. That notice described fully the domestic and international observer programs. The proposed determination became effective on July 10, 1989. NMFS accepted 33 percent observer coverage for 1989 because, in general, that level produced a mortality rate estimate with a coefficient of variation (a measure of the estimate's precision) that is similar to that of the U.S. dolphin mortality rate during recent years.

In a legal challenge to the May 10, 1989, approval of an alternative foreign observer program with less than 100 percent coverage for 1989, the Federal District Court for the Northern District of California ruled that the Secretary of Commerce has the discretion to accept an alternative observer program as long as the program provides sufficiently reliable documentary evidence of the average rate of the incidental taking of dolphin.

Following further review of observer data and considering the more stringent mortality rate standard of 1.25 times the U.S. rate to be applied to the observer data collected on foreign fleets in 1990 and beyond, NMFS statisticians reexamined the foreign observer coverage requirements and the statistical methods used in the 1989 determination to determine comparability of mortality rates.

The proposed notice of determination for the 1990 fishing season, published on December 19, 1989 (54 FR 51918), differed from the previous determination for 1989 by requiring 50 percent observer coverage for fishing trips for any nation with five to nine vessels. The coverage requirements for nations with 1 or more vessels was not changed. The notice also proposed that the number of dolphins killed-per-set be used as the kill rate standard instead of kill-per-ton and comments were requested on the method to be used for comparing U.S. and foreign dolphin mortality rates. A notice of final determination adopting these provisions and the direct method for determining comparability was published in the Federal Register on August 2, 1990 (55 FR 31420).

The determination now under consideration proposes to achieve observer coverage as near to 100 percent as practicable by establishing a standard of 90 percent coverage in recognition that situations may exist whereby nations may not be able to place observers on every departing trip. A standard of 75 percent coverage is proposed for the 1991 fishing year to provide a reasonable time for the IATTC to recruit and train the personnel necessary to implement an expanded international observer program and to complete the necessary institutional and funding arrangements with participating nations. The 90 percent standard is intended to apply to the 1992 and subsequent fishing seasons.

Achieving Full Observer Coverage

The concept of an alternate observer program is that sufficiently reliable estimates of dolphin mortality can be obtained from observer coverage of less than 100 percent. NMFS statisticians have determined that reliable estimates of observed dolphin mortality can be obtained from observer coverage as low as 33 percent, regardless of fleet size. This finding is made in the absence of a quantifiable means of accounting for the "observer effect" and is based on the assumption that the unobserved mortality is the same as the mortality from observed vessels. It is believed, however, that the "observer effect" results in mortality on observed vessels that is less than those on unobserved vessels under certain circumstances.

Although observer coverage of 33 percent may be statistically acceptable, there are several benefits from a higher level of coverage. First, the larger observer coverage improves the accuracy and precision of the overall estimates of the mortality rates by reducing the uncertainty due to any "observer effect." Observer coverage closer to the 100 percent level provides a more accurate basis to determine

whether or not no more than 15 percent eastern spinner or no more than 2 percent of coastal spotted dolphin are taken annually. It also makes more data available to foreign governments and industry that is necessary for the most effective implementation of their skipper performance system and enforcement programs that were required in the 1988 amendments and import findings under the MMPA.

On April 12, 1990, the three largest U.S. tuna canners announced they would no longer purchase tuna caught in association with dolphin. The implementation of this policy directly affects the ability of the IATTC to estimate total dolphin mortality for the international fleet. In this instance, only catches of yellowfin tuna on trips where observers can certify that no dolphin sets were made will be purchased by U.S. canners. Without observers on enough vessels which set on dolphins, a sufficient number of dolphin sets will not be observed to make reliable estimates of total dolphin mortality.

An expanded international observer program will require time to implement and resources that are not presently available. The IATTC estimates that an additional $1.2 million will be necessary to implement a 90 percent observer program. It also estimates that it would take about 8 months to achieve the required level of observer coverage for all participating nations as additional qualified technicians and staff must be recruited and trained. Presently, sources of funding have not been identified to initiate an expanded program.

The options for an expanded international dolphin conservation program were discussed during a special meeting of the IATTC and a subsequent intergovernmental meeting held in San Jose, Costa Rica, September 17–20, 1990. Participants agreed that 100 percent observer coverage was a necessary element of the program. Other important elements will include: Limits on dolphin mortality, international quotas, and areas for additional research on dolphin stocks and fishing methods. The details of the program elements and mechanisms for participating nations, industry, and other institutional sources to implement and fund the international program will be discussed at another intergovernmental meeting to be held no later than February 1991.

Determination

The Under Secretary for Oceans and Atmosphere, NOAA, proposes to continue to accept an alternate foreign observer program for the 1991 fishing season and subsequent calendar years. The proposed determination announces a goal of 100 percent observer coverage but establishes a standard of 75 percent coverage for the 1991 fishing season and 90 percent coverage in subsequent years. This determination is based on a finding that the Inter-American Tropical Tuna Commission's observer program will provide sufficiently reliable documentary evidence of the average rate of dolphin mortality by a harvesting nation if the observer coverage for a nation is between 75 and 90 percent of the fishing trips.

Dated: October 12, 1990.

William W. Fox, Jr.

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 90-24530 Filed 10-17-90; 8:45 am]

BILLING CODE 3510-22-M

Taking and Importing of Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice.

SUMMARY: The Assistant Administrator for Fisheries, NMFS, announces that the United States District Court for the Northern District of California has ordered a prohibition on the importation of all yellowfin tuna and yellowfin tuna products from Mexico, effective October 10, 1990, unless and until the Secretary of Commerce makes a positive finding based upon documentary evidence provided by the Government of Mexico that the percentage of eastern spinner dolphins killed by Mexico over the period of an entire fishing season does not exceed the statutory limit of 15 percent of the total dolphins killed by that country.

DATES: The importation prohibition is effective October 10, 1990, and remains in effect until further notice.

FOR FURTHER INFORMATION CONTACT: E. Charles Fullerton, Regional Director, or J. Gary Smith, Deputy Regional Director, Southwest Region, National Marine Fisheries Service, NOAA, 300 South Ferry Street, Terminal Island, CA 90731, phone: (213) 514–6196.

SUPPLEMENTARY INFORMATION: On August 28, 1990, the United States District Court for the Northern District of California ordered an embargo of all yellowfin tuna and yellowfin tuna products harvested with purse seines in the eastern tropical Pacific Ocean by foreign nations until the Secretary of Commerce made affirmative findings based upon documentary evidence provided by the government of the exporting nation that the average rate of the incidental taking by vessels of such foreign nation is no more than 2.0 times that of United States vessels during the same period.

On September 7, 1990 (55 FR 37730), the Assistant Administrator for Fisheries made affirmative findings for Vanuatu, and Venezuela and on September 11, 1990 (55 FR 38125, September 17, 1990), for Ecuador. As a result of these affirmative findings, yellowfin tuna and tuna products from these four nations can be imported into the United States through December 31, 1990. An affirmative finding could not be made for Panama (55 FR 39040, September 24, 1990) and yellowfin tuna and yellowfin tuna products from Panama remain prohibited from entry into the United States.

Also on September 7, 1990, NMFS made a negative finding that the percentage of eastern spinner dolphins killed by Mexico during all of 1989 was in excess of the statutory limit of 15 percent of the total number of dolphins killed by that country in 1989. However, based upon eight months of data from the 1990 fishing season, NMFS made a positive finding that resulted in lifting the embargo.

On October 4, 1990, the United States District Court for the Northern District of California ruled that NMFS could not use less than twelve months of data in its reconsideration, and ordered a reimposition of the embargo on Mexican yellowfin tuna and yellowfin tuna products unless and until the Secretary of Commerce makes a positive finding based upon documentary evidence provided by the government of Mexico that the percentage of eastern spinner dolphins killed by Mexico over the period of an entire fishing season does not exceed the statutory limit of 15 percent of the total dolphins killed by that country.

The action taken to ban the importation of yellowfin and tuna products from Mexico will initiate additional importation requirements for nations which export yellowfin tuna and tuna products to the United States and also import yellowfin tuna and tuna products from Mexico. Under 50 CFR 216.24(e)(ix), intermediary nations must certify to the Assistant Administrator that they have acted within 60 days of the U.S. ban to prohibit imports of yellowfin tuna and tuna products from Mexico. Yellowfin tuna and tuna products from intermediary nations

which fail to provide such certification within 90 days will not be allowed to enter the United States.

Dated: October 12, 1990.

William W. Fox, Jr.,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 90-24531 Filed 10-17-90; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China

October 12, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: October 19, 1990.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-6828. For information on embargoes and quota reopenings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for Categories 239, 638/639 and 642 are being increased for carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 54 FR 50797, published on December 11, 1989). Also see 54 FR 52047, published on December 20, 1989.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 12, 1990.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive of December 14, 1989, issued to you by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in China and exported during the period January 1, 1990 through December 31, 1990.

Effective on October 19, 1990 you are directed to increase the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the People's Republic of China:

Category	Adjusted 12-Mon. limit [1]
Levels not in a Group	
239	2,553,772 kilograms.
638/639	2,359,627 dozen.
642	295,016 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1989.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-24574 Filed 10-17-90; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Korea

October 12, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing limits.

EFFECTIVE DATE: October 19, 1990.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-6041. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for Categories 345 and 645/646 are being reduced for special carryforward used in 1988.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 54 FR 50797, published on December 11, 1989). Also see 55 FR 1709, published on January 18, 1990.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 12, 1990.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 11, 1990 by the Chairman, Committee for the Implementation of Textile Agreements. This directive concerns imports into the United States of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in the Republic of Korea and exported during the period which began on January 1, 1990 and extends through December 31, 1990.

Effective on October 19, 1990, you are directed to amend further the January 11, 1990 directive to reduce the limits for the following categories, in accordance with the provisions of the current bilateral agreement between the Governments of the United States and the Republic of Korea, as amended:

Category	Adjusted 12-Mon. limit [1]
Sublevels in group II:	
345	84,315 dozen.
645/646	3,077,569 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1989.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-24575 Filed 10-17-90; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

October 12, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 19, 1990.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343-6496. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing, shift and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 54 FR 50797, published on December 11, 1989). Also see 54 FR 48293, published on November 22, 1989.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements.

October 12, 1990.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Commissioner: This directive amends, but does not cancel, the directive of November 16, 1989 issued to you by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1990 and extends through December 31, 1990.

Effective on October 19, 1990, you are directed to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and Pakistan:

Category	Adjusted 12-month limit [1]
336	3,563,536 dozen.
339	871,341 dozen.
360-R [2]	6,543,615 kilograms.
613/614	9,280,515 square meters.
636	51,886 dozen.
636/639	130,376 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1989.

[2] Category 360-R only HTS number 6307.10.2020.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-24518 Filed 10-17-90; 8:45am]

BILLING CODE 3510-DR-M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 91-C0001]

Turri Disposal, Inc., a Corporation; Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission

ACTION: Provisional Acceptance of a settlement agreement under the Consumer Product Safety Act.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20(e). Published below is a provisionally-accepted Settlement Agreement with Turri Disposal, Inc., a corporation.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by November 2, 1990.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Melvin I. Kramer, Trial Attorney, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6626.

SUPPLEMENTARY INFORMATION: (attached).

Dated: October 11, 1990.

Sheldon D. Butts,

Deputy Secretary.

Settlement Agreement and Order

1. This Settlement Agreement and Order, entered into between Turri Disposal, Inc. a corporation (hereinafter, "Turri"), and the staff of the Consumer Product Safety Commission (hereinafter, "staff"), is a compromise resolution of the matter described herein, without a hearing, adjudication, or determination of issues of law and fact.

2. The provisions of the Settlement Agreement and Order shall apply to Turri and to each of its successors and assigns.

I. The Parties

3. The "staff" is the staff of the Consumer Product Safety Commission, an independent regulatory commission of the United States of America (hereinafter, "Commission") created by Congress pursuant to section 4 of the Consumer Product Safety Act (hereinafter, "CPSA"), 15 U.S.C. 2053.

4. Turri is a corporation with its principal corporate offices located at P.O. Box 783, Cranford, New Jersey 07016.

5. Turri has distributed in commerce certain refuse bins: (a) for sale to a consumer for use in or around a permanent or temporary household or residence, a school, in recreation or

otherwise; or (b) for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation or otherwise. These refuse bins are "consumer products" within the meaning of sections 3(a)(1) and (5) of the CPSA, 15 U.S.C. 2052(a)(1) and (5).

II. Staff Allegations

6. Following an incident involving a seven-year-old boy who was critically injured on January 25, 1989 when a refuse bin allegedly owned by Turri fell over on him and his brother, the staff undertook to test other Turri refuse bins for compliance with the Commission's *Ban of Unstable Refuse Bins*, 16 CFR part 1301 (hereinafter "Ban")

7. The staff alleges that one of Turri's bins located at the corner of Lincoln Street and Pennsylvania Avenue in Linden, N.J. failed to comply with the Ban by tipping over when subjected to the horizontal force test set out in 16 CFR 1301.7(a)(1).

8. The staff alleges that Turri distributed in commerce a consumer product which has been declared a banned hazardous product by a rule issued under the CPSA.

9. The staff alleges that Turri knew or should have known that it had distributed in commerce a consumer product which had been declared a banned hazardous product by the Commission, but failed to report such information to the Commission, as required by section 15(b) of the CPSA, 15 U.S.C. 2064(b).

III. Turri's Response to Staff Allegations

10. Turri denies each and every element of the staff allegations as set forth herein taken wholly or collectively and/or interdependent of each paragraph therein.

IV. Agreement of the Parties

11. The Consumer Product Safety Commission has jurisdiction over Turri and the subject matter of this Settlement Agreement and Order pursuant to 15 U.S.C. 2064, 2068, and 2069.

12. Without admitting any liability, culpability, responsibility, or in any way implying same, as to any federal, state, or local law, rule, or regulation, Turri agrees to settle the Commission's claim in accordance with the attached Order, by paying a civil penalty in the amount of $4,000 within 20 days of the final acceptance of this Settlement Agreement by the Commission, and service upon Turri of the Commission's Final Order. This Settlement Agreement constitutes a settlement of any and all disputed violations of the Ban of Unstable Refuse Bins and the reporting requirements of section 15(b) of the CPSA, 15 U.S.C. 2064, that may be or could have been alleged on the basis of the information that the Commission staff currently possesses concerning the subject refuse bins. The Commission specifically waives its right to pursue any further penalty under 15 U.S.C. 2069, based on the information which the staff currently possesses covering the time period of January 25, 1989 to the date of issuance of the attached Order. Turri's participation in this Agreement is in no way, direct or indirect, implied or otherwise, to be construed as an admission by Turri of any wrongdoing whatsoever.

13. Upon final acceptance of this Settlement Agreement by the Commission, Turri knowingly, voluntarily and completely, waives any rights it may have in this matter to (1) an administrative or judicial hearing, (2) judicial review or other challenge or contest of the validity of the Commission's actions or of Turri's defenses, (3) a determination by the Commission whether a violation has occurred and Turri's denial thereof, and (4) a statement of findings of fact and conclusions of law. Should the Commission decide not to accept and adopt this Settlement Agreement and Order, the Settlement Agreement and Order shall have no force and effect.

14. For purposes of section 6(b) of the CPSA, 15 U.S.C. 2055(b), this matter shall be treated as if a Complaint had issued and the Settlement Agreement and Order will be made available to the public.

15. The Commission does not make any determination that such refuse bins described in paragraphs 6 and 7 hereof are in violation of the Ban. The Commission and Turri agree that this Agreement is entered into for the purposes of settlement only.

16. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be placed on the public record and the provisional acceptance of the Agreement shall be announced in the **Federal Register** in accordance with the procedure set forth in 16 CFR 1118.20(e). If the Commission receives no written requests not to accept the Agreement within 15 days after publication in the **Federal Register**, the Settlement Agreement and Order will be deemed finally accepted on the 16th day after the date it is published in the **Federal Register**, in accordance with 16 CFR 1118.20(f).

17. The requirements of the Settlement Agreement and the Order resolve all issues that have arisen or could arise under section 15(b) of the Consumer Product Safety Act, with respect to the allegations contained in paragraphs 6–9, *supra*, and are in addition to and not to the exclusion of other remedies under the Consumer Product Safety Act, limited by the provisions of Paragraphs 12 and 15 above.

18. The parties further agree that the incorporated Order be issued under the CPSA, 15 U.S.C. 2051 *et seq.*, and that a violation of the Order will subject Turri to appropriate legal action.

19. No agreement, understanding, representation, or interpretation not contained in this Settlement Agreement and Order may be used to vary or to contradict its terms.

20. Nothing in this Agreement should be construed as limiting Turri's obligation to report pursuant to section 15(b) of the CPSA.

Turri Disposal, Inc.
Dated: July 10, 1990.

By: James Turri,
President.

The Consumer Product Safety Commission

David Schmeltzer,
Associate Executive Director, Directorate for Compliance and Administrative Litigation.

Alan H. Schoem,
Director, Division of Administrative Litigation, Directorate for Compliance and Administrative Litigation.

Melvin I. Kramer,
Trial Attorney, Division of Administrative Litigation, Directorate for Compliance and Administrative Litigation.

Dated: July 24, 1990.

Order

Upon consideration of the Settlement Agreement of the parties, it is hereby

Ordered, that Turri Disposal, Inc. shall pay within 30 days of final acceptance of this final Settlement Agreement and entry of this Order, civil penalty in the sum of $4,000 to the Consumer Product Safety Commission for transference to the U.S. Treasury.

Provisionally accepted on the 11th day of October, 1990.

By Order of the Commission.

Sadye E. Dunn,
Secretary, Consumer Product Safety Commission.

[FR Doc. 90-24311 Filed 10-17-90; 8:45 am]
BILLING CODE 6355-01-M

[CPSC Docket No. 91-C0002]

Wagner Spray Tech Corporation, a Corporation; Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional acceptance of a settlement agreement under the Consumer Product Safety Act.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the Federal Register in accordance with the terms of 16 CFR 1118.20(e). Published below is a provisionally-accepted Settlement Agreement with Wagner Spray Tech Corporation, a corporation.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by November 2, 1990.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Ronald G. Yelenik, Trial Attorney, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492-6626.

SUPPLEMENTARY INFORMATION:

Dated: October 11, 1990.

Sheldon D. Butts,

Deputy Secretary.

Settlement Agreement and Order

1. This Settlement Agreement and Order, entered into between Wagner Spray Tech Corporation, a corporation (hereinafter, "Wagner"), and the staff of the Consumer Product Safety Commission (hereinafter, "staff"), is a compromise resolution of the matter described herein, without a hearing or determination of issues of law and fact.

I. The Parties

2. Wagner is a corporation organized and existing under the laws of the State of Delaware with its principal corporate offices located in Minneapolis, Minnesota.

3. The "staff" is the staff of the Consumer Product Safety Commission (hereinafter, "Commission"), an independent federal regulatory agency established by Congress pursuant to section 4 of the Consumer Product Safety Act (hereinafter, "CPSA"), 15 U.S.C. 2053.

II. Jurisdiction

4. Wagner manufactured certain power paint rollers identified further in paragraphs 6 and 7 below (hereinafter, "power paint rollers"), (a) for sale to a consumer for use in or around a permanent or temporary household or residence, or (b) for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence. These rollers are "consumer products" within the meaning of section 3(a)(1) of the CPSA, 15 U.S.C. 2052(a)(1).

5. Wagner manufactured and sold these power paint rollers to a variety of retailers throughout the United States. Wagner, therefore, is a "manufacturer" of a "consumer product" which is "distributed in commerce," as those terms are defined in sections 3(a) (1), (4) and (11) of the CPSA, 15 U.S.C. 2052(a) (1), (4) and (11).

III. The Product

6. Wagner manufactured approximately 800,000 power paint rollers between May and November 1984.

7. Used by do-it-yourself homeowners, the power paint roller consists of a pressure canister connected by a hose to a paint roller. A can of paint is placed inside the canister, the lid is attached, and the paint is driven to the roller under pressure exerted by an electric powered compressor.

IV. Staff Allegations Concerning the Power Paint Roller and of a Failure by Wagner to Comply With the Reporting Requirements of Section 15(b) of the CPSA

8. The staff alleges that the power paint rollers are defective because their canister lids can violently eject without warning during use, thereby resulting in serious head and facial injuries.

9. The staff alleges that on September 6, 1984, Wagner first became aware of the alleged defect when it received a report regarding a power paint roller user who suffered a facial injury resulting from the ejection of the canister lid.

10. In October 1984, Wagner learned of another canister ejection in which a consumer sustained lacerations to his mouth and eye, requiring 18 stitches.

11. By July 16, 1985, Wagner became aware of a ninth lid ejection incident, which involved a pilot who suffered loss of balance, a misaligned jaw and lacerations to his chin and neck.

12. On September 29, 1986, Wagner reported to the Commission staff by providing copies of its injury claims. At the time, the firm was aware of 38 incidents with resulting injuries to the head and face.

13. The staff is currently aware of more than 50 injury related incidents involving the power paint roller.

14. Both prior to and during the period in which Wagner received notice of injuries resulting from use of the power paint roller, the firm implemented a number of design changes involving the product and revised the instructions and warnings which accompanied the power paint roller. Many of these engineering revisions and instructional changes pertain to the locking ability while under pressure of the canister lid, the alleged source of the problem.

15. Wagner had received sufficient information significantly earlier than it reported to reasonably support the conclusion that the power paint rollers described in paragraphs 6 and 7 thereof, contained a defect which could create a substantial product hazard. Nonetheless, the company failed to report such information to the Commission as required by section 15(b) of the CPSA, 15 U.S.C. 2064(b), until September 29, 1986 when it was aware of 28 incidents. Section 15(b) requires a manufacturer of consumer products who obtains information that reasonably supports the conclusion that its product contains a defect which could create a substantial product hazard to inform the Commission immediately of the defect.

V. Response of Wagner

16. Wagner denies each and all of the staff's allegations with respect to its power paint rollers. Wagner specifically denies that its power paint rollers contain a defect which creates or could create a substantial product hazard within the meaning of section 15(a) of the CPSA, 15 U.S.C. 2064(a) and further specifically denies any obligation to report information to the Commission under section 15(b) of the CPSA, 15 U.S.C. 2064(b), with respect to its power paint rollers.

17. Specifically and without limitation of any of the denials set forth above Wagner alleges that its power paint rollers contain no defects within the meaning of the CPSA and alleges that the incidents described by the staff were not caused under conditions of normal use, and were caused by inappropriate use or modifications by the user.

Wagner does not admit any liability for any accidents or injuries with respect to the incidents described.

VI. Agreement of The Parties

18. Wagner and the staff agree that the Commission has jurisdiction in this matter for purposes of entry of this Settlement Agreement and Order.

19. Wagner agrees to pay the Commission in settlement of the staff's claim a civil penalty in the amount of one hundred twenty thousand dollars ($120,000), payable within thirty (30) days after service of the Final Order of the Commission accepting this Settlement Agreement. This Agreement constitutes a settlement of any disputed violations of the reporting requirements of section 15(b) of the CPSA, 15 U.S.C. 2064(b), that may be alleged on the basis of information that the staff currently possesses concerning Wagner power paint rollers. The requirements of the Settlement Agreement and Order resolve all issues that have arisen or could arise under section 15(b) of the CPSA, 15 U.S.C. 2064(b), with respect to the allegations contained in paragraphs 5–15.

20. For purposes of section 6(b) of the CPSA, 15 U.S.C. 2055(b), this matter shall be treated as if a complaint had issued.

21. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be placed on the public record and shall be published in the **Federal Register** in accordance with the procedure set forth in 16 CFR 1118.20(e). If the Commission does not receive any written request not to accept the Settlement Agreement and Order within 15 days, the Settlement Agreement and Order will be deemed finally accepted on the 16th day after the date it is published in the Federal Register, in accordance with 16 CFR 1118.20(f).

22. Upon final acceptance of this Settlement Agreement and Order by the Commission, Wagner knowingly, voluntarily and completely waives any rights it may have (1) to an administrative or judicial hearing with respect to the Commission's claim for a civil penalty, (2) to judicial review or other challenge or contest of the validity of the Commission's action with regard to its claim for a civil penalty, (3) to a determination by the Commission as to whether a violation of Section 15(b) of the CPSA, 15 U.S.C. 2064(b), has occurred, and (4) to a statement of findings of fact and conclusions of law with regard to the Commission's claim for a civil penalty. By making this waiver, Wagner does not concede that its power paint rollers contain a defect which creates or which could create a substantial product hazard within the meaning of section 15(b) of the CPSA. Should the Commission not accept this Settlement Agreement and Order, the Settlement Agreement and Order shall have no force and effect.

23. Upon final acceptance of this Settlement Agreement and Order by the Commission and payment of the one hundred twenty thousand dollar ($120,000) settlement amount by Wagner, the Commission waives its right to pursue any civil penalty proceeding for a violation of section 15(b) of the CPSA, 15 U.S.C. 2064(b), relating to the matters encompassed by this Settlement Agreement and Order, or based on the information in the staff's possession.

24. The waiver contained in paragraph 23 shall not preclude the staff from seeking an order under section 15(c) of the CPSA, 15 U.S.C. 2064(c), for corrective action and notice, should it find that the corrective action measures taken by Wagner to date do not adequately protect the public against the risk of injury presented by these power paint rollers.

25. The Commission makes no determination that the power paint rollers described herein contain a defect that could create a substantial product hazard, or that a violation of the CPSA has occurred. This Agreement and Order shall not constitute evidence or an admission with respect to any allegation of the staff, or with respect to any wrongdoing, misconduct, or breach of duty to any person, or violation of any statute or rule on the part of Wagner. The Commission and Wagner agree that this Agreement is entered into for purposes of settlement only. Wagner agrees to inform the Commission if it learns of any additional power paint roller lid ejection incidents; provided that nothing in this Agreement enlarges Wagner's obligation to report pursuant to section 15(b) of the CPSA, 15 U.S.C. 2064(b).

26. The parties further agree that the incorporated Order be issued under the CPSA, 15 U.S.C. 2051 *et seq.*, and that a violation of the Order will subject Wagner to appropriate legalaction.

27. No agreement, understanding, representation, or interpretation not contained in this Settlement Agreement and Order may be used to vary or to contradict its terms.

Dated: August 7, 1990.

Wagner Spray Tech Corporation.

By: Sean James,

Chief Executive Officer, Wagner Spray Tech Corporation.

The Consumer Product Safety Commission.

David Schmeltzer

Associate Executive Director Directorate for Compliance and Administrative Litigation.

Alan H. Schoem,

Director Division of Administrative Litigation.

Dated: August 16,1990.

By: Ronald G. Yelenik,

Trial Attorney.

Michael J. Gidding,

Trial Attorney

Division of Administrative Litigation, Counsel for the Commission Staff.

Order

Upon consideration of the Settlement Agreement of the parties, it is hereby

Ordered that Wagner Spray Tech Corporation shall pay within thirty (30) days of final acceptance of this Settlement Agreement and service of this Order, a civil penalty in the sum of one hundred twenty thousand dollars ($120,000) to the Consumer Product Safety Commission.

Provisionally accepted on the 11th day of October,1990.

By Order of the Commission.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 90–24512 Filed 10–17–90; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Fiscal Year 1991 Updates

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of updated mental health per diem rates.

SUMMARY: This notice provides for the updating of hospital-specific per diem rates for high volume providers and regional per diem rates for low volume providers; the updated cap per diem for high volume providers; and the beneficiary per diem cost-share amount for low volume providers to be used for FY 1991 under the CHAMPUS Mental Health Per Diem Payment System.

EFFECTIVE DATE: The rates contained in this notice are effective for services occurring on or after October 1, 1990.

ADDRESSES: Office of the Civilian Health and Medical Program of the

Uniformed Services (OCHAMPUS), Office of Program Development, Aurora, CO 80045-6900. For copies of the Federal Register containing this notice, contact the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

The charge for the Federal Register is $1.50 for each issue payable by check or money order to the Superintendent of Documents.

FOR FURTHER INFORMATION CONTACT: Stan Regensberg, Office of Program Development, OCHAMPUS, telephone (303) 361-3572.

To obtain copies of this document, see the "**ADDRESS**" section above. Questions regarding payment of specific claims under the CHAMPUS Mental Health Per Diem Payment System should be addressed to the appropriate CHAMPUS contractor.

SUPPLEMENTARY INFORMATION: The final rule published in the Federal Register on pages 34285 through 34294 on September 6, 1988, set forth reimbursement changes that were effective for all inpatient hospital admissions in psychiatric hospitals and exempt psychiatric units occurring on or after January 1, 1989. Included in this final rule were provisions for updating reimbursement rates for each Federal fiscal year. As stated in the final rule, each per diem shall be updated by the Medicare update factor for hospitals and units exempt from the Medicare Prospective Payment System. In the Federal Register of September 4, 1990, on page 36078, Medicare has recommended to Congress an update factor of 5.3 percent for Federal fiscal year 1991 for hospitals and units excluded from the prospective payment system. CHAMPUS will adopt this update factor for FY 1991 assuming that Congress includes it in the budget for FY 1991 and it is approved by the President. If some other percent is approved by the President, the percentage approved by the President will become the update factor for FY 1991 used by CHAMPUS to update the reimbursement rates under the CHAMPUS Mental Health Per Diem Payment System. Hospitals and units with hospital-specific rates (hospitals and units with high CHAMPUS volume) will have their FY 1990 CHAMPUS per diem rates updated by 5.3 percent for FY 1991, unless the President approves another update factor for FY 1991.

The following reflect an update of 5.3 percent. Should the President approve a different update factor for FY 1991, CHAMPUS will issue a subsequent notice with updated reimbursement rates based on that approved update factor.

Regional Specific Rates for Psychiatric Hospitals and Units With Low CHAMPUS Volume

United States census region	Rate [1] (dollars)
Northeast:	
New England	439
Mid-Atlantic	420
Midwest:	
East North Central	364
West North Central	344
South:	
South Atlantic	433
East South Central	470
West South Central	394
West:	
Mountain	393
Pacific	465

[1] The wage portion of the rate, subject to the area wage adjustment, is 71.40 percent.

Beneficiary Cost-Share: Beneficiary cost-share (other than dependents of active duty members) for care paid on the basis of a regional per diem rate is the lower of $115 per day or 25 percent of the hospital billed charges effective for services rendered on or after October 1, 1990.

Cap Amount: Cap amount for hospitals and units with high CHAMPUS volume is $647 per day.

Dated: October 12, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-24528 Filed 10-17-90; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 7-9 November 1990.

Time: 0900-1700.

Place: US Army ARDEC, Picatinny Arsenal, NJ.

Agenda: The Army Science Board Ad Hoc Subgroup on Electromagnetic and Electrothermal Technologies will meet for the final working session for the panels report to Congress. This meeting will be closed to the public in accordance with section 552(c) of title 5, U.S.C., specifically subparagraph (1) thereof, and title 5, U.S.C., appendix 2, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer Sally Warner, may be contacted for further information at (703) 695-0781/0782.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 90-24557 Filed 10-17-90; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Date of Meeting: 12 November 1990.

Time: 0900-1700.

Place: Walter Reed Army Institute of Research.

Agenda: The Army Science Board (ASB) Ad Hoc Subgroup on the Review of the Walter Reed Army Institute of Research (WRAIR) will meet to prepare the final draft of the report on WRAIR. This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695-0781/0782.

Sally A. Warner,

Administrative Officer Army Science Board.

[FR Doc. 90-24493 Filed 10-17-90; 8:45 am]

BILLING CODE 3710-08-M

Defense Nuclear Agency

Intent Compliance With the National Environmental Policy Act Intent To Prepare a Draft Environmental Impact Statement

Notice of Intent to prepare a Draft Environmental Impact Statement for a Superconducting Magnetic Energy Storage-Engineering Test Model and to initiate the public scoping process relative to the five potential sites.

SUMMARY: The proposed Superconducting Magnetic Energy Storage Engineering Test Model (SMES-ETM) facility would store electrical energy in superconducting coils. The purpose of the SMES-ETM would be to demonstrate the technical, functional, and economic feasibility of this technology to serve as the power supply for Department of Defense weapon systems, and support utility networks (i.e. storing energy during off-peak hours and then returning the energy to the power grid during peak load periods). The Draft Environmental Impact Statement (DEIS) will evaluate the siting, construction, testing, and operation impacts of a SMES-ETM

facility within the continental United States, at five potential sites:

(1) Badger Army Ammunition Plant (BAAP) Site, Wisconsin. The Badger site is located in south-central Wisconsin, in Sauk County.

(2) Bonneville Power Administration Hanford Reservation Site, Washington. This site is near the center of the U.S. Department of Energy's Hanford Reservation in southeastern Washington State.

(3) White Sands Missile Range (WSMR) Site, New Mexico. This site is located near the southeast corner of the WSMR in south-central New Mexico.

(4) Orogrande Site, New Mexico. This site is located about 3 miles north of Orogrande in south-central New Mexico. It is close to the White Sands site.

(5) Texas Utilities Electric Site, Monahans, Texas. This site is located in Ward County, approximately 8 miles northwest of Monahans and 65 miles west of Midland.

In addition to evaluation of these five alternative sites, the Defense Nuclear Agency will consider the no action alternative, as well as alternative SMES–ETM design configuration scenarios (solenoid and toroid).

Potentially significant environmental issues that will be analyzed in-depth in the DEIS include possible magnetic effects on bird navigation, electromagnetic effects on public health, and site specific impacts to cultural resources and threatened or endangered species.

SCOPING: The Defense Nuclear Agency will conduct scoping meetings on or near the sites mentioned above. It is anticipated that the scoping meetings for the Orogrande and White Sands Missile Range Sites will be combined at one central location. As soon as dates and locations of the scoping meetings are established, they will be published in local newspapers serving the population near the potential sites. The purpose of the meetings will be to gather information from the public concerning the potential impacts to the quality of the environment that they would like to see addressed in the DEIS. Comments may be made orally or in writing at the meetings, or they may be sent to the address cited below.

FOR FURTHER INFORMATION ON SMES CONTACT: Defense Nuclear Agency, ATTN: Public Affairs Office, 6801 Telegraph Road, Alexandria, Virginia 22310–3398; telephone (703) 325–7095.

MAILING LIST: Individuals desiring to receive additional information on the public scoping process and copies of the draft and final EIS should contact: Mobile Engineering District, U.S. Army Corps of Engineers, ATTN: CESAM–PD–E (Mr. Eubanks), P.O. Box 2288, Mobile, Alabama 36628; telephone (205) 694–3661.

George W. Ulrich,
Deputy Director.

[FR Doc. 90–24587 Filed 10–17–90; 8:45 am]
BILLING CODE 3810–01–M

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

[Recommendation No. 90–7]

Implementation Plan for Recommendation 90–3 at the Department of Energy's Hanford Site, WA

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Notice; recommendation.

SUMMARY: The Defense Nuclear Facilities Safety Board has made a recommendation to the Secretary of Energy pursuant to 42 U.S.C. 90–A2286a. concerning DOE's proposed implementation plan for the Board's recommendation 90–3 (monitoring programs for single shell waste tanks) at DOE's Hanford site, WA. The Board requests public, comments on this recommendation.

DATES: Comments, data, views, or arguments concerning the recommendation are due on or before November 19, 1990.

ADDRESSES: Send comments, data, views, or arguments concerning this recommendation to: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Pusateri, at the address above or telephone 202/208–6400, (FTS) 268–6400.

Dated: October 15, 1990.
Kenneth M. Pusateri,
General Manager.

[Recommendation 90–7]

Implementation Plan for Recommendation 90–3 at the Department of Energy's Hanford Site, WA

October 11, 1990

On March 27, 1990, the Board transmitted to you its Recommendation 90–3, regarding the single shell high level waste tanks at the Hanford site. On May 10, 1990, you replied stating that you agreed with our recommendations and accepted them. On August 10, 1990, you forwarded to the Board your plan for implementation of the Board's recommendations on this issue.

In the intervening time, members of the Board and their staff and technical experts have visited the Hanford site on several more occasions and have further discussed the measures proposed and the plans for implementation. After careful consideration, the Board has concluded that the DOE proposed implementation plan for Recommendation 90–3 is not adequately responsive. In particular, it does not reflect the urgency that the circumstances merit and that was implicit in the Board's recommendations. Nor does it appear that the contractor involved has been required by DOE to marshall the technical and managerial resources required, and to focus them on the problem in a measure commensurate with its gravity.

The Board specifically recommends that the implementation plan be modified as follows:

- Immediate steps should be taken to add instrumentation as necessary to the single shell tanks containing ferrocyanide that will establish whether hot spots exist or may develop in the future in the stored waste. The instrumentation should include as a minimum additional thermocouple trees. Trees should be introduced at several radial locations in all tanks containinq substantial amounts of ferrocyanide, to measure the temperature as a function of elevation at these radii. The use of infra-red techniques to survey the surface of waste in tanks should continue to be investigated as a priority matter, and on the assumption that this method will be found valuable, monitors based on it should be installed now in the ferrocyanide bearing tanks.
- The temperature sensors referred to above should have continuous recorded readouts and alarms that would signal at a permanently manned location any abnormally high temperatures and any failed temperature instrumentation.
- Instrumentation should also be installed to monitor the composition of cover gas in the tanks, to establish if flammable gas is present.
- The program of sampling the contents of these tanks sould be greatly accelerated. The proposed schedule whereby analysis of two core samples from each single shell tank is to be completed by September, 1998 is seriously inadequate in light of the uncertainties as to safety of these tanks. Furthermore, additional samples are required at several radii and at a range of elevations for the tanks containing substantial amounts of ferrocyanide.

• The schedule for the program on study of the chemical properties and explosive behavior of the waste in these tanks is indefinite and does not reflect the urgent need for a comprehensive and definitive assessment of the probability of a violent chemical reaction. The study should be extended to other metallic compounds of ferrocyanide that are known or believed to be present in the tanks, so that conclusions can be generalized as to the range of temperature and other properties needed for a rapid chemical reaction with sodium nitrate.

• The Board had recommended "that an action plan be developed for the measures to be taken to neutralize the conditions that may be signaled by alarms." Two types of measures are implied: actions to respond to unexpected degradation of a tank or its contents, and actions to be taken if an explosion were to occur. Your implementation plan stated that "the current contingency plans_____ will be reviewed and revised if needed." We do not consider that this proposed implementation of the Board's recommendation is adequately responsive. It is recommended that a written action plan founded on demonstrated principles be prepared as soon as possible, that would respond to indications of onset of abnormal temperatures or other unusual conditions in a ferrocyanide-bearing tank, to counter any perceived growth in hazard. A separate emergency plan should be formulated and instituted, covering measures that would be taken in event of an explosion or other event leading to an airborne release of radioactive material from the tanks, and that would protect personnel both on and off the Hanford site. The Board believes that even though it is considered that the probability is small that such an event will occur, prudence dictates that steps be taken at this time to prepare the means to mitigate the unacceptable results that could ensue.

John T. Conway,
Chairman.

Appendix—Transmittal Letter to the Secretary of Energy

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

October 12, 1990.

The Hon. James D. Watkins,
Secretary of Energy,
Washington, DC 20585.

Dear Mr. Secretary: On October 11, 1990, the Defense Nuclear Facilities Safety Board, in accordance with Section 312(5) of the Atomic Energy Act of 1954, as amended, 42 U.S.C.A. Section 2286a(5), approved a recommendation which is enclosed for your consideration.

42 U.S.C.A. Section 2286d(a) requires the Board, after receipt by you, to promptly make this recommendation available to the public in the Department of Energy's regional public reading rooms. Please arrange to have this recommendation placed on file in your regional public reading rooms as soon as possible.

The Board will publish this recommendation in the Federal Register.

It is to be noted that the enclosed recommendation applies to the Department of Energy's proposed implementation of the Board's Recommendation 90-3 dated March 27, 1990.

Sincerely,
John T. Conway,
Chairman.

[FR Doc. 90-24596 Filed 10-17-90; 8:45 am]
BILLING CODE 6820-KD-M

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, October 24, 1990 beginning at 1 p.m. in the Goddard Conference room of its offices at 25 State Police Drive, West Trenton, New Jersey.

An informal pre-meeting conference among the Commissioners and staff will be open for public observation at 10:30 a.m. at the same location and will include discussions of the upper Delaware ice jam project; upcoming Commission hearings and meetings; middle and upper Delaware water quality protection strategies and status of compliance with Commission water conservation performance standards for plumbing fixtures and fittings.

The subjects of the hearing will be as follows:

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact

1. New Jersey—American Water Company—Western Division D–81–11 CP Renewal. An application for the renewal of a ground water withdrawal project to supply up to 193.75 million gallons (mg)/30 days of water to the applicant's Camden distribution system from Well Nos. 50–55. Commission approval of February 27, 1985 was limited to five years. The applicant requests that the total withdrawal from all wells remain limited to 193.75 mg/30 days. The project is located in the City of Camden, Camden County, New Jersey.

2. Ashland Chemical Company D–85–50 Renewal. An application for the renewal of a ground water withdrawal project to supply up to 8.7 mg/30 days of water to the applicant's manufacturing facility from Well No. 3. Commission approval on September 24, 1985 was limited to five years. The applicant requests that the total withdrawal from all wells be increased from 4.2 mg/30 days to 8.7 mg/30 days. The project is located in Glendon Borough, Northampton County, Pennsylvania.

3. New Jersey—American Water Company—Western Division D–88–81 CP. An application for approval of a ground water withdrawal project to supply up to 34.6 mg/30 days of water to the applicant's distribution system from new Well No. 58, to replace existing Well Nos. 27 and 28 with new Well Nos. 59 and 62, and to limit the withdrawal from all wells to 1165.1 mg/30 days. The project is located in Cherry Hill Township, Camden County, New Jersey.

4. Palmer Water Company D–90–17. An application to approve the withdrawal of 13 million gallons per day (mgd) from the Aquashicola Creek and 13 mgd from the Pohopoco Creek, with the maximum combined total withdrawal from both sources not to exceed 15 mgd. The withdrawal will provide raw water service only to existing and prospective industries. Both creeks are tributaries of the Lehigh River. The Pohopoco Creek withdrawal is located in the Borough of Parryville, while the intakes for withdrawal from Aquashicola Creek are located in Lower Towamensing Township and the Borough of Palmerton; all withdrawals are located in Carbon County, Pennsylvania.

5. Baer Aggregates, Inc. D–90–18. A revised application for approval of a ground water withdrawal project to supply up to 45 mg/30 days of water to the applicant's gravel processing operation from existing Well Nos. 1, 2, 3, and 4, and to limit the withdrawal from all wells to 45 mg/30 days. The project is located in Pohatcong Township, Warren County, New Jersey.

6. Jim Thorpe Municipal Authority D–90–22 CP. A surface water withdrawal project to serve the applicant's distribution systems in the Borough of Jim Thorpe. The project entails an increase of withdrawal, (0.4 mgd to 0.5 mgd) from Reservoirs No. 1 and 3 on Silkmill (Ruddles) Run to serve the distribution system (Eastside System) on the eastern side of the Lehigh River, and a withdrawal of 0.425 mgd from the

Mauch Chunk Creek to serve the distribution system (Westside System) on the western side of the Lehigh River. The withdrawal from Mauch Chunk Creek is approximately one mile downstream of the Mauch Chunk Reservoir. Both streams are tributaries to the Lehigh River. The withdrawals are located within Jim Thorpe Borough, Carbon County, Pennsylvania.

7. Uwchlan Township Municipal Authority D–90–50 CP. An application for approval of a ground water withdrawal project to supply up to 19.87 mg/30 days of water to the applicant's distribution system from new Well Nos. Saybrooke 1 and 2, and to increase the existing withdrawal limit of 72 mg/30 days from all wells to 92 mg/30 days. The project is located in Upper Uwchlan Township, Chester County, Pennsylvania.

8. Auburn Municipal Authority D–90–62 CP. A sewage treatment plant (STP) project to provide service to the Borough of Auburn which currently has mostly individual septic systems. The new STP will provide 0.06 mgd of secondary treatment and discharge the treated effluent to the Schuylkill River near the project site. The project is located just south of State Route 895 in West Brunswick Township, Schuylkill County, Pennsylvania.

9. Borough of West Chester D–90–72 CP. A project to modify and expand the applicant's existing 1.5 mgd Taylor Run Sewage Treatment Plant (STP) to provide 1.8 mgd of advanced secondary wastewater treatment capacity. The STP will continue to serve the northwest and central portions of the Borough of West Chester. The STP will continue to discharge to Taylor Run, a tributary of the East Branch Brandywine Creek. The STP is located adjacent to Taylor Run northeast of the Mill Road and Route 322 intersection in East Bradford Township, Chester County, Pennsylvania.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact George C. Elias concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Dated: October 9, 1990.

Susan M. Weisman,

Secretary.

[FR Doc. 90–24491 Filed 10–17–90; 8:45 am]

BILLING CODE 6369–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ES91–01–000 et al.]

Louisville Gas and Electric Co. et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

October 10, 1990.

Take notice that the following filings have been made with the Commission:

1. Louisville Gas and Electric Company

[Docket No. ER91–01–000]

Take notice that on October 3, 1990, Louisville Gas and Electric Company ("Applicant") filed an application with the Federal Energy Regulatory Commission ("Commission") pursuant to Section 204 of the Federal Power Act seeking authorization to issue $175 million of short-term debt securities on or before December 31, 1992, with a final maturity date no later than December 31, 1993.

Comment date: November 12, 1990, in accordance with Standard Paragraph E at the end of this notice.

2. Iowa Public Service Company

[Docket No. ER91–7–000]

Take notice that on October 1, 1990, Iowa Public Service Company tendered for filing an executed Firm Power Agreement dated April 9, 1990, whereby Iowa Public Service Company (IPS) will sell to Minnesota Power (MP) 25 megawatts (MW) electric capacity for the six-month winter season, November 1 through April 30, commencing November 1, 1990 and ending April 30, 1993. MP may increase its 25 MW minimum purchase to 50 MW prior to October 1 of the applicable winter season.

Comment date: October 26, 1990, in accordance with Standard Paragraph E at the end of this notice.

3. Nevada Sun-Peak Limited Partnership

[Docket No. ER91–11–000]

Take notice that on October 2, 1990, Nevada Sun-Peak Limited Partnership, organized under the laws of the State of Nevada, submitted for filing, pursuant to Rule 207 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.207, an initial rate schedule for sales to Nevada Power Company.

Comment date: October 26, 1990, in accordance with Standard Paragraph E at the end of this notice.

4. Iowa Public Service Company

[Docket No. ER91–10–000]

Take notice that on October 1, 1990, Iowa Public Service Company tendered for filing an executed Firm Power Agreement dated April 9, 1990, whereby Iowa Public Service Company (IPS) will sell to Minnesota Power (MP) 25 megawatts (MW) electric capacity for the six-month winter season, November 1, through April 30, commencing November 1, 1990 and ending April 30, 1993. MP may increase its 25 MW minimum purchase to 50 MW prior to October 1 of the applicable winter season.

Comment date: October 26, 1990, in accordance with Standard Paragraph E at the end of this notice.

5. Pennsylvania Power Company

[Docket No. ER91–9–000]

Take notice that on October 1, 1990, Pennsylvania Power Company ("Penn Power") pursuant to 18 CFR 35.13 tendered for filing proposed changes in its FPC Electric Service Tariffs Nos. 30, 31 and 32 to the Pennsylvania boroughs ("Boroughs") of New Wilmington, Wampum and Zelienople, respectively. The proposed changes consist of an Extension Agreement with each of the three Boroughs extending the term of the electric service agreements between the Company and the Boroughs for an additional three (3) years, to September 1, 1994. There are no changes in the current rates charged as a result of the Extension Agreements.

The Boroughs served by Penn Power entered into settlement agreements effective as of September 1, 1984. These agreements provide that these customers will be charged applicable retail rates as may be in effect during the terms of the agreements. Changes in rates were agreed to become effective as to these resale customers simultaneously with changes approved by the Pennsylvania Public Utility Commission ("Pa. PUC"). The settlement agreements were approved by the Federal Energy Regulatory Commission through a Secretarial letter dated December 14, 1984 in Docket Nos. ER77–277–007 and ER81–779–000. The Extension Agreements do not change any of the terms of the 1984 Agreements but only extend the terms of the Agreements. Waivers of certain filing requirements have been requested to implement Extension Agreements as of their execution dates.

Copies of the filing were served upon the three jurisdictional customers and the Pa. PUC.

Comment date: October 26, 1990, in accordance with Standard Paragraph E at the end of this notice.

6. Cogeneration Michigan Associates Limited Partnership

[Docket No. ER91-12-000]

Take notice that Cogeneration Michigan Associates Limited Partnership ("CMA"), a Michigan limited partnership, on October 3, 1990, tendered for filing, pursuant to 18 CFR 35.1 and 35.12, proposed FERC Rate Schedule No. 1, applicable to sales of energy and capacity to Consumers Power Company ("Consumers") from a biomass waste wood electric generating facility owned and operated by CMA in Cadillac, Michigan (the "Facility"). The Facility is certified as a qualifying small power production facility within the meaning of sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 and the regulations promulgated thereunder.

The proposed initial rate is set forth in the Power Purchase Agreement, as amended (the "Agreement"), between CMA and Consumers. The Agreement establishes a purchase price based on Consumer's avoided cost and applicable to all electricity delivered by CMA to Consumers. The purchase price includes both an energy charge and a capacity charge.

Beginning with the commercial operation date, as defined in the Agreement, Consumers will pay a capacity charge which is a levelized rate for commercial energy delivered by CMA to Consumers. The capacity charge is adjusted if the on-/off-peak capacity factor is less than 0.58 pursuant to Section 10(a) of the Agreement. Consumers will pay for energy on a per kilowatt hour basis. The energy rate is redetermined every month pursuant to the formulas set forth in the Agreement.

CMA requests waiver of the Federal Energy Regulatory Commission's (the "Commission") notice requirements so that the rate schedule may take effect as of the date of the CMA's initial delivery to Consumers. CMA also seeks waiver of the Commission's requirements for filing changes in its Rate Schedule No. 1 in the event of any change in the rates calculated pursuant to the formulas as set forth in the Agreement.

Additionally, CMA seeks waiver of the Commission's regulations regarding cost-of-service documentation, accounting practices, reporting requirements, property dispositions and consolidations, securities issuances or assumptions of liability, the holding of interlocking positions and such other matters as the Commission deems appropriate.

Copies of the instant filing have been served upon Consumers at the Michigan Public Service commission.

Comment date: October 26, 1990, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24504 Filed 10-17-90; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 10117-002]

Rock River Power and Light Corp.; Availability of Environmental Assessment

October 10, 1990.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for exemption from licensing for the Lower Watertown Dam Hydroelectric Project, on the Rock River, in the City of Watertown, Jefferson and Dodge Counties, Wisconsin, and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the proposed project, with appropriate mitigative measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 3308, of the Commission's offices at 941 North Capitol Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24510 Filed 10-17-90; 8:45 am]

BILLING CODE 6717-01-M

[Project No's. 1388, 1389, 1390, 3259, 2272 EL 85-19-117 California]

Southern California Edison, Joseph Martin Keating; Availability of Environmental Assessment

October 11, 1990.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the applications for new licenses for the Lee Vining, Lundy, and Rush Creek Projects located on Lee Vining, Mill, and Rush Creeks, respectively, and applications for original licenses for the proposed Paoha and Leggett Projects on Wilson and Lee Vining Creeks, respectively, in Mono County near Lee Vining, CA, and has prepared a Cumulative Environmental Assessment (CEA). In the CEA, the Commission's staff has analyzed the potential cumulative environmental impacts of the existing and proposed projects and has concluded that approval of the existing and proposed projects, with appropriate mitigation measures, would not contribute to significant cumulative impacts on the target resources of riparian vegetation, riparian-associated wildlife, resident trout in the streams, visual quality, and recreation in the Mono Lake Basin.

Copies of the EA are available for review in the Public Reference Branch, room 3308, of the Commission's offices at 941 North Capitol Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24545 Filed 10-17-90; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 2916-006 et al.]

Hydroelectric Applications (East Bay Municipal Utility District et al.), Filing

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1a. *Type of Application:* Revised Exhibit R.

b. *Project No.:* 2916-006.

c. *Date Filed:* April 12, 1990.
d. *Applicant:* East Bay Municipal Utility District.
e. *Name of Project:* Lower Mokelumne River Project.
f. *Location:* San Joaquin, Amador and Calaveras Counties, California.
g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. Sec. 791(a)–825(r).
h. *Applicant Contact:* Mr. John Skinner, East Bay Utility District, 2310 Adeline Street, P.O. Box 24055, Oakland, CA 94623, (415) 891–0641.
i. *FERC Contact:* Mr. Dan Hayes, (202) 357–0870.
j. *Comment Date:* November 13, 1990.
k. *Description of Project:* The East Bay Municipal Utility District, licensee for the Lower Mokelumne River Project, has filed an application with the Federal Energy Regulatory Commision to revise the exhibit R (recreation management plan) for the project. The revision is to update and improve the project's recreational access to comply with regulatory and other obligations in management of the project's recreation resources. The revised exhibit R describes changes in both interim and long term management of the project's recreational resources. The plan will affect facility design and management at recreation facilities on Camanche and Pardee Lakes, including the North and South Shore Recreation Areas, Van Assen Park, and the Camanche Hills Hunting Preserve.
l. This notice also consists of the following standard paragraphs: B, C, and D2.

2a. *Type of Application:* Surrender of License.
b. Project No. 8971–012.
c. *Date filed:* September 6, 1990.
d. *Applicant:* Big Wood Canal Company.
e. *Name of Project:* Lincoln Bypass Project.
f. *Location:* On the Lincoln Bypass Canal, originating on the Big Wood River, in Lincoln County, Idaho, occupying lands of the United States administered by the Bureau of Land Management. Boise Meridian and Base.
g. *Filed Pursuant to:* Federal Power Act 16 USC 791 (a)–825(r).
h. *Applicant Contact:* Mr. Dick Oneida, General Manager, Big Wood Canal Company, 112 S. Apple, Shoshone, ID 83352, (208) 886–2331.
i. *FERC Contact:* Ms. Deborah Frazier-Stutely at (202) 357–0842.
j. *Comment Date:* December 3, 1990.
k. *Description of Proposed Action:* The proposed project for which the license is being surrendered would have consisted of: (1) an existing concrete diversion dam approximately 8-foot-high and 150-foot-long on the Big Wood River, diverting flows into: (2) the existing Lincoln Bypass Canal approximately 7.9 miles long; (3) an 8-foot-high, 70-foot-long concrete diversion structure at elevation 4,486 feet, located at a drop chute in the Lincoln Bypass Canal; (4) a 45-foot-wide concrete intake structure located on the south bank of the Lincoln Bypass Canal, consisting of three 5-foot by 5-foot slide gates; (5) a 60-inch-diameter, 3,170-foot-long steel penstock; (6) a 20-foot-wide, 30-foot-long powerhouse containing a single generating unit with a rated capacity of 1,960 kW operating under a head of 130 feet and producing an annual energy output of 9,981 MWh; (7) a concrete tailrace discharging project flows back into the Lincoln Bypass Canal; (8) 4.16–kV generator leads; (9) a 4.16/46–kV transformer; (10) a 5-mile-long, 46–kV transmission line tying into Idaho Power Company's system via the existing Shoshone-Ice Caves-Hailey 46–kV line; and (11) appurtenant facilities.

The licensee states the project is being surrendered because the cost of upgrading transmission lines leave the proposed project not economically feasible at this time. Construction of the project had not begun.

l. *Purpose of Project:* B, C, and D2.
3a. *Type of Application:* Transfer of License.
b. *Project No.:* 9068–007.
c. *Date filed:* July 23, 1990.
d. *Applicant:* Lower Village Water Power Company.
e. *Name of Project:* Lower Village Power Project No. 9068.
f. *Location:* On the Sugar River in the Town of Claremont Sullivan County, New Hampshire.
g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).
h. *Applicant Contact:* John N. Webster, P.O. Box 1073, Dover, NH 03820, (207) 384–5334.
i. *FERC Contact:* Mary C. Golato (202) 357–0804.
j. *Comment Date:* November 15, 1990.
k. *Description of Project:* Lower Village Water Power Company (Lower Village) proposes to transfer the license for the Lower Village Power Project No. 9068 to John N. Webster. Lower Village plans to sell the project to John N. Webster. This arrangement would better facilitate the development and financing of project activities.
l. *This notice also consists of the following standard paragraphs:* B and C.

4a. *Type of Application:* Preliminary Permit.
b. *Project No.:* 10969–000.
c. *Date filed:* July 6, 1990.
d. *Applicant:* Russell Canyon Corporation.
e. *Name of Project:* Harpold Pumped Storage Project.
f. *Location:* On Lost River in Klamath County, Oregon near the towns of Lorella and Malin. T40S, R12E and R13E, Willamette Meridian.
g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).
h. *Applicant Contact:* Mr. Ingolf Hermann, Independent Hydro Developers, 1000 Shelard Parkway Suite 404, Minneapolis, MN 55426, (612) 546–5110.

Mr. Douglas Spaulding, EWI Engineering Associates, Inc., 715 Florida Ave. So. Suite 306, Minneapolis, NM 55426, (612) 593–5650.

i. *FERC Contact:*
Deborah Frazier-Stutely on (202) 357–0842.
j. *Comment Date:*
December 3, 1990.
k. *Description of Project:* The proposed project would consist of: (1) two earth and rock fill dams at elevation 5,400 feet, Dam No. 1 would be 100 feet high, 400 feet long; Dam No. 2 would be 60 feet high, 2,000 feet long; enlarging (2) the Harpold Reservoir to 401 acres with a storage capacity of 14,500 acre-feet at elevation 5,395 feet, msl, to be utilized as the upper reservoir; (3) an intake structure; (4) a 25-foot-diameter, 1,350-foot-deep power shaft; (5) a 25-foot-diameter, 10,000-foot-long power tunnel; (6) a powerhouse containing four pump turbines with a combined installed capacity of 1,000,000 kW, producing an estimated annual energy output of 1,576,800 MWh; (7) a 70-foot-high, 11,200-foot-long earth and rock fill dam at elevation 4,200 feet, creating; (8) a 327 acre reservoir with a storage capacity of 4,195 acre-feet, to be utilized as the lower reservoir; (9) a 42-diameter, 3,200-foot-long water supply pipeline used to initially fill the lower reservoir with water from Lost River; (10) a pumping station; and (11) a 500-kV, 2.93-mile-long transmission line tying into an existing line.

No new access road will be needed to conduct the studies. The applicant estimates the cost of the studies to be conducted under the preliminary permit would be $1,650,000.

l. *Purpose of Project:* Project power would be sold to a California utility.
m. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

5a. *Type of Application:* Preliminary Permit.
b. *Project No.* 10970–000.
c. *Date filed:* July 6, 1990.
d. *Applicant:* Russell Canyon Corporation.

e. *Name of Project:* Smith Hydroelectric Pumped Storage Project.

f. *Location:* On Lost River in Klamath County, Oregon near the towns of Lorella and Malin. T40S, R12E and R13E; Willamette Meridian.

g. *Filed Pursuant to:* Federal Power Act 16 USC 791 (a)–825(r).

h. *Applicant Contact:*

Mr. Ingolf Hermann, Independent Hydro Developers, 1000 Shelard Parkway, Suite 404, Minneapolis, MN 55426, (612) 546–5110

Mr. Douglas Spaulding, EWI Engineering Associates, Inc., 715 Florida Ave., So. Suite 306, Minneapolis, MN 55425, (612) 593–5650.

Allan W. Anderson, Jr., Counsel, Flood & Ward, 1000 Potomac Street, NW, Suite 402, Washington, DC 20007, (202) 298–6810.

i. *FERC Contact:* Ms. Deborah Frazier-Stutely (202) 357–0842.

j. *Comment Date:* December 21, 1990.

k. *Description of Project:* The proposed project would consist of: (1) two earth and rockfill dams with a crest elevation at 5,240 feet msl, one dam would be 140 feet high, 1,800 feet long and one dam would be 50 feet high, 1,300 feet long; enlarging (2) the Smith Reservoir to 280 acres with a storage capacity of 9,800 acre-feet at elevation 5,240 feet to be utilized as the upper reservoir; (3) an intake structure; (4) a 25-foot-diameter, 1,200-foot-deep shaft; (4) a 25-foot-diameter, 9,000-foot-long tunnel; (6) a powerhouse containing 3 pump turbines with a combined installed capacity of 750,000 kW, producing an estimated average annual energy output of 985,000 MWh; (7) a 70-foot-high, 10,500-foot-long earth and rockfill dam at elevation 4,200 feet msl; (8) a 296 acre reservoir with a storage capacity of 10,100 acre-feet at elevation 4,195 feet, to be utilized as the lower reservoir; (9) a 42-inch-diameter, 1,800-foot-long water supply pipeline used to initially fill the lower reservoir with water from Lost River; (10) a 500-kV, 40-mile-long transmission line tying into an existing line.

No new access road will be needed to conduct the studies. The applicant estimates the cost of the studies to be conducted under the preliminary permit would be $1,850,000.

l. *Purpose of Project:* Project power would be sold to a California utility.

m. This notice also consists of the following standard pargraphs: A5, A7, A9, A10, B, C, and D2.

6a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10967–000.

c. *Date filed:* August 6, 1990.

d. *Applicant:* Ohop Mutual Light Company, Inc.

e. *Name of Project:* Little Mashel.

f. *Location:* On Little Mashel River, in Pierce County, Washington. Township 16 N Range 4 E.

g. *Filed Pursuant to:* Federal Power Act 16 USC 791(a)–825(r).

h. *Applicant Contact:* Mr. Richard W. Rosenberg, Manager, Ohop Mutual Light Company, Inc., Eatonville, WA 98328, (206) 847–4364.

i. *FERC Contact:* Michael Spencer at (202) 357–0846.

j. *Comment Date:* December 21, 1990.

k. *Description of Project:* The proposed project would consist of: (1) a 13-foot-high concrete dam; (2) a 48-inch-diameter, 3,500-foot-long penstock; (3) a powerhouse containing two generating units with a combined capacity of 2,000 kW and an estimated average annual generation of 8.0 GWh; (4) a 0.5-mile-long transmission line; and (5) a 500-foot-long access road to the powerhouse.

No new access road will be needed to conduct the studies. The applicant estimates that the cost of the studies to be conducted under the preliminary permit would be $23,000.

l. *Purpose of Project:* Project power would be sold to Bonneville Power Administration.

m. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

7a. *Type of Application:* Preliminary Permit.

b. *Project No.* 10971–000.

c. *Date Filed:* July 6, 1990.

d. *Applicant:* Russell Canyon Corporation.

e. *Name of Project:* Langell Valley Pumped Storage Project.

f. *Location:* On Lost River in Klamath County, Oregon near the towns of Lorella and Malin. T40S, R12E and R13E; T41S, R13E; Willamette Meridian.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:*

Mr. Douglas Spaulding, EWI Engineering Associates, Inc., 715 Florida Ave, So. Suite 306, Minneapolis, MN 55426, (612) 593–5650

Mr. Ingolf Hermann, Chairman of the Board, Russell Canyon Corporation, c/o Independent Hydro Developers, 1000 Shelard Parkway, Suite 404, Minneapolis, MN 55426, (612) 546–5110

Allan W. Anderson, Jr., Counsel, Flood & Ward, 1000 Potomac St., NW., Washington, DC 20007, (202) 298–6910.

i. *FERC Contact:* Ms. Deborah Frazier-Stutely.

j. *Comment Date:* December 3, 1990.

k. *Description of Project:* The proposed project would consist of a closed system pumped storage project consisting of: (1) a 20-foot-high, 700-foot-long earth and rock fill dam at elevation 5,760 feet msl enlarging: (2) Long Lake to 275 acres with a storage capacity of 8,260 acre-feet at elevation 5,766 feet msl to be utilized as the upper reservoir; (3) an intake structure; (4) a 25-foot-diameter, 1600-foot-high power shaft; (5) a 25-foot-diamater, 16,000-foot-long power tunnel; (6) a powerhouse containing four pump turbines with a total installed capacity of 1,000,000 kW, producing an estimated average annual energy output of 1,576,800 MWh; (7) a 65-foot-high, 10,000-foot-long earth and rock fill dam at elevation 4,200 feet creating; (8) a 240 acre reservoir with a storage capacity of 8,000 acre-feet at elevation 4,195 feet msl, to be utilized as the lower reservoir; (9) a 42-inch-diameter, 2,000-feet-long water supply line to initially fill the lower reservoir with water from Lost River; (10) a pumping station; and (11) a 5-mile-long, 500-kV, transmission line tying into an existing line.

No new access road will be needed to conduct the studies. The applicant estimates the cost of the studies to be conducted under the preliminary permit would be $1,850,000.

l. *Purpose of Project:* Project power would be sold to a California utility.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

8a. *Type of Application:* Preliminary Permit.

b. *Project No.* 10969–000.

c. *Date Filed:* August 6, 1990.

d. *Applicant:* McGrath Hydro Corporation.

e. *Name of Project:* Palmer Pond Project.

f. *Location:* On the Schroon River in Essex County, New York.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Neal F. Dunlevy McGrath Hydro Corporation, 100 Sitterly Road, Clifton Park, NY 12065, (315) 793–0366.

i. *FERC Contact:* Robert Bell (tag) (202) 357–0806.

j. *Comment Date:* November 23, 1990.

k. *Description of Project:* The proposed project would consist of: (1) an existing 100-foot-long, 10-foot-high concrete dam; (2) an impoundment with a surface area of 36 acres with negligible storage and a normal water surface elevation of 873 feet msl; (3) a proposed intake structure; (4) a proposed 200-foot-long, 4-foot-diameter steel penstock; (5) the existing powerhouse containing new generating units having an installed capacity of 500-kW; (6) an existing tailrace; (7) a proposed 200-foot-long,

13.8-kV transmission line; and (8) appurtenant facilities. The applicant estimates the average annual generation would be 2,000,000 kWh. The project energy would be sold to a local utility. The estimated cost of the studies to perform under this permit is $25,000. The dam is owned by the State of New York.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

9a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10996-000.

c. *Date filed:* August 23, 1990.

d. *Applicant:* Windsor Machinery Company, Inc.

e. *Name of Project:* Honk Falls Project.

f. *Location:* On Rondout Creek and Honk Lake in Ulster County, New York.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact: Mr. Harry A. Terbush, 16 Orbit Lane, Hopewell Junction, NY 12533, (914) 897–4114.*

i. *FERC Contact:* Robert Bell (202) 357–0806.

j. *Comment Date:* November 30, 1990.

k. *Description of Project:* The proposed project would consist of: (1) an existing 120-foot-long, 20-foot-high reinforced concrete gravity dam; (2) an impoundment having a surface area of 50 acres and storage capacity of 400 acre-feet and a normal water surface elevation of 576 feet msl; (3) proposed intake structure; (4) a proposed 100-foot-long, 5-foot-diameter penstock; (5) a proposed project containing generating units with an installed capacity of 100-kW; (6) a proposed tailrace; (7) a proposed 300-foot-long 13.2-kV transmission line; and (8) appurtenant facilities. The applicant estimates the average annual generation would be 876,000 kWh. The project energy would be sold to Central Hudson Gas and Electric Corporation. The Dam and existing facilities are owned by Ulster County, NY.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

10a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11002-000.

c. *Date Filed:* September 10, 1990.

d. *Applicant:* A.L.L. Natural Resources Company.

e. *Name of Project:* Arden Mill Dam Power Project.

f. *Location:* On the North Nashua River near Fitchburg, in Worcester County, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act, U.S.C. 791(a)–825(r).

h. *Applicant Contact:* James E. Lane, A.L.L. Natural Resources Company, 29 Westminster Street, Fitchburg, MA 01420, (508) 342-4029.

i. *FERC Contact:* Mary Golato (202) 357–0804.

j. *Comment Date:* December 14, 1990.

k. *Description of Project:* The proposed project would consist of the following facilities: (1) an existing dam 170 feet long and 16 feet high, (2) an existing reservoir with a surface area of 1 acre and a storage capacity of approximately 2 million gallons at an elevation of 393.5 feet msl; (3) a powerhouse containing a generator at an installed capacity of 200 kilowatts; (4) a new transmission line approximately 250 feet long; and (5) appurtenant facilities. The applicant proposes to rehabilitate the existing dam and install new hydroelectric generating equipment at the location of a previously operating mill. The owner of the dam is Ken Posco of Fitchburg, Massachusetts. The expected average annual power generation for the site is 1,000,000 kilowatthours and the cost of the studies under permit is approximately $25,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

11a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11003–000.

c. *Date Filed:* September 10, 1990.

d. *Applicant:* United Supply Corporation.

e. *Name of Project:* South Sandy Creek Hydroelectric Project.

f. *Location:* On South Sandy Creek near Ellisburg, Jefferson County, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Rudolph P. Suto, United Supply Corporation, 230 East Eighth Avenue, Homestead, PA 15120, (412) 464–1315.

i. *FERC Contact:* Michael Dees (202) 357–0807.

j. *Comment Date:* December 5, 1990.

k. *Description of Project:* The proposed project would consist of: (1) an existing dam 210 feet long and 13.5 feet high; (2) an existing reservoir with a surface area of 3.1 acres at a normal water surface elevation of 350 feet msl; (3) an existing intake structure; (4) a proposed 60–kW hydropower unit to be located at the intake structure; (5) a proposed penstock 50 feet long; (6) a proposed powerhouse housing a hydropower unit with a capacity of 300 kW; (7) a 13.5–kV transmission line 1,000 feet long; (8) and appurtenant facilities. The applicant estimates that the annual energy generation would be 1.2 GWh and that the cost of the studies to be performed under the permit would be $150,000. The energy would be sold to Niagara Mohawk Power Corporation. The dam is owned by Mr. Richard C. Rawlings.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

12a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11009–000.

c. *Date Filed:* September 21, 1990.

d. *Applicant:* Jordan Dam Hydro Watts Associates.

e. *Name of Project:* B. Everett Jordan Dam Hydro Project.

f. *Location:* On the Haw River in Chatham County, North Caroline.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* John Lavigne, Jr., P.E., 1669 Candia Road, Manchester, NH 03103, (603) 647–8700.

i. *FERC Contact:* Ed Lee (202) 357–0009.

j. *Comment Date:* December 5, 1990.

k. *Description of Project:* The applicant proposes to utilize an existing dam under the jurisdiction of the U.S. Army Corps of Engineers. The proposed project would consist of: (1) modifications to the existing intake tower; (2) four 2500-kW generating units to be located on the face of the intake tower for a total installed capacity of 10 MW; (3) a 6-mile-long, 14.4-kV transmission line; and (4) appurtenant facilities. Applicant estimates that the cost of the work to be performed under the terms of the permit would be $80,000 and that the project average annual energy output would be 40 GWH. Energy produced at the project would be sold to Carolina Power and Light.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2

a. *Type of Application:* Exemption from Licensing.

b. *Project No:* 10177–000.

c. *Date Filed:* November 15, 1989.

d. *Applicant:* Town of West Stockbridge, MA.

e. *Name of Project:* Shaker Mill Project.

f. *Location:* On the Williams River in Berkshire County, Massachusetts.

g. *Filed Pursuant to:* Energy Security Act of 1980, Federal Power Act 16 U.S.C. § 791 (a)–825(r).

h. *Applicant Contact:* Robert Burke, Boards of Selectmen, Main Street, West Stockbridge, MA 01266, (413) 232–7080.

i. *FERC Contact:* Robert Bell (202) 357–0806.

j. *Comment Date:* November 13, 1990.

k. *Description of Project:* The proposed project would consist of: (1) an existing 32-foot-long, 9-foot-high

concrete gravity dam; (2) 12-inch-high flashboards; (3) an impoundment with a surface area of 32 acres having a storage capacity of 192 acre-feet and a normal water surface elevation of 898.6 feet msl; (4) the existing intake; (5) an existing 10-foot-long, 3-foot-diameter penstock; (6) an existing powerhouse containing a new generating unit having an installed capacity of 30-kW; (7) the existing tailrace; (8) a proposed 50-foot-long, 4.16-kV transmission line, and (9) appurtenant facilities. The Applicant estimates the annual average generation would be 160,600 kWh. The project energy would be sold to Massachusetts Electric Company.

1. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3a.

a. *Type of Application:* Declaration of Intention.

b. *Docket No.* EL90-50.

c. *Date Filed:* September 11, 1990.

d. *Applicant:* Alva Greene.

e. *Name of Project:* Alva Greene Power Project.

f. *Location:* At river mile 133.5, Middle Fork of the Boise River, about ½ mile north of the community of Atlanta, Elmore County, Idaho.

g. *Filed Pursuant to:* Section 23(b) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* Mr. Alva Greene, P.O. Box 114, Atlanta, Idaho 83601. Mr. Carl L. Myers, P.E. Myers Engineering Company, P.A. 750 Warm Springs Avenue Boise, Idaho 83712 (208) 338-1427.

i. *FERC Contact:* Diane M. Scire, (202) 357-0822.

j. *Comment Date:* November 13, 1990.

k. *Description of Project:* The proposed Alva Greene Power Project would consist of: (1) a 3-foot-high log and rock diversion dam; (2) a 1,300-foot-long canal; (3) an offstream reservoir with a storage area of 140 acre feet total capacity; (4) a 28-foot-high, 1,490-foot-long dam; (5) a 24-inch-diameter, 1,500-foot-long steel penstock; (6) a powerhouse with an installed capacity of 60 kilowatts; and (7) appurtenant facilities.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

1. *Purpose of Project:* to furnish electric power for domestic use at the owner's resort facilities.

m. This notice also consists of the following standard paragraphs: B, C, and D2.

Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development applicaiton allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application) and be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Dean Shumway, Director, Division of Project Review, Federal Energy Regulatory Commission, room 1027 (810 1st), at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtain by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. Agency Comments—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are required, for the purposes set forth in section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other federal, state and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: October 11, 1990, Washington, DC

Lois D. Cashell,

Secretary.

[FR Doc. 90-24505 Filed 10-17-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP91-6-000, et al.]

Northern Natural Gas Co. et al., Natural Gas Certificate Filings

October 10, 1990.

Take notice that the following filings have been made with the Commission:

1. Northern Natural Gas Company

[Docket No. CP91-6-000]

Take notice that on October 1, 1990, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP91-6-000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 18 CFR 157.212) for authorization to reassign certain natural gas volumes and operate one new delivery point and upgrade one existing delivery point for deliveries to Minnegasco, Inc. (Minnegasco), under Northern's blanket certificate issued in Docket No. CP82-401-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern requests authorization to operate the delivery points for service to Minnegasco for resale to two communities in Hennepin County, Minnesota (Minnetrista and Rockford), reassigning firm sales entitlements under Northern's Rate Schedule SS-1 by increasing daily sales to these two communities by 7,480 Mcf and reducing entitlements by the equivalent amount to Minneapolis. It is stated that Minnegasco has requested the changes to better serve growing communities. It is explained that the deliveries would be within Minnegasco's current daily entitlement from Northern and that Northern has sufficient capacity to make the deliveries without detriment to its other customers. Northern states that the end-uses of the gas are residential, commercial and industrial.

Comment date: November 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

2. Columbia Gulf Transmission Company

[Docket Nos. CP91-55-000, CP91-57-000, CP91-58-000, and CP91-59-000]

Take notice that Applicant filed in the respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[1]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, have been provided by Appliant and is summarized in the attached appendix.

Applicant state that each of the proposed services would be provided under an executed transportation agreement, and that Applicant would charge the rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: November 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

Applicant: Columbia Gulf Transmission Company, 3805 West Alabama, Houston, TX 77027.

Blanket Certificate Issued in Docket No.: CP86-239-000.

[1] These prior notice requests are not consolidated.

Docket number (date filed)	Shipper name	Peak day [1] average annual	Points of		Start up date rate schedule	Related [2] dockets
			Receipt	Delivery		
CP91-55-000 (10-04-90)	Koch Hydrocarbon Company.	90,000 30,00 10,950,000	LA, Off-shore LA	LA, MI	08-01-90, ITS-1 & ITS-2.	ST90-4307-000.
CP91-57-000 (10-04-90)	Kerr-McGee Corporation	100,000 30,000 10,950,000	LA, TX, Off-shore LA	LA, TN, MI, TX, Offshore LA.	08-01-90 ITS-1 & ITS-2.	ST90-4480-000.
CP91-53-000 (10-04-90)	Panhandle Trading Company.	150,000 30,000 10,950,000	LA, Off-shore LA	MI, TN, LA	08-01-90 ITS-1 & ITS-2.	ST90-4308-000.
CP91-59-000 (10-04-90)	Ledco, Inc.	80,000 25,000 9,125,000	LA	LA	08-01-90 ITS-1 & ITS-2.	ST90-4308-000.

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] If an ST docket is shown, 120-day transportation service was reported in it.

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3. Moss Bluff Gas Storage Systems

[Docket No. CP91-52-000]

Take notice that on October 4, 1990, Moss Bluff Gas Storage Systems (Moss Bluff), 14811 St. Mary's Lane, Houston, Texas 77079, filed in Docket No. CP91-60-000 an application pursuant to section 7(c) of the Natural Gas Act and § 284.224 of the Commission's Regulations for a certificate of public convenience and necessity for blanket authorization to engage in the sale, transportation (including storage) or assignment of natural gas in interstate commerce as if Moss Bluff were an intrastate pipeline as defined in subparts C, D and E of part 284 of the Commission's Regulations, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Moss Bluff states that it owns and operates a salt cavern storage facility in Liberty County, Texas and pipeline transmission and appurtenant facilities in Liberty and Chambers Counties, Texas. Moss Bluff further states that it will receive in the near future natural gas from three intrastate pipelines and two interstate pipelines and deliver such gas to its storage facility. It is stated, however, that when circumstances require, gas stored in the Moss Bluff storage facility will be withdrawn by Moss Bluff and delivered to Moss Bluff's pipeline facilities for redelivery to various pipelines with which it interconnects. It is stated that the storage gas will then be transported by the interconnecting pipelines and redelivered to various customers for ultimate consumption within the state of Texas. Moss Bluff states that since it will be providing gas sales, transportation and storage service to customers located in Texas, Moss Bluff's rates, service and facilities will be regulated by the Railroad Commission of the state of Texas.

Moss Bluff states that on or about October 1, 1990, it will begin the injection of natural gas into its storage facility for the 1990-91 winter heating season. It is anticipated that injection operations will be completed within 30-45 days thereafter and that Moss Bluff will be capable of withdrawing gas to meet peak winter-period demand on or about November 15, 1990. Moss Bluff states that its storage, sales and transmission services will be primarily provided to customers located within the state of Texas. Howver, Moss Bluff states that since it interconnects with at least two interstate pipelines, it is also anticipated that such services may be requested by customers located outside of the state of Texas because of the peak demands usually experienced during the winter heating season, and in particular, because of the extraordinary demands and curtailments experienced during last year's heating season.

Moss Bluff states that it currently does not have an effective city-gate rate on file with the Texas Railroad Commission, however, prior to the commencement of any transactions, will either apply for Commission approval of its transportation rates in accordance with Section 284.123(b)(2) or file a petition for adjustment under NGPA Section 502(c) seeking Commission approval to use Moss Bluff's then effective Railroad Commission-approved rates.

Comment date: October 31, 1990, in accordance with Standard Paragraph F at the end of this notice.

4. ANR Pipeline Company

[Docket No. CP91-52-000]

Take notice that on October 4, 1990, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243 filed in Docket No. CP91-52-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Coastal Gas Marketing Co. (Coastal), Wisconsin, under ANR's blanket certificate issued in Docket No. CP88-532-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

ANR proposes to transport, on an interruptible basis, up to 800,000 dt equivalent of natural gas per day for Coastal. ANR states that construction of facilities would not be required to provide the proposed service.

ANR states that the maximum day, average day, and annual transportation volumes would be approximately 800,000 dt, 800,000 dt and 292,000,000 dt equivalent of natural gas respectively.

ANR advises that service under § 284.223(a) commenced August 8, 1990, as reported in Docket No. ST90-4876-000.

Comment date: November 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

5. ANR Pipeline Company

[Docket No. CP91-55-000]

Take notice that on October 4, 1990, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243 filed in Docket No. CP91-55-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of End Users Supply System (End Users), under ANR's blanket certificate issued in Docket No. CP88-532-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

ANR proposes to transport, on an interruptible basis, up to 25,000 dt equivalent of natural gas per day for End Users. ANR states that construction of facilities would not be required to provide the proposed service.

ANR states that the maximum day, average day, and annual transportation volumes would be approximately 25,000 dt, 25,000 dt and 9,125,000 dt equivalent of natural gas respectively.

ANR advises that service under § 284.223(a) commenced August 7, 1990, as reported in Docket No. ST90-4812-000.

Comment date: November 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

6. U-T Offshore System

[Docket No. CP90-2343-000]

Take notice that on September 28, 1990, U-T Offshore System (U-TOS), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP90-2343-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to provide an interruptible transportation service for Coastal Gas Marketing Company (Coastal), under U-TOS's blanket certificate issued in Docket No. RP89-99-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

U-TOS states that the transportation service would be provided pursuant to a transportation agreement wherein U-TOS proposes to transport up to 700,000 Mcf on a peak day, 700,000 Mcf on an average day, and 255,500,000 Mcf annually, of natural gas on an interruptible basis for Coastal, a marketing company. U-TOS states that

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the existing U–TOS system would be utilized to provide this transportation service. U–TOS proposes to receive gas for this transportation service in West Cameron Block 167, offshore Louisiana (interconnection with the High Island Offshore System) and in West Cameron Block 116, offshore Louisiana. It is further stated that the delivery point(s) are the interconnection point(s) between the facilities of U–TOS and the facilities of other pipelines at the Johnson's Bayou Plant, Cameron Parish, Louisiana.

U–TOS states that transportation service for Coastal commenced August 20, 1990, under the 120-day automatic provisions of Section 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89–4816–000.

Comment date: November 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

7. ANR Pipeline Company

[Docket No. CP91–53–000]

Take notice that on October 4, 1990, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243 filed in Docket No. CP91–53–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Hunt Oil Co. (Hunt), Wisconsin, under ANR's blanket certificate issued in Docket No. CP88–532–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

ANR proposes to transport, on an interruptible basis, up to 20,000 dt equivalent of natural gas per day for Hunt. ANR states that construction of facilities would not be required to provide the proposed service.

ANR states that the maximum day, average day, and annual transportation volumes would be approximately 20,000 dt, 25,000 dt and 7,300,000 dt equivalent of natural gas respectively.

ANR advises that service under § 284.223(a) commenced August 9, 1990, as reported in Docket No. ST90–4678–000.

Comment date: November 26, 1990, in accordance with the Standard Paragraph G at the end of this notice.

8. ANR Pipeline Company

[Docket No. CP91–51–000]

Take notice that on October 4, 1990, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243 filed in Docket No. CP91–51–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Coastal Gas Marketing Co. (Coastal), Wisconsin, under ANR's blanket certificate issued in Docket No. CP88–532–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

ANR proposes to transport, on an interruptible basis, up to 800,000 dt equivalent of natural gas per day for Coastal. ANR States that construction of facilities would not be required to provide the proposed servoce.

ANR states that the maximum day, average day, and annual transportation volumes would be approximately 800,000 dt, 800,000 dt and 292,000,000 dt equivalent of natural gas respectively.

ANR advises that service under § 284.223(a) commenced August 8, 1990, as reported in Docket No. ST90–4681–000.

Comment date: November 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herien provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (19 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protests to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protests, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 90–24509 Filed 10–17–90; 8:45 am]

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Federal Energy Regulatory Commission

[Docket No. TQ91–2–49–000]

ANR Pipeline Co., Proposed Change in FERC Gas Tariff

October 11, 1990.

Take notice that ANR Pipeline Company ("ANR"), on October 9, 1990, tendered for filing as part of its F.E.R.C. Gas Tariff, Original Volume No. 1, the following tariff sheets:

Tariff sheets	Proposed effective date
Substitute Thirty-First Revised Sheet No. 19.	November 1, 1990.
Substitute Alternate Thirty-First Revised Sheet No. 19.	November 1, 1990.
Substitute Thirty-Second Revised Sheet No. 19.	November 5, 1990.
Substitute Alternate Thirty-Second Revised Sheet No. 19.	November 5, 1990.

The above reference tariff sheets reflect ANR's Out-of-Cycle PGA to be effective November 1, 1990. This filing reflects projected gas purchases for November 1,1990 through January 31, 1991 and restates ANR's ceiling rate for that quarterly period.

The above referenced tariff sheets reflect an Annual Charge Adjustment (ACA) charge of $0.0022 per dekatherm,

pursuant to the Commission's Order of September 26, 1990, at Docket No. TM91-1-46-000.

On September 4, 1990, ANR made a Commission ordered compliance filing, in Docket Nos. RP89-161-010, RP89-161-004 and RP89-161-014, to implement the required elimination from its currently effective base rates, effective November 1, 1989, of the amount included in Account No. 858 that is related to certain conversions from sales to transportation entitlements. As of the date of this Out-of-Cycle PGA filing, the Commission has not acted upon ANR's September 4, 1990 filing.

In the instant filing, ANR requests tha Substitute Thirty-First Revised Sheet No. 18 be made effective November 1, 1990 if the Commission acts upon ANR's September 4, 1990 Compliance filing on or before November 1, 1990. This tariff sheet incorporates rate changes from ANR's Account No. 858 compliance filing and ANR's $0.0022 ACA charge. In the event that the Account No. 858 compliance filing is not accepted by the Commission on or before November 1, 1990, ANR tenders Substitute Alternate Thirty-First Revised Sheet No. 18.

Substitute Thirty-First Revised Sheet No. 18 reflects a $0.6812 per dekatherm ("dth") increase in the gas cost component of the commodity rate of ANR's CD-1/MC-1 Rate Schedules, from rates effective October 1, 1990. There is an increase of 0.071 in the monthly D-1 demand rate from rates effective October 1. The D-2 demand rate reflects a decrease of $0.0139, from October 1 rates. Substitute Thirty-First Revised Sheet No. 18 further reflects an increase in ANR's one-part rate applicable to Rate Schedule SGS-1 of $0.6435 per dth, from rates in effect October 1, 1990.

ANR has also submitted tariff sheets to become effective November 5, 1990. These sheets contain rate changes proposed in ANR's Out-of-Cycle PGA, Account No. 858 Compliance filing and ANR's sixth buyout/buydown filing, in Docket No. RP 91-6-000, that was submitted to the Commission on October 5, 1990.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 18, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24533 Filed 10-17-90; 8:45 am]

BILLING CODE 6717-01-M

Federal Energy Regulatory Commission

[Docket No. TM91-1-91-001]

ANR Storage Co., Proposed Changes in FERC Gas Tariff Annual Charges Adjustment Clause Provisions

October 11, 1990.

Take notice that ANR Storage Company ("ANR Storage") on October 5, 1990, tendered for filing Second Revised Sheet No. 1(a) to its FERC Gas Tariff, Original Volume No. 2.

Second Revised Sheet No. 1(a) reflects the new ACA rate to be charged as established by the Commission's order issued on September 26, 1990, at Docket No. RM87-3-000, and is to be effective November 1, 1990. Additionally, pursuant to ordering paragraph D of the Commission's order ANR Storage will be permitted to include a billing adjustment in their November bills to account for any ACA surcharge underrecovery that occurs during October.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission Rules of Practice and Procedures (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 18, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24535 Filed 10-17-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-2-22-000]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

October 11, 1990.

Take notice that on October 2, 1990, CNG Transmission Corporation (CNG) pursuant to section 4 of the Natural Gas Act, and part 154 of the Commission's Regulations (18 CFR part 154) filed six (6) copies of the following revised tariff sheet to First Revised Volume No. 1 of its FERC Gas Tariff:

Second Revised First Revised Sheet No. 31

The tariff sheet represents an out-of-cycle PGA filing made for the sole purpose of changing CNG's tariff to allow the company to include as purchased gas costs the costs of converting a portion of CNG's firm sales agreements with Texas Eastern Transmission Corporation ("Texas Eastern") and Texas Gas Transmission Corporation ("Texas Gas") to firm transportation. The effective date of the tariff sheets is November 1, 1990, the same date that the conversion of the Texas Eastern and Texas Gas agreements are scheduled to become effective.

CNG states that copies of the filing were served upon affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214 and 385.211. All motions or protests should be filed on or before October 18, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24539 Filed 10-17-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-1-67-001]

Canyon Creek Compression Co. Proposed Change in FERC Gas Tariff

October 11, 1990.

Take notice that on October 4, 1990, Canyon Creek Compression Company (Canyon) tendered for filing Twelfth

Revised Sheet No. 4 (Original Volume No. 1) and Third Revised Sheet No. 5 (Original Volume No. 1A) to be a part of its FERC Gas Tariff, to be effective November 1, 1990.

Canyon states that the purpose of the filing is to implement the Annual Charges Adjustment (ACA) charge necessary for Canyon to recover from its customers annual charges assessed it by the Commission pursuant to Part 382 of the Commission's Regulations. The rate authorized by the Commission is .22¢ per Mcf.

Canyon requested waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets to become effective November 1, 1990, the date authorized in Commission's Order issued September 26, 1990, at Docket Nos. RM87-3-000, *et al.*

Canyon states that a copy of the filing is being mailed to Canyon's jurisdictional customers and interested state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211 (1990). All such protests should be filed on or before October 18, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24540 Filed 10-17-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-1-26-001]

Natural Gas Pipeline Co. of America; Proposed Changes in FERC Gas Tariff

October 11, 1990.

Take notice that on October 4, 1990, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, revised tariff sheets to be effective November 1, 1990.

Natural states that the purpose of the filing is to implement the Annual Charges Adjustment (ACA) charge necessary for Natural to recover from its customers annual charges assessed it by the Commission pursuant to part 382 of the Commission's Regulations. The rate authorized by the Commission is .22¢ per Mcf. Under Natural's billing basis of 14.65 psia at 1000 Btu, this rate converts to .21¢ per Mcf.

Natural requested waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets to become effective on November 1, 1990, the date authorized in Commission's Order issued September 26, 1990, at Docket Nos. RM87-3-000, *et al.*

Natural states that a copy of the filing is being mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before October 18, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24542 Filed 10-17-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-70-000]

Equitrans, Inc.; Informal Settlement Conference

October 11, 1990.

Take notice that a conference will be convened in the above-captioned proceeding on October 18, 1990 at 10 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426, for the purpose of exploring the possible settlement of the issues in this proceeding.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Arnold H. Meltz (202) 208-0737 or Jennifer B. Corwin (202) 208-0740.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24544 Filed 10-17-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TM91-1-51-001 CP89-2196-003]

Great Lakes Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

October 11, 1990.

Take notice that Great Lakes Gas Transmission Company ("Great Lakes") on October 4, 1990 tendered for filing the following tariff sheets to its FERC Gas Tariff proposed to be effective November 1, 1990:

Original Volume No. 3

Substitute Original Sheet No. 2
Substitute Original Sheet No. 3

Great Lakes states that on October 1, 1990 it filed with the Commission in Docket No. CP89-2196-000, Original Sheet Nos. 1 through 54, Original Volume No. 3, establishing its "Open Access" tariff.

Great Lakes states that Original Sheet No. 2 and Original Sheet No. 3 filed on October 1, 1990 reflected rates for "Open Access" transportation with an ACA rate of $.0019 per Mcf based upon Great Lakes filing of August 29, 1990 in Docket No. TM91-1-51-000.

Great Lakes states that by Commission Order of September 26, 1990 in Docket No. RM87-3-000, *et al*, the Commission revised the ACA rate from $.0019 per Mcf to $.0022 per Mcf to correct for an omission of a debit adjustment in the determination of the appropriate ACA rate. Pursuant to Ordering Paragraph (D) of the Commission's Order, Great Lakes states that it was permitted to file, within 15 days of the Order, revised tariff sheets reflecting a $.0022 per Mcf ACA rate to be effective November 1, 1990.

Great Lakes states the referenced tariff sheets are identical to those previously filed with the Commission on October 1, 1990 adjusted only to reflect the appropriate ACA rate as determined by the Commission's Order of September 26, 1990 in Docket No. RM87-3-000, *et al.*

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 18, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to

intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24539 Filed 10-17-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-1-15-001]

National Fuel Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

October 11, 1990.

Take notice that on October 5, 1990, National Fuel Gas Supply Corporation ("National") tendered for filing Thirty-Eighth Revised Sheet No. 4 as part of its FERC Gas Tariff, First Revised Volume No. 1, proposed to become effective on November 1, 1990.

In compliance with the Ordering Paragraph (D), Docket No. RM87-3-000 *et al* dated September 28, 1990, National will increase the ACA surcharge from $.0018/Dth to $.0021/Dth effective on November 1, 1990. The tariff reflects an average commodity cost of purchased gas of $2.7576/Dth, as stated in National's October quarterly purchased gas cost adjustment, Docket No. TQ91-1-16-000, filed on August 31, 1990, and an RQ and CD sales commodity rate of $2.9361/Dth.

Thirty-Eighth Revised Sheet No. 4 reflects a commodity current adjustment of 6.24 cents per Dth from National's July alternate quarterly purchased gas cost adjustment, filed on May 31, 1990, in Docket No. TQ90-3-16-000.

National states that copies of this filing were posted pursuant to § 154.16 of the Commission's Regulations and copies served on National's jurisdictional customers and on the Regulatory Commissions of the States of New York, Ohio, Pennsylvania, Delaware, Massachusetts and New Jersey.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before October 18, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24541 Filed 10-17-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-1-64-001

Pacific Interstate Offshore Co.; Change in Rate]

October 11, 1990.

Take notice that on October 5, 1990, Pacific Interstate Offshore Company ("PIOC") submitted for filing, to be a part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheet:

Original Volume No. 1

Twelfth Revised Sheet No. 4

PIOC states the purpose of this filing is to set forth the applicable Annual Charge Adjustment (ACA) surcharge of .22 cents per MCF in its Rate Schedule G-10 as provided for by Order No. 472 and the Commission Order dated September 28, 1990 in Docket No. RM87-3-000. PIOC requests an effective date of November 1, 1990.

PIOC states that a copy of this filing has been served on PIOC's sole customer Southern California Gas Company and the Public Utilities Commission of the State of California.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 18, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24537 Filed 10-17-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-1-63-001]

Stingray Pipeline Co.; Proposed Changes in FERC Gas Tariff

October 11, 1990.

Take notice that on October 4, 1990, Stingray Pipeline Company (Stingray) tendered for filing Nineteenth Revised Sheet No. 4 to be a part of its FERC Gas Tariff, Original Volume No. 1, to be effective November 1, 1990.

Stingray states that the purpose of the filing is to implement the Annual Charges Adjustment (ACA) charge necessary for Stingray to recover from its customers annual charges assessed it by the Commission pursuant to Part 382 of the Commission's Regulations. The rate authorized by the Commission is .22¢ per Mcf. Under Stingray's billing basis of 14.73 psia per Dekatherm, this rate converts to .21¢ per Dekatherm.

Stingray requested waiver of the Commission's Regulations to the extent necessary to permit the tariff sheet to become effective on November 1, 1990, the date authorized in Commission's Order issued September 28, 1990, at Docket No. RM87-3-000, et al.

Stingray states that a copy of the filing is being mailed to Stingray's jurisdictional customers and interested state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before October 18, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24534 Filed 10-17-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-113-004; Docket No. RP88-191-024; Docket No. RP85-178-071, et al.]

Tennessee Gas Pipeline Co.; Tariff Filing

October 11, 1990.

Take notice that on October 5, 1990, Tennessee Gas Pipeline Company (Tennessee) made a compliance filing pursuant to the September 30, 1990 letter order in the above mentioned dockets.

On September 20, 1990 the Commission issued a letter order in the referenced proceedings accepting certain tariff sheets filed by Tennessee Gas Pipeline Company (Tennessee), on

July 30, 1990, which reflect in part the reallocation to CNG Transmission Corporation (CNG) 49% of the take-or-pay and contract reformation costs and carrying charges otherwise payable by North Penn Gas Company (North Penn). The September 20 letter order required Tennessee to file revised workpapers within 15 days to clarify certain matters raised by Corning Natural Gas Corporation (Corning). Accordingly, Tennessee hereby files a revised appendix B of the workpapers originally filed July 30, 1990.

Tennessee is also submitting the following corrected tariff sheets:

Second Revised Volume No. 1

Substitute Fourth Revised Sheet No. 41
Substitute Fourth Revised Sheet No. 43
Substitute First Revised Sheet No. 245E
Substitute First Revised Sheet No. 245F

The only change on these sheets is corrected numbering of the sheets. Tennessee had previously incorrectly stated which sheets were being superseded.

Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211 (1990)). All such protests should be filed on or before October 18, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24538 Filed 10-17-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-1-55-001]

Trailblazer Pipeline Co.; Proposed Change in FERC Gas Tariff

October 11, 1990

Take notice that on October 4, 1990, Trailblazer Pipeline Company (Trailblazer) tendered for filing Tenth Revised Sheet No. 4 (Original Volume No. 1) and Second Revised Sheet No. 4 (Original Volume 1A) to be a part of its FERC Gas Tariff, to be effective November 1, 1990.

Trailblazer states that the purpose of the filing is to implement the Annual Charges Adjustment (ACA) charge necessary for Trailblazer to recover from its customers annual charges assessed it by the Commission pursuant to Part 382 of the Commission's Regulations. The rate authorized by the Commission is .22¢ per Mcf.

Trailblazer requested waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets to become effective November 1, 1990, the date authorized in Commission's order issued September 28, 1990, Docket Nos. RM87-3-000, *et al.*

Trailblazer states that a copy of the filing is being mailed to Trailblazer's jurisdictional customers and interested state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 18, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24543 Filed 10-17-90; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 90-75-NG]

Access Energy Corp.; Order Granting Blanket Authorization To Export Natural Gas From the United States to Canada or Mexico

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of an order granting blanket authorization to export natural gas to Canada or Mexico.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Access Energy Corporation (Access) blanket authorization to export up to 296 Bcf of natural gas to Canada or Mexico over a two-year period commencing on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 10, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-24614 Filed 10-17-90; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $48,500,000, plus accrued interest, that Tesoro Petroleum Corp. is required to remit to the DOE pursuant to a Consent Order executed on January 23, 1989. The funds will be distributed in accordance with the DOE's special refund procedures, 10 CFR part 205, subpart V, and the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986).

DATES AND ADDRESSES: Applications for Refund from the Tesoro refined product pool must be filed in duplicate and must be received by May 31, 1991. All applications for Refund from this escrow fund should display a conspicuous reference to Case Number KEF-0128. Applications for Crude Oil Refunds must be filed in duplicate and must be received by March 31, 1991. Any party that has previously submitted a refund application in the crude oil refund proceedings need not file another application; that application will be deemed to be filed in all crude oil proceedings finalized to date. All applications should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Richard T. Tedrow, Deputy Director, Soong-Chan Rah, Staff Analyst, Office of Hearings and Appeals, Department of

Energy, 1000 Independence Avenue SW., Washington, DC 20585, [202] 586-6518 (Tedrow). [202] 586-6602 (Rah).

SUPPLEMENTARY INFORMATION: In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision sets forth the procedures that the DOE has formulated to distribute monies that have been and will be remitted by Tesoro Petroleum Corp. to the DOE to settle alleged pricing and allocation violations with respect to the firm's sales of crude oil and refined petroleum products. The DOE is currently holding $30,177,850.95 in an interest-bearing escrow account pending distribution. Subsequent payments totalling $18,322,149.05 plus interest will also be distributed pursuant to the procedures established in this proceeding.

Applications for Refund may not be filed by injured purchasers of Tesoro refined petroleum products. Applications from the Tesoro escrow fund must be filed in duplicate and received no later than May 31, 1991. Applications for Crude Oil Refunds must be filed in duplicate and received no later than March 31, 1991. Any party that has previously submitted a refund application in crude oil refund proceedings need not file another application; that application will be deemed to be filed in all crude oil proceedings finalized to date. All applications should be sent to the address set forth at the beginning of this notice. All applications received will be available for public inspection between the hours of 1 p.m. and 5 p.m., Monday through Friday, except Federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in room 1E-234, 1000 Independence Avenue SW Washington, DC 20585.

Dated: October 12, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

Implementation of Special Refund Procedures

Name of Firm: Tesoro Petroleum Corporation.

Date of Filing: February 24, 1989.

Case Number: KEF-0123.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. *See* 10 CFR part 205, subpart V. On February 24, 1989, ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a Consent Order entered into with Tesoro Petroleum Corporation (Tesoro).

I. Background

Tesoro was a "producer," "refiner," and "reseller" of petroleum products as those terms were defined in 10 CFR 21.31. A DOE audit of Tesoro's records revealed possible violations of the Mandatory Petroleum Price and Allocation Regulations. 10 CFR parts 210, 211 and 212. More specifically, the audit revealed that between January 1, 1973 and January 27, 1981, Tesoro may have violated the DOE's pricing and allocation regulations with respect to its pricing, refining, and sales of crude oil and the pricing and sales of refined petroleum products.

The DOE has taken various administrative enforcement actions against Tesoro, including the issuance of Notices of Probable Violation, Proposed Remedial Orders, and Remedial Orders. Tesoro maintained, however, that it has calculated its costs, determined its prices, sold its crude oil and petroleum products, and operated in all other respects in accordance with the federal petroleum price and allocation regulations. However, Tesoro states that in order to avoid the expense of protracted and complex litigation and the disruption of its orderly business functions, it entered into a Consent Order (No. RTSE00A1Z) with the DOE on January 23, 1989.[1] The Consent Order refers to ERA's allegations of overcharges, but does not find that any violations occurred. In addition, the Consent Order states that Tesoro does not admit any such violations.

The Consent Order requires Tesoro to pay a total of $48,500,000, plus interest on any unpaid balances, to the DOE over a period of six years. Under the terms of the Consent Order, Tesoro deposited $25,000,000 within thirty days after the effective date of the Consent Order. Beginning one year later, Tesoro will make six equal annual installments of $5,177,850.95, constituting an additional principal sum of $23,500,000, plus interest calculated at the rate of 8.61 per cent per annum.

On March 1, 1990, the OHA issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of refunds to parties that make a reasonable showing of injury as a result of Tesoro's alleged overcharges. In order to give notice to all potentially affected parties, a copy of the PD&O was published in the Federal Register and comments regarding the proposed refund procedures were solicited. 55 FR 8518 (March 8, 1990). We provided for a 30-day period for the submission of comments regarding the proposed procedures. The present Decision will address comments received and will set forth final procedures for the distribution of the funds in the Tesoro escrow account. In addition, we will provide a suggested refund application form in order to assist individuals and firms in making claims.

II. Summary of Proposed Refund Procedures

As we indicated in the PD&O, the Tesoro Consent Order resolved alleged regulatory violations involving both sales of crude oil and refined petroleum products. Therefore, we proposed to divide the consent order fund into two pools. According to the ERA, $2,000,000 of the consent order fund is attributable to refined product compliance issues and the remaining $46,500,000 is attributable to crude oil and related compliance issues. *See* January 23 Notice at 3109. However, the ERA's proposed division in the notice is simply a recommendation to OHA. The final division of the consent order funds is left for decision in this proceeding. While we have tended to accept the estimation figures set forth in consent order documents, we can also depart from that practice where compelling reasons are presented or where the evidence indicates that we should do so. In the case, a number of factors in the record indicate that a different division of funds better serves the restitutionary purposes of subpart V.

We believe an increase in the refined product pool and a decrease in the crude oil pool are warranted. We proposed to increase the refined products pool to $6 million. In addition, to speed action and restitution in this proceeding, we proposed to adopt the mechanism successfully used previously and take the principal amount of $6 million in its entirety from the initial payment of $25 million made by Tesoro to the DOE. *See Texaco Inc.*, Case No. KEF-0119 (March 24, 1989) (Proposed Decision). *See also Texaco Inc.*, 19 DOE ¶ 85,300, (Case No.

[1] The Consent Order also resolves allegations in a Proposed Remedial Order issued jointly to Tesoro and DeMenno-Kerdoon (Inc.) on December 8, 1988, and a Proposed Remedial Order issued jointly to Tesoro and Kenco Refining, Inc., on November 8, 1988. In accordance with the terms of the Consent Order, fifty percent of DOE's claim in these two cases will remain against the parties other than Tesoro. Furthermore, DeMenno-Kerdoon (Inc.) and Kenco Refining, Inc., will not be eligible to receive any refunds in this proceeding.

KFX-0068) (July 25, 1988). We further proposed that the remaining portion of the consent order fund, or $19 million from Tesoro's initial payment and the entirety of all future payments, plus accumulated interest on both the $19 million and those future payments, be set aside as a pool of crude oil overcharge funds available for disbursement.

In the PD&O, we outlined procedures under which purchasers of Tesoro refined covered products could apply for refunds. The procedures involve: (1) Assigning applicants shares of the Tesoro settlement, *i.e.*, potential refund amounts; and (2) determining the extent to which the claimants were injured by the alleged overcharges. In order to permit applicants to make alleged overcharges. In order to permit applicants to make refund claims without incurring disproportionate costs as well as refund claims without incurring disproportionate costs as well as to allow us to equitably and efficiently consider those claims, we set forth a number of presumptions pertaining to both aspects of the refund procedures.

First, we presumed that the alleged product overcharges were spread evenly in all of Tesoro's sales of refined covered products during the consent order period. We therefore proposed that an applicant's maximum potential refund generally should be computed by multiplying the pro-gallon refund amount by the number of gallons of Tesoro refined covered products that the claimant purchased during the refund period. The resulting figure is referred to as the claimant's "full volumetric share" of the Tesoro consent order funds. We further proposed, however, that an applicant could rebut the volumetric refund presumption by showing that it sustained a disproportionate share of the alleged overcharges.

Because demonstrating that one was forced to absorb Tesoro's alleged overcharges is potentially difficult, time-consuming, and expensive, we proposed to adopt a number of presumptions concerning injury. For example, we proposed to presume that resellers and retailers claiming refunds of $5,000 or less, end users, agricultural cooperatives, and certain types of regulated firms were injured by Tesoro's alleged overcharges. We also proposed to presume that resellers and retailers that made only spot purchases from Tesoro as well as consignee agents were not injured and are therefore ineligible for refunds. We further proposed that in lieu of making a detailed showing of injury, a reseller or retailer whose allocable share exceeds $5,000 may elect to receive as its refund the larger of $5,000 or 40 percent of its allocable share up to $50,000. This "mid-level" presumption that Tesoro resellers and retailers absorbed 40 percent of the alleged overcharges associated with Tesoro's sales of refined covered products was based on the results of our analyses in prior proceedings. We stated that applicants not covered by one of these injury presumptions would be required to demonstrate that they were forced to absorb Tesoro's alleged overcharges in order to receive their full volumetric shares of the Tesoro consent order funds.[3]

III. Comments on the Proposed Procedures

As we stated earlier, the PD&O was published in the Federal Register on March 1, 1990, and comments on the proposed refund procedures were solicited. *See* FR 8518. In addition, the OHA mailed the PD&O to many interested parties. Three parties filed comments on the proposed refund procedures. Those comments focused primarily on three areas: The division of the Tesoro consent order funds between the crude oil and refined products refund pools, the intent to limit the portion of the crude oil refunds to be made available to claimants asserting direct injury to 20 percent, and the disposition of the Tesoro customer information. We will address comments regarding these issues below.

A. The Allocation of the Tesoro Consent Order Fund

As stated above, in the PD&O we proposed to increase the refined products pool to $6 million, thereby decreasing the crude oil pool to $19 million. We received two comments regarding this issue. Bassman, Mitchell & Alfano (BMA), a law firm, filed comments on behalf of the Petroleum Marketers Association of America (PMAA), as well as several dozen independent marketers of Tesoro petroleum products. BMA strongly supported our proposed procedures, and specifically emphasized their support for the proposal to increase the finished product apportionment to $6 million. BMA has stated (and submitted documentation to show) that "the finished product allegations in the record of this proceeding are not consistent with the tentative apportionment offered by ERA. Moreover, the adjustment proposed by OHA does more fairly reflect the unusual number of well-documented finished product allegations in the Tesoro proceeding."

Attorney Philip P. Kalodner filed comments on behalf of several Utilities, Transporters and Manufacturers. Mr. Kalodner does not support our proposal to increase the finished product pool to $6 million. He maintains that the distribution should be based only on the litigation risk assessments rather than a volume-of-sales ratio between crude oil and refined products.

Mr. Kalodner also argues that the refined product pool should not be increased to accommodate the commenting reseller that alleges it was injured to the extent of $1.5 million. According to Mr. Kalodner, (1) the reseller's claim was not considered in reaching the Tesoro settlement, (2) the claim was probably for significantly less than the $1.5 million, and (3) even with its claim recognized, and recognized at $1.5 million, the $2 million refined product pool would permit a higher pro rata recovery for refined product claimants than was being provided for crude oil claimants.

Determining the proper division of a settlement fund is an intricate process which involves balancing a number of issues and concerns. While the litigation risk assessments are a major factor in determining the allocation of the settlement funds, we also take other factors into consideration, especially if we have reason to believe that the litigation risk assessments do not accurately reflect the alleged violations during the consent order period. For example, we consider the nature of the settlement reached, the size of the consent order firm, the scope of its operations, the information available in ERA audit files, the applicable enforcement documents, the relative accuracy of information contained in the foregoing documents, and numerous other factors. As we mentioned earlier, although the ERA often makes specific suggestions regarding the division of a consent order fund, the OHA has the discretion to make a final determination regarding the most equitable allotment of funds.

With respect to Mr. Kalodner's comments, we are not relying solely on Tesoro's crude oil/refined product sales ratio as the basis for the distribution of the Tesoro consent order funds. During the consent order period Tesoro's refined product transactions constituted about 55% of its total operations, and

[3] As stated in the PD&O, an applicant attempting to demonstrate injury must: (1) Show that it maintained banks of unrecouped increased product costs of sufficient size to justify the amount of the refund claimed; and (2) demonstrate that market conditions forced it to absorb the alleged overcharges.

crude oil transactions involved only 45% of Tesoro's operations. *See* February 15, 1990, Memorandum of telephone conversation between Darlene Gee, OHA Staff Analyst, and Mr. Larry Mosher, Counsel for Tesoro Petroleum Corporation. Utilizing this factor alone would produce an allocation of approximately $26 million for the refined products pool (55% of $48.5 million) and $22.5 million for the crude oil pool (45% of $48.5 million). On the other hand, a distribution based solely on ERA's statement of the litigation risk assessments would allocate $1.4 million for the refined products pool and $47.1 million for the crude oil pool.

In addition, the absence of more Notices of Probable Violations (NOPVs) for refined product issues does not preclude the possibility that violations occurred. We stress that the Tesoro consent order is "global". That is, it settles *all* regulatory violations on the part of Tesoro, regardless of whether the violations had been formally alleged at the time of settlement. Thus, the Consent Order is not limited to the specific products or time periods or types of alleged activities discussed in the existing preliminary enforcement documents issued to Tesoro. To look exclusively to these documents in determining the allocation of funds, as Mr. Kalodner suggests, ignores the extent of the coverage of this refund proceeding. Moreover, it is extremely important that neither the PRO nor the NOPV represents a final assessment of whether or to what extent Tesoro may have overcharged its customers.

With respect to Mr. Kalodner's specific claims in exposition on the commenting reseller's claim, it is possible that its claim will not amount to $1.5 million. That, however, is sheer speculation. The claim may also exceed $1.5 million. Speculation on this question is not helpful and will thus be disregarded. Because the Tesoro settlement is global, Mr. Kalodner's claim that the commenting reseller's situation was not taken into account in the settlement is irrelevant.

We also see no need to explore any further Mr. Kalodner's attempt to compare the size of the volumetric refund amount for Tesoro product purchasers with the volumetric amount adopted in the crude oil refund proceeding. In fact, the monies received as a settlement for alleged Tesoro crude oil overcharges will be pooled together with the monies received from numerous other crude oil proceedings. A crude oil claimant does not apply for a specific "Tesoro" crude oil refund, but applies for a crude oil refund from the pool of crude oil monies received from many other proceedings in addition to Tesoro. Hence, the pro rata recovery for a crude oil claimant will be the sum of the Tesoro crude oil pro rata recovery *plus* all of the pro rata recovery amounts for the other crude oil proceedings.

We have carefully weighed all the available information and have determined that the method we originally proposed is the most equitable under the circumstances and best reflects the global nature of the Tesoro consent order. Accordingly, we will divide the consent order fund as proposed, setting aside $19 million as a pool of crude oil funds available for disbursement. The remaining $6 million will be set aside as a pool of funds to be made available for distribution to claimants who demonstrate that they were injured by Tesoro's alleged overcharges in its sales of refined petroleum products.

B. Crude Oil Comments

In the PD&O, we proposed to distribute the funds in the crude oil pool in accordance with the Modified Statement of Restitutionary Policy. We decided to reserve the full 20 percent, or $3.8 million of the alleged crude oil violations amount, plus a proportionate share of the accrued interest, for direct restitution to claimants that purchased refined petroleum products during the crude oil price control period. We proposed that the remaining 80 percent of the funds, or $15.2 million be disbursed on equal amounts to the state and federal governments for indirect restitution.

Mr. Kalodner also filed objections to this proposal on the grounds that the proposed 20 percent of the funds to be set aside for crude oil claimants will be insufficient to meet all potential crude oil claims and assure "full parity" for all refund claimants. Mr. Kalodner maintains that at least 22 percent of all crude oil monies will be necessary to meet all crude oil claims. He therefore proposes that 100 percent of the Tesoro crude oil funds be reserved for end-user purchasers.

Mr. Kalodner has raised virtually the same arguments regarding the adequacy of the 20 percent reserve in numerous previous cases. *See, e.g., Texaco, Inc.*, 19 DOE ¶ 85,200 at 88,371–72; *New York Petroleum, Inc., et al.*, 18 DOE ¶ 85,435 at 88,701 (1988); *Getty Oil Company*, 18 DOE ¶ 85,808 at 89,322 (1989). In these cases, we have thoroughly addressed his concerns and rejected his claims. Therefore, it will suffice here to emphasize again that under the terms of the court-approved Settlement Agreement, the amount of a settlement fund which the OHA reserves for direct restitution may not exceed 20 percent. Settlement Agreement ¶ IV. B.6, 6 Fed. Energy Guidelines ¶ 90,509 at 90,665. Furthermore, there is no evidence to suggest that the 20 percent reserve amount is insufficient for direct restitution. This same point was made by the U.S. District Court for the District of Columbia recently when it rejected a challenge based on the same assertion. *See Con. Ed.* v. *Herrington*, Nos. 87–1717, 88–0911, 88–1339, slip op. (D.D.C. May 14, 1990). Thus, as proposed, we will allocate 20 percent of the crude oil funds, or $3.8 million, plus interest, for direct restitution to crude oil claimants. In addition, we will direct the DOE's Office of the Controller to distribute $7.6 million plus appropriate interest to the states and $7.6 million plus appropriate interest to the federal government.

C. The disposition of the Tesoro customer information

We have also received comments from McMickle & Edwards, a filing service, requesting that we make information available in the OHA Public Docket Room to assist filing services in determining the names and locations of potential refund applicants in this proceeding. This topic was not discussed in the PD&O because it bears only indirectly upon the procedures for the distribution of the Tesoro consent order funds. The OHA will attempt to give direct notice of the Tesoro special refund proceeding to potential applicants.

IV. Distribution of the Tesoro Crude Oil Funds

Under the terms of the Consent Order, Tesoro deposited an additional $5,177,850.95 into the escrow account since the date the Tesoro Proposed Decision and Order was issued. The crude oil pool currently available is $24,177,850.95 ($19,000,000 plus $5,177,850.95 = $24,177,850.95). The funds in the crude oil pool will be distributed in accordance with the Modified Statement of Restitutionary Policy (MSRP), which was issued by the DOE on July 28, 1986. 51 FR 27899 (August 4, 1986).[3] The MSRP, which was

[3] In the Order implementing the MSRP, the OHA solicited comments regarding the proper application of the MSRP to OHA refund proceedings involving alleged crude oil violations. On April 6, 1987, the OHA issued a notice which analyzes the comments that were submitted and explains the procedures the Office will follow in processing applications filed under subpart V regulations for refunds from the crude oil overcharge funds. 52 FR 11737 (April 10, 1987). Since the procedures apply to all crude oil funds subject to subpart V, we need not differentiate between the various crude oil transactions settled by the Tesoro consent order.

issued as a result of a court-approved Settlement Agreement in *The Department of Energy Stripper Well Litigation*, M.D.L. 378 (D. Kan. 1986), provides that crude oil overcharge payments will be distributed among the States, the United States Treasury, and eligible purchasers of crude oil and refined products.[4] We will reserve the full 20 percent, or $4,835,570.19 of the $24,177,850.95 crude oil pool, plus a proportionate share of the accrued interest on that amount, for direct refunds to purchasers of crude oil and refined petroleum products who prove that they were injured as a result of alleged crude oil violations.[5]

The process which the OHA will use to evaluate claims based on alleged crude oil violations will be modeled after the process the OHA has used in subpart V proceedings to evaluate claims based upon alleged overcharges involving refined products. *See Mountain Fuel Supply Co.*, 14 DOE ¶ 85,475 (1986).

As in non-crude oil cases, applicants will be required to document their purchase volumes and prove that they were injured as a result of alleged violations (i.e., that they did not pass on the alleged overcharges to their customers). We will utilize standards for the showing of injury which OHA has developed for analyzing non-crude oil claims. *See, e.g., Dorchester Gas Corp.*, 14 DOE ¶ 85,240 (1986). These standards include a presumption that end-users (i.e., ultimate consumers) whose businesses are unrelated to the petroleum industry absorbed the increased costs resulting from a consent order firm's alleged overcharges. *See A. Tarricone, Inc.*, 15 DOE ¶ 85,495 at 88,894–896 (1987). However, reseller and retailer claimants must submit detailed evidence of injury, and may not rely upon the presumptions of injury utilized in refund cases involving refined petroleum products. *Id.* They can, however, use econometric evidence of the type employed in the OHA Report in *In Re: The Department of Energy Stripper Well Exemption Litigation*, 6 Fed. Energy Guidelines ¶ 90,507.

Refunds to eligible claimants will be calculated on the basis of a volumetric refund amount derived by dividing the crude oil pool currently available ($24,177,850.95) by the total consumption of petroleum products in the United States during the period of price controls (2,020,997,335,000 gallons). Based upon the amount of the crude oil pool currently available, the crude oil volumetric refund amount in this proceeding is $0.000011963 per gallon. This volumetric refund amount will increase as interest accrues on the consent order fund and as subsequent payments are made by Tesoro. After all valid claims are paid, unclaimed funds from the 20 percent claims reserve will be divided equally between federal and state governments. The federal government's share of the unclaimed funds will ultimately be deposited into the general fund of the Treasury of the United States.

The remaining 80 percent of the currently available crude oil pool ($19,342,280.76) and 80 percent of accumulated interest and future payments made by Tesoro will be disbursed in equal shares to the federal and state governments for indirect restitution. *See Shell*. If this proposal is adopted, we will direct the DOE's Office of the Controller to segregate the crude oil share of Tesoro's initial payment and distribute $9,671,140.38, plus appropriate interest, to the States and the same amount to the federal government. Refunds to the States will be in proportion to the consumption of petroleum products in each state during the period of price controls. The share (ratio) of the funds in the account which each state will receive if these procedures are adopted is contained in Exhibit H of the Stripper Well Settlement Agreement. These funds will be subject to the same limitations and reporting requirements as all other crude oil monies received by the States under the Settlement Agreement.

V. Final Refund Procedures for the Tesoro Refined Product Funds

The remainder of the Tesoro consent order fund ($6 million plus interest accrued on that amount) shall be made available to injured purchasers of Tesoro refined products. Purchasers of Tesoro refined products during the period March 6, 1973 through January 27, 1981 (refund period) [6] may submit Applications for Refund.[7] From our experience with subpart V proceedings, we expect that potential applicants generally will fall into the following categories: (i) End-users; (ii) regulated entities, such as public utilities, and cooperatives; and (iii) refiners, resellers and retailers (hereinafter collectively referred to as "resellers").[8] Residual funds in the Tesoro escrow account will be distributed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), Public Law No. 99–509, title III. *See* 51 FR 43964 (December 5, 1986).

A. Calculation of Refund Amounts

The first step in the refund process is the calculation of an applicant's potential refund. The ERA specifically noted, however, that it was unable to identify all of the customers whom Tesoro allegedly overcharged. In order to determine the potential refunds for these purchasers, we proposed to adopt a presumption that the alleged overcharges were dispersed equally in all of Tesoro's sales of refined petroleum products during the consent order period. In accordance with this presumption, refunds are made on a pro-rata or volumetric basis. In the absence of better information, a volumetric refund is appropriate because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices.

The volumetric refund presumption is rebuttable. Because we realize that the impact on an individual claimant may have been greater than its potential refund calculated using the volumetric

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[4] Under the Settlement Agreement, firms which applied for a portion of certain escrow funds established under the Settlement generally must have signed a waiver releasing their claims to any crude oil funds to be distributed by the OHA under subpart V. Accordingly, those firms will not be eligible for a refund from the Tesoro crude oil pool.

[5] The allocation of monies in the crude oil pool is based upon the amount of crude oil related funds currently available in the Tesoro consent order fund. When additional payments are received from Tesoro, they will be added to the crude oil pool and 20 percent of each payment will be reserved for direct claimants.

[6] Tesoro was not subject to mandatory controls prior to March 6, 1973. Because refunds in this type of case are only warranted for purchases of regulated products, the refund period begins on this date.

[7] OHA will not accept Applications for Refund on behalf of classes of applicants. We have previously determined that such claims are inappropriate because they amount to a proposal for "indirect" restitution, i.e., to distribute the funds attributable to parties not specifically identified by the DOE. *See Standard Oil Co. (Indiana)/Diesel Automotive Association*, 11 DOE ¶ 85,228 (1984); *Office of Special Counsel*, 10 DOE ¶ 85,048 at 88,214 (1982).

[8] We have previously held that affiliates or subsidiaries of a consent order firm are not eligible for refunds based upon the presumption that they were not injured. *See, e.g., Marathon Petroleum Co./EMRO Propane Co.*, 15 DOE ¶ 85,286 at 85,529 (1987). This presumption applies to firms affiliated with Tesoro during the consent order period but no longer affiliated with the firm. *See Cosby Oil Co./Yucca Valley Liquor Store*, 13 DOE ¶ 85,402 at 86,986 (1986). It also applies to firms that have become affiliated with Tesoro after the consent order period, because their receipt of a refund would allow the consent order firm to benefit from this proceeding. *See, e.g.*, Marathon Petroleum Co./*Webster Service Stations*, 17 DOE ¶ 85,038 (1988). For a partial list of Tesoro affiliates that we proposed to find ineligible under this presumption, see the Appendix to this Proposed Decision and Order.

methodology, a claimant may submit evidence detailing the specific alleged overcharge that it incurred in order to be eligible for a larger refund. *See Standard Oil Co. (Indiana)/Army and Air Force Exchange Service*, 12 DOE ¶ 85,015 (1984).

Under the volumetric approach, the potential refund for a previously unidentified claimant will be calculated by multiplying the number of gallons purchased from Tesoro during the consent order period times a volumetric factor of $0.000601 per gallon.[9] In addition, successful claimants will receive proportionate shares of the interest that has accrued on the Tesoro escrow account.

Ethane and Liquid Asphalt	Apr. 1, 1974.
Residual Fuel	June 1, 1976.
No. 1 and No. 2 Heating Oil, Diesel Fuel and Kerosene.	July 1, 1976.
Naphthas	Sept. 1, 1976.
Naphtha Based Jet Fuel	Oct. 1, 1976.
Aviation Gas and Kerosene Based Jet Fuel.	Feb. 28, 1979.
Butane and Natural Gasoline	Jan. 1, 1980.
Motor Gasoline and Propane	Jan. 28, 1981.

As in previous cases, only claims for at least $15 in principal will be processed. This minimum has been adopted in refined product refund proceedings because the cost of processing claims for refunds of less than $15 outweighs the benefits of restitution in those instances. *See, e.g., Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985); *see also* 10 CFR 205.286(b). If an applicant's potential refund is calculated using the volumetric methodology, it must have purchased at least 18,726 gallons of Tesoro products in order for its claim to be considered.

B. Determination of Injury

Once a claimant's potential refund has been calculated, we must determine whether the claimant was injured by its purchases from Tesoro, *i.e.*, whether it was forced to absorb the alleged overcharges. Based on our experience in numerous subpart V proceedings, we will adopt certain presumptions concerning injury in this case. The use of presumptions in refund cases is specifically authorized by DOE procedural regulations. 10 CFR 205.282(e). An applicant that is not covered by one of these presumptions must demonstrate injury in accordance with the non-presumption procedures outlined in the latter part of this Decision.

1. Injury Presumptions

The presumptions we will adopt in this case are designed to allow claimants to participate in the refund process without incurring inordinate expense, and to enable OHA to consider the refund applications in the most efficient way possible. We will presume that end-users of Tesoro products, certain types of regulated firms, and cooperatives were injured by their purchases from Tesoro. In addition, we will presume that resellers and retailers of Tesoro products submitting small claims were injured by their purchases. On the other hand, we will presume that resellers and retailers that made spot purchases of Tesoro products and those who sold it on consignment were not injured by their purchases. Each of these presumptions is discussed below, along with the rationale underlying its use.

a. End-Users

First, in accordance with prior subpart V proceedings, we will presume that end-users, *i.e.*, ultimate consumers of Tesoro products whose businesses are unrelated to the petroleum industry, were injured by the firm's alleged overcharges. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and were not required to keep records which justified selling price increases by reference to cost increases. Consequently, analysis of the impact of the alleged overcharges on the final prices of goods and services produced by members of this group would be beyond the scope of a special refund proceeding. *See Marion Corporation*, 12 DOE ¶ 85,014 (1984) and cases cited therein. Therefore, end-users need only document their purchase volumes of Tesoro products to demonstrate that they were injured by the alleged overcharges.

b. Regulated Firms and Cooperatives

Second, public utilities, agricultural cooperatives, and other firms whose prices are regulated by government agencies or cooperative agreements do not have to submit detailed proof of injury. Such firms would have routinely passed through price increases, including overcharges, to their customers. Likewise, their customers would share the benefits of cost decreases resulting from refunds. *See, e.g., Office of Special Counsel*, 9 DOE ¶ 82,538 (1982) (*Tenneco*); *Office of Special Counsel*, 9 DOE ¶ 82,545 at 85,244 (1982) (*Pennzoil*). Such firms applying for refunds should certify that they will pass through any refund received to their customers and should explain how they will alert the appropriate regulatory body or membership group to monies received. Purchases by cooperatives that were subsequently resold to nonmembers will generally not be covered by this presumption.

c. Reseller and Retailer Small Claims

Third, we will presume that a reseller or retailer seeking a refund of $5,000 or less, excluding accrued interest, was injured by Tesoro's pricing practices. Without this presumption, such an applicant would have to gather records dating as far back as 1973 in order to demonstrate that it absorbed Tesoro's alleged overcharges. The cost to the applicant of gathering this information, and to OHA of analyzing it, could exceed the actual refund amount. Therefore, a small claimant must only document the volumes of products it purchased from Tesoro in order to demonstrate injury. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,210 (1984). Resellers and retailers of Tesoro products that are seeking refunds in excess of $5,000 must follow the procedures that are outlined below in Section 2.

d. Resellers and Retailers Filing Mid-Level Claims

Fourth, in lieu of making a detailed showing of injury, a reseller claimant whose allocable share exceeds $5,000 may elect to receive as its refund the larger of $5,000 or 40 percent of its allocable share up to $50,000.[10] The use of this presumption reflects our conviction that these larger claimants were likely to have experienced some injury as a result of the alleged overcharges. *See Marathon*, 14 DOE at 88,515. In some prior special refund proceedings, we have performed detailed economic analysis in order to determine product-specific levels of injury. *See, e.g., Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). However, in *Gulf Oil*

[9] We computed the volumetric factor by dividing $8,000,000 (the consent order funds in the refined product pool) by 7,488,206,213 gallons, the approximate number of gallons of covered products other than crude oil which Tesoro sold from March 6, 1973, the date that Tesoro became subject to the Federal price controls under Special Rule No. 1 (38 FR 6283) (March 8, 1973), through the date of decontrol of the relevant product.

Although the Tesoro consent order period begins January 1, 1973, refund applications may only be based upon purchases of refined products between March 6, 1973 and the relevant decontrol date for each product as summarized below:

[10] That is, claimants who purchased between 18,712,575 gallons and 187,125,749 gallons of Tesoro refined petroleum products during the consent order period (mid-level claimants) may elect to utilize this presumption. Claimants who purchased more than 187,125,749 gallons may elect to limit their claim to $50,000.

Corp., 16 DOE ¶ 85,381 at 88,737 (1987), we determined that based upon the available data, it was accurate and efficient to adopt a single presumptive level of injury of 40 percent for all medium-range claimants, regardless of the refined product that they purchased, based upon the results of our analyses in prior proceedings. We believe that approach to be sound in the absence of more detailed information regarding injury, and we therefore proposed to adopt a 40 percent presumptive level of injury for all medium-range claimants in this proceeding. Consequently, an applicant in this group will only be required to provide documentation of its purchase volumes of Tesoro refined petroleum products during the consent order period in order to be eligible to receive a refund of 40 percent of its total volumetric share, or $5,000, whichever is greater.

e. Spot Purchasers

Fourth, resellers and retailers that were spot purchasers of products from Tesoro, *i.e.*, made only sporadic, discretionary purchases, are presumed not to have been injured, and consequently, generally will be ineligible for refunds. The basis for this presumption is that a spot purchaser tended to have considerable discretion as to where and when to make a purchase, and therefore, would not have made a purchase unless it was able to recover the full amount of its purchase price, including any alleged overcharges, from its customers. *See Vickers* at 85,396–97. A spot purchaser can rebut this presumption by demonstrating that its base period supply obligation limited its discretion in making the purchases and that it resold the product at a loss that was not subsequently recouped. *See, e.g., Saber Energy, Inc./Mobil Oil Corp.*, 14 DOE ¶ 85,170 (1986).

f. Consignees

Finally, we will presume that consignees of Tesoro products were not injured by the firm's alleged pricing violations. *See, e.g., Jay Oil Co.*, 16 DOE ¶85.147 (1987). A consignee agent generally sold products pursuant to an agreement whereby its supplier established the prices to be charged by the consignee and compensated the consignee with a fixed commission based upon the volume of products that it sold. A consignee may rebut the presumption of non-injury by demonstrating that its sales volumes and corresponding commission revenues declined due to the alleged uncompetitiveness of Tersoro's pricing practices. *See Gulf Oil Corp./C.F. Canter Oil Co.*, 13 DOE ¶85,388 at 88,962 (1986).

2. Non-Presumption Demonstration of Injury

A reseller or retailer whose allocable share is in excess of $5,000 that does not elect to receive a refund under the small claims presumption will be required to demonstrate its injury. There are two aspects to such a demonstration. First, a firm generally is required to provide a monthly schedule of its banks of unrecouped increased product costs for products that it purchased from Tesoro. Cost banks should cover the period March 6, 1973, through January 27, 1981.[11] If a firm no longer has records of contemporaneously calculated cost banks for products, it may approximate those banks by submitting the following information regarding its purchases of products from all of its suppliers:

(1) The weighted average gross profit margin that the firm received for products on May 15, 1973;

(2) A monthly schedule of the weighted average gross profit margins that it received for products during the period March 6, 1973 through January 27, 1981; and

(3) A monthly schedule of the firm's purchase or sales volumes of products during the period March 6, 1973 through January 27, 1981.[12]

The existence of banks of urrecouped increased product costs that exceed an applicant's potential refund is only the first part of an injury demonstration. A firm must also show that market conditions forced it to absorb the alleged overcharges. We will infer this to be true if the prices the applicant paid Tesoro were higher than average market prices for products at the same level of distribution.[13] Accordingly, a claimant attempting to demonstrate injury should submit a monthly schedule of the weighted average prices that it paid Tesoro for products during the period March 6, 1973 through January 27, 1981. In a recent Decision, the Temporary Emergency Court of Appeals affirmed the OHA's standards for a demonstration of injury, specifically upholding the method used to evaluate comparative market prices and thereby determine competitive disadvantage. *Behm Family Corp.* v. *DOE*, No. 8–22, slip op. (T.E.C.A. April 30, 1990).

If a reseller or retailer that is eligible for a refund in excess of $5,000 does not submit the cost bank and purchase price information described above, it can still apply for a refund of $5,000, plus accrued interest, using the small claims presumption.

If, however, a firm provides the above-mentioned data and we subsequently conclude that the firm should receive a refund of less than the $5,000 small claims threshold, the firm cannot opt for a full $5,000 refund.

C. Allocation Claims

We may also receive claims based upon Tesoro's alleged failure to furnish petroleum products that it was obliged to supply under the DOE allocation regulations that became effective in January 1974. *See* 10 CFR part 211. Any such applications will be evaluated with reference to the standards set forth in subpart V implementation cases such as *Office of Special Counsel*, 10 DOE ¶ 85,048 at 88,220 (1982), and refund application cases such as *OKC Corp./Town & Country Markets, Inc.*, 12 DOE ¶ 85,094 (1984); *Marathon Petroleum Co./Research Fuels, Inc.*, 19 DOE ¶85,575 (1989), *action for review docketed*, C.A.–3–89–2983–G (N.D. Tex. November 22, 1989). These standards generally require an allocation claimant to demonstrate the existence of a supplier/purchaser relationship with the consent order firm and the likelihood that the consent order firm unlawfully failed to furnish petroleum products that it was obliged to supply to the claimant under 10 CFR part 211. In addition, the claimant must provide evidence that it had contemporaneously notified the DOE or otherwise sought redress from the alleged allocation violation. Finally, the claimant must establish that it was injured and document the extent of the injury.

In evaluating whether an allocation claim meets these standards, we will consider yarious factors. For example, we will seek to obtain as much information as possible about the agency's treatment of contemporaneous complaints by the claimant, and we will look at any affirmative arguments made by Tesoro in its defense. *See Marathon/RFI*, 19 DOE. To assess an allocation claimant's injury, we will evaluate the effect of the alleged allocation violation on its entire business with particular suppliers other than Tesoro. In

[11] We generally require applicants to submit cost banks that continue until a product's price decontrol date. Retailers and resellers of motor gasoline, however, were only required to maintain banks through July 15, 1979, and April 30, 1980, respectively, rather than the January 27, 1981 decontrol date of products.

[12] The For motor gasoline, retailers and resellers have to submit the information detailed in parts (2) and (3) only through July 15, 1979 and April 30, 1980, respectively. *See supra* note 11.

[13] We generally obtain average market price information from Platt's Oil Price Handbook and Oilmanac (Platt's). If price data for a particular produce is not available in Platt's, the burden of supplying alternative information will be on the claimant.

determining the amount of an allocation refund, we will utilize any information that may be available regarding the portion of the Tesoro consent order amount that the agency attributed to allocation violations in general and to the specific allocation violation alleged by the claimant. Claimants who make a reasonable and non-spurious demonstration of an allocation violation and show that they were injured by the alleged violation may receive a refund based on the profit lost as a result of their failure to receive the allocated product.[14] However, since the Tesoro Consent Order reflects a negotiated compromise and the consent order amount is less than Tesoro's potential liability in these proceedings, we will prorate any allocation refund that would be disproportionately large in relation to the consent order fund.

D. General Refund Application Requirements

Pursuant to 10 CFR 205.283, we will now accept Applications for Refund from individuals and firms that purchased refined petroleum products* from Tesoro between March 6, 1973 and January 27, 1981. No "class claims" on behalf of groups of applicants will be permitted. There is no specific application form that must be used. All Applications for Refund should include the following information:

(1) A conspicuous reference to Case Number KEF-0128 and the name and address of the applicant during the period for which the claim is filed, as well as the name to whom the refund check should be made out and the address to which the check should be sent;

(2) The name, title, address and telephone number of a person who may be contacted by OHA for additional information concerning the Application;

(3) The manner in which the applicant used the Tesoro petroleum products, *i.e.*, whether it was a reseller, retailer, consignee, end-user, etc.;

(4) For each refined covered product, a monthly schedule of the number of gallons that the applicant purchased from Tesoro during the March 6, 1973, through January 27, 1981 refund period. If the claimant elects to rely on the DOE's records of his purchases, it need not submit a monthly schedule of purchases.[15] If a claimant was an indirect purchaser of Tesoro refined covered products, it must also submit the name of its immediate supplier and indicate why it believes the products were originally old by Tesoro;

(5) All relevant material necessary to support its claim in accordance with the injury presumptions and requirements outlined above;

(6) If the applicant was or is in any way affiliated with Tesoro, an explanation of the nature of that affiliation.

(7) The form of business, whether it was a corporation, a partnership or a sole proprietorship.

(8) The dates of ownership including the month and year. The applicant must also submit a statement as to whether there has been a change in ownership of the applicant's firm during or since the refund period. If there was such a change in ownership, the applicant must submit a detailed explanation as well as provide the names and addresses of the previous or subsequent owners;

(9) A statement as to whether the applicant is or has been involved in any DOE enforcement proceedings or private actions filed under section 210 of the Economic Stabilization Act. If these actions have been concluded, the applicant should furnish a copy of any final order issued in the matter. If the action is still in progress, the applicant should briefly describe the action and its current status. The applicant must inform OHA of any change in status while its application for Refund is pending. *See* 10 CFR 205.9(d);

(10) A statement as to whether the applicant or a related firm has filed any other Application for Refund in the Tesoro proceeding;

(11) A statement as to whether the claimant or a related firm has authorized any other individual(s) to file an Application for Refund on the claimant's behalf in the Tesoro proceeding; and

(12) The following statement signed by the applicant or a responsible official of the business or organization claiming the refund: "I swear [or affirm] that the information submitted is true and accurate to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the federal Government may be subject to a fine, a jail sentence, or both, pursuant to 18 U.S.C. 1001."

Applications for Refund should be sent to: Tesoro Refund Proceeding, Case No. KEF-0128, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

All applications must be filed in duplicate and must be postmarked by May 31, 1991. A copy of each application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals. Any applicant that believes that its application contains confidential information must submit two additional copies of its application from which the confidential information has been deleted, together with a statement specifying why the information is confidential.

It Is Therefore Ordered That:

(1) Applications for Refund from the funds remitted to the Department of Energy by Tesoro Petroleum Corp. pursuant to the Consent Order finalized on January 23, 1989, may now be filed.

(2) Applications for Refund from the Tesoro refined product pool must be postmarked no later than May 31, 1991.

(3) Applications for Refund from the Tesoro crude oil pool must be postmarked no later than March 31, 1991.

(4) The Director of Special Accounts and Payroll, Office of Departmental Accounting and Financial Systems Development, Office of the Controller, Department of Energy, shall take all steps necessary to transfer, as provided in Paragraphs (5), (6), and (7) below, the total net current crude oil equity from the Tesoro subaccount (Consent Order No. RTSE006A1Z) within the Deposit Fund Escrow Account maintained by the DOE at the Treasury of the United States.

(5) The Director of Special Accounts and Payroll shall transfer $9,671,140.38 in principal, plus appropriate interest, of the funds obtained pursuant to Paragraph (4) above into a subaccount denominated "Crude Tracking-Claimants 3," Number 999DOE003W.

(6) The Director of Special Accounts and Payroll shall transfer $9,671,140.38 in principal, plus appropriate interest, of the funds obtained pursuant to Paragraph (4) above into a subaccount denominated "Crude Tracking-Federal," Number 999DOE002W.

(7) The Director of Special Accounts and Payroll shall transfer $4,835,570.19 in principal, plus appropriate interest, of the funds obtained pursuant to Paragraph (4) above into a subaccount denominated "Crude Tracking-Federal," Number 999DOE009W.

(8) This is a final order of the Department of Energy.

[14] If we receive numerous allocation claims, we may adopt a more general formula for calculating refunds based on alleged allocation violations.

[15] Because we will not process claims for less than $15 in principal, an applicant must have purchased at least 18,720 gallons of Tesoro refined covered products during the refund period in order for us to consider its application. If an applicant submits estimated purchase volume figures, it must provide a detailed explanation of how it derived the estimates.

Dated: October 12, 1990.
George B. Breznay,
Director, Office of Hearings and Appeals.

Appendix

Tesoro Affiliates and Subsidiaries Presumptively Ineligible

Tesoro Alaska Petroleum Corp.
Tesoro Alaska Pipeline Co.
Tesoro Asia Co.
Tesoro Bolivia Petroleum Co.
Tesoro Coal Co.
Tesoro Crude Oil Co.
Tesoro Drilling Co.
Tesoro Europe Petroleum B.V.
Tesoro Gasoline Marketing Co.
Tesoro Indonesia Petroleum Co.
Tesoro Inter-American Production Co.
Tesoro Land & Marine Rental Co.
Tesoro Natural Gas Co.
Tesoro Petroleum Distributing Co.
Tesoro Pipeline Co.
Tesoro Pump & Valve Co.
Tesoro Refining, Marketing & Supply Co.
Tesoro Tank Lines
Tesoro Transportation Co.
Tesoro United Kingdom
Tesoro-Wyoming Pipeline Co.
Acme Machine
Alaskan Oil Refining Co.
Arnold Pipe Rental Co., Inc.
Basin, Inc.
Cardinal Transports, Inc.
Carib Oil Ltd. (Trinidad)
Charles Wheatly Co.
Commonwealth Oil Refining Co., Inc.
D & W Investments, Inc., Texas
DeHumber Handelmaatschappij B.V.
Digas
Eagle Transport Co., Texas
FWI, Inc.
NRG Gathering Co.
Nikiski Alaska Pipeline Co.
Trident Offshore Co., Ltd.
Turner Drill Pipe, Texas
Val-Cap Inc.

[FR Doc. 90-24615 Filed 10-17-90; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3852-9]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before November 19, 1990.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Administration and Resources Management

Title: Monthly Progress Reports (EPA ICR #1039; OMB #2030-0005). This ICR requests renewal of an existing clearance; it also includes a request for approval of additional requirements proposed in the **Federal Register** 2/20/90.

Abstract: Agency contractors who have cost-reimbursable, time and material, labor or indefinite quantity fixed labor rate contracts will report financial and technical progress made under their contracts. Previously approved burden, for which EPA is seeking renewal, requires contractors to provide the Project Officer with a monthly report detailing what was accomplished on the contract for that time period, what remains to be done as well as a general listing of expenditures for the same period of time. The new requirements in this ICR include requesting contractors to break various cumulative totals out by labor category, to estimate costs and labor hours to be expended during the next reporting period, and to summarize difficulties encountered, remedial action taken and anticipated activity during the subsequent period. This information allows EPA to monitor the efficiency and cost effectiveness of contract work being performed for the Agency.

Burden statement: The public reporting burden for this collection of information is estimated to average 40 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Businesses, small businesses, and non-profit institutions who have been awarded cost type contracts, time and material and labor hour contracts or indefinite delivery, indefinite quantity, fixed rate contracts.

Estimated number of respondents: 582.

Estimated total annual burden on respondents: 279,360 hours.

Frequency of collection: monthly.

Send comments regarding the burden estimate, or any other aspects of this information collection, including suggestions for reducing the burden, to: Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223), 401 M Street, SW., Washington, DC 20460 and Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20530.

OMB Responses to Agency PRA Clearance Requests

EPA ICR #1487.02; Cooperative Agreements and Superfund State Contracts for Superfund Response Actions; was approved 09/06/90; OMB #2010-0020; expires 03/31/91.

Dated: October 2, 1990.
Paul Lapsley,
Director, Regulatory Management Division.
[FR Doc. 90-24496 Filed 10-17-90; 8:45 am]
BILLING CODE 6560-50-M

[FRL-3852-9]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; and where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before November 19, 1990.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: Trade Secret Clearance Justification for Pesticides. (EPA ICR #0613.04; OMB #2070-0053). This request extends the expiration date of a currently approved collection without any change in the substance or in the method of collection.

Abstract: The Freedom of Information Act (FOIA) provides for release to the public of health and safety data on chemical pesticides, unless such products are exempt from being disclosed under sections 10(d) (1) (A), (B) or (C) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). Upon receipt of a FOIA request by the public for release of health and safety data on a pesticide, EPA sends to the owner of the chemical product (respondent) a copy of the data request, a cover letter, a set of instructions on responding and a nine-part

questionnaire. The respondent reviews his/her health and safety data on the pesticide to make the following determination: whether to authorize the release to the public of the requested data, or to provide evidence to EPA substantiating the claim(s) of confidentiality for the requested material. If a chemical owner decides that health and safety data on a pesticide should remain confidential, he/she then supports this claim by sending to EPA a response to the Agency's nine-part questionnaire. EPA needs this information to determine whether health and safety data on chemical pesticides should remain confidential or be made public.

Burden Statement: The public reporting burden for this collection of information is estimated to average 40 hours per respondent. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Pesticide Owners of FOIA requested data.

Estimated Number of Respondents: [illegible]

Responses Per Respondents: 1.

Estimated Total Annual Burden on Respondents: 2,000.

Frequency of Collection: On occasion.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to: Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223), 401 M Street, SW., Washington, DC 20460 and Timothy Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20530.

Dated: October 2, 1990.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 90–24497 Filed 10–17–90; 8:45 am]

BILLING CODE [illegible]

[OPP–30000/49C; 3638–3]

Carbofuran: Requests to Amend Registrations to Delete Certain Uses and Final Determination With Respect to Those Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of receipt and partial final determination.

SUMMARY: This Notice, pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.*, announces EPA's receipt of a request from FMC Corp., the sole registrant of carbofuran, to amend labels and registrations of its granular carbofuran products to delete certain uses. This Notice also announces that EPA intends to approve the registrant's request. Once approved, the amendments would become effective on November 15, 1990 [1]. The uses being deleted will no longer be covered by the Special Review of granular carbofuran. Affected carbofuran products manufactured after November 15, 1990 will be required to bear the new labeling as described in this Notice. FMC shall not sell or distribute after November 15, 1990 any quantity of the affected products which bears the previously approved labeling and which is produced by FMC after November 15, 1990. Products bearing former labeling may be sold until July 15, 1991.

DATES: *Effective*: EPA intends to grant the requested modifications to carbofuran registrations deleting the uses specified in this Notice on October 19, 1990.

Compliance: After November 15, 1990, all products manufactured by FMC must bear labeling containing the revisions discussed in this Notice. FMC shall not sell or distribute after November 15, 1990 any quantity of the affected products which bears the previously approved labeling and which is produced by FMC after November 15, 1990. After July 15, 1991, all products distributed or sold by any person must bear labeling containing the revisions discussed in this Notice.

FOR FURTHER INFORMATION CONTACT:
Karis North, Special Review Manager, Special Review Branch, Special Review and Reregistration Division (H7508C), Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.
Office location and telephone number: Rm. 2N3, Crystal Square #1, 2805 Jefferson Davis Highway, Arlington, Virginia 22202, (703) 308–8036.

SUPPLEMENTARY INFORMATION:

I. Introduction

As discussed below, on May 1, 1990, FMC Corporation requested deletion of certain uses from their carbofuran 10G and 15G registrations. FMC is the sole registrant of granular pesticide products containing carbofuran as an active ingredient. Pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136d(f)(1) this Notice announces receipt by EPA of this request. EPA intends to grant the use deletions requested by FMC on October 19, 1990. This Notice concludes the Special Review with respect to the uses being deleted.

II. Background

On September 30, 1985 EPA issued a notice which initiated the Special Review of granular carbofuran, based on risks carbofuran poses to avian species (50 FR 41938.) Following receipt and analysis of comments, EPA published a Notice of Preliminary Determination to cancel all registrations of granular carbofuran (54 FR 3744) (January 25, 1989). This determination was based on a multitude of factors which included consideration of laboratory data on acute avian toxicity, avian exposure to granular carbofuran, field studies, bird kill incidents, possible population effects, potential risks from alternative insecticides, and the benefits of carbofuran use.

As required by 40 CFR 154.31(b)(1), EPA also forwarded a draft Notice of Intent to Cancel granular carbofuran products to the Department of Agriculture and the Scientific Advisory Panel (SAP) to permit their review of the Agency's proposed action.

EPA's Preliminary Determination included consideration of a 1988 risk reduction program proposed by FMC. The major points of the FMC proposal included reducing the percent of active ingredient by eliminating the 15G product from the market in favor of the 10G product (while retaining the registration), reducing the application rate in corn from 4 to 1 lb. of active ingredient per acre (based on a 40–inch row space), substituting "T band" for band application methods, and various research, educational, and funding activities. The Agency also explored the adequacy of a modified risk reduction program, which would have gone further than the FMC program by eliminating the 15G formulation registration, reducing the application rate in all crops, and limiting use to in-furrow application only (54 FR 3748). The Agency determined that none of the measures considered would adequately reduce the risks carbofuran poses to birds sufficiently to bring the risks and benefits of carbofuran use into balance (54 FR 3751).

On January 25, 1989, EPA published a Federal Register notice of a public meeting of the EPA Science Advisory Panel to be held on February 15, 1989.

[1] FMC originally proposed that the effective date of such an amendment would be November 1, 1990 based on expected Agency approval by September 15, 1990. Because the details of the amendments were not resolved until October 4, 1990, the effective date has shifted to November 15, 1990.

The Panel reviewed the data base supporting the Agency's Preliminary Determination to cancel registrations of granular carbofuran and took comments from FMC and other interested parties. The Report of Panel Recommendations notes that the Panel generally supports the Agency's determination to cancel granular carbofuran uses.

On August 16, 1989, FMC presented to EPA officials a proposal containing further modifications. At that time the program included some variations in the use practice modifications, introduction of a granular cut-off device for planters designed to eliminate spills and leaks of granules, as well as deletion of 12 of the 19 uses registered under section 3 of FIFRA. FMC noted that these uses could not be maintained in a way that is consistent with other elements of their risk reduction proposal. This Notice pertains to the third element of the program, the deletion of federally registered uses.

In a letter to FMC dated November 28, 1989, EPA noted that the impact that elimination of 12 minor uses which contribute only minimally to overall granular carbofuran treatments would have upon the overall risks to avian species would be uncertain. EPA indicated, however, that if FMC chooses to submit a formal request to delete those uses, EPA would accept this part of the proposal. While FMC has scaled back its proposal from deleting 12 uses to deleting eight uses, EPA is nevertheless still inclined to grant the request.

III. Summary of Request

This unit includes a summary of the FMC request to delete uses from carbofuran registrations. A copy of the request has been included in the public docket (OPP–30000/48) which is maintained for the Carbofuran Special Review.

FMC submitted applications to amend its granular carbofuran registrations on May 1, 1990. These applications included requests to delete 8 of the 12 uses which FMC had originally proposed for deletion in August of 1989. As part of their applications, FMC submitted proposed labeling with these eight uses deleted.

FMC has requested deletion of the following uses of granular carbofuran: grapes, peppers, potatoes, sugarcane, tobacco, Siberian elm, cottonwood, and pine seed orchards. The registration numbers and product names for section 3 registrations covered by this request are as follows:

Furadan 10G Insecticide	Nematicide	Reg. #279–2712
Furadan 15G Insecticide	Nematicide	Reg. #279–3023

Pending the outcome of the Carbofuran Special Review and any subsequent proceedings, if needed, the following uses would remain on carbofuran labels: field corn, sweet corn, sorghum, soybeans, rice, peanuts, sugar beets, and sunflowers. FMC has submitted an application for amendment requesting a number of modifications to labels for these uses. This request is not discussed in detail here because it is not the subject of this Notice.

With the exception of its Special Local Needs Registrations issued pursuant to section 24(c) of FIFRA, FMC has submitted applications for amendments to its pesticide registrations and revised labeling for both registered carbofuran products. The applications are for amendments to take effect November 1, 1990 [2]. EPA intends to approve the applications on October 19, 1990. The modifications to the registration would then become effective November 15, 1990.

Subsequent to its August 16, 1990 proposal, FMC proposed deleting several Special Local Needs Registrations issued pursuant to section 24(c) of FIFRA, and modifying others. As of this date, FMC has not taken formal action to put these aspects of its proposal into effect.

IV. Notice of Final Determination

As noted in Unit III of this document, certain uses are being deleted from granular carbofuran registrations pursuant to applications for amendments submitted by FMC. Because EPA intends to grant these applications, this action will effectively terminate the Carbofuran Special Review with respect to those uses and obviate any need for additional analysis concerning the risks and benefits which would be associated with retention of the uses. Accordingly, this Notice constitutes the Agency's Final Determination and concludes the Special Review with respect to the uses being deleted.

This action is governed by 40 CFR 154.35, which provides that when EPA concludes a Special Review as a result of an application by a registrant for modifications in the terms and conditions of registrations in a way which would reduce the risk sufficiently to eliminate the need for issuance of a cancellation notice, any subsequent amendments which might increase risks could only be granted after public notice and comment procedures have been followed.

Because granting the requested use deletions will eliminate the registration of those uses, there is no need for this Notice to discuss comments submitted by the Secretary of Agriculture, the Scientific Advisory Panel, or the public, or instructions concerning hearing requests or other procedures pursuant to 40 CFR 154.3(b)(2)–(b)(4). As appropriate, these matters will be addressed in the Agency's Final Determination with respect to registration of the remaining uses of granular carbofuran.

The public docket for this Special Review proceeding is located at the following location: Room 240, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, Va., (703) 557–4436. It is open for inspection and copying from 8:00 a.m. to 4:30 p.m. Monday - Friday.

V. Stocks of Product Bearing Prior Labeling

In its letter of March 1, 1990, FMC requested to be permitted to continue to sell carbofuran products not bearing the new labeling for 18 months after the November 15, 1990 effective date, pursuant to 40 CFR 152.130(c). (FMC has subsequently indicated that its concern is limited to continued sale by distributors and retailers of product purchased from FMC prior to November 15, 1990). Section 152.130(c) provides, in part, that "normally, if the product labeling is amended on the initiative of the registrant, by submission of an application for amended registration, the registrant may distribute or sell under the previously approved labeling for a period of 18 months after approval of the revision * * *."

However, the action which is the subject of this Notice falls outside the scope of 40 CFR 152.130(c). FMC has sought to amend its carbofuran labels in response the EPA's concerns about the risks posed by use of granular carbofuran. FMC submitted its request in the context of a Special Review proceeding which has included issuance by EPA of a Preliminary Determination that use of granular carbofuran generally causes unreasonable adverse effects to birds, and that registration of all carbofuran uses should be cancelled.

[2] See footnote #1.

EPA does not view this as the "normal" situation where product labeling is amended "on the initiative of the registrant" contemplated by § 152.130(c).

The provision of the regulations which applies to this action is 40 CFR 152.130(d). This provision provides, in part, that "if a product's labeling is required to be revised as a result of the issuance of * * * a notice concluding a special review process, the Agency will specify in the notice to the registrant the period of time that previously approved labeling may be used."

EPA has informed FMC that delaying implementation of these use deletions beyond the November 15, 1990 effective date does not appear to be justified. FMC has subsequently indicated in a meeting with EPA officials on July 30, 1990 that, given sufficient notice, following November 15, 1990 it will manufacture only products bearing labeling which is amended as provided in this Notice. FMC shall not sell or distribute after November 15, 1990 any quantity of the affected products which bears the previously approved labeling and which is produced by FMC after November 15, 1990.

FMC has requested that EPA permit continued distribution and sale of carbofuran products bearing prior labeling until September 15, 1991. EPA has concluded that a July 15, 1991 cut-off date for sales of products bearing prior labeling is sufficient for the purpose of allowing such products to move through the channels of trade for the 1991 use season while enhancing the likelihood that labels of products available for use in 1992 will not bear deleted uses. Accordingly, this Notice designates July 15, 1991 as the date after which no person may distribute or sell products not bearing labeling revised as discussed in this Notice.

VI. Conclusion

EPA has received and expects to approve the request for use deletions described above on [insert date 1 day after publication in the Federal Register]. After acceptance, the use deletions described above would then become effective November 15, 1990. This represents a Final Determination that the uses discussed above are deleted from granular carbofuran registrations, concluding the Carbofuran Special Review with respect to those uses. After July 15, 1991, no person may distribute or sell products not bearing revised labeling.

Dated: October 11, 1990.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 90-24559 Filed 10-17-90; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203-010099-008.

Title: International Council of Containership Operators.

Parties: P&O, Containers, Ltd., Sea-Land Service, Inc., Societa Finanziari Maritima (Finmare), South African Marine Corp., Ltd., The Australian National Line, Transatlantic Shipping Co., Ltd., Transportacion Maritima Mexicana, S.A. de C.V., United Arab Shipping Company (S.A.G.), Wilh. Wilhelmsen.

Synopsis: The proposed amendment would add Zim Israel Navigation Co., Ltd. as a party to the Agreement. The parties have requested a shortened review period.

Agreement No.: 203-011223-002.

Title: Transpacific Stabilization. Agreement

Parties: American President Lines, Ltd., Evergreen Marine Corp. (Taiwan) Ltd., Hanjin Shipping Co., Ltd., Hyundai Merchant Marine Co., Ltd., Kawasaki Kisen Kaisha, Ltd., A.P. Moller-Maersk Line, Mitsui O.S.K. Lines, Ltd., Neptune Orient Lines, Ltd., Nippon Yusen Kaisha, Orient Overseas Container Line, Inc., Sea-Land Service, Inc., Nippon Liner System, Ltd., Yangming Marine Transport Corp.

Synopsis: The proposed amendment would add a new subarticle 5.13 to (1) clarify the authority of the parties to communicate with conferences and similar agreements effective in the trade in which one or more parties may participate and (2) authorize two or more parties to consider and exchange information concerning any matter within the scope of the Agreement.

Dated: October 12, 1990.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 90-24500 Filed 10-17-90; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

The Mitsui Taiyo Kobe Bank, Ltd. Tokyo, Japan; Application To Act As Intermediary, Principal, and Broker in Interest Rate and Currency Swaps, Provide Related Advisory Services and Engage in Private Placement Activities

The Mitsui Taiyo Kobe Bank, Limited, Tokyo, Japan ("Mitsui"), has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) ("BHC Act") and § 225.23(a) of the Board's Regulation Y (12 CFR 225.23(a)), through Mitsui Taiyo Kobe Global Capital, Inc., New York, New York ("Company"), to engage *de novo* in the following activities:

(1) Intermediating in the international swap markets by acting as originator and principal in interest rate swap and currency swap transactions;

(2) Acting as an originator and principal with respect to certain risk-management products such as caps, floors and collars, as well as options on swaps, caps, floors and collars ("swap derivative products");

(3) Acting as a broker or agent with respect to the foregoing transactions or instruments;

(4) Acting as adviser to institutional customers regarding financial strategies involving interest rate and currency swaps and swap derivative products;

(5) Providing services related to structuring and arranging, as agent of the issuer, the private placement of debt securities or similar instruments which are incidental to the above-mentioned swap activities.

These activities would be conducted on a worldwide basis.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board, after due notice and opportunity for hearing, has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." Mitsui believes that these proposed activities are "closely related to banking or managing or controlling banks as to be a proper incident thereto."

The Board has previously approved intermediating in the international swap markets by acting as an originator and principal in interest rate swap and currency swap transactions, acting as an originator and principal with respect to swap derivative products, acting as a broker or agent with respect to the foregoing transactions and instruments, and acting as an advisor to institutional customers regarding financial strategies involving the foregoing transactions and instruments. *See The Fuji Bank, Limited*, 75 Federal Reserve Bulletin 768 (1990); *The Sumitomo Bank, Limited*, 75 Federal Reserve Bulletin 562 (1989). Mitsui proposes that Company comply with substantially all of the prudential limitations previously relied upon by the Board in approving these activities. *See id.*

In addition, the Board has previously approved the private placement as agent of the issuer, of all types of securities. *See, e.g., J.P. Morgan & Company Incorporated* 76 Federal Reserve Bulletin 26 (1990) ("*J.P. Morgan*"); *Bankers Trust New York Corporation*, 75 Federal Reserve Bulletin 829 (1989) ("*Bankers Trust*"). Mitsui commits that Company will conduct these proposed activities using substantially the same methods and procedures established by the Board in these orders. Mitsui would, to the extent deemed relevant by the Board, conduct these proposed activities in accordance with the prudential limitations set forth in the Board's order approving underwriting of certain bank-ineligible securities, *Bankers Trust New York Corporation*, 75 Federal Reserve Bulletin 192 (1989), as modified for foreign banks that operate predominantly outside the United States in *Canadian Imperial Bank of Commerce*, 76 Federal Reserve Bulletin 158 (1990), and as modified for private placement activities in *J.P. Morgan & Company Incorporated*, 76 Federal Reserve Bulletin 26 (1990).

Mitsui states that the proposed activities will benefit the public. It believes that they will promote competition and provide added convenience to customers and gains in efficiency. Mitsui takes the position that Company's entry into the swap market will add a significant amount of additional capital to the swap market as a whole. Moreover, Mitsui believes that the proposed activities will not result in any unsound banking practices.

In publishing the proposal for comment, the Board does not take any position on issues raised by the proposal under the BHC Act. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets or is likely to meet the standard of the BHC Act.

Any comments or requests for a hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20552, not later than November 9, 1990. Any request for a hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of San Francisco.

Board of Governors of the Federal Reserve System, October 12, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-24554 Filed 10-17-90; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Statement of Organization, Functions and Delegations of Authority

Part A, Office of the Secretary, of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services is amended. Chapter AMM, Office of Information Resources Management, as last amended at 53 FR 18609 (May 24, 1988) is revised to reflect realignment of functions among retitled organizational units and to update descriptions of functions to incorporate recent legislation, technological advancements, and administrative practices. The changes are as follows:

1. Delete in its entirety Chapter AMM and replace with the following:

Chapter AMM

Office of Information Resources Management

Section AMM.00 mission. The Office of Information Resources Management advises the Secretary and the Assistant Secretary for Management and Budget on issues and policies pertaining to the utilization of information resources.

The Office of Information Resources Management: (1) Establishes information resources management (IRM) control mechanisms and administers the Department's IRM strategic plan; (2) guides and oversees the Department's implementation of the requirements of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and the Paperwork Reduction Reauthorization Act of 1986 (Pub. L. 99-500), the Computer Security Act of 1987 (Pub. L. 100-235), and the Computer Matching and Privacy Act of 1988 (Pub. L. 100-503); (3) provides and supports automated data processing and communications equipment and application systems for general office automation and mission critical administrative systems for the Office of the Secretary; (4) develops and supports an executive information system for senior Departmental managers; (5) guides and oversees the development of information systems and communications networks throughout the Department; (6) exercises functional management over strategies for regional information and data communications systems; (7) formulates and coordinates the Department's policies on the creation, processing, handling, storage, dissemination and disposition of systems of records and other collection of information within the Department; and (8) guides and oversees the Department's printing management program.

Section AMM.10 organization. The Office of Information Resources Management under the supervision of the Deputy Assistant Secretary for Information Resources Management, who reports to the Assistant Secretary for Management and Budget, consists of the following components:

Immediate Office
Office of Information Policy and Review
  Division of Applications Systems and Telecommunications
  Division of Policy and Evaluation
  Division of IRM Approvals
Office of Information Technology
  Division of Network Management
  Division of Systems Architecture and Engineering

Section AMM.20 Function—A. Immediate office. The Immediate Office of the Office of Information Resources Management is responsible for setting strategic plans, formulating and executing the budget, administering acquisitioins, directing and coordinating projects, and conducting personnel management activities of the Office of Information Resources Management.

B. The Office of Information Policy and Review. The Office of Information Policy and Review is responsible for:

1. Managing the Department's information resources management program in accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the Paperwork Reduction Reauthorization Act of 1986 (Pub. L. 99–500), the Computer Security Act of 1987 (Pub. L. 100–235), and the Computer Matching and Privacy Act of 1988 (Pub. L. 100–503).

2. Developing, recommending, implementing, and overseeing the policies, procedures and guidance by which the Department plans, acquires and manages information resources.

3. Representing the Department in interactions with the Office of Management and Budget, the General Services Administration, the General Accounting Office, and other external entities, regarding the management of the Department's information resources.

(a) *The Division of Applications Systems and Telecommunications* is responsible for:

(1) Developing policies, procedures and guidelines for monitoring and evaluating major information systems and telecommunications (voice, image, and data) activities throughout the Department for adherence to approved strategies and plans, and compliance with Federal and Departmental standards.

(2) Reviewing and approving Departmental requests to acquire telecommunications equipment and services and managing migration to the FTS 2000 network.

(3) Conducting reviews of the Department's major information systems to assess system functionality and reliability, software engineering practices, and cost-effectiveness.

(4) Establishing and maintaining standards for the Department's inventory of applications systems.

(5) Leading efforts to plan and implement electronic connectivity and interoperability among the major telecommunications networks implemented within the Department.

(6) Promoting and coordinating the development of data standards for information integration across applications systems.

(7) Supporting development of data definitions and data access standards throughout the Department, including standards for the executive information system.

(8) Representing the Department and leading Departmental participation in activities of the National Communications System for maintaining telecommunications during national emergencies and disasters.

(9) Providing telecommunications and applications systems expertise for on-site reviews of the Department's IRM programs and activities.

(b) *The Division of Policy and Evaluation* is responsible for:

(1) Leading and coordinating annually the strategic planning and budgeting processes to produce the Department's Five-Year Information Resources Management Plan and Information Technology Systems Budget.

(2) Developing, issuing, and revising the Departmental Information Resources Management Manual of policies, procedures, and guidelines for information resources management.

(3) Conducting and reporting on-site reviews of information resources management programs throughout the Department to determine effectiveness and compliance with Federal and Departmental policies.

(4) Coordinating and supporting the Departmental Information Resources Management Advisory Council, which is the representational body of senior information resources management officials from each Operating Division.

(5) Planning, coordinating, and evaluating the Department's automated information systems security program, including providing training requirements and planning guidance for systems designated as sensitive.

(c) *The Division of IRM Approvals* is responsible for:

(1) Monitoring, evaluating and guiding Department-wide automated data processing activities for adherence to approved IRM strategies, plans, and Federal and Departmental policies and procedures.

(2) Evaluating the quality of acquisition management strategies reflected in the Five-Year Information Resources Management Plan.

(3) Reviewing and approving procurement requests from agencies throughout the Department seeking to acquire computing resources and services, to determine compliance with Federal and Departmental policies, procedures and guidelines.

(4) Defining and overseeing the Department's records management programs, including directives, forms, files, reports, micrographics, electronic records, and records disposition, by developing policies and guidelines for the handling, printing, disseminating, storing, archiving, destroying, and sharing of systems of records and other collections of information within the Department.

(5) Overseeing the Department's electronic dissemination, printing and copying activities.

(6) Administering the information collection process and budget for information collections for the Department.

(7) Coordinating and supporting the Departmental Data Integrity Board, which approves and reports on computer matching activities in compliance with the Computer Matching and Privacy Act of 1988.

(8) Providing expertise for on-site reviews of the Department's IRM programs and activities in the areas of automated data processing acquisition, information collection, computer matching, and records, forms, and printing management.

(9) Establishing and maintaining standards for the Department's inventory of automated data processing equipment.

C. Office of Information Technology. The Office of Information Technology provides Department-wide leadership by example in the acquisition, application, and management of appropriate information technology. The Office is responsible for:

1. Promoting the use of standardized automated information systems throughout the Office of the Secretary, including the Immediate Office of the Secretary, the Staff Divisions, and the Regional Offices.

2. Developing architectural models for automated information systems which are based upon Federal Information Processing Standards and industry standards, permit applications portability and scalability across computer hardware and operating system environments, enable interoperability among systems, and reduce reliance on proprietary solutions.

3. Conducting applied research, development and testing in the areas of workstation and communications hardware and software.

4. Coordinating annually the development of the Office of the Secretary Five-Year Information Resources Management Strategic Loan and Information Technology Systems Budget, including formulating, justifying, and administering plans for the Office of the Assistant Secretary for Management and Budget.

5. Coordinating and overseeing automated data processing and telecommunications activities throughout the Office of the Secretary, including efforts in the Regional Offices.

6. Assisting OS managers to design and implement applications systems

software to operate within the Office of the Secretary network environment.

7. Overseeing the development, implementation, and operation of specific Department-wide application systems; developing policies and standards related to these systems; and acquiring related resources and support services.

8. Chairing and supporting the Office of the Secretary Information Resources Management Policy and Planning Board, which is the advisory body of senior information resources management officials from the OS Staff Divisions.

9. Providing project officer services for contracts used to acquire automated data processing equipment and services.

(a) *The Division of Network Management* supports the development and maintenance of an information management infrastructure to support the full automated information processing needs of the Office of the Secretary, including the Immediate Office of the Secretary, Staff Divisions, and Regional Offices. Specifically the Division is responsible for:

(1) Expanding, operating, and maintaining a computer network throughout the Office of the Secretary, consisting of interconnected local area networks with wide area network access for connections to Departmental data centers and commercial information services.

(2) Establishing and enforcing network policies and procedures, and developing plans and budgets for network support services.

(3) Working with external organizations to implement electronic links between the OS computer network and other networks in conjunction with changing user needs and technological advancements.

(4) Managing the acquisition, installation, and warranty support for standard configurations of personal computers, local area networks, and software within the Office of the Secretary.

(5) Reviewing and approving requests to acquire computing resources and services for the Office of the Secretary.

(6) Providing on-site support for users of personal computers, local area networks, and telephone voice messaging through development of a Federal support staff, contracting for technical support services, and training end users within the Office of the Secretary.

(7) Implementing and maintaining standard office automation applications running on the Office of the Secretary network, such as electronic mail, facsimile, and bulletin board services.

(8) Coordinating annually the development of the Office of the Secretary Five-Year Information Resources Management Strategic Plan and Information Technology Systems Budget, including formulating, justifying, and administering plans for the Office of the Assistant Secretary for Management and Budget.

(9) Coordinating the Office of the Secretary IRM oversight program, including the IRM review program, acquisition plan approvals, information systems security and execution of IRM regulatory mandates.

(10) Establishing and maintaining the inventory of automated data processing equipment for the Office of the Secretary.

(b) *The Division of Systems Architecture and Engineering* is responsible for developing standards and prototypes for systems architectures and information engineering which serve as the basis for implementation of systems enhancements in the operational network environment. The Division is responsible for:

(1) Designing and testing configurations of advanced desktop computers and networking products to develop systems architectures which comply with Federal Information Processing Standards and industry standards for applications portability and interoperability.

(2) Assisting systems managers to develop migration plans by which existing information systems throughout the Department will be managed toward orderly implementation of open systems standards.

(3) Providing technical support to applications development efforts with emphasis on using formal software engineering methodologies.

(4) Conducting proof-of-concept and initial demonstrations of emerging standards such as messaging, directory services, and electronic data interchange within an open systems architecture.

(5) Conducting applied research, development and testing in the areas of workstation and communications hardware and software.

(6) Initiating and directing special and continuing studies to test, adjust and improve the existing infrastructure of the Office of the Secretary in conjunction with changing user needs and technological advancements.

(7) Identifying and pilot testing new or additional standard office automation applications for implementation within the OS network.

(8) Developing guidelines for systems administration and network operations in the Office of the Secretary which conform with Departmental policies regarding electronic connectivity and interoperability.

(9) Evaluating and piloting new methods of providing electronic interchange between the Office of the Secretary, the Operating Divisions of the Department, including the Regional Offices, and other public/private agencies/organizations that interact with the Department.

(10) Maintaining a collection of technical literature about information technology.

Dated: October 5, 1990.

Kevin E. Moley,

Assistant Secretary for Management and Budget.

[FR Doc. 90-24588 Filed 10-17-90; 8:45 am]

BILLING CODE 4110-60-M

Family Support Administration

Advisory Panel for the Evaluation of the Job Opportunities and Basic Skills Training (JOBS) Program; Meeting

AGENCY: Family Support Administration, HHS..

ACTION: Notice of meeting.

SUMMARY: In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Advisory Panel for the Evaluation of the Job Opportunites and Basic Skills Training (JOBS) program. The purpose of the Panel is to help design, implement, and monitor a series of implementation and evaluation studies to assess the methods and effects of the JOBS program initiated under the Family Support Act of 1988.

DATE AND TIME: November 7, 1990, 9 a.m. to 4:30 p.m.

PLACE: Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, room 503A.

TYPE OF MEETING: Open.

FOR FURTHER INFORMATION CONTACT: Alan Yaffee, Family Support Administration/OPE, 370 L'Enfant Promenade, SW 20447; 202-252-4537.

SUPPLEMENTARY INFORMATION: This meeting will deal primarily with the research context and the evaluation design of the JOBS evaluation currently being conducted by the Manpower Demonstration Research Corporation. Design aspects of a study of the impacts of JOBS on children, and of the Rockefeller Institute's implementation study of JOBS will also be discussed.

BEST COPY AVAILABLE

Dated: October 12, 1990.

Jo Anne B. Barnhart,

Assistant Secretary for Family Support.

[FR Doc. 90-24562 Filed 10-17-90; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

[Docket No. 90E-0267]

Determination of Regulatory Review Period for Purposes of Patent Extension; Interceptor®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Interceptor® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that animal drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nancy E. Pirt, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For animal drug products, the testing phase begins on the earlier date when either a major environmental effects test was initiated for the drug or when an exemption under section 512(j) of the Federal Food, Drug, and Cosmetic Act became effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the animal drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have passed before the patent was issued), FDA's determination of the length of a regulatory review period for an animal drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(4)(B).

FDA recently approved for marketing the animal drug product Interceptor® (milbemycin oxime). Interceptor® is indicated for prevention of heartworm disease and control of hookworm infections in dogs. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Interceptor® (U.S. Patent No. 4,547,520) from Sankyo Co., Ltd. and requested FDA's assistance in determining the patent's eligibility for patent term restoration. FDA, in a letter dated August 20, 1990, advised the Patent and Trademark Office that the animal drug product had undergone a regulatory review period. The letter also stated that the active ingredient, milbemycin oxime, represented the first permitted commercial marketing or use. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Interceptor® is 2,061 days. Of this time, 1,434 days occurred during the testing phase of the regulatory review period, while 627 days occurred during the approval phase. These periods of time were derived from the following dates:

1. The date an exemption under section 512(j) of the Federal Food, Drug, and Cosmetic Act became effective: August 21, 1984. FDA has verified the applicant's claim that August 21, 1984, was the date the investigational new animal drug application became effective.

2. The date the application was initially submitted with respect to the animal drug product under section 512(b) of the Federal Food, Drug, and Cosmetic Act: September 28, 1988. The applicant claims September 23, 1988, as the date the new animal drug application (NADA) was filed. However, a review of FDA records reveals that the date of FDA's official acknowledgement letter assigning a number oto the NADA was September 28, 1988, which is considered to be the submission date for the NADA.

3. The date the application was approved: June 14, 1990. FDA has verified the appliant's claim that NADA 140-915 was approved on June 14, 1990.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 608 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before December 17, 1990, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA on or before April 16, 1991, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d Sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 11, 1990.

Allen B. Duncan,

Acting Associate Commissioner for Health Affairs.

[FR Doc. 90-24563 Filed 10-17-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90F-0297]

Anitox Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Anitox Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of formaldehyde as an antimicrobial additive to animal feeds.

DATES: Comments by December 17, 1990.

BEST COPY AVAILABLE

ADDRESSES: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Woodrow M. Knight, Center for Veterinary Medicine (HFV–226), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3390.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2215), has been filed by Anitox Corp., P.O. Box 1929, Buford, GA 30518, proposing that the food additive regulations in 21 CFR part 573 be amended to provide for the safe use of formaldehyde at a level of 1.65 to 2.65 pounds per ton for fishmeal and animal byproduct meals, and at a level of 0.66 to 1.32 pounds per ton for complete feeds or other feed ingredients. The formaldehyde is to be used as an antimicrobial agent against bacteria, mold, and yeast in feed.

The potential environmental impact of this action is being reviewed. The environmental assessment prepared by the petitioner may be seen at the Dockets Management Branch (address above). Comments from the public are invited. Those comments received by December 17, 1990 will be considered. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice is availability of the agency's finding of no significant impact and the evidence supporting that funding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: October 12, 1990.

Richard H. Teske,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 90–24564 Filed 10–17–90; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 90F–0305]

Eggnog Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to The Kroger Co. to test market a product designated as "lite eggnog" that deviates from the U.S. standard of identity for eggnog (21 CFR 131.170). The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the product.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than January 16, 1991.

FOR FURTHER INFORMATION CONTACT: Joanne Travers, Center for Food Safety and Applied Nutrition (HFF–414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–485–0106.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to The Kroger Co., P.O. Box 1199, Cincinnati, OH 45201–1199.

The permit covers limited interstate marketing tests of a product that deviates from the U.S. standard of identity for eggnog in 21 CFR 131.170 in that: (1) The fat content of the product is reduced from 6 percent to 1 percent, and (2) sufficient vitamin A palmitate is added to ensure that a 4-fluid-ounce (118.5-milliliter) serving of the product contains 6 percent of the U.S. Recommended Daily Allowance for vitamin A. The product meets all requirements of the standard with the exception of these deviations. The purpose of the variation is to offer consumers a product that is nutritionally equivalent but contains fewer calories and less fat.

For the purpose of this permit, the name of the product is "lite eggnog." The principal display panel of the label must include the statements "reduced calories" and "reduced fat" following the name. In addition, the label must bear the comparative statements of "⅓ less calories" and "75% less fat than regular eggnog".

The product complies with the reduced calorie labeling requirements in 21 CFR 105.66(d). In accordance with FDA's current views, reduced fat food labeling is acceptable because there is at least a 50-percent reduction in the fat content of the product. The information panel of the label will bear nutrition in accordance with 21 CFR 101.9.

This permit provides for the temporary marketing of one million quarts of the test product. The test product is to be manufactured at Crossroad Farms Dairy, Indianapolis, IN 46206; Heritage Farms Dairy, Murfreesboro, TN 37130; Michigan Dairy, Livonia, MI 48150; Tamarack Farms Dairy, Newark, OH 43055; Westover Dairy, Lynchburg, VA 24506; Winchester Farms Dairy, Winchester, KY 40391; and Vandervoort Dairy, Ft. Worth, TX 76161; and will be distributed in Alabama, Arkansas, Georgia, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Missouri, South Carolina, Ohio, Tennessee, Texas, and Virginia.

Each of the ingredients used in the food must be stated on the label as required by the applicable sections of 21 CFR part 101. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than January 16, 1991.

Dated: October 10, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90–24565 Filed 10–17–90; 8:45 am]

BILLING CODE 4160–01–M

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETINGS: The following advisory committee meetings are announced:

Technical Electronic Product Radiation Safety Standards Committee

Date, time and place. November 14, 1990, 1 p.m. and November 15, 1990, 8:30 a.m., Twinbrook Bldg. No. 4, rm. T–416–418, 12720 Twinbrook Pkwy., Rockville, MD.

Type of meeting and contact person. Open public hearing, November 14, 1 p.m. to 2 p.m., unless public participation does not last that long; open committee discussion, 2 p.m. to 5:15 p.m.; open public hearing, November 15, 1990, 8:30 a.m. to 9:30 am., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 5:15 p.m.; Arlene R. Underdonk, Center for Devices and Radiological Health (HFZ–83), Food and Drug Administration, 12720 Twinbrook Pkwy., Rockville, MD 20857, 301–443–3426.

General function of the committee. The committee advises on technical feasibility, reasonableness, and practicability of performance standards for electronic products to control the emission of radiation under 42 U.S.C. 263f(f)(1)(A).

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before November 1, 1990, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On November 14, 1990, the committee will discuss draft amendments to Part 1020—Performance Standards for Ionizing Radiation Emitting Products (21 CFR part 1020), § 1020.32 *Fluoroscopic equipment* (21 CFR 1020.32); receive an update on current work on radiation standards and radiation research; and receive an update on final amendments to § 1020.30 *Diagnostic x-ray systems and their major components* (21 CFR 1020.30). On November 15, 1990, the committee will discuss draft amendments to Part 1040—Performance Standards for Light-Emitting Products (21 CFR part 1040), § 1040.30 *High-intensity mercury vapor discharge lamps* (21 CFR 1040.30); discuss public health concerns about exposure to extremely low frequency (ELF) fields in general, and electric blankets in particular; and receive an update on the Nationwide Evaluation of X-Ray Trends (NEXT) program.

Psychopharmacologic Drugs Advisory Committee

Date, time, and place. November 19, 1990, 9 a.m., Conference rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 4 p.m.; Michael A. Bernstein, Center for Drug Evaluation and Research (HFD–120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4020.

General function of the committee. The Psychopharmacologic Drugs Advisory Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational human drugs for use in the practice of psychiatry and related fields.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should notify the contact person before November 5, 1990, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss data relevant to a claim for the safety and effectiveness of SERTRALINE in the treatment of depression.

Microbiology Devices Panel

Date, time, and place. November 27, 1990, 10 a.m., First Floor Auditorium, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, 10 a.m. to 11 a.m., unless public participation does not last that long; open committee discussion, 11 a.m. to 5 p.m.; Joseph Hackett, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1060.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before November 13, 1990, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a premarket approval application for a device used to type human papillomaviruses in cervical specimens.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the

Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: October 12, 1990.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 90–24566 Filed 10–17–90; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Advisory Council Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of November 1990:

Name: Maternal and Child Health Research Grants Review Committee.

Date and Time: November 7–9, 1990, 9 a.m.

Place: Conference room 9–03, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open on November 7, 1990, 9 a.m.–1 a.m.

Closed for remainder of meeting.

Purpose: To review research grant applications in the program area of maternal and child health administered by the Bureau of Maternal and Child Health and Resources Development.

Agenda: The open portion of the meeting will cover opening remarks by the Director, Division of Systems, Education and Science, Maternal and Child Health Bureau, who will report on program issues, congressional activities and other topics of interest to the field of maternal and child health. The meeting will be closed to the public on November 7, at 10 a.m. for the remainder of the meeting for the review of grant applications. The closing is in accordance with the provisions set forth in section 552b(c)(6), title 5 U.S.C. Code, and the Determination by the Administrator, Health Resources and Services Administration, pursuant to Public Law 92–463.

Anyone requiring information regarding the subject Council should contact Gontran Lamberty, Dr. Ph.H., Executive Secretary, Maternal and Child Health Research Grants Review Committee, room 9–12, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–2190.

Agenda Items are subject to change as priorities dictate.

Dated: October 15, 1990.

Jacida E. Reese,

Advisory Committee Management Officer, HRSA.

[FR Doc. 90–24567 Filed 10–17–90; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Flathead Indian Irrigation Project, MT

AGENCY: Bureau of Indian Affairs, Department of Interior.

ACTION: Proposed operation and maintenance rates.

SUMMARY: The purpose of this notice is to change the assessment rates for operating and maintaining the Flathead Indian Irrigation Project. The assessment rates are based on a prepared estimate of the cost of normal operations and maintenance of the irrigation project. Normal operations and maintenance is defined as the average per acre cost of all activities involved in delivering irrigation water, including maintaining pumps and other facilities.

EFFECTIVE DATE: Interested parties may submit written comments on or before November 19, 1990.

FOR FURTHER INFORMATION CONTACT: Portland Area Director, Portland Area Office, Bureau of Indian Affairs, 911 NE 11th Ave, Portland, Oregon 97232–4169.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to announce an increase in the assessment rates commensurate with actual operation and maintenance costs on the Flathead Irrigation Project. The proposed assessment increases for 1991 amount to approximately 28%.

This notice of proposed operation and maintenance rates and related information is published under the authority delegated to the Assistant Secretary—Indian Affairs to the Area Director in 10 BIAM 3.

This notice is given in accordance with § 171.1(e) of part 171, chapter 1, of title 25 of the code of Federal Regulations, which provides for the Area Director to fix and announce the rates for operation and maintenance assessments and related information of the Flathead Irrigation Project for Calendar Year 1991 and subsequent years.

This notice sets forth changes to the operation and maintenance charges and related information applicable to the Flathead Irrigation Project, St. Ignatius, Montana. These charges were proposed pursuant to the authority contained in the Acts of August 1, 1913 and March 7, 1928, (38 Stat. 583, 25 U.S.C. 382; 45 Stat. 210, 25 U.S.C. 387).

Irrigation Operation and Maintenance Charges

In compliance with the above, the operation and maintenance charges for the lands under the Flathead Irrigation Project, Montana, for the season of 1991 and subsequent years until further notice, are hereby fixed as follows:

Lands included in an Irrigation District, lands held in trust for Indian and non-District lands will be assessed operation and maintenance charges at $18.40 per acre for the season of 1991 and subsequent years.

Payment

The operation and maintenance charges on the trust and non-District lands become due on April 1 each year and on the lands within an Irrigation District are biannually billed. To all assessments on lands in non-Indian ownership, remaining unpaid 60 days after the due date, there shall be added a penalty for each month, or fraction thereof, from the due date until paid. No water shall be delivered to any farm unit until all O&M charges have been paid.

Interest and Penalty Fees

Interest and penalty fees will be assessed, where require by-law, on all delinquent operation and maintenance assessment charges as prescribed in the Code of Federal Regulations, title 4, part 102, Federal Claims Collection standards; and 42 BAIM Supplement 3, part 3.8 Debt Collection Procedures.

Wilford Bowlan,

Acting Portland Area Director.

[FR Doc. 90–24565 Filed 10–17–90; 8:45 am]

BILLING CODE 4310–02–M

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved tribal-state compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the Federal Register, notice of approved Tribal-State Compacts for the purposes of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority has approved a Tribal-State Compact between the Sycuan Band of Mission Indians and the State of California executed 8/30/90.

DATES: This action is effective October 18, 1990.

ADDRESSES: Office of Legislative Affairs, Bureau of Indian Affairs, Department of the Interior, MS–4641, 1849 C Steet, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Joel Starr, Bureau of Indian Affairs, Washington, DC (202) 208–5706.

Dated: October 10, 1990.

Ronal Eder,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 90–24569 Filed 10–17–90; 8:45 am]

BILLING CODE 4310–93–M

Bureau of Land Management

Susanville District Advisory Council; Meeting

October 10, 1990.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with Public Law 95–579 (FLPMA), that the Susanville District Advisory Council will hold a field tour and meeting on Thursday, Nov. 8 and Friday, Nov. 9, 1990. The field tour will begin at 8 a.m. on Thursday, Nov. 8, at the BLM's Surprise Resource Area Office, 602 Cressler Street, Cedarville, CA. It will cover public lands in northwestern Nevada that are proposed for inclusion in a new National Conservation Area. The meeting will be continued at 8 a.m. on Friday, Nov. 9, in the Alturas Resource Area office, and adjourn at noon. The purpose of the meeting will be to allow the District Advisory Council to provide the Susanville District Manager with timely advice on the proposed creation of the Emigrant Trails National Conservation Area in the Susanville and Winnemucca Districts of the BLM.

The meeting is open to the public, and interested persons may make oral statements or file a written statement for the council's consideration. Those wishing to make an oral statement must notify the Susanville District Manager, 705 Hall Street, Susanville, CA 96130, by November 2, 1990. Depending on the number of persons wishing to speak, a time limit may be imposed.

FOR FURTHER INFORMATION CONTACT: Jeff Fontana, (916) 257–5381.

Herrick E. Hanks,

District Manager.

[FR Doc. 90–24492 Filed 10–17–90; 8:45 am]

BILLING CODE 4310–40–M

[AZ–020–1–4212–12; AZA–24830] Realty Actions; Sales, Leases, Etc.

AGENCY: Bureau of Land Management (BLM), Interior.

REALTY ACTION: Exchange of public lands, Navajo and Apache Counties, Arizona.

BLM proposes to exchange public land in order to achieve more efficient management of the public land through consolidation of ownership.

The following described public lands are being considered for disposal by exchange pursuant to section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716.

Gila and Salt River Meridian, Arizona

T. 8 N., R. 28 E.,
Sec.17, W½SW¼;
Sec.18, SE¼SE¼;
T. 8 N., R. 29 E.,
Sec. 10, SE¼SW¼.
T. 12 N., R. 20 E.,
Sec. 6, lots 1 to 3, incl.
T. 13 N., R. 18 E.,
Sec. 12, E½E½.
T. 13 N., R. 23 E.,
Sec. 22, NW¼SE¼, SE¼SE¼.
T. 14 N., R. 17 E.,
Sec. 8, SE¼;
Sec. 22, NE¼, N½NW¼, SW¼NW¼, NW¼SW¼, S½S½;
Sec. 24, NE¼.
T. 14 N., R. 19 E.,
Sec. 4, lots 1 to 4, incl., S½N½, S½;
Sec. 10, NE¼, N½SE¼, SE¼SE¼;
Sec. 12, N½;
Sec. 28, SE¼SE¼.
T. 15 N., R. 16 E.,
Sec. 6, lots 1 to 4, incl. and lot 8.
T. 15 N., R. 19 E.,
Sec. 12, lots 1 to 3, incl. N½, SW¼;
Sec. 14, NE¼.
T. 16 N., R. 16 E.,
Sec. 28, all.
T. 16 N., R. 17 E.,
Sec. 6, lots 4 and 5.
T. 17 N., R. 15 E.,
Sec. 22, W½NW¼, NW¼SW¼.
T. 17 N., R. 16 E.,
Sec. 24, lots 1 to 4, incl., W½E½, W½.
T. 17 N., R. 18 E.,
Sec. 4, lots 1 to 4, incl., S½N½, S½.
T. 18 N., R. 16 E.,
Sec. 4, lot 1, SE¼NE¼, E½SE¼.
T. 18 N., R. 24 E.,
Sec. 31, lots 3 and 4, E½SW¼.

Containing 5,731.23 acres, more or less.

Final determination on disposal will await completion of an environmental analysis.

In accordance with the regulations of 43 CFR 2201.1(b), publication of this Notice will segregate the public lands, as described in this Notice, from appropriation under the public land laws and the mining laws, but not the mineral leasing laws or Geothermal Steam Act.

The segregation of the above-described lands shall terminate upon issuance of a document conveying such lands or upon publication in the Federal Register of a notice of termination of the segregation; or the expiration of two years from the date of publication, whichever occurs first.

For a period of forty-five (45) days, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Dated: October 12, 1990

Paul J. Buff,

District Manager (Acting)

[FR Doc. 90–24583 Filed 10–17–90; 8:45 am]

BILLING CODE 4310–32–M

Fish and Wildlife Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service Clearance Officer and the Office of Management and Budget, Paperwork Reduction Project (1018–0007), Washington, DC 20503, telephone 202–395–7340.

Title: Certification of Hunting and Fishing License Holders.

OMB Approval Number: 1018–0007.

Abstract: The Federal Aid in Fish Restoration Act of 1950, as amended, and the Federal Aid in Wildlife Restoration Act of 1937, as amended, provides for funds to be apportioned, in accordance with a prescribed formula, to the States for projects that restore,

conserve, and enhance wild birds and mammals and sport fish.

Part I, Form 3–154a is used to collect numbers of paid hunting and fishing license holders from State fish and wildlife agencies, and is used by the Service to compute the apportionment of grant funds available to each State.

Part II, Form 3–154b, is used to collect information on hunting and fishing license sales. Such information is made available to the public and is used by the Service and the public as indicators of trends in sport hunting and fishing.

Service Form Numbers: 3–154a and 3–154b.

Frequency: Anually.

Description of Respondents: State fish and wildlife agencies.

Estimated Completion Time: 1 hour.

Annual Responses: 50.

Annual Burden Hours: 50.

Service Clearance Officer: James E. Pinkerton, 703–358–1943 Mail Stop—224 Arlington Square, U.S. Fish and Wildlife Service, Washington, DC 20240.

Dated: October 3, 1990.

Ralph O. Morgenweck,

Assistant Director—Fish and Wildlife Enhancement.

[FR Doc. 90–24573 Filed 10–17–90; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Outer Continental Shelf Advisory Board; Renewal

This notice is published in accordance with section 9(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix). Notice is hereby given that the Secretary of the Interior is renewing the Outer Continental Shelf (OCS) Advisory Board Charter.

The purpose of the OCS Advisory Board is to provide advice to the Secretary of the Interior and other officers of the Department in the performance of discretionary functions of the OCS Lands Act, as amended, including all aspects of leasing, exploration, development, and protection of the resources of the OCS.

Further information regarding the Committee may be obtained from the Director, Minerals Management Service, Department of the Interior, 1849 C Street, NW., Washington, DC 20240.

Certification

I hereby certify that the renewal of the Outer Continental Shelf Advisory Board Charter is in the public interest in connection with the performance of duties imposed on the Department of the Interior by 43 U.S.C. 1331 *et. seq.*

Dated: September 25, 1990.

Manuel Lujan, Jr.,

Secretary of the Interior.

[FR Doc. 90–24555 Filed 10–17–90; 8:45 am]

BILLING CODE 4310–MR–M

Cancellation of the Outer Continental Shelf Advisory Board Policy/Scientific Committee Meeting

This notice is issued to cancel the Outer Continental Shelf Advisory Board Policy Committee meeting scheduled for October 30–November 1, 1990, at the Wilmington Hilton in Wilmington, North Carolina. The meeting had previously been announced in the **Federal Register** on October 2, 1990.

For more information contact Carolita Kallaur, Deputy Associate Director for Offshore Leasing at 202–208–3504.

Dated: October 11, 1990.

Ed Cassidy,

Deputy Director, Minerals Management Service.

[FR Doc. 90–24556 Filed 10–17–90; 8:45 am]

BILLING CODE 4310–MR–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31564]

Central of Georgia Railroad Co.; Trackage Rights Exemption, Southern Railway Co. and the Cincinnati, New Orleans and Texas Pacific Railway Co.

Southern Railway Company (Southern) has agreed to grant overhead trackage rights to Central of Georgia Railroad Company (Central) over the following lines: (a) Between the connection track between Central and Southern at Rome (Fox), GA (milepost 78.1–H) and Ooltewah, TN (milepost 15.2–H), a distance of 62.9 miles; (b) between Cohutta, GA (milepost 14.5–I) and Cleveland, TN (milepost 0.0–I), a distance of 14.5 miles; and (c) between the East Cleveland Yard limit at Tasso, TN (milepost 208.9–A) and Citico Junction, TN (milepost 238.0–A), a distance of 29.1 miles.

In addition, The Cincinnati, New Orleans and Texas Pacific Railway Company (CNO&TP) [1] has agreed to grant overhead trackage rights to Central over track between Citico Junction (milepost 332.4) and 23rd Street Interlocking Tower (milepost 338.0) in Chattanooga, TN, a distance of approximately 5.6 miles.

All the trackage rights were to become effective on October 5, 1990.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Virginia K. Young, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

As a condition to the use of this exemption, any employees affected by the package rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry, Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: October 11, 1990.

By the Commission, David M. Konschnik, Director Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90–24469 Filed 10–17–90; 8:45 am]

BILLING CODE 7035–01–M

[1] CNO&TP is a wholly owned subsidiary of Southern.

DEPARTMENT OF JUSTICE

Escambia County Utilities Authority; Notice of Lodging of Consent Decree

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on September 13, 1990, a proposed Consent Decree in *United States* v. *Escambia County Utilities Authority* was lodged, simultaneously with the filing of the Complaint, in the United States District Court for the Northern District of Florida. In its Complaint, pursuant to section 301(a) of the Clean Water Act, 33 U.S.C. 1311(a), the United States sought injunctive relief and civil penalties for the Authority's unpermitted discharges of pollutants from its Avondale wastewater treatment plant in Pensacola, Florida. Under the proposed Consent Decree, the City will pay a civil penalty of $135,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments concerning the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Nautral Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States* v. *Escambia County Utilities Auth.*, D.J. Ref. No. 90–5–1–1–3433.

The proposed Consent Decree may be examined at any of the following offices: (1) The United States Attorney for the

Northern District of Florida, 114 East Gregory Street, Pensacola, Florida (contact Assistant U.S. Attorney Samuel A. Alter, Jr.; (2) the U.S. Environmental Protection Agency, Region 4, 345 Courtland Street, NE, Atlanta, Georgia (contact Assistant Regional Counsel Alan Dion); and (3) the Environmental Enforcement Section, Environment & Natural Resources Division, U.S. Department of Justice, Room 1541, 10th & Pennsylvania Avenue, NW, Washington, DC. Copies of the proposed Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 1333 F Street NW., Suite 600, Washington, DC 20004, telephone (202) 347–2072. Please enclose a check in the amount of $4.25 (25 cents per page reproduction charge) payable to Consent Decree Library.

Richard B. Stewart,

Environment & Natural Resources Division.

[FR Doc. 90–24610 Filed 10–17–90; 8:45 am]

BILLING CODE 4410–01–M

Homestake Mining Company; Notice of Lodging of Consent Decree

In accordance with section 122(d) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9622(d), and Departmental policy, 28 CFR 50.7, notice is hereby given that on October 10, 1990 a proposed Consent Decree in *United States* v. *Homestake Mining Company of California,* Civil Action No. 90–5101, was lodged with the United States District Court for the District of South Dakota. The Complaint in this case was brought pursuant to sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, and seeks recovery of costs and injunctive and other equitable relief related to the cleanup of mine tailings containing heavy metals at the Whitewood Creek Site located in Lawrence, Meade, and Butte Counties, South Dakota.

The proposed Consent Decree requires Homestake Mining Company to perform at its own expense the remedy selected for the Site in EPA's March 30, 1990 Record of Decision and to pay a total of $510,000 for EPA oversight and past response costs.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States* v. *Homestake Mining Company of California,* DOJ Ref. No. 90–11–2–574.

The proposed Consent Decree may be examined at the Offices of the United States Attorney, 185 Federal Building and Courthouse, 400 South Phillips Avenue, Sioux Falls, SD 57102, at the Region VIII Office of the United States Environmental Protection Agency, 999 18th Street, suite 500, Denver, Colorado 80202, and at the Environmental Enforcement Section Document Center, 1333 F Street, NW., suite 600, Washington, DC 20004, 202–347–7829. A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $56.50 (25 cents per page reproduction costs) payable to "Consent Decree Library."

Richard B. Stewart,

Environment and Natural Resources Division.

[FR Doc. 90–24580 Filed 10–17–90; 8:45 am]

BILLING CODE 4410–01–M

Hubinger Co.; Notice of Lodging of Consent Decree

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on 8/17/90 a proposed consent decree in *United States* v. *The Hubinger Company,* Civil Action No. 88–59–D–2, was lodged with the United States District Court for the Southern District of Iowa. The proposed consent decree concerns a complaint filed by the United States that alleged violations of the Clean Air Act ("the Act"), 42 U.S.C. 7411, by Huibinger, the owner of a coal-fired boiler in Keokuk, Iowa. The complaint alleged that Hubinger violated provisions of the New Source Performance Standards ("NSPS") regulations 40 CFR part 60, in that Hubinger failed to notify EPA of the "commence construction" date of the construction of the boiler, failed to install a monitoring device for measuring nitrogen emission oxides from the boiler, and failed to demonstrate compliance with the nitrogen oxide emission standard within 180 days of startup of the boiler. The complaint sought injunctive relief to require Hubinger to comply with the Act and the NSPS regulations and civil penalties for past violations. The consent decree provides that Hubinger shall henceforth fully comply with the Act and the Regulations. Hubinger is also required to pay a civil penalty of $63,500 in settlement of the government's civil penalty claims.

The Department of Justice will receive for a period of thirty (30) days from the date of the publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to the *United States* v. *The Hubinger Company,* D.J. Ref. 90–5–2–1–1169.

The proposed consent decree may be examined at the office of the United States Attorney for the Southern District of Iowa, 115 U.S. Courthouse, E 1st and Walnut Streets, Des Moines, Iowa, and at the Region VII Office of the United States Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, Kansas, 66101. Copies of the consent decree may also be examined at the Environmental Enforcement Section Document Center, 1333 F Street, NW., Suite 600, Washington, DC 20004, 202–347–7829. A copy of the proposed consent decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $2.50, payable to Aspen Systems Corporation (25 cents per page reproduction cost) payable to Consent Decree Library.

George W. Van Cleve,

Acting Assistant Attorney General Land and Natural Resoruces Division.

[FR Doc. 90–24611 Filed 10–17–90; 8:45 am]

BILLING CODE 4410–01–M

Illinois Asbestos Control Inc.; Notice of Lodging of Consent Decree

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on October 3, 1990 a proposed Consent Decree in *United States* v. *Illinois Asbestos Control, Inc., et al.,* Civil Action No. 89 C 6344, was lodged with the Unites States District Court for the Northern District of Illinois. The Complaint in this case alleged violations of certain notification and work practice standards of the National Emissions Standards for Hazardous Air Pollutants ("NESHAPs") for asbestos,promulgated under sections 112 and 114 of the Clean Air Act, 42 U.S.C. 7412 and 7414, codified at 40 CFR part 61, subpart M, which relate to the renovation of buildings containing asbestos materials.

The proposed Consent Decree requires that Rubloff Inc. comply with the asbestos NESHAPs. The proposed Decree also provides that IAC will pay the United States a civil penalty of $5,000.

The Department of Justice will receive for a period of thirty (30) days from the

date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Illinois Asbestos Control, Inc., et al.*, DOJ Ref. No. 90-5-2-1-1407.

The proposed Consent Decree may be examined at the Offices of the United States Attorney, room 1500, 219 S. Dearborn Street, Chicago, Illinois 60604, at the Region V Office of the United States Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, and at the Environmental Enforcement Section Document Center, 1333 F Street, NW., suite 600, Washington, DC 20004, 202-347-7829. A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. In requesting a copy , please enclose a check in the amount of $3.50 (25 cents per page reproduction costs) payable to "Consent Decree Library."

Richard B. Stewart,

Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 90-24582 Filed 10-17-90; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

[Civil No. 90-1567 (CRR)]

United States v. The American Institute of Architects, Comment and Response on Proposed Final Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (a) and (b), the United States publishes below the comment it received on the proposed Final Judgment in *United States* v. *The American Institute of Architects*, Civil Action No. 90-1567 (CRR), United States District Court for the District of Columbia, together with the response of the United States to this comment.

Copies of the response and the public comment are available on request for inspection and copying in room 3233 of the Antitrust Division, U.S. Department of Justice, Tenth Street and Pennsylvania Avenue, NW., Washington, DC 20530 and for inspection at the Office of the Clerk of the United States District Court for the District of Columbia, Third Street and Constitution Avenue, NW., Washington, DC 20001.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

Response of the United States to Public Comments and Motion of the United States for Entry of Final Judgment

Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)-16(g)) (the "APPA"), the United States of America hereby files its Response to Public Comments and moves for entry of the proposed Final Judgment against the American Institute of Architects ("AIA") in this civil antitrust proceeding.

I. Introduction

This action began on July 5, 1990, when the United States filed a complaint alleging that the AIA conspired unreasonably to restrain price competition among AIA members in violation of section 1 of the Sherman Act, 15 U.S.C. 1. The complaint alleged that, beginning at least as early as August 1984 and continuing at least until February 1985, the AIA and its co-conspirators violated the Sherman Act by prohibiting AIA members from (1) submitting price quotations where price is the sole or dominant consideration in the selection of an architect, (2) providing discounts for architectural services and (3) providing architectural services without compensation. The complaint further alleged that the effects of the conspiracy have been to restrain unreasonably price competition among AIA members in the sale of their services and to deprive customers seeking the services of AIA members of the benefits of free and open competition in the sale of such services. The relief sought in the complaint was that the AIA be enjoined for a period of 10 years from renewing the conspiracy and that the AIA and each of its state and local organizations and chapters be required to withdraw any provisions in their codes of ethics or other statements which have the purpose or effect of suppressing price competition among AIA members. The complaint further asked that the AIA be required to institute a compliance program to ensure that the AIA and its components do not enter into or participate in any plan, program or other arrangement having the purpose or effect of continuing or renewing the conspiracy.

Also on July 5, 1990, the United States filed a stipulation between the United States and the AIA for entry of the proposed Final Judgment and a Competitive Impact Statement explaining the basis for the complaint and for the United States' conclusion that entry of the proposed Final Judgment would be in the public interest. The proposed Final Judgment enjoins the AIA and its approximately 280 local and state components from having any code of ethics or statement that has the purpose or effect of prohibiting or restraining AIA members from engaging in competitive bidding, discounting or providing free services or that states or implies that any of these practices are unethical, unprofessional or contrary to any policy of the AIA or any of its components. In addition, the proposed Final Judgment requires the AIA to institute a comprehensive antitrust compliance program, which would include annual written certifications from various AIA officials for the next 10 years that they understand and agree to comply with the decree and that they understand that noncompliance may result in disciplinary measures and charges of criminal contempt. The AIA also is required to establish a Decree Committee to supervise and monitor compliance with the decree. The proposed Final Judgment further provides that the Court may impose a civil fine upon the AIA or any of its components for a violation of the decree without any showing of willfulness or intent. Finally, the proposed Final Judgment requires the AIA to pay $50,000 to the United States for the costs of the investigation.

The stipulation provides that the Final Judgment may be entered by the Court after completion of the procedures required by the APPA. Entry of the proposed Final Judgment will terminate the action, except that the Court will retain jurisdiction to construe, modify or enforce the Final Judgment.

II. Compliance With the APPA

Upon publication of this Response in the **Federal Register**, the procedures required by the APPA will be completed, and the Court may enter the proposed Final Judgment.

A. Stipulation, Proposed Final Judgment and Competitive Impact Statement

The United States has caused the stipulation between the parties for entry of the proposed Final Judgment, the proposed Final Judgment and the Competitive Impact Statement, in the form prescribed by 15 U.S.C. 16(b), to be filed with the Court and to be published in the **Federal Register** (55 FR 28838, July 13, 1990).[1] It also has furnished copies of

[1] A copy of the **Federal Register** Notice is attached to this Response as Exhibit A.

these documents to all persons who have requested them.

B. Newspaper Notices

The United States has caused newspaper notices of the proposed Final Judgment and its Competitive Impact Statement to be published in the Washington Post in accordance with the procedures set forth in 15 U.S.C. 16(c).[2]

C. Statements Regarding Communications

As required by 15 U.S.C. 16(g), on July 10, 1990, the AIA filed with the Court a description of communications, by or on behalf of the defendant, with officers and employees of the United States concerning the proposed Final Judgment.

D. Waiting Period, Comments and Publication of Comments and Response

The 60-day period provided by 15 U.S.C. 16(d) for submission of public comments expired on September 20, 1990. The United States received only one set of comments on September 11, 1990, from Pat Guthrie of John Pat Guthrie Architect Inc. in Scottsdale, Arizona. In accordance with the APPA, the United States has evaluated Guthrie's comments and responds to them below.[3] As required by 15 U.S.C. 16(b), Guthrie's comments are being filed with this Response, and the comments and this Response also will be published in the Federal Register. Counsel for the United States will inform the Court when publication has occurred.

E. Response to Comments

No person other than Guthrie questioned the United States' conclusion, explained in the Competitive Impact Statement, that entry of the proposed Final Judgment is in the public interest. Moreover, Guthrie's comments contain neither factual nor policy arguments that would justify a judicial refusal to enter the Judgment.

The issue in an APPA proceeding is "[w]hether the relief provided . . . was adequate to remedy the antitrust violations alleged in the complaint." [4] Guthrie does not dispute the United States' conclusion that the relief provided by the proposed Final Judgment effectively will remedy the antitrust violation alleged in the complaint, *i.e.*, the adoption, endorsement by various AIA officers and employees and wide dissemination of the Chicago Chapter's policy statement which prohibited AIA members from engaging in competitive bidding, discounting fees or providing free services. Rather, Guthrie contends that the United States should not bring a case at all since, according to him, architects already compete so hard that (1) they do not pay attention to what the AIA says and (2) the average architect earns less than the salary of a typical Justice Department attorney.

The APPA, however, does not give a court the authority to dismiss a complaint or to order the United States to withdraw a complaint that the Department of Justice, in the exercise of its prosecutorial discretion, has determined is appropriate. Rather, the court is to enter a proposed judgment if it finds that the judgment is in the public interest; if the court finds that the proposed judgment is not in the public interest, the court may condition its approval on modifications of the judgment,[5] or require the United States to proceed to trial.

The United States explained in the Competitive Impact Statement the contentions it would have made at trial.[6] Guthrie's comments raise no issue that has not already been considered by the United States, nor do they undermine the importance of the proposed Final Judgment to the public interest.

F. Public Interest Determination

Before entering the proposed Final Judgment, the Court is to determine that the Judgment is in the public interest. 15 U.S.C. 16(e). This determination can properly be made on the basis of the Competitive Impact Statement and this Response.[7] Judicial precedent clearly establishes that the Department of Justice has broad discretion in controlling government antitrust litigation, including negotiating consent decrees and determining whether such settlements are in the public interest.[8] Thus, as one Court has explained:

> It is not the court's duty to determine whether this is the best possible settlement that could be obtained if, say the government had bargained a little harder. The court is not settling the case. It is determining whether the settlement achieved is within the reaches of the public interest.[9]

Accordingly, since the basis for the United States' conclusion that the proposed Final Judgment is in the public interest was fully explained in the Competitive Impact Statement, and the single set of comments filed does not raise any serious question concerning the adequacy of the relief obtained by the United States, the Court may enter the proposed Final Judgment as soon as compliance with the APPA is completed by publication of the comments and Response in the Federal Register.

III. Conclusion

For the reasons set forth in the Competitive Impact Statement and this Response, the Court should find that the proposed Final Judgment is in the public interest and should enter that Judgment after publication of this Response in the Federal Register.

Dated: October 3, 1990.

Respectfully submitted,

Edward D. Eliasberg, Jr., Ann Lea Harding, James J. Tierney,

Attorneys, United States Department of Justice, Antitrust Division, Washington, DC 20530, (202) 307-0808.

Certificate of Service

I hereby certify that on this 3rd day of October 1990, I caused copies of the foregoing Response Of The United States To Public Comments And Motion Of The United States For Entry Of Final Judgment in *United States* v. *The American Institute of Architects* to be

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[2] A copy of the Certificate of Publication is attached to this Response as Exhibit B.

[3] Guthrie's comments are attached to the Response as Exhibit C. An article from Design News submitted with the comments may be requested for inspection and copying at room 3233, Antitrust Division, Department of Justice, Washington, DC 20530 and at the Office of the Clerk of the United States District Court for the District of Columbia.

[4] *United States* v. *Bechtel Corp.*, 1979-1 Trade Cas. (CCH) ¶ 62,429 (N.D. Cal. 1979), *aff'd*, 648 F.2d 660, 666 (9th Cir. 1981), *cert. denied*, 454 U.S. 1083 (1982). *See also, United States* v. *National Broadcasting Companies*, 449 F. Supp. 1127, 1146 (C.D. Cal. 1978), *citing United States* v. *Automobile Manufacturers Ass'n*, 307 F. Supp. 617, 621 (C.D. Cal. 1969), *aff'd per curiam sub nom. City of New York* v. *United States*, 397 U.S. 248 (1970) ("[I]n evaluating a proposed consent decree, one highly significant factor is the degree to which the proposed decree advances and is consistent with the government's original prayer for relief, [citations omitted]").

[5] *See United States* v. *American Telephone and Telegraph Co.*, 552 F. Supp. 131 (D.D.C. 1982), *aff'd sub nom. Maryland* v. *United States*, 460 U.S. 1001 (1983).

[6] Competitive Impact Statement at 3-6.

[7] The procedures of 15 U.S.C. 16(f) are discretionary, and a court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. *See* S. Rep. No. 298, 93d Cong., 1st Sess. 6-7 (1973); H.R. Rep. No. 1463, 93d Cong., 2d Sess. 8-9 (1974).

[8] *See Sam Fox Publishing Co.* v. *United States*, 366 U.S. 683, 689 (1961); *Swift & Co.* v. *United States*, 276 U.S. 311, 331-332 (1928); *United States* v. *Gillette*, 406 F. Supp. 713, 716 (D. Mass. 1975). As the House Report states, the APPA adopts prior law as the standard for review of consent decrees. H.R. Rep. No. 1463, 93d Cong., 2d Sess. 11-12 (1974).

[9] *United States* v. *National Broadcasting Co.*, 449 F. Supp. 1127, 1143 (C.D. Cal. 1978), *quoting United States* v. *Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975). *See also, e.g., United States* v. *Bechtel, supra*, 648 F.2d at 666; *United States* v. *G. Heileman Brewing Co.*, 563 F. Supp. 942, 947 (D. Del. 1983).

served, by first class mail, upon the following:

Franklin D. Kramer, Esquire, Shea & Gardner, 1800 Massachusetts Avenue NW., Washington, DC 20036;

and

Mr. Paf Guthrie, John Pat Guthrie Architect Inc., 12221 North 70th Street, Scottsdale, Arizona 85254

Edward D. Eliasberg, Jr.

Exhibit A, previously was published in the Federal Register (55 FR 28838, July 13, 1990) and is not republished herein. Exhibit B, a copy of an affidavit of publication of a newspaper notice of the proposed Final Judgment and Competitive Impact Statement, is also omitted from publication herein; these may be requested for inspection and copying at room 3233, Antitrust Division, Department of Justice, Washington, DC 20530 and at the Office of the Clerk of the United States District Court for the District of Columbia.

Exhibit C

John Pat Guthrie Architect Inc.,
Studio At 12221 North 70th St., Scottsdale, AZ 85254, 602-998-3573.

September 7, 1990.

Mr. Richard Cheney,
Attorney General of the U.S., Department of Justice, Tenth Constitution Ave. NW., Washington, DC

Dear Mr. Cheney: I have just read where you guys have "ding'd" us American Institute of Architects types, yet again * * * for not compet'n [see attached article].

I think you and the fellows at the sub-sub department that keeps a watchful eye on the A.I.A. should understand a few things [and I wonder if the national A.I.A. could ever have swallowed it's pride enough to tell you what I'm about to tell you].

In my opinion, for what ever it's worth, this whole thing about architects not competing is "hog wash", and it always has been. First, architect's have been trained to be competitive in school, so much so, that they are constantly jealous of each other. But that's "art", and you are talking about money. In 1974 I started my own architectural practice. I duly had my handy local AIA chapter fee schedules and charts. It didn't take me long to figure out that these were a joke because no one was paying attention to them. The "market" was way under these suggested fees. And, from what I've seen, its always been that way. So now the A.I.A. no longer puts out anything about suggested fees * * who cares, architects never paid any attention to them anyway. When you sued the A.I.A. over this in the 70's, you cost us a lot of money and you scared the hell out of the A.I.A. That's over and done with.

But now you have gone and done it again [per the attached article]. As an A.I.A. member, I resent my organization having to pay $50,000 to you. As a tax payer, I resent you spending my taxes chasing architects.

To prove the pointlessness of all this, please compare the average income of a Dept. of Justice attorney with that of the average U.S. architect.

One more thing. This letter does not reflect the opinion of the A.I.A. in any way. In fact, if they saw it they would probably have a heart attack.

Most Judicial Regards,

Pat Guthrie.

[FR Doc. 90-24384 Filed 10-17-90; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research Act of 1984; Appliance Industry—Government CFC Replacement Consortium, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the Appliance Industry—Government CFC Replacement Consortium, Inc. ("Corporation"), filed a written notification simultaneously with the Attorney General and the Federal Trade Commission on September 10, 1990 concerning the identities of additional participants of the Corporation. The written notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

The following have become additional participants of the Corporation: Atochem North America, 3 Parkway, Philadelphia, PA 19102 (effective January 1, 1990); ICI General Products Group, ICI Americas Inc., Patnall Building, 2nd Floor, Wilmington, DE 19897 (effective June 4, 1990); Mobay Corporation, Mobay Road, Pittsburgh, PA 15205 (effective June 7, 1990); E.I du Pont de Nemours and Company, Chemicals and Pigments Department, Wilmington, DE 19898 (effective July 30, 1990); and, BASF Corporation, Urethanes Group, 13000 Levan Road, Livonia, MI 48150 (effective August 3, 1990).

No other changes have been made in either the membership or planned activity of the Corporation.

On September 19, 1989, the Corporation filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to section 6(b) of the Act on November 1, 1989, 54 FR 46136. On June 4, 1990, the Corporation filed a notification concerning the identities of additional members and parties pursuant to section 6(a) of the Act. The Department of Justice published a notice concerning the identities of additional members and parties in the Federal Register pursuant to section 6(b) of the Act on July 19, 1990, 55 FR 29432.

Joseph H. Widmar,
Director of Operations, Antitrust Division.

[FR Doc. 90-24561 Filed 10-17-90; 8:45 am]

BILLING CODE 4410-01-M

National Cooperative Research Notifications; Spray Drift Task Force

Notice is hereby given that, on September 17, 1990, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the Spray Drift Task Force filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in the membership of the parties to the Spray Drift Task Force Joint Data Development Agreement. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. The change consists of the addition of the following parties to the Spray Drift Task Force:

Cheminova Agro A/S
Monsanto Agricultural Company
Sostram Corporation

No other changes have been made in either the membership, the objectives or the planned activities of the venture.

On May 15, 1990, the Spray Drift Task Force filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to section 6(b) of the Act on July 5, 1990 at 55 FR 27701. On July 16, 1990 the Spray Drift Task Force filed a notification of revised membership which was published in the Federal Register on August 22, 1990, at 55 FR 34357.

Joseph H. Widmar,
Director of Operations Antitrust Division.

[FR Doc. 90-24579 Filed 10-17-90; 8:45 am]

BILLING CODE 4410-01-M

Bureau of Prisons

Availability of Environmental Assessment and Finding of No Significant Impact for Modification to Federal Correctional Complex at Florence, Colorado

AGENCY: Bureau of Prisons, Justice.

ACTION: Notice of availability of environmental assessment and finding of no significant impact.

SUMMARY:

Proposed Action

The Federal Bureau of Prisons (FBOP) proposes to modify its program for the construction of a Federal Correctional Complex (FCC) in Florence, Fremont County, Colorado. The FCC was originally planned to include three major components jointly housing 1,900 inmates. A Final Environmental Impact Statement (FEIS) evaluating the potential impacts of the Florence FCC was issued on September 1, 1989. A Record of Decision (ROD) was issued on October 31, 1989. The action addressed by the current Environmental Assessment (EA) is the addition of a fourth component in the form of a United States Penitentiary (USP), which would increase the inmate level to 2,450.

All construction would remain completely within the bounds of the physical impact areas identified by the FEIS with no increase in direct on-site impacts beyond those addressed by the FEIS and considered in the issuance of the ROD. Increased off-site impacts would occur due to the increase in inmate accommodation and employment of staff.

Findings

Based upon a review of the FEIS for the Florence FCC and the Environmental Assessment, the FBOP concludes that the environmental effects of the proposed modification to the Florence FCC in the form of an additional USP will not have significant impacts warranting the preparation of an additional or supplemental EIS. All cumulative, secondary, and construction-related impacts and any other potentially adverse impacts would continue to be controlled, alleviated or avoided to the maximum extent possible as described by the foregoing EIS.

DATES: The FBOP's finding of no significant impact will become final November 19, 1990, provided that no information leading to a contrary finding is received or comes to light during this 30 day comment period.

ADDRESSES: Copies of the Environmental Assessment and Finding of No Significant Impact are available in the Florence, Fremont County community and at the FBOP by contacting the office listed below: Federal Bureau of Prisons, Office of Facilities Development and Operation, Site Acquisition Office, 320 First Street, NW., Washington, DC 20534, 202–514–6470.

William J. Patrick,

Chief, Office of Facilities Development and Operations, Federal Bureau of Prisons, U.S. Department of Justice.

[FR Doc. 90–24578 Filed 10–17–90; 8:45 am]

BILLING CODE 4410–05–M

Drug Enforcement Administration

[Docket No. 89–38]

Kin Siu Tam, M.D.; Revocation of Registration

On May 26, 1989, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Kin Siu Tam, M.D. (Respondent) of 8171 Washington Street SW., Covington, Georgia 30209, proposing to revoke his DEA Certificate of Registration, BT2199480, and to deny any pending applications for the renewal of such registration as a practitioner under 21 U.S.C. 823(f). The statutory predicate for the proposed action was Respondent's conviction of felony offenses relating to controlled substances. Additionally, the Order to Show Cause alleged that Respondent's continued registration would be inconsistent with the public interest in light of his history of prescribing controlled substances for other than legitimate medical purposes and in light of the fact that in 1988, Respondent's medical license was suspended in the State of Georgia for forty-five days and placed on probation for five years, with restrictions on his controlled substance handling authority.

Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause. Subsequently, Respondent was incarcerated and, as a result, the hearing was postponed indefinitely. On May 21, 1990, the Government filed a motion for summary disposition and, on June 12, 1990, Respondent filed an opposition to the Government's motion. Thereafter, on June 15, 1990, Government counsel filed a response to Respondent's opposition of Government's motion for summary disposition. Administrative Law Judge Mary Ellen Bittner considered the motion and responses, and on July 18, 1990, issued her opinion and recommended decision in this matter. No hearing was held, since no factual issues were involved. Neither side filed exceptions to the recommended decision of the administrative law judge. On September 4, 1990, Judge Bittner transmitted the record in this matter to the Administrator. The Administrator has considered the record in its entirety and, pursuant to 21 CFR 1316.67, hereby issues his final order in this matter, based upon findings of fact and conclusions of law as hereinafter set forth.

The administrative law judge found that on May 9, 1990, the Georgia Composite Board of Medical Examiners (Medical Board) revoked Respondent's state medical license, effective April 3, 1990. On May 21, 1990, the Government filed a motion for summary disposition alleging that as a result of the Medical Board's action, Respondent is not authorized to handle controlled substances in Georgia.

On June 12, 1990, Respondent filed a response to the Government's motion asserting that he intends to leave Georgia and open a medical practice in either Arizona or West Virignia. He further asserted that he holds unrestricted licenses to practice medicine in both of those states. Respondent, however, did not deny that his state license had been revoked in Georgia, the state where he is currently registered with the Drug Enforcement Administration.

Thereafter, on June 15, 1990, the Government filed a response to Respondent's opposition to Government's motion for summary disposition. In its response, the Government emphasized that a DEA registrant must be authorized to practice and handle controlled substances in the state where he is registered. The Government argued that whether Respondent is licensed to practice medicine in states other than Georgia is irrelevant to the issue of whether he is entitled to maintain a DEA registration in Georgia.

The Administrators of the Drug Enforcement Administration have consistently held that DEA does not have the statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances. 21 U.S.C. 823(f). See, *Edward L. McIver, M.D.*, 53 FR 16477 (1988); *Bobby Watts, M.D.*, Docket No. 87–71, 53 FR 11919 (1988); *Robert Witek, D.D.S.*, Docket No. 87–54, 52 FR 47770 (1987); *Wingfield Drugs, Inc.*, Docket No. 87–13, 52 FR 27070 (1987); and cases cited therein.

The administrative law judge concluded that it is clear that Respondent is not currently authorized to practice medicine in Georgia. It is equally clear that because Respondent lacks this state authority, he is not currently entitled to maintain a DEA

registration, in Georgia, which is the only registration at issue in this proceeding. Consequently, the administrative law judge recommended that Respondent's registration be revoked. The Administrator adopts the opinion and recommended decision of the administrative law judge in its entirety.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), orders that DEA Certificate of Registration, BT1139480, previously issued to Kin Siu Tam, M.D., be, and it hereby is, revoked, and any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective October 18, 1990.

Dated: October 11, 1990.

Robert C. Bonner,

Administrator.

[FR Doc. 90-24507 Filed 10-17-90; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 89-50]

Sheo Sinha, M.D.; Renewal of Partial Registration

On June 1, 1989, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Sheo Sinha, M.D. (Respondent) of 309 Ocean Parkway, Brooklyn, New York 11218, proposing to revoke his DEA Certificate of Registration, AS0523167, and to deny any pending applications for the renewal of such registration as a practitioner under 21 U.S.C. 823(f). The Order to Show Cause alleged that Respondent's continued registration would be inconsistent with the public interest as that term is used in 21 U.S.C. 823(f) and 824(a)(4).

Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause and the matter was docketed before Administrative Law Judge Francis L. Young. Following prehearing procedures, a hearing was held before Judge Young in Washington, DC on December 20 and 21, 1989. On May 16, 1990, the administrative law judge issued his opinion and recommended ruling, findings of fact, conclusions of law and decision. On June 4, 1990, pursuant to 21 CFR 1316.66, the Government filed exceptions to Judge Young's opinion and recommended ruling and on June 29, 1990, Respondent filed a response to the Government's exceptions. On July 16, 1990, the administrative law judge transmitted the record of these proceedings, including the Government's exceptions and Respondent's response thereto, to the Administrator. The Administrator has considered the record in its entirety and pursuant to 21 CFR 1316.67 hereby issues his final order in this matter based upon findings of fact and conclusions of law as hereinafter set forth.

The administrative law judge found that Respondent was born and educated in India. From 1969 to 1974, he participated in a surgery and gynecology residency in Great Britain and moved to the United States in 1975. Respondent currently maintains two offices as a general practitioner in Brooklyn, New York.

The Drug Enforcement Administration initiated an investigation of Respondent after receiving a telephone call from a doctor affiliated with a hospital in New York City. The doctor informed a DEA Investigator that a patient in the detoxification unit at the hospital was obtaining prescription drugs from Respondent. Thereafter, the Investigator telephoned the patient. The individual told the Investigator that she could obtain any prescription from Respondent in exchange for $20.00. The individual told the Investigator that she was dependent on Valium. Subsequent investigation revealed that the individual went to Respondent on two occasions only, and that Respondent gave her a complete medical examination on the first visit. The individual received one prescription for Valium from Respondent.

The Investigator then visited five area pharmacies. The Investigator found prescriptions issued by Respondent for the individual for controlled substances, other than Valium. In addition, the Investigator found about 80 other prescriptions written by Respondent. The record is unclear whether these prescriptions were for controlled or non-controlled substances.

The Investigator then contacted another patient of Respondent's, whose name appeared on some of the prescriptions found at the area pharmacies. This individual stated that she had an addiction problem with Valium. She further stated that she obtained Valium prescriptions from Respondent and that he was aware of her addiction. The individual never told the Investigator how she knew Respondent supposedly knew of her addiction. The individual had been treated by Respondent for various ailments over a period of ten years, often with periods of several months between her visits to Respondent. In March 1988, Respondent effectively terminated his professional relationship with the individual because she refused to have certain medical tests performed which Respondent deemed essential in light of her complaints at that time.

Investigators went to one of Respondent's offices on May 17, 1988. They showed Respondent two prescriptions they had found and accused him of writing them for drug addicts. They advised him of his rights and asked him to surrender his DEA registration. Respondent requested time to consider his options. The Investigators told him that he could have approximately one week and left a DEA voluntary surrender form.

On May 23, 1988, after consulting with his family concerning the proposed voluntary surrender, Respondent went to the DEA New York office. After some discussion, Respondent indicated that he was willing to surrender his DEA registration if he could retain Schedule IV privileges because he was required to use injectable Valium when performing certain surgical procedures in his office, i.e., terminations of pregnancy. It was agreed that Respondent could retain Schedule IV privileges for the sole purpose of administering injectable Valium. It was further agreed that Respondent was not to prescribe any controlled substances in any schedule at any time after he signed the voluntary surrender instrument. Respondent then signed a voluntary surrender of registration form and was eventually issued a new Certificate of Registration indicating that he was registered in Schedule IV only.

Respondent then sent a letter dated May 31, 1988, to the Drug Enforcement Administration. The text of the letter indicates that Respondent correctly understood the effects of the voluntary surrender of registration he had signed on May 23, 1988.

Sometime prior to July 7, 1988, DEA was informed by a wholesale drug distributor that it had received a purchase order dated May 17, 1988, from Respondent for 200 vials of injectable Valium. The company advised DEA that it considered the quantity ordered to be excessive.

On July 7, 1988, a DEA Investigator visited Respondent at one of his medical offices. When questioned about the order reported as excessive by the drug distributor, Respondent stated that he uses injectable Valium when performing procedures to terminate pregnancies. He stated that he uses approximately 3 cc's of Valium per patient and performs approximately 15 such procedures per week. The Investigator asked

Respondent to produce records of administration of the Valium so that he could perform an accountability audit. Respondent was unable to produce the records. The Investigator instructed Respondent to keep a meticulous record of his Valium administration from July 7, 1988, forward.

The Investigator and Respondent agreed to meet at Respondent's other medical office on July 12, 1988, for Respondent to produce any records he had of his administration of injectable Valium. This meeting was scheduled because it was at this medical office where the injectable Valium was kept and administered and the records of administration were supposedly maintained.

On July 12, 1988, Respondent provided the Investigator with a list of patients and operations supposedly constituting a complete record of Respondent's administration of injectable Valium. The record produced by Respondent was insufficient to permit the Investigator to conduct an audit. In addition, the record produced by Respondent indicated that he had terminated two pregnancies on July 7, 1988, just after the Investigator had left on that day, but the record failed to indicate the amount of Valium that was used in either of the procedures.

Following this visit, the Investigators reviewed the prescription files at several area pharmacies and discovered approximately 80 controlled substance prescriptions written by Respondent after May 23, 1988, the date he surrendered all of his controlled substance authority except for the administration of injectable Valium.

An expert in drug addiction and dependency testified on Respondent's behalf at the hearing in this matter. The expert stated that he had reviewed the medical records for the individuals that Respondent issued prescriptions for, allegedly knowing that they were drug addicts. He concluded that the care and treatment rendered to these individuals by Respondent, including the substances prescribed, were entirely consistent with accepted standards of medical practice, in light of the patients' complaints as reflected in the medical records. According to the expert, there is nothing in the individuals' medical records that indicates that they may have had an addiction problem with any controlled substances that Respondent prescribed for them.

The administrative law judge concluded that the Government did not meet its burden in proving that Respondent issued prescriptions to individuals knowing that they were addicted to drugs. The Administrator concurs with the administrative law judge's conclusion on this point.

The administrative law judge further concluded that Respondent was not required to maintain records of the administration of injectable Valium. Pursuant to 21 U.S.C. 827(c)(1)(B), a practitioner is not required to keep records of the administration of controlled substances unless he regularly engages in such administration and charges for the controlled substances, either separately or together with charges for other professional services. Judge Young concluded that Respondent did not charge for the Valium, either separately or together with charges for other professional services, since he charged a flat fee of $200.00 when he performed a termination of pregnancy procedure and the amount of Valium administered varied from patient to patient. As a result, the administrative law judge concluded that Respondent was not required to maintain records of his administration of Valium.

The Administrator disagrees with the administrative law judge. First, Respondent regularly engages in the administration of Valium. He terminates approximately 15 pregnancies per week and always administers Valium during these procedures. Second, Respondent charges for the administration of Valium. He testified that the administration of the Valium is included in the flat fee which he charges for performing the procedures. The intent of Congress when enacting 21 U.S.C. 827(c)(1)(B), was to exempt a practitioner from maintaining records for only the most limited administration of controlled substances. For instance, if a patient suffers a heart attack while at the practitioner's office, the practitioner may give the patient a shot of morphine without having to maintain a record of the administration of the morphine. The Administrator concludes that Respondent was and is required to maintain records of the Valium which he administers during termination of pregnancy procedures.

The administrative law judge also concluded that the 80 controlled substance prescriptions issued by Respondent after May 23, 1988, when he surrendered all of his controlled substance authority, except for Schedule IV for the limited purpose of administering injectable Valium, could constitute grounds for complete revocation of Respondent's registration. Judge Young stated, however, that there were mitigating factors to be considered. First, Judge Young concluded that the DEA did not have good cause to request that Respondent voluntarily surrender his controlled substance privileges. Second, Respondent had had no experience in dealing with Federal government agencies prior to this and he was fearful that his license to practice medicine in the State of New York might be placed in jeopardy if he did not surrender his privileges. Third, after the Investigators told Respondent that they would seek to revoke his DEA registration in light of his failure to maintain records of the administration of Valium, Respondent assumed that his May 23, 1988 agreement was then null and void and that the whole issue would be settled in an administrative hearing.

The administrative law judge concluded that Respondent's writing of the post-surrender prescriptions ought not be held as grounds for revocation in light of Respondent's reasonable—although mistaken—belief that initiation of Show Cause proceedings voided an agreement made with DEA when he executed the voluntary surrender document. The Administrator agrees that there was considerable confusion and a real lack of clarity both as to the DEA Investigators' role in this case and Respondent's understanding of the ramifications of a voluntary surrender of his controlled substance privileges.

The administrative law judge concluded that, not only should Respondent's present limited Schedule IV privileges not be revoked, but that his full DEA registration, in all schedules, should be restored. Judge Young recommended that Respondent should be issued a DEA Certificate of Registration in all schedules.

The Administrator has carefully considered the record in this matter, including the government's exceptions and Respondent's response thereto. There was considerable discussion during both the hearing and the post-hearing filings concerning the "voluntariness" as well as the "legitimacy" of Respondent's surrender of his controlled substance privileges, except for the administration of injectable Valium. These discussions, while interesting, provide no basis for a decision. The fact remains that Respondent is currently registered in Schedule IV only. The Administrator concludes that the administrative law judge's recommended decision is overly broad. The Order to Show Cause alleged that Respondent's continued registration in Schedule IV would be inconsistent with the public interest. Respondent sought to preserve that limited registration. The administrative law judge not only recommended that Respondent should remain registered in Schedule IV, but also recommended that

he be granted registration in all Schedules "as soon as possible." He thus went beyond the issues before him.

The Administrator concludes that Respondent's registration in Schedule IV should not be revoked. The Administrator directs Respondent to maintain appropriate records for the administration of Schedule IV controlled substances. In addition, the Administrator concludes that Respondent should be permitted to prescribe and dispense Schedule IV controlled substances. Upon Respondent's demonstration of full compliance with the laws and regulations relating to controlled substances, the Administrator will look favorably upon an application for registration in all schedules.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration AS6523167, issued to Sheo Sinha, M.D., be renewed in Schedule IV. Respondent's registration, while limited to Schedule IV, shall be unrestricted with respect to his authority to prescribe, administer and dispense substances in that Schedule. This order is effective October 18, 1990.

Dated: October 10, 1990.

Robert C. Bonner,

Administrator.

[FR Doc. 90-24508 Filed 10-17-90; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice No. 90-83]

Advisory Committee on the Future of the U.S. Space Program; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the Advisory Committee on the Future of the U.S. Space Program (hereafter referred to as the "Advisory Committee").

DATES: October 25, 1990, 8:30 a.m. to 5 p.m.; and October 26, 1990, 8:30 a.m. to 5 p.m.

ADDRESSES: Dirksen Senate Office Building, room 628, Washington, DC 20510.

FOR FURTHER INFORMATION CONTACT: Mr. James D. Bain, Code ADA-1, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-2428.

SUPPLEMENTARY INFORMATION: The Vice President, in his capacity as head of the National Space Council, has determined that it is appropriate for the National Aeronautics and Space Administration to establish the Advisory Committee to look into the future of the U.S. space program. The Advisory Committee will repost to the Vice President and the NASA Administrator on the future of the U.S. space program, to include various projects, objectives, and methods to implement those projects and objectives for the coming decades. The Advisory Committee is chaired by Mr. Norman R. Augustine and is composed of 12 members, selected from a cross section of qualified individuals with an extensive knowledge of space activities and broad technical and managerial expertise.

The meeting will be open to the public up to the seating capacity of the room, which is approximately 100 persons including Advisory Committee members and other participants. It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Interested members of the public are encouraged to send written comments regarding the work of the Advisory Committee to Mr. Norman R. Augustine, Chairman and Chief Executive Officer, Martin Marietta Corporation, 6801 Rockledge Drive, Bethesda, MD 20817.

Type of meeting: Open.

Agenda

Thursday, October 25, 1990

9:30 a.m.—Introductory Remarks.

9:45 a.m.—Receive perspectives of national experts and review implications of selected studies on major space programs.

5 p.m.—Adjourn.

Friday, October 26, 1990

9:30 a.m.—Receive perspectives of national experts and review implications of selected studies on major space programs.

5 p.m.—adjourn.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 90-24501 Filed 10-17-90; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL CAPITAL PLANNING COMMISSION

Project Plans Submission Requirements

AGENCY: National Capital Planning Commission.

ACTION: Proposed project plans submission requirements.

SUMMARY: These requirements cover the process to be followed in submitting proposals and plans for Commission action pursuant to the National Capital Planning Act of 1952, section 16 of the Zoning Act, and the Commemorative Works Act.

DATES: Comments must be received by November 19, 1990.

FOR FURTHER INFORMATION CONTACT: Robert E. Graham, Assistant Executive Director for Operations, National Capital Planning Commission, 1325 G Street, NW., Washington, DC 20576 or 202/724-0176.

Section 1—Introduction

A. *Statutory Requirements for Submissions.* Section 5(a) of the National Capital Planning Act of 1952, as amended (hereinafter "Planning Act"), provides that each Federal and District of Columbia agency, prior to the preparation of construction plans originated by such agency for proposed developments and projects or to commitments for the acquisition of land, to be paid for in whole or in part from Federal or District funds, shall advise and consult with the National Capital Planning Commission (hereinafter "Commission") in the preparation by the agency of plans and programs in preliminary and successive stages which affect the plan and agency of plans and programs in preliminary and successive stages which affect the plan and development of the National Capital. Section 16 of the Act of June 20, 1938, (hereinafter "Zoning Act") requires Commission approval of the location, height, bulk, number of stories, and size of Federal public buildings in the District of Columbia and the provision of open space in and around the same. Section 5(c) of the Planning Act requires a similar approval by the Commission for District of Columbia public buildings in the central area of the District as concurrently defined by the Commission and the Council of the District of Columbia. Section 7(b) of the act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and environs, and for other purposes", November 14, 1986,

(hereinafter "Commemorative Works Act") requires Commission approval of site and design proposals for commemorative works proposed to be placed in the District and its environs.

B. *Coverage of Submission Requirements.* These requirements cover the process to be followed in submitting proposals and plans for Commission action pursuant to the Planning Act, section 16 of the Zoning Act, and the Commemorative Works Act. They apply to proposals of the District of Columbia and Federal Governments, including civilian and military installations and facilities in the National Capital Region (hereinafter "Region"), except as provided in section 1.C. They also are intended to be used in connection with proposed developments of sponsors (both governmental and private organizations) of proposed commemorative works in the District of Columbia and its environs submitted to the Commission by the Mayor of the District of Columbia, Secretary of Interior, and Administrator of the General Services Administration. The types of projects and proposals covered include the following: Site acquisition; building construction or renovation, with or without related site improvements; site development, such as grading, landscaping, street and road extensions and improvements involving changes in cartway configurations, and surface parking; and all forms of commemorative works. Submission requirements for the installation of antennas on Federal sites are covered in the Commission's *Guidelines and Submission Requirements for Antennas on Federal Property in the National Capital Region.*

C. *Statutory Exemptions.* In accordance with section 5(b) of the Planning Act, these requirements shall not apply to projects within the Capitol grounds or to structures erected by the Department of Defense during wartime or national emergency within existing military, naval, or Air Force reservations, except that the appropriate defense agency shall consult with the Commission as to any developments which materially affect traffic or require coordinated planning of the surrounding area.

D. *Relationship to Master Plan Submission Requirements.* For projects located on sites and installations for which master plans are required by the Commission, these requirements are expected to be applied in conjunction with the Commission's *Master Plan Submission Requirements.* Master plans are necessary for installations on which more than one principal building, structure, or activity is located or is proposed to be located. Ordinarily, the Commission will not approve, or recommend favorably on, project plans for an installation for which there is no approved master plan unless the sponsoring agency provides an explanation satisfactory to the Commission as to its reasons for not submitting a current master plan, or modification thereto, for the installation. For projects not located on sites for which master plans are required, site acquisition (location and program) proposals and preliminary plans will generally constitute the master plans for such sites and serve as the basic planning documents for intergovernmental coordination. (See section 5.)

E. *Extension, Modification or Waiver of Requirements.* The Executive Director of the Commission (hereinafter "Executive Director") may extend, modify or waive any requirement as it pertains to any project proposal or development plan submitted for Commission review that does not meet the requirement because of its unique or special character or quality. Where such extension, modification, or waiver involves contents of the submission that may reasonably be expected to address or involve potential significant off-site impacts, the Executive Director shall provide notice to potentially affected public agencies and, if appropriate, provide opportunity for consultation.

Section 2—Submission Exceptions

The Planning Act authorizes the Commission to determine in advance the types or kinds of plans that need not be submitted for its review. The Commission has determined that plans for the following types of projects need not be submitted:

A. Projects involving the replacement of walks, roadways, and parking areas where no change in the location or the existing character or extent of the improvement is involved.

B. Projects involving the rehabilitation and improvement of buildings and structures where no change in the existing character, predominant use, or extent of the building or structure is involved.

C. Projects involving the replacement of trees, shrubs, and other plant materials, including minor changes in plant materials that do not change the existing character of the site.

D. Projects involving the replacement, but not the relocation or extension, of underground utility lines, such as pipes and cables, except pumping stations and treatment facilities, that do not (1) involve the removal of existing trees or changes in the natural topography or (2) perpetuate or create an adverse environmental impact.

Section 3—Submission Stages

Sponsoring agencies are requested to contact the Commission staff at the earliest possible time in considering the proposed acquisition of land and in the siting and initial planning and design of proposed new permanent or temporary developments within the Region. Such contact will provide an opportunity for the staff to advise sponsoring agencies of the appropriate submission and review stages and respond to questions concerning submission contents. The Commission staff is available at all times to advise and consult with sponsoring agencies on submission requirements. In cases in which an agency or organization other than the agency with jurisdictional responsibility over an affected site is sponsoring a development proposal, the agency holding jurisdiction will normally be responsible for submissions to the Commission. Questions concerning such responsibility should be addressed to the Commission staff at the earliest possible time in the project planning.

Submissions of plans and related documentation shall be made to the Commission at the following stages, where applicable:

A. *Location and Program submissions* shall be made prior to commitments for the acquisition of land to be paid for in whole or in part from Federal or District funds.

B. *Design/Development Concept submissions* should be made for developments and projects for which, because of their size and/or projected impacts, early Commission review and guidance are appropriate prior to the expenditure of substantial funds for more detailed project design. The recommended early contact between sponsoring agencies and the Commission staff is intended to provide an opportunity to identify the need for concept submissions in advance of the preparation of preliminary plans. In cases involving complex planning and development proposals, the Executive Director may, on the basis of such consultation, require concept submissions. Where the complex planning issues relate to the potential suitability of a proposed site, the Executive Director may require that location and program and concept submissions be made simultaneously. Sponsoring agencies may on their own initiative, make concept submissions if they desire to solicit the Commission's views on proposals prior to proceeding

with the development of preliminary plans. Concept submissions may be made not only for buildings and other types of structures but also for site improvements and commemorative works, where the complexity of the proposal warrants. They are normally made at the earliest possible time to allow the Commission's recommendations to serve usefully in the preparation of preliminary plans.

C. *Preliminary submissions (including Site and Building Plans, Building Plans, Site Development Plans, and Commemorative Works Designs)* shall be made for all projects involving new construction or renovation activities, except as outlined in section 2. Preliminary site and building plans, the most typical type of submission, are required for projects involving both building construction or renovation and related site improvements. Preliminary building plan submissions are required for projects involving building renovation only, where no site improvements are involved. Preliminary site development plan submissions are required for projects involving only site improvements. Preliminary design submissions are required for all commemorative works proposals. In cases in which the proposed commemorative works involve site improvements only, including sculpture, the preliminary design submission contents shall be as required for preliminary site development plans. Where proposed commemorative works include substantial structures, the preliminary design submission contents shall be as required for preliminary site and building plans.

Preliminary plans should be submitted at the stage when tentative design decisions about a project have been made by the sponsoring agency but well before detailed design work begins. Such plans are typically submitted at the 20 to 25 percent design stage. Timely submissions of preliminary plans are vital to avoid costly revisions in the later detailed design stage. If major changes are made in either the design or the program for a proposed development after the Commission has reviewed the preliminary submission, the affected sponsoring agency shall submit revised preliminary plans for review as far in advance of the completion and submission of final plans as possible, except where such changes have been made specifically in response to Commission recommendations on the preliminary submission.

D. *Final submissions (including Site and Building Plans, Building Plans, Site Development Plans, and Commemorative Works Designs)* shall be made for all proposals for which a requirement for a preliminary submission is identified pursuant to section 3.C. Final plans should be submitted after all design decisions, including building materials and landscaping materials, have been made and prior to advertisement and awarding of construction contracts. Final plans are typically submitted at the 60 to 80 percent design stage. They should be sufficiently advanced at the time of submission to represent definitively what the sponsoring agencies intend to build.

Final site and building plans for Federal public buildings within the District of Columbia and for District Government public buildings within the central area of the District of Columbia as concurrently defined by the Commission and the Council of the District of Columbia will ordinarily constitute the required submissions under section 16 of the Zoning Act and section 5(c) of the Planning Act, respectively. The Commission may not lawfully qualify or condition its approval of a proposed development pursuant to these provisions and a sponsoring agency may not lawfully deviate from such plans approved by the Commission under these provisions. Therefore, sponsoring agencies are urged to resolve all outstanding planning and design issues with affected agencies and organizations prior to the submission of final site and building plans. The Commission staff is available to assist in the resolution of such issues.

If substantial changes are made in any final plans after the Commission has reviewed and taken action on them but prior to construction, sponsoring agencies shall submit revised final plans for Commission review and action. Guidance as to what constitutes non-substantial changes is found in section 2. The Commission staff is available to assist in determining whether changes in approved final plans are substantial and require a resubmission to the Commission.

Section 4—Contents of Submissions

Project plan submissions include narrative materials and data, maps and drawings, and presentation materials which describe and illustrate existing conditions and proposed developments. The narrative materials, data, and supporting documentation required for submissions are generally consistent for all submission stages outlined in section 3, although the level of completion required for some supporting documentation varies according to the submission stage. Requirements for these materials are described in section 4.A. The types of maps and drawings required in submissions vary according to the submission stages. The required maps and drawings for the various submission stages are described in section 4.B. Required presentation materials also vary according to the submission stages and are described in section 4.C.

A. Narrative Materials and Data

1. *Project Report.* A project report including the following information shall be submitted at all stages, as applicable:

a. Name and telephone number for agency project manager;

b. Narrative description of the project, including a description of existing site/building conditions to be affected;

c. Total area of site and allocation of land to the various proposed uses;

d. Area of building, or buildings, and site coverage;

e. Existing and projected employment, by grade level;

f. A description of proposed energy conservation measures addressing the siting and design of the building or buildings, transportation practices, and consumption of non-renewable energy resources;

g. An analysis, pursuant to the implementation proposals of the Federal Employment element of the *Comprehensive Plan for the National Capital*, of the availability of affordable housing within reasonable commuting distances from the affected project location for employees and their families for projects proposed to add or change the location of 100 or more Federal employees;

h. The status of coordination with the affected local and state governments and the Metropolitan Washington Council of Governments for projects not previously coordinated through an installation master plan;

i. The status of community participation, including a summary of community views;

j. Schedule for construction and occupancy;

k. Total cost of project and funding status; and

l. A Transportation Management Program (TMP) for all work sites of: (1) *500 or more employees* (including existing and proposed additional employees on a site), containing strategies to ensure that the proposed project can be accommodated without unacceptable impacts on existing and planned transportation facilities. Where the TMP for a project is an integral part of a larger TMP previously approved in the Commission's review of an

installation master plan, a summary of the applicable provisions of the larger program should be provided. The TMP should include firm commitments to strategies to minimize vehicle work trips to the project site during both peak and off-peak hours. Examples of such strategies include incentives for ridesharing (vanpools and carpools) and public transit usage and public transit and ridesharing information services. The TMP should also include descriptions of existing and projected peak hour traffic by mode, a summary of existing and proposed parking by types of assignment (official cars, vanpools, carpools, single occupant vehicles, etc.), and an evaluation of the projected transportation impacts from the project; and (2) *100 to 500 employees*, where practicable.

The project report constitutes the development program information required for Commission review of location and program where site acquisition is involved. In cases in which information required in the project report is fully provided in the required environmental documentation, it need not be repeated in the project report. A project report Supplement fully updating the information contained in a project report submitted at the initial review stage may be submitted for successive stages. The Supplement should include responses to the recommendations, if any, of the Commission at the previous stage of review.

2. *Environmental Document.* The environmental document prepared by the sponsoring agency pursuant to the National Environmental Policy Act of 1969, as amended, (NEPA) and Council on Environmental Quality Regulations shall be a part of the project submission. The document shall be an environmental impact statement (EIS), if required pursuant to section 102(2)(C) of the NEPA. If an EIS is not required, an environmental assessment shall be submitted, unless the sponsoring agency provides documentation that the project has been determined to be a categorical exclusion pursuant to its environmental policies and procedures. A determination as to whether the NEPA process is completed should accompany an environmental assessment. The environmental document submitted at the initial review stage may be used for successive stages if sufficient for those stages and no substantial changes have been made in the proposal. Where substantial changes are made, the appropriate environmental document shall be supplemented or amended by the sponsoring agency and resubmitted at the appropriate successive review stage.

Each submission by an agency of the District of Columbia Government shall include an environmental assessment. If the proposed development is a District of Columbia public building within the boundaries of the central area of the District, as defined by concurrent action of the Commission and Council of the District of Columbia, the Commission will have responsibility for determining the appropriate environmental document for its action. An environmental impact statement (EIS), if required in conjunction with Commission action on the project, will be based on the environmental information submitted by the sponsoring agency. Steps to be taken in such a case are discussed in section 5.D.

3. *Historic Preservation Report.* Each submission shall include an analysis of the effects, if any, the proposed project will have on recognized historic resources both on the site and in its vicinity. Each submission by a Federal agency shall also include a determination by the head of that agency, or other authorized official, as to whether the project is subject to section 106 of the National Historic Preservation Act of 1966, as amended, or section 2(b) of Executive Order 11593 of May 13, 1971. The review procedures pursuant to section 106 require consultation with the affected State Historic Preservation Officer (SHPO) and, in many cases, the Advisory Council on Historic Preservation (ACHP). If the responsible official determines that a review pursuant to section 106 is required, the agency shall in the initial submission to the Commission (location and program, design/development concept, or preliminary plan stage) include a copy of its letter to the affected SHPO initiating the review process.

In general, evidence of initiation of consultation with the affected SHPO will suffice at the initial review stage. In some cases, however, because of the potential impacts of a project on recognized historic resources on its site or in the vicinity, the Executive Director may require that the sponsoring agency obtain the views of the affected SHPO, or the review body advising that SHPO, prior to Commission action on the project at the initial stage. The early contact between sponsoring agencies and the Commission staff recommended in section 3 is intended to provide an opportunity to identify the level of progress required in the section 106 review prior to the Commission's initial review of a project. Each submission by a Federal agency of final plans shall include a copy of the letter(s) from the SHPO and/or ACHP certifying compliance with section 106, if applicable.

If the proposed development is a District of Columbia public building within the boundaries of the central area of the District, as defined by concurrent action of the Commission and Council of the District of Columbia, the Commission will have responsibility for compliance with section 106, if applicable. Steps to be taken in such cases are discussed in section 5.E.

4. *Floodplain Management and Wetlands Protection.* The initial submission by a Federal agency for a project to be located in a floodplain or wetland shall include a copy of the agency's Statement of Findings pursuant to Executive Order 11988 or Executive Order 11990. The Statement, if required, should evaluate potential impacts and identify proposed mitigation measures.

B. Maps and Drawings

1. *Location and Program submissions* shall include vicinity and boundary maps and, as appropriate, a basic development proposals map, as follows:

a. *Vicinity Map.* The vicinity map, indicating the boundaries of the site proposed to be acquired and building outlines, streets, and other physical features, both within the site and in the surrounding area, shall be submitted at a scale of 1 inch equals 400 feet, or larger. It shall cover an area extending at least 500 feet in all directions beyond the boundaries of the site proposed to be acquired. Existing land uses and zoning shall be shown on the map. Where adopted local and/or state plans propose changes in surrounding transportation facilities, land use, or zoning, the proposed changes shall be shown on the vicinity map. If the proposed changes cannot be clearly depicted in combination with existing conditions, a separate vicinity map showing the site in relation to planned surrounding conditions shall be provided.

b. *Boundary Map.* The boundary map shall be submitted uncolored, at a scale of at least 1 inch equals 50 feet for sites of less than 40 acres and at least 1 inch equals 100 feet for larger sites, and shall contain the following information:

(1) Boundary dimensions;

(2) Existing topography of the site, preferably at 1- or 2-foot contour intervals; and

(3) Outlines of existing buildings, with annotations indicating those proposed to remain and to be demolished; roadways and parking areas; existing vehicular

entrances to the site; major utilities; walkways, fences, walls, and other man-made improvements; and substantial groupings of trees and shrubs.

c. *Basic Development Proposals Map.* To the extent identified at the time of the Location and Program submission, basic development proposals should be submitted on an uncolored map at the same scale as the required boundary map. The basic development proposals can be combined with the boundary map if the information presented is clear and readable. Basic development information includes such features as general building locations, proposed vehicular access points and roadway locations, proposed groupings of trees and other basic landscape features, and any other identified building or site design features. A basic development proposals map is *not* a required part of a location and program submission but should be submitted where early development proposals have been identified, in order to provide the easiest possible opportunity for Commission comment on such proposals.

2. *Design/Development Concept submissions,* as noted in section 3.B., are generally made only for those projects for which, because of their size and/or projected impacts, early Commission review and guidance on design issues is necessary or appropriate. Because such submissions will often be focused on specific development issues or expected impacts, flexibility is permitted in the type and level of definition of information incorporated in the concept drawings. A submission shall be considered as *Development Concepts* in cases where it focuses principally on basic development issues, such as the allocation of the site to various uses and activities and the identification of principal access points. In cases where the submission addresses site and/or building design issues at a more detailed conceptual level, it will be considered as *Design Concepts.* The recommended early contact between sponsoring agencies and the Commission staff is intended to provide an opportunity to determine the appropriate level of detail for concept submissions, where applicable. Concept submissions shall include the following, as applicable:

a. *Vicinity Map.* A vicinity map containing the information outlined in section 4.B.1.a. shall be provided for all concept submissions.

b. *Design/Development Concept Drawings.*

(1) *Site Concepts.* Where the proposed project involves site development proposals, including the siting of buildings and structures, concept submissions shall include a site development concepts drawing containing, to the extent possible at the concept stage, the following information, as applicable:

(a) Site boundaries, including dimensions;

(b) Existing topography of the site, preferably at 1- or 2-foot contour intervals, and a general indication of any proposed substantial site grading; and

(c) Outlines of all existing man-made features proposed to remain; the general location and footprint of proposed buildings and structures; and the general location and outline of all major proposed site improvements, including roadways and parking areas, major walkways, stormwater management facilities, and landscape proposals; and, for design concepts submissions, any additional information or proposals indicating early design direction.

(2) *Building Concepts.* Where the proposed project involves proposed buildings or structures, concept submissions shall include building/structure concept drawings, except in cases in which the sponsoring agency and the Commission staff have concluded that the submission should be limited to site development proposals. The building/structure concept drawings shall contain, to the extent possible at the concept stage, the following information, as applicable:

(a) Schematic floor plans indicating pedestrian and vehicular entrances, general allocation of principal uses, public areas, and any proposed special interior features;

(b) Schematic elevations indicating the height of the building or structure, general bulk and massing, tentative fenestration proposals, and other similar features affecting the general design concept for and character of the proposed building or structure; and

(c) For design concepts submissions, any additional information or proposals indicating early design direction for the building or structure.

3. *Preliminary and Final submissions (including Site and Building Plans, Building Plans, Site Development Plans, and Commemorative Works Designs)* shall include the following, as applicable:

a. *Vicinity Map.* A vicinity map containing the information outlined in section 4.B.1.a. shall be provided for all preliminary and final plan submissions.

b. *Site Plan.* A site plan shall be provided for all preliminary and final plan submissions, except building plans for renovation of existing buildings where no site improvements are proposed. The site plan shall be uncolored and presented at a scale of at least 1 inch equals 50 feet for sites of less than 40 acres and at least 1 inch equals 100 feet for larger sites, and shall contain the following information:

(1) Site boundaries, including dimensions;

(2) Existing and proposed topography of the site, preferably at 1- or 2-foot contour intervals; and

(3) Outlines of all existing man-made features proposed to remain and all proposed buildings, structures, and related improvements on and immediately adjacent to the site, including, but not limited to, access ways, driveways, sidewalks, walls, fences, loading areas, and off-street parking.

When the proposed improvements involve only a portion of the site of a facility, the site plan shall include all the site area of the facility, showing the relationship between the portion of the site to be improved and the portion to remain undisturbed. When an existing adjacent facility has an integral supporting relationship to a facility to be constructed or improved, such as a parking lot that is proposed to serve a new office facility, the site of the adjacent facility shall be included in the site plan to show the functional relationship of the facilities.

c. *Landscape and Grading Plan.* A landscape and grading plan shall be submitted for all preliminary and final plan submissions, except building plans for renovation of existing buildings where no site improvements are proposed. The landscape and grading plan should preferably be submitted as a separate plan but may be incorporated with the site plan if the combined plan is clear and readable. If presented as a separate plan, the landscape and grading plan shall be at the same scale as the site plan. The following information shall be included, as applicable:

(1) Existing and proposed topography of the site, preferably at 1- or 2-foot contour intervals;

(2) General locations of all existing-to-remain, existing-to-be-removed, and proposed trees, shrubs, and other plant materials; and

(3) At the preliminary stage, general identification of proposed plant materials, and, at the final stage, a list of the type, quantity, and size of the proposed plant materials.

d. *Stormwater Management and Erosion and Sedimentation Control Plan.* A stormwater management and erosion and sedimentation control plan shall be provided for all final plan submissions for projects for which there is more than 5,000 square feet of

disturbed site area. The plan shall indicate the locations and size of natural drainageways, storm sewer lines and outfalls, infiltration devices, retention and detention ponds, and any other needed mitigation measures to control stormwater runoff and limit erosion and sedimentation on the site, with back-up calculations. The plan may be incorporated in the environmental document for the project.

e. *Floor Plans.* Floor plans shall be submitted at preliminary and final stages for each floor of all proposed buildings, indicating the following:

(1) Uses allocated to all interior spaces;

(2) Interior partitions, stairs, and elevators,

(3) Overall dimensions;

(4) Dimensions of interior spaces; and

(5) Elevations of various floor levels.

The scale of the floor plans shall be commensurate with sheet size limitations indicated in section 4.D.1. In general, the scale of floor plans should be sufficiently large to permit presentation of the plans in a large meeting room at a distance of 20 to 25 feet.

f. *Elevations.* Elevations of all sides of all proposed buildings or structures shall be submitted at preliminary and final stages, at the same scale as the floor plans, indicating, but not limited to, the following:

(1) The height of the building or structure and its bulk and massing;

(2) All pedestrian and vehicular entrances;

(3) Fenestration;

(4) At the preliminary stage, general identification of proposed materials, and, at the final stage, detailed identification of proposed materials;

(5) The treatment of the roof and all related appurtenances, including features such as penthouses, ventilation shafts, chimneys, smoke stacks, antennas, and related screening; and

(6) In the District of Columbia, the point of measurement of the height of the proposed building in accordance with the Zoning Act.

g. *Sections.* At least two cross sections through all proposed buildings, at the same scale as the floor plans, shall be submitted at preliminary and final stages. One or more exterior wall sections illustrating the proposed installation of principal exterior materials identified at the preliminary and final stages shall also be submitted.

h. *Roof Plan.* Roof plans for all buildings shall be submitted at preliminary and final stages, at the same scale as the floor plans, indicating the following:

(1) The proposed design of the roof and materials and finishes to be used; and

(2) Proposed roof appurtenances, including all proposed screening. (*Antenna installations are also subject to separate Commission guidelines and submission requirements.*)

i. *Construction and Equipment Drawings.* Construction and equipment drawings for exterior building features, site work, and any proposals requiring coordination with off-site activities shall be submitted at the final stage.

C. Presentation Materials

1. *Rendered plans and perspectives.* Rendered plan maps and drawings shall be submitted at each review stage. Rendered presentation maps and drawings should be presented in color, using zip-a-tone, magic marker, or other suitable media. At least one rendered perspective of all proposed buildings and substantial site developments shall be submitted at the design/development concept stage, as applicable, and at preliminary and final stages. Perspectives prepared at an early stage may be resubmitted at later stages if the project design has remained unchanged.

2. *Models.* A model shall be submitted for all major development proposals. The early contact between sponsoring agencies and the Commission staff recommended in section 3 is intended to provide an opportunity for the Commission staff to advise whether a proposed project is a "major" development requiring a model. Agencies uncertain as to the requirement of a model for a particular submission are urged to contact the Commission staff for clarification. Models shall depict topography, existing-to-remain and proposed new buildings and improvements, pedestrian and vehicular circulation, parking and loading areas, and principal areas of vegetation. They should be prepared at the same scale as the project site plan, or larger, if necessary for presentation purposes.

D. Form of Submissions

1. *Sheet Size.* Submission drawings should be a standardized sheet size, whenever possible, and shall not exceed a sheet size of 33 by 44 inches, in order to be compatible with the Commission's microfilm file requirements. For projects requiring larger maps or drawings, multiple sheets within the maximum size limits, covering portions of the subject and with match lines, may be submitted.

2. *Reduced Size Drawings.* One set of maps and drawings, including the vicinity map, boundary map, site plan, landscape and grading plan, floor plans of the entrance level and any other levels containing major public spaces, and elevations, as applicable to the specific type of submission being made, shall be submitted at a reduced page size no greater than 8½ by 14 inches. This reduced set of drawings shall be presented in a form that will permit reproduction by standard copying machine to facilitate distribution of copies to members of the Commission.

3. *Number of Copies.* At least three sets of maps and drawings, except construction and equipment drawings, at full sheet size, and narrative materials and data shall be submitted at all stages of review for all projects. One set of construction and equipment drawings, as described in section 4.B.3.h., shall be submitted at the final stage. As discussed in sections 1.D. and 5, for projects not located on sites for which master plans are required, the location and program and preliminary plans submissions will normally constitute the master plan for such sites and must be referred to other agencies and organizations as part of the Commission's review process. The number of complete sets of submission materials required in such cases shall be determined pursuant to section 4.D. of the Commission's *Master Plan Submission Requirements.*

Section 5—Project Plans Coordination and Review Process

The following steps are involved in the coordination and review of project plans prior to and during their preparation by a sponsoring agency and following their submission to the Commission:

A. *Early Contact with Commission staff.* As noted in section 3, sponsoring agencies should contact the Commission staff at the earliest possible time in considering the proposed acquisition of land and in the siting and initial planning and design of proposed new developments within the Region. The early contact provides an opportunity to discuss and make decisions on the following matters: The need for, as well as the appropriate level of detail for, concept submissions for complex projects; the type and scope of environmental documentation required; the level of progress required in the section 106 review prior to the Commission's initial review of a project, where applicable; the need for a model as part of the presentation materials; and the need for early consultation with other organizations as part of the intergovernmental review process, where applicable.

B. *Early Consultation on Proposed Project with Other Affected Government Agencies.* If the Commission staff and a sponsoring agency determine in their early contact that the planning for a particular project requires early consultation with other agencies, the Commission staff will, as appropriate contact the planning agency, intergovernmental review officer, chief administrative officer, and responsible elected official of the local government and the affected area and state clearinghouses about the project and the anticipated submission schedule. Where appropriate, the Commission will arrange a meeting of concerned agencies with the sponsoring agency to discuss a project prior to the initial submission to the Commission. The purpose of this step is to give local, regional, and state agencies an opportunity to learn about proposed Federal development in the Region and permit early identification of possible questions, issues, and concerns. This step in the submission and review process has been established in accordance with section 5(a) of the Commission's *Procedures for Intergovernmental Cooperation in Federal Planning in the National Capital Region.*

In general, early consultation will be required on sites not covered by master plans. Frequently, the coordination previously provided through the review of an agency's master plan will satisfy early consultation requirements for projects within the installation covered by the master plan.

C. *Submission Schedule.* Sponsoring agencies shall make submissions (including all required materials) in accordance with established monthly deadlines that are available from the Commission staff.

D. *Environmental Documentation by the Commission, Where Required.* As discussed in section 4.A.2., if the proposed development is a District of Columbia public building within the central area of the District, as concurrently defined by the Commission and the Council of the District of Columbia, the Commission will have responsibility for the preparation of an EIS, if required. At the time of the initial submission for such a project by the sponsoring agency, the Executive Director shall determine the appropriate environmental document required for Commission action. If the environmental information submitted is not sufficient for the making of a determination, more information will be requested from the sponsoring agency. If the Executive Director, after consultation with the sponsoring agency, determines that an EIS is required for Commission action, the Commission will prepare an EIS based on the environmental information submitted by the agency. Commission action will then be scheduled in accordance with the requirements of the NEPA process.

E. *Commission Compliance with Section 106 of the National Historic Preservation Act of 1966, as amended, if required.* As discussed in section 4.A.3., if the proposed development is a District of Columbia public building within the boundaries of the central area of the District, as defined by concurrent action of the Commission and Council of the District of Columbia, the Commission will have responsibility for compliance with section 106, if applicable. At the time of the initial submission for such a project by the sponsoring agency, the Executive Director shall determine whether the proposed development is subject to the provisions of section 106. If he so determines, the Executive Director will initiate procedures for compliance. Commission review of the submission can then proceed, unless the Executive Director determines that the views of the District of Columbia SHPO or the District of Columbia Historic Preservation Review Board are required prior to the Commission's initial action, because of the potential impacts of a project on recognized historic resources on its site or in the vicinity. Compliance with section 106 shall be completed prior to Commission action on final site and building plans for District of Columbia public buildings in the central area.

F. *Commission Coordinating Committee.* Submissions for proposed projects located in, or adjacent to, the District of Columbia, shall be referred by the Commission staff to the Commission's Coordinating Committee, pursuant to section 2(d) of the Planning Act. The purpose of this referral is to ensure that such projects are coordinated with interested and affected District of Columbia and Federal agencies.

G. *Referral, Where Appropriate, of Project Plan.* Upon receipt of location and program and preliminary plan submissions for projects on sites not covered by a master plan and not subject to review by the Commission's Coordinating Committee, the Commission will refer the submission to the affected local planning agency and regional and state clearinghouse for review and comment. The submission will also be referred by the regional clearinghouse to the designated intergovernmental review official of the affected jurisdiction for review and comment.

H. *Resolution of Planning Issues.* Upon the identification of any planning issues by the Coordinating Committee or in the referral of a submission, the Commission staff, in conjunction with the staff of the Metropolitan Washington Council of Governments, will work with the affected local, regional, or state agencies and the sponsoring agency to resolve such issues.

I. *Review, Evaluation, and Recommendation of the Commission Staff.* Following the receipt of comments from other organizations and the Coordinating Committee, where appropriate, the staff will prepare recommendations for action by the Commission on the project submission. The staff recommendations will normally be provided to the Commission and made available to the sponsoring agency and the general public approximately one week in advance of the scheduled Commission review and action on the submission. In infrequent cases, unresolved issues may delay the staff's recommendation. In such a case the staff will consult with the sponsoring agency as to the reasons for the delay and the necessary steps to resolve outstanding issues.

J. *Notification to the Public and Public Participation in Commission Review.* In accordance with the Commission's *Revised Procedures for Public Participation*, organizations in the vicinity of a project site will receive a notice titled "Tentative Agenda Items" indicating the tentative schedule for the Commission's review of a submission. Organizations or individuals may submit written comments for consideration by the Executive Director in the preparation of staff recommendations. In addition, organizations or individuals may appear before the Commission to comment on a project submission and/or the Commission staff's recommendations on the submission.

K. *Review and Action of the Commission.* The Commission will review the project submission at a scheduled meeting. The Commission staff will notify the sponsoring agency of the schedule for review and any requirements concerning its participation in the presentation of the submission to the Commission.

L. *Official Notification of Commission Action.* Notification of the Commission action on a project submission will be provided by letter to the sponsoring agency immediately following such action.

BEST COPY AVAILABLE

Section 6—Time Period for Review

Project submissions for sites for which referral to local, regional, and state agencies is required will be subject to a review period of approximately 90 days, wherever possible, 60 days of which will be devoted to review by the agencies receiving the referral. A sponsoring agency may request a reduction of 30 days of this review period from the Executive Director if special and unusual circumstances warrant, but every effort should be made to comply with the 90-day review period. Project submissions for sites not requiring such referral will normally be subject to a review period of approximately 30 days.

Section 7—Delegation of Authority to Executive Director

With respect to projects outside the District of Columbia but within the National Capital Region on reservations or sites for which the Commission has submitted to the agency its report and recommendations on the master plan therefor, the Executive Director may make environmental impact findings on and approve the following:

A. Preliminary and final site and building plans for proposed temporary or permanent additions of less than 10,000 square feet of floor area to existing structures and for temporary or permanent structures of less than 10,000 square feet of floor area, if the Executive Director determines that (1) the proposed development (a) is consistent with the recommendations of the Commission on the land use and circulation plan elements of the master plan, (b) will have no significant adverse impact on the environment, access and egress facilities, and utilities, and (c) is compatible with existing and proposed developments in its immediate vicinity, and (2) the addition or relocation of employees to the proposed development would not cause a significant impact on low- and/or moderate-income housing needs in the vicinity of the development; and

B. Final site and building plans where such plans conform to applicable recommendations made by the Commission in its review of the preliminary site and building plans for the project and of any EIS or environmental assessment submitted pursuant to the Commission's *Environmental Policies and Procedures.*

Robert E. Gresham,

Assistant Executive Director for Operations.

[FR Doc. 90-24818 Filed 10-17-90; 8:45 am]

BILLING CODE 7020-02-M

NATIONAL COMMISSION ON CHILDREN

Hearing

Background

The National Commission on Children was created by Public Law 100-203, December 22, 1987 as an amendment to the Social Security Act. The purpose of the law is to establish a nonpartisan Commission directed to study the problems of children in the areas of health, education, social services, income security, and tax policy.

The powers of the Commission are vested in Commissioners consisting of 36 voting members as follows:

1. Twelve members appointed by the President
2. Twelve members appointed by the Speaker of the House of Representatives
3. Twelve members appointed by the President pro tempore of the Senate.

This notice announces a Hearing and Meeting of the National Commission on Children to be held in Minneapolis, Minnesota.

Hearing

Time: 1 p.m.–4 p.m., Thursday, October 18, 1990

Place: St. Paul Technical College, 235 Marshall Street, St. Paul, Minnesota.

Status: 1 p.m.–4 p.m. Open to the public.

Agenda: Field Hearing on "Building a Productive Labor Force."

Meeting

Time: 9 a.m.–4 p.m., Friday, October 19, 1990.

Place: Hyatt Regency, 13 Nicollet Mall, Minneapolis, Minnesota.

Status: 9 a.m.–4 p.m. Open to the public.

Contact: Jeannine Atalay, (202) 254-3800.

Dated: October 12, 1990.

John D. Rockefeller, IV,

Chairman, National Commission on Children.

[FR Doc. 90-24804 Filed 10-17-90; 8:45 am]

BILLING CODE 6820-27-M

NATIONAL SCIENCE FOUNDATION

Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (Pub. L. 95-541).

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at title 45 part 670 of the Code of Federal Regulatons. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to these permit applications by November 19, 1990. Permit applications maybe inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357-7934.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Public Law 95-541), has developed regulations that implement the "Agreed Measures for the conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest.

The applications received are as follow:

1. *Applicant*

Rennie S. Holt, Southwest Fisheries Science Center, National Marine Fisheries Service, NOAA, La Jolla, California 92038.

Activity for Which Permit Requested

Taking, Import into USA. The applicant is conducting studies of food web dynamics of krill-consuming species of seabirds, and proposes to use doubly-labeled water techniques (using the stable, non-radioactive isotopes of oxygen-18 and deuterium) to measure energy requirements of penguins and other sea birds. Blood samples will be taken from birds and samples will be returned to the U.S. for analysis. Seabirds will be taken by capture and release for (numbers refer to table below): (1) banding and/or marking, (2)

measuring, weighing, and/or examining, (3) stomach pumping, (4) attaching/removing instruments, and (5) injecting isotopes and/or drawing blood samples. An unspecified number of seabirds and seals may be incidentally disturbed during research; efforts will be made to avoid or minimize such disturbance.

Species	Annual numbers taken	Taken by	Import to USA
Chinstrap penguin.	2,500	Capt/release #1.	No.
Chinstrap penguin.	1,000	Capt/release #2.	No.
Chinstrap penguin.	100	Capt/release #3.	No.
Chinstrap penguin.	160	Capt/release #4.	No.
Chinstrap penguin.	21	Capt/release #5.	Yes (blood samples).
Macaroni penguin.	500	Capt/release #1.	No.
Macaroni penguin.	200	Capt/release #2.	No.
Macaroni penguin.	50	Capt/release #3.	No.
Macaroni penguin.	50	Capt/release #4.	No.
Macaroni penguin.	7	Capt/release #5.	Yes (blood samples).
Cape petrel	200	Capt/release #1.	No.
Cape petrel	100	Capt/release #2.	No.
American Shelfbill	200	Capt/release #1.	No.

Location

Antractic Penisula area.

Dates

November 1990–October 1992.

2. Applicant

Jonathan H. Berg, Department of Geology, Northern Illinois University, Dekalb, Illinois 60115.

Activity for Which Permit Requested

Enter Specially Protected Area. Enter Site of Special Scientific Interest. The applicant is conducting geological research and requests permission to enter Specially Protected Area No. 4, Sabrina Island and Site of Special Scientific Interest No. 4, Cape Crozier to collect rock samples. The types of rocks available at these sites are not available elsewhere.

Location

Cape Crozier; Sabrina Island; Antractica.

Dates

December 1990–January 1991.

Charles Myers,
Permit Office.

[FR Doc. 90-24429 Filed 10-17-90; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Advanced Pressurized Water Reactors; Meeting

The Subcommittee on Advanced Pressurized Water Reactors will hold a meeting on November 1, 1990, room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, November 1, 1990—8:30 a.m. until the conclusion of business.

The Subcommittee will discuss the licensing review basis document for the CE System 80+ designs.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of Combustion Engineering, NRC staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Medhat M. El-Zeftawy (telephone 301/492-8901) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: October 11, 1990.

Gary R. Quittschreiber,
Chief, Nuclear Reactors Branch.

[FR Doc. 90-24514 Filed 10-17-90; 8:45 am]
BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Improved Light Water Reactors; Meeting

The Subcommittee on Improved Light Water Reactors will hold a meeting on October 31, 1990, room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, October 31, 1990—8:30 a.m. until 11 a.m. The Subcommittee will discuss and review the latest NRC staff proposal regarding the level of design detail under 10 CFR part 52.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff and NUMARC regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS

staff member, Mr. Medhat El-Zeftawy (telephone 301/492-9001) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: October 11, 1990.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 90-24515 Filed 10-17-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 70-25]

Rockwell International Corp., Rocketdyne Division; Closing of Temporary Local Public Document Room

Notice is hereby given that the Nuclear Regulatory Commission (NRC) has closed the temporary local public document room (LPDR) for Rockwell International Corporation, Rocketdyne Division's Santa Susana Field Laboratory.

The LPDR was maintained at the Chatsworth Branch Library, Chatsworth, California, for the duration of the proceedings on Rockwell International Corporation's request to renew the special material license for this facility (Special Material License Number SNM-21).

Rocketdyne Division of Rockwell International Corporation terminated all activities involving materials authorized under the license effective April 4, 1990, and withdrew its application for renewal of the license. The Memorandum and Order dismissing the case was issued on April 4, 1990 by NRC Administrative Judge Peter B. Bloch.

Questions concerning the NRC's local public Document room program may be addressed to Ms. Jona Souder, LPDR Program Manager, Freedom of Information Act/Local Public Document Room Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone number (800) 638-8081, toll-free.

Dated at Bethesda, Maryland, this 11th day of October, 1990.

For the Nuclear Regulatory Commission.

Dennis H. Grimsley,

Director, Division of Freedom of Information and Publications Services, Office of Administration.

[FR Doc. 90-24605 Filed 10-17-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

GPU Nuclear Corp; Notice of Consideration of Issuance of Amendment to Provisional Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Provisional Operating License No. DPR-16, issued to GPU Nuclear Corporation (GPUN, the licensee), for operation of the Oyster Creek Nuclear Generating Station located in Ocean County, New Jersey.

The amendment would revise the Technical Specifications to accommodate implementation of a 21 month operating cycle with a 3 month outage, or a 24 month plant refueling cycle for Technical Specification surveillance intervals which will expire prior to the currently scheduled 13R refueling outage. Specifically, license Condition 2.c.(7) is revised to extend inspections of all accessible surfaces and welds of both core spray spargers and repair assemblies from each refueling outage to at least once per 24 months.

Technical Specification Table 4.15.2 is revised to extend the channel calibrations for the Radioactive Noble Gas Monitors and the Effluent Flow Measuring Devices for the Main Stack Monitoring System and the Turbine Building Ventilation Monitoring System from once per 18 months to once per 24 months. The legend to Table 4.15.2 is revised to include the designation of 1/24 = once per 24 months.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By November 19, 1990, the licensee may file a requested for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room located at Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first pre-hearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with

the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 325–6000 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated September 21, 1990, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the Local Public Document Room, Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753.

Dated at Rockville, Maryland, this 12th day of October, 1990.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I–4, Division of Reactor Projects -I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90–24597 Filed 10–17–90; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–458]

Gulf States Utilities Co.; Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–47, issued to Gulf States Utilities Company (GSU) (the licensee), for operation of the River Bend Station, Unit 1, located in West Feliciana Parish, Louisiana.

The proposed amendment would modify Technical Specification (TS) Table 3.8.4.1–1, "Primary Containment Penetration Conductor Overcurrent Protection Devices," sections C.1 and C.4 to reflect the removal of a load from section C.1 and the addition of a load to section C.4. The increased load addition is a result of the installation of a larger Reactor Water Cleanup (RWCU) precoat pump motor. The larger pump motor will improve precoating of the RWCU filter and will improve RWCU system performance. The pump is not safety-related, but is located in containment; therefore, the power supply containment penetration must be protected against loss of containment integrity. This necessitates the change to Table 3.8.4.1.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment requests involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee provided an analysis that addressed the above three standards in the amendment application.

1. No significant increase in the probability or consequences of an accident previously evaluated results from the proposed change because the equipment involved in this request resides in the non-safety related, low pressure portion of the RWCU system and is located outside of the reactor coolant pressure boundary. The precoat pump is only operated when each of the demineralizer/filter trains are isolated and to be regenerated. The equipment involved in this request is not involved in any analyzed accident nor called upon to mitigate the consequences of any event. The conduit, cable and equipment associated with this modification are being installed in accordance with all applicable seismic and electrical separation criteria. As such, adequate electrical protection in conformance with the Technical Specification Bases and USAR section 8.3.1.1.4.3 is provided for all containment penetrations used. Operation or failure of the equipment installed by this modification has no impact on any safety related system. Because this proposed change does not result in any new plant operating modes and electrical penetration overcurrent protection is provided as described in the USAR, this proposed change cannot increase the probability or consequences of any accident previously evaluated.

2. The proposed change would not create the possibility of a new or different kind of accident than from any previously evaluated because a single failure of the equipment installed by this modification would at worst cause a loss of power to motor control center (MCC) 1NHS–MCC2E. Loss of this non-safety related MCC is assumed by the USAR during design basis accident conditions and is therefore as previously analyzed. No other new, credible failure modes can be identified. The circuit protection design is similar to the

remaining circuits identified in section C.4 already listed on Technical Specification Table 3.8.4.1–1. Additionally, this proposed change does not introduce any new plant operating modes. Therefore, this proposed change cannot create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change would not involve a significant reduction in the margin of safety because overcurrent protection is provided such that no single failure will cause excessive current in the penetration conductors. This ensures that the overcurrent protection is in accordance with the RBS USAR. Additionally, the circuit protection design is similar to the remaining circuits identified in section C.4 already listed on Technical Specification Table 3.8.4.1–1. The RWCU system performs no safety related function and no safety related systems, other than the containment penetrations, are affected by this modification. Further, the proposed change does not result in any new plant operating modes. Therefore, the proposed change does not result in any reduction in the margin of safety.

Therefore, based on the above considerations, the Commission has made a proposed determination that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to room P–223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By November 19, 1990, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a part in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the commission or by the chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference schedule in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference schedule in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would takeplace after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is

that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period,it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1 (800) 325–6000 (in Missouri 1 (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to James C. Linville: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mark Wetterhahn, Esq., Bishop, Cook, Purcell and Reynolds 1401 L Street, NW., Washington, DC 20005, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request, should be granted based upon a balancing of the factors specified in 1 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated October 12, 1990, which is available for public inspection at the Commission's Public Document Room, the Gelman, Building, 2120 L Street, NW., Washington, DC 20555, and at the Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803.

Dated at Rockville, Maryland, this 12th day of October 1990.

For the Nuclear Regulatory Commission.

George F. Dick, Jr.,

Acting Director, Project Directorate IV–2, Division of Reactor Projects—III IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90–24596 filed 10–17–90; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP); Withdrawal of Petition

SUMMARY: This notice serves to announce the withdrawal of a petition accepted as part of 1990 GSP Annual Review.

FOR FURTHER INFORMATION CONTACT: GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, NW., Room 414, Washington, DC 20506. The telephone number is (202) 395–6971.

I. Withdrawal of Petition

Cydsa Bayer has withdrawn its petition concerning Harmonized System subheading 2929.15, mixtures of 2,4 and 2,6 toluenediisocyanates, from consideration (case number 90–45). However, this case will continue to be reviewed during the 1990 Annual Review with Petroquimica Rio Tercero serving as the sole petitioner.

David A. Weiss,

Chairman, Trade Policy Staff Committee.

[FR Doc. 90–24624 Filed 10–17–90; 8:45 am]

BILLING CODE 3190–01–M

OFFICE OF SCIENCE AND THE TECHNOLOGY POLICY

National Advisory Committee on Semiconductors

The purpose of the National Advisory Committee on Semiconductors (NACS) is to devise and promulate a national semiconductor strategy, including research and development. The implementation of this strategy will assure the continued leadership of the United States in semiconductor technology. The Committee will meet on Thursday, November 1, 1990 at Science Applications International Corporation, 1555 Wilson Blvd., 7th Floor, Rosslyn, Virginia. The proposed agenda is:

1. Briefing of the Committee on its organization and administration.
2. Presentations to the Committee by NACS members and staff on proposed and ongoing studies regarding semiconductors.
3. Discussion of Working Group actions.

A portion of the November 1st session will be closed to the public.

The briefing on some of the current activities of OSTP necessarily will involve discussion of material that is formally classified in the interest of national defense or for foreign policy reasons. This is also true for a portion of the briefing on panel studies. As well, a portion of both of these briefings will require discussion of internal personnel procedures of the Executive Office of the President and information which, if prematurely disclosed, would significantly frustrate the implementation of decisions made requiring agency action. These portions of the meeting will be closed to the public pursuant to 5 U.S.C. 552b. (c)(1), (2), and (9)(B).

A portion of the discussion of panel composition will necessitate the disclosure of information of a personal nature, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, this portion of the meeting will also be closed to the public, pursuant to 5 U.S.C. 552b.(c)(6).

Because of advance security arrangements, persons wishing to attend the open portion of the meeting should contact Mrs. Kathleen Elim, at (703) 528–6090 prior to October 31, 1990. Mrs. Elim is also available to provide specific information regarding time, place and agenda for the open session.

Dated: October 12, 1990.

Damar W. Hawkins,

Executive Assistant, Office of Science and Technology Policy.

[FR Doc. 90–24671 Filed 10–18–90; 8:45 am]

BILLING CODE 3170–01–M

PHYSICIAN PAYMENT REVIEW COMMISSION

Commission Meeting

AGENCY: Physician Payment Review Commission.

ACTION: Notice of public meeting.

SUMMARY: The Physician Payment Review Commission will hold a public meeting on Thursday, October 25, 1990, from 9:30 a.m. to 5:30 p.m., and on Friday, October 26, 1990, beginning at 8:30 a.m. It will be held at the Grand Hotel, 2350 M Street, NW., in The Ballroom.

An agenda for the meeting will be available on Friday, October 19, 1990.

ADDRESSES: The Commission office is located in suite 310, 2120 L Street, NW.,

Washington, DC. The telephone number is 202/663-7220.

FOR FURTHER INFORMATION CONTACT: Lauren LeRoy, Deputy Director, 202/653-7220.

Paul B. Clusberg,
Executive Director.

[FR Doc. 90-24513 Filed 10-17-90; 8:45 am]
BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-28631; International Series Rel. No. 174; File No. SR-BSE-90-13]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to the Listing of Index Warrants Based on the CAC-40 Index

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 4, 1990, the Boston Stock Exchange, Inc. ("BSE" or "Commission") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The BSE proposes to amend its rules to allow it to trade, both on a listed and Unlisted Trading Privileges ("UTP") basis, index warrants based on the CAC-40 Index ("CAC"), a capitalization-weighted index consisting of 40 leading stocks listed and traded on the Paris Bourse.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and statutory basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The BSE is submitting the proposed rule change in order to allow the Exchange to trade index warrants based on the CAC-40 Index. The CAC-40 Index is an internationally recognized, capitalization-weighted index consisting of 40 leading stocks listed and traded on the Paris Bourse. The CAC-40 Index is calculated and managed by the Societe des Bourses Francaises.

Such warrant issues will conform to the BSE listing guidelines as proposed in BSE filing SR-BSE-90-02,[1] which provide that: (1) The issuer shall have assets in excess of $100,000,000 and otherwise substantially exceed the financial listing criteria of the BSE; (2) the term of the warrants shall be for a period ranging from one to five years from the date of issuance; and (3) the minimum public distribution of such issues shall be 1,000,000 warrants together with a minimum of 400 public holders, and have an aggregate market value of $4,000,000. In addition, warrants which have been approved for trading on another national securities exchange would be eligible for listing on the BSE.

CAC-40 index warrants will be direct obligations of their issuer subject to cash-settlement during their term, and either exercisable throughout their life (*i.e.*, American style) or exercisable only on their expiration date (*i.e.*, European style). Upon exercise, or at the warrant expiration date (if not exercisable prior to such date), the holder of a warrant structured as a "put" would receive payment in U.S. dollars to the extent that the CAC-40 Index has declined below a pre-stated cash settlement value. Conversely, holders of a warrant structured as a "call" would, upon exercise or at expiration, receive payment in U.S. dollars to the extent that the CAC-40 Index has increased above the pre-stated cash settlement value. If "out-of-the-money" at the time of expiration, the warrants would expire worthless.

Trading in warrants will be subject to several safeguards designed to ensure investor protection. In SR-BSE-90-02, the BSE proposed suitability standards applicable to recommendations to customers of index warrants and transactions in customer accounts. Specifically, the proposed amendments to the BSE's rules will make options suitability standards applicable to recommendations regarding index warrants, so that members or member organizations will be required to have reasonable grounds to believe that recommended index warrant transactions are suitable for their customer, and customers are able to bear the risks of the proposed transactions. For warrants based on foreign indexes, the Exchange also recommends that index warrants be sold only to option-approved accounts. In addition, the proposed amendments will require a Senior Registered Options Principal ("SROP") or a Registered Options Principal ("ROP"), to approve and initial a discretionary order in index warrants on the day the order is executed. Finally, prior to the commencement of trading, the BSE will distribute a circular to its membership calling attention to the specific risks associated with index warrants.

Due to the fact that the BSE is not the Designated Options Examining Authority ("DOEA") for any of its member firms, BSE members with public customers trading CAC-40 Index warrants will be required to have a SROP or ROP designated and qualified in accordance with the rules of the self-regulatory organization ("SRO") that is the DOEA for the BSE member. This will ensure that BSE members with public customers trading index warrants will have an options compliance infrastructure in place to ensure compliance with the warrants account opening and suitability requirements. This requirement will also ensure that BSE members trading index warrants will be subject to oversight by an SRO experienced in regulating options.

The Commission has noted that the trading of warrants based on a foreign index requires an adequate mechanism for sharing surveillance information with respect to the index's component stocks. In this regard, the BSE is ensuring that there will be an adequate mechanism for the sharing of surveillance information with respect to the CAC's component stocks.

The Exchange believes that the proposed rule change is consistent with the requirements of the Act, and, in particular, section 6(b)(5), as the warrants are designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable prinicples of trade, and are not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

[1] As of the date of this release, SR-BSE-90-02 has not been approved by the Commission. Approval of SR-BSE-90-02 must occur before approval of the Exchange's proposal to list warrants based on the CAC.

B. Self-Regulatory Organization's Statement on Burden on Competition

The BSE does not believe that the proposed rule change will impose an inappropriate burden on competition.

C. Self-Regulatory Organizaiton's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 8, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority

Dated: October 11, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-24506 Filed 10-17-90; 8:45 a.m.]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Provision of aviation insurance coverage for commercial air carrier service

October 12, 1990.

By virtue of the authority vested in me by Presidential Determination No. 90-29, issued August 14, 1990, and Presidential Determination 90-32, issued August 17, 1990, and by virtue of the authority set forth in section 1302 of the Federal Aviation Act of 1958, as amended, 49 U.S.C. app. 1532, I hereby:

1. Determine, on behalf of the President, that continuation of commercial air services to and from Saudi Arabia, Turkey, Syria, Jordan, Egypt, Yemen, Oman, United Arab Emirates, Israel, Bahrain, Qatar, and Cyprus, and to and from Iraq and Kuwait to the extent permitted by Executive Orders Nos. 12724 and 12725, is necessary to carry out the foreign policy of the United States. Such commercial air services facilitate, in particular, actions in support of the United States and international response to the Iraqi invasion of Kuwait and the evacuation of American citizens from areas affected by the invasion. These services facilitate, in addition, the maintenance of normal political and commercial exchange with the countries of the region.

2. Approve, on behalf of the President, the Department of Transportation's provision of insurance against loss or damage arising out of any risk from the operation of an aircraft in the manner and to the extent provided in title XIII of the Act, 49 U.S.C. App. 1531, *et seq.* whenever I have determined that such insurance cannot be obtained on reasonable terms and conditions from any company authorized to conduct an insurance business in a State of the United States.

These actions are taken in consultation with the Secretary of State with respect to section 1302 (a) and (c) of the Act, 49 U.S.C. app. 1532 (a) and (c), and in consultation with the Director of the Office of Management and Budget with respect to section 1302(c) of the Act, 49 U.S.C. app. 1532(c). Pursuant to section 1302(c) of the Act, 49 U.S.C. app. 1532(a), this Determination is effective for sixty days.

This Determination shall be brought to the attention of all air carriers within the meaning of section 101(3) of the Act, 49 U.S.C. app. 1301(3), and published in the Federal Register.

Samuel K. Skinner,

Secretary of Transportation.

[FR Doc. 90-24488 Filed 10-17-90; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

[CGD-90-061]

National Boating Safety Advisory Council; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App.1), notice is hereby given of a meeting of the National Boating Safety Advisory Council to be held on Monday and Tuesday, November 12 & 13, 1990 at the U.S. Grant Hotel, 326 Broadway, San Diego, California, beginning at 9 a.m. and ending at 4 p.m. on both days. The agenda for the meeting will be as follows:

1. Review of action taken at the 45th meeting of the Council.
2. Members' items.
3. Executive Director's Report.
4. Report on Chartmaker 2000 Conference.
5. Presentation on California's Boater Education Program.
6. Presentation on Airboat Standards Exemptions.
7. Recreational Boating Standards Review Subcommittee Report.
8. Report on the National Association of State Boating Law Administrators (NASBLA) Annual Conference.
9. Report on Communications Issues.
10. Consumer Relations Review Subcommittee Report.
11. Report of "Passengers for Consideration" Subcommittee.
12. Report on the results of the 1990 National Safe Boating Week.
13. Report on the United Safe Boating Institute Study on Boating Safety Instruction.
14. Report by Personal Watercraft Industry Association.
15. Report on the National Boating Survey.
16. Presentation on Hyper and Hypothermia.
17. Reply to members' items.
18. Remarks by Chief, Office of Navigation Safety and Waterway Services.
19. Chairman's session.

Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement

to the Council at any time. Additional information may be obtained from Mr. Albert J. Marmo, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard, (G–NAB), Washington, DC 20593–0001, or by calling (202) 267–0997.

Dated: October 11, 1990.

Issued in Washington, DC.

R.A. Appelbaum,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 90-24582 Filed 10-17-90; 8:45 am]

BILLING CODE 4910-14-M

[CGD-90-060]

National Boating Safety Advisory Council; Subcommittee Meetings

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App.1), notice is hereby given of meetings of the National Boating Safety Advisory Council's Subcommittees on "Passengers for Consideration", Consumer Relations Review and Recreational Boating Standards Review to be held on Saturday, November 10, 1990, at the U.S. Grant Hotel, 326 Broadway, San Diego, California. The Consumer Relations Review and the Recreational Boating Standards Review will begin at 1:30 p.m. and end at 5:30 p.m. The "Passengers for Consideration" Subcommittee will begin at 4 p.m. and end at 5:30 p.m. The agenda for each meeting will be to review the status of various projects that have been undertaken by the subcommittee.

Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meetings. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meetings. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Mr. Albert J. Marmo, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard, (G–NAB), Washington, DC 20593–0001, or by calling (202) 267–0997.

Dated: October 12, 1990.

Issued in Washington, DC.

R.A. Appelbaum,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 90-24583 Filed 10-17-90; 8:45 am]

BILLING CODE 4910-14-M

[CGD-90-062]

Navigation Safety Advisory Council; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

As required by the Federal Advisory Committee Act, this notice announces a meeting of the Navigation Safety Advisory Council on Monday through Wednesday, November 5–7, 1990. The meeting will be held at the Department of Commerce Building, on 14th Street between Constitution and Pennsylvania Avenues, NW., Washington, DC. The meeting will begin at 8 a.m. and end at 5 p.m. each day.

Committees will meet all day Monday, November 5 and during the morning of Tuesday, November 6. Committee discussions will include the following topics:

a. *Navigation Rules.*

1. Definition of "towed alongside" for application of yellow flashing light on barges.

2. Marking of submerged dredged pipelines.

3. Sailing vessel lighting.

4. Lights and shapes displayed by vessels engaged in fishing.

b. *Vessel Traffic Service (VTS) Issues.*

c. *Provisional International Maritime Organization (IMO) standards for Electronic Chart Display Information System (ECDIS).*

d. *Establishment of permanent committees.*

e. *Information item:* Presentation on effects of new technology on vessel manning.

The Council will convene in plenary session on Tuesday, November 6 at 1 p.m. to hear the presentation on the above information item, Committee status reports, and any matters properly brought before the Council.

The meeting is open to the public. Persons wishing to make oral statements should notify the Coast Guard no later than the day before the meeting. Any person may present a written statement to the Council at any time without advance notice.

For additional information, contact Margie G. Hegy, Navigation Safety Advisory Council, U.S. Coast Guard (G–NSR–3), Washington, DC 20593–0001, Telephone (202) 267–0415.

Dated: October 12, 1990.

R.A. Appelbaum,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 90-24581 Filed 10-17-90; 8:45 am]

BILLING CODE 4910-14-M

Federal Highway Administration

Environmental Impact Statement: Marin County, CA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Withdrawal of NOI/EIS.

SUMMARY: The FHWA is issuing this notice to advise the public that the Notice of Intent for the preparation of the environmental impact statement for a proposed highway project in Marin County, California is hereby withdrawn.

FOR FURTHER INFORMATION CONTACT: Mr. C. Glenn Clinton, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California 95812–1915, Telephone: (916) 551–1314.

SUPPLEMENTARY INFORMATION: The June 27, 1990 Federal Register indicated that the Federal Highway Administration (FHWA), in cooperation with the California Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to repair a 800-foot section of State Route 1 (PM 9.2) between Muir Beach and Stinson Beach along the Pacific Coast in Marin County. Subsequent interdisciplinary studies and consultation with various Federal, State, and local agencies to date have determined that the relocation of roadway onto stable material by realigning the road approximately 250 feet inland, and disposing of approximately 500,000 cubic yards of cut materials by planned ocean disposal, is the only practical alternative. The planned ocean disposal includes the placing of cut materials in approximately 2.5 acres at the current toe of existing slide and compacting the fill above the water level. The expected erosion rate will be similar to the natural rate of deposition of earth into the ocean. Studies and coordination with various levels of government to date show that an environmental assessment/Finding of No Significant Impact (FONSI) is the appropriate environmental document. Accordingly, the NOI/EIS is hereby withdrawn.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal Programs and activities apply to this program.)

Issued on: October 10, 1990.

Susan E. Klekar,

District Engineer, Sacramento, California.

[FR Doc. 90-24576 Filed 10-17-90; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

[ES-AP-No. 2965]

Norfolk and Western Railway Co.; Change of Location of Public Hearing

The Norfolk and Western Railway Company has petitioned the Federal Railroad Administration (FRA) seeking approval of the proposed discontinuance and removal of the traffic control system from Arcadia, Ohio to Lima, Ohio, and from South Lima, Ohio, to Muncie, Indiana.

FRA has issued a public notice scheduling a public hearing in this matter to be held on November 14, 1990. The location of the public hearing to be held on that date has been changed. The new location is: Second Floor Joint Use Conference Room, Federal Courthouse, 1300 South Harrison Street, Fort Wayne, Indiana.

Issued in Washington, DC on October 10, 1990.

J. W. Walsh,

Associate Administrator for Safety.

[FR Doc. 90-24569 Filed 10-17-90; 8:45 am]

BILLING CODE 4910-06-M

National Highway Traffic Safety Administration

Denial of Motor Vehicle Defect Petition

This notice sets forth the reasons for the denial of a petition for a defect and recall determination submitted to NHTSA under section 124 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1381 *et seq.*).

Ms. M. Kristen Rand, Counsel for Consumer Union, submitted a petition dated June 21, 1990, requesting that NHTSA conduct an investigation into and order a recall of all Gerry Guardian model #643 child car seats manufactured by the Takata-Gerico Corporation.

The petition alleges that a defect exists in the design of the shoulder harness retractor mechanism which may retract too far and hinder removal of a child from the seat, especially in an emergency situation.

Consumers Union suggests that the design of the Gerry Guardian presents a safety hazard similar to that previously addressed by NHTSA in its investigation EA88-013, which involved the Fisher Price Model #9100 child safety seat which used an automatic locking retractor (ALR). The Fisher Price model 9100 child safety seat was subsequently voluntarily recalled. The Fisher Price model 9100 has a lever located next to the buckle which engages the ALR when the harness is buckled in place. The ALR then serves as a one way retractor, removing any slack from the system and not allowing any slack to be reintroduced. When the harness is unbuckled, the lever disengages the ALR allowing the harness to move freely in either direction. In the case of EA88-103, the lever could stick in the engaged position (due to foreign objects, dirt, clothing, etc., lodging in the mechanism) when the harness was unbuckled. In this condition, the harness cannot be released, possibly trapping a child. The remedy for this defect consisted of providing owners with a button-stop kit to be fastened onto one side of the harness webbing. This limited the amount of shoulder harness which could be retracted once the shield was unfastened.

The Gerry Guardian model #643, as well as all Guardian models manufactured since 1984 with an approximate population of 430,000, utilizes a web sensitive emergency locking retractor (ELR) which allows the occupant to move comfortably in the safety seat during normal driving, yet locks up during a crash. The ELR system is web sensitive and locks up when the level of webbing acceleration "trips" a centrifugal mechanism. When removing a child from the seat the possibility exists for momentarily locking the retractor if the shoulder harness is pulled out too swiftly; however, by pausing and allowing the shoulder harness to slightly retract, the retractor unlocks and releases the harness. This is described in the instruction booklet which accompanies the seat.

Analysis of the Office of Defects Investigation computer records of owner complaints for the subject child safety seat revealed one report alleging that the harness/shield retracted and locked hindering removal of a child. The agency has received additional retractor-related concerns regarding this seat alleging use difficulties, i.e., the harness must be pulled slowly (as stated in the instruction manual) in order to avoid temporarily locking the restraint while removing the child from the seat; however, none allege a locking, non-releasable retractor. The agency continues to receive consumer concerns regarding the functioning of this seat's retractor, perhaps in part due to Consumers Union's continued publicity alleging similarity between the Gerry Guardian and the Fisher Price seat which was recalled for an unrelated problem.

Consumers Union was requested by letter dated July 23, 1990, to provide all supporting documentation available regarding the alleged defect. Consumers Union has not responded to this request.

In consideration of the available information there is no reasonable possibility that an order concerning the notification and remedy of a safety-related defect in relation to the petitioner's allegations would be issued at the conclusion of an investigation. Since no evidence of a safety-related defect trend was discovered, further commitment of resources to determine whether such a trend may exist does not appear to be warranted at this time. Therefore, the petition is denied.

This notice sets forth the reason for the denial of a petition submitted to NHTSA under section 124 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1381 *et seq.*).

Authority: Sec. 124, Pub. L. 89-562; 80 Stat. 1470 (15 U.S.C. 1410a); delegations of authority at 49 CFR 1.50 and 501.8.

Issue on October 5, 1990.

Michael B. Brownlee,

Acting Associate Administrator for Enforcement.

[FR Doc. 90-24560 Filed 10-17-90; 8:45 am]

BILLING CODE 4910-59-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 202
Thursday, October 18, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 55 F.R. 41107.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 11:00 a.m., Tuesday, October 16, 1990.

CHANGES IN THE MEETING: The Commission has rescheduled the closed meeting to discuss enforcement matters for 1:00 p.m., Thursday, October 18, 1990.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, Secretary of the Commission

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 90-24942 Filed 10-16-90; 3:57 pm]

BILLING CODE 6351-01-M

FEDERAL ELECTION COMMISSION

* * * * *

"FEDERAL REGISTER" NUMBER: 90-24144.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, October 18, 1990, 10:00 a.m. Meeting open to the public.

THE FOLLOWING ITEM HAD BEEN REMOVED FROM THE AGENDA: Advisory Opinion 1990-19, Gordon M. Strauss on behalf of the Suarez Corporation.

* * * * *

DATE AND TIME: Tuesday, October 23, 1990, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

DATE AND TIME: Thursday, October 25, 1990, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Correction and Approval of Minutes
Advisory Opinions:
1990-19—Gordon M. Strauss on behalf of the Suarez Corporation
1990-24—Representative Edward R. Madigan—Administrative Matters

* * * * *

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Press Officer, Telephone: (202) 376-3155.

Delores Harris,

Administrative Assistant; Office of the Secretariat.

[FR Doc. 90-24806 Filed 10-16-90; 3:11 pm]

BILLING CODE 6715-01-M

Corrections

Federal Register
Vol. 55, No. 202
Thursday, October 18, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

International Trade Administration

[A-122-605, et al.]

Initiation of Anti-Circumvention Inquiry on Antidumping Duty Orders on Color Picture Tubes From Canada A-122-605, et al.

Correction

In notice document 90-20093 beginning on page 34950, in the issue of Monday, August 27, 1990, make the following correction:

On page 34950, in the third column, in the **EFFECTIVE DATE:**, "August 24, 1990." should read "August 27, 1990."

BILLING CODE 1505-01-D

FARM CREDIT ADMINISTRATION

12 CFR Parts 613, 614, 615, 616, 618, and 619

RIN 3052-AA84

Eligibility and Scope of Financing; Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Coordination; General Provisions; Definitions

Correction

In the correction to rule document 90-13862 appearing on page 28511 in the issue of Wednesday, July 11, 1990, item 20 should have begun "On page 24863".

BILLING CODE 1505-01-D

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations; Alabama et al.

Correction

In rule document 90-18279 beginning on page 31837, in the issue of Monday, August 6, 1990, make the following correction:

On page 31838, in the first column, in the table, under "California", and the heading "Napa County" etc., in the first line of the fourth entry, "downstream" should read "upstream".

BILLING CODE 1505-01-D

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federal register

Thursday
October 18, 1990

Part II

Department of Labor

Occupational Safety and Health Administration

29 CFR Part 1926

Concrete and Masonry Construction Safety Standards; Lift-Slab Construction Operations; Final Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket No. S-3018]

RIN 1218-AA20

Concrete and Masonry Construction Safety Standards; Lift Slab Construction Operations

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Final rule.

SUMMARY: This rule revises the Occupational Safety and Health Administration's (OSHA) Safety Standards for Lift Slab Construction Operations. This rulemaking updates specific requirements for lift-slab construction operations that were incorporated by reference in the existing standard from the American National Standards Institute's (ANSI) Safety Requirements for Concrete Construction and Masonry Work, ANSI A10.9–1970, and adds new requirements to provide additional protection for workers engaged in lift-slab construction operations. This revision eliminates ambiguities caused by incorporating the ANSI standard by reference and strengthens the lift-slab requirements by eliminating weaknesses or gaps in coverage that existed through the reference to the outdated ANSI standard.

EFFECTIVE DATE: This final rule shall become effective December 17, 1990.

ADDRESSES: In compliance with 28 U.S.C. 2112(a), the Agency designates for receipt of petitions for review of the standard, the Associate Solicitor for Occupational Safety and Health, Office of the Solicitor, room S–4604, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, U. S. Department of Labor, Occupational Safety and Health Administration, Office of Information and Consumer Affairs, room N3647, 200 Constitution Avenue NW., Washington, DC 20210, Telephone (202) 523–8151.

SUPPLEMENTARY INFORMATION:

I. Background

Congress amended the Contract Work Hours Standards Act (40 U.S.C. 327 *et seq.*) in 1969 by adding a new section 107 (40 U.S.C. 333) to provide employees in the construction industry with a safer work environment and to reduce the frequency and severity of construction accidents and injuries. The amendment, commonly known as the Construction Safety Act (Pub. L. 91–54; August 9, 1969), significantly strengthened employee protection by providing for occupational safety and health standards for employees of the building trades and construction industry who worked on Federal and Federally-financed or Federally-assisted construction projects. Accordingly, the Secretary of Labor issued Safety and Health Regulations for Construction in 29 CFR part 1518 (36 FR 7340, April 17, 1971) pursuant to section 107 of the Contract Work Hours and Safety Standards Act.

The Occupational Safety and Health Act (OSH Act) (84 Stat. 1590; 29 U.S.C. 651 *et. seq.*), which was enacted by Congress in 1970, authorized the Secretary of Labor to adopt established Federal standards issued under other statutes, including the Construction Safety Act, as occupational safety and health standards. Accordingly, under section 6(a) of the OSH Act (36 FR 10466, May 29, 1971), the Secretary of Labor adopted the Construction Standards which were issued under the Construction Safety Act in 29 CFR part 1518. These Safety and Health Regulations for Construction, part 1518, were redesignated as part 1926 at the end of 1971 (36 FR 25232, December 30, 1971). The standard entitled Concrete, Concrete Forms, and Shoring, §§ 1926.700 through 1926.702, was adopted as an OSHA standard as part of this process. OSHA revised that standard—except for the section on lift-slab operations—on June 16, 1988 (53 FR 22612), based on an earlier proposal. The 1988 revision changed the title of Subpart Q to Concrete and Masonry Construction and added several sections (now §§ 1926.700 to 1926.706). The existing requirements for lift-slab operations—incorporated by reference from Section 11 of the ANSI A10.9–1970 standard—are located in § 1926.705.

The revision to the lift-slab requirements in OSHA's subpart Q began on September 16, 1985, when OSHA proposed to revise its construction industry safety standard addressing concrete and masonry construction (50 FR 37543). One section of this 1985 proposal on subpart Q contained requirements specific to lift-slab construction operations. Following the publication of the proposal, there was a period for receiving written comments which ended on December 16, 1985, and a public hearing was held in Washington, DC on June 17–18, 1986. The record on that proposal closed on December 8, 1986. From that point on, no further information could be entered into the rulemaking docket for consideration by OSHA in preparing a final rule, without a formal reopening of the record.

After the record closed, a tragic accident occurred in Bridgeport, Connecticut. On April 23, 1987, a building under construction collapsed, killing 28 workers and injuring many others. The collapse caused the highest death toll from a workplace accident in the United States since 51 employees were killed in 1978 during construction of a cooling tower at Willow Island, West Virginia. The Bridgeport building that collapsed was being erected using the lift-slab method of construction. After the collapse, it was apparent to OSHA that there would be a new body of information forthcoming and a multitude of questions about this unique method of construction. The use of the lift-slab method was very limited, accounting for only a small percentage—probably less than one percent—of all construction activity in the United States.

Some of that information would come from the OSHA accident investigation. OSHA conducted an investigation of the accident with the assistance of the National Bureau of Standards (NBS) (now called the National Institute of Standards and Technology) of the U.S. Department of Commerce. The NBS presented their findings in a report released in September 1987. In that report, "Investigation of L'Ambiance Plaza Building Collapse in Bridgeport, Connecticut, NBSIR 87–3640" (Ex. 34), NBS concluded the following:

> The most probable cause of the collapse was determined to be loss of support at a lifting jack in the west tower during placement of an upper level package of three floor slabs. The loss of support was likely due to excessive deformation of the lifting angle in a shearhead followed by a lifting nut slipping off the lifting angle of the shearhead. The postulated failure mechanism was duplicated in laboratory experiments. The local failure propagated as loads were redistributed. The remaining jack rods along column line E supporting the package of floor slabs slipped off the lifting angles and the slabs failed in flexure and shear. These slabs fell causing the lower level slabs to fail. (p. iii).

To ensure that the subpart Q rulemaking record adequately reflected the best available information on lift-slab construction, OSHA decided to withhold the on-going revision of the lift-slab section in subpart Q until it could reopen the record for the limited purpose of seeking additional information on lift-slab construction. The rulemaking on the remainder of the 1985 proposed revision to subpart Q was

completed as a final rule on June 18, 1988 (53 FR 22612). OSHA reopened the record on September 15, 1988, with the publication of a proposed rule that addressed just the hazards of lift-slab construction (53 FR 35972). Interested parties were given until November 14, 1988, to submit comments pertaining to the proposal. The notice of proposed rulemaking also informed the public of the opportunity to request an informal public hearing on the proposal. Subsequently, OSHA received a request for an extension of the comment period. OSHA published a notice in the Federal Register on November 8, 1988 (53 FR 45102) announcing that it was extending the period for comments and hearing requests until December 14, 1988. During that comment period, OSHA received another request to extend the comment period further and to allow ample opportunity for a complete and full response to the proposed provisions and the specific issues raised in the proposal. Once again, OSHA agreed and issued a notice in the Federal Register of December 13, 1988 (53 FR 50038), announcing that it was extending the period for written comments and requests for a hearing until February 12, 1989. Thus, the written comment period for this new proposal lasted 5 months.

Although only one comment to the record on lift-slab construction was received when the standard was first proposed for revision in 1985, and no testimony was presented on the topic at OSHA's 1986 public hearing, there were 26 written comments received in response to the 1988 proposed rule. In addition, two requests for a hearing were received. In response to the requests, OSHA held a public hearing in Washington, DC on June 29–30, 1989, to hear testimony on the proposed rule. Much of that testimony, like some of the written comment, did not relate directly to the merits of the proposed rule, but instead related to various theories as to why commenters felt the L'Ambiance Plaza in Bridgeport collapsed; or why they felt the NBS Report was incorrect; or why OSHA was wrong for proposing what they thought were "new" standards. While all of this information is in the rulemaking record, little of it will be discussed in this preamble because it does not address matters under consideration in this rulemaking. That is, the proposal addressed lift-slab construction operations, not the validity of the NBS Report.

By the time of the scheduled hearings, with the majority of the comments in the record, it was apparent that many of the commenters thought that OSHA did not have any requirements in effect for lift-slab construction operations at the time of the Bridgeport accident and that the proposal contained all "new" requirements. In the opening statement for the public hearing, OSHA made it clear that this was not the case. (Tr. 1–12 and Ex. 44). In particular, OSHA stated that it had not proposed any new requirements based specifically on the NBS Report. OSHA also noted that most of the proposed requirements were essentially the same as the requirements that the Agency had been enforcing since 1971. However, OSHA had proposed to change some provisions to reflect revisions made by ANSI in 1983 when that organization updated its ANSI A10.9–1970 standard—the standard that OSHA had previously adopted by reference in 1971 and which OSHA herein refers to as its "existing" standard.

In preparation for the proposed rule, OSHA met with its Advisory Committee on Construction Safety and Health (ACCSH) to discuss a draft of the lift-slab proposal. The ACCSH made three recommendations at their March 30, 1988, meeting, and those recommendations were discussed in the proposed rulemaking. (A copy of the transcript of that discussion can be found at Exhibit 35–2.) First, ACCSH recommended that OSHA include the building columns among the items that must be designed with a safety factor of at least 2.5. ACCSH was referring to the current ANSI standard that requires "* * * the threaded rods and other members that transmit loads to the jacks shall have a minimum factor of safety of at least 2.5."

Second, ACCSH recommended revising draft paragraph (a) by supporting a motion put forth by the ACCSH representative from the Building and Construction Trades Department of the AFL–CIO. That motion was to require the "Lift-slab operations to be designed, planned, and supervised by a professional engineer or architect, licensed in the state where the work is being performed."

The final recommendation was expressed when ACCSH members discussed their views with regard to employees working under loads, including working under slabs which were not yet secured. The ACCSH members passed a motion which stated that, as a general rule, they did not endorse employees working under any loads.

In the preamble to the proposed rule, OSHA invited commenters to compare the lift-slab construction technique with other building techniques. OSHA summarizes the resulting discussion here, by first setting forth an excerpt from the National Bureau of Standards report, *Investigation of L'Ambiance Plaza Building Collapse in Bridgeport, Connecticut (NBSIR 87–3640)* (Ex. 34) in which the lift-slab method was described as follows:

> In the lift-slab method of construction, floor and roof slabs are cast one on top of the other at ground level. The floors are usually two-way post-tensioned flat plates of either regular or lightweight concrete. After post-tensioning, the slabs are lifted to their positions by hydraulic jacks and are secured to the columns. (p. 1).

NBS also said that "By casting the slabs at ground level, lift-slab construction can eliminate 90 percent of the formwork required for cast-in-place and reduce labor requirements. Cost savings and speed of construction are two primary advantages claimed for lift-slab construction" (Ex. 34, p. 1).

In cast-in-place construction, formwork is used to support the weight of freshly placed concrete and it continues to provide support until the concrete has achieved the strength necessary to support itself and all superimposed loads. Under subpart Q workers are not prohibited from working in buildings under such loads during the time that the concrete is gaining its strength. However, OSHA does require in § 1926.703(a)(1) that the "Formwork shall be designed, fabricated, erected, supported, braced and maintained so that it will be capable of supporting, without failure, all vertical and lateral loads that may reasonably be anticipated to be applied to the formwork." Further, OSHA states in § 1926.703(a)(1) that employers who follow sections 6 and 7 of the ANSI A10.9–1983 standard will be deemed to be in compliance with the formwork requirements. The ANSI standard prescribes that allowable loads on formwork components are to be based on a factor of safety, which is usually 2.5, but can be as high as 3, depending on the type of shoring used.

In contrast, in the lift-slab method of construction, OSHA proposed to continue the existing requirement that workers not be permitted to work under slabs which have not been secured, nor under slabs that have been secured if other slabs on upper levels are being lifted (a process termed "jacking operations"). Of course, OSHA did not intend that this requirement apply to the workers who are essential to the task of controlling the jacking operations and securing the slabs.

The proposed provision to keep nonessential employees out of the building ranked as the most

controversial provision in the proposed rule. In fact, according to one lift-slab contractor, prior to the L'Ambiance Plaza collapse, it was common practice, worldwide, for even nonessential employees to work in buildings being constructed by the lift-slab method during jacking operations as long as the floor slab immediately above the employees had been secured. (Ex. 35–2, p. 150). This means that some floor slabs were "suspended on the jacks" while nonessential employees were working below. A failure of any component of the jacking system, not unlike a failure of the formwork system in cast-in-place construction, could result in other components being overloaded or in the dropping of a suspended floor which could, in turn, result in total collapse of the building. Such failures have occurred in both cast-in-place and in the lift-slab method of construction. As OSHA stated in the proposed rule, though, it has limited data on total building failures where the lift-slab method of construction was used. Indeed, OSHA is aware of only one lift-slab-constructed building failure since 1971, the year OSHA came into existence. That, of course, is the 1987 L'Ambiance Plaza failure. Published materials, however, describe several other types of failures (where the lift-slab method was used) that occurred in the years 1952, 1954, 1956, 1961, and 1962. (Reference: Feld, Jacob, *Construction Failure*. John Wiley & Sons, Inc., New York; 1968) (Ex. 35–1).

Further discussion on the proposed prohibition was made by a representative of Texstar Construction Corporation when he addressed the ACCSH Committee on March 30, 1988 (Ex. 35–2, p. 150). The representative stated:

> Another very important area of disagreement is our position that other trades be allowed to work inside a building under secured slabs while lifting is in progress on upper floors. This has been the normal practice around the world and really is not different that what is normal practice of other structural methods. Similar conditions exist on multi-story, cast-in-place concrete frames, during the pouring and curing of an upper floor.

Further in his comments, he said that:

> On precast frames or masonry frames, the same thing applies during the erection of those precast members. On steel frames, during the erection of the steel members and the pouring of the decks up above, workmen are allowed to do their trades below. We really do not see why our method should be restrained in the way proposed, from competing with other structural systems.

He concluded by comparing the risks of precast with lift-slab construction, remarking that, "* * * some of the precast members are very, very heavy and very large on multi-story buildings; there are trades working below. God forbid one lets go, there is going to be a catastrophe, there is no question about it * * *." (Ex. 35–2, p. 154).

This statement prompted OSHA to ask for public comment in the proposed rule on whether or not employees working on precast or cast-in-place sites are exposed to the same type of hazard that is being addressed here for the lift-slab technique. Several commenters responded to the questions and their comments are discussed elsewhere in this preamble, under Issue #12.

Finally, OSHA would like to express its appreciation for the cooperation, assistance, and comments from all those who have participated in this rulemaking effort. In particular, OSHA acknowledges the assistance of Mr. Peter Vanderklaauw of Liftplate International, Inc., who welcomed the OSHA standards-writing team to visit a construction site while lifting was in progress, to allow first-hand observation of the hazards associated with the construction technique and see how one contractor addressed those hazards. OSHA also acknowledges the contributions of those in the engineering community who came together, sometimes at their own time and expense, to investigate the Bridgeport disaster and to make recommendations to OSHA and to other standards-making bodies (e.g., building code committees) in an effort to prevent the recurrence of such incidents. As OSHA stated in its closing remarks at the hearing, the Agency believes a final rule can be promulgated that provides a level of protection needed to ensure the safety of workers as intended by Congress, without taking away the livelihood of the very workers it seeks to protect (Ex. 44 and Tr. 6/29/89, p. 1–21).

II. Summary and Explanation of the Final Rule

The following discussion summarizes each of the provisions in the final rule and explains how they differ from the proposal and the existing rule. The discussion also includes an explanation of how the Agency arrived at its final decision.

OSHA requested comments on several specific issues in the preamble of the proposed rule (53 FR 35976) and in the hearing notice (53 FR 50038). All of these issues, and the comments received on them, are discussed in conjunction with the appropriate provisions of this final rule. Issues raised in the proposal that did not affect a provision in the final rule are discussed at the end of the discussion of the final rule provisions.

In general, this final rule differs from many of the final rules issued by OSHA in that currently it directly affects the operation of only two construction contractors in the United States and a small percentage of all the employees engaged in construction work. (Ex. 37, p. 35978). Additionally, OSHA recognizes that use of the lift-slab method of construction prevents employee exposure to some hazards that typically exist when other construction methods are used—methods such as steel construction, cast-in-place construction, and precast concrete construction. For example, these other construction methods require more work to be done at elevated locations, thereby exposing workers to fall hazards. (Tr. 6/30/89, pp. 2–185 to 186). (Note: The U.S. Department of Labor, based on data from the Bureau of Labor Statistics, lists falls as one of the leading causes of traumatic occupational death, accounting for 8% of all occupational fatalities in 1986. Data from NIOSH shows that from 1980–1985, falls represented about 10% of all traumatic occupational deaths for which a cause was identified and are one of the major causes of injuries to construction workers.) While OSHA currently has a rulemaking activity underway to address fall hazards in construction (Subpart M—Fall Protection) (51 FR 42718), it does not have rulemaking underway to address the hazards of collapse that may be associated with methods of construction other than lift-slab. In this rule, OSHA addresses the need to provide structural integrity to address the hazard of collapse.

The protection afforded by providing structural integrity may also need to be addressed where other construction techniques are being used and OSHA intends to investigate that need. Specifically, OSHA intends to gather information on issues such as the need to require contractors to address "structural integrity" of all structures while they are being built; the role of the general contractor versus that of the subcontractors; the need to ensure lateral stability during construction; and the need for on-site supervision at all construction sites.

Many of the written comments and testimony at the public hearing indicated a willingness among contractors, the engineering community, and other concerned individuals and organizations to work with OSHA to explore these important construction issues further. An example of this willingness to cooperate was evidenced at the hearing when James Hinckley, a licensed professional engineer with

James M. Hinckley Associates, made seven recommendations to OSHA for improving safety to employees. One of his recommendations was that an overlap of responsibilities between the owner, the architect, the engineer, the construction manager and the contractors be encouraged. Another was that complete investigations be made of collapses, and that the information be made available for use by architects/engineers and other professionals so that they can learn from failures "* * * so that each one of these things need not accept the loss of life, in its harsh reality, without being able to garner from that experience something that will improve the construction industry as a whole." (Tr. 6/30/89, pp. 2–138 to 2–140). Mr. Hinckley's investigation of the L'Ambiance collapse lead him to several conclusions, one of which was that rotation of the footings had occurred. Perhaps by way of example, he added, "I would like to get the word out not to put footings on top of reconstructed shotrock and fill, especially in the presence of a ground water situation." (Id. p. 2–141).

Additional evidence of forthcoming cooperation surfaced on cross examination when Mario Suarez commented to Hinckley that "I certainly want to congratulate you for your seven points of consideration for the future because I think that should be the concern of the engineering profession right now." (Tr. 6/30/89, p. 2–149). In the same vein, Professor Vanderklaauw of Liftplate International asked Matthew Burkart, the Chairman of the ANSI A10 Committee, if ANSI was being discriminatory in its rules with regard to keeping workers out of the building on lift-slab projects but not other concrete projects. Burkart responded that he was testifying with regard to the Committee's interpretation of the lift-slab provision only, but he added that it "might be worthy of consideration for the committee or another committee that is addressing reinforced concrete or other types of lifting or concreting operations" (Tr. 6/29/89, pp. 1–208 to 1–209).

Hinckley put it best when he said, "I think now would be an excellent time for the government to get involved to support this effort [for enhancing quality in construction] and with, certainly, their resources, which are far greater than any of those in the industry, to make a real difference." (Id. p. 2–141).

Section 1926.700(b) Definitions

OSHA proposed to add two terms to the definitions section of Subpart Q—Concrete and Masonry Construction. These terms, "jacking operation" and "qualified designer," are discussed below.

"*Jacking operation.*" In paragraph (b)(9) of § 1926.700, OSHA is adding a definition for the term "jacking operation." OSHA used this term in the proposed rule and defined it to mean the task of lifting a slab (or groups of slabs, sometimes referred to as a "package" or "pick") vertically from one location to another, e.g., from the casting location to a temporary (parked) location, or from a temporary location to another temporary location, or to the final location of the slabs in the structure. The definition in the final rule is identical to the definition in the proposal. The existing rule did not contain a definition for the term "jacking operation."

OSHA did not receive any comments on the proposed definition. The Agency believes that the term, as applied to this standard, is approximately defined for its use and that no further revision to the definition is necessary in this final rule.

"*Qualified designer.*" In the NPRM, OSHA proposed to define the term "qualified designer" because the term was used both in the proposed requirements for lift-slab operations and in the previously promulgated formwork requirements of the cast-in-place section of subpart Q (§ 1926.703(b)(8)(i)). OSHA did not define the term in the previously promulgated section of subpart Q because, as used in the formwork section, its meaning is clear. However, when OSHA proposed to use the term again in the lift-slab section, it was decided that the term should be defined in the new proposed rulemaking.

While there was no objection to the definition of "qualified designer," there was substantive objection to OSHA's use of that term in the standard. That objection was sufficiently supported in the rulemaking record, and OSHA has decided not to use the term "qualified designer" in the final rule. (See detailed discussion below, under § 1926.705(a), for the reasons why OSHA is not using the term "qualified designer".) Therefore, since the meaning of the term is clear in the formwork section, and the term will not appear in the final lift-slab section, there is no longer a need to define the term. Hence, the term "qualified designer" is not carried forth to the final rule.

Section 1926.705 Lift-Slab Operations

Section 1926.705 of the final rule contains specific requirements for lift-slab construction operations. Employers who have employees exposed to the hazards of lift-slab construction operations must comply with these specific requirements as well as the general requirements for all concrete construction contained in other sections of Subpart Q—Concrete and Masonry Construction in 29 CFR part 1926.

Paragraph (a) of the final rule requires that lift-slab operations be designed and planned by a registered professional engineer who has experience in lift-slab construction. It also requires that the employer implement all such designs and plans; that the designs and plans include detailed instructions and sketches indicating the prescribed method of erection; and that the plans and designs include provisions to ensure lateral stability of the structure while it is being constructed.

The language in the final rule varies from that used in the proposed rule in several ways. First, the term "qualified designer," which was used in the proposed rule, is replaced by the phrase "registered professional engineer, who has experience in lift-slab construction." Second, an obligation for the employer to ensure lateral stability of the structure during construction has been added to this provision.

In the NPRM, OSHA proposed that a *qualified designer* design and plan the lift-slab operations. That language was based on a provision for lift-slab operations in the latest ANSI standard for Concrete and Masonry Work, ANSI A10.9–1983, § 10.2. In proposing the language used in the 1983 ANSI standard, OSHA noted that it was different from the language used in the ANSI A10.9–1970 standard, which OSHA currently incorporates by reference. In particular, the 1970 ANSI standard prescribes that a qualified professional engineer or architect (rather than a "qualified designer" as prescribed in the 1983 ANSI standard) design and plan lift-slab operations. When OSHA discussed this proposed provision with the members of the ACCSH at their March 1988 meeting, the ACCSH recommended that OSHA use the term "professional engineer or architect registered in the state where the work is being done" instead of the term "qualified designer." ACCSH did not discuss why they believed that employees would be afforded a greater level of safety if OSHA adopted their phrase and did not propose the language of the most recent national consensus standard. (Ex. 35–2). Where a national consensus standard is in place, OSHA often uses that language in its proposed rules, with modifications as are considered necessary and appropriate. OSHA recognizes that national consensus standards, such as those developed by organizations like ANSI, represent the views of labor, industry,

and state and Federal governments, and that the consensus standards are usually a reflection of current industry practice and sound engineering principles. Evidence of this viewpoint can be found in the OSH Act itself, which states the following:

> Whenever a rule promulgated by the Secretary differs substantially from an existing national consensus standard, the Secretary shall, at the same time, publish in the Federal Register a statement of the reasons why the rule as adopted will better effectuate the purposes of this Act than the national consensus standard. [Section 6(b)(5)].

OSHA's proposed language for the provision in paragraph (a) reflected consideration of the 1988 ANSI consensus standard. However, since ACCSH recommended that OSHA require a professional engineer or architect, licensed in the state where the work was to be done, to be responsible for designing and planning lift-slab operations, instead of a *qualified designer*, OSHA raised a specific issue on this concern. In particular, in Specific Issue 1, OSHA asked the following questions: "Would employees be afforded a greater level of protection if OSHA revised this provision to require the work to be done by an 'engineer' or 'architect'." If so, OSHA asked, "What particular classification of engineer would afford the appropriate level of protection (e.g., structural, registered professional engineer)."

OSHA further explained in the proposal that, in addition to the ACCSH's recommendation pertaining to the substitution of the term professional engineer or architect for *qualified designer*, the ACCSH had also recommended that the provision be expanded so that the professional engineer or architect would be required to "supervise" the lift-slab operations.

Also in connection with paragraph (a), OSHA asked questions in Specific Issue #5 regarding the need to add requirements for the employer to address lateral stability during the construction phase. The comments and testimony addressing the proposed provision and the two specific issues related to this provision are discussed below.

Fifteen of the 26 written comments received on the proposal addressed this issue of engineer/architect versus qualified designer. Texstar Construction Corporation identified proposed provision (a) as one to which they objected when they requested a public hearing on the proposed rule (Ex. 38–15). In particular, Texstar stated that "The proposed rulemaking should be revised to read as follows: All lift-slab details shall be reviewed and approved by the architect/engineer of record and incorporated into the structural drawings. These drawings shall include details of erection and instruction regarding the prescribed lifting sequence." Texstar added that use of this language would insure an adequate check and balance system so as to insure a safe workplace for the employee. Texstar repeated this statement at the hearing (Tr. 6/30/89, p. 2–172).

A review of the record indicates that commenters varied widely in their positions on the proposed paragraph (a) provision. For example, David Wonder (P.E. and Chief Engineer for Texstar Construction Corporation, representing his own professional views) (Ex. 38–7) stated, "I agree with the wording qualified designer as having to plan and design the lift-slab operations." Wonder also stated that "The particular details associated with lift-slab are not familiar to most engineers and there is no single engineer which is both familiar with these details and is registered in each state that lift-slab is used." Wonder further noted that the Engineer of Record (EOR) is required to be licensed in the state for which the work is to be done and that the EOR should be sent all designs, details and lifting sequences for review and approval. On the issue of supervision, Wonder indicated that he agreed in principle to having the EOR or his representative oversee compliance with the structural drawings. But he added that ". . . singling out of the lift-slab method for this regulation seems politically motivated since other catastrophic failures have occurred with other types of construction methods, and no such requirement exists for them." (Id., p. 2). This position was expressed many times in the written comments and at the public hearing by other interested individuals. (Exs. 38–12, 38–14, 38–17, 38–20, 38–21, and 38–25). In his concluding remarks, Wonder cautioned OSHA that such a requirement, applicable only to lift-slab construction, would allow different levels of safety for different construction methods because "other types of construction would have more relaxed safety regulations." (Ex. 38–7).

Texstar Construction Corporation (Ex. 38–17), through their attorney David Turlington, made similar comments on this issue of qualified designer versus engineer/architect. He noted that "Employees would not be afforded a greater level of protection by requiring a specific classification of engineer or architect." Texstar noted that current industry practice required the use of "qualified designer." Like Wonder, Texstar (apparently in reference to the ACCSH recommendation that lifting operations be "supervised" by the professional engineer or architect who designs and plans the lifting operation) also objected to singling out lift-slab construction for inspection and recommended that all construction projects with building costs in excess of $1 million have jobsite inspection by a qualified inspector who would be selected by the design team (architect/engineer).

On the other hand, Donald Rubatino, a Registered Structural Engineer (Ex. 38–16), commented that "Licensed structural engineers should be involved in all lift-slab designs." Then, Rubatino went on to say, "I do not believe that a licensed engineer on the job during lifting would serve any useful purpose as the lead people during the lifting are generally far more aware of potential problems."

OSHA received the following comment from a practicing civil and structural engineer registered in several states—Dean P. Ratti (Ex. 38–19):

> Classic contractual arrangements between Owner-Architect/Engineer clearly prohibit the engineer from involvement in the means, methods, techniques, sequences, or construction procedures, or for safety precautions and programs, in that these are solely the responsibility of the Contractor under his contract with the Owner.

Mr. Ratti further commented that "It would seem more prudent to require qualification by direct experience with the technique ahead of local registration (which does not guarantee qualification for an operation as specialized as the lift-slab method)."

The National Society of Professional Engineers (NSPE) (Ex. 38–3), which represents 75,000 engineers and engineering students, commented that they oppose "any legislation or regulations which make engineers responsible for the action of others not under their direct supervision and control." NSPE further commented:

> Under provisions of contract, language, and court decision developed through many years and supported by engineers, architects, contractors, and owners, it is the contractor who has responsibility for controlling construction methods, means and safety. We, therefore, oppose the existing rule, the OSHA proposed change in language, and the Advisory Committee recommended changes as they relate to issue 1.
>
> NSPE would encourage the OSHA to incorporate language in the draft standard which would require the *contractor* to either retain the services of a licensed professional engineer or to maintain a licensed professional engineer on staff who possesses the necessary technical competence and expertise on issues of job site safety and construction methodology.

Finally, NSPE noted their preference for the term "registered professional

engineer" instead of the proposed term "qualified designer."

Another commenter, Joseph Cooke, P.E. (Ex. 38–23), stated that "We concur with OSHA in that the provision of requiring work to be done by a licensed professional engineer specializing in structures be used to plan and design any lift-slab project," noting that the construction workers deserve the safety afforded by having the aspects of lift-slab construction reviewed and modified if necessary by an individual who has the expertise in this field. Mr. Cooke also indicated his thoughts that the technical knowledge needed for lift-slab analysis would not normally be required of the architectural profession and that the engineer should be independent of the owner and project contractors. Mr. Cooke expressed support for requiring that the engineer be licensed in the state where the work is to be done. He noted that the conditions of construction differ in each state and that qualified engineers can easily obtain registration in other states. He supported his position with the following statement:

> State laws allow the registration of independent engineers as a protection to the people in that state and as such without circumventing the responsibilities of each state, these provisions should allow that the engineer responsible for the final design of the lift-slab construction be registered in the state of that construction and be responsible to the people of that state. (Id.).

Lastly, Mr. Cooke noted his objection to use of an engineer to "supervise" the work. Like other commenters, Mr. Cooke noted that supervision is a responsibility of the contractor. He did, however, believe it appropriate for the engineer to document the procedures to be used throughout the construction and expressed his support for requiring the engineer to visit the project on an interim basis to review contractor compliance with the criteria.

Another commenter, Mario Suarez, P.E. (Ex. 38–21), noting his acceptance of the proposed language in § 1926.705(a), stated that "The substitution of professional engineer licensed in the state where the work is to be done for qualified designer would afford a comparable level of protection to employees." Mr. Suarez, like Texstar and David Wonder, suggested that all designs, plans and/or details and procedures be submitted to the engineer of record for review and approval. He also agreed with the ACCSH recommendation regarding inspection (supervision of the lifting operation), but only if it applied to all construction projects (not just lift-slab) with a cost "greater than, say $1 million."

Michael Kennedy, writing on behalf of the Associated General Contractors of America (AGC) (Ex. 38–22), indicated that OSHA's proposal for a qualified designer was redundant and unnecessary. More specifically, Mr. Kennedy stated that "Current construction industry practices, and state and local building codes require a registered professional engineer to approve and stamp all structural drawings." Kennedy also commented that Connecticut and Texas, where engineering supervision is required for certain construction operations, have experienced a number of problems, some of which he lists in his written comments.

Michael Fraioli, President, Lift Frame Builders, Inc., (Ex. 38–1) commented that any competent registered engineer could design a lift-slab building and that the engineer of record should be on the jobsite conducting inspections.

NIOSH (Ex. 38–4) agreed with ACCSH on the use of the phrase "professional engineer or architect, licensed in the state where the work is to be done" instead of "qualified designer."

Representing Brown and Root, Inc., Charles Darnell (Ex. 38–6), commented that a professional structural engineer should plan and design the project and a civil or structural engineer should supervise the lift-slab operations.

Further comments on Issue #1 were received from Charles Hawkins, from the Associated Builders and Contractors, Inc. (ABC) (Ex. 38–26), who felt that architects and engineers should have the responsibility for planning and designing a safe lift-slab operation, noting that these are the professionals with the experience and qualifications. With regard to supervision of the lift-slab projects, Mr. Hawkins disagreed with ACCSH's recommendation and pointed to the superintendent or project supervisor, "* * * someone who is involved in the job and familiar with the details of a construction job site," as the person who should be responsible for the duty of supervision.

Joseph L. Hoffman, (Ex. 38–24), who noted in his comments that he was a member of a team of professional structural engineers engaged to study the L'Ambiance incident on behalf of Texstar, agreed with the use of the term "qualified designer" in § 1926.705(a). Mr. Hoffman stated that the term was appropriate and more than adequate, particularly since the term was well defined in the proposal. Supporting his comment, Mr. Hoffman made the observation that lift-slab construction requires specialized knowledge, yet registration can be obtained by professional engineers or architects without this specialized knowledge. Finally, Hoffman commented that "No other construction system requires the supervision of a professional engineer."

Doug Nunnelly of Diversified Design and Construction (Ex. 38–25) commented that the term "qualified designer" is meaningless, stating that "All state and local codes require that all structural design work be under the supervision of a registered professional engineer or architect." He also expressed his view that inspection is more adequate than supervision and that lift-slab construction should not be singled out for more specific inspection.

Finally, Mr. Peter Vanderklaauw, President of Liftplate International, Inc. (Ex. 38–20), suggested that the words "experienced in lift-slab construction" be used instead of "licensed in the state where work would be done." Mr. Vanderklaauw noted that the proposed language could require a lift-slab contractor to hire an inexperienced professional (to be in compliance with the OSHA standard); that is, one who is licensed in that state but who has no experience with the lift-slab method of construction and that "OSHA should recognize that an inexperienced professional is liable to cause more harm than good."

The testimony presented at the public hearing on Issue #1 and paragraph (a) of § 1926.705 echoes the written comments discussed above. Although the technical arguments for both terms are well stated, there is no clear discussion of the benefits to worker safety to be gained by requiring a qualified designer instead of a registered professional engineer or vice versa. In fact, since all states require that building plans be approved by the Engineer of Record (EOR) (who must be licensed in the state where the work is being done) it might at first appear, as Mr. Nunnelly said, that the requirement proposed by OSHA would be meaningless (Ex. 38–25). However, OSHA's requirement pertains to the lift-slab operation only. It is the Agency's intent that the lift-slab contractor be responsible for the lift-slab operations at the construction site. OSHA observes that the general contractor (who probably is not the lift-slab contractor) is generally responsible for the entire structure and the Engineer of Record is a representative of the owner or of the general contractor, not the lifting contractor. Therefore, it would appear that the recommendations that OSHA place responsibility for worker safety matters on the EOR, when it is known that the EOR will not be in the employ of the lifting contractor, would not provide adequate protection. OSHA

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observes that the Agency's jurisdiction is based upon the employer/employee relationship.

OSHA has carefully and thoroughly evaluated all of the comments and testimony on this provision. There were a number of questions asked in regard to this provision and a number of recommendations appear in the record on several issues related to the language in the final rule. Rather than respond to every comment made, OSHA will highlight the substantive comments on various issues and discuss its views on those issues, specifically those that led to changes or amendments to the proposed language.

First, while many commenters noted support for the term "qualified designer," they also supported requiring the engineer of record to have some responsibility for reviewing the work of the qualified designer. OSHA does not believe this is an acceptable solution, since it would split the responsibilities for worker safety and could inadvertently place responsibilities on persons who are not in a position to control employee exposures to hazards; thus, OSHA questions the potential benefit to worker safety with this solution.

Additionally, the record shows that some of the commenters who objected to the term "qualified designer" pointed out that the definition proposed by OSHA limits the contractor to using only those individuals who had experience or knowledge regarding lift-slab construction. The commenters who objected expressed the belief this limitation is unfair and pointed out that lift-slab construction is within the scope of any professional engineer's ability, so OSHA should not have such a restriction. For these reasons discussed above, neither "qualified designer" nor "engineer of record" is used in the final rule.

Further, the record does not support using the term "architect." OSHA notes that it requested comment in the NPRM on the use of the term "architect," since that term is used in the ANSI A10.9–1970 standard which OSHA currently enforces. In particular, in section 11.2, the ANSI standard prescribes that a qualified professional engineer or "architect" design and plan the lift-slab operations. Additionally, ACCSH recommended that OSHA use the term "professional engineer or architect, registered in the state" in paragraph (a) in lieu of the term "qualified designer." However, there was very limited discussion or reference to the use of the term architect. Only one comment was received and that commenter remarked that the technical knowledge needed for lift-slab would not ordinarily be knowledge possessed by architects. OSHA notes that it did not propose to use the term "architect" and the record lacks evidence to support the ACCSH recommendation to revise the provision to require architects to design and plan lift-slab construction operations. OSHA further notes that this provision addresses only the planning and designing of the lift-operation, not the planning and designing of the building. Thus, the failure to include the term "architect" in the final provision does not preclude architects from designing buildings. Therefore, the term "architect" is not used in the final rule provision.

Thus, there is only one term that was mentioned in the proposed paragraph that remains for discussion—registered professional engineer. The record fully supports requiring that a registered professional engineer design and plan the lift-slab operations. The ACCSH suggestion that the requirement in paragraph (a) be expanded so that the registered professional engineer would also be required to "supervise" the lift-slab operation, however, is not supported by the record. The record does not support requiring the employer to hire a registered professional engineer to perform supervisory duties. The record indicates that if such a requirement were to be imposed for all methods of construction, not just on projects where the lift-slab method of construction is being used, that support would be forthcoming. OSHA observes that employers are currently required to "supervise" operations at the construction site (29 CFR 1926.16–.20) and this is usually accomplished through the employer's designated "competent person." The issue here is whether or not such responsibilities should be designated specifically to a "registered professional engineer." OSHA has determined that at this time there is insufficient support to add a new requirement for onsite supervision by the registered professional engineer. OSHA notes that commenters used the term "inspection" interchangeably with "supervision" in commenting on the ACCSH recommendation.

Commenters Ratti and Vanderklaauw (Exs. 38–19 and 38–20), suggested that instead of requiring the engineer to be licensed in the state where the work is being done, OSHA should require the engineer to have experience in lift-slab construction. Similarly, as stated above, Joseph Cooke (Ex. 38–23) said that the engineer used for the lift-slab project should be someone who specializes in planning and designing those structures and cited worker safety as a reason. However, Cooke also strongly supported the need for registration in the state where the work is being done. And, finally, there was the comment by Joseph Hoffman (Ex. 38–24), who expressed the same concern that Professor Vanderklaauw did, that lift-slab construction requires specialized knowledge, yet registration can be obtained without that knowledge.

After careful and complete consideration of the record, OSHA has decided that the term Registered Professional Engineer (RPE) is the appropriate term to be used in the final rule, and that the RPE must have experience in lift-slab construction. The language of the final rule is consistent with recognized industry practice. Additionally, while it cannot be proven conclusively, it appears from the written comments and from the hearing testimony that the engineering profession holds its members to standards that go beyond even that for which OSHA has responsibility in the workplace. Thus, because of the complexity inherent in lift-slab operations, OSHA believes a higher level of safety will be afforded workers if it requires a Registered Professional Engineer to be responsible for planning and designing lift-slab operations. As mentioned above, both of the lift-slab contractors currently operating in the United States have a Professional Engineer on staff who is registered in one or more jurisdictions, further evidencing the importance of their role in lift-slab construction. The record does not provide any evidence that employees would be afforded a greater level of safety if the professional engineer is required to be registered in the state where the work is being performed. Therefore, OSHA has not included that portion of the ACCSH recommendation. And, as stated above, the record lacks support for a requirement that the registered professional engineer also be required to *supervise* the lift-slab operations.

The final portion of the provision in paragraph (a) requires the registered professional engineer to consider lateral stability and to incorporate provisions in the lift-slab plans and specifications to ensure lateral stability of the structure during construction. This is a new requirement and OSHA believes it will further the safety and health of workers at lift-slab construction sites.

OSHA raised a specific issue (Issue #5) asking whether or not specific requirements for lateral stability should become a part of the final rule and how employers currently addressed lateral stability.

The response to Issue #5 demonstrated that OSHA needed to include a requirement for the employer to address lateral stability in the final rule. However, the response in the record did not support an OSHA "specification" requirement that would prescribe how to achieve lateral stability. Many of the commenters noted that building codes already address lateral stability and that the engineer of record is responsible for incorporating lateral stability requirements in the building plans and specifications (Exs. 38–7, 38–12, 38–17, 38–18, and 38–25). OSHA notes that while it is true that the building codes address lateral stability of the "finished" or completed structure, building codes may not address hazards associated with the failure to ensure lateral stability during construction and the effect on the safety of employees performing the construction work. OSHA's intent was to address the need to add a specific requirement prescribing that the employer ensure lateral stability during the construction phase.

Commenting more directly on the issue of lateral stability during the construction phase was Mario Suarez, (Ex. 38–21), who noted that "Lateral stability requirements are an important part of any Building Code." He also stated that "They (the building codes) have to be complied with at all times, during all stages of erection as well as in the finished structure." Again, though, Mr. Suarez noted that the responsibility belongs to the Engineer of Record who would review and approve the erection contractor designs. Mr. Suarez, like other commenters (Exs. 38–7 and 38–25) noted that such a requirement should not be applicable to lift-slab contractors only. Texstar's comments (Ex. 38–17) were similar to those of Mr. Suarez.

On the other hand, Joseph Hoffman (Ex. 38–24) commented that he "* * * strongly recommends that such a requirement be incorporated. The responsibility for determining such stability should be placed on a specially trained design engineer(s) engaged by the Lifting Contractor." He further noted that the person who designs the system is the individual who should state the stability requirements during lifting, just as the Engineer of Record states the requirements for the slabs, columns and foundations, etc. in their final state of use. OSHA agrees with the comments and recommendations expressed by Mr. Hoffman and echoed by Mr. Joseph Cooke (Ex. 38–23), who added that lateral stability "* * * plays an important part of the design of any building particularly the lift slab project." OSHA believes workers will be afforded an appropriate level of safety by requiring the registered professional engineer who designs and plans the lift-slab operation to also address the need for lateral stability. The Agency believes this information is critical and must be communicated to the contractor. Consequently, this information is required to be included in the plans and specifications along with the other information required by the paragraph (a) provision. Therefore, based on the comments discussed above, OSHA promulgates paragraph (a) as revised.

Paragraph (b) of the final rule requires that jacks (lifting units) be marked to indicate the rated capacity established by the manufacturer. This is an existing requirement, found in § 1926.305(a)(1), which applies to all jacks used in construction activities. OSHA did not propose any substantive revision to this provision, but simply proposed to repeat it in the lift-slab operations section so that all requirements unique to lift-slab construction operations would appear in the same section of the construction safety and health standards. OSHA believes it is necessary for employers to ensure that each jack has the rated capacity marked so there will be no question as to what loads can be placed on the jacks.

There were no comments on this provision and OSHA promulgates paragraph (b) unchanged from the proposed rule, except that in recognition of industry nomenclature, the term "lifting units" has been added to the text as an alternative term for the term "jacks."

Paragraph (c) of the final rule requires that jacks (lifting units) not be loaded beyond the rated capacity established by the manufacturer. This, too, is an existing requirement from § 1926.305(a)(1), and was proposed to be repeated in the lift-slab section for the same reasons as explained in the discussion of paragraph (b) above. Again, OSHA did not propose any substantive revision to the existing requirement.

OSHA received one comment on the proposed provision. Rubatino Engineering (Ex. 38–16) commented that the "Jacking capacity of jacks definitely should not be exceeded" and noted that it is standard practice for safety concerns as well as maintenance. There were no other comments on this provision. OSHA believes the provision is appropriate as proposed, except the term "lifting units" has been added to the text for the reason discussed in paragraph (b) above. Therefore, OSHA promulgates paragraph (c) as revised.

Paragraph (d) of the final rule requires that jacking equipment be capable of supporting at least two and one-half times the load to be applied during lifting operations and that the jacking equipment not be overloaded. OSHA identifies components of the jacking equipment as the threaded rods, lifting attachments, lifting nuts, hook-up collars, T-caps, columns, shearheads, and footings, as well as any other load bearing component which is used to carry out the lifting operation(s).

The final rule differs from the proposed rule. In the NPRM, OSHA proposed the following:

> Jacking equipment shall not be overloaded and the threaded rods and other members (such as but not limited to the following: jacks and other lifting units, lifting angles, lifting nuts, hook-up collars, T-caps, shearheads, columns, and footings) that transmit loads to the jacks shall be capable of supporting at least two and one-half times the load to be applied.

The proposed language was developed by using both the ANSI A10.9–1970 and the ANSI A10.9–1983 standard that contained a similar provision. OSHA clarified the provision by identifying shearheads, columns, and footing as other members of the jacking equipment. These three components were not specifically mentioned in the ANSI standards but in a written interpretation to OSHA (Ex. 38–3) ANSI identified shearheads, columns, and footings as "other members" for the purposes of applying their standard.

Because there was controversy surrounding this provision, OSHA raised two special issues, Issue #2 and Issue #4, to ask specific questions on the following: how to word the provision; what components should be included in the provision; and, how OSHA should identify those components.

In response to the comments and testimony received on the paragraph (d) provision and on Issues #2 and #4, OSHA has rewritten paragraph (d) for the final rule. The final rule differs from the proposed rule in several ways. First, it defines and clarifies which members are considered to be jacking equipment for the purposes of the provision. Specifically, the provision has been reworded to identify components by name and to state that if the load being lifted is supported by components other than those mentioned by name, those other components must also be capable of supporting two and one-half times the load that will bear on them during jacking operations.

OSHA received two comments on issue #4 that provided the impetus to require that "all load-bearing components added to the structure for the purpose of carrying out the lifting operations" as "other members" that should be able to support two and one-half times the load applied to them during lifting operations. NIOSH (Ex. 38–4) suggested that the language of the standard specifying minimum standards for jacking equipment refer to "load bearing components" of the lifting system and David Wonder (Ex. 38–7), suggested that the provision include the sentence, "This equipment is to include all components of the jacking system, which have been added to the structure, temporarily or permanently, for the sole purpose of lifting." While OSHA does not agree with the use of the term "sole" purpose of lifting, it does see merit in Mr. Wonder's suggested revision in terms of clarity. Therefore, OSHA has relied on the suggestion of Mr. Wonder in its revision.

Other clarifications were made to resolve other commenter concerns. For example, many commenters felt that OSHA was attempting to rewrite the building codes which have provisions that specify safety factors or "load factors." OSHA observes that while it is true that many building codes specify such factors, they apply only to finished structures. Further, those codes were not developed with specific emphasis on worker safety which is, of course, OSHA's primary concern. OSHA recognizes that while a structure is being constructed, it is most vulnerable to forces that can cause it to collapse, causing injury or death of the workers. Thus, OSHA's requirements first define the hazards associated with lift-slab operations and then specify solutions to control or eliminate those hazards.

OSHA believes additional clarification is achieved by explaining that the jacking equipment must be capable of supporting two and one-half times the "load being lifted during jacking operations" which makes it clear that the 2.5 factor applies to the load that the equipment will actually be lifting at any one time. OSHA believes that some individuals thought the 2.5 factor applied to all the live and dead loads of the structure, including some loads not being lifted. For the purpose of this provision, once the load (floor slabs) has been secured, it is considered to be "off the jacking equipment."

OSHA observes that compliance with local building codes may, in some cases, also put the contractor in compliance with the provision of this paragraph (d). However, compliance with this paragraph does not, in any manner, relieve the contractor from compliance with any other codes that may be required by state or local authorities having jurisdiction over the construction activity. OSHA further recognizes that columns, footings, and shearheads must also be designed using load factors associated with the completed structure which are specified by building codes. Thus, it may be necessary for the contractor to perform calculations sufficient to determine that the concerns of both OSHA and the local building code have been met.

Many commenters (Exs. 38–1, 38–7, 38–12, 38–17, 38–21, 38–22, 38–23, and 38–25) argued that OSHA should not include columns, shearheads, and footings because these members are designed in accordance with other codes, such as ACI, AISC, PTI, etc. However, as mentioned before, these codes pertain to the completed structure, whereas OSHA's requirement pertain to the loads being lifted during jacking operations. Thus, the commenters arguments do not address the merits of the provision and do not justify removal of columns, shearheads, and footings from the provision. OSHA is well aware that hazards facing construction workers during the building phase are different than the building code concerns for a completed, stable structure. OSHA's efforts are directed at ensuring that appropriate protection is afforded the workers during lifting operations, while the structure is being built.

In the proposed rule, OSHA indicated that it was aware of the controversy associated with this particular provision. OSHA also noted that this provision appeared in section 11.3.1 of the ANSI A10.9–1970 standard for Concrete and Masonry Work (incorporated by reference in existing § 1926.705) and was continued in the 1983 ANSI A10.9 standard in section 10.3.1. OSHA also noted that it had asked ANSI for an interpretation of this provision, asking them in particular, whether or not their standard required the building columns, shearheads and footings to be subject to the 2.5 safety factor. The ANSI Committee responsible for the standard clarified through correspondence to OSHA (see Ex. 35–3) and through oral testimony at the OSHA hearing on lift-slab operations (Tr. 6/29/89, pp. 1–199 to 1–223) that it was their intent to include the columns, shearheads and footings as "other members" for the purpose of their provision. In particular, Mr. Matthew Burkart, Chairman of the ANSI A10 Committee, presented testimony at the hearing in which he indicated that the proposed OSHA standard basically was the same as the ANSI standard and that OSHA's standard was consistent with ANSI's interpretation of what has been there since at least 1970. Mr. Burkart explained that the 2.5 safety factor was in the standard primarily to protect the workers who had to be under the slab during jacking operations. He further stated "For that reason and for those purposes, we feel that the 2.5 is a minimum requirement. The only logical interpretation of the items to be included in the lifting arrangement includes the columns and the footings and whatever else is sustaining loads during the time it's being lifted." Mr. Burkart added that ANSI realized the A10.9 standard presented different design criteria than what might be used for the permanent part of the structure but that their concern, like OSHA's, is with the temporary structure: "* * * if the column is used as a support, it becomes part of the temporary structure and should meet the safety requirements for the workers that are being exposed to this area."

Additional testimony was presented at the hearing from Dr. Neil Hawkins (Tr. 6/29/89, pp. 1–153 to 1–199) who testified that he did not believe the requirements for a 2.5 factor of safety on jacking equipment should include columns, footings or shearheads, while acknowledging that it was appropriate for jacks, lifting angles, and lifting nuts. Dr. Hawkins argued that it was not appropriate for columns, footings and shearheads since the design conditions for those items are governed by the standards of AISC and ACI. He also said, "It is already customary practice to use a factor of safety of three for calculating the allowable bearing pressure on soils or rocks below footings and for such soils or rocks the primary concern is usually not bearing capacity but the possibility of excessive settlement or rotation of the footing." (Id.)

Several commenters, including David Wonder, P. E. and Chief Engineer for Texstar (Ex. 38–7), stated that shearheads serve a dual purpose in lift-slab construction in that they are a "lifting component" as well as a member of the completed structure. OSHA believes these comments further evidence the need to include shearheads in this provision since they play a role in the "lifting" phase.

Texstar Construction Corporation also testified at the public hearing (Tr. 6/30/89, pp. 2–173) restating their written comments (Ex. 38–15), which argued against the need to include columns,

shearheads, and footings in the paragraph (d) provision. Texstar representatives noted that various codes set forth design criteria for these three elements and thus there is no need for OSHA to issue a different requirement. Again, OSHA notes that the organizations mentioned by Texstar—the American Concrete Institute (ACI) Building Code Requirements for Reinforced Concrete (ACI 318), the American Institute of Steel Construction (AISC), and the Post-Tensioning Institute (PTI) develop codes and specifications primarily with the finished structure in mind, while OSHA is concerned with the structure during the time it is being built. None of the codes mentioned were developed solely for the purpose of protecting the safety and health of workers during the construction phase.

Texstar also commented that the term "lifting attachment" should be used in lieu of "lifting angles" because other types of attachments were used and the term "lifting attachment" would encompass all types of lifting devices (Ex. 38–15 and Tr. 6/30/89, pp. 2–174 and 2–251).

Finally, Texstar's testimony (Tr. 6/30/89, p. 2–174) indicated their agreement with the application of the 2.5 to lifting items other than columns, shearheads and footings. They reasoned that "These lifting items are not specifically covered by a national consensus standard, and therefore, provide a safe workplace by requiring this higher factor of safety."

After reviewing these comments, OSHA believes that there was some misunderstanding of the proposal. Many commenters appeared to believe that OSHA was requiring jacking equipment to be capable of supporting 2.5 times the load factors calculated for the completed structure, particularly since columns, shearheads, and footings were considered jacking equipment in the rule. OSHA further believes it was that misunderstanding that led to the multitude of comments opposing the provision. In the opening statement (Ex. 44) of the public hearing, OSHA clarified its position that the Agency's intent was that the jacking equipment be capable of supporting 2.5 times the load that would be on the equipment during lifting and the negative comments diminished markedly. This is evidenced by the lack of testimony on the subject as compared to the substantial written comments received prior to the public hearing. In the final rule, OSHA has revised the language of this provision to make it clear that the "applied load" means the load being lifted. Once the load is secured (either temporarily or permanently) and "off the jack," that load is no longer an "applied load" for the purpose of this provision. OSHA wishes to emphasize that this standard is directed at lifting operations carried out during construction of the building and, again, nothing in this standard is to be construed to mean that compliance with local building codes is being changed or affected in any manner.

After full and complete consideration of all of the comments and testimony on the proposed provision in paragraph (d) and Issues #2 and #4, OSHA promulgates paragraph (d) as revised.

Paragraph (e) of the final rule requires that lifting units be installed and designed so that they will neither lift nor continue to lift when their rated capacity is exceeded. This requirement is essentially the same as the proposed and the existing requirement found in section 11.3.2 of the ANSI A10.9–1970 standard, and is also essentially the same as section 10.3.2 of the most current ANSI standard, A10.9–1983. There were no written comments or oral testimony presented with regard to this provision. OSHA believes the provision is appropriate as proposed and promulgates paragraph (e) as proposed except, as discussed above, that the term "lifting units" is used in conjunction with the term "jacks."

Paragraph (f) of the final rule requires that lifting units used in lift-slab construction be equipped with a safety device that will enable the lifting units to support the load in any position in the event any lifting unit malfunctions and loses its lifting ability. The final rule provision is essentially the same as the proposed requirement and the existing requirement in § 1926.305(b)(1). It is also essentially the same as both a provision in section 11.3.3 of the ANSI A10.9–1970 standard and to section 10.3.3 of the updated ANSI A10.9–1983 standard. The difference between the final rule requirement and the proposed and existing ANSI standard is that the term "lifting units" has been added for the reasons discussed above.

In the 1988 proposed rule, OSHA noted that it had received one comment on the 1985 proposed rule that pertained to this provision. That comment, from the Washington Metropolitan Area Construction Safety Association (WMACSA) (Ex. 14–29), suggested that OSHA add a requirement to install a safety device as required by this paragraph. WMACSA supported the need for this provision by pointing out that the ANSI A10.9 standard contained such a provision in its lift-slab section.

As OSHA observed in the 1988 proposed rule, and as stated above, the existing requirement in § 1926.305(b)(1), which is nearly identical to the ANSI requirement, already addresses this hazard. However, because OSHA believes it is important to locate all provisions unique to lift-slab construction in the same section of its regulations, it proposed that this provision and another provision specifically related to lift-slab lifting units in § 1926.305(b)(2) be relocated to the lift-slab operations section of the Concrete and Masonry Construction Standards. These two provisions are identified as paragraphs (f) and (h) of this final rule. There were no written comments or oral testimony presented on the proposed relocations. Therefore, OSHA promulgates paragraph (f) as proposed, except for the addition of the term "lifting units," which appears in the final rule provision.

Paragraphs (g), (h), and (i) of the final rule contain requirements that are essentially the same as the proposed provisions. They are also essentially the same as the existing requirements in section 11.4 of the ANSI A10.9–1970 standard, except that in paragraph (i), OSHA is requiring that the operator of the controls be experienced in lifting operations and experienced with the lifting equipment being used. The provisions in the final rule are also essentially the same as the provisions in Section 10.4 of the ANSI A10.9–1983 standard, except as noted above. In addition, in the ANSI document the three requirements are combined in one paragraph; whereas they are in separate paragraphs in this final rule. Also, as discussed above, paragraph (h) of the final rule contains essentially the same requirement as the existing provision in § 1926.305(b)(2). The intent of these requirements is to prevent subjecting the slab to stresses beyond the engineered limits. OSHA observes that a failure in the slab could result in collapse of the building which most likely would be accompanied by injury and death of workers.

Paragraph (g) requires the employer to synchronize lifting (jacking) operations in a manner that will ensure all points at which the slab is supported are kept within ½ inch of that needed to maintain the slab in a level position.

In the 1985 proposed rule, OSHA proposed a requirement very similar to this requirement, but it did not receive any comments in response to that proposal. However, there was a single written comment on the provision in paragraph (g) of the 1988 proposal. Regarding paragraph (g), NIOSH (Ex. 38–4) inquired of OSHA as to whether it would be appropriate for OSHA to add

the phrase "a component specifying a minimum linear horizontal displacement in which the ¼-inch vertical distortion of the slab may be allowed" to this provision. Based on the evidence in the record, OSHA does not believe such a specification would provide any additional protection to the safety and health of lift-slab workers. Further, OSHA does not believe it would be practical to set a single specification limit which could be used on every structure that might be built using the lift-slab method. Further, such determinations are more appropriately the responsibility of the contractor who must determine how to meet the requirement of this provision for the structure being built under his or her control.

Paragraph (h) requires that where leveling is automatically controlled, the employer must install a device to stop the operation when the one-half inch leveling tolerance is exceeded or where there is a malfunction in the lifting (jacking) system.

Paragraph (i) requires that where leveling is maintained by manual controls, the employer must locate such controls in a central location and have a competent person attend the controls while lifting is in progress. Further, paragraph (i) contains new language which requires the competent person to be experienced in lifting operations and with the lifting equipment being used, in addition to meeting the criteria listed in the definition of a "competent person" in § 1926.32(f). The new language has been added to the final rule in response to a comment from Texstar Construction Corporation. That comment is discussed in more detail below.

In paragraph (i), OSHA proposed that a "competent person" be required to attend the controls while lifting is in progress and the leveling is maintained by manual controls. In the proposed rule, OSHA observed that the 1970 ANSI standard prescribed that a "trained operator" attend the controls, whereas the 1983 ANSI A10.9 standard prescribes that a "qualified person" attend the controls. OSHA observes that the term "competent person" is used in many provisions of the construction safety and health standards to describe the minimum level of experience and authority needed to provide an acceptable level of safety for workers. OSHA defines the term competent person in § 1926.32(f) to mean "one who is capable of identifying existing and predictable hazards in surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them." The Agency maintains its belief that a competent person, as defined in § 1926.32(f), is the appropriate term to use to describe the qualification of the person who attends the control.

At the hearing, Texstar testified on paragraph (i) of the 1988 proposal, and recommended that the language of the proposed provision be modified to require that the competent person have experience in the lifting operation and with the lifting equipment in use (Tr. 6/30/89, p. 2–176). OSHA agrees with Texstar and notes that it would enhance worker safety to require the operator of the control to have experience not only in lifting operations but with the specific equipment being used. OSHA also notes, as discussed in paragraph (a) above, that others have indicated they find merit in requiring work to be performed by persons who have experience in the lift-slab construction technique. For these reasons, OSHA has amended the language of proposed paragraph (i).

Therefore, based on the record and for the reasons discussed above, OSHA promulgates paragraphs (g) and (h) essentially unchanged from the proposal, and paragraph (i) as revised.

Paragraph (j) of the final rule requires the employer to limit the maximum number of manually controlled jacks on one slab to a number that will permit the operator to maintain the slab level within the specified one-half inch tolerance of paragraph (g). Paragraph (j) further prescribes that the number of jacks cannot exceed 14. This provision is essentially the same as the proposed provision, except that OSHA has set a limit of 14 jacks. The final rule provision is similar to a provision in section 11.3.4 of the ANSI A10.9–1970 standard, and also to the provision in section 10.3.4 of the ANSI A10.9–1983 standard. Both of the ANSI standards specify that the number of jacks shall not exceed 14. ANSI further prescribes that in no event should the number be too great to permit the operator to maintain the slab level within specified tolerances.

However, in keeping with OSHA's efforts to develop more performance-oriented standards, OSHA proposed to revise the existing requirement to eliminate the specific number "14" and instead require the employer to limit the number of jacks on one slab to a number that will permit the operator to maintain the slab level within specified tolerances. The Agency notes that it is unaware of the reasons why both the 1970 and 1983 ANSI standards specify the number 14 since, as OSHA stated in the proposed rule (53 FR 35975), it believes that common industry practice is to operate all jacks automatically, except in limited situations such as when setting wedges. During the wedge-setting phase, automatic jacking operations may cease while individual jacks are operated manually, as needed, to complete the wedge setting operation. This process normally involves the manual control of only one or two jacks at a time.

OSHA invited comments on whether or not it should continue to specify the maximum number of jacks as do the ANSI standards. Specifically, OSHA asked if employee safety would be enhanced if OSHA specified a maximum number of jacks that could be used on one slab. OSHA also questioned whether "14" was the appropriate number and, if not, what was the appropriate number and what were the reasons for recommending a number that differs from ANSI.

In response to the proposed provision, Texstar Construction Corporation (Ex. 38–15) listed this provision as one to which it objected in its request for a public hearing and supported ANSI's maximum of 14 jacks. Specifically, Texstar said that it had extensive experience in the operation of manually controlled jacks and it was their opinion that it is necessary to limit the number of jacks so as to ensure the proper monitoring of the lifting rate. Texstar further stated that "Exceeding the maximum of 14 jacks per console limits the ability of the operators to visually and physically control the console and the lifting process." (Id. p. 4).

This provision was also the subject of testimony at the public hearing. In particular, Professor Peter Vanderklaauw, President of Liftplate International, Inc., and a lift-slab contractor, stated that he disagreed with Texstar's comment that the number of jacks should be limited to 14 (Tr. 6/30/89, pp. 2–58 to 2–59). Professor Vanderklaauw said he thought the number of manually controlled jacks should be limited to seven. In support of his recommendation, he explained that "to operate 14 jacks by hand within reasonable tolerances, say ⅛ an inch, to us is extremely difficult. But it all depends on how fast the slab is being lifted." As an example, Professor Vanderklaauw noted that at 1 inch per minute, an operator could manipulate six or seven jacks by hand and that at half that speed, maybe it would be possible to operate 14 jacks. Professor Vanderklaauw concluded by pointing out that most jacking operations exceed 1 inch per minute. Later in the hearing (Tr. 6/30/89, pp. 2–260 to 2–262),

Professor Vanderklaauw questioned the Texstar panel about their comment on the number of manually controlled jacks and asked Texstar if they agreed that speed has a lot to do with the controllability of 14 jacks. Texstar responded that they had their own equipment in mind when they commented that the number of manually controlled jacks should be limited to 14. They suggested that another provision might be more appropriate for someone else's equipment. Professor Vanderklaauw's response was that the requirement is "Texstar specific" and it should be deleted or appropriately modified.

Based on a careful examination of the comments and testimony presented at the hearing, OSHA has decided to retain the provision in performance language but to set a limit of 14 on the maximum number of jacks that can be manually operated. OSHA believes the language of the final rule appropriately addresses the concerns raised by Professor Vanderklaauw, in that it requires the employer to determine how many jacks an operator can control and still be able to maintain the slab level with specified tolerances. OSHA agrees with Professor Vanderklaauw that the number of jacks the operator can manipulate depends on the rate of lift. Additionally, OSHA finds inadequate information in the record to specify a lower number as the maximum number of jacks that can be operated manually. However, the evidence in the record is sufficient to set an upper limit on the number of jacks that can be operated manually. OSHA emphasizes, however, that the employer must make a determination as to how many jacks can safely be operated after first considering the lifting operations, the equipment, and the operator of the equipment involved in the lift.

Based on the foregoing discussion, OSHA promulgates paragraph (j) as revised.

Paragraph (k) of the final rule requires the employer to prohibit employees, except those essential to the jacking operation, from being in the building while any lifting operation is taking place, unless the building/structure has been reinforced sufficiently to ensure its integrity during erection. The final rule defines the phrase "reinforced sufficiently to ensure its integrity" to mean that a registered professional engineer, independent of the engineer who designed and planned the lifting operation has determined that if there is a loss of support at any jack location, that loss will be confined to that jack location and the structure as a whole will remain stable. Such determination can be made by the independent registered professional engineer's own engineering analysis or through the independent engineer's review and approval of the engineering analysis which was performed by the registered professional engineer who designed and planned the lifting operation—see paragraph (a) of this section. In the final rule, paragraph (k) also prohibits, without exception, allowing nonessential employees to be immediately below a slab while it is being lifted. Finally, the provision clarifies that a lifting operation begins when a slab (or group of slabs) is lifted and ends when such slabs are secured with either temporary or permanent connections. An appendix to paragraph (k) describes one method that can be used to comply with the "structural integrity" provision of this paragraph.

The provisions in paragraph (k) of the final rule differ from both the proposed and existing rules. OSHA anticipated significant reaction to the proposed provision and, therefore, raised a specific issue in the proposed rule. In Issue #11, OSHA asked a series of questions in an effort to develop a complete record on the proposed prohibition. Specifically, OSHA asked for alternative solutions to its proposed prohibition of nonessential employees in the building/structure during jacking operations; for information on the need to identify, by job function, those workers who are "essential" to the jacking operation; and for a recommended distance away from the building/structure that nonessential employees should be during jacking operations if they are not permitted inside.

As anticipated, OSHA received substantial written comment and oral testimony on the proposed rule and the specific issue. That comment and testimony has led to a revision of the provision as originally proposed.

NIOSH suggested that OSHA consider a safety factor which was greater than 2.5 as a possible alternative to the proposed requirement to prohibit nonessential employees from being in the building during jacking operations. In particular, they suggested that if OSHA increased the safety factor to a higher number that employees should be allowed to work in the building while jacking operations are in progress. NIOSH was referring, of course, to the proposed requirement in paragraph (d) that jacking equipment be capable of supporting 2.5 times the load applied to it. NIOSH did not give a specific safety factor in their suggestion. However, their suggestion was explored at the public hearing during cross-examination. In particular, Dr. Neil Hawkins was asked to comment on the alternative recommended by NIOSH. He responded that:

> . . . you might say if I went to 10 on the jacks rods and the lifting nuts and so on . . . but I don't think that it ever will be. You know, it's rather like saying we're never going to have an oil tanker spill. A lot of things are caused by human error and we get to a certain level of safety represented by holding the stresses in the rods. In my opinion . . . (Tr. 6/29/89, pp. 1–184 to 1–185).

OSHA interprets these comments to show that Dr. Hawkins did not agree that imposing high safety factors would necessarily render the worksite safe. He did, however, indicate that additional steel in the slabs might be the alternative to the prohibition. (Tr. 6/29/89, p. 1–185).

The proposed paragraph was based on a provision contained in the lift-slab operations section of both the 1970 and 1983 versions of the ANSI A10.9–1970 standard on Concrete and Masonry Work. In the proposed rule, OSHA discussed that ANSI had provided to OSHA a written interpretation of two key provisions of the A10.9 requirements. One of those provisions was the provision originally proposed in paragraph (k). The ANSI interpretation stated that their provision means that no one is permitted anywhere below any slab being jacked, except employees who are essential to the jacking operation or to secure the slabs, nor are employees permitted to work below lower floor slabs that are secured temporarily or permanently while any upper floor slab is being jacked (ANSI interpretation—Ex. 35–3).

At the public hearing, Mr. Matthew Burkart, Chairman of the ANSI A10 Committee, confirmed the written interpretation when he stated (Tr. 6/29/89, pp. 1–203 to 1–207) that ANSI has always contended that people should be out from under the slab when it is being jacked because it is the most hazardous time during the lift-slab operation. He further testified that "No one had presented information to the committee since 1970 that there is a less hazardous way to go about the operation * * *" and therefore, ANSI maintained that people should be out from underneath the slab whenever the jacking operation is in progress. Under cross-examination, (Tr. 6/29/89, p. 1–207), Mr. Burkart clarified that "out from under the slab" meant "out of the building." Mr. Burkart also stated that the ANSI committee that developed the OSHA-adopted provision had representation from the American Concrete Institute and the

American Institute of Architects, as well as several engineers who represented public and government interests. He also stated that Texstar Construction Corporation made a presentation to the full ANSI Committee before it undertook a discussion of the provision and voted on the interpretation that was provided to OSHA. (Id. p. 1–206).

Other commenters and witnesses contended that OSHA was unfairly singling out the lift-slab construction method for more stringent regulation than any other method of construction, such as precast concrete placement, cast-in-place work, and steel erection. In particular, as discussed above, some participants noted that there are other methods of construction that expose the worker to a much greater probability of being injured or killed in a building collapse. (See testimony of Dr. Neil Hawkins, Tr. 6/29/89, pp. 1–60 to 1–161). Indeed, at the hearing Joseph Hoffman, a professional engineer, testified in the strongest terms that "* * * a much more dangerous construction situation is high-rise precast slab on bearing wall construction. It's a very unstable structure, very, very, unstable, and requires a great deal of bracing and a great deal of control." Mr. Hoffman went on to relate that he had served as the Engineer of Record on a 25-story, bearing-wall job and "* * * every single trade in the world [was] working on that job before they hit the 20th floor." In his testimony, he expressed his view that this type of construction was far more dangerous than lift-slab construction. (Tr. 6/30/89, pp. 2–61 to 2–92). Other witnesses emphasized the danger of precast concrete structures, saying that OSHA had not prohibited—or even proposed to prohibit—workers from being in the building while the precast members were being placed. (Tr. 6/30/89, pp. 2–5 to 2–260).

Texstar Construction Corporation, in their prehearing submission (Ex. 58), recommended that paragraph (k) be amended to require that certain criteria be satisfied before nonessential employees would be permitted in the building while jacking operations were taking place. One of the criteria was that:

> Bottom reinforcement be required in both directions in the slab column strips sufficient to enhance the transfer of load and increase the integrity of the structure. The amount of such reinforcement shall conform with recommendations provided by ACI [American Concrete Institute] and the PTI [Post-Tensioning Institute] unless engineering analysis shows lower values are appropriate. For the purpose of this section a minimum amount of at least two bars in each direction shall be continuous or spliced at the support. These bars shall pass over, thru or be attached to the shearhead. (p. 7)

Texstar stated that their recommended requirement was consistent with section 13.4.8.5 of the proposed revision to the ACI's Building Code Requirements for Reinforced Concrete (ACI 318–83, Revised 1986). The recommendation of Texstar's was referred to as the "integrity steel" concept at the hearing and was suggested by Texstar as an alternative to the OSHA proposed requirement which would have prohibited, without exception, allowing nonessential employees in the building during lifting operations.

Texstar commented that the primary goal of the recommended language was to provide for "unsurpassed worker safety" either by removing employees from the hazard or by providing extra means to enhance the structural integrity of the structure. (Id. p. 8). Finally, Texstar added that "Under no circumstances is any employee (except those essential to the lifting operations) to be allowed directly underneath the slab that is being lifted while the actual jacking operation is taking place." (Id.).

A review of the American Concrete Institute's Building Code Requirements for Reinforced Concrete (ACI 318–89) and Commentary (ACI 318R–89) reveals that the engineering community has emphasized the need to provide structural integrity, but has not specifically dealt with structural integrity of lift-slab constructed buildings. However, the commentary for the ACI building codes states:

> *R7.13—Requirements for structural integrity.* Experience has shown that the overall integrity of a structure can be substantially enhanced by minor changes in detailing of reinforcement. It is the intent of this section of the Code to improve the redundancy and ductility in structures so that in the event of damage to a major supporting element or an abnormal loading event, the resulting damage may be confined to a relatively small area and the structure will have a better chance to maintain overall stability.

The need for structural integrity is also addressed in the American National Standard—Minimum Design Loads for Buildings and Other Structures, ANSI A58.1–1982, which reads as follows:

> *Section 1.3—General Structural Integrity.* Through accident or misuse, structures capable of supporting safely all conventional design loads may suffer local damage, that is, the loss of load resistance in an element or small portion of the structure. In recognition of this, buildings and structural systems shall possess general structural integrity, which is the quality of being able to sustain local damage with the structure as a whole remaining stable and not being damaged to an extent disproportionate to the original local damage. The most common method of achieving general structural integrity is through an arrangement of the structural elements that gives stability to the entire structural system, combined with the provision of sufficient continuity and energy absorbing capacity (ductility) in the components and connections of the structure to transfer loads from any locally damaged region to adjacent regions capable of resisting these loads without collapse.

Dr. Neil Hawkins, in his testimony (Tr. 6/29/89, pp. 1–161), also directed comments to the prohibition in proposed paragraph (k). He recommended that for "comparability with competitive forms of construction," if the 2.5 factor were applied to all jacking equipment, then "* * * nonessential employees should be allowed below a slab that is permanently anchored or adequately temporarily anchored during jacking operations for the slabs above that so anchored."

On cross examination, Dr. Hawkins discussed the American Concrete Institute (ACI) Code and subsequently commented that "* * * integrity steel is steel placed in the bottom of the slab through the column * * *" (Tr. 6/29/89, 1–185). He further explained that in the case of a lift-slab, it would have to be bottom steel in the slab which would pass through the shearhead region or over the ends of the shearhead arms or be spliced to the steel coming out of the shearheads. Hawkins further explained that through calculations, one can determine how to reinforce a structure to keep the structure from collapsing if the support of a column is lost. In his post-hearing comment (Ex. 66), Dr. Hawkins further elaborated and suggested that paragraph (k) of the proposed rule be revised to read as follows:

> No employee (except those essential to the jacking operation) shall be permitted in the building while any jacking is taking place unless continuous bottom steel is provided in every slab and in both directions through every wall or column head area. The amount of bottom steel shall be established by assuming loss of support at a given lifting jack and then determining the steel necessary to carry, by catenary action over the span between surrounding supports, the slab service dead load plus any service dead loads likely to be acting on the slab during jacking * * * (Ex. 66, p. 2).

Dr. Hawkins defined "column head area" as the distance between lines that are one and one half times the thickness of the slab or drop panel and those lines are located outside opposite faces of the

outer edges of the shearhead sections (Id.) (See Figure 1).

Dr. Hawkins' proposed language received support from several other hearing participants, including Professor Peter Vanderklaauw, President, Liftplate International, Inc. (Ex. 67) who commented, "We want you to know that, although our company is not seriously affected by the rule not to permit employees in the building while jacking is taking place, we wholeheartedly support Dr. Hawkins' suggested revisions." Professor Vanderklaauw provided several reasons for Liftplate's support, including his comment that "We agree that integrity steel at the bottom of the slab, when properly designed, will indeed prevent progressive collapse and provide sufficient risk prevention." He added that "The application of integrity steel is a very logical engineering solution." Once again, Professor Vanderklaauw noted that the provisions of paragraph (k) should "* * * apply to all types of construction where heavy concrete slabs are being worked at higher levels." (Id.).

Mario Suarez, a participant at the hearing and a professional engineer, (Ex. 66) also supported Dr. Hawkins' post-hearing comment. However, Mr. Suarez suggested that while OSHA should follow the general recommendations made by Dr. Hawkins and state a general, performance type requirement, OSHA should "* * * let the specific code requirement be written by ACI Committee 318." (Id.).

Another area of concern to OSHA was how to identify those workers who would be considered "essential" and thus permitted in the building during jacking operation. However, the commenters concentrated their efforts on their opposition to the overall provision and did not, in general, comment on this specific concern. Thus, due to the limited amount of input to the record, the final rule does not identify, either by title or task, those workers who are essential to the lifting operation. Instead, appropriate compliance guidelines will be developed and compliance officers will have to determine at the time of an inspection, whether or not the workers in the building are essential to ensure that the lifting operation is accomplished safely.

Upon examination and evaluation of the record evidence in this matter, OSHA has determined that there is a reasonable alternative to its proposed prohibition of nonessential employees being in the building during jacking operations. That alternative is for the structure to be reinforced to ensure its integrity as described above. As brought forth in the record, and as supported by both the ACI 318 Building Code and the ANSI A58.1–1982 standard, OSHA agrees in principle with the recommendation made by Texstar Construction Corporation and supported by other expert commenters as discussed above.

OSHA also believes that the individual who makes the determination regarding structural integrity should be a registered professional engineer for the same reasons discussed in paragraph (a) above, and that person must make an independent engineering analysis or review the analysis performed by the registered professional engineer who designed and planned the lifting operation. OSHA observes that the benefits to worker safety and health to be gained by having a registered professional engineer perform certain tasks, which have been discussed at length under paragraph (a) also have application here, and are supported by the record. OSHA also notes that the use of peer review is an accepted practice within the engineering profession as a technique that promotes quality in design organizations and their services. In fact, at the hearing, during cross examination, Mario Suarez in response to a question on responsibilities of various engineers associated with a project, noted that having another qualified professional involved would not be a problem for him. (Tr. 6/30/89, p. 2–9). Published literature indicates that peer reviews are always performed by persons independent of the subject of review—in this case, the lift-slab project. (See *Quality in the Constructed Project*, Chapter 13 titled, "Peer Review." Volume 1, Preliminary Edition of the Manual of Professional Practice.) Because the lift-slab construction process is unique and not well documented in engineering texts and manuals, OSHA believes that peer review of plans and specifications is necessary to achieve an acceptable level of safety.

Therefore, to provide an appropriate level of safety to the workers, OSHA is requiring review by a registered professional engineer who is independent of the lift-slab designer/planner. This independent review may be made in advance of construction on the basis of lift-slab plans and specifications. Additionally, OSHA agrees with Mr. Suarez that the requirement should be written to state the desired performance; namely, reinforcement to ensure the integrity of the building, without specifying exactly how the employer is to comply with the requirement. However, to assist employers, OSHA has described at least one method of compliance in Appendix A to this section. The method described in the Appendix substantially reflects the recommendations made by Dr. Neil Hawkins.

OSHA acknowledges the role organizations such as the American Concrete Institute play in setting design criteria and promoting "structural integrity." Through such organizations, OSHA believes there exists the appropriate guidance for engineers to determine how to maintain the structural integrity of a building as required by paragraph (k).

Based on the preceding discussion, OSHA promulgates paragraph (k) as revised.

Paragraph (1) requires that all wedges be secured before the lifting rods are released at each column location and that when temporary connections are being made, the wedges shall be secured by tack welding, or an equivalent method of securing the wedges, to prevent them from falling out of position.

The final rule in paragraph (1) is essentially the same as the proposed provision, except that it has been rewritten to express the meaning of the rule more clearly. The change responds to comments made by Liftplate International and Texstar Construction Corporation (Exs. 38–15 and 38–20). At the hearing, Professor Peter Vanderklaauw of Liftplate International expressed concern that OSHA's proposed provision was very specific in that it only recognized tack welds as the proper method of securing wedges to keep them from falling out (Tr. 6/30/89, pp. 2–265 to 2–267). OSHA disagrees with this comment as the proposed rule did contain the phrase "or an equivalent method of securing." Nevertheless, OSHA has reworded the provision to state more clearly that employers do not have to tack weld, but if another method of securing the wedges is chosen, that method must be equal to tack welding in its ability to secure the wedge. In this regard, OSHA has determined that the use of chicken wire or tape to secure wedges is unacceptable. The provision is only directed at temporary connections because the lifting plans will specify the details for permanent connections, including any permanent weld on the wedges. The intent is to keep the wedges in position so they will not fall out. It is OSHA's position that if the wedges were to fall out, the slab could lose support at the location where the wedge was dislodged, and that loss of support could cause the slab to deflect, possibly with serious

consequences. In addition, OSHA proposed this requirement because it is aware of at least one incident where a lift-slab contractor inserted all the wedges, lowered the load onto the wedges, then released all the lifting rods to prepare for the next "pick" and not one single wedge had been tack welded or otherwise secured. OSHA believes this is an unsafe practice and has demonstrated its serious concern through the issuance of citations for such action.

Another point raised by Texstar Construction Corporation (Ex. 3–15 and Tr. 6/30/89, p. 2–182), was that wedges should be tack-welded *after* the load has been transferred from the jacks, rather than *before* the load is transferred from the jacks as the proposed rule required. OSHA agrees that load transfer from the jacks to the wedges could break the tack weld and that the language of the proposed rule needs to be changed. OSHA's intent is to require completion of the welding task at each column location before the lifting rods are released. The final rule has been rewritten to state clearly that the wedges must be secured before releasing the rods at that column location, regardless of whether it is a temporary or permanent connection.

In cross-examination at the hearing, Texstar Construction Corporation indicated that they ". . . keep the lifting nuts within an eighth of an inch of the lifting attachment so that they are still . . . in contact with that lifting angle." Additionally, when asked specifically about the lifting rods and whether they too were within an eighth of an inch, Mr. C. Geckler, Vice President of Texstar, stated "Well, just the fact that they're only released about an eighth of an inch, they can't move very far." (Tr. 6/30/89, p. 2–202). When questioned about the ability to support the slab if something went wrong [such as if a wedge fell out], Texstar's representative Russillo stated "So if, as you said, something were to go wrong, the slab would come down an eighth of an inch and re-engage into the rod with the nut. See, it's the rod." Finally, the record is clear when C. Geckler responded, "The tack welding is done. The person who is installing the wedges moves from that location to another location. Then the rods are lowered down." (Tr. 6/30/89, pp. 2–251 to 2–253).

After reviewing these comments, OSHA believes the revised language addresses the concerns of the commenters and also makes OSHA's intent more clear. Therefore, OSHA promulgates paragraph (l) as revised.

Paragraph (m) requires that all welding on temporary and permanent connections be performed by certified welders who are familiar with the welding requirements specified in the lift-slab plan and specifications. This paragraph is a new requirement and is identical to the proposed paragraph.

Comments and testimony in the record revealed that only certified welders are used. There were no objections to OSHA's codification of what is usual and customary practice in the industry. OSHA observes that certification can be demonstrated by possession of a certificate from a licensing board or school which certifies that the employee has demonstrated the ability to perform the type of welding required for the building/structure under construction. OSHA suggests that employers determine the welder's familiarity with the welding requirements specified in the lift-slab plans and specifications before permitting the welder to perform any welding tasks.

In connection with this provision, OSHA raised Specific Issue #14, under which the Agency asked a number of questions relating to the requirement to use only certified welders for structural welding tasks. OSHA noted that it was aware that current practice was to hire only certified welders for critical welding tasks and asked how welders demonstrate such certification. In response, several commenters indicated support for the proposed provision that certified welders be required for structural welding (Exs. 38–4, 38–7, 38–17, 38–21, and 38–23). Only one commenter (Ex. 38–26) actually responded to the concerns of how to determine certification.

Liftplate International, Inc. (Ex. 38–20), commented that they used certified welders as a matter of routine but that temporary welds are made only to keep wedges in place and have no structural value. In addition, they stated that if OSHA finalized the requirement, it should apply to other types of construction as well. While several commenters noted that welder qualification tests are set forth by the American Welding Society (AWS), the AWS does not conduct the tests nor issue certification cards. Charles Hawkins commenting on behalf of Associated Builders and Contractors, Inc. (ABC) (Ex. 38–28), stated that ABC supported the proposed requirement regarding certified welders for critical welds and noted that OSHA was correct in thinking that the industry practice was to hire only certified welders. ABC also made the following comment:

> To the extent that there is a confusion as to which certification should control, ABC recommends the American Society for Testing and Materials (ASTM) certification. In many cases the design and specifications will indicate an ASTM-grade weld is necessary. Relying on the ASTM certification would simplify this question and be consistent with practices already in place. (Id. p. 3).

Based on the evidence and information in the record, OSHA has decided that it will not specify, in the final rule, how the welder should certify his ability to perform the welds as required in the lift-slab plans and specifications. However, at the time of an inspection, OSHA may require the employer to demonstrate that only certified welders are welding connections. For example, such certification can be demonstrated by producing evidence, such as a welder's certification card, that the welder has been certified by a state or local testing laboratory who complies with the testing procedures set forth by the American Welding Society (AWS) or that the welder has a certification card from the American Society for Testing and Materials (ASTM) as recommended by ABC. Therefore, it will be up to the employers to make sure that welders hired by them are certified in accordance with the requirements of a recognized organizations such as the ones named above. Therefore, OSHA promulgates paragraph (m) unchanged from the proposed rule.

Paragraph (n) of the final rule requires that load transfer from the lifting units to building columns not be executed until the welds on the column shear plates are cooled to air temperature. The requirement in the final rule is identical to the proposed requirement, except that the term "lifting units" has been inserted along with the term "jacks."

There were no written comments or oral testimony presented in support of or in opposition to this requirement. In the cross-examination of Texstar Construction Corporation at the public hearing, it was revealed that this provision had little or no bearing on their operation because the weld blocks are fabricated as part of the column and not added in the field (Tr. 6/30/89, pp. 2–266 to 2–269). OSHA believes the requirement is appropriate as proposed and is, therefore, promulgating paragraph (n) without change from the proposal, for the reasons stated in the NPRM (53 FR 35978).

Paragraph (o) of the final rule requires the employer to secure lifting units to the building columns so that the lifting units will not become dislodged or dislocated. This is a new requirement, added as a result of evidence submitted

in the record which substantiated the need for the provision. In Specific Issue #10 of the NPRM, OSHA asked for comment on the current industry practice and on the need to add such a provision to the standard.

Several commenters responded that measures are now being taken to prevent the lifting units from falling off the columns. In particular, Texstar (Ex. 38–17) noted that current industry practice provides that certain safeguards be followed. For examples, they noted that on certain types of shearheads, the rods are blocked and on other shearheads the key hole is now designed to lock the nut centering sleeve in place. (Id. p. 5). They also provided a chart to show the forces necessary to dislodge jacks under load. (Id. Ex. 4). David Wonder (Ex. 38–7) stated that ". . .there is virtually no chance of failure of the lifting assembly" and noted that the lifting rods "act as high bolts to secure the jack to the top of the column." Mario Suarez, (Ex. 38–21), referring to jacks falling off columns, stated "This should probably not be a problem." Doug Nunnelly (Ex. 38–25) of Diversified Design noted that ". . .the installation of the jacks by their lifting contractors has never presented the problem of a jack becoming dislodged." Mr. Cooke (Ex. 38–23) noted his belief that the amount of movement that can take place is questionable, but noted if OSHA was going to consider anything, it should be that the jacks or lifting devices should be secured so they will not become dislodged or dislocated. This was the language suggested by OSHA in the NPRM. Mr. Hoffman (Ex. 38–24) objected to the use of the word "secure" as "too imprecise" but did not suggest an alternative word.

OSHA believes the record supports the usefulness of requiring the employer to take positive action to ensure that jacks/lifting units are secured. However, the exact method of securing the jacks will be left up to the employer and not specified by OSHA. The Agency is aware, however, that at least one manufacturer offers a collar that is now in use for one type of jack. It is OSHA's belief that employee safety will be enhanced if measures are taken to prevent jacks from becoming dislodged or dislocated and possibly falling onto employees. The Agency notes that one method of lifting involves mounting jacks to the top of the columns. Thus, workers would face the risk that a jack could fall off the column and onto them. The record shows that this risk is not adequately addressed by existing standards nor is voluntary action—current industry practice—adequate to address the risk. OSHA believes the risk to workers will be eliminated if employers comply with the new provisions in paragraph (o). Therefore, OSHA is promulgating paragraph (o).

Paragraph (p) of the final rule requires the employer to use some method to ensure that the lifting rods do not slip out of position. Measures may include any type of locking or blocking devices that prevent the rods from accidental release. This is a new requirement, added as a result of information and evidence submitted to the record in response to Specific Issue #15. In that issue, OSHA asked if employers should be required to institute measures such as the use of locking nut caps, wedges or boards to ensure that the rods and nuts cannot slip out of position. OSHA also asked if such methods were now being used. The Agency noted that it was raising the question because in its report on the Bridgeport disaster, the NIST (formerly NBS) concluded that the rods slipped off the lifting angle.

In response, Texstar (Ex. 38–17) responded that they had redesigned the lifting angle to lock the rod in the keyhole and that other types of shearheads would be blocked in place. Mario Suarez (Ex. 38–21) commented that "* * * locking of the lifting rod nut in the shearhead is certainly an improvement and should be required."

On the other hand, Mr. Cooke (Ex. 38–23) noted that "The proposed suggestions of locking nut caps, wedges or boards would become extremely inconvenient in the field * * *"

OSHA believes that the record contains convincing evidence for adding a requirement to secure the lifting rods in position and prevent them from slipping or moving, since such slipping or moving could result in a subsequent loss of support at that column location. Such loss of support could have catastrophic consequences. Therefore, OSHA is promulgating this requirement in paragraph (p).

III. Discussion of Specific Issues Raised in the Proposed Rule But Not Discussed Above

Issue #1. Comments received in response to this issue (Engineer/Architect vs Qualified Designer) are discussed above along with other comments on § 1926.705(a).

Issue #2. Comments received in response to this issue (2.5 Safety Factor) are discussed above along with other comments on § 1926.705(d).

Issue #3. In this issue, OSHA asked if requiring the employer to prepare a certification record would increase employee safety. The Agency explained that a certification record would be signed by the employer and indicate the name of the person or organization who had determined that the jacking equipment was capable of supporting two and one-half times the load on it during lifting and the date when such determination was made.

In response, OSHA received several comments ranging from "Calibration data and material certification should be required by the PSE" (Brown & Root, Ex. 38–6) to "No benefit would come from requiring more paperwork" from David Wonder, an Engineer with Texstar (Ex. 38–7). Some commenters appeared to support a requirement for certification, as long as it only applied to what they termed "lifting equipment" (in other words, not to columns, footings, or shearheads). They added that this would not, however, provide additional safety to the workers (Exs. 38–17, 38–21, and 38–25). Charles Hawkins of the Associated Builders and Contractors, Inc. was concerned about paperwork burdens associated with the certification record, and then suggested that OMB review the proposed requirement (Exs. 38–26). In response, OSHA notes that OMB exempts certification records from their review under the Paperwork Reduction Act and, therefore, OMB approval would not be necessary. (See 5 CFR part 1320).

Professor Vanderklaauw of Liftplate International (Ex. 38–20) agreed that such a requirement would increase paperwork and he stated that it would do little to increase safety. He also stated that if such a provision was finalized, it should apply to cranes, hoists and construction elevators as well as lift-slab equipment. OSHA notes that it does currently require employers to prepare a certification record of tests and inspections performed on critical components of cranes and hoisting machinery.

Finally, Marshall Long, of Lift Slab International, testified at the public hearing that he would be willing to certify that whatever equipment he sold would meet the 2.5 requirement; however, he also acknowledged that he did not supply all the equipment used by all lift-slab contractors.

OSHA notes that preparation of a certification record as envisioned in this issue, would necessitate the certifier to know the loads that would be applied to the equipment. OSHA does not believe that the supplier could prepare such a certification at the time of the sale of equipment that would be used many times on many different jobs involving varying loads.

After careful review of the record, OSHA is not convinced that requiring a

certification record would lead to increased safety and, therefore, has not included a provision in the final rule to require such a certification. OSHA expects, however, that at the time of inspection, the employer will be able to provide necessary evidence that the equipment complies with the load requirement in paragraph (d).

Issue #4. The comments received in response to this issue (rewording proposed § 1926.705(d) to identify jacking equipment) are discussed above along with other comments received on § 1926.705(d).

Issue #5. The comments received in response to this issue (lateral stability) are discussed above along with other comments received on § 1926.705(a).

Issue #6. In this issue, OSHA solicited information on the need to require employers to maintain the building plumb during jacking operations, and asked what was the current industry practice. All five commenters who responded on this issue stated that the American Institute for Steel Construction sets the criteria for building plumbness and that industry practice is to follow their requirements (Exs. 38–7, 38–17, 38–21, 38–24, and 38–25).

Based on the information and evidence in the record, OSHA has decided that no new provisions are needed to address plumbness of the building during construction. As the commenters have noted, standard industry practice dictates compliance with criteria established by organizations such as AISC and ACI. OSHA has no reason to believe that industry practice will change and, therefore, does not believe any additional benefit to worker safety and health will result if additional provisions are added to the lift-slab standard.

Issues #7 and #8. In these issues, OSHA requested comment on the need to include new requirements to address access and egress during the construction of buildings where the lift-slab method of construction is being used.

Several commenters responded that there is no reason to believe that any special requirements are needed to address access and egress of buildings under construction by the lift-slab method and that there is no difference, in terms of the need to address access and egress, between buildings using the lift-slab method and those using, for example, precast concrete. (See Exs. 38–21, 38–24, and 38–25). Texstar (Ex. 38–17) commented that "Ladders are provided at all times. During lifting they are secured so as to slide on the slab edge. . Either stairs or semi-permanent ladders are installed when slabs are put in final position." David Wonder, an Engineer from Texstar, (Ex. 38–7) questioned OSHA's rationale and replied that "It is not logical to think that any specific regulation concerning access and egress could cover the wide variety of buildings that are built using lift-slab." He further noted that stairways are erected following the "critical path."

After careful evaluation of the record, OSHA has determined that there are no special needs regarding access and egress that require additional OSHA requirements. OSHA believes that its current rulemaking efforts for Subpart X—Stairways and Ladders will sufficiently address any hazard that may confront workers at lift-slab construction sites.

Issue #9. In this issue, OSHA asked about substituting the term "lifting units" for the term "jacks," or if it was commonly understood that the term "jacks" included other equipment.

In response, Brown and Root and Diversified Design (Exs. 38–6 and 38–25) commented that the term "jacks" is commonly understood. Two other commenters suggested that OSHA use the term "jacks" together with the phrase "other lifting devices" (Exs. 38–23 and 38–24). Texstar (Ex. 38–17) said the term "jack" is considered to mean the complete lifting unit, and that the term "lifting unit" could be more descriptive of a system using more than one jack with a common base or crosshead. They added that "The term jacking unit might be more descriptive." Mario Suarez (Ex. 38–21) responded that "Either way seems to be adequate." OSHA agrees with Mr. Suarez' comment. Because of the lack of clear support in the record for one term over the other, OSHA will use both terms—jacks and lifting units—to avoid any possible misunderstanding.

Issue. #10. The comments received in response to this issue (securing jacks to the columns) are discussed above along with other comments on new § 1926.705(o).

Issue #11. The comments received in response to this issue (working under the slab) are discussed above, along with other comments on § 1926.705(k).

Issue #12. In this issue, OSHA asked if there was a need to revise other requirements in the Construction Safety and Health Standards (Part 1926) to prohibit workers from being in buildings while precast members were being positioned and secured or while cast-in-place concrete was being cured. OSHA notes that this issue was raised in response to a comment made by a representative from Texstar at the March 30–April 1, 1988, ACCSH meeting. (Ex. 35–2). In his comment, he pointed out the dangers to workers when those methods of construction were being used, and asked why OSHA had not seen the need to regulate the hazard [workers being in the buildings and under the loads] where these other construction methods were used. As OSHA indicated earlier in this document, it intends to gather information on hazards associated with other construction methods.

OSHA received several comments which offered thought-provoking ideas in response to this issue. NIOSH (Ex. 38–4) commented that they were in support of an extension of the scope of the proposed requirement—to prohibit nonessential employees from being in the building—to cover cast-in-place concrete construction techniques. They explained that "The workers are at similar risk in both lift-slab and cast-in-place construction when allowed to work beneath a load that has not been permanently fixed in place and adequately cured."

T. W. Graham, Jr., with the Ceco Corporation (Ex. 38–10), commented, "No, the Construction Safety and Health Standards as they relate to cast-in-place concrete should not be revised due to the following reasons." Mr. Graham then listed several provisions in the existing Concrete and Masonry Construction Standard; namely, § 1926.703 (a)(1), (b)(8)(i), and (e)(1) and (2) that require the employer to take specific action to ensure that formwork (which includes shores and reshores) will support the loads on it without failure. Ceco further commented that cast-in-place concrete was significantly different from lift-slab and precast concrete construction techniques and pointed out the hazards presented by jacking operations or the movement and placement of large and heavy structural members. (Id.).

Marshall Long, P.E., President of International Lift Slab Corporation (Ex. 38–11) noted that "It is significant that for 39 years the lift-slab method of construction had not caused a single fatality, whereas conventional building methods had resulted in over 50,000 deaths during the same period of time." Mr. Long concluded with the statement that "International Lift Slab Corp. therefore rejects the need for imposing restraints on the lift-slab method of construction which are not also applied to all methods of construction." This latter statement was echoed by other commenters (Exs. 38–7, 38–17, 38–20, 38–21, 38–23, and 38–25).

Christopher Saccone, P. E. (Ex. 38–12), commented that "If this standard is to

be adopted for lift-slab construction, it should most certainly apply to cast-in-place and precast systems. The hazards are the same." John McGlenn, P.E., Vice President of Kramer, Chin & Mayo, Inc. (Ex. 38–14), also supported the need for uniformity and consistency and noted that "Rules should be developed in a manner so that they achieve uniformity with other components of the industry. For example, structural steel, precast concrete and lift-slab construction rules should all be promulgated in a consistent manner."

At the hearing, Texstar presented their recommended alternative of "integrity steel" to the proposed prohibition of nonessential workers in the building and noted that "We also feel that this form of enhanced structural integrity should be required on all forms of construction and not just the lift-slab method. If workers' safety is truly the issue, then workers on all types of building construction should enjoy the same level of safety assurance" (Tr. 6/30/89 p. 2–161).

As noted in the proposed rule, this issue was raised to generate information for future use, and no provisions can be added to the final rule on lift-slab construction operations to address hazards associated with other forms of construction. However, based on the comments and testimony received on this issue, OSHA plans to gather more information. Some of the concerns to be explored more fully include the risk to workers who remain in buildings/structures: (1) While precast members are being lifted, positioned, and secured; (2) while structural steel is being lifted, positioned, and secured overhead; and (3) while the concrete is achieving strength in cast-in-place structures; and (4) the risk to workers who remain in structures while any other method of construction is being used.

OSHA wishes to make it clear that the issue of consistency between lift-slab construction and other construction methods does not remove the need for OSHA to take action at this time on the issues raised in this lift-slab rulemaking.

Issue #13. In this issue, OSHA stated that the National Institute of Standards and Technology (NIST) (formerly known as the National Bureau of Standards) has recommended that OSHA specify fracture toughness values for rods used in lift-slab construction. NIST noted that such values are presently specified for steels used in other areas. OSHA then solicited information on whether it should specify such values and what those values should be.

Three parties submitted substantive comments—Texstar Construction Corporation, David Wonder, P.E. (Chief Engineer for Texstar), and Mario Suarez (Exs. 38–7, 38–17, and 38–21). Mr. Wonder expressed disagreement with trying to specify a specific toughness value and added that "Furthermore, assigning a safety factor above and beyond the normal values would be more than adequate to ensure safety," in apparent support of § 1926.705(d) of the proposed rule. Proposed paragraph (d) required that lifting equipment (which includes the rods) be capable of supporting 2.5 times the load to be applied, and Wonder implied that the provision would be, to use his words, "more than adequate to ensure safety." Texstar noted that "The NBS recommendation for testing of rods is not necessarily accepted as the proper test," and added that "The application of the 2.5 safety factor used in the lifting rods should be more than adequate." Mario Suarez, while acknowledging the need to subject rods to testing and quality control procedures, stated that "Quality control procedures on the production of the lifting rods may contain, but do not necessarily have to, toughness requirements."

At the hearing, in response to cross-examination, Dr. Neil Hawkins was asked to comment on the need for fracture toughness requirements in the rule. Dr. Hawkins responded that although he was not an expert in fracture toughness, he did not think it would be necessary to specify fracture toughness values, noting all of the things specified in the proposal and the 2.5 safety factor on the jacking equipment.

In conclusion, OSHA finds that the record provided very little information on this issue and did not demonstrate that a need exists for OSHA to promulgate a new requirement. Furthermore, NIST did not suggest a recommended value nor did they appear at the public hearing. Thus, OSHA was unable to solicit further information on the need to regulate in this area or the potential benefit to worker safety and health. Therefore, OSHA has decided not to specify fracture toughness values for rods.

Issue #14 and #15. The comments received in response to these issues (certified welders) and (locking and blocking of rods) led to new requirements in the final rule and are discussed above under §§ 1926.705 (o) and (p) respectively.

In the hearing notice OSHA raised two other issues that were not discussed above. One issue presented questions about the costs of the proposed standard and is discussed in Section IV—Regulatory Impact—below. The other issue was related to post-tensioning of slabs when the lift-slab method of construction is used. In particular, OSHA stated in the hearing notice that it had received a comment from a Professional Engineer, Frank X. LoSacco, who stated that when the lift-slab method of construction is being used, the *primary* method of reinforcing the slabs should not be the unbonded post-tensioning method. Mr. LoSacco suggested that OSHA add a provision to the final rule which would require the post-tensioning elements to be fully bonded when the post-tensioning method of reinforcement is used [for lift-slab construction].

Mr. LoSacco testified at the public hearing, and explained why he believed that the use of unbonded post-tensioning method of reinforcement caused the total failure at L'Ambiance Plaza. He stated that this method of reinforcement should never be used in the lift-slab method, primarily because the tendons cannot be placed through the steel columns on which the slabs "ride" and must instead be placed around the column, leaving unsupported areas at the column (Tr. 6/29/89, pp. 1–22 to 1–41). On cross-examination, Mr. LoSacco revealed that he had determined almost immediately (within days of the collapse) through visual inspection of the collapse site, that it was the use of the unbonded method of post-tensioning that led to the loss of structural integrity and subsequently, to the total collapse of the building. Using wooden beads, strung on a cord, Mr. LoSacco presented a demonstration to show how, in his opinion, support was lost. (The demonstration was videotaped and can be found at Ex. 45B).

There was no other support presented at the hearing or through written comment for the provision recommended by Mr. LoSacco. In fact, over half of the hearing participants, including engineers Vanderklaauw, Hawkins, Suarez, Russillo, Hinckley, and Freyermuth attempted to elicit further information from Mr. LoSacco, through cross examination, to debate the technical merits of his proposal. (Tr. 6/29/89, pp. 1–54 to 1–106). In each of these instances, Mr. LoSacco repeated his statement that many lives were lost because the unbonded method of post-tensioning had been used. During this questioning period, Mr. LoSacco clarified for the record, that the theory discussed was his own and was not known to be supported by any other engineer.

Mr. Freyermuth subsequently presented testimony stating that there was no technical evidence anywhere to indicate that any type of slab reinforcement would have had any

positive effect in reducing the extent of the L'Ambiance collapse. He further testified that:

> Without clear and convincing evidence supported by a broad base of engineering opinion and experience such as exists in the development of all national technical building code provisions and which has been partially reviewed in this testimony in favor of the use of unbonded tendons in lift-slab construction, there is considered to be no basis for the proposed exclusion of the use of unbonded tendons in lift-slab construction nor the requirement that bonded post-tensioning tendons should be bonded, grouted, prior to lifting of the slab. (Tr. 6/29/90, p. 1–127).

Mr. Freyermuth's testimony was accompanied with documentary evidence, including an article entitled "Structural Integrity of Buildings Constructed With Unbonded Tendons" which presented case studies of laboratory tests and construction incidents or accidents that have demonstrated the capability of unbonded tendons and structures containing unbonded tendons in resisting abnormal or catastrophic loadings. (Ex. 47). He also presented other exhibits to demonstrate the general suitability of unbonded tendons for use on lift-slab construction in preference to other means of reinforcement and to support his testimony with regard to the "very dependable performance of unbonded tendons under the catastrophic conditions of the L'Ambiance Plaza lift-slab building collapse" (Tr. 6/29/90, pp. 1–106—1–128).

Mario Suarez (Ex. 63) expressed his opposition to the recommendation by Mr. LaSocco when he commented that the recommendation had "* * * no technical justification whatsoever and negates a history of more than 30 years of successful use in buildings of all kinds, comprising approximately two billion square feet of floor framing reinforced with unbonded tendons." Mr. Suarez also stated that during their investigation of the L'Ambiance disaster, they observed hundreds of unbonded post-tensioning tendons and their anchorages after the collapse. He said the performance of the tendons as the reinforcing means in the structure was "excellent." Specifically, he noted that as a result of their inspection they concluded that the tendons

> * * * withstood the catastrophic loading condition involved in the collapse without failure of the casting, the wedge grips, or the stand within the area being held by the grips. (Id. p. 2).

He further expressed what he termed "our strong opinion" that no rule should be established limiting or banning the use of unbonded post-tensioning tendons in lift-slab construction or any other method of building construction. (Id. p. 2).

Upon evaluation of the evidence and testimony submitted on this issue, OSHA has determined that, at this time, there is no sound technical basis on which it can prohibit the use of unbonded post-tensioning as the primary method of ⅛reinforcement where the lift-slab construction technique is to be used. The record contains sufficient evidence to demonstrate that unbonded post-tensioning has been used with success. Further, the record indicates that use of this method of reinforcement has not been shown to reduce the level of safety for workers, and that no demonstrable benefit to the worker will result if OSHA were to adopt the language suggested by Mr. LoSacco. Therefore, without further information or evidence to demonstrate that workers are at risk, OSHA has determined that there is no need to regulate the method of reinforcing in structures where the lift-slab method of construction is being utilized.

IV. Regulatory Impact, Regulatory Flexibility and Environmental Impact Assessments

A. Introduction

The Occupational Safety and Health Administration (OSHA) has prepared this Final Regulatory Impact Assessment (RIA) in compliance with Executive Order 12291 and the Regulatory Flexibility Act of 1980 Public Law 96–353, 94 Stat. 1164 (5 U.S.C. 601 et seq.). In this Assessment, OSHA has determined that the revised lift-slab provisions of the Concrete and Masonry Standard are technologically and economically feasible and that the environmental impacts of the amendments are not significant. As the net effect of this Standard amendment is less than $100 million, this regulatory action does not constitute a "major rule".

B. Industry Profile

The lift-slab construction technique has been used in over 50 different countries since its development in 1948 for construction of a wide range of building types: medium and high rise housing, offices, warehouses, hotels, schools and hospitals. The total worldwide volume constructed using this method is estimated to exceed half a billion square feet. Other than the L'Ambiance Plaza collapse in Bridgeport, Connecticut on April 23, 1987, OSHA is aware of no fatal accidents involving this construction technique.

Lift-slab methods can be more economical than cast-in-place methods, particularly for buildings where the framing is similar on all floors. With lift-slab, forms are required only on the outside of the edge of the slab. Because the floor and roof slabs are all cast at ground level and jacked into position, the lift slab technique eliminates 90 percent of the formwork required for cast-in-place methods and reduces labor requirements. Cost savings and speed of construction are two primary advantages claimed for lift-slab construction particularly in areas with high labor costs.

Texstar is the company involved in a considerable volume of lift-slab construction, having completed about 800 buildings on 614 projects over the course of the 39 years (as of 1989) that they have used this technology [1]. These buildings have accounted for approximately 64 million square feet of lifted slab. Most recently, Texstar has been lifting about 2 million square feet of lift-slab per year on about 20 buildings in 10–15 projects. Of these projects, 40 percent are residential (apartments, condominiums, hotels, etc.) 50 percent are office buildings, 5 percent are parking structures and 5 percent are specialty buildings. Texstar represents 90 percent of the 5- to 20- story range lift-slab market [1].

Liftplate International, a Florida construction company, has erected a number of 2 and 3 story buildings and is the only other company known to OSHA to do actual lifting in the United States. Liftplate International has been in business for thirteen years with an annual volume of 750,000 square feet or the equivalent of 10 five-story buildings. They employ few but highly skilled workers and a typical lifting crew would consist of 4 workers compared with 15 to 16 on cast-in-place building technique. They lift a five story building in two weeks [3].

The two systems currently used by these respective companies vary primarily in the type of equipment and materials and their arrangement for the lifting operations. This difference in turn determines the maximum height of the building. For example, Liftplate International erects columns that are the full height of the building before lifting the concrete slabs; therefore, limiting overall building height to 10 stories [8]. Also, the jacking equipment is mounted on the side of the column initially at the ground level [3]. On the other hand, Texstar uses a series of three story column extensions allowing for taller

buildings. Their jacking equipment is mounted on the top of each column [2]. As construction progresses, another column is added, requiring the jack to be repositioned at the top of the newly spliced column.

The lift-slab method of construction constitutes a small fraction of all construction projects in the U.S. Although published estimates of the amount have ranged from between 3 and 10 percent of all commercial projects, these estimates appear too high. Based on data indicating the amount of floor space constructed by Texstar and Liftplate International, the lift-slab technique accounts for less than one percent of the 1,004 million square feet of commercial and industrial space construction during 1987 [1,3]. Although for certain building types and in certain regions the lift-slab method enjoys a cost advantage over other methods, its relatively small market share is primarily explained by lack of familiarity on the part of owners, designers and contractors. The lift-slab method of construction has declined in popularity over the years, accounting for no more than one percent of all construction. This decline is attributed to the fact that at one time lift-slab held a sharp cost advantage due to the relatively costly nature of formwork; but, in the intervening years, innovative formwork systems such as flying forms and whole floor systems, have declined in cost and become more widely used.

C. Costs

The final rule governing lift-slab construction contains provisions addressing elements of construction safety concerning: the integrity of the structure at design and erection stages; equipment utilized; and employees. Most of the provisions of the standard are existing requirements in the American National Standards Institute, ANSI, publication A10.9–1983, and are the same as the ANSI A10.9–1970 provisions referenced in OSHA's original Concrete and Masonry standard. There has been no indication from either industry or OSHA compliance staff that these requirements are other than current industry practice. Consequently, total industry costs of compliance were estimated on the basis of one major provision: prohibition of non-essential employees from working while slabs are being lifted.

The major change in the standard is the provision that prohibits all employees, except those doing the lifting or making connections, from being in a structure while slabs are being lifted unless a registered professional engineer other than the engineer who designed and planned the lifting operation, has determined that the structure has been reinforced sufficiently that a loss of support at any jack location will not result in total collapse of the structure. OSHA has determined that this alternative to its proposed prohibition of nonessential employees being in the building during jacking operations would provide the same level of employee safety. The overall integrity of the structure can be substantially enhanced by minor changes in detailing of reinforcement.

Without consideration of this alternative, it would be no longer cost effective to use the lift-slab technique for buildings of more than four stories. Officials from Texstar have estimated that the imposition of this provision without the option of hiring an engineer would result in the loss of 75 percent of their business [4]. Texstar's income statements from 1984 to 1988 reflect a direct correlation between percent of profit and the percent of revenue attributed to the construction of 5 or more story buildings. In their analysis of the effect of the imposition of this provision, Texstar estimated that it will result in an incremental cost to the general contractor due to the delay equivalent to the slab lifting period. This increase in time necessary to complete the project would incur additional equipment rental charges, interest payments, and overhead charges that would reduce profits by 50 percent and consequently, would make successful bidding by a lift slab contractor impossible [6]. Texstar indicated that since the L'Ambiance incident, they have only been involved in 1 to 4 story buildings and that they have already reduced their workforce from 24 to 7 employees as a result of this dropoff in business [1].

Contrary to the potential problem faced by Texstar, Liftplate International has indicated that this requirement would have absolutely no impact on their business or their ability to compete for jobs [3]. This firm primarily builds structures of 3 to 4 stories, where they lift for a week to a week-and-a-half and finish before the other trades enter.

It is, therefore, most likely that the alternative allowed by the provision would be selected for buildings over 4 stories. The cost of this alternative includes the engineer's cost (i.e. time required to analyze plans to determine structural integrity) and the material costs for reinforcement, if required. Based on information supplied during the public hearings, it was indicated that the engineer's rate would vary depending on the size of the structure and what the engineer requests for his services. Texstar testified that it would cost $500 to have an engineer analyze the plans to determine its structural integrity [1]. Of the 1.5 million to 2.5 million square footage completed annually, Texstar erects 0.9 million square feet of 5 or more story buildings or an average of 8 buildings [4]. If establishments decide to use the alternative of hiring an engineer, OSHA estimates total annual compliance cost for engineer's time under this provision would be $4,000.

Moreover, if employers choose the option provided for insuring structural integrity during erection, bottom steel may be required to prevent progressive collapse following a local loss of support. One method to comply with this provision is for the employer to ensure that bottom steel is provided in every slab and in both directions through every wall or column head area. The amount of steel shall be established by assuming loss of support at a given lifting jack and then determining the steel necessary to carry the slab service dead load plus any service dead loads likely to be acting on the slab during jacking. The cost for providing for the structural integrity of the building—the added steel—is estimated to increase costs of the lift-slab operation by about $0.35 per square foot [1]. For the erection of 0.9 million square feet per year, this translates to an additional cost of $315,000 annually. Therefore, total annual cost for this provision would be $319,000.

In the Preliminary Regulatory Analysis an estimate was made of the cost of keeping all nonessential employees out of the building. This was done from the perspective of the potential added cost to building owners. Lift-slab's cost advantage, although variable by region and size of building, averages about $2 per square foot [5]. If 75 percent of Texstar's current volume of business shifts to other construction methods in the future, this would translate into an increased annual cost of $1.4 million (0.9 million sq. ft. x .75 x $2) to 5 or more story building owners. OSHA does not believe, however, that firms will choose to keep non-essential employees out of the buildings when a lower cost alternative is available.

In addition to the provision noted above, there are new provisions in the revised standard that are different from the existing standard but for which there are no additional compliance costs. The standard requires that the registered professional engineer consider lateral stability and incorporate provisions in the lift-slab plans and specifications to

ensure lateral stability of the structure during construction. Design requirements for lateral stability are established by AISC and local building codes using safety factors that are universally accepted [12]. OSHA believes that "lateral stability" is already addressed in the plans and specifications developed for the lift-slab operations and, therefore, is a common industry practice and would not incur additional costs.

A second requirement in the revised rule addresses the loading of jacking equipment. It basically provides clarifications that the 2.5 safety factor applies to all jacking equipment, including columns, footings and shearheads in addition to the actual jacks, lifting angles, lifting nuts, etc. Apparently the existing requirement had not been interpreted by everyone to include columns, footings and shearheads. Both companies currently doing lifting have indicated that their components now meet the 2.5 safety factor for all listed items [8,9]. This provision therefore has been determined to be current industry practice and no costs of compliance are anticipated.

The requirements for welding include provisions that wedges be secured at each column location by tack welding or an equivalent method of securing the wedges when making temporary connection to support slabs, and that all welding connections be performed by certified welders. Both Texstar and Liftplate International testified that the welds are so critical to the overall integrity of the structure that well qualified welders are essential. They indicated that they use tack welding to secure the wedges and that they use only welders with papers which means that they use only certified welders [3,11].

Another addition to the standard is the requirement for securing jacks to building columns to prevent them from being dislodged or dislocated. Several commenters in the public hearings noted that measures are being taken to prevent jacks from falling off the columns. In particular, Texstar indicated that current industry practice provides certain safeguards to prevent jacks from being dislodged [6]. OSHA is also aware that at least one manufacturer offers a collar that is now in use for one type of jack [11].

The requirement that load transfer from lifting units to building columns not be executed until the welds on the column shear plates are cooled to air temperature has been recognized by the two lifting companies as a requirement for an outdated practice, not often used today, and one which would have no bearing on their current operations [1,3]. The provision that lifting rods not slip out of position so that a positive connection is provided between the lifting rods and attachments is a new requirement to prevent components from disengaging during lifting operations. Texstar indicated that since the L'Ambiance incident, they have redesigned the lifting angle to lock the rods and therefore they are in compliance with this requirement [6].

Another change in the standard is the requirement limiting the number of jacks manually controlled by one operator to a number which will permit the operator to maintain the slab level within the ½ inch tolerance. The existing provision limited the number of jacks operated by one person to 14. Texstar indicated that exceeding the maximum of 14 jacks would diminish the ability of the operator to visually and physically control the lifting process [11]. Therefore, OSHA believes that this modification would not affect the lift-slab companies in any way nor is it substantially different from the existing requirement.

All of the remaining provisions in the standard are existing requirements in the current ANSI A10.9 standard and there has been no indication from industry that these requirements are other than current industry practice. Therefore, the total annual cost of coming into compliance with the revised standard would be $19,000.

D. Benefits

The uncertainty surrounding the risks associated with the lift-slab construction technique makes it difficult to estimate the benefits that would be attributable to the changes in the standard. The only fatal lift-slab related accident known to occur over the 39 years (as of 1989) the method has been in use is the 1987 L'Ambiance Plaza collapse which resulted in the death of 28 workers. OSHA believes that the deaths associated with this accident could have been prevented if the changes in the final standard had been in effect at the time of the accident and, of course, that compliance with the standard had taken place.

Some of the hazards that workers are exposed to while performing lift-slab operations are the same as those found in conventional cast-in-place techniques. Texstar has indicated that lift-slab is a safe method as reflected by their worker's compensation experience modifier of 0.81 over the thirteen-year period from 1976 to 1987 [4]. For the same period, a total of 114 occupational injuries were recorded of which only 21 (18 percent of total "lift-slab" occupational injuries) were serious enough for the injured worker to lose worktime or to have experienced restricted work activity, or both. These cases resulted in a total injury incidence rate of 25.8 per 100 full-time workers. Of this, there was an incidence rate of 10.6 lost workdays per 100 full-time workers as compared with a rate of 142.2 lost workdays per 100 full-time workers for all of the construction industry during 1988 [4,7]. Moreover, Liftplate International has indicated that in their thirteen years of operation they have had no recordable injuries or fatalities related to lift-slab activities.

These company records do not represent the total risk picture for lift-slab operations because they do not account for fatalities and injuries to employees of other firms working on the same construction site. Of the 28 workers killed in the L'Ambiance Plaza accident, there were 7 carpenters, 7 ironworkers, 7 laborers, 3 plumbers, 1 electrician, 1 operating engineer, 1 bricklayer and 1 supervisor [8]. Texstar had only 17 employees on site and of these, 8 were killed and 2 injured. The lift-slab disaster is one of the five worst concrete building collapses over the past 15 years which involved considerable loss of life. This ranking is grossly disproportionate to the market share for this type of construction activity.

Nevertheless, industry commenters vigorously contend that restricting the availability of lift-slab methods would serve to increase the level of work-related risk by forcing workers who work on lift-slab jobs at ground level to be exposed to the more severe hazards associated with erecting formwork systems at heights. For example, in January 1988, two workers were killed and two were seriously injured when the topping lift pulled free of the boom on a mobile crane carrying formwork lumber to the second level of a building under construction. According to newspaper accounts, the lift-slab method had reportedly been considered for this project but was rejected due to safety concerns following the L'Ambiance failure.

In an ongoing analysis of structural failures, John Loss at the University of Maryland's Architectural and Engineering Performance Information Center has looked at many structural failures covering the period 1965 to present and has found none that involve the lift-slab method of construction. He states that "all construction is unsafe" and that "during construction the buildings are in their most critically unstable mode".

OSHA analyzed all the data in the record and found that all fatalities and injuries resulting from the L'Ambiance collapse are related to work practices which can be reduced by compliance with the standard while remaining cost effective. OSHA expects that the standard will enhance work safety by significantly reducing worker exposure to potentially catastrophic incidents. An annual estimate of fatalities avoided is not possible however since the L'Ambiance collapse provides the only data point. It can be stated that similar accidents with their associated fatalities will not occur in the future if firms comply with the revised standard.

Other Economic Effects

Environmental Impacts

The rule has been reviewed in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4231 *et. seq.*), the Regulations of the Council on Environmental Quality (CEQ) (40 CFR Part 1500), and OSHA's DOLNEPA Procedures (29 CFR Part 11).

The OSHA standard contains provisions for work practices and procedures to enhance safety in the workplace. The provisions of the standard focus on eliminating the possibility of accidents or injuries by means of work practices and procedures and proper use and handling of equipment. Consequently, no impact is foreseen on air, water, or soil quality, plant or animal life, the use of land or aspects of the environment. Therefore, the Assistant Secretary of OSHA has determined that the provisions of this standard will have no significant environmental effects.

Regulatory Flexibility Certification

Although the establishments that will be most affected by this revised regulation are best described as small businesses, only two firms will be significantly impacted. Therefore, OSHA has determined that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities.

References

1. Russillo, Michael. Testimony During Informal Public Hearing on Proposed Safety Standard on Concrete and Masonry Construction: Lift-Slab Construction. p. 2–170, 2–184, 2–209, 2–217, 2–254, 2–269.
2. US Department of Commerce, National Bureau of Standards, Investigation of L'Ambiance Plaza Building Collapse in Bridgeport, Connecticut, NBSIR 87–3640, Gaithersburg, MD September 1987.
3. Vanderklaauw, Peter. Testimony During Informal Public Hearing on Proposed Safety Standard on Concrete and Masonry Construction: Lift-slab Construction. p.2–56, 2–65, 2–66, 2–75, 2–269.
4. Benz, George, Texstar's Economic Evaluation of OSHA's Proposed Rulemaking. OSHA Docket No. S–301D, Exhibit 20.
5. Freyermuth, Clifford. Testimony During Informal Public Hearing on Proposed Safety Standard on Concrete and Masonry Construction: Lift-slab Construction. p. 1–140.
6. Texstar Construction Corporation submission to OSHA Docket No. S–301D, Exhibit 38–17.
7. Bureau of Labor Statistics, BLS reports on Survey of Occupational Injuries and Illnesses in 1988. November 1989.
8. PRIA for Lift-Slab, 1988.
9. Personal communication, Chris Geckler, Vice President, Texstar Construction Corp. with Saneya El-Mekawi, OSHA, Washington, D.C., March 11, 1990.
10. Personal communication, Marshall Long, President, International Lift Slab Corp. with Saneya El-Mekawi, OSHA, Washington, D.C., March 6, 1990.
11. Geckler, Chris. Testimony During Informal Public Hearing on Proposed Safety Standard on Concrete and Masonry Construction: Lift-Slab Construction. p. 2–177, 2–251.
12. Diversified Design and Construction submission to OSHA Docket No. S–301D, Exhibit 38–25.

V. OMB Approval under the Paperwork Reduction Act.

There are no collections of information in this section. Therefore, approval by OMB under the Paperwork Reduction Act is not necessary.

VI. State Plan Requirements

The 25 states with their own OSHA-approved occupational safety and health plans must adopt a comparable standard within 6 months of the publication date of the final rule or show OSHA why there is no need for action, e.g. because an existing standard covering this area is already "at least as effective" as the revised Federal standard. These states are: Alaska, Arizona, California, Connecticut (for state and local government employees only), Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, New York (for state and local government employees only), North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington and Wyoming.

VII. Federalism

The Final Rule has been reviewed in accordance with Executive Order 12612 (52 FR 41685; October 30, 1987) regarding Federalism. The Order requires that agencies, to the extent possible, refrain from limiting state policy options, consult with states prior to taking any actions that would restrict state policy options, and take such actions only when there is clear constitutional authority and the presence of a problem of national scope. The Order provides for preemption of state law only if there is a clear Congressional intent for the agency to do so. Any such preemption is to be limited to the extent possible.

Section 18 of the Occupational Safety and Health Act (OSH Act), expresses Congress' clear intent to preempt state laws relating to issues with respect to which Federal OSHA has promulgated occupational safety and health standards. Under the OSH Act, a state can avoid preemption only if it submits, and obtains Federal approval of a plan for the development of such standards and their enforcement. Occupational safety and health standards developed by such Plan States must, among other things, be at least as effective in providing safe and healthful employment and places of employment as the Federal standards. Where such standards are applicable to products distributed or used in interstate commerce, they may not unduly burden commerce and must be justified by compelling local conditions, *see* section 18(c)(2).

The Federal standard on lift-slab construction operations addresses hazards which are not unique to any one state or region of the country. Nonetheless, states with occupational safety and health plans approved under Section 18 of the OSH Act will be able to develop their own state standards to deal with any special problems which might be encountered in a particular state. Moreover, because this standard is written in general, performance-oriented terms, there is considerable flexibility for state plans to require, and for affected employers to use, methods of compliance which are appropriate to the working conditions covered by the standard.

In brief, this Final Rule addresses a clear national problem related to occupational safety and health in the construction industry. Those states which have elected to participate under Section 18 of the OSH Act are not preempted by this standard, and will be able to address any special conditions within the framework of the Federal Act while ensuring that the state standards are at least as effective as that standard.

List of Subjects in 29 CFR Part 1926

Construction safety, Concrete construction, Lift-slab construction, Occupational safety and health, Precast concrete.

Authority

This document was prepared under the direction of Gerard F. Scannell, Assistant Secretary of Labor for

Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Accordingly, pursuant to sections 4, 6(b) and 8(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333), Secretary of Labor's Order No. 1–90 (55 FR 9033) and 29 CFR part 1911, 29 CFR part 1926 is amended as set forth below.

Signed at Washington, DC, this 12th day of October, 1990.

Gerard F. Scannell,

Assistant Secretary of Labor.

Part 1926 of title 29 of the Code of Federal Regulations is amended as follows:

PART 1926—[AMENDED]

Subpart I—Tools—Hand and Power

1. The authority citation for subpart I of part 1926 is revised to read as follows:

Authority: Sec. 107, Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333); Secs. 4, 6 and 8 Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, and 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable; and 29 CFR part 1911.

§ 1926.305 [Amended]

2. By amending § 1926.305 to remove and reserve paragraph (b).

Subpart Q—Concrete and Masonry Construction

3. The authority citation for subpart Q of part 1926 is revised to read as follows:

Authority: Sec. 107, Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333); Secs. 4, 6 and 8 Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, and 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable; and 29 CFR part 1911.

4. By amending § 1926.700 to add a new paragraph (b)(9) to read as follows.

§ 1926.700 Scope, application and definitions applicable to this subpart.

* * * * * *

(b) * * *

(9) *Jacking operation* means the task of lifting a slab (or group of slabs) vertically from one location to another (e.g., from the casting location to a temporary (parked) location, or from a temporary location to another temporary location, or to its final location in the structure), during the construction of a building/structure where the lift-slab process is being used.

5. By revising § 1926.705 to read as follows:

§ 1926.705 Requirements for lift-slab construction operations.

(a) Lift-slab operations shall be designed and planned by a registered professional engineer who has experience in lift-slab construction. Such plans and designs shall be implemented by the employer and shall include detailed instructions and sketches indicating the prescribed method of erection. These plans and designs shall also include provisions for ensuring lateral stability of the building/structure during construction.

(b) Jacks/lifting units shall be marked to indicate their rated capacity as established by the manufacturer.

(c) Jacks/lifting units shall not be loaded beyond their rated capacity as established by the manufacturer.

(d) Jacking equipment shall be capable of supporting at least two and one-half times the load being lifted during jacking operations and the equipment shall not be overloaded. For the purpose of this provision, jacking equipment includes any load bearing component which is used to carry out the lifting operation(s). Such equipment includes, but is not limited, to the following: threaded rods, lifting attachments, lifting nuts, hook-up collars, T-caps, shearheads, columns, and footings.

(e) Jacks/lifting units shall be designed and installed so that they will neither lift nor continue to lift when they are loaded in excess of their rated capacity.

(f) Jacks/lifting units shall have a safety device installed which will cause the jacks/lifting units to support the load in any position in the event any jack/lifting unit malfunctions or loses its lifting ability.

(g) Jacking operations shall be synchronized in such a manner to ensure even and uniform lifting of the slab. During lifting, all points at which the slab is supported shall be kept within 1/2 inch of that needed to maintain the slab in a level position.

(h) If leveling is automatically controlled, a device shall be installed that will stop the operation when the ½inch tolerance set forth in paragraph (g) of this section is exceeded or where there is a malfunction in the jacking (lifting) system.

(i) If leveling is maintained by manual controls, such controls shall be located in a central location and attended by a competent person while lifting is in progress. In addition to meeting the definition in § 1926.32(f), the competent person must be experienced in the lifting operation and with the lifting equipment being used.

(j) The maximum number of manually controlled jacks/lifting units on one slab shall be limited to a number that will permit the operator to maintain the slab level within specified tolerances of paragraph (g) of this section, but in no case shall that number exceed 14.

(k)(1) No employee, except those essential to the jacking operation, shall be permitted in the building/structure while any jacking operation is taking place unless the building/structure has been reinforced sufficiently to ensure its integrity during erection. The phrase "reinforced sufficiently to ensure its integrity" used in this paragraph means that a registered professional engineer, independent of the engineer who designed and planned the lifting operation, has determined from the plans that if there is a loss of support at any jack location, that loss will be confined to that location and the structure as a whole will remain stable.

(2) Under no circumstances, shall any employee who is not essential to the jacking operation be permitted immediately beneath a slab while it is being lifted.

(3) For the purpose of paragraph (k) of this section, a jacking operation begins when a slab or group of slabs is lifted and ends when such slabs are secured (with either temporary connections or permanent connections).

(4) Employers who comply with appendix A to § 1926.705 shall be considered to be in compliance with the provisions of paragraphs (k)(1) through (k)(3) of this section.

(l) When making temporary connections to support slabs, wedges shall be secured by tack welding, or an equivalent method of securing the wedges to prevent them from falling out of position. Lifting rods may not be released until the wedges at that column have been secured.

(m) All welding on temporary and permanent connections shall be performed by a certified welder, familiar with the welding requirements specified in the plans and specifications for the lift-slab operation.

(n) Load transfer from jacks/lifting units to building columns shall not be executed until the welds on the column shear plates (weld blocks) are cooled to air temperature.

(o) Jacks/lifting units shall be positively secured to building columns so that they do not become dislodged or dislocated.

(p) Equipment shall be designed and installed so that the lifting rods cannot slip out of position or the employer shall institute other measures, such as the use of locking or blocking devices, which will provide positive connection between the lifting rods and attachments and will prevent components from disengaging during lifting operations.

Appendix to §1926.705—Lift-Slab Operations

(This Appendix is non-mandatory.)

In paragraph 1926.705(k), OSHA requires employees to be removed from the building/structure during jacking operations unless an independent registered professional engineer, other than the engineer who designed and planned the lifting operation, has determined that the building/structure has been sufficiently reinforced to insure the integrity of the building/structure. One method to comply with this provision is for the employer to ensure that continuous bottom steel is provided in every slab and in both directions through every wall or column head area. (Column head area means the distance between lines that are one and one half times the thickness of the slab or drop panel. These lines are located outside opposite faces of the outer edges of the shearhead sections—See Figure 1). The amount of bottom steel shall be established by assuming loss of support at a given lifting jack and then determining the steel necessary to carry, by catenary action over the span between surrounding supports, the slab service dead load *plus* any service dead and live loads likely to be acting on the slab during jacking. In addition, the surrounding supports must be capable of resisting any additional load transferred to them as a result of the loss of support at the lifting jack considered.

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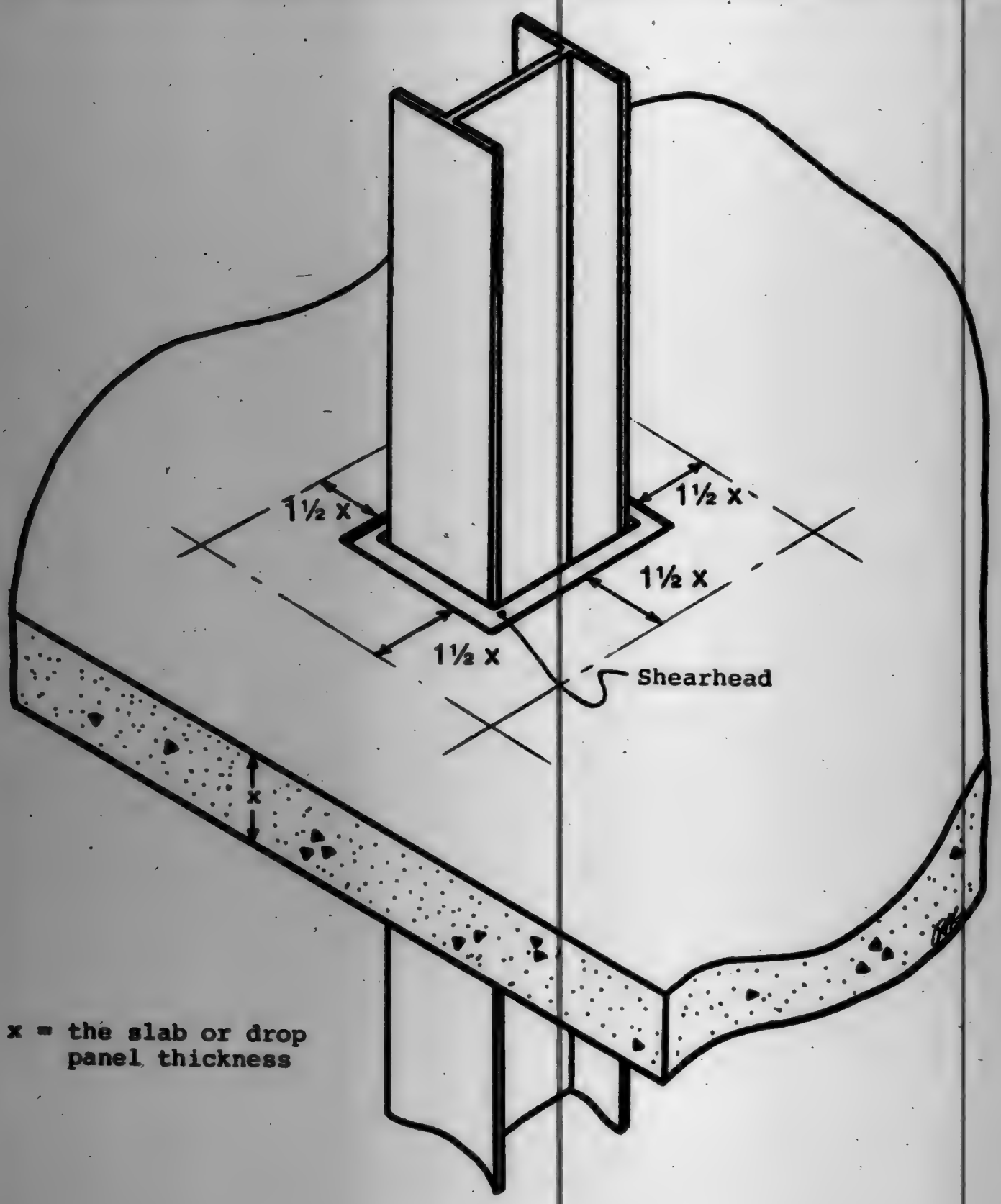

Figure 1--Column Head Area

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federal register

Thursday
October 18, 1990

Part III

Environmental Protection Agency

40 CFR Part 414

Organic Chemicals, Plastics and Synthetic Fibers Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards; Proposed Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 414

[FRL-3808-4]

Organic Chemicals, Plastics and Synthetic Fibers Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes several amendments to 40 CFR part 414, which limits effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works by existing and new sources in the organic chemicals, plastics, and synthetic fibers (OCPSF) point source category. EPA agreed to propose one of the amendments in a settlement agreement with W.R. Grace & Company (Grace), Koppers Company, Inc. (Koppers), E.I. DuPont de Nemours & Company (DuPont), and the Chemical Manufacturers Association (CMA). The agreement partially settled a dispute between those petitioners and EPA that was the subject of a petition for judicial review of the final OCPSF regulation promulgated by EPA on November 5, 1987 (52 FR 42522). The proposed amendment allows regulatory authorities to establish alternative cyanide limitations and standards based on best professional judgment for elevated levels of non-amenable cyanide that result from the unavoidable complexing of cyanide at the process source of cyanide-bearing waste streams.

As a result of separate negotiations with CMA and DuPont during the OCPSF litigation, EPA agreed to propose amendments to: (1) Allow regulatory authorities to establish alternative metals limitations and standards to accommodate low background levels of metals in non-"metal-bearing waste streams" that result from corrosion of construction materials or from contamination of raw materials, (2) specify in 40 CFR part 414 the method for determining five-day biochemical oxygen demand (BOD_5) and total suspended solids (TSS) effluent limitations for direct discharge plants that manufacture products in more than one subcategory, and (3) correct listing errors in appendices A and B of part 414.

Finally, as a result of additional EPA reviews of part 414 including those associated with evaluating various Category Determination Requests related to the applicability of the OCPSF regulations submitted pursuant to 40 CFR 403.6(a), EPA is proposing amendments to: (1) Revise the applicability sections of the Other Fibers, Thermoplastic Resins, and Thermosetting Resins Subcategories to correspond to the rulemaking record technical data and analyses, (2) delete one product and two product groups from coverage by this regulation, and (3) move the coverage of two products and one product group from the Bulk Organic Chemicals Subcategory (§ 414.70) to the Specialty Organic Chemicals Subcategory (§ 414.80).

After addressing comments received in response to this proposal, EPA intends to promulgate a final rule.

DATE: Comments on this proposal must be received by November 19, 1990.

ADDRESSES: Send comments to or obtain technical information from George M. Jett, Project Officer, Chemicals Branch, Industrial Technology Division (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, Attention ITD Docket Clerk, Organic Chemicals, Plastics, and Synthetic Fibers Industry (WH-552). The supporting information and all comments on this proposal will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (EPA Library Rear) PM-213.

FOR FURTHER INFORMATION CONTACT: George M. Jett at (202) 382-7151.

SUPPLEMENTARY INFORMATION:

Organization of This Notice

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II. Background
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B. Partial Settlement Agreement
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III. Proposed Amendments to the OCPSF Point Source Category Regulations
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B. Incidental Sources of Metals
C. Revisions to Appendices A and B of 40 CFR 414
1. Cyanide-Bearing Waste Streams
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1. Correction of Subparts C, D, and E Applicability Sections
2. Deletion of Specific Products
i. Cellulose Sponge
ii. Dithiophosphate Sodium Salts
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V. Executive Order 12291
VI. Regulatory Flexibility Analysis
VII. Paperwork Reduction Act
VIII. List of Subjects

I. Legal Authority

The amendments to 40 CFR part 414 described in this notice are proposed under authority of sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended (33 U.S.C. 1251 et seq.)), also referred to as "the Act."

II. Background

A. Prior Regulation and Litigation

EPA promulgated a regulation on November 5, 1987, establishing effluent limitations guidelines and standards for the OCPSF point source category based on the best practicable control technology currently available ("BPT"), the best available technology economically achievable ("BAT"), new source performance standards ("NSPS") for direct dischargers, and pretreatment standards for existing and new source indirect dischargers ("PSES" and "PSNS," respectively) (52 FR 42522; 40 CFR part 414, subparts A through J). The regulation initially controlled the discharge of 63 toxic and 3 conventional pollutants. The technology bases for these limitations and standards include steam stripping, chemical precipitation, chemical oxidation, activated carbon, biological treatment, and chemically assisted clarification.

Twenty-eight industry petitioners, comprised of trade associations and individual companies, and the Natural Resources Defense Council (NRDC) challenged this regulation in several circuits of the U.S. Court of Appeals. The consolidated cases were assigned to the Fifth Circuit Court of Appeals. The petitioners raised approximately 63 separate issues.

On March 30, 1989, the Fifth Circuit issued a decision that upheld the regulations against all industry challenges and all but two challenges brought by NRDC. With respect to two challenges brought by NRDC, the Court remanded the regulation to EPA for further rulemaking to determine whether the rule should be made more stringent in certain respects, but left the rule in effect pending further rulemaking. *Chemical Manufacturers Association* v. *Environmental Protection Agency*, 870 F.2d 177 (5th Cir. 1989).

Six petitioners or groups of petitioners filed petitions for rehearing on about 16

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issues. On October 10, 1989, the Court granted rehearing in part and remanded two parts of the regulations to EPA for further rulemaking proceedings (885 F.2d 253 (5th Cir. 1989)). The first and more significant part consists of the effluent limitations for 19 of the 20 pollutants in BAT Subcategory 2 (40 CFR 414.101) that were based upon in-plant biological treatment technology. (The court left in effect the limitation for acrylonitrile that was based upon this technology.) This aspect of the remand in effect also remands the new source performance standards for these 19 pollutants for discharges that are subject to 40 CFR 414.101 limitations. In addition, it remands the PSES and PSNS standards for 13 pollutants that were based upon the remanded BAT Subcategory 2 limitations. The second remanded part of the regulation consists of limitations and standards for pollutants discharged from three metal-bearing waste streams that EPA had erroneously listed in part 414, appendix A.

In response to the Court's decision, EPA revoked on June 29, 1990 (55 FR 26691) the remanded limitations and standards and deleted two of the three metal-bearing waste streams remanded by the Court. The third metal-bearing waste stream had previously been deleted on June 29, 1989 (54 FR 27351). The Agency has initiated technical studies as a basis for future re-proposal of these deleted limitations and standards.

B. Partial Settlement Agreement

On March 29, 1989, petitioners Grace, Koppers, DuPont, and CMA and respondent EPA entered into a Partial Settlement Agreement which resolved all issues raised by these petitioners with respect to EPA's decision not to list any complexed-cyanide wastestreams in 40 CFR 414 appendix B. EPA agreed to propose specific preamble language and specific amendments to the OCPSF regulation and solicit comments regarding these proposed amendments.

C. Other Negotiations and Review of the OCPSF Regulation

During litigation of the OCPSF regulation, petitioners CMA and DuPont and respondent EPA achieved an understanding with respect to several issues. On June 22, 1988, EPA agreed to propose several regulatory changes which would: (1) Allow regulatory authorities to establish limitations and standards for incidental sources of metals in non-"metal-bearing wastestreams;" (2) modify appendix A to delete the listing of five wastestreams that were incorrectly listed as cyanide-bearing wastestreams and delete three lead-bearing wastestreams that contain complexed-lead; and (3) publish one technical amendment to the regulation to include the BPT production-proportioning formula that was set forth in the October 1987 OCPSF Development Document (page IX–10).

In addition, as the result of many questions by permit writers, control authorities, and individual companies related to the applicability of the OCPSF regulation, including Category Determination Requests submitted under the provisions of 40 CFR 403.6(a), EPA has carefully reviewed the general applicability of each subcategory as well as the corresponding product and product group listings for each subcategory. Based on these reviews, EPA is proposing corrections to the general applicability of three subcategories to reflect the rulemaking record and analyses, to delete one product and two product groups from coverage by this regulation, and to move the coverage of two products and one product group from the Bulk Organic Chemicals Subcategory (§ 414.70) to the Specialty Organic Chemicals Subcategory (§ 414.80).

III. Proposed Amendments to the OCPSF Point Source Category Regulations

A. Total Cyanide Limitations

The limitations for total cyanide contained in the OCPSF final rule (40 CFR part 414) are based on alkaline chlorination data from the metal finishing industry (see the discussion in 52 FR 42541, November 5, 1987). As recognized in the Development Document underlying the metal finishing limitations, alkaline chlorination "focuses upon oxidizing the cyanide which is amenable to chlorination" (see page VII–128 of the June 1983 "Development Document for Effluent Limitations Guidelines and Standards for the Metal Finishing Point Source Category," EPA 440/1–83/091). Cyanide not amenable to chlorination due to complexing with other compounds may not be treatable by alkaline chlorination. For this reason, the metal finishing regulations contain "amenable cyanide" limitations that may be used as an alternative to total cyanide limitations (see e.g., 40 CFR 433.13(b)).

During the OCPSF rulemaking, several commenters argued that the proposed cyanide limitations should be applied to amenable cyanide (i.e., non-complexed cyanide) only. However, EPA was not aware of specific data demonstrating that the actual levels of complexing, at the product/process sources of cyanide where treatment technology could be installed, would interfere with the ability of plants within the OCPSF industry to meet the total cyanide limitations. On the other hand, end-of-pipe data from some industry plants do show evidence of cyanide complexing.

One of the issues raised by several petitioners in the OCPSF litigation was the unachievability of the total cyanide limitations for certain OCPSF cyanide-bearing waste streams due to complexing with other compounds. EPA has reviewed this issue carefully and agrees with petitioners that cyanide complexing could interfere with the ability of several OCPSF plants to comply with the total cyanide limitations for certain waste streams. However, the type, degree and relative importance of cyanide complexing may vary among different product/processes. Therefore, plants with significant levels of complexed cyanide will differ in their ability to achieve the total cyanide limitations, and those plants which cannot achieve such limitations for particular waste streams may need to use different types of technologies and may be able to achieve different limitations. Thus the proposed rule would allow the permit writer (for direct dischargers) or control authority (for indirect dischargers) to establish alternate total or amenable cyanide limits for waste streams that cannot, due to complexing at the end-of-the-process source (i.e., prior to commingling with other waste streams or corroded piping downstream from the process), achieve the total cyanide limits set forth in the OCPSF rule. For purposes of this definition, "end-of-the-process source" is the earliest point at which cyanide destruction can be economically and technologically achieved.

EPA considered addressing the issue of complexed cyanide-bearing waste streams by listing those product/process waste streams determined by EPA to contain significant levels of complexed cyanide, but EPA believes that leaving that determination to the permit writer or control authority can better take into account the differences among complexed-cyanide-bearing waste streams.

Available information indicates that cyanide complexing, although somewhat limited, does exist in the OCPSF industry. Moreover, minor amounts of complexing due to modest amounts of complexing agents may not preclude compliance with the promulgated total cyanide limitations. Therefore, the proposed amendment requires the permit writer or control authority to assess the relevant information concerning the degree of complexing

and the extent to which it impacts the ability to achieve the limitations and to set forth such findings in writing; for direct dischargers, the analysis will be contained in the permit fact sheet. This will assure that the specific cases where significant cyanide complexing precludes compliance with the limitations can be appropriately addressed by the permit writer or control authority, while the limitations will continue to apply in all other cases.

B. Incidental Sources of Metals

The final rule contains concentration-based effluent limitations and standards for chromium, copper, lead, nickel and zinc. The limitations are applied only to the flows discharged from "metal-bearing process wastewater," defined in the regulation to consist of discharges from the product/processes listed in Appendix A to Part 414 (Non-Complexed Metal-Bearing Waste Streams and Cyanide-Bearing Waste Streams) plus any additional process wastewater streams identified by the permitting or control authority on a case-by-case basis as "metal-bearing" based upon a determination—(1) That such streams contain significant amounts of the pollutants identified above and that (2) the combination of such streams, prior to treatment, with the appendix A waste streams will result in substantial reduction of these pollutants (see e.g., §§ 414.75 and 414.91). As noted in § 414.11(f), discharges of chromium, copper, lead, nickel, and zinc in "complexed metal-bearing waste streams," listed in appendix B to part 414, are not subject to the requirements of part 414. The permitting or control authority will establish appropriate metals limitations and standards on a case-by-case basis for the discharges listed in appendix B [52 FR 42543].

The regulations proposed in March 1983 (48 FR 11828) and the July 1985 notice of availability of new information and request for comments (50 FR 29068), which both set forth end-of-pipe concentration limitations for nine metals, were severely criticized by industry commenters. They argued that most priority pollutant metals are not present in significant quantities in OCPSF wastewater. They also argued that to the extent that EPA found metals in OCPSF wastewater, these pollutants resulted not from OCPSF processes but rather from non-process wastewater or due to their presence in intake waters. The Agency agreed with their conclusions that the OCPSF rule should regulate only those metals present in OCPSF process wastewater as a result of the process use of the metals, applying the limits to that wastewater only (see 52 FR 42542–43).

Therefore, the final regulation established concentration-based limitations for five metals that apply only to the process wastewater discharges listed in Appendix A or otherwise identified as "metal-bearing." The permit writer or control authority shall establish metal mass limitations or standards for each individual plant by summing the flows of "metal-bearing wastewater" and multiplying it by the concentration limitation for each of the five metals (see e.g., §§ 414.25(b) and 414.26(b)) . Compliance can be monitored in-plant or, after accounting for dilution by non-"metal-bearing" process wastewater and nonprocess wastewater, at the outfall (52 FR 42542–43).

However, the final regulation provides no authority for the permit writer or control authority to establish allowances for unavoidable low background levels of metals in non-"metal-bearing process waste streams" which may be present due to corrosion of construction materials or from contamination of raw materials.

Successful operation of chemical manufacturing facilities and proper maintenance of equipment depend on the appropriate selection of construction materials to resist corrosion. However, in some chemical processing environments, the effects of corrosion cannot be prevented. They can only be minimized through the proper selection of corrosion-resistant materials of construction.

Many corrosion-resistant materials commonly used to fabricate chemical processing plants contain chromium, copper, lead, nickel, and zinc. For example, many steel alloys containing various amounts of nickel, copper, and chromium are used to construct strong, heat-resistant pipes and vessels. Copper and its alloys—brasses (copper-zinc), bronzes (copper-tin), and cupronickels—are commonly used in chemical manufacturing where heat and electrical conductivity are important factors. Cupronickels are often used to construct heat-exchanger tubing. Vessels constructed of steel with a bonded lining of lead are sometimes specified for high temperature, fluctuating temperature, or vacuum operating conditions. Also, some chemical process equipment contains steel pipes and valves with internal lead cladding or copper heating coils with external lead cladding. The wear and tear of some chemical manufacturing processes, induced by concurrent mechanical and chemical or electrochemical action, may result in low concentrations of these metals in product/process wastewater which may in some instances be at measurable levels.

Furthermore, other non-process sources such as raw material contamination may also unavoidably result in low concentrations of these metals in process wastewater which may in some instances be at measurable levels. Commercial or industrial grades of chemical feedstocks and solvents commonly contain 0.5 percent (5,000 mg/l) or more of impurities. These impurities, which may include metals, are often unavoidable due to the operating characteristics of commercial chemical manufacturing plants. (see pages V–49 to V–89 of the October 1987, "Development Document for Effluent Limitations Guidelines and Standards for the Organic Chemicals, Plastics and Synthetic Fibers Point Source Category," EPA 440/1–87/009)

The proposed amendment described below does not apply to intake water contamination which is already accommodated in 40 CFR 122.45(g) for the direct dischargers and 40 CFR 403.15 for the indirect dischargers.

EPA proposes to amend the OCPSF rule to allow permit writers and control authorities in appropriate circumstances to provide allowances for metals that are incidentally contributed by non-process related sources such as corrosion and contamination of raw materials. The proposal restricts such allowances to situations where actual sampling data demonstrates the presence of metals resulting from such incidental sources, rather than allowing reliance on mere assertions or "estimates" that such metals are being discharged as the result of such sources. This assures that increased metals discharge allowances will not be authorized without an adequate basis. Moreover, any case-by-case metals allowances would be based on the permit writer's or control authority's best professional judgment (BPJ). In no event would the permit authorize exceedance of the concentrations demonstrated to be in the wastestream, and the limitations also could not exceed the regulatory limits established in the regulation for metal-bearing wastestreams. (For zinc, the regulatory limits which may not be exceeded are those appearing in the tables in §§ 414.25, 414.35, 414.91, and 414.101, not the higher alternative limits for rayon fiber manufacture by the viscose process and acrylic fiber manufacture by the zinc chloride/solvent process set forth in footnote 2 to each of these tables.)

The proposed amendment also requires the permit writer or control authority to assess the relevant information concerning the plant operating conditions that generate the background levels of metals and the basis for the BPJ limits and to set forth such findings in writing. For direct dischargers, the analysis will be contained in the permit fact sheet; control authorities will make a comparable record of their determinations for indirect dischargers. This will ensure that specific sources of metals, such as poor plant maintenance (e.g., leaking heat exchangers) and inappropriate materials of construction (e.g., use of mild steel in corrosive chemical environments where stainless steel or plastic materials of construction may be more suitable), are not a basis for metals allowances.

The Agency is also considering issuing guidance or promulgating standards that accommodate background levels of metals, if present at measurable levels, in non-"metal-bearing waste streams." The guidance or standards would be based on the assessment, outlined below, of OCPSF field sampling metals data gathered during the Agency's verification and 12-plant sampling efforts.

Chromium, copper, lead, nickel, and zinc data are available from 41 facilities in the OCPSF data base. Background levels of metals at these facilities have been determined after deletion of data from plants with process sources of metals such as catalysts or raw materials or from plants with non-process sources of metals such as zinc or chromium from algaecides or scale inhibitors. Other editing rules include deletion of a plant data set for a metal if all reported values are below the analytical minimum level ("not detected") or if fewer than three values are above the analytical minimum level. If a plant was sampled more than once, then the most recent data set is used in the analysis. Based on these editing criteria, the long-term average background levels listed below reflect the median of plant averages:

Pollutant	Concentration (ppb)
Chromium	132
Copper	23
Lead	114
Nickel	258
Zinc	57

The Agency requests daily data and supporting information regarding background levels of chromium, copper, lead, nickel, and zinc in OCPSF process wastewater that do not include contributions from "metal-bearing" process and non-process waste streams and contaminated intake water. The supporting documentation should contain such items as the analytical methods including the quality assurance/quality control documentation and analytical method minimum detection levels; identification of the sampling point on a block diagram; listings of all sources of wastewater at the sampling point including each OCPSF product/process; and a complete explanation of the source(s) of each metal including raw material assay sheets.

C. Revisions to Appendices A and B of 40 CFR 414

1. Cyanide-Bearing Waste Streams

One petitioner commented that five isocyanate processes associated with the manufacture of hexamethylene diisocyanate, methylene diphenylisocyanate, tolylene diisocyanate, polyurethane resins, and polyurethane fibers (Spandex) were incorrectly listed among the 42 cyanide-bearing wastestreams listed in appendix A to part 414. The petitioner stated that the five isocyanate processes were not known to use cyanide and isocyanates cannot produce cyanide, except through combustion.

These five wastestreams were originally listed as cyanide-bearing wastestreams based on information provided in responses to the 1983 OCPSF Section 308 Questionnaire—at least one manufacturer of these product/processes affiliated cyanide with the process. However, based on a reassessment of the process chemistry, the Agency agrees that cyanide is not associated with these product/processes and proposes to delete these five wastestreams from the appendix A list of cyanide-bearing wastestreams. The diisocyanate and polyurethane manufacturing processes are not primary sources of wastewater because water must be rigorously excluded from the chemical processes. To maintain water-free processing equipment, manufacturers would not use water washes for cleaning. However, these processes could be an indirect source of wastewater through, for example, the discharge from a caustic scrubber used to capture isocyanate-laden emissions from the polyurethane process. The isocyanates captured by the scrubber would react with the water to form carbon dioxide and amines, not cyanide.

2. Non-Complexed Metal-Bearing Waste Streams

As noted in item II.A above, several petitioners in the OCPSF litigation also noted that the listing of tetraethyl lead and tetramethyl lead waste streams as appendix A non-complexed metal-bearing waste streams contradicted other public record information which correctly characterizes tetraethyl and tetramethyl lead waste streams as containing complexed lead (see pages VII–21 to 22 of the October 1987 "Development Document for Effluent Limitations Guidelines and Standards for the Organic Chemicals, Plastics, and Synthetic Fibers Point Source Category," EPA 440/0–87/009). During the litigation, EPA reviewed this issue and agreed that these waste streams contain complexed lead and, therefore, should be moved from appendix A (Non-Complexed Metal-Bearing Waste Streams) to appendix B (Complexed Metal-Bearing Waste Streams). In response to the Fifth Circuit remand in *Chemical Manufacturers Association* v. *EPA*, 885 F.2d 253 (5th Cir. 1989), EPA deleted the tetraethyl lead and tetramethyl lead waste streams from appendix A (55 FR 26691, June 29, 1990). Today, EPA proposes to add these waste streams to the appendix B listing of Complexed Metal-Bearing Waste Streams.

D. BOD_5 and TSS Limitations

Since promulgation of the regulations, members of the public have expressed concern that the BPT and NSPS portions of the OCPSF regulation do not include provisions that describe how to apportion BOD_5 and TSS concentration limitations for different subcategories to a multi-subcategory plant. They were concerned that permit writers may fail to use a production-proportioning approach as directed by the preamble (52 FR 42533, column 3; November 5, 1987), and as set forth in formulas and a detailed example in Section IX (pages IX–9 to IX–12) of the October 1987 "Development Document for Effluent Limitations Guidelines and Standards for the Organic Chemicals, Plastics and Synthetic Fibers Point Source Category" (EPA 440/1–87/009). To avoid any potential confusion on the matter, EPA proposes to add a paragraph to the applicability section of the regulation (§ 414.11) that mandates use of the production-proportioning formula for derivation of limitations for facilities with production in two or more subcategories.

Pursuant to this formula, any existing or new source direct discharge point source subject to two or more of

subparts B through H must achieve BOD_5 and TSS discharges not exceeding the quantity (mass) determined by multiplying the total OCPSF process wastewater flow subject to subparts B through H times the OCPSF production-proportioned BOD_5 and TSS concentration limitations. The plant-specific production-proportioned concentration limitation is derived by summing the products of the OCPSF production-proportion for each subcategory and the applicable subcategorical limitation.

E. Revisions to the Applicability of 40 CFR Part 414

1. Correction of Subparts C, D and E Applicability Sections

The applicability sections of the Other Fibers, Thermoplastic Resins, and Thermosetting Resins Subcategories (subparts C, D and E, respectively) are defined in terms of four- and five-digit Standard Industrial Classification (SIC) codes. However, these sections, as presently promulgated, incorrectly restrict the applicability of the subcategory limitations and standards only to the wastewater discharges from the manufacture of the specific products and product groups listed in §§ 414.30, 414.40, and 414.50. For the reasons summarized below, the applicability sections for these three SIC-code-based subcategories should be based on SIC code definitions alone; the lists of products and product groups do not contain all of the products included in the subcategorization analysis, the cost of compliance engineering analysis, and the economic impact analysis and should serve only as illustrations of the principal products and product groups within the SIC codes covered by the subcategories.

The Agency's October 1983 Clean Water Act Section 308 Survey (OMB Control Number 2040-0043)—the primary source of production information in the OCPSF rulemaking record—generally collected production and related technical and economic information based on SIC codes with selected production and technical information based on individual products and product groups. In general, only those respondents that were primary manufacturers of OCPSF products (i.e., OCPSF products comprised one-half or more of the weight of the plant's total production) reported individual product and product group information, and only for those products that comprised more than one percent of total plant production (part II, question B01). Aggregated information for the remaining OCPSF products were grouped using five-digit SIC codes (part II, question B03). Respondents that were secondary manufacturers of OCPSF products (i.e., OCPSF products comprised less than one-half of the weight of the plant's total production) reported aggregated production information grouped by eight-digit Census product SIC codes (part I, question 9).

The subcategorization analyses established the applicability of each subcategory. The data collection activities and the subsequent subcategorization analyses were designed to include all products and product groups within the five SIC codes of the OCPSF industry—SIC 2821 (Plastic Materials, Synthetic Resins, and Nonvulcanizable Elastomers, further subdivided into SIC 28213 and SIC 28214 for the thermoplastic resins and thermosetting resins, respectively), SIC 2823 (Cellulosic Man-Made Fibers), SIC 2824 (Synthetic Organic Fibers, Except Cellulosic), SIC 2865 (Cyclic Crudes and Intermediates, Dyes, and Organic Pigments), and SIC 2869 (Industrial Organic Chemicals, Not Elsewhere Classified). The applicability sections of the Commodity, Bulk, and Specialty Organic Chemicals subcategories (subparts F, G, and H, respectively) which cover the organic chemicals segment of the industry (SIC codes 2865 and 2869) correctly reflect the subcategorization analysis. Subpart F and G cover specified SIC 2865 and 2869 chemicals, while subpart H operates as a "catch-all," regulating all other SIC 2865 and 2869 organic chemicals not specifically covered by subparts F and G. However, as stated above the applicability sections to subparts C, D, and E incorrectly limit coverage to the specifically listed products and product groups. To accurately reflect the subcategorization analysis, the applicability sections of the plastics and synthetic fibers subcategories should be amended to cover all of the products included within SIC codes 2821 (28213 and 28214), 2823, and 2824 (except for cases where the general applicability provisions of § 414.11 modify such coverage).

The proposed amendments to the Other Fibers, Thermoplastic Resins, and Thermosetting Resins subcategories correct the applicability sections to accurately reflect the supporting analyses in the rulemaking record.

2. Deletion of Specific Products

The Agency proposes to delete one erroneous thermoplastic resin product listing (cellulose sponge) under § 414.40 and two erroneous bulk organic chemical product listings (sodium salts of dithiophosphates, and wax emulsions and dispersions) under § 414.70. These amendments are the result of extensive Agency review of the applicability of the OCPSF regulation prompted by several OCPSF litigation issues and the evaluation of Category Determination Requests submitted by several Industrial Users and POTWs as provided by 40 CFR 403.6(a).

i. Cellulose sponge (and cellophane), classified under SIC 3079 as Miscellaneous Plastics Products, were initially considered OCPSF products because the cellulosic resin raw material for both products was produced by the viscose process—a situation analogous to rayon fiber manufacture by the viscose process (SIC 2823). However, during the course of assessing public comments and developing the final OCPSF rulemaking data base of 939 plants, the Agency deleted cellophane (52 FR 42524; November 5, 1987) and intended to delete cellulose sponge from coverage as OCPSF products. Even though cellulose sponge, cellophane, and rayon use regenerated cellulose as a raw material, each product uses a different combination of additional raw materials and unit processes to manufacture the final product for sale in different markets. The OCPSF technical, cost, and economic impact data gathering efforts did not focus on manufacturing activities under SIC 3079. As a result EPA lacks cost and economic information from plants that report cellulose sponge production under SIC 3079. Even though the applicability section of the OCPSF regulation, § 414.11, provides for coverage of products classified by SIC codes 2821, 2823, 2824, 2865, and 2869 only, the Agency erroneously left the cellulose sponge listing in subpart D. Cellulose sponge is not listed by any plant in the final OCPSF data base.

ii. Dithiophosphate sodium salts are industrial inorganic chemicals, listed under SIC 2819, that were incorrectly listed as subpart G bulk organic chemical products. Consequently EPA is deleting the dithiophosphate sodium salts product group from subpart G.

iii. Wax emulsions and dispersions, which are formulated products, were incorrectly listed as subpart G bulk organic chemical products. The final regulations apply to wastewater discharges from the manufacture of OCPSF product/processes (40 CFR 414.11(a)). OCPSF manufacture consists of chemical syntheses such as esterification and oxidation and chemical engineering processes such as distillation and extraction. In contrast,

the regulation does not apply to the formulation of chemical products, such as wax emulsions and dispersions, through blending and mixing operations (54 FR 27351).

3. Transfer of Specific Product Listings

The Agency proposes to transfer the citric acid, aspirin, and fatty acid listings from the Bulk Organic Chemicals Subcategory (§ 414.70) to the Specialty Organic Chemicals Subcategory (§ 414.80). Like the proposed deletions in section III.E.2, above, these amendments are the result of extensive Agency review of the applicability of the OCPSF regulation prompted by several OCPSF litigation issues and the evaluation of Category Determination Requests submitted by several Industrial Users and POTWs as provided by 40 CFR 403.6(a).

Individual SIC 2865 and 2869 organic chemical products and product groups were assigned to the commodity, bulk, and specialty organic chemical subcategories based on total United States production volume of each product or group. The Commodity Organic Chemicals Subcategory includes products produced nationally in amounts greater than or equal to one billion pounds per year. The Bulk Organic Chemicals Subcategory includes products produced nationally in amounts less than one billion but more than 40 million pounds per year. The Specialty Organic Chemicals Subcategory includes products produced nationally in amounts less than or equal to 40 million pounds per year. (52 FR 42531–32; November 5, 1987) For the reasons described below, the Agency believes that most of the citric acid, aspirin, and fatty acids manufacture is excluded from coverage by the OCPSF regulation. Therefore, these products are more appropriately covered by the Specialty Organic Chemicals Subcategory.

i. Citric acid, listed under SIC 2869, is produced commercially by mycological fermentation using crude sugar solutions or extracted from citrus fruits and from pineapple wastes. However, under 40 CFR 414.11(e), the OCPSF regulations are not applicable to the manufacture of organic chemical compounds by fermentation processes or solely by extraction from plant and animal raw materials. Moreover, citric acid production is regulated by the Fermentation Products Subcategory of the Pharmaceutical Manufacturing regulation, 40 CFR part 439. Because the Agency is not aware of any significant commercial citric acid production through chemical synthesis by OCPSF plants, such production should not be included in the Bulk Organic Chemicals Subcategory. The Agency therefore proposes to regulate any chemical synthesis or by-product recovery of citric acid under the Specialty Organic Chemicals Subcategory.

ii. Aspirin or acetyl salicylic acid may be classified under more than one SIC code depending on its end use. Medicinal grade aspirin is included under SIC 2833 Medicinal Chemicals and Botanical Products (as a medicinal grade salicylic acid derivative) and regulated under the Chemical Synthesis Subcategory of the Pharmaceutical Manufacturing Regulations, 40 CFR part 439. Under the provisions of 40 CFR 414.11(d), medicinal grade aspirin manufacture is not regulated by the OCPSF regulation because previously promulgated regulations apply.

Since the Agency is not aware of any significant industrial grade aspirin production reported under SIC 2869, it is proposing to regulate industrial grade aspirin production under the Specialty Organic Chemicals Subcategory, rather than the Bulk Organic Chemicals Subcategory.

iii. Fatty acids may be classified under more than one SIC code depending on the source of raw materials or manufacturing process. The Agency did not include fatty acids derived from natural materials, classified under SIC 2899, as an OCPSF product group in its section 308 data gathering efforts because these fatty acids were outside of the scope of the study. However, higher-molecular weight, synthetic fatty acids are included in SIC 2869 and are thus within the scope of the OCPSF regulation.

Today, the Agency is clarifying that coverage of the OCPSF regulation does not include the fatty acids listed under SIC 2899—Chemicals and Chemical Preparations, Not Elsewhere Classified. Like some OCPSF products, these fatty acids are synthetically derived from naturally occurring raw materials. They are generally derived from animal, marine, and plant fats and oils by hydrolysis—a chemical reaction in which water reacts with another substance to form two or more new substances. Despite these similarities, the OCPSF technical, cost, and economic impact data gathering efforts did not focus on manufacturing activities under SIC 2899. As a result EPA lacks cost and economic information from plants that report fatty acid production under SIC 2899.

Moreover, under 40 CFR 414.11(d), the OCPSF regulations are not applicable if previously promulgated regulations apply. A significant portion of the fatty acid manufacture classified under SIC 2899 is already regulated by the Fatty Acid Manufacturing by Fat Splitting Subcategory of the Soap and Detergent Manufacturing regulations, 40 CFR part 417. The provisions of this subcategory "are applicable to discharges resulting from the splitting of fats to fatty acids by hydrolysis and the subsequent processing of the fatty acids (e.g., refining and hydrogenation) to produce a suitable feed material for manufacture of soap by fatty acid neutralization" (40 CFR 417.20).

Since synthetically derived fatty acids, such as branched chain synthetic aliphatic monocarboxylic acids, are classified under SIC 2869 and since the Agency is not aware of any significant fatty acid production reported under SIC 2869, the Agency proposes to regulate synthetic fatty acids under the Specialty Organic Chemicals Subcategory rather than the Bulk Organic Chemicals Subcategory.

IV. Solicitation of Technical Data and Comment on These Proposed Amendments

EPA invites and encourages public participation in this rulemaking. The Agency asks that any alleged deficiencies in the record of this proposal be identified with specificity and requires that suggested revisions or corrections be supported by relevant data and information.

V. Executive Order 12291

Executive Order 12291 requires EPA and other agencies to perform regulatory analyses of major regulations. Major rules are those which impose a cost on the economy of $100 million or more annually or have certain other economic impacts. This regulation is not a major rule because it merely clarifies the applicability of the regulation, corrects listing errors and establishes flexibility in implementing an existing regulation by allowing regulatory authorities to accommodate site specific factors relating to complexed-cyanide and unavoidable background levels of metals in non-metal-bearing waste streams. Today's proposed amendments do not impose significant new requirements; thus, they meet none of the criteria of a major rule as set forth in section 1(b) of the Executive Order. This rule was submitted to the Office of Management and Budget for review.

VI. Regulatory Flexibility Analysis

The Regulatory Flexibility Act, 5 U.S.C. 601 et seq., requires EPA and other agencies to prepare an initial regulatory flexibility analysis for all

proposed regulations that have a significant impact on a substantial number of small entities. No regulatory flexibility analysis is required, however, where the head of the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Based on the reasons discussed in the preceding paragraph, I hereby certify, pursuant to 5 U.S.C. 605(b), that this regulation will not have a significant impact on a substantial number of small entities.

VII. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3500 et seq., EPA must submit a copy of any rule that contains a collection-of-information requirement to the Director of the Office of Management and Budget for review and approval. This proposal contains no additional information-collection requirements beyond those already required by 40 CFR part 403 and 40 CFR part 122, and therefore the Paperwork Reduction Act is not applicable.

List of Subjects in 40 CFR Part 414

Organic chemicals manufacturing, plastics manufacturing, synthetic fibers manufacturing, water pollution control, water treatment and disposal.

Dated: October 9, 1990.

William K. Reilly,

Administrator.

For the reasons set out in the preamble, 40 CFR part 414 is proposed to be amended as set forth below.

PART 414—ORGANIC CHEMICALS, PLASTICS, AND SYNTHETIC FIBERS

1. The authority citation for part 414 continues to read as follows:

Authority: Secs. 301, 304, 306, 307, and 501, Pub. L. 92-500, 86 Stat. 816, Pub. L. 95-217, 91 Stat. 1566, Pub. L. 100-4, 101 Stat. 7 (33 U.S.C. 1311, 1314, 1316, 4317, and 1361).

2. 40 CFR 414.11 is proposed to be amended by adding paragraphs (g), (h), and (i) to read as follows:

§ 414.11 Applicability.

* * * * *

(g) *Non-amendable Cyanide.* Discharges of cyanide in "cyanide-bearing waste streams" (listed in appendix A to this part) are not subject to the cyanide limitations and standards of this part if the permit writer or control authority: (1) Determines that the cyanide limitations and standards are not achievable due to elevated levels of non-amenable cyanide (i.e., cyanide that is not oxidized by chlorine treatment) that result from the unavoidable complexing of cyanide at the process source of the cyanide-bearing waste stream and (2) establishes an alternative total cyanide or amenable cyanide limitation that reflects the best available technology economically achievable. The determination must be based upon a review of relevant engineering, production, and sampling and analysis information, including measurements of both total and amenable cyanide in the waste stream. An analysis of the extent of complexing in the waste stream, based on the foregoing information, and its impact on cyanide treatability shall be set forth in writing and, for direct dischargers, be contained in the fact sheet required by 40 CFR 124.8.

(h) *Allowances for non-metal-bearing waste streams.* Discharge limitations for chromium, copper, lead, nickel, and zinc or discharge standards for lead and zinc may be established for waste streams not listed in appendix A and not otherwise determined to be "metal-bearing waste streams" if the permit writer or control authority determines that the wastewater metals contamination is due to unavoidable background levels from sources such as corrosion of construction materials or contamination of raw materials. (Intake water contamination is not subject to this paragraph. Rather it is subject to the provisions of 40 CFR 122.45(g) for direct dischargers and 40 CFR 403.15 for indirect dischargers.) The determination must be based upon a review of relevant plant operating conditions, process chemistry, engineering, and sampling and analysis information. An analysis of the sources and levels of the metals, based on the foregoing information, shall be set forth in writing; for direct dischargers, the analysis shall be contained in the fact sheet required by 40 CFR 124.8. For direct dischargers, the permit writer may establish limitations for chromium, copper, lead, nickel, and zinc for non-"metal-bearing waste streams" between zero (0) and the concentrations of such metals present in the wastestreams, but not to exceed the applicable limitations contained in §§ 414.91 and 414.101. (For zinc, the applicable limitations which may not be exceeded are those appearing in the tables in §§ 414.91 and 414.101, not the alternative limitations for rayon fiber manufacture by the viscose process and the acrylic fiber manufacture by the zinc chloride/solvent process set forth in footnote 2 to each of these tables.) For indirect dischargers, the control authority may establish standards for lead and zinc for non-"metal-bearing waste streams" between zero (0) and the concentration of such metals present in the wastestreams, but not to exceed the applicable standards contained in §§ 414.25, 414.35 414.45, 414.55, 414.65, 414.75, and 414.85. (For zinc, the applicable standards which may not be exceeded are those appearing in the tables in the above referenced sections, not the alternative standards for rayon fiber manufacture by the viscose process set forth in footnote 2 to the table in § 414.25, or the alternative standards for acrylic fiber manufacture by the zinc chloride/solvent process set forth in footnote 2 to the table in § 414.35.)

(i) *BOD_5 and TSS limitations for plants with production in two or more subcategories.* Any existing or new source direct discharge point source subject to two or more of subparts B through H must achieve BOD_5 and TSS discharges not exceeding the quantity (mass) determined by multiplying the total OCPSF process wastewater flow subject to subarts B through H times the following "OCPSF production-proportioned concentration": For a specific plant, let w_j be the proportion of the plant's total OCPSF production in subcategory j. Then the plant-specific production-proportioned concentration limitations are given by:

$$\text{Plant } BOD_5 \text{ Limit} = \sum_{j=B}^{} (w_j)(BOD_5 \text{ Limit}_j) \text{ and}$$

$$\text{Plant TSS Limit} = \sum_{i=B}^{H} (w_i)(\text{TSS Limit}_i).$$

The "BOD_5 $Limit_i$" and "TSS $Limit_i$," are the respective subcategorical BOD_5 and TSS Maximum for Any One Day or Maximum for Monthly Average limitations.

3. In appendix A to part 414 under the heading "Cyanide" the following entries are removed:

Hexamethylene diisocyanate/ Hexamethylene diamine (1,6-Diaminohexane) + phosgene,
Methylene Diphenylisocyanate (MDI)/ Phosgenation of methylene dianiline from Aniline + Formaldehyde,
Polyurethane resins/Diisocyanate + Polyoxyalkylene glycol,
Polyurethane fibers (Spandex)/ Polyoxyalkylene glycol + Tolylene diisocyante + dialkylamine," and
Tolylene diisocyanate (isomeric mixture)/ Tolylene diamines + Phosgene

4. Appendix B to part 414 is proposed to be amended by adding the following entries under the heading "lead"

Tetraethyl lead/Alkyl halide + sodium-lead alloy" and "Tetramethyl lead/Alkylhalide + sodium-lead alloy"

§§ 414.21, 414.31, 414.41, 414.51, 414.61, 414.71 and 414.81 [Amended]

5. In each of §§ 414.21, 414.31, 414.41, 414.51, 414.61, 414.71 and 414.81, the first sentence which reads "Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve discharges not exceeding the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentration listed in the following table." is revised to read "Except as provided in 40 CFR 125.30 through 125.32, and in 40 CFR 414.11(i) for point sources with production in two or more subcategories, any existing point source subject to this subpart must achieve discharges not exceeding the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentration listed in the following table."

6. Section 414.30 is proposed to be amended by revising the first sentence to read as follows:

§ 414.30 Applicability, description of the other fibers subcategory.

The provisions of this subpart are applicable to the process wastewater discharges resulting from the manufacture of products classified under SIC 2823 cellulosic man-made fibers, except Rayon, and SIC 2824 synthetic organic fibers including those fibers and fiber groups listed below."

7. Section 414.40 is proposed to be amended by revising the first sentence and by removing the entry for "Cellulose Sponge" from the list to read as follows:

414.40 Applicability description of the thermoplastic resins subcategory.

The provisions of this subpart are applicable to the process wastewater discharges resulting from the manufacture of the products classified under SIC 28213 thermoplastic resins including those resins and resin groups listed below. * * *

8. Section 414.50 is proposed to be amended by revising the first sentence to read as follows:

§ 414.50 Applicability, description of the thermosetting resins subcategory.

The provisions of this subpart are applicable to the process wastewater discharges resulting from the manufacture of the products classified under SIC 28214 thermosetting resins including those resins and resin groups listed below. * * *

§ 414.70 [Amended]

9. Section 414.70(a) is proposed to be amended by removing the entries "Citric Acid" and "Fatty Acids".

§ 414.70 [Amended]

10. Section 414.70(c) is proposed to be amended by removing the entry for "Aspirin".

§ 414.70 [Amended]

11. Section 414.70(e) is proposed to be amended by removing entries "Dithiophosphates, Sodium Salt" and "* Waxes, Emulsions—Dispersions".

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October 18, 1990

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 39

Airworthiness Directives; Pratt and Whitney (PW) PW4000 Series Turbofan Engines; Final Rule

DEPARTMENT OF TRANSPORTATION

14 CFR Part 39

[Docket No. 90-ANE-27; Amdt. 39-6783]

Airworthiness Directives; Pratt and Whitney (PW) PW4000 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to PW4000 series turbofan engines, which requires a one-time eddy current inspection of the low pressure turbine (LPT) shaft. This amendment is prompted by the finding of 15 LPT shafts with cracks located between 23 and 44 inches from the aft end. This condition, if not corrected, could result in LPT shaft failure causing total loss of engine thrust and inflight shutdown.

DATES: Effective October 18, 1990.

Comments for inclusion in the docket must be received on or before November 21, 1990.

The incorporation by reference of certain publications listed in the regulation is approved by the Director of the Federal Register as of October 18, 1990.

ADDRESSES: Submit comments in duplicate to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90-ANE-27, 12 New England Executive Park, Burlington, Massachusetts 01803, or deliver in duplicate to Room 311 at the above address.

Comments may be inspected at the above location between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

The applicable engine manufacturer's service bulletin may be obtained from Pratt & Whitney, Publications Department, P.O. Box 611, Middletown, Connecticut 06457. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, Room 311, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Gavriel, Aerospace Engineer, Engine Certification Branch, ANE-141, Engine Certification Office, Engine & Propeller Directorate, Aircraft Certification Service, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (671) 273-7054.

SUPPLEMENTARY INFORMATION: This action is prompted by a report of a cracked LPT shaft identified during engine assembly after the shaft had undergone magnetic particle inspection, and by reports of 14 additional cracked shafts identified during a special inspection program established to determine the scope of the problem. One of the 14 cracked shafts was found on an engine in service. Review of available information indicates that the cracks had occurred during the quenching process along a specific section of the shaft inside diameter (ID) bore. These cracks were not detected in all instances during the subsequent magnetic particle inspection. The special inspection program, in combination with a review of the manufacturing records, has also indicated that certain shaft heat codes may have been more likely to develop cracks during the quenching process. For this reason, this AD requires an eddy current inspection of certain LPT shafts by October 31, 1990, and certain other LPT shafts that need to be inspected by December 31, 1990. The LPT shafts requiring inspection by December 31, 1990, are outside the population of LPT shaft heat codes found to contain cracks to date, however, they have been subjected to the same manufacturing process that induced the cracks and cannot be excluded as a potentially suspect population. Inclusion of the population of shafts requiring inspection by December 31, 1990, in this AD, without any further public notice, is due to the following reasons. This additional population of potentially suspect shafts is large (approximately 290), and timely execution and completion of this program requires initiation of the inspection program for these shafts concurrently with the population of shafts required to be inspected by October 31, 1990. Further, any delay in incorporation of this inspection program may result in a very short compliance interval. In addition, based on inspection findings the compliance schedule may be subject to further modification. For these reasons, incorporation of the requirement to complete the inspections of all LPT shafts before December 31, 1990, in this AD is justified in order to minimize the duration of the inspection program and reduce the exposure of revenue service engines to operation with potentially cracked LPT shafts. This condition, if not corrected, could result in LPT shaft failure causing total loss of engine thrust and inflight shutdown.

The FAA has reviewed and approved Pratt & Whitney Alert Service Bulletin (ASB) No. PW4ENG 72-328, dated September 28, 1990, which describes the eddy current inspection procedure.

Since this condition is likely to exist or develop in other engines of the same type design, this AD requires a one-time eddy current inspection of the ID bore of the LPT shaft, in accordance with the ASB previously described.

Since this condition will result in a total loss of engine thrust and inflight shutdown should an LPT shaft fail, there is a need to minimize the exposure of revenue service engines to operation with potentially cracked LPT shafts. Therefore, safety in air transportation requires adoption of this regulation without prior notice and public comment. In addition, based on the above and the need to inspect certain LPT shafts prior to October 31, 1990, a situation exists that requires the immediate adoption of this regulation. Therefore, it is found that notice and public procedure are impracticable, and good cause exists for the adoption of the amendment without public comment, and good cause exists for making this amendment effective in less than 30 days.

Although this action is in the form of a final rule, which involves an emergency and, thus, was not preceded by notice and public procedure, interested persons are invited to submit such written data, views, or arguments as they may desire regarding this AD. Communications should identify the docket number and be submitted in duplicate to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90-ANE-27, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received by the deadline date indicated above will be considered by the Administrator and the AD may be changed in light of comments received.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action

involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Pratt & Whitney: Applies to Pratt & Whitney (PW) PW4050, PW4052, PW4056, PW4060, PW4060A, PW4152, PW4156, PW4158, and PW4460 turbofan engines installed on, but not limited to, Boeing 747, Boeing 767, Airbus A300, and Airbus A310 type aircraft.

Compliance required as indicated, unless previously accomplished.

To prevent a low pressure turbine (LPT) shaft failure that can cause a total loss of thrust and inflight shutdown, accomplish the following:

(a) Conduct a one-time eddy current inspection of the inner diameter bore surface of the LPT shaft, between 23 and 44 inches forward of the aft end, in accordance with the Accomplishment Instfuctions of PW Alert Service Bulletin (ASB) No. PW4ENG 72-328, dated September 28, 1990, for LPT shafts installed on engines identified by serial number in Table 2 of the ASB, prior to October 31, 1990.

(b) Conduct a one-time eddy current inspection of the inner diameter bore surface of the LPT shaft, between 23 and 44 inches forward of the aft end, in accordance with the Accomplishment Instructions of PW ASB No. PW4ENG 72-328, dated September 28, 1990, for LPT shafts installed in engines identified by serial number as follows, excluding those shafts subject to the requirements of (a) above, prior to December 31, 1990.

Engine model	Engine serial number
PW4050	P724201 through P724208, inclusive.
PW4052	P723701 through P723706, inclusive.
PW4056	P717501 through P717696, inclusive, except P717662.
PW4060	P724101 through P724184, inclusive.
PW4060A	P724501 through P724606, inclusive.
PW4152	P717701 through P717775, inclusive.
PW4156	P717201 through P717206, inclusive.
PW4158	P724001 through P724078, inclusive.
PW4460	P723601 through P723628, inclusive.

(c) Remove from service, prior to further flight, LPT shafts found cracked during inspections conducted in accordance with (a) or (b) above.

(d) LPT shafts which have been previously inspected in accordance with PW Special Instruction 70F-90, dated September 14, 1990, are in compliance with this AD.

(e) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(f) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternate method of compliance with the requirements of this AD or adjustments to the compliance times specified in this AD may be approved by the Manager, Engine Certification Office, ANE-140, Engine & Propeller Directorate, Aircraft Certification Service, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803.

The eddy current inspections of the LPT shafts shall be done in accordance with the following PW document:

Document number	Page number	Issue/ revision	Date
PW ASB PW4ENG 72-328.	All	Original	9/28/90

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 522(a) and 1 CFR part 51. Copies may be obtained from Pratt & Whitney, Publications Department, P.O. Box 611, Middletown, Connecticut 06457. Copies may be inspected at the Regional Rules Docket, Office of the Assistant Chief Counsel, FAA, New England Region, 12 New England Executive Park, Room 311, Burlington, Massachusetts 01803, or at the Office of the Federal Register, 1100 L Street, NW., Room 8301, Washington, DC 20571.

This amendment becomes effective on October 18, 1990.

Issued in Burlington, Massachusetts, on October 12, 1990.

Jack A. Sain,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 90-24860 Filed 10-17-90; 10:44 am]

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H.R. 1343/Pub. L. 101–425
Department of Energy Metal Casting Competitiveness Research Act of 1990. (Oct. 15, 1990; 104 Stat. 915; 5 pages) Price: $1.00

H.R. 2372/Pub. L. 101–426
Radiation Exposure Compensation Act. (Oct. 15, 1990; 104 Stat. 920; 7 pages) Price: $1.00

S. 2888/Pub. L. 101–427
To redesignate The National System of Interstate and Defense Highways as The Dwight D. Eisenhower System of Interstate and Defense Highways. (Oct. 15, 1990; 104 Stat. 927; 1 page) Price: $1.00

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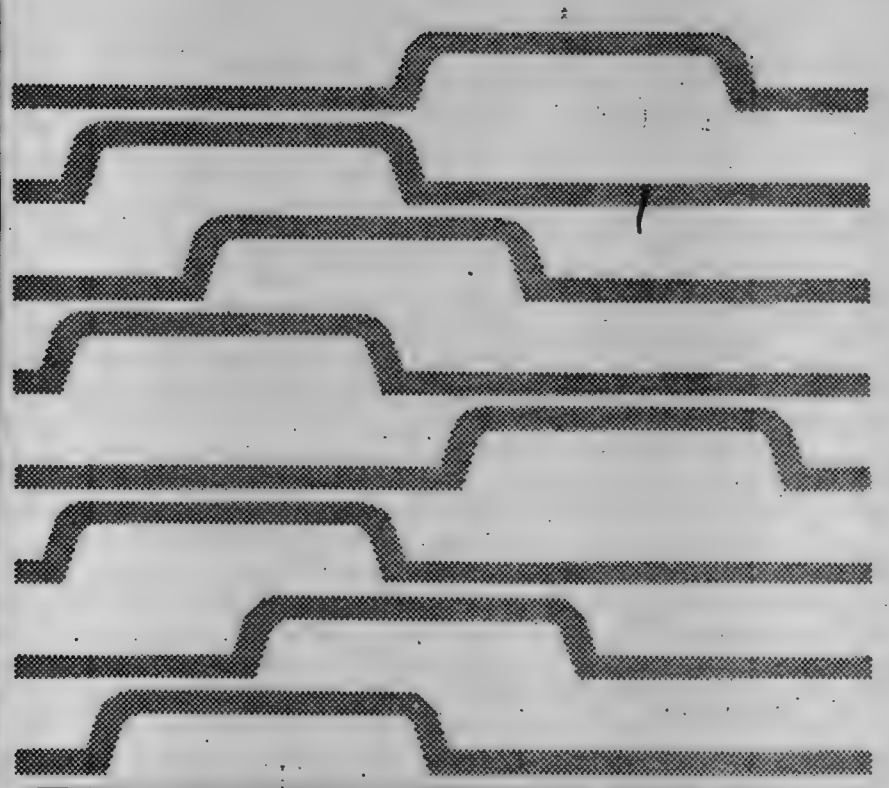

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in the Code of Federal Regulations (CFR)

GUIDE: Revised January 1, 1989
SUPPLEMENT: Revised January 1, 1990

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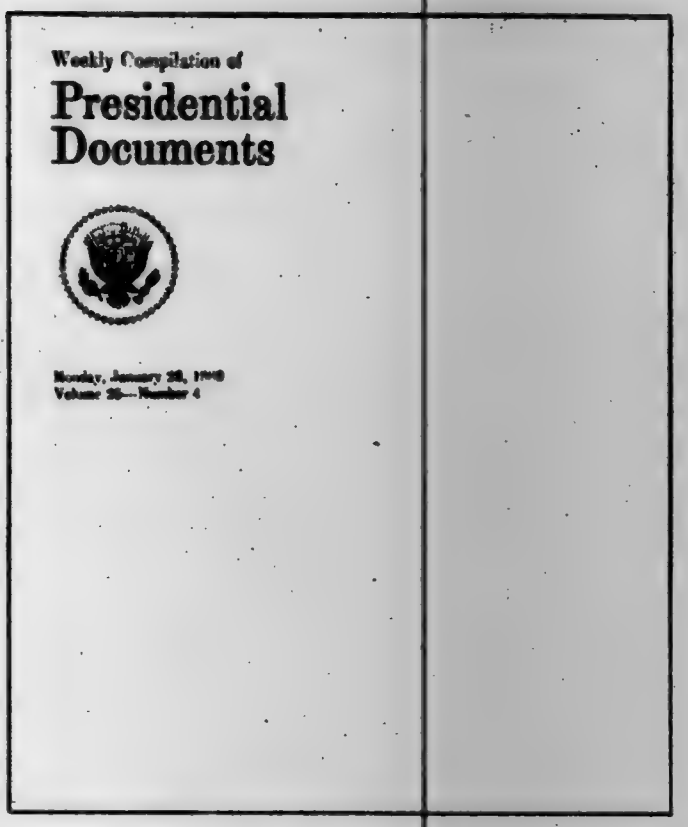

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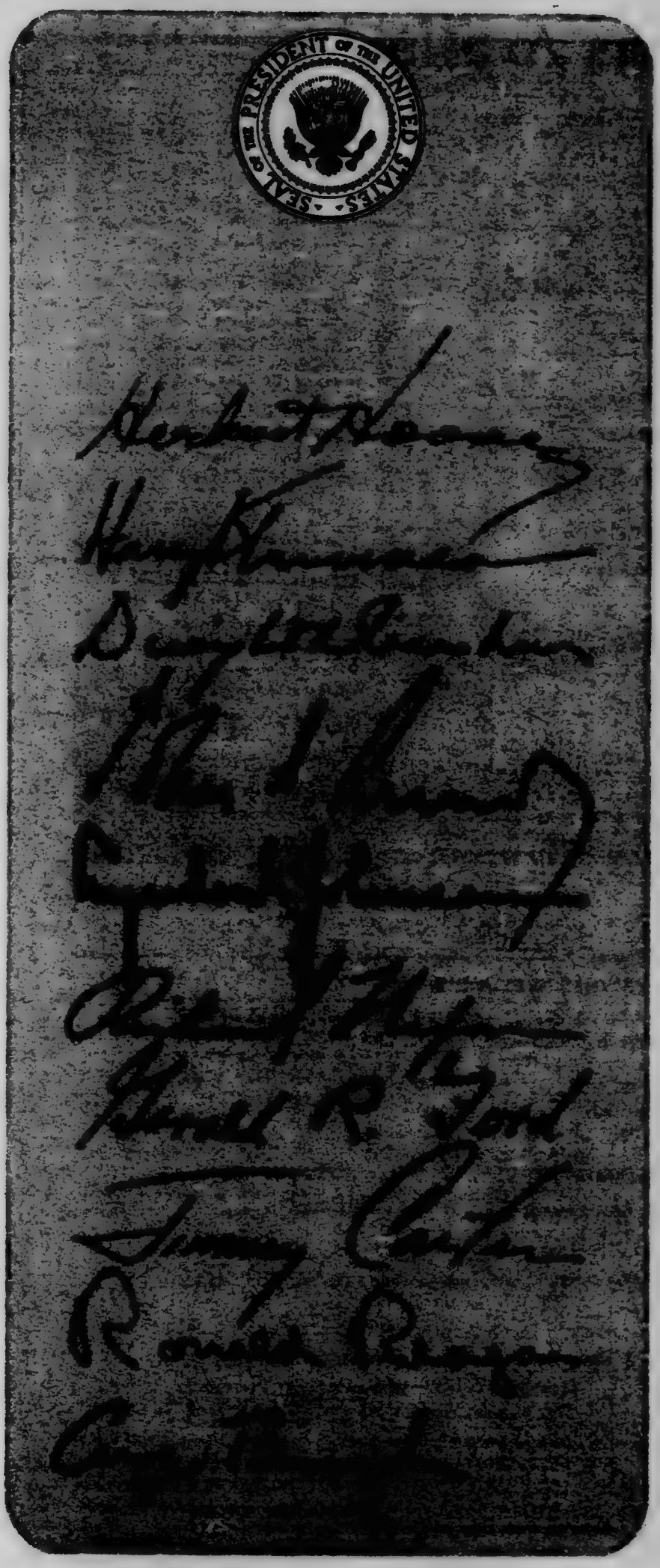

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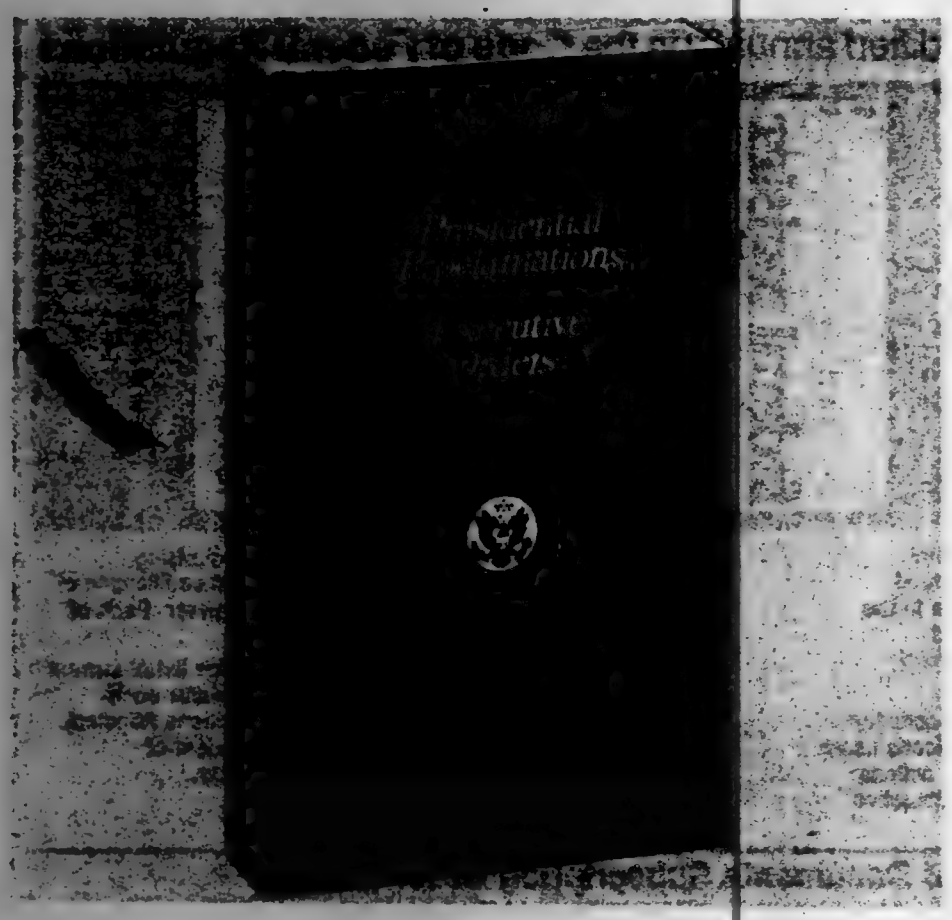

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Presidential Documents

Title 3—

The President

Proclamation 6286 of October 17, 1990

National Drug-Free Schools and Communities Education and Awareness Day, 1990

By the President of the United States of America

A Proclamation

Our Nation's efforts to eliminate the scourge of illicit drug use and trafficking—efforts made in cooperation with other countries and conducted at all levels of law enforcement—have begun to bear fruit. In many parts of the United States today cocaine is harder to find, more expensive, and less pure than it was one year ago. Drug cartels that once seemed invincible have seen their operations significantly disrupted. Last month, new survey research released by the Partnership for a Drug Free America confirmed a trend already observed in other surveys and government indicators: a turn away from drugs in American attitudes and behavior, especially among young people, fewer of whom are using drugs than at any time since 1979. Such progress accentuates the importance of maintaining a strong, united front among government officials, law enforcement personnel, parents, educators, and business and community leaders as we wage the war against drugs.

Although we have made important advances in the struggle to reclaim our schools and communities from the deadly influence of drug dealers, we know that there is still much work to do. Each day the news brings grim reminders of the violence and despair caused by substance abuse. Illicit drug use and its consequences affect Americans of every age, every region, every race, and every walk of life. The toll in terms of health care costs and other economic losses is enormous. The toll in terms of personal suffering and wasted human potential is incalculable.

The high price imposed on our society by drugs underscores the need for education and other efforts aimed at prevention. We must teach young Americans about the dangers of experimenting with drugs, and we must refuse to tolerate in our communities the merchants of death who deal them. Because children learn by example, we must also ensure that our own lives reflect strong values, respect for the law, and a sense of personal responsibility and concern for others.

Securing a drug-free future for every American school and community will require the personal commitment and sustained cooperation of parents, students, teachers, law enforcement personnel, members of the clergy, elected officials, and business and community leaders. On this occasion, let us renew our determination to promote policies, educational programs, and activities designed to deter drug use, and let us reaffirm our commitment to helping drug-addicted individuals in need of rehabilitation.

The Congress, by Senate Joint Resolution 304, has designated October 17, 1990, as "National Drug-Free Schools and Communities Education and Awareness Day" and has authorized and requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim October 17, 1990, as National Drug-Free Schools and Communities Education and Awareness Day. I urge all Americans and their elected representatives at every level of government to observe this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of October, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.

George Bush

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Rules and Regulations

Federal Register
Vol. 55, No. 203
Friday, October 19, 1990

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 1

Appearance of USDA Employees as Witnesses in Judicial or Administrative Proceedings

AGENCY: Office of the Secretary, USDA.
ACTION: Final rule.

SUMMARY: This document establishes procedures governing the appearance of USDA employees as witnesses in order to testify or produce official documents in judicial or administrative proceedings.

EFFECTIVE DATES: October 19, 1990.

FOR FURTHER INFORMATION CONTACT: Robert L. Siegler, Deputy Assistant General Counsel, Research and Operations Division, Office of the General Counsel, United States Department of Agriculture, Washington, DC 20250–1400, (202) 447–6035.

SUPPLEMENTARY INFORMATION: At present, USDA has an internal directive (Departmental Regulation 1530–1) that sets forth procedures governing the appearance of USDA employees as witnesses in order to testify or produce official documents in administrative or judicial proceedings. In addition, as part of its regulations relating to the Freedom of Information Act, USDA has a section relating to compulsory process (7 CFR 1.21). Finally, there is currently no regulation that specifically provides the conditions under which USDA will prohibit its employees who have received subpoenas from testifying as to matters that arise out of their employment with USDA, where the United States is not a party to the proceeding. This rule consolidates the provisions contained in 7 CFR 1.21 and in Departmental Regulation 1530–1, and adds provisions that provide the conditions under which employees may testify in judicial or administrative proceedings where their testimony arises out of their employment with USDA.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the Federal Register. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order No. 12291. Finally, this action is not a rule as defined by the Regulatory Flexibility Act, Public Law No. 96–354, and, thus, is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 1

Administrative practice and procedures; Witnesses.

PART 1—ADMINISTRATIVE REGULATIONS

Accordingly, part 1, title 7, Code of Federal Regulations is amended as follows:

1. The authority citation for part 1 continues to read as follows:

Authority: 5 U.S.C. 301, unless otherwise noted.

2. Section 1.21 is removed.

3. A new subpart K is added to read as follows:

Subpart K—Appearance of USDA Employees as Witnesses in Judicial or Administrative Proceedings.

Sec.

1.210 Purpose.
1.211 Definitions.
1.212 General.
1.213 Appearance as a witness on behalf of the United States.
1.214 Appearance as a witness on behalf of a party other than the United States where the United States is not a party.
1.215 Subpoenas duces tecum for USDA records in judicial or administrative proceedings in which the United States is not a party.
1.216 Appearance as a witness or production of documents on behalf of a party other than the United States where the United States is a party.
1.217 Witness fees and travel expenses.
1.218 Penalty.

Authority: 5 U.S.C. 301

§ 1.210 Purpose.

This subpart sets forth procedures governing the appearance of USDA employees as witnesses in order to testify or produce official documents in judicial or administrative proceedings when such appearance is in their official capacity or arises out of or is related to their employment with USDA. These regulations do not apply to appearances by USDA employees as witnesses in judicial or administrative proceedings which are purely personal or do not arise out of or relate to their employment with USDA. This subpart also does not apply to Congressional requests or subpoenas for testimony or documents.

§ 1.211 Definitions.

(a) *Administrative proceeding* means any proceeding pending before any federal, state, or local agency and undertaken for the purpose of the issuance of any regulations, orders, licenses, permits, or other rulings, or the adjudication of any matter, dispute, or controversy.

(b) *Appearance* means testimony or production of documents the request for which arises out of an employee's official duties with USDA or relates to his or her employment with USDA. For the purpose of this subpart, an appearance also includes an affidavit, deposition, interrogatory, or other required written submission.

(c) *Judicial proceeding* means any case or controversy pending before any federal, state, or local court.

(d) *Travel expenses* means the amount of money paid to a witness for reimbursement for transportation, lodging, meals, and other miscellaneous expenses in connection with attendance at a judicial or administrative proceeding.

(e) *USDA* means the United States Department of Agriculture.

(f) *USDA agency* means an organizational unit of USDA whose head reports to an official within the Office of the Secretary of Agriculture.

(g) *Valid summons, subpoena, or other compulsory process* means an order that is served properly and within the legal authority and the jurisdictional boundaries of the court or administrative agency or official that has issued it.

(h) *Witness fees* means the amount of money paid to a witness as

compensation for attendance at a judicial or administrative proceeding.

§ 1.212 General.

No USDA employee may provide testimony or produce documents in a judicial or administrative proceeding unless authorized in accordance with this subpart.

§ 1.213 Appearance as a witness on behalf of the United States.

An employee of USDA may appear as a witness on behalf of the United States in any judicial or administrative proceeding without the issuance of a summons, subpoena, or other compulsory process. Employees should obtain permission for such an appearance from their immediate supervisor unless the USDA agency or General Counsel has issued instructions providing otherwise.

§ 1.214 Appearance as a witness on behalf of a party other than the United States where the United States is not a party.

(a) An employee of USDA served with a valid summons, subpoena, or other compulsory process demanding his or her appearance, or otherwise requested to appear on behalf of a party other than the United States in a judicial or administrative proceeding in which the United States is not a party, shall promptly notify the head of his or her USDA agency of the existence and nature of the order compelling his or her appearance, or of the document requesting his or her attendance. He or she shall also specify, if that is known, the nature of the judicial or administrative proceeding and the nature of the testimony or documents requested.

(b)(1) An employee of USDA served with a valid summons, subpoena, or other compulsory process, or requested to appear as a witness on behalf of a party other than the United States in a judicial or administrative proceeding in which the United States is not a party, may appear only if such appearance has been authorized by the head of his or her USDA agency, with the concurrence of the General Counsel, based upon a determination that such an appearance is in the interest of USDA.

(2) An employee of USDA requested to appear as a witness on behalf of a party other than the United States in a judicial or administrative proceeding in which the United States is not a party, without the service of a valid summons, subpoena, or other compulsory process, may appear only if such appearance has been authorized by the head of his or her USDA agency and approved by the appropriate Assistant Secretary, Under Secretary or other general officer, and by the General Counsel, based upon a determination that such an appearance is in the interest of USDA.

(c) Unless an appearance is authorized as provided in paragraphs (b)(1) or (b)(2) of this section, the employee shall appear at the stated time and place (unless advised by the General Counsel or his or her designee that the summons, subpoena, or other process was not validly issued or served), produce a copy of these regulations and respectfully decline to provide any testimony. As appropriate, the General Counsel or his or her designee will request the assistance of the Department of Justice or of a United States Attorney, in the case of a judicial proceeding; or of the official or attorney representing the United States, in the case of an administrative proceeding, to represent the interests of the employee and USDA.

(d) If there is any question regarding the validity of a summons, subpoena, or other compulsory process, an employee shall contact the Office of the General Counsel for advice.

(e)(1) In determining whether the employee's appearance is in the interest of USDA, authorizing officials should consider the following:

(i) what interest of USDA would be promoted by the employee's testimony;

(ii) whether an appearance would result in an unnecessary interference with the duties of the USDA employee;

(iii) whether an employee's testimony would result in the appearance of improperly favoring one litigant over another.

(2) The considerations listed in paragraph (e)(1) of this section are illustrative and not exhaustive.

§ 1.215 Subpoenas duces tecum for USDA records in judicial or administrative proceedings in which the United States is not a party.

(a) Subpoenas duces tecum for USDA records in judicial or administrative proceedings in which the United States is not a party shall be deemed to be requests for records under the Freedom of Information Act and shall be handled pursuant to the rules governing public disclosure under subpart A of this part.

(b) Whenever a subpoena duces tecum compelling the production of records is served on a USDA employee in a judicial or administrative proceeding in which the United States is not a party, the employee, after consultation with the General Counsel or his or her designee, shall appear in response thereto, respectfully decline to produce the records on the grounds that it is prohibited by this section and state that the production of the records involved will be handled in accordance with subpart A of this part.

§ 1.216 Appearance as a witness or production of documents on behalf of a party other than the United States where the United States is a party.

(a) An employee of USDA served with a valid summons, subpoena, or other compulsory process demanding his or her appearance, or otherwise requested to appear or produce documents on behalf of a party other than the United States in a judicial or administrative proceeding in which the United States is a party, shall promptly notify the head of his or her USDA agency and the General Counsel or his or her designee of the existence and nature of the order compelling his or her appearance, or of the document requesting his or her appearance. He or she shall also specify, if that is known, the nature of the judicial or administrative proceeding and the nature of the testimony or documents requested.

(b)(1) Except as provided in paragraph (b)(2) of this section, an employee of USDA only may appear as a witness or produce records on behalf of a party other than the United States in a judicial or administrative proceeding in which the United States is a party if such appearance or production has been ordered by the service on the employee of a valid summons, subpoena, or other compulsory process issued by a court, administrative agency, or other official authorized to compel his or her appearance.

(2) An employee requested to appear as a witness or produce records on behalf of a party other than the United States in a judicial or administrative proceeding in which the United States is a party, without being served a valid summons, subpoena, or other compulsory process, may appear or produce records only if such appearance or production has been authorized by a representative of the Department of Justice, the United States Attorney, or other counsel who is representing the United States in the case of a judicial proceeding; or by the official or attorney representing the United States, in the case of an administrative proceeding.

(c) The head of the USDA agency shall consult with the General Counsel or his or her designee as to whether there are grounds to oppose the employee's attendance or production of documents and, if so, whether to seek to quash the summons, subpoena, compulsory process, or to deny authorization under paragraph (b)(2) of this section.

(d) As appropriate, the General Counsel or his or her designee will request the assistance of the Department of Justice, a United States Attorney, or other counsel representing the United States, in the case of a judicial proceeding; or of the official or attorney representing the United States, in the case of an administrative proceeding, to represent the interest of the employee and USDA.

(e) If there is any question regarding the validity of a summons, subpoena, or other compulsory process, an employee shall contact the Office of the General Counsel for advice.

§ 1.217 Witness fees and travel expenses.

(a) Any employee of USDA who attends a judicial or administrative proceeding as a witness in order to testify or produce official documents on behalf of the United States is entitled to travel expenses in connection with such appearance in accordance with the Agriculture Travel Regulations.

(b) An employee of USDA who attends a judicial or administrative proceeding on behalf of the United States is not entitled to receive fees for such attendance.

(c) An employee of USDA who attends a judicial or administrative proceeding on behalf of a party other than the United States when such appearance is in his or her official capacity or arises out of or relates to his or her employment with USDA is entitled to travel expenses in accordance with the Agriculture Travel Regulations to the extent that such expenses are not paid for by the court, agency, or official compelling his or her appearance or by the party on whose behalf he or she appears.

(d) An employee of USDA who attends a judicial or administrative proceeding on behalf of a party other than the United States when such appearance is in his or her official capacity or arises out of or relates to his or her employment with USDA is required to collect the authorized fees for such service and remit such fees to his or her USDA agency.

§ 1.218 Penalty.

An employee who testifies or produces records in a judicial or administrative proceeding in violation of the provisions of this regulation shall be subject to disciplinary action.

Done this 12th day of October, 1990, at Washington, DC.

Clayton Yeutter,

Secretary of Agriculture.

[FR Doc. 90-24763 Filed 10-18-90; 8:45 am]

BILLING CODE 3410-01-M

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 89-191]

Apricots, Nectarines, Peaches, and Plums From Chile

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the Fruits and Vegetables regulations to relieve restrictions on the importation of stonefruit (apricots, nectarines, peaches, and plums) from Chile. This change will allow these fruits to be imported under multiple safeguards, including inspection in Chile, but without mandatory treatment. This action is necessary to help ensure that untreated fruits can be imported without significant risk of introducing insect pests into the United States.

EFFECTIVE DATE: November 19, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Cooper, Senior Operations Officer, Port Operations, PPQ, APHIS, USDA, room 632, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8645.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR 319.56 (the regulations) prohibit or restrict the importation of fruits and vegetables into the United States because of the risk that the fruits or vegetables could introduce insect pests that could damage domestic plants.

Apricots, nectarines, peaches, and plums (referred to below as stonefruit) from Chile present a risk of introducing various insect pests, including *Proeulia* spp., *Leptoglossus chilensis*, *Megalometis chilensis*, *Naupactus xanthographus*, *Listroderes subcinctus*, and *Conoderus rufangulus*. These pests do not normally feed on stonefruit, but may be present in shipments of stonefruit as "hitchhiking" pests.

Under current § 319.56-2m, these fruits may be imported from Chile only after they have undergone an approved methyl bromide treatment to destroy insects known to attack them or to be associated with them as hitchhikers.

We published in the Federal Register on July 13, 1989 (54 FR 29566-29569, Docket No. 88-176), a proposal to amend the regulations by allowing stonefruit from Chile to be imported without mandatory treatment, if the stonefruit is imported in accordance with a preclearance program involving inspections of the stonefruit in Chile and other requirements designed to ensure the stonefruit is free of insect pests.

Clearance for export to the United States will involve inspection, safeguards, treatments, and other procedures required by the regulations. Clearance activities will be performed under the direction of Animal and Plant Health Inspection Service (APHIS) inspectors in Chile, and will include inspections by APHIS inspectors, or by inspectors of the national plant protection service of Chile in the presence of APHIS inspectors. These activities, to determine the eligibility of the fruit for shipment to the United States, are called preclearance to distinguish them from similar inspections, treatments, and other procedures performed by APHIS inspectors at ports of arrival in the United States.

The proposal solicited comments to be submitted by September 11, 1989. We received a total of 30 written comments during the comment period. Four comments opposed the proposed rule, 7 comments supported the proposed rule as it was written, and 19 comments generally supported the proposed rule but suggested changes to its provisions. Comments received on the proposed rule and our responses to them are discussed below.

We are adopting the provisions of the proposed rule, with certain changes discussed below, for the reasons set forth in the proposal and in this supplementary information section.

Comments and Responses

Comment: The regulations attempt to be too specific in implementing what is essentially a trial program that will need fine-tuning as participants adjust to it. Technical aspects such as minimum lot size, sample sizes and sampling procedures, and administrative details should be negotiated and resolved annually in an operational agreement, rather than specified in the regulations.

Response: No change was made in response to this comment; however, note that minimum lot size requirements have been eliminated in response to another comment discussed below. We believe that the regulations contain specific requirements only to the degree necessary to meet legal requirements and to support enforcement and operational feasibility. If the regulations did not contain specific references to matters such as sample sizes and sampling procedures, the interested public could not analyze and comment on the rule in any meaningful way, operational planning for implementing

the stonefruit program would suffer from the lack of data, and enforcement actions would always be open to argument. We agree that future experience gained from implementing the stonefruit program may show that some technical aspects need adjustment. If this occurs, we will propose to change the regulations to reflect better standards.

Comment: The proposal states that if a shipment is rejected because preclearance inspections find a plant pest for which there is an authorized treatment, the shipment may be exported to the United States after it undergoes treatment for the pest in Chile. The rule should be changed to allow such shipments to be treated for the pest either in Chile or upon arrival in the United States.

Response: No change was made in response to this comment. We believe that allowing shipments known to be infested with plant pests to move to the United States for treatment unacceptably increases the risk of introducing plant pests into the United States, especially since treatment is readily available in Chile, and we do not plan to allow treatment upon arrival as a routine practice. Note that proposed § 319.56–2s(g) allows the Administrator to allow inspection and/or treatment upon arrival in extraordinary or emergency situations.

Comment: The procedure for selecting cartons of fruit for the preclearance inspection sample should be changed. Instead of selecting cartons for inspection randomly from the entire inspection unit (from multiple pallets), select 1 pallet randomly and inspect the number of cartons from that pallet necessary to ensure 95 percent probability of detecting 3 percent infestation. The packing and palletization process is sufficiently random to ensure than any pallet will have the same level of infestation as any other pallet.

Response: No change was made in response to this comment. We do not have data to support the claim that packing and palletization is sufficiently random to ensure that any randomly selected pallet will make a good sample. Good statistical practice suggests that taking the sample randomly from the entire inspection unit will result in a more reliable sample.

Comment: The sample size of cartons of fruit selected for preclearance inspections should be calculated to allow detection of a 1 percent infestation level with 99 percent confidence, not a 3 percent infestation with 95 percent confidence. The proposed standard allows too great a risk that infestations may not be detected by the preclearance inspections.

Response: No change was made in response to this comment. The suggested sample size would present too great a drain on inspection resources by requiring inspection of a far greater number of fruit from each inspection unit. The sample size proposed in the regulations is sufficient to prevent the introduction of pests with a reliability comparable to the entry requirements for many other articles imported from many countries.

Comment: The proposal states that preclearance for an article will be terminated for the remainder of the shipping season if inspections show the rate of infestation for that article exceeds 20 percent calculated on any consecutive 14 days of actual inspections. The rule should be changed to terminate preclearance for an article when the level of rejection over 14 days exceeds 25 percent, not 20 percent.

Response: No change was made in response to this comment. Our analysis of pest risk concerns and our experience inspecting fruits and vegetables from many sources indicate that a 20 percent infestation rate is the appropriate level at which preclearance should be terminated for an article, and is a standard that growers and shippers can readily meet. The commenter submitted no data in support of this suggestion to lower this standard to a 25 percent infestation rate, and we continue to believe the proposed 20 percent rate is consistent with the preclearance program goals.

Comment: The rule should be changed to terminate preclearance for an article when the level of rejection over 14 days exceeds 10 percent, not 20 percent. The proposed rule is too lenient in this standard.

Response: No change was made in response to this comment. Our analysis of pest risk concerns and our experience inspecting fruits and vegetables from many sources indicate that a 20 percent infestation rate is the appropriate level at which preclearance should be terminated for an article, and is a standard that growers and shippers can readily meet. The commenter submitted no data in support of this suggestion to change this standard to a 10 percent infestation rate, and we continue to believe the proposed 20 percent rate is consistent with the preclearance program goals.

Comment: The rule should eliminate the minimum lot size for inspection units (5,000 cartons for maritime shipments and 350 cartons for air shipments). The minimum size requirements will cause hardship to small growers and shippers.

Response: We proposed the minimum lot sizes for maritime and air shipments to allow efficient use of the services of APHIS and Servicio Agricola Y Ganadero (SAG) inspectors. Our reasoning was that inspecting a small shipment of stonefruit takes nearly as long as inspecting a large shipment, and therefore a minimum lot size seemed necessary to maximize the amount of stonefruit that could be inspected under this program. We recognize that minimum lot sizes may cause some growers and shippers to forego exporting small shipments under this program, and we have consulted further with APHIS and SAG personnel in Chile concerning the operational difficulties of meeting the demand for inspection services. Based on their workload projections, we have determined that for the foreseeable future, inspector resources should be adequate to meet the demands for inspection of stonefruit in Chile regardless of lot size, and therefore we are removing the minimum lot size requirement from § 319.56–2s(d). If the number of small stonefruit shipments submitted for inspection increases to the point of causing operational difficulties in the future, we may propose to establish minimum lot sizes.

Comment: As an alternative to participating in preclearance, shippers should be allowed to choose to fumigate their shipments as in the past, rather than submit them for preclearance.

Response: We agree, and are making the requested change. Allowing shippers to choose between fumigation and preclearance, which are both effective programs for Chilean stonefruit, could maximize the flexibility available to shippers and importers without increasing the risk of introducing plant pests into the United States. Therefore, this final rule will retain language in § 319.56–2m that authorizes fumigation as an approved treatment for stonefruit from Chile. The proposed rule would have deleted this language and would have made preclearance the only approved procedure for persons seeking to import Chilean stonefruit.

Comment: The proposed rule calls for a trust fund agreement between APHIS and SAG, under which SAG agrees to pay to APHIS at the start of each shipping season all estimated costs to be incurred by APHIS in providing preclearance services that season. The rule should allow the trust fund agreement to be made between APHIS and any agent of the Chilean Government that is authorized to enter

into such agreements. Due to the internal procedures of the Chilean Government, an entity other than SAG may be best qualified to manage the funds collected for the program and make payment to APHIS.

Response: Recently developed policy changes within APHIS dictate that such trust fund agreements must be intergovernmental in nature. Section 607(a) of the Foreign Assistance Act (21 U.S.C. 2357) (Act) provides that agencies of the United States Government must enter into reimbursement agreements with the governments of friendly countries. The United States Department of State has authorized APHIS to participate in a preclearance program under the Act to enable fruits, vegetables, and nursery products to be inspected before shipment to the United States. This authorization requires the exporting country's national plant protection service to enter into a trust fund agreement to establish a preclearance program.

However, we agree that entities other than SAG may be involved in collecting and managing funds for the agreement, if SAG makes arrangements for such services. The proposed rule requires SAG to sign the agreement and make the seasonal payments to APHIS, but does not preclude SAG from using an exporters' association or other agent to assist in collecting and managing the funds. Therefore, no change was made in response to this comment.

Comment: In proposed § 319.56–2s(b), the trust fund agreement requires advance payment to APHIS of all estimated costs for providing preclearance services during a shipping season. It would be better to continue the type of payment schedule used for other services in the past, e.g., payment in advance of receipt of services, but on a monthly schedule rather than one payment for an entire shipping season. Also, the trust fund agreement calls for APHIS to return at the end of the shipping season any funds it receives in excess of actual costs incurred during that shipping season. It may be more convenient for exporters and the Chilean Government to apply those amounts to the next shipping season, rather than having them returned.

Response: We agree, and are making the suggested changes. Trust fund agreement payments may be made, in advance of receipt of services, on a schedule agreed upon between APHIS and the agent administering the trust fund. Any excess funds at the end of the shipping season will be returned by APHIS upon request, and if return is not requested, the funds will be applied to services during the next shipping season.

Comment: The rule should include provisions for significant back-up inspections of precleared articles upon arrival in the United States, and should terminate preclearance for any article that arrives with a live pest.

Response: No change was made in response to this comment. APHIS has the legal authority to inspect any imported fruits, including precleared articles from Chile, upon their arrival in the United States, and APHIS may choose to inspect some precleared shipments upon arrival to monitor the effectiveness of the preclearance program. However, a main point of preclearance is that the inspections conducted in Chile are comparable in effectiveness to inspection at the port of entry in the United States. We do not believe that it is necessary to include in the regulations requirements for specified levels of essentially duplicative inspections at the time of arrival of precleared articles.

Comment: Why doesn't the proposal require detection of pests at the Probit 9 level? Is there sound research data to support a lower level of detection being adequate?

Response: Probit 9 at the 95 percent confidence level is used as a measure of effectiveness for the development of a treatment for shipments known to be infested. Inspection, such as the preclearance inspection required by this rule, is conducted to determine the presence or absence of infestation.[1] It would be an inappropriate use of statistical methods to apply Probit 9 standards useful in treatment studies to the study of the effectiveness of an inspection program. In the case of Chilean stonefruit, an inspection system which detects infestation at the 3 percent level with a 95 percent confidence level was determined to be effective, based on studies of a wide variety of inspection levels used for agricultural commodities at U.S. ports in recent years.

Comment: How would the regulations protect against introduction of numerous internal and external feeders found in Chile but not in California?

Response: External feeders would be readily visible during the required preclearance inspection, and infested shipments would not be allowed import until they were treated with the appropriate Plant Protection and Quarantine Treatment Manual treatment for the pest. All the internal feeders that are known to attack stonefruit in the areas shipping fruit under this program leave evidence of their attack on the surface of the fruit, which would be readily detected during preclearance inspections. We believe the requirements of this rule, in conjunction with the requirements of all other applicable APHIS regulations concerning exotic pests, will serve to prevent the introduction into California of exotic pests.

Comment: What safeguards will be used to protect shipments from infestation between preclearance and loading for shipment?

Response: We do not believe that specific safeguards need to be added to this rule, in view of the existing safeguards in place at Chilean ports and the proximity of the inspection sites to the means of conveyance. The inspection sites are located at the seaport and at the airport within a few hundred yards of the vessels or aircraft, so there is minimal opportunity for infestation during movement from the inspection site to the vessel or aircraft. Also, SAG enforces the following types of safeguards for both inspected and treated fruit loaded at airports and seaports. All shipments are completely covered with tarpaulins, or enclosed in containers or sealed trucks, during movement from the inspection or treatment facility to the vessel or aircraft. All such movements are supervised by SAG or USDA personnel. Between inspection or treatment and loading, all inspected shipments are held only in holding areas approved and supervised by SAG or USDA. An additional safeguard that can be applied if needed is the opportunity for APHIS to inspect shipments at the port of arrival in the United States.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the

[1] Information on APHIS studies concerning Probit 9 standards and their use compared to statistical standards for inspection activities may be obtained by writing to the Administrator, c/o Port Operations, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 635, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Based on interest expressed in importing stonefruit from Chile, we anticipate that the annual average of approximately 60,000 metric tons of stonefruit imported from Chile will increase by a small percentage as a result of adopting this rule. The average import figure of 60,000 metric tons was derived by averaging the weight of stonefruit from Chile imported over the past several years, because the total weight of stonefruit imported from Chile varies greatly from year to year (often by 20 percent or more) due to harvest conditions, market prices, and other factors. By comparison, stonefruit production in the United States was approximately 1,411,000 metric tons in 1986, the most recent year for which complete statistics are available.

Although there are many small business entities in the United States that grow, pack, or sell stonefruit, we do not believe this rule will have a significant economic impact on them because the volume of Chilean fruit expected to be imported is relatively low and the Chilean fruit would compete equally in the market place with U.S.-produced stonefruit. Importers of precleared Chilean stonefruit will probably realize a small savings for each unit of stonefruit imported, because the cost of importing unfumigated stonefruit under the preclearance program is expected to be slightly less than the cost of importing fumigated stonefruit. This may result in a slight decrease in the price of imported Chilean stonefruit, which would be beneficial to the U.S. consumer. Importers of Chilean stonefruit also import a variety of other fruits and vegetables, and importations of the Chilean stonefruit constitute a small portion of their total importations.

This rule will cause some loss of income to U.S. fumigation companies that fumigate imported Chilean stonefruit. Currently, fumigation of imported Chilean stonefruit is performed by a few large companies with many other sources of business, such as fumigation of other articles and fumigation of homes and buildings. The loss of income due to reduction in the amount of Chilean stonefruit fumigated each year will be a very small percentage of the total income of each of these companies.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 319

Agricultural commodities, Fruit, Imports, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

PART 319—FOREIGN QUARANTINE NOTICES

Accordingly, 7 CFR part 319 is amended as follows:

1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. In "Subpart-Fruits and Vegetables," a new section, § 319.56–2s, is added to read as follows:

§ 319.56–2s Administrative instructions governing the entry of apricots, nectarines, peaches, and plums from Chile.

(a) *Importations allowed.* Pursuant to § 319.56(c), the Administrator has determined that apricots, nectarines, peaches, and plums may be imported into the United States from Chile in accordance with this section and other applicable provisions of this subpart, as an alternative to importation in accordance with § 319.56–2m.

(b) *Trust fund agreement.* Except as provided in § 319.56–2m or in paragraph (g) of this section, apricots, nectarines, peaches, and plums may be imported only if the plant protection service of Chile [Servicio Agricola Y Ganadero, referred to in this section as SAG], has entered into a trust fund agreement with the Animal and Plant Health Inspection Service [APHIS] for that shipping season. This agreement requires SAG to pay in advance all estimated costs incurred by APHIS in providing the preclearance prescribed in paragraph (d) of this section. Payment of costs will be made on a monthly or other schedule designated by APHIS, but payment must be made for each preclearance service before APHIS provides the service. These costs will include administrative expenses incurred in conducting the preclearance services; and all salaries (including overtime and the federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in providing these services. The agreement requires SAG to deposit certified or cashier's checks with APHIS for the amount of these costs, as estimated by APHIS based on projected shipment volumes and cost figures from previous inspections. The agreement further requires that, if the deposit is not sufficient to meet all costs incurred by APHIS, SAG must deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before the inspections will be completed. The agreement also requires that, in the event of unexpected end-of-season costs, SAG must deposit with APHIS a certified cashier's check sufficient to meet such costs as estimated by APHIS, before any further preclearance services will be provided. If the amount SAG deposits during the shipping season exceeds the total costs incurred by APHIS in providing preclearance services, the difference will be returned to SAG by APHIS at the end of the shipping season upon request, or otherwise will be applied to preclearance services for the next shipping season.

(c) *Responsibilities of Servicio Agricola Y Ganadero.* SAG will ensure that:

(1) Apricots, nectarines, peaches, or plums are presented to APHIS inspectors for preclearance in their shipping containers at the shipping site for preclearance as prescribed in paragraph (d) of this section.

(2) Apricots, nectarines, peaches, and plums presented for inspection are identified in shipping documents accompanying each load of fruit that identify the packing shed where they were processed and the orchards where they were produced; and this identity is maintained until the apricots, nectarines, peaches, or plums are released for entry into the United States.

(3) Facilities for the inspections prescribed in paragraph (d) of this section are provided in Chile at an inspection site acceptable to APHIS.

(d) *Preclearance inspection.* Preclearance inspection will be conducted in Chile under the direction of APHIS inspectors. An inspection unit will consist of a lot or shipment from which a statistical sample is drawn and examined. An inspection unit may represent multiple grower lots from

different packing sheds. Apricots, nectarines, peaches, or plums in any inspection unit may be shipped to the United Sates only if the inspection unit passes inspection as follows:

(1) Inspectors will examine, fruit by fruit, the contents of the cartons which were selected based on a sampling scheme established for each inspection unit. An APHIS inspector will designate which cartons to inspect in each inspection unit to ensure that units infested at a level of 3 percent or more will be identified with a confidence level of 95 percent.

(i) If the inspectors find evidence of any plant pest for which a treatment authorized in the Plant Protection and Quarantine Treatment Manual is available, fruit in the inspection unit will remain eligible for shipment to the United States if the entire inspection unit is treated for the pest in Chile. However, if the entire inspection unit is not treated in this manner, or if a plant pest is found for which no treatment authorized in the Plant Protection and Quarantine Treatment Manual is available, the entire inspection unit will not be eligible for shipment to the United States.

(ii) Apricots, nectarines, peaches, and plums precleared for shipment to the United States as prescribed in this paragraph will not be inspected again in the United States except as necessary to ensure that the fruit has been precleared and for occasional monitoring purposes.

(e) *Termination of preclearance programs.* Shipments of apricots, nectarines, peaches, and plums will be individually evaluated regarding the rates of infestation of inspection units of these articles presented for preclearance. The inspection program for an article will be terminated when inspections determine that the rate of infestation of inspection units of the article by pests listed in paragraph (f) of this section exceeds 20 percent calculated on any consecutive 14 days of actual inspections (not counting days on which inspections are not conducted). Termination of the inspection program for an article will require mandatory treatment in Chile, prior to shipment to the United States, of shipments of the article for the remainder of that shipping season. If a preclearance inspection program is terminated with Chile, precleared fruit in transit to the United States at the time of termination will be spot-checked by APHIS inspectors upon arrival in the United States for evidence of plant pests referred to in paragraph (f) of this section.

(f) *Plant pests; authorized treatments.*

(1) Apricots, nectarines, peaches, or plums from Chile may be imported into the United States only if they are found free of the following pests or, if an authorized treatment is available, they are treated for the pest under the supervision of an APHIS inspector: *Proeulia* spp., *Leptoglossus chilensis*, *Megalometis chilensis*, *Naupactus xanthographus*, *Listroderes subcinctus*, and *Conoderus rufangulus*, and other insect pests that the Administrator has determined do not exist, or are not widespread, in the United States.

(2) Authorized treatments are listed in the Plant Protection and Quarantine Treatment Manual. The Plant Protection and Quarantine Treatment Manual is incorporated by reference. For the full identification of this standard, see § 300.1 of this chapter. "Materials incorporated by reference."

(g) *Inspection in the United States.* Notwithstanding provisions to the contrary in paragraphs (c) and (d) of this section, the Administrator may, in emergency or extraordinary situations, allow apricots, nectarines, peaches, or plums imported under this section to be inspected at a port of arrival in the United States, in lieu of a preclearance inspection of fumigation in Chile, under the following conditions:

(1) The Administrator is satisfied that a unique situation exists which justifies a limited exception to mandatory preclearance;

(2) The Administrator has determined that inspection and/or treatment can be accomplished at the intended port of arrival without increasing the risk of introducing insect pests into the United States;

(3) The entire shipment of apricots, nectarines, peaches, or plums must be offloaded and moved, under the supervision of APHIS inspectors, to an enclosed warehouse, where inspection and treatment facilities are available.

(4) The Administrator must determine that a sufficient number of inspectors are available at the port of arrival to perform the services required.

(5) The method of sampling and inspection will be the same as prescribed in paragraph (d) of this section for preclearance inspections.

Done in Washington, DC, this 10th day of October 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-24764 Filed 10-18-90; 8:45 am]

BILLING CODE 3410-34-M

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 90-161]

Validated Brucellosis-Free States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the brucellosis regulations concerning the interstate movement of swine by removing New Jersey from the list of validated brucellosis-free States. We have determined that New Jersey no longer meets the criteria for classification as a validated brucellosis-free State. This action imposes certain restrictions on the interstate movement of breeding swine from New Jersey.

EFFECTIVE DATE: Interim rule effective October 19, 1990. Consideration will be given only to comments received on or before December 18, 1990.

ADDRESSES: To help ensure that your comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 90-161. Comments received may be inspected at USDA, room 1141, South Building, 14th and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Delories M. Lenard, Senior Staff Veterinarian, Swine Diseases Staff, VS, APHIS, USDA, room 735, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7767.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease affecting animals and man, caused by bacteria of the genus *Brucella*. The brucellosis regulations contained in 9 CFR part 78 (referred to below as the regulations) prescribe conditions for the interstate movement of cattle, bison and swine.

Under the swine brucellosis regulations, States, herds, and individual animals are classified according to their brucellosis status. Interstate movement requirements for animals are based upon the disease status of the herd, or State from which the animal originates.

We are amending § 78.43 of the regulations, which lists validated

brucellosis-free States, by removing new Jersey from the list. Validated brucellosis-free status is based on a State having:

(1) The necessary authorities for classification as a validated brucellosis-free State for swine;

(2) No known focus of swine brucellosis at the time of validation and completion of one of several methods of surveillance; or no diagnosed case of swine brucellosis in the 12-month period preceding the classification, and a statistical analysis of the combined results of certain tests that indicate the testing is equivalent to either complete herd testing or slaughter surveillance during a period chosen by the State; and

(3) Certification by the appropriate State animal health official, the Veterinarian in Charge and the Deputy Administrator.

The regulations provide that the Administrator may amend § 78.43 to reclassify States as validated brucellosis-free States or to remove States from the status when a determination has been made that the States do or do not meet the standards of a validated brucellosis-free State. The regulations also provide that in the case of any reclassification to a lower status or removal of validated brucellosis-free status, the State animal health official of the State involved will be notified and given an opportunity to be heard prior to the reduction of status.

The State of New Jersey has notified us they have discovered five herds infected with swine brucellosis. Based on this information, New Jersey no longer meets the criteria for classification as a validated brucellosis-free State. The State Veterinarian for New Jersey has been notified of the prospective removal of New Jersey from validated brucellosis-free status and has declined a hearing on the matter. Therefore, we are removing New Jersey from the list of validated brucellosis-free States in § 78.43. This action will impose certain restrictions on the interstate movement of breeding swine from New Jersey.

Immediate Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is warranted to prevent the interstate spread of swine brucellosis from New Jersey.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these circumstances, there is good cause under 5 U.S.C. 553 to make it effective upon publication. We will consider comments received within 60 days of publication of this interim rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**, including a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

Herd owners in New Jersey will be affected by this action. The termination of validated brucellosis-free status will mean that breeding swine must be tested for brucellosis prior to being allowed to move from New Jersey. Approximately 90 sows will be tested for brucellosis annually in order to be eligible for interstate movement from New Jersey at an average cost to the seller of $4.75 per test. Using these numbers, we estimate that the testing requirement will result in an approximate cost of $427.50 for swine herd owners in New Jersey. Of the approximately 3,000 swine herd owners nationwide who regularly ship breeding swine interstate, 20 herd owners regularly ship breeding swine interstate from New Jersey. All 20 herd owners would be considered small entities.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

List of Subjects in 9 CFR Part 78

Animal diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

Accordingly, we are amending 9 CFR part 78 as follows:

PART 78—BRUCELLOSIS

1. The authority citation for part 78 continues to read as follows:

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 78.43 [Amended]

2. Section 78.43 is amended by removing "New Jersey".

Done in Washington, DC, this 16th day of October 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90–24765 Filed 10–18–90; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90–NM–12–AD; Amdt. 39–6775]

Airworthiness Directives; Airbus Industrie Model A300–B2, A300–B2K, and A300–B4 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Airbus Industrie Model A300–B2, A300–B2K, and A300–B4 series airplanes, which requires repetitive visual or high frequency eddy current inspections to detect cracks in the upper skin and spar web joining parts of the trimmable horizontal stabilizer (THS), and repair, if necessary. This amendment is prompted by reports that cracks have been found on the THS center box rear upper skin outboard of Rib 3 and in the rear spar web joining

part. This condition, if not corrected, could result in reduced structural capability of the horizontal stabilizer.

EFFECTIVE DATE: November 21, 1990.

ADDRESSES: The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM-113; telephone (206) 227-2140. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to Airbus Industrie Model A300-B2, A300-B2K, and A300-B4 series airplanes, which requires repetitive visual or high frequency eddy current inspections to detect cracks in the upper skin and spar web joining parts of the trimmable horizontal stabilizer (THS), and repair, if necessary, was published in the Federal Register on March 7, 1990 (55 FR 8148).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supported the rule.

The commenter also noted that the proposed rule did not incorporate the options specified in the service bulletin for stop drilling the ends of a crack, and cold expanding the stop drill holes when the crack length is between certain limits. The commenter suggested that the rule be revised to permit this action as a temporary measure. The FAA concurs and has revised the final rule to provide for optional interim actions that can be performed if cracking is found within certain limits. These optional actions vary depending upon the type of initial inspection performed. The FAA has determined that accomplishing these interim actions will have no adverse affect on safety.

Paragraph D. of the final rule has been revised to specify the current procedure for submitting requests for approval of an alternate means of compliance.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes noted above. The FAA has determined that this change will neither increase the economic burden on any operator, nor increase the scope of the rule.

It is estimated that 11 airplanes of U.S. registry will be affected by this AD, that it will take approximately 14 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $6,160.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Aircraft, Air transportation, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority. 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Applies to all Model A300-B2, A300-B2K, and A300-B4 series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent reduced structural capability of the horizontal stabilizer, accomplish the following:

A. Perform a visual inspection of the upper skin and spar web joining parts of the trimmable horizontal stabilizer (THS), in accordance with either the "preferred" or "alternative" method as described in Airbus Industrie Service Bulletin A300-55-0035, dated September 11, 1989, as follows:

1. For airplanes that have accumulated less than 11,000 landings, perform the initial inspection within 1,000 landings after the effective date of this AD, or prior to the accumulation of 11,400 landings, whichever occurs first.

2. For airplanes that have accumulated 11,000 or more landings, but less than 18,000 landings, perform the initial inspection within 400 landings after the effective date of this AD, or prior to the accumulation of 18,300 landings, whichever occurs first.

3. For airplanes that have accumulated 18,000 or more landings, perform the initial inspection within 300 landings after the effective date of this AD.

B. If the "preferred inspection method" (THS support fitting removed), as specified in Airbus Industrie Service Bulletin A300-55-0035, dated September 11, 1989, is used to accomplish the inspection required by paragraph A. of this AD, proceed as follows:

1. If a crack indication is found in the top integral skin, accomplish the following:

a. If the crack extends to the outer box top skin, repair prior to further flight in a manner approved by the Manager, Standardization Branch, ANM-113. Perform repetitive inspections at intervals approved by the Manager, Standardization Branch, ANM-113.

b. If the crack does not extend to the outer box top skin, and there is no crack in the joining part, prior to further flight, accomplish either subparagraph (1) or (2), below:

(1) Revise the FAA-approved Airplane Flight Manual (AFM) to impose the operational limits specified in the service bulletin for Vmo/Mmo and CCI, and install placards showing these limits in a prominent position in the cockpit until a permanent repair is made. Thereafter, repeat the inspection every 350 landings. Stop drill the ends of the crack and cold-expand the stop drill holes when the crack length is between the limits specified in the service bulletin; or

(2) Repair in accordance with the service bulletin. After repair, conduct repetitive high frequency eddy current (HFEC) inspections of the visible area of the integral top skin and the reinforcing plate web finger areas at intervals not to exceed 7,500 landings.

c. If the crack does not extend to the outer box top skin, and a crack is detected in the joining part, repair prior to further flight, in accordance with the service bulletin. After repair, conduct repetitive HFEC inspections at intervals not to exceed 7,500 landings, in accordance with the service bulletin.

2. If no crack indication is found in the top integral skin, accomplish the following:

a. If no crack indication is found in the joining part, repeat the inspection required by paragraph A. of this AD at intervals not to exceed 6,000 landings.

b. If a crack indication is found in the joining part, repair prior to further flight, in a manner approved by the Manager, Standardization Branch, ANM-113. After

repair, conduct repetitive HFEC inspections at intervals not to exceed 7,500 landings, in accordance with the service bulletin.

C. If the "alternative inspection method" (THS support fitting installed), as specified in Airbus Industrie Service Bulletin A300–55–0035, dated September 11, 1988, is used to accomplish the inspection required by paragraph A. of this AD, proceed as follows:

1. If a crack indication is found in the top integral skin, accomplish the following:

a. If the crack extends to the outer box top skin, repair prior to further flight in a manner approved by the Manager, Standardization Branch, ANM–113.

b. If the crack does not extend to the outer box top skin, remove the THS support fitting and inspect the joining part using an HFEC inspection technique, in accordance with the service bulletin.

(1) If the joining part is cracked, repair prior to further flight, in accordance with the service bulletin. After repair, conduct repetitive HFEC inspections at intervals not to exceed 7,500 landings, in accordance with the service bulletin.

(2) If the joining part is not cracked, prior to further flight, accomplish either subparagraph (a) or (b), below:

(a) Revise the FAA-approved Airplane Flight Manual (AFM) to impose the operational limits specified in the service bulletin for Vmo/Mmo and CCI, and install placards showing these limits in a prominent position in the cockpit until permanent repair is made. Thereafter, repeat the inspection every 350 landings. Stop drill the ends of the crack and cold-expand the stop drill holes when the crack length is between the limits specified in the service bulletin; or

(b) Repair in accordance with the service bulletin. After repair, conduct repetitive HFEC inspections at intervals not to exceed 7,500 landings, in accordance with the service bulletin.

2. If no crack indication is found in the top integral skin, repeat the inspection required by paragraph A. of this AD at intervals not to exceed 1,700 flights.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

Note. The request should be submitted directly to the Manager, Standardization Branch, ANM–113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM–113.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements to this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment becomes effective November 21, 1990.

Issued in Renton, Washington, on October 4, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–24779 Filed 10–18–90; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 90–NM–190–AD; Amdt. 39–6781]

Airworthiness Directives; Airbus Industrie Model A320–231 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Airbus Industrie Model A320–231 series airplanes, which requires repetitive visual inspections to detect cracks in the rear engine mount barrel nuts, and replacement, if necessary; and a daily torque check of the nuts, and retorquing, if necessary. This amendment is prompted by several reports of cracked rear engine mount barrel nuts on in-service airplanes. This condition, if not corrected, could result in reduced structural integrity of the rear engine support structure and loss of the engine.

EFFECTIVE DATE: November 5, 1990.

ADDRESSES: The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM–113; telephone (206) 227–2140. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority of France, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on all Airbus Industrie Model A320–231 series airplanes. There have been several reports of fatigue cracks on the rear engine mount barrel nuts found on in-service airplanes. This condition, if not corrected, could result in reduced structural integrity of the rear engine support structure and loss of the engine.

Airbus Industrie has issued Operator Information Telex ST/999.0085/90, dated April 3, 1990, which describes procedures for repetitive visual inspections to detect cracks in the rear engine mount barrel nuts, and replacement, if necessary. Airbus Industrie has also issued Operator Information Telex ST/999.0087/90, dated April 4, 1990, which describes procedures for a daily torque check of the rear engine mount bolts, and retorquing, if necessary. These telexes reference International Aero Engine Service Bulletin No. V2500–NAC–71–0071, Revision 3, dated March 30, 1990, for additional instructions. The French DGAC has classified the Airbus operator information telexes as mandatory, and has issued Airworthiness Directive 90–079–009(B) addressing this subject.

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD requires repetitive visual inspections to detect cracks in the rear engine mount barrel nuts, and replacement if necessary; and a daily torque check of the rear engine mount bolts, and retorquing, if necessary, in accordance with the Airbus Industrie operator information telexes previously described.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications

to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Aircraft, Air transportation, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Applies to all Model A320-231 series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To detect cracks in the rear engine mount barrel nuts, and to prevent reduced structural integrity of the rear engine support structure, accomplish the following:

A. Within 25 hours time-in-service after the effective date of this AD, and thereafter at intervals not to exceed 700 hours time-in-service, perform a visual inspection of the rear engine mount barrel nuts, in accordance with Airbus Industrie Operator Information Telex (AOT) S999.0085/90, dated April 3, 1990. If a nut is cracked, replace with a new nut, prior to further flight, in accordance with the Operator Information Telex. Following replacement of the nut, continue the visual inspections at intervals not to exceed 700 hours time-in-service in accordance with the AOT.

Note: This Airbus Industrie telex references International Aero Engines (IAE) Service Bulletin No. V2500-NAC-71-0071, Revision 3, dated March 30, 1990, for additional information.

B. On each day that flying occurs, perform a torque check of the rear engine mount bolts in accordance with Airbus Industrie Operator Information Telex (AOT) ST/999.0067/90, dated April 4, 1990. Any bolt which does not meet the appropriate torque limits specified in the AOT must be retorqued prior to further flight.

Note: This Airbus Industrie telex references IAE Service Bulletin No. V2500-NAC-71-0071, Revision 3, dated March 30, 1990, for additional information.

C. Alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM-113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM-113.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

This amendment becomes effective November 5, 1990.

Issued in Renton, Washington, on October 10, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-24780 Filed 10-18-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-105-AD; Amt. 39-6779]

Airworthiness Directives; Boeing Model 767 Series Airplanes Equipped with Pratt and Whitney JT9D-7R4 Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, which requires replacement of three existing drain tubes and a tee fitting in order to reroute the tee fitting away from the number 3 bearing oil pressure line. This amendment is prompted by reports of oil leaks in the number 3 bearing oil pressure line due to chafing by the adjacent tee fitting from the drain system. This condition, if not corrected, could result in possible engine fires and potential in-flight shutdowns due to oil loss.

EFFECTIVE DATE: November 28, 1990.

ADDRESSES: The applicable information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

FOR FURTHER INFORMATION CONTACT: Mr. Lanny C. Pinkstaff, Seattle Aircraft Certification Office, Propulsion Branch, ANM-140S; telephone (206) 227-2684. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to Boeing Model 767 series airplanes, which requires replacement of three existing drain tubes and a tee fitting in order to reroute the tee fitting away from the number 3 bearing oil pressure line, was published in the **Federal Register** on July 19, 1990 (55 FR 29384).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received. The commenter expressed no objection to the adoption of the proposed rule.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 92 Model 767 series airplanes of the affected design in the worldwide fleet. It is estimated that 31 airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Modification parts are available from the manufacturer at a cost of $1,072 per airplane. Based on these figures, the total cost impact of the

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AD on U.S. operators is estimated to be $43,152.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Aircraft, Air transportation, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) [Revised Pub. L. 97-449, January 12, 1983]; and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to Model 767 series airplanes, equipped with Pratt and Whitney JT9D-7R4 engines, as listed in Boeing Alert Service Bulletin 767-71A0057, dated February 22, 1990, certificated in any category. Compliance required within 9 months after the effective date of this AD, unless previously accomplished.

To prevent possible engine fires and potential in-flight engine shutdowns due to oil loss, accomplish the following:

A. Modify the drain system on each engine in accordance with Boeing Alert Service Bulletin 767-71A0057, dated February 22, 1990.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

This amendment becomes effective November 26, 1990.

Issued in Renton, Washington, on October 10, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-24781 Filed 10-18-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-190-AD; Amdt. 39-6780]

Airworthiness Directives; McDonnell Douglas Model DC-9-80 Series Airplanes and Model MD-88 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to McDonnell Douglas Model DC-9-81 (MD-81), DC-9-82 (MD-82), DC-9-83 (MD-83), and DC-9-87 (MD-87) series airplanes and Model MD-88 airplanes, which requires inspection of passenger service unit oxygen doors for proper seating, and readjustment, if necessary. This amendment is prompted by reports that passenger service unit oxygen doors have been pushed up past the door seal, which has caused the door to jam. This condition, if not corrected, could result in passenger oxygen not being readily available for use in the event of a cabin decompression.

EFFECTIVE DATE: November 5, 1990.

ADDRESSES: The applicable service information may be obtained from Douglas Aircraft Company, Post Office Box 1771, Long Beach, California 90801, Attn: Business Unit Manager, Technical Publications, C1-HCW (54-60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Robert T. Razzeto, Aerospace Engineer, Los Angeles Aircraft Certification Office, ANM-131L, FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5355.

SUPPLEMENTARY INFORMATION: One operator of McDonnell Douglas Model DC-9-80 series and MD-88 airplanes reported that 41 of 56 passenger service unit (PSU) oxygen doors failed to open during a PSU oxygen door inspection and test. McDonnell Douglas surveyed 4 other operators and found that, during PSU oxygen door tests, up to 30 PSU oxygen doors failed to open. Investigation revealed that latch-side corners of PSU oxygen doors had been pushed up past the door seal, which caused the seal to become trapped between the PSU oxygen door and the PSU panel. This interference caused the PSU oxygen doors to remain closed after door release activation was initiated. This condition, if not corrected, could result in passenger oxygen not being readily available for use after cabin decompression.

The FAA has reviewed and approved McDonnell Douglas Service Bulletin A25-315, Revision 1, dated August 24, 1990, which describes procedures for inspection for proper seating of the PSU oxygen door, and readjustment, if necessary. A modification is described which involves installation of two door stops for each PSU oxygen door to prevent the oxygen door being pushed up past the seal.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires repetitive inspection of the PSU oxygen door, and readjustment, if necessary, in accordance with the service bulletin previously described. Accomplishment of the modification described in the service bulletin is considered terminating action for the repetitive inspection requirements of the AD.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

This is considered interim action. The FAA may consider further rulemaking to require additional corrective action to ensure that Model DC-9 passenger service unit doors will not fail to open when activated.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Aircraft, Air transportation, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised) Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Applies to Model DC-9-81 (MD-81), DC-9-82 (MD-82), DC-9-83 (MD-83), and DC-9-87 (MD-87) series airplanes and Model MD-88 airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent passenger service unit (PSU) oxygen doors from being jammed closed, accomplish the following:

A. Within 45 days after the effective date of this AD, and thereafter at intervals not to exceed 45 days, inspect all PSU oxygen doors for proper closure in accordance with Paragraph 2 of the Accomplishment Instructions, Phase I, of McDonnell Douglas Alert Service Bulletin A25-315, Revision 1, dated August 24, 1990. If any PSU oxygen door does not close properly, prior to further flight, readjust the door in accordance with Phase I of Paragraph 2 of the Accomplishment Instructions of the service bulletin.

B. Accomplishment of the modification specified in Phase II of Paragraph 2 of the Accomplishment Instructions of McDonnell Douglas Alert Service Bulletin A25-315, Revision 1, dated August 24, 1990, constitutes terminating action for the repetitive inspections required by paragraph A of this AD.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Los Angeles ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Los Angeles ACO.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to Douglas Aircraft Company, Post Office Box 1771, Long Beach, California 90801, Attn: Business Unit Manager, Technical Publications, C1-HCW (54-60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

This amendment becomes effective November 5, 1990.

Issued in Renton, Washington, on October 10, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-24782 Filed 10-18-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 90-ANM-9]

Revocation of Compulsory Reporting Point; Montana

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes the CHARL Intersection as a compulsory reporting point. CHARL Intersection is located between Mullan Pass and Great Falls, MT, on Federal Airway V-120. The FAA has determined that this intersection is no longer needed as a compulsory reporting point but will be useful as a noncompulsory reporting point.

EFFECTIVE DATE: 0901 u.t.c., December 13, 1990.

FOR FURTHER INFORMATION CONTACT: Alton D. Scott, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9252.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) revokes CHARL Intersection as a compulsory reporting point. CHARL Intersection is located between Mullan Pass and Great Falls, MT, on Federal Airway V-120. The FAA has determined that this intersection is no longer needed as a compulsory reporting point but will be useful as a noncompulsory reporting point. This action will result in an increase to the minimum en route altitude on V-120. This action improves air safety and aids air traffic controllers.

I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a miner technical amendment in which the public would not be particularly interested. Section 71.203 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a

regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Compulsory reporting point.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 100(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.203 [Amended]

2. § 71.203 is amended as follows:

CHARL [Removed]

Issued in Washington, DC, on October 12, 1990.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 90-24783 Filed 10-18-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 90-ASO-14]

Revision of Control Zone, Charlotte, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the Charlotte, NC, control zone. A new standard instrument approach procedure (SIAP) has been developed to serve Runway 23 based on the Charlotte VHF Omnidirectional Range/Distance Measuring Equipment (VOR/DME). Additional controlled airspace is required for protection of instrument flight rules (IFR) aircraft executing this SIAP. Ordinarily, an arrival area extension would be added to the existing control zone. However, there are existing extensions north, northeast, and southwest of the control zone. Rather than add another arrival area extension, this action will encompass the numerous extensions by enlarging the basic control zone from a 5-mile radius to a 7-mile radius of the Charlotte/Douglas International Airport. This will provide the necessary controlled airspace for protection of all existing and proposed IFR aeronautical operations. Additionally, a minor correction is made in the latitude/longitude coordinates of the airport.

EFFECTIVE DATE: 0901 u.t.c., December 13, 1990.

FOR FURTHER INFORMATION CONTACT: James G. Walters, Airspace Section, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 763-7646.

SUPPLEMENTARY INFORMATION:

History

On July 31, 1990, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Charlotte, NC, control zone (55) FR (31065). Rather than add another arrival area extension to the control zone, in order to provide airspace protection for a recently developed SIAP serving Runway 23, this action would enlarge the existing zone from a 5-mile radius to a 7-mile radius of the Charlotte/Douglas International Airport. Also, a minor correction would be made in the latitude/longitude coordinates of the airport. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. Section 71.171 of part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6F dated January 2, 1990.

The Rule

This amendment to part 71 of the Federal Aviation Regulations revises the Charlotte, NC, control zone. The radius of the zone is increased from 5 to 7 miles of the Charlotte/Douglas International Airport to accommodate a new SIAP to runway 23. Also, a minor correction is made in the latitude/longitude coordinates of the airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 100(g) (Revised Public Law 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Charlotte, NC [Revised]

Within a 7-mile radius of Charlotte/Douglas International Airport (latitude 35°12'52" N, longitude 80°56'37" W).

Issued in East Point, Georgia, on September 20, 1990.

Don Cass,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 90-24784 Filed 10-18-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 90-AEA-12]

Modify Control Zone and Transition Area; Lancaster, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice amends the effective hours of the Lancaster, PA, Control Zone and updates the geographic coordinates of the Lancaster, PA, Control Zone. and 700 foot Transition Area to reflect the actual geographic position of the Lancaster Airport, Lancaster, PA, upon which the Control Zone and Transition Area is

based. This action is necessary due to the extension of the operating hours of the Lancaster Air Traffic Control Tower from 2200 to 2230 local.

EFFECTIVE DATE: 0901 U.T.C. December 13, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis L. Brewington, Airspace Specialist, System Management Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building # 111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 917-0857.

SUPPLEMENTARY INFORMATION:

The Rule

The purpose of these amendments to §§ 71.171 and 71.181 of part 71 of the Federal Aviation Regulations is to extend the operating hours of the Lancaster, PA, Control Zone by thirty minutes from 2200 to 2230 local. Additionally, the geographic position of the Lancaster Airport used in the Lancaster, PA, Control Zone and 700 foot Transition Area descriptions is being updated to reflect the actual location of the airport. The physical dimensions of the controlled airspace will remain unaltered by this change. Sections 71.171 and 71.181 of part 71 of the Federal Aviation Regulations were republished in FAA Handbook 7400.6F, January 2, 1990. Since the FAA finds that the public would not be interested in commenting, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary and contrary to the public interest.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. Section 71.171 is amended as follows:

Lancaster, PA [Amended]

§ 71.171 [Amended]

Change the coordinates of the Lancaster Airport, Lancaster, PA from "40°07'16"N." to "40°07'18"N.";

Change the last sentence to read as follows:

"The Control Zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory."

§ 71.181 [Amended]

3. Section 71.181 is amended as follows:

Lancaster, PA [Amended]

Change the coordinates of the Lancaster Airport, Lancaster, PA from "40°07'16"N." to "40°07'18"N.";

Issued in Jamaica, New York, on September 21, 1990.

Gary W. Tucker,

Manager, Air Traffic Division.

[FR Doc. 90-24795 Filed 10-18-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 90-ASO-15]

Amendment to Transition Area, Orlando, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment updates the latitude/longitude coordinate position of the Orlando International Airport. When the third parallel runway was constructed, the geographic position (GP) of the airport was recalculated. The GP had shifted approximately ⅛ mile to the east. This action realigns the transition which is centered on the GP coordinates of the Orlando International Airport.

EFFECTIVE DATE: 0901 U.T.C., December 13, 1990.

FOR FURTHER INFORMATION CONTACT: James G. Walters, Airspace Section, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 763-7646.

SUPPLEMENTARY INFORMATION:

History

On August 14, 1990, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to update the latitude/longitude coordinates for the Orlando International Airport (55 FR 33136). With construction of the third parallel runway, the GP of the airport shifted approximately ⅛ mile to the east. Since the transition area is centered on the GP, the transition area would be realigned accordingly. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.F, dated January 2, 1990.

The Rule

This amendment to part 71 of the Federal Aviation Regulations updates the geographic position coordinates of the Orlando International Airport and realigns the transition area which is centered on the airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979; and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended, as follows:

PART 71—DESIGNATED OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Public Law 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Orlando, FL [Amended]

By amending the coordinates for Orlando International Airport to read, "(lat. 28°25'43"N., long. 81°18'58"W)."

Issued in East Point, Georgia, on October 2, 1990.

Don Case,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 90-24791 Filed 10-18-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 90-AGL-11]

Alteration of Transition Area; Greenwood, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this action is to alter the existing Greenwood, IN, transition area to accommodate a new NDB Runway 36 Standard Instrument Approach Procedure (SIAP) to Greenwood Municipal Airport, Greenwood, IN, and change the airport name from Skyway to Greenwood Municipal. The intended effect of this action is to ensure segregation of the aircraft using approach procedures under instrument flight rules from other aircraft operating under visual flight rules in controlled airspace.

EFFECTIVE DATE: 0901 U.T.C., February 7, 1991.

FOR FURTHER INFORMATION CONTACT: Douglas F. Powers, Air Traffic Division, System Management Branch, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7568.

SUPPLEMENTARY INFORMATION:

History

On Thursday, August 9, 1990, the Federal Aviation Administration (FAA) proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter a transition area airspace near Greenwood, IN (55 FR 32444).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

The Rule

This amendment to part 71 of the Federal Aviation Regulations alters the designated transition area airspace near Greenwood, IN. The transition area is being modified to accommodate a new NDB Runway 36 SIAP to Greenwood Municipal Airport, Greenwood, IN. The modification to the existing airspace will consist of a 4.5-mile width each side of the 180° bearing from the airport, extending from the 6.5-mile radius area to 8.5 miles south of the airport.

The development of a new SIAP requires that the FAA alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for the procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined area which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rules requirements.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended, as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Greenwood, IN [Revised]

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Greenwood Municipal Airport (lat. 39°37'53" N., long. 86°05'16" W.); within 4.5 miles each side of the 180° bearing from the airport, extending from the 6.5-mile radius to 8.5 miles south of the runway 36 arrival threshold, excluding that portion which overlies the Indianapolis, IN, transition area.

Issued in Des Plaines, Illinois, on October 3, 1990.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 90-24792 Filed 10-18-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 90-AGL-13]

Alteration of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the descriptions of VOR Federal Airways V-128 and V-246 by renumbering the airway segment of V-128, located between the Dubuque, IA, very high frequency omnidirectional radio range and tactical air navigational aid (VORTAC) and the Janesville, WI, VORTAC, to V-246. This action will eliminate ambiguity regarding air traffic control (ATC) holding clearance on V-128 southwest of the Janesville VORTAC.

EFFECTIVE DATE: 0901 U.T.C., December 13, 1990.

FOR FURTHER INFORMATION CONTACT: Jesse B. Bogan, Jr., Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9253.

The Rule

The purpose of this amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) is to amend the descriptions of VOR Federal Airways V–128 and V–246 by renumbering the airway segment of V–128 between the Dubuque, IA, VORTAC and the Janesville, WI, VORTAC to V–246. This action will eliminate the confusion regarding ATC holding clearance on V–128. When pilots are cleared to hold on V–128 southwest of the Janesville VORTAC, ambiguity exists because there are two segments of V–128 southwest of the Janesville VORTAC. In order to eliminate this confusion, one of two segments of V–128 southwest of the Janesville VORTAC is being renumbered as V–246. This action makes no change in the configuration of controlled airspace. Accordingly, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor technical amendment in which the public would not be particularly interested. Section 71.123 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V–128 [Amended]

By removing the words "From Dubuque, IA; Janesville, WI;" and substituting the words "From Janesville, WI; via"

V–246 [Amended]

By removing the words "From Dubuque, IA, via" and substituting the words "From Janesville, WI; via Dubuque, IA;"

Issued in Washington, DC, on October 9, 1990.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 90–24793 Filed 10–16–90; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 73

[Airspace Docket No. 90–ASO–13]

Amend Controlling Agency for Restricted Area R–3701A; Kentucky

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action changes the controlling agency for Restricted Area R–3701A Fort Campbell, KY, from the FAA to the United States Army. The lateral and vertical dimensions of the restricted area lie entirely within the airspace delegated to Fort Campbell Approach Control.

EFFECTIVE DATE: 0901 u.t.c., December 13, 1990.

FOR FURTHER INFORMATION CONTACT: Mike Ostapiej, Military Operations Program Office (ATM–420), Office of Air Traffic System Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7655.

The Rule

This amendment to part 73 of the Federal Aviation Regulations changes the controlling agency for Restricted Area R–3701A, Fort Campbell, KY, from FAA, Memphis ARTCC to United States Army, Fort Campbell Army Air Field Army Radar Approach Control. The lateral and vertical dimensions of the restricted area lie within the airspace delegated to Fort Campbell Approach Control; therefore, this action enhances airspace management. Because this action does not affect the airspace configuration, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor technical amendment in which the public would not be particularly interested. Section 73.37 of part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 73

Aviation safety, Restricted areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 73 of the Federal Aviation Regulations (14 CFR part 73) is amended, as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 73.37 [Amended]

2. Section 73.37 is amended as follows:

R–3701A Fort Campbell, KY [Amended]

By removing the present Controlling agency and substituting the following:

Controlling agency. U.S. Army, Fort Campbell Army Air Field Army Radar Approach Control.

Issued in Washington, DC, on October 12, 1990.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 90–24792 Filed 10–16–90; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 75

[Airspace Docket No. 90-AWA-4]

Establishment of Jet Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes new Jet Routes J-571, J-572, J-574, J-576, and J-577 located in the northwest portion of the United States. The establishment of these jet routes is the result of a request from Transport Canada and coincides with changes in the Canadian airspace structure. This action improves traffic flow during transborder operations and supports that request.

EFFECTIVE DATE: 0901 u.t.c., December 13, 1990.

FOR FURTHER INFORMATION CONTACT: Alton D. Scott, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9252.

SUPPLEMENTARY INFORMATION:

History

On May 22, 1990, the FAA proposed to amend part 75 of the Federal Aviation Regulations (14 CFR part 75) to establish new Jet Routes J-571, J-572, J-574, J-576, and J-577 located in the northwest portion of the United States (55 FR 18352). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. One comment was received from the Air Transport Association of America (ATA). ATA concurred with this proposal. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 75.100 of part 75 of the Federal Aviation Regulations was published in Handbook 7400.6F dated January 2, 1990.

The Rule

This amendment to part 75 of the Federal Aviation Regulations establishes new Jet Routes J-571, J-572, J-574, J-576, and J-577 located in the northwest portion of the United States. This amendment is at the request of Transport Canada to support airway changes in the Canadian airspace structure. This action improves traffic flow during transborder operations and will reduce controller workload.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 75 of the Federal Aviation Regulations (14 CFR part 75) is amended, as follows:

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

1. The authority citation for part 75 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J-571 [New]

From Williston, ND; to Brandon, MB, Canada. The airspace within Canada is excluded.

J-572 [New]

From Glasgow, MT; to Swift Current, SK, Canada; The airspace within Canada is excluded.

J-574 [New]

From Glasgow, MT; to Lethbridge, AB, Canada. The airspace within Canada is excluded.

J-576 [New]

From Glasgow, MT; to Medicine Hat, AB, Canada. The airspace within Canada is excluded.

J-577 [New]

From Minot, ND; to Lumsden, SK, Canada. The airspace within Canada is excluded.

Issued in Washington, DC, on October 12, 1990.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 90-24786 Filed 10-18-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 75

[Airspace Docket No. 90-AGL-9]

Alteration of Jet Route J-213 and Establishment of Jet Route J-526

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of J-213 by deleting that portion of J-213 between the Louisville, KY, VORTAC and the Beckley, WV, VORTAC; and establishes J-526 between the Louisville, KY, VORTAC and the Beckley, WV, VORTAC. This action eliminates computer processing problems and air traffic control ambiguity associated with flight plans which contain the route J-213/J-8 or J-8/J-213.

EFFECTIVE DATE: 0901 u.t.c, December 13, 1990.

FOR FURTHER INFORMATION CONTACT: Jesse B. Bogan, Jr., Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9253.

SUPPLEMENTARY INFORMATION:

History

On July 31, 1990, the FAA proposed to amend part 75 of the Federal Aviation Regulations (14 CFR part 75) to amend the description of J-213 and establish J-526 (55 FR 31068). The problem is that J-8 and J-213 merge at two points, thereby creating flight planning and air traffic control communication problems in understanding which of the two points is being referenced. This action eliminates the problem of the two intersecting points. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal

were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 75.100 of part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

The Rule

This amendment to part 75 of the Federal Aviation Regulations renumbers a segment of J–213 between the Louisville, KY, VORTAC and the Beckley, WV, VORTAC. That section of J–213 between Louisville, KY, and Beckley, WV, is deleted, reestablished, and numbered as J–526. The problem is that J–8 and J–213 merge at two points, Finks interesection and the Louisville VORTAC. When air traffic controllers at Indianapolis, IN, Air Route Traffic Control Center encounter flight plans which contain the route J–8/J–213 or J–213/J–8, they are unable to ascertain at which point an aircraft on the flight plan will join with J–213 or J–8. Also, flight plans containing J–8/J–213 or J–213/J–8 are difficult to process in the air traffic computer processing system because the airways intersect at two points. This action eliminates the problem of the airways intersecting at two points and the problems associated with that.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a signficant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 75 of the Federal Aviation Regulations (14 CFR part 75) is amended, as follows:

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

1. The authority citation for part 75 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J–213 [Revised]

From Armel, VA; via INT Armel 251° and Beckley, WV, 066° radials; to Beckley.

J–526 [New]

From Beckley, WV; via INT Beckley 284° and Louisville, KY, 101° radials; to Louisville.

Issued in Washington, DC., on October 9, 1990.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 90–24787 Filed 10–18–90; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 97

[Docket No. 28348; Amdt. No. 1436]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference–approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, and 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format take their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Approaches, Standard Instrument, Incorporation by reference.

Issued in Washington, DC, on September 28, 1990.

William C. Withycombe,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 g.m.t. on the dates specified, as follows:

PART 97—[AMENDED]

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

Effective December 13, 1990

Grand Junction, CO—Walker Field, ILS RWY 11, Amdt. 13
Marco Island, FL—Marco Island, VOR/DME RWY 17, Amdt. 9
Marco Island, FL—Marco Island, NDB RWY 35, Amdt. 4
Wildwood, NJ—Cape May County, VOR-A, Orig.
Wildwood, NJ—Cape May County, LOC RWY 10, Amdt. 3
Wildwood, NJ—Cape May County RNAV RWY 19, Amdt. 5
Mocksville, NC—Twin Lakes, NDB RWY 9, Amdt. 3
Monroe, NC—Monroe, LOC RWY 5, Amdt. 1
Monroe, NC—Monroe, NDB RWY 5, Amdt. 1
Lake City, SC—Lake City Muni CJ Evans Field, NDB-A, Amdt. 1
Mt. Pleasant, SC—East Cooper, VOR/DME-A, Orig.
Dickson, TN—Dickson Muni, VOR/DME RWY 17, Amdt. 3
Greeneville, TN—Greeneville Muni, LOC RWY 5, Amdt. 4
Greeneville, TN—Greeneville Muni, NDB RWY 5, Amdt. 3
Paris, TN—Henry County, SDF RWY 2, Amdt. 2
Paris, TN—Henry County, NDB RWY 2, Amdt. 2
Andrew, TX—Andrews County, NDB RWY 15, Amdt. 2
Devine, TX—Devine Muni, NDB RWY 35, Amdt. 2
Fredericksburg, TX—Gillespie County, VOR/DME-A, Amdt. 2
San Marcos, TX—San Marcos Muni, VOR/DME-A, Amdt. 3
San Marcos, TX—San Marcos Muni, NDB RWY 12, Amdt. 2
San Marcos, TX—San Marcos Muni, ILS RWY 12, Amdt. 3

Effective November 15, 1990

Rifle, CO—Garfield County Regional, LOC/DME-A, Amdt. 2
Indianapolis, IN—Greenwood Muni, VOR-A, Amdt. 2
Indianpolis, IN—Greenwood Muni, NDB RWY 36, Orig.
Fall River, MA—Fall River Muni, NDB RWY 24, Amdt. 8
Sault Ste. Marie, MI—Chippewa County Intl, VOR-A or TACAN-A, Amdt. 4
Sault Ste. Marie, MI—Chippewa County Intl, NDB RWY 16, Amdt. 8
Sault Ste. Marie, MI—Chippewa County Intl, NDB RWY 34, Amdt. 3
Sault Ste. Marie, MI—Chippewa County Intl, ILS RWY 16, Amdt. 6
Sparta, MI—Sparta, VOR-A, Amdt. 2
Sparta, MI—Sparta, RNAV RWY 36, Amdt. 1
Nashua, NH—Boire Field, NDB RWY 14, Amdt. 4
Ashtabula, OH—Ashtabula County, VOR RWY 8, Amdt. 6, CANCELLED
Ashtabula, OH—Ashtabula County, VOR RWY 8, Orig.
Caldwell, OH—Noble County, VOR-A, Orig.
Medina, OH—Medina Muni, VOR RWY 27, Orig.
Medina, OH—Medina Muni, NDB RWY 27, Amdt. 7
Granbury, TX—Granbury Muni, VOR-B, Amdt. 2

Effective October 18, 1990

Seattle, WA—Seattle-Tacoma Intl, ILS RWY 34L, Orig.
Grantsburg, WI—Grantsburg Muni, VOR/DME-A, Orig.
Grantsburg, WI—Grantsburg Muni, VOR-A, Orig., CANCELLED

Effective September 27, 1990

Chico, CA—Chico Muni, VOR RWY 31R, Amdt. 7
Chico, CA—Chico Muni, VOR/DME RWY 13L, Amdt. 5

Effective September 25, 1990

Mansfield, MA—Mansfield Muni, NDB RWY 32, Amdt. 4
Las Vegas, NV—McCarran Intl, ILS RWY 25, Amdt. 13

Effective September 18, 1990

San Jose, CA—San Jose Intl, LOC/DME RWY 30L, Amdt. 10
San Jose, CA—San Jose Intl, NDB/DME RWY 30L, Amdt. 4
San Jose, CA—San Jose Intl, ILS RWY 30L, Amdt. 19

[FR Doc. 90-24780 Filed 10-18-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

14 CFR Part 97

[Docket No. 26355; Amdt. No. 1437]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Approaches, Standard Instrument, Incorporation by reference.

Issued in Washington, DC on October 12, 1990.

Thomas C. Accardi,
Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 g.m.t. on the dates specified, as follows:

PART 97—[AMENDED]

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS,

ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

Effective December 13, 1990

Texarkana, AR—Texarkana Regional-Webb Field, VOR RWY 13, Amdt. 14
Texarkana, AR—Texarkana Regional-Webb Field, ILS RWY 22, Amdt. 13
Texarkana, AR—Texarkana Regional-Webb Field, LOC BC RWY 4, Amdt. 11
Texarkana, AR—Texarkana Regional-Webb Field, NDB RWY 22, Amdt. 11
Miami, FL—Miami Intl, LOC RWY 30, Amdt. 5
Deridder, LA—Beauregard Parish, NDB RWY 36, Amdt. 5
Deridder, LA—Beauregard Parish, LOC RWY 36, Amdt. 1
Lake Charles, LA—Chennault Industrial Airpark, ILS RWY 15R, Amdt. 2
Lake Charles, LA—Chennault Industrial Airpark, VOR RWY 33L, Amdt. 1
Battle Creek, MI—W.K. Kellogg, VOR or TACAN RWY 31, Amdt. 14
Battle Creek, MI—W.K. Kellogg, VOR or TACAN 5, Amdt. 19
Battle Creek, MI—W.K. Kellogg, VOR or TACAN RWY 23, Amdt. 17
Battle Creek, MI—W.K. Kellogg, NDB RWY 23, Amdt. 17
Battle Creek, MI—W.K. Kellogg, ILS RWY 23, Amdt. 17
Battle Creek, MI—W.K. Kellogg, RADAR-1, Amdt. 2
Hilton Head Island, SC—Hilton Head, VOR/DME-A, Amdt. 8
Hilton Head Island, SC—Hilton Head, RNAV RWY 3, Amdt. 4
Hilton Head Island, SC—Hilton Head, RNAV RWY 21, Amdt. 4
Orangeburg, SC—Orangeburg Muni, VOR RWY 4, Amdt. 2
Orangeburg, SC—Orangeburg Muni, NDB RWY 4, Amdt. 2
Nashville, TN—Nashville Intl, VOR/DME RWY 20C, Amdt. 4
Nashville, TN—Nashville Intl, VOR/DME RWY 20R, Amdt. 8
Nashville, TN—Nashville Intl, NDB RWY 20R, Amdt. 6
Nashville, TN—Nashville Intl, RADAR-1, Amdt. 22
Shelbyville, TN—Bomar Fld-Shelbyville Muni, VOR RWY 18, Amdt. 6
Shelbyville, TN—Bomar Fld-Shelbyville Muni, VOR RWY 36, Amdt. 14
Shelbyville, TN—Bomar Fld-Shelbyville Muni, VOR/DME RWY 18, Amdt. 3
Shelbyville, TN—Bomar Fld-Shelbyville Muni, RNAV RWY 18, Amdt. 3
Anahuac, TX—Chambers County, NDB RWY 30, Amdt. 2

Effective November 15, 1990

Pryor Creek, OK—Mid-America Industrial, VOR/DME-A, Amdt. 4
Stillwater, OK—Stillwater Muni, VOR RWY 17, Amdt. 8
Pottsville, PA—Schuylkill County/Joe Zerbey/, VOR RWY 4, Amdt. 5
Pottsville, PA—Schuylkill County/Joe Zerbey/, RNAV RWY 22, Amdt. 2
Washington, PA—Washington County, VOR-B, Amdt. 6
Fort Worth, TX—Luck Field, VOR/DME-A, Amdt. 1

Effective October 4, 1990

Ukiah, CA—Ukiah Muni, VOR-A, Amdt. 3
Ukiah, CA—Ukiah Muni, LOC/DME RWY 15, Amdt. 4
Ukiah, CA—Ukiah Muni, RNAV-B, Amdt. 4

Effective October 5, 1990

Roanoke, VA—Roanoke Regional/Woodrum Field, ILS RWY 33, Amdt. 11

Effective June 22, 1990

Prescott, AZ—Ernest A. Love Field, VOR RWY 11, Amdt. 1
Prescott, AZ—Ernest A. Love Field, ILS/DME RWY 21, Amdt. 2
Prescott, AZ—Ernest A. Love Field, RNAV RWY 21, Amdt. 2

[FR Doc. 90-24790 Filed 10-18-90; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD 6010.8-R]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Cardiac Rehabilitation

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule amendment revises the DoD Regulation 6010.8-R (32 CFR part 199) by establishing CHAMPUS benefits for cardiac rehabilitation. This final amendment offers coverage under the CHAMPUS program for cardiac rehabilitation when used as a treatment modality following specific cardiac events.

EFFECTIVE DATE: October 9, 1987.

ADDRESSES: Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Office of Program Development, Aurora, CO 80045.

FOR FURTHER INFORMATION CONTACT: Judy Carroll, Office of Program Development, OCHAMPUS, telephone (303) 361-3521.

SUPPLEMENTARY INFORMATION: In FR Doc. 77-7834, appearing in the Federal Register on April 4, 1977 (42 FR 17972), the Office of the Secretary of Defense published its regulation, DoD 6010.8-R, "Implementation of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)," as part 199 of this title. 32 CFR part 199 (DoD 6010.8-R) was reissued in the Federal Register on July 1, 1988 (51 FR 24008). In FR Doc. 90-9277 appearing in the Federal Register on April 23, 1990 (55 FR 15246), the Office of the Secretary of Defense published for public comment a notice of proposed rulemaking regarding establishing coverage under the CHAMPUS program for cardiac rehabilitation when used as treatment modality following specific cardiac events. The following summarizes the comments received and the actions taken based on these comments.

Discussion of Comments

We received two (2) public comments in response to the proposed rule to offer CHAMPUS benefits for cardiac rehabilitation. The comments received in response to the proposed rule were very supportive of the decision to expand coverage to include benefits for cardiac rehabilitation following specific cardiac events. A summary of the comments and our responses to them are listed below.

Comment: We commend the DoD for recognizing the appropriateness of cardiac rehabilitation services, and for retroactively extending coverage of these services to coincide with the date of publication of a technology assessment which discussed the safety and efficacy of cardiac rehabilitation by a nationally recognized technology assessment body.

Response: We appreciate your interest in the CHAMPUS program and its beneficiary population. As a recognized national professional organization, we acknowledge your support for extending CHAMPUS coverage for cardiac rehabilitation as being consistent with generally accepted medical practice.

Comment: We support all aspects of the proposed establishment of cardiac rehabilitation services for CHAMPUS beneficiaries. However, we feel consideration should be given to allowing payment for cardiac rehabilitation services rendered in specialized freestanding cardiac rehabilitation clinics. Limitation of cardiac rehabilitation services to only a CHAMPUS authorized hospital may restrict access for certain CHAMPUS beneficiaries.

Response: We do not find this argument persuasive. As a national program, CHAMPUS strives for uniformity and equity in benefits to ensure beneficiary safety. Toward this end, CHAMPUS relies on the existing nationwide infrastructure for accreditation and professional regulatory oversight. With the large variety of freestanding cardiac rehabilitation clinics throughout the country, it is incumbent upon CHAMPUS to seek out national

standards to provide a clear line of demarcation on CHAMPUS requirements. Currently, there is no recognized national accreditation agency for accrediting freestanding cardiac rehabilitation clinics, nor does there appear to be standarized state licensure, or certification procedures in existence which address standards for freestanding cardiac rehabilitation clinics. Since OCHAMPUS does not have the resources to conduct it own accreditation activities, the requirement for national accreditation is at least a minimum assurance that a facility or specialized treatment facility meets some standards of quality.

As stated in the proposed notice, CHAMPUS does not extend benefits for cardiac rehabilitation programs nor the monitoring of any tests while participating in a cardiac rehabilitation program. Although current regulatory provisions allow payment for medically necessary rehabilitation services designed to restore patients to a normal level of functioning following disease or injury, to date, CHAMPUS has not included coverage for cardiac rehabilitation services. The unresolved controversy over the efficacy and medical necessity of treatment, the lack of uniform standards among programs, the lack of national endorsement by a recognized technology assessing group, and the high costs, resulted in an agency decision to exclude coverage for cardiac rehabilitation.

In October 1987, the Diagnostic and Therapeutic Technology Assessment (DATTA) and in August 1988, the Office of Health Technology and Assessment (OHTA) issued reports which indicate that cardiac rehabilitation services are an integral part of the rehabilitation treatment of patients with coronary artery disease; specifically, patients who have had a myocardial infarction (MI), coronary artery bypass graft (CABG), or chronic stable angina pectoris. Additionally, in October 1988, The American College of Physicians published a report entitled "Cardiac Rehabilitation Services" in the *Annals of the Internal Medicine* which endorsed cardiac rehabilitation as appropriate for selected patients after MI, and coronary revascularization, or coronary angioplasty. The article further indicated that, although data was limited, patients with debilitating angina pectoris or symptomatic left ventricular dysfunction may also be candidates for cardiac rehabilitation when these disorders fail to respond to standard medical or surgical interventions. These endorsements further establish cardiac rehabilitation as the standard of care within the medical community and support previous premises that cardiac rehabilitation programs can improve the functional capacity of the heart and thus improve overall health outcome.

Since endorsement of cardiac rehabilitation services by several national technology assessing groups, as an effective treatment modality following certain cardiac events, OCHAMPUS feels that continued denial of cardiac rehabilitation services is inappropriate and no longer supportable under current regulatory provisions and has decided to extend benefits for cardiac rehabilitation services. Implementation of this new benefit is effective October 9, 1987, to coincide with the date the DATTA assessment appeared in the *Journal of the American Medical Association.*

In determining benefit design, the following factors influenced the resultant proposed recommendations for coverage in the proposed rule: (1) Cost, (2) current policies and reimbursement practices and trends of other third party payors, including Medicare, (3) studies which have identified the population best served through cardiac rehabilitation, (4) current and future needs of the CHAMPUS beneficiary population, and (5) current law and regulatory provisions which govern the CHAMPUS program.

The final rule incorporates many of the recommendations made by the previously mentioned national technology assessing bodies. The limits on duration of treatment provide coverage consistent with Medicare and other major third party payors. Provider status is limited to otherwise authorized CHAMPUS participating hospitals based primarily on the fact that relevant professional accreditation programs directed specifically at cardiac rehabilitation programs have not yet been established. The payment methodology is based on a total program concept similar to Medicare's. These limits ensure the expenditure of government funds for medically appropriate treatment found to be medically beneficial while simultaneously controlling government costs. The maximum projected cost of this benefit is 5.8 million dollars during the first full year of benefit coverage. This estimate is based on a user population expected to be afflicted with coronary heart disease. We expect the above projected cost for establishing and maintaining a cardiac rehabilitation benefit will offset some of the costs associated with future medical needs and complications of high risk cardiac patients.

This final rule offers coverage for services now unavailable to the CHAMPUS beneficiary population, but which are available to their civilian counterparts. It is an enhancement of military benefits.

Section 605(b) of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) requires that each federal agency prepare and make available for public comment, a regulatory flexibility analysis when the agency issues regulations which would have a significant impact on a substantial number of small entities. The Secretary certifies, pursuant to section 605(b) of title 5, United States Code, enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that this regulation amendment will not have a significant economic impact on a substantial number of small businesses, organizations, or government jurisdictions. The final rule will broaden the scope of CHAMPUS benefits by extending benefits to include coverage for cardiac rehabilitation services. It will not involve any significant burden on CHAMPUS beneficiaries or providers of cardiac rehabilitation services. Cost-containment parameters have been built into the final rule. It is not therefore, a "major rule" under Executive Order 12291.

List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health insurance, and Military Personnel.

Accordingly, 32 CFR Chapter I, part 199 is amended reading as follows:

1. The authority citation for part 199 continues to read as follows:

Authority: 10 U.S.C. 1079, 1086, 5 U.S.C. 301.

2. Section 199.4 is amended by adding a new paragraph (e)(18) as follows:

§ 199.4 Basic Program Benefits.

* * * * *

(e) * * *

(18) *Cardiac rehabilitation.* Cardiac rehabilitation is the process by which individuals are restored to their optimal physical, medical, and psychological status, after a cardiac event. Cardiac rehabilitation is often divided into three phases. Phase I begins during inpatient hospitalization and is managed by the patient's personal physician. Phase II is a medically supervised outpatient program which begins following discharge. Phase III is a lifetime maintenance program emphasizing continuation of physical fitness with periodic followup. Each phase includes an exercise component, patient education, and risk factor modification. There may be considerable variation in

program components, intensity, and duration.

(i) *Benefits Provided.* CHAMPUS benefits are available on an inpatient or outpatient basis for services and supplies provided in connection with a cardiac rehabilitation program when ordered by a physician and provided as treatment for patients who have experienced the following cardiac events within the preceding twelve (12) months:

(A) Myocardial Infarction.

(B) Coronary Artery Bypass Graft.

(C) Coronary Angioplasty.

(D) Percutaneous Transluminal Coronary Angioplasty

(E) Chronic Stable Angina (see limitations below).

(ii) *Limitations.* Payable benefits include separate allowance for the initial evaluation and testing. Outpatient treatment following the initial intake evaluation and testing is limited to a maximum of thirty-six (36) sessions per cardiac event, usually provided 3 sessions per week for twelve (12) weeks. Patients diagnosed with chronic stable angina are limited to one treatment episode (36 sessions) in a calendar year.

(iii) *Exclusions.* Phase III cardiac rehabilitation lifetime maintenance programs performed at home or in medically unsupervised settings are not covered.

(iv) *Providers.* A provider of cardiac rehabilitation services must be a CHAMPUS authorized hospital. (Refer to Section 199.6, "Authorized Providers.") All cardiac rehabilitation services must be ordered by a physician.

(v) *Payment.* Payment for outpatient treatment will be based on an all inclusive allowable charge per session. Inpatient treatment will be paid based upon the reimbursement system in place for the hospital where the services are rendered.

(vi) *Implementation Guidelines.* The Director of OCHAMPUS shall issue guidelines as are necessary to implement the provisions of this paragraph.

* * * * *

Dated: October 16, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-24729 Filed 10-18-90; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

32 CFR Part 806b

[Air Force Reg. 12-35]

Air Force Privacy Act Program

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is publishing a final rule for an exempt record system subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a).

EFFECTIVE DATE: October 19, 1990.

ADDRESSES: Send comments to Mrs. Anne Turner, SAF/AAIA, The Pentagon, Washington, DC 20330-1000. Telephone (202) 697-3491 or Autovon 227-3491.

SUPPLEMENTARY INFORMATION: On August 22, 1990, at 55 FR 34310 of the Federal Register, the Department of the Air Force published an exemption change which added a system manager and expanded the exemption rule to include all system locations to an existing record system. See also 55 FR 34286, August 22, 1990. No comments were received, therefore the Department of the Air Force is adopting the change as part of the final rule.

List of subjects in 32 CFR part 806b

Privacy.

PART 806b—AIR FORCE PRIVACY ACT PROGRAM

For the reasons set forth in the preamble, 32 CFR part 806b is amended as follows:

1. The authority citation for 32 CFR part 806b continues to read as follows:

Authority: Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a)

2. Section 806b.13 is amended by revising paragraph (a)(5) as follows:

§ 806b.13 General and specific exemptions.

(a) * * *

(5) *System identification and name*—F125 AF A, Correction and Rehabilitation Records.

Exemption—Portions of this system that fall within 5 U.S.C. 552a(j)(2) are exempt from the following provisions of 5 U.S.C. 552a, Sections (c)(3) and (c)(4); (d)(1) through (d)(5); (e)(2) and (e)(3); (e)(4)(G) and (e)(4)(H), (e)(5); (f)(1) through (f)(5); (g)(1) through (g)(5); and (h) of the Act.

Authority—5 U.S.C. 552a(j)(2).

Reason—The general exemption will protect ongoing investigations and protect from access criminal investigation information contained in this record system so as not to jeopardize any subsequent judicial or administrative process taken as a result of information contained in the files.

* * * * *

Dated: October 16, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-24728 Filed 10-18-90; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7-90-57]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Florida

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of Monroe County, the Coast Guard is changing the regulations governing the operation of the Jewfish Creek drawbridge at Key Largo by permitting the number of openings to be limited during certain periods. This change is being made because periods of peak vehicular traffic have increased. This action will accommodate current needs of vehicular traffic and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effect on November 19, 1990.

FOR FURTHER INFORMATION CONTACT: Ian MacCartney (305) 536-4103.

SUPPLEMENTARY INFORMATION: On July 19, 1990, the Coast Guard published a proposed rule (55 FR 29389) concerning this change with a comment limit date of September 4, 1990. The Commander, Seventh Coast Guard District, also published the change as a Public Notice dated August 17, 1990. In each notice, interested persons were given until September 4, 1990 to submit comments.

Drafting Information

The drafters of this notice are Ian MacCartney, project officer, and Lt. Genelle Tanos, project attorney.

Discussion of Comments

Two comments were received. Both were in favor of the regulation. No other comments were received. The final rule is, therefore, unchanged from the proposed rule published on July 19, 1990.

Federalism

This action has been analyzed in accordance with the principles and

criteria contained in Executive Order 12612, and it has been determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal has been found to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the rule exempts tugs with tows. Since the economic impact is expected to be minimal, the Coast Guard certifies that they will not have a significant impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is amended as follows:

PART—117 DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1g.

2. Section 117.261 (qq) is revised to read as follows:

§ 117.261 Atlantic Intracoastal Waterway from St. Marys River to Key Largo.

* * * * *

(qq) *Jewfish Creek, mile 1134, Key Largo.* The draw shall open on signal; except that from 10 a.m. to sunset, Thursday through Sunday and federal holidays, the draw need open only on the hour and half hour.

Dated: October 9, 1990.

Robert E. Kramek,

Rear Admiral, U.S. Coast Guard Commander, Seventh Coast Guard District.

[FR Doc. 90-24768 Filed 10-18-90; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD7-90-54]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of Congressman Tom Lewis, the Coast Guard is revising the regulations governing the PGA Boulevard and Parker bridges at North Palm Beach by permitting the number of openings to be limited during certain periods. This change is being made because it will improve the movement of vehicular traffic in the area. This action will accommodate the current needs of vehicular traffic and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on November 19, 1990.

FOR FURTHER INFORMATION CONTACT: Walt Paskowsky, (305) 536–4103.

SUPPLEMENTARY INFORMATION: On June 27, 1990, the Coast Guard published proposed rule (55 FR 26220) concerning this amendment. The Commander, Seventh Coast Guard District, also published the proposal as a Public Notice dated July 13, 1990. In each notice interested persons were given until August 13, 1990, to submit comments.

Drafting Information

The drafters of these regulations are Walter J. Paskowsky, project officer, and Lt. Genelle Tanos, project attorney.

Discussion of Comments

A Supplemental Notice of Proposed Rulemaking was published on June 27, 1990, proposing a seasonal 20 minute opening schedule from November 1 until April 30. Five comments were received. Four commentors, including a large marine industry association, supported the proposed rule. One commentor, representing a local homeowners association, requested staggered annual 30 minute openings. No additional information was presented to justify this proposal. No other comments were received. The Coast Guard has carefully considered the comments and has determined that no new information has been presented which justifies changing the proposed regulations. The final rule is, therefore, unchanged from the proposed rule published on June 27, 1990.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures. (44 FR 11034; February 26, 1979).

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the regulations exempt tugs with tows. Since the economic impact is expected to be minimal, the Coast Guard certifies that they will not have a significant impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–01(g).

2. Sections 117.261 (s) and (t) are revised to read as follows:

§ 117.261 Atlantic Intracoastal Waterway from St. Marys River to Key Largo.

* * * * *

(s) *PGA Boulevard Bridge, mile 1012.6.* The draw shall open on signal; except that, from 7 a.m. to 9 a.m. and 4 p.m. to 7 p.m., Monday through Friday except Federal holidays, the draw need open only on the quarter-hour and three-quarter hour. On Saturdays, Sundays and Federal holidays from 8 a.m. to 6 p.m., the draw need open only on the hour, 20 minutes after the hour, and 40 minutes after the hour. On weekdays except Federal holidays from November 1 through April 30 from 9 a.m. to 4 p.m., the draw need open only on the hour, 20 minutes after the hour, and 40 minutes after the hour.

(t) *Parker (US 1) bridge, mile 1013.7.* The draw shall open on signal; except that, from 7 a.m. to 9 a.m. and 4 p.m. to 7 p.m. Monday through Friday except Federal holidays, the draw need open only on the hour and half-hour. On Saturdays, Sundays and Federal holidays from 8 a.m. to 6 p.m., the draw need open only on the hour, 20 minutes after the hour, and 40 minutes after the hour. On weekdays except Federal holidays from November 1 through April 30 from 9 a.m. to 4 p.m., the draw need open only on the hour, 20 minutes after the hour, and 40 minutes after the hour.

* * * * *

Dated: October 1, 1990.

Robert E. Kramek,

Rear Admiral, U.S. Coast Guard Commander, Seventh Coast Guard District.

[FR Doc. 90-24769 Filed 10-18-90; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD7-90-37]

Drawbridge Operation Regulations; Okeechobee Waterway, Florida

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Lee County Department of Transportation, the Coast Guard is revising the regulations governing the Sanibel Causeway bridge, mile 151 at Punta Rassa by changing the hours of the regulated operations. This change is being made because of the back-to-back openings which are occurring during periods of peak vehicular traffic. This action should accommodate the needs of vehicular traffic and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on November 19, 1990.

FOR FURTHER INFORMATION CONTACT: Ian MacCartney (305) 536-4103.

SUPPLEMENTARY INFORMATION: On June 22, 1990, the Coast Guard published proposed rule (55 FR 25676) concerning this amendment with a comment limit date of August 6, 1990. The Commander, Seventh Coast Guard District, also published the proposal as a Public Notice dated July 5, 1990. Comment period was subsequently extended to 15 September 1990.

Drafting Information

The drafters of this notice are Ian MacCartney, project officer, and Lt. Genelle Tanos, project attorney.

Discussion of Comments

Four comments were received. One waterway user objected to any restrictions, stating that strong tidal currents and a lack of maneuvering room makes holding at the bridge unsafe. Two commentors were in favor of the proposal and encouraged even more restrictive opening regulations. Lee County indicated that while using the temporary 15 minute regulations, there were no adverse effects on navigation and vehicles appeared to move smoothly. They also recommended a 30 minute opening schedule from January 1 through April 15. Available data does not support this proposal. No other comments were received. The Coast Guard has carefully considered the comments and has determined that no new information has been presented which justifies changing the proposed regulations. The final rule is, therefore, unchanged from the proposed rule published on June 22, 1990.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the rule exempts tugs with tows. Since the economic impact is expected to be minimal, the Coast Guard certifies that they will not have a significant impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is amended as follows:

PART 117 DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1g

2. Section 117.317(k) is revised to read as follows:

§ 117.317 Okeechobee Waterway.

* * * * *

(k) Sanibel Causeway bridge, mile 151 at Punta Rassa. The draw shall open on signal; except that from 11 a.m. to 6 p.m., the draw need open only on the hour, quarter hour, half hour, and three-quarter hour. Exempt vessels shall be passed at any time.

Dated: October 9, 1990.

Robert E. Kramek,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 90-24770 Filed 10-18-90; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD7-90-65]

Drawbridge Operation Regulations; St. Johns River, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: At the request of the State of Florida, the Coast Guard is temporarily changing the regulations governing the operation of three bridges across the St. Johns River at Jacksonville, Florida, the Main Street (US17) Bridge, mile 24.7, the Acosta (SR13) Bridge, mile 24.9 and the Fuller Warren (I10-I95) Bridge, mile 25.4, in order to improve the flow of peak morning commuter traffic. This action accommodates the needs of vehicular traffic and still provides for the reasonable needs of navigation.

EFFECTIVE DATES: These temporary regulations became effective on September 24, 1990 and will terminate on November 23, 1990.

ADDRESSES: Comments regarding this temporary change should be mailed to Commander (oan), Seventh Coast Guard District, Brickell Plaza Federal Building, 909 SE 1st Avenue, Miami, Florida 33131-3050. Any comments received will be available for inspection and copying in the office of the Bridge Administrator located in Room 484, Brickell Plaza Federal Building, 909 S.E. 1st Avenue, Miami, Florida. Documents and comments concerning this regulation may be inspected Monday through Friday between the hours of 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Gary D. Pruitt (305) 536-4103.

SUPPLEMENTARY INFORMATION: Interested parties submitting written views, comments, data, or arguments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change to the temporary regulation.

Drafting Information

The drafters of this notice are Mr. Gary Pruitt, Bridge Administration Specialist, project officer, and Lieutenant Genelle G. Tanos, project attorney.

Discussion of Temporary Regulations

This temporary regulation changes only the morning regulated period on weekdays. The bridge presently opens on signal except that the bridge need not open from 7:30 a.m. to 8:30 a.m. Monday through Friday except Federal holidays. The Coast Guard has determined that a

shift of the existing morning regulated period one-half hour earlier at all three bridges will accommodate the change in morning automobile traffic. The problem with the change in peak traffic has been accentuated by revised travel patterns caused by the detour route in place due to the construction of the new Acosta Bridge. All other aspects of the existing regulations remain in full force and effect. Because this is a temporary regulation, it will not appear in the Code of Federal Regulations.

Federalism

This action has been analyzed in accordance with the principals and criteria contained in Executive Order 12612, and it has been determined that the temporary rulemaking does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Economic Assessment and Certification

This temporary regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034: February 26, 1979). The economic impact of this temporary rule is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the temporary rule will not change the total amount of time bridges are allowed to be maintained in the closed position. Since the economic impact of the proposal is expected to be minimal, the Coast Guard certifies that it does not have a significant impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Temporary Regulations

In consideration of the foregoing, the Coast Guard has amended part 117 of title 33 Code of Federal Regulations as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. For the period between September 24 and November 23, 1990 paragraph (a) of § 117.325 is revised to read as follows:

§ 117.325 St. Johns River.

(a) The draws of the Main Street (US17) Bridge, mile 24.7, the Acosta (SR13) Bridge, mile 24.9 and the Fuller Warren (I10/I95) Bridge, mile 25.4, all at Jacksonville, shall open on signal except that, from 7 a.m. to 8:30 a.m. and 4:30 p.m. to 6 p.m., Monday through Saturday except Federal holidays, the draw need not be opened for the passage of vessels. The draws shall open at any time for vessels in an emergency involving life or property.

* * * * *

Dated: October 9, 1990.

Robert E. Kramek,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 90-24771 Filed 10-18-90; 8:45 am]

BILLING CODE 4910-14-M

COAST GUARD

33 CFR Part 165

[COTP Jacksonville, FL; Regulation 90-84]

Safety/Security Zone; Naval Submarine Base, Kings Bay, GA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a safety zone concurrent with the security zone stipulated in 33 CFR 165.731, specifically, the waters surrounding Naval Submarine Base, Kings Bay, Georgia. The present regulations are also modified to allow the activation of a fixed and moving safety/security zone during the arrival or departure of specified military vessels. It has been necessary to implement these requirements on several previous occassions by emergency rule. The zone is necessary to safeguard the specified military vessel and likewise to protect the boating public from the hazards associated with a large number of vessels operating in restricted waters. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective on 25 September 1990. Comments on this regulation must be received on or before 01 December 1990.

ADDRESSES: Comments should be mailed to Commanding Officer, Coast Guard Marine Safety Office, 2831 Talleyrand Avenue, Jacksonville, FL 32206–3497. The comments will be available for inspection and copying at MSO Jacksonville, Room 222. Normal office hours are between 7:30 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Mike Maes, Tel: (904) 791–2048.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days for Federal Register publication. Following normal rulemaking procedures was unnecessary in that little or no economic impact is envisioned and no adverse comments are expected concerning the terms of the regulation.

Although this regulation is published as a final rule without prior notice, an opprtunity for public comment is nevertheless desirable to ensure that the regulation is both reasonable and workable. Accordingly, persons wishing to comment may do so by submitting written comments to the office listed under "ADDRESSES" in this preamble. Commenters should include their names and addresses, identify the docket number for the regulations, and give their comments. Based upon comments received, the regulation may be changed.

Drafting Information

The drafters of this regulation are Lieutenant Christopher K. Lockwood, project officer for the Captain of the Port, and Lieutenant G.G. Tanos, project attorney, Seventy Coast Guard District Legal Office.

Discussion of Regulation

The situation requiring this regulation is the continued need to safeguard specified military vessels and to protect the boating public from the special hazards involved while these vessels transit restricted waters. The lack of maneuverability, large wakes, and escort vessels in formation increase the collision risks if spectator craft are allowed within close proximity.

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 and 50 U.S.C. 191 as set out in the authority citation for all of part 165.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. The security zone in the waters surrounding the Naval Submarine Base has been in effect since November 1985 and concurrent safety/security zones have been implemented three times during the past two years in order to provide a safe environment for the transit of U.S. Naval vessels while within restricted waters. The establishment of the permanent and the temporary zones have yet to elicit a complaint based on economic considerations. Only minor delays to mariners are foreseen, just prior to and

during the transit of these vessels. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of persons.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant to the preparation of Federalism Assessment.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety Navigation (water), Security measures, Vessels, Waterways.

Final Regulation

In consideration of the foregoing, subpart F of part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5.

2. Section 165.731 is revised to read as follows:

§ 165.731 Safety/Security Zone: Cumberland Sound, Georgia and St. Marys River Entrance Channel.

(a) *Location.* A permanent safety/security zone is established within the following coordinates, the area enclosed by a line starting at

30°44'55" N, 081°29'29" W; thence to 30°44'55" N, 081°29'26" W; thence to 30°46'35" N, 081°28'16" W; thence to 30°47'02" N, 081°28'04" W; thence to 30°47'21" N, 081°28'06" W; thence to 30°46'00" N, 081°29'42" W; thence to 30°46'07" N, 081°29'58" W; thence to 30°46'55" N, 081°30'25" W; thence to 30°52'15" N, 081°31'08" W; thence to 30°50'16" N, 081°31'30" W; thence to 30°49'58" N, 081°31'45" W; thence to 30°49'58" N, 081°32'05" W; thence to 30°50'12" N, 081°32'17" W; thence following the land based perimeter boundary to the point of origin.

(b) A temporary safety/security zone, when activated by the Captain of the Port, Jacksonville, Florida, encompasses all waters and land from bank to bank within Cumberland Sound and the St. Marys Entrance Channel: the northern extent of this zone starts at the southern tip of Crab Island; lighted buoy number "1" at the mouth of the Amelia River demarks the southern boundary; day marker number "2" at the mouth of the St. Marys River indicates the western boundary; and the eastern boundary extends out to three (3) nautical miles in the Atlantic Ocean, with the zone also encompassing the waters within 1000 yards of the entrance channel east of the jetties.

(c) *Regulations.* (1) The Captain of the Port, Jacksonville, Florida will activate the temporary safety/security zone described in paragraph (b) of this section by issuing a local broadcast notice to mariners.

(2) All persons and vessels in the vicinity of the safety/security zone shall immediately obey any direction or order of the Captain of the Port, Jacksonville, Florida.

(3) The general regulations governing safety and security zones contained in 33 CFR 165.23 and .33 apply. No person or vessel may enter or remain within the designated zones without the permission of the Captain of the Port, Jacksonville, Florida.

(4) This regulation does not apply to persons or vessels operating under the authority of the United States Navy nor to authorized law enforcement agencies.

Dated: September 25, 1990.

R.J. O'Pezio,

Captian, U.S. Coast Guard, Captain of the Port, Jacksonville, FL.

[FR Doc. 90-24772 Filed 10-18-90; 8:45 am]
BILLING CODE 4910-14-M

Coast Guard

33 CFR Part 165

[COTP Jacksonville, FL Regulation 90-82]

Safety/ Security Zone Regulations; St. Johns River, Jacksonville, FL

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard has established a combined safety and security zone around specified military supply vessels while transiting the St. Johns River and while berthed at Blount Island Terminal. This zone is needed to protect boats and onlookers from harm, and to prevent interference with ongoing Department of Defense operations. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation is effective 25 August 1990; it terminates on 11 December 1990.

FOR FURTHER INFORMATION CONTACT: Lieutenant M. Maes, Tel: (904) 791–2648.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to respond to potential hazards which may occur within the water and shore areas involved.

Drafting Information

The drafters of this regulation are Lieutenant Christopher K. Lockwood, project officer for the Captain of the Port, and Lieutenant C.G. Tanos, project attorney, Seventh Coast Guard District Legal Office.

Discussion of Regulation

The circumstances requiring this regulation is the safety of military supply vessels during transit and while berthed at Blount Island. The protection of vital United States assets as well as the safety of unwary boaters and onlookers necessitates the establishment of both a safety and security zone. Only minor delays to mariners is foreseen, mainly during the transit of these vessels.

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of part 165.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation

(water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, subpart C and subpart D of part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5.

2. A new 165.T0754 is added to read as follows:

§ 165.T0754 Safety/ Security Zone: St. Johns River, Jacksonville, Florida.

(a) *Location.* The water and the land within the following boundaries are established as a safety and security zone during specified conditions:

(1) All waters within 200 yards of Blount Island, Jacksonville, FL and all adjacent land within 100 yards of the island shoreline during staging of Department of Defense equipment and subsequent loading of military supply vessels.

(2) All waters within 200 yards of any specified military supply vessel beginning three nautical miles offshore and during transit of the St. Johns River.

(b) *Effective date.* This regulation becomes effective on 15 August 1990. It terminates on 11 December 1990.

(c) *Regulations:* (1) The COTP Jacksonville will activate this zone or specific portions thereof by means of a locally promulgated broadcast notice to mariners. Once implemented, overtaking or meeting situations are not allowed during specified vessel transits. In accordance with the general regulations governing safety and security zones contained in 33 CFR 165.23 and 165.33 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Jacksonville, Fl.

(2) This regulation does not apply to authorized law enforcement agencies operating within the security/safety zone.

Dated: August 15, 1990.

R.J. O'Pezio

Captain, U.S. Coast Guard, Captain of the Port, Jacksonville, FL.

[FR Doc. 90–24773 Filed 10–18–90; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 61, 65, and 69

[CC Docket No. 87–313, FCC 90–314]

RIN 3060–AE58

Policy and Rules Concerning Rates for Dominant Carriers

AGENCY: Federal Communications Commission [FCC].

ACTION: Final rule

SUMMARY: The Commission has adopted a Second Report and Order implementing for local exchange carriers a form of incentive regulation, referred to as "price cap" regulation. This action results in the replacement of the rate of return regulatory model with one that directly limits rates by means of price caps. The Commission has found that the price cap method of regulation will promote efficiency and innovation, and will benefit consumers more effectively than rate of return regulation.

EFFECTIVE DATE: October 31, 1990. These Final Rules will become effective on less than 30 days' notice pursuant to 5 U.S.C. 553(d)(3).

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Mary Brown, Common Carrier Bureau, (202) 632–5550 or Daniel Grosh, Common Carrier Bureau, (202) 632–6387.

SUPPLEMENTARY INFORMATION:

Background

Notice of Proposed Rulemaking, In the Matter of Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87–313. *Adopted:* August 4, 1987. *Released:* August 21, 1987. 52 FR 33982 [Sept. 9, 1987]. By the Commission. Further Notice of Proposed Rulemaking, In the Matter of Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87–313. *Adopted:* May 12, 1988. *Released:* May 23, 1988. 53 FR 22356 [June 15, 1988]. By the Commission. Report and Order and Second Further Notice of Proposed Rulemaking, In the Matter of Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87–313. *Adopted:* March 16, 1989. *Released:* April 17, 1989. 54 FR 19836, 19846 [May 8, 1989]. By the Commission. Supplemental Notice of Proposed Rulemaking, CC Docket No. 87–313. *Adopted:* March 8, 1990. *Released:* March 12, 1990. 55 FR 12526 [April 4, 1990]. By the Commission.

Summary of Second Report and Order

This is a summary of the Commission's Second Report and Order in the Matter of Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87–313, FCC 90–314, released October 4, 1990.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, (202) 857–3800, 2100 M Street NW., suite 140, Washington, DC 20037.

1. Introduction

A. Statement of purpose

1. This Report and Order adopts a new system of regulating the interstate common carrier services of the Nation's largest local exchange carriers (LECs). These companies, in providing the critical telecommunications link between a customer's premises and the interexchange networks, have until now been regulated under a "cost-plus" system of regulation, in which rates the LECs can charge for services are based on costs plus a return on invested capital. By our action today, the "cost-plus" system of regulation will be replaced for the largest of the LECs on January 1, 1991, with an incentive-based system of regulation will reward companies that become more productive and efficient, while ensuring that productivity and efficiency gains are shared with ratepayers.

2. In designing an incentive-based system of regulation for the largest LECs, our objective, as with our price caps system for AT&T, is to harness the profit-making incentives common to all businesses to produce a set of outcomes that advance the public interest goals of just, reasonable, and nondiscriminatory rates, as well as a communications system that offers innovative, high quality services. To accomplish this objective, the plan we adopt for LECs modifies the tariff review process to set a ceiling, or cap, on the prices LECs can charge for their interstate offerings. The price cap is subject to an annual adjustment that ensures prices will drop in real, inflation-adjusted terms. LECs that can outperform the productivity level embedded in the annual adjustment mechanism are rewarded with the ability to retain reasonably higher earnings than would be available under the former regulatory system. Depending upon their achieved returns,

their ratepayers share in these earnings. Those LECs able to decrease prices beyond the required level can retain an even greater amount of earnings.

3. Price cap regulation of LECs, as we have designed it, is intended to produce rates within a zone of reasonableness. Higher earnings will be shared with, or returned to, ratepayers. The checks and balances built into the system ensure that, with periodic review and adjustment, price cap regulation can serve as a long term mode of regulation for the LECs subject to it. In this respect, we view price cap regulation no differently than many of the state governments and foreign administrations that have adopted incentive-based regulation for LECs' intrastate operations or their foreign equivalents, as a permanent method of regulation.

4. While the price cap system we adopt for LECs is similar in many respects to the one that we use to regulate AT&T, the differences in the markets involved, the difficulties in designing a single regulatory structure to apply to multiple companies, and a desire to safeguard regulatory programs promoting universal service, have required us at this initial stage to adopt an even more cautious and careful approach to the redesign of our regulatory processes than we did with AT&T. As with the AT&T plan, the LEC price cap system essentially operates through the tariff review process to ensure rates are within the parameters our price cap rules require. However, the LEC system also contains additional safeguards, such as sharing of profits, that represent both a limited departure and logical outgrowth from the AT&T plan. Since the release of the *Notice* in this proceeding in August, 1987, the Commission has collected over 11,000 pages of pleadings in response to three subsequent Notices of Proposed Rulemaking. At each stage in the proceeding, the plan for LEC price caps has evolved in important ways. In this Report and Order, we again modify the plan to respond directly to concerns raised in the record.

B. Rationale for adoption of incentive regulation

5. In the *Second Further Notice*, the Commission articulated a policy judgment that incentive-based regulation is superior to rate of return for the regulation of certain dominant carriers, including local exchange carriers. That policy judgment was based on a comparison of the existing rate of return system with an incentive-based system. In this Report and Order, we reaffirm the basic policy judgment that a properly designed system of incentive regulation will be an improved form of regulation, generating greater consumer benefits, and we refine and further clarify the analysis yielding that conclusion.

6. As stated in the *Second Further Notice*, incentive regulation relies in the first instance on regulating prices. By establishing limits on prices carriers can charge for their services, and placing downward pressure on those limits or "caps," we create a regulatory environment that requires carriers to become more productive. Carriers that can substantially increase their productivity can earn and retain profits at reasonable levels above those we allow for rate of return carriers, although earnings above a certain level are shared or returned. If carriers fail to become more productive, they risk seeing their earnings erode. Rate of return regulation lacks incentives for carriers to become more productive. Under rate of return, carriers are allowed to set their rates based on the costs—investment and expense—of providing a service. Carriers are given fairly wide latitude in the costs they can claim as the basis for their rates. As the Commission stated in the *Further Notice*, in this respect rate of return is akin to a "cost-plus" contract.

7. In the course of debating the relative merits of price cap and rate of return regulation, a number of parties have asked the Commission to consider alternatives to price cap regulation. Several parties ask that we instead focus on ways of improving rate of return regulation. Some commenters unite behind the proposition that regulatory lag is a better alternative than incentive regulation. Although improvement in rate of return methods is one possible course to follow in reforming current regulatory practices, it is not the best approach. We recognize that a number of state regulatory commissions have opted to improve rate of return regulation in redesigning their regulatory structures. Nevertheless, only a few states now continue to regulate intrastate LEC activities pursuant to traditional rate of return practices. The majority of states have authorized significant reforms to their regulatory systems, as part of an effort to improve efficiency incentives, increase flexibility, reduce administrative burdens, and benefit consumers.

8. Despite the strong and growing presence of incentive-based regulation as a means of regulating LECs, a number of parties argue that a price cap plan along the lines advanced in the *Second Further Notice* and in the *Supplemental Notice* should not be adopted. We disagree. In reviewing the arguments concerning specific aspects of the proposed plan, we have made several substantial modifications. With these changes, we believe that the LEC price cap system will operate in the public interest. We therefore decline the invitation of some parties to extend even further the extensive record before us and to renew our study of the issues. In this Order we adopt a set of final rules to begin price cap regulation of LEC interstate access services effective January 1, 1991.

2. Summary of the Plan

A. The Price Cap Index

9. The *Second Further Notice* proposed an interstate access price cap mechanism composed of three elements—a measure of inflation, a productivity offset (together with a Consumer Productivity Dividend of 0.5 percent), and exogenous costs. We retain that basic adjustment mechanism, including the measure of inflation the Commission proposed and a specific list of exogenous cost changes that are generally beyond the control of the companies involved and the product of regulatory decisions. The measure of inflation will be the 45-day estimate of the Gross National Product Price Index (GNP–PI). Exogenous costs are: (1) Cost changes due to changes in the Commission's rules governing separation of costs between the state and interstate jurisdictions; (2) cost changes due to Commission-authorized changes in the Uniform System of Accounts or Generally Accepted Accounting Principles; (3) changes in pooling support obligations (Long Term and Transitional Support); (4) reallocation of regulated and nonregulated costs pursuant to our part 64 rules; (5) the expiration of depreciation reserve deficiency amortizations; and (6) access charges that LECs charge or impute to themselves. Changes in tax laws are not automatically given exogenous treatment, but will be considered on a case-by-case basis.

10. Also as proposed, we decide not to employ the basic cap mechanism for non-traffic sensitive common line services. The mechanism we adopt for common line service embraces the philosophy that local exchange carriers should split the benefits in growth in minutes per line for common line service with their ratepayers. This philosophy balances demand-inducing incentives to improve and diversify network offerings, with the recognition that under rate of

return, carriers have had somewhat limited incentives to influence growth in demand. We modify the prior proposal in response to concerns expressed by commenters that the specific equations used to determine carrier common line rates produced an unintended windfall to carriers. The equations have been revised to ensure that half the benefits of demand growth are reflected in the resulting reductions in carrier common line charges.

11. In addition to removing the unintended windfall created by the prior common line formula, we conclude that the previously proposed 3 percent productivity offset, which included a Consumer Productivity Dividend (CPD) of .5 percent, is too low given the recent performance of the largest LECs in the provision of interstate access. Therefore, for the interstate access activities of the LECs subject to price cap regulation, we will mandate a price cap that requires a higher 3.3 percent producitivity gain each year including the CPD, or if a LEC chooses, a 4.3 percent productivity gain including the CPD. Selection of a higher productivity offset, *i.e.*, lowering prices beyond the mandated level, will permit the LEC to retain a larger share of its earnings.

12. In the *Supplemental Notice*, we observed that short term and long term productivity studies appeared to yield significantly different baseline productivity offsets. We requested comment on whether the two numbers could in fact be reconciled. Despite the numerous corrections and refinements we have made to both studies, a significant gap remains. Using our revised common line cap, the best estimate of a unitary offset in the short term study is a 3.5 percent factor, and the best estimate in the long term study is a 2.1 percent factor.

13. Overall, we feel compelled to recognize the numbers produced by the two studies as representing not specific numerical results, but as likely outcomes within a range of possible values. We do not believe it would be prudent or reasonable to place exclusive weight on either study, or to ignore the evidence each provides. Thus, in setting the productivity offsets, we have selected a conservative minimum figure within the range between the two studies but subject to a tightened no-sharing zone. In our judgment, a baseline productivity offset of 2.8 percent (without the CPD) fairly balances the results of the two studies. We have then adopted a more aggressive baseline productivity factor, 3.8 percent, exceeding the figure produced by the short term study, if a LEC opts to take advantage of a 200 basis point no-sharing zone. We have thus effectively bracketed the results of the short term study, but tempered the minimum required productivity offset (before addition of the CPD) in light of the uncertainty in any short term study and the conservativism suggested by the long term study.

14. We respond in two ways to concerns about the validity of the productivity offset as to the industry as a whole and as to individual LECs. First, we will limit mandatory application of the price cap system to the eight largest LECs—the seven Regional Bell Operating Companies (RBOCs) and General Telephone and Telegraph Company (GTOC). The data we have collected as a basis for our selection of a 3.3 percent productivity offset are directly applicable to these largest carriers. For mid-sized and smaller LECs, price cap regulation will be optional. This decision addresses the concern that mid-sized carriers, those just below the largest eight in size, might not be able to generate productivity gains of the same magnitude as the largest LECs.

15. Our second response to concerns about the validity of applying a single productivity offset to a number of LECs is the adoption of sharing and adjustment devices. The mechanisms we adopt here ensure that ratepayers share further in the benefits a price cap system can produce. If a LEC whose rates are at or below the price cap can outperform the 3.3 percent productivity offset embedded in the price cap, thereby earning a higher profit, the LEC will be entitled to retain all of its earnings up to 100 basis points (or 1 percent) above the 11.25 percent unitary rate of return established for rate of return carriers. When using a 3.3 percent productivity offset to establish prices, LECs must share with their customers 50 percent of their earnings between 100 and 500 basis points (1 to 5 percent) above the 11.25 percent level, and share (or credit their customers with) 100 percent of their earnings above 16.25 percent, or 500 basis points above 11.25 percent. Based on the 11.25 percent rate of return we have selected, this mechanism allows LECs whose productivity performance exceeds the 3.3 percent productivity offset to potentially earn up to an effective equivalent of a maximum 14.25 percent rate of return.

16. If a LEC decides to lower its prices further by using a higher productivity offset of 4.3 percent, the LEC can retain more of its earnings if it subsequently is able to earn higher profits through improved efficiency. In this case, the LEC can retain all of its earnings up to 200 basis points (or 2 percent) above 11.25 percent. LECs would share with their customers 50 percent of their earnings between 200 and 600 basis points (2 to 6 percent) above 11.25 percent, and share 100 percent of their earnings above 17.25 percent, or 600 basis points above 11.25 percent. In electing to lower prices further to a level reflecting a higher 4.3 percent productivity offset, a LEC thus enables itself to reach an effective equivalent of a maximum 15.25 percent rate of return.

17. This sharing mechanism for carriers whose rates are at or below the price cap provides strong financial incentives for carriers to improve productivity to the maximum extent possible, while providing ratepayers with additional upfront benefits of productivity gains in the form of price decreases. If a carrier manages to produce significantly higher returns, those are returned to ratepayers in the form of prospective downward adjustments in the price cap. This plan eliminates certain disincentives posed by the previous plan for an automatic stabilizer device that was proposed to control high earnings of LECs under price caps. Such a stabilizer would have created permanent downward adjustments to the cap each time earnings rose above a specified level. As such, it would have created some of the same disincentives as our present rate of return system—cost padding—in order to avoid triggering the stabilizer. Sharing will be based on total interstate earnings in a base year, and will be implemented by a downward adjustment to the next year's price cap index.

18. We retain a lower end adjustment mechanism with modifications, in order to ensure that the plan automatically corrects itself should our selection of a productivity factor for the industry turn out to be too high for a given company. Should a LEC's earnings drop below the lower end figure established, that LEC is entitled to a prospective automatic upward adjustment to its cap. The lower trigger point will be located 100 basis points (1 percent) below 11.25 percent.

B. Application of the Cap to LEC Services

19. The price cap forms the cornerstone of the new regulatory system, at once protecting ratepayers as a group from high prices and providing carriers with the incentive to increase productivity. However, since a cap on aggregate prices can result in some offerings being priced relatively high, while others are priced relatively low, we adopt further ratepayer protections

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in the form of baskets, service categories, and pricing bands. Baskets are broad groupings of LEC services, each subject to its own cap. Service categories are subdivisions of baskets. Pricing bands permit prices for service categories to move on a streamlined basis no more than plus or minus 5 percent per year, adjusted for the change in the price cap.

20. Together, the cap and pricing bands form a "no-suspension" zone, within which rates for LEC access services can be changed on a "streamlined" basis, *i.e.*, on 14 days' notice, with a presumption of lawfulness. If filed rates are at a level above or below the pricing bands, or above the cap, more burdensome tariff review requirements are used to evaluate the LECs' rates, and longer notice periods apply.

21. While the baskets continue to be defined by the interstate access structure contained in our part 69 rules, we have decided to expand the number of baskets of services from three to four. The first three baskets will be common line services, traffic sensitive services, and special access services. The fourth basket is created for those LECs that offer interexchange services. As previously proposed, these offerings would have been included in the basket containing special access offerings. Inclusion of these very different services into one basket raised issues concerning the flow-through of exogenous costs that can be solved by separating the interexchange activity from interstate access. Furthermore, since these services compete with the offerings of interexchange carriers, we have decided to apply the productivity factor we use for AT&T: 3 percent, or at the LEC's option and subject to increased sharing of earnings, 4 percent. Since our short term productivity study did not include a separate evaluation of the productivity of these services, we believe it would be ill-advised to apply a higher productivity requirement to the LECs' interexchange offerings than we apply to AT&T.

22. Service categories are used in two of the four baskets to limit streamlined price movements. In the traffic sensitive basket, we create three service categories: (1) Local switching; (2) local transport; and (3) information. Price changes for each of these categories will be limited to plus or minus 5 percent per year, adjusted for changes in the price cap index.

23. In the special access basket, we have decided to modify the service category proposal, reducing the number of categories from nine to four. Our decision is based on consideration of the small, and in some cases, shrinking amount of certain special access services offered by LECs. By grouping similar services together, we believe we have effectively prevented opportunities for the LECs to engage in pricing discrimination or anticompetitive practices. The four categories we adopt are: (1) Voice grade/WATS/metallic/telegraph; (2) audio/video; (3) high capacity/Digital Data Service; and (4) wideband data/wideband analog. Price changes for each of these categories will be limited to plus or minus 5 percent per year, adjusted for changes in the price cap index.

24. No service categories for the common line basket are required because prices for all rate elements except one are governed by our part 69 rules concerning subscriber line charges and the originating common line charge. No service categories for the interstate non-access service basket are mandated because such services represent a relatively small portion of LEC offerings.

25. In response to concerns about recent strategic pricing of high capacity offerings, we will further limit a LEC's ability to move prices of its DS1 and DS3 services. Prices for each of these offerings, which represent a large and rapidly growing portion of the LECs' special access business, will be allowed to move on a streamlined basis no more than plus or minus 5 percent per year, adjusted for changes in the cap. By creating individual subindexes for these services, while placing voice grade services in a separate category, rapid and dramatic movements in the prices for these services are held in check.

26. As proposed, a few LEC services will be excluded from price cap regulation. These services are offered on a one-time or contract basis or otherwise do not lend themselves to an ongoing incentive-based regulatory system. The following LEC services are excluded: (a) Individual case basis (ICB) offerings and special construction services; (b) presubscription charges that LEC's assess when end users change their interexchange carrier, (c) cable television services, (d) air-ground services and packet-switched services; (d) "string" foreign exchange service arrangements, currently grandfathered in existing tariffs; (e) certain LEC offerings to the Federal Government, including those provided in combination with interexchange carriers; and (f) any other contract-type tariff services LECs may provide.

27. In order for a price cap carrier to change its tariffed rates for a particular service under the Commission's streamlined tariff review procedures, the aggregate rates in the relevant basket may not exceed the price cap index (PCI) applicable to that basket. To determine compliance with the limitations imposed by the PCI, carrier rate levels within each basket will, with the exception of the common line basket, be measured through the use of an Actual Price Index (API) that represents the weighted sum of the percentage change in LEC rates in that basket. In each basket other than common line, the API is built up from the smallest price unit—the rate element—and weighted according to the quantity of that rate element sold in a historical base year. The historical base year will be the most recently completed calendar year as of the date of the annual price cap tariff filing. Each time a price cap carrier files rate revisions, that carrier's APIs must be recalculated to show the incremental change, if any, in that carrier's aggregate rates for each basket as a result of those revisions.

28. LECs subject to price cap regulation will use July 1, 1990 rates as a basis for their first price cap filing. Those rates were subject to scrutiny as part of the annual access filing and review process, and have thus recently been retargeted to earn the authorized rate of return. In the companion rate of return item we adopt today, we lower the authorized return. Price cap LECs will be required to flow through the effects of that adjustment to their price cap levels and rates as part of their initial filing. Since the first price cap tariff filings will occur in the middle of an annual tariff cycle, the price cap index incorporated in those filings will not reflect changes in inflation less the productivity offset. Accordingly, PCI levels filed on or before November 1, 1991, will reflect the PCI initial value of 100 on July 1, 1990, adjusted only for any changes in exogenous costs from July 1, 1990, through January 1, 1991.

C. Eligibility

29. Companies that are required to enter price caps, or that volunteer for price caps, are required to do so on an "all or nothing" basis; all operating affiliates, except average schedule affiliates, must enter the price cap system. Our "all or nothing" rule is intended to prevent cost shifting to affiliates that are regulated under rate of return from affiliates that are subject to price caps. In addition, price cap "volunteers" and their affiliates that currently participate in National Exchange Carrier Association pooling arrangements must remove themselves from the pools before entering price caps. To accommodate this requirement, we have slightly modified the exit rules for depooling carriers. We also decide to

permit voluntary elections into caps on an annual basis. A price cap carrier that acquires a non-price cap carrier (other than an average schedule company) will be required to convert the non-price cap carrier to price cap regulation within one year of the effective date of such transaction. However, a price cap LEC that acquires, merges with, or otherwise becomes affiliated with an average schedule company will not be required to convert the average schedule company to price cap regulation although it may elect to do so.

D. Evaluation of Price Cap Tariffs

30. We direct all LECs subject to price cap regulations to submit an annual filing demonstrating compliance with the price cap rules. In that annual filing, each price cap LEC will be required to show that it has correctly adjusted the price cap indexes for each basket, that the actual price index for each basket has been correctly computed and does not exceed the relevant price cap index, and that, where applicable, rates remain with service bands. The annual price cap filing will also reflect any prospective rate adjustments that arise due to the operation of the sharing requirements and any PCI change caused by the operation of the low end adjustment mechanism. Price cap LECs shall make these annual filings on at least 90 days' notice with an effective date of July 1 of each year. Thus, the first annual price cap filing will be due on or before April 2, 1991, with an effective date of July 1, 1991.

31. The tariff review standards we adopt are the same as those we now use for AT&T. Tariff transmittals containing only price changes that are within the cap and pricing bands are filed on short notice. Only those transmittals that contain within-cap and within-band changes to existing services are presumed lawful for tariff review purposes. Anyone seeking a suspension of a within-band, within-cap tariff filing must demonstrate (a) that there is a high probability that the tariff will be found unlawful after investigation; (b) that the suspension will not substantially harm other interested parties; (c) that irreparable injury will result if the tariff filing is not suspended; and (d) that suspension is not otherwise contrary to the public interest.

32. Tariff requirements for other types of filings are also modeled on the AT&T requirements. Any filings that include rate changes below the bands must be accompanied by an average variable cost showing and must be filed on 45 days' notice. Any filings proposing above-band rates are filed on 90 days' notice and must be accompanied by a showing that substantial cause exists to justify an above-band rate. Any above-cap filings are also filed on 90 days' notice and must be accompanied by a detailed cost showing that will enable the Commission to determine compliance with statutory requirements of just and reasonable rates that are not unjustly discriminatory. These latter two types of filings carry with them a heavy burden of justification and a strong likelihood of suspension. New services, defined as those that expand a ratepayer's range of choices, are filed on 45 days' notice and must be accompanied by a showing demonstrating that the new service will generate net revenues for the LEC over a specified period of time. Restructured services, those that simply redefine existing offerings, are also subject to 45-day notice requirements, and are not presumed lawful.

E. Small Company Issues

33. Throughout this proceeding, this Commission has reaffirmed its commitment to a range of programs that provide assistance to small and high cost telephone companies and their subscribers, as well as to low income subscribers generally. These programs, including the Universal Service Fund, Long Term Support, Transitional Support, Link Up America, and Lifeline Assistance share a common purpose: Promoting affordable telephone service throughout the United States. These programs will not be adversely affected by either our adoption of mandatory price cap regulation for the largest LECs or by our decision to make such regulation available to mid-size and smaller LECs on an optional basis. We also reaffirm our commitment to geographic rate averaging. However, several issues of special interest to small telephone companies do appear to require further consideration as we move into price cap regulation. Among those issues are the impact of our regulatory changes on NECA and its pools and the impact of these changes on average schedule companies. Accordingly, we have determined to initiate further proceedings dealing specifically with regulatory issues of concern to small and mid-size LECs. In that proceeding, we intend to develop a better record on whether and in which cases a lower productivity factor may be appropriate for such LECs, whether other regulatory options may be more appropriate for them, as well as other issues affecting small telephone companies and their customers.

3. Monitoring

34. This Commission is committed to assuring the availability of high quality, innovative communications services, and to the development of the telecommunications infrastructure needed to provide these services. While we believe that our price cap plan creates strong incentives for LECs to maintain high quality and to further develop the network, we have decided to expand our monitoring of service quality and infrastructure development. First, we modify and continue our semi-annual RBOC service quality reporting and make it applicable to GTOC. Second, we supplement these reports with the quarterly service report from each price cap carrier that will include data on installation intervals, repair intervals, and blocking percentages. Third, as part of this quarterly filing requirement we will collect data on post-dial delay and switch downtime. If our monitoring shows that service quality has deteriorated, we have the authority to set specific standards and to order carriers to undertake specific investments. To assist us in monitoring the past and future development of infrastructure by LECs subject to price cap regulation, we direct the RBOCs and GTOC to file on an ongoing basis, the network investment data that we required RBOCs to file on a one-time basis in CC Docket No. 89-624, our rate of return proceeding.

35. We recognize that in launching an entirely new system of regulating local exchange carriers, we have a responsibility to monitor is application and results to guard against unintended, unanticipated effects or problems. For example, one effective safeguard against any misallocation of costs between the Federal jurisdiction and state jurisdictions is our use of the ARMIS reports. We also must to consider the information that will necessary for us to conduct the performance review of the price cap program which we expect to begin after no more than three years and to complete by the fourth year of the plan. In light of these needs, we have reviewed our monitoring and data collection capabilities and requirements. In the area of LEC costs, jurisdictional separations, usage, and earnings data, we currently monitor LEC performance using the computerized ARMIS data base and the data derived from Form 492. Based on our review of these reports and their contribution to price cap regulation, we conclude that these reports will adequately provide the information we will need to monitor price cap regulation of the LECs.

36. Our LEC price cap performance review is scheduled to begin after three years of price cap regulation and is to be completed within a year of its commencement. It is calculated to evaluate the system as implemented as well as LEC performance under that system. We chose a review period of several years because we believe that the period must be long enough to allow the effects of incentive regulation to unfold before a scheduled evaluation. We will, however, monitor LEC performance throughout, for indications such as great disparity in rates, declines in service quality, or other signs of system failure that indicate a need for intervention. Should such signs of system failure materialize, we will accelerate our performance review and make whatever corrections or other adjustments as are necessary. Absent such problems, we intend to make no major, systemic adjustments until the conclusion of the scheduled review.

4. Effect of Price Cap Regulation on Other Regulation

37. With regard to the treatment of Open Network Architecture (ONA) under price cap regulation, we conclude that ONA services, and other LEC services that require fundamental changes in the structure of our access charge rules, raise pricing issues that can best be resolved in other proceedings. We therefore defer decisions related to the pricing of ONA services to the pending ONA part 69 proceeding. *See* Amendments of Part 69 of the Commission's Rules Relating to the Creation of Access Charge Subelements for Open Network Architecture, Notice of Proposed Rulemaking, CC Docket No. 89-79, 4 FCC Rcd 3983 (1989). Pricing issues related to other services that require fundamental changes in access charge structure will be resolved in appropriate proceedings as they arise.

38. Notwithstanding our adoption of price cap regulation for local exchange carriers, in a number of key areas we intend to retain existing policies that foster competition and help prevent discrimination in the provision of telecommunications services. These areas include: (1) Existing market and accounting rules, including open entry, equal access, resale and shared use, interconnection, unbundling of tariffed services, and non-structural safeguards where LECs provide enhanced services, as well as the separations rules, the joint cost rules, and the USOA; (2) existing complaint procedures; and (3) the part 63 rules concerning the extension of lines and discontinuation of service. We find that the implementation of price cap regulation for LECs will be enhanced by the continuation of these rules and policies, and that such retention will ensure that our implementation of price cap regulation for interstate access services and interexchange services does not disrupt either our continuing regulation of other interstate services or state regulatory systems.

5. Legal Authority

39. In adopting price cap regulation for AT&T in March 1989, this Commission explained in its *Report and Order* the legal basis for its action. There, we concluded, *inter alia*, that: (1) Substitution of price cap regulation for traditional rate of return regulation was within our authority under the Communications Act; (2) price cap regulation would comply with the Act's requirement that rates be just, reasonable, and non-discriminatory; (3) our no-suspension zone approach to price cap regulation was consistent with the Act and relevant judicial authority; (4) a rate prescription was not required in connection with our use of existing rates; and (5) a *de facto* rate prescription had not been undertaken in connection with our no-suspension zone approach to price cap regulation. Consistent with our tentative conclusion in the *Second Further Notice* that price cap regulation of local exchange carriers is lawful, we conclude that our LEC price cap plan is within our legal authority under the Act, and that it will assure that LEC interstate rates remain just, reasonable, and non-discriminatory.

40. In view of our earlier finding that we have legal authority to adopt a price cap plan for AT&T, the primary basis for our conclusion that also have legal authority to adopt our LEC price cap plan lies in the fact that the LEC plan was derived from the AT&T plan and accordingly shares a number of common elements. Compared with the price cap plan we adopted for AT&T, we have added one additional safeguard to our LEC plan to address concerns that we may not be able to select a productivity figure for the LECs in which we have precisely the same high degree of confidence as we have in the figure chosen for AT&T. That additional safeguard is the sharing mechanism described above. By setting an upper limit on LEC profits and including an additional mechanism to enable ratepayers to share the benefit of certain increases in LEC profits, we further ensure that LEC rates will remain within a zone of reasonableness. We adopt that sharing mechanism pursuant to our general rulemaking authority contained in sections 4(i) and 201–203 of the Act as well as our prescription authority contained in section 205 of the Act. In addition to the sharing mechanism, and under the same authority, we have included in our LEC price cap plan a lower end adjustment mechanism consistent with our obligation to ensure that LEC rates are not confiscatory. We will continue to rely, as we do with AT&T, on the section 204 investigation and section 208 complaint processes as part of our plan to ensure just, reasonable, and non-discriminatory rates.

6. Paperwork Reduction Act

41. On May 11, 1989, after the release of the *Second Further Notice* in this proceeding, the Commission requested that the Office of Management and Budget (OMB) review the proposed information collection requirements for compliance with the Paperwork Reduction Act (PRA). On July 20, 1989, OMB approved the Commission's proposed information collection requirements contained in the *Second Further Notice* on LEC price cap regulations. The Report and Order adopted here contains final rules that modify the reporting requirements proposed in the *Second Further Notice* and approved by OMB.

42. This Order adopts incentive regulation for the LECs, and promulgates final rules to implement such regulation. In connection with this Report and Order, we renew our request for review of Paperwork Reduction Act requirements in light of the modifications here of proposals made in the *Second Further Notice* and the *Supplemental Notice*. The rules for LECs contained herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found generally to decrease the information collection burden on the public, although some new reporting requirements have been added in three sections of this Report and Order: first, increased service quality reporting, with the addition of data on post dial delay, installation interval, repair intervals, and network blockage; second, increased reporting on infrastructure development, with the addition of the reporting categories established in Common Carrier Docket No. 89-624; and, third, new reporting of excluded services revenues. These modifications in the information collection burden are subject to approval by OMB as prescribed by the Paperwork Reduction Act.

43. As was done in the case of adopting final rules for AT&T, we identify those portions of this *Further Notice* that respond to the eight OMB

concerns raised in response to our *Further Notice*. With respect to the LECs, our response to OMB's concerns can be found in the full text of this Order at: (1) Need for a rate "floor" designating the bottom of the no-suspension zone—pages 95, 135–137; (2) need to band rates by rate element—pages 90–93; (3) need for 90-day review period for above-band rates—pages 129–132; (4) need for identical tariff treatment of AT&T and LEC filings—pages 124–144; (5) burdens of expanding service quality reporting from Tier 1 LECs to all price cap carriers—pages 148–165; (6) election of price caps by LECs—pages 111–117; (7) quantification of administrative savings and identification of changes in reporting requirements—pages 20, 83, 124–144, 148–165; and (8) impact on state regulators—pages 20–24, 165–169.

7. Regulatory Flexibility

44. We certify that the Regulatory Flexibility Act is not applicable to the rule changes we adopt for the LECs in this proceeding. Because of the nature of local exchange and access service, we have concluded that small telephone companies are dominant in their fields of operation and therefore are not small entities as defined by the Regulatory Flexibility Act. *See* MTS and WATS Market Structure, 93 FCC 2d 241, 338–39 (1983). Thus, this Commission is not required by the terms of that Act to apply the formal procedures set forth therein. We are nevertheless committed to reducing the regulatory burdens on small telephone companies whenever possible consistent with our other public interest responsibilities. Accordingly, we have chosen to utilize, on an informal basis, appropriate Regulatory Flexibility Act procedures to analyze the effect of proposed regulations on small telephone companies. In accordance with the provisions of section 605 of that Act, a copy of this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration at the time of publication of a summary of this Second Report and Order in the **Federal Register**.

45. As part of our analysis of the regulation adopted in this Report and Order, however, this Commission has considered the impact of this Second Report and Order on small telephone companies, *i.e.*, those serving 50,000 or fewer access lines. As a result of our decision to make price cap regulation elective for depooled cost companies other than the RBOCs and GTOC, no small carrier will be forced to change the method by which it is regulated. Small companies that currently file their own cost-based access tariffs are free to remain under rate of return if they decide that rate of return is better suited to their circumstances than is price cap regulation. Small carriers participating in the NECA pools, and for whom NECA files access tariffs, will not be forced to leave the pools as a result of the price cap rules we are adopting in this Report and Order. In addition, nothing in the price cap program would discontinue or impair the variety of programs we have established to provide support to small carriers. These programs, such as our High Cost Fund and long term support mechanisms, continue intact. Furthermore, average schedule companies that are or become affiliated with cost companies that are regulated under price caps would not need to relinquish average schedule, rate of return regulation. We have also determined that, for companies that have not yet begun conversion to equal access, conversion costs are to be treated as exogenous costs under the price cap formula. This determination ensures that small carriers, who are the least likely to have begun equal access conversion, can flow through these costs to their rates should they elect price caps. These regulations, when viewed in their totality, permit small, depooled cost companies to take advantage of the benefits of price cap regulation at their option, while ensuring that the status quo is maintained for small carriers that do not participate in price cap regulation.

8. Conclusion and Ordering Clauses

46. The rules adopted here, establishing tariff filing requirements, the adjustment formulas, and other requirements for price cap regulation, will be effective October 31, 1990, in order to implement the November 1, 1990 filing date and January 1, 1991, tariff effective date. We find good cause to make these rules effective on less than 30 days' notice after publication in the **Federal Register**. *See* 5 U.S.C. 553(d)(3). The January 1, 1991 tariff effective date will provide the earliest and fullest availability of the price cap plan's substantial benefits to the public. The tariff filing ordered here, like traditional tariff filings, relies on information that the carriers collect and compile on a quarterly and annual basis; the tariff year is July 1 to June 30. Our selection of a January 1, 1991, effective date implements an initial half-year period of price cap regulation; this will allow the first full annual filing, to be made 90 days before July 1, 1991, to reflect some initial experience with price cap regulation and the modified filing requirements it establishes, and to apply the formula adjustments discussed herein. Further, the companies that the price cap rules will require to take action within less than 30 days from **Federal Register** publication have been actively involved in the development of these regulations, and are fully supportive of the initiation of price cap regulation as soon as possible. We do not believe it would be appropriate to shorten the review period for this initial price cap filing. The public interest requires an adequate review period to ensure that this Commission and interested parties can fully consider and evaluate the initial submissions of LECs participating in the price cap plan. The 61-day review period we have established, from November 1, 1990, to January 1, 1991, is the minimum period necessary for this comprehensive review and evaluation. Were we to establish an effective date later than October 31, 1990, for the rules defining the tariff filings, we would delay the effectiveness of price cap regulation, and its benefits for ratepayers, until at least July 1, 1991. This would also mean that the first price cap tariff filing would be a full annual filing, and that the application of the adjustment formulas, and the incentives they create, would be delayed for a full year after that filing, or until July 1, 1992.

47. Accordingly, *it is ordered* that, pursuant to sections 4(i), 4(j), 201–205, 303(r), and 403 of the Communications Act of 1934, 47 U.S.C. 154(i), 154(j), 201–205, 303(r), 403, and section 553 of title 5, United States Code, that part 61, part 65, part 69, and §§ 61.3, 61.38, 61.39, 61.41, 61.42, 61.43, 61.44, 61.45, 61.46, 61.47, 61.48, 61.49, 61.58, 65.1, 65.600, 65.701, 65.703; 69.1, 69.3, 69.101, 69.105, 69.111, 69.113, 69.114, and 69.205 of this Commission's Rules, 47 CFR part 61, part 65, and part 69, §§ 61.3, 61.38, 61.39, 61.41, 61.42, 61.43, 61.44, 61.45, 61.46, 61.47, 61.48, 61.49, 61.58, 65.1, 65.600, 65.701, 65.703, 69.1, 69.3, 69.101, 69.105, 69.111, 69.113, 69.114, and 69.205, are amended as set forth below and in appendix B to this Order effective October 31, 1990.

48. *It is further ordered* that authority is delegated to the Chief, Common Carrier Bureau, as specified herein, to effect the decisions set forth above.

49. *It is further ordered* that the Joint Motion for Tentative Decision filed by ADAPSO *et al.* is denied.

List of Subjects

47 CFR Part 61

Communications common carriers, Reporting and recordkeeping requirements, Telephone, Price cap regulation, Price cap tariff filing and review procedures.

47 CFR Part 65

Administrative practice and procedure, Communications common carriers, Price cap regulation, Reporting and recordkeeping requirements, Telephone.

47 CFR Part 69

Communications common carriers, Price cap regulation, Reporting and recordkeeping requirements, Telephone.

For the reasons set forth in the preamble, title 47, parts 61, 65, and 69 of the Code of Federal Regulations are amended as follows:

PART 61—TARIFFS

1. The authority citation for part 61 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply sec. 203, 48 Stat. 1070; 47 U.S.C. 203.

2. Section 61.3 is amended by revising paragraphs (u), (w), and (x) to read as follows:

§ 61.3 Definitions.

* * * * *

(u) *Price Cap Index* (PCI). An index of costs applying to carriers subject to price cap regulation, which index is calculated for each basket pursuant to §§ 61.44 or 61.45.

* * * * *

(w) *Price cap tariff.* Any tariff filing involving a service that is within a price cap basket, or that requires calculations pursuant to §§ 61.44, 61.45, 61.46, or 61.47.

(x) *Productivity factor.* An adjustment factor used to make annual adjustments to the Price Cap Index to reflect the margin by which a carrier subject to price cap regulation is expected to improve its productivity relative to the economy as a whole.

* * * * *

3. Section 61.38 is amended by revising the last sentence of paragraph (a) to read as follows:

§ 61.38 Supporting information to be submitted with letters of transmittal.

(a) * * * This section (other than the preceding sentence of this paragraph) shall not apply to tariff filings proposing rates for services identified in §§ 61.42 (a), (b), (d), (e), and (g), which filings are submitted by carriers subject to price cap regulation.

* * * * *

4. Section 61.39 is amended by adding the following new sentence at the end of paragraph (a) to read as follows:

§ 61.39 Optional supporting information to be submitted with letters of transmittal for Access Tariff filings effective on or after April 1, 1989, by local exchange carriers serving 50,000 or fewer access lines in a given study area that are described as subset 3 carriers in § 69.602.

(a) * * * This section (other than the preceding sentence of this paragraph) shall not apply to tariff filings proposing rates for services identified in §§ 61.42 (d), (e), and (g), which filings are submitted by carriers subject to price cap regulation.

* * * * *

5. Section 61.41 is revised to read as follows:

§ 61.41 Price cap requirements generally.

(a) Sections 61.42 through 61.49 shall apply as follows:

(1) To dominant interexchange carriers, as specified by Commission order;

(2) To such local exchange carriers as specified by Commission order, and to all local exchange carriers, other than average schedule companies, that are affiliated with such carriers; and

(3) On an elective basis, to local exchange carriers, other than those specified in paragraph (a)(2) of this section, that are neither participants in any Association tariff, nor affiliated with any such participants, except that affiliation with average schedule companies shall not bar a carrier from electing price cap regulation provided the carrier is otherwise eligible.

(b) If a telephone company, or any one of a group of affiliated telephone companies, files a price cap tariff in one study area, that telephone company and its affiliates, except its average schedule affiliates, must file price cap tariffs in all their study areas.

(c) The following rules apply to telephone companies subject to price cap regulation, as that term is defined in § 61.3(v), which are involved in mergers, acquisitions, or similar transactions.

(1) Any telephone company subject to price cap regulation that is a party to a merger, acquisition, or similar transaction shall continue to be subject to price cap regulation notwithstanding such transaction.

(2) Where a telephone company subject to price cap regulation acquires, is acquired by, merges with, or otherwise becomes affiliated with a telephone company that is not subject to price cap regulation, the latter telephone company shall become subject to price cap regulation no later than one year following the effective date of such merger, acquisition, or similar transaction and shall accordingly file price cap tariffs to be effective no later than that date in accordance with the applicable provisions of this part 61.

(3) Notwithstanding the provisions of § 61.41(c)(2) above, where a telephone company subject to price cap regulation acquires, is acquired by, merges with, or otherwise becomes affiliated with a telephone company that qualifies as an "average schedule" company under §§ 69.605 and 69.606, the latter company may, but shall not be obligated to, become subject to price cap regulation.

(d) Local exchange carriers that become subject to price cap regulation as that term is defined in § 61.3(v) of this chapter shall not be eligible to withdraw from such regulation.

6. Section 61.42 is amended by redesignating paragraph (d) as paragraph (g), by revising the first phrase thereof, and by adding new paragraphs (d), (e), and (f) to read as follows:

§ 61.42 Price cap baskets and service categories.

* * * * *

(d) Each local exchange carrier subject to price cap regulation shall establish baskets of services as follows:

(1) A basket for the common line interstate access elements as described in § 69.103, 69.104, 69.105, and 69.115 of this chapter;

(2) A basket for traffic sensitive switched interstate access elements;

(3) A basket for special access services as described in § 69.114 of this chapter; and

(4) to the extent that a local exchange carrier specified in § 61.41(a) (2) or (3) above offers interexchange services that are not classified as access services for the purposes of part 69 of this Commission's Rules, such exchange carrier shall establish a fourth basket for such services.

(e)(1) The traffic sensitive switched interstate access basket shall contain such services as the Commission shall permit or require, including the following service categories:

(i) Local switching as described in § 69.106;

(ii) Information, as described in § 69.109; and

(iii) Transport, as described in §§ 69.111 and 69.112 of this chapter.

(2) The basked for special access services shall contain such services as the Commission shall permit or require, including the following service categories:

(i) Voice grade, WATS, metallic, and telegraph services;

(ii) Audio and video services;

(iii) High capacity and DDS services; and

(iv) Wideband data and wideband analog services.

(f) Each local exchange carrier subject to price cap regulation shall exclude from its price cap baskets such services or portions of such services as the Commission has designated or may hereafter designate by order.

(g) New services, other than those within the scope of paragraphs (c) and (f) of this section, * * *

7. Section 61.43 is amended by revising the first sentence to read as follows:

§ 61.43 Annual price cap filings required.

Carriers subject to price cap regulation shall submit annual price cap tariff filings that propose rates for the upcoming year, that make appropriate adjustments to their PCI, API, and SBI values pursuant to §§ 61.44 through 61.47, and that incorporate the costs and rates of new services into the PCI, API, or SBI calculations pursuant to §§ 61.44(g), 61.45(g), 61.46(b), and 61.47 (b) and (c). * * *

8. Section 61.44 is amended by revising the section heading and first sentences of paragraphs (a) and (b) to read as follows:

§ 61.44 Adjustments to the PCI for Dominant Interexchange Carriers.

(a) Dominant interexchange carriers subject to price cap regulation shall file adjustments to the PCI for each basket as part of the annual price cap tariff filing, and shall maintain updated PCIs to reflect the effect of mid-year access and exogenous cost changes. * * *

(b) Subject to paragraph (d) of this section, adjustments to each PCI of dominant interexchange carriers subject to price cap regulation shall be made pursuant to the following formula: * * *

* * * * *

9. New section 61.45 is added to read as follows:

§ 61.45 Adjustments to the PCI for Local Exchange Carriers.

(a) Local exchange carriers subject to price cap regulation shall file adjustments to the PCI for each basket as part of the annual price cap tariff filing, and shall maintain updated PCIs to reflect the effect of mid-year exogenous cost changes.

(b) Adjustments to local exchange carrier PCIs for the baskets designated in §§ 61.42(d) (2), (3), and (4) shall be made pursuant to the formula set forth in § 61.44(b), and as further explained in §§ 61.44 (e), (f), (g), and (h).

(1) Notwithstanding the value of X defined in § 61.44(b), the X value applicable to the baskets specified in § 61.42(d) (2) and (3) shall be 3.3%, or 4.3% if the carrier so elects.

(2) For the basket specified in § 61.42(d)(4), the value of X shall be 3%, or 4% if the carrier so elects.

(c) Subject to paragraph (e) of this section, adjustments to local exchange carrier PCIs for the basket designated in § 61.42(d)(1) shall be made pursuant to the following formula:

$$PCI_t = PCI_{t-1}[1 + w[(GNP\text{-}PI - X - (g/2))/(1 + (g/2))] + \Delta Z/R]$$

where

GNP–PI = The percentage change in the GNP–PI between the quarter ending six months prior to the effective date of the new annual tariff and the corresponding quarter of the previous year,

X = Productivity factor of 3.3%, or 4.3% if the carrier so elects,

g = The ratio of minutes of use per access line during the base period, to minutes of use per access line during the previous base period, minus 1,

ΔZ = The dollar effect of current regulatory changes when compared to the regulations in effect at the time the PCI was updated to PCI_{t-1}, measured at base period level of operations.

R = Base period quantities for each rate element "i", multiplied by the price for each rate element "i" at the time the PCI was updated to PCI_{t-1},

w = R + ΔZ, all divided by R,

PCI_{t-1} = The new PCI value, and

PCI_{t-1} = The immediately preceeding PCI value.

(d) The exogenous cost changes represented by the term "ΔZ" in the formulas detailed in paragraphs (b) and (c), shall be limited to those cost changes that the Commission shall permit or require.

(1) Subject to further order of the Commission, those exogenous cost changes shall include cost changes caused by

(i) The completion of the amortization of depreciation reserve deficiencies;

(ii) Changes in the Uniform System of Accounts;

(iii) Changes in the Separations Manual;

(iv) Changes to the level of obligation associated with the Long Term Support Fund and the Transitional Support Fund described in § 69.612;

(v) The reallocation of investment from regulated to nonregulated activities pursuant to § 64.901;

(vi) Such tax law changes and other extraordinary exogenous cost changes as the Commission shall permit or require, and

(vii) Retargeting the PCI to the level specified by the Commission for carriers whose base year earnings are below the level of the lower adjustment mark.

(2) Local exchange carriers specified in § 61.41 (a)(2) or (a)(3) shall also make such temporary exogenous cost changes as may be necessary to reduce PCIs to give full effect to any sharing of base period earnings required by the sharing mechanism set forth in the Commission's Second Report and Order in Common Carrier Docket No. 87–313, FCC 90–314, adopted September 19, 1990.

(3) Local exchange carriers specified in § 61.41 (a)(2) or (a)(3) shall, in their annual access tariff filing, recognize all exogenous cost changes attributable to modifications during the coming tariff year in the obligations specified in § 61.45(d)(1)(iv) as well as those changes attributable to alterations in their Subscriber Plant Factor and the Dial Equipment Minutes factor.

(4) Exogenous cost changes shall be apportioned on a cost-causative basis between price cap services as a group, and excluded services shall be further apportioned on a cost-causative basis among the price cap baskets.

(e) The "w[(GNP–PI–X–(g/2))/(1+(g/2))]" component of the PCI formula contained in paragraph (c) shall be employed only in the adjustment made in connection with the annual price cap filing.

(f) The exogenous costs caused by new services subject to price cap regulation must be included in the appropriate PCI calculations under paragraph (c) of this section beginning at the first annual price cap tariff filing following completion of the base period in which such services are introduced.

(g) In the event that a price cap tariff becomes effective, which tariff results in an API value (calculated pursuant to § 61.46) that exceeds the currently applicable PCI value, the PCI value shall be adjusted upward to equal the API value.

(h) To the extent a local exchange carrier elects the higher productivity factor, the election must be made in all baskets.

10. Section 61.46 is amended by revising the first sentence of paragraph (a) and by adding new paragraphs (d), (e) and (f) to read as follows:

§ 61.46 Adjustments to the API.

(a) Except as provided in paragraphs (d) and (e) of this section, in connection with any price cap tariff filing proposing rate changes, the carrier must calculate an API for each affected basket pursuant to the following methodology:

* * * * *

(d) In connection with any price cap tariff proposing changes to rates for services in the basket designated in § 61.42(d)(1), the carrier common line (CCL) charges shall be computed pursuant to the following methodology:

CCL_{xxxx} = CL_{xxxx} * (1 + % change in CL PCI) − $EUCL_{xxxx}$ * 1/(1 + (g/2))

where

CCL_{xxxx} = The sum of each of the proposed Carrier Common Line rates multiplied by its corresponding base period Carrier Common Line minutes of use, divided by the sum of all types of base period Carrier Common Line minutes of use.

CL_{xxxx} = The sum of each of the existing Carrier Common Line rates multiplied by its corresponding base period Carrier Common Line minutes of use plus each existing End User Common Line (EUCL) rate multiplied by its corresponding base period lines, divided by the sum of all types of base period Common Line minutes of use.

$EUCL_{xxxx}$ = Proposed End User Common Line rates multiplied by base period lines, and

g = The ratio of minutes of use per access line during the base period to minutes of use per access line during the previous base period, minus 1.

(e) In addition, for the purposes of § 61.46(d), "Existing Carrier Common Line Rates" shall include existing originating premium, originating non-premium, terminating premium, and terminating non-premium rates; and "End User Common Line Rates" used to calculate the CL_{xxxx} and the $EUCL_{xxxx}$ factors shall include, but not be limited to, Residential and Single Line Business rates, Multi-Line Business rates, Centrex rates, Limited Pay Telephone Rates, and the Special Access surcharge.

(f) The "1/(1+(g/2)" component of the CCL_{xxxx} formula contained in paragraph (d) shall be employed only in the adjustment made in connection with the annual price cap filing.

11. Section 61.47 is amended by adding paragraph (h) to read as follows:

§ 61.47 Adjustments to the SBI; pricing bands.

* * * * *

(h) Local exchange carriers subject to price cap regulation as that term is defined in § 61.3(v) of this chapter shall use the methodology set forth in paragraphs (a) through (d) of this section to calculate two separate subindexes: One for the DS1 services offered by such carriers and the other for the DS3 services offered by such carriers. Notwithstanding paragraph (e) of this section, the annual pricing flexibility for each of these two subindexes shall be limited to an annual increase or decrease of five percent, relative to the percentage change in the PCI for the special access services basket, measured from the last day of the preceding tariff year.

12. Section 61.48 is amended by adding paragraphs (c), (d), (e), and (f) to read as follows:

§ 61.48 Transition rules for price cap formula calculations.

* * * * *

(c) Local exchange carriers subject to price cap regulation shall file initial price cap tariffs not later than November 1, 1990, to be effective January 1, 1991.

(d) In connection with the initial price cap filing described in paragraph (c) of this section, each PCI, API, and SBI shall be assigned an initial value prior to adjustment of 100, corresponding to the costs and rates in effect as of July 1, 1990.

(e) In connection with the initial price cap filing described in paragraph (c) of this section, initial PCI calculations shall be made without adjustment for any changes in inflation or productivity. Annual price cap filings incorporating the full values of the GNP–PI and productivity offsets will commence April 2, 1991, with a scheduled effective date of July 1, 1991.

(f) Local exchange carriers specified in § 61.41(a) (2) or (3) shall, in their initial price cap filings described in paragraph (c) of this section, adjust their PCIs through use of an exogenous cost factor to account for the represcription of the rate of return, effective January 1, 1991.

13. Section 61.49 is amended by revising paragraph (a) and the last sentence of paragraph (g) to read as follows:

§ 61.49 Supporting information to be submitted with letters of transmittal for tariffs of carriers subject to price cap regulation.

(a) Each price cap tariff filing must be accompanied by supporting materials sufficient to calculate required adjustments to each PCI, API, and SBI pursuant to the methodologies provided in §§ 61.44, 61.45, 61.46, and 61.47, as applicable

* * * * *

(g) * * * Each such tariff filing must also be accompanied by data sufficient to make the API and PCI calculations required by §§ 61.46(b), 61.44(g), and 61.45(f), § 61.46(d), and, as necessary, to make the SBI calculations provided in §§ 61.47 (b) and (c).

14. Section 61.58 is amended by revising paragraphs (c)(1), (c)(5), and (c)(6) to read as follows:

§ 61.58 Notice Requirements.

* * * * *

(c) * * *

(1) For annual adjustments to the PCI, API, and SBI values under §§ 61.44, 61.46, and 61.47, respectively, dominant interexchange carrier filings must be made on at least 45 days' notice. For annual adjustments to the PCI, API, and SBI values under §§ 61.45, 61.46, and 61.47, respectively, local exchange carrier tariff filings must be made on not less than 90 days' notice.

* * * * *

(5) Tariff filings involving a change in rate structure of a service included in a basket listed in § 61.42(a) or § 61.42(d), or the introduction of a new service within the scope of § 61.42(g), must be made on at least 45 days' notice.

(6) The required notice for tariff filings involving services included in § 61.42(c) or § 61.42(f), or involving changes to tariff regulations, shall be that required in connection with such filings by dominant carriers that are not subject to price cap regulation.

* * * * *

PART 65—INTERSTATE RATE OF RETURN PRESCRIPTION PROCEDURES AND METHODOLOGIES

1. The authority citation for part 65 continues to read as follows:

Authority: Secs. 4, 201, 202, 203, 205, 218, 403, 48 Stat. 1066, 1072, 1077, 1094, as amended, 47 U.S.C. 154, 201, 202, 203, 205, 218, 403.

2. Section 65.1 is revised to read as follows:

§ 65.1 Application of Part 65.

This part establishes procedures and methodologies for Commission prescription of interstate rates of return. This part shall apply to those interstate services and carriers as the Commission shall designate by order. This part shall not apply to dominant interexchange carriers subject to §§ 61.41 through 61.49, except as set forth in §§ 65.600(c), 65.701(c) and 65.703(g) of this chapter. Local exchange carriers subject to §§ 61.41 through 61.49 are exempt from the requirements of this part with the following exceptions:

(a) Carriers that meet the requirements of § 65.200(b) shall be subject to the filing requirements of Subpart C of this part;

(b) Carriers subject to §§ 61.41 through 61.49 shall employ the rate of return value calculated for interstate access services in complying with any applicable rules under parts 36 and 69 that require a return component;

(c) Carriers subject to §§ 61.41 through 61.49 shall be subject to §§ 65.600(d), 65.701(d), and 65.703(h); and

(d) Carriers subject to §§ 61.41 through 61.49 shall continue to comply with the prescribed rate of return when offering any services specified in § 61.42(f) unless the Commission otherwise directs.

3. Section 65.600 is amended by revising paragraph (b) and adding new paragraph (d), to read as follows:

§ 65.600 Rate of return reports.

* * * * *

(b) Each local exchange carrier or group of affiliated carriers which is not subject to §§ 61.41 through 61.49 of this chapter and which has filed individual access tariffs during the preceding enforcement period shall file with the Commission within three (3) months after the end of each calendar quarter, a quarterly rate of return monitoring report. Each report shall contain two parts. The first part shall contain rate of return information on a cumulative basis from the start of the enforcement period through the end of the quarter being reported. The second part shall contain similar information for the most recent quarter. The final quarterly monitoring report for the entire enforcement period shall be considered the enforcement period report. Reports shall be filed on the appropriate report form prescribed by the Commission (*see* § 1.795 of this chapter) and shall provide full and specific answers to all questions propounded and information requested in the currently effective report form. The number of copies to be filed shall be specified in the applicable report form. At least one copy of the report shall be signed on the signature page by the responsible officer. A copy of each report shall be retained in the principal office of the respondent and shall be filed in such manner as to be readily available for reference and inspection. Final adjustments to the enforcement period report shall be made by September 30 of the year following the enforcement period to ensure that any refunds can be properly reflected in an annual access filing. For local exchange carriers subject to §§ 61.41 through 61.49 of this chapter, final adjustments to the final enforcement period report covering the period ending December 31, 1990, shall be made no later than September 30, 1991.

* * * * *

(d) Each local exchange carrier or group of affiliated carriers subject to §§ 61.41 through 61.49 of this chapter shall file with the Commission within three (3) months after the end of each calendar year a report of its total interstate access rate of return for that year. Such filings shall include a report of the total revenues, total expenses and taxes, operating income, and the rate base. Reports shall be filed on the appropriate report form prescribed by the Commission (see § 1.795 of this chapter) and shall provide full and specific answers to all questions propounded and information requested in the currently effective report form. The number of copies to be filed shall be specified in the applicable report form. At least one copy of the report shall be signed on the signature page by the responsible officer. A copy of each report shall be retained in the principal office of the respondent and shall be filed in such manner as to be readily available for reference and inspection.

4. Section 65.701 is amended by adding paragraph (d) to read as follows:

§ 65.701 Period of review.

* * * * *

(d) Notwithstanding other provisions in this subpart, the final period of review for any local exchange carrier subject to §§ 61.41 and 61.49 of this chapter shall end on December 31, 1990.

5. Section 65.703 is amended by revising the first sentence of paragraph (g) and by adding new paragraph (h) to read as follows:

§ 65.703 Refunds.

* * * * *

(g) For interexchange carriers subject to §§ 61.41 through 61.49 of this chapter, refund obligations incurred prior to the date their tariffs filed pursuant to §§61.41 through 61.49 of this chapter take effect for the first time shall be effectuated by an adjustment to the applicable Actual Price Index, Service Band Index, and Price Cap Index (as defined in § 61.3 of this chapter). * * *

(h) For each local exchange carrier subject to §§ 61.41 through 61.49 of this chapter, refund obligations incurred prior to the end of its final period of review shall be effectuated by an adjustment to the applicable Actual Price Index, Service Band Index, and Price Cap Index (as defined in § 61.3 of this chapter). Carriers making an adjustment to effectuate any outstanding refund requirements from their final enforcement period shall make such adjustments no later than the next scheduled annual price cap adjustment tariff filing following the submission of the final enforcement report. The adjustment shall be designed to complete the required refund within 12 months of the close of such period. Upon completion of the required refund, the Actual Price Index, the Service Band Index, or the Price Cap Index shall be adjusted to remove the effect of the adjustment.

PART 69—ACCESS CHARGES

1. The authority citation for part 69 continues to read as follows:

Authority: Secs. 4, 201, 202, 203, 205, 218, 403, 48 Stat. 1066, 1070, 1072, 1077, 1094, as amended, 47 U.S.C. §§ 154, 201, 202, 203, 205, 218, 403, unless otherwise noted.

2. Section 69.1 is amended by revising the first sentence of paragraph (b) and adding paragraph (c) to read as follows:

§ 69.1 Application of access charges.

* * * * *

(b) Except as provided in § 69.1(c), charges for such access service shall be computed, assessed, and collected and revenues from such charges shall be distributed as provided in this part. * * *

(c) The following provisions of this part shall apply to telephone companies subject to price cap regulation only to the extent that application of such provisions is necessary to develop the nationwide average carrier common line charge and for purposes of reporting pursuant to § 43.21 and § 43.22: §§ 69.3(f), 69.105(b)(4), 69.105(b)(5), 69.106(b), 69.107(b), 69.107(c), 69.109(b), 69.111(c), 69.112(a), 69.112(b)(2), 69.112(b)(3), 69.112(d)(2), 69.112(d)(3), 69.114(b), 69.114(d), 69.205(e), 69.301 through 69.310, and 69.401 through 69.412. The computation of rates pursuant to these provisions by telephone companies subject to price cap regulation, as that term is defined in § 61.3(v) of this chapter, shall be governed by the price cap rules set forth in part 61 of this chapter and other applicable Commission Rules and orders.

3. Section 69.3 is amended by revising paragraphs (a) and (e)(4), and by adding new paragraphs (h) and (i) to read as follows:

§ 69.3 Filing of access service tariffs.

(a) Except as provided in paragraphs (f) and (g) of this section, a tariff for access service shall be filed with this Commission for an annual period. Such tariffs shall be filed on a minimum of 90 days' notice with a scheduled effective date of July 1. Such tariff filings shall be limited to rate level changes.

* * * * *

(e) * * *

(4) Except for charges subject to price cap regulation as that term is defined in § 61.3(v) of this chapter, any charge in such a tariff that is not an association charge must be computed to reflect the combined investment and expenses of all companies that participate in such a charge;

* * * * *

(h) Local exchange carriers subject to price cap regulation as that term is defined in § 61.3(v) of this chapter, shall file with this Commission a price cap

tariff for access service for an annual period. Subject to § 61.48, such tariffs shall be filed to provide a minimum of 90 days' notice with a scheduled effective date of July 1. Such tariff filings shall be limited to changes in the Price Cap Indexes, rate level changes (with corresponding adjustments to the affected Actual Price Indexes and Service Band Indexes), and the incorporation of new services into the affected indexes as required by § 61.49 of this chapter.

(i) The following rules apply to the withdrawal from Association tariffs by telephone companies electing to file price cap tariffs pursuant to § 69.3(h).

(1) In addition to the withdrawal provisions of § 69.3(e)(9), a telephone company or group of affiliated telephone companies that participates in one or more Association tariffs during the current tariff year and that elects to file price tariffs effective July 1, 1991, shall notify the Association not later than December 31, 1990, that it is withdrawing from all Association tariffs effective June 30, 1991, subject to the terms of this Rule.

(2) Such withdrawal shall only be filed for the purpose of becoming eligible to file price cap tariffs effective July 1, 1991.

(3) Notwithstanding the provisions of § 69.3(e)(9), in the event a telephone company or group of affiliate telephone companies withdraws from all Association tariffs for the purpose of filing price cap tariffs, such companies may exclude from such withdrawal any or all affiliates that qualify as "average schedule" companies under §§ 69.605 and 69.606 provided that all affiliates so excluded are clearly specified in the withdrawal.

(4) If a telephone company elects to withdraw from Association tariffs and thereafter becomes subject to price cap regulation as that term is defined in § 61.3(v) of this chapter, neither such telephone company nor any of its withdrawing affiliates shall thereafter be permitted to participate in any Association tariffs.

4. Section 69.101 is revised to read as follows:

§ 69.101 General.

Except as provided in § 69.1 and subpart C of this part, charges for each access element shall be computed and assessed as provided in this subpart.

5. Section 69.105 is amended by adding paragraphs (b)(7) and (b)(8), to read as follows:

§ 69.105 Carrier Common Line.

* * * * *

(b) * * *

(7) The Carrier Common Line charges of telephone companies that are subject to price cap regulation as that term is defined in § 61.3(v) of this chapter, shall be computed at the level of Carrier Common Line access element aggregation selected by such telephone companies, subject to § 69.3(e)(7). For each such Carrier Common Line access element tariff, the premium originating Carrier Common Line charge shall be one cent per minute. The premium terminating Carrier Common Line charge shall be set at a level that, when aggregated with the one cent originating charge and the non-premium originating and terminating carrier common line charges, shall not cause the aggregate carrier common line charge for the common line basket to exceed the capped charge computed pursuant to § 61.46(d) for that basket. The non-premium charges shall be equal to .45 multiplied by the premium charges.

(8) If the calculations described in paragraph (b)(7) of this section result in a per minute charge on premium terminating minutes that is less than one cent, the originating and terminating charges shall be equal, and set at a level that does not cause the aggregate carrier common line charge for the common line basket to exceed the capped charge computed pursuant to § 61.46(d). The non-premium charges shall be equal to .45 multiplied by the premium charge.

* * * * *

6. Section 69.111 is amended by revising paragraph (a) to read as follows:

§ 69.111 Common transport.

(a) A charge that is expressed in dollars and cents per access minute shall be assessed upon all interexchange carriers that use

(1) Switching or transmission facilities that are apportioned to the Common Transport element for purposes of apportioning investment, or

(2) Equivalent facilities offered by carriers subject to price cap regulation as that term is defined in § 61.3(v) of this chapter.

* * * * *

7. Section 69.112 is amended by revising paragraph (b)(1), the first sentence of paragraph (c), and paragraph (d)(1) to read as follows:

§ 69.112 Dedicated transport.

* * * * *

(b) * * *

(1) Such charges shall be assessed upon all interexchange carriers for the interface arrangements they use to provide interstate or foreign services and for the equivalent arrangements offered by companies subject to price cap regulation as that term is defined in § 61.3(v) of this chapter.

* * * * *

(c) Charges for the use of voice grade transmission facilities shall be assessed upon interstate carriers that use such facilities to provide interstate or foreign services and for the use of equivalent facilities offered by companies subject to price cap regulation as that term is defined in § 61.3(v) of this chapter. * * *

(d) * * *

(1) Such charges shall be assessed upon all interexchange carriers that use conditioning arrangements in the provision of interstate and foreign services and those that use equivalent arrangements offered by companies subject to price cap regulation as that term is defined in § 61.3(v) of this chapter.

* * * * *

8. Section 69.113 is amended by revising paragraph (c) to read as follows:

§ 69.113 Non-premium charges for MTS-WATS equivalent services.

* * * * *

(c) For telephone companies that are not subject to price cap regulation as that term is defined in § 61.3(v) of this chapter, the non-premium charge for the Local Switching element shall be computed by multiplying a hypothetical premium charge for such element by .45. The hypothetical premium charge for such element shall be computed by dividing the annual revenue requirement for each element by the sum of the projected access minutes for such period and a number that is computed by multiplying the projected non-premium minutes for such element for such period by .45. For telephone companies that are price cap carriers, the non-premium charge for the Local Switching element shall be computed by multiplying the premium charge for such element by .45. Through December 31, 1992, the non-premium charge shall be computed by multiplying the LS1 charge for such element by .45.

* * * * *

9. Section 69.114 is amended by revising paragraph (a) to read as follows:

§ 69.114 Special access.

(a) Appropriate subelements shall be established for the use of equipment or facilities that are assigned to the Special Access element for purposes of apportioning net investment, or that are equivalent to such equipment or facilities for companies subject to price

cap regulation as that term is defined in § 61.3(v) of this chapter.

* * * * *

10. Section 69.205 is amended by revising paragraph (c) to read as follows:

§ 69.205 Transitional premium charges.

* * * * *

(c) Except for telephone companies subject to price cap regulation, as that term is defined in § 61.3(v) of this chapter, the charge for an LS2 premium access minute shall be computed by dividing the premium Local Switching revenue requirement by the sum of the projected LS2 premium access minutes and a number that is computed by multiplying the projected LS1 premium access minutes by the applicable LS1 transition factor. For all telephone companies, the charge for an LS1 premium access minute shall be computed by multiplying the charge for an LS2 premium minute by the applicable LS1 transition factor. For telephone companies that are not subject to price regulation, as that term is defined in § 61.3(v) of this chapter, the premium Local Switching revenue requirement shall be computed by subtracting the projected revenues from non-premium charges attributable to the Local Switching element from the revenue requirement for each element.

* * * * *

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Separate Statement of Commissioner Andrew C. Barrett

I support the Commission's efforts in adopting a new system to regulate the interstate common carrier services of the largest local exchange carriers (LECs). Price cap regulation should result in a more efficient and competitive telecommunications industry. In addition, price caps, as an incentive-based form of regulation, promotes the development of a technologically advanced telecommunications infrastructure. Such an infrastructure is necessary to maintain our nation's competitive posture in the global marketplace.

I write separately to voice my concern about language in this report that could be misinterpreted.[1] Specifically, I want to emphasize that my support for this Order is not based on the notion that price cap regulation prevents cross-subsidies. The adoption of this Order should not in any way be interpreted as a lessening of my concern about preventing cross-subsidization. Nor, should it be construed as a weakening of the Commission's obligation to enforce its rules against such behavior. It is important that this Commission make clear that it will not countenance LECs engaging in cross-subsidization to the detriment of particular classes of customers. Price cap regulation does not serve as a substitute for strict enforcement of our rules against predation or cross-subsidization. As I have stated in the past, cross-subsidization is a symptom of complex structural and cost allocation issues. Thus, I do not believe that price cap regulation alone removes either the potential or the actual ability of the LECs to cross-subsidize services. Therefore, it is upon the staff of the Commission and the state regulatory bodies to do their best to continue to police the LECs. This Order affirms that commitment on the part of the FCC.[2] I plan to work with my colleagues on the Commission to ensure that this commitment is kept.

[FR Doc. 90-24698 Filed 10-18-90; 8:45 am]

BILLING CODE 6712-01-M

[1] *See Second Report and Order* in CC Docket No. 87-313, adopted September 19, 1990 at para. 36.

[2] *Id.*

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 91046-0006]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of apportionment; request for comments.

SUMMARY: The Secretary of Commerce (Secretary) announces that amounts of the reserve are needed in domestic annual processing operations (DAP) for the Pacific Ocean perch (POP) complex in the Aleutian Islands (AI) subarea and are being apportioned to that fishery. This action is necessary to promote optimum use of groundfish in the AI subarea. It is intended to carry out the management objectives contained in the Fishery Management Plan for Bering Sea/Aleutian Islands Groundfish (FMP).

DATES: *Effective* noon, Alaska local time, October 13, 1990.

Comments are invited until October 31, 1990.

ADDRESSES: Comments should be mailed to Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802, or be delivered to the Federal Building Annex, Suite 6, 9109 Mendenhall Mall Road, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, Resource Management Specialist, NMFS, 907-586-7229.

SUPPLEMENTARY INFORMATION: The FMP governs the groundfish fishery in the Exclusive Economic Zone within the Bering Sea and Aleutian Islands (BSAI) management area under the Magnuson Fishery Conservation and Management Act. The FMP was developed by the North Pacific Fishery Management Council (Council) and is implemented by regulations codified at 50 CFR 611.93 and 50 part 675.

Section 675.20(a)(1) of the implementing regulations establishes an optimum yield (OY) range of 1.4 to 2.0 million metric tons (mt) for all groundfish species in the BSAI management area. Total allowable catches (TACs) for target species and the "other species" category are specified annually within the OY range and apportioned by subarea under § 675.20(a)(2).

Under § 675.20(a)(3), 15 percent of the TAC for each target species and the "other species" category is automatically placed in a reserve not designated by species or species group, and the remaining 85 percent of the TAC for each target species and the "other species" category is apportioned between domestic annual harvest (DAH) and total allowable level of foreign fishing (TALFF). Under § 675.20(b)(1)(i), the Secretary will apportion reserve amounts to a target species or the "other species" category as needed, provided that the apportionments do not result in overfishing.

The initial 1990 TAC for POP in the AI subarea, under § 675.20(a)(2), is 5,610 metric tons (mt), which was initially apportioned to DAP (55 FR 1434, January 16, 1990). On August 3, 1990, 3,000 mt of reserve was apportioned to DAP for POP (55 FR 32421, August 9, 1990) under § 675.20(b)(1)(i). On September 12, 1990, the Secretary apportioned 4,000 mt of reserve to DAP POP (55 FR 38331, September 18, 1990), bringing the current amount for DAP POP to 12,610 mt.

Under § 675.20(b)(1)(i), the Secretary now finds that the DAP fishery in the AI subarea requires an additional 3,990 mt of POP for the remainder of the year. Therefore, he apportions 3,990 mt from

the reserve to DAP POP in the AI subarea. This apportionment results in a revised amount of 16,600 mt for DAP POP in the AI subarea as listed in Table 1. The revised DAP POP amount is equal to the acceptable biological catch (ABC) for POP; therefore, overfishing of POP will not occur. The amount of 16,600 mt for POP ABC was approved by the Council during its December 5–8, 1989, meeting. The ABC was incorrectly noted as 16,000 mt in the last apportionment notice (55 FR 38331, September 18, 1990).

Classification

The Assistant Administrator for Fisheries, NOAA, finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment or to delay the effective date of this notice. Immediate effectiveness of this notice is necessary to benefit U.S. fishermen participating in DAP POP operations who would otherwise be prohibited from fishing due to a premature closure. However, interested persons are invited to submit comments in writing to the address above until October 31, 1990.

This action is taken under § 675.20, and is in compliance with Executive Order 12291.

TABLE 1.—ALEUTIAN ISLANDS APPORTIONMENT OF TAC

[Values are in metric tons]

	Current	This action	Revised
Pacific Ocean Perch Complex (AI)			
ABC=16,600 (DAP)	12,610	3,990	16,600
TAC=16,600 (JVP)	0	0	0
Total (BSAI)			
(ABC=2,038,500) (DAP)	1,704,730	+3,990	1,708,720
(TAC=2,000,000) (JVP)	257,992	0	257,992
Reserves	37,278	−3,990	33,288

List of Subjects in 50 CFR Part 675

Fish, Fisheries, Recordkeeping and reporting requirements.

Authority: 16 U.S.C. 1801, *et seq.*

Dated: October 15, 1990.

Richard H. Schaefer,

Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90–24724 Filed 10–16–90; 12:10 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 203
Friday, October 19, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 300 and 330

Employment (General); Time-in-Grade Restrictions

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) proposes to revise its regulations governing the time-in-grade restriction on advancement to positions in the General Schedule. These changes would provide additional flexibility and simplify or clarify provisions.

DATES: Comments must be received on or before December 18, 1990.

ADDRESSES: Send or deliver written comments to Leonard R. Klein, Associate Director for Career Entry and Employee Development, Office of Personnal Management, room 6F08, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Leota Shelkey, (202) 606–0398; FTS 266–0398.

SUPPLEMENTARY INFORMATION: Since the early 1950's, Federal employees in General Schedule positions at GS–5 and above have been required to serve at least 1 year in grade before being promoted. The time-in-grade requirement helps to control budgets and rates of promotion and to assure proper use of competitive examination registers. It originated with the "Whitten Amendment," a series of controls on expansion of the Federal work force during the Korean conflict.

Since expiration of the Whitten Amendment in 1978, OPM has continued the time-in-grade restriction in regulation. Because of the expiration of its statutory basis, the restriction applies only to filling General Schedule positions in the competitive service but not in the excepted service. Except for a minor change in 1985, the time-in-grade regulations have not been revised since 1978. The proposals in this notice are intended to eliminate inconsistencies, simplify application, or clarify provisions.

OPM periodically receives suggestions to abolish the time-in-grade restriction. However, we believe its elimination is unnecessary. A 1-year waiting period between promotions is not unreasonable. Furthermore, the impact of employee salaries and related benefits on the Federal budget continues to be a concern. Our approach has been to provide agency managers with needed flexibility so the restriction does not prevent them from filling jobs with qualified candidates. For example, OPM gave agencies the authority to approve training agreements that permit accelerated promotions in shortage occupations and to waive the restriction to prevent undue hardship or inequity. That approach is continued in the following proposals.

Section 300.601. A new "purpose" section is added.

Section 300.602. A new "definitions" section is added.

Section 300.603. This section on coverage (currently § 300.601) clarifies that an employee who held a General Schedule position in the executive branch under nontemporary appointment within the previous 52 weeks is subject to the restriction. This section also addresses temporary appointment to a GS position.

In addition, this section clarifies existing exceptions and adds several new ones (currently § 300.603). Under current policy, new appointments of disabled veterans and new Veterans Readjustment Act appointments are not subject to the restriction. Consistent with the approach that eligibility under a statutory appointing authority should not be restricted by this regulatory requirement, a new exception is added to permit appointment under any special noncompetitive appointment authority. In such a case, the employee would have to be qualified and all procedural requirements met for making such appointments. In addition to the veterans' appointments, this provision would cover appointing authorities in 5 CFR part 315, subpart F, and similar statutory authorities.

Under current regulations, an exception is allowed for repromotion up to GS–5 to a grade previously held. Repromotion above GS–5 is allowed only when an employee lost the higher grade by reduction in force. The proposal broadens this exception by allowing promotion up to any grade previously held under a nontemporary competitive appointment, regardless of how the grade was lost.

Currently, an agency may waive time in grade to avoid undue hardship or inequity. This proposal redefines (in § 300.602) those terms to give agencies additional flexibility to deal with shortages and organizational difficulties. However, as with the existing policy, this authority does not include waiver of qualification standards.

Section 300.604. This section (currently § 300.602) contains the time-in-grade waiting period. The major change is that the waiting period of 1 year is changed to 52 weeks to make it consistent with the waiting period for within grade increases to steps 2, 3, and 4 of General Schedule grades. This change should eliminate confusion between the two waiting periods and reduce paperwork in those cases where separate within grade increase and promotion actions must be processed because of the 1 to 2 day difference in the waiting periods.

In addition, this section gives agency heads the authority to determine whether time in grade is satisfied by service one grade or two grades lower when positions with 1-grade interval work have mixed interval promotion patterns (e.g., GS–5, 6, 8). Allowing the agency to make this determination would help insure that the policy takes into account the particular promotion patterns and organizational arrangements of the agency.

Section 300.605. This section (currently § 300.604) defines creditable service for meeting time in grade. The major change is in the crediting of higher grade temporary service that occurs prior to an employee's first competitive appointment. Under current rules (5 CFR 330.502), such service is credited for time-in-grade purposes at the grade of the subsequent competitive appointment. The purpose is to prevent abuse of the competitive examining system.

This rule was adopted because agencies were appointing individuals from low grade registers (because they were not within reach at higher grade levels) and then promoting them to

higher grades held under temporary appointment. This continues to be a concern and OPM believes the restriction is still needed. However, we believe both agencies and employees could benefit from a modification of the rule. Therefore, the proposal would continue the same rule, but it would apply only until an employee had served in pay status for 52 weeks under nontemporary competitive appointment. We propose also to move this requirement from 5 CFR part 330 to § 300.605.

Other changes include adding nonappropriated fund employment as creditable service and clarifying District of Columbia service. The rule for using representative rates to determine equivalent grades for non-GS service is revised because agencies have difficulty in understanding and applying the current rule. Also, the special rule for crediting non-GS service that intervenes between two periods of GS service is dropped to simplify application.

Section 300.606. This new provision reflects existing policy but makes clear that an agency may adopt additional policies, beyond these regulations, to control rates of promotion.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it pertains only to Federal employees and agencies.

List of Subjects in 5 CFR Parts 300, 330

Government employees, Personnel Management Office.

U.S. Office of Personnel Management.
Constance Berry Newman,
Director.

Accordingly, OPM proposes to amend 5 CFR parts 300 and 330, as follows:

PART 300—EMPLOYMENT (GENERAL)

1. The authority citation for part 300 continues to read as follows:

Authority: 5 U.S.C. secs. 552, 3301, 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., page 218, unless otherwise noted.

Secs. 300.101 through 300.104 also issued under 5 U.S.C. secs. 7201, 7204, 7701; E.O. 11478, 3 CFR, 1966–1970 Comp., page 803.

Sec. 300–301 also issued under 5 U.S.C. 2954.

Secs. 300.401 through 300.408 also issued under 5 U.S.C. secs. 3109(c), 2301, and 2302.

Secs. 300.501 through 300.507 also issued under 5 U.S.C. 1103(a)(5).

Sec. 300.603 also issued under 5 U.S.C. 1104.

2. Subpart F is revised to read as follows:

Subpart F—Time-in-Grade Restrictions

Sec.
300.601 Purpose.
300.602 Definitions.
300.603 Coverage.
300.604 Restrictions.
300.605 Creditable service.
300.606 Agency authority.

Subpart F—Time-in-Grade Restrictions

§ 300.601 Purpose.

The restrictions in this subpart are intended to prevent excessively rapid promotions in competitive service positions and to protect competitive principles. They provide a budgetary control on promotion rates and help assure that appointments are made from appropriate registers. These restrictions are in addition to the eligibility requirements for promotion in part 335 of this chapter.

§ 300.602 Definitions.

In this subpart—

Nontemporary appointment means any appointment other than a temporary appointment pending establishment of a register (TAPER) or a temporary or excepted appointment not to exceed 1 year or less.

Hardship to an agency involves serious difficulty in filling a position, including when:

(a) The situation to be redressed results from circumstances beyond the organization's control and otherwise would require extensive corrective action; or

(b) A position at the next lower grade in the normal line of promotion does not exist and the resulting action is not a career ladder promotion; or

(c) There is a shortage of candidates for the position to be filled and the criteria in § 572.301(b) of this chapter are met.

Inequity to an employee involves situations where a position is upgraded as a result of a new classification standard or correction of a classification error but without change in the employee's duties or responsibilities, or where discrimination or administrative error prevented an employee from reaching a higher grade.

Advancement means a position change or any type of appointment.

Competitive appointment means an appointment based on selection from a competitive examination register of eligibles or a direct hire authority.

§ 300.603 Coverage.

(a) *Coverage.* This subpart applies to any advancement to a General Schedule position in the competitive service by any individual who within the previous 52 weeks held a General Schedule position under nontemporary appointment in the competitive or excepted service in the executive branch, unless excluded by paragraph (b) of this section.

(b) *Exclusions.* This subpart does not apply to the following actions:

(1) Appointment based on selection from a competitive examination certificate of eligibles or under a direct hire authority.

(2) Noncompetitive appointment, based on a special authority in law or executive order, that is made in accordance with all requirements applicable to new appointments under that authority.

(3) Advancement up to any General Schedule grade the employee previously held under a nontemporary appointment in the competitive service.

(4) Advancement of an employee under a non-General Schedule pay system unless the employee held a General Schedule position under nontemporary appointment in the executive branch within the previous 52 weeks.

(5) Advancement of an individual whose General Schedule service during the previous 52 weeks has been totally under temporary appointment.

(6) Advancement of an employee under a training agreement established in accordance with chapter 330 of the Federal Personnel Manual. However, an employee may not receive more than two promotions in any 52-week period solely on the basis of one or more training agreements. Also, only OPM may approve a training agreement that provides for consecutive promotions at rates that exceed those permitted by § 300.604 of this part.

(7) Advancement to avoid hardship to an agency or inequity to an employee in an individual meritorious case but only with the prior approval of the agency head or other official to whom this authority has been redelegated. However, an employee may not be promoted more than three grades during any 52-week period on the basis of this paragraph.

(8) Advancement when OPM authorizes it to avoid hardship to an agency or inequity to an employee in an individual meritorious case.

§ 300.604 Restrictions.

The following time-in-grade restrictions must be met unless an

advancement is permitted by § 300.603(b) of this part:

(a) *Advancement to positions at GS–12 and above.* Candidates for advancement to position at GS–12 and above must have completed a minimum of 52 weeks in positions no more than one grade lower (or equivalent) than the position to be filled.

(b) *Advancement to positions at GS–6 through GS–11.* Candidates for advancement to a position at GS–6 through GS–11 must have completed a minimum of 52 weeks in positions:

(1) No more than two grades lower (or equivalent) when the position to be filled is in a line of work properly classified at 2-grade intervals; or

(2) No more than one grade lower (or equivalent) when the position to be filled is in a line of work properly classified at 1-grade intervals; or

(3) No more than one or two grades lower (or equivalent), as determined by the agency head, when the position to be filled is in a line of work properly classified at 1-grade intervals but has a mixed interval promotion pattern.

(c) *Advancement to positions up to GS–5.* Candidates may be advanced without time restriction to positions up to GS–5 if the position to be filled is no more than two grades above the lowest grade the employee held within the preceding 52 weeks under his or her latest nontemporary competitive appointment.

§ 300.605 Creditable service.

(a) All service at the required or higher grade (or equivalent) in positions to which appointed in the Federal civilian service is creditable towards the time periods required by § 300.604 of this part, except as provided in paragraph (c) of this section. Creditable service includes competitive and excepted service in positions under the General Schedule and other pay systems, including employment with a nonappropriated fund instrumentality, but does not include service while on detail. It also includes appropriate service with the District of Columbia Government prior to January 1, 1980 (or prior to September 28, 1980, for those District employees who were converted to the District personnel system on January 1, 1980).

(b) Service in positions not subject to the General Schedule (GS) is credited at the equivalent GS grade by comparing representative rates (as defined in § 351.203 of this chapter) in effect when the service was performed. The equivalent GS grade is the GS grade with a representative rate that equals the representative rate of the employee's non-GS position. When the representative rate of the non-GS position falls between the representative rates of two GS grades, the non-GS service is credited at the higher grade. When the employee's non-GS position has no representative rate, the actual pay rate is used.

(c) In applying the restrictions in § 300.604 of this part, prior service under temporary appointment at a level above that of a subsequent nontemporary competitive appointment is credited as if the service had been performed at the level of the nontemporary appointment. This provision applies until the employee has served in pay status for 52 weeks under nontemporary competitive appointment; thereafter, the service is credited at its actual grade level (or equivalent).

§ 300.606 Agency authority.

An agency may adopt policies to control promotion rates of employees not covered by this subpart or to expand on the provisions in this subpart.

PART 330—RECRUITMENT, SELECTION, AND PLACEMENT (GENERAL)

3. The authority citation for part 330 continues to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302; E.O. 10577, 3 CFR, 1954–58 Comp., p. 218.

Sec. 330.102 also issued under 5 U.S.C. 3327.

Subpart B also issued under 5 U.S.C. 3315 and 8151.

Sec. 330.401 also issued under 5 U.S.C. 3310.

Subpart H also issued under 5 U.S.C. 8337(h) and 8457(b).

§ 330.502 [Removed and Reserved]

4. In part 330, § 330.502 is removed and reserved.

[FR Doc. 90–24727 Filed 10–18–90; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 944

[Docket No. FV–90–139PR]

Fruit Import Regulations; Withdrawal of Proposed Rule to Change Orange Import Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Withdrawal of proposed rule.

SUMMARY: This document withdraws a proposed rule which would have changed the minimum grade and size requirements for oranges imported into the United States. The proposed rule is being withdrawn because of a lack of record evidence to support the change.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456; telephone: (202) 475–3918.

SUPPLEMENTARY INFORMATION:

This action withdraws a proposed rule published in the **Federal Register** (55 FR 24249, June 15, 1990), which gave notice that the Department was considering revising § 944.312 (7 CFR 944.312) to change the minimum grade and size requirements for oranges imported into the United States. Section 944.312 is effective under section 8e (7 U.S.C. 608e–1) of the amended Agricultural Marketing Agreement Act of 1937.

Section 8e of the Act provides that whenever specified commodities, including oranges, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities. Section 8e also provides that whenever two or more marketing orders regulate the same commodity produced in different areas of the United States, the Secretary shall determine which area the imported commodity is in most direct competition with and apply the regulations for that area to the imported commodity. Currently, the orange import requirements are the same as those applied to Texas oranges under marketing order (7 CFR part 906).

The proposal would have based orange import requirements on the Florida orange marketing order (7 CFR part 905), instead of the Texas marketing order. In response to the proposal, twenty-four comments were received from 21 individuals. On the basis of the information supplied therein, there is insufficient evidence in the rulemaking record to conclude that imported oranges are in most direct competition with Florida oranges.

Therefore, the proposed rule published in the **Federal Register** (55 FR 24249, June 15, 1990), is hereby withdrawn, and imported oranges shall continue to meet the Texas marketing order requirements.

List of Subjects in 7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Limes, Olives, Oranges.

Dated: October 15, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-24855 Filed 10-18-90; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Parts 101 and 102

[Docket No. 88-187]

Viruses, Serums, Toxins and Analogous Products; Restrictions on Distribution and Use

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations pertaining to veterinary biological products to: (1) Clarify that restrictions on the distribution and use of federally licensed biological products may be imposed by a State or other jurisdiction based on local disease conditions, and (2) provide a procedure whereby any person, including a State or other jurisdiction, may request that federal restrictions be imposed on such products. The purpose of this proposed rule is to clarify the regulations with respect to State restrictions on the use and distribution of veterinary biologics, and to specify how a person can request that federal restrictions be imposed on such products.

DATES: Consideration will be given only to comments postmarked or received on or before December 18, 1990.

ADDRESSES: Send an original and three copies of written comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 88-187. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. David A. Espeseth, Deputy Director, Veterinary Biologics, BBEP, APHIS, USDA, Room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8245.

SUPPLEMENTARY INFORMATION:

Background:

The Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA) is responsible for the administration and enforcement of the Virus-Serum-Toxin Act (21 U.S.C. 151-159) (Act). That Act prohibits the importation or the shipment anywhere in or from the United States of any veterinary biologic which is worthless, contaminated, dangerous, or harmful. The Secretary of Agriculture is authorized to prescribe regulations which are necessary to carry out the purposes of the Act, including regulations governing the preparation of these products. The Act requires that, unless they are subject to exemption, products prepared in the United States must be prepared in establishments licensed by the Secretary of Agriculture pursuant to regulations issued by the Secretary.

Regulations concerning veterinary biologics appear in 9 CFR parts 101-118. They are intended to ensure that only pure, safe, potent and efficacious products are available to farmers, livestock owners, and others who use them.

Section 102.5(d) (2) of the present regulations pertaining to the distribution of veterinary biological products reads as follows:

The licensee shall distribute the product in any State or other jurisdiction only in accordance with the requirements of such State or other jurisdiction.

The intent of the provision is to recognize that States or other jurisdictions have a legitimate interest in regulating certain biologics based on local disease conditions, and that licensees are subject to such regulation, as well as to the regulations under the Virus-Serum-Toxin Act.

There has been some confusion concerning the provision in § 102.5(d) (2), as currently written. Questions have arisen whether APHIS is enforcing State law and to what extent State and local restrictions may be imposed on animal biologics in addition to Federal regulations. We believe that it is necessary to clarify the meaning of this section. We are therefore proposing to amend § 102.5(d) (2) as follows:

In addition to restrictions imposed by the Deputy Administrator pursuant to paragraph (e) of this section, biological products shall be subject to restrictions imposed by any State or other jurisdiction pertaining to the distribution and use of such products, based on local disease conditions.

This provision is intended to reflect the Department's long standing policy which recognizes that local disease conditions may require special restrictions to be imposed on biological products. For example, a State may have an active program to eradicate a specific disease within its borders. If a veterinary biological product has been licensed for use against this disease, a State may want to restrict use of the biological product to veterinarians to ensure that its use by nonveterinarians does not interfere with the eradication program. In the event that a disease does not exist within a State, the State may wish to prevent distribution of a vaccine against that disease because there would be no need to vaccinate, or because allowing the use of the vaccine would complicate diagnosis or serological surveillance since serological responses in animals due to vaccine are often difficult to distinguish from those due to disease.

APHIS issues U.S. Veterinary Biological Product Licenses (see 9 CFR Part 102) for products which meet the requirements of the Act and the regulations. The regulations provide that the Administrator of APHIS may impose additional restrictions on the use or distribution of a licensed biological product when the protection of domestic animals or the public health, interest, or safety, or both necessitate such restrictions. Restrictions imposed under this authority are prescribed on the product license, and may be required to be included on product labels. The regulations state that the restrictions may include, but are not limited to, limits on distribution of a product, or provisions that a biological product is restricted to use by veterinarians, or under the supervision of veterinarians, or both. (9 CFR 102.5(e)).

Any interested person, including a State, may request that Federal restrictions be imposed on the distribution and use of a particular biologic. However, the regulations do not contain a provision concerning such a request. Therefore, we are proposing to add a new § 102.5(f) to the regulations which would provide that any person may request that APHIS impose restrictions on the distribution and use of veterinary biologics, and which would contain procedures for submitting such a request.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information

compiled by the Department, it has been determined that this proposed rule would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, and would not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under certain circumstances, States may restrict the distribution and use, within their own borders, of veterinary biological products licensed by APHIS. The current regulations, however, have caused some confusion regarding such restrictions as they relate to the requirements under the Virus-Serum-Toxin Act. The proposed rule would clarify the meaning of the regulation. It would also provide procedures whereby any person could request that federal restrictions be imposed on an animal biologic.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection provisions that are included in the proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Written comments concerning any information collection provisions should be submitted to the Office of Information and Regulatory Affairs, OMB, Attention Desk Officer for APHIS, Washington, D.C. 20503. A duplicate copy of such comments should be submitted to: (1) Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782 and (2) Clearance Officer, OIRM, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. [See 7 CFR part 3015, subpart V].

List of Subjects

9 CFR Part 101

Animal biologics.

9 CFR Part 102

Animal biologics.

Accordingly, it is proposed to amend title 9 of the Code of Federal Regulations as follows:

Part 101—DEFINITIONS

1. The authority citation for 9 CFR part 101 would continue to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 101.2 would be amended to remove all the paragraph designations, to rearrange the definitions in alphabetical order, and to add, in alphabetical order, the following definition:

§ 101.2 Administrative terminology.

* * * * *

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS).

* * * * *

PART 102—LICENSES FOR BIOLOGICAL PRODUCTS

3. The authority citation for 9 CFR part 102 would continue to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.17, 2.51, and 371.2(d).

§ 102.5 [Amended]

4. In § 102.5, paragraph (d)(2) would be revised to read as follows:

(d) * * *

(2) In addition to restrictions imposed by the Deputy Administrator pursuant to paragraph (e) of this section, biological products shall be subject to restrictions imposed by any State or other jurisdiction pertaining to the distribution and use of such products, based on local disease conditions.

* * * * *

5. In § 102.5, a new paragraph (f) would be added to read as follows:

* * * * *

(f) Any person may request that the distribution and use of a veterinary biological product be restricted if the restriction pertains to the protection of domestic animals or the public health, interest, or safety, or both. All requests must be sent, in writing, to the Director, Biotechnology, Biologics and Environmental Protection, USDA, APHIS, c/o Deputy Director, Veterinary Biologics, room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Requests must specify the restriction(s) being requested and must explain why the restrictions are needed. Copies of any supporting documents, such as scientific literature, published or unpublished articles, or data from tests, should be attached to the request. When a decision is reached regarding the request, the person submitting the request will be sent written notification of such decision.

Done in Washington, DC, this 15 day of October 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-25797 Filed 10-18-90; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-NM-179-AD]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to supersede an existing airworthiness directive (AD), applicable to certain Boeing Model 737 series airplanes, which currently requires ultrasonic inspections of the bonded waffle doublers for delamination between body station (BS) 360 and BS 1016. This action would require inspections for delamination, cracking, and corrosion, in an area expanded to include the area between BS 259 and BS 360, the circumferential fuselage splices, stringer (S)–17, and bonded doublers. This proposal is prompted by reports of cracking of the skin at S–17. This condition, if not corrected, could result in rapid decompression of the airplane.

DATES: Comments must be received no later than December 7, 1990.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 90–NM–179–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle,

Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Dan R. Bui, Airframe Branch, ANM-120S; telephone (206) 227-2785. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue. SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90-NM-179-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

On July 20, 1989, the FAA issued AD 89-16-05, Amendment 39-6281 (54 FR 31507, July 31, 1989), to require ultrasonic inspections of the bonded waffle doublers for delamination between body station (BS) 360 and BS 1016. Affected operators were required to submit reports to the FAA of any cracking or disbonding found as a result of the inspections. That action was prompted by reports of delamination of the waffle doublers on several Boeing Model 737 series airplanes. This condition, if not corrected, could lead to the inability of the airplane to carry fail-safe loads, which may result in rapid decompression.

Since issuance of that AD, one operator recently reported cracking of the skin at stringer (S)-17 at multiple locations. As a result of this and other reports from operators, in accordance with AD 89-16-05, the FAA has determined that additional inspections are necessary in order to detect cracking and disbonding in a more timely manner.

The FAA has reviewed and approved Boeing Service Bulletin 737-53-1124, dated August 24, 1989; Service Bulletin 737-53-1089, Revision 1 and Revision 3, dated October 13, 1988, and November 2, 1989, respectively; Service Bulletin 737-53-1076, Revision 2, dated February 8, 1990; and Alert Service Bulletin 737-53A1039, Revision 5, dated May 25, 1989; all of which describe procedures for inspection of the bonded doublers and repair, as necessary.

Additionally, the FAA has re-evaluated the fatigue life of repairs made using blind fasteners, and has determined that such repairs should be repetitively inspected for cracks and loose or missing fasteners every 3,000 flight cycles, and must be replaced prior to the accumulation of 10,000 flight cycles.

Since this condition is likely to exist or develop on other airplanes of the same type design, an AD is proposed which would supersede AD 89-16-05 with a new AD which would require inspection for delamination, cracking, and corrosion of an expanded area to include BS 259 and BS 360, the circumferential fuselage splices, S-17, and bonded doublers in accordance with the service bulletins previously described. This action would also revise the interval for repetitive inspections of blind fasteners from 1,000 to 3,000 flight cycles; and the interval for replacement of blind fasteners from 3,000 to 10,000 flight cycles. This action would also delete the reporting requirement of the existing AD.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding Amendment 39-6281 (54 FR 31507, July 31, 1989), AD 89-16-05, with the following new airworthiness directive:

Boeing: Applies to Model 737 series airplanes, line numbers 520 through 610, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent the inability of the airplane to carry fail-safe loads due to disbonded doublers, and to reduce the possibility of rapid decompression, accomplish the following:

A. Within 60 calendar days after the effective date of this AD, perform a one-time external ultrasonic inspection of the bonded doublers above stringer (S)-28 between body station (BS) 259 and BS 1016 in accordance with Boeing Service Bulletin 737-53-1124, dated August 24, 1989.

Note: The area inspected, in accordance with AD 89-16-05, Amendment 39-6281, does not require reinspection for disbonding.

B. If disbond is detected, prior to further flight, accomplish the following:

1. Perform a high frequency eddy current (HFEC) inspection for cracks and a visual inspection for corrosion along the upper rivet row of the lower lap splices and both rivet rows of S-17 (if affected), for the entire length of affected panel, in accordance with Boeing Service Bulletin 737-53-1124, dated August 24, 1989. If, during the inspections required by this paragraph, paint inhibits identification of the fastener heads or cracks, the paint must be stripped using an FAA-approved chemical stripper.

a. If no cracking or corrosion is found, repeat the HFEC and visual inspections at intervals not to exceed 4,500 flight cycles

until the preventive modification required by paragraph C. of this AD is accomplished.

b. If cracks are found, repair prior to further flight, in accordance with Boeing Service Bulletin 737–53–1124, dated August 24, 1989. Within 2,000 flight cycles following the repair, accomplish the lap splice preventive modification on the effected panel, which includes installation of oversize protruding head solid fasteners in the lap splice upper row and S–17, in accordance with Boeing Service Bulletin 737–53–1124, dated August 24, 1989.

(1) Blind fasteners may be used as a temporary repair only. Repairs using blind fasteners must be repetitively inspected for loose or missing fasteners at intervals not to exceed 3,000 flight cycles following installation, and replaced with protruding head solid fasteners within 10,000 flight cycles following installation.

(2) Repairs previously installed with blind fasteners prior to the effective date of this AD must be inspected for loose or missing fasteners within 1,000 flight cycles after the effective date of this AD and at thereafter intervals not to exceed 3,000 flight cycles. Blind fasteners must be replaced with protruding head solid fasteners within 10,000 flight cycles following installation.

2. Perform a detailed external visual inspection for cracks and corrosion at circumferential splices along the most forward and most aft rivet row of each panel found to contain delamination, in accordance with Boeing Service Bulletin 737–53–1076, Revision 2, dated February 8, 1990. Remove paint with an FAA-approved chemical stripper prior to inspection, or ensure that the fastener head is clearly visible. In addition to the detailed external visual inspection, perform an HFEC inspection for cracks at each circumferential splice from S–10R to S–10L in accordance with Boeing Service Bulletin in 737–53–1076, Revision 2, dated February 8, 1990, along the most forward and most aft rivet row of each circumferential splice.

a. If no cracks, corrosion, or delamination are found as a result of the detailed external visual inspection, repeat the detailed external visual and HFEC inspections required by this paragraph at intervals not to exceed 4,500 landings or 15 months, whichever occurs first.

b. If any cracking is detected, repair prior to further flight, in accordance with Boeing Service Bulletin 737–53–1076, Revision 2, dated February 8, 1990.

c. Replacement of the most forward and most aft fastener rows with standard protruding head solid fasteners at all circumferential fuselage splices, in accordance with Boeing Service Bulletin 737–53–1076, Revision 2, dated February 8, 1990, constitutes terminating action for the inspections required by this subparagraph, B.2.

3. In areas where corrosion or delamination are found as a result of the inspections required by paragraphs B.1. and B.2. of this AD, prior to further flight, perform a low frequency eddy current (LFEC) inspection using an FAA-approved method:

a. If corrosion depth does not exceed 10% of the skin's thickness, conduct the repetitive external detailed visual inspections required by paragraphs B.1. and B.2. of this AD, of each panel found to contain corrosion at intervals not to exceed 2,250 flight cycles or 6 months, whichever occurs first.

b. If corrosion depth exceeds 10% of the skin's thickness, or if cracks or delamination is found as a result of the detailed external visual inspections, repair prior to further flight, in accordance with Boeing Service Bulletin 737–53–1076, Revision 2, dated February 8, 1990. Following such a repair, continue to inspect in accordance with paragraphs B.1. and B.2. of this AD, at intervals not to exceed 4,500 flight cycles or 15 months, whichever occurs first.

c. Any cracks found must be repaired, prior to further flight, in accordance with an FAA-approved method. Blind fasteners may be used as a temporary repair only. They must be repetitively inspected for loose or missing fasteners at intervals not to exceed 3,000 flight cycles following installation, and then replaced with protruding head solid fasteners within 10,000 flight cycles following installation.

4. Repair all disbonded tearstraps prior to further flight, in accordance with Boeing Alert Service Bulletin 737–53A1030, Revision 4, dated April 24, 1986, or Revision 5, dated May 25, 1989; or Boeing Service Bulletin 737–53–1069, Revision 1, dated October 15, 1989; or Revision 3, dated November 2, 1989; as appropriate.

C. Within 24 months after detection of disbonding as a result of the inspection required by paragraph A. of this AD, accomplish the lap splice and S–17 preventative modification of the affected panel, which includes installation of oversize protruding head solid fasteners in the upper rivet row, in accordance with Boeing Service Bulletin 737–53–1124, dated August 24, 1989. Accomplishment of this modification constitutes terminating action for the inspection requirements of paragraphs B.1. and B.2. of this AD for the affected panel.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on October 4, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–24701 Filed 10–18–90; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 90–NM–189–AD]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Boeing Model 727 series airplanes, which would prohibit storage of items other than life rafts in the life raft stowage compartments unless certain modifications are accomplished. This proposal is prompted by an operator's report that loose items stored in these compartments became discolored and scorched after falling through gaps in the compartment onto hot passenger service unit lights. This condition, if not corrected, could result in an on-board cabin fire.

DATES: Comments must be received no later than December 10, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 90–NM–189–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Terrell W. Rees, Seattle Aircraft Certification Office, Airframe Branch ANM–120S; telephone (206) 227–2785. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Seattle, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as

they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90-NM-169-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

When life rafts are not required, the overhead raft stowage compartments have been utilized to store carry-on baggage and passenger comfort items such as blankets and pillows. One operator of Boeing Model 727 series airplanes reported that small items such as the blankets and pillows can slip down through gaps in the life raft compartment (the opening between the door and the outboard closure panel) onto the hot passenger service lights. These items have been found scorched and discolored. This condition, if not corrected, could result in an on-board cabin fire.

The FAA has reviewed and approved Boeing Service Bulletin 727-25-0271, dated April 19, 1990, which describes modifications to these stowage compartments to improve the retention of small items.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require installation of a placard stating that storage of items other than life rafts in the life raft stowage compartments is prohibited. The placard may be removed and the life raft compartment may be used for stowage if or when the life raft compartment is modified in accordance with the service bulletin previously described.

There are approximately 72 Model 727 series airplanes of the affected design in the worldwide fleet. It is estimated that 71 airplanes of U.S. registry would be affected by this AD, that it would take approximately 2 manhours per airplane to accomplish the required placard in action, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $5,680. Modification of each airplane's compartments, should operators choose to accomplish it, would require approximately 66 manhours at a labor cost of $40 per manhour. Modification kits cost approximately $5,208 per airplane. Based on these figures, the total cost to modify each airplane is estimated to be $7,848.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation of part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to Boeing Model 727 series airplanes, as listed in Service Bulletin 727-25-0271, dated April 19, 1990, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent a fire hazard associated with unrestrained loose items in life raft stowage compartments falling onto hot passenger service unit lights, accomplish the following:

A. Within the next 30 days after the effective date of this AD, install a placard on each affected life raft compartment, stating: "LIFE RAFT STOWAGE ONLY".

B. The life raft compartment may be used for stowage and the placard required by paragraph A of this AD may be removed if or when the life raft compartment is modified in accordance with Boeing Service Bulletin 727-25-0271, dated April 19, 1990.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on October 9, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-24796 Filed 10-18-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 90-NM-191-AD]

Airworthiness Directives: British Aerospace Model ATP Series Airplanes Equipped with AC Generators, Part Numbers BA03301, BA03301-01, and BA03301-02

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain British Aerospace Model ATP series airplanes, which would require repetitive inspections to detect debris in the left and right AC generators' oil inlet strainer and outlet and vent filters, and replacement of the generator, if necessary; the installation of new outlet and vent filters; and the installation of a new end plate and mainframe on the left and right AC generators. This proposal is prompted by reports of rupture of the generator oil system due to debris blocking the vent and outlet oil strainers. This condition, if not corrected, could result in rupture of the AC generators' oil system and subsequent loss of electrical power.

DATES: Comments must be received no later than December 10, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 90-NM-191-AD, 1601 Lind Avenue S.W., Renton, Washington 98055-4056. The applicable service information may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 227-2148. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. .

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rule Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90-NM-191-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The United Kingdom Civil Aviation Authority (CAA), in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain British Aerospace Model ATP series airplane equipped with AC generators, part numbers BA03301, BA03301-01, and BA03301-02. There have been recent reports of rupture of the generator oil system due to debris blocking the vent and outlet oil filters. This condition, if not corrected, could result in rupture of the AC generator's oil system and subsequent loss of electrical power.

British Aerospace has issued Service Bulletin ATP-24-23, dated March 14, 1990, which describes procedures for repetitive visual inspections to detect debris in the inlet strainer, and outlet and vent oil filters, and replacement of the generator, if necessary; the installation of new outlet and vent filters; and the installation of a new end plate and a new mainframe on the left and right AC generators. The British Aerospace service bulletin references Lucas Service Bulletins BA03301-24-1, Revision 3, dated August 28, 1989; BA03301-24-2, Revision 3, dated August 14, 1989; and BA03301-24-3, dated September 19, 1989; for additional instructions. The United Kingdom CAA has classified these service bulletins as mandatory.

The airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require repetitive visual inspections to detect debris in the inlet strainer, and outlet and vent oil filters, and replacement of generator, if necessary; the installation of new outlet and vent filters; and the installation of a new end plate and a new mainframe on the AC generator, in accordance with the service bulletins previously described.

It is estimated that 15 airplanes of U.S. registry would be affected by this AD, that it would take approximately 9 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The estimated cost for required parts is $210. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $8,550.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291, (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

BEST COPY AVAILABLE

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [AMENDED]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace: Applies to Model ATP series airplanes equipped with AC generators, part numbers BA03301, BA03301-01, and BA01301-02; certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent rupture of the AC generators' oil system and subsequent loss of electrical power, accomplish the following:

A. Within 125 hours time-in-service after the effective date of this AD, and thereafter at intervals not to exceed 500 hours time-in-service, perform a visual inspection of the inlet oil strainer, and the outlet and vent oil filters, in accordance with Lucas Aerospace Service Bulletin BA03301-24-1, Revision 3, dated August 28, 1989. If evidence of debris is found, prior to further flight, replace the generator.

B. On generators having part numbers BA3301-01 and BA3301-02, within 1,250 hours time-in-service after the effective date of this AD, install a new outlet filter and new vent filter, in accordance with Lucas Aerospace Service Bulletin BA03301-24-2, Revision 3, dated August 14, 1989. Repeat the inspection required by paragraph A. of this AD at intervals not to exceed 500 hours time-in-service.

C. Within 18 months after the effective date of this AD, install a new end plate, a new mainframe, and revised sealing features on the stator bolts and within the terminal block area, in accordance with Lucas Aerospace Service Bulletin BA03301-24-3, dated September 13, 1989. Incorporation of this modification terminates the requirements for the repetitive inspections and modifications required by paragraphs A. and B. of this AD.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM-113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM-113.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on October 9, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-24796 Filed 10-18-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-192-AD]

Airworthiness Directives; British Aerospace Model BAC 1-11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to all British Aerospace Model BAC 1-11 200 and 400 series airplanes, which would require repetitive visual inspections to detect cracks in the flight deck canopy area, and repair, if necessary. This proposal is prompted by several reports of cracks in various structural members in the flight deck canopy area. This condition, if not corrected, could result in reduced structural integrity of the fuselage.

DATES: Comments must be received no later than December 10, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 90-NM-192-AD, 1601 Lind Avenue S.W., Renton, Washington 98055-4056. The applicable service information may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 227-2148. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rule Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rule Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90-NM-192-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The United Kingdom Civil Aviation Authority (CAA), in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on all British Aerospace Model BAC 1-11 200 and 400 series airplanes. There have been recent reports of fatigue cracks found in various structural members in the flight deck canopy area. In one case, the joint strap had failed completely. This condition, if not corrected, could result in reduced structural integrity of the fuselage.

British Aerospace has issued Alert Service Bulletin 53-A-PM5094, Issue 2, dated June 5, 1990, which describes procedures for repetitive visual inspections to detect cracks in the flight deck canopy area, and repair, if necessary. The United Kingdom CAA has classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of section 21.29 of the Federal Aviation Regulations and the

applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, and AD is proposed which would require repetitive visual inspections to detect cracks in the flight deck canopy area, and repair, if necessary, in accordance with the service bulletin previously described.

It is estimated that 70 airplanes of U.S. registry would be affected by this AD, that it would take approximately 18 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $50,400.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291, (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will will have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(A), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace. Applies to all Model BAC 1-11 200 and 400 series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To detect cracks in the flight deck canopy area and to prevent reduced structural integrity of the fuselage, accomplish the following:

A. Prior to the accumulation of 30,000 landings, or within 6 months after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 5,000 landings, perform a visual inspection of the flight deck canopy area, in accordance with British Aerospace Alert Service Bulletin 53-A-PM5994, Issue 2, dated June 5, 1990. Pay particular attention to the top sill joint strap, the top sill intercostal, the frame at Station 113, and the top sill boom and web.

B. If cracks are found, repair prior to further flight, in a manner approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. After repair, repeat the inspections required by paragraph A. of this AD at intervals not to exceed 5,000 landings.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM-113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM-113.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on October 9, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

FR Doc. 90-24737 Filed 10-18-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 90-ASW-41]

Proposed Revision of Transition Area; Las Cruces, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the transition area located at Las Cruces, NM. The creation of two original standard instrument approach procedures (SIAP), NDB RWY 8 and NDB RWY 30, with the concurrent termination of the NDB A SIAP, has made this proposed revision necessary. In addition, this proposal would include minor revisions to the coordinates used to describe the transition area and would revise the airport name to the Las Cruces International Airport. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the new SIAP's to the Las Cruces International Airport and to revise the airport coordinates.

DATES: Comments must be received on or before November 30,1990.

ADDRESSES: Send comments on the proposal in triplicate to:
Manager, System Management Branch, Air Traffic Division, Southwest Region, Docket No. 90-ASW-41, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530.

The official docket may be examined in the office of the Assistant Chief Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Mark F. Kennedy, System Management Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530; telephone: (817) 624-5561.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communicatiosn should identify the airspace docket and be submitted in triplicate to the address listed above.

Commenters wishing the FAA to acknowlege receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 90-ASW-41." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received.

All comments submitted will be available for examination in the office of the Assistant Chief Counsel, 4400 Blue Mound Road, Forth Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this notice of proposed rulemaking (NPRM)— by submitting a request to the Manager, System Management Branch, Department of Transportation, Federal Aviation Administration, Forth Worth, TX 76193-0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of the Federal Aviation Regulations (14 CFR part 71) to revise the transition are located at Las Cruces, NM. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6P dated January 2, 1990.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTIGN POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Las Cruces, NM [Revised]

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of the Las Cruces International Airport (latitude 32°17'22" N., longitude 106°55'17" W.).

Issued in Forth Worth, TX on September 25, 1990.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 90-24798 Filed 10-18-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 90-AGL-14]

Proposed Transition Area Alteration; Morris, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Morris, MN, transition area to accommodate a new VOR Runway 14 Standard Instrument Approach Procedure (SIAP) to Morris Municipal Airport, Morris, MN. The intended effect of this action is to ensure segregation of the aircraft using approach procedures under instrument flight rules from other aircraft operating under visual flight rules in controlled airspace.

DATES: Comments must be received on or before November 16, 1990.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL-7, Attn: Rules Docket No. 90-AGL-14, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Air Traffic Division, System Management Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Douglas F. Powers, Air Traffic Division, System Management Branch, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 90-AGL-14". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter the designated transition area airspace near Morris, MN. The present transition area is being modified to accomodate a new VOR Runway 14 SIAP to Morris Municipal Airport. The modification to the existing airspace will consist of a 2.75 miles width each side of the 331° bearing from the airport, extending from the 5.5-mile radius area to 8.5 miles northwest of the airport.

Aeronautical maps and charts will reflect the defined area which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements. Section 71.181 of part 71 of the Federal Aviation Regulation was republished in Handbook 7400.6F dated January 2, 1990.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 amended as follows:

Morris, MN [Revised]

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Morris Municipal Airport (lat. 45°34'00"N., long. 95°58'00"W.); and, within 3 miles each side of the 136° bearing from the Morris Municipal Airport extending from the 5.5-mile radius to 7 miles southeast of the airport; and within 2.75 miles each side of the 331° bearing from the airport extending from the 5.5-mile radius to 8.5 miles northwest of the airport.

Issued in Des Plaines, Illinois, on September 25, 1990.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 90–24799 Filed 10–18–90; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 90–AEA–9]

Proposed Alteration of Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the descriptions of several Federal airways located in the States of New York, Pennsylvania, and New Jersey. This action is the result of the relocation of the LaGuardia, NY, Very High Frequency Omnidirectional Radio Range (VOR), and the associated air traffic control (ATC) procedural changes as a result of the relocation.

DATES: Comments must be received on or before November 16, 1990.

ADDRESSES: Send comments on the proposal in triplicate to:

Manager, Air Traffic Division, AEA–500, Docket No. 90–AEA–9, Federal Aviation Administration, JFK International Airport, The Fitzgerald Federal Building, Jamaica, NY 11430.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Jesse B. Bogan, Jr., Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9253.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 90–AEA–9." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal

Aviation Administraiton, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the applicaiton procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter the descriptions of VOR Federal Airways V–8, V–123, V–157, V–433, and V–445 located in the States of New York, Pennsylvania, and New Jersey. The airway changes are the result of the relocation of the LaGuardia, NY, VOR, and the associated ATC procedural changes as a result of the relocation. Section 71.123 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR federal airways.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. § 71.123 is amended as follows:

V–8 [Amended]

By removing the words "INT Solberg 105° and Canarsie, NY, 246° radials; INT Canarsie 245° and LaGuardia, NY, 209° radials;" and substituting the words "INT Solberg 107°T(117°M) and Yardley, PA, 066°T(078°M) radials; INT Yardley 066°T(078°M) and LaGuardia, NY, 213°T(225°M) radials;"

V–123 [Amended]

By removing the words "LaGuardia, NY, 209°" and substituting the words "LaGuardia, NY, 213°T(225°M)".

V–157 [Amended]

By removing the words "LaGuardia, NY, 209°" and substituting the words "LaGuardia, NY, 213°T(225°M)".

V–433 [Amended]

By removing the words "LaGuardia, NY, 209°" and substituting the words "LaGuardia, NY, 213°T(225°M)".

V–445 [Amended]

By removing the words "INT Yardley 065° and LaGuardia, NY, 209° radials;" and substituting the words "INT Yardley 066°T(078°M) and LaGuardia, NY, 213°T(225°M) radials;"

Issued in Washington, DC, on September 27, 1990.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 90–24800 Filed 10–18–90; 8:45 am]

BILLING CODE 4910–13–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

Strangulation Hazards Associated With Crib Toys; Advance Notice of Proposed Rulemaking

AGENCY: Consumer Product Safety Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Consumer Product Safety Commission is beginning a rulemaking proceeding which may result in the issuance of labeling and other requirements for crib toys to address risks of strangulation to children associated with those products.[1] As used in this notice, the term "strangulation" means asphyxiation due to occlusion of respiration and/or circulation by external compression of the neck.

Crib toys are toys which are intended to be attached to or near a crib or playpen for use by children younger than two years of age. Since 1973, the Commission has received reports of 51 strangulation or near-strangulation incidents associated with crib toys. These reports include 31 deaths and one permanent injury involving severe brain damage. The other 19 incidents did not result in permanent injury. Victims in these incidents ranged in age from one month to two years old. However, a majority of the victims were from six to twelve months old.

This notice describes some types of crib toys and some risks of strangulation to children associated with those particular crib toys. The Commission solicits written comments from all interested persons concerning all risks of strangulation associated with crib toys, including any risk of strangulation associated with any crib toy which is not described in this notice. The Commission also solicits comments on the regulatory alternatives discussed in this notice, and other possible means to address risks of strangulation associated with crib toys. The Commission also invites all interested persons to submit an existing standard or a statement of intent to modify or develop a voluntary standard to address risks of strangulation to children associated with crib toys.

DATES: Written comments and submissions in response to this notice must be received by December 18, 1990.

ADDRESSES: Comments should be mailed, preferably in five (5) copies, to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to the Office of the Secretary, room 528, 5401 Westbard Avenue, Bethesda, Maryland; telephone (301) 492–6800.

FOR FURTHER INFORMATION CONTACT: Elaine A. Tyrrell, Project Manager, Office of Program Management and Budget, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492–6554.

SUPPLEMENTARY INFORMATION:

A. Background

Crib toys are articles which are intended to be attached to or near a crib or playpen for use by children younger than two years of age. [A description of several types of crib toys appears below

[1] The Commission decided to begin this proceeding by a 2–1 vote, with Commissioner Carol G. Dawson dissenting. Copies of the Commissioners' separate statements are available upon request from the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492–6800.

under the heading "C. The Products and Risks of Injury.")

On November 17, 1988, the Consumer Federation of America and the New York State Attorney General's Office petitioned the Commission to issue a rule under provisions of the Federal Hazardous Substances Act (FHSA) (15 U.S.C. 1261 *et seq.*) banning various crib toys described in the petition. (2) [a] The petition alleged that these crib toys present risks of strangulation to infants.

The petition requested the Commission to issue a rule which would:

- Ban any manipulative crib toy with a horizontal suspension member, unless (a) the horizontal member is rigid and can be attached at or above the height of the crib side rails; (b) the horizontal member does not have any vertical protrusion; and (c) the toy is labeled with the following statement:

Warning

Always use both ends attached to opposite crib sides.

Child could strangle on unconnected end.

- Ban any crib toy with vertical strings six inches or longer.
- Ban any crib toy with cords or other components which form a perimeter greater than 14 inches.
- Ban any crib toy with any protrusion which can catch an infant's clothing or other item worn by an infant.
- Ban any crib toy with a pull ring attached to a cord.
- Ban any crib mobile that can be located within reach of an infant not capable of pushing up on hands or knees when inside the crib.
- Ban any mobile that can be attached to a crib unless the following statement appears clearly and conspicuously on the product, its packaging, and as the first item in any instructions accompanying the product:

Warning

Keep toy away from baby's reach.

Remove mobile and attachment clamp (and music box attachment, if applicable) when baby becomes 5 months of age or begins to push up on hands or knees.

Child could strangle if clothing, head, or neck gets caught on toy part.

- Ban any crib toy which fails to include a conspicuous warning as the first item in any instructions accompanying the product to advise that when the toy is used in the crib, the crib sides should be raised and the crib mattress should be in one of the lower positions, or a strangulation hazard may result.

In support of its request for rulemaking, the petition cited two documents prepared by the Commission staff. One is a report prepared in 1987 by the Division of Human Factors, Directorate for Epidemiology, which analyzes strangulation incidents associated with crib toys, and discusses provisions of a voluntary standard applicable to crib toys (3). The second is a memorandum dated June 22, 1987, from the Division of Hazard Analysis, Directorate for Epidemiology, providing information about the numbers of strangulation incidents associated with crib toys from 1973 through April 1987 (4).

The documents cited by the petition describe and analyze reports of 49 strangulation or near-strangulation incidents associated with crib toys received by the Commission from 1973 through April of 1987. Since the preparation of these documents in 1987, the Commission has received two additional reports of strangulation incidents associated with crib toys (13, 22). One of these incidents resulted in the death of a one-year-old child who was found in a crib with his bib caught on some portion of a crib mobile attached to a crib railing (22). The other involved a seven-month-old child who was found in a playpen with the cord of a toy telephone receiver, which was part of an activity box, wrapped around his neck. This incident did not result in death or permanent injury (13).

The injury information cited by the petition in support of its request for rulemaking included reports of 30 deaths, four of which were associated with home-made toys (4). One case associated with a crib toy resulted in permanent injury involving severe brain damage. The other 18 incidents described in the documents cited by the petition did not result in any permanent injury. The victims ranged in age from one month to two years. However, most of the victims were six to twelve months old (4).

Twelve deaths and 13 other incidents resulted when cords from a crib toy became entangled around a child's neck. Seven deaths and three other incidents resulted when an article of clothing or other item worn by the child (such as a pacifier cord, bib, or necklace) caught on a protrusion on the crib toy. Six deaths and two other incidents occurred when the child's head and neck were suspended over a horizontal cord, and the weight of the child's body created pressure on the neck. In six incidents, the mode of strangulation was not known (3).

The Commission staff prepared a briefing package for consideration by the Commission when deciding whether to grant or deny the petition (1–12). The briefing package discussed the provisions of the rule requested by the petition (1, 5), information about strangulation incidents associated with crib toys (1, 3, 4, 5), and conclusions contained in the 1987 report prepared by the Commission's Division of Human Factors (1, 2, 5, 6). The briefing package also contained information about provisions of a voluntary standard which are applicable to crib toys (1, 3, 7, 10, 11, 12).

On June 13, and July 26, 1990, the staff presented oral briefings to the Commission on the petition.

After consideration of the petition and information provided by the petitioners in support of their request for rulemaking, the briefing materials prepared by the staff, information presented by the staff during the oral briefings, and other information (13–22), the Commission decided on August 16, 1990, to grant the petition.

Accordingly, the Commission is beginning a rulemaking proceeding which may result in the issuance of requirements to address strangulation hazards associated with crib toys. The regulation which may be issued as a result of this proceeding could include any or all of the provisions requested by the petition, or other requirements for crib toys.

B. Statutory Authority

This proceeding is conducted under provisions of the Federal Hazardous Substances Act (FHSA) (15 U.S.C. 1261 *et seq.*). Section 2(f)1(D) of the FHSA (15 U.S.C. 1261(f)1(D)) defines the term "hazardous substance" to include "[a]ny toy or other article intended for use by children" which the Commission determines by regulation to present "an electrical, mechanical, or thermal hazard." Section 2(s) of the FHSA provides that an article may be determined to present a "mechanical hazard" if in normal use or reasonably foreseeable use or abuse it presents an unreasonable risk of personal injury or illness "from points or other protrusions, surfaces, edges, openings or closures" or "because of any other aspect of the article's design or manufacture."

The Commission shall make its determination that a toy or children's article presents a mechanical hazard by issuance of a regulation in accordance with the procedures prescribed by 5 U.S.C. 553, unless the Commission elects

[a] Numbers in parentheses identify reference documents listed in the Bibliography at the end of this notice. Requests for inspection of any of these documents should be made at the Commission's Public Reading Room, 5401 Westbard Avenue, room 529, Bethesda, Maryland, or by calling the Office of the Secretary at (301) 492-6800.

to use the procedures prescribed in section 701(e) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 371(e)). In this proceeding, the Commission will use procedures in 5 U.S.C. 553. The proceeding is also governed by the provisions of sections 3 (e) through (l) of the FHSA (15 U.S.C. 1262 (e) through (l)). The proceeding is commenced by publication of an advance notice of proposed rulemaking (ANPR) in accordance with provisions of section 3(f) of the FHSA. If, after considering comments received in response to the ANPR, the Commission decides to continue the proceeding, section 3(h) of the FHSA requires publication of the text of the proposed rule and a preliminary regulatory analysis of the proposal including a description of potential benefits and potential costs of the proposal. If the Commission issues a final rule, it must publish a third notice which sets forth the text of the final rule, a summary of significant issues raised by comments on the proposal, a final regulatory analysis including a description of potential benefits and potential costs, as well as specified findings about voluntary standards and the relationship of the costs and the benefits of the rule.

C. The Products and Risks of Injury

This proceeding is concerned with "crib toys," a term used in this notice to describe a variety of toys which are intended to be attached to or near cribs or playpens and to be used by infants younger than two years of age. The term "crib toy" includes, but is not limited to, all of the articles described below:

- *Crib gyms.* These toys usually are strung across the width of a crib, and may have attached objects such as pull cords, squeakers, rotary spokes, or rattles. The attached objects are intended to be manipulated by the infant, and may provide visual or auditory stimulation.
- *Crib mobiles.* Crib mobiles typically consist of one or more rigid members suspended above the crib to which decorative objects are attached. Crib mobiles may be designed to be attached to the crib, to another article of furniture, or to a wall or ceiling. Crib mobiles are intended to be installed beyond the reach of the infant in the crib, and are not intended to be manipulated by the infant. These toys are intended to provide visual stimulation to the infant.
- *Suspended stuffed toys.* These are stuffed toys, usually in the shape of an animal, suspended by two or more cords which converge at some distance above the toy. These toys are intended to be suspended from or over the crib so that they can be manipulated by the infant in the crib.
- *Cord-activated toys.* These toys are attached in one place to a crib side or end rail and hang into the crib. These toys contain cords which can be pulled by the infant to activate a device in the toy, such as a music box. Unlike crib gyms, which usually have several types of objects to be manipulated by the infant, cord-activated toys usually have only pull-cords.
- *Activity toys.* These toys are attached to one part of a crib and contain such items as doors, push buttons, rotary knobs, and other movable objects. These toys are intended to be manipulated by the infant and to provide visual and auditory stimulation.
- *Crib music boxes.* Crib music boxes are intended to be attached to a crib. They contain a wind-up mechanism which is activated by an adult outside the crib.
- *Crib mirrors.* Crib mirrors are intended to be attached to a crib or playpen.

The risks of injury associated with crib toys under consideration in this proceeding are risks of strangulation: That is, asphyxiation due to occlusion of respiration and/or circulation by external compression of the neck. The Commission has received reports of strangulation incidents associated with crib toys which occurred when a child's neck became entangled in cords that were part of a crib toy, when an item of clothing or other article worn by a child became entangled on a protrusion on a crib toy, or when a child's head and neck were suspended over a horizontal cord which was part of a crib toy (3).

D. Voluntary Standard

The Commission is aware of only one voluntary standard applicable to crib toys and risks of strangulation associated with those products. That standard is published by the American Society for Testing and Materials (ASTM) and is designated F 963–86, Standard Consumer Safety Specification on Toy Safety. This voluntary standard has provisions intended to address a variety of hazards presented by a wide range of toys.

The provisions of this standard that apply to crib toys limit the length of any string or cord which is part of a crib toy to a maximum of twelve inches. If the crib toy has string which can tangle to form a loop, the perimeter of the loop must be less than 14 inches.

The voluntary standard provides that toys which are intended to be strung across a crib, such as crib gyms, must be labeled with the following statements:

From birth to 5 months—
Caution: To prevent possible entanglement injury, remove toy when baby begins to push up on hands and knees.

This labeling provision does not apply to crib mobiles or other types of crib toys.

The voluntary standard also requires crib gyms, crib exercisers, and similar toys to be accompanied by instructions for proper assembly to assure that the product does not present an entanglement hazard. The standard provides that those instructions should include directions to position the toy out of range of the infant's face and mouth because the toy is not intended to be "mouthed"; a statement to the effect that if the crib has an adjustable mattress level, the highest level may allow the toy to be too close to the infant and the second or lower position is more appropriate; and a warning not to leave the infant unattended with the crib gym in place and the drop side of the crib lowered (7).

The Commission believes preliminarily that the provisions of the voluntary standard which are applicable to crib toys do not eliminate or adequately address risks of strangulation deaths and injuries associated with crib toys, for the following reasons:

- Provisions of the voluntary standard limit the length of cords attached to crib toys to 12 inches (7). This limitation is not supported by current anthropometric data or by available information concerning the mechanisms involved in strangulation accidents. The 50th percentile neck circumference of infants between the ages of four and six months is 8.3 inches (3). The Commission has received one report of a death associated with a crib toy in which an infant's neck became entangled in a pull-cord nine to ten inches long (3). The Commission also has reports of six deaths and two other incidents associated with crib toys in which the infant's head and neck became suspended over a horizontal cord attached to the toy. The shortest cord involved in these incidents was 2.5 inches long (3).
- The voluntary standard provides that crib gyms and other crib toys which are "intended to be strung across the width of a crib by means of strings, cords, elastic, or straps" shall be labeled with the statements:

From birth to five months—
Caution: To prevent possible entanglement injury, remove toy when baby begins to push up on hands and knees. (7)

Crib gyms and similar toys are intended to be manipulated by infants. Infants acquire the ability to reach and grasp, shake, and pull objects at about the age of three months (3). Literature concerning child-development indicates that infants obtain the maximum value from crib gyms and similar toys when they are from three to twelve months old (3). For these reasons, the Commission has reason to believe that many parents may not follow a label recommending that the remove a crib gym or similar crib toy when an infant is five months old.

• The voluntary standard provides that if string can tangle to form a loop, the perimeter of the loop shall be less than 14 inches (7). While this provision is adequate to prevent entrapment of an infant's head in a loop, this provision does not adequately address entrapment hazards which may result from openings formed by multiple cords or by cords in combination with other parts of a crib toy, particularly on suspended stuffed toys. The Commission has reports of three deaths and one other incident in which an infant's head became entrapped in the opening formed by multiple cords of a crib toy, or by cords and a part of the crib toy (3).

• The voluntary standard contains no provision to address strangulations which have resulted when an item of clothing or other article worn by the infant became entangled on a protrusion on a crib toy (7). The Commission has reports of seven strangulation deaths (not including the 1990 fatality involving a crib mobile) and three other incidents associated with entanglement of clothing or other articles worn by infants on protrusions on crib toys (3).

From 1987 through February of 1990, the Commission's Directorate for Compliance and Administrative Litigation has identified 14 different crib toys which the Commission's staff preliminarily determined to present a substantial risk of injury to children because of a strangulation hazard. In ten instances, the projects were recalled. In the other cases, the manufacturer ceased production, stopped distribution, or corrected future production of the toy. In almost all of these cases, the product did not conform to one or more provisions applicable to crib toys in the voluntary standard (12). From this information, the Commission has reason to believe that widespread nonconformance with the voluntary standard may exist.

E. Regulatory Alternatives Under Consideration

In the proceeding initiated by publication of this ANPR, the Commission is considering the possibility of issuing a rule consisting of labeling or other requirements to address strangulation hazards associated with crib toys. Such a rule could include any or all of the requirements requested by the petition, or other requirements.

In addition to the regulatory alternatives described above, the Commission also is considering the possibility that the voluntary standard for toys, ASTM F 963–86, could be revised to reduce even further the risks of strangulation associated with crib toys. The Commission also is considering the possibility that a new voluntary standard might be developed to address the risks of strangulation associated with crib toys.

F. Solicitation of Information and Comments

This advance notice of proposed rulemaking is the first step of a proceeding which could result in the issuance of regulations to eliminate or reduce risks of strangulation to infants associated with crib toys. All interested persons are invited to submit to the Commission:

(1) Written comments concerning the risks of injury described in this notice and any other incident or medical data concerning strangulation associated with any crib toy; the regulatory alternatives being considered by the Commission to address those risks; and other possible alternatives to address those risks.

(2) Any market information regarding the annual sales and retail price for each of these types of toys, the share of the market for which imported items account, and the share of domestic manufacturers' sales derived from these products.

(3) The Commission is also soliciting estimates of the possible economic effect of potential mandatory actions, particularly those dealing with cord length, protrusion requirements, and labeling.

(4) Any existing standard or portion of a standard which could be published as a proposed regulation to address the risks of injury described in this notice.

(5) A statement of intent to modify or develop a voluntary standard to address the risks of injury discussed in this notice, together with a description of a plan to modify or develop that standard.

Any plan submitted with a statement of intent to modify or develop a voluntary standard should include, to the extent possible: A description of how interested groups and persons will be notified that a proceeding to modify or develop a voluntary standard is under way; a description of how the views of interested groups and persons will be addressed in the modification or development of the standard; a detailed discussion of how the modification or development of the standard will proceed; a realistic estimate of the length of time that will be required to modify or develop the standard; a list of persons expected to participate in the modification or development of the standard, together with information about their backgrounds and experience; and a description of any facilities or equipment that will be used during the project.

All comments and submissions should be addressed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, and received not later than December 18, 1990.

Dated: October 15, 1990.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Bibliography

1. Memorandum to the Commission from Elaine A. Tyrrell, OPMB, concerning petition on crib toys, 14 pages, May 30, 1990.

2. Petition from Consumer Federation of America and the New York State Attorney General's Office requesting issuance of a rule to ban certain crib toys, 74 pages, November 17, 1988.

3. Report by Shelley Waters Deppa, Division of Human Factors, "Human Factors Evaluation of Provisions Which Address Crib Toy Strangulations in the Toy Safety Voluntary Standard," 21 pages, July 1987 (appendix B of petition).

4. Memorandum from Debbie Tinsworth, EPHA, to Elaine A. Tyrrell, OPMB, concerning strangulation-related incidents involving crib toys, 7 pages, June 22, 1987 (Appendix C of petition).

5. Summary of provisions requested by the petition, 1 page, undated.

6. Summary of actions requested by petition and comparison with conclusions of the staff of the Division of Human Factors, 1 page, undated.

7. Text of provisions of Standard Consumer Safety Specification on Toy Safety, ASTM F 963–86, applicable to crib toys, 1 page, April 1986.

8. List of documents published by the Consumer Product Safety Commission containing information about the safety of crib toys, 1 page, undated.

9. Memorandum from Carolyn Kennedy, ECCP, to Elaine Tyrrell, OPM, concerning market information about crib toys, 4 pages, March 20, 1987.

10. Log of telephone conversation between Douglas Thompson, Toy Manufacturers of America, and Colin B. Church, Office of the Executive Director, concerning safety issues related to crib toys and balloons, 1 page, June 5, 1987.

11. Log of meeting of ASTM F15.22 Task Group on February 28, 1990, to discuss balloon labeling and requirements for crib toys, 9 pages, undated.

12. Memorandum from Terri Rogers, Division of Corrective Actions, to Elaine A. Tyrrell, Office of Program Management, concerning crib toys, 1 page, May 7, 1990.

13. Memorandum from Debbie Tinsworth, EPHA, and John T. Kramer, EPHA, to Elaine Tyrrell, EXPM, concerning strangulations or near-strangulations involving crib toys, 8 pages including attachment, March 15, 1990.

14. Letter from Toy Manufacturers of America, Inc. to Chairman Jones-Smith concerning the crib toy petition, 7 pages, June 12, 1990.

15. Memorandum from Elaine A. Tyrrell, OPMB, to the Commission concerning the crib toy petition, 6 pages, June 20, 1990.

16. Memorandum from Terri Rogers, Division of Corrective Actions, to Elaine A. Tyrrell, OPMB concerning crib toys, 3 pages June 16, 1990.

17. Log of meeting of Commission staff and representatives of Toy Manufacturers of America on April 23, 1990, 2 pages.

18. Letter from Toy Manufacturers of America, Inc. to Chairman Jones-Smith concerning crib toy petition, 5 pages, July 11, 1990.

19. Memorandum from Elaine A. Tyrrell, OPMB, to Commission concerning crib toy petition, 1 page, August 7, 1990.

20. Memorandum from Terri Rogers, Division of Corrective Actions, to Elaine A. Tyrrell, OPMB, concerning crib toys, 1 page August 3, 1990.

21. Memorandum from Terrence R. Karels, ECPA, to Elaine A. Tyrrell, EXPB, concerning sales of crib toys, 2 pages, August 2, 1990.

22. Memorandum from Debbie Tinsworth, EPHA, to David W. Thome, EXPB, concerning injuries associated with crib toys, 1 page, August 1, 1990.

[FR Doc. 90-24804 Filed 10-18-90; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 20

Consultation Hearings on Indian Social Services Programs Proposed Revisions

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of consultation hearings.

In the matter of consultation hearings on the proposed amendments to the current regulations contained in 25 CFR part 20, Office of Tribal Services, Division of Social Services, Activity 3060, Element 22 funds and other Social Services issues.

SUMMARY: The Bureau of Indian Affairs (BIA), Office of Tribal Services, Division of Social Services announces forthcoming consultation hearings with tribal representatives, tribal members and other interested parties on proposed changes to the current regulations that govern Social Services Programs, 25 CFR part 20. The proposed regulatory changes involve all components of the Social Services Programs, including General Assistance, Child Welfare Assistance, Miscellaneous Assistance, Services to Families and Communities, Tribal Work Experience Program and Adult Care. The intent of the hearings is to consult with Tribes on the future direction of these programs.

DATES: *Date and time:* Hearing Dates: Three regional meetings have been scheduled for November 1, 1990, November 6, 1990 and November 8, 1990. The meetings are scheduled for 1½ days at each site. With the exception of Minneapolis, all meetings are scheduled to begin at 9 a.m. and end at 4 p.m. the first day. The meetings will resume at 9 a.m. and last until 12 p.m. the second day. The Minneapolis hearing will commence at 1 p.m. on November 8, and end at 5 p.m. on November 9, 1990. All meeting times are local time.

ADDRESSES: Hearing Locations: San Francisco, California November 1–2, 1990; Phoenix, Arizona November 6–7, 1990; Minneapolis, Minnesota November 8–9, 1990.

The conference locations for each site are being sent by mail to all Area Directors, Agency Superintendents and Tribal Leaders.

LOCATION CONTACT PERSON:

Aberdeen Area: Dean Krahulec (605) 226–7301
Albuquerque Area: Joe Naranjo (505) 766–2321
Anadarko Area: Jerry Bridges (405) 247–6673
Billings Area: Louise Zokan-Delos Reyes (406) 657–6551
Eastern Area: Evelyn Rosenhorse (703) 235–2353
Juneau Area: Jimmie Clemmons (907) 586–7628
Minneapolis Area: Rosalie Clark (612) 340–2615
Muskogee Area: Alice Allen (918) 687–2507
Navajo Area: Nancy Evans (602) 871–5151
Phoenix Area: Elizabeth Blackowl (602) 241–2262
Portland Area: Robert Carr (503) 231–6783
Sacramento Area: Kevin Sanders (916) 978–4691

Interested persons may present oral testimony or file written statements. All written statements must be received no later than November 15, 1990, in the Bureau of Indian Affairs, Office of Tribal Services, Division of Social Services, room 3614, MIB, 1849 C Street NW., Washington, DC 20240, Attn: Ronal Eden, Deputy to the Assistant Secretary—Indian Affairs (Tribal Services).

FOR FURTHER INFORMATION CONTACT: David, Hickman, Chief, Division of Social Services or Deborah Maddox, Assistant Chief, Division of Social Services, Bureau of Indian Affairs, room 310 SIB 1849 C Street NW., Washington, DC 20240, (202) 208–2721; (202) 208–2835; or (202) 208–2536.

SUPPLEMENTARY INFORMATION: The current regulations that govern social services programs 25 CFR part 20, was revised in 1987. The revision was mandated with very specific criteria to be addressed. Since that time, there has been additional legislation and events that have occurred that must by law be incorporated into the regulations.

The draft regulations are available upon request and are being submitted to all Area Directors, Agency Superintendents and Tribal Leaders, prior to the hearings for preparatory comment time. Comments will be accepted both verbally and in written form. The intent of the hearings is to consult with tribal representatives on the future of the programs and the appropriate regulations that will be needed to assure compliance. Participation by tribal leaders is encouraged.

Dated: October 16, 1990.

Carol Bacon,

Acting Deputy to the Assistant Secretary, Indian Affairs (Tribal Services).

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H–041]

RIN 1218–AA83

Occupational Exposure to 1,3–Butadiene

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Proposed rule; notice of extension of comment period, notice of change of hearing dates.

SUMMARY: On August 10, 1990, OSHA published a Notice of Proposed Rulemaking (NPRM) on Occupational Exposure to 1,3–Butadiene (BD) in the Federal Register (55 FR 32736). Included in the NPRM was a date by which public comments needed to be submitted and the schedule for public hearings. With this notice, OSHA is extending the dates for public comment and the dates for the public hearings. OSHA believes

extending these dates will give all interested parties the additional time they need to submit comments and prepare for the hearings.

DATES: Comments on the proposal must be postmarked on or before November 9, 1990. Notices of Intention to Appear at the hearings must be postmarked on or before November 2, 1990. Written testimony and evidence to be presented at the hearing must be postmarked on or before November 9, 1990. The Washington, DC hearing will begin January 15, 1991 at 10 a.m. The New Orleans hearing will begin February 20, 1991 at 10 a.m.

ADDRESSES: Comments on the proposed standard are to be submitted to the Docket Officer, Docket No. H–041, room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 523–7894. Comments limited to 10 pages or less in length also may be transmitted by facsimile to (202) 523–5046 or (for FTS) to 8–523–5046, provided the original and 3 copies of the comment are sent to the Docket Officer thereafter.

Notices of Intention to Appear at the informal rulemaking hearings, testimony and documentary evidence for the public hearings are to be sent to Mr. Tom Hall, OSHA Division of Consumer Affairs, Docket No. H–041, room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 523–8615. All informal public hearings will begin at 10 a.m. The locations of the informal public hearings are:

Washington, DC: The Auditorium, Frances Perkins Building, Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 523–8615.

New Orleans, Louisiana: Denechaud Room, Le Pavillion Hotel, 833 Poydras Street, New Orleans, Louisiana 70140. Telephone: (504) 581–3111.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, OSHA, U.S. Department of Labor, Office of Public Affairs, room N–3647, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 523–8148.

SUPPLEMENTARY INFORMATION: On August 10, 1990, OSHA published the NPRM on Occupational Exposure to 1,3–Butadiene in the **Federal Register** (55 FR 32736). The Chemical Manufacturers Association (CMA) and the International Institute of Synthetic Rubber Producers (IISRP) have requested that the deadline for filing comments and written testimony be extended from October 19 to November 9, 1990, in order to allow the IISRP and the CMA ample time to assure that their testimony would fully cover the issues raised by OSHA's NPRM. OSHA has agreed to grant this request and believes that all interested parties will benefit from the additional time allowed for comment and to prepare for the hearings. This in turn will promote a more complete, accurate and clear rulemaking record.

Notice of Hearing

Interested persons are invited to submit written data, views, and arguments with respect to this proposed standard. These comments must be postmarked on or before November 9, 1990, and submitted in quadruplicate to the Docket Officer, Docket No. H–041, room N–2625, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Comments limited to 10 pages or less also may be transmitted by facsimile to (202) 523–5046 or (for FTS) 8–523–5046, provided the original and 3 copies are sent to the Docket Officer thereafter.

Written submissions must clearly identify the provisions of the proposal which are addressed and the position taken with respect to each issue. The data, views, and arguments that are submitted will be available for public inspection and copying at the above address. All timely written submissions will be made a part of the record of the proceeding.

Pursuant to section 6(b)(3) of the Act, an opportunity to submit oral testimony concerning the issues raised by the proposed standard including economic and environmental impacts, will be provided at two informal public hearings scheduled to begin at 10 a.m. on dates as follows: Washington, DC: January 15, 1991, in the Auditorium, Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, and to reconvene at 10 a.m. on February 20, 1991, in New Orleans, Louisiana, in the Le Pavillion Hotel (Denechaud Room) 833 Poydras Street, Telephone No. 504–581–3111.

Notice of Intention To Appear

All persons desiring to participate at the hearing must file in quadruplicate a Notice of Intention to Appear, postmarked on or before November 2, 1990, addressed to Mr. Tom Hall, OSHA Division of Consumer Affairs, Docket No. H–041, room N–3649, U.S. Department of Labor, Third Street and Constitution Avenue, NW., Washington, DC 20210; telephone 202–523–8615. A Notice of Intention to Appear also may be transmitted by facsimile to 202–523–5986 or to 8–523–5986 (for FTS), provided the original and 3 copies of the Notice are sent to the above address thereafter.

The Notices of Intention to Appear, which will be available for inspection and copying at the OSHA Technical Data Center, Docket Office (room N–2625), telephone 202–523–7894, must contain the following information:

(1) The name, address, and telephone number of each person to appear;
(2) The capacity in which the person will appear;
(3) The approximate amount of time requested for the presentation;
(4) The specific issues that will be addressed;
(5) A statement of the position that will be taken with respect to each issue addressed;
(6) Whether the party intends to submit documentary evidence, and if so, a brief summary of that evidence; and
(7) At which hearing the party wishes to testify.

Filing of Testimony and evidence Before Hearing

Any party requesting more than 10 minutes for a presentation at the hearings, or who will submit documentary evidence, must provide in quadruplicate the complete text of his or her testimony, including any documentary evidence to be presented at the hearing, to the OSHA Division of Consumer Affairs. This material must be postmarked on or before November 9, 1990. The material will be available for inspection and copying at the Technical Data Center Docket Office. Each such submission will be reviewed in light of the amount of time requested in the Notice of Intention to Appear. In those instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact.

Any party who has not substantially complied with this requirement may be limited to a 10-minute presentation, and may be requested to return for questioning at a later time. Any party who has not filed a Notice of Intention to Appear may be allowed to testify, as time permits, at the discretion of the Administrative Law Judge.

OSHA emphasizes that the hearing is open to the public, and that interested persons are welcome to attend. However, only persons who have filed proper Notices of Intention to Appear at the hearing will be entitled to ask questions and otherwise participate fully in the proceedings.

Conduct and Nature of Hearing

The Washington, DC and the New Orleans hearings will commence at 10 a.m. on January 15, 1991 and February 20, 1991, respectively. At that time any

procedural matters relating to the hearing will be resolved.

The nature of the informal rulemaking hearings to be held is established in the legislative history of section 6 of the Act and is reflected by the OSHA hearing regulations (see 29 CFR 1911.15(a)). Although the presiding officer is an Administrative Law Judge and questioning by interested persons is allowed on crucial issues, it is clear that the proceedings shall remain informal and legislative in type. The essential intent is to provide an opportunity for effective oral presentation by interested persons which can be carried out expeditiously and in the absence of rigid procedures which might unduly impede or protract the rulemaking process.

Additionally, since the hearing is primarily for information gathering and clarification, it is an informal administrative proceeding, rather than an adjudicative one. The technical rules of evidence, for example, do not apply. The regulations that govern hearings and the pre-hearing guidelines to be issued for this hearing will ensure fairness and due process and also facilitate the development of a clear, accurate and complete record. Those rules and guidelines will be interpreted in a manner that furthers that development. Thus, questions of relevance, procedure and participation generally will be decided so as to favor development of the record.

The hearing will be conducted in accordance with 29 CFR part 1911. The hearing will be presided over by an Administrative Law Judge who will have all the powers necessary and appropriate to conduct a full and fair informal hearing as provided in 29 CFR part 1911 including the powers:

1. To regulate the course of the proceedings;
2. To dispose of procedural requests, objections and comparable matters;
3. To confine the presentation to the matters pertinent to the issues raised;
4. To regulate the conduct of those present at the hearing by appropriate means;
5. At the Judge's discretion, to question and permit the questioning of any witness and to limit the time for questioning; and
6. At the Judge's discretion, to keep the record open for a reasonable stated time to receive written information and additional data, views, and arguments from any person who has participated in oral proceedings.

Certification of Record and Final Determination After the Hearing

Following the close of the hearing and post-hearing comment period, the presiding Administrative Law Judge will certify the record to the Assistant Secretary of Labor for Occupational Safety and Health. The Administrative Law Judge does not make or recommend any decisions as to the content of the final standard.

The proposed standard will be reviewed in light of all oral and written submissions received as part of the record, and a permanent standard for occupational exposure to BD, will be issued, based upon the entire record in the proceeding including the written comments and data received from the public.

Authority: Sections 4, 6(b), 8(c) and 8(g) of the Occupational Safety and Health Act of 1970, Public Law 91-596, 84 stat. 1593, 1599, 1600; (29 U.S.C. 653, 655, 657), 29 CFR part 1911 and Secretary of Labor's Order Nos. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736) or 1-90 (55 FR 9033) as applicable.

This document was prepared under direction of Gerard F. Scannell, Assistant Secretary of Labor for Occupational Safety and Health, U.S., Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 15th day of October 1990.

Gerard F. Scannell,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 90-24629 Filed 10-18-90; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD8-90-22]

Drawbridge Operation Regulations; Colorado River, TX

AGENCY: U.S. Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Texas Department of Highways and Public Transportation, the Coast Guard is considering a change to the regulation governing the operation of the bascule span bridge on FM 521 across the Colorado River, mile 10.7, about 5 miles southwest of Wadsworth, Texas, by requiring that at least forty-eight hours advance notice be given for an opening on weekdays between the hours of 8 a.m. and 5 p.m. At all other times the draw would remain closed. The draw is currently required to open on 24 hours notice at all times. This action will provide relief to the bridge owner, since the bridge must be opened by winch trucks. This would also allow for advance coordination with vehicular traffic that becomes congested during bridge openings. At the same time, this regulation will still provide for the reasonable needs of navigation.

DATES: Comments must be received on or before December 3, 1990.

ADDRESSES: Comments should be mailed to Commander (obb), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana 70130-3396. The comments and other materials referenced in this notice will be available for inspection and copying in room 1115 at this address. Normal office hours are between 8 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: John Wachter, Bridge Administration Branch, at the address given above, telephone (504) 589-2965.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Eighth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. This proposed regulation may be changed in the light of comments received.

Drafting Information

The drafters of this notice are John Wachter, project officer, and Lt. J. A. Wilson, project attorney.

Discussion of Proposed Regulation

Vertical clearance of the bridge in the closed position is 38 feet at normal low water (80% of the time), and 28 feet at normal high water. Navigation through the bridge that requires an opening of the draw is almost nonexistent. There were four openings in 1987; three openings in 1988; no openings in 1989; and, one opening to date during 1990 for a Coast Guard vessel.

Federalism

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been demonstrated that the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034: February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that the number of vessels passing this bridge as evidenced by the bridge openings from January 1987 through August 1990, is minimal. These few vessels can reasonably give advance notice for a bridge opening by placing a collect call to the bridge owner at any time. Mariners requiring the bridge openings are repeat users of the waterway and scheduling their arrival at the bridge at the appointed time during the proposed advance notice period should involve little or no additional expense to them. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05–1(g).

2. Section 117.963 is revised to read as follows:

§ 117.963 Colorado River.

The draw of the highway bridge, mile 10.7 at Wadsworth, Texas will open on signal Monday through Friday only, and then only from 8 a.m. to 5 p.m. At least 48 hours notice is required.

Dated: October 2, 1990.

J.M. Loy,

Rear Admiral, U.S. Coast Guard Commander, Eighth Coast Guard District.

[FR Doc. 90–24774 Filed 10–18–90; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141 and 142

[WH–FRL–3846–7]

National Primary Drinking Water Regulations: Lead and Copper

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability with request for comments.

SUMMARY: On August 18, 1988, the Environmental Protection Agency (EPA) published proposed National Primary Drinking Water Regulations (NPDWRs) and Maximum Contaminant Level Goals for lead and copper in drinking water. (53 FR 31516). EPA is making available for public review and comment new analyses of information and supporting documentation received by the Agency which is being considered in establishing a final regulation for these contaminants. The Agency is also soliciting comment on options being considered for adoption into the final lead and copper regulation.

DATES: Written comments should be submitted on or before November 19, 1990.

ADDRESSES: Send written comments to Lead Docket Clerk care of Jeff Cohen, Office of Drinking Water (WH–550), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Commenters are also requested to submit one original and three copies of their written comments.

The data and the documents may be reviewed at the EPA Lead Docket by calling for an appointment at (202) 382–3027. The Docket is located at the EPA, 401 M Street SW., Washington, DC. The Docket hours are Monday through Friday, excluding Federal holidays, from 9:30 a.m. to 3:30 p.m. Eastern Time. Copies of the documents are also available for a fee from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161. The toll-free number 800/336–4700, local:703/487–4650.

FOR FURTHER INFORMATION CONTACT: Jeff Cohen, Office of Drinking Water (WH–550), U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460, (202) 382–5456, or one of the EPA Regional Office contacts listed below.

SUPPLEMENTARY INFORMATION:

EPA Regional Offices

I. JFK Federal Bldg., Room 2203, Boston, MA 02203, Phone: (617) 565–3610, Jerome Healy

II. 26 Federal Plaza, room 824, New York NY 10278, Phone: (212) 264–1800, Walter Andrews

III. 841 Chestnut Street, Philadelphia, PA 19107, Phone: (215) 597–8227, Jon Capecasa

IV. 345 Courtland Street, Atlanta, GA 30365, Phone: (404) 347–2913, Allen Antley

V. 230 S. Dearborn Street, Chicago, IL 60604, Phone: (312) 353–2151, Edward P. Walters

VI. 1445 Ross Avenue, suite 1200, Dallas, TX 75202, Phone: (214) 655–7150, Oscar Cabra

VII. 726 Minnesota Avenue, Kansas City, KS 66101, Phone: (913) 551–7032, Ralph Langemeier

VIII. 999–18th Street, suite 500, Denver, CO 80202–2405, Phone: (303) 293–1450, Patrick Crotty

IX. 75 Hawthorne Street, San Francisco, CA 94105, Phone: (415) 744–1817, Steven Pardieck

X. 1200 Sixth Avenue, Seattle, WA 98101, Phone: (206) 442–4092, Janis Hasting

Analyses and Supporting Documents

The analyses and supporting documents available for public comment include the following: (1) "Summary of Lead Service Line Replacement Analyses" related to survey data submitted by the American Water Works Association regarding the presence and number of lead service lines reported by public water systems; (2) "Influence of Plumbing, Lead Service Lines, and Water Treatment on Lead Levels at the Tap" and "Variability of Household Water Lead Levels in American Cities." These analyses are based on data on lead levels at household taps, submitted by the American Water Works Service Company, and data either obtained or collected by EPA before and after the public comment period on the 1988 proposal; and (3) an update of the National Inorganics and Radionuclides Survey, which provides data that the Agency is using to estimate costs associated with control of lead in drinking water supplies.

The Agency is also making available three documents related to the laboratory analysis of lead and copper in drinking water: (1) "Use of Water Supply Performance Evaluation Data to Calculate Laboratory Certification Criteria and Practical Quantitation Limits for Inorganic Contaminants"; (2)

a September 22, 1988, EPA memorandum on "Calculation of the Practical Quantification Limits for Lead and Copper; and (3) a study by EPA's Environmental Monitoring and Support Laboratory on "Procedures for Preservation of Lead in Drinking Water." In addition, the Agency is also making available an analysis on the projected costs attributable to States' implementation of the proposed lead and copper regulations. The public is invited to comment on this information for a period of 30 days.

The Agency is also making available for review and comment a manual published by the American Water Works Association (AWWA), "Lead Control Strategies." EPA is using this manual in formulating corrosion control guidance for public water suppliers and States, and in developing a cost and technologies document to support the final rulemaking. The "Lead Control Strategies" manual may also be obtained by sending $38.50 (non-members), or $32.50 (members) to the American Water Works Association, Customer Service, 6666 West Quincy Avenue, Denver, Colorado 80235.

Regulatory Options

The Agency solicits comment on the following alternatives being considered for the final rule for lead and copper in drinking water. The regulation proposed on August 18, 1988, would have established several action levels to trigger implementation of the treatment technique. Under the proposed rule, systems would have been required to install optimal corrosion control treatment if one of the following action levels were exceeded at consumers' taps: An average lead level greater than 0.010 milligrams per liter (mg/L); a copper level in 5 percent of the samples exceeding 1.3 mg/L; a pH of less than 6.0 in 5 percent of the samples. In addition, systems would have been required to implement public education specified in the proposed rule if the level of lead exceeded 0.020 mg/L in 5 percent of the tap samples.

EPA is considering a final rule which would apply the lead and copper action levels as a trigger for corrosion control treatment only to systems serving less than 50,000 persons (small and medium size systems). Under the new option under consideration, all systems serving greater than 50,000 persons (large systems) would have to install treatment to minimize lead and copper levels at consumer taps while insuring that the treatment does not cause the water system to violate any national primary drinking water regulations (optimized corrosion control), unless they could demonstrate that the water they deliver to their users is already minimally corrosive. EPA is considering this change because larger systems may have the technical expertise to reduce lead and copper levels below the action levels that are appropriate for medium and small systems. This change in the regulation may contribute to greater public health protection than would be achieved by application of the lead action level to all systems.

In addition, the Agency is considering specifying in the regulation time periods under which systems and States would be required to conduct each step in the evaluation, installation, and adjustment of corrosion control and source water treatment. Including deadlines in the regulation would enhance the overall enforceability of the regulation and assure uniformity in treatment implementation schedules. EPA solicits comment upon the time periods, listed below, that EPA is considering for each of the following steps.

For large systems (serving more than 50,000 people): (1) Conducting corrosion control studies and submission of results and recommeded treatment to State—18 months; (2) approval or specification by State of treatment—6 months; (3) installation of corrosion control treatment approved or specified by the State and conduct of follow-up monitoring—36 months; (4) determination by State that system has installed specified corrosion control treatment and specification of water quality parameters under which system must continue to operate—6 months.

For medium size systems (serving more than 3,300 persons and fewer than 50,000 persons): (1) Adjustment of pH to above 7.0 (if necessary)—within 18 months of exceedance of lead or copper action level; (2) conduct of follow-up monitoring to determine if action levels met—12 months; (3) specification by State of treatment or corrosion control studies to be conducted by system—12 months; (4) completion by system of corrosion control studies (if required)—18 months; (5) specification by State of corrosion control treatment—12 months; (6) installation of treatment specified by State and conduct of follow-up monitoring—36 months; (7) determination by State that system has installed specified treatment and specification of water quality parameters under which the system must continue to operate—6 months.

Small systems (serving fewer than 3,300 persons): (1) Specification by State of optimal corrosion control treatment—24 months after exceedance of lead or copper action level; (2) installation of treatment specified by State and conducting of follow-up monitoring—36 months; (3) determination by State that system has installed specified corrosion control treatment and specification of water quality parameters under which system must continue to operate—6 months.

Based on source water and tap water monitoring, the State may determine that source water treatment is necessary to minimize lead and/or copper levels at the tap. In such cases for any size system, the system would have 36 months to install source water treatment and conduct follow-up monitoring.

EPA is considering allowing longer time periods for State determinations for small and medium size systems compared to large systems for two reasons. First, small and medium size systems comprise the vast majority of public water systems, and the potentially large number of determinations, that will have to be made for these systems will place a greater strain on State resources. Second, determining optimal corrosion control treatment for small and medium size systems may require a greater degree of State involvement and technical assistance than would be necessary for more technically sophisticated larger systems.

EPA is also considering including a provision in the final rule which would authorize EPA to review State determinations of what constitutes optimal corrosion control and source water treatment in limited circumstances. Under the option being considered, EPA Regional Administrators would be authorized to rescind State treatment determinations, and issue new or revised determinations with which the system must comply where: (1) A State has failed to specify treatment requirements by deadlines specified in the regulation, (2) where the Regional Administrator determines that a State has seriously abused its discretion in a substantial number of cases or in cases affecting a substantial population, or (3) where EPA concludes that the technical aspects of a State's determination would be indefensible in an expected Federal enforcement action taken against a system. EPA continues to support a strong State role in the implementation of the Safe Drinking Water Act requirements and the Federalism principles outlined in Executive Order Number 12612. The EPA oversight of States being considered in this notice is intended to ensure general compliance with the reqirements without reducing State flexibility or discretion.

In each case, the Regional Administrator would be required to provide an opportunity for the State, the affected system(s), and the public to review and comment upon EPA's proposed decision. EPA would exercise this authority only where a State could not demonstrate that its determination(s) are reasonable, based upon the provisions of the approved State program. Authorizing EPA review of State determinations would therefore help ensure that States were properly implementing the corrosion control requirements of the regulation.

Finally, for the final lead and copper NPDWRs, EPA is considering requirements for public water suppliers that have to install or improve corrosion control to measure several water quality parameters to assist in the determination of corrosion control treatment. Among these are calcium, conductivity, orthophosphate, and silica. Should these water quality parameters be included as part of implementing the final rule, EPA is considering approving the following analytical methods for use in their measurement. In addtion, EPA is also updating some of the methods for lead, copper, pH, and total alkalinity to use the most recent reference documents. Several newly developed methods for lead and copper are also listed along with the updated methods. Only those methods which are now or have been updated since the 1988 proposal are listed in this notice. Methods that have not been updated since the proposal would still be appropriate for compliance monitoring analyses after the rule is promulgated.

(1) Lead—

(A) Method 3113, Atomic Absorption; furnace technique (update).

"Standard Methods for the Examination of Water and Wastewater," 17th edition, American Public Health Association, American Water Works Association, Water Pollution Control Federation, 1989.

(B) Method 200.8, Inductively Coupled Plasma; Mass Spectrometry (new).

"Determination of Trace Elements in Waters and Wastes by Inductively Coupled Plasma—Mass Spectrometry." Method 200.8, August 1990, Revision 4.3, U.S. EPA Environmental Monitoring Systems Laboratory, Cincinnati, OH 45268.

(C) Method 200.9, Atomic Absorption; Platform furnace technique (new).

"Determination of Trace Elements by Stabilized Temperature Graphite Furnace Atomic Absorption Spectrometry," Method 200.9, August 1990, Revision 1.1, U.S. EPA Environmental Monitoring Systems Laboratory, Cinicinnati, OH 45268.

(2) Copper—

(A) Method 3113, Atomic Absorption; furnance technique (update).

"Standard Methods for the Examination of Water and Wastewater," 17th edition, American Public Health Association, American Water Works Association, Water Pollution Control Federation, 1989.

(B) Method D1688-90C, Atomic Absorption; furnance technique (update).

Annual Book of ASTM Standards, Vol. 11.01, American Society of Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

(C) Method 3111 B or C, Atomic Absorption; direct aspiration (update).

"Standard Methods for the Examination of Water and Wastewater," 17th edition, American Public Health Association, American Water Works Association, Water Pollution Control Federation, 1989.

(D) Method D1688-90A, Atomic Absorption; direct aspiration (update).

Annual Book of ASTM Standards, Vol. 11.01, American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

(E) Method 200.7, Inductively Coupled Plasma (update).

"Determination of Metals and Trace Elements in Water and Wastes by Inductively Coupled Plasma—Atomic Emission Spectrometry," Method 200.7, Revision 3.2, August 1990, U.S. EPA. Environmental Monitoring Systems Laboratory, Cincinnati, OH 45268.

(F) Method 3120, Inductively Coupled Plasma.

"Standard Methods for the Examination of Water and Wastewater," 17th edition, American Public Health Association, American Water Works Association, Water Pollution Control Federation, 1989.

(G) Method 200.8, Inductively Coupled Plasma; Mass Spectrometry (new).

"Determination of Trace Elements in Waters and Wastes by Inductively Coupled Plasma—Mass Spectrometry," Method 200.8, August 1990, Revision 4.3, U.S. EPA Environmental Monitoring Systems Laboratory, Cincinnati, OH 45268.

(H) Method 200.9, Atomic Absorption; platform furnace technique (new).

"Determination of Trace Elements by Stabilized Temperature Graphite Furnace Atomic Absorption Spectrometry," Method 200.9, August 1990, Revision 1.1, U.S. EPA Environmental Monitoring Systems Laboratory, Cincinnati, OH 45268.

(3) pH—

(A) Method D1293-84B, Electrometric.

Annual Book of ASTM Standards, Vol. 11.01, American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

(B) Method 4500-H+, Electrometric (update).

"Standard Methods for the Examination of Water and Wastewater," 17th edition, American Public Health Association, American Water Works Association, Water Pollution Control Federation, 1989.

(4) Total Alkalinity—

(A) Method 310.1, Titrimetric.

"Methods of Chemical Analysis of Water and Wastes," U.S. EPA Environmental Monitoring and Support Laboratory, Cincinnati, OH (EPA-600-14-79-020), Revised March 1983. Available from ORD Publications, CERI, U.S. EPA, Cincinnati, OH 45268.

(B) Method D1067-88B, Titrimetric.

Annual Book of ASTM Standards, Vol. 11.01, American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

(C) Method 2320, Titrimetric.

"Standard Methods for the Examination of Water and Wastewater," 17th edition, American Public Health Association, American Water Works Association, Water Pollution Control Federation, 1989.

(D) Method I-1030-85, Electrometric titration.

"Methods for the Determination of Inorganic Substances in Water and Fluvial Sediments," 3rd edition, U.S. Department of the Interior, U.S. Geological Survey, 1989.

(5) Calcium—

(A) Method 215.2, EDTA Titrimetric.

"Methods of Chemical Analysis of Water and Wastes," EPA Environmental Monitoring and Support Laboratory, Cincinnati, OH (EPA-600/4-79-020), March 1983. Available from ORD Publications, CERI, EPA, Cincinnati, OH 45268.

(B) Method D511-88A, EDTA Titrimetric.

Annual Book of ASTM Standards, Vol. 11.01, American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

(C) Method 3500-Ca-D, EDTA Titrimetric.

"Standard Methods for the Examination of Water and Wastewaters," 17th edition, American Public Health Association, American Water Works Association, Water Pollution Control Federation, 1989.

(D) Method 215.1 Atomic Absorption; Direct Aspiration.

"Methods of Chemical Analysis of Water and Wastes," EPA Environmental Monitoring and Support Laboratory, Cincinnati, Ohio (EPA-600/4-79-020), March 1983. Available from ORD

Publications, CERI, EPA, Cincinnati, OH 45268.

(E) Method D511–93B, Atomic Absorption; Direct Aspiration.

Annual Book of ASTM Standards, Vol. 11.01, American Society of Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

(F) Method 3111–B, Atomic Absorption; Direct Aspiration.

"Standard Methods for the Examination of Water and Wastewater," 17th edition, American Public Health Association, American Water Works Association, Water Pollution Control Federation, 1989.

(G) Method 200.7, Inductively-Coupled Plasma.

"Determinations of Metals and Trace Elements in Water and Wastes by Inductively-Coupled Plasma Atomic Emission Spectrometry," Method 200.7, Revision 3.2, August 1990, U.S. EPA, Environmental Monitoring Systems Laboratory, Cincinnati, OH 45268.

(H) Method 3120, Inductively-Coupled Plasma.

"Standard Methods for the Examination of Water and Wastewater," 17th edition, American Public Health Association, American Water Works Association, Water Pollution Control Federation, 1989.

(8) Conductivity—

(A) Method 120.1, Conductance.

"Methods of Chemical Analysis of Water and Wastes," EPA Environmental Monitoring and Support Laboratory, Cincinnati, Ohio (EPA–600/4–79–020), March 1983. Available from ORD Publications, CERI, EPA, Cincinnati, OH 45268.

(B) Method D1125–82B, Conductivity.

Annual Book of ASTM Standards, Vol. 11.01, Society for Testing Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

(C) Method 2510, Conductivity.

"Standard Methods for the Examination of Water and Wastewater," 17th edition, American Public Health Association, American Water Works Association, Water Pollution Control Federation, 1989.

(7) Orthophosphate, Unfiltered, No digestion or hydrolysis—

(A) Method 365.1, Colorimetric, Automated, Ascorbic Acid.

"Methods of Chemical Analysis of Water and Wastes," EPA Environmental Monitoring and Support Laboratory, Cincinnati, Ohio (EPA–600/4–79–020), March 1983. Available from ORD Publications, CERI, EPA, Cincinnati, OH 45268.

(B) Method 365.2, Colorimetric, Ascorbic Acid, Single Reagent.

"Methods of Chemical Analysis of Water and Wastes," EPA Environmental Monitoring and Support Laboratory, Cincinnati, Ohio (EPA–600/4–79–020), March 1983. Available from ORD Publications, CERI, EPA, Cincinnati, Ohio 45268.

(C) Method 365.3, Colorimetric, Ascorbic Acid, Two Reagent.

"Methods of Chemical Analysis of Water and Wastes," EPA Environmental Monitoring and Support Laboratory, Cincinnati, Ohio (EPA–600/4–79–020), March 1983. Available from ORD Publications, CERI, EPA, Cincinnati, Ohio 45268.

(D) Method 300.0, Ion Chromatography.

"Determination of Inorganic Anions in Water by Ion Chromatography," EPA Environmental Monitoring and Support Laboratory, Cincinnati, OH (EPA–600/4–84–017), March 1984.

(E) Method D515–88A, Colorimetric, Ascorbic Acid, Single Reagent.

Annual Book of ASTM Standards, Vol. 11.01, American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

(F) Method D4327–88, Ion Chromatography.

Annual Book of ASTM Standards, Vol. 11.01, American Society of Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

(G) Method 4500–P–E, Colorimetric, Ascorbic Acid, Single Reagent.

"Stranded Methods for the Examination of Water and Wastewater," 17th edition, American Public Health Association, American Water Works Association, Water Pollution Control Federation, 1989.

(H) Method 4500–P–F, Colorimetric, Automated Ascorbic Acid Reduction Method.

"Standard Methods for the Examination of Water and Wastewater," 17th edition, American Public Health Association, American Water Works Association, Water Pollution Control Federation, 1989.

(I) Method 4110, Ion Chromatography.

"Standard Methods for the Examination of Water and Wastewater," 17th edition, American Public Health Association, American Water Works Association, Water Pollution Federation, 1989.

(J) Method I–1601–85, Colorimetric, phsphomolybdate.

"Methods for the Determination of Inorganic Substances in Water and Fluvial Sediments," 3rd edition, U.S. Department of Interior, U.S. Geological Survey, 1989.

(K) Method I–2601–85, Colorimetric, phosphomolybdate, automated-segmented flow.

"Methods for the Determination of Inorganic Substances in Water and Fluvial Sediments," 3rd edition, U.S. Department of Interior, U.S. Geological Survey, 1989.

(L) Method I–2598–85, Colorimetric, phosphomolybdate; automated discrete.

"Methods for the Determination of Inorganic Substances in Water and Fluvial Sediments," 3rd edition, U.S. Department of Interior, U.S. Geological Survey, 1989.

(9) Silica, Filtered—

(A) Method I–1700–85, Colorimetric, molybdate blue.

"Methods for the Determination of Inorganic Substances in Water and Fluvial Sediments," 3rd edition, U.S. Department of Interior, U.S. Geological Survey, 1989.

(B) Method I–2700–85, Colorimetric, molybdate blue, automated-segmented flow.

"Methods for the Determination of Inorganic Substances in Water and Fluvial Sediments," 3rd edition, U.S. Department of Interior, U.S. Geological Survey, 1989.

(C) Method 370.1, Colorimetric

"Methods of Chemical Analysis of Water and Wastes," EPA Environmental Monitoring and Support Laboratory, Cincinnati, OH (EPA–600/4–79–020), March 1983. Available from ORD Publications, CERI, EPA, Cincinnati, OH 45268.

(D) Method 200.7, Inductively Coupled Plasma.

"Determination of Metals and Trace Elements by Inductively Coupled Plasma—Atomic Emission Spectrometry," Method 200.7, Version 3.2, August 1990, U.S. EPA. Environmental Monitoring Systems Laboratory, Cincinnati, OH 45268.

(E) Method 4500–Si–D, Molybdosilicate.

"Standard Methods for the Examination of Water and Wastewater," 17th edition, American Public Health Association, American Water Works Association, Water Pollution Control Federation, 1989.

(F) Method 4500–Si–E, Heteropoly blue.

"Standard Methods for the Examination of Water and Wastewater," 17th edition, American Public Health Association, American Water Works Association, Water Pollution Control Federation, 1989.

(G) Method 3120, Inductively Coupled Plasma

"Standard Methods for the Examination of Water and Wastewater," 17th edition, American Public Health Association, American Water Works Association, Water Pollution Control Federation, 1989.

(H) Method 4500–Si–F, Automated method for Molybdate-Reactive Silica.

"Standard Methods for the Examination of Water and Wastewater," 17th edition, American Public Health Association, American Water Works Association, Water Pollution Control Federation, 1989.

(I) Method D859–88, Colorimetric

Annual Book of ASTM Standards, Vol. 11.01, American Society of Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

(9) Temperature—

(A) Method 2550, Thermometric

"Standard Methods for the Examination of Water and Wastewater," 17th edition, American Public Health Association, American Water Works Association, Water Pollution Control Federation, 1989.

The public is invited to comment on these options and revised analytical methods for a period of 30 days.

Dated: October 16, 1990.

Robert H. Wayland, III

Acting Assistant Administrator, Office of Water.

[FR Doc. 90–24909 Filed 10–18–90; 8:45 am]

BILLING CODE 6560–50–M

NATIONAL SCIENCE FOUNDATION

45 CFR Parts 612 and 613

Amendments to Freedom of Information and Privacy Act Regulations

AGENCY: National Science Foundation (NSF).

ACTION: Proposed rule.

SUMMARY: The National Science Foundation (NSF) proposes to amend 45 CFR parts 612 and 613 to make technical changes in NSF's Freedom of Information and Privacy Act regulations to account for records maintained by NSF's Office of Inspector General. The NSF also proposes to add a section to its Freedom of Information Act (FOIA) regulations. This section more fully describes NSF's existing procedures for notifying submitters of confidential commercial information that their records have been requested under the FOIA. Other proposed amendments would increase fees for search and copying of records, and make technical changes to properly cross reference the sections of these regulations.

DATES: Comments must be received on or before November 19, 1990.

ADDRESSES: Interested persons may submit written comments to: D. Matthew Powell, Assistant General Counsel, NSF, Washington, DC 20550 (202–357–9435).

FOR FURTHER INFORMATION CONTACT: D. Matthew Powell, Assistant General Counsel, NSF, Washington, DC 20550 (202–357–9435).

SUPPLEMENTARY INFORMATION: The National Science Foundation's Office of Inspector General (OIG) was created in 1989. On February 14, 1990, notice was given of the creation of a Privacy Act System of Records for OIG. (55 FR 5308) As indicated in the Privacy Act Systems Notice, OIG records are maintained in secure locations and are available only to those persons whose official duties require access to the records. In order to coordinate properly requests for access to these records under the Freedom of Information and Privacy Acts, requests for access to OIG records should be made directly to the OIG. The following regulatory changes are being proposed to insure that OIG is able to coordinate public access to its records under the Freedom of Information Act (FOIA) and the Privacy Act.

a. 45 CFR 612.2(a). Under the current regualtion the NSF Deputy Director may order disclosure of any record exempt from disclosure under FOIA. The proposed amendment would allow only the NSF Inspector General to order disclosure of OIG records exempt from disclosure under FOIA.

b. 45 CFR 612.3(c). Under the proposed amendment, requests for OIG records would be made directly to OIG.

c. 45 CFR 612.7(a). Under the proposed amendment, OIG would control incoming requests, monitor compliance, dispatch denial letters, and maintain administrative records concerning FOIA requests for materials maintained by OIG.

d. 45 CFR 612.7(d). Under the proposed amendment only the Inspector General may deny a written request for records maintained by OIG.

e. 45 CFR 613.4(c). Under the proposed amendment, Privacy Act requests for correction of OIG records shall be brought to the attention of the Inspector General rather than the General Counsel.

The second change concerns notification procedures. NSF's procedures for providing predisclosure notification to submitters of confidential commercial information conform to the requirements of Executive Order 12600. NSF proposes to add a new section, 45 CFR 612.8, which more fully describes its procedures. Section 612.7, which describes the agency's processing of requests, would be amended to refer to these procedures.

The third change would increase fees. NSF's current search and copying fees do not reflect current costs. Fees being charged under the regulations should reflect more accurately the actual costs of search and copying. Therefore, NSF proposes to amend 45 CFR 612.10(a) and (d) to increase search fees from $1.25 to $2.50 per quarter hour for clerical staff and from $3.75 to $7.50 per quarter hour for managerial staff, and its copying fee from $0.10 to $0.25 per page.

The remainder of the changes proposed correct out-of-date or improper cross references and other minor errors.

Under the criteria set forth in Executive Order 12291, this rule has been determined not to be a "major rule" requiring regulatory impact analysis. It has also been determined, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, these changes will have no significant economic impact on any substantial number of small entities.

List of Subjects

45 CFR Part 612

Availability of records and information.

45 CFR Part 613

Privacy.

NSF proposes to amend 45 CFR chapter IV, parts 612 and 613, by adding § 612.8 and amending other sections as indicated below.

Dated: October 15, 1990.

Charles H. Herz,

General Counsel.

PART 612—AMENDED

1. The authority for part 612 would continue to read:

Authority: 5 U.S.C. 552, as amended.

2. In the table of contents for part 612 the heading for § 612.8 would be added to read:

612.8 Confidential commerical information—notice.

3. 45 CFR part 612 would be amended by adding § 612.8 and by revising § 612.1, 612.2(a), 612.3 (b) and (c), 612.4, 612.7 (a), (c), and (d), 612.8(a)(2)(ii), 612.10 (a) and (d) and 612.11 (a) and (c) as follows.

§ 612.1 Scope.

This part establishes procedures by which the National Science Foundation (NSF) will implement the Freedom of Information Act, 5 U.S.C. 552(a), relating to public availability of NSF records.

§ 612.2 Information policy.

(a) Subject to the policies set forth below, NSF will make the fullest possible disclosure of informaiton to any person who requests information,

without unnecessary expense or delay. The Inspector General concerning records maintained by the Office of Inspector General, or the Deputy Director, NSF concerning all other records, may, except where prohibited by law, order disclosure in the public interest of records exempt from mandatory disclosure under § 612.8 of this part.

* * * * *

§ 612.3 Procedures applicable to the public—requests and appeals.

* * * * *

(b) *Form of request.* A request need not be in any particular format, but it:

(1) Must be in writing,

(2) Must be clearly identified both on the envelope and in the letter as a Freedom of Information Act or FOIA request,

(3) Must describe the records sought with sufficient specificity to permit identification, and

(4) Must state that the requester promptly will pay the fees chargeable under this regulation.

Provided, however, that when the requester places an inadequate limit on the amount he will pay or the requester has failed to make payments for previous requests, the NSF may require advance payment in accordance with § 612.12(d) of this part except in cases when fees have been waived or reduced in accordance with § 612.13 of this part.

(c) *Place of request.* A request for records under FOIA maintained by the Office of Inspector General shall be addressed to the National Science Foundation, Office of Inspector General, 1800 G Street, NW., Washington, DC 20550. Requests for records addressed to the Office of Inspector General under this paragraph shall be deemed to include only records maintained by the Office of Inspector General. Any request for any other record under FOIA shall be addressed to the National Science Foundation, Office of Legislative and Public Affairs, 1800 G Street, NW., Washington, DC 20550. Requests for records addressed to the Office of Legislative and Public Affairs under this paragraph shall be deemed not to include records maintained by the Office of Inspector General. A request which meets the requirements of paragraph (b) of this section and is properly addressed shall be deemed received on the date of arrival in the Office of Legislative and Public Affairs or the Office of Inspector General.

* * * * *

§ 612.4 Copies of records.

If a requested record is to be disclosed, a copy will be furnished the requester as promptly as possible provided payment of fees has been arranged for or has been waived pursuant to § 612.13 of this part. Records will not be released for copying.

* * * * *

§ 612.8 Confidential commercial information—notice.

(a) *In general.* Commercial information provided to the NSF by a submitter shall not be disclosed pursuant to a Freedom of Information Act request except in accordance with this section.

(b) *Definitions.* The following definitions are used in reference to this section:

Commercial information means commercial or financial information provided to the NSF by a submitter that arguably is protected from disclosure under Exemption 4 of the Freedom of Information Act, 5 U.S.C. 552(b)(4) and § 612.8 of this part.

Submitter means any person, organization, or entity who provides commercial information, directly or indirectly, to the NSF. The term includes, but is not limited to, corporations, state governments and foreign governments.

(c) *Designation of commercial information.* Submitters of commercial information shall use good-faith efforts to designate, by appropriating markings, either at the time of submission or at a reasonable time thereafter, those portions of their submissions which they deem to be protected from disclosure under Exemption 4. Such designations shall be deemed to have expired ten years after the date of the submission unless the submitter requests, and provides reasonable justification for, a designation period of greater duration.

(d) *Notice to submitters.* The NSF shall, to the extent permitted by law, provide a submitter with prompt written notice of a Freedom of Information Act request or administrative appeal encompassing its commercial information wherever required under paragraph (e) of this section, except as provided for in paragraph (f) of this section, in order to afford the submitter an opportunity to object to disclosure pursuant to paragraph (g) of this section. Such written notice shall either describe the exact nature of the commercial information requested or provide copies of the records or portions thereof containing the information. The requester also shall be notified that notice and an opportunity to object are being provided to a submitter.

(e) *When notice is required.* Notice shall be given to a submitter whenever:

(1) The information has been designated in good faith by the submitter as information deemed protected from disclosure under Exemption 4, or

(2) The NSF has reason to believe that the information may be protected from disclosure under Exemption 4.

(f) *Exceptions to notice requirements.* The notice requirements of paragraph (d) of this section shall not apply if:

(1) The NSF determines that the information should not be disclosed;

(2) The information lawfully has been published or has been officially made available to the public;

(3) Disclosure of the information is required by law (other than 5 U.S.C. 552); or

(4) The designation made by the submitter in accordance with paragraph (c) of this section appears obviously frivolous, except that, in such case, the NSF shall provide the submitter with written notice of any final administrative decision to disclose commercial information within a reasonable number of days prior to a specified disclosure date.

(g) *Opportunity to object to disclosure.* Through the notice described in paragraph (d) of this section, the NSF shall afford a submitter a reasonable period of time within which to provide the NSF with a detailed written statement of any objection to disclosure. Such statement shall specify all grounds for withholding any of the information under any exemption of the Freedom of Information Act and, in the case of Exemption 4, shall provide a detailed description of why the information is contended to be a trade secret or commercial or financial information that is privileged or confidential. This description shall explain why release of commercial or financial information would cause substantial harm to the competitive position of the submitter. Whenever possible, the submitter's claim of confidentiality should be supported by a statement or certification by an officer or authorized representative of the submitter. Information provided by a submitter pursuant to this paragraph may itself be subject to disclosure under the FOIA. When the submitter fails to object within the specified time or the objection appears obviously frivolous, the NSF shall provide the submitter with written notice pursuant to paragraph (f)(4) of this section.

(h) *Notice of intent to disclose.* The NSF shall consider carefully a submitter's objections and specific grounds for nondisclosure prior to determining whether to disclose

confidential information. Whenever the Foundation decides to disclose confidential information over the objection of a submitter, the NSF shall forward to the submitter a written notice which shall include:

(1) A statement of the reasons for which the submitter's disclosure objections were not sustained;

(2) A description of the confidential information to be disclosed; and

(3) A specified disclosure date.

Such notice of intent to disclose shall be forwarded to the submitter a reasonable number of days prior to the specified disclosure date and the requester shall be notified likewise.

(i) *Notice of FOIA lawsuit.* Whenever a requester brings suit seeking to compel disclosure of confidential information, the NSF, shall promptly notify the submitter.

§ 612.7 Agency actions on receipt of a properly presented request for record.

(a) *Monitoring of requests.* The NSF Office of Legislative and Public Affairs, or such other office as may be designated by the Director, will serve as the central office for internal administration of these regulations. For records maintained by the Office of Inspector General, that Office will control incoming requests, monitor compliance, dispatch denial letters, and maintain administrative records. For all other records maintained by NSF, the Office of Legislative and Public Affairs, or such other office as may be designated by the Director, will control incoming requests, assign them to appropriate action offices, monitor compliance, consult with action offices on disclosure, approve unavoidable extensions, dispatch denial letters, and maintain administrative records.

* * * * *

(c) *Records containing commercial information.* When the requested record contains confidential commercial information such as a successful proposal that was submitted to NSF, the NSF will normally contact, in accordance with § 612.6 of this part, the organization that submitted the record in order to ask whether the submitter wishes portions of the record withheld under any applicable exemptions. (The Foundation protects from disclosure pending proposals or unsuccessful proposals in any case.)

(d) *Denial of request.* No written request for record shall be denied except by the Director of the Office of Legislative and Public Affairs, the Office of Inspector General or such other office as may be designated by the Director. Notice of the denial of a request shall briefly set forth the reasons therefor which shall be based solely upon one or more of the exemptions specified in § 612.6 of this part. Each notice of denial shall set forth the names and title or positions of each person responsible for the denial and shall inform the requester of the right to appeal as provided in § 612.3 of this part.

* * * * *

§ 612.8 Records not available.

(a) * * *

(2) * * *

(ii) Negotiating positions and limitations involved in a negotiation prior to the execution of a contract or the completion of the action to which the negotiating positions or limitations were applicable. They may also be exempt pursuant to other provisions of this section.

* * * * *

§ 612.10 Fees to be charged—general.

* * * * *

(a) *Manual searches for records.* Whenever feasible, NSF shall charge at the salary rate(s) (i.e., basic pay plus 16 percent) of the employee(s) making the search. However, where a homogeneous class of personnel is used exclusively (e.g., all administrative/clerical, or all professional/executive), NSF may establish an average rate for the range of grades typically involved. Thus, for each one-quarter hour after the first quarter hour, for search of a record by clerical personnel, the charge is $2.50. For a nonroutine, nonclerical search by professional personnel, for example, where the task of determining which records fall within a request and search requires professional or managerial time, the charge is $7.50 for each one quarterhour spent in excess of the first quarter hour.

* * * * *

(d) *Duplication of records.* NSF shall establish an average agency-wide, per-page charge for paper copy reproduction of documents. This charge shall represent the reasonable direct costs of making such copies, taking into account the salary of the operators as well as the cost of the reproduction machinery. For copies prepared by computer, such as tapes or printouts, NSF shall charge the actual cost, including operator time, of production of the tape or printout. For other methods of reproduction or duplication, NSF shall charge the actual direct costs of producing the document(s). For photocopies of documents, $0.25 per copy per page will be charged. In practice, if NSF estimates that duplication charges are likely to exceed $25, it shall notify the requester of the estimated amount of fees, unless the requester has indicated in advance his willingness to pay fees as high as those anticipated. Such a notice shall offer a requester the opportunity to confer with agency personnel with the object of reformulating the request to meet his or her needs at a lower cost.

* * * * *

§ 612.11 Fees to be charged—categories of requesters.

* * * * *

(a) *Commercial use requesters.* When a request for documents for commercial use is received, NSF shall assess charges which recover the full direct cost of searching for, reviewing for release, and duplicating the records sought. Requesters must reasonably describe the records sought. Commercial use requesters are not entitled to two hours of free search time nor 100 free pages of reproduction of documents. NSF may recover the cost of searching for and reviewing records even if there is ultimately no disclosure of records (see § 612.12(b) of this part).

* * * * *

(c) Requesters who are representatives of the news media. NSF shall provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category a requester must meet the criteria in § 612.9(j) of this part, and his request must not be made for a commercial use. In reference to this class of requester, a request for records supporting the news dissemination function of the requester shall not be considered to be a request that is for commercial use. Requesters must reasonably describe the records sought.

* * * * *

PART 613—[AMENDED]

1. The authority for part 613 would continue to read:

Authority: 5 U.S.C. 552a(f).

2. It is proposed to amend 45 CFR part 613 by revising § 613.4(c) as follows:

§ 613.4 Correction of records.

* * * * *

(c) The Privacy Act Officer upon the receipt of such a request shall promptly confer with the Directorate or office within the NSF responsible for the record. In the event it is felt that correction is not warranted in whole or in part, the matter if it pertains to records maintained by the Office of Inspector General shall be brought to the attention of the Inspector General and if it pertains to other records shall be brought to the attention of the

General Counsel. If, after review by the General Counsel or by the Inspector General and discussion with the requester if deemed helpful, it is determined that correction as requested is not warranted, a letter shall be sent by the Privacy Act Officer to the requester denying his request and/or explaining what correction might be made if agreeable to the requester. This letter shall set forth the reasons for the refusal to honor the request for correction. It shall also inform him of his right to appeal this decision and include a description of the appeals procedure set forth in paragraph (d) of this section. Such letter or notification that the desired correction will be made shall normally be sent within 30 working days of the receipt of a properly addressed request (or within 30 working days of the time the Privacy Act Officer becomes aware that a particular communication not addressed as prescribed above is a request for correction of a record under the Privacy Act).

* * * * *

[FR Doc. 90-24670 Filed 10-18-90; 8:45 am]
BILLING CODE 7020-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

45 CFR Parts 1355, 1356 and 1357

Title IV-B and Title IV-E of the Social Security Act: Data Collection for Adoption and Foster Care

AGENCY: Office of Human Development Services, Department of Health and Human Services.

ACTION: Notice of briefings

SUMMARY: The Department wishes to extend to all interested persons the opportunity to attend a briefing on the proposed rule governing the national data collection system for adoption and foster care. The Notice of Proposed Rulemaking (NPRM) on this subject was published in the Federal Register on September 27, 1990 at page 39540. The briefing is not a public hearing and will not substitute for the written comments requested from the public in relation to the NPRM. Rather, it is intended to inform interested parties so that they may comment fully and effectively on the various components of the proposed data collection system.

DATES: Two identical briefings on the NPRM will be held: one in Washington, DC on October 24, and the other in Denver, Colorado, on November 14, 1990. Each briefing will begin at 10 a.m., will be one day in duration, and will review all aspects of the proposed rule.

ADDRESSES: The Washington meeting will be held at the Omni Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC. The Denver meeting will be held at the Sheraton Denver Airport Hotel, 3535 Quebec Street, Denver, Colorado.

FOR FURTHER INFORMATION CONTACT: A. Lee Bruno or Holly Herrera, Cygnus, Inc., 1400 Eye Street, NW., suite 625, Washington, DC 20005, (202) 289-4992.

Dated: October 15, 1990.

Wade F. Horn,

Commissioner, Administration for Children, Youth and Families.

Dated: October 17, 1990.

Mary Sheila Gall,

Assistant Secretary for Human Development Services.

[FR Doc. 90-24699 Filed 10-18-90; 8:45 am]
BILLING CODE 4130-01-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 550, 580 and 581

[Docket No. 90-23]

Automated Tariff Filing and Information System (ATFI); Ocean Freight Tariffs in Foreign and Domestic Offshore Commerce; Notice of Inquiry

AGENCY: Federal Maritime Commission.

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: The Advanced Notice of Proposed Rulemaking, published August 1, 1990 (55 FR 31199), solicited public comment on the proposed Automated Tariff Filing and Information Systems ("ATFI"). ATFI will facilitate the electronic filing, processing and retrieval of tariff data required by statute to be filed with the Federal Maritime Commission and made available to the public. Comments were solicited on some basic features being considered for ATFI and how they may impact current paper tariff practices. Comments are now due on October 15, 1990. The Asia North America Eastbound Rate Agreement and the Transpacific Westbound Rate Agreement have requested a two week extension for filing comments so that members may complete their review and file comments. This notice extends the time for filing comments to the Advanced Notice of Proposed Rulemaking to October 29, 1990.

DATES: Comments due October 29, 1990.

ADDRESSES: Comments (Original and 15 Copies) must be submitted to: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573-0001. (202) 523-5725.

FOR FURTHER INFORMATION CONTACT: John Robert Ewers, Director, Bureau of Administration, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573. (202) 523-5868.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 90-24641 Filed 10-18-90; 8:45 am]
BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Part 552

[GSAR Notice No. 5-397]

General Services Administration Acquisition Regulation; Restriction on Advertising Clause

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on a proposed change to the General Services Administration Acquisition Regulation (GSAR), Chapter 5 (APD 2800.12A), that would revise the text of the clause in section 552.203-70 to add a reference to the White House and the Executive Office of the President regarding referring to GSA contracts in commercial advertising or similar promotions in a manner that would imply that the product or service provided is endorsed or preferred by any element of the Federal Government.

DATES: Comments are due in writing on or before November 19, 1990.

ADDRESSES: Comments should be addressed to Ms. Marjorie Ashby, Office of GSA Acquisition Policy (VP), 18th & F Streets, NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: John Joyner, Office of GSA Acquisition Policy (202) 501-1224.

SUPPLEMENTARY INFORMATION: The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this proposed rule. An Initial

Regulatory Flexibility Analysis has not been prepared because the proposed rule does not appear to have a significant impact on a substantial number of small entities because the provision simply adds a reference to the White House and Executive Office of the President in order to clarify that they are considered to be part of the Federal Government. The proposed rule does not contain information collection requirements that require the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

List of Subjects in 48 CFR Part 552

Government procurement.

PART 552—[AMENDED]

1. The authority citation for 48 CFR part 552 continues to read as follows:

Authority: 40 U.S.C. 486(c).

2. Section 552.203–70 is revised to read as follows:

552.203–70 Restriction on Advertising.

As prescribed in 503.570–2, insert the following clause:

Restriction on Advertising (SEP 1990)

The Contractor shall not refer to this contract in commercial advertising or similar promotions in such a manner as to state or imply that the product or service provided is endorsed or preferred by any element of the Federal Government, the White House or the Executive Office of the President, or is considered by these entities to be superior to other products or services. Any advertisement by the Contractor, including price-off coupons, which refer to a military resale activity shall contain the following statement: "This advertisement is neither paid for nor sponsored in whole or in part, by any element of the United States Government."

(End of clause)

Dated: October 9, 1990.

Richard H. Hopps, III,

Associate Administrator for Acquisition Policy.

[FR Doc. 90–24707 Filed 10–18–90; 8:45 am]

BILLING CODE 6820–61–M

BEST COPY AVAILABLE

Notices

Federal Register
Vol. 55, No. 203
Friday, October 19, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 90-036]

Advisory Committee on Foreign Animal and Poultry Diseases: Renewal; Selection of Members

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of reopening and extension of comment period.

SUMMARY: We are reopening and extending the comment period for a notice advising the public that the Secretary of Agriculture is soliciting nominations for membership on the Secretary's Advisory Committee on Foreign Animal and Poultry Diseases, which has been renewed for a 2-year period. Reopening and extending the comment period will give interested persons additional time to submit nominations or other comments.

DATES: Consideration will be given to nominations or comments received on or before November 19, 1990.

ADDRESSES: Nominations or comments should be addressed to the person listed under "FOR FURTHER INFORMATION CONTACT." Please state that your comments refer to Docket Number 90-036.

FOR FURTHER INFORMATION CONTACT: Dr. M.A. Mixson, Chief Staff Veterinarian, VS, APHIS, USDA, room 747, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8073.

SUPPLEMENTARY INFORMATION: In a document published in the Federal Register on August 9, 1990 (55 FR 32450, Docket Number 90-036), we gave notice that the Secretary of Agriculture is renewing the Secretary's Advisory Committee on Foreign Animal and Poultry Diseases (Committee) for a 2-year period, and that the Secretary is also soliciting nominations for membership on this Committee. The closing date for submitting nominations or other comments to the Committee was inadvertently omitted from the notice.

We corrected this omission in a notice published in the Federal Register on August 29, 1990 (55 FR 35332, Docket Number 90-107). The notice stated that consideration would be given to nominations or comments received on or before September 28, 1990.

Due to the omission in the original notice, we believe that individuals and groups that may be interested in submitting nominations or comments may not have had adequate time to do so. We therefore believe it is in the public interest to reopen and extend the commit period to afford interested individuals and groups sufficient opportunity to prepare and submit nominations or comments to the Committee.

Accordingly, we are reopening and extending the comment period until November 19, 1990.

Done in Washington, DC, this 16 day of October 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-24805 Filed 10-18-90; 8:45 am]

BILLING CODE 3410-34-M

Forest Service

Timber Management and Road Construction in the Ladder Compartment, Trinity County, CA; Intent

AGENCY: Department Of Agriculture, Forest Service.

ACTION: Notice of intent, timber management and road construction in the Ladder Compartment, Trinity County, California.

SUMMARY: Notice is hereby given that the USDA Forest Service will prepare an Environmental Impact Statement for timber management and road construction in Ladder Compartment located on the Lower Trinity Ranger District, Six Rivers National Forest, Trinity County, California. The Forest Service invites written comments on this proposal. A full environmental analysis will be conducted. The Draft EIS will be published in March, 1991, and the final EIS will be available for review in July, 1991.

DATES: Interested and affected individuals should make their input by December 21,1991.

ADDRESSES: Submit Written comments and suggestions to Lawrence Cabodi, District Ranger, Lower Trinity Ranger District, P.O. Box 68, Willow Creek, California 95573.

FOR FURTHER INFORMATION CONTACT: Jo Ann Hereford, Planning Forester, Lower Trinity Ranger District, P.O. Box 68, Willow Creek, California 95573, phone 916-629-2118 or Julie Ranieri, Environmental Coordinator, Six Rivers National Forest, 500 Fifth St., Eureka, California 95501-1033, phone 707-442-1721.

SUPPLEMENTARY INFORMATION: The Ladder Compartment is located in a portion of the former Orleans Roadless Area considered for inclusion in the National Wilderness Preservation System in the 1970's. The passage of the California Wilderness Act of 1984 returned this portion of the roadless area to management for multiple use. Management direction at this time requires that an environmental impact statement be prepared for projects proposing activities within former roadless areas.

In preparing the environmental impact statement, the Forest Service will identify and consider a range of alternatives. One of these will be "No Action". Other alternatives will consider various management options.

James L. Davis, Jr., Forest Supervisor, Six Rivers National Forest, Eureka, California, is the responsible official.

Public participation will be especially important at several points during the analysis. The first point is during the scoping process (40 CFR 1501.7). The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. This input will be used in preparation of the draft environmental impact statement (DEIS). The scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those which have been covered by a relevant previous environmental analysis.

4. Exploring additional alternatives.
5. Identifying potential environmental effects of the proposed action and alternatives (i.e., direct, indirect, and cumulative effects and connected actions).

The District Ranger will hold a public scoping meeting in the conference room located at the Lower Trinity Ranger District office on Highway 96, Willow Creek, California, at 7 p.m., Wednesday, November 28, 1990.

The Draft Environmental Impact Statement (DEIS) is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by March, 1991. At that time EPA will publish a notice of availability of the DEIS in the Federal Register.

The comment period on the Draft Environmental Impact Statement will be 45 days from the date the Environmental Protection Agency's Notice of Availability appears in the Federal Register. It is very important that those interested in the management of the Ladder Compartment participate at that time. To be the most helpful, comments on the DEIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal court decisions have established that reviewers of draft EIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions, *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519,553(1978), and that environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *Wisconsin Heritages, Inc.* v. *Harris*, 490F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final.

After the comment period for the draft EIS ends, the comments received will be analyzed and considered by the Forest Service in the preparation of the Final Environmental Impact Statement (FEIS). The final EIS is scheduled to be completed by July, 1991. In the final EIS the Forest Service is required to respond to the comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, environmental consequences discussed in the EIS, and applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to appeal under 36 CFR part 217.

Dated: October 9, 1990.

James L. Davis, Jr.

Forest Supervisor.

[FR Doc. 90-24706 Filed 10-18-90; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

[Docket No. 900862-0257]

Foreign Availability Determination: Gallium Arsenide

AGENCY: Office of Foreign Availability, Bureau of Export Administration, Commerce.

ACTION: Notice of positive determination.

SUMMARY: On September 13, 1990, under the authority of the Export Administration Act of 1979, as amended (EEA), the Deputy Assistant Secretary for Export Administration determined that foreign availability exists for certain gallium arsenide to controlled destinations such that current controls are ineffective in achieving their purposes. Gallium arsenide is controlled under ECCN 1757A(b) of the Commodity Control List (CCL) (15 CFR 799.1, Supp. 1) of the Export Administration Regulations (EAR) (15 CFR 730 *et seq.*). The Commerce Department will publish the appropriate changes to the EAR in a future issue of the Federal Register.

FOR FURTHER INFORMATION CONTACT: Anatoli Welihozkiy, Acting Deputy Director, Office of Foreign Availability, Room SB-097, Department of Commerce, Washington, DC 20230; Telephone: (202) 377-8074.

SUPPLEMENTARY INFORMATION:

Background

Although the Export Administration Act (EAA) expired on September 30, 1990, the President, invoking the International Emergency Economic Powers Act, continued in effect the powers of the EAA and the Export Administration Regulations (EAR), to the extent permitted by law, in Executive Order 12730 of September 30, 1990.

Part 791 of the EAR establishes the procedures and criteria for determining foreign availability of items controlled for national security reasons. The Secretary of Commerce or his designee is authorized to determine whether foreign availability exists.

With limited exceptions, the Department of Commerce may not maintain national security controls on exports of an item to countries when it has been determined that items of comparable quality are available in fact to such countries from foreign sources in quantities sufficient to render the controls ineffective in achieving their purpose.

On May 15, 1990, OFA initiated a foreign availability assessment on gallium arsenide (GaAs) in response to a claim filed with OFA, pursuant to section 5(f) of the EAA. Gallium arsenide is controlled for national security reasons under ECCN 1757A(b) of the CCL. The Department published a notice of initiation of the assessment in the Federal Register on July 6, 1990 (55 FR 27858).

Having considered the assessment and other relevant information, the Deputy Assistant Secretary for Export Administration determined that, within the meaning of Section 5 of the EAA, foreign availability exists to controlled countries for doped semi-insulating (SI) GaAs, conducting GaAs, and undoped semi-insulating GaAs, except undoped SI GaAs having all of the characteristics for use in MMIC applications, as follows: (1) Registivity greater than or equal to $1x10^7$ ohm-cm; (2) Etch Pit Density less than 100,000 per cm^2; (3) Mobility greater than or equal to 8000 cm^2/Volt.sec; (4) Diameter greater than or equal to 3 inches (76.2 mm); and (5) Wafers with a (1-0-0) orientation. All interested government agencies, including the Departments of State and Defense, were given the opportunity to provide comments on the assessment and the determination.

The Department of Commerce will soon publish regulations in the Federal Register amending the national security export controls on gallium arsenide. Initially, the Department intends to remove validated licensing requirements to all non-controlled destinations.

Following multilateral review by the Coordinating Committee, the Department of Commerce will make appropriate changes to the licensing requirements for exports to controlled countries and publish them in the Federal Register.

If the Office of Foreign Availability receives new evidence affecting this foreign availability determination, OFA may reevaluate its assessment. Inquiries concerning this assessment should be sent to Anatoli Welihozkiy, Acting

Deputy Director of OFA, at the above address.

Dated: October 15, 1990.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 90-24662 Filed 10-18-90; 8:45 am]

BILLING CODE 3510-DT-M

Foreign-Trade Zones Board

Title 15

[Order No. 466]

Resolution and Order Approving With Restriction the Application of St. Joseph County Airport Authority for a Special-Purpose Subzone at the Allied Products Corporation Plant; South Bend, IN

Proceedings of the Foreign-Trade Zones Board, Washington, DC.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the St. Joseph County Airport Authority, grantee of FTZ 125, filed with the Foreign-Trade Zones Board (the Board) on December 18, 1987, requesting special-purpose subzone status for the steel automobile body parts manufacturing plant of Allied Products Corporation, in South Bend, Indiana, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations would be satisfied, and that the proposal would be in the public interest provided that full zone benefits are limited to exports and that approval is subject to the restriction that Allied elect privileged foreign status on all foreign steel mill products admitted to the zone, approves the application subject to the foregoing restriction.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority To Establish a Foreign-Trade Subzone in South Bend, IN

Whereas, by an act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the St. Joseph County Airport Authority, grantee of Foreign-Trade Zone 125, has made application (filed December 18, 1987, FTZ Docket 46–87, 53 FR 45, 1/4/88), in due and proper form to the Board for authority to establish a special-purpose subzone at the steel automobile body parts manufacturing plant of Allied Products Corporation (APC), located in South Bend, Indiana, adjacent to the Chicago Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations would be satisfied and that the purpose would be in the public interest if approval were given subject to the restriction in the resolution accompanying this action;

Now, therefore, in accordance with the application filed December 18, 1987, the Board hereby authorizes the establishment of a special-purpose subzone at the APC plant in South Bend, Indiana, designated on the records of the Board as Foreign-Trade Subzone No. 125A at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and regulations issued thereunder, to the restriction in the resolution accompanying this action, and also to the following express conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto any necessary permits shall be obtained from federal, state, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone facility in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, DC, this 5th day of October, 1990, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Marjorie A. Chorlins,

Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

[FR Doc. 90-24660 Filed 10-18-90; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-570-803]

Preliminary Determinations of Sales at Less Than Fair Value: Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that imports of heavy forged hand tools (HFHTs) from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value. Furthermore, we preliminarily determine that critical circumstances exist on imports of the following three classes or kinds of HFHTs: (1) Hammers and sledges with heads over 1.5 kg. (3.25 pounds); (2) bars over 18 inches in length, track tools and wedges; and (3) picks and mattocks. We have notified the U.S. International Trade Commission (ITC) of our determinations. We have directed the U.S. Customs Service to suspend liquidation of all entries of HFHTs from the PRC, as described in the Suspension of Liquidation section of this notice. The statutory deadline for the final determinations is December 26, 1990. However, we may expedite these determinations.

EFFECTIVE DATE: October 19, 1990.

FOR FURTHER INFORMATION CONTACT: James Maeder or Brad Hess, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377–4929 or (202) 377–3773 respectively.

SUPPLEMENTARY INFORMATION:

Preliminary Determinations

We preliminarily determine that imports of HFHTs from the PRC are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The estimated weighted-average margins are shown in the "Suspension of Liquidation" section of this notice. We also preliminarily determine that critical circumstances exist for three of the four classes or kinds of merchandise from the PRC. The statutory deadline for the final determinations is December 24, 1990. However, we may expedite these determinations.

Case History

Since publication of the notice of initiation on May 2, 1990, (55 FR 18364), the following events have occurred. On May 21, 1990, the ITC informed the Department that there is a reasonable indication that imports of HFHTs from the PRC are materially injuring, or are threatening to materially injure, a U.S. industry (USITC Pub. No 2284, May 1990).

On June 14, 1990, petitioner alleged that critical circumstances exist with respect to imports of HFHTs from the PRC. We presented a questionnaire to counsel for China National Machinery Import and Export Corporation (CMC) on June 21, 1990, and required that information be reported for Shandong Machinery Import & Export Corporation (Shandong), Tianjin Machinery Import & Export Corporation (Tianj in), and Henan Machinery Import & Export Corporation (Henan), the three branches of CMC which counsel indicated had exported the subject merchandise to the United States during the period of investigation.

On July 12, 1990, a response to section A of our questionnaire was submitted on behalf of Shandong. On July 27, 1990, a response to Section A of our questionnaire was submitted on behalf of Tianjin. No information was submitted with respect to the sales activity of Henan. Separate responses to section C of the questionnaire were submitted on behalf of Shandong and Tianjin on August 3, 1990.

On August 15, 1990, petitioner requested that the Department postpone the preliminary determinations by 50 days, *i. e.*, until not later than 210 days after the date of receipt of the petition in accordance with section 733(c) (1) (A) of the Act. Accordingly, we postponed the date of the preliminary determinations until not later than October 31, 1990 (55 FR 37341).

We issued a deficiency letter on September 5, 1990. On September 19, 1990, we received responses to the deficiency letter on behalf of Shandong and Tianjin.

Scope of Investigations

Imports covered by these investigations are HFHTs comprising the following classes or kinds of merchandise: (1) Hammers and sledges with heads over 1.5 kg (3.25 pounds)(hammers/sledges"); (2) bars over 18 inches in length, track tools and wedges ("bars/wedges"); (3) picks and mattocks ("picks/mattocks"); and (4) axes, adzes and similar hewing tools ("axes/adzes"). HFHTs are currently provided for under the following Harmonized Tariff System (HTS) subheadings: 8205.20.60, 8205.59.30, 8201.30.00, and 8201.40.60. These investigations do not include hammers and sledges with heads 1.5 kg (3.25 pounds) in weight and under, hoes and rakes, or bars 18 inches in length and under.

Period of Investigation

The period of investigation (POI) is November 1, 1989, through April 30, 1990.

Best Information Available

We have determined, in accordance with section 776(c) of the Act, that the use of best information available is appropriate for sales of the subject merchandise in these investigations. In deciding what to use as best information available, 19 CFR 353.37(b) provides that the Department may take into account whether a party refused to provide requested information. Thus, the Department determines on a case-by-case basis what is best information available.

For two of its trading branches, Shandong and Tianjin, CMC has failed to provide much of the information requested. CMC failed to provide shipment dates, payment dates, explanation of containerization expenses, and explanation of loading expenses for either Shandong or Tianjin. For Tianjin, production quantity by factory and type of steel used for each product were not reported. CMC failed to provide explanation of Shandong's production process for splitting mauls for one factory and most of the information requested for packing for two factories.

Moreover, much of the information that was provided on behalf of Shandong and Tianjin was not in the form required. For both Shandong and Tianjin, many of the data fields submitted on computer diskette were formatted in a manner that did not permit manipulation of the data contained therein. CMC did not report Shandong's material input data for steel on a product-specific basis, nor did CMC specify whether Shandong's material inputs included allowances for "odd pieces." CMC also failed to report Shandong's energy costs per product or to clarify the size of its splitting mauls in its production data. CMC did not report the transport distance for Tianjins steel on a per-factory basis.

Additionally, for both branches, the quantity and value figures reported in response to section A of our questionnaire differed drastically from the amounts reported in response to section C. Despite our request for clarification in our deficiency letter, CMC failed to reconcile these differences.

Furthermore, although specifically instructed to do so, CMC failed to include sales by Henan in any of its responses.

Also, throughout the course of these investigations, CMC has contended that its three trading branches are actually independent corporate entities. The Department has repeatedly requested substantive proof that the branches are independent. CMC failed to provide adequate proof, however, and the Department instructed CMC to submit a consolidated response for all three branches. CMC ignored our instructions and continued to file separate responses for each of the trading branches. Because the technical deficiencies found in the responses are enough to support our use of best information available, there is no need to further address this issue, nor consider its effect on our decision to use best information available.

We determined that the best information available was information submitted by the petitioner. We used an average of the margins contained in the petition, for each class or kind of merchandise, as the basis for best information available.

We note that for the margins contained in the petition, no adjustment had been made for credit expenses and that the average margin for axes/adzes had been calculated incorrectly.

Therefore, based on credit information included in the petition, we recalculated average margins for each class or kind of merchandise, adjusting for differences in credit costs. We also corrected the error in the calculation of the average margin for axes/adzes.

Critical Circumstances

Petitioner alleged that "critical circumstances" exist with respect to imports of HFHTs from the PRC. Section 733(e)(1) of the Act provides that critical circumstances exist when we determine that there is a reasonable basis to believe or suspect that:

(A)(i) there is a history of dumping in the United States or elsewhere of the class or kind of the merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) There have been massive imports of the merchandise which is the subject of the investigation over a relatively short period.

We generally consider the following factors in determining whether imports have been massive over a relatively short period of time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of the domestic consumption accounted for by imports.

In determining knowledge of dumping we normally consider margins of 25 percent or more sufficient to impute knowledge of dumping under section 735(a)(3)(A). *See, e.g., Final Determination of Sales at Less Than Fair Value; Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Italy* (52 FR 24198, June 29, 1987). Because we are relying on the petition for purposes of our determinations regarding sales at less than fair value (*see* Best Information Available section of this notice), we have also relied on the petition as best information available in determining knowledge of dumping.

Average margins contained in the petition for hammers/sledges, bars/wedges, and picks/mattocks exceed 25 percent. Therefore, in accordance with section 735(a)(3)(A)(ii), we determine that knowledge of dumping existed for these three classes or kinds.

Because of serious inconsistencies in CMC's quantity and value data (*see* Best Information Available section of this notice), we have relied upon best information available for determining whether there have been massive imports. As best information, we compared the Commerce Department import statistics for the four-month period beginning with the month the petition was filed with the four-month period prior to the month the petition was filed. The first period, running from April through July, represents the months from the beginning of the investigations until the most recent month for which Commerce Department import statistics are available. We have chosen this time period because it is the period in which respondent could take advantage of its knowledge of the dumping investigations to increase exports to the United States without being subject to antidumping duties. (*See, e.g., Final Determinations of Sales at Less Than Fair Value; Certain Internal-Combustion, Industrial Forklift Trucks from Japan*, 53 FR 12552, April 15, 1988).

For two classes or kinds, hammers/sledges and bars/wedges, we compared Commerce Department import statistics for the periods described above. Based on our analysis of this data, we have found that imports of hammers/sledges and bars/wedges have been massive over a relatively short period of time. The Commerce Department import data for picks/mattocks are based on a basket HTS category for which no quantity information is available. Therefore, we have relied upon the Commerce Department import data for hammers/sledges and bars/wedges as best information available and have assumed that imports of picks/mattocks have also been massive over a relatively short period of time.

We also examined Commerce Department import statistics for hammers/sledges and bars/wedges to ensure that the increase in imports did not simply reflect seasonal trends. The seasonal data did not indicate any seasonal increases in shipments. In fact, data for 1986 and 1989 indicated that April–July imports actually dropped in comparison to December–March imports.

Because the dumping margins for CMC for hammers/sledges, bars/wedges, and picks/mattocks are sufficient to impute knowledge of dumping, and because imports of these three classes or kinds have been massive, in accordance with sections 735(a)(3)(A)(ii) and 735(a)(3)(B), we preliminarily find that critical circumstances exist with respect to hammers/sledges, bars/wedges, and picks/mattocks exported by CMC. We have based our critical circumstances determinations on country-wide import data.

Verification

Because we have rejected CMC's questionnaire response and are using best information available for our determinations, we do not intend to verify CMC's questionnaire response.

Suspension of Liquidation

In accordance with sections 733(d)(1) and 733(e)(2) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of HFHTs from the PRC, as defined in the "Scope of Investigations" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days prior to the date of publication of this notice in the Federal Register. The U.S. Customs service shall require a cash deposit or a bond equal to the estimated preliminary dumping margin, as shown below. The suspension of liquidation will remain in effect until further notice.

All exports of HFHTs from the PRC	Weighted-average margin percentage	Critical circumstances
Hammers/sledges	40.54	Yes.
Bars/wedges	32.80	Yes.
Picks/mattocks	82.65	Yes.
Axes/adzes	16.18	No.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determinations and findings. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to these investigations. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms in writing that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration. If our final determinations are affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry before the later of 120 days after the date of these preliminary determinations or 45 days after our final determinations.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary no later than October 22, 1990, and rebuttal briefs no later than October 29, 1990. In accordance with 19 CFR 353.38(b), we

will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. The hearing will be held at 1 p.m. on October 31, 1990, at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue NW., Washington, DC 20230. Interested parties who wish to participate in the hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, room B-099 within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentations will be limited to arguments raised in the briefs.

These determinations are published pursuant to section 733(f) of the Act (19 U.S.C. 1673(f)).

Dated: October 11, 1990.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-24651 Filed 10-18-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-087]

Portable Electric Typewriters From Japan; Court of Appeals for the Federal Circuit Decision Concerning the Scope of the Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of Court of Appeals for the Federal Circuit Decision concerning the scope of the antidumping duty order.

SUMMARY: On March 18 and November 23, 1988, in accordance with orders of the Court of International Trade ("CIT"), the Department of Commerce ("the Department") submitted to the CIT final results of a revised determination with respect to the scope of the antidumping duty order. In the revised determination we determined that automatic portable typewriters and portable electric typewriters incorporating a calculating mechanism are within the scope of the antidumping duty order. The CIT affirmed this determination on February 3, 1989. The CIT's order was appealed to the Court of Appeals for the Federal Circuit ("CAFC").

On April 5, 1990, in accordance with the CAFC's decision in *The Timken Company* v. *United States*, the Department issued a notice of the CIT's decision. *See* 55 FR 12701. We also instructed Customs to suspend liquidation of all unliquidated entries of automatic portable electric typewriters and portable electric typewriters incorporating a calculating mechanism, entered, or withdrawn from warehouse, for consumption on or after February 3, 1989.

On September 28, 1990, the CAFC affirmed the decision of the CIT that automatic portable electric typewriters are within the scope of the antidumping duty order.

EFFECTIVE DATE: October 19, 1990.

FOR FURTHER INFORMATION CONTACT: Tom Prosser or Maureen Flannery, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On December 31, 1987, the Court of International Trade ("CIT") in *Smith Corona Corporation* v. *United States* (Slip Op. 87-145) remanded to the Department of Commerce ("the Department") for redetermination the scope of the *Antidumping Duty Order on Portable Electric Typewriters from Japan*, 45 FR 30618 (May 9, 1980). The CIT ordered the Department to reconsider its scope determination made in *Portable Electric Typewriters from Japan; Final Results of Antidumping Administrative Review*, 52 FR 1504 (January 14, 1987), and publish a revised determination as to whether automatic portable electric typewriters, that is, those incorporating text memory, or portable electric typewriters incorporating a calculating mechanism, are within the scope of the May 9, 1980 antidumping duty order.

On March 18, 1988, the Department filed a revised scope determination with the Court, in which it determined that non-automatic portable electric typewriters incorporating a calculating mechanism are within the scope of the May 9, 1980 antidumping duty order and that automatic portable electric typewriters are not within the scope of that order.

After reviewing the Department's revised scope determination, the CIT, on September 20, 1988, in *Smith Corona Corporation* v. *United States* (Slip Op. 88-127), affirmed the Department's decision that non-automatic portable electric typewriters incorporating a calculating mechanism are included within the scope of the antidumping duty order, but reversed the Department's determination that automatic portable electric typewriters are not within the scope of the order. On November 23, 1988, based on the Court's instruction to the Department on September 20, 1988 to issue a redetermination on the issue of automatic portable electric typewriters, the Department determined that automatic portable electric typewriters are within the scope of the antidumping duty order.

On February 3, 1989 (Slip Op. 89-14), the CIT affirmed the Department's November 23, 1988 determination with respect to automatic portable electric typewriters, and the Department's March 18, 1988 determination with respect to non-automatic portable electric typewriters incorporating a calculating mechanism.

On April 3, 1989, respondents appealed the CIT's decision in the Court of Appeals for the Federal Circuit ("CAFC"). On April 5, 1990, pursuant to a CAFC decision in *The Timken Company* v. *United States*, 893 F.2d 337 (Fed. Cir. 1990), reh'g denied, (March 12, 1990), the Department issued a notice of the CIT's decision. We thereupon instructed the Customs Service to suspend liquidation of all unliquidated entries of automatic portable electric typewriters and portable electric typewriters incorporating a calculating mechanism entered, or withdrawn from warehouse, for consumption on or after February 3, 1989.

On September 28, 1990 the CAFC affirmed the decision of the CIT that automatic portable electric typewriters are within the scope of the May 9, 1980 antidumping duty order on portable electric typewriters from Japan.

Suspension of Liquidation

In accordance with the conclusive decision from the CAFC on the scope of the antidumping duty order, we are instructing the Customs Service to continue to suspend liquidation of all unliquidated entries of automatic portable electric typewriters and portable electric typewriters incorporating a calculating mechanism which were entered, or withdrawn from warehouse, for consumption on or after February 3, 1989. Additionally, we are instructing Customs to collect cash deposits of estimated antidumping duties for all such merchandise entered, or withdrawn from warehouse, for consumption on or after September 28, 1990. Cash deposits will be based on the margins currently in effect for each manufacturer/exporter. (*See Portable Electric Typewriters from Japan; Final Results of Antidumping Duty Administrative Review*, October 19, 1990.)

Dated: October 9, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration

[FR Doc. 90-24223 Filed 10-18-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-428-807 and A-412-806]

Preliminary Determinations of Sales at Less Than Fair Value: Sodium Thiosulfate from the Federal Republic of Germany and the United Kingdom

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that imports of sodium thiosulfate from the Federal Republic of Germany and the United Kingdom are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determinations and have directed the U.S. Customs Service to suspend liquidation of all entries of sodium thiosulfate from the Federal Republic of Germany and the United Kingdom, as described in the "Suspension of Liquidation" section of this notice. The statutory deadline for the final determinations is December 28, 1990. However, we may expedite these determinations.

EFFECTIVE DATE: October 19, 1990.

FOR FURTHER INFORMATION CONTACT: Kate Johnson or Steve Alley, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-4103 or (202) 377-1766, respectively.

SUPPLEMENTARY INFORMATION:

We preliminarily determine that imports of sodium thiosulfate from the Federal Republic of Germany and the United Kingdom are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice. The statutory deadline for the final determinations is December 28, 1990. However, we may expedite these determinations.

Case History

We initiated these investigations under the name "Certain Sulfur Chemicals from the Federal Republic of Germany, the United Kingdom, Turkey, and the People's Republic of China" (55 FR 32119 August 7, 1990). The scope of investigation, defined in the notices of initiation, included both sodium thiosulfate and sodium metabisulfite.

On August 29, 1990, the ITC published its determination that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from the Federal Republic of Germany, the United Kingdom and the People's Republic of China of sodium thiosulfate (55 FR 34373). The ITC also determined that there is no reasonable indication that an industry in the United States is threatened with material injury by reason of imports from Turkey of sodium thiosulfate. In addition, the ITC determined that there is no reasonable indication that an industry in the United States is threatened with material injury by reason of imports from the Federal Republic of Germany, the United Kingdom, Turkey, and the People's Republic of China of sodium metabisulfite.

As a result, the investigations of sodium metabisulfite from the Federal Republic of Germany, the United Kingdom, Turkey, and the People's Republic of China, and the investigation of sodium thiosulfate from Turkey terminated, and the remaining investigations are renamed "Sodium Thiosulfate from the Federal Republic of Germany, the United Kingdom, and the People's Republic of China."

On September 4, 1990, the Department's questionnaire was presented to William Blythe & Co., Ltd. (Blythe). This manufacturer accounted for almost all exports of the subject merchandise from the United Kingdom during the period of investigation (POI).

On September 10, 1990, the Department's questionnaire was received by Th. Goldschmidt AG (Goldschmidt). This manufacturer accounted for more than 60 percent of the imports of the subject merchandise to the United States from the Federal Republic of Germany during the POI. There were no imports into the United States during the POI from the former German Democratic Republic.

On September 19, 1990, Blythe submitted a letter notifying the Department that it would not respond to the Department's questionnaire. Likewise, on October 5, 1990, Goldschmidt submitted a letter notifying the Department that it would not respond to the Department's questionnaire.

Because representatives of the People's Republic of China have indicated that exporters of sodium thiosulfate may still respond to our questionnaire, we will make our preliminary determination on sodium thiosulfate from the People's Republic of China at a later date.

On September 28, 1990, Blythe requested that the Department investigate whether petitioner has standing. Blythe cites *Saramerica de Aleaciones Laminadas, C.A.* v. *U.S.*, Slip. Op. 90-79 at 32 (CIT Aug. 22, 1990), in which the Court of International Trade held that the Department cannot presume industry support for a petition. This issue is addressed in the Standing section, below.

On October 3, 1990, Blythe requested that the Department not find critical circumstances with respect to Blythe. Blythe submitted company-specific shipment data and United Kingdom export statistics that, according to Blythe, indicate that critical circumstances are not present. This issue is addressed in the Critical Circumstances section, below.

Scope of Investigation

The products covered by these investigations are all grades of sodium thiosulfate, in dry or liquid form, used primarily to dechlorinate industrial waste water. The chemical composition of sodium thiosulfate is $Na_2S_2O_3$. Sodium thiosulfate is currently classifiable under Harmonized Tariff Schedule (HTS) subheading 2832.30.1000. The HTS subheadings are provided for convenience and U.S. Customs Service purposes. The written description remains dispositive.

Period of Investigation

The period of investigation is February 1, 1990, through July 31, 1990.

Standing

There is nothing in the statute, its legislative history, or our regulations which requires that petitioners establish affirmatively that they have the support of a majority of their industries. In many cases, such a requirement would be so onerous as to preclude access to import relief under the countervailing and antidumping duty laws. Therefore, consistent with our past practice (see, for example, Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Hollow Products from Sweden (52 FR 5794, February 26, 1987); Final Affirmative Countervailing Duty Determination: Certain Fresh Atlantic Groundfish from Canada (51 FR 10041, March 24, 1986); and Frozen Concentrated Orange Juice from Brazil: Final Determination of Sales at Less than Fair Value (52 FR 8324, March 17, 1987)), we have preliminarily

determined that the petitioner does not lack standing.

Fair Value Comparisons

To determine whether sales of sodium thiosulfate from the Federal Republic of Germany and the United Kingdom to the United States were made at less than fair value, we used best information available as required by section 776(c) of the Act because Blythe and Goldschmidt declined to respond to the Department's request for information. We determined that the best information available was information submitted by the petitioner.

For the United Kingdom, we used a simple average of both margins listed in the petition for sodium thiosulfate for the period of investigation. We adjusted the U.S. price and foreign market value for one sale of sodium thiosulfate pentahydrate in the United Kingdom for clerical errors found in the petition.

For the Federal Republic of Germany, we used the only margin listed in the petition for sodium thiosulfate for the period of investigation.

Critical Circumstances

Petitioner alleges that "critical circumstances" exist with respect to imports of the subject merchandise from the Federal Republic of Germany and the United Kingdom. Section 733(e)(1) of the Act provides that critical circumstances exist if we determine that there is a reasonable basis to believe or suspect that:

(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Pursuant to section 733(e)(1)(B), we generally consider the following factors in determining whether imports have been massive over a short period of time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by imports.

Since Blythe and Goldschmidt failed to participate in these investigations, we have preliminarily determined that critical circumstances exist based on best information available. As best information available, we are assuming that imports of sodium thiosulfate have been massive over a relatively short period of time. The available import statistics compiled by the U.S. Department of Commerce do not allow us to measure the level of imports since the filing of the petition. Assuming that additional data becomes available, we will reconsider these findings in our final determinations.

Given that Blythe notified the Department that it would not participate in the investigation, we did not rely on the company-specific shipment information it submitted because such information will not be verified. We did not rely on the United Kingdom export statistics submitted by Blythe because they covered a period only through August 1990. These statistics were insufficient to measure import levels subsequent to the filing of the petition. Assuming that Blythe submits additional official U.K. export data, we will reconsider this data in our final determination.

In determining knowledge of dumping the Department normally considers margins of 25 percent or more sufficient to impute knowledge of dumping under section 735(a)(3)(A). *See, e.g., Final Determination of Sales at Less Than Fair Value; Tapered Roller Bearings and Parts Therefor, Finished or Unfinished, from Italy* (52 FR 24198 June 29, 1987). Because the dumping margins alleged in the petition for both Blythe and Goldschmidt exceed 25 percent, this condition is satisfied.

Therefore, in accordance with sections 735(a)(3)(A)(ii) and 735(a)(3)(B), we preliminarily determine that critical circumstances exist with respect to both Blythe and Goldschmidt.

With respect to firms covered by the "All Other" rate, we have determined that imports of sodium thiosulfate have not been massive over a relatively short period of time. As such, we preliminarily determine that critical circumstances do not exist for those firms.

Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of sodium thiosulfate from Goldschmidt and Blythe, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days prior to the date of publication of this notice in the Federal Register. Also in accordance with section 733(d)(1) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all other entries of sodium thiosulfate from the Federal Republic of Germany and the United Kingdom, as defined in the "Scope of Investigation" section of this notice, that are entered or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal Register. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated preliminary dumping margin, as shown below. The suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Margin percentage
United Kingdom:	
William Blythe & Co., Ltd.	50.62
All Others	50.62
Federal Republic of Germany:	
Th. Goldschmidt AG	100.40
All others	100.40

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determinations. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to these investigations. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms in writing that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

If our final determinations are affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry before the later of 120 days after the date of these preliminary determinations or 45 days after our final determinations.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than November 5, 1990, and rebuttal briefs no later than November 8, 1990. In accordance with 19 CFR 353.38(b), we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. The hearing will be held at 10 a.m. on November 15, 1990, at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Interested parties who wish to participate in the hearing must submit a written request to the Assistant Secretary for Import

Administration, U.S. Department of Commerce, room B-099 within 10 days of the publication of this notice. Requests should contain:

(1) The party's name, address, and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentations will be limited to arguments raised in the briefs.

These determinations are published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

Dated: October 11, 1990.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-24652 Filed 10-18-90; 8:45 am]

BILLING CODE 3510-DS-M

COMMISSION ON MINORITY BUSINESS DEVELOPMENT

[90-M-7]

Hearings

AGENCY: Commission on Minority Business Development.

ACTION: Notice of public hearing.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act that a public hearing of the Commission on Minority Business Development will be held on Friday, October 26, 1990 in Cincinnati, Ohio. The hearing is open to the public.

The October 26th hearing will convene at 9 a.m. at the City Council Chambers, City Hall, 8th and Plum Streets, Cincinnati, Ohio.

The public hearing is for the purpose of receiving testimony from public and private sector decision-makers and entrepreneurs, professional experts, corporate leaders and representatives of key interest groups and organizations concerned about minority business development and participation in Federal programs and contracting opportunities.

The Commission was established by Public Law 100-656, for purposes of reviewing and assessing Federal programs intended to promote minority business and making recommendations to the President and the Congress for such changes in laws or regulations as may be necessary to further the growth and development of minority businesses.

FOR FURTHER INFORMATION CONTACT: Arlene Pinkney or Connie K. McCracken at 202-523-0330 at the Commission on Minority Business Development, 730 Jackson Place, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION: Transcripts of hearings will be available for public inspection during regular working hours at 730 Jackson Place, NW., Washington, DC 20006 approximately 30 days following the hearing.

André M. Carrington,

Executive Director.

[FR Doc. 90-24644 Filed 10-18-90; 8:45 am]

BILLING CODE 6820-FS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of a Request for Bilateral Textile Consultations With the Government of Nepal

October 9, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on categories on which consultations have been requested, call (202) 377-3740.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On September 25, 1990, under section 204 of the Agricultural Act of 1956, as amended, the Government of the United States requested consultations with the Government of Nepal regarding imports of men's and boys' woven shirts in Category 640, produced or manufactured in Nepal.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations with the Government of Nepal, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of shirts in Category 640, produced or manufactured in Nepal and exported during the twelve-month period which began on September 25, 1990 and extends through September 24, 1991, of not less than 73,525 dozen.

A summary market statement concerning Category 640 follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Category 640, or to comment on domestic production or availability of products included in Category 640, is invited to submit 10 copies of such comments or information to Auggie D. Tantillo, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230, ATTN: Public Comments.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

The United States remains committed to finding a solution concerning Category 640. Should such a solution be reached in consultations with the Government of Nepal, further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 54 FR 50797, published on December 11, 1989).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Market Statement—Men's and Boys' Man-Made Fiber Woven Shirts

Category 640

Nepal, September 1990.

Import Situation and Conclusion

U.S. imports of men's and boys' man-made fiber woven shirts (Category 640) from Nepal reached 73,525 dozen during the year ending June 1990, 61 percent above the 45,669 dozen imported during the same period of 1989. During the first six months of 1990, imports of Category 640 from Nepal reached 31,282 dozen, nearly five times the 12,726 dozen imported during the corresponding

period in 1989 and two and one-half times greater than the 24,000 dozen imported during calendar year 1989. Nepal is the largest uncontrolled supplier of men's and boys' man-made fiber woven shirts to the U.S.

The sharp and substantial increase in Category 640 imports from Nepal is causing disruption in the U.S. market for men's and boys' man-made fiber woven shirts.

U.S. Production and Market Share

U.S. production of men's and boys' man-made fiber woven shirts (Category 640) fell from 9,750 thousand dozen in 1987 to 7,052 thousand dozen in 1989, a decline of 28 percent. The share of this market held by domestic manufacturers fell from 43 percent in 1987 to 38 percent in 1989, a decline of 5 percentage points.

U.S. Imports and Import Penetration

U.S. imports of men's and boys' man-made fiber woven shirts (Category 640) increased from 10,098 thousand dozen during the year ending June 1989 to 11,187 thousand dozen during the year ending June 1990, a 2 percent increase. The ratio of imports to domestic production increased to 161 percent in 1989, 27 percentage points above the 134 percent in 1987.

Duty-Paid Value and U.S. Producer's Price

Approximately 95 percent of Category 640 imports from Nepal during the first six months of 1990 entered under HTSUSA Number 6205.30.2070—men's man-made fiber woven shirts, other than dress type shirts and other than of yarn-dyed fabric. These shirts entered the U.S. at landed duty-paid values below U.S. producers' prices for comparable garments.

[FR Doc. 90-24654 Filed 10-18-90; 8:45 am]
BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Proposed Additions to Procurement List 1990; Extension of Comment Period

The period for submitting comments on the proposed additions to the Procurement List appearing on page 41741 of FR Doc. 90-24146 in the issue of Monday, October 15, 1990, is extended until November 14, 1990.

Beverly L. Milkman,
Executive Director.

[FR Doc. 90-24775 Filed 10-18-90; 8:45 am]
BILLING CODE 6820-33-M

Additions to Procurement List 1990; Extension of Effective Date

The effective date of the additions to the Procurement List appearing on page 41740 of FR Doc. 90-24147 in the issue of Monday, October 15, 1990, is extended until November 14, 1990.

Beverly L. Milkman,
Executive Director.

[FR Doc. 90-24776 Filed 10-18-90; 8:45 am]
BILLING CODE 6820-33-M

Procurement List 1990; Additions to and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and deletions from procurement list.

SUMMARY: This action adds to and deletes from Procurement List 1990 commodities to be produced and services to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: November 19, 1990.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: On May 4, July 20, 27 and August 31, 1990, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (55 FR 18743, 29647, 30745 and 35706) of proposed additions to and deletions from Procurement List 1990, which was published on November 3, 1989 (54 FR 46450).

Additions

A comment was received from one of the current contractors for the glass cleaner. The contractor alleged that the proposed addition, when combined with two earlier additions to the Procurement List, would have a significant impact upon the firm's sales. However, the Committee determined that the actual impact of the proposed addition upon this company would not constitute serious adverse impact.

During the development stage, a current contractor indicated in a letter to the Committee that the addition of the wet weather poncho to the Procurement List would have a severe impact on the health of his business. After reviewing all data available to it on this point, the Committee has determined that the current contractor will not sustain serious adverse impact as a result of the addition of this commodity to the Procurement List. After consideration of the material presented to it concerning capability of qualified workshops to produce the commodities and provide the services at a fair market price and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.
b. The actions will not have a serious economic impact on any contractors for the commodities and services listed.
c. The actions will result in authorizing small entities to produce the commodities and provide the services procured by the Government.

Accordingly, the following commodities and services are hereby added to Procurement List 1990:

Commodities

Cover, Protective
1430-00-082-0054
1430-00-084-3086
1440-01-152-7790
(Remaining Government Requirement)

Harness, Safety Shoulder
2540-00-133-1263

Clamp, Loop
5340-01-155-5481

Cover, Fire Extinguisher
5340-00-419-2288
(Remaining Government Requirement)

Strap, Webbing
5340-00-001-1288
5340-00-082-6087
5340-00-085-4489
(Remaining Government Requirement)

Cleaner, Glass
7930-00-801-3088

Poncho, Wet Weather
8405-00-290-9650

Services

Janitorial/Custodial—Marine Corps Combat Development Command, Buildings 2008, 2010, 3040 and 3087, Quantico, Virginia

Tub and Burlap Washing—Rogue River National Forest, J. Herbert Stone Nursery, Central Point, Oregon

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under the contracts.

Deletions

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.6.

Accordingly, the following commodities are hereby deleted from Procurement List 1990:

Paper Set, Manifold and Carbon
7530-00-401-6010
7530-01-072-2536
7530-01-072-2537
7530-01-072-2538
7530-01-072-2539
[Requirements for GSA Regions W, 4 and 6]

Beverly L. Milkman,
Executive Director.

[FR Doc. 90-24777 Filed 10-18-90; 8:45 am]
BILLING CODE 6820-33-M

Procurement List 1990; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1990 commodities to be produced by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: November 19, 1990.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities to Procurement List 1990, which was published on November 3, 1989 (54 FR 46540):

Cover, Mattress Pad
7210-00-118-6010

Liner, Night Camouflage Parka
8415-01-102-4487
8415-01-102-4488
8415-01-102-4683
8415-01-102-4684
8415-01-102-4685

Overalls, Bib
8415-01-228-1325
8415-01-228-1324
8415-01-228-1325
8415-01-228-1326
8415-01-228-1327
8415-01-228-1328
8415-01-228-1329
8415-01-228-1330
8415-01-228-1331
8415-01-228-1332
(43 percent of the Government's requirement)

Beverly L. Milkman,
Executive Director.

[FR Doc. 90-24778 Filed 10-18-90; 8:45 am]
BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Acquisition Streamlining; Meeting

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on Acquisition Streamlining will meet in closed session on 5, 6 and 7 November, 1990, at Science Applications International Corporation (SAIC), McLean, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. This meeting will address Phases 1 and 2 of the study. Data containing classified information from over 100 weapon system development programs will be reviewed during the meeting.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Dated: October 15, 1990.

Linda M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-24557 Filed 10-18-90; 8:45 am]
BILLING CODE 3810-01-M

Defense Science Board Task Force on Advanced Naval Warfare Concepts; Meeting

ACTION: Notice of Advisory Committee meeting.

SUMMARY: The Defense Science Board Task Force on Advance Naval Warfare Concepts will meet in closed session on 14 November, 1990, at the Center for Naval Analyses, Alexandria, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Task Force will examine advanced naval warfare concepts and assess relevant technology, equipment, and modernization plans.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Dated: October 15, 1990.

Linda M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-24558 Filed 10-18-90; 8:45 am]
BILLING CODE 3810-01-M

Defense Science Board Task Force on Anti-Submarine Warfare; Meeting

ACTION: Notice of Advisory Committee meeting.

SUMMARY: The Defense Science Board Task Force on Anti-Submarine Warfare will meet in closed session on 20 November, 1990, at the Center for Naval Analyses, Alexandria, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Task Force will receive briefings on future anti-submarine warfare programs and current plans and deliberate on preliminary findings.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Task Force meeting concerns matters listed in 5

U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Dated: October 15, 1990.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-24659 Filed 10-18-90; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Chemical Weapons Policy; Meeting

ACTION: Notice of Advisory Committee meeting.

SUMMARY: The Defense Science Board Task Force on Chemical Weapons Policy will meet in closed session on 16 November, 1990, at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Task Force will deliberate on briefings received to date and begin formulation of findings and recommendations.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Dated: October 15, 1990.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-24660 Filed 10-18-90; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before November 19, 1990.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to James O'Donnell, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: James O'Donnell, (202) 708-5174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Acting Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from James O'Donnell at the address specified above.

Dated: October 15, 1990.

James O'Donnell,

Acting Director, for Office of Information Resources Management.

Office of Planning, Budget and Evaluation

Type of Review: New.
Title: Case Study of the Chelsea School Project's Implementation—Teacher Survey.
Frequency: One-time.
Affected Public: Individuals or households.
Reporting Burden:
Responses: 290.
Burden Hours: 73.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: The purpose of this survey is to identify teacher perceptions regarding the needs of the Chelsea School System and the impact of the project. The Department uses the data to assess the accomplishments and program goals.

Office of Postsecondary Education

Type of Review: Revision.
Title: Guaranteed Student Loan Tape Dump.
Frequency: Annually.
Affected Public: State or local governments; Non-profit institutions.
Reporting Burden:
Responses: 36.
Burden Hours: 55368.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: This information is collected to describe the characteristics of borrowers under the Guaranteed Student Loan (GSL) Program and to monitor borrower fraud and abuse in the programs. The Department uses this information to report to Congress.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.
Title: Application or Written Request for Assistant for Client Assistance Program.
Frequency: Triennial.
Affected Public: State or local governments.
Reporting Burden:
Responses: 5.
Burden Hours: 1.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: This form is used by State Educational agencies to request funding under the Client Assistance Program (CAP). The Department uses the information to make grant awards.

[FR Doc. 90-24672 Filed 10-18-90; 8:45 am]

BILLING CODE 4000-01-M

Projects With Industry

AGENCY: Department of Education.

ACTION: Correction notice.

SUMMARY: On October 3, 1990, a notice of final funding priorities for fiscal year 1991 for the Projects With Industry program was published in the Federal Register.

On page 40630, in the first column, a line affecting the last two sentences of "Priority 7: The Older Disabled Worker" was inadvertently omitted. The

sentences should read: "Accordingly, priority will be given to projects that provide specialized service programs that meet the competitive employment needs of individuals in this age group who have severe or other disabilities. Project services must include training, supportive services, job development, and placement services."

Dated: October 15, 1990.

Robert R. Davila,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 90-24574 Filed 10-18-90; 8:45 am]

BILLING CODE 4000-01-M

Office of Postsecondary Education

[CFDA Nos: 84.044 and 84.066A]

Grants and Cooperative Agreements; Availability, etc.: Talent Search and Educational Opportunity Centers Programs; Application Preparation Workshop

AGENCY: Department of Education.

ACTION: Notice of application preparation workshop.

SUMMARY: The Department of Education will conduct an Application Preparation Workshop to assist prospective applicants in developing applications for the Talent Search and Educational Opportunity Centers programs for fiscal year 1991. The workshop will be held on November 9, 1990 at the GSA Auditorium located at 7th and D Streets SW., Washington, DC, from 8:30 a.m.–3 p.m.

FOR FURTHER INFORMATION CONTACT: Goldia D. Hodgdon, Chief, Education Outreach Branch, Division of Student Services, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 3060, Regional Office Building 3), Washington, DC 20202–5249. Telephone: (202) 708–4804.

Program Authority: 20 U.S.C. 1070, 1070d–1a and 20 U.S.C. 1070d, 1070d–1c.

Dated: October 12, 1990.

Leonard L. Haynes III,

Assistant Secretary for Postsecondary Education.

[FR Doc. 90-24573 Filed 10-18-90; 8:45 am]

BILLING CODE 4000-01-M

Fund for the Improvement and Reform of Schools and Teaching Board; Meeting

AGENCY: Fund for the Improvement and Reform of Schools and Teaching Board, Education.

ACTION: Notice of an open meeting.

SUMMARY: This notice sets forth the schedule and agenda of a forthcoming meeting of the Fund for the Improvement and Reform of Schools and Teaching Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE AND TIME: November 8, 1990, 9 a.m.–5 p.m., November 9, 1990, 9 a.m.–11:30 a.m.; November 9, 1990, 11:45 a.m.–12:30 p.m.

ADDRESSES: U.S. Department of Education, OERI, 555 New Jersey Avenue NW., room 328, Washington, DC 20208–5524.

FOR FURTHER INFORMATION CONTACT: Richard T. La Pointe, Director, Fund for the Improvement and Reform of Schools and Teaching, U.S. Department of Education, 555 New Jersey Avenue NW., room 522, Washington, DC 20208–5524, (202) 357–6496 before October 26, 1990 and (202) 219–1496 after October 26, 1990.

SUPPLEMENTARY INFORMATION: The Fund for the Improvement and Reform of Schools and Teaching (FIRST) Board was established under section 3231 of the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100–297). The Board was established to advise the Secretary concerning developments in education that merit his attention; identify promising initiatives to be supported under the authorizing legislation; and advise the Secretary and the Director of the Fund on the selection of projects under consideration for support, and on planning documents, guidelines and procedures for grant competitions carried out by the Fund.

On November 8, 1990, the Board will introduce and swear in new Board members, approve the minutes from the January meeting, discuss progress of selected 1989 projects, review the 1990 grants and grant competition process, discuss FIRST information outreach strategies, review the Technical Assistance/Dissemination Contract, and evaluate outcomes from the Fund for the Improvement of Postsecondary Education (FIPSE) and FIRST Conference held in September.

On November 9, 1990, the agenda includes: Strategies for improving procedures for grant competitions, priorities for the improvement of education, discussion and selection of a nominating committee and election for new officers, and briefing/orientation for new members. The meeting will conclude with a discussion of upcoming agenda for and date of the next Board meeting.

Records are kept of all Board proceedings, and are available for public inspection at the office of the Fund for the Improvement and Reform of Schools and Teaching, U.S. Department of Education, 555 New Jersey Avenue NW., room 522, Washington, DC 20208–5524, (202) 357–6496 before October 26, 1990 and (202) 219–1496 after October 26, 1990 from the hours of 8:30 am–5 pm.

Dated: October 16, 1990.

Christopher T. Cross,

Assistant Secretary, Office of Educational Research and Improvement.

[FR Doc. 90-24503 Filed 10-18-90; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Chicago Operations Office; Award Based on Acceptance of Unsolicited Application; Virginia Polytechnic Institute

AGENCY: Department of Energy.

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: The Department of Energy (DOE), Chicago Operations Office, announces it intends to award a grant to Virginia Polytechnic Institute and State University (VPI). VPI's unsolicited application was found to be meritorious by DOE based on the evaluation criteria set forth in 10 CFR 600.14(d) (1), (2), (3), and (e)(1) (i) and (ii) and is being accepted as it represents a unique, innovative idea, method and approach which would not otherwise be eligible for financial assistance under any recent, current, or planned solicitation. The objective of the work to be supported by this grant is to develop a new management strategy for Government Program Office (GPO) managers which takes a holistic approach to management rather than a post-classical compartmentalized approach. VPI will develop a Grand Strategy System through the research and development (R&D) of new tools and methods designed to meet the needs of a new management approach and will demonstrate the success of the system by using the DOE Office of New Production Reactors (NP) as a real-world laboratory test case.

FOR FURTHER INFORMATION CONTACT: Marlene R. Ferrari, U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439, (708) 972–2080.

SUPPLEMENTARY INFORMATION: The mission of NP's is to provide new production reactor capacity on an urgent schedule for an assured supply of nuclear materials, primarily tritium, to maintain the nation's nuclear deterrent capability. The Department's strategy is to design, build, and operate a heavy water reactor at the Savannah River site in South Carolina and a modular high-temperature gas-cooled reactor plant at the Idaho National Engineering Laboratory in Idaho. NP was uniquely established as a project-oriented organization with singular missions and objectives which dictate that it be managed, justified, and funded as a production program and not as a research or demonstration program. This unique status required a different management philosophy. The success of the program will depend on how well the program participants are organized and managed in the performance of their jobs. Managing a major government program such as NP in the new and current environment is not a well established or documented process. The benefits of the proposed R&D will help GPOs, or equivalent organizations, effectively apply resources, proactively avert crises, and move efficiently toward their strategic and operational objectives. The project period for the grant is for a five-year period, expected to begin in October 1990. DOE plans to provide funding in the amount of $9,869,227.00 for this project period.

Issued in Chicago, Illinois, on October 9, 1990.

Edwin H. Hendricks,

Deputy Assistant Manager for Administration.

[FR Doc. 90-24761 Filed 10-18-90; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of requests submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. 96-511, 44 U.S.C. 3501 *et seq.*). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, extension, or reinstatement; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses per respondent annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed on or before November 19, 1990. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395-3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT: Jay Casselberry, Office of Statistical Standards (EI-73) Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mr. Casselberry may be telephoned at (202) 586-2171.

SUPPLEMENTARY INFORMATION: The first energy information collection submitted to OMB for review was:

1. Energy Information Administration
2. EIA-254, EIA-851, and EIA-858
3. 1905-0160
4. Nuclear and Uranium Data Program Package
5. Revision—Only Form EIA-858 is being proposed for revision at this time. Various modifications are proposed for the data collected on schedules A and B of the EIA-858. No changes are proposed for schedule C. The remaining information applies only to Form EIA-858.
6. Annually
7. Mandatory
8. Businesses or other for profit, and Small businesses or organizations
9. 150 respondents
10. 150 responses
11. 32 hours per response
12. 4,800 hours
13. Forms EIA-858 collects data on uranium exploration activities, reserves, production, processing, marketing, inventories, shipments, and projections of future requirements. EIA-858 also collects information on the financial status of major uranium industry companies. Data are used to determine the viability of the domestic uranium industry. Respondents are firms in the uranium business.

The second energy information collection submitted to OMB for review was:

1. FERC; DOE/Office of Policy Planning and Analysis; DOE/Fossil Energy (The form is also sponsored by the Environmental Protection Agency (EPA) and the Department of Commerce's Bureau of Economic Analysis (BEA). These agencies will submit their requests for OMB approval separately to OMB.
2. EIA-767
3. 1902-0034; 1901-0237; 1901-0292
4. Steam-Electric Plant Operation and Design Report
5. Revision
6. Annually
7. Mandatory
8. State or local governments, Businesses or other for profit, Federal agencies or employees
9. 577 respondents
10. 577 responses
11. 68.096 hours per response (average for all sponsors)
12. 39,722 hours (total for all sponsors)
13. Forms EIA-767 collects data on steam-electric generating plants and related environmental data. Data are used by the Department of Energy, FERC, EPA, and BEA in models and to evaluate compliance with the Clean Air Act. Respondents are steam-electric generating plants of 10 megawatts or greater.

Authority: Section 5(a), 5(b), 13(b), and 52, Pub. L. 93-275, Federal Energy Administration Act of 1974, 15 U.S.C. 764(a), 764(b), 772(b), and 790(a).

Issued in Washington, DC, October 15, 1990.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 90-24762 Filed 10-18-90; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER91-14-000, et al.]

Alabama Power Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

October 12, 1990.

Take notice that the following filings have been made with the Commission:

1. Alabama Power Co.

[Docket No. ER91-14-000]

Take notice that on October 9, 1990, Alabama Power Company ("APCo") tendered for filing Amendment No. 1 to the Agreement for Partial Requirements Service and Complementary Services ("PR Agreement") between APCo and the Alabama Municipal Electric Authority ("AMEA"), together with a Second Revised Exhibit E to the PR Agreement. Amendment No. 1 revises the rate design in the PR Agreement to eliminate the demand ratchet, with a corresponding change in the billing demand portion of the rate to neutralize the revenue effect thereof. The parties request that Amendment No. 1 and the Second Revised Exhibit E to the PR Agreement be allowed to become effective for service beginning October 1, 1990.

Comment date: October 26, 1990, in accordance with Standard Paragraph E at the end of this notice.

2. Niagara Mohawk Power Corp.

[Docket No. ER91-16-000]

Take notice that on October 9, 1990, Niagara Mohawk Power Corporation ("Niagara Mohawk") tendered for filing a proposed change to Niagara Mohawk Rate Schedule No. 140, an agreement between Niagara Mohawk and the Orange and Rockland Utilities, Inc. ("O&R").

Rate Schedule No. 140 provides for the wheeling of certain loads by Niagara Mohawk to O&R. The proposed change revises the rates for the wheeling of power and energy by Niagara Mohawk. Niagara Mohawk proposes an effective date of September 1, 1990 and requests waiver of the Commission's notice requirements. In support thereof, Niagara Mohawk states that O&R has consented to this proposed effective date.

Copies of this filing were served upon the Public Service Commission State of New York and Orange and Rockland Utilities, Inc.

Comment date: October 26, 1990, in accordance with Standard Paragraph E at the end of this notice.

3. Northern States Power Co.

[Docket No. ER88-72-000]

Take notice that on October 5, 1990, Northern States Power Company Wisconsin (NSPW) tendered for filing copies of its revised refund and interest calculations in the above referenced docket.

Comment date: October 26, 1990, in accordance with Standard Paragraph E at the end of this notice.

4. Indianapolis Power & Light Co.

[Docket No. ER91-22-000]

Take notice that on October 11, 1990, Indianapolis Power & Light Company (IPL) tendered for filing Amendment No. 3 to the Agreement dated as of October 9, 1986 which sets forth the rates, charges, terms and conditions for wholesale electric service to Boone County Rural Electric Membership Corporation (Boone REMC) which is the only REMC IPS serves. Amendment No. 3 extends the existing Agreement for a successive term of three years which otherwise would terminate December 10, 1990.

The only customer affected by this filing is Boone REMC, which has executed said Amendment No. 3 and has concurred in this filing.

IPL states that copies of this filing were sent to Boone REMC and to the Indiana Utility Regulatory Commission.

Comment date: October 26, 1990, in accordance with Standard Paragraph E at the end of this notice.

5. Florida Power & Light Co.

[Docket No. ER91-15-000]

Take notice that on October 9, 1990, Florida Power & Light Company (FP&L) tendered for filing a Notice of Cancellation to Rate Schedule FERC No. 105 with a requested effective date of September 30, 1990.

FP&L states that copies of this filing have been served upon the Utility Board of the City of Key West, Florida.

Comment date: October 26, 1990, in accordance with Standard Paragraph E at the end of this notice.

6. Connecticut Light and Power Company

[Docket No. ER85-720-013]

Take notice that on October 4, 1990, Connecticut Light and Power Company tendered for filing revised copies of its compliance filing made on August 10, 1990.

Comment date: October 26, 1990, in accordance with Standard Paragraph E at the end of this notice.

7. Wisconsin Public Service Corp.

[Docket No. ER91-19-000]

Take notice that Wisconsin Public Service Corporation on October 9, 1990 tendered for filing a supplement to the following service agreement:

FERC Electric Tariff Original Volume No. 3, the October 29, 1987 Partial Requirements Load Pattern Service Agreement with the Consolidated Water Power Company.

This supplement will revise the contract demand quantities in accordance with Exhibit 1 of the service agreement, Paragraph 6, Requirements.

Copies of this filing were served upon the Consolidated Water Power Company and the Public Service Commission of Wisconsin.

This supplement is to be effective on and after January 1, 1991.

Comment date: October 26, 1990, in accordance with Standard Paragraph E end of this notice.

8. Catalyst Old River Hydroelectric Partnership

[Docket Nos. EL90-34-001 and EC90-14-001]

Take notice that on September 24, 1990, Catalyst Old River Hydroelectric Partnership tendered for filing copies of its compliance filing in the above referended dockets pursuant to the Commission's order issued on August 20, 1990.

Comment date: October 26, 1990, in accordance with Standard Paragraph E at the end of this notice.

9. Northern States Power Co. (Minnesota), Northern States Power Co. (Wisconsin)

[Docket No. ER91-21-000]

Take notice that on October 10, 1990, Northern States Power Company-Minnesota and Northern States Power-Wisconsin (NSP) filed a transmission services tariff making available reserved and interruptible transmission service on the combined NSP-Minnesota and NSP-Wisconsin transmission system.

Comment date: October 26, 1990, in accordance with Standard Paragraph E at the end of this notice.

10. Public Service Co. of New Mexico

[Docket No. ER91-17-000]

Take notice that on October 9, 1990, Public Service Company of New Mexico (PNM) tendered for filing a Notice of Termination of Service Schedule D to the Interconnection Agreement Between PNM and Southwestern Public Service Company (SPS) (Supplement 5 to PNM Rate Schedule FERC No. 53).

PNM requests that the applicable notice requirements be waived to permit

Service Schedule D to be terminated effective as of December 31, 1989.

Copies of the filing have been served upon SPS and the New Mexico Public Service Commission.

Comment date: October 26, 1990, in accordance with Standard Paragraph E at the end of this notice.

11. Public Service Co. of New Mexico

[Docket No. ER91-18-000]

Take notice that on October 9, 1990, Public Service Company of New Mexico (PNM) tendered for filing a Notice of Termination of the Agreement for Transmission Service Between Raton Public Service Company and PNM (PNM Rate Schedule FERC No. 50, as supplemented by Supplements 1 through 6) and a Notice of Termination of the Sales and Transmission Letter Agreement among PNM, the Arkansas River Power Authority (PNM Rate Schedule FERC No. 79) and Raton Public Service Company (Supplement 6 to PNM Rate Schedule FERC No. 50).

PNM requests that the applicable notice requirements be waived to permit the Agreement for Transmission Service and the Sales and Transmission Letter Agreement to be terminated effective as of February 1, 1990.

Comment date: October 26, 1990, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24864 Filed 10-18-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ST90-4148-000 through ST90-4158-000]

Delhi Gas Pipeline Corp.; Self-Implementing Transactions

October 12, 1990.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to part 284 of the Commission's regulations, section 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA) and section 5 of the Outer Continental Shelf Lands Act.[1]

The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "part 284 subpart" column in the following table indicates the type of transaction.

A "B" indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to § 284.102 of the Commission's regulations and section 311(a)(1) of the NGPA.

A "C" indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.122 of the Commission's regulations and section 311(a)(2) of the NGPA.

A "D" indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.142 of the Commission's Regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to § 284.102 of the Commission's regulations and section 312 of the NGPA.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.222 and a blanket certificate issued under § 284.221 of the Commission's regulations.

A "G-S" indicates transportation by interstate pipelines on behalf of shippers other than interstate pipelines pursuant to § 284.223 and a blanket certificate issued under § 284.221 of the Commission's regulations.

A "G-LT" or "G-LS" indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under § 284.224 of the Commission's regulations.

A "G-HT" or "G-HS" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.224 of the Commission's regulations.

A "K" indicates transportation of natural gas on the Outer Continental Shelf by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.303 of the Commission's regulations.

A "K-S" indicates transportation of natural gas on the Outer Continental Shelf by an intrastate pipeline on behalf of shippers other than interstate pipelines pursuant to § 284.303 of the Commission's regulations.

Lois D. Cashell,

Secretary.

Docket No.[1] and transporter/seller	Recipient	Date filed	Part 284, subpart	Est. max. daily quantity[2]
ST90-4148 Delhi Gas Pipeline Corp	United Gas Pipe Line Co	09-01-90	C	50,000
ST90-4149 Natural Gas Pipeline Co. of America	Gas Energy Development	09-01-90	G-S	50,000
ST90-4150 Midwestern Gas Transmission Co	Unicorp Energy, Inc	09-01-90	G-S	100,000
ST90-4151 Lone Star Gas Co	Natural Gas Pipeline Co. of America	09-01-90	C	50,000
ST90-4152 Tennessee Gas Pipeline Co	North Penn Gas Co	09-01-90	B	4,500
ST90-4153 Tennessee Gas Pipeline Co	North Penn Gas Co	09-01-90	B	500
ST90-4154 Transcontinental Gas Pipe Line Corp	Mississippi Valley Gas Co., et al	09-01-90	B	200,000
ST90-4156 Transcontinental Gas Pipe Line Corp	TXG Gas Marketing Co	09-01-90	G-S	300,000
ST90-4155 Panhandle Eastern Pipe Line Co	OXY U.S.A., Inc	09-01-90	G-S	60,000
ST90-4157 Panhandle Eastern Pipe Line Co	Bethlehem Steel Corp	09-01-90	G-S	2,200
ST90-4158 Columbia Gas Transmission Corp	Columbia Gas of Pennsylvania, Inc	09-01-90	B	2,000

[1] Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the noticed filing is in compliance with the Commission's regulations.

Docket No.[1] and transporter/seller	Recipient	Date filed	Part 284, subpart	Est. max. daily quantity [2]
ST90-4158 Colorado Interstate Gas Co	Coastal States Gas Transmission Co	08-02-90	B	20,000
ST90-4160 ARKLA Energy Resources	PSI, Inc	08-03-90	G-S	10,000
ST90-4161 High Island Offshore System	NML Development Corp	08-02-90	K-S	115,000
ST90-4162 Columbia Gulf Transmission Co	Access Energy Corp	08-02-90	G-S	20,000
ST90-4163 Columbia Gulf Transmission Co	Ultramar Production Co	08-02-90	G-S	6,000
ST90-4164 Columbia Gulf Transmission Co	Entrade Corp	08-02-90	G-S	75,000
ST90-4165 Transcontinental Gas Pipe Line Corp	Public Service Co. of N. Carolina	08-02-90	B	190,000
ST90-4166 Transcontinental Gas Pipe Line Corp	South Carolina Pipeline Corp	08-02-90	B	700,000
ST90-4167 Transcontinental Gas Pipe Line Corp	City of Danville	08-02-90	B	154,000
ST90-4168 ANR Pipeline Co	Bridgeline Gas Distribution Co	08-02-90	B	30,000
ST90-4169 ANR Pipeline Co	NGC Transportation, Inc	08-02-90	G-S	250,000
ST90-4170 ANR Pipeline Co	Gulf States Pipeline Corp	08-02-90	B	20,000
ST90-4171 ANR Pipeline Co	Ward Gas Marketing, Inc	08-02-90	G-S	50,000
ST90-4172 ANR Pipeline Co	Coastal Gas Marketing, Co	08-02-90	G-S	100,000
ST90-4173 Gas Co. of NM (Div. Public Serv. Co. NM)	El Paso Natural Gas Co	08-02-90	G-HT	3,000
ST90-4174 Williams Natural Gas Co	Kansas Power and Light Co	08-02-90	B	7,000
ST90-4175 Williams Natural Gas Co	Amarillo Natural Gas Co., Inc	08-02-90	B	225
ST90-4176 Williams Natural Gas Co	Midwest Grain Pipeline, Inc	08-02-90	B	7,000
ST90-4177 United Gas Pipe Line Co	Cobra Oil & Gas Corp	08-02-90	G-S	206,000
ST90-4178 United Gas Pipe Line Co	Northern Illinois Gas Co	08-02-90	B	103,000
ST90-4179 United Gas Pipe Line Co	Tejas Power Corp	08-02-90	G-S	51,500
ST90-4180 Texas Gas Transmission Corp	Enserch Gas Co	08-02-90	G-S	100,000
ST90-4181 Texas Gas Transmission Corp	Direct Gas Supply Corp	08-02-90	G-S	25,000
ST90-4182 Mississippi River Transmission Corp	Mega Natural Gas Co	08-03-90	G-S	19,000
ST90-4183 Colorado Interstate Gas Co	San Diego Gas & Electric Co	08-03-90	G-S	90,000
ST90-4184 ANR Pipeline Co	Amax Oil & Gas Inc	08-03-90	G-S	6,000
ST90-4185 Tennessee Gas Pipeline Co	Tennessee River Intrastate Gas Co	08-03-90	B	22,000
ST90-4186 Natural Gas Pipeline Co. of America	Philadelphia Gas Works	08-03-90	B	25,000
ST90-4187 Blue Dolphin Pipe Line Co	Dow Pipeline Co	08-03-90	B	20,000
ST90-4188 Enogex Inc	Williams Natural Gas Co	08-03-90	C	10,000
ST90-4189 United Gas Pipe Line Co	Entrade Corp	08-03-90	G-S	103,000
ST90-4190 United Gas Pipe Line Co	Shell Gas Trading Co	08-03-90	G-S	206,000
ST90-4191 Texas Gas Transmission Corp	Columbia Gas Transmission Corp	08-03-90	G	200,000
ST90-4192 Texas Gas Transmission Corp	Columbia Gas Transmission Corp	08-03-90	G	200,000
ST90-4193 Texas Gas Transmission Corp	Columbia Gas Transmission Corp	08-03-90	G	56,000
ST90-4194 Texas Gas Transmission Corp	Columbia Gas Transmission Corp	08-03-90	G	200,000
ST90-4195 Transcontinental Gas Pipe Line Corp	Consolidated Edison Co. of NY, Inc	08-03-90	B	6,480,000
ST90-4196 Transcontinental Gas Pipe Line Corp	Louisiana Gas Marketing Co	08-03-90	B	50,000
ST90-4197 Transcontinental Gas Pipe Line Corp	South Jersey Gas Co	08-03-90	B	1,810,000
ST90-4198 Transcontinental Gas Pipe Line Corp	Sabine Gas Transmission Co	08-03-90	B	150,000
ST90-4199 Transcontinental Gas Pipe Line Corp	North Carolina Natural Gas Corp	08-03-90	B	700,000
ST90-4200 United Gas Pipe Line Co	Prior Intrastate Corp	08-06-90	B	515,000
ST90-4201 Superior Offshore Pipeline Co	Union Partners, Ltd	08-06-90	G-S	47,570
ST90-4202 Sabine Pipe Line Co	Winnie Pipeline Co	08-06-90	B	100,000
ST90-4203 Columbia Gas Transmission Corp	Phoenix Diversified Ventures, Inc	08-06-90	G-S	42,000
ST90-4204 Valero Transmission, L.P	Texas Eastern Gas Pipeline Co	08-07-90	C	7,400
ST90-4205 Valero Transmission, L.P	Trunkline Gas Co	08-07-90	C	2,500
ST90-4206 Transcontinental Gas Pipe Line Corp	Public Service Electric and Gas Co	08-07-90	B	4,800,000
ST90-4207 Transcontinental Gas Pipe Line Corp	City of Lexington	08-07-90	B	58,400
ST90-4208 Columbia Gulf Transmission Co	Superior Natural Gas Corp	08-07-90	G-S	30,000
ST90-4209 Delhi Gas Pipeline Corp	Transwestern Pipeline Co	08-08-90	C	3,500
ST90-4210 Black Marlin Pipeline Co	Enron Industrial Natural Gas Co	08-08-90	B	145,000
ST90-4211 Trunkline Gas Co	Panhandle Trading Co	08-08-90	G-S	75,000
ST90-4212 Panhandle Eastern Pipe Line Co	Amarillo Natural Gas Co., Inc	08-08-90	B	4,000
ST90-4213 Panhandle Eastern Pipe Line Co	Consolidated Fuel Corp	08-08-90	G-S	15,000
ST90-4214 Panhandle Eastern Pipe Line Co	Missouri Pipeline	08-08-90	B	50,000
ST90-4215 Valero Transmission, L.P	El Paso Natural Gas Co	08-09-90	C	6,000
ST90-4216 Pacific Gas Transmission Co	Pacific Gas and Electric Co	08-09-90	B	240,000
ST90-4217 Tennessee Gas Pipeline Co	Golden Gas Energies, Inc	08-09-90	G-S	20,000
ST90-4218 Texas Eastern Transmission Corp	Enermark Gas Gathering Corp	08-09-90	G-S	10,000
ST90-4219 Texas Eastern Transmission Corp	Citrus Industrial Gas Sales Co	08-09-90	G-S	75,000
ST90-4220 Transcontinental Gas Pipe Line Corp	Baltimore Gas and Electric Co., et al	08-10-90	B	600,000
ST90-4221 Transcontinental Gas Pipe Line Corp	City of Laurens	08-10-90	B	70,000
ST90-4222 Transcontinental Gas Pipe Line Corp	City of Kings Mountain	08-10-90	B	31,500
ST90-4223 Transcontinental Gas Pipe Line Corp	Columbia Gas Transmission	08-10-90	G	4,000
ST90-4224 Transcontinental Gas Pipe Line Corp	Nechas Gas Distribution Co	08-10-90	B	5,865,000
ST90-4225 Transcontinental Gas Pipe Line Corp	Long Island Lighting Co	08-10-90	B	2,100,000
ST90-4226 Transcontinental Gas Pipe Line Corp	North Penn Gas Co	08-10-90	B	50,000
ST90-4227 Transcontinental Gas Pipe Line Corp	Sabine Gas Transmission Co	08-10-90	B	2,810,000
ST90-4228 Transcontinental Gas Pipe Line Corp	National Fuel Distribution Corp	08-10-90	B	1,050,000
ST90-4229 ANR Pipeline Co	Chevron U.S.A., Inc	08-10-90	G-S	15,000
ST90-4230 ANR Pipeline Co	Fina Oil and Chemical Co	08-10-90	G-S	25,000
ST90-4231 ANR Pipeline Co	Kerr-McGee Corp	08-10-90	G-S	60,000
ST90-4232 ANR Pipeline Co	Consolidated Fuel Corp	08-10-90	G-S	10,000
ST90-4233 ANR Pipeline Co	Mobil Natural Gas, Inc	08-10-90	G-S	100,000
ST90-4234 Texas Gas Transmission Corp	Louisiana Municipal Nat. Gas Pur. & Dis.	08-10-90	G-S	45,000
ST90-4235 Texas Gas Transmission Corp	Tejas Power Corp	08-10-90	G-S	100,000
ST90-4236 Texas Gas Transmission Corp	Southern Gas Co., Inc	08-10-90	G-S	40,000
ST90-4237 United Gas Pipe Line Co	Enermark Gas Gathering Corp	08-10-90	G-S	103,000

Docket No.[1] and transporter/seller		Recipient	Date filed	Part 284, subpart	Est. max. daily quantity [2]
ST90-4236	United Gas Pipe Line Co	Nerco Oil & Gas, Inc	09-13-90	G-S	77,250
ST90-4239	United Gas Pipe Line Co	Laser Marketing Co	09-13-90	G-S	5,150
ST90-4240	United Gas Pipe Line Co	Nerco Oil and Gas, Inc	09-13-90	G-S	77,250
ST90-4241	United Gas Pipe Line Co	Exxon Corp	09-13-90	G-S	100,000
ST90-4242	Moraine Pipeline Co	Natural Gas Pipeline Co. of America	09-13-90	G	100,000
ST90-4243	Northern Natural Gas Co	Enron Gas Marketing, Inc	09-13-90	G-S	30,000
ST90-4244	Equitrans, Inc	Virginia Electric & Power Co	09-13-90	G-S	10,000
ST90-4245	El Paso Natural Gas Co	Desert Palace Inc	09-13-90	G-S	1,030
ST90-4246	Valero Transmission, L.P.	El Paso Natural Gas Co	09-13-90	C	25,000
ST90-4248	Stingray Pipeline Co	Mobil Natural Gas Inc	09-13-90	K-S	100,000
ST90-4249	Panhandle Eastern Pipe Line Co	National Steel Corp	09-13-90	G-S	500
ST90-4250	Trunkline Gas Co	Entrade Corp	09-13-90	G-S	100,000
ST90-4251	Southern Natural Gas Co	Mississippi Power	09-13-90	B	50,000
ST90-4252	Southern Natural Gas Co	Tenngasco Corp	09-13-90	G-S	100,000
ST90-4253	Southern Natural Gas Co	Citrus Industrial Gas Sales Co	09-13-90	G-S	75,000
ST90-4254	Southern Natural Gas Co	Howell Gas Management Co	09-13-90	G-S	50,000
ST90-4255	Southern Natural Gas Co	Tenngasco Corp	09-13-90	G-S	100,000
ST90-4256	Southern Natural Gas Co	Citrus Industrial Gas Sales Co	09-13-90	G-S	75,000
ST90-4257	Columbia Gas Transmission Corp	PSI, Inc	09-13-90	G-S	150,000
ST90-4258	Columbia Gulf Transmission Co	Citizens Gas Supply Corp	09-13-90	G-S	50,000
ST90-4259	Columbia Gulf Transmission Co	Coastal Gas Marketing Co	09-13-90	G-S	30,000
ST90-4260	Columbia Gulf Transmission Co	UGI Corp	09-13-90	B	100,000
ST90-4261	Northern Natural Gas Co	Fremont Dept. of Utilities	09-13-90	B	6,103
ST90-4262	Northern Natural Gas Co	Manning Municipal Gas Dept	09-13-90	B	172
ST90-4263	ARKLA Energy Resources	Minnegasco, Inc	09-13-90	B	100,000
ST90-4265	Gas Co. of NM (Div. Public Serv. Co. NM)	El Paso Natural Gas Co	09-14-90	G-HT	10,000
ST90-4266	Texas Eastern Transmission Corp	Allied Gas Co	09-14-90	G-S	2,076
ST90-4267	Texas Gas Transmission Corp	Orbit Gas Co	09-14-90	B	1,000
ST90-4268	Texas Gas Transmission Corp	Western Kentucky Gas Co	09-14-90	B	205
ST90-4270	Northern Natural Gas Co	St. Croix Valley Natural Gas Co	09-15-90	B	5,000
ST90-4271	Northern Natural Gas Co	Lyte Energy Sources	09-15-90	G-S	41,000
ST90-4272	Northern Natural Gas Co	Arco Natural Gas Marketing, Inc	09-15-90	G-S	200,000
ST90-4273	Northern Natural Gas Co	Midcon Marketing Corp	09-15-90	G-S	300,000
ST90-4274	Williston Basin Interstate P/L Co	Montana-Dakota Utilities Co	09-15-90	B	197,942
ST90-4276	Acadian Gas Pipeline System	ANR Pipeline Co	09-15-90	C	90,000
ST90-4279	High Island Offshore System	CNG Producing Co	09-15-90	K-S	103,000
ST90-4280	High Island Offshore System	Phillips Pipeline Co	09-15-90	K-S	90,000
ST90-4281	High Island Offshore System	Wisconsin Southern Gas Co	09-15-90	K-S	75,000
ST90-4282	High Island Offshore System	Chevron U.S.A., Inc	09-15-90	K-S	65,000
ST90-4283	High Island Offshore System	Union Pacific Resources Co	09-15-90	K-S	100,000
ST90-4284	High Island Offshore System	NGC Intrastate Pipeline Co	09-15-90	K-S	2,800,000
ST90-4285	High Island Offshore System	Panhandle Trading Co	09-15-90	K-S	50,000
ST90-4286	Tennessee Gas Pipeline Co	Elf Aquitaine Operating, Inc	09-16-90	G-S	100,000
ST90-4287	Northern Natural Gas Co	Tennessee Gas Pipeline Co	09-16-90	G	10,000
ST90-4288	U T Offshore System	American Central Gas Marketing Co	09-16-90	K-S	100,000
ST90-4289	Transok, Inc	Black Marlin Pipeline Co	09-16-90	C	90,000
ST90-4290	Transok, Inc	Black Marlin Pipeline Co	09-16-90	C	90,000
ST90-4291	Colorado Interstate Gas Co	Western Natural Gas and Trans. Corp	09-16-90	G-S	5,000
ST90-4292	Colorado Interstate Gas Co	PSI Gas Marketing, Inc	09-16-90	G-S	10,000
ST90-4293	Colorado Interstate Gas Co	Public Service Co. of Colorado	09-16-90	B	5,000
ST90-4294	Colorado Interstate Gas Co	Amoco Energy Trading Corp	09-16-90	G-S	50,000
ST90-4295	Mississippi River Transmission Corp	Arkansas Louisiana Gas Co	09-16-90	B	100,000
ST90-4296	Columbia Gas Transmission Corp	Meridian Marketing & Transmission Corp.	09-16-90	G-S	700
ST90-4297	Transcontinental Gas Pipe Line Corp	Chevron Corp	09-16-90	G-S	8,625,000
ST90-4298	Sonat Intrastate-Alabama Inc	Southern Natural Gas Co	09-16-90	C	1,000
ST90-4299	Natural Gas Pipeline Co. of America	United Texas Transmission Co	09-17-90	B	10,000
ST90-4300	Questar Pipeline Co	Colorado Interstate Gas Co	09-17-90	G	25,000
ST90-4301	Transcontinental Gas Pipe Line Corp	Elizabethtown Gas Co	09-17-90	B	1,125,000
ST90-4302	Trunkline Gas Co	Bethlehem Steel Corp	09-17-90	G-S	2,199
ST90-4303	Trunkline Gas Co	Chevron U.S.A., Inc	09-17-90	G-S	30,000
ST90-4304	Trunkline Gas Co	Shell Gas Trading Co	09-17-90	G-S	75,000
ST90-4305	Trunkline Gas Co	Florida Gas Transmission Co	09-17-90	G	90,000
ST90-4306	Columbia Gulf Transmission Co	Ledco, Inc	09-17-90	G-S	50,000
ST90-4307	Columbia Gulf Transmission Co	Koch Hydrocarbons Co	09-17-90	G-S	50,000
ST90-4308	Columbia Gulf Transmission Co	Panhandle Trading Co	09-17-90	G-S	150,000
ST90-4309	U T Offshore System	Northwestern Mutual Life Insurance Co.	09-17-90	K-S	115,000
ST90-4310	U T Offshore System	Tejas Power Corp	09-17-90	K-S	350,000
ST90-4311	Northern Natural Gas Co	Iowa Electric Light & Power Co	09-20-90	B	18,750
ST90-4312	Northern Natural Gas Co	Midwest Gas Co	09-20-90	B	18,866
ST90-4313	Northern Natural Gas Co	Northern States Power Co. of Wisconsin.	09-20-90	B	8,409
ST90-4314	Northern Natural Gas Co	Wisconsin Power and Light Co	09-20-90	B	1,269
ST90-4315	Northern Natural Gas Co	Western Gas Utilities	09-20-90	B	320
ST90-4316	Northern Natural Gas Co	Northern States Power Co	09-20-90	B	40,000
ST90-4317	Northern Natural Gas Co	Great Plains Natural Gas Co	09-20-90	B	150,000
ST90-4318	Northern Natural Gas Co	City of Duluth, Dept. of Water & Gas	09-20-90	B	2,622
ST90-4319	Northern Natural Gas Co	Superior Water, Light and Power Co	09-20-90	B	1,000
ST90-4320	Northern Natural Gas Co	Iowa Southern Utilities Co	09-20-90	B	571

Docket No.[1] and transporter/seller	Recipient	Date filed	Part 284, subpart	Est. max. daily quantity [2]
ST90-4321 Northern Natural Gas Co	Cedar Falls Utilities	08-20-90	B	2,716
ST90-4322 Northern Natural Gas Co	Osage Municipal Utilities	08-20-90	B	365
ST90-4323 Northern Natural Gas Co	Minnegasco, Inc	08-20-90	B	66,018
ST90-4324 Northern Natural Gas Co	Peoples Natural Gas Co	08-20-90	B	75,747
ST90-4325 Northern Natural Gas Co	St. Croix Valley Natural Gas Co	08-20-90	B	754
ST90-4326 Northern Natural Gas Co	City of Hibbing	08-20-90	B	340
ST90-4327 Northern Natural Gas Co	Northern Minnesota Utilities	08-20-90	B	3,200
ST90-4328 Northern Natural Gas Co	City of New ULM	08-20-90	B	2,000
ST90-4329 Northern Natural Gas Co	Fremont Dept. of Utilities	08-20-90	B	566
ST90-4330 Northern Natural Gas Co	Owatonna Public Utilities	08-20-90	B	1,843
ST90-4331 Northern Natural Gas Co	Manning Municipal Gas Dept	08-20-90	B	200
ST90-4332 Northern Natural Gas Co	Austin Utility Dept	08-20-90	B	1,796
ST90-4333 United Gas Pipe Line Co	Seagull Marketing Services, Inc	08-20-90	G-S	315,000
ST90-4334 United Gas Pipe Line Co	Centran Corp	08-20-90	G-S	60,312
ST90-4335 United Gas Pipe Line Co	Exxon Corp	08-20-90	G-S	10,300
ST90-4336 United Gas Pipe Line Co	Capital Gas Co	08-20-90	G-S	4,120
ST90-4337 United Gas Pipe Line Co	Phoenix Gas Pipeline Co	08-20-90	G-S	1,848
ST90-4338 United Gas Pipe Line Co	Texaco, Inc	08-20-90	G-S	51,500
ST90-4339 Tennessee Gas Pipeline Co	Laser Marketing Co	08-20-90	G-S	5,000
ST90-4340 River Gas Co	Texas Eastern Transmission Corp	08-20-90	G-HT	4,000
ST90-4341 El Paso Natural Gas Co	Gasmark Inc	08-20-90	G-S	8,034
ST90-4342 Louisiana Resources Co	Sabine Pipe Line Co	08-20-90	C	20,000
ST90-4343 Northwest Pipeline Corp	Petro-Canada Hydrocarbons Inc	08-20-90	G-S	1,000
ST90-4344 Sabine Pipe Line Co	Louisiana Resources Co	08-21-90	B	50,000
ST90-4345 El Paso Natural Gas Co	Enron Gas Marketing	08-21-90	G-S	198,842
ST90-4346 Colorado Interstate Gas Co	Oxy U.S.A., Inc	08-21-90	G-S	60,000
ST90-4347 Colorado Interstate Gas Co	Mesa Operating Ltd. Partnership	08-21-90	G-S	10,000
ST90-4348 Colorado Interstate Gas Co	Coastal Gas Marketing Co	08-21-90	G-S	2,500
ST90-4349 Texas Gas Transmission Corp	North Atlantic Utilities, Inc	08-21-90	G-S	40,000
ST90-4350 Delhi Gas Pipeline Corp	Transwestern Pipeline Co	08-22-90	C	1,000
ST90-4351 Delhi Gas Pipeline Corp	Mississippi River Transmission Corp	08-22-90	C	3,000
ST90-4352 Delhi Gas Pipeline Corp	Natural Gas Pipeline Co. of America	08-22-90	C	6,000
ST90-4353 Westar Transmission Co	Transwestern Pipeline Co	08-22-90	C	5,200
ST90-4354 Texas Gas Transmission Corp	Texas Eastern Transmission Corp	08-22-90	G	175,000
ST90-4355 Green Canyon Pipe Line Co	Enron Gas Marketing	08-22-90	G-S	100,000
ST90-4356 High Island Offshore System	Access Energy Corp	08-22-90	K-S	290,000
ST90-4357 High Island Offshore System	LL & E Gas Marketing, Inc	08-22-90	K-S	35,000
ST90-4358 High Island Offshore System	Houston Gas Exchange Corp	08-22-90	K-S	580,000
ST90-4359 High Island Offshore System	Meth Corp	08-22-90	K-S	137,500
ST90-4360 High Island Offshore System	Midcon Marketing Corp	08-22-90	K-S	250,000
ST90-4361 High Island Offshore System	Unicorp Energy, Inc	08-22-90	K-S	145,000
ST90-4362 High Island Offshore System	Centran Corp	08-22-90	K-S	10,500
ST90-4363 High Island Offshore System	Energy Marketing Exchange, Inc	08-22-90	K-S	200,000
ST90-4364 High Island Offshore System	Koch Hydrocarbons Co	08-22-90	K-S	620,000
ST90-4365 High Island Offshore System	Arco Natural Gas Marketing, Inc	08-22-90	K-S	1,670,000
ST90-4366 High Island Offshore System	Marathon Oil Co	08-22-90	K-S	26,000
ST90-4367 Sabine Pipe Line Co	Access Energy Pipeline Corp	08-23-90	B	4,500
ST90-4368 Sabine Pipe Line Co	Reliance Pipeline Co	08-23-90	B	50,000
ST90-4369 Sabine Pipe Line Co	Enron Industrial Natural Gas Co	08-23-90	B	5,000
ST90-4370 Sabine Pipe Line Co	Peoples Gas Systems, Inc	08-23-90	B	2,000
ST90-4371 Natural Gas Pipeline Co. of America	Pontchartrain Natural Gas System	08-23-90	B	50,000
ST90-4372 Northern Natural Gas Co	Great Plains Natural Gas Co	08-23-90	B	2,263
ST90-4373 Llano, Inc	Northern States Power Co	08-23-90	C	12,500
ST90-4374 Tennessee Gas Pipeline Co	Cimarron Gas Transmission Inc	08-23-90	G-S	20,400
ST90-4375 Magolia Pipeline Corp	Transcontinental Gas Pipe Line Corp	08-23-90	C	250,000
ST90-4376 K N Energy, Inc	Phibro Energy, Inc	08-23-90	G-S	50,000
ST90-4377 Trunkline Gas Co	Alsey Refractories Co	08-23-90	G-S	385
ST90-4378 Trunkline Gas Co	Williams Gas Marketing Co	08-23-90	G-S	100,000
ST90-4379 Trunkline Gas Co	BP Gas Transmission Co	08-23-90	B	50,000
ST90-4380 Trunkline Gas Co	South Centeral Intrastate Pipe Line Co.	08-23-90	B	75,000
ST90-4381 Trunkline Gas Co	Memphis Light, Gas and Water Division.	08-23-90	B	1,800
ST90-4382 Trunkline Gas Co	Hadson Gas System, Inc	08-23-90	G-S	50,000
ST90-4383 Trunkline Gas Co	Panhandle Trading Co	08-23-90	G-S	75,000
ST90-4384 Trunkline Gas Co	Panhandle Trading Co	08-23-90	G-S	125,000
ST90-4385 Superior Offshore Pipeline Co	Amerada Hess Corp	08-23-90	G-S	6,000
ST90-4386 Alabma-Tennessee Natural Gas Co	PSI, Inc	08-24-90	G-S	20,000
ST90-4387 Columbia Gulf Transmission Co	ELF Aquitaine, Inc	08-23-90	G-S	30,000
ST90-4388 United Gas Pipe Line Co	Texaco, Inc	08-23-90	G-S	51,500
ST90-4389 United Gas Pipe Line Co	Kerr-McGee Corp	08-23-90	G-S	154,500
ST90-4390 United Gas Pipe Line Co	International Paper Co	08-23-90	G-S	8,240
ST90-4391 Natural Gas Pipeline Co. of America	Ohio Intrastate Gas Transmission Co	08-24-90	B	25,000
ST90-4392 Natural Gas Pipeline Co. of America	Ohio Intrastate Gas Transmission Co	08-24-90	B	10,000
ST90-4393 Channel Industries Gas Co	Southern Natural Gas Co	08-24-90	C	25,000
ST90-4394 ANR Pipeline Co	Bay State Gas Co	08-24-90	B	100,000
ST90-4395 ANR Pipeline Co	Northern Illinois Gas Co	08-24-90	B	100,000
ST90-4396 ANR Pipeline Co	Kohler Co	08-24-90	G-S	2,500
ST90-4397 ANR Pipeline Co	Centran Corp Corp	08-24-90	G-S	50,000
ST90-4398 ANR Pipeline Co	Stellar Pipeline Co	08-24-90	B	50,000

Docket No.[1] and transporter/seller	Recipient	Date filed	Part 284, subpart	Est. max. daily quantity [2]
ST90-4399 ANR Pipeline Co	Beatreme Foods, Inc	08-24-90	G-S	250
ST90-4400 ANR Pipeline Co	Beatreme Foods, Inc	08-24-90	G-S	460
ST90-4401 ANR Pipeline Co	Michigan Gas Utilities Co	08-24-90	B	1,000
ST90-4402 Colorado Interstate Gas Co	Chevron U.S.A. Inc	08-24-90	G-S	60,000
ST90-4403 Transcontinental Gas Pipe Line Corp	Peoples Natural Gas Co	08-24-90	B	22,120,000
ST90-4404 Transcontinental Gas Pipe Line Corp	Stellar Gas Co	08-24-90	B	1,000,000
ST90-4405 Transcontinental Gas Pipe Line Corp	Louisiana Gas Marketing Co	08-24-90	B	70,000
ST90-4406 Northern Natural Gas Co	Michigan Gas Co	08-24-90	B	2,263
ST90-4407 K N Energy, Inc	City of Central City	08-27-90	G	250
ST90-4408 Tennessee Gas Pipeline Co	National Fuel Gas Supply Corp	08-27-90	G	20,000
ST90-4409 Tennessee Gas Pipeline Co	Pennsylvania Gas and Water Co	08-27-90	B	103,000
ST90-4410 Tennessee Gas Pipeline Co	New York State Electric and Gas Co	08-24-90	B	10,000
ST90-4411 United Gas Pipe Line Co	Polaris Pipeline Corp	08-24-90	G-S	51,500
ST90-4412 United Gas Pipe Line Co	Polaris Pipeline Corp	08-24-90	G-S	25,750
ST90-4413 Stingray Pipeline Co.	Howell Gas Management Co	08-27-90	K-S	5,000
ST90-4414 Stingray Pipeline Co.	Access Energy Corp	08-27-90	K-S	100,000
ST90-4415 Natural Gas Pipeline Co. of America	Enron Gas Marketing, Inc	08-27-90	G-S	100,000
ST90-4416 Natural Gas Pipeline Co. of America	Gasmark Inc	08-27-90	G-S	60,000
ST90-4417 Natural Gas Pipeline Co. of America	Transworld Oil USA, Inc	08-27-90	G-S	100,000
ST90-4418 Natural Gas Pipeline Co. of America	Sun Operating Limited Partnership	08-27-90	G-S	200,000
ST90-4419 Texas Eastern Transmission Corp	Rangeline Gas Corp	08-27-90	G-S	60,000
ST90-4420 Texas Eastern Transmission Corp	Long Island Lighting Co	08-27-90	B	20,000
ST90-4421 Texas Eastern Transmission Corp	LL & E Gas Marketing, Inc	08-27-90	G-S	600,000
ST90-4422 Texas Eastern Transmission Corp	Orange and Rockland Utilities, Inc	08-27-90	B	40,000
ST90-4423 Columbia Gas Transmission Corp	North Carolina Natural Gas Corp	08-27-90	B	80,000
ST90-4424 Columbia Gas Transmission Corp	North Carolina Natural Gas Corp	08-27-90	B	40,000
ST90-4425 Columbia Gas Transmission Corp	Commonwealth Gas Services, Inc	08-27-90	B	1,000
ST90-4426 United Gas Pipe Line Co	Olympic Pipeline Co	08-27-90	B	4,120
ST90-4427 United Gas Pipe Line Co	International Paper Co	08-27-90	G-S	4,635
ST90-4428 El Paso Natural Gas Co	Arco Natural Gas Marketing, Inc	08-28-90	G-S	30,900
ST90-4429 Taft Pipeline Co.	Northern Natural Gas Co	08-28-90	C	100,000
ST90-4430 Northern Natural Gas Co	Kansas Power and Light Co	08-28-90	B	25,000
ST90-4431 Florida Gas Transmission Co	Amoco Production Co	08-28-90	G-S	250,000
ST90-4432 Florida Gas Transmission Co	Acacia Gas Corp	08-28-90	G-S	50,000
ST90-4433 Florida Gas Transmission Co	Valero Transmission, LP	08-28-90	B	200,000
ST90-4434 Florida Gas Transmission Co	Transworld Oil USA, Inc	08-28-90	G-S	100,000
ST90-4435 Florida Gas Transmission Co	Phoenix Pipeline Co	08-28-90	G-S	4,000
ST90-4436 Florida Gas Transmission Co	Pennzoil Gas Marketing Co	08-28-90	G-S	25,000
ST90-4437 Florida Gas Transmission Co	Kerr-McGee Corp	08-28-90	G-S	50,000
ST90-4438 Florida Gas Transmission Co	Excel Gas Marketing, Inc	08-28-90	G-S	200,000
ST90-4439 Florida Gas Transmission Co	Brooklyn Interstate Natural Gas Corp	08-28-90	G-S	50,000
ST90-4440 Florida Gas Transmission Co	Citrus Trading Corp	08-28-90	G-S	400,000
ST90-4441 Florida Gas Transmission Co	DOW Intrastate Gas Co	08-28-90	B	11,000
ST90-4442 Florida Gas Transmission Co	Enron Gas Marketing, Inc	08-28-90	G-S	565,260
ST90-4443 Florida Gas Transmission Co	Enron Gas Marketing, Inc	08-28-90	G-S	565,260
ST90-4444 Florida Gas Transmission Co	Enron Gas Processing Co	08-28-90	G-S	150,000
ST90-4445 Florida Gas Transmission Co	Enron Gas Marketing, Inc	08-28-90	G-S	20,000
ST90-4446 Florida Gas Transmission Co	NGC Transportation, Inc	08-28-90	G-S	500,000
ST90-4447 Florida Gas Transmission Co	Shell Gas Trading Co	08-28-90	G-S	75,000
ST90-4448 Florida Gas Transmission Co	Southern Natural Gas Co	08-28-90	G	600
ST90-4449 Florida Gas Transmission Co	Tejas Hydrocarbons Co	08-28-90	G-S	32,876
ST90-4450 Florida Gas Transmission Co	Tejas Hydrocarbons Co	08-28-90	G-S	32,876
ST90-4451 Florida Gas Transmission Co	Transworld Oil USA, Inc	08-28-90	G-S	100,000
ST90-4452 Williams Natural Gas Co	Ladd Gas Mktng./Powersmith Cogen., L.P.	08-28-90	G-S	27,400
ST90-4453 Mississippi River Transmission Corp	Bishop Pipeline Corp	08-28-90	G-S	28,000
ST90-4454 Mississippi River Transmission Corp	Amgas, Inc	08-28-90	G-S	340
ST90-4455 Arida Energy Resources	Oxford Natural Gas Co	08-28-90	B	140,000
ST90-4456 Arida Energy Resources	National Gas and Oil Corp	08-28-90	B	140,000
ST90-4457 Mississippi River Transmission Corp	Louisiana Intrastate Gas Corp	08-28-90	B	55,000
ST90-4458 Natural Gas Pipeline Co of America	Southern California Gas Co	08-28-90	B	2,500
ST90-4459 Natural Gas Pipeline Co of America	Continental Natural Gas, Inc	08-28-90	G-S	100,000
ST90-4460 Delhi Gas Pipeline Corp	Mississippi River Transmission Corp	08-28-90	C	3,000
ST90-4461 Sabine Pipe Line Co	Delhi Gas Pipeline Corp	08-28-90	B	80,000
ST90-4462 United Gas Pipe Line Co	Ashton Energy Co	08-28-90	G-S	20,600
ST90-4463 United Gas Pipe Line Co	Ashton Energy Co	08-28-90	G-S	20,600
ST90-4464 ANR Pipeline Co	Southeastern Michigan Gas Co	08-28-90	B	658
ST90-4465 ANR Pipeline Co	Consumers Power Co	08-28-90	B	5,000
ST90-4466 Transwestern Pipeline Co	Arco Natural Gas Marketing, Inc	08-28-90	G-S	80,000
ST90-4467 Transwestern Pipeline Co	Access Energy Pipeline Corp	08-28-90	B	180,000
ST90-4468 Transwestern Pipeline Co	Mar Oil and Gas Corp	08-28-90	G-S	20,000
ST90-4469 Transwestern Pipeline Co	Westar Transmission Co	08-28-90	B	10,000
ST90-4470 Tennessee Gas Pipeline Co	Victoria Gas Corp	08-28-90	G-S	110,000
ST90-4471 Tennessee Gas Pipeline Co	Yankee Gas Services Co	08-28-90	B	2,600
ST90-4472 Tennessee Gas Pipeline Co	Stellar Gas Co	08-28-90	G-S	1,000,000
ST90-4473 Tennessee Gas Pipeline Co	Stellar Gas Co	08-28-90	G-S	80,000
ST90-4474 Tennessee Gas Pipeline Co	Stellar Gas Co	08-28-90	G-S	10,000
ST90-4475 Tennessee Gas Pipeline Co	Stellar Gas Co	08-28-90	G-S	1,000,000
ST90-4476 Columbia Gulf Transmission Co	Shell Gas Trading Co	08-28-90	G-S	57,000
ST90-4477 Columbia Gulf Transmission Co	Shell Gas Trading Co	08-28-90	G-S	85,000

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Docket No.[1] and transporter/seller	Recipient	Date filed	Part 284, subpart	Est. max. daily quantity [2]
ST90-4478 Columbia Gulf Transmission Co	Kerr-McGee Corp	08-29-90	G-S	10,000
ST90-4479 Columbia Gulf Transmission Co	NGC Transportation, Inc	08-29-90	G-S	10,000
ST90-4480 Columbia Gulf Transmission Co	Kerr McGee Corp	08-29-90	G-S	100,000
ST90-4481 Columbia Gulf Transmission Co	American Central Gas Marketing Co	08-29-90	G-S	100,000
ST90-4482 Columbia Gulf Transmission Co	Transatlantic Energy Corp	08-29-90	G-S	4,000
ST90-4483 Columbia Gulf Transmission Co	R.E. Fox & Associates	08-29-90	G-S	11,000
ST90-4484 Columbia Gulf Transmission Co	Panhandle Trading Co	08-29-90	G-S	100,000
ST90-4485 Columbia Gulf Transmission Co	NGC Transportation, Inc	08-29-90	G-S	200,000
ST90-4486 U T Offshore System	Seagull Marketing Services, Inc	08-29-90	K-S	60,000
ST90-4487 U T Offshore System	CNG Producing Co	08-29-90	K-S	103,000
ST90-4488 U T Offshore System	Wisconsin Southern Gas Co	08-29-90	K-S	85,000
ST90-4489 U T Offshore System	Union Pacific Resources Co	08-29-90	K-S	100,000
ST90-4490 U T Offshore System	Union Exploration Partners, Ltd	08-29-90	K-S	20,000
ST90-4491 Gas Co. of NM (Div. Public Serv. Co. NM)	El Paso Natural Gas Co	08-29-90	G-NT	15,000
ST90-4492 Florida Gas Transmission Co	Basic, Inc	08-30-90	G-S	1,098
ST90-4493 Florida Gas Transmission Co	Metropolitan Dade County	08-30-90	G-S	5,415
ST90-4494 Florida Gas Transmission Co	Jacksonville Electric Authority	08-30-90	G-S	3,574
ST90-4495 Florida Gas Transmission Co	CF Chemicals, Inc	08-30-90	G-S	593
ST90-4496 Florida Gas Transmission Co	Gold Bond, Div. of Nat. Gypsum Co	08-30-90	G-S	787
ST90-4497 Florida Gas Transmission Co	Gardinier, Inc	08-30-90	G-S	450
ST90-4498 Florida Gas Transmission Co	Gainesville Regional Utilities	08-30-90	G-S	2,220
ST90-4499 Florida Gas Transmission Co	Florida Power and Light Co	08-30-90	G-S	312,986
ST90-4500 Florida Gas Transmission Co	Chesapeake Utilities Corp	08-30-90	G-S	6,716
ST90-4501 Florida Gas Transmission Co	Orlando Utilities Commission	08-30-90	G-S	15,903
ST90-4502 Florida Gas Transmission Co	Peoples Gas Systems, Inc	08-30-90	B	60,604
ST90-4503 Florida Gas Transmission Co	St. Joe Natural Gas Co	08-30-90	B	1,580
ST90-4504 Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	08-30-90	B	30,000
ST90-4505 Natural Gas Pipeline Co. of America	Texas Industrial Energy Co	08-30-90	B	250,000
ST90-4506 United Gas Pipe Line Co	South Coast Gas Co., Inc	08-30-90	B	515
ST90-4507 ARKLA Energy Resources	Marathon Oil Co	08-30-90	G-S	40,000
ST90-4508 Texas Gas Transmission Corp	Southern Indiana Gas & Electric Co	08-30-90	B	12,000
ST90-4509 Texas Gas Transmission Corp	Southern Indiana Gas & Electric Co	08-30-90	B	5,700
ST90-4510 Panhandle Eastern Pipe Line Co	Associated Intrastate Pipeline Co	08-30-90	B	50,000
ST90-4511 Panhandle Eastern Pipe Line Co	Hadson Gas Systems, Inc	08-30-90	G-S	30,000
ST90-4512 Panhandle Eastern Pipe Line Co	Northern Illinois Gas Co	08-30-90	B	20,000
ST90-4513 Panhandle Eastern Pipe Line Co	Central Illinois Light Co	08-30-90	B	50,000
ST90-4514 Panhandle Eastern Pipe Line Co	Bishop Pipeline Corp	08-30-90	B	1,000
ST90-4515 Panhandle Eastern Pipe Line Co	Associated Intrastate Pipeline Co	08-30-90	B	35,000
ST90-4516 Panhandle Eastern Pipe Line Co	Enron Gas Marketing	08-30-90	G-S	200,000
ST90-4517 Texas Eastern Transmission Corp	Phibro Energy, Inc	08-30-90	G-S	400,000
ST90-4518 Transcontinental Gas Pipe Line Corp	Elizabethtown Gas Co	08-31-90	B	30,000
ST90-4519 Transcontinental Gas Pipe Line Corp	Natural Gas Clearinghouse, Inc	08-31-90	G-S	600,000
ST90-4520 Colorado Interstate Gas Co	J.L. & E Gas Marketing, Inc	08-31-90	G-S	75,000
ST90-4521 ANR Pipeline Co	Public Service Electric & Gas, et al	08-31-90	B	100,000
ST90-4522 ANR Pipeline Co	Coastal States Gas Transmission Co	08-31-90	B	4,000
ST90-4523 ANR Pipeline Co	Niagara Mohawk Power Corp., et al	08-31-90	B	100,000
ST90-4524 ANR Pipeline Co	Brooklyn Union Gas Co., et al	08-31-90	B	250,000
ST90-4525 ANR Pipeline Co	Philadelphia Electric Co	08-31-90	B	20,000
ST90-4526 ANR Pipeline Co	Baltimore Gas & Electric Co., et al	08-31-90	B	200,000
ST90-4527 High Island Offshore System	Calcasieu Gas Gathering System	08-31-90	K-S	140,000
ST90-4528 High Island Offshore System	Associated Natural Gas Co., Inc	08-31-90	K-S	290,000
ST90-4529 High Island Offshore System	Spindletop Gas Distribution System	08-31-90	K-S	140,000
ST90-4530 High Island Offshore System	Pontchartrain Natural Gas System	08-31-90	K-S	140,000
ST90-4531 High Island Offshore System	Illinois Power Co	08-31-90	K-S	535,000
ST90-4532 High Island Offshore System	Graham Energy Marketing Corp	08-31-90	K-S	75,000
ST90-4533 High Island Offshore System	EP Operating Co., LP	08-31-90	K-S	10,000
ST90-4534 High Island Offshore System	Coast Energy Group, Inc	08-31-90	K-S	233,000
ST90-4535 High Island Offshore System	Delmarva Power and Light Co	08-31-90	K-S	100,000
ST90-4536 High Island Offshore System	Power Authority of the State of NY	08-31-90	K-S	110,000
ST90-4537 High Island Offshore System	Neches Pipeline System	08-31-90	K-S	140,000
ST90-4538 High Island Offshore System	Public Service Electric and Gas Co	08-31-90	K-S	300,000
ST90-4539 High Island Offshore System	Brooklyn Interstate Natural Gas Corp	08-31-90	K-S	225,016
ST90-4540 Transcontinental Gas Pipe Line Corp	South Carolina Pipeline Corp	08-31-90	B	700,000
ST90-4541 Florida Gas Transmission Co	Panhandle Trading Co	08-31-90	G-S	125,000
ST90-4542 Florida Gas Transmission Co	Proctor & Gamble Cellulose Co	08-31-90	G-S	709
ST90-4543 Florida Gas Transmission Co	Proctor & Gamble Cellulose Co	08-31-90	G-S	2,928
ST90-4544 Florida Gas Transmission Co	Reedy Creek Utilities Co	08-31-90	B	8,401
ST90-4545 Florida Gas Transmission Co	Southern Gas Co	08-31-90	B	2,790
ST90-4546 Florida Gas Transmission Co	Florida Gas Utility	08-31-90	G-S	13,057
ST90-4547 Florida Gas Transmission Co	City of Homestead	08-31-90	G-S	684
ST90-4548 Florida Gas Transmission Co	West Florida Natural Gas Co	08-31-90	B	1,784
ST90-4549 Florida Gas Transmission Co	City of Tallahassee	08-31-90	G-S	28,358
ST90-4550 Florida Gas Transmission Co	Citrus Industrial Sales Co., Inc	08-31-90	G-S	400,000
ST90-4551 Florida Gas Transmission Co	Mortech Energy Corp	08-31-90	G-S	25,000
ST90-4552 Florida Gas Transmission Co	City of Lakeland	08-31-90	G-S	11,808
ST90-4553 Florida Gas Transmission Co	Orlando Utilities Commission	08-31-90	G-S	7,282
ST90-4554 Florida Gas Transmission Co	City of Tallahassee	08-31-90	G-S	3,902
ST90-4555 Panhandle Eastern Pipe Line Co	Kiwy Refractories Co	08-31-90	G-S	366
ST90-4556 Trunkline Gas Co	Northern Indiana Public Service Co	08-31-90	B	80,000
ST90-4557 Panhandle Eastern Pipe Line Co	East Ohio Gas Co	08-31-90	B	100,000

Docket No.[1] and transporter/seller	Recipient	Date filed	Part 284, subpart	Est. max. daily quantity[2]
ST90-4556 Panhandle Eastern Pipe Line Co	Entrade Corp	08-31-90	G-S	300,000
ST90-4559 Trunkline Gas Co	Krupp and Assoc	08-31-90	G-S	50,000
ST90-4560 Trunkline Gas Co	Coast Energy Group, Inc	08-31-90	G-S	30,000
ST90-4561 Texas Eastern Transmission Corp	Delta Pipeline Co	08-31-90	G-S	[illegible]511
ST90-4562 Texas Eastern Transmission Corp	Amerada Hess Corp	08-31-90	G-S	100,000
ST90-4563 United Gas Pipe Line Co	LL & E Gas Marketing, Inc	08-31-90	G-S	20,000
ST90-4564 United Gas Pipe Line Co	Louisiana State Gas Corp	08-31-90	G-S	300,000
ST90-4565 Tennessee Gas Pipeline Co	United Gas Pipe Line Co	08-31-90	G	1,000,000
ST90-4566 Midwestern Gas Transmission Co	Nortech Energy Corp	08-31-90	G-S	20,000
ST90-4567 Natural Gas Pipeline Co. of America	Entrade Corp	08-31-90	G-S	100,000
ST90-4568 Natural Gas Pipeline Co. of America	Midcon Marketing Corp	08-31-90	G-S	280,000
ST90-4569 Transok, Inc	Black Marlin Pipeline Co	08-31-90	C	20,000
The following docket numbers are noticed out of sequence. They were omitted from the previous list pending further commission review.				
ST90-3730 Transcontinental Gas Pipe Line Corp	Wisconsin Gas Co., et al	07-06-90	B	100,000
ST90-3807 Transcontinental Gas Pipe Line Corp	Lawrenceburg Gas Co., et al	07-13-90	B	150,000
ST90-3951 Transcontinental Gas Pipe Line Corp	Bay State Gas Co., et al	07-17-90	B	230,000

[1] Notice of transactions does not constitute a determination that filings comply with Commission regulations in accordance with Order No. 436 (final rule and notice requesting supplemental comments, 50 FR 42,372, 10/10/85).

[2] Estimated maximum daily volumes includes volumes reported by the filing company in MMBTU, MCF and DT.

[FR Doc. 90-24666 Filed 10-18-90; 8:45am]
BILLING CODE 6717-01-M

[Docket Nos. CP91-21-000, et al.]

Texas Eastern Transmission Corp., et al.; Natural Gas Certification Filings

October 11, 1990.

Take notice that the following filings have been made with the Commission:

1. Texas Eastern Transmission Corp.

[Docket No. CP91-21-000]

Take notice that on October 2, 1990, Texas Eastern Transmission Corporation (Texas Eastern), Post Office Box 2521, Houston, Texas 77252-2521, filed in Docket No. CP91-21-000 a request pursuant to § 157.205 and 284.223 of Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport gas on an interruptible basis for Rangeline Gas Corporation (Rangeline) under its blanket certificate issued in Docket No. CP88-136-000, as amended in Docket No. CP88-136-007, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Texas Eastern states that pursuant to a Transportation Agreement dated June 26, 1990, under its Rate Schedule IT-1, it proposes to transport up to 50,000 MMBtu per day on an interruptible basis on behalf of Rangeline. The Transportation Agreement provides for Texas Eastern to receive gas from existing receipt points on its system offshore and onshore Louisiana and multiple states. Texas Eastern will then transport and redeliver subject gas, less applicable shrinkage, to existing delivery points on its system offshore and onshore Louisiana and multiple states.

Texas Eastern also states that the estimated daily and estimated annual quantities would be 50,000 MMBtu and 18,250,000 MMBtu, respectively.

Texas Eastern further states that it commenced their service on August 3, 1990, as reported in Docket No. ST90-4419-000.

Comment date: November 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

2. Texas Eastern Transmission Corp.

[Docket No. CP91-23-000]

Take notice that on October 2, 1990, U-T Offshore System (U-TOS), Post Office Box 1396, Houston, Texas 77251 filed in Docket No. CP91-23-000 a request pursuant to § 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport gas on an interruptible basis for Texaco Gas Marketing, Inc. (Texaco) under the blanket certificate issued in Docket No. RM88-14-0001 and RM88-15-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

U-TOS states that proposes to transport for Texaco 300,000 Mcf on a peak day, pursuant to a Transportation Agreement dated July 1, 1990, between U-TOS and Texas (Transportation Agreement) proposed to transport natural gas for Texaco from points of receipts located in offshore Louisiana. The points of delivery and ultimate points of delivery are located in Cameron, Louisiana.

U-TOS further states that it commenced this service on August 14, 1990, are reported in Docket No. ST90-4741-000.

Comment date: November 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

3. CNG Transmission Corp.

[Docket No. CP91-82-000]

Take notice that on October 9, 1990, CNG Transmission Corporation (CNG Transmission), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP91-82-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon, by sale to Hope Gas, Inc. (Hope), certain pipeline and regulation facilities located in Logan and Upshur Counties, West Virginia, all as more fully set forth in the application on file with the Commission and open to public inspection.

CNG Transmission requests permission and approval to abandon Lines D-2119, H-17666, a portion of H-17666 and regulating station XS-1942 all located in Logan County, West Virginia, and Line DM-1525 and measuring and regulating station XS-2076 located in Upshur County, West Virginia. It is stated that all of these facilities were transferred to Consolidated Gas Transmission Corporation (now CNG Transmission Corporation) from its predecessor, Consolidated Gas Supply Corporation (now Hope Gas, Inc.) effective January 1, 1984. It is further stated that the facilities are currently used to deliver gas to Hope Gas, Inc., a local distribution company customer and affiliate of CNG Transmission, as part of the certificated sales and transportation service rendered to Hope.

CNG Transmission requests that these facilities be abandoned so that they may be sold to Hope at book value. It is

stated that no interruption of consumers' service currently provided to Hope will occur. CNG Transmission states that Hope has requested that the lines be transferred to it as distribution lines. CNG Transmission submits that sales and transportation services to Hope will be continued by delivery to measurement and regulation stations rather than at the pipeline taps at consumer locations. It is stated that the delivery points and meters will be added by the notice and comment procedures under § 157.212 of the Commission's Regulations.

Comment date: November 1, 1990, in accordance with Standard Paragraph F at the end of this notice.

6. Stingray Pipeline Co., et al.

[Docket Nos. CP91-84-000[1] CP91-85-000, CP91-86-000, CP91-87-000]

Take notice that the above referenced companies (Applicants), filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by Applicants and is included in the attached appendix.

Applicants also states that each would provide the service for each shipper under an executed transportation agreement, and that Applicants would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: November 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

[1] These prior notice requests are not consolidated.

Docket No.	Applicant	Shipper name	Peak day [1] avg. annual	Points of— Receipt	Points of— Delivery	Start up date, Rate schedule, Service type	Related Dockets [2]
CP91-84-000	Stingray Pipeline Co., 701 East 22nd St., Lombard, Illinois 60148.	Arco Natural Gas Marketing.	180,000 75,000 27,375,000	Various	Various	8-4-90 ITS Interruptible	Order No. 500 ST90-4591-000
CP91-85-000	Stingray Pipeline Co.	Equitable Resources Marketing Co.	50,000 50,000 10,950,000	Various	LA	8-4-90 ITS Interruptible	Order No. 500 ST90-4592-000
CP91-86-000	Southern Natural Gas Co., P.O. Box 2563, Birmingham, Al 35202; Illinois 60148.	Howell Gas Management	50,000 6,479 2,000,000	Various	Various	8-12-90 IT Interruptible	CP86-316-000 ST90-4596-000
CP91-87-000	Trunkline Gas Co.	Krupp & Associates	50,000 50,000 18,250,000	Various	IN, IL	8-1-90 PT Interruptible	CP86-586-000 ST90-4559-000

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

7. U-T Offshore System

[Docket Nos. CP91-70-000, CP91-71-000, CP91-72-000, CP91-73-000]

Take notice that U-T Offshore System (U-TOS), P.O. Box 1396, Houston, Texas 77251 (U-TOS), filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under U-TOS' blanket authorization pursuant to the Commission's Order No. 509 and pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[2]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by U-TOS and is summarized in the attached appendix. U-TOS states that it would abide by the conditions and rates set forth in Docket Nos. RM88-14-001 and RM88-15-000.

Comment date: November 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

[2] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual Mcf	Receipt points [1]	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-70 (10-5-90)	Houston Gas Exchange Corp. (Marketer)	100,000 100,000 36,500,000	OLA	LA	7-1-90 IT Interruptible	ST90-4597 8-10-90
CP91-71 (10-5-90)	Energy Marketing Exchange, Inc. (Marketer)	300,000 300,000 109,500,000	OLA	LA	7-1-90 IT Interruptible	ST90-4598 8-11-90
CP91-72 (10-5-90)	L.L. & E Gas Marketing, Inc. (Marketer)	35,000 35,000 12,775,000	OLA	LA	7-1-90 IT Interruptible	ST90-4702 8-9-90

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual Mcf	Receipt points [1]	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-75 (10-5-90)	Stelar Gas Company [Marketer]	1,400,000 1,400,000 511,000,000	OLA	LA	7-1-90 IT Interruptible	ST90-4700 8-6-90

[1] Offshore Louisiana and offshore Texas are shown as OLA and OTX.

6. Florida Gas Transmission Corp.

[Docket Nos. CP91-42-000, CP91-43-000]

Take notice that on October 4, 1990, Florida Gas Transmission Company (Applicant), P.O. Box 1188, Houston, Texas 77251-1188, filed in the respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. CP89-555-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.[2]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by the Applicants and is summarized in the attached appendix.

Applicant states that each of the proposed services would be provided under an executed transportation agreement, and that the Applicant would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: November 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

[2] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name	Peak day [1] avg. annual	Points of— Receipt	Points of— Delivery	Start up date, rate schedule	Related dockets [1]
P91-42-000 10-4-90	CF Industries	200,000 150,000 73,000,000	On LA, Off LA, On TX, Off TX, MS, AL, FL.	LA, FL	8-15-90 ITS-1	ST90-4629-000
P91-43-000 10-4-90	Arco Natural Gas Marketing, Inc	200,000 150,000 73,000,000	On LA, Off LA, On TX, Off TX, MS, AL, FLF.	FL	8-15-90 ITS-1	ST90-4626-000

[1] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

7. Texas Eastern Transmission Corp.

[Docket No. CP91-22-000]

Take notice that on October 2, 1990, Texas Eastern Transmission Corporation (Texas Eastern), Post Office Box 2521, Houston, Texas 77252-2521, filed in Docket No. CP91-22-000 a request pursuant to §§ 157.205 and 284.223 of Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport gas on an interruptible basis for LL&E Gas Marketing Company (LL&E) under its blanket certificate issued in Docket No. CP88-136-000, as amended in Docket No. CP88-136-007, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Texas Eastern states that pursuant to a Transportation Agreement dated July 16, 1990, under its Rate Schedule IT-1, it proposes to transport up to 600,000 MMBtu per day on an interruptible basis on behalf of LL&E. The Transportation Agreement provides for Texas Eastern to receive gas from existing receipt points on its system offshore and onshore Louisiana and multiple states. Texas Eastern will then transport and redeliver subject gas, less applicable shrinkage, to existing delivery points on its system offshore and onshore Louisiana and multiple states.

Texas Eastern also states that the estimated daily and estimated annual quantities would be 600,000 MMBtu and 219,000 MMBtu respectively.

Texas Eastern further states that it commenced this service on August 10, 1990, as reported in Docket No. ST90-4421-000.

Comment date: November 26, 1990, in accordance with the Standard Paragraph G at the end of this notice.

8. Transcontinental Gas Pipe Line Corp. et al.

[Docket Nos. CP91-79-000,[4] CP91-80-000, CP91-81-000]

Take notice that on October 9, 1990, Applicants filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under their blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicants and is included in the attached appendix.

Applicants state that each of the proposed services would be provided under an executed transportation agreement, and that the Applicants would charge rates and abide by the terms and conditions of the referenced transportation rate schedule(s).

Comment date: November 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

[4] These prior notice requests are not consolidated.

[1] Sumas is the owner of Sumas Pipeline USA.

Docket No. (date filed)	Applicant	Shipper name	Peak day [1] avg. annual	Points of [2] Receipt	Points of [2] Delivery	Start up date, rate schedule	Related [3] dockets
CP91-79-000 (10-9-90)	Transcontinental Gas Pipe Line Corp., P.O. Box 1396, Houston, TX 77251.	Nassau District Energy Corp. (DG).	22,000 12,500 8,030,000	LA, MS, PA, TX, OLA, OTX	NY	8-30-90 IT	CP88-328-000 ST90-5292-000
CP91-80-000 (10-9-90)	Northern Natural Gas Co., Division of Enron Corp., P.O. Box 1188, Houston, TX 77251-1188.	Mobil Natural Gas, Inc.	300,000 225,000 100,000,000	IA, KS, MN, NE, NM, OK, SD, TX, WI	IA, KS	9-1-90 IT-1	CP86-435-000 ST90-4721-000
CP91-81-000 (10-9-90)	Northern Natural Gas Co., Division of Enron Corp., P.O. Box 1188, Houston, TX 77251-1188.	Shell Gas Trading Co.	30,000 22,500 10,950,000	TX, OTX	TX	9-11-90 IT-1	CP86-435-000 ST90-4955-000

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] Offshore Louisiana and Offshore Texas are shown as OLA and OTX.
[3] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,
Secretary.

[FR Doc. 90-24665 Filed 10-18-90; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP90-159-000]

El Paso Natural Gas Co.; Notice of Rescheduling of Technical Conference

October 10, 1990.

The technical conference which was scheduled to be held in this docket on Tuesday, October 9, 1990, has been rescheduled for Wednesday, November 7, 1990, at 10 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,
Secretary.

[FR Doc. 90-24675 Filed 10-18-90; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. PR91-1-000]

Exxon Gas System, Inc.; Petition for Rate Approval

October 12, 1990.

Take notice that an October 9, 1990, Exxon Gas System, Inc. (EGSI) filed pursuant to § 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission approve as fair and equitable a maximum rate of 12.8 cents per MMBtu plus 1% retainage for fuel and unaccounted for gas for transportation of natural gas under section 311(a)(2) of the National Gas Policy Act of 1978.

EGSI's petition states that it is an intrastate pipeline in Texas within the meaning of section 2(16) of the NGPA. EGSI's system contains approximately 1,668 miles of pipeline and it receives and delivers gas at various locations in the South Texas, Houston, Beaumont-Port Arthur, and Northeast Texas areas.

Pursuant to § 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, the rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150 day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data and arguments. Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with § 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission on or before November 1, 1990. The petition for rate approval is on

file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24687 Filed 10-18-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA91-1-000]

San Jacinto Gas Transmission Company; Notice of Petition for Adjustment

October 12, 1990.

Take notice that on October 1, 1990, San Jacinto Gas Transmission Company (San Jacinto) filed pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), a petition for adjustment from § 284.123(b)(1)(ii) of the Commission's regulations to permit San Jacinto to use its tariff on file with the Railroad Commission of Texas (Railroad Commission) for services performed pursuant to section 311 of the NGPA. San Jacinto asserts that since it does render city-gate service the Commission should issue this adjustment under section 502(c) of the NGPA to prevent special hardship and inequity that would otherwise result if San Jacinto were required to submit a § 284.123(b)(2) filing.

In support of its petition San Jacinto states that it is an intrastate pipeline which operates in the State of Texas, subject to the jurisdiction of the Railroad Commission. San Jacinto provides intrastate transportation service within the State of Texas. San Jacinto's transportation rates are subject to regulation by the Railroad Commission and have been filed with the Railroad Commission in the form of tariffs. San Jacinto states that it intends to perform interruptible transportation services on its main line gas transportation pursuant to section 311(a)(2) of the NGPA on behalf of eligible interstate pipeline companies and/or local distribution companies by interstate pipeline companies, for a transportation fee not to exceed $0.13 per MMBtu.

The regulations applicable to this proceeding are found in subpart K of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this proceeding must file a motion to intervene in accordance with the provisions of subpart K. Motions to intervene must be filed within 15 days after publication of this notice in the Federal Register. The petition for adjustment is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24688 Filed 10-18-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP91-50-000]

Sumas Energy, Inc.; Notice of Application for a Presidential Permit for the Construction, Operation, Maintenance, and Connection at the United States/Canada International Boundary of Facilities for Importation of Natural Gas

October 12, 1990.

Take notice that on October 4, 1990, Sumas Energy, Inc. (Sumas), 17411 NE. Union Hill Road, suite 280, Redmond, WA, 98052-3373, filed an application pursuant to section 3 of the Natural Gas Act, Executive Order No. 10485, as amended by Executive Order No. 12038; and Delegation order No. 0204-112 of the Secretary of Energy. Sumas[1] seeks authority for a Presidential Permit for the point of entry for the importation of natural gas and authority to construct, operate, maintain and connect a natural gas pipeline extending from Canadian pipeline facilities at the Canadian border to a cogeneration facility near Sumas, Washington, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that the Sumas Pipeline USA will consist of a 6 to 8 5/8 pipe extending from an interconnection with Westcoast Energy, Inc. (Westcoast) at the Canadian border near Sumas, Washington to the Sumas cogeneration project near Sumas, Washington. Westcoast will construct and operate tap, pipe and meter facilities in Canada. The design capacity of the natural gas pipeline will be approximately 25 MMcf/d with an estimated cost of $700,000. The proposed pipeline will transport gas only to facilities owned or operated by Sumas Energy, Inc., it will not offer or provide any service to the public it is stated.

It is further stated that this application incorporates all of the terms and conditions imposed by the Commission for granting authorization for a Presidential Permit for a point of entry for importation of natural gas, and for construction and connection of a natural gas pipeline. The Applicant requests that FERC grant this application on an expedited basis.

[1] Sumas is the owner of Sumas Pipeline USA.

Any person desiring to be heard or to protest this petition should file a motion to intervene or protest in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All motions to intervene or protests should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE. Washington, DC 20426, not later than 15 days after publication of this notice in the Federal Register. All protests filed will be considered but, will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene in accordance with rule 214. Copies of the petition filed in this proceeding are on file with the Commission and available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24689 Filed 10-18-90; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3865-8]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. This ICR describes the nature of the information collection and its expected costs and burdens; where appropriate, it includes the actual data collection instrument(s).

DATES: Comments must be submitted on or before November 19, 1990.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: Notification of Stored Pesticides with Cancelled or Suspended Registration Under section 6(g) of the Federal Insecticide, Rodenticide and Fungicide Act. (OMB #2070-109; EPA #1510.02).

Abstract: Section 6(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) requires anyone who holds

a cancelled or suspended pesticide to provide EPA, state and local officials with the following information: (1) The identity of the submitter, (2) the type and amount of the (cancelled or suspended) pesticides in possession, and (3) the place of storage. Respondents include commercial applicators, distributors, exporters and registrants. EPA uses this information to monitor compliance with federal laws assuring safe storage and distribution of pesticides.

Burden Statement: The public reporting burden for this collection of information is estimated to average sixty minutes per response. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Holders of Cancelled or Suspended Pesticides.

Estimated Number of Respondents: 381,000.

Responses Per Respondent: 1.

Estimated Total Annual Burden on Respondents: 381,000.

Frequency of Collection: On occasion.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch, 401 M Street, SW., Washington DC 20460.

and

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20530.

Dated: October 12, 1990.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 90-24730 Filed 10-18-90; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3869-4]

National Drinking Water Advisory Council; Request for Nomination of Members

The Environmental Protection Agency (EPA) invites all interested persons to nominate qualified individuals to serve as members of the National Drinking Water Advisory Council. This Advisory Council was established to provide practical and independent advice, consultation and recommendations to the Agency on the activities, functions and policies related to the implementation of the Safe Drinking Water Act as amended. The Council consists of fifteen members, including a Chairperson. Five members represent the general public; five members represent appropriate state and local agencies concerned with water hygiene and public water supply; and five members represent private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply. Each member holds office for a term of three years and is eligible for reappointment. On December 15 of each year, five members complete their appointment. This notice solicits names to fill these five vacancies.

Any interested person or organization may nominate qualified individuals for membership. Nominees should be identified by name, occupation, position, address and telephone number. Nominations must include a current résumé providing the nominee's background, experience, and qualifications.

Persons selected for membership will receive compensation for travel and a nominal daily compensation while attending meetings.

Nominations should be submitted to Charlene E. Shaw, Designated Federal Official, National Drinking Water Advisory Council, U.S. Environmental Protection Agency, Office of Drinking Water (WH-550A), 401 M Street SW., Washington, DC 20460, no later than November 9, 1990. The Agency will not formally acknowledge or respond to nominations.

Dated: October 12, 1990.

Michael B. Cook,

Director, Office of Drinking Water.

[FR Doc. 90-24732 Filed 10-18-90; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3853-1]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared October 1, 1990 through October 5, 1990 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in the Federal Register dated April 13, 1990 (55 FR 15949).

Draft EISs

ERP No. D-APH-A99185-00 Rating EO2, Nationwide Cooperative Animal Damage Control Program, Integrated Pest Management Approach, Implementation.

Summary

EPA has environmental objections to the proposed project based on the lack of sufficient information to assess the environmental impacts of the pesticide used and the programs' impacts to some local environments. The draft EIS also uses inadequate definition of integrated pest management and lacks evidence that the program is effective.

ERP No. D-GSA-C81014-NY Rating EC2, Foley Square Federal Courthouse and Federal/Municipal Office Building Development, Construction, New York County, NY.

Summary

EPA expressed environmental concerns about potential impacts to air quality and potential wastewater treatment problems. EPA requested that additional information be provided in the final EIS to address these issues.

ERP No. DS-FMW-L40171-OR Rating EC2, I-84 Widening, NE. 181st Avenue to Sandy River, New Interchange at NE. 207th Ave and Sandy Boulevard to Halsey Street Construction Additional Information, Funding and 404 Permit, Multnomah County, OR.

Summary

EPA has environmental concerns with the proposed design changes to the NE. 207th Avenue interchange based on its contribution to the rate and kind of development in the surrounding area and 0.7 acres of wetland fill that were not previously discussed in the draft EIS.

Final EISs

ERP No. F-HUD-G85179-TX Harris Branch Development Project, Mortgage Insurance, Section 404 Permit, City of Austin, Travis County, TX.

Summary

EPA has no objection to the proposed action as described.

Dated: October 16, 1990.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc.90-24741 Filed 10-18-90; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3853-2]

Environmental Impact Statements; Availability

Responsible agency: Office of Federal Activities, General information (202) 382–5073 or (202) 382–5075. Availability of Environmental Impact Statements Filed October 08, 1990 Through October 12, 1990 Pursuant to 40 CFR 1506.9.

EIS No. 900381, Draft EIS, FHW, CA, Hollister Bypass Construction, CA–156/ Hollister from Union/Mitchell Road to San Felipe Road, Funding, Possible COE Permit, San Benito County, CA, Due: December 10, 1990, Contact: John R. Schultz (916) 551–1310.

EIS No. 900382, Draft EIS, BLM, CA, Bishop Resource Area, Resource Management Plan, Implementation, Bakersfield District, Mono and Inyo Counties, CA, Due: January 17, 1991, Contact: Holden Brink (619) 872–4881.

EIS No. 900383, Final Supplement, FHW, ID, Banks-Lowman Highway/ID Forest Highway–24 Improvement, Sweet Creek to Little Gallagher Creek, Funding, Boise County, ID, Due: November 19, 1990, Contact: Allan J. Stockman (208) 696–7751.

EIS No. 900384, Draft EIS, FHW, GA, Georgia Transportation Connectors Construction, I–75 in Bartow County to GA–371 Forsyth County and I–20 in Newton County to GA–316 Gwinnett County, Funding, Possible COE section 404 Permit, Bartow, Cherokee, Forsyth, Newton, Rockdale and Walton Counties, GA, Due: December 04, 1990, Contact: Charles J. Nemmer (404) 347–4751.

EIS No. 900385, Draft EIS, AFS, ID, Swamp Ridge Timber Sales and Road Construction, Portions of Swamp, Shell, Sugar, Pollock, and Lake Creek Drainages, Implementation, Clearwater National Forest, North Fork Ranger District, Clearwater County, ID, Due: December 03, 1990, Contact: Arthur S. Bourassa (208) 476–3775.

EIS No. 900386, Draft EIS, FHW, TN, TN–56 (Austin Peay) Bridge and Approaches Replacement, Cumberland River, Funding, U.S. CGD Bridge Permit and Possible COE Section 404 Permit, Jackson County, TN, Due: December 03, 1990, Contact: Dennis C. Cook (615) 736–5394.

Amended Notices

EIS No. 900307, Draft EIS, EPA, CA, City of San Diego Clean Water Program, Siting for Secondary Treatment System and Associated Sludge Management Facilities, Funding, San Diego County, CA, Due: November 23, 1990, Contact: John Ong (415) 556–6478.

Published FR 8–24–90—Review period extended.

EIS No. 900330, Draft EIS, FAA, NY, Stewart International Airport Properties Improvement, Orange County, NY, Due: December 14, 1990, Contact: Frank Squeglia (718) 917–0902. Published FR 09–07–90—Review period extended.

Dated: October 16, 1990.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 90–24742 Filed 10–18–90; 8:45 am]

BILLING CODE 6560–50–M

[OPP–66142; FRL 3776–8]

Receipt of Request to Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations.

DATE: Unless a request is withdrawn, all cancellations will be effective December 18, 1990.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (H7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery and telephone number: Rm.210, CM # 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 557-4461.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, provides that a pesticide registrant may, at any time, request that any of its pesticide registrations be cancelled. The Act further provides that EPA must publish a notice of receipt of any such request in the Federal Register before acting on the request.

II. Intent to Cancel

This notice announces receipt by the Agency of requests to cancel some 1,100 pesticide registrations under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24(c) number) in the following Table 1.

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration no.	Product name
000239 CO–81–0016	NA[1]
050534 NC–81–0004	Dacthal W–75 Herbicide
000016–00129	Dragon Fruit Tree Spray
000016–00135	Dragon Captan Wettable Fungicide
000056 MT–88–0002	Eaton's Answer for Pocket Gophers
000056 NE–88–0007	Eaton's Answer for Pocket Gophers
000056 NV–88–0010	Eaton's Answer for Pocket Gophers
000056 OR–88–0007	Eaton's Answer for Pocket Gophers
000056 WA–88–0002	Eaton's Answer for Pocket Gophers
000059–00126	Cooper Del-Tox Dalnav Emulsifiable Liquid
000059–00131	Cooper Super Dairy & Stock Spray
000059–00183	Clo-Rid Clodrin Emulsifiable Liquid
000059–00189	Dermaton Dust
000059–00191	Gammex
000059–00197	Dermaton Dog Collar
000059–00203	Dermaton III
000061–00149	Colortox Hard Vinyl Antifouling Paint B–43
000061–00150	Colortox Hard Vinyl Antifouling Paint B–42
000061–00151	Colortox Hard Vinyl Antifouling Paint B–41
000100 CA–81–0060	Spectracide Lawn & Garden Insect Cll
000100 CA–81–0066	Geigy Diazinon 14G Insecticide
000100 CA–82–0004	Supracide 2E Insecticide-Miticide
000100 FL–77–0035	Geigy Diazinon AG 500
000100 FL–79–0003	Geigy Diazinon AG 500

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product name
[illegible] FL-88-0003	Exit 80W
[illegible] HI-77-0009	Golgy Diazinon AG 500
000100 HI-77-0010	D-Z-N Diazinon 50W
000100 ID-88-0007	Astrex 80W Herbicide
000100 ID-88-0008	Astrex 4L Herbicide
000100 IL-79-0003	Astrex 80W Herbicide
[illegible] MS-84-0002	Cotoran 80W Herbicide
000100 MS-88-0005	Galecron 4 EC Insecticide-Oviclde
000100 NY-88-0001	Exit 50W
000100 OK-82-0016	Igran 80W
[illegible] OR-77-0009	D-Z-N Diazinon 50W
000100 OR-77-0071	D-Z-N Diazinon 50W
000100 OR-79-0066	Golgy Diazinon 14G Insecticide
[illegible] OR-79-0070	Astrex 4L Brand Atrazine/Season-Long
[illegible] OR-79-0073	Astrex 80W Herbicide
000100 OR-80-0002	Golgy Diazinon AG 500
000100 OR-88-0007	Astrex 80W Herbicide
000100 OR-91-0070	Princep 80W
000100 OR-88-0001	Igran 80W
000100 SC-88-0004	Galecron 4 EC Insecticide-Oviclde
000100 TN-91-0016	Ridomil 2E
000100 WA-79-0076	Astrex 80W Herbicide
000100 WA-79-0077	Astrex 4L Brand Atrazine Season-Long
000100-00474	Sarolex Insecticide
000100-00535	On Track 500
000100-00540	Terbutryn Technical For Formulating Use
000100-00577	Stabilized Diazinc Concentrate No.1
000100-00612	Biotrol Plus
000100-00600	Astrex 9G Herbicide
000134-00006	Farm and Home Disinfectant
000148-00002	Terro Ant Killer
000160-00007	Anderson's Dairy Spray
000169-00404	Terro Detergent and Sanitizer
000169-00504	Sentol II
000192-00002	Dexol Improved Pecan & Fruit Tree Spray
000192-00100	Dexol Spider Spray
000192-00101	Dexol Crawling Insect Killer
000192-00105	Dexol Diazinon 12 1/2 E
000192-00109	Dexol Vegetable Spray II
000192-00113	Dexol Tomato Life
000192-00149	Dexol Zineb Garden Fungicide
000228-00231	Tasco Brand Diazinon 4S
000228-00234	Tasco Brand Get Rid' Insect Spray
000228-00240	Tobacco States Sk-k Shooter Tobacco Spray
000228-00081	Riverdale Clodrin
000228-00083	Riverdale Clodrin with Vapona
000228-00090	Riverdale Lindane & Captan Seed Treatment
000228-00104	Riverdale Diazinon Seed Treater
000228-00187	Riverdale Fruit And Berry Spray
000239 AL-78-0014	Ortho Diquat Water Weed Killer
[illegible] AR-81-0015	Orthocide 50 Wettable
[illegible] AR-83-0012	Monitor 4 Spray
[illegible] AR-84-0012	Orthene Tree And Ornamental Spray
000239 AR-84-0014	Orthene Tree And Ornamental Spray
000239 CA-79-0095	Isotox Lindane Wettable 25
000239 CO-79-0009	Orthene 75 S Soluble Powder
000239 DE-80-0002	Orthene 75 S Soluble Powder
[illegible] FL-77-0007	Ortho Dibrom 14 Concentrate
[illegible] FL-78-0016	Ortho Diquat Water Weed Killer
[illegible] FL-78-0054	Ortho Diquat Water Weed Killer
[illegible] FL-80-0009	Monitor 4 Spray
[illegible] FL-80-0016	Monitor 4 Spray
[illegible] FL-80-0046	Ortho Dibrom 8 Emulsive
[illegible] FL-80-0053	Orthene 75 S Soluble Powder
[illegible] FL-81-0007	Ortho Monitor 4 Spray
[illegible] FL-81-0008	Monitor 4 Spray
[illegible] FL-81-0042	Monitor 4 Spray
[illegible] FL-81-0048	Monitor 4 Spray
[illegible] FL-82-0012	Monitor 4 Spray
000239 FL-83-0006	Ortho Bolero 6EC
[illegible] FL-83-0029	Orthene 75 S Soluble Powder
[illegible] FL-86-0007	Orthene 75 S Soluble Powder
000239 FL-87-0021	Orthene 75 S Soluble Powder
000239 FL-88-0006	Orthene 75 S Soluble Powder
[illegible] GA-81-0013	Orthene 75 S Soluble Powder
[illegible] ID-78-0019	Isotox Seed Treater (75)
000239 MD-80-0015	Orthene 75 S Soluble Powder
000239 MS-82-0042	Orthene 75 S Soluble Powder
000239 MS-83-0003	Orthene Tree And Ornamental Spray
[illegible] ND-81-0029	Orthene 75 S Soluble Powder

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product name
000239 NE-84-0001	Orthene 75 S Soluble Powder
000239 OR-77-0020	Orthene Insect Spray
000239 PR-82-0001	Monitor 4 Spray
000239 WY-81-0003	Orthene 75 S Soluble Powder
000239-01244	Ortho Dibrom-Sulfur 4-20 Dust
000239-01884	Ortho Dibrom Sulfur 4-40 Dust
000239-02368	Ortho Crabgrass & Dandelion Killer
000239-02420	Ortho Mole Cricket Bait
000239-02511	Weed-B-Gon Jet Weeder Formula II
000239-02576	Ortho Rose & Floral Dust Formula II
000241-00279	Aastar Soil And Systemic Insecticide
000241-00300	Prozine 32/48
000241-00301	Prozine 40/40
000264-00029	Rootone Rooting Hormone with Fungicide
000264-00128	Amiben Chloramben Herbicide
000264-00157	Amiben Granular Chloramben Herbicide
000264-00202	Fruitone CPA
000264-00278	Technical Ethrel
000264-00280	Florel Tomato Ripener
000264-00281	Ethrel Plant Growth Regulator
000264-00305	Amiben DS Chloramben Herbicide
000264-00306	Amiben Preemergency Herbicide
000264-00344	Amiben Chloramben 10G Preemergence
000264-00436	Zolone EC Insecticide
000264-00440	Zolone WP Insecticide
000264-00441	Phosalone (Technical Grade)
000264-00450	Bilenox Technical Grade
000264-00483	Modown Herbicide 4 Flowable Herbicide
000270-00057	Fernem Super Sugar-Base Die-Fly Fly-Killer
000270-00098	Grand Champion Wipe-On Fly Repellant
000270-00128	Fernem Shoo-Fly Wipe On Insect Repellent
000270-00162	Go-Fly Dust II
000270-00176	Fernem Dip Quik IV
000276-00002	Miamicide Liquid Chlorinating Disinfectant
000279 AZ-90-0006	Niagara Sevin 5 Dust
000279 CA-80-0160	Kolodust
000279 CT-81-0004	Furadan 4 Flowable
000279 IA-85-0002	Pounce 3.2 EC Insecticide
000279 IA-87-0003	Pounce 3.2 EC Insecticide
000279 MA-80-0005	Furadan 4 Flowable
000279 MN-87-0001	Furadan 10 G Insecticide/Nematicide
000279 NJ-82-0020	Furadan 15 G Insecticide-Nematicide
000279 NJ-82-0021	Furadan 15 G Insecticide-Nematicide
000279 NJ-83-0003	Furadan 15 G Insecticide-Nematicide
000279 NJ-84-0020	Furadan 4 Flowable
000279 NV-82-0006	Niagara Diazinon 3 Dust Code R-824
000279 OH-80-0003	Polyram 80 W Fungicide Code 2309
000279 OR-77-0030	Niagara Methoxychlor 2 EC Code 2002
000279 OR-78-0031	Niagara Methoxychlor 2 EC Code 2002
000279 OR-80-0036	Dimethoate 267
000279 OR-80-0043	Niagara Methoxychlor 2 EC Code 2002
000279 OR-82-0042	Polyram 80 WP Fungicide Code 2309
000279 SC-80-0012	Polyram 80 WP Fungicide Code 2309
000279 SD-89-0004	Furadan 4 Flowable
000279-01333	Ethion 8 Granular
000279-01598	Niagara Diazinon 3 Dust Code R-824
000279-02032	Polyram 80 WP Fungicide
000279-02085	Niagara Methoxychlor 2 EC Code 2002
000279-03054	Command 6 EC
000334-00044	Roach Powder Ezzf
000334-00098	Gly The Glycol Air Sanitizer And Disinfectant
000334-00100	Air-Gly
000334-00148	Great Insect Killer
000334-00215	Vigate Air Sanitizer Deodorizer
000334-00237	Super Hy-Fog Outdoor Fogicide
000334-00278	A. R. Outdoor Fogicide
000334-00296	Resist Disinfectant Deodorant
000334-00298	Super Hy Ki Liquid Insecticide
000334-00299	Hy-Fog Outdoor Fogicide
000334-00365	2565 Insect Killer
000334-00366	Trankill Insect Killer
000334-00367	G-1707 Insecticidal Aerosol
000334-00368	Py-Trans Insect Spray
000334-00374	Mintone Disinfectant
000334-00375	Air Gly-2
000334-00394	Mas 3000 Metered Air Sanitizer
000334-00395	Mothrid Moth-Proofer
000334-00396	Vigate #2 Air Sanitizer, Deodorizer
000334-00399	Vigate's #5 Pine Scented
000334-00400	Vigate #7 Lemon Scented

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product name
[illegible]	Vigoro #6 Apple Blossom Scented
[illegible]	Vigoro #5 Citrus Scented
[illegible]	Vigoro #9 Cherry Scented
[illegible]	Vigoro #1 Unscented
[illegible]	Vigoro 4 Spice Scented
[illegible]	Vigoro 3 Mint Scented
[illegible] DE-89-0004	Du Pont Lannate L Methomyl Insecticide
[illegible] PA-78-0003	Du Pont Lannate L Methomyl Insecticide
[illegible] TX-89-0007	Vydate L Oxamyl Insecticide/Nematicide
[illegible]	Velpar Dry Flowable Weed Killer
[illegible]	Lannate P
[illegible]	25% Hexazinone Liquid
[illegible]	Dupont 5% Hexazinone Liquid Concentrate
[illegible]	Benlate PNW Fungicide
[illegible]	Dupont Velpar RP Herbicide
[illegible]	Dupont Velpar ULW Herbicide
[illegible]	Azodrin 5 Insecticide
[illegible]	Shell Technical Azodrin Insecticide
[illegible]	Shell Azodrin Insecticide 3.2
[illegible]	Azodrin 32 Insecticide Water Miscible
[illegible]	Shell Bladex 10G Granular Herbicide
[illegible]	Shell Nudrin *90 Methomyl Insecticide
[illegible]	Bladex 15G Granules Herbicide
[illegible]	Bladex 90 Wettable Powder Herbicide
[illegible]	Bladex 80 WP Herbicide-Fallow Cropland
[illegible]	Bladex Herbicide Aqueous Slurry
[illegible]	Bladex 80W Herbicide For Cotton
[illegible]	Pay-Off Insecticide
[illegible]	Pay-Off Technical Insecticide
[illegible]	Nudrin 1.8 Insecticide Solution
[illegible]	Orotan HDS
[illegible]	Orotan DF-35 Preservative
[illegible] AR-79-0012	Vitavax-25DS Fungicide
[illegible] CA-78-0167	Omite 30W AN Agricultural Miticide
[illegible] CA-86-0005	Alar-85 A Plant Growth Regulant
[illegible] KS-81-0001	Cowite Agricultural Miticide
[illegible] NV-77-0010	Alar 85 A Plant Growth Regulant
[illegible] OR-78-0004	Vitavax-200 Flowable Fungicide
[illegible]	Alar, A Plant Growth Regulant
[illegible]	Kyle-85 A Plant Growth Regulant
[illegible]	Kempon
[illegible]	Uniroyal Captan 50W
[illegible]	Casaron AQ Dichobenil Aquatic Weed Killer
[illegible]	Technical Casoron
[illegible]	Casoron 4H
[illegible]	T-H Cythion Premium Grade Malathion E-5
[illegible]	De-Fender Malathion W-25
000400-00209	T-H Diel-Weed LV-30 Granular
[illegible]	De Fender Dalray EC-15
000400-00217	De-Fender Malathion E-8
[illegible]	MBMA-12
[illegible]	De-Fender 92% Dusting Sulfur
[illegible]	De Fender 93% Wettable Sulfur
[illegible]	Merge 725
[illegible]	Merge 823
[illegible]	De-Fender Cythion LV Conc
[illegible]	De-Fender Maneb Copper Sulfur 4-5-15
000400-00259	De-Fender Diazinin-Maneb 2-8
[illegible]	De-Fender Sulfron, Copper, Sulfur 6-6-25
[illegible]	De-Fender Pyrotox WE-100
[illegible]	De-Fender Copper-Sulfur 15-50
[illegible]	De-Fender Sulfron Sulfur 6-50
[illegible]	De-Fender Methoxychlor E-2
[illegible]	De-Fender Farm Bin Spray
[illegible]	Super Merge 3
000400-00307	T-H Copper Sulfur Dust For Peanuts
[illegible]	Uniroyal 1% Lindane Dust
[illegible]	T-H Copper-Sulfur Dust With Borax
[illegible]	T-H Pyrenone Emulsifiable Concentrate
[illegible]	T-H Polyram 5 Dust Fungicide
000400-00337	T-H Maneb Fungicide Dust (8.4% Maneb)
[illegible]	T-H Polyram 5 Boron Dust (with Borax)
[illegible]	Sevin 80-W
[illegible]	MBMA 14.8
000400-00362	Diazinon AG-4 Insecticide
[illegible]	Malixo-D Insecticide
[illegible]	Oil Diazinon
000400-00367	Atrazine 4L Herbicide
[illegible]	Diazinon W-40
[illegible]	T-H Methoxychlor 2 lb. Emulsifiable

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product name
000400-00370	Methoxychlor 2 lb. Emulsifiable
000400-00378	Lindane E-1 Insecticide
000400-00430	Ala-86 For Grapes
000407-00314	Imperial Potato Dust
000410-00082	Franklin CPF 44 Insecticide
000464 CT-77-0006	Tordon 10K Pellets Brush Killer
000464 ID-79-0008	Tordon Beads Herbicide
000464 ID-83-0020	Tordon Beads Herbicide
000464 IN-78-0013	Tordon 10K Pellets Brush Killer
000464 MD-78-0001	Tordon 10K Pellets Brush Killer
000464 MO-84-0004	Dow Lorsban 4E Insecticide
000464 MT-80-0011	Tordon Beads Herbicide
000464 MT-81-0017	Lorsban 4E
000464 NC-84-0004	Dow Lorsban 4E Insecticide
000464 NJ-85-0001	Lorsban 4E Insecticide
000464 NV-78-0008	Tordon Beads Herbicide
000464 NY-79-0004	Tordon 10K Pellets Brush Killer
000464 OH-77-0001	Tordon 10K Pellets Brush Killer
000464 OR-79-0057	Tordon Beads Herbicide
000464 OR-83-0034	Tordon Beads Herbicide
000464 PA-78-0002	Tordon 10K Pellets Brush Killer
000464 PR-80-0003	Dowpon M Grass Killer
000464 PR-87-0007	Tordon 101 Mixture Weed/Brush Killer
000464 TX-78-0002	Tordon 10K Pellets Brush Killer
000464 WA-81-0094	Tordon Beads Herbicide
000464 WA-83-0027	Tordon Beads Herbicide
000464 WY-80-0009	Tordon Beads Herbicide
000464-00406	Nellite R 80 Nematicide
000464-00429	Dog Flea Collar
000464-00430	Cat Flea Collar
000464-00466	Nellite WS Nematicide
000464-00486	Fospirate-Plastic Strips
000464-00487	Fospirate 96P
000464-00488	Nellite TG
000464-00505	Plondrel 50W
000464-00542	Duraban 44 Insecticide
000464-00634	Zectran 25W
000464-00635	Zectran 2E Mexacarbate Insecticide
000464-00636	Zectran FS 15 Insecticide
000464-00637	Zectran FS 8 Insecticide
000464-00638	Zectran 50 Insecticidal Concentrate
000464-00639	Zectran (R) Snail and Slug Killer Meal
000464-00640	Dow Zectran FS-015 Insecticide
000464-00641	Zectran CF-24 Insecticide
000464-00642	Zectran F
000475-00166	Shine & Shield
000475-00172	Black Flag Roach Trap With Baygon
000475-00173	Antrol Ant Trap With Baygon
000475-00181	Black Flag Ant & Roach Killer Formula "D"
000488-00006	Ferolin Algae Preventive #909 Tablets
000524-00119	Avadex Selective Herbicide
000524-00151	Granular Avadex
000524-00306	Avadex Technical
000528-00061	Penta Seal Concentrate 1-5
000554-00072	Agsco Dufutret A Potato Seed Treatment
000559-00015	Buckeye Sani Care Quat-64
000559-00021	Buckeye Sanicare Quat—256
000802-00119	Purina Check-Fly and Wormer Block
000802-00120	Purina Check-Fly and Worm Control
000802-00196	Purina Diazinon Spray
000802-00245	Purina Diazinon Spray 12-1/2%
000802-00299	Purina Check-Fly Block II
000802-00300	Purina Wound Protector D
000802-00304	Purina Defender
000822-00026	Fleavol Shampoo
000655-00104	Pyrethrum-Sodium Fluoride Powder
000655-00175	Prentox Flealcide Concentrate #2
000655-00344	Prentox Mosquito Fog Concentrate
000655-00345	Prentox Ready To Use Mosquito Fog
000655-00355	Prentox Methoxychlor #2
000655-00356	Prentox Methoxychlor #3
000655-00371	Prentox R. P. Mosquito Concentrate #1
000655-00372	Prentox R. P. Mosquito Concentrate #2
000655-00378	Prentox Methoxychlor #2
000655-00466	Prentox Blue Powder
000655-00625	Prentox Pomato Tomato Potato
000655-00663	Prentox Aldrin Oil Concentrate #525
000655-00681	Prentox Aerosol Concentrate #510
000655-00720	Prentox Pet Insecticide Powder
000655-00747	Prentox Lindane Borer Concentrate No. 185

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product name
000606-00761	Micotine Sulfate Solution
000660-00018	Patterson's Blam Kill All Roaches
000660-00027	Patterson's Roach Waterbug Tablets
000660-00028	Patterson's Blam Sure Death
000660-00047	Patterson's Brush Killer
000706-00057	Roach & Ant Killer Contains Baygon
000706-00076	Quaternide Surface Disinfect/Air Sanitizer
000706-00081	Claire Microcide Disinfectant Spray
000707 NC-88-0006	Larvin Brand 2.2 Thiodicarb
000707 WA-88-0004	Kade 80-W Herbicide
000707 WI-88-0008	Goal 1.6E Herbicide
000707-00046	Dithane M-22
000707-00383	Dithane M-22 Special
000707-00101	Dithane M-22 Special With Zinc Concentrate
000707-00109	Dithane M-22 Concentrate
000707-00166	Rizet Technical
000707-00170	Dithane FZ Flowable AG Fungicide with Zi
000773-00095	Spreader
000808-00152	Miller's Garden Captan
000808-00154	Miller's Captan 50W
000808-00202	Miller's 2,4-D Butyl Ester 8E
000808-00478	Miller's Control All Purpose Spray
000808-00094	Lilly/Miller Knock-Out Weed & Grass Killer
000808-00606	Lilly/Miller Ready-Use KO Weed/Grass Kill
000808-00630	Lilly/Miller Ready-Use KO Weed/Grass Kill
000829-00057	SA Brand 50 Maneb Dust
000829-00148	SA-50 Brand Maneb Spray Concentrate
000829-00188	SA-50 Brand Household Insect Spray
000829-00288	SA-50 Brand Mosquito Fogging Solution
000829-00271	SA-50 Home & Garden Vegetable
000961-00088	Vaporizer No. 2 1/2 Insect Spray
000876-00021	Velsicol Technical Endosulfan Insecticide
000961-00169	Hercules 90L Pine Oil Disinfectant
000961-00185	Hercules 70L Pine Oil Disinfectant
000961-00171	Hercules Fortified Pine Odor Disinfectant
002021-00008	Insect Repellent Stock No. 6840-559-0918
000804-00018	Pratt Diazinon 4-OS Insect Spray
000808-00028	Cooke Quick Action Gopher Tabs
000961-02828	Agrico Turf Food/Weed Control w/Iron 30-8
001007 NE-84-0008	Counter Systemic Insecticide-Nemic
001016 TX-78-0001	Union Carbide Sevin 4 Oil Insecticide
001021 CA-78-0191	Pyrocide Mosquito Adulticiding
001021-00042	MGK Insect Loosener
001021-00068	Pyrocide Aerosol Mix 5048
001021-00256	Pyrocide Aerosol Mix No. 5046
001021-00299	Pyrocide Booster Concentrate O
001021-00308	Pyrocide Pyrethrum Extract 11.8%
001021-00311	Pyrocide Booster Concentrate 5140
001021-00320	Pyrocide Aerosol Mix No. 5218
001021-00362	Pyrocide Aerosol Mix No. 5143
001021-00404	Pyrocide Aerosol Mix No. 5304
001021-00432	Pyrocide Intermediate No. 5329
001021-00469	Pyrocide Aerosol Mix No. 5353
001021-00479	Pyrocide Intermediate No. 5460
001021-00511	Repellent Spray Mix for Personal Use
001021-00548	Pyrocide Aerosol Mix No. 5712
001021-00552	Pyrocide Aerosol Mix No. 5848
001021-00600	Pyrocide Intermediate No. 5969
001021-00619	Pyrocide Intermediate No. 6024
001021-00620	Pyrocide Aerosol Mix No. 6048
001021-00624	Pyrocide Aerosol Mix No. 6107
001021-00625	Pyrocide Aerosol Mix No. 6114
001021-00626	Pyrocide Intermediate No. 6026
001021-00654	Pyrocide Intermediate No. 6158
001021-00655	Pyrocide Aerosol Mix No. 6157
001021-00674	Pyrocide Intermediate No. 6184
001021-00688	Pyrocide Pressurized Spray Mix No. 6199
001021-00697	Pyrocide Intermediate No. 6147
001021-00698	Pyrocide Aerosol Mix No. 6212
001021-00702	Pyrocide Intermediate No. 6268
001021-00703	Pyrocide Intermediate No. 6269
001021-00705	Pyrocide Intermediate No. 6279
001021-00707	Pyrocide Intermediate No. 6280
001021-00712	Pyrocide Intermediate No. 6290
001021-00715	Pyrocide Intermediate No. 6294
001021-00716	MGK Pyrocide Intermediate No. 6308
001021-00719	MGK Pyrocide Intermediate No. 6307
001021-00722	Pyrocide Intermediate No. 6286
001021-00723	Pyrocide Intermediate No. 6316
001021-00729	Pyrocide Intermediate No. 6327

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product name
001021-00725	Pyrocide Intermediate No. 6342
001021-00730	Pyrocide Intermediate No. 6326
001021-00731	Pyrocide Intermediate No. 6341
001021-00732	Pyrocide Intermediate No. 6348
001021-00745	Pyrocide Intermediate No. 6411
001021-00778	Pyrocide Aerosol Mix No. 6475
001021-00782	Pyrocide Intermediate No. 6488
001021-00790	Pyrocide Aerosol Mix No. 6504
001021-00796	Pyrocide Intermediate No. 6558
001021-00809	Pyrocide Intermediate No. 6511
001021-00813	Pyrocide Intermediate No. 6486
001021-00818	Pyrocide Intermediate No. 6615
001021-00819	Pyrocide Intermediate No. 6616
001021-00826	Pyrocide Intermediate No. 6536
001021-00827	Pyrocide Intermediate No. 6619
001021-00829	Pyrocide Aerosol Mix No. 6622
001021-00839	Pyrocide Intermediate No. 6584
001021-00844	Pyrocide Intermediate No. 6640
001021-00845	Pyrocide Intermediate No. 6656
001021-00856	Pyrocide Intermediate No. 6626
001021-00857	Pyrocide Intermediate No. 6671
001021-00858	Pyrocide Intermediate No. 6668
001021-00861	Pyrocide Intermediate No. 6709
001021-00868	Formula No. 6712
001021-00886	Pyrocide Intermediate No. 6735
001021-00887	Pyrocide Intermediate No. 6736
001021-00888	Pyrocide Intermediate No. 6738
001021-00888	Pyrocide Intermediate No. 6753
001021-00906	Pyrocide Aerosol Mix No. 6775
001021-00928	Pyrocide Intermediate No. 6805
001021-00936	Pyrocide Pressurized Pet Spray No. 6807
001021-00940	Pyrocide Intermediate No. 6810
001021-00944	Pyrocide Intermediate No. 6311
001021-00954	Pyrocide Intermediate No. 6840
001021-00957	Pyrocide Intermediate No. 6833
001021-00962	Pyrocide Booster Concentrate No. 6845
001021-00978	Pyrocide Intermediate No. 6836
001021-00976	Pyrocide Intermediate No. 6834
001021-00976	Pyrocide Intermediate No. 6832
001021-00977	Pyrocide Intermediate No. 6865
001021-00979	Everban Conc No. 68862
001021-00980	Pyrocide Intermediate No. 6817
001021-00981	Pyrocide Intermediate No. 6877
001021-01001	Pyrocide Intermediate No. 6897
001021-01004	Pyrocide Intermediate No. 6900
001021-01006	Pyrocide Intermediate No. 6902
001021-01008	Pyrocide Intermediate No. 6903
001021-01008	Pyrocide Intermediate No. 6904
001021-01029	Pyrocide Intermediate No. 6927
001021-01031	Pyrocide Intermediate No. 6928
001021-01036	Pyrocide Intermediate No. 6939
001021-01047	Pyrocide Intermediate No. 6944
001021-01050	Pyrocide Intermediate No. 6947
001021-01055	Pyrocide Intermediate No. 6962
001021-01058	Pyrocide Intermediate No. 6972
001021-01064	Pyrocide Intermediate No. 6975
001021-01068	Pyrocide Intermediate No. 6436
001021-01083	Pyrocide Intermediate No. 6998
001021-01088	Pyrocide Intermediate No. 7003
001021-01093	Pyrocide 60–8 Manufacturing Concentrate
001021-01098	Pyrocide Intermediate No. 7012
001021-01103	Pyrocide Intermediate No. 7011
001021-01131	D-Trans Intermediate No. 1861
001021-01137	Pyrocide Intermediate No. 7043
001021-01139	Pyrocide Intermediate No. 6952
001021-01159	Pyrocide Intermediate No. 7084
001021-01193	Pyrocide Intermediate No. 7079
001021-01197	Pyrocide Intermediate No. 7099
001021-01200	Pyrocide Intermediate No. 7108
001021-01201	Pyrocide Intermediate No. 7107
001021-01207	Pyrocide Booster Concentrate No. 7109
001021-01209	Pyrocide Aerosol Mix No. 7120
001021-01210	Pyrocide Intermediate No. 7121
001021-01224	Pyrocide Intermediate No. 7134
001021-01230	Pyrocide Intermediate No. 7139
001021-01232	Pyrocide Intermediate No. 7138
001021-01234	Pyrocide Pressurized Pet Spray No. 7142
001021-01252	Pyrocide Intermediate No. 7149
001021-01258	Pyrocide Intermediate No. 7178
001021-01270	Pyrocide Intermediate No. 7179

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product name
001021-01281	Pyrocide Intermediate No. 7162
001021-01320	Pyrocide Plant & Pet Spray No. 6660
001021-01321	Pyrocide Intermediate No. 7225
001021-01346	Pyrocide Intermediate No. 7220
001021-01355	Pyrocide Formula No. 7251
001021-01358	Pyrocide Aerosol Mix No. 7250
001021-01385	Pyrocide Formula No. 7185
001021-01461	Pyrocide Intermediate No. 5819
001021-01463	Pyrocide Fenvalerate Concentrate 2275
001021-01501	Pyrocide Intermediate No. 7348
001022-00008	Timpreg B Pol-Nu Type Wood Preser. Grease
001022-00376	Timpreg B Special
001022-00382	Timpreg B Pak
001022-00529	Woodgard 2 TS
001057-00006	E.W.T. Selective Weed-Killer 2,4-D Amine
001057-00057	E.W.T. Plus Controls Broad-Leaved Weeds
001100-00013	Rustlex 100 WD
001124-00012	Super Strength Dutch Fast Acting Cleaner
001239-00055	WTM-65
001258-00072	Sodium Omadine 5% Aqueous Solution
001258-01102	Hth Plus Granular Calcium Hypochlorite - 1
001258-01109	Hth Plus Granular Calcium Hypochlorite - 2
001421-00035	Electr. Disinfectant Coml. 5
001421-00043	Mosquito-Larvecide
001421-00126	Hoch Residual Conc. 5% Malathion
001421-00132	MB Spray
001421-00162	Special Insecticide
001458-00029	Hilo Cat Flea Powder
001458-00034	Siphin PF
001458-00037	Hi Sept Conc. Deterg. Sanitizer, Fungicide
001458-00040	Pro-Sept Heavy Duty Cleaner
001475-00020	Naphthalene 100%
001529 HI-81-0005	Cepha
001529 HI-81-0006	Cepha
001533-00018	Pressurized SLA Cedar Scented Spray
001603-00020	Pester-Caller's Sachet Scented crystals
001624-00002	20 Mule Team Pcly./Chlor. Weed/Grass Kill
001624-00079	20 Mule Team Hibor Gran. Weed/Grass Killer
001624-00115	MC 2-113 Weed and Grass Killer
001677-00005	Sollas Professional Insecticide
001677-00104	Sani-Q Cleaner-Disinfectant-Deodorant
001677-00108	Super Soft Stat
001677-00113	Fragrant Contax Toilet Bowl Cleaner
001708-00111	Nalcon 7621
001730-00062	Relco Scientific Flush-All
001730-00064	Bowl Gard Automatic Bowl Cleaner
001767-00017	Biosperse 230
001767-00066	Biosperse 205 Microbiocide
001769-00102	National Chemsearch Bromo-Sect W. E.
001769-00103	National Chemsearch Bromo-Sect O.S.
001769-00210	Fromonite
001770-00066	Leppco Brand Flomacont
001781-00030	North Coast Megacol 128
001812-00252	Super 16 Flowable Sulfur - Tin Fungicide
001905-00017	St. Aubrey Flea/Tick Spray For Dogs/Cats
001926-00045	Kilzum Ant and Roach Killer With Diazinon
001965-00021	Vancide PA
001965-00064	Vancide PA Dispersion
001980-00276	Co-op Azazine Tech
001980-00433	Vapona Insecticide Dairy and Stock Spray
002217 WA-85-0030	Aqua Hi-Dep (TM) Herbicide
002217-00003	2,4-D 40% Butyl Ester Weed Killer
002217-00076	Butyl Ester 400 2,4-D Weed Killer
002217-00085	Butyl Ester 600 2,4-D Weed Killer
002217-00260	Roach-Rid Professional Type Insecticide
002217-00280	Clodrin 150 Emulsifiable
002217-00376	Gordons Dairy Spray
002217-00413	Clodrin 382 Insecticide Emulsible Conc.
002217-00417	Diazinon Spray
002217-00426	2% Clodrin Insecticide
002217-00453	Trimec Dandelion and Broadleaf Weedkiller
002217-00455	Gordon's Trimec Spot-Weeder Pressurized
002217-00457	Trimec 19 Weed-'n-Feed
002217-00460	Trimec 672 Herbicide
002217-00461	Trimec 2 D E A Turf Herbicide
002217-00462	Trimec 28 Weed-'n-Feed
002217-00466	Gordon's Livestock Spray Concentrate
002217-00500	Gordon's Trimec Estate Broadleaf Herbicide
002217-00504	Gordon's Trimec Chickweed Killer
002217-00518	Diazon Seed Treater with Seed Lube Plus

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product name
002217-00584	Trimec 609 Herbicide
002217-00645	Gordon's Indoor Plant Spray
002217-00662	Gordon's Dairy & Livestock Spray
002217-00646	Gordon's Professional Turf Products
002217-00671	Gordon's Phenomec 2+1
002217-00693	Trimec 900 Broadleaf Herbicide
002217-00713	Alkanolamine 55 2,4-D Weed Killer
002217-00723	Trimec M 10,000
002342-00690	Fasco Poultry Dust C-R
002393-00328	80% Bomyl Technical Concentrate
002393-00327	Bomyl Technical
002444-00002	Chigarid
002675-00010	Aseptic-Clean II Disinfectant
002724-00188	Thuron T-45
002724-00219	Starber GX-130 Trichlorfon Cattle Insecticide
002749 IN-88-0011	Dimethogon 25% WP Systemic Insecticide
002749-00012	Thiram 65
002749-00019	Metaldehyde
002749-00020	Ziram Fungicide
002749-00035	Malathion 95% Premium Deodorized Grade
002749-00068	Zineb 90
002749-00069	Acaio Piperonyl Butoxide Technical
002749-00098	Amazin Phase 2
002749-00109	PDQ 4-(MCPB)Sodium Salt Weed Killer
002749-00165	90W Herbicide
002749-00174	Dicamba 4 EC Herbicide
002749-00181	Trichlorfon 100
002749-00189	Bromacil 80W Weed Killer
002749-00204	Carbaryl Sprayable Insecticide
002749-00230	Disulfoton 15G Systemic Insecticide
002749-00235	Azinphosmethyl LC Concentrated Insecticide
002749-00253	Azinphosmethyl 50W Crop Insecticide
002749-00278	Prometryne Technical Herbicide
002749-00290	Disulfoton Liquid Concentrate Insecticide
002749-00291	Azinphosmethyl Technical Insecticide
002749-00292	Simazine Technical Herbicide
002749-00295	Ethion Technical Insecticide
002749-00426	Propazine 4L Herbicide
002792-20001	Agolor
002829-00010	Curilate #2440-Light
002829-00016	Curilate #2174-Sup
002829-00017	Curilate #2174-Na
002829-00053	Curilate 4620
002829-00066	Durotex #7457-A
002829-00091	Durotex #7604
002935 AZ-80-0023	De-Fend E--267 Dimethoate Systemic Insecticide
002935 AZ-81-0004	Red-Top EPN 4 Spray
002935 AZ-84-0003	Red-Top Methyl Parathion 4 Spray
002935 CA-78-0133	Red-Top Cryolite 30 Sulfur 30 Dust
002935 CA-77-0054	Red-Top Golden Dew
002935 CA-77-0077	Red-Top Cryolite 30 Sulfur 90 Dust
002935 CA-77-0351	Red-Top Golden-Dew
002935 CA-79-0123	Nu-Flow ND
002935 CA-79-0159	Dimethogon 25% WP Systemic Insecticide
002935 CO-78-0018	Red-Top Golden-Dew (Fungicide/Insecticide)
002935 CO-78-0020	Funaban 4 Flowable
002935 ID-79-0023	Red-top Toxaphene 8 Spray
002935 ID-81-0034	De-Fend E-267 Dimethoate Systemic Insecticide
002935 ID-85-0009	Dimethoate 2.67 EC
002935 ID-85-0011	Ortho Diclolan 4 Flow. Seed Protect.
002935 ID-88-0002	Busan 1020
002935 MT-79-0015	Red-Top Malathion 8 Spray
002935 ND-80-0001	Red-Top Toxaphene 8 Spray
002935 NM-83-0014	Methomyl 2 BT 320 Dust
002935 NV-80-0001	Red-Top Toxaphene 8 Spray
002935 OR-78-0043	Ziram F-4
002935 OR-78-0060	Wilbur-Ellis Smut-Guard
002935 OR-80-0004	Red-Top Toxaphene 8 Spray
002935 OR-80-0066	Dimethoate 2.67 EC
002935 OR-80-0067	De-Fend E-267 Dimethoate Systemic Insecticide
002935 OR-80-0080	D-Z-N Diazinon 50W Insecticide
002935 OR-81-0037	Red-Top Zineb 15 Dust
002935 OR-81-0061	Vapam Soil Fumigant
002935 OR-82-0006	Dimethoate 2.67 EC
002935 OR-82-0044	Red-Top Dimethoate 2.67 E.C.
002935 OR-82-0087	Molluscicide Mesurol 2% Bait
002935 OR-84-0049	Dimethoate 2.67 EC
002935 OR-85-0030	Dimethoate 2.67 EC
002935 OR-85-0035	M.A.D. Special Mosquilicide w/Baytex
002935 WA-78-0005	Red-Top Ethion .25 Oil N.W.

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product name
[illegible] WA-78-0026	Red-Top Toxaphene 6 Spray
[illegible] WA-78-0061	Red-Top Parathion 6 Flowable
[illegible] WA-80-0087	De-Fend E-267 Dimethoate Systemic Insecticide
[illegible] WA-81-0089	Vapam Soil Fumigant
[illegible] WA-82-0047	Wilbur-Ellis Phosphamidon 6 Spray
[illegible] WA-82-0060	Wilbur-Ellis Ziram 10 Dust
[illegible] WA-84-0069	Dimethoate 2.67 EC
[illegible] WA-86-0088	Red-Top Spray Sulfur
[illegible] WA-86-0027	Dimethoate 2.67 EC
[illegible] WA-88-0003	Dupont Karmex DF Herbicide
003935 WI-88-0013	Molluscicide Mesurol 2% Bait
[illegible] WY-78-0008	Red-Top Golden-Dew (Fung./Insect.)
002935-00020	Red-Top Parathion 25 Spray Powder
002935-00167	Weco Phocdrin" 4 Spray
002935-00366	Red-Top Diazinon - Superior Spray Oil
002935-00367	Red-Top Diazinon Methoxychlor Spray
[illegible]-00441	Rose & Flower Spray
002935-00447	Fresh Start Grass & Weed Killer
002935-00449	Spot Weeder
002935-00452	Home & Garden Insect Spray
002935-00454	Tomato and Vegetable Insect Spray
002935-00528	Osmose 24-12 Wood Preservative Solution
003073-00008	Woolsey Heavy Duty Vinyl Anti-Foul. 905 Red
003073-00011	Lumiliast Anti-Fouling Finish 678 White
003125 CA-86-0025	Sencor 4 Flowable Herbicide
003125 CT-86-0002	Mesurol 75% Wettable Powder
003125 ID-77-0017	Meta-Systox-R Spray Concentrate
003125 OR-86-0070	Meta-Systox-R Spray Concentrate
003125 TN-86-0004	Dylox Liquid Solution Insecticide
003125 WA-77-0019	Meta-Systox-R Spray Concentrate
003125 WA-84-0012	Chemagro Di-Syston 8
003125-00071	Def Defoliant Spray Concentrate
003125-00143	Dylox Liquid Solution Insecticide
003125-00155	Systemic Spray Insecticide
003125-00161	Sophacide 0.2% Bait (Rodenticide)
003125-00162	Sophacide 0.1% Bait (Rodenticide)
003125-00163	Sophacide Technical
003125-00291	R Baygon OSC Insecticide
003125-00309	Def 7 Emulsifiable Defoliant
003125-00309	Mesurol 50% Hopper-Box Treater
003125-00322	Amaze 6 Emulsifiable Insecticide
003125-00323	Amaze 15% Granular Insecticide
003125-00324	Amaze 20% Granular Insecticide
003125-00343	Dylox/MSR 1.50.5
003282-00022	D-Con Flying Insect Killer
003282-00024	D-Con Jet Stream Wasp & Hornet Killer
003282-00250	D-Con Roach Pruie
003282-00251	D-Con Ant Pruie
003282-00256	Sportsmate II Prem. Insect Repel. Liq.
003282-00257	Sportsmate II Prem. Insect Repel. Spray
003282-00264	D-Con Warpath Roach Killer Formula II
003282-00269	D-Con Bug Killer
003375-00002	Morphene Germicidal Concentrate
003422-00003	Scorch
003448-00762	Captan Garden Spray
003487-00025	Eagle7 Lawn and Garden Insect Control
003776-00023	Earl May Home Orchard Spray
003772-00268	Earl May Ziram 76W Fungicide
004003-00005	Sutamate Weed and Brush Killer Chemical
004003-00060	Lemon Scented Hospital Disinfectant
004091-00008	Deep-Treat Penta Wood Preservative Conc.
004091-00004	Best-Treat Wood Preservative
004091-00005	Deep Treat Penta Wood Preserv. Ready/Use
004313-00072	Carocol Flying Insect Killer
004324-00045	Cutt-Stix
004332-00004	Wonder Bug Killer
004332-00005	Clean Kill
004715-00009	Kenya Dairy Cattle Spray
004316 AZ-86-0026	Niagara Pyrenone Crop Spray Insect.
004316 DE-84-0007	Rotenone 5% Emulsifiable
004316 ME-85-0021	Rotenone 5% Emulsifiable
004316 NJ-84-0021	Rotenone 5% Emulsifiable
004316 NY-78-0024	Pyrenone Indust. Spray Emuls. Conc.
004316 RT-85-0028	Rotenone 5% Emulsifiable
004316 PA-85-0004	Rotenone 5% Emulsifiable
004316 RI-84-0002	Rotenone 5% Emulsifiable
004316 TN-86-0005	Pyrenone Tick Repellent
004316 WA-80-0085	AIA 17570 Aquacide Pres Spray Insec.
004316 WA-86-0029	Niagara Pyrenone Crop Spray Insec.
004887-00004	Stephenson Drop-Tox Aero Bomb

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product name
005660-00008	Pure Pine Pine Oil Disinfectant Coef 6
005726-00088	X-Cell 406
005726-00089	WCO-122
005726-00100	WCO-122-LM
005741-00010	Spartan F-1 Indust. Strength Insectic.
005765-00029	Ethylene Dibromide
005887-00058	Black Leaf House Plant Spray Bomb
005887-00063	Black Leaf Diazinon Spray
005887-00106	Black Leaf Bagworm Spray
005887-00134	Black Leaf Ant Trap
005905 KS-81-0023	Aatrex 203 Herbicide
005905 LA-82-0023	Helena Permet 6-2
005905 NE-82-0024	Aatrex 203 Herbicide
005905-00465	Atrazine 80 W
005905-00470	Atrazine 4L
005967-00151	Corysul Wettable Powder Fungicide
006188-00048	Deco 258
006378-00006	Labcel Water Soluble Solvent Cleaner
006378-00007	Lab One Bactericidal Cleaning Complex
006378-00015	Lab One Plus Bactericidal Cleaning Complex
006378-00018	Lab Conquer Deodorant Disinfectant Deterg.
006378-00019	Lab Escort Germicidal Foam Cleaner
006378-00021	Lab One Formula 125:1
006414-00002	Chesker Brand Residual Spray
006414-00006	Chesker Brand Residual Aqueous Spray
006462-00002	Lone Star 28% Equiv. Super Hi-Pro-Fly
006462-00003	Lone Star 14% Protein Bar-Fly Hi-Pro-Min
006521-00048	Enviro-Clean
006536-00048	Uniquat CB-50
007001-00047	Best Malathion Grain Spray
007001-00051	Metaldehyde
007136-00011	Pasture Balancer Cattle Block
007136-00013	Livestock Fly & Worm Mineral Medicated
007173-00164	Rozol Rat & Mouse Killer
007173-00166	Rozol Rat & Mouse Killer
007364-00038	GLB Aglomycin "600"
007364-00056	Tabex Spa-Care Chlorination Tablets
007364-00072	Tab-Chem Chlorination Tablets
007364-00073	Tab-Chem 90
007364-00074	Tab-Chem 40
007364-00075	Tab-Chem 32
007366-00083	Super-Chlor
007366-00084	Industrial Bleach
007401-00147	Ferti-Lome Tomato & Vegetable Garden Dust
007401-00158	Ferti-Lome Tomato & Vegetable Dust
007401-00322	Hi-Yield (Zineb) Lawn & Garden Fungicide
007401-00341	Americal Brand All Purpose Garden Dust
007501-00036	Gustafson Vitavax-Maneb Flowable Fungicide
007501-00053	Gustafson Terra-Coat 2-LF Seed Treatment
007501-00056	Terra-Coat L-21N
007501-00060	Terra-Flo 21 Flowable Seed Treatment Fung.
007501-00063	Gustafson Captan Dry Flowable with Dye
007546-00002	Sani-King Liquid Sodium Hypochlorite
007547-00033	Microbiolde 8C
007627-00010	Stockade Ki-a-Pest No. 12 Fly Control
007631-00012	Walnut Grove "4X4" Beet Shake 21 (F)
007753-00001	Slugit Liquid Slug & Snail Killer
008122-00006	KA-22
008145-00005	Larvi-Rid "S" 2X1 Mineral
008177-00041	Vinyl Anti-Fouling Paint Brown 58-O-20
008177-00047	Vinyl Anti-Fouling Paint MI-P-16189
008177-00060	Farboil 66018 Red Vinyl Antifouling Paint
008177-00061	Farboil Hydro-Clean O.M.P. Antifouling
008177-00063	Hydro-Clean O.M.P. Antifouling Paint Red
008177-00064	Farboil 61578 MI-P-15931D Antifouling
008177-00067	Farboil 60228 MI-P-5531D Antifouling
008489-00004	Ocean S
008576-00003	Chlorine for your Pool
008576-00004	Sodium Hypochlorite
008590 MA-80-0001	Methoxychlor 2-E
008590 NJ-83-0013	Agway Greenlawn Plus Fertilizer
008590 NJ-83-0014	Agway Prof. Fairway & Athletic Turf
008590 PA-80-0008	Malathion 25W
008590 PA-80-0037	Agway Diazinone AG500
008590-00039	Agway Weed Killer "66"
008590-00052	Agway Captan 7.5D
008590-00206	Agway 50% Sevin Wettable Powder
008590-00304	Agway Orchard Mouse Bait - Coated
008590-00314	Agway Crop Spray Insecticide M
008590-00328	Agway Methoxychlor 5G with HAN

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product name
000090-00091	Agway Ammate Weed & Brush Killer
000090-00429	Agway Dust Garden Orchard Spray
000090-00431	Agway Potato Seed Treatment 6D-I
000090-00462	Agway Zineb Garden Fungicide
000090-00500	Agway Maneb Garden Fungicide
000090-00552	Agway Captan 80WP
000090-00553	Captan 50WP
000090-00563	Agway Liquid Fruit Tree Spray
000090-00595	Agway Captan 4 Flowable
000500-00013	Agway Maneb 80W
000500-00023	Agway Flowable Maneb 2F
000500-00032	Agway Lawn & Garden Malathion 50
000500-00057	Takeout Systemic Weed & Grass Killer
000612-00001	B & G Diazinon 4E
000612-00005	Tapp 20–S Insecticide Oil Concentrate
000612-00009	B & G Tapp–5 Powdered Pyrethrum Dust
000612-00070	Tapp 5 Synergized Powdered Pyrethrum
000637-00017	Mitco CC–51L
000637-00018	Mitco CC–52L
000645-00004	Rid-a-Bug Brand Pre-Mixed
000645-00010	Rid-a-Bug Brand D7 Insecticide Concentrate
000645-00012	Super Rid-a-Bug Brand MD
000645-00015	Rid-a-Bug Brand Pre-Mix RD2
000645-00036	Kenco Rid-a-Bug Pre-Mixed AZ6
000645-00061	Hot Shot Outdoor Fogger
000078-00091	Co-op Pasture Balancer Medicated
000215-00004	Clear-All 100A Pool Chlorine
000215-00005	All Clear Pool Start
000241-00002	Poco-Sol Germicidal Bowl Cleaner II
000293-00006	Sanitizer Q
000313-00015	Vold
000367-00009	Kill-o-Cide Concentrate Fly & Insect Spray
000374-00001	Ranch-O Bar-Fly Protein Supplement Block
000374-00002	Ranch-O Bar-Fly #2 Hi-Boot Mineral Suppl.
000418-00001	Mark III Advanced Gas Sterilizer
000444-00042	Personal Purge Insect Repellent Lotion
000524-00007	Staudley Pynol 5 A Pine-Type Disinfectant
000600-00006	Willard Pool Chlorinating Concentrate
000639-00010	CL–60 Pool Chlorinating Tablets
000640-00019	Microbiocide NM
000640-00020	Microbiocide 1302M
000640-00021	Microbiocide 1303M
000640-00023	Biolyte 1384
000640-00024	Biolyte F
000640-00028	3624 Microbiocide
000640-00030	Citrex 3670
000640-00031	3629 Microbiocide
000640-00032	3630 Microbiocide
000640-00045	UOP 2–CH Algaecide
000656-00002	Insecticide for Crawling Insects
000656-00004	No-Bite Insect Repellent
000656-00022	Bug Spray with 25% Penick 1382
000656-00060	Chemsico Ant & Roach Killer VI
000656-00061	Chemsico Ant & Roach Killer V
000743-00030	Skanol Microbiocide No. 7
000770-00230	Riverside Weedgard G
000770-00231	Riverside 2,4-D Butyl Ester 6
000770-00274	Maneb Plus Lindane
000770-00276	Maneb 6%
000770-00277	Superbark Potato Seed-Piece Fungicide Dust
000800-00009	CWT-26 17
000802-00026	Rite-Off Vaporizer Concentrate
000802-00160	Rite-Off Compactor & Kitchen Insecticide
000828-00171	Fesco Poultry Dust C-R
000860-00001	Parker Rat Bait
010351-00003	Pro-Tech Boric Acid 99%
010107-00047	Diazinon 4S Insecticide
010146-00004	Quat
010146-00008	Super Vegetation Killer
010146-00015	Industrial Spray #4000
010146-00016	Compactor & Kitchen Aqueous Spray #4005
010163-00121	P-A Mevinphos Technical
010250-00020	Hempel's Classic Antifouling 7555–6111
010250-00023	Hempel's Antifouling Nautic HI7695–5030
010250-00024	Hempel's Antifouling Nautic HI–7695–5111
010257-00003	1:750 Aqueous Benz.Chlor.Germ.Sol
010270-00173	Systemic Ornamental Spray
010445-00005	Hercules Microbiostatic Compound MB 112
010503-00017	Flo-Kem Ant & Roach Spray Residual
010719-00009	Trophy No-Sac Plus

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product name
010808-00006	R-30
010808-00009	Evans Clear Wood Preservative
010942-00002	Bandini 5 Weed-out 12-4-4
010942-00004	Bandini 4 Pre-Plant Weedfeed 21-6-6
010989 CA-77-0177	Methyl Bromide Rodent Fumigant
010989 CA-78-0228	Tordon Beads Herbicide
011556-00101	Bar X Emulsifiable Fly Spray & Repellant
011556-00102	Shield Wipe On Fly Protectant
011561-00022	Warner Enterprises Flea Killer
011603-00009	Atrazine Technical for Manufacturing Only
011603-00010	Atrazine 80% W.P.
011603-00014	Twiltrex Emulsifiable Concentrate
011676-00021	Diazol Diazinon 4 Lb/Gal Agricultural Oil
011676-00023	Diazol Diazinon 40% WP
011715-00121	Spear Dandelion & Broadleaf Jet Weeder
011715-00122	Spear Poison Ivy Jet-Stream Killer
011724-00008	Intex 630 Disinfectant Germicide
011724-00010	Intex 645 Pine Oil Disinfectant
011748-00006	Davis Kill-a-Bug
012020-00008	Monuron Technical
012020-00009	Monuron80 Wettable Powder
012388-00001	Chloropool
012465-00002	Aqua Maid Algaecide Concentrate
012465-00004	Aqua Maid Chlorinating Liquid
012465-00006	Pryley Winter Grade Algaecide
012465-00010	Aqua Maid Permanent Algaecide
012465-00013	Aqua Maid "Cyan" Granular Blend
012465-00014	Aqua Maid Pool Start
012465-00015	Aqua Maid Slow-
012465-00017	Aqua Maid Shock Treatment Granular
012465-00024	Aqua Maid "Jumbo" Slow-Tab
012465-00043	Aqua Maid Cyan II
012465-00044	Aqua Maid Shock
012465-00049	Aqua Maid Slow Sticks
012465-00050	Algae Attack
012465-00058	Winterizing Chlorinating Concentrate
012741-00001	Sweet Pine
012741-00002	Lemon 22
012741-00003	Mint-15
012741-00004	Algicide
012886-00001	Vioco Sodium Hypochlorite Solution
013648-00006	Glidco Pine Oil-220
013799-00005	The Protector
013799-00009	Four Paws Bird & Cage Spray
013808-00003	Prairie Dog, Ground Squirrel, Field Mice
013808-00006	Pocket Gopher Bait/R
014797-00003	Diazinon
019713-00090	Drexel D-294 48 Diazinon Insecticide
019713-00122	Drexel D-254-5D
019713-00135	Piperonyl Butoxide Technical Synergist
019713-00146	Drexel D-254-40 WP
021137-00003	Lindane
021137-00007	Chlorfluorenol Ester (ITS458)
021327 CA-78-0007	Larvacide 100 Chloropicrin
021327-00001	Chloropicrin 100 Soresco Brand
027561-00052	Midland 665
028293-00053	Unicorn Lindane Screw Worm Spray
028293-00135	Unicorn Insecticidal Ear Tag #1
029009-00015	Camboal Vegetable & Flower Spray
032256-00005	Super Green Pre-Emergence CrabGrass Killer
033356-00005	Chloro Guard Chlorinating Solution
033576-00006	Olin Water Treatment Products # 770 P
033576-00020	Olin Powdered Bactericide
033955-00456	Acme Tomato Vegetable Dust
033955-00469	Acme Zineb 75W Fungicide
033955-00502	Acme Indoor Plant Spray
033955-00535	Acme Diazinon Spray
033955-00561	Acme One-Shot House Fogger
034668-00006	Interdide TMP
034668-00024	Interdide 80
034668-00061	N-948 DMF
034704-00033	Mesol Technical MCP Esters
034704-00400	Kolodust 25 Diazinon 9 Dust
034704-00408	Kolodust 50 Diazinon 3 Dust
034704-00507	Puregro 2,4-D Butyl 6
034704-00511	Gabriel Methoxychlor Technical
034704-00518	Gabriel Diuron Technical for Manufacturing
034704-00536	Gustafson E-Phenyl Technical Insecticide
034704-00557	Pueblo 6-6 Parathion
034704-00625	Ziram 100

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TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product name
034797-00040	Dionne Detergent/Disinfectant
034797-00041	Dionne Detergent/Disinfectant Concentrate
050881-00007	CMB 40
067505 HI-82-0003	Pyrocide Fogging Concentrate 7257
036832-00001	West C-101
050295 LA-83-0023	Decamine 3600
050295 NC-76-0025	NA[1]
050295 SC-76-0016	NA[1]
050369-00003	Sumithion 8E
050369-00011	Sumithion Concentrate
040931-00016	Best 4 Servis Brand 25% Malathion WP
040931-00058	Fulls Butyl Ester 600 2,4-D Weed Killer
040931-00061	Best 4 Servis Brand Parathion 15% WP
040931-00077	2,4-D Butyl Ester 6 Weed Killer
040931-00078	Butyl Ester 334 E Selective Weed Killer
040931-00085	Best 4 Servis Brand Polyram Potato Seed
040931-00089	Best 4 Servis Brand Indoor-Outdoor Spray
040931-00091	Best 4 Servis Brand Fly & Mosquito Spray
040931-00102	Best 4 Servis Brand Navunax-5 Dust
040931-00124	Fulls 2,4-D Amine 410 Alkanolamine
040949-00015	Enforcer Rat Bait
040949-00020	Enforcer Flea, Ant & Roach Killer III
040949-00039	Lutrelin's Magical Jelly Contains Baygon
041068-00001	Wood's Algaecide
041293-00006	Pool-Care Algicide Formula D
041293-00010	Swimming Pool Algicide Formula B
041293-00013	Swimming & Wading Pool Algicide Formula C
041293-00014	Pool Shock Treatment
041293-00047	Lemon Cleaner Disinfectant & Deodorizer
041293-00048	Sunshine Ready-to-Use Spray Disinfectant
041293-00049	Pine Cleaner Disinfectant & Deodorizer
041404-00001	Industrial Sodium Hypochlorite Solution
041715 FL-85-0005	Riverside Malathion 5
041715 TX-76-0010	Riverside Parathion 4
042013-00001	Sodium Hypochlorite Solution
042067-00009	Morgro Plus Fungicide
042264-00013	Artesa Destroy Odor-Controlled Insecticide
042264-00021	Entacide-P Insecticide Vaporizer Spray
043769-00002	Captan/Methoxychlor 300-20 Flowable Seed
043769-00004	Captan/Methoxychlor 60-10 WP Seed Protect
043769-00005	Captan/Methoxychlor 65-10 WP Seed Protect
043769-00007	Captan/Methoxychlor 70-9 WP Seed Protect
043769-00014	Lindane 25 EC Seed Treater
043769-00017	Captan/Methoxychlor 300-20 DD Flowable
043769-00036	Lindane 25 WP Dyed Seed Treater
043769-00040	Lindane 75 WP Dyed Seed Treater
043769-00044	Methoxychlor 25 EC Dyed Seed Treater
043769-00072	Captan 32-D Flowable Seed Protectant
043769-00073	Lindane 25 EC/LF Seed Treater
043769-00077	Chlorovax 200 Liquid Planter Box Seed
043769-00080	Chlorovax 300 Dyed Flowable Seed Protect
043769-00082	Chlorovax 60 WP
043769-00086	Pro-Tec 24
044215-00074	Vito Spot Fungicide
044283-00002	Superman Maneb Flowable
044283-00005	Stay-On Liquid Sulfur
045115-00086	Ready-to-Use Weed Away
045639-00067	Ficam ULV
045187-00001	The Boat House Chlorinating Solution
047060-00006	Rats: Rat & Mouse Killer Bait Packets
047300-00088	Livestock/Dairy Spray & Fog
047302-00020	CPI "3000" Metered Spray Brand Air Sanit.
047615-00005	Insectaway Flying & Crawling Insect Killer
048702-00009	Royal Crown Residual Spray I
048967-00017	SuBox
049840-00002	Preserve Tablets
049840-00003	Preserve Powder
049916-00001	Slimicide MI
050295-00036	Shepard Brothers Stiboron 750
050840-00005	Formula 1007
051036-00023	Micro-Flo Sulphur-Zineb Fungi-Spense
051036-00025	Zineb 75 Wettable
051036-00029	Fesco Deflocculated Lead Arsenate #550
051036-00040	Fesco Thiodan Liquid-2
051036-00044	Fesco Thiodan 50-WP
051036-00052	Fesco Phosdrin 4 EC
051036-00056	Fesco Thiodan Phosdrin 2-1 EC
051036-00062	Fesco Zineb 75 WP
051036-00063	Fesco Thiodan Zineb Dust 3-6
051036-00067	Thiodan 50 Wettable Powder Insecticide

[1] No pro

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TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product name
051036-00144	C-Z-M 755 Prod #947
051036-00145	Fasco C-Z75 Prod #948
051036-00146	Fasco Vegetable Dust 6-8
051036-00149	Thiodan 2-E Emulsifiable Conc.
051036-00150	Fasco C-Z-M-S #3
051036-00163	Thiodan Miscible
052260-00002	Miduprul
052423-00001	West/Treat 662
052423-00002	West/Treat 881
052423-00003	West/Treat 633
053127-00002	Disodium Methanearsonate Crabgrass Killer
053127-00011	Crabgrass Lawn Weed & Dandelion Killer
053127-00020	Lawn Weed & Dandelion Killer with Banvel D
053127-00023	Total Weed & Grass Killer
053127-00029	New Improved Malathion 50%
053127-00030	Aim & Spray Insecticide
053127-00031	Diazinon Insect Spray
053127-00054	Garden Care Brand Home Pest Insect Control
053127-00055	Broad Range Insecticide
053127-00057	Crawling Insecticide
053127-00058	Aqueous Gen. Purpose Residual Insecticide
053127-00059	Garden Care By Farmingdale
053840-00001	Proctor Semi-Transp. Stain & Wood Pres.
053840-00002	Proctor Paint & Varnish Clear Wood Pres.
054452-00001	Magnetic Roach Powder
054452-00003	Blast-A-Roach
054452-20204	Blast-A-Roach
055363-00001	Classic Yacht Antifoulant Coating
055363-00002	Classic Yacht Clear Aerosol Antifouling Coating
056100-00004	Chem-Kill Automatic Indoor Fogger
056236-00004	Porcupine Blocks, Containing Strychnine
056493-00032	Horse Fly Free Gel
056644-00045	Security Brand Vega-Grow Plant Food
056644-00052	Security Brand Diazinon Spray
057730 TX-87-0001	NA[1]
059284-00001	Camicide House & Plant Insect Killer
059284-00016	Camicide Liquid Bug Killer
060299 NJ-86-0003	Carbicide Sterilant-Fumigant Gas
061278-00002	2,4-D Isobutyl Ester Technical
062190-00001	Wolman Salts CA
062190-00003	Wolman Salts CCA-Type B
062190-00004	Wolman Salts CCA-Type C
062190-00006	Koppers CCA Type B Wood Preservative

[1]No product name available.

Unless a request is withdrawn by the registrant within 60 days of publication of this notice, orders will be issued cancelling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this 60-day period. The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA Company Number.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company no.	Company name and Address
000016	Dragon Corp., Box 7311, Roanoke, VA 24019.
000066	J. T. Eaton Co., Inc., 1393 E. Highland Road, Twinsburg, OH 44087.
000069	Coopers Animal Health, Inc., Box 419167, Kansas City, MO 64141.
000081	Koppers Co., Inc., Occupational Health Product Safety, 1201 Koppers Building, Pittsburgh, PA 15219.
000100	Ciba-Geigy Corp., Box 18300, Greensboro, NC 27419.
000154	Hess Clark, Inc., 7th and Orange, Ashland, OH 44805.
000149	Senorat Chemical Co., Inc., 566 Lafflingwell Ave Kirkwood, MO 63122
000150	Anderson Chemical Co., Box 1041, Litchfield, MN 55355.
000166	Great Western Chemical Co., 909 S.W. 16th Ave., Portland, OR 97205.
000192	Decol Industries, 1450 W. 135th St., Torrance, CA 90501.
000228	Tobacco States Chemical Co., 815 Contract St., Lexington, KY 40505.
000229	Rivardale Chemical Co., 425 W. 194th St., Glenwood, IL 60425.
000239	Chevron Chemical Co., Registration Regulatory Affairs Dept., 940 Hensley St., Richmond, CA 94804.
000241	American Cyanamid Co., Agricultural Research Division, Box 400, Princeton, NJ 08540.
000264	Rhone-Poulenc Ag Co., Box 12014, Research Triangle Park, NC 27709.
000270	Fermon Companies, Inc., 301 W. Osborn Road, Phoenix, AZ 85007.
000276	Miami Products Chemical Co., Box 486, Dayton, OH 45401.
000279	FMC Corp., Product Registration ACG, 21000 Market St., Philadelphia, PA 19103.
000334	Hyaan Corp. (Lara Ofc), 4309 S. Morgan St., Chicago, IL 60609.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Company no.	Company name and Address
000352	E. I. Du Pont de Nemours and Co., Inc., Agricultural Products Dept., Box 80038, Wilmington, DE 19880.
000385	US Professional Labs Lehn Fink Ind Prod., 225 Summit Ave., Montvale, NJ 07645.
000400	Uniroyal Chemical Co., Inc., 74 Amity Road, Bethany, CT 06525.
000407	Imperial, Inc., Box 98, Shenandoah, IA 51601.
000410	Franklin Laboratories, Inc., Box 717, Fort Dodge, IA 50501.
000464	Dow Chemical U.S.A., Agricultural Products Dept., Box 1706, Midland, MI 48641.
000479	Boyle-Midway Household Products, Inc., S Ave, Hale St., Cranford, NJ 07016.
000496	Burmah Technical Services, Inc., Water Management Division, 409 Auburn Ave., Pontiac, MI 48058.
000524	Monsanto Co., 700 14th St., N.W. Suite 1100, Washington, DC 20005.
000528	Amoco Division Union Oil Company of California, 825 S.E. Thornton, Minneapolis, MN 55414.
000554	Agrico, Inc., Box 498, Grandforks, ND 58201.
000569	Buckeye International, Inc., 2700 Wagner Place, Maryland Heights, MO 63043.
000602	Purina Mills, Inc., Box 66812, St. Louis, MO 63166.
000622	Nordan Laboratories, Inc., Box 80809, Lincoln, NE 68501.
000655	Prentiss Drug Chemical Company, Inc., 21 Vernon St.—C.B. 2000, Floral Park, NY 11001.
000660	Perk Products Chemical Co., Inc., Box 100585, Nashville, TN 37210.
000706	Claire Manufacturing Co., c/o Regweet Co., Box 2220, Greeley, CO 80632.
000707	Rohm Haas Co., Agri. Chemicals Registration Regulator, Independence Mall West, Philadelphia, PA 19105.
000772	Pitman-Moore, Inc., Box 207, Terre Haute, IN 47808.
000802	Chas H. Lilly Co., 7737 N.E. Killingsworth, Portland, OR 97218.
000829	Southern Agricultural Insecticides, Inc., Box 218, Palmetto, FL 34220.
000861	Uncle Sam Chemical Co., Inc., 575 W. 131st St., New York, NY 10027.
000876	Velsicol Chemical Corp., 6000 N. River Road, Rosemont, IL 60018.
000901	Hercules, Inc., Medical Department, Hercules Plaza Wilmington, DE 19894.
000901	Airosl Co., Inc., 525 N. 11th St., Neodesha, KS 66757.
000904	Miller Chemical Fertilizer Corp., Pratt-Gabriel Division, Box 333, Hanover, PA 17331.
000909	Cooke Laboratory Products, Subsidiary of the Chas. H. Lilly Co., 7737 N.E. Killingsworth, Portland, OR 97218.
000961	Lebanon Chemical Corp., Box 180, Lebanon, PA 17042.
001007	Pfizer, Inc., Specialty Chemicals, 235 E. 42nd St., New York, NY 10017.
001018	Union Carbide Corp., Box 12014, T.W. Alexander Dr., Research Triangle Park, NC 27709.
001021	Mc Laughlin Gormley King Co., 8810 10th Ave North, Minneapolis, MN 55427.
001052	Chapman Chemical Co., c/o Science Regulatory Services International, 1625 K St., NW, Suite 975, Washington, DC 20006.
001057	C.B. Dolge Co., c/o Unytex Research Corp., Box 818, Rochester, NY 14603.
001100	Hulls America, Inc., Box 385, Piscataway, NJ 08855.
001124	Purex Industrial, Turco Purex Industrial Corp., 7300 Bolsa Ave., Westminster, CA 92564.
001239	ICI., 1015 N. 14th St., Omaha, NE 68102.
001253	Olin Corp., Box 586, Cheshire, CT 06410.
001421	Dettelbach Chemical Corp., 4309 S. Morgan St., Chicago, IL 60609.
001432	Rocoorp, Inc., Box 2945, North Canton, OH 44720.
001439	The Sullair Companies, Box 37, Eckcroft, PA 19032.
001476	Wilert Home Products, 4044 Park Ave., St. Louis, MO 63110.
001529	GAF Corp., 1361 Alps Rd., Wayne, NJ 07470.
001603	Agan Chemical Manufacturers, c/o Makhteshim-Agan (America) Inc., 245 Fifth Ave., Suite 1901, New York, NY 10016.
001624	U.S. Borax Research Corp., 412 Crescent Way, Anaheim, CA 92801.
001677	Ecolab, Inc., 370 Wabasha St., Ecolab Center, St. Paul, MN 55102.
001708	Nalco Chemical Co., One Nalco Center, Naperville, IL 60563.
001730	American Cyanamid Co., 697 Route 46, Clifton, NJ 07015.
001767	Drew Industrial Division, Ashland Chemical, Inc., Box 2219, Columbus, OH 43216.
001769	NCH Corp., 2727 Chemsearch Blvd., Irving, TX 75062.
001770	Griffin Bros, Inc., 1806 S.E. Holgate Blvd., Portland, OR 97202.
001791	North Coast Chemical Co., Inc., 6300 17th Ave., S., Seattle, WA 98108.
001812	Griffin Corp., Box 1847, Valdosta, GA 31603.
001903	8 in 1 Pet Products, Inc., 2100 Pacific St., Hauppauge, NY 11788.
001926	Navy Brand Mfg Co., 5111 S.W. Ave., St. Louis, Mo 63110
001965	Vanderbilt R T CO., Inc., 30 Winfield St., East Norwalk, CT 06855.
001980	Universal Cooperatives, Inc., c/o Diana Williams, Box 460, Minneapolis, MN 55440.
002217	PBI/Gordon Corp., 1217 W. 12th St., Box 4090, Kansas City, MO 64101.
002342	Kerr-McGee Chemical Corp., Box 25861, Oklahoma City, OK 73125.
002393	Haco, Inc., D/B/A/ Hopkins Agricultural Chemical Co., Box 7190, Madison, WI 53707.
002444	DDC Laboratories, 149 Yorktown, Dallas, TX 75208.
002575	National Parts Inc., 110 5th Ave., S.E., Minneapolis, MN 55414.
002724	Zoecon Corp., A Sandoz Co., 12200 Denton Drive, Dallas, TX 75234.
002749	Acsto Chemical Co., Inc., c/o John M. Wise, Box 301, Liberty, MO 64068.
002782	Penwalt Corp., Decco Division, Box 120, Monrovia, CA 91016.
002829	Morton International, Inc., Specialty Chemicals Group, 333 W. Walker Drive, Chicago, IL 60606.
002935	Wilbur Ellis Co., 191 W. Shaw Ave., Suite #107, Fresno, CA 93704.
003008	Cowose Wood Preserving, Inc., 850 Ellicott St., Buffalo, NY 14209.
003073	Woolsey Marine, Division of Kop-Coat, Inc., 436 Seventh Ave., Suite 1850, Pittsburgh, PA 15219.
003125	Mobay Corp., Agricultural Chemicals Division, Box 4913, Kansas City, MO 64120.
003282	D-Con Company, Inc., 225 Summit Ave., Montvale, NJ 07645.
003376	Berry International, 2100 Park Central Blvd., North Suite 500, Pompano Beach, FL 33064.
003432	N. JohanCo., Inc., 4520 Adams Circle Box 425, Bensalem, PA 19020.
003442	Laroche Industries Inc., Perimeter 400 - Center Two, 1100 Johnson Ferry Rd., N.E., Atlanta, GA 30342.
003487	Bacon Products Company, Inc., Box 22187, Chattanooga, TN 37422.
003772	Earl May Seed Nursery LP., 208 N. Elm St., Box 500, Shenandoah, IA 51603.
004000	Southern Chemical Products Co., Subsidiary of Carroll Co., 2900 W. Kingsley Road, Garland, TX 75041
004091	W.M. Barr Co., 2105 Channel Ave., Memphis, TN 38113.
004113	Carroll Co., 2900 W. Kingsley Rd., Garland, TX 75041.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Company no.	Company name and Address
004524	H.B. Fuller Co., 3900 Jackson St., N.E., Minneapolis, MN 55421.
004552	Crown Chemical Co., Inc., 5553 Ravenswood Road #105–108, Ft. Lauderdale, FL 33312.
004715	Pyrethrum Board of Kenya, c/o Keane Associates, 2100 Lincoln Park West, Suite 10DN, Chicago, IL 60614.
004816	Fairfield American Corp., 909 Harrison St., French Town, NJ 08825.
004867	Stephenson Chemical Co., Inc., Box 87189, College Park, GA 30337.
005560	Snee Chemical Co., 1369 Tchoupitoulas St., New Orleans, LA 70130.
005736	Dubois Chemicals, Inc., c/o Joe D. Stone, 3630 E. Kemper Road, Sharonville, OH 45241.
005741	Spartan Chemical Co., 110 N. Westwood Ave., Toledo, OH 43607.
005785	Great Lakes Chem Corp., Box 2200, West Lafayette, IN 47906.
005887	Wilbur-Ellis Co., Box 8518, Fresno, CA 93792.
005905	Helena Chemical Co., 5100 Popular Ave.,- Suite 3200, Memphis, TN 38137.
005957	Moyer Products, Inc., Box 5434, Fresno, CA 93755.
006196	Damon Chemical Co., Inc., Box 480, Alliance, OH 44601.
006378	Lab Automated Chemicals, Division of Systems General, Inc., Box 152170, Irving, TX 75015.
006414	Bain Pest Control Service, 1320 Middlesex St., Lowell, MA 01851.
006462	Texas Farm Products Co., Box 9, Nacogdoches, TX 75961.
006821	National Inter Chem Corp., 2819 W. Lake St., Chicago, IL 60612.
006836	Lonza, Inc., 17-17 Rte 208, Fair Lawn, NJ 07410.
007001	J.R. Simplot Co., Box 198, Lathrope, CA 95330.
007136	Southern States Cooperative, Inc., 6606 W. Broad St., Richmond, VA 23230.
007173	Liphatech, Inc., 3600 W. Elm St., Milwaukee, WI 53209.
007364	Great Lakes Biochemical Co., Inc., 6120 W. Douglas Ave., Milwaukee, WI 53218.
007369	Grow Group, Inc., 760 S. Vail Ave., Montebello, CA 90640.
007401	Voluntary Purchasing Group, Inc., Box 460, Bonham, TX 75418.
007501	Gustafson, Inc. Box 660065, Dallas, TX 75266.
007546	USC, A Division of Hydrite Chemical Co., 2555 N. Mayfair Road, Milwaukee, WI 53226.
007547	Western Water Management, Inc., 1345 Taney Box 7469, No. Kansas City, MO 64116.
007627	Harvest Brands, Inc., Country Club Road 69 Bypass Box 46, Pittsburg, KS 66762.
007631	Walnut Grove Products, 201 Linn St., Atlantic, IA 50022.
007782	Murphy Chemical Company Ltd, c/o McHutchison Co., Inc., 666 Grand Ave., Ridgefield, NJ 07657.
008122	Farbest Corp., Box 01525, Los Angeles, CA 90001.
008143	Protein Blenders, Inc., Box 631, Iowa City, IA 52240.
008177	Velsper Corp., 1101 Third St., South, Minneapolis, MN 55415.
008489	Cosan Chemical Corp., 40 Ave. A, Bayonne, NJ 07002.
008576	Mayo Chem Co., Inc., 5644 Oakdale Rd., Smyrna, GA 30082.
008590	Agway, Inc., Crop Services, Box 4933, Syracuse, NY 13221.
008612	BG Co., 10539 Maybank Dr., Box 540425, Dallas, TX 75354.
008637	Milco, Inc., 1601 Steele Ave., SW, Grand Rapids, MI 49507.
008645	The Spectrum Group Division Of, United Industries Corp., Box 15842, St. Louis, MO 63114.
009078	Tennessee Farmers Co-Op, Box 3003, Lavergne, TN 37086.
009215	Aqua Tri. 17872 Mitchell, Box 17145, Irvine, CA 92713.
009241	Powell Co., Inc., Box 1317, Lima, OH 45802.
009262	Davies-Young Co., Inc., 2700 Wagner Pl., Maryland Heights, MO 63043.
009313	Rose Products Services, Inc., 545 Stimmel Rd., Columbus, OH 43223.
009367	Theochem Laboratories, Inc., 7373 Rowlett Park Dr., Tampa, FL 33610.
009374	Ragland Mills, Inc., Rte., 8, Box 168, Neosho, MO 64850.
009418	Advanced Instruments, Inc., 1000 Highland Ave., Needham Hights, MA 02194.
009444	Cline-Buckner, Inc., Subsisidiary of Waterbury Companies, Inc., Box 640, 100 Calhoun St., Independence, LA 70443.
009564	Beaulieu Chemical Co., c/o Masury-Columbia, 1140 E.103rd St., Chicago, IL 60628.
009638	Lux Chemical Corp., Willard Products Div., Box 249, Redwood City, CA 94064.
009640	Burmah Technical Services, Inc., 408 Auburn Ave., Pontiac, MI 48058.
009668	Chemsico, Box 15842, St. Louis, MO 63114.
009749	Stasel, Inc., 40 Cleveland St., San Francisco, CA 94103.
009779	Riverside/Terra Corp., Box 171378, Memphis, TN 38187.
009800	Stewart-Hall Chem Corp., 222 Wash St., Mt. Vernon, NY 10553.
009852	Rite-off, Inc., (A Delaware Corp.), 1545 Fifth Industrial Ct., Bayshore, NY 11706.
009859	Landia Chemical Co., Box 6664, Lakeland, FL 33807.
009860	Parker Pest Control, Inc., Rt. 2, Box 37, Ponca City, OK 74601.
010051	Vestoh Chemical Co., 4357 California St., St. Louis, MO 63111.
010107	Corn Belt Chemical Co., Box 410, McCook, NE 69001.
010149	Nationwide Chemical Co., Inc., 395 Johnson Ave., Brooklyn, NY 11206.
010163	Gowen Co., Box 5569, Yuma, AZ 85366.
010250	Hempel Coatings (USA), Inc., Foot of Curie Ave., Box 3279, Wallington, NJ 07057.
010257	Baxter Healthcare Corp., 1450 Waukegan Rd., McGaw Park, IL 60085.
010370	Ford's Chemical Service, Inc., 2739 Pasadena Blvd., Pasadena, TX 77502.
010445	Calgon Corp., Calgon Center, Box 1346, Pittsburgh, PA 15230.
010668	Flo-Kem, Inc., 19402 Susana Rd., Rancho Dominguez, CA 90221.
010710	Purdy Products, Inc., 1525 N. 31st St., Milwaukee, WI 53208.
010805	Contact Industries, Inc., 641 Dowd Ave., Elizabeth, NJ 07201.
010956	Evans Products Co., Box 4095, Roanoke, VA 24015.
010962	Bandini Fertilizer Co., 4139 Bandini Blvd., Los Angeles, CA 90023.
010969	Contra Costa County Dept. of Agriculture, 161 John Glen Dr., Concord, CA 94520.
011558	Mobay Corp., Animal Health Div., Box 390, Shawnee Mission, KS 66201.
011581	Warner Packaging Inc., c/o Miller Chemical Fertilizer Corp., Box 333, Hanover, PA 17331.
011609	Agan Chem. Mfg., Ltd., c/o Makhteshim-Agan (Amer.), 2 Park Ave., New York, NY 10016.
011678	Makhteshim Chemical Works, c/o Makhteshim-Agan (America) Inc., 2 Park Ave., New York, NY 10016.
011715	Spear Products, Inc., Box 18993, Memphis, TN 38118.
011724	Inlex Products, Inc., Box 6648, Greenville, SC 29606.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Company No.	Company name and Address
011746	Louisiana Chemical USA, Inc., c/o Regwest Co., Box 2220, Greeley, CO 80632.
012320	Staveley Chemicals Ltd., c/o Griffin Corp., Box 1847, Valdosta, GA 31603.
012360	Chemical Sales Corp., 1132 Okeechobee Rd., West Palm Beach, FL 33401.
012465	Advanced Laboratories., Box 1355, Westfield, MA 01086.
012741	Long's Preferred Products, Inc., 3016 Broadway Ave., Alexandria, LA 71302.
012896	Vicco Supply Co., 703 W. Hill Ave., Valdosta, GA 31603.
013648	SCM Glidco Organics, c/o Regwest Co., Box 2220, Greeley, CO 80632.
013788	Four Paws Products, Ltd., 50 Wireless Blvd., Hauppauge, NY 11788.
013808	State Dept. Of Agriculture Wildlife Services Fund, State Office Bldg. #1, Pierre, SD 57501.
014797	Delray Chemical Co., Inc., 1065 S.W. 15th Ave., Suite 5, Delray Beach, FL 33444.
019713	Drexel Chemical Co., Box 9306, Memphis, TN 38109.
021137	Elf Industries Inc.-Plant Protection Div., 5 Skyline Dr., Hawthorne, NY 10532.
021327	Soweco, Inc., 700 W. 6th, Amarillo, TX 79101.
027581	Midland Research Lab., Inc., 10800 Mid America Ave., Lenexa, KS 66219.
028293	Unicorn Laboratories, 1000 118th Ave., North, St. Petersburg, FL 33716.
029909	Cardinal Laboratories, Inc., 710 S. Ayon Ave., Azusa, CA 91702.
033295	Horn's Crop Service Center, Inc., Box 335, Bellevue, OH 44811.
033356	Quality Chemical Co., 1535 N.E. 144th St., N. Miami, FL 33161.
033576	Olin Water Services, 120 Long Ridge Rd., Stamford, CT 06904.
033955	FDI Gordon Corp., Box 4090, Kansas City, MO 64101.
034696	Akzo Chemicals, Inc., 300 S. Riverside Plaza, Chicago, IL 60606.
034704	Platte Chemical Co., 419 18th St., Box 667, Greeley, CO 80632.
034797	Quelle, Inc., 4600 Park Ave., Des Moines, IA 50321.
035961	Viking Chemicals, 8 Bruch St., Pontiac, MI 48053.
037566	Hawaii State Health Dept., 2911 Kilihau St., Honolulu, HI 96819.
038632	Water Energy Systems Technology, Inc., 2516 Woodland Dr., Anaheim, CA 92801.
039335	Mexus Agri Chem'l, 717 N. Harwood St., #3300, Dallas, TX 75201.
039369	Sumitomo Chemical America, Inc., 345 Park Ave., New York, NY 10154.
040631	Falls Chemicals, Inc., Box 2345, Great Falls, MT 59403.
040649	Enforcer Products, Inc., c/o Regwest Co., Box 2220, Greeley, CO 80632.
041052	Chute Chemical Co., 233 Bismarc Rd., Bangor, ME 04401.
041225	Sunshine Quality Products, Inc., c/o Regwest Co., Box 2220, Greeley, CO 80632.
041404	Industrial Equipment Supplies, 2055 N.W. 7th Ave., Miami, FL 33127.
041715	Riverside Chemical Co., Box 17199, 671 Ridge Lake Blvd., Memphis, TN 38117.
042015	Louden Bonded Pools, 4306 S. Highway #1, Fort Pierce, FL 33450.
043057	Biorgro Chemical Co., Box 651045, Salt Lake City, UT 84165.
042064	Ahlem Professional Products, Division of Ecolab, Inc., Ecolab Center, St. Paul, MN 55102.
043709	Agricultural Products Co., Box W, Greeley, CO 80632.
044215	Kaw Valley, Inc., c/o John W. Kennedy Consultants, Inc., 9101 Cherry Lane, Suite 113, Laurel, MD 20708.
044293	Pesticide Service Consultants, 349 Apollo Beach Blvd., Apollo Beach, FL 33572.
045115	Ida, Inc., 2215 West Street, 2nd Floor, Germantown, TN 38138.
046539	Nor-Am Chemical Co., 3509 Silverside Rd., Wilmington, DE 19803.
046157	Save A Buck of Florida, Inc., 1709 S. Babcock St., Melbourne, FL 32901.
047000	Chem-Tech, Ltd., 4515 Fleur Dr., #303, Des Moines, IA 50321.
047612	Technical Packaging, Inc., 2228-B North Blvd., Raleigh, NC 27604.
048702	Shore Chemical Co., 2917 Spruce Way, Pittsburgh, PA 15201.
048957	Cumberland International corp., 1523 N. Post Oak Rd., Houston, TX 77055.
049840	DDF Control Systems, Inc., 1750 Folsom St., San Francisco, CA 94103.
049918	Klenzoid, Inc., Industrial Water Specialties, 812 Spring Mill Ave., Conshohocken, PA 19428.
050534	Fermenta ASC Corp., 5885 Heisley Rd., Box 8000, Mentor, OH 44061.
050600	Shepherd Brothers, 509 W. Lambert Rd., Brea, CA 92621.
050840	Moon Chemical Products, Inc., 8112 S.W. 8th, Oklahoma City, OK 73128.
051036	Micro-Flo Co., Box 9948, Lakeland, FL 33807.
052350	Fabrilite Chemicals, Inc., 4555 Lake Forest Dr., Suite 300, Cincinnati, OH 45242.
052423	Western Wellchems, Inc., 500 17th Suite 505-S, Denver, CO 80202.
053127	Garden Care By Farmingdale, Ltd., c/o Regwest Co., Box 2220, Greeley, CO 80632.
053840	Proctor Paint Varnish Co., Inc., 35 Wells Ave., Yonkers, NY 10701.
054452	Blue Diamond Exterminating Mfg, Inc., Rt. 2, Box 1322, Rogersville, TN 37857.
055383	ITW Philadelphia Resins Corp., Philadelphia Resins Corp., 130 Commerce Dr., Montgomeryville, PA 18936.
056100	Peterson/Puritan Inc., A Hi-Port Industries Co., 1 W. Hegeler Lane, Danville, IL 61832.
056228	USDA/APHIS/ADC, Box 25266, Denver, CO 80225.
056493	Fermenta Animal Health Co., 10150 N. Executive Hills Blvd., Box 901350, Kansas City, MO 64090.
056644	Security Products Co. of Delaware, Inc., D.B.A. Security Products Co., 485 Oak Place, Suite 370, Atlanta, GA 30349.
057739	Agroservice, Inc., Highway 30, Chestnut St., Silver Creek, NE 68663.
059284	Campbell Chemicals, Inc., 1864 Headland Dr., Fenton, MO 63026.
060230	New Jersey Department of Agriculture, Box 1888, Trenton, NJ 08625.
061272	Nufarm USA, Inc., c/o Registrations Plus, 425 W. 194th St., Glenwood, IL 60425.
062180	Hickson Corp., c/o Richards O'Neil, 885 Third Ave., New York, NY 10002.

III. Procedures for Withdrawal of Request

Registrants who chose to withdraw a request for cancellation must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked before December 18, 1990. This written withdrawal of the request for cancellation must include a commitment to pay any reregistration or registration maintenance fees due, and to fulfill any applicable unsatisfied data requirements.

IV. Loss of Active Ingredients

Unless these requests for cancellation are withdrawn, 28 pesticide active ingredients will no longer appear in any registered products. Those who are concerned about the potential loss of these active ingredients for pesticidal use are encouraged to work directly with the registrants to explore the possibility of their withdrawing the request for cancellation. These ingredients are listed in the following Table 3 with the EPA Company Numbers of their registrants.

TABLE 3—ACTIVE INGREDIENTS WHICH WOULD DISAPPEAR AS A RESULT OF REGISTRANTS' REQUESTS TO CANCEL

Chemical name/CAS No.	EPA Company No.
I. Agricultural Crops & Ornamental Uses:	
Bifenox (methyl 5-(2,4-dichlorophenoxy)-2-nitrobenzoate (42576-02-3)	000264
2-tert-butylamino-4-ethylamino-6-methylthio-*S*-triazine (886-50-0)	000100
2-Chloro-4-,6-bis(isopropylamino)-*S*-triazine (139-40-2)	002749
N'-(4-Chloro-*o*-tolyl)-*N,N*-dimethylformamidine (6164-98-3)	000100
2-(*m*-Chlorophenoxy)propionamide (5825-67-6)	000264
2-(*m*-Chlorophenoxy)propionic acid) (101-10-0)	000264
Diamidafos (Phenyl *N,N'*-dimethylphosphorodiamidate) (1754-58-1)	000464
Diethanolamine dicamba (3,6-dichloro-2-anisic acid) (25059-78-3)	002217
	011715
	002935
O,O-Diethyl (1,3-dihydro-1, 3-dioxo-2*H*-isoindol-2-yl) phosphonothioate (5131-24-8)	000464
Lead arsenate, basic (53404-12-9)	051036
Nickel sulfate hexahydrate (10101-97-0)	000707
II. Domestic & Human Use:	
Alkyl* dipropoxyamine *(47% C12, 18% C14, 10% C16, 9% C10, 8% C16, 8% C8) (68516-06-3)	052390
N-Alkyl*-*N*-ethyl morpholium ethyl sulfate *(66% C18, 25% C16, 8% C18, 1% C14) (01791-34-2)	004000
Dialkyl* dimethyl ammonium chloride *(47% C12, 18%C14, 10% C16, 9% C10, 8% C16, 8% C8) (73398-64-8)	052390
Diethyl diphenyl dichloroethane & related compounds (72-56-0)	000324
Sodium bicarbonate (144-55-8)	001459
2-Thiocyanatoethyl dodecanoate (301-11-1)	000394
III. Domestic Animal and Pet Treatments:	
Chlorfenvinphos (470-90-6)	000859
Fospirate (dimethyl 3,5,6-trichloro-2-pyridyl phosphate) (5598-52-7)	000464
IV. Uncultivated Land/Wide Area/Public Health Uses:	
O,O-Bis(*p*-chlorophenyl) acetimidoylphosphoroamidothioate (4104-14-7)	000126
V. Aquatic Uses:	
Copper sulfate (anhydrous) (7758-98-7)	010465
VI. Wood Preservatives:	
Sodium pyroarsenate (13464-42-1)	002190
VII. Commercial/Institutional Uses:	
2-Chloro-*N*-(hydroxymethyl)acetamide (2832-19-1)	000356
VIII. Manufacturing & Miscellaneous Uses:	
Butyl 2-methyl-4-chlorophenoxyacetate (1713-12-8)	034704
S-(2,3-Dichloroallyl) diisopropylthiocarbamate (2303-16-4)	000524
Isobutyl 2-methyl-4-chlorophenoxyacetate (1713-11-7)	034704
Isopropyl 2-methyl-4-chlorophenoxyacetate (2698-40-0)	034704
Nicotine sulfate (65-30-5)	000655

V. Provisions for Disposition of Existing Stocks

The orders effecting these requested cancellations will generally permit registrants to continue to sell and distribute existing stocks of the cancelled products for one year after the date of this notice. The orders will also generally provide for use of stocks already in the hands of dealers or users until they are exhausted. Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

Dated: October 9, 1990.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 90-24736 Filed 10-18-90; 8:45 am]

BILLING CODE 6560-50-F

[OPTS-51752; FRL 3803-4]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the Federal Register of May 13, 1983 (48 FR 21722). This notice announces receipt of 202 such PMNs and provides a summary of each.

DATES: Close of Review Periods:

P 90-1546, September 17, 1990.
P 90-1547, 90-1548, 90-1549, 90-1550, September 18, 1990.
P 90-1551, September 19, 1990.
P 90-1552, 90-1553, 90-1554, 90-1555, 90-1556, September 22, 1990.
P 90-1557, 90-1558, 90-1559, 90-1560, 90-1561, 90-1562, 90-1563, 90-1564, 90-1565, September 23, 1990.
P 90-1566, 90-1569, September 24, 1990.
P 90-1570, 90-1571, 90-1572, 90-1573, 90-1574, 90-1575, 90-1576, September 25, 1990.
P 90-1577, 90-1578, 90-1579, 90-1580, 90-1581, 90-1582, 90-1583, 90-1584, 90-1585, 90-1586, 90-1587, 90-1588, 90-1589, 90-1590, 90-1591, 90-1592, 90-1593, September 26, 1990.
P 90-1594, October 6, 1990.
P 90-1595, September 30, 1990.
P 90-1596, 90-1597, 90-1598, 90-1599, 90-1600, 90-1601, 90-1602, 90-1603, 90-1604, 90-1605, 90-1606, 90-1607, September 29, 1990.
P 90-1608, September 17, 1990.
P 90-1610, 90-1611, 90-1612, 90-1613, 90-1614, 90-1615, 90-1616, 90-1618, 90-1619, 90-1620, September 30, 1990.
P 90-1621, October 2, 1990.
P 90-1622, September 30, 1990.
P 90-1623, October 2, 1990.
P 90-1624, 90-1625, 90-1626, 90-1627, 90-1628, 90-1629, 90-1630, 90-1631, 90-1632, October 3, 1990.
P 90-1633, 90-1634, 90-1635, 90-1636, 90-1637, 90-1638, 90-1639, 90-1640, October 6, 1990.
P 90-1641, 90-1642, 90-1643, 90-1644, 90-1645, 90-1646, 90-1647, 90-1648, 90-1649, 90-1650, 90-1651, 90-1652, 90-1653, 90-1654, October 7, 1990.
P 90-1655, 90-1656, 90-1657, October 8, 1990.
P 90-1658, 90-1660, October 9, 1990.
P 90-1661, 90-1662, 90-1663, 90-1664, October 10, 1990.
P 90-1665, 90-1666, 90-1667, 90-1668, 90-1669, 90-1670, 90-1671, 90-1672, 90-1673, 90-1674, 90-1675, October 13, 1990.
P 90-1676, October 14, 1990.
P 90-1677, 90-1678, 90-1679, 90-1680, 90-1681, October 15, 1990.
P 90-1682, 90-1683, 90-1684, 90-1685, 90-1686, October 16, 1990.
P 90-1687, 90-1688, 90-1689, 90-1690, October 17, 1990.
P 90-1691, 90-1692, 90-1693, 90-1694, October 20, 1990.
P 90-1695, August 28, 1990.
P 90-1696, 90-1697, 90-1698, 90-1699, 90-1700, 90-1701, 90-1702, October 21, 1990.
P 90-1703, July 24, 1990.
P 90-1704, 90-1705, 90-1706, 90-1707, October 21, 1990.
P 90-1708, July 24, 1990.
P 90-1709, 90-1710, 90-1711, 90-1712, 90-1713, 90-1714, 90-1715, 90-1716, 90-1717, 90-1718, October 21, 1990.
P 90-1719, 90-1720, 90-1721, 90-1722, 90-1723, 90-1724, 90-1725, 90-1726, 90-1727, 90-1728, 90-1729, 90-1730, 90-1731, 90-1732, October 22, 1990.
P 90-1734, October 23, 1990.
P 90-1735, 90-1736, October 22, 1990.
P 90-1737, 90-1738, 90-1739, 90-1740, 90-1741, 90-1742, 90-1743, 90-1744, 90-1745, October 24, 1990.
P 90-1746, 90-1747, 90-1748, October 27, 1990.
P 90-1749, 90-1750, 90-1751, October 28, 1990.
P 90-1752, 90-1753, October 29, 1990.

Written comments by:

P 90-1546, August 18, 1990.
P 90-1547, 90-1548, 90-1549, 90-1550, August 19, 1990.
P 90-1551, August 20, 1990.
P 90-1552, 90-1553, 90-1554, 90-1555, 90-1556, August 23, 1990.
P 90-1557, 90-1558, 90-1559, 90-1560, 90-1561, 90-1562, 90-1563, 90-1564, 90-1565, August 24, 1990.
P 90-1566, 90-1569, August 25, 1990.
P 90-1570, 90-1571, 90-1572, 90-1573, 90-1574, 90-1575, 90-1576, August 26, 1990.
P 90-1577, 90-1578, 90-1579, 90-1580, 90-1581, 90-1582, 90-1583, 90-1584, 90-1585, 90-1586, 90-1587, 90-1588, 90-1589, 90-1590, 90-1591, 90-1592, 90-1593, August 27, 1990.
P 90-1594, September 6, 1990.
P 90-1595, August 31, 1990.
P 90-1596, 90-1597, 90-1598, 90-1599, 90-1600, 90-1601, 90-1602, 90-1603, 90-1604, 90-1605, 90-1606, 90-1607, August 30, 1990.
P 90-1608, August 18, 1990.
P 90-1610, 90-1611, 90-1612, 90-1613, 90-1614, 90-1615, 90-1616, 90-1618, 90-1619, 90-1620, August 31, 1990.
P 90-1621, September 2, 1990.
P 90-1622, August 31, 1990.
P 90-1623, September 2, 1990.
P 90-1624, 90-1625, 90-1626, 90-1627, 90-1628, 90-1629, 90-1630, 90-1631, 90-1632, September 3, 1990.
P 90-1633, 90-1634, 90-1635, 90-1636, 90-1637, 90-1638, 90-1639, 90-1640, September 6, 1990.
P 90-1641, 90-1642, 90-1643, 90-1644, 90-1645, 90-1646, 90-1647, 90-1648, 90-1649, 90-1650, 90-1651, 90-1652, 90-1653, 90-1654, September 7, 1990.
P 90-1655, 90-1656, 90-1657, September 8, 1990.
P 90-1658, 90-1660, September 9, 1990.
P 90-1661, 90-1662, 90-1663, 90-1664, September 10, 1990.
P 90-1665, 90-1666, 90-1667, 90-1668, 90-1669, 90-1670, 90-1671, 90-1672, 90-1673, 90-1674, 90-1675, September 13, 1990.
P 90-1676, September 14, 1990.
P 90-1677, 90-1678, 90-1679, 90-1680, 90-1681, September 15, 1990.
P 90-1682, 90-1683, 90-1684, 90-1685, 90-1686, September 16, 1990.
P 90-1687, 90-1688, 90-1689, 90-1690, September 17, 1990.
P 90-1691, 90-1692, 90-1693, 90-1694, September 20, 1990.
P 90-1695, July 29, 1990.
P 90-1696, 90-1697, 90-1698, 90-1699, 90-1700, 90-1701, 90-1702, September 21, 1990.
P 90-1703, June 24, 1990.
P 90-1704, 90-1705, 90-1706, 90-1707, September 21, 1990.
P 90-1708, June 24, 1990.
P 90-1709, 90-1710, 90-1711, 90-1712, 90-1713, 90-1714, 90-1715, 90-1716, 90-1717, 90-1718, September 21, 1990.
P 90-1719, 90-1720, 90-1721, 90-1722, 90-1723, 90-1724, 90-1725, 90-1726, 90-1727, 90-1728, 90-1729, 90-1730, 90-1731, 90-1732, September 22, 1990.
P 90-1734, September 23, 1990.
P 90-1735, 90-1736, September 22, 1990.
P 90-1737, 90-1738, 90-1739, 90-1740, 90-1741, 90-1742, 90-1743, 90-1744, 90-1745, September 24, 1990.
P 90-1746, 90-1747, 90-1748, September 27, 1990.
P 90-1749, 90-1750, 90-1751, September 28, 1990.
P 90-1752, 90-1753, September 29, 1990.

ADDRESSES: Written comments, identified by the document control number "(OPTS-51753)" and the specific PMN number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, 401 M Street, SW., Room L-100, Washington, DC, 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room EB-44, 401 M Street, SW., Washington, DC, 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office, NE-G004 at the above address between 8 a.m. and noon, and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

P 90-1646

Manufacturer. Wilmington Leather Coatings.

Chemical. (G) Solvent borne aromatic/aliphatic urethane polymer.

Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 90-1647

Manufacturer. Confidential.

Chemical. (G) Polyamide resin.

Use/Production. (G) Intermediate; will be used to prepare an electrical insulation coating. Prod. range: Confidential.

P 90-1648

Importer. Confidential.

Chemical. (G) Polyurethane.

Use/Import. (S) Textile coating Import range: Confidential.

P 90-1649

Manufacturer. Confidential.

Chemical. (G) Salt of an acylated polyamine.

Use/Production. (G) Metallic corrosion inhibitor. Prod. range: Confidential.

P 90-1650

Manufacturer. Confidential.

Chemical. (G) Salt of an acylated polyamine.

Use/Production. (G) Metallic corrosion inhibitor. Prod. range: Confidential.

P 90-1651

Manufacturer. Confidential.

Chemical. (S) Soyabean oil, linseed oil, glycerine, chlorendic anhydride alkyd resin modified with styrene, vinyl-toluene, and methyl methacrylate.

Use/Production. (S) Major-vehicle component of paint. Prod. range: 50,000–250,000 kg/yr.

P 90-1652

Manufacturer. Minnesota Mining & Manufacturing Co.

Chemical. (G) Benzothiophenone salt.

Use/Production. (G) Dye intermediate. Prod. range: Confidential.

P 90-1653

Importer. Minnesota Mining & Manufacturing Co.

Chemical. (G) Benzothiophenone derivative.

Use/Import. (G) Dye intermediate. Import range: Confidential.

P 90-1654

Manufacturer. Ciba-Geigy Corporation Dyestuff.

Chemical. (G) Substituted benzenesulfonamide.

Use/Production. (S) Dye intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit).

P 90-1655

Manufacturer. Dearborn Division, W.R. Grace & Co.

Chemical. (G) Mixture of *N*-substituted (((2-hydroxyethyl)imino)bis(methylene))-bis-phosphonic acid, tetrasodium salt, and *N*-substituted ((tetrahydro-2-hydroxy-4*H*-1,4,2-oxazaphosphorin-4-yl)-methylphosphonic acid, *P*-oxide, trisodium salt

Use/Production. (S) Water treatment compound. Prod. range: 3,630–5,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Static acute toxicity: time LC50 96 H10,587 ml/l species (Fathead Minnow). Mutagenicity: negative.

P 90-1656

Manufacturer. Dearborn Division, W.R. Grace & Co.

Chemical. (G) Mixture of *N*-substituted (((2-hydroxyethyl)imino)bis(methylene))-bis-phosphonic acid, tetrapotassium salt, and *N*-substituted ((tetrahydro-2-hydroxy-4*H*-1,4,2-oxazaphosphorin-4-yl)-methylphosphonic acid, *P*-oxide, tripotassium salt

Use/Production. (S) Water treatment compound. Prod. range: 3,630–5,000 mg/kg.

Toxicity Data. Acute oral toxicity: LD50 5,000 mg/kg species (Rat). Static acute toxicity: time LC50 96 h10,587 mg/l species (Fathead Minnow). Mutagenicity: negative.

P 90-1657

Manufacturer. Eastman Kodak Company.

Chemical. (G) Substituted alkyl sulfonic acid derivative.

Use/Production. (G) Chemical intermediate. Prod. range: 1,200–3,800 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 884 mg/kg species (Rat).

P 90-1658

Manufacturer. Eastman Kodak Company.

Chemical. (G) Haloacetyl substituted alkyl sulfonic acid derivative.

Use/Production. (G) Chemical intermediate. Prod. range: 1,000–3,000 kg/yr.

P 90-1659

Manufacturer. Eastman Kodak Company.

Chemical. (G) Substituted aromatic substituted alkyl ester.

Use/Production. (G) Chemical intermediate. Prod. range: 1,000–3,200 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Skin irritation: slight species (Rabbit).

P 90-1660

Manufacturer. Eastman Kodak Company.

Chemical. (G) Substituted phenyl alkyl sulfonic acid derivative.

Use/Production. (G) Chemical intermediate. Prod. range: 900–2,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rabbit). Skin irritation: slight species (Rabbit).

P 90-1661

Manufacturer. Eastman Kodak Company.

Chemical. (G) Heterocyclic substituted phenyl alkyl sulfonic acid derivative.

Use/Production. (G) Contained use in an article. Prod. range: 700–2,300 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rabbit). Eye irritation: slight species (Rabbit). Skin irritation: slight species (Rabbit). Mutagenicity: negative.

P 90-1662

Manufacturer. E.I. Du Pont De Nemours & Co., Inc.

Chemical. (G) Styrenated hydroxy functional acrylic.

Use/Production. (G) Highly dispersive use. Prod. range: Confidential.

P 90-1663

Importer. Ciba-Geigy Corporation.

Chemical. (S) 2-Naphthalene sulfonamide, 6-amino-*N*-methyl-.

Use/Import. (S) Raw material used in the manufacture of a dye intermediate. Import range: Confidential.

P 90-1664

Importer. Confidential.

Chemical. (G) Dicarboxylic acid ester.

Use/Import. (G) Chemical intermediate. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 5.5 mg/kg species (Rat). Acute dermal toxicity: LD50 8.7 ml/kg species (Rabbit). Eye irritation: slight species (Rabbit). Mutagenicity: negative. Skin irritation: slight species (Rabbit).

P 90-1665

Manufacturer. Continental Chemical Co.

Chemical. (S) Glycols, polyethylene, 3 sulfo-2 hydroxypropyl *P*-(1,1,3,3,-tetramethylbutyl) phenyl ether monosodium salt.
Use/Production. (S) Hand soap. Prod. range: Confidential.

P 90-1569
Importer. Sumitomo Corporation of America.
Chemical. (G) Vinyl chloride copolymer.
Use/Import. (G) Binder resin. Import range: Confidential.

P 90-1570
Manufacturer. H.B. Fuller Company.
Chemical. (G) Methylene bisphenyl isocyanate prepolymer.
Use/Production. (S) Coreactant for urethane potting and perimeter bonding compound used in filters. Prod. range: Confidential.

P 90-1571
Manufacturer. E.I. Du Pont De Nemours & Co. Inc.
Chemical. (G) Epoxy-amine adduct.
Use/Production. (G) Intermediate in the production of resins for automotive E-coat primers - contained use. Prod. range: Confidential.

P 90-1572
Manufacturer. Confidential.
Chemical. (G) Adipate salt.
Use/Production. (G) Polymer intermediate. Prod. range: Confidential.
Toxicity Data. Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit).

P 90-1573
Manufacturer. Confidential.
Chemical. (G) Copolyamide.
Use/Production. (G) Copolyamide. Prod. range: Confidential.

P 90-1573
Manufacturer. E.I. Du Pont De Nemours & Co., Inc.
Chemical. (G) Salt of epoxy-amine adduct.
Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 90-1574
Manufacturer. E.I Du Pont De Nemours & Co., Inc.
Chemical. (G) Salt of epoxy amine adduct.
Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 90-1575
Manufacturer. E.I. Du Pont De Nemours & Co., Inc.
Chemical. (G) Epoxy-amine adduct.
Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 90-1576
Manufacturer. E.I Du Pont De Nemours & Co. Inc.
Chemical. (S) Epoxy-amine adduct.
Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 90-1577
Manufacturer. Milliken & Company.
Chemical. (G) Alkoxylated aromatic amine.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 90-1578
Manufacturer. Milliken Company.
Chemical. (G) Alkoxylated aromatic amine.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 90-1579
Manufacturer. Milliken Company.
Chemical. (G) Alkoxylated aromatic amine.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 90-1580
Manufacturer. Milliken Company.
Chemical. (G) Alkoxylated aromatic amine.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 90-1581
Manufacturer. Milliken Company.
Chemical. (G) Alkoxylated aromatic amine.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 90-1582
Manufacturer. Milliken Company.
Chemical. (G) Polyoxylated aromatic amine.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 90-1583
Manufacturer. Milliken Company.
Chemical. (G) Polyoxylated aromatic amine.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 90-1584
Manufacturer. Milliken Company.
Chemical. (G) Polyoxylated aromatic amine.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 90-1585
Manufacturer. Milliken Company.
Chemical. (G) Polyoxylated aromatic amine.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 90-1586
Manufacturer. Milliken Company.
Chemical. (G) Polyoxylated aromatic amine.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 90-1587
Manufacturer. Milliken Company.
Chemical. (G) Polyoxylated aromatic amine.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 90-1588
Manufacturer. Milliken Company.
Chemical. (G) Aromatic nitrile.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 90-1589
Manufacturer. Milliken Company.
Chemical. (G) Polyoxyalkyl aromatic amine.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 90-1590
Manufacturer. Milliken Company.
Chemical. (G) Substituted polyoxyalkylene aniline.
Use/Production. (G) Colorant. Prod. range: Confidential.

P 90-1591
Manufacturer. Milliken Company.
Chemical. (G) Substituted polyoxyalklene aniline.
Use/Production. (G) Colorant. Prod. range: Confidential.

P 90-1592
Manufacturer. Confidential.
Chemical. (G) Styrenated polyacrylate polymethacrylate.
Use/Production. (G) Coating with dispersive use. Prod. range: 200,000–300,000 kg/yr.

P 90-1593
Manufacturer. Confidential.
Chemical. (G) Hydroxylated functional styrene, acrylate and methacrylate polymer.
Use/Production. (G) Ingredient in a dispersive applied coating. Prod. range: 1,000,000–3,000,000 kg/yr.

P 90-1594
Manufacturer. C.I. Specialty Chemicals Inc.
Chemical. (G) Sulfonated polystyrene-formaldehyde polymer

Use/Production. (S) Polishing water in BWR water treatment systems. Prod. range: 5,000–30,000 kg/yr.

P 90–1806

Manufacturer. Confidential.
Chemical. (G) Polymer latex.
Use/Production. (G) Product will be used as a coating, sealant, binder, adhesive, flame retardant, or compatibilizer. Prod. range: Confidential.

P 90–1806

Manufacturer. Eastman Kodak Company.
Chemical. (G) Aryloxy substituted alkanoic acid, alkoxyphenyl hydrazide.
Use/Production. (G) Contained use in an article. Prod. range: 500–5,000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rabbit). Eye irritation: none species (Rabbit). Mutagenicity: negative. Skin irritation: negligible species (Rabbit).

P 90–1807

Manufacturer. Eastman Kodak Company.
Chemical. (G) Aryloxy substituted alkanoyl chloride.
Use/Production. (G) Chemical intermediate. Prod. range: 600–6,500 kg/yr.

P 90–1808

Manufacturer. Eastman Kodak Company.
Chemical. (G) (Arylsulfonyl)aryloxy substituted alkanoic acid, alkoxyphenylhydrazide.
Use/Production. (G) Chemical intermediate. Prod. range: 750–7,600 kg/yr.

P 90–1809

Manufacturer. Monsanto Company.
Chemical. (G) Alkyl diphenyl phosphate.
Use/Production. (G) Plasticizer for pvc. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rabbit). Eye irritation: moderate species (Rabbit). Static acute toxicity: time EC50 48H0.50 species (daphnia magna). Skin irritation: slight species (Rabbit). Mutagenicity: negative.

P 90–1809

Manufacturer. Confidential.
Chemical. (G) Substituted cyclopentadienide compound.
Use/Production. (G) Intermediate chemical. Prod. range: Confidential.

P 90–1901

Manufacturer. Confidential.
Chemical. (G) Tetra-alkyl silane.
Use/Production. (G) Intermediate chemical. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 2.0 g/kg species (Rat). Acute dermal toxicity: LD50 900 mg/kg species (Rabbit).

P 90–1902

Manufacturer. Confidential.
Chemical. (G) Organometallic salt compound.
Use/Production. (G) Intermediate chemical. Prod. range: Confidential.

P 90–1903

Manufacturer. Confidential.
Chemical. (G) Substituted zirconium salt.
Use/Production. (G) Intermediate chemical. Prod. range: Confidential.

P 90–1904

Manufacturer. Confidential.
Chemical. (G) Substituted organometallic compound.
Use/Production. (G) Intermediate. Prod. range: Confidential.

P 90–1905

Importer. Confidential.
Chemical. (G) Amino cyclohexyloxycarbonyl substituted aminoanthraquinone.
Use/Import. (G) Cyan component. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Skin irritation: slight species (Rabbit). Mutagenicity: negative.

P 90–1906

Importer. Confidential.
Chemical. (G) Alkylphenoxy amino hydroxyl anthraquinone.
Use/Import. (G) Magenta component. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rabbit). Eye irritation: slight species (Rabbit). Skin irritation: slight species (Rabbit). Mutagenicity: negative.

P 90–1907

Importer. Confidential.
Chemical. (G) Alkycyanomethyloxy heterocyclicazo, benzoic acid ethoxycarbonylmethylester.
Use/Import. (G) Yellow component. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rabbit). Eye irritation: slight species (Rabbit). Skin irritation: negligible species (Rabbit).

P 90–1908

Manufacturer. Confidential.
Chemical. (G) Saturated copolymer resin.
Use/Production. (S) Binder resin for toner manufacture. Prod. range: Confidential.

P 90–1910

Manufacturer. Ashland Chemical, Inc.
Chemical. (G) Saturated polyester.
Use/Production. (G) Cured reinforced plastic composite. Prod. range: Confidential.

P 90–1911

Manufacturer. Ashland Chemical, Inc.
Chemical. (G) Saturated polyester.
Use/Production. (G) Cured reinforced plastic composite. Prod. range: Confidential.

P 90–1912

Manufacturer. Amoco Chemical Company.
Chemical. (G) Aromatic polyimide.
Use/Production. (G) Protective coating. Prod. range: Confidential.

P 90–1913

Importer. Hoechst Celanese Corporation.
Chemical. (G) Tetra substituted naphthalene disulfonic acid, salt.
Use/Import. (S) Pigment for ink jet printing. Import range: 500–2,500 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 > 2,000 kg/yr species (Rat). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit).

P 90–1914

Manufacturer. Hoechst Celanese Corporation.
Chemical. (G) Substituted naphthalene sulfonic acid.
Use/Production. (S) Dyestuff for textile dying. Prod. range: 5,000–7,500 kg/yr.
Toxicity Data. Eye irritation: moderate species (Rabbit). Skin irritation: slight species (Rabbit).

P 90–1915

Importer. Hoechst Celanes Corporation.
Chemical. (G) Acrylic ester modified polyurethane adduct.
Use/Import. (S) Binder for paints. Import range: 470–480 kg/yr.

P 90–1916

Importer. Hoechst Celanes Corporation.
Chemical. (G) Acrylic ester modified polyurethane adduct.
Use/Import. (S) Binder for paints. Import range: 2,400 kg/yr.

P 90–1918

Importer. Base Corporation.

Chemical. (G) Metal complex of sulfonated disubstituted naphthalene-azo-trisubstitutedphyl-azo-disubstitutedphenyl-azo-monosubstitsedphenylfonate.

Use/Import. (S) Leather dye. Import range: Confidential.

Toxicity Data. Static acute toxicity: time LC50 400 mg/l species (zebra fish). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit). Mutagenicity: positive. Skin sensitization: negative. Phototoxicity: positive species (Guinea Pig).

P 90-1619

Importer. Hoechst Celanese Corporation.

Chemical. (G) Amine modified unsaturated phenol/oxirane/polymer esterified.

Use/Import. (S) Binder for prints (cathodic electro deposition material). Import range: 5,600–5,700 kg/yr.

P 90-1620

Importer. Hoechst Celanese Corporation.

Chemical. (G) Amine modified unsaturated phenol/oxirane/polymer esterified.

Use/Import. (S) Binder for paints. Import range: 6,320–6,555 kg/yr.

P 90-1621

Importer. Confidential.

Chemical. (G) Fatty acidester.

Use/Import. (G) Lubricants. Import range: Confidential.

P 90-1622

Manufacturer. Amoco Chemical Company.

Chemical. (G) Polyimide-siloxane.

Use/Production. (G) Protection coating. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 7000 mg/kg species (Rat). Acute dermal toxicity: LD50 8,000 mg/kg species (Rabbit). Skin irritation: negligible species (Rabbit).

P 90-1623

Importer. Hoechst Celanese Corporation.

Chemical. (G) Amine modified unsaturated phenol/oxirane/polymer esterified.

Use/Import. (S) Binder for paints. Import range: 324–273 kg/yr.

P 90-1624

Manufacturer. Confidential.

Chemical. (G) Heterocycle aldehyde imine.

Use/Production. (G) Fuel scavenger. Prod. range: Confidential.

P 90-1625

Manufacturer. Confidential.

Chemical. (G) Carboxylic acid derivatives of polyoxyalkylenes.

Use/Production. (G) Crude oil demulsifier. Prod. range: Confidential.

P 90-1626

Manufacturer. Confidential.

Chemical. (G) Unrefined maleated polyprpene.

Use/Production. (G) Special surfactant/dispersing agent and lube oil additive. Prod. range: Confidential.

P 90-1627

Importer. Xerox Corporation.

Chemical. (G) Polycarbonate.

Use/Import. (G) Open, nondispersive use as a binder material on coated substance. Import range: Confidential.

P 90-1628

Importer. Confidential.

Chemical. (G) Triphenylmethane dye.

Use/Import. (G) Open, nondispersive use. Import range: Confidential.

P 90-1629

Importer. Huls America, Inc.

Chemical. (S) 3-Dodecyl-1-(2,2,6,6-tetramethyl-4-piperidinyl)- pyrrolidine-2, 5-dione, octadecanoate (salt).

Use/Import. (S) Light stabilizer for lacquers and plastics. Import range: 1,000–20,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 > 3,000 mg/kg species (Rat). Eye irritation: strong species (Rabbit). Skin irritation: strong species (Rabbit).

P 90-1630

Importer. Ciba-Geigy Corporation.

Chemical. (G) Substituted hydroxybenzenepropenoic acid, (substituted-dioxa-thiaspiro-alky).

Use/Import. (S) Yellow-dye stabilizer for photo print paper. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rabbit). Eye irritation: none species (Rabbit). Mutagenicity: positive. Skin irritation: negligible species (Rabbit).

P 90-1631

Manufacturer. Confidential.

Chemical. (G) Alkylated phenol.

Use/Production. (G) Additive for fuel. Prod. range: Confidential.

P 90-1632

Manufacturer. E.I. Du Pont De Nemours & Co. Inc.

Chemical. (G) Polyesterurethane copolymer.

Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 90-1633

Manufacturer. Union Camp Corporation.

Chemical. (S) Poly (alloocimene) maleic anhydride adduct.

Use/Production. (S) Substance functions as a chemical intermaterial in the malfacture poly(alloocimene)maleic anhydride. Prod. range: Confidential.

P 90-1634

Manufacturer. E.I.Du Pont De Nemours & Co.

Chemical. (G) Polyesterurethane copolymer.

Use/Production. (S) Substance functions as a minor component of the resin in binder industrial surface coating. Prod. range: Confidential.

P 90-1635

Manufacturer. Ciba-Geigy Corporation.

Chemical. (S) Benzene propanoic acid, 3-(2*H*-benzotriazol-2-yl)-5- (1,1-dimethylethyl)-4-hydroxy-, C7-9-alkyl, branched and linear, esters.

Use/Production. (S) UV absorber for industrial coatings. Prod. range: Confidential.

P 90-1636

Importer. SNPE Inc.

Chemical. (G) Hexanedioic acid, polymer with 1,2-ethanediol reaction products with 1,6-diisocyanato- 2,2,4(or 2,2,4(or 2,4,4)-trimethylhexane and 2-hydroxyethyl acrylate.

Use/Import. (S) Radiation curing of varnishes. Import range: 5,000–10,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Skin irritation: negligible species (Rabbit).

P 90-1637

Importer. Ciba-Geigy Corporation.

Chemical. (S) Titanium, bis(.eta. 5-2,4-cyclopentadien-1-yl)bis [2,6-difloro-3-(1*H*-pyrrol-1-yl) phenyl]-.

Use/Import. (S) Laser sensitive photoinitator. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/k species (Rat). Mutagenicity: negative.

P 90-1638

Manufacturer. Confidential.

Chemical. (G) Methacrylated chain extended maleated polybutadiene.

Use/Production. (S) Graphic arts printing plate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (Rat). Acute dermal toxicity: LD50 > 2 g/kg species (Rabbit). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit).

P 90-1039
Manufacturer. Confidential.
Chemical. (G) 1,4-btanediol, polymer with 2,2-dimethyl-1,3-prop a edioic acid, 3-hydroxy-2-(hydroxymethyl)-2-methylproanoic acid, 2-ethyl-2-(hydroxymethyl)-1,3-propanediol, hydrazine, and 1,1'-methylenebis(4-substituted cyclohexane.
Use/Production. (S) Coatings. Prod. range: 50,000–100,000 kg/yr.

P 90-1040
Manufacturer. Confidential.
Chemical. (G) Ethylenediamine adduction products with substituted and saturated fatty acids.
Use/Production. (G) Surface coating system additive. Prod. range: 10,000–68,000 kg/yr.

P 90-1041
Manufacturer. Confidential.
Chemical. (G) Polyaniline.
Use/Production. (G) Conductive polymer blends. Prod. range: Confidential.
Toxicity Data. Inhalation toxicity: LC50 > 2,903 mg/kg species (Rat). Eye irritation: moderate species (Rabbit). Skin irritation: strong species (Rabbit).

P 90-1042
Manufacturer. Confidential.
Chemical. (G) Dialkyl phosphoridithiaote phosphate compound.
Use/Production. (G) Petroleum product component. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (Rat). Acute dermal toxicity: LD50 > 2.0 g/kg species (Rabbit). Eye irritation: moderate species (Rabbit). Skin irritation: slight species (Rabbit).

P 90-1043
Manufacturer. Confidential.
Chemical. (G) Dialkyl phosphorodithioate phosphate compound.
Use/Production. (G) Petroleum product component. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (Rat). Acute dermal toxicity: LD50 > 2.0 g/kg species (Rabbit). Eye irritation: moderate species (Rabbit). Skin irritation: slight species (Rabbit).

P 90-1044
Manufacturer. Confidential.
Chemical. (G) Dialkyl.
Use/Production. (G) Petroleum product component. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (Rat). Acute dermal toxicity: LD50 > 2.0 g/kg species (Rabbit). Eye irritation: moderate species (Rabbit). Skin irritation: moderate species (Rabbit).

P 90-1045
Manufacturer. Confidential.
Chemical. (G) Dialkyl.
Use/Production. (G) Petroleum product component. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (Rat). Acute dermal toxicity: LD50 > 2.0 g/kg species (Rabbit). Eye irritation: moderate species (Rabbit). Skin irritation: slight species (Rabbit).

P 90-1046
Manufacturer. Confidential.
Chemical. (G) Dialkyl.
Use/Production. (G) Petroleum product component. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (Rat). Acute dermal toxicity: LD50 > 2.0 g/kg species (Rabbit). Eye irritation: moderate species (Rabbit). Skin irritation: slight species (Rabbit).

P 90-1047
Manufacturer. Confidential.
Chemical. (G) Dialkyl.
Use/Production. (G) Petroleum product component. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (Rat). Acute dermal toxicity: LD50 > 2.0 g/kg species (Rabbit). Eye irritation: moderate species (Rabbit). Skin irritation: slight species (Rabbit).

P 90-1048
Manufacturer. Confidential.
Chemical. (G) Dialkyl.
Use/Production. (G) Petroleum product component. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (Rat). Acute dermal toxicity: LD50 > 2.0 g/kg species (Rabbit). Eye irritation: moderate species (Rabbit). Skin irritation: slight species (Rabbit).

P 90-1049
Manufacturer. Confidential.
Chemical. (G) Dialkyl.
Use/Production. (G) Petroleum product component. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (Rat). Acute dermal toxicity: LD50 < 2.g/kg species (Rabbit). Eye irritation: moderate species (Rabbit). Skin irritation: slight species (Rabbit).

P 90-1050
Importer. Confidential.
Chemical. (S) Di(*p*-methylbenzyl) oxalate.
Use/Import. (S) Efficiency improver(sensizater) for heat-sensitive sheets. Import range: Confidential.

P 90-1051
Importer. Sinthopol Chemical.
Chemical. (S) Oil modified alkyd resin.
Use/Import. (S) A binder for high solid paints, having a cow content of solvents. Import range: Confidential.

P 90-1052
Importer. Confidential.
Chemical. (G) Polyurethane.
Use/Import. (S) Textile coating. Import range: Confidential.

P 90-1053
Manufacturer. Reichhold Chemicals, Inc.
Chemical. (G) Linseed oil-tall oil fatty acids alkyd resin.
Use/Production. (S) Intermediate in production of coating resins. Prod. range: Confidential.

P 90-1054
Manufacturer. Reichhold Chemicals, Inc.
Chemical. (G) Amine salt of polymer of alophatic isocyanate with polyester polyol.
Use/Production. (S) Flooring topcoat. Prod. range: Confidential.

P 90-1055
Manufacturer. Confidential.
Chemical. (G) Aluminum organometallic compound.
Use/Production. (G) Polymers production catalyst. Prod. range: Confidential.

P 90-1056
Manufacturer. Confidential.
Chemical. (G) Modified maleated resin.
Use/Production. (S) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: negligible species (Rabbit).

P 90-1057
Manufacturer. Confidential.
Chemical. (G) Modified maleated resin salts.
Use/Production. (S) Binder in printing inks. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (Rat). Skin irritation: negligible species (Rabbit).

P 90-1669

Manufacturer. Confidential.

Chemical. (G) A polymer of acrylic acid esters, methacrylic acid and another vinyl monomer.

Use/Production. (G) Intermediate for textile resin size. Prod. range: Confidential.

P 90-1660

Manufacturer. Confidential.

Chemical. (G) A polymer of acrylic acid esters, methyl acrylic acid esters, acrylic acid another vinyl monomer, sodium salt.

Use/Production. (G) Textile resin size. Prod. range: Confidential.

P 90-1661

Importer. Nacham Inc.

Chemical. (G) Thioxanthone derivative.

Use/Import. (S) Sensitiser for photosensitive coatings. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rabbit). Eye irritation: none species (Rabbit). Mutagenicity: negative. Static acute toxicity: time LC50 96H > 30 mg/l species (Zebra Fish). Skin irritation: negligible species (Rabbit). Skin sensitization: negative species (Guinea Pig).

P 90-1662

Importer. Confidential.

Chemical. (G) Polyurethane.

Use/Import. (S) Textile/leather coating. Import range: 65,000–100,000 kg/yr.

P 90-1663

Importer. Confidential.

Chemical. (G) Polyurethane.

Use/Import. (S) Textile/leather coating. Import range: 65,000–100,000 kg/yr.

P 90-1664

Manufacturer. Confidential.

Chemical. (G) Polyamines reaction product with alkyl acid and alkenyl glacid.

Use/Production. (G) Petroleum product additive. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (Rat). Acute dermal toxicity: LD50 > 3.2 g/kg species (Rabbit). Static acute toxicity: time LC50 96-100 mg/l species (Acartia Tonsa). Eye irritation: slight species (Rabbit).

P 90-1665

Importer. Confidential.

Chemical. (G) Metal chloride/methacrylate complex.

Use/Import. (G) Intermediate chemical. Import range: Confidential.

P 90-1666

Manufacturer. Confidential.

Chemical. (G) Metal chloride/methacrylate/organic aluminium complex.

Use/Production. (G) Intermediate chemcial. Prod. range: Confidential.

P 90-1667

Manufacturer. Confidential.

Chemical. (G) Polyalkene.

Use/Production. (G) Intermediate chemical. Prod. range: Confidential.

P 90-1668

Manufacturer. Confidential.

Chemical. (G) Magnesium-titanium-aluminum-chloride compound.

Use/Production. (G) Polyolefin catalyst. Prod. range: Confidential.

P 90-1669

Importer. Confidential.

Chemical. (G) *N*-[*N*,*N*-dialkylamino methyl(phenyl)substituted, benzoquinone monoimine.

Use/Import. (G) Cyan component. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rat). Eye irritation: none species (Rabbit). Mutagenicity: negative. Skin irritation: slight species (Rabbit). Skin sensitization: negative species (Guinea Pig).

P 90-1670

Importer. Confidential.

Chemical. (G) Polyurea thickner.

Use/Import. (G) Lubricating grease for automotive application. Import range: Confidential.

P 90-1671

Manufacturer. Harcros Chemicals, Inc.

Chemical. (G) Alkyl aryl sulfonate amine salt.

Use/Production. (S) Pesticide emulsifier. Prod. range: 18,000–24,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (Rat). Acute dermal toxicity: LD50 > 3.16 g/kg species (Rabbit). Skin irritation: slight species (Rabbit).

P 90-1672

Importer. Hoechst Celanese Corporation.

Chemical. (G) Substituted dioxazene.

Use/Import. (S) Additive for pigments. Import range: 500–12,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rabbit).

P 90-1673

Importer. Takeda U.S.A., Inc.

Chemical. (G) Hybrid polymer of unsaturated polyester and vinyl ester.

Use/Import. (S) Matrix of Sheet Molding Compound (SMC). Import range: Confidential.

P 90-1674

Manufacturer. Confidential.

Chemical. (G) Acrylic polymer.

Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (Rat). Acute dermal toxicity: LD50 > 5 g/kg species (Rabbit). Eye irritation: slight species (Rabbit). Skin irritation: negligible species (Rabbit).

P 90-1675

Manufacturer. Confidential.

Chemical. (G) Modified acrylic polymer.

Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rabbit). Skin irritation: negligible species (Rabbit). Skin sensitization: negative species (Guinea Pig). Phototoxicity: positive.

P 90-1676

Manufacturer. Estron Chemical, Inc.

Chemical. (G) Polyether.

Use/Production. (S) Adhesive promoter. Prod. range: Confidential.

P 90-1677

Importer. Confidential.

Chemical. (S) Hydroxylapatite lead.

Use/Import. (G) Intermediate chemical. Import range: Confidential.

P 90-1678

Manufacturer. Confidential.

Chemical. (G) Modified methylaluminoxane.

Use/Production. (S) Homogeneous cocatalyst component in the production of polyolefins. Prod. range: Confidential.

P 90-1679

Manufacturer. Confidential.

Chemical. (G) Dialkenyl substituted dialkenyl ether of a alkoxylated bis phenol A.

Use/Production. (G) A formulation component for open, nondispersive use. Prod. range: Confidential.

P 90-1680

Manufacturer. Confidential.

Chemical. (G) Substituted aliphatic-terminated poly(dimethylsiloxane).

Use/Production. (G) A formulation component for open, nondispersive use. Prod. range: Confidential.

P 90-1661

Importer. Zeon Chemicals USA, Inc.
Chemical. (G) Polyacrylate elastomer.
Use/Import. (G) Base elastomer for making rubber molding compounds. Import range: Confidential.

P 90-1662

Manufacturer. Confidential.
Chemical. (G) Styrenated polyacrylate polymethacrylate.
Use/Production. (G) Dispersively applied coating. Prod. range: 50,000–100,000 kg/yr.

P 90-1663

Manufacturer. Confidential.
Chemical. (G) Modified melamine formaldehyde resin.
Use/Production. (G) Ingredient in a dispersively applied coating. Prod. range: 250,000 kg/yr.

P 90-1664

Manufacturer. Confidential.
Chemical. (S) 1-Methylpyrrolidine-2-thione.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. Eye irritation: strong species (Rabbit). Skin irritation: slight species (Rabbit). Skin sensitization: negative species (guinea pig).

P 90-1665

Importer. Confidential.
Chemical. (G) Nonionic surfactant.
Use/Import. (G) Emulsifier. Import range: Confidential.

P 90-1666

Manufacturer. Amoco Petroleum Additives Co.
Chemical. (G) Alkyl aromatic sulfonated mettallo salt.
Use/Production. (G) Lubricanting oil detergent. Prod. range: Confidential.

P 90-1667

Manufacturer. Minnesota Mining & Manufacturing (3M).
Chemical. (G) Formaldehyde adducts.
Use/Production. (G) Adhesive. Prod. range: Confidential.

P 90-1668

Manufacturer. Confidential.
Chemical. (G) Substituted benzofurane.
Use/Production. (G) Destructive use. Prod. range: confidential.

P 90-1669

Manufacturer. Milliken & Company.
Chemical. (G) Substituted polyoxyalkyl aromatic amine.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 90-1660

Manufacturer. Milliken & Company.
Chemical. (G) Substituted polyoxyalkyl aromatic amine.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 90-1661

Importer. Confidential.
Chemical. (G) Styrene-acrylic polymer.
Use/Import. (G) Component of coating formulations. Import range: Confidential.

P 90-1662

Manufacturer. The Dow Chemical.
Chemical. (G) Modified polyolefin.
Use/Production. (G) Impact modifier. Prod. range: Confidential.

P 90-1663

Manufacturer. The Dow Chemical.
Chemical. (G) Modified polyolefin.
Use/Production. (G) Impact modifier. Prod. range: Confidential.

P 90-1664

Manufacturer. The Dow Chemical.
Chemical. (G) Modified polyolefin.
Use/Production. (G) Impact modifier. Prod. range: Confidential.

P 90-1665

Manufacturer. Confidential.
Chemical. (S) Aqueous polyurethane dispersion.
Use/Production. (S) Bonding or finishing treatment for textiles. Prod. range: 19,000–115,000 kg/yr.

P 90-1666

Manufacturer. Ciba-Geigy Corporation.
Chemical. (G) Substituted azo naphthalenesulfonic acid.
Use/Production. (S) Dye intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit). Mutagenicity: positive.

P 90-1667

Manufacturer. Confidential.
Chemical. (G) Metal carboxyl carboxylate.
Use/Production. (G) Catalyst. Prod. range: Confidential.

P 90-1668

Manufacturer. Confidential.
Chemical. (G) Metal carbonyl carboxylate.
Use/Production. (G) Calalyst. Prod. range: Confidential.

P 90-1669

Manufacturer. Confidential.
Chemical. (G) Metal carbonyl carboxylate.
Use/Production. (G) catalyst. Prod. range: Confidential.

P 90-1700

Manufacturer. Confidential.
Chemical. (G) Metal carbonyl carboxylate.
Use/Production. (G) Catalyst. Prod. range: Confidential.

P 90-1701

Manufacturer. Confidential.
Chemical. (G) Metal carbonyl carboxylate.
Use/Production. (G) Catalyst. Prod. range: Confidential.

P 90-1702

Manufacturer. Confidential.
Chemical. (G) Metal carbonyl carboxylate.
Use/Production. (G) Catalyst. Prod. range: Confidential.

P 90-1703

Manufacturer. Confidential.
Chemical. (G) Metal carbonyl carboxylate.
Use/Production. (G) Catalyst. Prod. range: Confidential.

P 90-1704

Manufacturer. Confidential.
Chemical. (G) Metal carbonyl carboxylate.
Use/Production. (G) Catalyst. Prod. range: Confidential.

P 90-1705

Manufacturer. Confidential.
Chemical. (G) Metal carbonyl carboxylate.
Use/Production. (G) Catalyst. Prod. range: Confidential.

P 90-1706

Manufacturer. Confidential.
Chemical. (G) Metal carbonyl carboxylate.
Use/Production. (G) Catalyst. Prod. range: Confidential.

P 90-1707

Manufacturer. Confidential.
Chemical. (G) Metal carbonyl carboxylate.
Use/Production. (G) Catlayst. Prod. range: Confidential.

P 90-1708

Manufacturer. Confidential.
Chemical. (G) Metal carbonyl carboxylate.
Use/Production. (G) Catalyst. Prod. range: Confidential.

P 90-1709
Manufacturer. Confidential.
Chemical. (G) Metal carbonyl carboxylate.
Use/Production. (G) Catalyst. Prod. range: Confidential.

P 90-1710
Manufacturer. Confidential.
Chemical. (G) Metal carbonyl carboxylate.
Use/Production. (G) Catalyst. Prod. range: Confidential.

P 90-1711
Manufacturer. Confidential.
Chemical. (G) Metal carbonyl carboxylate.
Use/Production. (G) Catalyst. Prod. range: Confidential.

P 90-1712
Manufacturer. Confidential.
Chemical. (G) Metal carbonyl carboxylate.
Use/Production. (G) Catalyst. Prod. range: Confidential.

P 90-1713
Manufacturer. Confidential.
Chemical. (G) Metal carbonyl carboxylate.
Use/Production. (G) Catalyst. Prod. range: Confidential.

P 90-1714
Manufacturer. Confidential.
Chemical. (G) Metal carbonyl carboxylate.
Use/Production. (G) Catalyst. Prod. range: Confidential.

P 90-1715
Manufacturer. Confidential.
Chemical. (G) Tannin, sodium salt, polymer with acrylic monomers.
Use/Production. (G) Fluid loss additive for oil and gas production. Prod. range: Confidential.

P 90-1716
Manufacturer. Air Product and Chemicals, Inc.
Chemical. (S) Amino-, aminoalkyl- and aminoalkyl substituted cyclohexanes.
Use/Production. (G) Epoxy curative/chemical additive/corrosion inhibitor. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 .83 g/kg species (Rat). Acute dermal toxicity: LD50 > 1.0 g/kg species (Rabbit).

P 90-1717
Manufacturer. Confidential.
Chemical. (G) Polyvinyl acetate polysaccharide graft copolymer.
Use/Production. (S) Nonwoven textile binder. Prod. range: Confidential.

P 90-1718
Manufacturer. Confidential.
Chemical. (G) Hydroxy ketone.
Use/Production. (S) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 3.51 ml/kg species (Rat). Acute dermal toxicity: LD50 8.5 ml/kg species (Rabbit). Eye irritation: moderate species (Rabbit). Skin irritation: negligible species (Rabbit).

P 90-1719
Manufacturer. Ashland Chemical, Inc.
Chemical. (G) Modified ethoxylated phenol-formaldehyde polymer.
Use/Production. (S) Intermediate for vinyl ester resin. Prod. range: Confidential.

P 90-1720
Manufacturer. Ashland Chemical, Inc.
Chemical. (G) Vinyl ester resin.
Use/Production. (S) Matrix resin for composite. Prod. range: Confidential.

P 90-1721
Manufacturer. Ashland Chemical, Inc.
Chemical. (G) Vinyl ester resin.
Use/Production. (S) Matrix resin for composite. Prod. range: Confidential.

P 90-1722
Manufacturer. Ashland Chemical Inc.
Chemical. (G) Vinyl ester resin.
Use/Production. (S) Matrix resin for composite. Prod. range: Confidential.

P 90-1723
Manufacturer. Ashland Chemical, Inc.
Chemical. (G) Vinyl ester resin.
Use/Production. (S) Matrix resin for composite. Prod. range: Confidential.

P 90-1724
Manufacturer. Sika Corporation.
Chemical. (G) Organic acid/amine salt.
Use/Production. (S) Corrosion inhibitor. Prod. range: 500-600 kg/yr.

P 90-1725
Manufacturer. DowElanco.
Chemical. (G) Acetanilide.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 500-2,000 mg/kg species (Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rabbit). Eye irritation: slight species (rabbi). Skin irritation: negligible species (Rabbit).

P 90-1726
Manufacturer. DowElanco.
Chemical. (G) Substituted triazole.
Use/Production. (S) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: negligible species (Rabbit).

P 90-1727
Manufacturer. DowElanco.
Chemical. (G) Substituted triazole.
Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 90-1728
Manufacturer. DowElanco.
Chemical. (G) Substituted triazole.
Use/Production. (S) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/yr species (Rat). Eye irritation: moderate species (Rabbit). Skin irritation: negligible species (Rabbit).

P 90-1729
Manufacturer. DowElanco.
Chemical. (G) Sulfonamide.
Use/Production. (S) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (Rat). Eye irritation: moderate species (Rabbit). Skin irritation: negligible species (Rabbit).

P 90-1730
Manufacturer. DowElanco.
Chemical. (G) Sulfonamide.
Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 90-1731
Manufacturer. DowElanco.
Chemical. (G) Substituted triazole.
Use/Production. (S) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (Rat). Eye irritation: moderate species (Rabbit). Skin irritation: negligible species (Rabbit).

P 90-1732
Manufacturer. DowElanco.
Chemical. (G) Sulfonamide.
Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 90-1734
Importer. Confidential.
Chemical. (G) Pentaerythritol diphosphite.
Use/Import. (G) Stabilizing plastics. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: negligible species (Rabbit).

P 90-1736
Importer. DSM Chemicals New Jersey, Inc.

Chemical. (G) Salt of an oxygenated carboxylic acid.
Use/Import. (G) Surface active agent. Import range: Confidential.

P 90-1736

Importer. DSM Chemicals New Jersey, Inc.
Chemical. (G) Oxygenated alkyl carboxylate.
Use/Import. (G) Surfactant. Import range: Confidential.

P 90-1737

Manufacturer. Ashland Chemical, Inc.
Chemical. (G) Modified phenol/formaldehyde polymer.
Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 90-1738

Importer. Ciba-Geigy Corporation.
Chemical. (G) Organic phosphorus company.
Use/Import. (S) Antiwear additive for lubricants. Import range: Confidential.
Toxicity Data. Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rabbit). Static acute toxicity: time EC50 24 H5.5 mg/l species (daphnia magna). Eye irritation: none species (Rabbit).Skin irritation: negligible species (Rabbit). Mutagenicity: negative. Skin sensitization: negative species (Guinea pig).

P 90-1739

Manufacturer. Confidential.
Chemical. (G) Cycloaliphatic polyester.
Use/Production. (G) Ingredient in a dispersively applied coating. Prod. range: 167,000–500,000 kg/yr.

P 90-1740

Manufacturer. Confidential.
Chemical. (G) Ketoxime blocked alicycle isocyanate isocyanurate.
Use/Production. (G) Ingredient in a dispersively used coating. Prod. range: 600–4,000 kg/yr.

P 90-1741

Importer. Confidential.
Chemical. (G) Polyester from aromatic dicarboxylic acid, aliphatic diol.
Use/Import. (G) Dispersing agent. Import range: Confidential.

P 90-1742

Manufacturer. Minnesota Mining & Manufacturing (3M).
Chemical. (G) Aliphatic diisocyanate prepolymer.
Use/Production. (G) Repolymer used in protective coatings. Prod. range: Confidential.

P 90-1743

Importer. Confidential.
Chemical. (S) Tar, coal.
Use/Import. (S) Binder for carbon fiber components. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5 mg/kg species (Rat). Eye irritation: none species (Rabbit). Skin irritation: slight species (Rabbit). Mutagenicity: negative. Skin sensitization: negative species (guinea pig).

P 90-1744

Importer. Huls America Inc.
Chemical. (S) Butene, tetramer (hydrogenated).
Use/Import. (G) Ingredient in a dispersively applied coating. Import range: 167,000–500,000 kg/yr.

P 90-1745

Manufacturer. Confidential.
Chemical. (G) Neutralized alkylaryl ether phosphate ester.
Use/Production. (G) An addition used in the paint industry. Prod. range: Confidential.

P 90-1746

Manufacturer. Confidential.
Chemical. (G) (Aryl)(arylheterocyclicalkylidienyl) pyrazolinone.
Use/Production. (G) Contained use in an article. Prod. range: 1,000–1,200 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rat). Eye irritation: moderate species (Rabbit). Skin irritation: slight species (Rabbit).

P 90-1747

Manufacturer. Dianal America, Inc.
Chemical. (S)
Use/Production. (S) Binder for printing inks and vehicle for paints. Prod. range: 175,000–525,000 kg/yr.

P 90-1748

Manufacturer. Stamford Chemicals, Corp.
Chemical. (G) Acrylic copolymer.
Use/Production. (S) Dispersing agent. Prod. range: Confidential.

P 90-1749

Importer. Confidential.
Chemical. (G) Substituted cyclohexane.
Use/Import. (S) Monomer for thermoplastic polymer production. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (Rabbit). Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rabbit). Eye irritation: none species (Rabbit).Skin irritation: negligible species (Rabbit). Mutagenicity: negative.

P 90-1750

Importer. Huls America Inc.
Chemical. (S) Fatty acids, fish oil, esters with polyethylene glycol mono (nonylphenyl) ether.
Use/Import. (S) Component of defoamer additive for acqueous or water-based paints or coating. Import range: 9,500–20,000 kg/yr.

P 90-1751

Importer. Mitsubishi America, Inc.
Chemical. (G) Styrene polymer with alkane reaction product with organic anhydride.
Use/Import. (G) Coating agent. Import range: 10,000–30,000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 kg/yr species (Rat).

P 90-1752

Manufacturer. Dow Corning Corporation.
Chemical. (S) Trisiloxane, 1,1,5,5-tetramethyl-3, 3-diphenyl.
Use/Production. (S) Silicone crosslinker. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rabbit). Eye irritation: none species (Rabbit). Mutagenicity: negative.Skin irritation: negligible species (Rabbit).

P 90-1753

Manufacturer. Confidential.
Chemical. (G) Halogenated nitroalkane.
Use/Production. (G) Intermediate in pesticide production. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 102 mg/kg species (Rat). Acute dermal toxicity: LD50 2100 mg/kg species (Rabbit). Eye irritation: strong species (Rabbit). Skin irritation: strong species (Rabbit).

Dated: October 15, 1990.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 90-24723, Filed 10-18-90; 8:45 am]

BILLING CODE 6560-50-F

[OPTS-59238; FRL-3804-6]

Toxic and Hazardous Substances; Certain Chemicals; Approval of a Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under

section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME-90-19. The test marketing conditions are described below.

DATES: This approval is effective October 3, 1990. Written comments will be received until November 5, 1990.

ADDRESSES: Written comments, identified by the document control number "OPTS-59286" and the specific TME number "TME-90-19" should be sent to: Document Control Officer (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M St., SW., Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Mark Howard, New Chemical Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M St., SW., Washington, DC 20460, (202) 245-4143.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves TME-90-19. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions specified below, will not present an unreasonable risk of injury to health or the environment. The test marketing period, production volume, use, and number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

Inadvertently, notice of receipt of the application was not published. Therefore, an opportunity to submit comments is being offered at this time. The complete nonconfidential document is available in the TSCA Public Docket Office, NE G004 at the above address between 8 a.m. and noon, and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays. EPA may modify or revoke the test marketing exemption if comments are received which cast significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury.

The following additional restrictions apply to TME-90-19. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of the TME substance produced and the date of manufacture.
2. Records of dates of the shipments to each customer and the quantities supplied in each shipment.
3. Copies of the bill of lading that accompanies each shipment of the substance.

T-90-19

Date of Receipt: August 29, 1990.

Close of Review Period: October 12, 1990. The extended comment period will close (insert date 15 days after date of publication in the Federal Register).

Applicant: Westvaco Corporation.

Chemical: (G) Resin modified, hydrocarbon resin.

Use: (G) Printing ink resin Litho, LP, and Gravure publication and packaging.

Production Volume: Confidential.

Number of Customers: Confidential.

Test Marketing Period: Confidential. Period commences on first day of commercial manufacture.

Risk Assessment: EPA identified no significant health or environmental concerns for the test market substance. Therefore, the test market activities will not present any unreasonable risk of injury to health or the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury to health or the environment.

Dated: October 3, 1990.

John W. Melcose,

Director, Chemical Control Division, Office of Toxic Substances.

[FR Doc 90-2734 Filed 10-18-90; 8:45 am]

BILLING CODE 6560-50-F

(OPTS-51753; FRL 3837-9)

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the Federal Register of May 13, 1983 (48 FR 21722). This notice announces receipt of 44 such PMNs and provides a summary of each.

DATES: Close of Review Periods:

P 90-1733, October 17, 1990.

P 90-1758, October 31, 1990.

P 90-1759, 90-1760, 90-1761, 90-1762, 90-1763, November 3, 1990.

P 90-1764, November 2, 1990.

P 90-1765, 90-1766, 90-1767, 90-1768, 90-1769, 90-1770, 90-1771, 90-1772, 90-1773, 90-1774, 90-1775, 90-1776, 90-1777, 90-1778, 90-1779, 90-1780, 90-1781, 90-1782, 90-1783, 90-1784, 90-1785, 90-1786, November 3, 1990.

P 90-1787, 90-1788, 90-1789, 90-1790, 90-1791, November 4, 1990.

P 90-1792, 90-1793, November 7, 1990.

P 90-1794, November 10, 1990.

P 90-1795, 90-1796, 90-1797, 90-1798, 90-1799, 90-1800, November 11, 1990.

Written comments by:

P 90-1733, September 17, 1990.

P 90-1758, October 1, 1990.

P 90-1759, 90-1760, 90-1761, 90-1762, 90-1763, October 4, 1990.

P 90-1764, October 3, 1990.

P 90-1765, 90-1766, 90-1767, 90-1768, 90-1769, 90-1770, 90-1771, 90-1772, 90-1773, 90-1774, 90-1775, 90-1776, 90-1777, 90-1778, 90-1779, 90-1780, 90-1781, 90-1782, 90-1783, 90-1784, 90-1785, 90-1786, October 4, 1990.

P 90-1787, 90-1788, 90-1789, 90-1790, 90-1791, October 5, 1990.

P 90-1792, 90-1793, October 8, 1990.

P 90-1794, October 11, 1990.

P 90-1795, 90-1796, 90-1797, 90-1798, 90-1799, 90-1800, October 12, 1990.

ADDRESS: Written comments, identified by the document control number "(OPTS-51754)" and the specific PMN number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, 401 M Street, SW.,

Room L-100, Washington, DC, 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room EB-44, 401 M Street, SW., Washington, DC, 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the Public Reading Room NE-G004 at the above address between 8 a.m. and noon, and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

P 90-1755

Manufacturer. Chem Rex, Inc.
Chemical. (G) Modified naphaline.
Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 90-1756

Manufacturer. Allied-Signal, Inc.
Chemical. (S) Ethylene; 2-propenoic acid; methylacrylate.
Use/Production. (G) Plastics processing aid. Prod. range: Confidential.

P 90-1759

Manufacturer. Confidential.
Chemical. (G) Hydroxy functional acrylic polymer.
Use/Production. (S) Coatings. Prod. range: Confidential.

P 90-1760

Manufacturer. Confidential.
Chemical. (G) Hydroxy functional acrylic polymer.
Use/Production. (S) Coatings. Prod. range: Confidential.

P 90-1761

Manufacturer. Confidential.
Chemical. (G) Hydroxy functional acrylic polymer.
Use/Production. (S) Coatings. Prod. range: Confidential.

P 90-1762

Manufacturer. Confidential.
Chemical. (G) Hydroxy functional acrylic polymer.
Use/Production. (S) Coatings. Prod. range: Confidential.

P 90-1763

Manufacturer. Confidential.
Chemical. (G) Hydroxy functional acrylic polymer.
Use/Production. (S) Coatings. Prod. range: Confidential.

P 90-1764

Importer. Specialty Chem Products Corporation.
Chemical. (S) 3-Diazo-3,4-dihydro-4-oxo-1-naphthalenesulfonic acid, sodium salt.
Use/Import. (S) Synthetic organic chemical intermediate. Import range: 500-5,000 kg/yr.

P 90-1765

Importer. Confidential.
Chemical. (G) Diurea compound.
Use/Import. (G) Additive for lubricant. Import range: Confidential.

P 90-1766

Importer. Confidential.
Chemical. (G) Diurea compound.
Use/Import. (G) Additive for lubricant. Import range: Confidential.

P 90-1767

Importer. Confidential.
Chemical. (G) Diurea compound.
Use/Import. (G) Additive for lubricant. Import range: Confidential.

P 90-1768

Importer. Confidential.
Chemical. (G) Diurea compound.
Use/Import. (G) Additive for lubricant. Import range: Confidential.

P 90-1769

Importer. Confidential.
Chemical. (G) Diurea compound.
Use/Import. (G) Additive for lubricant. Import range: Confidential.

P 90-1770

Importer. Confidential.
Chemical. (G) Diurea compound.
Use/Import. (G) Additive for lubricant. Import range: Confidential.

P 90-1771

Importer. Confidential.
Chemical. (G) Diurea compound.
Use/Import. (G) Additive for lubricant. Import range: Confidential.

P 90-1772

Importer. Confidential.
Chemical. (G) Diurea compound.
Use/Import. (G) Additive for lubricant. Import range: Confidential.

P 90-1773

Importer. Confidential.
Chemical. (G) Diurea compound.
Use/Import. (G) Additive for lubricant. Import range: Confidential.

P 90-1774

Importer. Confidential.
Chemical. (G) Diurea compound.
Use/Import. (G) Additive for lubricant. Import range: Confidential.

P 90-1775

Importer. Confidential.
Chemical. (G) Diurea compound.
Use/Import. (G) Additive for lubricant. Import range: Confidential.

P 90-1776

Importer. Confidential.
Chemical. (G) Diurea compound.
Use/Import. (G) Additive for lubricant. Import range: Confidential.

P 90-1777

Importer. Confidential.
Chemical. (G) Diurea compound.
Use/Import. (G) Clear coat resin for industrial coating. Import range: Confidential.

P 90-1778

Manufacturer. Bedoukian Research, Inc.
Chemical. (S) 4-Tridecen-1-ol, acetate, (z)-.
Use/Production. (S) Agricultural pheromone component. Prod. range: Confidential.

P 90-1779

Importer. Confidential.
Chemical. (G) Vinylidene halide/trihalo ethylene copolymer.
Use/Import. (G) Specialty electrical application. Import range: Confidential.

P 90-1781

Manufacturer. Henkel Corporation-Emery Group.
Chemical. (G) Fatty acid ester.
Use/Production. (S) Lubricant basestock for automotive oils. Prod. range: Confidential.

P 90-1782

Manufacturer. Henkel Corporation Emery Group.
Chemical. (S) Isodecyl caprylate and isodecyl capriate mixture.
Use/Production. (S) Lubricant basestock for automotive oils. Prod. range: 5,000-60,000 kg/yr.

P 90-1783

Manufacturer. Hercules Incorporation.
Chemical. (G) Amine fatty acid salt.
Use/Production. (G) Product for the building and construction industrial. Prod. range: Confidential.

P 90-1784

Manufacturer. Confidential.

Chemical. (G) Polyether diol and polyether triol and polyether diamine with dicyclohexylmethane-4,4'-diisocyanate.

Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 90-1785

Manufacturer. Confidential.

Chemical. (G) Anionic copolymer.

Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 90-1786

Manufacturer. Confidential.

Chemical. (G) Polyethyl triols with meta-tetra methylene diisocyanate.

Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 90-1787

Importer. H.B. Fuller Company.

Chemical. (G) Copolymer of polyester and methylene diphenyl diisocyanate.

Use/Import. (S) Adhesive. Import range: Confidential.

P 90-1788

Manufacturer. E.I. Du Pont De Nemours & Co., Inc.

Chemical. (G) Reaction product of isocyanate and various alcohols.

Use/Production. (G) Coating. Prod. range: Confidential.

P 90-1789

Importer. Confidential.

Chemical. (G) Substituted triphenylmethane.

Use/Import. (G) A component of the material for IC fabrication. Import range: Confidential.

P 90-1790

Importer. Confidential.

Chemical. (G) Substituted triphenylmethane.

Use/Import. (G) A component of the material for IC fabrication. Import range: Confidential.

P 90-1791

Importer. Confidential.

Chemical. (G) Substituted phenyl acetate.

Use/Import. (G) A component of the material for IC fabrication. Import range: Confidential.

P 90-1792

Manufacturer. Amoco Petroleum Additive Company.

Chemical. (G) Polyalkylaromatic, sulfonated, metalic salt.

Use/Production. (G) Lub oil additive. Prod. range: Confidential.

P 90-1793

Manufacturer. Confidential.

Chemical. (G) Alkenylsuccinic acid, ester.

Use/Production. (G) Lub oil additive. Prod. range: Confidential.

P 90-1794

Importer. Anderson & Vreenland, Ltd.

Chemical. (G) Polymer with carboxylated polyurethane, modified and acrylated urethane.

Use/Import. (S) Hydrophilic constituent for photosensitive printing materials. Import range: 5,000–25,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (Rat). Eye irritation moderate species (Rabbit). Skin irritation negligible species (Rabbit. Mutagenicity negative.

P 90-1795

Importer. Confidential.

Chemical. (G) Substituted naphthalene disulfonic acid, alkali salt.

Use/Import. (S) Reative dye for textiles. Import range: Confidential.

P 90-1796

Importer. Confidential.

Chemical. (G) Copper complex substituted naphthalene disulfonic acid, alkali salt.

Use/Import. (S) Reactive dye for textiles. Import range: Confidential.

P 90-1797

Importer. Huls America, Inc.

Chemical. (S) Reaction product of polyester 6000 and adduct of 1600.

Use/Import. (S) Radiation curable adhesive resins. Import range: 1,000–10,000 kg/yr.

P 90-1798

Manufacturer. The Dow Chemical.

Chemical. (G) Modified ABS polymer.

Use/Production. (S) Extrusion and injection molding plastic articles. Prod. range: Confidential.

P 90-1799

Importer. Quest International Fragrances USA, Inc.

Chemical. (S) 2-(2,4-dimethyl-3-cyclohexene-1-yl)-5-methyl propyl)-1,3-dioxene.

Use/Import. (S) Extrusion and injection molding plastic articles. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5.0 g/kg species (Rat). Eye irritation none species (Rabbit). Skin irritation moderate species (Rabbit. Mutagenicity negative. Skin sensitization negative.

P 90-1800

Manufacturer. Confidential.

Chemical. (G) Fatty alkyl bromide.

Use/Production. (S) Extrusion and injection molding plastic articles. Prod. range: Confidential.

Dated: October 11, 1990.

Steve Newburg-Rinn

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 90-24735, Filed 10-18-90; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC. office of the Federal Maritime Commission, 1100 L Street, NW., Room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200426.

Title: Port Everglades Authority/Sea-Land Service, Inc. Terminal Agreement.

Parties:

Port Everglades Authority

Sea-Land Service, Inc.

Synopsis: The Agreement provides for the lease of property, terminal yard, maintenance facility, office and storage space at Port Everglades. The Agreement's term will end September 28, 1998.

Agreement No.: 224-200428.

Title: Port Everglades Authority/Crowley Caribbean Transport, Inc. Terminal Agreement

Parties:

Port Everglades Authority (Port)

Crowley Caribbean Transport, Inc. (Lessee)

Synopsis: The Agreement provides Lessee with a one year lease of certain Port property located at Southport, Port Everglades, Florida. Lessee shall use said property as a container/RoRo terminal and related uses including the storage of containers, equipment and cargo; and for partial use as a Container Freight Station. The Port shall receive monthly rent based on a rate of $800.00 per acre, plus applicable Florida sales tax.

Agreement No.: 224-200427.

Title: Maryland Port Administration-Mediterranean Shipping Company, Inc.

Parties:

Maryland Port Administration (MPA)
Mediterranean Shipping Company, Inc. (MSC)

Synopsis: The Agreement provides for MPA to grant MSC an incentive of $3.00 per loaded container and $0.40 per ton for Ro/Ro cargo restricted to containers and Ro/Ro cargo coming into and going out of MPA's marine terminals by direct vessel calls.

By order of the Federal Maritime Commission.

Dated: October 15, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90-24640 Filed 10-18-90; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

ComSouth Bankshares, Inc., et al.; Notice of Applications To Engage De Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 8, 1990.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *ComSouth Bankshares, Inc.*, Columbia, South Carolina; to engage in making and selling first mortgage loans pursuant to § 225.25(b)(1)(iii) of the Board's Regulation Y. These activities will be conducted in the State of South Carolina.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Lowndes Bancshares, Inc.*, Hahira, Georgia; to engage *de novo*, through its subsidiary, Goldleaf Technologies, Inc., Hahira, Georgia, in providing data processing and data transmission services pursuant to section 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 5, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-24710 Filed 10-18-90; 8:45 am]

BILLING CODE 6210-01-M

NCNB Corp., Charlotte, NC; Application To Engage in Asset Management, Asset Valuation, Servicing, and Collection Activities

NCNB Corporation, Charlotte, North Carolina ("Applicant"), has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) ("BHC Act") and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), for prior approval to engage *de novo* through a subsidiary in providing asset management, asset valuation, servicing, and collection activities. The Board has approved a similar proposal to provide certain management and consulting services to failed savings and loan associations under the Federal Home Loan Bank Board's management consignment program. *First Florida Banks, Inc.*, 74 Federal Reserve Bulletin 771 (1988). These activities will be conducted on a nationwide basis.

Section 4(c)(8) of the BHC Act provides that a bank holding company may engage in any activity that the Board has determined to be "so closely related to banking or managing or controlling banks as to be a proper incident thereto." A particular activity may be found to meet the "closely related to banking" test if it is demonstrated that banks have generally provided the proposed activity; that banks generally provide services that are operationally or functionally similar to the proposed activity so as to equip them particularly well to provide the proposed activity; or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized forum. *National Courier Ass'n* v. *Board of Governors*, 516 F.2d 1229, 1237 (D.C. Cir. 1975). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement Regarding Regulation Y, 49 FR 806 (1984).

In determining whether an activity meets the second, or proper incident to banking, test of section 4(c)(8), the Board must consider whether the performance of the activity by an affiliate of a holding company "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."

As proposed by Applicant, the combination of activities for which approval is requested has not previously been approved by the Board. Under the categories of asset management and asset valuation, Applicant proposes to engage in the management and liquidation or other disposition of loans and their underlying collateral, including other real estate owned ("OREO") and other assets acquired through foreclosure or in satisfaction of debts previously contracted ("DPC property").

Applicant defines "management and liquidation of loans," to include: Classifying and valuing loan portfolios; filing reviews of loan documentation; developing collection strategies; negotiating renewals, extensions, and restructure agreements; and initiating foreclosure, bankruptcy, and other legal proceedings, where appropriate. Applicant defines "disposition of loans" to include developing and implementing market strategies for the sale or refinancing of individual loans and for the packaging and sale of whole or securitized loan portfolios. Applicant defines "management of OREO and DPC property" to include: Review of

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appraisals, conduct (either directly or through independent contractors) of appraisals, environmental inspections, performance of cash flow and asset review analyses, contracting with and supervising independent property managers, and leasing of OREO and other DPC property (directly or through independent contractors). Applicant defines "disposition of assets" to include developing and implementing marketing strategies for the sale of OREO or other DPC property either individually or packaged for investors or developers.

Applicant maintains that the asset management and asset valuation activities described above have all previously been determined to be permissible for bank holding companies, and are included within the activities of servicing loans or other extensions of credit (12 CFR 225.25(b)(1)); providing investment or financial advice (12 CFR 225.25(b)(4)); providing management consulting advice to nonaffiliated depository institutions (12 CFR 225.25(b)(11)); providing real estate and personal property appraisals (12 CFR 225.25(b)(13)); and operating a collection agency (12 CFR 225.25(b)(23)). The Board also has by order previously approved asset management activities similar to those proposed by Applicant. *First Florida Banks, Inc.*, 74 Federal Reserve Bulletin 771 (1988).

Additionally, servicing and collection activities are permissible for bank holding companies pursuant to § 225.25(b)(1) and (23), respectively, of Regulation Y. 12 CFR 225.25(b)(1) and (23).

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., 20551, not later than November 6, 1990. Any request for a hearing must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how that party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Richmond.

Board of Governors of the Federal Reserve System, October 15, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-24708 Filed 10-18-90; 8:45 am]

BILLING CODE 6210-01-M

Osterreichische Landerbank Aktiengesellschaft, et al.; Acquisition of Companies Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding this application must be received at the Reserve Bank or the offices of the Board of Governors not later than November 8, 1990.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Osterreichische Landerbank Aktiengesellschaft*, Frankfurt (Main), Germany; to acquire Roley, Nichols Capital Group, Inc., Los Angeles, California, and thereby engage in providing investment or financial advisory services, providing shareholder servicing functions; and conducting investment advisory services pursuant to § 225.25(b)(4) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 16, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-24711 Filed 10-18-90; 8:45 am]

BILLING CODE 6210-01-M

South Florida Bank Holding Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 8, 1990.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *South Florida Bank Holding Corporation*, Fort Myers, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of South Florida Bank, Fort Myers, Florida.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Peoria Corp.*, Peoria, Illinois; to acquire 100 percent of the voting shares of The Tazewell County National Bank of Delavan, Delavan, Illinois.

2. *Mascouten Bancorp, Inc.*, Beardstown, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Beardstown, Beardstown, Illinois.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice president) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Hettinger Holding Company,* Hettinger, North Dakota; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank, Hettinger, North Dakota.

D. Federal Reserve Bank of Kansas city (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Bank Holding Company Employee Stock Ownership Plan,* Lakewood, Colorado; to become a bank holding company by acquiring 29.1 percent of the voting shares of FirstBank Holding Company of Colorado, Lakewood, Colorado, and thereby indirectly acquire FirstBank of West Arvada, N.A., Arvada, Colorado; FirstBank of Aurora, N.A., Aurora, Colorado; FirstBank of Avon, Avon, Colorado; FirstBank of Table Mesa, NA., Boulder, Colorado; FirstBank at Chambers/Mississippi, N.A., Aurora, Colorado; FirstBank at Buckley/Quincy, N.A., Aurora, Colorado; FirstBank at 30th/Arapahoe, N.A., Boulder, Colorado; FirstBank of Boulder, NA., Boulder, Colorado; Breckenridge FirstBank, N.A., Breckenridge, Colorado; FirstBank of Castle Rock, N.A., Castle Rock, Colorado; FirstBank of 9th/Corona, N.A., Denver, Colorado; FirstBank of Denver, Colorado; FirstBank of Cherry Creek, N.A., Denver, Colorado; FirstBank of Republic Plaza, N.A., Denver, Colorado; FirstBank of Southmoor Park, N.A., Denver, Colorado; FirstBank of Edgewater, N.A., Edgewater, Colorado; FirstBank of Arapahoe/Yosemite, Englewood, Colorado; FirstBank of Erie, Erie, Colorado; FirstBank of Tech Center, N.A., Englewood, Colorado; FirstBank of Colorado, N.A., Jefferson County, Colorado; FirstBank of Lakewood, N.A., Lakewood, Colorado; FirstBank of Westland, N.A.; Lakewood, Colorado; FirstBank of Academy Park, Lakewood, Colorado; FirstBank of Villa Italia, N.A., Lakewood, Colorado; FirstBank of Green Mountain, N.A., Lakewood, Colorado; FirstBank of Littleton, N.A., Littleton, Colorado; FirstBank Wadsworth/Coal Mine, Littleton, Colorado; FirstBank of Arapahoe County, N.A., Littleton, Colorado; FirstBank of North Longmont, Longmont, Colorado; FirstBank of South Longmont, N.A., Longmont, Colorado; FirstBank of Arapahoe/Holly, N.A., Littleton, Colorado; FirstBank of Minturn, Minturn, Colorado; FirstBank of Silverthorne, N.A., Silverthorne, Colorado; FirstBank of 120th/Colorado, N.A, Thorton, Colorado; FirstBank of West Vail, Vail, Colorado; FirstBank of Vail, Vail, Colorado; FirstBank of 88th/Wadsworth, N.A., Westminster, Colorado; and FirstBank of Wheat Ridge N.A., Wheat Ridge, Colorado.

2. *First Norton Corporation,* Norton, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of First-Security Bank and Trust Company, Norton, Kansas.

3. *Sunflower Banks, Inc.,* Salina, Kansas; to acquire Farmers National Bank of Victoria, Hays, Kansas.

4. *Whitcorp Financial Company,* Leoti, Kansas; to acquire 100 percent of the voting shares of First National Bankshares, Inc., Garden City, Kansas, and thereby indirectly acquire First National Bank in Lamar, Lamar, Colorado. In connection with this application, First National Bankshares, Inc., Garden City, Kansas, has applied to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank in Lamar, Lamar, Colorado.

Board of Governors of the Federal Reserve System, October 15, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-24712 Filed 10-18-90; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

[Dkt. C-3305]

Amersham International PLC; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a Buckinghamshire, England company from consummating the acquisition of Medi-Physics, Inc. by respondent until after the closing of the sale of Medi-Physics, SPECTamine business to IMP, Incorporated or any other Commission-approved acquirer. In addition, for a period of ten years, respondent is prohibited from acquiring, without prior Commission approval, any stock, share capital, or equity interest in, or any assets relating to SPECT brain imaging.

DATES: Complaint and Order issued September 14, 1990.[1]

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Phillip Broyles, FTC/S-2308, Washington, DC 20580. (202) 326-2662.

SUPPLEMENTARY INFORMATION: On Monday, June 18, 1990, there was published in the Federal Register, 55 FR 24640, a proposed consent agreement with analysis in the Matter of Amersham International PLC, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

Authority: Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18.

Donald S. Clark,

Secretary.

[FR Doc. 90-24718 Filed 10-18-90; 8:45 am]

BILLING CODE 6750-01-M

[File No. 892 3252]

Fertility Institute of Western Massachusetts, et al.; Proposed Consent Agreement with Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a Springfield, MA., fertility institute and its proprietor from misrepresenting: The number or percentage of patients that achieve success in overcoming infertility, including the number or percentage of patients that give birth or achieve pregnancy; the success rate of any infertility procedure, without competent and reliable scientific evidence to substantiate the claims; or the cost or expense of any infertility test or procedure. The order also prohibits respondents from misrepresenting their qualifications or ability to provide infertility treatments, and any beneficial or therapeutic aspects of any test or

procedure relating to the treatment of infertility.

DATES: Comments must be received on or before December 18, 1990.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave. NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Phoebe Morse, Boston Regional Office, Federal Trade Commission, 10 Causeway St., room 1184, Boston, MA 02222-1073. (617) 565-7240.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order To Cease and Desist

In the matter of Fertility Institute of Western Massachusetts, a sole proprietorship, and Ronald K. Burke, M.D., individually.

The Federal Trade Commission having initiated an investigation of certain acts and practices of the Fertility Institute of Western Massachusetts, a sole proprietorship, and Ronald K. Burke, M.D., individually, hereinafter sometimes collectively referred to as proposed respondents or respondents, are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated;

It is Hereby Agreed by and between Fertility Institute of Western Massachusetts, Ronald K. Burke, M.D., and by their attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Fertility Institute of Western Massachusetts is a sole proprietorship with its principal office and place of business located at 120 Maple Street, Springfield, MA 01103.

Proposed respondent Ronald K. Burke is the sole proprietor of Fertility Institute of Western Massachusetts.

2. Proposed respondents admit all the jurisdictional facts set forth in the attached draft complaint.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act, 5 U.S.C. 504.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the attached draft complaint, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the attached draft complaint.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may without further notice to proposed respondents: (a) Issue its complaint corresponding in form and substance with the attached draft complaint and its decision containing the following order to cease and desist in disposition of the proceeding; and (b) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' addresses as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the attached draft complaint and the following order. Proposed respondents understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered that respondents Fertility Institute of Western Massachusetts, a sole proprietorship, and Ronald K. Burke, M.D., individually, and respondents' officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promotion, sale or offering for sale of any service in or affecting commerce, as "commerce" is defined in the FTC Act, relating to the treatment of infertility, do forthwith cease and desist from:

A. Misrepresenting, directly or by implication, in any manner the number or percentage of patients that achieve success in overcoming infertility, including but not limited to the number or percentage of patients that give birth or achieve pregnancy, or have given birth or achieved pregnancy.

B. Representing, directly or by implication, any success rate of any infertility procedure, unless at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence substantiating the representation. For any test, analysis, research, study, or other evidence to be "competent and reliable," it must be conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the relevant profession to yield accurate and reliable results.

C. Misrepresenting, directly or by implication, the cost or expense of any infertility procedure.

II

It is further ordered that respondents Fertility Institute of Western Massachusetts and Ronald K. Burke, and respondents' officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promotion, sale, or

offering for sale of any service in or affecting commerce, as "commerce" is defined in the FTC Act, relating to the treatment of infertility, do forthwith cease and desist from misrepresenting, directly or by implication, their capacity or ability to perform any test or procedure relating to the treatment of infertility and cease and desist from misrepresenting, directly or by implication, any beneficial or therapeutic aspect of any test or procedure relating to the treatment of infertility.

III

It is further ordered that respondents shall maintain for a period of three (3) years after the date the representation was last made and, upon request, make available to the Federal Trade Commission business records supporting all claims for any infertility treatment service.

IV

It is further ordered that respondents shall notify the Commission at least thirty (30) days prior to any proposed change in respondents such as dissolution, assignment or sale resulting in the emergence of a successor sole proprietorship, or any other change in respondents which may affect compliance obligations arising out of this Order.

V

It is further ordered that respondents shall, within sixty (60) days after service of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with all requirements of this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Fertility Institute of Western Massachusetts ("Fertility Institute"), located in Springfield, Massachusetts, and Ronald K. Burke, M.D., the sole proprietor of Fertility Institute (collectively, the "respondents"). Under this agreement, the respondents will cease and desist from making certain claims concerning success rates for various infertility treatments and will not make any claims regarding such treatments unless they possess reliable scientific evidence that substantiates such claims.

The proposed consent order has been placed on the public record for sixty (60) days for the receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action, or make final the proposed order contained in the agreement.

This matter concerns claims made for various infertility treatments contained in Fertility Institute's promotional brochure "Understanding Your Fertility." The Complaint accompanying the proposed consent order alleges that respondents violated section 5 of the Federal Trade Commission Act in making certain representations contained in this brochure.

Specifically, according to the Complaint, respondents' brochure contained false and misleading statements regarding the success rate experienced by Fertility Institute's patients in undergoing treatment known as "Gamete Intra-fallopian Transfer" ("GIFT"), when success is defined as the ratio of the number of patients taking home babies compared to the number of patients entering the GIFT program. In addition, the Complaint alleges that respondents made certain representations in their brochure concerning the success rates and costs of other infertility treatments and claimed directly or indirectly that they possessed and relied upon a reasonable basis for these representations. In fact, according to the Complaint, respondents did not have a reasonable basis for making these representations at the time they were made.

Part I of the proposed consent order would prohibit respondents from misrepresenting the success rates of patients who have undergone infertility treatments and requires them to possess "competent and reliable" evidence in support of any representation concerning such success rates. Respondents are also prohibited from misrepresenting the cost or expense of fertility treatments.

In addition, part II of the proposed consent would prohibit respondents from misrepresenting their qualifications, their ability to provide infertility treatments, and the beneficial or therapeutic aspects of any test or procedure relating to the treatment of infertility.

Part III of the proposed consent requires respondents to maintain for three years any records supporting claims made for infertility treatment programs. Part IV of the proposed consent requires respondents to notify the Commission within 30 days of any proposed change in the operation of Fertility Institute, such as dissolution or sale resulting in a change of ownership.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order, or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 90-24719 Filed 10-18-90; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR-19]

Extension of Public Comment Period for the Draft Health Assessment Guidance Manual

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Public Health Service, Department of Health and Human Services.

ACTION: Notice of extension of public comment period.

SUMMARY: This notice announces an extension of the public comment period for the draft Health Assessment Guidance Manual. ATSDR announced the availability of this manual in the Federal Register on August 30, 1990 (55 FR 35463) with a public comment period through October 31, 1990. This notice announces an extension of the public comment period through November 30, 1990, in order to allow the public additional time to review and submit written comments on the Guidance Manual.

ADDRESSES: Comments on this notice should bear the docket control number ATSDR-19, and should be submitted to the Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, Mailstop E-32, 1600 Clifton Road, Atlanta, Georgia 30333.

Comments submitted in response to this notice will be available for public inspection at the Agency for Toxic Substances and Disease Registry, Building 31, Executive Park Drive, Atlanta, Georgia, from 8 a.m. until 4:30 p.m., Monday through Friday, except for legal holidays.

SUPPLEMENTARY INFORMATION: ATSDR is mandated to conduct health assessments under section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability

Act (CERCLA) (42 U.S.C. 9604(i)) and the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6939e(b)). The Guidance Manual sets forth in detail the health assessment process as developed by ATSDR and clarifies the methodologies and guidelines that will be used by ATSDR staff and agents of ATSDR in conducting health assessments.

DATES: Comments concerning this manual must be received by November 30, 1990.

FOR FURTHER INFORMATION CONTACT: The Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, Mailstop E-32, 1600 Clifton Road, NE., Atlanta, Georgia 30333. Telephone: 404-639-0510.

Dated: October 12, 1990.

William L. Roper,

Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 90-24740 Filed 10-18-90; 8:45 am]

BILLING CODE 4160-70-M

Centers for Disease Control

National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control (CDC), NIOSH Assessment of Performance Limits for Industrial Respirators: Prerulemaking Technical Conference; Meeting

NAME: NIOSH Assessment of Performance Levels for Industrial Respirators: Prerulemaking Technical Conference.

TIME AND DATE: 9 a.m.-5 p.m., January 9-11, 1991.

PLACE: Appalachian Laboratory for Occupational Safety and Health, room 138, NIOSH, CDC, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505-2888.

STATUS: Open to the public, limited only by the space available.

PURPOSE: To solicit and present the available research and recommendations concerning the following technical issues and questions: (1) The feasibility and practicality of developing a detailed protocol (including analytical methods, facepiece sampling methods, statistical analysis of data, etc.) for conducting workplace protection factor tests that would apply to all workplace settings, all contaminants, and all respirator types, (2) the available techniques and procedures for measuring assigned protection factors for respirator types that offer very high levels of worker protection (such as positive pressure air-supplied respirators or high performance powered air-purifying respirators), (3) the need to standardize further the nomenclature associated with defining the workplace performance of respiratory protective devices, (4) the procedures and techniques for conducting workplace protection factor studies of gas and vapor respirators, (5) the procedures and techniques for conducting workplace protection factor studies of closed-circuit respirators, (6) the approaches for and benefits and limitations of assigning performance values to individual respirator models, and (7) any additional knowledge, gaps or issues relating to workplace performance testing as a condition of a respirator certification.

SUMMARY: In an associated regulatory activity (Improved Standards for Respirator Devices), NIOSH has undertaken a substantial revision of certification tests and criteria for industrial respirators (currently 30 CFR part 11). The first Notice of Proposed Rulemaking (NPRM) for this revision was published in August 1987 (52 FR 32401) as a proposed 42 CFR part 84 to replace 30 CFR part 11. In addition to requiring laboratory performance testing, provisions in the first NPRM would have required workplace or validated simulated-workplace testing of industrial respirators as a part of the certification process. Associated with these provisions was a plan for certifying makes and models at quantitative performance levels. However, because commenters believed that suitable protocols for workplace or validated simulated-workplace testing are not available, and to avoid needless delay in implementing critical advances in laboratory performance tests, NIOSH will remove these provisions from its second NPRM, which is currently under development. Therefore, appropriate data required for certifying respirator protection levels will not be initially available under the new 42 CFR part 84. The National Institute for Occupational Safety and Health be proposing a separate rulemaking activity to include workplace or validated simulated-workplace testing in the NIOSH Respiratory Protective Devices Certification Program at a later time. The National Institute for Occupational Safety and Health remains convinced that respirators that appear to have achieved effective performance in laboratory performance tests must still demonstrate adequate performance under workplace or validated simulated-workplace conditions. Protection values based solely on laboratory fit testing should be viewed and applied with particular caution. Therefore, NIOSH believes that federal certification requirements must include workplace or validated simulated-workplace testing. Only when results of these tests are available can NIOSH accurately assess the protection afforded by individual makes and models of respirators.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Dr. Alfred A. Amendola, Deputy Director, Division of Safety Research, NIOSH, CDC, 944 Chestnut Ridge Road, Mailstop S118B, Morgantown, West Virginia 26505-2888, telephone 304/291-4594 or FTS 923-4595.

Anyone wishing to make an oral presentation should submit their request, in writing, to Dr. Amendola by close of business, December 14, 1990. The request should include the name, address, and telephone number of the participant, the approximate time needed and a brief summary of the topics to be presented. For those persons who cannot participate at the meeting, written comments should be submitted to Dr. Amendola by close of business, December 14, 1990.

SUPPLEMENTARY INFORMATION: Federally-certified respirators are relied upon by up to 6.6 million American workers, either full-time or part-time, to protect themselves from hazards in their workplaces. This number could go as high as 10 million in the mid-1990s. Occupational Safety and Health Administration regulations (29 CFR 1910.134) require that NIOSH-certified respirators be used by many of these workers. Regulations of the Environmental Protection Agency and the Nuclear Regulatory Commission also require the use of NIOSH-certified respirators. The National Institute for Occupational Safety and Health certifications have become de facto premarket approvals for industrial respirators in the United States. Therefore, it is imperative that NIOSH certifications be based on the most relevant and reliable test procedures and criteria. The objectives of this proposed regulatory revision are to establish rigorous and realistic performance testing of respirators in the workplace or simulated-workplaces and provide purchasers and users with meaningful performance information that is relevant to actual conditions experienced by users.

There is ample precedent for requiring workplace or validated simulated-workplace testing for federally-certified respirators. For the past 14 years, the manufacturer of any medical device regulated by the Food and Drug Administration (FDA) under the 1976

Medical Device Amendments to the Food, Drug, and Cosmetic Act has had to demonstrate both the safety and efficacy (i.e., adequate performance) of the device to receive the necessary government approval before marketing. For Class III devices, which are life-sustaining, life-supporting, or which are of substantial importance in preventing impairment of health (21 CFR part 860), FDA premarket approval depends upon the results of clinical studies showing the safety and efficacy of the device. Most, if not all, the respirators certified by NIOSH share the characteristics of Class III devices. The nature and complexity of industrial respirators prevent purchasers and users from personally assessing the safety and efficacy of the respirators they purchase or must wear. Thus, NIOSH believes that workplace or validated simulated-workplace testing requirements for federally-certified respirators are necessary to protect adequately the health and safety of respirator users.

Additionally, federal assessment of individual performance levels will stimulate market competition and result in both better-performing and more cost-effective respirators for purchasers and users. It will encourage manufacturers to develop and market better-performing and innovative respirators because better performance would be assessed by NIOSH and the information disseminated to the public. It will also enable purchasers and users to better protect themselves with respirators by providing them with information on the protection they might achieve with individual makes and models. The federal regulations for performance grading of automobile tires at multiple performance levels (49 CFR part 575) and noise reduction ratings for hearing protective devices (40 CFR part 211) are examples of this approach.

After the necessary technical methodologies are available, NIOSH will publish an NPRM presenting test requirements and evaluation criteria to implement requirements for workplace or validated simulated-workplace testing combined with NIOSH-assessed performance levels. This technical meeting and NPRM will provide ample opportunity for respirator manufacturers, purchasers, and users to comment on these issues.

Dated: October 15, 1990.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 90-24744 Filed 10-18-90; 8:45 am]

BILLING CODE 4160-19-M

CDC Advisory Committee on the Prevention of HIV Infection; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control (CDC) announces the following committee meeting:

Name: CDC Advisory Committee on the Prevention of HIV Infection.

Time and date:

8:30 a.m.-5 p.m., November 7, 1990

8 a.m.-3 p.m., November 8, 1990.

Place: Colony Square Hotel, Peachtree and 14th Street, Atlanta, Georgia 30361.

Status: Open to the public, limited only by the space available.

Purpose: This committee is charged with advising the Director, CDC, regarding objectives, strategies, and priorities for HIV prevention efforts, including maintaining surveillance of AIDS and HIV infection, the epidemiologic and laboratory study of AIDS and HIV, information/education and risk reduction activities designed to prevent the spread of HIV infection, and other preventive measures that become available.

Matters to be discussed: The committee will discuss actions taken by CDC on the recommendations made by the committee during the May 16-17, 1990, meeting and current CDC approaches to HIV prevention for high-risk youth. In-depth discussions will lead to development of a preliminary list of recommendations regarding CDC methods and approaches.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Connie Grasoff, Committee Assistant, Office of the Deputy Director (HIV), CDC, 1600 Clifton Road, NE., Mailstop E-40, Atlanta, Georgia 30333, telephone (404) 639-2918 or FTS 236-2918.

Dated: October 15, 1990.

Elvin Hilyer,

Associate Director for Policy Coordination Centers for Disease Control.

[FR Doc. 90-24743 Filed 10-18-90; 8:45 am]

BILLING CODE 4160-18-M

Family Support Administration

Forms Submitted to the Office of Management and Budget for Clearance

The Family Support Administration (FSA) will publish on Fridays information collection packages submitted to the Office of Management and Budget (OMB) for clearance, in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). Following is the package submitted to OMB since the last publication.

(For a copy of a package, call the FSA, Report Clearance Officer 202-252-5604)

Periodic Reevaluation of AFDC Need and Payment Standards—Form FSA-111 and FSA-113

In order to meet the requirements of section 404, of the Family Support Act, states are required to submit tri-annual reports on adjustments in the need and payment standards. The information from these forms will provide national data regarding frequency and the methods used by States to adjust AFDC need and payment standards, and special need amounts. *Respondents:* State or local governments; *Number of Respondents:* 54; *Frequency of Response:* 1; *Average Burden per Response:* 200 hours; *Estimated Annual Burden:* 10,800 hours.

OMB Desk Clearance Officer: Laura Oliven.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officers designated above at the following address: OMB Reports Management Branch, New Executive Office Building, room 3201, 725 17th Street NW., Washington, DC 20503.

Dated: October 11, 1990.

Naomi B. Marr,

Associate Administrator, Office of Management & Information Systems.

[FR Doc. 90-24271 Filed 10-18-90; 8:45 am]

BILLING CODE 4150-04-M

Forms submitted to the Office of Management and Budget for Clearance

The Family Support Administration (FSA) will publish on Fridays information collection packages submitted to the Office of Management and Budget (OMB) for clearance, in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). Following is the package submitted to OMB since the last publication.

(For a copy of a package, call the FSA, Report Clearance Officer 202-252-5604)

JOBS Program Participant Data Collection—Form FSA-188

The information received from this collection will provide the database to analyze and evaluate the JOBS program relevant to the degree in which States are assisting individuals and families to achieve self-sufficiency and reduce welfare dependency. *Respondents:* State or local governments; *Number of Respondents:* 51; *Frequency of Response:* 12; *Average Burden per Response:* 612 hours; *Estimated Annual Burden:* 1,224 hours.

OMB Desk Clearance Officer: Laura Oliven.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officers designated above at the following address: OMB Reports Management Branch, New Executive Office Building, room 3201, 725 17th Street NW., Washington, DC 20503.

Dated: October 11, 1990.

Naomi B. Marr,

Associate Administrator, Office of Management & Information Systems.

[FR Doc. 90-24722 Filed 10-18-90; 8:45 am]

BILLING CODE 4150-04-M

Forms Submitted to the Office of Management and Budget for Clearance

The Family Support Administration (FSA) will publish on Fridays information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance, in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). Following is the Federal Register submission for FSA.

(For a copy of the package below, call the FSA Reports Clearance Officer on 202 252-8304.)

State Plan for Child Support Collection and Establishment of Paternity under Title IV-D of the Social Security Act, OCSE-195—0970-0017

The information obtained on the state plan preprint serves as a contract with OCSE in outlining the activities the states will perform as required by law in order for states to receive Federal funds to meet the costs of these activities. *Respondents:* State or local governments; *Number of Respondents:* 54; *Frequency of Response:* 14; *Average Burden per response:* 43 minutes; *Estimated Annual Burden:* 841.0.

OMB Desk Clearance Officer: Laura Oliven.

Written comments and recommendations for the proposed information collection should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3201 725 17th Street, NW. Washington, DC 20503.

Dated: October 8, 1990.

Naomi B. Marr,

Associate Administrator, Office of Information and Management Systems, FSA.

[FR Doc. 90-24273 Filed 10-18-90; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

[Docket No. 90F-0311]

Nissin Chemical Industry Co., Ltd.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Nissin Chemical Industry Co., Ltd., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of vinyl chloride/vinyl acetate/maleic anhydride/glycidyl methacrylate copolymer as a component of coatings for articles that will contact food.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 0B4224), has been filed on behalf of Nissin Chemical Industry Co., Ltd., c/o 1730 Rhode Island Ave. NW., Washington, DC 20036, proposing that 21 CFR 175.300 *Resinous and polymeric coatings* be amended to provide for the safe use of vinyl chloride/vinyl acetate/maleic anhydride/glycidyl methacrylate copolymer as a component of coatings that will contact food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c).

Dated: October 11, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90-24709 Filed 10-18-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90G-0296]

Suddeutsche Zucker AG and Bayer AG; Filing of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Suddeutsche Zucker AG and Bayer AG have filed a petition (GRASP 6G0321) proposing to affirm that isomalt, prepared by the action of sucrose glycosyl fructose-mutase enzyme from *Protaminobacter rubrum* immobilized with a polyamine-epichlorohydrin resin, glutaraldehyde, and tannin, is generally recognized as safe (GRAS) as a direct human food ingredient.

DATES: Comments by December 18, 1990.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Rosalie M. Angeles, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-5487.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sections 201(s), 409 (21 U.S.C. 321(s), 348)) and the regulations for affirmation of GRAS status in § 170.35 (21 CFR 170.35), notice is given that, Suddeutsche Zucker AG and Bayer AG c/o Center for Regulatory Services, 2347 Paddock Lane, Reston, VA 22091, have filed a petition (GRASP 6G0321), proposing that isomalt be affirmed as GRAS for use as a direct human food ingredient. The petition substance is manufactured by the action of sucrose glycosyl fructose-mutase enzyme from *P. rubrum* immobilized with a polyamine-epichlorohydrin resin, glutaraldehyde, and tannin.

The petition has been placed on display at the Dockets Management Branch (address above).

Any petition that meets the requirements outlined in §§ 170.30 and 170.35 (21 CFR 170.30 and 170.35) is filed by the agency. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus, the filing of this petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability of isomalt for GRAS affirmation.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c).

Interested persons may, on or before December 18, 1990, review the petition and/or file comments (two copies, identified with the docket number found in brackets in the heading of this document) with the Dockets Management Branch (address above). Comments should include any available information that would be helpful in determining whether the substance is, or is not, GRAS for the proposed use. A copy of the petition and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 11, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90-24704 Filed 10-18-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90E-0266]

Determination of Regulatory Review Period for Purposes of Patent Extension; Ergamisol®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Ergamisol® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nancy E. Pirt, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Ergamisol®. Ergamisol® (levamisole HCl) is indicated as adjuvant treatment in combination with fluorouracil after surgical resection in patients with Dukes' stage C colon cancer. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Ergamisol® (U.S. Patent No. 4,584,305) from Janssen Pharmaceutica N.V., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. FDA, in a letter dated August 23, 1990, advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period. The letter also stated that the active ingredient, levamisole HCl, represented the first permitted commercial marketing or use under the provision of law governing regulatory review of human drug products. Levamisole HCl had previously received permission for commercial marketing or use under the provision of law governing regulatory review of animal drugs. Shortly thereafter, the Patent And Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Ergamisol is 4,633 days. Of this time, 4,603 days occurred during the testing phase of the regulatory review period, while 230 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* March 27, 1977. The applicant claims April 8, 1977, as the date the investigational new drug (IND) application became effective. However, FDA records indicate that the IND effective date was March 27, 1977, which was 30 days after FDA receipt of the IND application.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* November 1, 1989. FDA has verified the applicant's claim that new drug application (NDA) 20-035 was submitted on November 1, 1989.

3. *The date the application was approved:* June 18, 1990. FDA has verified the applicant's claim that NDA 20-035 was approved on June 18, 1990.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 422 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before December 18, 1990, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before April 19, 1991, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 am. and 4 pm., Monday through Friday.

Dated: October 12, 1990.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 90-24702 Filed 10-18-90; 8.45 am]

BILLING CODE 4160-01-M

[Docket No. 90P-0338]

Hoffmann Medizinische Technik GmbH; Premarket Approval of the Hoffmann Medizinische Technik 20/1500 Shock Plug

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Hoffmann medizinische Technik GmbH for premarket approval, under the Medical Device Amendments of 1976, of the Hoffmann medizinische Technik 20/1500 Shock Plug. After reviewing the recommendation of the Gastroenterology-Urology Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of September 6, 1990, of the approval of the application.

DATES: Petitions for administrative review by November 19, 1990.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert Gatling, Center for Devices and Radiological Health (HFZ-420), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1220.

SUPPLEMENTARY INFORMATION: On June 17, 1988, Hoffmann medizinische Technik GmbH, Hans Heide 21, 5884 Halver, Federal Republic of Germany, submitted to CDRH an application for premarket approval of the Hoffmann medizinische Technik 20/1500 Shock Plug. The device is a replacement for the shock plug used in the HM3 Dornier Extracorporeal Shock Wave Lithotripter which is indicated for use in the fragmentation of upper urinary tract stones, i.e., renal calyx stones, renal pelvic stones, and upper ureteral stones.

On December 7, 1988, the Gastroenterology-Urology Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On September 6, 1990, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Robert Gatling (HFZ-420), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before November 19, 1990, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sections 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 10, 1990.

Elizabeth D. Jacobsen,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 90-24688 Filed 10-18-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90P-0318]

Devices for Vascular Intervention, Inc.; Premarket Approval of the Simpson Coronary Atherocath™

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Devices for Vascular Intervention, Inc., Redwood City, CA, for premarket approval, under the Medical Device Amendments of 1976, of the Simpson Coronary AtheroCath™. After reviewing the recommendation of the Circulatory System Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of September 14, 1990, of the approval of the application.

DATES: Petitions for administrative review by November 19, 1990.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Donald J. St. Pierre, Center for Devices and Radiological Health (HFZ-450), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1197.

SUPPLEMENTARY INFORMATION: On August 18, 1989, Devices for Vascular Intervention, Inc., Redwood City, CA 94063, submitted to CDRH an application for premarket approval of the Simpson Coronary AtheroCath™. Coronary atherectomy with the AtheroCath is indicated in patients with coronary artery disease accessible to the AtheroCath. The AtheroCath can be used alone or in conjunction with percutaneous transluminal coronary angioplasty (PTCA). Generally, lesions most accessible to atherectomy are those in the proximal or mid-portion of coronary vessels. Patients selected for coronary atherectomy should be acceptable candidates for coronary artery bypass graft surgery and meet one of the following criteria:

1. Single vessel atherosclerotic coronary artery disease with a stenosis that is discrete and subtotal;
2. Multiple vessel coronary artery disease that in the physician's judgment does not pose undue risk to the patient;
3. Certain patients who have had prior coronary artery bypass graft surgery and who have a stenosis or restenosis of the graft; and

4. Certain patients who have had prior percutaneous transluminal coronary angioplasty, PTCA, and who have a restenosis of the native vessel.

On June 15, 1990 the Circulatory System Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On September 14, 1990, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Donald J. St. Pierre (HFZ-450), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before November 19, 1990, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sections 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 10, 1990.

Elizabeth D. Jacobson,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 90-24700 Filed 10-18-90; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meetings:

Buffalo District Office and the Erie County Consumer Protection Committee, joint sponsors, chaired by Lois M. Meyer, FDA District Consumer Affairs Officer, and Charles Kreiner, Chairman, Erie County Consumer Protection Committee. The topic to be discussed is food labeling.

DATES: Tuesday, October 30, 1990, 3:30 p.m. to 5:30 p.m.

ADDRESSES: Buffalo and Erie County Public Library Auditorium, Lafayette Square, Buffalo, NY 14203.

FOR FURTHER INFORMATION CONTACT: Lois M. Meyer, Consumer Affairs Officer, Food and Drug Administration, 599 Delaware Ave., Buffalo, NY 14202, 716-846-4461.

New York District Office, chaired by Edward T. Warner, District Director. The topic to be discussed is food labeling proposals.

DATES: Thursday, November 15, 1990, 1 p.m.

ADDRESSES: Fort Hamilton Officers' Club, Fort Hamilton, Brooklyn, NY 11252.

FOR FURTHER INFORMATION CONTACT: Herman B. Janiger, Consumer Affairs Officer, Food and Drug Administration, 850 Third Ave., Brooklyn, NY 11232-1593, 718-965-5043.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: October 15, 1990.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-24701 Filed 10-18-90; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Meeting of Epidemiology and Technology Transfer Subcommittee of the Acquired Immunodeficiency Syndrome Research Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Epidemiology and Technology Transfer Subcommittee of the Acquired Immunodeficiency Syndrome Research Review Committee, National Institute of Allergy and Infectious Diseases, October 31 through November 2, 1990, at the Crown Plaza Holiday Inn, 1750 Rockville Pike, Rockville, Maryland 20852.

The meeting will be open to the public from 8:30 a.m. to 9 a.m. on October 31 to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 9 a.m. until recess on October 31, from 8:30 a.m. until recess on November 1, and from 8:30 a.m. until adjournment on November 2. These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Responses, National Institute of Allergy and Infectious Diseases, Building 31, room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301-496-5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Dianne E. Tingley, Executive Secretary, Acquired Immunodeficiency Syndrome Research Review Committee, NIAID, NIH, Westwood Building, Room 3A10, Bethesda, Maryland 20892, telephone (301–496–0812), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

Dated: October 2, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-24690 Filed 10-18-90; 8:45 am]

BILLING CODE 4140-01-M

National Center for Research Resources; Meeting of the Biomedical Research Technology Review Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Biomedical Research Technology Review Committee, National Center for Research Resources, National Institutes of Health.

This meeting will be open to the public as listed below for a brief staff presentation on the current status of the Biomedical Research Technology Program and the selection of future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public as listed below for the review, discussion and evaluation of individual grant application submitted to the Biomedical Research Technology Program. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Biomedical Research Technology Review.

Date of Meeting: November 8–9, 1990.

Place of Meeting: Holiday Inn Crowne Plaza, 1750 Rockville Pike Rockville, MD 20852.

Open: November 8—8 a.m.–9 a.m.

Closed: November 8—9 a.m. to Recess, November 9—8 a.m. to Adjournment

Mr. James J. Doherty, Information Officer, National Center for Research Resources, 5333 Westbard Avenue, Room 10A15, Bethesda, Maryland 20892, (301) 496–5545, will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Ismael Almodovar, Executive Secretary of the Biomedical Research Technology Review Committee, National Center for Research Resources, National Institutes of Health, 5333 Westbard Avenue, Room 10A10, Bethesda, Maryland 20892, (301) 402–0627 will furnish substantive program information upon request.

Dated: October 2, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-24692 Filed 10-18-90; 8:45 am]

BILLING CODE 4140-01-M

National Eye Institute; Meeting of the Vision Review Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Vision Research Review Committee, National Eye Institute, on November 15–16, 1990, at the Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland.

This meeting will be open to the public on November 15 from 8:30 to approximately 9:30 a.m. for opening remarks and instructions to the committee members. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public from 8:30 a.m. on November 15 until recess and on November 16 from 8:30 a.m. until adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, or personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Lois DeNinno, Committee Management Officer, National Eye Institute, Building 31, Room 6A/08, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–9110, will provide a summary of the meeting, roster of committee members, and substantive program information upon request.

(Catalog of Federal Domestic Assistance Program Nos. 13.867, Retinal and Choroidal Diseases; 13.868, Anterior Segment Diseases Research; and 13.871 Strabismus, Amblyopia and Visual Processing; National Institutes of Health.)

Dated: October 2, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-24693 Filed 10-18-90; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Diabetes and Digestive and Kidney Diseases; Meeting of the Board of Scientific Counselors

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), November 1, 2, and 3, 1990, National Institutes of Health, Building 2, Room 102, Bethesda, Maryland 20892. This meeting will be open to the public on November 1 from 8 p.m. to 10 p.m., November 2 from 9 a.m. to 12 noon and again from 2 p.m. to 4:30 p.m., and November 3 from 9 a.m. to 10:30 a.m. The open portion of the meeting will be devoted to scientific presentations by various laboratories of the NIDDK Intramural Research Program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public on November 1 from 7:30 p.m. to 8 p.m., November 2 from 12 noon to 2 p.m. and again from 4:30 p.m. to recess, and November 3 from 10:30 a.m. to adjournment for the review, discussion and evaluation of individual intramural programs and projects conducted by the NIDDK, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of the meeting and rosters of the members will be provided by the Committee Management Office, National Institute of Diabetes and Digestive and Kidney Diseases, Building 31, room 9A19, Bethesda, Maryland 20892. Further information concerning the meeting may be obtained by contacting the office of Dr. Jesse Roth, Executive Secretary, Board of Scientific Counselors, National Institute of Health, Building 10, Room 9N–222, Bethesda, Maryland 20892, (301) 496–4128.

Dated: October 11, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-24694 Filed 10-18-90; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meeting of Heart, Lung, and Blood Research Review Committee B

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee B, National Heart, Lung, and Blood Institute, National Institutes of Health, on November 29, 1990 in Building 31, Conference Room 9, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on November 29 from 9 a.m. to approximately 10 a.m. to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C., and section 10(d) of Public Law 92-463, the meeting will be closed to the public on November 29 from approximately 10 a.m. until adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4236 will provide a summary of the meeting and a roster of the committee members.

Dr. Jeffrey H. Hurst, Executive Secretary, Heart, Lung, and Blood Research Review Committee B, Westwood Building, Room 5A-10, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4485, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research, National Institutes of Health.)

Dated: October 2, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-24895 Filed 10-18-90; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Meeting of Developmental Therapeutics Contracts Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Developmental Therapeutics Contracts Review Committee, National Cancer Institute, National Institutes of Health, November 1-2, 1990, Executive Plaza North, conference room J, 6130 Executive Boulevard, Rockville, Maryland 20852.

This meeting will be open to the public on November 1 from 8 a.m. to 9 a.m. to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public on November 1 from 9 a.m. to recess and on November 2 from 8 a.m. to adjournment for the review, discussion and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Committee Management Office, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496-5708) will provide summaries of the meeting and rosters of committee members upon request.

Dr. Susan E. Feinman, Executive Secretary, Developmental Therapeutics Contracts Review Committee, 5333 Westbard Avenue, Room 809, Bethesda, Maryland 20892 (301/402-0944) will furnish substantive program information.

Dated: October 9, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-24899 Filed 10-18-90; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Cancer Institute, Frederick Cancer Research and Development Center (FCRDC) Advisory Committee, November 29-30, 1990, Building 549, Executive Board Room, at the NCI-Frederick Cancer Research and Development Center, Frederick, Maryland 21702-1201. The meeting will be open to the public on November 29 from 8:30 a.m. to approximately 10:15 a.m. to discuss administrative matters and a concept review of scientific research. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public on November 29 from approximately 10:15 a.m. to recess and on November 30 from 8:30 a.m. to adjournment for site visit review of research being conducted by the Advanced BioScience Laboratories, Inc.-Basic Research Program's (ABL-BRP) Crystallography Laboratory. There will be a review and evaluation of reports of the previous site visit for the ABL-BRP's Laboratory of Eukaryotic Gene Expression and the Laboratory of Molecular Virology and Carcinogenesis. These discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contractor, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301-496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Cedric W. Long, Executive Secretary, Frederick Cancer Research and Development Center Advisory Committee, National Cancer Institute, Frederick Cancer Research and Development Center, P.O. Box B, Frederick, Maryland 21702-1201 (Tel. 301-846-1308) will provide substantive program information upon request.

Dated: October 9, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH

[FR Doc. 90-24900 Filed 10-18-90; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Child Health and Human Development; Meetings

Pursuant to Public Law 92-463, notice is hereby given of meetings of the review committees of the National Institute of Child Health and Human Development for November/December 1990.

These meetings will be open to the public to discuss items relative to committee activities including announcements by the Director NICHD, and executive secretaries, for

approximately one hour at the beginning of the first session of the first day of the meeting Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Mary Plummer, Committee Management Officer, NICHD, Executive Plaza North Building, Room 520, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of committee members.

Other information pertaining to the meetings may be obtained from the Executive Secretary indicated.

Name of committee: Maternal and Child Health Research Committee.

Executive secretary: Dr. Scott F. Andres, Room 520, Executive Plaza North Building, Telephone: 301, 496–1485.

Date of Meeting: November 6–7, 1990.

Place of Meeting: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland, Versailles Room 2.

Open: November 6, 1990, 9 a.m.–10 a.m.

Closed:

November 6, 1990, 10 a.m.–5 p.m.

November 7, 1990, 8:30 a.m.–adjournment.

Name of committee: Population Research Committee.

Executive secretary: Dr. A.T. Gregoire, Room 520, Executive Plaza North Building, Telephone: 301, 496–1096.

Date of meeting: December 6–7, 1990.

Place of meeting: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, Maryland.

Open: December 6, 1990, 8:30 a.m.–9:30 a.m.

Closed:

December 6, 1990, 9:30 a.m.–5 p.m.

December 7, 1990, 8:30 a.m.–adjournment.

(Catalog of Federal Domestic Assistance Program No. 13.864, Population Research and No. 13.865, Research for Mothers and Children, National Institutes of Health.)

Dated: October 10, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–24691 Filed 10–18–90; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Misconduct in Science; Notice of Availability

AGENCY: Office of the Assistant Secretary for Health, HHS.

ACTION: Notice of Availability.

SUMMARY: Notice is hereby given that the Public Health Service (PHS) has revised its internal guidelines for dealings with misconduct in science. This document entitled "Policies and Procedures for Dealing with Possible Misconduct in Extramural Research" focuses on the responsibilities of PHS officials and the relationships among PHS offices that deal with possible misconduct in science.

FOR FURTHER INFORMATION CONTACT: Director, Office of Scientific Integrity, National Institutes of Health, Building 31, Room B1C39, 9000 Rockville Pike, Bethesda, Maryland 20892, (301) 496–2624—This is not a toll free number.

SUPPLEMENTARY INFORMATION: The responsibilities of PHS officials and the relationships among Federal offices that deal with possible misconduct in science are described in this internal guidance. This document may be subject to minor revisions when needed. The responsibilities of the applicant and awardee institutions are described in the *Final Rule* on "Responsibilities of Awardee and Applicant Institutions for Dealing With and Reporting Possible Misconduct in Science" (54 FR 32446, August 8, 1989).

These policies and procedures and the responsibilities outlined in the *Final Rule* apply to instances of possible misconduct in research, research training or research related activities for which funds have been provided or requested under the PHS Act.

This document is available upon request at the above address.

Dated: October 11, 1990.

Lyle W. Bivens,

Director, Office of Scientific Integrity Review.

[FR Doc. 90–24642 Filed 10–18–90; 8:45 am]

BILLING CODE 4160–17–M

National Toxicology Program, Board of Scientific Counselors; Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting on November 8–9, 1990, of the National Toxicology Program (NTP) Board of Scientific Counselors, Reproductive and Developmental Toxicology Program Review Subcommittee. The meeting will be held in Conference Room C, Alice B. Hamilton Laboratory, National Institute of Occupational Safety and Health, 5555 Ridge Road, Cincinnati, Ohio 45213.

The meeting will be open to the public from 8 a.m. to 6 p.m. on November 8 and from 8 a.m. to 12 noon on November 9. The primary agenda topics are reviews from the reproductive and developmental toxicology research efforts of the staff at the National Institute of Environmental Health Sciences (NIEHS) and the National Institute for Occupational Safety and Health (NIOSH).

In accordance with the provisions set forth in section 552b(c)(6) title 5 U.S. Code and section 10(d) of Public Law 92–463, the meeting will be closed to the public on November 9 from 1 p.m. to 3 p.m. for further evaluation of research activities at NIEHS and NIOSH including the consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Executive Secretary, Dr. Larry G. Hart, Office of the Director, National Toxicology Program, P.O. Box 12233, Research Triangle Park, North Carolina 27709, Telephone (919) 541–3971, will furnish the final agenda. The roster of subcommittee members and other program information will be available prior to and at the meeting, and summary minutes will be available subsequent to the meeting.

Dated: October 9, 1990.

David G. Hoel,

Acting Director, National Toxicology Program.

[FR Doc. 90–24705 Filed 10–18–90; 8:45 am]

BILLING CODE 4140–01–M

National Toxicology Program Board of Scientific Counselors' Meeting; Review of Draft NTP Technical Reports

Pursuant to Public Law 92–463, notice is hereby given of the next meeting of the NTP Board of Scientific Counselors' Technical Reports Review Subcommittee and associated *ad hoc* Panel of Experts (Peer Review Panel) on November 19 and 20, 1990, in the Conference Center, Building 101, South Campus, National Institute of Environmental Health Sciences, 111 Alexander Drive, Research Triangle Park, North Carolina. The meeting will begin at 9:00 a.m. both days and is open to the public. The primary agenda topic is the peer review of draft Technical Reports of long-term toxicology and carcinogenesis studies and short-term

toxicity studies from the National Toxicology Program.

Tentatively scheduled to be peer reviewed on November 19 and 20 are draft Technical Reports of long-term studies on seven chemicals, listed alphabetically, along with supporting information in Table 1. All studies were done using Fischer 344 rats and B6C3F1 mice. The order of review is given in the far right column of the table.

Also scheduled to be peer reviewed are draft Technical Reports of toxicity studies on four chemicals, listed alphabetically, along with supporting information in Table 2. Order of presentation is given in the far right column of the table.

Persons wanting to make a formal presentation regarding a particular Technical Report must notify the Executive Secretary by telephone or by mail no later than November 13, 1990, and provide a written copy in advance of the meeting so copies can be made and distributed to all Panel members and staff and made available at the meeting for attendees. Oral presentations should supplement and not just repeat the written statement. Presentations should be limited to no more than seven minutes.

The Program would welcome receiving toxicology and carcinogenesis information from completed, ongoing or planned studies by others, as well as current production data, human exposure information, and use patterns on any of the studies listed in this announcement. Please contact the staff scientists as early as possible by telephone or by mail to: NIEHS, P.O. Box 12233, Research Triangle Park (RTP), North Carolina 27709.

The Executive Secretary, Dr. Larry G. Hart, P.O. Box 12233, RTP, North Carolina 27709 (telephone 919/541-3971, FTS 629-3971) will furnish final agenda, a roster of subcommittee and panel members, and other program information prior to the meeting. Summary minutes subsequent to the meeting be available upon request.

Attachment

Dated: October 12, 1990.

David G. Hoel,

Acting Director, National Toxicology Program.

TABLE 1.—SUMMARY DATA FOR LONG TERM NTP TOXICOLOGY AND CARCINOGENESIS STUDY TECHNICAL REPORTS SCHEDULED FOR PEER REVIEW AT THE BOARD OF SCIENTIFIC COUNSELORS' PEER REVIEW PANEL MEETING ON NOVEMBER 19–20, 1990

Chemical CAS Number	Staff scientist/technical report Number	Primary uses	Route/exposure levels	Study laboratory	Review order
Acetaminophen (4-Hydroxyacetanilide) 103-90-2.	Dr. R. Irwin, 919-541-3340; TR-394.	Manufacture of Azo Dyes, Analgesic, Intermediate for Pharmaceutical (HSDB 1990).	Oral in Feed (FEED): R&M: 0,.06,.3,.6%/60 Per Group.	T.S.I. Mason Research Institute.	4
Chloramine/Chlorine 10599-90-3/7782-50-5.	Dr. J. Dunnick, 919-541-4811; TR-392.	Drinking Water Disinfectant. Organic Synthesis. Intermediate in the Raschig Process for Hydrazine. (TDB).	Oral with Water (DI Water): Chloramine R&M: 0,50,100,200 PPM/Buff'd Chlorine H20 0,70,140,275 PPM/60 Per Group.	Southern Research Institute.	3
C.I. Direct Blue 15 2429-74-5.	Dr. J. Dunnick, 919-541-4811; TR-397.	Dye for Silk, Wool, Viscose, Leather, Paper, Cellulose Fibers. Biological Stain. Tint for Chromatographic Films. (TDB).	Oral with Water (Water): Rats Only: 0,625,1250,2500 PPM 60,45,75,70 Per Group Respectively).	Hazelton (Monroe)	2
Methyl Bromide 74-83-9	Dr. S. Eustis, 919-541-3231; TR-395.	Fumigant, Extractant, Wool Degreasing, in Ion. Chambers, Fire-Extinguishing Agent, Insecticide, Rodenticide.	Inhalation: Mice Only: 0,10,33,100 PPM.	Brookhaven National Lab (DOE).	1
Monochloroacetic Acid 79-11-8.	Dr. K. Abdo, 919-541-7819; TR-396.	Chemical Intermediate in the Manufacture of Various Dyes and Other Organic Materials. (TDB).	Oral, Gavage (Water) R: 0,15,30; M: 0,50,100 MG/KG/70 & 60 Per Group respectively..	International Research & Development Corp..	6
Probenecid 57-66-9	Dr. K. Abdo, 919-541-7819; TR-398.	Uricosuric Agent for Treatment of Gout and Gouty Arthritis. (TDB).	Oral, Gavage (Corn Oil): R&M: 0,100,400 MG/KG/70 Per Group.	T.S.I. Mason Research Institute.	7
Titanocene Dichloride 1271-19-8.	Dr. J. Dunnick, 919-541-4811; TR-399.	Research Chemical. Catalyst. (TDB)	Oral, Gavage (Corn Oil): Rats Only: 0,25,50 MG/KG/60 Per Group.	T.S.I. Mason Research Institute.	5

TABLE 2.—SUMMARY DATA FOR SHORT-TERM NTP TOXICITY STUDY TECHNICAL REPORTS SCHEDULED FOR PEER REVIEW AT THE BOARD OF SCIENTIFIC COUNSELORS' PEER REVIEW PANEL MEETING ON NOVEMBER 19–20, 1990

Chemical Cas Number	Staff scientist/technical report Number	Primary uses	Route/exposure levels	Study laboratory	Review Order
Antimony Potassium Tartrate, 28300-74-5.	Dr. M. Dieter, 919-541-3398; TOX-11.	Mordant in Textile Industry, Used as Pesticide, Insecticide, in Leathers, as Parasiticide (HSDB 1990).	Intraperitoneal Injection (SALINE): R&M: 0, 1.5, 3, 6, 12, 24 MG/KG/30 Per Group.	Battelle Columbus Laboratory.	9
Castor Oil 8001-79-4	Dr. R. Irwin, 919-541-3340; TOX-12.	Paint, Cathartic, Emollient, Starting Raw Material for Many Basic in Dust. Chemicals, Machine Lubricants, Embalming Fluids. In Soap Manufacture. For Dyeing Textiles. Plasticizer. In Manufacture of Fungicides. (Merck 1989).	Oral in Feed (NIH-07 Diet): R&M: 0, .62, 1.25, 2.5, 5.0, 10.0%.	Microbiological Associates.	11

TABLE 2.—SUMMARY DATA FOR SHORT-TERM NTP TOXICITY STUDY TECHNICAL REPORTS SCHEDULED FOR PEER REVIEW AT THE BOARD OF SCIENTIFIC COUNSELORS' PEER REVIEW PANEL MEETING ON NOVEMBER 19–20, 1990—Continued

Chemical Cas Number	Staff scientist/technical report Number	Primary uses	Route/exposure levels	Study laboratory	Review Order
Cresol (MIXED ISOMERS), 1319-77-3.	Dr. D. Dietz, 919-541-2272; TOX-09.	Household Disinfectant, Paintbrush Cleaner, in Lubricating Oils, Fumigant, Photographic Developers, Explosives, Organic Intermediate in Prod'n of Coumarin, Salicylaldehyde, Synthetic Resins, Degreasing Compounds, Obtained from Coal Tar (HSDB 1990).	Oral in Feed (NIH–07 Diet (POWDERED): R&M: 0, .03, .1, .3, 1.0, 3.0%.	Microbiological Associates.	10
O-Cresol 95-48-7	Dr. D. Dietz, 919-541-2272; TOX-09.	Chemical Intermed. For Epoxy Resins, Herbicides, Dyes, Disinfectant, Solvent, Pharmaceuticals, Photography, Paints, Explosives, Agricultural Chemicals, Obtained From Coal Tar (HSDB 1990).	Oral in Feed (NIH–07 Diet (Powdered): R&M: 0, .03, .1, .3, 1.0, 3.0%.	Microbiological Associates.	10
Ethylbenzene, 100-41-4.	Dr. P. Chan, 919-541-7561; TOX–10.	Manufacture of Synthetic Rubber. Solvent. Fuel Additive. Chemical Intermediate. (TDB).	Inhalation (AIR): R&M: 0, 100, 250, 500, 750, 1000 PPM.	IIT Research Institute	8

[FR Doc. 90–24697 Filed 10–18–90; 8:45 am]
BILLING CODE 4140–01–M

Agency for Health Care Policy and Research; Statement of Organization, Functions and Delegations of Authority

Part H, Public Health Service (PHS), Chapter HP (Agency for Health Care Policy and Research), of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (55 FR 12286–89, April 2, 1990), is amended to reflect establishment of the substructure organizations within the Agency for Health Care Policy and Research.

Agency for Health Care Policy and Research

Under the heading *Section HP–20, Functions*, following the statement for the *Office of Planning and Resource Management (HPA2)*, add the following statements:

Office of Management (HPA22). Provides direction and coordination of Agency-wide administrative management activities, including grants management, contract review and administration and financial management activities. Maintains close liaison with officials of the Agency, the Office of the Assistant Secretary for Health, and the Office of the Secretary on management and support activities. Specifically: (1) Serves as the Administrator's principal source for management and administrative advice and assistance; (2) provides advice, guidance, and coordinates personnel activities for the Agency with the Division of Personnel, OASH; (3) directs and coordinates the allocation of personnel resources; (4) provides organization and management analysis, develops policies and procedures for internal operation, and interprets and implements the Agency's management policies, procedures and systems; (5) develops and coordinates program and administrative delegations of authority activities; (6) plans and directs financial management activities, including budget formulation, presentation, and execution functions; (7) conducts all business management aspects of the review, negotiation, award and administration of Agency grant management activities; (8) manages the development, review, and administration of the Agency contracts; (9) provides Agency-wide support services such as supply management, equipment utilization, printing, and property, space, records and reports management; (10) manages the Agency's performance management systems; (11) coordinates and provides guidance on Privacy Act activities; and (12) serves as the Agency focal point for the analysis, selection and implementation of all ADP, word processing and telecommunication equipment and systems.

Office of Program Development (HPA23). Responsible for a broad range of program planning, evaluation, and legislative activities, and coordinates issues and programs that involve multiple Agency organizations. Specifically: (1) Stimulates, guides, and coordinates program planning, reporting, and evaluation activities of the Agency and maintains liaison with appropriate components of the Department; (2) develops and disseminates program objectives, alternatives, and policy positions; (3) provides staff services for program planning in relation to the budgetary process, the development of issue papers, and congressional reports; (4) develops the annual plan for evaluation and policy-relevant research (5) monitors ongoing research, demonstration, and evaluation activities of the Agency in relation to changing research and policy priorities; (6) stimulates, guides, and coordinates the development of research agendas and program notes, identifying gaps and initiating research development activities as needs arise; (7) coordinates activities pertaining to legislative policy development, interpretation, and implementation, including the development of legislative proposals, the analysis of existing and pending legislation, liaison with other agencies, and distribution of legislative materials; (8) coordinates activities pertaining to the development and clearance of regulations and public notices; (9) plans and manages the activities of the National Advisory Council for Health Care Policy, Research, and Evaluation; and (10) manages the process for responding to controlled correspondence within the outside the Agency.

Office of Scientific Review (HPA24). Provides leadership and coordination in the assignment and peer review of grant applications for the purpose of advising the Administrator on the scientific and technical merits of these applications and subsequent recommendations for approval or disapproval. Specifically: (1) Provides staffing and committee management resources to manage all chartered advisory committees of nonfederal scientists and advisors for the purpose of conducting first-level review of grant applications; (2) provides staffing and resources to manage the noncommittee review of small grant applications through the use

of federal and non-federal field readers; (3) responsible for the documentation of individual grant application reviews and the conduct of reviews in accordance with prescribed procedures and regulations; (4) makes decisions about the assignment of grant applications to the Agency and the appropriate peer review mechanism; (5) provides for the review of NIH and ADAMHA grant applications as a courtesy in cases when adequate review resources do not exist in these agencies, and in cases where Agency resources are not adequate makes arrangements for appropriate reviews outside the Agency.

Office of State and Local User Liaison (HPA25). Provides direction and coordination of the Agency's program to address the issues, problems, and information needs of leaders of State and local governments responsible for policy making that affects the planning, management, delivery and financing of health services as well as leaders of major health care delivery organizations, (e.g., health maintenance organizations, major purchasers of health care in the business world). Specifically: (1) Develops syntheses of research findings focused on particular issues dealing with policy concerns and operational problems; (2) plans and conducts workshops and seminars to provide research findings and related information and discuss options for dealing with these with State and local leaders to allow them to make better informed health care policy decisions; (3) maintains liaison with State and local government organizations and with the research community and provides information which may affect the Agency's research plan and priority setting process; (4) formulates, in collaboration with Agency staff, appropriate policies and activities to develop effective linkages with potential users of health services research; (5) communicates information regarding user research needs to the Agency Administrator and appropriate Agency staff to ensure user needs are adequately addressed in current and planned Agency intramural and extramural projects; (6) develops and implements mechanisms to identify and contact potential users of research findings and related information; (7) plans meetings and coordinates contacts between Agency staff and individual users and representatives of users groups and organizations; (8) provides assistance and advice to other Federal agencies and organizations in evaluating utility of federally-supported research to State and local government officials; and (9) provides technical assistance to design and implementation of research projects undertaken in State and local governments.

Following the statement for the Center for General Health Services Intramural Research (HPC), add the following:

Division of Long Term Care Studies (HPC2). Plans and conducts studies of institutional and noninstitutional care for the elderly and the chronically ill to provide the basis for policy research and analysis and for technical assistance that might be provided to other parts of the Agency, the Department, and other Government agencies, such as the Office of Management and Budget and the Congressional Budget Office. Specifically: (1) Obtains, organizes, and manages large data sets used for descriptive and analytic studies of the source, use, cost, and financing of long term care; (2) plans, designs, and conducts policy research and evaluation studies which examine critical issues and problems in the area of long term care identified in the research plan of the Center and the Agency; (3) prepares articles and reports which describe the purpose, methods, and findings of the research carried out by the Division and assists the Center for Research Dissemination and Liaison in preparing the reports for publication; (4) provides consultation and technical assistance within the Agency, to the Office of the Assistant Secretary for Health, the Office of the Secretary, and to the Health Care Financing Administration, as well as other Federal Agencies; (5) directs and analyzes program operations to ensure responsible administration of the resources allocated to the Division and the effective and efficient direction of the contracts managed by the Division; (6) advises other components of the Agency, and other PHS Agencies, such as the National Institute on Aging, NIH, on the availability, content, and utility of data bases useful in studies of long term care; and (7) maintains a working relationship with professional and scientific organizations, foundations, and other public and private groups engaged in activities related to the delivery of health services, the formulation of health policy, and research on health outcomes and health services.

Division of Medical Expenditure Studies (HPC3). Plans and conducts studies on how Americans use health services, what they pay for care, and how individuals finance these expenditures to provide the basis for policy research and analysis and for the provision of technical assistance within the Agency, the Department, and other Government agencies, especially the Office of Management and Budget and the Congressional Budget Office. Specifically: (1) Develops the plans for large survey projects to collect data from households, employers, insurers, providers, and long term care institutions on the use, cost of, and sources of payment for personal health care services; (2) organizes, edits, and manages large data sets based on survey data collected by the Center and by other survey and research organizations to facilitate the use of these data for descriptive and analytic studies of the health care industry and the markets for health care services; (3) plans, designs, and conducts policy research and evaluation studies which examine critical issues and problems in such areas as health insurance coverage, the expenditures for medical care, and factors that affect access to and use of medical services; (4) prepares articles and reports which describe the purpose, methods, and findings of the research carried out by the Division and assists the Center for Research Dissemination and Liaison in preparing the reports for publication; (5) provides consultation and technical assistance within the Agency, to the Office of the Assistant Secretary for Health, other Department components, as well as other Federal Agencies; (6) directs and analyzes program operations to ensure responsible administration of the resources allocated to the Division and the effective and efficient direction of the contracts managed by the Division; (7) advises other components of the Center, the Office of Science and Data Development in the Agency, and other PHS agencies such as the National Institutes of Health, the Alcohol, Drug Abuse and Mental Health Administration, and the Health Care Financing Administration on the availability, content, and utility of data bases useful in studies of personal health care services; and (8) maintains a working relationship with professional and scientific organizations, foundations, and other public and private groups engaged in activities related to the delivery of health services, the formulation of health policy, and research on the health care sector.

Division of Provider Studies (HPC4). Plans and conducts studies of the structure, conduct, and performance of the health care industry with particular emphasis on the hospital sector to provide the basis for policy research and analysis and for the provision of technical assistance within the Agency, the Department, and other Government

agencies. Specifically: (1) Plans, assembles, and manages large data sets which include patient records, sociodemographic information and provider characteristics that can be used for descriptive and analytic studies of the way providers compete, produce medical care, and use resources; (2) plans and conducts policy research and evaluation projects which address critical issues associated with the delivery of medical services, such as the effectiveness of medical services, the cost and variations in hospital care for AIDS, rural-urban differences in hospital services and patterns of treatment, the use of medical technology, and the source of payment for health care problems identified in the research plan of the Center and the Agency; (3) prepares articles and reports which describe the purpose, methods, and findings of the research carried out by the Division and assists the Center for Research Dissemination and Liaison in preparing the reports for publication; (4) provides consultation and technical assistance within the Agency, to the Office of the Assistant Secretary for Health, other Department components, as well as other Federal Agencies; (5) directs and analyzes program operations to ensure responsible administration of the resources allocated to the Division and effective and efficient direction of the contracts managed by the Division; (6) advises other components of the Agency on the structure, confidentiality, and management of large, complex health data bases; and (7) maintains a working relationship with professional and scientific organizations, foundations, and other public and private groups engaged in activities related to the delivery of health services, the formulation of health policy, and research on health outcomes, health services, and health technology.

Division of Statistics and Research Methodology (HPCS). Plans and conducts studies on the statistical methods and the use of statistics in survey design and in health services research to provide the basis for policy research and analysis and for technical assistance provided within the Agency, the Department, and to other Government agencies such as the Bureau of the Census and the Office of Management and Budget. Specifically: (1) Plans and conducts studies on such problems as sampling design, estimation strategies, sampling weight specifications, survey design, measurement error, and matching techniques; (2) prepares articles and reports which describe the purpose, methods, and findings of the research carried out by the Division and assists the Center for Research Dissemination and Liaison in preparing the reports for publication; (3) provides statistical direction and support to all Divisions within the Center for General Health Services Intramural Research, to other Agency components, and the Department on analytical and statistical strategies employed in health care, health expenditures, and epidemiologic surveys and studies; (4) reviews and evaluates grant and contract proposals and final reports where sophisticated, advanced, and complex methologogical techniques are central to establishing that the techniques used or proposed are valid; (5) prepares and oversees the specifications for statistical tabulations and the presentation of statistical results in reports prepared or published by the Agency; (6) directs and analyzes program operations to ensure responsible administration of the resources allocated to the Division and the effective and efficient direction of the contracts managed by the Division; and (7) maintains a working relationship with professional and scientific organizations, foundations, and other public and private groups engaged in activities related to the delivery of health services, the formulation of health policy, and research on health outcomes and health services.

Following the statement for the Center for General Health Services Extramural Research (HPE), add the following:

Office of the Director (HPE1). Plans and manages health services and health care technology research, demonstration, and evaluation activities supported by means of grants and contracts. Specifically: (1) Promulgates, plans, administers, coordinates and evaluates overall Center research and management programs, plans and policies; (2) provides leadership and direction for all Center activities; and (3) coordinates and directs the Center management, planning, and evaluation/reporting systems to assure optimum utilization of Center manpower, financial resources and facilities.

Division of Cost and Financing (HPE2). Plans and manages health services research on the role of market forces in the health care system in restraining cost increases and improving the availability and quality of care. Initiates, monitors, and evaluates both theoretical and empirical research on the competitive nature, structure, and performance of the market for health care services. Specifically: (1) Determines the structure and content of research studies supported by contract which address the critical issues and research questions identified in the research plan of the Agency; (2) develops and administers a program to monitor research studies supported by grants or contracts; (3) provides general guidance and assistance to groups and individuals seeking support for research, demonstration, or evaluation projects; (4) participates in the preparation of periodic reports which describe, analyze, and integrate the results of various research, demonstration, and evaluation projects supported by the Agency; (5) provides a summary of current extramural studies and informs other Agency components of results that might affect health policy and legislation; and (6) maintains liaison with professional and scientific organizations, foundations, and other groups engaged in health services research, demonstration, and evaluation activities.

Division of Technology and Quality (HPE3). Plans and manages health services research on health care technology and health care information systems, and health care quality improvement. Specifically: (1) Determines the structure and content of research studies supported by contract which address the critical issues and research questions identified in the research plan of the Agency; (2) develops and administers a program to monitor research studies supported by grants or contracts; (3) provides general guidance and assistance to groups and individuals seeking support for research, demonstration, or evaluation projects; (4) participates in the preparation of periodic reports which describe, analyze, and integrate the results of various research, demonstration, and evaluation projects supported by the Agency; (5) provides a summary of current extramural studies and informs other Agency components of results that might affect health policy and legislation; and (6) maintains liaison with professional and scientific organizations, foundations, and other groups engaged in health services research, demonstration, and evaluation activities.

Division of Primary Care (HPE4). Conducts activities associated with research and improvement of the delivery of health services and the effect of health systems on patient outcomes and to increase access to quality care. Specifically: (1) Determines the structure and content of research studies supported by contract which address the critical issues and research questions identified in the research plan of the Agency; (2) develops and administers a program to monitor research studies

supported by grants or contracts; (3) provides general guidance and assistance to groups and individuals seeking support for research, demonstration, or evaluation projects; (4) participates in the preparation of periodic reports which describe, analyze, and integrate the results of various research, demonstration, and evaluation projects supported by the Agency; (5) provides a summary of current extramural studies and informs other Agency components of results that might affect health policy and legislation; and (6) maintains liaison with professional and scientific organizations, foundations, and other groups engaged in health services research, demonstration, and evaluation activities.

Following the statement for the Center for Research Dissemination and Liaison (HPG), add the following:

Division of Education, Evaluation, and Demonstration (HPG2). Develops and evaluates the effectiveness of Agency dissemination strategies and its educational and training programs and maintains the Agency's minority health and training programs. Specifically: (1) Conducts evaluations of dissemination strategies to determine the most appropriate methods for disseminating Agency information; (2) conducts studies to determine optimal methods for achieving cost-effective dissemination strategies and information penetration into specific segments of the health field; (3) determines the gaps in information transfer; (4) evaluates adoption/acceptance of information transfer in health care; (5) designs and supports new information systems and evaluates new technologies to improve the diffusion of Agency research products; (6) recommends the most effective and efficient approaches to information dissemination; (7) provides technical assistance to the Agency on optimal strategies for disseminating practice guidelines, clinical findings and research analyses; (8) conducts programs to support increased development of health service researchers, and improve the capacity for health services research training; (9) administers the National Research Service Awards and other training funds; (10) ensures that the Agency complies with pertinent Executive Orders and other directives that attend to and promote minority health issues and research capacity; (11) provides for liaison with other Federal agencies, provider groups and continuing medical education programs on health professions activities; (12) develops effective state-of-the-art information transfer systems, and appropriate document retrieval terminology; and (13) works closely with the National Library of Medicine, the National Technical Information Service, and commercial computer data bases to provide health research information to the Agency's constituencies.

Division of Information and Publications (HPG3). Makes Agency-funded research findings and information promptly available to the public and private sectors and transmits it in forms useful to the recipients. Responsible for disseminating all of the Agency's many and varied informational products. Specifically: (1) Prepares documents that are scientifically sound and appropriately targeted to various audiences; (2) edits and controls review and publication of all Agency documents; (3) maintains indexing, abstracting, and retrieval services; (4) ensures proper clearance procedures consistent with Departmental rules; (5) provides interface with the Government Printing Office and National Technical Information Service; (6) carries on the Agency's Freedom of Information Act activities; (7) maintains computerized information systems for the Agency on users of information, and available publications; (8) analyzes Agency audiences and recommending new outreach programs that meet the Agency's dissemination goals; (9) prepares and controls graphics production for the Agency; (10) works with and assists the National Library of Medicine in efforts to improve the availability of health services information to the public; (11) carries out the public affairs and liaison activities for the Agency; (12) organizes and conducts the Agency's conferences and prepares exhibits for the Agency; (13) promotes the research of the Agency through effective media and public affairs activities; and (14) develops and revises Agency documents as needed to keep the public adequately informed on Agency activities and priorities.

Section HP-30, Delegations of Authority. All delegations and redelegations of authority made to National Center for Health Services Research and Health Care Technology Assessment officials which were in effect immediately prior to the reorganization of April 2, 1990, and which are consistent with the reorganization, shall continue in effect pending further redelegation.

Dated: October 3, 1990.

J. Jarrett Clinton,

Acting Administrator.

[FR Doc. 90-24628 Filed 10-18-90; 8:45 am]

BILLING CODE 4160-20-M

Social Security Administration

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Social Security Administration publishes a list of information collection packages that have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with Public Law 96-511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the Federal Register on September 28, 1990.

Department of Health and Human Services

Social Security Administration

(Call Reports Clearance Officer on (301) 965-4149 for copies of package)

1. *Annual Report of Earnings*—0960-0057—The information collected on the forms SSA-777 and SSA-7770 is used by the Social Security Administration to obtain information from beneficiaries so that the proper amount of benefits can be paid. The affected public is comprised of Social Security beneficiaries under age 70 who earned over the exempt amount as prescribed by law for the year and received any benefits for the year.

Number of Respondents: 1,200,000.

Frequency of Response: 1.

Average Burden Per Response: 6 minutes.

Estimated Annual Burden: 120,000 hours.

OMB Desk Officer: Allison Herron.

Social Security Administration

Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, room 3208, Washington, DC 20503.

Dated: October 12, 1990.

Ron Compston,

Social Security Administration, Reports Clearance Officer.

[FR Doc. 90-24629 Filed 10-18-90; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-90-1917; FR-2966-N-01]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identified unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

EFFECTIVE DATE: October 9, 1990.

ADDRESSES: For further information, contact James Forsberg, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708-4300; TDD number for the hearing- and speech-impaired (202) 708-2565. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized and underutilized Federal buildings and real property determined by HUD to be suitable for use for facilities to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable this week.

Dated: October 12, 1990.

Andrew E. Scott,

Deputy Assistant Secretary for Program Development.

[FR Doc. 90-24421 Filed 10-18-90; 8:45 am]

BILLING CODE 4210-29-M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-90-3161; FR-2916-N-01]

Nehemiah Housing Opportunity Grants; Announcement of Funding Awards

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards made under the Nehemiah Housing Opportunity Grants Program (NHOP). The purpose of this document is to announce the names and addresses of the award winners and the amount of the awards to be used to enable nonprofit organizations to provide loans to families purchasing homes that are constructed or substantially rehabilitated in accordance with a HUD-approved program.

FOR FURTHER INFORMATION CONTACT: Morris E. Carter, Director, Single Family Development Division, Office of Insured Single Family Housing, Department of Housing and Urban Development, room 9272, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 707-3700. A telecommunications device for deaf persons (TDD) is available at (202) 708-4594. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION: Title VI of the Housing and Community Development Act of 1987 (Pub. L. 100-242, approved February 5, 1988) established the Nehemiah Housing Opportunities Grant Program (NHOP). On May 22, 1989, HUD published a final rule establishing the requirements for NHOP at 54 FR 22248. This final rule became effective on July 13, 1989.

Organizations funded under NHOP will make loans to eligible moderate-income families to purchase homes in selected neighborhoods. The program is designed to encourage home ownership by families who otherwise would not be able to afford home ownership; to help rebuild depressed areas of cities and create sound and attractive neighborhoods; and to increase employment opportunities of residents of these neighborhoods.

The loans to families cannot exceed $15,000 and will be secured by a second mortgage held by HUD on the property. The loans are interest-free and are repayable to HUD upon the sale, lease or other transfer of the property. To be eligible for the program, families must not have an income higher than the median income in the area, and cannot have owned a home during the three years before purchase.

The non-profit organizations will develop the homes, which must be constructed or substantially rehabilitated in accordance with a HUD-approved program. The homes are required to be located in neighborhoods where the median income is 80% or less of the area median income.

On May 16, 1990 (55 FR 20311), the Department announced the availability of $25.2 million in funds appropriated for NHOP in the Urban Development-Independent Agencies Appropriations Act, 1990, (Pub. L. 101-144, approved November 9, 1989). Applications for funding, which were due July 16, 1990, were reviewed, evaluated and scored based on the criteria in the final rule. As a result, HUD has awarded 21 non-profit organizations $21.3 million in grants to be used as loans to eligible moderate-income families to purchase homes in selected neighborhoods. Awards have been made only to those applicants who met the threshold requirements of the selection criteria. Therefore, all of the available funds have not been awarded.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101-235, approved December 15, 1989), the Department is publishing details concerning the recipients of these awards, as follows:

NEHEMIAH HOUSING OPPORTUNITY GRANTS

[Pursuant to Title VI of the Community Development Act of 1987]

Region	Funding recipient (name and address)	Project name/location	Amount approved	No. of units
01	Dudley Street Neighborhood Initiative, Roxbury, MA 02119	Dudley Triangle Development Program, Boston, MA	$2,325,000	155
02	Calvary Baptist Housing Dev. Corp., Paterson, NJ 07514	Rose Parks Terrace, Paterson, NJ	270,000	18
03	The Enterprise Cherry Hill Nehemiah, Inc. Columbia, MD 21044.	The Cherry Hill Nehemiah Project, Baltimore, MD	392,000	28
03	Housing Development Corp. of Allegheny County, Turtle Creek, PA 15145.	Dwight Avenue Plan, Dormont, PA	480,000	32

NEHEMIAH HOUSING OPPORTUNITY GRANTS—Continued

[Pursuant to Title VI of the Community Development Act of 1987]

Region	Funding recipient (name and address)	Project name/location	Amount approved	No. of units
03	East Pittsburgh Economic Dev. Corp., East Pittsburgh, PA 15112.	Shamrock Square, East Pittsburgh, PA	315,000	21
03	So. Central PA Housing Development Foundation, Harrisburg, PA 17110.	Summit Terrace Neighborhood Revitalization Project, Harrisburg, PA.	900,000	60
03	ACTION-Housing McKeesport Dev. Corp., Pittsburgh, PA 15222.	Menzie Valley, McKeesport, PA	750,000	50
03	National Temple Non-profit Corp., Philadelphia, PA 19121	Nehemiah Housing Opportunity Grant, Philadelphia, PA	3,750,000	250
03	Hill Community Development Corp., Pittsburgh, PA 15219	Crawford Roberts, Pittsburgh, PA	600,000	40
03	United Way of York County, York, PA 17405	York Nehemiah Project, York, PA	448,000	32
04	Overview Housing Assistance Corp., Inc., Milledgeville, GA 31061.	Nehemiah Subdivision, Sparta, GA	750,000	50
04	Wilson Community Improvement Assoc., Wilson, NC 27893	East Wilson Revitalization, Wilson, NC	1,020,000	68
05	Industry Neighborhood Council, Inc., Muncie, IN 47305	INCLUDE Chapter III-A, Muncie, IN	225,000	17
05	Neighborhood Conservation Services of Barberton, Barberton, OH 44203.	South Barberton New Housing Project Phase II, Barberton, OH	300,000	20
05	Walnut Hills Redevelopment Foundation, Inc., Cincinnati, OH 45206.	Park Avenue Infill Housing, Cincinnati, OH	105,000	7
05	New Village Corporation, Cleveland, OH 44102	Cleveland Nehemiah Project, Cleveland, OH	600,000	40
05	Nehemiah Neighborhood Dev. Corp., Dayton, OH 45401	Madden Hills, Sucher, Western Hills, Dayton, OH	1,650,000	110
05	North Division Neighborhood Residents, Inc., Milwaukee, WI 53206.	Genesis Cooperative Dev., Milwaukee, WI	1,065,000	71
06	Tierra Del Sol Housing Corp., Las Cruces, NM 88001	Las Cruces Nehemiah Housing Program, Las Cruces, NM	772,168	59
07	Goldenrod Hills Community Action Council, Wisner, NE	Nebraska Nehemiah HDP Madison, Madison, NE	750,000	50
10	HomeSight Corporation, Seattle, WA 98122	Seattle Nehemiah Housing, Housing Opportunity Grant Program, Seattle, WA.	3,750,000	250
Totals			21,270,310	1417

Dated: October 15, 1990.

Arthur J. Hill,

Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 90-24661 Filed 10-18-90; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

School Construction Priority List, FY 1992

AGENCY: Office of Construction Management, Interior.

ACTION: Notice of new school construction priority list for fiscal year 1992.

The new school construction project list has been prepared for FY 1992 as required by Public Law 95–561 (92 Stat. 2319 section 1125 (O)) which requires that: "At the time any budget request for school construction is presented, the Secretary shall publish in the Federal Register and submit with the budget request the current list of all school construction priorities."

This notice for FY 1992 provides the current revised list of proposed new school construction projects. Construction of these projects is subject to the availability of funds and/or the status of currently committed construction projects approved by the Congress. These proposed projects are also subject to further review in terms of either replacement or rehabilitation.

The current list of school construction projects applies to FY 1992 and is based upon the evaluation criteria developed by the Office of Construction Management and the Bureau of Indian Affairs, as noticed in the Federal Register (Vol. 53, No. 72, 12470–12471) on April 14, 1988. A revised list will be developed and published for each succeeding year.

The new school construction priority list for FY 1992 is:

Pinon Community School Dorm
Eastern Cheyenne River Consolidated School
Rock Point Community School
Many Farms High School*
Tucker Day School
Shoshone-Bannock/Fort Hall School
Standing Pine Day School
Chief Leschi School Complex
Seba Dalkai Boarding School
Sac & Fox Settlement School

Fiscal Year 1993 may be submitted during the period of September 15, 1990 through December 15, 1990. The "Instructions and Application for New School Construction" is available upon request through the Office of Construction Management (OCM) and from the Bureau of Indian affairs (BIA) Area and Agency offices and the BIA Facilities Management and Construction Center, P.O. Box 1248, Albuquerque, New Mexico, 87103.

Supplemental information being requested on data in the application may also be obtained from these locations. This supplemental information is entirely optional, is not required as part of the application form, and applicants will not in any way be penalized by not providing information in this format. It is being requested, however, to enable easier evaluation of data by the evaluation panel.

Applications must be received by OCM by December 15, 1990 to be considered for Fiscal Year 1993 budget consideration. The new school construction priority list is revised each year based on the evaluation of applications received that year. Tribal entities may submit a new school construction application each year.

FOR FURTHER INFORMATION CONTACT: David J. Matheson, Director, Office of Construction Management, Department of the Interior, 1849 C Street, NW., Mail Stop 2415, Washington, DC 20240, (202) 208-3405.

Charles E. Kay

Principal Deputy Assistant Secretary, Policy Management and Budget.

[FR Doc. 90-24709 Filed 10-18-90; 8:45 am]

BILLING CODE 4310-10-M

*Enrollment figures for this school have required a follow-up validation. The final site validation indicates enrollment figures below the level indicated in the application and preliminary site validation. Rankings are based on the percentage of unhoused students, as defined in the enrollment criteria published in the Federal Register.

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Bureau of Indian Affairs

Fiscal Year 1991 Indian Child Welfare Act Grant Program; Availability of Title II Funds.

October 15, 1990.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of availability of title II funds.

SUMMARY: The Indian Child Welfare Act makes available grant funds from the Bureau of Indian Affairs (BIA), Department of the Interior, for the purpose of improving child welfare services to Indian children and families.

DATES: The closing date for receipt of applications for this program is December 17, 1990.

ADDRESSES: Bureau of Indian Affairs' area offices are listed in part IV of this announcement. BIA/Division of Social Services, room 310 SIB, 1849 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: The Bureau of Indian Affairs' area office nearest to the applicant, or the Chief, Division of Social Services at the address listed above; Telephone (202) 208-2721.

SUPPLEMENTARY INFORMATION: The Assistant Secretary—Indian Affairs is announcing procedures necessary to apply for grant funds under title II of the Indian Child Welfare Act.

Applications for single-year programs and renewal applications for existing multi-year projects will be accepted. Although the final Fiscal Year 1991 appropriation bill has not been enacted by Congress, the Bureau of Indian Affairs requested $8.9 million for grants under the Indian Child Welfare Act. It is important that applicants carefully review requirements detailed in this announcement related to deadlines, indirect costs, and page limitations. If an application is not received by the close of business on December 17, 1990, it will not be reviewed. If the applicant does not itemize indirect costs in its proposed budget a total of five points will automatically be deducted from Criteria V—"Fiscal Capabilities, Budget and Budget Justification, Part (b)." If an application is longer than the established page limitation, only the first forty pages of the application will be reviewed.

Authority

The Indian Child Welfare Act, Public Law 95-608 authorized the utilization of funds for grants to Indian tribes, organizations, and multi-service Indian centers. This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Part I. General Information

A. Background

This announcement provides information on opportunities to apply for Indian Child Welfare Act (ICWA) grant funds for FY 1991. The Indian Child Welfare Act of 1978 (Pub. L. 95-608, 25 U.S.C. 1902, 25 U.S.C. 1931 and 1932) limits the use of grant funds for the following activities:

(1) To prevent separation of Indian children from their families when possible;

(2) When separation is necessary, to reunite Indian children with their families as soon as possible;

(3) When reunification is not possible, to arrange permanent placements with extended families or through adoption; and

(4) To carry out work with Indian children and their families in accordance with the preferences of the ICWA, following procedures and practices which reflect the unique values of Indian culture.

An applicant for an Indian Child Welfare Act Grant may submit only one grant application for this program during this application period (refer to 25 CFR 23.21(b)).

B. BIA Indian Child Welfare Act Grant Program Purpose

The objective of every Indian child and family service program shall be to prevent the breakup of Indian families, and insure that the permanent removal of an Indian child from the custody of his/her parent or Indian custodian shall be a last resort.

The specific purposes of the Bureau of Indian Affairs' Indian Child Welfare grants as stated in the law are:

(1) The establishment and operation of Indian child and family service programs which promote the stability of Indian families, and

(2) The provision of non-Federal matching shares for the other Federal financial assistance programs which contribute to the same purpose.

These purposes are further defined in Public Law 95-608, sections 201 and 202; 25 U.S.C. 1931 and 1932; and 25 CFR 23.22.

C. Eligible Applicants

The governing body of any tribe or tribes, or any nonprofit off-reservation Indian organization or multi-service Indian center, may apply individually or as a consortium for a grant. No applicant may submit more than one application.

A consortium is created by an agreement or association between two or more eligible applicants.

New applications for projects of one year duration and renewal applications for multi-year applications funded in FY 1990 may be submitted in response to this announcement.

Part II. Available Funds

Subject to the availability of funds through appropriations for this program in Fiscal Year 1991, grants will be awarded to individual tribes, organizations, or to consortia of tribes and organizations within the following categories:

(a) A maximum of up to $50,000 for eligible applicants with a total service area population of 2,500 or less;

(b) A maximum of up to $75,000 for eligible applicants with a total service area population greater than 2,500 but less than 5,000;

(c) A maximum of up to $100,000 for eligible applicants with a total service area population greater than 5,000 but less than 7,500;

(d) A maximum of up to $150,000 for eligible applicants with a total service area population greater than 7,500 but less than 15,000;

(e) A maximum of $300,000 for eligible applicants with a total service area of greater than 15,000.

Applicants in the State of Alaska will be allowed a 25 percent cost of living adjustment to the total maximum amount for which they may apply.

Notwithstanding the above grant guidelines, consortia having a total service area population of 5,000 or less may apply for a maximum grant of up to $100,000 because of the greater administrative costs associated with operating a small consortium. Consortia with service area populations greater than 5,000 must comply with the grant guidelines set above.

Service area population means the total number of Indians eligible for service under 25 CFR 23.2(d) (2) and/or (3), in the geographical area to which the tribe, or organization, or multi-service center can realistically provide the services proposed in the application. The service area population is used only to determine maximum grant allocations that a tribe, multi-service center, or organization may be eligible to receive. These population figures must be based on identifiable statistical resources.

All costs associated with the administration of proposed projects shall be line itemized. Indirect cost as well as all other administrative costs

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must be broken down by percentage and dollar amounts. All administrative costs will be carefully scrutinized in relation to proposed funds used for direct services. If the applicant does not itemize indirect costs in its proposed budget, a total of five points will automatically be deducted from Criteria V–"Fiscal Capabilities. Budget and Budget Justification, Part (b)."

In accordance with 25 CFR 23.25(a)(8), the reasonableness and relevance of the estimated costs for the project are considered in the rating of all project applications. Administrative costs are only allowable within the funding specified by the grant formula and limitations specified in this announcement.

Applicants will not be funded for more than their demonstrated need, as specifically addressed in 25 CFR 23.24 and 23.25. The statistical requirements established in these regulations, as well as the tribe's multi-service center's or organization's prior service record will be used in determining need. Examples of necessary data include the number of actual or estimated Indian family breakups, and the number of persons who will receive direct services from any portion of the proposed program, by program area.

In accordance with 25 CFR 23.27(c)(3), if an applicant has been a grantee during the preceding fiscal year and proposes to continue essentially the same service program, the applicant, at the time of application, must provide a satisfactory evaluation from the area office along with the other materials required in this subsection.

Minimum standards for receiving a satisfactory evaluation include the timely submission of all fiscal and programmatic reports, as well as utilizing the corrective analysis form when programmatic changes are necessary. At no time may any Indian tribe, organization, or multi-service center which is either an eligible individual applicant in accordance with 25 CFR 23.21 or a member of a consortium, receive Indian Child Welfare Act grant funds greater than a maximum grant of $300,000 through a direct grant or through subgranting procedures with approved applicants.

Part III. Application and Selection Criteria

A. Statutory Authority

The Indian Child Welfare Program from the Bureau of Indian Affairs is authorized by title II of Public Law 95–608, the Indian Child Welfare Act (25 U.S.C. 1901 *et seq.*, 25 CFR part 23). The Central Office will retain 10 percent of the total available funding, to assure funding for any applicant who may appeal a denial at the area office level. If these funds are not utilized for appeals, they will be distributed through the area offices to approved applicants.

B. The Closing Date for Receipt of Applications For All Single-Year and Multi-year Applications

The closing date for receipt of all single-year and multi-year renewal applications under this Program Announcement is December 17, 1990. All applications or renewals for Indian Child Welfare Act Grants must be received in the appropriate Bureau of Indian Affairs' Social Services Area/Agency Office, as specified in 25 CFR 23.28, on/or before 4:15 p.m. or the applicable close of business for that office on the closing date of the application period. Postmarks will not be considered as meeting the timeframe for applications received after the application deadline. The names and addresses of Bureau Social Service Area Offices and staff are listed at the end of this announcement. Hand delivered applications are accepted during normal working hours Monday through Friday. Applications which do not meet this criteria are considered late applications and will not be considered in the current competition.

C. Program Priorities

Indian Child Welfare Act grants are for the purpose of: (1) Establishment and operation of Indian child and family service programs. In accordance with the policy in 25 CFR 23.3 to emphasize the design and funding of programs to promote the stability of Indian families, program priorities have been established to be utilized by area offices in the competitive review process when more than one application obtains the same competitive score. These priorities reemphasize the programmatic interest in maintaining the family and preventing out-of-home placements.

Program priorities are listed below in descending order:

(a) Operation and maintenance of facilities for the counseling and treatment of Indian families and for the temporary custody of Indian children.

(b) Family Assistance (including homemaker and home counselors), daycare, after-school care, recreational activities, respite-care, and employment.

(c) A system for the tribes and Indian organizations to license or otherwise regulate Indian foster and adoptive homes or the preparation and implementation of child welfare codes within their legal jurisdictional authority, or pursuant to a state-tribal and/or Indian organization agreement.

(d) Guidance, legal representation and advice to Indian families involved in tribal, state or federal child custody proceedings.

(e) Employment of professional and other trained personnel to assist the tribal court in the disposition of domestic relations and child welfare matters. (Funding of tribal court staff is not allowable.)

(f) Education and training of Indians (including tribal court judges and staff) in skills relating to child and family assistance and service programs.

(g) Subsidy programs under which Indian adoptive children may be provided support comparable to that for which they could be eligible as foster children, taking into account the appropriate state standards of support for maintenance and medical needs.

(h) Home improvement programs.

(i) Other programs designed to meet the purpose of the Act. Planning or feasibility grants may be undertaken for any one of the above listed program purposes. These applications will be ranked according to the priority of the program under consideration.

(2) Providing non-Federal matching shares for other Federal financial assistance programs as prescribed in 25 CFR 23.43. The order of priorities of matching share grants will correlate with the purpose of the program receiving the match.

D. Content of the Single-year Application

The single-year application shall be no longer than 40 pages, double spaced, excluding the appendix. The table of contents and appendices will not be counted toward the maximum length. It is recommended that the appendix be no longer than 20 pages. Any application whose narrative exceeds 40 pages will not be reviewed past page 40.

The application shall include standard form 424 and the following information:

(1) Name and address of Indian tribal governing body(ies) or Indian organization applying for a grant,

(2) Descriptive name of project,

(3) Grant funds requested,

(4) The unduplicated client service population directly benefiting from the project,

(5) Length of project,

(6) Beginning date,

(7) Project budget categories or items,

(8) Program narrative statement (including three year plans if current multi-year grantee),

(9) Certification or evidence of request by Indian tribe or board of Indian

organization (preferably covering the duration of the proposed project).

(10) Evidence of substantial community support for the proposed program. This request may be in the form of a tribal resolution, an endorsement included in the grant application or such other forms as the tribal constitution or current practice requires.

(11) Name and address of the Bureau office to which an application is submitted.

(12) Date application is submitted to the Bureau, and

(13) Additional information pertaining to grant applications for funds to be used as matching shares.

Information included in the appendix should relate specifically to the application. The appendix may include, but is not limited to the following: Resolutions, support letters, position descriptions, fiscal management/accounting certification, operational monitoring system, non-profit status documentation.

E. Evaluation Criteria for Single-Year Applications

The content of the application and the following factors are considered in the competitive review of these grant applications:

(1) The degree to which an applicant demonstrates in the program narrative an understanding of the social service problems or issues impacting the client population which the applicant proposes to serve. (If an applicant identifies alcohol or drug abuse as a major problem or issue impacting Indian children and families, they must also clearly address current efforts to coordinate existing resources to attack these problems. This may include information on the development or contents of the Tribal Action Plan specified under section 4206 of the Omnibus Drug and Alcohol Abuse Act of 1988.)

(2) The degree to which and the methods by which the applicant intends to fulfill the purpose of the grant, specifically relating to the goals and objectives of the program to the issues and problems impacting the client population. (The proposed methods outlined in the application should have an established basis for operation, e.g., a tribal placement program requires tribally established licensing or placement standards on which to operate, or a program to assist the tribal court requires a tribal code and a tribal court with which to work, etc.)

(3) Whether the applicant presents narrative, quantitative data and demographics of the client population to be served. Examples of such data include:

(a) The number of actual or estimated Indian child placements outside the home;

(b) The number of actual or estimated Indian family breakups; and

(c) The need for a directly related preventive program. (Refer to part II for further explanation.)

(4) The relative accessibility which the Indian population to be served under a specific proposal already has to existing child and family service programs emphasizing prevention of Indian family breakup. Factors to be considered in determining accessibility include:

(a) Cultural barriers;

(b) Discrimination against Indians;

(c) Inability of potential Indian clientele to pay for service;

(d) Lack of programs which provide free service to indigent families;

(e) Technical barriers created by existing public or private programs;

(f) Availability of transportation to existing programs;

(g) Distance between the Indian community to be served under the proposal and nearest existing programs;

(h) Quality of service provided to Indian clientele; and

(i) Relevance of service provided to specific needs of Indian clientele.

(5) The proper justification of the extent to which the proposed program would duplicate any existing child and family service program emphasizing prevention of family breakup, taking into consideration all the factors listed in paragraphs (1), (2), (3), and (4) of this section. Proper justification must be given for any duplication of services.

(6) Evidence of substantial community support for the proposed program from the Indian community or communities to be served. Such support may be evidenced by:

(a) Letters of support from individuals and families to be served;

(b) Local Indian community representation in and control over the Indian entity requesting the grant;

(c) Letters from local social service or social service related agencies familiar with the applicant's past work experience;

(7) The explanation of proposed facilities and of the structure of the tribal or Indian organization requesting grant funds, and the position description of any position to be funded with grant funds, identifying qualifications, responsibilities, and lines of supervision.

(8) The reasonableness and relevance of the estimated costs of the proposed program or service.

An application shall not receive a preliminary approval unless a review of the application determines that it:

(a) Contains all the information required in "D. Content of an Application";

(b) Receives a minimum score of 80 in a competitive review under the scoring process using the selection criteria established in regulation.

(c) If an applicant has been a grantee during the year immediately preceding the year for which an application is being made, and has made an application to continue essentially the same service program, satisfactory evaluation(s) from the area office review of the program must be provided in addition to the other materials required in this subsection.

F. Single Year Grant Review Process

The Assistant Secretary—Indian Affairs or his/her designated representative shall select for grants under the Indian Child Welfare Act those proposals which will in his/her judgment best promote the purposes of the Act. Such selection will be made through a review process in which each application will be scored competitively using the BIA review criteria listed above at the appropriate Bureau Social Service Office referred to in 25 CFR 23.30, 23.31, or 23.33. Grant applications will be reviewed by a panel of reviewers qualified by training and/or experience in human services to Indian populations. These recommendations will be used by the Assistant Secretary—Indian Affairs' designated representative to preliminarily approve or disapprove all single year grant applications, and make funding recommendations to the Central Office. The assistant Secretary—Indian Affairs has final funding authority.

G. Procedures for Submission of Multi-Year Renewal Applications

The Assistant Secretary—Indian Affairs may award grants for the third and final year of approved multi-year project proposals as authorized in 25 CFR 23.37. *No new multi-year projects shall be considered in the FY 1991 application period. Funding of projects is subject to the availability of funds in accordance with 25 CFR 23.27(e). Only current grantees who have FY 1990 approved multi-year projects may submit renewal applications.*

Current multi-year project grantees must submit three copies of renewal applications which contain the following information to the appropriate agency or area office:

(1) New SF-424;

(2) Updated information required in 25 CFR 23.24, 23.25, 23.26 and 23.27(c)(3);

(3) Updated Operational Monitoring System (OMS);

(4) Proposed budget.

Grantees must have a satisfactory evaluation of the current year of their multi-year project from the Area Office in order to be considered for continued funding in FY 1991 (25 CFR 23.27(c)(3)).

As stated in 25 CFR 23.37(e), requests (e.g., resolutions) from tribal governing bodies or Indian organizations which cover the duration of the multi-year project will fulfill the requirements specified in 25 CFR 23.26 and do not need to be resubmitted on an annual basis. Resolutions that covered only one year of the project must be updated for the year which the grantee is submitting a renewal application.

Grantees must comply with 25 CFR part 276 in terms of both financial and performance reporting requirements. Failure to meet and comply with regulatory requirements may result in suspension, cancellation and/or termination of program funds. The OMS for a multi-year renewal application must demonstrate a developmental approach to the delivery of the proposed child and family service project (25 CFR 23.37(d)(2)). In revising or updating the OMS, renewal applicants shall submit an OMS–2. Applicants may specify that the OMS–2 does not require updating and should note such in the renewal application.

H. Multi-year Renewal Application Review

Upon submission of the initial application and the renewal application, the area/agency certification form will be completed by the appropriate area/agency office specified in 25 CFR 23.30 or 23.31. The applicant must include a satisfactory evaluation of their existing ICWA program (25 CFR 23.27(c)(3)) with their renewal application.

Materials submitted for renewal shall not be subject to competitive review. The area social worker or designated social services staff review renewal applications for compliance with 25 CFR part 23 and 25 CFR part 276. The area social worker or designated social services staff shall make recommendations based on this review.

I. Multi-year Renewal Application Funding

Funding shall be in accordance with the formula published in the Federal Register (25 CFR 23.27(e)(1)). Funding after the first year of a multi-year project will depend upon the submission of a current satisfactory evaluation for an existing program which will attest to the grantee's progress in achieving the objectives of the project according to the approved work plan submitted in the previous year(s) of the project (25 CFR 23.73(f)), demonstrated need, and the availability of funds.

J. Appeals

In accordance with 25 CFR 2.20(c), 23.63, and 23.64, the Assistant Secretary—Indian Affairs has made a determination to assume administrative jurisdiction over all Fiscal Year 1991 Indian Child Welfare Act Grant Application appeals.

Notice(s) of appeals must be filed within 30 days of the appellant's receipt of the decision being appealed. The notice is filed in the office of the official whose decision is being appealed. The date of filing is the date the notice of appeal is postmarked or the date it is personally delivered to the official's immediate office. (25 CFR 2.9(a), 2.13(a)). No extension of time will be granted for filing a notice of appeal. (25 CFR 2.9(a), 2.16).

The Statement of Reasons must be filed within the next 30 days in the office of the official whose decision is being appealed. It may be included in or filed with the notice of appeal. (25 CFR 2.10). The Assistant Secretary—Indian Affairs shall take action and render a final decision for the Department in accordance with the provisions required in 25 CFR 2.20.

Part IV. BIA Area Offices—Area Social Workers

Aberdeen—Dean Krahulec, 115 4th Avenue, SE., Aberdeen, SD 57401; (605) 226–7351.

Albuquerque—Joe Naranjo, 615 1st Street, P.O. Box 26567, Albuquerque, NM 87125–6567; (505) 766–3321.

Anadarko—Jerry Bridges, P.O. Box 368, Anardako, OK 73005; (405) 247–6673 ext. 257.

Billings—Louise Reyes, 316 N. 26th Street, Billings, MT 59101; (406) 657–6651.

Eastern—Evelyn Roanhorse, 3701 N. Fairfax Drive, Suite 260/Mailroom, Arlington, Virginia 22203; (703) 235–2553.

Juneau—Jimmie Clemmons, P.O. Box 3–8000, Juneau, AK 99802–1219; (907) 586–7611.

Minneapolis—Rosalie V. Clark, 15 South Fifth Street, 9th Floor, Minneapolis, MN 55402; (612) 348–3615.

Muskogee—Alice Allen, Old Federal Building, Muskogee, OK 74401; (918) 687–2507.

Navajo—Nancy Evans, P.O. Box M, Bldg. 50, Window Rock, AZ 86515; (602) 871–5151.

Phoenix—Elizabeth BlackOwl, One North First Street, P.O. Box 10, Phoenix AZ 85001; (602) 241–2262.

Portland—Robert C. Carr, 1002 N.E. Holladay St., P.O. Box 3785, Portland, OR 97232; (503) 231–6783/6785.

Sacramento—Kevin Sanders, Federal Office Building, 2800 Cottage Way, Sacramento, CA 95825; (916) 978–4691.

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 90–24827 Filed 10–18–90; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[NV–030–91–4320–02]

Carson City District Grazing Advisory Board Meeting; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Carson City District Grazing Advisory Board will meet at 10:00 am on Thursday, December 6, 1990 at the Carson City District Office Conference Room, 1535 Hot Springs Road, suite 300, Carson City Nevada.

The primary topics will be the FY 1991 Rangeland Improvement Projects, Allotment Management Plans and Evaluations and status of the Land Use Plans as they pertain to grazing management.

FOR FURTHER INFORMATION CONTACT: Andy Anderson, Carson City District, Bureau of Land Management, 1535 Hot Springs Road, suite 300, Carson City, Nevada 89706 (702) 885–6141.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Interested persons may make oral statements at 1:30 pm or file written statements for the Board's consideration.

James W. Elliot,

District Manager, Carson City District.

[FR Doc. 90–24846 Filed 10–18–90; 8:45 am]

BILLING CODE 4310–HC–M

[CO–010–01–4320–02]

Craig Colorado Advisory Council Meeting; Colorado

TIME AND DATE: November 7, 1990, at 10 a.m.

PLACE: BLM—Craig District Office, 455 Emerson Street, Craig, Colorado 81625.

STATUS: Open to public; interested persons may make oral statements at 10:30 a.m. Summary minutes of the meeting will be maintained in the Craig District Office.

MATTERS TO BE CONSIDERED:

1. Habitat Partnership Guidelines.

CONTACT PERSON FOR MORE INFORMATION: Mary Pressley Craig, District Office, 455 Emerson Street,

Craig, Colorado 81625-1129, Phone: (303) 824-3261.

Dated: October 11, 1990.

William J. Pulford,

District Manager.

[FR Doc. 90-24542 Filed 10-18-90; 8:45 am]

BILLING CODE 4310-JB-M

[AZ-942-01-4730-12]

Arizona; Filing of Plats of Survey

October 10, 1990.

1. The plats of survey of the following described lands were officially filed in the Arizona State Office, Phoenix, Arizona, on the dates indicated:

A plat, (in three sheets), representing a dependent resurvey of a portion of the west and north boundaries and a portion of the subdivisional lines; and the survey of the subdivisions in sections 2, 3, 5, 8 and 9 in Township 5 North, Range 11 East, Gila and Salt River Meridian, Arizona, was accepted July 17, 1990 and was officially approved July 20, 1990.

A plat, (in two sheets), representing the dependent resurvey of a portion of the east, west and north boundaries and a portion of the subdivisional lines, and a survey of the subdivisions in section 2, 3, 12 and 31, in Township 6 North, Range 11 East, Gila and Salt River Meridian, Arizona, was accepted July 17, 1990, and was officially filed July 20, 1990.

A plat representing a metes-and-bounds survey of Tract 37, in unsurveyed Township 8 North, Range 12 East, Gila and Salt River Meridian, Arizona, was accepted September 12, 1990, and was officially filed September 14, 1990.

These plats were prepared at the request of the Forest Service, Tonto National Forest.

A plat, (in four sheets), representing the dependent resurvey of a portion of the south boundary and a portion of the subdivisional lines; and a survey of the subdivisions of sections 14, 22, 23, 27, 34 and 35, in Township 23 North, Range 6 East, Gila and Salt River Meridian, Arizona was accepted July 17, 1990 and was officially filed July 20, 1990.

This plat was prepared at the request of the Forest Service, Coconino National Forest.

A plat, [in four sheets], representing a dependent resurvey of the south boundary, a portion of the east boundary, a portion of the abandoned south boundary of the Navajo Indian Reservation, and a portion of the subdivisional lines and a survey of the north boundary, a portion of the subdivisional lines, and the subdivision of certain sections in Township 28 North, Range 20 East, Gila and Salt River Meridian, Arizona, was accepted September 28, 1990 and was officially filed October 2, 1990.

A plat representing a dependent resurvey of a portion of the Arizona-New Mexico State line between Astronomical Station No. 3 and the 100 mile post, and a portion of section 7, Township 26 North, Range 31 East, and a survey of the south boundary and a completion survey of the subdivisional lines in Township 26 North, Range 31 East, Gila and Salt River Meridian, Arizona, was accepted September 28, 1990, and was officially filed October 2, 1990.

These plats were prepared at the request of the BIA, Navajo Project Office.

A plat, (in two sheets), representing the dependent resurvey of portions of the west and north boundaries, portions of the subdivisional lines and the U.S. Customs and Immigration Reserve, and the subdivision of section 6, and the survey of certain lots, and a metes-and-bounds survey in sections 6 and 7, of a fractional Township 13 South, Range 5 West, Gila and Salt River Meridian, Arizona was accepted July 20, 1990 and was officially filed July 24, 1990.

This plat was prepared at the request of the National Park Service.

2. These plats will immediately become the basic records for describing the land for all authorized purposes. These plats have been placed in the open files and are available to the public for information only.

3. All inquiries relating to these lands should be sent to the Arizona State Office, Bureau of Land Management, P.O. Box 16563, Phoenix, Arizona 85011.

James P. Kelley,

Chief, Branch of Cadastral Survey.

[FR Doc. 90-24547 Filed 10-18-90; 8:45 am]

BILLING CODE 4310-32-M

Minerals Management Service

[FES 90-36]

Pacific Region; Availability of Final Environmental Impact Statement for Proposed Marine Mineral Lease Sale; Exclusive Economic Zone Adjacent to Hawaii and Johnston Island

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Minerals Management Service (MMS) has prepared a final Environmental Impact Statement (EIS) relating to the Proposed Marine Mineral Lease Sale: Exclusive Economic Zone Adjacent to Hawaii and Johnston Island.

A single copy of the final EIS may be obtained by written request or by telephone from the following: Dr. Charles L. Morgan, State EIS Coordinator, Leak Laboratory, 811 Olomehani Street, Honolulu, Hawaii 96813, (808) 522-5617 or FAX (808) 522-5619; Mr. Robert G. Paul, Federal EIS Coordinator, Pacific OCS Region, Minerals Management Service, 1340 West 6th Street, Los Angeles, California 90017, (213) 894-2233 or FAX (213) 894-6486.

Copies of the final EIS are available for inspection at the following public libraries: California Academy of Science Library, Golden Gate Park, San Francisco, California; College of the Redwoods Library, 1211 Del Mar Drive, Fort Bragg, California; College of the Redwoods Library, 7351 Compkins Road, Eureka, California; Green Library, Government Documents Department, Stanford University, Stanford, California; Humboldt State University Library, Arcata, California; Library, Government Publications Department, University of California at Santa Barbara, Santa Barbara, California; Library, Santa Barbara Museum of Natural History, 2559 Puesta Del Sol Road, Santa Barbara, California; Long Beach Main Library, 101 Pacific Avenue, Long Beach, California; San Francisco Public Library, Government Documents Department, Civic Center, San Francisco, California; Scripps Institution of Oceanography, La Jolla, California; Scripps Library, University of California, San Diego, California; Shields Library, Government Documents Department, University of California at Davis, Davis, California; Sonoma State University Library, 1801 East Cotati Avenue, Rohnert Park, California; U.S. Geological Survey Library, 345 Middlefield Road, Menlo Park, California; West Los Angeles Regional Library, 11360 Santa Monica Boulevard, Los Angeles, California; Aiea Library, 99-143 Moanalua Road, Aiea, Hawaii; Aina Haina Library, 5246 Kalaniamole Highway, Honolulu, Hawaii; Boad Memorial Library, Akoni Pule Highway, P.O. Box 248, Kapaau, Hawaii; DBED Library, Kamamalu Building, 250 South King Street, 7th Floor, Room 727, Honolulu, Hawaii; East Oahu Library District, Administration, 2042 Harding Avenue, Honolulu, Hawaii; Ewa Beach Public and School Library, 91-950 North Road, Ewa Beach, Hawaii; Hamilton Library, University of Hawaii at Manoa, Honolulu, Hawaii; Hana Public and School Library, P.O. Box 400, Hana, Hawaii; Hanapepe Library, P.O. Box 8, Hanapepe, Hawaii; Hawaii Kai Library, 249 Lunalilo Home Road, Honolulu, Hawaii; Hawaii State Library, 478 South King Street, Honolulu, Hawaii; Hilo

Community College Library, UH-Hilo Main Library, 1400 Kapiolani Street, Hilo, Hawaii; Hilo Public Library, 300 Waianuenue Avenue, Hilo, Hawaii; Holualoa Library, P.O. Box 214, Holualoa, Hawaii; Honokaa Library, P.O. Box 236, Honokaa, Hawaii; Honolulu Community College Library, 874 Dillingham Boulevard, Honolulu, Hawaii; Kahuku Public and School Library, P.O. Box 65, Kahuku, Hawaii; Kahului Library, 90 School Street, Kahului, Hawaii; Kailua Library, 239 Kuulei Road, Kailua, Hawaii; Kailua-Kona Library, 75–138 Hualalai Road, Kailua-Kona, Hawaii; Kaimuki Regional Library, 1041 Koko Head Avenue, Honolulu, Hawaii; Kalihi-Palama Library, 1325 Kalihi Street, Honolulu, Hawaii; Kaneohe Regional Library, 45–829 Kamehameha Highway, Kaneohe, Hawaii; Kapaa Library, 1646 Kuhio Highway, Kapaa, Hawaii; Kapiolani Community College Library, 4303 Diamond Head Road, Honolulu, Hawaii; Kapiolani Community College Library, 620 Pensacola Street, Honolulu, Hawaii; Kauai Community College Library, 3–1901 Kaumualii Highway, Lihue, Kauai, Hawaii; Kauai Regional Library, 4344 Hardy Street, Lihue, Kauai, Hawaii; Keaau Public and School Library, P.O. Box 949, Keaau, Hawaii; Kealakekua Library, P.O. Box 768, Kealakekua, Hawaii; Kihei Library, 131 South Kihei Road, Kihei, Hawaii; Koloa Public and School Library, P.O. Box 9, Koloa, Hawaii; Kona Bookmobile, c/o Kealakekua Public Library, P.O. Box 768, Kealakekua, Hawaii; Kona Area Libraries, 75–138 Hualalai Road, Kailua-Kona, Hawaii; Lahaina Library, 680 Wharf Street, Lahaina, Hawaii; Lanai Public and School Library, P.O. Box A-149, Lanai City, Hawaii; Laupahoehoe Public and School Library, P.O. Box 249, Laupahoehoe, Hawaii; Library for the Blind and Physically Handicapped, 402 Kapahulu Avenue, Honolulu, Hawaii; Lihue Library, 4344 Hardy Street, Lihue, Hawaii; Liliha Library, 1515 Liliha Street, Honolulu, Hawaii; Makawao Library, P.O. Box 459 Makawao, Hawaii; Manoa Library, 2716 Woodlawn Drive, Honolulu, Hawaii; Maui Community College Library, 310 Kaahumanu Avenue, Kahului, Maui, Hawaii; McCully-Moiliili Library, 2211 South King Street, Honolulu, Hawaii; Mililani Library, 94–450 Makaimoimo Street, Mililani, Hawaii; Molokai Library, P.O. Box 395, Kaunakakai, Hawaii; Mountain View Public and School Library, P.O. Box 380, Mt. View, Hawaii; Pahala Public and School Library, P.O. Box 400, Pahala, Hawaii; Pahoa Public and School Library, P.O. Box 16, Pahoa, Hawaii; Pearl City Regional Library, 1138 Waimano Home Road, Pearl City, Hawaii; Salt Lake-Moanalua Library, 848 Ala Lilikoi Street, Honolulu, Hawaii; Sinclair Library, University of Hawaii, Manoa Campus, Honolulu, Hawaii; Wahiawa Library, 820 California Avenue, Wahiawa, Hawaii; Waialua Library, 67–068 Kealohanui Street, Waialua, Hawaii; Waianae Library, 85–625 Farrington Highway, Waianae, Hawaii; Wailuku Library, 251 High Street, Wailuku, Hawaii; Waikiki-Kapahulu Library, 400 Kapahulu Avenue, Honolulu, Hawaii; Waimea Library, P.O. Box 397, Waimea, Hawaii; Wiamea Area Libraries, P.O. Box 236, Honokaa, Hawaii; Waipahu Library, 94–521 Farrington Highway, Waipahu, Hawaii; West Oahu Library District, 1138 Waimano Home Road, Pearl City, Hawaii; Winward Community College Library, 45–720 Keaahala Road, Kaneohe, Hawaii; Ocean and Coastal Law Center Library, University of Oregon, School of Law, Eugene, Oregon; Fisheries-Oceanography Library, University of Washington, 151 Oceanography Teaching Building, Seattle, Washington; NOAA Library E/A 1216, Building 3, 7600 Sand Point Way, Northeast, Seattle, Washington; U.S. EPA Library-MD 168, 1200 6th Avenue, Seattle, Washington; Washington State Library, AJ–11, Olympia, Washington.

Ed Cassidy,

Deputy Director, Minerals Management Service.

Approved: October 15, 1990.

Johnathan P. Deason,

Director, Office of Environmental Affairs.

[FR Doc. 90-24273 Filed 10-18-90; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Farmers Union Central Exchange, Incorporated, aka Cenex, 5500 Cenex Drive, Inver Grove Heights, MN 55077.

2. Wholly-owned subsidiaries which will participate in the operations, and state(s) of incorporation: Hornet Transport, Inc., a Montana corporation.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-24726 Filed 10-18-90; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31781]

Burlington Northern Railroad Co.; Trackage Rights Exemption

Duluth, Missabe and Iron Range Railway Company has agreed to grant overhead trackage rights to Burlington Northern Railroad Company (BN) over its line of railroad between Pokegama (milepost 13) and Saunders (milepost 17.45), WI, a distance of 4.45 miles. The trackage rights were to become effective on October 5, 1990.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: A.C. Saylor, Duluth, Missabe and Iron Range Railway Company, P.O. Box 68, 135 Jamison Lane, Monroeville, PA 15146.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: October 11, 1990.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-24607 Filed 10-18-90; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31680]

Mokena Illinois Railroad Company—Construction Exemption—Will County, IL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of availability of environmental assessment.

SUMMARY: By decision served October 4, 1990 in this proceeding, the Commission granted, subject to environmental review, Mokena Illinois Railroad Company's petition for exemption from the requirements of 49 U.S.C. 10901 for the construction of 3,250 feet of rail line in Will County, Illinois. The effective date of the decision was postponed until

completion of the Commission's environmental review and further decision. The Commission has prepared its environmental assessment which concludes that the proposed action will not significantly affect either the quality of the human environment or the conservation of energy resources. The Commission will consider any comments to the conclusions reached in the environmental assessment before rendering a final decision in this proceeding.

DATES: Written comments must be filed by November 19, 1990.

ADDRESSES: Send an original and 10 copies of comments referring to Finance Docket No. 31680 to:

(1) Section of Energy and Environment, room 3219, Interstate Commerce Commission, Washington, DC 20423, and one copy of the comments to:

(2) Petitioner's representative: Andrew P. Goldstein; 1200 Eighteenth Street, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Tawanna Glover-Sanders (202) 275-7918 or Elaine K. Kaiser, Section Chief (202) 275-7884. [TDD for hearing impaired: (202) 275-1721].

SUPPLEMENTARY INFORMATION: Copies of the Environmental Assessment may be obtained from the Section of Energy and Environment, Office of Economics, room 3219, Interstate Commerce Commission, Washington, DC 20423. Telephone (202) 275-7884. Assistance for the hearing impaired is available through TDD Services at (202) 275-1721.

By the Commission, Howard K. Face, Director, Office of Economics.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-24728 Filed 10-18-90; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-No. 322X)]

Burlington Northern Railroad Co., Abandonment Exemption—in Cherokee County, KS, and Ottawa County, OK

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 10903-10904 the abandonment by the Burlington Northern Railroad Company of a 5.29-mile line of railroad between Baxter Junction, in Cherokee County, KS, and Picher, in Ottawa County, OK, subject to standard labor protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on November 18, 1990. Formal expressions of intent to file an offer[1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by October 29, 1990, petitions to stay must be filed by November 5, 1990, and petitions for reconsideration must be filed by November 15, 1990. Requests for a public use condition must be filed by October 29, 1990.

ADDRESSES: Send pleadings referring to Docket No. AB-6 (Sub-No. 322X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423 and

(2) Petitioner's representative: Sarah J. Whitley, Burlington Northern Railroad Company, 3800 Continental Plaza, 777 Main Street, Fort Worth, TX 76102.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245, [TDD for hearing impaired: (202) 275-1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 275-1721).

Decided: October 9, 1990.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Lamboley, and Emmett. Commissioner Lamboley did not participate in the disposition of this proceeding.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-24737 Filed 10-18-90; 8:45 am]

BILLING CODE 7035-01-M

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[1] See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, room 3208, Washington, DC 20503 (Telephone (202) 395-6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Extension

Employment and Training Administration.

Occupational Code Request. 1205-0127; ETA 741.

As needed.
State or local governments.
52 respondents; 52 burden hours; 1 form.
Provided as a public service to obtain occupational codes and titles for jobs not included in the DOL.

Occupational Safety and Health Administration.
Temporary Labor Camps Standard.
1218-0000.
On Occasion.
State or local governments; farms, business or other for-profit small businesses or organizations.
1,379 respondents; 138 burden hours; .10 hours per response; 0 Form.
The purpose of this standard and its information collection requirement is to request clearance for requiring temporary labor camp superintendents to notify local health officials of incidence of communicable diseases and of occurrences in which sore throat, fever, diarrhea, vomiting or jaundice is a prevalent symptom among temporary labor camp residents. These reporting requirements are necessary to minimize the possibility of communicable disease epidemics spreading throughout the camps and endangering the health of the camp residents.

Revision

Bureau of Labor Statistics.
Cognitive Research on the Consumer Expenditure Surveys.
Questionnaires.
1220-0117; CE-302, CE-305, CE-601.
1600 responses; 1600 hours; 60 minutes per response.
The proposed 'Laboratory Research on CE Questionnaires' will determine ways to improve the wording of questions and/or interview procedures to facilitate the respondents' participations with the surveys. In addition, the results of this research will also guide the next sample redesign efforts.
Pension and Welfare Benefits Administration.
Employee Benefit Plan Annual Report (Form 5500).
Businesses or other for-profit; non-profit institutions; small businesses or organizations.
850,000 responses; 1,668,870 hours; 1.2 hours per response; 3 forms.
Section 104(a)(1)(A) of ERISA requires plan administrators to file an annual report containing the information described in section 103 of ERISA. The Form 5500 Series provides a standard format for fulfilling that requirement.

Extension

Mine Safety and Health Administration.
Ventilation Tests and Examinations in Underground Coal Mines (30 CFR 75.300, 75.300-4, 75.303, 75.305, 75.306 and 75.309-4).
1219-0088.
Weekly; daily.
Businesses or other for profit; Small businesses or organizations.
Number of Respondents: 1,979 mines.
Regulatory.

Section	Factor	Average Time		
		Day/Week	Per Response	Total Hours
75.300	1.65 fans	220 days	2.1667 hours	1,556,507
75.300-4				
75.303	1.64 shifts	220 days	5 hours	2,142,870
75.305		44 weeks	3.5 hours	304,776
75.306		44 weeks	4 hours	348,304
75.309-4	1.7 mines x 1.64 shifts	220 days	1 hour	1,213,840
Total Burden Hours				5,565,487

Requires that records be kept of certain tests and examinations which are required to be performed to monitor the ventilation system in underground coal mines. The information is used to ensure that the integrity of the ventilation system is being maintained and that a safe working environment is being provided to miners.
Employment Standards Administration.
Request for Examination and/or Treatment.
1215-0066; LS-1.
On occasion.
Individuals or households.
16,500 respondents; 178,200 total hours; 1.08 hrs. per response; 1 form.
Form is used by employers to authorize medical treatment for injured workers and by physicians to report findings of physical examinations and treatment recommended.

Reinstatement

Pension and Welfare Benefits Administration.
Class Exemption 77-4 for Certain Transactions.
1210-0049.
Annually when exemption is used.
Business or other for profit; small businesses or organizations.
16,150 responses; 1,633 hours; 1/10th hours per response.
This class exemption exempts from the prohibited transaction restrictions of ERISA the purchase and sale by an employee benefit plan of shares of a registered open-end mutual fund when a fiduciary with respect to the plan (e.g., an investment manager) is also investment adviser for the mutual fund.
Pension and Welfare Benefits Administration.
DOL Regulation Section 2560.503-1 Claims Procedure.
1210-0053.
On occasion.
Individuals or households; Business or other for-profit; non-profit institutions; small business organizations.
75,567 responses; 20,694 hours; ¼ hour for 90 percent of the responses and ½ hour for 10 percent of the responses.
The regulation requires employee benefit plans to establish procedures which provide adequate written notice to any participant or beneficiary of an employee benefit plan whose claim has been denied. An opportunity for a review of a denied claim must also be provided; the decision upon a review must also be in writing.

Reinstatement

Office of Pension and Welfare Benefits Association.
Prohibited Transaction Exemption 76-19.
1210-0024.
Recordkeeping.
Business or other for-profit; small businesses or organizations.
1 Respondent; 1 hour.

This exemption allows parties in interest of an employee benefit plan that invests in an insured pooled separate account to engage in transactions with the separate account if the plan's participation in the separate account does not exceed specified limits. Six year recordkeeping is required.

Pension and Welfare Benefits Administration.

Prohibited Transaction Class Exemption 90-63.

1210-0064.

Recordkeeping.

Businesses or other for-profit.

1 hour; 1 respondent; 1 hour per response; 0 forms.

This class exemption accompts from the prohibited transactions provisions of ERISA certain transactions involving an employee benefit plan's purchase of securities which may aid the issuer of the securities to reduce or retire indebtedness to a party in interest.

Signed at Washington, DC this 16th day of October, 1990.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 90-24748 Filed 10-18-90; 8:45 am]

BILLING CODE 4510-29-M

Employment Standards Administration; Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3014, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the Federal Register are in parentheses following the decisions being modified.

Volume I

Florida:
- FL90-15 (Jan. 5, 1990) ..... pp. 137, 138.
- FL90-17 (Jan. 5, 1990) ..... pp. 143, 145.

Massachusetts:
- MA90-1 (Jan. 5, 1990) ..... pp. 399, 400, 405-412.
- MA90-2 (Jan. 5, 1990) ..... pp. 417, 420.

Pennsylvania, PA90-2 pp. 921, 924. (Jan. 5, 1990).

Volume II

Illinois, IL90-17 (Jan. 5, 1990). pp. 215, 216-217, 220.

Michigan, MI90-2 (Jan. 5, 1990). pp. 441, 442, 449-452.

Volume III

Idaho, ID90-1 (Jan. 5, 1990).. pp. 147, 152.

Montana, MT90-1 (Jan. 5, 1990). pp. 171, 173-174.

Washington, WA90-1 (Jan. 5, 1990). pp. 369, 381-383.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 12th Day of October 1990.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 90-24413 Filed 10-5-90; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 29, 1990.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 29, 1990.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 5th day of October 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
ABB Kent, Inc. (Workers)	Edison, NJ	10/09/90	9/17/90	24,891	Electronic Instruments.
Advanced Input (Workers)	Priest River, ID	10/09/90	9/18/90	24,892	Computer Keyboards.
A&G Belt (Workers)	New York, NY	10/09/90	9/14/90	24,893	Belts.
Airpax, Inc. (MEA)	Cambridge, MD	10/09/90	9/19/90	24,894	Electronic Devices.
Amax Potash Co. (OCAW)	Dumas, TX	10/09/90	9/20/90	24,895	Fertilizer.
American Precision Industries, Inc.	E. Aurora, NY	10/09/90	9/17/90	24,896	Electrical Industries.
Bethlehem Steel Corp. (SFUCM)	Eighty Four, PA	10/09/90	9/10/90	24,897	Coal.
Cabinet Industries Inc. (Workers)	Danville, PA	10/09/90	9/18/90	24,898	TV Shells.
Candice Fashions (Workers)	Haleyville, AL	10/09/90	9/25/90	24,899	Cloaks.
Capitol Gears, Ind. (IAMAW)	St. Paul, MN	10/09/90	9/17/90	24,900	Gears and Transmissions.
CIBA-GEIGY Corp. (Workers)	Toms River, NJ	10/09/90	9/21/90	24,901	Plastics.
Colorado Crystal Corp. (Workers)	Loveland, CO	10/09/90	9/19/90	24,902	Component Parts.
Custis Wire Pro. Co. (IAM)	Petoskey, MI	10/09/90	9/18/90	24,903	Wires.
Emerson Quiet Kool (IUE)	Woodbridge, NJ	10/09/90	9/17/90	24,904	Air Conditioners.
Endicott Johnson Corp. (Workers)	Endicott, NY	10/09/90	9/19/90	24,905	Soles.
Fleck Inc. (Workers)	Fayette, MS	10/09/90	9/27/90	24,906	Power Cords and Wires.
Health-Tex Inc. (Workers)	La Follette, TN	10/09/90	9/25/90	24,907	Apparel.
HPM Corp. (Workers)	Mt. Gilead, OH	10/09/90	9/25/90	24,908	Molding and Die Casting.
Hughes Display (Workers)	Dover, NJ	10/09/90	9/18/90	24,909	Mfg Tubes.
I-STAT (Workers)	Plainsboro, NJ	10/09/90	9/27/90	24,910	Computers.
Lone Star Ind., Inc. (Workers)	Bonner Springs, KS	10/09/90	9/25/90	24,911	Cement.
Marietta Sportswear, Inc. (Workers)	Marietta, OK	10/09/90	9/17/90	24,912	Sportswear.
Manufacturing & Tech. Enterprises, Inc. (Workers)	Farmington, ME	10/09/90	9/17/90	24,913	Wiring Assemblies.
Mecen Mfg. (Workers)	Oxford, ME	10/09/90	9/25/90	24,914	Telephone Boxes.
Nannette Mfg. Co., (Workers)	Phila., PA	10/09/90	9/20/90	24,915	Clothing.
New West Mfg. (Workers)	Hequiam, WA	10/09/90	9/19/90	24,916	Shakes and Shingles.
Oxford of Cumming (Worker)	Cumming	10/09/90	9/25/90	24,917	Clothing.
Ozark Mfg. Co. (Workers)	S. Ozark, AL	10/09/90	9/24/90	24,918	Blouses.
Pentapco (Workers)	Elizabeth, NJ	10/09/90	9/26/90	24,919	Sewing Kits.
Remington Arms Co., Inc. (Workers)	Ilion, NY	10/09/90	9/19/90	24,920	Firearms.
Rheem's Mfg. Co. (Workers)	Chicago, IL	10/09/90	9/20/90	24,921	Water Heaters.
SAF-T-BAK, Inc. (Workers)	Altoona, PA	10/09/90	9/14/90	24,922	Hunting and Fishing Clothes.
Shakertown Corp. (Workers)	Winlock, WA	10/09/90	9/20/90	24,923	Shakes and Shingles.
Small A.C. Motor Co. (Motor Skls)	Hendersonville, TN	10/09/90	9/21/90	24,924	Motor Equipment.
Telatronix (Workers)	Beaverton, OR	10/09/90	9/24/90	24,925	Generators.
(The) Timken Co. (Workers)	Columbus, OH	10/09/90	9/18/90	24,926	Roller Bearings.
Trane, Co. (IEU)	Trenton, NJ	10/09/90	9/19/90	24,927	Air Conditioning and Heating Units.
Transco Exploration, Co. (Workers)	Lake Charles, LA	10/09/90	9/18/90	24,928	Oil and Gas.
Tricor Drilling (Workers)	Gaylord, MI	10/09/90	9/17/90	24,929	Oil and Gas.
TRW Carr Knoxvill (Workers)	Knoxville, TN	10/09/90	9/01/90	24,930	Auto Switches.
II, VI (Two Sld), Inc. (Workers)	Saxonburg, PA	10/09/90	9/18/90	24,931	Components.
United Technology (UAW)	Lexington, OH	10/09/90	9/15/90	24,932	Air Conditioner Parts.
Willamette Business Machines, Ltd	Salem, OR	10/09/90	9/15/90	24,933	Calculators, Typewriters, Etc.
Young Wireline Services, Inc. (Workers)	Charleston, WV	10/09/90	9/29/90	24,934	Oil and Gas.

[FR Doc. 90-24747 Filed 10-18-90; 8:45 am]
BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of October 1990.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, heave become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or diretly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-24,691; Electronic Processors, Inc., Englewood, CO

TA-W-24,712; Mercury Manufacturing Co., Wyandotte, MI

TA-W-24,696; Homestead Industries, Claremont, NH

TA-W-24,713; Goodyear Tire & Rubber Co., Lincoln, NE

TA-W-24,694; E.H. Hall Co., Williamsport, PA

TA-W-24,658; Woodstock Die Cast, Woodstock, IL

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-24,708; Avalone Corp, Avalon Energy, Denver, CO

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-24,755; Malapai Resources Co., Bruni, TX

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-24,692; Maxon Systems, Inc., St. Joseph, MO

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-24,740; Integrated Resources Energy Group, Denver, CO

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-24,720; Westinghouse Electric Corp., Buffaalo, NY

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-24,727; Westinghouse Electric Corp., Syracuse, NY

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-24,710; Cole Office Environment, York PA

Increased imports did not contribute importantly to worker separations.

Affirmative Determinations

TA-W-24,718; L & G Drilling Co., Mt. Pleasant, MI

A certification was issued covering all workers separated on or after July 30, 1989.

TA-W-24,693; Milliken & Co., Inc., Robbins Plant, Robbins, NC

A certification was issued covering all workers separated on or after July 20, 1989.

TA-W-24,591; Anderson Bolling Manufacturing Co., Spring Lake, MI

A certification was issued covering all workers separated on or after April 11, 1989.

TA-W-24,714; Greenville Pants Manufacturing Co., Greenville, TX

A certification was issued covering all workers separated on or after July 27, 1989.

I hereby certify that the aforementioned determinations were issued during the month of October 1990. Copies of these determinations are available for inspection in room C4318, U.S. Department of Labor, 200 Constitution Avenue, NW. Washington, DC 20210 during normal business hours or will be mailed to persons to write to the above address.

Dated: October 15, 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90-24748 Filed 10-18-90; 8:45 am]
BILLING CODE 4510-30-M

Review Panel for the Job Training Partnership Act (JTPA) Presidential Awards; Renewal

In accordance with the provisions of the Federal Advisory Committee Act, and after consultation with the General Services Administration, the Secretary of Labor has determined that the renewal of the Review Panel for the JTPA Presidential Awards is in the public interest in connection with the performance of duties imposed on the Department by section 172 of the Job Training Partnership Act.

The Panel will advise the Secretary of Labor on the selection of the Presidential Awards recipients. The panel will perform an expert review of the nominations for each of the award categories and will provide the Secretary with its views and recommendations on the top nominations.

The Panel will consist of training and employment representatives of the private sector, labor, private industry councils, community-based organizations and Federal, State, and local governments. Other than the Federal Government members, the members shall not be compensated and shall not be deemed to be employees of the United States.

The Panel will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed under the Act 15 days from the date of this publication.

Interested persons are invited to submit comments regarding the renewal of the Review Panel for the JPTA Presidential Awards. Such comments should be addressed: Mr. Hugh Davies, Acting Director, Office of Employment and Training Programs, U.S. Department of Labor, ETA, 200 Constitution Avenue, NW., Room N-4703, Washington, DC 20210, Telephone: (202) 535-0580.

Signed at Washington, DC, this 26th day of September 1990.

Elizabeth Dole,

Secretary of Labor.

[FR Doc. 90-24748 Filed 10-18-90; 8:45 am]

BILLING CODE 4510-30-M

Dictionary of Occupational Titles, Issue Paper and Initiative; Reopening and Extension of Comment Period

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice; reopening and extension of comment period.

SUMMARY: On August 10, 1990, the Employment and Training Administration (ETA) published in the **Federal Register** for notice and comment an issue paper on the *Dictionary of Occupational Titles (DOT)*. The paper described the components of a review of the *DOT* and raised key *DOT* issues. The ETA sought public comment, recommendations and/or suggestions from interested parties.

ETA has received a number of comments requesting additional time to study and comment on the key issues, and has determined to reopen and extend the comment period through November 19, 1990.

DATES: The comment period on the DOT key issues published at 55 FR 32868–32871 (August 10, 1990) is reopened and comments are invited to be received by November 19, 1990.

ADDRESSES: Comments shall be mailed to Robert A. Schaerfl, Director, U.S. Employment Service, Employment and Training Administration, U.S. Department of Labor, room N–4470, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Robert A. Schaerfl, Director, U.S. Employment Service, Employment and Training Administration, telephone: (202) 535–0157 (this is not a toll free number).

Signed at Washington, DC, this 10th day of October, 1990.

Roberts T. Jones,

Assistant Secretary for Employment and Training.

[FR Doc. 90-24749 Filed 10-18-90; 8:45 am]

BILLING CODE 4510-30-M

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Annual List of Labor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATE: The annual list of labor surplus areas is effective October 1, 1990, through September 30, 1991.

SUMMARY: The purpose of this notice is to announce the annual list of labor surplus areas.

FOR FURTHER INFORMATION CONTACT: William J. McGarrity, Labor Economist, Employment and Training Administration, 200 Constitution Avenue, NW., room N–4470, Attention: TEESS, Washington, DC 20210. Telephone: 202–535–0160.

SUPPLEMENTARY INFORMATION: Executive Order 12073 requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under that Order for classifying and designating areas as labor surplus areas. Executive agencies should refer to Federal Acquisition Regulation part 20 (48 CFR part 20) in order to assess the impact of the labor surplus area program on particular procurements.

Under Executive Order 10582 executive agencies may reject bides or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment as defined by the Secretary of Labor. The preference given to domestic suppliers under Executive Order 10582 has been modified by Executive Order 12260. Federal Acquisition Regulation part 25 (48 CFR part 25) implements Executive Order 12260. Executive agencies should refer to Federal Acquisition Regulation part 25 in procurements involving foreign businesses or products in order to assess its impact on the particular procurements.

The Department of Labor regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR part 654, subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations the Assistant Secretary of Labor is publishing the annual list of labor surplus areas.

Subpart B of part 654 states that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a labor surplus area under subpart A. Thus, labor surplus areas under Executive Order 12073 are also areas of substantial unemployment under Executive Order 10582.

The areas described below have been classified by the Assistant Secretary of Labor as labor surplus areas pursuant to 20 CFR 654.5(b) (48 FR 15615 April 12, 1983) and are effective October 1, 1990, through September 30, 1991.

The list of labor surplus areas is published for the use of all Federal agencies in directing procurement activities and locating new plants or facilities.

Signed at Washington, DC, on September 30, 1990.

Roberts T. Jones,

Assistant Secretary of Labor.

Eligible labor surplus areas	Civil jurisdictions included
ALABAMA:	
Anniston City	Anniston City in Calhoun County
Autauga County	Autauga County
Baldwin County	Baldwin County
Barbour County	Barbour County
Bessemer City	Bessemer City in Jefferson County
Bibb County	Bibb County
Birmingham City	Birmingham City in Jefferson County
Bullock County	Bullock County
Butler County	Butler County
Cherokee County	Cherokee County
Chilton County	Chilton County
Choctaw County	Choctaw County
Clarke County	Clarke County
Clay County	Clay County
Colbert County	Colbert County
Conecuh County	Conecuh County
Covington County	Covington County
Crenshaw County	Crenshaw County
Cullman County	Cullman County
Dale County	Dale County
Balance of Dallas County.	Dallas County Less Selma City
De Kalb County	De Kalb County
Decatur City	Decatur City in Morgan County
Escambia County	Escambia County
Fayette County	Fayette County
Florence City	Florence City in Lauderdale County
Franklin County	Franklin County
Gadsden City	Gadsden City in Etowah County
Greene County	Greene County
Hale County	Hale County
Jackson County	Jackson County
Lamar County	Lamar County
Lawrence County	Lawrence County
Lowndes County	Lowndes County
Macon County	Macon County
Marengo County	Marengo County
Marion County	Marion County
Marshall County	Marshall County
Mobile City	Mobile City in Mobile County
Balance of Mobile County.	Mobile County Less Mobile City Prichard City
Monroe County	Monroe County
Balance of Morgan County.	Morgan County Less Decatur City
Perry County	Perry County
Pickens County	Pickens County
Prichard City	Prichard City in Mobile County
Randolph County	Randolph County
Selma City	Selma City in Dallas County

Eligible labor surplus areas	Civil jurisdictions included
Sumter County	Sumter County
Talladega County	Talladega County
Walker County	Walker County
Washington County	Washington County
Wilcox County	Wilcox County
Winston County	Winston County
ALASKA:	
Bethel Census Area	Bethel Census Area
Bristol Bay Borough Div.	Bristol Bay Borough Div
Fairbanks City	Fairbanks City in Fairbanks North Star Borough
Balance of Fairbanks North Star Borough.	Fairbanks North Star Borough Less Fairbanks City
Haines Borough	Haines Borough
Kenai Peninsula Borough.	Kenai Peninsula Borough
Ketchikan Gateway Borough.	Ketchikan Gateway Borough
Matanuska-Susitna Borough.	Matanuska-Susitna Borough
Nome Census Area	Nome Census Area
Northwest Arctic Borough.	Northwest Arctic Borough
Prince of Wales Outer Ketchikan.	Prince of Wales Outer Ketchikan
Skagway Yakutat Angoon Census Area.	Skagway Yakutat Angoon Census Area
Southeast Fairbanks Census Area.	Southeast Fairbanks Census Area
Valdez Cordova Census Area.	Valdez Cordova Census Area
Wade Hampton Census Area.	Wade Hampton Census Area
Wrangell-Petersburg Census Area.	Wrangell-Petersburg Census Area
Yukon-Koyukuk Census Area.	Yukon-Koyukuk Census Area
ARIZONA:	
Apache County	Apache County
Balance of Cochise County.	Cochise County less Sierra Vista City
Balance of Coconino County.	Coconino County less Flagstaff City
Flagstaff City	Flagstaff City in Coconino County
Gila County	Gila County
Graham County	Graham County
Greenlee County	Greenlee County
La Paz County	La Paz County
Navajo County	Navajo County
Pinal County	Pinal County
Santa Cruz County	Santa Cruz County
Sierra Vista City	Sierra Vista City in Cochise County
Yuma City	Yuma City in Yuma County
Balance of Yuma County.	Yuma County less Yuma City
ARKANSAS:	
Ashley County	Ashley County
Baxter County	Baxter County
Bradley County	Bradley County
Chicot County	Chicot County
Clark County	Clark County
Clay County	Clay County
Cleburne County	Cleburne County
Cleveland County	Cleveland County
Columbia County	Columbia County
Conway County	Conway County
Crawford County	Crawford County
Balance of Crittenden County.	Crittenden County less West Memphis City
Cross County	Cross County
Dallas County	Dallas County
Desha County	Desha County
Drew County	Drew County

Eligible labor surplus areas	Civil jurisdictions included
El Dorado City	El Dorado City in Union County
Faulkner County	Faulkner County
Franklin County	Franklin County
Fulton County	Fulton County
Balance of Garland County.	Garland County less Hot Springs City
Greene County	Greene County
Hempstead County	Hempstead County
Hot Spring County	Hot Spring County
Hot Springs City	Hot Springs City in Garland County
Howard County	Howard County
Independence County	Independence County
Jackson County	Jackson County
Jacksonville City	Jacksonville City in Pulaski County
Balance of Jefferson County.	Jefferson County less Pine Bluff City
Johnson County	Johnson County
Lafayette County	Lafayette County
Lawrence County	Lawrence County
Lee County	Lee County
Lincoln County	Lincoln County
Little River County	Little River County
Logan County	Logan County
Lonoke County	Lonoke County
Madison County	Madison County
Balance of Miller County.	Miller County less Texarkana City Ark
Mississippi County	Mississippi County
Monroe County	Monroe County
Montgomery County	Montgomery County
Nevada County	Nevada County
Newton County	Newton County
Ouachita County	Ouachita County
Perry County	Perry County
Phillips County	Phillips County
Pike County	Pike County
Pine Bluff City	Pine Bluff City in Jefferson County
Poinsett County	Poinsett County
Polk County	Polk County
Prairie County	Prairie County
Randolph County	Randolph County
Searcy County	Searcy County
Balance of Sebastian County.	Sebastian County less Fort Smith City
Sharp County	Sharp County
St. Francis County	St. Francis County
Stone County	Stone County
Texarkana City Ark.	Texarkana City Ark in Miller County
Balance of Union County.	Union County less El Dorado City
Van Buren County	Van Buren County
West Memphis City	West Memphis City in Crittenden County
White County	White County
Woodruff County	Woodruff County
CALIFORNIA:	
Bakersfield City	Bakersfield City in Kern County
Bell Gardens City	Bell Gardens City in Los Angeles County
Balance of Butte County.	Butte County less Chico City
Calaveras County	Calaveras County
Chico City	Chico City in Butte County
Clovis City	Clovis City in Fresno County
Colusa County	Colusa County
Compton City	Compton City in Los Angeles County
Corona City	Corona City in Riverside County
Del Norte County	Del Norte County
El Centro City	El Centro City in Imperial County

Eligible labor surplus areas	Civil jurisdictions included
El Monte City	El Monte City in Los Angeles County
Fairfield City	Fairfield City in Solano County
Fontana City	Fontana City in San Bernardino County
Fresno City	Fresno City in Fresno County
Balance of Fresno County.	Fresno County less Clovis City, Fresno City
Gilroy City	Gilroy City in Santa Clara County
Glenn County	Glenn County
Hemet City	Hemet City in Riverside County
Humboldt County	Humboldt County
Huntington Park City	Huntington Park City in Los Angeles County
Balance of Imperial County.	Imperial County less El Centro City
Indio City	Indio City in Riverside County
Balance of Kern County.	Kern County less Bakersfield City
Kings County	Kings County
Lake County	Lake County
Lassen County	Lassen County
Lodi City	Lodi City in San Joaquin County
Lompoc City	Lompoc City in Santa Barbara County
Lynwood City	Lynwood City in Los Angeles County
Madera County	Madera County
Manteca City	Manteca City in San Joaquin County
Marina City	Marina City in Monterey County
Mendocino County	Mendocino County
Merced City	Merced City in Merced County
Balance of Merced County.	Merced County less Merced City
Modesto City	Modesto City in Stanislaus County
Modoc County	Modoc County
Balance of Monterey County.	Monterey County less Marina City, Monterey City, Salinas City, Seaside City,
Oxnard City	Oxnard City in Ventura County
Plumas County	Plumas County
Redding City	Redding City in Shasta County
Richmond City	Richmond City in Contra Costa County
Balance of Riverside County.	Riverside County less Corona City, Hemet City, Indio City, Palm Springs City, Riverside City
Salinas City	Salinas City in Monterey County
San Benito County	San Benito County
Balance of San Joaquin County.	San Joaquin County less Lodi City Manteca City, Stockton City
Santa Cruz City	Santa Cruz City in Santa Cruz County
Santa Maria City	Santa Maria City in Santa Barbara County
Seaside City	Seaside City in Monterey County
Balance of Shasta County.	Shasta County less Redding City
Sierra County	Sierra County
Siskiyou County	Siskiyou County

Eligible labor surplus areas	Civil jurisdictions included
Balance of Stanislaus County.	Stanislaus County less Modesto City Turlock City
Stockton City	Stockton City in San Joaquin County
Sutter County	Sutter County
Tehama County	Tehama County
Trinity County	Trinity County
Tulare City	Tulare City in Tulare County
Balance of Tulare County.	Tulare County less Tulare City, Visalia City
Tuolumne County	Tuolumne County
Turlock City	Turlock City in Stanislaus County
Vacaville City	Vacaville City in Solano County
Visalia City	Visalia City in Tulare County
Watsonville City	Watsonville City in Santa Cruz County
Woodland City	Woodland City in Yolo County
Balance of Yolo County.	Yolo County less Davis City Woodland City
Yuba County	Yuba County
COLORADO:	
Balance of Adams County.	Adams County less Arvada City, Aurora City, Northglenn City, Thornton City, Westminster City
Alamosa County	Alamosa County
Archuleta County	Archuleta County
Chaffee County	Chaffee County
Clear Creek County	Clear Creek County
Colorado Springs City	Colorado Springs City in El Paso County
Conejos County	Conejos County
Costilla County	Costilla County
Custer County	Custer County
Delta County	Delta County
Denver City	Denver City in Denver County
Balance of El Paso County.	El Paso County less Colorado Springs City
Elbert County	Elbert County
Fremont County	Fremont County
Grand Junction City	Grand Junction City in Mesa County
Greeley City	Greeley City in Weld County
Huerfano County	Huerfano County
Lake County	Lake County
Las Animas County	Las Animas County
Loveland City	Loveland city in Larimer County
Balance of Mesa County.	Mesa County less Grand Junction City
Mineral County	Mineral County
Moffat County	Moffat County
Montezuma County	Montezuma County
Montrose County	Montrose County
Morgan County	Morgan County
Otero County	Otero County
Park County	Park County
Prowers County	Prowers County
Pueblo City	Pueblo City in Pueblo County
Balance of Pueblo County.	Pueblo County less Pueblo City
Rio Grande County	Rio Grande County
Routt County	Routt County
Saguache County	Saguache County
San Juan County	San Juan County
San Miguel County	San Miguel County
Teller County	Teller County
FLORIDA:	
Balance of Bay County	Bay County less Panama City
Calhoun County	Calhoun County
Columbia County	Columbia County
Deerfield Beach City	Deerfield Beach City in Broward County
Delray Beach City	Delray Beach City in Palm Beach County
Fort Pierce City	Fort Pierce City in St. Lucie County
Glades County	Glades County
Gulf County	Gulf County
Hallandale City	Hallandale City in Broward County
Hamilton County	Hamilton County
Hardee County	Hardee County
Hendry County	Hendry County
Hialeah City	Hialeah City in Dade County
Holmes County	Holmes County
Indian River County	Indian River County
Lake Worth City	Lake Worth City in Palm Beach County
Lakeland City	Lakeland City in Polk County
Madison County	Madison County
Miami Beach City	Miami Beach City in Dade County
Miami City	Miami City in Dade County
Okeechobee County	Okeechobee County
Panama City	Panama City in Bay County
Balance of Polk County.	Polk County less Lakeland City
Putnam County	Putnam County
Santa Rosa County	Santa Rosa County
Balance of St. Lucie County.	St. Lucie County Less Fort Pierce City, Port St. Lucie City
Sumter County	Sumter County
Suwannee County	Suwannee County
Taylor County	Taylor County
Walton County	Walton County
Washington County	Washington County
GEORGIA:	
Albany City	Albany City in Dougherty County
Appling County	Appling County
Atlanta City	Atlanta City in De Kalb County
	Fulton County
Augusta City	Augusta City in Richmond County
Baker County	Baker County
Barrow County	Barrow County
Barlow County	Barlow County
Ben Hill County	Ben Hill County
Brantley County	Brantley County
Burke County	Burke County
Butts County	Butts County
Calhoun County	Calhoun County
Charlton County	Charlton County
Chattahoochee County	Chattahoochee County
Chattooga County	Chattooga County
Clay County	Clay County
Clinch County	Clinch County
Coffee County	Coffee County
College Park City	College Park City in Clayton County
	Fulton County
Cook County	Cook County
Crawford County	Crawford County
Crisp County	Crisp County
Dade County	Dade County
Dawson County	Dawson County
Dodge County	Dodge County
Balance of Dougherty County.	Dougherty County Less Albany City
Early County	Early County
East Point City	East Point City in Fulton County
Echols County	Echols County
Elbert County	Elbert County
Emanuel County	Emanuel County
Fannin County	Fannin County
Gilmer County	Gilmer County
Greene County	Greene County
Haralson County	Haralson County
Heard County	Heard County
Jasper County	Jasper County
Jefferson County	Jefferson County
Jenkins County	Jenkins County
Laurens County	Laurens County
Liberty County	Liberty County
Lincoln County	Lincoln County
Macon County	Macon County
McDuffie County	McDuffie County
Mcintosh County	Mcintosh County
Meriwether County	Meriwether County
Mitchell County	Mitchell County
Monroe County	Monroe County
Morgan County	Morgan County
Paulding County	Paulding County
Pickens County	Pickens County
Pierce County	Pierce County
Polk County	Polk County
Putnam County	Putnam County
Quitman County	Quitman County
Randolph County	Randolph County
Rome City	Rome City in Floyd County
Schley County	Schley County
Screven County	Screven County
Stephens County	Stephens County
Stewart County	Stewart County
Sumter County	Sumter County
Talbot County	Talbot County
Taliaferro County	Taliaferro County
Taylor County	Taylor County
Telfair County	Telfair County
Terrell County	Terrell County
Treutlen County	Treutlen County
Turner County	Turner County
Twiggs County	Twiggs County
Ware County	Ware County
Warren County	Warren County
Wayne County	Wayne County
Webster County	Webster County
Worth County	Worth County
IDAHO:	
Adams County	Adams County
Benewah County	Benewah County
Bingham County	Bingham County
Boise County	Boise County
Bonner County	Bonner County
Camas County	Camas County
Cassia County	Cassia County
Clearwater County	Clearwater County
Fremont County	Fremont County
Gem County	Gem County
Idaho County	Idaho County
Jerome County	Jerome County
Kootenai County	Kootenai County
Lemhi County	Lemhi County
Minidoka County	Minidoka County
Nampa City	Nampa City in Canyon County
Payette County	Payette County
Power County	Power County
Shoshone County	Shoshone County
Valley County	Valley County
Washington County	Washington County
ILLINOIS:	
Alexander County	Alexander County
Alton City	Alton City in Madison County
Aurora City	Aurora City in Du Page County; Kane County
Belleville City	Belleville City in St. Clair County
Bond County	Bond County
Boone County	Boone County
Brown County	Brown County
Bureau County	Bureau County

Eligible labor surplus areas	Civil jurisdictions included
Calhoun County	Calhoun County
Carroll County	Carroll County
Cass County	Cass County
Chicago City	Chicago City in Cook County
Christian County	Christian County
Cicero City	Cicero City in Cook County
Clark County	Clark County
Clay County	Clay County
Clinton County	Clinton County
Crawford County	Crawford County
Cumberland County	Cumberland County
Danville City	Danville City in Vermilion County
De Witt County	De Witt County
Decatur City	Decatur City in Macon County
East St. Louis City	East St. Louis City in St. Clair County
Edgar County	Edgar County
Edwards County	Edwards County
Fayette County	Fayette County
Franklin County	Franklin County
Freeport City	Freeport City in Stephenson County
Fulton County	Fulton County
Galesburg City	Galesburg City in Knox County
Gallatin County	Gallatin County
Granite City	Granite City in Madison County
Greene County	Greene County
Grundy County	Grundy County
Hamilton County	Hamilton County
Hancock County	Hancock County
Hardin County	Hardin County
Harvey City	Harvey City in Cook County
Henderson County	Henderson County
Henry County	Henry County
Balance of Jackson County.	Jackson County less Carbondale City
Jasper County	Jasper County
Jefferson County	Jefferson County
Jersey County	Jersey County
Johnson County	Johnson County
Joliet City	Joliet City in Will County
Kankakee City	Kankakee City in Kankakee County
Balance of Kankakee County.	Kankakee County less Kankakee City
Balance of Knox County.	Knox County less Galesburg City
La Salle County	La Salle County
Lawrence County	Lawrence County
Lee County	Lee County
Logan County	Logan County
Macoupin County	Macoupin County
Marion County	Marion County
Mason County	Mason County
Massac County	Massac County
Maywood Village	Maywood Village in Cook County
Balance of McLean County.	McLean County less Bloomington City Normal Town
Mercer County	Mercer County
Moline City	Moline City in Rock Island County
Montgomery County	Montgomery County
Moultrie County	Moultrie County
North Chicago City	North Chicago City in Lake County
Ogle County	Ogle County
Pekin City	Pekin City in Tazewell County
Peoria City	Peoria City in Peoria County
Perry County	Perry County
Piatt County	Piatt County
Pike County	Pike County
Pope County	Pope County
Pulaski County	Pulaski County
Putnam County	Putnam County
Quincy City	Quincy City in Adams County
Randolph County	Randolph County
Richland County	Richland County
Rock Island City	Rock Island City in Rock Island County
Balance of Rock Island County.	Rock Island County less Moline City; Rock Island City
Rockford City	Rockford City in Winnebago County
Saline County	Saline County
Schuyler County	Schuyler County
Scott County	Scott County
Shelby County	Shelby County
Balance of St. Clair County.	St. Clair County less Belleville City; East St. Louis City
Stark County	Stark County
Union County	Union County
Balance of Vermilion County.	Vermilion County less Danville City
Wabash County	Wabash County
Warren County	Warren County
Washington County	Washington County
Wayne County	Wayne County
White County	White County
Whiteside County	Whiteside County
Williamson County	Williamson County
INDIANA:	
Anderson City	Anderson City in Madison County
Blackford County	Blackford County
Crawford County	Crawford County
Dearborn County	Dearborn County
East Chicago City	East Chicago City in Lake County
Fayette County	Fayette County
Gary City	Gary City in Lake County
Greene County	Greene County
Henry County	Henry County
Jay County	Jay County
Kokomo City	Kokomo City in Howard County
Lawrence County	Lawrence County
Marion City	Marion City in Grant County
Ohio County	Ohio County
Orange County	Orange County
Perry County	Perry County
Pike County	Pike County
Randolph County	Randolph County
Richmond City	Richmond City in Wayne County
Rush County	Rush County
Scott County	Scott County
Starke County	Starke County
Sullivan County	Sullivan County
Switzerland County	Switzerland County
Vermillion County	Vermillion County
IOWA:	
Clinton City	Clinton City in Clinton County
Crawford County	Crawford County
Davenport City	Davenport City in Scott County
Jackson County	Jackson County
Lee County	Lee County
Monroe County	Monroe County
Ottumwa City	Ottumwa City in Wapello County
Van Buren County	Van Buren County
Balance of Wapello County.	Wapello County less Ottumwa City
KANSAS:	
Franklin County	Franklin County
Kansas City KN	Kansas City KN in Wyandotte County
Linn County	Linn County
KENTUCKY:	
Adair County	Adair County
Allen County	Allen County
Ballard County	Ballard County
Barren County	Barren County
Bath County	Bath County
Bell County	Bell County
Balance of Boyd County.	Boyd County less Ashland City
Boyle County	Boyle County
Bracken County	Bracken County
Breathitt County	Breathitt County
Breckinridge County	Breckinridge County
Butler County	Butler County
Caldwell County	Caldwell County
Carlisle County	Carlisle County
Carter County	Carter County
Casey County	Casey County
Balance of Christian County.	Christian County less Hopkinsville City
Clark County	Clark County
Clay County	Clay County
Clinton County	Clinton County
Crittenden County	Crittenden County
Cumberland County	Cumberland County
Balance of Daviess County.	Daviess County less Owensboro City
Edmonson County	Edmonson County
Elliott County	Elliott County
Estill County	Estill County
Fleming County	Fleming County
Floyd County	Floyd County
Fulton County	Fulton County
Gallatin County	Gallatin County
Garrard County	Garrard County
Grant County	Grant County
Graves County	Graves County
Grayson County	Grayson County
Green County	Green County
Greenup County	Greenup County
Hancock County	Hancock County
Harlan County	Harlan County
Harrison County	Harrison County
Hart County	Hart County
Henderson City	Henderson City in Henderson County
Balance of Henderson County.	Henderson County less Henderson City
Hickman County	Hickman County
Hopkins County	Hopkins County
Jackson County	Jackson County
Johnson County	Johnson County
Knott County	Knott County
Knox County	Knox County
Larue County	Larue County
Laurel County	Laurel County
Lawrence County	Lawrence County
Lee County	Lee County
Leslie County	Leslie County
Letcher County	Letcher County
Lewis County	Lewis County
Lincoln County	Lincoln County
Livingston County	Livingston County
Logan County	Logan County
Louisville City	Louisville City in Jefferson County
Magoffin County	Magoffin County
Marion County	Marion County
Marshall County	Marshall County
Martin County	Martin County
Balance of McCracken County.	McCracken County less Paducah City
McCreary County	McCreary County
McLean County	McLean County
Meade County	Meade County
Menifee County	Menifee County
Mercer County	Mercer County
Metcalfe County	Metcalfe County

Eligible labor surplus areas	Civil jurisdictions included
Monroe County	Monroe County
Montgomery County	Montgomery County
Morgan County	Morgan County
Muhlenberg County	Muhlenberg County
Nelson County	Nelson County
Nicholas County	Nicholas County
Ohio County	Ohio County
Owensboro City	Owensboro City in Daviess County
Owsley County	Owsley County
Pendleton County	Pendleton County
Perry County	Perry County
Pike County	Pike County
Powell County	Powell County
Pulaski County	Pulaski County
Robertson County	Robertson County
Rockcastle County	Rockcastle County
Rowan County	Rowan County
Scott County	Scott County
Simpson County	Simpson County
Todd County	Todd County
Trigg County	Trigg County
Union County	Union County
Balance of Warren County.	Warren County less Bowling Green City
Washington County	Washington County
Wayne County	Wayne County
Webster County	Webster County
Whitley County	Whitley County
Wolfe County	Wolfe County
Acadia Parish	Acadia Parish
Alexandria City	Alexandria City in Rapides Parish
Allen Parish	Allen Parish
Ascension Parish	Ascension Parish
Assumption Parish	Assumption Parish
Avoyelles Parish	Avoyelles Parish
Baton Rouge City	Baton Rouge City in East Baton Rouge Parish
Beauregard Parish	Beauregard Parish
Bienville Parish	Bienville Parish
Bossier City	Bossier City in Bossier Parish
Balance of Bossier Parish.	Bossier Parish less Bossier City, Shreveport City
Balance of Caddo Parish.	Caddo Parish less Shreveport City
Balance of Calcasieu Parish.	Calcasieu Parish less Lake Charles City
Caldwell Parish	Caldwell Parish
Cameron Parish	Cameron Parish
Catahoula Parish	Catahoula Parish
Claiborne Parish	Claiborne Parish
Concordia Parish	Concordia Parish
De Soto Parish	De Soto Parish
East Carroll Parish	East Carroll Parish
East Feliciana Parish	East Feliciana Parish
Evangeline Parish	Evangeline Parish
Franklin Parish	Franklin Parish
Grant Parish	Grant Parish
Balance of Iberia Parish.	Iberia Parish less New Iberia City
Iberville Parish	Iberville Parish
Jackson Parish	Jackson Parish
Jefferson Davis Parish	Jefferson Davis Parish
Balance of Jefferson Parish.	Jefferson Parish less Kenner City
Kenner City	Kenner City in Jefferson Parish
La Salle Parish	La Salle Parish
Lafayette City	Lafayette City in Lafayette Parish
Lafourche Parish	Lafourche Parish
Lake Charles City	Lake Charles City in Calcasieu Parish
Livingston Parish	Livingston Parish
Madison Parish	Madison Parish
Monroe City	Monroe City in Ouachita Parish
Morehouse Parish	Morehouse Parish
Natchitoches Parish	Natchitoches Parish
New Iberia City	New Iberia City in Iberia Parish
New Orleans City	New Orleans City in Orleans Parish
Balance of Ouachita Parish.	Ouachita Parish less Monroe City
Plaquemines Parish	Plaquemines Parish
Pointe Coupee Parish	Pointe Coupee Parish
Balance of Rapides Parish.	Rapides Parish less Alexandria City
Red River Parish	Red River Parish
Richland Parish	Richland Parish
Sabine Parish	Sabine Parish
Shreveport City	Shreveport City in Bossier Parish, Caddo Parish
Slidell City	Slidell City in St. Tammany Parish
St. Bernard Parish	St. Bernard Parish
St. Charles Parish	St. Charles Parish
St. Helena Parish	St. Helena Parish
St. James Parish	St. James Parish
St. John Baptist Parish	St. John Baptist Parish
St. Landry Parish	St. Landry Parish
St. Martin Parish	St. Martin Parish
St. Mary Parish	St. Mary Parish
Balance of St. Tammany Parish.	St. Tammany Parish less Slidell City
Tangipahoa Parish	Tangipahoa Parish
Tensas Parish	Tensas Parish
Terrebonne Parish	Terrebonne Parish
Union Parish	Union Parish
Vermilion Parish	Vermilion Parish
Vernon Parish	Vernon Parish
Washington Parish	Washington Parish
Webster Parish	Webster Parish
West Baton Rouge Parish.	West Baton Rouge Parish
West Carroll Parish	West Carroll Parish
West Feliciana Parish	West Feliciana Parish
Winn Parish	Winn Parish
MAINE:	
Aroostook County	Aroostook County
Waldo County	Waldo County
Washington County	Washington County
MARYLAND:	
Allegany county	Allegany county
Baltimore City	Baltimore City
Dorchester County	Dorchester County
Garrett County	Garrett County
Hagerstown City	Hagerstown City in Washington County
Somerset County	Somerset County
MASSACHUSETTS:	
Athol Town	Athol Town in Worchester County
Fall River City	Fall River City in Bristol County
Florida Town	Florida Town in Berkshire County
Gloucester City	Gloucester City in Essex County
Lawrence City	Lawrence City in Essex County
Monroe Town	Monroe Town in Franklin County
New Bedford City	New Bedford City in Bristol County
New Salem Town	New Salem Town in Franklin County
Orange Town	Orange Town in Franklin County
Otis Town	Otis Town in Berkshire County
Plainfield Town	Plainfield Town in Hampshire County
Provincetown Town	Provincetown Town in Barnstable County
Savoy Town	Savoy Town in Berkshire County
Truro Town	Truro Town in Barnstable County
MICHIGAN:	
Alcona County	Alcona County
Alger County	Alger County
Alpena County	Alpena County
Antrim County	Antrim County
Arenac County	Arenac County
Baraga County	Baraga County
Barry County	Barry County
Battle Creek City	Battle Creek City in Calhoun County
Bay City	Bay City in Bay County
Balance of Bay County.	Bay County less Bay City Midland City
Benzie County	Benzie County
Berrien County	Berrien County
Branch County	Branch County
Burton City	Burton City in Genesee County
Balance of Calhoun County.	Calhoun County less Battle Creek City
Charlevoix County	Charlevoix County
Cheboygan County	Cheboygan County
Chippewa County	Chippewa County
Clare County	Clare County
Clinton Township	Clinton Township in Macomb County
Delta County	Delta County
Detroit City	Detroit City in Wayne County
Dickinson County	Dickinson County
East Detroit City	East Detroit City in Macomb County
Emmet County	Emmet County
Ferndale City	Ferndale City in Oakland County
Flint City	Flint City in Genesee County
Flint Township	Flint Township in Genesee County
Balance of Genesee County.	Genesee County less Burton City, Flint City, Flint Township, Mount Morris Township
Gladwin County	Gladwin County
Gogebic County	Gogebic County
Grand Rapids City	Grand Rapids City in Kent County
Grand Traverse County.	Grand Traverse County
Gratiot County	Gratiot County
Highland Park City	Highland Park City in Wayne County
Hillsdale County	Hillsdale County
Houghton County	Houghton County
Huron County	Huron County
Inkster City	Inkster City in Wayne County
Ionia County	Ionia County
Iosco County	Iosco County
Iron County	Iron County
Jackson City	Jackson City in Jackson County
Balance of Jackson County.	Jackson County less Jackson City
Kalkaska County	Kalkaska County
Keweenaw County	Keweenaw County
Lake County	Lake County
Lansing City	Lansing City in Ingham County
Lapeer County	Lapeer County
Leelanau County	Leelanau County
Lenawee County	Lenawee County
Lincoln Park City	Lincoln Park City in Wayne County
Luce County	Luce County
Mackinac County	Mackinac County

Eligible labor surplus areas	Civil jurisdictions included
Balance of Macomb County.	Macomb County less Clinton Township, East Detroit City, Roseville City, Shelby Township, St. Clair Shores City, Sterling Heights City, Warren City
Madison Heights City	Madison Heights City in Oakland County
Manistee County	Manistee County
Marquette County	Marquette County
Mason County	Mason County
Mecosta County	Mecosta County
Menominee County	Menominee County
Balance of Midland County.	Midland County less Midland City
Missaukee County	Missaukee County
Monroe County	Monroe County
Montcalm County	Montcalm County
Montmorency County	Montgomery County
Mount Morris Township.	Mount Morris Township in Genesee County
Muskegon City	Muskegon City in Muskegon County
Balance of Muskegon County.	Muskegon County less Muskegon City
Newaygo County	Newaygo County
Oceana County	Oceana County
Ogemaw County	Ogemaw County
Ontonagon County	Ontonagon County
Osceola County	Osceola County
Otsego County	Otsego County
Pontiac City	Pontiac City in Oakland County
Port Huron City	Port Huron City in St. Clair County
Presque Isle County	Presque Isle County
Roscommon County	Roscommon County
Roseville City	Roseville City in Macomb County
Saginaw City	Saginaw City in Saginaw County
Balance of Saginaw County.	Saginaw County less Saginaw City
Sanilac County	Sanilac County
Schoolcraft County	Schoolcraft County
Shiawassee County	Shiawassee County
Balance of St. Clair County.	St. Clair County less Port Huron City
St. Joseph County	St. Joseph County
Taylor City	Taylor City in Wayne County
Tuscola County	Tuscola County
Van Buren County	Van Buren County
Warren City	Warren City in Macomb County
Waterford Township	Waterford Township in Oakland County
Westland City	Westland City in Wayne County
Wexford County	Wexford County
Wyandotte City	Wyandotte City in Wayne County
Ypsilanti Township	Ypsilanti Township in Washtenaw County
MINNESOTA:	
Aitkin County	Aitkin County
Becker County	Becker County
Carlton County	Carlton County
Cass County	Cass County
Clearwater County	Clearwater County
Hubbard County	Hubbard County
Itasca County	Itasca County
Kanabec County	Kanabec County
Kittson County	Kittson County
Lake County	Lake County
Mahnomen County	Mahnomen County
Marshall County	Marshall County
Meeker County	Meeker County
Morrison County	Morrison County
Pennington County	Pennington County
Pine County	Pine County
Polk County	Polk County
Red Lake County	Red Lake County
Todd County	Todd County
MISSISSIPPI:	
Adams County	Adams County
Alcorn County	Alcorn County
Amite County	Amite County
Attala County	Attala County
Benton County	Benton County
Biloxi City	Biloxi City in Harrison County
Bolivar County	Bolivar County
Carroll County	Carroll County
Chickasaw County	Chickasaw County
Choctaw County	Choctaw County
Claiborne County	Claiborne County
Clarke County	Clarke County
Clay County	Clay County
Coahoma County	Coahoma County
Columbus City	Columbus City in Lowndes County
Copiah County	Copiah County
Covington County	Covington County
Franklin County	Franklin County
George County	George County
Greene County	Greene County
Greenville City	Greenville City in Washington County
Grenada County	Grenada County
Gulfport City	Gulfport City in Harrison County
Hancock County	Hancock County
Balance of Hinds County.	Hinds County less Jackson City
Holmes County	Holmes County
Humphreys County	Humphreys County
Issaquena County	Issaquena County
Balance of Jackson County.	Jackson County less Pascagoula City
Jasper County	Jasper County
Jefferson County	Jefferson County
Jefferson Davis County.	Jefferson Davis County
Jones County	Jones County
Kemper County	Kemper County
Balance of Lauderdale County.	Lauderdale County less Meridian City
Lawrence County	Lawrence County
Leake County	Leake County
Leflore County	Leflore County
Lincoln County	Lincoln County
Madison County	Madison County
Marion County	Marion County
Marshall County	Marshall County
Monroe County	Monroe County
Montgomery County	Montgomery County
Neshoba County	Neshoba County
Newton County	Newton County
Noxubee County	Noxubee County
Panola County	Panola County
Pascagoula City	Pascagoula City in Jackson County
Pearl River County	Pearl River County
Perry County	Perry County
Pike County	Pike County
Prentiss County	Prentiss County
Quitman County	Quitman County
Scott County	Scott County
Sharkey County	Sharkey County
Simpson County	Simpson County
Smith County	Smith County
Stone County	Stone County
Sunflower County	Sunflower County
Tallahatchie County	Tallahatchie County
Tate County	Tate County
Tippah County	Tippah County
Tishomingo County	Tishomingo County
Tunica County	Tunica County
Vicksburg City	Vicksburg City in WarrenCounty
Walthall County	Walthall County
Balance of Warren County.	Warren County less Vicksburg City
Balance of Washington County.	Washington County less Greenville City
Wayne County	Wayne County
Webster County	Webster County
Wilkinson County	Wilkinson County
Winston County	Winston County
Yalobusha County	Yalobusha County
Yazoo County	Yazoo County
MISSOURI:	
Bates County	Bates County
Benton County	Benton County
Bollinger County	Bollinger County
Butler County	Butler County
Caldwell County	Caldwell County
Carroll County	Carroll County
Carter County	Carter County
Cedar County	Cedar County
Clinton County	Clinton County
Crawford County	Crawford County
Dallas County	Dallas County
Dent County	Dent County
Douglas County	Douglas County
Dunklin County	Dunklin County
Franklin County	Franklin County
Gasconade County	Gasconade County
Henry County	Henry County
Hickory County	Hickory County
Howell County	Howell County
Iron County	Iron County
Laclede County	Laclede County
Lafayette County	Lafayette County
Lincoln County	Lincoln County
Linn County	Linn County
Madison County	Madison County
Maries County	Maries County
Miller County	Miller County
Mississippi County	Mississippi County
Montgomery County	Montgomery County
New Madrid County	New Madrid County
Oregon County	Oregon County
Ozark County	Ozark County
Pemiscot County	Pemiscot County
Pettis County	Pettis County
Pike County	Pike County
Ray County	Ray County
Reynolds County	Reynolds County
Ripley County	Ripley County
Scott County	Scott County
Shannon County	Shannon County
St. Louis City	St. Louis City
St. Clair County	St. Clair County
St. Francois County	St. Francois County
Ste. Genevieve County	Ste. Genevieve County
Stoddard County	Stoddard County
Stone County	Stone County
Taney County	Taney County
Texas County	Texas County
Warren County	Warren County
Washington County	Washington County
Wayne County	Wayne County
Webster County	Webster County
Wright County	Wright County
MONTANA:	
Big Horn County	Big Horn County
Blaine County	Blaine County
Broadwater County	Broadwater County
Butte-Silver Bow City	Butte-Silver Bow City in Silver Bow County
Balance of Cascade County.	Cascade County less Great Falls City
Deer Lodge County	Deer Lodge County
Fergus County	Fergus County
Flathead County	Flathead County
Glacier County	Glacier County
Granite County	Granite County
Lake County	Lake County
Lincoln County	Lincoln County
Mineral County	Mineral County

Eligible labor surplus areas	Civil jurisdictions included
Muscatine County	Muscatine County
Park County	Park County
Ravalli County	Ravalli County
Richland County	Richland County
Roosevelt County	Roosevelt County
Rosebud County	Rosebud County
Sanders County	Sanders County
Balance of Silver Bow County County.	Silver Bow County less Butte-Silver Bow City
Wheatland County	Wheatland County
Wibaux County	Wibaux County
NEBRASKA:	
Thurston County	Thurston County
NEVADA:	
North Las Vegas City	North Las Vegas City in Clark County
NEW JERSEY:	
Atlantic City	Atlantic City in Atlantic County
Camden City	Camden City in Camden County
Cape May County	Cape May County
Balance of Cumberland County.	Cumberland County less Millville City
	Vineland City
Hoboken City	Hoboken City in Hudson County
Jersey City	Jersey City in Hudson County
Newark City	Newark City in Essex County
Passaic City	Passaic City in Passaic County
Paterson City	Paterson City in Passaic County
Union City	Union City in Hudson County
NEW MEXICO:	
Alamogordo City	Alamogordo City in Otero County
Balance of Bernalillo County.	Bernalillo County less Albuquerque City
Carlsbad City	Carlsbad City in Eddy County
Catron County	Catron County
Cibola County	Cibola County
Clovis City	Clovis City in Curry County
Colfax County	Colfax County
De Baca County	De Baca County
Balance of Dona Ana County.	Dona Ana County less Las Cruces City
Balance of Eddy County.	Eddy County less Carlsbad City
Farmington City	Farmington City in San Juan County
Grant County	Grant County
Guadalupe County	Guadalupe County
Harding County	Harding County
Hobbs City	Hobbs City in Lea County
Luna County	Luna County
McKinley County	McKinley County
Mora County	Mora County
Balance of Otero County.	Otero County less Alamogordo City
Quay County	Quay County
Rio Arriba County	Rio Arriba County
Balance of San Juan County.	San Juan County less Farmington City
San Miguel County	San Miguel County
Sandoval County	Sandoval County
Socorro County	Socorro County
Taos County	Taos County
Torrance County	Torrance County
Valencia County	Valencia County
NEW YORK:	
Auburn City	Auburn City in Cayuga County
Buffalo City	Buffalo City in Erie County
Cattaraugus County	Cattaraugus County
Clinton County	Clinton County
Essex County	Essex County
Franklin County	Franklin County
Fulton County	Fulton County
Hamilton County	Hamilton County
Balance of Jefferson County.	Jefferson County less Watertown City
Lewis County	Lewis County
Montgomery County	Montgomery County
Balance of Niagara County.	Niagara County less Niagara Falls City North Tonawanda City
Niagara Falls City	Niagara Falls City in Niagara County
Oneida County	Oneida County
Oswego County	Oswego County
St. Lawrence County	St. Lawrence County
Watertown City	Watertown City in Jefferson County
NORTH CAROLINA:	
Brunswick County	Brunswick County
Graham County	Graham County
Hyde County	Hyde County
Robeson County	Robeson County
Swain County	Swain County
Tyrrell County	Tyrrell County
Vance County	Vance County
Wilson City	Wilson City in Wilson County
NORTH DAKOTA:	
Benson County	Benson County
Dunn County	Dunn County
Eddy County	Eddy County
Kidder County	Kidder County
McHenry County	McHenry County
Mountrail County	Mountrail County
Pembina County	Pembina County
Rolette County	Rolette County
Sioux County	Sioux County
Slope County	Slope County
Wells County	Wells County
OHIO:	
Adams County	Adams County
Akron City	Akron City in Summit County
Ashtabula County	Ashtabula County
Barberton City	Barberton City in Summit County
Belmont County	Belmont County
Brown County	Brown County
Canton City	Canton City in Stark County
Carroll County	Carroll County
Cleveland City	Cleveland City in Cuyahoga County
Crawford County	Crawford County
Dayton City	Dayton City in Montgomery County
East Cleveland City	East Cleveland City in Cuyahoga County
Elyria City	Elyria City in Lorain County
Fayette County	Fayette County
Gallia County	Gallia County
Guernsey County	Guernsey County
Hamilton City	Hamilton City in Butler County
Hardin County	Hardin County
Harrison County	Harrison County
Highland County	Highland County
Hocking County	Hocking County
Huron County	Huron County
Jackson County	Jackson County
Jefferson County	Jefferson County
Lancaster City	Lancaster City in Fairfield County
Lima City	Lima City in Allen County
Lorain City	Lorain City in Lorain County
Mansfield City	Mansfield City in Richland County
Marion City	Marion City in Marion County
Massillon City	Massillon City in Stark County
Meigs County	Meigs County
Mercer County	Mercer County
Middletown City	Middletown City in Butler County
Monroe County	Monroe County
Morgan County	Morgan County
Balance of Muskingum County.	Muskingum County less Zanesville City
Newark City	Newark City in Licking County
Noble County	Noble County
Ottawa County	Ottawa County
Perry County	Perry County
Pike County	Pike County
Putnam County	Putnam County
Ross County	Ross County
Sandusky County	Sandusky County
Scioto County	Scioto County
Seneca County	Seneca County
Toledo City	Toledo City in Lucas County
Balance of Trumbull County.	Trumbull County less Warren City
Tuscarawas County	Tuscarawas County
Vinton County	Vinton County
Warren City	Warren City in Trumbull County
Youngstown City	Youngstown City in Mahoning County
Zanesville City	Zanesville City in Muskingum County
OKLAHOMA:	
Beckham County	Beckham County
Caddo County	Caddo County
Carter County	Carter County
Cherokee County	Cherokee County
Choctaw County	Choctaw County
Coal County	Coal County
Creek County	Creek County
Garvin County	Garvin County
Grady County	Grady County
Harmon County	Harmon County
Haskell County	Haskell County
Hughes County	Hughes County
Latimer County	Latimer County
Le Flore County	Le Flore County
Lincoln County	Lincoln County
Mayes County	Mayes County
McCurtain County	McCurtain County
Murray County	Murray County
Muskogee City	Muskogee City in Muskogee County
Balance of Muskogee County.	Muskogee County less Muskogee City
Nowata County	Nowata County
Okfuskee County	Okfuskee County
Okmulgee County	Okmulgee County
Ottawa County	Ottawa County
Pawnee County	Pawnee County
Pittsburg County	Pittsburg County
Pontotoc County	Pontotoc County
Pushmataha County	Pushmataha County
Roger Mills County	Roger Mills County
Rogers County	Rogers County
Seminole County	Seminole County
Sequoyah County	Sequoyah County
Shawnee City	Shawnee City in Pottawatomie County
Stephens County	Stephens County
Tillman County	Tillman County
Balance of Tulsa County.	Tulsa County less Broken Arrow City Tulsa City

Eligible labor surplus areas	Civil jurisdictions included
Woodward County	Woodward County
OREGON:	
Baker County	Baker County
Columbia County	Columbia County
Coos County	Coos County
Crook County	Crook County
Deschutes County	Deschutes County
Douglas County	Douglas County
Grant County	Grant County
Harney County	Harney County
Hood River County	Hood River County
Balance of Jackson County.	Jackson County less Medford City
Josephine County	Josephine County
Klamath County	Klamath County
Lake County	Lake County
Balance of Linn County.	Linn County less Albany City
Malheur County	Malheur County
Medford City	Medford City in Jackson County
Morrow County	Morrow County
Sherman County	Sherman County
Springfield City	Springfield City in Lane County
Tillamook County	Tillamook County
Umatilla County	Umatilla County
Union County	Union County
Wallowa County	Wallowa County
Wasco County	Wasco County
Wheeler County	Wheeler County
PENNSYLVANIA:	
Altoona City	Altoona City in Blair County
Armstrong County	Armstrong County
Beaver County	Beaver County
Bedford County	Bedford County
Balance of Cambria County.	Cambria County less Johnstown City
Clarion County	Clarion County
Clearfield County	Clearfield County
Clinton County	Clinton County
Fayette County	Fayette County
Forest County	Forest County
Greene County	Greene County
Huntingdon County	Huntingdon County
Indiana County	Indiana County
Jefferson County	Jefferson County
Johnstown City	Johnstown City in Cambria County
Juniata County	Juniata County
Mifflin County	Mifflin County
Northumberland County.	Northumberland County
Somerset County	Somerset County
Balance of Westmoreland County.	Westmoreland County less Hempfield Township and North Huntingdon Township
Wilkes-Barre City	Wilkes-Barre City in Luzerne County
PUERTO RICO:	
Adjuntas Municipio	Adjuntas Municipio
Aguada Municipio	Aguada Municipio
Aguadilla Municipio	Aguadilla Municipio
Aguas Buenas Municipio.	Aguas Buenas Municipio
Aibonito Municipio	Aibonito Municipio
Arecibo Municipio	Arecibo Municipio
Arroyo Municipio	Arroyo Municipio
Barceloneta Municipio	Barceloneta Municipio
Barranquitas Municipio	Barranquitas Municipio
Bayamon Municipio	Bayamon Municipio
Cabo Rojo Municipio	Cabo Rojo Municipio
Caguas Municipio	Caguas Municipio
Camuy Municipio	Camuy Municipio
Canovanas Municipio	Canovanas Municipio
Carolina Municipio	Carolina Municipio
Catano Municipio	Catano Municipio
Cayey Municipio	Cayey Municipio
Ceiba Municipio	Ceiba Municipio
Ciales Municipio	Ciales Municipio
Cidra Municipio	Cidra Municipio
Coamo Municipio	Coamo Municipio
Comerio Municipio	Comerio Municipio
Corozal Municipio	Corozal Municipio
Culebra Municipio	Culebra Municipio
Dorado Municipio	Dorado Municipio
Fajardo Municipio	Fajardo Municipio
Florida Municipio	Florida Municipio
Guanica Municipio	Guanica Municipio
Guayama Municipio	Guayama Municipio
Guayanilla Municipio	Guayanilla Municipio
Gurabo Municipio	Gurabo Municipio
Hatillo Municipio	Hatillo Municipio
Hormigueros Municipio	Hormigueros Municipio
Humacao Municipio	Humacao Municipio
Isabela Municipio	Isabela Municipio
Jayuya Municipio	Jayuya Municipio
Juana Diaz Municipio	Juana Diaz Municipio
Juncos Municipio	Juncos Municipio
Lajas Municipio	Lajas Municipio
Lares Municipio	Lares Municipio
Las Marias Municipio	Las Marias Municipio
Las Piedras Municipio	Las Piedras Municipio
Loiza Municipio	Loiza Municipio
Luquillo Municipio	Luquillo Municipio
Manati Municipio	Manati Municipio
Maricao Municipio	Maricao Municipio
Maunabo Municipio	Maunabo Municipio
Mayaguez Municipio	Mayaguez Municipio
Moca Municipio	Moca Municipio
Morovis Municipio	Morovis Municipio
Naguabo Municipio	Naguabo Municipio
Naranjito Municipio	Naranjito Municipio
Orocovis Municipio	Orocovis Municipio
Patillas Municipio	Patillas Municipio
Penuelas Municipio	Penuelas Municipio
Ponce Municipio	Ponce Municipio
Quebradillas Municipio	Quebradillas Municipio
Rincon Municipio	Rincon Municipio
Rio Grande Municipio	Rio Grande Municipio
Sabana Grande Municipio.	Sabana Grande Municipio
Salinas Municipio	Salinas Municipio
San German Municipio	San German Municipio
San Juan Municipio	San Juan Municipio
San Lorenzo Municipio	San Lorenzo Municipio
San Sebastian Municipio.	San Sebastian Municipio
Santa Isabel Municipio	Santa Isabel Municipio
Toa Alta Municipio	Toa Alta Municipio
Toa Baja Municipio	Toa Baja Municipio
Utuado Municipio	Utuado Municipio
Vega Alta Municipio	Vega Alta Municipio
Vega Baja Municipio	Vega Baja Municipio
Vieques Municipio	Vieques Municipio
Villalba Municipio	Villalba Municipio
Yabucoa Municipio	Yabucoa Municipio
Yauco Municipio	Yauco Municipio
RHODE ISLAND:	
New Shoreham Town	New Shoreham Town
SOUTH CAROLINA:	
Allendale County	Allendale County
Bamberg County	Bamberg County
Barnwell County	Barnwell County
Chester County	Chester County
Clarendon County	Clarendon County
Dillon County	Dillon County
Georgetown County	Georgetown County
Balance of Horry County.	Horry County less Myrtle Beach City
Marion County	Marion County
Marlboro County	Marlboro County
McCormick County	McCormick County
North Charleston City	North Charleston City in Charleston County
Orangeburg County	Orangeburg County
Williamsburg County	Williamsburg County
SOUTH DAKOTA:	
Buffalo County	Buffalo County
Corson County	Corson County
Dewey County	Dewey County
Shannon County	Shannon County
TENNESSEE:	
Campbell County	Campbell County
Cannon County	Cannon County
Carroll County	Carroll County
Balance of Carter County.	Carter County less Johnson City
Claiborne County	Claiborne County
Cocke County	Cocke County
Cumberland County	Cumberland County
DeKalb County	DeKalb County
Decatur County	Decatur County
Fayette County	Fayette County
Fentress County	Fentress County
Gibson County	Gibson County
Giles County	Giles County
Grainger County	Grainger County
Greene County	Greene County
Grundy County	Grundy County
Hardeman County	Hardeman County
Hardin County	Hardin County
Haywood County	Haywood County
Henderson County	Henderson County
Henry County	Henry County
Houston County	Houston County
Humphreys County	Humphreys County
Jackson County	Jackson County
Johnson County	Johnson County
Lauderdale County	Lauderdale County
Lawrence County	Lawrence County
Lewis County	Lewis County
Macon County	Macon County
Marion County	Marion County
McNairy County	McNairy County
Meigs County	Meigs County
Monroe County	Monroe County
Morgan County	Morgan County
Overton County	Overton County
Pickett County	Pickett County
Polk County	Polk County
Rhea County	Rhea County
Scott County	Scott County
Sevier County	Sevier County
Unicoi County	Unicoi County
Van Buren County	Van Buren County
Warren County	Warren County
Wayne County	Wayne County
White County	White County
TEXAS:	
Abilene City	Abilene City in Jones County, Taylor County
Anderson County	Anderson County
Balance of Angelina County.	Angelina County less Lufkin City
Aransas County	Aransas County
Atascosa County	Atascosa County
Bastrop County	Bastrop County
Baytown City	Baytown City in Harris County
Beaumont City	Beaumont City in Jefferson County
Bee County	Bee County
Balance of Bell County	Bell County less Killeen City Temple City
Big Spring City	Big Spring City in Howard County
Balance of Bowie County.	Bowie County less Texarkana City Tex
Brazoria County	Brazoria County
Brooks County	Brooks County
Brown County	Brown County
Brownsville City	Brownsville City in Cameron County
Burleson County	Burleson County
Caldwell County	Caldwell County
Calhoun County	Calhoun County

Eligible labor surplus areas	Civil jurisdictions included
Balance of Cameron County.	Cameron County less Brownsville City; Harlingen City
Camp County	Camp County
Cass County	Cass County
Chambers County	Chambers County
Childress County	Childress County
Coleman County	Coleman County
Comanche County	Comanche County
Corpus Christi City	Corpus Christi City in Nueces County
Coryell County	Coryell County
Crockett County	Crockett County
Dallas City	Dallas City in Collin County; Dallas County; Denton County
Dawson County	Dawson County
Deaf Smith County	Deaf Smith County
Del Rio City	Del Rio City in Val Verde County
Denton City	Denton City in Denton County
Dimmit County	Dimmit County
Duval County	Duval County
Eastland County	Eastland County
Balance of Ector County.	Ector County less Odessa City
Edinburg City	Edinburg City in Hidalgo County
Edwards County	Edwards County
El Paso City	El Paso City in El Paso County
Balance of El Paso County.	El Paso County less El Paso City
Ellis County	Ellis County
Fannin County	Fannin County
Franklin County	Franklin County
Freestone County	Freestone County
Frio County	Frio County
Ft. Worth City	Ft Worth City in Tarrant County
Gaines County	Gaines County
Galveston City	Galveston City in Galveston County
Balance of Galveston County.	Galveston County less Galveston City; Texas City
Garza County	Garza County
Balance of Grayson County.	Grayson County less Sherman City
Balance of Gregg County.	Gregg County less Longview City
Hall County	Hall County
Hardin County	Hardin County
Harlingen City	Harlingen City in Cameron County
Balance of Harrison County.	Harrison County less Longview City
Henderson County	Henderson County
Balance of Hidalgo County.	Hidalgo County less Edinburg City; McAllen City; Mission City
Hill County	Hill County
Hopkins County	Hopkins County
Houston City	Houston City in Fort Bend County; Harris County
Jasper County	Jasper County
Jim Hogg County	Jim Hogg County
Jim Wells County	Jim Wells County
Balance of Jones County.	Jones County less Abilene City
Killeen City	Killeen City in Bell County
Kingsville City	Kingsville City in Kleberg County
Kinney County	Kinney County
La Salle County	La Salle County
Laredo City	Laredo City in Webb County
Leon County	Leon County
Liberty County	Liberty County
Live Oak County	Live Oak County
Longview City	Longview City in Gregg County; Harrison County
Loving County	Loving County
Marion County	Marion County
Matagorda County	Matagorda County
Maverick County	Maverick County
McAllen City	McAllen City in Hidalgo County
McCulloch County	McCulloch County
Milam County	Milam County
Mission City	Mission City in Hidalgo County
Mitchell County	Mitchell County
Morris County	Morris County
Nacogdoches City	Nacogdoches City in Nacogdoches County
Navarro County	Navarro County
Newton County	Newton County
Nolan County	Nolan County
Balance of Nueces County.	Nueces County less Corpus Christi City
Odessa City	Odessa City in Ector County
Orange City	Orange City in Orange County
Balance of Orange County.	Orange County less Orange City
Palo Pinto County	Palo Pinto County
Paris City	Paris City in Lamar County
Pasadena City	Pasadena City in Harris County
Pecos County	Pecos County
Polk County	Polk County
Port Arthur City	Port Arthur City in Jefferson County
Presidio County	Presidio County
Raine County	Raine County
Balance of Randall County.	Randall County less Amarillo City
Red River County	Red River County
Reeves County	Reeves County
Robertson County	Robertson County
Rusk County	Rusk County
Sabine County	Sabine County
San Antonio City	San Antonio City in Bexar County
San Marcos City	San Marcos City in Hays County
San Patricio County	San Patricio County
Schleicher County	Schleicher County
Shelby County	Shelby County
Balance of Smith County.	Smith County less Tyler City
Somervell County	Somervell County
Starr County	Starr County
Sutton County	Sutton County
Texarkana City Tex	Texarkana City Tex in Bowie County
Texas City	Texas City in Galveston County
Titus County	Titus County
Tyler City	Tyler City in Smith County
Tyler County	Tyler County
Upshur County	Upshur County
Uvalde County	Uvalde County
Victoria City	Victoria City in Victoria County
Waco City	Waco City in McLennan County
Waller County	Waller County
Ward County	Ward County
Willacy County	Willacy County
Winkler County	Winkler County
Wood County	Wood County
Zapata County	Zapata County
Zavala County	Zavala County
UTAH:	
Carbon County	Carbon County
Duchesne County	Duchesne County
Emery County	Emery County
Garfield County	Garfield County
Grand County	Grand County
Juab County	Juab County
Morgan County	Morgan County
Ogden City	Ogden City in Weber County
Piute County	Piute County
San Juan County	San Juan County
Sanpete County	Sanpete County
Uintah County	Uintah County
Wasatch County	Wasatch County
Wayne County	Wayne County
VIRGINIA:	
Alleghany County	Alleghany County
Bath County	Bath County
Buchanan County	Buchanan County
Buena Vista City	Buena Vista City
Charlotte County	Charlotte County
Covington City	Covington City
Dickenson County	Dickenson County
Giles County	Giles County
Grayson County	Grayson County
Halifax County	Halifax County
Henry County	Henry County
Highland County	Highland County
Lancaster County	Lancaster County
Lee County	Lee County
Lunenburg County	Lunenburg County
Martinsville City	Martinsville City
Northampton County	Northampton County
Northumberland County.	Northumberland County
Norton City	Norton City
Page County	Page County
Pittsylvania County	Pittsylvania County
Portsmouth City	Portsmouth City
Prince Edward County	Prince Edward County
Pulaski County	Pulaski County
Russell County	Russell County
Smyth County	Smyth County
South Boston City	South Boston City
Surry County	Surry County
Tazewell County	Tazewell County
Westmoreland County	Westmoreland County
Wise County	Wise County
WASHINGTON:	
Adams County	Adams County
Bellingham City	Bellingham City in Whatcom County
Balance of Benton County.	Benton County less Kennewick City, Richland City
Chelan County	Chelan County
Clallam County	Clallam County
Columbia County	Columbia County
Balance of Cowlitz County.	Cowlitz County less Longview City
Douglas County	Douglas County
Ferry County	Ferry County
Franklin County	Franklin County
Grant County	Grant County
Grays Harbor County	Grays Harbor County
Kennewick City	Kennewick City in Benton County
Kittitas County	Kittitas County
Klickatat County	Klickitat County
Lewis County	Lewis County
Longview City	Longview City in Cowlitz County
Mason County	Mason County
Okanogan County	Okanogan County
Pacific County	Pacific County
Pend Oreille County	Pend Oreille County
Skagit County	Skagit County
Skamania County	Skamania County
Stevens County	Stevens County

BEST COPY AVAILABLE

Eligible labor surplus areas	Civil jurisdictions included
Tacoma City	Tacoma City in Pierce County
Vancouver City	Vancouver City in Clark County
Wahkiakum County	Wahkiakum County
Walla Walla City	Walla Walla City in Walla Walla County
Yakima City	Yakima City in Yakima County
Balance of Yakima County.	Yakima County less Yakima City
WEST VIRGINIA:	
Barbour County	Barbour County
Boone County	Boone County
Braxton County	Braxton County
Brooke County	Brooke County
Balance of Cabell County.	Cabell County less Huntington City
Calhoun County	Calhoun County
Clay County	Clay County
Doddridge County	Doddridge County
Fayette County	Fayette County
Gilmer County	Gilmer County
Grant County	Grant County
Greenbrier County	Greenbrier County
Hampshire County	Hampshire County
Hancock County	Hancock County
Hardy County	Hardy County
Harrison County	Harrison County
Jackson County	Jackson County
Balance of Kanawha County.	Kanawha County less Charleston City
Lewis County	Lewis County
Lincoln County	Lincoln County
Logan County	Logan County
Marion County	Marion County
Balance of Marshall County.	Marshall County less Wheeling City
Mason County	Mason County
Mc Dowell County	Mc Dowell County
Mercer County	Mercer County
Mingo County	Mingo County
Monroe County	Monroe County
Nicholas County	Nicholas County
Balance of Ohio County.	Ohio County less Wheeling City
Parkersburg City	Parkersburg City in Wood County
Pleasants County	Pleasants County
Pocahontas County	Pocahontas County
Preston County	Preston County
Putnam County	Putnam County
Raleigh County	Raleigh County
Randolph County	Randolph County
Ritchie County	Ritchie County
Roane County	Roane County
Summers County	Summers County
Taylor County	Taylor County
Tucker County	Tucker County
Tyler County	Tyler County
Upshur County	Upshur County
Balance of Wayne County.	Wayne County less Huntington City
Webster County	Webster County
Wetzel County	Wetzel County
Wirt County	Wirt County
Balance of Wood County.	Wood County less Parkersburg City
Wyoming County	Wyoming County
WISCONSIN:	
Ashland County	Ashland County
Clark County	Clark County
Door County	Door County
Iron County	Iron County
Kenosha City	Kenosha City in Kenosha County
Menominee County	Menominee County
Rusk County	Rusk County
Sawyer County	Sawyer County
Taylor County	Taylor County
Washburn County	Washburn County
WYOMING:	
Big Horn County	Big Horn County
Campbell County	Campbell County
Carbon County	Carbon County
Casper City	Casper City in Natrona County
Converse County	Converse County
Fremont County	Fremont County
Lincoln County	Lincoln County
Platte County	Platte County
Sweetwater County	Sweetwater County
Uinta County	Uinta County
Weston County	Weston County

[FR Doc. 90-24751 Filed 10-18-90; 8:45 am]
BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-90-146-C]

Clinchfield Coal Co. Petition for Modification of Application of Mandatory Safety Standard

Clinchfield Coal Company, P.O. Box 7, Dante, Virginia 24237, has filed a petition to modify the application of 30 CFR 75.1710-1 (canopies or cabs; self-propelled electric face equipment; installation requirements) to its Triple C No. 1 Mine (I.D. No. 44-06375) located in Dickenson County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that approved canopies be installed on electric face equipment at certain minimum heights.

2. The height of the coal seam is irregular, ranging from 24 to 60 inches, and the haulage roadways are very uneven.

3. The installation of canopies on the shuttle cars and scoops used in the mine would cause roof supports to be dislodged, decrease the operator's visibility, and create discomfort to the operator, resulting in a diminution of safety.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 19, 1990. Copies of the petition are available for inspection at that address.

Dated: October 12, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-24752 Filed 10-18-90; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-90-15-M]

Coggins/Continental Granite, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Coggins/Continental Granite, Inc., P.O. Box 250, Elberton, Georgia 30635, has filed a petition to modify the application of 30 CFR 56.14211 (blocking equipment in a raised position) to its Berkeley Quarry (I.D. No. 0900004) located in DeKalb County, Georgia; its Oglesby Quarry (I.D. No. 0900990) located in Elbert County, Georgia; and its Elberta Quarry (I.D. No. 0901052) located in Elbert County, Georgia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the requirement that persons not work on top of, under, or work from a raised component of mobile equipment until the component has been blocked or mechanically secured to prevent accidental lowering. The equipment must also be blocked or secured to prevent rolling.

2. As an alternate method, the petitioner proposes to suspend the work platforms from cranes and derricks by attaching them to the load lines.

3. In support of this request, the petitioner states that:

(a) Miners have to periodically work on platforms eight feet wide and twelve to forty feet long, two to twelve feet above the quarry floor.

(b) Lowering the platform to five and a half feet below the top of the ledge would cause the angle of the cables to be very sharp and place the cables in the way of the workers.

(c) The placement of legs on the platform would not be feasible due to the varied heights involved and the uneven quarry floor.

4. The petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 19, 1990. Copies of the petition are available for inspection at that address.

Dated: October 11, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-24753 Filed 10-18-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-90-14-M]

Coggins/Continental Granite, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Coggins/Continental Granite, Inc., P.O. Box 250, Elberton, Georgia 30635, has filed a petition to modify the application of 30 CFR 56.14211 (blocking equipment in a raised position) to its Royalty Quarry (I.D. No. 0900028) located in Madison County, Georgia, and to its Millstone Quarry (I.D. No. 0900680) located in Oglethorpe County, Georgia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that persons not work on top of, under, or work from a raised component of mobile equipment until the component has been blocked or mechanically secured to prevent accidental lowering. The equipment must also be blocked or secured to prevent rolling.

2. As an alternate method, the petitioner proposes to suspend the work platforms from cranes and derricks by attaching them to the load lines.

3. In support of this request, the petitioner states that:

(a) Miners have to periodically work on platforms eight feet wide and twelve to forty feet long, two to twelve feet above the quarry floor.

(b) Lowering the platform to five and a half feet below the top of the ledge would cause the angle of the cables to be very sharp and place the cables in the way of the workers.

(c) The placement of legs on the platforms would not be feasible due to the varied heights involved and the uneven quarry floor.

4. The petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 19, 1990. Copies of the petition are available for inspection at that address.

Dated: October 11, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-24754 Filed 10-18-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-90-149-C]

Consolidation Coal Co., Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241-1421, has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Osage No. 3 Mine (I.D. No. 46-01455) located in Monongalia County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that aircourses be examined in their entirety on a weekly basis by a certified person.

2. Due to roof falls and adverse conditions, certain areas of the mine cannot be safely traveled.

3. As an alternate method, petitioner proposes to establish monitoring stations at specific locations.

4. In support of this request, petitioner states that:

(a) Tests for methane and the quantity of air would be made by a certified person on a weekly basis and a record maintained in a book kept on the surface and made available for inspection.

(b) Monitoring stations and the approaches to such stations would at all times be maintained in safe condition.

5. Petitioner states that the proposed alternate method would at all times provide the same measure of protection to the miners as would be provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 19, 1990. Copies of the petition are available for inspection at that address.

Dated: October 12, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-24755 Filed 10-18-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-90-12-M

Kosmos Cement Co.; Petition for Modification of Application of Mandatory Safety Standard

Kosmos Cement Company, Neville Island, Pittsburgh, Pennsylvania 15225, has filed a petition to modify the application of 30 CFR 56.14211 (blocking equipment in a raised position) to its Deckers Creek Mine (I.D. No. 3606078) located in Allegheny County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that equipment be blocked in a raised position.

2. The petitioner states that application of the standard would result in a diminution of safety for the following reasons:

(a) Employees must be lifted and lowered into areas that require maintenance, and the work basket cannot be rigidly attached to the hydraulic boom of the crane or attached to the boom with fixed cables.

(b) Employees would have to use a 55-foot extension ladder to enter some work areas.

(c) The petitioner proposes to use a hydraulic boom crane to lift and lower employees.

4. For these reasons, the petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office

of Standards, Regulatoins and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 19, 1990. Copies of the petition are available for inspection at that address.

Dated: October 11, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-24756 Filed 10-18-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-90-142-C]

Minton Hickory Coal Co., Inc., Petition for Modification of Application of Mandatory Safety Standard

Minton Hickory Coal Company, Inc., P.O. Box 922, Barbourville, Kentucky 40906, has filed a petition to modify the application of 30 CFR 75.313 (methane monitor) to its No. 5 Mine (I.D. No. 15-16962) located in Knox County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a methane monitor be installed on electric face cutting equipment, continuous mining machines, longwall face equipment and loading machines. The monitor is required to be property maintained and frequently tested.

2. As an alternate method, petitioner proposes to use handheld continuous oxygen and methane monitors instead of methane monitors on three-wheel tractors as outlined in the petition.

3. In support of this request, petitioner states that:

(a) No methane has been detected in the mine;

(b) Each three-wheel tractor would be quipped with a handheld continous monitoring methane and oxygen detector and all persons would be trained in the use of the detector;

(c) Prior to allowing the coal loading tractor in the face area, a gas test would be performed to determine the methane concentration in the atmosphere.

(d) If one percent methane is detected, an audible alarm would sound. The tractor operator would manually deenergize the battery tractor immediately. Production would cease and would not resume until the methane level is lower than one percent.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variancnes, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 19, 1990. Copies of the petition are available for inspection at that address.

Dated: October 12, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-24757 Filed 10-18-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-90-139-C]

Peabody Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Peabody Coal Company, P.O. Box 373, St. Louis, Missouri 63166, has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its Marissa Mine (I.D. No. 11-02440) located in Washington County, Illinois; its Baldwin Mine (I.D. No. 11-01008) located in Randolph County, Illinois; and its Eagle No. 2 Mine (I.D. No. 11-00566) located in Gallatin County, Illinois. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air currents used to ventilate structures or areas enclosing electrical installations be coursed directly into the return.

2. Petitioner states that application of the standard would result in a diminution of safety for the following reasons:

(a) Airborne dust would be deposited in and on the electrical components of the transformers, causing arcing between components;

(b) Air velocities would be increased on track and belt entries; and

(c) Areas of unstable roof could fall, pushing out return stoppings and causing return air to be coursed over electrical installations.

3. As an alternate method, the petitioner proposes to use dry type, sheet steel enclosed electrical transformers equipped with safety equipment, installed in crosscuts adjacent to the track entry where they can be observed, maintained, and kept clean and dusted. Fire sensors would be placed above the transformers. Belt and track entries would not be used to ventilate the working sections.

4. For these reasons, the petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 19, 1990. Copies of the petition are available for inspection at that address.

Dated: October 11, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-24758 Filed 10-18-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-90-144-C]

Wolf-Creek Collieries Co.; Petition for Modification of Application of Mandatory Safety Standard

Wolf-Creek Collieries Company, Caller 802, Lovely, Kentucky 41231, has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Mine No. 4, Longwall Panel J (I.D. No. 15-04020) located in Martin County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that trolley wires and trolley feeder wires, high-voltage cables and transformers not be located inby the last open crosscut and be kept at least 150 feet from pillar workings.

2. Petitioner wishes to amend existing petition M-89-138, which permits the use of high-voltage cables to supply power to permissible longwall face equipment in or inby the last open crosscut.

3. Petitioner states that the proposed changes would at all times guarantee no less than the same measure of protection for the workers.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 19, 1990. Copies of the petition are available for inspection at that address.

Dated: October 11, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-24730 Filed 10-18-90; 8:45am]

BILLING CODE 4510-43-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting of the Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506:

FOR FURTHER INFORMATION CONTACT: Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone 202/786-0322.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; or (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), and (6) of section 552b of title 5, United States Code.

1. *Date:* November 1-2, 1990
Time: 9:00 a.m. to 5:30 p.m.
Room: 430
Program: This meeting will review applications submitted to Public Humanities Projects program for the September 1990 deadline for the Division of General Programs, for projects beginning after April 1, 1991.

2. *Date:* November 1-2, 1990
Time: 8:30 a.m. to 5:30 p.m.
Room: 415
Program: This meeting will review applications submitted for Humanities Projects in Media, submitted to the Division of General Programs, for projects beginning after April 1, 1991.

3. *Date:* November 2, 1990
Time: 8:30 a.m. to 5:00 p.m.
Room: 315
Program: This meeting will review Texts/ Translations applications in Classics & Philosophy, submitted to the Division of Research Programs, for projects beginning after April 1, 1991.

4. *Date:* November 5, 1990
Time: 9:00 a.m. to 5:00 p.m.
Room: 316-2
Program: This meeting will review Texts/ Translations applications in American & African Studies, submitted to the Division of Research Programs, for projects beginning after April 1, 1991.

5. *Date:* November 6, 1990
Time: 9:00 a.m. to 5:30 p.m.
Room: 315
Program: This meeting will review applications, submitted to the October 1 deadline in Higher Education in the Humanities Program, submitted to the Division of Education Programs, for projects beginning after March 1, 1991.

6. *Date:* November 6-7, 1990
Time: 8:30 a.m. to 5:30 p.m.
Room: 415
Program: This meeting will review applications submitted for Humanities Projects in Media, submitted to the division of General Programs, for projects beginning after April 1, 1991.

7. *Date:* November 13, 1990
Time: 9:30 a.m. to 5:30 p.m.
Room: 315
Program: This meeting will review applications submitted to the October 1 deadline in the Higher Education in the Humanities Program, submitted to the Division of Education Programs, for projects beginning after March 1, 1991.

8. *Date:* November 14, 1990
Time: 9:00 a.m. to 5:30 p.m.
Room: 315
Program: This meeting will review applications submitted to the October 1 deadline in the Higher Education in the Humanities Program, submitted to the Division of Education Programs, for projects beginning after March 1, 1991.

9. *Date:* November 15-16, 1990
Time: 8:30 a.m. to 5:30 p.m.
Room: 415
Program: This meeting will review applications submitted for Humanities Projects in Media, submitted to the Division of General Programs, for projects beginning after April 1, 1991.

10. *Date:* November 15, 1990
Time: 9:00 a.m. to 5:30 p.m.
Room: 315
Program: This meeting will review applications submitted to the October 1 deadline in the Higher Education in the Humanities Program, submitted to the Division of Education Programs, for projects beginning after March 1, 1991.

11. *Date:* November 30, 1990
Time: 8:30 a.m. to 5:00 p.m.
Room: 415
Program: This meeting will review Exemplary applications submitted by state humanities councils to the Division of State Programs for projects beginning after February 1991.

Stephen J. McCleary,

Advisory Committee, Management Officer.

[FR Doc. 90-24720 Filed 10-18-90; 8:45 am]

BILLING CODE 7536-01-M

NATIONAL SCIENCE FOUNDATION

Forms Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting this notice of information collection that will affect the public. Interested persons are invited to submit comments by October 31, 1990. Comments may be submitted to:

1. *Agency Clearance Officer:* Herman G. Fleming, (202) 357-9520. Written comments to: Reports Clearance Officer, Division of Personnel and Management, National Science Foundation, 1800 G St. NW., Washington, DC 20550.

2. *OMB Desk Officer:* Written comments to: Office of Information and Regulatory Affairs, ATTN: Dan Chenok, Desk Officer, OMB, 722 Jackson Place, Room 3208, NEOB, Washington, DC 20503.

Title: National Science Foundation Reviewer Background and Proposal Evaluation Process.

Affected Public: Individuals.

Reponese/Burden Hours: 15,000 responses to the background data sheets at 5 minutes per response; 120,000 proposal evaluations at 5 hours per evaluation.

Abstract: The National Science Foundation's scientists, engineers and other officials evaluate all proposals submitted to the agency. To assist them in the evaluation process, the Foundation obtains the advice of scientists, engineers and others who are specialists in the fields covered in the proposals. Assistance is obtained

through mail review and assembled panels.

Dated: October 15, 1990.

Herman G. Fleming,

NSF Clearance Officer.

[FR Doc. 90-24630 Filed 10-18-90; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Biological, Behavioral, and Social Sciences; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Committee for Biological, Behavioral, and Social Sciences (BBS).

Date and Time: November 6, 1990; 9 a.m. to 5 p.m.; November 8, 1990; 8 a.m. to 12 p.m.

Place: Room 1242-1248, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Type of Meeting: Open.

Contact Person: Dr. Mary E. Clutter, Assistant Director, Biological, Behavioral, and Social Sciences, (202) 357-9854, Room 306, National Science Foundation, Washington, DC 20550.

Summary of Minutes: May be obtained from the contact person.

Purpose of Advisory Committee: The Advisory Committee for BBS provides advice, recommendations, and oversight concerning major program emphases, directions, and goals for the research-related activities of the divisions that make up BBS.

Agenda: Briefing on the NSF/BBS FY 1991 Budget; discussion of directorate-wide priorities and activities.

Dated: October 15, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90-24631 Filed 10-18-90; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Cell Biology Program; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Cell Biology Program.

Date and Time: November 5-7, 1990, 8:30 a.m. to 5 p.m.

Place: National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Type of Meeting: Part Open—Closed 11/5-8:30 a.m. to 5 p.m.; Open 11/6-12 p.m. to 1:30 p.m.; Closed 11/7-8:30 a.m. to 5 p.m. All other times the meeting is closed.

Contact Person: Dr. Maryanne P. Henkart, Program Director, Cell Biology Program, Room 321, National Science Foundation, Washington, DC 20550.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for research in Cell Biology.

Agenda: Open—General discussion of current status and future plans of the Cell Biology Program. Closed—To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of U.S.C. 552b(c), Government in the Sunshine Act.

Dated: October 15, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90-24632 Filed 10-18-90; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Earth Sciences; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Committee for Earth Sciences.

Date: November 7-9, 1990.

Time: 8:30 a.m. to 5 p.m., November 7; 8:30 a.m. to 5 p.m., November 8; 8:30 a.m. to 5 p.m., November 9.

Place: The National Science Foundation, Room 543, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Open—November 8—8:30 a.m. to 5 p.m.; November 9—8:30 a.m. to 5 p.m. Closed—November 7—8:30 a.m. to 5 p.m.

Contact Person: Dr. James F. Hays, Division Director, Division of Earth Sciences, Room 602, National Science Foundation, Washington, DC 20550. Telephone: (202) 357-7958.

Purpose of Meeting: To provide advice, recommendations, and oversight concerning support for research and research-related activities in the Earth Sciences.

Agenda: Closed—Oversight review of Continental Dynamics Program, including examination of proposals, reviewer comments, and other privileged material. Open—Review ACES resolutions; report on EAR role in Education and Human Resource programs; discuss EAR's response to Global Change programs, International decade of Natural Hazard Reduction and other environmental concerns; review the Continental Dynamics Program; discuss EAR responses to NSF policy statement on Sharing of Research Materials, and general discussion.

Reason for Closing: The proposals being reviewed include information of proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Dated: October 15, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90-24633 Filed 10-18-90; 8:45 am]

BILLING CODE 7555-01-M

Meeting: Engineering Advisory Committee

The National Science Foundation announces the following meeting:

NAME: Advisory Committee for Engineering.

DATE AND TIME: November 7-8, 1990. 9 a.m.-5 p.m., November 7, 1990 (open). 8 a.m.-9 a.m., November 8, 1990 (closed). 9 a.m.-12 Noon, November 8, 1990 (open).

PLACE: National Science Foundation, 1800 "G" Street, NW., room 540, Washington, DC 20550.

TYPE OF MEETING: Partially closed.

CONTACT PERSON: Dr. William S. Butcher, Advisory Committee for Engineering, room 537, National Science Foundation, Washington, DC 20550, Telephone: (202) 357-9832.

MINUTES: Dr. William S. Butcher at the above address.

PURPOSE OF MEETING: To provide advice, recommendations, and counsel on major goals and policies pertaining to Engineering programs and activities.

REASON FOR CLOSING: The personnel matters being discussed include information of a personal nature where disclosure would constitute unwarranted invasions of personal privacy. These matters are within exemption 6 of U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: The determination made on October 11, 1990 by the Acting Director of the National Science Foundation pursuant to the provisions of section 10(d) of Public Law 92-463.

AGENDA: *Thursday, November 8, 1990, room 540, 8 a.m. to 9 a.m.—Closed*

Discussion of personnel issues including candidates for vacancies.

Wednesday, November 7, 1990, room 540, 8:30 a.m. to 5 p.m., and Thursday, November 8, 1990, room 540, 9 a.m. to 12 Noon—Open

Discussion on issues, opportunities and future directions for the Engineering Directorate; discussion of Engineering Directorate budget situation as well as other items.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90-24745 Filed 10-18-90; 8:45 am]

BILLING CODE 7555-01-M

Materials Research Advisory Committee; Meeting

The National Science Foundation announces the following meeting:

Name: Materials Research Advisory Committee (MRAC).

Place: Room 540, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Date: Monday, November 5, and Tuesday, November 6, 1990.

Time: 8:30 a.m.–5 p.m. (Monday), 9 a.m.–6 p.m. (Tuesday).

Type of Meeting: Open.

Contact Person: Dr. J. Narayan, Division Director, Division of Materials Research (DMR); room 408, National Science Foundation, Washington, DC 20550. Telephone: (202) 357-9794.

Minutes: May be obtained from the Contact Person, Dr. J. Narayan, at the above stated address.

Purpose of Committee: To provide advice and recommendations concerning support of materials research.

Agenda:

Monday, November 5, 1990

8:30 a.m. Introductory Remarks and Adoption of Minutes.
9 a.m. DMR Status Reports and Budget Briefing.
12 Noon. Working Lunch.
1 p.m. Discussion of Response to the NRC Materials Science and Engineering Study.
3:30 p.m. Meeting with Frederick Bernthal, Acting Director, NSF.
4 p.m. Discussion of Materials Synthesis and Processing Initiative.
5 p.m. Adjourn.

Tuesday, November 6, 1990

9 a.m. Meeting with Luther Williams, Assistant Director, Education and Human Resources.
10 a.m. Meeting with David Sanchez, Assistant Director, Mathematical and Physical Sciences.
11 a.m. Further Discussion on new DMR Initiatives.
12 Noon. Working Lunch.
1:30 p.m. Meeting with John White, Acting Deputy Director, NSF.
2:30 p.m. Further Discussion and Future MRAC Activities.
5 p.m. Adjourn.

Dated: October 15, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90-24634 Filed 10-18-90; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panels; Notice of Meetings

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting(s) to be held at 1800 G. Street, NW., Washington, DC 20550 (except where otherwise indicated).

SUPPLEMENTARY INFORMATION: The purpose of the meetings is to provide advice and recommendations to the National Science Foundation concerning the support of research, engineering, and science education. The agenda is to review and evaluate proposals as part of the selection process for awards. The entire meeting is closed to the public because the panels are reviewing proposals that include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b (c), the Government in the Sunshine Act.

CONTACT PERSON: M. Rebecca Winkler, Committee Management Officer, room 208, 357-7555.

Dated: October 15, 1990.

M. Rebecca Winkler,

Committee Management Officer.

Committee name	Agenda	Date(s)	Times	Room *
Special Emphasis Panel in *Physics*	Faculty Awards for Women	11/02/90	8:30 a.m.–5 p.m.	338

* At 1800 G Street, NW., Washington, DC.

[FR Doc. 90-24635 Filed 10-18-90; 8:45 am]

BILLING CODE 7555-01-M

Sociology Advisory Panel; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Sociology.

Date/Time:

November 8, 1990, 8:30 to 5 p.m.
November 9, 1990, 8:30 to 5 p.m.

Place: Room 523, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Part open—November 8, 1990; 9–10 a.m. Closed remainder.

Contact Persons: Dr. Murray Webster, Program Director for Sociology; Dr. Gwendolyn Lewis, Associate Program Director for Sociology; Telephone (202) 357-7802.

Purpose of Meeting: To provide advice and recommendations concerning research in Sociology.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards. (Closed) (Open)—General Discussion of current status and future plans of the Sociology Program.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b, Government in the Sunshine Act.

Dated: October 15, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90-24636 Filed 10-18-90; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-029]

Yankee Atomic Electric Co., Yankee Nuclear Power Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of a one-time exemption from the requirements of 10 CFR 55.59(c)(3)(i), Items A through L, to Yankee Atomic Electric Company (the licensee) for Yankee Nuclear Power Station (Yankee) located at the licensee's site near Rowe, Massachusetts.

Environmental Assessment

Identification of Proposed Action

By letter dated August 2, 1990, the Yankee Atomic Electric Company (the licensee) requested a one-time exemption from the requirement in 10 CFR 55.59(c)(3)(i)(A)–(L) to conduct annual simulator training of reactor operators and senior reactor operators on certain control manipulations. Simulator training of Yankee-Rowe licensed operators was last conducted on a non-plant specific simulator from September 1989 to October 1989. Yankee-Rowe anticipates having a plant specific simulator available for operator training on or about October 1, 1990. The required training would commence when the simulator is available, and the required training in control manipulations would be completed by

March 1, 1991. The exemption from the requirements of the regulations would therefore be for a period of five months.

Immediate compliance with the annual training requirement would entail all the licensed operators traveling to a non-plant specific simulator in Illinois and covering all twelve evolutions in a time span of 30 hours of simulator time for each crew. With the imminent arrival of the plant specific simulator, the licensee believes more effective and thorough training can be provided using the combination of control room based job performance measures, static simulator walkthroughs and, once it is available for training, the plant specific simulator.

Requiring the licensee's operators to travel to the non-plant specific simulator would result in the completion of the simulator training on time. However, since the quality of the training the operators would receive by performing the control manipulations on a plant specific simulator would be higher, it would be in the public interest to grant this exemption.

The staff has reviewed the licensee's request for exemption and finds that since a plant specific simulator will be available on site in the very near future, requiring the licensee to meet the annual requirement to perform the control manipulations of 10 CFR 55.59(c)(3)(i)(A)–(L) on a non-plant specific simulator would not enhance the protection of the environment and would result in an expenditure of licensee resources not required for public health and safety.

The staff also concludes that issuance of this exemption will not endanger life or property and will have no significant effect on the safety of the public or the plant.

The Need for the Proposed Action

The exemption is needed to allow the licensee to utilize its site-specific simulator for 1990 operator training requirements.

Environmental Impacts of the Proposed Action

The proposed action will have no incremental impact relative to current practice because the exemption will allow Yankee to conduct more effective training by using its site-specific simulator.

Alternative to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The Commission's staff reviewed the licensee's request that supports the proposed exemption. The staff did not consult other agencies or persons.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this action, see the licensee's letter, dated August 2, 1990 which is available in the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

Dated at Rockville, Maryland, this 12th day of October 1990.

For the Nuclear Regulatory Commission

Richard H. Wessman,

Director, Project Directorate I–3, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90-24715 Filed 10-18-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-220 AND 50-410]

Niagara Mohawk Power Corp; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No. Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR–63 and NPF–69 issued to the Niagara Mohawk Power Corporation (the licensee) for operation of the Nine Mile Point Nuclear Station Units 1 and 2, located in Oswego County, New York.

The proposed amendments would make changes to the Technical Specifications (TS) to reflect management changes due to the reorganization of the Niagara Mohawk Power Corporation (NMPC) Nuclear Division. They include revision to TS Sections 6.1, "Responsibility," 6.2, "Organization," 6.4, "Training," 6.5, "Review and Audit," 6.6, "Reportable Occurrence Action," 6.7, "Safety Limit Violation," 6.8 "Procedures" for Unit 1; "Procedures and Programs" for Unit 2 and 6.12 "High Radiation Areas."

The types of changes are generally characterized as follows. The former organization included Station Superintendents for Units 1 and 2 reporting to a General Superintendent. The General Superintendent reported to the Executive Vice President—Nuclear Operations. The revised organization retitles the Executive Vice President—Nuclear Operation to Executive Vice President—Nuclear, the Station Superintendent to Plant Manager, eliminates the General Superintendent position, and adds a position of Vice President—Nuclear Generation to whom the two Plant Managers report. Those reporting directly to the Plant Managers are now all designated as "manager" versus the previous "superintendent" or "supervisor" designation for some positions.

Certain responsibilities previously held by the General Superintendent have been reassigned to the Vice President—Nuclear Generation or to the Plant Managers. In particular, the Station (formerly "Site") Operations Review Committee (SORC) will now be chaired by and report to the Plant Manager. SORC will also be expanded to ten members for each unit. The same functional areas will continue to be represented on the SORC and several will be added to bring the total to ten members.

Certain responsibilities and designations previously assigned to the Executive Vice President—Nuclear Operations will now be assigned to the Vice President—Nuclear Generation.

The corporate safety review committee, the Safety Review and Audit Board (SRAB), composition is being changed to eliminate the Staff Engineer—Environmental since Unit 2 is no longer in the construction and initial startup phase.

Editorial changes to implement these types of changes to provide consistency with the Standard Technical Specifications and several other staff position title changes are also included.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the request for amendments involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a

significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee has provided the following analysis in response to the above 3 standards.

Nine Mile Point—Unit 1

Standard 1: The proposed changes are intended to enhance the overall management capability and performance of Nine Mile Point Unit 1 by freeing up senior level people from administrative responsibilities. These changes also reflect Niagara Mohawk's intent to provide the highest level of management expertise and experience in the Nuclear Division and to assure that the goals of improved overall performance are achieved.

The proposed amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed changes are administrative in nature and do not affect plant operation.

Standard 2: The proposed amendments do not create the possibility of a new or different kind of accident than previously evaluated because the proposed changes are administrative in nature and no physical alterations of plant configuration or changes to setpoints or operating parameters are proposed.

Standard 3: The proposed amendments do not involve a significant reduction in a margin of safety because Niagara Mohawk, through its Quality Assurance programs, its commitment to maintain only qualified personnel in positions of responsibility, and other required controls, assures that safety functions will be performed at the high level of competence. Therefore, the proposed administrative changes to the Technical Specifications will not affect the margin of safety.

Nine Mile Point—2

Standard 1: The proposed changes are intended to enhance the overall management capability and performance of Nine Mile Point Unit 2 by freeing up senior level people from administrative responsibilities. These changes also reflect Niagara Mohawk's intent to provide the highest level of management expertise and experience in the Nuclear Division and to assure that the goals of improved overall performance are achieved.

The proposed amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed changes are administrative in nature and do not affect plant operation.

Standard 2: The proposed amendments do not create the possibility of a new or different kind of accident than previously evaluated because the proposed changes are administrative in nature and no physical alterations of plant configuration changes to setpoints or operating parameters are proposed.

Standard 3: The proposed amendments do not involve a significant reduction in a margin of safety because Niagara Mohawk, through its Quality Assurance programs, its commitment to maintain only qualified personnel in positions of responsibility, and other required controls, assures that safety functions will be performed at a high level of competence. Therefore, the proposed administrative changes to the Technical Specifications will not affect the margin of safety.

The staff has reviewed the licensee's no significant hazards determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involve no significant hazards consideration.

Therefore, based on the above considerations, the Commission has made a proposed determination that the amendments request involve no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street NW., Washington, D.C. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By November 19, 1990, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room located at Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of

the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the request for amendments involve no significant hazards consideration, the Commission may issue the amendments and make them effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If a final determination is that the amendments involve a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 325–6000 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert A. Capra: (petitioner's name and telephone number), (date petition was mailed), (plant name), and (publication date and page number of this Federal Register notice). A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. Mark J. Wetterhahn, Esquire, Bishop, Cook, Purcell and Reynolds, 1400 L Street, NW., Washington, DC 20005–3502, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the applications for amendments dated September 21, 1990, as revised on October 4, 1990, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room located at the Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Dated at Rockville, Maryland, this 12th day of October 1990.

Robert E. Martin,

Senior Project Manager, Project Directorate I–1 Division of Reactor Projects—I/II Office of Nuclear Reactor Regulation

[FR Doc. 90–24713 Filed 10–18–90; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–315]

Indiana Michigan Power Co.; Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–58, issued to the Indiana Michigan Power Company (the licensee), for operation of Donald C. Cook Nuclear Plant, Unit No. 1, located in Berrien County, Michigan.

The amendment would allow the licensee to use steam generator sleeves to repair defective steam generator tubes. The Technical Specifications currently require all defective steam generator tubes to be plugged and removed from service.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By November 19, 1990, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room located at the Maude Preston, Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board

Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene, which must include a list of the contentions that are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing.

The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant or a material issue of law on fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisifies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-800-325-6000 (in Missouri 1-800-342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert Pierson: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendments dated June 27, 1990, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Dated at Rockville, Maryland, this 12th day of October 1990.

For the Nuclear Regulatory Commission

Robert Pierson,

Director, Project Directorate III-1, Division of Reactor Projects—III, IV, V & Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90-24714 Filed 10-18-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 72-10, 50-282/306]

Northern States Power Co.; Notice of Consideration of Issuance of a Materials License for the Storage of Spent Fuel and Notice of Opportunity for a Hearing

The Nuclear Regulatory Commission (the Commission) is considering an application dated August 31, 1990, for a materials license, under the provisions of 10 CFR part 72, from Northern States Power Company (the applicant or NSP) to possess spent fuel and other radioactive materials associated with spent fuel storage in an independent spent fuel storage installation (ISFSI) located in the City of Red Wing, in Goodhue County, Minnesota. If granted, the license will authorize the applicant to store spent fuel from the Prairie Island Nuclear Generating Plant Units 1 and 2 in dry storage casks at an ISFSI to be constructed at the applicant's Prairie Island Nuclear Generating Plant stite (Operating Licenses DPR-3013 and 2014). Pursuant to the provisions of 10 CFR part 72, the term of the license for the ISFSI would be twenty (20) years.

Prior to issuance of the requested license, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The issuance of the materials license will not be approved until the Commission has reviewed the proposal and has concluded that approval of the license will not be inimical to the common defense and security and will not constitute an unreasonable risk to the health and safety of the public. The NRC will complete an environmental evaluation, in accordance with 10 CFR part 51, to determine if the preparation of an environmental impact statement is warranted or if an environmental assessment and Finding of No Significant Impact are appropriate. This action will be the subject of a subsequent notice in the Federal Register.

Pursuant to 10 CFR 2.105 and 2.1107, by November 19, 1990, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene with respect to the subject materials license in accordance with the provisions of 10 CFR 2.714. If a request for hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order. In the event that no request for hearing or petition for leave to intervene is filed by the above date, the Commission may, upon satisfactory completion of all evaluations, issue the materials license without further prior notice.

A petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend a petition, without requesting leave of the Board up to 15 days prior to the holding of the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the action under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 325–6000 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Richard E. Cunningham, Director, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC, 20037, attorney for the applicant.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

The Commission hereby provides notice that this proceeding concerns an application for a license falling within the scope of section 134 of the Nuclear Waste Policy Act of 1982 (NWPA), 42 U.S.C. 10154. Under section 134 of NWPA, the Commission, at the request of any petitioner or any party to the proceeding, must use hybrid hearing procedures with respect to "any matter which the Commission determines to be in controversy among the parties." The hybrid procedures in section 134 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules, and the designation, following argument, of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rules implementing section 134 of the NWPA are found in 10 CFR part 2, subpart K, "Hybrid Hearing Procedures for Expansion of Spent Nuclear Fuel Capacity at Civilian Nuclear Power Reactors," (published at 50 FR 41662, October 15, 1985). Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed within ten (10) days of an order granting a request for hearing or petition to intervene. (As outlined above, the Commission's rules in 10 CFR part 2, subpart G, and § 2.714 in particular, continue to govern the filing of requests for a hearing or petitions to intervene, as well as the admission of contentions.) The presiding officer may grant an untimely request for oral argument only upon a showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, and hearing held on the application shall be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time available for discovery and require that an oral

argument be held to determine whether any contentions must be resolved in an adjudicatory hearing. If no party to the proceeding requests oral argument, of if all untimely requests for oral argument are denied, then the usual procedures in 10 CFR part 2, subpart G apply.

For further details with respect to this action, see the application dated August 31, 1990, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room at the Technology & Science Department, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. The Commission's license and Safety Evaluation Report, when issued, may be inspected at the above locations.

Dated at Rockville, Maryland, this 12th day of October, 1990.

For the Nuclear Regulatory Commission

Charles J. Haughney,

Chief, Fuel Cycle Safety Branch, Division of Industrial and Medical Nuclear Safety Office of Nuclear Material Safety and Safeguards.

[FR Doc. 90-24716 Filed 10-18-90; 8:45 am]

BILLING CODE 7590-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: Notice of correction of form number for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY: In notice document 90-23529 on page 40874 in the issue of Friday, October 5, 1990, under "Summary of Proposal(s), Item (2) Form(s) submitted," correct R1-231-F to RL-231-F.

Dennis Eagan,

Clearance Officer.

[FR Doc. 90-24645 Filed 10-18-90; 8:45 am]

BILLING CODE 7905-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2989]

California; Declaration of Disaster Loan Area

Mariposa County and the contiguous counties of Madera, Merced, Stanislaus, and Tuolumne in the State of California constitute a disaster area as a result of damages caused by wildfires which began on August 9 and continued through August 20, 1990. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on December 7, 1990 and for economic injury until the close of business on July 5, 1991 at the address listed below:

Disaster Area 4 Office, Small Business Administration, P.O. Box 13795, Sacramento, CA 95853-4795.

or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	8.250
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 246005 and for economic injury the number is 714500.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59006)

Dated: October 5, 1990.

Susan Engeleiter,

Administrator.

[FR Doc. 90-24686 Filed 10-18-90; 8:45 am]

BILLING CODE 8025-01-M

Region VI Advisory Council; Cancellation of Public Meeting

The U.S. Small Business Administration Region VI Advisory Council, located in the geographical area of Little Rock, public meeting scheduled for 10 a.m., on Tuesday, October 16, 1990, at the Capital Hotel, 111 W. Markham, Little Rock, Arkansas, has been canceled.

For further information, write or call Donald L. Libbey, District Director, U.S. Small Business Administration, 321 W. Capitol, Suite 601, Little Rock, Arkansas 72201, phone (501) 378-5871.

Dated: October 12, 1990

Veronica De Nardo,

Acting Director, Office of Advisory Councils.

[FR Doc. 90-24683 Filed 10-18-90; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council; Public Meeting

The U.S. Small Business Administration Region IX Advisory Council, located in the geographical area of Fresno, will hold a public meeting at 9 a.m. on Wednesday, November 7, 1990, at the Fresno District Office, 2719 N. Air Fresno Drive, Suite 107, Fresno, California, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Peter J. Bergin, District Director, U.S. Small Business Administration, 2719 N. Air Fresno Drive, Suite 107, Fresno, California 93727, phone (209) 487-5791.

Dated: October 12, 1990.

Veronica De Nardo,

Acting Director, Office of Advisory Councils.

[FR Doc. 90-24684 Filed 10-18-90; 8:45 am]

BILLING CODE 8025-01-M

REGION I Advisory Council; Public Meeting

The U.S. Small Business Administration Region I Advisory Council, located in the geographical area of Hartford, will hold a public meeting at 8:30 a.m. on Monday, November 26, 1990, at the Days Inn, 800 East Main Street, Meriden, Connecticut, to discuss such matters as may be presented by members, staff of the small Business Administration or others present.

For further information, write or call Michael P. McHale, District Director, U.S. Small Business Administration, 330 Main Street, Hartford, Connecticut 06106, telephone (203) 240-4670.

Dated: October 12, 1990.

Veronica De Nardo,

Acting Director, Office of Advisory Councils.

[FR Doc. 90-24685 Filed 10-18-90; 8:45 am]

BILLING CODE 8025-01-M

Region VI Advisory Council; Cancellation of Meeting

The U.S. Small Business Administration Region VI Advisory Council, located in the geographical area of Albuquerque, public meeting scheduled for 9 a.m., on Friday, October 26, 1990, at SBA Office, 625 Silver SW., Suite 320, Albuquerque, New Mexico, has been canceled.

For further information, write or call Tom W. Dowell, District Director, U.S. Small Business Administration, 625 Silver SW., Suite 320, Albuquerque, New Mexico 87102, phone (505) 766-1902 or FTS 474-1902.

Dated: October 12, 1990.
Veronica De Nardo,
Acting Director, Office of Advisory Councils.
[FR Doc. 90-24678 Filed 10-18-90; 8:45 am]
BILLING CODE 8025-01-M

Region VI Advisory Council; Cancellation of Meeting

The U.S. Small Business Administration Region VI Advisory Council, located in the geographical area of Oklahoma City, public meeting scheduled form 1 p.m. to 5 p.m., on Tuesday, October 23, 1990, at Metro Tech Conference Center, 1900 Springlake Drive, Oklahoma City, Oklahoma, has been canceled.

For further information, write or call Truman Brenscum, District Director, U.S. Small Business Administration, 200 NW. 5th Street, suite 670, Oklahoma City, Oklahoma 73102, phone (405) 231-5237.

Dated: October 12, 1990.
Veronica De Nardo,
Acting Director, Office of Advisory Councils.
[FR Doc. 90-24677 Filed 10-18-90; 8:45 am]
BILLING CODE 8025-01-M

Region VI Advisory Council; Cancellation of Meeting

The U.S. Small Business Administration Region VI Advisory Council, located in the geographical area of Corpus Christi, public meeting scheduled for 1:30 p.m., on Tuesday, October 23, 1990, at U.S. Small Business Administration Office, 400 Mann Street, Suite 403, Corpus Christi, Texas, has been canceled.

For further information, write or call David Royal, Business Development Specialist, U.S. Small Business Administration, Government Plaza, 400 Mann Street, Suite 403, Corpus Christi, Texas 78401, phone (512) 888-3333.

Dated: October 12, 1990.
Veronica De Nardo,
Acting Director, Office of Advisory Councils.
[FR Doc. 90-24676 Filed 10-18-90; 8:45 am]
BILLING CODE 8025-01-M

Region VI Advisory Council; Cancellation of Meeting

The U.S. Small Business Administration Region VI Advisory Council, located in the geographical area of Houston, public meeting scheduled for 12 noon, on Tuesday, October 23, 1990, at the First City Financial Center, San Jacinto Room, 13th Floor, 1301 Fannin, Houston, Texas, has been canceled.

For further information, write or call Rodney M. Martin, District Director, U.S. Small Business Administration, 2525 Murworth, Suite 112, Houston, Texas 77054, phone (713) 660-4409.

Dated: October 12, 1990.
Veronica De Nardo,
Acting Director, Office of Advisory Councils.
[FR Doc. 90-24679 Filed 10-18-90; 8:45 am]
BILLING CODE 8025-01-M

Region VI Advisory Council; Cancellation of Meeting

The U.S. Small Business Administration Region VI Advisory Council, located in the geographical area of San Antonio, public meeting scheduled for 9 a.m., on Thursday, November 1, 1990, at the North Star Executive Center, 7400 Blanco Road, Suite 200, San Antonio, Texas, has been canceled.

For further information, write or call Julio G. Perez, District Director, U.S. Small Business Administration, North Star Executive Center, 7400 Blanco Road, Suite 200, San Antonio, Texas 78216-4300, phone (512) 229-4501.

Dated: October 12, 1990.
Veronica De Nardo,
Acting Director, Office of Advisory Councils.
[FR Doc. 90-24680 Filed 10-18-90; 8:45 am]
BILLING CODE 8025-01-M

Region VI Advisory Council; Cancellation of Meeting

The U.S. Small Business Administration Region VI Advisory Council, located in the geographical area of Rio Grande Valley, public meeting scheduled for 1 p.m., on Tuesday, October 30, 1990, at the Rio Grande Valley Chamber of Commerce, FM 1015 & Expressway 83, Weslaco, Texas, has been canceled.

For further information, write or call Miguel A. Cavazos, Jr., District Director, U.S. Small Business Administration, 222 E. Van Buren, Suite 500, Harlingen, Texas 78550, phone (512) 427-8625.

Dated: October 12, 1990.
Veronica De Nardo,
Acting Director, Office of Advisory Councils.
[FR Doc. 90-24681 Filed 10-18-90; 8:45 am]
BILLING CODE 8025-01-M

Region VI Advisory Council; Cancellation of Meeting

The U.S. Small Business Administration Region VI Advisory Council, located in the geographical area of Dallas, public meeting scheduled for 9 a.m., on Thursday, November 15, 1990, at the Dallas/Fort Worth International Trade Resource Center, World Trade Center, 2050 Stemmons Freeway, Suite 150, Dallas, Texas, has been canceled.

For further information, write or call James S. Reed, District Director, U.S. Small Business Administration, 1100 Commerce Street, Room 3C36, Dallas, Texas 75242, phone (214) 767-0605.

Dated: October 12, 1990.
Veronica De Nardo,
Acting Director, Office of Advisory Councils.
[FR Doc. 90-24682 Filed 10-18-90; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

FAA Approval of Noise Compatibility Program; Burlington International Airport, Burlington, VT

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the City of Burlington, Vermont under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR part 150. These findings are made in recognition of the description of Federal and non-federal responsibilities in Senate Report No. 96-52 (1980). On March 27, 1990, the FAA determined that the noise exposure maps, submitted by the City of Burlington, Vermont, under part 150, were in compliance with applicable requirements. On September 21, 1990, the Administrator approved the Burlington International (BTV) noise compatibility program. All 15 of the proposed program elements were approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the BTV noise compatibility program is September 21, 1990.

FOR FURTHER INFORMATION CONTACT: John C. Silva, Federal Aviation Administration, New England Region, Airports Division, ANE-602, 12 New England Executive Park, Burlington, Massachusetts 01803, Telephone (617) 273-7000.

Documents reflecting this FAA action may be obtained from the same individual.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has

given its overall approval to the BTV noise compatibility program, effective September 21, 1990.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter the Act), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing non-compatible land uses and prevention of additional non-compatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulation (FAR), part 150 is a local program, not a federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in part 150 and the Act, and is limited to the following determinations:

(a) The noise compatibility program was developed in accordance with the provisions and procedures of FAR part 150;

(b) Program measures are reasonably consistent with achieving the goals of reducing existing non-compatible land uses around the airport and preventing the introduction of additional non-compatible land uses;

(c) Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the federal government; and

(d) Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator as prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, § 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, State, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA under the Airport and Airway Improvement Act of 1982. Where Federal funding is sought, requests for project grants must be submitted to the FAA Regional Office in Burlington, Massachusetts.

The City of Burlington submitted to the FAA, on January 30, 1990 the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from July 1, 1987 to January 1990. The BTV noise exposure maps were determined by FAA to be in compliance with applicable requirements on March 27, 1990. Notice of this determination was published in the Federal Register on May 1, 1990.

The BTV study contains a proposed noise compatibility program comprised of actions designed for phase implementation by airport management and adjacent jurisdictions from the date of study completion to beyond the year 1993. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 104(b) of the Act. The FAA began its review of the program on March 27, 1990, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such a program within the 180-day period shall be deemed to be an approval of such a program.

The submitted program contained 15 proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR part 150 have been satisfied. The overall program, therefore, was approved by the Administrator effective September 21, 1990. Approval was granted for all 15 specific program elements.

The 15 approved program elements include taxiway construction, terminal power installation, nighttime bi-directional runway use, noise abatement flight tracks, voluntary limits on training activity, voluntary limitation of multiple-aircraft military flights, voluntary military helicopter controls, monitoring and review, and various lands use measures which include land acquisition and relocation, soundproofing and related easement acquisition, airport zoning, easement acquisition for new development, and real estate disclosure.

FAA's determinations are set forth in detail in a Record of Approval endorsed by the Assistant Administrator on September 21, 1990. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the office of the Director of Aviation, Burlington International Airport, Airport Drive, South Burlington, Vermont.

Issued in Burlington, Massachusetts on October 10, 1990.

Vincent A. Scarano,

Manager, Airports Division, New England Region.

FR Doc. 90-24601 Filed 10-18-90; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA) Special Committee 167, Digital Avionics Software; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., appendix I), notice is hereby given for the Fourth meeting of RTCA Special Committee 167 on Digital Avionics Software held on November 7-9, 1990, in the software Productivity Consortium (SPC), 2214 Rock Hill Road, Herndon, VA 22070, Commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's Remarks; (2) Approval of the Third Meeting's Minutes, RTCA Paper No. 191-90/SC167-25; (3) Review and Discuss EUROCAE WG-12 Activities; (4) Presentation and Panel Session on Formal Methods; (5) WG/SC-approved Position Paper Presentations; (6) WG5/SC5 Presentation of Software Change Categorization Issues; (7) Working Group Sessions; (8) SAE Avionics Subcommittee (Systems Development Standard Update); (9) Working Group Reports, (a) WG-1, Documentation Integration and Production, (b) WG-2 Systems Issues, (c) WG-3, Software Development, (d) WG-4, Software Verification, (e) WG-5, Configuration Management and Quality Assurance; (10) Review of New Issues identified by the Chairman, and Task Assignments Not Covered in Working Group Reports; (11) Other Business; (12) Date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on October 10, 1990.

Geoffrey R. McIntyre,

Designated Officer.

[FR Doc. 90-24602 Filed 10-18-90; 8:45 am]

BILLING CODE 4910-13-M

Maritime Administration

[Docket No. S-671]

American Maritime Transport, Inc.; Applications for Amendments of Operating-Differential Subsidy Contracts for Fuel Subsidy

Notice is hereby given that American Maritime Transport, Inc., Aquarius Marine Company, Atlas Marine Company, Brookville Shipping Company, Chestnut Shipping Company, Margate Shipping Company, and Mormac Marine Transport, Inc., have applied for an adjustment to their respective operating-differential subsidy contracts to provide for a fuel subsidy, for voyages in foreign commerce commencing on or after January 1, 1990, in an amount equal to the excess of the cost of fuel needed to operate their vessels over the cost of fuel required for operation of vessels of foreign registry and flag with which they compete in foreign commerce.

The applicants indicate that the fuel subsidy for which applications are made is required to meet foreign-flag competition and to promote the foreign commerce of the United States and that the granting of the aid applied for is necessary to place the operations of the vessels on a parity with those of foreign competitors.

Any person, firm, or corporation having any interest in the applications for fuel subsidy may review them in the Office of and the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street, SW., Washington, DC. Written comments concerning the applications must be filed with the Secretary, Maritime Administration by the close of business December 17, 1990.

The Maritime Subsidy Board, as a matter of discretion, will consider any comments submitted and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential Subsidies (ODS))

By Order of the Maritime Subsidy Board.

Dated: October 16, 1990.

James E. Saari,

Secretary.

[FR Doc. 90-24717 Filed 10-18-90; 8:45 am]

BILLING CODE 4910-81-M

DEPARTMENT OF THE TREASURY

[No. 27-16]

Organization and Functions of the Office of the Assistant Secretary (Tax Policy)

Date: October 15, 1990.

1. *Purpose:* This directive describes the organization and functions of the Assistant Secretary (Tax Policy).

2. *The Assistant Secretary (Tax Policy)* reports through the Deputy Secretary to the Secretary and is responsible for the following functions.

a. Assists the Secretary and Deputy Secretary of the Treasury through the development and implementation of Federal tax policies and programs.

b. Provides official estimates of all government receipts for the President's budget, for fiscal policy decisions, and for Treasury cash management decisions.

c. Develops and reviews regulations and rulings to administer the tax code.

d. Negotiates tax treaties for the United States.

e. Provides economic and legal policy analysis for domestic and international tax policy decisions.

f. Prepares congressionally and Presidentially mandated reports of tax policy issues.

g. Analyzes and monitors class lives of business assets for depreciation purposes.

3. *Organization Structure.* Under the supervision of the Assistant Secretary are two Deputy Assistant Secretaries: Tax Policy and Tax Analysis. The structural organization and functions designed to accommodate the mission of the Office of the Assistant Secretary (Tax Policy) are as follows:

a. The Office of the Deputy Assistant Secretary (Tax Policy) serves as deputy to the Assistant Secretary in the conduct of the above functions and acts for the Assistant Secretary in that official's absence. The Tax Legislative Counsel, the International Tax Counsel, and the Benefits Tax Counsel provide counsel directly to the Assistant Secretary (Tax Policy) but are supervised by the General Counsel as part of the Department's Legal Division.

(1) The Office of the Tax Legislative Counsel is responsible for providing the Assistant Secretary (Tax Policy) with legal and policy analysis and assistance on matters of domestic taxation, including:

(a) Formulating the Administration's tax initiatives;

(b) Commenting on tax policy aspects of proposals and initiatives of other executive departments;

(c) Preparing testimony on domestic taxation issues for presentation before the congressional tax writing committees;

(d) Assisting congressional staff in drafting legislative language and preparing legislative history, including relevant committee reports;

(e) Assisting in the development of regulations, rulings, and other administrative guidance and advising the Assistant Secretary regarding any policy issues that arise as the regulations are developed; and

(f) Undertaking policy studies and serving on Treasury or interagency task forces on issues related to the Office's area of responsibility.

(2) The Office of the International Tax Counsel is responsible for providing the Assistant Secretary (Tax Policy) with legal and policy analysis and assistance on matters of international taxation, including:

(a) Developing recommendations for Treasury legislative initiatives and formulating of Treasury positions on other legislative proposals involving international taxation;

(b) Preparing testimony on international taxation issues for presentation before congressional tax writing committees;

(c) Overseeing the development of the policy aspects of all Internal Revenue Service administrative lawmaking pronouncements involving international tax issues, including rulings, regulations, and announcements;

(d) Conducting the Treasury's tax treaty and tax information exchange agreement program, including negotiating with foreign governments, supplying legal and policy input to the ratification process, and establishing general treaty policy;

(e) Participating in international meetings of government tax authorities; and

(f) Undertaking policy studies and serving on Treasury or interagency task

forces on issues related to the Office's areas of responsibility.

(3) The Office of the Benefits Tax Counsel is responsible for providing the Assistant Secretary (Tax Policy) with legal and policy analysis and assistance on matters relating to the taxation and regulation of employee benefits programs, both private and public, including:

(a) Formulating and reviewing legislative proposals relating to private and public employee benefits issues;

(b) Preparing testimony on private and public employee benefits issues for presentation before congressional tax writing committees;

(c) Overseeing policy aspects of Internal Revenue Service administrative guidance documents involving employee benefit issues, including rulings, regulations, and announcements;

(d) Commenting and advising on policy aspects of proposals and initiatives of other executive departments relating to private and public employee benefits issues;

(e) Undertaking policy studies and serving on Treasury or interagency task forces on issues related to the Office's areas of responsibility; and

(f) Assisting congressional staff in drafting legislative language and preparing legislative history, including committee reports, on private and public employee benefits issues.

b. The Office of the Deputy Assistant Secretary (Tax Analysis) serves as deputy to the Assistant Secretary (Tax Policy) in the conduct of the functions listed in paragraph 2, and provides economic analysis to facilitate the development, analysis, and implementation of tax policies and programs. Within this Office is the Office of Tax Analysis.

The Office of Tax Analysis is responsible for providing the Assistant Secretary (Tax Policy) with economic and policy analysis and assistance on matters of domestic and international taxation, including:

(1) Providing economic analyses of tax legislation and studying the effects of the existing tax law and alternative tax programs;

(2) Preparing testimony for Treasury officials, writing Presidentially and congressionally mandated reports, and serving on interagency task forces on issues related to the Office's areas of responsibility;

(3) Providing official Administration estimates of all current and future levels of Federal Government receipts for the President's Annual Budget and interim budget revisions, actual and proposed tax legislation, earmarked revenue allocated to various Federal trust funds, Treasury cash management decisions, and the Tax Expenditure Budget and working with the Office of the Assistant Secretary (Management) to estimate funding proposals for bureaus within the Treasury whose activities directly affect budget receipts;

(4) Assisting in the development and review of tax regulations and tax forms and overseeing the IRS Statistics of Income Division tax return studies;

(5) Participating in the Treasury's tax treaty and tax information exchange agreement program, and in international meetings of government tax authorities;

(6) Conducting specialized statistical and econometric studies of depreciation of assets and furnishing Treasury officials with analyses and recommendations regarding the assignment or revisions of asset classifications and class lives; and

(7) Assembling statistical and analytical information, data bases, models, and econometric and statistical techniques to analyze tax policy issues through the development and maintenance of large microdata files of tax returns, economic databases, and major simulation models for analyzing the economic effects of alternative tax proposals and tax systems.

4. *References.* a. Treasury Order (TO) 111-01, "Issues of Tax Policy," dated March 16, 1961.

b. TO 101-05, "Reporting Relationships and Supervision of Officials, Offices and Bureaus, Delegation of Certain Authority, and Order of Succession in the Department of the Treasury."

c. Treasury Directive (TD) 18-02, "Authority to Approve Internal Revenue Regulations," dated September 4, 1986.

5. *Cancellation.* TD 27-10, "Organization and Functions of the Office of the Assistant Secretary (Tax Policy)," dated September 20, 1989, is superceded.

6. *Office of Primary Interest.* Office of the Assistant Secretry (Tax Policy).

[redacted]
Assistant Secretary (Tax Policy).

[FR Doc. 90-24607 Filed 10-18-90; 8:45 am]
BILLING CODE 4810-25-M

Office of Thrift Supervision

Notice of Appointment of Conservator; International Federal Savings and Loan Association

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for International Federal Savings and Loan Association, North Miami Beach, Florida on October 12, 1990.

Dated: October 15, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-24608 Filed 10-18-90; 8:45 am]
BILLING CODE 6720-01-M

Replacement of Conservator With a Receiver Golden Triangle Savings and Loan Association

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Golden Triangle Savings and Loan Association, Bridge City, Texas, with the Resolution Trust Corporation as sole Receiver for the Association on October 12, 1990.

Dated: October 15, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-24609 Filed 10-18-90; 8:45 am]
BILLING CODE 6720-01-M

Appointment of Receiver; International Savings and Loan Association

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(C) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for International Savings and Loan Association, North Miami Beach, Florida on October 12, 1990.

Dated: October 15, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-24610 Filed 10-18-90; 8:45 am]
BILLING CODE 6720-01-M

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; Proposed Amendment of Systems Notice New Routine Use Statements

Notice, is hereby given that the Department of Veterans Affairs (VA) is considering adding two new routine use statements to the systems of records entitled, "General Personnel Records (Title 38)–VA" (76VA05) set forth at 53 FR 27258–27262, July 19, 1988, and the following 18 systems of records which are contained in "Privacy Act Issuances, 1987 Compilation, Volume V" on the pages indicated:

02VA135 Applicants for Employment Under Title 38, U.S.C.–VA on page 788 and amended at 54 FR 53031–53033, December 28, 1989.

08VA05 Employee Medical File System Records (Title 38)–VA on page 789 and amended at 53 FR 19065–19068, May 25, 1988.

08VA05 Employee Unfair Labor Practice Charges and Complaints, Negotiated Agreement Grievances and Arbitrations–VA on pages 769 and 770.

11VA51 Investigation Reports of Persons Allegedly Involved in Irregularities Concerning VA Laws, Regulations, Etc.–VA on pages 770–772.

13VA047 Individuals Submitting Invoices/Vouchers For Payment–VA on pages 772 and 773 and amended at 55 FR 37580–37585, September 12, 1990.

14VA135 Individuals Serving on a Fee Basis or Without Compensation (Consultants, Attendings, Others) Personnel Records–VA on pages 773 and 774.

23VA136 Patient Fee Basis Medical and Pharmacy Records–VA on pages 779 and 780.

24VA136 Patient Medical Records–VA on pages 780–782 and amended at 53 FR 42818, December 8, 1988, 55 FR 5112–5113, February 13, 1990, and 55 FR 37604–37605, September 13, 1990.

27VA047 Personnel and Accounting Pay System–VA on pages 782–784.

28VA119 Personnel Registration Under Controlled Substance Act–VA on page 784.

29VA11 Physician, Dentist and Supervisory Nurse Professional Standards Board Action File–VA on pages 784 and 785.

32VA00 Veteran, Employee and Citizen Health Care Facility Investigation Records–VA on pages 786 and 787.

34VA11 Veteran, Patient, Employee, and Volunteer Research and Development Project Records–VA on pages 787 and 788.

65VA05 Grievance Records–VA on pages 814 and 815

66VA53 Inspector General Complaint Center Records–VA on pages 816–818.

73VA14 Health Professional Scholarship Program–VA on pages 821 and 822.

The Health Care Quality Improvement Act of 1986 (Title IV of Public Law 99–660) set forth requirements for private sector health care facilities and organizations to report to the Secretary of the Department of Health and Human Services (HHS) adverse actions taken against physicians and licensed health care practitioners. Reports on medical malpractice, sanctions taken by State Licensing Boards, and reduction of clinical privileges following peer review are to be reported to the National Practitioner Data Bank operated by a private contractor (The Unisys Corporation) on behalf of the Secretary.

Congressional concern regarding the quality of medical care available to citizens gave rise to the legislation. Concerned with the increasing incidence of medical malpractice, coupled with the ability of incompetent practitioners to move from one state to another, Congress suggested that appropriate peer review processes and a national repository of practitioner specific information would improve the quality of medical care within the United States. Hospitals and other health care organizations will be required to access the Bank at the time of hiring and reprivileging health care practitioners.

Information to be maintained in the Bank includes malpractice payments and settlements made on behalf of all physicians, dentists and licensed health care practitioners, State licensing Board actions taken against practitioners, and peer review actions taken by health care entities which adversely affect a practitioner's clinical privileges or professional society membership. Reportable incidents include questions of professional competence and conduct, as well as voluntary licensure surrenders and voluntary privilege surrenders in lieu of investigation.

Participation in the reporting provisions of Public L. 99–660 is not binding on VA. However, through a Memorandum of Understanding with the Secretary of HHS, the Secretary of Veterans Affairs may apply the requirements to VA physicians, health care practitioners, applicants for employment and health care facilities. VA participation will include accessing the Bank at the time of hiring and clinical privileging/reprivileging health care practitioners and other times as deemed necessary by VA and to report payments for medical malpractice claims and decisions that adversely affect clinical privileges for more than 30 days.

The professional performance history of VA personnel or other relevant information is contained in several VA Privacy Act systems of records. Two routine uses are being proposed for all systems of records that contain information which the Department may wish to disclose to the Bank.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed routine uses to the Secretary, Department of Veterans Affairs (271A), 810 Vermont Avenue NW., Washington, DC 20420. All relevant material received before November 19, 1990, will be considered. All written comments received will be available for public inspection only in Room 132 of the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until November 28, 1990.

If no public comment is received during the 30-day review period allowed for public comment or unless otherwise published in the Federal Register by VA, the routine uses in the systems are effective November 19, 1990.

Approved: October 10, 1990.

Edward Derwinski,

Secretary of Veterans Affairs.

Notice of System of Records

1. In the system identified as 02VA135, "Applicants for Employment Under Title 38, U.S.C.–VA" appearing on page 788 of the Federal Register publication, "Privacy Act Issuances, 1987 Compilation, Volume V," and amended at 54 FR 53031–53033, December 28, 1989, the following routine uses are added:

02VA135

SYSTEM NAME:

Applicants for Employment Under Title 38, U.S.C.–VA.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

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18. Identifying information in this system, including name, address, social security number and other information as is reasonably necessary to identify such individual, may be disclosed to the National Practitioner Data Bank at the

time of hiring and/or clinical privileging/reprivileging of health care practitioners, and other times as deemed necessary by VA, in order for VA to obtain information relevant to a Department decision concerning the hiring, privileging/reprivileging, retention or termination of the applicant or employee.

19. Relevant information from this system of records may be disclosed to the National Practitioner Data Bank or to a State or local government licensing board which maintains records concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty when under the following circumstances, through a peer review process that is undertaken pursuant to VA policy, negligence, professional incompetence, responsibility for improper care, and/or professional misconduct has been assigned to a physician or licensed or certified health care practitioner: (1) On any payment in settlement (or partial settlement) of, or in satisfaction of a judgment in, a medical malpractice action or claim; or, (2) on any final decision that adversely affects the clinical privileges of a physician or practitioner for a period of more than 30 days. These records may also be disclosed as part of a computer matching program to accomplish these purposes.

2. In the system identified as 06VA05, "Employee Medical File System Records (Title 38)–VA" appearing on page 769 of the Federal Register publication, "Privacy Act Issuances, 1987 Compilation, Volume V," and amended at 53 FR 19065–19069, May 26, 1988, the following routine uses are added:

06VA05

SYSTEM NAME:

Employee Medical File System Records (Title 38)–VA.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

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25. Identifying information in this system, including name, address, social security number and other information as is reasonably necessary to identify such individual, may be disclosed to the National Practitioner Data Bank at the time of hiring and/or clinical privileging/reprivileging of health care practitioners, and other times as deemed necessary by VA, in order for VA to obtain information relevant to a Department decision concerning the hiring, privileging/reprivileging, retention or termination of the applicant or employee.

26. Relevant information from this system of records may be disclosed to the National Practitioner Data Bank or to a State or local government licensing board which maintains records concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty when under the following circumstances, through a peer review process that is undertaken pursuant to VA policy, negligence, professional incompetence, responsibility for improper care, and/or professional misconduct has been assigned to a physician or licensed or certified health care practitioner: (1) On any payment in settlement (or partial settlement) of, or in satisfaction of a judgment in, a medical malpractice action or claim; or, (2) on any final decision that adversely affects the clinical privileges of a physician or practitioner for a period of more than 30 days. These records may also be disclosed as part of a computer matching program to accomplish these purposes.

3. In the system identified as 08VA05, "Employee Unfair Labor Practice Charges and Complaints, Negotiated Agreement Grievances and Arbitrations-VA" appearing on pages 769 and 770 of the Federal Register publication, "Privacy Act Issuances, 1987 Compilation, Volume V," the following routine uses are added:

08VA05

SYSTEM NAME:

Employee Unfair Labor Practice Charges and Complaints, Negotiated Agreement Grievances and Arbitrations-VA.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

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6. Identifying information in this system, including name, address, social security number and other information as is reasonably necessary to identify such individual, may be disclosed to the National Practitioner Data Bank at the time of hiring and/or clinical privileging/reprivileging of health care practitioners, and other times as deemed necessary by VA, in order for VA to obtain information relevant to a Department decision concerning the hiring, privileging/reprivileging, retention or termination of the applicant or employee.

7. Relevant information from this system of records may be disclosed to the National Practitioner Data Bank or to a State or local government licensing board which maintains records concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty when under the following circumstances, through a peer review process that is undertaken pursuant to VA policy, negligence, professional incompetence, responsibility for improper care, and/or professional misconduct has been assigned to a physician or licensed or certified health care practitioner: (1) On any payment in settlement (or partial settlement) of, or in satisfaction of a"" judgment in, a medical malpractice action or claim; or, (2) on any final decision that adversely affects the clinical privileges of a physician or practitioner for a period of more than 30 days. These records may also be disclosed as part of a computer matching program to accomplish these purposes.

4. In the system identified as 11VA51, "Investigation Reports of Persons Allegedly Involved in Irregularities Concerning VA Laws, Regulations, Etc.-VA" appearing on pages 770–772 of the Federal Register publication, "Privacy Act Issuances, 1987 Compilation, Volume V," the following routine uses are added:

11VA51

SYSTEM NAME:

Investigation Reports of Persons Allegedly Involved in Irregularities Concerning VA Law, Regulations, Etc.-VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

* * * *

13. Identifying information in this system, including name, address, social security number and other information as is reasonably necessary to identify such individual, may be disclosed to the National Practitioner Data Bank at the time of hiring and/or clinical privileging/reprivileging of health care practitioners, and other times as deemed necessary by VA, in order for VA to obtain information relevant to a Department decision concerning the hiring, privileging/reprivileging, retention or termination of the applicant or employee.

14. Relevant information from this system of records may be disclosed to

the National Practitioner Data Bank or to a State or local government licensing board which maintains records concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty when under the following circumstances, through a peer review process that is undertaken pursuant to VA policy, negligence, professional incompetence, responsibility for improper care, and/or professional misconduct has been assigned to a physician or licensed or certified health care practitioner: (1) On any payment in settlement (or partial settlement) of, or in satisfaction of a judgment in, a medical malpractice action or claim; or, (2) on any final decision that adversely affects the clinical privileges of a physician or practitioner for a period of more than 30 days. These records may also be disclosed as part of a computer matching program to accomplish these purposes.

5. In the system identified as 23VA047, "Individuals Submitting Invoices/Vouchers for Payment-VA" appearing on pages 773 and 774 of the Federal Register publication, "Privacy Act Issuances, 1987 Compilation, Volume V," and amended at 55 FR 37906, September 12, 1990, the following routine uses are added:

23VA047

SYSTEM NAME:

Individuals Submitting Invoices/Vouchers for Payment-VA.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

* * * * *

11. Identifying information in this system, including name, address, social security number and other information as is reasonably necessary to identify such individual, may be disclosed to the National Practitioner Data Bank at the time of hiring and/or clinical privileging/reprivileging of health care practitioners, and other times as deemed necessary by VA, in order for VA to obtain information relevant to a Department decision concerning the hiring, privileging/reprivileging, retention or termination of the applicant or employee.

12. Relevant information from this system of records may be disclosed to the National Practitioner Data Bank or to a State or local government licensing board which maintains records concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty when under the following circumstances, through a peer review process that is undertaken pursuant to VA policy, negligence, professional incompetence, responsibility for improper care, and/or professional misconduct has been assigned to a physician or licensed or certified health care practitioner: (1) On any payment in settlement (or partial settlement) of, or in satisfaction of a judgment in, a medical malpractice action or claim; or, (2) on any final decision that adversely affects the clinical privileges of a physician or practitioner for a period of more than 30 days. These records may also be disclosed as part of a computer matching program to accomplish these purposes.

6. In the system identified as 14VA135, "Individuals Serving on a Fee Basis or Without Compensation (Consultants, Attendings, Others) Personnel Records-VA" appearing on pages 773 and 774 of the Federal Register publication, "Privacy Act Issuances, 1987 Compilation, Volume V," the following routine uses are added:

14VA135

SYSTEM NAME:

Individuals Serving on a Fee Basis or Without Compensation (Consultants, Attendings, Others) Personnel Records-VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

* * * * *

8. Identifying information in this system, including name, address, social security number and other information as is reasonably necessary to identify such individual, may be disclosed to the National Practitioner Data Bank at the time of hiring and/or clinical privileging/reprivileging of health care practitioners, and other times as deemed necessary by VA, in order for VA to obtain information relevant to a Department decision concerning the hiring, privileging/reprivileging, retention or termination of the applicant or employee.

9. Relevant information from this system of records may be disclosed to the National Practitioner Data Bank or to a State or local government licensing board which maintains records concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty when under the following circumstances, through a peer review process that is undertaken pursuant to VA policy, negligence, professional incompetence, responsibility for improper care, and/or professional misconduct has been assigned to a physician or licensed or certified health care practitioner: (1) On any payment in settlement (or partial settlement) of, or in satisfaction of a judgment in, a medical malpractice action or claim; or, (2) on any final decision that adversely affects the clinical privileges of a physician or practitioner for a period of more than 30 days. These records may also be disclosed as part of a computer matching program to accomplish these purposes.

7. In the system identified as 23VA136, "Patient Fee Basis Medical and Pharmacy Records-VA" appearing on pages 779 and 780 of the Federal Register publication, "Privacy Act Issuances, 1987 Compilation, Volume V," the following routine uses are added:

23VA136

SYSTEM NAME:

Patient Fee Basis Medical and Pharmacy Records-VA.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

* * * *

10. Identifying information in this system, including name, address, social security number and other information as is reasonably necessary to identify such individual, may be disclosed to the National Practitioner Data Bank at the time of hiring and/or clinical privileging/reprivileging of health care practitioners, and other times as deemed necessary by VA, in order for VA to obtain information relevant to a Department decision concerning the hiring, privileging/reprivileging, retention or termination of the applicant or employee.

11. Relevant information from this system of records may be disclosed to the National Practitioner Data Bank or to a State or local government licensing board which maintains records concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty when under the following circumstances, through a peer review process that is undertaken pursuant to VA policy, negligence, professional incompetence, responsibility for

improper care, and/or professional misconduct has been assigned to a physician or licensed or certified health care practitioner: (1) On any payment in settlement (or partial settlement) of, or in satisfaction of a judgment in, a medical malpractice action or claim; or, (2) on any final decision that adversely affects the clinical privileges of a physician or practitioner for a period of more than 30 days. These records may also be disclosed as part of a computer matching program to accomplish these purposes.

8. In the system identified as 24VA136, "Patient Medical Records-VA" appearing on pages 780–782 of the Federal Register publication, "Privacy Act Issuances, 1987 Compilation, Volume V," and amended at 53 FR 49818, December 9, 1988, 55 FR 5112–5113, February 13, 1990, and 55 FR 37604–37605, September 12, 1990, the following routine uses are added:

24VA136

SYSTEM NAME:

Patient Medical Records-VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

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31. Identifying information in this system, including name, address, social security number and other information as is reasonably necessary to identify such individual, may be disclosed to the National Practitioner Data Bank at the time of hiring and/or clinical privileging/reprivileging of health care practitioners, and other times as deemed necessary by VA, in order for VA to obtain information relevant to a Department decision concerning the hiring, privileging/reprivileging, retention or termination of the applicant or employee.

32. Relevant information from this system of records may be disclosed to the National Practitioner Data Bank or to a State or local government licensing board which maintains records concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty when under the following circumstances, through a peer review process that is undertaken pursuant to VA policy, negligence, professional incompetence, responsibility for improper care, and/or professional misconduct has been assigned to a physician or licensed or certified health care practitioner: (1) On any payment in settlement (or partial settlement) of, or in satisfaction of a judgment in, a medical malpractice action or claim; or, (2) on any final decision that adversely affects the clinical privileges of a physician or practitioner for a period of more than 30 days. These records may also be disclosed as part of a computer matching program to accomplish these purposes.

9. In the system identified as 27VA047, "Personnel and Accounting Pay System-VA" appearing on pages 782–784 of the Federal Register publication, "Privacy Act Issuances, 1987 Compilation, Volume V," the following routine uses are added:

27VA047

SYSTEM NAME:

Personnel and Accounting Pay System-VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

* * * * *

23. Identifying information in this system, including name, address, social security number and other information as is reasonably necessary to identify such individual, may be disclosed to the National Practitioner Data Bank at the time of hiring and/or clinical privileging/reprivileging of health care practitioners, and other times as deemed necessary by VA, in order for VA to obtain information relevant to a Department decision concerning the hiring, privileging/reprivileging, retention or termination of the applicant or employee.

24. Relevant information from this system of records may be disclosed to the National Practitioner Data Bank or to a State or local government licensing board which maintains records concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty when under the following circumstances, through a peer review process that is undertaken pursuant to VA policy, negligence, professional incompetence, responsibility for improper care, and/or professional misconduct has been assigned to a physician or licensed or certified health care practitioner: (1) On any payment in settlement (or partial settlement) of, or in satisfaction of a judgment in, a medical malpractice action or claim; or, (2) on any final decision that adversely affects the clinical privileges of a physician or practitioner for a period of more than 30 days. These records may also be disclosed as part of a computer matching program to accomplish these purposes.

10. In the system identified as 28VA118, "Personnel Registration Under Controlled Substance Act-VA" appearing on page 784 of the Federal Register publication, "Privacy Act Issuances, 1987 Compilation, Volume V," the following routine uses are added:

28VA118

SYSTEM NAME:

Personnel Registration Under Controlled Substance Act-VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

* * * * *

7. Identifying information in this system, including name, address, social security number and other information as is reasonably necessary to identify such individual, may be disclosed to the National Practitioner Data Bank at the time of hiring and/or clinical privileging/reprivileging of health care practitioners, and other times as deemed necessary by VA, in order for VA to obtain information relevant to a Department decision concerning the hiring, privileging/reprivileging, retention or termination of the applicant or employee.

8. Relevant information from this system of records may be disclosed to the National Practitioner Data Bank or to a State or local government licensing board which maintains records concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty when under the following circumstances, through a peer review process that is undertaken pursuant to VA policy, negligence, professional incompetence, responsibility for improper care, and/or professional misconduct has been assigned to a physician or licensed or certified health care practitioner: (1) On any payment in settlement (or partial settlement) of, or in satisfaction of a judgment in, a medical malpractice action or claim; or, (2) on any final decision that adversely affects the clinical privileges of a physician or practitioner for a period of more than 30 days. These records may also be disclosed as part of a computer matching program to accomplish these purposes.

11. In the system identified as 29VA11, "Physician, Dentist and Supervisory Nurse Professional Standards Board

BEST COPY AVAILABLE

Action File-VA" appearing on pages 784 and 785 of the Federal Register publication, "Privacy Act Issuances, 1987 Compilation, Volume V," the following routine uses are added:

29VA11

SYSTEM NAME:

Physician, Dentist and Supervisory Nurse Professional Standards Board Action File-VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

* * * * *

8. Identifying information in this system, including name, address, social security number and other information as is reasonably necessary to identify such individual, may be disclosed to the National Practitioner Data Bank at the time of hiring and/or clinical privileging/reprivileging of health care practitioners, and other times as determined necessary by VA, in order for VA to obtain information relevant to a Department decision concerning the hiring, privileging/reprivileging, retention or termination of the applicant or employee.

9. Relevant information from this system of records may be disclosed to the National Practitioner Data Bank or to a State or local government licensing board which maintains records concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty when under the following circumstances, through a peer review process that is undertaken pursuant to VA policy, negligence, professional incompetence, responsibility for improper care, and/or professional misconduct has been assigned to a physician or licensed or certified health care practitioner: (1) On any payment in settlement (or partial settlement) of, or in satisfaction of a judgment in, a medical malpractice action or claim; or, (2) on any final decision that adversely affects the clinical privileges of a physician or practitioner for a period of more than 30 days. These records may also be disclosed as part of a computer matching program to accomplish these purposes.

12. In the system identified as 32VA00, "Veteran, Employee and Citizen Health Care Facility Investigation Records-VA" appearing on pages 786 and 787 of the Federal Register publication, "Privacy Act Issuances, 1987 Compilation, Volume V," the following routine uses are added:

32VA00

SYSTEM NAME:

Veteran, Employee and Citizen Health Care Facility Investigation Records-VA.

* * * * *

11VA51

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

* * * * *

12. Identifying information in this system, including name, address, social security number and other information as is reasonably necessary to identify such individual, may be disclosed to the National Practitioner Data Bank at the time of hiring and/or clinical privileging/reprivileging of health care practitioners, and other times as deemed necessary by VA, in order for VA to obtain information relevant to a Department decision concerning the hiring, privileging/reprivileging, retention or termination of the applicant or employee.

13. Relevant information from this system of records may be disclosed to the National Practitioner Data Bank or to a State or local government licensing board which maintains records concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty when under the following circumstances, through a peer review process that is undertaken pursuant to VA policy, negligence, professional incompetence, responsibility for improper care, and/or professional misconduct has been assigned to a physician or licensed or certified health care practitioner: (1) On any payment in settlement (or partial settlement) of, or in satisfaction of a judgment in, a medical malpractice action or claim; or, (2) on any final decision that adversely affects the clinical privileges of a physician or practitioner for a period of more than 30 days. These records may also be disclosed as part of a computer matching program to accomplish these purposes.

13. In the system identified as 34VA11, "Veteran, Patient, Employee, and Volunteer Research and Development Project Records-VA" appearing on pages 787 and 788 of the Federal Register publication, "Privacy Act Issuances, 1987 Compilation, Volume V," the following routine uses are added:

34VA11

SYSTEM NAME:

Veteran, Patient, Employee, and Volunteer Research and Development Project Records-VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSE OF SUCH USES:

* * * * *

10. Identifying information in this system, including name, address, social security number and other information as is reasonably necessary to identify such individual, may be disclosed to the National Practitioner Data Bank at the time of hiring and/or clinical privileging/reprivileging of health care practitioners, and other times as deemed necessary by VA, in order for VA to obtain information relevant to a Department decision concerning the hiring, privileging/reprivileging, retention or termination of the applicant or employee.

11. Relevant information from this system of records may be disclosed to the National Practitioner Data Bank or to a State or local government licensing board which maintains records concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty when under the following circumstances, through a peer review process that is undertaken pursuant to VA policy, negligence, professional incompetence, responsibility for improper care, and/or professional misconduct has been assigned to a physician or licensed or certified health care practitioner: (1) On any payment in settlement (or partial settlement) of, or in satisfaction of a judgment in, a medical malpractice action or claim; or, (2) on any final decision that adversely affects the clinical privileges of a physician or practitioner for a period of more than 30 days. These records may also be disclosed as part of a computer matching program to accomplish these purposes.

14. In the system identified as 63VA05, "Grievance Records-VA" appearing on pages 814 and 815 of the Federal Register publication, "Privacy Act Issuances, 1987 Compilation, Volume V," the following routine uses are added:

63VA05

SYSTEM NAME:

Grievance Records—VA.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

12. Identifying information in this system, including name, address, social security number and other information as is reasonably necessary to identify such individual, may be disclosed to the National Practitioner Data Bank at the time of hiring and/or clinical privileging/reprivileging of health care practitioners, and other times as deemed necessary by VA, in order for VA hiring, privileging/reprivileging, retention or termination of the applicant or employee.

13. Relevant information from this system of records may be disclosed to the National Practitioner Data Bank or to a State or local government licensing board which maintains records concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty when under the following circumstances, through a peer review process that is undertaken pursuant to VA policy, negligence, professional incompetence, responsibility for improper care, and/or professional misconduct has been assigned to a physician or licensed or certified health care practitioner: (1) On any payment in settlement (or partial settlement) of, or in satisfaction of a judgment in, a medica1 malpractice action or claim; or, (2) on any final decision that adversely affects the clinical privileges of a physician or practitioner for a period of more than 30 days. These records may also be disclosed as part of a computer matching program to accomplish these purposes.

15. In the system identified as 66VA53, "Inspector General Complaint Center Records-VA" appearing on pages 816–818 of the Federal Register publication, "Privacy Act Issuances, 1987 Compilation, Volume V," the following routine uses are added:

66VA53

SYSTEM NAME:

Inspector General Complaint Center Records-VA

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

9. Identifying information in this system, including name, address, social security number and other information as is reasonably necessary to identify such individual, may be disclosed to the National Practitioner Data Bank at the time of hiring and/or clinical privileging/reprivileging of health care practitioners, and other times as deemed necessary by VA, in order for VA to obtain information relevant to a Department decision concerning the hiring, privileging/reprivileging, retention or termination of the applicant or employee.

10. Relevant information from this system of records may be disclosed to the National Practitioner Data Bank or to a State or local government licensing board which maintains records concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty when under the following circumstances, through a peer review process that is undertaken pursuant to VA policy, negligence, professional incompetence, responsibility for improper care, and/or professional misconduct has been assigned to a physician or licensed or certified health care practitioner: (1) On any payment in settlement (or partial settlement) of, or in satisfaction of a judgment in, a medical malpractice action or claim; or, (2) on any final decision that adversely affects the clinical privileges of a physician or practitioner for a period of more than 30 days. These records may also be disclosed as part of a computer matching program to accomplish these purposes.

16. In the system identified as 73VA14, "Health Professional Scholarship Program-VA" appearing on pages 821 and 822 of the Federal Register publication, "Privacy Act Issuances, 1987 Compilation, Volume V," the following routine uses are added:

73VA14

System Name:

Health Professional Scholarship Program-VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

* * * * *

11. Identifying information in this system, including name, address, social security number and other information as is reasonably necessary to identify such individual, may be disclosed to the National Practitioner Data Bank at the time of hiring and/or clinical privileging/reprivileging of health care practitioners, and other times as deemed necessary by VA, in order for VA to obtain information relevant to a Department decision concerning the hiring, privileging/reprivileging, retention or termination of the applicant or employee.

12. Relevant information from this system of records may be disclosed to the National Practitioner Data Bank or to a State or local government licensing board which maintains records concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty when under the following circumstances, through a peer review process that is undertaken pursuant to VA policy, negligence, professional incompetence, responsibility for improper care, and/or professional misconduct has been assigned to a physician or licensed or certified health care practitioner: (1) On any payment in settlement (or partial settlement) of, or in satisfaction of a judgment in, a medical malpractice action or claim; or, (2) on any final decision that adversely affects the clinical privileges of a physician or practitioner for a period of more than 30 days. These records may also be disclosed as part of a computer matching program to accomplish these purposes.

17. In the system identified as 76VA05, "General Personnel Records (Title 38)-VA" set forth at 53 FR 27258–27262, July 19, 1988, the following routine uses are added:

76VA05

SYSTEM NAME:

General Personnel Records (Title 38)-VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

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38. Identifying information in this system, including name, address, social security number and other information as is reasonably necessary to identify such individual, may be disclosed to the National Practitioner Data Bank at the time of hiring and/or clinical privileging/reprivileging of health care practitioners, and other times as deemed necessary by VA, in order for VA to obtain information relevant to a Department decision concerning the hiring, privileging/reprivileging, retention or termination of the applicant or employee.

39. Relevant information from this system of records may be disclosed to the National Practitioner Data Bank or to a State or local government licensing board which maintains records concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty when under the following circumstances through a peer review

process that is undertaken pursuant to VA policy, negligence, professional incompetence, responsibility for improper care, and/or professional misconduct has been assigned to a physician or licensed or certified health care practitioner: (1) On any payment in settlement (or partial settlement) of, or in satisfaction of a judgment in, a medical malpractice action or claim; or, (2) on any final decision that adversely affects the clinical privileges of a physician or practitioner for a period of more than 30 days. These records may also be disclosed as part of a computer matching program to accomplish these purposes.

[FR Doc. 90-24087 Filed 10-18-90; 8:45 am]
BILLING CODE 8320-01-M

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; Amendment of System Notice

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

Notice is hereby given that the Department of Veterans Affairs (VA) is considering revising routine use 29 in the system of records entitled Compensation, Pension, Education and Rehabilitation Records—VA (58 VA 21/22) as set forth in Federal Register publication, "Privacy Act Issuances," 1987 Compilation, Volume V, page 810. Routine use 29 would be revised by adding provisions to allow the release of relevant information (including changes in disability ratings) to Federal agencies for the review of administrative tort claims and potential tort claims filed under the Federal Tort Claims Act, 28 U.S.C. 2672, the Military Claims Act, 10 U.S.C. 2733 and other similar claims statutes.

Frequently, we receive requests for information from other Federal agencies investigating administrative tort claims or potential claims under the Federal Tort Claims Act or a similar statute. The information is usually contained in VA medical records or C-files. We believe it appropriate to honor these agency requests for information.

Information contained in C-files is germane to a number of issues raised in administrative tort claims, including prior employment and income, number of marriages and dependents, and educational history of the veteran and dependents. Information in the C-file may also show that the veteran or survivors of a deceased veteran are receiving compensation or pension for the same injury or death that is the subject of the claim. The courts have held that the United States is entitled to a credit against tort damages for VA benefits paid and to be paid so as to prevent a double recovery from the government. See *Brooks* v. *United States*, 337 U.S. 49 (1949); *Johnson* v. *United States*, 510 F. Supp. 1039 (D. Montana 19810; aff'd in part, 704 F. 2d 1431 (9th Cir. 1983) (active duty serviceman's tort award reduced by past and future VA compensation calculated at over $1.4 million).

Because agencies investigate and settle tort claims under claims statutes other than the Federal Tort Claims Act; *e.g.*, the Military Claims Act, and investigate potential claims events as well as filed claims, it would also seem appropriate to include these in the routine use in order to permit disclosure.

VA has determined that release of information under the circumstances described above is a necessary and proper use of information in this system of records and that a specific routine use for transfer of this information is appropriate. The proposed revision to routine use 29 also restates with nonsubstantive changes the information currently in routine use 29 which provides that any information in this system may be disclosed to the United States Department of Justice or United States Attorneys in order for the foregoing parties to prosecute or defend litigation involving or pertaining to the United States.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed amended routine use statements to the Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All relevant material received before November 19, 1990, will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays) until November 19, 1990.

If no public comment is received during the 30 day review period allowed for public comment or unless otherwise published in the Federal Register by the Department of Veterans Affairs, the amendments to 58 VA 21/22 included herein are effective November 19, 1990.

Approved: October 10, 1990.

Edward Derwinski,

Secretary of Veterans Affairs.

Notice of Amendment to System of Records

Routine use 29 in the system of records identified as 58 VA 21/22, "Compensation, Pension, Education and Rehabilitation records—VA" as set forth in Federal Register publication, Privacy Act Issuances," 1987 Compilation, Volume V, page 810, is revised to read as follows:

58 VA 21/22

SYSTEM NAME:

Compensation, Pension, Education and Rehabilitation Records—VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THEIR PURPOSES OF SUCH USES:

* * * * *

29. Any relevant information (including changes in disability ratings) may be disclosed to the Department of Justice and United States Attorneys in the defense or prosecution of litigation involving the United States, and to Federal agencies upon their request in connection with review of administrative tort claims and potential tort claims filed under the Federal Tort Claims Act, 28 U.S.C. 2672, the Military Claims Act, 10 U.S.C. 2733, and other similar claims statutes.

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[FR Doc. 90-24088 Filed 10-18-90; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 203
Friday, October 19, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, October 24, 1990.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting; for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 16, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-24852 Filed 10-16-90; 4:24 pm]

BILLING CODE 6210-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of October 15, 1990.

A closed meeting will be held on Tuesday, October 16, 1990, at 2:30 p.m.

The Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Lochner, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, October 16, 1990, at 2:30 p.m., will be:

Institution of injunctive actions.
Institution of administrative proceedings of an enforcement nature.
Formal order of investigation.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Daniel Gray at (202) 272-2300.

Dated: October 16, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-24932 Filed 10-17-90; 2:46 pm]

BILLING CODE 8010-01-M

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1434]

TIME AND DATE: 10 a.m. (EDT), October 23, 1990.

PLACE: TVA Knoxville Office Complex, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

AGENDA: Approval of minutes of meeting held on September 19, 1990.

ACTION ITEMS:

New Business

A—Budget and Financing

A1. Authority to Write Off Uncollectible Account Receivable.

B—Purchase Awards

B1. Purchase Contract with Combustion Engineering, Inc., for Replacement Boiler Waterwall Panels for Widows Creek Power Plant.

B2. Coal Purchase for Allen, Colbert, Shawnee, and Widows Creek Power Plants (Requisition 22).

C—Power

C1. Arrangements with Associated Electric Cooperative, Inc.

C2. Interconnection Agreement with Nantahala Power and Light Company.

E—Real Property Transactions

E1. Deed Modification Affecting Approximately 0.01 Acre of Chickamauga Reservoir Land in Hamilton County, Tennessee.

F—Unclassified

F1. Contract with B&W Nuclear Service Company for Services Associated with Bellefonte Nuclear Plant.

F2. Filing of Condemnation Cases.

F3. Approval to Issue Suspension and Debarment Procedures.

F4. Supplement No. 4 to Personal Services Contract No. TV-77633A with Law Engineering, Incorporated.

F5. Personal Services Contract No. TV-78647T with Manpower Temporary Services.

INFORMATION ITEMS:

1. TVA Contribution to the TVA Retirement System for Fiscal Year 1991.
2. Contract with Systems Engineering Solutions, Inc., for Automatic Data Processing Equipment Support Services (Proposal YD-95404C).
3. Performance Increases for Employees on the Manager and Specialist Salary Schedule and Revisions to the Pay Rates for Excluded Positions.
4. Sale of Old Post Office Property in Chattanooga, Tennessee.
5. Increase Contract Amount with ABB Power T&D Company for Purchase of Transformers (Contract 90NLB-74678B).

CONTACT PERSON FOR MORE INFORMATION: Alan Carmichael, Manager, Media Relations, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 479-4412.

Dated: October 16, 1990.

William L. Osteen, Jr.,

Associate General Counsel and Assistant Secretary.

[FR Doc. 90-24861 Filed 10-17-90; 10:54 am]

BILLING CODE 8120-08-M

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federal register

Friday
October 19, 1990

Part II

The President

Proclamation 6207—Veterans Day, 1990

Executive Order 12731—Principles of Ethical Conduct for Government Officers and Employees

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The

Federal Register
Vol. 55, No. 203
Friday, October 19, 1990

Presidential Documents

Title 3—

The President

Proclamation 6287 of October 17, 1990

Veterans Day, 1990

By the President of the United States of America

A Proclamation

The Bible tells us that no greater love has a man than this: to lay down his life for a friend. Our Nation's military veterans are brave and selfless individuals who, when duty called, were willing to put themselves in harm's way to defend the lives and liberty of others. Each November 11, we pause with solemn pride and heartfelt gratitude to honor this special group of Americans. The sacrifices they have made for our sake—and, indeed, for the sake of millions of freedom-loving men and women around the world—can never be forgotten. Their abiding patriotism and enduring devotion to the ideals on which the United States is founded can never fail to inspire us.

This Nation's veterans have made their stand for freedom and democratic ideals from the Argonne Forest to the windswept Aleutian Islands, from the searing deserts of North Africa to the steep hills and dense jungles of Southeast Asia. Some have defended the cause of individual liberty and self-government in more recent conflicts and less remote places, such as Grenada and Panama. They have seen comrades-in-arms fall on the field of battle, giving "the last full measure of devotion" for our country and the vision of freedom and justice we hold dear. They, too, have suffered and sacrificed, carrying on the light of liberty with efforts that have been equally selfless and heroic.

It is fitting that we pause on the anniversary of "Armistice Day," a day of peace and celebration, to honor America's veterans and to express our gratitude for their courage and sacrifice. World War I, which ended with the signing of the Armistice on November 11, 1918, did not, as millions of people hoped, prove to be "The War to End All Wars." Nevertheless, we know that our world is safer, freer, and more peaceful today thanks to the vigilance and resolve of our Armed Forces. Indeed, our Nation's veterans have helped to bring peace and freedom to regions of the world that once suffered under the shadow of hostility and oppression. The triumph of democratic ideals in Eastern Europe and other parts of the world provides powerful evidence that their sacrifices were not made in vain.

Although the dramatic social and political changes we have witnessed around the world during the past year provide a resounding affirmation of the ideals our veterans have fought to uphold, current events in the Persian Gulf region underscore the need for continued strength and vigilance on the part of free nations. As veterans have so often reminded us, eternal vigilance is, indeed, the price of liberty. These great heroes who have left their own "footprints on the sands of time" know that preparedness deters aggression, and they understand the important task before those American service men and women now keeping watch along the sands and off the shores of Saudi Arabia.

On this Veterans Day, mindful of President Wilson's call to honor our Nation's war heroes with a 2-minute interval of silence at 11:00 a.m. on November 11, 1919, let us pause to remember and pray for all those men and women who have since served in the United States Armed Forces. Through special services, programs, and ceremonies held in their honor on this day, let us affirm that their singular contributions to our country are cherished and remembered.

Let us also strive, each and every day of the year, to ensure that ours remains a land worthy of the great love our veterans have shown for it.

In order that we may pay due tribute to those who have served in our Armed Forces, the Congress has provided (5 U.S.C. 6103(a)) that November 11 of each year shall be set aside as a legal public holiday to honor America's veterans.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim Sunday, November 11, 1990, as Veterans Day. I urge all Americans to honor our veterans through appropriate public ceremonies and private prayers. I also call upon Federal, State, and local government officials to display the flag of the United States and to encourage and participate in patriotic activities in their communities. I invite civic and fraternal organizations, churches, schools, businesses, unions, and the media to support this national observance with suitable commemorative expressions and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of October, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.

George Bush

[FR Doc. 90-24760
Filed 10-18-90; 10:42 am]
Billing code 3195-01-M

VOL 55 ISS 203 OCT 19 1990 UMI

Presidential Documents

Executive Order 12731 of October 17, 1990

Principles of Ethical Conduct for Government Officers and Employees

By virtue of the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish fair and exacting standards of ethical conduct for all executive branch employees, it is hereby ordered that Executive Order 12674 of April 12, 1989, is henceforth modified to read as follows:

"EXECUTIVE ORDER

"_____

"PRINCIPLES OF ETHICAL CONDUCT FOR GOVERNMENT OFFICERS AND EMPLOYEES

"By virtue of the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish fair and exacting standards of ethical conduct for all executive branch employees, it is hereby ordered as follows:

"Part I—Principles of Ethical Conduct

"Section 101. *Principles of Ethical Conduct.* To ensure that every citizen can have complete confidence in the integrity of the Federal Government, each Federal employee shall respect and adhere to the fundamental principles of ethical service as implemented in regulations promulgated under sections 201 and 301 of this order:

"(a) Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws, and ethical principles above private gain.

"(b) Employees shall not hold financial interests that conflict with the conscientious performance of duty.

"(c) Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.

"(d) An employee shall not, except pursuant to such reasonable exceptions as are provided by regulation, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.

"(e) Employees shall put forth honest effort in the performance of their duties.

"(f) Employees shall make no unauthorized commitments or promises of any kind purporting to bind the Government.

"(g) Employees shall not use public office for private gain.

"(h) Employees shall act impartially and not give preferential treatment to any private organization or individual.

"(i) Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.

"(j) Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.

"(k) Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.

"(l) Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those—such as Federal, State, or local taxes—that are imposed by law.

"(m) Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.

"(n) Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards promulgated pursuant to this order.

"**Sec. 102.** *Limitations on Outside Earned Income.*

"(a) No employee who is appointed by the President to a full-time noncareer position in the executive branch (including full-time noncareer employees in the White House Office, the Office of Policy Development, and the Office of Cabinet Affairs), shall receive any earned income for any outside employment or activity performed during that Presidential appointment.

"(b) The prohibition set forth in subsection (a) shall not apply to any full-time noncareer employees employed pursuant to 3 U.S.C. 105 and 3 U.S.C. 107(a) at salaries below the minimum rate of basic pay then paid for GS–9 of the General Schedule. Any outside employment must comply with relevant agency standards of conduct, including any requirements for approval of outside employment.

"Part II—Office of Government Ethics Authority

"**Sec. 201.** *The Office of Government Ethics.* The Office of Government Ethics shall be responsible for administering this order by:

"(a) Promulgating, in consultation with the Attorney General and the Office of Personnel Management, regulations that establish a single, comprehensive, and clear set of executive-branch standards of conduct that shall be objective, reasonable, and enforceable.

"(b) Developing, disseminating, and periodically updating an ethics manual for employees of the executive branch describing the applicable statutes, rules, decisions, and policies.

"(c) Promulgating, with the concurrence of the Attorney General, regulations interpreting the provisions of the post-employment statute, section 207 of title 18, United States Code; the general conflict-of-interest statute, section 208 of title 18, United States Code; and the statute prohibiting supplementation of salaries, section 209 of title 18, United States Code.

"(d) Promulgating, in consultation with the Attorney General and the Office of Personnel Management, regulations establishing a system of nonpublic (confidential) financial disclosure by executive branch employees to complement the system of public disclosure under the Ethics in Government Act of 1978. Such regulations shall include criteria to guide agencies in determining which employees shall submit these reports.

"(e) Ensuring that any implementing regulations issued by agencies under this order are consistent with and promulgated in accordance with this order.

"**Sec. 202.** *Executive Office of the President.* In that the agencies within the Executive Office of the President (EOP) currently exercise functions that are

not distinct and separate from each other within the meaning and for the purposes of section 207(c) of title 18, United States Code, those agencies shall be treated as one agency under section 207(c) of title 18, United States Code.

"Part III—Agency Responsibilities

"Sec. 301. *Agency Responsibilities.* Each agency head is directed to:

"(a) Supplement, as necessary and appropriate, the comprehensive executive branch-wide regulations of the Office of Government Ethics, with regulations of special applicability to the particular functions and activities of that agency. Any supplementary agency regulations shall be prepared as addenda to the branch-wide regulations and promulgated jointly with the Office of Government Ethics, at the agency's expense, for inclusion in Title 5 of the Code of Federal Regulations.

"(b) Ensure the review by all employees of this order and regulations promulgated pursuant to the order.

"(c) Coordinate with the Office of Government Ethics in developing annual agency ethics training plans. Such training shall include mandatory annual briefings on ethics and standards of conduct for all employees appointed by the President, all employees in the Executive Office of the President, all officials required to file public or nonpublic financial disclosure reports, all employees who are contracting officers and procurement officials, and any other employees designated by the agency head.

"(d) Where practicable, consult formally or informally with the Office of Government Ethics prior to granting any exemption under section 208 of title 18, United States Code, and provide the Director of the Office of Government Ethics a copy of any exemption granted.

"(e) Ensure that the rank, responsibilities, authority, staffing, and resources of the Designated Agency Ethics Official are sufficient to ensure the effectiveness of the agency ethics program. Support should include the provision of a separate budget line item for ethics activities, where practicable.

"Part IV—Delegations of Authority

"Sec. 401. *Delegations to Agency Heads.* Except in the case of the head of an agency, the authority of the President under sections 203(d), 205(e), and 208(b) of title 18, United States Code, to grant exemptions or approvals to individuals, is delegated to the head of the agency in which an individual requiring an exemption or approval is employed or to which the individual (or the committee, commission, board, or similar group employing the individual) is attached for purposes of administration.

"Sec. 402. *Delegations to the Counsel to the President.*

"(a) Except as provided in section 401, the authority of the President under sections 203(d), 205(e), and 208(b) of title 18, United States Code, to grant exemptions or approvals for Presidential appointees to committees, commissions, boards, or similar groups established by the President is delegated to the Counsel to the President.

"(b) The authority of the President under sections 203(d), 205(e), and 208(b) of title 18, United States Code, to grant exemptions or approvals for individuals appointed pursuant to 3 U.S.C. 105 and 3 U.S.C. 107(a), is delegated to the Counsel to the President.

"Sec. 403. *Delegation Regarding Civil Service.* The Office of Personnel Management and the Office of Government Ethics, as appropriate, are delegated the authority vested in the President by 5 U.S.C. 7301 to establish general regulations for the implementation of this Executive order.

"Part V—General Provisions

"Sec. 501. *Revocations.* The following Executive orders are hereby revoked:

"(a) Executive Order No. 11222 of May 8, 1965.

"(b) Executive Order No. 12565 of September 25, 1986.

"Sec. 502. *Savings Provision.*

"(a) All actions already taken by the President or by his delegates concerning matters affected by this order and in force when this order is issued, including any regulations issued under Executive Order 11222, Executive Order 12565, or statutory authority, shall, except as they are irreconcilable with the provisions of this order or terminate by operation of law or by Presidential action, remain in effect until properly amended, modified, or revoked pursuant to the authority conferred by this order or any regulations promulgated under this order. Notwithstanding anything in section 102 of this order, employees may carry out preexisting contractual obligations entered into before April 12, 1989.

"(b) Financial reports filed in confidence (pursuant to the authority of Executive Order No. 11222, 5 C.F.R. Part 735, and individual agency regulations) shall continue to be held in confidence.

"Sec. 503. *Definitions.* For purposes of this order, the term:

"(a) 'Contracting officers and procurement officials' means all such officers and officials as defined in the Office of Federal Procurement Policy Act Amendments of 1988.

"(b) 'Employee' means any officer or employee of an agency, including a special Government employee.

"(c) 'Agency' means any executive agency as defined in 5 U.S.C. 105, including any executive department as defined in 5 U.S.C. 101, Government corporation as defined in 5 U.S.C. 103, or an independent establishment in the executive branch as defined in 5 U.S.C. 104 (other than the General Accounting Office), and the United States Postal Service and Postal Rate Commission.

"(d) 'Head of an agency' means, in the case of an agency headed by more than one person, the chair or comparable member of such agency.

"(e) 'Special Government employee' means a special Government employee as defined in 18 U.S.C. 202(a).

"Sec. 504. *Judicial Review.* This order is intended only to improve the internal management of the executive branch and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.".

THE WHITE HOUSE,
October 17, 1990.

[FR Doc. 90-25052
Filed 10-18-90; 10:01 am]
Billing code 3195-01-M

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Vol. 55, No. 203
Friday, October 19, 1990

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H.R. 5841/Pub. L. 101-428

Capitol Police Retirement Act. (Oct. 15, 1990; 104 Stat. 922; 3 pages) Price: $1.00

S. 647/Pub. L. 101-429

Securities Enforcement Remedies and Penny Stock Reform Act of 1990. (Oct. 15, 1990; 104 Stat. 931; 28 pages) Price: $1.00

S. 1230/Pub. L. 101-430

To authorize the acquisition of additional lands for inclusion in the Knife River Indian Villages National Historic Site, and for other purposes. (Oct. 15, 1990; 104 Stat. 959; 1 page) Price: $1.00

S. 1974/Pub. L. 101-431

Television Decoder Circuitry Act of 1990. (Oct. 15, 1990; 104 Stat. 960; 3 pages) Price: $1.00

H.R. 3657/Pub. L. 101-432

Market Reform Act of 1990. (Oct. 16, 1990; 104 Stat. 963; 15 pages) Price: $1.00

S. 1511/Pub. L. 101-433

Older Workers Benefit Protection Act. (Oct. 16, 1990; 104 Stat. 978; 7 pages) Price: $1.00

H.R. 438/Pub. L. 101-434

To amend the Appalachian Regional Development Act of 1965 to include Columbiana County, Ohio, as part of the Appalachian region. (Oct. 17, 1990; 104 Stat. 985; 1 page) Price: $1.00

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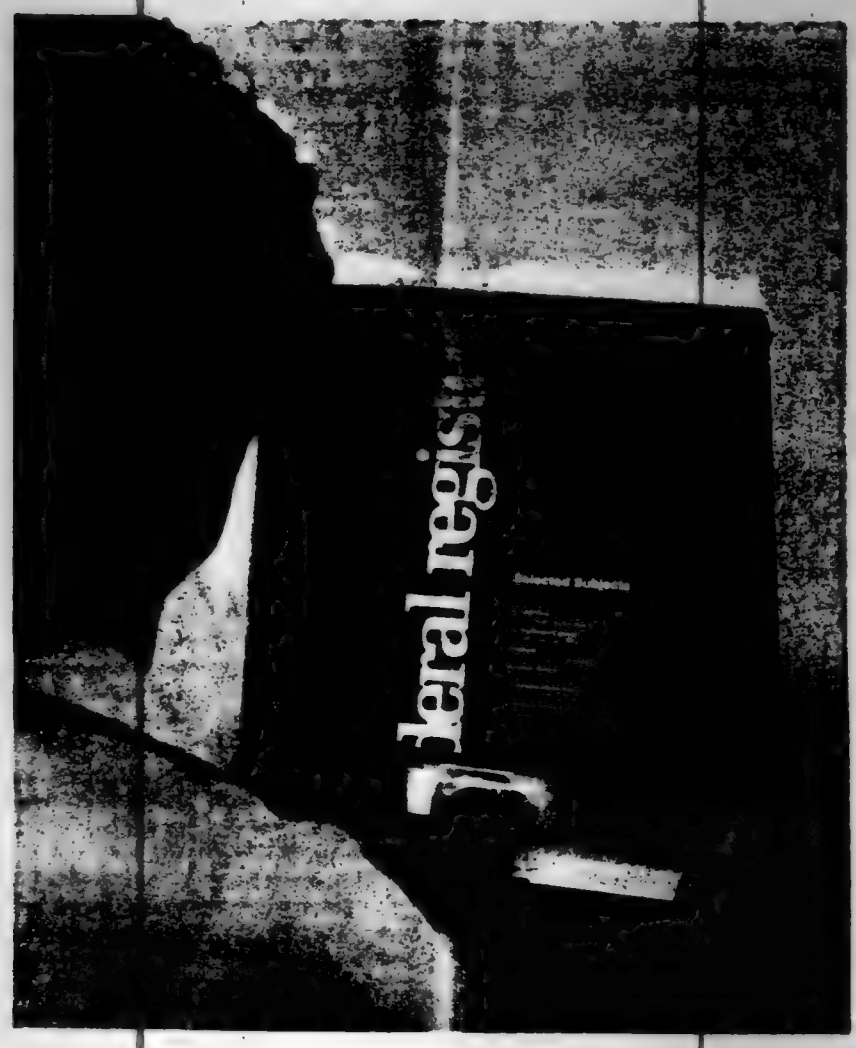

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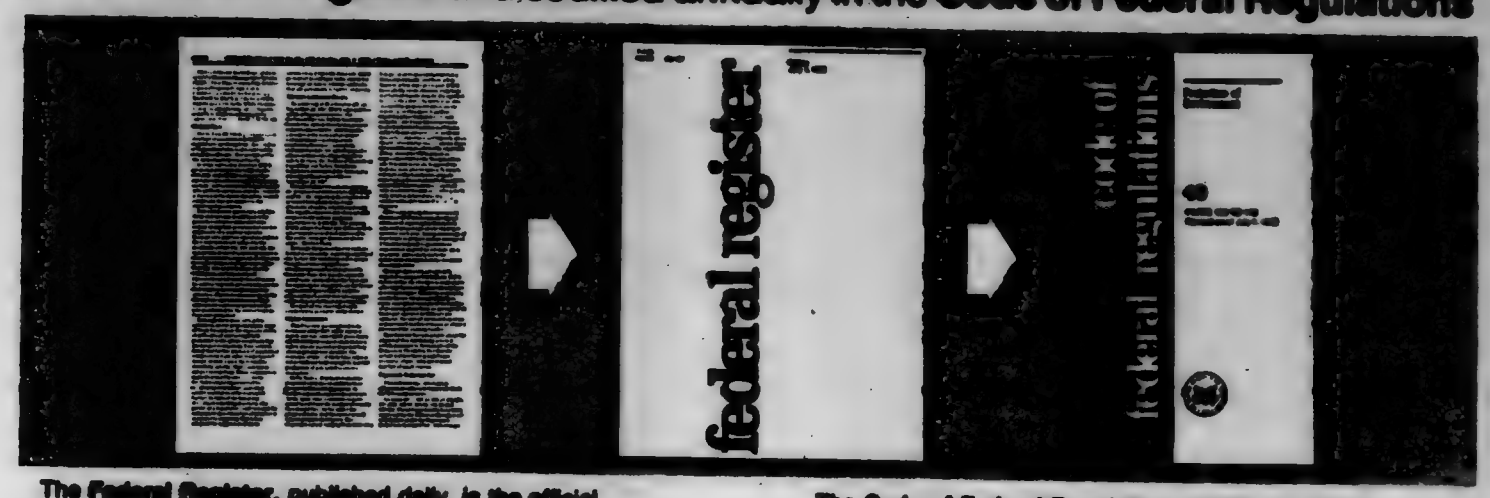

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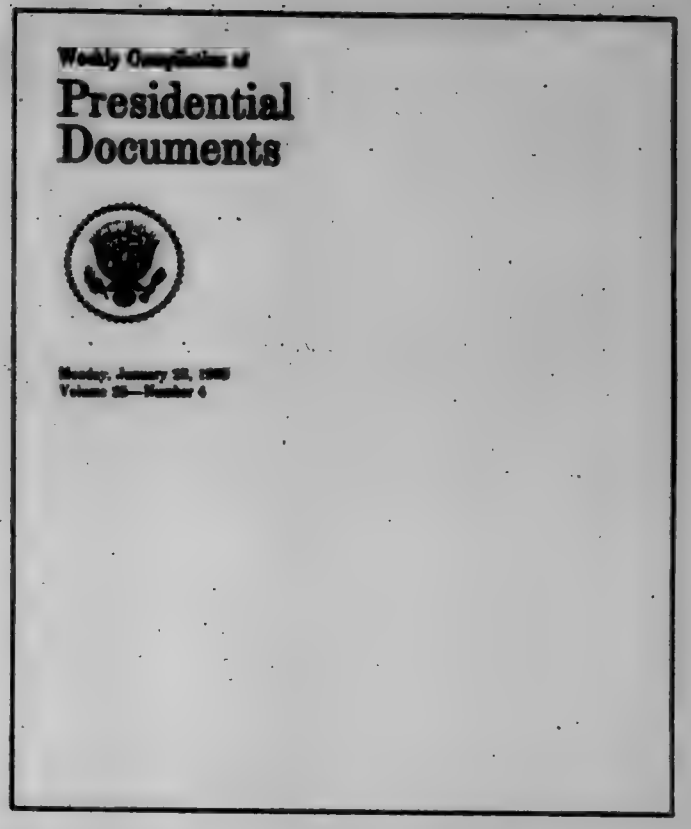

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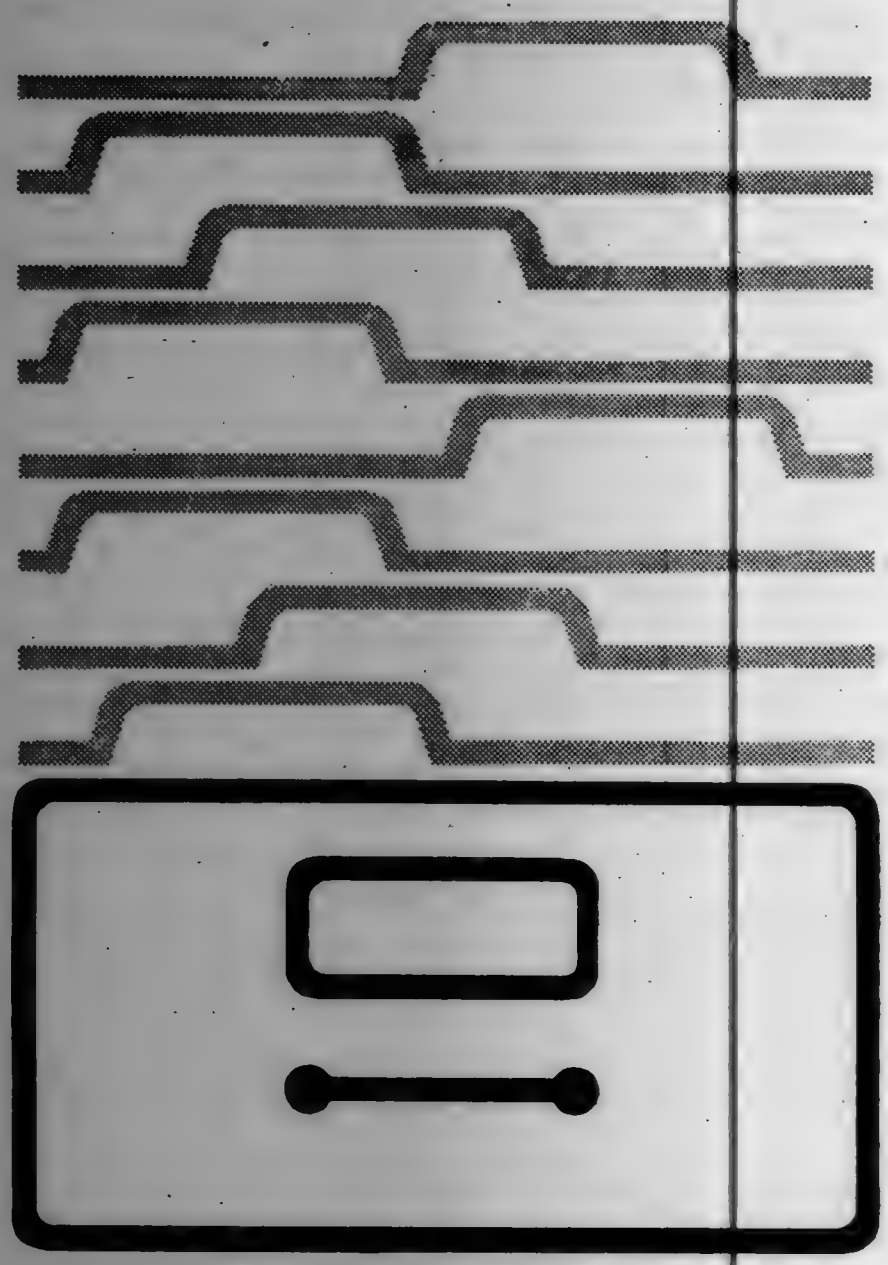

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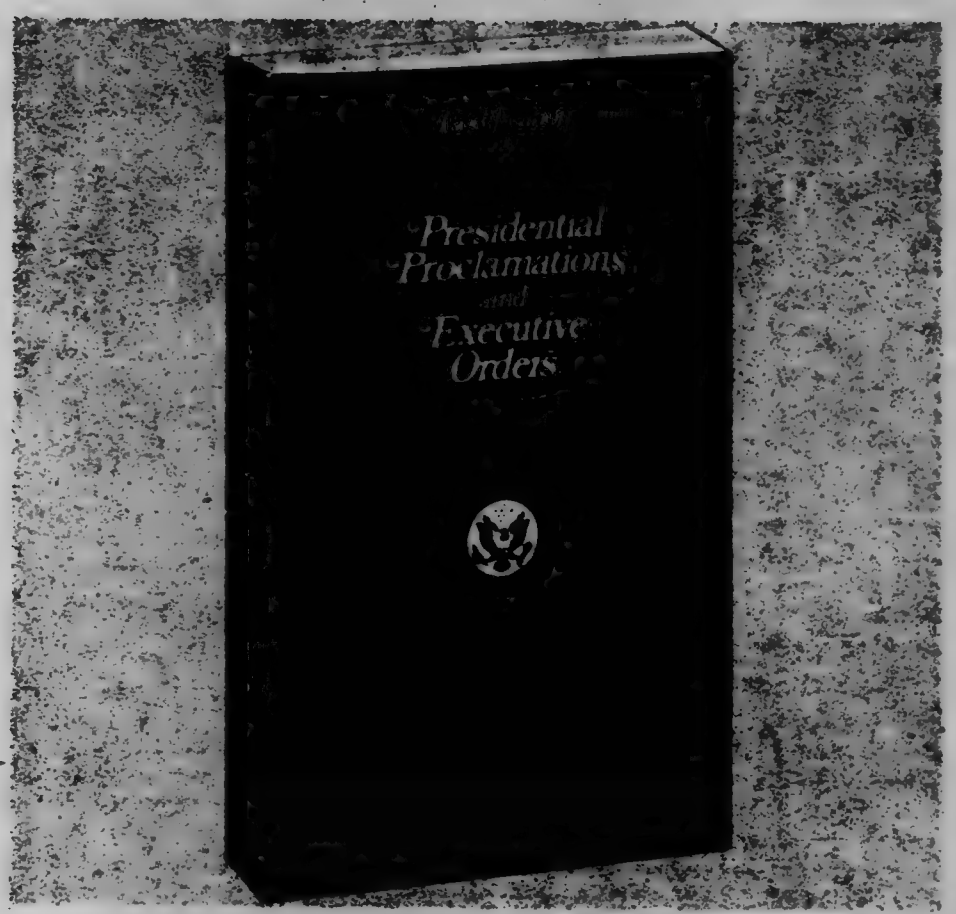

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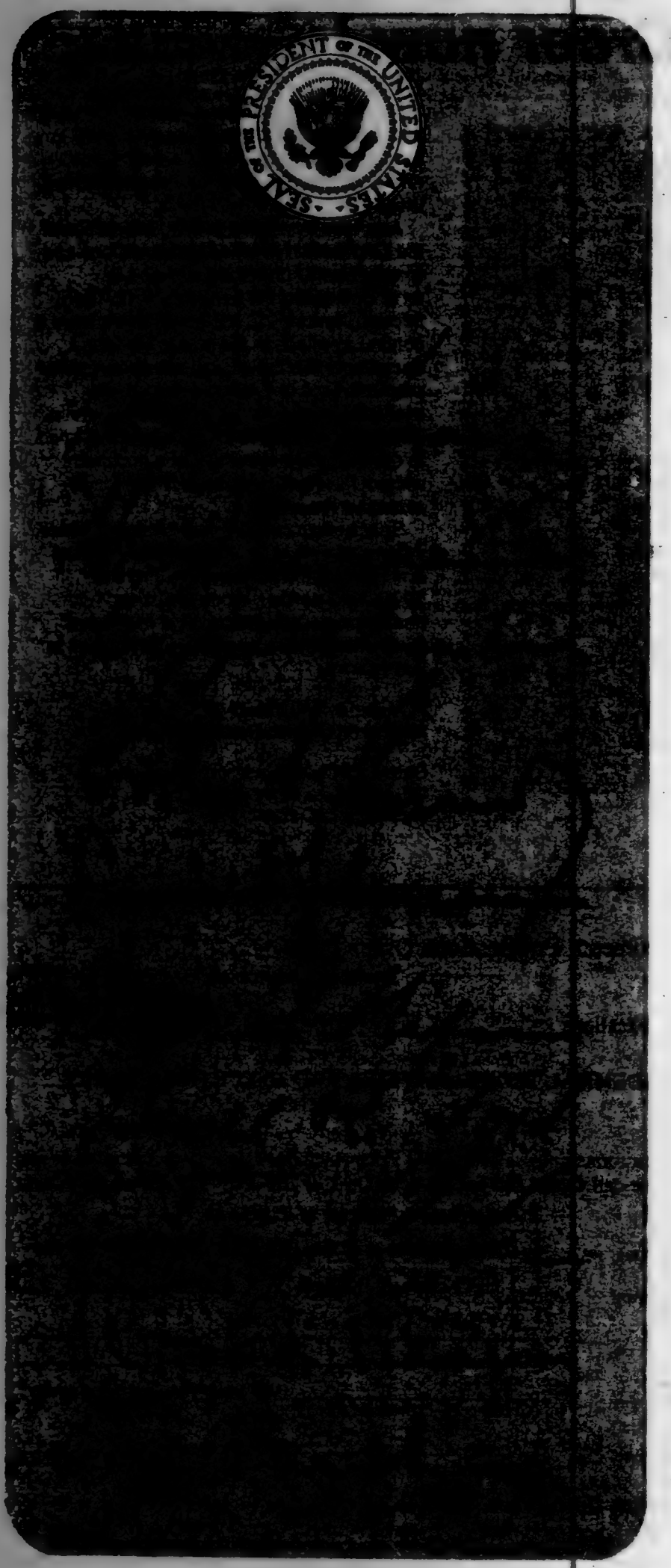

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Rules and Regulations

Federal Register
Vol. 55, No. 204
Monday, October 22, 1990

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 401

[Amdt. No. 63; Doc. No. 90083]

General Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Interim rule with request for comment.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1991 and succeeding crop years by changing the current end of insurance period for certain soybean producing states from December 31 to December 10. The intent of this rule is to preserve the credibility of the crop insurance program with respect to preventing a situation where adverse selectivity may result in leaving soybeans in the field after optimum harvest time has been reached.

DATES: This interim rule is effective on October 22, 1990. Written comments, data, and opinions on this interim rule must be submitted not later than December 21, 1990, to be sure of consideration.

ADDRESSES: Written comments on this interim rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of the regulations affected by this rule under those procedures. The sunset review date established for these regulations is October 1, 1992.

David W. Gebriel, Acting Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) an annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons and will not have a significant economic impact on a substantial number of small entities.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

FCIC herewith amends the General Crop Insurance Regulations (7 CFR part 401) to provide that the end of insurance period for soybeans in those states currently listed as December 31, be changed to December 10. This earlier date is consistent with the December 10 end of insurance period in all other states where soybean crop insurance is available, and is consistent with soybean growing practices.

FCIC has determined that, in some instances, a soybean producer may elect not to harvest timely, even though conditions for harvest are good, because the crop insurance policy provides coverage that extends until December 31. Harvest delays increase the risk that a deterioration in crop quality will occur, which will result in an increase in indemnity claims. This practice, while not widespread, has: increased the cost of the crop insurance program that is borne by the taxpayer; adversely impacted actuarial soundness of the soybean program; and, contributed to the poor insurance experience for the crop.

FCIC is committed to operate a sound program of crop insurance protection to equally benefit all producers as mandated by the Federal Crop Insurance Act, as amended. Therefore, FCIC has determined to change the current policy date for the end of insurance period to December 10 in all states.

FCIC has further determined that, while the earliest soybean contract change date is November 30, unless an immediate change is made to the provisions for insuring soybeans to lessen this unnecessary exposure, an opportunity to limit needless risk and exposure of taxpayer funds will be missed and FCIC will likely incur avoidable losses.

For the reasons outlined above, FCIC has determined that, notwithstanding the provisions on 5 U.S.C. 553, with respect to public notice and comment, good cause exists for making this rule effective upon publication in the Federal Register.

This rule is effective on publication in the Federal Register. FCIC is soliciting public comment on this proposed rule for 60 days following publication in the Federal Register. Written comment should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250.

All written comments received pursuant to this proposed rule will be available for public inspection and copying in the Office of the Manager, Federal Crop Insurance Corporation, room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

This rule will be scheduled for review so that any amendment made necessary by public comment will be published in

the Federal Register as quickly as possible.

List of Subjects in 7 CFR Part 401

Crop insurance; Soybeans.

Interim Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the General Crop Insurance Regulations (7 CFR part 401), effective for the 1991 and succeeding crop years, by amending the Soybean Endorsement (7 CFR 401.117) in the following instances:

PART 401—[AMENDED]

1. The authority citation for 7 CFR part 401 continues to read as follows:

Authority: 7 U.S.C. 1506, 1516.

2. Paragraph 4 of 7 CFR 401.117, the Soybean Endorsement, is revised to read as follows:

§ 401.117 Soybean endorsement.

* * * * *

4. Insurance Period.

In accordance with the provisions of section 7 of the general crop insurance policy the calendar date for the end of the insurance period in all states is December 10 immediately following planting.

Done in Washington, DC, on October 2, 1990.

David W. Gabriel,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 90-24873 Filed 10-19-90; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 740]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to domestic markets during the period from October 21 through October 27, 1990. Consistent with program objectives, such action is needed to balance the supplies of fresh lemons with the demand for such lemons during the period specified. This action was recommended by the Lemon Administrative Committee (Committee), which is responsible for local administration of the lemon marketing order.

EFFECTIVE DATE: Regulation 740 (7 CFR part 910) is effective for the period from October 21 through October 27, 1990.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture (Department), Room 2524–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 475–3861.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order 910 (7 CFR part 910), as amended, regulating the handling of lemons grown in California and Arizona. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the Act.

This final rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities as well as larger ones.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 70 handlers of lemons grown in California and Arizona subject to regulation under the lemon marketing order and approximately 2,000 lemon producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000 and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona lemons may be classified as small entities.

The California-Arizona lemon industry is characterized by a large number of growers located over a wide area. The Committee's estimate of the 1990–91 production is 42,140 cars (one car equals 1,000 cartons at 38 pounds net weight each), compared to 37,881 cars during the 1989–90 season. The production area is divided into three districts which span California and Arizona. The Committee estimates District 1, central California, 1990–91 production at 6,600 cars compared to the 4,158 cars produced in 1989–90. In District 2, southern California, the crop is expected to be 24,700 cars compared to the 24,292 cars produced last year. In District 3, the California desert and Arizona, the Committee estimates a production of 10,840 cars compared to the 9,436 cars produced last year. According to the National Agricultural Statistics Service, 1990–91 lemon production is expected to total 40,200 cars, 6 percent above the 1989–90 season and 1 percent more than the crop utilized in 1988–89.

The three basic outlets for California-Arizona lemons are the domestic fresh, export, and processing markets. The domestic (regulated) fresh market is a preferred market for California-Arizona lemons. Based on its crop estimate of 42,140 cars, the Committee estimates that about 42.5 percent of the 1990–91 crop will be utilized in fresh domestic channels (17,900 cars), compared with the 1989–90 total of 16,600 cars, about 44 percent of the total production of 37,881 cars in 1989–90. Fresh exports are projected at 20.1 percent of the total 1990–91 crop utilization compared with 22 percent in 1989–90. Processed and other uses would account for the residual 37.4 percent compared with 34 percent of the 1989–90 crop.

Volume regulations issued under the authority of the Act and Marketing Order No. 910 are intended to provide benefits to growers and consumers. Reduced fluctuations in supplies and prices result from regulating shipping levels and contribute to a more stable market. The intent of regulation is to achieve a more even distribution of lemons in the market throughout the marketing season and to avoid unreasonable fluctuations in supplies and prices.

Based on the Committee's marketing policy, the crop and market information provided by the Committee, and other information available to the Department, the costs of implementing the regulations are expected to be more than offset by the potential benefits of regulation.

Reporting and recordkeeping requirements under the lemon marketing order are required by the Committee from handlers of lemons. However, handlers in turn may require individual growers to utilize certain reporting and recordkeeping practices to enable handlers to carry out their functions.

Costs incurred by handlers in connection with recordkeeping and reporting requirements may be passed on to growers.

The Committee submitted its marketing policy for the 1990–91 season to the Department on June 19. The marketing policy discussed, among other things, the potential use of volume and size regulations for the ensuing season. The Committee considered the use of volume regulation for the season. This marketing policy is available from the Committee or Ms. Rodriguez. The Department reviewed that policy with respect to administrative requirements and regulatory alternatives in order to determine if the use of volume regulations would be appropriate.

The Committee met publicly on October 16, 1990, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and unanimously recommended that 325,000 cartons is the quantity of lemons deemed advisable to be shipped to fresh domestic markets during the specified week. The marketing information and data provided to the Committee and used in its deliberations were compiled by the Committee's staff or presented by Committee members at the meeting. This information included, but was not limited to, price data for the previous week from Department market news reports and other sources, the preceding week's shipments and shipments to date, crop conditions, weather and transportation conditions, and a reevaluation of the prior week's recommendation in view of the above.

The Department reviewed the Committee's recommendation in light of the Committee's projections as set forth in its 1990–91 marketing policy. This recommended amount is 26,000 cartons above the estimated projections in the Committee's current shipping schedule.

During the week ending on October 13, 1990, shipments of lemons to fresh domestic markets, including Canada, totaled 312,000 cartons compared with 294,000 cartons shipped during the week ending on October 14, 1989. Export shipments totaled 176,000 cartons compared with 196,000 cartons shipped during the week ending on October 14, 1989. Processing and other uses accounted for 267,000 cartons compared with 218,000 cartons shipped during the week ending on October 14, 1989.

Fresh domestic shipments to date for the 1990–91 season total 3,358,000 cartons compared with 3,209,000 cartons shipped by this time during the 1989–90 season. Export shipments total 1,467,000 cartons compared with 1,637,000 cartons shipped by this time during 1989–90. Processing and other use shipments total 2,479,000 cartons compared with 1,548,000 cartons shipped by this time during 1989–90.

For the week ending on October 13, 1990, regulated shipments of lemons to the fresh domestic market were 312,000 cartons on an adjusted allotment of 344,000 cartons which resulted in net undershipments of 32,000 cartons. Regulated shipments for the current week (October 14 through October 20, 1990) are estimated at 325,000 cartons on an adjusted allotment of 345,000 cartons. Thus, undershipments of 20,000 cartons could be carried over into the week ending on October 27, 1990.

The average f.o.b. shipping point price for the week ending on October 13, 1990, was $13.48 per carton based on a reported sales volume of 306,000 cartons compared with last week's average of $14.03 per carton on a reported sales volume of 310,000 cartons. The 1990–91 season average f.o.b. shipping point price to date is $13.16 per carton. The average f.o.b. shipping point price for the week ending on October 14, 1989, was $14.69 per carton; the season average f.o.b. shipping point price at this time during 1989–90 was $14.71 per carton.

The Department's Market News Service reported that, as of October 16, the demand for lemons is moderate and the market is "about steady". At the meeting, some Committee members commented that the current demand for lemons is good. It was noted that there is some inventory build-up on small-sized (165's), first grade fruit and some slight increase in inventory on large-sized (115's and larger), second grade lemons. One Committee member indicated that volume regulation is needed to help maintain market stability. Another member supported the utilization of volume regulation due to the increase in storage and the transition between districts. The Committee unanimously recommended volume regulation for the period from October 21 through October 27, 1990.

Based upon fresh utilization levels indicated by the Committee and an econometric model developed by the Department, the California-Arizona 1990–91 season average fresh on-tree price is estimated at $8.83 per carton, 107 percent of the projected season average fresh on-tree parity equivalent price of $8.24 per carton. The California-Arizona 1989–90 season average fresh on-tree price is estimated at $9.02, 121 percent of the projected season average fresh on-tree parity equivalent price of $7.47 per carton.

Limiting the quantity of lemons that may be shipped during the period from October 21 through October 27, 1990, would be consistent with the provisions of the marketing order by tending to establish and maintain, in the interest of producers and consumers, an orderly flow of lemons to market.

Based on considerations of supply and market conditions, it is found that this action will tend to effectuate the declared policy of the Act.

Based on the above information, the Administrator of the AMS has determined that issuance of this rule will not have a significant economic impact on a substantial number of small entities.

Pursuant to 5 U.S.C. 553, it is further found and determined that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register. This is because there is insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act.

In addition, market information needed for the formulation of the basis for this action was not available until October 16, 1990, and this action needs to be effective for the regulatory week which begins on October 21, 1990. Further, interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and handlers were apprised of its provisions and effective time. It is necessary, therefore, in order to effectuate the declared purposes of the Act, to make this regulatory provision effective as specified.

List of Subjects in 7 CFR Part 910

Lemons, Marketing agreements, and Reporting and recordkeeping requirements.

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

For the reasons set forth in the preamble, 7 CFR part 910 is amended as follows:

1. The authority citation for 7 CFR part 910 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 910.1040 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 910.1040 Lemon Regulation 740.

The quantity of lemons grown in California and Arizona which may be handled during the period from October 21 through October 27, 1990, is established at 325,000 cartons.

Dated: October 17, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-24933 Filed 10-19-90; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1230

[No. LS-90-108]

Pork Promotion, Research, and Consumer Information

AGENCY: Agricultural Marketing Service; USDA.

ACTION: Final rule.

SUMMARY: This final rule adopts without modification an interim final rule which amended regulations issued under the Pork Promotion, Research, and Consumer Information Order (Order) by revising the table which lists the Harmonized Tariff System (HTS) numbers for imported pork and pork products to conform to changes in the HTS for imported pork and pork products implemented by U.S. Customs Service (USCS). This change will facilitate the collection of assessments due on imported pork and pork products by USCS.

EFFECTIVE DATE: Effective November 21, 1990.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief; Marketing Program Branch; Livestock and Seed Division; Agricultural Marketing Service; USDA, room 2624-S; P.O. Box 96456; Washington, DC 20090-6456; Telephone — 202/382-1115.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established to implement Executive Order No. 12291 and Departmental Regulation 1512-1 and is hereby classified as a non-major rule under the criteria contained therein.

This action was also reviewed under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) Many importers may be classified as small entities. This final rule merely (1) revises the numbers identifying imported pork and pork products listed in the table in § 1230.110 (55 FR 21848) in the regulations to conform to recent USCS changes in the HTS numbering system for imported pork and pork products. In addition, the action will not impose any requirements on importers beyond those previously discussed in the September 5, 1986, issue of the **Federal Register** (51 FR 31898) when it was determined that the Order would not have a significant effect upon a substantial number of small entities. The change in the HTS numbers for imported pork and pork products is merely a technical change and will impose no new requirements on the industry. Accordingly, the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact upon a substantial number of small entities.

The Pork Promotion, Research, and Consumer Information Act of 1985 (7 U.S.C. 4801-4819) approved December 23, 1985, authorizes the establishment of a national pork promotion, research, and consumer information program. The program is funded by an assessment of 0.25 percent of the market value of live porcine animals sold in the United States and an equivalent amount on imported live porcine animals, pork, and pork products. The final Order establishing a pork promotion, research, and consumer information program was published in the September 5, 1986, issue of the **Federal Register** (51 FR 31898) and assessments began on November 1, 1986. The Order requires importers of live porcine animals to pay an amount equal to 0.25 percent of their market value and importers of pork and pork products to pay an amount which represents 0.25 percent of the value of the live porcine animals from which the pork and pork products were derived based upon the most recent annual seven-market average price for barrows and gilts, as published by the Department. As a matter of practicality, the assessments on imported pork and pork products are expressed in cents per pound. The formula for converting the live animal equivalent of 0.25 percent of the value of the live animals to an assessment per pound is described in the supplementary information accompanying the Order and published in the September 5, 1986, issue of the **Federal Register** (51 FR 31901). The schedule of assessments is listed in a table in section 1230.110 of the regulations (55 FR 21848) for each type of pork and pork product identified by a HTS number.

The purpose of this final rule is to revise the present table found under section 1230.110 of the regulations (55 FR 21848) to reflect the most recent changes USCS has implemented in the HTS numbers for imported pork and pork products.

These changes delete seven HTS numbers and subdivide each of the categories represented by those seven HTS numbers into two new categories and renumbers each new category. The cents per pound and per kilogram assessments are the same for the 14 new HTS numbers as they were for the corresponding deleted seven HTS numbers contained in the table in § 1230.110 (55 FR 21848). A comparison of the deleted and replacement numbers may be found in the following table:

Deleted HTS No.	New HTS No.	HTS article description
0203.12.10000	0203.12.10107	Hams and cuts thereof (processed).
	0203.12.10205	Shoulders and cuts thereof (processed).
0203.12.90002	0203.12.90100	Hams and cuts thereof (other).
	0203.12.90206	Shoulders and cuts thereof (other).
0203.19.20000	0203.19.20108	Spareribs (processed).
	0203.19.20901	Other (processed).
0203.19.40006	0203.19.40104	Bellies.
	0203.19.40907	Other.
0210.11.00003	0210.11.00101	Hams and cuts thereof (bone-in).
	0210.11.00209	Shoulders and cuts thereof (bone-in). Salted, in brine, dried, or smoked.
0210.19.00005	0210.19.00103	Canadian style bacon.
	0210.19.00905	Other.
1601.00.20007	1601.00.20105	Pork, Canned.
	1601.00.20908	Pork, Other.

The other 19 HTS numbers and the per-pound and per-kilogram assessments listed in the table in § 1230.110 remain unchanged. These changes in the HTS numbers for imported pork and pork products do not

affect the assessments on imported swine. As a result of these changes the 26 HTS numbers listed in the table in § 1230.110 of the regulations (55 FR 21848) are increased to 33 HTS numbers for imported pork and pork products.

An interim final rule published on July 13, 1990, in the **Federal Register** requested comments from interested persons by August 20, 1990. No comments were received. This final rule adopts without modification the provisions of the interim final rule.

List of Subjects in 7 CFR Part 1230

Administrative practice and procedure, Advertising, Agricultural research, Live porcine animal, Marketing agreement, Meat and meat products, Pork and pork products, Recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 1230 is amended as follows:

PART 1230—PORK PROMOTION, RESEARCH, AND CONSUMER INFORMATION

1. The authority citation for 7 CFR part 1230 continues to read as follows:

Authority: 7 U.S.C. 4801–4819.

§ 1230–110 [Confirmed]

2. Accordingly, the interim rule amending § 1230.110 of 7 CFR part 1230, which was published at 55 FR 29341 on July 19, 1990, is adopted as a final rule without change.

* * * * *

Done at Washington, DC, on October 16, 1990.

Kenneth C. Clayton,
Acting Administrator.

[FR Doc. 90–24846 Filed 10–19–90; 8:45 am]
BILLING CODE 3410–02–M

Rural Telephone Bank

7 CFR Part 1610

Determination of the 1990 Fiscal Year Interest Rate on Rural Telephone Bank Loans

AGENCY: Rural Telephone Bank, USDA.

ACTION: Notice of 1990 fiscal year interest rate determination.

SUMMARY: In accordance with 7 CFR 1610.10, the Rural Telephone Bank's Fiscal Year 1990 cost of money rate has been established at 5.00%. Except for loans approved from October 1, 1987 through December 21, 1987 where borrowers elected to remain at interest rates set at loan approval, all loan advances made from October 1, 1989 through September 30, 1990 under Bank loans approved on or after October 1, 1987 shall bear interest at the rate of 5.00%.

The calculation of the Bank's cost of money rate for Fiscal Year 1990 is provided in Table 1. Since the calculated rate (4.75%) is less than the minimum rate allowed under 7 U.S.C. 948(b)(3)(A), the cost of money rate is set at the minimum rate of 5.00%. The methodology required to calculate the cost of money rate is established in 7 CFR 1610.10(c).

FOR FURTHER INFORMATION CONTACT: F. Lamont Heppe, Jr., Chief, Telephone Loans and Management Staff, Rural Electrification Administration, room 2250, South Building, U.S. Department of Agriculture, Washington, DC 20250, telephone number (202) 382–9550.

SUPPLEMENTARY INFORMATION: The cost of money rate methodology develops a weighted average rate for the Bank's cost of money by considering total fiscal year loan advances; the excess of fiscal year loan advances over amounts received in the fiscal year from issuances of Class A, B, and C stocks, debentures and other obligations; and the costs to the Bank of obtaining funds from these sources. During Fiscal Year 1990, the Bank paid the following dividends: the dividend on Class A stock was 2.00% as established in amended section 406(c) of the Rural Electrification Act; no dividends were payable on Class B stock as specified in 7 CFR 1610.10(c); and the dividend on Class C stock was established by the Bank at 8.5%.

The total amount received by the Bank in Fiscal Year 1990 from the issuance of Class A stock was $28,710,000. Total advances for the purchase of Class B stock and cash purchases for Class B stock were $8,688,650. Rescissions of loan funds advanced for Class B stock amounted to $1,033,871. Thus, the amount received by the Bank from the issuance of Class B stock, per 7 CFR 1610(c), was $7,654,779 ($8,688,650–$1,033,871). The total amount received by the Bank in Fiscal Year 1990 from the issuance of Class C stock was $10,066.

The Bank did not issue debentures or any other obligations during Fiscal Year 1990. Consequently, no cost was incurred related to the issuance of debentures subject to 7 U.S.C. 948(b)(3)(D).

The excess of Fiscal Year 1990 loan advances over amounts received from issuances of Class A, B, and C stocks and debentures and other obligations amounted to $71,320,146. The cost associated with this excess is the historical cost of money rate as defined in 7 U.S.C. 948(b)(3)(D)(v). The calculation of the Bank's historical cost of money rate is provided in Table 2. The methodology required to perform this calculation is described in 7 CFR 1610.10(c). The cost of money rates for fiscal years 1974 through 1987 are defined in section 406(b) of the RE Act, as amended by Public Law 100–203, and are listed in 7 CFR 1610.10(c) and Table 2 herein.

Dated: October 16, 1990.

Gary C. Byrne,
Governor, Rural Telephone Bank.

TABLE 1 RURAL TELEPHONE BANK FY 1990 COST OF MONEY RATE

Source of bank funds	Amount	Cost rate (percent)	Amount X cost rate	(Amount X rate)/ advances (percent)
FY 1990 Issuance of Class A Stock	$28,710,000	2.00	$574,200	0.5332
FY 1990 Issuance of Class B Stock	7,654,779	0.00	0	0.0000
FY 1990 Issuance of Class C Stock	10,066	8.50	856	0.0008
FY 1990 Issuance of Debentures and Other Obligations	0		0	0.0000
Excess of Total Advances Over 1990 Issuances	71,320,146	6.36	4,535,861	4.2119
Total FY 1990 Advances	107,694,991			
Calculated Cost of Money Rate				4.75
Minimum Cost Rate Allowable				5.00

TABLE 2 RURAL TELEPHONE BANK HISTORICAL COST OF MONEY

Fiscal year	Bank cost of money (percent)	Bank loan advances	Advances X cost rate	(Advances X cost rate)/ total advances (percent)
1974	5.01	$111,022,574	$5,562,231	0.317
1975	5.85	130,663,197	7,649,797	0.436
1976	5.33	99,915,065	5,325,473	0.304
1977	5.00	80,907,425	4,045,371	0.231
1978	5.87	142,297,190	8,352,845	0.477
1979	5.93	130,540,067	7,749,028	0.442
1980	6.10	199,944,235	16,195,483	0.924
1981	9.46	148,599,372	14,057,501	0.802
1982	8.39	112,232,127	9,416,275	0.537
1983	6.99	93,402,836	6,529,858	0.372
1984	6.55	90,450,549	5,925,511	0.338
1985	5.00	72,563,394	3,629,170	0.207
1986	5.00	71,852,383	3,592,619	0.205
1987	5.00	51,974,938	2,598,747	0.148
1988	5.00	119,488,367	5,974,418	0.341
1989	5.00	97,046,947	4,852,347	0.277
Total Advances		$1,752,920,667		
Cost of Money Rate				6.36

[FR Doc. 90-24831 Filed 10-19-90; 8:45 am]
BILLING CODE 3410-15-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

[T.D. 90-79]

Customs Regulations Amendments Relating to the Steel Voluntary Restraint Arrangement Program; Correction

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Interim rule; correction.

SUMMARY: A document was published in the **Federal Register** (55 FR 37701) on September 13, 1990, setting forth interim regulations regarding the entry requirements applicable to imported steel products under the steel voluntary restraint arrangement program. This document corrects an error that appears in that document.

EFFECTIVE DATE: September 13, 1990.

FOR FURTHER INFORMATION CONTACT: Frank Crowe, Office of Trade Operations (202-566-8262).

SUPPLEMENTARY INFORMATION:

Background

A document was published in the **Federal Register** (55 FR 37701) on September 13, 1990, setting forth interim regulations regarding the entry requirements applicable to imported steel products under the steel voluntary restraint arrangement program. Included as § 10.323(d) was a requirement that, at the time of filing an application for admission of a covered steel product into a foreign trade zone, an application for privileged foreign status shall also be made for the steel product. This requirement was included in error and therefore should be removed. The effect of the removal of § 10.323(d) will be that imported steel products accompanied by the required export certificate or license may be admitted into a foreign trade zone in any status as may be appropriate under other existing requirements.

Corrections

1. On page 37702, third column, the last paragraph should be removed.

§ 10.323 [Corrected]

2. On page 37703-37704, in § 10.323, paragraph (d) should be removed.

Dated: October 15, 1990.

Harvey B. Fox,

Director, Office of Regulations and Rulings.

[FR Doc. 90-24831 Filed 10-19-90; 8:45 am]

BILLING CODE 4820-02-M

19 CFR Part 122

[T.D. 90-82]

RIN 1515-AA97

Amendment to the Customs Regulations Regarding Access To Customs Security Areas

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations regarding access to Customs security areas to grant discretion to the district director of Customs to waive the Airport Security Area Bond for State or local government related agencies which operate airports. Such agencies must agree to comply with all applicable security regulations. This amendment does not relieve such agencies of the duty to comply with all other security provisions. In addition, the restructuring of these provisions in a separate subpart will clarify the responsibilities of employers who

employ persons to work in security areas of airports handling international commerce.

EFFECTIVE DATE: October 22, 1990.

FOR FURTHER INFORMATION CONTACT: Samuel McLinn, Office of Inspection and Control (202–566–2140).

SUPPLEMENTARY INFORMATION:

Background

Section 122.14 (19 CFR 122.14) is being revised as a separate subpart governing security areas at airports handling international arrivals, with minor editorial changes. These provisions are presented in essentially the same order as the paragraphs of § 122.14, with the addition of the airport security bond waiver provision cited below. The format of the subpart clarifies the Customs security area requirements and procedures by making the information contained in the regulations easier to locate and understand.

In a final rule published as T.D. 88–174 in the **Federal Register** of September 12, 1988 (51 FR 32448), Customs set forth provisions governing an identification system for all employees whose duties require access to Customs security areas at airports handling international air commerce. These provisions specified that unescorted access to security areas of airports accommodating international air commerce would be restricted to authorized employees for whom employers had conducted a background check and concluded that the presence of these employees would neither endanger the revenue nor threaten the security of the area. In response to frequent violations of these regulations, Customs amended § 122.14, Customs Regulations (19 CFR 122.14), by T.D. 88–46, 53 FR 29231, effective September 2, 1988, to require employers to post a bond sufficient to pay liquidated damages in the event of security regulation violations by the employers or their employees. Customs employees and employees of State or local government related agencies operating in some airports, however, frequently work so closely in insuring airport security that the cooperative nature of the relationship and the scrutiny under which such employees of these agencies perform their duties in Customs security areas combine to make the posting of bonds unnecessary for these agencies.

This document amends that portion of § 122.14(c), which under this final rule becomes § 122.182(c), to allow the district director of Customs discretion to waive the requirement for an Airport Security Area Bond from such State or local government related agencies to support applications for identification cards of agency employees who, regardless of title, the agency certifies via a background check to be an agency employee. The waiver of the bond requirement does not exempt such agencies or agency employees from filling out applications, completing background checks, wearing identification cards, strips, or seals or complying with all other applicable security regulations. The only discretion permitted the district director is the waiver of the bond requirement; further, the district director specifically retains the right to require a bond.

Inapplicability of Notice and Delayed Effective Date Provisions

Inasmuch as these regulations grant a benefit in permitting the district director to waive the requirement for a bond in certain cases and otherwise merely restructure existing regulations without change, it is in the public interest to make the regulatory changes as soon as possible. Accordingly, notice and public procedure are unnecessary pursuant to 5 U.S.C. 553(b)(B). For the same reasons, a delayed effective date is not required, pursuant to 5 U.S.C. 553(d)(3).

Executive Order 12291

Because this amendment does not meet the criteria for a "major rule" within the meaning of Executive Order 12291, a regulatory impact analysis is not required.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required by 5 U.S.C. 553 or any other statute the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply to the amendment.

Drafting Information

The principal author of this document was Michael Smith, Regulations and Disclosure Law Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 122

Air transportation, Airports, Airport Security.

Amendment to the Regulations

Accordingly, Part 122, Customs Regulations (19 CFR part 122) is amended as follows:

PART 122—AIR COMMERCE REGULATIONS

1. The authority citation for part 122 is revised to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1433, 1436, 1459, 1590, 1594, 1623, 1624, 1644, 49 U.S.C. App. 1509.

§ 122.14 [Removed and Reserved]

2. Section 122.14 is removed and reserved.

3. Subpart S consisting of §§ 122.161 through 122.168 is added to read as follows:

Subpart S—Access to Customs Security Areas

122.161 Definition of Customs security area.
122.162 Security provisions.
122.163 Denial of access.
122.164 Change of identification.
122.165 Report of loss or theft of identification cards.
122.166 Presentation of identification by other person.
122.167 Revocation or suspension of access.
122.168 Issuance of temporary identification.

Subpart S—Access to Customs Security Areas

§ 122.161 Definition of customs security area.

For purposes of this section, the term "Customs security area" means the Federal inspection services area at any airport accommodating international air commerce designated for processing passengers, crew, their baggage and effects arriving from foreign countries, as well as the aircraft deplaning and ramp area and other restricted areas designated by the district director of Customs. These areas will be posted as restricted to the extent possible and are established for the purpose of prohibiting unauthorized entries or contact with persons or objects.

§ 122.162 Security provisions.

(a) *Identification cards required.* With the exception of all Federal and uniformed State and local law enforcement personnel, all persons located at, operating out of, or employed by any airport accommodating international air commerce or its tenants or contractors, including air carriers, who have unescorted access to the Customs security area, must openly display or produce upon demand an approved identification card, strip, or seal issued by Customs. The approved identification card, strip, or seal shall be in the possession of the person in whose name it is issued whenever the person is in the Customs security area. The identification card, strip or seal remains the property of Customs, and any bearer must immediately surrender it upon demand by any authorized Customs officer.

(b) *Employers responsibility and liability.* Employers operating in Customs airport security areas shall advise all employees of the provisions of the Customs regulations relative to

those areas, require employees to familiarize themselves with those provisions and insure employee compliance. The employer shall also advise the district director of any changes of employment pursuant to § 122.182(g). The failure to comply with these regulations shall be considered a default of the conditions of the employer's bond, as hereafter specified, and shall make the employer liable for liquidated damages as specified in its bond.

(c) *Application and bond.* An application for an approved identification card, strip, or seal, as required by this section, shall be filed by the applicant with the district director on Customs Form 3078. The application requirement applies to all employees required to display an approved identification card by this section, regardless of the length of their employment. The application shall be supported by the bond of the applicant's employer or principal on Customs Form 301 containing the bond conditions set forth in §§ 113.62, 113.63, or 113.64 of this chapter, relating to importers or brokers, custodians of bonded merchandise, or international carriers. If the applicant's employer is not the principal on a Customs bond on Customs Form 301 for one or more of the activities stated above, the application shall be supported by an Airport Customs Security Area Bond, as set forth in appendix A of part 113 of this chapter. This bond may be waived, however, for State or local government-related agencies in the discretion of the district director. Waiver of this bond does not relieve any such agency or its employees from compliance with all other provisions of this subpart.

(d) *Background check.* For employees hired on or after November 1, 1985, an authorized official of the employer shall attest in writing that a background check has been conducted on the applicant, to the extent allowable by law. The background check shall include, at a minimum, references and employment history, to the extent necessary to verify representations made by the applicant relating to employment in the preceding 5 years. For employees hired before November 1, 1985, the authorized official of the employer need only attest to the fact that the employee was hired before that date. The authorized official of the employer shall attest that, to the best of his knowledge, the applicant meets the conditions necessary to perform functions associated with employment in the Customs security area. The fingerprints of the applicant may be required on fingerprint card form FD-258 at the time of the filing of the application. Proof of citizenship or authorized residency and a photograph may also be required. Additionally, the application may be investigated by Customs and a report prepared concerning the character of the applicant. Records of background investigations conducted by employers must be retained for a period of one year following cessation of employment and made available upon request of the district director.

(e) *Law Enforcement officers and other governmental officials.* Law enforcement officers and other Federal, State, or local officials whose official duties require access to the Customs security area may request from the district director the issuance of an approved identification card, strip, or seal. They need not make application nor submit to background checks for security area access. An Airport Customs Security Area Bond is not required.

(f) *Replacement identification.* A new identification card, strip or seal may be obtained from the district director in the following circumstances, without the completion of an additional application, except as determined by the district director in his discretion:

(1) A change in employee name or address;

(2) A change in the name or ownership of the employing company;

(3) A change in employer or airport authority identification card format; or

(4) Loss or theft of the identification card, strip, or seal (see § 122.185 of this part).

(g) *Surrender of cards.* Where the employee no longer requires access to the Customs security area for an extended period of time at the airport of issuance due to a change in duties, termination of employment, or other reason, the employer shall notify the district director in writing, at the time of such change, and shall return the identification card, strip, or seal to Customs. The notification shall include information regarding the disposition of the approved identification card, strip, or seal of the employee who no longer requires access. A summary of such information shall be filed quarterly or at such shorter intervals as established by the district director. If the employee returns to duties in the Customs security area at the airport for the same employer within 1 year, a Customs Form 3078, as required in § 122.182(c), need not be submitted.

§ 122.183 Denial of access.

(a) *Grounds for denial.* An approved identification card, strip, or seal shall not be issued to any person whose employment necessitates access to the Customs security area and whose access will, in the judgment of the district director, endanger the revenue or the security of the area. Grounds for denial of access shall include but are not limited to:

(1) Any cause which would justify suspension or revocation of the identification card, strip, or seal under the provisions of § 122.187 of this Part; or

(2) Evidence of a pending or past investigation which establishes criminal, or dishonest conduct, or a verified record of such conduct.

(b) *Notification of denial.* The district director shall give written notification to any person whose application for access to the Customs security area has been denied, fully stating the reasons for denial and setting forth specific appeal procedures. The employer shall be notified in writing that the applicant has been denied access to the area and that the detailed reasons for the denial have been furnished to the applicant. Detailed reasons regarding the denial, however, shall not be furnished to the employer by Customs.

(c) *Appeal of denial.* The denial will be final unless the applicant files with the district director a written notice of appeal within 10 days following receipt of the notice of denial. The notice of appeal shall be filed in duplicate and shall set forth the response of the applicant to the statement of the district director. The district director shall render his decision on the appeal to the applicant within 30 days of receipt of the notice of appeal.

(d) *Further appeal of denial.* Where the application on appeal is denied by the district director, the applicant may file a further written notice of appeal to the Commissioner of Customs within 10 days of receipt of the district director's decision on the appeal. The further notice of appeal shall be filed in duplicate and shall set forth the response of the applicant to the decision of the district director. The Commissioner or his designee shall review the appeal and render a written decision. The final decision shall be transmitted to the district director and served by him on the applicant.

§ 122.184 Change of identification.

The identification card, strip, or seal may be removed from the employee by the district director where, for security

reasons, a change in the nature of the identification is necessitated.

§ 122.185 Report of loss or theft of identification cards.

The loss or theft of an identification card, strip, or seal shall be promptly reported in writing by the employee to the district director. The card, strip, or seal may be replaced, as provided in § 122.182(f) of this part.

§ 122.186 Presentation of identification by other person.

If an approved identification card, strip, or seal is presented by a person other than the one to whom it was issued, the identification card, strip, or seal shall be removed and destroyed. An approved identification card, strip, or seal may be removed from an employee by any Customs officer designated by the district director.

§ 122.187 Revocation or suspension of access.

(a) *Grounds for revocation or suspension of access.* The district director may revoke or suspend access to the Customs security area and demand that the identification card, strip, or seal be surrendered in the following instances:

(1) The approved identification card, strip, or seal was obtained through fraud or the misstatement of a material fact;

(2) The employee is convicted of a felony or convicted of a misdemeanor involving theft, smuggling, or any theft connected crime;

(3) The employee permits the approved identification card, strip, or seal to be used by any other person or refuses to openly display or produce it upon the proper demand of a Customs officer;

(4) The continuation of privileges would, in the judgment of the district director, endanger the revenue or security of the area;

(5) The employee refuses or neglects to obey any proper order of a Customs officer, or any Customs order, rule, or regulation;

(6) The bond required by § 122.182(c) of this part is determined to be insufficient in amount or lacking sufficient sureties, and a satisfactory new bond with good and sufficient sureties is not furnished within a reasonable time.

(7) The employee no longer requires access to the Customs security area for an extended period of time at the airport of issuance because of a change in duties, termination of employment, or other reason.

(b) *Notice.* The district director shall suspend or revoke access to the Customs security area by giving notice of the proposed action in writing to the employee, with a copy of the notice to the employer. The notice shall be in the form of a statement specifically setting forth the grounds for revocation or suspension of the privilege and shall be final and conclusive upon the employee, unless a written notice of appeal as provided in paragraph (c) of this section is filed with the district director.

(c) *Appeal.* The employee may file a written notice of appeal of the revocation or suspension within 10 days following receipt of the notice of revocation or suspension. The notice of appeal shall be filed in duplicate and shall set forth the response of the employee to the statement of the district director. A hearing may be requested in the notice of appeal.

(d) *Hearing.* If a hearing is requested, it shall be held before a hearing officer designated by the Commissioner, or his designee, within 30 days following the request. The employee shall be notified of the time and place of the hearing at least 5 days before the hearing. The employee may be represented by counsel at the revocation or suspension hearing. All evidence and testimony of witnesses in such proceeding, including substantiation of charges and the answer thereto, shall be presented. Both parties shall have the right of cross-examination. A stenographic record of the proceedings shall be made upon request and a copy furnished to the employee. At the conclusion of the proceedings or review of a written appeal, the hearing officer or the district director shall promptly transmit all papers and the stenographic record to the Commissioner or his designee, together with the recommendation for final action. If neither the employee nor his attorney appear for a scheduled hearing, the hearing officer shall record that fact, accept any appropriate testimony, and conclude the hearing. The hearing officer shall promptly transmit all papers, together with his recommendations, to the Commissioner or his designee.

(e) *Additional written views.* Within 10 days after delivery of a copy of the stenographic record of the hearing to the Commissioner, or his designee, the employee may submit to the Commissioner, or his designee, additional written views and arguments on matters in the record.

(f) *Decision.* After consideration of the recommendation of the hearing officer or the district director, the Commissioner, or his designee, shall render a written decision. The decision shall be transmitted to the district director and served by the district director on the employee.

§ 122.188 Issuance of temporary identification.

(a) *Conditions for issuance.* When an approved identification card, strip, or seal is required under § 122.182(a) of this part and the district director determines that the application cannot be administratively processed in a reasonable period of time, an employer may, upon written request, be issued a temporary identification card, strip, or seal for his employee. The employer must satisfy the district director that a hardship would result if the request is not granted. Surety on the bond, as required by § 122.182(c), may be waived in the discretion of the district director but only for the period of the temporary identification card and its renewal period.

(b) *Validation period.* The temporary identification card, strip, or seal shall be valid for a period of 60 days. The district director may renew the temporary identification card, strip, or seal for additional 30 day periods where the circumstances under which the temporary identification card, strip, or seal was originally issued continue to exist. The temporary identification card, strip, or seal shall be destroyed by the district director when the permanent approved identification card, strip, or seal is issued, or the privileges granted thereby are withdrawn.

(c) *Temporary employees and official visitors.* The provisions of this section shall also apply to temporary employees and official visitors requiring access to the Customs security area. In the case of temporary employees, the identification card, strip, or seal shall be valid for a period of 30 days. In the case of official visitors, the temporary identification card, strip, or seal shall be valid for the day of issuance only. Temporary employee and official visitor identification cards, stripe, or seals are renewable for periods equal to their original period of validity.

(d) *Revocation of denial and access.* The temporary identification card, strip, or seal may be revoked and access to the Customs security area denied at any time if the holder of the temporary identification card, strip, or seal refuses or neglects to obey any proper order of a Customs officer, or any Customs order, rule, or regulation, or if, in the judgment of the district director, continuation of the privileges granted thereby would

endanger the revenue or pose a threat to the Customs security area.

Michael H. Lane,

Acting Commissioner of Customs.

Approved.

John P. Simpson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 90-24839 Filed 10-19-90; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD Regulation 6010.8-R]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Outlier and Other Changes to the CHAMPUS Diagnosis-Related Group (DRG) Payment System

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: In FR Doc. 77-7834, appearing in the Federal Register on April 4, 1977 (42 FR 17972), the Office of the Secretary of Defense published its regulation, DoD 6010.8-R, "Implementation of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)," as part 199 of this title. DoD Regulation 6010.8-R was reissued in the Federal Register on July 1, 1988 (51 FR 24008).

This final rule revises the comprehensive CHAMPUS regulation 6010.8-R (32 CFR part 199), pertaining to payment for certain inpatient hospital services. It implements the proposed amendment of rule which was published on March 16, 1990 (55 FR 9921), and changes the outlier procedures under the CHAMPUS DRG-based payment system to conform to recent changes affecting the Medicare Prospective Payment System (PPS) upon which the CHAMPUS DRG-based payment system is modeled. It also establishes new procedures for payment of certain costs associated with the treatment of hemophilia inpatients.

EFFECTIVE DATE: October 1, 1990. This final rule is effective for inpatient hospital admissions occurring on or after October 1, 1990.

ADDRESSES: Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Office of Program Development, Aurora, CO 80045-6900.

For copies of the Federal Register containing this final rule, contact the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

The charge for the Federal Register is $1.50 for each issue payable by check or money order to the Superintendent of Documents.

FOR FURTHER INFORMATION CONTACT: Stephen E. Isaacson, Office of Program Development, OCHAMPUS, telephone (303) 361-4005.

To obtain copies of this document, see the **"ADDRESSES"** section above. Questions regarding payment of specific claims under the CHAMPUS DRG-based payment system should be addressed to the appropriate CHAMPUS fiscal intermediary.

SUPPLEMENTARY INFORMATION: On March 16, 1990, we published a proposed amendment of rule to revise certain outlier payment calculations and to establish new procedures for payment of certain costs associated with the treatment of hemophilia inpatients. We refer the reader to the proposed rule for a more detailed explanation of the proposed changes to the CHAMPUS DRG-based payment system and to the implementing regulations in 32 CFR part 199.

We provided a 30-day comment period on the proposed amendment of rule. This final rule announces our decisions on the issues raised by commenters in response to our proposed rule. It also provides more detailed information on payment for blood clotting factor for hemophilia inpatients.

I. Provisions of the Final Rule

A. Outlier Changes

For the most part, our outlier policy follows the outlier procedures used in the Medicare PPS, and each year we have adopted the same threshold changes. It is our intent to continue doing this, and, in order to eliminate the need for annual regulation changes in this regard, we are revising the regulation to provide only that the outlier thresholds used in the CHAMPUS DRG-based payment system will duplicate the Medicare PPS thresholds.

We have not yet implemented the FY 1990 outlier changes used in the Medicare PPS and published in the Federal Register on September 1, 1989. It was our intent that these would be implemented upon publication of this final rule. However, since the outlier thresholds for the Medicare PPS will be updated again on October 1, 1990, we have decided to wait until then to next revise the CHAMPUS thresholds, rather than implementing the FY 1990 thresholds for only a very short period of time. It is precisely this problem that the change made by this final rule will eliminate.

Our decision to delay revising the outlier thresholds will benefit hospitals, since the FY 1990 changes increased the thresholds for both long-stay and cost outliers.

Section II below, which provides our responses to the comments we received regarding our proposed outlier changes, contains additional clarification on our outlier procedures.

B. Payment of Hemophilia Inpatients

The intention of this change is to exempt blood clotting factor for hemophilia inpatients from the CHAMPUS DRG-based payment system and allow separate payment for these factors. Our proposed rule state that CHAMPUS will use the payment levels established by the Health Care Financing Administration (HCFA) for the Medicare PPS.

On April 1, 1990, (55 FR 15157), HCFA published a final rule which established payment amounts for the three types of blood clotting factors. We refer the reader to the HCFA final rule for a discussion of how the payment amounts were developed and how they will be used.

The actual payment amounts we will use are:

Factor VIII—$.64 per unit
Factor IX—$.26 per unit
Other Hemophilia Clotting Factors (for example, Anti-inhibitors)—$1.00 per unit

If HCFA changes these amounts, we will use whatever new amounts are established for the Medicare PPS.

When billing CHAMPUS for these factors, hospitals are to use the same codes developed by HCFA to identify the factor.

II. Public Comments

We received a total of nine (9) individual comments on the proposed rule. Seven were from hospitals and two were from national hospital organizations, and all comments pertained only to our proposed outlier changes. Below we provide an analysis of the comments and our responses.

Comment—The proposed change is inconsistent with the methodology which DoD used to calculate the children's hospitals' payment differentials at Congress' direction. The methodology used to pay claims must be the same as that used to calculate the children's hospitals' differentials so that revenue neutrality is maintained.

Response—We don't believe our proposed change is inconsistent with Congressional intent, but we fully agree that the methodology used to pay claims must be the same as that used to calculate the differentials. This should

have been made clear in our proposed rule.

Congressional intent, as specified in the FY 1989 Department of Defense Appropriations Act (Pub. L. 100–463), requires that payments to children's hospitals be "not less than estimated aggregate CHAMPUS payments to such hospitals for discharges occurring during (FY 1988)." Payments to children's hospitals during FY 1988 were based on the hospitals' billed charges. In effect, then, payments to children's hospitals are to be revenue neutral to those hospitals' FY 1988 charges.

By increasing each payment to children's hospitals by the differential amount, we ensure that the payment is revenue neutral to FY 1988 charges. If the Medicare cost-to-charge ratio is not used in calculating children's hospitals standardized costs for cost outliers, CHAMPUS payments for these outlier cases always would be revenue neutral to children's hospital current charges. This clearly would not comply with Congressional intent and, as we stated in our proposed rule, would result in excess and unrestricted payments for these already high-cost cases.

In calculating the current differentials we did not apply the Medicare cost-to-charge ratio to estimated cost outlier payments. The commenters have a valid concern that implementation of this change without a commensurate change in the differentials would result in underpayments to children's hospitals. However, the differentials for all children's hospitals will be recalculated later this year during the hold harmless procedures. Since this change will be effective at about the same time, or slightly before, the hold harmless procedures occur, we will be able to incorporate this change into our calculations during that process, so that children's hospitals are not harmed. Of course, if this change is effective before the hold harmless procedures occur, any resulting underpayments (which we expect to be extremely small) will be reconciled during the hold harmless procedures.

Comment—The ratio of costs to charges used should be the ratio for total costs, not operating costs. For children's hospitals, payment for graduate medical education and capital is included in the basic payment rather than in a separate pass through payment. To be consistent, the ratio must be for total costs.

Response—We agree. The ratio we use will include capital and direct medical education costs. The increase in the ratio will be the same percentage we use for allocating these costs when we calculate the differentials. This results in a cost-to-charge ratio of .69 which we will increase to .70 to account for bad debts. If at some time in the future we elect to pay capital and direct medical education as a pass through for children's hospitals, we will adjust the ratio downward accordingly.

It is important to note that the cost outlier threshold of two times the DRG-based amount does not include the differential amounts which are reimbursed to each children's hospital. This significantly lowers the thresholds and results in more children's hospital cases qualifying as cost outliers.

We also wish to note that the cost outlier thresholds used for children's hospitals, which are statutorily set, are based on previous Medicare thresholds and do not include capital and direct medical education costs. By using these with standardized costs which include capital and direct medical education costs, children's hospitals will actually be slightly overpaid for their cost outlier cases relative to other cost outlier payments. However, since these overpayments will be quite small, and since there is clear congressional intent that cost outliers in children's hospitals be compensated at a rate higher than those in other hospitals, we believe this result is acceptable.

Comment—The ratio of costs-to-charges used to determine standardized costs for cost outliers should be institution specific. This would be consistent with the Medicare policy and would avoid the distortions of overpayment and underpayment which inevitably result when using a single national ratio to pay hospitals with very different ratios.

Response—We will not use institution specific ratios. The differentials for high volume children's hospitals are institution specific and this enables us to ensure that payments to these hospitals account for individual differences. However, the calculation of the basic DRG-based payment and any outlier payments is determined in accordance with our rules for other hospitals. None of these calculations involves use of institution specific data. For the reasons we cited in our proposed rule for FY 1989 (53 FR 20578), we do not believe it is necessary to use any ratio other than the national Medicare cost-to-charge ratio.

Comment—CHAMPUS should use data based on the CHAMPUS population only to calculate its own cost-to-charge ratios and its own outlier thresholds in order to make appropriate hospital outlier payments that will achieve the desired proportion of outlier payments to total CHAMPUS payments.

Response—Our reasons for using the Medicare cost-to-charge ratio and for establishing the outlier thresholds we use are well documented in our previous rules, particularly in the June 3, 1987, proposed rule (52 FR 20731) and the September 1, 1987, final rule (52 FR 32992). We see no justification for changing these procedures which have been used for three years.

Comment—CHAMPUS should eliminate its short-stay outliers and provide full DRG payment for these cases.

Response—Our justification for establishing short-stay outliers is also well-documented in our previous rules. It is no more reasonable to expect full payment for an unusually short length-of-stay than it would be to limit payment for an unusually long length-of-stay to the basic DRG amount.

Comment—In recalibrating DRG weights, CHAMPUS should use a statistical algorithm to eliminate truly atypical cases from the database used to recalibrate.

Response—Just as the Health Care Financing Administration does for the Medicare Prospective Payment System, we eliminate from the database all cases that have standardized charges outside three (3) standard deviations from the geometric mean of the log distribution of charges for each DRG.

III. Regulatory Procedures

Executive Order 12291 requires that a regulatory impact analysis be performed on any major rule. A "major rule" is defined as one which would result in an annual effect on the national economy of $100 million or more or have other substantial impacts.

The Regulatory Flexibility Act (RFA) requires that each federal agency prepare, and make available for public comment a regulatory flexibility analysis when the agency issues regulations which would have a significant impact on a substantial number of small entities. For purposes of the RFA, we consider small entities to include many nonprofit and for-profit hospitals.

This final rule is not a major rule under Executive Order 12291. The outlier changes set forth in this final rule are minor revisions to previously published final rules and implement changes which those final rules anticipated. The clarification regarding the calculation of cost outlier payments for children's hospitals, which prompted the most comments, will be essentially revenue neutral initially, as required by law and as explained in Section II above. The changes involving the add-

on payments for blood clotting factor for hemophilia inpatients will be extremely small and will only increase payments.

In addition, this final rule will have a very minor impact and will not significantly affect a substantial number of small entities.

In light of the above, no regulatory impact analysis is required.

IV. Other Required Information

A. Effective Date

This final rule is effective for inpatient hospital admissions occurring on or after October 1, 1990.

B. Paperwork Reduction Act

This final rule does not impose information collection requirements. Therefore, it does not need to be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3511).

List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health Insurance, Military personnel.

Accordingly, 32 CFR part 199 is amended as follows:

PART 199—[AMENDED]

1. The authority citation for part 199 continues to read as follows:

Authority: 10 U.S.C. 1079, 1086, 5 U.S.C. 301.

2. Section 199.14 is amended by adding new paragraphs (a)(1)(i)(D) and (a)(1)(ii)(C)(*10*) and by revising paragraphs (a)(1)(iii)(E)(*1*)(*i*)(*B*) and (a)(1)(iii)(E)(*1*)(*ii*) to read as follows:

§ 199.14 Provider reimbursement methods.

(a) * * *
(1) * * *
(i) * * *

(D) *DRG system updates.* The CHAMPUS DRG-based payment system is modeled on the Medicare Prospective Payment System (PPS) and uses annually updated items and numbers from the Medicare PPS as provided for in this Part and in instructions issued by the Director, OCHAMPUS. The effective date of these items and numbers shall correspond to that under the Medicare PPS except where distinctions are made in this Part.

(ii) * * *
(C) * * *

(*10*) For admissions occurring on or after October 1, 1990, the costs of blood clotting factor for hemophilia inpatients. An additional payment shall be made to a hospital for each unit of blood clotting factor furnished to a CHAMPUS inpatient who is hemophiliac in accordance with the amounts established under the Medicare Prospective Payment System (42 CFR 412.115).

* * * * *

(iii) * * *
(E) * * *
(*1*) * * *
(*i*) * * *

(*B*) *Long-stay outliers.* Any discharge (except for neonatal services and services in children's hospitals) which has a length-of-stay (LOS) exceeding a threshold established in accordance with the criteria used for the Medicare Prospective Payment System as contained in 42 CFR 412.82 shall be classified as a long-stay outlier. Any discharge for neonatal services or for services in a children's hospital which has a LOS exceeding the lesser of 1.94 standard deviations or 17 days from the DRG's geometric mean LOS also shall be classified as a long-stay outlier. Long-stay outliers shall be reimbursed the DRG-based amount plus a percentage (as established for the Medicare Prospective Payment System) of the per diem rate for the DRG for each covered day of care beyond the long-stay outlier cutoff. The per diem rate shall equal the DRG amount divided by the geometric mean LOS for the DRG.

(*ii*) *Cost outliers.* Additional payment for cost outliers shall be made only upon request by the hospital.

(*A*) *Cost outliers except those in children's hospitals or for neonatal services.* Any discharge which has standardized costs that exceed a threshold established in accordance with the criteria used for the Medicare Prospective Payment System as contained in 42 CFR 412.84 shall qualify as a cost outlier. The standardized costs shall be calculated by multiplying the total charges by the factor described in § 199.14(a)(1)(iii)(D)(*4*) and adjusting this amount for indirect medical education costs. Cost outliers shall be reimbursed the DRG-based amount plus a percentage (as established for the Medicare Prospective Payment System) of all costs exceeding the threshold.

(*B*) *Cost outliers in children's hospitals and for neonatal services.* Any discharge for services in a children's hospital or for neonatal services which has standardized costs that exceed a threshold of the greater of two times the DRG-based amount or $13,500 shall qualify as a cost outlier. The standardized costs shall be calculated by multiplying the total charges by the factor described in § 199.14(a)(1)(iii)(D)(*4*) (adjusted to include average capital and direct medical education costs) and adjusting this amount for indirect medical education costs. Cost outliers for services in children's hospitals and for neonatal services shall be reimbursed the DRG-based amount plus a percentage (as established for the Medicare Prospective Payment System) of all costs exceeding the threshold.

(*C*) *Cost outliers for burn cases.* All cost outliers for DRGs related to burn cases shall be reimbursed the DRG-based amount plus a percentage (as established for the Medicare Prospective Payment System) of all costs exceeding the threshold. The standardized costs and thresholds for these cases shall be calculated in accordance with § 199.14(a)(1)(iii)(E)(*1*)(*ii*)(*A*) and § 199.14(a)(1)(iii)(E)(*1*)(*ii*)(*B*).

* * * * *

Dated: October 15, 1990.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-24656 Filed 10-19-90; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900-AE37

Health Professional Scholarship Program—Associate Degree in Nursing

AGENCY: Department of Veterans Affairs.

ACTION: Final regulations; correction.

SUMMARY: On October 2, 1990, on pages 40169–40170, the Department of Veterans Affairs published a final rule to amend its medical regulations governing the Health Professional Scholarship Program to implement new statutory provisions, to clarify the law of length of eligibility for a stipend, and to facilitate more cost-effective program administration. In the preamble (page 40169), the effective date given for these regulations is November 1, 1990. The correct effective date is September 1, 1990, the beginning of the school year. A delayed effective date would complicate implementation of the provisions of the law and might result in the denial of a scholarship to a student who is entitled by law to that scholarship.

VA regrets the error which is hereby corrected by this notice.

EFFECTIVE DATE: The correct effective date of the regulations published at 55 FR 40169 is September 1, 1990.

FOR FURTHER INFORMATION CONTACT: Charlotte Beason, (202) 233–3588.

Dated: October 15, 1990.

Charles A. Fountaine III,

Records Management Service.

[FR Doc. 90–24877 Filed 10–19–90; 8:45 am]

BILLING CODE 6320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[FRL–3835–6]

Ocean Dumping; Proposed Site Designation

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today designates an Ocean Dredged Material Disposal Site (ODMDS) in the Atlantic Ocean offshore Canaveral Harbor, Florida, as an EPA-approved ocean dumping site for the disposal of suitable dredged material. This action is necessary to provide an acceptable site for consideration as a disposal option for dredged material disposal projects in the greater Canaveral, Florida vicinity.

EFFECTIVE DATE: October 22, 1990.

ADDRESSES: Wesley B. Crum, Chief, Wetlands and Coastal Programs Section, Water Management Division, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365.

The file supporting this proposed designation is available for public inspection at the following locations:

EPA Public Information Reference Unit (PIRU), Room 2904 (rear), 401 M Street, SW., Washington, DC 20460.

EPA/Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Jeffrey A. Kellam, 404/347–2126.

SUPPLEMENTARY INFORMATION:

Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act (MPRSA) of 1972, as amended, 33 U.S.C. 1401 *et seq.* ("the Act"), gives the Administrator of EPA the authority to designate sites where ocean disposal may be permitted. On December 23, 1986, the Administrator delegated the authority to designate ocean disposal sites to the Regional Administrator of the Region in which the sites are located. This proposed designation of a site offshore Canaveral Harbor, Florida, which is within Region IV, is being made pursuant to that authority.

The EPA Ocean Dumping Regulations promulgated under the Act (40 CFR chapter I, subchapter H, section 228.4) state that ocean disposal sites will be designated by promulgation in this part 228. A list of "Approval Interim and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2461 (January 11, 1977)). The list established the existing Canaveral Harbor site as an interim site.

EIS Development

Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, 42 U.S.C. 4321 *et seq.*, requires that Federal agencies prepare an EIS on proposals for legislation and other major federal actions significantly affecting the quality of the human environment.

The object of NEPA is to build careful consideration of all environmental aspects of proposed actions into the agency decision-making process. While NEPA does not apply to EPA activities of this type, EPA has voluntarily committed to prepare EISs in connection with ocean dumping site designations such as this (see 39 FR 16186 (May 7, 1974)). EPA, in cooperation with the Jacksonville District of the U.S. Army Corps of Engineers (COE), has prepared a Draft Environmental Impact Statement (DEIS) entitled "Draft Environmental Impact Statement for Designation of A Canaveral Harbor, Florida Ocean Dredged Material Disposal Site". This Proposed Rule includes excerpts from the DEIS.

The action discussed in the EIS is the permanent designation for continuing use and expansion of the existing interim ocean dredged material disposal site near Canaveral Harbor, Florida. The purpose of the action is to provide an environmentally acceptable location for ocean disposal. The need for ocean disposal is determined on a case-by-case basis as part of the COE process of issuing permits for ocean disposal for federal and/or private actions.

For the Canaveral Harbor ODMDS, the COE and EPA would evaluate all Federal dredged material disposal projects pursuant to the EPA criteria given in the Ocean Dumping Regulations (40 CFR 220–229) and the COE regulations (33 CFR 209.120 and 209.145). The COE also issues MPRSA permits to private applicants for the transport of dredged material intended for disposal after compliance with these regulations is determined. EPA has the right to disapprove any ocean disposal project if, in its judgement, all provisions of MPRSA and the associated implementing regulations have not been met. State permitting would not be needed for the Canaveral Harbor ODMDS since the disposal site is located outside of State of Florida waters.

On August 14, 1987, the Notice of Availability of the DEIS for public review and comment was published in the **Federal Register** (52 FR 30429). The public comment period on the DEIS closed on September 28, 1987. Public comments on the DEIS are addressed in the FEIS. The Proposed Rule was published in the **Federal Register** on June 7, 1990 (55 FR 23251). The comment period closed July 9, 1990, with no formal comments submitted.

Informal substantitive comments were received from the State of Florida concerned with the fact that the site designation did not specifically preclude disposal of beach-compatible material. It must be emphasized in this Final Rule that an EPA designation of an ODMDS makes available an environmentally acceptable option for ocean disposal, as opposed to authorizing dredging projects or disposal at the ODMDS. Beach nourishment and other options can be considered for disposal needs. These options are properly addressed at the project level by the appropriate permitting agencies. EPA concurs with the State of Florida that use of beach compatible material should be considered in cases where such material is present and is practicably available for such use.

The Notice of Availability for the Final EIS (FEIS) was published on September 21, 1990 in the **Federal Register** at (55 FR 38846). The public comment period on the FEIS will close 30 days from that date.

The EIS discusses the need for this site designation and examines ocean disposal site alternatives to the proposed action. The need for ocean disposal is determined on a case-by-case basis as a part of the process of permitting for ocean disposal. The EIS presents the information needed to evaluate the suitability of ocean disposal areas for final designation use and is based on one of a series of disposal site environmental studies. The environmental studies and final designation are being conducted in accordance with the requirements of the MPRSA, the Ocean Dumping Regulations, and other applicable Federal environmental legislation.

Pursuant to Office of Water Policy, EPA has evaluated the proposed site designation for consistency with the State's approved coastal management program. EPA has determined that the designation of the proposed site is consistent with the State coastal

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management program, and has submitted this determination to the State for review in accordance with EPA policy. In addition, as part of the NEPA process, EPA has consulted with the State regarding the effects of the disposal at the proposed site on the State coastal zone. EPA has taken the State's comments into account in preparing the FEIS for the site, in determining whether the proposed site should be designated, and in determining whether restrictions or limitations should be placed on the use of the site if it is designated. Concerns raised by the State of Florida on CZM consistency, regarding use of suitable material for beach nourishment, were addressed in the FEIS. As stated above, EPA concurs with the State of Florida regarding the use of suitable material for such nourishment, in circumstances were this use is practical.

Pursuant to section 7 of the Endangered Species Act, the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (FWS) were asked by EPA to concur with EPA's conclusion that this site designation will not affect the endangered species under their jurisdictions. In a letter dated October 8, 1987, NMFS concurred with EPA's determination that designation of this disposal site will not affect the endangered species under their jurisdiction. This concurrence was confirmed in an additional letter dated March 12, 1990. The U.S. Fish and Wildlife Service, in a letter dated August 27, 1987, has also concurred that species under their jurisdiction will not be affected by the designation.

The final rulemaking notice fills the same role as the Record of Decision required under rules promulgated by the Council on Environmental Quality for agencies subject to NEPA.

Site Designation

The proposed site is located east of Canaveral, Florida, approximately 3.2 nautical miles (nmi) offshore and occupies an area of about 4 square nautical miles (nmi²), approximately 2 nmi by 2 nmi. Water depths within the area range from 47 to 55 feet. The coordinates (based on North American Datum 1927) of the Canaveral Harbor site proposed for final designation are as follows:

28°28'15" N	80°31'11" W;
28°28'32" N	80°29'15" W;
28°27'15" N	80°29'26" W;
28°26'58" N	80°32'49" W.

Center coordinates are 28°27'44" N and 80°31'00" W.

Regulatory Requirements

Pursuant to the Ocean Dumping Regulations, 40 CFR part 228, five general criteria are used in the selection and approval for continuing use of ocean disposal sites. Sites are selected so as to minimize interference with other marine activities, to prevent any temporary perturbations associated with the disposal from causing impacts outside the disposal site, and to permit effective monitoring to detect any adverse impacts at an early stage. Where feasible, locations off the Continental Shelf and other sites that have been historically used are to be chosen. If, at any time, disposal operations at a site cause unacceptable adverse impacts, further use of the site will be restrited or terminated. The proposed site conforms to the five general criteria, except for the preference for sites located off the Continental Shelf. EPA has determined, based on the information presented in the EIS, that no environmental benefit would be obtained by selecting a site off the Continental Shelf instead of that proposed in this action.

The general criteria are given in § 228.5 of the EPA Ocean Dumping Regulations, and § 228.6 lists the 11 specific criteria used in evaluating a proposed disposal site to assure that the general criteria are met. Application of these 11 criteria constitutes an environmental assessment of the impact of disposal at the site. The characteristics of the proposed site as regards the 11 criteria are summarized below.

1. *Geographical position, depth of water, bottom topography, and distance from coast (40 CFR 228.6(a)(1)).* The coordinates of the site are given above. The proposed site is located about 3.2 nmi offshore of Canaveral Harbor, Florida. The site is approximately 2 nmi by 2 nmi. The bottom topography is featureless with a gentle slope downward to the southeast. Water depth in the area ranges from 47 to 55 feet.

The configuration of the candidate site, as proposed in the DEIS, only partially included the existing interim site. The site has been re-configured in the FEIS to completely encompass the interim site, consistent with 40 CFR 228.5(e) of the general criteria of the Ocean Dumping Regulations.

2. *Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult or juvenile phases (40 CFR 228.6(a)(2)).* Many of the area's species spend their adult lives in the offshore region, but are estuary-dependent because their juvenile stages use a low salinity estuarine nursery region. Specific migration routes are not known in the Canaveral area. But, the candidate site is not near the mouth of an estuary and thus should not encumber migratory passage. The site is not known to be located in any major breeding or spawning area, except for sea turtles which use the entire beach area of eastern Florida as nesting habitat. Due to the motility of finfish, it is unlikely that disposal activities will have any significant impact on any of the species found in the area.

3. *Location in relation to beaches and other amenity areas (40 CFR 228.6(a)(3)).* The candidate site is located at least 3.2 nautical miles from the coast. Shore-related amenities include Canaveral National Seashore, Merritt Island National Wildlife Refuge, Banana River Aquatic Preserve, and the Kennedy Space Center. Currents in the vicinity trend alongshore in a general north-south orientation. It is therefore unlikely that detectable quantities of dredged material will be transported onto beaches. Considering the distance that the proposed disposal site is offshore beach areas, dredged material disposal at the site is not expected to have an effect on the recreational uses of these beaches.

4. *Types and quantities of wastes proposed to be disposed of, and proposed methods of release, including methods of packing the waste, if any (40 CFR 228.6(a)(4)).* It is anticipated that the candidate site will be used primarily for disposal of maintenance material from the Port Canaveral Channel and Turning Basins. Estimated annual volumes are expected to average 0.8 million cubic yards. Disposed material is expected to be composed primarily of fine grain sediments. Future disposal at the site will presumably be similar to that of past disposal. However, each disposal plan must be evaluated on a case-by-case basis to ensure that ocean disposal is the best alternative and that the material meets the Ocean Dumping Criteria in 40 CFR part 227.

5. *Feasibility of surveillance and monitoring (40 CFR 228.6(a)(5)).* Due to the proximity of the site to shore, surveillance and monitoring will not be difficult. Survey vessels, dredges or aircraft overflights are feasible surveillance methods. Environmental studies relative to the EIS have been conducted at the site to establish baseline conditions. A site-specific management and monitoring plan was developed for the Canaveral Harbor ODMDS. This plan establishes a sequence of monitoring surveys to be

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undertaken to determine any impacts resulting from disposal activities. These surveys may include bathymetry, sediment tracking, benthic faunal analyses, bottom video photography and side scan sonar surveys.

6. *Dispersal, horizontal transport and vertical mixing characteristics of the area including prevailing current direction and velocity, if any (40 CFR 228.6(a)(6)).* Currents in the area are mainly wind driven. Net current flow is alongshore with the direction of movement related to season. Measurement of current direction trends at the candidate site showed approximately 45% of the currents moving north-northeast and 26% trending south-southwest. Current speeds normally range around 0.1 to 0.4 knot. No conclusive statement can be made regarding sediment transport; however, the following general assumption can be presumed to be a reasonable scenario. The majority of the coarse dredged material sinks rapidly to the bottom during disposal via entrainment and considering the relatively shallow depths of the site. However, transport of fine grain dredged material in the water column will occur in the form of a turbidity plume. Fine material in such plumes is expected to disperse and dilute rather rapidly.

7. *Existence and effects of current and previous discharges and dumping in the area (including cumulative effects) (40 CFR 228.6(a)(7)).* Site environmental studies cited in the EIS have detected no significant adverse effects from previous disposal operations in terms of water quality, finfish and shellfish species and abundance, and benthic community diversities and densities.

Short-term effects attributed to site use include: water quality changes, smothering of benthic species, and possible mounding of dredged material. Water quality parameters would likely rather rapidly return to ambient levels following disposal operations through dispersion/dilution. Studies have shown no significant adverse water quality effects.

8. *Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance and other legitimate uses of the ocean (40 CFR 228.6(a)(8)).* Shipping and recreational and commercial fishing, while not heavy, do occur in the vicinity of the proposed site. Past intermittent use of the site for disposal operations is not known to have interfered with the shipping activities in and out of Canaveral Harbor and therefore has not substantively contributed to congestion within the shipping channels. Other than periodic use by hopper dredges or towed barges on trips to and from the disposal area, the site and its use should not interest with shipping or commercial fisheries activities.

Effects on commercial or recreational fishing due to past use of the site have presumably been limited since the proposed site represents a small portion of the total fishing area in the Canaveral vicinity.

Mineral extraction, desalination, fish or shellfish culture and other scientific use of the ocean are not known to occur in the vicinity of the site. Potential future mineral exploration or extraction should not be hindered by activities associated the candidate site.

9. *The existing water quality and ecology of the site as determined by available data or by trend assessment or baseline surveys (40 CFR 228.6(a)(9)).* Investigations of previous disposal effects indicated no significant adverse effects on water quality parameters such as dissolved nutrients, trace metals, dissolved oxygen, and pH.

Water quality in the region is mostly under the influence of the open ocean and salinities seldom drop much below 34 ppt. With the exception of suspended solids (is turbidity) values for water quality obtained from samples taken during baseline surveys were well within the limits of applicable water quality standards. The ecology of the site is typical of coastal habitat in the vicinity. The bottom sediments at the proposed site are predominantly fine-grained sands with varying amounts of clay, silt and medium to coarse sand. Commercially important species supported by this habitat include shrimp, crab, seatrout, silver perch, croaker, and drum.

No critical habitat or unique ecological communities have been identified at the candidate site. Buffer zone protection has been applied to any existing fish havens, artificial reef communities, turtle nesting areas, and onshore amenities in the general region of the site.

10. *Potentiality for the development or recruitment of nuisance species in the disposal site (40 CFR 228.6(a)(10).* It is unlikely that use of the proposed site will result in the development or recruitment of any nuisance species. Past disposal operations have apparently not led to development or recuitment of nuisance species.

11. *Existence at or in close proximity to the site of any significant natural or cultural features of historical importance (40 CFR 228.6(a)(11)).* No historical features have been identified within the proposed site. The candidate site is at least 4 nautical miles from any identified wrecks at sea which may or may not be of historical importance.

Site Management

Site management of the Canaveral Harbor ODMDS is the responsibility of EPA as well as the COE. The COE issues permits to private applicants for ocean disposal; however, EPA/Region IV assumes overall responsibility for site management.

A Site Management and Monitoring Plan was developed as a part of the process of completing the EIS. This plan provides the approach for both site management and for the monitoring of effects of disposal activities.

Action

The designation of the Canaveral Harbor site as an EPA-approved ODMDS is being published as Proposed Rulemaking. Overall management of this site is the responsibility of the Regional Administrator of EPA/Region IV.

It should be emphasized that, if an ODMDS is designated, such a site designation does not constitute EPA's approval of actual disposal of material at sea. Before ocean disposal of dredged material at the site may commence, the COE must evaluate a permit application according to EPA's Ocean Dumping Criteria, or complete a public review process for their proposed actions. EPA has the right to disapprove the actual dumping if it determines that environmental concerns under the Act have not been met.

The Canaveral Harbor ODMDS is not restricted to disposal use by federal projects; private applicants may also dispose suitable dredged material at the ODMDS once relevant regulations have been satisifed. This site is restricted, however, to suitable dredged material from the greater Canaveral, Florida vicinity.

Regulatory Assessments

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules that may have a significant impact on a substantial number of small entities. EPA has determined that this action will not have a significant impact on small entities since the designation will only have the effect of providing a disposal option for dredged material. Consequently, this Rule does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this Final Rule does not necessitate preparation of a Regulatory Impact Analysis.

This Rule does not contain any information collection requirements subject to Office Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 228

Water pollution control.

Dated: May 29, 1990.

Approved by:

W. Ray Cunningham,

Acting Regional Administrator.

In consideration of the foregoing, subchapter H of chapter I of title 40 is amended as set forth below.

PART 228—[AMENDED]

1. The authority citation for part 228 continues to read as follows:

Authority: 33 U.S.C. sections 1412 and 1418.

2. Section 228.12 is amended by removing from paragraph (a)(3) the words and coordinates for "Canaveral Harbor" and by adding paragraph (b)(86) to read as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

* * * * *

(b) * * *

(86) Canaveral Harbor; Canaveral, Florida; Ocean Dredged Material Disposal Site — Region IV.

Location:

28°20'15" N	80°31'11" W;
28°18'51" N	80°29'15" W;
28°17'15" N	80°30'33" W;
28°16'36" N	80°32'48" W.

Center coordinates are 28°18'44" N and 80°31'00" W (NAD 27).

Size: 4 square nautical miles.

Depth: Range 47 to 55 feet.

Primary use: Dredged material.

Period of use: Continuing use.

Restriction: Disposal shall be limited to suitable dredged material from the greater Canaveral, Florida vicinity.

[FR Doc. 90-24731 Filed 10-19-90; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 65

RIN 0905-AD14

National Institute of Environmental Health Sciences Hazardous Waste Worker Training

AGENCY: National Institute of Health, Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: This final rule establishes part 65 (initially proposed as part 64a) in title 42 of the Code of Federal Regulations entitled: National Institute of Environmental Health Sciences Hazardous Waste Worker Training. Section 126(g) of the Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499, 42 U.S.C. 9660a, authorizes the National Institute of Environmental Health Sciences (NIEHS) to administer these training grants.

EFFECTIVE DATE: This rule is effective on October 22, 1990.

ADDRESSES: Questions should be asked to Dr. Denny Dobbin, Program Administrator, Hazardous Waste Worker Training Program, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, North Carolina 27709.

FOR FURTHER INFORMATION CONTACT: Dr. Denny Dobbin at the address above, or telephone (919) 541-0752 or FTS 629-0752.

SUPPLEMENTARY INFORMATION: Public Law 99-499, section 126(g), enacted on October 17, 1986, authorizes a program of grants for the training and education of workers who are, or are likely to be engaged, in activities related to hazardous waste removal or containment or emergency response operations. The program is being administered by the National Institute of Environmental Health Sciences. The intent of the Department of Health and Human Services was announced in the HHS Regulatory Agenda which was published on April 24, 1989 (54 FR 16622) under the section for the National Institutes of Health, Public Health Service.

Section 126(g) of Public Law 99-499 states that grants shall be awarded to nonprofit organizations which demonstrate experience in implementing and operating worker health and safety training and education programs and demonstrate the ability to reach and involve in training programs target populations of workers who are, or are likely to be, engaged in hazardous waste removal or containment or emergency response. A full description of the program was published in the Federal Register on December 19, 1986 (51 FR 45556), and the public was invited to an open meeting on this program on January 12, 1987.

These regulations implement the authorization contained in section 126(g) of Public Law 99-499. Up to $10 million per year for fiscal years 1987-1991 has been authorized to be appropriated to support the grant program. These dollar amounts are budget ceilings, and actual amounts will be appropriated each year consistent with the Federal budget process. This final rule implements the requirements of section 126(g).

In the Notice of Proposed Rulemaking (NPRM) which was published in the Federal Register on Thursday, June 15, 1989 (54 FR 25479), the National Institutes of Health sought public review of and comment on the regulations. Although the NPRM proposed to establish a new part 64a, this part is utilized for other regulations, and the final regulations will be published as a new part 65, with identical section numbers. Following the publication of the NPRM, comments were received from individuals and organizations. All comments were supportive in principle. Three respondents, however, offered recommendations to improve or further clarify the language of the regulations. One respondent suggested that planning grants be deleted from the program.

Analysis of the comments resulted in minor changes to two provisions, and the inclusion of additional language in another provision to bring about consistency with language proposed for a third provision.

A respondent from a consortium of universities suggested that the description of evaluation criteria in § 65.5(a) be modified to read "* * * adequacy of the detailed training plan including provision for hands-on training * * *," because hands-on training is a crucial component of successful training programs and warrants having emphasis placed on it. The agency has placed emphasis on hands-on training in the evaluation component of the original description of the program announced in the Federal Register on December 19, 1986 (51 FR 45556). Since then, agency evaluation of existing grants has shown that hands-on training is key to successful hazardous waste working training. The agency agrees with the comment, and includes the suggested modification in this final rule.

A consortium of universities suggested that the review criteria in § 65.5(5) (i.e., "* * * meet the * * * training criteria in 29 CFR 1910.120 * * *") be clarified by adding "and/or target populations" in § 65.1(b), to make these criteria consistent with the populations targeted in § 65.1(b). While these provisions refer to essentially the same populations, differences can exist.

For instance, public sector workers not covered by the Occupational Safety and Health Act of 1970 (Pub. L. 91–596), but by the Environmental Protection Agency (EPA) in 40 CFR part 311 (54 FR 28654, June 23, 1989), would be covered under this suggested change. Section 126(f) of Public Law 99–499 requires the EPA to promulgate regulations covering public sector workers not covered by the Occupational Safety and Health Act; these standards apply to employees of State and local governments in states without approved State plans under section 18(b) of the Occupational Safety and Health Act. The Occupational Safety and Health Administration (OSHA) has promulgated standards that apply to private employees, Federal employees through Executive Order No. 12196, and, through State action, to State and local employees in states with OSHA-approved State plans. The EPA promulgated identical standards for State and local employees in states without OSHA-approved State plans as stipulated in section 126(f). In the suggested language, these workers would be covered by these regulations. This is also consistent with less limiting language in section 126(g)(1) of Public Law 99–499 which states that grants are "* * * for the training and education of workers who are or may be engaged in activities related to hazardous waste removal or containment or emergency response* * *"

The EPA agrees with this analysis in its clarification of the final rule on Worker Protection for Hazardous Waste Operation and Emergency Response, 40 CFR part 311 (54 FR 28654, June 23, 1989). The EPA points out that Congress used broad language to express its intent to provide broad coverage for all emergency response situations, not just for a limited class of hazardous waste operations. This broad coverage was supported by the fact that Congress made section 126 a free-standing provision and did not amend the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601 *et seq.*, or the Occupational Safety and Health Act of 1970, Public Law 91–596. Finally, the legislative history of section 126 indicates that Congress intended broad coverage for all persons conducting emergency response. In requiring worker protection standards, Congress thus intended to minimize health and safety risks for responders in hazardous waste cleanup activities. The EPA concluded that a reasonable interpretation of Congress' intent is that training, among other worker protection standards, should apply to all persons whose duties bring them into contact with hazardous waste during site cleanup and emergency response.

This is also consistent with the recently proposed revision to the National Oil and Hazardous Substances Pollution Contingency Plan (the NCP) that requires compliance with OSHA standards for volunteers in cleanups undertaken pursuant to the NCP (40 CFR 300.185, 53 FR 51493, December 21, 1988). The agency agrees with the comment, supports the broader coverage suggested, and includes the suggested modification in this final rule.

An international union also commented that the scope of coverage should be less limiting. Workers at sites that are "large quantity generators", but where hazardous waste is stored fewer than 90 days, also should be covered by the training grant program. These workers are exposed to potential risks greater than or equal to those implied in the NIEHS proposed rule. Potential exposures and risk increase as a result of the rapid turnover and/or large volume of waste handled. The respondent submitted testimony from one union member describing hazards at the plant in which he works. This plant generates approximately 1,000,000 pounds and 105,000 gallons of various hazardous waste, but is not an EPA-designated TSD (Treatment, Storage, and Disposal) site because wastes are stored fewer than 90 days. This plant falls outside coverage of 29 CFR 1910.120, although it would remain under OSHA's jurisdiction in other respects regarding worker health and safety. However, appropriate worker training should be available to all hazardous waste generators who seek it.

It is clear that Congressional intent is to cover all hazardous waste and emergency response workers based on potential exposure and health risk as previously argued. The language of section 126(d)(1) and (g) are clear that training scope should be broad. Section 126 states that the training be required for personnel engaged in hazardous substance removal or other activities which expose, or potentially expose, such workers to hazardous substances. The same section later requires that special training be provided to workers who may be exposed to unique or special hazards. Section (g)(1) authorizes this training grant program for the training of workers who are, or may be, engaged in activities related to hazardous waste removal or containment or emergency response. There is no limiting language regarding training coverage. Thus, scope depends on hazardous waste work and exposure to hazardous substances in the broadest sense.

Indeed, broader coverage is supported by OSHA in the preamble of the final rule published at 29 CFR 1910.120. For instance, OSHA states that it believes there is a clear need for training and other provisions to protect workers engaged in all emergency responses when there is a possibility of hazardous substance spills. This is needed whether or not the emergency occurs on a hazardous waste site. The hazards are the same in these cases. The agency accepts the comment and modifies the language in § 65.1(b). These are minor changes for clarification.

A union respondent believed that the provision for planning grants was unnecessary, and that the training grant funds would be used most appropriately for operational grant activities. The respondent stated that the experience of the last three years among the various grantees has developed sufficient background and information, as well as training materials, so as to preclude the need to provide planning grants. The agency disagrees. The planning grant mechanism provides additional flexibility in areas where the development of new training materials or programs may be needed. For instance, if research points to newly-identified populations at risk of work-related injury from hazardous materials handling, and there were evidence that development of special curricula or training materials could help protect them, then planning grants could be appropriate to assist in a response. Also, there may be geographical areas where a high need for worker-training becomes necessary, but means for delivering it are unavailable. Planning grants might be appropriate in this case if there were local organizations which demonstrated potential for providing such training, but needed additional developmental efforts prior to initiation of a full activity. In either case, planning grants could be appropriate to develop the preliminary expertise and materials prerequisite for a full program grant on a comprehensive basis. On this basis, the agency has decided to let § 65.1(c)(1) stand as it is in the proposed rule.

The following information is provided for the information of the public:

1. These regulations govern the award and administration of grants under section 126(g) of Public Law 99–499. The economic impact of this program is expected to be minor. For this reason, the Secretary has determined that this rule is not a "major rule" under Executive Order 12291, and that a regulatory impact analysis is not required. Furthermore, these regulations will not have a significant economic impact on a substantial number of small entities, and therefore do not require a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980.

2. Catalog of Federal Domestic Assistance program number affected by this proposed rule is: 93.142.

3. Section 65.4 of these regulations contains information collection requirements which have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)) and assigned control number 0925–0348.

4. These regulations do not require either a Federalism or Family Impact analysis. There is no effect on states or on the role and responsibilities of the family, as defined in Executive Order 12291 on Federalism, and Executive Order 12606 on the Family, because the regulations merely implement the Secretary's authority to issue grants under this program.

List of Subjects in 42 CFR Part 65

Education study programs, Grant programs—education, Grant programs—health, Manpower training programs.

Accordingly, it is proposed to amend title 42 of the Code of Federal Regulations to add a new part 65 to read as set forth below.

Dated: July 25, 1990.

James O. Mason,
Assistant Secretary for Health.

Approved: September 27, 1990.

Louis W. Sullivan,
Secretary.

PART 65—NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES HAZARDOUS WASTE WORKER TRAINING

Sec.
65.1 To what projects do these regulations apply?
65.2 Definitions.
65.3 Who is eligible to apply for a grant?
65.4 Project requirements.
65.5 How will application be evaluated?
65.6 How long does grant support last?
65.7 For what purposes may grant funds be spent?
65.8 What additional Department regulations apply to grantees?
65.9 Additional conditions.

Authority: 42 U.S.C. 9660a.

§ 65.1 To what projects do these regulations apply?

(a) These regulations implement the program of grants for the training and education of workers who are or are likely to be engaged in activities related to hazardous waste removal, or containment, or emergency response that is authorized by section 126(g) of the Superfund Amendments and Reauthorization Act of 1986.

(b) Grants are available for curriculum and training materials development, technical support of training, direct student training, training program evaluation and related activities. Target populations for this training are workers and supervisors who are or are likely to be engaged in hazardous substance removal or other activities which expose or potentially expose these workers to hazardous substances in activities such as:

(1) Waste handling and processing at waste generators and active and inactive hazardous substance treatment, storage, and disposal facilities;

(2) Clean up, removal, containment, or remedial actions at waste sites;

(3) Hazardous substance emergency response;

(4) Hazardous substance disposal site risk assessment and investigation, clean up, or remedial actions; and

(5) Transportation of hazardous wastes.

Target populations may also be regulated under standards promulgated by the Secretary of Labor, the Administrator of the Environmental Protection Agency, and other agencies under section 126 of the Act.

(c) Two types of grants are available: Program grants covering the full range of activities, including program development, direct worker training, and program evaluation; and planning grants.

(1) Planning grants are intended to assist organizations which demonstrate potential for providing hazardous worker training, but need additional developmental efforts prior to initiation of full curriculum development and training activities. A limited number of one-year planning grants may be funded at a level determined appropriate by the Director. After successful completion of a one-year planning grant, a recipient may apply for a full program grant on a competitive basis.

(2) Full program grants will be awarded to organizations with demonstrated capability to provide worker health and safety training and education and demonstrated ability to identify, describe, and access target populations. Full program grantees must be able to immediately initiate curriculum development and worker training activities.

§ 65.2 Definitions.

As used in this part:

Act means the Superfund Amendments and Reauthorization Act of 1986, Public Law 99–499.

Award or *grant* means a grant or cooperative agreement under section 126(g) of the Act (42 U.S.C. 9660a).

Director means the Director, National Institute of Environmental Health Sciences, or the Director's delegate.

HHS means the Department of Health and Human Services.

NIEHS means the National Institute of Environmental Health Sciences, an organizational component of the National Institutes of Health, as authorized by sections 401(b)(1)(L) and 463 of the Public Health Service Act (42 U.S.C. 281(b)(1)(L) and 285(l).

NIH means the National Institutes of Health.

Nonprofit as applied to any agency, organization, institution, or other entity means a corporation or association no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual.

Stipend means a payment to an organization that is intended to help meet that organization's subsistence expenses for trainees during the training period.

Training grant means an award of funds to an eligible entity for a project authorized under § 65.1.

§ 65.3 Who is eligible to apply for a grant?

Public and private nonprofit entities providing worker health and safety education and training may apply for grants under these regulations. Applicants for a grant may use services, as appropriate, of other public or private organizations necessary to develop, administer, or evaluate proposed worker training programs so long as the majority of the work is done by the applicant.

§ 65.4 Project requirements.

In addition to meeting the requirements specified in the application, the instructions

accompanying it, and the regulations referred to in § 65.8, each applicant must meet the following requirements:

(a) Two or more nonprofit organizations may join in a single application and share grant resources in order to maximize worker group coverage, enhance the effectiveness of training, and bring together appropriate academic disciplines and talents. Joint applications must describe the cooperative arrangements for program integration and effectiveness. Specific expertise, facilities, or services to be provided by each participating member must be identified.

(b) Each applicant must detail the nature, duration, and purpose of the training for which the application is filed. The proposed training program must meet the standards promulgated by the Secretary of Labor under section 126 of the Act, and such additional requirements as the Director may prescribe to assure appropriate health and safety training.

(c) The applicant must provide assurance that the applicant will not discriminate in the selection of trainees or instructors on the basis of membership or nonmembership in a union.

§ 65.5 How will applications be evaluated?

(a) The Director shall evaluate applications through the officers and employees, and experts and consultants engaged by the Director for that purpose. The Director's first level of evaluation will be for technical merit and shall take into account, among other pertinent factors, the significance of the project, the qualifications and competency of the project director and proposed staff (including the ability to manage complex training programs), the adequacy of selection criteria for trainees for the project, the adequacy of the detailed training plan including provision for hands-on training, the adequacy of the applicant's resources available for the project, the amount of grant funds necessary for completion of its objectives, and how well the projects meet training criteria in OSHA's Hazardous Waste Operations and Emergency Response Regulation (29 CFR 1910.120) and/or how well they cover the target populations listed in § 65.1(b). A second level of review will be conducted for program relevance.

(b) Within the limits of funds available, the Director may approve training grants for award to carry out those projects which have satisfied the requirements of these regulations; are determined by the Director to be technically meritorious; and in the judgment of the Director best promote the purposes of the grant program authorized by section 126(g) of the Act, the regulations of this part, and program priorities.

§ 65.6 How long does grant support last?

(a) The notice of grant award specifies how long NIEHS intends to support the project without requiring the project to recompete for funds. This period, called the project period, will usually be for 1–5 years.

(b) Generally, the grant will initially be for one year and subsequent continuation awards will also be for one year at a time. A grantee must submit a separate application to have the support continued for each subsequent year. Decisions regarding continuation awards and the funding level of such awards will be made after consideration of such factors as the grantee's progress and management practices and the availability of funds. In all cases, continuation awards require a determination by the NIEHS that continued funding is in the best interest of the Federal Government.

(c) Neither the approval of any application nor the award of any grant commits or obligates the Federal Government in any way to make any additional, supplemental, continuation, or other award with respect to any approved application or portion of an approved application.

§ 65.7 For what purposes may grant funds be used?

Individuals receiving training shall be entitled only to the stipends and allowances included in a budget approved by the Director, taking into account the cost of living and such other factors as the needs of the program and the availability of funds.

§ 65.8 What additional Department regulations apply to grantees?

Several other regulations and policies apply to grants under this part. These include, but are not limited to:

42 CFR part 50, subpart D.	Public Health Service grant appeals procedure.
45 CFR 16	Procedures of the Departmental Grant Appeals Board.
45 CFR part 74	Administration of grants.
45 CFR part 75	Informal grant appeals procedures.
45 CFR part 76, subparts A–F.	Government-wide debarment and suspension (nonprocurement) and government-wide requirements for drug-free workplace (grants).
45 CFR part 80	Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services—Effectuation of title VI of the Civil Rights Act of 1964.
45 CFR part 81	Practice and procedure for hearings under part 80 of this title.
45 CFR part 84	Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance.
45 CFR part 86	Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance.
45 CFR part 91	Nondiscrimination on the basis of age in Health and Human Services programs and activities receiving Federal financial assistance.
45 CFR part 92	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and local Governments.
45 CFR part 93	New restrictions on lobbying.

§ 65.9 Additional conditions.

The Director may with respect to any award impose additional conditions prior to, or at the time of, any award when, in the Director's judgment, such conditions are necessary to assure the carrying out of the purposes of the award, the interest of the public health, or the conservation of funds awarded.

[FR Doc. 90-24904 Filed 10-19-90; 8:45 am]

BILLING CODE 4140-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-536; RM-7064]

Radio Broadcasting Services; Ashley, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 223A to Ashley, Michigan, as that community's first FM broadcast service, in response to a petition filed by William V. Constine. *See* 54 FR 50003, December 4, 1989. Canadian concurrence has been obtained for this allotment at coordinates 43-11-12 and 84-26-30.

DATES: Effective November 30, 1990; the window period for filing applications for Channel 223A at Ashley, Michigan, will open on December 3, 1990, and close on January 2, 1991.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-536, adopted September 27, 1990, and released October 16, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by adding Ashley, Channel 223A.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24626 Filed 10-19-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-479; RM-7030]

Radio Broadcasting Services; Newberry, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 250C1 for Channel 250C2 at Newberry, Michigan, in response to a petition filed by Leon B. Van Dam. We shall also modify the license for Station WUPQ to specify operation on Channel 250C1 in lieu of Channel 250C2. *See* 54 FR 47796, November 17, 1989. Canadian concurrence has been obtained for the Newberry allotment at coordinates 46-18-53 and 85-33-45.

EFFECTIVE DATE: November 30, 1990.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-479, adopted September 27, 1990, and released October 16, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by removing Channel 250C2 and adding Channel 250C1 at Newberry.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24625 Filed 10-19-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-501; RM-7041]

Radio Broadcasting Services; Mora, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 238C3 for Channel 237A at Mora, Minnesota, in response to a petition filed by John James Godfrey. We shall also modify the construction permit for Channel 237A to specify operation on Channel 238C3. Canadian concurrence has been obtained for Channel 238C3 at coordinates 45-49-18 and 93-22-18. *See* 54 FR 48656, November 24, 1989.

EFFECTIVE DATE: November 30, 1990.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-320, adopted September 25, 1990, and released October 16, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Minnesota is amended by removing Channel 237A and adding Channel 238C3 at Mora.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24626 Filed 10-19-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-390; RM-6762]

Radio Broadcasting Services; St. George, UT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 240C to St. George, Utah, as that community's third local FM service, at the request of Color Country Broadcasting Corporation. *See* 54 FR 39022, September 22, 1989. Channel 240C can be allotted to St. George in compliance with the Commission's minimum distance separation requirements with a site restriction of 29.6 kilometers (18.4 miles) south of the city. The coordinates are 36-50-50 and 113-29-28. With this action, this proceeding is terminated.

DATES: Effective November 30, 1990; the window period for filing applications will open on December 3, 1990, and close on January 2, 1991.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-390, adopted September 27, 1990, and released October 16, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Utah, is amended by adding St. George, Channel 240C.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24627 Filed 10-19-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 90

[DA 90-1304]

Frequencies Available for Use in the United States/Canada Border

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action adopts rules that put into effect Arrangements between the Federal Communications Commission and the Department of Communications of Canada concerning the use of the 821-824/866-869 MHz and 896-901/935-940 MHz bands in the vicinity of the United States/Canada border. Adoption of this Order paves the way for licensing of United States private land mobile radio stations in the area of the Canadian border.

The Order opens the way for filing applications for non-SMR private land mobile radio stations in the border area immediately upon publication of this Federal Register summary, outlines procedures for filing SMR applications in five border area cities, and adopts rules that specify the channels available and technical rules that must be followed for operation in the border areas.

EFFECTIVE DATE: October 22, 1990.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Edward R. Jacobs, Land Mobile and Microwave Division, Private Radio Bureau, (202) 632-7597.

SUPPLEMENTARY INFORMATION: On September 17, 1990, two Arrangements between the Department of Communications of Canada (DOC) and the Federal Communications Commission of the United States of America concerning use of these bands along the U.S./Canadian border were signed. The Arrangements specify which channels will be available for licensing by each administration within the border area. This Order modifies subpart S of part 90, 47 CFR part 90, to conform the Rules to the Arrangements and to permit licensing of radio systems in the Canadian border area.

The 821-824/866-869 MHz Public Safety channels are immediately available for licensing in the Canadian border zone upon publication of this Federal Register summary. Such licensing shall be pursuant to and in conformance with Regional Public Safety Plans that have been approved by the Commission.The 896-901/935-940 MHz channels are also available in the Canadian border area for licensing in the Business and Industrial/Land Transportation pools immediately upon publication of this summary. The processing procedures that will be used for the already filed and rank-ordered applications for SMR licenses in the Seattle, Detroit, Cleveland, Buffalo, and Rochester Designated Filing Areas will be delineated in letters to be sent directly to the selectees in those areas. No additional applications for 900 MHz SMR facilities will be accepted for filing with the Commission for any region within the United States pending adoption of a Public Notice specifically calling for such applications.

These rule changes will facilitate the construction of additional Private Land Mobile Radio stations in the Canadian border area. This should result in improved mobile communication service to the public without adversely affecting any party.

List of Subjects in 47 CFR Part 90

Private Land Mobile, 800/900 MHz, Frequencies, Radio.

Richard J. Shiben,

Chief, Land Mobile and Microwave Division, Private Radio Bureau.

Rule Changes

47 CFR part 90 is amended as follows:

PART 90—[AMENDED]

1. The authority citation for part 90 continues to read as follows:

Authority: Sections 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303, unless otherwise noted.

2. 47 CFR 90.619 is amended by revising the introductory text of paragraph (b) and adding paragraphs (c) and (d) to read as follows:

§ 90.619 Frequencies available for use in the U.S./Mexico and U.S./Canada border areas.

* * * * *

(b) *U.S./Canda border area.* The following criteria shall govern the assignment of frequency pairs (channels) in the 806-821/851-866 and 896-901/935-940 MHz bands for stations located in the U.S./Canada border area. These channels are available for assignment for conventional or trunked systems in accordance with all applicable sections of this subpart. They are available for intercategory sharing as indicated in § 90.621(g). Specific provisions for use of the 821-824/866-869 MHz bands in the U.S./Canada border area are contained in paragraph (c) of this section, and provisions for use of the 896-901/935-940 MHz bands in

the U.S./Canada border are contained in paragraph (d) of this section.

* * * * *

(c) *Use of frequencies in the 821–824/866–869 MHz band (Channels 601–830) in the U.S./Canada border area.* The following criteria shall govern the assignment of frequency pairs (channels) in the 821–824/866–869 MHz band for stations located in the U.S./Canada border area. They are available for assignments for conventional or trunked systems in accordance with applicable sections of this subpart and the Report and Order in Gen. Docket No. 87–112. They are not available for intercategory sharing.

(1) Channels 601–830, as listed in § 90.613 Table of 806–824/851–869 MHz Channel Designations, are available to eligible applicants in the Public Safety Category for use in the U.S./Canada border area as shown in Table 25. Additionally, Channels 601, 639, 677, 715, and 753 are available in all regions only for mutual aid purposes.

TABLE 25—CHANNELS IN THE 821–824/866–869 MHz FREQUENCY BANDS AVAILABLE IN THE U.S./CANADA BORDER AREA

Region	Location (longitude)	Channels
1	68° W–71° W (0–100 km from border)	715–830
2	71° W–80°30′ W (0–100 km from border)	760–830
3	80°30′ W–85° W (0–100 km from border)	636–830
4	85° W–121°30′ W (0–100 km from border)	715–830
5	121°30′ W–127° W (0–140 km from border)	715–830
6	127° W–143° W (0–100 km from border)	715–830
7	85° W–121°30′ W (100–140 km from border)	601–830
8	127° W–143° W (100–140 km from border)	601–830

Note: For assignments in the 821–824/866–869 MHz bands, the cities of Akron, Ohio (41°05′00″ N, 81°30′40″ W) and Youngstown, Ohio (41°05′57″ N, 80°39′02″ W) are considered outside of Region 3, and Syracuse, New York (43°03′04″ N, 76°09′14″ W) is considered outside of Region 2. These cities are defined as an area with the given center coordinates and encompassing a circle of 30 km radius.

(2) All frequency assignments made pursuant to paragraph (c)(1) of this section shall comply with the requirements of § 90.619(b)(2).

(3) In Region 5, Channels 601–714 may be authorized in the United States under the following conditions:

(i) An assignment may be made if the predicted power flux density (PFD) of a proposed station's signal does not exceed −107 dBW/m [2] at the border. The prediction of the PFD is calculated based upon a modified Longley-Rice point-to-point propagation model with time and location variabilities of 10 percent [1] and 3-second digitized terrain data.[3]

(ii) Authorizations for Channels 601–714 in Region 5 are secondary to Canadian operations and conditioned to require that licensees take immediate action to eliminate any harmful interference resulting from the station's transmitted signal exceeding −107 dBW/m [2] at or beyond the U.S./Canada border.

(4) Channel assignments for stations to be located in the geographical area in Region 1 enclosed by the Unites States-Canada border, the meridian 71°W and the line beginning at the intersection of 44°25′ N, 71° W, then-running by great circle arc to the intersection of 45° N, 70° W, then North along meridian 70° W to the intersection of 45°45′ N, then running West along 45°45′ N to the intersection of the United States-Canada border, will be only for even numbered channels beginning with Channel 716 and ending with Channel 758.

(5) Channel assignments for stations to be located in the geographical area in Region 3 enclosed by the meridian 81° W longitude, the arc of a circle of 100 km radius centered at 42°39′30″ N latitude 81° W longitude at the northern shore of Lake Erie and drawn clockwise from the southerly intersection with 80°30′ W longitude to intersect the United States-Canada border West of 81° W, and the United States-Canada border, will be only for even numbered channels beginning with Channel 636 and ending with Channel 758. Coordination with Canada will be required for these channels. U.S. stations must protect Canadian stations operating on channels 636 through 758 within an area of 90 km radius from the center city coordinates of London, Ontario (42°59′ N, 81°14′ W).

(6) *Additional channels available.*—The channels listed in Table 26 are available for assignment in Regions 1–6 if the maximum power flux density (PFD) of the station's transmitted signal does not exceed the limits specified in Tables 27 and 28. The spreading loss shall be calculated using the free space formula taking into account an antenna discrimination in the direction of the border.

TABLE 26—ADDITIONAL CHANNELS AVAILABLE

[Regions 1–6]

Region	Channel No.[4]	Effective radiated power
1	601–714	See Table 29
2	601–759	See Table 29
3	601–635	See Table 29
4	601–714	See Table 29
5	601–714	See Table 30
6	601–714	See Table 29

Authorizations for stations using these channels will be secondary to Canadian operations and conditioned to require that licensees take immediate action to eliminate any harmful interference resulting from the station's transmitted signal exceeding the values specified in Tables 29 or 30 at or beyond the U.S./Canada border.

(d) *Use of frequencies in the 896–901/935–940 MHz band (Channels 1–399) in the U.S./Canada border area.*—The following criteria shall govern the assignment of frequency pairs (channels) in the 896–901/935–940 MHz

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[1] G.A. Hufford, A.G. Longley, and W.A. Kissick, *A guide to the use of the ITS irregular terrain model in the area prediction mode*, NTIA Report 82–100. (Available from U.S. Department of Commerce, National Technical and Information Service (NTIS), Springfield, VA 22161. Accession number PB–117677.)

A.G. Longley and P.L. Rice, *Prediction of tropospheric radio transmission loss over irregular terrain—a computer method 1968*, ESSA Technical Report ERL 79–ITS 67. (Available from NTIS, Accession number AD–676–874.)

P.L. Rice, A.G. Longley, K.A. Norton, and A.P. Barsis, *Transmission loss predictions for tropospheric communication circuits*, National Bureau of Standards Technical Note 101, Volumes I and II. (Available from NTIS, Accession numbers AD–687–820 and AD–687–821.)

[3] *Level 1-Digital Terrain Elevation Data*, United States Defense Mapping Agency. (Available from National Cartographic Information Center, U.S. Geological Survey, 507 National Center, Reston, VA 22092 as *Digital Elevation Model Data* in 1°×1° units. Two of these units are required to cover each 1°×2° map (1:250,000-scale quadrangle) from which the data were produced.

band for stations located in the U.S./Canada border area. They are available for assignments for conventional or trunked systems in accordance with applicable sections of this subpart.

(1) Channels 1–399, as listed in § 90.613 Table of 896–901/935–940 MHz Channel Designations, are available to eligible applicants for use in the U.S./Canada border area as shown in Table 27. Additionally, Channels 71, 75, 79, 151, 155, and 159 are available in all regions only for implementation of an Advanced Train Control System as defined in 3 FCC Rcd 427 (1988) (Advanced Train Control Waiver).

TABLE 27—CHANNELS IN THE 896–901/935–940 MHz FREQUENCY BANDS AVAILABLE IN THE U.S./CANADA BORDER AREA

Region	Location (longitude)	Channels
1	66° W–71° W. (0–100 km from border)	1–200, 396, 399
2	71° W–80°30′ W (0–100 km from border)	1–120
3	80°30′ W–85° W (0–100 km from border)	1–340
4	85° W–121°30′ W (0–100 km from border)	1–200,328,399
5	121°30′ W–127° W (0–140 km from border)	1–200, 396, 399
6	127° W–143° W (0–100 km from border)	1–200, 395, 399
7	66° W–121°30′ W (100–140 km from border)	1–399
8	127° W–143° W (100–140 km from border)	1–399

Note: For assignments in the 896–901/935–940 MHz bands, the cities of Akron, Ohio (41°05′00″ N, 81°30′40″ W) and Youngstown, Ohio (41°05′57″ N, 80°39′02″ W) are considered outside of Region 3, and Syracuse, New York (43°03′04″ N, 76°09′14″ W) is considered outside of Region 2. These cities are defined as an area with the given center coordinates and encompassing a circle of 30 km radius.

(2) All frequency assignments made pursuant to paragraph (d)(1) of this section shall comply with the requirements of § 90.619(b)(2).

(3) In Region 5, Channels 201–397 may be authorized in the United States under the following conditions:

(i) An assignment may be made if the predicted power flux density (PFD) of a proposed station's signal does not exceed –107 dBW/m[2] at the border. The prediction of the PFD is calculated based upon a modified Longley-Rice point-to-point propagation model with time and location variabilities of 10 percent[3] and 3-second digitized terrain date[4].

(ii) Authorizations for Channels 201–397 in Region 5 are secondary to Canadian operations and conditioned to require that licensees take immediate action to eliminate any harmful interference resulting from the station's transmitted signal exceeding –107 dBW/m[2] at or beyond the U.S./Canada border.

(4) Channel assignments for stations to be located in the geographical area in Region 1 enclosed by the United States-Canada border, the meridian 71° W and the line beginning at the intersection of 44°25′ N, 71° W, then running by great circle arc to the intersection of 45° N, 70° W, then North along meridian 70° W to the intersection of 45°45′ N, then running West along 45°45′ N to the intersection of the United States-Canada border, will be only for channels 121 through 160, inclusive, and will be limited to assignments with 11 kHz or less necessary bandwidth. Coordination with Canada will be required for these channels.

(5) Channel assignments for stations to be located in the geographical area in Region 3 enclosed by the meridian of 81° W longitude, the arc of a circle of 100 km radius centered at 42°39′30″ N latitude and 81° W longitude at the northern shore of Lake Erie and drawn clockwise from the southerly intersection with 80°30′ W longitude to intersect the United States-Canada border West of 81° W, and the United States-Canada border, will be only for channels 121 through 230, inclusive, and will be limited to assignments with 11 kHz or less necessary bandwidth. Coordination with Canada will be required for these channels. U.S. stations must protect Canadian stations operating on channels 121 through 230 within an area of 30 km radius from the center city coordinates of London, Ontario (42°59′ N, 81° 14′ W).

(6) *Additional channels available*—The channels listed in Table 28 are available for assignment in Regions 1–6 if the maximum power flux density (PFD) of the station's transmitted signal does not exceed the limits specified in Tables 29 and 30. The spreading loss shall be calculated using the free space formula taking into account any antenna discrimination in the direction of the border.

TABLE 28—ADDITIONAL CHANNELS AVAILABLE

[Regions 1–6]

Region	Channel No.'s	Effective radiated power
1	201–397	See Table 29
2	121–399	See Table 29
3	341–399	See Table 29
4	201–397	See Table 29
5	201–397	See Table 30

TABLE 28—ADDITIONAL CHANNELS AVAILABLE—Continued

[Regions 1–6]

Region	Channel No.'s	Effective radiated power
6	201–397	See Table 29

Authorizations for stations using these channels will be secondary to Canadian operations and conditioned to require that licensees take immediate action to eliminate any harmful interference resulting from the station's transmitted signal exceeding the values specified in Tables 29 or 30 at or beyond the U.S./Canada border.

TABLE 29—MAXIMUM POWER FLUX DENSITY (PFD) AT THE U.S./CANADA BORDER CORRESPONDING TO EFFECTIVE ANTENNA HEIGHT

[Regions 1, 2, 3, 4, and 6]

Effective antenna height (EAH)		PFD (dBW/m[2])
Feet	Meters	
0–500	0–152	–84
501–1000	153–305	–90
1001–1500	306–457	–95
1501–2000	458–609	–98
2001–2500	610–762	–101
2501–3000	763–914	–101
3001–3500	915–1066	–103
3501–4000	1067–1219	–104
Above 4000	Above 1219	–104

[3] See note 1, paragraph (c) of this Section.
[4] See note 2, paragraph (c) of this Section.

TABLE 30—MAXIMUM POWER FLUX DENSITY (PFD) AT THE U.S./CANADA BORDER CORRESPONDING TO ANTENNA HEIGHT ABOVE MEAN SEA LEVEL

[Region 6]

Antenna height above mean sea level		PFD (dBW/m²)
Feet	Meters	
0-1650	0-503	-97.0
1651-2000	504-609	-96.5
2001-2500	610-762	-91.0
2501-3000	763-914	-92.5
3001-3500	915-1066	-94.0
3501-4000	1067-1219	-95.0
4001-4500	1220-1371	-95.5
4501-5000	1372-1523	-96.0
Above 5000	Above 1523	-107.0

[FR Doc. 90-24874 Filed 10-19-90; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 91048-0008]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of redistribution of PSC allowance; request for comments.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), has determined that the prohibited species catch (PSC) allowance for *Chionoecetes bairdi* Tanner crab in Zone 2 will remain uncaught by the domestic annual processing (DAP) other fishery. Therefore, the Secretary of Commerce (Secretary) is redistributing PSC allowance for *C. bairdi* to the DAP flatfish fishery as specified in this notice. This action is necessary to prevent premature closure of the DAP flatfish fishery in Zone 2, and is intended to promote optimum use of groundfish.

DATES: *Effective* from noon, Alaska local time (a.l.t.), October 16, 1990, through midnight, a.l.t., December 31, 1990.

Comments are invited on or before October 31, 1990.

FOR FURTHER INFORMATION CONTACT: Jessica A. Gharrett (Resource Management Specialist), NMFS Alaska Region, P.O. Box 21668, Juneau, Alaska 99802-1668, telephone 907-586-7229.

SUPPLEMENTARY INFORMATION: The Secretary implemented Amendment 12A to the Fishery Management Plan for the Bering Sea/Aleutian Islands Groundfish (FMP) under authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act) with a final rule promulgated August 9, 1989 (54 FR 32642) and effective September 3, 1989, through December 31, 1990.

Amendment 12A limits incidental catches of the prohibited species *C. bairdi* Tanner crab, red king crab, and Pacific halibut by the groundfish fisheries in the Bering Sea and Aleutian Islands (BSAI) area. The amendment establishes five prohibited species catch (PSC) limits, each of which is apportioned among four fisheries: "DAP flatfish", "DAP other", "JVP flatfish", and "JVP other." The 20 PSC allowances are listed in the initial specifications notice for 1990 for the BSAI area (55 FR 1434, January 16, 1990).

The Regional Director has determined that about 1.5 million of the 1.89 million *C. bairdi* Tanner crabs allocated to the "DAP other fishery" in Zone 2 will not be taken in 1990. The entire BSAI was closed to this fishery after the secondary Pacific halibut PSC allowance for the "DAP other fishery" was taken on June 30, 1990 (55 FR 27643, July 5, 1990).

At least 1,000,000 *C. bairdi* Tanner crabs are therefore available for transfer to the "DAP flatfish fishery" in Zone 2. The "DAP flatfish fishery" caught its PSC allowance of 110,000 *C. bairdi* Tanner crabs by September 29, 1990. Under § 675.20(e)(1)(iii) and (e)(4), the Secretary may adjust PSC allowances to allow redistribution of uncaught PSC allowances among fisheries. The proposed adjustment will allow the "DAP flatfish fishery" to be prosecuted, which otherwise would be closed and thus possibly leave substantial amounts of groundfish uncaught. Therefore, the *C. bairdi* PSC allowances specified for 1990 (55 FR 1434, January 16, 1990) will be revised as in Table 1.

Classification

This action is taken under § 675.20 (e)(1)(iii) and (e)(4) and complies with Executive Order 12291.

The Assistant Administrator for Fisheries, NOAA, finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment. Immediate effectiveness of this notice is necessary to benefit domestic fishermen whose fisheries would otherwise be closed from key fishing areas. Interested persons are invited to submit comments in writing to the previously cited address on or before October 31, 1990.

List of Subjects in 50 CFR 675

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801, *et seq.*

Dated: October 16, 1990.

Donald J. Leedy,

Acting Director, Office of Fishery Conservation and Management, National Marine Fisheries Service.

TABLE 1—REDISTRIBUTION OF 1990 PROHIBITED SPECIES CATCH ALLOWANCES FOR CHIONOECETES BAIRDI TANNER CRABS

[Numbers of animals]

Fishery	Area	Current allowance	Change	New allowance
"DAP other"	Zone 2	1,890,000	-1,000,000	890,000
"DAP flatfish"	Zone 2	110,000	+1,000,000	1,110,000

[FR Doc. 90-24944 Filed 10-19-90; 4:41 pm]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 204
Monday, October 22, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 58

[DA-90-028]

Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products; Proposed Increase in Fees

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service proposes to increase the fees charged for services provided under the dairy grading program. The program is a voluntary, user-fee program conducted under the authority of the Agricultural Marketing Act of 1946, as amended. The proposed increase would result in a fee of $36.00 per hour for continuous resident services and $41.00 per hour for nonresident services between the hours of 6 a.m. and 6 p.m. These proposed fees represent a $2.00 per hour increase for resident services and a $3.00 per hour increase for nonresident services. The fee for nonresident services between the hours of 6 p.m. and 6 a.m. would be $45.00, representing an increase of $3.20 per hour.

The fees need to be increased to cover the anticipated increase in Federal salaries to be effective about January 1, 1991; to cover increases in nonsalary inflationary costs; and to cover severance, unemployment, and relocation costs associated with the recent restructuring of the program.

DATES: Comments must be received on or before November 21, 1990.

ADDRESSES: Comments should be sent to: Office of the Director, AMS/Dairy Division, room 2968–S, P.O. Box 96456, Washington, DC. 20090–6456.

Comments received will be available for public inspection at this location during regular business hours.

FOR FURTHER INFORMATION CONTACT: Lynn G. Boerger, USDA/AMS/Dairy Division, Dairy Grading Section, room 2750–S, P.O. Box 96456, Washington, DC 20090–6456, (202) 382–9381.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures implementing Executive Order 12291 and Departmental Regulation 1512–1 and has been classified a "non-major" rule under the criteria contained therein.

The proposed rule also has been reviewed in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* and the Administrator, Agricultural Marketing Service has determined that if promulgated it would not have a significant economic impact on a substantial number of small entities. The proposed changes will not significantly affect the cost per unit for grading and inspection services. The Agricultural Marketing Service estimates that overall this rule will yield an additional $242,000 during fiscal year 1991. The Agency does not believe the increases will affect competition. Furthermore, the dairy grading program is a voluntary program.

The Agricultural Marketing Act of 1946, as amended, authorizes the Secretary of Agriculture to provide Federal dairy grading and inspection services that facilitate marketing and help consumers obtain the quality of dairy products they desire. The Act provides that reasonable fees be collected from the users of the services to cover, as nearly as practicable, the cost of maintaining the program.

Since the costs of the grading program are covered entirely by user fees, it is essential that fees be increased when program costs exceed revenues. Program restructuring has resulted in revenues in closer balance to program obligations. However, it is anticipated that Federal salaries will increase by 3.5 percent on or about January 1, 1991. Also, nonsalary costs are projected to rise by 5.0 percent or more during 1991. In addition, the increased fees will cover relocation, severance and unemployment costs associated with the recent program restructuring. The current fees, which became effective on January 28, 1990, will not cover these increased costs.

The operating costs for 1991 are projected to exceed revenues by approximately $242,000. A proposed increase of $2.00 per hour for the resident program and $3.00 per hour for the nonresident program should cover the increased costs.

In connection with the nonresident fees, higher costs are reflected in the proposed fees with respect to the administration and supervision of those activities performed by nonresident personnel. These higher costs are identified as those associated with scheduling duty assignments, typing of certificates, supervision and training of personnel at the multiple locations, and the review and processing of paperwork for traveling to various duty assignments.

Proposed Changes

This rule proposes the following changes in the regulations implementing the dairy inspection and grading program:

1. Increase the hourly fee for nonresident services from $36.00 to $41.00 for services performed between 6 a.m. and 6 p.m. and from $41.80 to $45.00 for services performed between 6 p.m. to 6 a.m.

The nonresident hourly rate is charged to users who request an inspector or grader for particular dates and amounts of time to perform specific grading and inspection activities. These users of nonresident services are charged for the amount of time required to perform the task and undertake related travel, plus travel costs.

2. Increase the hourly fee for continuous resident services from $34.00 to $36.00.

The resident hourly rate is charged to those who are using grading and inspection services performed by an inspector or grader assigned to a plant on a continuous, year-round, resident basis.

Timing of Any Fee Increase

It is contemplated that any fees that might be implemented as a result of this action would be implemented on an expedited basis in order to minimize that period of time between the effective date of the Federal pay increase and the effective date of any fee increase. Accordingly, it is anticipated that the fee increases, if adopted, would become effective upon publication or very soon after publication of the final rule in the Federal Register and that postponing the effective date of the final rule until 30

days after publication in the Federal Register would not occur. An approximate effective date would be January 13, 1991.

All written submissions made pursuant to this notice will be available for public inspection at the Dairy Division, Agricultural Marketing Service, USDA, Washington, DC, during regular business hours.

List of Subjects in 7 CFR Part 58

Food grades and standards, Dairy products.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 58, subpart A, be amended as follows:

PART 58—[AMENDED]

Subpart A—Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products

1. The authority citation for part 58 continues to read as follows:

Authority: Sections 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627, unless otherwise noted.

2. Section 58.43 is revised to read as follows:

§ 58.43 Fees for inspection, grading, and sampling.

Except as otherwise provided in this section and §§ 58.38 through 58.46, charges shall be made for inspection, grading, and sampling service at the hourly rate of $41.00 for service performed between 6 a.m. and 6 p.m., and $45.00 for service performed between 6 p.m. and 6 a.m., for the time required to perform the service calculated to the nearest 15-minute period, including the time required for preparation of certificates and reports and the travel time of the inspector or grader in connection with the performance of the service. A minimum charge of one-half hour shall be made for service pursuant to each request or certificate issued.

3. Section 58.45 is revised to read as follows:

§ 58.45 Fees for continuous resident service.

Irrespective of the fees and charges provided in §§ 58.39 and 58.43, charges for the inspector(s) and grader(s) assigned to a continuous resident program shall be made at the rate of $36.00 per hour for services performed during the assigned tour of duty. Charges for service performed in excess of the assigned tour of duty shall be made at a rate of 1½ times the rate stated in this section.

Signed at Washington, DC, on October 10, 1990.

Daniel Haley,

Administrator, Agricultural Marketing Service.

[FR Doc. 90-24847 Filed 10-19-90; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1944

Section 502 Rural Housing Loan Policies, Procedures and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its regulations regarding administration of the Rural Housing loan making program. This action is necessary to improve underwriting criteria and reduce loan losses to the Government, provide for the consistent evaluation of processing of loan applications for creditworthiness, and reduce the workload of County Office staffs. The intended effect is to reduce eventual loan losses to the Government stemming from bad loans, and reduce the number of appeals by clarifying the credit requirements.

DATES: Comments must be received on or before December 21, 1990.

ADDRESSES: Submit written comments to the Office of the Chief, Regulations, Analysis, and Control Branch, Farmers Home Administration, U.S. Department of Agriculture, room 6348, South Agriculture Building, 14th and Independence SW., Washington, DC 20250. All written comments will be available for public inspection during regular working hours at the above address.

FOR FURTHER INFORMATION CONTACT: Karen S. Murray, Senior Loan Specialist, Farmers Home Administration, USDA, room 5334–S, South Agriculture Building, 14th and Independence SW., Washington, DC 20250, Telephone (202) 382–1474.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1 which implements Executive Order 12291, and has been determined to be nonmajor because there is no substantial change from practices under existing rules that would have an annual effect on the economy of $100 million or more. There is no major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies or geographical regions, or significant adverse effects on competition, employment, productivity, innovation, or in the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Discussion

In 1988, FmHA did a nationwide study to determine if FmHA personnel were consistently evaluating creditworthiness of applicants. The results indicated a great variance between County Offices. The Agency has decided to set guidelines stating what constitutes acceptable and unacceptable credit history. The proposed rule contains specific examples of what credit problems will be considered unacceptable, and under what circumstances poor credit may not be held against the applicant for FmHA loan making purposes.

Regulatory Flexibility Act

La Verne Ausman, Administrator of Farmers Home Administration, has determined that this action will not have a significant economic impact on a substantial number of small entities because the regulatory changes affect FmHA processing of section 502 loans and individual applicant eligibility for the program.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of FmHA that this proposed action does not constitute a major Federal Action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

Programs Affected

This program is listed in the catalog of Federal Domestic Assistance under 10.410, Low Income Housing Loans.

Intergovernmental Consultation

For the reason set forth in the final rule related Notice to 7 CFR part 3015, subpart V, 48 FR 29115, June 24, 1983, this program/activity is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

List of Subjects in 7 CFR Part 1944

Home improvement, Loan program—Housing and community development, Low and moderate income housing—rental, Mobile homes, Mortgages, Rural housing, Subsidies.

Therefore, it is proposed that chapter XVIII, title 7, Code of Federal Regulations be amended as follows:

PART 1944—HOUSING

1. The authority citation for part 1944 continues to read as follows:

Authority: 42 U.S.C. 1480, 5 U.S.C. 301, 7 CFR 2.23, 7 CFR 2.70.

Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

2. Section 1944.9 is amended by revising paragraph (f) as follows:

§ 1944.9 Other eligibility requirements.

* * * * *

(f) Have a credit history which indicates a reasonable ability and willingness to meet obligations as they become due.

(1) Any or all of the following are indicators of an unacceptable credit history unless FmHA determines that the cause was beyond the applicant's control, or satisfies the criteria in paragraph (f)(2) of this section:

(i) Incidents of secured or unsecured debt payments being more than 30 days late if the incidents have occurred within the last 12 months.

(ii) Loss of security due to a foreclosure if the foreclosure has occurred within the last 36 months.

(iii) Outstanding tax liens or Government debts with no satisfactory arrangements for payments, no matter what their age, as long as they are currently due and payable.

(iv) A court-created or affirmed obligation (judgment) that is currently outstanding or has been outstanding within the last 12 months.

(v) Repeated incidents of rent payments being 30 days or more past due that have occurred within the last three years.

(vi) Accounts which have been converted to collections within the last 12 months (utility bills, hospital bills, etc.).

(vii) Collection accounts outstanding, with no satisfactory arrangements for payments, no matter what their age, as long as they are currently due and payable.

(viii) Non-FmHA debts written off within the last 24 months.

(2) The following will not indicate an unacceptable credit history:

(i) "No history" of credit transactions by the applicant.

(ii) A discharged bankruptcy, completed foreclosure or satisfied judgment which occurred more than 36 months before application, or delinquent payments which occurred more than 18 months before application if no recent delinquencies have occurred, and the account is now current or paid in full.

(iii) Isolated incidents of delinquent payments which do not represent a general pattern of unsatisfactory or slow payment.

(iv) Any bankruptcy, foreclosure, judgment or delinquent payment when the applicant can satisfactorily demonstrate that:

(A) The circumstances were of a temporary nature, were beyond the applicant's control and have been removed. Examples: loss of job; delay or reduction in government benefits, or other loss of income; increased expenses due to illness, death, etc.

(B) The adverse action or delinquency was the result of a refusal to make full payment because of defective goods or services or as a result of some other justifiable dispute relating to the goods or services purchased or contracted for.

* * * * *

Dated: August 29, 1990.

David T. Chen,

Acting Administrator, Farmers Home Administration.

[FR Doc. 90-24914 Filed 10-19-90; 8:45 am]

BILLING CODE 3410-07-M

Animal and Plant Health Inspection Service

9 CFR Part 113

[Docket No. 90-163]

Viruses, Serums, Toxins, and Analogous Products; Sampling of Autogenous Biologics

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations pertaining to sampling of autogenous biologics as follows: (1) Producers would no longer be required to submit serial samples of autogenous biologics when the serial does not exceed 50 containers; and (2) for autogenous biologics serials that exceed 50 containers, the number of samples required per serial would be reduced from 12 to 10. Producers would still be required to select and maintain reserve samples of autogenous biologics for all serials regardless of size.

This proposed rule would eliminate unnecessary submission of autogenous biologics samples, thus reducing the burden on producers.

DATES: Consideration will be given only to comments received on or before December 21, 1990.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 90-163. Comments received may be inspected at USDA, room 1141, South Building, 14th and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. David A. Espeseth, Deputy Director, Veterinary Biologics, BBEP, APHIS, USDA, room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8245.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR 113.3(b)(10) pertain to the number of samples of an autogenous biologic serial that a producer must select and send to the National Veterinary Services Laboratories. Currently, two samples are required if a serial does not exceed 50 containers, and 12 samples if a serial exceeds 50 containers.

In response to a request from industry, we reviewed the need for submitting samples from small serials of autogenous biologics. When a small serial of product is produced, it is usually intended for use in the herd or flock from which the seed organism was isolated. This usually involves a limited number of animals in a limited area. The producer is also required to retain reserve samples as provided in § 113.3(c) of the regulations in case the serial needs to be tested because of adverse reactions or other problems. The producing establishment is subject to inspection, and USDA testing of samples drawn from serials consisting of more than 50 containers assures that proper manufacturing techniques and quality control are being maintained. It is therefore our view that it would be appropriate to amend the regulations pertaining to the number of samples of an autogenous biologic which must be sent to the National Veterinary Services Laboratories.

The proposed rule would eliminate the requirement to submit samples for a

serial not exceeding 50 containers, and reduce the number of samples for a serial exceeding 50 containers from 12 to 10. This reduction in required samples would not adversely affect the product inspection activities of the veterinary biologics program.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12991 and Departmental Regulation 1512–1 and have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this proposed rule would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The proposed rule would eliminate the requirement for a producer to submit samples of an autogenous biologic serial if the serial includes no more than 50 containers. For an autogenous biologic serial with more than 50 containers, it would reduce the number of submitted samples from 12 to 10. Thus, any economic effect would be to reduce the cost of producing an autogenous biologic.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR 3015, subpart V.)

List of Subjects in 9 CFR Part 113

Animal biologics.

Accordingly, title 9, Code of Federal Regulations, would be amended as follows:

PART 113—STANDARD REQUIREMENTS

1. The authority citation for part 113 would continue to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.17, 2.15, and 371.2(d).

2. Section 113.3, paragraph (b)(10) would be revised to read as follows:

§ 113.3 Sampling of biological products.

* * * * *

(b) * * *

(10) *Autogenous biologics.* Ten samples shall be selected from each serial of autogenous biologic that exceeds 50 containers. No samples, other than those required by paragraph (c) of this section, are required for a serial of autogenous biologic with 50 or fewer containers.

* * * * *

Done in Washington, DC, this 16 day of October 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90–24766 Filed 10–19–90; 8:45 am]

BILLING CODE 3410–34–M

Food Safety and Inspection Service

9 CFR Parts 307, 309, 313, and 314

[Docket No. 88–016P]

RIN 0583–AA98

Ante-Mortem Inspection of Disabled Animals and Other Animals Unable to Move on Transport Vehicles

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat inspection regulations to allow ante-mortem inspection of disabled animals, and other animals unable to move, while the animals are still on a transport vehicle, if requested by the official establishment. Currently, the ante-mortem inspection of such animals may only be performed in designated, covered ante-mortem pens on the premises of an official establishment. During such inspections, the transport vehicle would be located on the premises of an official establishment. This proposal is intended to reduce the inhumane handling that may result when disabled animals, and other animals unable to move, are transferred from transport vehicles to the designated, covered ante-mortem pens for ante-mortem inspection.

DATES: Comments must be received on or before December 21, 1990.

ADDRESSES: Written comments to: Policy Office, Attn: Linda Carey, FSIS Hearing Clerk, Room 3171, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. (See also "comments" under SUPPLEMENTARY INFORMATION.)

FOR FURTHER INFORMATION CONTACT: Dr. William James, Acting Director, Slaughter Inspection Standards and Procedures Division, Science and Technology, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–3219.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule is issued in conformance with Executive Order 12291, and has been determined not to be a "major rule." It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The proposal would permit ante-mortem inspection to be performed on disabled animals, and other animals unable to move, while the animals are still on a transport vehicle, if requested by the official establishment. Establishments may continue to have ante-mortem inspection of disabled animals, and other animals unable to move, conducted in designated, covered ante-mortem pens. The creation of an alternate location for ante-mortem inspection of disabled animals, and other animals unable to move, would enable establishments to handle such animals more humanely. This proposal will not have a significant impact on red meat establishments or on the national economy.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601). Although a substantial number of small entities may be affected by this action, the economic effect will not be significant for several reasons. First, most of the establishments already own and use the types of equipment in their regular operations which are required

by this proposed regulation. The equipment necessary to perform ante-mortem inspection of disabled animals, and other animals unable to move, on transport vehicles includes a mobile platform or rolling ladder that extends to reach the second level of a two story truck and an outdoor floodlight which can be attached to the ladder or inside the vehicle. Also restraints, such as chains, may be needed to restrain an animal during ante-mortem inspection. Secondly, the cost of purchasing the equipment, if an establishment did not have such equipment, would not be significant. For example, the estimated cost of a platform or ladder is $400 and of a floodlight is $100. Additionally, any establishment may choose to continue to have ante-mortem inspection of disabled animals conducted exclusively in designated, covered pens.

Paperwork Requirements

The proposed rule would require each establishment that requests ante-mortem inspection on disabled animals, and other animals unable to move, while the animals are still on the transport vehicle, to submit a written request signed by a manager of the official establishment. The written request would contain three statements. The first statement would be a request from the establishment to the FSIS inspector for ante-mortem inspection on a transport vehicle, of disabled animals, and other animals unable to move. The second statement would be an agreement between this Agency and the establishment stating that (1) upon signing the request, the transport vehicle would be considered an ante-mortem pen, and part of the premises of the official establishment and (2) that once designated as part of the official establishment, the vehicle would not be moved from the establishment premises, until an ante-mortem inspection, disposition and humane removal, if necessary, of all the disabled animals, and other animals unable to move, on the vehicle had been completed. These two statements would be signed and dated by a manager of the establishment before the request was submitted to the FSIS inspector. The third statement would be an agreement by the FSIS inspector to perform ante-mortem inspection on disabled animals, and other animals unable to move, while they were on the transport vehicle. The Program employee would sign and date the third statement when he or she agreed to do the vehicle ante-mortem inspection. The request would contain the official establishment number and the license number of the vehicle containing the animals for which ante-mortem inspection was being requested. A request would have to be submitted for each vehicle holding disabled animals, and other animals unable to move, for which the establishment desired ante-mortem inspection while the animals were on the vehicle. The Agency is reviewing these paperwork requirements and will submit them to the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Comments

Interested persons are invited to submit written comments concerning this proposal. Written comments should be sent to the Policy Office and should refer to the docket number located in the heading of this document. All comments submitted in response to this proposal will be made available for public inspection in the Policy Office between 9 a.m. and 4 p.m., Monday through Friday.

Background

The Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) requires, among other things, that the Secretary of Agriculture, through appointed inspectors, conduct an ante-mortem inspection of certain livestock including cattle, when these animals are presented for slaughter at an official establishment that is subject to inspection. All cattle, sheep, swine, goats, horses, mules and other equines found upon ante-mortem inspection to show symptoms of disease shall be set apart and slaughtered separately from all other cattle, sheep, swine, goats, horses, mules, or other equines (21 U.S.C. 603). In addition, the Humane Methods of Slaughter Act of 1978 amended sections 3 and 10 of title 1 of the FMIA (21 U.S.C. 603 and 610) to require that all federally inspected slaughtering establishments adopt humane slaughter and handling practices for all cattle, swine, sheep, goats, horses, mules and other equines, in accordance with the provisions of that Act (7 U.S.C. 1901–1906).

Ante-mortem inspection of disabled animals, and other animals unable to move, is required to be performed in designated, covered pens on the premises of official establishments (9 CFR 313.1(c), 313.2(d)(1)). (For the purposes of this proposal, the term "disabled animals" includes disabled animals and other animals unable to move, including "downers".) As such, disabled animals must be removed from the transport vehicle and placed in these designated pens. FSIS is concerned that inhumane handling may result when animals under duress from an accident, injury, or other disabling factor, are transferred from the transport vehicle. It is currently prohibited to drag a conscious animal, thus, suitable equipment must be employed to move the animal (9 CFR 313.2(d)(2)). Only a stunned animal may be dragged.

FSIS has determined that when suitable equipment is not available to facilitate the removal of disabled animals in a humane manner in accordance with 9 CFR 313.2(d)(3), it would be more humane to inspect these animals while they are on the transport vehicle. This determination responds to a petition requesting that ante-mortem inspection be performed for disabled animals on transport vehicles parked on an official establishment's premises in instances when it would be difficult to remove these animals in a humane manner from the vehicle to official ante-mortem pens. FSIS has determined that a transport vehicle could be considered a part of the official establishment premises for purposes of ante-mortem inspection, once it is parked in an area that is indicated on the establishment's approved blueprints pursuant to § 304.2 of the Federal meat inspection regulations (9 CFR 304.2). Section 309.1(b) of the Federal meat inspection regulations (9 CFR 309.1(b)) states that holding pens of an establishment located in a public stockyard can be regarded as part of the premises of an official establishment for purposes of ante-mortem inspection. However, since, in public stockyards, inspection personnel cannot maintain control of the transport vehicle and disabled animals, an alternate location for ante-mortem inspection of disabled animals in public stockyards will not be permitted.

A written request for vehicle ante-mortem inspection would have to be submitted by a manager of the official establishment to the FSIS inspector assigned to do ante-mortem inspection of the establishment before ante-mortem inspection of animals on the transport vehicle would be considered. The written request would contain three statements. The first statement would be a request from the establishment to the FSIS inspector for ante-mortem inspection of all the disabled animals on that vehicle. The second would be a written agreement between this Agency and the establishment management, that (1) upon signing the request, the transport vehicle would be considered an ante-mortem pen, and as such part of the establishment, and (2) that once designated as part of the official establishment, the vehicle would not be moved from the establishment premises, until an ante-mortem inspection,

disposition, and humane removal, if necessary, of all of the disabled animals, and other animals unable to move, on the vehicle had been completed. These two statements would be signed and dated by a manager of the establishment before the request was submitted to the FSIS inspector. The third statement would be an agreement by the FSIS inspector to perform ante-mortem inspection on all the disabled animals, and other animals unable to move, while they were on the transport vehicle. This statement would be signed and dated by the Program employee if he or she agreed to do the vehicle ante-mortem inspection. The request would also contain the official establishment number and the license number of the vehicle containing the animals for which ante-mortem inspection was being requested.

By signing the request for vehicle ante-mortem inspection, the establishment would agree to maintain control over the vehicle and animals. The establishment would be responsible for keeping the animals and vehicle on the premises until an ante-mortem disposition has been made by the FSIS inspector and the disposition has been complied with by the establishment. Each signed request would be applicable to only one vehicle. A new request would be submitted for each subsequent vehicle arriving during the day holding disabled animals for which the establishment desired vehicle ante-mortem inspection. Upon signature of the request by the FSIS inspector, ante-mortem inspection would be performed on all the disabled animals on that vehicle. All other animals would be transported to another establishment for ante-mortem inspection or removed to ante-mortem pens for ante-mortem inspection at the establishment where the vehicle ante-mortem inspection is being performed. Some vehicle owners transport and deposit disabled animals on their vehicle to more than one establishment. Under this proposed rule, vehicle owners would not be able to continue this practice if the establishment requested ante-mortem inspection on the vehicle. To maintain control and identification of these animals, it would be necessary to require ante-mortem inspection and disposition of all the disabled animals on that vehicle.

If it is not possible to perform ante-mortem inspection on *all* the disabled animals on the vehicle, the FSIS inspector would not approve the request, and the disabled animals needing ante-mortem inspection would be humanely removed from the vehicle in accordance with 9 CFR 313.2(d)(3) and placed in the suspect ante-mortem pen for traditional ante-mortem inspection (9 CFR 313.2(d)(1)). The FSIS inspector would not be required to sign a request for vehicle ante-mortem inspection if: (1) The establishment failed to provide adequate lighting or other necessary equipment, (2) the FSIS inspector did not have enough time to conduct a proper ante-mortem inspection on a transport vehicle due to responsibilities in other areas of the establishment, (3) the safety of the FSIS inspector would be at risk if such inspection were performed, or (4) the FSIS inspector could not perform ante-mortem inspection on all of the animals on the transport vehicle because one or more of such animals is hidden from view.

The FSIS inspector-in-charge of the establishment requesting vehicle ante-mortem inspection would designate an area on the premises of the official establishment at which such ante-mortem inspection would be conducted.

Facility and Equipment Requirements

An FSIS inspector would perform ante-mortem inspection of disabled animals on a transport vehicle in one of two ways. Ante-mortem inspection could be performed by the inspector from inside the vehicle, or from outside the vehicle, when entering the vehicle, would be unsafe in the opinion of the inspector. From outside the vehicle, the inspector would perform ante-mortem inspection by viewing the animals over the sides of the vehicle or through the slats of the sides of the vehicle from a permanent or mobile platform alongside the vehicle allowing the inspector to observe the animals from a position above the animals. The facility and equipment requirements for ante-mortem inspection on a transport vehicle would comply with paragraphs (a) and (b) of § 307.2 of the Federal meat inspection regulations (9 CFR 313.2 (a) and (b)), to assure the efficient conduct of inspection and maintenance of sanitary conditions. These requirements currently applicable to all official establishments include providing satisfactory lighting and equipment for proper inspection and providing an employee to assist the FSIS inspector as he or she deems necessary. When conducting ante-mortem inspection on a transport vehicle, lighting must be sufficient both inside and outside the vehicle in the opinion of the FSIS inspector to conduct proper ante-mortem inspection. When the FSIS inspector chooses to perform vehicle ante-mortem inspection from the outside of the transport vehicle, an adjustable rolling ladder or platform would be provided by the establishment. The ladder or platform on which inspection would be performed would be of such design, material, and construction as to enable Program employees to conduct their inspection in a safe, efficient and clean manner in accordance with 9 CFR 307.2 (a) and (b). An employee would be provided by the establishment when needed to conduct ante-mortem inspection on transport vehicles. Where the FSIS inspector deems it necessary, the employee's duties would be, (1) rolling an adjustable ladder or a mobile platform to the vehicle where ante-mortem inspection is to be performed, (2) placing a light in the vehicle or on the ladder or platform, (3) inserting thermometers in the animals so that the FSIS inspector could read the animals' temperatures, and (4) restraining the animals.

Sanitation requirements for ante-mortem inspection on a transport vehicle would be in accordance with the provisions of §§ 308.1, 308.3 and 309.13 of the Federal meat inspection regulations (9 CFR 308.1, 308.3, and 309.13). Section 308.1 requires that the premises of an official establishment be examined by a Program employee prior to the inauguration of official inspection to ensure that the establishment has met the requirements for facilities and sanitation. Section 308.3 requires that official establishments be maintained in a sanitary condition with abundant light and sufficient ventilation. Section 309.13, which covers the disposition of condemned livestock, requires that livestock identified as U.S. condemned shall be killed by the official establishment if not already dead.

All disabled animals examined by the FSIS inspector on vehicle ante-mortem inspection would be tagged U.S. Suspect and would be retained on post-mortem inspection and handled in accordance with 9 CFR 309.2(b). Disabled animals which the FSIS inspector passed at ante-mortem inspection would be tagged U.S. Suspect, stunned on the vehicle, if necessary to prevent the animal from suffering, passed for slaughter, and then removed from the vehicle. Disabled animals needing further observation before slaughter would be tagged U.S. Suspect and then removed from the vehicle in accordance with 9 CFR 313.2(d)(3) and placed in the covered ante-mortem pens.

Transport vehicles would have to comply with 9 CFR 313.2(a) to assure that they are free of sharp or protruding objects, loose boards, or splintered or broken planking which may injure or cause pain to the animals. If ante-

mortem inspection of disabled animals was requested to be performed on a transport vehicle, the transport vehicle, like a covered pen in 9 CFR 313.1(c), would, in the opinion of the inspector, be required to protect the animals from adverse climatic conditions of the locale while awaiting disposition by the inspector. Ante-mortem inspection in covered pens would also be performed in instances where the FSIS inspector determines that the required equipment for vehicle ante-mortem inspection is not available or safe, or the animals are lying on top of one another making ante-mortem inspection unfeasible.

The handling and disposal of carcasses condemned during ante-mortem inspection on transport vehicles would be in accordance with the regulations under 9 CFR 314.1 and 314.3. These regulations cover the disposal of carcasses and parts of carcasses condemned at official establishments. Sections 314.1 and 314.3 would be amended by adding a provision in each section which would require that carcasses of disabled animals condemned during ante-mortem inspection on transport vehicles be disposed of in accordance with the regulations of part 314.

Proposed Rule

List of Subjects

9 CFR Part 307

Clothing, government employees, meat inspection, official establishment.

9 CFR Part 309

Animal diseases, livestock, meat inspection, ante-mortem inspection.

9 CFR Part 313

Humane slaughter, livestock, meat inspection, slaughter equipment.

9 CFR Part 314

Condemned products, meat inspection, official establishment.

For the reasons discussed in the preamble, FSIS is proposing to amend parts 307, 309, 313, and 314 of the Federal meat inspection regulations as set forth below.

PART 307—FACILITIES FOR INSPECTION

1. The authority citation for part 307 would continue to read as follows:

Authority: 7 U.S.C. 394, 21 U.S.C. 621, 695; 7 CFR 2.17(g) and (i), 2.55.

2. Section 307.2 would be amended by revising paragraph (a), redesignating paragraphs (b) through (d) as paragraphs (c) through (e), redesignating paragraphs (f) through (m) as paragraphs (g) through (n), adding a new paragraph (b) and revising the first portion of redesignated paragraph (e) to read as follows:

§ 307.2 Other facilities and conditions to be provided by establishment.

* * * * *

(a) Satisfactory pens, equipment, and assistants for conducting ante-mortem inspection and for separating, marking and holding apart from passed livestock those marked "U.S. condemned" (pens, alleys, and runways shall be paved, drained, and supplied with adequate hose connections for cleanup purposes). When an official establishment requests that ante-mortem inspection be performed on disabled animals, or other animals unable to move, while they are on a transport vehicle, the establishment shall provide, upon request by the inspector, an adjustment rolling ladder or platform, or permanent platform, and a floodlight that can be attached to the ladder or platform;

(b) When requested by the FSIS inspector, an employee of the official establishment shall assist the FSIS inspector in performing ante-mortem inspection by:

(1) Rolling an adjustable ladder or a mobile platform to the vehicle where ante-mortem inspection is to be performed;

(2) Placing a light in the vehicle or attaching it to a ladder or platform;

(3) Inserting thermometers in the animals so that the FSIS inspector can read the animals' temperatures; and

(4) Restraining the animals.

* * * * *

(e) Tables, benches, ladders, platforms, floodlights, * * *.

* * * * *

PART 309—ANTE-MORTEM INSPECTION

1. The authority citation for part 309 would continue to read as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 601 *et seq.*, 33 U.S.C. 1254(b).

2. Section 309.1 would be amended by revising the heading, paragraph (b), and by adding new paragraphs (c) and (d) to read as follows:

§ 309.1 Ante-mortem inspection in pens or on transport vehicles at official establishments.

* * * * *

(b) Such ante-mortem inspection shall be made in pens or on vehicles approved for ante-mortem inspection in accordance with paragraph (c) of this section. Such ante-mortem inspection shall be made on the premises of the establishment at which the livestock are offered for slaughter before the livestock shall be allowed to enter into any department of the establishment where they are to be slaughtered or dressed or in which edible products are handled. Except for purposes of ante-mortem inspection on a transport vehicle, as provided in paragraphs (c) and (d) of this section, when the holding pens of an official establishment are located in a public stockyard and are reserved for the exclusive use of the establishment, such pens shall be regarded as part of the premises of that establishment and the operator of the establishment shall be responsible for the compliance with all requirements of the regulations in this Subchapter with respect to such pens.

(c) Ante-mortem inspection of disabled animals, and other animals unable to move, shall be performed while such animals are on a transport vehicle, provided that:

(1) The vehicle is parked in an area that is located on the premises of the establishment;

(2) The area has been designated by the establishment for ante-mortem inspection to be performed on a vehicle;

(3) The area for such ante-mortem inspection is approved by the FSIS inspector-in-charge;

(4) A formal request for this inspection is signed and dated by the FSIS inspector at the establishment where the ante-mortem inspection will be performed in compliance with paragraph (d)(1) of this section;

(5) The sanitation requirements for ante-mortem pens are met within the vehicle in accordance with part 308 of this Subchapter, and the lighting, facility and equipment requirements comply with § 307.2 of this subchapter.

(d)(1) A request for vehicle ante-mortem inspection of disabled animals, and other animals unable to move, must be signed by a manager of the official establishment before approval may be obtained from the FSIS inspector. Upon signature of the request by the FSIS inspector, the transport vehicle is considered part of the official premises.

(2) The establishment management is responsible for keeping the vehicle on the establishment premises until ante-mortem inspection of each disabled animal, and other animals unable to move, is completed and disposition is made with regard to each such animal, and each such animal is removed from the vehicle.

(3) If a transport vehicle is moved after the FSIS inspector has signed a request for ante-mortem inspection of disabled animals, and other animals

unable to move, on that vehicle, but before such inspection is completed, the agreement is automatically terminated, and a new agreement must be signed before ante-mortem inspection may be conducted on any such animals on the transport vehicle.

(4) A request is needed for each vehicle with disabled animals, or other animals unable to move, requiring ante-mortem inspection on the transport vehicle. All disabled animals, and other animals unable to move, within that vehicle shall be inspected and removed from the vehicle.

(5) If the FSIS inspector determines that ante-mortem inspection cannot be performed on all the disabled animals, or other animals unable to move, on a vehicle, the FSIS inspector shall not approve the request and the animals shall be removed from the vehicle in accordance with § 313.2(d)(3) of this Subchapter and shall receive ante-mortem inspection in covered pens in accordance with § 313.1(c) and 313.2(d)(1) of this subchapter.

(6) An FSIS inspector shall not sign a request for ante-mortem inspection of disabled animals or other animals unable to move in any instance where he or she deems it necessary to perform ante-mortem inspection in covered pens. The following reasons would warrant an FSIS inspector's refusal to sign a request for ante-mortem inspection:

(i) Facilities such as lighting and equipment are not in compliance with § 307.2 of this subchapter;

(ii) The FSIS inspector does not have enough time to conduct a proper ante-mortem inspection on a transport vehicle due to responsibilities in other areas of the establishment;

(iii) The safety of the FSIS inspector would be put at risk if he or she performed such inspection; and

(iv) The FSIS inspector cannot observe all of the animals on the transport vehicle for ante-mortem inspection because one or more of such animals is hidden from view.

(v) The following request shall be completed, signed, and dated by a manager of the official establishment before it is submitted to the FSIS inspector:

The response to this information collection is voluntary. It is needed before Ante-mortem Inspection on Transport Vehicles can be granted. FSIS uses this information to determine whether establishments are in compliance. (9 CFR 313.2)

U S DEPARTMENT OF AGRICULTURE
FOOD SAFETY AND INSPECTION SERVICE
MEAT AND POULTRY INSPECTION OPERATIONS

ESTABLISHMENT REQUEST FOR VEHICLE ANTE-MORTEM INSPECTION

P

ESTABLISHMENT NO	
VEHICLE LICENSE NO	

I hereby request vehicle ante-mortem inspection on all disabled animals on the licensed vehicle indicated above.

I understand that upon signing this request, this vehicle is considered an official USDA ante-mortem pen and may not be moved from this establishment premises until an inspection disposition by an FSIS inspector of the animal(s) within this vehicle has been made, and the animal(s) have been humanely removed from the vehicle.

ESTABLISHMENT MANAGEMENT SIGNATURE	DATE

I agree to perform vehicle ante-mortem inspection on all disabled animals within the licensed vehicle indicated above.

PROGRAM EMPLOYEE'S SIGNATURE	DATE

FSIS FORM 6200 17 (6/90)

3. Section 309.2 would be amended by revising paragraph (b), redesignating paragraphs (c) through (p) as paragraphs (d) through (q), and adding a new paragraph (c) to read as follows:

§ 309.2 Livestock suspected of being diseased or affected with certain conditions; identifying suspects; disposition on post-mortem inspection or otherwise.

* * * * *

(b) All disabled animals, and other animals unable to move, including those animals commonly termed "downers", shall be identified as U.S. Suspect and disposed of as provided in § 311.1 of this subchapter unless they are required to be classed as condemned under § 309.3 of this part.

(c) All disabled animals, or other animals unable to move, that receive ante-mortem inspection on a transport vehicle, shall be identified as U.S. Suspect, and if passed for slaughter by the FSIS inspector, shall be treated as U.S. Suspect during post-mortem inspection. Disabled animals, or other animals unable to move, that have been inspected on a transport vehicle and that need further observation before slaughter, shall be humanely removed from the vehicle and placed in covered pens in accordance with § 313.2(d) (2) and (3) of this Subchapter, where ante-mortem inspection will be performed. The animals shall be disposed of in accordance with paragraph (b) of this section.

* * * * *

4. Section 309.13(a) would be amended by revising the first sentence, adding a new sentence after the first sentence, and removing the words "Such animals" from what is now the third sentence to read as follows:

§ 309.13 Disposition of condemned livestock.

(a) Except as otherwise provided in this part, livestock identified as U.S. Condemned shall be killed by the official establishment, if not already dead. Livestock identified as U.S. Condemned while on a transport vehicle shall be removed from the vehicle by the official establishment before the vehicle leaves the establishment premises. Livestock identified as U.S. Condemned

* * *

* * * * *

PART 313—HUMANE SLAUGHTER OF LIVESTOCK

1. The authority citation for part 313 would continue to read as follows:

Authority: 92 Stat. 1069, 72 Stat. 862, 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 91, 438; 21 U.S.C. 71 *et seq.*; 601 *et seq.*; 7 U.S.C. 1901–1906.

2. Section 313.1 would be amended by revising the heading, the first sentence of paragraph (a), the first sentence of paragraph (b), and paragraph (c) to read as follows:

§ 313.1 Livestock pens, driveways, ramps, and transport vehicles used for ante-mortem inspection.

(a) Livestock pens, driveways, ramps, and transport vehicles used for ante-mortem inspection shall be maintained in good repair. * * *

(b) Floors of livestock pens, ramps, driveways, and transport vehicles shall be constructed and maintained so as to provide good footing for livestock. * * *

(c) U.S. Suspect (as defined in § 301.2(xxx) of this subchapter) and dying, diseased, or disabled livestock (as defined in § 301.1(y) of this subchapter) shall be provided with a covered pen sufficient, in the opinion of the inspector, to protect them from the adverse climatic conditions of the locale while awaiting disposition by the inspector. If ante-mortem inspection of U.S. Suspects is requested to be performed on or in a transport vehicle, the vehicle must also provide sufficient protection, in the opinion of the inspector, to protect the animals from the adverse climatic conditions of the locale to meet these requirements.

* * * * *

3. Section 313.2 would be amended by revising paragraph (d)(1) to read as follows:

§ 313.2 Handling of livestock.

* * * * *

(d) * * *

(1) Disabled animals and other animals unable to move shall be separated from normal ambulatory animals and placed in a covered pen in accordance with § 313.1(c) of this part, except when disabled animals and other animals unable to move are inspected on the transport vehicle in accordance with § 309.1 of this Subchapter. Disabled animals and other animals unable to move inspected on the transport vehicle shall be identified as U.S. Suspect, and stunned before removal from the transport vehicle, unless further observation is required by an FSIS veterinary medical officer. In this case, the animal(s) shall be humanely removed from the vehicle in accordance with § 313.2(d) (2) and (3) of this part and placed in ante-mortem pens for further observation.

* * * * *

PART 314—HANDLING AND DISPOSAL OF CONDEMNED OR OTHER INEDIBLE PRODUCTS AT OFFICIAL ESTABLISHMENTS

1. The authority citation for part 314 would continue to read as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 466–466K.

2. Section 314.1 would be amended by redesignating paragraphs (a) through (c) as (b) through (d), changing the reference (c) to (e) within redesignated paragraph (b), changing the reference (a)(1) to (b)(1) within redesignated paragraph (b)(2), changing the reference (a) to (b) within redesignated paragraph (c), and adding a new paragraph (a) to read as follows:

§ 314.1 Disposition of condemned products at official establishments having tanking facilities; sealing of tanks.

(a) All carcasses of animals condemned upon ante-mortem inspection on a transport vehicle shall be condemned and tanked in accordance with the requirements of this section or elsewhere in this part except as provided in paragraph (e) of this section.

* * * * *

3. Section 314.3 would be amended by redesignating paragraph (b) as paragraph (c) and adding a new paragraph (b) to read as follows:

§ 314.3 Disposition of condemned products at official establishments having no tanking facilities.

* * * * *

(b) All carcasses of animals condemned upon ante-mortem inspection on a transport vehicle shall be removed from the vehicle and disposed of in accordance with paragraphs (a) and (c) of this section.

* * * * *

Done at Washington, DC, on October 16, 1990.

Lester M. Crawford,

Administrator, Food Safety and Inspection Service.

[FR Doc. 90-24729 Filed 10-19-90; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM84-9-000]

Calculation of Cash Working Capital Allowance for Electric Utilities

Issued October 15, 1990.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking; termination order.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is terminating a rulemaking docket instituted by a Notice of Proposed Rulemaking issued on April 5, 1984, in Docket No. RM84-9-000. 49 FR 14,384 (April 11, 1984). The proposed rulemaking would have amended the Commission's regulations by adding a new section relating to the cash working capital allowance for electric utilities. Under the proposed regulation, the cash working capital allowance would have been zero dollars unless a significant difference was demonstrated between a utility's average date of payment of certain operating expenses and average date of receipt of revenues for services to ratepayers. To demonstrate this difference, a utility or other party would have been required to submit a fully developed and reliable study.

The Commission has determined that the evidence supporting the proposed rule is insufficient to justify a change in the Commission's longstanding practice on cash working capital. The proposed rule is also not justified by the Commission's experience with the cash working capital issue since the proposed rule was issued. The Commission finds it appropriate to continue adjudicating this issue on a case-by-case basis and applying its longstanding principles for calculating the allowance for cash working capital.

EFFECTIVE DATE: This termination order is effective October 15, 1990.

FOR FURTHER INFORMATION CONTACT: Michael Bardee, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208-0033.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the Federal Register, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3308, at the Commission's Headquarters, 941 North Capitol Street, NE., Washington, DC 20426. The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208-1397. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this termination order will be available on CIPS for 10 days from the date of issuance.

The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

Termination Order

Before Commissioners: Martin L. Allday, Chairman; Charles A. Trabandt, Elizabeth Anne Moler and Jerry J. Langdon.

The Federal Energy Regulatory Commission (Commission) is withdrawing a notice of proposed rulemaking issued on April 5, 1984, in Docket No. RM84-9-000 (NOPR).[1] The NOPR would have amended the Commission's regulations by adding a new § 35.24 relating to the cash working capital allowance for electric utilities.

When withdrawing a Notice of Proposed Rulemaking, an agency must adequately explain the facts and policy bases on which it relies,[2] must rationally consider the relevant evidence submitted and must respond to significant comments raised by the public.[3]

Background

Historically, the Commission has allowed the cash working capital allowance for electric utilities to be calculated according to some form of the "45-day convention."[4] Under this policy, the time between a utility's expenditure of a borrowed or investor-supplied dollar to pay for current operating expenses and the recovery of that dollar in rates for services is presumed to average one-eighth of a year, or 45 days. Accordingly, the historical 45-day convention allows a utility generally to include in its rate base a cash working capital allowance equal to one-eighth of its annual operation and maintenance expenses minus purchased power expenses.[5]

As a result of variations in utility experiences with the payment and recoupment of operating expenses, the Commission allows a participant in a ratemaking proceeding to file a study to establish a cash working capital allowance on the basis of a utility's actual leads and lags in revenue collections for major operating expenses.[6] In addition, recognizing certain limitations in the 45-day convention, it has been the Commission's practice also to provide for adjustments in applying the 45-day convention in the absence of a reliable lead-lag study and provided appropriate information is available.[7] Under this "modified 45-day convention," when actual lags in fuel payments are known, they have been substituted for the results otherwise obtained for that expense item using the 45-day convention.[8] Furthermore, if such an adjustment is made for fuel payment lags, a further adjustment is made to reflect the actual lag in payment of purchased power expenses.[9]

In the NOPR, the Commission questioned whether the 45-day convention is representative of industry requirements generally. The Commission noted that some utilities were experiencing an overall lead, instead of a lag, in the collection of revenues. The Commission pointed out that, although cash working capital is an element in nearly all rate filings, complete and reliable lead-lag studies are not commonly developed. As an example, the Commission noted that

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[1] 49 FR 14,384, FERC Statutes and Regulations, Proposed Regulations 1982-87, ¶ 32,373 (1984).

[2] *Natural Resources Defense Council* v. *SEC*, 606 F.2d 1031, 1053 (D.C. Cir. 1979).

[3] *Action on Smoking and Health* v. *C.A.B.*, 699 F.2d 1209, 1217 (D.C. Cir. 1983).

[4] This method of approximating utility cash working capital needs was first enunciated in Interstate Power Co., 2 FPC 71, 85 (1939).

[5] Carolina Power & Light Co., Opinion No. 19-A, 6 FERC ¶61,154 at 61,295, *reh'g denied*, 7 FERC ¶61,006 (1979). As we explained in the NOPR:

Purchased power expenses have historically been excluded from the allowance under the assumption that the lag by a utility in paying for purchase power usually was approximately equal to the lag in the receipt by a utility of revenue in turn from its customers. This assumption was based on the two types of transactions, *i.e.*, a utility's purchase of power or its wholesale sale of it, being similar and interrelated.

FERC Statutes and Regulations, Proposed Regulations 1982-87, at 32,994 n.1.

[6] 6 FERC at 61,296. If the collection of revenues for certain expenses occurs before the payment by the utility for those expenses, there is a "net expense payment lag" and, conversely, if the collection of revenues occurs after the payment by the utility for those expenses, there is a "net revenue receipt lag."

[7] *Id.*

[8] *Id.*

[9] *Id.*

BEST COPY AVAILABLE

lead-lag studies were filed in only 12 of 21 electric rate cases in which Commission opinions were issued in 1982 or 1983 after a formal hearing and initial decision. Of these 12 studies, the Commission found that only eight were "fully developed" (including all relevant expense and revenue data) and "reliable" (accurately and appropriately computed). Four of these eight studies showed net revenue receipt lags ranging from 3 to 32 days. The other four showed net expense payment lags of 1 to 14 days.

Based on this evidence, the Commission proposed regulations stating that an electric utility's cash working capital requirements would be presumed to be zero dollars. A cash working capital allowance would be permitted only if a participant demonstrated that a utility's cash working capital requirement varied significantly from zero dollars. A 15-day threshold standard, or "no-allowance zone," also was proposed, under which no adjustment would be allowed unless the lead or lag were shown to exceed 15 days. The Commission also proposed a list of expense elements that would be considered in calculating the cash working capital allowance, as well as other criteria applicable to studies submitted in support of any request for an adjustment.

The Commission received 55 comments in response to the NOPR. The majority of these commenters (in large part consisting of 38 investor-owned utilities and the Edison Electric Institute, as well as three accounting firms) supported the Commission's longstanding policy of using a 45-day convention and opposed adoption of the zero dollar presumption. A number of other commenters (including four State commissions, the American Public Power Association and several municipalities) supported elimination of the 45-day convention.

Commenters opposing the zero dollar presumption argue that such a presumption is inconsistent with the actual day-to-day operations of electric utilities and, thus, fails to reflect the utilities' actual incurred costs. They also argue that the zero presumption will not reduce litigation and, in fact, is more likely to increase litigation because utilities will have to justify every cash allowance claimed. They contend that historically the 45-day convention has produced reasonable results, and that the presumption of a zero working capital allowance appears to be an arbitrary change in longstanding Commission policy with little or no evidentiary support.

These commenters also contend that the eight lead-lag studies relied on in the NOPR do not represent an adequate sample on which to base an assumption about utility cash needs. They point out that the eight studies involved only five companies, and that one-half of the studies were done on the Public Service Company of New Mexico. They argue that the proper inference, if any, to be drawn from this evidence is that more companies need a cash working capital allowance than do not.[10] In addition, these commenters also note that the five companies on which the studies were based were not selected because they were representative of the electric utility industry as a whole, but merely because the studies were accepted by the Commission as fully developed and reliable lead-lag studies.

Commenters supporting the zero dollar presumption and/or opposing the 45-day convention argue that the 45-day convention is contrary to the principle that the utility bears the burden of proof for each claimed cost. These commenters argue that the 45-day convention inappropriately shifts the burden of proof to customers opposing a rate base allowance for cash working capital and that the zero dollar presumption would properly return the burden of proof to the utility seeking the allowance. These commenters also argue that the 45-day convention is no longer reflective of the cash working capital needs of utilities and that utilities increasingly experience a zero or slightly negative need for a cash working capital allowance.

Discussion

The Commission has decided to withdraw the proposed NOPR. The evidentiary support for the Commission's proposal of a zero dollar presumption consisted of the eight lead-lag studies cited above. As noted by certain of the commenters, however, these lead-lag studies relate to only five utilities, none of which were selected as representative of the entire industry. This sample of studies is statistically unreliable and constitutes insufficient evidence to justify a change in the Commission's longstanding practice on cash working capital.

In light of this limited evidence, we find it inadvisable at this time to codify *any* policy on cash working capital into permanent and universally-binding regulations. The Commission considers it more appropriate, given the limited data in this record, to continue adjudicating this issue on a case-by-case basis. In doing so, we will continue to require electric utilities seeking a cash working capital allowance to file certain information on cash working capital.[11] We will also continue to apply our longstanding principles, as summarized in *Carolina Power & Light Company*, Opinion No. 19-A:

> Where a fully developed and reliable lead-lag study is available in the record, we will utilize that study to determine the working capital allowance. Where a study meeting these criteria is not available we will continue to apply the 45-day convention. However, two adjustments will be made in the latter instance, provided the information is available. Fossil fuel expense has come to represent a major expense item for many utilities and, therefore a substantial component of the O&M expenses. Where this is the case, and the actual lag in the payment for fossil fuel is known, the amount thereof will be substituted as an adjustment to the results otherwise attained by the 45-day rule. Second, where an adjustment for fuel expense lag is made, a further adjustment will be performed as an add-on to the results under the formula, to recognize the increased importance to the utilities of purchased power expense.[12]

We have long applied these principles and, notably, have continued to apply these principles since we originally issued the NOPR, roughly six years ago. Since that time, we have needed to address cash working capital issues in only a comparative handful, roughly ten, Commission opinions, indicating that these principles continue not to generate excessive litigation. In these opinions, we have continued to find, either expressly or through summary affirmance of the initial decisions, that these principles result in just and reasonable rates.

We conclude that there is not only an insufficient evidentiary basis in this proceeding, but also no cause in our experience since issuing the NOPR, for departing from these principles.

Based on the foregoing, the Commission will withdraw the Notice of Proposed Rulemaking in this proceeding.

Conclusion

For the reasons discussed above, the Commission terminates the Notice of Proposed Rulemaking in Docket No. RM84-9-000.

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[10] Of the five utilities represented by the eight studies, only two showed a net expense payment lag.

[11] Section 35.13(h)(12)(ii) of the Commission's regulations, 18 CFR 35.13(h)(12)(ii) (1990), states:

> *Cash working capital.* The utility shall indicate average monthly working cash requirements that reflect the extent to which day-to-day operational utility service revenues are received later or earlier than cash disbursements necessary to provide the services, with an explanation of how such requirements are derived.

[12] 8 FERC at 61,286 (footnote omitted).

By the Commission.
Lois D. Cashell,
Secretary.
[FR Doc. 90-24858 Filed 10-19-90; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1310

Records and Reports of Listed Chemicals and Certain Machines

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed change does not affect any existing public reporting burden. The DEA proposes to amend the regulations implementing the Chemical Diversion and Trafficking Act (CDTA) of 1988 by excluding a specific transaction from the requirement to maintain records as required by § 1310.03. The DEA has determined that a non-regulated person who acquires a listed chemical for consumption or end-use shall not be required to maintain receipt records for such acquisitions when the person becomes a regulated person by virtue of an infrequent distribution of the listed chemical. It is the opinion of DEA that the lack of a receipt record will not have a negative impact upon DEA's ability to track listed chemicals to illicit sources.

DATES: Written comments and objections must be received on or before December 21, 1990.

ADDRESSES: Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, Washington, DC 20537, attention: DEA Federal Register Representative/CCR.

FOR FURTHER INFORMATION CONTACT: G. Thomas Gitchel, Chief, State and Industry Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, telephone (202) 307-7297.

SUPPLEMENTARY INFORMATION: DEA is aware that on occasion a chemical end-user who would otherwise be a non-regulated person may have reason to distribute a listed chemical, aside from normal business activity, in order to reduce inventory, increase cash flow, or for other legitimate business reasons. Technically, under the provisions of the Act, when a person distributes a listed chemical, they are a "regulated person" and are required to keep records of distribution and receipt of listed chemicals. Thus, by reason of a distribution for a purpose collateral to the person's normal utilization of the listed chemical, the person (otherwise an "end-user") becomes a regulated person and is responsible for receipt records for all listed chemical purchases. An example would be a paint company which purchases 5,000 gallons of acetone per month to use in paint production. In the past year, due to production rescheduling, the firm found itself overstocked with acetone and distributed 2,000 gallons once during the year to another paint company. Although the firm is responsible for meeting all the requirements of the CDTA and regulations for the distribution of the 2,000 gallons of acetone, under this proposal the firm would not be obligated to keep the CDTA required receipt records for the 60,000 gallons of acetone purchased per year and routinely consumed in the manufacture of paints.

The proposal to exclude the requirement to keep a receipt record for all purchases of a listed chemical as a result of such a collateral distribution does not affect the ability of DEA to effectively enforce the law and monitor the distribution, importation, exportation and receipt of listed chemicals. This proposal will lessen the paperwork requirements for an end user who occasionally transfers or distributes a listed chemical.

The Deputy Assistant Administrator, Office of Diversion Control, hereby certifies that this proposed rule will have no significant impact upon entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. This rule is not a major rule for the purposes of Executive Order (E.O.) 12291 of February 17, 1981. Pursuant to sections 3(c)(3) and 3(e)(2)(c) of E.O. 12291 and section 6053(b) of Public Law 100-690, this rule has been forwarded to the Office of Management and Budget for review.

This action has been analyzed in accordance with the principles and criteria in E.O. 12612, and it has been determined that the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 21 CFR Part 1310

Drug Enforcement Administration, Drug traffic control, Reporting and recordkeeping requirements.

For reasons set out above, it is proposed that 21 CFR part 1310 be amended as follows.

PART 1310—[AMENDED]

1. The authority citation for part 1310 continues to read as follows:

Authority: 21 U.S.C. 802, 830, 871(b).

§ 1310.03 [Amended]

2. Section 1310.03 is amended by adding at the end the following: "* * * However, a non-regulated person who acquires listed chemicals for internal consumption or 'end-use' and becomes a regulated person by virtue of infrequent or rare distribution of a listed chemical from inventory, shall not be required to maintain receipt records of listed chemicals under this section."

Dated: September 17, 1990.

Gene R. Haislip,
Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 90-24838 Filed 10-19-90; 8:45 am]
BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 56, 57, 58, 70, 71, 72, and 75

RIN 1219-AA48

Air Quality, Chemical Substances, and Respiratory Protection Standards; Extension of Comment Period

AGENCY: Mine Safety and Health Administration Labor.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Mine Safety and Health Administration (MSHA) is extending the period for public comment on certain provisions in its proposed rule addressing air quality at mines. The comment period is extended to December 14, 1990, for permissible exposure limits other than nitrogen dioxide, nitric oxide, carbon monoxide and sulfur dioxide.

DATES: The comment period on provisions in the proposed rule concerning permissible exposure limits will close on December 14, 1990.

ADDRESSES: Send comments to: Mine Safety and Health Administration, Office of Standards, Regulations and Variances, room 631, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA, (703) 235–1910.

SUPPLEMENTARY INFORMATION: On August 29, 1989, MSHA published a proposed rule to revise its standards for air quality, chemical substances, and respiratory protection for coal, metal, and nonmetal mines (54 FR 35760). The Agency initially scheduled the written comment period for the proposed rule to close on November 27, 1989. On October 19, 1989, MSHA extended the comment period to March 2, 1990, (54 FR 43026) in response to request from the mining community. On January 25, 1990, (55 FR 2535) the Agency set three separate comment periods for different provisions in the proposal and announced its intent to hold a series of three sets of public hearings. The comment period for the first group of provisions closed on March 2, 1990, and hearings were held on June 4 and 6, 1990. Provisions in the first group included exposure monitoring; abrasive blasting; drill dust control; dangerous atmospheres; prohibited areas for food and beverages; and permissible exposure limits for nitrogen dioxide, nitric oxide, carbon monoxide, and sulfur dioxide. The comment period for the second group of provisions closed on June 29, 1990, and hearings were scheduled for October 12 and 19, 1990, (55 FR 37333). The second group of provisions included carcinogens, asbestos construction work, means of control, respiratory protection, and medical surveillance.

The third group of provisions includes all permissible exposure limits other than those for nitrogen dioxide, nitric oxide, carbon monoxide, and sulfur dioxide. The comment period was scheduled to close on August 24, 1990, (55 FR 2535); but subsequently was extended to October 26, 1990, (55 FR 36838). Due to requests from the mining community for more time in which to prepare their comments, MSHA is extending the date to December 14, 1990. All interested parties are encouraged to submit comments prior to this date.

Dated: October 15, 1990.

William J. Tattersall,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 90–24894 Filed 10–19–90; 8:45 am]

BILLING CODE 4510-43-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[Docket No. 90–441, RM–7210]

Radio Broadcasting Services; Grand Rapids, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Haith Broadcasting Corporation proposing the substitution of FM Channel 254A for Channel 255A at Grand Rapids, Michigan, and modification of the construction permit for Channel 255A to specify Channel 254A. Canadian concurrence will be requested for this allotment at coordinates 43–01–36 and 85–41–26.

DATES: Comments must be filed on or before December 7, 1990, and reply comments on or before December 24, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Robert W. Healy, Reddy, Begley & Martin, 2033 M Street, NW., suite 500, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–441, adopted September 25, 1990, and released October 16, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–24829 Filed 10–19–90; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

48 CFR Parts 246 and 252

Department of Defense Acquisition Regulations; Product Quality Deficiencies; Extension of Comment Period

AGENCY: Department of Defense (DOD).

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Defense Acquisition Regulatory (DAR) Council published a proposed rule on September 18, 1990, (55 FR 38341). The original date for receipt of comments expired on October 18, 1990. This document extends the comment period because of numerous requests from the public.

DATES: Comments on the proposed rule should be submitted on or before November 2, 1990, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulatory Council, ATTN: Ms. Valorie Lee, Procurement Analyst, DAR Council, ODASD(P), c/o OUSD(A)(M&RS), room 3D139, The Pentagon, Washington, DC 20301–3062. Please cite DAR Case 89–073 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Valorie Lee, Procurement Analyst, DAR Council, (703) 697–7266.

Authority: (5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, FAR subpart 1.3.

Nancy L. Ladd,

Colonel (sel), USAF, Director, Defense Acquisition Regulatory System.

[FR Doc. 90–24998 Filed 10–19–90; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 658

[Docket No. 900951-0251]

Shrimp Fishery of the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA proposes to amend the regulations that implement the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP) to modify, temporarily, the boundary of the Tortugas shrimp sanctuary to reduce the area closed to trawl fishing. This action would enable fishermen to harvest marketable-sized shrimp during specified periods from three small areas that otherwise would be closed.

DATES: Written comments must be received on or before November 21, 1990.

ADDRESSES: Comments should be sent to and copies of the Draft Environmental Assessment/Regulatory Impact Review may be obtained from Michael E. Justen, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Michael E. Justen, 813-893-3722.

SUPPLEMENTARY INFORMATION: The shrimp fishery is managed under the FMP and its implementing regulations at 50 CFR part 658, as provided by the Magnuson Fishery Conservation and Management Act (Magnuson Act). Under the FMP, the Director, Southeast Region, NMFS (Regional Director), may modify by no more than 10 percent the geographical scope of the Tortugas shrimp sanctuary specified at § 658.22, after (1) consultation with the Gulf of Mexico Fishery Management Council (Council), (2) consideration of specified criteria, and (3) determination that benefits may be increased or adverse impacts decreased by the modification.

The primary purpose of establishing the sanctuary was to protect small shrimp and allow them to attain a larger, more valuable size prior to harvest. The FMP stipulates that, prior to any modification of the sanctuary, NMFS will monitor and assess the impacts of the closure and advice the Council of its findings. The Council may also consider the advise of its Shrimp Advisory Panel regarding the findings. When the sanctuary was partially opened in 1983/84, NMFS determined that harvestable populations of shrimp occur periodically within a small portion of the sanctuary—a fact strongly supported by public testimony. Fishermen contend that shrimp from within this portion of the sanctuary eventually migrate to untrawlable bottoms and become unavailable to the fishery. Poor recruitment of shrimp to the Tortugas fishery has resulted in 4 consecutive years of poor production and economic loss to the adjacent shrimp ports. As identified in the FMP, poor recruitment in the shrimp fishery is more a function of environmental forces than of overfishing. Opening areas of the sanctuary containing all sizes of shrimp is consistent with optimum yield because it will allow shrimp fishermen to obtain, on a temporary basis, a more valuable catch per unit of effort.

The Regional Director, after consulting with the Council and considering the criteria for modifying the sanctuary, determined that small portions of the sanctuary that periodically contain harvestable shrimp should be opened for varying lengths of time during the period April 11, 1991, through September 30, 1991. The areas to be opened are less than 10 percent of the geographical scope of the sanctuary. These openings will increase the benefits to fishermen by optimizing the yield of shrimp. This temporary geographic modification is consistent with Objective 1 of the FMP because it provides temporary economic relief to the stressed fishermen while continuing to optimize the yield of shrimp recruited to the fishery.

The areas to be opened and their periods of opening in this proposed rule are identical to the areas and periods opened in 1990. They were selected to avoid conflict between lobster trap and shrimp trawl fishermen and are in accord with a local agreement between these two groups of fishermen. This proposed rule would formalize that agreement and make it apply to trawl fishermen not otherwise privy to it, such as trawl fishermen from other areas who may fish seasonally in the area of the Tortugas shrimp sanctuary.

The three areas proposed to be opened are along the edge of the Tortugas shrimp sanctuary north of the Marquesas Keys from northeast of Smith Shoal Light to New Ground Shoal Light (see Figure 1 at 50 CFR 658.22). The middle area of approximately 25 square nautical miles would be open to trawling from April 11, 1991, through September 30, 1991. The western area of approximately 5 square nautical miles would be open from April 11, 1991, through July 31, 1991. The eastern area of approximately 33 square nautical miles would be open from May 26, 1991, through July 31, 1991. These areas and time frames will allow fishermen to harvest marketable-size shrimp from areas that would otherwise be closed, while still allowing trap fishermen to harvest spiny lobster from areas customarily available to them.

Endangered Species Impacts

A consultation conducted in accordance with section 7 of the Endangered Species Act for identical openings of the Tortugas shrimp sanctuary in 1990 concluded that this action would not adversely affect the populations of endangered or threatened species such as sea turtles. That conclusion remains valid.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has initially determined that this proposed rule is consistent with the national standards and other provisions of the Magnuson Act and other applicable law.

The Council prepared a regulatory impact review (RIR) for this proposed rule. Based on the RIR, the Assistant Administrator determined that the rule is not major under E.O. 12291 because it would not have an annual effect on the economy of $100 million or more; would not result in an increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; and would not result in significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities because the geographical area affected by the rule is small and, as a result, the number of shrimp trawlers affected in the Gulf-wide fishery is not substantial. As a result, a regulatory flexibility analysis was not prepared.

The Council prepared an environmental assessment (EA) for this proposed rule that discusses the impact on the environment as a result of this rule. A copy of the EA is available and comments on it are requested (see ADDRESSES).

Amendment 1 to the FMP authorizes the Regional Director, under specified conditions and restrictions, to modify the boundaries of the Tortugas shrimp

sanctuary, as is being done in this rule. When Amendment 1 was approved, a determination was made that such modifications would be consistent to the maximum extent practicable with the approved coastal zone management program of Florida, the only state affected by this rule. Consequently, a new consistency determination under the Coastal Zone Management Act is not required.

This proposed rule does not contain a collection-of-information requirement subject to the Paperwork Reduction Act.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

List of Subjects in 50 CFR Part 658

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: October 16, 1990.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR part 658 is proposed to be amended as follows:

PART 658—SHRIMP FISHERY OF THE GULF OF MEXICO

1. The authority citation for part 658 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 658.22, effective from April 11, 1991, through September 30, 1991, the existing text is designated as paragraph (a) and a new paragraph (b) is added to read as follows:

§ 658.22 Tortugas shrimp sanctuary.

* * * * *

(b) The provisions of paragraph (a) of this section notwithstanding,

(1) Effective from April 11, 1991, through September 30, 1991, that part of the Tortugas shrimp sanctuary seaward of a line connecting the following points is open to trawl fishing: From point T at 24°47.8′ N. latitude, 82°01.0′ W. longitude to point U at 24°43.83′ N. latitude, 82°01.0′ W longitude (on the line denoting the seaward limit of Florida's waters); thence along the seaward limit of Florida's waters, as shown on the current edition of NOAA chart 11439, to point V at 24°42.55′ N. latitude, 82°15.0′ W. longitude; thence north to point W at 24°43.6′ N. latitude, 82°15.0′ W. longitude (see Figure 1).

(2) Effective from April 11, 1991, through July 31, 1991, that part of the Tortugas shrimp sanctuary seaward of a line connecting the following points is open to trawl fishing: From point W to point V, both points as specified in paragraph (b)(1) of this section, to point G, as specified in paragraph (a) of this section (see Figure 1).

(3) Effective from May 26, 1991, through July 31, 1991, that part of the Tortugas shrimp sanctuary seaward of a line connecting the following points is open to trawl fishing: From point F, as specified in paragraph (a) of this section to point Q at 24°46.7′ N. latitude, 81°52.2′ W. longitude (on the line denoting the seaward limit of Florida's waters); thence along the seaward limit of Florida's waters, as shown on the current edition of NOAA chart 11439, to point U and north to point T, both points as specified in paragraph (b)(1) of this section (see Figure 1).

[FR Doc. 90-24845 Filed 10-19-90; 8:45 am]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 55, No. 204
Monday, October 22, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Administration; Public Meeting

SUMMARY: The Administrative Conference's Committee on Administration is considering a draft consultant report dealing with the implementation of the Occupational Safety and Health Review Commission's implementation of its settlement judge and simplified proceedings. The draft report, prepared by Professor Morell Mullins of the University of Arkansas—Little Rock School of Law, may provide the basis for recommendations to OSHRC, OSHA, or other agencies regarding these devices. The proposal will be discussed at the Committee's October 25 meeting, described below.

Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of a meeting of the Committee on Administration of the Administrative Conference of the United States. The Committee has scheduled this meeting to discuss the draft report and possible recommendations on implementation of OSHRC's settlement judge and simplified proceedings. The consultant report is available on request from the Conference.

DATES: October 25, 1990, 2 p.m.

LOCATION: Administrative Conference Library, 2120 L Street, NW., suite 500.

PUBLIC PARTICIPATION: Committee meetings are open to the interested public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days prior to the meeting. The committee chairman may permit members of the public to present oral statements at the meetings. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request.

FOR FURTHER INFORMATION CONTACT: Charles Pou, Jr., Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., suite 500 (202) 254–7020.

PUBLIC PARTICIPATION: Same as above.

Dated: October 10, 1990.

Jeffrey S. Lubbers,
Research Director.

[FR Doc. 90–24886 Filed 10–19–90; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

Cumulative Watershed Effects Analysis for Timber Management in Grouse Creek Basin, Humboldt County, CA

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Department of Agriculture, Forest Service will prepare an Environmental Impact Statement addressing cumulative watershed effects and associated timber management in the Grouse Creek basin, located on the Lower Trinity Ranger District of Six Rivers National Forest, Humboldt County, California. This is a mixed ownership watershed in which federal timber management has been suspended because of degraded water quality and fisheries habitat resulting in part from past timber management on public and private land. A complete environmental analysis of all water quality issues related to continued timber management and proposed watershed restoration will be conducted. The Draft EIS will be published in February 1991, and the Final EIS will be available for review in May 1991. The California Department of Forestry, the California Department of Fish & Game, and the North Coast Water Quality Control Board will be asked to participate as cooperating agencies.

DATES: Interested and affected individuals should provide their input for this project by November 30, 1990.

ADDRESSES: Send written comments, suggestions and questions to Lawrence L. Cabodi, District Ranger, Lower Trinity Ranger District, P.O. Box 68, Willow Creek, CA 95573. Telephone: (916) 629–2118.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and Environmental Impact Statement should be directed to Mark Smith, Forest Geologist, Six Rivers National Forest, 500 5th Street, Eureka, CA 95501. Telephone: (707) 442–1721.

SUPPLEMENTARY INFORMATION: Grouse Creek is a 37,500 acre watershed on the Lower Trinity Ranger District of Six Rivers National Forest, and is a major tributary to the South Fork Trinity River. It is composed of about 45 percent National Forest System (NFS) lands and 55 percent private timber lands. During the planning analysis of the Wildcat Timber Sale in 1987 and 1988, the following conditions were noted: (1) Very high levels of fine sediment that had degraded fisheries habitat in the main Grouse Creek channel, (2) extensive areas of apparently natural slope instability associated with a major flood in 1964, and (3) many large sediment sources apparently related to timber management within the watershed. The wateshed analysis for the Wildcat Sale concluded that the fisheries resource had been degraded and that previous logging and road construction had played an important role in producing the impacts. Since restoration on only NFS lands could not assure improvement of water quality in Grouse Creek (as required by Public Law 92–500, the Clean Water Act), restoration on private lands would also be required to achieve a meaningful improvement. The decision for the Wildcat EA was to defer all timber harvest on NFS lands in Grouse Creek until restoration efforts to improve the fisheries habitat could be implemented. Because of the potentially significant impacts to water quality from past and continuing timber management on public and private lands within Grouse Creek, it was decided to address cumulative watershed effects in an EIS and apply the analysis to current and future NFS management proposals.

A range of alternatives will be considered that address the complex problem of correcting past management-related impacts in mixed ownership watersheds while allowing continued timber harvest and growth. One of the alternatives will be continued defferal of timber harvest and road construction on NFS lands in the watershed (No Action). Other alternatives will focus on means

of achieving a net benefit to fisheries resources resulting from restoration work completed in conjunction with timber harvesting activities. Various accounting procedures will be developed and evaluated to serve both public and private needs.

The fundamental question underlying the decision of Forest Service must make is: under what framework can federal management of public timber resources proceed in a mixed ownership watershed with degraded water quality, while concurrently improving fisheries habitat? The decision must take into account management activities on private timber lands, but the Forest Service cannot control those management activities. A cooperative endeavor involving all landowners and responsible agencies is desired. If successful, resolution of the mixed ownership problem in Grouse Creek could have implications throughout the West.

Public participation will be very important to the acceptability of the analysis and the decision. During the scoping process (40 CFR 1501.7), the Forest Service will seek information, comments and assistance from Federal, State and local agencies, as well as other individuals or organizations who may be interested in or affected by the decision regarding future timber harvest in Grouse Creek. This input will help the interdisciplinary team prepare the draft environmental impact statement (DEIS).

The scoping process includes:

1. Identifying potential issues;
2. Identifying issues to be analyzed in depth;
3. Eliminating insignificant issues or those which have been covered by a previous environmental analysis;
4. Exploring additional alternatives;
5. Identifying potential environmental effects of the proposed action and alternatives, including direct, indirect and cumulative effects, and connected actions;
6. Determination of potential cooperating agencies and task assignments.

The District Ranger will hold a public scoping meeting at the Lower Trinity Ranger District, Willow Creek, California beginning at 7:00 p.m., Thursday, November 15, 1990.

The DEIS is expected to be filed with the Environmental Protection Agency(EPA) and to be available for public review by February 1991. At that time the EPA will publish a notice of availability of the DEIS in the Federal Register. The comment period on the DEIS will be 45 days from this publication date in the Federal Register. It is important that those interested in management of the Grouse Creek watershed participate at that time.

Review comments on the DEIS should be as specific as possible and may address the adequacy of the document or the merits of the alternatives discussed (implementing procedures of NEPA may be found at 40 CFR 1503.3). In addition, Federal court decisions have established that reviewers must participate in the environmental review in a manner that alerts an agency to the reviewer's position and contentions (*Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1978)), and that environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement (FEIS) (*Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980)). This is to ensure that substantive comments and objections are available to the agency when they can be considered and responded to meaningfully in the FEIS.

After the comment period for the DEIS ends, the Forest Service will consider all comments in preparing the FEIS, which is scheduled for completion by May 1991. The Forest Service is required to respond in the FEIS to the comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, disclosures of environmental consequences, and applicable laws, regulations and policies in making a decision regarding management of NFS lands in the Grouse Creek watershed. The responsible official will document the decision and rationale in a Record of Decision. That decision will be subject to appeal under 36 CFR part 217.

James L. Davis, Jr., Forest Supervisor, Six Rivers National Forest is the responsible official.

Dated: October 5, 1990.

Jack Kahl,

Resources Staff Officer.

[FR Doc. 90-24840 Filed 10-19-90; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Economic Analysis.

Title: Transactions of U.S. Affiliate, Except an Unincorporated Bank, with Foreign Parent.

Form Number: Agency—BE-605; OMB—0608-0009.

Type of Request: Revision of a currently approved collection.

Burden: 3,000 respondents; 4 responses each per year; 12,000 reporting hours.

Average Hours Per Response: 1 hour.

Needs and Uses: The survey collects sample data on transactions and positions between foreign-owned U.S. companies (other than bank branches or agencies) and their foreign parents. (Related Form BE-606B covers foreign-owned bank branches and agencies.) Universe estimates are developed from the reported sample data. The data are needed for compiling the U.S. balance of payments accounts, the international investment position of the United States, and the national income and product accounts. The data from the BE-605 and the BE-606B are also needed to measure the amount of foreign direct investment in the United States, monitor changes in such investment, assess its impact on the U.S. economy, and, based upon this assessment, make informed policy decisions regarding foreign direct investment in the United States.

Affected Public: Businesses or other for-profit institutions.

Frequency: Quarterly.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Marshall Mills, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Marshall Mills, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 15, 1990.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 90-24822 Filed 10-19-90; 8:45 am]

BILLING CODE 3510-CW-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Economic Analysis.

Title: Transactions of U.S. Banking Branch or Agency with Foreign Parent.

Form Number: Agency—BE–606B; OMB—0608–0023.

Type of Request: Revision of a currently approved collection.

Burden: 325 respondents; 4 responses each per year; 1,300 reporting hours.

Average Hours Per Response: 1 hour.

Needs and Uses: The survey collects sample data on transactions and positions between foreign-owned U.S. bank branches or agencies and their foreign parents. (Related Form BE–605 covers other foreign-owned companies.) Universe estimates are developed from the reported sample data. The data are needed for compiling the U.S. balance of payments accounts, the international investment position of the United States, and the national income and product accounts. The data from the BE–606B and the BE–605 are also needed to measure the amount of foreign direct investment in the United States, monitor changes in such investment, assess its impact on the U.S. economy, and, based upon this assessment, make informed policy decisions regarding foreign direct investment in the United States.

Affected Public: Businesses or other for-profit institutions.

Frequency: Quarterly.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Marshall Mills, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Marshall Mills, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 15, 1990.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 90–24823 Filed 10–19–90; 8:45 am]

BILLING CODE 3510-CW-M

Bureau of the Census

[Docket No. 90886-0286]

Urbanized Areas for the 1990 Census—Final Criteria

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of determination.

SUMMARY: This document contains the final criteria for determining the eligibility and extent of the 1990 urbanized areas. These criteria are the result of the most recent periodic review of the definitional structure under which urbanized areas are identified for statistical purposes. These final criteria reflect the public comment received in response to the proposed criteria published in the **Federal Register** on October 24, 1989. They are published here in order to give notice of the criteria that will be used with the results of the 1990 census to determine the specific boundary definitions for each urbanized area.

The Bureau of the Census identifies and delineates urbanized areas to provide better data on the separation of the urban and rural population and housing in the vicinity of large cities. In order to delineate urbanized areas consistently and equitably nationwide, the Census Bureau established specific criteria when it first created these areas for the 1950 census. The Census Bureau, in consultation with data users, periodically reviews and revises these criteria, including a review before each decennial census. The following criteria will apply to the 50 states, the District of Columbia, and the Commonwealth of Puerto Rico effective January 1, 1991. The Census Bureau may apply these criteria to other areas as well.

Because the Census Bureau identifies and tabulates data for urbanized areas solely for the purpose of statistical presentation and comparison, it does not take into account or attempt to anticipate any nonstatistical uses that may be made of these areas or their associated data, nor does it attempt to meet the requirements of any such nonstatistical program uses. Nonetheless, the Census Bureau recognizes that some Federal and state agencies are required by statute to use the Census Bureau defined urbanized areas for allocating program funds, setting program standards, and implementing other aspects of their programs. The agencies that make such nonstatistical uses of the areas and data should be aware that the changes to the urbanized areas criteria also may affect the implementation of their programs.

If a Federal or state agency voluntarily uses the urbanized areas or their associated data in a nonstatistical program, it is the agency's responsibility to ensure that the results are appropriate for such use. In considering the appropriateness of such nonstatistical program uses, the Census Bureau urges each agency to consider permitting appropriate modifications of the urbanized area results specifically for purposes of its program. When an agency permits such modifications, the Census Bureau urges each agency to use descriptive terminology that clearly avoids confusion with the Census Bureau's official urbanized areas.

The Census Bureau will use the following criteria and the results of the 1990 Census of Population and Housing [1] to determine the territory that qualifies for designation as an urbanized area and the boundaries, central place(s), and title of each qualifying urbanized area.

A. Definition

An urbanized area comprises a place [2] and the adjacent densely settled surrounding territory that together have a minimum population of 50,000 people.[3]

The "densely settled surrounding territory" adjacent to the place consists of the following:

1. Territory made up of one or more contiguous census blocks [4] having a

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[1] All references to population counts and densities relate to data reported in the 1990 Census of Population and Housing. An urbanized area delineated as a result of a special census conducted by the Census Bureau after the 1990 census (an intercensal urbanized area), at the request and expense of local officials, will be qualified using these criteria and the population counts and densities reported in that special census.

[2] The term "place" in the urbanized area criteria includes both incorporated places, such as cities and villages, and census designated places (CDPs). A CDP is an unincorporated population cluster for which the Census Bureau delineates boundaries in cooperation with state and local agencies to permit tabulation of data for such clusters in Census Bureau products. For Puerto Rico, the Commonwealth government and the Census Bureau cooperatively delineate and recognize zonas urbanas and comunidades as CDP equivalents, which are used when applying the urbanized areas criteria.

[3] People living the rural portion(s) of extended cities, as defined by applying the Census Bureau's extended city criteria, are excluded from the urbanized area. When applied to a potential urbanized area, if the excluded population of the rural portion of an extended city results in a total potential urbanized area population of less than 50,000, the potential urbanized area does not qualify even if the total population of the entire city equals or exceeds 50,000. In addition, for an urbanized area to qualify, at least 25,000 of the people in the potential urbanized area must reside in an area that is not part of a military installation. Also, if a previously existing urbanized area does not have 50,000 people based on the results of the 1990 census, it will not qualify as an urbanized area for the 1990 census.

[4] A census block is an area identified by a unique number on the Census Bureau's maps used for a decennial or special census. Such areas normally are bounded by physical features shown on those maps, such as streets, streams, and railroads, and by nonvisible features such as the boundary of an incorporated place, minor civil division, county, or other 1990 census tabulation area boundary.

population density of at least 1,000 people per square mile,[5] provided that it is:

a. Contiguous with and directly connected by road to other qualifying territory, or

b. Noncontiguous with other qualifying territory, and:

(1) Within 1½ road miles of the main body of the urbanized area, and connected to it by one or more nonqualifying census blocks that (a) are adjacent to the connecting road and (b) together with the outlying qualifying territory have a total population density of at least 500 people per square mile,[6] or

(2) Separated by water or other undevelopable territory [7] from the main body of the urbanized area, but within 5 road miles of the main body of the urbanized area, as long as the 5 miles include no more than 1½ miles of otherwise nonqualifying developable territory.[8]

2. A place containing territory qualifying on the basis of criterion A.1 will be included in the urbanized area in its entirety (or partially, if the place is an extended city [9]) if that qualifying territory includes at least 50 percent of the population of the place. If the place does not contain any territory qualifying on the basis of the above criterion, or if that qualifying territory includes less than 50 percent of the place's population, the place is excluded in its entirety.[10]

3. Other territory with a population density of less than 1,000 people per square mile, provided that it:

a. Eliminates an enclave of no more than 5 square miles in the territory otherwise qualifying for the urbanized area when the surrounding territory qualifies on the basis of population density, or

b. Closes an indentation in the boundary of the territory otherwise qualifying urbanized area when the contiguous territory qualifies on the basis of population density, provided that the indentation is no more than 1 mile across the open end, has a depth at least two times greater than the distance across the open end, and encompasses no more than 5 square miles.

B. Urbanized Area Central Places

One or more urbanized area central places function as the dominant centers of each urbanized area. The identification of urbanized area central places permits the comparison of these dominant centers with the remaining territory in the urbanized area.

Urbanized areas are closely related to metropolitan areas (MAs) [11] in that most urbanized area(s) form the continuously built-up core of a metropolitan area. However, some metropolitan areas include two or more urbanized areas, and some urbanized areas exist outside of metropolitan areas. The Census Bureau identifies one or more central places for each urbanized area. If the urbanized area encompasses all the central cities of a single metropolitan area, then the central place(s) of the urbanized area generally will be the same as the central city(ies) of the corresponding metropolitan area.

Urbanized area central places include:

1. Those metropolitan area central cities entirely (or partially, if the place is an extended city [12]) within the urbanized area. There is no limit on the number of qualifying central places, and not all metropolitan area central cities necessarily are included in the urbanized area title.

2. If the urbanized area does not contain a metropolitan area central city or is outside of a metropolitan area, then the central place(s) is any place(s) that qualifies as specified in criterion C.2 or C.3 of the urbanized area titling criteria. One or two additional places may qualify as central under criterion C.2 of the urbanized area titling criteria. Only one place may qualify as central within an urbanized area under criterion C.3 of the urbanized area titling criteria.

C. Urbanized Area Titles and Codes

The title of an urbanized area identifies those places that are most important within the urbanized area; it links the urbanized area to the encompassing metropolitan area, where appropriate. If a single metropolitan area essentially encompasses the urbanized area, then the title and code of the urbanized area generally are the same as the title and code of the metropolitan area. If the urbanized area is not mostly encompassed in a single metropolitan area, if it does not include any place that is a central city of the encompassing metropolitan area, or if it is not part of a metropolitan area, then the Census Bureau uses the population size of the included places, with a preference for incorporated places, to determine the urbanized area title. The name of the state(s) in which the urbanized area is located also is included in the urbanized area title.

The following criteria are used to determine urbanized area titles and codes:

1. The title consists of the same places named in the encompassing metropolitan area title when the urbanized area exists mostly within a single metropolitan area as of the 1990 census, provided that the places in the metropolitan area title are located entirely (or partially, if the places are

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[5] Population density is calculated by dividing the total population of the census block(s) by the land area of that block(s). The Census Bureau's calculation of population density for this purpose generally excludes the area of large, nonresidential urban land use areas such as railroad yards, industrial areas, airports, cemeteries, and golf courses shown on the Census Bureau's maps.

[6] The Census Bureau will not include additional noncontiguous area in the urbanized area if the connection required to include it contains territory already qualified under criterion 1 b (1).

[7] For purposes of these criteria, "undevelopable territory" includes only mud flats, marshlands, steep slopes, and other terrain on which development is virtually impossible because of physical limitations. To be classified as undevelopable, the territory must not contain any existing housing or commercial structures. Military installations, parks, and forest preserves shown on the Census Bureau's maps at the time of the decennial or special census also may be classified as undevelopable territory. The land-use zoning of an area is not considered when applying this criterion.

[8] In measurin the distance between the main body of the urbanized area and a qualifying noncontiguous area, the road miles through nonresidential urban land (such as commercial areas, industrial parks, office areas, and major airports) that are contiguous and continuous with the main body of the urbanized area are excluded from the distance. Road miles through undevelopable territory may occur at any point between the main body of the urbanized area and the qualifying noncontiguous area.

[9] Only the urban portion of an incorporated place qualifies to be included in the urbanized area if the place qualifies as an extended city. An incorporated place is defined as an extended city if it contains one or more sparsely settled areas, each at least 5 square miles in land area and having a population density of less than 100 people per square mile. The sparsely settled area(s) must total at least 25 percent of the land area of the incorporated place or encompass more than 25 square miles.

[10] A place included in an urbanized area designated as a result of an earlier decennial or special census is retained in the urbanized area in its entirety even if it does not meet this criterion, unless it newly qualifies as an extended city.

[11] As of April 1, 1990, the term "metropolitan area" or MA serves as the general term for the three types of metropolitan areas—metropolitan statistical areas (MSAs), consolidated metropolitan statistical areas (CMSAs), and primary metropolitan statistical areas (PMSAs). The metropolitan area central cities and titles used to determine urbanized area central places and titles are those in existence just before the release of the primary 1990 census data products. Changes to the list of central cities and titles of existing metropolitan areas based on the results of the 1990 census are not included, because such changes occur after the release of most 1990 census data. The Census Bureau will not change the list of existing central places and titles of urbanized areas as a result of any subsequent metropolitan area central city or title changes until after the next national census. The Census Bureau will determine the central place(s) and title of each qualifying intercensal urbanized area at the time of qualification based on the 1990 criteria. Urbanized area titles, except for those titled under criterion C.4, include only place and state names.

[12] Only the urban portion of an extended city is classified as central.

extended cities) within the boundaries of the urbanized area. Any metropolitan area title cities not located in the urbanized area are omitted from the urbanized area title.

2. If the urbanized area does not contain any place that meets criterion C.1, then the urbanized area title includes the name of the most populous incorporated place in the urbanized area that contains 2,500 or more people, and the names of up to two additional incorporated places in the urbanized area, provided that each additional place has a population of 15,000 or more, and has at least one-third the population of the most populous incorporated place in the urbanized area.

This criterion also is used to determine the title of an urbanized area that is not mostly encompassed within a single metropolitan area, or where a single metropolitan area encompasses more than one separate urbanized area, each centered on a separate metropolitan area title city; that is (a) those urbanized areas mostly within two or more PMSAs, but not within all constituent PMSAs of the CMSA, or (b) those urbanized areas that include one or more metropolitan area title cities but where other separate urbanized areas exist around one or more other title cities in the same metropolitan area. In these instances, the names used in the title of the urbanized area are restricted to metropolitan area central cities that meet the population size criteria given above.

3. If the urbanized area does not contain any incorporated place with a population of 2,500 or more, the urbanized area title includes only the name of the largest nonmilitary place.[13]

4. A regional title may be used to identify an urbanized area with a population of one million or more, if the Census Bureau believes a regional title provides an unambiguous description of the area. Regional titles include only the name of the largest city in the urbanized area, followed by the regional reference.

5. For urbanized areas that have places that qualify under titling criterion C.1, the order of place names within an urbanized area title is the same as the order of the central city names in the metropolitan area title, excluding places not contained in the urbanized area. For urbanized areas that are titled under criterion C.2, the place names within the urbanized area title are listed in descending order of population.

6. In addition to the name of each qualifying place (including the city name in the regional title), the urbanized area title includes the name of each state into which the urbanized area extends. The order of state names is:

a. The same as the order of their related place names mentioned in the urbanized area title, followed by,

b. The names of any other state(s) into which the urbanized area extends in descending order of the state's population in the urbanized area.

7. The numeric code used to identify each urbanized area will be the same as the code for the mostly encompassing metropolitan area (including CMSAs and PMSAs). If the title cities of a metropolitan area represent multiple urbanized areas, or the urbanized area title city does not correspond to the first name of a metropolitan area title, the Census Bureau will assign a code to an urbanized area based on the alphabetical sequence of the urbanized area title in relationship to all other urbanized area and metropolitan area titles.

D. Retention of Boundaries, Contiguity, and Merger of Urbanized Areas

As with the identification of central places and titles, the Census Bureau uses the geographic structure of metropolitan areas (including CMSAs and PMSAs) to determine when to define separate contiguous urbanized areas [14] or to merge contiguous urbanized areas. After delineating the boundaries of each urbanized area, the Census Bureau examines the relationship between the urbanized area and any contiguous urbanized area(s) using the following criteria to determine if each contiguous urbanized area should be recognized separately and, if so, where the boundary should be located between these urbanized areas:

1. An existing urbanized area generally retains all territory previously included within its boundaries if it qualifies as an urbanized area for the 1990 census. When a previously existing urbanized area becomes contiguous with another urbanized area, the Census Bureau generally will not move previously qualifying territory from that urbanized area into the contiguous urbanized area. [15]

2. When previously noncontiguous urbanized areas become contiguous, the Census Bureau will choose a prominent physical feature or political boundary to use as the boundary separating the two urbanized areas. The feature or political boundary selected will be at or near the location of the lowest overall population density between the two areas.

3. No new urbanized area will be created from the territory of an existing urbanized area, even if one or more MSAs or PMSAs subsequently are established that include portions of the existing urbanized area.

4. If the boundary used to separate two contiguous urbanized areas follows a political boundary that also is a metropolitan area boundary, the urbanized area boundary will continue to follow that political boundary even if the metropolitan area boundary subsequently changes.

5. When urbanized areas are contiguous, the Census Bureau will use the following criteria to determine if a merger occurs:

a. The Census Bureau merges urbanized areas when:

(1) Two or more newly qualifying urbanized areas are contiguous and are mostly in the same MSA or PMSA.

(2) A newly qualifying urbanized area is contiguous to an existing urbanized area and both are mostly in the same MSA or PMSA.

(3) Previously existing urbanized areas mostly in the same MSA or PMSA become contiguous.

(4) Existing contiguous urbanized areas, previously entirely or mostly in different metropolitan areas, become entirely or mostly part of the same MSA or PMSA because of a metropolitan area merger, provided that the urbanized areas are contiguous for 1 continuous mile or more and that the average population density of the census blocks along the line of contiguity in each of the affected urbanized areas is at least 1,000 people per square mile.

b. The Census Bureau does not merge urbanized areas when:

(1) Existing urbanized areas are contiguous or become contiguous and

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[13] A nonmilitary place is one in which more than 50 percent of the population lives outside the boundaries of a military installation.

[14] The Census Bureau considers two urbanized areas to be contiguous if they share a common boundary line (not simply a point), and the areas on both sides of this shared boundary qualify for inclusion in their respective urbanized areas based on the minimum population density criterion of 1,000 people per square mile. Urbanized areas that are separated by no more than 5 miles of undevelopable land or water, but are connected by 5 miles or less of road, are considered contiguous if both include areas meeting the population density criterion at the points where they adjoin the undevelopable land or water and the qualifying road connection exists.

[15] The Census Bureau unavoidably may have to delete previously qualifying territory from an urbanized area or shift previously qualifying territory from one urbanized area to another when there has been a change in a place boundary (due to a detachment from or disincorporation of an incorporated place or a retraction from or deletion of a CDP), a change in a county or minor civil division boundary, or the elimination of a feature previously used as a census block boundary.

are entirely or mostly in different MSAs or CMSAs.

(2) Existing urbanized areas are contiguous or become contiguous and are mostly in the same CMSA but mostly in different PMSAs.

(3) Existing urbanized areas are contiguous or become contiguous and the largest central place of one of the urbanized areas is mostly outside the encompassing metropolitan area.

(4) Existing contiguous urbanized areas, previously entirely or mostly in different metropolitan areas, become entirely or mostly part of the same MSA or PMSA because of a metropolitan area merger but (a) are contiguous for less than 1 continuous mile; or (b) have an average population density of less than 1,000 people per square mile in the census blocks along the line of contiguity in one of the affected urbanized areas.

Differences Between the 1980 Urbanized Area Criteria and the 1990 Urbanized Area Criteria

The following is a summary of the differences between the 1990 urbanized area criteria and the 1980 urbanized area criteria.

1. The Census Bureau will recognize an urbanized area if it contains a place, either incorporated or census designated. Previously, the Census Bureau required a potential urbanized area to contain an incorporated place (except in Hawaii and Puerto Rico, where incorporated places do not occur in the sense of functioning local governmental units). In line with this proposed change, the Census Bureau is replacing the term "central city" with the term "central place."

2. The Census Bureau will add an entire place to an urbanized area only if the qualifying portion is adjacent to or within 1½ road miles of the main body of the urbanized area and the qualifying portion contains at least 50 percent of the population of the place. Previously, a place had to contain only a closely settled area that included at least 50 percent of the population of the place, or a cluster of at least 100 housing units, if the place did not have a population of at least 2,500 or a population density of at least 1,000 people per square mile.

3. The combined population density of any noncontiguous qualifying area and the intervening nonqualifying census block(s) added to the urbanized area must be at least 500 people per square mile. There must be at least one census block that is contiguous to the road connecting the qualifying core area with the noncontiguous qualifying area. Previously, there was no stated minimum population density requirement for adding noncontiguous qualifying area and the intervening nonqualifying blocks to the urbanized area, but the Census Bureau used this proposed criterior as a guideline in the past.

4. The Census Bureau will close urbanized area boundary indentations only when the depth of the area is at least two times greater than a line closing the opening. This criterion applies only when the indented area within the urbanized area is surrounded by area meeting the minimum population density requirement of 1,000 people per square mile. Previously, the Census Bureau generally closed any indentation less than 1 mile across the open end if it encompassed no more than 5 square miles.

5. The Census Bureau no longer will automatically add to an urbanized area the territory that contains a large concentration of nonresidential urban land use (such as an industrial park, office complex, or major airport) and is adjacent to the urbanized area, even if at least one-quarter of the boundary of the land use area is contiguous with the urbanized area. The Census Bureau does not have sufficient information to implement this criterion consistently on a nationwide basis. However, the Census Bureau, will exclude the length of roads passing through areas consisting mostly of nonresidential urban land use when measuring the distance between the main body of the urbanized area and qualifying outlying noncontiguous territory. If other requirements for adding qualifying outlying noncontiguous territory are met, the Census Bureau will add such territory to the urbanized area. Existing urbanized areas will retain territory that qualified under the previous criterion.

6. In most instances, the Census Bureau will use the title of the encompassing metropolitan area as the urbanized area title. If a single metropolitan area does not include most of the urbanized area or if the urbanized area does not contain any places named in the title of the metropolitan area, the Census Bureau generally will use as an urbanized area title the name of the most populous incorporated places with a population of 2,500 or more and the names of up to two additional incorporated places with a population of 15,000 or more and one-third the population of the largest place within the urbanized area. If no such incorporated places exist in the urbanized area, the Census Bureau generally will use the name of the CDP with the largest population for the urbanized area title. The overall effect of these changes will be to have the titles of urbanized areas and metropolitan areas as similar as possible. The Census Bureau generally used 1970, and in some cases 1980, urbanized area titles as the titles of 1980 urbanized areas even through some significant changes in the population of places had occurred.

7. For each urbanized area, where applicable, the Census Bureau will designate, as an urbanized area central place, each place that also is a central city in the encompassing metropolitan area. If there is no such place in the urbanized area, the Census Bureau will designate, as an urbanized area central place, each place included in the title of the urbanized area. The general effect of these criteria will be to have the central places of urbanized areas and the central cities of metropolitan areas as similar as possible in the 1990 census data tabulations. Previously, except in the two urbanized areas assigned regional titles, the central cities of urbanized areas consisted only of those places in the urbanized area titles.

8. All criteria related to delineating a boundary between contiguous urbanized areas and to merging contiguous urbanized areas are new. While the Census Bureau generally used these criteria as "guidelines" in the past, it did not previously publish these as criteria. These criteria, slightly modified since the October 24, 1989 announcement of the proposed urbanized area criteria, will result in the merger of the following 1980 urbanized areas for the 1990 census:

New Haven, CT and Meriden, CT
Norfolk—Portsmouth, VA and Newport News—Hampton, VA
Tampa, FL and St. Petersburg, FL

In addition, the criteria could result in the merger of other 1980 urbanized areas for the 1990 census, if their urbanized areas become contiguous for at least 1 mile, meet the specified conditions for contiguity, and are in the same MSA or PMSA. The following urbanized areas were within 2 miles of each other and mostly in the same MSA or PMSA.

Aurora, IL and Elgin, IL
Baltimore, MD and Annapolis, MD
Beaumont, TX and Port Arthur, TX
Greensboro, NC and High Point, NC
Johnson City, TN and Kingsport, TN—VA
Kingsport, TN—VA and Bristol, TN—Bristol, VA
Macon, GA and Warner Robins, GA
Oxnard—Ventura—Thousand Oaks, CA and Simi Valley, CA
Richmond, VA and Petersburg—Colonial Heights, VA
St. Louis, MO—IL and Alton, IL
San Juan, PR and Vega Baja—Manatí, PR

9. Although not a change to the 1990 criteria, it is possible that an urbanized area that qualified for (or after) the 1980 census will not qualify as an urbanized area for the 1990 census. In past censuses, no previously existing urbanized area had its population fall below 50,000. However, many urbanized areas that qualified in the 1980 census or after had a population that barely exceeded 50,000; any of these in which the population falls below 50,000 in the 1990 census will no longer qualify as an urbanized area.

EFFECTIVE DATE: November 21, 1990.

ADDRESSES: Persons wishing to comment or obtain additional information should write to:

Mr. Robert W. Marx, Chief, Geography Division, Bureau of the Census, Washington, DC 20233

FOR FURTHER INFORMATION CONTACT: Mr. Robert W. Marx at the address given above or telephone (301) 763–5638.

Dated: October 4, 1990.

Barbara Everitt Bryant,

Director, Bureau of the Census.

[FR Doc. 90–24836 Filed 10–19–90; 8:45 am]

BILLING CODE 3510–07–M

Foreign-Trade Zones Board

[Docket 13–89]

Foreign-Trade Zone 68—El Paso, Texas, Withdrawal of Application for Subzone Status for Farah Incorporated

Notice is hereby given of the withdrawal of the application submitted by the City of El Paso, Texas, grantee of FTZ 68, requesting authority for subzone status for the apparel processing plant of Farah Incorporated in El Paso, Texas. The application was filed on July 21, 1989 (54 FR 32101, 8/4/89).

The withdrawal is requested by the applicant because of changed circumstances.

The case has been withdrawn without prejudice, and FTZ Board Docket 13–89 is closed.

Dated: October 15, 1990.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 90–24819 Filed 10–19–90; 8:45 am]

BILLING CODE 3510–DS–M

International Trade Administration

[A–549–502]

Certain Circular Welded Carbon Steel Pipes and Tubes From Thailand; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: In response to requests by petitioners and respondents, the Department of Commerce is conducting an administrative review of the antidumping duty order on certain circular welded carbon steel pipes and tubes ("standard pipe") from Thailand. The review covers shipments of this merchandise to the United States from four exporters during the period from March 1, 1987 through February 29, 1988. As a result of this review, the Department has preliminarily determined that dumping margins exist with respect to three of the four exporters.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: October 22, 1990.

FOR FURTHER INFORMATION CONTACT: Alain Letort or Richard Weible, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377–3793 or telefax (202) 377–1388.

SUPPLEMENTARY INFORMATION:

Background

On March 11, 1986, the Department of Commerce ("the Department") published an antidumping duty order on certain circular welded carbon steel pipes and tubes from Thailand in the **Federal Register** (51 FR 8341). On March 6, 1988, we published in the **Federal Register** a notice of opportunity to request an administrative review of this order (53 FR 7383). On March 8, 1988, certain exporters and an importer of the subject merchandise requested an administrative review of this order. A similar request from petitioners followed on March 31, 1988. We initiated the review, covering the period beginning on March 1, 1987 and ending on February 29, 1988, on April 27, 1988 (53 FR 15083). The Department is now conducting this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended ("the Act").

This review covers shipments made by four exporters of standard pipe from Thailand to the United States. The exporters covered by this review are Saha Thai Steel Pipe Co., Ltd. ("Saha Thai"), Siam Steel Pipe Import-Export Co., Ltd. ("Siam Steel"), Thai Hong Steel Pipe Co., Ltd. ("Thai Hong"), and Thai Union Steel Co., Ltd. ("Thai Union").

From June 28 through July 14, 1989, we conducted a verification in Bangkok, Thailand, of the responses submitted by Saha Thai, Thai Hong, and Thai Union. We made no attempt to verify the response submitted by Siam Steel because, by Siam Steel's own admission, significant portions of its response were not verifiable. During verification, we found that significant portions of Thai Hong's response either did not verify or were unverifiable. Accordingly, we used the best information otherwise available, in accordance with section 776(c) of the Act, in calculating preliminary dumping margins for Siam Steel and Thai Hong.

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted from the Tariff Schedules of the United States, Annotated (TSUSA) to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption, on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by this review are shipments of circular welded carbon steel pipes and tubes with an outside diameter of 0.375 inch or more but not exceeding 16 inches. These products are commonly referred to in the industry as "standard pipe" or "structural tubing." Until January 1, 1989, this merchandise was classifiable under item numbers 610.3231, 610.3234, 610.3241, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258, and 610.4925 of the TSUSA. Since that date, standard pipe has been classifiable under HTS item numbers 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, and 7306.30.5090. As with the TSUSA numbers, the HTS numbers are provided for convenience and customs purposes. The written product description remains dispositive.

Fair Value Comparisons

To determine whether sales in the United States of standard pipe from Thailand were made at less than fair value, we compared the United States price with the foreign market value. Since neither Siam Steel nor Thai Hong provided the Department with verifiable responses, for those two respondents we used Thai Union's responses as the best information otherwise available, in accordance with section 776(c) of the Act.

United States Price

In accordance with section 772(b) of the Act, we based United States price on purchase price, because the merchandise was sold to unrelated purchasers in the United States prior to its importation. We calculated purchase price based on c. & f., c.i.f., or f.o.b., duty-paid, packed prices to U.S. customers.

We made deductions from purchase price, where appropriate, for foreign inland freight, foreign inland insurance, ocean freight, brokerage and handling charges, and bank charges.

We made several additions to purchase price. For Saha Thai only, we made an addition to purchase price for duty drawback, *i.e.*, import duties which were rebated, or not collected, by reason of the exportation of the merchandise to the United States, in accordance with section 772(d)(1)(B) of the Act. We made no such addition to purchase price for Thai Union because, during verification, Thai Union was unable to document the amount of duty drawback it had received from the government of Thailand. We made another addition to purchase price, in accordance with section 772(d)(1)(C) of the Act, for a portion of certain indirect taxes which were later rebated by reason of the exportation of the subject merchandise to the United States. Consistent with our practice in past investigations (*see, e.g.*, Barbed Wire and Barbless Fencing Wire from Argentina; Final Determination of Sales at Less Than Fair Value (50 FR 38563—September 23, 1985)), we limited the addition to purchase price to 1.28 percent of the f.o.b. price of the exported product, which is the amount of allowable indirect taxes found to have been paid by respondents in the countervailing duty investigation of the subject merchandise (see Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Certain Circular Welded Carbon Steel Pipes and Tubes from Thailand (50 FR 32751—August 15, 1985)). Finally, we made another addition to purchase price, in accordance with section 772(d)(1)(C) of the Act, for the amount of "business (sales) tax" that apparently would have been collected on sales to the United States had they been subject to that tax. Because the business tax is paid in Thailand on gross sales receipts, we applied the business tax rate in the home market to the gross sales price in the United States and increased purchase price by that amount.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on delivered or ex-factory packed prices to unrelated purchasers in Thailand. We made deductions to foreign market value, as appropriate, for inland freight, cash discounts, and business tax. In accordance with section 773(a)(4)(B) of the Act and section 353.56 of our regulations (19 CFR § 353.56), we made an adjustment to foreign market value for differences in circumstances of sale with respect to credit expenses and business tax. Because the gross sale price of the merchandise in the home market includes the business tax discussed *supra*, we adjusted foreign market value to eliminate any differences between the business tax in both markets by substituting the business tax on sales in the United States for the business tax on sales in the home market. In order to adjust for differences in packing between the two markets, we deducted packing costs in Thailand from foreign market value and added U.S. packing costs. In accordance with section 773(a)(4)(C) of the Act and § 353.57 of our regulations (19 CFR 353.57), we made adjustments to foreign market value to account for differences in the physical characteristics of the merchandise where there was no identical product in the home market with which to compare a product in the United States.

Petitioners allege that sales in the home market were made at prices below the cost of producing the merchandise. We examined production costs, which include all appropriate costs for materials, fabrication, and general expenses. We found that Thai Union, but not Saha Thai, sold substantial quantities of the subject merchandise in the home market at prices below production costs, within the meaning of section 773(b) of the Act. After disregarding Thai Union's below-cost sales, in accordance with section 773(b), we found that sufficient sales were made at or above production costs in the home market. Therefore, we used those sales to determine foreign market value.

Verification

We verified all information used in making this determination, in accordance with section 776(b)(3) of the Act. We used standard verification procedures, including on-site inspection of the manufacturers, operations and examination of accounting records and other documents containing relevant information.

Preliminary Results of the Review

As a result of our comparison of the United States price to foreign market value, we preliminarily determine that the following dumping margins exist:

Manufacturer/Producer/Exporter	Margin (percent)
Saha Thai	0.48
Siam Steel	75.06
Thai Hong	75.06
Thai Union	75.06

The dumping margin for Saha Thai is *de minimis*.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided by section 751(a)(1) of the Tariff Act, the Customs Service shall require a cash deposit of estimated antidumping duties based on the above margins for these firms. For any shipments of this merchandise produced or exported by the remaining known producers and/or exporters not covered in this review, the cash deposit will continue to be at the rate published in the antidumping duty order for those firms. For any future entries of this merchandise from a new producer and/or exporter not covered in the original investigation or this administrative review, whose first shipment occurred after February 29, 1988, and which is unrelated to the reviewed firms or any previously investigated firm, the Customs Service will require a cash deposit of 75.06 percent *ad valorem*.

Article VI:5 of the General Agreement on Tariffs and Trade provides that "[n]o product . . . shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization." This provision is implemented by section 772(d)(1)(D) of the Act. Since antidumping duties cannot be assessed on the portion of the margin attributable to export subsidies, there is no reason to

require a cash deposit or bond for that amount. Accordingly, the level of export subsidies as determined in Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Certain Circular Welded Carbon Steel Pipes and Tubes from Thailand (50 FR 32751—August 15, 1985), which is 1.79 percent *ad valorem*, will be subtracted from the dumping margin for deposit or bonding purposes, resulting in a cash deposit rate of 73.27 percent *ad valorem* for all exporters other than Saha Thai. Because the dumping margin for Saha Thai is *de minimis*, the Customs Service shall waive the deposit requirement for all entries of standard pipe from that producer during the review period. For any future entries of this merchandise from a new exporter, not covered in this administrative review, whose first shipments occurred after February 29, 1988 and who is unrelated to any reviewed firm, a cash deposit of 73.27 percent *ad valorem* will be required.

These deposit requirements are effective for all shipments of standard pipe from Thailand which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of the final results of this administrative review.

Public Comment

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested parties may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication of this preliminary notice or the first workday thereafter.

Case briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed not later than 37 days after the date of publication. The Department will publish final results of this administrative review, including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Commerce Department's regulations (19 CFR 353.22).

Dated: October 12, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-24811 Filed 10-19-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-614-502]

Low-Fuming Brazing Copper Rod and Wire From New Zealand; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request from a manufacturer/exporter, the Department of Commerce has conducted an administrative review of the antidumping duty order on low-fuming brazing copper rod and wire from New Zealand. The review covers one manufacturer/exporter of this merchandise to the United States, McKechnie Pacific, Ltd., and the period December 1, 1988 through November 30, 1989. We preliminarily find a *de minimis* dumping margin for the review period.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: October 22, 1990.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney or Robert Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-4195/5255.

SUPPLEMENTARY INFORMATION:

Background

On December 21, 1989, the Department of Commerce ("the Department") published a notice of "Opportunity to Request an Administrative Review" (54 FR 52436) of the antidumping duty order on low-fuming brazing copper rod and wire from New Zealand (50 FR 49740, December 4, 1985). On December 18, 1989, a respondent, McKechnie, requested an administrative review. We initiated the review on February 16, 1990 (55 FR 5640). The Department has now conducted that review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act"). The final results of the last administrative review in this case were published in the Federal Register on November 14, 1989 (54 FR 47379).

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the *Harmonized Tariff Schedule* ("HTS"), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Shipments covered by this review are low-fuming brazing copper rod and wire principally of copper and zinc alloy ("brass") of varied dimensions in terms of diameter, whether cut-to-length or coiled, whether bare or flux-coated. During part of the review period such merchandise was classifiable under item numbers 612.6205, 612.7220 and 653.1500 of the *Tariff Schedules of the United States Annotated* ("TSUSA"). This merchandise is currently classifiable under HTS item numbers 7407.21.50, 7408.11.60, 7408.19.00, 7408.21.00, 7408.22.50, 7408.29.50, 8311.10.00, 8311.20.00, 8311.30.60, and 8311.90.00. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written descriptions remain dispositive. The review covers one manufacturer/exporter of this merchandise to the United States, McKechnie Pacific, Ltd. ("McKechnie"), and the period December 1, 1988 through November 30, 1989.

United States Price

In calculating United States price, the Department used purchase price as defined in section 772 of the Tariff Act. Purchase price was based on the c.i.f. price to unrelated purchasers in the United States. We made adjustments for ocean freight and marine insurance. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value, the Department used home market price, as defined in section 773 of the Tariff Act. Home market price was based on the packed, free-on-railhead price to unrelated purchasers in the home market with adjustments, where applicable, for inland freight. We made further adjustments, where applicable, for differences in credit, commissions, the physical characteristics of the merchandise, and packing between the home market and U.S. merchandise. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our review, we preliminarily determine the margin for the period December 1, 1988 through November 30, 1989 to be:

Manufacturer/exporter	Margin (Percent)
McKechnie	0.30

Interested parties may request disclosure within five days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. Pre-hearing briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Since the margin for McKechnie is less than 0.5 percent, and therefore *de minimis* for cash deposit purposes, the Department shall not require a cash deposit of estimated dumping duties for McKechnie. For any future entries of this merchandise from a new exporter, not covered in this or prior administrative reviews, whose first shipment occurred after November 30, 1989, no cash deposit shall be required. These deposit requirements are effective for all shipments of low-fuming brazing copper rod and wire, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with 19 U.S.C. 1675(a)(1)(c) and 19 CFR 353.22.

Dated: October 15, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-24886 Filed 10-19-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-570-501]

Natural Bristle Paint Brushes and Brush Heads From the People's Republic of China; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On February 28, 1990, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on natural bristle paint brushes and brush heads from the People's Republic of China. The review covers one Hong Kong reseller of this merchandise to the United States and the period February 1, 1988 through January 31, 1989.

We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, the final results of review are unchanged from those presented in our preliminary results of review.

EFFECTIVE DATE: October 22, 1990.

FOR FURTHER INFORMATION CONTACT: Susan Silver or Maureen Flannery, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255/2923.

SUPPLEMENTARY INFORMATION:

Background

On February 28, 1990, the Department of Commerce ("the Department") published in the Federal Register (55 FR 7016) the preliminary results of its administrative review of the antidumping duty order on natural bristle paint brushes and brush heads from the People's Republic of China (51 FR 5580, February 14, 1986). We have now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by this review are shipments of natural bristle paint brushes and brush heads from the People's Republic of China. During the review period, such merchandise was classifiable under item 750.65 of the Tariff Schedules of the United States ("TSUS"). This merchandise is currently classifiable under Harmonized Tariff Schedule ("HTS") item 9603.40.00. The TSUS and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the shipments of one third-country reseller in Hong Kong, Peace Target, Ltd., which purchased the natural bristle paint brushes and brush heads from a producer in the People's Republic of China and exported them to the United States during the period February 1, 1988 through January 31, 1989.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. We received written comments from the Paint Applicators Trade Action Coalition ("PATAC"), Peace Target, Ltd. ("Peace Target"), and the China Chamber of Commerce of Importers and Exporters of Foodstuffs, Native Produce and Animal By-Products ("the China Chamber of Commerce").

Comment 1: In determining the U.S. price under 19 U.S.C. section 1677a(b), PATAC argues that the Department misinterpreted Congressional intent regarding the manufacturer's degree of knowledge of the destination of his merchandise required for the Department to use the price to the unrelated reseller as the basis of U.S. price. PATAC claims that the legislative history and case law establish a minimum threshold for proof of knowledge. Therefore, the standard should be "knew or should have known."

PATAC argues that PRC producers should have known that Chinese paint brushes were destined for the United States, because a large volume of Peace Target's sales were made to the United States. Further, Peace Target's response indicates that PRC brushes were supplied to Peace Target based on U.S. customers' specifications. Therefore, the PRC producers had actual knowledge that the ultimate customers were located in the United States, because PRC producers were aware of U.S. specifications prior to production of the brushes. The PRC producers knew or should have known the destination of their brushes, and as a result, the Department should have used the PRC/Peace Target transaction price rather than the Peace Target/U.S. transaction price in determining U.S. price.

Peace Target maintains that PRC producers had no knowledge at the time of the sale that the paint brushes were destined for the United States. Paint brushes are commodity items. Peace Target's order for brushes made to certain specifications in no way restricts or predetermines the ultimate destination of the brushes.

Further, Peace Target reasons that the fact that it made significant sales of brushes to the United States does not suggest that PRC producers knew that the brushes were destined for the United States. It would be contrary to Peace Target's interests to disclose its customers and their locations to the producer who would, in turn, by-pass Peace Target as an independent middleman and sell directly to Peace Target's customers.

Department's Position: In the Trade Agreements Act of 1979, Congress modified the definition of "purchase price," in U.S.C. 1677a(b) to provide statutory authority for the administrative practice of basing U.S. price on the transaction from a producer to an unrelated reseller if the producer knew that the product was destined for the United States. H.R. Rep. No. 317, 96th Cong., 1st Sess. 75. The statute does not indicate the degree of knowledge necessary to find that a producer knew the destination of its merchandise. However, the Statements of Administrative Action adopted with the Trade Agreements Act of 1979 refers to the standard as "had reason to know". The Department uses this standard in its administrative practice. H.R. Doc. No. 153, 96th Cong., 1st Sess., Pt. II 411 (1979). And, as part of that administrative practice, the standard of knowledge that has been developed is "know or should have known" *Fuel Ethanol from Brazil* (51 FR 5572, February 14, 1986); *Certain Stainless Steel Sheet and Strip Products from the Federal Republic of Germany* (48 FR 20459, May 6, 1983). The standard for imputed knowledge, "should have known," is high. For example, knowledge was imputed in *Fuel Ethanol from Brazil* when it was determined that 100 percent of the exports of fuel ethanol were to the United States during the period of investigation.

In order for the Department to use the PRC/Peace Target transaction price as the U.S. price, the Department would have to find that PRC producers knew or should have known the destination of their brushes. Peace Target sells to countries other than the United States, so PRC producers would not know whether particular brushes were destined for the United States. It is true that PRC producers received brush specifications from Peace Target, but there is no evidence on the record indicating that these specifications gave any clue to the destination of the merchandise. Chip paint brushes are a fungible commodity item. Therefore, the fact that Peace Target had the brushes made to certain specifications would not necessarily indicate that the brushes were being exported to the United States. Thus, the Department has determined that there is no support for a finding that PRC producers knew or should have known the destination of the brushes they sold to Peace Target. Therefore, it is appropriate to base U.S. price on the transaction price between Peace Target and the first unrelated purchaser in the United States.

Comment 2: PATAC claims that because the PRC government and its instrumentalities are parties to this proceeding on paint brushes, it is imperative for future reviews that the Department confirm in its final determination that the PRC is now on constructive notice of the destination of the brushes when sold to Peace Target.

Department's Position: The PRC exporter's knowledge of destination must be established on the basis of evidence submitted during the relevant review. In any reviews, we will determine whether the PRC producers knew of the destination of their merchandise based on the information submitted for those reviews.

Comment 3: PATAC argues that the Department is not following the precedent set in *Four H Corp.* v *U.S.*, 611 F. Supp. 981 (CIT 1985) in which the Court held that U.S. price must be based on the first sales transaction to an exporter outside a non-market economy. Since PRC sales to Peace Target were at arm's length, the Department should follow case precedent and use the PRC price to Peace Target.

Department's Position: In *Four H Corp* v *U.S.*, the Court held that the prices between the producer and the trading company were suspect, because the two entities were state agencies, located in the same state-controlled economy (PRC). The Court permitted the Department to use the price between the trading company and the U.S. importer. In this case, the reseller is an unrelated buyer in a non-state-controlled economy, purchasing from the PRC producers. Therefore, *Four H Corp.* does not apply to this case.

Comment 4: The China Chamber of Commerce argues that the Department should have used the price of goods sold from South Korea to the United States as foreign market value.

Department's Position: As discussed in the Department's response to Comment 5, foreign market value in this case is most appropriately based on sales of such or similar merchandise in the reseller's home market or other third countries. Since the reseller made adequate sales of such or similar merchandise to third countries, we do not need the price of goods sold from a surrogate country such as South Korea to the United States as foreign market value.

Comment 5: PATAC argues that the Department should not use Hong Kong sales to third countries as foreign market value. In the absence of Hong Kong third-country sales, the Department would have to construct a value based on Hong Kong factors of production, which would be inappropriate.

PATAC further maintains that if the Department relied on section 1677b(f) for using Hong Kong's third-country sales as the basis for foreign market value, the Department's reliance on that section was inappropriate. Section 1677b(f) permits the Department to treat Hong Kong as the country from which merchandise is exported only if the producer does not know of the destination of its merchandise. However, since the PRC producer is aware of the destination of its merchandise, section 1677b(f) cannot apply and cannot serve as the basis for foreign market value.

Peace Target claims that the Department must rely on section 1677b(f) to determine foreign market value based on the Hong Kong reseller's price. Since the PRC producer had no knowledge of the destination of its merchandise and the merchandise was not substantially transformed in Hong Kong, it is mandatory to calculate foreign market value based on the price from the intermediate country.

Department's Position: 19 U.S.C. 1677b(f) provides that, under certain circumstances, a country which is not the producing country may be treated as the exporting country for purposes of determining foreign market value. 19 U.S.C. 1677b(f) applies to the facts in this case. Peace Target, the reseller in Hong Kong (the intermediate country), purchases the merchandise from the PRC producers; the PRC producers do not know at the time of the sale to Peace Target the country to which Peace Target intends to export the merchandise (see Comment 1). The merchandise is exported by the PRC producers to a country other than the United States, Hong Kong. The merchandise enters the commerce of Hong Kong but is not substantially transformed, and the merchandise is subsequently exported to the United States. Since section 1677b(f) applies in this case, it is appropriate for the Department to use the reseller's price to third countries as foreign market value.

Comment 6: PATAC maintains that the PRC producers are dumping their

paint brushes to Hong Kong. If the Department does not examine the PRC/Peace Target transaction price, some of the dumping will be missed. The Department must base the purchase price on PRC's price to the first unrelated purchaser, Peace Target.

Similarly, PATAC argues that by using Hong Kong's price to third countries as foreign market value, the Department encourages further dumping of PRC brushes. Chinese producers can sell to resellers in third countries at less-than-fair value, thereby masking the first level of dumping. The third-country reseller can reduce the dumping margin to increase its profit and still sell at less than fair value.

Department's Position: In determining U.S. price, we found that PRC producers did not know that their brushes were destined for the United States (See Comment 1). Since PRC producers did not know the destination, they were not in a position to price discriminate. Further, PATAC has not provided us with a sufficient basis to depart from our normal methodology.

Comment 7: PATAC requests that we clarify why Peace Target does not receive the 127.07% *ad valorem* dumping duty applicable to all other paint brushes imported directly or indirectly from the PRC. Based upon the meager record in this case, there seems to be no justification for treating Peace Target differently from all other exporters of PRC paint brushes. PATAC claims such preferential treatment for Peace Target is unwarranted.

Department's Position: Because Peace Target was the only exporter for which a review was requested under § 353.22(a)(2) of the Commerce Regulations, it was the only exporter entitled to a review. Peace Target's response was adequate to determine a dumping rate for its sales. Therefore, Peace Target's rate is different from the rates established in the *Antidumping Duty Order; Natural Bristle Paint Brushes and Brush Heads from the People's Republic of China (PRC)* (51 FR 5580, February 14, 1986). For all other firms exporting PRC paint brushes to the United States during the review period, we are applying the existing dumping duty rate of 127.07% *ad valorem*.

Comment 8: Peace Target claims that the Department should make a difference-in-merchandise adjustment for differences in the thickness of the brushhead, the length and quality of the bristles, the painted handle and ferrule finish. Although Peace Target is a reseller and does not know the costs for these differences, Peace Target claims that § 353.37 of the Commerce Regulations provides for a reasonable allowance for difference-in-merchandise adjustments based on different market values.

Peace Target has submitted a price quotation sheet based on cost differences for different specifications and requests that we consider these price quotations to make difference-in-merchandise adjustments. Peace Target claims that different price quotations reflect relative market value differences between products.

Peace Target further suggests that we corroborate these prices based on information already on the record. Peace Target refers to the cost of production calculations submitted during the less-than-fair-value investigation. Peace Target suggests that the cost of production submissions could be used as support for the price quotations.

Finally, Peace Target argues that comparisons between U.S. price and foreign market value were not limited to the most comparable products. The Department should limit its comparisons to the most similar products.

Department's Position: 19 CFR 353.31(a)(ii) provides that information may be submitted at the earlier of the date of the publication of the preliminary results of the review or 180 days after the date of publication of the notice of initiation of the review. Peace Target submitted the price quotation information after the publication of the preliminary results. Therefore, Peace Target's submission of information regarding the difference-in-merchandise adjustment was untimely and was not considered for the final results of the review.

Finally, we made comparisons based upon the most similar merchandise. Peace Target has not indicated how our comparisons were not based upon the most similar products. Therefore, there is no reason to alter our calculations in order to make different comparisons.

Final Results of the Review

Based on our analysis of the comments received, the final results have not changed from those presented in the preliminary results of review, and we determine that the following margin exists:

Manufacturer/exporter	Time period	Margin (Percent)
Peace Target, Ltd.	02/01/86-01/31/89	47.1

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions for Peace Target, Ltd., directly to the Customs Service. Individual differences between United States price and foreign market value may vary from the percentage stated above.

As provided for in section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above rate shall be required for the above firm. For any shipments from the remaining known manufacturers/exporters not covered by this review, the cash deposit will continue to be the rate applicable to each firm (127.07 percent) (51 FR 5580, February 14, 1986).

For any future entries of this merchandise from a new manufacturer/exporter or third-country reseller not covered in this or prior reviews, whose first shipments occurred after January 31, 1989, and who is unrelated to any reviewed firm, a cash deposit of 47.1 percent shall be required. These deposit requirements are effective for all shipments of natural bristle paint brushes and brush heads from the People's Republic of China entered, or withdrawn from warehouse, for consumption on or after the effective date of publication of this notice.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22 of the Commerce Department's Regulations (19 CFR 353.22).

Dated: October 15, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-24884 Filed 10-19-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-428-808]

Termination of Antidumping Duty Investigation: Phototypesetting and Imagesetting Machines and Subassemblies Thereof From the Federal Republic of Germany

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: In a letter dated October 10, 1990, Varityper, Inc. withdrew its petition for the imposition of antidumping duties filed on March 20, 1990, on phototypesetting and imagesetting machines and subassemblies thereof (PTMs) from the Federal Republic of Germany (FRG). Based on the withdrawal, we are terminating this investigation.

EFFECTIVE DATE: October 22, 1990.

FOR FURTHER INFORMATION CONTACT: James P. Maeder, Jr., Office of

Antidumping Investigation, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377–4929.

SUPPLEMENTARY INFORMATION:

Case History

On March 20, 1990, we received a petition in proper form from Varityper, Inc. on behalf of the U.S. industry producing PTMs.

We initiated an antidumping duty investigation on April 9, 1990 (55 FR 14099, April 16, 1990).

On May 4, 1990, the ITC preliminarily determined that there is a reasonable indication that an industry in the United States is being materially injured by reason of imports of PTMs from the FRG. On August 6, 1990, we granted petitioner's request that the Department extend the period for the preliminary determination until not later than October 16, 1990 (55 FR 33147, August 14, 1990).

Scope of Investigation

Imports covered by this investigation are shipments of PTMs consisting of hardware and dedicated software capable of producing high resolution (600 or more dots per inch) type and/or images on a photographic medium, either film or paper. The photographic medium output permits a high quality of final printed output. This output serves the needs of various users for high-resolution printing and publishing. Included in the hardware are image controller/processors, image recorders, imagesetters and phototypesetters. Image controller/processors are sophisticated computers that are capable of manipulating text and graphics in a manner that allows them to be output on a page of photographic medium. Computer codes are received from a front-end device (computer workstation) and are rasterized (*i.e.*, converted into a pattern of on and off pulses that create images or characters). These rasterized patterns/codes can be received by various output devices for transfer to the photographic media. Phototypesetters and imagesetters create graphic and text output on photosensitive media (paper or film) by scanning a laser beam across the media. As each scans, it turns the laser on and off to create tiny light spots. When these spots hit the photosensitive media, the exposure creates tiny black dots called pixels.

The subassemblies included in the scope of the investigation are limited to customized printed circuit board assemblies for the equipment operating system and for compressing data, raster image processor assemblies, and laser image and optical assemblies. Some subassemblies may be classified as parts. Furthermore, the subassemblies included are not capable of being used for products other than phototypesetting and imagesetting machines.

Phototypesetting and imagesetting machines are provided for in HTS subheading 8442.10.00. Phototypesetting and imagesetting machine parts are provided for in HTS subheading 8442.40.00. The HTS subheadings are provided for convenience and U.S. Customs Service purposes. The written description remains dispositive as to the scope of the product coverage.

Termination of Investigation

In a letter dated October 10, 1990, petitioner notified the Department that it is withdrawing its March 20, 1990, petition and requested that the Department terminate the investigation.

Under section 353.17 of the Department's regulations (19 CFR 353.17(a)), the Department may terminate an investigation after the withdrawal of the petition by the petitioner, after notifying all parties to the proceeding, and after consultation with the International Trade Commission (ITC). The Department may not terminate an investigation unless it concludes that the termination is in the public interest. We have notified all parties to the proceeding and consulted with the ITC. In addition, we have concluded that termination of the investigation is in the public interest. Accordingly, we are terminating the antidumping duty investigation of PTMS from the FRG. This action is taken pursuant to section 734(a)(1) of the Tariff Act of 1930, as amended.

Dated: October 16, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90–24813 Filed 10–19–90; 8:45 am]

BILLING CODE 3510–DS–M

[A–588–028]

Final Results of Antidumping Duty Administrative Review: Roller Chain, Other than Bicycle, From Japan

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On June 18, 1990, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping finding on roller chain, other than bicycle, from Japan. The review covers six manufacturer/exporters of the subject merchandise to the United States for the period April 1, 1987 through March. 31, 1988.

EFFECTIVE DATE: October 22, 1990.

FOR FURTHER INFORMATION CONTACT: Louis Apple or Bradford Ward, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–1769 or (202) 377–5288, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 18, 1990, the Department published in the Federal Register (55 FR 26243) the preliminary results of the administrative review of the antidumping finding on roller chain, other than bicycle (roller chain), from Japan (38 FR 9226, April 12, 1973). The Department has now completed the administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). We have reviewed the following companies for the period April 1, 1987 through March 31, 1988: Sugiyama Chain Co., Ltd. (Sugiyama), I&OC of Japan Co., Ltd. (I&OC), Hitachi Metals Techno, Ltd. (Hitachi), Takasago RK Excel Co., Ltd. (Takasago), Pulton Chain Co., Inc. (Pulton), and Izumi Chain Manufacturing Co., Ltd. (Izumi).

Scope of Review

Imports covered by this review are shipments of roller chain from Japan. The term "roller chain, other than bicycle" as used in this review includes chain, with or without attachments, whether or not plated or coated, and whether or not manufactured to American or British standards, which is used for power transmission and/or conveyance. Such chain consists of a series of alternately assembled roller links and pin links in which the pins articulate inside the bushings and the rollers are free to turn on the bushings. Pins and bushings are press fit in their respective link plates. Chain may be single strand, having one row of roller links, or multiple strand, having more than one row of roller links. The center plates are located between the strands of roller links. Such chain may be either single or double pitch and may be used as power transmission or conveyor chain.

The review also covers leaf chain, which consists of a series of link plates alternately assembled with pins in such a way that the joint is free to articulate between adjoining pitches. The review further covers chain model numbers 25 and 35. Roller chain is currently classifiable under HTS sub-headings 7315.11.00 through 7315.12.00. These HTSsub-headings are provided for convenience and customs purposes. The written description remains dispositive.

A. Sugiyama Chain Co., Ltd. and I&OC of Japan Co., Ltd.

United States Price

Sugiyama made sales during the review period to I&OC, an unrelated trading company in Japan, and through a related party in the United States that sold the merchandise to unrelated purchasers after importation into the United States. Sugiyama knew at the time of the sale to I&OC that the ultimate destination of the merchandise was the United States. Therefore, all I&OC sales of Sugiyama-produced subject merchandise are subject to Sugiyama's antidumping duty rate.

As provided for in section 772(b) of the Act, we used purchase price between Sugiyama and I&OC to represent the United States price for all sales by I&OC, because Sugiyama knew that the ultimate destination of the merchandise was the United States at the time of the sale. We calculated the purchase price based on packed, f.o.b., Tokyo port prices, and made a deduction for foreign inland freight.

As provided for in section 772(c) of the Act, we used the exporter's sales price (ESP) to represent the United States price for all sales made through Sugiyama's related U.S. subsidiary because these sales were made to unrelated purchasers after importation into the United States. We made deductions, where appropriate, for foreign inland freight, foreign brokerage and handling, ocean freight, marine insurance, U.S. duty, U.S. freight and U.S. brokerage.

In accordance with section 772(e)(2) of the Act, we made additional deductions, where appropriate, for advertising, credit expenses and indirect selling expenses. Indirect selling expenses include U.S. and Japanese incurred selling expenses and inventory carrying costs. In accordance with section 772(e)(1) of the Act, we also deducted commissions.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we calculated foreign market value based on packed, delivered prices to unrelated customers in the home market. We determined that sales to a related party were not at arm's length, as claimed by Sugiyama. Therefore, we did not use these sales in making our comparisons.

For comparisons involving purchase price sales, we made deductions for inland freight. We made circumstance of sale adjustments for differences in credit expense and advertising in accordance with 19 CFR 353.56. We deducted home market packing costs from the foreign market value and added U.S. packing costs.

For comparisons involving ESP sales, we made deductions, where appropriate, for inland freight. We made circumstance of sale adjustments, where appropriate, for differences in credit terms and for advertising expenses in accordance with 19 CFR 353.56. We deducted home market indirect selling expenses, including inventory carrying costs, product liability expenses, salesmen's travel expenses, and other indirect selling expenses. This deduction for indirect selling expenses was capped by the amount of indirect selling expenses and commissions incurred in the U.S. market, in accordance with 19 CFR 353.56. We deducted home market packing costs from the foreign market value and added U.S. packing costs.

For sales that could not be matched contemporaneously, we calculated a weighted-average foreign market value for each product based on all reported sales during the review period.

B. Hitachi Metals Techno, Ltd.

United States Price

As provided for in section 772(b) of the Act, we used purchase price to represent the United States price for certain sales by Hitachi because the merchandise was sold to unrelated parties prior to importation into the United States. We calculated the purchase price based on packed, c.i.f., duty paid, delivered prices to unrelated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight, ocean freight, marine insurance, U.S. duty, U.S. freight and U.S. brokerage. Because respondent did not provide sufficient information to support its allocation methodology, we recalculated the above expenses, using data submitted by respondent as the best information available.

As provided for in section 772(c) of the Act, we used ESP for the remaining sales, where the merchandise was sold to unrelated purchasers after importation into the United States.

We calculated ESP based on packed, c.i.f., duty paid, delivered prices to unrelated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight, ocean freight, marine insurance, U.S. duty, U.S. freight and U.S. brokerage. Because respondent did not provide sufficient information to support its allocation methodology, we recalculated the above expenses, using data submitted by respondent as the best information available.

In accordance with section 772(e)(2) of the Act, we made additional deductions, where appropriate, for credit expenses and indirect selling expenses, including bad debt expenses, mailing expenses, indirect advertising expenses, and other indirect selling expenses. The lack of appropriate prior price information on the record precluded the Department's confirmation of Hitachi's allocation methodology for these expenses for U.S. sales during the review period. Therefore, we recalculated indirect selling expenses for U.S. sales, including bad debt and other expenses, using Hitachi's ESP information as best information available because respondent did not provide sufficient information to support its own overall U.S. sales allocation methodology. In accordance with section 772(e)(1) of the Act, we also deducted commissions.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we calculated foreign market value based on packed prices to related and unrelated customers in the home market. We used sales to related parties only when we determined that the sales were at prices reflective of arm's length transactions. We made circumstance of sale adjustments for differences in credit terms in accordance with 19 CFR 353.56.

For comparisons involving purchase price sales, we added U.S. commissions to the foreign market value and subtracted home market indirect selling expenses up to the amount of the U.S. commission.

For comparisons involving ESP sales, we deducted home market indirect selling expenses, including indirect advertising, and salesmen's salaries and expenses. This deduction for indirect selling expenses was capped by the amount of indirect selling expenses and commissions incurred in the U.S. market, in accordance with 19 CFR 353.56.

For sales that could not be matched contemporaneously, we calculated a weighted-average foreign market value for each product based on all reported sales during the review period.

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In certain instances there were no sales of identical merchandise in the home market with which to compare merchandise sold in the United States. For some sales there were no matches provided, either identical or similar, and for other sales respondent provided similar matches, but failed to provide difference in merchandise adjustment information. For these transactions, because respondent did not provide us with the information necessary to calculate a margin, the Department applied the weighted-average margin calculated for comparison sales as the best information available.

C. Takasago RK Excel Co., Ltd.

Price Comparisons

As provided for in section 776(c) of the Act, the Department has determined that use of best information available is appropriate for all sales of the subject merchandise from Takasago. The Department's decision is based on Takasago's failure to provide adequate responses to the Department's questionnaire and deficiency letters prior to the preliminary determination. The magnitude of the omissions in its response precluded the calculation of a margin using Takasago's data. Specifically, Takasago failed to: (1) Submit the required sales data in computerized format; (2) provide sales data in a format that would enable the Department to make price to price comparisons; and (3) provide the cost data necessary to calculate difference in merchandise adjustments.

As the best information available, the Department used the highest rate calculated for a respondent in this administrative review. (See Takasago Comment 1.)

D. Pulton Chain Co., Ltd.

United States Price

As provided for in section 772(b) of the Act, we used purchase price to represent the United States price because all sales were made directly to unrelated parties prior to importation into the United States. We calculated the purchase price based on packed, c.i.f. or f.o.b. prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, brokerage, ocean freight and marine insurance.

We imputed credit for respondent's United States sales because respondent failed to provide any information on credit expenses incurred, including payment dates. We computed the credit period using the best information available. For two U.S. sales, we adjusted respondent's data in conformity with its written response to reflect the correct total quantity sold and total sales price. Where data was erroneously separated into two transactions in the database we combined the data into a single transaction.

Foreign Market Value

In accordance with section 773 of the Act, we calculated foreign market value for Pulton based on home market sales prices or constructed value (CV), as appropriate.

For price to price comparisons, we made deductions, where appropriate, for foreign inland freight. We deducted home market packing costs from the foreign market value and added U.S. packing costs. We recalculated home market credit based on the short-term interest rate and average credit period, as provided by respondent. We made a circumstance of sale adjustment, where appropriate, for differences in credit terms.

For those products sold in the United States for which no identical or similar model was sold in the home market and for which respondent provided cost of production data, we calculated foreign market value based on CV as provided for in section 773(e) of the Act.

Constructed value includes the cost of materials and fabrication of the merchandise, plus general expenses, profit and packing. For material, direct labor and overhead, the Department used the respondent's data. Actual selling, general and administrative expenses (SG&A) were used because these amounts exceeded the statutory minimum of ten percent. For general and administrative costs the Department derived the rate from the respondent's annual financial statements. Interest expense was also derived from the respondent's annual financial statements. Total interest expense was reduced by the ratio of accounts receivable to total assets, in order to account for imputed credit costs which were individually added to the constructed value. The Department also added a per unit amount of indirect selling expenses. For profit the Department used the statutory minimum of eight percent because actual profit was less than eight percent of the cost of production. The Department added the respondent's United States packing to arrive at total constructed value.

Where appropriate, we adjusted for differences in credit terms using home market credit expenses.

Best Information Available (BIA)

As provided for in section 776(c) of the Act, we have determined that partial use of best information available is appropriate for sales of some subject merchandise sold to the United States by Pulton during the administrative review period. We had no alternative but to apply the BIA rate because Pulton failed to provide a conversion.

The BIA rate referred to above was applied to those products sold in the United States for which no identical match existed in the home market and for which respondent failed to provide cost of production data. For those U.S. transactions, Pulton reported all unit amounts on the basis of yen per piece instead of yen per foot. All other sales transactions were properly reported in yen per foot. Because no formula exists on the record which enables the Department to convert the net prices to a unit basis of yen per foot, the Department applied BIA. The BIA rate applied is the weighted-average margin calculated for all identical and CV comparison sales.

E. Izumi Chain Manufacturing Co., Ltd.

Price Comparisons

As provided for in section 776(c) of the Act, the Department has determined that use of best information available is appropriate for all sales of the subject merchandise from Izumi. The Department's decision is based on the magnitude of the omissions and deficiencies in Izumi's responses. Specifically, Izumi failed to: (1) Provide the Department with convincing evidence to support its claim that its home market sales to a related party were at prices reflective of arm's length transactions, or provide the Department with information regarding the home market sales to the first unrelated purchaser; (2) properly match its U.S. sales with the most similar home market merchandise in accordance with the Department's requirements, or provide information that would allow the Department to select the most similar home market product; and (3) provide the information necessary to calculate the differences in merchandise costs associated with any new matches.

As the best information available, the Department used the highest rate calculated for a respondent in this administrative review.

Currency Conversion

In accordance with 19 CFR 353.60 we used the official exchange rates in effect on the appropriate dates for determining foreign market value. All currency conversions were made at the rates certified by the Federal Reserve Bank.

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Interested Party Comments

A. Sugiyama Chain Co., Ltd. and I&OC of Japan Co., Ltd.

Comment 1: Sugiyama, I&OC and Hokoku contend that the Department should reverse its preliminary decision to apply a single dumping margin for Sugiyama sales through the I&OC and Hokoku distribution channels. Respondents argue that the Department correctly calculated separate margins for each distribution channel in prior administrative reviews. Furthermore, consistency with past practice requires the Department to continue to assign a separate dumping margin to each distribution channel because the parties have reasonably relied on prior margins to individually apply for a revocation of the dumping order. Respondents further maintain that the Department's circumvention concern, which may have motivated the Department to assign a single dumping rate to all Sugiyama sales, is unwarranted because Sugiyama does not retain the authority or control to shift sales between the different distribution channels.

Petitioner requests that the Department calculate a final margin for "Sugiyama/I&OC" sales based exclusively on sales between Sugiyama and I&OC rather than the weighted-average margin calculated on all Sugiyama sales. The weighted-average margin used in the final determination included all sales through different distribution channels.

DOC Position: We disagree that separate margins should be calculated for a company's individual distribution channels. In deciding whether it is appropriate to revoke a company out of an order, it is necessary to evaluate the pricing behavior of the company as a whole, as opposed to the pricing behavior to individual customers. To do otherwise would provide a company with the opportunity to switch distribution channels so as to limit dumping liability, or escape it altogether. Therefore, the Department has assigned only one margin for all of Sugiyama's sales, regardless of the distribution channel, based on the weighted-average margin of all its sales. The Department will, however, continue to list Sugiyama's separate distribution channels as an administrative convenience to the Customs Service.

Comment 2: Petitioner contends that Harima Enterprise Co., Ltd. (Harima) should receive Sugiyama's final margins in this review if Sugiyama generally knows the ultimate destination of the roller chain at the time of sale to Harima. If Sugiyama does not know the ultimate destination of the merchandise, the Department should continue to apply the most recent actual rate calculated for Harima.

DOC Position: Harima did not sell any subject merchandise to United States customers during this period of review. Any merchandise from Sugiyama/Harima that entries after this review period will be assigned Sugiyama's rate for deposit purposes.

Comment 3: Sugiyama contends that home market expenses reported as "other" should be deducted as direct expenses, rather than as indirect expenses, because these expenses were incurred to promote sales.

DOC Position: We disagree. These expenses, by respondent's own admission "cannot be tied to a specific product, sale or customer." These expenses represent overhead such as automobile repair and maintenance, gasoline costs, and train and airline tickets, all of which are costs that would be incurred regardless of whether a sale was made.

Comment 4: Sugiyama requests that the Department revise the home market credit expense calculations pursuant to Attachment 3 of Sugiyama's July 27, 1990 submission.

DOC Position: We disagree. We have used the credit methodology originally submitted by Sugiyama, and have confirmed that Sugiyama's narrative questionnaire response is consistent with the credit calculations reported on the tape. The Department cannot accept changes to data that were submitted in an untimely fashion, according to 19 CFR 353.31(a)(ii).

Comment 5: Sugiyama contends that the Department should use sales to a related customer in the home market to calculate foreign market value.

DOC Position: We disagree. Sugiyama admits that the customer in question is related. Through an analysis of the data, the Department has confirmed that the related customer is charged prices that are lower than those charged to unrelated customers. Thus, the sales were not made at arm's length, and fail to provide a suitable basis for establishing foreign market value.

Comment 6: Sugiyama requests that the Department make a level of trade adjustment for its sales through Hokoku.

DOC Position: We disagree. Sugiyama has offered no evidence in support of its claim that Hokoku's higher prices are caused by the higher costs Hokoku incurs due to its place in the distribution chain.

Comment 7: Sugiyama requests that the Department exclude from its calculations all Hokoku sales made to Canadian customers that were erroneously reported as U.S. sales.

DOC Position: The Department has excluded such sales from the calculation of Sugiyama's dumping margin.

Comment 8: Sugiyama requests that the Department correct the order dates for a list of invoices included in its July 27, 1990 submission.

DOC Position: The Department did not make these changes. The Department provided Sugiyama with ample opportunity to revise its questionnaire response. The Department cannot continue to make such changes if it is to fulfill its obligation to complete reviews on a timely basis. Sugiyama continues to find small errors in its data, and at this late date in the review, it is very burdensome for the Department to make the changes respondent requests. In addition, new data submitted at this time would be filed in an untimely fashion pursuant to 19 CFR 353.31(b).

Comment 9: Sugiyama contends that the DOC should not apply the ESP offset adjustment in this case because the use of it leads to margins where they would not otherwise exist.

DOC Position: We disagree. The ESP offset adjustment is correctly applied in situations of this kind pursuant to 19 CFR 353.56.

Comment 10: Sugiyama and Hokoku request that we apply a 90-day lag in exchange rates between October 28, 1987 and March 31, 1988 because of a sustained change in exchange rates between these dates.

DOC Position: The evidence respondent offers to support the use of a 90-day lag because of a change in exchange rates is not persuasive. Respondent claims that rates began a sustained increase on October 28, 1987. In fact, respondent's own data show that the rates for the fourth quarter of 1987 changed little from those for the third quarter. The October 28, 1987 rate appears to be an aberration. Moreover, respondent's request was untimely leaving insufficient time to properly investigate such a claim.

B. Hitachi Metals Techno, Ltd.

Comment 1: Hitachi argues that the Department incorrectly calculated inland freight, insurance, duty, and brokerage ratios for the review period. Hitachi maintains that the Department should have applied the listed percentages to the f.o.b. purchase price of chain sold instead of applying them to the U.S. selling price as was done for the preliminary results of review.

DOC Position: We disagree. For our preliminary results, we recalculated the above-named expenses as best information available because Hitachi did not provide sufficient information to

support its allocation methodology. Our position has not changed for these final results for several reasons. Because Hitachi did not provide the f.o.b. values, we were unable to confirm the accuracy of the allocations on the computer tape, which were provided in the form of percentage of f.o.b. Moreover, additional information regarding these expenses was untimely pursuant to 19 CFR 353.31(a)(ii). Finally, it does not appear likely that each of these expenses was incurred on a value basis rather than a weight, distance, volume, or other basis. For all of the above reasons, we have not altered our treatment of these expenses from the preliminary results.

Comment 2: Hitachi argues that the Department incorrectly deducted as an expense the bad debt reserve allowance from the U.S. selling price. This allowance is not an actual expense, but merely a reserve account used for covering future default payments by customers. Moreover, this fund was not drawn upon during the review period. Hitachi maintains that this should preclude the deduction of the allowance as an expense.

DOC Position: We disagree. Bad debt reserve is used to cover future losses resulting from customer's failure to pay. Irrespective of whether bad debt losses are actually incurred during the period of review, the setting aside of a reserve to cover such losses remains an indirect selling expense. Therefore, we have made the deduction from ESP.

Comment 3: Hitachi contends that the Department incorrectly calculated and deducted an imputed credit expense from the U.S. price. In addition, the Department double-counted the credit expense by also deducting the interest expense provided by Hitachi in its SG&A and interest expense calculations. Hitachi requests that the Department recalculate the SG&A and omit itemized interest expense data from the SG&A ratios.

DOC Position: We agree with Hitachi and have made the appropriate adjustments.

Comment 4: Hitachi contends that in its preliminary determination the Department calculated an imputed home market credit expense and deducted it as a direct expense from the home market price when calculating foreign market value. At the same time, Hitachi states that the Department declined to make a circumstance of sale adjustment by deducting home market interest expense from foreign market value. Hitachi contends that the Department should apply the same credit expense methodology used in the foreign market value calculations to the U.S. credit expense.

DOC Position: We made imputed credit expense adjustments to both the U.S. and home markets. To avoid double-counting we did not adjust for the claimed interest expense in the calculation of credit for both the home and U.S. markets.

Comment 5: Petitioner argues that because Hitachi has failed to supply sufficient information concerning foreign inland freight, ocean freight, marine insurance, U.S. duty, U.S. freight, U.S. brokerage, and U.S. indirect selling expenses, the Department should rely on the best information available in calculating the company's margin.

DOC Position: The Department's methodology for calculating the movement expenses is outlined in Hitachi Comment 1.

Comment 6: Petitioner argues that the Department should use the highest margin calculated for a matched Hitachi sale as the best information available for determining the margin to be applied to unmatched Hitachi sales. Petitioner states that the Department's decision to apply "the weighted-average margin calculated on identical comparison sales" unfairly rewarded Hitachi for its failure to supply requested data.

DOC Position: We disagree. To calculate the best information available rate for unmatched transactions, we applied the weighted-average margin calculated for all comparison sales. Application of the highest rate is inappropriate in this instance because than the highest individual rate appeared to be anomalous.

C. Takasaqo RK Excel Co., Ltd.

Comment 1: Takasago contends that the Department should reconsider its preliminary decision to apply to Takasago the highest rate calculated for a respondent under review. Specifically, Takasago suggests that the Department either (1) calculate Takasago's margin based on its non-computerized data through the use of sampling or averaging techniques; (2) permit Takasago to submit additional information to supplement the original responses; or (3) apply a less punitive best information available rate based on either an average of Takasago's prior margins, the last calculated rate which resulted in a margin greater than a *de minimis* amount, or Takasago's most recently determined best information available rate from the 1982-83 review period for the importer to whom Takasago exported merchandise during the review period.

Takasago argues that application of a rate other than the highest rate calculated for a respondent is justified because of Takasago's good faith attempts to comply with the Department's requests for information and Takasago's reliance on the Department's past practice in prior reviews. Takasago asserts that although numerous factors and circumstances prevented Takasago's complete compliance with the Department's requests, its cooperation and efforts to comply warrant a non-punitive best information available rate.

Takasago contends that language barriers and the lack of sophistication of company personnel and computer technology precluded Takasago from properly reporting all sales information. Absent a complete understanding of the Department's methodology and requests for information, Takasago relied on the Department's past practice of accepting the information submitted by Takasago as an indication of the sufficiency of its response. In prior review periods, the Department did not contact Takasago nor request additional information with regard to Takasago's submissions. In the current case, Takasago did not attach any special significance to the additional deficiency letters and requests for computerized data.

Takasago also contends that the Department's efforts to apprise Takasago of the Department's reinforced standards were "too subtle" and its assistance inadequate. Specifically, the telephone conversation initiated by a U.S Embassy interpreter in Tokyo failed to adequately explain the negative consequences of applying the best information available rate. In addition, correspondence from the Department was too technical to be understood and the firm was unable to comply within the required time frame. With the assistance of only Japanese counsel, Takasago continued to rely on the Department's practice in prior reviews as a guide to the Department's actual requirements.

Takasago's efforts to sufficiently fulfill the Department's requests were further hampered by the loss of necessary information during a recent merger, an insufficient staff to gather the data and compile the responses, the overwhelming amount of information requested on a large volume of sales transactions during the relevant review periods, and the absence of any computer facilities or computer-literate staff to provide information in the required computerized format. Takasago contends that the Department's requirement of computerized submissions constituted an extreme and unfair burden in that the company does not maintain computerized records and the time requirements imposed were

inadequate to enable the company to provide computerized information. Despite these obstacles, the response actually submitted by Takasago indicates Takasago's good faith effort to comply with the Department's demands.

Petitioner urges the Department to continue to apply the best information available rates from the preliminary determination due to the "woeful inadequacy" of Takasago's response.

DOC Position: The Department agrees with petitioner. In this case, the evidence on the record calls for use of the highest rate calculated for another respondent as a best information available rate for Takasago in the administrative review. The Department's application of best information available to calculate Takasago's dumping margin is reasonable and justified, because Takasago's original responses and deficiency response contain serious deficiencies that render them wholly inadequate for use in calculating dumping margins. Among the numerous deficiencies, the most egregious were lists of sales on a cumulative per-model basis rather than on a transactional basis, failure to separate U.S and home market charges and expenses, failure to allocate the charges on a transactional basis or even to attempt to formulate a reasonable allocation methodology, and failure to provide a computerized database. The omissions of information are so pervasive that any attempt to calculate a dumping margin using Takasago's data would be completely arbitrary.

Takasago contends that its good faith efforts and mitigating circumstances warrant application of a best information available rate other than the highest rate imposed on another respondent in the review. Takasago professes that its reliance on the Department's past practice of accepting its response was reasonable because the Department failed to adequately notify the respondents of a change in procedure. A review of the record indicates otherwise.

The Department repeatedly attempted to convey to Takasago the seriousness of its deficiencies. Over the course of the review period, Takasago received three deficiency letters. A February 28, 1990 letter specifically notified Takasago of the Department's requirement for computerized data. Given the explicit and numerous notices received by Takasago, Takasago cannot reasonably rely on the Department's past acceptance of its responses as an indication of approval for the response submitted in the review period. In prior years, as respondent notes, the Department sent no deficiency letter. In this review, it sent three. A reasonable conclusion is that something was different. In addition, the company could have resolved any misunderstandings resulting from linguistic problems by contacting the Import Administration attache at the American Embassy. In fact, the Import Administration attache/interpreter initiated contact with Takasago. As the record indicates, the Department took unprecedented and unusual steps to notify the company of the Department's procedures and to elicit the necessary information from the company to comply with the Department's requests. In this specific case, the Department more than satisfied any responsibility it has to assist a respondent in complying with the Department's requests.

Takasago also cites numerous other factors which prevented the company from adequately responding to the Department's requests within the specified time periods. Despite the alleged existence of these factors, the Department maintains that the appropriate best information available rate was applied in light of the total circumstances. The Department has numerous orders to administer, which it must do on a timely basis and in accordance with the law. It remains respondent's duty to apprise themselves of the requirements under the laws and to satisfactorily meet those requirements. In this case, respondents failed to present even the minimal information required.

D. Pulton Chain Co., Ltd.

Comment 1: Petitioner contends that the Department should continue to apply a rate based on the best information available for Pulton because it failed to submit computer diskettes in time for use in the preliminary results of review and did not provide the data necessary to match U.S. sales with home market transactions. Petitioner relies on 19 CFR 353.31(a)(ii) to support its position that respondent's submission of computer data is untimely and should not be used for the final results. Petitioner argues that use of a company's data without the opportunity for a domestic party to comment on the use or content of such data deprives the domestic party of its statutory rights and constitutional rights of due process.

Pulton requests that, in the final results of review, the Department use the company's data submitted on computer diskettes on April 16, 1990, May 8, 1990, June 1, 1990 and June 27, 1990 to calculate the antidumping margins for the review period. Pulton contends that the company submitted the data in response to each of the Department's requests. Furthermore, the data submitted by the company does not constitute new data. The multiple submissions of diskettes arose from a format problem with the computer diskettes and did not involve any changes in information submitted or any new information.

Pulton further argues that use of its data does not infringe upon petitioner's constitutional or statutory rights. Pulton states that petitioner was provided with an APO version of a printout of the computer tapes on July 1, 1990, at which time the petitioner could have commented on the material. Furthermore, the opportunity for clerical error review and judicial review presents the petitioner with the opportunity to comment on Pulton's data and the results of the use of that data. Pulton cites precedent for use of information submitted after the date of the preliminary results of review.

DOC Position: The Department agrees with respondent. Fairness and equity warrant use of respondent's data. As the record demonstrates, unusual technical difficulties occurred with Pulton's computer diskettes. Pulton consistently cooperated with the Department to remedy the problem which arose from the use of a computer system incompatible with the Department's system. Due to the nature of the technical problem, the Department notified Pulton in a letter dated June 18, 1990 that the Department would use the computer data in the final administrative review if the technical problem was corrected in conformity with our instructions by June 29, 1990. On June 29, 1990, Pulton submitted diskettes consistent with our instructions. The information submitted constituted an adequate response and we have used respondent's data to the extent possible to compute margins based on sales or constructed value information.

Petitioner's claim that use of Pulton's data deprives petitioner of its statutory and constitutional right to meaningful participation is without merit. The correspondence notifying respondent of the Department's decision to use the data if properly submitted by June 29, 1990 is contained in the public record. The June 18, 1990 letter serves as notice to all parties of the Department's possible use of the data in the final administrative review. Petitioner also received an APO version of Pulton's submission. Knowledge of the Department's possible use of the data and receipt of the respondent's APO version of its response provided

petitioner with the opportunity to comment on respondent's data. Any harm incurred by petitioner was due not to administrative actions but to petitioner's own failure to effectively participate in the administrative review proceedings. (See Best Information Available section.)

E. Izumi Chain Manufacturing Co., Ltd.

Comment 1: Izumi contends that it is unreasonable for the Department to request that Izumi report sales of Izumi-produced chain in the home market made by a party related to Izumi. Izumi argues that it has no control over the related party and could not compel the related party to respond to the Department's requests for information. Further, all sales between Izumi and the related party were arm's length transactions.

The petitioner contends that the Department was correct in requesting related party sales information. Such information is necessary for the calculation of U.S. price, because sales of Izumi roller chain made through a related party must be considered in calculating Izumi's antidumping margin. In addition, for sales made in the home market through a related party, the foreign market value must be based on the resale prices of the related party.

DOC Position: 19 CFR 353.45(b) provides that the Department may calculate foreign market value based on sales made through a related party. Pursuant to 19 CFR 353.45(a), it is the Department's practice to calculate foreign market value based on prices to related parties, if the respondent can show that those sales are as between two unrelated companies (*i.e.*, that the sales were arm's length transactions). If the respondent cannot show that the sales were at arm's length, and the sales made through the related party are a significant percentage of all sales in the home market, the Department calculates foreign market value on the basis of the sale price to the first unrelated party.

The Department provided Izumi with the opportunity to either show that its home market sales were at arm's length or to report the sales to the first unrelated purchaser.

Izumi could not show that its sales to the related party were at arm's length. In fact, these sales did not appear to be at market prices because the prices to the related party were uniformly lower than prices to unrelated parties. While Izumi claimed that the lower prices were attributable to economies of scale associated with its sales to the related party, Izumi was unable to show any correlation between manufacturing cost savings for merchandise sold to the related party and price discounting. In situations in which the transactions between related parties cannot be shown to be at arm's length and a substantial percentage of home market sales were made through a related party, the Department must rely on the sales to the first unrelated purchasers in calculating foreign market value. Izumi's refusal or inability to provide information on the sales to the first unrelated purchaser left the Department no basis with which to calculate foreign market value.

Comment 2: Izumi contends that in the absence of home market sales information, the Department is required to utilize third country sales or constructed value.

DOC Position: Section 773(A)(1) of the Act establishes a clear hierarchy for the calculation of foreign market value. The Act dictates that foreign market value be based on home market sales unless there were no home market sales or the quantity of home market sales is so small as to form an inadequate basis for comparison. Sales of Izumi's roller chain in the home market were significant enough to form an adequate basis for comparison. Where the home market is the appropriate basis for foreign market value and where a respondent is unable or unwilling to report those sales, the Act does not permit the calculation of foreign market value based on third country sales or constructed value.

Comment 3: Izumi argues that it has cooperated with the Department by submitting four responses, two deficiency responses, and six computer tapes and that this degree of cooperation does not warrant the total disregard of Izumi's data.

DOC Position: Izumi has not responded in a qualitative sense to the Department's requests for information. As noted in the *Price Comparisons* section of this notice, Izumi's responses were seriously deficient in a number of areas. Any one of the noted deficiencies alone would necessitate the use of the best information available. The Department is required, in accordance with section 776(c) of the Act, to use the best information available "whenever a party or other person refuses or is unable to produce information requested in a timely manner and in the form required."

Final Results of the Review

As a result of our analysis, we determine the margins to be:

Manufacturer/exporter	Margin (percent)
Sugiyama Chain Co., Ltd	1.36
I&OC of Japan Co., Ltd	1.36
Hitachi Metals Techno, Ltd	17.57
Takasago RK Excel Co., Ltd	17.57
Pulton Chain Co., Inc	0.07
Izumi Chain Co., Ltd	17.57

The Department will instruct the Customs Service to assess antidumping duties at the above rates on all appropriate entries. The Department will issue appraisement instructions directly to the U.S. Customs Service. Further, as provided for in section 751(a)(1) of the Act, the Department will require a cash deposit of estimated antidumping duties based on the above margins on entries of this merchandise from the manufacturers/exporters listed above. Because the weighted-average margin for Pulton Chain Co. is less than 0.50 percent and therefore *de minimis* for cash deposit purposes, the Department shall not require deposits on its shipments. For shipments from the remaining known manufacturers and exporters not covered by this review the cash deposit will continue to be the latest rate applicable to each of those firms. For any entries of this merchandise from a new exporter not covered in this or prior reviews, whose first shipments occurred after March 31, 1988, and who is unrelated to any reviewed firm or any previously reviewed firm, a cash deposit of 17.57 percent shall be required.

These deposit requirements are effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (9 U.S.C. 1675(a)(1)) and 19 CFR 353.22(c)(8).

Dated: October 11, 1990

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-24817 Filed 10-19-90; 8:45 am]

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[A-588-028]

Final Results of Antidumping Duty Administrative Review; Roller Chain, Other than Bicycle, from Japan

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On June 18, 1990, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping finding on roller chain, other than bicycle, from Japan. The review covers seven manufacturer/exporters of the subject merchandise to the United States for the period April 1, 1988 through March 31, 1989.

EFFECTIVE DATE: October 22, 1990.

FOR FURTHER INFORMATION CONTACT: Louis Apple or Bradford Ward, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–1769 or (202) 377–5288, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 18, 1990, the Department published in the **Federal Register** (55 FR 26240) the preliminary results of the administrative review of the antidumping finding on roller chain, other than bicycle (roller chain), from Japan (38 FR 9226, April 12, 1973). The Department has now completed the administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). We have reviewed the following companies for the period April 1, 1988 through March 31, 1989: Kaga Kogyo K.K./Kaga Industries Co., Ltd. (Kaga), APC Corporation, Sugiyama Chain Co., Ltd. (Sugiyama), I&OC of Japan Co., Ltd. (I&OC), Hitachi Metals Techno, Ltd. (Hitachi), Takasago RK Excel Co., Ltd. (Takasago), Pulton Chain Co., Inc. (Pulton), and Izumi Chain Manufacturing Co., Ltd. (Izumi).

Scope of Review

Imports covered by this review are shipments of roller chain from Japan. The term "roller chain, other than bicycle" as used in this review includes chain, with or without attachments, whether or not plated or coated, and whether or not manufactured to American or British standards, which is used for power transmission and/or conveyance. Such chain consists of a series of alternately assembled roller links and pin links in which the pins articulate inside the bushings and the rollers are free to turn on the bushings. Pins and bushings are press fit in their respective link plates. Chain may be single strand, having one row of roller links, or multiple strand, having more than one row of roller links. The center plates are located between the strands of roller links. Such chain may be either single or double pitch and may be used as power transmission or conveyor chain.

The review also covers leaf chain, which consists of a series of link plates alternately assembled with pins in such a way that the joint is free to articulate between adjoining pitches. The review further covers chain model numbers 25 and 35. Roller chain is currently classifiable under HTS sub-headings 7315.11.00 through 7315.12.00. These HTS sub-headings are provided for convenience and customs purposes. The written description remains dispositive.

Price Comparisons

A. Kaga Kogyo K.K./Kaga Industries Co., Ltd./APC Corporation

United States Price

As provided for in section 772(b) of the Act, we used purchase price to represent the United States price because Kaga knew at the time of the sale to an unrelated Japanese trading company that the ultimate destination of the merchandise was the United States. Purchase price was based on the packed, Yokohama port price to the unrelated trading company in Japan. We made adjustments for foreign inland freight.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we calculated foreign market value based on packed, delivered prices to unrelated wholesalers and original equipment manufacturers in the home market. We made deductions, where appropriate, for inland freight.

We made circumstance of sale adjustments for differences in credit terms and technical service expenses, in accordance with 19 CFR 353.56. We deducted home market packing costs and added U.S. packing costs.

For sales that could not be matched contemporaneously, we calculated a weighted-average foreign market value for each product based on all reported sales during the review period.

B. Sugiyama Chain Co., Ltd. and I&OC of Japan Co., Ltd.

United States Price

Sugiyama made sales during the review period to I&OC, an unrelated trading company in Japan, and through a related party in the United States that sold the merchandise to unrelated purchasers after importation into the United States. Sugiyama knew at the time of the sale to I&OC that the ultimate destination of the merchandise was the United States. Therefore, all I&OC sales of Sugiyama-produced subject merchandise are subject to Sugiyama's antidumping duty rate.

As provided for in section 772(b) of the Act, we used purchase price between Sugiyama and I&OC to represent the United States price for all sales by I&OC, because Sugiyama knew that the ultimate destination of the merchandise was the United States at the time of the sale. We calculated the purchase price based on packed, f.o.b., Tokyo port prices, and made a deduction for foreign inland freight.

As provided for in section 772(c) of the Act, we used the exporter's sales price (ESP) to represent the United States price for all sales made through Sugiyama's related U.S. subsidiary because these sales were made to unrelated purchasers after importation into the United States. We made deductions, where appropriate, for foreign inland freight, foreign brokerage and handling, ocean freight, marine insurance, U.S. duty, U.S. freight and U.S. brokerage.

In accordance with section 772(e)(2) of the Act, we made additional deductions, where appropriate, for advertising, credit expenses and indirect selling expenses. Indirect selling expenses include U.S. and Japanese incurred selling expenses and inventory carrying costs. In accordance with section 772(e)(1) of the Act, we also deducted commissions.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we calculated foreign market value based on packed, delivered prices to unrelated customers in the home market. We determined that sales to a related party were not at arm's length, as claimed by Sugiyama. Therefore, we did not use these sales in making our comparisons.

For comparisons involving purchase price sales, we made deductions for inland freight. We made circumstance of sale adjustments for differences in credit expense and advertising in accordance with 19 CFR 353.56. We deducted home market packing costs from the foreign market value and added U.S. packing costs.

For comparisons involving ESP sales, we made deductions, where appropriate, for inland freight. We made circumstance of sale adjustments, where appropriate, for differences in credit terms and for advertising expenses in accordance with 19 CFR 353.56. We deducted home market indirect selling

expenses, including inventory carrying costs, product liability expenses, salesmen's travel expenses, and other indirect selling expenses. This deduction for indirect selling expenses was capped by the amount of indirect selling expenses and commissions incurred in the U.S. market, in accordance with 19 CFR 353.56. We deducted home market packing costs from the foreign market value and added U.S. packing costs.

For sales that could not be matched contemporaneously, we calculated a weighted-average foreign market value for each product based on all reported sales during the review period.

For one sale there was no identical merchandise in the home market with which to compare merchandise sold in the United States. For this sale, we used the weighted-average margin calculated for the identical comparison sales.

C. Hitachi Metals Techno, Ltd.

United States Price

As provided for in section 772(b) of the Act, we used purchase price to represent the United States price for certain sales by Hitachi because the merchandise was sold to unrelated parties prior to importation into the United States. We calculated the purchase price based on packed, c.i.f., duty paid, delivered prices to unrelated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight, ocean freight, marine insurance, U.S. duty, U.S. freight and U.S. brokerage. Because respondent did not provide sufficient information to support its allocation methodology, we recalculated the above expenses, using data submitted by respondent as the best information available.

As provided for in section 772(c) of the Act, we used ESP for the remaining sales, where the merchandise was sold to unrelated purchasers after importation into the United States.

We calculated ESP based on packed, c.i.f., duty paid, delivered prices to unrelated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight, ocean freight, marine insurance, U.S. duty, U.S.freight and U.S. brokerage. Because respondent did not provide sufficient information to support its allocation methodology, we recalculated the above expenses, using data submitted by respondent as the best information available.

In accordance with section 772(e)(2) of the Act, we made additional deductions, where appropriate, for credit expenses and indirect selling expenses, including bad debt expenses, mailing expenses, indirect advertising expenses, and other indirect selling expenses. The lack of appropriate prior price information on the record precluded the Department's confirmation of Hitachi's allocation methodology for these expenses for U.S. sales during the review period. Therefore, we recalculated indirect selling expenses for U.S. sales, including bad debt and other expenses, using Hitachi's ESP information as best information available because respondent did not provide sufficient information to support its own overall U.S. sales allocation methodology. In accordance with section 772(e)(1) of the Act, we also deducted commissions.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we calculated foreign market value based on packed prices to related and unrelated customers in the home market. We used sales to related parties only when we determined that the sales were at prices reflective of arm's length transactions.

We made circumstance of sale adjustments for differences in credit terms in accordance with 19 CFR 353.56.

For comparisons involving purchase price sales, we added U.S. commissions to the foreign market value and subtracted home market indirect selling expenses up to the amount of the U.S. commission.

For comparisons involving ESP sales, we deducted home market indirect selling expenses, including indirect advertising, and salesmen's salaries and expenses. This deduction for indirect selling expenses was capped by the amount of indirect selling expenses and commissions incurred in the U.S. market, in accordance with 19 CFR 353.56.

For sales that could not be matched contemporaneously, we calculated a weighted-average foreign market value for each product based on all reported sales during the review period.

In certain instances there were no sales of identical merchandise in the home market with which to compare merchandise sold in the United States. For some sales there were no matches provided, either identical or similar, and for other sales respondent provided similar matches but failed to provide difference in merchandise adjustment information. For these transactions, because respondent did not provide us with the information necessary to calculate a margin, the Department applied the weighted-average margin calculated for comparison sales as the best information available.

D. Takasago RK Excel Co., Ltd.

Price Comparisons

As provided for in section 776(c) of the Act, the Department has determined that use of best information available is appropriate for all sales of the subject merchandise from Takasago. The Department's decision is based on Takasago's failure to provide adequate responses to the Department's questionnaire and deficiency letters prior to the preliminary determination. The magnitude of Takasago's omissions and its complete failure to respond to the deficiency letters precluded the calculation of a margin using Takasago's data. Specifically, Takasago failed to: (1) Submit the required sales data in computerized format; (2) provide sales data in a format that would enable the Department to make price to price comparisons; and (3) provide the cost data necessary to calculate difference in merchandise adjustments.

As the best information available, the Department used the highest rate calculated for a respondent in this administrative review. (See Takasago Comment 1.)

E. Pulton Chain Co., Ltd.

United States Price

As provided for in section 772(b) of the Act, we used purchase price to represent the United States price because all sales were made directly to unrelated parties prior to importation into the United States. We calculated the purchase price based on packed, c.i.f. or f.o.b. prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, foreign brokerage, ocean freight and marine insurance.

We imputed credit for respondent's U.S. sales because respondent failed to provide any information on credit expenses incurred, including payment dates. As best information available, we based the credit calculation on an average credit period of 90 days. For a number of transactions we corrected respondent's database to conform to its written submissions, including one model match error for one transaction.

Foreign Market Value

In accordance with section 773 of the Act, we calculated foreign market value for Pulton based on home market sales prices or constructed value (CV), as appropriate.

For those products sold in the United States for which an identical model was sold in the home market, we deducted home market packing costs from the foreign market value and added U.S.

packing costs. We recalculated home market credit based on the short-term interest rate and average credit period, as provided by respondent. We made a circumstance of sale adjustment, where appropriate, for differences in credit terms.

For those products sold in the United States for which no identical model was sold in the home market and for which respondent provided cost of production data, we calculated foreign market value based on CV as provided for in section 773(e) of the Act.

Constructed value includes the cost of materials and fabrication of the merchandise, plus general expenses, profit and packing. For material, direct labor and overhead, the Department used the respondent's data. Some of these figures were adjusted using respondent's data to coincide with sales value information submitted on a per foot basis. Actual selling, general and administrative (SG&A) costs were used because these amounts exceeded the statutory minimum of ten percent. For general and administrative costs the Department derived the rate from the respondent's annual financial statements. Interest expense was also derived from the respondent's annual financial statements. Total interest expense was reduced by the ratio of accounts receivable to total assets, in order to account for imputed credit costs which were individually added to the constructed value. The Department also added a per unit amount of indirect selling expenses. For profit the Department used the statutory minimum of eight percent as actual profit was less than eight percent of the cost of production. The Department added the respondent's per unit amount of packing on a per foot basis to arrive at total constructed value.

We made a circumstance of sale adjustment for differences in home market and United States credit expenses.

F. Izumi Chain Manufacturing Co., Ltd.

Price Comparisons

As provided for in section 776(a) of the Act, the Department has determined that use of best information available is appropriate for all sales of the subject merchandise from Izumi. The Department's decision is based on the magnitude of the omissions and deficiencies in Izumi's responses. Specifically, Izumi failed to: (1) Provide the Department with convincing evidence to support its claim that its home market sales to a related party were at prices reflective of arm's length transactions, or provide the Department with information regarding the home market sales to the first unrelated purchaser; (2) Properly match its U.S. sales with the most similar home market merchandise in accordance with the Department's requirements, or provide information that would allow the Department to select the most similar home market product; and (3) Provide the information necessary to calculate the differences in merchandise costs associated with any new matches.

As the best information available, the Department used the highest rate calculated for a respondent in this administrative review.

Currency Conversion

In accordance with 19 CFR 353.60 we used the official exchange rates in effect on the appropriate dates for determining foreign market value. All currency conversions were made at the rates certified by the Federal Reserve Bank.

Interested Party Comments

A. Kaga Kogyo K.K./Kaga Industries Co., Ltd./APC Corporation

Comment 1: Petitioner requested that the Department verify Kaga's questionnaire response before issuing the final results of this administrative review. Petitioner contends that under the Department's regulations, the Department may conduct a verification where it determines that "good cause for verification exists." (19 CFR 353.36(a)(iv)).

DOC Position: The Department denied petitioner's request for verification of Kaga's questionnaire response. Petitioner's request was untimely in accordance with 19 CFR 353.38(a)(v)(A); and would have prevented the Department from properly carrying out its investigation within the statutory deadline.

B. Sugiyama Chain Co., Ltd. and I&OC of Japan Co., Ltd.

Comment 1: Sugiyama, I&OC and Hokoku contend that the Department should reverse its preliminary decision to apply a single dumping margin for Sugiyama sales through the I&OC and Hokoku distribution channels. Respondents argue that the Department correctly calculated separate margins for each distribution channel in prior administrative reviews. Furthermore, consistency with past practice requires the Department to continue to assign a separate dumping margin to each distribution channel because the parties have reasonably relied on prior margins to individually apply for a revocation of the dumping order. Respondents further maintain that the Department's circumvention concern, which may have motivated the Department to assign a single dumping rate to all Sugiyama sales, is unwarranted because Sugiyama does not retain the authority or control to shift sales between the different distribution channels.

Petitioner requests that the Department calculate a final margin for "Sugiyama/I&OC" sales based exclusively on sales between Sugiyama and I&OC rather than the weighted-average margin calculated on all Sugiyama sales. The weighted-average margin used in the final determination included all sales through different distribution channels.

DOC Position: We disagree that separate margins should be calculated for a company's individual distribution channels. In deciding whether it is appropriate to revoke a company out of an order, it is necessary to evaluate the pricing behavior of the company as a whole, as opposed to the pricing behavior to individual customers. To do otherwise would provide a company with the opportunity to switch distribution channels so as to limit dumping liability, or escape it altogether. Therefore, the Department has assigned only one margin for all of Sugiyama's sales, regardless of the distribution channel, based on the weighted-average margin of all its sales. The Department will, however, continue to list Sugiyama's separate distribution channels as an administrative convenience to the Customs Service.

Comment 2: Petitioner contends that Harima Enterprise Co., Ltd. (Harima) should receive Sugiyama's final margins in this review if Sugiyama generally knows the ultimate destination of the roller chain at the time of sale to Harima. If Sugiyama does not know the ultimate destination of the merchandise, the Department should continue to apply the most recent actual rate calculated for Harima.

DOC Position: Harima did not sell any subject merchandise to United States customers during this period of review. We will apply the Sugiyama rate from this administrative review to any entries of roller chain sold by Sugiyama/Harima.

Comment 3: Sugiyama contends that home market expenses reported as "other" should be deducted as direct expenses, rather than as indirect expenses, because these expenses were incurred to promote sales.

DOC Position: We disagree. These expenses, by respondent's own admission "cannot be tied to a specific product, sale or customer." These expenses represent overhead such as

automobile repair and maintenance, gasoline costs, and train and airline tickets, all of which are costs that would be incurred regardless of whether a sale was made.

Comment 4: Sugiyama requests that the Department revise the home market credit expense calculations pursuant to Attachment 3 of Sugiyama's July 27, 1990 submission.

DOC Position: We disagree. We have used the credit methodology originally submitted by Sugiyama, and have confirmed that Sugiyama's narrative questionnaire response is consistent with the credit calculations reported on the tape. The Department cannot accept changes to data that were submitted in an untimely fashion, according to 19 CFR 353.31(a) (ii).

Comment 5: Sugiyama contends that the Department should use sales to a related customer in the home market to calculate foreign market value.

DOC Position: We disagree. Sugiyama admits that the customer in question is related. Through an analysis of the data, the Department has confirmed that the related customer is charged prices that are lower than those charged to unrelated customers. Thus, the sales were not made at arm's length, and fail to provide a suitable basis for establishing foreign market value.

Comment 6: Sugiyama requests that the Department make a level of trade adjustment for its sales through Hokoku.

DOC Position: We disagree. Sugiyama has offered no evidence in support of its claim that Hokoku's higher prices are caused by the higher costs Hokoku incurs due to its place in the distribution chain.

Comment 7: Sugiyama requests that the Department exclude from its calculations all Hokoku sales made to Canadian customers that were erroneously reported as U.S. sales.

DOC Position: The Department has excluded such sales from the calculation of Sugiyama's dumping margin.

Comment 8: Sugiyama requests that the Department correct the order dates for a list of invoices included in its July 27, 1990 submission.

DOC Position: The Department did not make these changes. The Department provided Sugiyama with ample opportunity to revise its questionnaire response. The Department cannot continue to make such changes if it is to fulfill its obligation to complete reviews on a timely basis. Sugiyama continues to find small errors in its data and at this late date in the review, it is very burdensome for the Department to make the changes respondent requests. In addition, new data submitted at this time would be filed in an untimely fashion pursuant to 19 CFR 353.31(b).

Comment 9: Sugiyama contends that the DOC should not apply the ESP offset adjustment in this case because the use of it leads to margins where they would not otherwise exist.

DOC Position: We disagree. The ESP offset adjustment is correctly applied in situations of this kind pursuant to 19 CFR 353.56.

C. Hitachi Metals Techno, Ltd.

Comment 1: Hitachi argues that the Department incorrectly calculated inland freight, insurance, duty, and brokerage ratios for the review period. Hitachi maintains that the Department should have applied the listed percentages to the f.o.b. purchase price of chain sold instead of applying them to the U.S. selling price as was done for the preliminary results of review.

DOC Position: We disagree. For our preliminary results, we recalculated the above-named expenses as best information available because Hitachi did *not* provide sufficient information to support its allocation methodology. Our position has not changed for these final results for several reasons. Because Hitachi did not provide the f.o.b. values, we were unable to confirm the accuracy of the allocations on the computer tape, which were provided in the form of percentage of f.o.b. Moreover, additional information regarding these expenses was untimely pursuant to 19 CFR 353.31(a)(ii). Finally, it does not appear likely that each of these expenses was incurred on a value basis rather than a weight, distance, volume, or other basis. For all of the above reasons, we have not altered our treatment of these expenses from the preliminary results.

Comment 2: Hitachi argues that the Department incorrectly deducted as an expense the bad debt reserve allowance from the U.S. selling price. This allowance is not an actual expense, but merely a reserve account used for covering future default payments by customers. Moreover, this fund was not drawn upon during the review period. Hitachi maintains that this should preclude the deduction of the allowance as an expense.

DOC Position: We disagree. Bad debt reserve is used to cover future losses resulting from customer's failure to pay. Irrespective of whether bad debt losses are actually incurred during the period of review, the setting aside of a reserve to cover such losses remains an indirect selling expense. Therefore, we have made the deduction from ESP.

Comment 3: Hitachi contends that the Department incorrectly calculated and deducted an imputed credit expense from the U.S. price. In addition, the Department double-counted the credit expense by also deducting the interest expense provided by Hitachi in its SG&A and interest expense calculations. Hitachi requests that the Department recalculate the SG&A and omit itemized interest expense data from the SG&A ratios.

DOC Position: We agree with Hitachi and have made the appropriate adjustments.

Comment 4: Hitachi contends that in its preliminary determination the Department calculated an imputed home market credit expense and deducted it as a direct expense from the home market price when calculating foreign market value. At the same time, Hitachi states that the Department declined to make a circumstance of sale adjustment by deducting home market interest expense from foreign market value. Hitachi contends that the Department should apply the same credit expense methodology used in the foreign market value calculations to the U.S. credit expense.

DOC Position: Credit expense was imputed for both U.S. price and home market price. We made imputed credit expense adjustments to both the U.S. and home markets. To avoid double-counting we did not adjust for the claimed interest expense in the calculation of credit for both the home and U.S. markets.

Comment 5: Petitioner argues that because Hitachi has failed to supply sufficient information concerning foreign inland freight, ocean freight, marine insurance, U.S. duty, U.S. freight, U.S. brokerage, and U.S. indirect selling expenses, the Department should rely on the best information available in calculating the company's margin.

DOC Position: The Department's methodology for calculating the movement expenses is outlined in Hitachi Comment 1.

Comment 6: Petitioner argues that the Department should use the highest margin calculated for a matched Hitachi sale as the best information available for determining the margin to be applied to unmatched Hitachi sales. Petitioner states that the Department's decision to apply "the weighted-average margin calculated on identical comparison sales" unfairly rewarded Hitachi for its failure to supply requested data.

DOC Position: We disagree. To calculate the best information available rate for unmatched transactions, we applied the weighted-average margin calculated for all comparison sales. Application of the highest rate is inappropriate in this instance because

the highest individual rate appeared to be anomalous.

D. Takasago RK Excel Co., Ltd.

Comment 1: Takasago contends that the Department should reconsider its preliminary decision to apply to Takasago the highest rate calculated for a respondent under review. Specifically, Takasago suggests that the Department either (1) calculate Takasago's margin based on its non-computerized data through the use of sampling or averaging techniques; (2) permit Takasago to submit additional information to supplement the original responses; or (3) apply a less punitive best information available rate based on either an average of Takasago's prior margins, the last calculated rate which resulted in a margin greater than a *de minimis* amount, or Takasago's most recently determined best information available rate from the 1982–83 review period for the importer to whom Takasago exported merchandise during the review period.

Takasago argues that application of a rate other than the highest rate calculated for a respondent is justified because of Takasago's good faith attempts to comply with the Department's requests for information and Takasago's reliance on the Department's past practice in prior reviews. Takasago asserts that although numerous factors and circumstances prevented Takasago's complete compliance with the Department's requests, its cooperation and efforts to comply warrant a non-punitive best information available rate.

Takasago contends that language barriers and the lack of sophistication of company personnel and computer technology precluded Takasago from properly reporting all sales information. Absent a complete understanding of the Department's methodology and requests for information, Takasago relied on the Department's past practice of accepting the information submitted by Takasago as an indication of the sufficiency of its response. In prior review periods, the Department did not contact Takasago nor request additional information with regard to Takasago's submissions. In the current case, Takasago did not attach any special significance to the additional deficiency letters and requests for computerized data.

Takasago also contends that the Department's efforts to apprise Takasago of the Department's reinforced standards were "too subtle" and its assistance inadequate. Specifically, the telephone conversation initiated by a U.S Embassy interpreter in Tokyo failed to adequately explain the negative consequences of applying the best information available rate. In addition, correspondence from the Department was too technical to be understood and the firm was unable to comply within the required time frame. With the assistance of only Japanese counsel, Takasago continued to rely on the Department's practice in prior reviews as a guide to the Department's actual requirements.

Takasago's efforts to sufficiently fulfill the Department's requests were further hampered by the loss of necessary information during a recent merger, an insufficient staff to gather the data and compile the responses, the overwhelming amount of information requested on a large volume of sales transactions during the relevant review periods, and the absence of any computer facilities or computer-literate staff to provide information in the required computerized format. Takasago contends that the Department's requirement of computerized submissions constituted an extreme and unfair burden in that the company does not maintain computerized records and the time requirements imposed were inadequate to enable the company to provide computerized information. Despite these obstacles, the response actually submitted by Takasago indicates Takasago's good faith effort to comply with the Department's demands.

Petitioner urges the Department to continue to apply the best information available rate from the preliminary determination due to the "woeful inadequacy" of Takasago's response.

DOC Position: The Department agrees with petitioner. In this case, the evidence on the record calls for use of the highest rate calculated for another respondent as a best information available rate for Takasago in the administrative review. The Department's application of best information available to calculate Takasago's dumping margin is reasonable and justified, because Takasago's original responses and deficiency response contain serious deficiencies that render them wholly inadequate for use in calculating dumping margins. Among the numerous deficiencies, the most egregious were lists of sales on a cumulative per-model basis rather than on a transactional basis, failure to separate U.S and home market charges and expenses, failure to allocate the charges on a transactional basis or even to attempt to formulate a reasonable allocation methodology, and failure to provide a computerized database. The omissions of information are so pervasive that any attempt to calculate a dumping margin using Takasago's data would be completely arbitrary.

Takasago contends that its good faith efforts and mitigating circumstances warrant application of a best information available rate other than the highest rate imposed on another respondent in the review. Takasago professes that its reliance on the Department's past practice of accepting its response was reasonable because the Department failed to adequately notify the respondents of a change in procedure. A review of the record indicates otherwise.

The Department repeatedly attempted to convey to Takasago the seriousness of its deficiencies. Over the course of the review period, Takasago received three deficiency letters. A February 28, 1990 letter specifically notified Takasago of the Department's requirement for computerized data. Given the explicit and numerous notices received by Takasago, Takasago cannot reasonably rely on the Department's past acceptance of its responses as an indication of approval for the response submitted in the review period. In prior years, as respondent notes, the Department sent no deficiency letter. In this review, it sent three. A reasonable conclusion is that something was different. In addition, the company could have resolved any misunderstandings resulting from linguistic problems by contacting the Import Administration attache at the American Embassy. In fact, the Import Administration attache/interpreter initiated contact with Takasago. As the record indicates, the Department took unprecedented and unusual steps to notify the company of the Department's procedures and to elicit the necessary information from the company to comply with the Department's requests. In this specific case, the Department more than satisfied any responsibility it has to assist a respondent in complying with the Department's requests.

Takasago also cites numerous other factors which prevented the company from adequately responding to the Department's requests within the specified time periods. Despite the alleged existence of these factors, the Department maintains that the appropriate best information available rate was applied in light of the total circumstances. The Department has numerous orders to administer, which it must do on a timely basis and in accordance with the law. It remains respondent's duty to apprise themselves of the requirements under the laws and to satisfactorily meet those requirements. In this case, respondents

failed to present even the minimal information required.

E. Pulton Chain Co., Ltd.

Comment 1: Petitioner contends that the Department should continue to apply a rate based on the best information available for Pulton because it failed to submit computer diskettes in time for use in the preliminary results of review and did not provide the data necessary to match U.S. sales with home market transactions. Petitioner relies on 19 CFR 353.31(a)(ii) to support its position that respondent's submission of computer data is untimely and should not be used for the final results. Petitioner argues that use of a company's data without the opportunity for a domestic party to comment on the use or content of such data deprives the domestic party of its statutory rights and constitutional rights of due process.

Pulton requests that, in the final results of review, the Department use the company's data submitted on computer diskettes on April 14, 1990, May 8, 1990, June 1, 1990 and June 27, 1990 to calculate the antidumping margins for the review period. Pulton contends that the company submitted the data in response to each of the Department's requests. Furthermore, the data submitted by the company does not constitute new data. The multiple submissions of diskettes arose from a format problem with the computer diskettes and did not involve any changes in information submitted or any new information.

Pulton further argues that use of its data does not infringe upon petitioner's constitutional or statutory rights. Pulton states that petitioner was provided with an APO version of a printout of the computer tapes on July 1, 1990, at which time the petitioner could have commented on the material. Furthermore, the opportunity for clerical error review and judicial review presents the petitioner with the opportunity to comment on Pulton's data and the results of the use of that data. Pulton cites precedent for use of information submitted after the date of the preliminary results of review.

DOC Position: The Department agrees with respondent. Fairness and equity warrant use of respondent's data. As the record demonstrates, unusual technical difficulties occurred with Pulton's computer diskettes. Pulton consistently cooperated with the Department to remedy the problem which arose from the use of a computer system incompatible with the Department's system. Due to the nature of the technical problem, the Department notified Pulton in a letter dated June 18, 1990 that the Department would use the computer data in the final administrative review if the technical problem was corrected in conformity with our instructions by June 29, 1990. On June 29, 1990, Pulton submitted diskettes consistent with our instructions. The information submitted constituted an adequate response and we have used respondent's data to the extent possible to compute margins based on sales or constructed value information.

Petitioner's claim that use of Pulton's data deprives petitioner of its statutory and constitutional right to meaningful participation is without merit. The correspondence notifying respondent of the Department's decision to use the data if properly submitted by June 29, 1990 is contained in the public record. The June 18, 1990 letter serves as notice to all parties of the Department's possible use of the data in the final administrative review. Petitioner also received an APO version of Pulton's submission. Knowledge of the Department's possible use of the data and receipt of the respondent's APO version of its response provided petitioner with the opportunity to comment on respondent's data. Any harm incurred by petitioner was due not to administrative actions but to petitioner's own failure to effectively participate in the administrative review proceedings.

F. Izumi Chain Manufacturing Co., Ltd.

Comment 1: Izumi contends that it is unreasonable for the Department to request that Izumi report sales of Izumi-produced chain in the home market made by a party related to Izumi. Izumi argues that it has no control over the related party and could not compel the related party to respond to the Department's requests for information. Further, all sales between Izumi and the related party were arm's length transactions.

The petitioner contends that the Department was correct in requesting related party sales information. Such information is necessary for the calculation of U.S. price, because sales of Izumi roller chain made through a related party must be considered in calculating Izumi's antidumping margin. In addition, for sales made in the home market through a related party, the foreign market value must be based on the resale prices of the related party.

DOC Position: 19 CFR 353.45(b) provides that the Department may calculate foreign market value based on sales made through a related party. Pursuant to 19 CFR 353.45(a), it is the Department's practice to calculate foreign market value based on prices to related parties, if the respondent can show that those sales are as between two unrelated companies (*i.e.*, that the sales were arm's length transactions). If the respondent cannot show that the sales were at arm's length, and the sales made through the related party are a significant percentage of all sales in the home market, the Department calculates foreign market value on the basis of the sale price to the first unrelated party.

The Department provided Izumi with the opportunity to either show that its home market sales were at arm's length or to report the sales to the first unrelated purchaser.

Izumi could not show that its sales to the related party were at arm's length. In fact, these sales did not appear to be at market prices because the prices to the related party were uniformly lower than prices to unrelated parties. While Izumi claimed that the lower prices were attributable to economies of scale associated with its sales to the related party, Izumi was unable to show any correlation between manufacturing cost savings for merchandise sold to the related party and price discounting. In situations in which the transactions between related parties cannot be shown to be at arm's length and a substantial percentage of home market sales were made through a related party, the Department must rely on the sales to the first unrelated purchasers in calculating foreign market value. Izumi's refusal or inability to provide information on the sales to the first unrelated purchaser left the Department no basis with which to calculate foreign market value.

Comment 2: Izumi contends that in the absence of home market sales information, the Department is required to utilize third country sales or constructed value.

DOC Position: Section 773(A)(1) of the Act establishes a clear hierarchy for the calculation of foreign market value. The Act dictates that foreign market value be based on home market sales unless there were no home market sales or the quantity of home market sales is so small as to form an inadequate basics for comparison. Sales of Izumi's roller chain in the home market were significant enough to form an adequate basis for comparison. Where the home market is the appropriate basis for foreign market value and where a respondent is unable or unwilling to report those sales, the Act does not permit the calculation of foreign market value based on third country sales or constructed value.

Comment 3: Izumi argues that it has cooperated with the Department by submitting four responses, two deficiency responses, and six computer tapes and that this degree of cooperation does not warrant the total disregard of Izumi's data.

DOC Position: Izumi has not responded in a qualitative sense to the Department's requests for information. As noted in the *Price Comparisons* section of this notice, Izumi's responses were seriously deficient in a number of areas. Any one of the noted deficiencies alone would necessitate the use of the best information available. The Department is required, in accordance with section 776(c) of the Act, to use the best information available "whenever a party or other person refuses or is unable to produce information requested in a timely manner and in the form required."

Final Results of the Review

As a result of our analysis, we determine the margins to be:

Manufacturer/exporter	Margin (percent)
Kaga Industries Co., Ltd	0.00
APC Corporation	0.00
Sugiyama Chain Co., Ltd	0.62
I&OC of Japan Co., Ltd	0.62
Hitachi Metals Techno, Ltd	7.04
Takasago RK Excel Co., Ltd	7.04
Pulton Chain Co., Inc	1.08
Izumi Chain Co., Ltd	7.04

The Department will instruct the Customs Service to assess antidumping duties at the above rates on all appropriate entries. The Department will issue appraisement instructions directly to the U.S. Customs Service. Further, as provided for in section 751(a)(1) of the Act, the Department will require a cash deposit of estimated antidumping duties based on the above margin on entries of this merchandise from manufacturer/exporters listed above.

For shipments from the remaining known manufacturers and exporters not covered by this review the cash deposit will continue to be the latest rate applicable to each of those firms. For any further entries of this merchandise from a new exporter not covered in this or prior reviews, whose first shipments occurred after March 31, 1989, and who is unrelated to any reviewed firm or any previously reviewed firm, a cash deposit of 7.04 percent shall be required.

These deposit requirements are effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22(c)(8).

Dated: October 11, 1990.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-24818 Filed 10-19-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-337-602]

Standard Carnations From Chile; Revised Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of revised preliminary results of antidumping duty administrative review.

SUMMARY: In response to comments by three respondents, the Department of Commerce has determined to revise the preliminary results in the administrative review of the antidumping duty order on standard carnations from Chile, published in the **Federal Register** on August 14, 1989 (54 FR 33263). The review covers four producers/exporters of this merchandise to the United States and the period November 3, 1986 through February 29, 1988. Based on our analysis, we have determined not to use best information otherwise available for three respondents and have revised the margins from those presented in our preliminary results of August 14, 1989. The margin for the fourth respondent, Agricola Longotoma, remains the same.

EFFECTIVE DATE: October 22, 1990.

FOR FURTHER INFORMATION CONTACT: Laurie A. Lucksinger, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5253.

SUPPLEMENTARY INFORMATION: On March 20, 1987, the Department of Commerce (the Department) published in the **Federal Register** (52 FR 8939) the antidumping duty order on standard carnations from Chile. The Floral Trade Council, the petitioner, and three respondents requested, in accordance with 19 CFR 353.53a(a)(1988), that we conduct an administrative review. On August 14, 1989, the Department published in the **Federal Register** (54 FR 33263) the preliminary results of that administrative review. Based upon comments from three respondents, the Department has decided to revise the preliminary results in this administrative review.

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by the review are shipments of standard carnations from Chile. During the review period such merchandise was classifiable under item 192.21 of the Tariff Schedules of the United States Annotated (TSUSA). This merchandise is currently classifiable under HTS item 603.10.90. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive. The review covers four producers/or exporters of standard carnations from Chile to the United States and the period November 3, 1986 through February 29, 1988.

Decision to Issue Revised Preliminary Results of the Review

In arriving at the preliminary results for this review period (54 FR 33263), the Department initially relied on the best information otherwise available because the questionnaire responses it received from three respondents, Coexflor, Ltda. (Coexflor), Flores de Chile, Ltda. (Flores de Chile), and Sociedad Agricola Arixtia Vallejos Y Cia, Ltda. (Sociedad Agricola), did not provide the information as requested. The Department also used the best information otherwise available for a fourth company, Agricola Longotoma, Ltda. (Agricola Longotoma), because it did not respond to the questionnaire.

We received comments in response to our preliminary results of review, however, which indicated that we could conduct a review based on the initial and supplemental questionnaire responses. We reexamined the questionnaire responses for Coexflor, Flores de Chile, and Sociedad Agricola and agree that they are adequate. Therefore, we have revised our analysis of these three companies for this review period. The following discussion of United States price and foreign market

value applies to the methodology used to analyze these three companies.

United States Price

For purposes of our revised preliminary results of review, we used purchase price when sales were made to unrelated purchasers prior to the date of importation, as provided in section 772(b) of the Tariff Act of 1930, as amended (the Tariff Act), and exporter's sales price when sales were made to unrelated purchasers in the United States after the date of importation, as provided in section 772(c) of the Tariff Act.

Purchase price was calculated based on the f.o.b., Santiago, packed price to unrelated purchasers in the United States. We made deductions, where appropriate for movement expenses and phytosanitary charges. Exporter's sales price was calculated based on the price to the first unrelated customer in the United States. Deductions were made, where appropriate for movement expenses, commissions, phytosanitary charges, credit expenses and duty drawbacks.

All United States prices were weight-averaged on a monthly basis in order to account for the perishability of the product. Unlike nonperishable products, sellers cannot withhold their flowers from the market until they can obtain a desired price. Rather they accept whatever return they can obtain on certain sales or destroy the merchandise. We believe that averaging United States prices over a relatively short period of time contributes to a fairer and more representative measure of fair value. Accordingly, we have continued to calculate a monthly United States price, as was done in the fair value investigation leading to the antidumping duty order, as well as antidumping reviews on flowers from other covered countries.

Foreign Market Value

Foreign market value was calculated based on monthly weighted-average home market prices. In accordance with section 773(a) of the Tariff Act, we calculated foreign market value based, where applicable, on packed prices to unrelated purchasers in the home market. We made deductions, where appropriate for movement expenses and adjustments, where appropriate, for commissions and credit.

When comparing foreign market value to United States price, comparisons were made on a grade-specific basis whenever possible. If grade-specific information was unavailable, comparisons were made on a standard carnation basis.

Revised Preliminary Results of the Review

As a result of our revised calculations, we preliminarily determine that the following margins exist for the period November 3, 1986 through February 29, 1988:

Manufacturer/exporter	Margin (percent)
Agricola Longotoma	28.78
Coexflor	0.00
Flores de Chile	0.04
Sociedad Agricola	0.00

Interested parties may request disclosure within five days of publication of this notice and may request a hearing within ten days of publication. Any hearing, if requested, will be held 44 days after publication or the first workday thereafter. Case briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues in those comments, may be filed not later than 37 days after publication. the Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Furthermore, as provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated dumping duties based on the above margin shall be required on shipments of standard carnations by Argicola Longotoma. No cash deposit will be required on shipments of standard carnations by Coexflor or Sociedad Argicola. Since he margin for Flores de Chile is less than 0.5 percent and, therefore, *de minimis* for cash deposit purposes, the Department shall not require a cash deposit of antidumping duties on entries of carnations from Flores de Chile. For any future entries of this merchandise from a new producer and/or exporter, not covered in this review or in the original investigation, whose first shipments occurred after February 29, 1988, and who is unrelated to the reviewed firms or any firm which was subject to the original investigation, no cash deposit shall be required.

These deposit requirements are effective for all shipments of standard carnations from Chile entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a) (1) of the Tariff Act (19 U.S.C. 1675(a) (1)) and 19 CFR 353.22(1990).

Dated: October 12, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-24808 Filed 10-19-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-015]

Television Receivers, Monochrome and Color, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews

AGENCY: Import Administration/ International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative reviews.

SUMMARY: In response to requests by two domestic parties to the proceeding and one respondent, the Department of Commerce has conducted administrative reviews of the antidumping finding on television receivers from Japan. The reviews cover 11 manufacturers/exporters of this merchandise to the United States and various periods from September 29, 1983 through February 28, 1990. The reviews indicate the existence of dumping margins for certain firms during certain periods.

As a result of the reviews, the Department has preliminarily determined to assess antidumping duties equal to the difference between United States price and foreign market value.

If we received no company-supplied information or if information was inadequate or untimely, we used the best information available for assessment and cash deposit purposes.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: October 22, 1990.

FOR FURTHER INFORMATION CONTACT: David Levy, Simone Alfeld, or John R. Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923/3601.

SUPPLEMENTARY INFORMATION:

Background

On September 4, 1990, the Department of Commerce (the Department)

published in the **Federal Register** (55 FR 35916) the final results of its last administrative review (Sharp for 4/81–2/86) of the antidumping finding on television receivers, monochrome and color, from Japan (36 FR 4597, March 10, 1971). Two domestic parties to the proceeding, Zenith Corporation and the United Electrical Workers of America, Independent, International Brotherhood of Electrical Workers, International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers, AFL–CIO, and Industrial Union Department (the Unions), and one respondent, Fujitsu General, requested that we conduct administrative reviews for various periods from September 29, 1983 through February 28, 1990, in accordance with § 353.22(a) of the Department's Regulations. We published notices of initiation on April 18, 1986, July 9, 1986, March 8, 1988, April 28, 1989, and April 27, 1990. The Department is now conducting those administrative reviews pursuant to section 751 of the Tariff Act of 1930 (the Tariff Act).

Questionnaire responses were submitted by Fujitsu General, Funai, Hitachi, Matsushita, Mitsubishi, NEC, Sanyo, Seiko Epson, Sharp, Toshiba, and Victor, covering various periods.

Scope of the Review

Imports covered by the review are shipments of television receivers, monochrome and color, from Japan. Television receivers include, but are not limited to, units known as projection televisions, receiver monitors, and kits (containing all parts necessary to receive a broadcast television signal and produce a video image). Not included are certain monitors not capable of receiving a broadcast signal, certain combination units, and certain subassemblies not containing the components essential for receiving a broadcast television signal and producing a video image. During the review periods, television receivers, monochrome and color, were classifiable under items 684.9230, 684.9232, 684.9234, 684.9236, 684.9238, 684.9240, 684.9245, 684.9246, 684.9248, 684.9250, 684.9252, 684.9253, 684.9255, 684.9259, 684.9258, 684.9262, 684.9263, 684.9265, 684.9270, 684.9275, 684.9400, and 684.9655 of the Tariff Schedules of the United States Annotated (TSUSA). This merchandise is currently classifiable under Harmonized Tariff Schedule (HTS) items 8528.10.80, 8528.11.00, and 8528.20.00. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

These reviews cover 11 manufacturers/exporters of Japanese television receivers, monochrome and color, and various periods from September 29, 1983 through February 28, 1990. All reviewed periods are identified in the *Preliminary Results of Review*.

Of the eleven firms covered in these reviews, only Fujitsu General's (FG) eighth review rate is based on analysis of a questionnaire response. However, because FG's responses to the Department's ninth review questionnaires were untimely submitted, we used best information available (BIA) for FG's ninth review rate. Since FG had no commercial shipments during the eleventh review, for that period we used FG's rate from the ninth review.

Victor's questionnaire response for the ninth review period was inadequate because Victor provided information for only the first half of the review period. In addition, Matsushita declined to respond to the Department's ninth review questionnaire, Matsushita and Victor declined to respond to the Department's tenth review questionnaire, and Matsushita and NEC declined to respond to the Department's eleventh review questionnaire. In the eleventh review period, although Mitsubishi had no shipments, it did have sales of merchandise shipped during prior review periods; however, it declined to furnish information on these inventory sales. Therefore, for these four firms for the periods noted above, we used as BIA the highest rate for any firm from the most recent reviewed period, which is FG's 49.56 percent rate from the eighth review period.

Although Hitachi's and Sanyo's responses to the Department's antidumping questionnaire indicated that they had no commercial shipments during their respective reviewed periods, we have evidence from U.S. Customs of numerous entries of merchandise produced by these firms. Since it is unclear whether the imported merchandise is covered by this finding or whether these two firms had any knowledge of commercial shipments to the United States of covered merchandise, we determined not to use the most adverse BIA. Therefore, for Hitachi for periods 5 and 6, we used Funai's rate as BIA, which was the highest final rate for the periods. For both of these firms for periods 9, 10, and 11, as BIA we used the highest final rate for those periods, which was Funai's rate for period 9 and NEC's rate for period 10.

Funai, Sharp, and Toshiba had no shipments during their respective reviewed periods, and Victor had no shipments during the eleventh review period. Therefore, for these firms for these review periods we used their own rates from the last period in which there were shipments by these firms.

Seiko also had no shipments during the eleventh period of review. However, because this is the first review requested for Seiko, we applied the automatic liquidation rate in effect at the time of its last known shipment to the United States, which was in November 1986.

United States Price

In calculating United States price for FG in the eighth review, the Department used purchase price (PP) or exporter's sales price (ESP), both as defined in section 772 of the Tariff Act, as appropriate. PP and ESP were based on the packed f.o.b., c.i.f., or delivered price to unrelated purchasers in the United States. We made adjustments, as applicable, for ocean freight, marine insurance, U.S. and Japanese inland freight, inland freight insurance, U.S. and Japanese brokerage fees, forwarding and handling charges, export selling expenses incurred in Japan, discounts, royalties, rebates, commissions to unrelated parties, and the U.S. subsidiaries' selling expenses.

Foreign Market Value

In calculating foreign market value (FMV), the Department used home market price, as defined in section 773 of the Tariff Act, when sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. When more than 90 percent of the sales of a particular model were determined to be sold below the cost of production, we used constructed value, as defined in section 773 of the Tariff Act. Constructed value includes materials, fabrication, general expenses, profit and packing. We used: (1) Actual general expenses, since these exceeded the statutory minimum requirement of ten percent of materials and fabrication, (2) the statutory eight percent for profit, because actual profit was less than the statutory minimum, and (3) the cost of U.S. packing. We made adjustments, as applicable, for inland freight, discounts and rebates, royalties, advertising, sales promotion, and, in ESP comparisons, indirect selling expenses not exceeding the amount of U.S. indirect selling expenses.

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held as early as convenient for the parties but not later than 44 days

after the date of publication of this notice, or the first workday thereafter. Interested parties may submit case briefs/written comments not later than 30 days after the date of publication. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 7 days after submission of the case briefs. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

The Department shall determine, and the Customs Service will assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following margins exist:

Manufacturer	Review no.	Period of review	Margin (percent)
Fujitsu General	8		
	9		
	11	03/01/86–02/28/87	
		03/01/87–02/29/88	
		03/01/88–02/28/90	49.56
			49.56
			[1] 49.56
Funai Electric	11	03/01/89–02/28/90	[1] 21.93
Hitachi	5		
	6		
	9		
	10		
	11	09/29/83–03/31/84	
		04/01/84–02/28/85	
		03/01/87–02/29/88	
		03/01/88–02/28/89	
		03/01/89–02/28/90	21.93
			21.93
			16.32
			22.90
			22.90
Matsushita	8		
	10		
	11	03/01/87–02/29/88	
		03/01/88–02/28/89	
		03/01/89–02/28/90	49.56
			49.56
			49.56
Mitsubishi	11	03/01/89–02/28/90	49.56
NEC	11	03/01/89–02/28/90	49.56
Sanyo	9		
	10		
	11	03/01/87–02/29/88	
		03/01/88–02/28/89	
		03/01/89–02/28/90	16.32
			22.90
			22.90
Seiko Epson	11	03/01/89–02/28/90	[1] 21.93
Sharp	11	03/01/89–02/28/90	[1] 4.76
Toshiba	8		
	10		
	11	03/01/86–02/28/87	
		03/01/88–02/28/89	
		03/01/89–02/28/90	[1] 0.00
			[1] 0.00
			[1] 0.00
Victor	9		
	10		
	11	03/01/87–02/29/88	
		03/01/88–02/28/89	
		03/01/89–02/28/90	49.56
			49.56
			[1] 49.56

[1] No shipments during the period; rate from last period in which there were shipments.

Further, as provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the most recent of the above margins will be required for the above firms. For any future entries of this merchandise from a new exporter not covered in this or in prior reviews, whose first shipments of the merchandise occurred after February 28, 1990, and who is unrelated to any reviewed firm or any previously reviewed firm, a cash deposit of 49.56 percent shall be required. These deposit requirements are effective for all shipments of Japanese television receivers, monochrome or color, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of these administrative reviews.

These administrative reviews and this notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675 (a)(1)) and § 353.22 of the Department's regulations (19 CFR 353.22) (1989).

Dated: October 12, 1990.

Marjorie Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-24809 Filed 10-22-90; 8:45 am]

BILLING CODE 3510-DS-M

Short-Supply Determination: Certain Continuous Cast Steel Slabs

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice of short-supply determination on certain continuous cast steel slabs.

SHORT-SUPPLY REVIEW NUMBER: 22.

SUMMARY: The Secretary of Commerce ("Secretary") hereby grants a short-supply allowance for 125,000 net tons of certain continuous cast ("concast") steel slabs for the fourth quarter of 1990 under Article 8 of the U.S.-E.C. steel arrangement.

EFFECTIVE DATE: October 10, 1990.

FOR FURTHER INFORMATION CONTACT: Sally A. Craig or Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230 (202) 377-3510 or (202) 377-0159.

SUPPLEMENTARY INFORMATION: On September 12, 1990, the Secretary received an adequate short-supply petition from Tuscaloosa Steel Corp. ("TSC") requesting a short-supply allowance for 125,000 net tons of certain concast steel slabs for the fourth quarter of 1990 under Article 8 of the Arrangement Between the European Coal and Steel Community and the European Economic Community, and the Government of the United States of America Concerning Trade in Certain Steel Products. TSC is requesting short supply because domestic producers cannot meet its needs for the fourth quarter of 1990 and because it cannot obtain sufficient supplies with regular export licenses from its traditional offshore supplier. The Secretary conducted this short-supply review pursuant to section 4(b)(4)(A) of the Steel Trade Liberalization Program Implementation Act, Public Law No. 101-221, 103 Stat. 1886 (1989) ("the Act"), and § 357.102 of the Department of Commerce's Short-Supply Regulations (19 CFR 357.102).

The requested material meets the following specifications:

Dimensions:
- *Gauge: 8 inches to 10 inches*
- *Width: 60 inches to less than 84 inches*
- *Length: 240 inches to 384 inches*

Tolerances:
- *Thickness:* ±0.10 inch
- *Width:* +0.750 inch to 0.500 inch
- *Length:* +0.0% to 1.0%
- *Flatness:* ≤1.0% bow maximum

Camber: <0.2% length maximum
Weight: ±2.0% ordered weight with actual weight provided
Taper: Maximum 1.0 inch in 384 inches (slab must be dimensionally within ordered width including width tolerances)
Wedge: Maximum 0.187 inch
Chemical Composition:
C—0.08% to 0.13%
MN—0.80% to 1.10%
P—0.030% maximum
S—0.020% maximum
SI—0.15% to 0.30%
AL—0.030% to 0.065%
N2—0.010% maximum
Residuals 0.12% maximum
Certified chemical test reports are required per heat.
Quality:
Continuous cast process
Fully conditioned for rolling to hot-roll product
Hand conditioning is permissible
Torch cutting to length (¼ inch to ⅜ inch maximum dross allowable)
Identification:
Each slab must be identified with a heat number, slab number, and Tuscaloosa Steel order number (complete heat traceability is required).
Miscellaneous:
Supplier is required to provide a quality slab capable of meeting API, ASTM, or similar product specifications without further inspection or conditioning. Slab supplier will be expected to utilize statistical process control procedures to insure quality, and any non-conforming quality condition traceable to slab quality is considered for the account of the slab producer.

Action: On September 12, 1990, the Secretary established an official record on this short-supply request (Case Number 22) in the Central Records Unit, room B–099, Import Administration, U.S. Department of Commerce at the above address. On September 20, 1990, the Secretary published a notice in the Federal Register announcing a review of this request and soliciting comments from interested parties. Comments were required to be received no later than September 27, 1990, and interested parties were invited to file replies to any comments no later than five days after that date. In order to determine whether this product, or a viable alternative product, could be supplied in the U.S. market for the fourth quarter of 1990, the Secretary sent questionnaires to: McLouth Steel ("McLouth"), Gulf States Steel ("Gulf States"), Lukens Steel Company ("Lukens"), Weirton Steel Corp. ("Weirton"), Bethlehem Steel ("Bethlehem"), National Steel ("National"), Armco Inc. ("Armco"), LTV Steel Company ("LTV"), USX Wheeling-Pittsburgh Steel Corp. ("Wheeling"), Inland Steel ("Inland"), Citisteel USA, Inc. ("Citisteel"), Oregon Steel, Inc. ("Oregon"), and Geneva Steel Company ("Geneva"). The Secretary received ten written and two verbal questionnaire responses and no comments to the Federal Register notice.

Questionnaire Responses: Questionnaire responses indicate that there is no domestic availability of concast slabs to meet TSC's fourth quarter needs. McLouth, Gulf States, Lukens, and Weirton all state that they are unable to supply slabs completely meeting TSC's specifications. Bethlehem, LTV, National, USX, and Wheeling all state that they are unable to supply TSC because they have no available capacity for the fourth quarter of 1990. Armco states that it does not currently produce slabs meeting TSG's specifications, but that it does have the capability; however, it states that it is not willing to supply TSC. Inland states that it has the capability to produce these slabs in widths less than or equal to 76 inches but that it has no available casting time in the fourth quarter. Citisteel and Oregon did not respond to the questionnaires.

Geneva offers in its questionnaire response to supply TSC with 5,000 net tons of ingot-cast slabs for fourth-quarter delivery. Geneva maintains that TSC may have a legitimate need for concast slabs for the manufacture of some of its products, but that Geneva's slabs can satisfy a portion of, TSC's needs. Geneva attributes TSC's insistence on concast slabs to mill-efficiency considerations as opposed to customer requirements. Geneva further asserts that its products produced from ingot-cast slabs compete directly and extensively with TSC's products throughout Western and Gulf States markets and that Geneva and TSC have a number of common customers.

TSC replies by noting that Geneva did not oppose TSC's two previous short-supply requests for concast slabs (in 1988 and 1989) and that Geneva is in the process of building its own continuous caster. Furthermore, no other domestic producer has asserted that ingot-cast slabs can be substituted for concast slabs to meet TSC's needs. TSC's further states that "there is no reason to believe that any of the customers that Geneva claims to have in common with Tuscaloosa are purchasing the same products for the same applications from both companies." TSC maintains that its customers demand that their products be rolled from concast slabs and would not permit TSC to substitute ingot-rolled material.

Analysis: The issue in this review is the acceptability of ingot-rolled slabs in lieu of concast material to meet a portion of TSC's needs. The Department has maintained that ingot-rolled slabs and concast slabs can be used for a significant number of the same applications. However, there are numerous applications in which customers only will use concast material because of the quality of the slab. In the case of TSC, the need for concast material has been driven by customer demand rather than by mill efficiency as noted by Geneva. Customer letters provided by TSC to support its request specified the need for concast material. In fact, TSC has traditionally purchased only concast slabs to meet its internal needs and its customer requirements. Section 4(b) of the House Report of the Steel Trade Liberalization Program Implementation Act states "* * * if the petitioner has been purchasing the same steel product for the same end use, with the same requested specifications from all of its sources for a significant period of time, then such specifications should be considered reasonable." *See* H. Rep. No. 263, 101st Cong., 1st Sess. 14 (1989). The Secretary can only conclude that TSC's requirement for con-cast material is reasonable in light of these circumstances.

Conclusion: The Secretary determines that short supply does exist with respect to the requested concast steel slabs. The domestic industry is unable to supply TSC with material meeting its specifications for the fourth quarter of 1990. Pursuant to Section 4(b) (4) (A) of the Act, and § 357.102 of Commerce's Short-Supply Regulations, the Secretary hereby grants TSC's request for a short-supply allowance of 125,000 net tons of certain concast steel slabs for the fourth quarter of 1990.

Dated: October 10, 1990.

Marjorie A. Cherlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90–24812 Filed 10–10–90; 8:45 am]
BILLING CODE 3510–DS–M

The Johns Hopkins University, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301).

Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4204, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 90-016. *Applicant:* The Johns Hopkins University, Baltimore, MD 21218. *Instrument:* Electrode Recording System. *Manufacturer:* Philipps University, West Germany. *Intended Use:* See notice at 55 FR 6035, February 21, 1990.

Reasons: The foreign instrument consists of a specially designed drive for seven fiber-optic microelectrodes which can be individually placed for electrophysiological recordings in the cerebral cortex.

Docket Number: 90-028. *Applicant:* Beth Israel Medical Center, New York, NY 10003. *Instrument:* Rapid Karyotyping Analysis System, Model Cytoscan RK 1. *Manufacturer:* Image Recognition Systems Inc., United Kingdom. *Intended Use:* See notice at 55 FR 9347, March 13, 1990.

Reasons: The foreign instrument provides a spatial resolution of 768 × 575 pixels for imaging, digitizing and display.

Docket Number: 90-037. *Applicant:* Virginia Polytechnic Institute & State University, Blacksburg, VA 24061-0306. *Instrument:* High Speed Treadmill (for horses). *Manufacturer:* Kagra International, Inc., Switzerland. *Intended Use:* See notice at 55 FR 10461, March 21, 1990.

Reasons: The foreign instrument provides precise control of inclination (to 15°) and running speed (to 32 mph).

Docket Number: 90-045. *Applicant:* National Institute of Environmental Health Sciences, Research Triangle Park, NC 27709. *Instrument:* Variable Sinusoidal Oscillator for E2 of VG-ZAB-4F. *Manufacturer:* Mass Spectrometry Enterprises, United Kingdom. *Intended Use:* See notice at 55 FR 14335, April 17, 1990.

Reasons: The foreign article is a compatible accessory for a mass spectrometer which provides a 10 to 50 mV amplitude continuously variable over a modulated frequency from 15 Hz to 1 kHz.

Docket Number: 90-046. *Applicant:* St. Joseph's Hospital & Medical Center, Phoenix, AZ 85013. *Instrument:* 3D Motion Analyzer System, Model OPTOTRAK. *Manufacturer:* Northern Digital, Inc., Canada. *Intended Use:* See notice at 55 FR 14335, April 17, 1990.

Reasons: The foreign instrument provides three-dimensional digital analysis of motion with a repeatable accuracy to 0.014 inch and can be operated in a normally lighted room.

Docket Number: 90-060. *Applicant:* Children's Hospital of Pittsburgh, Pittsburgh, PA 15213-2583. *Instrument:* Cerebrograph Cortexplorer 16. *Manufacturer:* B. Simonson Medical, Denmark. *Intended Use:* See notice at 55 FR 19294, May 9, 1990.

Reasons: The foreign instrument provides 16 adjustable detectors for measurement of regional cerebral blood flow using xenon 133 as a tracer.

Docket Number: 90-070. *Applicant:* San Diego State University, San Diego, CA 92182-0749. *Instrument:* Dual Probe Evaporimeter. *Manufacturer:* Servo-Med, Sweden. *Intended Use:* See notice at 55 FR 19294, May 9, 1990.

Reasons: The foreign instrument can measure sweat rate directly and continously while a subject is exercising.

Docket Number: 90-072. *Applicant:* Scripps Clinic and Research Foundation, La Jolla, CA 92037. *Instrument:* Nuclear Magnetic Resonance Spectrometer, Model AC-E 250. *Manufacturer:* Bruker Instruments, West Germany. *Intended Use:* See notice at 55 FR 19294, May 9, 1990.

Reasons: The foreign instrument provides uniform execution of complex pulse sequences, magnetic isolation and shared data transfer formats with previously acquired NMR equipment for which duty-free entry was granted.

The National Institutes of Health advises in its memoranda dated July 26, 1990 that: (1) The capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 90-24814 Filed 10-19-90; 8:45 am]

BILLING CODE 3510-DS-M

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with subsections 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in room 4204, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 89-288R. *Applicant:* National Institute of Standards and Technology, Chemical Kinetics Division 222/A260, Gaithersburg, MD 20899. *Instrument:* Pulse Dye Laser. *Manufacturer:* Lambda Physik, Inc., United Kingdom. Original notice of this resubmitted application was published in the Federal Register on January 29, 1990.

Docket Number: 89-292R. *Applicant:* University of California, Santa Barbara, Department of Geological Sciences, Santa Barbara, CA 93106. *Instrument:* Mass Spectrometer, Model Prism Series II. *Manufacturer:* VG Isotech, United Kingdom. Original notice of this resubmitted application was published in the Federal Register on January 29, 1990.

Docket Number: 90-175. *Applicant:* Magee-Women's Hospital, Forbes and Halket Streets, Pittsburgh, PA 15213. *Instrument:* Specialized Computer Hardware and Software for Imaging. *Manufacturer:* Image Recognition Systems, United Kingdom. *Intended Use:* The instrument will be used in clinical diagnosis, using images of chromosomes prepared from peripheral blood, amniotic fluid or tissues from patients. *Application Received by Commissioner of Customs:* September 6, 1990.

Docket Number: 90-182. *Applicant:* University of Maine, Department of Geological Sciences, Sawyer Research Center, Orono, ME 04469. *Instrument:* Mass Spectrometer, Prism Series II. *Manufacturer:* VG Isotech Ltd., United Kingdom. *Intended Use:* The instrument will be used for studies of organic and inorganic carbonate natural surface and ground waters, terrestrial and marine organic matter, igneous rocks (e.g. massive sulfides), and metamorphic rocks. In addition, the instrument will be used to train students in the state-of-the-art techniques in the courses: Isotope Geology, Physical Mechanisms of

Climate Change and Stable Isotope Geology. *Application Received by Commissioner of Customs:* September 20, 1990.

Docket Number: 90-183. *Applicant:* National Institute of Standards and Technology, Route 270 and Quince Orchard Road, Gaithersburg, MD 20899. *Instrument:* Electron Probe X-ray Microanalyzer, Model JXA-8900/3. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* The instrument will be an integral part of ongoing programs which include particle characterization, quantitative compositional mapping, standard reference material certification and accurate x-ray intensity determinations. In addition, the instrument will be used for high accuracy quantitative analysis of materials being evaluated for certification as NIST Standard Reference Materials, and for the high-accuracy determination of k-ratios which are used to improve upon quantitative data reduction procedures. Numerous materials such as glasses, metal and ceramic alloys, biological specimens, and natural and synthetic minerals will be quantitatively and qualitatively analyzed with the instrument. *Application Received by Commissioner of Customs:* September 26, 1990.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 90-24815 Filed 10-19-90; 8:45 am]

BILLING CODE 3510-DS-M

St. Barnabas Medical Center; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4204, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number 90-031. *Applicant:* St. Barnabas Medical Center, Livingston, NJ 07039. *Instrument:* Rapid Karyotyping Analysis System and Satellite Capture Station, Model Cytoscan RK and SC. *Manufacturer:* Image Recognition Systems Inc., United Kingdom. *Intended Use:* See notice at 55 FR 9347, March 13, 1990.

Comments: None received.

Decision: Denied. The instrument is not intended for research or science-related educational purposes.

Reasons: In its response to question 7(a), the applicant stated, "Not applicable, not to be used for research purposes"; to 7(b), "Not applicable, not to be used for science-related educational purposes"; and to 7(c), "For patient care, to be used for cytogenetic testing." The Departments' joint regulations provide as follows:

> In order for the Director to make a determination with respect to the "scientific equivalency" of the foreign and domestic instruments, the applicant's intended purposes must include either scientific research or science-related educational programs. Instruments used exclusively for nonscientific purposes have no scientific value, thereby precluding the requisite finding by the Director with respect to "whether an instrument or apparatus of equivalent scientific value to such article, for the purposes for which the article is intended to be used, is being manufactured in the United States." In such cases the Director *shall* deny the application for the reason that the instrument has no scientific value for the purposes for which it is intended to be used. Examples of nonscientific purposes would be the use of an instrument in routine diagnosis or patient care and therapy (as opposed to clinical research) . . . (15 CFR 301.5(d)(1)(iii); emphasis supplied).

Furthermore, 15 CFR 301.5(e)(7) provides, in part, as follows:

> Information provided in a resubmission that . . . contradicts or conflicts with information provided in a prior submission, shall not be considered in making the decision on an application that has been resubmitted. Accordingly, an applicant may elect to reinforce an original submission by elaborating in the resubmission on the description of the purposes contained in a prior submission and may supply additional examples, documentation and/or other clarifying detail, but the applicant shall not introduce new purposes or other material changes in the nature of the original application. (Emphasis supplied.)

Consequently, in view of the applicant's categorical statement, cited above, we conclude that affording the applicant an opportunity to resubmit its application cannot result in a statement of purposes both consonant with the regulations and permitting a finding by the Director as to scientific equivalency. The application is denied "for the reason that the instrument has no scientific value for the purposes for which it is intended to be used."

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 90-24816 Filed 10-19-90; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

[P388A]

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, DOC.

ACTION: Application for scientific research permit.

Notice is hereby given that an applicant has applied in due form for a scientific research permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

1. *Applicant:*

Dr. James T. Harvey, Moss Landing Marine Laboratories, P.O. Box 450, Moss Landing, CA 95039-0450.

Dr. Daniel P. Costa, Long Marine Laboratory, Center for Marine Studies, University of California, Santa Cruz, CA 95064.

2. *Type of Permit:* Scientific Research.

3. *Number and Name of Marine Mammals:* 10 California sea lions (*Zalophus californianus*).

4. *Type of Take:* California sea lions would be obtained from any rehabilitation facility or aquarium and trained throughout the year at Long Marine Laboratory, Santa Cruz, CA. The applicants propose to use the trained California sea lions along the west coast of North America to film underwater activities of whales such as feeding, mating, resting, orientation, and communication. The trained seals would carry an underwater video camera in a mouth piece, or harness, follow individual whales in open water, and keep the whale within the camera's field of view.

In addition, the applicants propose to study sea lion diving physiology. A Scientific Research Permit is requested for four (4) years duration.

Concurrent with the publication of this notice in the Federal Register, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East West Highway, room 7330, Silver Spring, Maryland 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should

set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of the applicants and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, room 7330, Silver Spring, Maryland 20910; and

Director, Southwest Region, National Marine Fisheries Service, NOAA, 300 South Ferry Street, Terminal Island, California 90731–7415.

Dated: October 11, 1990.

[redacted],

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 90–24889 Filed 10–19–90; 8:45 am]

BILLING CODE 3510-22-M

[redacted]

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Issuance of Permit: Southwest Fisheries Science Center, National Marine Fisheries Service.

On August 6, 1990, notice was published in the **Federal Register** (55 FR 31872) that an application had been filed by the Southwest Fisheries Science Center, National Marine Fisheries Service, P.O. Box 271, La Jolla, California 92038, to conduct scientific research on Hawaiian monk seals (*Monachus schauinslandi*).

Notice is hereby given that on October 5, 1990, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service issued a Scientific Research Permit for the above taking, subject to certain conditions set forth therein.

Issuance of this Permit, as required by the Endangered Species Act of 1973, is based on the finding that such Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of the Permit; and (3) will be consistent with the purposes and policies set forth in section 2 of the Act (16 U.S.C. 1532). The proposed research is consistent with the purposes and policies of the Marine Mammal Protection Act. The applicant has indicated that previous similar research has not harmed monk seals. No comments were received objecting to the proposed research. We are satisfied that the results of this research will directly benefit Hawaiian monk seal populations and that such research fulfills a critically important research need.

Interested persons may review the Permit and documents submitted in connection with the application by appointment at the following offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, room 7324, Silver Spring, Maryland 20910 (301/427–2289);

Director, Southwest Region, National Marine Fisheries Service, NOAA, 300 South Ferry Street, Terminal Island, California 90731 (213/514–6196); and

Administrator, Pacific Area Office, National Marine Fisheries Service, 2570 Dole Street, room 106, Honolulu, HI 96822 (808/955–8831).

Dated: October 5, 1990.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 90–24890 Filed 10–19–90; 8:45 am]

BILLING CODE 3510-22-M

National Telecommunications and Information Administration

Frequency Management Advisory Council; Meeting

AGENCY: National Telecommunications and Information Administration, Commerce.

ACTION: Notice of meeting of the CITEL VI Subcommittee of the Frequency Management Advisory Council.

SUMMARY: In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2 and the Department of Commerce Committee Management Handbook, a subcommittee of the Frequency Management Advisory Council was established on June 27, 1990 to assist United States in preparation for the VIth InterAmerican Telecommunications Conference (CITEL VI) to be held in mid-1991. Major goals of United States participation in this conference are to strengthen the interAmerican alliance, create additional market opportunities for U.S. industry in Latin America, and provide opportunities to further U.S. goals of privatization while assisting Latin American countries in improving their telecommunication infrastructures.

NOTICE OF MEETING: The FMAC Subcommittee on Preparations for CITEL VI will meet on October 24, 1990, from 9:30 a.m. to 12:00 noon in Room 1605 of the United States Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC. Public entrance to the building is on 14th Street between Pennsylvania Avenue and Constitution Avenue.

AGENDA: The agenda for the third meeting of the Subcommittee on Preparations for CITEL VI will be:

I. Adoption of the Agenda.
II. Summary Minutes of the 2nd Meeting.
III. Outline of the Report of the Subcommittee
IV. Proposed Initiative for T1 to Increase their Visibility with the Other Countries of the Americas.
V. Background Paper on the Subcommittee's Activities for the U.S. Delegation to COM/CITEL.
VI. Consideration of Additional Items to be Included on the Agendas of Future Meetings of PTC–1, II, and III.
VII. Proposed Agenda for the Meeting of the VI–CITEL.
VIII. Ad Hoc Meeting of PTC–1.
IX. Update on the EXPOTEL 91 Exposition in Santiago, Chile, 13–17 May 1990.
X. Date of the Next Meeting.

PUBLIC PARTICIPATION: This meeting of the CITEL VI Preparation Subcommittee will be held in accordance with the Federal Advisory Committee Act and will be open to public observations. A period will be set aside for oral comments or questions by the public. More extensive questions or comments should be submitted in writing before October 19, 1990. Other public statements regarding CITEL VI Subcommittee activities may be submitted at any time before or after the meeting. Approximately 25 seats will be available for the public on a first-come, first-served basis. Copies of the minutes will be available on request 30 days after the meeting.

FOR FURTHER INFORMATION CONTACT: Inquiries or comments concerning the CITEL VI Subcommittee may be addressed to the Designated Federal Official, Mr. William Moran, National Telecommunications and Information Administration, Room 4701, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230, telephone (202) 377–1868.

Dated: October 4, 1990.

Michael W. Allen,

Executive Secretary, Frequency Management Advisory Council, National Telecommunications and Information Administration.

[FR Doc. 90-24878 Filed 10-19-90; 8:45 am]

BILLING CODE 3510-60-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Hungary

October 16, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: January 1, 1991.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; sec. 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Bilateral Wool Textile Agreement of February 15 and 25, 1983, as amended, between the Government of the United States and the Republic of Hungary establishes limits for the period January 1, 1991 through December 31, 1991. The limits for Categories 433, 434, 435 and 448 are being reduced for carryforward used in 1990.

A copy of the current bilateral textile agreement between the Governments of the United States and the Republic of Hungary is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State, (202) 647-1998.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Tariff Schedule of the United States (see **Federal Register** notice 54 FR 50797, published on December 11, 1989). Information regarding the 1991 CORRELATION will be published in the **Federal Register** at a later date.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

October 16, 1990.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further amended on July 31, 1986; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 15 and 25, 1983, as amended, between the Governments of the United States and the Republic of Hungary; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1991, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Hungary and exported during the twelve-month period beginning on January 1, 1991 and extending through December 31, 1991, in excess of the following restraint limits:

Category	12-month restraint limit
300/301	1,350,589 kilograms.
313	13,194,895 square meters.
410	861,483 square meters.
433	7,777 dozen.
434	7,267 dozen.
435	13,354 dozen.
442	18,545 dozen.
443	87,151 numbers.
444	24,176 numbers.
445/446	42,561 dozen of which not more than 31,846 dozen shall be in Category 445 and not more than 31,846 dozen shall be in Category 446.
448	20,540 dozen.
604	910,354 kilograms.
645/646	107,310 dozen.
669-P [1]	662,553 kilograms.

[1] Category 669-P: only HTS numbers 6305.31.0010, 6305.31.0020 and 6305.39.0000.

Imports charged to these category limits for the period January 1, 1990 through December 31, 1990 shall be charged against the levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The levels set forth above are subject to adjustment in the future pursuant to the provisions of the current bilateral agreement between the Governments of the United States and the Republic of Hungary.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-24820 Filed 10-19-90; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Taiwan

October 15, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 22, 1990.

FOR FURTHER INFORMATION CONTACT: Kim-Bang Nguyen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-8791. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing, special shift and carryforward used during the previous agreement period.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 54 FR 50797.

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published on December 11, 1989). Also see 54 FR 22504, published on December 26, 1989.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

October 15, 1990.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 20, 1989 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Taiwan and exported during the period which began on January 1, 1990 and extends through December 31, 1990.

Effective on October 22, 1990, the directive of December 20, 1989 is being amended further to adjust the limits for the following categories, as provided under the provisions of the bilateral agreement, effected by exchange of notes dated August 21, 1990 and September 28, 1990:

Category	Adjusted 12-Month Limit [1]
Subtotals in Group I:	
369	588,686 kilograms.
225/317/326	32,941,266 square meters.
314	24,310,086 square meters.
369	1,206,564 numbers.
604	212,777 kilograms.
611	2,675,000 square meters.
613/614/615/617	16,500,587 square meters.
619/620	9,571,189 square meters.
625/626/627/628/629	16,867,235 square meters.
Sublevels in Group II:	
331	511,745 dozen pairs.
336	119,494 dozen.
359/659	644,529 dozen.
340	1,221,809 dozen.
341	373,750 dozen.
342	257,947 dozen.
345	104,298 dozen.
347/348	1,233,726 dozen.
351	445,883 dozen.
359-H/659-H [2]	4,638,248 kilograms.
433	18,578 dozen.
435	39,087 dozen.
448	44,642 numbers.
445/446	136,830 dozen.
447/448	16,823 dozen.
631	4,160,288 dozen pairs.

Category	Adjusted 12-Month Limit [1]
633/634/635	1,813,487 dozen of which not more than 959,317 dozen shall be in Categories 633/634 and not more than 828,038 dozen shall be in Category 635.
636	332,005 dozen.
638/639	6,852,197 dozen.
640	2,085,291 dozen of which not more than 1,361,080 dozen shall be in Category 640-Y. [3]
641	692,033 dozen of which not more than 253,586 dozen shall be in Category 641-Y. [4]
642	769,057 dozen.
644	598,052 numbers.
647/648	5,834,323 dozen.
651	368,798 dozen.
659-S [5]	1,992,708 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1989.

[2] Category 359-H: only HTS numbers 6505.90.1530 and 6505.90.2060; Category 659-H: only HTS numbers 6562.90.9030, 6504.00.9015, 6504.00.9060, 6506.90.5060, 6505.90.6060, 6505.90.7090 and 6505.90.8060.

[3] Category 640-Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050, and 6205.30.2060.

[4] Category 641-Y: only HTS numbers 6204.23.0050, 6204.29.2060, 6206.40.3010 and 6206.40.3025.

[5] Category 659-S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-24821 Filed 10-19-90; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: DoD FAR Supplement, part 246, Quality Assurance; No Form; OMB Control Number 0704-0233.

Type of Request: Revision.

Average Burden Hours/Minutes per Response: 7.82 hours.

Responses per Respondent: One.

Number of Respondents: 4,112.

Annual Burden Hours: 32,160.

Annual Responses: 4,112.

Needs and Uses: This request concerns information collection requirements related quality assurance matters including certain special clauses utilized by the Defense Logistics Agency.

Affected Public: Businesses or other for profit institutions, non-profit institutions, and small businesses or organizations.

Frequency: Annually and on occasion.

Respondents Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written request for copies of the information collection proposal may be obtained from Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202-4302.

Dated: October 17, 1990.

L.M. Bynum

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-24907 Filed 10-19-90; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

Defense Advisory Committee on Military Personnel Testing

Pursuant to Public Law 92-463, notice is hereby given that a meeting of the Defense Advisory Committee on Military Personnel Testing is scheduled to be held from 8:30 a.m. to 5 p.m. on November 1-2, 1990. The meeting will be held at the Sheraton Charleston Hotel, 170 Lockwood Drive, Charleston, South Carolina 29403. The purpose of the meeting is to review: (1) Planned changes in the Department of Defense's Student Testing Program; (2) progress on developing paper-and-pencil and computerized enlistment tests; and (3) efforts to equate new and old test answer sheets. Persons desiring to make oral presentations or submit written statements for consideration at the Committee meeting must contact Dr. Anita R. Lancaster, Executive Secretary, Defense Advisory Committee on Military Personnel Testing, Office of the Assistant Secretary of Defense (Force

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Management and Personnel), room 2B271, The Pentagon, Washington, DC 20301–4000, telephone (703) 697–9271, no later than October 26, 1990.

Dated: October 17, 1990.

[FR Doc. 90–24908 Filed 10–19–90; 8:45 am]

BILLING CODE 3810-01-M

The Joint Staff; National Defense University, Board of Visitors: Meeting

AGENCY: National Defense University, Department of Defense.

ACTION: Notice of meeting.

SUMMARY: The President, National Defense University has scheduled a meeting of the Board of Visitors.

DATES: The meeting will be held between 0800–1200 and 1330–1500 on 30 November 1990.

ADDRESSES: The meeting will be held in the Hill Conference Center of Theodore Roosevelt Hall, Building Number 61, Fort Lesley J. McNair.

FOR FURTHER INFORMATION CONTACT: The Director, University Plans and Programs, National Defense University, Fort Lesley J. McNair, Washington, DC 20319–6000. To reserve space, interested persons should phone (202) 475–1145.

SUPPLEMENTARY INFORMATION: The agenda will focus on the state of the National Defense University as the end of 1990 approaches, and an update on the implementation of the provisions of the Goldwater-Nichols Act.

Dated: October 17, 1990.

Linda M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–24911 Filed 10–19–90; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Desert Shield Technology

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Desert Shield Technology will meet in closed session on 1–2 Nov, 7–8 Nov and 27–28 Nov 1990 at The Pentagon, Washington, DC.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will receive classified briefings on Operation Desert Shield which will include: Intelligence situation and threat, operations status, and technology options to improve operational capability.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. app. II (1982)), it has been determined that these DSB Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly these meetings will be closed to the public.

Dated: October 17, 1990.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–24910 Filed 10–19–90; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Privacy Act of 1974; Amend Two Record Systems

AGENCY: Department of the Air Force, DoD.

ACTION: Amend two record systems.

SUMMARY: The Department of the Air Force proposes to amend two record systems in its inventory of records systems notices subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a).

DATES: These systems will be effective November 21, 1990, unless comments are received which result in a contrary determination.

ADDRESSES: Send any comments to Mrs. Anne Turner, SAF/AAIA, The Pentagon, Washington, DC 20330–1000. Telephone (202) 697–3491 or Autovon 227–3491.

SUPPLEMENTARY INFORMATION: The Department of the Air Force record systems notices subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a), have been published in the **Federal Register** as follows:

50 FR 22332 May 29, 1985 (DoD Compilation. changes follow)
50 FR 24672 Jun. 12, 1985
50 FR 25737 Jun. 21, 1985
50 FR 46477 Nov. 8, 1985
50 FR 50337 Dec. 10, 1985
51 FR 4531 Feb. 5, 1986
51 FR 7317 Mar. 5, 1986
51 FR 16735 May 6, 1986
51 FR 18927 May 23, 1986
51 FR 41382 Nov. 14, 1986
51 FR 44332 Dec. 9, 1986
52 FR 11845 Apr. 13, 1987
53 FR 24354 Jun. 28, 1988
53 FR 45600 Nov. 14, 1988
53 FR 50072 Dec. 13, 1988
53 FR 51301 Dec. 21, 1988
54 FR 10034 Mar. 9, 1989
54 FR 43450 Oct. 25, 1989
54 FR 47550 Nov. 15, 1989
55 FR 21770 May 29, 1990
55 FR 21900 May 30, 1990 (Air Force Address Directory)
55 FR 27600 Jul. 6, 1990
55 FR 28427 Jul. 11, 1990
55 FR 34310 Aug. 22, 1990
55 FR 38126 Sep. 17, 1990

The amended systems are not within the purview of subsection (r) of the Privacy Act, as amended, (5 U.S.C. 552a) which requires the submission of an altered system report. The specific changes to the records systems being amended are set forth below, followed by the systems notices, as amended, published in their entirety.

Dated: October 17, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F090 AF A

System name:

F090 AF A—Visiting Officer Quarters-Transient Airman Quarters Reservation (50 FR 22476, May 29, 1985).

Changes:

* * * * *

System location:

Delete entire entry and replace with "All Air Force installations with Visiting Officer and/or Transient Airman Quarters. Official mailing addresses are published as an appendix to the Air Force's compilation of record system notices."

* * * * *

Authority for maintenance of the system:

Change "10 U.S.C. 8012" to read "10 U.S.C. 8013 and Executive Order 9397."

* * * * *

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage:

Add to end of sentence "and on computer and computer output products."

Retrievability:

Add to the end of entry and Social Security Number.

Safeguards:

Delete entire entry and replace with "Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms."

System manager(s) and address:

Delete entire entry and replace with "Deputy Chief of Staff, Logistics and Engineering, Headquarters, United States Air Force, Washington, DC 20330–5130."

Notification procedure:

Delete entire entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Deputy Chief of Staff, Logistics and Engineering, Headquarters, United States Air Force, Washington, DC 20330-5130.

Full name and Social Security Number required for inquiries."

Record access procedures:

Delete entire entry and replace with "Individuals seeking to access records about themselves contained in this system should address written requests to the Deputy Chief of Staff, Logistics and Engineering, Headquarters, United States Air Force, Washington, DC 20330-5130.

Full name and Social Security Number required for access."

Contesting record procedures:

Delete entire entry and replace with "The Department of the Air Force rules for accessing records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system manager."

* * * * *

F090 AF A

SYSTEM NAME:

F090 AF A—Visiting Officer Quarters-Transient Airman Quarters Reservation.

SYSTEM LOCATION:

All Air Force installations with Visiting Officer and/or Transient Airman Quarters. Official mailing addresses are published as an appendix to the Air Force's compilation of record system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Personnel registering to obtain a room for the duration of visit.

CATEGORIES OF RECORDS IN THE SYSTEM:

Registration of transient personnel into quarters.

AUTHORITY FOR MAINTAINING THE SYSTEM:

10 U.S.C. 8013 and Executive Order 9397.

PURPOSE(S):

To register occupants of base transient quarters and charge for billeting.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets and on computer and compter output products.

RETRIEVABILITY:

Retrieved by name and Social Security Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files for three months after monthly cutoff, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff, Logistics and Engineering, Headquarters, United States Air Force, Washington, DC 20330-5130.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this record system should address written inquiries to the Deputy Chief of Staff, Logistics and Engineering, Headquarters, United States Air Force, Washington, DC 20330-5130.

Full name and Social Security Number are required for inquiries.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this record system should address written requests to the Deputy Chief of Staff, Logistics and Engineering, Headquarters, United States Air Force, Washington, DC 20330-5130.

Full name and Social Security Number are required for access.

CONTESTING RECORD PROCEDURES:

The Department of the Air Force rules for accessing records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From individual registering.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F177 AF AFC A

SYSTEM NAME:

F177 AF AFC A—Accounts Receivable Records Maintained by Accounting and Finance (50 FR 22523, May 29, 1985).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entire entry and replace with "Headquarters, Air Force Accounting and Finance Center (HQ AFAFC), Denver, CO 80279-5000; Denver Federal Archives and Record Center, Building 48, Denver Federal Center, Denver, CO 80225-5000; Accounting and Finance Offices at Air Force bases, Air National Guard activities and Air Force Reserve units. Official mailing addresses are published as an appendix to the Air Force's compilation of record system notices."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add to end of entry ". . . and Executive Order 9397."

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Delete entire entry and replace with "To the General Accounting Office and the Department of Justice for collection action for any delinquent account when circumstances warrant.

To a commercial credit reporting agency for the purpose of either adding to a credit history file or obtaining a credit history file for use in the administration of debt collection.

To a debt collection agency for the purpose of collection services to recover indebtedness owed to the U.S. Government.

To Veterans Administration for its administration of laws pertaining to veterans' benefits.

To any other Federal agency for the purpose of effecting salary offset procedures against a person employed by that agency when any Department of

Defense creditor agency has a claim against that person.

To any other Federal agency including, but not limited to, the Internal Revenue Service and Office of Personnel Management for the purpose of effecting an administrative offset of a debt.

To the Internal Revenue Service to obtain the mailing address of a taxpayer for the purpose of locating such taxpayer to collect or to compromise a Federal claim against the taxpayer.

Note: Redisclosure of a mailing address from the Internal Revenue Service may be only for the purpose of debt collection, including to a debt collection agency in order to facilitate the collection or compromise of a Federal claim under the Debt Collection Act of 1982, except that a mailing address to a consumer reporting agency is for the limited purpose of obtaining a commercial credit report on the particular taxpayer. Any such address information obtained from the Internal Revenue Service will not be used or shared for any other Department of Defense purpose or disclosed to another Federal, state or local agency which seeks to locate the same individual for its own debt collection purpose.

To any other Federal, state or local agency for the purpose of conducting an authorized computer matching program to identify and locate delinquent debtors for recoupment of debts owed the U.S. Government.

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record systems apply to this system."

Add a new category to read:

"Disclosures to consumer reporting agencies: Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act of 1966 (15 U.S.C. 1681a(f)), or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The disclosure is limited to information necessary to establish the identify of the individual, including name, address, and taxpayer identification number (Social Security Number); the amount, status, and history of the claim; and the agency or program under which the claim arose for the sole purpose of allowing the consumer reporting agency to prepare a commercial credit report."

* * * * *

RETENTION AND DISPOSAL:

Delete entire entry and replace with "All cases will remain active until settled by full payment or waiver. Current year cases will be retained by the collection office through the calendar year. Prior year cases will be retained by the records custodian for another six years. Destruction is accomplished by tearing, shredding, pulping, macerating, burning or burying in a landfill."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entire entry and replace with "Director, Air Force Accounting and Finance Center (HQ AFAFC), Denver, CO 80279–5000 and Accounting and Finance Officers at Air Force installations. Official mailing addresses are published as an appendix to the Air Force's compilation of record system notices."

NOTIFICATION PROCEDURE:

Delete entire entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, HQ AFAFC, Denver, CO 80279–5000, or to the Accounting and Finance Office at the Air Force base of assignment. Official mailing addresses are published as an appendix to the Air Force's compilation of record system notices.

Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, drivers license, civilian identification card, duty station or place of employment, or other information verifiable from the record itself."

RECORD ACCESS PROCEDURES:

Delete entire entry and replace with "Individuals seeking to access records about themselves contained in this system should address written inquiries to the Director, HQ AFAFC, Denver CO 80279–5000, or to the Accounting and Finance Office at the Air Force base of assignment. Official mailing addresses are published as an appendix to the Air Force's compilation of record system notices.

Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, drivers license, civilian identification card, duty station or place of employment, or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURE:

Delete entire entry and replace with "The Department of the Air Force rules for accessing records, and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

* * * * *

F177 AF AFC A

SYSTEM NAME:

F177 AF AFC A—Accounts Receivable Records Maintained by Accounting and Finance.

SYSTEM LOCATION:

Headquarters, Air Force Accounting and Finance Center, (HQ AFAFC), Denver, CO 80279–5000; Denver Federal Archives and Record Center, Building 48, Denver Federal Center, Denver, CO 80225–5000; Accounting and Finance Offices at Air Force bases, Air National Guard activities and Air Force Reserve units. Official mailing addresses are published as an appendix to the Air Force's compilation of record system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty and retired military personnel; Air Force civilian employees and former employees; Air Force Reserve and Air National Guard personnel; Union or Association management personnel; contracting officers and representatives; Air Force Academy cadets; dependents of military personnnel; Foreign Nationals residing in the United States; American Red Cross personnel; Peace Corps and State Department personnel; Exchange Officers, and other individuals who may be indebted to the Air Force.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained in the system include, but are not limited to: Documentation pertaining to telephone bills; utility bills; check issue discrepancies; dishonored checks; postal fund losses; reports of survey; freight losses in shipments; involuntary collections; erroneous payments; property losses and damages; administratively ascertained indebtedness of airmen; withholding for subsistence and other supplies; losses of funds; government losses in shipments; unauthorized allotment payments; setoff of final pay, and retention of pay by reason of courts martial or forfeiture or fines documentation.

AUTHORITY FOR MAINTAINING THE SYSTEM:

5 U.S.C. 5512–5514, Withholding pay; 10 U.S.C. 856; Article 56 Uniform Code of Military Justice, Maximum levels; 10 U.S.C. 9832, Property accountability; Regulations; 10 U.S.C. 9837(b), Settlement of accounts: Deductions from pay; 10 U.S.C. 9840, Final settlement of officer's accounts; 31 U.S.C. 71, Public accounts to be settled in the General Accounting Office; 31 U.S.C. 82(a), Listing of persons receiving periodic

payments, vouchers; 31 U.S.C. 95, Settlement of accounts of Army officers; 31 U.S.C. 95, Settlement of accounts of Army officers; 31 U.S.C. 3711, Collection and Compromise; 37 U.S.C. 492(a)–(c), Disbursing Officers; 37 U.S.C. 1007(b), (c), (f), (g), Deductions from pay; 40 U.S.C. 15, Government Losses in Shipment; 49 U.S.C. 1 *et seq.*; Transportation, and Executive Order 9397.

PURPOSE(S):

Records are used to support customer billings and collections.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

To the General Accounting office and the Department of Justice for collection action for any delinquent account when circumstances warrant.

To a commercial credit reporting agency for the purpose of either adding to a credit history file or obtaining a credit history file for use in the administraiton of debt collection.

To a debt collection agency for the purpose of collection services to recover indebtedness owed to the Air Force.

To Veterans Administration for its administration of laws pertaining to veterans' benefits.

To any other Federal agency for the purpose of effecting salary offset procedures against a person employed by that agency when the Air Force has a claim against that person.

To any other Federal agency including, but not limited to, the Internal Revenue Service and Office of Personnel Management for the purpose of effecting an administrative offset of a debt.

To the Internal Revenue Service to obtain the mailing address of a taxpayer for the purpose of locating such taxpayer to collect or to compromise a Federal claim against the taxpayer.

Note: Redisclosure of a mailing address from the Internal Revenue Service may be made only for the purpose of debt collection, including to a debt collection agency in order to facilitate the collection or compromise of a Federal claim under the Debt Collection Act of 1982, except that a mailing address to a consumer reporting agency is for the limited purpose of obtaining a commercial credit report on the particular taxpayer. Any such address information obtained from the Internal Revenue Service will not be used or shared for any other Department of Defense purpose or disclosed to another Federal, state or local agency which seeks to locate the same individual for its own debt collection purposes.

To any other Federal, state or local agency for the purpose of conducting an authorized computer matching program to identify and locate delinquent debtors for recoupment of debts owed the Air Force.

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record systems apply to this system.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act of 1966 (15 U.S.C. 1681a(f)), or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The disclosure is limited to information necessary to establish the identity of the individual, including name, address, and taxpayer identification number (Social Security Number); the amount, status, and history of the claim; and the activity or program under which the claim arose for the sole purpose of allowing the consumer reporting agency to prepare a commercial credit report.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, in note books/binders, in visible file binders/cabinets, in card files and on computer magnetic tapes.

RETRIEVABILITY:

Retrieved by name, Social Security Number, Military Service Number or Civilian Payroll Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets or locked cabinets or rooms, protected by guards, and controlled by personnel screening and by visitor registers.

RETENTION AND DISPOSAL:

All cases will remain active until settled by full payment or waiver. Current year cases will be retained by the collection office through the calendar year. Prior year cases will be retained by the records custodian for another six years. Destruction is accomplished by tearing, shredding, pulping, macerating, burning or burying in a landfill.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Air Force Accounting and Finance Center, (HQ AFAFC), Denver, CO 80279–5000. Accounting and Finance Officers at Air Force installations. Official mailing addresses are published as an appendix to the Air Force's compilation of record system notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, HQ AFAFC, Denver, CO 80279–5000, or to the Accounting and Finance Office at the Air Force base of assignment. Official mailing addresses are published as an appendix to the Air Force's compilation of record system notices.

Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, drivers license, civilian identification card, duty station or place of employment, or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address written inquiries to the Director, HQ AFAFC, Denver, CO 80279–5000, or to the Accounting and Finance Office at the Air Force base of assignment. Official mailing addresses are published as an appendix to the Air Force's compilation of record system notices.

Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, drivers license, civilian identification card, duty station or place of employment, or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURE:

The Department of the Air Force rules for accessing records, and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers; financial, educational, and medical institutions; trade associations; police and investigating officers; the bureau of motor vehicles; state or local governments; international organizations; corporations; witnesses; source documents such as reports; charges and invoices from other Air Force and Department of Defense components at Headquarters, major command and base levels; Internal Revenue Service; Social Security Administration; and Veterans Administration.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 90-24905 Filed 10-19-90; 8:45 am]
BILLING CODE 3810-01-M

Privacy Act of 1974; Alteration of Record Systems

AGENCY: Department of the Air Force, DOD.

ACTION: Altered record systems.

SUMMARY: The Department of the Air Force proposes to alter two record systems to its inventory of record systems subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a). The changes to the record systems, and the notices in their entirety are provided below.

DATES: The record systems will be effective November 21, 1990, unless comments are received which result in a contrary determination.

ADDRESSES: Send any comments to Mrs. Anne Turner, SAF/AAIA, The Pentagon, Washington, DC 20330-1000. Telephone (202) 697-3491 or Autovon 227-3491.

SUPPLEMENTARY INFORMATION: The Department of the Air Force record systems notices subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a), have been published in the **Federal Register** as follows:

50 FR 22332 May 29, 1985 (DoD compilation, changes follow)
50 FR 24672 Jun. 12, 1985
50 FR 25737 Jun. 21, 1985
50 FR 46477 Nov. 8, 1985
50 FR 50337 Dec. 10, 1985
51 FR 4531 Feb. 5, 1986
51 FR 7317 Mar. 3, 1986
51 FR 16735 May 6, 1986
51 FR 18927 May 23, 1986
51 FR 41382 Nov. 14, 1986
51 FR 44332 Dec. 9, 1986
52 FR 11845 Apr. 13, 1987
53 FR 24354 Jun. 28, 1988
53 FR 45800 Nov. 14, 1988
53 FR 50072 Dec. 13, 1988
53 FR 51301 Dec. 21, 1988
54 FR 10034 Mar. 9, 1989
54 FR 43450 Oct. 25, 1989
54 FR 47550 Nov. 15, 1989
55 FR 21770 May 29, 1990
55 FR 21900 May 30, 1990 (AF Address Directory)
55 FR 27868 Jul. 6, 1990
55 FR 28427 Jul. 11, 1990
55 FR 34310 Aug. 22, 1990
55 FR 38126 Sep. 17, 1990

The altered record systems, as required by the Privacy Act of 1974, as amended, (5 U.S.C. 552a(r)) were submitted on October 12, 1990, to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget (OMB) pursuant to paragraph 4b of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 1985 (50 FR 52730, December 24, 1985).

Dated: October 17, 1990.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F010 AF A

SYSTEM NAME:

F010 AF A—Automated Orders Data System (52 FR 11845, Apr 13, 1987).

CHANGES:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Add to end of entry "including all Air Force Reserve personnel who perform annual, school, special and Military Personnel Appropriation (MPA) tours."

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entire entry and replace with "All temporary orders (temporary duty travel and reserve); identification data on individuals named in orders; accounting records for Personnel/Travel/Budgeting Accounting System (PBAS/TBAS); accounting records for man-days used, and orders log containing data found in administrative orders including name, Social Security Number, order number, and effective dates."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entire entry and replace with "10 U.S.C. 8013, Secretary of the Air Force: Power and Duties; delegation by; as implemented by Joint Federal Travel Regulation, Vol I; Joint Travel Regulation, Vol II; Air Force Regulation 10-7, "Administrative Orders"; and Executive Order 9397."

PURPOSE(S):

Delete entire entry and replace with "Used to prepare temporary duty travel orders, including those ordering Air Force Reserve personnel to active duty for annual, school, special and MPA tours. Controls assignment of orders numbers and is a cross reference between orders, revocations, and amendments. Creates management reports."

* * * * *

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM: RETRIEVABILITY:

Delete entire entry and replace with "Retrieved by name and Social Security Number."

SAFEGUARDS:

Add as last sentence "Passwords are established for computer system entrance."

RETENTION AND DISPOSAL:

Delete entire entry and replace with "Identification data is maintained until the individual is reassigned. Orders are maintained for 1 to 56 years after the year in which they are published."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entire entry and replace with "Director of Information Management, Office of the Administrative Assistant to the Secretary of the Air Force, Washington, DC 20330-1000; Director of Information Management, Headquarters, Air Force Reserve, Robins AFB, GA 31098-6001; Deputy Chief of Staff, Comptroller, Headquarters U.S. Air Force, Washington, DC 20330-5000; and Base Directors or Chiefs of Information Management. Official mailing addresses are published as an appendix to the Air Force's compilation of record system notices."

NOTIFICATION PROCEDURE:

Delete entire entry and replace with "Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to the Director of Information Management, Office of the Administrative Assistant to the Secretary of the Air Force, Washington, DC 20330-1000; Director of Information Management, Headquarters, Air Force Reserve, Robins AFB, GA 31098-6001; Deputy Chief of Staff, Comptroller, Headquarters U.S. Air Force, Washington, DC 20330-5000; and Base Directors or Chiefs of Information Management. Official mailing addresses are published as an appendix to the Air Force's compilation of record system notices."

RECORD ACCESS PROCEDURES:

Delete entire entry and replace with, "Individuals seeking access to records about themselves contained in this system should address requests to the Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to the Director of Information Management, Office of the Administrative Assistant to the

Secretary of the Air Force, Washington, DC 20330–1000; Director of Information Management, Headquarters, Air Force Reserve, Robins AFB, GA 31098–6001; Deputy Chief of Staff, Comptroller, Headquarters U.S. Air Force, Washington, DC 20330–5000; and Base Directors or Chiefs of Information Management. Official mailing addresses are published as an appendix to the Air Force's compilation of record system notices.

A military or civilian identification card is required as proof of identity prior to disclosure."

CONTESTING RECORD PROCEDURES:

Delete entire entry and replace with "Air Force rules for accessing records, and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

RECORD SOURCE CATEGORIES:

Delete entire entry and replace with. "Information is obtained from personnel records, automated system interfaces, individuals, and orders requests."

* * * * *

F010 AF A

SYSTEM NAME:

F010 AF A—Automated Orders Data System.

SYSTEM LOCATION:

Any location where temporary orders are published at all levels down to and including squadrons. Official mailing addresses are published as an appendix to the Air Force compilation of record system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Air Force civilian employees and military members who perform temporary duty travel, including all Air Force reserve personnel who perform annual, school, special, and Military Personnel Appropriation (MPA) tours.

CATEGORIES OF RECORDS IN THE SYSTEM:

All temporary orders (temporary duty travel and reserve); identification data on individuals named in orders; accounting records for Personnel/Travel/Budgeting Accounting System (PBAS/TBAS); accounting records for man-days used, and orders log containing data found in administrative orders including name, Social Security Number, order number, and effective dates.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: Power and Duties; delegation by; as implemented by Joint Federal Travel Regulation, Vol I; Joint Travel Regulation, Vol II; Air Force Regulation 10–7, "Administrative Orders"; and Executive Order 9397.

PURPOSE(S):

Used to prepare temporary duty travel orders, including those ordering Air Force Reserve personnel to active duty for annual, school, special and MPA tours. Controls assignment of orders numbers and is a cross reference between orders, revocations, and amendments. Creates management reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer.

RETRIEVABILITY:

Retrieved by name and Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and are properly screened for need-to-know. Passwords are established for computer system entrance.

RETENTION AND DISPOSAL:

Identification data is maintained until the individual is reassigned. Orders are maintained for 1 to 50 years after the year in which they are published.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Information Management, Office of the Administrative Assistant to the Secretary of the Air Force, Washington, DC 20330–1000; Director of Information Management, Headquarters, Air Force Reserve, Robins AFB, GA 31098–6001; Deputy Chief of Staff, Comptroller, Headquarters U.S. Air Force, Washington, DC 20330–5000; and Base Directors or Chiefs of Information Management. Official mailing addresses are published as an appendix to the Air Force's compilation of record system notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to the Director of Information Management, Office of the Administrative Assistant to the Secretary of the Air Force, Washington, DC 20330–1000; Director of Information Management, Headquarters, Air Force Reserve, Robins AFB, GA 31098–6001; Deputy Chief of Staff, Comptroller, Headquarters U.S. Air Force, Washington, DC 20330–5000; and Base Directors or Chiefs of Information Management. Official mailing addresses are published as an appendix to the Air Force's compilation of record system notices.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system should address requests to the Director of Information Management, Office of the Administrative Assistant to the Secretary of the Air Force, Washington, DC 20330–1000; Director of Information Management, Headquarters, Air Force Reserve, Robins AFB, GA 31098–6001; Deputy Chief of Staff, Comptroller, Headquarters U.S. Air Force, Washington, DC 20330–5000; and Base Directors or Chiefs of Information Management. Official mailing addresses are published as an appendix to the Air Force's compilation of record system notices.

A military or civilian identification card is required as proof of identity prior to disclosure.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is obtained from personnel records, automated system interfaces, individuals, and orders requests.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F177 AF AFC F

SYSTEM NAME:

F177 AF AFC F—Civilian Pay Records (50 FR 22529, May 29, 1985).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entire entry and replace with "Accounting and Finance Offices at Air Force bases, Air Force Reserve Units and Air National Guard activities. Official mailing addresses are published as an appendix to the Air Force's compilation of record system notices."

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entire entry and replace with "All DoD civilians paid by the Air Force."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add "* * *; and Executive Order 9397."

* * * * *

RETRIEVABILITY:

Delete last portion of sentence which reads "or other identification number or system identifier."

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entire entry and replace with "Director of Accounting and Finance, United States Air Force, and accounting and finance officers at Air Force installations. Official mailing addresses are published as an appendix to the Air Force's compilation of record system notices."

NOTIFICATION PROCEDURE:

Delete entire entry and replace with "Individuals seeking to determine whether this record system contains information on themselves should address inquiries to HQ AFAFC/IMD, Denver, CO 80279–5000 or the accounting and finance office where assigned. Telephone (303) 320–7553.

Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, driver's license, civilian identification card, duty station or place of employment, or other information verifiable from the record itself."

RECORD ACCESS PROCEDURES:

Delete entire entry and replace with "Individuals seeking access to records about themselves contained in this system should address inquiries to HQ AFAFC/IMD, Denver, CO 80279–5000 or the accounting and finance office where assigned. Telephone (303) 7553.

Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, driver's license, civilian identification card, duty station or place of employment, or other information verifiable from the record itself."

CONTESTING RECORD PROCEDURES:

Delete entire entry and replace with "The Air Force rules for accessing records, and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

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RECORD SOURCE CATEGORIES:

Add as last sentence "Information is also obtained from the subject of the record."

* * * * *

F177 AF AFC F

SYSTEM NAME:

F177 AF AFC F—Civilian Pay Records.

SYSTEM LOCATION:

Accounting and Finance Offices at Air Force bases, Air Force Reserve Units and Air National Guard activities. Official mailing addresses are published as an appendix to the Air Force's compilation of record system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All DoD civilians paid by the Air Force.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual pay records; individual leave records; source documents for posting leave and attendance; individual retirement deduction records; source documents maintained in connection with retirement deduction records and control files thereon; wage and separation information files; health benefit records; income tax withholding records; allowance and differential eligibility files, such as, but not limited to, clothing allowances and night rate differentials; withholding and deduction authorization files, such as, but not limited to, federal income tax withholding, and insurance and retirement deductions; accounting document files; input data posting media, such as, but not limited to, time and attendance cards and reports and personnel actions affecting pay; accounting and statistical reports and computer edit listings; claims and waivers affecting pay; control logs and collection/disbursement vouchers; listings for administrative purposes, such as, but not limited to, health insurance, life insurance, bonds, locator files and checks to financial institutions; correspondence with the Civilian Personnel Office, dependents, attorneys, survivors, insurance companies, financial institutions; and other governmental agencies; leave and earnings statements; travel records; and separation documents; official correspondence; federal, state and tax reports and/or tapes; forms covering pay changes and deductions, and documentation pertaining to garnishment of wages.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chapters 53, 55 and 81, and Executive Order 9397.

PURPOSE(S):

The records are used to accurately compute individual employee's pay entitlements and to withhold required and authorized deductions and issue payroll checks for amounts due. Output products are forwarded as required to other subject matter areas to ensure accurate accounting and recording of pay to civilian employees. These records and related products are also used to verify and balance payroll and account data, and to provide information to recipients, Government and non-Government agencies.

Records are also used for extraction or compilation of data and reports for management studies and statistical analyses for use internally or externally as required by the Department of Defense or other government agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records may be disclosed to banks which credit the employee's account if the employee has requested his/her check to be sent to the bank; financial organizations which credit the employee account if the employee has requested a savings allotment; other approved organizations which an employee has designated for an allotment; computer and accounting service centers upon request of financial organizations designated by individuals to receive monies due them; Federal Reserve banks under procedures specified in 31 CFR part 210 for health benefit carriers to ensure proper credit for the employee authorized health benefit deductions; employee organizations for which the employee has requested a dues deduction (reasons for non-deduction of dues will be benefit deductions); disclosed to officials of labor organizations recognized under Executive Orders 11636 and 11491, as

amended, when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices and matters affecting working conditions (including disclosure of reasons for non-deduction of dues, if applicable); the United States Treasury, which maintains cash accountability; the Internal Revenue Service for recording withholding and social security information; the Social Security Administration and Office of Personnel Management which credits the employee's account for Federal Insurance Contributions Act or Civil Service Retirement withheld; state revenue departments which credit employee's state tax withholding; state employment agencies which require wage information to determine eligibility for unemployment compensation benefits of former employees; city revenue departments of appropriate cities which credit employees for city tax withheld; any agency or component thereof that needs the information for proper accounting of funds, such as, but not limited to, for-others listings; Office of Personnel Management for assistance in resolving complaints, grievances, etc.

To the Office of Personnel Management for computation of Civil Service retirement annuity.

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, in notebooks/binders, in visible file binders/cabinets, in card files, on computer and on computer output products, on roll microfilm, or microfiche, and in microfilm jackets.

RETRIEVABILITY:

Retrieved by name, Social Security Number, civilian payroll number, vehicle registration or license number, or other identification number or system identifier.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms, protected by guards, and controlled by personnel screening, visitor registers, and computer system software.

RETENTION AND DISPOSAL:

Records are retained for periods ranging up to 56 years.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Accounting and Finance, United States Air Force, and accounting and finance officers at Air Force installations. Official mailing addresses are published as an appendix to the Air Force's compilation of record system notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this record system contains information on themselves should address inquiries to HQ AFAFC/IMD, Denver, CO 80279-5000 or the accounting and finance office where assigned. Telephone (303) 320-7553.

Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, drivers license, civilian identification card, duty station or place of employment, or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system should address inquiries to HQ AFAFC/IMD, Denver, CO 80279-5000 or the accounting and finance office where assigned. Telephone (303) 320-7553.

Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, drivers license, civilian identification card, duty station or place of employment, or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURE:

The Air Force rules for accessing records, and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers; financial institutions; medical institutions; automated systems interfaces; state or local government agencies; source documents such as reports; Department of Defense components and other federal agencies such as, but not limited to, Social Security Administration; Internal Revenue Service; State revenue departments; and Departments of the Army, Navy or State. Correspondence from attorneys, dependents, survivors, guardians, and subject to the record may also furnish data for the system. Information is also obtained from the subject of the record.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 90-24906 Filed 10-19-90; 8:45 am]

BILLING CODE 3910-01-M

Department of the Navy

CNO Executive Panel; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Space and Electronic Combat Standing Task Force will meet 7 November 1990 from 9 a.m. to 5 p.m., at 4401 Ford Avenue, Alexandria, Virginia. This session will be closed to the public.

The purpose of this meeting is to discuss the development of Space and Electronic Combat systems that can survive the Soviet challenge, and provide the minimal capabilities necessary to prevail in extended combat environments. The entire agenda for the meeting will consist of discussions of key issues regarding space exploration in support of U.S. national security, and related intelligence. These matters constitute classified information that is specifically authorized by Executive Order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive Order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Lelia V. Carnevale, Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue, room 601, Alexandria, Virginia 22302-0268, Phone (703) 756-1205.

Dated: October 17, 1990.

Wayne T. Baucino,

Lieutenant, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 90-24915 Filed 10-19-90; 8:45 am]

BILLING CODE 3810-AE-M

Naval Research Advisory Committee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is given that the Naval Research Advisory Committee Project Oxbow Follow-on Panel on Tactical Defense Suppression in the

Year 2000 will meet on November 2, 1990, at the Naval Air Station, Miramar, San Diego, California. Sessions of the meeting will commence at 8 a.m. and terminate at 4:30 p.m. All sessions of the meeting will be closed to the public. The purpose of the meeting is to review and participate in Project Oxbow, which are simulated wargames comparing various tactical defense suppression systems. The agenda will be comprised of briefings and discussions concerning the planned approach and overall project objectives, a review of test results, and analysis which emphasizes qualitative results in a tactical and operational context, and will include discussions on current and projected capabilities and requirements related to tactical defense suppression systems. These discussions will contain classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The classified and non-classified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

This notice is being published late because of administrative delays which constitutes an exceptional circumstance, not allowing Notice to be published in the **Federal Register** at least 15 days before the date of this meeting.

For further information concerning this meeting contact: Commander John Hrenko, U.S. Navy, Office of Naval Research, 800 North Quincy Street, Arlington, VA 22217–5000, Telephone Number: (703) 696–4488.

Dated: October 17, 1990.

Wayne T. Baucino,

LT, Jagc, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 90–24975 Filed 10–19–90; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Advisory Council on Education Statistics; Meeting

AGENCY: Advisory Council on Education Statistics, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Education Statistics. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES AND TIMES: December 13, 1990, 9 a.m.–4:45 p.m. and December 14, 1990, 9 a.m.–3:00 p.m.

ADDRESSES: 555 New Jersey Avenue, NW., Room 328, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Carrol B. Kindel, Executive Director, Advisory Council on Education Statistics, 555 New Jersey Avenue, Room 400e, Washington, DC 20208–5574, telephone: (202) 357–6329 before October 26, 1990 and (202) 219–1496 after October 26, 1990.

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics is established under Section 406(c)(1) of the Education Amendments of 1974, Public Law 93–380. The Council is established to review general policies for the operation of the National Center for Education Statistics (NCES) in the Office of Education Research and Improvement and is responsible for advising on standards to insure that statistics and analyses disseminated by NCES are of high quality and are not subject to political influence. The meeting of the Council is open to the public.

The proposed agenda includes the following:

- Orientation for New Council Members
- NCES Statistical Standards—the Standards Program and the Cooperative Education Data Collection and Reporting Standards
- Update on Resources for 1991 and Current Performance Indicators
- 1991 Dissemination Plans
- Update on National Goals Panel
- Work in Progress: NAEP and Confidentiality

Records are kept of all Council proceedings and are available for public inspection at the Office of the Executive Director, Advisory Council on Education Statistics, 555 New Jersey Avenue, NW., Room 400e, Washington, DC 20208–5574.

Dated: October 16, 1990.

Christopher T. Cross,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 90–24833 Filed 10–19–90; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Intent To Prepare a Programmatic Environmental Impact Statement on the Department of Energy's Proposed Integrated Environmental Restoration and Waste Management Program, and To Conduct Public Scoping Meetings

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of intent (NOI) to prepare a programmatic environmental impact statement (PEIS).

SUMMARY: The Department of Energy announces its intent to prepare a PEIS pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, *et seq.*), as amended, and to conduct a series of public scoping meetings nationwide. The PEIS will assess the potential environmental consequences of alternatives for implementing an integrated environmental restoration and waste management program

The purpose of DOE's proposed integrated environmental restoration and waste management program is to provide a broad, systematic approach to addressing cleanup activities and waste management practices. The Department is committed to ensuring that potential risks to human health and the environment from the cleanup of contamination resulting from past operations and from future waste management activities are at safe levels. DOE is further committed to full compliance with environmental regulations and to a goal of completing environmental restoration by 2019.

INVITATION TO COMMENT: To ensure that the full range of issues related to this proposal are addressed, comments on the proposed scope of the PEIS are invited from all interested parties. Written comments to assist DOE in identifying significant environmental issues and defining the appropriate scope of the PEIS should be directed to Mr. Wisenbaker at the address indicated below. Agencies, organizations, and the general public also are invited to present oral comments pertinent to the preparation of the PEIS at the public scoping meetings to be held nationwide, as described below. Written and oral comments will be given equal weight.

Following the completion of the public scoping process, a PEIS Implementation Plan will be issued for public comment. The Implementation Plan will record the results of the scoping process and define the alternatives and issues to be evaluated in the PEIS. DOE intends to

complete the draft PEIS in early 1992. Its availability will be announced in the Federal Register, and public comments again will be solicited. Comments on the draft PEIS will be considered in preparing the final PEIS, scheduled for 1993.

DATES: The public scoping period will continue until February 19, 1991. Written comments should be postmarked by February 19, 1991 to assure consideration. Comments received after that date will be considered to the extent practicable. The public scoping meetings will begin in December 1990. The dates and locations of the meetings will be announced in a subsequent Federal Register notice and in local public notices in advance of the planned meetings.

ADDRESSES AND FURTHER INFORMATION: Written comments on the scope of the PEIS, questions concerning the program, and requests for copies of the draft PEIS should be directed to: Mr. W. E. Wisenbaker, Acting Director, Division of Program Support, Office of Environmental Restoration (EM-40), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 353-2969.

For further information on the DOE NEPA process please contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Oversight (EH-25), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-4600.

PUBLIC SCOPING MEETINGS: Public scoping meetings will be held in the following cities beginning in December 1990. The dates and locations of these meetings will be published in a subsequent Federal Register notice. This information will also be announced in local public notices before the planned meetings.

Oakland, California
Denver, Colorado
Washington, DC
Tampa, Florida
Atlanta, Georgia
Boise, Idaho
Idaho Falls, Idaho
Chicago, Illinois
Paducah, Kentucky
St. Louis, Missouri
Las Vegas, Nevada
Princeton, New Jersey
Albuquerque, New Mexico
Newburgh, New York
Cincinnati, Ohio
Columbus, Ohio
Portland, Oregon
Columbia, South Carolina
Oak Ridge, Tennessee
Amarillo, Texas
Richland, Washington
Seattle, Washington
Spokane, Washington

SUPPLEMENTARY INFORMATION:

Background. In November 1989, the Secretary of Energy established the DOE Office of Environmental Restoration and Waste Management (EM) for the purpose of consolidating the Department's environmental restoration and waste management activities. In January 1990, the Secretary determined that DOE will prepare an Environmental Impact Statement on a newly proposed integrated environmental restoration and waste management program.

Some of the waste management practices that DOE and its predecessor agencies once considered safe and prudent under then existing requirements and guidelines have resulted in the need for remediation under applicable current Federal and state requirements and guidelines. DOE's environmental restoration activities include the assessment and physical cleanup of contamination at DOE installations and other properties. Environmental restoration activities also include the decontamination and decommissioning (D&D) of DOE's surplus facilities. These facilities and properties may have contamination from radioactive, hazardous, or mixed (radioactive and hazardous) waste. As decisions are made for the handling of contamination at various sites and facilities, new wastes will be generated that will require management.

DOE's waste management operations include the treatment, storage, transportation, and disposal of wastes generated by ongoing nuclear energy, energy research, and defense activities; by environmental restoration activities; and by other sources. These wastes include: high-level radioactive waste (HLW); low-level radioactive waste (LLW); transuranic waste (TRU); mixed waste (MW); greater-than-Class C waste (GTCC) waste; and hazardous waste.

The Affected Installations. DOE's environmental restoration and waste management activities occur throughout the U.S. The largest number of facilities that require environmental restoration or that generate or store the largest volumes of radioactive, hazardous, and mixed waste are located at these installations: Hanford Reservation (Washington); Savannah River Site (South Carolina); Oak Ridge Reservation (Tennessee); Rocky Flats Plant (Colorado); Feed Materials Production Center, Mound Plant and Portsmouth Gaseous Diffusion Plant (Ohio); Idaho National Engineering Laboratory (Idaho); Lawrence Livermore National Laboratory (California); Argonne National Laboratory (Illinois); Paducah Gaseous Diffusion Plant (Kentucky); Nevada Test Site (Nevada); Los Alamos National Laboratory and Sandia National Laboratory (New Mexico); and Pantex Plant (Texas). The Appendix contains a listing of DOE locations where current environmental restoration and waste management activities occur that DOE believes are within the scope of this PEIS. Additional sites may be added in the course of the development of the PEIS.

The Regulatory Framework. Federal laws of major importance to DOE's environmental restoration and waste management activities include, among others, the Atomic Energy Act of 1954 (42 U.S.C. 2011, *et seq.*), as amended; the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 U.S.C. 9601, *et seq.*), as amended; and the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901, *et seq.*), as amended. The Atomic Energy Act requires the management, processing, and utilization of radioactive materials in a manner that protects the public health and the environment. CERCLA requires responses to releases or threatened releases of hazardous substances into the environment and establishes a process to clean up abandoned or uncontrolled hazardous waste sites which may endanger public health or the environment. RCRA requires management of waste currently being generated, including the treatment, storage, transportation, and disposal of hazardous waste, and cleanup of hazardous waste releases from past and present operations that pose a threat to human health and the environment. It is DOE's policy to apply NEPA to its waste management and cleanup activities. To minimize delay and duplication of effort in meeting these responsibilities, DOE is supplementing, where necessary, and integrating the procedural documentation and public participation requirements for CERCLA and RCRA to facilitate compliance with NEPA requirements (DOE Order 5400.4, Comprehensive Environmental Response, Compensation, and Liability Act Requirements).

DOE environmental restoration and waste management activities are subject to other applicable Federal and state requirements and to enforceable agreements. Additionally, certain Federal statutes require DOE to undertake specific environmental restoration and waste management activities. For example, under Title I of the Uranium Mill Tailings Radiation Control Act, DOE must remediate inactive uranium milling sites in accordance with Environmental

Protection Agency standards (40 CFR part 192) established for that purpose.

Wastes are categorized in accordance with Federal statutes and regulations and DOE Orders. High-level waste is defined in the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)). Low-level, transuranic, and radioactive mixed wastes are defined in DOE Order 5820.2A (Radioactive Waste Management). Hazardous wastes are those wastes that are defined as hazardous by U.S. Environmental Protection Agency regulations implementing RCRA (40 CFR Part 261) and by applicable state regulations.

Current Practices for Waste Management. To date, DOE's waste management operations have focused on site-by-site treatment, storage, transportation, and disposal of waste. Transuranic, low-level, hazardous, and radioactive mixed waste are generated at many DOE installations; only a few installations generate high-level waste.

DOE generates or stores high-level waste at four installations: the Savannah River Site, the Hanford Reservation, the Idaho National Engineering Laboratory, and the West Valley Demonstration Project. To date, high-level waste has undergone only limited treatment. DOE intends to immobilize the waste in a stable, solid form acceptable for disposal in a geologic repository. Under current law, only one potential repository site (at Yucca Mountain, Nevada) for this waste is currently being characterized.

Most TRU waste has been generated at DOE's Rocky Flats Plant in Golden, Colorado. Transuranic waste is currently stored at several facilities including the Rocky Flats Plant, the Idaho National Engineering Laboratory, the Hanford Reservation, the Oak Ridge Reservation, the Nevada Test Site, Los Alamos National Laboratory, and the Savannah River Site. The Idaho National Engineering Laboratory has the largest management program for this waste. The Department is currently evaluating the Waste Isolation Pilot Plant in Carlsbad, New Mexico, as a potential disposal site for TRU waste.

Low-level waste requires relatively minimal treatment. Although in some instances other methods may be used, DOE currently disposes of the majority of its LLW in near-surface facilities, including installations at the Savannah River Site, the Oak Ridge Reservation, the Nevada Test Site, the Hanford Reservation, Los Alamos National Laboratory, and the Idaho National Engineering Laboratory.

DOE Order 5820.2A (Radioactive Waste Management) requires that the DOE waste equivalent to commercially generated Greater-than-Class C (GTCC) waste be handled as a special case by each site. The Department is also responsible for disposal of commercially generated GTCC waste. DOE has developed a three-part strategy for managing this waste. The first phase would provide a storage facility for those generators that cannot continue to store the waste. The second phase would provide a central storage facility for all commercially generated GTCC waste.

The final phase would transfer the stored waste to a high-level waste repository or provide for the development of a separate GTCC disposal facility.

For hazardous waste, DOE's near-term objective is to treat the waste as it is generated, thereby minimizing the need for storage capacity. DOE disposes of treated hazardous waste in permitted DOE or commercial facilities.

Mixed wastes are generated at many DOE installations. Mixed waste may include high-level waste, transuranic waste, and low-level waste. DOE stores these wastes until they can be treated and disposed of in permitted facilities. The Department currently treats a small amount of MW by thermal destruction to eliminate some hazardous components. In addition, DOE treats some low-level MW by solidification.

The PEIS will address these practices and any reasonable alternatives that are amenable to environmental analysis. (See Scope of PEIS, below)

Current Practices for Environmental Restoration. DOE will continue to seek, to the extent possible, to negotiate a comprehensive Federal Facilities Agreement with the Environmental Protection Agency (EPA) and the involved state to cover its remediation activities at an installation. Such agreements establish technical requirements and schedules for characterization, feasibility assessment and cleanup at each of the affected sites, and delineate the roles and responsibilities of each party to the agreement, to comply with the requirements of Section 120 of CERCLA. DOE is in the early stages of site assessment and characterization at many facilities. These initial activities are being reviewed in compliance with NEPA. DOE has determined that these early remediation activities are normally categorically excluded under its NEPA guidelines (55 FR 37174, September 7, 1990).

Decontamination and decommissioning activities have several objectives: (1) To maintain facilities awaiting additional D&D activities in a manner that protects workers, the public, and the environment; (2) to decontaminate facilities intended for reuse; and (3) decommission other facilities in accordance with requirements set forth in an approved environmental compliance plan. Currently, D&D activities are planned and executed on a site-by-site basis.

The PEIS will address these practices and any reasonable alternatives amenable to environmental analysis.

Need for an Integrated Environmental Restoration and Waste Management Program. The fundamental goal of DOE's Office of Environmental Restoration and Waste Management is to ensure that potential risks to human health and to the environment posed by wastes under its jurisdiction are at safe levels. To help achieve this goal, DOE proposes to conduct an integrated environmental restoration and waste management program.

Historically, DOE environmental restoration and waste management operations have been conducted on a site-by-site basis. This practice has led to differing approaches to cleanup and waste management among DOE sites. DOE's recent consolidation of waste program responsibilities (environmental restoration and waste management) provides the opportunity to establish a systematic approach to programmatic requirements and practices.

Remediation and D & D activities result in large amounts of waste that will require management, in addition to the wastes generated from production, research, and other activities. Because environmental restoration activities will be a significant source of waste, cleanup and waste management activities are closely related. The resolution of certain key issues, such as future land-usability objectives, will determine the amount, type, and timing of environmental restoration waste being introduced into the waste management part of the system. Land-usability policy relates to cleanup standards and the degree of reliance on institutional controls for long-term health and environmental protection.

PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT: On January 12, 1990, the Secretary of Energy determined that a PEIS should be prepared for DOE's newly proposed integrated environmental restoration and waste management program. The Secretary stated that preparation of this PEIS will ensure that a comprehensive and cumulative environmental analysis of waste management proposals and alternatives will be available to DOE decisionmakers and the public.

The PEIS will assess broad programmatic issues and integrated approaches to DOE's environmental restoration and waste management activities. DOE aims, to the extent this is feasible, for the PEIS to provide the primary environmental basis for selecting waste management methods and technologies and the locations at which they would be implemented. However, DOE does not intend the PEIS to assess impacts related to alternative choices of locations within a site. Such detailed decisions would be based on site-specific NEPA documents tiered to this PEIS.

PRELIMINARY DESCRIPTION OF ALTERNATIVES: *Scope of PEIS.* DOE solicits public input on all aspects of the proposed program described in this notice. DOE plans to structure this PEIS in two sections to facilitate public review and comments. One section of the PEIS will focus on key environmental restoration issues. The second section will analyze reasonably foreseeable potential impacts associated with various waste management alternatives within the integrated program.

As discussed previously, current environmental restoration and waste management practices for which reasonable alternatives that are amenable to environmental analysis can be identified are within the scope of the PEIS. Under the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101, *et seq.*), as amended, DOE currently plans to dispose of high-level waste resulting from Departmental activities in a repository to be developed for spent fuel from commercial nuclear utilities. In addition, under section 213(a) of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980 (42 U.S.C. 7272, *et seq.*), as amended, the Department plans to demonstrate the disposal of defense transuranic waste at the Waste Isolation Pilot Plant in Carlsbad, New Mexico. These decisions will not be revisited in the programmatic EIS. In addition, there is a national program, under Congressional direction, to address the management of commercial nuclear reactor spent fuel. The activities associated with that program will be considered in separate NEPA documentation and not in this PEIS. Commercial LLW is not the Department's responsibility and therefore is outside the scope of the PEIS. Uranium Mill Tailings Remedial Action Program (UMTRAP) tailings cleanup and disposal activities are within DOE's purview, but are expected to be close to completion prior to the issuance of the Record of Decision and will not be considered in the PEIS. The groundwater remediation activities associated with UMTRAP are just beginning, however, and therefore are within the scope of this PEIS.

Proposed action. The proposed action is to formulate and implement an integrated Environmental Restoration and Waste Management Program in a safe and environmentally sound manner, and in compliance with applicable laws, regulations and standards. Alternative approaches are discussed below.

Environmental Restoration Analysis: NEPA requires DOE to analyze reasonable alternatives to its proposed actions. DOE realizes that in the current environmental restoration decisionmaking framework for remediation activities there are statutory and regulatory requirements that must be fulfilled. DOE will continue to follow established processes in conducting ongoing environmental restoration activities.

For example, the framework Congress established under CERCLA for remedial actions imposes a strong preference for permanent remedies that comply with all applicable and appropriate requirements established under environmental laws. Consequently, DOE's overall environmental restoration efforts have focused on cleaning up sites adequately for unrestricted future use. The framework also requires that cleanup requirements and remedies be selected site-specifically. This produces final decisions made both discretely and diversely.

DOE believes, however, that there are important national issues that it should analyze in carrying out its responsibilities. These issues include, but are not limited to, (1) the degree to which DOE should rely on proven technologies in contrast to making strong resource commitments to developing innovative technologies; (2) the manner in which DOE should manage wastes until adequate treatment and disposal capacity is available; (3) whether DOE's installations should invariably be cleaned up for unrestricted use; and (4) the environmental basis for deciding cleanup priorities.

DOE seeks to develop and analyze programmatic alternatives that bear on these issues. DOE believes that important information on the costs and benefits of alternative program management strategies could thereby be obtained. DOE is especially interested in receiving public comments on these issues.

Decontamination and decommissioning activities are not subject to the decisionmaking framework that governs remediation activities. DOE proposes, therefore, to approach all D&D activities in an integrated, systematic fashion.

Waste Management Analysis: Waste treatment, storage, transportation, and disposal alternatives primarily depend on the waste category (such as radioactive, hazardous, or radioactive mixed waste). Alternatives will reflect centralized, regional, or installation-specific strategies. The analysis would provide environmental information for deciding which waste management capabilities should be established centrally, regionally, or at each site. Transportation of waste and the potential associated impacts will also be evaluated.

No Action. This alternative would continue present practices. DOE would not adopt and integrated environmental restoration and waste management program. DOE would continue to operate its environmental restoration activities and its waste operations as discrete site-specific actions. If site requirements dictate the need for offsite or new facilities, management decisions would be made on a project specific basis.

DOE would maintain existing facilities for waste management operations. New waste management activities, projects, and technological development would be considered case-by-case.

IDENTIFICATION OF ENVIRONMENTAL ISSUES: The following environmental issues have been identified for analysis in the PEIS. This list is presented to facilitate discussion on the scope of the PEIS and is not intended to be all-inclusive or to predetermine the scope. Therefore, DOE invites comments on these and additional issues relevant to this PEIS.

(1) The potential impacts (both beneficial and adverse) to worker health, public health, and the environment under various alternatives for environmental restoration and waste management.

(2) The potential impacts to workers, public health, and the environment under various alternatives from routine transportation of wastes and potential transportation accidents.

(3) The development of needed technologies and methods for environmental restoration and waste management and the potential impacts (both beneficial and adverse) from their implementation.

(4) Any obstacles to achieving full compliance with all applicable federal, state, and local environmental statutes, regulations, and requirements.

(5) The socioeconomic impacts of alternatives for dispersed, regional, and centralized waste management.

(6) The potential impacts of applying various land-usability strategies to the cleanup of DOE installations and sites.

RELATIONSHIP TO OTHER ACTIONS: *Five-Year Plan.* DOE issued a Five-Year Plan for Environmental Restoration and Waste Management (DOE/S–0070) in August 1989 that was subsequently revised, updated, and reissued (DOE/S-0078P) in June 1990. The Plan summarizes current DOE practices and identifies short- and long-term goals. The activities described are for the near-term (e.g., remediation of seepage basins at the Savannah River Site, and radioactive storage upgrades at the Kansas City Plant). Only general objectives, criteria, and guidance, in addition to those set in applicable environmental regulations and statutes, are specified for implementing environmental restoration and waste management activities on a long-term basis. For example, the Plan states that the majority of solid low-level waste generally will continue to be disposed of using shallow land burial, but recognizes that this may not be suitable for all locations. The Plan also states DOE's general intent that facilities and sites be returned to a condition suitable for unrestricted use, but recognizes that in-place remedies may sometimes be preferred.

The Five-Year Plan is not a proposal within the context of NEPA. Rather, it is preliminary to the Environmental Restoration and Waste Management PEIS in which DOE will evaluate integrating its long-term environmental restoration and waste management activities. The PEIS will specifically address the long-term goals and issues generally summarized in the Five-Year Plan.

As the Plan states, completion of the PEIS process may result in changes in specific programs, which would be reflected in future editions of the Plan.

Environmental Restoration and Waste Management Configuration Study. The Environmental Restoration and Waste Management Configuration Study is a strategic planning study for the long-term (the next 25 years). The study will support the definition of waste system configuration alternatives in this PEIS. DOE intends to issue the draft configuration study concurrently with the draft PEIS for public information and use in reviewing the draft PEIS.

Many factors influence the configuration and updating of DOE's waste management operations, including: (1) Increasingly strict environmental, safety, and health standards and requirements; (2) facilities dating from the late 1940s to the middle 1960s becoming obsolete; (3) increasing costs to maintain and upgrade these facilities; (4) difficulties in managing widely dispersed waste storage facilities in different environmental settings; (5) potential changes in the locations, volumes, and types of waste to be managed, after consideration of a PEIS on reconfiguring (modernizing) the nuclear weapons complex; (6) availability of improved technologies; (7) population growth near once-remote facilities such as areas near Rocky Flats, Colorado, Fernald, Ohio, Oak Ridge, Tennessee, and Livermore, California, which has led to local demands for restricting DOE operations; and (8) transition from waste accumulation and storage to waste treatment and disposal.

PEIS for the Nuclear Weapons Complex (NWC). In concert with the decision to prepare this PEIS, the Secretary decided that a separate PEIS on DOE's proposal to modernize (reconfigure) the nuclear weapons complex will also be prepared. The reconfiguration of the nuclear weapons complex would affect DOE's program for environmental restoration and waste management because it would change the locations, volumes, and types of waste to be managed. The environmental restoration and waste management PEIS, therefore, will take into account, to the extent practical, the materials generated in the preparation of the NWC PEIS. Separate statements are being prepared, however, because the programs are driven by distinct missions, requirements, and schedules. If the PEIS on the NWC is not issued first, DOE will prepare a supplement to the Environmental Restoration and waste management PEIS, if appropriate.

PUBLIC SCOPING MEETINGS AND INVITATION TO COMMENT: DOE is committed to providing opportunities for the involvement of interested individuals and groups in this and other DOE planning activities.

DOE will conduct a series of public scoping meetings nationwide and invites all interested people to attend and to present oral comments concerning: (1) the scope of the PEIS, (2) the issues that should be addressed, and (3) the alternative integrated approaches to be analyzed in the PEIS. DOE also invites written comments.

Oral and written comments will be given equal consideration. Instructions for submitting written comments are given above. People desiring to speak at the public scoping meetings should submit their requests to do so to the contact persons to be designated in a subsequent **Federal Register** notice. Oral presentation requests for each meeting should be received by DOE at least two days before the meeting.

The meetings will be chaired by a presiding officer. They will not be conducted as evidentiary hearings. Speakers will not be cross-examined, although the DOE representatives present may ask them clarifying questions.

To ensure everyone an adequate opportunity to speak, five minutes will be allotted for each speaker. Depending on the number of persons requesting to speak, the presiding officer may allow more time for speakers representing multiple parties or organizations. Persons wishing to speak on behalf of organizations should identify the organization in their request. Persons who have not submitted a timely request to speak may register at the meetings, and will be called on to speak if time permits. Written comments also will be accepted at the meetings, and speakers are encouraged to provide written versions of their oral comments for the record.

The public scoping meetings will begin in December 1990. Detailed information on the meetings will be provided in a subsequent **Federal Register** notice. This information will also be announced in local public notices before the planned meetings.

DOE will make a transcript of each meeting. Copies will be made available for inspection at the DOE Freedom of Information Reading Room (Room 1E-190), Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, during business hours, Monday through Friday and in local DOE reading rooms. Locations of local reading rooms will be provided in the subsequent **Federal Register** notice regarding the scoping meetings.

RELATED NEPA DOCUMENTATION: DOE expects to prepare additional NEPA documents for implementing programmatic and facility-specific decisions based upon this PEIS. These generally site-specific documents will analyze future technology and siting alternatives for implementing DOE's environmetnal restoration and waste management activities. Their analyses will address such local concerns as floodplains and wetlands, historic and archaeological sites, land use, and threatened and endangered species. The PEIS will examine these issues only to the degree necessary for selection of an integrated program.

Interim Actions. DOE may need to conduct many diverse and discrete site-

specific environmental restoration and waste management activities while the PEIS is being prepared. Many of these activities are required by Federal and state regulatory agencies under environmental compliance agreements and some are required by court decrees. DOE will have to determine case-by-case whether site-specific actions may proceed before the PEIS is completed. This will be done in accordance with all applicable requirements, including the test for interim actions found in Council on Environmental Quality's NEPA Regulations (40 CFR 1506.1(c)).

Other. DOE has prepared, or is currently preparing, NEPA documents for many of DOE's site-specific actions. Examples of some major relevant waste management NEPA documents are listed below:

1. Final Environmental Impact Statement, Disposal of Hanford Defense High-level, Transuranic and Tank Wastes, Hanford Site, Richland, Washington. DOE/EIS-0113, December 1987. U.S. Department of Energy, Washington, DC.

2. Final Environmental Impact Statement, Waste Management Activities for Groundwater Protection, Savannah River Plant, Aiken, South Carolina. DOE/EIS-0120, December 1987. U.S. Department of Energy, Washington, DC.

3. Final Supplemental Environmental Impact Statement, Waste Isolation Pilot Plant. DOE/EIS-0026-FS, January 1990. U.S. Department of Energy, Washington, DC.

4. Draft Environmental Impact Statement, Decommissioning of Eight Surplus Production Reactors at the Hanford Site, Richland, Washington. DOE/EIS-0119d, March 1988. U.S. Department of Energy, Washington, DC.

These documents, the Five-Year Plan (DOE/S-0078P), transcripts from the public scoping meetings (when they become available), and other related documents will be available for inspection at DOE Freedom of Information Reading Rooms.

Issued in Washington, DC, this 15th day of October 1990.

Peter N. Brush,

Acting Assistant Secretary, Environment, Safety and Health.

Appendix: Locations of Activities Embraced by the PEIS

Name	Location
Amchitka Island	Amchitka Island, AK.
Lawrence Berkeley Laboratory	Berkeley, CA.
University of California	Berkeley, CA.
Atomics International	Canoga Park, CA.
Laboratory for Energy-Related Health Research	Davis, CA.
Sandia National Laboratory-Livermore	Livermore, CA.
Lawrence Livermore Laboratory	Livermore, CA.
Bayo Canyon	Los Alamos, CA.
Stanford Linear Accelerator Center	Palo Alto, CA.
General Atomics	San Diego, CA.
Energy Technology Engineering Center	Santa Susana, CA.
General Electric Vallecitos Nuclear Center	Vallecitos, CA.
Rocky Flats Plant	Golden, CO.
Grand Junction Project Office	Grand Junction, CO.
Project Rulison Site	Grand Valley, CO.
Project RioBlanco Site	Rifle, CO.
Seymour Specialty Wire	Seymour, CT.
Pinellas Plant	St. Petersburg, FL.
Kauai Test Facility	Kauai, HI.
Ames Laboratory	Ames, IA.
Idaho National Engineering Laboratory	Idaho Falls, ID.
Argonne National Laboratory—West	Idaho Falls, ID.
Argonne National Laboratory—East	Chicago, IL.
National Guard Armory	Chicago, IL.
Palos Forest	Chicago, IL.
Fermi National Accelerator Laboratory	Batavia, IL.
University of Chicago	Chicago, IL.
Johnston Atoll	Johnston Atoll.
Paducah Gaseous Diffusion Plant	Paducah, KY.
Ventron, Beverly	Beverly, MA.
Shpack Landfill	Norton, MA.
W.R. Grace & Co	Cuttis Bay, MD.
General Motors	Adrian, MI.
Hazelwood (Latty Avenue)	Hazelwood, MO.
Kansas City Plant	Kansas City, MO.
St. Louis Airport Storage Site	St. Louis, MO.
Mallinckrodt, Inc	St. Louis, MO.
St. Louis Airport Storage Site Vicinity Properties	St. Louis, MO.
Weldon Spring Site Remedial Action Project	St. Charles, MO.
Tatum Dome	Tatum Dome, MS.
Component Development & Integration Facility	Butte, MT.
Hallam Nuclear Power Facility	Lincoln, NE.
Du Pont & Company	Deepwater, NJ.
Kellex/Pierpont	Jersey City, NJ.
Maywood	Maywood, NJ.
Middlesex Landfill	Middlesex, NJ.
Middlesex Sampling Plant	Middlesex, NJ.
New Brunswick Laboratory	New Brunswick, NJ.
Princeton Plasma Physics Laboratory	Princeton, NJ.
Wayne/Pequannock	Wayne/Pequannock, NJ.
Inhalation Toxicology Research Institute	Albuquerque, NM.
Sandia National Laboratory—Albuquerque	Albuquerque, NM.
Ross Aviation	Albuquerque, NM.
Project GNOME Site	Carlsbad, NM.
Waste Isolation Pilot Plant	Carlsbad, NM.
Project GASBUGGY Site	Farmington, NM.
Los Alamos National Laboratory	Los Alamos, NM.
Acid/Pueblo Canyon	Los Alamos, NM.
Chupadera Mesa	White Sands Missile Range, NM.
Central Nevada Test Area	Central Nevada Test Area, NV.
Project Shoal Site	Fallon, NV.
Nevada Test Site	Las Vegas, NV.
Tonopah Test Range	Nellis Air Force Base, NV.
Colonie	Colonie, NY.
Niagara Falls Storage Site Vicinity Properties	Lewiston, NY.
Niagara Falls Storage Site	Niagara Falls, NY.
Ashland Oil Co. #2	Tonawanda, NY.
Linde Air Products	Tonawanda, NY.
Seaway Industrial Park	Tonawanda, NY.
Ashland Oil Co. #1	Tonawanda, NY.
Brookhaven National Laboratory	Upton, Long Island, NY.
West Valley Demonstration Project	West Valley, NY.
Reactive Metals Inc	Ashtabula, OH.
Battelle Columbus Laboratories	Columbus, OH.
Feed Materials Production Center	Fernald, OH.
Mound Laboratory	Miamisburg, OH.
Piqua Nuclear Power Facility	Piqua, OH.
Portsmouth Gaseous Diffusion Plant	Portsmouth, OH.
Albany Metallurgical Research Center	Albany, OR.
Universal Cyclops	Aliquippa, PA.
Center for Energy and Environmental Research	Mayaguez, PR.
Savannah River Site	Aiken, SC.
Oak Ridge National Laboratory	Oak Ridge, TN.
Oak Ridge Gaseous Diffusion Plant	Oak Ridge, TN.
Y-12 Plant	Oak Ridge, TN.
Pantex Plant	Amarillo, TX.
Hanford Reservation	Richland, WA.
24 Sites Covered under Title I of the Uranium Mill Tailings Radiation Control Act	Various Locations.

Bonneville Power Administration

Intent To Prepare an Environmental Impact Statement for a Proposed Long-Term Sale of 1400 Megawatts of Capacity to the Pacific Power and Light Company; and Public Scoping Meeting

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS) and conduct a public meeting.

SUMMARY: BPA intends to prepare and consider an EIS on a proposed 20-year sale of electrical capacity to the Pacific Power and Light Company (PP&L) for service to its Northwest loads. BPA has 2600 megawatts of surplus electrical capacity available on its system, i.e., capacity which it projects will not be required to meet its obligations incurred pursuant to subsections 5(b), 5(c), and 5(d) of the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act) and previously committed capacity contracts. PP&L currently has a Power Sales Contract with BPA providing for the purchase of 1127.3 MW of capacity. This contract expires at midnight on August 31, 1991. A proposed contract to replace the expiring PP&L capacity contract, which is to be the subject of the EIS, has been negotiated. A rate-setting process for

capacity sales to be made under the proposed contract has been conducted in accordance with subsection 7(i) of the Northwest Power Act.

Those persons who wish more detailed information on the proposed contract or a copy of it should contact one of the information sources listed below.

INVITATION TO COMMENT

To ensure that the full range of issues related to this proposal is addressed, comments on the proposed scope of the EIS are invited from all interested parties. Written comments or suggestions to assist BPA in identifying significant environmental issues and the appropriate scope of the EIS should be sent to the address below and received by November 21, 1990. Later comments will be considered to the extent practicable. Meetings held in conformance with BPA's Fish and Wildlife Consultation procedures, adopted May 22, 1985, to discuss the PP&L capacity sale took place on May 21, 1990, and July 19, 1990. Comments made at those meetings or submitted subsequently in writing will be taken into account in scoping the draft EIS. Agencies, organizations, and the general public are also invited to present oral comments or suggestions pertinent to preparation of this EIS at the public scoping meeting as indicated below. Written and oral comments will be given equal weight in the scoping process. Comments and suggestions received during the scoping process will be considered in preparing the draft EIS. The draft EIS is expected to be completed in 1991, at which time its availability will be announced in the Federal Register, and public comments will again be solicited. Comments on the draft EIS will be considered in preparing the final EIS.

DATE AND LOCATION: The scoping meeting will be held in Portland, Oregon, on November 6, 1990, from 1 to 5 p.m. in the Third Floor Conference Room of the Federal Building East, 1002 NE. Holladay St., Portland, Oregon.

ADDRESSES: Written comments should be sent to arrive by November 21, 1990, and should be addressed to: Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, OR 97212.

FOR FURTHER INFORMATION CONTACT: Mr. Roy B. Fox, Coordination and Review Manager—PG, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208; telephone (503) 230-4261.

INFORMATION MAY ALSO BE OBTAINED FROM: Ms. Jo Ann Scott, Public Involvement Manager—ALP, Bonneville Power Administration, P.O. Box 12999, Portland, OR 97212; telephone (503) 230-3478; toll-free 800-452-8429 (in Oregon); 800-547-6048 (in other Western States).

SUPPLEMENTARY INFORMATION: When a customer purchases capacity service from BPA, it is purchasing the flexibility of the Federal hydroelectric system. BPA delivers capacity (peaking energy) to the purchasing utility during the utility's peak hours (heavy load hours), usually daytime, weekday hours, and the utility returns that energy (peaking replacement energy) to BPA during the utility's offpeak or light load hours, at night or on weekends. Capacity service may be requested by utilities that lack adequate resources to meet their peak loads. A utility may decide, for economic reasons, to purchase capacity service from BPA rather than build and operate its own peaking resources. This is PP&L's position.

Benefits to BPA from a capacity sale include enhanced revenue and revenue stability over the contract period. Capacity sales yield revenues that exceed the foregone revenues that BPA might have received by making use of BPA's operational flexibility for a purpose other than production of capacity. Revenue stability is enhanced by applying capacity charges to a fixed contract demand and escalating these charges by a formula based on BPA's costs. Although BPA could receive revenues from short-term, spot market sales made in lieu of long-term capacity sales, the amount of such revenue would likely be lower and would be more variable and less certain given the unpredictability of spot market conditions.

Capacity sales also benefit BPA's customers. Any additional revenue that BPA receives from a more efficient use of the hydroelectric system is revenue that BPA does not have to recover from its firm power customer classes. Currently, the cost of BPA's unsold surplus capacity is shared by BPA's preference and direct-service industrial customers. As more suprius capacity is sold under long-term contracts, BPA's customers. As more surplus capacity is of generating resources can be spread over a larger number of users. Rates will stay lower and be more predictable.

When BPA delivers peaking energy to utility customers, it drafts reservoirs, lowering the water levels in them, and increases generation on the Columbia River hydrosystem. Flows and river water levels increase downstream of dams. Conversely, when a utility customer returns peaking replacement energy during offpeak hours, when BPA's own loads are also low, BPA reduces generation on its system. Less water is released through the turbines (although specified minimum flows are maintained, through spill if necessary), water levels in the reservoirs increase through inflow, and flows and river levels below the reservoirs decrease. These daily and weekly shifts between increasing generation to supply peaking energy, and decreasing generation when peaking replacement energy is being delivered to BPA result in the potential for environmental impacts. The nature and amount of these impacts are not well understood at this time.

PP&L, in relying on the former regional Hydro-Thermal Power Program, incorporated the purchase of firm capacity from BPA into its long-term resource planning decisions. They invested heavily in coal-fired generation and are deficient in capacity on their own system. Therefore, PP&L desires to continue to purchase surplus firm capacity from BPA in order to meet their Pacific Northwest firm load obligations. Other options available to PP&L to meet their need for capacity, for example purchase of combustion turbine resources, are less attractive, either economically or operationally, than continued purchase of surplus capacity from BPA. Selling capacity to PP&L is consistent with BPA's overall power marketing program and will provide levelized revenues in the amount of about $72,000,000 (1991 dollars) per year.

Deliveries of capacity under the proposed new PP&L capacity sale contract are intended to begin upon expiration of the existing PP&L contract, at midnight on August 31, 1991. (In the event the Final EIS and a Record of Decision are not complete prior to the expiration date of the current contract, BPA intends to enter into a short-term capacity sale with PP&L to meet their needs until a decision on a long-term contract has been reached.) The term of the proposed contract is 20 years. The sale (i.e., the contract demand) would be of 1100 MW of capacity initially, until September 30, 1992. The sale would then increase by 100 MW of contract demand and would increase in additional 100 MW increments each subsequent September 30th until it reaches its maximum amount of 1400 MW on September 30, 1994. Capacity and associated peaking energy are provided for up to 10 hours per day for up to 80 hours per week. Returns of replacement peaking energy are to be made by PP&L within 7 days. The proposed contract includes various operational provisions which permit BPA to limit hourly rates of return of replacement peaking energy in the months of March through October.

Deliveries are to be prescheduled each workday for each hour of the following day or days until the next regular workday. However, PP&L would have a right to change these schedules on 30 minutes notice for up to 6 heavy load hours, and also have a right to increase deliveries from BPA during light load hours. The proposed price for the capacity is $4.92 kilowatt-month of Contract Demand. This price is to be escalated upwards to reflect changes in BPA's average system cost as determined in each successive BPA general rate case after September 1, 1991. BPA has a 5-year right to terminate or reduce contract demand to meet statutory obligations to preference customers, or to meet prior contractual obligations, including exchange obligations, or to meet capacity/exchange obligations which are incurred subsequent to this contract if, at the time of incurring such obligation, BPA had projected (for the term of this contract) at least 300 MW of firm capacity in excess of the aggregate of the new obligations.

In the draft EIS, BPA is considering analyzing the proposed action, perhaps some minor variations thereof relating to the amount of capacity sold and the contract rights for BPA to decrease contract demand, and the no-action alternative. The no-action alternative is envisioned as some combination of short-term transactions and use of system flexibility which would be expected to take place absent the sale of capacity to PP&L. Sales of capacity on a long-term basis to other Northwest entities are not planned at this time to be analyzed as alternatives since there are no negotiations ongoing or proposals for such sales. Firm Displacement sales to Northwest utilities currently under consideration as part of joint ventures to provide power to the Southwest and potential sales directly to Southwest entities are addressed in BPA's Final Intertie Development and Use EIS and are not alternatives to the proposed capacity sale to PP&L since they do not exhaust the capacity surplus. Alternative terms beyond the minor variations mentioned above for the PP&L sale may be analyzed if preliminary analysis demonstrates that environmental problems would be expected as a consequence of specific terms of the proposed sale or environmental benefits could be achieved by altering the proposed terms. Such changes would require further negotiation with PP&L. BPA requests input through the scoping process regarding the alternatives which should be addressed in the EIS process, including the definition of the no-action alternative.

There may be potential effects on resident and anadromous fish and wildlife as a consequence of the proposed sale, resulting from fluctuations in flows and water levels in reservoirs and rivers. Pending threatened and endangered species determinations for the upper Snake River sockeye salmon, lower Columbia River coho salmon, and Snake River spring, summer, and fall chinook salmon could complicate the issue.

Specifically, the following issues are of concern to fish and wildlife interests and are expected to be addressed in the environmental document.

1. Elevations (flows) at Vernita Bar.
2. Effects on weekend flows both during and outside the Water Budget period.
3. Delays in adult migration in the Snake because of reduced or zero night-time flows and during periods of high sustained flow.
4. Effects of flow fluctuations on juvenile passage.
5. Effects of flow fluctuations on adult passage.
6. Effects on resident fish and fishing in the Flathead, Lower Columbia, and Kootenai Rivers resulting from flow fluctuations.
7. Effects on resident fish in reservoirs from elevation fluctuations.
8. Effects on predator fish distributions.
9. Effects of flow fluctuations on wildlife including stranding, increase predation, etc. at nesting islands.
10. Changes in the volume and underlying percentages of spill.

Some of these issues were raised or reiterated at Fish and Wildlife consultation meetings on May 21, 1990, and July 19, 1990. BPA is seeking additional comments relating to how capacity sales might affect fish and wildlife, suggestions as to how daily and weekly fluctuations in flow and elevation can or should be quantitatively or qualitatively related to fish and wildlife impacts so as to be able to determine their significance, and any data useful in this analysis.

Impacts on recreational uses of the hydrosystem are also a concern. Since fishing is a major recreational use of the hyrdosystem, recreation impacts are not totally separate from those fish and wildlife issues listed above. However, changes in flows and downstream water levels can affect the quality of the fishing experience also. BPA is aware of some impacts changing flows have on sturgeon fishing downstream of Bonneville Dam, and other problems changes in flows pose for fishing downstream of Libby Dam and Dworshak. Other types of recreation can also be affected. Recreational boating (and commercial navigation as well) can be affected by changes in reservoir and river levels which can affect boating access and facilities (*e.g.*, by altering the availability for use of boat launching ramps and docks) and expose navigation hazards. Swimming facilities at the reservoirs may also be affected by changing water levels. The quality of other recreational activities such as camping and simply viewing scenery can also be deteriorated by lower water levels. The aesthetic quality of the reservoirs declines when the water is lower exposing mud flats and so forth. BPA is also seeking comments relating to how capacity sales might affect recreation, suggestions as to how daily and weekly fluctuations in flow and elevation can or should be quantitatively or qualitatively related to recreation impacts so as to be able to determine their significance, and any data useful in this analysis.

Bank stability is also affected by fluctuations in reservoir and river levels. More frequent or more severe fluctuations would tend to increase erosion of reservoir and river banks. This is a notable problem downstream of Grand Coulee Dam.

Irrigation may also be affected. Irrigators who pump directly out of rivers and reservoirs may have to move their water intakes more frequently to compensate for increased fluctuation in water level.

The preceding is not intended to be an exhaustive list of the potential impacts that the operation of the hydrosystem to produce capacity may have on the environment. BPA seeks comment on additional types of impacts which may occur, and means to analyze them.

Other BPA National Environmental Policy Act (NEPA) Processes

In addition to this EIS, BPA proposes to prepare three other EIS's related to power marketing and resource decisions over the next several years.

The first such EIS concerns BPA's Resource Program. BPA's Resource Program is prepared biennially to meet the Administrator's obligation to serve loads placed on BPA. The Resource Program articulates the plan BPA will use in meeting its load obligations and explains the analytic basis for that plan and the reasons it is preferred over alternative resource plans. The Resource Program also provides the basis for energy resource program budgets and explains how they are derived. The

Resource Program EIS will evaluate environmental effects associated with the various types of resources considered and will examine the environmental effects of altenative resource plans that could be proposed. Environmental tradeoffs among the various resources and among alternative resource plans will also be covered in the Resource Program EIS.

A second EIS currently contemplated addresses the System Operation Review (SOR). This process could lead to decisions affecting regional hydropower capability or operating flexibility, thereby altering the amount of capacity the hydrosystem could generate. Because of the dominance of hydropower in the existing Federal System, these decisions could affect BPA's Resource Programs. The Resource Program EIS will be scoped to accommodate potential changes in hydrosystem operation.

The third EIS will address non-Federal participation in the Third AC (alternating current) Intertie. This EIS will focus on extraregional marketing and the potential environmental and economic tradeoffs between Federal export marketing and export marketing by non-Federal entities, and the extent to which restrictions on export marketing may effectively mitigate potentially adverse environmental effects. Although the PP&L sale would need to be taken into account for analytic purposes for this EIS, the sale is not directly relevant to the action this EIS is being prepared to address.

Since the EIS on the proposed sale of surplus capacity to PP&L deals with a sale of surplus capacity resources and the Contract Demand can be reduced in order to meet other BPA firm obligations, there is no need to delay consideration of the PP&L sale for analysis in either the Resource Program EIS or the SOR EIS or vice versa. Further, BPA does not currently foresee any other long-term marketing actions beyond the sale to PP&L, other than potential export sales already addressed by the Intertie Development and Use EIS. Analysis of future long-term marketing actions subsequent to PP&L would include cumulative effects of the PP&L sale as well as other existing or reasonably foreseeable long-term marketing actions and would be presented in appropriate NEPA documents.

Issued in Portland, Oregon on October 3, 1990.

Jack Robertson,

Deputy Administrator.

[FR Doc. 90-24976 Filed 10-17-90; 4:51 pm]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. QF90-85-001, et al.]

Hadson Power 13—Hopewell, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

October 18, 1990.

Take notice that the following filings have been made with the Commission:

1. Hadson Power 13—Hopewell

[Docket No. QF90-85-001]

On October 1, 1990, Hadson Power 13—Hopewell (Applicant), of 16845 Von Karman Avenue, Irvine, California 92714, submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Hopewell, Virginia. The facility consists of two coal-fired boilers and a single automatic extraction/condensing steam turbine generator. Thermal energy recovered from the facility is used by Firestone Fibers & Textile in the manufacturing of synthetic fiber. The net electric power production capacity of the facility is 80.147 MW.

The certification of the original application was issued on April 29, 1988 (43 FERC ¶ 62,023 (1988)). The instant recertification is requested due to the transfer of ownership from Ultra Cogen Systems, Incorporated, the previous owner, to the Applicant. Applicant is not an electric utility, electric utility holding company or any combination thereof.

Comment date: Thirty days from publication in the Federal Register, in accordance with Standard Paragraph E at the end of this notice.

2. Hadson Power 11—Southampton

[Docket No. QF90-84-001]

On October 1, 1990, Hadson Power 11—Southampton (Applicant), of 16845 Von Karman Avenue, Irvine, California 92714, submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility is located in Franklin, Southampton County, Virginia. The facility consists of two coal-fired boilers and a single automatic extraction/condensing steam turbine generator. Thermal energy recovered from the facility is used by Hercules, Incorporated in the manufacturing of resins, paper chemicals and organic peroxides. The net electric power production capacity of the facility is 80.872 MW.

The certification of the original application was issued on April 8, 1988 (43 FERC ¶ 62,103 (1988)). The instant recertification is requested due to the transfer of ownership from Ultra Cogen Systems, Incorporated, the previous owner, to the Applicant. Applicant is not an electric utility, electric utility holding company or any combination thereof.

Comment date: Thirty days from publication in the Federal Register, in accordance with Standard Paragraph E at the end of this notice.

3. Hadson Power 12—Altavista

[Docket No. QF90-86-001]

On October 1, 1990, Hadson Power 12—Altavista (Applicant), of 16845 Von Karman Avenue, Irvine, California 92714, submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility is located in Altavista, Virginia. The facility consists of two coal-fired boilers and a single automatic extraction/condensing steam turbine generator. Thermal energy recovered from the facility is used by Lane Company, Inc. in the manufacturing of furniture. The net electric power production capacity is 80.577 MW.

The certification of the original application was issued on April 28,1988 (43 FERC ¶ 62,072 (1988)). The instant recertification is requested due to the transfer of ownership from Ultra Cogen systems, Incorporated, the previous owner, to the Applicant. Applicant is not an electric utility, electric utility holding company or any combination thereof.

Comment date: Thirty days from publication in the Federal Register, in accordance with Standard Paragraph E at the end of this notice.

4. Hadson Power 14—Buena Vista

[Docket No. QF90-87-001]

On October 1, 1990, Hadson Power 14—Buena Vista (Applicant), of 16845 Von Karman Avenue, Irvine, California 92714, submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility is located in Buena Vista, Virginia. The facility consists of two coal-fired boilers and a single automatic extraction/condensing steam turbine generator. Thermal energy recovered from the facility is used by Georgia Bonded Fibers, Inc. for manufacturing of fiber boards. The net electric power production capacity of the facility is 62.4 MW.

The certification of the original application was issued on April 8, 1988 (43 FERC ¶ 62,024 (1988)). The instant recertification is requested due to the transfer of ownership from Ultra Cogen Systems, Incorporated, the previous owner, to the Applicant. Applicant is not an electric utility, electric utility holding company or any combination thereof.

Comment date: Thirty days from publication in the Federal Register, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become aparty must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24854 Filed 10-19-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP91-39-000, et al.]

Northern Natural Gas Co., et al.; Natural Gas Certificate Filings

October 12, 1990.

Take notice that the following filings have been made with the Commission:

1. Northern Natural Gas Co.

[Docket No. CP91-39-000]

Take notice that on October 10, 1990, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, Houston, Texas 77251, filed in Docket No. CP90-66-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas under its blanket authorization issued in Docket No. CP86-435-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern proposes to transport natural gas on an interruptible basis for Meadco Properties. Northern explains that the service commenced September 1, 1990, under the self-implementing authorization of § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89-4715. Northern proposes to transport on a peak day up to 15,000 MMBtu; on an average day up to 11,250 MMBtu; and on an annual basis up to 5,475,000 MMBtu. Northern proposes to receive and deliver the gas at various points in Texas. It is stated that existing facilities would be used to effect the transportation service and that no construction of additional facilities would be required.

Comment date: November 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

2. Texas Eastern Transmission Corp.

[Docket No. CP91-104-000]

Take notice that on October 10, 1990, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77251, filed in Docket No. CP91-104-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas under its blanket authorization issued in Docket No. CP88-136-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Eastern proposes to transport natural gas on an interruptible basis for Marathon Oil Company (Marathon), a producer of natural gas, pursuant to an interruptible transportation service agreement. Texas Eastern proposes to transport on a peak day up to 48,000 MMBtu per day; on an average day up to 48,000 MMBtu; and on an annual basis 17,250,000 MMBtu of natural gas for Marathon. Texas Eastern proposes to receive the gas for Marathon. Texas Eastern proposes to receive the gas for Marathon's account at receipt points located onshore and offshore Louisiana, Alabama, Arkansas, Illinois, Indiana, Kentucky, Missouri, Mississippi, New Jersey, New York, Ohio, Pennsylvania, Texas, Tennessee and West Virginia. Texas Eastern would redeliver the gas at existing delivery points located on Texas Eastern's system.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's Regulations. Natural commenced such self-implementing service on March 1, 1989, as reported in Docket No. ST89-3356-000.

Comment date: November 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

3. Stingray Pipeline Co., Florida Gas Transmission Co., Florida Gas Transmission Co., Superior Offshore Pipeline Co., Superior Offshore Pipeline Co., Northern Natural Gas Co., Tennessee Gas Pipeline Co.

[Docket No. CP91-49-000, Docket No. CP91-66-000, Docket No. CP91-67-000, Docket No. CP91-68-000, Docket No. CP91-69-000, Docket No. CP91-77-000, Docket No. CP91-78-000]

Take notice that the above referenced companies (Applicants) filed in respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.[1]

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicants and is included in the attached appendix.

The Applicants also state that each would provide the service for each shipper under an executed transportation agreement, and that the Applicants would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: November 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

[1] These prior notice requests are not consolidated.

Docket No. (date filed)	Applicant	Shipper name	Peak day avg. annual [1]	Points of		Start up date rate schedule	Related dockets [2]
				Receipt	Delivery		
CP91-49-000 10-4-90	Stingray Pipeline Company, 701 East 22nd St., Chicago, IL 60148.	Howell Gas Management Company.	5,000 2,500 912,500	LA Off. LA Off. TX	LA Off. TX	8-1-90 Int.	RP88-76-000. ST90-4415-000.
CP91-66-000 10-5-90	Florida Gas Transmission Company, 1400 Smith St., Houston, TX 77002.	Meidian Oil Trading Inc..	200,000 150,000 73,000,000	TX,LA MS, AL FL Off. TX Off. LA	TX,LA MS,AL FL	8-15-90 ITS-1	RP88-50-000, et al. ST90-4832-000.
CP91-67-000 10-5-90	Florida Gas Transmission Company, 1400 Smith St., Houston, TX 77002.	NGC Transportation, Inc..	2,152 1,614 785,480	MS	MS	8-1-90 ITS-1	RP88-50-000, et al. ST90-4815-000.

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

Docket No. (date filed)	Applicant	Shipper name	Peak day [3] avg. annual	Points of		Start up date rate schedule	Related dockets [4]
				Receipt	Delivery		
CP91-56-000 (10-4-90)	Superior Offshore Pipeline Company 1240 Greenspoint Drive Houston, TX 77060.	Access Energy Corporation.	500 500 50,000	Off. LA	LA	8-1-90 Int.	CP86-367-000. ST90-4855-000.
CP91-69-000 (10-4-90)	Superior Offshore Pipeline Company 1240 Greenspoint Drive Houston, TX 77060.	Amerada Hess Corporation.	6,000 6,000 720,000	Off. LA	LA	8-1-90 Int.	CP86-367-000. ST90-4365-000.
CP91-77-000 (10-5-90)	Northern Natural Gas Company 1400 Smith St. Houston, Texas 77251-1188.	Rangeline Corporation.	35,000 18,750 9,125,000	OK,TX KS,NM WI,IA SD,MN NE	KS,OK TX,WI IA,MI NM,MN SD	8-8-90 IT-1	CP86-435-000. ST90-4430-000.

[3] Quantities are shown in MMBtu unless otherwise indicated.
[4] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

Docket No. (date filed)	Applicant	Shipper name	Peak day [5] avg. annual	Points of		Start up date rate schedule	Related dockets [6]
				Receipt	Delivery		
CP91-78-000 (10-5-90)	Tennessee Gas Pipeline Company, P.O. Box 2511, Houston, Texas 77252.	Enron Gas Marketing, Inc.	58,626DT 58,626DT 21,398,490DT	Off. LA Off. TX LA, TX MS	LA, CT.	8-15-90 Int.	CP87-115-000. ST91-75-000.

[5] Quantities are shown in MMBtu unless otherwise stated.
[6] The CP docket corresponds to applicant's blanket transportation certificate. If a ST docket is shown, 120-day transportation service was reported in it.

4. Natural Gas Pipeline Co. of America

[Docket No. CP91-61-000, Docket No. CP91-62-000, Docket No. CP91-63-000, Docket No. CP91-64-000]

Take notice that Natural Gas Pipeline Company of America, 701 East 22nd Street, Lombard, Illinois 60148, (Applicant), filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. CP86-582-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[8]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Comment date: November 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

[8] These prior notice requests are not consolidated.

BEST COPY AVAILABLE

Docket No. (date filed)	Shipper name (type)	Peak day average day annual MMBtu	Receipt points	[1] Delivery points	Contract date rate schedule service type	Related docket, start up date
CP91-81-000 (10-5-90)	Howell Gas Management Company (Marketer).	100,000 50,000 18,250,000	VARIOUS	VARIOUS	3-21-90 ITS Interruptible.	ST90-4595-000, 8-4-90
CP91-82-000 (10-5-90)	Gasmark, Inc. (Marketer).	50,000 25,000 9,125,000	VARIOUS	VARIOUS	5-23-90 ITS Interruptible.	ST90-4416-000, 8-1-90
CP91-83-000 (10-5-90)	MidCon Marketing Corp. (Marketer).	250,000 100,000 36,500,000	VARIOUS	VARIOUS	4-10-90 ITS Interruptible.	ST90-4568-000, 8-1-90
CP91-84-000 (10-5-90)	Entrade Corporation (Marketer).	100,000 50,000 18,250,000	VARIOUS	VARIOUS	5-5-90 ITS Interruptible.	ST90-4567-000, 8-1-90

[1] Offshore Louisiana and offshore Texas are shown as OLA and OTX.

5. Northwest Pipeline Corp.

[Docket No. CP91-105-000, Docket No. CP91-106-000]

Take notice that on October 10, 1990, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. CP86-578-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[3]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Northwest and is summarized in the attached appendix.

Comment date: November 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

[3] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day average day annual MMBtu	Receipt points	Delivery points	Contract date rate schedule service type	Related docket, start up date
CP91-105-000 (10-10-90)	James River Corp. of Nevada (End-user).	7,000 7,000 2,555,000	WA	WA, OR	9-1-90 TF-1 Firm	ST91-11-000, 9-1-90.
CP91-106-000 (10-10-90)	Development Associates, Inc. (Marketer).	10,000 10,000 3,650,000	WA	WA, OR	9-1-90 TF-1 Firm	ST91-10-000, 9-1-90

6. ANR Pipeline Co.

[Docket No. CP91-99-000, Docket No. CP91-100-000, Docket No. CP91-101-000, Docket No. CP91-102-000, Docket No. CP91-103-000]

Take notice that on October 10, 1990, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. CP88-532-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[4]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by ANR and is summarized in the attached appendix.

Comment date: November 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

[4] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day average day annual Dth	Receipt[1] points	Delivery points	Contract date rate schedule service type	Related docket, start up date
CP91-98-000 (10-10-90)	American Central Gas Companies (Marketer).	5,000 5,000 1,825,000	LA, OK, KS, TX, OLA, OTX.	MO	6-26-90 ITS Interruptible.	ST90-4625-000, 8-30-90.
CP91-100-000 (10-10-90)	NGC Transportation, Inc. (Marketer).	100,000 100,000 36,500,000	LA, OK, KS, TX, WI, OLA, OTX.	LA	7-24-90 ITS Interruptible.	ST90-4677-000, 8-13-90.

Docket No. (date filed)	Shipper name (type)	Peak day average day annual Dth	Receipt[1] points	Delivery points	Contract date rate schedule service type	Related docket, start up date
CP91-101-000 (10-10-90)	Coastal Gas Marketing Company (Marketer).	500,000 500,000 182,500,000	OTX	OTX	4-26-89 Its Interruptible.	ST90-4579-000, 8-20-90.
CP91-102-000 (10-10-90)	Amoco Production Company (Marketer).	80,000 80,000 21,900,000	OLA, OTX	OLA	1-12-90 ITS Interruptible.	ST90-4600-000, 8-25-90.
CP91-103-000 (10-10-90)	Frito-Lay, Inc. (End-user)	500 500 182,500	LA, OLA	WI	7-27-90 FTS-1 Firm.	ST90-5290-000, 9-1-90.

[1] Offshore Louisiana and offshore Texas are shown as OLA and OTX.

7. High Island Offshore System

Docket Nos. CP91-83000,[5] CP91-84-000, CP91-85-000, CP91-86-000, CP91-87-000, CP91-88-000

Take notice that on October 9, 1990, High Island Offshore System (HIOS), 500 Renaissance Center, Detroit, Michigan 48243, filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of various shippers under its blanket certificate authority issued in Docket Nos. RM88-14-000 and RM88-15-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction including the contract number, the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by HIOS and is included in the attached appendix.

HIOS also states that it would provide the service for each shipper under an executed transportation agreement and that HIOS would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: November 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

[5] These prior notice requests are not consolidated.

Docket No. (contract No.)	Applicant	Shipper Name	Peak day [1] avg., annual	Points of Receipt	Points of Delivery	Start up date rate schedule service type	Related Dockets [2]
CP91-83-000 (0245)	HIOS	Marathon Oil Company.	26,000 26,000 9,490,000	Off. TX	Off. TX & LA	8-10-90 IT Interruptible.	ST90-4356-000.
CP91-84-000 (0051)	HIOS	LL & E Gas Marketing, Inc.	35,000 35,500 12,775,000	Off. TX	Off. TX & LA	8-9-90 IT Interruptible.	ST90-4357-000.
CP91-85-000 (0174/0175)	HIOS	MidCon Marketing Corporation.	250,000 250,000 91,250,000	Off. TX & LA	Off. TX & LA	8-10-90 IT Interruptible.	ST90-4360-000.
CP91-86-000 (0054/0055)	HIOS	Unicorp Energy, Inc.	145,000 145,000 52,925,000	Off. TX & LA	Off. LA	8-11-90 IT Interruptible.	ST90-4361-000.
CP91-87-000 (0140/0141)	HIOS	Arco Natural Gas Marketing, Inc.	1,670,000 1,670,000 609,550,000	Off. TX & LA	Off. LA	8-11-90 IT Interruptible.	ST90-4365-000.
CP91-88-000 (0058/0059)	HIOS	Centran Corporation.	10,500 10,500 3,832,500	Off. TX & LA	Off. TX & LA	8-13-90 IT Interruptible.	ST90-4362-000.

[1] Quantities are shown in Mcf.
[2] The ST docket represent that a 120-day transportation service was reported in it.

8. Florida Gas Transmission Co., Florida Gas Transmission Co., U-T Offshore System, U-T Offshore System, U-T Offshore System

[Docket No. CP91-33-000, Docket No. CP91-34-000, Docket No. CP91-35-000, Docket No. CP91-36-000, Docket No. CP91-37-000]

Take notice that on October 3, 1990, the above referenced companies (Applicants) filed in the respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.[6]

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annal volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicants and is included in the attached appendix.

The Applicants also state that each would provide the service for each shipper under an executed transportation agreement, and that the Applicants would charge rates and abide by the terms and conditions of the

[6] These prior notice requests are not consolidated.

referenced transportation rate schedules.

Comment date: November 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

Docket No.	Applicant	Shipper name	Peak day avg. annual [1]	Points of Receipt	Points of Delivery	Start up date rate schedule	Related dockets [2]
CP91-33-000	Florida Gas Transmission Company, 1400 Smith Street, Houston, Texas 77002.	Citrus Marketing, Inc.	400,000 300,000 146,000,000	TX LA MS AL FL Off TX	TX LA MS AL FL Off TX Off LA	8-13-90 ITS-1	CP90-555-000. ST90-4634-000.
CP91-34-000	Florida Gas Transmission Company, 1400 Smith Street, Houston, Texas 77002.	Entrade Corp.	100,000 75,000 36,500,000	TX LA MS AL FL Off TX	TX LA MS AL Off TX Off LA	8-12-90 ITS-1	CP90-555-000. ST90-4633-000.
CP91-35-000	U-T Offshore System, P.O. Box 1396, Houston, Texas 77251.	Sun Operating LP	154,200 [3] 154,200 56,283,000	Off LA	LA	8-15-90 IT	RP89-99-000. ST90-4744-000.

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] The CP docket corresponds to applicant's blanket transportation certificate.
[3] Volumes in Mcf.

Docket No.	Applicant	Shipper name	Peak day avg. annual [1]	Points of Receipt	Points of Delivery	Start up date rate schedule	Related dockets [2]
CP91-36-000	U-T Offshore System, P.O. Box 1396, Houston, Texas 77251.	Reliance Gas Marketing Company.	60,000 [3] 60,000 21,900,000	Off LA	LA	8-15-90 IT	RP89-99-000. ST90-4742-000.
CP91-37-000	U-T Offshore System, P.O. Box 1396, Houston, Texas 77251.	Continental Natural Gas Inc.	100,000 [3] 100,000 36,500,000	Off LA	LA	8-10-90 IT	RP89-99-000. ST90-4701-000.

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.
[3] Volumes in Mcf.

Standard Paragraph

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24656 Filed 10-19-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP91-113-000, et al.]

Panhandle Eastern Pipe Line Co., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Panhandle Eastern Pipe Line Co.

[Docket No. CP91-113-000]

October 12, 1990.

Take notice that the above referenced company (Applicant) filed in Docket No. CP91-113-000 a prior notice request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of a shipper under its blanket certificate issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice request which is on file with the Commission and open to public inspection.

Information applicable to the transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket number and initiation date of the 120-day transaction under § 284.223 of the Commission's Regulations has been provided by the Applicant and is included in the attached appendix.

The Applicant also states that it would provide the service for the shipper under an executed transportation agreement, and that the Applicant would charge rates and abide by the terms and conditions of the referenced transportation rate schedule.

Comment date: November 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

Docket No. (date filed)	Applicant	Shipper name	Peak day [1] avg. annual	Points of		Start up date rate schedule	Related dockets [2]
				Receipt	Delivery		
CP91-115-000 (10-11-90)	Panhandle Eastern Pipe Line Company, P.O. Box 1642 Houston, Texas 77251-1642.	Enron Gas Marketing, Inc.	20,000Dt. 20,000Dt. 7,300,000Dt.	OK, CO. IL, KS. MI, OH, OK, TX.	TX	8-1-90 Int.	CP88-305-000. ST91-106-000.

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

2. U-T Offshore System

[Docket No. CP91-74-000, Docket No. CP91-75-000, Docket No. CP91-76-000]

October 15, 1990.

Take notice that U-T Offshore System, P.O. Box 1396, Houston, Texas 77251, (Applicant), filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under part 284 of it's blanket certificate issued in Order No. 509 corresponding to the rates and conditions set forth in Docket Nos. RM88-14-001 and RM88-15-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[1]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Comment date: November 30, 1990, in accordance with Standard Paragraph G at the end of this notice.

[1] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day average day annual Mcf	Receipt points	Delivery points	Contract date rate schedule service type	Related docket, start up date
CP91-74-000 (10-05-90)	Marathon Oil Company (Producer).	28,000 28,000 10,220,000	Various	Various	7-1-90 IT interruptible.	ST90-4705-000 8-10-90.
CP91-75-000 (10-05-90)	Access Energy Corporation (Marketer).	280,000 280,000 105,850,000	Various	Various	7-1-90 IT interruptible.	ST90-4731-000 8-15-90.
CP91-76-000 (10-05-90)	Moth Corp. (Marketer)	145,000 145,000 52,925,000	Various	Various	7-1-90 IT interruptible.	ST90-4706-000 8-10-90.

Standard Paragraph

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If not protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,
Secretary.

[FR Doc. 90-24636 Filed 10-19-90; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. EF91-1011-000]

Alaska Power Administration—Eklutna Project Power Rates; Filing

October 15, 1990.

Take notice that on October 2, 1990, the Deputy Secretary of Energy, on behalf of the Alaska Power Administration (Alaska), tendered for filing the Department of Energy Rate Order No. APA-10 which places proposed rates in effect on an interim basis for a period of 12 months beginning October 1, 1990, subject to the Federal Energy Regulatory Commission's confirmation and approval or rejection.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 30, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 90-24637 Filed 10-19-90; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP91-7-000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

October 15, 1990.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on October 11, 1990, tendered for filing proposed changes in its FERC Gas Tariff, Second Revised Volume No. 1, as set forth in the revised tariff sheets:

Proposed to be effective August 2, 1990

Third Revised Sheet No. 367
First Revised Sheet No. 385A

Algonquin states that the Commission issued an interim rule on August 2, 1990 in Docket No. RM90-13-000 which revised the interpretation of the "on behalf of" standard in section 311 of the Natural Gas Policy Act of 1978 for transportation services by interstate pipelines under § 284.102 of the Commission's regulations. The revised definition requires that the "on behalf of" entity in such transactions (i) Have physical custody of and transport the natural gas at some point during the transaction, or (ii) hold title to the natural gas at some point during the transaction for a purpose related to its status and functions as an intrastate pipeline or local distribution company, as applicable.

Algonquin states that in order to reflect the interim rule in Docket No. RM90-13-000 interpretation in Algonquin's Rate Schedules AFT-1 and AIT-1, the tariff sheets listed above incorporate the Commission's revised standard into Algonquin's Rate Schedules AFT-1 and AIT-1. Such tariff sheets are proposed to be effective August 2, 1990.

Algonquin notes that copies of this filing were served upon each affected party and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 22, 1990. Protests will be considered by the Commission in determining the appropriate actions to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,
Secretary.

[FR Doc. 90-24809 Filed 10-19-90; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TM91-1-51-001]

Bayou Interstate Pipeline System; Proposed Change in Rates

October 15, 1990.

Take notice that on October 10, 1990, Bayou Interstate Pipeline System (Bayou) tendered as part of its FERC Gas Tariff, Original Volume No. 1, (Tariff) Twentieth Revised Sheet No. 4 to be effective November 1, 1990.

The proposed tariff sheet is filed pursuant to the Purchased Gas Cost Adjustment provisions contained in section 15 of Bayou's tariff. Bayou states that a copy of this filing was mailed to Bayou's jurisdictional customer and interested state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 22, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 90-24808 Filed 10-19-90; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TM91-1-32-001]

Colorado Interstate Gas Co.; Filing

October 15, 1990.

Take notice on October 10, 1990, Colorado Interstate Gas Company (CIG) submitted for filing six copies of affected tariff sheets from Original Volume No. 1, Original Volume No. 2, and Original Volume No. 3 of its FERC Gas Tariff, increasing by 0.03 cent/Mcf the presently effective ACA rate from 0.19 cent/Mcf to 0.22 cent/Mcf effective November 1, 1990.

CIG notes that it sought to place a new ACA rate of 0.19 cent/Mcf in effect on October 1, 1990 in its "initial" 1990 ACA filing on August 30, 1990. This was approved by Commission order issued on September 26, 1990 in Docket No. RM87-3-000 and Docket Nos. TM91-1-20 et al. In the "initial" ACA filing, CIG did not consider as a part of the 0.19 cent/Mcf ACA rate the additional billings it had received and paid related to the Commission's under-recovery of its 1989 fiscal year ACA program costs. CIG notes, however, that it requested permission to revise its ACA charge should the Commission approve recovery of the 1989 fiscal year under-recovery amount. In paragraph D of its September 26, 1990 order, the Commission did approve a 0.03 cent/Mcf upward adjustment in the ACA rate to correct for the 1989 fiscal year under-recovery for any pipeline filing a revised ACA charge of 0.22 cent/Mcf within 15 days of the Commission's order. The revised 0.22 cent/Mcf charge is effective on November 1, 1990. The Commission also permits the filing pipeline to adjust its November, 1990 bill for the ACA under-recovery at the 0.19 cent/Mcf rate approved for October, 1990.

According, CIG submitted for filing the following tariff sheets incorporating the "revised" 0.22 cent/Mcf ACA billing rate to become effective on November 1, 1990:

Original Volume No. 1 Tariff

Fourth Revised Second Substitute First Revised Sheet No. 7.1
Fourth Revised Second Substitute First Revised Sheet No. 7.2
Fourth Revised Second Substitute First Revised Sheet No. 8.1
Fourth Revised Second Substitute First Revised Sheet No. 8.2

Original Volume No. 2 Tariff

Second Revised Second Substitute Ninth Revised Sheet No. 187
Second Revised Second Substitute Eighth Revised Sheet No. 463
Second Revised Second Substitute Sixth Revised Sheet No. 517A
Second Revised Second Substitute Eighth Revised Sheet No. 544
Second Revised Second Substitute Sixth Revised Sheet No. 593A
Second Revised Second Substitute Seventh Revised Sheet No. 625
Second Revised Second Substitute Seventh Revised Sheet No. 662
Second Revised Second Substitute Seventh Revised Sheet No. 674
Second Revised Second Substitute Sixth Revised Sheet No. 697
Second Revised Second Substitute Sixth Revised Sheet No. 774
Second Revised Second Substitute Sixth Revised Sheet No. 801A
Second Revised Second Substitute Sixth Revised Sheet No. 862
Second Revised Second Substitute Fifth Revised Sheet No. 885

Second Revised Substitute Sixth Revised Sheet No. 911
Second Revised Substitute Sixth Revised Sheet No. 984
Second Revised Substitute Sixth Revised Sheet No. 1021
Second Revised Substitute Sixth Revised Sheet No. 1101
Second Revised Second Substitute Fifth Revised Sheet No. 1182
Second Revised Second Substitute Fifth Revised Sheet No. 1266
Second Revised Second Substitute Fifth Revised Sheet No. 1284
Second Revised Second Substitute Fifth Revised Sheet No. 1335
Second Revised Substitute Sixth Revised Sheet No. 1347
Second Revised Substitute Sixth Revised Sheet No. 1370

Original Volume No. 2 Tariff

Second Revised Sheet No. 4

CIG states that copies of this filing have been served upon CIG's jurisdictional customers and public bodies, and are otherwise available for public inspection at CIG's offices in Colorado Springs, Colorado.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 22, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 90-24672 Filed 10-19-90; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TM91-1-15-001]

Mid Louisiana Gas Co.; Proposed Change of Rates

October 15, 1990.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on October 9, 1990, tendered for filing as part of First Revised Volume No. 1 of its FERC Gas Tariff the following Tariff Sheets to become effective November 1, 1990:

	Superseding
Substitute Seventy-Sixth Sheet No. 3a.	Seventy-Sixth Revised Sheet No. 3a.1.
Substitute Eight Revised Sheet No. 3a.1.	Eighth Revised Sheet No. 3a.1.

Mid Louisiana states that the purpose of the filing of Revised Sheets is to reflect an upward revision to the unit rates for the collection of the Annual Charges imposed by section 382 of the Commission's Regulations.

Mid Louisiana states that this filing is being made in accordance with Section 22 of Mid Louisiana's FERC Gas Tariff. Mid Louisiana further states that copies of this filing have been mailed to Mid Louisiana's jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before October 22, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 90-24670 Filed 10-19-90; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TM91-1-73-003]

Ozark Gas Transmission System; Proposed Changes in FERC Gas Tariff

October 15, 1990.

Take notice that Ozark Gas Transmission System ("Ozark") on October 10, 1990, tendered for filing the following revised tariff sheet in its FERC Gas Tariff, Original Volume No. 1:

Substitute Sixth Revised Sheet No. 6

The proposed effective date is November 1, 1990.

Ozark states that it is amending its transportation rate schedule to reflect its Commission-authorized Annual Charge Adjustment ("ACA") unit charge of $.0022. Ozark states that this filing is submitted in compliance with section 154.36(d)(6)(iii) of the Commission's Regulations.

Ozark states that copies of the filing were served upon Ozark's jurisdictional customers.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before October 22, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this

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[Docket No. TM91-1-68-001]

Kentucky West Virginia Gas Co.; Proposed Change in FERC Gas Tariff

October 15, 1990.

Take notice that Kentucky West Virginia Gas Company (Kentucky West) on October 10, 1990, tendered for filing with the Federal Energy Regulatory Commission (Commission) Fourth Revised Sheet No. 45 to its FERC Gas Tariff, Second Revised Volume No. 1, to become effective November 1, 1990.

Kentucky West states the revised tariff sheet amends its Annual Charge Adjustment (ACA) charge to place in effect the recalculated ACA funding unit of $.0022 per MCF.

Kentucky West states that a copy of its filing has been served upon each of its jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before October 22, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 90-24671 Filed 10-19-90; 8:45 am]
BILLING CODE 6717-01-M

filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24264 Filed 10-19-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TM91-2-28-001 TM91-3-28-001]

Panhandle Eastern Pipe Line Co.; Change in FERC Gas Tariff

October 15, 1990.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on October 10, 1990, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1:

Docket No. TM91-2-28-000

Sub Second Revised Sheet No. 3-C.4
Sub Second Revised Sheet No. 3-C.5
Sub Second Revised Sheet No. 3-C.6

Docket No. TM91-3-28-000

Sub Second Revised Sheet No. 3-C.7
Sub Second Revised Sheet No. 3-C.8
Sub Second Revised Sheet No. 3-C.9

The proposed effective date of these revised tariff sheets is October 1, 1990.

Panhandle states that revised tariff sheets were filed on August 31, 1990 in Docket Nos. TM91-2-28-000 and TM91-3-28-000, which reflected the second annual reconciliation filings and second annual adjustments to carrying charges and monthly TOP Fixed Surcharges in accordance with Sections 23 and 24 of Panhandle's FERC Gas Tariff, Original Volume No. 1.

Panhandle further states that it is submitting these revised tariff sheets and materials in compliance with the requirements of the Commission's Letter Orders dated September 28, 1990 in Docket No. TM91-2-28-000 and Docket No. TM91-3-28-000, by reflecting the actual customers' payments for the months of August and September 1990 and the actual payments made by Michigan Consolidated Gas Company [MichCon].

Panhandle states that copies of this letter and enclosures are being served on all affected jurisdictional sales customers, appropriate state regulatory agencies, and parties to these proceedings.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 22, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24265 Filed 10-19-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-1-72-001]

Pelican Interstate Gas System; Proposed Change in FERC Gas Tariff

October 15, 1990.

Take notice that on October 10, 1990, Pelican Interstate Gas System (Pelican) tendered for filing Fourth Revised Sheet No. 2A and Third Revised Sheet No. 2B to be a part of its FERC Gas Tariff.

The proposed tariff sheet provides a revised Annual Charges Adjustment (ACA) that the Federal Energy Regulatory Commission ("Commission") assesses Pelican under part 382.103 of the Commission's Regulations.

Pelican states that a copy of this filing was mailed to Pelican's jurisdictional customers and interested state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 22, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24260 Filed 10-19-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-1-55-002]

Questar Pipeline Co.; Tariff Filing

October 15, 1990.

Take notice that on October 10, 1990, pursuant to 18 CFR 2.104 and 154.38(d)(6) Questar Pipeline Company submitted for filing and acceptance the following revised tariff sheets to Original Volume Nos. 1, 1-A and 3 of its FERC Gas Tariff:

Original Volume No. 1

Ninth Revised Sheet No. 12
Second Revised Sheet No. 12-A

Original Volume No. 1-A

Third Revised Sheet No. 5

Original Volume No. 3

Third Revised Sheet No. 6

Questar Pipeline states that this filing reflects in its FERC Gas Tariff the revised annual charge adjustment rate implemented by the Commission in its September 26, 1990, order to Algonquin Gas Transmission Co., *et al.*

Questar Pipeline requests an effective date of November 1, 1990, for the tendered tariff sheets and states that copies of the filing were served upon its customers and interested public service commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Sreet, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 22, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24267 Filed 10-19-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ91-1-7-002, TM91-1-7-001 and TF91-1-7-001]

Southern Natural Gas Co.; Proposed Changes to FERC Gas Tariff

October 15, 1990.

Take notice that on October 10, 1990, Southern Natural Gas Company (Southern) tendered for filing the following revised sheets to its FERC Gas Tariff, Sixth Revised Volume No. 1:

First Substitute Second Revised Ninety-seventh Revised Sheet No. 4A
First Substitute Third Revised Ninety-seventh Revised Sheet No. 4A
First Substitute Third Revised Sixteenth Revised Sheet No. 4J
First Substitute First Revised Fifth Revised Sheet No. 45M

First Substitute Second Revised Ninety-seventh Revised Sheet No. 4A has been submitted by Southern to comply with the Commission's September 27, 1990 order in Docket Nos. TQ91-1-7-000, *et al.*, and is to be superseded by First Substitute Third Revised Ninety-seventh Revised Sheet No. 4A, which reflects the reduction in Southern's stated commodity cost of gas proposed by Southern to become effective October 1, 1990, in Docket No. TF91-1-7-000. First Substitute Third Revised Sixteenth Revised Sheet No. 4J and First Substitute First Revised Fifth Revised Sheet No. 45M are also proposed to be effective October 1, 1990. The foregoing sheets implement the Commission's revised ACA unit charge of .22¢ per Mcf at 1,000 Btu or .21¢ per MMBtu effective October 1, 1990.

Southern states that copies of Southern's filing were served upon all of Southern's jurisdictional purchasers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before October 22, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24861 Filed 10-19-90; 8:45 am]

BILLING CODE 6717-10-M

[Docket No. TM91-1-42-001]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

October 15, 1990.

Take notice that Transwestern Pipeline Company ("Transwestern") on October 10, 1990 tendered for filing, as part of it FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Effective October 1, 1990

Substitute 77th Revised Sheet No. 5
Substitute 42nd Revised Sheet No. 6
Substitute 9th Revised Sheet No. 37

Effective November 1, 1990

79th Revised Sheet No. 5
44th Revised Sheet No. 6
11th Revised Sheet No. 37

Reason For Filing

On August 31, 1990 Transwestern filed the above referenced tariff sheets to adjust its Annual Charge Adjustment (ACA) pursuant to the Commission's Order No. 472 and section 23 of the General Terms and Conditions of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1. In its filing, Transwestern requested that its tariff sheets reflect the ACA Unit Surcharge of $0.0019/dth as determined by the Commission on July 18, 1990 in Order No. 472. Transwestern requested that the revised ACA Surcharge become effective October 1, 1990.

On September 26, 1990 the Commission issued an order in Transwestern's Docket No. TM91-1-42-000. Pursuant to Ordering Paragraph (G) of the Commission's September 26, 1990 Order, Transwestern was instructed to refile the associated tariff sheets in this docket to correct pagination errors. Such pagination errors have been corrected as reflected in this filing. Transwestern respectfully requested that the revised tariff sheets become effective October 1, 1990.

Pursuant to the September 26, 1990 Order in Docket No. RM87-3-000 *et al.*, Ordering Paragraph (D) afforded pipelines, which submitted tariff sheets reflecting an ACA Surcharge amount of less than $0.0022/dth, the opportunity to file revised tariff sheets reflecting a $0.0022/dth ACA Surcharge, to become effective November 1, 1990. Therefore, Transwestern is also filing tariff sheets to reflect the revised ACA Unit Surcharge of $0.0022/dth, to become effective November 1, 1990.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 22, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24862 Filed 10-19-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-1-52-001]

Valero Interstate Transmission Co.; Proposed Changes in FERC Gas Tariff

October 15, 1990.

Take notice that Valero Interstate Transmission Company ("Vitco"), on October 10, 1990 tendered for filing the following tariff sheets containing changes to the ACA unit rate in each applicable rate schedule:

FERC Gas Tariff, Original Volume No. 1

20th Revised Sheet No. 14
21st Revised Sheet No. 14.2
8th Revised Sheet No. 21.12
4th Revised Sheet No. 29.8

FERC Gas Tariff, Original Volume No. 2

20th Revised Sheet No. 6
4th Revised Sheet No. 29.9

The proposed effective date of the above filing is November 1, 1990. Vitco requests a waiver of any Commission order or regulations which would prohibit implementation by November 1, 1990.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 C.F.R. 385.214, 385.211 (1990)). All such protests should be filed on or before October 22, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24871 Filed 10-19-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ91-1-53-001 TM91-1-53-001]

Western Gas Interstate Co.; Proposed Changes in FERC Gas Tariff

October 15, 1990.

Take notice that on October 10, 1990, Western Gas Interstate Company ("Western"), pursuant to Section 4 of the Natural Gas Act, the Commission's Regulations thereunder and Western's FERC Gas Tariff, tendered for filing proposed changes to its FERC Gas Tariff, First Revised Volume No. 1. The

proposed effective date for the tariff sheet is November 1, 1990.

Western states that on October 1, 1990, it filed certain changes to its cost of purchased gas and annual charge components of its rates in accordance with the terms of the Purchase Gas Adjustment Clause and Annual Charge Adjustment Clause ("ACA") of its FERC Gas Tariff.

Subsequent to such filing, Western determined that its ACA charge did not reflect the changes to such charge as are permitted by the Commission in its Order issued in Annual Charges Under the Omnibus Budget Reconciliation Act of 1986, et al. 52 FERC Paragraph 61,337 (1990), which found that the allowable ACA charge for 1990 is $0.0022/MCf.

Western states that the instant filing reflects the new ACA as set forth in the Commission's Order under Western's Rate Schedules G-N and G-S.

Western has requested that the Commission grant all waivers of Commission Regulations so that the rates reflected in the instant filing will become effective November 1, 1990.

Finally, Western states that copies of the amended filing were served upon Western's transmission system customers and interested state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 22, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24688 Filed 10-19-90; 8:45 am]

BILLING CODE 6717-01-M

Office of Energy Research

DOE/NSF Nuclear Science Advisory Committee; Meeting Cancellation

An open meeting of the DOE/NSF Nuclear Science Advisory Committee which was scheduled to be held on Wednesday, October 24, 1990, at 9:30 a.m., at the Holiday Inn, International Ball Room O'Hare IV, 5440 North River Road, Rosemont, Illinois, has been cancelled. This meeting was announced in the Federal Register, Vol. 55, No. 195, on Tuesday, October 9, 1990, 55 FR 41132.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 90-24687 Filed 10-19-90; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

Applications for Consolidated Hearing; Hi Ho Broadcasting Corp. and First National Broadcasting Corp.

1. The Commission has before it the following mutually exclusive applications for renewal of license for station KFNE (TV) and a new commercial television station on Channel 10, Riverton, Wyoming.

Applicant	File No.	MM Docket No.
A. Hi Ho Broadcasting Corp. KFNE (TV); Riverton, WY	BRCT-880815KE	90-435
First National Broadcasting Corp., Riverton, WY	BRCT-880901KE	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19447, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

Environmental impact, A,B
Comparative, A,B
Ultimate, A,B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc. 2100 M Street, NW., Washington, DC. 20037 (Telephone No. (202) 857-3800).

Barbara A. Kreisman, Chief,

Video Services Division, Mass Media Bureau.

[FR Doc. 90-24624 Filed 10-19-90; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 90-28]

Holt Cargo Systems, Inc., et al.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Holt Cargo Systems, Inc. ("Complainant") against Philadelphia Regional Port Authority ("Philadelphia"), American Transport Lines, Inc. ("Amtrans") and Delaware River Stevedors, Inc. ("DRS") (collectively designated "Respondents") was served October 16, 1990. Complainant alleges that Respondents have violated sections 10(d)(3), (b)(11), (b)(12), (d)(1) and (d)(2) of the Shipping Act of 1984, 46 U.S.C. app. 1709(d)(3), (b)(11), (b)(12), (d)(1) and (d)(2), by Philadelphia granting, in an agreement with Amtrans, favorable provisions to users of the Tioga Marine Terminal at Philadelphia and imposing conditions on Complainant at its Packer Avenue Marine Terminal that are not imposed on users of the Tioga Terminal; by Philadelphia agreeing to provisions in its agreement with Amtrans that are non-compensatory; by Philadelphia refusing to negotiate in good faith to modify its agreement with Complainant; by Philadelphia requiring as a condition of restricting other marine terminal operators from using the Tioga Terminal that Complainant cease handling any container business at its Gloucester City, New Jersey Terminal, by Amtrans passing through to DRS the rates contained in the Philadelphia-Amtrans agreement, by DRS soliciting common carriers, including customers of Complainant, and offering them the untariffed, substantially lower rates contained in the Philadelphia-Amtrans agreement and permitting its cargo to be cumulated with Amtrans cargo to qualify for volume discounts under the Philadelphia-Amtrans agreement; by Amtrans and DRS participating in and agreeing to the alleged violations of Respondent Philadelphia; and by DRS participating in and agreeing to the alleged violations of Respondent Amtrans.

This proceeding has been assigned to Administrative Law Judge Charles E. Morgan ("Presiding Officer"). Hearing in

this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by October 16, 1991, and the final decision of the Commission shall be issued by February 13, 1992.

Joseph C. Polking,
Secretary.

[FR. Doc. 90-24851 Filed 10-19-90; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION

[Between: 10-01-90 and 10-12-90]

Name of Acquiring Person, Name of Acquired Person, Name of Acquired Entity	PMN number	Date terminated
Ragione Snc, Brentwood Associates, Prince Holdings, Inc	90-2170	10/02/90
G. Heindl'sche Papierfabriken KGaA, Bunzl plc, Atlantic Kraft Sales, Inc	90-2187	10/02/90
Imperial Chemicals Industries PLC, The British Petroleum Company PLC, Edward J. Funk and Sons, Inc	90-2148	10/03/90
Utilicorp United, Inc., Valero Natural Gas Partners, L.P., Valero Hydrocarbons, L.P. and Valero Texas Pipeline, LP	90-2160	10/03/90
Donald C. Graham, Donald C. Graham, Sonoco Graham Company (partnership)	90-2182	10/03/90
Mobil Corporation, Hanson PLC, Tucker Housewares Inc	90-2195	10/03/90
CPC International Inc., Daniel L. Gruber, Gruber Holding Company, Inc	90-2063	10/05/90
Chiles Offshore Corporation, Penrod Drilling Corporation, Penrod Drilling Corporation	90-2163	10/05/90
Wirig A.S., Penrod Drilling Corporation, Penrod Drilling Corporation	90-2164	10/05/90
MAPFRE Mutualidad, The Continental Corporation, Puerto Rican American Insurance Company and Preferred	90-2183	10/05/90
PacifiCorp, The Peterson Company, Pegasus Resource Company	90-2194	10/05/90
Mr. Mitsuru Iwaski, The Travelers Corporation, Greenway Renaissance Hotel, Ltd	90-2196	10/05/90
Petroleos de Venezuela, S.A., Seaview Petroleum Co. L.P., Seaview Petroleum Co. L.P	90-2203	10/05/90
E.I. du Pont de Nemours and Company, Exxon Corporation, Exxon Corporation	90-2205	10/05/90

TRANSACTIONS GRANTED EARLY TERMINATION—Continued

[Between: 10-01-90 and 10-12-90]

Name of Acquiring Person, Name of Acquired Person, Name of Acquired Entity	PMN number	Date terminated
General Electric Company, Great Western Financial Corporation, BFS Acceptance Corporation	90-2216	10/05/90
The Mutual Benefit Life Insurance Company, Centre Capital Investors L.P., The Golden Financial Group, Inc	90-2217	10/05/90
The Mutual Benefit Life Insurance Company, Jerome S. Golden, The Golden Financial Group, Inc	90-2218	10/05/90
MAPFRE Mutualidad, Rafael A. Roca, Pan American Corporation	90-2241	10/05/90
AB Investor, Thomas E. Raleigh, Trustee in Bankruptcy, Utica Corporation	90-2261	10/05/90
Forvaltnings AB Providentia, Thomas E. Raleigh, Trustee in Bankruptcy, Utica Corporation	90-2252	10/05/90
The Hillhaven Corporation, David V. Hall, Cardinal Medical Corporation	90-2174	10/09/90
Morgan Grenfell Capital Partners, Georgia-Pacific Corporation, G-P Inversiek Corporation	91-0009	10/09/90
ONEOK Inc., ENSERCH Corporation, Lone Star Gas division of ENSERCH Corporation	90-2165	10/10/90
Batemen Ltd., Zapata Corporation, Zapata Off-Shore Company	90-2167	10/10/90
Zapata Corporation, Arethusa (Offshore) Limited, Arethusa (Offshore) Limited	90-2168	10/10/90
Skandia Group Insurance Company, Ltd., Metropolitan Life Insurance Company, Metropolitan Reinsurance Company	90-2169	10/10/90
Allianz Aktiengesellschaft Holding, The Fund American Companies, Inc., Firemen's Fund Insurance Co	90-2229	10/10/90
Conseco, Inc., Lomas Financial Corporation, Lomas Life Group, Inc	91-0004	10/10/90

TRANSACTIONS GRANTED EARLY TERMINATION—Continued

[Between: 10-01-90 and 10-12-90]

Name of Acquiring Person, Name of Acquired Person, Name of Acquired Entity	PMN number	Date terminated
The TJX Companies, Inc., David Z. Tuttleman, T.A.C. Group, Inc.	90-2176	10/11/90
The TJX Companies, Inc., Orrin L. Dover, T.A.C. Group, Inc.	90-2177	10/11/90
British Steel plc, William Treaten, Treaten, Sneed & Associates, Inc., d/b/a TS Alloys Inc.	90-2183	10/11/90
British Steel plc, Monte Sneed, Treaten, Sneed & Associates, Inc., d/b/a TS Alloys Inc.	90-2184	10/11/90
British Steel plc, TSA Acquisition Corp. (Joint Venture), TSA Acquisition Corp. (Joint Venture)	90-2185	10/11/90
Carlyle Leveraged Partners Capital Fund I, L.P., Ford Motor Company, BDM International, Inc.	90-2190	10/11/90
Furukawa Co., Ltd., Gougler Industries, Inc., Gougler Industries, Inc.	90-2237	10/11/90
Hollinger Inc., Cox Enterprises, Inc., Cox Texas Publications, Inc.	90-2254	10/11/90
Aktiebolaget SKF, Jean-Michel Tholy, Tholy U.S.A. Inc.	90-2114	10/12/90
Wing Tai Holdings, Ltd., Mocarre Investment Inc., Broadbourne Assets Limited	90-2169	10/12/90
Berkshire Hathaway, Inc., PS Group, Inc., PS Group, Inc.	90-2209	10/12/90

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, or Renee A. Horton, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580, (202) 326-3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 90-24575 Filed 10-19-90; 8:45 am]

BILLING CODE 6750-01-M

[Dkt. C-3306]

Reckitt & Colman plc; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order allows, among other things, a London, England corporation to acquire the Boyle-Midway Division of American Home Products Corp., but requires respondent to divest its own rug-cleaning products business to a Commission-approved acquirer, within eight months, and to comply with all terms of the Hold Separate Agreement. In addition, for ten years, respondent is required to obtain prior Commission approval before acquiring any interest in any company that manufactures or sells rug cleaning products in the U.S.

DATES: Complaint and Order issued September 20, 1990.[1]

FOR FURTHER INFORMATION CONTACT: Robert W. Doyle, Jr., FTC/S-2308, Washington, DC 20580. (202) 326-2682.

SUPPLEMENTARY INFORMATION: On Thursday, July 5, 1990, there was published in the Federal Register, 55 FR 27686, a proposed consent agreement with analysis In the Matter of Reckitt & Colman plc, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been filed, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

Authority: Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18.

Donald S. Clark,

Secretary.

[FR Doc. 90-24575 Filed 10-19-90; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 90E-0338]

Establishment of a Public Docket for Generic Drug Speeches and Policy and Procedure Guides

AGENCY: Food and Drug Administration, NNS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it is establishing a public docket for policy statements that the agency issues and speeches that agency staff give to trade associations regarding human generic drugs. The docket will also contain the policy and procedure guides (also called guidances) that are issued by the Center for Drug Evaluation and Research (CDER) and its Office of Generic Drugs regarding human generic drugs. This action will ensure that this information is equally available to all interested persons on a timely basis.

ADDRESSES: The docket is available under the docket number found in brackets in the heading of this notice and is located in the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and may be reviewed between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Lola E Batson, Center for Drug Evaluation and Research (HFD-360), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8038.

SUPPLEMENTARY INFORMATION: FDA employees, in the discharge of their usual responsibilities and in response to requests from consumer groups and trade associations, attend meetings of such organizations to deliver speeches and to answer questions regarding FDA activities. In this connection, FDA employees in CDER are regularly invited to speak and to answer questions regarding human generic drugs at meetings of the Generic Pharmaceutical Industry Association (GPIA), the National Association of Pharmaceutical Manufacturers (NAPM), the Pharmaceutical Manufacturers Association (PMA), and other trade associations. The presentations by CDER employees usually cover historical and current information regarding regulatory requirements and policies relating to human generic drug products.

To help make information regarding human generic drugs provided to industry at trade association meetings available to all firms that produce human generic drug products, including those firms that are not represented at such meetings, FDA has developed a mechanism for providing public access to speeches delivered by FDA officials at meetings of generic drug trade associations. Specifically, FDA is establishing a public docket where copies of speeches regarding human generic drug products given by FDA employees to GPIA, NAPM, PMA, and other trade associations will be maintained.

On an as needed basis, FDA also disseminates to its employees and other interested parties relevant information regarding human generic drug products. This information is often in the form of policy and procedure guides (or guidances). These guides are designed for Office of Generic Drugs staff and are subject to change without public notice. Many of these guides describe new policies and procedures designed to ensure fair and even-handed dealings with all applicants. The guides are available to the public and, along with copies of the speeches, will be maintained in the public docket regarding human generic drugs to make the information equally accessible to all interested persons.

To ensure that the information in the docket is kept current the agency plans to remove information from the docket that is more than 3 years old. FDA will review the docket each year to determine usage. If FDA determines that the docket is not being used, the agency will discontinue maintaining it.

The docket is available for public review in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 12, 1990.

James S. Benson,

Acting Commissioner of Food and Drugs.

[FR Doc. 90-24832 Filed 10-19-90; 8:45 am]

BILLING CODE 4160-01-M

Statement of Organization, Functions, and Delegations of Authority

Part H, chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, as amended most recently in pertinent part at 53 FR 8979, March 18, 1988) is amended to reflect the transfer of functions and the transfer of a staff within the Food and Drug Administration (FDA).

FDA is proposing to transfer the AIDS Coordination Staff within the Office of the Center Director, Center for Biologics Evaluation and Research, to the Immediate Office of the Commissioner. The transfer of this Staff will give FDA's AIDS programs the highest visibility and attention possible. Coordination of FDA's AIDS programs will be directly under the Commissioner's control to ensure that all components of the Agency are working together when necessary and appropriate. This is especially important as more Agency components, both in Headquarters and the field, become involved in the fight against AIDS.

Section HF-B Organization and Functions is amended as follows:

1. Add a new subparagraph (a-7) AIDS Coordination Staff (HFA-A) reading as follows:

(a-7) AIDS Coordination Staff (HFA-A). Coordinates the Agency's Acquired Immune Deficiency Syndrome (AIDS) program.

Serves as the focal point to provide leadership and direction for all Agency activities on AIDS. Represents the Agency on the PHS Executive Task Force and the Intragovernmental Task Force on AIDS Health Care Delivery.

Consels and supports all FDA components on AIDS and AIDS-related activities.

Develops Agency policy and guidelines related to AIDS and AIDS related issues.

Promulgates, plans, administers, coordinates, and evaluates overall Agency scientific, management, and regulatory programs on AIDS and AIDS-related activities.

2. Delete subparagraph (p-1) Office of the Center Director (HFB1), Center for Biologics Evaluation and Research, in its entirety and insert a new subparagraph (p-1) reading as follows:

(p-1) *Office of the Center Director (HFB1).* Promulgates, plans, administers, coordinates, and evaluates overall Center scientific, management, and regulatory programs, plans and policies.

Provides leadership and direction for all Center activities.

Coordinates and directs the Center management, planning, and evaluation systems to assure optimum utilization of Center manpower, financial resources, and facilities.

Dated: October 1, 1990.

James S. Benson,

Acting Commissioner of Food and Drugs.

[FR Doc. 90-24802 Filed 10-19-90; 8:45 am]

BILLING CODE 4160-01-M

HEALTH CARE FINANCING ADMINISTRATION

Hearing: Reconsideration of Disapproval of Wisconsin State Plan Amendments (SPAs)

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on November 20, 1990 in the 15th floor Conference room, 105 West Adams, Chicago, Illinois to reconsider our decision to partially disapprove Wisconsin State Plan Amendments 88-35, 88-36 and 88-37.

CLOSING DATE: Requests to participate in the hearing as a party must be received by the Docket Clerk on or before November 8, 1990.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, HCFA Hearing Staff, Suite 110, Security Office Park, 7000 Security Boulevard, Baltimore, Maryland 21207. Telephone: (301) 967-3015.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to partially disapprove Wisconsin State Plan amendments (SPAs) number 88-35, 88-36 and 88-37.

Section 1116 of the Social Security Act (the Act) and 42 CFR part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

Wisconsin SPAs 88-35, 88-36 and 88-37 include income and resource policies which the State believes are more liberal than those required under section 1902(a)(10) of the Social Security Act (the Act). The State is seeking protection for the policies in SPA 88-35 from

adverse action by the Secretary under the moratorium imposed by section 2373(c) of the Deficit Reduction Act (DRA) of 1984. States were permitted to use more liberal income and resource policies during the moratorium period. The State is also seeking approval under the authority of section 1902(r)(2) of the Act for the more liberal income and resource policies described in SPAs 88-36 and 88-37.

The issues in this matter are whether: (1) SPA 88-35 is eligible for protection under the moratorium provision in section 2373(c) of the Deficit Reduction Act of 1984; (2) SPAs 88-36 and 88-37 can be approved under the authority of section 1902(r)(2) of the Act; (3) SPAs 88-35 and 88-37 violate the comparability provisions of sections 1902(a)(10) and 1902(a)(17) of the Act as they apply to eligibility groups under section 1902(r)(2) and the moratorium; (4) SPAs 88-35 and 88-36 violate section 1902(a) (4) and (19) of the Act, and; (5) whether SPAs 88-35 and 88-37 violate sections 1902(a)(18) and 1917(b) of the Act.

Under the moratorium, the Secretary is prohibited from taking certain adverse actions against States for using more liberal income and resource methods and standards than are used to determine eligibility for Aid to Families with Dependent Children (AFDC) and Supplemental Security Income (SSI) in Medicaid eligibility determinations for the medically needy and limited categorically needy groups. The moratorium covers the period October 1, 1981 through February 17, 1989, (or, the entire month of February when a State provides full month Medicaid coverage).

The moratorium provision in section 2373(c) of the Deficit Reduction Act of 1984 (DRA) did not change the Medicaid law to permit States to use more liberal income and resource methodologies than required under section 1902(a)(10). The moratorium simply prohibited the Secretary from taking adverse action during the moratorium period against any State for using methods that the Secretary interpreted as being more liberal than the methods used under the cash assistance programs. Section 1902(r)(2) permits States to actually amend their plans to include more liberal policies.

Moratorium protection and approval under the authority of section 1902(r)(2) apply only to income and resource eligibility policies required under section 1902(a)(10). They do not exempt States from meeting other requirements of law, even though other statutory provisions may serve to limit a State's flexibility to adopt more liberal income and resource policies under section 1902(r)(2), or to be granted protection during the moratorium. HCFA recommended denial of a number of the policies proposed by the State, and denial of moratorium protection for those same policies, because of other statutory provisions.

HCFA also denied protection for certain policies because HCFA believes that they include methods that are more restrictive, rather than more liberal, than the cash assistance programs.

Post-Eligibility Policies—Supplement 5, Items A. 1. and 2. of SPA 88-35 and Supplement 11, Items A. 1. and 2. of SPA 88-36

• The State proposed a deduction in the post-eligibility process for a home maintenance allowance for married individuals who were institutionalized for the period 1982 through March 1987.

HCFA believes this policy is not eligible for moratorium protection, or approvable under section 1902(r)(2) because it is not an eligibility policy under section 1902(a)(10), but a post-eligibility policy governed by sections 1902(q) and 1902(a)(17).

Although the proposed policy is not eligible for moratorium protection, or plan approval, the policy was applied correctly for the period 1982 to March 1987. Medicaid Quality Control staff have been advised of this fact so that they may determine whether the Health Care Financing Administration (HCFA) has taken any inappropriate action in regard to the State's application of this policy for the period it was correctly applied.

• The State proposed, for the period 1977 through February 1986, a post-eligibility personal needs allowance that included a $65 and ½ earned income deduction for employed individuals.

HCFA believes the policy is not eligible for moratorium protection, or approval under section 1902(r)(2) because it is not an eligibility policy under section 1902(a)(10), but a post-eligibility policy governed by sections 1902(q) and 1902(a)(17). The State argues that the policy was applied as an income policy during the moratorium period. The State further argues that because it is an approvable post-eligibility policy, it should be provided moratorium protection.

The eligibility process and the post-eligibility process are two separate and distinct calculations governed by different statutory provisions regulations. Consequently, HCFA believes there is no legal authority for the Secretary to grant moratorium protection, or approval of the post-eligibility policy as a section 1902(r)(2) policy.

Income Policies—Supplement 5, Items B.1. through 4. and C. of SPA 88-35 and Supplement 11, Items B.1. through 4. and C. of SPA 88-36

The State proposed more liberal income policies than those required under section 1902(a)(10). However, the State would not include language in the plans that Federal financial participation (FFP) limits were not exceeded (in the case of the moratorium policies) and will not be exceeded (in the case of section 1902(r)(2) policies).

While the State's special income eligibility levels for institutionalized persons is at the FFP limit, the State's medically needy eligibility income levels are not at the FFP limit. Had the State included in the plan a qualifier that the total amount of the more liberal income disregards in any medically needy case would not exceed the dollar difference in the eligibility standard and the FFP limit, HCFA believes moratorium protection and section 1902(r)(2) approval could have been granted. It should be noted that HCFA's disapproval applies to all groups that the State has attempted to include under SPAs 88-35 and 88-36, except those groups of individuals who are eligible for assistance, but are not receiving it, or who would be eligible to receive assistance if they were not in a medical institution. These groups are exempt from the FFP cap under section 1903(f)(4)(B).

Because FFP limits under section 1903(f) remain unchanged, the FFP limits may be impermissibly exceeded. Compliance can be assured in two ways: HCFA can permit States to define more liberal policies in such a manner than such limits cannot be exceeded; or it can permit States to define more liberal policies which will result in certain persons having income which exceeds the prescribed limits. If the latter option were elected, States would be required to develop an audit system to screen out claims for services provided to persons who have income which exceeds the prescribed limits. This "audit" approach would place a costly administrative burden on States and the Federal Government. HCFA believes Congress intended that recipients benefit from the moratorium and section 1902(r)(2) provisions, rather than having program dollars diverted to excessive administrative expenditures. For these reasons, HCFA has elected to disapprove plan policies which may result in the FFP limits of section 1903(f) being exceeded.

Disapproval authority is found under section 1902(a) (4) and (19). Under

section 1902(a)(4). States must provide such methods of administration as are found by the Secretary to be necessary for the proper and efficient operation of the plan. HCFA believes the decision not to approve policies which may result in FFP limits being exceeded is consistent with this requirement as it is the most efficient manner of handling the interface between the eligibility requirements and FFP limits.

Under section 1902(a)(19), the plan must provide such safeguards as may be necessary to assure that eligibility for care and services under the plan will be determined, and such care and services will be provided, in a manner consistent with simplicity of administration and the best interests of the recipients. HCFA believes that its decision to disapprove policies, rather than implement costly audits, is consistent with this provision of law.

More Liberal Resource Policies—Supplement 5, Items A.1. and 3. and B.5. of SPA 88–35 and Supplement 12, Items A.1. and 3. and B.5. of SPA 88–37

• Protected Asset Policies—The State proposed two policies which allow persons with excess resources to be Medicaid eligible under the plan provided the recipient agrees to pay the agency, in the form of a refund, the amount of the excess resources. HCFA believes the State's policy violates section 1902(a)(18). This provision requires that a State's plan comply with the provisions of section 1917(b) with respect to adjustments and recoveries of medical assistance that has been correctly paid. Section 1917(b) is not covered by either the moratorium or section 1902(r)(2). Section 1917, which provides the conditions under which State may make recoveries from recipients, is violated because the State's policy would require repayment of assistance correctly paid on behalf of the recipient. Recoveries of correct payments are very limited and may only be made under the circumstances described in the law. These include recoveries from estates of certain institutionalized persons or from the sale of property that was subject to lien.

It is not clear whether the State's proposed policies, in this regard, always operated as a "refund" (that is, as repayment of medical care provided, or expected to be provided by Medicaid) or, instead, as a "fee." If the latter was the case, such fees were prohibited under sections 1902(a)(14) and 1916 of the Act.

• Prepaid Care Accounts of Wisconsin Veteran's Home (WVH) Residents—The State proposed to exclude as a resource, prepaid accounts of WVH residents, but makes no provision for excluding prepaid accounts of residents in other institutions. Therefore, HCFA believes the policy violates the comparability provisions of sections 1902(a)(10) and 1902(a)(17) as they apply to eligibility groups under section 1902(r)(2) and the moratorium. It is HCFA's interpretation of these provisions that the policies must be comparable for all persons in each category of recipients within the eligibility group(s) to whom the more liberal policies apply.

• Jointly Held Resources—The State proposed a policy which calls for attributing equal shares to all joint owners in property. HCFA believes that this policy may be more restrictive than the comparable SSI policy. The SSI policy provides that, under a joint tenancy, a person's actual ownership interest is the value of the countable asset (or, resource). When the actual ownership interest is less than an equal share, the State's policy is more restrictive. Thus, HCFA believes that the State's policy is not eligible for moratorium protection or approval under section 1902(r)(2).

The notice to Wisconsin announcing an administrative hearing to reconsider the disapproval of its State plan amendment reads as follows:

October 11, 1990.

Ms. Patricia A. Goodrich
Secretary
Department of Health and Social Services, 1 West Wilson Street, Madison, Wisconsin 53702.

Dear Ms. Goodrich: I am responding to your request for reconsideration of the decision to partially disapprove Wisconsin State Plan Amendments (SPAs) 88–35, 88–36 and 88–37.

The issues in this matter are whether: (1) SPA 88–35 is eligible for protection under the moratorium provision in section 2373(c) of the Deficit Reduction Act of 1984; (2) SPAs 88–36 and 88–37 can be approved under the authority of section 1902(r)(2) of the Act; (3) SPAs 88–35 and 88–37 violate the comparability provisions of sections 1902(a)(10) and 1902(a)(17) of the Act as they apply to eligibility groups under section 1902(r)(2) and the moratorium; (4) SPAs 88–35 and 88–36 violate sections 1902(a)(4) and (19) of the Act, and; (5) SPA 88–35 and 88–37 violate sections 1902(a)(18) and 1917(b) of the Act.

I am scheduling a hearing on your request to be held on November 20, 1990, at 10 a.m. in the 15th floor conference room, 105 West Adams, Chicago, Illinois. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed at 42 CFR part 430.

I am designating Mr. Stanley Katz as the presiding officer. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (304) 957–3015.

Sincerely,

Gail R. Wilensky, Ph.D.
Administrator.

Authority: Section 1116 of the Social Security Act (42 U.S.C. 1316); 42 CFR 430.18.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: October 11, 1990.

Gail R. Wilensky,
Administrator, Health Care Financing Administration.

[FR Doc. 90–24803 Filed 10–19–90; 8:45 am]
BILLING CODE 4120–03–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–050–91–4340–09]

Availability of the Draft Environmental Impact Statement on the Clark County Regional Flood Control District Master Plan; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the Draft Environmental Impact Statement (DEIS) on the Clark County Regional Flood Control District Master Plan.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, notice is given that the Bureau of Land Management Las Vegas District has prepared, by a third party contractor, a Draft Environmental Impact Statement (DEIS) on the Clark County Regional Flood Control District Master Plan in southern Nevada, and has made copies of the document available for public review.

DATES: Written comments on the DEIS must be postmarked by December 14, 1990. A public hearing for oral and written testimony will be held on November 28, 1990, from 7 p.m. to 9 p.m. at the Bureau of Land Management, Las Vegas District Office, 4765 Vegas Drive, Las Vegas, Nevada 89108.

ADDRESSES: A copy of the DEIS can be obtained from: District Manager, Bureau of Land Management, P.O. Box 26569, Las Vegas, NV 89126. In addition to the Bureau of Land Management District Office in Las Vegas, the DEIS is also available for inspection at the following locations: Bureau of Land Management, Nevada State Office, Reno, Nevada; Clark County Regional Flood Control

District, Las Vegas, Nevada; Clark County Library, Las Vegas, Nevada; Las Vegas Library, Las Vegas, Nevada; North Las Vegas Library, North Las Vegas, Nevada; Sunrise Library, Las Vegas, Nevada; University of Nevada-Las Vegas, James R. Dickinson Library, Las Vegas, Nevada; West Las Vegas Library, Las Vegas, Nevada; Spring Valley Library, Las Vegas, Nevada; Rainbow Library, Las Vegas, Nevada; State of Nevada Library, Carson City, Nevada; Green Valley Library, Henderson, Nevada; Charleston Heights Library, Las Vegas, Nevada; and the U.S. Department of the Interior, Natural Resources Library, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Donn Siebert or Jerry Wickstrom, Bureau of Land Management, P.O. Box 26569, Las Vegas, NV 89126, or telephone (702) 647-5000.

SUPPLEMENTARY INFORMATION: This DEIS focuses on an area of about 984 square miles in southern Nevada, including portions of Las Vegas, North Las Vegas, Boulder City, Henderson and unincorporated portions of Clark County.

In recent years Clark County has become one of the fastest growing urban centers in the United States. This growth, estimated at 4,000 new residents per month, has resulted in increased loss of life and property during flash flood events, as development has taken place in historical flood plains and alluvial fans. Increased loss of life and property is expected to continue unless efforts are made to control flood flows.

Historically, individual communities and development interests have prepared their own flood control plans and financed the cost of construction through local bond issues or costs passed on by developers as part of new construction costs. As a result, planning efforts to control flood flows were fragmented and without reference to a single comprehensive plan.

Because the historical process of piecemeal installation of flood control facilities to protect individual developments has not been effective in controlling flooding problems, the Nevada Legislative passed AB 188 in 1985 establishing the Clark County Regional Flood Control District to implement a regional flood control planning effort.

The principal objective of the master plan is to provide for the long-term improvement in public safety and property damage protection from flooding events by guiding the siting, design and installation of flood control facilities to promote the effective function of the entire system.

This document analyzes the potential environmental impacts associated with the long-term flood control master plan on a programmatic basis, and includes a project specific analysis of facilities proposed in the Flood Control District's 10-year construction plan. A procedure for accomplishing project-specific reviews of future changes in the 10-year plan and subsequent proposals is also included.

A copy of the DEIS will be sent to all individuals, agencies and groups who have expressed interest in the Clark County Regional Flood Control District Environmental Impact Statement process, and a limited number of copies are available upon request from the District Manager at the above address.

Dated: October 16, 1990.

Fred Wolf,

Acting State Director, Nevada.

[FR Doc. 90-24859 Filed 10-19-90; 8:45 am]

BILLING CODE 4310-HC-M

[CA-010-06-4212-13, CA 25913]

Realty Action; Exchange of Public and Private Lands in California; Amendment

AGENCY: Bureau of Land Management, Interior.

SUMMARY: In the exchange notice (CA 25913) published in the **Federal Register**, Vol. 54 FR 49365, November 30, 1989, below T. 4N., R. 15E., MDM., delete the following:

Sec. 23, lots 1, 2;

The segregation will terminate at 10:00 a.m. on Nov. 2, 1990. The land will be opened to sales under Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713).

D. K. Swickard,

Area Manager.

[FR Doc. 90-24841 Filed 10-19-90; 8:45 am]

BILLING CODE 4310-06-M

Fish and Wildlife Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service Clearance Officer and the Office of Management and Budget, Paperwork Reduction Project (1018-FWS2), Washington, DC 20503, telephone 202-395-7340.

Title: Recreational Motorboat Fuel Use Study.

OMB Approval Number: 1018-FWS02.

Abstract: In Public Law 100-448 (The Coast Guard Authorization Act of 1988) Congress directed the Secretaries of Transportation and Interior, to conduct a study to estimate the amount of fuel consumed by recreational boating activities to determine the proper percentage of the Federal Fuel Excise Tax to be applied toward the Aquatic Resources Trust Fund. State-level estimates will provide Congress with additional information on consumption and provide states with the fuel consumption information they require to allocate state excise taxes.

Service Form Number: N/A.

Frequency: Quarterly.

Description of Respondents: Individuals or households.

Estimated Completion Time: The reporting burden is estimated to average thirty one minutes per response. 61,528.5 respondents will average about 4 responses annually.

Annual Responses: 246,114.

Annual Burden Hours: 76,034.

Service Clearance Officer: James E. Pinkerton, 703-358-1943 (Commercial); FTS 921-1943, Mail Stop 224 Arlington Square, U.S. Fish and Wildlife Service, Washington, DC 20240.

Dated: October 9, 1990.

Ralph O. Morgenweck,

Assistant Director—Fish and Wildlife Enhancement.

[FR Doc. 90-24837 Filed 10-19-90; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Sleeping Bear Dunes National Lakeshore, MI; Land Lease for Church Parking Lot

AGENCY: Department of the Interior, National Park Service.

ACTION: Notice of lease of real property.

SUMMARY: This notice publishes the intent of the National Park Service to accept bids for the lease of lands within the boundary of Sleeping Bear Dunes National Lakeshore, Leelanau County, Michigan. Both the environmental assessment and archeological survey, which were completed on this tract

during the summer of 1990, and are on file at Lakeshore Headquarters, determined no significant impact to park resources for this lease.

DATES: The solicitation will be issued on or about November 15, 1990, with sealed bids due on or about December 1, 1990. (Copy of lease available at Sleeping Bear Dunes National Lakeshore.)

ADDRESSES: Superintendent, Sleeping Bear Dunes National Lakeshore, P.O. Box 277, Empire, Michigan 49630.

FOR FURTHER INFORMATION CONTACT: Ray Kimpel, Management Assistant, Sleeping Bear Dunes National Lakeshore, P.O. Box 277, Empire, Michigan 49630; Telephone (616) 326–5134.

SUPPLEMENTARY INFORMATION: The following additional information is provided regarding the proposed lease:

Legal Description of this Property

Lands available for this lease are located adjacent to St. Paul's Lutheran Church, on Tracts 38–167 and 38–168, Sleeping Bear Dunes National Lakeshore. A detailed map of the real property is available at Lakeshore Headquarters, Empire, Michigan.

Justification

The issuance of this solicitation for bids is prompted by the request of St. Paul's Lutheran Church to own an interest in this land so that it may improve the church parking facilities. The land has been used by the congregation for in excess of 100 years under a verbal agreement with the former owners. The former owners, the Kropp family, donated adjacent land to the church for its cemetery and church building. The need to deed the land used for parking to the church was overlooked. The National Park Service purchased the property in 1977.

Use

The use to be authorized by the lease shall be limited to a parking lot facility to provide safe, off-the-highway parking. Design and construction shall be approved by the National Park Service to insure that it fits with the purpose of the area. Conveyance procedures, requirements, and time schedules are covered in the lease.

Issuance of Lease

The term of the lease will be 50 years, beginning December 1, 1990, and ending November 30, 2039.

Lease rental amount shall be paid in advance on December 1 annually.*

A copy of the standard lease language is available by contracting Sleeping Bear Dunes National Lakeshore. The former owner is a member of the congregation and is aware of this lease.

Regulations

Leases of non-historic properties are to be advertised, executed, and conducted in accordance with 36 CFR part 17.

*Note: Total bid cannot be less than the Government approved appraisal amount of $600 per annum. (Appraisal available for review at Superintendent's Office, Sleeping Bear Dunes National Lakeshore, Empire, Michigan.) Highest bidder will receive lease.

Dated: October 12, 1990.

William W. Schenk,

Acting Regional Director, Midwest Regional Office.

[FR Doc. 90–24853 Filed 10–19–90; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC–111 (Sub-No. 1); MC–179]

Transfer Rules and Purchase, Merger, and Control of Motor Passenger and Water Carriers

AGENCY: Interstate Commerce Commission.

ACTION: Interim policy and notice of proposed policy.

SUMMARY: The Commission is reopening these proceedings and proposing to revise its policy governing the transfer of operating authority, and purchase, merger, and control of regulated carriers to make it consistent with the safety policy as recently revised in Rules Governing Applications for Operating Authority, 6 I.C.C.2d 266 (1989). That policy provides that applicants that have not been assigned safety ratings by the Department of Transportation (DOT) may receive only 1-year limited term authority. Extension of this authority is conditioned upon such carriers obtaining a "satisfactory" safety fitness rating from DOT.

The Commission is proposing to impose 1-year limited term conditions on finance transactions (*i.e.*, transfer applications under 49 U.S.C. 10926, purchase, acquisition, control, or merger proceedings under 49 U.S.C. 11343–11344, and exemption petitions filed under 49 U.S.C. 11343(e)) involving an unrated acquiring or surviving carrier. Further, to expedite coordination of the finance and licensing dockets, the proposed extension of the unrated carrier policy to finance proceedings will be implemented on an interim basis pending receipt of public comment on this matter and adoption of a final policy.

DATES: Comments are due November 21, 1990.

ADDRESSES: Send comments (an original and 10 copies) referring to Ex Parte No. MC–111 (Sub–No. 1) and Ex Parte No. MC–179 to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Suzanne Higgins O'Malley, (202) 275–7292, or Richard B. Felder, (202) 275–7691, [TDD for hearing impaired: (202) 275–1721]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Office of the Secretary, room 2215, Interstate Commerce Commisson, Washington, DC 20423. Telephone: (202) 275–7428. [Assistance for the hearing impaired is available through TDD service (202) 275–1721.]

Environmental and Energy Considerations

We preliminarily conclude that the proposed action will not significantly affect either the quality of the human environment or the conservation of energy resources. However, we specifically invite parties to comment on these.

Initial Regulatory Flexibility Analysis

Pursuant to 5 U.S.C. 603, the Commission is required to examine specifically the impact of a proposed action on small business and small organizations. We preliminarily conclude that this proposal will not have a significant impact on such entities.

Extension of the unrated carrier safety licensing policy to the finance docket merely ensures equitable treatment of all entities that desire to obtain operating authority under the Commission's regulatory review procedures whether it be through a licensing application or a finance transaction. In either instance, applicants that have not yet been assigned a DOT safety rating merely are alerted through the policy announced here on the importance of complying with Federal motor carrier safety regulations and obtaining a satisfactory safety rating from DOT during the first year of operations. Their policy is not expected to impede or protract finance applications filed by small, or indeed, any entities. To the limited extent that this policy may be expected to have any impact on small entities, the anticipated effect will be predominantly a positive one by ensuring observance of Federal

safety standards by acquiring and surviving carriers in finance transactions. In this regard, the policy merely reinforces through the Commission's finance docket a preexisting obligation of all licensed motor carriers.

Decided: October 4, 1990.

By the Commission, Chairman Phillips, Vice Chairman Philips, Commissioners Simmons, Lamboley, and Emmett. Commissioner Lamboley did not participate in the disposition of this proceeding.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-24669 Filed 10-19-90; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Controlled Substances; Proposed Aggregate Production Quotas for 1991

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed aggregate production quotas for 1991.

SUMMARY: This notice proposes initial 1991 aggregate production quotas for substances in Schedules I and II of the Controlled Substances Act.

DATES: Comments or objections should be received on or before November 21, 1990.

ADDRESSES: Send comments or objections to the Acting Administrator, Drug Enforcement Administration, Washington, DC 20537, Attn.: DEA Federal Register Representative. (CCR)

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, DC 20537, (202) 307-7183.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (21 U.S. Code, section 826) requires that the Attorney General establish aggregate production quotas for all controlled substances listed in Schedules I and II. This responsibility has been delegated to the Acting Administrator of the Drug Enforcement Administration by § 0.100 of title 28 of the Code of Federal Regulations.

The quotas are to provide adequate supplies of each substance for: (1) The estimated medical, scientific, research, and industrial needs of the United States; (2) lawful export requirements; and (3) the establishment and maintenance of reserve stocks.

In determining the below listed proposed 1991 aggregate production quotas, the Acting Administrator considered the following factors: (1) Total actual 1989 and estimated 1990 and 1991 net disposals of each substance by all manufacturers; (2) estimates of inventories of each substance and of any substance manufactured from it and trends in accumulation of such inventories; and (3) projected demand as indicated by procurement quota applications filed pursuant to § 1303.12 of title 21 of the Code of Federal Regulations.

Pursuant to § 1303.23(c) of title 21 of the Code of Federal Regulations, the Acting Administrator of the Drug Enforcement Administration will in early 1991 adjust individual manufacturing quotas allocated for the year based upon 1990 year-end inventory and actual 1990 disposition data supplied by quota recipients for each basic class of Schedule I or II controlled substance.

Based upon consideration of the above factors, the Acting Administrator of the Drug Enforcement Administration hereby proposes that aggregate production quotas for 1991 for the following controlled substances, expressed in grams of anhydrous acid or base, be established as follows:

Basic class	Proposed 1991 aggregate production quota
Schedule I	
Lysergic Acid Diethylamide	11
3,4-Methylenedioxyamphetamine	7
3,4-Methylenedioxymethamphetamine	12
Tetrahydrocannabinols	12,000
Psilocyn	5
Psilocybin	5
4-Methylaminorex	5
Methaqualone	2
N-Hydroxy-3,4-Methylenedioxyamphetamine	2
N-Ethylamphetamine	5
Schedule II	
Alfentanil	5,300
Amobarbital	395,000
Amphetamine	88,000
Cocaine	663,000
Codeine (for sale)	58,907,000
Codeine (for conversion)	6,055,000
Dexoxyephedrine	1,269,000
1,284,000 grams of levodexoxyephedrine for use in a noncontrolled, nonprescription product and 5,000 grams for methamphetamine	
Dextropropoxyphene	85,267,000
Dihydrocodeine	941,000
Diphenoxylate	707,000
Ecgonine (for conversion)	850,000
Fentanyl	50,500
Hydrocodone	3,871,000
Hydromorphone	223,000
Levorphanol	10,300
Meperidine	10,452,000
Methadone	1,575,000
Methadone Intermediate (4-Cyano-2-dimethyl-amino-4,4-diphenylbutane	2,344,000
Methamphetamine (for conversion)	965,000
Methylphenidate	1,878,000
Mixed Alkaloids of Opium	5,000
Morphine (for sale)	4,008,000
Morphine (for conversion)	57,226,000
Opium (tinctures, extracts, etc. expressed in terms of USP powdered opium)	1,184,000
Oxycodone (for sale)	2,854,000
Oxycodone (for conversion)	6,300
Oxymorphone	2,000
Pentobarbital	13,432,000
Phencyclidine	15
Phenylacetone (for conversion)	486,000
Secobarbital	782,000
Sufentanil	420
Thebaine	7,330,000

All interested persons are invited to submit their comments and objections in writing regarding this proposal. A person may object to or comment on one of the above-mentioned substances without filing comments or objections regarding the others. Comments and objections should be submitted to the Acting Administrator, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attn.: DEA Federal Representative (CCR) and must be received by November 21, 1990. If a person believes that one or more issues warrant a hearing, a statement to that effect with a summary of reasons for such belief should be submitted.

In the event that comments or objections to this proposal raise one or more issues which the Acting Administrator finds warrant a hearing, the Acting Administrator shall cause such hearing to be convened pursuant to the provisions of title 21 of the Code of Federal Regulations, § 1308.31(a).

Pursuant to section 3(c)(3) and 3(e)(2)(C) of Executive Order 12291, the Director of the Office of Management and Budget has been consulted with respect to these proceedings.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this matter does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The Acting Administrator hereby certifies that this matter will have no significant impact upon small entities within the meaning of and intent of the Regulatory Flexibility Act, 5 U.S. Code,

section 601, *et seq.* The establishment of annual aggregate production quotas for Schedules I and II controlled substances is mandated by law and by international commitments of the United States. Such quotas impact predominately upon major manufacturers of the affected controlled substances.

Dated: August 10, 1990.

Terrence M. Burke,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 90-24839 Filed 10-19-90; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 90-85]

NASA Advisory Council (NAC), Space Science and Applications Advisory Committee (SSAAC), Life Sciences Subcommittee (LSS); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting cancellation.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Notice number: 90-79.

PREVIOUSLY ANNOUNCED TIMES AND DATES OF MEETING: October 23, 1990, 8:30 a.m. to 5:30 p.m.; and October 24, 1990, 8:30 a.m. to 1:15 p.m.

Meeting has been cancelled.

CONTACT PERSON FOR MORE INFORMATION: Dr. Ronald J. White, Code SB, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-2128).

Dated: October 16, 1990.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 90-24888 Filed 10-19-90; 8:45 am]

BILLING CODE 7510-01-M

[Notice 90-86]

Intent To Grant an Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant a patent license.

SUMMARY: NASA hereby gives notice of intent to grant Sundstrand Corporation, of Rockford, Illinois, an exclusive, royalty-bearing, revocable license to practice the invention described in U.S. Patent no. 4,917,332 entitled, "Wingtip Vortex Turbine," which issued to the United States of America, as represented by the Administrator of the National Aeronautics and Space Administration, in April 17, 1990. The proposed patent license will be for a limited number of years and will contain appropriate terms, limitations and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR part 1245.200 *et seq.* NASA will negotiate the final terms and conditions and grant the exclusive license, unless within 60 days of the Date of this Notice, the Director of Patent Licensing receives written objections to the grant, together with any supporting documentation. The Director of Patent Licensing will review all written objections to the grant and then recommend to the Associate General Counsel (Intellectual Property) whether to grant the license.

DATES: Comments to this notice must be received by December 21, 1990.

ADDRESSES: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Lupuloff, (202) 453-2430.

Dated: October 12, 1990.

Edward A. Frankle,

General Counsel.

[FR Doc. 90-24887 Filed 10-19-90; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal Council on the Arts and the Humanities Arts and Artifacts Indemnity Panel Advisory Committee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended) notice is hereby given that a meeting of the Arts and Artifacts Indemnity Panel of the Federal Council on the Arts and the Humanities will be held at 1100 Pennsylvania Avenue, NW., Washington, DC 20506, in Room 714, from 9 a.m. to 5 p.m. on Tuesday, November 20, 1990.

The purpose of the meeting is to review applications for Certificates of Indemnity submitted to the Federal Council on the Arts and the Humanities for exhibitions beginning after January 1, 1991.

Because the proposed meeting will consider financial and commercial data and because it is important to keep values of objects, methods of transportation and security measures confidential, pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 16, 1978, I have determined that the meeting would fall within exemptions (4) and (9) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of views and to avoid interference with the operations of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Stephen J. McCleary, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, or call 202/786-0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 90-24943 Filed 10-19-90; 8:45 am]

BILLING CODE 7537-01-M

Humanities National Council: Meeting

October 16, 1990.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended) notice is hereby given that a meeting of the National Council on the Humanities will be held in Washington, DC on November 8-9, 1990.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out her functions, and to review applications for financial support and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Old Post Office Building, 1100 Pennsylvania Avenue, NW., Washington, DC. A portion of the morning and afternoon sessions on November 8-9, 1990, will not be open to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code because the Council will consider information that may disclose: Trade secrets and commercial or financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which will constitute a clearly unwarranted invasion of personal privacy; and information the disclosure of which would significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated January 15, 1978.

The agenda for the sessions on November 8, 1990, will be as follows:

Committee Meetings

8:30-9 a.m.: Coffee for Council Members—Room 526, (Open to the Public)

9-10 a.m.:

Committee Meetings—Policy Discussion
Education Programs—room M-14
Fellowships Programs—room 316-2
Public Programs—room 415
Research Programs/Preservation Grants—room 315
State Programs/Challenge Grants—room M-07

10 a.m. until Adjourned: (Closed to the public for the reasons stated above)—Consideration of specific applications

TBA: Reception for Frankel, Prize Recipients

The morning session on November 9, 1990, will convene at 9 a.m., in the 1st Floor Council Room, M-09, and will be open to the public. The agenda for the morning session will be as follows:

(Coffee for Council members from 8:30-9 a.m.)

Administration of Oath of Office for New Council Members
Minutes of the Previous Meeting
Reports
A. Introductory Remarks
B. Introduction of New Staff
C. Contracts Awarded in the Previous Quarter
D. Conflict of Interest Resolution
E. Legislation
F. Fiscal Fiscal Year Reports: Applications; Matching and Obligations
G. Fiscal Year 1991 Appropriations
H. Committee Reports on Policy and General Matters
I. Education Programs
J. Fellowships Programs
3. Public Programs
4. Research Programs
5. Preservation Grants
6. State Programs
7. Challenge Grants

The remainder of the proposed meeting will be given to the consideration of future budget requests and specific applications (closed to the public for the reasons stated above).

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, Washington, DC 20506, or call area code (202) 786-0322.

Stephen J. McCleary,
Advisory Committee Management Officer.

[FR Doc. 90-24891 Filed 10-19-90; 8:45 am]
BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

Claiborne Enrichment Center, Project M-45; Louisiana Energy Services, LP. Receipt of Antitrust Information and Opportunity for Public Comment

On July 12, 1990, pursuant to section 105 of the Atomic Energy Act of 1954, as amended, and 10 CFR 50.33e, Louisiana Energy Services, LP. (LES) furnished antitrust information in conjunction with its anticipated application for licenses for a uranium enrichment facility. The proposed facility, the "Claiborne Enrichment Center," will be located in Claiborne Parish, Louisiana, approximately 50 miles northeast of Shreveport, Louisiana.

The Claiborne Enrichment Center will use gas centrifuge technology to enrich uranium, one of several steps necessary to prepare uranium for use as a fuel in commercial nuclear power plants. LES is a limited partnership comprised of the following general partners: Urenco Investments, Inc., a wholly-owned subsidiary of Urenco, Ltd.; Claiborne Energy Services, Inc., a wholly-owned subsidiary of Duke Power Company; Claiborne Fuels L.P., a wholly-owned subsidiary of Fluor Daniel, Inc.; and Graystone Corporation, a wholly-owned subsidiary of Northern States Power Corporation.

Any person who wishes to express views on the antitrust aspects of the proposed facility should submit such views to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Chief, Policy Development and Technical Support Branch, Program Management, Policy Development and Analysis Staff, Office of Nuclear Reactor Regulation within 60 days of the initial publication of this notice in the Federal Register. A copy of the antitrust information is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 12th day of October, 1990.

Anthony T. Gody,
Chief, Policy Development and Technical Support Branch, Program Management, Policy Development and Analysis Staff, Office of Nuclear Reactor Regulation.

[FR Doc. 90-24890 Filed 10-19-90; 8:45 am]
BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-28532; File No. SR-CSE-90-03]

Self-Regulatory Organizations; Cincinnati Stock Exchange; Order Approving Proposed Rule Change Relating to the Arbitration Process and the Use of Predispute Arbitration Clauses

I. Introduction

On January 22, 1990, the Cincinnati Stock Exchange ("Exchange" or "CSE") filed with the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change that replaces the Exchange's existing Chapter IX rules with new rules that govern the administration of its arbitration forum. The proposed rule change is designed to address several issues regarding the fairness and efficiency of the arbitration process administered by the CSE, as well as institute new fees applicable to customer disputes and new requirements applicable to the use by Exchange members of predispute arbitration clauses in agreements with customers. Amendment No. 1, submitted on September 6, 1990, makes several technical and conforming changes to the Exchange's arbitration rules under its original rule filing.[3]

The CSE's filing is substantially identical to rule filings of the New York Stock Exchange ("NYSE"), National Association of Securities Dealers ("NASD"), and American Stock Exchange ("Amex") that were approved by the Commission on May 10, 1989.[4] Similar rule filings submitted by the Chicago Board Options Exchange ("CBOE"), Midwest Stock Exchange ("MSE"), and Pacific Stock Exchange ("PSE") also were approved by the Commission on August 2, 1989, August 25, 1989, and July 5, 1990, respectively.[5]

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1989).

[3] In all relevant and material aspects, Amendment No. 1's changes conform the CSE's proposed rule change to either the Exchange's current arbitration rules or the current Uniform Code of Arbitration as developed through the auspices of the Securities Industry Conference on Arbitration.

[4] Securities Exchange Act Release No. 26805 (May 10, 1989), 54 FR 21144 (May 16, 1989) (order approving File Nos. SR-NYSE-88-48, SR-NYSE-88-29, SR-NASD-88-29, SR-NASD-88-51, SR-NASD-89-19, and SR-AMEX-88-29) ["May 10, 1989 Order"].

[5] Securities Exchange Act Release No. 27083 (August 2, 1989), 54 FR 33731 (August 9, 1989) (order

Continued

Notice of filing of the CSE's proposed rule change was provided by the issuance of a Commission release (Securities Exchange Act Release No. 27940, April 24, 1990), and by publication in the Federal Register (55 FR 18204, May 1, 1990). The Commission received no comments on the proposed rule change. This order approves the proposed rule change, as amended.

II. Description of the Proposal[6]

A. Proposed Amendments

(1) Service of Pleadings

The CSE proposes to modify the procedures for service of pleadings contained in CSE chapter IX, Rules 9.2 and 9.13. Currently, the arbitration department of the CSE serves all pleadings on the parties. As the number of arbitrations have increased, using the arbitration department as an intermediary for the service of pleadings has added unnecessarily to delays in processing arbitration hearings and to the cost of operating the arbitration system. The CSE proposes to serve only the initial pleading in a case, the "claim"—and to require that parties serve all subsequent pleadings directly upon one another. This approach is intended to save administrative time and costs while continuing to ensure that respondents receive adequate notice of the institution of arbitration proceedings.

Under amended CSE Rule 9.13, parties also will be required to supply the department of arbitration with sufficient additional copies of the pleadings for the arbitration department staff and each of the arbitrators. Additionally, the proposal specifies that service by first-class postage prepaid or by overnight mail service is considered to be made on the date of mailing and service by other means is considered to be made on the date of delivery.[7]

(2) Classification of Arbitrators

The arbitration panels at the SROs for cases involving public customers have historically been composed of a majority of "public arbitrators" and a minority of "industry arbitrators." However, there have not been *clear* requirements or specifications *for* who may serve as a public arbitrator. Under the Exchange's proposal, amended CSE Rule 9.8 would specify who may not serve as a public arbitrator and who may serve as an industry arbitrator.

The CSE's proposal addresses the potential for real or apparent bias on the part of public arbitrators who may have some professional or personal association with the securities industry. CSE Rule 9.8 defines as an industry arbitrator one who is associated with a member of a self-regulatory organization ("SRO"), or a broker, dealer, government securities broker, government securities dealer, municipal securities dealer, or registered investment adviser. CSE Rule 9.8 also deals with the appropriate role in the arbitration system of professionals such as attorneys or accountants who provide services to securities industry clients. The rule would classify as industry arbitrators, rather than public arbitrators, attorneys, accountants and other professionals who devoted twenty percent or more of their professional work effort to securities industry clients within the last two years. In addition, the rule excludes from service as a public arbitrator persons who are spouses or other members of the household of a person associated with a registered broker-dealer, municipal securities dealer, government securities dealer or investment adviser.

CSE Rule 9.8 permits an individual who had been associated with the securities industry to become a public arbitrator after three years, if the individual has gone on to other work. Also, under the rule, industry retirees will no longer be permitted to serve as public arbitrators, although they may continue to serve as industry arbitrators.

The CSE is also proposing disclosure provisions designed to assist parties in assuring that the panel assigned to each case is appropriately balanced. Under proposed CSE Rule 9.9, the employment histories of the arbitrators for the past ten years, as well as the information provided by arbitrators pursuant to separate disclosure obligations contained in proposed CSE Rule 9.11, also will be disclosed.[8]

The amendments regarding the classification of arbitrators are designed to promote impartial and knowledgeable decisions in the arbitration of disputes between investors and broker-dealers. The reclassification of securities industry retirees to the industry arbitrator pool and the establishment of a three year period before a former securities industry employee may serve as a public arbitrator should relieve any doubts that investors may have had regarding the impartiality of the public arbitrator pool. Similarly, the judgment to exclude from the public arbitrator pool lawyers, accountants and other professionals who regularly service the securities industry makes clearer the distinctions between the two arbitrator pools.

(3) Arbitrator Disclosure and Background Information to be Supplied to the Parties

The CSE also is proposing changes to its rules with regard to what disclosures arbitrators must make and how that disclosure is supplied to the parties. Under the current rules, parties have been provided only with the names and current business affiliations of the arbitrators proposed for their cases. Moreover, parties have had to request specifically any other information from the arbitration department within very short time frames. The Exchange's proposed Rule 9.11 would provide to the parties all of the information disclosed by arbitrators pursuant to the amended disclosure rules at the time when the parties are first given the arbitrators' names. This change would provide full disclosure of arbitrators' backgrounds to parties at the earliest possible stage in the process, and should therefore avoid unnecessary postponements of hearings and promote knowledgeable use of challenges. Additionally, the Exchange's proposed rule change also would provide necessary guidance to arbitrators about the types of relationships that may create conflicts of interest.

Accordingly, proposed CSE Rule 9.11(a) establishes specific disclosure obligations of arbitrators. The rule requires that arbitrators disclose any existing or past financial, business, professional, family or social relationships that are likely to affect impartiality or might reasonably create an appearance of partiality or bias. These disclosures extend to any relationships the arbitrators may have with any party, or its counsel, or with any individual whom they have been advised will be a witness. The rule also requires arbitrators to disclose any such relationship involving members of their families or their current employers, partners or business associates.

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approving File No. SR-CBOE-89-06); Securities Exchange Act Release No. 27167 (August 25, 1989), 54 FR 36928 (September 5, 1989) (order approving File No. SR-MSE-89-11); and Securities Exchange Act Release No. 28185 (July 5, 1990), 55 FR 28704 (July 12, 1990) (order approving File No. SR-PSE-89-19).

[6] The entire text of the proposed rule change, as amended, is available for inspection at the Office of the Secretary, CSE, and at the Commission's Public Reference Section.

[7] These Rule 9.13 service procedures would apply both to arbitration proceedings conducted pursuant to the simplified procedures for small claims under CSE Rule 9.2 and regular cases initiated pursuant to CSE Rule 9.13.

[8] The disclosure rules are proposed rule changes discussed in subsection (3) of this order. The rules would require arbitrators to make extensive disclosures to the parties.

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CSE Rule 9.11(b) requires prospective arbitrators to make a reasonable effort to inform themselves of any interests or relationships described in Rule 9.11(a). CSE Rule 9.11(c) specifically advises arbitrators that the duty to disclose under Rule 9.11(a) is an ongoing duty, and that any person who serves as an arbitrator must disclose at any stage of the arbitration proceeding any such interests, relationships, or circumstances that arise, or that are recalled or discovered. Also, under CSE Rule 9.11(d), the Exchange has clarified that prior to the first session, the Director of Arbitration may remove an arbitrator based on information disclosed pursuant to the rule. Parties are to be informed of any information disclosed pursuant to the rule, if the arbitrator has not been removed.[9]

As discussed above, CSE Rule 9.9 provides that parties will be informed of the names and business affiliations of the arbitrators for the past ten years, as well as any information disclosed pursuant to Rule 9.11 at least eight days prior to the date fixed for the initial hearing session. Under CSE Rule 9.9, parties may also make further inquiry through the department of arbitration concerning the arbitrators' background.

(4) Appointment of Replacement Arbitrators on a Panel

The CSE also is proposing two changes with respect to its ability to appoint a replacement arbitrator on a panel when a vacancy occurs. The first of these changes concerns the ability of the Director of Arbitration to replace an arbitrator who becomes unavailable to serve less than eight days prior to the first hearing session. Under the proposed amendment, if after appointment and prior to the first hearing session an arbitrator resigns, dies, withdraws, is disqualified or otherwise is unable to perform as an arbitrator, CSE Rule 9.9 authorizes the Director of Arbitration to appoint a replacement arbitrator. The rule permits the appointment of replacement arbitrators closer than eight days to the hearing. The rule also explicitly provides that parties are entitled to receive the same disclosure regarding the background of the replacement arbitrator as they received for the initial arbitrator(s), and have the same right to request more information, and to challenge the arbitrator as provided in the rules, although within a shorter time frame.

The second change concerning the ability to appoint replacement arbitrators addresses situations where an arbitrator resigns, dies, withdraws, is disqualified or otherwise is unable to perform as an arbitrator after the commencement of the first hearing session. Under the CSE's existing rules, if a vacancy occurs after the hearings have begun, both parties must consent either to the appointment of a replacement arbitrator to hear the rest of the case, or to continuing with the remaining arbitrator(s). Otherwise, if that consent cannot be obtained, the case must be reheard from the beginning with a full panel.

Proposed CSE Rule 9.12 permits the remaining arbitrators to continue with the hearing and determination of the controversy. However, under the proposal, if a party objects, a replacement arbitrator would be appointed by the Director of Arbitration under the same procedures as for the replacement of an arbitrator prior to the first hearing. The rule is designed to permit parties in particular cases to make the decision that makes the most sense for their case. For example, in cases where only peripheral issues have been dealt with and relatively little progress has been made, it may make sense for parties to request a replacement arbitrator. Conversely, where the hearings have progressed significantly, or are in fact substantially completed, it would make less sense for parties to request a replacement arbitrator, who then would have to learn all that had occurred in his absence.

In the event that parties do request a replacement arbitrator, the arbitrators will have the authority to require the rehearing of part or all of the case, or to withdraw from the case, effectively requiring the appointment of another panel, as is appropriate in their judgment. With this rule change, however, a party may no longer delay the resolution of the dispute by insisting on a rehearing whenever an arbitrator unexpectedly is unable to continue in his hearing of a case.

(5) Availability of Small Claims Procedures and the Number of Arbitrators Required to Hear a Claim

The CSE proposes to amend Rule 9.2(a) to increase to $10,000 from $2,500 the monetary claim limit for cases to be heard under the simplified procedures developed in the Uniform Code. Under these expedited procedures, a single arbitrator decides a case based upon the papers submitted by the parties. No oral hearing is held unless requested by the investor, or ordered by the arbitrator. This change is designed to decrease the costs of arbitration.[10]

CSE Rule 9.8(a) (1) would change the number of arbitrators generally used for large cases from five to three. The rule currently provides for the appointment of five arbitrators in cases brought by public customers in which the claim exceeds $100,000. In order to alleviate administrative delays and costs frequently encountered in such cases, the proposed rule would eliminate the requirement of five-member panels, allowing the director of arbitration to exercise discretion in appointing panels of no fewer than three and no more than five arbitrators in cases not heard under the CSE's simplified arbitration procedures.

The CSE also proposed a technical amendment, in Rule 9.2(f), regarding the single arbitrators used in cases administered under the simplified procedures. The amendment codifies the industry's existing practice of appointing a public arbitrator as the single arbitrator in the case.

(6) Discovery

The CSE is proposing significant changes to its arbitration discovery rules, which should assist in the early resolution of discovery disputes and encourage the efficient resolution of cases on their merits. Under current Exchange rules, parties have been expected to exchange documents informally and voluntarily. Parties may also request documents pursuant to subpoena under the existing rules, but these do not have to be produced until the day of the hearing.

Proposed CSE Rule 9.20 expands party access to prehearing discovery and provides specific time frames for parties to request information from parties and for responding to such an information request. The rule also establishes a mechanism for prehearing conferences and for arbitrator involvement in prehearing matters where needed. Under the CSE's proposed rule change, arbitrators may also order depositions when appropriate.

Proposed Rule 9.20(a) continues the policy established under existing rules for parties to cooperate to the fullest

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[9] Once the arbitration panel is sworn, it controls all of the procedural aspects of the hearing. Accordingly, under the Uniform Code and the CSE's Chapter IX arbitration rules, the Director of Arbitration may not remove an arbitrator after the hearings have begun. An arbitrator should be alert to the guidelines set out in the American Bar Association/American Arbitration Code of Ethics for Arbitrators in Commercial Disputes ("ABA/AAA Code") and the applicable law with respect to arbitrator bias, and remove himself from the panel when conflicts arise after hearings have begun. *See* Canon II, E.(2) of the ABA/AAA Code.

[10] CSE Rule 9.2(c) would establish filing fees ranging from $15 to $200 in cases where the amount in controversy varies from $1,000 or less to $10,000.

extent possible in the voluntary exchange of documents and information. In the event that voluntary exchanges are not sufficient, however, the rule establishes a clear framework for document production and information requests.

Proposed Rule 9.20(b) provides that a party may serve a written request for information or documents 20 days after service of the claim or upon the filing of the answer, whichever is earlier. All parties are to receive copies of the request, and parties are required to endeavor to work out disputes regarding the request between themselves before an objection to the request is filed. Unless the requesting party allows more time, information requests must either be satisfied or objected to within 30 calendar days from the date of service. The party who made an information request has 10 days from receipt of the objection to respond to the objection.

Under the proposal, a party whose information request has not been satisfied may request in writing that the Director of Arbitration refer the matter to a prehearing conference. Parties may also find that there are other matters in addition to unresolved information requests that require the assistance of a prehearing conference. Rule 9.20(d) provides that the Director of Arbitration may appoint someone to preside over the prehearing conference. The prehearing conferences could be held either in person or by telephone conference call, and are designed to help the parties to reach agreement on such matters as the exchange of information, exchange or production of documents, identification of witnesses, identification and exchange of hearing documents, stipulations of fact, identification and briefing of contested issues, and any other matter which will expedite the arbitration proceedings.

When a prehearing conference is unable to resolve any of these issues, Rule 9.20(e) provides for the Director of Arbitration to appoint a single arbitrator to decide the issues outstanding. The rule allows the arbitrator to issue subpoenas, direct appearances of witnesses, direct the production of documents and depositions, and set deadlines and issue any other ruling which will expedite the hearing and permit any party to develop fully its case. Rule 9.20(e) provides that the single arbitrator appointed to decide prehearing matters would be a public arbitrator in those cases where public customers have requested a majority of public arbitrators for their panel.

Other amendments to the prehearing provisions require parties to serve on one another, at least 10 days prior to the first hearing, copies of documents in their possession that they intend to present at the hearing and identify witnesses they intend to present at the hearing. Under proposed Rule 9.20(c), arbitrators may exclude from the arbitration documents not exchanged or witnesses not identified at that time. The provision does not extend to documents or witnesses that parties may use for cross-examination or rebuttal. In addition, the CSE is proposing to amend its rules regarding subpoenas. In CSE Rule 9.20(f), the Exchange proposes to require parties to serve copies of all subpoenas on all parties in addition to complying with any applicable local, state or federal laws governing subpoenas.

(7) Preservation of a Record

The Case is amending its arbitration rules to assure that adequate records of arbitration proceedings are made and preserved. These records are necessary for court use in conjunction with any judicial review of arbitration proceedings. In this regard, CSE Rule 9.24 would codify a requirement that a verbatim record by stenographic reporter or tape recording be maintained. The rule further provides that, if a party to a proceeding elects to have the record transcribed, the cost of such transcription shall be borne by that party, unless the arbitrator(s) directs otherwise. If a record is transcribed at the request of a party, the rule requires that a copy shall be provided to the arbitrators.

(8) Content and Public Availability of Arbitration Awards

The CSE's proposed rule for arbitration awards expands both the content and public availability of arbitration awards. Prior to the Commission's May 10, 1989 approval of the amended arbitration rules of the Amex, NASD and NYSE, the only information generally available to the public regarding SRO arbitration cases was the percentage of investors that received some portion of the amount they claimed against their broker-dealer. No data had been previously available with respect to particular arbitrators' awards. The CSE's proposal affords substantially more public access to the results of this process of dispute resolution.

Proposed CSE Rule 9.28(e) provides that awards shall contain the names of the parties, a summary of the issues in controversy, the damages and/or other relief requested, the damages and/or other relief awarded, a statement of any other issues resolved, the dates the claim was filed and the award rendered, the number and dates of hearing sessions, the location of the hearing(s), the names of the arbitrators and the signatures of the arbitrators concurring in the award. The awards, including any written opinion voluntarily prepared by the arbitrators, are to be made public, except that the names of customer parties to the arbitration will be excluded pursuant to proposed Rule 9.28(f), if the customer parties request in writing that their names not be included in the public version of the award.

(9) Arbitration Fees

Under proposed CSE Rule 9.30 of chapter IX, the fees that may be assessed by the arbitrators for particular cases have been increased in order to defray the CSE's costs of administering its arbitration program. Proposed CSE Rule 9.30(d) would raise to $200 from $100 the minimum deposit for cases where no money damages are claimed. Proposed CSE Rule 9.30(h) sets a fee for prehearing sessions with an arbitrator of 75% of hearing session fees.

Proposed CSE Rule 9.30(c) also clarifies that arbitrators may assess the costs of conducting a hearing against the parties as they deem appropriate. These costs include not only the fees for each session, but all other costs of conducting the hearing contemplated under the rules, such as the costs of transcribing a record, or producing witnesses or documents, and any other costs contemplated by the agreement between the parties or permitted by applicable law. Further, proposed Rule 9.30(c) provides that arbitrators may assess forum fees on a per hearing basis, the aggregate of which may equal (but may not exceed) the largest initial hearing deposit deposited by a party.

CSE Rule 9.30(e) grants the Exchange the authority not to refund filing fees where a case is settled or withdrawn five business days after the party receives notification that the hearing date has been set. This change is based on the increased expenses associated with arbitration empanelment and hearing arrangements. The refund requirement does not apply to cases heard under the Exchange's expedited arbitration procedures for small claims.

Finally, the CSE is proposing to codify its definition of a "hearing session." Under Rule 9.30(b), a "hearing session" would be a meeting between the parties and arbitrators that lasts four hours or less.

(10) Predispute Arbitration Clauses

The CSE also proposes changes designed through the auspices of the Securities Industry Conference on

Arbitration ("SICA") to improve disclosure to customers in account opening agreements and to restrict the content of the arbitration clauses. Under the proposed rule change, Rule 9.31 of CSE chapter IX would require broker-dealers that employ predispute arbitration clauses to place immediately before the clause introductory language that would inform customers that they are waiving their right to seek remedies in court, that arbitration is final, that discovery is generally more limited than in court proceedings, that the award is not required to contain factual findings and legal reasoning, and that the arbitration panel typically will include a minority of arbitrators associated with the securities industry.

Proposed CSE Rule 9.31 would require that the disclosure language be highlighted four ways. First, large or otherwise distinguishable type must be used. Second, the disclosure language must be set out in outline form so as to be noticeable to readers. Third, a statement, also highlighted, that provides that the agreement contains a predispute arbitration clause, and indicates where that clause is located in the contract, must be inserted into the agreement immediately preceding the signature line. Fourth, a copy of the agreement containing a predispute arbitration clause must be given to the customer, who is to acknowledge receipt of the agreement, either in the agreement itself or in a separate document.

Additionally, CSE Rule 9.31 prohibits SRO members from having agreements with customers that limit or contradict the rules of any SRO, or limit the ability of a party to file any claim in arbitration or limit the ability of the arbitrators to make any award.

(11) Miscellaneous

The Exchange's proposed rule change also amends several other of its chapter IX rules that govern the administration of its arbitration forum. First, in arbitrations involving multiple claimants, respondents, and/or third-party respondents, proposed CSE Rule 9.10 provides the claimants, respondents, and third-party respondents with one peremptory challenge each of a proposed arbitrator, and with unlimited challenges for cause. Second, for adjournments granted after arbitrators have been appointed, proposed CSE Rule 9.16(b) establishes a waivable adjournment fee equal to the deposit of costs, but not more than $100." Third, proposed CSE Rule 9.26 provides for amendments to pleadings; however, after an arbitration panel has been appointed, amended pleadings other than responsive pleadings may not be filed unless the panel consents to the amendment.

Finally, in addition to the rules discussed above, the Exchange's proposal adopts other rules that substantially replicate their current counterparts.[12] Except for technical and conforming changes, these proposed rules do not differ materially from the current rules upon which they are modeled.

(8) Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[13] which requires that national securities exchanges have rules designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade provide for an equitable allocation of fees, and, in general, protect investors and the public interest.

III. Discussion and Conclusion

The Commission has considered carefully the Exchange's proposed rule change, and finds, for the following reasons, that the proposed rule change is consistent with the requirements of Section 6 of the Act [14] and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission finds that the proposed rule change is consistent with the requirements of Sections 6(b) (4) and (5) of the Act, [15] which require that national securities exchanges have rules designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, provide for an equitable allocation of fees, and, in general, protect investors and the public interest. The Commission believes the proposed rule change significantly advances the public interest in Exchange arbitrations and should improve the speed and efficiency of arbitration, while maintaining the traditional qualities of arbitration.

The CSE developed these changes to its arbitration rules through the auspices of the SICA. The securities industry's SROs have worked together over the past twelve years to develop uniform arbitration rules through SICA, which is comprised of a representative from each SRO that administers an arbitration program,[16] a representative of the securities industry, and four representatives of the public.

On September 10, 1987, after a review of securities industry-sponsored arbitration, the Commission sent to SICA a letter that set out its views regarding the need for changes to the Uniform Code of Arbitration ("Uniform Code").[17] The Commission also sent letters to the SROs on July 8, 1988 requesting that the SROs review the issues raised by the current use of mandatory predispute arbitration agreements by their member firms.[18] Since September 1987, SICA and its subcommittees have met regularly to develop proposals in response to the Commission's letters.

The majority of the proposals to amend the CSE's rules were based on changes in the Uniform Code made by SICA largely in response to the September 1987 and July 1988 Commission letters.[19] The other proposals included in this order were developed to meet concerns that have arisen through the administration of the Exchange's arbitration forum.

As stated above, substantially similar rule filings submitted by the NYSE, Amex and NASD were approved by the Commission on May 10, 1989, and comparable rule filings of the CBOE, MSE and PSE were subsequently approved by the Commission on August 2, 1989, August 25, 1989, and July 5, 1990, respectively. The NYSE's, NASD's and Amex's versions of the CSE's rules were published for public comment in the

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[11] The provisions of CSE Rule 9.16 do not apply to matters filed under the Rule 9.2 simplified arbitration procedures.

[12] ERR14 The Exchange's proposed rules that substantially replicate their current versions are Rules 9.1 ("General"); 9.3 ("Hearing Requirements—Waiver of Hearing"); 9.4 ("Time Limitation Upon Submission"); 9.5 ("Dismissal of Proceeding"); 9.6 ("Settlements"); 9.7 ("Tolling of Time Limitation(s) for the Institution of Legal Proceedings"); 9.14 ("Designation of Time and Place of Hearings"); 9.15 ("Representation by Counsel"); 9.16 ("Attendance at Hearings"); 9.17 ("Failure to Appear"); 9.18(a) ("Adjournments"); 9.19 ("Acknowledgement of Pleadings"); 9.21 ("Evidence"); 9.22 ("Interpretation of Code"); 9.23 ("Determinations of Arbitrators"); 9.25 ("Oaths of the Arbitrators and Witnesses"); 9.27 ("Reopening of Hearings"); and 9.29 ("Miscellaneous").

[13] 15 U.S.C. 78f(b) (1988).

[14] 15 U.S.C. 78f (1988).

[15] 15 U.S.C. 78f(b) (4) and (5) (1988).

[16] The SROs that administer an arbitration program are the CSE, NYSE, NASD, Amex, CBOE, MSE, PSE, Municipal Securities Rulemaking Board ("MSRB"), Boston Stock Exchange, and Philadelphia Stock Exchange.

[17] *See* letter from Richard G. Ketchum, Director, Division of Market Regulation, SEC, to James E. Buck, Senior Vice President, NYSE, dated September 10, 1987. This letter was also addressed separately to each of the other members of SICA.

[18] *See* letter from David S. Ruder, former Chairman, SEC, to John J. Phelan, Jr., Chairman, NYSE, dated July 8, 1988. This letter was also addressed to the senior executive officers of all other SROs that administer arbitration facilities.

[19] The Exchange's rules developed in response to the Commission's letters are Rules 9.8, 9.9, 9.11, 9.20, 9.24, 9.28, 9.30(b) and 9.31 of its Chapter IX arbitration rules.

Federal Register, providing both the public and broker-dealer community with ample opportunity to comment on the proposed changes that are the subject of this order. All public comments directed at the other SROs' arbitration filings were considered in the context of the review undertaken for the Commission's May 10, 1989 approval order,[20] wherein the Commission addressed fully the significant public dialogue and comment that preceded its action. In light of the Commission's thorough consideration of all comments directed at the SRO arbitration filings that were the subject of the Commission's May 10, 1989 approval order, the substantially identical nature of the CSE's arbitration proposal, and the benefits that will accrue to investors from the availability of these improved arbitration procedures, the Commission finds that approval of the CSE's proposed rule change is consistent with the requirements of section 6 of the Act.[21]

The Commission believes that the CSE's proposed arbitration rules improve the procedures for administering arbitration proceedings and create clear obligations regarding the use by SRO members of predispute arbitration clauses. The Commission further believes the proposed rule change appropriately balances the need to strengthen investor confidence in the arbitration systems at the SROs with the need to maintain arbitration as a form of dispute resolution that provides for the equitable and efficient administration of justice. More specifically, the Commission finds that the rule changes affecting the classification of arbitrators, arbitrator disclosure, discovery, the preservation of a record, the form and public availability of awards, and guidelines for the use of predispute arbitration clauses significantly advance the public interest in SRO arbitration.[22]

Likewise, the Commission believes that the CSE's initiatives with respect to the handling of pleadings, appointment of replacement arbitrators, the use of small claims procedures, and the number of arbitrators should improve the efficiency and speed of arbitration. Because these rules will aid in the just resolution of disputes between investors and broker-dealers, the Commission concludes that these rules are designed to prevent fraudulent and manipulative practices, promote just and equitable principles of trade and, in general, protect investors and the public interest consistent with section 6(b) (5) of the Act.[23] The Commission also finds that the fee increases represented by these changes appear to be reasonable and should provide for an equitable allocation of fees among SRO members and investors using the CSE's arbitration facilities consistent with section 6(b) (4) of the Act.[24]

It is therefore ordered, pursuant to section 19 (b) (2) of the Act,[25] that the above-referenced proposed rule change (File No. SR–CSE–90–03) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[26]

Dated: October 11, 1990.

Margaret H. McFarland

Deputy Secretary.

[FR Doc. 90–24848 Filed 10–19–90; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34-28534; File No. SR-NASD-90-45]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to Amendments to the Uniform Application for Securities Industry Registration or Transfer, Form U–4

The National Association of Securities Dealers, Inc. ("NASD") submitted on August 1, 1990, a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] to allow a previously registered person to certify as to the completeness and accuracy of his disciplinary record in the Central Registration Depository ("CRD") system and alleviate the need to resubmit full details of all reportable items upon transfer of his registration to a new broker-dealer.

Notice of the proposal, together with the substance of the terms of the proposed rule change, was given by the issuance of a Commission release (Securities Exchange Act Release No. 28392, August 29, 1990) and by publication in the Federal Register (55 FR 36922, September 7, 1990). No comments were received on the proposal.

This rule change will amend the Form U–4 to provide for a previously registered person, who is transferring his registration to another broker-dealer, to certify that he has reviewed a copy of his disclosure information taken from the CRD system, and that the information is accurate, complete and in Disclosure Reporting Page ("DRP") format. If the certification is utilized, only the appropriate "yes" answers on page 3 of Form U–4 need to be answered to correspond with the disclosed information, but no DRPs are required.

There are three certification alternatives available to the individual. The first alternative simply states that there is no new information to add to the disclosure file. The second alternative allows the individual to certify to the completeness of all previously provided information and to report something new. Only the new DRP need be provided. The third alternative allows the agent to certify to previously provided information, but further allows him to update a specific matter. Again, only the updated information need be disclosed. The individual would indicate in the certification the occurrence to which the updated information belongs, and the updated information would be posted accordingly. No details relating to other matters are required.

The NASD believes the proposed rule change will eliminate the time-consuming and burdensome requirement of a person resubmitting to CRD items previously disclosed on Form U–4 each time such person transfers his registration to a new broker-dealer.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of section 15A [2] and the rules and regulations thereunder. Also, this proposed rule change is consistent with the NASD's authority to adopt appropriate qualification and registration requirements for persons associated

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[20] In addition, the CSE proposal is substantially identical to the CBOE, MSE and PSE rule filings that were subsequently approved by the Commission. *See* note —, *supra*.

[21] 15 U.S.C. § 78f (1982). Moreover, the Commission finds that approval of the CSE's proposed rule change is consistent with its May 10, 1989 approval order, and the Commission herein incorporates by reference the relevant portions of its discussions from that order.

[22] The Commission's approval of CSE Chapter IX, Rule 9.31, and the comparable rules of the NYSE, NASD, Amex, CBOE, MSE, MSRB, and PSE is consistent with the conclusion of the Court of Appeals for the Sixth Circuit in *Roney v. Goren*, 875 F.2d 1218 (6th Cir. 1989) that the Commission has the authority to assure customer choice among SRO arbitration forums.

[23] 15 U.S.C. 78f(b)(5) (1988).

[24] 15 U.S.C. 78f (b) (4) (1988).

[25] 15 U.S.C. 78s(b)(2) (1988).

[26] 17 CFR 200.30–3(a) (12) (1989).

[1] 15 U.S.C. 78s(b)(1) (1982)

[2] 15 U.S.C. 78o-3 (1982).

with NASD members or applicants for NASD membership. Article IV, section 2 of the NASD By-Laws authorizes the Board of Governors to prescribe the form used by any person who wishes to make application for registration with the NASD.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change, SR–NASD–90–45, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Dated: October 12, 1990.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 90-24822 Filed 10-19-90; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-28636; File No. SR-NYSE-90-50]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Temporary Approval of Proposed Rule Change by New York Stock Exchange, Inc. Relating to Revised Odd-Lot Order Pricing Procedures in Expanded Pilot

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 9, 1990, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of an extension of the pilot program eliminating differentials and floor brokerage charges that may be charged on certain odd-lot orders as provided in Exchange Rule 124 for member firms participating in the pilot.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The NYSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

The purpose of the proposed rule change is to extend and expand the pilot program now in place, which eliminates all differentials and floor brokerage charges for odd-lot orders executed through the Exchange's automated system.[1] The pilot, as approved earlier this year,[2] was intended to allow the Exchange to begin the process of eliminating odd-lot differentials and floor brokerage charges in a controlled environment to assess concerns associated with such elimination. These concerns include the potential abuse by traders entering odd-lot orders to capture the spread (*i.e.*, buying on the bid and selling on the offer), the alteration of historical order flow patterns that are a mix of odd-lot market and limit orders heavily favoring market orders, and the question of whether eliminating odd-lot differentials would require extensive rule and system enhancements which could prove to be cumbersome in their operation and surveillance. The pilot included three firms representing a cross-section of member organizations with an active retail business: a large national full-line broker-dealer, a regional firm and a discount broker-dealer, and was to run until October 15, 1990.

During the operation of the pilot, the Exchange has gathered valuable experience concerning the impact of eliminating odd-lot charges. For example, the mix of odd-lot market versus limit orders has remained near historical levels. There have been no significant system problems during the pilot, and surveillance of the trading patterns of customers has not revealed any abusive practices. The Exchange believes, however, that additional experience under the pilot's conditions is necessary and appropriate to assure that the favorable results can be sustained as more firms are added.

The Exchange proposes to add three member organizations to the pilot and extend its operation until January 31, 1991.[3] The Exchange believes this three month expansion will present an enhanced test of execution and surveillance capabilities. In addition, the data available to assess the mix of odd-lot orders between market and limit will be augmented. The three firms to be added will consist of a national full-line broker-dealer, a regional firm, and a discount broker-dealer as in the first phase of the pilot.

The Exchange shares the Commission's concerns regarding the availability of the pilot's pricing benefits to the pilot participants only, and believes the proposed extension for an additional three months will enable more customers to participate in the pilot while allowing the Exchange a better opportunity to assess the pilot's impact. The Exchange intends to submit a permanent rule change extending the pricing procedures used in the pilot to all member organizations prior to January 15, 1991, or the pilot will be terminated.

(b) Statutory Basis

The basis under the Act for this proposed rule change is the requirement under section 6(b)(5) that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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[1] The Exchange currently does not permit imposition of a differential or floor brokerage charges on standard odd-lot market orders. Such charges may be imposed, however, on virtually all other odd-lot orders.

[2] See Release No. 34-28040 (May 22, 1990), 55 FR 21989, approving File No. SR-NYSE-90-22.

[3] The Exchange originally proposed extending the pilot until January 15, 1991. The Exchange subsequently requested Commission approval to extend the pilot until January 31, 1991. *See* letter from Daniel Parker Odell, Assistant Secretary, NYSE, to Mary N. Revell, Branch Chief, Division of Market Regulation, Commission, dated October 10, 1990.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-90-50 and should be submitted by [insert date 21 days from date of publication].

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with the requirements of section 6(b)(5) of the Act.[4] The Commission believes that the proposal's goal, which is to eliminate odd-lot differentials and floor brokerage charges on systematized odd-lot orders, will increase the quality of execution of customer odd-lot limit orders. As a result of the proposal, the price charged for the execution of all odd-lot orders will reflect the market's price without additional transaction charges.

The Commission also believes that the pilot program proposal should help the Exchange to design odd-lot pricing rules that will facilitate the execution of odd-lot orders. Although the Commission had concerns about limiting the program that is now in place to only three firms,[5] and continues to have concerns about limiting the extended pilot to only six firms, the Commission recognizes that the Exchange prefers a small, controlled pilot in case the order flow of the odd-lot system is drastically altered by the proposed rule change. Moreover, the six firm, three month extension of the pilot program will permit the Exchange to examine odd-lot order flow and trading patterns with a cross-section of member firms. In addition, though limited to the six firms, the pilot program also should provide a significant number of investors with the benefit of the early implementation of the rule. Finally, the Exchange has stated that the pilot program will terminate on January 15, 1991 unless the NYSE submits a proposal to extend the pilot to all member organizations prior to that date.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. The pilot is designed to test new procedures for providing improved odd-lot pricing. If the pilot program is successful, acceleration of approval of this proposed rule change will permit the Exchange to extend improved odd-lot pricing to all investors at an earlier date. In addition, the substance of this proposal was published in the Federal Register for the full statutory period and no comments were received.[6] Finally, accelerated approval will allow the Exchange to extend the pilot without interruption.

It is therefore ordered, pursuant to section 19(b)(2)[7] of the Act, that the proposed rule change is approved for a period ending on January 31, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Dated: October 15, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-24850 Filed 10-19-90; 8:45 am]

BILLING CODE 8010-01-M

[4] 15 U.S.C. 78f(b)(5) (1982).

[5] *See* Release No. 34-28040, *supra* note 2.

[6] *See* Release No. 34-28040, *supra* note 2.

[7] 15 U.S.C. 78s(b)(2) (1982).

[8] 17 CFR 200.30-3(a)(12) (1990).

DEPARTMENT OF STATE

[Public Notice 1275]

Shipping Coordinating Committee IMO Council and Associated Bodies; Meeting

The Shipping Coordinating Committee, (SHC), will conduct an open meeting at 10:00 AM on October 30, 1990, in Room 2415 at U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593. The purpose of the meeting is to finalize preparations for the 65th Session of Council and associated bodies of the International Maritime Organization, (IMO), which is scheduled for November 5-9, 1990 at the IMO Headquarters in London. The purpose of the meeting is to discuss the papers received and the draft U.S. positions for the Council.

Among other things, the items of particular interest are:

—Reports of Legal and Technical Cooperation Committees
—Report on meeting of parties to the London Dumping Convention
—Report on preparations for the International Conference on Oil Pollution Preparedness and Response
—Financial and Personnel Matters

Members of the public may attend these meetings up to the seating capacity of the room. Interested persons may seek information by writing: Mr. Gene F. Hammel, U.S. Coast Guard (G-CI), Room 2114, 2100 Second Street SW., Washington, DC 20593 or by calling: (202) 267-2280.

Dated: September 28, 1990.

Joseph P. Richardson

Executive Secretary Shipping Coordinating Committee.

[FR Doc. 90-24810 Filed 10-19-90; 8:45 am]

BILLING CODE 4710-7-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended October 12, 1990

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C 412 and 414. Answers may he filed within 21 days of date of filing.

Docket Number: 47201
Date filed: October 9, 1990
Parties: Members of the International Air Transport Association
Subject: Technical Correction to Docket 47139
Proposed Effective Date: October 1, 1990

Docket Number: 47202
Date filed: October 9, 1990
Parties: Members of the International Air Transport Association
Subject: Technical Correction to Docket 46666

Docket Number: 47203
Date filed: October 9, 1990
Parties: Members of the International Air Transport Association
Subject: TC3 Expedited Resolutions
Proposed Effective Date: November 1,

1990

Docket Number: 47208
Date filed: October 11, 1990
Parties: Members of the International Air Transport Association
Subject: Fare levels from Scandinavia (Reso 024f)
Proposed Effective Date: Government Approval

Docket Number: 47209
Date filed: October 11, 1990
Parties: Members of the International Air Transport Association
Subject: South Atlantic-Europe Resolutions
Proposed Effective Date: January 1, 1991

Phyllis T. Kaylor,
Chief, Documentary Services Division.
[FR Doc. 90-24695 Filed 10-19-90; 8:45 am]
BILLING CODE 4910-62-M

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended October 12, 1990

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each Application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a Show-Cause Order, a Tentative Order, or in appropriate cases a Final Order without further proceedings.

Docket Number: 47210
Date filed: October 12, 1990
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 16, 1990
Description: Application of Eva Airways Corporation, pursuant to section 402 of the Act and subpart Q of the Regulations, applies for a foreign air carrier permit to engage in the scheduled foreign air transportation of persons, property and mail between the coterminal points, Taipei and Kaohsiung, Republic of China, via intermediate points in the Pacific, and the coterminal points Guam, Honolulu, Hawaii, Seattle, Washington, San Francisco and Los Angeles, California, Dallas, Texas and New York, New York, United States of America, and beyond to Rome, Italy.

Docket Number: 47213
Date filed: October 12, 1990
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 9, 1990
Description: Application of Air Foyle Limited, pursuant to section 402 of the Act and subpart Q of the Regulations applies for a foreign air carrier permit which would authorize Air Foyle to provide foreign charter air transportation of property between points in the United States, on the one hand, and points in the United Kingdom, on the other hand, and for charter authority pursuant to part 212 of the Regulations.

Phyllis T. Kaylor,
Chief, Documentary Services Division.
[FR Doc. 90-24696 Filed 10-19-90; 8:45 am]
BILLING CODE 4910-62-M

Federal Highway Administration

[FHWA Docket No. 88-23]

Additional Interchanges to the Interstate System

AGENCY: Federal Highway Administration (FHWA), DOT.
ACTION: Notice of policy statement.

SUMMARY: This document issues a statement of FHWA policy and guidance for the justification and documentation needed for requests to add access (interchanges and ramps) to the existing Interstate System. Due to the numerous requests by States for additional access to the Interstate System, the FHWA is clarifying its policy and emphasizing the need for justification in areas such as safety, traffic operations and coordination with land use.

EFFECTIVE DATES: The effective date of this policy is October 22, 1990.

FOR FURTHER INFORMATION CONTACT: Seppo I. Sillan, Office of Engineering, (202) 366-0312, or Michael J. Laska, Office of the Chief Counsel, (202) 366-1383. Office hours are from 7:30 a.m. to 4 p.m. et., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION:

Background

Section 111 of title 23, U.S.C., provides that all agreements between the Secretary and the State highway department for the construction or projects on the Interstate System shall contain a clause providing that the State will not add any points of access to, or exit from, the project in addition to those approved by the Secretary in the plans for such project, without the prior approval of the Secretary. This agreement provision is contained in 23 CFR part 630, subpart C, appendix A. The Secretary has delegated the authority to administer 23 U.S.C. 111 to the Federal Highway Administrator pursuant to 49 CFR 1.48(b)(10).

It has always been the policy of FHWA to maintain adequate control of access to the Interstate System to ensure safe and efficien traffic operations. The guidance for justifying and documenting the need for additional access to existing sections of the Interstate System has traditionally been included in the Interstate Cost Estimate (ICE) manuals that are periodically issued by FHWA pursuant to 23 U.S.C. 104(b)(5) and available to the public. The guidance generally required the documentation of public benefits or needs before additional interchanges or ramps could be added to the Interstate System. In July of 1967, the FHWA, by memorandum to Regional Federal Highway Administrators, restated and emphasized the justification criteria contained in the ICE manual.

Discussion of Comments

In response to the notice of proposed policy statement published at 54 FR 47161 on November 9, 1989, the FHWA received 33 comments: 24 from State transportation agencies (representing 20 different states), 5 metropolitan or regionan planning agencies, 2 non-profit interest groups, and 2 private individuals. The majority of comments supported the policy. Specific suggestions varied from recommending more detailed instruction and guidance, including specific design criteria, to recommendations for even more flexibility than is being proposed. A section-by-section discussion of the comments follows. *Regional Traffic Needs (Section 1.)* Comments on this section were relatively few and ranged from suggested editorial changes and clarifications to adding provisions to indicate whether area-wide or corridor analysis is expected.

The intent of this section is to require the States to demonstrate that an access point is needed for regional traffic needs and not only to solve local system needs or problems. The interstate facility should not be allowed to become part of the local circulation system but should be maintained as the main regional and interstate highway it was intended to be. The analysis that is required should extend to the highways in the corridor and appropriate nearby highways and streets only, not the entire "urban area" as was interpreted by one commenter.

This section has been slightly in order to clarify its intent.

Some suggestions were made to require a benefit/cost analysis in determining acceptability of a new or revised access proposal. Such analysis can be a valuable input to the decision-making process and would assist the State Highway Agencies in determining priorities. However, such analysis should not be the sole, or even a major, determinant in justifying an access request or a proposed design configuration (especially for single or isolated ramps and partial interchanges versus full interchanges). Therefore, a benefit/cost analysis will not be required. *Reasonable Alternative (Section 2).* Comments on this section expressed concern that the term "all feasible" is too broad and would cause difficulties in interpretation. Several comments addressed the need for examples to clarify the intent of this policy section. One commenter interpreted the requirement as asking for the detailed design to be completed at the access request time.

This section has been revised to more clearly state that the intent of this requirement is to assure that all reasonable alternatives, including improvements to existing local roads and streets in lieu of new access, have been fully considered. No detailed design is expected in most instances, especially in rural areas. Generally, sufficient information on recommended configuration of the interchange necessary for an operational analysis, including expected number of lanes and weaving distances, is all the design detail that is needed. However, in some cases, especially in urban areas, it may be necessary to provide more detailed design information in order to assure that the Interstate facility with the new access point will work as intended. *Operational Analysis (Section 3.)* Comments on this section suggested that a specific time period for analysis be stated; that only significant impacts be considered; and that mainline Interstate beyond the adjacent interchanges be analyzed.

The purpose of this section is to assure that sufficient operational analyses are made to determine the impact of the added access on the Interstate operation. It is anticipated that the 1985 Transportation Research Board (TRB), Special Report 209, "Highway Capacity Manual" (HCM) analysis procedures will normally be used. This document is listed in 23 CFR 625.5 as a guide and a reference. Regardless of the analysis method used in the proposal, the FHWA will use the HCM in its review and therefore the data submitted must be sufficient for and compatible with those procedures. At a minimum, the operational impact on the mainline Interstate between the proposed new access and the adjacent existing interchanges on either side should be analyzed. Preferably, the analysis should be extended as far along the mainline and include as many existing interchanges as is necessary to establish the extent and scope of the impacts. This could be critical in urban areas with many relatively closely spaced interchanges.

Sufficient analysis of the crossroad and even some of the parallel facilities, as appropriate, must be made to assure that if the new access is approved, the local roads are adequate to handle the new traffic loads. A twenty-year design period should be used.

This section has been revised to clearly indicate that significant impacts should be the focus of analysis. Language has been added or revised to indicate that an analysis of the adjacent sections of the Interstate shall extend at least to the next interchange in each direction and beyond, if necessary.

Because it is included in other sections, the part of this section dealing with required analysis of crossroads and other local facilities to handle the traffic in lieu of a new interchange has been eliminated. That analysis however, is still required, and is part of the justification of need required in section 1 and the alternatives analysis required by section 2 of this policy.

Suggestions were made to specify in the policy the required design period. For Interstate projects, a twenty-year design period is already required by section 109(b) of title 23, U.S.C., and is incorporated in the American Association of State Highway and Transportation Officials (AASHTO) publication, "A Policy on Design Standards—Interstate System." This document is incorporated at 23 CFR 625.4(a)(2). Therefore, there is no need to include that, or any other specific design criteria in this policy statement.

Access Connections and Design (Section 4.) Most of the comments on this section dealt with the requirement that all new access points must provide for all movements; partial interchanges will not be allowed. The FHWA intent is that, except in the most extreme circumstances, all interchanges should provide for all movements. However, it is recognized that circumstances may exist when initial construction of only part of an interchange might be appropriate. Where such circumstances exist, commitments, possibly even purchase of necessary right-of-way during the initial project stage for future completion, must be made. Special purpose access for HOV's, for transit vehicles, or into park and ride lots should be treated as special cases and the movements to be provided decided on a case-by-case basis.

Other comments dealt with design standards. Concern was expressed that, as written, the requirement to meet current standards would require full construction plans at the time of access point request and that exceptions could not be granted. There is no intent to require any more design work than is necessary to determine the impacts and appropriateness of the proposed interchange (see discussion for section 2). The design exception process provided by 23 CFR 625.3(f) is still available and not negated or in any way modified by this policy.

Several other commenters suggested that specific design criteria be included, especially for spacing. Spacing guidelines such as contained in the ICE manuals and in the AASHTO publication, "A Policy on Geometric Design of Highways and Streets" (Green Book), should be considered as good guidance and followed to the maximum extent possible. However, since design features, such as ramp braiding or collector distributor roads, can be used to minimize the adverse operational impacts of close spacing, the policy will not specify any design details or spacing requirements.

Also, no specific design criteria need to be included in this policy statement because they are contained in the AASHTO Interstate Standards and the Green Book. Both documents are incorporated by reference at 23 CFR 625.4(a) as policy for Federal-aid projects and, in the case of the Interstate Standards, as a standard for design of all projects on the Interstate System regardless of the funding source.

Transportation and Land Use Plans (Section 5.) Most of the comments on this section were the result of confusion and non-comprehension because of some missing words in the published draft policy. This has been corrected. Other comments dealt with the role of Metropolitan Planning Organizations (MPO's) and the scope of studies required, i.e., system wide or corridor studies.

The intent of this requirement is to cause sufficient review and coordination so as not to have piece-meal consideration of added access and to avoid as much as possible future conflict with other, possibly more needed, access. The request should include

discussion as to how the current proposal fits into the overall plans for the area, and if it is an addition to the current plans, how it fits in and affects the current plans. Added access requests do not have to be included in official transportation plans or approved by MPO's or similar organizations prior to submittal. All such coordination may be completed after access approval and as part of the normal project development process. The expectation here is that any proposal is considered in view of currently known plans for transportation facilities and/or land use planning. This is especially important when several new interchanges are anticipated.

Request Coordination (Section 6.) Commenters on this section expressed concern as to States' ability to have any control over developers or to be able to phase or stage the transportation improvement with the private development. The intent of this requirement is not to try to control developers and their plans through the State Highway Agencies, which have no such direct powers. However, it is incumbent upon the State Highway Agencies to assure that the highway facilities are developed in an orderly and coordinated manner to serve the public. Therefore, where private development is clearly the driving force behind the need for added access, it is only reasonable that the State Highway Agency and the developer work closely together in order to develop the access to achieve mutual benefits with minimal adverse impact on the Interstate travelers. Stage construction could be used where extensive private development is not expected to be completed for several years. The developer might be required to have certain parts of the local circulation system ready before ramps can be constructed or opened to traffic. In some heavily congested areas the developer might be required to provide ride-sharing incentives or even assist in providing transit facilities. The intent is to accomplish any coordination that might be possible, even if it is only to know what each is doing and when.

Coordination or cooperation would be very appropriate where a developer has agreed to fund or perhaps even construct access at the same time the State is either planning or is already in the process of improving that particular section of the Interstate route. It is only reasonable that the two activities be coordinated and compatibility assured. Much of this would probably be accomplished under section 5 requirements. However, this separate policy section is being kept in order to emphasize this particular issue since more and more private involvement in transportation improvements will be happening in the future.

Implementation

One of the main concerns of commenters in reference to implementation was that if the contents and format of justification documents and supporting data are not specified by the FHWA Washington office, inconsistency will occur. Other comments expressed concern over possible conflicts of opinion in deciding whether all feasible alternatives are considered, whether rural or urban conditions prevail, and whether local roads can or cannot be improved. Also, questions were raised in regard to timing of the requests in regards to the environmental and public participation process and the application of the policy to ongoing projects.

The purpose of having the States and local Division offices jointly develop the detailed implementation procedures is to provide the maximum amount of flexibility to meet local conditions and procedures. By not imposing detailed national guidelines beyond the overall policy statement, existing available data, reports and procedures can be used. The FHWA does recognize that without nationally imposed specific guidelines and requirements for format, content and methods of analysis, some differences may occur. However, non-uniformity between the States will most likely be a minor problem in comparison with the problems that would be created by rigid rules applicable nationwide under all circumstances and conditions. Therefore, the FHWA is not proposing to change the method of implementation proposed in the November 9, 1989, Notice of proposed policy.

In response to the comments on: (1) Timing of access requests in relation to environmental and public participation procedures; and (2) Application of the policy to revised or deleted access points, a new section on APPLICATION has been added to the policy statement.

The revised policy statement is as follows:

Policy

It is in the national interest to maintain the Interstate System to provide the highest level of service in terms of safety and mobility. Adequate control of access is critical to providing such service. Therefore, new or revised access points to the existing Interstate System will be considered for approval only if:

1. It is demonstrated that the existing interchanges and/or local roads and streets in the corridor can neither provide the necessary access nor be improved to satisfactorily accommodate the design-year traffic demands while at the same time providing the access intended by the proposal.

2. All reasonable alternatives for design options, location and transportation system management type improvements (such as ramp metering, mass transit, and HOV facilities) have been assessed and provided for if currently justified, or provisions are included for accommodating such facilities if a future need is identified.

3. The proposed access point does not have a significant adverse impact on the safety and operation of the Interstate facility based on an analysis of current and future traffic. The operational analysis for existing conditions shall, particularly in urbanized areas, include an analysis of sections of Interstate to and including at least the first adjacent existing or proposed interchange on either side. Crossroads and other roads and streets shall be included in the analysis to the extent necessary to assure their ability to collect and distribute traffic to and from the interchange with new or revised access point.

4. The proposed access connects to a public road only and will provide for all traffic movements. Less than "full interchanges" for special purpose access for transit vehicles, for HOV's, or into park and ride lots may be considered on a case-by-case basis. The proposed access will be designed to meet or exceed current standards for Federal-aid projects on the Interstate System.

5. The proposal considers and is consistent with local and regional land use and transportation plans. In areas where the potential exists for future multiple interchange additions, all requests for new or revised access are supported by a comprehensive Interstate network study with recommendations that address all proposed and desired access within the context of a long-term plan.

6. The request for a new or revised access generated by new or expanded development demonstrates appropriate coordination between the development and related or otherwise required transportation system improvements.

Application

This policy is applicable to new or revised access points to existing Interstate facilities regardless of the funding of the original construction or regardless of the funding for the new

access points. This includes routes incorporated under the provisions of 23 U.S.C. 139(a) or 139(b). It does not include toll roads incorporated into the Interstate System under the provisions of 23 U.S.C. 129(b), except sections on which Federal funds have been expended.

For the purpose of applying this policy, each entrance or exit point, including "locked gate" access, to the mainline is considered to be an access point. For example, a diamond interchange configuration has four access points.

Generally, revised access is considered to be a change in the interchange configuration even though the number of actual points of access may not change; for example, replacing one of the direct ramps of a diamond interchange with a loop, or changing a cloverleaf interchange into a fully directional interchange is considered as revised access for the purpose of applying this policy.

All FHWA approvals for added or revised access is conditioned upon the State complying with all applicable Federal rules and regulations. The FHWA approval constitutes a Federal action, and as such, requires that National Environmental Policy Act (NEPA) procedures are followed. The NEPA procedures will be accomplished as part of the normal project development process and as a condition of the access approval. Compliance with the NEPA procedures need not precede the determination of engineering acceptability and feasibility as prescribed by this policy statement. This policy in no way alters the current NEPA implementing procedures as contained in 23 CFR 771.

Although the justification and documentation procedures described in this policy can be applied to access requests for non-Interstate freeways or other access controlled highways, it is not required. However, applicable Federal rules and regulations, including NEPA procedures, must be followed.

Implementation

The FHWA Division Office will ensure that all requests for new or revised access submitted by the State Highway Agency for FHWA consideration contain sufficient information to allow the FHWA to independently evaluate the request and ensure that all pertinent factors and alternatives have been appropriately considered. The extent and format of the required justification and documentation should be developed jointly by the State Highway Agency and the FHWA to accommodate the operations of both the State and the FHWA, including a reasonable transition period. The extent and format of justification should also be consistent with the complexity and expected impact of the proposals; for example, information in support of isolated rural interchanges may not need to be as extensive as for a complex or potentially controversial interchange in an urban area. No specific documentation format or content is prescribed by this policy.

Policy Statement Impact

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or a significant action under the Department of Transportation's regulatory policies and procedures. Interested parties were given an opportunity to comment on the proposal because of the interest in maintaining the highest level of service in terms of safety and mobility in the Interstate System.

The policy statement summarizes and clarifies FHWA policy and guidance for the justification and documentation needed for requests to add or revise access to the existing Interstate System. Specifically, the policy statement emphasizes the need for clear and convincing justification based on adequate information in areas such as safety and traffic operations. The policy statement will not impose any additional reporting or recordkeeping requirements on the States. To assure that adequate information and analysis is provided with each request for additional access, the extent and contents of the currently required documentation may need to be modified. These modifications can simply be incorporated into the States' existing additional interchange request policy. Therefore, a full regulatory evaluation is not required. For the above reasons, and under the criteria of the Regulatory Flexibility Act, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this policy statement does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

(Catalog of Federal Domestic Assistance Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental review of Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Issued on: October 12, 1990

T. R. Lauber,

Administrator.

[FR Doc. 90-24827 Filed 10-19-90; 8:45 am]

BILLING CODE 4910-22-M

Maritime Administration

[Docket S-857]

American President Lines, LTD.; Extension of Time for Comments in the Matter of Docket S-857

Notice is hereby given that the closing date for comments in the Docket S-857 application of American President Lines, Ltd. is extended to December 17, 1990. The Notice of Application of Docket S-857 was published in the Federal Register of July 13, 1990 (55 FR 28868).

(Catalog of Federal Domestic Assistance Program No. 20.804 (Operating-Differential Subsidies))

By Order of the Maritime Administrator, Dated: October 16, 1990.

James E. Saari,

Secretary, Maritime Administration.

[FR Doc. 90-24834 Filed 10-19-90; 8:45 am]

BILLING CODE 4910-81-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: October 15, 1990.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171, Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Comptroller of the Currency

OMB Number: 1557-0186
Form Number: None
Type of Review: Extension
Title: Agricultural Loan Loss Amortization (12 CFR part 35)
Description: Title VIII of the Competitive Equality Banking of 1987 permits eligible agricultural banks to amortize losses on qualified agricultural loans. Information to be collected from banks participating in

the program is needed to monitor their eligibility, condition and amortization activities.
Respondents: Businesses and other for-profit, Small businesses or organizations
Estimated Number of Respondents: 5
Estimated Burden Hours Per Response: 15 hours
Frequency of Response: On occasion
Estimated Total Reporting Burden: 75 hours
Clearance Officer: John Ference (202) 447-1177, Comptroller of the Currency, 5th Floor, L'Enfant Plaza, Washington, DC 20219.
OMB Reviewer: Gary Waxman (202) 395-7340, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 90-24882 Filed 10-19-90; 8:45 am]
BILLING CODE 4810-33-M

Public Information Collection Requirements Submitted to OMB for Review

Date: October 18, 1990.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Financial Management Service

OMB Number: 1510-0037
Form Number: None
Type of Review: New Collection
Title: Annual Letter—Certification of Authority
Description: Information is collected from currently Treasury certified insurance companies for determination of renewal of their certification to write/reinsure Federal surety bonds and for inclusion in Circular 570 for use by Federal bond approving officers.
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 300
Estimated Burden Hours Per Response: 62 hours, 30 minutes
Frequency of Response: Annually
Estimated Total Reporting Burden: 18,750 hours
Clearance Officer: Jacqueline R. Perry (301) 436-6453, Financial Management Service, room B-101, 3700 East West Highway, Hyattsville, MD 20782.
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 90-24883 Filed 10-19-90; 8:45 am]
BILLING CODE 4810-35-M

Office of the Secretary

[Supplement to Department Circular—Public Debt Series—No. 28-90]

TREASURY NOTES, SERIES G-1997

Washington, October 11, 1990.

The Secretary announced on October 10, 1990, that the interest rate on the notes designated Series G-1997, described in Department Circular Public Debt Series—No. 28-90 dated October 4, 1990, will be 8¾ percent. Interest on the notes will be payable at the rate of 8¾ percent per annum.

Gerald Murphy
Fiscal Assistant Secretary
[FR Doc. 90-24535 Filed 10-19-90; 8:45 am]
BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 204
Monday, October 22, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

October 17, 1990.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-49), U.S.C. 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: October 24, 1990, 10:00 a.m.

PLACE: 825 North Capital Street N.E., Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

*Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208-0400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro

925th Meeting—October 24, 1990

Regular Meeting (10:00 a.m.)

CAH-1.
Project No. 10638-002, City of Fredericksburg, Virginia

CAH-2.
Project No. 2516-015, Potomac Edison Company

CAH-3.
Project No. 10068-001, Inter-West, Ltd.

CAH-4.
Project No. 6423-004, Liberty County, Montana, *et al.*
Project No. 7022-002, Malta Irrigation District, *et al.*
Project No. 7099-001, City of Gillette, Wyoming
Project No. 3574-001, Continental Hydro Corporation
Project No. 4423-000, Central Montana Electric Generation and Transmission Cooperative, Inc.

CAH-5.
Omitted

CAH-6.
Project No. 6901-009, City of Martinsville, West Virginia

CAH-7.
Project No. 5906-002, North Canal Waterworks Docket No. RM83-60-000, Small Power Production and Cogeneration Facilities Rates and Exemptions

CAH-8.
Project No. 3671-031, Allegheny Hydro Partners, Ltd.
Project No. 3494-031, Allegheny No. 6 Hydro Partners

CAH-9.
Omitted

CAH-10.
Project No. 10472-001, Hanalei Power Company

CAH-11.
Docket No. UL89-36-001, Spartanburg Water System

CAH-12.
Docket No. UL86-2-002, Manistique Papers, Inc.

CAH-13.
Project No. 10068-000, Mid-Atlantic Energy Engineers, Ltd.

Consent Agenda—Electric

CAH-1.
Docket No. ER90-560-000, Upper Peninsula Power Company

CAE-2.
Docket No. ER90-563-000, American Electric Power Service Corporation

CAE-3.
Docket No. ER90-374-001, Northeast Utilities Service Company
Docket Nos. ER90-373-002 and ER90-390-002, Northeast Utilities Service Company

CAE-4.
Docket No. ER79-150-015, Southern California Edison Company

CAE-5.
Docket No. ER89-672-003, PSI Energy, Inc.

CAE-6.
Docket Nos. ER90-373-001 and ER90-390-001, Northeast Utilities Service Company

CAE-7.
Docket Nos. ER90-389-001 and ER90-390-001, Northeast Utilities Service Company
Docket No. EL90-39-001, Connecticut Light and Power Company and Western Massachusetts Electric Company

CAE-8.
Docket No. FA87-82-001, Boston Edison Company

CAE-9.
Docket No. QF90-186-000, Northeast Maryland Waste Disposal Authority

CAE-10.
Docket No. RM90-6-000, Amendments to FERC Forms Nos. 1 and 1F Annual Charges and Fuel Cost and Purchased Economic Power Adjustment Clauses

CAE-11.
Docket No. ER90-297-000, Michigan Power Company

CAE-12.
Docket Nos. EL88-5-000, 002, 003, EL88-7-000, 002 and 003, Boston Edison Company

Consent Agenda—Gas and Oil

CAG-1.
Docket No. RP90-186-000, Williston Basin Interstate Pipeline Company

CAG-2.
Docket No. RP91-1-000, Florida Gas Transmission Company

CAG-3.
Docket No. RP91-4-000, Texas Eastern Transmission Corporation

CAG-4.
Docket No. RP-192-000, Texas Gas Transmission Corporation

CAG-5.
Docket No. RP90-191-000, Transwestern Pipe Line Company

CAG-6.
Docket No. RP90-148-003, Williston Basin Interstate Pipeline Company

CAG-7.
Docket Nos. RP89-50-000, 005, CP64-249-000, 001, CP65-384-000, 001, CP65-383-000, 007, CP68-179-006, 012, 013, 015, 017, CP74-182-009, 011, 012, 013, CP86-704-000, 001, 002, 003, 004, CP89-555-000, CP89-556-000, 003, G-9282-004, 005, G-18615-000 and 001, Florida Gas Transmission Company

CAG-8.
Docket No. RP90-190-000, Columbia Gas Transmission Corporation

CAG-9.
Docket No. RP91-5-000, Natural Gas Pipe Line Company of America

CAG-10.
Docket No. RP91-3-000, Granite State Gas Transmission, Inc.

CAG-11.
Docket Nos. TA91-1-11-000 and 001, United Gas Pipe Line Company

CAG-12.
Docket No. TA91-1-41-000, Paiute Pipeline Company

CAG–13.
Docket No. TA91–1–45–000, Inter-City Minnesota Pipelines, Ltd., Inc.
CAG–14.
Docket No. TA91–1–23–000, Eastern Shore Natural Gas Company
CAG–15.
Docket No. TA91–1–52–000, Viking Gas Transmission Company
CAG–16.
Docket Nos. TA91–1–38–000 and 001, Ringwood Gathering Company
CAG–17.
Docket No. TQ91–2–4–000, Granite State Gas Transmission, Inc.
CAG–18.
Docket Nos. TQ91–1–63–000 and TM91–1–63–001, Carnegie Natural Gas Company
CAG–19.
Docket Nos. TM91–2–16–000 and 001, National Fuel Gas Supply Corporation
CAG–20.
Docket No. TM91–2–21–000, Columbia Gas Transmission Corporation
CAG–21.
Docket Nos. TA90–1–17–000 and 001, Texas Eastern Transmission Corporation
CAG–22.
Docket No. RP72–121–011, Paiute Pipeline Company
CAG–23.
Docket Nos. RP90–122–013, RP88–191–023 and RP85–178–070, Tennessee Gas Pipeline Company
CAG–24.
Docket No. RP90–152–001, CNG Transmission Corporation
CAG–25.
Docket No. RP90–158–001, Trunkline Gas Company
CAG–26.
Docket Nos. TA90–1–22–003 and RP86–141–001, CNG Transmission Corporation
CAG–27.
Docket Nos. TA90–1–44–004 and RP90–162–002, Equitrans, Inc.
CAG–28.
Docket No. TA90–1–42–001, Transwestern Pipeline Company
CAG–29.
Omitted
CAG–30.
Docket Nos. TA84–2–37–004 and FA84–9–000, Northwest Pipeline Corporation
CAG–31.
Docket Nos. RP87–62–003 and RP86–148–005, Pacific Gas Transmission Company
CAG–32.
Docket Nos. CP86–578–031, CP89–1740–005 and RP90–147–001, Northwest Pipeline Corporation
CAG–33.
Docket No. RP85–39–000, Wyoming Interstate Company, Ltd.
CAG–34.
Docket No. RP85–60–000, Overthrust Pipeline Company
CAG–35.
Docket Nos. RP89–37–000, RP89–82–000, CP90–406–000 and CP75–104–055, High Island Offshore System
CAG–36.
Docket Nos. RP89–38–000, RP89–99–000, CP90–1874–000 and CP76–118–000, U–T Offshore System
CAG–37.
Docket Nos. RP88–136–000, RP89–49–010, RP90–14–000 and CP89–1582–002, National Fuel Gas Supply Corporation
CAG–38.
Docket Nos. RP88–45–000 and RP88–46–000, Arkla Energy Resources, A Division of Arkla, Inc.
CAG–39.
Omitted
CAG–40.
Docket No. TA91–1–21–001, Columbia Gas Transmission Corporation
Docket No. CI64–26–023, Chevron U.S.A., Inc.
CAG–41.
Docket No. RI88–30–001, Phillips 66 Natural Gas Company
CAG–42.
Docket No. RM87–7–003, Compression Allowances and Protest Procedures Under NGPA Section 110
CAG–43.
Omitted
CAG–44.
Docket No. CP89–578–002, Northern Border Pipeline Company
CAG–45.
Docket No. CP88–682–001, Panhandle Eastern Pipe Line Company
CAG–46.
Docket No. CP91–41–000, Arkla Energy Resources, a Division of Arkla, Inc.
CAG–47.
Docket No. CP90–2284–000, Superior Offshore Pipeline Company
CAG–48.
Docket No. CP90–2255–000, Columbia Gulf Transmission Company
CAG–49.
Docket No. CP89–2052–000, Overthrust Pipeline Company
CAG–50.
Docket No. CP90–706–000, Wyoming Interstate Company, Ltd.
CAG–51.
Omitted
CAG–52.
Omitted
CAG–53.
Docket No. CP90–1598–000, Northwest Pipeline Corporation
CAG–54.
Docket No. CP90–679–000, Columbia Gas Transmission Corporation
CAG–55.
Docket No. CP90–1917–000, KN Energy, Inc.
CAG–56.
Docket No. CP88–542–004, Great Lakes Gas Transmission Company
CAG–57.
Docket Nos. CP90–154–000 and CP90–333–000, Tennessee Gas Pipeline Company
Docket No. CP90–910–000, Tennessee Gas Pipeline Company, United Gas Pipe Line Company and Midwestern Gas Transmission Company
CAG–58.
Docket No. CP90–1034–000, El Paso Natural Gas Company
CAG–59.
Docket No. CP88–166–000, MIGC, Inc.
CAG–60.
Docket No. CP89–2114–000, United Gas Pipe Line Company
CAG–61.
Omitted
CAG–62.
Docket No. CP91–13–000, ENSA Corporation
CAG–63.
Docket Nos. RP88–211–000, RP85–168–000, RP88–215–001, RP88–10–000, RP90–27–000, RP90–66–000, CP88–311–002, CP90–831–000, CP88–574–000, TA89–1–22–000, RP89–204–000, RP88–125–000, TQ88–1–22–000, TA90–1–22–000, TA89–2–22–000 and RP90–143–000, CNG Transmission Corporation
CAG–64.
Docket Nos. CP90–772–000 and RP89–191–000, Northeast Pipeline Corporation
CAG–65.
Docket No. CP89–1684–001, Steuben Gas Storage Company
Docket No. CP90–177–001, CNG Transmission Corporation
Docket No. CP90–885–001, Transcontinental Gas Pipeline Corporation
CAG–66.
Docket No. RP90–184–000, Texas Eastern Transmission Corporation
Docket No. RP90–184–001, Algonquin Gas Transmission Company
CAG–67.
Docket Nos. RP89–186–005, RP90–20–003, RP88–35–014, 015, CP88–110–041, CP81–225–010, CP87–184–006, CP87–467–008, CP87–474–009, CP88–145–002, CP88–307–008, CP88–310–006, CP88–397–000, CP88–539–006, CP88–599–005, CP88–719–002, CP88–826–003, CP89–1251–003, CP89–1331–001, CP89–1681–004, CP89–1947–001, CP89–2196–001, CP89–2197–001, CP89–335–001, CP90–168–001, CP90–355–001 and CP89–2198–001, Great Lakes Gas Transmission Company

CAG–68.
Docket Nos. CP88–171–004 and 006, Tennessee Gas Pipeline Company
Docket No. CP89–712–001, CNG Transmission Corporation
Docket Nos. CP88–194–007 and CP88–94–004, National Fuel Gas Supply Corporation
Docket Nos. CP89–7–008, 009, CP88–92–003 and 004, Transcontinental Gas Pipeline Corporation
Docket No. CP88–195–007, PennEast Gas Services Company
Docket No. CP88–195–008, CNG Transmission Corporation
Docket No. CP89–711–001, Texas Eastern Transmission Corporation
Docket Nos. CP88–187–003, Algonquin Gas Transmission Corporation
Docket No. CP89–2205–002, Transcontinental Gas Pipe Line Corporation
Docket No. CP89–710–001, Transcontinental Gas Pipe Line Corporation
Docket No. CP89–892–001, Great Lakes Transmission Company
Docket Nos. CP87–131–004 and CP87–132–007, Tennessee Gas Pipeline Company

CAG–69.
Docket Nos. RP90–12–005 and CP89–1554–004, Colorado Interstate Gas Company

Hydro Agenda

H–1.
Project Nos. 618–008 and 016, Alabama Power Company. Order on appeal and on requests for rehearing of denial of stay and for declaratory order.

Electric Agenda

E–1.
Docket No. ER90–567–000, Pacific Gas and Electric Company. Order on interconnection agreement.

E–2.
Docket No. ER90–278–000, Dartmouth Power Associates Limited Partnership. Order on rate filing.

E–3.
Docket No. ER89–49–001, Pacific Gas and Electric Company. Opinion on exceptions to an initial decision concerning transmission rate schedule.

Oil and Gas Agenda

I. Pipeline Rate Matters

PR–1.
Docket No. RM91–2–000, Mechanism for Passthrough of Pipeline Take-or-Pay Buyout and Buydown costs.
Docket Nos. RP86–119–000, TA84–2–9–000 and TA85–1–6–000, Tennessee Gas Pipeline Company. Order on remand.

PR–2.
Docket Nos. CP90–2154–000, RP85–177–088, RP88–67–038, RP88–255–002, and RP90–119–003, Texas Eastern Transmission Corporation. Order on remand concerning gas inventory charge.

II. Producer Matters

PF–1.
Reserved

III. Pipeline Certificate Matters

PC–1.
Docket Nos. CP89–2047–003, CP89–2048–003, CP89–1794–000, CP89–1795–000, CP89–1796–000, CP89–1797–000, CP89–1798–000, CP89–1799–000, CP89–1800–000, CP89–1801–000, CP89–1802–000, CP89–1803–000, CP89–1804–000, CP89–1805–000, CP89–1806–000, CP89–1807–000, CP89–1808–000, CP89–1809–000 and CP89–1810–000, Kern River Pipeline Company. Order on compliance filing and prior notice request.

PC–2.
Docket No. RM90–13–001, Interim Revisions to Regulations Governing Transportation Under Section 311 of the Natural Gas Policy Act of 1978 and Blanket Transportation Certificates. Order on requests for rehearing and clarification.

PC–3.
Docket No. RM90–14–001, Interim Revisions to Regulations Governing Construction of Facilities Pursuant to NGPA section 311 and Replacement of Facilities. Order on requests for rehearing and clarification.

Lois D. Cashell,
Secretary.
[FR Doc. 90–25066 Filed 10–18–90; 3:58 pm]
BILLING CODE 6717–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:05 p.m. on Tuesday, October 16, 1990, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following matters:

Matters relating to the probable failure of certain insured banks.

A recommendation concerning an administrative enforcement proceeding.

Recommendations regarding the liquidation of a depository institution's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 47,610
American Diversified Savings Bank, Costa Mesa, California
Case No. 47,611
Silverado Banking, Savings and Loan Association, Denver, Colorado

Reports of the Office of Inspector General:
Audit Report re:
Inventory Closing Procedures, Denver Consolidated Office (Memo dated September 12, 1990)
Audit Report re:
Inventory Closing Procedures, Knoxville Consolidated Office (Memo dated September 11, 1990)
Audit Report re:
Inventory Closing Procedures, Midland Consolidated Office (Memo dated August 30, 1990)
Audit Report re:
Knoxville Consolidated Office, Cost Center—503 (Memo dated September 11, 1990)
Audit Report re:
Audit of Contractors' Monitoring of Southwest Plan Assistance Agreements Coopers & Lybrand at Southwest Savings Association, Dallas, Texas (Memo dated September 14, 1990)
Audit Report re:
Audit of Contractors' Monitoring of Southwest Plan Assistance Agreements Kenneth Leventhal & Co. at Guaranty Federal Savings Bank, Dallas, Texas (Memo dated August 21, 1990)
Audit Report re:
Follow-up Audit of the Estimated Cash Recovery System (Memo dated September 4, 1990)
Audit Report re:
Audit of FIS/GL (Memo dated September 13, 1990)
Audit Report re:
Audit of Sealed Bid Procedures, Orlando Consolidated Office (Memo dated September 13, 1990)
Audit Report re:
Audit of the T&A Collection System (Memo dated September 13, 1990)

Memorandum re: Authorization of expenditure for outside instructional services in a Modified Real Estate Appraisal School.

Application for waiver of cross-guarantee provisions of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

Recommendation regarding the Corporation's corporate activities.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Vice Chairperson Andrew C. Hove, Jr., Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), and Chairman L. William Seidman, that Corporation business required its consideration of the matters of less than seven days' notice to the public; that no earlier notice of the meeting was practicable;

that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: October 17, 1990.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 90-24984 Filed 10-17-90; 5:03 pm]

BILLING CODE 6714-01-M

FEDERAL RESERVE SYSTEM, BOARD OF GOVERNORS

TIME AND DATE: 12:00 noon, Wednesday, October 17, 1990.

The business of the Board required that this meeting be held with less than one week's advance notice to the public, and no earlier announcement of the meeting was practicable.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Consideration of issues related to legislative matter. (This item was originally announced for a closed meeting on September 28, 1990.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 17, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-25085 Filed 10-18-90; 10:09 am]

BILLING CODE 6210-01-M

NATIONAL MEDIATION BOARD

TIME AND DATE: 2:00 p.m., Wednesday, November 7, 1990.

PLACE: Board Hearing Room 8th Floor, 1425 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification on of the Board actions taken by notation voting during the month of October, 1990.
2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be availabe from the Executive Director's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. William A. Gill, Jr., Executive Director, Tel: (202) 523-5920.

Date of notice: October 17, 1990.

William A. Gill, Jr.,

Executive Director, National Mediation Board.

[FR Doc. 90-25056 Filed 10-18-90; 2:47 pm]

BILLING CODE 7550-01-M

RESOLUTION TRUST CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:24 p.m. on Tuesday, October 16, 1990, the Board of Directors of the Resolution Trust Corporation met in closed session to consider matters relating to: (1) The resolution of failed thrift institutions; (2) recommendations regarding the leasing of additional space for the Central Regional Office, Kansas City, Missouri; and (3) recommendations regarding the leasing of space for the RTC National Sales Center, Washington, DC.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), and concurred in by Chairman L. William Seidman, Vice Chairman Andrew C. Hove, Jr., and Director T. Timothy Ryan, Jr. (Director of the Office of Thrift Supervision), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b)(c)(2), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the Federal Deposit Insurance Corporation Building located at 550 17th Street, NW., Washington, DC.

Dated: October 17, 1990.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 90-24987 Filed 10-18-90; 9:37 am]

BILLING CODE 6714-01-M

UNITED STATES INSTITUTE OF PEACE

Meeting

DATE: October 25, 1990.

TIME: 9:00 a.m. to 5:30 p.m.

PLACE: 1550 M Street, NW., Washington, DC (ground floor, Board Room).

STATUS: Open session.—(portions may be closed pursuant to subsection (c) of section 552(b) of title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Pub. L. (98-525).

AGENDA: (Tentative): Meeting of the Board of Directors convened. Chairman's Report. President Report. Committee Reports. Consideration of the Minutes of the Forty-Second meeting of the Board of Directors. Consideration of grant application matters.

CONTACT: Mr. Gregory McCarthy, Director, Public Affairs, telephone (202) 457-1700.

Dated: October 17, 1990.

Ms. Bernice J. Carney,

Director of Administration, The United States Institute of Peace.

[FR Doc. 90-25057 Filed 10-18-90; 3:58 pm]

BILLING CODE 2155-01-M

federal register

Monday
October 22, 1990

Part II

Department of Justice

Bureau of Prisons

28 CFR Part 545

Control, Custody, Care, Treatment and Instruction of Inmates; Inmate Financial Responsibility Program; Proposed Rule

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 545

Control, Custody, Care, Treatment and Instruction of Inmates; Inmate Financial Responsibility Program

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rule.

SUMMARY: In this document the Bureau of Prisons is proposing to amend its rule on the Inmate Financial Responsibility Program. This program permits inmates to make contributions toward their legitimate financial obligations. This proposed amendment revises the provisions relating to monitoring of the program in order to clarify the effects of non-participation by the inmate. The intended effect of this amendment is to encourage participation in the program.

DATES: Comments due by December 6, 1990.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC room 760, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 307–3062.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is proposing to amend its rule on the Inmate Financial Responsibility Program. A final rule on this subject was published in the Federal Register April 1, 1987 (52 FR 10529 *et seq.*), and was amended in the Federal Register December 1, 1989 (54 FR 49944 *et seq.*). In this proposed rule, the provisions on monitoring inmate participation contained in § 545.11(c) are revised in order to clarify the effects of non-participation. Existing 28 CFR 545.11(c) provides that an inmate's participation in the financial responsibility plan will be reviewed each time staff assess the inmate's demonstrated level of responsible behavior, including, but not limited to, when determining security/custody classification level, eligibility for community activities, good time status, housing assignments, and work assignments. Section 545.11(c) also specifies that progress on the financial responsibility plan will be reported to the United States Parole Commission, and that an inmate who fails to demonstrate financial responsibility may neither secure a UNICOR work assignment, nor receive performance pay above the maintenance pay level. An inmate already in a UNICOR work assignment or receiving performance pay who fails to make adequate progress on the financial plan will be considered for removal from UNICOR, or reduction to the maintenance pay level of performance pay.

Proposed new 28 CFR 545.11(c) specifies that participation and/or progress in the Inmate Financial Responsibility Program will be reviewed each time staff assess an inmate's demonstrated level of responsible behavior. Proposed new § 545.11(d), which clarifies the effects of non-participation, specifies that refusal by an inmate to participate in the financial responsibility program or to comply with the provisions of his financial plan shall ordinarily result in the following: Where applicable, the Parole Commission will be notified of the inmate's failure to participate; the inmate will not receive any furlough (other than possibly an emergency furlough); the inmate will not receive performance pay above the maintenance pay level, or bonus pay, or vacation pay; the inmate will not be assigned to any work detail outside the secure perimeter of the facility; the inmate will not be placed in UNICOR (any inmate assigned to UNICOR who fails to make adequate progress on his/her financial plan will be removed from UNICOR, and once removed, may not be placed on a UNICOR waiting list for six months; any exceptions to this require approval of the Warden); the inmate will not be permitted to purchase any items in excess of the monthly spending limitation, including special purchase items like sports equipment, hobby crafts, etc.; the inmate will be quartered in the lowest housing status (dormitory, double bunking, etc.); the inmate will not be placed in a community-based program; and the inmate will not receive a release gratuity unless approved by the Warden. The proposed provisions on the effects of non-participation regarding monthly spending limitations and release gratuities are new; the other proposed provisions are revised to express more specifically existing Bureau policy.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Bureau of Prisons, HOLC room 760, 320 First Street, NW., Washington, DC 20534. Comments received are available for inspection at this same address. Comments received during the comment period will be considered before final action is taken. The proposed rule may be changed in light of the comments received. No oral hearings are contemplated.

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of E.O. 12291. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), does not have a significant impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 545

Prisoners.

Wade B. Houk,

Acting Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), subchapter C of 28 CFR chapter V is proposed to be amended as set forth below.

Subchapter C—Institutional Management

PART 545—WORK AND COMPENSATION

1. The authority citation for 28 CFR 545 is revised to read as follows, and all other authority citations in the part are removed:

Authority: 5 U.S.C. 301; 18 U.S.C. 3013, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed as to conduct occurring on or after November 1, 1987), 4126, 5006–5024 (Repealed October 12, 1984 as to conduct occurring after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

2. In 28 CFR part 545, § 545.11 is amended by revising paragraph (c) and by adding new paragraph (d) to read as follows:

§ 545.11 Procedures.

* * * * *

(c) *Monitoring.* Participation and/or progress in the Inmate Financial Responsibility Program will be reviewed each time staff assess an inmate's demonstrated level of responsible behavior.

(d) *Effects of non-participation.* Refusal by an inmate to participate in the financial responsibility program or to comply with the provisions of his financial plan shall ordinarily result in the following:

(1) Where applicable, the Parole Commission will be notified of the inmate's failure to participate;

(2) The inmate will not receive any furlough (other than possibly an emergency furlough);

(3) The inmate will not receive performance pay above the maintenance pay level, or bonus pay, or vacation pay;

(4) The inmate will not be assigned to any work detail outside the secure perimeter of the facility;

(5) The inmate will not be placed in UNICOR. Any inmate assigned to UNICOR who fails to make adequate progress on his/her financial plan will be removed from UNICOR, and once removed, may not be placed on a UNICOR waiting list for six

months. Any exceptions to this require approval of the Warden;

(6) The inmate will not be permitted to purchase any items in excess of the monthly spending limitation, including special purchase items like sports equipment, hobby crafts, etc.;

(7) The inmate will be quartered in the lowest housing status (dormitory, double bunking, etc.);

(8) The inmate will not be placed in a community-based program;

(9) The inmate will not receive a release gratuity unless approved by the Warden.

[FR Doc. 90-24896 Filed 10-19-90; 8:45 am]

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federal register

Monday
October 22 1990

Part III

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 9, 52, and 53
Federal Acquisition Regulation (FAR); Consultants—Conflict of Interest; Optional Form 333, Procurement Integrity Certification for Procurement Officials; Interim Rule

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 9, 52, and 53

[Federal Acquisition Circular 90-1]

RIN 9000-AD88 and 9000-AD91

Federal Acquisition Regulation (FAR); Consultants—Conflict of Interest; Optional Form 333, Procurement Integrity Certification for Procurement Officials

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comments.

SUMMARY: Federal Acquisition Circular (FAC) 90-1 amends the Federal Acquisition Regulation (FAR) to implement the policies contained in Office of Procurement Policy Letter 89-1, Conflict of Interest Policies Applicable to Consultants, dated December 8, 1989. The amendments implement policy relating to conflict of interest for persons who provide consulting services to the Government and its contractors and will provide procedures to promote compliance with the new policy. The regulation provides for remedies available to the Government in the case of a false certification or failure to provide a certification.

In FAC 84-60, Optional Form (OF) 333, Procurement Integrity Certification for Procurement Officials, was promulgated. FAC 90-1 provides that the OF 333 must be accompanied by the Privacy Act notice and request for disclosure of an individual's social security number which is located at 53.202-333, to permit the filing of a completed OF 333 in an individual officer or employee's Official Personnel File.

DATES: *Effective Date:* October 22, 1990.

Comment Date: Comments should be submitted to the FAR Secretariat at the address shown below on or before December 21, 1990, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to:

General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., Room 4041, Washington, DC 20405.

Please cite FAC 90-1 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill, Office of Federal Acquisition Policy, Room 4041, GS Building, Washington, DC 20405, (202) 501-3856. Please cite FAC 90-1.

SUPPLEMENTARY INFORMATION:

A. Determination to Issue an Interim Rule

FAC 90-1, Item I. A determination has been made under authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) to issue the regulations in FAC 90-1 as an interim rule. This action is necessary because section 8141 of the 1989 Department of Defense Appropriation Act, Pub. L. 100-653, requires that Governmentwide regulations regarding Consultants—Conflict of Interest, be issued within 180 days of the issuance of Office of Federal Procurement Policy Letter 89-1 which established policy relating to the same subject. Policy Letter 89-1 was issued on December 8, 1989. However, pursuant to Public Law 98-577 and FAR 1.501, public comments received in response to this interim rule will be considered in formulating a final rule.

B. Background

FAC 90-1, Item I. The FAR revisions included in this interim rule implement section 8141 of the 1989 Department of Defense Appropriation Act and section 6 of the Office of Federal Procurement Policy Act and are applicable to all Executive Agencies. Under the regulation, apparent successful offerors on all advisory and assistance contracts over $200,000, who employ marketing consultants, must provide a certification that provides in part—

(1) A description of the nature of the services rendered by, or to be rendered by, the marketing consultant; and

(2) If any marketing consultant is rendering or, has rendered services respecting the same subject matter of the instant solicitation, or directly relating to such subject matter, to the Government or any other client, the name, and a description of the nature of the services rendered to such client(s).

Additionally, a certification is also required from all apparent successful offerors on any contract for advisory and assistance services over $25,000. The certificate must contain in part the following:

(1) If, services were rendered to the Government or any other client respecting the same subject matter of the instant solicitation, or directly relating to such subject matter, the name of the client or client(s) and a description of the services rendered to the previous client(s).

(2) A statement that the person who signs the certificate has made inquiry and that, to the best of his or her knowledge and belief, no actual or potential conflict of interest or unfair competitive advantage exists with respect to the advisory or assistance services to be provided in connection with the instant contract, or that any actual or potential conflict of interest or unfair competitive advantage that does or may exists with respect to the contract in question has been communicated in writing to the contracting officer.

The interim regulation provides for remedies available to the Government in the case of a false certification or failure to provide a certification.

B. Public Comments

FAC 90-1, Item I. Public comment is requested on the fact that this interim rule does not make the marketing consultant certificate requirement in the provision at 52.209-7 of the proposed coverage applicable to the acquisitions using sealed bidding procedures.

Sealed bidding is used only when the award is to be made on the basis of price and other price related factors and it is not necessary to conduct discussions with the responding offerors about their bids.

The rigorous structure, built-in safeguards, and limited Government discretion in the sealed bid method of acquisition make it difficult for a marketing consultant to obtain from the Government information that would provide a competitor an unfair competitive advantage.

Also, no one in the Government knows the bid prices of the competitors prior to the public bid opening and, since award is made to the low responsive, responsible bidder in sealed bidding the opportunity for a marketing consultant to exert improper influence on a Government official is slight.

In addition, there are implementation problems if the policy applies to sealed bidding. Requiring submission after the successful bidder is identified creates problems with the firm bid rule. Alternatively, requiring the certification from all bidders with submission of sealed bids, would create an unacceptable reporting burden on the public. Similarly, submission of the certificate after award and resort to default and dispute remedies for failure to certify is considered unwieldy and administratively burdensome.

Given the conduct that is involved, the burdens to the Government and the

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public, and the fact that sealed bids account for only 7 percent of the procurement dollars expended Governmentwide, a determination has been made to exempt sealed bidding from the certification requirement and invite comment with respect to that determination.

D. Regulatory Flexibility Act

FAC 90–1, Item I. This interim rule may have a significant economic impact on a substantial number of small entities. The actual impact is not known. Publication of this rule will afford the public the opportunity to comment on its economic impact on small entities and such comments will be considered in the formulation of the final rule. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and will be submitted to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the FAR Secretariat. Comments are invited. Comments from small entities concerning the affected FAR subparts will also be considered. Such comments must be submitted separately and cite FAR Case 90–610 (FAC 84–61) in correspondence.

FAC 90–1, Item II. The requirements of the Regulatory Flexibility Act were addressed in FAC 84–60 (55 FR 36782, September 6, 1990).

E. Paperwork Reduction Act

FAC 90–1, Item I. The information collection requirements in this interim rule are being submitted for approval under OMB Control Number 9000–00XX. Annual reporting burden: The annual reporting burden is estimated as follows: Respondents, 4000; responses per respondent, 1.5; total annual responses, 6000; preparation hours per response, 2; and total response burden hours, 12,000. Annual recordkeeping burden: The annual recordkeeping burden is estimated as follows: Recordkeeping, 10,000; hours per recordkeeper, 2.5; and total recordkeeping burden hours, 25,000. Any public comments concerning the information collection requirements should be submitted to the Office of Management and Budget (OMB), Mr. Stephen Holden, FAR Desk Officer (OIRA), Room 3235, NEOB, Washington, DC 20503.

FAC 90–1, Item II. The requirements of the Paperwork Reduction Act were addressed in FAC 84–60 (55 FR 36782, September 6, 1990).

List of Subjects in 48 CFR Parts 9, 52, and 53

Government procurement.

Dated: October 16, 1990.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Federal Acquisition Circular

[Number 90–1]

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 90–1 is effective October 22, 1990.

Eleanor Spector,

Deputy Assistant Secretary of Defense for Procurement.

A. E. Reskovich,

Acting Associate Administrator for Acquisition Policy.

S. J. Evans,

Assistant Administrator for Procurement, NASA.

Federal Acquisition Circular (FAC) 90–1 amends the Federal Acquisition Regulation as specified below:

Item I—Consultants-Conflict of Interest

The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are implementing the policies of OFPP Policy Letter 89–1, Conflict of Interest Policies Applicable to Consultants, dated December 6, 1989. The revision provides policy relating to conflict of interest for persons who provide consulting services to the Government and its contractors and provides procedures to promote compliance with the new policy.

Item II—Optional Form 333, Procurement Integrity Certification for Procurement Officials

FAC 84–60 (55 FR 36782, September 6, 1990) implemented the Procurement Integrity requirements of the Office of Federal Procurement Act of 1988, as amended by section 814 of Pub. L. 101–189, and replaced the coverage previously promulgated in FAC 84–47 (54 FR 20488, May 11, 1989).

One of the significant changes in Pub. L. 101–189 was an amendment to the procurement official certification provisions of the Act. The amendment requires agencies to obtain new certifications from individuals who will be performing procurement official activities on or after December 1, 1990.

FAC 84–60 provided Optional Form (OF) 333, Procurement Integrity Certification for Procurement Officials. However, in order to permit the filing of a completed OF 333 in an individual officer or employee's Official Personnel File (OPF), the Privacy Act notice and request for disclosure of an individual's social security number included in this FAC must accompany the OF 333.

Therefore, 48 CFR parts 9 and 52 are amended as set forth below:

1. The authority citation for 48 CFR parts 9, 52, and 53 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 3479(c).

PART 9—CONTRACT QUALIFICATIONS

2. Subpart 9.5 is amended by revising the title to read as follows:

Subpart 9.5—Organizational and Consultant Conflicts of Interest

3. Section 9.500 is revised to read as follows:

9.500 Scope of subpart.

This subpart:

(a) Prescribes responsibilities, general rules, and procedures for identifying, evaluating, and resolving organizational conflicts of interest;

(b) Provides examples to assist contracting officers in applying these rules and procedures to individual contracting situations; and

(c) Implements section 8141 of the 1989 Department of Defense Appropriation Act, Pub. L. 100–463, 102 Stat. 2270–47 (1988) and Office of Federal Procurement Policy (OFPP) Letter 89–1, Conflict of Interest Policies Applicable to Consultants.

4. Section 9.501 is revised to read as follows:

9.501 Definitions.

Marketing consultant means any independent contractor who furnishes advice, information, direction, or assistance to an offeror or any other contractor in support of the preparation or submission of an offer for a Government contract by that offeror. An independent contractor is not a marketing consultant when rendering—

(a) Services excluded in subpart 37.2;

(b) Routine engineering and technical services (such as installation, operation, or maintenance of systems, equipment, software, components, or facilities);

(c) Routine legal, actuarial, auditing, and accounting services; and

(d) Training services.

Organizational conflict of interest means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the Government, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

5. Section 9.502 is amended by adding paragraphs (c) and (d) to read as follows:

9.502 Applicability.

* * * * *

(c) An organizational conflict of interest may result when factors create an actual or potential conflict of interest on an instant contract, or when the nature of the work to be performed on the instant contract creates an actual or potential conflict of interest on a future acquisition. In the latter case, some restrictions on future activities of the contractor may be required.

(d) In addition to the exclusions in subpart 37.2, the following types of acquisitions are excluded from the requirements of this subpart:

(1) Routine engineering and technical services (such as installation, operation, or maintenance of systems, equipment, software, components, or facilities);

(2) Routine legal, actuarial, auditing, and accounting services.

(3) Training services.

(4) Services rendered in connection with intelligence activities as defined in section 3.4(e) of Executive Order 12333 or a comparable definitional section in any successor order, or in connection with special access programs.

(5) Acquisition subject to unique agency organizational conflict of interest statutes.

6. Section 9.504 is amended in paragraphs (b) and (c) by removing the words "(see 9.506)" and "(see 9.507)" respectively and adding in each place "(see 9.506)"; and by adding paragraph (e) to read as follows:

9.504 Contracting officer responsibilities.

* * * * *

(e) The contracting officer shall award the contract to the apparent successful offeror unless a conflict of interest is determined to exist that cannot be avoided or mitigated. Before determining to withhold award based on conflict of interest considerations, the contracting officer shall notify the contractor and provide the contractor a reasonable opportunity to respond. If the contracting officer finds that it is in the best interest of the United States to award the contract notwithstanding a conflict of interest, a request for waiver shall be submitted in accordance with 9.503. The waiver request and decision shall be included in the contract file.

7. Section 9.505 is amended in the second and third sentences of the introductory text by removing the reference "9.508" and inserting in each place "9.506"; and by revising paragraph (b) to read as follows:

9.505 General rules.

* * * * *

(b) Preventing unfair competitive advantage. In addition to the other situations described in this subpart, an unfair competitive advantage exists where a contractor competing for award for any Federal contract possesses—

(1) Proprietary information that was obtained from a government official without proper authorization; or

(2) Source selection information that is relevant to the contract but is not available to all competitors, and such information would assist that contractor in obtainng the contract.

8. Section 9.505–3 is amended by revising the second sentence to read as follows:

9.505–3 Providing technical evaluation or advisory and assistance services.

* * * In this connection consult, OMB Circular No. A–120, Guidelines for the Use of Advisory and Assistance Services, OFPP Policy Letter 89–1, Conflict of Interest Policies Applicable to Consultants, and implementing agency regulations.

9. Section 9.505–4 is amended by redesignating existing paragraph (a) as (b); by redesignating existing paragraph (b) as (a); by revising the first sentence of new paragraph (b); and adding paragraph (c) to read as follows:

9.505–4 Obtaining access to proprietary information.

* * * * *

(b) A contractor that gains access to proprietary information of other companies in performing advisory and assistance services for the Government must agree with the other companies to protect their information from unauthorized use or disclosure for as long as it remains proprietary and refrain from using the information for any purpose other than that for which it was furnished.

* * * * *

(c) Contractors also obtain proprietary and source selection information by acquiring the services of marketing consultants which, if used in connection with an acquisition, may give the contractor an unfair competitive advantage. Contractors should make inquiries of marketing consultants to ensure that the marketing consultant has provided no unfair competitive advantage. See the certification required for contractors and marketing consultants in the provision at 52.209–7.

10. Sections 9.506 and 9.507 are revised; and sections 9.507–1 and 9.507–2 are added to read as follows:

9.506 Procedures.

(a) If information concerning prospective contractors is necessary to identify and evaluate potential organizational conflicts of interest or to develop recommended actions, and no organizational conflicts of interest certificates have been filed contracting officers should first seek the information from within the Government or from other readily available sources. Government sources include the files and the knowledge of personnel within the contracting office, other contracting offices, the cognizant contract administration and audit activities and offices concerned with contract financing. Non-Government sources include publications and commercial services, such as credit rating services, trade and financial journals, and business directories and registers.

(b) If the contracting officer decides that a particular acquisition involves a significant potential organizational conflict of interest, the contracting officer shall, before issuing the solicitation, submit for approval to the chief of the contracting office (unless a higher level official is designated by the agency)—

(1) A written analysis, including a recommended course of action for avoiding, neutralizing, or mitigating the conflict, based on the general rules in 9.505 or on another basis not expressly stated in that section;

(2) A draft solicitation provision (see 9.507–1); and

(3) If appropriate, a proposed contract clause (see 9.507–2).

(c) The approving official shall—

(1) Review the contracting officer's analysis and recommended course of action, including the draft provision and any proposed clause;

(2) Consider the benefits and detriments to the Government and prospective contractors; and

(3) Approve, modify, or reject the recommendations in writing.

(d) The contracting officer shall—

(1) Include the approved provision(s) and any approved clause(s) in the solicitation or the contract, or both;

(2) Consider additional information provided by prospective contractors in response to the solicitation or during negotiations; and

(3) Before awarding the contract, resolve the conflict or the potential conflict in a manner consistent with the approval or other direction by the head of the contracting activity; and,

(4) Retain all certificates submitted in accordance with the provisions at 52.209–7 and 52.209–8 in the contract file.

(e) If, during the effective period of any restriction (see 9.507), a contracting office transfers acquisition responsibility for the item or system involved, it shall notify the successor contracting office of the restriction, and send a copy of the contract under which the restriction was imposed.

9.507 Solicitation provisions and contract clause.

9.507-1 Solicitation provisions.

(a) As indicated in the general rules in 9.505, significant potential organizational conflicts of interest are normally resolved by imposing some restraint, appropriate to the nature of the conflict, upon the contractor's eligibility for future contracts or subcontracts. Therefore, affected solicitations shall contain a provision that—

(1) Invites offerors' attention to this subpart;

(2) States the nature of the potential conflict as seen by the contracting officer;

(3) States the nature of the proposed restraint upon future contractor activities; and

(4) Depending on the nature of the acquisition, states whether or not the terms of any proposed clause and the application of this subpart to the contract are subject to negotiation.

(b) The contracting officer shall insert the provision at 52.209-7, Organizational Conflicts of Interest Certificate—Marketing Consultants, in solicitations, other than sealed bids, if the contract amount is expected to exceed $200,000.

(c) The contracting officer shall insert the provision at 52.209-8, Organizational Conflicts of Interest Certificate—Advisory and Assistance Services, in solicitations for advisory and assistance services if the contract amount is expected to exceed $25,000.

9.507-2 Contract clause.

(a) If, as a condition of award, the contractor's eligibility for future prime contract or subcontract awards will be restricted or the contractor must agree to some other restraint, the solicitation shall contain a proposed clause that specifies both the nature and duration of the proposed restraint. The contracting officer shall include the clause in the contract, first negotiating the clause's final terms with the successful offeror, if it is appropriate to do so (see 9.508-1(d) of this subsection).

(b) The restraint imposed by a clause shall be limited to a fixed term of reasonable duration, sufficient to avoid the circumstance of unfair competitive advantage or potential bias. This period varies. It might end, for example, when the first production contract using the contractor's specifications or work statement is awarded, or it might extend through the entire life of a system for which the contractor has performed systems engineering and technical direction. In every case, the restriction shall specify termination by a specific date or upon the occurrence of an identifiable event.

9.508, 9.508-1 and 9.508-2 [Removed]

11. Sections 9.508, 9.508-1, and 9.508-2 are removed.

9.509 [Redesignated as 9.508]

12. Section 9.509 is redesignated as 9.508.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

13. Section 52.209-7 is added to read as follows:

52.209-7 Organizational Conflicts of Interest Certificate—Marketing Consultants.

As prescribed in 9.507-1(b), insert the following provision:

Organizational Conflicts of Interest Certificate—Marketing Consultants (OCT 1990)

(a) Definitions.

(1) *Marketing consultant* means any independent contractor who furnishes advice, information, direction, or assistance to an offeror or any other contractor in support of the preparation or submission of an offer for a government contract by that offeror. An independent Contractor is not a marketing consultant when rendering—

(i) Services excluded in subpart 37.2;

(ii) Routine engineering and technical services (such as installation, operation, or maintenance of systems, equipment, software, components, or facilities);

(iii) Routine legal, actuarial, auditing, and accounting services; or

(iv) Training services.

(2) *Organizational conflict of interest* means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the Government, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

(b) In order to comply with the Office of Federal Procurement Policy Letter 89-1, Conflict of Interest Policies Applicable to Consultants, an individual or firm that employs, retains, or engages contractually, one or more marketing consultants in connection with a contract shall submit to the contracting officer, with respect to each marketing consultant, the certificates described below, if the individual or firm is notified that it is the apparent successful offeror.

(c) The certificate must contain the following:

(1) The name of the agency and the number of the solicitation in question.

(2) The name, address, telephone number, and federal taxpayer identification number of the marketing consultant.

(3) The name, address and telephone number of a responsible officer or employee of the marketing consultant who has personal knowledge of the marketing consultants involvement in the contract.

(4) A description of the nature of the services rendered by or to be rendered by the marketing consultant.

(5) The name, address, and telephone number of the client or clients, and the name of a responsible officer or employee of the marketing consultant who is knowledgeable about the services provided to such client(s), and a description of the nature of the services rendered to such client(s), if, based on information provided to the Contractor by the marketing consultant, any marketing consultant is rendering or, in the 12* months preceding the date of the certificate, has rendered services respecting the same subject matter of the instant solicitation, or directly relating to such subject matter, to the Government or any other client (including any foreign government or person).

(6) A statement that the person who signs the certificate for the prime Contractor has informed the marketing consultant of the existence of subpart 9.5 and Office of Federal Procurement Policy Letter 89-1.

(7) The signature, name, title, employer's name, address, and telephone number of the persons who signed the certificates for both the apparent successful offeror and the marketing consultant.

(d) In addition, the apparent successful offeror shall forward to the Contracting Officer a certificate signed by the marketing consultant that the marketing consultant has been told of the existence of subpart 9.5 and Office of Federal Procurement Policy Letter 89-1, and the marketing consultant has made inquiry, and to the best of the consultant's knowledge and belief, the consultant has provided no unfair competitive advantage to the prime Contractor with respect to the services rendered or to be rendered in connection with the solicitation, or that any unfair competitive advantage that, to the best of the consultant's knowledge and belief, does or may exist, has been disclosed to the offeror.

(e) Persons required to certify but who fail to do so may be determined to be nonresponsible. Misrepresentation of any fact may result in suspension or debarment, as well as penalties associated with false certifications or such other provisions provided for by law or regulation.

(End of provision)

* If approved by the head of the contracting activity, this period may be increased up to 36 months.

14. Section 52.209-8 is added to read as follows:

52.209-6 Organizational Conflicts of Interest Certificate—Advisory and Assistance Services.

As prescribed in 9.507–1(c), insert the following provision:

Organizational Conflicts of Interest Certificate—*Advisory and Assistance Services* (OCT 1990)

(a) *Organizational conflict of interest* means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the Government, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

(b) In order to comply with the Office of Federal Procurement Policy Letter 89–1, Conflict of Interest Policies Applicable to Consultants, an offeror notified that it is the apparent successful offeror, shall provide the certificate described in paragraph (c) of this provision.

(c) The certificate must contain the following:

(1) Name of the agency and the number of the solicitation in question.

(2) The name, address, telephone number, and federal taxpayer identification number of the apparent successful offeror.

(3) A description of the nature of the services rendered by or to be rendered on the instant contract.

(4) The name, address, telephone number of the client or client(s), a description of the services rendered to the previous client(s), and the name of a responsible officer or employee of the offeror who is knowledgeable about the services rendered to each client, if, in the 12* months preceding the date of the certification, services were rendered to the Government or any other client (including a foreign government or person) respecting the same subject matter of the instant solicitation, or directly relating to such subject matter. The agency and contract number under which the services were rendered must also be included, if applicable.

(5) A statement that the person who signs the certificate has made inquiry and that, to the best of his or her knowledge and belief, no actual or potential conflict of interest or unfair competitive advantage exists with respect to the advisory and assistance services to be provided in connection with the instant contract, or that any actual or potential conflict of interest or unfair competitive advantage that does or may exist with respect to the contract in question has been communicated in writing to the Contracting Officer or his or her representatives.

(6) The signature, name, employer's name, address, and telephone number of the person who signed the certificate.

(d) Persons required to certify but who fail to do so may be determined to be nonresponsible. Misrepresentation of any fact may result in suspension or debarment, as well as penalties associated with false certifications or such other provisions provided for by law or regulation.

(End of provision)

* If approved by the head of the contracting activity, this period may be increased up to 36 months.

PART 53—FORMS

15. Section 53.302–333 is revised to read as follows:

BILLING CODE 6820-34-M

53.302-353 Procurement Integrity Certification for Procurement Officials.

PROCUREMENT INTEGRITY CERTIFICATION FOR PROCUREMENT OFFICIALS

As a condition of serving as a procurement official, I _____
(typed or printed name)
_____ hereby certify that I am familiar with the provisions of subsections 27(b), (c), and (d) of the Office of Federal Procurement Policy Act (41 USC 423) as amended by section 814 of Public Law 101-189. I further certify that I will not engage in any conduct prohibited by such subsections and will report immediately to the contracting officer any information concerning a violation or possible violation of subsections 27(a), (b), (d), or (f) of the Act and applicable implementing regulations. A written explanation of subsections 27(a) through (f) has been made available to me. I understand that, should I leave the Government during the conduct of a procurement for which I have served as a procurement official, I have a continuing obligation under section 27 not to disclose proprietary or source selection information relating to that procurement and a requirement to so certify.

SIGNATURE OF PROCUREMENT OFFICIAL	DATE
DEPARTMENT OR AGENCY	OFFICE TELEPHONE NUMBER

This form is authorized for use and local reproduction through December 31, 1990.

OPTIONAL FORM 333 (9-90)
Prescribed by GSA - FAR (48 CFR) 53.203(h)

Name of Procurement Official _____ Social Security Number _____

PRIVACY ACT NOTICE TO EMPLOYEES AND OFFICIALS

In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the following notice is provided:

AUTHORITY FOR COLLECTION OF INFORMATION; 41 U.S.C. 423 and Executive Order 9397.

Your signature on the Optional Form 333, Procurement Integrity Certification for Procurement Officials, and disclosure of your Social Security Number on this page, are voluntary, but possible effects upon you if the certification is not signed and the Social Security Number is not provided include the following:

Disqualification from particular work or duty assignments, or from the position for which you have applied or which you currently hold, or other appropriate action, or administrative delay in processing your certification.

Principal purpose for collection of this information:

To obtain and maintain a completed certification from any person designated as a "Procurement official," as defined by 41 U.S.C. 423 and applicable procurement regulations.

Routine uses which may be made of the collected information:

Transfers to Federal, state, local, or foreign agencies when relevant to civil, criminal, administrative, or regulatory investigations or proceedings, including transfer to the Office of Government Ethics in connection with its program oversight responsibilities, or pursuant to a request by any appropriate Federal agency in connection with hiring, retention, or grievance of an employee or applicant, the issuance of a security clearance, the award or administration of a contract, the issuance of a license, grant, or other benefit, to committees of the Congress, or any other use specified by the Office of Personnel Management (OPM) in the system of records entitled "OPM/GOVT-1, General Personnel Records," as published in the Federal Register periodically by OPM.

[FR Doc. 90-24669 Filed 10-19-90; 8:45 am]
BILLING CODE 6325-01-C

federal register

Monday
October 22, 1990

Part IV

The President

Proclamation 6208—Crime Prevention Month, 1990

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Presidential Documents

Title 3—

The President

Proclamation 6208 of October 18, 1990

Crime Prevention Month, 1990

By the President of the United States of America

A Proclamation

During the past 5 years, the United States has made welcome progress in its efforts to combat crime. Nevertheless, even though we have stemmed rising crime rates, we know that the incidence of criminal activity in this country is still much too high. Last year, at least one member of every four families in America was a victim of crime.

More and more Americans are beginning to recognize that, when it comes to preventing crime and apprehending its perpetrators, neither law enforcement agencies nor government can do the job alone—we must all work together. Today many concerned Americans across the country are joining with their neighbors in concerted efforts to fight crime and to improve the quality of life in their communities. These Americans are working with local law enforcement agencies to establish Neighborhood Watch Programs in which citizens remain vigilant against crime and report suspicious activity to police; they are cleaning up vacant lots and other places that seem to attract illicit activity; and they are participating in voluntary home security surveys designed to help residents reduce the opportunity for crime through such simple measures as window locks, improved lighting, and the pruning of shrubbery where criminals might otherwise be able to move about unnoticed. By working together, these Americans are demonstrating the moral resolve and personal commitment necessary to put drug traffickers and other criminals out of business.

Successful crime prevention involves more than vigilance and caution, however; it also requires vision and creativity. For example, by working as partners to prevent illicit drug use, local government officials and concerned citizens can help to avert other related forms of criminal activity and violence. We can also help to prevent crime by promoting positive alternatives to delinquency and drug use among young people and encouraging youths to recognize their personal stake in the quality of their schools and communities. Successful crime prevention thus begins in each and every American home, school, and neighborhood.

For more than a decade, the Crime Prevention Coalition, an association of more than 100 Federal, State, and local agencies and national organizations, has been working to enlist parents, educators, business and community groups, elected officials, and law enforcement personnel in a united effort to fight crime. During October 1990 the Coalition will commemorate the 10th anniversary of McGruff the Crime Dog, the symbol of the National Citizens' Crime Prevention Campaign. This innovative nationwide campaign includes public service advertising and other activities designed to encourage all Americans to help "take a bite out of crime."

In recognition of the National Citizens' Crime Prevention Campaign, the Congress, by Senate Joint Resolution 309, has designated the month of October 1990 as "Crime Prevention Month" and has authorized and requested the President to issue a proclamation in observance of this month.

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NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the month of October 1990 as Crime Prevention Month. I call upon all Americans to observe this month with appropriate programs, ceremonies, and activities designed to encourage greater public involvement in crime prevention efforts.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of October, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.

George Bush

[FR Doc. 90-25091
Filed 10-19-90; 10:34 am]
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H.R. 671/Pub. L. 101-435

Telephone Operator Consumer Services Improvement Act of 1990. (Oct. 17, 1990; 104 Stat. 986; 7 pages) Price: $1.00

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[4] No amendments to this volume were promulgated during the period July 1, 1989 to June 28, 1990. The CFR volume issued July 1, 1989, should be retained.

[5] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[6] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

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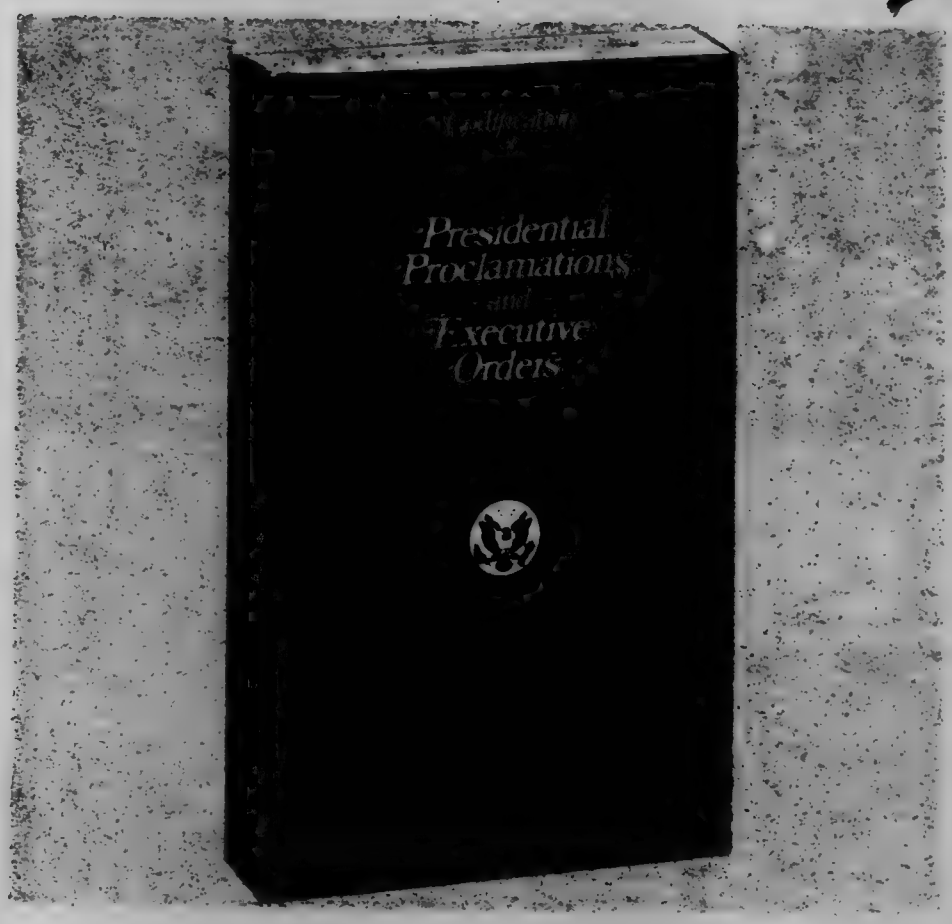

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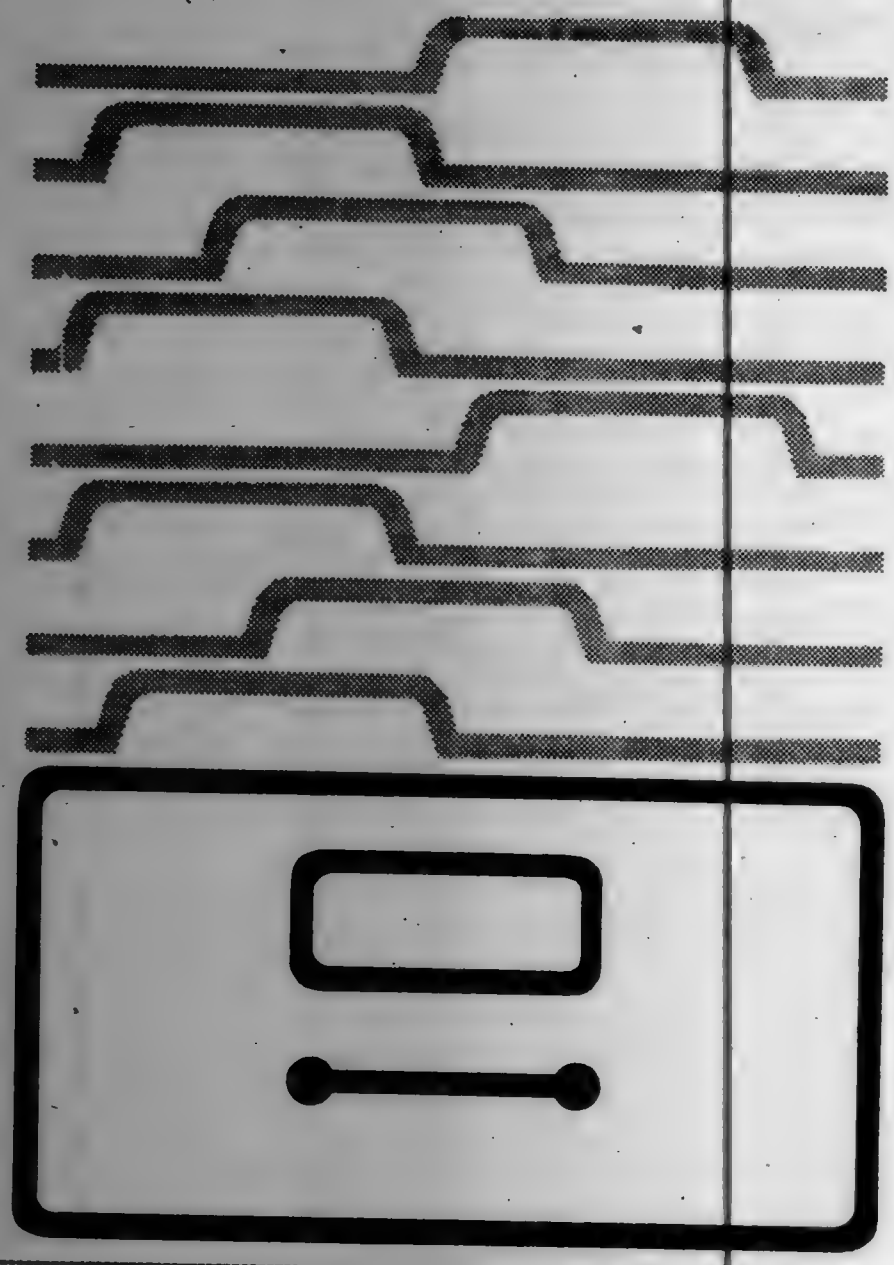

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Tuesday, October 23, 1990

Presidential Documents

Title 3—

The President

Proclamation 6200 of October 19, 1990

National Radon Action Week, 1990

By the President of the United States of America

A Proclamation

Radon is a naturally occurring element that is present in most soils and rocks. When enough radon gas enters a home or other building through cracks and openings commonly found in the foundations of such structures, it may become a health hazard.

High levels of radon in the home are believed to increase residents' risk of developing certain health problems, such as lung cancer. Smokers, former smokers, and children may be especially sensitive to radon exposure.

It is estimated that some level of radon gas can be found in one out of ten homes across the country. Fortunately, however, it is relatively easy to protect families from potentially harmful radon exposure. Radon home test kits are widely available, and factors that allow homes to develop high radon levels can be corrected at moderate costs.

The Environmental Protection Agency and a number of State governments—as well as the American Lung Association, the Advertising Council, and the American Medical Association—have initiated programs to educate the public about radon. Many other concerned agencies and organizations are supporting local efforts to test homes and schools. I join with them in urging Americans to test their homes for radon and to make any necessary modifications to reduce excessive levels of the gas. Radon is a health concern that we can readily address.

The Congress, by Senate Joint Resolution 317, has designated the week of October 14 through October 20, 1990, as "National Radon Action Week" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week of October 14 through October 20, 1990, as National Radon Action Week. I encourage the people of the United States, as well as government officials, to observe this week with appropriate programs and activities designed to enhance public awareness of the risks of excessive radon exposure and ways we can reduce them.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of October, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.

George Bush

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Rules and Regulations

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 315 and 316

Noncompetitive Appointment of Certain Former Overseas Employees

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with comments requested.

SUMMARY: In order to enhance the well-being of families of U.S. Government military and civilian employees assigned abroad, the U.S. Office of Personnel Management proposes to issue regulations to reduce the length of Federal service (to 12 months) that working family members of U.S. civilian and military personnel assigned overseas must complete in order to qualify for subsequent appointment to career positions when they return to the United States. The regulations also permit eligible individuals to qualify for Stateside appointments until January 1, 1994, or within 3 years of returning to the United States.

DATES: Effective Date: October 23, 1990. Comments must be received on or before December 24, 1990.

ADDRESSES: Send or deliver written comments to Chief, Staffing Policy Division; room 6504; Career Entry and Employee Development Group; Office of Personnel Management; 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Ellen Russell, (202) 606–0960.

SUPPLEMENTARY INFORMATION: A special U.S. Government interest in promoting employment opportunities for family members of United States civilian and military employees assigned overseas was first established by Executive Order 12362 of May 12, 1982. This order allowed family members of U.S. Government military and civilian personnel assigned overseas to qualify for noncompetitive appointment to career civil service positions upon return to the United States, provided they had worked for at least 24 months in overseas local hire positions and met certain other requirements. The service requirement was reduced to 18 months by Executive Order 12585 of March 3, 1987. Executive Order 12721, of July 30, 1990, provides that the Office of Personnel Management may establish requirements under which family members may qualify for this benefit, including determination of the specific amount of overseas employment service family members must complete.

The access to career positions in the United States provided by these authorities has enhanced the well-being of families of U.S. Government military and civilian employees who are assigned to overseas positions. An estimated 20,000 family members have earned career civil service employment through this program in the eight years it has been authorized.

In the last few years, however, developments in overseas areas where U.S. military and civilian employees are assigned have made it increasingly difficult for the family members who accompany them to qualify for the employment benefit provided by this program. Increasingly, in many overseas areas there are simply not enough employment opportunities for all the family members who seek them, and family members are not able to occupy positions long enough to qualify. In a number of countries, political unrest, threats to the U.S. community, and other factors have required that family members be relocated from diplomatic and military posts to the United States or other countries overseas. When this has occurred, family members who had begun working in overseas jobs lost the opportunity to continue their employment and qualify for career appointment in the United States. Agencies which found their employees in this situation have asked the Office of Personnel Management to waive the amount of service required to deal with each of these situations.

Rather than provide individual waivers, OPM is reducing the amount of service required on an across-the-board basis. This will increase the likelihood that family members can benefit from the program and at the same time meet future contingencies without further adjustment. The regulations also permit any family members who have worked at least 12 months at overseas locations in the past, and met other program requirements, to qualify for noncompetitive appointment as long as they are hired before January 1, 1994. This retroactive feature is designed primarily to benefit family members who in recent years have been relocated to the United States before they completed the service required for noncompetitive appointment eligibility.

Waiver of Notice of Proposed Rulemaking

To allow candidates for employment to obtain the benefits of the Executive order in the quickest manner possible, I find that good cause exists to waive the general notice of proposed rulemaking and to make this amendment effective in less than 30 days.

E.O. 12291 Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it only affects Federal employees.

List of Subjects in 5 CFR Parts 315 and 316

Government employees.

U.S. Office of Personnel Management.
Constance Berry Newman,
Director.

Accordingly, OPM is amending parts 315 and 316 of title 5, Code of Federal Regulations, as follows:

PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

1. The authority citation for part 315 is revised to read as follows:

Authority: 5 U.S.C. 1302, 3301, and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; §§ 315.601 and 315.609 also issued under 22 U.S.C. 3651 and 3652; §§ 315.602 and 315.604 also issued under 5 U.S.C. 1104, Pub. L. 95–454, sec. 3(5); § 315.603 also issued under 5 U.S.C. 8151, Pub. L. 99–416; § 315.605 also issued under E.O. 12034, 43 FR 1917, Jan. 13, 1978; § 315.605 also issued under E.O. 11219, 3

CFR 1984–1988 Comp., p. 306; § 315.607 also issued under 22 U.S.C. 2506, 93 Stat. 371, E.O. 12137, 22 U.S.C. 2506, 94 Stat. 2158; § 315.608 also issued under E.O. 12721; § 315.610 also issued under 5 U.S.C. 3304(d), Pub. L. 99–566; § 315.710 also issued under E.O. 12596, 52 FR 17337; Subpart I also issued under 5 U.S.C. 3321, E.O. 12107.

2. In § 315.608, paragraph (a) introductory text and paragraphs (a)(1), (a)(3), and (a)(6) are revised to read as follows:

§ 315.608 Noncompetitive appointment of certain former overseas employees.

(a) Under the authority of Executive Order 12721, an agency in the executive branch may appoint, noncompetitively to a competitive service position within the United States, an individual who is a citizen of or owes permanent allegiance to the United States and who—

(1) Has accumulated 12 months of creditable overseas service in an appropriated fund position(s) under a local hire appointment(s) within any 10-year period beginning after January 1, 1980;

* * * * *

(3) Was a family member of a civilian employee, a nonappropriated fund employee, or a member of a uniformed service (the sponsor) who was officially assigned to the overseas area and was in this status during the period of creditable overseas service required in paragraph (a)(1) of this section;

* * * * *

(6) Is appointed before January 1, 1994, or within 3 years after returning to the United States from the overseas tour of duty (during which he or she acquired eligibility by meeting the requirements of paragraphs (a)(1) through (4) of this section), or as otherwise authorized under the provisions of paragraph (f) of this section.

* * * * *

PART 316—TEMPORARY AND TERM EMPLOYMENT

4. The authority citation for part 316 is revised to read as follows:

Authority: 5 U.S.C. 3301 and 3302, and E.O. 10577 (3 CFR 1954–1958 Comp., p. 218); § 316.302 also issued under 5 U.S.C 3304(c), 38 U.S.C. 2014, and E.O. 12362, as revised by E.O. 12585; § 316.402 also issued under 5 U.S.C. 3304(c) and 3312, 22 U.S.C. 2506 (93 Stat. 371), E.O. 12137, 38 U.S.C. 2014, and E.O. 12362, as revised by E.O. 12585, and E.O. 12721.

[FR Doc. 90-25040 Filed 10-22-90; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 90-209]

RIN 0579-AA29

Citrus Canker

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; correction.

SUMMARY: We are correcting an error that appeared in a final rule published September 11, 1990 [55 FR 37442–37453, Docket No. 90–114] and effective on September 18, 1990. The final rule removed all of the State of Florida from quarantine because of citrus canker except for a portion of Manatee County. The description of the quarantined area in § 301.75–4(a) contains a typographical error. On page 37451, first column, line 2, change "Township 23" to read "Township 33".

FOR FURTHER INFORMATION CONTACT: Eddie W. Elder, Chief Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, room 661, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 436–6365.

Done in Washington, DC, this 17 day of October 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-24912 Filed 10-22-90; 8:45 am]

BILLING CODE 3410-34-M

7 CFR Part 301

[Docket No. 90-207]

Mexican Fruit Fly

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Mexican fruit fly regulations by removing a portion of San Diego County, near El Cajon, California, from the list of areas regulated because of the Mexican fruit fly. We have determined that the Mexican fruit fly has been eradicated from this area, and that restrictions are no longer needed to prevent the spread of the Mexican fruit fly into noninfested areas of the United States. The action relieves unnecessary restrictions on the interstate movement of regulated articles from the previously regulated area.

DATES: Interim rule effective October 18, 1990. Consideration will be given only to comments received on or before December 24, 1990.

ADDRESSES: To help ensure that your comments are considered, send an original and three copies of written comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 90–207. Comments received may be inspected at USDA, room 1141, South Building, 14th and Independence Avenue SW., Washington, DC, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Milton C. Holmes, Senior Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, room 642, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8247.

SUPPLEMENTARY INFORMATION:

Background

The Mexican fruit fly, *Anastrepha ludens* (Loew), is an extremely destructive pest of certain fruits and vegetables. The Mexican fruit fly can cause serious economic losses. The short life cycle of this pest allows the rapid development of serious outbreaks.

The Mexican fruit fly regulations contained in 7 CFR 301.64 *et seq.* (referred to below as the regulations) impose restrictions on the interstate movement of regulated articles from regulated areas in quarantined States in order to prevent the artificial spread of the Mexican fruit fly to noninfested areas. Regulated articles include citrus fruit, avocados, apples, peaches, pears, lemons, limes, plums, prunes, and pomegranates.

Until recently, Texas was the only State quarantined because of the Mexican fruit fly. Then, in a document effective June 28, 1990, and published in the **Federal Register** on July 2, 1990 (55 FR 27180–27182, Docket Number 90–085), we added California to the list of States quarantined because of the Mexican fruit fly and designated as regulated areas in California a portion of Los Angeles County, near Compton, and a portion of San Diego County, near El Cajon.

Based on insect trapping surveys by inspectors of California State and county agencies and by inspectors of Plant Protection and Quarantine, a unit within the Animal and Plant Health Inspection Service, United States

Department of Agriculture, we have determined that the Mexican fruit fly has been eradicated from a portion of San Diego County, near El Cajon. The last finding of Mexican fruit fly in this area was made on May 5, 1990.

Since then, no evidence of Mexican fruit fly infestations has been found in this area. We have determined that Mexican fruit fly no longer exists in this area, and we are therefore removing it from the list of areas in § 301.64–3(c) regulated because of the Mexican fruit fly.

In California, a portion of Los Angeles County, near Compton, remains infested with the Mexican fruit fly.

Emergency Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that there is good cause for publishing this rule without prior opportunity for public comment. The area in California affected by this document was regulated due to the possibility that the Mexican fruit fly could be spread to noninfested areas of the United States. Since this situation no longer exists, and the continued regulated status of this area would impose unnecessary restrictions on the public, we are taking immediate action to remove the restrictions.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these conditions, there is good cause under 5 U.S.C. 553 to make this rule effective upon signature. We will consider comments received within 60 days of publication of this interim rule in Federal Register. After the comment period closes, we will publish another document in the Federal Register, including a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Basied on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

This regulation affects the interstate movement of regulated articles from a portion of San Diego County in California. Within this area there are approximately 121 entities that could be affected, including 70 fruit/produce markets, 30 nurseries, 5 wholesale distributors, and 16 commercial growers of mainly avocados and citrus on approximately 350 acres. These entities comprise less than 1 percent of the total number of similar enterprises operating in the State of California.

The effect of this rule on these entities could be insignificant since most of these small entities handle regulated articles primarily for local intrastate movement, not interstate movement, and the distribution of these articles was not affected by the regulatory provisions we are removing.

Many of these entities also handle other items in addition to the previously regulated articles so that the effect, if any, of this regulation on these entities is minimal. Further, the conditions in the Mexican fruit fly regulations and treatments in the Plant Protection and Quarantine Treatment Manual, incorporated by reference in the regulations, allowed interstate movement of most articles without significant added costs.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule containes no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (*See* 7 CFR 3015, subpart V).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Incorporation by reference, Mexican fruit fly, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for 7 CFR part 301 continues to read as follows:

Authority: U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

§ 301.64–3 [Amended]

2. In § 301.64–3, paragraph (c) is amended by removing the second paragraph under "California" that begins, "*San Diego County*. That portion of the county, in the El Cajon area * * *".

Done in Washington, DC, this 18 day of October 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-24998 Filed 10-22-90; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 37

[Docket No. RM90-15-000]

Generic Determination of Rate of Return on Common Equity for Public Utilities

October 15, 1990.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of benchmark rate of return on common equity for public utilities.

SUMMARY: In accordance with § 37.5 of its regulations, the Federal Energy Regulatory Commission, by its designee, the Director of the Office of Economic Policy, issues the update to the benchmark rate of return on common equity applicable to rate filings made during the period November 1, 1990 through January 31, 1991. This benchmark rate is set at 12.29 percent.

EFFECTIVE DATE: November 1, 1990.

FOR FURTHER INFORMATION CONTACT: Marvin Rosenberg, Office of Economic Policy, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208–1283.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the Federal Register, the

Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 3308 at the Commission's Headquarters, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no change to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPs, set your communications software to use 300, 1200, or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this notice will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

Notice of Benchmark Rate of Return on Common Equity for Public Utilities

Issued October 15, 1990.

On December 28, 1989, the Federal Energy Regulatory Commission (Commission) issued a final rule (Order No. 517) concerning the generic determination of the rate of return on common equity for public utilities.[1] In several earlier rulemaking proceedings, the Commission established a discounted cash flow (DCF) formula to determine the average cost of common equity and a quarterly indexing procedure to calculate benchmark rates of return on common equity for public utilities and codified the formula and procedure at § 37.9 of its regulations.[2] In Order No. 517, the Commission determined that 4.3 percent is an appropriate expected annual dividend growth rate for use in the quarterly indexing procedure during the 12 months beginning February 1, 1990 and that 0.02 percent is an appropriate flotation cost adjustment factor for that period.

The Commission, by its designee, the Director of the Office of Economic Policy, uses the quarterly indexing procedure to determine that the benchmark rate of return on common equity applicable to rate filings made during the period November 1, 1990 through January 31, 1991 is 12.29 percent.

Section 37.9 of the Commission's regulations requires that the quarterly benchmark rate of return be set equal to the average cost of common equity for the jurisdictional operations of public utilities. This average cost is based on the average of the median dividend yields for the two most recent calendar quarters for a sample of 98 utilities. The average yield is used in the following formula with fixed adjustment factors (determined in the most recent annual proceeding) to determine the cost rate:

$k_t = 1.02\ Y_t + 4.32$

where k_t is the average cost of common equity and Y_t is the average dividend yield.

The attached appendix provides the supporting data for this update. The median dividend yields for the sample of utilities for the second and third quarters of 1990 are 7.60 percent and 7.93, respectively. The average yield for those two quarters is 7.81 percent. Use of the average dividend yield in the above formula produces an average cost of common equity of 12.29 percent.

This notice supplements the generic rate of return rule announced in Order No. 517, issued December 28, 1989 and effective on February 1, 1990.

List of Subjects in 18 CFR Part 37

Electric power rates, Electric utilities, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission amends part 37, chapter I, title 18 of the *Code of Federal Regulations*, as set forth below, effective November 1, 1990.

Richard P. O'Neill,
Director, Office of Economic Policy.

PART 37—GENERIC DETERMINATION OF RATE OF RETURN ON COMMON EQUITY FOR PUBLIC UTILITIES

1. The authority citation for part 37 is revised to read as follows:

Authority: 16 U.S.C. 791a–825r; 42 U.S.C. 7101–7352.

2. In § 37.9, paragraph (d) is revised to read as follows:

§ 37.9 Quarterly indexing procedure.

* * * * *

(d) *Table of Quarterly Benchmark Rates of Return.*

The following table presents the quarterly benchmark rates of return on common equity:

Benchmark applicability period	Dividend increase adjustment factor (a)	Expected growth adjustment factor (b)	Current dividend yield (Y_t)	Cost of common equity (k_t)	Benchmark rate of return
Feb. 1, 1986 to Apr. 30, 1986	1.02	4.54	9.03	13.75	13.75
May 1, 1986 to July 31, 1986	1.02	4.54	8.37	13.06	13.25
Aug. 1, 1986 to Oct. 31, 1986	1.02	4.54	7.49	12.16	12.75
Nov. 1, 1986 to Jan. 31, 1987	1.02	4.54	6.75	11.43	12.25
Feb. 1, 1987 to Apr. 30, 1987	1.02	4.63	6.44	11.20	11.20
May 1, 1987 to July 31, 1987	1.02	4.63	6.54	11.30	11.30
Aug. 1, 1987 to Oct. 31, 1987	1.02	4.63	5.97	11.74	11.74
Nov. 1, 1987 to Jan. 31, 1988	1.02	4.62	7.49	12.27	12.27
Feb. 1, 1988 to Apr. 30, 1988	1.02	4.36	7.90	12.42	12.42
May 1, 1988 to July 31, 1988	1.02	4.36	7.99	12.51	12.51
Aug. 1, 1988 to Oct. 31, 1988	1.02	4.36	7.84	12.36	12.36
Nov. 1, 1988 to Jan. 31, 1989	1.02	4.36	7.92	12.44	12.44
Feb. 1, 1989 to Apr. 30, 1989	1.02	4.33	7.89	12.36	12.36
May 1, 1989 to July 31, 1989	1.02	4.33	7.95	12.44	12.44
Aug. 1, 1989 to Oct. 31, 1989	1.02	4.33	7.94	12.43	12.43
Nov. 1, 1989 to Jan. 31, 1990	1.02	4.33	7.56	12.04	12.04
Feb. 1, 1990 to Apr. 30, 1990	1.02	4.32	7.28	11.75	11.75
May 1, 1990 to July 31, 1990	1.02	4.32	7.38	11.85	11.85
Aug. 1, 1990 to Oct. 31, 1990	1.02	4.32	7.59	12.06	12.06
Nov. 1, 1990 to Jan. 31, 1991	1.02	4.32	7.81	12.29	12.29

[1] Generic Determination of Rate of Return on Common Equity for Public Utilities, Order No. 517, 55 FR 140 (Jan. 3, 1990, FERC Stats. and Regs. ¶ 30,571 (Dec. 28, 1989).

[2] 18 CFR 37.9 (1990). The most recent adoption of the DCF formula and quarterly indexing procedure came in Order No. 489, 53 FR 3342 (Feb. 5, 1988).

Note: The Appendix will not be published in *Code of Federal Regulations.*

Appendix

Exhibit No. and Title

1—Initial sample of utilities
2—Utilities excluded from the sample for the indicated quarter due to either zero dividends or a reduction in dividends for this quarter or the prior three quarters
3—Annualized dividend yields for the indicated quarter for utilities retained in the sample

Source of Data: Standard and Poor's Compustat Services, Inc., COMPUSTAT PC UTILITY II Data Base.

EXHIBIT 1—SAMPLE OF UTILITIES

Utility	Ticker symbol	Industry code
Allegheny Power System	AYP	4911
American Electric Power	AEP	4911
Atlantic Energy Inc	ATE	4911
Baltimore Gas & Electric	BGE	4931
Black Hills Corp	BKH	4911
Boston Edison Co	BSE	4911
Carolina Power & Light	CPL	4911
Centerior Energy Corp	CX	4911
Central & South West Corp	CSR	4911
Central Hudson Gas & Elec	CNH	4931
Central Ill Public Service	CIP	4931
Central Louisiana Electric	CNL	4911
Central Maine Power Co	CTP	4911
Central Vermont Pub Serv	CV	4911
Citicorp Inc	DER	4931
Cincinnati Gas & Electric	CIN	4931
CMS Energy Corp	CMS	4931
Commonwealth Edison	CWE	4911
Commonwealth Energy System	CES	4931
Consolidated Edison of NY	ED	4931
Delmarva Power & Light	DEW	4931
Detroit Edison Co	DTE	4911
Dominion Resources Inc	D	4931
DPL Inc	DPL	4931
DQE Inc	DQE	4911
Duke Power Co	DUK	4911
Eastern Utilities Assoc	EUA	4911
Empire Distrct Electric Co	EDE	4911
Entergy Corp	ETR	4911
Fitchburg Gas & Elec Light	FGE	4931
Florida Progress Corp	FPC	4911
FPL Group Inc	FPL	4911
General Public Utilities	GPU	4911
Green Mountain Power Corp	GMP	4911
Gulf States Utilities Co	GSU	4911
Hawaiian Electric Inds	HE	4911
Houston Industries Inc	HOU	4911
I E Industries Inc	IEL	4931
Idaho Power Co	IDA	4911
Illinois Power Co	IPC	4931
Interstate Power Co	IPW	4931
Iowa Resources Inc	IOR	4911
Iowa-Illinois Gas & Elec	IWG	4931
Ipalco Enterprises Inc	IPL	4911
Kansas City Power & Light	KLT	4911
Kansas Gas & Electric	KGE	4911
Kansas Power & Light	KAN	4931
Kentucky Utilities Co	KU	4911
LG&E Energy Corp	LGE	4931
Long Island Lighting	LIL	4931
Maine Public Service	MAP	4911
Midwest Energy Co	MWE	4931
Minnesota Power & Light	MPL	4911
Montana Power Co	MTP	4931
Noco Enterprises Inc	NPT	4911
Nevada Power Co	NVP	4911
New England Electric System	NES	4911
New York State Elec & Gas	NGE	4931
Niagara Mohawk Power	NMK	4931
Nipsco Industries Inc	NI	4931
Northeast Utilities	NU	4911
Northern States Power—MN	NSP	4931
Ohio Edison Co	OEC	4911
Oklahoma Gas & Electric	OGE	4911
Orange & Rockland Utilities	ORU	4931
Pacific Gas & Electric	PCG	4931
Pacificorp	PPW	4931
Pennsylvania Power & Light	PPL	4911
Philadelphia Electric Co	PE	4931
Pinnacle West Capital	PNW	4911
Portland General Corp	PGN	4911
Potomac Electric Power	POM	4911
PSI Resources Inc	PSR	4911
Public Service Co of Colo	PSR	4931
Public Service Co of NH	PNH	4911
Public Service Co of N Mex	PNM	4931
Public Service Enterp	PEG	4931
Puget Sound Power & Light	PSD	4911
Rochester Gas & Electric	RGS	4931
San Diego Gas & Electric	SDO	4931
Scana Corp	SCG	4931
SCEcorp	SCE	4931
Sierra Pacific Res	SRP	4931
Southern Co	SO	4911
Southern Indiana Gas & Elec	SIG	4931
St. Joseph Light & Power	SAJ	4931
Teco Energy Inc	TE	4911
Texas Utilities Co	TXU	4911
TNP Enterprises Inc	TNP	4911
Tucson Electric Power Co	TEP	4931
Union Electric Co	UEP	4911
United Illuminating Co	UIL	4911
Unitil Corp	UTL	4911
Utilicorp United Inc	UCU	4931
Washington Water Power	WWP	4931
Wisconsin Energy Corp	WEC	4931
Wisconsin Public Service	WPS	4931
WPL Holdings Inc	WPH	4931

N=96.

EXHIBIT 2—UTILITIES EXCLUDED FROM THE SAMPLE FOR THE INDICATED QUARTER DUE TO EITHER ZERO DIVIDENDS OR A CUT IN THE DIVIDENDS FOR THIS QUARTER OR THE PRIOR THREE QUARTERS

[Year-90 Quarter-3]

Ticker symbol	Utility	Reason for exclusion
BSE	Boston Edison Co	Dividend rate was reduced for the quarter Calendar 90Q1.
GSU	Gulf States Utilities Co	Dividend rate was zero for quarter Calendar 89Q3.
IPC	Illinois Power Co	Dividend rate was zero for quarter Calendar 89Q3.
NMK	Niagara Mohawk Power	Dividend rate was zero for quarter Calendar 89Q3.
NPT	Noco Enterprises Inc	Dividend rate was zero for quarter Calendar 89Q3.
OEC	Ohio Edison Co	Dividend rate was reduced for the quarter Calendar 90Q3.
PE	Philadelphia Electric Co	Dividend rate was reduced for the quarter Calendar 90Q2.
PNW	Pinnacle West Capital	Dividend rate was zero for quarter Calendar 89Q3.
PGN	Portland General Corp	Dividend rate was reduced for the quarter Calendar 90Q1.
PNH	Public Service Co of N H	Dividend rate was zero for quarter Calendar 89Q3.
PNM	Public Service Co of N ME	Dividend rate was zero for quarter Calendar 89Q3.
TEP	Tucson Electric Power Co	Dividend rate was zero for quarter Calendar 89Q3.

N=12.

EXHIBIT 3—ANNUALIZED DIVIDEND YIELDS FOR THE INDICATED QUARTER FOR UTILITIES RETAINED IN THE SAMPLE

[Year-90 Quarter-3]

Ticker symbol	Price, 1st month of qtr-high	Price, 1st month of qtr-low	Price, 2nd month of qtr-high	Price, 2nd month of qtr-low	Price, 3rd month of qtr-high	Price, 3rd month of qtr-low	Average price	Dividends annual rate	Annualized dividend yield
AEP	29.875	28.625	30.250	28.000	27.250	28.000	28.000	2.400	8.571
ATE	36.375	34.125	36.000	32.000	33.500	31.875	33.979	2.960	8.711

13.75
13.25
12.75
12.25
11.20
11.30
11.74
12.27
12.42
12.51
12.36
12.44
12.36
12.44
12.43
12.04
11.75
11.85
12.06
12.29

EXHIBIT 3—ANNUALIZED DIVIDEND YIELDS FOR THE INDICATED QUARTER FOR UTILITIES RETAINED IN THE SAMPLE—Continued

[Year-90 Quarter-3]

Ticker symbol	Price, 1st month of qtr-high	Price, 1st month of qtr-low	Price, 2nd month of qtr-high	Price, 2nd month of qtr-low	Price, 3rd month of qtr-high	Price, 3rd month of qtr-low	Average price	Dividends annual rate	Annualized dividend yield
AYP	38.500	36.750	38.000	34.250	37.000	34.000	36.417	3.160	8.677
BGE	29.375	27.125	29.250	24.500	26.500	24.375	26.854	2.100	7.820
BKH	29.875	29.125	29.375	27.500	27.875	26.000	28.125	1.640	5.831
CER	34.000	32.000	34.750	30.750	32.375	29.750	32.271	2.460	7.623
CES	35.125	30.375	32.375	30.250	30.750	29.125	31.333	2.920	9.319
CIN	31.750	29.625	31.750	28.500	29.250	28.000	29.813	2.400	8.050
CIP	22.125	20.875	22.250	18.500	20.750	19.625	20.854	1.640	8.823
CMS	33.000	30.750	32.000	27.625	29.750	25.500	29.771	0.400	1.344
CNH	23.500	22.125	23.250	20.000	22.125	21.375	22.063	1.840	8.340
CNL	34.375	33.000	34.750	33.000	33.500	31.500	33.354	2.560	7.675
CPL	44.875	42.250	44.875	38.000	41.250	38.625	41.646	2.920	7.012
CSR	41.250	39.375	41.125	36.625	39.625	37.250	39.208	2.760	7.039
CTP	18.125	18.125	18.875	16.125	17.875	17.125	17.875	1.560	8.727
CV	29.125	27.250	27.750	22.750	24.875	21.875	25.604	2.080	8.124
CWE	33.000	29.125	32.000	27.250	31.375	26.375	30.188	3.000	9.936
CZK	19.125	17.625	18.625	16.625	17.125	16.125	17.542	1.600	9.121
D	45.625	43.125	45.875	41.375	43.500	41.500	43.500	3.320	7.632
DEW	18.375	18.000	19.250	17.000	17.750	17.125	18.063	1.540	8.516
DPL	19.625	19.375	19.625	17.250	18.250	17.500	18.438	1.560	8.461
DQE	22.375	21.500	22.625	21.125	22.500	20.750	21.813	1.360	6.235
DTE	28.750	25.750	29.625	25.625	28.000	26.250	27.333	1.760	6.512
DUK	59.000	54.500	59.250	54.000	55.625	54.125	55.917	3.280	5.866
ED	25.000	22.500	25.250	19.750	22.375	20.500	22.563	1.820	8.066
EDE	29.750	28.625	29.875	26.125	28.250	27.250	28.646	2.320	8.099
ETR	20.125	19.000	19.500	18.000	19.500	18.250	19.063	1.000	5.246
FLA	32.875	31.000	32.125	26.125	28.500	25.000	29.271	2.600	8.883
FPC	30.625	27.750	27.750	25.125	32.500	25.750	28.250	2.120	7.504
FPL	37.125	35.750	37.625	34.125	34.625	33.500	35.458	2.640	7.445
FPL	31.250	29.250	31.125	26.500	27.750	26.125	28.667	2.360	8.233
GMP	24.500	22.750	23.875	21.250	23.000	22.000	22.896	2.020	8.823
GPU	44.250	41.250	43.375	38.500	42.000	39.500	41.479	2.600	6.266
HE	33.000	31.500	32.625	27.250	30.125	27.625	30.354	2.160	7 116
HOU	34.000	31.750	34.500	30.750	32.125	30.625	32.292	2.960	9.166
IDA	24.875	23.750	24.750	22.875	24.625	22.750	23.938	1.860	7.770
IEL	25.750	24.625	26.000	23.875	24.500	23.000	24.625	2.060	8.365
IOR	22.375	20.875	21.625	20.000	21.750	20.750	21.229	1.700	8.008
IPL	25.375	23.875	26.000	23.125	24.250	23.125	24.292	1.800	7.410
IPW	25.125	24.000	25.125	23.125	25.125	23.000	24.250	2.000	8.247
IWG	21.375	20.125	21.000	18.750	20.875	19.000	20.188	1.670	8.272
KAN	23.250	21.750	23.375	20.500	21.875	20.375	21.854	1.800	8.236
KSE	25.500	19.625	25.875	23.125	25.875	24.375	24.063	1.720	7.148
KLT	33.375	30.875	31.750	29.125	31.125	29.125	30.896	2.680	8.674
KU	20.000	18.750	20.125	17.250	19.250	17.500	18.813	1.460	7.761
LGE	38.375	35.250	38.750	35.500	36.875	35.250	36.833	2.840	7.710
LIL	21.625	19.625	21.750	18.000	19.250	17.750	19.667	1.500	7.627
MAP	21.750	21.000	22.000	21.125	22.000	21.250	21.521	1.660	7.806
MPL	25.500	24.000	25.375	22.875	23.875	22.250	23.979	1.860	7.757
MTP	18.875	18.250	20.000	17.750	18.875	17.375	18.668	1.420	7.599
MWE	20.750	19.500	20.375	18.375	20.250	18.500	19.625	1.640	8.357
NEB	27.000	25.375	27.375	24.000	24.375	22.500	25.104	2.040	9.126
NGE	24.625	22.750	23.750	21.375	23.750	22.250	23.063	2.080	9.011
NI	18.125	16.750	18.500	15.750	16.625	15.875	16.938	1.040	6.140
NSP	36.250	33.750	36.000	28.375	30.625	29.375	32.396	2.320	7.161
NU	19.875	18.625	20.375	18.000	18.625	17.875	18.896	1.760	9.314
NVP	23.000	21.625	23.000	20.000	22.875	20.500	21.833	1.600	7.328
OGE	35.500	33.375	36.750	33.125	34.375	32.875	34.333	2.480	7.223
ORU	30.500	28.750	29.750	26.125	28.750	27.375	28.542	2.340	8.196
PCG	23.250	21.375	23.250	20.000	21.625	20.500	21.667	1.520	7.015
PEG	28.125	24.000	28.125	22.625	24.000	22.500	24.229	2.080	8.585
PIN	17.500	15.625	17.125	14.500	15.500	14.500	15.792	0.800	5.066
POM	21.000	19.500	21.250	18.125	19.375	18.000	19.542	1.520	7.778
PPL	42.875	40.500	42.750	39.125	40.000	39.000	40.708	2.960	7.320
PPW	21.375	19.750	20.875	17.500	20.375	18.500	19.729	1.440	7.299
PSD	20.625	19.375	20.625	18.750	19.500	18.750	19.604	1.760	8.978
PSR	21.500	20.375	21.375	20.000	21.000	20.000	20.708	2.000	9.656
PGS	19.250	18.125	19.250	16.875	18.500	17.500	18.250	1.560	8.548
SAJ	27.500	26.500	27.000	23.000	26.250	23.375	25.604	1.600	6.249
SCE	38.000	36.125	36.875	33.500	36.125	34.750	36.229	2.640	7.287
SCG	33.750	32.000	33.750	31.000	31.375	30.250	32.021	2.520	7.870
SOO	44.375	43.375	44.250	39.500	41.375	39.000	41.979	2.700	6.432
SIG	30.375	29.375	30.375	28.000	29.375	27.875	29.229	1.900	8.500
SO	26.000	24.500	25.625	23.000	24.000	23.250	24.396	2.140	8.772
SRP	22.125	20.750	22.000	18.750	20.000	18.625	20.375	1.840	9.031
TE	29.500	28.125	30.000	27.000	28.125	27.375	28.354	1.620	5.713
TNP	18.750	17.875	18.625	16.250	18.500	16.625	17.771	1.630	9.172
TXU	37.500	34.750	37.750	33.500	34.125	32.125	34.958	2.960	8.467

EXHIBIT 3—ANNUALIZED DIVIDEND YIELDS FOR THE INDICATED QUARTER FOR UTILITIES RETAINED IN THE SAMPLE—Continued

[Year-90 Quarter-3]

Ticker symbol	Price, 1st month of qtr-high	Price, 1st month of qtr-low	Price, 2nd month of qtr-high	Price, 2nd month of qtr-low	Price, 3rd month of qtr-high	Price, 3rd month of qtr-low	Average price	Dividends annual rate	Annualized dividend yield
UCU	20.000	19.250	20.125	17.500	18.625	17.375	18.813	1.440	7.654
UEP	26.625	25.500	27.375	24.625	25.625	24.875	25.771	2.080	8.071
UIL	29.500	27.750	29.750	26.875	28.750	27.250	28.313	2.320	8.194
UTL	34.875	32.625	34.750	32.625	34.500	32.875	33.708	2.520	8.667
WEC	29.750	28.375	30.000	27.125	29.375	26.625	28.375	1.760	6.203
WPH	22.625	21.125	22.375	20.000	21.875	20.000	21.333	1.740	8.156
WPS	21.375	20.625	21.500	19.750	21.500	20.000	20.792	1.680	7.994
WWP	29.750	26.500	29.875	27.625	28.000	27.000	28.458	2.480	8.714

M=86.

[FR Doc. 90-24663 Filed 10-22-90; 8:45 am]

BILLING CODE 8717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 14

Standing Advisory Committees; Editorial Amendments

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is making editorial amendments to certain of its regulations on standing advisory committees to improve the accuracy of the regulations.

EFFECTIVE DATE: October 23, 1990.

FOR FURTHER INFORMATION CONTACT: Robin F. Thomas, Office of Regulatory Affairs (HFC-222), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2904.

SUPPLEMENTARY INFORMATION: FDA is amending certain of its regulations on standing advisory committees to improve the accuracy of the regulations.

21 CFR 14.31(e) is amended to state that FDA may draw consultants from other agencies of the Department of Health and Human Services as well as from other agencies. Section 14.40(b) is amended to clarify that the 15-day notice in the **Federal Register** does not apply to notices of advisory committee charter renewals. Section 14.100 is amended by revising paragraphs (d)(1)(i)(B) through (d)(1)(xvi)(B) to indicate that the panels review and evaluate data on the safety and effectiveness of marketed and investigational devices and make recommendations for their regulation.

The amendments in 21 CFR part 14 are editorial in nature. For this reason, FDA finds for good cause that notice and public procedure are unnecessary (5 U.S.C. 553 (b)(B) and (d)).

List of Subjects in 21 CFR Part 14

Administrative practice and procedure, Advisory committees, Color additives, Drugs, Radiation protection.

Therefore, under the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and the Freedom of Information Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 14 is amended as follows:

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

1. The authority citation for 21 CFR part 14 continues to read as follows:

Authority: Secs. 201-903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321-393); 21 U.S.C. 41-50, 141-149, 467f, 679, 821, 1034; secs. 2, 351, 354-360F, 361 of the Public Health Service Act (42 U.S.C. 201, 262, 263b-263n, 264); secs. 2-12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451-1461); 5 U.S.C. App. 2; 28 U.S.C. 2112.

§ 14.31 [Amended]

2. Section 14.31 *Consultation by an advisory committee with other persons* is amended in paragraph (e) by removing "Department of Health and Human Services" and replacing it with "Food and Drug Administration".

3. Section 14.40 is amended by removing the last sentence in paragraph (b) and adding two new sentences to read as follows:

§ 14.40 Establishment and renewal of advisory committees.

* * * * *

(b) * * * A notice of establishment will be published at least 15 days before the filing of the advisory committee charter under paragraph (c) of this section. A notice of renewal does not require the 15-day notice.

* * * * *

§ 14.100 [Amended]

4. Section 14.100 *List of standing advisory committees* is amended by removing the phrase "devices currently in use" each time it appears and replacing it with "marketed and investigational devices" in paragraphs (d)(1)(i)(B), (d)(1)(ii)(B), (d)(1)(iii)(B), (d)(1)(iv)(B), (d)(1)(v)(B), (d)(1)(vi)(B), (d)(1)(vii)(B), (d)(1)(viii)(B), (d)(1)(ix)(B), (d)(1)(x)(B), (d)(1)(xi)(B), (d)(1)(xii)(B), (d)(1)(xiii)(B), (d)(1)(xiv)(B), (d)(1)(xv)(B), and (d)(1)(xvi)(B).

Dated: October 17, 1990.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-25042 Filed 10-22-90; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

New Animals Drugs for Use in Animal Feeds; Monensin

AGENCY: Food and Drug Administration HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to correct an omission made at the time of approval of a supplemental new animal drug application (NADA) filed by Elanco Products Co. (March 26, 1990; 55 FR 11012). The supplemental NADA provides for continuous feeding Type C medicated feed containing monensin to growing turkeys. The approval should have provided for the use of a 60 gram-per-pound Type A medicated article in addition to the use of a 45 gram-per-pound Type A medicated article.

EFFECTIVE DATE: March 26, 1990.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6213.

SUPPLEMENTARY INFORMATION: In the Federal Register of March 28, 1990 (55 FR 11012), FDA published the approval of supplemental NADA 130-736 filed by Elanco Products Co., a division of Eli Lilly and Co., Lilly Corporate Center, Indianapolis, IN 46285. The supplement provides for the continuous feeding of monensin for treatment of coccidiosis in turkeys. The approval regulation provided for the use of 45 gram-per-pound monensin Type A medicated article for manufacture of the Type C medicated feed. Following publication, the firm pointed out that NADA 130-736 incorporated information from NADA 38-878 which also provided for the use of a 60 gram-per-pound monensin Type A medicated article and therefore, the published approval should have also provided for use of the 60-gram-per-pound Type A medicated article. Upon further review, the agency agrees, and therefore is publishing a correction.

The freedom of information summary and the environmental assessment which were made available at the time of the approval of the supplemental apply to both concentrations of the medicated article. Similarly, the 3 years of exclusive marketing which was granted effective March 28, 1990, applies to both concentrations of the medicated article.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

2. Section 558.355 is amended by revising paragraphs (b)(4), (b)(5), (b)(6), (b)(7), (b)(8), (b)(9), (b)(11), and (b)(12) to read as follows:

§ 558.355 Monensin.

* * * * *

(b) * * *

(4) To 000986: 45 and 60 grams per pound, as monensin sodium, paragraph (f)(2) of this section.

(5) To 000007: 45 and 60 grams per pound, as monensin sodium provided by No. 000986, paragraphs (f)(1)(xiii), (f)(1)(xx), and (f)(1)(xxi) of this section.

(6) To 000986: 45 and 60 grams per pound, as monensin sodium, paragraph (f)(5) of this section.

(7) To 000986: 20, 30, 45 and 60 grams per pound, as monensin sodium, paragraph (f)(3) of this section.

(8) To 010042: 45 and 60 grams per pound, as monensin sodium provided by No. 000986, paragraph (f)(1)(xiv) of this section.

(9) To 011716: 45 and 60 grams per pound, as monensin sodium provided by No. 000986, paragraphs (f)(1)(xv), (xvi), and (xvii) of this section.

* * * * *

(11) To 046573: 45 and 60 grams per pound, as monensin sodium provided by No. 000986, paragraphs (f)(1)(xviii), (xix), (xxiii), and (xxiv) of this section.

(12) To 000069: 45 and 60 grams per pound, as monensin sodium provided by No. 000986, paragraph (f)(1)(xxii) of this section.

* * * * *

Dated: October 3, 1990.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation Center for Veterinary Medicine.

[FR Doc. 90-25011 Filed 10-22-90; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8317]

RIN 1545-AP12

Minimum Funding Requirements—Plan Restoration

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations that add a new § 1.412(c)(1)-3T to the regulations governing the minimum funding requirements for qualified plans under section 412 of the Internal Revenue Code. The temporary regulation supplements the existing regulations by providing rules for the treatment of plans that are being or have been terminated pursuant to section 4041(c) or 4042 of and are restored to their sponsoring employers by order of the Pension Benefit Guaranty Corporation ("PBGC") pursuant to section 4047 of the Employee Retirement Income Security Act of 1974 ("ERISA"). The temporary regulation was developed simultaneously with a new regulation issued by the Pension Benefit Guaranty Corporation under section 4047 of ERISA.

These rules are needed because plan restoration raises unique issues under section 412 but the existing regulations do not provide guidance for the treatment of the funding standard account of a restored plan. The funding standard account of a plan that has been restored must be reestablished because the funding standard account of the plan will have been closed out at the time of termination and there will generally be a hiatus during which no contributions will have been made to the plan.

The text of the temporary regulations set forth in this document also serves as the text of the proposed regulations cross-referenced in the notice of proposed rulemaking published in the proposed rules portion of this issue of the Federal Register. These regulations will provide the public with guidance necessary to comply with the law. They will affect sponsors of and participants in tax-qualified retirement plans.

EFFECTIVE DATE: The regulations are effective October 23, 1990, and thus apply for the plan valuation for the first plan year beginning on or after the later of October 23, 1990, or the date of a PBGC restoration order applicable to the plan.

FOR FURTHER INFORMATION CONTACT: Michael J. Roach at telephone 202-566-6260 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document adds new § 1.412(c)(1)-3T to part 1 of title 26 of the Code of Federal Regulations. The document addresses the relationship between the funding requirements of section 412 of the Internal Revenue Code and the restoration provisions of section 4047 of the Employee Retirement Income Security Act of 1974 ("ERISA"). The relationship between the minimum funding requirements of section 412 and the restoration provisions of section 4047 of the Employee Retirement Income Security Act of 1974 ("ERISA") is one aspect of a long history of statutory interrelationship and coordination that has characterized the development of pension law in this area since the enactment of ERISA. The plan termination insurance program administered by the Pension Benefit Guaranty Corporation ("PBGC") for the protection of participants in defined benefit plans is one of the cornerstones of the congressional policy underlying ERISA. See H.R. Rep. No. 93-807, 93d Cong., 2d Sess., 13. The establishment of

a program of plan termination insurance is predicated on the existence of adequate minimum funding requirements to assure that employers will, in general, fund their pension obligations in a timely manner. During the legislative development of ERISA, Congress reviewed the minimum funding requirements of pre-ERISA law and found them inadequate because, *inter alia*, they did not require the sponsor of a qualified defined benefit plan to contribute sufficient amounts to amortize the principal amount of the unfunded past service liabilities of the plan. H.R. Rep. No. 93–807, 93d Cong., 2d Sess., 73–74.

Accordingly, as part of the overall reform of the pension laws in ERISA, Congress raised the minimum funding standards applicable to qualified plans and required plans to establish and maintain a funding standard account to protect plan participants and the plan termination insurance program. The charges and credits to the funding standard account are prescribed in section 412(b) of the Internal Revenue Code. Additional minimum funding provisions requiring employers to make deficit reduction contributions were added with the enactment of section 412(l) of the Internal Revenue Code as part of the Omnibus Budget Reconciliation Act of 1987 ("OBRA 1987"), Public Law No. 100–203. This additional funding requirement was adopted in substantial part to protect the plan termination insurance system administered by the PBGC from large claims resulting from the termination of underfunded plans. H.R. Rep. No. 100–391 (Vol. II), 100th Cong., 1st Sess., 984.

Section 4047 of ERISA authorizes the PBGC to restore a terminated pension plan to its sponsoring employer whenever the PBGC determines that this action is appropriate and consistent with its duties under title IV of ERISA. In any case in which the PBGC determines that a plan that is being terminated should be restored, it is authorized under section 4047 "to cease any activities undertaken to terminate the plan, and to take whatever action is necessary and within its power to restore the plan to its status prior to the determination that the plan was to be terminated." Similarly, in the case of a plan that has been terminated, the PBGC is authorized in any case in which it determines this action to be appropriate and consistent with its duties under title IV, "to take such action as may be necessary to restore the plan to its pretermination status, including, but not limited to, the transfer to the employer or a plan administrator of control of part or all of the remaining assets and liabilities of the plan."

The legislative history of section 4047 of ERISA demonstrates that Congress intended to confer broad authority on the PBGC to control the details of plan restorations. The purpose of section 4047 is explained as follows in the conference report to ERISA (H.R. Conf. Rep. No. 93–1280, 93d Cong., 2d Sess. 378–379:

Restoration of plans

Neither the House bill nor the Senate amendment had any specific provision that procedures against a plan in the termination phase might be abandoned by the corporation if the employer and plan enjoyed a favorable reversal of business trends, or if some other factor made termination no longer advisable.

Under the conference substitute, the corporation may cease any termination activities and do what it can to restore the plan to its former status. As a result, a terminated plan being operated by a trustee as a wasting trust may be restored if, during the period of its operation by the trustee, experience gains or increased funding make it sufficiently solvent. The corporation may, when appropriate, transfer to the employer or plan administrator part or all of the remaining assets and liabilities.

The United States Supreme Court recently upheld the broad authority of the PBGC to restore a pension plan in *PBGC* v. *LTV Corp.*, 110 S.Ct. 2668 [1990].

The restoration of a pension plan presents unique problems with respect to the application of the minimum funding standards of section 412 of the Internal Revenue Code because a restored plan is being or has been terminated and administered as a terminated plan during the time from the date of termination of the plan to the date of the restoration (or its implementation). During this interval, the funding standard account will have ceased to apply to the plan beginning with the plan year subsequent to the year in which the termination occurred. See Rev. Rule 79–237, 1979–2 C.B. 190. In addition, during the period between the dates of termination and restoration (or its implementation), Schedules B of Form 5500 will not have been completed by the plan actuary, nor will contributions have been made to the plan. When the PBGC acts to restore the plan, the funding standard account must be reestablished and thereafter the funding standard account must be maintained.

The restoration of the plan under section 4047 of ERISA has the effect of retroactively reinstating benefit accruals under the plan because the statute provides for restoration of the plan to its pre-termination status. Because the plan will have been underfunded upon plan termination and because the plan sponsor will ordinarily not have made any contributions to the plan while it was being administered as a terminated plan, the plan is likely to be even more underfunded on restoration. This underfunding will be significantly increased if the plan has been administered as a terminated plan for an extended period of time.

Congress has recognized that, in certain limited cases, the Secretary may by regulation adapt the standards of section 412 to the extent necessary to provide rules for a special group of plans. Thus, for example, Congress expressed its intent to provide flexibility in computing funding requirements for a collectively bargained plan if the collective bargaining agreement under which the plan was funded required the employers contributing to the plan to pay a fixed amount per unit of service or production and if the employers complied with their obligations under the agreement. H.R. Rep. No. 93–1280, 93d Cong., 2d Sess., 295. In order to provide a mechanism for computing the minimum funding requirements based on estimated units of service or production in the case of collectively bargained plans, the Secretary promulgated the shortfall method in § 1.412(c)(1)–2 of the Treasury Regulations. T.D. 7733, 1981–1 C.B. 234.

The rules in these temporary regulations apply to a plan that is being or has been terminated and restored by the PBGC and they provide a restoration method for funding the unfunded liability of the plan that is attributable to plan years prior to the later of the restoration or its implementation. Under this method, the required funding level for these liabilities is established by the PBGC in a restoration payment schedule order for a period that may be as long as 30 years after the beginning of the plan year in which the initial post-restoration valuation date falls.

Establishment of the restoration payment schedule by the PBGC is appropriate because the PBGC will normally have detailed knowledge of the financial condition of the plan sponsor (and its controlled group) of a restored plan, because the PBGC is directly at risk if restoration is ultimately unsuccessful and a restored plan must be re-terminated. It is also appropriate and essential to the effective administration of section 412 that the Secretary prescribe certain limits with respect to the restoration funding schedule in order to ensure that the schedule is consistent with and in

furtherance of the congressional purposes underlying section 412.

Explanation of Provisions

Appropriate provisions for the amortization of the large unfunded liability arising, in part, as a result of the lapse of time between the termination of a plan and the resumption of contributions to it are necessary to implement the PBGC's restoration authority. These regulations provide parameters within which the PBGC shall establish a restoration payment schedule consistent with the orderly restoration of the plan.

The regulations create a special funding method, known as the restoration method, which method adapts the underlying funding method used by the plan to the special circumstances that exist when a plan is restored. The restoration method is applicable only to plans that are being or have been terminated and are then restored by the PBGC. When the PBGC establishes a restoration payment schedule, the Executive Director of the PBGC must certify to the Corporation's Board of Directors, and to the Internal Revenue Service, that the Corporation has reviewed the funding of the plan, the financial condition of the plan sponsor and its controlled group members, the payments required under the restoration payment schedule (taking into account the availability of the deferrals permitted under the temporary regulations), and any other factor that the Corporation deems relevant, and, based on that review, determines that it is in the best interests of participants and beneficiaries of the plan and the pension insurance program that the restored plan not be reterminated.

A plan that is being or has been terminated and restored, must use the restoration method until the initial restoration amortization base has been fully amortized. Use of the restoration method is permitted without securing prior approval from the Commissioner.

For purposes of applying the restoration method, § 1.412(c)(1)–3T(b) of the regulations creates a special amortization base, known as the initial restoration amortization base, consisting of the unfunded liability of the plan as of the valuation for the plan year in which the initial post restoration valuation date falls, based upon the assets and liabilities restored by the PBGC. This initial restoration amortization base must be amortized over not more than 30 years. During this period, the plan sponsor and any controlled group members must contribute an amount sufficient to satisfy the requirements of section 412 taking into account the plan restoration provisions of this regulation § 1.412(c)(1)–3T. At the end of the period established by the restoration payment schedule, the plan is required to comply with the minimum funding requirements of section 412 of the Internal Revenue Code in the same manner as a plan that had never been terminated and restored.

The PBGC must issue a restoration payment schedule order using the initial restoration amortization base. The factors that the PBGC may consider in prescribing a restoration payment schedule to amortize the initial restoration amortization base include but are not limited to the following: (1) The need for the plan to make an orderly transition from terminated status to ongoing status as a restored plan, and (2) the need for the plan sponsor and its controlled group members to have sufficient time to fund the accrued liabilities of the plan arising from prerestoration service, (3) the interests of plan participants and beneficiaries, (4) the financial condition of the plan, (5) the financial condition of the plan sponsor and its controlled group members, (6) changes in the law affecting the funding requirements applicable to the restored plan, (7) the length of time between the date the plan was terminated and the date of a PBGC restoration order, its implementation, or the restoration payment schedule order, (8) the grounds for the restoration, (9) the risk to the PBGC's plan termination insurance program, and (10) the pre-termination funding history of the plan.

The restoration payment schedule must provide that at the end of no more than 30 years, the entire amount of the initial restoration amortization base will have been amortized. Unlike the amortization bases described in section 412(b) of the Internal Revenue Code, however, the amortization charges need not be in level annual amounts. Nevertheless, at all times the present value of the future amortization charges under the restoration payment schedule must equal the outstanding balance of the initial restoration amortization base and the schedule must provide that at the end of no more than 30 years the entire amount of the initial restoration amortization base will have been fully amortized.

In addition, any restoration payment schedule established pursuant to these regulations must meet certain minimum annual payments and must satisfy certain interim amortization requirements. Under these regulations, the restoration payment schedule must provide for sufficient periodic charges so that the outstanding balance of the initial restoration amortization base at the end of the tenth plan year and at the end of the twentieth plan year of the restoration payment period will not be larger than the outstanding balances that would have remained at the end of the tenth plan year and at the end of the twentieth plan year, respectively, if the initial restoration amortization base had been amortized in level amounts over the restoration payment period. In addition, during each 10-year interval, the restoration payment schedule must require payments that are sufficient to prevent the outstanding balance of the initial restoration amortization base from exceeding the balance at the beginning of the interval.

As is the case with other bases used to amortize unfunded costs of a plan, the charges required under the restoration payment schedule prescribed by the PBGC are charged to the funding standard account of the plan in the year each payment is due. In the event that the plan sponsor or its controlled group members makes contributions in excess of those required, the resulting credit balances will be available to satisfy the charges in subsequent plan years.

The outstanding balance of the initial restoration amortization base must be calculated each year in conformity with the usual actuarial practice applicable to other amortization bases established under section 412(b) of the Internal Revenue Code. In determining the outstanding balance of this base, however, the calculation must be based upon the charges under the restoration payment schedule. Under the regulations, the Pension Benefit Guaranty Corporation may grant a deferral of the payment required under the restoration payment schedule for a particular year, under the conditions and in the manner provided in the regulations.

The normal operation of the funding standard account, and the other provisions of section 412 and the regulations thereunder, are unchanged except as provided in this plan restoration regulation § 1.412(c)(1)–3T. If the actuarial assumptions and methods used in calculating the assets and liabilities of the plan are changed consistent with requirements of section 412(c)(3), and if the change results in a net change to the scheduled payments required to amortize the outstanding balance of the initial restoration amortization base over the remaining years of the restoration payment schedule, the plan must notify the PBGC of the changes so that the PBGC can make any necessary changes to the restoration payment schedule.

When a plan is under the restoration method, the deficit reduction

contribution under section 412(l)(2) of the Internal Revenue Code is composed of the unfunded section 412(l) restoration liability amount plus the unfunded new liability amount. The unfunded section 412(l) restoration liability amount is the amount necessary to amortize the section 412(l) restoration liability in annual installments, not necessarily level, as prescribed by the PBGC over a period of not more than 30 years. During the first 10 years after the initial postrestoration valuation date, the computation of the unfunded section 412(l) restoration liability amount must be made at the valuation interest rate, if that rate is lower than the current liability interest rate determined under section 412(b)(5)(B).

The difference between the unfunded section 412(l) restoration liability amount computed at the current liability rate and the unfunded section 412(l) restoration liability amount computed at the valuation rate must be accumulated during the first 10 years with interest at the current liability rate. This accumulated balance must be charged to the funding standard account of the plan at the end of the tenth plan year, but the PBGC may spread the charging of this amount over the eleventh through the fifteenth plan years, by an appropriate order. This rule is designed to give the PBGC a sufficient amount of flexibility in developing an amortization payment schedule under section 412(l) to enable the employer to meet its funding obligations to the restored plan during the years immediately after the restoration. The unfunded new liability amount is the applicable percentage, as determined under section 412(l)(4)(C), of the difference between the unfunded current liability of the plan and the outstanding balance of the section 412(l) restoration liability of the plan. The section 412(b) restoration payment for each year shall be offset against the deficit reduction contribution for that year, along with any other applicable offset amounts, as provided in section 412 (l)(1)(A)(ii).

When the plan uses a funding method that does not maintain an unfunded liability, *e.g.* the aggregate method, the plan must change to a method that does maintain an unfunded liability. A plan may adopt any acceptable method, i.e. any method that maintains an unfunded liability, subject to the procedures established in Rev. Proc. 85–29, 1985–1 C.B. 561, as extended by Notice 90–63 (October 22, 1990), I.R.B. 43.

The PBGC retains the authority to modify the restoration payment schedule at any time during the period of up to 30 years that the schedule is effective. Any modification must, however, comply with the requirements of the regulation, including the minimum payment requirements and the requirement that the 30-year period not be extended. In addition, the PBGC may conduct a funding review of the plan at any time it deems appropriate. The purpose of a funding review is to determine the progress that the plan is making toward the establishment of an adequate level of funding, to make appropriate adjustments in the restoration payment schedule, and to assure an orderly transition when the restoration method ceases to apply. As part of the annual funding review, the Executive Director of the PBGC must certify to the Corporation's Board of Directors, and to the Internal Revenue Service, that the Corporation has reviewed the funding of the plan, the financial condition of the plan sponsor and its controlled group members, the payments required under the restoration payment schedule (taking into account the availability of the deferrals allowed under the temporary regulations), and any other factor that the Corporation deems relevant, and, based on that review, determines that it is in the best interests of participants and beneficiaries of the plan and the pension insurance program that the restored plan not be terminated.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impractical to issue this Treasury decision with notice and public procedure under subsection (b) or section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

Effect on Other Laws

Pursuant to the Reorganization Plan No. 4 of 1978, satisfaction of the restoration method requirements set forth in these regulations will be treated as satisfaction of the minimum funding requirements under section 302 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (ERISA). Failure to make a required payment under the restoration method may be treated by the Secretary of Labor as a failure to meet the minimum funding standard under ERISA section 302 for purposes of the notice required under ERISA section 101(d).

Special Analyses

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and therefore, a Regulatory Flexibility Analysis is not required.

Drafting Information

The principal author of these temporary regulations is Michael J. Roach of the Office of Assistant Chief Counsel (Employee Benefits and Exempt Organizations), Internal Revenue Service. However, other personnel from the Service and the Treasury Department participated in developing the regulations, on matters of both substance and style.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—[AMENDED]

Paragraph 1. The authority citation for part 1 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805, * * *.

Par. 2. The following new section is added to part 1 in the appropriate place to read as follows:

§ 1.412(c)(1)–3T. Applying the minimum funding requirements to restored plans (Temporary).

(a) *In general*—(1) *Restoration method.* The restoration method is a funding method that adapts the underlying funding method of section 412 in the case of certain plans that are or have been terminated and are later restored by the Pension Benefit Guaranty Corporation. The normal operation of the funding standard account, and all other provisions of section 412 and the regulations thereunder, are unchanged except as provided in this § 1.412(c)(1)–3T. Under the restoration method, the Pension Benefit Guaranty Corporation shall determine a restoration payment schedule, extending over no more than 30 years, that replaces all charges and credits to the funding standard account attributable to pre-restoration amortization bases. The restoration payment schedule is determined on the basis of an actuarial valuation of the accrued liability of the plan on the initial post-restoration valuation date less the actuarial value of the plan assets on that date. The initial post-restoration valuation date is the date of the first valuation that falls in the first plan year beginning on or after the later

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of October 23, 1990, or the date of the restoration order.

(2) *Applicability of restoration method.* A plan must use the restoration method if, and only if:

(i) The plan is being or has been terminated pursuant to section 4041(c) or section 4042 of the Employee Retirement Income Security Act of 1974 [ERISA], and

(ii) The plan has been restored by the Pension Benefit Guaranty Corporation pursuant to its authority under section 4047 of ERISA.

(b) *Computation and effect of the initial restoration amortization base*—(1) *In general.* The initial restoration amortization base is determined under the underlying funding method used by the plan. When the plan uses a spread gain funding method that does not maintain an unfunded liability, the plan must change either to an immediate gain method that directly calculates an accrued liability or to a spread gain method that maintains an unfunded liability. A plan may adopt any cost method that satisfies this requirement and that is acceptable under section 412 and the regulations thereunder, provided that the plan follows the procedures established by the Commissioner for changes in funding methods. The initial restoration amortization base is determined using the valuation for the plan year in which the initial post-restoration valuation date falls. The initial restoration amortization base equals the accrued liability with respect to plan benefit liabilities returned by the Pension Benefit Guaranty Corporation less the value of the plan assets returned by the Pension Benefit Guaranty Corporation. The initial restoration amortization base replaces all prior amortization bases including those under subparagraphs (B), (C), and (D) of section 412(b)(2) and under subparagraph (B) of section 412(b)(3). Any base resulting from a change in funding method is treated as a prior amortization base within the meaning of this paragraph (b). Any accumulated funding deficiency or credit balance in the funding standard account is set equal to zero when the initial restoration amortization base is established.

(2) *Example.* A pension plan uses the calendar year as its plan year, makes its annual periodic valuation as of January 1, and uses the unit credit actuarial cost method for funding purposes. The plan is in the process of being terminated. By order of the Pension Benefit Guaranty Corporation the plan is restored as of July 1, 1991, and a restoration payment schedule order issued on October 31, 1992. The initial post-restoration valuation date is January 1, 1993. If, as of that date, the accrued liability of the plan is $1,000,000 and the value of the plan assets is $200,000, the initial restoration amortization base is $800,000.

(c) *Establishment of a restoration payment schedule*—(1) *Certification requirement.* When the PBGC establishes a restoration payment schedule, the Executive Director of the PBGC must certify to the Corporation's Board of Directors, and to the Internal Revenue Service, that the Corporation has reviewed the funding of the plan, the financial condition of the plan sponsor and its controlled group members, the payments required under the restoration payment schedule (taking into account the availability of deferrals authorized under paragraph (c)(4) of this section), and any other factor that the Corporation deems relevant, and, based on that review, determines that it is in the best interests of participants and beneficiaries of the plan and the pension insurance program that the restored plan not be reterminated.

(2) *Requirements for restoration payment schedule*—(i) *Amortization of base over period of no more than 30 years.* The restoration payment schedule must be prescribed in an order requiring the employer to make stated contributions to the plan sufficient to amortize the initial restoration amortization base over a period extending not more than 30 years after the initial post-restoration valuation date (the restoration payment period). The restoration payment schedule must be sufficient to amortize the entire amount of the initial restoration amortization base by the end of the restoration payment period. The scheduled charges need not be in level amounts, but the present value of the prescribed charges on the initial post-restoration valuation date, computed with interest at the valuation rate, must equal the initial restoration amortization base.

(ii) *Minimum annual charge.* The restoration payment schedule must require annual charges that are sufficient to prevent the outstanding balance of the initial restoration amortization base from exceeding whichever of the following amounts is applicable:

(A) During the first 10 plan years on the restoration payment schedule, the amount of the initial restoration amortization base on the date the base was established, or

(B) During plan years 11 through 20 on the restoration payment schedule, the maximum permitted outstanding balance of the initial restoration amortization base at the end of the tenth plan year, as calculated under paragraph (c)(2)(iii) below, or

(C) During plan years 21 through the end of the restoration payment schedule, the maximum permitted outstanding balance of the initial restoration amortization base at the end of the twentieth plan year, as calculated under paragraph (c)(2)(iii) below.

(iii) *Interim amortization requirements.* The restoration payment schedule must provide for sufficient periodic charges so that the outstanding balance of the initial restoration amortization base at the end of the tenth plan year and at the end of the twentieth plan year of the restoration payment period will not be larger than the outstanding balance that would have remained at the end of the tenth plan year and at the end of the twentieth plan year, respectively, if the initial restoration amortization base had been amortized in level amounts over the restoration payment period at the valuation rate.

(3) *Amendments to the restoration payment schedule.* The order establishing the restoration payment schedule may be amended by the Pension Benefit Guaranty Corporation from time to time with respect to any remaining payments, provided that no amendment may extend the restoration payment period beyond 30 years from the initial post-restoration valuation date, and provided further that the restoration payment schedule, as amended, satisfies the requirements of paragraph (c)(2) of this section.

(4) *Deferral of minimum scheduled annual payment amounts*—(i) *Authority to grant deferral.* Not later than 2½ months following the end of the plan year, the Pension Benefit Guaranty Corporation may grant a deferral of the charges required in the restoration payment schedule for that plan year if the requirements in paragraph (c)(4)(ii) of this section are satisfied. The Pension Benefit Guaranty Corporation may require the plan sponsor and its controlled group members to provide security to the plan as a condition to granting a deferral.

(ii) *Determination of business hardship.* Before granting a deferral under this paragraph (c)(4), the Pension Benefit Guaranty Corporation must make a determination that the granting of the deferral is in the best interests of plan participants and the plan termination insurance system, and that the plan sponsor and its controlled group members are unable to make the scheduled restoration payments without experiencing temporary substantial business hardship. In making these

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determinations, the factors the Pension Benefit Guaranty Corporation shall consider, include, but are not limited to, the following:

(A) Whether the plan sponsor and its controlled group members are operating at an economic loss,

(B) Whether there is substantial unemployment or underemployment in the trades or businesses of the plan sponsor and its controlled group members,

(C) Whether the sales and profits of the industry or industries are depressed or declining, and

(D) Whether it is reasonable to expect that the plan termination insurance system will suffer a greater loss if the plan is terminated than if it is continued as a restored plan.

(iii) *Amount of deferral.* The amount of the deferral for any particular plan year may not exceed the lesser of the amount that would have been required to be contributed under the restoration payment schedule for that year or interest on the outstanding balance of the initial restoration amortization base for that year. An amortization payment for a deferral granted for a prior plan year may not be deferred. No deferral may extend the overall restoration payment period beyond 30 years.

(iv) *Modification of payment schedule.* The restoration payment schedule must be adjusted to reflect any deferral granted for a plan year in the manner prescribed in this paragraph (c). The charge otherwise specified in the schedule is reduced by the amount of any deferral. The charges under the restoration payment schedule for the subsequent plan years are increased by the amounts in paragraph (c)(4)(v) of this section.

(v) *Amortization of deferred amount.* The amount of any deferral granted by the Pension Benefit Guaranty Corporation for any plan year must be amortized in level amounts over five years or such shorter period as may be prescribed by the Pension Benefit Guaranty Corporation, at the valuation rate, beginning with the plan year following the year of the deferral.

(vi) *Number of deferrals permitted.* The Pension Benefit Guaranty Corporation may not grant more than five deferrals of the minimum scheduled payments as required by this section during the restoration payment period and no more than three of these deferrals may be granted during the first ten years of that period.

(d) *Charging the scheduled restoration charges to the funding standard account.* In addition to any other charges and credits prescribed in the normal operation of the funding standard account under section 412, the amount of each charge specified in the restoration payment schedule shall be charged against the funding standard account of the plan for the plan year to which that payment is attributed in the restoration payment schedule.

(e) *Changes in actuarial assumptions.* If changes in actuarial assumptions increase or decrease the charges that would be required to amortize the outstanding balance of the initial restoration amortization base over the remaining years of the restoration payment schedule, the plan must notify the Pension Benefit Guaranty Corporation of the changes so that it may make appropriate changes to the restoration payment schedule.

(f) *Change to restoration method.* A plan that has been restored must use the restoration method until the initial restoration amortization base has been fully amortized. The use of this method does not require prior approval from the Commissioner. A plan using the restoration method must compute the charges and credits to the initial restoration amortization base in accordance with the order of the Pension Benefit Guaranty Corporation and in accordance with this section.

(g) *Deficit reduction contribution*—(1) *Calculation of deficit reduction contribution.* For any plan using the restoration method, the deficit reduction contribution under section 412(l)(2) is equal to the sum of—

(i) the unfunded section 412(l) restoration liability amount, plus

(ii) the unfunded new liability amount.

(2) *Unfunded section 412(l) restoration liability amount.* The unfunded section 412(l) restoration liability amount is the amount necessary to amortize fully the unfunded section 412(l) restoration liability in installments, as prescribed by the Pension Benefit Guaranty Corporation, over not more than 30 years. The annual amount need not be level, but at all times the present value of the future amortization charges under the restoration payment schedule, at the current liability interest rate, must equal the outstanding balance of the unfunded section 412(l) restoration liability and the schedule must provide that at the end of no more than 30 years the entire amount of the unfunded section 412(l) restoration liability base will have been fully amortized. The schedule prescribed for amortization of the unfunded section 412(l) restoration liability must comply with the requirements imposed in paragraph (c) of this section on the restoration payment schedule, except as provided in paragraph (g)(7) of this section and except that the maximum permitted outstanding balance of the unfunded section 412(l) restoration liability at the end of the tenth plan year must not be greater than the outstanding balance of the section 412(l) restoration liability that would have remained at the end of the tenth plan year if the unfunded section 412(l) restoration liability had been amortized in level amounts over the restoration payment period at the current liability interest rate, increased by the current liability interest rate differential as defined under paragraph (g)(7) of this section. The Pension Benefit Guaranty Corporation may amend the amortization schedule for the unfunded section 412(l) restoration liability subject to the limits on amendments to the amortization schedule prescribed for the initial restoration amortization base.

(3) *Establishment of unfunded section 412(l) restoration liability.* In the plan year in which the initial post-restoration valuation date falls, the unfunded section 412(l) restoration liability is equal to the unfunded current liability of the plan.

(4) *Unfunded new liability amount.* In the case of a plan using the restoration method, the unfunded new liability amount is the applicable percentage, as defined in section 412(l)(4)(C), of the unfunded new liability determined under paragraph (g)(5) of this section.

(5) *Unfunded new liability.* The unfunded new liability of a plan using the restoration method is the unfunded current liability of the plan for the plan year less the outstanding balance of the unfunded section 412(l) restoration liability determined under paragraph (g)(3) of this section and less any unpredictable contingent event benefit liabilities (without regard to whether or not the event has occurred).

(6) *Offset of amortization charges.* The charges specified in the restoration payment schedule to amortize the initial restoration amortization base, must be offset against the deficit reduction contribution in paragraph (g)(1) of this section along with any other applicable amounts provided in section 412(l)(1)(A)(ii).

(7) *Interest rate differential.* During the first 10 plan years after the initial post-restoration valuation date, the unfunded section 412(l) restoration liability amount for the plan as determined for purposes of this section must be sufficient to prevent the outstanding balance of the unfunded section 412(l) restoration liability from exceeding the initial amount of the unfunded section 412(l) restoration liability increased by the current liability interest rate differential. The current liability interest rate differential

at any point during the first ten years of the restoration payment period is the excess if any of the accumulated interest on the unfunded section 412(l) restoration liability amount computed at the current liability interest rate over the accumulated interest on the unfunded section 412(l) restoration liability amount computed at the current liability interest rate for the plan year in which the initial post restoration valuation date falls. The current liability interest rate differential is charged to the funding standard account at the end of the tenth plan year, but the Pension Benefit Guaranty Corporation may, as part of the restoration payment schedule order, or a modification to that order, direct that the charging of this amount must be spread over not more than 5 years, beginning with the eleventh plan year.

(h) *Election of the alternative minimum funding standard.* A plan using the restoration method may not elect the alternative minimum funding standard under section 412(g).

(i) *Funding review by the Pension Benefit Guaranty Corporation.* The Pension Benefit Guaranty Corporation must review the funding of any plan using the restoration method at least once in each plan year. As a result of a funding review, the Pension Benefit Guaranty Corporation may amend the restoration payment schedule as provided in paragraph (c)(3) of this section. As part of the funding review, the Executive Director of the PBGC must certify to the Corporation's Board of Directors, and to the Internal Revenue Service, that the Corporation has reviewed the funding of the plan, the financial condition of the plan sponsor and its controlled group members, the payments required under the restoration payment schedule (taking into account the availability of deferrals authorized under paragraph (c)(4) of this section), and any other factor that the Corporation deems relevant, and, based on that review, determines that it is in the best interests of participants and beneficiaries of the plan and the pension insurance program that the restored plan not be terminated.

Fred T. Goldberg, Jr.,
Commissioner of Internal Revenue.

Approved: October 15, 1990.

Kenneth W. Gideon,
Assistant Secretary of the Treasury.

[FR Doc. 90-24831 Filed 10-22-90; 8:45 am]
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Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 4

[T.D. ATF-298; Ref.: Notice No. 699]

Standards of Fill for Wine; New 500 Milliliter Size (90F-324F)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: ATF is amending the "standards of fill" regulations to authorize a new bottle size for wine. This will permit wine to be bottled, removed from bond or customs custody, and entered into interstate commerce in containers of 500 milliliters (ml). Formerly, ATF regulations allowed the 500 ml size only for exports and intrastate commerce, but not for interstate commerce. Authorization of this size in interstate commerce will enable the wine industry to respond to consumer demand for an intermediate size between 375 ml and 750 ml.

EFFECTIVE DATE: February 28, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Steve Simon, Revenue Programs Division, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW., Washington, DC 20226; (202) 566-7531.

SUPPLEMENTARY INFORMATION:

Background

ATF regulations in 27 CFR 4.73 provide metric standards of fill for wine. Including the new 500 ml size, the following standards of fill will be provided: 50 ml, 100 ml, 187 ml, 375 ml, 500 ml, 750 ml, 1 liter, 1.5 liters, and 3 liters. Sizes larger than 3 liters are permitted if they are in even-liter quantities (4 liters, 5 liters, 6 liters, etc.). Containers of 18 liters or more are not subject to the standards of fill, but the net contents of such containers must be stated in accordance with 27 CFR 4.37. The standards of fill apply to imported and domestic wine in interstate commerce, but they do not apply to exported wine, or to wine for sale only within a single State (intrastate commerce) pursuant to a certificate of exemption.

Metric standards of fill for wine were first prescribed by Treasury Decision (T.D.) ATF-12 (39 FR 45210, Dec. 31, 1974; corrected at 40 FR 1240, Jan. 7, 1975). The metric standards became mandatory on January 1, 1979. Previous regulations had prescribed 16 different sizes for domestic products (including the 15/16 quart size for aperitif wines) and had exempted imports from all size restrictions. In consequence, there was an excessive proliferation of sizes. This was found to be confusing to consumers. One of the purposes of T.D. ATF-12 was to alleviate this confusion.

In accordance with that purpose, ATF has generally denied requests to add new standards of fill, except where there was a strong showing of need. Several previous requests to add a 500 ml wine size were denied. Nevertheless, on two occasions, the standards of fill for wine were amended to allow additional sizes. T.D. ATF-40 (43 FR 19340, May 9, 1978) allowed even-liter sizes larger than 3 liters and exempted containers of 18 liters or more from the standards of fill. T.D. ATF-76 (46 FR 1725, Jan. 7, 1981) added the 50 ml miniature size, which is used primarily for single servings of dessert wine.

Petition for 500-ml Wine Bottle

Under 27 CFR 71.41(c), any interested person may petition ATF for the issuance, amendment, or repeal of a regulation. The petition must give cogent reasons for the proposed action.

On March 27, 1989, a petition was received from Mr. George Vierra, general partner of Merlion Winery, requesting the establishment of a new 500 ml standard of fill for wine. With the petition, there were supporting statements from 52 wineries and 14 distributors. Subsequently, Mr. Vierra submitted 20 additional supporting statements from persons representing 10 wineries and at least 4 distributors.

Further support for Mr. Vierra's proposal was forthcoming from other sources. About 40 persons—mostly consumers—wrote on their own to express support, and several newspapers and magazines published articles in favor of the proposal.

This demonstration of support indicated that there was significant interest in the use of a 500 ml wine bottle. Therefore, on April 4, 1990, ATF published a notice of proposed rulemaking in the Federal Register (Notice No. 699, 55 FR 12522), which proposed the addition of a 500 ml standard of fill.

Public Comments

Notice No. 699 requested comments from all interested persons concerning the proposed amendment. In response, 280 comments were filed during the comment period. Of this total, only three were opposed to the proposal. The rest were in favor. After the close of the comment period, but not too late for consideration, seven more comments

were received, of which six were in favor and one was opposed.

Those commenters favoring the proposal consisted of 229 consumers, 38 wineries and vineyards, 9 retailers and wholesalers, and 7 others (including 1 bottle manufacturer). The great majority of the comments favoring the proposal were "form letters," sent from many parts of the U.S., reading as follows:

> This letter gives full support to approval of Notice No. 699. The ATF regulation 27 CFR 4.73 should be changed to allow a 500-ml bottle be permitted (sic) in interstate commerce by the BATF. Please expedite this final rule change.

A substantial minority (more than 60) of the comments stated specific reasons, written by the commenters, to explain their support for the proposal. The most common reason (stated by 14 consumers, 7 wineries, 3 U.S. distributors, and 1 foreign exporter) was that a 500 ml bottle would be more appropriate than any currently authorized size for two people to enjoy with a meal. Some of these commenters (eight consumers, one winery, one retailer, and one importer) specifically mentioned the appropriateness of this size in a restaurant setting. A related reason, emphasized by 13 consumers, 6 wineries, 4 distributors, and the foreign exporter, was that the 500 ml size would promote moderation and hence reduce the hazard of "driving while intoxicated." An article by Dan Berger of the Los Angeles Times, submitted by one of the commenters, is instructive in this regard. Mr. Berger wrote:

> California law states that if you are found to have a blood alcohol level of .08 percent, you are considered legally drunk. And the state says if you consume three four-ounce glasses of wine in an hour (length of a standard dinner), you will exceed .08 blood level.

Considering that a 750 ml bottle contains 25.4 ounces, Mr. Berger concluded that drinking half of a 750 ml bottle of wine with dinner "may cause some people to be considered 'legally' drunk."

Another important rationale, advocated by seven consumers, four wineries, an importer, a columnist, and a bottle manufacturer, was that consumers and producers should have freedom of choice to market or purchase the 500 ml size as an additional option. One consumer pressed this argument to the extreme, advocating the elimination of all standards of fill. However, the comments received by ATF in response to Notice No. 683 (52 FR 23665) demonstrate that the overwhelming majority of wine consumers want specific standards of fill. Therefore, in Notice No. 699 (55 FR 3980) the option of eliminating standards of fill was rejected.

Numerous other reasons were cited by commenters in favor of the 500 ml bottle. These included:

—U.S. exporters' markets would be enhanced.
—Limited-production wines could be distributed to 50% more consumers (as compared with the 750 ml bottle).
—Very expensive wines could be offered in a more affordable size.
—Distinctive marketing and bottle appearance would prevent confusion with other sizes.
—The 500 ml size would be appropriate for Americans (who drink less wine than Europeans), and especially for some younger consumers, who are thought to "drink less and drink better."
—Faster aging in the 500 ml bottle than in the 750 ml means that some wines would be ready for consumption sooner.
—Less contact with air would give wines in 500 ml bottles better aging potential, as compared with the 375 ml size.
—For consumers, wine in 375 ml bottles is very expensive on a per-ounce basis.
—For retailers, a smaller investment per case (versus the 750 ml size) would mean more profits and the ability to offer more variety.
—In restaurants, a party of four could buy one 500 ml bottle to share with the appetizer and another, containing a different wine, to enhance the main course.
—Some rare European wines are produced only in the 500 ml size; the new standard of fill would give American consumer access to these wines.

Comments in Opposition

During the comment period, three wine producers submitted comments in opposition to the proposal. They were Joseph E. Seagram & Sons, Inc., Heublein, Inc., and the Clos du Val Wine Company Ltd. They pointed out certain negative impacts of the proposal for producers, distributors, consumers, and the Government. For producers, the main concern was the added expense needed to establish new bottling lines and to handle, warehouse, account for, and advertise the new size. For distributors, the negative impacts foreseen included confusion (as to which size to order or recommend to customers), lack of storage and display space, and advertising expenses. For consumers, the anticipated problems included confusion, lack of demand for a new size, and price increases, resulting in loss of confidence and a bad image for the wine industry. Negative impacts expected for the Government would be the need to spend additional time auditing inventory records, and declining tax revenues if total wine sales should diminish.

After considering these comments, ATF feels that the reasons in favor of the 500 ml size outweigh those adduced against it. ATF has determined that the disadvantages to the Government will be slight or nonexistent. Further, the disadvantages to distributors and consumers, which the opposition commenters anticipated, do not seem to be of great concern to persons actually in those categories, to judge from the comments received in support of the proposal. Finally, the disadvantages to producers did not deter a large number of other wineries from supporting the proposal. Those other wineries apparently felt that the advantages of the proposal would sufficiently offset any disadvantages. ATF notes that the use of the 500 ml bottle size will be at the election of the proprietor.

After the close of the comment period, another comment opposing the proposal was received. This comment, from a wine importer, urged ATF to reject the proposal for the reasons we had cited in our earlier decisions eliminating the 500 ml distilled spirits size and rejecting previous petitions for a 500 ml wine size.

However, as noted in Notice No. 699, there are differences between wine and distilled spirits that support different regulatory treatment. Wine deteriorates more rapidly in an opened bottle, which means that consumers have a greater need to be able to purchase a size that exactly meets their requirements for immediate consumption. Further, distilled spirits bottles come in a greater variety of shapes, which increases the potential for confusion between similar sizes. By contrast, wine bottles generally appear in just a few standard shapes, thus facilitating size comparison. One of the comments supporting the new size included a photograph of a 500 ml wine bottle flanked by a 375 ml bottle and a 750 ml bottle. Each size is readily distinguishable. Therefore, ATF has determined that the reasons for eliminating the 500 ml distilled spirits size are not applicable to wine.

In the denials of previous requests for a 500 ml wine bottle, five reasons were cited, which were: (1) There was no apparent need for this size, since it is fairly close to the authorized 375 ml size. (2) There seemed to be a possibility of consumer deception, due to similarity

with the 375 ml bottle. (3) The standards of fill for wine are generally based on the 750 ml size (most other sizes are even fractions or multiples of this basic size to facilitate easy comparison); a 500 ml size would not fit into this pattern. (4) There was no evidence of significant demand for a 500 ml size. (5) ATF opposed any tendency to return to the "size proliferation" that preceded the establishment of metric standards of fill.

After carefully reviewing the evidence submitted in this rulemaking process, ATF has concluded that these reasons should not be followed. With respect to the first reason, evidence was received concerning the deterioration of wine in opened bottles, the dining habits of couples who consume wine with a meal, and the alcohol level required for legal intoxication. This evidence indicates that there is, in fact, a need for the 500 ml wine bottle. The premise of the second reason (that a 500 ml bottle could be easily confused with other authorized sizes) was denied by the majority of those who addressed this issue. ATF is now persuaded that, in the context of the wine industry, there is no significant danger of consumer confusion. With respect to the third reason, although the 500 ml size is not a multiple of 750 ml, it is exactly half the size of the 1 liter bottle and is also an even multiple or fraction of the 50 ml, 100 ml, 1.5 liter, and 3 liter sizes. As for the fourth reason, the large volume of comments favoring the proposal indicates that there is consumer demand for the 500 ml size. Finally, while ATF remains opposed to "size proliferation," the addition of merely one size will not greatly alter the present situation, and there are many good reasons for allowing this limited expansion.

In conclusion, there appears to be significant demand for a 500 ml size, and the arguments against it have been sufficiently rebutted. Therefore, ATF is prescribing this new size.

Effective Date

The Jordan Winery, while supporting the 500 ml size, requested that the effective date of the change be delayed by one year, so that the American wine industry would have adequate time to prepare. The commenter stated, "European producers already have access to the 500 ml glass bottles and could jump into the U.S. market ahead of our own wine producers if we are not protected by a delayed date of activation."

ATF acknowledges that an adequate lead-in time is appropriate. On the other hand, we question whether a full year is needed for this. No other winery raised this issue, and 2K Packaging Enterprises, Inc., (a wine bottle supplier) stated in its comment: "Such a move (i.e. authorizing the 500 ml bottle) would not pose any particular difficulties from a packaging point of view.

Wineries now bottling the 375 ml and 750 ml bottles would not be confronted with any technical problems should they decide to add the 500 ml bottle to (their) program."

Further, other interests besides those of the wineries must be taken into account. American consumers, importers, and retailers would likely favor an immediate effective date. The form letter submitted by so many consumers stated, "Please expedite this rule change."

In T.D. ATF-146 (48 FR 43319), which authorized the 100 ml and 375 ml sizes for distilled spirits, a delay of approximately 3½ months was provided to "permit industry to make the necessary preparations to bottle and market the new sizes." That delay appears to have been adequate. Accordingly, this Treasury decision will become effective 120 days after the date of publication in the **Federal Register**. The effective date is February 20, 1991.

This effective date means that wine bottled in the 500 ml size shall not be entered into interstate commerce until February 20, 1991. However, this will not preclude an American bottler from bottling wine in the 500 ml size for storage on the premises of the bottling facility, prior to February 20, 1991. Further, any American importer may order shipments in this size and hold them in a Customs bonded warehouse until February 20, 1991. Of course, under 27 CFR 4.50, American bottlers must have certificates of label approval prior to bottling. Although certificates of label approval may be issued for 500 ml containers before February 20, 1991, such bottles shall not be removed from the bottling facility or from customs custody prior to that date. Importers and American bottlers are reminded that previously approved labels may be used on 500 ml bottles without resubmission if the only change is in the net contents.

Effect on Other Sizes

In Notice No. 694, AFT specifically requested comments on the impact of the 500 ml bottle on other authorized sizes. Few comments were received on this issue. One winery (Sutter Home) stated that they anticipated no effect on the 187 ml size. Jordan Winery indicated that 750 ml will remain the most important size, but that the 500 ml size will probably replace the 375 ml size, at least for many products. Jos. E. Seagram & Sons, however, noted that the 375 ml size is "well accepted and appreciated by consumers" and requested that neither this size nor the 187 ml size be eliminated. Accordingly, ATF has no plans at this time to consider eliminating any approved wine bottle sizes.

Other Suggestions

Some commenters included suggestions for additional regulatory changes. One proposed that the 500 ml size be allowed only for wines (such as Hungarian Tokay) that have traditionally been sold only in this size. However, this suggestion would not be fair to producers of other kinds of wine who might want to begin using the 500 ml size. Another commenter proposed that ATF allow the 500 ml size only in returnable bottles. However, ATF does not have legal authority to impose such a requirement.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory analysis (5 U.S.C. 603, 604) are not applicable to this final rule, because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this final rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291 of February 17, 1981, ATF has determined that this final rule is not a major rule since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Public Law 96-511, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part

1320, do not apply to this final rule because no requirement to collect information is imposed.

Drafting Information

The principal author of this document is Steve Simon of the Revenue Programs Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 4

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and containers, Wine.

Issuance

Accordingly, 27 CFR part 4 is amended as follows:

PART 4—LABELING AND ADVERTISING OF WINE

Paragraph A. The authority citation for part 4 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. B. Section 4.37(b)(1) is revised to read as follows:

§ 4.37 Net contents.

* * * * *

(b) * * *

(1) For the metric standards of fill: 3 liters (101 fl. oz.); 1.5 liters (50.7 fl. oz.); 1 liter (33.8 fl. oz.); 750 ml (25.4 fl. oz.); 500 ml (16.9 fl. oz.); 375 ml (12.7 fl. oz.); 187 ml (6.3 fl. oz.); 100 ml (3.4 fl. oz.); and 50 ml (1.7 fl. oz.).

* * * * *

Par. C. Section 4.73(a) is revised to read as follows:

§ 4.73 Metric standards of fill.

(a) *Authorized standards of fill.* The standards of fill for wine are the following:

3 liters.
1.5 liters.
1 liter.
750 milliliters.
500 milliliters.
375 milliliters.
187 milliliters.
100 milliliters.
50 milliliters.

* * * * *

Signed: September 13, 1990.

Stephen E. Higgins,

Director.

Approved: September 28, 1990.

John P. Simpson,

Acting Assistant Secretary (Enforcement).

[FR Doc. 90-24995 Filed 10-22-90; 8:45 am]

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PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2625

Restoration of Terminating and Terminated Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation ("PBGC") is hereby adding a new part 2625 to its regulations relating to certain aspects of section 4047 of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Under ERISA section 4047, the PBGC has authority to restore to ongoing status plans that are being or have been terminated, in any case where PBGC determines that such action is appropriate and consistent with its duties under title IV of ERISA. When PBGC restores a plan, certain incidental legal obligations arise, including various obligations under title IV of ERISA. Title IV is silent, however, as to the interaction of section 4047 and these other provisions. This regulation describes those legal obligations, and provides procedures necessary for the orderly and effective operation of title IV with respect to a restored plan.

EFFECTIVE DATE: October 22, 1990.

FOR FURTHER INFORMATION CONTACT: Ronald Goldstein, Senior Counsel, Office of the General Counsel (Code 22500), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006; telephone 202-778-8850. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

Background

This document adds to the Pension Benefit Guaranty Corporation's regulations (29 CFR, chapter XXVI) a new part 2625 dealing with certain matters incidental to plan restoration pursuant to section 4047 of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Section 4047 of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to restore a terminated pension plan whenever the PBGC determines that this action is appropriate and consistent with its duties under title IV of ERISA. In any case in which the PBGC determines that a plan that is being terminated should be restored, it is authorized under section 4047 "to cease any activities undertaken to terminate the plan, and to take whatever action is necessary and within its power to restore the plan to its status prior to the determination that the plan was to be terminated." Similarly, in the case of a plan that has been terminated, PBGC is authorized in any case in which it determines this action to be appropriate and consistent with its duties under title IV, "to take such action as may be necessary to restore the plan to its pretermination status, including, but not limited to, the transfer to the employer or a plan administrator of control of part or all of the remaining assets and liabilities of the plan."

The legislative history of section 4047 of ERISA demonstrates that Congress intended to confer broad authority on the PBGC to control the details of plan restorations. The purpose of section 4047 is explained as follows in the conference report to ERISA (H.R. Conf. Rep. No. 93-1280, 93d Cong., 2d Sess. 378-379:

Restoration of plans

Neither the House bill nor the Senate amendment had any specific provision that procedures against a plan in the termination phase might be abandoned by the corporation if the employer and plan enjoyed a favorable reversal of business trends, or if some other factor made termination no longer advisable.

Under the conference substitute, the corporation may cease any termination activities and do what it can to restore the plan to its former status. As a result, a terminated plan being operated by a trustee as a wasting trust may be restored if, during the period of its operation by the trustee, experience gains or increased funding make it sufficiently solvent. The corporation may, when appropriate, transfer to the employer or plan administrator part or all of the remaining assets and liabilities.

The United States Supreme Court recently upheld the broad authority of the PBGC to restore a pension plan in *PBGC v. LTV Corp.* 110 S.Ct. 2668 (1990).

The restoration of a pension plan presents unique problems with respect to the application of certain provisions of title IV of ERISA. For example, all plans covered by the PBGC insurance programs are required to pay annual premiums to PBGC, in accordance with ERISA sections 4006 and 4007. Under section 4007(a) of ERISA, PBGC premiums cease to accrue upon the appointment of a trustee for an underfunded plan being terminated under ERISA sections 4041(c) or 4042. Because a plan that is restored under section 4047 is restored to its pretermination status, upon restoration of a plan, PBGC premiums are owed for the period from the date of trusteeship through restoration (or its implementation). Under the PBGC's premium regulation (29 CFR part 2610), which prescribes the rules for determining and paying the premiums, premiums for a plan year are due and

payable within that year. Neither the statute nor the regulation addresses the application of the premium rules in the restoration context.

The PBGC's statutory obligation to pay guaranteed benefits pursuant to ERISA section 4022 arises upon the termination of an underfunded plan. Typically, PBGC itself becomes trustee of the terminated plan and takes control of the plan's assets. As a matter of agency policy established by the PBGC's Board of Directors early in the agency's history, the PBGC pays guaranteed benefits from both plan assets and PBGC's funds (premium payments and other amounts held by the PBGC in the revolving funds established under ERISA section 4005(a)). The PBGC has determined that, consistent with the provisions of title IV of ERISA, when a plan is restored it is not entitled to retain the amounts paid from PBGC's funds pursuant to its guarantee obligation. However, title IV contains no provisions addressing the repayment of these amounts.

The restoration of a pension plan also presents unique problems with respect to the application of the minimum funding standards of section 412 of the Internal Revenue Code ("IRC"). The relationship between the minimum funding requirements of section 412 and the restoration provisions of section 4047 of ERISA is one aspect of a long history of statutory interrelationship and coordination that has characterized the development of pension law in this area since the enactment of ERISA.

The plan termination insurance program administered by the PBGC for the protection of participants in single-employer defined benefit plans is one of the cornerstones of the congressional policy underlying ERISA. See H.R. Rep. No. 93–807, 93d Cong., 2d Sess., 13. The establishment of a program of plan termination insurance is predicated on the existence of adequate minimum funding requirements to assure that employers will, in general, fund their pension obligations in a timely manner. During the legislative development of ERISA, Congress reviewed the minimum funding requirements of pre-ERISA law and found them inadequate because, *inter alia*, they did not require the sponsor of a qualified defined benefit plan to contribute sufficient amounts to amortize the principal amount of the unfunded past service liabilities of the plan. H.R. Rep. No. 93–807, 93d Cong., 2d Sess., 73–74.

Accordingly, as part of the overall reform of the pension laws in ERISA, Congress raised the minimum funding standards applicable to qualified plans and required plans to establish and maintain a funding standard account to protect plan participants and the plan termination insurance program. The charges and credits to the funding standard account are prescribed in IRC section 412(b). Additional minimum funding provisions requiring employers to make deficit reduction contributions were added with the enactment of IRC section 412(1) as part of the Omnibus Budget Reconciliation Act of 1987 ("OBRA 1987"), Public Law 100–203, 101 Stat. 1330–333. This additional funding requirement was adopted in substantial part to protect the plan termination insurance system administered by the PBGC from large claims resulting from the termination of underfunded plans. H.R. Rep. No. 100–391 (Vol. II), 100th Cong., 1st Sess., 994.

Because a restored plan was being or had been terminated and administered as a terminated plan during the time from the date of termination of the plan to the date of the restoration (or its implementation), the funding standard account will have ceased to apply to the plan beginning with the plan year subsequent to the year in which the termination occurred. See Rev. Rul. 79–237, 1979–2 C.B. 190. During the period between the dates of termination and restoration (or its implementation), Schedules B of Form 5500 will not have been completed by the plan actuary, nor will contributions have been made to the plan. When the PBGC acts to restore the plan, the funding standard account must be reestablished and thereafter the funding standard account must be maintained.

The restoration of the plan under section 4047 of ERISA has the effect of reinstating benefit accruals under the plan as of the termination date, because section 4047 provides for restoration of the plan to its pre-termination status. Because the plan will have been underfunded upon plan termination and because the plan sponsor will ordinarily not have made any contributions to the plan while it was being administered as a terminated plan, the plan is likely to be even more underfunded on restoration. This underfunding will be significantly increased if the plan has been administered as a terminated plan for an extended period of time.

Appropriate provisions for the amortization of the large unfunded liability arising, in part, as a result of the lapse of time between the termination of a plan and the resumption of contributions to it are necessary to implement the PBGC's restoration authority. This regulation was developed with new regulations issued by the Internal Revenue Service ("IRS") and the Department of the Treasury under IRC section 412. Both documents address the relationship between the funding requirements of IRC section 412 and the plan restoration provisions of ERISA section 4047. The IRS regulations create a special funding method, known as the restoration method, which adapts the underlying funding method used by the plan to the special circumstances that exist when a plan is restored. A plan that is being or has been terminated and restored must use the restoration method until the initial restoration amortization base, described below, has been fully amortized. The IRS regulations and this regulation provide parameters within which the PBGC shall establish a restoration payment schedule, under the restoration method, consistent with the orderly restoration of the plan.

Briefly, § 1.412(c)(1)–3T(b) of the IRS regulations creates a special amortization base, known as the initial restoration amortization base. This amortization base consists of the unfunded liability of the plan at the valuation for the plan year in which the initial post-restoration valuation date falls, based upon the assets and liabilities returned by the PBGC, and replaces all other amortization bases that previously existed for the plan. This initial restoration amortization base must be amortized over not more than 30 years, pursuant to the restoration payment schedule order issued by PBGC. The restoration payment schedule must provide that at the end of not more than 30 years, the entire amount of the initial restoration amortization base will have been fully amortized. Unlike the amortization bases described in IRC section 412(b), however, the charges to amortize the initial restoration amortization base need not be made in level annual amounts. However, any restoration payment schedule must satisfy certain requirements set forth in the IRS regulations.

The PBGC retains the authority to modify the restoration payment schedule at any time during the period of up to 30 years that the schedule is effective. Any modification must, however, comply with the requirements of the IRS regulations, including the requirement that the 30-year period not be extended. In addition, the PBGC must conduct a funding review of the plan at least once in each plan year and may, as a result of the funding review, amend the restoration payment schedule, subject to the requirements of the IRS regulations.

The establishment of the restoration payment schedule by the PBGC is

appropriate because the PBGC will normally have detailed knowledge of the financial condition of the plan sponsor (and its controlled group) of a restored plan and because the PBGC is directly at risk if the restored plan must be reterminated. New Part 2625 of PBGC's regulations describes generally the procedures for issuance of a restoration payment schedule order under the IRS regulations. Part 2625 also addresses certain other obligations that arise incidental to a plan restoration order by the PBGC, *i.e.*, payment of PBGC premiums, and repayment of amounts expended from PBGC's revolving funds during the period prior to the restoration, and establishes the rules for the prospective satisfaction of these obligations.

The Regulation

Section 2625.2 of this regulation deals with the restoration payment schedule. Pursuant to paragraph (b), whenever the PBGC has restored a plan, it shall issue a restoration payment schedule order establishing the schedule of payments needed to amortize the initial restoration amortization base established in the IRS regulations. Pursuant to the IRS regulations, the schedule must require payments at least annually. PBGC may, however, require more frequent payments.

Concurrent with issuance of the restoration payment schedule order, the PBGC's Executive Director will also certify to the PBGC's Board of Directors and to the IRS that PBGC has reviewed the funding of the plan, the financial condition of the plan sponsor and its controlled group members, the payments required under the restoration payment schedule (taking into account the availability of deferrals as permitted under the IRS regulations), and any other factor that the PBGC deems relevant, and, based on that review, determines that it is in the best interests of the plan's participants and beneficiaries and of the single-employer insurance program that the restored plan not be reterminated (§ 2625.2(c)).

In establishing the restoration payment schedule, the PBGC will consider such factors as: (1) The need for the plan to make an orderly transition from terminated status to ongoing status as a restored plan, (2) the need for the plan sponsor and its controlled group members to have sufficient time to fund the accrued liabilities of the plan arising from pre-restoration service, (3) the interests of plan participants and beneficiaries, (4) the financial condition of the plan, (5) the financial condition of the plan sponsor and its controlled group members, (6) changes in the law affecting the funding requirements applicable to the restored plan, (7) the length of time between the date the plan was terminated and the date of a PBGC restoration order, its implementation, or the restoration payment schedule order, (8) the grounds for the restoration, (9) the risk to the PBGC's plan termination insurance program, and (10) the pre-termination funding history of the plan.

Section 2625.3 prescribes rules for paying PBGC premiums for the period commencing with trusteeship pursuant to the plan's termination through the plan year of restoration (or its implementation). In general, the outstanding premiums shall be computed and paid in accordance with the PBGC's Payment of Premiums regulation (29 CFR part 2610) (and the forms and instructions issued pursuant thereto) as in effect for the plan years for which the premiums are outstanding (§ 2625.3(a)). Pursuant to § 2625.3(b), PBGC will notify the plan administrator of the plan years for which premiums must be paid and provide the plan administrator with the appropriate premium payment forms.

Section 2625.4 of the regulation provides the rules for repayment to the PBGC by the restored plan of amounts paid from the PBGC's revolving fund for guaranteed benefits under the plan while the plan was terminated. Pursuant to paragraph (b) of this section, PBGC shall prescribe reasonable terms and conditions for the payment of this debt. PBGC will establish payment terms thereunder that are protective of the single-employer insurance program while also furthering the goal of plan continuation.

E.O. 12291 and the Regulatory Flexibility Act

The PBGC has determined that this regulation is not a "major rule" for the purpose of Executive Order 12291, because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This rule merely describes certain legal obligations that arise incidental to plan restoration under ERISA section 4047, and prescribes procedures relating thereto.

This rule provides the public with needed guidance on the PBGC's interpretation, in the context of other provisions of title IV of ERISA, of section 4047 and certain legal obligations arising incidental to plan restorations under that section. It also establishes procedures to ensure the fair and equitable application of those provisions to plans that have been restored under section 4047 in a manner that is consistent with the overall goals and purposes of title IV of ERISA. The PBGC has therefore determined that the advance notice and public procedure requirements of 5 U.S.C. 553(b) do not apply. In addition, because of the need to provide immediate guidance to the public, and because this regulation does not require any action by members of the public, the PBGC finds that good cause exists for making this rule effective immediately, 5 U.S.C. 553(d)(3).

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

List of Subjects in 29 CFR Part 2625

Employee Pension Plans, Pension Insurance and Pensions.

In consideration of the foregoing, subchapter C of chapter XXVI of title 29, Code of Federal Regulations, is hereby amended to add a new part 2625 as follows:

PART 2625—RESTORATION OF TERMINATING AND TERMINATED PLANS

Sec.
2625.1 Purpose and scope.
2625.2 Funding of restored plan.
2625.3 Payment of premiums.
2625.4 Repayment of PBGC payments of guaranteed benefits.

Authority: 29 U.S.C. 1302(b)(3) and 1347.

§ 2625.1 Purpose and scope.

(a) *Purpose.* Section 4047 of the Employee Retirement Income Security Act of 1974, as amended, gives the Pension Benefit Guaranty Corporation broad authority to take any necessary actions in furtherance of a plan restoration order issued pursuant to section 4047. This part (along with Treasury regulation 26 CFR 1.412(c)(1)–3T) describes certain legal obligations that arise incidental to a plan restoration under section 4047. This part also establishes procedures with respect to these obligations that are intended to facilitate the orderly transition of a restored plan from terminated (or terminating) status to ongong status, and to help ensure that the restored plan will continue to be ongoing consistent with the best interests of the plan's participants and beneficiaries and the single-employer insurance program.

(b) *Scope.* This part applies to terminated and terminating single-employer plans (except for plans terminated and terminating under ERISA section 4041(b)) with respect to which the PBGC has issued or is issuing a plan restoration order pursuant to ERISA section 4047.

§ 2625.2 Funding of restored plan.

(a) *General.* Whenever the PBGC issues or has issued a plan restoration order under ERISA section 4047, it shall issue to the plan sponsor a restoration payment schedule order in accordance with the rules of this section. PBGC, through its Executive Director, shall also issue a certification to its Board of Directors and the Internal Revenue Service, as described in paragraph (c) of this section. If more than one plan is or has been restored, the PBGC shall issue a seperate restoration payment schedule order and separate certification with respect to each restored plan.

(b) *Restoration payment schedule order.* A restoration payment schedule order shall set forth a schedule of payments sufficient to amortize the initial restoration amortization base described in paragraph (b) of 26 CFR 1.412(c)(1)–3T over a period extending no more than 30 years after the initial post-restoration valuation date, as defined in paragraph (a)(1) of 26 CFR 1.412(c)(1)–3T. The restorative payment schedule shall be consistent with the requirements of 26 CFR 1.412(c)(1)–3T and may require payments at intervals of less than one year, as determined by the PBGC. The PBGC may, in its discretion, amend the restoration payment schedule at any time, consistent with the requirements of 26 CFR 1.412(c)(1)–3T.

(c) *Certification.* The Executive Director's certification to the Board of Directors and the Internal Revenue Service pursuant to paragraph (a) of this section shall state that the PBGC has reviewed the funding of the plan, the financial condition of the plan sponsor and its controlled group members, the payments required under the restoration payment schedule (taking into account the availability of deferrals as permitted under paragraph (c)(4) of 26 CFR 1.412(c)(1)–3T) and any other factor that the PBGC deems relevant, and, based on that review, determines that it is in the best interests of the plan's participants and beneficiaries and the single-employer insurance program that the restored plan not be reterminated.

(d) *Periodic PBGC review.* As long as a restoration payment schedule order issued under this section is in effect, the PBGC shall review annually the funding status of the plan with respect to which the order applies. As part of this review, the PBGC, through its Executive Director, shall issue a certification in the form described in paragraph (c) of this section. As a result of its funding review, PBGC may amend the restoration payment schedule, consistent with the requirements of paragraph (c)(2) of 26 CFR 1.412(c)(1)–3T.

§ 2625.3 Payment of premiums.

(a) *General.* Upon restoration of a plan pursuant to ERISA section 4047, the obligation to pay PBGC premiums pursuant to ERISA section 4007 is reinstated as of the date on which the plan was trusteed under section 4042 of ERISA. Except as otherwise specifically provided in paragraphs (b) and (c) of this section, the amount of the outstanding premiums owed shall be computed and paid by the plan administrator in accordance with PBGC's Payment of Premiums regulation (29 CFR part 2610) and the forms and instructions issued pursuant thereto, as in effect for the plan years for which premiums are owed.

(b) *Notification of premiums owed.* Whenever the PBGC issues or has issued a plan restoration order, it shall send a written notice to the plan administrator of the restored plan advising the plan administrator of the plan year(s) for which premiums are owed. PBGC will include with the notice the necessary premium payment forms and instructions. The notice shall prescribe the payment due dates for the outstanding premiums.

(c) *Methods for determining variable rate portion of the premium.* In general, the variable rate portion of the outstanding premiums shall be determined in accordance with the premium regulation and forms, as provided in paragraph (a) of this section, except that for any plan year for which Form 5500, Schedule B was not filed because the plan was terminated, the alternative calculation method in § 2610.23(c) may not be used.

§ 2625.4 Repayment of PBGC payments of guaranteed benefits.

(a) *General.* Upon restoration of a plan pursuant to ERISA section 4047, amounts paid by the PBGC from its single-employer insurance fund (the fund established pursuant to ERISA section 4005(a)) to pay guaranteed benefits and related expenses under the plan while it was terminated are a debt of the restored plan. The terms and conditions for payment of this debt shall be determined by the PBGC.

(b) *Repayment terms.* The PBGC shall prescribe reasonable terms and conditions for payment of the debt described in paragraph (a) of this section, including the number, amount and commencement date of the payments. In establishing the terms, PBGC will consider the cash needs of the plan, the timing and amount of contributions owed to the plan, the liquidity of plan assets, the interests of the single-employer insurance program, and any other factors PBGC deems relevant. PBGC may, in its discretion, revise any of the payment terms and conditions, upon written notice to the plan administrator in accordance with paragraph (c) of this section.

(c) *Notification to plan administrator.* Whenever the PBGC issues or has issued a plan restoration order, it shall send a written notice to the plan administrator of the restored plan advising the plan administrator of the amount owed the PBGC pursuant to paragraph (a) of this section. The notice shall also include the terms and conditions for payment of this debt, as established under paragraph (b) of this section.

Issued in Washington, DC this 18th day of October, 1990.

Elizabeth Dole,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth pursuant to a resolution of the Board of Directors authorizing its chairman to issue this final rule.

Carol Connor Flowe,

Secretary, Board of Directors, Pension Benefit Guaranty Corporation.

[FR Doc. 90–25164 Filed 10–22–90; 8:45 am]

BILLING CODE 7708–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6982]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of

property located in the communities listed.

EFFECTIVE DATES: The dates listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community or from the National Flood Insurance Program (NFIP) at:

Post Office Box 457, Lanham, Maryland 20706, Phone: (800) 638–7418.

FOR FURTHER INFORMATION CONTACT:

Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646–2717, Federal Center Plaza, 500 C Street, SW., Room 417, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance and floodplains.

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of Eligible Communities.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date
New Eligibles—Emergency Program			
Texas:			
Polk County, unincorporated areas	480525	Sept. 5, 1990, Emerg.	12-13-77
Tennessee:			
Cannon County, unincorporated areas	470368	....do	1-5-79
Oklahoma:			
McClain County, unincorporated areas	400538	Sept. 10, 1990	Do.
Iowa:			
Farnhamville, city of Calhoun County	190730	Sept. 18, 1990, Emerg.	3-26-76
Latimer, city of Franklin County	190369	....do	3-25-76
Arkansas:			
Faulkner County, unincorporated area	050431	Sept. 24, 1990, Emerg.	6-7-77
Texas:			
Cotton Shores, city of Burnet County	481614	....do	Do.
Georgia:			
Mitchell County, unincorporated areas	130436	Sept. 28, 1990, Emerg.	1-17-78
Oklahoma			
Lincoln County, unincorporated areas	400457	....do	Do.
New Eligible—Regular Program			
Idaho:			
Valley County, unincorporated areas	160220	Sept. 5, 1990	9-5-90
Reinstatements—Regular Program			
Maine:			
Temple, town of, Franklin County	230062	Aug. 5, 1975, Emerg.; Apr. 1, 1987, Reg.; June 1, 1987, Susp.; Sept. 10, 1990, Rein.	4-1-87
Vermont:			
Starksboro, town of, Addison County	500172	July 25, 1975, Emerg.; Dec. 4, 1985, Reg.; June 18, 1990, Susp.; Sept. 6, 1990, Rein.	12-4-85
North Dakota:			
Velva, township of, McHenry County	380310	Mar. 31, 1975, Emerg.; Sept. 18, 1987, Reg.; Sept. 18, 1987, Susp.; Sept. 10, 1990, Rein.	9-18-87
Pennsylvania:			
Mount Carmel, township of, Northumberland County	421942	Oct. 24, 1974, Emerg.; May 3, 1990, Reg.; May 3, 1990, Susp.; Sept. 10, 1990, Rein.	5-3-90
New York:			
Spafford, town of, Onondaga County	360594	Aug. 19, 1974, Emerg.; Apr. 30, 1986, Reg.; Apr. 30, 1986, Susp.; Sept. 10, 1990, Rein.	4-30-86

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date
New Hampshire:			
Haverhill, town of, Grafton County	330057	Apr. 5, 1976, Emerg.; May 3, 1990, Reg.; May 3, 1990, Susp.; Sept. 11, 1990, Rein.	5-3-90
West Virginia:			
Richwood,[1] city of, Nicholas County	540147	Nov. 29, 1974, Emerg.; Aug. 15, 1990, Susp.; Sept. 13, 1990, Rein.	5-7-76
Triadelphia, town of, Ohio County	540150	July 18, 1975, Emerg.; Jan. 18, 1984, Reg.; Aug. 15, 1990, Susp.; Sept. 13, 1990, Rein.	1-18-84
Pennsylvania:			
Smithton, borough of, Westmoreland County	420899	May 4, 1976, Emerg.; Aug. 15, 1990, Reg.; Aug. 15, 1990, Susp.; Sept. 13, 1990, Rein.	8-15-90
Beech Creek, borough of, Clinton County	420320	June 3, 1974, Emerg.; Aug. 2, 1990, Reg.; Aug. 2, 1990, Susp.; Sept. 13, 1990, Rein.	8-2-90
Texas:			
Colorado County, unincorporated areas	480144	Feb. 29, 1980, Emerg.; Aug. 15, 1988, Susp.; Sept. 19, 1990, Rein.; Sept. 19, 1990, Regular Program.	1-3-90
Louisiana:			
Caddo parish, unincorporated areas	220061	Nov. 9, 1979, Emerg.; Sept. 5, 1990, Reg.; Sept. 5, 1990, Susp.; Sept. 21, 1990, Rein.	9-5-90
Ohio:			
Miamisburg, city of, Montgomery County	390413	Aug. 1, 1974, Emerg.; June 15, 1981, Reg.; Apr. 16, 1990, Susp.; Sept. 21, 1990, Rein.	1-14-83
Wisconsin:			
Polk County, unincorporated areas	550577	Apr. 22, 1975, Emerg.; June 4, 1990, Reg.; June 4, 1990, Susp.; Sept. 21, 1990, Rein.	9-4-90
Pennsylvania:			
Picture Rocks, borough of, Lycoming County	420654	Mar. 21, 1975, Emerg.; Sept. 5, 1990, Reg.; Sept. 5, 1990, Susp.; Sept. 24, 1990, Rein.	9-5-90
Applewold, borough of, Armstrong County	420093	Mar. 11, 1975, Emerg.; Sept. 18, 1987, Reg.; Sept. 18, 1987, Susp.; Sept. 24, 1990, Rein.	9-18-87
Washington, township of, Wyoming County	422207	Aug. 27, 1979, Emerg.; July 3, 1990, Reg.; July 3, 1990, Susp.; Sept. 24, 1990, Rein.	7-3-90
Wells, township of, Bradford County	421121	Oct. 10, 1974, Emerg.; Sept. 5, 1990, Reg.; Sept. 5, 1990, Susp.; Sept. 24, 1990, Rein.	9-5-90
Vermont:			
Dover,[2] town of, Windham County	500127	July 21, 1976, Emerg.; Sept. 30, 1981, Susp.; Sept. 24, 1990, Rein.	8-2-74
Pennsylvania:			
Sligo, borough of, Clarion County	421506	Mar. 25, 1976, Emerg.; Aug. 15, 1990, Reg.; Aug. 15, 1990, Susp.; Sept. 26, 1990, Rein.	8-15-90
Region I—Regular Conversions			
Connecticut			
Waterford, town of, New London County	090107	Sept. 5, 1990, Suspension withdrawn	9-5-90
Region II			
New York:			
Pittstown, town of, Rensselaer County	361166	....do	9-5-90
Region III			
Pennsylvania:			
Burlington, borough of, Bradford County	420168	....do	9-5-90
South Philipsburg, borough of, Centre County	420271	....do	9-5-90
West Burlington, township of, Bradford County	421122	....do	9-5-90
Virginia:			
Charles City County, unincorporated areas	510198	....do	9-5-90
King and Queen County, unincorporated areas	510082	....do	9-5-90
Region V			
Illinois			
Columbia, city of, Monroe County	170510	....do	9-5-90
Wisconsin			
Osseo, city of, Trempealeau County	550445	....do	9-5-90
Region VII			
Missouri:			
New Madrid County, unincorporated area	290849	....do	9-5-90
Region IX			
California:			
Calaveras County, unincorporated area	060633	....do	9-5-90
Tuolumne County, unincorporated area	060411	....do	9-5-90
Santa Barbara County, unincorporated area	060331	....do	9-5-90
Shasta County, unincorporated area	060358	....do	9-5-90
Region X			
Oregon:			
Lakeview, city of, Lake County	410116	....do	9-5-90
Washington:			
Everett, city of, Snohomish County	530164	....do	9-5-90

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date
Region III			
Pennsylvania:			
Oley, township of, Berks County	420065	Sept. 14, 1990, Suspension withdrawn	9-14-90
Region V			
Wisconsin:			
Sawyer County, unincorporated areas	550591	do	9-14-90
Region VI			
New Mexico:			
Luna County, unincorporated areas	350199	do	9-14-90
Region VII			
Kansas:			
Mulvane, city of, Sumner and Sedgwick Counties	200328	do	9-14-90
Region X			
Idaho:			
Bancroft, city of, Caribou County	160040	do	9-14-90
Canyon County, unincorporated areas	160208	do	9-14-90
Washington:			
Stevens County, unincorporated areas	530185	do	9-14-90
Region V—Minimal Conversions			
Michigan:			
Rolland, township of, Isabella County	260422	do	9-14-90
Region VII			
Nebraska:			
Washington, village of, Washington and Douglas Counties	315496	do	9-14-90
Region II			
New York:			
Hancock, town of, Delaware County	360201	Sept. 28, 1990, Suspension withdrawn	9-28-90
Hancock, village of, Delaware County	360202	do	9-28-90
Region III			
Pennsylvania:			
Elkland, borough of, Tioga County	420818	do	9-28-90
Region IV			
Kentucky:			
Madison County, unincorporated areas	210342	do	9-28-90
North Carolina:			
Avery County, unincorporated areas	370010	do	9-28-90
Creedmoor, city of, Granville County	370107	do	9-28-90
Oxford, city of, Granville County	370108	do	9-28-90
Region V			
Indiana:			
Allen County, unincorporated areas	180302	do	9-28-90
Ft. Wayne, city of, Allen County	180003	do	9-28-90
Huntertown, town of, Allen County	180005	do	9-28-90
New Haven, city of, Allen County	180084	do	9-28-90
Michigan:			
Holland, city of, Allegan and Ottawa Counties	260006	do	9-28-90
Holland, township of, Ottawa County	260462	do	9-28-90
Ohio:			
Lowellville, village of, Mahoning County	390620	do	9-28-90
Wisconsin:			
Cornell, city of, Chippewa County	550045	do	9-28-90
Langlade County, unincorporated areas	550576	do	9-28-90
Region VII			
Kansas:			
Allen County, unincorporated areas	200488	do	9-28-90
Hutchinson, city of, Reno County	200283	do	9-28-90
Iola, city of, Allen County	200003	do	9-28-90
Liberal, city of, Seward County	200330	do	9-28-90
Reno County, unincorporated areas	200567	do	9-28-90
South Hutchinson, city of, Reno County	200530	do	9-28-90
Region VIII			
Colorado:			
Rangely, town of, Rio Blanco County	080152	do	9-28-90
Region IX			
Arizona:			
Apache County, unincorporated areas	040301	do	9-28-90
Flagstaff, city of, Coconino County	040020	do	9-28-90
Springerville, town of, Apache County	040311	do	9-28-90
California:			
Kern County, unincorporated areas	060075	do	9-28-90
Sebastopol, city of, Sonoma County	060382	do	9-28-90

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date
Sutter Creek, city of, Amador County	060458	do	9-28-90
Ventura County, unincorporated areas	060413	do	9-28-90
Region X			
Oregon:			
Gresham, city of, Multnomah County	410181	do	9-28-90
Washington:			
Whitelaw County, unincorporated areas	530193	do	9-28-90
Whatcom County, unincorporated areas	530198	do	9-28-90

[1] Emergency Disaster Areas.
[2] Emergency Program Reinstatement.
Code for reading fourth column: Emerg.—Emergency, Reg.—Regular, Susp.—Suspension, Rein.—Reinstatement.

Issued: October 15, 1990.

C. M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 90-25018 Filed 10-22-90; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-417; RM-6965]

Radio Broadcasting Services; Century, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document, at the request of Ziffle Broadcasting Company, Inc., substitutes Channel 286C3 for Channel 286A at Century, Florida, and modifies its license for Station WKGT(FM) to specify operation on the higher powered channel. *See* 54 FR 40895, October 4, 1989. Channel 286C3 can be allotted to Century in compliance with the minimum distance separation requirements of the Commission's Rules with a site restriction of 7.0 kilometers (4.4 miles) north. The coordinates for Channel 286C3 at Century are North Latitude 31-02-03 and West Longitude 87-16-58. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 3, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-417, adopted September 27, 1990, and released October 18, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing Channel 286A and adding Channel 286C3 at Century.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25050 Filed 10-22-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-396; RM-7189]

Radio Broadcasting Services; Watertown, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document, at the request of Louis D. Bolton, II, substitutes Channel 271C3 for Channel 271A at Watertown, Florida, and modifies the construction permit of Station WQLC(FM) to specify operation on the higher class channel. *See* 55 FR 25853, June 25, 1990. Channel 271C3 can be allotted to Watertown in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.9 kilometers (5.5 miles) northwest, in order to avoid a short-spacing to Station WTRS-FM, Channel 272C2, Dunnellon, Florida. The coordinates for this allotment are North Latitude 30-13-00 and West Longitude 82-41-00. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 3, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-396, adopted September 27, 1990, and released October 18, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing Channel 271A and adding Channel 271C3 at Watertown.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25047 Filed 10-22-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-212; RM-7151]

Radio Broadcasting Services; Americus, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 234C3 for Channel 232A at Americus, Georgia, and modifies the license of Station WDEC(FM) to specify operation on the higher class channel, at the request of Guest-Mattox Broadcasting, Inc. *See* 55 FR 17770, April 27, 1990. Channel 234C3 can be allotted to Americus in compliance with the Commission's minimum distance separation requirements with a site restriction of 11.5 kilometers (7.1 miles) southwest, in order to avoid a short-spacing to Station WBYZ(FM), Channel 233C, Baxley, Georgia. The coordinates for this allotment are North Latitude 31–59–10 and West Longitude 84–18–08. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 3, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90–212, adopted September 25, 1990, and released October 18, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by removing Channel 232A and adding Channel 234C3 at Americus.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25048 Filed 10-22-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-584; RM-7023]

Radio Broadcasting Services; Kekaha, HI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document, at the request of Algoma Broadcasting Co., substitutes Channel 277C1 for Channel 277A at Kekaha, Hawaii, and modifies the license of Station 277C1 for Channel 277A at Kekaha, Hawaii, and modifies the license of Station KAUI(FM) to specify operation on the higher class channel. See, 54 FR 00823, January 4, 1989. Channel 277C1 can be allotted to Kekaha in compliance with the Commission's minimum distance separation requirements at the construction permit site. The coordinates are North Latitude 21–58–16 and West Longitude 159–42–46. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 3, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–584, adopted September 25, 1990, and released October 18, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Hawaii, is amended by removing Channel 277A and adding Channel 277C1 at Kekaha.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25049 Filed 10-22-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-577; RM-7086]

Radio Broadcasting Services; Hutchinson, KS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 246C3 for Channel 246A at Hutchinson, Kansas, in response to a petition filed by KWHK Broadcasting, Inc. We shall also modify the construction permit (BPH-881116MF) for Channel 246A to specify operation on Channel 246C3. The coordinates for Channel 246C3 are 38–02–39 and 98–00–56. *See* 55 FR 324, January 4, 1990.

EFFECTIVE DATE: November 30, 1990.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–577, adopted September 25, 1990, and released October 17, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR part 73 is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Kansas, is amended by removing Channel 246A and adding Channel 246C3 at Hutchinson.

Federal Communications Commission.
Kathleen B. Levitz,
Deputy Chief, Policy and Rules Division, Mass Media Bureau.
[FR Doc. 90-24916 Filed 10-22-90; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

[Docket No. 900656-0196]

Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce (Secretary) closes the commercial fishery in the exclusive economic zone (EEZ) for king mackerel from the western zone of the Gulf migratory group. The Secretary has determined that the commercial quota for Gulf group king mackerel from the western zone was reached on October 17, 1990. This closure is necessary to protect the overfished Gulf king mackerel resource.

EFFECTIVE DATE: Closure is effective on October 18, 1990, through June 30, 1991.

FOR FURTHER INFORMATION CONTACT: Mark F. Godcharles, 813-893-3722.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic, as amended, was developed by the South Atlantic and Gulf of Mexico Fishery Management Councils (Councils) under authority of the Magnuson Fishery Conservation and Management Act and is implemented by regulations at 50 CFR part 642. Catch limits recommended by the Councils for the Gulf of Mexico migratory group of king mackerel for the current fishing year (July 1, 1990, through June 30, 1991) set the commercial allocation at 1.36 million pounds divided into quotas of 0.94 million pounds for the eastern zone and 0.42 million pounds for the western zone, the same as for the previous fishing year. The boundary between the eastern and western zones is a line directly south from the Florida-Alabama boundary (87°31'06" W. longitude) to the outer limit of the EEZ.

Under § 642.22(a), the Secretary is required to close any segment of the king mackerel commercial fishery when its allocation or quota has been reached, or is projected to be reached, by publishing a notice in the **Federal Register**. The Secretary has determined that the commercial quota of 0.42 million pounds for the western zone of the Gulf migratory group of king mackerel was reached on October 17, 1990. Hence, the commercial fishery for Gulf group king mackerel from the western zone is closed effective October 18, 1990, through June 30, 1991, the end of the fishing year.

Except for a person aboard a charter vessel, during the closure, no person aboard a vessel permitted to fish under a commercial allocation may fish for, retain, or have in possession in the EEZ king mackerel from the western zone. A person aboard a charter vessel may continue to fish for king mackerel in the western zone under the bag limit set forth in § 642.28(a)(1), provided the vessel is under charter and the vessel has an annual charter vessel permit issued under § 642.4(a)(3). A charter vessel with a permit to fish on a commercial allocation is under charter when it carries a passenger who fishes for a fee or when there are more than three persons aboard, including operator and crew. During the closure, king mackerel from the western zone taken in the EEZ, including those harvested under the bag limit, may not be purchased, bartered, traded, or sold. This prohibition does not apply to trade in king mackerel from the western zone that were harvested, landed, and bartered, traded, or sold prior to the closure and held in cold storage by a dealer or processor.

Other Matters

This action is required by 50 CFR 642.22(a) and complies with E.O. 12291.

Authority: 16 U.S.C. 1801 *et seq.*

List of Subjects in 50 CFR Part 642

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: October 17, 1990.

Richard H. Schaefer,
Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90-24934 Filed 10-17-90; 3:08 pm]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 205
Tuesday, October 23, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-NM-188-AD]

Airworthiness Directives; Boeing Model 707, 727, and 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Boeing Model 707, 727, and 737–200 series airplanes and to all Boeing Model 737–300, 737–400, and 737–500 series airplanes, which would require inspection; repair, if necessary; and modification of the crew call horn electrical circuits. This proposal is prompted by reports of overheated printed circuit card assemblies caused by electrical short circuit-type failures in the crew call horn. This condition, if not corrected, could result in damage to adjacent circuitry, release of smoke into the airplane, and possible fire.

DATES: Comments must be received no later than December 10, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 90–NM–188–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Slotte, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM–130S; telephone (206) 227–2797. Mailing address: FAA, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90–NM–188–AD." The post card will be date/time stamped and returned to the commenter.

Discussion

All Boeing Model 737–300, 737–400 and 737–500 series airplanes and certain Model 707, 727 and 737–200 series airplanes contain a warning system which alerts the ground crew, via sounding of the crew call horn, when the Inertial Reference System (IRS) circuitry or Inertial Navigation System (INS) on older models switches to backup battery power or loses equipment cooling. This circuit is tied into the "air/ground relay" and is operational only on the ground.

Since November 1989, there have been 11 reported incidents of heat damaged crew warning system printed circuit card assemblies (PCA) associated with the IRS. The damage was caused by electrical short circuit-type failures in the crew call horn. These short circuit failures caused excessive current to flow through the horn's drive circuitry, which is located on a PCA contained within the Flight Instrument Accessory Unit (FIAU). The current level exceeded the current rating of isolation diodes used in the circuit. These diodes overheated and caused destruction of the PCA on which they were mounted. Although the 11 reported incidents all involved Model 737's, similar circuitry on Boeing Model 707 and 727 series airplanes equipped with IRS/INS could result in this same type of failure on those airplane models.

This condition, if not corrected, could result in damage to adjacent circuitry, release of smoke into the airplane, and possible fire.

Since this condition is likely to exist or develop on other airplanes of these same type designs, an AD is proposed which would require the installation of a 2 ampere thermal circuit breaker electrically located between the IRS/INS crew call horn drive circuitry and the crew call horn in accordance with an FAA-approved modification. This AD would also require inspection for damaged PCA's or other circuitry contained within the FIAU, Integrated Flight System Accessory Unit (IFSAU), and INS Battery Monitor Module, depending on airplane model, and replacement of the damaged circuitry, if necessary.

There are approximately 28 Model 707, 50 Model 727, 9 Model 737–200, 630 Model 737–300, 122 Model 737–400, and 18 Model 737–500 series airplanes of the affected design in the worldwide fleet. It is estimated that no Model 707, 13 Model 727, 2 Model 737–200, 387 Model 737–300, 46 Model 737–400, and 6 Model 737–500 series airplanes of U.S. registry would be affected by this AD (a total of 454 airplanes). It would take approximately 5 manhours per airplane to accomplish the required actions, and the average labor cost would be $40 per manhour. The cost of the required parts is estimated to be $50 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $113,500.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive

Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Aircraft, Air transportation, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised).

Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [AMENDED]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to all Model 737-300, 737-400, and 737-500 series airplanes, prior to line position 1800, certificated in any category.

Also applies to Model 727 series airplanes with the following serial numbers, certificated in any category: 20474, 20808, 20830, 20831, 20832, 20833, 20834, 20835, 21081, 21082, 21103, 21104, 21123, 21124, 21125, 21126, 21127, 21128, 21129, 21228, 21251, 21334, 21367, 21368, 21398, 21458, 21475, 21850.

Also applies to Model 727 series airplanes with the following serial numbers, certificated in any category: 20833, 20862, 20933, 20934, 20935, 20936, 20937, 20938, 20939, 20940, 20941, 20942, 21048, 21080, 21081, 21100, 21101, 21102, 21105, 21106, 21107, 21108, 21228, 21230, 21347, 21348, 21349, 21420, 21427, 21458, 21459, 21460, 21595, 21638, 21644, 21845, 21846, 21847, 21943, 21946, 21957, 21958, 22286, 22352, 22360, 22361, 22362, 22763, 22968, 23062.

Also applies to Model 737-200 series airplanes with the following serial numbers, certificated in any category: 21557, 21613, 21857, 21875, 22080, 22328, 22777, 22778, 22779.

Compliance required within the next 180 days after the effective date of this AD, unless previously accomplished.

To prevent damage to the circuits contained within the Flight Instrument Accessory Unit, Integrated Flight Systems Accessory Unit, or Inertial Navigation System Battery Monitor Module, and to surrounding equipment, accomplish the following:

A. For Model 707 series airplanes:

1. Install a modification to add a 2 ampere thermal circuit breaker electrically located between the crew call horn drive circuitry, located on printed circuit card assembly (part number 60-66243-11) contained within the Flight Instrument Accessory Unit or contained in the Inertial Navigation System Battery Monitor Module (part number 65-36292-192), as applicable, and the crew call horn. The modification must be approved by the Manager, Seattle Aircraft Certification Office, FAA, Transport Airplane Directorate.

2. Visually inspect the internal circuitry of the Flight Instrument Accessory Unit or Inertial Navigation System Battery Monitor Module as applicable, for any heat damage. Any component or circuit found to be damaged must be replaced or repaired prior to further flight.

B. For Model 727 series airplanes:

1. Install a modification to add a 2 ampere thermal circuit breaker electrically located between the crew call horn drive circuitry, located on printed circuit card assembly (part number 60-66243-11) contained within the Flight Instrument Accessory Unit, and the crew call horn. The modification must be approved by the Manager, Seattle Aircraft Certification Office, FAA, Transport Airplane Directorate.

2. Visually inspect the internal circuitry of the Flight Instrument Accessory Unit for any heat damage. Any component or circuit found to be damaged must be replaced or repaired prior to further flight.

C. For Model 737-200, 737-300, and 737-400 series airplanes:

1. Install a modification to add a 2 ampere thermal circuit breaker electrically located between the crew call horn drive circuitry, located on printed circuit card assembly (part number 60-66243-11) contained within the Flight Instrument Accessory Unit, and the crew call horn. The modification must be approved by the Manager, Seattle Aircraft Certification Office, FAA, Transport Airplane Directorate.

2. Visually inspect the internal circuitry of the Flight Instrument Accessory Unit for any heat damage. Any component or circuit found to be damaged must be replaced or repaired prior to further flight.

D. For Model 737-500 series airplanes:

1. Install a modification to add a 2 ampere thermal circuit breaker electrically located between the crew call horn drive circuitry, located on printed circuit card assembly (part number 60-66243-11) contained within the Integrated Flight Systems Accessory Unit, and the crew call horn. The modification must be approved by the Manager, Seattle Aircraft Certification Office, FAA, Transport Airplane Directorate.

2. Visually inspect the internal circuitry of the Integrated Flight Systems Accessory Unit for any heat damage. Any component or circuit found to be damaged must be replaced or repaired prior to further flight.

E. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO.

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

Issued in Renton, Washington, on October 9, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-24094 Filed 10-22-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-CE-34-AD]

Airworthiness Directives; Cessna Models T310P, T310Q, 320D, 320E, and 320F Airplanes and Models 401, 401A, 401B, 402, 402A, and 402B Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new Airworthiness Directive (AD), which is applicable to certain Cessna 300 and 400 series airplanes and will supersede AD 70-03-04 R1 that currently requires repetitive inspections of the turbocharger turbine stainless steel heat shields. This action would require installation of the turbocharger turbine stainless steel heat shields as terminating action for the repetitive inspections on the 400 series airplanes affected by this AD. The repetitive inspections are still required for the 300 series airplanes, but may be terminated if the replacement action is performed. The FAA's policy on aging commuter class aircraft is to terminate repetitive short interval inspections when improved parts or modifications are available. This action will assure the airworthiness of these airplanes.

DATES: Comments must be received on or before December 12, 1990.

ADDRESSES: Cessna Multi-Engine Service Letter ME72-4, dated March 24, 1972, applicable to this AD, may be obtained from Cessna Aircraft Company, Customer Service, P.O. Box 7704, Wichita, Kansas 67277. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90-CE-34-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location

between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT:
Mr. Charles D. Riddle, Aerospace Engineer, Wichita Aircraft Certification Office, Federal Aviation Administration, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209, Telephone (316) 946-4427.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report, summarizing each FAA-public contact concerned with the substance of this proposal, will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90-CE-34-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Recently, failures involving large transport category airplanes have caused the FAA to reexamine the airworthiness issues related to aging commuter-class airplanes. The continued airworthiness of airplanes normally can be maintained by proper inspection, maintenance, and when necessary, by parts replacement.

The FAA has determined that long-term continued operational safety will be better assured by design changes that remove the source of the problem rather than by repetitive inspection or special operating procedures. Long-term special operating procedures may not provide the degree of safety assurance necessary to maintain operational airworthiness. This determination, along with a better understanding of the human factors associated with numerous continual special procedures, has led the FAA to consider placing less emphasis on special procedures and more emphasis on design improvements.

At an April 1989 public conference, the General Aviation Manufacturers Association (GAMA) and the Regional Airline Association (RAA) recommended 23 separate industry and government actions intended to resolve the aging commuter class airplane issue. Recommendation No. 3 stated: "The FAA should take the lead, working closely with industry, to review existing ADs on all airplanes used in regional air carrier service to determine if repetitive inspections need to be replaced by terminating actions."

In February 1990, the FAA conducted a review of the existing ADs, applicable to Cessna 402 Series airplanes, and identified AD 70-03-04 R1 Amendment 39-5564 (52 FR 5436, February 23, 1987), as one that should be revised to require the installation of an improved part. AD 70-03-04 R1 requires repetitive inspections of the turbocharger turbine housing for cracks, bulging or burned areas on those airplanes equipped with a turbocharger turbine insulation blanket.

Subsequent to the issuance of this AD, Cessna developed turbocharger turbine stainless steel heat shields as an improved method of shielding the turbine. These shields improved the heat dissipation of the turbocharger and thereby increased the turbine housing life. Cessna Multi-Engine Service Letter ME72-4, dated March 24, 1972, sets forth this part replacement.

Since Cessna Multi-Engine Service Letter ME72-4, dated March 24, 1972, presents an available design change where the installation would terminate the repetitive inspections, the FAA is proposing an AD that would require modification on the affected 400 series commuter class airplanes in accordance with this service letter and would supersede AD 70-03-04 R1.

For the purposes of this AD, the 401 and 402 series airplanes are considered commuter class and require a part replacement. The 310 and 320 series airplanes still require repetitive inspections; however if the heat shields are replaced in accordance with Cessna Multi-Engine Service Letter ME72-4, then the repetitive inspections may be terminated.

The compliance time for the proposed modification in paragraph (b) of this proposed AD is 12 months after the effective date. The FAA has determined that a calendar time for compliance is the most desirable method because yearly operational times vary greatly throughout the fleet. According to FAA data, yearly operational times varied from a low of approximately 64 hours time-in-service (TIS) to a high of approximately 2,824 hours TIS.

In light of this, the FAA has determined that using a compliance time based upon hours of TIS is unrealistic from a safety standpoint. Therefore, to maintain continuity and avoid inadvertent grounding of the affected airplanes, compliance based upon calendar time is used.

The FAA has determined there may be as many as 826 of the 400 series airplanes and 816 of the 300 series airplanes affected by the proposed AD. Some of the airplanes affected by the proposed AD have already incorporated the proposed modification, but the FAA does not have a ready means of determining how many have been modified. Accordingly, the following cost estimates are based on the modification of the total fleet.

The cost of installing the turbocharger turbine stainless steel heat shields is estimated to be $1,740 per airplane and the total fleet cost is estimated to be $1,437,240. It would be necessary for a small business entity to own more than two of the affected airplanes to incur a significant cost of compliance with this proposal. Few (less than 33 percent) small business entities affected by the proposal own more than two of the affected airplanes. Therefore, the cost of compliance is so small that the expense of compliance will not have a significant impact on the small business entities operating these airplanes.

The repetitive inspections required on the 300 series airplanes cost approximately $120 per airplane and the total fleet cost is approximately $97,920. Few, if any, small business entities own enough of these airplanes to incur a significant cost impact.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if

promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small business entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Aircraft, Air transportation, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) [Revised Pub. L. 97-449; January 12, 1983]; and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Cessna: Docket No. 90-CE-34-AD.

Applicability: The following 300 and 400 series airplanes.

Model	Serial No.
T310P	T310P0001 thru T310P0040
T310Q	T310Q0001 thru T310Q0291
320D	320D0001 thru 320D0135
320E	320E0001 thru 320E0116
320F	320F0001 thru 320F0045
401	4010001 thru 4010322
401A	401A0001 thru 401A0122
401B	401B0001 thru 401B0121
402	4020001 thru 4020322
402A	402A0001 thru 402A0129
402B	402B0001 thru 402B0122

Compliance: Required as indicated after the effective date of this AD on those airplanes that have not incorporated Cessna Multi-Engine Service Letter ME72-4, dated March 24, 1972.

To detect incipient failure of turbosupercharger turbine housings installed in the above airplanes, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS), unless already accomplished within the last 100 hours TIS, and thereafter at intervals not to exceed 100 hours TIS, accomplish the following:

(1) Remove the engine top cowling and the turbocharger turbine insulation blanket and visually inspect the complete surface of the turbine housing of the Teledyne Continental Model [TCM] turbocharger assembly Part Number (P/N) 652720 (Aircesearch Industrial Division [AiD] P/N [illegible]) for pitting, scaling, cracks, or bulging areas. Remove the turbocharger insulation blanket in accordance with applicable Cessna Service Manuals.

(2) If pitting, scaling, cracks, or bulging areas are found during the inspection required by paragraph (a) (1) of this AD, prior to further flight replace the defective part with an airworthy part.

(3) If replacement of the blanket is with the stainless steel heat shields in accordance with Cessna Multi-Engine Service Letter ME72-4, dated March 24, 1972, the repetitive inspections may be terminated.

(b) For the 401 and 402 series airplanes, accomplish the following installation within the next 12 calendar months after the effective date of this AD, unless already accomplished:

(1) Install a turbocharger turbine stainless steel heat shield in accordance with Cessna Multi-Engine Service Letter ME72-4, dated March 24, 1972.

(2) The repetitive inspections required in paragraph (a) (1) of this AD may be terminated after the installation required in paragraph (b) (1) of this AD.

(c) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(d) An alternate method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft certification Office, room 100, 1801 Airport Road, Wichita, Kansas 67209.

NOTE: The request should be forwarded through an FAA Maintenance Inspector, who may add comments and send it to the Manager, Wichita Aircraft Certification Office. All persons affected by this directive may obtain copies of the document referred to herein upon request to the Cessna Aircraft Company, P.O. Box 7704, Wichita, Kansas 67277; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

This Amendment supersedes AD 72-14-04 R1, Amendment 39-8584.

Issued in Kansas City, Missouri, on October 10, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-24992 Filed 10-22-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-CE-35-AD]

Airworthiness Directives; Cessna 310, T310, 320, 401, 402, 411, and 421 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new Airworthiness Directive (AD), which is applicable to certain Cessna 300 and 400 series airplanes and will supersede AD 72-14-06 R1 that currently requires repetitive inspections on the fuel and oil flexible hose lines. This action would require installation of improved fuel and oil flexible hose assemblies in the engine compartment as terminating action for the repetitive inspections on the 401, 402, and 421 series airplanes. The repetitive inspections on the 310, T310, 320, and 411 series airplanes would still be required, but may be terminated if the replacement action is performed. The FAA's policy on aging commuter class aircraft is to terminate repetitive short interval inspections when improved parts or modifications are available. This action would assure the airworthiness of these airplanes.

DATES: Comments must be received on or before December 12, 1990.

ADDRESSES: Cessna Service Information Letters ME68-23, dated November 1, 1968, ME81-17, dated July 10, 1981, and ME81-17, Revision 1, dated November 5, 1982, applicable to this AD, may be obtained from the Cessna Aircraft Company, Customer Service, P.O. Box 7704, Wichita, Kansas 67277. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90-CE-35-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Charles D. Riddle, Aerospace Engineer, Wichita Aircraft Certification Office, Federal Aviation Administration, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209, Telephone (316) 946-4427.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may

be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report, summarizing each FAA-public contact concerned with the substance of this proposal, will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90-CE-35-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Recently, structural failures involving large transport category airplanes have caused the FAA to reexamine the airworthiness issues related to aging commuter class airplanes. The continued airworthiness of airplanes normally can be maintained by proper inspection, maintenance, and when necessary, by parts replacement.

The FAA has determined that long-term continued operational safety will be better assured by design changes that remove the source of the problem rather than by repetitive inspection or special operating procedures. Long-term special operating procedures may not provide the degree of safety assurance necessary to maintain operational airworthiness. This determination, along with a better understanding of the human factors associated with numerous continual special procedures, has led the FAA to consider placing less emphasis on special procedures and more emphasis on design improvements.

At an April 1989 public conference, the General Aviation Manufacturers Association (GAMA) and the Regional Airline Association (RAA) recommended 29 separate industry and government actions intended to resolve the aging commuter class airplane issue. Recommendation No. 3 stated: "The FAA should take the lead, working closely with industry, to review existing ADs on all airplanes used in regional air carrier service to determine if repetitive inspections need to be replaced by terminating actions."

In February 1990, the FAA conducted a review of the existing ADs, applicable to Cessna 402 Series airplanes, and identified AD 72-14-06 R1, Amendment 39-1184 (37 FR 13814, July 12, 1972), as one that should be revised to require the installation of an improved part. AD 72-14-06 R1 requires repetitive inspections of the flexible fuel and oil lines in the engine compartment for evidence of leakage and deterioration for the 300 and 400 series airplanes that had not incorporated improved hoses in accordance with Cessna Service Information Letters (SIL) ME81-17, dated July 10, 1981, and ME81-17, Revision 1, dated November 5, 1982.

Therefore, since Cessna SIL ME81-17 and ME81-17, Revision 1present an available design change for these airplanes where the installation would terminate the repetitive inspections, the FAA is proposing an AD that would require modification on the affected commuter class airplanes in accordance with these Service Information Letters and would supersede AD 72-14-06 R1.

For purposes of this AD, the 401, 402, and 421 series airplanes are considered commuter class and would require a mandatory part replacement. The 310, T310, 320 and 411 series airplanes still require repetitive inspections; however, if compliance is made in accordance to Cessna SIL ME81-17 and ME81-17, Revision 1, the repetitive inspections may be terminated.

The compliance time for the proposed modification in paragraph (b) of this AD is 12 months after the effective date. The FAA has determined that a calendar time for compliance is the most desirable method because yearly operational times vary greatly throughout the fleet. According to FAA data, yearly operational times varied from a low of approximately 84 hours time-in-service (TIS) to a high of approximately 2,524 hours TIS.

In light of this, the FAA has determined that using a compliance time based upon hours of TIS is unrealistic from a safety standpoint. Therefore, to maintain continuity and avoid inadvertent grounding of the affected airplanes, compliance based upon calendar time is proposed.

The FAA has determined there may be as many as 2,617 of the 401, 402, and 421 series airplanes and 5,623 of the 310, T310, 320, and 411 series airplanes affected by the proposed AD. Some of the affected airplanes have already incorporated the proposed modification, but the FAA does not have a ready means of determining how many airplanes have been so modified. Accordingly, the following cost estimates are based on the modification of the total fleet.

The cost of installing the improved hose assemblies is estimated to be $3,006 per airplane for the 401 and 402 Series, and $3,143 per airplane for the 421 Series airplanes. The total fleet cost is estimated to be $8,074,401. It would be necessary for a small business entity to own more than one of the affected airplanes to incur a significant cost of compliance with this proposal. Few (less than 33 percent) small business entities affected by the proposal own more than one of the effected airplanes. Therefore, the cost of compliance is so small that the expense of compliance will not have a significant impact on the small entities operating these airplanes.

The inspections required on the 310, T310, 320, and 411 series airplanes are estimated to cost $80 per airplane and the total fleet cost is approximately $401,960. Few, if any, small business entities own enough of these airplanes to incur a significant cost impact.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small business entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) [Revised Pub. L. 97-449, January 12, 1983]; and 14 CFR 11.89.

BEST COPY AVAILABLE

§ 39.13 [AMENDED]

2. Section 39.13 is amended by adding the following new AD:

Cessna: Docket No. 90-CE-2 5-AD.

Applicability: The following 300 and 400 series airplanes:

Model	Serial Number
310, 310B, 310C, 310D.	35000 thru 35259
310F	310-0001 thru 310-0158
310G thru 310Q	310Q0001 thru 310Q1160
310A (U-3A)	36001 thru 36160
310E (U-3B)	310M0001 thru 310M0035
T310P, T310Q	310P0001 thru 310Q1160
320	320-0001 thru 320-0110
320A thru 320F	320A0001 thru 320F0045
401	401-0001 thru 401-0322
401A, 401B	401A0001 thru 401B0221
402	402-0001 thru 402-0322
402A, 402B	402A0001 thru 402B1364
411	411-0001 thru 411-0250
411A	411A0001 thru 411A0300
421	421-0001 thru 421-0200
421A, 421B	421A0001 thru 421B0970

Compliance: Required as indicated after the effective date of this AD on those airplanes that have not incorporated Cessna Service Information Letters ME81-17, dated July 10, 1981 and ME81-17, Revision 1, dated November 5, 1982.

To determine the condition of flammable fluid-carrying hose assemblies in the engine compartment, accomplish the following:

(a) Within the next 50 hours time-in-service (TIS), unless already accomplished within the last 50 hours TIS, and thereafter at intervals not to exceed 50 hours TIS, accomplish the following:

(1) Visually inspect flexible fuel lines as follows:

(i) Pressurize the fuel lines with the boost pump momentarily operating in the prime position. When accomplishing this test, the mixture control should be in the idle cutoff position. While under pressure, examine all hose exteriors in the engine compartment for evidence of leakage such as wetness and fuel stains.

Note 1: After pressure testing fuel hoses, allow sufficient time for excess fuel to drain overboard from the engine manifold before attempting an engine start.

(ii) Examine externally all hoses in the engine compartment for evidence of deterioration or damage such as cracks, cuts, bulges, discoloration, hardness, chafing and excessive wear.

(2) Visually inspect flexible oil lines as follows:

(i) Examine all hose exteriors in the engine compartment for evidence of leakage.

(ii) Examine externally all hoses in the engine compartment for evidence of deterioration or damage such as cracks, cuts, bulges, discoloration, hardness, chafing and excessive wear.

(3) If, as a result of the inspections required by paragraphs (a)(1) or (a)(2) of this AD, leakage or other evidence of deteriorated or damaged hose assemblies is found, prior to further flight replace with an approved serviceable hose assembly.

(4) If replacement of the fuel and oil hose is with an approved hose assembly in accordance with Cessna Service Information Letters ME81-17, dated July 10, 1981 and ME81-17, Revision 1, dated November 5, 1982, the repetitive inspections may be terminated.

Note 2: Cessna Service Letter ME08-23, dated November 1, 1968, and applicable Cessna Service Manuals pertain to paragraph (a) of this AD.

(b) For the affected 401, 402 and 421 Series airplanes, accomplish the following installation within the next 12 calendar months after the effective date of this AD, unless already accomplished:

(1) Install the improved fuel and oil hose assemblies in accordance with Cessna Service Information Service Letters ME81-17, dated July 10, 1981 and ME81-17 Revision No. 1, dated November 5, 1982.

(2) The repetitive inspections required in paragraphs (a)(1) and (a)(2) of this AD may be terminated after the installations required in (b)(1) of this AD.

(c) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(d) An alternate method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, Room 100, 1801 Airport Road, Wichita, Kansas 67209.

Note 3: The request should be forwarded through an FAA Maintenance Inspector, who may add comments and send it to the Manager, Wichita Aircraft Certification Office. All persons affected by this directive may obtain copies of the documents referred to herein upon request to the Cessna Aircraft Company, P.O. Box 7704, Wichita, Kansas 67277; or may examine these documents at the FAA Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

This Amendment supersedes AD 72-14-06 R1, Amendment 39-1434.

Issued in Kansas City, Missouri, on October 10, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Staff.

[FR Doc. 90-24993 Filed 10-22-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE-66-90]

RIN 1545-AP13

Minimum Funding Requirements—Plan Restoration

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the Federal Register, the Internal Revenue Service is issuing temporary regulations relating to the minimum funding requirements of section 412 of the Internal Revenue Code of 1986 as they apply to plans that are restored by the Pension Benefit Guaranty Corporation. The text of those temporary regulations also serves as the text for this Notice of Proposed Rulemaking. These regulations provide the public with guidance necessary to comply with the law. They will affect sponsors of and participants in pension plans covered under title IV of the Employee Retirement Income Security Act ("ERISA").

DATES: Written comments and requests for a public hearing must be delivered or mailed by December 24, 1990.

ADDRESSES: Send comments and requests for a public hearing to: Internal Revenue Service, P.O. Box 7604 Ben Franklin Station, Attention: CC:CORP:T:R (EE-66-90), Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Michael J. Roach at 202-566-6260 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations in the Rules and Regulations portion of this issue of the Federal Register amend 26 CFR by adding a new § 1.412(c)(1)-3T to part 1 of title 26 of the Code of Federal Regulations to provide guidance with respect to the minimum funding requirements in situations involving plans restored by the Pension Benefit Guaranty Corporation pursuant to its authority in section 4047 of the Employee Retirement Income Security Act of 1974 ("ERISA"). The regulations are proposed to be issued under the authority contained in section 7805 of the Code (26 U.S.C. 7805). For the text of the temporary regulations, see T.D. 8317 published in the Rules and Regulations portion of this issue of the Federal Register.

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility

Act [5 U.S.C. chapter 6) do not apply to these regulations, and therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Comments and Requests for Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these proposed regulations is Michael J. Roach of the Office of the Assistant Chief Counsel (Employee Benefits and Exempt Organizations), Internal Revenue Service. However, a personnel from other offices of the Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 90-25025 Filed 10-22-90; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Part 1

[CO-77-89]

RIN 1545-AO29

Acquisitions Made To Evade or Avoid Income Tax; Use of Corporate Tax Attributes Following an Ownership Change

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations which provide guidance relating to acquisitions made to evade or avoid income tax under section 269 of the Internal Revenue Code of 1986 (the "Code").

DATES: The public hearing will be held on Monday, December 3, 1990, beginning at 10 a.m. Requests to speak and outlines of oral comments must be received by Monday, November 19, 1990.

ADDRESSES: The public hearing will be held in the IRS Auditorium, Seventh Floor, 7600 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Requests to speak and outlines of oral comments should be submitted to the Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R [CO-77-89], Room 4429, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Bob Boyer of the Regulations Unit, Assistant Chief Counsel (Corporate), 202-566-3235, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is a notice of proposed rulemaking which proposes additions to part 1 of title 26 of the Code of Federal Regulations ("CFR") under sections 269 and 382 of the Code. The proposed regulations provide guidance under sections 269, 382, and 383 relating to acquisitions made to evade or avoid income tax and to the use of pre-change corporate tax attributes following an ownership change with respect to which section 382(l)(5) applies. The proposed regulations appeared in the Federal Register for August 14, 1990 (55 FR 33137).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Monday, November 19, 1990, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 90-25027 Filed 10-22-90; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 916

Kansas Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; reopening and extension of comment period.

SUMMARY: OSM is announcing receipt of additional revisions pertaining to a previously proposed amendment to the Kansas permanent regulatory program (hereinafter, the "Kansas program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). These revisions pertain to public hearings and minor format and editorial changes. The amendment is intended to revise the State program to be consistent with the corresponding Federal standards, and to clarify ambiguities and improve operational efficiency.

This notice sets forth the times and locations that the Kansas program, proposed amendment to that program, and additional information are available for public inspection, and the reopened comment period during which interested persons may submit written comments on the proposed amendment.

DATES: Written comments must be received on or before 4 p.m., c.s.t. November 7, 1990.

ADDRESSES: Written comments should be mailed or hand delivered to Jerry R. Ennis at the address listed below.

Copies of the Kansas program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Kansas City Field Office.

Jerry R. Ennis, Director, Kansas City Field Office, Office of Surface Mining Reclamation and Enforcement, 934

Wyandotte, room 500, Kansas City, MO 64105, Telephone: (816) 374-6405.
Kansas Department of Health and Environment, Surface Mining Section, Shirk Hall, 4th Floor, 1501 S. Joplin, P.O. Box 1418, Pittsburg, KS 66762, Telephone: (316) 231-8515.

FOR FURTHER INFORMATION CONTACT: Jerry R. Ennis, Director, Kansas City Field Office (816) 374-6405.

SUPPLEMENTARY INFORMATION:

I. Background on the Kansas Program

On January 21, 1981, the Secretary of the Interior conditionally approved the Kansas program. General background information on the Kansas program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Kansas program can be found in the January 21, 1981, Federal Register (46 FR 5892). Subsequent actions concerning Kansas' program and program amendments can be found at 30 CFR 916.12, 916.15, and 916.16.

II. Proposed Amendment

By letter dated June 23, 1989 (Administrative Record No. KS-436), Kansas submitted a proposed amendment to its program pursuant to SMCRA. Kansas submitted the proposed revisions (1) in response to an October 21, 1988, letter that OSM sent in accordance with 30 CFR 732.17(c) requiring certain provisions of the State program to be updated for consistency with the Federal regulations through July 1, 1988, and to satisfy anticipated deficiencies in the State program through July 1, 1988, (2) in response to a May 11, 1989, letter that OSM sent in accordance with 30 CFR 732.17(c) concerning ownership and control, and (3) at the State's own initiative to improve its program.

The regulations that Kansas proposes to amend are: Kansas Administrative Regulations (K.A.R.) 47-1-1, Title; 47-1-2, Communication; 47-1-4, Sessions; 47-1-6, Petitions to Initiate Rulemaking; 47-1-8, Notice of Citizen Suits; 47-1-1-0, General Notice Requirement; 47-1-11, Permittee Preparation and Submission of Reports; 47-2-14, Complete and Accurate Application Defined; 47-2-21, Employee Defined; 47-2-53, Regulatory Authority or State Regulatory Authority Defined; 47-2-67, Surety Bond Defined; 47-2-75, Definitions-Adoption by Reference; 47-3-1, Application for Mining Permit; 47-3-2, Application for Mining Permit-Adoption by Reference; 47-3-3a, Application for Mining Permit-Maps; 473-42, Application for Mining Permit-Adoption by Reference; 47-4-14, Public Hearing-Incorporation by Reference of K.S.A. 77-501 *et seq.*; 47-4-15, Administrative Hearings, Discovery, Incorporation by Reference; 47-4-16, Interim Orders for Temporary Relief; 47-4-17, Administrative Hearings, Award of Costs and Expenses; 47-5-5a, Civil Penalties-Adoption by Reference; 47-5-16, Civil Penalties-Final Assessment and Payment; 47-6-1, Permit Review; 47-6-2, Permit Revision; 47-6-3, Permit Renewals-Adoption by Reference; 47-6-4, Permit Transfers, Assignments, and Sales-Adoption by Reference; 47-6-6, Permit Conditions-Adoption by Reference; 47-6-9, Bonding Procedures-Adoption by Reference; 47-6-11, Use of Forfeited Bond Funds; 47-9-1, Performance Standards-Adoption by Reference; 47-9-2, Revegetation; 47-9-4, Interim Program Performance Standards-Adoption by Reference; 47-10-1, Underground Mining-Adoption by Reference; 47-11-6, Small Operator Assistance Program-Adoption by Reference; 47-12-4, Lands Unsuitable for Surface Mining-Adoption by Reference; 47-13-4, Training and Certification of Blasters-Adoption by Reference; 47-13-5, Responsibilities of Operators and Blasters-in-Charge; 47-13-6, Training Program; 47-14-7, Employee Financial Interest-Adoption by Reference; 47-15-1a, Inspection and Enforcement-Adoption by Reference; 47-15-3, Lack of Information and Inability to Comply; 47-15-4, Injunctive Relief; 47-15-7, State Inspections; 47-15-8, Citizen's Request for State Inspections; 47-15-15, Service of Notices of Violation and Cessation Orders; and 47-15-17, Maintenance of Permit Areas.

OSM published a notice in the July 14, 1989, Federal Register (54 FR 29742) announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment (Administrative Record No. KS-441). The public comment period ended August 14, 1989.

During its review of the amendment, OSM identified concerns related to K.A.R. 47-1-9(e) and (f), Notice of Citizen Suits; 47-2-21, Employee Defined; 47-2-53, Regulatory Authority or State Regulatory Authority Defined; 47-2-53a, Regulatory Program Defined; 47-2-58, Significant, Imminent Environmental Harm to Land, Air, and Water Resources Defined; 47-2-64, State Act Defined; 47-2-74, Public Road Defined; 47-2-75(a) (3), (7), and (8), Definitions; 47-2-75(b) (6) (B) and (C), Alluvial Valley Floor and Arid and Semiarid Area Defined; 47-2-75, Ownership and Control Definitions; 47-3-1, Application for Mining Permit; 47-3-2(c) (3), Application for Mining Permit; 47-3-42, Application for Mining Permit; 47-3-42 (b) (15), Special Category Permits; 47-3-42, Application for Mining Permit; 47-4-14, Incorporation by Reference of Kansas Statute Annotated 77-501 *et seq.*; 47-5-5a(a)(10), Individual Civil Penalties; 47-6-2(d), Permit Revision; 47-6-6(b) (4), Permit Review; 47-7, Coal Exploration; 47-9-9(q) (2), Bonding Procedures; 47-9-1(c) (6), Topsoil and Subsoil; 47-9-1(c) (26), Coal Mine Waste: General Requirements; 47-9-1(c) (42) and (d)(39), Surface and Underground Revegetation: Standards for Success; 47-9-1(c) (45) and (d)(44), Surface and Underground Postmining Land Use; 47-9-1(d) (2), Underground Mining Performance Standards; 47-10-1(b) (6), Underground Mining Permit Applications; and Rills and Gullies Guidelines. OSM notified Kansas of the concerns by letter dated September 8, 1989 (Administrative Record No. KS-445). Kansas responded in letters dated October 24, October 30, November 9, and November 15, 1989, and an undated letter received November 17, 1989 (Administrative Record No. KS-449), by submitting a revised amendment.

OSM published a notice in the December 1, 1989, Federal Register (54 FR 49773) announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment (Administrative Record No. KS-470). The public comment period ended December 18, 1989.

During its review of the additional information submitted by Kansas, OSM identified concerns related to K.A.R. 47-2-75(e)(6), Definitions; 47-4-14a, (a)(2), and (b)(6), Administrative Hearings-Procedure; 47-4-15(c), Administrative Hearings-Discovery; 47-5-5a (a)(8), Procedures for Assessment Conferences; 47-5-5a (a) (10), Individual Civil Penalties; and 47-5-5a(b)(11), Civil Penalties. OSM notified Kansas of the concerns by letter dated February 13, 1990 (Administrative Record No. KS-463). Kansas responded in letters dated March 26 and June 29, 1990 (Administrative Record No. KS-471), by submitting a revised amendment. In addition, Kansas submitted proposed revisions (1) in response to a May 22, 1989, letter that OSM sent in accordance with 30 CFR 732.17(c) requiring certain provisions of the State program to be updated for consistency with the Federal regulations through July 1, 1989, (2) in response to a February 7, 1990, letter that OSM sent in accordance with 30 CFR 732.17(d) concerning incidental coal extraction, (3) concerning administrative procedures at its own initiative, and (4) in response to a June 22, 1990, letter that OSM sent in accordance with 30 CFR 732.17(d) concerning subsidence control.

On October 9, 1990, Kansas submitted additional revisions to its amendment (Administrative Record No. KS–488) at its own initiative to improve clarity by changes in format and minor editorial revisions, and to improve operational efficiency concerning public hearings at K.A.R. 47–4.

III. Public Comment Procedures

OSM is reopening the comment period on the proposed Kansas program amendment to provide the public an opportunity to reconsider the adequacy of the amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Kansas program.

Written comments should be specific, pertain only to the issue proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Kansas City Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

List of Subjects in 30 CFR Part 916

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 18, 1990.

Raymond L. Lowrie,

Assistant Director, Western Support Center.

[FR Doc. 90–24991 Filed 10–22–90; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 3854–1]

Approval and Promulgation of State Implementation Plans: Colorado; Regulation No. 1

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to approve revisions to the Colorado State Implementation Plan (SIP) submitted on November 17, 1988, by the Governor of Colorado. The revisions include amendments to Colorado Regulation No. 1 to exempt the destruction of missiles under the Intermediate-Range Nuclear Forces (INF) Treaty from meeting the opacity limits. Other amendments were also submitted on November 17, 1988, including revisions to Colorado Regulations No. 3, No. 11, No. 13 and the Common Provisions Regulation, which are addressed in other Federal Register Notices. EPA published a direct final rule approving the submittal in the May 11, 1989, Federal Register (54 FR 20389); but because notice was received that adverse comments would be submitted, the final rule was withdrawn in another Federal Register notice.

The submittal provides for the destruction of missiles under the INF Treaty at the Pueblo Army Depot by static firing. The opacity standard cannot be met by this operation, and the submittal exempts the missile destruction from these standards. The opactiy requirements are not necessary to enforce compliance with the permit which has been issued to ensure that the ambient air quality will be at acceptable levels.

DATES: Comments must be received on or before November 23, 1990.

ADDRESSES: Written comments should be addressed to: Douglas M. Skie, Chief, Air Programs Branch, Environmental Protection Agency, One Denver Place, suite 500, 999 18th Street, Denver, Colorado 80202–2405.

Copies of the state submittal are available for public inspection between 8 a.m. and 4 p.m., Monday through Friday, at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, One Denver Place, suite 500, 999 18th Street, Denver, Colorado 80202–2405.

Colorado Department of Health, Air Pollution Control Division Ptarmigan Place, N. Cherry Creek, Drive and Colorado Blvd., Denver, Colorado.

FOR FURTHER INFORMATION CONTACT: Dale M. Wells, Air Programs Branch, Environmental Protection Agency, One Denver Place, suite 500, 999 18th Street, Denver, Colorado 80202–2405, (303) 293–1773, (FTS) 564–1773.

SUPPLEMENTARY INFORMATION: On December 8, 1987, the United States and the Soviet Union signed the Intermediate-Range Nuclear Forces (INF) Treaty to eliminate intermediate-range and shorter-range Pershing missile systems. The treaty provides specific methods, procedures, and time frames for destroying the missiles once the treaty enters into force.

The Army completed an Environmental Assessment (EA) in February 1988, pursuant to the provisions of the National Environmental Policy Act, on the potential environmental effects of eliminating the missiles. The EA was submitted to the United States Senate for information during the treaty ratification process. The EA discussed destruction methods of static firing and open burning in the State of Colorado. The document concludes with a finding of no significant impact but points out the need for environmental permits. Pueblo Army Depot Activity is the only site evaluated in the EA for the elimination process in Colorado.

To ensure compliance with the mandates of the treaty and state and federal environmental regulations the Army consulted with the Office of the Governor, the State Department of Health, and the EPA. During meetings of April 6–7 1988, the Army was advised to submit a rulemaking peitition to exempt the Pershing elimination activity from the state opacity limit for the reason stated below:

> Air emissions from the static firing of Pershing rocket motors are emitted directly into the ambient air and therefore cannot be mitigated.

The amended Regulation No. 1, Section II.A.9 (new section) would exempt emissions from the static firing of missiles at the Pueblo Army Depot a period not to exceed 36 months from the first day of missile destruction unless otherwise mandated by amendment to the treaty or the state air permit.

In accordance with the Intermediate-Range Nuclear Forces Treaty as ratified, the Pueblo Army Depot submitted an application for an air pollution emission permit to dispose of Pershing rocket motors. On May 31, 1988, the Division observed from the test static firing of one Pershing rocket motor that the opacity of the plume from this activity would exceed the standard of 20% set forth in the Air Quality Control Commission's Regulation No. 1. The Pueblo Army Depot, in order to obtain a permit for the destruction of the remaining rocket motors, must obtain a waiver from the above opacity standard, or the permit will be denied. This waiver would be necessary due to the fact that there are no presently available methods to reduce opacity to compliance levels for this source.

The State adopted section II.A.9. in order to exempt the static firing of intermediate range and shorter range Pershing Missile systems from the opacity limits contained in Regulation No. 1, so long as such static firing results in emissions less than 250 tons per year of any one pollutant, adequate monitoring is conducted, and air pollutants are not emitted in dangerous quantities.

The opacity requirements are found in Regulation 1, Section II.A. and are primarily designed to ensure that standard smokestack type sources of air pollution are well controlled. While opacity requirements are generally appropriate for the control of both stack and fugitive emissions, the State is not, in this case, relying on the application of emission control systems for which opacity is an indication of proper operation.

Although exempted under Regulation 1 for opacity requirements, the State must issue a permit for the missile destruction under Colorado Regulation No. 3 before destruction of the missiles may commence. This permit cannot be issued unless the State determines through air quality dispersion modeling that the National Ambient Air Quality Standards, which protect against health and other effects, are met. This permit was issued on November 3, 1988, and restricts the number and time of the missile burns.

At the public hearing on July 21, 1988, various individuals commented on concerns about health effects from the missile burns. EPA also received four comments expressing concerns regarding adverse health effects and EPA's approval rationale in response to the May 11, 1988, notice. These comments were pertinent to the permit discussed above, but were not pertinent to the opacity standard. EPA reviewed the State's action in issuing the permit, and found that the State acted appropriately. EPA will take no enforcement action against past missile burns because the State has shown in its analysis of the new source permit under Colorado Regulation Number 3 that air quality standards will be met. EPA was involved in the review and approval of this permit and determined that the permit protects against violations of the National Ambient Air Quality Standards and adverse health effects.

Proposed Action

EPA proposes to approve the Colorado amendments to Colorado Regulation No. 1 to exempt the destruction of missiles under the Intermediate-Range Nuclear Forces (INF) Treaty from meeting the opacity limits because these opacity limits are not necessary for enforcement of the applicable permit. While opacity requirements are generally appropriate for the control of both stack and fugitive emissions, the State is not, in this permit, relying on the application of emission control systems for which opacity is an indication of proper operation.

Interested parties are invited to comment on all aspects of these proposed actions.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under 5 U.S.C. 605(b), I certify that this SIP Revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

This action has been classified as a Table 3 action by the Regional Administrator under procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years.

List of Subjects in 40 CFR Part 52

Air pollution control, Particulate matter.

Authority: 42 U.S.C. 7401–7642.

Dated: October 5, 1990.

Jack McGraw,

Acting Regional Administrator.

[FR Doc. 90-25028 Filed 10-22-90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Federal Insurance Administration

44 CFR Part 67

[Docket No. FEMA-7003]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations and proposed base flood elevation modifications listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These elevations, together with the floodplain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are

adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not prohibit development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E. O. 12127.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
ALABAMA	
Blount County (unincorporated areas)	
Locust Fork Black Warrior River:	
Just upstream of County Highway 13	*427
Just downstream of U.S. Highway 231	*565
Blackburn Fork Little Warrior River:	
At mouth	*433
Just downstream of County Highway 15	*450
Maps available for inspection at the County Courthouse, Oneonta, Alabama. Send comments to The Honorable Frank Green, Chairman, County Commission, Blount County, County Courthouse, Oneonta, Alabama 35660.	
Cherokee County (unincorporated areas)	
Coosa River:	
At county boundary	*539
At state boundary	*576
Chattooga River:	
At mouth	*573
About 3.2 miles upstream of State Highway 35	*581
Weiss Lake Forebay:	
Just upstream of Weiss Powerhouse Dam	*569
About 4.05 miles upstream of Weiss Powerhouse Dam	*572
Mill Creek:	
At mouth	*640
At southern county boundary	*651
Terrapin Creek:	
Just upstream of confluence of Mill Creek	*640
At southern county boundary	*654
Maps available for inspection at the County Courthouse, Centre, Alabama. Send comments to The Honorable Phillip Jordan, Chairman, County Commission, Cherokee County, County Courthouse, Centre, Alabama 35960.	
Cullman County (unincorporated areas)	
Bever Creek:	
About 500 feet upstream of mouth	*522
Just downstream of Section Line Road	*662
Mud Creek:	
About 600 feet upstream of mouth	*466
Just upstream of CSX railroad	*529
Maps available for inspection at the County Courthouse, 500 Second Avenue, SW, Cullman, Alabama. Send comments to The Honorable Ray Gamble, Chairman, County Commission, Cullman County, 500 Second Avenue, SW. Cullman, Alabama 35055.	

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Tallapoosa County (unincorporated areas)	
Tallapoosa River:	
At southern county boundary	*210
About 1.5 miles upstream of southern county boundary	*214
Calebees Creek:	
At mouth	*549
Just downstream of Pearson Chapel Road	*612
Tommy Star Creek:	
At mouth	*578
Just downstream of North Central Avenue	*599
Maps available for inspection at the County Courthouse, Dadeville, Alabama. Send comments to The Honorable William A. Threatt, Chairman, County Commission, Tallapoosa County, County Courthouse, Dadeville, Alabama 36853.	
ARKANSAS	
Bryant (city), Saline County	
Crooked Creek:	
At the downstream corporate limits	*361
Approximately .15 river mile upstream of State Route 183	*383
Crooked Creek Tributary:	
At the confluence with Crooked Creek	*373
Approximately .42 river mile upstream of confluence with Crooked Creek	*387
Bryant Tributary:	
At the confluence with Crooked Creek	*383
Approximately .18 river mile upstream of Yvonne Dam	*392
Hurricane Creek:	
Upstream side of Union Pacific Railroad	*260
Downstream side of Boone Road	*268
Maps available for inspection at the City Hall, 210 West 3rd Street, Bryant, Arkansas. Send comments to The Honorable Ray Bishop, Mayor of the City of Bryant, Saline County, City Hall, 210 West 3rd Street, Bryant, Arkansas 72022	
FLORIDA	
Baker County (unincorporated areas)	
St. Marys River:	
At downstream county boundary	*81
At confluence of Middle Prong St. Marys River	*89
North Prong St. Marys River:	
At confluence of Middle Prong St. Marys River	*89
About 1.0 mile upstream of State Road 2	*116
Middle Prong St. Marys River:	
At mouth	*90
Just downstream of State Road 250	*121
South Prong St. Marys River:	
At mouth	*70
Just downstream of State Road 125	*98
Little River:	
At mouth	*100
About 2.0 miles upstream of Baker Road	*113
Turkey Creek:	
At mouth	*85
About 1.8 miles upstream of mouth	*107
Cedar Creek:	
At mouth	*77
Just downstream of State Road 229	*135
Maps available for inspection at the County Courthouse, 55 N. 3rd Street, MacClenny, Florida. Send comments to The Honorable Watson Goodwin, Chairman, County Commission, Baker County, 55 N. 3rd Street, MacClenny, Florida 32063.	
Jefferson County (unincorporated areas)	
Rayor Creek:	
At mouth	*71
At divergence with Wolf Creek	*81
Wolf Creek:	

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
About 0.97 mile downstream of CSX railroad	*81
Just upstream of CSX railroad	*86
Just downstream of U.S. Route 90	*89
Gulf of Mexico:	
Just south of intersection of State Road 59 and U.S. Route 98	*12
At mouth of Aucilla River	*23
Aucilla River:	
Just upstream of U.S. Route 98	*11
Just downstream of state Road 146	*18
Beasley Creek:	
At mouth	*54
About 2.0 miles upstream of State Road 257	*75
Ward Creek:	
About 0.85 mile upstream of mouth	*89
Just downstream of State Road 259	*96
Maps available for inspection at the County Courthouse, Monticello, Florida. Send comments to The Honorable J.E. Cooksey, Chairman, County Commission, Jefferson County, County Courthouse, Monticello, Florida 32344.	
Liberty County (unincorporated areas)	
Big Gully Creek:	
At mouth	*41
At confluence of South Creek	*52
South Creek:	
At mouth	*52
Just downstream of unnamed road	*62
Apalachicola River:	
At southern county boundary	*39
At northern county boundary	*72
Telogia Creek:	
About 3.0 miles upstream of mouth	*39
Just downstream of Apalachicola Northern Railroad	*39
Camp Branch:	
About 2200 feet upstream of mouth	*109
Just downstream of State Road 379	*122
Just upstream of State Road 379	*125
Just downstream of unnamed road	*131
Just upstream of unnamed road	*136
About 0.8 mile upstream of State Road 379A	*157
Black Creek:	
At county boundary	*29
About 4.5 miles upstream of county boundary	*34
Maps available for inspection at the County Courthouse, Bristol, Florida. Send comments to The Honorable John T. Sanders, Chairman, County Commission, Liberty County, P.O. Box 399, Bristol, Florida 32321.	
GEORGIA	
Gordon County (unincorporated areas)	
Oostanaula River:	
Just downstream of State Route 136	*665
About 2,000 feet upstream of confluence of Camp Creek	*668
Opitcalooga Creek:	
At mouth	*630
Just downstream of Lilly Pond Road	*641
Tributary No. 1:	
At mouth	*638
About 1,550 feet upstream of U.S. Route 41	*640
Tributary No. 2:	
At mouth	*637
About 750 feet upstream of State Route 53	*654
Maps available for inspection at the Building Inspection Department, County Courthouse, 318 N. River Street, Calhoun, Georgia. Send comments to The Honorable Ellis Hite, Chairman, Board of Commission, Gordon County, P.O. Box 580, Calhoun, Georgia 30703-0580.	
Spalding County (unincorporated areas)	
Buck Creek:	
Just upstream of Barnesville Road	*676
About 700 feet upstream of South McDonough Road	*764
Cabin Creek:	
Just upstream of Ward Road	*656

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Just downstream of Wallace Mill Dam	*692
Just upstream of Wallace Mill Dam	*709
Just downstream of McDonough Road	*709
Troublesome Creek:	
Just upstream of Smoak Road	*706
About 1.25 miles upstream of Jordan Hill Road	*705

Maps available for inspection at the Building Inspector's Office, County Annex Building, Griffin, Georgia. Send comments to The Honorable Wayne Johnson, County Administrator, Spalding County, 132 E. Solomon Street, Griffin, Georgia 30224.

IOWA

Woodbury County (unincorporated areas)

Stone Creek:	
At mouth	*1,122
About 2,930 feet upstream of County Highway L-45	*1,127
Little Sioux River:	
About 2,500 feet downstream of State Highway 31	*1,122
About 2,700 feet upstream of County Highway L-36	*1,139
Missouri River:	
About 10.69 miles downstream of confluence of Omaha Creek	*1,085
About 5.19 miles upstream of confluence of Omaha Creek	*1,091

Maps available for inspection at the County Engineer's Office, County Courthouse, 7th & Douglas Streets, Sioux City, Iowa. Send comments to The Honorable Jim O'Kane, Chairman, Board of Supervisors, Woodbury County, County Courthouse, 7th & Douglas Streets, Sioux City, Iowa 51101.

NEW HAMPSHIRE

Kingston (town), Rockingham County

Great Pond: Entire shoreline within community	*102
Powow Pond: Entire shoreline within community	*119
Powow River:	
At upstream side of New Boston Road	*121
At downstream side of Bell Road	*122
Country Pond: Entire shoreline within community	*121

Maps available for inspection at the Town Clerk's Office, 163 Main Street, Kingston, New Hampshire. Send comments to The Honorable Pete Wilson, Chairman of the Town of Kingston Board of Selectmen, Rockingham County, Town Offices, 163 Main Street, Kingston, New Hampshire 03848.

NEW MEXICO

Valencia County (unincorporated areas)

Rio Grande	
Approximately 1.9 miles upstream of State Route 49	*4,680
Approximately 4.7 miles upstream of State Route 49	*4,689
Hells Canyon Wash:	
Approximately 1.1 miles downstream of State Route 235	*4,688
Approximately 0.8 mile upstream of Village of Bosque Farms corporate limits	*4,694

Maps available for inspection at the Planning and Zoning Office, County Courthouse, Los Lunas, New Mexico. Send comments to The Honorable Joe Maestas, Valencia County Manager, P.O. Box 1119, Los Lunas, New Mexico 87031.

NEW YORK

Mamakating (town), Sullivan County

Basher Kill:	
At State Route 17	*916
Approximately 1.6 miles upstream of McDonald Road	*939

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Homowack Kill:	
At corporate limits	*389
At second crossing of U.S. Route 209	*582
Tributary to Homowack Kill:	
Confluence with Homowack Kill	*531
Approximately 160 feet upstream of Fish Hatchery Road	*589
Pine Kill:	
At downstream corporate limits	*518
At confluence of Tributary to Pine Kill	*1,050
Tributary to Pine Kill:	
At the confluence with Pine Kill	*1,050
Approximately 2,115 feet upstream of Knob Hill Road	*1,245
Platte Kill:	
At confluence with Shawangunk Kill	*382
At upstream corporate limits	*1,086
Tributary to Platte Kill:	
At confluence with Platte Kill	*525
Approximately 15 feet upstream of Roose Gap and Pleasant Valley Road	*715
Sandburg Creek:	
At downstream corporate limits	*467
At upstream corporate limits	*929
Shawangunk Kill:	
At confluence of Platte Kill	*382
At upstream corporate limits	*884
Tributary 1 to Shawangunk Kill:	
At confluence with Shawangunk Kill	*384
Approximately 1,170 feet upstream of Ski Run Road	*841
Tributary 2 to Shawangunk Kill:	
At confluence with Shawangunk Kill	*389
Approximately 345 feet upstream of Ski Run Road	*389
Hillsey Brook:	
At corporate limits	*389
Approximately 130 feet upstream of Peak Road	*1,585
Tributary 1 to Hillsey Brook:	
At downstream corporate limits	*705
Approximately 0.8 mile upstream of County Route 108A	*1,124
Tributary 2 to Hillsey Brook:	
At confluence with Hillsey Brook	*1,089
Approximately 140 feet upstream of Downy Road	*1,118

Maps available for inspection at the Town Hall, Route 209, Wurtsboro, New York. Send comments to The Honorable Dennis Greenwald, Supervisor of the Town of Mamakating, Sullivan County, P.O. Box 276, Wurtsboro, New York 12790.

NORTH CAROLINA

Burke County (unincorporated areas)

Howard Creek:	
About 750 feet downstream of Bryant Road	*1,009
Just downstream of Norfolk Southern Railway	*1,139
Just upstream of Norfolk Southern Railway	*1,137
Just downstream of Mountain View Road	*1,149
Just upstream of Mountain View Road	*1,165
Just upstream of U.S. Route 70	*1,206
Downing Creek:	
Just upstream of Norfolk Southern Railway	*968
About 325 feet upstream of Cape Hickory Road	*974
McBalliard Creek:	
About 3,700 feet downstream of Park Bridge	*1,009
Just downstream of Park Bridge	*1,021
Just upstream of Park Bridge	*1,005
About 1.98 miles upstream of Falls Road	*1,092
Henry Fork:	
At the county boundary	*989
Just downstream of dam	*989
Just upstream of dam	*992
About 4,200 feet upstream of dam	*995
Silver Creek:	
About 1.64 miles downstream of Conley Road	*1,038
About 2,200 feet downstream of Conley Road	*1,046
Catawba River:	
About 2,400 feet downstream of Watermill-Glen Alpine Road	*1,002
Just downstream of Watermill-Glen Alpine Road	*1,009

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)

Maps available for inspection at the Planning Office, Human Resources Center, Parker Road, Morganton, North Carolina. Send comments to The Honorable Thomas B. Robinson, County Manager, Burke County, Human Resources Center, Parker Road, Morganton, North Carolina 28655.

Chatham County (unincorporated areas)

Polecberry Creek:	
About 1.2 miles downstream of U.S. Route 15	*346
Just downstream of SR 1525	*396
Loves Creek:	
At mouth	*504
About 1.1 miles upstream of U.S. Route 421 Bypass	*580
Rocky River:	
About 500 feet downstream of confluence of Loves Creek	*504
About 500 feet upstream of confluence of Loves Creek	*504
Little Indian Creek:	
At mouth	*251
About 2.2 miles upstream of mouth	*254
Indian Creek:	
At mouth	*291
About 2,075 feet upstream of confluence of Bear Creek	*291
Deep River:	
About 300 feet downstream of confluence of Indian Creek	*251
About 1,200 feet upstream of confluence of Indian Creek	*251
New River:	
At downstream county boundary	*401
At eastern county boundary	*418

Maps available for inspection at the County Planning Office, County Health and Office Building, 112 East Street, Pittsboro, North Carolina. Send comments to The Honorable Ben Shiver, County Manager, Chatham County, P.O. Box 87, Pittsboro, North Carolina 27312.

Cleveland County (unincorporated areas)

Buffalo Creek:	
Just upstream of Road 199	*602
Just downstream of Kings Mountain Dam	*666
Muddy Fork:	
At mouth	*657
About 2,000 feet upstream of confluence of Muddy Fork Tributary	*754
Muddy Fork Tributary:	
At mouth	*730
Just downstream of SR 2008	*781
Kings Mountain Reservoir: Along shoreline	*738

Maps available for inspection at the Planning and Mapping Department, County Courthouse, Room 200, Shelby, North Carolina. Send comments to The Honorable R.L. Alexander, County Manager, Cleveland County, P.O. Box 1210, Shelby, North Carolina 28150.

Gates County (unincorporated areas)

Harrell Swamp:	
At mouth	*27
Just upstream of SR 1330	*36
Jady Branch:	
About 2,800 feet downstream of Gum Branch	*11
Just downstream of State Road 137	*19
Raynor Swamp:	
About 1,900 feet downstream of confluence of Harrell Swamp	*27
About 500 feet upstream of confluence of Harrell swamp	*27
Chowan River:	
At southern county boundary	*8
About 2.84 miles upstream of southern county boundary	*8

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Maps available for inspection at the Building Inspection Office, County Courthouse, Gatesville, North Carolina. Send comments to The Honorable Edward McDuffie, County Manager, Gates County, County Courthouse, Gatesville, North Carolina 27938.	
Martin County (unincorporated areas)	
Roanoke River:	
About 7.86 miles downstream of U.S. Route 13	*8
About 9.13 miles upstream of U.S. Route 13	*15
Maps available for inspection at the Building Inspection Office, County Governmental Center, Williamston, North Carolina. Send comments to The Honorable Donnie Pittman, County Manager, Martin County, P.O. Box 668, Williamston, North Carolina 27892.	
Sampson County (unincorporated areas)	
South River:	
About 0.93 mile downstream of U.S. Route 701	*82
About 1.73 miles upstream of State Road 24	*108
Great Coharie Creek:	
About 2.16 miles downstream of State Road 24	*85
About 700 feet upstream of SR 1711	*97
Williams Old Mill Branch:	
At confluence with Great Coharie Creek	*92
Just downstream of McKoy Street	*111
Just upstream of McKoy Street	*119
Just downstream of Cemetery Road	*132
Black River:	
About 600 feet downstream of State Road 411	*46
At confluence of Great Coharie Creek	*58
Beaverdam Swamp:	
About 1,050 feet downstream of SR 1600	*144
Just downstream of SR 1703	*171
Kill Swamp:	
About 1,100 feet downstream of U.S. Route 701	*139
Just downstream of Interstate 40	*145
Just upstream of Interstate 40	*164
Just downstream of SR 1710	*185
Maps available for inspection at the County Inspection Department, 319 East Rowan Road, Clinton, North Carolina. Send comments to The Honorable Jerry Hobbs, County Manager, Sampson County, 319 East Rowan Road, Clinton, North Carolina 28328.	
Vance County (unincorporated areas)	
Tar River:	
About 1,200 feet downstream of confluence of Buffalo Creek	*222
About 4.1 miles upstream of U.S. Route 1	*248
Tabbs Creek:	
At mouth	*284
About 2,950 feet upstream of SR 1160	*328

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Maps available for inspection at the County Manager's Office, County Courthouse, Henderson, North Carolina. Send comments to The Honorable Jerry Aycock, County Manager, Vance County, County Courthouse, Henderson, North Carolina 27536.	
OKLAHOMA	
Washington County (unincorporated areas)	
Caney River:	
Approximately 1.4 miles downstream of the confluence of Rice Creek	*683
Approximately 1.7 miles upstream of County Road	*694
Rice Creek:	
At confluence with Caney River	*686
Approximately 0.4 mile upstream of Madison Boulevard	*746
Rice Creek Tributary:	
At confluence with Rice Creek	*667
Approximately 0.4 mile upstream of County Road	*689
Sand Creek:	
Approximately 1,160 feet downstream of confluence of Eliza Creek	*670
Approximately 1.2 miles upstream of Circle Mountain Road	*671
Eliza Creek:	
At confluence with Sand Creek	*670
Approximately 1.3 miles upstream of Circle Mountain Road	*671
Turkey Creek:	
At Bison Road	*727
Approximately .4 mile upstream of Bison Road	*736
Coon Creek:	
At confluence with Caney River	*675
At downstream side of Durham Avenue	*686
Maps available for inspection at the County Courthouse, 420 S. Johnston, Room 168, Bartlesville, Oklahoma. Send comments to The Honorable Joanne Bennett, Chairman of the Washington County Board of Commissioners, 205 E Bulldogger Road, Dewey, Oklahoma 74029.	
TENNESSEE	
Benton County (unincorporated areas)	
Tennessee River:	
About 5.75 miles downstream of CSX railroad	*376
About 6 miles upstream of Interstate 40	*377
Cypress Creek:	
At mouth	*376
Just downstream of Old Route 69	*491
Charlie Creek:	
At mouth	*376
Just downstream of Washington Avenue	*494
Burnside Creek:	
At mouth	*375
Just downstream of Fleetwoods Church Road	*489
Cane Creek:	
At mouth	*375
About 1,050 feet upstream of Post Oak Avenue	*427

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Maps available for inspection at the County Courthouse, Camden, Tennessee. Send comments to The Honorable Joe E. Wright, County Executive, Benton County, P.O. Box 248, Camden, Tennessee 38320.	
Obion County (unincorporated areas)	
Mantle Fork Creek:	
Just upstream of Daniel McConnell Road	*349
About 2.0 miles upstream of Pierce Station Road	*349
Maps available for inspection at the County Courthouse, Union City, Tennessee. Send comments to The Honorable Norris Crawford, County Executive, Obion County, P.O. Box 236, Union City, Tennessee 38281.	
Weakley County (unincorporated areas)	
Mud Creek:	
Just upstream of State Route 22	*399
Just downstream of Brasfield Road	*411
Just downstream of State Route 89	*417
Maps available for inspection at the County Courthouse, Dresden, Tennessee. Send comments to The Honorable Kerry S. Killebrew, County Manager, Weakley County, County Courthouse, Room 108, Dresden, Tennessee 38225.	
TEXAS	
San Saba (city), San Saba County	
San Saba River:	
At downstream corporate limits	*1,199
Approximately .5 mile downstream of Cline Creek Road	*1,206
Maps available for inspection at the City Hall, San Saba, Texas. Send comments to The Honorable James Reavis, Mayor of the City of San Saba, San Saba County, 307 S. Chiar, San Saba, Texas 76877.	
San Saba County (unincorporated areas)	
San Saba River:	
Approximately 1.08 miles downstream of Old Pecan Grove Road	*1,188
Approximately 2.8 miles upstream of Cline Creek Road	*1,212
Colorado River:	
At the downstream County boundary	*1,089
Approximately 11.7 miles upstream of downstream County boundary	*1,091
Maps available for inspection at the San Saba County Courthouse, San Saba, Texas. Send comments to The Honorable Tom Sheehan, San Saba County Judge, San Saba County Courthouse, San Saba, Texas 76877.	

The proposed modified base (100-year) flood elevations for selected locations are:

PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	Existing	Modified
California	City of Big Bear Lake, San Bernardino County.	Rathbun Creek	Approximately 500 feet upstream of Big Bear Lake.	None	6,744
			Approximately 250 feet downstream of SR18	6,759	6,795
			Approximately 60 feet upstream of Elm Street	6,809	6,851
			Approximately 350 feet upstream of Moonridge Road.	None	6,899
			At Lassen Drive	None	7,105

PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	Existing	Modified
Maps are available for review at City Hall, Community Development Department, 39707 Big Bear Boulevard, Big Bear Lake, California. Send comments to The Honorable Bill Sprayers, Mayor, City of Big Bear Lake, P.O. Box 2800, Big Bear Lake, California 92315.					
Georgia	City of Calhoun, Gordon County	Coosawattee River	About 0.72 miles downstream of North River Street.	None	*630
			About 1.79 miles upstream of North River Street	*626	*633
		Cothcaloga Creek	At mouth	*625	*630
			About 200 feet downstream of Lily Pond Road	None	*640
		Tributary No. 1	At mouth	*626	*632
			About 1550 feet upstream of U.S. Route 41	*640	*640
		Tributary No. 2	At mouth	*632	*637
			About 750 feet upstream of State Route 53	None	*654
Maps are available for inspection at the City Hall, 200 N. Wall Street, Calhoun, Georgia. Send comments to The Honorable Kathy Hamton, County Administrator, City of Calhoun P.O. Box 248, Calhoun, Georgia 30701.					
Texas	Richardson, city, Collin and Dallas Counties.	Duck Creek	At downstream corporate limits	*596	*594
		Approximately 1,000 feet upstream of Collins Boulevard.	None	*626	
		Rowlett Creek	Approximately 1,100 feet upstream of Dallas/Collin County boundary.	*505	*504
			Approximately 700 feet upstream of upstream corporate limits.	None	*517
		Spring Creek	At downstream corporate limits	None	*550
			Approximately 200 feet upstream of upstream corporate limits.	None	*594
		Stream 215.5	At downstream corporate limits	None	*556
			Approximately 750 feet upstream of downstream corporate limits.	None	*569
		Stream 5B12	Approximately 1,200 feet upstream of Waterview Drive.	None	*663
			Approximately 150 feet upstream of Drive A	None	*679
		Beck Branch	At confluence with Rowlett Creek	*506	*505
			Approximately 2,200 feet upstream of confluence	*508	*507
Maps are available for inspection at the City Hall, 411 W. Arapaho, Room 204, City Engineer's Office, Richardson, Texas. Send comments to The Honorable Charles Spann, Mayor of the City of Richardson, Collin and Dallas Counties, P.O. Box 830309, Richardson, Texas 75083.					

C.M. "Bud" Schauerte,
Administrator, Federal Insurance Administration.
[FR Doc. 90-23017 Filed 10-22-90; 8:45 am]
BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 22 and 94

[General Docket No. 82-343; FCC 90-334]

Service and Technical Rules for Government and Non-Government Fixed Service Usage of the Frequency Bands 932-935 MHz and 941-944 MHz

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to amend the Commission's Rules to limit the number of applications a party can file in the Government/Non-Government Fixed Service for point-to-multipoint channels in a particular market. The objective of this action is to ensure that equitable treatment is accorded applicants for channels in the 932–932.5/941–941.5 MHz bands by preventing the filing of multiple applications for the same communications requirement.

DATES: Comments are due November 7, 1990. Reply comments are due November 19, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rodney Small, telephone (202) 653–8116.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Fourth Notice of Proposed Rulemaking in General Docket 82–343, FCC 90–334, Adopted October 5, 1990, and Released October 12, 1990.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

The following collection of information contained in this proposed rule has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act. Copies of the submission may be purchased from International Transcription Service. Persons wishing to comment on this information collection should contact Bruce McConnell Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395–3785. A copy of any comments made should also be sent to the Federal Communications Commission, Office of the Managing Director, Washington, DC 20554. For further information contact Judy Boley, Federal Communications Commission, (202) 632–7513.

OMB Number: None.

Title: Service and Technical Rules for Government and non-Government Fixed Service Usage of the Frequency Bands 932–935 MHz and 941–941 MHz (47 CFR section 94.15).

Action: Proposed new collection.

Respondents: Business (including small business, State or local governments, and non-profit organizations).

Frequency of Response: On occasion.

Estimated Annual Burden: 50 responses; 500 total hours on respondents; 10 hours each.

Needs and Uses: If the Commission adopts a final rule in this proceeding, data submitted by respondents would be used to determine whether respondents have an ownership interest, direct or indirect, in two or more applications proposing sites within 25 miles of each other.

Summary of Proposed Rule

1. In the *First Report and Order* in this proceeding (50 FR 4650; February 1, 1985), the Commission allocated the 932–935/941–944 MHz bands for Government and non-Government (private and common carrier) fixed service usage on a co-primary basis. In the *Second Report and Order* (54 FR 10328; March 13, 1989), the Commission adopted procedures and rules to be followed in sharing the bands. Specifically, the Commission designated the 932–932.5/941–941.5 MHz bands for point-to-multipoint use and the 932.5935/941.5–944 MHz bands for point-to-point use. In the *Memorandum Opinion and Order* (55 FR 10492; March 21, 1990), the Commission clarified the application and coordination procedures for the service in response to five petitions for clarification or reconsideration. With respect to the point-to-multipoint channels, the Commission decided to conduct a nationwide lottery wherein all applications received would be ranked and then processed in the order of their ranking.

2. In accordance with the *Memorandum Opinion and Order*, the Commission's Office of Engineering and Technology (OET) released a *Public Notice* (55 23284; June 7, 1990) that solicited applications to operate in the fixed service bands at 932–935/941–944 MHz. Prior to the opening of this window, however, the Utilities Telecommunications Council (UTC) filed concurrent petitions with the Commission requesting that the filing window be stayed and that the application filing procedure be clarified or reconsidered. In support of these requests, UTC cited the failure of the *Public Notice* to prohibit applicants from filing multiple applications for the same communications requirement merely as a means of improving their odds of receiving a channel in a lottery. UTC contended that as a result of this omission and the Commission's policy in other services of limiting the filing of multiple applications in lotteries, applicants would be uncertain as to whether they could file multiple applications during the filing window. UTC requested that the Commission remove this uncertainty by clarifying whether multiple applications for the same site or service area would be accepted from the same or substantially the same applicant, absent a special showing of need in accordance with other current Commission licensing policies.

3. OET granted UTC's request for a stay of the filing window in an *Order* (55 FR 28097; July 9, 1990) that stated that UTC had raised an important issue that had not been addressed; *i.e.* the filing of multiple applications in the Government/non-Government Fixed Service. Further, OET stated that the lack of clear guidance regarding the filing of multiple applications could result in irreparable injury to some applicants.

4. The Commission believes that UTC's concern regarding the need to address the issue of whether an applicant can file more point-to-multipoint applications in a market to improve its chances in the lottery has merit.[1] Since the Commission began to use lotteries to select among competing applicants in recent years, it has usually precluded applicants from filing applications that have no purpose but to increase their chances of success in the lottery. Similar requirements appear to be warranted with respect to the point-to-multipoint channels recently made available in this proceeding. It has become clear to the Commission that the legitimate communications requirements of point-to-multipoint users will exceed the number of channels available in major urban areas. Therefore, allowing multiple applications to be filed for the same point-to-multipoint requirement would simply add to the number of applications that could not be granted and place a large administrative burden on both the applicants and the Commission. More importantly, permitting multiple applications for these channels would also unfairly provide an advantage to fee-exempt entities and applicants with substantial financial resources.

5. While the Commission believes that the filing of multiple applications for the purpose of increasing an applicant's chances in a lottery should be prohibited, it also recognizes that an applicant having a legitimate need for more than a single point-to-multipoint channel in a particular market should not be precluded from applying for multiple facilities. Therefore, any rule that is proposed must take into account the legitimate needs of potential applicants. Further, the Commission believes that the differing nature of point-to-multipoint uses under parts 22 and 94 of the Commission's Rules requires separate rules for each service.

6. Common carrier part 22 point-to-multipoint, or multiple address, systems use of fixed facilities consists of controlling one-way signaling operations. Typically, a part 22 multiple address control station communicates with four or more base station transmitters that in turn communicate with individual paging receivers; these base stations must be listed in the application. The Commission anticipates that most part 22 applicants for the 932–932.5/941–941.5 MHz bands will require only one frequency per service area. However, it recognizes that some applicants may have a need to control base stations in more than one paging system in a particular service area. Therefore, the Commission proposes to change § 22.501(g)(1) to provide that an application for a multiple address control frequency subject to this rule making cannot propose to serve any base station that is listed in a different application for these same frequencies.

7. Part 94 users typically construct stations that communicate with more locations than the typical part 22 station. As the Commission does not require these users to specify remote base station coordinates on their applications, it must rely on a different criterion to determine whether an entity has filed duplicate applications. The Commission tentatively concludes that a mileage separation will satisfy its concerns about duplicate applications from part 94 users without unduly complicating the licensing process. The technical parameters associated with multiple address system design are expected to provide licensees with service areas of approximately 25 miles. Therefore, it is proposed to prohibit any party from having an ownership interest, direct or indirect, in two or more applications that specify sites within 25 miles of each other, unless all applications that are submitted by a common owner acknowledge that party's common interest in the applications and describe in detail how each system will be serving different needs.

8. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and

[1] With regard to the point-to-point channels, the Commission believes that no limitation on the number of applications an entity can file is necessary. The size of the point-to-point allocation and the nature of point-to-point communications are such that lotteries are rare, and there is little to gain by filing multiple applications for these channels. Accordingly, on August 28, 1990, the filing window for point-to-point channels was reopened. *See Public Notice* (55 FR 35064 August 28, 1990).

found to impose a new or modified information collection on the public. Implementation of any new or modified requirement will be subject to approval by the Office of Management and Budget as prescribed by the Act.

8. This is a non-restricted notice and comment rule making proceeding. *See* § 1.1206 of the Commission's Rules, 47 CFR § 1.1206, for rules governing permissible *ex parte* contacts.

Ordering Clause

10. This action is taken pursuant to sections 4(i) and 303(f), (g), and (r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(f), (g), and (r).

List of Subjects

47 CFR Part 22

Public mobile service, Radio.

47 CFR Part 94

Private operational-fixed microwave service, Radio.

Proposed Rule Changes

11. Part 22 of title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 22—PUBLIC MOBILE SERVICES

12. The authority citation for part 22 would continue to read as follows:

Authority: 47 U.S.C. 154, 303, unless otherwise amended.

13. Section 22.501 is proposed to be amended by revising paragraph (g)(1) down to the table (the table is retained) to read as follows:

§ 22.501 Frequencies.

* * * * *

(g)(1) The frequencies listed in this paragraph are available for control stations utilized within multiple address system that requires the use of at least four simultaneously operated base stations operated on the same frequency assignment. These frequencies will be assigned only when there are four or more base station sites on the same frequency listed on the application for license. For purpose of this four station limitation, base stations proposed to be controlled in the 932–932.5/941–941.5 MHz bands in any multiple address control application filed pursuant to this subsection cannot be listed in, or counted towards, the four base station requirement of any other pending applications for the 932–932.5/941–941.5 MHz bands. The frequencies may be used in paired or unpaired configurations. When paired, the higher frequency will be used by the control/relay station, and the lower frequency will be used by the control station.

* * * * *

14. Part 94 of title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 94—PRIVATE OPERATIONAL-FIXED MICROWAVE SERVICE

15. The authority citation for part 94 would continue to read as follows:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303, unless otherwise noted.

* * * * *

16. Section 94.15 is proposed to be amended by revising paragraph (g) to read as follows:

§ 94.15 Policy governing the assignment of frequencies.

* * * * *

(g) Except as provided in paragraph (h) of this section, applicants requiring multiple transmit frequencies employed on separate paths from a single station location will not normally be authorized more than four of the transmit frequencies available in the band. Further, master and remote stations using frequencies listed in § 94.65(a)(1) of this part will not normally be authorized more than four (12.5 kHz) frequencies or frequency pairs. In the 932–932.5/941–941.5 MHz bands, applicants may not apply for a frequency of frequency pair within a 25 mile radius of the location of any previous license it has received or for which it has concurrently applied in the 932–932.5/941–941.5 MHz bands. Further, in these same bands, no party may have an ownership interest, direct or indirect, in two or more applications proposing sites within 25 miles of each other, unless all applications contain a statement acknowledging the commonality of ownership and describe in detail how each proposed system will serve a different communications need. Such descriptions will be evaluated by the Commission in determining the applicant's need for multiple frequencies. If any application subject to the foregoing requirement fails to contain the acknowledgement of ownership interest, all applications with a commonality of interest located within 25 miles will be dismissed.

* * * * *

17. In § 94.73, the table in paragraph (a) is proposed to be amended by removing the footnote designator and removing and reserving foot note one and revising the first sentence in footnote three to read as follows:

§ 94.73 Power limitations.

* * * * *

[3] For multiple address operations, see § 94.65(a)(1)(v). * * *

* * * * *

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-24917 Filed 10-22-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-446, RM-7062]

Radio Broadcasting Services; Key Largo, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Spanish Broadcasting System of Florida, Inc., requesting the substitution of Channel 280C2 for Channel 280A at Key Largo, Florida, and modification of its construction permit (BMPH–871120II) to specify operation on the higher class channel. Channel 280C2 can be allotted to Key Largo in compliance with the Commission's minimum distance separation requirements with a site restriction of 20.3 kilometers (12.6 miles) southwest. The coordinates for this allotment are North Latitude 24–57–20 and West Longitude 80–34–50. In accordance with Section 1.420(g) of the Commission's Rules, competing expressions of interest for use of Channel 280C2 at Key Largo will not be considered and petitioner will not be required to demonstrate the availability of an additional equivalent channel for use by such interested parties.

DATES: Comments must be filed on or before December 10, 1990, and reply comments on or before December 26, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: James M. Weitzman, Kay, Scholer, Fierman, Hays & Handler, 901 15th Street, NW., suite 1100, Washington, DC 20005 (Counsel for Spanish Broadcasting System of Florida, Inc.).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of

Proposed Rule Making, MM Docket No. 90-446, adopted September 27, 1990, and released October 18, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25051 Filed 10-22-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-130; RM-7160]

Radio Broadcasting Services; Rockledge, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of proposal.

SUMMARY: This document dismisses a petition filed by D.V.R. Broadcasting ("petitioner"), requesting the substitution of Channel 274C2 for Channel 274A and modification of its construction permit at Rockledge, Florida. See, 55 FR 10769, March 23, 1990. Petitioner did not express a continuing interest in the rule change. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-130, adopted September 25, 1990, and released October 18, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25052 Filed 10-22-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-311; RM-7195]

Radio Broadcasting Services; Oak Grove, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of.

SUMMARY: This document dismisses the petition of Oak Grove Broadcasting to allot Channel 283C2 to Oak Grove, Florida, as that community's first local broadcast service. Petitioner filed comments requesting withdrawal of its petition for rule making. With this action, the proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-311, adopted September 25, 1990, and released October 17, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24518 Filed 10-22-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-444; RM-7240]

Radio Broadcasting Services; Dexter, ME

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Daniel F. Priestley, requesting the substitution of Channel 271C2 for Channel 271A at Dexter, Maine. Petitioner also requested modification of his construction permit for Channel 271A at Dexter, to specify operation on Channel 271C2. Canadian concurrence will be requested for this allotment at coordinates 45-01-00 and 69-00-00.

DATES: Comments must filed on or before December 10, 1990, and reply comments on or before December 26, 1990..

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows:

Patricia A. Mahoney, Fletcher, Heald & Hildreth, 1225 Connecticut Avenue, NW., Suite 400, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-444, adopted September 27, 1990, and released October 17, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24919 Filed 10-22-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-442, RM-7344]

Radio Broadcasting Services; Oakland, MD

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Oakland Radio Station Corporation proposing the substitution of FM Channel 222A for 221A at Oakland, Maryland, and modification of the license for Station WXIR(FM) to specify the new channel. Coordinates for Channel 222A are 39-25-41 and 79-31-42.

DATES: Comments must be filed on or before December 10, 1990, and reply comments on or before December 26, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Earl R. Stanley, Wilkinson, Barker, Knauer & Quinn, 1735 New York Avenue, NW., Washington, DC 20006. (Counsel for the petitioner)

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-442, adopted September 26, 1990, and released October 17, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24920 Filed 10-22-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-137, RM-C005 and RM-6998]

Radio Broadcasting Services; Waseca, MN, and Menomonie and Spencer, WI

AGENCY: Federal Communications Commission.

ACTION: Order to show cause.

SUMMARY: This document directs Hackman Broadcasting, the licensee of Station WOSX, Spencer, Wisconsin, to show cause why its license should not be modified to specify operation on Channel 222A instead of Channel 221A. This action could allow Station KOWO-FM, Waseca, Minnesota, to upgrade its facility from Channel 221A to Channel 221C3, and Station WMEQ(FM), Menomonie, Wisconsin, to upgrade its facility from Channel 221A to Channel 221C3. A final determination regarding these proposals must await the outcome of action ordering the license modification of Station WOSX, Spencer, Wisconsin. This Order does not afford additional opportunity to comment on the merits of the conflicting proposal or for the acceptance of additional counterproposals. An opportunity is provided for Station WOSX to object to the ordered channel substitution.

DATES: Comments must be filed by Hackman Broadcasting on or before December 10, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24921 Filed 10-22-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-445; RM-7323, RM-7425]

Radio Broadcasting Services; Brooksville and Quitman, MS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on two mutually exclusive petitions for rulemaking. Quitman Broadcasting Company, Inc., has requested the substitution of Channel 255C3 for 255A at Quitman, Mississippi, and modification of the license for Station WYKK(FM) to specify operation on the new channel. The coordinates for Channel 255C3 at Quitman are 32-07-36 and 88-42-00. G. Dean Pearce proposed the allotment of FM Channel 255C3 to Brooksville, Mississippi, as that community's first local service. There is a site restriction 12.6 kilometers (7.8 miles) northeast of the community. The coordinates for Channel 255C3 at Brooksville are 33-19-54 and 88-30-30.

DATES: Comments must be filed on or before December 10, 1990, and reply comments on or before December 26, 1990.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows:

Herman Kelly, President, Quitman Broadcasting Company, Inc., Montrose Road, Quitman, Mississippi 39355

Paul Reynolds, 415 North College Street, Greenville, Alabama 36037. (consultant to Quitman Broadcasting Company, Inc.)

G. Dean Pearce, 1169 Northwood Lake, Northport, Alabama 35476.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-445, adopted September 27, 1990, and

released October 17, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau,

[FR Doc. 90–24922 Filed 10–22–90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90–443, RM–7239]

Radio Broadcasting Services; Sikeston, MO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Delta Radio Corporation proposing the substitution of FM Channel 250C3 for 249A at Sikeston, Missouri. Petitioner also requested modification of its license for Station KSTG(FM) to specify operation on Channel 250C3. The coordinates for Channel 250C3 are 36–57–30 and 89–33–05.

DATES: Comments must be filed on or before December 10, 1990, and reply comments on or before December 26, 1990.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows:

Harry C. Martin, Troy F. Tanner, Reddy, Begley & Martin, 2033 M Street, NW., Washington, DC 20036, (counsel for the petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–443, adopted September 25, 1990, and released October 17, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–24923 Filed 10–22–90; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 383

[FHWA Docket No. MC–90–10]

RIN 2125–AC54

Commercial Driver Instruction Permits

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Extension of comment period.

SUMMARY: In the Federal Register of August 22, 1990 (55 FR 34478), the FHWA published a notice of proposed rulemaking (NPRM) requesting public comment on additional minimum Federal standards for State-issued learners' permits that allow drivers to be trained in the operation of commercial motor vehicles (CMVs). The comment period was scheduled to close on October 22, 1990. Subsequently, the FHWA received a request from the American Association of Motor Vehicle Administrators (AAMVA) for an extension of the comment period in order to give the States more time to review, discuss, and develop positions on the NPRM. Owing to the complexity and importance of the NPRM, and the primary role that the States will have in implementing any resultant final rule, the FHWA is granting this request for an extension.

DATES: Comments must be received on or before November 30, 1990.

ADDRESSES: Submit written, signed comments to FHW Docket No. MC–90–10, Room 4232, HCC–10, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. All answers to questions should refer to the appropriate question number, and all comments on specific provisions should refer to the appropriate section and paragraph number. Commenters may, in addition to submitting "hard copies" of their comments, submit a floppy disk (either 1.2Mb or 360Kb density) in a format that is compatible with the Word Perfect word processing program. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m. e.t., Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Neil E. Moyer, Standards Review Division, Office of Motor Carrier Standards (202) 366–4009, or Mr. Paul L. Brennan, Office of the Chief Counsel, (202) 366–0834, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: On October 1, 1990, the AAMVA requested the FHWA to extend, until November 28, 1990, the comment period for the NPRM on Commercial Driver Instruction Permits (CDIPs). The AAMVA asserts that the NPRM, if adopted, would lead to "significant changes" to State Commercial Driver's License issuance policies and procedures. "We are concerned," the AAMVA continues,

"that the States have sufficient time to review the proposals and consider their benefits in the context of changes to state procedures."

The AAMVA regards the originally scheduled October 23 comment closing date as affecting insufficient time to the States to respond fully to the NPRM in view of its scope and potential impact on the States. In addition, the AAMVA Region I and Region III State coordinators will be meeting in late October and early November to discuss CDL issues including the CDLP NPRM.

According to the AAMVA, while not materially affecting the FHWA time frame for issuing a final rule, the proposed extension of the comment date would assist the States in providing more responsive comments to the docket that should assist the FHWA in developing more effective and meaningful requirements in this area.

The FHWA concurs in the AAMVA's reasoning. Since the AAMVA's proposed November 26 date would fall on the Monday immediately following the Thanksgiving Day weekend, the FHWA is extending the comment period through November 30, 1990.

Authority: Title XII of Pub. L. 99-570, 100 Stat. 3207-170; 49 U.S.C. 2122; 49 U.S.C. App. 2505; 49 CFR 1.48.

List of Subjects in 49 CFR Part 383

Commercial driver's license documents, Commercial motor vehicles, Highways and roads, Motor carriers licensing and testing procedures, and Motor vehicle safety.

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on October 18, 1990.

T.D. Larson,

Administrator.

[FR Doc. 90-24929 Filed 10-22-90; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

49 CFR Part 552

Petitions for Rulemaking, Defect and Noncompliance Orders

AGENCY: National Traffic Safety Administration (NHTSA), DOT.

ACTION: Petition for rulemaking; denial.

SUMMARY: This notice announces the denial of a rulemaking petition to amend Standard No. 208, *Door Locks and Door Retention Components*, to require that the door locks on any vehicle equipped with power door locks be manually operable from inside in the event of electrical power loss. Because the agency is not aware of, and because the petitioner did not identify any, specific vehicles in which this is a problem, the petition is denied.

FOR FURTHER INFORMATION CONTACT: Mr. William Boehly, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590, (202) 366-0842.

SUPPLEMENTARY INFORMATION: Federal Motor Vehicle Safety Standard No. 208, *Door Locks and Door Retention Components*, requires that each door of a passenger car, multipurpose passenger vehicle and truck be equipped with a locking mechanism with an "operating means in the interior of the vehicle." Further, the standard requires that when the locking mechanism is engaged in the rear side doors, both outside and inside door handles or other release controls shall be inoperative. For front doors, outside door handles or release controls shall be inoperative when the locking mechanism is engaged. The standard is silent on whether, for front doors, inside door handles or release controls are to be operative when the locking mechanism is engaged.

On June 21, 1990, C. Thomas VanVechten petitioned this agency to amend Standard No. 208 to require that a vehicle be equipped with means of manually unlocking a power door lock from inside the vehicle in the event of electrical power loss. The petitioner asserted that, on some vehicles equipped with power door locks, if the battery is discharged or disabled, it is not possible to open the vehicle from the inside. The petitioner did not identify any specific vehicles in which this problem occurs.

In response to this petition, NHTSA contacted General Motors, Ford, Chrysler, and the Association of International Automobile Manufacturers, Inc. (AIAM) to determine how power door locks operate on vehicles sold in the United States. Each responded that, on every vehicle they or their members produce, power door locks can be opened manually in the event of electrical power loss.

Thus, it appears from current available information that, contrary to the petitioner's assertion, power door locks can be opened from inside vehicles in the event of electrical power loss. This information is not contradicted by any data provided by the petitioner. Since the information available to the agency indicates that there is no reasonable possibility that a rule mandating that power door locks be capable of being opened manually would be issued at the conclusion of the requested rulemaking proceeding, NHTSA has decided to deny Mr. VanVetch's petition.

Issued on October 17, 1990.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 90-24930 Filed 10-22-90; 8:45 am]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 55, No. 205
Tuesday, October 23, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 90-201]

Veterinary Biological Products; Genetically Engineered Live Viral Vectored Vaccine

AGENCY: Animal and Plant Health Inspection Service, USDA

ACTION: Notice of hearing and availability of a report and a protocol for limited field trials.

SUMMARY: This document announces that the Animal and Plant Health Inspection Service will be conducting a joint State-Federal hearing to discuss: (1) The request of the Wistar Institute to conduct a limited field trial of a genetically engineered vaccinia vectored rabies vaccine at a test site in Pennsylvania; (2) The first month report of the Parramore Island, Virginia, limited field trial that was initiated on August 20, 1990, with the same vaccine, to be presented by a representative of the Wistar Institute. This document also announces the availability of the first month report of the Parramore Island field trial, additional safety data, and the sponsor's protocol for the Pennsylvania field trial.

DATES: The open hearing will be held on Wednesday, November 14, 1990, from 10 a.m. to 12:30 p.m., local time. The hearing will be reconvened from 1:30 to 4 p.m., Wednesday, November 14, 1990, if persons at the hearing who desire an opportunity to speak have not been heard. Please indicate your interest in attending this open hearing in writing, on or before November 6, 1990, addressed to the contact person listed in this notice.

ADDRESSES: The open hearing will be held at the Center City Holiday Inn, 23 S. Second Street at Chestnut Street, Harrisburg, Pennsylvania 17101. Any interested person may appear and be heard in person or through a representative. Persons who wish to be heard are requested to enter their names on the speaker's list prior to the hearing at the location of the hearing from 9 a.m. to 10 a.m. Those persons who sign the speaker's list will be heard in the order listed. However, any other person wishing to speak at the hearing will be afforded such opportunity after the listed speakers have been heard. If the number of speakers and other participants in attendance at the hearing warrants, the presiding officer may limit the time for each presentation in order to allow everyone wishing to speak the opportunity to be heard.

A copy of the Wistar Institute's first month report of the Parramore Island field trial, additional safety data, and the sponsor's protocol for the Pennsylvania field trial are available for public inspection at the United States Department of Agriculture, room 1141 South Building, 14th Street and Independence Avenue, SW., Washington, DC 20250 between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays, and may be obtained from the contact person listed in this notice.

FOR FURTHER INFORMATION CONTACT: Dr. Robert B. Miller, Senior Staff Veterinarian, Veterinary Biologics; Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 832, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, telephone (301) 436-5563.

SUPPLEMENTARY INFORMATION:

Background

On June 26, 1986, the United States Department of Agriculture (USDA) published its "Final Policy Statement for Research and Regulation of Biotechnology Processes and Products" as part of the Office of Science and Technology Policy (OSTP) "Coordinated Framework for the Regulation of Biotechnology" (51 FR 23336, June 26, 1986). As part of the policy statement, USDA discussed the regulation of veterinary biological products produced through biotechnological processes under the Virus-Serum-Toxin Act, as amended, (21 U.S.C. 151-159). USDA stated that such veterinary biological products will be treated similarly to products prepared by conventional techniques and each product will be evaluated as necessary to establish that it is pure, safe, potent, and efficacious as provided in the regulations (9 CFR parts 101-118).

USDA stated that for purposes of licensing, biologics derived by recombinant DNA techniques or developed from hybridomas may be classified into three broad categories.

The first category includes inactivated recombinant DNA-derived vaccines, bacterins, bacterin-toxoids, virus subunits, or bacterial subunits Monoclonal antibody (hybridoma) products used prophylactically, therapeutically, or as components of diagnostic kits are also included in this category.

The second category includes those products containing live microorganisms that have been modified by the addition or deletion of one or more genes. Precautions must be exercised to assure that this addition or deletion of specific genetic information does not impart increased virulence, pathogenicity, or survival advantages in these organisms which are greater than those found in nature or wild-type forms.

The genetic information to be added or deleted must consist of well-characterized DNA segments. A comparison is also required to be made between the genetically engineered organism and the wild type form with respect to biochemical pathways, virulence traits, and other factors affecting pathogenicity.

The third category of genetically engineered veterinary biologics includes products using live vectors to carry recombinant-derived foreign genes that code for immunizing antigens and/or other immune stimulants. USDA stated in its policy statement that with respect to products in the third category, characteristics of safety and transmission must be examined before questions and concerns dealing with safety to humans, animals and release into the environment can be answered and before such products can be considered for licensing. The Animal and Plant Health Inspection Service (APHIS) had determined that the best approach when considering category three products for licensing and release is to analyze each product individually to assure that all questions regarding safety, transmission, and other

considerations are properly addressed prior to granting any approval to field test or to issue a license.

APHIS, after reviewing its regulations in 9 CFR parts 101–118 for veterinary biological products, had determined that the requirements of such regulations are sufficient to enable the Agency to obtain the types of environmental, safety, purity, potency, and efficacy data needed to properly evaluate category three products before making a decision on the field testing and licensing of such products.

APHIS prepared a draft environmental assessment (EA), held a public meeting in Washington, DC; and prepared a final EA before authorization of a limited field trial of the live vaccinia-vectored rabies vaccine on Parramore Island. The applicant was required to comply with all requirements in 9 CFR 103.3 including obtaining state approval.

In 1989, APHIS approved under 9 CFR 103.3 the request from the Wistar Institute for authorization to conduct a limited field trial of a live vaccinia-vectored rabies vaccine that expresses the rabies virus surface glycoprotein. The limited field trial for this category three product was approved by the state of Virginia in 1989 and by the owners of the Parramore Island site, the Nature Conservancy, in August, 1990. The limited field trial was initiated on August 20, 1990. The protocol called for orally immunizing raccoons in the wild via a bait containing the vaccine.

APHIS will conduct an open hearing in Harrisburg, Pennsylvania, on November 14, 1990, to discuss: (1) The request of the Wistar Institute to conduct a limited field trial of the genetically-engineered vaccinia-vectored vaccine at a test site in Pennsylvania; and (2) The first month report of the Parramore Island limited field trial to be presented by a representative of the Wistar Institute. Please indicate your interest in attending this open hearing in writing, on or before October 31, 1990, addressed to the person listed under "FOR FURTHER INFORMATION CONTACT".

APHIS has previously published in a notice (see 54 FR 161–162, January 4, 1989) the type of data that APHIS will require in deciding whether authorization will be granted to conduct a limited field trial. This hearing will aid in determining specific issues that should be addressed in the development of an EA concerning the proposed Pennsylvania limited field trial.

Done in Washington, DC, this 17th day of October 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-24913 Filed 10-22-90; 8:45 am]

BILLING CODE 3410-34-M

Forest Service

Newspapers To Be Used for Publication of Legal Notice of Appealable Decisions for Southern Region; Alabama, Kentucky, Georgia, Tennessee, Florida, Louisiana, Mississippi, Virginia, Arkansas, Oklahoma, North Carolina, South Carolina, Texas, Puerto Rico

AGENCY: Forest Service, USDA.

ACTION: Notice; semi-annual.

SUMMARY: Deciding Officers in the Southern Region will continue to use the newspapers published in the Federal Register April 5, 1990 (55 FR 12893–12895), as modified below, for publication of legal notice of appealable decisions under 36 CFR part 217. As provided in 36 CFR 217.5(d), the public shall be advised, through Federal Register notice, of the principal newspaper to be utilized for publishing legal notices of decisions. Newspaper publication of notices of decisions is in addition to direct notice of decisions to those who have requested notice in writing and to those known to be interested in or affected by a specific decision.

DATES: The modification to the listing shall begin on or after October 23, 1990.

FOR FURTHER INFORMATION CONTACT: Jean Paul Kruglewicz, Regional Appeals Coordinator, Southern Region, Planning and Budget, 1720 Peachtree Road, NW., Atlanta, Georgia 30367–0102, Phone: 404–347–4067.

SUPPLEMENTARY INFORMATION: Deciding Officers in the Southern Region will give legal notice of decisions subject to appeal under 36 CFR part 217 in the newspapers as previously published on April 5, 1990, with the following exceptions. The timeframe for appeal shall be based on the date of publication of the legal notice of the decision in the principal newspaper.

Chattahoochee-Oconee National Forests, Georgia District Ranger Decisions.

Change Name of Primary Newspaper of

Toccoa Ranger District: *The News Observer* published weekly (Thursday) in Blue Ridge, GA

Delete Secondary Newspaper of

Toccoa Ranger District: *News Herald*, published weekly (Thursday) in Blue Ridge, GA

National Forests in North Carolina, North Carolina District Ranger Decisions:

Delete Secondary Newspapers of

Wayah Ranger District: *Smoky Mountain Times*, published weekly (Thursday) in Bryson City, NC

Wayah Ranger District: *Sylva Herald*, published weekly (Thursday) in Sylva, NC

Ouachita National Forest, Arkansas, Oklahoma District Ranger Decision:

Change Name and City of Primary Newspaper of

Choctaw Ranger District: *Tulsa World*, published daily in Tulsa, OK

Kiamichi Ranger District: *Tulsa World*, published daily in Tulsa, Ok

Tiak Ranger District: *Tulsa World*, published daily in Tulsa, OK

Dated: October 16, 1990.

Marvin C. Maier,

Deputy Regional Forester.

[FR Doc. 90-25012 Filed 10-22-90; 8:45 am]

BILLING CODE 3410-11-M

Revision of the George Washington National Forest Land and Resource Management Plan; Revised Notice of Intent To Prepare an Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice; Revised dates for draft and environmental impact statements.

SUMMARY: The George Washington National Forest has, as a result of the scoping process, identified twelve significant issues to be addressed in the revision of the Land and Resource Management Plan for the George Washington National Forest. To allow sufficient time to adequately analyze and address these issues, the Forest is revising the dates for the availability of the draft and final environmental impact statements.

FOR FURTHER INFORMATION CONTACT: Ronald W. Lindenboom, Interdisciplinary Team Leader, George Washington National Forest, Harrison Plaza, P.O. Box 233, Harrisonburg, Virginia 22801, phone (703) 433–2491.

SUPPLEMENTARY INFORMATION: The Notice of Intent for the revision of the Land and Resource Management Plan for the George Washington National Forest was published in the Federal

Register for November 2, 1989 (54 FR 46280–46281).

Twelve significant issues (including sixty-nine sub-issues) have been identified during the scoping process. Interested individuals can receive a 64-page "Summary of Issues" that lists the issues, sub-issues and synopses of substantive comments being addressed in the revision of the *Land and Resource Management Plan for the George Washington National Forest* by contacting the Interdisciplinary Team Leader.

The draft environmental impact statement was scheduled to be filed with the Environmental Protection Agency (EPA) and available for public review by March 1991. It is now expected to be available by October 1991. At that time EPA will publish a notice of availability of the draft environmental impact statement in the Federal Register.

The final environmental impact statement was scheduled to be completed by October 1991. It is now expected to be completed by May 1992.

Dated: October 17, 1990.

Marvin C. Meier,

Deputy Regional Forester.

[FR Doc. 90-25014 Filed 10-22-90; 8:45 am]

BILLING CODE 3410-11-M

Revised Land and Resource Management Plan for the National Forests and Grasslands in Texas, Angelina, Fannin, Houston, Jasper, Montague, Montgomery, Nacogdoches, Newton, Sabine, San Augustine, San Jacinto, Shelby, Trinity, Walker, and Wise Counties, TX

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare a draft and final environmental impact statement for a proposed action to revise the National Forests and Grasslands in Texas Land and Resource Management Plan pursuant to 16 U.S.C. 1604(f)(5) and 36 CFR 219.12. In accordance with 40 CFR 1501.6, the Bureau of Land Management (BLM) will be a cooperating agency.

The agency invites written comments and suggestions on the scope of the analysis. In addition, the agency gives notice that a full environmental analysis and decision-making process will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: Comments concerning the scope of the analysis should be received by November 30, 1990, to ensure timely consideration.

ADDRESSES: Submit written comments and suggestions to: William M. Lannen, Forest Supervisor; National Forests in Texas; 701 N. First Street; Lufkin, Texas 75901.

FOR FURTHER INFORMATION CONTACT: Reese Pope, Planning Team Leader; (409) 639–8582.

SUPPLEMENTARY INFORMATION: The Record of Decision for the current Land and Resource Management Plan (Forest Plan) was approved on May 20, 1987. There were 8 administrative appeals of the decision. Two of them were subsequently withdrawn and one was dismissed.

While appeals were pending against the Forest Plan, the Texas Committee on Natural Resources, the Sierra Club, and the Wilderness Society, parties in an ongoing suit against the Forest Service, amended their complaints to raise, inter alia, claims regarding the Forest Plan and, pursuant to the Endangered Species Act (16 U.S.C. 1531 et seq.), claims regarding the Forest's timber management activities with respect to the effect on the red-cockaded woodpecker (*Sierra Club* v. *Lyng*, Civ. No. L–85–69–CA (E.D. Texas 1988)]. The Federal District Court for the Eastern District of Texas ruled that the parties must exhaust the administrative appeal process before it would entertain the Forest Plan issues (see *Sierra Club* v. *Lyng*, 694 F. Supp. 1256 (E.D. Texas 1988)), but it proceeded to hold hearings and a trial and ruled upon the claims relating to the Endangered Species Act.

On June 17, 1988, the court issued a permanent injunction, enjoining the Forest Service from failing to implement certain practices and procedures within 1,200 meters of active and inactive red-cockaded woodpecker colony sites on the National Forests in Texas (*Sierra Club* v. *Lyng*, 694 F. Supp. 1280 (E.D. Texas 1988)). The court made amendments and clarifications to this order on October 20, 1988.

A "Comprehensive Plan" to comply with the June 17 and October 20, 1988, court orders was completed on December 15, 1988, and is currently being implemented on the National Forests in Texas. In accordance with section 7 of the Endangered Species Act, the U.S. Fish and Wildlife Service reviewed the court-ordered management approach and formally issued a jeopardy opinion.

After studying the court decision, the Chief of the Forest Service addressed the 6 remaining administrative appeals by remanding the Forest Plan to the National Forests in Texas for a new analysis and change(s) to the Forest Plan. This remand requires completion of planning steps 1–16 (36 CFR 219.12). The following six paragraphs describe the basis for the Chief's decision to remand the Forest Plan.

The court's orders directly and profoundly affect the management of approximately 200,000 acres, one-third of the 600,000 acres of the National Forests in Texas. Most notable is that the majority of these acres were originally classed as suitable for timber production and managed under the even-aged silvicultural system. Under the December 15, 1988, "Comprehensive Plan," these lands will now be managed using the selection system. To the extent the Forest Plan prescriptions for the affected acres are inconsistent, they must be changed.

The effect of the litigation likely reaches beyond changes in management on these 200,000 acres. In this case the changes that must be made are so fundamental and are on such a large portion of these National Forests, a complete re-analysis is necessary to determine whether the adjustments in the management prescriptions for the remaining areas of the National Forests are necessary. Without such a review, the essential nature of the Forest Plan, as an integrated framework for managing the whole of a National Forest System unit, would be lost.

In formulating the Forest Plan for the National Forests in Texas, the planners worked with assumptions concerning a management situation that no longer exists. A change in the management of approximately one-third the areas of the National Forests in Texas affects the level of goods and services the forests as a whole are able to supply under the current Forest Plan. These acess may now be able to supply less of some goods and services and more of others. It may no longer be feasible, under the current Forest Plan, to provide the mix of goods and services that maximizes net public benefits.

The court order per se does not require that management change outside the 200,000 acres managed for the red-cockaded woodpecker. However, the 200,00 acress are only a part of the National Forests in Texas which the National Forest Management Act requires to be planned for and managed under one integrated forest plan. Therefore, the Forest Plan must be reviewed and modified to meet the court's direction.

The case is currently under appeal to the Fifth Circuit Court of Appeals, and if

the Government prevails, the District Court's orders and the December 15, 1988, "Comprehensive Plan" based on them would not dictate the management of the 200,000 acres. In August 1988, when the Government sought amendment of the court's order, the Forest Service submitted a "Comprehensive Plan" in which it proposed an alternative for managing these acres. If the Forest Service prevails on appeal, management of these acres would not be so drastically affected as under the December 15, 1988, "Comprehensive Plan" currently in operation. However, the effect would still be sufficient to require a review and modification of the entire Forest Plan.

The Chief of the Forest Service directed that the current Forest Plan, as amended, outside the 1,200 meter red-cockaded woodpecker zones, will remain in effect and continue to be implemented during the re-analysis and preparation of the environmental impact statement.

The scope of the revision is to: (1) Establish multiple-use goals and objectives for the four National Forests (Angelina, Sam Houston, Sabine and Davy Crockett) and two Grasslands (Caddo and Lyndon B. Johnson) administered by the National Forests in Texas, (2) establish Forest-wide management requirements (standards and guidelines), (3) establish management area direction applying to future activities in each management area, (4) establish the allowable timber sale quantity and designate lands suitable for timber production, (5) make nonwilderness management area allocations and make recommendations regarding wilderness, (6) establish monitoring and evaluation requirements, (7) designate lands available for future leasing of oil and gas and other minerals, (8) determine harvest systems appropriate for use on suitable lands, (9) decide where clearcutting will not be considered for use, and (10) decide on off-road vehicle management for certain portions of the Forests.

The scope of the revision does not include the following where previously made decisions will continue to apply: (a) Allocations of existing wilderness; (b) allocations of existing Scenic, Protective, and Research Natural Areas; and (c) actions to control southern pine beetle.

The following issues will be addressed in the environmental analysis, as well as any significant issues identified during the scoping process: (1) How much, where and how timber management is to be practiced; (2) how the natural diversity of plants and animals is to be maintained; (3) how the Longleaf Ridge area is to be managed; (4) what balance of commodity and noncommodity goods and services is to be provided; (5) where and how mineral exploration and development is to be conducted; (6) where and how much off-highway vehicle use is to be allowed; and (7) what level of transportation system is to be implemented.

In preparing the environmental impact statement, the Forest Service will develop, as a minimum, a range of alternatives that: (1) Includes a "no action" alternative which is the current Forest Plan, as amended to reflect the most current court ruling (either the current District Court's decision or the pending 5th Circuit Court of Appeal's decision); (2) increase and/or decrease timber harvest and road construction levels, analyze various mixes of timber harvest methods, and analyze various mixes of nontimber activities; (3) evaluate different management strategies, including management of the Longleaf Ridge area and recommendations regarding wilderness; and (4) emphasize different mixes of timber and nontimber resources which may or may not meet demand for those resources.

Public participation will be especially important at several points during the analysis. The first point is during the scoping process (40 CFR 1501.7). The Forest Service will be seeking information, comments, and assistance from Federal, State and local agencies, Indian tribes, and other individuals or organizations who may be interested in or affected by the proposed action. This input will be used in preparation of the draft environmental impact statement (DEIS). The scoping process includes: (1) Identifying potential issues, (2) identifying issues to be analyzed in depth, (3) eliminating insignificant issues or those which have been covered by a relevant previous environmental analysis, (4) exploring additional alternatives, and (5) identifying potential environmental effects of the proposed action and alternatives (i.e., direct, indirect, and cumulative effects and connected actions).

Public participation will be solicited by notifying in person and/or by mail known interested and affected publics and key contacts of the scope of the analysis. In addition, news releases will be used to give the public general notice.

The Bureau of Land Management (BLM) has legal jurisdiction pertaining to leasing and developing minerals on National Forest System lands. Consequently, the BLM will be a cooperating agency in accordance with 40 CFR 1501.6.

The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by September 1992. At that time, EPA will publish a notice of availability of the draft environmental impact statement in the Federal Register.

The comment period on the draft final environmental impact statement will be 90 days from the date the EPA's notice of availability appears in the Federal Register. It is very important that those interested in the management of the National Forests and Grasslands in Texas participate at this time. To be most helpful, comments on the draft should be as specific as possible and should address the merits of the alternatives discussed (See the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

In addition, Federal Court decisions have established that reviewers of draft environmental impact statements must structure their participation in the environmental reviews of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions, *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978), and the environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

After the comment period ends on the draft environmental impact statement, the comments will be analyzed, considered, and responded to by the Forest Service in preparing the final environmental impact statement. The final environmental impact statement is scheduled to be completed by June 1993. The responsible official will consider the comments, responses, environmental consequences discussed in the final environmental impact statement, and applicable laws, regulations, and policies in making a decision regarding this revision. The responsible official will document the decision and reasons for the decision in the Record of

Decision. That decision will be subject to appeal in accordance with 36 CFR 217.

The responsible official is John E. Alcock, Regional Forester, Southern Region, 1720 Peachtree Road, NW., Atlanta, Georgia 30367.

Dated: October 16, 1990.

Marvin C. Meier,

Deputy Regional Forester.

[FR Doc. 90-25013 Filed 10-22-90; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

[Docket No. 900861-0261]

Foreign Availability Assessment: Pyrolytic Boron Nitrite (PBN)

AGENCY: Office of Foreign Availability, Bureau of Export Administration, Commerce.

ACTION: Notice of Initiation of an Assessment and Request for Comments.

SUMMARY: The Office of Foreign Availability (OFA) is providing notice that it initiated an assessment of foreign availability of pyrolytic boron nitrite (PBN) crucibles, boats, furnace tubes, liners, and other specially designed shapes used in the manufacture of semiconductor devices, integrated circuits and "assemblies" to controlled countries. OFA will assess foreign availability under the provisions of part 791 of the Export Administration Regulations (EAR). OFA is seeking public comments on the foreign availability of these items worldwide.

DATES: The period for submission of information will close November 23, 1990.

ADDRESSES: Submit information relating to this foreign availability assessment to: Anatoli Welihozkiy, Acting Director, Office of Foreign Availability, Bureau of Export Administration, U.S. Department of Commerce, room SB-097, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230

The public record concerning this notice will be maintained in the Bureau of Export Administration's Freedom of Information Record Inspection Facility, room 2525, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: John Pastore, Office of Foreign Availability, Department of Commerce, Washington, DC 20230, Telephone: (202) 377-8074.

SUPPLEMENTARY INFORMATION: Although the Export Administration Act (EAA) expired on September 30, 1990, the President, invoking the International Emergency Economic Powers Act, continued in effect the powers of the EAA and the Export Administration Regulations (EAR), to the extent permitted by law, in Executive Order 12730 of September 30, 1990.

Part 791 of the AER (15 CFR part 730 et seq.) establishes procedures and criteria for determining the foreign availability of goods and technology whose export is controlled for national security reasons. OFA is publishing this notice pursuant to Section 791.4 of the EAR.

On July 30, 1990, OFA accepted for filing a foreign availability submission pursuant to § 791.4 of the EAR relating to the decontrol of pyrolytic boron nitride (PBN) crucibles, boats, furnace tubes, liners, and other specially designed shapes used in the manufacture of semiconductor devices, integrated circuits and "assemblies" to controlled countries. These items are controlled for national security reasons under paragraph (b)(1) of Export Control Commodity Number (ECCN) 1355A of the Commodity Control List (CCL) (15 CFR 799.1, Supp. 1): Equipment for the processing of materials for the manufacture of devices and components.

Upon acceptance of the submission, OFA initiated a foreign availability assessment of the item. By December 30, 1990, the Department intends to submit for publication in the Federal Register its determination of the foreign availability of the item.

To assist OFA in assessing such foreign availablity, any person may submit relevant information to OFA at the above address.

The following information would be especially useful:

—Product names and model designations of the U.S. and non-U.S. items;
—Names and locations of non-U.S. sources;
—Key performance elements, attributes, and characteristics of the items on which quality comparisons may be made;
—Non-U.S. sources' production quantities and/or sales of any allegedly comparable item;
—An estimate of market demand and the potential economic impact of the control on the U.S. item;
—Extent to which any allegedly comparable item is based on U.S. technology;
—Information supporting the proposition that the foreign item is in fact available to the country or countries for which foreign availability is alleged.

Evidence supporting such relevant information may include, but is not limited to: foreign manufacturers' catalogs, brochures, or operations or maintenance manuals; articles from reputable trade publications; photographs; and depositions based upon eyewitness accounts. Supplement No. 1 to part 791 of the EAR provides additional examples of evidence that would be helpful to the investigation.

OFA will also accept comments or information accompanied by a request that part or all of the material be treated confidentially because of its proprietary nature or for any other reason. The information for which confidential treatment is requested should be submitted to OFA separately from any non-confidential information submitted. The top of each page should be marked with the term "Confidential Information." OFA either will accept the submission in confidence or, if the submission fails to meet the standards for confidential treatment, return it. A non-confidential summary must accompany such submissions of confidential information. The summary will be made available for public inspection.

Information OFA accepts as privileged under section (b) (3) or (4) of the Freedom of Information Act (5 U.S.C. 552) will be kept confidential and will not be available for public inspection, except as authorized by law. Communications from agencies of the United States Government and foreign governments will not be made available for public inspection.

All other information received in response to this notice will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires written comments. Oral comments must be followed by written memoranda, which also will be a matter of public record and will be available for public review and copying.

The public record of information received in response to this notice will be maintained in the Bureau of Export Administration's Freedom of Information Records Inspection Facility, room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of title 15 of the *Code of Federal Regulations*.

Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration, Freedom of

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Information Officer, at the above address or by calling (202) 377–2593.

Because of the strict statutory time limitations in which Commerce must make its determination, the period for submission of relevant information will close November 23, 1990. The Department will consider all information received before the close of the comment period in developing the assessment. Information received after the end of the period will be considered if possible, but its consideration cannot be assured. Accordingly, the Department encourages persons who wish to provide information related to this foreign availability submission to do so at the earliest possible time to permit the Department the fullest consideration of the information.

Dated: October 16, 1990.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 90-25094 Filed 10-22-90; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

[A-588-401]

Calcium Hypochlorite From Japan; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by petitioner, Olin Corporation, the Department of Commerce has conducted administrative reviews of the antidumping duty order on calcium hypochlorite from Japan. The reviews cover two manufacturers/exporters of this merchandise to the United States during the periods April 1, 1988 through March 31, 1989 and April 1, 1989 through March 31, 1990.

One firm had no shipments. For one firm which did not respond to our questionnaire for either review period, we used the best information available, which is the highest rate of any reviewed firm from the previous review.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: October 23, 1990.

FOR FURTHER INFORMATION CONTACT: Fred Baker or Robert Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On March 31, 1989, the Department of Commerce ("the Department") published a notice of "Opportunity to Request an Administrative Review" (54 FR 13211) of the antidumping duty order on calcium hypochlorite from Japan (50 FR 15470; April 18,1985). On April 10, 1989, the petitioner, Olin Corporation ("Olin"), requested an administrative review of the antidumping duty order. We initiated the review, covering the period April 1, 1988 through March 31, 1989, on May 24, 1989 (54 FR 22465).

On April 10, 1990, the Department published a notice of "Opportunity to Request an Administrative Review" (55 FR 13302) of the antidumping duty order on calcium hypochlorite from Japan for the period April 1, 1989 through March 31, 1990. On April 11, 1990, Olin requested an administrative review of the antidumping duty order. We initiated the review for this period on June 1, 1990 (55 FR 22366). The Department has now conducted these administrative reviews in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act"). The final results of the last administrative review in this case were published in the **Federal Register** on October 10, 1990 (55 FR 41259).

Scope of the Review

Imports covered by the reviews are shipments of calcium hypochlorite from Japan. During the review period such merchandise was classifiable under item number 418.2200 of the Tariff Schedules of the United States Annotated ("TSUSA"). This merchandise is currently classifiable under HTS item 2828.10.00.00. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The reviews cover two manufacturers/exporters of calcium hypochlorite to the United States and the periods April 1, 1988 through March 31, 1989 and April 1, 1989 through March 31, 1990. Tohoku Tosoh Chemical Co., Ltd., had no shipments of calcium hypochlorite to the United States during the periods of review. Because Nankai Chemical Industry Co., Ltd., failed to respond to the antidumping questionnaires for both periods, the Department used the best information available for deposit and assessment purposes, which is the the highest rate of any reviewed firm from the previous review.

Preliminary Results of the Review

As a result of our reviews, we preliminarily determine the margins to be:

Manufacturer/exporter	Period	Margin (percent)
Tohoku Tosoh Chemical Co., Ltd	04/01/88–03/31/89	
	04/01/89–03/31/90	10.56*
		10.56*
Nankai Chemical Industry Co., Ltd	04/01/88–03/31/89	
	04/01/89–03/31/90	10.56
		10.56

* No shipments during the periods; margin from last review in which there were shipments.

Interested parties may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first workday thereafter. Case briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of any written or oral comments.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required on shipments of calcium hypochlorite from Japan by the companies under review. For any future entries of this merchandise from a new producer and/or exporter, not covered in these reviews, whose first shipment occurred after March 31, 1990, and who is unrelated to any firm reviewed in this or any prior review, a cash deposit of 10.56 percent shall be required.

These deposit requirements are effective for all shipments of Japanese calcium hypochlorite entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of these administrative reviews.

These administrative reviews and notice are in accordance with 19 U.S.C. 1675(a)(1), (c) and 19 CFR 353.22.

Dated: October 15, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-25036 Filed 10-22-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-005]

Carbon Steel Bars and Structural Shapes From Canada; Revocation of Antidumping Finding

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of revocation of antidumping finding.

SUMMARY: The Department of Commerce has determined to revoke the antidumping finding on carbon steel bars and structural shapes from Canada, because it is no longer of any interest to interested parties.

EFFECTIVE DATE: September 6, 1990.

FOR FURTHER INFORMATION CONTACT: Sheila Forbes or Robert Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On September 6, 1990, the Department of Commerce (the Department) published in the **Federal Register** (55 FR 36680) its intent to revoke the antidumping finding on carbon steel bars and structural shapes from Canada (29 FR 13319, September 25, 1964).

Additionally, as required by 19 CFR 353.259d)(4)(ii), the Department served written notice of its intent to revoke this finding on each interested party listed on the service list. Interested parties who might object to the revocation were provided the opportunity to submit their comments no later than thirty days from the date of publication.

Scope of the Finding

The United States, under the auspices of the Customs Cooperation Council, has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedules (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by this finding are shipments of carbon steel bars bars-shapes under 3 inches, and structural shapes 3 inches and over from Canada manufactured by Western Canada Steel Ltd. Through 1988, such merchandise was classifiable under item numbers 606.8300 and 608.8000 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under HTS item numbers 7215.90.50 and 7216.33.00. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Determination to Revoke

The Department may revoke an antidumping finding or order if the Secretary of Commerce concludes that the finding or the order is no longer of any interest to interested parties. We conclude that there is no interest in an antidumping finding or order when no interested party has requested an administrative review for four consecutive review periods (19 CFR 353.25(d)(4)(i)) and when no interested party objects to the revocation.

In this case, we received no requests to conduct an administrative review pursuant to our notice of Opportunity to Request Administrative Review for five consecutive review periods (51 FR 31961, September 6, 1986; 52 FR 32951, September 1, 1987; 53 Fr 33836, September 1, 1988; 54 FR 37496, September 11, 1989; 55 FR 36300, September 5, 1990). Furthermore, we received no objections to our notice of intent to revoke the antidumping finding (55 FR 36680). Based on these facts, we have concluded that the antidumping finding covering carbon steel bars and structural shapes from Canada is no longer of any interest to interested parties. Accordingly, we are revoking this antidumping finding in accordance with 19 CFR 353.25(d)(4)(iii).

The revocation applies to all unliquidated entries of carbon steel bars and structural shapes from Canada entered, or withdrawn from warehouse, for consumption on or after September 6, 1990. Entries made during the period September 1, 1989 through September 5, 1990 will be subject to automatic assessment in accordance with 19 CFR 353.22(e). The Department will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after September 6, 1990, without regard to antidumping duties, and to refund any estimated antidumping duties collected with respect to those entries.

This notice is in accordance with 19 CFR 353.25.

Dated: October 15, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-25037 Filed 10-22-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-485-802]

Termination of Antidumping Duty Administrative Review; Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From Romania

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On July 18, 1990, the Department of Commerce (the Department) initiated an administrative review of the antidumping duty order on tapered roller bearings and parts thereof, finished or unfinished, from Romania. This review has now been terminated.

SUPPLEMENTARY INFORMATION:

Background

On July 18, 1990, at the request of UCF America, Inc., an importer of the subject merchandise, the Department initiated an administrative review of the antidumping duty order on tapered roller bearings and parts thereof, finished or unfinished, (TRBs) from Romania. On July 26, 1990, the Department published in the **Federal Register** the notice of initiation of that administrative review (55 FR 30490). The review covered Tehnoimportexport, an exporter of Romanian TRBs, and the period June 1, 1989 through May 31, 1990. UCF America, Inc. subsequently withdrew its request for review on October 10, 1990, based upon the fact that there were no shipments during the period of review. As a result, the Department has terminated the review.

EFFECTIVE DATE: October 23, 1990.

FOR FURTHER INFORMATION CONTACT: Shawn Thompson or Kate Johnson, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-1776 or (202) 377-4103, respectively.

SUPPLEMENTARY INFORMATION: This notice is published in accordance with section 751 of the Tariff Act of 1930, as amended (19 U.S.C. 1675) and 19 CFR 353.22(a)(5).

Dated: October 17, 1990.

Francis J. Sailer,

Deputy Assistant Secretary for Investigations, Import Administration.

[FR Doc. 90-25038 Filed 10-22-90; 8:45 am]

BILLING CODE 3510-DS-M

[C-614-803]

Lamb Meat From New Zealand; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On August 30, 1990, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on lamb meat from New Zealand. We have now completed that review and determine the total bounty or grant to be 16.25 percent *ad valorem* for Waitaki, 11.31 percent *ad valorem* for Richmond, 0.47 percent *ad valorem* for Weddel Crown, 0.38 percent *ad volorem* for Lamb Gourmet and 2.74 percent *ad valorem* for all other firms during the period April 1, 1988 through March 31, 1989. In accordance with 19 CFR 355.7, any rate less than 0.50 percent *ad valorem* is *de minimis*.

EFFECTIVE DATE: October 23, 1990.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Paul McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On August 30, 1990, the Department of Commerce (the Department) published in the **Federal Register** (55 FR 35443) the preliminary results of its administrative review of the countervailing duty order on lamb meat from New Zealand (50 FR 37708; September 17, 1985). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of Review

Imports covered by this review are shipments of lamb meat, other than prepared, preserved or processed, from New Zealand. During the review period, such merchandise was classifiable under items 106.3000 of the *Tariff Schedules of the United States Annotated* (TSUSA). Such merchandise is currently classifiable under items 0204.10.0000, 0204.22.2000, 0204.23.2000, 0204.30.0000, 0204.42.2000 and 0204.43.2000 of the *Harmonized Tariff Schedule* (HTS). The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period April 1, 1988 through March 31, 1989 and two programs: (1) Export Market Development Taxation Incentive (EMDTI) and (2) Livestock Incentive Scheme (LIS).

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received no comments.

Final Results of Review

As a result of our review, we determine the total bounty or grant to be 16.25 percent *ad valorem* for Waitaki, 11.31 percent *ad valorem* for Richmond, 0.47 percent *ad valorem* for Weddel Crown, 0.38 percent *ad valorem* for Lamb Gourmet and 2.74 percent *ad valorem* for all other firms during the period April 1, 1988 through March 31, 1989. In accordance with 19 CFR 355.7, any rate less than 0.50 percent *ad valorem* is *de minimis*.

Therefore, the Department will instruct the Customs Service to assess countervailing duties of 16.25 percent *ad valorem* for Waitaki, 11.31 percent *ad valorem* for Richmond, and 2.74 percent *ad valorem* for all other firms, except Weddel Crown and Lamb Gourmet, on all shipments of this merchandise exported on or after April 1, 1988 and on or before March 31, 1989. For Weddel Crown and Lamb Gourmet, the Department will instruct the Customs Service to liquidate, without regard to countervailing duties, all shipments of this merchandise exported on or after April 1, 1988 and on or before March 31, 1989.

The termination of the EMDTI program reduces the total estimated bounty or grant to 0.38 percent *ad valorem*, a rate which is *de minimis*. Therefore, the Department will instruct the Customs Service to waive cash deposits of estimated countervailing duties on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: October 16, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-25039 Filed 10-22-90; 8:45 am]

BILLING CODE 3510-DS-M

Scope Rulings

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of scope rulings.

SUMMARY: The International Trade Administration (ITA) hereby publishes a list of scope rulings completed between April 1, 1990 and June 30, 1990. In conjunction with this list, the ITA is also publishing a list of pending scope inquiries. The ITA intends to publish future lists within thirty days of the end of each quarter.

EFFECTIVE DATE: October 23, 1990.

FOR FURTHER INFORMATION CONTACT: Melissa G. Skinner, Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-4851.

SUPPLEMENTARY INFORMATION:

Background

Sections 353.29(d)(8) and 355.29(d)(8) of the Department's regulations (19 CFR 353.29(d)(8) and 355.29(d)(8)) provide that on a quarterly basis the Secretary will publish in the **Federal Register** a list of scope rulings completed within the last three months. The lists are to include the case name, reference number, and brief description of the ruling.

This notice lists scope rulings completed between April 1, 1990 and June 30, 1990, and pending scope clarification requests. The ITA intends to publish in October 1990, a notice of scope ruling completed between July 1, 1990 and September 30, 1990.

The following lists provide the country, case reference number, requester(s), and a brief description of either the ruling or product subject to pending request.

Scope Rulings Completed Between April 1, 1990 and June 30, 1990

Country: Canada

A-122-401: Red Raspberries; Various Canadian growers and sellers—berries in tankers and berries in flats

are within the scope of the order—5/16/90

Country: Federal Republic of Germany

A–428–801: Antifriction Bearings; SKF Textile Products, Inc.—antifriction bearings, including integral shaft ball bearings, that are used in textile machinery and that are imported with attachments and augmentations sufficient to advance their function beyond load-bearing/friction-reducing capability (SKF models: FL 11–014239; FL 11–013834; FL 11–013832; FL 11–014238; FL 11–014237; FL 97–017895; FL 98–017898; FL 113–017897; FL 114–017896; FL 06–104330; CK 668–012083; CK 668–012084; CK 668–013334; TL 225–012411; AW 12–014299; SR 23–008537; SR 23–012891; SR 23–953900; SR 23–953901; SR 23–953902; SR 23–953901; SR 23–953905; SR 24–954051; SR 9; FL 11–013832; FL 11–013833; FL 11–013834; FL 15–014956; FL 15–014964; TL 225–022488; TL 225–022486; TL 225–022485; TL 225–024121; CK 12–016446; CK 12–030848; CK 12–16446; CK 12–030848; LE 222–013406; LE 222–022847; LE 222–027128; DR 1918–014623; ZL 18–010975; ZL 20–018867; SR 7–953001; SR 45–017747; SR 45–028044; SR 28–01247; SR 28–012474; SR 23–954031; SR 23–954032; SR–954004; SR 23–954035; SR 23–010058; SR 23–020650; SR 23–953801; SR 23–954030; SR 24–954051; and SR 35–954151) are outside the scope of the order—5/10/90

Country: Taiwan

A–583–003: Fireplace Mesh Panels; Hechingers—inflexible, freestanding panels are outside the scope of the order—5/30/90

Pending Scope Inquiries as of June 30, 1990

Country: United Kingdom

A–412–801: Antifriction Bearings; Durbal GmbH, Nippon Thompson Co., Ltd., and Minebea Co., Ltd.—rod ends

Country: France

A–427–801: Antifriction Bearings; Valeo, Societe Anonyme—clutch release berings; Bell Helicopter Textron Inc.—ball bearings for use in helicopters

Country: Federal Republic of Germany

A–428–801: Antifriction Bearings; Durbal GmbH, Nippon Thompson Co., Ltd., and Minebea Co., Ltd.—rod ends

Country: People's Republic of China

A–570–506: Porcelain-on-Steel Cookware; Texsport—camping sets

A–570–003: Cotton Shop Towels; Able Textile—towels assembled in Canada from cotton grey fabric from People's Republic of China

Country: Korea

A–580–006: Color Television Receivers; Orion Electric Co.—TV/Radio model 799C/Chassis: CTV–8x; Goldstar—TV/Radio model RCV–661S; Goldstar—TV/VCR model KMV–6002; Commodore Business Machines—computer monitor model 1084(D)

A–580–801: Photo Albums and Filler Pages; Worldsource—commemorative binders; U.S. Customs inquiry—unfinished filler pages; Bowon Trading Co.—photo frame/albums (models 101257, 201257, 200957, 214357, 279757, 301457, 401357, 280857, 201057, and 316357)

A–580–805: Color Picture Tubes; Penn-Ray Sutra Corp.—video game displays

A–580–808: Certain Small Business Telephone Systems and Subassemblies Thereof; DBA—Smartalk 200 and 300 systems; Executone—System 432 and subassemblies exclusive to it, as well as subassemblies of the Isoetec line (P/N 15200, P/N 21660, P/N 15640, P/N 15700, P/N 15600, P/N 15620, P/N 15590, P/N 15610, P/N 15680, P/N 15650, P/N 15100, P/N 15410, P/N 15660, P/N 15340, P/N 15670, P/N 09010, P/N 62300, P/N 62100, P/N 62200, P/N 62500, P/N 62400, P/N 83500/80500, P/N 82030, P/N 83700/80700, P/N 82020, P/N 15780, P/N 15790, P/N 15770, P/N 09004, and P/N 15510)

Country: Taiwan

A–583–506: Porcelain-on-Steel Cookware; RSVP—BBQ grill baskets

Country: Japan

A–588–007: Certain High Capacity Pagers; Motorola—components and subassemblies

A–588–015: Television Receiving Sets, Monochrome and Color; NEC—Subassemblies: W5A–1 (HE), W4A–1 (HE), W3A–1 (HE), W5A–1, and W4A–1; Sharp—LCD TV/Radio/Cassette model JC–AV1; Teknika Electronics Corp.—P.C.B. subassemblies; Sharp—LCD TV/VCR model VC–V542U; Casio Computer Co., Ltd., Casio, Inc., Citizen Watch Co., Ltd, Hitachi, Ltd., Hitachi Sales Corporation of America, Hitachi Sales Corporation of Hawaii, Inc., Matsushita Electric Industrial Co., Ltd., Matsushita Electric Corporation of America, NEC Corporation, NEC Home Electronics (U.S.A.), Inc., Seiko Epson Corporation, Toshiba Corporation, and Toshiba America, Inc.—certain hand-held liquid crystal display televisions (Casio Computer Co., Ltd., models TV–400T, TV–500, TV–1400, TV–3100, TV–3500; Citizen Watch Co., Ltd., models 36TA, 35TA, TB20, TA30, TC50, TC53, DD–T128, DD–P238, TC52; Matsushita Electric Industrial Co., Inc., models CT–301E/302E, CT–311E/312E; and Seiko Epson Corporation models LVD–602, LVD–702, LVD–832) and all other LCD TVs under 6" in screen size imported into the United States.

A–588–037: Portable Electric Typewriters; Portable Electric Typewriters; Matsushita—Office typewriter models KX–E400, KX–E500B ("Jetwriter"), KX–E500 [E]*, KX–E501, [E]* ("Jetwriter"), KX–E506 [E]* ("Jetwriter IIe"), KX–E508 [E]* (*–[E] is updated version); Smith Corona—"later developed" typewriters; Tokyo Juki—"office" typewriter models: Juki Seirra 4500, Sierra 3300, Sierra 3400, Sierra 3400C, Sierra 3500, Sierra 3500XL, Sierra Officewriter, Remington Rand 770, Remington Rand 775, Remington Rand 880, Avanti 1400, and Avanti 1500; Swintec/Nakajima—"office" typewriter models: 8000, 8000SP, 8011, 8011SP, 8012, 8014S,. 8014KSR, 8016, 8017, 1145CM, 1146CM, 1146CMA, 1146CMP, 1146CMSp, 1186CM, and 1186CMP; Silver Reed/Silver Seiko—"office" typewriter models: EX–200 EX–300 EX–30 (85–EP), EX–32 (87–EP), EX–34 (89–EP), EX–36 (89–SP), EX–42, EX–43, EX–44, EZ–30, and EZ–50; Matsushita—"penwriter" typerwriter models: X–Y Writer, RK–P200C, RK–P240, RK–P300, RK–P400, RK–P400C, and RK–P440

A–588–405: Cellular Mobile Telephones and Subassemblies; Matsushita—Models EB–3510 and 3511; NovAtel—Models PTR–025; Mitsubishi—Models MT–706FOR6A and 974FOR6A; Sanyo—Model CMP–310; NEC—message recording device (AVA)

A–588–609: Color Picture Tubes; Tektronix—Sony produced cathode ray tube SD–97FS; Toshiba—models A36JAR90X and A32JAR50X;

A–588–702: Stainless Steel Butt Weld Pipefittings; Benkan Corporation—super clean pipe fittings—preliminary issued 6/25/90; DMEX, Inc.—sanitary pipe fittings—preliminary issued 6/25/90

A–588–802: 3.5" Microdisks and Media Thereof; Toshiba—barium ferrite coated microdisks

A–588–804: Antifriction Bearings: Durbal GmbH, Nippon Thompson Co., Ltd., and Minebea Co., Ltd.—rod ends; Imprimis Technology Inc.—ball bearings used in production of disk drives

A–588–806: Electrolytic Manganese Dioxide; Sumitomo—High grade

chemical manganese dioxide (CMD-U)

A-588-808: Certain Small Business Telephone Systems and Subassemblies Thereof; NEC—NEAX 2400 system and subassemblies; Fujitsu—Starlog system; Toshiba—Perception II and Perception Ex systems and subassemblies (telephone sets—EKT 6000-N, EKT 6000-NM, EKT 6015-H, EKT 6015-S, EKT 6025-H, EKT 6025-SD, EKT 6025-D, EKT 6520-SD, EKT 6510-S, EKT 6510-H, EKT 6520-H, HDSS 6060, AND HDSS6060)

Interested parties are invited to comment on the accuracy of the list of pending scope clarification requests. Any comments should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

Dated: October 15, 1990.

Joseph A. Spetrini

Deputy Assistant Secretary for Compliance.

[FR Doc. 90-25035 Filed 10-22-90; 8:45 am]

BILLING CODE 3510-DS-M

National Technical Information Services

Government-Owned Inventions; Availability of Licensing

October 15, 1990.

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Licensing information may be obtained by writing to: National Technical Information Service, Center for Utilization of Federal Technology—Patent Licensing, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151. All patent applications may be purchased, specifying the serial number listed below, by writing NTIS, 5285 Port Royal Road, Springfield, Virginia 22161 or by telephoning the NTIS Sales Desk at (703) 487-4650. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC [illegible]

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Patent Licensing Specialist, Center for the Utilization of Federal Technology.

Department of Agriculture

SN 7-060-451 (4,945,057) Monoclonal Antibodies to Crystal Protein of Bacillus Thuringiensis Subspecies Israelenisis

SN 7-140,501 (4,952,497) Simple and Rapid Method for Detection of Virulent Yersinia enterocolitica

SN 7-1596,915 (4,950,472) Biocontrol of Grey-Mold in Pome Fruits Using Acremonium breve

SN 7-188,993 (4,956,349) Control of Insects by Roseotoxin B

SN 7-207,589 (4,956,359) Kojic Acid and Esters as Insecticide Synergists

SN 7-305,316 (4,949,014) Device for Regulating Luminous Flux of Battery Powered Headlamp

SN 7-365,226 Recombinant Brucella Abortus Gene Expressing Immunogenic Protein

SN 7-530,485 Plant Transformation By Gene Transfer Into Pollen

SN 7-531,680 Fruit Decelerator

SN 7-536,805 Method for Classifying Wheat Kernels as Hard or Soft

SN 7-537,855 Pseudorabies Diagnosis Probes

SN 7-540,962 Produce Bagging Machine

SN 7-552,385 Sequential Oxidative and Reductive Bleaching in a Multicomponent Single Liquor System

SN 7-552,387 Sex Attractant For The Apple Ermine Moth

SN 7-557,822 Stabilising Unmilled Brown Rice by Ethanol Extraction

SN 7-557,827 Microbial Detoxification of Jojoba Toxins

SN 7-563,170 Nondestructive Measurement of Soluble Solids in Fruits Having a Rind or Skin

SN 7-572,070 Method for Removal of Gossypol from Cottonseed Meal by the Use of Urea in a Borate Containing Buffer

SN 7-574,014 Novel Phenol Derivative and Process for the Production of the Same

Department of Health and Human Services

SN 7-019,001 (4,912,206) A cDNA Clone Encoding Brain Amyloid of Alzheimer's Disease

SN 7-095,837 (4,931,386) Non-Infectious Mutant Clone of HIV

SN 7-098,977 (4,927,628) Improved Vaccine Against Rotavirus Diseases and Method of Preparing Same

SN 7-127,214 DNA Encoding IgE Receptor a-Subunit or Fragment Thereof

SN 7-140,269 (4,935,427) Pyrimidine and Purine 1,2-Butadienese-4 Ols as Anti-Retroviral Agents

SN 7-198,537 (4,923,986) Process for Synthesizing Macrocyclic Chelates

SN 7-250,405 Mammalian hnRNP Complex A1 and Method for Large-Scale Overproduction in E. Coli

SN 7-260,829 (4,935,367) Novel Restriction Endonuclease

SN 7-261,627 (4,939,149) Use of Resiniferatoxin and Analogues Thereof to Cause Senory Afferent C-Fiber and Thermoregulatory Desensitization

SN 7-305,331 (4,940,896) Pyroelectric Calorimeter

SN 7-316,958 (4,954,528) Stabilized Nitric Oxide-Primary Amine Complexes Useful as Cardiovascular Agents

SN 7-317,405 (4,942,182) Treatment for Cocaine Addiction

SN 7-397,226 Variable Air Flow Eddy Control (for Ventilation Systems)

SN 7-430,049 A cDNA Encoding the Long Isoform of the Rate D2 Dopamine Receptor: Expression of Receptor Protein in Plasmid-Transfected Cell Lines

SN 7-450,111 Improved Apparatus for Countercurrent Chromatography Separations and Stable Methods for Monitoring the Effluent Thereof

SN 7-450,252 Tumor-Specific Molecules for Controlling Cancer (Using Antisense Oligomers)

SN 7-457,557 Novel System For Isolating and Producing New Genes, Gene Products and DNA Sequences

SN 7-474,923 Compact Drill Sampler for Quantitation of Microorganisms in Wood

SN 7-483,516 Antigenic Proteins of Plasmodium (Malaria Vaccine Candidate)

SN 7-484,573 A Method for the Fluorescent Detection of a DNA Sequence in Real Time

SN 7-485,317 Separation of Rare Earth Elements With High Speed Counter current Chromatography

SN 7-486,956 Cloned Subgenomic Fragments of HIV-1 GAG Genes

SN 7-493,538 Universal Collector for Submandibular-Sublingual Saliva

SN 7-496,319 A BiFunctional DTPA-Type Ligand

SN 7-496,320 A Functionalized Complexand

SN 7-506,613 Method of Treating Diseases Associated with Elevated Levels of Interleukin 1

SN 7-516,463 Plaque-Inhibiting Protein From Bacteroides Loeschei and Methods for Using the Same

SN 7-518,182 Growing Ehrlichia Species in a Continuous Cell Line

SN 7-521,682 Coexpression and Interaction of Two Subunits of Vaccinia Virus Capping Enzyme

SN 7-521,706 Anti-Viral Therapy

SN 7-527,767 Peptide Derivatives of Cytochrome b558 and Their Use as Medicaments

SN 7-528,060 Waste Gas Released During Surgical Activity (Adsorption System for Scavenging Anesthetic Agents)

SN 7-531,674 Use of Visible Light for Treatment of Patients with HIV Infection

Department of Interior

SN 7-415,037 Cast-On Surfacing of Evaporative Pattern Castings

SN 7-533,647 Suspension Arrangement for Flexible, Retractable Air Conduit

SN 7-536,929 Process for the Recovery of Germanium and Gallium

SN 7-540,596 Method and Apparatus for in situ Biological Conversion of Coal to Methane

SN 7-541,669 Ultrasonic Flotation System

SN 7-548,337 Method of Mapping Underground Mines

SN 7–553,467 Concave Drag Bit Cutter Device and Method
SN 7–553,510 A Method of Enhancing Rock Fragmentation and Extending Drill Bit Life
SN 7–55,211 Explosion Suppression System

[FR Doc. 90–24941 Filed 10–22–90; 8:45 am]
BILLING CODE 3510-04-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Rice and Cotton Exchange: Proposed Amendments Relating to Delivery Points for the Rough Rice Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule change.

SUMMARY: The Chicago Rice and Cotton Exchange (CRCE) has submitted proposed amendments to its rough rice futures contract that will change the locational price differentials for deliveries made at warehouses that are not located at mill sites. In addition, the proposed amendments will change the definition of a mill-site warehouse. The amendments will apply to all futures contract months beginning with the September 1991 contract month. Currently, the Exchange lists contract months through the November 1991 contract month. In accordance with section 5a(12) of the Commodity Exchange Act and acting pursuant to the authority delegated by Commission Regulation 140.96, the Acting Director of the Division of Economic Analysis (Division) of the Commodity Futures Trading Commission (Commission) has determined, on behalf of the Commission, that the proposed amendments are of major economic significance. On behalf of the Commission, the Division is requesting comment on this proposal.

DATES: Comments must be received on or before November 23, 1990.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Reference should be made to the proposed changes in delivery point differentials for the CRCE rough rice futures contract.

FOR FURTHER INFORMATION CONTACT: Frederick V. Linse, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, telephone (202) 254–7303.

SUPPLEMENTARY INFORMATION: The rough rice futures contract currently provides that delivery may be made at approved warehouses in a twelve-county area in the state of Arkansas. Deliveries at regular warehouses located at mill sites are made at par. Deliveries at regular warehouses that are not located at mill sites are made at specified price differentials to the par points. The price differential for each non-mill-site warehouse is based on its geographic distance from the nearest mill, as indicated below:

Number of miles to nearest mill	Futures price differential
Less than 5 miles	–5 cents/cwt.
5 miles or greater, but less than 15 miles.	–10 cents/cwt.
15 miles or greater, but less than 30 miles.	–15 cents/cwt.
30 miles or greater, but less than 40 miles.	–20 cents/cwt.

The Exchange proposes to replace the above differential schedule with a single differential of minus 15 cents per hundredweight for futures deliveries at all non-mill-site warehouses, irrespective of the distance to the nearest mill. In support of the proposal, the Exchange states that the proposal will increase the pricing efficiency of the rough rice futures contract.

In addition, the Exchange proposes to change its definition of a mill-site warehouse. Under the current definition, to be classified as a mill-site warehouse, the rice mill must be operating "on a regular basis." Under the proposed definition, to be classified as a mill-site warehouse, the rice mill must be equipped to commercially mill rough rice on a regular basis and also must have milled rough rice within the last twenty-four months.

Copies of the proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, at the above address. Copies of the amended terms and conditions can be obtained through the Office of the Secretariat by mail at the same address or by telephone at (202) 254–6314.

The materials submitted by the CRCE in support of the proposed amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the above address in accordance with CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed amendments should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, at the above address by the specified date.

Issued in Washington, DC, on October 17, 1990.

Paul M. Architzel,

Acting Director, Division of Economic Analysis.

[FR Doc. 90–24944 Filed 10–22–90; 8:45 am]
BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Military Traffic Management Command

SUBJECT: Notice.

ACTION: Announcement is made of meeting of the Military/Industry Mobile Homes Symposium. This meeting will be held on November 15, 1990 at Headquarters, Military Traffic Management Command, 5611 Columbia Pike, Falls Church, Virginia, and will convene at 1100 hours and adjourn at approximately 1630 hours.

PROPOSED AGENDA: The purpose of the symposium is to provide an open discussion and free exchange of ideas with the public on procedural changes to the Personal Property Traffic Management Regulation. DOD 4500.34R. and the handling of other matters of mutual interest concerning the Department of Defense Personal Property Shipment and Storage Program.

FOR FURTHER INFORMATION CONTACT: Commander, Military Traffic Management Command, ATTN: MTOO–M, at telephone number 756–1600, between 0900–1530 hours. Topics to be discussed should be received on or before October 19, 1990.

John O. Roach, II,

Department of the Army Liaison With the Federal Register.

[FR Doc. 90–24938 Filed 10–22–90; 8:45 am]
BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Jacksonville District, Jacksonville, FL; Intent To Prepare Draft Environmental Impact Statement (DEIS) for Proposed Modifications to the Central and Southern Florida Project for Flood Control and Other Purposes—Canal 111

AGENCY: Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: General design work is authorized to modify structures associated with the L–31 borrow canal and the C–111 canal for the project purpose of flood protection and for restoration of Taylor Slough and associated wetlands within Everglades National Park.

FOR FURTHER INFORMATION CONTACT: For questions about the proposed action and DEIS contact Dr. Gerald L. Atmar, U.S. Army Engineer District, P.O. Box 4970, Jacksonville, Florida 32232–0019; telephone (904) 791–2615.

SUPPLEMENTARY INFORMATION: Canal 111 (C–111) was authorized as part of the South Dade County Area Plan of Improvement by the Flood Control Act of October 23, 1962 (Pub. L. 87–874). The specific purpose was to provide flood protection along the lower east coast of Florida. In July, 1988, a General Design Memorandum Addendum and an Environmental assessment were published addressing the need for improved flood protection, water supply, and environmental restoration. Environmental issues included unbalanced distribution of overland water flow to Florida bay and extremely large fresh water releases to Manatee Bay that occurred when an earthen plug at S–197 was removed during major flood events. Subsequent to publication of the GDM and EA, the U.S. Fish and Wildlife Service, Everglades National Park, and the State of Florida expressed dissatisfaction with the scope of the GDM–EA study. The study and EIS noticed here, are to address all affected environmental issues, including impacts to agriculture in the study area and restoration of flows to Taylor Slough in the eastern part of the park.

1. Considered action is to make operation changes to use water control structure S–174 and Pump Station S–332 to capacity to deliver water to Taylor Slough. Water in excess of capacity at S–174 would be discharged through S–1–76 and conveyed southward through C–111. Water in excess of S–332 capacity would be discharged through S–175 southward through the L–31W borrow canal along the easter boundary of Everglades National Park, and from the canal outlet southward in sheet flow toward the Park eastern panhandle.

2. Alternatives include: Making the above-described operational changes, and also installing additional pump capacity to discharge rain driven flows from the historic Taylor Slough drainage basin which crosses the Frog Pond agricultural area. Alternative pump capacities will be considered.

3. The public will be involved in the planning process through mail solicitations and advisements. As a minimum, all parties who have expressed interest in the planning process for modified water deliveries to Everglades National Park will be invited to participate in the planning process. Federal, State and local agencies, affected Indian tribes and groups, and other interested groups will be involved in the process.

4. Significant issues identified to date which shall be analyzed include possible effects on the Frog Pond Agricultural Area, Everglades National Park, Florida Bay and Manatee Bay. Federally listed species including the Florida panther, Cape Sable sparrow, and wood stork will be considered and their habitats modeled to identify effects potentially stemming from the project. Other wading birds habitat requirements will be factored into studies of effects.

5. The U.S. Fish and Wildlife Service and Everglades National Park will be invited to be cooperating agencies in the preparation of the environmental impact statement. The National Marine Fisheries Service and the Florida Game and Fresh Water Fish Commission have been consulted and asked for active participation in planning.

6. A scoping meeting is not scheduled. Meeting to address discrete issues or parts or functions of the study area may be called.

7. The DEIS is scheduled for release to the public during the first quarter of fiscal year 1992.

John Roach,

Department of the Army Liaison, Office with the Federal Register.

[FR Doc. 90–24939 Filed 10–22–90; 8:45 am]

BILLING CODE 3710–AJ–M

[37–10–GMF–M]

Winfield Locks and Dam, Kanawha River, WV; Intent To Prepare Draft Environmental Impact Statement; Supplement

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a environmental impact statement supplement.

SUMMARY: The Huntington District Engineer has determined that significant environmental changes have resulted from construction activities on additional lands purchased at the Winfield Locks Replacement Project. This action is necessary to be in compliance with NEPA and to mitigate any adverse impacts from such action.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action can be answered by: Mr. Ron Keeney, Phone: 304–529–5712.

SUPPLEMENTARY INFORMATION: 1. Following completion of the Winfield Lock Replacement Interim Feasibility Report and Environmental Impact Statement (September 1986), realignment of the new lock was determined to be necessary as a result of hydraulic modeling studies. The studies found the alignment proposed in the Feasibility Report would have unsatisfactory navigation conditions at higher river stages. Therefore, several design modifications were made. These modifications made it necessary to acquire an additional 157 acres of land for channel alignment and spoil disposal. The Environmental Impact Statement Supplement will address only the impacts associated with the additional 157 acres of new land purchased. Construction efforts on the project site have been implemented.

2. Since construction of the project is ongoing at this time and the change in project has determined the new alignment, the only alternative is the one being implemented.

3. The scoping process in the development of the SEIS will entail a public involvement program and participation of the West Virginia Department of Natural Resources, the United States Fish and Wildlife Service and the United States Environmental Protection Agency as well as any other interested federal, state, local, or private agencies or persons.

4. Anticipated significant issues to be analyzed in depth in the SEIS are;

a. Terrestrial impacts on the additional lands.

b. Impacts on loss of riparian habitat.

c. Impacts on fish spawning, nursery, and feeding areas as a result of increasing channel width.

d. Impact analysis of any hazardous and toxic wastes found on the additional lands.

5. A public scoping meeting is anticipated in early 1991. This public scoping meeting will address and review all study findings and encourage public input into the SEIS process.

Dated: September 28, 1990.

James R. Van Epps,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 90–24940 Filed 10–22–90; 8:45 am]

BILLING CODE 3710–08–M

Defense Logistics Agency

Privacy Act of 1974; Amend a record system

AGENCY: Defense Logistics Agency (DLA), DOD.

ACTION: Amend a record system.

SUMMARY: The Defense Logistics Agency proposes to amend one existing record system to its inventory of record system notices subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a). The changes made to this notice consist of administrative changes only. Postal Service employees and non-appropriated funded employees have been separated from Federal and Quasi-Federal employees. The routine uses have been rewritten to better enable the public to identify the external agencies using the records and the uses thereof.

DATES: The proposed action will be effective without further notice on November 23, 1990, unless comments are received which would result in a contrary determination.

ADDRESSES: Ms. Susan Salus, DLA–XAM, Defense Logistics Agency, Cameron Station, Alexandria, VA 22304–6100. Telephone (202) 274–6234 or Autovon 284–6234.

SUPPLEMENTARY INFORMATION: The complete inventory of Defense Logistics Agency record system notices subject to the Privacy Act of 1974, as amended, have been published in the Federal Register as follows:

50 FR 22897, May 29, 1985 (DoD Compilation, changes follow)
50 FR 51008, Dec. 20, 1985
51 FR 27443, Jul. 31, 1986
51 FR 30104, Aug. 22, 1986
52 FR 35304, Sep. 18, 1987
52 FR 37495, Oct. 7, 1987
53 FR 04442, Feb. 16, 1988
53 FR 09985, Mar. 28, 1988
53 FR 21511, Jun. 8, 1988
53 FR 26105, Jul. 11, 1988
53 FR 32091, Aug. 23, 1988
53 FR 39129, Oct. 5, 1988
53 FR 44937, Nov. 7, 1988
53 FR 48706, Dec. 2, 1988
54 FR 11997, Mar. 23, 1989
55 FR 21918, May 30, 1990 (DLA Address Directory)
55 FR 32284, Aug. 8, 1990
55 FR 34060, Aug. 21, 1990

The specific changes to the record system being amended are set forth below, followed by the system notice, as amended, in its entirety. This notice is not within the purview of subsection (r) of the Privacy Act of 1974, as amended, (5 U.S.C. 552a), which requires the submission of an altered system report.

Dated: October 17, 1990.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S332.10 DMDC.

System name:

Defense Manpower Data Center Data Base, (55 FR 32284, August 8, 1990).

Changes:

* * * * *

Categories of individual covered by the system:

Add the following two paragraphs to the end of the entry "All U.S. Postal Service employees.

All non-appropriated funded individuals who are employed by the Department of Defense."

Categories of records in the system:

Add the following two paragraphs to the end of the entry "U.S. Postal Service records containing Social Security Number, name, salary, home and work address.

Non-appropriated fund records consists of security Security Number, name, and work address.

* * * * *

S322.10 DMDC

SYSTEM NAME:

Defense Manpower Data Center Data Base.

SYSTEM LOCATION:

Primary location—W.R. Church Computer Center, Naval Postgraduate School, Monterey, CA 93920–5000.

Back-up files maintained in a bank vault in Hermann Hall, Naval Postgraduate School, Monterey, CA 93920–5000.

Decentralized segments—Portions of this file may be maintained by the military and non-appropriated fund personnel and finance centers of the military services, selected civilian contractors with research contracts in manpower area, and other Federal agencies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All uniformed services officers and enlisted personnel who served on active duty from July 1, 1968, and after or who have been a member of a reserve component since July 1975; retired military personnel; participants in Project 100,000 and Project Transition, and the evaluation control groups for these programs. All individuals examined to determine eligibility for military service at an Armed Forces Entrance and Examining Station from July 1, 1970, and later.

DoD civilian employees separated since January 1, 1971. All veterans who have used the GI Bill education and training employment services office since January 1, 1971. All veterans who have used GI Bill education and training entitlements, who visited a state employment service office since January 1, 1971, or who participated in a Department of Labor special program since July 1, 1971. All individuals who ever participated in an educational program sponsored by the U.S. Armed Forces Institute and all individuals who ever participated in the Armed Forces Vocational Aptitude Testing Programs at the high school level since September 1969.

Individuals who responded to various paid advertising campaigns seeking enlistment information since July 1, 1973; participants in the Department of Health and Human Services National Longitudinal Survey. Individuals responding to recruiting advertisements since January 1987; survivors of retired military personnel who are eligible for or currently receiving disability payments or disability income compensation from the Department of Veterans Affairs; surviving spouses of active or retired deceased military personnel; 100% disabled veterans and their survivors.

Individuals receiving disability compensation from the Department of Veterans Affairs or who are covered by a Department of Veterans Affairs' insurance or benefit program; civilian employees of the Federal Government; dependents of active duty military retirees, selective service registrants.

Individuals receiving a security background investigation as identified in the Defense Central Index of Investigation. Former military and civilian personnel who are employed by DoD contractors and are subject to the provisions of 10 U.S.C. 2397.

All U.S. Postal Service Employees.

All non-appropriated funded individuals who are employed by the Department of Defense.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computerized personnel/employment/pay records consisting of name, Service Number, Selective Service Number, Social Security Number, compensation data, demographic information such as home town, age, sex, race, and educational level; civilian occupational information; civilian and military acquisition work force warrant, training and job specialty information; military personnel

information such as rank, length of service, military occupation, aptitude scores, post-service, military occupation, aptitude scores, post-service education, training, and employment information for veterans; participation in various inservice education and training programs; military hospitalization records; and home and work addresses.

CHAMPUS claim records containing enrollee, patient and health care facility, provided data such as cause of treatment, amount of payment, name and Social Security or tax ID of providers or potential providers of care.

Selective Service System registration data.

Department of Veterans Affairs disability payment records.

Credit or financial data as required for security background investigations.

Criminal history information on individuals who subsequently enter the military.

U.S. Postal Service employment/personnel records containing Social Security Number, name, salary, home and work address.

Non-appropriated fund employment/personnel records consist of Social Security number, name, and work address.

AUTHORITY FOR THE MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136, Assistant Secretaries of Defense; Appointment Powers and Duties; 10 U.S.C. 2358; Research Projects; Pub. L. 95-452, as amended (Inspector General Act of 1978); and Executive Order 9397.

PURPOSE(S):

The purpose of the system of records is to provide a single central facility within the Department of Defense to assess manpower trends, support personnel functions to perform longitudinal statistical analyses, identify current and former DoD civilian and military personnel for purposes of detecting fraud and abuse of pay and benefit programs, and to collect debts owed to the United States Government and state and local governments.

All records in this record system are subject to use in authorized computer matching programs within the Department of Defense and with other Federal agencies or non-Federal agencies as regulated by the Privacy Act of 1974, as amended, (5 U.S.C. 552a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the Department of Veterans Affairs (DVA), Statistical Policy and Research Office, Office of Information Management and Statistics, DVA Management Sciences Division to provide military personnel employment and pay data for the purpose of selection samples for surveys asking veterans about the use of veteran benefits and satisfaction with DVA services, and to validate eligibility for DVA benefits; and to analyze the cost to the individual of military service under the Veteran's Group Life Insurance program.

To the Department of Veterans Affairs (DVA) to provide identifying military personnel data to the DVA and its contractor, the Prudential Insurance Company, for the purpose of notifying members of the Individual Ready Reserve (IRR) of their right to apply for Veteran's Group Life Insurance coverage.

To the Department of Veterans Affairs (DVA) to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of:

1. Providing full identification of active duty military personnel, including full-time National Guard/Reserve support personnel, for use in the administration of DVA's Compensation and Pension benefit program (38 U.S.C. 3104(c), 3006-3008). The information is used to determine continued eligibility for DVA disability compensation to receipients who have returned to active duty so that benefits can be adjusted or terminated as required and steps taken by DVA to collect any resulting overpayments.

2. Providing military personnel and financial data to the Veterans Benefits Administration, DVA for the purpose of determining initial eligibility and any changes in eligibility status to insure proper payment of benefits for GI Bill education and training benefits by the DVA under the Montgomery GI Bill (Title 10 U.S.C., Chapter 106—Selected Reserve and Title 38 U.S.C., Chapter 30—Active Duty). The administrative responsibilities designated to both agencies by the law require that data be exchanged in administering the programs.

3. Providing identification of active duty, including full-time support National Guard/Reserve military personnel, to the Veterans Benefits Administration, DVA, for the purpose of determining eligibility for or amount of benefits or verifying other information with respect thereto of DVA disability compensation to recipients who have returned to active duty. The law (38 U.S.C. 3104(c)) prohibits duplication of benefits, i.e. compensation by the DVA and receiving active service pay. DoD is obligated to provided such information to the DVA pursuant to 38 U.S.C. 3006.

To the Office of Personnel Management (OPM) consisting of personnel/employment/financial data for the purpose of carrying out OPM's management functions. Records disclosed concern pay, benefit, retirement deductions and any other information necessary for those management functions required by law (Pub. L. 83-598, 84-356, 86-724, 94-455 and 5 U.S.C. 1302, 2951, 3301, 3372, 4118, 8347).

To the Office of Personnel Management (OMP) to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a) for the purpose of:

1. Exchanging personnel and financial information on regular military officer retirees, who are also civilian employees of the Federal government, for the purpose of identifying those individuals subject to a limitation on the amount of military retired pay they can receive under the Dual Compensation Act (5 U.S.C. 5532), and to permit adjustments of military retired pay by the military finance centers and to take steps to recoup excess of that permitted under the dual compensation and pay cap restrictions.

2. Exchanging personnel and financial data on civil service annuitants (including disability annuitants under age 60) who are reemployed by DoD to insure that annuities of DoD reemployed annuitants are terminated where applicable, and salaries are correctly offset where applicable as required by law (5 U.S.C. 8331, 8344, 8401 and 8468).

3. Exchanging personnel and financial data to identify individuals who are improperly receiving military retired pay and credit for military service in their civil service annuities, or annuities based on the "guaranteed minimum" disability formula. The match will identify and/or prevent erroneous payments under the Civil Service Retirement Act (CSRA) 5 U.S.C. 8331 and the Federal Employees' Retirement System Act (FERSA) 5 U.S.C. 8411. DoD's legal authority for monitoring retired pay is 10 U.S.C. 1401.

4. Exchanging civil service and Reserve military personnel data to identify those individuals of the Reserve forces who are employed by the Federal government in a civilian position. The purpose of the match is to identify those particular individuals occupying critical positions as civilians and cannot be released for extended active duty in the event of mobilization. Employing Federal agencies are informed of the reserve status of those affected personnel so that a choice of terminating the position or the reserve assignment

S-051999 0014(00)(22-OCT-90-13:36:14)

can be made by the individual concerned. The authority for conducting the computer match is contained in E.O. 11190, Providing for the Screening of the Ready Reserve of the Armed Services.

To the Internal Revenue Service (IRS) for the purpose of obtaining home addresses to contact Reserve component members for mobilization purposes and for tax administration. For the purpose of conducting aggregate statistical analyses on the impact of DoD personnel of actual changes in the tax laws and to conduct aggregate statistical analyses to lifestream earnings of current and former military personnel to be used in studying the comparability of civilian and military pay benefits. To aid in administration of Federal Income Tax laws and regulations, to identify non-compliance and delinquent filers.

To the Department of Health and Human Services (DHHS) Office of the Inspector General, for the purpose of identification and investigatin of DoD employees and military members who may be improperly receiving funds under the Aid to Families of Dependent Children Program. To the Office of Child Support Enforcement, DHHS, pursuant to 42 U.S.C. 653 and Pub. L. 94–505, to assist state child support offices in locating absent parents in order to establish and/or enforce child support obligations.

To the Social Security Administration (SSA), Office of Research and Statistics for the purpose of conducting statistical analyses of impact of military service and use of GI Bill benefits on long term earnings.

To the Bureau of Supplemental Security Income, SSA, to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of verifying information provided to the SSA by applicants and recipients who are retired military members or their survivors for Supplemental Security Income (SSI) benefits. By law (42 U.S.C. 1383) the SSA is required to verify eligibility factors and other relevant information provided by the SSI applicant from independent or collateral sources and obtain additional information as necessary before making SSI determinations of eligibility, payment amounts or adjustments thereto.

To the Selective Service System (SSS) for the purpose of facilitating compliance of members and former members of the Armed Forces, both active and reserve, with the provisions of the Selective Service registration regulations (50 U.S.C. App. and E.O. 11623).

To DoD Civilian Contractors for the purpose of performing research on manpower problems for statistical analyses.

To the Department of Labor (DOL) to reconcile the accuracy of unemployment compensation payments made to former DoD civilian employees and military members by the states.

To Federal and Quasi-Federal agencies, territorial, state, and local governments to support personnel functions requiring data on prior military service credit for their employees or for job applications. To determine continued eligibility and help eliminate fraud and abuse in benefit programs and to collect debts and overpayments owed to these programs. To assist in the return of unclaimed property or assets escheated to states of civilian employees and military member and to provide members and former members with information and assistance regarding various benefit entitlements, such as state bonuses for veterans, etc. Information released includes name, Social Security Number, and military or civilian address of individuals. To detect fraud, waste and abuse pursuant to the authority contained in the Inspector General Act of 1978, as amended (Pub. L. 95–452) for the purpose of determining eligibility for, and/or continued compliance with, any Federal benefit program requirements.

To private consumer reporting agencies to comply with the requirements to update security clearance investigations of DoD personnel.

To Defense contractors to monitor the employment of former DoD employees and members subject to the provisions of 10 U.S.C. 2397.

To financial depository institutions to assist in locating individuals with dormant accounts in danger of reverting to state ownership by escheatment for accounts of DoD civilian employees and military members.

To any Federal, state or local agency to conduct authorized computer matching programs regulated by the Privacy Act of 1974, as amended, (5 U.S.C. 552a) for the purposes of identifying and locating delinquent debtors for collection of a claim owed the Department of Defense or the United States Government under the Debt Collection Act of 1982 (Pub. L. 97–365).

To state and local law enforcement investigative agencies to obtain criminal history information for the purpose of evaluating military service performance and security clearance procedures (10 U.S.C. 2358).

The Defense Logistics Agency "Blanket Routine Uses" published at the beginning of the DLA compilation of record system notices also apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Retrieved by name, Social Security Number, occupation, or any other data element contained in system.

SAFEGUARDS:

W.R. Church Computer Center—Tapes are stored in a locked cage in a controlled access area; tapes can be physically accessed only by computer center personnel and can be mounted for processing only if the appropriate security code is provided.

Back-up location—Tapes are stored in a bank-type vault; buildings are locked after hours and only properly cleared and authorized personnel have access.

RETENTION AND DISPOSAL:

Files constitute a historical data base and are permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Manpower Data Center, 99 Pacific Street, Suite 155A, Monterey, CA 93940–2453.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Deputy Director, Defense Manpower Data Center, 99 Pacific Street, Suite 155A, Monterey, CA 93940–2453.

Written requests should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license or military or other identification card.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address inquiries to the Deputy Director, Defense Manpower Data Center, 99 Pacific Street, Suite 155A, Monterey, CA 93940–2453.

Written requests should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

For personal visits, the individual should be able to provide some

acceptable identification such as driver's license or military or other identification card.

CONTESTING RECORD PROCEDURES:

DLA rules for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21, "Personal Privacy and Rights of Individuals Regarding Their Personal Records"; 32 CFR part 1286; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The military services, the Department of Veterans Affairs, the Department of Education, Department of Health and Human Services, from individuals via survey questionnaires, the Department of Labor, the Office of Personnel Management, Federal and Quasi-Federal agencies, Selective Service System, and the U.S. Postal Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 90-25026 Filed 10-22-90; 8:45 am]

BILLING CODE 3810-01

Department of the Navy

Intent To Grant License; Somategenetics International, Inc.

AGENCY: Department of the Navy, DOD.

ACTION: Intent to grant exclusive patent license; Somategenetics International, Inc.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Somategenetics International, Inc. a revocable, nonassignable, exclusive license to practice the Government-owned inventions described in U.S. Patent No. 4,776,991, "Scaled-Up Production Of Liposome-Encapsulated Hemoglobin", issued October 11, 1988 and U.S. Patent No. 4,911,929, "Blood Substitute Comprising Liposome-Encapsulated Hemoglobin", issued March 27, 1990.

Anyone wishing to object to the grant of this license has 60 days from the date of this notice to file written objections along with supporting evidence, if any. Written objections are to be filed with the Office of the Chief of Naval Research (Code OOCCIP), Arlington, Virginia 22217-5000.

DATES: October 23, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. R.J. Erickson, Staff Patent Attorney, Office of the Chief of Naval Research (Code OOCCIP), 800 N. Quincy street, Arlington, Virginia 22217-5000, telephone [703] 696-4001.

Dated: October 12, 1990.

Wayne T. Baucino,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 90-24935 Filed 10-22-90; 8:45 am]

BILLING CODE 3810-AE-M

Privacy Act of 1974; Delete Record Systems

AGENCY: Department of the Navy, DOD.

ACTION: Delete Record Systems.

SUMMARY: The Department of the Navy proposes to delete four existing record systems in its inventory of record systems subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a).

DATES: The proposed action will be effective on or before October 23, 1990.

ADDRESSES: Send any comments to Mrs. Gwendolyn Aitken, Head, PA/FOIA Branch, Office of the Chief of Naval Operations (OP-09B30), Department of the Navy, The Pentagon, Washington, DC 20350-2000. Telephone (703) 614-1459.

SUPPLEMENTARY INFORMATION: The Department of the Navy record system notices for records systems subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a) were published in the Federal Register as follows:

51 FR 12906 Apr. 16, 1986
51 FR 18086 May 16, 1986 (DON Compilation changes follow)
51 FR 19884 Jun. 3, 1986
51 FR 30377 Aug. 26, 1986
51 FR 30393 Aug. 26, 1986
51 FR 45631 Dec. 23, 1986
52 FR 2147 Jan. 20, 1987
52 FR 2149 Jan. 20, 1987
52 FR 8900 Mar. 18, 1987
52 FR 15530 Apr. 29, 1987
52 FR 22671 Jun. 15, 1987
52 FR 45846 Dec. 2, 1987
53 FR 17240 May 16, 1988
53 FR 21512 Jun. 8, 1988
53 FR 25363 Jul. 6, 1988
53 FR 39469 Oct. 7, 1988
53 FR 41224 Oct. 20, 1988
54 FR 8332 Feb. 28, 1989
54 FR 14378 Apr. 11, 1989
54 FR 32682 Aug. 9, 1989
54 FR 40160 Sep. 29, 1989
54 FR 41495 Oct. 10, 1989
54 FR 43453 Oct. 25, 1989
54 FR 45781 Oct. 31, 1989
54 FR 48131 Nov. 21, 1989
54 FR 51784 Dec. 18, 1989
54 FR 52976 Dec. 28, 1989
54 FR 21910 May 30, 1990 (Navy Mailing Addresses)
55 FR 37930 Sep. 14, 1990

Dated: October 17, 1990.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DELETIONS

NO5100-2

SYSTEM NAME:

Diving Accidents and Injuries, (51 FR 18141, May 16, 1986).

REASON:

These records are retrieved by date of incident and unit identification code, not personal identifier.

NO5100-3

SYSTEM NAME:

Occupational Injury and Illness, (51 FR 18141, May 16, 1986).

REASON:

These records are retrieved by date of incident and unit identification code, not personal identifier.

NO5100-4

SYSTEM NAME:

Motor Vehicle Accidents and Injuries, (51 FR 18142, May 16, 1986).

REASON:

These records are retrieved by date of incident and unit identification code, not personal identifier.

NO5100-5

SYSTEM NAME:

Aviation Mishap Report, (51 FR 18143, May 16, 1986).

REASON:

These records are retrieved by date of incident, unit identification code, aircraft type, and bureau number of the aircraft, and not personal identifier.

[FR Doc. 90-25025 Filed 10-22-90; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM91-1-84-004]

Caprock Pipeline Co.; Proposed Changes in FERC Gas Tariff

October 16, 1990.

Take notice that on October 11, 1990, Caprock Pipeline Company (Caprock) filed proposed changes in its F.E.R.C. Gas Tariff, Revised Original Volume No. 3. The purpose of these changes is to correct the ACA surcharge in its rates

for fiscal year 1990, to correct the format of Caprock's tariff sheets setting forth its currently effective rates, and to reflect the appropriate ACA surcharge for fiscal year 1991.

Caprock states that a copy of this filing has been served upon all of Caprock's customers.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24950 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA91-1-32-001, RP90-166-001 TM91-1-32-002]

Colorado Interstate Gas Co.; Amended Annual PGA Filing

October 16, 1990.

Pursuant to the Commission's order issued September 28, 1990 in Docket No. TA91-1-32-000, Colorado Interstate Gas Company ("CIG") states it has reapplied for a waiver of § 154.305(b)(1) of the Commissions regulations. Although in its September 28, 1990 order the Commission denied CIG's similar waiver filed on September 5, 1990, CIG notes that such denial was without prejudice to CIG reapplying for a waiver by October 13, 1990, if CIG had signed any producer contracts before the October 1, 1990 effective date of its annual PGA that will cause it to actually incur producer demand charges.

CIG states it has entered into two such contracts with nonaffiliated producers. CIG is filing one copy of each of these contracts solely with the Commission pursuant to § 388.112 of the Commission's regulations, and requests privileged treatment by the Commission of all pages of these contracts. Such contracts have been attached in a separate sealed envelope. These contracts contain information that is commercially sensitive and could affect CIG's competitive position, and could jeopardize ongoing negotiations with other third party producers supplying gas to CIG.

CIG also submits for filing, as a part of its Original Volume No. 1 FERC Gas Tariff, 14 copies of the following proposed tariff sheets:

Second Sub. Third Rev. Second Sub. First Revised Sheet No. 7.1
Second Sub. Third Rev. Second Sub. First Revised Sheet No. 7.2
Second Sub. Third Rev. Second Sub. First Revised Sheet No. 8.1
Second Sub. Third Rev. Second Sub. First Revised Sheet No. 8.2
Substitute Fourth Rev. Second Sub. First Revised Sheet No. 7.1
Substitute Fourth Rev. Second Sub. First Revised Sheet No. 7.2
Substitute Fourth Rev. Second Sub. First Revised Sheet No. 8.1
Substitute Fourth Rev. Second Sub. First Revised Sheet No. 8.2

CIG states it is revising its rates contained in its August 1, 1990 filing in Docket No. TA91-1-32-000 solely to reflect the "as billed" flow-through of the demand and commodity pricing provisions in the two newly negotiated September 28, 1990 producer contracts. This effect is shown on Second Substitute Third Revised Second Substitute First Revised Sheet Nos. 7.1 through 8.2, which reflect a 2 cent increase in the Demand-1 rate and a 0.002 cent decrease in the commodity rate for the G-1, P-1, SG-1, H-1, F-1 and PS-1 rate schedules effective October 1, 1990.

CIG states that copies of the supplemental filing have been served upon CIG's jurisdictional customers and public bodies and are otherwise available for public inspection at CIG's offices in Colorado Springs, Colorado.

CIG has requested that the Commission grant whatever waivers it may deem necessary to permit Second Substitute Third Revised Second Substitute First Revised Sheet Nos. 7.1 through 8.2 to become effective on October 1, 1990, and Substitute Fourth Revised Second Substitute First Revised Sheet Nos. 7.1 through 8.2 to become effective on November 1, 1990.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24951 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ91-1-2-001 and TM91-1-2-001

East Tennessee Natural Gas Co.; Proposed Changes in FERC Gas Tariff

October 16, 1990.

Take notice that on October 11, 1990, East Tennesee Natural Gas Company (East Tennessee) tendered for filing in compliance with the Commission's September 28, 1990 Letter Order in the captioned dockets, its 59th Revised Sheet No. 4 to Original Volume No. 1 of its FERC Gas Tariff to be effective November 1, 1990.

East Tennessee states that the purpose of this filing is to revise the Annual Charge Adjustment (ACA) to reflect the revision in the ACA rate in the Commission's September 28, 1990 order in Docket Nos. RM97-3-000, et al., and in the Letter Order.

East Tennessee states that a copy of this tariff filing is being mailed to all affected customers on East Tennessee's system and state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20416, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24952 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-1-51-002]

Great Lakes Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

October 16, 1990.

Take notice that Great Lakes Gas Transmission Company ("Great Lakes") on October 10, 1990 tendered for filing the following tariff sheet to its FERC Gas Tariff proposed to be effective November 1, 1990:

First Revised Volume No. 1

Fourth Revised Sheet No. 57(iv)

Great Lakes states that on August 29, 1990 it filed with the Commission in Docket No. TM91-1-51-000, its ACA rate pursuant to the Annual Charges Adjustment ("ACA") provisions of Commission Order No. 472.

Great Lakes states its ACA rate, $.0019 per Mcf, was specifically identified on Third Revised Sheet No. 57(iv), First Revised Volume No. 1 of its FERC Gas Tariff, to be effective October 1, 1990.

Great Lakes states that by Commission Order of September 28, 1990 in Docket No. RM87-3-000, et al, the Commission revised the ACA rate from $.0019 per Mcf to $.0022 per Mcf to correct for an omission of a debit adjustment in the determination of the appropriation ACA rate. Pursuant to Ordering Paragraph (D) of the Commission's Order, Great Lakes states that it was permitted to file, within 15 days of the Order, a revised tariff sheet to reflect a $.0022 per Mcf ACA rate to be effective November 1, 1990.

Great Lakes states that the referenced tariff sheet reflects the appropriate ACA rate as determined by the Commission's Order of September 28, 1990 in Docket No. RM87-3-000, *et al.*

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24953 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-1-45-001]

Jupiter Energy Corp.; Proposed Changes in FERC Gas Tariff

October 16, 1990.

Take notice that Jupiter Energy Corporation ("Jupiter Energy" or the "Company") on October 11, 1990 tendered for filing the following sheets of its FERC Gas Tariff, Original Volume No. 1.

Fourth Revised Sheet No. 4A
Fourth Revised Sheet No. 5A
Fourth Revised Sheet No. 6A

Jupiter Energy states that the filed tariff sheets reflect revision, pursuant to the Commission's September 28, 1990 order in the above-captioned docket, of Jupiter Energy's Annual Charge Adjustment ("ACA") surcharge. The new ACA surcharge rate is 0.22¢ per Mcf.

Jupiter Energy proposes an effective date of November 1, 1990.

Jupiter Energy states that copies of the filing have been served on the Company's jurisdictional customers.

Any person desiring to protect said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24954 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TM91-1-53-001 and TA91-1-53-001]

K N Energy, Inc.; Tariff Filing

October 16, 1990.

On October 11, 1990, K N Energy, Inc. (K N) tendered for filing the following revised tariff sheets:

TM91-1-53-001

Third Revised Volume No. 1

First Revised Forty-Ninth Revise Sheet No. 4
First Revised Twenty-Seventh Revised Sheet No. 4B

Original Volume No. 1-A

Fourth Revised Sheet No. 4

TA91-1-53-001

Third Revised Volume No. 1

Substitute Fifteenth Revised Sheet No. 4
Substitute Twenty-Eighth Revised Sheet No. 4B

K N states that this filing is made pursuant to the Commission's Order clarifying the Annual Charge Adjustment [ACA] unit charge and requests that the ACA related tariff sheets be made effective November 1, 1990. Prior to receiving the Commission's Order, K N filed its regularly scheduled annual PGA. The tariff sheets in the PGA have also been restated to reflect the clarified ACA surcharge.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24955 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-1-71-001]

Michigan Consolidated Gas Co., Interstate Storage Division; Proposed Changes in FERC Gas Tariffs

October 16, 1990.

Take notice that on October 11, 1990, Michigan Consolidated Gas Company—Interstate Storage Division (ISD) tendered for filing proposed changes to the following tariff sheets in its FERC Gas Tariffs, Original Volume No. 1, Original Volume No. 2 and Original Volume No. 3.:

Original Volume No. 1

Substitute Fourth Revised Sheet No. 1B

Original Volume No. 2

Substitute Fourth Revised Sheet No. 1A

Original Volume No. 3

Substitute Sixth Revised Sheet No. 2

ISD states that the proposed changes reflect the revised Annual Charge Adjustment (ACA) unit charge of $.0022 per Mcf in ISD's FERC Gas Tariffs. ISD states that the proposed changes are pursuant to the Commission's Order issued September 26, 1990 in Docket No. RM87-3-000, et. al., whereby the Commission revised the ACA surcharge to $.0022 per Mcf to account for the debit amounts assessed in the current year to recover undercollections from the previous year. In its order, the Commission accepted tariff sheets reflecting an ACA surcharge amount of less than $.0022 per Mcf, but permitted pipelines which submitted those sheets to file revised tariff sheets reflecting an ACA surcharge of $.0022 per Mcf within 15 days of the issuance date of the order.

ISD states that it respectfully requested waiver of the Commission's September 26, 1990 Order requiring that the revised tariff sheets be effective November 1, 1990, and requested that the above revised tariff sheets be made effective October 1, 1990. Such waiver would allow ISD to include the proper ACA surcharge rate in its October billings, thus eliminating any future billing adjustments associated with the ACA surcharge.

Alternatively, if the Commission denies ISD's requested waiver, ISD tendered for filing proposed changes to the following tariff sheets in its FERC Gas Tariffs, Original Volume No. 1, Original Volume No. 2 and Original Volume No. 3:

Original Volume No. 1

Fifth Revised Sheet No. 1B

Original Volume No. 2

Fifth Revised Sheet No. 1A

Original Volume No. 3

Seventh Revised Sheet No. 2

ISD states that the above proposed tariff sheets provide for a revised ACA surcharge of $.0022 per Mcf to be effective November 1, 1990. As stated in the Commission's September 26, 1990 Order, a billing adjustment would be permitted in the November billings to account for any ACA surcharge underrecoveries that occurred during October.

ISD states that copies of its filing have been served upon its customers and the Michigan Public Service Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24956 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ91-1-5-001 and TM91-1-5-001]

Midwestern Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

October 16, 1990.

Take notice that October 11, 1990, Midwestern Gas Transmission Company (Midwestern) submitted for filing in compliance with the Commission's September 26, 1990 Letter Order in the captioned dockets, its Seventeenth Revised Sheet No. 5 and Twelfth Revised Sheet No. 6 to First Revised Volume No. 1 of its FERC Gas Tariff, to be effective November 1, 1990.

Midwestern states that the purpose of this filing is to revise the Annual Charge Adjustment (ACA) to reflect the revision in the ACA rate in the Commission's September 26, 1990 order in Docket Nos. RM87-3-000, *et al.*, and in the Letter Order.

Midwestern states that a copy of this tariff filing is being mailed to all affected customers on Midwestern's system and state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24957 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-1-27-001]

North Penn Gas Co.; Proposed Changes in FERC Gas Tariff

October 16, 1990.

Take notice that North Penn Gas Company (North Penn) on October 11, 1990 tendered for filing Second Revised Sheet No. 3A to its FERC Gas Tariff, First Revised Volume No. 1.

North Penn states that the filed tariff sheet reflects revision, as per the Commission letter order dated September 26, 1990, of North Penn's Annual Charge Adjustment (ACA) surcharge to recover the Commission's annual charges billing. The new ACA surcharge rate is $0.0022 per Mcf.

North Penn proposes an effective date of November 1, 1990.

North Penn states that copies of the filing have been served on the Company's jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24958 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TM91-1-89-002 and TF91-1-89-001]

Northern Natural Gas Co., Division of Enron Corp.; Proposed Changes in FERC Gas Tariff

October 16, 1990.

Take notice that on October 5, 1990, Northern Natural Gas Company, Division of Enron Corp. (Northern), submitted for filing as part of its FERC Gas Tariff the following tariff sheets:

Third Revised Volume No. 1

Substitute Eighty-Fifth Revised Sheet No. 4B
Substitute Fifty-Third Revised Sheet No. 4B.1

Northern states that the purpose of this filing is due to a change in the

Annual Charge Adjustment (ACA). Northern states that the ACA rate is being restated from $.0022 to $.0021 for the month of October.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure [18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to the taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24959 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA91-1-41-001 and TA91-1-41-001]

Paiute Pipeline Co.; Revised Annual Charge Adjustment Filing

October 16, 1990.

Take notice that on October 11, 1990, Paiute Pipeline Company (Paiute) tendered for filing and acceptance the following tariff sheets to be a part of its FERC Gas Tariff:

Original volume No. 1

Substitute Sixteenth Revised Sheet No. 10

Original volume No. 1-A

Eighth Revised Sheet No. 10

Paiute states that the purpose of said filing is to revise its annual charge adjustment surcharge in order to recover the Commission's annual charges for the 1990 fiscal year as well as Commission adjustments to the prior year's ACA billing, as permitted by the Commission in its September 26, 1990 "Order Accepting and Rejecting Tariff Sheets and Clarifying Annual Charge Bills." Paiute also states that Subetitute Sixteen Revised Sheet No. 1 to Original Volume No. 1 of its tariff should be subetitated in Docket No. TA91-1-41 for Sixteenth Revised Sheet No. 10, which is pending acceptance and approval in Paiute's annual purchased gas cost adjustment (PGA) proceeding in that docket. Paiute indicates that Substitute Sixteenth Revised Sheet No. 10 incorporates the PGA rate changes proposed in Docket No. TA91-1-41 and reflected on Sixteenth Revised Sheet No. 10.

Paiute has requested that the Commission accept its tariff sheets to become effective on November 1, 1990.

Paiute states that copies of this filing have been mailed to all jurisdictional sales customers and affected state regulatory commissions, and have been served upon all parties in Docket No. TA91-1-41.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24960 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA91-1-29-001]

Panhandle Eastern Pipe Line Co., Change in Tariff

October 16, 1990.

Take notice that on October 11, 1990 Panhandle Easter Pipe Line Company (Panhandle) tendered for filing revised sheets to its FERC Gas Tariff, Original Volumes No. 1, as reflected in appendix No. 1, and to its FERC Gas Tariff, Original Volume No. 2, as reflected in appendix No. 2.

Panhandle states that the Commission, by Order No. 472 issued May 29, 1987, implemented procedures providing for the assessment and collection from interstate pipelines, inter alia, of annual charges as required by the Omnibus Budget Reconciliation Act of 1986. Pursuant to Order No. 472, the Commission authorized the tracking for automatic pass through to pipline customers of the annual charges. In its order issued September 26, 1990 the Commission clarified the annual charge bills affirming that "the ACA surcharge was thus intended to give the pipelines an opportunity to recover fully the annual charges for which they are billed. The sum of the surcharge attributable to fiscal year 1990 program costs plus the surcharge attributable to the true-up for fiscal year 1989 yields a total ACA surcharge for the fiscal year 1990 bill of $0.0022 per Mcf." Section 20, Annual Charge Adjustment Provision, contained in the General Terms and Conditions of Panhandle's FERC Gas Tariff, Original Volume No. 1 provides for the tracking of such annual charges to Panhandle's customers.

Panhandle states that in its order of September 26, 1990 the Commission provides that pipelines which filed tariff sheets refecting an ACA surcharge of less than $0.0022 per Mcf may file revised tariff sheets reflecting the $0.0022 per Mcf surcharge without additional filing fees effective November 1, 1990. The purpose of this filing are: (1) To include the Panhandle's rates by this filing a total of $0.0022 per dth in accordance with the Commission's order dated September 26, 1990 and with section 20 of the General Terms and Conditions of its FERC Gas Tariff and to incorporate in certain rate schedules in Panhandle's FERC Gas Tariff, Original Volume No. 2 ACA revisions filed by third party pipelines for which Panhandle reflects in those certain rates schedules capacity utilization.

The proposed effective date of the above referenced tariff sheets is October 1, 1990.

An effective date of November 1, 1990 as specified in the Commission's September 26, 1990 order is inconsistent with the manner in which the annual change in the ACA surcharge is implemented under Panhandle's tariff. Accordingly, Panhandle respectfully requests waiver of the Commission's September 26, 1990 order requiring that the revised tariff sheets submitted will be effective November 1, 1990, and hereby requests that the revised tariff sheets reflected in appendix No. 1 and appendix No. 2 herewith be made effective October 1, 1990.

Panhandle states that copies of this letter and enclosures are being served on all customers subject to the tariff sheets and applicable state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24961 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-1-79-001]

Sabine Pipe Line Co.; Proposed Changes in FERC Gas Tariff

October 16, 1990.

Take notice that Sabine Pipe Line Company (Sabine) on October 11, 1990 tendered for filing the following proposed change to its FERC Gas Tariff, First Revised Volume No. 1, to be effective November 1, 1990.

Eighth Revised Sheet No. 20

Sabine states that the Commission has specified Annual Charges Adjustment (ACA) unit charge of $.0022/MCF to be applied to rates in 1991 for recovery of 1990 annual charges and underrecovered 1989 annual charges. The ACA unit rate of $.0022/MCF converts to $.0022/MMBTU under Sabine's basis for billing. Sabine further states that the listed tariff sheet sets forth the applicable provisions required to effect recovery of 1990 annual charges.

Sabine states that copies of the filing were served upon Sabine's customers the State of Louisiana, Department of Natural Resources, Office of Conservation and the Railroad Commission of Texas.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 Noth Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24962 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ91-1-8-001, TM91-1-8-001, and TF91-1-8-001]

South Georgia Natural Gas Co.; Proposed Changes to FERC Gas Tariff

October 16, 1990.

Take notice that on October 11, 1990, South Georgia Natural Gas Company (South Georgia) tendered for filing the following tariff sheets to its FERC Gas Tariff First Revised Volume No. 1:

First Substitute Sixty-Fifth Revised Sheet No. 4

First Substitute Sixty-Sixth Revised Sheet No. 4

First Substitute Sixth Revised Sheet No. 34A

The foregoing tariff sheets are submitted in compliance with the Commission's letter order of September 27, 1990 in Docket Nos. TQ91-1-8-000 and TM91-1-8-000 (September 27 Order) regarding the Annual Charge Adjustment (ACA) rate. South Georgia states that the proposed tariff sheets are being filed with a proposed effective date of October 1, 1990. South Georgia states First Substitute Sixty-Fifth Revised Sheet No. 4 reflects the Commission's order in Docket Nos. RM87-3-000, TM91-1-20-000, *et al.*, which revised the ACA rate to .22¢ per Mcf. In addition, South Georgia has revised Sixty-Sixth Revised Sheet No. 4, which was filed in Docket No. TF91-1-8-000 on October 1, 1990, by way of First Substitute Sixty-Sixth Revised Sheet No. 4 in order to reflect the .22¢ per Mcf ACA rate as well.

South Georgia states that copies of the filing will be served upon all of South Georgia's purchasers, interested state commissions and interested parties as well as on all parties of record in the subject proceedings.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24963 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-2-29-001]

Transcontinental Gas Pipe Line Corp.; Supplemental Tariff Filing

October 16, 1990.

Take notice that on October 12, 1990 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as a supplement to its August 31, 1990 Annual Charge Adjustment (ACA) filing certain revised tariff sheets to Second Revised Volume No. 1 of its FERC Gas Tariff, which tariff sheets are listed in appendix A attached thereto. The August 31 filing was accepted September 28, 1990 by Commission order in Docket No. TM91-2-29-000. The purpose of the instant filing is to revise the reference reflected on certain Rate Schedule IT and FT transportation tariff sheets to conform the ACA unit rate reflected therein to the ACA unit rate approved for collection by the Commission's September 28 order. The tariff sheets submitted in the instant filing were inadvertently omitted from Transco's August 31 filing. Transco respectfully requests the Commission grant any waiver of its Regulations which may be necessary to permit the instant filing to become effective on October 1, 1990, the same date on which the tariff sheets filed in the August 31 filing were accepted to be effective.

Transco is serving copies of the instant filing upon all parties served in Docket No. TM91-2-29-000. In accordance with provisions of § 154.16 of the Commission's Regulations, copies of this filing are available for public inspection, during regular business hours, in a convenient form and place at Transco's main offices at 2800 Post Oak Boulevard in Houston, Texas.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24964 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-1-30-001]

Trunkline Gas Co.; Change in Tariff

October 16, 1990.

Take notice that on October 11, 1990 Trunkline Gas Company (Trunkline) tendered for filing revised sheets to its FERC Gas Tariff, Original Volume No. 2, as reflected in appendix No. 1.

Trunkline states that the Commission, by Order No. 472 issued May 29, 1987, implemented procedures providing for the assessment and collection from interstate pipelines, inter alia, of annual charges as required by the Omnibus Budget Reconciliation Act of 1986. Pursuant to Order No. 472, the Commission authorized the tracking for automatic pass through to pipeline customers of the annual charges. In its order issued September 28, 1990 the Commission clarified the annual charge bills affirming that "the ACA surcharge was thus intended to give the pipelines an opportunity to recover fully the annual charges for which they are billed. The sum of the surcharge attributable to fiscal year 1990 program costs plus the surcharge attributable to the true-up for fiscal year 1989 yields a total ACA surcharge for the fiscal year 1990 bill of $0.0022 per Mcf." Section 20, Annual Charge Adjustment Provision, contained in the General Terms and Conditions of Trunkline's FERC Gas Tariff, Original Volume No. 1 provides for the tracking of such annual charges to trunkline's customers.

Trunkline states that in its order of September 28, 1990 the Commission provides that pipelines which filed tariff sheets reflecting an ACA surcharge of less than $0.0022 per Mcf may file revised tariff sheets reflecting the $0.0022 per Mcf surcharge without additional filing fees effective November 1, 1990. Several of Trunkline's rate schedules involve utilization of Trunkline's capacity in third party pipelines. The purpose of this filing is to incorporate ACA revisions filed by these third party pipelines into Trunkline's FERC Gas Tariff, Original Volume No. 2.

The proposed effective date of the above referenced tariff sheets is October 1, 1990.

An effective date of November 1, 1990 as specified in the Commission's September 28, 1990 order is inconsistent with the manner in which the annual change in the ACA surcharge is implemented under Trunkline's tariff. Accordingly, Trunkline respectfully requests waiver of the Commission's September 28, 1990 order requiring that the revised tariff sheets submitted will be effective November 1, 1990, and hereby requests that the revised tariff sheets reflected in appendix No. 1 herewith be made effective October 1, 1990.

Trunkline states that copies of this letter and enclosure are being served on all customers subject to the tariff sheets and applicable state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance wih Rules 214 and 211 of the Commission's Rules of Practice and Procdure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24965 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ90-1-11-001, TQ90-2-11-002, TA90-1-11-004]

United Gas Pipe Line Co.; Filing of Revised Tariff Sheets

October 16, 1990.

Take notice that on October 12, 1990, United Gas Pine Line Company (United tendered for filing the following tariff sheets.

Second Revised Volume No. 1 to be Effective January 1, 1990 Through March 31, 1990 Filed in Docket No. TQ90-1-11

Substitute First Revised Sheet No. 4
Substitute First Revised Sheet No. 4-A
Substitute First Revised Sheet No. 4-B
Substitute First Revised Sheet No. 4-D
Substitute First Revised Sheet No. 4-I

To be Effective April 1, 1990 Through June 30, 1990 Filed in Docket No. TQ90-2-11

Second Substitute Third Revised Sheet No. 4
Second Substitute Third Revised Sheet No. 4-A
Second Substitute Third Revised Sheet No. 4-B
Substitute Second Revised Sheet No. 4-D
Second Substitute Third Revised Sheet No. 4-I

United states that the above mentioned tariff sheets are being filed to reflect the revised PGA surcharge that was approved by Commission Order dated July 23, 1990 in Docket No. TA90-1-11-003 (United's annual PGA filing effective October 1, 1990).

United also states that the tariff sheets are being mailed to its jurisdictional customers and to interested state commissions.

Any person desiring to protect said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission are are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24966 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

Viking Gas Transmission Co.; Filing

October 16, 1990.

Take notice that on October 11, 1990, Viking Gas Transmission Company (Viking) filed its Eleventh Revised Sheet No. 6 to Original Volume No. 1 of its FERC Gas Tariff to be effective November 1, 1990. Viking states that this filing reflects the new Annual Charge Adjustment of $.0022 per dekatherm and is pursuant to the Commission's Order issued on September 28, 1990, in Docket Nos. RM87-3, *et al.*

Viking states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this

filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24967 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-1-76-001]

Wyoming Interstate Company Ltd.; Filing

October 16, 1990.

Take notice that on October 10, 1990, Wyoming Interstate Company, Ltd. (WIC) submitted for filing six copies of Eleventh Revised Sheet No. 5 increasing by 0.03 cent/Mcf the presently effective ACA rate from 0.19 cent/Mcf to 0.22 cent/Mcf effective November 1, 1990.

WIC notes that it sought to place a new ACA rate of 0.19 cent/Mcf in effect on October 1, 1990 in its "initial" 1990 ACA filing on August 30, 1990. This was approved by Commission order issued on September 28, 1990 in Docket No. RM87-3-000 and Docket Nos. TM91-1-20 et al. In the "initial" ACA filing, WIC did not consider as a part of the 0.19 cent/Mcf ACA rate the additional billings it had received and paid related to the Commission's under-recovery of its 1989 fiscal year ACA program costs. WIC notes, however, that it requested permission to revise its ACA charge should the Commission approve recovery of the 1989 fiscal year under-recovery amount. In paragraph D of its September 28, 1990 order, the Commission did approve a 0.03 cent/Mcf upward adjustment in the ACA rate to correct for the 1989 fiscal year under-recovery for any pipeline filing a revised ACA charge of 0.22 cent/Mcf within 15 days of the Commission's order. The revised 0.22 cent/Mcf charge is effective on November 1, 1990. The Commission also permits the filing pipeline to adjust its November, 1990 bill for the ACA under-recovery at the 0.19 cent/Mcf rate approved for October, 1990.

Accordingly, WIC submitted for filing Eleventh Revised Sheet No. 5 of its FERC Gas Tariff, Original Volume No. 1 incorporating the "revised" 0.22 cent/Mcf ACA billing rate to become effective on November 1, 1990.

WIC states that copies of this filing have been served upon WIC's jurisdictional customers and public bodies, and are otherwise available for public inspection at WIC's offices in Colorado Springs, Colorado.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24968 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 90-35-NG]

Phibro Energy, Inc.; Order Granting Blanket Authorization To Import and Export Natural Gas, Including Liquefied Natural Gas

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of an order granting blanket authorization to import and export natural gas, and liquefied natural gas, and granting intervention.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Phibro Energy, Inc. blanket authorization to import up to 200 Bcf of natural gas, including liquefied natural gas (LNG), from Mexico, Canada, and other countries, and to export up to 200 Bcf of natural gas, including LNG, to Mexico, Canada, and other countries, over a two year term beginning on the date of first import or export.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue SE., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 15, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-24961 Filed 10-22-90; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 90-33-NG]

Poco Petroleum, Inc.; Application To Export Natural Gas to Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to export natural gas to Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on September 21, 1990, of an application filed by Poco Petroleum, Inc. (Poco), requesting blanket authorization to export from the United States to Canada up to 100,000 MMBtus per day and up to a total of 70,000,000 MMBtus (approximately 70 Bcf) of natural gas over a two-year period commencing with the date of first delivery. Poco intends to use existing pipeline facilities within the United States and at the international border for transportation of the exported natural gas. Poco states that it will notify the DOE of the date of first delivery and submit quarterly reports detailing each transaction.

The application was filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and writen comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t., November 23, 1990.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, room 3F-056, FE-50, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Perry Bolger, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-1789

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, room 6E-042, 1000 Independence Avenue SW., Washington, DC 20585 (202) 586-6667

SUPPLEMENTARY INFORMATION: Poco is a Delaware corporation and the wholly owned subsidiary of Poco Petroleums Ltd., an Alberta corporation headquartered in Calgary, Alberta. Poco

requests authorization to export for its own account as well as for the accounts of suppliers and purchasers. Poco states that the contractual arrangements will be the product of arms-length negotiations with an emphasis on competitive prices and contract flexibility.

This export application will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204–111 and 0204–127. In deciding whether the proposed export of natural gas is in the public interest, domestic need for the natural gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they related to the requested export authority. The applicant asserts that there is no current need for the domestic gas that would be exported under the proposed arrangements. Parties opposing this application bear the burden of overcoming this assertion.

All parties should be aware that if this blanket export application is granted, a total two-year term volume may be designated, rather than a daily or annual limit, in order to provide the applicant with maximum flexibility of operation.

NEPA Compliance

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and response filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Poco's application is available for inspection and copying in the Office of Fuels Programs Docket Room, room 3F–056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., e.s.t., Monday through Friday, except Federal holidays.

Issued in Washington, DC on October 15, 1990.

Clifford L. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90–24982 Filed 10–22–90; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 3853–9]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before November 23, 1990.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: NSPS for Volatile Organic Liquid Storage Vessels (Subpart K). (ICR #1132.03; OMB #2060–0074). This is a reinstatement of a previously approved collection.

Abstract: Owners or operators of volatile organic liquid (VOL) storage vessels with a storage capacity greater than, or equal to, 40 cubic meters must notify EPA of any construction, reconstructions, modifications, and repairs made to their vessels. Owners or operators must inspect the roofs and seals of each vessel prior to filling it with VOL, inspect the seals yearly, repair any defects found on the seals within 45 days, and they must also inspect the tank and seals when the tank is emptied and degassed. Owners or operators must measure gaps between the tank wall and the primary and secondary seals during the initial testing of the vessel, and, when necessary, make the proper repairs within 45 days. Owners or operators must record the results of all these tests and repairs, and must retain such records for two years. EPA uses these data to ensure compliance with the standards.

Burden statement: The annual public burden for this collection of information is estimated to average 9 hours per notification, and 2 hours per recordkeeper. This estimate includes the time needed to review instructions, search existing data sources, gather the

data needed and review the collection of information.

Respondents: Owners and operators of VOL storage vessels.

Estimated no. of respondents: 857.

Estimated no. of responses per respondent: 6.

Estimated total annual burden on respondents: 47,718 hours.

Frequency of collection: Initial notification and on occasion.

Send comments regarding the burden estimates, or any other aspect of the information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch, 401 M Street, SW., Washington, DC 20460

and

Nicolas Garcia, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place, NW., Washington, DC 20530.

Dated: October 11, 1990.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 90-25030 Filed 10-22-90; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3854-2]

Contractor Access to Confidential Business Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA has authorized its contractor, Research and Evaluation Associates, Inc. (REA), of Chapel Hill, North Carolina, for access to information that has been, or will be, submitted to EPA under section 114 of the Clean Air Act (CAA) as amended. Some of the information may be claimed to be confidential business information (CBI) by the submitter.

DATE: October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Gene W. Smith, Document Control Officer, Office of Air Quality Planning and Standards (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541-5439.

SUPPLEMENTARY INFORMATION: Under contract number 68-DO-0063, the contractor, REA, 100 Europa Drive, suite 590, Chapel Hill, North Carolina, will assist the Office of Air Quality Planning and Standards (OAQPS) in designing and implementing a system for the handling, tracking, and safeguarding of CBI gathered under the CAA projects.

In accordance with 40 CFR 2.305(h), EPA has determined that REA requires access to CBI submitted to EPA under section 114 of the CAA in order to perform work satisfactorily under the above noted contract. The REA personnel will be given access to all information submitted under section 114 of the CAA. Some of the information may be claimed or determined to be CBI. The EPA is issuing this notice to inform all submitters of information under section 114 of the CCA that EPA may provide REA access to these materials on a need-to-know basis. The REA personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to CBI. All access to CAA CBI under this contract will take place at EPA facilities.

Clearance for access to CAA CBI under this contract is scheduled to expire on September 30, 1994.

Dated: October 17, 1990.

Michael Shapiro,

Assistant Administrator for Air and Radiation.

[FR Doc. 90-25028 Filed 10-22-90; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3853-8]

Open Meeting of the International Environmental Technology Transfer Advisory Board

Under Public Law 92-463, notice is hereby given that a meeting of the International Environmental Technology Transfer Advisory Board (IETTAB) will be held on November 13, 1990 in the Board room of the ASAE Building, 1575 Eye Street, NW., Washington, DC. The meeting is open to the public and will run from 9 a.m. until approximately 12 p.m. The purpose of this meeting is to discuss a final report.

Public comments can be made through written statements which will be distributed to Board members. Written statements must be sent in care of the Executive Secretary listed below no later than November 6, 1990, in order to distribute to Board members before the meeting time. Seating for interested members of the public is limited to seventy seats. Seats will be filled on a first-come basis. To confirm your interest in attending, contact the Executive Secretary by November 6, 1990.

FOR FURTHER INFORMATION CONTACT: Mark Kasman, Executive Secretary, Office of International Activities (A-106), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 475-7424.

Dated: October 2, 1990.

Terry Davies,

Assistant Administrator for International Activities.

[FR Doc. 90-25031 Filed 10-22-90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Existing Collection without OMB Approval.

Title: Application for National Warning System Service.

Abstract: Federal agencies, Military, State and local governments responsible for Civil Defense warning in their purview will apply in writing for the National Warning System Service (NAWAS) as instructed. Information is used to evaluate request for approval/disapproval of NAWAS service.

Type of Respondents: Federal agencies and State or local governments.

Estimate of Total Annual Reporting and Recordkeeping Burden: 50.

Number of Respondents: 50.

Estimated Average Burden Hours Per Response: 1.

Frequency of Response: Other; once.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Borror (202) 646-2624, 500 C Street, SW., Washington, DC 20472.

Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to: the FEMA Clearance Officer at the above address; and to Gary Waxman, (202) 395-7340, Office of Management and Budget, 3235 New Executive Office Building, Washington, DC 20503 within four weeks of this notice.

Date: October 10, 1990.

Wesley C. Moore,

Director, Office of Administrative Support.

[FR Doc. 90-25010 Filed 10-22-90; 8:45 am]

BILLING CODE 6718-01-M

BEST COPY AVAILABLE

FEDERAL RESERVE SYSTEM

Creditanstalt-Bankverein Vienna, Austria; Application To Engage in Private Placement Activities

Creditanstalt-Bankverein, Vienna, Austria ("Creditanstalt"), has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (the "BHC Act") and § 225.23(a) of the Board's Regulation Y (12 CFR 225.23(a)), for prior approval to engage through its wholly-owned subsidiary, Creditanstalt International Advisers, Inc., New York, New York ("Advisers"), in acting as agent for issuers in the private placement of all types of securities, and providing related advisory services. Company would conduct the proposed activities on a domestic and international basis.

The Board has previously authorized Advisers to engage in the following activities: (1) Providing investment advisory and securities brokerage services on a combined basis ("full-service brokerage"); (2) engaging in brokerage services separately; (3) buying and selling all types of securities on the order of investors as a "riskless principal;" and (4) providing corporate financial advisory services. *See Creditanstalt-Bankverein*, 76 Federal Reserve Bulletin 781 (1990).

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with prior Board approval, engage directly or indirectly in any activities "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto."

The Board has previously determined that, subject to certain conditions, acting as agent for issuers in the private placement of all types of securities, including the provision of related advisory services, is generally permissible for bank holding companies. *J.P. Morgan & Company Incorporated*, 76 Federal Reserve Bulletin 26 (1990) ("*Morgan*"); *Bankers Trust New York Corporation*, 75 Federal Reserve Bulletin 829 (1989) ("*Bankers Trust*").

Creditanstalt has proposed to act as agent in the private placement of all types of securities, using the same methods and procedures and subject to the prudential limitations established in the *Bankers Trust* and *Morgan* Orders, as modified to reflect Creditanstalt's status as a foreign banking organization, in accordance with prior Board orders (*Canadian Imperial Bank of Commerce, The Royal Bank of Canada*, and *Barclays PLC*, 76 Federal Reserve Bulletin 158 (1990); *see also The Toronto-Dominion Bank*, 76 Federal Reserve Bulletin 573 (1990)), and as modified to reflect the fact that Creditanstalt is not proposing to engage in any securities underwriting or dealing activities. *See The Royal Bank of Scotland Group plc*, 76 Federal Reserve Bulletin 888 (1990).

In determining whether an activity is a proper incident to banking, the Board must consider whether the proposal may "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." 23 U.S.C. 1843(c)(8). Creditanstalt contends that permitting it to engage in the proposed activities would result in increased competition, greater convenience to customers, and increased efficiency in the provision of financial services. Moreover, Creditanstalt believes that the proposed activities will not result in any unsound banking practices or other adverse effects.

In publishing the proposal for comment, the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets or is likely to meet the standards of the BHC Act or the Glass-Steagall Act.

Any comments or requests for a hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than November 15, 1990. Any request for a hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, October 17, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-24896 Filed 10-22-90; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Report of the "Tar," Nicotine, and Carbon Monoxide Content of 370 Varieties of Domestic Cigarettes

ACTION: Notice.

SUMMARY: The Federal Trade Commission publishes the Report of the "Tar," Nicotine, and Carbon Monoxide Content of 370 Varieties of Domestic Cigarettes.

DATE: October 23, 1990.

ADDRESSES: Copies of the full report are available from the FTC's Public Reference Branch, room 130, 6th St. and Pennsylvania Ave., NW., Washington, DC 20580. (202) 326-3272.

FOR FURTHER INFORMATION CONTACT: Joanna Crane-Murray, Bureau of Consumer Protection, at the address given above, telephone (202) 326-3256.

SUPPLEMENTARY INFORMATION: These are the most recent test results of the "tar," nicotine, and carbon monoxide levels of the smoke of domestic cigarettes reported by the FTC. The Tobacco Institute Testing Laboratory, (TITL), a private laboratory operated by the cigarette industry, conducted the "tar," nicotine, and carbon monoxide testing for the widely-available domestic cigarette varieties. This testing was conducted under the supervision of a representative of the FTC. TITL provided the results to the respective cigarette companies. The companies provided the data generated by TITL regarding their own brands to the FTC in response to compulsory process issued by the Commission. Cigarette smoke from generic-priced, private label, and not-widely-available cigarettes was not tested by TITL, but was tested by the cigarette companies and provided under compulsory process to the FTC. The methodology, processes and procedures that the companies and TITL employed are identical to those the Commission has followed in the past.

By Direction of the Commission.

Donald S. Clark,

Secretary.

"TAR," NICOTINE, AND CARBON MONOXIDE VALUES FOR 1988

Brand name	Description [1]	Tar [2]	NIC [2]	CO [2]
Alpine	King, Men, F, SP	17	1.1	16
Alpine*	100, Men, F, SP	15	1.1	15
Alpine*	King, Men, SP, Lt	09	0.7	11
Alpine*	100, Men, F, SP, Lt	10	0.8	11
Alpine*	Long, Men, F, HP, Full-Fla	15	0.9	15
Alpine*	Long, Men, F, HP, Lt	9	0.6	10
American Filter*	100, F, SP	17	1.2	15
American Filter*	King, F, SP	17	1.2	14
American Lights	100, F, SP, Lt	13	1.1	14
American Lights	King, F, SP	12	0.9	13
Austin*	King, F, SP	15	1.0	15
Austin*	100, F, SP, Full-Fla	15	1.0	17
Austin*	Lt, King, F, SP	10	0.7	11
Austin*	Lt, 100, F, SP	11	0.8	12
Austin*	Ultra-Lt, 100, F, SP	5	0.5	9
Austin*	Lt, Men, King, F, SP	10	0.7	13
Austin*	Lt, 100, Men, F, SP	10	0.8	12
Belair	SP, F, King, Men	11	0.8	10
Belair	100, F, SP, Men	9	0.7	9
Benson and Hedges	King, F, HP	15	1.3	13
Benson and Hedges*	Lt, 100, F, HP	11	0.8	12
Benson and Hedges*	Lt, 100, F, Men, HP	10	0.8	11
Benson and Hedges	100, F, SP	17	1.2	16
Benson and Hedges	F, HP, 100	17	1.2	17
Benson and Hedges	100, Men, F, HP	17	1.2	17
Benson and Hedges	Men, 100, SP, F	17	1.2	16
Benson and Hedges	100, Lt, F, SP	11	0.8	13
Benson and Hedges	100, Lt, Men, SP	11	0.8	12
Benson and Hedges	Dlx, Ultra-Lt, F, HP, 100	5	0.4	6
Benson and Hedges	Dlx, Ultra-Lt, Men, F, HP, 100	5	0.5	6
Benson and Hedges*	King, F, SP, Multifilter	11	0.8	11
Best Buy**	Lt, 100, F, Men, HP	10	0.8	11
Best Buy**	King, F, Ful-Fla, SP	15	1.0	00
Best Buy**	100, F, Ful-Fla, SP	15	1.0	00
Best Buy**	Lt, King, F, SP	10	0.7	00
Best Buy**	Lt, King, F, Men, SP	10	0.7	00
Best Buy**	Lt, 100, F, SP	10	0.7	00
Best Buy**	Lt, 100, F, Men, SP	11	0.8	00
Best Buy**	Ultra-Lt, King, F, SP	6	0.5	00
Best Buy**	Ultra-Lt, 100, F, SP	7	0.5	00
Best Value**	King, NF, SP	24	1.6	00
Best Value**	Full Flavor, King, F, SP	15	1.0	16
Best Value**	100, Full Flavor, F, SP	15	1.0	17
Best Value**	Lt, King, F, SP	11	0.7	11
Best Value**	Lt, 100, F, SP	11	0.8	12
Best Value**	Ultra, Lt, 100, F, SP	5	0.5	9
Best Value**	Lt, Men, King, F, SP	10	0.7	13
Bright	Lt, Men, 100, F, SP	10	0.8	12
Cambridge	100, F, SP, Men	6	0.4	10
Cambridge	100, F, SP, Ultra	5	0.4	7
Cambridge	Lt, King, SP, F	12	0.8	13
Cambridge	Lt, King, Men, F, SP	12	0.8	12
Cambridge	Lt, 100, F, SP	12	0.9	15
Cambridge	Lt, 100, Men, F, SP	12	0.8	16
Cambridge	Full-Fla, King, F, SP	17	1.1	16
Camel	Full-Fla, 100, F, SP	17	1.2	16
Camel	Reg, NF, SP	22	1.4	14
Camel	F, King, SP	16	1.0	16
Camel	HP, F, King	17	1.1	17
Camel	100, F, SP	18	1.1	19
Camel	Lt, HP, F, King	10	0.6	12
Camel	Lt, F, King, SP	9	0.6	11
Capri	Lt, 100, F, SP	11	0.8	15
Capri	100, F, HP	9	0.8	8
Capri*	Men, 100, F, HP	9	0.7	8
Capri*	120, HP, F	14	1.1	9
Carlton	120, F, HP, Men	12	0.9	8
Carlton	F, SP, 120	6	0.6	8
Carlton	F, SP, King	1	0.1	2
Carlton	Men, SP, 120, F	6	0.6	5
Carlton	Men, SP, King, F	1	0.1	1
Carlton	F, HP, King	1	0.1	2
Carlton	F, HP, 100	1	0.1	1
Carlton	F, SP, 100	3	0.3	5
Carlton	Men, HP, 100, F	1	0.1	1
Carlton	Men, SP, 100, F	5	0.4	5
Carlton*	Ultra, King, F, HP	<0.5	<0.05	<0.5
Century	F, King, SP, 25	15	1.0	16
Century	Lt, F, King, SP, 25	10	0.7	12
Century	100, F, SP, 25	16	1.1	21

"TAR," NICOTINE, AND CARBON MONOXIDE VALUES FOR 1988—Continued

Brand name	Description [1]	Tar [2]	NIC [3]	CO [4]
Century	Lt, 100, F, SP, 25	12	0.9	13
Century	Lt, 100, F, SP, Men, 25	11	0.8	14
Chesterfield	Reg, NF, SP	20	1.3	13
Chesterfield	NF, King, SP	24	1.6	15
Chesterfield*	Lt, King, F, SP	10	1.0	11
Chesterfield*	Lt, 100, F, SP	11	1.1	11
Convoy*	King, Lt, F, SP	14	1.1	13
Cost Cutter**	Full Flavor, King, F, SP	16	1.0	16
Cost Cutter**	Full Flavor, 100, F, SP	15	1.0	17
Cost Cutter**	Lt, King, F, SP	11	0.7	11
Cost Cutter**	Lt, 100, F, SP	11	0.8	12
Cost Cutter**	Ultra Lt, 100, F, SP	5	0.5	9
Cost Cutter**	Lt, Men, King, F, SP	10	0.7	13
Cost Cutter**	Lt, Men, 100, F, SP	10	0.8	12
Doral	Lt, F, King, SP	12	0.7	15
Doral	Lt, Men, F, King, SP	12	0.6	14
Doral	Lt, F, 100, SP	11	0.7	13
Doral	Lt, F, 100, Men, SP	12	0.7	14
Doral	F, King, Full-Fla, SP	17	0.9	20
Doral	100, F, Full-Fla, SP	15	0.8	17
Doral	Ultra-Lt, 100, F, SP	7	0.5	12
Doral*	Full-Fla, Men, King, SP, F	15	1.1	18
Doral*	Full Fla, Men, 100, F, SP	15	1.1	18
English Oval	King, NF, HP	24	1.8	16
Eve	Lt, HP, 120, F	13	1.1	12
Eve	Lt, Men, HP, 120, F	13	1.2	12
Eve*	Lt, Men, SP, 120, F	13	1.1	12
Eve	Slim-Lt, F, Men, 100, HP	13	1.0	11
Eve	Slim-Lt, F, 100, HP	13	1.0	11
Eve*	Ultra-Lt, 120, HP, F	6	0.7	4
Eve*	Ultra-Lt, 120, HP, F, Men	6	0.7	4
F&L**	King, F, HP	10	0.7	00
F&L**	Ultra-Lt, 100, SP	7	0.5	00
F&L**	King, F, Men, SP	11	0.7	00
F&L**	Lt, King, F, SP	10	0.7	00
F&L**	Lt, 100, F, SP	10	0.7	00
F&L**	Lt, 100, F, Men, SP	11	0.8	00
Falcon	Lt, King, F, SP	11	0.8	11
Falcon	Men, Lt, King, F, SP	10	0.8	12
Falcon	Lt, 100, F, SP	12	0.9	15
Falcon	Men, Lt, 100, F, SP	9	0.7	11
Famous Value**	King, F, SP	15	1.0	00
Famous Value**	Lt, King, F, SP	10	0.7	00
Famous Value**	Lt, King, F, Men, SP	11	0.7	00
Famous Value**	100, F, SP	15	1.0	00
Famous Value**	Lt, 100, F, SP	10	0.7	00
Famous Value**	Lt, 100, F, Men, SP	11	0.8	00
Famous Value**	Ultra-Lt, King, F, SP	6	0.5	00
Famous Value**	Ultra-Lt, 100, F, SP	7	0.5	00
Golden Lights	King, NF, SP	24	1.8	00
Golden Lights	Lt, King, F, SP	8	0.7	10
Golden Lights	Lt, Men, King, F, SP	8	0.8	9
Golden Lights	Lt, Men, 100, F, SP	9	0.8	10
Golden Lights	Lt, 100, F, SP	10	0.9	11
Golden Lights	Lt, King, F, HP	9	0.8	10
Gridlock**	Lt, 100, F, HP, Dfx	10	0.9	11
Gridlock**	King, NF, SP	24	1.8	00
Gridlock**	King, Ful-Fla, F, SP	15	1.0	00
Gridlock**	Lt, 100, F, SP	10	0.7	00
Harley Davidson	Ultra-Lt, 100, F, SP	7	0.5	00
Herbert Tareyton	F, King, SP	14	1.0	16
Hi-Lite	King, NF, SP	25	1.6	18
Kent	100, F, HP	14	1.0	15
Kent	HP, King, F	11	0.9	13
Kent	King, F, SP	12	0.9	14
Kent	100, F, SP	14	1.0	15
Kent	Men, 100, F, SP	14	1.0	14
Kent	III, King, F, SP	3	0.3	4
Kent	III, 100, Plain, F, SP	5	0.4	7
Kent	III, 100, F, HP	5	0.5	7
Kool	King, Men, F, SP	17	1.1	17
Kool	Men, 100, F, SP	17	1.2	17
Kool	King, Men, F, HP	16	1.1	15
Kool	Reg, NF, SP, Men	22	1.4	14
Kool	Lt, King, F, SP, Men	8	0.7	9
Kool	Lt, 100, F, Men, SP	9	0.7	10
Kool	Mild, King, F, Men, SP	12	0.9	13
Kool	Mild, King, F, Men, HP	12	0.9	11
Kool	Mild, 100, F, Men, SP	12	1.0	13
L and M	100, F, SP, 10-PK, 30	13	1.1	11

"TAR," NICOTINE, AND CARBON MONOXIDE VALUES FOR 1988—Continued

Brand name	Description [1]	Tar [2]	NIC [3]	CO [4]
L and M	Long, Lt, SP, F, 100	5	0.6	6
L and M	F, King, SP	14	1.1	13
L and M*	HP, F, King, HP	14	1.1	13
L and M	Super, King, 100, F, SP	14	1.1	14
L and M*	Superior, King, SP, F	14	1.1	14
Lark	Lt, F, King, SP	13	1.0	13
Lark	Lt, F, 100, SP	14	1.1	15
Lark	King, F, SP	14	1.1	13
Lark	Lt, Extra Long, SP, 100, F	15	1.2	14
Lucky Strike	Reg, NF, SP	24	1.5	16
Lucky Strike	King, F, SP	12	0.9	13
Lucky Strike	King, F, HP	12	0.9	13
Lucky Strike	F, 100, SP	12	1.0	13
Lucky Strike	Lt, King, F, SP	9	0.7	10
Lucky Strike	Lt, 100, F, SP	9	0.7	10
Lucky Strike	Men, 100, F, SP	12	1.0	12
Magna	Lt, King, F, SP	8	0.6	14
Magna	King, F, SP	14	0.9	15
Magna	King, F, HP	14	0.9	16
Malibu	100, F, SP	14	1.1	13
Malibu	100, F, Lt, SP	9	0.6	11
Malibu	100, Men, SP, F	12	0.9	13
Malibu	King, F, SP	15	1.2	14
Malibu	King, F, Lt, SP	10	0.6	11
Malibu	King, F, Men, SP	17	1.2	15
Marlboro	King, F, HP	17	1.1	15
Marlboro	King, F, SP	17	1.2	17
Marlboro	Men, King, F, SP	17	1.2	15
Marlboro	SP, 100, F	17	1.2	16
Marlboro	HP, 100, F	17	1.2	17
Marlboro	Lt, King, F, SP	11	0.8	12
Marlboro	Lt, King, F, SP, 25	11	0.6	12
Marlboro	Lt, King, F, HP	11	0.8	12
Marlboro	Lt, 100, F, SP	11	0.8	13
Marlboro	Lt, King, Men, F, SP	10	0.8	10
Marlboro	King, F, SP, 25	17	1.1	16
Marlboro	Lt, 100, F, HP	11	0.8	12
Marlboro	Lt, 100, Men, F, SP	11	0.9	12
Marlboro	Lt, 100, Men, HP	10	0.8	11
Marlboro	Lt, King, Men, HP	10	0.6	11
Max	F, 120, SP	17	1.3	16
Max	Men, 120, F, SP	17	1.4	17
Merit	King, F, SP	8	0.6	10
Merit	Men, King, F, SP	8	0.6	10
Merit	100, F, SP	10	0.8	12
Merit	100, Men, F, SP	10	0.8	12
Merit	King, HP, F	8	0.6	10
Merit	Ultra-Lt, King, F, SP	4	0.4	6
Merit	100, F, SP, Ultra-Lt	5	0.5	7
Merit	Ultra-Lt, Men, King, F, SP	5	0.4	6
Merit	100, Men, F, SP, Ultra-Lt	6	0.5	8
Merit*	Men, King, F, HP	9	0.7	9
Merit*	Ultra-Lt, King, F, HP	5	0.4	5
Merit*	Ultra-Lt, 100, F, HP	6	0.6	6
Merit*	Long, F, HP	9	0.7	10
More	120, F, SP	16	1.3	22
More	Men, 120, F, SP	17	1.3	22
More	Lt, 100, F, HP	10	0.8	11
More	Lt, Men, 100, F, HP	9	0.7	10
More	Lt, 120, F, SP	13	1.0	20
More	Lt, 120, Men, F, SP	12	1.0	20
Newport	King, Men, F, SP	17	1.2	16
Newport	King, Men, F, SP, 25	17	1.3	16
Newport	100, Men, F, SP	19	1.5	16
Newport	100, Men, F, SP, 25	19	1.6	20
Newport	HP, Men, F, King	16	1.2	16
Newport	Lt, F, King, Men, SP	8	0.7	9
Newport	Lt, 100, F, Men, SP	9	0.8	10
Newport	Lt, HP, King, F, Men	9	0.7	10
Newport	Men, 100, F, HP	19	1.5	19
Newport	Lt, Men, 100, HP, F	9	0.8	10
Newport	Stripe, Slim, Lt, F, 100, HP	9	0.8	11
Newport	Stripe, 100, F, HP	12	0.8	17
Newport	Stripe, Men, 100, F, HP	12	0.9	16
No Frills**	Lt, King, Men, SP	11	0.7	00
No Frills**	Lt, 100, SP	10	0.7	00
No Frills**	Ultra-Lt, 100, SP	7	0.5	00
Now	100, F, SP	2	0.2	3
Now	F, King, SP	1	0.1	2
Now	HP, F, King	<0.5	<0.05	<0.5

"TAR," NICOTINE, AND CARBON MONOXIDE VALUES FOR 1989—Continued

Brand name	Description [1]	Tar [2]	NIC [3]	CO [4]
Now	HP, 100, F	<0.5	<0.05	<0.5
Now	Men, 100, F, SP	2	0.2	4
Now	Men, F, King, SP	1	0.1	2
Old Gold	SP, F, King	17	1.2	18
Old Gold	SP, F, 100	20	1.5	20
Old Gold	SP, Straight, King, NF	27	1.9	19
Old Gold	SP, Lt, F, King	9	0.8	11
Old Gold	SP, Lt, F, 100	12	0.8	17
P.M. Blues*	100, F, SP, Men	16	1.2	18
P.M. Blues*	King, F, SP, Men	17	1.2	16
Pall Mall	King, NF, SP	25	1.8	17
Pall Mall	King, NF, SP, 25	25	1.8	17
Pall Mall	Lt, 100, F, SP	10	0.8	12
Pall Mall	F, 100, SP	17	1.3	17
Pall Mall	Lt, King, NF, SP	16	1.1	00
Pall Mall	Lt, 100, Men, F, SP	13	1.1	13
Pall Mall	F, King, Low-Tar, SP, Red	14	1.0	13
Pall Mall	F, 100, Low-Tar, SP, Red	14	1.1	14
Pall Mall	Lt, King, F, SP, Red	10	0.8	11
Pall Mall	Lt, 100, F, SP, Red	11	0.9	12
Parliament	Lt, King, F, HP	9	0.7	10
Parliament	Lt, F, King, SP	9	0.7	10
Parliament	Lt, 100, F, SP	12	0.9	13
Philip Morris	Commander, King, NF, SP	26	1.6	16
Philip Morris*	Reg, NF, SP	23	1.3	13
Philip Morris	Intl, 100, F, HP	17	1.1	16
Philip Morris	Intl, Men, 100, F, HP	17	1.1	16
Picayune*	NF, Reg, SP	16	1.2	10
Players	Reg, NF, HP	25	1.7	16
Players	King, F, HP	12	0.8	12
Players	King, F, Men, HP	12	0.8	12
Players	100, F, HP	14	1.0	13
Players	100, F, Men, HP	14	1.0	13
Players*	Lt, King, F, SP	10	0.7	11
Players	Lt, King, F, Men, SP, 25	10	0.7	11
Players	Lt, 100, F, SP, 25	12	0.9	14
Players	Lt, 100, F, Men, SP, 25	11	0.8	14
Players	Lt, King, F, SP, 25	10	0.7	11
Pyramid*	King, Lt, F, SP	14	1.1	13
Pyramid*	Lt, 100, SP, F	14	1.1	14
Pyramid*	100, F, SP, Men	14	1.1	14
Pyramid*	NF, King, SP	24	1.6	15
Pyramid*	Ultra-Lt, 100, F, SP	8	0.7	5
Raleigh	King, F, SP	16	1.0	15
Raleigh	100, F, SP	16	1.0	15
Raleigh	Lt, King, F, SP	11	0.9	13
Raleigh	Lt, 100, F, SP	12	0.9	14
Raleigh	Reg, NF, SP	24	1.4	17
Richland	F, King, SP, 25	17	1.2	16
Richland	100, F, SP, 25	17	1.3	17
Richland	F, Men, King, SP, 25	16	1.1	16
Richland	100, F, SP, Men, 25	16	1.2	16
Richland	Lt, F, King, SP, 25	12	0.9	13
Richland	Lt, 100, F, SP, 25	12	0.9	14
Richland	F, King, SP	16	1.1	16
Richland	100, F, SP	17	1.2	17
Richland	Men, King, F, SP	16	1.0	16
Richland	Men, 100, F, SP	17	1.2	17
Richland	Lt, King, SP, F	12	0.9	13
Richland	Lt, 100, F, SP	12	0.9	14
Ritz	100, F, HP	10	0.8	11
Ritz	100, F, Men, HP	11	0.8	12
Royale*	Lt, King, F, SP	10	0.7	00
Royale*	Lt, King, F, Men, SP	11	0.7	00
Royale*	Lt, 100, F, SP	10	0.7	00
Royale*	Lt, 100, F, Men, SP	11	0.8	00
Salem	King, F, Men, SP	16	1.0	17
Salem	Lt, 100, F, Men, SP	9	0.7	11
Salem	Lt, King, F, Men, SP	10	0.7	13
Salem	Slim-Lt, HP, 100, F, Men	10	0.8	10
Salem	100, F, SP, Men	17	1.2	16
Salem	F, King, Men, SP, Ultra-Lt	5	0.4	8
Salem	100, F, SP, Men, Ultra-Lt	5	0.4	8
Salem	Lt, 100, Custom Case, HP, Men	11	0.9	12
Saratoga	120, F, HP	15	1.1	15
Saratoga	120, Men, F, HP	15	1.1	15
Satin 100	100, F, SP	11	1.0	13
Satin Menthol 100	Men, 100, SP	11	1.0	13
Savvy*	Lt, 100, SP, F	11	1.1	11
Savvy*	Lt, 100, Men, F, SP	11	1.1	11

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"TAR," NICOTINE, AND CARBON MONOXIDE VALUES FOR 1989—Continued

Brand name	Description [1]	Tar [2]	NIC [3]	CO [4]
Savvy*	Ultra-Lt, F, SP, 100	6	0.7	5
Silva Thins	F, 100, SP	12	1.0	10
Silva Thins	Men, F, 100, SP	12	1.1	10
Silva Thins	F, 100, HP	12	1.0	13
Silva Thins	Men, F, 100, HP	11	0.9	12
Spring	Men, F, 100, SP	19	1.5	18
Stride*	Lt, F, King, SP	14	1.1	13
Stride*	Lt, F, 100, SP	14	1.1	14
Stride*	Lt, F, Men, 100, SP	14	1.1	14
Tall	F, 120, SP	20	1.6	20
Tall	Men, 120, F, SP	18	1.6	18
Tareyton	F, King, SP	14	1.0	16
Tareyton	F, 100, SP	14	1.0	17
Tareyton	Lt, F, SP	6	0.4	6
Tareyton	Long, Lt, 100, F, SP	9	0.7	9
Triumph	King, F, SP	3	0.3	4
Triumph	100, F, SP	5	0.5	7
Triumph	Men, King, F, SP	4	0.3	4
Triumph	Men, 100, F, SP	5	0.5	8
True	King, F, SP	6	0.5	6
True	Men, King, F, SP	6	0.5	6
True	Men, 100, F, SP	7	0.6	7
True	100, F, SP	7	0.6	7
Vantage	100, F, SP	9	0.6	13
Vantage	F, King, SP	11	0.6	11
Vantage	Ultra-Lt, 100, F, SP	6	0.5	9
Vantage	Ultra-Lt, F, King, SP	6	0.5	6
Vantage	Men, F, King, SP	10	0.7	13
Vantage	Men, 100, F, SP	8	0.6	13
Viceroy	King, F, SP	15	1.0	18
Viceroy	100, F, SP	16	1.1	15
Viceroy	Lt, F, King, SP	11	0.8	13
Viceroy	Lt, F, 100, SP	12	0.9	14
Virginia Slims	Slim, F, SP, 100	15	1.1	14
Virginia Slims	Slim, Men, 100, F, SP	15	1.1	14
Virginia Slims	Slim-Lt, 100, HP, F	9	0.7	9
Virginia Slims	Slim-Lt, HP, Men, 100, F	9	0.7	8
Virginia Slims	Slim-Lt, HP, 120, F	15	1.1	15
Virginia Slims	Slim-Lt, HP, Men, 120, F	15	1.1	15
Virginia Slims*	Ultra-Lt, 100, F, HP	6	0.5	7
Virginia Slims*	Ultra-Lt, Men, 100, F, HP	6	0.5	7
Winston	100, F, SP	17	1.1	19
Winston	King, F, SP	17	1.1	16
Winston	HP, F, King	17	1.1	17
Winston	Lt, 100, F, SP	11	0.8	13
Winston	Lt, F, King, SP	11	0.8	13
Winston	Lt, 100, F, HP	10	0.7	12
Winston	Ultra-Lt, 100, F, SP	5	0.5	9
Winston	Ultra-Lt, F, King, SP	6	0.5	8
Winston	Lt, HP, F, King	10	0.6	12

*New brands or brands not widely available in the marketplace: data supplied by the company.
**Private label cigarettes: data supplied by the company.
[1] F-Filter; NF-Non Filter; M-Menthol; HP-Hard Pack; SP-Soft Pack; Reg-Regular (70mm); K-King Size (80–85mm); 100 & 120 are in millimeters per cigarette; Lt-Light; FLA-Flavor; DLX-Deluxe; 25-Number of cigarettes per pack if other than 20.
[2] Tar: Total particulate matter in milligrams per cigarette less nicotine and water.
[3] NIC: Total alkaloids reported as milligrams of nicotine per cigarette.
[4] CO: Carbon monoxide reported in milligrams per cigarette. "00" entered where CO data was not available.
<: (less than) below the sensitivity of the testing method.

[FR Doc. 90-24906 Filed 10-22-90; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of Human Development Services; Statement of Organization, Functions, and Delegations of Authority

This Notice amends Part D of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services, Office of Human Development Services as follows: Chapter DC, Administration for Children, Youth and Families (ACYF) (49 FR 17593), as last amended July 7, 1988. This reorganization would transfer the operational functions of The National Center on Child Abuse and Neglect (NCCAN) from the Children's Bureau to the Immediate Office of the Commissioner, ACYF. The Children's Bureau will eliminate two office titles, the National Center on Child Abuse and Neglect and Office of Discretionary Grant Programs and the Office of State Welfare Grants and will be restructured with the four remaining Divisions: Program Support Division, Program Operations Division, Formula Grants Division and the Financial Operations Review Division.

1. Amends Chapter DC, Office of Human Development Services, DC.00 "Mission: The Administration for Children, Youth and Families (ACYF), by deleting paragraph 2 and replacing it with the following:

Administers State grant programs under title IV–B, IV–E and title IV–A

Foster Care of the Social Security Act. Manages the Adoption Opportunities program. Administers discretionary grant programs and other provisions of the Head Start Act and of the Runaway and Homeless Youth Act. Administers the provisions of Public Law 100–690, title III, chapters 1 and 2 of the Anti-Drug Abuse Act. Administers the Child Abuse Prevention and Treatment Act, as amended, and the Child Abuse Prevention Challenge Grants Reauthorization Act. Administers discretionary grant programs under title xi, section 201–207 of the Children's Justice and Assistance Act and those under the provisions of the Abandoned Infants Assistance Act. Supports and encourages services which prevent or remedy the effects of abuse and/or neglect of children and youth. Manages the National Center on Child Abuse and Neglect, including the National Clearinghouse and the Child Abuse and Neglect State and discretionary grant programs. Provides staff support to the activities of the Advisory Board on Child Abuse and Neglect.

2. Amends Chapter DC, Office of Human Development Services, DC.10 "Organization. The Administration for Children, Youth and Families" by deleting paragraphs 2 and 3 and replacing it with:

Children's Bureau: Program Support Division, Financial Operations Review Division, Formula Grants Division, Program Operations Division. Family and Youth Services Bureau: Program Operations Division, Program Support Division. The National Center on Child Abuse and Neglect: Program Policy and Planning Division, Clearinghouse Division.

3. Amends Chapter DC, Office of Human Development Services, DC 20 "Functions": A. The Immediate Office of the Commissioner by deleting it in its entirety and replacing it with the following:

DC.20 Functions. A. The Immediate Office of the Commissioner serves as the principal advisor to the Assistant Secretary for Human Development Services, the Secretary of Health and Human Services, and other elements of the Department in the areas of children, youth, and families. Provides executive direction and management strategy to Administration for Children, Youth and Families' component units. Staff of the Office of the Commissioner provides general staff support for the Advisory Board on Child Abuse and Neglect. Staff provides results of studies, research, or analyses of various matters affecting child abuse and neglect for the Board to use in its deliberations and recommendations. Assists the Board in preparing and submitting to the Secretary and appropriate Committees of Congress an annual report which contains recommendations on ways in which the purposes of the Child Abuse Prevention and Treatment Act can most effectively be achieved. Works with other Federal, State, and local governmental and national and sub-national private sector organizations to assure that Board recommendations accepted by the Secretary and/or the Congress are implemented. Makes arrangements for all meetings and hearings of the Board. The Deputy Commissioner acts as Commissioner in the absence of the Commissioner.

4. Amends Chapter DC, Office of Human Development Services, DC.20 "Functions". D.1 National Center on Child Abuse and Neglect and Office of Discretionary Grant Programs by deleting it in its entirety and replacing it with the following

D.1. Program Support Division manages the Title IV–B Child Welfare Training Program and the Adoption Opportunities Program. Provides technical expertise in specific, substantive program areas for developing programmatic policies, standards, model laws, regulations and guidelines for child welfare services. Provides expert advice and assistance to a broad array of public and private agencies in these areas. Develops areas for research, demonstration, and evaluation activities to investigate the current status of child welfare practices and to improve the quality and levels of service provided to children, including abandoned infants. Manages discretionary projects assigned to the Bureau which are related to child welfare services and related areas. Reviews current practices and problems: recommends action to meet special needs of children at risk and promotes successful models.

Develops and implements training and technical assistance plans. Analyzes regional child welfare services' training and technical assistance reports and provides technical guidance to the regional offices. Develops model curricula and other materials for training persons engaged in child welfare programs.

(1) Assistance Branch

Acts as the principal focus within the Program Support Division for developing and implementing policies, advice and plans on identifying and diagnosing children and families who need child welfare assistance including improving and upgrading services to children and families in their own homes, services for children and families in need of emergency care; services to children in need of substitute care (with foster families or in institutions or group homes): And services relating to restoration of children with their families and permanency planning.

(2) Adoption Opportunities Branch

Acts as the principal focus within the Division for development of policies, advice and plans on programs relating to the improvement of adoption services, especially those for children with special needs. Provides technical expertise in developing programmatic policies, standards, model laws, regulatory material and guidelines for improving adoption services. Provides expert knowledge, training and technical assistance to a broad array of public and private social service agencies in improvement of adoption services.

Develops and manages the Adoption Opportunities Program (Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act) to facilitate the elimination of barriers to adoption and to provide permanent homes for children who would benefit by adoption. Develops model adoption legislation and procedures and provides training and technical assistance in their use by States: develops and manages a national adoption information exchange system, including the operation of a national adoption exchange: develops, manages and monitors a training and technical assistance program to promote quality standards and services in the adoption of children with special needs.

Develops training and technical assistance objectives and program guidance for the Regional Offices in the improvement of adoption services. Identifies, develops, demonstrates and disseminates training curricula and technical assistance materials for persons providing adoption services. Recommends areas for research, demonstration and evaluation activities. Manages assigned discretionary projects.

5. Amends Chapter DC, Office of Human Development Services. DC 20 "Functions": D.2. Office of Child Welfare State Grants by deleting it in its entirety and replacing it with:

D.2. Program Operations Division generates policies and procedures for developing State child welfare program plans authorized under titles IV–B and IV–E of the Social Security Act including child welfare services, foster care and adoption assistance: develops and interprets regulations, guidelines, and instructions. Coordinates child welfare

services with other Federal agencies and non-Federal groups.

Provides technical direction on administration of state grant programs. Advises Regional Offices on recommendation for disapproval of State plans or amendments.

(1) Implementation Branch

Performs reviews for eligibility of funds under section 427, Public Law 96-272 and program reviews when required; develops compliance review procedures and reviews compliance of State plans and expenditures with the requirements and makes recommendations to the Associate Commissioner; Prepares appropriate orientation materials for regional offices and States; assists or prepares regional orientation plans; analyzes and, in conjunction with regional offices, collects child welfare services program data; formulates and implements the Division's planning strategy including the development of the annual operational plan; and engages in joint program planning with States.

(2) Policy Branch

Develops policies and procedures for developing State plans for title IV-E and the Child Welfare Program authorized under title IV-B of the Social Security Act; develops and interprets regulations, guidelines and instructions under titles IV-B and IV-E of that Act and Public Law 96-272; interprets questions of State implementation; assists regional office technical assistance activities to meet requirements for State grants; coordinates child welfare services with other Federal agencies and non-Federal groups; analyzes regional offices monitoring and training and technical assistance reports; and provides program technical direction to regional offices.

D.3. Formula Grants Division develops and interprets program specific fiscal regulations, guidelines and instructions for the management of formula grant and entitlement programs including Child Welfare Services, Foster Care, and Adoption Assistance. Provides technical guidance to the regional offices in all fiscal aspects of these programs and develops procedures for the regional offices to use in acting on requests for funds.

Develops the annual funding allocations and quarterly financial plans, reviews all States estimates of need. Prepares quarterly State grants for award, makes adjustments to State funding plans as required.

Makes financial adjustments associated with deferral and disallowance actions. Provides technical expertise to the regional offices in the development of these actions. Processes all these actions in concert with the Office of Management Services/Division of Grants and Contracts Management.

Manages technical and procedural activities incident to audit questions and appeals. Provides technical assistance to the Department of Health and Human Services Inspector General in developing comprehensive audit techniques for these programs, including sampling and review methodology. Takes part in audits of State programs. Designs audit plans to meet special circumstances.

Provides technical advice on regulations, guidelines, and fiscal practices to Office of General Counsel in all related audit appeals being heard by the DHHS Grants Appeals Board. Provides technical assistance on issues affecting ACYF formula and entitlement programs to staff of the Assistant Secretary for Legislation and for the Assistant Secretary for Management and Budget.

D.4. Financial Operations Review Division arranges for and participates in financial reviews of State Child Welfare Services, Foster Care and Adoption Assistance grant operations. This requires coordination with Regional Administrators, and includes developing and refining procedures, establishing standards and criteria, and training Regional and Central Office Staff in conducting regular on-site financial reviews.

Coordinates and consults as appropriate and necessary, with the Commissioner, ACYF, Staff Office Directors, and Regional Administrators in organizing, assigning staff, conducting the reviews and analyzing review findings.

Analyze and review results for consistency in application and operation, and make recommendations to the Commissioner, ACYF, on policies and procedural improvements.

Assists OGC with cases appealed to the Departmental Appeals Board as a result of the financial reviews.

6. Amends Chapter DC, Office of Human Development Services, DC 20 "Functions" by adding the following:

F. National Center on Child Abuse and Neglect serves as the principal advisor to the Commissioner in matters related to child abuse and neglect. Recommends legislative and budgetary proposals, operational planning system objectives and initiatives, and projects and issue areas for evaluation, research, and demonstration activities. Represents ACYF in initiating and implementing inter-agency activities and projects affecting children that are abused or neglected. Provides leadership and coordination for the program, activities, and subordinate units of the center.

Provides staff support for the activities of the Inter-Agency Task Force on Child Abuse and Neglect. The Director, National Center on Child Abuse and Neglect serves as Chairperson of the Task Force.

F.1. Program Policy and Planning Division. In coordination with the ACYF Division of Planning, Research, and Evaluation, establishes objectives, determines priorities, develops and implements research and demonstration programs, and plans to prevent, identify and treat child abuse and neglect. Recommends evaluation activities to be performed.

With the Regional Offices, verifies eligibility and allocates funds to States found to be in compliance with the requirements of the Child Abuse Prevention and Treatment Act, and monitors State programs funded under the Act. Allocates funds to States to support activities under the Children's Justice and Assistance Act and under the Child Abuse Prevention Challenge Grants Reauthorization Act.

Plans and implements training and technical assistance activities by directly managing grants and contracts.

F.2. Clearinghouse Division. Develops, maintains and updates the Information Clearinghouse on Child Abuse and Neglect on research and demonstration projects, operating programs and other activities. Through surveys and other information collection activities provides information on a continuing basis on research and demonstration projects and operating programs, directed at preventing, identifying and treating child abuse and neglect.

Compiles, analyzes, prepares and disseminates information, publications and other materials on child abuse and neglect. Provides assistance to other government agencies, public and private service organizations and the general public concerning the availability and use of information on child abuse and neglect.

Studies the incidence of child abuse and neglect to show severity and trends and assists in the development of central registries and forms for reporting child abuse and neglect.

Dated: October 15, 1990.

Louis W. Sullivan,

Secretary.

[FR Doc. 90-24962 Filed 10-22-90; 8:45 am]

BILLING CODE 4150-04-M

Agency for Health Care Policy and Research

Assessment of Medical Technology: Heart-Lung Transplantation

The Public Health Service's (PHS) Agency for Health Care Policy and Research, through the Office of Health Technology Assessment (OHTA), announces that it is performing an assessment of heart-lung transplantation for the Office of Civilian Health and Medical Program of the Uniformed Services (CHAMPUS).

This assessment will consider: (1) The specific medical indications for which heart-lung transplantation are appropriate; (2) the types of medical evidence necessary to verify these indications; (3) the specific contraindications to heart-lung transplantation; (4) the specific institutional or team criteria which are necessary to establish acceptable standards of experience and medical care that will ensure optimum success for heart-lung transplantation; and (5) the basis for using the existing CHAMPUS heart transplantation institutional and team criteria for heart-lung transplantation.

The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal Government. PHS assessments are based on the most current knowledge concerning the indications for the safety, clinical effectiveness, and appropriate uses of a technology. Based on this assessment, a PHS recommendation will be formulated to assist CHAMPUS in establishing coverage policy. The information being specifically sought in this assessment are the indications and contraindications for heart-lung transplantation as well as the appropriate selection criteria for both patients and transplant institutions.

Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing no later than February 1, 1991 or within 90 days from the date of publication of this notice.

For purposes of evaluation by the interested scientific community, it is sometimes helpful to include attributions for the comments cited in OHTA assessments. In addition, information provided in response to notices such as this one are often requested by interested individuals or groups. Without a written consent to the disclosure of the source of the comments received, the identity of the source will be kept confidential in accordance with 42 U.S.C. 299a-1(c) and title IX of the Public Health Service Act, section 903(c). Please indicate as part of the response whether disclosure is acceptable.

Written material should be submitted to: Office of Health Technology Assessment, 5600 Fishers Lane, room 18-40, Rockville, MD 20857, (301) 443-4990.

Thomas V. Holohan,

Director, Office of Health Technology Assessment, Agency for Health Care Policy and Research.

[FR Doc. 90-25000 Filed 10-22-90; 8:45 am]

BILLING CODE 4160-90-M

Assessment of Medical Technology

The Public Health Service's (PHS), Agency for Health Care Policy and Research, through the Office of Health Technology Assessment (OHTA), announces that it is coordinating an assessment of the safety and effectiveness of single and double lung transplantation.

Information is sought as to the risks and benefits associated with the use of this mode of treatment. Information is also sought pertaining to the specific indications for which single and double lung transplantation are appropriate. We also seek information concerning that institutional or team criteria are necessary to establish acceptable standards that will ensure optimum success for these transplantation procedures.

The PHS assessment consists of a synthesis of published literature and information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal Government. PHS assessments are based on the most current knowledge concerning the safety, clinical effectiveness, and appropriate uses of technology. Based on this assessment, a PHS recommendation will be formulated to assist the Office of Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) in establishing a CHAMPUS coverage policy. The information being sought is a review and assessment of past, current, and planned research related to this technology, as well as a bibliography of published, controlled clinical trials and other well designed clinical studies. Information related to the characterization of the patient population most likely to benefit from it, as well as on clinical acceptability and the effectiveness of this technology and extent of use, are also being sought. Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing no later than February 1, 1991 or within 90 days from the date of publication of this notice.

For purposes of evaluation by the interested scientific community, it is sometimes helpful to include attributions for the comments cited in OHTA assessments. In addition, information provided in response to notices such as this one are often requested by interested individuals or groups. Without a written consent to the disclosure of the source of the comments received, the identity of the source will be kept confidential, in accordance with 42 U.S.C. 299a-1(c) and the title IX of the Public Health Service Act, section 903(c). Please indicate as part of the response whether disclosure is acceptable.

Writen material should be submitted to: Director, Office of Health Technology Assessment, 5600 Fishers Lane, room 18-40, Rockville, MD 20857, (301) 443-4990.

Thomas V. Holohan,

Director, Office of Health Technology Assessment, Agency for Health Care Policy and Research.

[FR Doc. 90-24999 Filed 10-22-90; 8:45 am]

BILLING CODE 4160-90-M

Food and Drug Administration

[Docket No. 90P-0440]

Eggnog Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Coleman Dairy, Inc., to market test a product designated as "light eggnog" that deviates from the U.S. standard of identity for eggnog (21 CFR 131.170). The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the product.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than January 21, 1991.

FOR FURTHER INFORMATION CONTACT: Joanne Travers, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0100.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17

concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Coleman Dairy, Inc., 5801 Asher Ave., Little Rock, AR 72214.

The permit covers limited interstate marketing tests of a product that deviates from the U.S. standard of identity for eggnog in 21 CFR 131.170 in that: (1) The fat content of the product is reduced from 6 percent to 1 percent, and (2) sufficient vitamin A palmitate is added to ensure that a 4-fluid-ounce (118.5-milliliter) serving of the product contains 8 percent of the U.S. Recommended Daily Allowance for vitamin A. The product meets all requirements of the standard with the exception of these deviations. The purpose of the variation is to offer consumers a product that is nutritionally equivalent to eggnog but contains fewer calories and less fat.

For the purpose of this permit, the name of the product is "light eggnog." The principal display panel of the label must include the statements "reduced calories" and "reduced fat" following the name. In addition, the label must bear the comparative statements "⅓ less calories" and "75% less fat than regular eggnog".

The product complies with the reduced calorie labeling requirements in 21 CFR 105.66(d). In accordance with FDA's current views, reduced fat food labeling is acceptable because there is at least a 50-percent reduction in the fat content of the product. The information panel of the label will bear nutrition labeling in accordance with 21 CFR 101.9.

This permit provides for the temporary marketing of 32,000 quarts of the test product. The test product is to be manufactured at Coleman Dairy, Inc., Little Rock, AR 72204, and will be distributed in Arkansas, Louisiana, Mississippi, and Missouri.

Each of the ingredients used in the food must be stated on the label as required by the applicable sections of 21 CFR part 101. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than January 21, 1991.

Dated: October 12, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90-25043 Filed 10-22-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90F-0332]

Eggnog Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Marigold Foods, Inc., to test market a product designated as "lite eggnog" that deviates from the U.S. standard of identity for eggnog (21 CFR 131.170). The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the product.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than January 21, 1990.

FOR FURTHER INFORMATION CONTACT: Joanne Travers, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0100.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Marigold Foods, Inc., 2929 University Ave. SE., Minneapolis, MN 55414.

The permit covers limited interstate marketing tests of a product that deviates from the U.S. standard of identity for eggnog in 21 CFR 131.170 in that: (1) The fat content of the product is reduced from 6 percent to 2 percent, and (2) sufficient vitamin A palmitate is added to ensure that a 4-fluid-ounce (118.5 milliliter) serving of the product contains 8 percent of the U.S. Recommended Daily Allowance for vitamin A. The product meets all requirements of the standard with the exception of these deviations. The purpose of the variation is to offer consumers a product that is nutritionally equivalent but contains fewer calories and less fat.

For the purpose of this permit, the name of the product is "lite eggnog." The principal display panel of the label must include the statements "reduced calories" and "reduced fat" following the name. In addition, the label must bear the comparative statements "⅓ less calories" and "⅓ less fat than regular eggnog".

The product complies with the reduced calorie labeling requirements in 21 CFR 105.66(d). In accordance with FDA's current views, reduced fat food labeling is acceptable because there is at least a 50-percent reduction in the fat content of the product. The information panel of the label will bear nutrition labeling in accordance with 21 CFR 101.9.

This permit provides for the temporary marketing of 250,000 quarts (575 liters) of the test product. The test product is to be manufactured at Marigold Foods, Inc., Rochester Plant, 700 First Ave. SE., Rochester, MN 55901, and Marigold Foods, Inc., Kewaskum Plant, 110 First St., Box 476, Kewaskum, WI 53040, and will be distributed in Minnesota and Wisconsin.

Each of the ingredients used in the food must be stated on the label as required by the applicable sections of 21 CFR part 101. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than January 21, 1991.

Dated: October 12, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90-25044 Filed 10-22-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90M-0299]

Abbott Laboratories; Premarket Approval of Abbott PgR-EIA Monoclonal

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Abbott Laboratories, Abbott Park, IL, for premarket approval, under the Medical Device amendments of 1976, of the ABBOTT PgR-EIA Monoclonal. After reviewing the recommendation of the Clinical Chemistry and Clinical Toxicology Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of September 6, 1990, of the approval of the application.

DATES: Petitions for administrative review by November 23, 1990.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food

and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Kaiser Aziz, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1243.

SUPPLEMENTARY INFORMATION: On February 16, 1990, Abbott Laboratories, Abbott Park, IL 60064–5300, submitted to CDRH an application for premarket approval of the ABBOTT PgR–EIA Monoclonal. The ABBOTT PgR–EIA Monoclonal is indicated for the quantitative measurement of human progesterone receptor in breast tumor tissue cytosol to be used as an aid in assessing the likelihood of response to hormonal therapy, and to aid in the prognosis and management of breast cancer patients.

On June 19, 1990, the Clinical Chemistry and Clinical Toxicology Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On September 6, 1990, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Kaiser Aziz (HFZ–440), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before November 23, 1990, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 16, 1990.

Elisabeth D. Jacobson,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 90–25001 Filed 10–22–90; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 90M–0312]

AGENA Starke Gesellschaft M.B.H.; Premarket Approval of AGENASORB 9020®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by AGENA Starke Gesellschaft m.b.H., Vienna, Austria, for premarket approval, under the Medical Device Amendments of 1976, of AGENASORB 9020®. After reviewing the recommendation of the General and Plastic Surgery Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of September 13, 1990, of the approval of the application.

DATES: Petitions for administrative review by November 23, 1990.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Roger Barnes, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1090.

SUPPLEMENTARY INFORMATION: On November 18, 1988, AGENA Starke Gesellschaft, m.b.H., Vienna, Austria, submitted to CDRH an application for premarket approval of the AGENASORB 9020® which is indicated as a lubricating powder for surgeon's gloves. The device is an absorbable dusting powder manufactured by chemically cross-linking corn starch. The powder meets the specifications set forth in the monograph "Absorbable Dusting Powder," published by the U.S. Pharmacopeia XXII/National Formulary XVII (1990), and in the monograph "Sterilizable Maize Starch," published by the British Pharmacopeia (1988).

On April 12, 1990, the General and Plastic Surgery Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On September 13, 1990, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Roger Barnes (HFZ–410), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or

independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before November 23, 1990, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 16, 1990.

Elizabeth D. Jacobson,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 90-25004 Filed 10-22-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90M-0316]

Concord/Portex, Inc.; Premarket Approval of the Trophocan™ Chorionic Villus Sampling Catheter

AGENCY: The Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Concord/Portex, Inc., Keene, NH, for premarket approval, under the Medical Device Amendments of 1976, of the Trophocan™ Chorionic Villus Sampling Catheter. After reviewing the recommendation of the Obstetrics and Gynecology Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of August 9, 1990, of the approval of the application.

DATES: Petitions for administrative review by November 23, 1990.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Raju G. Kammula, Center for Devices and Radiological Health (HFZ-470), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1180.

SUPPLEMENTARY INFORMATION: On April 6, 1989, Concord/Porex, Inc., Keene, NH 03431, submitted to CDRH an application for premarket approval of the Trophocan™ Chorionic Villus Sampling Catheter which is indicated for use in obtaining chorionic tissue samples for the prenatal diagnosis of genetic abnormalities during the first trimester of pregnancy (i.e., between 8 and 12 weeks gestation). On August 24, 1989, the Obstetrics and Gynecology Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On August 9, 1990, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Managment Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Raju G. Kammula (HFZ-470), address above.

Opportunity for Administrative Review

Section 515(d)(3) of he Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administraive review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's adminstrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through adminsitrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before November 23, 1990, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 16, 1990.

Elizabeth D. Jacobson,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 90-25006 Filed 10-22-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90M-0315]

Physiologic Diagnostic Service, Inc. (PDS); Premarket Approval of the Genesis® Home Uterine Activity Monitoring System

AGENCY: Food and Drug Administration HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Physiologic Diagnostic Service, Inc. (PDS), Atlanta, GA, for premarket approval, under the Medical Device Amendments of 1976, of the Genesis® Home Uterine Activity Monitoring System. After reviewing the recommendation of the Obstetrics and Gynecology Devices Panel, FDA's Center for Devices and Radiological Health (CRDH) notified the applicant, by letter of September 12, 1990, of the approval of the application.

DATES: Petitions for administrative review by November 23, 1990.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Raju G. Kammula, Center for Devices and Radiological Health (HFZ-470), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1160.

SUPPLEMENTARY INFORMATION: On November 10, 1989, Physiologic Diagnostic Service, Inc., Atlanta, GA 30350, submitted to CRDH an application for premarket approval of the Genesis® Home Uterine Activity Monitoring System which is indicated for use, in conjunction with standard high risk care, for the daily at-home measurement of uterine activity in pregnancies > 24 weeks gestation for women with a history of previous preterm birth. Uterine activity data is displayed at a remote location to aid in the early detection of preterm labor (PTL) as evidenced by cervical dilation at the time of preterm labor diagnosis.

On April 4, 1990, the Obstetrics and Gynecology Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On September 12, 1990, CRDH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CRDH.

A summary of the safety and effectiveness data on which CRDH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CRDH—contact Raju G. Kammula (HFZ-470), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CRDH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CRDH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before November 23, 1990, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 16, 1990.

Elizabeth D. Jacobson,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 90-25008 Filed 10-23-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90N-0318]

Boston Scientific Corp.; Premarket Approval of the Mansfield Aortic Valvuloplasty Balloon Dilatation Catheter

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Boston Scientific Corp., Watertown, MA, for premarket approval, under the Medical Device Amendments of 1976, of the Mansfield Aortic Valvuloplasty Balloon Dilatation Catheter, Models Standard Profile and Low Profile. After reviewing the recommendation of the Circulatory System Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of September 19, 1990, of the approval of the application.

DATES: Petitions for administrative review by November 23, 1990.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Tara A. Ryan, Center for Devices and Radiological Health (HFZ-450), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1187.

SUPPLEMENTARY INFORMATION: On August 18, 1988, Boston Scientific Corp., Watertown, MA 02272, submitted to CDRH an application for premarket approval of the Mansfield Aortic Valvuloplasty Balloon Dilatation Catheter. The catheter is indicated for percutaneous transluminal valvuloplasty of aortic stenosis in patients who are determined to be inoperable.

On January 29, 1990, the Circulatory System Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On September 19, 1990, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Tara A. Ryan (HFZ-450), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for

reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at anytime on or before November 23, 1990, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 16, 1990.

Elizabeth D. Jacobson,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 90-25007 Filed 10-22-90; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: DALLAS DISRICT OFFICE, chaired by Gerald E. Vince, District Director The topic to be discussed is food labeling proposed rules.

DATES: Wednesday, October 31, 1990, 1 p.m.

ADDRESSES: Beach Pavilion Bldg., No. 2399, Fort Sam Houston, TX 78234-6200.

FOR FURTHER INFORMATION CONTACT: Juan A. Tijerina, Consumer Affairs Officer, Food and Drug Administration, 727 East Durango Blvd., room B-406, San Antonio, TX 78206-1200, 512-229-6737.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: October 17, 1990.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-25045 Filed 10-22-90; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Program Announcement for Professional Nurse Traineeships

The Health Resources and Services Administration (HRSA) announces that applications for fiscal year (FY) 1991 Professional Nurse Traineeships are being accepted under the authority of sections 830 (a) and (c) of the Public Health Service Act, as amended by Public Law 100-607.

The Administration's budget request for FY 1991 does not include funding for this program. Applicants should be advised that this program announcement is a contingency action being taken to ensure that should funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the program as well as to provide for even distribution of funds throughout the fiscal year. This notice regarding applications does not reflect any change in this policy.

Section 830(a) of the Public Health Service Act, as amended, authorizes Professional Nurse Traineeship Grants to cover the costs of traineeships for nurses in masters' degree and doctoral degree programs in order to educate such nurses to:

(1) Serve in and prepare for practice as nurse practitioners;

(2) Serve in and prepare for practice as nurse administrators, nurse educators, and nurse researchers; or

(3) Serve in and prepare for practice in other professional specialities determined by the Secretary to require advanced education.

Section 830(c) authorizes grants to cover the cost of traineeships for students who are enrolled at least half-time in programs offering a master's degree in nursing and who agree to complete the degree requirements within the academic year in which the traineeship is received.

Eligible Applicants

To be eligible to receive support an applicant must be a public no nonprofit private institution providing regis'ered nurses with full-time advanced education leading to a graduate degree in professional nursing specialties, or a public or nonprofit private school of nursing or an entity which prepares registered nurses to practice as nurse midwives. The nurses midwife program must be approved by the American College of Nurse Midwives.

Eligible Trainees

In order to qualify for traineeship support, an individual must:

(1) Meet the grantee institution's admission requirements for graduate study or the nurse midwife program (as applicable);

(2) Be a United States citizen, noncitizen national, or foreign national who possesses a visa permitting permanent residence in the United States;

(3) Have graduated from a State-approved school of nursing;

(4) Be currently licensed as a registered professional nurse in a State; and

(5) Be enrolled full-time in a graduate course of study, or half-time in a school of nursing, pursuing a master's degree which would be completed within the academic year of support.

Review Criteria

The review of applications will take into consideration the following criteria:

(a) The program(s) offered;

(b) The qualifications of the program director;

(c) The number of full-time registered nurse students enrolled in the program(s); and

(d) The number of projected half-time master's degree students who agree to complete the degree requirements within the academic year in which the traineeship is received.

In addition, the following mechanism may be applied in determining the amount of funding of approved applications.

Funding Preferences

Funding of a specific category or group of approved applications ahead of other categories or groups of applications, such as competing continuations ahead of new projects in a discretionary program or favorable

adjustment of the formula determining grant award in a formula grant program.

Funding Preferences

The Secretary shall give a funding preference to applications:

(1) For nurse practitioner and nurse midwifery programs which conform to guidelines established and codified in the appendix at 42 CFR 57.2401–57.2416;

(2) Which demonstrate a three year average enrollment of minority students in the graduate nursing program in excess of the national average; and/or

(3) Which demonstrate an increase in the enrollment of full-time graduate minority students as of October 15 in the current school year from the number enrolled full-time as of October 15 in the preceding school year.

"Minority" means an individual whose race/ethnicity is classified as American Indian or Alaskan Native, Asian or Pacific Islander, Black or Hispanic.

These funding preferences were established as special considerations in FY 1989 after public comment and the Administration is extending them as funding preferences in FY 1991.

To determine the amount of the grant to be awarded to each approved professional nurse traineeship program, the Secretary will use a formula that includes provisions for the statutorily required setaside for half-time students and special consideration for nurse practitioner/nurse midwifery training. It also includes consideration of full-time student enrollment and minority student enrollment.

The application deadline date is November 30, 1990. Applications shall be considered as meeting the deadline if they are either:

(1) *Received on* or before the deadline date, or

(2) *Postmarked on* or before the deadline date and received in time for submission for review. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing. Applications received after the deadline will be returned to the applicant.

For specific guidelines and information regarding these programs contact: Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 8C–13, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–5783.

Requests for application materials, questions regarding grants policy and completed applications should be directed to: Grants Management Officer (A–11), Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 8C–26, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–5915.

The standard application form PHS 6025–1, HRSA Competing Training Grant Application, General Instructions and supplement for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915–0060.

This program is listed at 13.358 in the *Catalog of Federal Domestic Assistance* and is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented by 45 CFR part 100).

Dated: September 25, 1990.

Robert G. Harmon,

Acting Administrator.

[FR Doc. 90–25046 Filed 10–22–90; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–060–01–4410–04–ADVB]

Meeting of the California Desert District Advisory Council

SUMMARY: Notice is hereby given, in accordance with Public Laws 92–463 and 94–579, that the California Desert District Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will meet in formal session Thursday, November 15, 1990, from 8:00 p.m. to 4:00 p.m. and Saturday, November 17, 1990, from 8:00 p.m. to 5:00 p.m., in the Needles City Hall at 1111 Bailey in Needles, California.

Agenda items for the meetings will include:

—A variety of desert tortoise related issues, including raven management, the tortoise habitat compensation formula, the status of various consultations with the U.S. Fish and Wildlife Service, the Western Mojave tortoise plan, and the task force studying livestock grazing in desert tortoise habitat. During this portion of the meeting, the California Desert District Advisory Council functions as California's Desert Tortoise Coordinating Committee

—An update on the current status of the Low Level Radioactive Waste Disposal Site Environmental Impact Statement and future anticipated actions, and a discussion evaluating the public participation process that accompanied the initiative

—An update on the South Coast resource management planning effort in preparation for a more indepth discussion in January or February

—A report from the Desert District's Futuring Committee, whose members are looking at anticipated land management issues for the next 10 and 20 years

—A discussion of the draft Santa Rosa Mountains National Scenic Area Management Philosophy Statement and Interim Program Guidance

—A report from the Wind Energy Task Force

All formal Council meetings are open to the public. Time is allocated for public comments, and time also may be made available by the Council Chairman during the presentation of various agenda items.

On Friday, November 16, from 7:30 a.m. to 5 p.m., Council members will participate in a field trip through the East Mojave National Scenic Area. Specific sites to be visited include the Keystone Spring area of the New York Mountains, where a mining company has sought a modification in a Public Water Reserve withdrawal to allow removal of high-grade limestone; the new campground at Hole-in-the-Wall; and the new Back Country Byway network in the Scenic Area. On the return trip to Needles, the Council will go by the Old Woman Mountains, which are included in a coordinated resource management planning effort, and Ward Valley, proposed site of a low-level radioactive waste disposal facility.

The public is welcome to participate in the field tour, but should plan on providing their own transportation, drinks, and lunch. Anyone interested in participating should contact BLM at (714) 276–6363 for more information. The tour will assemble at the Days Inn, 1111 Pashard Street in Needles on Friday morning at 7:15 a.m.

Written comments may be filed in advance of the meeting with the California Desert District Advisory Council Chairman, Mr. David Fisher, c/o Bureau of Land Management, Public Affairs Office, 1695 Spruce Street, Riverside, California 92507. Written comments are also accepted at the time of the meeting and, if copies are provided to the recorder, will be incorporated into the minutes.

FOR FURTHER INFORMATION AND MEETING CONFIRMATION: Contact the Bureau of Land Management, California Desert District, Public Affairs Office, 1695 Spruce Street, Riverside, California 92507; (714) 276–6363.

Dated: October 17, 1990.
Gerald E. Hiller,
District Manager.
[FR Doc. 90-25015 Filed 10-22-90; 8:45 am]
BILLING CODE 4310-40-M

Availability of Draft Bishop Resource Management Plan and Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with section 202 of the National Environmental Policy Act of 1969, a draft Resource Management Plan/Environmental Impact Statement (RMP/EIS) has been prepared for the Bishop Resource Area. The RMP/EIS describes and analyses future options for managing approxiamtely 750,000 acres of public land in California's Inyo and Mono Counties. It includes analysis of three transmission line corridor alternatives. The Inyo National Forest is a cooperating agency for the transmission line corridor portion of the document.

Decisions generated during this planning process will supersede the Benton-Owens Valley and Bodie-Coleville Management Framework Plans. The RMP/EIS incorporates land use decisions in the Benton-Owens Valley/Bodie-Coleville Wilderness EIS (1987). Copies may be obtained from the Bishop Resource Area, 787 North Main Street, Suite P, Bishop, CA 93514; phone (619) 872-4881.

Copies will be available for review at public libraries in Inyo and Mono Counties and the following BLM locations:

Office of Public Affairs, Main Interior Bldg., rm 5600, 18th and C Street, NW., Washington, DC 20240
California State Office, 2800 Cottage Way, Sacramento, CA 95825
Bakersfield District Office, 800 Truxton Ave., Bakersfield, CA 93301.

Background information and maps used in developing the RMP/EIS can be reviewed at the Bishop Resource Area.

DATES: Written comments on the draft RMP/EIS must be submitted or postmarked no later than January 17, 1991. Written comments may also be presented at three public meetings to be held:

7 p.m. Tuesday November 27, American Legion Hall, U.S. Highway 395, Independence, CA.
7 p.m. Thursday November 29, Parish Hall, 849 Home Street, Bishop, CA.
7 p.m. Tuesday December 4, Memorial Hall, School Street, Bridgeport, CA.
7 p.m. Thursday December 6, Benton Community Center, Highway 120, Benton, CA.

ADDRESSES: Written comments on the document should be addressed to Mike Ferguson, Area Manager, Bureau of Land Management, 787 North Main St., Suite P, Bishop, CA 93514.

FOR FURTHER INFORMATION CONTACT: Holden Brink, RMP Team Leader, Bishop Resource Area; phone (619) 872-4881.

SUPPLEMENTARY INFORMATION: The draft RMP/EIS analyzes four alternatives to resolve the following four issues: Recreation, Wildlife, Minerals, and Land Ownership and Authorizations. Each alternative represents a complete management plan for the area. The alternatives can be summarized as: (1) No action or continuation of present management, (2) custodial management (3) natural resource enhancement, and (4) the preferred alternative. In addition to two existing Areas of Critical Environmental Concern (ACEC's), the RMP/EIS proposes the designation of five areas as ACEC's. Management prescriptions for the areas are described in chapter 2 of the RMP/EIS. The Preferred Alternative would designate:

The Slinkard ACEC to protect wildlife habitat scenic values, and recreation opportunities. Habitat conditions for mountain beaver would be improved by limiting the types of uses and vegetative treatments allowed in riparian zones, particularly aspen adn willow groves. Five creeks would be managed so they remain suitable for the reintroduction of cutthroat trout. The historic Golden Gate Mine site would be protected and interpreted and there would be yearlong protection of old growth timber. This ACEC totals 6,560 acres of public land in portions of T. 9 N., R. 21 E., MDMB: SE¼ Section 1 east of the Alpine-Mono County line, E½ Section 12 east of the Alpine-Mono County line, NE¼ and SE¼ Section 13 east of the Alpine-Mono County line, E½ Section 24 east of the Alpine-Mono County line, NE¼ Section 25 east of the Alpine-Mono County line; T. 9 N., R. 22 E.: N½ Section 4, Sections 5-7, W½ and NE¼ Section 8, SW¼ and SE¼ Section 9, Section 10 south of Highway 89, Section 11 south of Highway 89, Section 14, Section 15, Section 17, NW¼ and SW¼ Section 18, Section 19, Section 22 and 23, SW¼ Section 25, Sections 26 and 27, Section 30 north and east of the Alpine-Mono County line, Section 31 north and east of the Alpine-Mono County line, Section 34, Section 35.

The Conway Summit ACEC to protect scenery and dispersed recreation opportunities. The area would have yearlong protection and would be managed to conform to VRM I standards. Livestock grazing would be prohibited on acquired lands and opportunities for dispersed recreation such as camping, mountain biking, hiking, and winter sports would be enhanced. This ACEC totals 2,701 acres of public land in portions of T. 3 N., R 25 E., MDBM: Sections 22, 23, 26, 27, 34 and SE¼ Section 15, S½ Section 14, NW¼ Section 35.

The Bodie Bowl ACEC to protect visual and historic values in accordance with the cooperative agreement with Bodie State Park. Actions within the area would not be allowed if they significantly threatened the existing historical integrity of the landscape. There would be not shooting allowed and the area would be designated a Special Recreation Management Area. This ACEC totals 5,934 acres of public lands in portions of T. 4 N.R. 26 E. MDBM: S½ Section 1, SE¼ Section 2, NE¼ Section 11, Section 12, and NE¼ Section 13 and T. 4 N., R 27 E.: SW½ Section 3, Section 4, S½ Section 5, S½ and NW¼ Section 6, Sections 7-10, W½ Section 11, Sections 14-17 N½ and SE¼ Section 18, Sections 20-21, W½ and NE¼ Section 22, NW¼ Section 23.

The Crater Mountain ACEC to protect scenic values and recreation and geologic interpretive opportunities. 240 acres would be acquired to protect recreation and scenic resources. This ACEC totals 5,734 acres of public land in portions of T. 9 S, R. 33 E., MDBM: Sections 25 and 36, SE¼ Section 24; T. 10 S., R. 33 E., Sections 1 and 12, NE¼ Section 13; T. 9 S. R. 34 E.: SW¼ Section 19 and Sections 29-32, T. 10 S., R 34 E.: Sections 5-8, N½ Section 18, and NE¼ Section 17.

The Keynot Peak ACEC to protect the scientific and scenic values of the bristlecone pine forest. It would have yearlong protection and be managed to meet wilderness guidelines. Campfires would be prohibited and wood could be removed only for research or museum purposes. This ACEC totals 2,162 acres of public land in portions of projected T. 14 S., R. 37 E., MDBM: Sections 6, 7, 8, 16, 17, 18, 20, 21, 28, 29, 32, 33, 34 and projected T. 15 S. R. 37 E., Sections 3, 4, 10, and 11. Its eastern edge follows the crest of the Inyo Mountains. It encompasses the bristlecone pine vegetation type within the south Inyo Wilderness Study Area.

Public participation has occurred throughout the RMP process. A Notice of Intent was filed in the Federal Register in June 1988. Since that time there have been several mailings and public meetings to solicit comments and ideas.

All comments received have been considered.

Dated: October 12, 1990.

Michael A. Ferguson,

Bishop Resource Area Manager.

[FR Doc. 90-24942 Filed 10-22-90; 8:45 am]

BILLING CODE 4310-40-M

Fish and Wildlife Service

Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Bio Systems Analysis, Inc., Santa Cruz, CA, PRT-751892

The applicant requests a permit to live-trap and release Tipton kangaroo rats (*Dipodomys n. nitratoides*) in Kern County, California, to determine the occurrence of this species at locations of proposed projects.

Applicant: Duke University, Durham, NC, PRT-752008

The applicant requests a permit to import one male mongoose lemur (*Lemur mongoz*) from Poland for enhancement of propagation or survival of the species through captive breeding. This animal was confiscated by Polish authorities and is now being held at Wielkopolski Park Zoologiczny.

Applicant: University of California, La Jolla, CA, PRT-738264

The applicant requests a permit to import hair samples of captive gibbons (*Hylobates* sp.) for genetic research. The animals are held at zoo facilities in Thailand, Malaysia and Indonesia.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) room 430, 4401 N. Fairfax Dr., Arlington, VA 22203, or by writing to the the Director, U.S. Office of Management Authority, 4401 N. Fairfax Drive, room 432, Arlington, VA 22203.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: October 17, 1990.

Karen Wilson,

Acting Chief, Branch of Permits, U.S. Office of Management Authority.

[FR Doc. 90-24974 Filed 10-22-90; 8:45 am]

BILLING CODE 4310-55-M

Outer Continental Shelf Advisory Board; Gulf of Mexico Regional Technical Working Group; Meeting

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of Gulf of Mexico Regional Technical Working Group (RTWG) meeting.

SUMMARY: Notice of this meeting is issued in accordance with the Federal Advisory Committee Act (Pub. L. No. 92-463). The Gulf of Mexico RTWG meeting will be held November 16, 1990, 9 a.m. to 1 p.m., at the Doubletree Hotel, Crescent Room, 300 Canal Street, New Orleans, Louisiana.

The RTWG business meeting will be held in conjunction with the Information Transfer Meeting. Agenda items for the business meeting include:

- Roundtable Discussion.
- Oil and Gas Reserves Estimates.
- Bathymetric Maps for the Gulf of Mexico.
- Flower Gardens—Video and Discussion.

FOR FURTHER INFORMATION: This meeting is open to the public. Individuals wishing to make oral presentations to the committee concerning agenda items should contact Ann Hanks of the Gulf of Mexico OCS Regional Office at (504) 736-2589 by November 5, 1990. Written statements should be submitted by the same date to the Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123. A transcript and complete summary minutes of the meeting will be available for public inspection in the Office of the Regional Director at the above address not later than 60 days after the meeting.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico RTWG is one of six such Committees that advises the Director of the Minerals Management Service on technical matters of regional concern regarding offshore prelease and postlease sale activities. The RTWG membership consists of representatives from Federal Agencies, the coastal States of Alabama, Florida, Louisiana, Mississippi, and Texas, the petroleum industry, the environmental community, and other private interests.

Dated: October 11, 1990.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 90-24936 Filed 10-22-90; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Santa Fe National Historic Trail Advisory Council; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, Public Law 92-463, that a meeting of the Santa Fe National Historic Trail Advisory Council will be held beginning at 8:15 a.m., at the Quality Inn, 1325 E. 3rd Street, La Junta, Colorado.

The Santa Fe National Historic Trail Advisory Council was established pursuant to Public Law 50-543 establishing the Santa Fe National Historic Trail to advise the National Park Service on such issues as preservation of trail routes and features, public use, standards for posting and maintaining trail markers, as well as administrative matters.

The matters to be discussed include:

—Review of interpretive planning matters.
—Auto tour route signing.
—Fundraising proposals.
—Status of certification projects and agreements with states.
—Historical research projects.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may file a written statement concerning the matters to be discussed with David Gaines, Project Coordinator.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact David Gaines, Project Coordinator, Santa Fe National Historic Trail, P.O. Box 728, Santa Fe, New Mexico 87504-0728, telephone 505/988-6888. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of the Project Coordinator, located in Room 346, Pinon Building, 1220 South St. Francis Drive, Santa Fe, New Mexico.

Dated: October 11, 1990.

John E. Cook,

Regional Director, Southwest Region.

[FR Doc. 90-24948 Filed 10-22-90; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 13, 1990. Pursuant to § 60.13 of 36 CFR part 60 written comments

concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by November 7, 1990.

Carol D. Shull,

Chief of Registration, National Register.

FLORIDA

Hendry County

Hendry County Courthouse, Old, jct. of Bridge St. & Hickpochee Ave, LaBelle, 90001744

LOUISIANA

Catahoula Parish

Hardin House, LA 913 N of jct. with LA 8, Sicily Island vicinity, 90001740

St. Charles Parish

Ormond Plantation House, jct. of LA 48 & Oak Ave., Destrehan, 90001748

St. Tammany Parish

Lacombe, School, jct. of St. Mary & 14th Sts., Lacombe, 90001742

Madisonville Town Hall, 203 Cedar, Madisonville, 90001741

NORTH DAKOTA

Cass County

Great Northern Freight Warehouse, 420 N. Seventh St., Fargo, 90001749

PENNSYLVANIA

Lackawanna County

Delaware, Lackawanna and Western Railroad Yard—Dickson Manufacturing Co. Site, roughly bounded by Cliff St., Lackawanna Ave., Mattes Ave, River St. & the Lackawanna R., Scranton, 90001739

TEXAS

Parker County

Weatherford Downtown Historic District (Weatherford MPS), roughly bounded by Waco, Water, Walnut & Lee Sts., Weatherford, 90001745

VERMONT

Windham County

Medburyville Bridge (Metal Truss, Masonry & Concrete Bridges in Vermont MPS) Town Hwy. 31 over the Deerfield R., Wilmington, 90001746

WISCONSIN

Winnebago County

Neenah United States Post Office, 307 S. Commercial St., Neenah, 90001743

[FR Doc. 90-24969 Filed 10-22-90; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31750]

Norfolk and Western Railway Company—Trackage Rights Exemption—Canadian National Railway Company and CNCP Niagara Detroit

Canadian National Railway Company (CNRC) and CNCP Niagara-Detroit [1] have agreed to grant overhead trackage rights to Norfolk and Western Railway Company (NW) between milepost 226.3, at the International Boundary line between the United States and Canada in the Detroit River Tunnel approximately in the middle of the Detroit River, and milepost 228.1, at Detroit, MI.[2] The trackage rights are to become effective on October 23, 1990.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: James L. Howe III, Norfolk and Western Railway Company, Three Commercial Place, Norfolk, VA 23510-2191.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

Dated: October 15, 1990.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-24982 Filed 10-22-90; 8:45 am]

BILLING CODE 7035-01-M

[1] CNRC is manager and operator of the Detroit River Tunnel; CNCP Niagara-Detroit, a partnership comprised of CNRC and Canadian Pacific Limited, is owner of the Detroit River Tunnel.

[2] These mileposts reflect the portion of the trackage rights lying wholly within the United States and the subject of this notice. CNRC has agreed to grant overhead trackage rights to NW between milepost 225.1, at Windsor, Ontario, Canada, and milepost 226.1, at Detroit. The portion of the trackage rights in Canada are not within the scope of this notice.

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-90-11-M]

Harney Rock and Paving Co., Petition for Modification of Application of Mandatory Safety Standard

Harney Rock and Paving Company, P.O. Box 600, Hines, Oregon 97738 has filed a petiton to modify the applicatior of 30 CFR 56.14130 (roll-over protective structures (ROPS) and seat belts) to its Crusher No. 1 (I.D. No. 35-03345) located in Harney County, Oregon. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that front-end loaders be equipped with roll-over protective structures (ROPS).

2. As an alternate method petitioner proposes to operate front-end loaders without ROPS.

3. The front-end loader would be operated on flat, stable ground.

4. The loader would be loading railroad cars in a loading area until its retirement.

5. Petitioner states that this is a safe alternate method since there is no danger of the equipment rolling over.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 23, 1990. Copies of the petition are available for inspection at that address.

Dated: October 15, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-24977 Filed 10-22-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-90-17-M]

Kennecott Utah Copper, Petition for Modification of Application of Mandatory Safety Standard

Kennecott Utah Copper, P.O. Box 525, Bingham Canyon, Utah 84006-0525 has filed a petition to modify the application of 30 CFR 56.14211 (blocking equipment

in a raised position) to its Kennecott Utah North Copper Concentrator (I.D. No. 42-00717) located in Salt Lake County, Utah. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a raised component of mobile equipment is considered to be blocked or mechanically secured if provided with a functional load-locking device or a device which prevents free and uncontrolled descent.

2. As an alternate method petitioner proposes to use a crane to hoist, lower or suspend persons in a work platform attached to the hook of the load block.

3. In support of the petition, petitioner states that the overhead crane will meet all applicable federal and American National Standards Institute (ANSI) standards and include all standard safety features such as trolley stops, bridge bumpers, trolley bumpers, holding brakes for hoist motors, control braking trolley bumpers, holding brakes for hoist motors, control braking capable of maintaining safe lowering speeds, trolley and bridge brakes, upper and lower limit switches and emergency stop switches.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 23, 1990. Copies of the petition are available for inspection at that address.

Dated: October 15, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-24978 Filed 10-22-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-90-247-C]

Pyro Mining Co., Petition for Modification of Application of Mandatory Safety Standard

Pyro Mining Company, P.O. Box 267, Sturgis, Kentucky 42459 has filed a petition to modify the application of 30 CFR 75.507 (power connection points) to its Wheatcroft No. 9 Mine (I.D. No. 15-13920) located in Webster County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that except where permissible power connection units are used, all power-connection points out-by the last open crosscut be in intake air.

2. As an alternate method, petitioner proposes to operate a nonpermissible submersible pump in a return air shaft.

3. In support of this request, petitioner states that—

(a) The pump would be installed with motor and all motor connections below water level and be controlled by intrinsically safe liquid sensors through an intrinsically safe relay mounted in a square starting box;

(b) Only the pump, power cable and liquid level sensors would be in return air; and

(c) Circuit protection would be provided at the center, motor overloads would be located in the line starter, and all electricial equipment would be accessible for inspection.

4. For these reasons, petitioner requests modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 23, 1990. Copies of the petition are available for inspection at that address.

Dated: October 15, 1990.

Patricia W. Silver,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-24979 Filed 10-22-90; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received under the Antarctic Conservation Act of 1978, Public Law 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at title 45 part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to these permit applications by November 23, 1990. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357-7934.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. Law 95-541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest.

The applications received are as follow:

1. Applicant (90-31)
   Jim Claus,
   Society Expeditions, Inc.,
   3131 Elliott Avenue, Suite 700,
   Seattle, Washington 98121
   Activity for Which Permit Requested
   Taking. The applicant requests permission to salvage dead specimens (i.e., penguin wing or flipper, seal skull or bird beak) on an opportunity basis. Specimens would be used for educational purposes during discussions and lectures to cruise ship passengers.
   Location
   Ross Sea area, Antarctica.
   Dates
   December 1990-February 1991.
2. *Applicant* (90-32)
   Jim Claus,
   Society Expeditions, Inc.,
   3131 Elliott Avenue, Suite 700,
   Seattle, Washington 98121
   Activity for Which Permit Requested

Taking. The applicant requests permission to salvage dead specimens (i.e., penguin wing or flipper, seal skull or bird beak) on an opportunity basis. Specimens would be used for educational purposes during discussions and lectures to cruise ship passengers.

Location

Antarctic Peninsula area and offshore islands.

Dates

December 1990–March 1991.

3. *Applicant* (90–32)

David F. Parmelee,
Bell Museum,
University of Minnesota,
Minneapolis, Minnesota 55455

Activity for Which Permit Requested

Taking. Enter Specially Protected area. Enter Site of Special Scientific Interest. The applicant proposes to visit nesting areas for birds (except penguins) to examine birds previously banded. This is a follow-up to a long-team study of longevity and migration of birds.

Location

Antarctic peninsula area.

Dates

December 1990–March 1991.

Charles Myers,
Permit Office.

[FR Doc. 90-24946 Filed 10-22-90; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-461]

Illinois Power Co., et al.; Environmental Assessment and Finding of No Significant Impact

[Docket No. 50-461]

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to the Illinois Power Company (IP) and Soyland Power Cooperative, Inc. (the licensees), for operation of Clinton Power Station, Unit 1, located in DeWitt County, Illinois.

Environmental Assessment

Identification of Proposed Action

The licensees have requested a license amendment that would revise the Technical Specifications (TS) to delete Section 3/4.3.8, "Turbine Overspeed Protection System."

This revision to the Clinton Power Station TS would be made in response to the licensees' application for amendment dated October 30, 1987.

The Need for the Proposed Action

IP, et al., have proposed an amendment to Facility Operating License No. NPF–62 which consists of changes to the TS. Section 3/4.3.8 addresses the operability and surveillance requirements for the turbine overspeed protection system. The CPS Updated Safety Analysis Report (USAR) provides an analysis of the probability of turbine missile damage to safety-related components. The analysis considered turbine placement and orientation and the potential generation of low-trajectory and high-trajectory missiles.

The probability of turbine missile damage was based on the probabilities of missile generation, of a missile striking a barrier, and of a missile penetrating a barrier. The CPS USAR also provides a discussion of the inservice inspection program for the turbine-generator, including the licensee commitment to an inspection program on the steam valves in accordance with the manufacturer's recommendations. Based on the low probability of a turbine generated missile damaging safety-related equipment and other existing procedural requirements for inspection and test of the turbine steam valves, the licensee proposes to delete Section 3/4.3.8 entirely.

Environmental Impacts of the Proposed Action

The proposed change removes the turnine overspeed protection system requirements from the plant TS but no changes to plant design are proposed. The licensee will continue to perform inspection and testing on the turbine overspeed protection system based on vendor recommendations.

The Commission has concluded that these changes do not significantly increase the probability or consequences of any accident and that potential radiological releases during normal operations or transients would not be increased. With regard to nonradiological impacts, the proposed amendment involves systems located within the restricted area as defined in 10 CFR part 20. They do not affect nonradiological plant effluents and have no other environmental impact. Therefore, the staff also concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

Accordingly, the Commission findings in the "Final Environmental Statement related to the operation of Clinton Power Station, Unit No. 1" dated May 1982 regarding radiological environmental impacts from the plant during normal operation or after accident conditions, are not adversely altered by this action. IP is committed to operate Clinton, Unit 1, in accordance with standards and regulations to maintain occupational exposure levels "as low as reasonably achievable."

The Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the Federal Register on February 18, 1988 (53 FR 4918). No request for hearing or petition for leave to intervene was filed following this notice.

Alternative to the Proposed Action

The principal alternative would be to deny the requested amendment. This alternative, in effect, would be the same as a "no action" alternative. Since the Commission has concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statements for the Clinton Station, Unit 1, dated May 1982.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request of October 30, 1987 and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based upon this environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for amendment dated October 30, 1987 and the Final Environmental Statement for the Clinton Power Station dated May 1982, which are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC and at the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Dated at Rockville, Maryland, this 18th day of October 1990.

BEST COPY AVAILABLE

For the Nuclear Regulatory Commission.

John N. Hannon,

Director, Project Directorate III–3, Division of Reactor Projects–III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90–25008 Filed 10–22–90; 8:45 am]

BILLING CODE 7590–01–M

Application for License To Export a Utilization Facility

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following application for an export license. A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 2120 L Street, NW., Washington, DC.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Secretary, U.S. Nuclear Regulatory Commission; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

In its review of the application for a license to export a utilization facility as defined in 10 CFR part 110 and noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the material to be exported. The information concerning this application follows.

NRC EXPORT LICENSE APPLICATION

Name of applicant, Date of application, Date received, Application No.	Description	Value	End use	Country of destination
General Atomics, 10/09/90, 10/10/90, XR154.	TRIGA Mark I Research Reactor	$1,700,000	Production of Radioisotopes for local hospitals.	Albania.

For the Nuclear Regulatory Commission.

Dated this 16th day of October 1990 at Rockville, Maryland.

Ronald D. Hauber,

Assistant Director for International Security, Exports and Materials Safety, International Programs, Office of Governmental and Public Affairs.

[FR Doc. 90–25011 Filed 10–22–90; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittees on Containment Systems and Structural Engineering; Meeting

The ACRS Subcommittees on Containment Systems and Structural Engineering will hold a joint meeting on November 7, 1990, room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, November 7, 1990—8:30 a.m. until the conclusion of business

The Subcommittees will discuss containment design criteria for future plants.

Oral statements may be presented by members of the public with the concurrence of the Subcommittees Chairmen; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting open to the public, and questions may be asked only by members of the Subcommittees, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the meeting, the Subcommittees, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairmen's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Dean Houston (telephone 301/492–8521) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: October 16, 1990.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 90–25009 Filed 10–22–90; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Thermal Hydraulic Phenomena; Meeting

The Subcommittee on Thermal Hydraulic Phenomena will hold a meeting on November 6, 1990, room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: *Tuesday, November 6, 1990—8:30 a.m. until the conclusion of business.*

The Subcommittee will discuss the status of the NRC staff's program on interfacing systems loss of coolant accident (ISLOCA).

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present

oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the Designated Federal Official, Mr. Paul Boehnert (telephone 301/492–8558) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: October 18, 1990.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 90–25010 Filed 10–22–90; 8:45 am]

BILLING CODE 7590–01–M

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Meeting

ACTION: Notice of Meeting.

Pursuant to the Nuclear Waste Technical Review Board's (NWTRB) authority under section 5051 of Public Law 100–203, the Nuclear Waste Policy Amendments Act (NWPAA) of 1987, the NWTRB Structural Geology & Geoengineering Panel will hold a technical exchange meeting from 1 p.m. to 4 p.m. on November 19, 1990, and from 8 a.m. to 4 p.m. on November 20, 1990, at the Denver Hyatt Regency Hotel, Downtown, 1750 Welton Street, Denver, Colorado 80202; (303) 295–1200.

Panel members will receive an interim report from representatives of the Department of Energy (DOE), Sandia National Laboratories, and other DOE contractors, on the alternatives analysis study for the exploratory shaft facility (ESF). The study, which is to be completed by January 1991, will evaluate configurations for an ESF as part of site-characterization activities related to the proposed development and operation of a permanent repository, at Yucca Mountain, Nevada, for high level waste (HLW), including commercial spent fuel and defense high-level waste from reprocessing. Discussion will focus on progress in identifying a recommended configuration for an ESF at the Yucca Mountain Site. The public is welcome to attend as observers.

The NWTRB was established by the Nuclear Waste Policy Amendments Act (NWPAA) of 1987 (Pub. L. 100–203) to evaluate the scientific and technical validity of activities undertaken by the DOE's program for managing HLW. In the same act, Congress directed the DOE to characterize a site at Yucca Mountain, Nevada, as the possible location for a permanent underground repository for HLW. The Board's charge includes the evaluation of the DOE's activities relating to site-characterization, and to the packaging and transportation of HLW.

For further information, please contact the NWTRB office at 1100 Wilson Boulevard, suite 910, Arlington, Virginia 22209; (703) 235–4473.

Dated October 18, 1990.

William D. Barnard,

Executive Director, Nuclear Waste Technical Review Board.

[FR Doc. 90–25027 Filed 10–22–90; 8:45 am]

BILLING CODE 6820–AM–M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by the Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272–2142

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, 450 5th Street NW., Washington, DC 20549.

New

Form ID

File No. 270–291

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for clearance a new Form ID to replace its existing Form ID. The information collected via the new Form ID will be used by the Commission to verify the identity of applicants before EDGAR identification codes and passwords are issued, to provide an official contact for receipt of EDGAR-related information and to establish a contact for receipt of invoices and billing information.

The estimated average burden hours to comply with this request is one half hour each for approximately 20,000 respondents.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with SEC rules and forms to Kenneth A. Fogash, Deputy Executive Director, 450 Fifth Street NW., Washington DC 20549, and Gary Waxman, Clearance Officer, Office of Management and Budget, Paperwork Reduction Act Project (3235–0040A), Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 15, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–24990 Filed 10–22–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–28548; File No. 4–291]

Joint Industry Plan; Fifteenth Amendment to the Consolidated Tape Association Plan and Nineteenth Amendment to the Consolidated Quotation Plan

I. Introduction

On September 27, 1990, the Participants in the Consolidated Quotation Plan ("CQ Plan") and the Consolidated Tape Association ("CTA") submitted amendments to the plan governing the operation of the consolidated quotation system ("CQS") and the plan governing the operation of the consolidated transaction system ("CTS"). The amendments to both Plans were filed pursuant to section (c)(2) of rule 11Aa3–2 under the Securities Exchange Act of 1934 ("Act"). The CTA amendments also were submitted pursuant to rule 11Aa3–1 under the Act.

II. Purpose of the Amendments

The amendments are intended to serve four purposes. First, the amendments would make the Chicago Board Options Exchange ("CBOE") a Participant in the Restated CTA Plan and in the CQ Plan. Second, the amendments would alter the revenue sharing provisions of the CTA and CQ Plans. Third, they would amend the CTA Plan procedures for becoming a Plan Participant to make those provisions consistent with the procedures in the CQ Plan and, finally, the amendments make several technical conforming amendments.

A. CBOE Participation

The CBOE has submitted a package of stock rules to the Commission for review under section 19 of the Act, which if approved, would authorize the CBOE to provide trading facilities for individual stocks and other non-option securities for the first time. Rule 11Aa3–1 requires that every exchange file a transaction reporting Plan for transactions in listed equity and NASDAQ securities executed through its facilities.[1] In light of its plans to provide trading facilities for such securities, the CBOE requested that it be made a Participant in the CTA Plan. In addition, rule 11Ac1–1 requires that

[1] Rule 11Aa3–1(b)(1).

each exchange establish and maintain procedures for the collection and dissemination to vendors of quotation data.[2] Because the CQ Plan provides such procedures, the CBOE also requested that it be made a Participant in the CQ Plan. The amendments would add CBOE as a participant in both Plans.

B. Revenue Sharing Provisions

The proposed amendments would alter the provisions contained in both Plans that govern how revenues received for the market data disseminated pursuant to the Plans are to be distributed among the Participants. Specifically, the amendments alter the calculation of "Annual Share," which represents the relative percentage of last sale reports and quotations submitted to the Plan processor by each Participant and is the basis for apportioning Plan revenues. The proposed amendments would exclude from the Annual Share calculation last sale prices on any security that is the subject of a contractual relationship that grants a Participant: (1) The exclusive right to trade the security or (2) the discretion to determine which other Participants may trade the security.

This amendment has been proposed in response to CBOE's proposal to trade "SuperShares," which is currently being reviewed by the Commission.[3] One significant characteristic of SuperShares, for purposes of this filing, is the fact that CBOE has entered into an exclusive agreement with the potential issuer of these securities.

In their submission, the Participants stated that the original Participants to the CTA Plan filed the Plan to provide a system to disseminate on a consolidated basis last sale prices of securities traded on more than one of the Participants and thereby to comply with rule 17a–15 (later redesignated as rule 11Aa3–1) of the Act. The Participants also stated that they believe that the CTA Plan, as originally filed, did not contemplate use of the CTA facilities to disseminate last sale prices relating to anything other than securities that are eligible for multiple trading on the Participant markets.

The Participants acknowledged, however, that they have allowed Participants to use the CTA facilities to disseminate last sale prices on other issues. For example, three weeks after the original CTA Plan became effective, the Participants filed an amendment to allow each Participant to use the CTA facilities to disseminate last sale prices in bonds and options traded on the Participant. The Participants stated that the amendment provided, however, that the bonds and options would not participate in revenue sharing.[4] The Participants also amended the CTA Plan in 1978 to permit the concurrent use of the facilities for the reporting of the last sale prices relating to "local" issues that did not meet the CTA Plan's definition of an "Eligible Security." However, the Participants stated that they excluded those local issues in the calculation of each Participant's annual share of revenue. In addition, the Participants stated that they have traditionally allowed Participants to use CTA and CQ systems to disseminate information relating to exclusively traded securities, but only at the exclusion of those last sale prices from the Annual Share calculations. Thus, the Participants stated that they believe that it is appropriate that the amendments extend the exclusively traded security principle to the new circumstance presented by the CBOE's proposed participation.

C. New Participant Provisions

The amendments also would amend the CTA Plan procedures for becoming a Plan Participant to make those provisions consistent with those in the CQ Plan. Both Plans contain provisions to the general effect that any other national securities exchange may become a Participant. The CQ Plan contains a specific mechanism to effect the addition of a new Participant but the Restated CTA Plan does not. The Participants stated that they believe the Plans should be in conformity on this matter and, accordingly, proposed amendments to the Restated CTA Plan to conform it to the CQ Plan. In addition, the amendments would add a new section to the CTA Plan to provide that the Plan, and any contracts and resolutions made pursuant to the Plan, shall be effective as to that Participant when, among other things, the Participant has begun to furnish last sale prices to the Processor.

D. Conforming Amendments

As noted above, the submission also contained various conforming amendments. These amendments generally add references to the CBOE throughout the Plan, as necessary.

IV. Implementation of the Amendments

The Participants noted, that in their view, three issues remain to be resolved "in relation to" the CBOE's participation in the two Plans. First, the Participants noted that CBOE has proposed to commence trading Eligible Securities prior to the time that the Plans' processor will have completed the system modifications to the CTS and the CQS that are required to enable these systems to receive, process, consolidate and disseminate CBOE last sale prices and/or bid and asked prices. The processor has provided CBOE with estimates of the costs and time needed to complete the work, currently targeted for mid-January, 1991, and CBO has authorized the processor to proceed. The CTA noted that the CBOE's application for participation was submitted during the final stages of a multi-phase program to upgrade CTS to a stand-alone system and that work on an interface between CBOE and CTS would not commence until that upgrade was completed. In the interim, CBOE plans to disseminate data through CTS and CQS facilities, if necessary, by "piggybacking" into the input circuits of another Participant, the Cincinnati Stock Exchange, Inc., ("CSE"), until CBOE is able to transmit information directly to the processor. Among other implications, this "piggybacking" procedure will result in the reporting of CBOE trade reports and quotations with a CSE market identifier of the CSE. The Participants also stated that the CBOE and the CSE have agreed that the CBOE would refrain from commencing to trade any Eligible Security on the CSE for the duration of the CBOE's use of the CSE's input circuits in order to avoid the confusion and practical problems that would result from having both exchanges transmitting indistinguishable trade reports and quotations in the same security. In addition, the Participants asserted that the CBOE and the CSE have undertaken: (1) To obtain from the Commission any exemptions necessary to address any inconsistencies between the "piggybacking" proposal and Commission rules; (2) to identify to, and obtain waivers from, the other Participants necessary to address any inconsistencies between the "piggbacking" proposal and the CTA Plan and the CQ Plan; and (3) to indemnify the Participants and the Plan's processor for any adverse consequences from the "piggyback" arrangement.

Second, the Participants stated that they have not yet agreed with the CBOE on either the amount or the method of

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[2] Rule 11Aa1–1(b)(1).

[3] *See* Securities Exchange Act Rel. No. 28132 (June 15, 1990), 55 FR 25056.

[4] The reference to options was subsequently deleted when the CTA Plan was restated in 1990 given the formation and organization of the Options Price Reporting Authority.

reimbursement of the Participants for access to CTS and CQS facilities. The CBOE has made a proposal that is being studied by a subcommittee of the CTA and CQ Operating Committee. The Participants also stated that they have agreed not to make the resolution of this issue a precondition to the CBOE's participation.

Third, the CBOE has not yet demonstrated to the Participants that SuperShares, the security that CBOE would like to report through CTA and CQ facilities, meets the definition of an Eligible Security. Because SuperShares may be the first security as to which the CBOE furnishes trade reports and quotations, the Participants stated that they believe that this determination has special significance. Specifically, the Participants stated that they believe that the CBOE's participation in the Plan cannot become effective until it commences to furnish trade reports and quotations in an Eligible Security.

V. Request for Comment

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communication relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the CTA. All submissions should refer to the file number in the caption above and should be submitted by November 6, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.30-3(a)(27).

Dated: October 16, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-25023 Filed 10-22-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-28548; International Series Rel. No. 178; File No. SR-AMEX-90-19]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange, Inc. Relating to the Calculation of the Japan Index

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 15, 1990, the American Stock Exchange, Inc. ("AMEX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Commission recently approved an AMEX proposal to list for trading a new index option contract based on the Japan Index ("Japan Index" or "Index")—a broad-based on index of Japanese stocks that are traded on the Tokyo Stock Exchange ("TKE").[1] The AMEX proposes to modify its method of calculating the daily value of the Japan Index by basing the Index value solely on the last sale prices of the component stocks on the TKE. Currently, if a component stock does not trade on a given day on the TKE, but does trade on the Osaka Stock Exchange ("OSE"), the last sale price on the OSE of such component stock will used in the calculation of the Index.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in Sections A, B, and C below.

[1] *See* Securities Exchange Release No. 28473 (September 27, 1990), 55 FR 40462.

A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis, for the Proposed Rule Change

The Japan Index is a price-weighted index developed by the AMEX that is comprised of 210 Japanese stocks traded on the TKE. Currently, the specifications of the Japan Index provide for the calculation of the Index's daily value to be generally based on the closing prices of the component stocks on the TKE. The specifications further provide that in the event on any day a component stock does not trade on the TKE, but does trade on the OSE, the last sale price on the OSE will be used for calculating the Index value.

For settlement purposes, however, the existing specifications provide that the Index's settlement value is based exclusively on the latest closing TKE prices available on the trading day in Japan following the last day of trading in expiring Index option series, regardless of whether a more recent trade occurred on OSE. The Exchange now proposes to base its daily Japan Index value calculation exclusively on the closing prices of the component stocks on TKE in a manner similar to that employed in calculating the Index's settlement value.

The Exchange believes that it is appropriate to have consistency in the methods of calculating both the daily Index value and the Index settlement value. Moreover, the Exchange believes that basing an index value exclusively on component stock prices from the primary market, such as the TKE in the case of the Japan Index, is consistent with the Exchange's method of calculating other index values, such as is Major Market Index and Institutional Index. Moreover, the Exchange believes that basing the Index value upon the last prices in the primary market is consistent with methods of index calculation utilized by other administrators of stock indexes.

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act in that it will facilitate transactions in securities and protect investors and the public interest. In particular, the Exchange believes that the proposed rule change is consistent with section 6(b)(5) of the Act, which provides in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade and to protect the investing public.

B. Self-Regulatory Organization's Statement on Burden on Competition

The AMEX does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section [2] and the rules and regulations thereunder. Specifically, the Commission believes that it is consistent with the objectives of the Act for the Exchange to utilize the same index calculation method for the daily disseminated Index values and as the Index value for settlement purposes. The Commission notes that, because of AMEX's Japan Index option is a standardized European-style options contract (exercisable only at expiration) and currently only TKE prices are used for calculating the Index's value for settlement purposes, this proposed rule change will not affect the value of any Japan Index options contracts. The proposal will, however, eliminate potential uncertainty and confusion among investors of Japan Index options as to when, and if, the AMEX has utilized the non–TKE prices of some of the securities included in the Index when calculating the Index's disseminated value. Accordingly, the Commission believes that the AMEX's proposal to utilize only TKE prices for determining the value of the Japan Index will avoid investor confusion, thereby protecting investors and the public interest.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof because it will permit existing investors of Japan Index options contracts to track more easily and accurately the Index's current value and will not affect the value of any existing Japan Index options contracts.

[2] 15 U.S.C. 78f (1982).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 13, 1990.

It is therefore ordered, pursuant to section 19(b)(2) of the act,[3] that the proposed rule change is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[4]

Dated: October 17, 1990.

Margaret H. McFarland

Deputy Secretary.

[FR Doc. 90-25021 Filed 10-22-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-28544; International Series Rel. No. 177; File Nos. SR-AMEX-90-08; SR-NYSE-90-36; SR-PHLX-90-25; SR-PSE-90-18]

Self-Regulatory Organizations; American Stock Exchange, Inc., et al.; Order Approving Proposed Rule Changes Relating to the Listing of Index Warrants Based on the CAC–40 Index

I. Introduction and Background

The American ("AMEX"), New York ("NYSE"), Philadelphia ("PHLX"), and Pacific ("PSE") Stock Exchanges, collectively ("Exchanges"), have submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act"),[1] and rule 19b–4 thereunder,[2] proposed rule changes to list warrants based on the Cotation Assistée en Continu 40 Index ("CAC–40" or "Index")—a broad-based index of French stocks traded on the Paris Bourse.[3]

The proposed rule changes were published for comment in various releases.[4] No comments were received on these proposed rule changes.

II. Description of the Proposal

The Exchanges propose to list index warrants [5] based on the CAC–40, an internationally recognized, capitalization-weighted index consisting of 40 leading stocks listed and traded on the Paris Bourse and calculated by the Societe des Bourses Francaises ("SBF").[6]

[3] 15 U.S.C. 78s(b)(2) (1988).

[4] 17 CFR 200.30-3(a)(12) (1989).

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1989).

[3] In France, securities may be listed on only one of seven stock exchanges. Together these bourses or stock exchanges—Paris, Bordeaux, Lille, Lyons, Marseilles, Nancy and Nantes—form a single exchange system operating under the same principles, headed by the same authorities and subject to the same rules and regulations. For purposes of calculating the CAC–40 Index, however, only securities traded on the Paris Bourse are considered. For a more complete description of the regulatory structure in France, see *infra* note 7.

[4] *See* Securities Exchange Act Rel. Nos. 28070 (May 29, 1990), 55 FR 23323 (notice of file no. SR-AMEX-90-08); 28225 (July 18, 1990), 55 FR 30770 (notice of File No. SR-CBOE-90-16); 28300 (August 3, 1990), 55 FR 32720 (notice of File No. SR-MSE-90-10); 28319 (August 8, 1990), 55 FR 33480 (notice of File No. SR-NYSE-90-36); 28385 (August 28, 1990), 55 FR 36377 (notice of File No. SR-PHLX-90-25); 28068 (May 29, 1990), 55 FR 22262 (notice of File No. SR-PSE-90-18.

[5] Warrants on a stock index are securities that incorporate certain characteristics of both stocks and options. Like stock, they are issued by a corporation that serves as guarantor of the warrant obligation. Like a stock index option, however, an index warrant is based on the performance of an underlying index and has a fixed expiration date. Index warrants are also cash-settled and, just as with options, the risk to a buyer is known and limited. For a description of how index warrants are cash-settled, see *infra* text at p. 8.

[6] The SBF is a "specialized financial institution," under the direction of the Conseil des Bourses de Valeurs or Stock Exchange Council. It implements decisions taken by the Stock Exchange Council, such as day-to-day administration of French securities markets, development and promotion, and provides investors and the general public with comprehensive information on market activities. In addition, the SBF monitors and supervises the market and exchange member firms under delegated authority by the Exchange Council. The Stock Exchange Council is the regulatory authority similar to a self-regulatory organization in the United States, charged with formulating the rules under which the French market and brokerage firms operate. The rules of the Stock Exchange Council, called the Règlement Général du Conseil des Bourses de Valeurs, set forth terms and conditions for the creation of new brokerage houses, security listings, removals from listing and suspension, and takeover bids and establish a code of conduct for exchange members. In addition, the Council ensures member compliance with its rules by bringing disciplinary action if necessary. The French

Continued

The CAC–40 is calculated based on 40 French stocks chosen by the SBF to provide an indication of the performance of the French stock market. In particular, the Index is designed so that the economic sectors contained in the Index receive approximately the same weighting as in the overall French market, for both market value and trading volume.[7] In order to achieve such broad representaton, the SBF selects compenent securities based on the following market and economic criteria. First, there are three market thresholds for a security to satisfy before such security can be contained in the Index: (1) It must rank among the top 100 securities traded on the Paris Bourse's monthy settlement market in terms of market capitalization; [8] (2) it must have a large enough float to ensure that it is widely-held; and (3) it must be continuously traded either on the Paris Bourse's computerized trading system or by open outcry on the exchange floor.[9] Second, component securities must satisfy an economic criteria, namely, that when considering the other stocks in the Index, a security does not distort the representative sampling of the major industry sectors in the Index. If a security fails to meet any of these requirements, it will be removed and replaced.[10]

The CAC is continuously calculated using the last sale price of each of the 40 quoted stocks comprising the Index and disseminated at 30-second intervals throughout the Paris Bourse trading day from 10 a.m. to 5 p.m. (Paris time) (4 a.m. to 11 p.m. Eastern Standard Time). The Index is published daily in, among other places, the *Wall Street Journal*, as well as being available real-time on Telefax, Reuters and other market information systems which disseminate information on a minute-by-minute basis. To calculate the CAC, the SBF takes the sum of the market values of the 40 stocks in the Index and divides this number by a base adjusted market value or divisor. In order to provide continuity for the Index's value, the divisor is adjusted periodically to reflect events such as new issuances of stock and other capitalization changes.

In addition, whenever there is stale last sale information for a large percentage of component securities in the Index, the CAC–40 Index is replaced with an "éclaireur." The "éclaireur" is a collection of indicators used to show the trend of the market based on the component stocks that are actually traded.[11] The éclaireur is disseminated at the start of each daily trading session, prior to the establishment of an initial quoted price for each component stock, and in the event that tradeing has been suspended in stocks representing more than 35% of the total market capitalization of the component stocks.[12]

As of June 28, 1990, the total capitalization of the CAC–40 was $166.6 billion or approximately 60% of the capitalization of the CAC–240 General Index, a benchmark of French listed-securities.[13] Business sector representation in the CAC as of June 28, 1990, was as follows: (1) Raw materials (16%); (2) construction (4%); (3) capital goods (12%); (4) durable goods (6%); non-durable goods (8%); (6) food products (13%); (7) services (9%) and (8) financial companies (23%).

The five largest issues contained in the CAC–40 Index account for approximately 31.30% of the Index's value.[14] The average daily trading volume during the first six months of 1990 for the five most heavily weighted stocks in the CAC was 652,990 shares collectively and 130,998 individually.[15] The total average daily trading volume of the 40 CAC stocks for the same period was 2,874,523 shares. Additionally, the smallest corporation in the CAC–40, which was "Etablissements Economiques du Casino," represented .55% of the Index with a market capitalization of 5.2 billion French francs or approximately $924 million.

The Exchanges propose to trade CAC warrants pursuant to the requirements of their generic Index Warrant Approval Orders, that, among other things, permit the Exchanges to list index warrants based on established market indexes, both foreign and domestic.[16]

Consistent with the generic Index Warrant Approval Orders, the Exchanges represent that the CAC–40 warrant issues will conform to their

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regulatory body known as the Commission des Operations de Bourse ("COB") approves the rules of the Stock Exchange Council. The COB is an autonomous administrative body patterned after the U.S. Securities and Exchange Commission. It functions as the French market regulator with authority to undertake investigations, notify French judicial authorities, and levy fines.

[7] *See, infra*, notes 13 and 15, and accompanying text.

[8] Securities listed on the Paris Bourse may be traded in the cash market ("marché ou component") or on the monthly settlement market ("réglement mensuel" or "RM"). The most actively traded French stocks are traded on a monthly settlement basis. Under the monthly settlement system, transactions are firm in both price and quantity once they have been concluded, but actual cash settlement and delivery does not occur until the end of the trading month.

[9] All securities in the RM market are traded continuously. With the exception of a limited number of securities still traded on the floor by open outcry, transactions are handled by Coatation Assistée en Continu ("CAC"), a computer-assisted trading system that electronically executes and records all trades, which are made through terminals installed in brokerage firms and linked to the SBF's central computers. The CAC–40 is derived from the top issuers in terms of capitalization and trading volume within the CAC system.

[10] The SBF has appointed an independent body of experts called the Scientific Advisory Commission ("SAC") to manage the CAC. This Commission is composed of seven members (one of which must be the President of the SBF) appointed by the Stock Exchange Council. The SAC ordinarily conducts a quarterly review of the Index to ensure that its component stocks are representative of the state of the equity market for the largest French companies. Changes in the Index are generally infrequent. Since July 1984, there only have been four replacements.

[11] Specifically, the éclaireur indicates the weighted average of price variations for those stocks actually trading. These variations are the difference between the current price and the price used to calculate the last index.

[12] For instance, if at the start of a trading session only 30 of the 40 shares are trading and the market capitalization of those 10 issues not trading represent 36% of the total market capitalization of the Index, then the CAC will be substituted by the "éclaireur," meaningful measure of the French equity market: (1) The number of CAC–40 component stocks still being traded; (2) the relative weight of stocks still traded, expressed as a percentage of the aggregate market capitalization of the component CAC–40 stocks; and (3) the percentage change in market capitalization of stocks still traded with respect to their market capitalization as of the last published index. The "éclaireur" has not been limited to episodes of dramatic price movement, as well as cases of technical difficulty which arise to hinder the dissemination of last sale information.

[13] The CAC–240 General Index represents the total French equity market value. Indeed, calculations by the SBF show that the correlation of the monthly price settlement between the CAC–40 and the CAC–240 General Index is 97%. *See* "Paris Bourse Index CAC–40—A New Base for Futures and Options Traded on the MATIF and the MONEP," August 1988, at 2. Moreover, the index's component stocks are highly capitalized as the mean and median capitalization for the 40 firms (as of June 28, 1990) was 23.44 billion French francs ($4.71 billion dollars) and 15 billion francs ($2.67 billion dollars), respectively. The U.S. dollar/French franc exchange rate used for these calculations was $.17808 per French franc on June 28, 1990.

[14] As of June 28, 1990, the five most heavily weighted stocks in the CAC–40 were: Société Nationale ELF–Aquitaine (7.82%); Compagnie Générale d'Electricité (7.02%); Louis Vuitton Moët Hennessy—LVMH (5.89%); Compagnie Financière de Suez (5.57%); and Compagnie Générale des Eaux (5.13%). In addition, these issues represent the following respective business sectors: (1) Raw materials; (2) capital goods; (3) food products; (4) financial companies; and (5) services.

[15] In addition, most issues are among the most actively traded on the Paris Bourse with the mean and median average daily trading volume for the 40 issues of 71,800 and 20,800 shares, respectively.

[16] *See* Securities Exchange Act Release Nos. 28151 (October 2, 1990), 53 FR 39822 ("AMEX Index Warrant Approval Order"); 28133 (June 28, 1990), 55 FR 27734 ("NYSE Index Warrant Approval Order"); 28208 (July 26, 1990), 55 FR 31275 ("PHLX Index Warrant Approval Order"); and 28094 (May 22, 1990), 55 FR 22001 ("PSE Index Warrant Approval Order") (collectively, "Index Warrant Approval Orders"). With the exception of some minor differences, these guidelines are uniform.

respective index warrant listing guidelines.[17] Specifically, the listing guidelines of the Exchanges require that: (1) The issuer shall have assets in excess of $100,000,000 and otherwise substantially exceed the respective Exchange's size and earnings requirements; (2) the term of the warrants shall be for a period ranging from one to five years from the date of issuance;[18] and (3) the minimum public distribution of such issues shall be 1,000,000 warrants together with a minimum of 400 public holders,[19] and have an aggregate market value of $4,000,000.[20]

The Exchanges propose that the CAC–40 warrants will be direct obligations of their issuer subject to cash-settlement during their term, and either exercisable throughout their life (*i.e.*, American style) or exercisble only on their expiration date (*i.e.*, European style). Upon exercise, or at the warrant expiration date (if not exercisable prior to such date), the holder of a warrant structured as a "put" would receive payment in U.S. dollars to the extent that the CAC–40 Index has declined below a pre-stated cash settlement value. Conversely, holders of a warrant structured as a "call" would, upon exercise or at expiration, receive payment in U.S. dollars to the extent that the CAC–40 Index has increased above the pre-stated cash settlement value. If "out-of-the-money" at the time of expiration, the warrants would expire worthless.

Because index warrants are derivative in nature and closely resemble index options, the Exchanges have proposed safeguards that are designed to meet the investor protection concerns raised by the trading of index options. First, the Exchanges propose to apply their options suitability standards to index warrant recommendations and the requirement that discretionary orders in index warrants by approved on the day entered by a Senior Registered Options Principal ("SROP") or a Registered Options Principal ("ROP"). In addition, the Exchanges have recommended that the CAC–40 warrants only be sold to options approved accounts. Moreover, the Exchanges, prior to commencement of trading of CAC–40 warrants, will distribute a circular to their membership calling attention to the specific risks associated with warrants on the CAC–40.

III. Discussion

The Index warrants are the first derivative instruments to be traded on a U.S. exchange that are based on a stock index comprised exclusively of French stocks. The Commission believes that the availability of warrants on the Index is consistent with section 6(b)(5) of the Act in that it should help remove impediments to a free and open securities market and facilitate transactions in securities because the Index warrants will provide investors a means by which to hedge against investment decisions made in the French equity market and a surrogate instrument for trading the French securities market.[21] In particular, CAC–40 warrants will benefit U.S. investors by allowing them to obtain differential rates of return on a capital outlay if the CAC–40 moves in a favorable direction within a specified time period. Of course, if the CAC–40 moves in the wrong direction or fails to move in the right direction, the warrants will expire worthless and the investors will have lost their entire investment. Thus, the trading of warrants on the CAC–40 Index will provide investors with a valuable hedging vehicle that should reflect accurately the overall movement of the French equity market.

The Commission further believes that the CAC warrants are consistent with the generic Index Warrant Approval Orders of the Exchanges. Nevertheless, the trading of warrants on the Index raises several concerns, namely issues related to customer protection, index design, surveillance and market impact. The Commission believes, for the reasons discussed below, that the Exchanges adequately have addressed these concerns.

A. Customer Protection

Due to the derivative nature of index warrants, the Commission believes that CAC–40 warrants only should be sold to investors capable of evaluating and bearing the risks associated with trading in such instruments and that adequate risk disclosure is made to investors. In this regard, the Commission notes that the rules and procedures of the Exchanges that address the special concerns attendant to the secondary trading of index warrants will be applicable to the CAC–40 warrants. In particular, by imposing the special suitability disclosure, and compliance requirements noted above, the Exchanges have addressed adequately potential public customer problems that could arise from the derivative nature of CAC warrants. Moreover, the Exchanges plan to distribute circulars to their members calling attention to the specific risks associated with warrants on the CAC and, pursuant to each exchange's listing gidelines, only substantial companis capable of meeting their warrant obligations will be eligible to issue CAC warrants.[22]

In order to be eligible for trading of warrants pursuant to the Generic Index Warrant Approval Orders, an index must not raise significant manipulative or other trading abuse concerns. In light of the design of the Index and its component securities,[23] the Commission believes that the CAC is broad-based index of actively traded, well-capitalized stocks. As described more thoroughtly above, the Index is comprised of eight industry sectors, the largest of which accounts for 23% of the Index. In addition, the stocks contained in the Index are selected from the top 100 stocks traded on the Paris Bourse and, as such, are among the most highly-capitalized and activitely traded.[24] Moreover, no stock or small group of stocks accounts for a substantial portion of the Index. Accordingly, the Commission believes that the broad diversification, large capitalization and liquid markets of the Index's component stocks significantly minimize the potential for manipulation of the Index.

C. Surveillance

As a general matter, before approving a new derivative product, the

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[17] *See* section 103 of the AMEX *Company Guide*; NYSE section 703.17 of its *Listed Company Manual*; PHLX Rule 803; and PSE Rule I, Section 2(b).

[18] The NYSE CAC–40 filing (SR–NYSE–90–36) does not limit the duration of the warrants to five years but states that they shall be for a period of at least one year.

[19] The NYSE CAC–40 filing (SR–NYSE–90–36) calls for a minimum distribution of 1,100,000 warrants instead of the 1,000,000 required by the other exchanges.

[20] In addition, the PHLX and PSE propose to trade CAC–40 warrants on an unlisted trading privilege basis. To do so, the PHLX and PSE would have to make a separate application under section 12(f) of the Act.

[21] Pursuant to section 6(b)(5) of the Act the Commission must predicate approval of any new securities product upon a finding that the introduction of such product is in the public interest. Such a finding would be difficult with respect to a warrant that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

[22] The terms of the warrant issuances may vary as to whether the éclaireur value or a prior or subsequent regular calculation of the CAC–40 Index is used for settlement purposes if the Index is replaced by an éclaireur on expiration day. Before listing a CAC–40 Index warrant, and Exchange should be satisfied that the relevant disclosure documents explain clearly the calculation procedures for settlement determination, and the Exchanges should make efforts to ensure that their members are aware of the Index calculation procedures.

[23] *See supra*, notes 13–14 and accompanying text.

[24] *See supra*, notes 14–15 and accompanying text.

Commission requires that a surveillance sharing agreement be in place between the exchange that proposes to trade the derivative product and the exchange where the underlying shares are traded. The Commission believes that such an agreement is a critical component of any program aimed at detecting and deterring potential intermarket manipulation.

Due to the fact that the CAC is a foreign index, the Commission believes adequate surveillance sharing agreements between the Exchanges and the Paris Bourse are a necessary prerequisite to deter and detect potential manipulations or other improper or illegal trading involving the warrants. To address this concern, the Exchanges have entered into separate surveillance sharing agreements with the SBF that provide for the exchange of information relating to the trading of CAC warrants on the Exchange and trading in the component securities of the Index on the Paris Bourse.[25] These agreements obligate the Exchanges and SBF to compile and transmit market surveillance information and to resolve in "good faith" any disagreements regarding requests for information in response thereto.

Despite the surveillance sharing agreements between the Exchanges and SBF, the SBF asserts that the French blocking statute [26] restricts its ability to supply the U.S. exchanges with the necessary customer trading information related to trading on the Paris Bourse.[27] Therefore, in order to obtain customer information, the Commission and the COB have exchanged letters that establish a mechanism for the exchange of information, including customer information, for transactions involving a derivative security or the stocks underlying such security when a derivative security is traded in U.S. or French markets and the underlying securities are traded in the other country's markets.[28] This SEC/COB letter exchange confirms that the SEC will be able to secure information not obtainable from the SBF, and thus ensure that an investigation can occur with access to all necessary surveillance information.[29] Accordingly, the Commission believes the arrangement made pursuant to the SEC/COB exchange of letters, together with agreements consummated by the Exchanges with the SBF, are adequate to allay Commission concerns regarding the Commission and/or Exchanges' ability to obtain information necessary to take appropriate regulatory action regarding alleged manipulation or other trading abuses between markets involving the trading of CAC warrants.

D. Market Impact

The Commission believes that the listing and trading of CAC–40 Index warrants on the Exchanges will not adversely impact the securities markets in the U.S. or France.[30] First, the existing index options surveillance procedures of the Exchanges will apply to warrants based on the CAC Index. Second, the Commission notes that the Index is broad-based and diversified and includes highly capitalized securities that are actively traded on the Paris Bourse.[31] Third, the Commission notes that at the present time, index options and futures contracts based on the CAC–40 are traded on French exchanges,[32] and that numerous warrant and off-exchange options are traded worldwide on the CAC–40.[33] Accordingly, the Commission does not believe that the introduction of CAC–40 warrants by the Exchanges will have a significant effect on the underlying French securities market.

IV. Conclusion

For the reasons set forth above, the Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5).[34]

It therefore is ordered, pursuant to section 19(b)(2) of the Act,[35] that the proposed rule changes (SR–AMEX–90–08; SR–NYSE–90–36; SR–PHLX–90–25; and SR–PSE–90–18) are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[36]

Dated: October 17, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–25022 Filed 10–22–90; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Inc.

October 15, 1990.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f–1 thereunder for unlisted trading privileges in the following securities:

American Waste Services, Inc.
Class A Common Stock, No Par Value (File No. 7–6260)

Cadence Design Systems, Inc.
Common Stock, $.01 Par Value (File No. 7–6261)

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[25] The SBF, as the body charged with enforcing the rules applicable to the Paris Bourse, would be the appropriate SRO with which to enter into a surveillance sharing arrangement.

[26] A blocking statute prohibits the disclosure, inspection, copying and removal of documents located in the enacting state in compliance with orders of foreign authorities. *See,* The 1980 French Law on Documents and Information, Law No. 80–538 (1980) J.O. 1799.

[27] In this regard, the SBF asserts that it does not have the legal capacity to obtain specific customer information, but instead, must rely on the COB. The COB is prohibited from furnishing customer information to a non-governmental body, such as the Exchanges. As described below, pursuant to a letter exchange between the SEC and the COB, the COB confirms that it will furnish customer information directly to the Commission.

[28] *See* letter from Richard Ketchum, Director, Division of Market Regulation, SEC, to Patrick Mordacq, Secretary General, COB, dated September 18, 1990; and letter from Patrick Mordacq, Secretary General, COB, to Richard Ketchum, Director, Division of Market Regulation, SEC, dated September 18, 1990.

[29] The SEC entered into an Administrative Agreement with the COB on December 14, 1989. Despite the fact that such agreement has not formally entered into force, both countries have been operating informally in accordance with the principles set forth in that agreement. This cooperative effort on the part of both U.S. and French officials has expanded the availability of information with respect to investigations of possible securities law violations in both countries. To further this end, the Agreement establishes a system of mutual assistance, to facilitate the exchange of such information when requested by either country, in connection with an inquiry into insider trading, market manipulation or other possible securities law violations.

[30] The CAC–40 index contains 11 stocks which are available on an American Depository Receipt ("ADR") basis. These ADRs are traded over-the-counter ("OTC") except for Club Méditerranée, which is listed on the NYSE. An ADR is a receipt for the shares of a foreign-based corporation held in the vault of a U.S. bank and entitling the shareholder to all dividends and capital gains. Instead of purchasing shares of a foreign-based corporation in overseas markets, a U.S. investor can buy shares in the U.S. in the form of such ADR.

[31] *See* discussion of the Index's composition, *supra,* at pp. 5–7.

[32] Options on the CAC–40 are traded on the Marché des opérations négociables de Paris ("MONEP"), the Paris traded options market, and futures on the CAC–40 are traded on the Marché à Terme d'Instruments Financiers ("MATIF"), the French financial futures market.

[33] The CAC will be widely and publicly disseminated by various market information systems and the print media.

[34] 15 U.S.C. 78f(b)(5) (1982).

[35] 15 U.S.C. 78s(b) (1982).

[36] 17 CFR 200.30–3(a)(12) (1989).

Diagnostek, Inc.
Common Stock, $.02 Par Value (File No. 7-6262)
Emerging Mexico Fund, Inc.
Common Stock, $.10 par Value (File No. 7-6263)
Sanifill, Inc.
Common Stock, $.01 Par Value (File No. 7-6264)
Medusa Corporation
Common Stock, No Par Value (File No. 7-6265)
Silicon Graphics, Inc.
Common Stock, $.001 Par Value (File No. 7-6266)
Suave Shoe Corporation
Common Stock, $.01 Par Value (File No. 7-6267)
Wahlco Environmental Systems, Inc.
Common Stock, $.01 Par Value (File No. 7-6268)
Safeway, Inc.
Common Stock, $.01 Par Value (File No. 7-6269)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 5, 1990, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 90-24927 Filed 10-22-90; 8:45 am]
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Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

October 15, 1990.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Dycom Industries, Inc.
Common Stock, $.33 1/3 Par Value (File No. 7-6270)
Old Republic International Corp.
Common Stock, $1.00 Par Value (File No. 7-6271)
Storage Properties, Inc.
Common Stock, $.05 Par Value (File No. 7-6272)
Go Video, Inc.
Common Stock, $.001 Par Value (File No. 7-6273)
Martin Lawrence Limited Editions, Inc.
Common Stock, $.01 Par Value (File No. 7-6274)
Alliant Techsystems, Inc.
Common Stock, $.01 Par Value (File No. 7-6275)
Cipsco Incorporated Holding Company
Common Stock, $.01 Par Value (File No. 7-6276)
Esco Electronics Corporation
Common Stock Trust Receipts, No Par Value (File No. 7-6277)
Patriot Premium Dividend Fund I (Massachusetts Business Trust)
Common Stock, $.01 Par Value (File No. 7-6278)
American Waste Services, Inc.
Class A Common Stock, No Par Value (File No. 7-6279)
RJR Nabisco, Inc.
Cumulative Convertible Preferred Stock, $.01 Par Value (File No. 7-6280)
Venture Stores, Inc.
Common Stock, $1 Par Value (File No. 7-6281)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 5, 1990, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 90-24928 Filed 10-22-90; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-28538; File No. SR-NASD-90-36]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to the Establishment of a Permanent Subscriber Fee for the National Quotation Data Service.

On July 9, 1990, the National Association of Securities Dealers, Inc. ("NASD") submitted a proposed rule change (File No. SR-NASD-90-36,[1] to the Securities and Exchange Commission ("Commission" or "SEC") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[2] to establish a permanent charge of $50.00 per month for subscribers to the National Quotation Data Service ("NQDS" or "Service").[3] No comments were received in response to this proposal. This order approves the proposed NQDS fee.

The NQDS service will incorporate individuals market maker quotations, Level 1 or "inside" quotations in NASDAQ and NASDAQ/NMS Last Sale information into a combined or "bundled" feed that will be supplied to NQDS vendors. This charge will apply to every interrogation or display device receiving the NQDS from an authorized vendor. Certain vendors of securities information have contracted with the NASD to receive this broadcast and distribute the information through their communications networks to interested subscribers. The NASD stated that the

[1] *See* Securities Exchange Act Release No. 28200, July 12, 1990, 55 FR 29446.

[2] 15 U.S.C. 78s(b)(1) (1982).

[3] NASDAQ, Inc. disseminates a variety of market data on approximately 5,400 securities that are authorized for inclusion in the NASDAQ system. NASDAQ level 1 service can access the inside market (*i.e.*, the best bid and offer) for any NASDAQ security during the trading day. NASDAQ Level 2 service consists of all market makers' bids and offers for all NASDAQ securities. NASDAQ Level 3 provides the same information as Level 2, with an update capability for market makers to enter quotations. The NQDS service consists of the same quotation information as Level 2 but is provided to vendors in the form of a data stream rather than a preformatted display of information. The vendor, therefore must arrange the quotation information for retrieval and display by subscribers. The NASD also disseminates last sale information on NASDAQ/National Market System ("NMS") securities.

proposed fee is structured to recoup the costs attributable to the NASD's collection, validation, and distribution of NQDS data to vendors. These costs would be recovered by assessing the proposed fee against the vendors' subscribers on a per terminal basis.

At present, NQDS subscribers pay a monthly charge of $8.75 for each terminal device receiving NQDS. That charge was established by the Commission on an interim basis pending the NASD's development of a cost-based charge for the NQDS. The interim charge resulted from a lengthy series of legal proceedings which culminated with a United States Court of Appeals decision [4] upholding a Commission order issued on April 17, 1984.[5]

I. Description of Prior Proceedings

In June of 1983, the NASD made its initial rule filing with the Commission to establish an intended schedule of fees for provision of the NQDS service.[6] The 1983 fee proposal called for a $3,200 per month vendor fee to recover the Association's costs of transmitting NQDS data, on a computer-to-computer interface, to an interested vendor. The 1983 fee proposal also provided that NQDS subscribers (*i.e.*, customers of any vendor marketing the NQDS service) would pay the NASD a monthly fee of $150/terminal for receipt of NQDS data, the same fee paid by all Level 2/3 subscribers. On July 15, 1983, the sole vendor interested in marketing the NQDS service filed a petition with the Commission, pursuant to section 11A(b)(5) of the Act, alleging that the proposed fees constituted an inappropriate limitation or prohibition on access to services provided by the NASD as an exclusive processor of securities information.

The ensuring proceedings resulted in the Commission issuing the April Order,[7] which, other things, found that: (1) The $3,200/month vendor fee was not an inappropriate prohibition or limitation on vendor access to the NQDS service under section 11A(b)(5) of the Act; [8] (2) the imposition of a charge based on the number of terminals subscribing to the NQDS service would not constitute an inappropriate prohibition or limitation on access to the NQDS service; (3) the proposed NQDS subscriber fee of $150/terminal/month contravened section 11A(b)(5) because it included the cost of operating the Level 2/3 query function, which was not included in the NQDS service to be provided to the vendor; and (4) in formulating an acceptable subscriber fee for NQDS service, the NASD may recover only those costs of operating a "pass-through" system that collects, validates, and prepares quotations for shipment to vendors.

During the latter half of 1984, the NASD filed two motions requesting the Commission's reconsideration of the April Order. Both were rejected.[9] the NASD then petitioned the United States Court of Appeals for the District of Columbia for review of the April Order. The Circuit Court affirmed the Commission's action in September of 1985.[10]

On July 31, 1985, the NASD submitted a rule filing proposing a subscriber fee of $79/terminal/month for NQDS service.[11] After publication of notice and receipt of comments on the proposed rule change, the Commission instituted proceedings, pursuant to section 19(b)(2)(B) of the Act, to determine whether to disapprove the 1985 fee proposal on the basis that it was inconsistent with the April Order and section 15A(b)(5) of the Act.[12]

On July 29, 1988, the NASD withdrew the 1985 fee proposal and submitted a new proposed rule change to establish a permanent charge of $50.75 per month for subscribers to the NQDS.[13] The proposed fee elicited adverse commentary submitted on behalf of NQDS vendors, however.[14] In response, the NASD sought to negotiate a fee with the NQDS vendors that would effectively recover expenses associated with the delivery of the Service while addressing the concerns of those vendors. Accordingly, on July 9, 1990, the NASD submitted a new fee proposal [15] and withdrew the 1988 fee proposal.

II. The NASD's Cost Allocation in Support of 1988 Fee Proposal

The NASD incorporated into the instant filing the financial statements submitted to the Commission in 1988 in support of the proposed $50.75 fee for a NQDS-only vendor feed. The Commission has reviewed those documents, as well as the two comment letters submitted in the earlier proposal, in its consideration of the current $50.00 fee the NASD has proposed to charge for the bundled service consisting of NQDS, Level 1 and last sale data.

In earlier proceedings on this matter, the Commission determined that an acceptable fee would be one composed solely of the costs incurred by the NASD (or its operating subsidiaries) in collecting, validating, and preparing NQDS information for transmission to a vendor.[16] The Instinet and Bridge comment letters argued, however, that the NQDS proposed fee failed to comply with the Commission's prior orders, which required that any difference in the fee for NQDS data over that charged for the NASDAQ Level 1 must be based on "demonstrable differences in cost" between the two services, and that any higher NQDS fee must reflect the functional apportionment of total costs to the particular service to which the costs relate. The commenters further noted that the NASD failed to explain why its NQDS costs differed from its Level 1 fee and questioned its methodology in the allocation of costs to update quotations.

III. Discussion

The Commission has determined to approve the NASD's proposed rule change because the Commission believes the new fee for NQDS is

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[4] ASD v. SEC, 801 F.2d 1415 (DC Cir. 1986).

[5] Securities Echange Act Release No. 20874 (April 17, 1984), 49 FR 17640 ("Aapril Order").

[6] *See* File No. SR–NASD–83–13, Securities Exchange Act Release No. 19884 (June 17, 1983), 48 FR 29088 ("1983 fee proposal").

[7] *See* note 2, *supra*.

[8] Section 11A(b)(5) of the Act establishes a mechanism by which the Commission can review prohibitions or limitations on access to services offered by registered securities information processors. NASDAQ, Inc. is such a registered securities information processor.

[9] *See* Securities Exchange Act Release Nos. 21471 (November 8, 1984), 49 FR 45282, and 21832 (March 8, 1985), 50 FR 10555.

[10] *See* NASD v. SEC, 801 F.2d 1415 (D.C. Cir. 1986).

[11] *See* File No. SR–NASD–85–19, Securities Exchange Act Release No. 22035 (February 21, 1986), 51 FR 6957 ("1985 fee proposal").

[12] The Commission declined to find that the proposed fee was cost-based, finding that the proposal included certain costs that were contrary to the terms of the April Order. As such, the Commission did not find, pursuant to section 15A(b)(9) of the Act, that the proposed rule change did not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

[13] *See* File No. SR–NASD–88–35, Securities Exchange Act Release No. 26119, (September 27, 1988), 53 FR 38002.

[14] Letter from Daniel T. Brooks, counsel to Instinet Corporation, to Jonathan G. Katz, Secretary, SEC, dated October 25, 1988, ("Instinet letter") and letter from Stephen L. Williams, Executive Vice President, Bridge Information Systems, Inc., to Jonathan G. Katz, Secretary, SEC, dated October 31, 1988 ("Bridge letter").

[15] *See* File No. SR–NASD–90–33, Securities Exchange Act Release No. 28200, July 12, 1990, 55 FR 29446.

[16] To isolate the specific costs associated with collecting, validating, and processing of NQDS data for transmission to a vendor, the NASD identified direct operational costs relating to the physical processing of the data; systems software development and maintenance activities; and allocated overhead and general and administrative costs based on the relative percentage of direct costs allocable to these functions.

consistent with sections 11A(c)(1),[17] 15A(b)(5), (6) and (9) of the Act.[18] The NASD collects and disseminates an array of information including market makers' quotations. The NASD's distribution of such information, especially the terms under which it is distributed to different classes of users, must be guided by certain principles set forth in section 11A(c)(1). That section requires the prompt, accurate, reliable and fair collection, processing, distribution and publication of information,[19] and that all securities information processors may obtain such information on fair and reasonable terms,[20] which are not unreasonably discriminatory.[21] In addition, section 15A(b)(5) requires that the NASD's rules provide an equitable allocation of reasonable charges among members for the use of any facility or system that the NASD operates. Section 15A(b)(6) requires, among other things, that the NASD's rules be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in processing information with respect to and facilitating transactions in securities; to protect investors and the public interest; and that the NASD's rules not be designed to permit unfair discrimination between customers, brokers, or dealers. Further, section 15A(b)(9), requires that the NASD rules not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

In its April Order, the Commission rejected the NASD's original NQDS subscriber charge of $150 per terminal per month because it was not found to be cost-based.[22] Simultaneously, the Commission authorized the interim subscriber fee of $6.75, which is the established monthly charge for terminal devices receiving Level 1 Service.[23] The Commission adopted this interim charge because of asserted similarities between NASDAQ Level 1 and NQDS: (1) both services are derived from quotation information collected from NASDAQ market makers, (2) the collected information is subject to validation processing; and (3) the processed data is broadcast to vendors for distribution to their subscribers.[24]

The April Order also held that an acceptable subscriber charge could recover the costs associated with collecting, validating, and preparing quotations for shipment to an NQDS vendor. To formulate an acceptable NQDS charge, the NASD was required to analyze the NASDAQ system functions, isolate those functional costs incurred to support the NQDS, and calculate the subscriber charge by dividing those costs among the universe of terminals receiving the NQDS. In evaluating that methodology relative to the parameters of the April Order the Commission did "not requir[e] the NASD to prepare an economically perfect allocation of relevant costs, but only a reasonable allocation based on the best available information.[25]

In reviewing the fairness and reasonableness of the proposal, the Commission finds it significant that the proposed fee of $50.00 is the result of negotiations among the concerned parties after protracted proceedings. Based on the Commission's review of the NASD's financial submissions, the Commission finds that by expanding the categories of information provided to vendors and reducing the charge to $50.00, the NASD has proposed a fee that reasonably reflects the costs attributable to collecting, validating and preparing the information for transmission to vendors.

IV. Conclusion

The Commission believes that the $50.00 charge submitted by the NASD, as a term of access to NQDS information, satisfies the statutory standards outlined above, as well as the terms of the April Order. The Commission, therefore, has concluded that it is appropriate to approve the NQDS fee of $50.00.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[26]

Dated: October 15, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-24871 Filed 10-22-90; 8:45 am]

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[17] 15 U.S.C. 78k-1 (1982).

[18] 15 U.S.C. 78o-3 (1982).

[19] Section 11A(c)(1)(D).

[20] Section 11A(c)(1)(C).

[21] Section 11A(c)(1)(D).

[22] The NASD also charges $150 for subscription to NASDAQ Level 2 Service. Like NQDS subscribers, NASDAQ Level 2 subscribers can obtain the prevailing quotes displayed by all market makers in any NASDAQ security.

Originally, the NASD maintained that the monthly subscriber fee charged for Level 2 should apply to NQDS in that both services were built upon the same elements of information. The Commission specifically rejected the value-of-service approach to pricing because it would have resulted in NQDS subscribers paying for processing functions that were not integral to the Service.

[23] Terminal devices authorized for NASDAQ Level 1 Service can access the inside market (*i.e.*, the best bid and offer) for any NASDAQ security during the trading day. This service is marked exclusively through vendors that take the NASD's Level 1 data feed, represent the information, and distribute it through private communications networks to their subscribers. Although the NQDS is distributed in the same manner, the NQDS feed provides more information.

[24] The Commission's intent is clearly indicated in the following excerpt from the April Order:

To ensure that such a processor's services are made available on reasonable and nondiscriminatory terms, the Commission believes that " " " where an exclusive processor supplies information to other vendors and competes with those vendors in providing information and terminal devices, the exclusive processor's fees should be based strictly on the expenses that it incurs in providing information to vendors.

April Order, *supra* note 14, at 17853.

[25] *Id.*

[26] 17 CFR § 200.30-3(a)(12).

[Release No. 34-28540; File No. SR-NYSE-90-44]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Amendments to Exchange Rule 103A—Specialist Stock Reallocation

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 25, 1990, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to Exchange Rule 103A which will add performance standards relating to the Exchange's Specialist Performance Evaluation Questionnaire ("SPEQ").[1]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of

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[1] The SPEQ, which was last revised in February, 1990 (*see* note 4, *infra*), is a quarterly survey on specialist performance completed by eligible floor brokers (*i.e.*, any floor broker with at least one year of experience). The SPEQ requires floor brokers to rate, and provide written comments on, the performance of specialist units with whom they deal frequently.

and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

III. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

Exchange Rule 103A specifies performance standards for specialists and provides for the initiation of a formal "Performance Improvement Action" in any case where a specialist unit does not meet a performance standard specified in the Rule.[2] NYSE Rule 103A historically has contained performance standards applicable to the SPEQ for both a specialist unit's overall rating result and its results on the different functional categories under which specific questions are grouped.[3]

Effective with the first quarter 1990, the Exchange implemented the new, current SPEQ process which was approved by the Commission on February 5, 1990.[4] The former SPEQ produced raw scores, whereas the scoring methodology on the new SPEQ, as described below, gives specialists their overall rank among all specialist units, and their range of ranks which shows their comparability to other units. Accordingly, the performance standards relating to the previous SPEQ that had been incorporated into NYSE Rule 103A could not be applied to the new SPEQ because the scoring methodology had been changed. The Exchange, therefore, received Commission approval to eliminate the standards applicable to the former SPEQ from NYSE Rule 103A with the understanding that the Exchange would adopt and file with the Commission, as a proposed rule change, minimum relative performance standards so that specialists who are regularly among the lowest ranked units on a relative basis would be subject to performance improvement actions.[5] Pursuant to this understanding, the revised standards were to be filed with the Commission after the new SPEQ had been administered for two quarters. The proposal being considered herein sets forth these revised standards.

Scoring Methodology

The scoring methodology for the new SPEQ produces two types of results. Specialist units are informed as to how they rank on an overall basis, and in each of the five functions (Dealer, Service, Competitiveness, Communication, and Administrative), among all specialist units. Currently, there are 46 specialist units on the Exchange. A unit might, for example, receive a rank of 20 on an overall basis, and a rank of 22 on a particular function, meaning that it ranked 20 out of 46 units overall, and 22 out of 46 on that function.

Specialist units also receive a "range of ranks" on an overall basis and for each function. This scoring methodology allows a unit to determine whether its scores are statistically significantly different from the scores received by other specialist units. For example, a unit might receive an overall rank of 20, with a range of ranks from 17 to 25. This means that the unit ranked 20th out of 46 units, but its scores were roughly comparable to a unit ranked as high as 17, and as low as 25.

Proposed Performance Standards

The Exchange proposes that a unit be subject to the initiation of a Performance Improvement Action where its overall rank placed it in the bottom 10% of all units, and its range of ranks placed it in the bottom 15% of all units, for any quarter. For example, a unit ranked 43 out of 46, with a range of ranks from 40 to 46, would have been placed in the bottom 10% in overall ranking and its range of ranks would place it in the bottom 15%, as this range indicates that the unit is not statistically significantly different from a unit rated no higher than 40 (which is the bottom 15%). Thus, a unit receiving such results would be subject to a Performance Improvement Action.

Regarding scores for particular functions, a unit would be subject to a Performance Improvement Action under NYSE Rule 103A if *in any quarter* the unit received an overall rank in the bottom 10%, and a range of ranks in the bottom 15%, *for two or more functions.* A unit would also be subject to a Performance Improvement Action if it received an overall rank in the bottom 10%, and a range of ranks in the bottom 15%, for the *same function* in *two consecutive quarters.*

Two quarters of experience with the new SPEQ indicates that under the proposed standards no unit would have been subject to a Performance Improvement Action based on its overall score in the first two quarters of 1990. One unit did, however, fall into the bottom 10% in its rank and the bottom 15% in its range of ranks in two functions in the first quarter. Under the new standards, therefore, the unit would have been subject to a Performance Improvement Action. Additionally, in the second quarter, two units fell into the bottom 10% in their ranks and the bottom 15% in their range of ranks for one function. If these units repeated this performance for the same function in the following quarter, they also would be subject to a Performance Improvement Action.

In addition to the proposed new performance standards, the Exchange's Market Performance Committee will continue to have the authority to engage in counseling sessions with units when appropriate. This Committee also will continue to impose allocation freezes (*i.e.*, periods during which a unit is not permitted to apply to be a specialist for a newly listed security) where appropriate to improve performance even if no Performance Improvement Action is mandated by the standards of NYSE Rule 103A.

(2) Statutory Basis

The proposed rule change is consistent with section 6(b)(5) under the Act which requires that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and in general, to protect investors and the public interest. The proposed amendments to Rule 103A are consistent with these objectives in that they facilitate high quality specialist performance through the Exchange's performance improvement process.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition not

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[2] Under NYSE Rule 103A, a specialist's performance is measured by a combination of SPEQ scores and objective standards of performance (*e.g.*, timeliness of regular openings; promptness in seeking floor official approval of non-regulatory delayed openings; and responses to administrative messages).

[3] Currently, the SPEQ is comprised of 21 questions which are grouped under the following five functional categories: the Dealer Function, the Communications Function, the Administrative Function, the Service Function and the Competitiveness Function. The Dealer, Service, and Competitive Function categories are each accorded a percentage weight of 30% on the SPEQ, while the Communications and Administrative Function sections have a percentage weight of 5% each.

[4] *See* Securities Exchange Act Release No. 27675 (February 5, 1990), 55 FR 4922 (order approving File No. SR–NYSE–89–32).

[5] *See* Securities Exchange Act Release No. 28215 (July 17, 1990), 55 FR 30080 (notice of filing and order granting accelerated temporary approval to File No. SR–NYSE–90–24).

necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Act

Within 35 days of the date of publication of this notice in the Federal Register or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC, 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–90–44 and should be submitted by November 13, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 16, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-24972 Filed 10-22-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-28541; File No. SR-NYSE-90-47]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Fees for Fingerprint Processing

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 1, 1990, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE, pursuant to Rule 19b-4 of the Act, submitted a proposed rule change to amend its plan for fingerprinting pursuant to Rule 17f-2(c) under the Act. The Exchange proposes to increase its fingerprint processing fee from $21.50 to $24.50 per fingerprint card processed.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Pursuant to a plan filed with the Commission under SEC Rule 17f-2(c), the Exchange acts as a processor of fingerprints for its members and others and channels fingerprint cards and attendant payments to the Federal Bureau of Investigation ("FBI"). The purpose of the proposed rule change is to pass along the FBI's increase in the user fee for processing fingerprint cards.

Effective October 1, 1990, the FBI increased its fee for processing fingerprint cards from $20.00 to $23.00 per card. The FBI is increasing its fee due to its increased costs for fingerprint processing, including rising personnel costs. Accordingly, the Exchange proposes to amend its plan as follows: $24.50 per fingerprint card processed, consisting of $23.00 per fingerprint card for FBI processing and $1.50 per fingerprint card for Exchange processing. The NYSE's current $1.50 charge per fingerprint card for Exchange processing, therefore, will remain constant.

The statutory basis for the proposed rule change is section 6(b)(4) of the Act in that it provides for the equitable allocation of reasonable dues, fees and other charges among NYSE members and issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee or other charge imposed by the Exchange, it has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-90-47 and should be submitted by November 13, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 16, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-24973 Filed 10-22-90; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Incorporated

October 15, 1990.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Compania de Telefonos de Chile S.A.
American Depositary Shares (File No. 7-6282)

ACM Managed Multi-Market Trust, Inc.
Common Stock, $0.01 Par Value (File No. 7-6283)

Allstate Municipal Income Opportunities Trust II
Shares of Beneficial Interest, $0.01 Par Value (File No. 7-6284)

American Government Income Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7-6285)

American Government Income Portfolio, Inc.
Common Stock, $0.01 Par Value (File No. 7-6286)

American Government Term Trust, Inc.
Common Stock, $0.01 Par Value (File No. 7-6287)

Colonial Intermediate High Income Fund
Shares of Beneficial Interest, No Par Value (File No. 7-6288)

Colonial InterMarket Income Trust I
Shares of Beneficial Interest, No Par Value (File No. 7-6289)

High Yield Plus Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7-6290)

High Yield Income Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7-6291)

Nuveen California Municipal Income Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7-6292)

Oppenheimer Multi-Government Trust
Shares of Beneficial Interest, $0.01 Par Value (File No. 7-6293)

Putnam High Income Convertible and Bond Fund
Shares of Beneficial Interest, No Par Value (File No. 7-6294)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 5, 1990, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-24929 Filed 10-22-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-25167]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

October 12, 1990.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by November 5, 1990 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Entergy Corporation, et al. (70-7786)

Entergy Corporation ("Entergy"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, Arkansas Power & Light Company ("AP&L"), 425 West Capitol, 40th Floor, Little Rock, Arkansas 72201, Louisiana Power & Light Company ("LP&L"), 317 Baronne Street, New Orleans, Louisiana 70112, Mississippi Power & Light Company ("MP&L"), 308 East Pearl Street, Jackson, Mississippi 39201, New Orleans Public Service Inc. ("NOPSI"), 317 Baronne Street, New Orleans, Louisiana 70112 (collectively, "Operating Companies"), System Fuels, Inc. ("SFI"), 639 Loyola Avenue, New Orleans, Louisiana 70113, System Energy Resources, Inc. ("SERI"), 1340 Echelon Parkway, Jackson, Mississippi 39213, Entergy Operations, Inc. ("EOI"), 1340 Echelon Parkway, Jackson, Mississippi 39213 and Entergy Services, Inc. ("Services"), 639 Loyola Avenue, New Orleans, Louisiana 70113 (collectively, "Participating Companies"), have filed an application-declaration under sections 6(a), 7, 9(a), 10, and 12(b) of the Act and rules 40, 43 and 50(a)(5) thereunder.

Each of the Participating Companies propose, through November 30, 1992, to lend money to the Entergy system money pool ("Money Pool"). The Operating Companies, SERI, SFI, EOI, and Services further propose, through November 30, 1992, to borrow from the Money Pool and in the cases of the Operating Companies and SERI, to issue unsecured promissory notes to banks ("Notes") and commercial paper to commercial paper dealers ("Commercial Paper").

Total borrowings through the Money Pool by Services, EOI and SFI will not

exceed, at any one time outstanding, amounts equal to the aggregate unused portions of lines of credit then available to these companies and/or other borrowing arrangements approved by the Commission. Total borrowings by the Operating Companies and SERI through the Money Pool, the issuance and sale of the Notes and Commercial Paper will not exceed: (1) $240 million for AP&L; (2) $260 million for LP&L; (3) $110 million for MP&L; (4) $35 million for NOPSI and (5) $290 million for SERI, in any combination thereof.

The Notes will mature in less than one year from the date of issuance, at an effective interest rate cost of approximately 11.1%, based on a base lending rate of 10%. The Commercial Paper will be in the form of unsecured promissory notes having varying maturities of not in excess of 270 days. The Operating Companies and SERI have requested an exception from the competitive bidding requirements of Rule 50 pursuant to subsection (a)(5) so that they may be authorized to carry out negotiations for the terms of the placement of the commercial paper. They may do so.

The proceeds from the proposed borrowings will be used to provide interim financing for construction expenditures, to fund long-term debt maturities and sinking fund requirements, and in the case of AP&L and MP&L, to finance deferred costs associated with their respective retail rate phase-in programs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-24931 Filed 10-22-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17969; 811-4346]

Bench Portfolios Fund; Application

October 16, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for Deregistration under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: Bench Portfolios Fund.

RELEVANT 1940 ACT SECTIONS: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be investment company.

FILING DATE: The application was filed on July 30, 1990, and amended on September 28, 1990, and October 12, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on Novermber 13, 1990, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 222 Bridge Plaza South, Fort Lee, New Jersey 07024.

FOR FURTHER INFORMATION CONTACT: Barbara Chretien-Dar, Staff Attorney, at (202) 272-3022, or Jeremy N. Rubenstein, Branch Chief, at (202) 272-3023 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or from the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 738-1400).

Applicant's Representations

1. Applicant, an open-end investment company organized as a Massachusetts trust, registered under the 1940 Act on July 13, 1965. On the same date, it filed a registration statement with respect to an indefinite number of shares under the Securities Act of 1933, which registration statement was declared effective on January 31, 1966. Applicant offered two portfolios: Total Return Equity Portfolio and Blue Chip Portfolio.

2. On September 19, 1989, pursuant to offices of settlement from applicant's investment adviser, Bench Group, Inc., and from the investment adviser's president, Nachman Bench, the SEC issued an order imposing remedial sanctions on the investment adviser and Mr. Bench for violations of various provisions of the 1940 Act and the Investment Advisers Act of 1940 (the "Advisers Act").[1]

3. The order naming Mr. Bench as respondent found that he violated section 17(a) of the 1940 Act; that he aided and abetted violations of sections 15(a), 17(f), 17(g), 17(j), 22(c), 22(e), 31(a), and 32(a) and Rules 17f-4, 17g-1, 17j-1, 22c-1 and 31a-1 under the 1940 Act; that he violated section 204 and 206(3) of the Advisers Act and rules 204-1, 204-2, 204-3, and 206(4)-1 thereunder. The order bars him from serving or acting as an employee, officer, director, member of an advisory board, investment adviser of, depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter and compels him to refrain, for a period of six months, from soliciting or accepting new advisory clients.

4. The order naming the investment adviser as respondent found that the adviser violated section 15(a) and 17(a) of the 1940 Act and sections 204 and 206(3) of the Advisers Act and rules 204-1, 204-2, 204-3, and 206(4)-1 thereunder. The order permanently prohibits the investment adviser from, among other things, serving or acting as an investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter, and compels the adviser to refrain, for a period of six months, from soliciting or accepting new advisory clients.

5. On or about October 19, 1987, applicant began experiencing mass redemptions by its shareholders. Redeeming shareholders received net asset value for their shares. At January 1, 1989, the Blue Chip Portfolio had 484,192 shares outstanding with a per share net asset value of $7.78, and the Total Return Equity Portfolio had 6,174 shares outstanding with a per share net asset value of $0.30. By April 3, 1989, the sole shareholder remaining was applicant's investment adviser. Portfolio securities were sold at market value to meet redemption requests and commissions were paid by applicant at the rate of $0.10 per share.

6. On February 3, 1989, applicant's board of trustees authorized and recommended for shareholder approval applicant's liquidation. The liquidation of applicant was approved by the sole shareholder on June 30, 1989. Legal and accounting fees incurred in connection with the liquidation were paid by the applicant's investment adviser.

7. Applicant retains no assets and has no further liabilities. Applicant has no knowledge of any other litigation or administrative proceedings to which it is

[1] *See* Administrative Proceeding File No. 3-7280, Investment Advisers Act Rel. No. 1202, Investment Company Act Rel. No. 17141 (September 19, 1989).

a party. Applicant has no remaining shareholders other than the investment adviser.

8. Applicant is not now engaged, nor does it propose to engage, in any investment comany activities other than those necessary for the winding-up of its affairs. Applicant intends to file articles of dissolution under Massachusetts law.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-25024 Filed 10-22-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 35-25171]

Filings; Indiana Michigan Power Co. and Allegheny Generating Co.

October 18, 1990.

The period to comment or request a hearing on the proposals by Indiana Michigan Power Company (70-7714) and Allegheny Generating Company (70-7548) contained in Release No. 35-25163, which was published in the October 17, 1990 Federal Register (55 FR 42,140), has been extended from October 29, 1990 to November 1, 1990.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-25019 Filed 10-23-90; 8:45 am]

BILLING CODE 8010-01-M

[Investment Company Act Rel. No. 17803; International Series Rel. No. 178; 812-7601]

Scottish Widows International Fund; Application

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("Act").

APPLICANT: Scottish Widows International Fund.

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) from the provisions of section 12(d)(3) and rule 12d3-1.

SUMMARY OF APPLICATION: Applicant seeks a conditional order permitting it to invest in equity and convertible debt securities of foreign issuers that, in each of their most recent fiscal years, derived more than 15% of their gross revenues from their activities as a broker, dealer, underwriter or investment adviser ("foreign securities companies") in accordance with the conditions of the proposed amendments to Rule 12d3-1.

FILING DATE: The application was filed on October 5, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 13, 1990, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, c/o Robert L. Thomas, President, 60 State Street, Boston, MA 02109.

FOR FURTHER INFORMATION CONTACT: Jeremy N. Rubenstein, Branch Chief, at (202) 272-3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant is registered under the Act as an open-end, diversified management investment company. Applicant is managed by Boston Security Counsellors, Inc., a Massachusetts corporation. Scottish Widows Investment Management Limited, a Scottish corporation, serves as applicant's sub-adviser.

2. Applicant seeks to diversify its portfolio further by being permitted to invest in foreign issuers that, in their most recent fiscal year, derived more than 15% of their gross revenues from their activities as a broker, dealer, underwriter, or investment adviser.

3. Applicant seeks relief from section 12(d)(3) of the Act and Rule 12d3-1 thereunder to invest in securities of foreign securities companies to the extend allowed in the proposed amendments to rule 12d3-1. *See* Investment Company Act Release No. 17099 (Aug. 3, 1990), 54 FR 33027 (Aug. 11, 1989). Proposed amended rule 12d3-1 would, among other things, facilitate the acquisition by applicant of equity securities issued by foreign securities companies. Applicant's proposed acquisitions of securities issued by foreign securities companies will satisfy each of the requirements of proposed amended rule 12d3-1.

Applicant's Legal Conclusions

1. Section 12(d)(3) of the Act prohibits an investment company from acquiring any security issued by any person who is a broker, dealer, underwriter, or investment adviser. Rule 12d3-1 under the Act provides an exemption from section 12(d)(3) for investment companies acquiring securities of an issuer that derived more than 15% of its gross revenues in its most recent fiscal year from securities-related activities, provided the acquisitions satisfy certain conditions set forth in the rule. Subparagraph (b)(4) of rule 12d3-1 provides that "any equity security of the issuer * * * (must be) a 'margin security' as defined in Regulation T promulgated by the Board of Governors of the Federal Reserve System." Since a "margin security" generally must be one which is traded in the United States markets, securities issued by many foreign securities firms would not meet this test. Accordingly, applicant seeks an exemption from the "margin security" requirements of rule 12d3-1.

2. Proposed amended rule 12d3-1 provides that the "margin security" requirement would be excused if the acquiring company purchases the equity securities of foreign securities companies that meet criteria comparable to those applicable to equity securities of United States securities-related businesses. The criteria as set forth in the proposed amendments, "are based particularly on the policies that under lie the requirements for inclusion on the list of over-the-counter margin stocks." Investment Company Act Release No. 17099 (Aug. 3, 1989) 54 FR 33027 (Aug. 11, 1989).

Applicant's Condition

Applicant agrees to the following condition in connection with the relief requested:

Applicant will comply with the provisions of the proposed amendments to rule 12d3-1 (Investment Company Act Release No. 17099 (Aug. 3, 1989); 54 FR 33027 (Aug. 11, 1989)), and as such amendments may be reproposed, adopted, or amended.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-24870 Filed 10-22-90; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

Environmental Impact Statement on the Extension of Transit Service to the Fort Point Channel/South Boston Piers Area in Boston, MA

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Urban Mass Transportation Administration (UMTA) and the Massachusetts Bay Transportation Authority (MBTA) hereby give notice that they intend to prepare an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA) on the proposed extension of transit service in Boston, Massachusetts from midtown to the Fort Point Channel/South Boston Piers area. The largely underutilized 300-acre Piers area has been identified as a priority corridor for regional transportation improvements due to significant new development projected in the near term. Proposed transit to serve trips generated by that development would operate between the existing MBTA rapid transit system and the Boston Marine Industrial Park (BMIP). A Draft Environmental Impact Report (DEIR) for this project satisfying the Massachusetts Environmental Protection Act (MEPA) was released in September, 1990. Based on DEIR analyses, it is proposed that the EIS evaluate three build alternatives for the transit improvements in addition to the No Action alternative.

DATES: Written comments on the scope of alternatives and impacts to be considered should be sent to the MBTA by November 23, 1990. See **ADDRESSES** below.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Beth Mello, Senior Project Manager, UMTA Region 1, 55 Broadway, Cambridge, MA 02142. Telephone: (617) 494-2055.

ADDRESSES: Written comments should be sent to: Mr. Joseph Aiello, Assistant Director of Construction, MBTA, One South Station, room 2300, Boston, MA 02110. Telephone: (617) 722-6122.

SUPPLEMENTARY INFORMATION:

Scoping:

The Commonwealth of Massachusetts Executive Office of Environmental Affairs (EOEA) held two non-Federal scoping meetings for the Fort Point Channel/South Boston Piers transit project on December 10, 1987 at 1:00 p.m. and 7:00 p.m. at the Federal Reserve Bank in downtown Boston. Notice of the meetings was given in the November 12, 1987 *Environmental Monitor*, in the *Boston Globe* and *Boston Herald*, and in five regional newspapers serving the project area: *Sampan*, the *South Boston Tribune*, *The Boston Ledger*, *The Tab*, and the *South End News*. In addition, invitations to the meetings were mailed to 160 persons including private citizens, environmental, neighborhood, and conservation groups, and federal, state, and local agencies. The meetings were scheduled to be convenient for interested parties and were attended by approximately 60 persons, including representatives from over a dozen local, state, and federal agencies and several community groups. Comments on the proposed Scope of Work, alternatives to be assessed, impacts to be analyzed, and evaluation criteria to be used in decision making were requested at these meetings.

Five alternatives identified during the scoping process were analyzed for the State DEIR in terms of their effectiveness, environmental impacts, financial feasibility, and cost-effectiveness. These alternatives were No Action (incremental increases in current bus routes), Bus/TSM (high frequency surface shuttle bus service operating from South Station, Park Square, and North Station to the Piers area, and utilization of Transportation System Management (TSM) actions), At-Grade Light Rail (light rail vehicles operating in a surface transit reservation between North Station and BMIP), Underground Transitway (either people movers, light rail vehicles, or buses operating in tunnel between Boylston Street Station and the World Trade Center), and Red Line Loop (diversion of the existing Red Line heavy rail system). Based on DEIR analysis, the MBTA selected the Underground Transitway as the most advantageous alternative. Copies of the State DEIR (EOEA Number 0626) are available at the State Transportation Library, 10 Park Plaza, Boston, MA 02116, and at the Executive Office of Environmental Affairs, MEPA Unit, 100 Cambridge Street, Boston, MA 02202.

The Federal EIS will build upon work performed during the State EIR process by further analyzing variations of the Transitway and TSM alternatives. Given the substantial and ongoing public involvement process conducted for this project, no additional public scoping meeting is planned. A meeting to gain input from key Federal agencies will be held on November 8, 1990. For further information please contact Mr. Joseph Aiello at (617) 722-6122.

The MBTA and UMTA invite written comments for a period of 30 days after the publication of this notice (See **DATES** and **ADDRESSES** above). Comments should focus on the appropriateness of proposed alternatives, rather than on individual preference for a particular alternative; endorsement of an alternative should be communicated after the Draft EIS has been completed. Comments on specific social, economic, or environmental impacts to be evaluated and on evaluation criteria are also invited.

If you wish to be placed on the mailing list to receive further information as the project continues, contact Joseph Aiello at the MBTA (see **ADDRESSES** above).

Description of Study Area and Project Need: the study area consists of approximately 300 acres of largely underutilized land separated from down-town Boston by a narrow water channel. Approximately 9 million square feet of developed land, most of which is used for maritime and industrial purposes, is clustered primarily in the eastern and westernmost thirds of the area. The area is roughly defined by Fort Point Channel on the west, Boston Harbor on the north, the Reserved Channel on the east, and Summer Street on the south. Currently, only three local bus routes serve development in the Piers area.

City and State officials expect that more than 13 million square feet of new development as well as the upgrading and conversion of existing development to more intense use will occur in the area in the next fifteen years. This development would generate almost 20,000 peak hour peak direction trips per day, compared to only 7,000 trips today. Based on dramatic development projections and the shift from lesser traffic-generating land uses to others that generate much higher traffic, the transportation agencies for the greater Boston region have identified the Piers area as the priority corridor for regional transportation improvements. Transit is needed to serve projected trips, thereby furthering the environmental, social, and economic objectives of the area. These objectives include maintenance of air quality standards, improved accessibility between downtown Boston

and the Piers area, and support for planned development throughout the study area.

Alternatives: Alternatives proposed for evaluation in the federal EIS represent refinements of those evaluated during the State DEIR process. Based on technical and community processes conducted as part of the state DEIR (and a preceding Feasibility Study), three build alternatives will be analyzed further. These build alternatives in addition to the No Build alternative are described below:

(1) *No build.* Increases in conventional bus service that do not require investment in trasportation fixed facilities.

(2) *Surface Bus-Transportation System Management (TSM).* Low-to-medium cost improvements to the facilities and operations of the MBTA including high frequency shuttle bus service from key downtown transit stations and TSM actions such as proposed HOV lanes.

(3) *Underground Transitway Using Trackless Trolley Technology:* Trackless trolleys would be operated in tunnel between Boylston Street Station and the World Trade Center, portalling at D Street to provide surface operation to the Boston Marine Industrial Park. The proposed underground alignment would follow Avery Street/Hayward Place/Essex Street to South Station, turn north following Atlantic Avenue above the depressed northbound Central Artery, cross under the Fort Point Channel south of the New Northern Avenue bridge, and follow rights-of-way along New Northern Avenue and New Congress Street to the World Trade Center. Surface operation throughout the service area would be provided from a proposed portal at D Street. This alternative includes five proposed stations: (1) At existing Boylston Street Station providing transfers to the Green Line and integration with Washington Street Replacement Transit Service: (2) at Chinatown providing transfer to the Orange Line; (3) at South Station providing transfer to the Red Line and connection to both commuter rail and an air rights bus terminal; (4) at Fan Pier/Pier 4; and at a terminal station located at the World Trade Center. In addition, a shorter section of the alignment between South Station and the Piers area will be evaluated.

(4) *Underground Transitway Using Dual Mode Bus Technology:* This alternative would follow the same alignment described above but would operate dual mode (electric/diesel) buses. These buses would operate in electric mode in tunnel, switching to diesel mode to operate on surface streets without catenary. As above, a shorter alignment between South Station and the Piers area will also be evaluated.

Probable Effects: UMTA and the MBTA will evaluate all significant environmental, social, and economic impacts of the four alternatives analyzed in the EIS. Impacts include changes in the natural environment (air and water quality, rare and endangered species), changes in the social environment (land use and neighborhoods, noice and vibration, aesthetics, parklands, historic/archaeological resources) and changes in transit service and patronage; associated changes in highway congestion and traffic and parking near stations will also be evaluated. Project capital and operating costs will be estimated, cost-effectiveness calculated, and financial implications analyzed. All impacts will be evaluated for each alternative during three periods: (1) The construction perod; (2) the period during which the initial segment is operated; and (3) the long-term period of full-build operation. Mitigation measures for any adverse impacts identified will be explored.

UMTA Procedures: In accordance with the Urban Mass Transportation Act and UMTA policy, the Draft EIS will be prepared in conjunction with an Alternatives Analysis, and the Final EIS in conjunction with Preliminary Engineering. After its publication, the Draft EIS will be available for public and agency review and comment, and a public hearing will be held. On the basis of the draft EIS and the comments received, the MBTA will select a locally preferred alternative and seek approval from UMTA to continue with Preliminary Engineering and preparation of the Final EIS.

Issued on: October 17, 1990.

Richard H. Doyle,

Acting Director, Eastern Area.

[FR Doc. 90-24999 Filed 10-22-90; 8:45 am]

BILLING CODE 4910-57-M

UNITED STATES INSTITUTE OF PEACE

Grant Applications; Procedures and Deadlines

AGENCY: United States Institute of Peace.

ACTION: Notice, call for applications.

SUMMARY: The United States Institute of Peace announces the 1991 cycles of its annual Solicited Grants competition for the Grants Program. This year's topics are: (1) Curriculum Development and Teacher Training in International Peace and Conflict Management; and (2) Peace, Conflict and Governance in Latin America. The Institute encourages applications from nonprofit organizations, official public institutions, and individuals. Detailed information and application materials are available upon request.

DATES: Applications must be postmarked by January 1, 1991 in order to be considered in the current cycle. Announcements of awards will be made on or about May 1, 1991.

ADDRESSES: United States Institute of Peace: 1550 M Street, NW.—suite 700; Washington, DC 20005–1708.

FOR FURTHER INFORMATION CONTACT: Solicited Grant Projects; Hrach Gregorian, telephone (202) 457–1700.

Dated: October 18, 1990.

Bernice Carney,

Director of Administration.

[FR Doc. 90-25020 Filed 10-22-90; 8:45 am]

BILLING CODE 3155-01-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 205
Tuesday, October 23, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Wednesday, October 24, 1990, 10:30 a.m., Commission Meeting.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: OPEN TO THE PUBLIC.

MATTERS TO BE CONSIDERED:

1. Final Rules to Require Child-Resistant Packaging for Glue Removers Containing Acetonitrile and Permanent Wave Neutralizers Containing Potassium Bromate or Sodium Bromate

The staff will brief the Commission on the final rules to require child-resistant packaging for glue removers containing acetonitrile and permanent wave neutralizers containing potassium bromate or sodium bromate.

2. Safety Standard for Waterbeds: Petition CP 89-4

The staff will brief the Commission on petition CP 89-4 from the Consumer Federation of America, the New York State Attorney General and the American Academy of Pediatrics which requests a mandatory labeling standard for adult-size waterbeds.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207—301-492-6800.

Dated: October 18, 1990.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 90-25143 Filed 10-19-90; 2:17 pm]

BILLING CODE 6355-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

October 18, 1990.

TIME AND DATE: 10:00 a.m., Thursday, October 25, 1990.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Medusa Cement Company*, Docket No. SE 88-102-M. (Issues include whether the judge erred in concluding that Medusa Cement violated 30 CFR § 56.14211(d).)

Any personn intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR § 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653-5629/(202) 708-9300 for TDD Relay 1-800-877-8339 (Toll Free).

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 90-25175 Filed 10-19-90; 3:12 pm]

BILLING CODE 6735-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, October 29, 1990.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed purchase of computers within the Federal Reserve System.
2. Federal Reserve Bank and Branch director appointments.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 19, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-25180 Filed 10-19-90; 3:15 pm]

BILLING CODE 6210-01-M

Corrections

Federal Register
Vol. 55, No. 205
Tuesday, October 23, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1700

Agency Organization and Functions, Public Information and Procedures

Correction

In rule document 90-23024 beginning on page 39595 in the issue of Friday, September 28, 1990, make the following correction:

On page 39600, in the first column, in the heading of § 1700.21, "section 205" should read "section 305".

BILLING CODE 1505-01-D

FEDERAL COMMUNICATIONS COMMISSION

[DA 90-879]

Average Schedule Disbursements

Correction

In notice document 90-22524 appearing on page 39060 in the issue of Monday, September 24, 1990, make the following corrections:

1. On page 39060, in the first column, in the third line from the bottom, "weather" should read "whether".

2. On the same page, in the second column, in the fourth line from the top, "summaries" should read "summarizes".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Public Meeting

Correction

In notice document 90-24257 appearing on page 41740, in the issue of Monday, October 15, 1990, make the following correction:

On page 41740, in the first column, in the file line at the end of the document, "FR Doc. 90-24256" should read "FR Doc. 90-24257".

BILLING CODE 1505-01-D

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federal register

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October 23, 1990

Part II

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 44

Federal Acquisition Regulation (FAR); Contractor's Purchasing Systems Reviews (CPSR's); Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 44

Federal Acquisition Regulation (FAR); Contractor's Purchasing Systems Reviews (CPSR's)

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are proposing changes to the FAR concerning contractor's purchasing systems reviews (CPSR's). This revision continues the current trend to streamline the acquisition process, reduce contractor oversight, and to eliminate or reduce regulatory burdens on both the contracting officers and contractors.

DATES: Comments should be submitted to the FAR Secretariat at the address shown below on or before December 24, 1990, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 90–53 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein, Office of Federal Acquisition Policy, Room 4041, GS Building, Washington, DC 20405, (202) 501–3775. Please cite FAR Case 90–53.

SUPPLEMENTARY INFORMATION:

A. Background

The revision to FAR 44.302(b) extends the reasons a special review may be conducted to include a major change or deficiency in the contractor's policy, procedures, or key personnel. FAR 44.304(a) is revised to delete the requirement for Administrative Contracting Officers (ACO's) to make an annual determination on whether to continue purchasing system approval based on formal surveillance, or to request a CPSR or special review as a basis for continuing or withdrawing approval. This proposed revision in no way reduces the Government's responsibility or ability to maintain a sufficient level of surveillance in evaluating the contractor's purchasing system. The proposed revision to 44.304(b) substitutes the words "should include" for the words "shall include" when referring to what needs to be included in an ACO's surveillance plan. This change gives contracting officers more latitude and discretion in the development of their plan, as well as in the approach and scope of their surveillance plans. In addition the last sentence of 44.304(b) has been deleted. It is considered to be unnecessary.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. An Initial Regulatory Flexibility Analysis has therefore not been performed. However, comments from small entities concerning the affected FAR section will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite section 90–610 (FAR Case 90–53) in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Part 44

Government procurement.

Dated: October 15, 1990.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR Part 44 be amended as set forth below:

PART 44—SUBCONTRACTING POLICIES AND PROCEDURES

1. The authority citation for 48 CFR part 44 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

2. Section 44.302 is amended by revising paragraph (b) to read as follows:

44.302 Requirements.

* * * * * *

(b) A CPSR shall be conducted by the cognizant contract administration agency (see subpart 42.3) at least every 3 years for contractors that continue to meet the requirements of paragraph (a) of this section. This review may be accomplished at one time or on a continuing basis. A more frequent review cycle may be established if warranted, and special reviews may be conducted when information reveals a deficiency or major change in the contractor's purchasing system, policy, procedures or key personnel.

3. Section 44.304 is amended by removing the second sentence in paragraph (a), and by revising paragraph (b) to read as follows:

44.304 Surveillance.

* * * * *

(b) Surveillance shall be accomplished in accordance with a plan developed by the ACO with the assistance of subcontracting, audit, pricing, technical, or other specialists as necessary. The plan should cover pertinent phases of a contractor's purchasing system (preaward, postaward, performance, and contract completion) and pertinent operations that affect the contractor's purchasing and subcontracting. The plan should also provide for reviewing the effectiveness of the contractor's corrective actions taken as a result of previous Government recommendations.

[FR Doc. 90-24942 Filed 10-22-90; 8:45 am]

BILLING CODE 6820-34-M

federal register

Tuesday
October 23, 1990

Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

29 CFR Part 570

Occupations Particularly Hazardous for the Employment of Minors Between 16 and 18 Years of Age, or Detrimental to Their Health or Well-Being; Proposed Rule

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

29 CFR Part 570

Subpart E—Occupations Particularly Hazardous for the Employment of Minors Between 16 and 18 Years of Age, or Detrimental to Their Health or Well-Being

AGENCY: Wage and Hour Division, ESA, Labor.

ACTION: Proposed rule; request for comments.

SUMMARY: This document provides proposed changes to three existing Hazardous Occupations Orders (HOs), issued pursuant to section 3(l) of the Fair Labor Standards Act (hereafter, "FLSA" or "Act"), which prohibit the employment of minors under 18 years of age in occupations declared by the Secretary of Labor to be particularly hazardous for such minors, or detrimental to their health or well-being. The affected HOs are those related to the operation of a motor vehicle (HO 2), the use of power-driven meat processing equipment (HO 10), and the operation of paper-products machines (HO 12).

The proposed changes to the existing rules would: (1) Eliminate exemption procedures (essentially now dormant) contained in HO 2 which have allowed the employment of minors under 18 years of age as school bus drivers; (2) clarify that restaurants, fast food establishments, and other retail establishments are subject to HO 10 prohibiting minors under the age of 18 from using powerdriven meat processing equipment; (3) specifically provide that meat slicers are meat processing equipment within the meaning of the HO 10 prohibitions, and seek comments and data concerning injury rates and types associated with the use of meat slicers in food service establishments; and (4) amend HO 12 to expressly prohibit minors under the age of 18 from using power-driven paper machinery in the processing of waste paper.

DATES: Comments are due on or before November 23, 1990.

ADDRESSES: Submit written comments (preferably in triplicate) to Samuel D. Walker, Acting Administrator, Wage and Hour Division, ESA, U.S. Department of Labor, room S–3502, 200 Constitution Avenue NW., Washington, DC 20210.

Commenters who wish to receive notification of receipt of comments are requested to include a self-addressed, stamped post card.

FOR FURTHER INFORMATION CONTACT: Samuel D. Walker, Acting Administrator, Wage and Hour Division, U.S. Department of Labor, room S–3502, 200 Constitution Avenue NW., Washington, DC 20210, (202) 523–8305. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 3(l) and 12 of the FLSA authorize the Department of Labor to regulate youth employment to ensure that it does not interfere with the schooling, health, or well-being of minors.

Section 3(l) of the FLSA provides a minimum age of 18 years for any nonagricultural occupations which the Secretary of Labor finds to be particularly hazardous for minors 16 and 17 years of age, or detrimental to their health and well-being. The current 17 non-agricultural HOs are contained in 29 CFR part 570, subpart E.

The proposed revisions to three of the HOs are clarifying modifications that incorporate Departmental regulatory and enforcement policy.

While the Department is proposing modifying changes to these three HOs, a thorough review of all the current HOs—with particular attention to the possible development of generic rather than machine-specific HOs—is continuing, so that the regulations can reflect contemporary rather than historical realities. Part of this process has been accomplished by the Child Labor Advisory Committee, which the Department established in August 1967 to provide advice and technical expertise in the development of possible proposals to change the existing child labor standards. The Committee consists of 21 members, representing employers, education, labor, child guidance professionals, civic groups, child advocacy groups, State officials, and safety groups.

II. Paperwork Reduction Act

The proposed rules contain no reporting or recordkeeping requirements subject to the Paperwork Reduction Act. The general FLSA information collection requirements have been approved by the Office of Management and Budget under the control number 1215–0017.

III. Summary of Rule

HO 2—Occupations of Motor Vehicle Driver and Outside Helper, 29 CFR 570.52

HO 2 contains the finding that employment as a motor vehicle driver or as an outside helper on a motor vehicle is particularly hazardous for minors under the age of 18. The proposed revision to HO 2 would eliminate an exception under which States can request that 16- and 17-year old youths be permitted to drive school buses. This is a modest change because the majority of States already prohibit minors from operating school buses, and, in recent years, the Department has been phasing-out the application of this exemption. Essentially, the proposal would bring the existing regulations into conformance with current practice.

The existing HO includes a provision which permits the Secretary to grant an exemption for 16- and 17-year-old youths to drive school buses on the basis of the Secretary's approval of an application filed by the Governor of the State in which the vehicle is registered.

When public employees first were brought under coverage of the FLSA by the 1966 Amendments, such employees also became subject to FLSA's child labor provisions and regulations. A number of States that, prior to 1966, had been using youths under 18 years of age to drive school buses appealed to the Secretary for permission to continue that practice. After completion of a study and a public hearing, it was determined at that time that school bus driving was not particularly hazardous for 16- and 17-year-old minors who were carefully selected, trained, and supervised.

In 1968, an amendment to HO 2 was adopted allowing State Governors to apply annually to the Secretary of Labor for authorization to employ 16- and 17-year-old youths to drive school buses in their States. Fourteen States initially applied for the exemption to continue their practice of employing minors under age 18 to drive school buses.

In reviewing requests of Governors to use minors under age 18 to drive school buses, the Secretary weighed their compliance with eleven criteria set forth in 29 CFR 570.52 concerning selection, training, and supervision of the minors employed.

By 1986, through actions of State Departments of Education or laws passed by State legislatures, only nine State Governors requested approval to use 16- and 17-year-old youths to drive school buses. In 1987, applications were received from six State Governors for approval to use minors under age 18 to drive school buses during the school year. In the last two years, however, only one State has requested approval, and the exemption only applies to one school district in that State.

Over the years, the concern of the Department of Labor has become heightened by an increasing number of school bus accidents involving 16- and 17-year-old drivers where school children have been killed or seriously injured.

In a 1982 report, entitled "The 16/17 Year Old School Bus Driver," the Office of Driver and Pedestrian Safety of the National Highway Traffic Safety Administration (NHTSA) concluded that 16- and 17-year-old school bus drivers were overrepresented in school bus accidents. The NHTSA study covered a ten-year period (1969–1979) and the twelve states that employed school bus drivers under age 18. The study found that on the average 16 and 17-year old drivers had more accidents per million miles than drivers aged 18 and over. (Sixteen and 17-year-olds accounted for .181 accidents per driver and 22.61 accidents per million miles. Drivers aged 18 and over averaged .093 accidents per driver and 11.60 accidents per million miles.)

In addition, the Fatal Accident Reporting System (FARS) data for 1979 indicated that 16- and 17-year-olds were involved in 8.9% of all fatal school bus accidents, even though they comprised only 2.7% of all school bus drivers in the nation that year.

Following a serious school bus accident in 1985 involving a 17-year-old driver, the National Transportation Safety Board (NTSB) studied the accident rates of 16 and 17-year-old school bus drivers for three school years (1982–83 through 1984–85) for the state in which the accident occurred. The study showed that accident rates for 16- and 17-year-old drivers were significantly higher than those for older school bus drivers. The accident rate per million miles for 16- and 17-year-old drivers was 12.7 for 1982–83, 14.0 for 1983–84, and 13.2 for 1984–85. The accident rate per million miles for 18-year-old and older drivers was 8.1, 10.0, and 9.2, respectively. The NTSB recommended that the three States with the highest accident rates involving 16 and 17-year-olds discontinue the practice of hiring 16- and 17-year-olds to drive school buses.

After a comprehensive study conducted by the Department, the matter was referred to the Advisory Committee for its review and recommendations.

At its meeting in March 1988, the Committee recommended that there be no exemption from HO 2 to allow school bus driving by 16- and 17-year-olds. The Committee reviewed the States' accident and injury data, the report and recommendations of the NTSB, and other data on the factors attributed to the causes of some of the more serious accidents.

The Committee's rationale was that minors who drive school buses are subject to the following hazards: (1) Minors have difficulty maintaining discipline on school buses due to peer pressure; (2) driving a school bus is a serious responsibility; and (3) 16- and 17-year-old drivers lack experience, maturity and have poorer judgment than adults.

The Department reviewed the same data utilized by the Committee and concluded that the occupation of motor vehicle operator is too hazardous for 16- and 17-year-old youths. In comparison to adult drivers, 16- and 17-year-old minors generally have more accidents per million miles and per driver.

Accordingly, the proposed rule would eliminate the procedures for States to obtain an exemption from HO 2 for school bus drivers.

HO 10—Occupations Involving Slaughtering, Meat Packing or Processing, or Rendering, 29 CFR 570.61

HO 10, among other things, prohibits the employment of 16- and 17-year-old minors in certain occupations in or about slaughtering and meat packing establishments and rendering plants, and wholesale, retail or service establishments, including the operation or feeding, setting up, adjusting, repairing, oiling, or cleaning of specific power-driven meat-processing machines.

HO 10 applied in its original form to occupations in the slaughtering and meat packing industries. When the Congress amended the FLSA in 1961 to cover certain retail and service enterprises, the Department amended HO 10 to include such firms. Since then, the Department has consistently applied this HO to restaurants and fast food establishments. Over the past few years, however, there have been several Administrative Law Judge decisions concerning the application of HO 10 to restaurants and fast food establishments holding that the HO did not apply to such establishments. In light of this potential uncertainty concerning the application of HO 10 to the food service industry, the Department requested that the Advisory Committee also review this issue.

After reviewing the regulations, relevant case law, and other pertinent background information, the Committee recommended that HO 10 be modified to clarify that restaurants and fast food establishments are included within the HO's definition of retail and wholesale service establishments. The proposed revision to HO 10 would clarify that restaurants, fast food establishments, as well as all other retail and service establishments are subject to this Order.

Additionally, although not specifically named in the current HO, the Department has consistently interpreted the HO 10 prohibition against the use of power-driven knives as applying to meat slicers. The Committee was asked to review this matter and recommended that the Department codify this interpretation by specifically listing power-driven meat slicers.

The Department is also soliciting comments and data on the safety of meat slicers used in food service establishments. Comments should, for example, address injury rates, types of injuries, types of machines, and circumstances surrounding injury by meat slicers used in food service establishments. Information is also requested on the safety-related design and guarding of such machines currently used in these establishments. Stratification of these data by age is encouraged, although data on the safety of the machines for all employees will also be useful. Information received will be analyzed to determine whether the final HO 10 should specifically include meat slicers, exclude meat slicers, or include meat slicers while further study is undertaken.

HO 12—Occupations Involved in the Operation of Paper-Products Machines, 29 CFR 570.63

HO 12 currently defines "paper products machines" as "power-driven machines used in the remanufacture or conversion of paper or pulp into a finished product" (emphasis added). The proposed revision to HO 12 would clarify that the operation of power-driven paper machines also is prohibited where the equipment is used to convert paper into waste paper.

Since the intent of the Hazardous Orders is to prevent injury, the nature of a product or specific use of a machine should not be a determining factor of the Order. Accordingly, the Advisory Committee also recommended that HO 12 be revised to prohibit the operation of all power-driven paper products machines, regardless of the products being manufactured or processed, or the type of establishment in which they are used. As the regulation is written at present, the term "paper products machine" is defined to include scrap-paper balers and other power-driven machines "used in the remanufacture or conversion of paper or pulp into a finished product." The Department's experience has shown that scrap paper

balers are used in many grocery and other retail stores and operations to compact empty boxes and other forms of waste paper for the purpose of disposing of them. The Department believes that the proposed change would clarify the issue regarding the ultimate disposition of the paper and would provide a proper focus on the intent of the prohibition, which is to prevent injury to the minor based on the potential hazards of operating the equipment.

Accordingly, the proposed rule would clarify that the use of power-drive paper products machines is within the scope of HO 12, irrespective of the ultimate use of the paper product processed or the type of establishment in which such machines are used.

IV. Executive Order 12291

This rule is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, no regulatory impact analysis is required.

V. Regulatory Flexibility Act

The proposed rules, if promulgated, will not have a significant effect on a substantial number of small entities. This conclusion is based on all information presently available to the Department. The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. As discussed above, the proposed revisions to these three HOs are narrow, technical, clarifying modifications that incorporate Departmental regulatory and enforcement policy.

This document was prepared under the direction and control of Samuel D. Walker, Acting Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 570

Employment, Investigations, Labor, Law enforcement.

Signed at Washington, DC, on this 17th day of October 1990.

Elizabeth Dole,

Secretary of Labor.

William C. Brooks,

Assistant Secretary for Employment Standards.

Samuel D. Walker,

Acting Administrator, Wage and Hour Division.

For the reasons set out in the preamble, title 29, part 570, subpart E of the Code of Federal Regulations is proposed to be amended as follows.

PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION

1. The authority citation for part 570 continues to read as follows:

Authority: Secs. 3, 11, 12, 52 Stat. 1060, as amended, 1066, as amended, 1067, as amended; 29 U.S.C. 203, 211, 212.

2. Section 570.52 is proposed to be revised to read as follows:

§ 570.52 Occupations of motor-vehicle driver and outside helper (Order 2).

(a) *Findings and declaration of fact.* Except as provided in paragraph (b) of this section, the occupations of motor-vehicle driver and outside helper on any public road, highway, in or about any mine (including open pit mine or quarry), place where logging or sawmill operations are in progress, or in any excavation of the type identified in § 570.68(a) are particularly hazardous for the employment of minors between 16 and 18 years of age.

(b) *Exemption—Incidental and occasional driving.* The findings and declaration in paragraph (a) of this section shall not apply to the operation of automobiles or trucks not exceeding 6,000 pounds gross vehicle weight if such driving is restricted to daylight hours *Provided* such operation is only occasional and incidental to the minor's employment; that the minor holds a State license valid for the type of driving involved in the job performed and has completed a State approved driver education course; *and provided further,* That the vehicle is equipped with a seat belt or similar restraining device for the driver and for each helper, and the employer has instructed each minor that such belts or other devices must be used. This paragraph shall not be applicable to any occupation of motor-vehicle driver which involves the towing of vehicles.

(c) *Definitions.* For purpose of this section:

(1) The term *motor vehicle* shall mean any automobile, truck, truck-tractor, trailer, semitrailer, motorcycle, or similar vehicle propelled or drawn by mechanical power and designed for use as a means of transportation but shall not include any vehicle operated exclusively on rails.

(2) The term *driver* shall mean any individual who, in the course of employment, drives a motor vehicle at any time.

(3) The term *outside helper* shall mean any individual, other than a driver, whose work includes riding on a motor vehicle outside the cab for the purpose of assisting in transporting or delivering goods.

(4) The term *gross vehicle weight* includes the truck chassis with lubricants, water and a full tank or tanks of fuel, plus the weight of the cab or driver's compartment, body and special chassis and body equipment, and payload.

3. Section 570.61 is proposed to be revised to read as follows:

§ 570.61 Occupations in the operation of power-driven meat-processing machines and occupations involving slaughtering, meat packing or processing or rendering (Order 10).

(a) *Findings and declaration of fact.* The following occupations in or about slaughtering and meat packing establishments, rendering plants, or wholesale, retail or service establishments are particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being:

(1) All occupations on the killing floor, in curing cellars, and in hide cellars, except the work of messengers, runners, handtruckers, and similar occupations which require entering such workrooms or workplaces infrequently and for short periods of time.

(2) All occupations involved in the recovery of lard and oils, except packaging and shipping of such products and the operation of lard-roll machines.

(3) All occupations involved in tankage or rendering of dead animals, animal offal, animal fats, scrap meats, blood, and bones into stock feeds, tallow, inedible greases, fertilizer ingredients, and similar products.

(4) All occupations involved in the operation or feeding of the following power-driven machines, including setting-up, adjusting, repairing, oiling, or cleaning such machines, regardless of the product being processed by these machines: Meat patty forming machines, meat and bone cutting saws, meat slicers, knives (except bacon-slicing machines), headsplitters, and guillotine cutters; snoutpullers and jaw-pullers;

skinning machines; horizontal rotary washing machines; casing-cleaning machines such as crushing, stripping, and finishing machines; grinding, mixing, chopping, and hashing machines; and presses (except belly-rolling machines).

(5) All boning occupations.

(6) All occupations that involve the pushing or dropping of any suspended carcass, half carcass, or quarter carcass.

(7) All occupations involving handlifting or hand-carrying any carcass or half carcass of beef, pork, or horse, or any quarter carcass of beef or horse.

(b) *Definitions.* As used in this section:

(1) The term *slaughtering and meat packing establishments* means places in or about which cattle, calves, hogs, sheep, lambs, goats, or horses are killed, butchered, or processed. The term also includes establishments which manufacture or process meat products or sausage casings from such animals.

(2) The term *rendering plants* means establishments engaged in the conversion of dead animals, animal offal, animal fats, scrap meats, blood, and bones into stock feeds, tallow, inedible greases, fertilizer ingredients, and similar products.

(3) The term *killing floor* includes a workroom, workplace where cattle, calves, hogs, sheep, lambs, goats, or horses are immobilized, shackled, or killed, and the carcasses are dressed prior to chilling.

(4) The term *curing cellar* includes a workroom or workplace which is primarily devoted to the preservation and flavoring of meat by curing materials. It does not include a workroom or workplace solely where meats are smoked.

(5) The term *hide cellar* includes a workroom or workplace where hides are graded, trimmed, salted, and otherwise cured.

(6) The term *boning occupations* means the removal of bones from meat cuts. It does not include work that involves cutting, scraping, or trimming meat from cuts containing bones.

(7) The term *retail/wholesale or service establishments* includes establishments where meat or meat products are processed or handled, such as butcher shops, grocery stores, restaurants/fast-food establishments, hotels, delicatessens, and meat-locker (freezer-locker) companies, and establishments where any food product is prepared or processed for serving to customers using machines prohibited by section (a) of this Order.

(c) *Exemptions.* This section shall not apply to:

(1) The killing and processing of poultry, rabbits, or small game in areas physically separated from the killing floor.

(2) The employment of apprentices or student-learners under the conditions prescribed in § 570.50 (b) and (c).

4. Section 570.63 is proposed to be revised to read as follows:

§ 570.63 Occupations involved in the operation of paper products machines (Order 12)

(a) *Findings and declaration of fact.* The following occupations are particularly hazardous for the employment of minors between 16 and 18 years of age:

(1) The occupations of operation or assisting to operate any of the following power-driven paper products machines:

(i) Arm-type wire stitcher or stapler, circular or band saw, corner cutter or mitering machine, corrugating and single-or-double-facing machine, envelope die-cutting press, guillotine paper cutter or shear, horizontal bar scorer, laminating or combining machine, sheeting machine, scrap-paper baler, or vertical slotter.

(ii) Platen die-cutting press, platen printing press, or punch press which involves hand feeding of the machine.

(2) The occupations of setting up, adjusting, repairing, oiling, or cleaning these machines including those which do not involve hand feeding.

(b) *Definitions.* (1) The term *operating or assisting to operate* shall mean all work which involves starting or stopping a machine covered by this section, placing or removing materials into or from the machine, or any other work directly involved in operating the machine.

(2) The term *paper products* machine shall mean all power-driven machines used in (i) the remanufacture or conversion of paper or pulp into a finished product; or (ii) the preparation of such materials for disposal. The term applies to such machines whether they are used in establishments that manufacture converted paper or pulp products, or in any other type of manufacturing or non-manufacturing establishment.

(c) *Exemptions.* This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in § 570.50 (b) and (c).

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Part IV

United States Sentencing Commission

Revisions to the Sentencing Guidelines for United States Courts; Notice

UNITED STATES SENTENCING COMMISSION

Revisions to the Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of final action regarding amendments to sentencing guidelines and policy statements effective November 1, 1990.

SUMMARY: The Sentencing Commission hereby gives public notice of several actions taken pursuant to its authority under section 217(a) of the Comprehensive Crime Control Act of 1984 (28 U.S.C. 994 (a) and (u)). The Commission has reviewed amendments submitted to Congress on April 26, 1990, that may result in a lower guideline range and has designated two such amendments for inclusion in policy statement 1B1.10 (Retroactivity of Amended Guideline Range). Also, the Commission has promulgated new policy statements for revocation of probation and supervised release. Finally, the Commission approved several minor editorial, clarifying, and conforming amendments to the Guidelines Manual as set forth below.

DATES: The Commission has specified an effective date of November 1, 1990, for these actions.

FOR FURTHER INFORMATION CONTACT: Paul K. Martin, Communications Director, Telephone: (202) 626-8500.

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission is an independent agency in the judicial branch of the U.S. Government. The Commission is empowered by 28 U.S.C. 994(a) to promulgate sentencing guidelines and policy statements for federal sentencing courts. Sections 994 (o) and (p) of title 28, United States Code, further direct the Commission to periodically review and revise guidelines and policy statements previously promulgated, and require that guideline amendments be submitted to Congress for review. Absent action of the Congress to the contrary, guideline amendments become effective following 180 days of Congressional review on the date specified by the Commission (*i.e.*, November 1, 1990). Unlike new guidelines and amendments thereto issued pursuant to 28 U.S.C. 994 (a) and (p), sentencing policy statements, commentary, and amendments thereto promulgated by the Commission are not required to be submitted to Congress for 180 days' review prior to their taking effect.

The policy statements on revocation of probation and supervised release set forth below supplant the existing policy statements in Chapter Seven of the Guidelines Manual. These policy statements, issued pursuant to the specific directive in 28 U.S.C. 994 (a)(3), provide more extensive guidance to courts in imposing an appropriate sanction upon revocation of probation or supervised release. The Commission intends that courts will be guided by these policy statements, promulgated specifically for revocation decisions, rather than by the guidelines applicable to initial sentencing decisions. While the revocation policy statements are not binding upon courts in the same fashion as revocation guidelines would be, the Commission strongly encourages their use and welcomes comments regarding the policy statements prior to the issuance of revocation guidelines at a future date.

In connection with its ongoing review of the Guidelines Manual, the Commission continues to welcome comment on any aspect of the sentencing guidelines, policy statements, and official commentary. Comments should be sent to: The United States Sentencing Commission, 1331 Pennsylvania Avenue, NW., suite 1400, Washington, DC 20004, Attn: Communications Director.

Authority: Section 217(a) of the Comprehensive Crime Control Act of 1984 (28 U.S.C. 994(a)).

William W. Wilkins, Jr.
Chairman.

Additional Revisions to the Guidelines Manual

(1) Subsection (d) of § 1B1.10 (Retroactivity of Amended Guideline Range (Policy Statement)) is amended by deleting "and 269" and inserting in lieu thereof "269, 328, and 341".

This amendment implements the directive in 28 U.S.C. 994(u) in respect to the guideline amendments effective November 1, 1990.

(2) Chapter Seven is deleted in its entirety as follows:

CHAPTER SEVEN—VIOLATIONS OF PROBATION AND SUPERVISED RELEASE

§ 7A1.1. Reporting of Violations of Probation and Supervised Release (Policy Statement)

(a) The Probation Officer shall promptly report to the court any alleged violation of a condition of probation or supervised release that constitutes new criminal conduct, other than conduct that would constitute a petty offense.

(b) The Probation Officer shall promptly report to the court any other alleged violation of a condition of probation or supervised release, unless the officer determines: (1) that such violation is minor, not part of a continuing pattern of violation, and not indicative of a serious adjustment problem; and (2) that non-reporting will not present an undue risk to the public or be inconsistent with any directive of the court relative to the reporting of violations.

Commentary

This policy statement addresses the reporting of volations of probation and supervised release. It is the Commission's intent that significant violations be promptly reported to the court. At the same time, the Commission realizes that it would neither be practical nor desirable to require such reporting for every minor violation.

§ 7A1.2. Revocation of Probation (Policy Statement)

(a) Upon a finding of a violation of probation involving new criminal conduct, other than criminal conduct constituting a petty offense, the court shall revoke probation.

(b) Upon a finding of a violation of probation involving conduct other than conduct under subsection (a), the court may: (1) Revoke probation; or (2) extend the term of probation and/or modify the conditions of probation.

Commentary

This policy statement expresses a presumption that probation is to be revoked in the case of new criminal conduct other than a petty offense. For lesser violations, the policy statements provide that the court may revoke probation, extend the term of supervision, or modify the conditions of supervision.

§ 7A1.3. Revocation of Supervised Release (Policy Statement)

(a) Upon a finding of a violation of supervised release involving new criminal conduct, other than criminal conduct constituting a petty offense, the court shall revoke supervised release.

(b) Upon a finding of a violation of supervised release involving conduct other than conduct under subsection (a), the court may: (1) revoke supervised release; or (2) extend the term of supervised release and/or modify the conditions of supervised release.

Commentary

This policy statement expresses a presumption that supervised release is to be revoked in the case of new criminal conduct other than a petty offense. For lesser violations, the policy statements provide that the court may revoke supervised release,

extend the term of supervision, or modify the conditions of supervision.

§ 7A1.4. No Credit for Time Under Supervision (Policy Statement)

(a) Upon revocation of probation, no credit shall be given (toward any sentence of imprisonment imposed) for any portion of the term of probation served prior to revocation.

(b) Upon revocation of supervised release, no credit shall be given (toward any term of imprisonment ordered) for time previously served on post-release supervision.

Commentary

This policy statement provides that time served on probation or supervised release is not to be credited in the determination of any term of imprisonment imposed upon revocation."

and the following inserted in lieu thereof:

CHAPTER SEVEN—VIOLATIONS OF PROBATION AND SUPERVISED RELEASE

Part A—Introduction to Chapter Seven

1. Authority

Under 28 U.S.C. 994(a)(3), the Sentencing Commission is required to issue guidelines or policy statements applicable to the revocation of probation and supervised release. At this time, the Commission has chosen to promulgate policy statements only. These policy statements will provide guidance while allowing for the identification of any substantive or procedural issues that require further review. The Commission views these policy statements as evolutionary and will review relevant data and materials concerning revocation determinations under these policy statements. Revocation guidelines will be issued after federal judges, probation officers, practitioners, and others have the opportunity to evaluate and comment on these policy statements.

2. Background

(a) Probation

Prior to the implementation of the federal sentencing guidelines, a court could stay the imposition or execution of sentence and place a defendant on probation. When a court found that a defendant violated a condition of probation, the court could continue probation, with or without extending the term or modifying the conditions, or revoke probation and either impose the term of imprisonment previously stayed, or, where no term or imprisonment had originally been imposed, impose any term of imprisonment that was available at the initial sentencing.

The statutory authority to "suspend" the imposition or execution of sentence in order to impose a term of probation was abolished upon implementation of the sentencing guidelines. Instead, the Sentencing Reform Act recognized probation as a sentence in itself. 18 U.S.C. 3561. Under current law, if the court finds that a defendant violated a condition of probation, the court may continue probation, with or without extending the term or modifying the conditions, or revoke probation and impose any other sentence that initially could have been imposed. 18 U.S.C. 3565. For certain violations, revocation is required by statute.

(b) Supervised Release

Supervised release, a new form of post-imprisonment supervision created by the Sentencing Reform Act, accompanied implementation of the guidelines. A term of supervised release may be imposed by the court as a part of the sentence of imprisonment at the time of initial sentencing. 18 U.S.C. 3583(a). Unlike parole, a term of supervised release does not replace a portion of the sentence of imprisonment, but rather is an order of supervision in addition to any term of imprisonment imposed by the court. Accordingly, supervised release is more analogous to the additional "special parole term" previously authorized for certain drug offenses.

With the exception of intermittent confinement, which is available only for a sentence of probation, the conditions of supervised release authorized by statute are the same as those for a sentence of probation. When the court finds that the defendant violated a condition of supervised release, it may continue the defendant on supervised release, with or without extending the term or modifying the conditions, or revoke supervised release and impose a term of imprisonment. The periods of imprisonment authorized by statute for a violation of the conditions of supervised release generally are more limited, however, than those available for a violation of the conditions of probation. 18 U.S.C. § 3583(e)(3).

3. Resolution of Major Issues

(a) Guidelines Versus Policy Statements

At the outset, the Commission faced a choice between promulgating guidelines or issuing advisory policy statements for the revocation of probation and supervised release. After considered debate and input from judges, probation officers, and prosecuting and defense attorneys, the Commission decided, for a variety of reasons, initially to issue policy statements. Not only was the policy statement option expressly authorized by statute, but this approach provided greater flexibility to both the Commission and the courts. Unlike guidelines, policy statements are not subject to the May 1 statutory deadline for submission to Congress, and the Commission believed that it would benefit from the additional time to consider complex issues relating to revocation guidelines provided by the policy statement option.

Moreover, the Commission anticipates that, because of its greater flexibility, the policy statement option will provide better opportunities for evaluation by the courts and the Commission. This flexibility is important, given that supervised release as a method of post-incarceration supervision and transformation of probation from a suspension of sentence to a sentence in itself represent recent changes in federal sentencing practices. After an adequate period of evaluation, the Commission intends to promulgate revocation guidelines.

(b) Choice Between Theories

The Commission debated two different approaches to sanctioning violations of probation and supervised release.

The first option considered a violation resulting from a defendant's failure to follow the court-imposed conditions of probation or supervised release as a "breach of trust." While the nature of the conduct leading to the revocation would be considered in measuring the extent of the breach of trust, imposition of an appropriate punishment for any new criminal conduct would not be the primary goal of a revocation sentence. Instead, the sentence imposed upon revocation would be intended to sanction the violator for failing to abide by the conditions of the court-ordered supervision, leaving the punishment for any new criminal conduct to the court responsible for imposing the sentence for that offense.

The second option considered by the Commission sought to sanction violators for the particular conduct triggering the revocation as if that conduct were being sentenced as new federal criminal conduct. Under this approach, offense guidelines in Chapters Two and Three of the Guidelines Manual would be applied to any criminal conduct that formed the basis of the violation, after which the criminal history in Chapter Four of the Guidelines Manual would be recalculated to determine the appropriate revocation sentence. This

option would also address a violation not constituting a criminal offense.

After lengthy consideration, the Commission adopted an approach that is consistent with the theory of the first option; i.e., at revocation the court should sanction primarily the defendant's breach of trust, while taking into account, to a limited degree, the seriousness of the underlying violation and the criminal history of the violator.

The Commission adopted this approach for a variety of reasons. First, although the Commission found desirable several aspects of the second option that provided for a detailed revocation guideline system similar to that applied at the initial sentencing, extensive testing proved it to be impractical. In particular, with regard to new criminal conduct that constituted a violation of state or local law, working groups expert in the functioning of federal criminal law noted that it would be difficult in many instances for the court or the parties to obtain the information necessary to apply properly the guidelines to this new conduct. The potential unavailability of information and witnesses necessary for a determination of specific offense characteristics or other guideline adjustments could create questions about the accuracy of factual findings concerning the existence of those factors.

In addition, the Commission rejected the second option because that option was inconsistent with its views that the court with jurisdiction over the criminal conduct leading to revocation is the more appropriate body to impose punishment for that new criminal conduct, and that, as a breach of trust inherent in the conditions of supervision, the sanction for the violation of trust should be in addition, or consecutive, to any sentence for the new conduct. In contrast, the second option would have the revocation court substantially duplicate the sanctioning role of the court with jurisdiction over a defendant's new criminal conduct and would provide for the punishment imposed upon revocation to run concurrently with, and thus generally be subsumed in, any sentence imposed for that new criminal conduct.

Further, the sanctions available to the courts upon revocation are, in many cases, more significantly restrained by statute. Specifically, the term of imprisonment that may be imposed upon revocation of supervised release is limited by statute to not more than five years for persons convicted of Class A felonies, except for certain title 21 drug offenses; not more than three years for Class B felonies; not more than two years for Class C or D felonies; and not more than one year for Class E felonies. 18 U.S.C. 3583(e)(3).

Given the relatively narrow ranges of incarceration available in many cases, combined with the potential difficulty in obtaining information necessary to determine specific offense characteristics, the Commission felt that it was undesirable at this time to develop guidelines that attempt to distinguish, in detail, the wide variety of behavior that can lead to revocation. Indeed, with the relatively low ceilings set by statute, revocation policy statements that attempted to delineate with great particularity the gradations of conduct leading to revocation would frequently result in a sentence at the statutory maximum penalty.

Accordingly, the Commission determined that revocation policy statements that provided for three broad grades of violations would permit proportionally longer terms for more serious violations and thereby would address adequately concerns about proportionality, without creating the problems inherent in the second option.

4. The Basic Approach

The revocation policy statements categorize violations of probation and supervised release in three broad classifications ranging from serious new felonious criminal conduct to less serious criminal conduct and technical violations. The grade of the violation, together with the violator's criminal history category calculated at the time of the initial sentencing, fix the applicable sentencing range.

The Commission has elected to develop a single set of policy statements for revocation of both probation and supervised release. In reviewing the relevant literature, the Commission determined that the purpose of supervision for probation and supervised release should focus on the integration of the violator into the community, while providing the supervision designed to limit further criminal conduct. Although there was considerable debate as to whether the sanction imposed upon revocation of probation should be different from that imposed upon revocation of supervised release, the Commission has initially concluded that a single set of policy statements is appropriate.

5. A Concluding Note

The Commission views these policy statements for revocation of probation and supervised release as the first step in an evolutionary process. The Commission expects to issue revocation guidelines after judges, probation officers, and practitioners have had an opportunity to apply and comment on the policy statements.

In developing these policy statements, the Commission assembled two outside working groups of experienced probation officers representing every circuit in the nation, officials from the Probation Division of the Administrative Office of the U.S. Courts, the General Counsel's office at the Administrative Office of the U.S. Courts, and the U.S. Parole Commission. In addition, a number of federal judges, members of the Criminal Law and Probation Administration Committee of the Judicial Conference, and representatives from the Department of Justice and federal and community defenders provided considerable input into this effort.

Part B—Probation and Supervised Release Violations

Introductory Commentary

The policy statements in this chapter seek to prescribe penalties only for the violation of the judicial order imposing supervision. Where a defendant is convicted of a criminal charge that also is a basis of the violation, these policy statements do not purport to provide the appropriate sanction for the criminal charge itself. The Commission has concluded that the determination of the appropriate sentence on any new criminal conviction should be a separate determination for the court having jurisdiction over such conviction.

Because these policy statements focus on the violation of the court-ordered supervision, this chapter, to the extent permitted by law, treats violations of the conditions of probation and supervised release as functionally equivalent.

Under 18 U.S.C. 3584, the court, upon consideration of the factors set forth in 18 U.S.C. 3553(a), including applicable guidelines and policy statements issued by the Sentencing Commission, may order a term of imprisonment to be served consecutively or concurrently to an undischarged term of imprisonment. It is the policy of the Commission that the sanction imposed upon revocation is to be served consecutively to any other term of imprisonment imposed for any criminal conduct that is the basis of the revocation.

This chapter is applicable in the case of a defendant under supervision for a felony or Class A misdemeanor. Consistent with § 1B1.9 (Class B or C Misdemeanors and Infractions), this chapter does not apply in the case of a defendant under supervision for a Class B or C misdemeanor or an infraction.

§ 7B1.1. Classification of Violations (Policy Statement)

(a) There are three grades of probation and supervised release violations:

(1) Grade A Violations—conduct constituting (A) a Federal, State, or local offense punishable by a term of imprisonment exceeding one year that (i) is a crime of violence, (ii) is a controlled substance offense, or (iii) involves possession of a firearm or destructive device of a type described in 26 U.S.C. 5845(a); or (B) any other Federal, State, or local offense punishable by a term of imprisonment exceeding twenty years;

(2) Grade B Violations—conduct constituting any other Federal, State, or local offense punishable by a term of imprisonment exceeding one year;

(3) Grace C Violations—conduct constituting (A) a Federal, State, or local offense punishable by a term of imprisonment of one year or less; or (B) a violation of any other condition of supervision.

(b) Where there is more than one violation of the conditions of supervision, or the violation includes conduct that constitutes more than one offense, the grade of the violation is determined by the violation having the most serious grade.

Commentary

Application Notes

1. Under 18 U.S.C. 3563(a)(1) and 3583(d), a mandatory condition of probation and supervised release is that the defendant not commit another Federal, State, or local crime. A violation of this condition may be charged whether or not the defendant has been the subject of a separate Federal, State or local prosecution for such conduct. The grade of violation does not depend upon the conduct that is the subject of criminal charges or of which the defendant is convicted in a criminal proceeding. Rather, the grade of the violation is to be based on the defendant's actual conduct.

2. "Crime of violence" has the same meaning as set forth in § 4B1.2(1), and includes any offense under federal or state law punishable by imprisonment for a term exceeding one year that—

(i) has as an element the use, attempted use, or threatened use of physical force against the person of another; or

(ii) is burglary of a dwelling, arson, or extortion, involves use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another.

A crime of violence includes murder, manslaughter, kidnapping, aggravated assault, forcible sex offenses, robbery, arson, extortion, extortionate extension of credit, and burglary of a dwelling. Other offenses are included where (A) that offense has as an element the use, attempted use, or threatened use of physical force against the person of another, or (B) the conduct set forth in the violation charged involved use of explosives or, by its nature, presented a serious potential risk of physical injury to another. A crime of violence also includes the offenses of aiding and abetting, conspiring, and attempting to commit such offenses.

3. "Controlled substance offense" includes any offense under a federal or state law prohibiting the manufacture, import, export, distribution, or dispensing of a controlled substance (or a counterfeit substance) or the possession of a controlled substance (or a counterfeit substance) with the intent to manufacture, import, export, distribute, or dispense. A controlled substance offense also includes the offenses of aiding and abetting, conspiring, and attempting to commit such offenses.

4. A "firearm or destructive device of a type described in 26 U.S.C. 5845(a)" includes a shotgun, or a weapon made from a shotgun, with a barrel or barrels of less than 18 inches in length; a weapon made from a shotgun or rifle with an overall length of less than 26 inches; a rifle, or a weapon made from a rifle, with a barrel or barrels of less than 16 inches in length; a machine gun; a muffler or silencer for a firearm; a destructive device; and certain large bore weapons.

5. Where the defendant is under supervision in connection with a felony conviction, or has a prior felony conviction, possession of a firearm (other than a firearm of a type described in 26 U.S.C. 5845(a)) will generally constitute a Grade B violation, because 18 U.S.C. 922(g) prohibits a convicted felon from possessing a firearm. The term "generally" is used in the preceding sentence, however, because there are certain limited exceptions to the applicability of 18 U.S.C. 922(g). See, e.g., 18 U.S.C. 925(c).

§ 7B1.2. Reporting of Violations of Probation and Supervised Release (Policy Statement)

(a) The probation officer shall promptly report to the court any alleged Grade A or B violation.

(b) The probation officer shall promptly report to the court any alleged Grade C violation unless the officer determines: (1) That such violation is minor, and not part of a continuing pattern of violations; and (2) that non-reporting will not present an undue risk to an individual or the public or be inconsistent with any directive of the court relative to the reporting of violations.

Commentary

Application Note

1. Under subsection (b), a Grade C violation must be promptly reported to the court unless the probation officer makes an affirmative determination that the alleged violation meets the criteria for non-reporting. For example, an isolated failure to file a monthly report or a minor traffic infraction generally would not require reporting.

§ 7B1.3. Revocation of Probation or Supervised Release (Policy Statement)

(a)(1) Upon a finding of a Grade A or B violation, the court shall revoke probation or supervised release.

(2) Upon a finding of a Grade C violation, the court may (A) revoke probation or supervised release; or (B) extend the term of probation or supervised release and/or modify the conditions of supervision.

(b) In the case of a revocation of probation or supervised release, the applicable range of imprisonment is that set forth in § 7B1.4 (Term of Imprisonment).

(c) In the case of a Grade B or C violation—

(1) Where the minimum term of imprisonment determined under § 7B1.4 (Term of Imprisonment) is at least one month but not more than six months, the minimum term may be satisfied by (1) a sentence of imprisonment; or (2) a sentence of imprisonment that includes a term of supervised release with a condition that substitutes community confinement or home detention according to the schedule in § 5C1.1(e) for any portion of the minimum term; and

(2) Where the minimum term of imprisonment determined under § 7B1.4 (Term of Imprisonment) is more than six months but not more than ten months, the minimum term may be satisfied by (1) a sentence of imprisonment; or (2) a sentence of imprisonment that includes a term of supervised release with a condition that substitutes community confinement or home detention according to the schedule in § 5C1.1(e), provided that at least one-half of the minimum term is satisfied by imprisonment.

(3) In the case of a revocation based, at least in part, or on a violation of a condition specifically pertaining to community confinement, intermittent confinement, or home detention, use of the same or a less restrictive sanction is not recommended.

(d) Any restitution, fine, community confinement, home detention, or intermittent confinement previously imposed in connection with the sentence for which revocation is ordered that remains unpaid or unserved at the time of revocation shall be ordered to be paid or served in addition to the sanction determined under § 7B1.4 (Term of Imprisonment), and any such unserved period of community confinement, home detention, or intermittent confinement may be converted to an equivalent period of imprisonment.

(e) Where the court revokes probation or supervised release and imposes a term of imprisonment, it shall increase the term of imprisonment determined under subsections (b), (c), and (d) above by the amount of time in official detention that will be credited toward service of the term of imprisonment under 18 U.S.C. 3585(b), other than time

in official detention resulting from the federal probation or supervised release violation warrant or proceeding.

(f) Any term of imprisonment imposed upon the revocation of probation or supervised release shall be ordered to be served consecutively to any sentence of imprisonment that the defendant is serving, whether or not the sentence of imprisonment being served resulted from the conduct that is the basis of the revocation of probation or supervised release.

(g)(1) Where probation is revoked and a term of imprisonment is imposed, the provisions of §§ 5D1.1–1.3 shall apply to the imposition of a term of supervised release.

(2) Where supervised release is revoked and the term of imprisonment imposed is less than the maximum term of imprisonment imposable upon revocation, the defendant may, to the extent permitted by law, be ordered to recommence supervised release upon release from imprisonment.

Commentary

Application Notes

1. Revocation of probation or supervised release generally is the appropriate disposition in the case of a Grade C violation by a defendant who, having been continued on supervision after a finding of violation, again violates the conditions of his supervision.

2. The provisions for the revocation, as well as early termination and extension, of a term of supervised release are found in 18 U.S.C. 3583(e). This statute, however, neither expressly authorizes nor precludes a court from ordering that a term of supervised release recommence after revocation. Under § 7B1.3(f)(2), the court may order, to the extent permitted by law, the recommencement of a supervised release term following revocation.

3. Subsection (c) provides for the use of certain alternatives to imprisonment upon revocation. It is to be noted, however, that a court may decide that not every alternative is authorized by statute in every circumstance. For example, in United States v. Behnezhad, No. 89–10529 (9th Cir. July 3, 1990), the Ninth Circuit held that where a term of supervised release was revoked there was no statutory authority to impose a further term of supervised release. Under this decision, in the case of a revocation of a term of supervised release, an alternative that is contingent upon imposition of a further term of supervised release (e.g., a period of imprisonment followed by a period of community confinement or detention as a condition of supervised release) cannot be implemented. The Commission has transmitted to the Congress a proposal for a statutory amendment to address this issue.

4. Subsection (e) is designed to ensure that the revocation penalty is not decreased by credit for time in official detention other than time in official detention resulting from the federal probation or supervised release violation warrant or proceeding. Example: A defendant, who was in pre-trial detention for three months, is placed on probation, and subsequently violates that probation. The court finds the violation to be a Grade C violation, determines that the applicable range of imprisonment is 4–10 months, and determines that revocation of probation and imposition of a term of imprisonment of four months is appropriate. Under subsection (e), a sentence of seven months imprisonment would be required because the Bureau of Prisons, under 18 U.S.C. 3585(b), will allow the defendant three months' credit toward the term of imprisonment imposed upon revocation.

5. Subsection (f) provides that any term of imprisonment imposed upon the revocation of probation or supervised release shall run consecutively to any sentence of imprisonment being served by the defendant. Similarly, it is the Commission's recommendation that any sentence of imprisonment for a criminal offense that is imposed after revocation of probation or supervised release be run consecutively to any term of imprisonment imposed upon revocation.

6. Intermittent confinement is authorized only as a condition of probation during the first year of the term of probation. 18 U.S.C. 3563(b)(11). Intermittent confinement is not authorized as a condition of supervised release. 18 U.S.C. 3583(d).

§ 7B1.4 Term of Imprisonment (Policy Statement)

(a) The range of imprisonment applicable upon revocation is set forth in the following table:

REVOCATION TABLE (MONTHS OF IMPRISONMENT)

[Criminal History Category*]

Grade of violation	I	II	III	IV	V	VI
Grade C	3–9	4–10	5–11	6–12	7–13	8–14
Grade B	4–10	6–12	8–14	12–18	18–24	21–27
Grade A						
(1) Except as provided in subdivision (2) below	12–18	15–21	18–24	24–30	30–37	33–41
(2) Where the defendant was on probation or supervised release as a result of a sentence for A Class A felony	24–30	27–33	30–37	37–46	46–57	51–63

*The criminal history category is the category applicable at the time the defendant originally was sentenced to a term of supervision.

(b) Provided, that—

(1) Where the statutorily authorized maximum term of imprisonment that is imposable upon revocation is less than the minimum of the applicable range, the statutorily authorized maximum term shall be substituted for the applicable range; and

(2) Where the minimum term of imprisonment required by statute, if any, is greater than the maximum of the applicable range, the minimum term of imprisonment required by statute shall be substituted for the applicable range.

(3) In any other case, the sentence upon revocation may be imposed at any point within the applicable range, provided that the sentence—

(A) is not greater than the maximum term of imprisonment authorized by statute; and

(B) is not less than any minimum term of imprisonment required by statute.

Commentary

Application Notes

1. The criminal history category to be used in determining the applicable range of imprisonment in the Revocation Table is the category determined at the time the defendant originally was sentenced to the term of supervision. The criminal history category is not to be recalculated because the ranges set forth in the Revocation Table have been designed to take into account that the defendant violated supervision. In the rare case in which no criminal history category was determined when the defendant originally was sentenced to the term of supervision being revoked, the court shall determine the criminal history category that would have been applicable at the time the defendant originally was sentenced to the term of supervision. (See the criminal history provisions of §§ 4A1.1–4B1.4.)

2. Departure from the applicable range of imprisonment in the Revocation Table may be warranted when the court departed from the applicable range for reasons set forth in § 4A1.3 (Adequacy of Criminal History Category) in originally imposing the sentence that resulted in supervision. Additionally, an upward departure may be warranted when a defendant, subsequent to the federal sentence resulting in supervision, has been sentenced for an offense that is not the basis of the violation proceeding.

3. In the case of a Grade C violation that is associated with a high risk of new felonious

conduct (e.g., a defendant, under supervision for conviction of criminal sexual abuse, violates the condition that he not associate with children by loitering near a schoolyard), an upward departure may be warranted.

4. Where the original sentence was the result of a downward departure (e.g., as a reward for substantial assistance), or a charge reduction that resulted in a sentence below the guideline range applicable to the defendant's underlying conduct, an upward departure may be warranted.

5. Under 18 U.S.C. 3565(a), upon a finding that a defendant violated a condition of probation by being in possession of a controlled substance, the court is required "to revoke the sentence of probation and sentence the defendant to not less than one-third of the original sentence." Under 18 U.S.C. 3583(g), upon a finding that a defendant violated a condition of supervised release by being in possession of a controlled substance, the court is required "to terminate supervised release and sentence the defendant to serve in prison not less than one-third of the term of supervised release." The Commission leaves to the court the determination of whether evidence of drug usage established solely by laboratory analysis constitutes "possession of a controlled substance" as set forth in 18 U.S.C. 3565(a) and 3583(g).

6. Under 18 U.S.C. 3565(b), upon a finding that a defendant violated a condition of probation by the actual possession of a firearm, the court is required "to revoke the sentence of probation and impose any other sentence that was available * * * at the time of initial sentencing."

§ 7B1.5. No Credit for Time Under Supervision (Policy Statement)

(a) Upon revocation of probation, no credit shall be given (toward any sentence of imprisonment imposed) for any portion of the term of probation served prior to revocation.

(b) Upon revocation of supervised release, no credit shall be given (toward any term of imprisonment ordered) for time previously served on post-release supervision.

(c) Provided, that in the case of a person serving a period of supervised release on a foreign sentence under the provisions of 18 U.S.C. 4106A, credit shall be given for time on supervision prior to revocation, except that no credit shall be given for any time in escape or absconder status.

Commentary

Application Note

1. Subsection (c) implements 18 U.S.C. 4106A(b)(1)(C), which provides that the combined periods of imprisonment and supervised release in transfer treaty cases shall not exceed the term of imprisonment imposed by the foreign court.

Background: This section provides that time served on probation or supervised release is not to be credited in the determination of any term of imprisonment imposed upon revocation. Other aspects of the defendant's conduct, such as compliance with supervision conditions and adjustment while under supervision, appropriately may be considered by the court in the determination of the sentence to be imposed within the applicable revocation range."

This amendment replaces chapter Seven with a set of more detailed policy statements applicable to violations of probation and supervised release. Under 28 U.S.C. 994(a)(3), the Sentencing Commission is required to issue guidelines or policy statements applicable to the revocation of probation and supervised release. At this time, the Commission has chosen to promulgate policy statements only. These policy statements will provide guidance while allowing for the identification of any substantive or procedural issues that require further review. The Commission views these policy statements as evolutionary and will review relevant data and materials concerning revocation determinations under these policy statements. Revocation guidelines will be issued after federal judges, probation officers, practitioners, and others have the opportunity to evaluate and comment on these policy statements.

(3) The following minor editorial revisions have been made to update the Guidelines Manual to reflect that the guidelines system now constitutes current practice: the terms "current practice," "existing practice," and "present practice," where used to denote sentencing practice prior to guidelines, have been replaced by the term "pre-guidelines practice" and conforming tense changes have been made in § 2B3.1, comment. (backg'd); chapter Two, part C, intro. comment., § 2F1.1, comment. (backg'd); § 2J1.3, comment. (backg'd); § 2K2.1, comment. (backg'd); § 2R1.1, comment. (backg'd); § 2T1.1, comment. (backg'd); § 2T1.2, comment. (backg'd); § 2T1.3, comment. (backg'd); § 6A1.3, comment.; and chapter Six, part B, intro. comment.

(4) The following additional sentence has been inserted for clarity in the Commentary captioned "Statutory Provision[s]" of each chapter Two offense guideline that has additional statutory provision(s) listed in Appendix A (Statutory Index): "For additional statutory provision(s), see Appendix A (Statutory Index)."

(5) The following additional minor clarifying and conforming amendments have been made:

(A) The Commentary to § 3C1.2 captioned "Application Notes" is amended in Note 1 by deleting "(e.g., a fleeing defendant discharged a weapon at a pursuing officer)"; by renumbering Notes 1 and 2 as 2 and 3 respectively; and by inserting the following as Note 1:

"1. Do not apply this enhancement where the offense guideline in chapter Two, or another adjustment in chapter Three, results in an equivalent or greater increase in offense level solely on the basis of the same conduct."

This amendment clarifies the application of this guideline.

(B) The Commentary to § 4B1.4 is amended by inserting the following between "Commentary" and "Background":

Application Note

1. This guideline applies in the case of a defendant subject to an enhanced sentence under 18 U.S.C. § 924(e). Under 18 U.S.C. § 924(e)(1), a defendant is subject to an enhanced sentence if the instant offense of conviction is a violation of 18 U.S.C. § 922(g) and the defendant has at least three prior convictions for a "violent felony" or "serious drug offense," or both, committed on occasions different from one another. The terms "violent felony" and "serious drug offense" are defined in 18 U.S.C. 924(e)(2). It is to be noted that the definitions of "violent felony" and "serious drug offense" in 18 U.S.C. 924(e)(2) are not identical to the definitions of "crime of violence" and "controlled substance offense" used in § 4B1.1 (Career Offender), nor are the time periods for the counting of prior sentences under § 4A1.2 (Definitions and Instructions for Computing Criminal History) applicable to the determination of whether a defendant is subject to an enhanced sentence under 18 U.S.C. 924(e).

It is also to be noted that the procedural steps relative to the imposition of an enhanced sentence under 18 U.S.C. 924(e) are not set forth by statute and may vary to some extent from jurisdiction to jurisdiction."

This amendment provides additional explanatory material as to the operation of this section.

(C) The Commentary to § 2A2.1 captioned "Statutory Provisions," as amended, is further amended by deleting "1952A".

This amendment conforms the statutory provisions to Appendix A (Statutory Index).

(D) The Commentary to § 2B2.1 is amended by inserting between "Commentary" and "Application Notes" the following:

"Statutory Provision: 18 U.S.C. 1153."

This amendment inserts Commentary to list a statutory provision referenced to this guideline in Appendix A (Statutory Index) and conform the format of this guideline to that of the other offense guidelines.

(E) The Commentary to § 2B4.1 captioned "Statutory Provisions" is amended by deleting "§§ 1," and inserting in lieu thereof "§§".

This amendment deletes an incorrect reference.

(F) The Commentary to § 2D3.4 captioned "Statutory Provisions" is amended by deleting "Provision" and inserting in lieu thereof "Provisions", and by deleting "§ 842" and inserting in lieu of thereof "§§ 954, 961".

This amendment conforms the statutory provisions to Appendix A (Statutory Index).

(G) The Commentary to § 2F1.1 captioned "Statutory Provisions" is amended by deleting "290" and inserting in lieu thereof "299".

This amendment deletes a reference to a petty offense that was inadvertently retained when other references to petty offenses were deleted from the Manual.

(H) The Commentary to § 2M6.2 is amended by inserting between "Commentary" and "Background" the following:

"Statutory Provision: 42 U.S.C. 2273".

This amendment inserts Commentary to list a statutory provision referenced to this

guideline in Appendix A (Statutory Index) and conform the format of this guideline to that of the other offense guidelines.

(I) The Commentary to § 2T2.2 captioned "Statutory Provisions" is amended by deleting "5601–5605, 5607, 5608" and inserting in lieu thereof "5601, 5603–5605", and by deleting "5607,".

This amendment conforms the Statutory Provisions to Appendix A (Statutory Index).

(J) The Commentary to § 2X2.1 captioned "Statutory Provisions" is amended by deleting "Provisions" and inserting in lieu thereof "Provision", by deleting "§§ 2,755–757" and inserting in lieu thereof "§ 2".

This amendment conforms the statutory provisions to Appendix A (Statutory Index).

(K) Appendix A (Statutory Index), as amended, is further amended by inserting in the appropriate place by title and section:

"42 U.S.C. 300i–1; 2Q1.4, 2Q1.5"; in the line beginning 18 U.S.C. 496 by inserting ", 2T3.1" immediately following "2F1.1"; in the line beginning 18 U.S.C. 757 by inserting at the end ", 2X3.1"; in the line beginning 18 U.S.C. 842(a) by deleting "(g)" and inserting in lieu thereof "(i)"; and in the line beginning 26 U.S.C. 5871 by deleting "2A2.1, 2A2.2" and inserting in lieu thereof "2K2.1, 2K2.2".

This amendment inserts additional statutory references to conform the Statutory Index to the statutory provisions of the referenced offense guidelines, and corrects a clerical error.

(L) The third paragraph of § 1A4(b), as amended, is further amended in the third sentence by deleting "assault, or arson" and inserting in lieu thereof "or assault".

This amendment deletes an inaccurate reference.

(M) The Commentary to § 1B1.1 captioned "Application Notes" is amended in Note 1 by inserting the following additional subdivision at the end:

"(k) 'Destructive device' means any article described in 18 U.S.C. 921(a)(4) (including an explosive, incendiary, or poison gas—(i) bomb, (ii) grenade, (iii) rocket having a propellant charge of more than four ounces, (iv) missile having an explosive or incendiary charge of more than one-quarter ounce, (v) mine, or (vi) device similar to any of the devices described in the preceding clauses).".

The Commentary to § 2B1.1 captioned "Application Notes" is amended in Note 1 by deleting "and 'firearm' " and inserting in lieu thereof ", 'firearm,' and 'destructive device' ", and by deleting the last sentence as follows: " 'Destructive device' is defined in the Commentary to § 2K1.4 (Arson: Property Damage by Use of Explosives).".

The Commentary to § 2B1.2 captioned "Application Notes" is amended in Note 1 by deleting "and 'firearm' " and inserting in lieu thereof ", 'firearm,' and 'destructive device' ", and by deleting the last sentence as follows: " 'Destructive device' is defined in the Commentary to § 2K1.4 (Arson: Property Damage by Use of Explosives).".

The Commentary to § 2B2.1 captioned "Application Notes" is amended in Note 1 by inserting " 'destructive device,' " immediately before "and 'dangerous weapon' ", and by deleting the last sentence as follows: " 'Destructive device' is defined in the Commentary to § 2K1.4 (Arson: Property Damage by Use of Explosives).".

The Commentary to § 2B2.2 captioned "Application Notes" is amended in Note 1 by deleting "and 'firearm' " and inserting in lieu thereof ", 'firearm,' 'destructive device,' and 'dangerous weapon' ", and by deleting the last sentence as follows: " 'Destructive device' is defined in the Commentary to § 2K1.4 (Arson: Property Damage by Use of Explosives).".

The Commentary to § 2B3.1 captioned "Application Notes" is amended in Note 1 by inserting " 'destructive device,' " immediately before " 'dangerous weapon,' ".

This amendment inserts the definition of a destructive device, formerly in the Commentary to § 2K1.4, in the Commentary to § 1B1.1, with minor revisions to the examples of the articles prohibited by 18 U.S.C. 921(a)(4) to better reflect the statutory provision. This amendment also conforms the commentary of various offense guidelines to reference the definitions set forth in Application Note 1 of the Commentary to § 1B1.1.

(N) The Commentary to § 2D1.1 captioned "Application Notes" is amended in Note 10 in the subdivision of the "Drug Equivalency Tables" captioned "Cocaine and Other Schedule I and II Stimulants (and their immediate precursors)" by inserting the following additional entry as the seventh entry: "1 gm of Methamphetamine (Pure) = 50 gm of cocaine/10 gm of heroin".

The Commentary to § 2D1.1 captioned "Application Notes" is amended in Note 10 in the subdivision of the "Drug Equivalency Tables" captioned "Cocaine and Other Schedule I and II Stimulants (and their immediate precursors)" in the twelfth (formerly eleventh) entry by deleting "0.418 gm" and inserting in lieu thereof "0.416 gm".

The Commentary to § 2D1.1 captioned "Application Notes" is amended in Note 10 in the subdivision of the "Drug Equivalency Tables" captioned "Schedule IV Substances" by deleting "1 gm of Mephobarbital = 0.125 mg of heroin/0.125 gm of marijuana".

This amendment provides an additional equivalency to reflect the distinction between methamphetamine and pure methamphetamine in the Drug Quantity Table at § 2D1.1(c), corrects an error in the equivalency for Phenylacetone/P_2P, and deletes a duplicate listing for Mephobarbital.

(O) The Commentary to § 2K1.7 captioned "Application Notes", as amended, is further amended in the third sentence of Note 4 by deleting "because, in such cases," and inserting in lieu thereof "required because".

The Commentary to § 2K2.4 captioned "Application Notes", as amended, is further amended in the third sentence of Note 4 by inserting "required" immediately before "because".

This amendment makes editorial revisions to enhance the clarity of this commentary.

(P) The Commentary to § 2L1.1 captioned "Background" is amended in the second sentence by deleting "and did not know the alien was excludable as a subversive" immediately following "profit".

This amendment conforms the Background Commentary of this section to the guideline, as amended.

(Q) The Commentary to § 3C1.1 captioned "Application Notes", as amended, is further amended in Note 2 by deleting "In addition to conduct prohibited by 18 U.S.C. 1501–1516,"; and in Note 3 by inserting the following additional subdivision:

"(i) conduct prohibited by 18 U.S.C. 1501–1516.", and by deleting the period at the end of subdivision (h) and inserting in lieu thereof a semicolon.

This amendment makes an editorial revision to enhance the clarity of this commentary.

(R) The Commentary to § 3D1.2 captioned "Application Notes," as amended, is further amended in example (4) of Note 4 by deleting "this subsection" and inserting in lieu thereof "either this subsection or subsection (d)".

This amendment clarifies that, in this example, the counts are to be grouped together under either subsection (b) or (d).

(S) The Commentary to § 3D1.2 captioned "Application Notes" is amended in Note 6 by deleting the third sentence of the first paragraph as follows:

"The same general type of offense" is to be construed broadly, and would include, for example, larceny, embezzlement, forgery, and fraud."; and by inserting the following additional paragraph as the second paragraph:

"Counts involving offenses to which different offense guidelines apply are grouped together under subsection (d) if the offenses are of the same general type and otherwise meet the criteria for grouping under this subsection. In such cases, the offense guideline that results in the highest offense level is used; see § 3D1.3(b). The 'same general type' of offense is to be construed broadly, and would include, for example, larceny, embezzlement, forgery, and fraud.".

This amendment clarifies the interaction of §§ 3D1.2(d) and 3D1.3(b).

(T) Section 5K2.0, as amended, is further amended in the seventh sentence of the first paragraph by deleting "listed elsewhere in the guidelines (e.g., as an adjustment or specific offense characteristic)" and inserting in lieu thereof "taken into consideration in the guidelines (e.g., as a specific offense characteristic or other adjustment)".

This amendment clarifies this sentence.

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federal register

Tuesday
October 23, 1990

Part V

The President

Proclamation 6210—National Red Ribbon Week for a Drug-Free America, 1990

Proclamation 6211—American Textile Industry Bicentennial Week, 1990

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Title 3

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Federal Register
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Presidential Documents

Title 3—

The President

Proclamation 6218 of October 19, 1990

National Red Ribbon Week for a Drug-Free America, 1990

By the President of the United States of America

A Proclamation

Illegal drug use costs the United States billions of dollars each year in terms of health care demands and lost economic productivity. Far more disturbing, however, is its daily toll in terms of human lives disrupted and destroyed. Those costs are immeasurable.

Former addicts, families terrified by neighborhood violence, law enforcement officials and emergency medical personnel—all can describe the grave consequences of illicit drug use. Affecting individuals and families of every region, every race, every age, and every walk of life, illicit drug use undermines the very foundation of our society.

Fortunately, however, we have made important strides in the fight against illegal drug use. Tougher law enforcement and escalated interdiction efforts, as well as education, prevention, and treatment programs in both the public and private sectors, have begun to prove effective. In many parts of the United States today cocaine is harder to find, more expensive, and less pure than it was one year ago. The operations of a number of drug cartels have been disrupted. Surveys and other research indicators show that attitudes toward illicit drug use, including casual use, are also changing for the better. More and more Americans are refusing to tolerate in their communities illegal drugs and the insidious profiteers who deal them. More and more Americans agree that there is no safe use of illegal drugs. Most important, perhaps, more and more youngsters in this country are beginning to recognize that experimenting with drugs isn't cool, that drugs can kill.

While we have made welcome the progress in the war on drugs—thanks to the creative and determined efforts of law enforcement personnel, parents, educators, and other concerned individuals—we still have much work to do. The National Institute on Drug Abuse reports that as many as 14.5 million Americans age 12 and over currently use illicit drugs. Seventy percent of all illegal drug users are employed—a percentage that underscores the threat drugs pose to the strength and productivity of American business and industry.

During the past several years, the National Federation of Parents for Drug-Free Youth has encouraged the observance of a "National Red Ribbon Week for a Drug-Free America." Millions of Americans—including members of parents' groups, civic organizations, and business associations across the country—take part in this important public education campaign. The red ribbon signifies our refusal to tolerate the use of illicit drugs and the use of alcohol by underaged youth. By wearing or displaying this bright symbol, we express our personal resolve and collective determination to help eliminate the scourge of drugs.

The Congress, by Senate Joint Resolution 348, has designated the week of October 20 through October 28, 1990, as "National Red Ribbon Week for a Drug-Free America" and has authorized and requested the President to issue a proclamation in observance of this week.

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NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week of October 20 through October 28, 1990, as National Red Ribbon Week for a Drug-Free America. I call upon all Americans to observe this week by supporting community drug and alcohol abuse prevention efforts. I also encourage every American to wear a red ribbon during this week as an expression of his or her commitment to a healthy, drug-free lifestyle.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of October, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.

George Bush

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Presidential Documents

Proclamation 6211 of October 20, 1990

American Textile Industry Bicentennial Week, 1990

By the President of the United States of America

A Proclamation

In marking the 200th anniversary of the establishment of the American textile industry, we are reminded of the important role this industry has played in the growth and competitiveness of our Nation's economy.

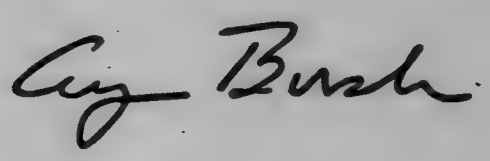
The United States has led all other countries in investment in state-of-the-art machinery for its textile industry, and today it is effectively meeting the challenge of intense foreign competition. Indeed, our commitment to technological improvements has contributed significantly to the strength and productivity of the textile industry. As a result, U.S. textile production continued to grow during the 1980s.

By investing nearly $18 billion in new plants and equipment during the past decade, the textile industry has prepared to meet the new challenges and opportunities of the 1990s—including greater integration of the North American and European markets, economic reforms in Eastern Europe and the Soviet Union, and further progress in the elimination of trade barriers worldwide.

The Congress, by House Joint Resolution 518, has designated the week of October 13 through October 20, 1990, as "American Textile Industry Bicentennial Week" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week of October 13 through 20, 1990, as American Textile Industry Bicentennial Week. I invite the American people to join with me in honoring the more than one million men and women who produce the fiber and fabrics of our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of October, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.



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H.R. 2999/Pub. L. 101-438
To provide for the conveyance of certain lands to the State of California, and for other purposes. (Oct. 17, 1990; 104 Stat. 993; 3 pages) Price: $1.00

H.R. 1677/Pub. L. 101-437
Children's Television Act of 1990. (Oct. 18, 1990; 104 Stat. 996; 5 pages) Price: $1.00

Upon expiration of the 10-day period prescribed by the Constitution of the United States, H.R. 1677 became law on Oct. 18, 1990, without the President's signature.

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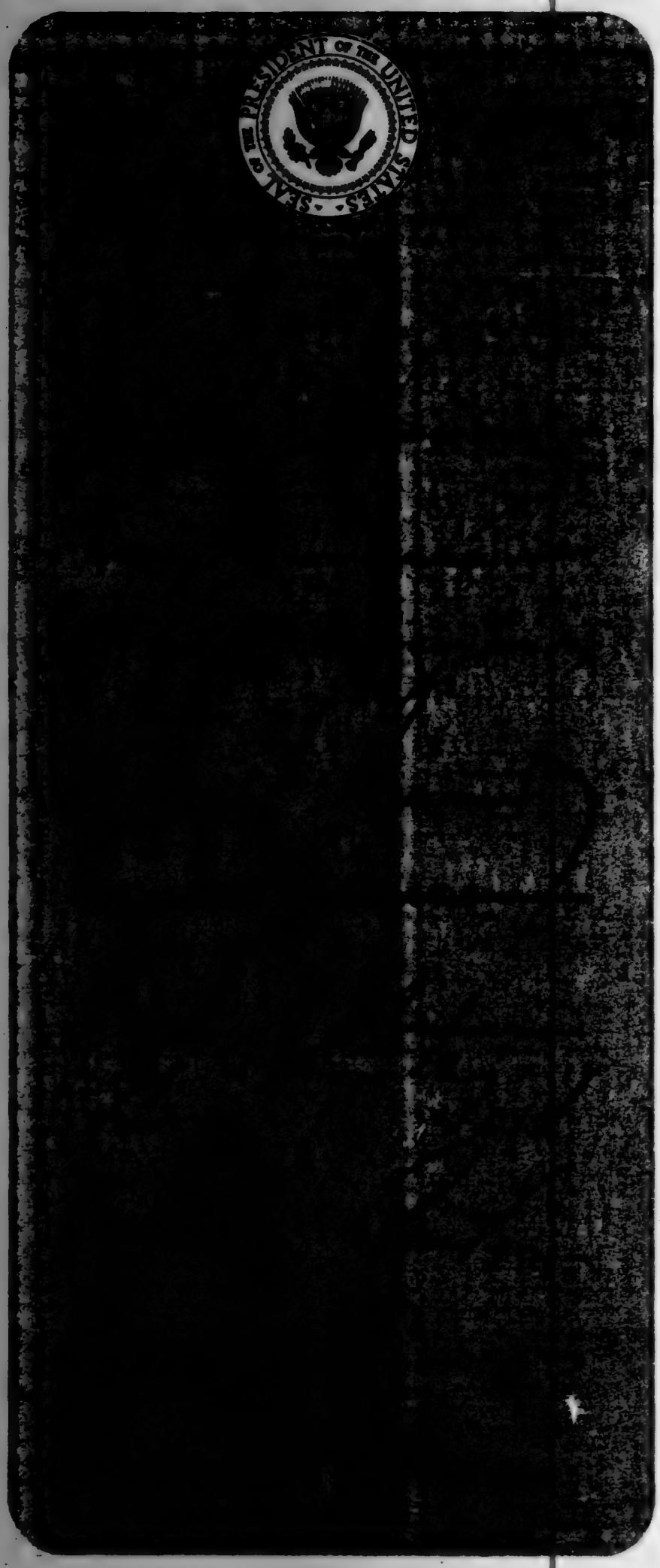

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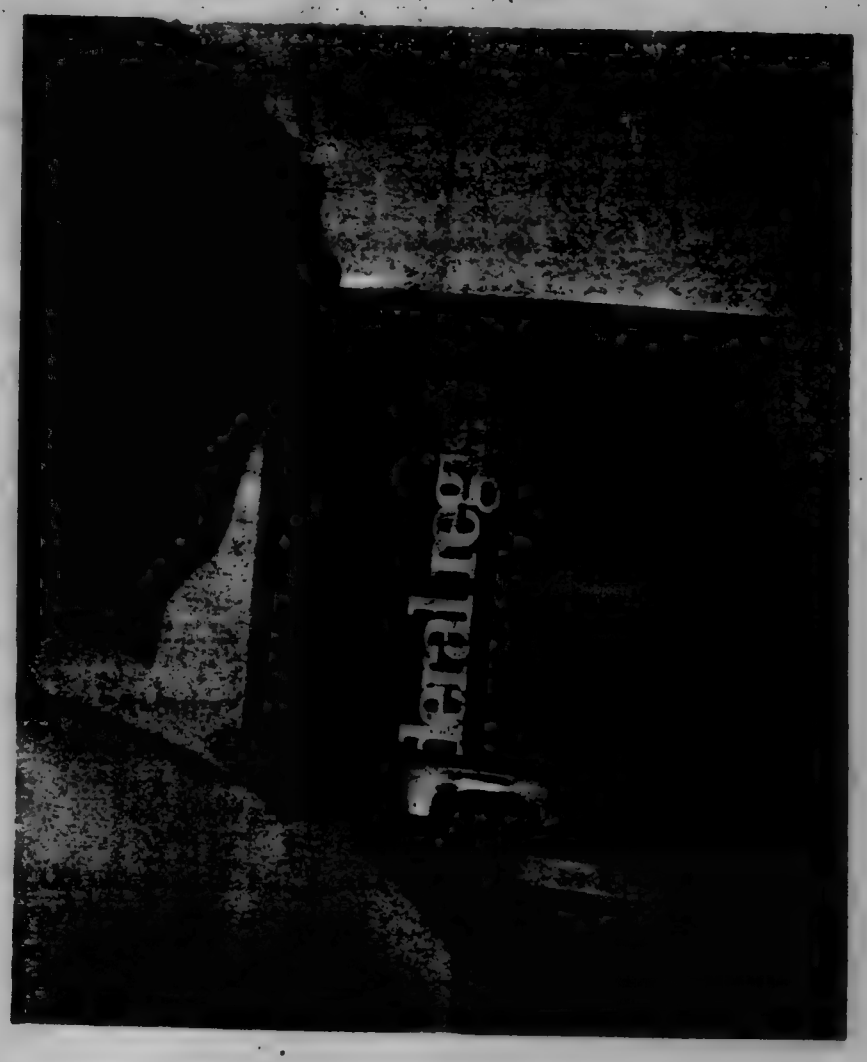

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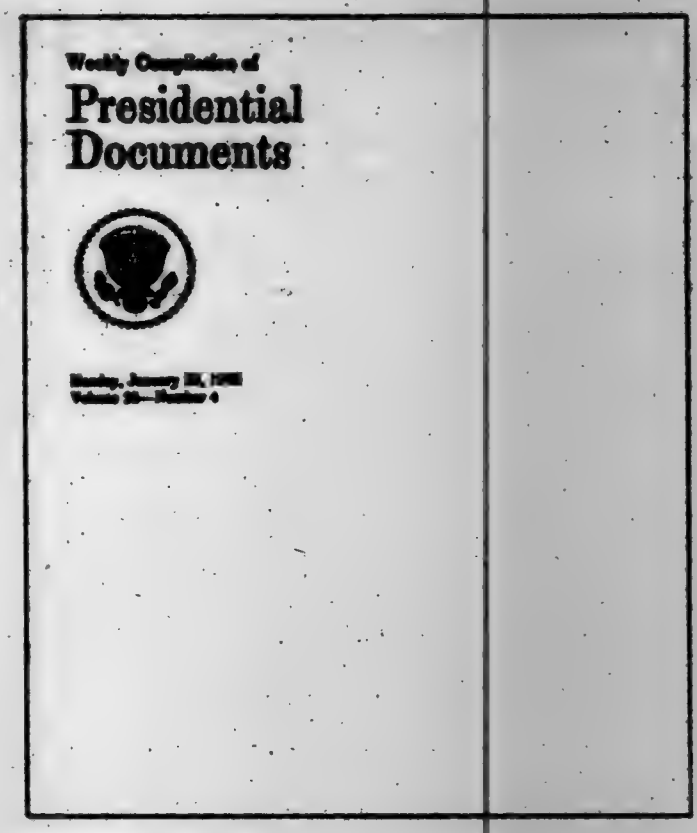

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Presidential Documents

Title 3—

The President

Presidential Determination No. 90–22 of June 3, 1990

Determination Under Subsection 402(d)(5) of the Trade Act of 1974—Continuation of the Waiver Applicable to the Czech and Slovak Federal Republic

Memorandum for the Secretary of State

Pursuant to the authority vested in me under the Trade Act of 1974 (Public Law 93–618) ("the Act") I determine that the continuation of the waiver applicable to the Czech and Slovak Federal Republic will substantially promote the objectives of Section 402 of the Act, 19 U.S.C. 2432.

You are authorized and directed to publish this determination in the Federal Register.

George Bush

THE WHITE HOUSE,
Washington, June 3, 1990.

[FR Doc. 90-25307
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Presidential Documents

Presidential Determination No. 90-25 of June 21, 1990

Determination Under Section 405 of Public Law 101-246

Memorandum for the Secretary of State

Pursuant to Section 405 of Public Law 101-246, I hereby determine that the United Nations

—has continued implementation of consensus-based decision-making procedures on budgetary matters, which assure that sufficient attention is paid to the views of the United States and other member states who are major financial contributors to the budget;

—is making further progress toward the elimination of the abuse and secondment in the United Nations Secretariat; and

—is implementing the 15 percent reduction in the staff of the United Nations Secretariat, and that such reduction is being equitably applied among the nationals on such staff.

You are authorized and directed to report this determination to the Congress and to publish it in the **Federal Register**.

George Bush

THE WHITE HOUSE,
Washington, June 21, 1990.

[FR Doc. 90-25306
Filed 10-22-90; 4:16 pm]
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Presidential Documents

Presidential Determination No. 90-28 of June 21, 1990

Determination Under Section 405 of Public Law 101-246

Memorandum for the Secretary of State

Pursuant to Section 405 of Public Law 101-246, I hereby determine that the International Civil Aviation Organization, the International Labor Organization, the United Nations Industrial Development Organization, the World Health Organization, and the World Meteorological Organization have continued implementation of consensus-based decision-making procedures on budgetary matters which assure that sufficient attention is paid to the views of the United States and other member states who are major financial contributors to such budgets.

You are authorized and directed to report this determination to the Congress and to publish it in the **Federal Register**.

George Bush

THE WHITE HOUSE,
Washington, June 21, 1990.

[FR Doc. 90-25309
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Presidential Documents

Presidential Determination No. 90–40 of September 30, 1990

Determination to Authorize the Furnishing of Emergency Military Assistance to Israel Under Section 506(a)(1) of the Foreign Assistance Act

Memorandum for the Secretary of State

Pursuant to the authority vested in me by Section 506(a)(1) of the Foreign Assistance Act of 1961, as amended ("the Act"), 22 U.S.C. 2318(a)(1), I hereby determine that:

1. an unforeseen emergency exists which requires immediate military assistance to Israel; and

2. the aforementioned emergency requirement cannot be met under the authority of the Arms Export Control Act or any other law except Section 506 of the Act.

Therefore, I hereby authorize the furnishing of up to $74 million in defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training.

You are authorized and directed to report this determination to the Congress immediately and to publish it in the **Federal Register**.

THE WHITE HOUSE,
Washington, September 30, 1990.

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Presidential Determination No. 90-41 of September 30, 1990

Drawdown from DoD Stocks for Disaster Assistance for the Philippines

Memorandum for the Secretary of State

Pursuant to the authority vested in me by Section 506(a)(2) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2318(a)(2), I hereby determine that it is in the national interest of the United States to draw down defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training for the purpose of the provision of international disaster assistance for the Philippines.

Therefore, I hereby authorize the furnishing of up to $10 million of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training for the purposes and under the authorities of Chapter 9 of Part I of the Act.

You are authorized and directed to report this determination to the Congress immediately and to arrange for its publication in the Federal Register.

George Bush

THE WHITE HOUSE,
Washington, September 30, 1990.

[FR Doc. 90-25211
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Presidential Determination No. 91–1 of October 4, 1990

Determination to Authorize the Furnishing of Emergency Military Assistance to Israel Under Section 506(a)(1) of the Foreign Assistance Act

Memorandum for the Secretary of State

Pursuant to the authority vested in me by Section 506(a)(1) of the Foreign Assistance Act of 1961, as amended ("the Act"), 22 U.S.C. 2318(a)(1), I hereby determine that:

1. an unforeseen emergency exists which requires immediate military assistance to Israel; and

2. the emergency requirement cannot be met under the authority of the Arms Export Control Act or any other law except Section 506 of the Act.

Therefore, I hereby authorize the furnishing of up to $43 million in defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training, in addition to that which I authorized to be furnished to Israel during fiscal year 1990.

You are authorized and directed to report this determination to the Congress immediately and to publish it in the Federal Register.

George Bush

THE WHITE HOUSE,
Washington, October 4, 1990

[FR Doc. 90-25312
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Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV-90-202IR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Temporarily Relaxation of Minimum Size Requirements for Red Seedless Grapefruit and Dancy Tangerines for the 1990-91 Season

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule temporarily relaxes the minimum size requirements for domestic and import shipments of red seedless grapefruit to 3$^{5}/_{16}$ inches in diameter on October 22, 1990, the same date that the minimum was to have increased to 3$^{5}/_{16}$ inches in diameter under the current handling regulation. This rule also temporarily reduces the minimum size requirement for domestic shipments of Dancy tangerines to 2$^{9}/_{16}$ inches in diameter from 2$^{9}/_{16}$ inches in diameter. This action is based on the current and prospective crop and market demand conditions and maturity level and size composition of these citrus fruits.

DATES: The grapefruit size relaxation is effective for the period October 22, 1990, through October 20, 1991, and the Dancy tangerine size relaxation is effective for the period November 5, 1990, through August 18, 1991. Comments which are received by November 23, 1990, will be considered prior to issuance of the final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456. Three copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours. All comments should reference the docket number, date, and page number of this issue of the Federal Register.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone: (202) 475-3918.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Agreement and Marketing Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This rule has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are about 100 Florida citrus handlers subject to regulation under the marketing order covering oranges, grapefruit, tangerines, and tangelos grown in Florida. In addition, there are about 13,000 producers of these citrus fruits in Florida. There are also about 25 importers of grapefruit. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. A minority of these handlers and a majority of the producers and a majority of importers may be classified as small entities.

The Citrus Administrative Committee (CAC), which administers the marketing order locally, met September 11, 1990, and unanimously recommended this action. The CAC meets prior to and during each season to review the handling regulations effective on a continuous basis for each citrus fruit regulated under the marketing order. CAC meetings are open to the public, and interested persons may express their views at these meetings. The U.S. Department of Agriculture reviews CAC recommendations and information submitted by the CAC and other available information and determines whether modification, suspension, or termination of the handling regulations would tend to effectuate the declared policy of the Act.

Section 905.306 (7 CFR 905.306) in Table I of paragraph (a) specifies minimum grade and size requirements for grapefruit and tangerines grown in Florida shipped to the domestic market. The domestic market is defined as the 48 contiguous States and the District of Columbia of the United States.

This action relaxes the minimum size requirement for domestic shipments of red seedless grapefruit grown in Florida to 3$^{5}/_{16}$ inches in diameter for the period October 22, 1990, through October 20, 1991. Unless relaxed, under the current handling regulation the minimum size would increase to 3$^{5}/_{16}$ inches in diameter from 3$^{5}/_{16}$ inches in diameter on October 22, 1990.

The CAC recommended this action based on the expected maturity, flavor level, and size composition of the crop remaining for shipment on October 22. The CAC reports that this season's Florida grapefuit shipments began in mid-August, about three weeks earlier than normal. It also reports that grapefruit 3$^{5}/_{16}$ inches in diameter is of more advanced maturity than normal for this time of the year and that it is receiving good consumer acceptance. Also, the grapefruit are not sizing as fast as they normally do. This action will permit smaller sized grapefruit to

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continue to be shipped to domestic markets to meet the anticipated market demand and is designed to maximize shipments to fresh market channels. The Florida grapefruit shipping season normally begins in September and continues until the following July.

This action also relaxes the minimum size requirement for domestic shipments of Dancy tangerines grown in Florida to 2 1/16 inches in diameter from 2 2/16 inches for the period November 5, 1990 through August 15, 1991. This action follows the practice of prior years of lowering the size requirement at such time during the season when the smaller sized tangerines reach an acceptable level of flavor and maturity. By November 5 of this year, the CAC expects that the smaller sized tangerines will have reached a satisfactory level of maturity and flavor which consumers prefer.

The CAC recommended this action based on the expected maturity, flavor level, and size composition of the crop remaining for shipment on November 5. The CAC expects this season's Dancy tangerine crop to mature about three weeks earlier than normal. This action will permit size 210 Dancy tangerines to be shipped to domestic markets to meet anticipated market demand and is designed to maximize shipments to fresh market channels. Dancy tangerine shipments each season normally begin about the first of November, peak in December, and end the following March.

Some Florida citrus fruit shipments are exempt from the handling requirements effective under the marketing order. Handlers may ship up to 15 standard packed cartons (12 bushels) of fruit per day under a minimum quantity exemption provision. Also, handlers may ship up to two standard packed cartons of fruit per day in gift packages which are individually addressed and not for resale, under the current exemption provisions. Fruit shipped for animal feed is also exempt under specific conditions. In addition, fruit shipped to commercial processors for conversion into canned or frozen products or into a beverage base are not subject to the handling requirements.

Section 8e of the Act (7 U.S.C. 608e–1) provides that whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities. Section 8e also provides that whenever two or more marketing orders regulate the same commodity produced in different areas of the United States, the Secretary shall determine which area the imported commodity is in most direct competition with and apply the regulations for that area to the imported commodity.

Grapefruit import requirements are specified in § 944.106 (7 CFR part 944), and are effective under section 8e of the Act. That section requires that grapefruit imported into the United States must meet the same minimum grade and size requirements as those specified for the various varieties of Florida grapefruit in Table I of paragraph (a) in § 905.306. Since this action reduces minimum size requirements for domestically produced Florida red seedless grapefruit, the reduced size requirements also apply to imported red seedless grapefruit. Since revising Table I automatically changes the import requirements, no change is necessary in § 944.106. An exemption provision in the grapefruit import regulation permits persons to import up to 10 standard packed ¼-bushel cartons exempt from the import requirements.

This action reflects the CAC's and the Department's appraisal of the need to make the size relaxations hereinafter set forth. The Department's view is that this action will have a beneficial impact on producers and handlers since it would allow Florida citrus handlers to ship those sizes of fruit available to meet consumer needs consistent with this season's crop and market conditions.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, the information and recommendations submitted by the committee, and other information, it is found that the relaxations set forth below will lead to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because: (1) This action relaxes minimum size requirements currently in effect for Florida red seedless grapefruit and Dancy tangerines and imported red seedless grapefruit; (2) Florida red seedless grapefruit and Dancy tangerine handlers are aware of this action which was recommended by the CAC at a public meeting and they will need no additional time to comply with the relaxed requirements; (3) shipment of the 1990–91 season Florida grapefruit crop has begun and the Florida Dancy tangerine crop is expected to be in full swing by November 5, 1990; and (4) the rule provides a 30-day comment period, and any comments received will be considered prior to issuance of a final rule.

List of Subjects in 7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

For the reasons set forth in the preamble, 7 CFR part 905 is amended as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

1. The authority citation for 7 CFR part 905 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. In paragraph (a), Table I, of § 905.306 the entries for seedless, red grapefruit and Dancy tangerines are revised to read as follows:

Note: This section will appear in the annual Code of Federal Regulations.

§ 905.306 Orange, Grapefruit, Tangerine, and Tangelo Regulation 6.

(a) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
Grapefruit			
Seedless, red	10/22/90–10/20/91	Improved No. 2 (External) U.S. No. 1 (Internal)	2–5/16

TABLE I—Continued

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
	On and after 10/21/91	Improved No. 2 (External) U.S. No. 1 (Internal)	2-6/16
Tangerines			
Dancy	11/05/90-06/18/91	U.S. No. 1	2-4/16
	On and after 06/19/91	U.S. No. 1	2-6/16

* * * * *

Dated: October 19, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-25141 Filed 10-23-90; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Parts 1744, 1751, 1773, and 1788

Electric and Telephone Programs, Redesignation of Regulations; Correction

AGENCY: Rural Electrification Administration, USDA.

ACTION: Correction to final rule.

SUMMARY: The Rural Electrification Administration (REA) hereby corrects minor typographical errors in a final rule published September 27, 1990, at 55 FR 39393 to redesignate certain Agency regulations as part of a project to simplify, clarify, and update REA regulations. None of the published errors affects the substance of any regulation. One of the errors is in the Distribution Table in the preamble to the published regulation; the other two are in the headings of regulations.

FOR FURTHER INFORMATION CONTACT: Mr. Blaine D. Stockton, Jr., Assistant Administrator—Management, Rural Electrification Administration, U.S. Department of Agriculture, Washington, DC 20250-1500, telephone number (202) 382-9552.

SUPPLEMENTARY INFORMATION: In document 90-22901 beginning on page 39393 in the issue of Thursday September 27, 1990, REA makes the following corrections:

1. On page 39394 in the second column, at the end of the Distribution Table, the following entry is added:

Old part or section	*New part or section*
* * * * *	
1788	1773

PART 1744—[CORRECTED]

2. On page 39396, in the second column, in the heading for part 1744, the words "POST LOAN" should read "POST-LOAN".

PART 1751—[CORRECTED]

3. On page 39397, in the third column, in the heading for part 1751, the word "PROCEDURE" should read "PROCEDURES".

Dated: October 18, 1990.

Gary C. Byrne,

Administrator.

[FR Doc. 90-25142 Filed 10-23-90; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 430

[Docket No. CE-RM-87-102]

Energy Conservation Program for Consumer Products: Energy Conservation Standards for Two Types of Consumer Products; Correction

AGENCY: Office of Conservation and Renewable Energy, Department of Energy.

ACTION: Final rule. Notice of correction.

SUMMARY: The Department of Energy (Department or DOE) is correcting errors in the energy conservation standards for refrigerators, refrigerator-freezers, and freezers found in 10 CFR part 430, § 430.32a. These standards appeared in the Federal Register on November 17, 1989 (54 FR 47916).

EFFECTIVE DATE: January 1, 1993.

FOR FURTHER INFORMATION CONTACT:

Carl Adams, U.S. Department of Energy, Office of Conservation and Renewable Energy, Forrestal Building, Mail Station CE-43, 1000 Independence Avenue SW., Washington, DC 20585 (202) 586-9127.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Forrestal Building, Mail Station GC-12, 1000 Independence Avenue SW., Washington, DC 20585 (202) 586-9507.

U.S. Department of Energy, CE-43.1, Docket No. CE-RM-87-102, Forrestal Building, Room 6B-025, 1000 Independence Avenue SW., Washington, DC 20585 (202) 586-9320.

SUPPLEMENTARY INFORMATION:

I. Discussion
II. Environmental Review
III. Regulatory Impact, Federalism and Regulatory Flexibility Reviews

I. Discussion

DOE proposed energy conservation standards for ten classes of refrigerators, refrigerator-freezers, and freezers (hereafter referred to as refrigerators) in a Notice of Proposed Rulemaking (Proposed Rule) on December 2, 1988 (53 FR 48796). DOE promulgated final standards for the ten classes on November 17, 1989. (Final Rule) (54 FR 47916). These standards take effect January 1, 1993.

The Proposed Rule was developed, based on detailed engineering and economic analyses. The engineering analysis was based on adding energy conserving design options to baseline units in each of the respective classes in order of increasing consumer paybacks. The design option with the fastest payback was added first, then the option with the second fastest payback, continuing in this manner until all the options were added that are technologically feasible. A discussion of the engineering analysis and the design options used in the Proposed Rule is found in the Proposed Rule's "Engineering Analysis of Design Options." See Technical Support Document, DOE/CE-0239, November 1988, chapter 3. (Hereafter referred to as the 1988 Technical Support Document.)

In performing the engineering analysis, the Department used a

computer model developed under contract to DOE by Arthur D. Little, Inc. (ADL). The ADL model is used to predict the energy consumption of a refrigerator, refrigerator-freezer or freezer, calculated from its design characteristics.

The model produces an equation that contains a constant number and a variable number. The constant is an indicator of the direct energy used for fan motors and heaters and compressor energy used to remove the internally generated heat from fan motors and heaters. The variable number calculates the energy needed to maintain the interior temperatures specified by the DOE test procedures. The energy needed depends upon the heat leakage into the cabinet, which is a function of the volume of the fresh food and freezer compartments. Therefore, this number will vary for different size equipment within a given class. A more detailed description of the model is provided in chapter 3 and appendix A of the 1989 Technical Support Document.

To run the ADL model requires detailed information on the cabinet dimensions, insulation levels, compressor performance, heat exchanger effectiveness, and auxiliary electrical equipment for different size equipment. When the Proposed Rule was issued, DOE had sufficient data for only three classes of refrigeration products: (1) Refrigerator-freezers—automatic defrost with top-mounted freezer without through-the-door ice service; (2) refrigerator-freezers—automatic defrost with side-mounted freezer without through-the-door ice service; and (3) upright freezers with manual defrost.

To predict the energy consumption of these three classes as a function of the volume of the fresh food and freezer compartments, the ADL model was used to provide the relationship between energy consumption and adjusted volume modeling products of different capacity but otherwise identical characteristics. The results of these calculations are regression equations dependent upon the characteristics, e.g., compressor efficiency, insulation efficiency, chosen for each model.

For the seven remaining classes of refrigeration products—(1) Refrigerators and refrigerator-freezers with manual defrost; (2) refrigerator-freezers with partial automatic defrost; (3) refrigerator-freezers—automatic defrost with bottom-mounted freezer without through-the-door ice service; (4) refrigerator-freezers—automatic defrost with top-mounted freezer with through-the-door ice service; (5) refrigerator-freezers—automatic defrost with side-mounted freezer with through-the-door ice service; (6) upright freezers with automatic defrost; and (7) chest freezers and all other freezers—the engineering analysis used a combination of manufacturers' estimates of energy use and extrapolation of simulation results from the ADL model for the three previous classes to predict energy use for the various design options for the seven classes.

Relationships were developed between energy use and adjusted volume for the three classes simulated by the ADL model, as previously discussed. The relationships between energy use and adjusted volume for the remaining seven classes were obtained by adjusting the regression equation.

The Department then analyzed a range of potential standard levels to determine the economic impact of each potential standard.

In the comment period, DOE received sufficient data concerning four additional classes of refrigeration products—(1) Refrigerator-freezer—partial automatic defrost; (2) refrigerator-freezers—automatic defrost with top-mounted freezer with through-the-door ice service; (3) refrigerator-freezers—automatic defrost with side-mounted freezer with through-the-door ice service; and (4) upright freezers with automatic defrost—to allow the use of the ADL model for these four classes. DOE thus used the ADL model for seven classes for the Final Rule, the three Initial classes and the four for which sufficient data were received.

For the remaining three classes of refrigeration products—(1) refrigerators and refrigerator-freezers with manual defrost; (2) refrigerator-freezers—automatic defrost with bottom-mounted freezer without through-the-door ice service; and (3) chest freezers and all other freezers—DOE still did not have sufficient data to use the ADL model. Thus, following the close of the comment period, a microcomputer spreadsheet version of the ADL model was developed which required less complete data than the full ADL model but more than data than DOE had available for the Proposed Rule. DOE had only enough additional data to run the spreadsheet model at certain sizes in each of the three classes, but not all sizes in those classes. For example, for manual defrost refrigerators and refrigerator-freezers, DOE ran the spreadsheet model at a size of 17 cubic feet and then extended this result to cover all sizes for capacities of less than 39 cubic feet.

In late 1989, after publication of the Final Rule, DOE staff plotted the standards in preparation for delivery of a technical paper on refrigerator design options at the American Society of Heating, Refrigerating and Air-Conditioning Engineers winter 1989–1990 meeting. This analysis of the 1993 standard levels showed that for certain sizes of units in each of the three classes affected by this Notice, the 1993 standard level, compared to the 1990 standard level, resulted in significantly greater reduction in maximum allowable energy use than for other sizes. For smaller sizes of manual defrost refrigerators and refrigerator-freezers, for example, the standard required a reduction in maximum energy use of approximately sixty percent as contrasted with a decrease on the order of twenty-five percent for most of the models in the other seven classes.[1] Further, the Department concluded that the standard level of the Final Rule cannot be engineered based on the design options identified. In fact, if retained, there is the risk that this standard would eliminate from the market compact manual defrost refrigerator-freezers and result in the increased sale of more consumptive compact automatic defrost refrigerator-freezers.

Based upon comments on the Proposed Rule, DOE changed the design options considered in the engineering analysis. These changes included recognizing an energy use inefficiency or "penalty" for chlorofluorocarbon substitution and less efficient compressors. DOE also added a design option, thicker insulation, which resulted in a more efficient unit. This new combination of designs should have resulted in the Final Rule's "max tech" level being more energy consumptive than that of the Proposed Rule. However, when these design options were used in the microcomputer spreadsheet version of the ADL model, the analysis resulted in more stringent levels, i.e., allowing less energy consumption. Based upon this review, DOE staff concluded that the engineering analysis was in error for this class and recommended that action be taken to correct the standard level.[2]

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[1] Expressed differently, this standard is more stringent by one-third than the maximum technologically feasible level ("max tech") in the Proposed Rule. In the Final Rule, the "max tech" level is twice as stringent as that in the Proposed Rule.

[2] In 1989, subsequent to DOE staff identification of this problem, representatives of refrigerator manufacturers and of the Association of Home Applicance Manufacturers informally approached DOE with their concerns regarding the stringency of the standards for compact manual defrost refrigerators and refrigerator-freezers and automatic defrost refrigerator-freezers with bottom-mounted

Continued

Similarly, the Department concluded that the engineering analysis produced results that are more stringent for certain sizes of automatic defrost refrigerator-freezers with bottom-mounted freezer without through-the-door ice service than can be technologically achieved. Based on the conclusion that the engineering analysis was defective, DOE also decided to correct the standard level for the third class.[3]

The analysis used in developing the corrected standards contained in today's Notice (1) uses the energy consumption for the baseline volume derived for the Proposed Rule as found in appendix A of the 1988 Technical Support Document, (2) makes the adjustment for no chlorofluorocarbons (CFCs) as discussed in the Final Rule, and (3) obtains the energy/adjusted volume equations from the regression equations for the classes which were simulated with the ADL model, as was done in the Proposed Rule. This revised analysis results in the corrected standards equations which are the subject of today's Notice. The analysis was performed for all three classes of refrigerators for which the spreadsheet model was used.

Today's Notice specifies a reduction in energy use from that required by the 1990 standards for refrigerators and refrigerator-freezers with manual defrost of 6.5 percent for compact units, 2 cubic feet adjusted volume. The Final Rule required a 60.5 percent reduction for these units. For larger units, 17 cubic feet adjusted volume, today's Notice requires a 10.9 percent reduction while the Final Rule required a reduction of 28.4 percent.

For refrigeratror-freezers—automatic defrost with bottom-mounted freezer without through-the-door ice service, today's Notice requires a reduction of 32.7 percent for 18 cubic feet adjusted volume units. This compares with a reduction of 37.2 percent required by the Final Rule. For larger units, 21 cubic feet, today's Notice requires a 33.3 percent reduction, while the Final Rule required a reduction of 38.1 percent.

For chest freezers and all other freezers, today's Notice requires a reduction of 26.3 percent for the small units, 5 cubic feet adjusted volume. This compares with a reduction of 38.0 percent in the Final Rule. For larger units, 28 cubic feet adjusted volume, today's Notice requires a 26.6 percent reduction while the Final Rule required a reduction of 27.8 percent.

The Department is today correcting the standard levels found in 10 CFR part 430, § 430.32(a).

II. Environmental Review

In issuing the Proposed Rule, the Department prepared an Environmental Assessment (EA) (DOE/EA–0372) that was published within the 1988 Technical Support Document. The environmental effects associated with various standard levels were found not to be significant, and a Finding of No Significant Impact (FONSI) was published along with the Proposed Rule. (53 FR 48826, December 2, 1988).

The Department has concluded that the impact of today's Notice falls within the range of the FONSI previously published. Specifically, in the year 2010, the pollutant reductions of sulfur dioxide (SO_2), nitrogen dioxide (NO_2), and carbon dioxide (CO_2) addressed in the FONSI are 151,000 tons, 100,000 tons, and 9,180,000 tons, respectively. DOE considered the range of energy savings previously discussed and the market shares of the three affected classes. Refrigerators, and refrigerator-freezers with manual defrost account for 4.7 percent of refrigerator and refrigerator-freezer sales. Refrigerator-freezers with bottom-mounted freezers account for 2.5 percent of refrigerator and refrigerator-freezer sales. Chest freezers account for 47.4 percent of freezer sales. Based on the above, the Department estimates that the overall energy and pollutant savings from today's Notice will be reduced no more than 5.1 percent from the estimates provided in the Final Rule. Thus, in the year 2010, the revised pollutant reductions resulting from today's Notice of SO_2, NO_2, and CO_2 are estimated to be less than 117,000 tons, 70,000 tons, and 7,299,000 tons, respectively.

III. Regulatory Impact, Federalism and Regulatory Flexibility Reviews

The Department reviewed the Final Rule in accordance with the Department's obligations regarding the above subjects. Because of the minimal impact of the change resulting from today's Notice on the overall rulemaking in terms of the percentages of change of energy use and the market share of the affected classes previously discussed, the Department has concluded that the impact of today's Notice falls within the range and scope of the impacts presented in the Notice of Final Rulemaking and are addressed adequately in that Notice.

Issued in Washington, DC, October 18, 1990.

J. Michael Davis,

Assistant Secretary, Conservation and Renewable Energy.

List of Subjects in 10 CFR Part 430

Energy conservation, Household appliances.

For the reasons set out in the preamble, the following corrections are made to the final energy conservation standards for refrigerators, refrigerator-freezers, and freezers published in the Federal Register on November 17, 1988 (54 FR 47916) and which appear at 10 CFR 430.32(a).

PART 430—[AMENDED]

1. The authority citation for 10 CFR part 430 continues to read as follows:

Authority: Energy Policy and Conservation Act, Title III, Part B, as amended by National Energy Conservation Policy Act, Title VI, Part 2, by the National Appliance Energy Conservation Act, and by the National Appliance Energy Conservation Amendments of 1988 (42 U.S.C. 6291–6309).

2. Section 430.32(a) is correctly amended by revising items 1, 5, and 10 in the table to read as follows; paragraph (a) introductory text is set out for the convenience of the reader.

§ 430.32 Energy conservation standards and effective dates.

(a) Refrigerators/refrigerator-freezers/freezers. These standards do not apply to refrigerators and refrigerator-freezers with total refrigerated volume exceeding 39 cubic feet or freezers with total refrigerated volume exceeding 30 cubic feet.

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freezers without through-the-door ice service. The information provided by industry representatives included new data in the form of graphs similar to material prepared by DOE staff and upon which DOE staff had already reached its conclusion as to error and the means for correction.

[3] The references to the discussion of the microcomputer spreadsheet program in section 3.2.4, Energy Use Data, of the 1989 Technical Support Document, DOE/CE–0277, November 1989 are superseded by this Notice.

Product Class	Energy standards equations (kwh/yr) effective dates	
	Jan. 1, 1990	Jan. 1, 1993
1. Refrigerators and Refrigerator-Freezers with manual defrost	(18.3AV+318)	(15.5AV+290)
5. Refrigerator-Freezers—automatic defrost with: Bottom-mounted freezer without through-the-door ice service	(27.3AV+456)	(16.5AV+357)
10. Chest Freezers and all other Freezers	(14.8AV+220)	(11.0AV+160)

[FR Doc. 90-25022 Filed 10-23-90; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900-AC31

Contract Medical Care; Non-Federal Hospital Payment Rates

AGENCY: Department of Health and Human Services and Department of Veterans Affairs.

ACTION: Final regulations.

SUMMARY: The Department of Health and Human Services (HHS) and the Department of Veterans Affairs (VA) have jointly amended VA's medical series of regulations to carry out provisions of Public Law 99-576, Veterans' Benefits Improvement and Health-Care Authorization Act of 1986. These regulations describe the payment methodology and amounts for non-Federal public and private hospital care provided at VA expense. Payment methodology and amounts will be determined by the Health Care Financing Administration (HCFA) PRICER.

EFFECTIVE DATE: November 23, 1990.

FOR FURTHER INFORMATION CONTACT: Paul C. Trybus, Chief, Policies and Procedures Division (136F), Medical Administration Service, Veterans Health Services and Research Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-2504.

SUPPLEMENTARY INFORMATION: A total of twenty-two comments were received concerning the proposed regulatory changes published on pages 47725-47729 of the Federal Register of November 28, 1988 (53 FR 47725). Following careful analysis of these comments, the Department of Veterans Affairs (VA), in concert with the Department of Health and Human Services reopened the comment period to allow comment on a suggested change to the proposal. The suggested change would grant an exemption from these proposed VA regulations for alternative systems which have been granted a federal waiver under the provisions of 42 U.S.C. 1395f(b)(3) or 42 U.S.C. 1395ww(c), for Medicare payment. The former permits Medicare payment demonstration projects. The latter permits a State's hospital rate regulation system to be substituted for the Medicare payment system.

VA received five comments during the reopened comment period on the proposal to exempt alternative systems which have been granted a Federal waiver from the prospective payment system under either of these authorities for the purposes of Medicare payment. Those commenters all urged adoption of an exemption from these regulations. In urging that position, the commenters stated in essence that a separate VA payment policy would unnecessarily disrupt an alternative system of payment that is in operation, and has proven to be successful in effectively containing hospital costs.

After considering these comments, VA is exempting from these regulations those alternative systems which have been granted a Federal waiver for the purposes of Medicare payment. VA has taken this position for several reasons. In promulgating these regulations, VA and HHS are implementing a requirement in section 233 of Public Law 99-576. The clear purpose of that requirement is to contain costs VA incurs as a result of the hospitalization of VA beneficiaries in non-Federal facilities. Congress clearly contemplated that the payment policies reflected in such regulation would be similar to that established under the Medicare program. (Senate Report 99-444 (1986) p. 59). The above-cited provisions of law authorizing the waiver of alternative systems from the prospective payment system, for purposes of Medicare payment, also seek to achieve cost containment. Since Congress has provided for such an alternative cost-containment policy in connection with Medicare, VA would be furthering the purpose of any expectations underlying section 233 of Public Law 99-576 by making provisions in its regulation for such alternative systems. Moreover, imposing a different reimbursement system on providers participating under alternative systems may jeopardize or impede the progress made by the alternative systems, without necessarily achieving any significant additional cost containment benefit to the VA.

Fourteen commenters did not address the purpose for reopening the comment period, and instead outlined concerns that were raised during the previous comment period. There were no opposing comments received on the issue presented for reopening the comment period.

The final rule is promulgated in accordance with section 233 of Public Law 99-576, Veterans' Benefits Improvement and Health-Care Authorization Act of 1986, which requires VA and HHS to issue joint regulations concerning the payment methodology and amounts which VA would provide hospitals which furnish inpatient hospital care to veterans whose care has been authorized or will be sponsored by VA. The provisions of the statute concerning admission practices will be addressed in a separate rulemaking document being proposed by HHS. That regulation will be codified at 42 CFR 489.20. This final rule utilizes a payment system that duplicates the HHS Prospective Payment System (PPS) in most respects, including the provisions of 42 U.S.C. 1395f(b)(3) and 42 U.S.C. 1395ww(c), which are separate authorities that override the Medicare prospective payment system (PPS). The differences from the Medicare system are in the method VA will use to reimburse PPS hospitals for capital-related costs, and direct medical education costs, and to pay non-PPS hospitals for their services. Revisions in this final rule are made as a result of the re-opened comment period. The final rule adopts the proposed regulation with substantive changes, discussed below.

Medicare Methodology

Section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) established the prospective payment system for inpatient hospital services furnished to Medicare beneficiaries. Under PPS, payment for the operating costs of inpatient hospital services furnished by hospitals subject to the system (generally, short-term, acute-care hospitals) is made on the basis of prospectively determined rates and applied on a per discharge basis. Payment for other costs related to inpatient services (capital-related costs, kidney, heart and liver acquisition costs incurred by hospitals with approved transplantation centers, direct costs of medical education and the costs of qualified nonphysician anesthetists in small rural hospitals) is made on a reasonable cost or other applicable basis.

Additional payments are made for outlier cases, for indirect medical education costs, and for hospitals that serve a disproportionate share of low income patients. Under PPS, a hospital is paid a prospectively determined payment rate, based on the patient's diagnosis, for furnishing inpatient services and is at risk for operating costs that exceed its payment rate. Similarly, if costs are below the payment rate, hospitals may keep the difference.

The PPS provides a payment amount for inpatient operating costs including: (1) Operating costs for routine services such as the costs of room, board, and routine nursing services; (2) operating costs for ancillary services, such as radiology and laboratory services furnished to hospital inpatients; (3) special care unit operating costs (intensive care type unit services); and (4) malpractice insurance costs related to services furnished to inpatients.

The following inpatient hospital costs are excluded from the prospective payment amounts and paid for on a reasonable cost or other applicable basis: (1) Capital-related costs (2) costs of services furnished by interns and residents in approved teaching programs, as described in sections 1861(b)(6) and 1886(h) of the Social Security Act (the Act), (3) kidney, heart and liver acquisition costs incurred by hospitals with approved transplantation centers, and (4) the costs of qualified nonphysician anesthetists in small rural hospitals.

Certain types of hospitals are not paid under PPS and are termed non-PPS hospitals. These hospitals include psychiatric, rehabilitation, long-term care, children's and cancer hospitals. Also included in the non-PPS hospital definition are psychiatric and rehabilitation units which are located in PPS hospitals. These are termed distinct part hospital units.

The Final Rule

Under the final rule, VA would apply the following methodology to pay hospitals. VA would receive a hospital bill for services to a particular veteran. VA will determine if the services provided can be authorized for payment in accordance with 38 CFR 17.50b or 17.80. If the care is payable, under the final rule, VA will use the commercially available "GROUPER" software to assign a Diagnostic Related Group (DRG) to the episode of care. This is the same GROUPER that Medicare and its fiscal intermediaries use to determine DRGs for Medicare payment. VA will then use a computer program developed by the Health Care Financing Administration (HCFA) called the HCFA PRICER to determine the payment amount. This program duplicates what the Medicare fiscal intermediaries use to determine payment for inpatient operating costs and additional payments for outliers (i.e., day or cost outliers), disproportionate share adjustment, and indirect medical education for facilities covered by PPS.

HCFA requires each participating hospital to submit to the fiscal intermediaries a cost report that contains information on its overall costs of operation, including capital-related costs, kidney, heart and liver acquisition costs, and direct medical education costs. HCFA then pays the hospitals, for allowable costs not covered by the PPS payments, either the Medicare share of their reasonable costs or other applicable payments. In accordance with the final rule, VA will pay hospitals the VA share of these costs based on a national average cost of capital-related costs, kidney, heart and liver acquisition costs incurred by hospitals with approved transplantation centers, direct costs of medical education and the costs of qualified nonphysician anesthetists in small rural hospitals, which HCFA has determined to be 9 percent of the average PPS payment. VA will adjust this figure each year based on information provided by HCFA. VA chose to use this approach so hospitals would not have to report excluded cost data to two government departments. HCFA requires each non-PPS hospital and distinct part hospital unit to report its costs to intermediary then determines the individual hospital cost-to-charge ratio. This ratio reflects the ratio between HCFA allowed costs and the charges the hospital charges the public for hospital care. The cost-to-charge ratio may be used to approximate the cost of services by multiplying the hospital's charges for services to Medicare beneficiaries by its cost-to-charge ratio. Medicare fiscal intermediaries use a departmental cost-to-charge ratio to determine payments to non-PPS hospitals and distinct part hospitals for ancillary services. In order for hospitals not to have to report this data to two government departments, VA will use the national operating cost-to-charge ratio for non-PPS hospitals of 63 percent plus the 9 percent add-on for capital-related costs, kidney, heart and liver acquisition costs incurred by hospitals with approved transplantation centers, direct costs of medical education and the costs of qualified nonphysician anesthetists in small rural hospitals as its multiplier for payment determinations to non-PPS hospitals. Therefore each non-PPS hospital's payment will be calculated by multiplying their charges by 72 percent.

VA has adopted limited exceptions to the payment principles set forth above. These are discussed below.

Responses to Comments

In responding to the publication of the proposed regulation, commenters addressed 12 different areas of concern. Each area will be addressed in the aggregate rather than responding to each concern of an individual commenter.

The preamble to the proposed regulation included a statement to the effect that VA thought that the implementation of the regulations would not have a significant economic impact on a substantial number of small entities. Thirteen responders from the state of Alaska disagreed with this postulate, citing its impact in the State of Alaska, and urged that VA either postpone the implementation of the regulation in the State of Alaska so that a regulatory flexibility analysis under the Regulatory Flexibility Act (RFA), 5 U.S.C. 603–604, could be done to ascertain the economic impact in the State of Alaska, or completely suspend the implementation of the regulations in Alaska.

As regards to these commenters' assertions that the regulation would have a significant economic impact on a substantial number of small entities, VA acknowledges that this rule will result in hospitals receiving lower payment per VA patient than under the current payment methodology. It is important to note, however, that when caring for VA patients, Alaskan hospitals are currently

paid in full for each episode of care. This is not always the case for private patients since some of them fail to pay. Currently, these hospitals thus save collection cost and have effectively received a greater payment per VA case than received from other patients.

Based on VA experience, it appears that only 14 hospitals in Alaska are likely to treat veterans and thereby be affected by this rule. Of these, only four are considered small entities within the meaning of the Regulatory Flexibility Act. The Size Standards Division of the Small Business Administration (SBA) provides that in order for a hospital to be considered as a small entity under the RFA that it must have an annualized revenue of $3.5 million or less (13 CFR 121.2).

VA has reviewed the economic impact of the final rule in the State of Alaska. The methodology by which VA reached this projection is as follows. HCFA has indicated that nationally the ratio between HCFA payment and billed charges is 72 percent for PPS hospitals. HCFA has indicated that multiplying this ratio by the billed charges for a given episode of care would approximate the amount of payment an average hospital would receive under PPS. VA then multiplied its payments to Alaskan hospitals by that same percentage (72 percent) and subtracted the product from VA payment to that hospital in FY 1988 to ascertain what the reduction in VA payments would be under the final rule. This reduction was then divided by the hospital's total costs (as reported to HCFA) to determine the total reduction in hospital revenue resulting from the imposition of these regulations.

Based on our analysis, the four hospitals that do qualify as small businesses under the RFA will experience a reduction of 0.21 percent to 1.45 percent of their total revenue under the final regulation. It appears that, in general, the smaller hospitals will absorb a smaller percentage reduction than those not considered small entities under the RFA. Based on this analysis, VA concludes that the final rule will not cause a significant economic impact on a substantial number of small entities.

VA has considered the suggestion in some of the comments that VA establish a different payment methodology for Alaska because the regulation would limit hospital payment to a formula that does not, in their view, fully pay them. It is noted that the regulations' methodology makes provision for cost of living adjustments so that Alaskan hospitals get a higher rate of payment. For example, special provisions of the Medicare PPS system address the higher costs incurred by hospitals in Alaska; the high wage index adjustments for the labor-related portion of the PPS standized payment amounts; and the special adjustment (currently an increase of 25 percent) for non-labor related costs. The wage index would also apply to the labor-related component of costs paid on a reasonable cost basis. Therefore, establishing entirely different payment methodologies for application in individual States, as suggested, would undercut the purpose which joint VA—HHS regulations were to achieve.

VA acknowledges that non-Federal hospitals in Alaska generally have a greater veteran caseload than hospitals in other States. Providing and entirely different methodology for Alaska, however, would dilute the effect which the regulations were intended to achieve, to make fair payments while achieving cost containment. Congress anticipated that VA would adopt payment policies similar to those under Medicare. Indeed, the effect on those hospitals is essentially the same as it would be if, instead of being VA beneficiaries, the patients in question were Medicare beneficiaries, and payment were being provided under the Medicare program.

VA has for years simply paid hospitals in Alaska and elsewhere for their "usual and customary charges." As a result of that unregulated approach, VA experienced significant increases in contract care costs in Alaska and elsewhere in recent years. Given a statutory mandate to develop regulations in concert with HHS, VA is doing no more than applying the general Medicare payment formula, which Congress considered to be an appropriate mechanism. That payment model is aimed at making fair payments, while achieving cost containment. In applying that model evenhandedly, VA is simply seeking to carry out the purposes the legislation sought to achieve (See Senate Report 99-44 (1986), pp. 58-60).

VA does recognize that its role in Alaska, and thus the impact of this regulation, differs from that in other States. VA operates no hospital in Alaska, it has no arrangement with any other Federal provider to furnish hospital care to Alaskan veterans at this time, and it relies extensively on broad contracting authority to meet veterans' need (38 U.S.C. 603(a)(5)). As a result, there is a disproportionate mix in the veteran contract care caseload in comparison with other states. For the reasons discussed above, VA does not believe these circumstances warrant an exemption or establishment of a different payment methodology for Alaskan hospitals. However, the immediate impact of the proposed change could be formidable and potentially disruptive to some of these hospitals, none of which qualify as small business entities. Accordingly, the final rule makes provision for an interim payment methodology so as to permit an orderly transition period. Thus, the final rule establishes a one-year transition period applicable to episodes of care beginning on or after the effective date of the regulation. During that period VA will pay Alaskan hospitals the amount determined by the HCFA PRICER plus 50 percent to the difference between the amount billed by the hospital and the amount determined by the PRICER. After the one-year transition has elapsed, VA will pay the amount determined by the PRICER.

Seven commenters expressed a view of another subject, asserting that VA should pay capital costs and direct medical education costs using actual cost data or another applicable basis (as HCFA does) rather than, as was proposed, basing payment for these costs on a national average. No change is made in the final rule in response to these comments. Yearly, each PPS hospital provides HCFA with its actual capital costs and direct medical education costs. HCFA will then determine the national average of these items and will pass this information to VA. VA will use the HCFA PRICER to determine the exact DRG payment that Medicare would allow and then add to this amount the cost of capital and direct medical education using a national average. This streamlined approach roughly approximates what Medicare would pay. It is noted, under Section 1886(g)(3)(A) of the Act, HCFA has not paid the full amount of incurred capital costs since 1987. In addition, under section 1886(a), enacted by section 6002 of OBRA 1989, the current discount is 15 percent. Further, it should be noted that capital-related costs are scheduled to be incorporated into the Medicare PPS by October 1, 1991, as required by section 1886(g)(1)(A) of the Act. VA realizes that the use of a national average may overcompensate some hospitals (for that year) which have lower capital and direct medical education costs while at the same time may not provide full dollar compensation to those hospitals that have higher costs that year. However, since this is an average figure, VA anticipates that many hospitals will experience fluctuation in these costs from year to year and may as often be overcompensated, as they fall into the

lower cost portion of the spectrum, as undercompensated. VA is also cognizant of the fact that payment on the basis of actual cost results in more precision. For VA to seek to achieve such precision would be unreasonable, however, comparing the cost of accomplishing such precision to the relatively small numbers of veterans whose care VA sponsors (in relation to the size of the Medicare program) and the generally limited benefit that could be conferred through that effort on each individual hospital. In contrast, the cost of achieving such precision would be very heavy. In order for VA to collect and maintain such data VA would have to increase its Central Office staffing by 15 and increase the information collection burden on the public by some 10,000 hours. VA's budget for Medical Administration Service, which would have to support such staffing, has in fact been shrinking, and that staffing has been reduced from 46 to 26 over the period of 1981 to 1989. Achieving the sought-after precision would, therefore, come at a very substantial cost to VA in administering its own health care system, which consists of 172 hospitals and 223 outpatient clinics. Therefore, this regulation will rely on the use of national averages to pay for the cost of capital and medical education.

The proposed rule indicates that VA would pay non-PPS hospitals at a ratio of 64 percent of billed charges. (This figure was in error; the correct HCFA-calculated figure is 63 percent). Non-PPS hospitals are those that are excluded from the Medicare Prospective Payment System. These facilities include hospitals and distinct part hospital units such as psychiatric units and rehabilitation hospitals. Each year these facilities provide HCFA with their cost reports which indicate their aggregate charges for their services and what their services cost. Last year, HCFA determined that when it divided the non-PPS hospitals' cost by their charges that the resulting ratio was 63 percent. Five commenters requested that VA adopt HCFA's method of payment for non-PPS hospitals. All expressed the view that payment based on this percentage of billed charges was not adequate. The final rule does not adopt this suggestion, but VA will provide for an increased level of payment of these hospitals at a ratio of 72 percent of billed charges. The 72 percent payment level includes the 63 percent ratio of operating cost to charges and the 9 percent add-on for capital-related costs, kidney, heart and liver acquisition costs incurred by hospitals with approved transplantation centers, direct costs of medical education and the costs of qualified nonphysician anesthetists in small rural hospitals. In considering the comments, it has become apparent that paying non-PPS hospitals at the proposed percentage rate would result in payments at less than cost for most such hospitals. Taking this into account, VA will pay non-PPS hospitals at the 72 percent rate, which is the same rate which HCFA pays the average non-PPS hospital. We believe this revision will ameliorate the central concern raised by the commenters.

In adopting this change, however, VA is not adopting the very complex formula which HCFA applies in paying these hospitals. VA realizes that HCFA's payment method for non-PPS providers would result in more precision. However, as stated above VA would have to employ additional staff and increase the information collection burden on the public to achieve the requested precision. The cost of achieving this level of precision would be unreasonable in relation to the relatively small number of veterans whose care VA authorizes in non-PPS facilities.

Five commenters expressed the view that VA did not address the impact that these regulations would have on rural hospitals and urged that VA take the needs of rural hospitals into consideration. In fact, VA's payment methodology does take account of the circumstances associated with a rural location. This methodology uses the HCFA PRICER, which is a computer program that VA will use to duplicate the Medicare PPS payment methodology. The HCFA PRICER takes into account the provsions of Public Law 100–203 which were intended by Congress to address the needs of rural hospitals. For example, under the HCFA PRICER for discharges on or after January 1, 1990, rural hospitals received an increase in standardized rates of 9.72 percent. This compares to increases of 5.62 percent for hospitals in large urban areas and 4.97 percent for hospitals located in other urban areas. Differential updates were also provided by Public Law 101–239 effective for discharges occurring on or after January 1, 1990. Rural hospitals received a 9.72 percent increase as compared to 5.62 percent for large urban hospitals and 4.97 percent for other urban hospitals. Since VA is using the HCFA PRICER to emulate the Medicare PPS methodology and the HCFA PRICER contains an adjustment for rural hospitals mandated by Congress, no change in the rule is deemed warranted. The PRICER program also incorporates a number of other provisions which afford favorable treatment to hospitals in rural areas, such as the special treatment afforded Rural Referral Centers and Sole Community Hospitals, and provisions treating certain rural hospitals as urban for purposes of applying the wage index. In addition, the provisions of Public Law 101–239 created a new type of rural hospital that receives special treatment for cost reporting periods beginning on or after April 1, 1990, and ending on or before March 31, 1993. These hospitals are known as Medicare-dependent small rural hospitals.

The proposed rule provided that VA would use the same methodology that HCFA uses to pay hospitals with the exception that VA would use a streamlined approach to approximate HCFA's capital and direct medical education add-on payments, for care provided to veterans under VA sponsorship. Two commenters requested that VA use the same methodology that is used to make DRG payments under the Defense Department's CHAMPUS program to non-DoD providers of health care. The final rule makes no change in response to this suggestion. In administering the CHAMPUS program, DoD has contracted with fiscal intermediaries who are familiar with PPS methodology. These intermediaries determine the CHAMPUS payments based on cost reports submitted by health care providers. It would not be practicable for VA to use the CHAMPUS methodology since it is based on a very different patient profile. The CHAMPUS population is made up primarily of women and children while VA's population is made up primarily of males who are closer in age to patients covered by the Medicare program. This is important since the DRG assignment made by the commercially available grouper uses age and sex characteristics to assign a DRG.

One commenter, without requesting any changes to the proposed rule, asked if VA would make day and cost outlier payments on transfers. VA will make cost outlier payments and this issue is addressed in the final rule at 38 CFR 17.50f(d) and 38 CFR 17.57(d). Under Medicare, day outlier payments are made only to the discharging hospital. Thus, they are not made to a transferring hospital. See section 42 CFR 412.62. The final rule applies the same limitation. See 38 CFR 17.50f(d).

The proposed regulations state that VA will pay for current PPS pass-throughs such as the cost of capital and the cost of direct medical education. One commenter, without requesting a

change, asked if VA would reimburse hospitals for items that are pass-throughs in PPS. As discussed above, the final rule provides that VA will add a fixed percentage amount for the cost of capital and direct medical education to the DRG payments in lieu of pass-through payments based on costs or other applicable basis.

Under current VA policy, VA is the primary payer for all approved care in non-VA facilities. One commenter suggested that VA should be the secondary payer and pay the balance after the veteran's insurance had paid the hospital. VA feels that it would not be appropriate to address this issue in this final rule, particularly as it raises significant issues that were not raised in the proposal. VA may, however, study this issue in the future.

VA has proposed to use the HCFA PRICER to determine payments to non-VA hospitals for care provided to veterans. The HCFA PRICER makes a calculation to determine payment for the disproportionate share adjustment. The disproportionate share adjustment increases payments to certain hospitals for medical care provided to indigents for whom the hospital will not receive payment for services provided. One commenter expressed the belief that VA did not consider the disproportionate share adjustment. Since the HCFA PRICER calculates an adjustment for disproportionate share and VA is going to use the HCFA PRICER, it is clear that qualifying hospitals will be paid for the disproportionate share adjustment under the proposed regulation. Accordingly, the final rule reflects no change on this point.

Every year PPS and non-PPS hospitals submit cost data to HCFA. HCFA then determines each hospital's payment for capital-related costs and the cost of direct medical education. HCFA also determines each non-PPS hospital's cost-to-charge ratio by dividing the cost of care by billed charges. HCFA then determines a national ratio for each of these items. VA's payment methodology will be revised each year with the data supplied by HCFA. VA has revised the proposed regulation to delete references to the exact amounts of the adjustments for capital-related costs, kidney, heart and liver acquisition costs incurred by hospitals with approved transplantation centers, direct costs of medical education, the costs of qualified nonphysician anesthetists in small rural hospitals, and the cost-to-charge ratio for non-PPS hospitals. VA has made this change to avoid having to amend this regulation annually to reflect adjustments made by HCFA. The final regulation provides that VA will, however, publish in the Federal Register the annual changes to adjustments for the cost of capital and medical education and the cost-to-charge ratio for non-PPS hospitals once they have been determined by HCFA. VA does not consider this change in the body of the regulation to be substantive.

This final regulation is considered non-major under the criteria of Executive Order 12291, Federal Regulation. It will not have an annual effect on the economy of $100 million or more; it will not result in major increases in costs for consumers, individual industries, Federal, State or local government agencies, or geographic regions. It will have no adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary certifies that this final regulation will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 through 612. It also will impose no regulatory, paperwork or administrative burdens on small entities since the change concerns the way VA pays for medical care in non-VA hospitals.

The Catalog of Federal Domestic Assistance number is 64.009.

List of Subjects in 38 CFR Part 17

Alcoholism, Claims, Dental health, Drug abuse, Foreign relations, Government contracts, Grants programs-health, Health care, Health facilities, Health professions, Medical devices, Medical research, Mental health programs, Nursing home care, Philippines, Veterans.

Approved: April 25, 1990.

Edward J. Derwinski,

Secretary of Veterans Affairs.

Approved: August 8, 1990.

Louis W. Sullivan,

Secretary of Health and Human Services.

38 CFR Part 17, Medical, is amended as follows:

PART 17—[AMENDED]

1. The authority citation for § 17.50e is revised to read as follows:

§ 17.50e Use of hospitals under sharing agreements.

* * * * *

(Authority: 38 U.S.C. 5033)

2. Section 17.50f is revised to read as follows:

§ 17.50f Payment for authorized public or private hospital care.

Except as otherwise provided in this section, payment for public or private hospital care authorized under § 17.50b of this part shall be based on a prospective payment system similar to that used in the Medicare program for paying for similar inpatient hospital services in the community. Payment shall be made using the Health Care Financing Administration (HCFA) PRICER for each diagnosis-related group (DRG) applicable to the episode of care.

(a) Payment shall be made of the full prospective payment amount per discharge, as determined according to the methodology in subparts D and G of 42 CFR part 412, as appropriate.

(b)(1) In the case of a veteran who was transferred to another facility before completion of care, VA shall pay the transferring hospital an amount calculated by the HCFA PRICER for each patient day of care, not to exceed the full DRG rate as provided in paragraph (a) of this section. The hospital that ultimately discharges the patient will receive the full DRG payment.

(2) In the case of a veteran who has transferred from a hospital and/or distinct part unit excluded by Medicare from the DRG-based prospective payment system or from a hospital that does not participate in Medicare, the transferring hospital will receive a payment for each patient day of care not to exceed the amount provided in paragraph (i) of this section.

(c) VA shall pay the providing facility the full DRG-based rate or reasonable cost, without regard to any copayments or deductible required by any Federal law that is not applicable to VA.

(d) If the cost or length of a veteran's care exceeds an applicable threshold amount, as determined by the HCFA PRICER program, VA shall pay, in addition to the amount payable under paragraph (a) of this section, an outlier payment calculated by the HCFA PRICER program, in accordance with subpart F of 42 CFR part 412.

(e) In addition to the amount payable under paragraph (a) of this section, VA shall pay, for each discharge, an amount to cover the non-Federal hospital's capital-related costs, kidney, heart and liver acquisition costs incurred by hospitals with approved transplantation centers, direct costs of medical education, and the costs of qualified nonphysician anesthetists in small rural hospitals. These amounts

will be determined by the Chief Medical Director on an annual basis and published in the "Notices" section of the Federal Register.

(f) Payment shall be made only for those services authorized by VA.

(g) Payments made in accordance with this section shall constitute payment in full and the provider or agent for the provider may not impose any additional charge on a veteran or his or her health care insurer for any inpatient services for which payment is made by the VA.

(h) Medical services not included in inpatient operating costs which the DRG payment covers (42 CFR part 412) shall be paid only to the extent they are reasonable and not in excess of rates or fees the provider of services charges the general public for similar services in the community.

(i) Hospitals of distinct part hospital units excluded from the prospective payment system by Medicare and hospitals that do not participate in Medicare will be paid at the national cost-to-charge ratio times the billed charges that are reasonable, usual, customary, and not in excess of rates or fees the hospital charges the general public for similar services in the community.

(j) A hospital participating in an alternative payment system that has been granted a Federal waiver from the prospective payment system under the provisions of 42 U.S.C. section 1395f(b)(3) or 42 U.S.C. section 1395ww(c) for the purposes of Medicare payment shall not be subject to the payment methodology set forth in this section so long as such Federal waiver remains in effect.

(k) Payments for episodes of hospital care furnished in Alaska that begin during the period starting on the effective date of this section through the 364th day thereafter will be in the amount determined by the HCFA PRICER plus 50 percent of the difference between the amount billed by the hospital and the amount determined by the PRICER. Claims for services provided during that period will be accepted for payment by VA under this paragraph (k) until December 31 of the year following the year in which this section became effective.

(Authority: Section 233, Pub. L. 99-576)

3. Section 17.87 is revised to read as follows:

§ 17.87 Allowable rates and fees.

When it has been determined that a veteran has received public or private hospital care, the expenses of which may be paid under § 17.80 of this part, the payment of such expenses shall, except as otherwise provided in this section, be based on a prospective payment system similar to that used in the Medicare program for paying for similar inpatient hospital services in the community. Payment shall be made by using the HCFA PRICER for each diagnosis-related group (DRG) applicable to the episode of care.

(a) Payment shall be made of the full prospective payment amount per discharge, as determined according to the methodology in subparts D and G of 42 CFR part 412, as appropriate.

(b)(1) In the case of a veteran who was transferred to another facility before completion of care, VA shall pay the transferring hospital an amount calculated by the HCFA PRICER for each patient day of care, not to exceed the full DRG rate as provided in paragraph (a) of this section. The hospital that ultimately discharges the patient will receive the full DRG payment.

(2) In the case of a veteran who has transferred from a hospital and/or distinct part unit excluded by Medicare from the DRG-based prospective payment system and hospitals that do not participate in Medicare, the transferring hospital will receive a payment for each patient day of care not to exceed that provided in paragraph (i) of this section.

(c) VA shall pay the providing facility the full DRG-based rate without regard to any copayments or deductible required by any Federal law that is not applicable to VA.

(d) If the cost of length of a veteran's care exceeds an applicable threshold amount, as determined by the HCFA PRICER program, VA shall pay, in addition to the amount payable under paragraph (a) of this section, an outlier payment calculated by the HCFA PRICER program, in accordance with subpart F of 42 CFR part 412.

(e) In addition to the amount payable under paragraph (a) of this section, VA shall pay, for each discharge, an amount to cover the non-Federal hospital's capital-related costs, kidney, heart and liver acquisition costs incurred by hospitals with approved transplantation centers, direct costs of medical education, and the costs of qualified nonphysician anesthetists in small rural hospitals. These amounts will be determined by the Chief Medical Director on an annual basis and published in the "Notices" section of the Federal Register.

(f) Payment shall be made only for those services authorized by VA.

(g) Payment by VA shall constitute payment in full and the provider or agent for the provider may not impose any additional charge on a veteran or his or her health care insurer for any inpatient services for which payment is made by VA.

(h) Medical services not included in inpatient operating costs which the DRG covers (42 CFR part 412) shall be paid or reimbursed only to the extent they are reasonable and not in excess of rates or fees the hospital or provider of services charges the general public for similar services in the community.

(i) Hospital or distinct part hospital units excluded from the prospective payment system by Medicare and hospitals that do not participate in Medicare will be paid at the national cost to charge ratio times the billed charges that are reasonable, usual, customary, and not in excess of the rates or fees the hospital charges the general public for similar services in the community.

(j) A hospital participating in an alternative payment system that has been granted a Federal waiver from the prospective payment system under the provisions of 42 U.S.C. section 1395f(b)(3) or 42 U.S.C. section 1395ww(c) for the purposes of Medicare payment shall not be subject to the payment methodology set forth in this section so long as such Federal waiver remains in effect. VA pays such a hospital in accordance with paragraph (i) of this section.

(k) Payments for episodes of hospital care furnished in Alaska that begin during the period starting on the effective date of this section through the 364th day thereafter will be in the amount determined by the HCFA PRICER plus 50 percent of the difference between the amount billed by the hospital and the amount determined by the PRICER. In order to cover this special dispensation period, claims for services provided on the enactment date of this regulation, and extending during this period, will be accepted for payment by VA until December 31 of the year following the year in which these regulations were enacted.

(Authority: Section 233, Pub. L. 99-576)

[FR Doc. 90-25085 Filed 10-23-90; 8:45 am]
BILLING CODE 8320-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90-122; RM-7276]

Radio Broadcasting Services; Coeburn, VA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 292C3 for Channel 292A at Coeburn, Virginia, and modifies the construction permit for Station WZQK(FM) to specify operation on Channel 292C3, in response to a petition filed by Preston L. Salyer. *See* 55 FR 10228, March 20, 1990. The coordinates for Channel 292C3 are 37-02-36 and 82-37-35.

EFFECTIVE DATE: December 3, 1990.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-122, adopted September 25, 1990, and released October 12, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended under Virginia by removing Channel 292A and adding Channel 292C3 at Coeburn.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25159 Filed 10-23-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-102; RM-7127]

Radio Broadcasting Services; Lake Village, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 278A to Lake Village, Arkansas, as that community's second local FM broadcast service, in response to a petition for rule making filed by Edna Fay Stone. *See* 55 FR 9928, March 16, 1990. Coordinates used for Channel 278A at Lake Village are 33-19-06 and 91-15-18. With this action, the proceeding is terminated.

DATES: *Effective* December 3, 1990; the window period for filing applications on Channel 278A at Lake Village, Arkansas, will open on December 4, 1990, and close on January 3, 1991.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530. Questions related to the window application filing process should be addressed to the Audio Services Division, FM Branch, Mass Media Bureau, (202) 653-0394.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-102, adopted September 27, 1990, and released October 19, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arkansas, is amended by adding Channel 278A at Lake Village.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25158 Filed 10-23-90; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 91050-0010]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of prohibition of retention of groundfish.

SUMMARY: The Secretary of Commerce (Secretary) is prohibiting further retention of pollock by vessels fishing in the Western and Central Regulatory Areas of the Gulf of Alaska and is requiring that pollock be treated in the same manner as prohibited species from 12 noon, Alaska local time, October 19, 1990, through December 31, 1990. This action is necessary to prevent the total allowable catch (TAC) for pollock in the combined Western and Central Regulatory Areas from being exceeded before the end of the fishing year. The intent of this action is to promote optimum use of groundfish while conserving pollock stocks.

EFFECTIVE DATES: 12 noon, Alaska local time (A.l.t.), October 19, 1990, through midnight, A.l.t., December 31, 1990.

FOR FURTHER INFORMATION CONTACT: Jessica A. Gharrett, Resource Management Specialist, NMFS, 907-586-7229.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Gulf of Alaska Groundfish Fishery (FMP) governs the groundfish fishery in the exclusive economic zone in the Gulf of Alaska under the Magnuson Fishery Conservation and Management Act. Regulations implementing the FMP are at 50 CFR 611.92 and part 672. Section 672.20(a) of the regulations establishes an optimum yield (OY) range of 116,000-800,000 metric tons (mt) for all groundfish species in the Gulf of Alaska. Total allowable catches (TACs) for target species and species groups are specified annually within the OY range and apportioned among the regulatory areas and districts.

Under § 672.20(c)(3), when the Regional Director, Alaska Region, NMFS (Regional Director), determines that the TAC of any target species or "other species" category in a regulatory area or district has been reached, the Secretary will publish a notice in the Federal Register declaring that the species or species group is to be treated as a prohibited species under § 672.20(e) in

all or part of that regulatory area or district.

The 1990 TAC specified for pollock in the Western and Central Regulatory Areas (including Shelikof Strait) is 70,000 mt (55 FR 3223, January 31, 1990). The Regional Director reports that U.S. vessels caught 55,178 mt of pollock through September 29 in the combined Western and Central Regulatory Areas. At current catch rates, the TAC will be taken by October 19, 1990.

Therefore, pursuant to § 672.20(c)(3) and (e), the Secretary is declaring that pollock must be treated in the same manner as prohibited species in the combined Western and Central Regulatory Areas of the Gulf of Alaska effective 12 noon, A.l.t., October 19, 1990, through midnight, December 31, 1990.

Classification

The Assistant Administrator for Fisheries, NOAA, finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment or to delay the effective date of this notice.

This action is taken under § 672.20 (c)(3) and (e) and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Recordkeeping and reporting requirements.

Authority: 16 U.S.C. 1801, *et seq.*

Dated: October 19, 1990.

David S. [illegible],

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90-25120 Filed 10-19-90; 12:15 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 206
Wednesday, October 24, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 246

Special Supplemental Food Program for Women, Infants and Children (WIC); Review of Food Packages

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice of intent to conduct a review and solicit comments.

SUMMARY: In accordance with the mandate of section 123(c) of the Child Nutrition and WIC Reauthorization Act of 1989 (Pub. L. 101–147), the Department announces its intent to conduct a review of the appropriateness of the foods provided by the Special Supplemental Food Program for Women, Infants and Children (WIC). Directors of WIC State and local agencies and other individuals with expertise in the fields of nutrition and public health, as well as other interested parties, are encouraged to comment on issues proposed for consideration by the Department and to suggest additional issues for consideration within the scope of this review.

DATES: To be assured of consideration, comments must be received on or before December 24, 1990.

ADDRESSES: Comments should be sent to Ronald J. Vogel, Director, Supplemental Food Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, room 1017, Alexandria, Virginia 22302, (703) 756–3742. Comments on this notice should be clearly labeled "Food Packages Review Notice" and should identify the specific issue(s) addressed. All written comments will be available for public inspection during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) at the office of the Food and Nutrition Service, 3101 Park Center Drive, Alexandria, Virginia 22302.

FOR FURTHER INFORMATION CONTACT: Philip K. Cohen, Supplemental Food Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, room 1017, Alexandria, Virginia 22302, (703) 756–3730.

SUPPLEMENTARY INFORMATION: This Notice has been reviewed under Executive Order 12291 and has been classified not major. This Notice will not have an annual effect on the economy of $100 million or more, nor will it cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. This action will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Notice imposes no new reporting or recordkeeping provisions that are subject to OMB review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of the Act.

This program is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.557 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V, and final rule-related notice published June 24, 1983 (48 FR 29114)).

Background

The authorizing legislation for the WIC Program, section 17 of the Child Nutrition Act (CNA) of 1966, as amended, established the program to provide supplemental foods and nutrition education to low-income pregnant, breastfeeding and postpartum women, infants and children up to age 5 who are at nutritional risk. The Program also serves as an adjunct to health care during critical times of growth and development to prevent the occurrence of health problems and to improve the health status of participants.

The CNA clearly established the WIC Program as "supplemental" in nature, that is, the food packages issued to various categories of participants are not intended to provide a complete diet but are designed to complement additional wholesome foods needed for a balanced diet. The Department administers a variety of food assistance programs which are designed to work together to provide a more nutritious diet to the Nation's low-income persons. Low-income families can, and frequently do, receive benefits from more than one of these Programs. The largest of these programs, the Food Stamp Program, provides general food assistance in the form of coupons which are used to increase the food-buying power of low-income individuals and families. Other programs are designed with a more limited population in mind. For example, the National School Lunch Program provides meals to children in school and the Child and Adult Care Food Program provides meals to persons in child and adult care centers and family day care homes. WIC Program benefits are intended to meet the special nutritional needs of a very specific population. The nutrition education provided by WIC assists participants in choosing foods which, together with the supplemental foods contained in the packages, meet their total dietary needs.

Section 17(b)(14) of the CNA defines "supplemental foods" as "those foods containing nutrients determined by nutritional research to be lacking in the diets of pregnant, breastfeeding, and postpartum women, infants, and children, as prescribed by the Secretary." The legislation provides substantial latitude to the Department in designing WIC food packages and places the obligation on the Department to prescribe foods which successfully target those nutrients critical to growth and development and typically lacking in the diets of the WIC-eligible population. Historically, the Department has based its prescriptions of WIC foods on sound nutritional research and input from State and local agencies, the health and scientific communities, industry and the general public. Further, these prescriptions have been developed with regard to a set of fundamental principles which are discussed below. Food package requirements appear in the WIC Program regulations at § 246.10(c). The current food packages (Appendix) were established through program regulations in 1980 (45 FR 74854 (November 12, 1980)). To better meet the nutritional needs of participants, the 1980 rulemaking created six different monthly packages: two for infants, one

for children and women with special dietary needs, one for children 1 to 5 years of age, one for pregnant and breastfeeding women, and one for nonbreastfeeding postpartum women. These packages were designed to follow infants' developmental needs and current pediatric feeding recommendations, complement the eating patterns of preschool children, and supplement the special requirements of pregnant and breastfeeding women.

Most importantly, the packages were developed to provide foods that are rich sources of the nutrients that tend to be lacking in the diets of the WIC-eligible population. The original legislation for the WIC Program specifically identified protein, iron, calcium and vitamins A and C as the target nutrients (Section 9 of Pub. L. 92-433, September 26, 1972). However, subsequent legislation deleted the references to specific target nutrients and instead directed the Department to prescribe the appropriate nutrients (Section 3 of Pub. L. 95-627, November 10, 1978). The Department determined, through an examination of nutritional research prior to the 1980 rulemaking, that the original target nutrients continued to be lacking among the WIC-eligible population. Thus protein, iron, calcium and vitamins A and C were again proposed for public comment (44 FR 69254 (November 30, 1979)), and were retained in the final rulemaking. Given the supplemental nature of the WIC Program, the food packages were not intended to supply 100 percent of the Recommended Daily Allowances (RDA) of each specified nutrient. Participants are expected to obtain a portion of the RDA from other food sources. However the packages do provide categories of foods which are high in one or more of the target nutrients and are capable of providing a substantial portion, and in some instances the entire amount, of the RDAs for the targeted nutrients.

Section 17(f)(12) of the CNA directs the Department to assure that, to the extent possible, the fat, sugar and salt content of WIC foods is appropriate. Several changes made to the WIC food packages in the 1980 rulemaking responded specifically to this mandate. For example, the Department established a limit on the amount of sugar permitted in WIC cereals and on the amount of cheese that can be issued, in part to moderate the salt content of the packages. With regard to the issue of fat content, the packages are designed to maintain a wide range of variability in fat levels within the food packages, depending on the particular foods prescribed. Individual tailoring enables State and local agencies to adapt food packages to the individual participant's needs for higher or lower fat levels, as well as to limit salt and sugar content as appropriate.

Aside from considerations which are specified in legislation, a prime consideration in food package design is cost. The Department is committed to serving as many eligible persons as possible while maintaining the nutritional integrity of the program. Efficiency in providing nutrients is important since increases in the total cost of the food packages reduce the number of participants served by the program. Thus, cost is an important consideration in the selection of WIC foods, and the packages are designed to encourage further cost control by permitting State and local agencies the flexibility to specify lower-cost food brands, types and container sizes within regulatory parameters.

State and local agencies are permitted flexibility in other aspects of the food packages as well. The quantities in the packages are expressed as maximum levels which must be available to participants as needed. However, State and local agencies have the authority to tailor quantities according to the needs of individual participants or categories of participants when based on a sound nutritional rationale. These tailoring provisions, established in program regulations (§ 246.10) and supplemented by FNS Instruction 804-1, are designed to permit State agencies to implement their own nutrition policies and philosophies within the parameters of the food packages. Section 17(f)(13) of the CNA and regulations at § 246.10(e) also give the Department the authority to approve substitution of foods by State agencies to allow for different cultural eating patterns under certain circumstances. State agencies must demonstrate that the substitute foods are nutritionally equivalent to foods prescribed by the Department. Pursuant to section 212(a) of the Hunger Prevention Act of 1988 (Pub. L. 100-435), which amended section 17(b) of the CNA, WIC regulations also give State agencies even greater flexibility to adapt food packages to the circumstances of homeless persons (§ 246.10(e)(3)).

In addition, the food packages are designed with regard to a number of practical considerations which reflect participant and program needs. The WIC foods should be readily available commercially, offer variety and versatility in preparation to participants, and have broad appeal. The foods should also permit daily consumption by an individual over a month's time. The WIC food package is an individual food prescription which, in order to have the full effect in improving nutritional status, must be consumed by the participant and not other family members. Further, the foods should generally be of domestic origin with minimal processing, since the WIC Program, along with other food assistance programs administered by the Department, participates in a longstanding partnership with American agriculture and endeavors to provide foods which support the nation's farming industry. Lastly, the packages should be administratively manageable for State and local agencies and vendors. That is, they should be clearly describable on food instruments and easily understood by both participants and vendors.

The Department acknowledges the continuing advances in nutritional research since the current food packages were established in 1980. Recommended dietary practices are constantly evolving in response to new knowledge and may hold significant implications for the WIC Program. Food technology has also advanced substantially over the last decade, resulting in a large number of new products, forms and container sizes. Many of these new products are specially fortified or formulated to address the needs of a special population, such as persons with allergies. The Department continues to receive requests to modify the current food packages and permit greater substitution of foods or the instruction of additional foods.

Mandated Food Package Review

The appropriateness of WIC foods continues to be an issue of major interest to the WIC community and to other nutrition and health professionals and representatives of the food industry. Accordingly, Congress mandated, in section 123(c) of Public Law 101-147, the Child Nutrition and WIC Reauthorization Act of 1989, that the Department conduct a review of the appropriateness of WIC food packages. The legislation directs the Department to examine the nutrient density of foods; to consider how effectively protein, calcium and iron are provided to WIC Program participants; and to consider the extent to which nutrients, for which program participants are most vulnerable to deficiencies, such as iron, thiamin, riboflavin, vitamin A, and zinc, are effectively provided to participants. The Act mandates that a final report be provided to Congress by June 30, 1992.

Review Procedure

The Department believes that the consideration of such important and complex issues will be best accomplished through public participation and is therefore soliciting input from all segments of the WIC community, as well as other informed, concerned members of the public. Further, the Department wishes to ensure that its review provides for the open and equitable consideration of these issues. The procedure which the Department has established for conducting its review is designed to provide the broadest possible base for public input, to include access to technical expertise from independent, credible entities, and to permit consideration of pertinent issues by a knowledgeable forum which is broadly representative of the WIC community.

Specially, the Department plans to enlist independent, technical experts to review comments submitted in response to this Notice and to develop technical papers summarizing and assessing this input for the Department's consideration. These papers will be presented for consideration to the National Advisory Council on Maternal, Infant and Fetal Nutrition (NAC), authorized by section 17(k) of the CNA, to consider issues relevant to the WIC Program and to make recommendations to the President and Congress. The NAC consists of 24 members (including State and local health officials and WIC Program administrators from a variety of agencies, physicians, program participants and a representative of the food industry) who share a common interest in and knowledge of the WIC Program. The Council's consideration of these issues will be included in the Department's report to Congress. This report, in turn, may influence future legislative action by Congress with regard to the WIC Program and/or regulatory action by the Department. Any program regulations issued by the Department as a result of this review would be published as proposals for public comment prior to promulgation of a final rulemaking.

Review Considerations/Parameters

Given the critical importance of food package content to nutritional impact of the WIC Program, commenters should carefully weigh the potential effects of their recommendations on the overall integrity of the packages. Responses to this notice should be developed with serious regard to the dietary needs of the WIC-eligible population, the supplemental nature of the program and the critical impact of cost of program services. In addition, the Department encourages commenters to submit suggestions with the following considerations in mind: (1) Cultural and ethnic food preferences; (2) commercial availability, variety and appeal of foods; (3) versatility in food preparation; (4) feasibility of apportionment into daily servings for an individual over a month's time; (5) domestic origin of foods; (6) State and local agency flexibility; and (7) administrative manageability.

The principles outlined above (and discussed elsewhere in this Notice) constitute a framework upon which WIC food packages have been developed. The Department encourages commenters to present their recommendations in the context of their potential impact on the affected food package(s) and their responsiveness to these principles or to alternate principles which the commenter believes should be considered.

Further, comments should include justification in terms of current nutritional research. Simple expressions of opinion or statements of position, without benefits of clearly stated rationale based on scientific evidence, would be of little use to the Department in the consideration of such complex issues.

Review Issues

The Department carefully considered how best to present the issues in this Notice. Attempts to provide background information specific to each issue inevitably resulted in issue descriptions which could bias responses. The Department believes that this review will benefit from the broadest possible scope of public input with minimal Departmental direction. Therefore, the following issues proposed for consideration are broadly stated without Departmental comment. Within the context of these broad issues, commenters are encouraged to state their responses as specifically as possible. Commenters may address additional issues which are within the scope of this review. Each of the issues presented below is numbered. In order to ensure that comments receive full and appropriate consideration, commenters are asked to precede each comment with the number of the issue to which it pertains, and to clearly define issues they have chosen to address which are not listed in this Notice.

1. What evidence exists to support or contraindicate the continuance of the five current target nutrients (high-quality protein, iron, calcium, and vitamins A and C) in the WIC food packages? What, if any, changes in or additions (e.g., thiamin, riboflavin, or zinc) to the WIC target nutrients should be considered and why?

2. What evidence exists to support or contraindicate the current WIC food packages as nutrient-dense (i.e., high nutrient to calorie rate) and bioavailable sources (i.e., high nutrient to calorie rate) and bioavailable sources (i.e., readily absorbed and utilized by the body) of the recommended WIC target nutrients? What, if any, foods should be introduced as nutrient-dense and bioavailable sources of the recommended WIC target nutrients and why?

3. Participants are currently divided into six groups for the purpose of prescribing food packages, and maximum monthly allotments of foods within each packages, and maximum monthly allotments of foods within each package have been established. What evidence exists to support these six groups, or to indicate the need for revisions of any of these groups? What evidence exists to support the maximum monthly allowances for foods within the food package for each of the six groups, or to indicate the need for revisions of any of these maximum allowances?

4. State agencies have the authority, with Federal approval based on a nutrition rationale, to categorically tailor WIC food packages to better address the nutritional needs of subgroups of participants (e.g., reduced quantities of foods in WIC food packages prescribed for 1 and 2 year old children compared to their older counterparts). What guidelines should the Department use in approving State agency proposals for categorically tailored food packages?

5. In addition, State agencies have the authority to tailor WIC food packages to better meet the nutritional needs of individual participants. For example, the amount of sugar, fat, sodium, and cholesterol provided to a specific participant by the food package can be modified through nutrition tailoring. What evidence exists to indicate that current WIC food packages provide sufficient flexibility for such individual tailoring, or to indicate that the design of any of the food packages should be changed to more fully accommodate or restrict individual tailoring?

6. Current regulations limit the sugar content of cereals which may be prescribed to participants. Is there any evidence to support or refute the need to establish regulatory limits on the amounts of sugar and other substances (e.g., fat, sodium, cholesterol, or artificial flavors, colors, or sweeteners) which may be contained in WIC food packages?

7. State agencies have the authority, with Federal approval, to make food substitutions in the WIC food packages to accommodate cultural eating patterns. Currently, any cultural food substitute must be comparable to the traditional WIC food counterpart in cost, availability, and nutritional value (at least with respect to the WIC target nutrients). What, if any, revisions should be made to the criteria to which State agencies must adhere in making such substitutions and why?

Dated: October 18, 1990.

Betty Jo Nelsen,

Administrator, Food and Nutrition Service.

MAXIMUM MONTHLY ALLOWANCES FOR WIC FOOD PACKAGES

[Food package numbers and target populations]

Foods	Food package I	Food package II	Food package III	Food package IV	Food package V	Food package VI
	Infants 0–3 months	Infants 4–12 months	Children/women with special dietary needs[1]	Children 1–5 years	Pregnant or breast-feeding women (up to 1 year post-partum)	Nonbreast-feeding postpartum women (up to 6 months postpartum)
Formula:[2]						
Concentrated liquid.	403 fl oz	403 fl oz	403 fl oz			
OR	OR	OR	OR			
Powdered	8 lb	8 lb	8 lb			
OR	OR	OR	OR			
Ready-to-feed (RTF).	806 fl oz	806 fl oz	806 fl oz			
Fruit/Vegetable juice:[3]						
Infant juice[4]		63 fl oz				
OR		OR				
Adult juice[5]						
Single-strength		92 fl oz (fruit only)	138 fl oz	276 fl oz	276 fl oz	184 fl oz.
OR		OR		OR	OR	OR
Reconstituted frozen concentrate.		96 fl oz (fruit only)	144 fl oz	288 fl oz	288 fl oz	192 fl oz.
Cereal:						
Infant cereal[6]		24 oz	36 oz			
OR			OR			
Cereal[7] (hot or cold).			36 oz	36 oz	36 oz	36 oz.
Milk:[8]						
Fresh fluid				24 qt	28 qt	24 qt.
Eggs:[9]				2–2½ doz	2–2½ doz	2–2½ doz.
Legumes:[10]						
Mature dry beans or peas.				1 lb	1 lb	
OR				OR	OR	
Peanut butter				18 oz	18 oz	

[1] The supplemental foods described below are not authorized solely for the purpose of enhancing nutrient intake or managing body weight of participants.

[2] *Formula in Food Packages I and II*—refers to iron-fortified infant formula, which is a complete formula not requiring the addition of any ingredients other than water prior to being served in a liquid state, and which contains at least 100 milligrams of iron per liter of formula at standard dilution which supplies 67 kilocalories per 100 milliliters; i.e., approximately 20 kilocalories per fluid ounce of formula at standard dilution.

Formulas which do not meet these requirements are authorized when a physician determines that the infant has a medical condition which contraindicates the use of infant formula as described above. Low-calorie formulas are not authorized solely for the purpose of managing body weight.

RTF formula is only authorized when the competent professional authority determines and documents that there is an unsanitary or restricted water supply, there is poor refrigeration, or the person who is caring for an infant may have difficulty in correctly diluting concentrated liquid or powdered formula.

Formula in Food Package III—refers to product that is intended for use as an oral feeding and prescribed by a physician for a participant who has a medical condition which precludes or restricts the use of conventional foods and necessitates the use of a formula. Such medical conditions include, but are not limited to: metabolic disorders, inborn errors of amino acid metabolism, gastrointestinal disorders, malabsorption syndrome and allergies. Documentation of the physician's determination of the need for a formula and the specific formula prescribed shall be included in the participant's certification file.

The addition of 52 fluid ounces of concentrated liquid, 1 pound of powdered or 104 fluid ounces of RTF formula may be issued on an individual basis provided the need is demonstrated and documented in the participant's certification file by the competent professional authority.

[3] Vegetable juice is not authorized for infants due to the higher potential for food allergies. Issuance of juice prior to the time when the infant can drink from a cup is discouraged. The competent professional authority shall instruct the participant's parent or guardian to feed the juice to the participant from a cup to prevent "bottle caries."

[4] Infant juice which contains a minimum of 30 milligrams of vitamin C per 100 milliliters.

[5] Single strength fruit juice or vegetable juice, or both, which contains a minimum of 30 milligrams of vitamin C per 100 milliliters; or frozen concentrated fruit or vegetable juice, or both, which contains a minimum of 30 milligrams of vitamin C per 100 milliliters of reconstituted juice. Combinations of single strength and frozen concentrated juice may be issued as long as the total volume does not exceed the amount specified for single strength juice.

[6] Dry infant cereal which contains a minimum of 45 milligrams of iron per 100 grams of dry cereal. Cereal plus infant formula or cereal plus fruit combinations are not authorized infant cereals.

[7] Dry cereal (hot or cold) which contains a minimum of 28 milligrams of iron per 100 grams of dry cereal and not more than 21.2 grams of sucrose and other sugars per 100 grams of dry cereal (6 grams per ounce).

[8] Pasteurized fluid whole milk which is flavored or unflavored and which contains 400 International Units of vitamin D per quart (.9 L); or pasteurized fluid skim or lowfat milk which is flavored or unflavored and which contains 400 International Units of vitamin D and 2000 International Units of vitamin A per quart (.9 L); or pasteurized cultured buttermilk which contains 400 International Units of vitamin D and 2000 International Units of vitamin A per quart (.9 L).

Evaporated whole milk which contains 400 International Units of vitamin D per reconstituted quart (.9 L) or evaporated skimmed milk which contains 400 International Units of vitamin D and 2000 International Units of vitamin A per reconstituted quart (.9 L) may be substituted for fluid whole milk at the rate of 13 fluid ounces (.4 L) per quart (.9 L) of fluid whole milk. Dry whole milk which contains 400 International Units of vitamin D per reconstituted quart (.9 L) may be substituted for fluid whole milk at the rate of 1 pound (.4 kg) per 3 quarts (2.8 L) of fluid whole milk.

Nonfat or lowfat dry milk which contains 400 International Units of vitamin D and 2000 International Units of vitamin A per reconstituted quart (.9 L) may be substituted for fluid whole milk at the rate of 1 pound (.4 kg) per 5 quarts (4.7 L) of fluid whole milk.

Domestic cheese (pasteurized process American, Monterey Jack, Colby, natural Cheddar, Swiss, Brick, Muenster, Provolone, Mozzarella Part-Skim or Whole) may be substituted for fluid whole milk at the rate of 1 pound (.4 kg) of cheese per 3 quarts (2.8 L) of fluid whole milk. 4 pounds (1.8 kg) is the maximum amount of

cheese which may be substituted unless the participant is lactose intolerant. Additional cheese may be issued on an individual basis in cases of lactose intolerance, provided the need is documented in the participant's file by the competent professional authority.

² Dried egg mix may be substituted at the rate of 1.5 pounds (.7 kg) egg mix per 2 dozen fresh eggs or 2 pounds (.9 kg) egg mix per 2¼ dozen fresh eggs.

³⁴ Peanut butter or mature dry beans or peas including, but not limited to, lentils, black, navy, kidney, garbanzo, soy, pinto and mung beans, crowder, cow, split and black-eyed peas.

[FR Doc. 90-25129 Filed 10-23-90; 8:45 am]
BILLING CODE 3410-10-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

Petition for Rulemaking; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking received and of dispositions of prior petitions; correction.

SUMMARY: This action corrects an error with reference to the comment close date to a notice published on Wednesday, October 10, 1990, page 41200 and in the first column. The FAA inadvertantly inserted October 29, 1990. Please change the comment close date to read January 8, 1991.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), room 915G FAA Headquarters Building (FOB 10A), 800 Inependence Avenue SW., Washington, DC 20591; telephone (202) 267-3132, AGC-10.

Denise D. Hall,

Manager, Program Management Staff.

[FR Doc. 90-25130 Filed 10-23-90; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

Changes in the Customs Service Field Organization; Apalachicola, Carrabelle, and Port St. Joe, FL

AGENCY: U.S. Customs Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Customs Regulations by closing the ports of entry of Apalachicola and Carrabelle and designating Port St. Joe as a Customs station. Given the inactivity at these ports, together with the necessity for providing full Customs service at such inactive ports, closing Apalachicola and Carrabelle as ports of entry and converting Port St. Joe to a Customs station are warranted by the circumstances. These changes are proposed in order to obtain more efficient use of Customs personnel, facilities and resources, and to provide better service to carriers, importers and the public.

DATES: Comments must be received on or before December 24, 1990.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to the Regulations and Disclosure Law Branch, U.S. Customs Service, 1301 Constitution Avenue NW., room 2119, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Joseph O'Gorman, Office of Inspection and Control, 202-566-9425.

SUPPLEMENTARY INFORMATION:

Background

Customs ports of entry and stations are locations where Customs officers or employees are assigned to accept entries of merchandise, clear passengers, collect duties, and enforce the various provisions of Customs and related laws. The significant difference between ports of entry and stations is that at stations, the Federal Government is reimbursed for:

(1) The salaries and expenses of its officers or employees for services rendered in connection with the entry or clearance of vessels; and

(2) Except as otherwise provided by the Customs Regulations, the expenses (including any per diem allowed in lieu of subsistence), but not the salaries of its officers or employees, for service rendered in connection with the entry or delivery of merchandise.

The list of designated Customs ports of entry is set forth in § 101.3(b), Customs Regulations (19 CFR 101.3(b)) and Customs stations are listed in § 101.4(c), Customs Regulations (19 CFR 101.4(c)). The Customs organizational structure consists of regions, districts, ports of entry within districts, and stations supervised by ports. This change is proposed pursuant to the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949-1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 101-5 (47 FR 2449), as well as 5 U.S.C. 301.

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to continue to provide better service to carriers, importers, and the public, Customs proposes to close the Apalachicola and Carrabelle ports of entry located in the Florida panhandle area, and at the same time convert Port St. Joe to a Customs station. These ports of entry have been inactive and not manned for a number of years. Only some six vessels were entered at Port St. Joe during the past three-year period.

Adequate Customs service will continue to be provided to the Panhandle region of Florida through the ports of Panama City and Pensacola as well as the proposed Port St. Joe station. Pensacola, Panama City, and Port St. Joe are located along the coast in a linear pattern and are thus able to provide convenient service to importers in that area. In addition, the Port of Mobile is located in close proximity to Pensacola and importers/brokers had indicated their preference for using this larger port of entry to enter and clear merchandise, which is reflected in low workload figures for the Panhandle ports.

Since there generally appears to be no immediate increase in international activity in the Panhandle area, closing these ports of entry would have little if any economic impact in this area, especially in view of the total absence of commercial activity at these ports, except for the little business carried on at Port St. Joe.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations and Disclosure Law Branch, room 2119, Customs Headquarters, 1301 Constitution Avenue, NW., Washington, DC 20229.

Drafting Information

The principal author of this document was Earl Martin, Regulations and Disclosure Law Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Executive Order 12291 and Regulatory Flexibility Act

Because this proposal relates to the organization of Customs, it is not a regulation or rule subject to E.O. 12291.

Similarly, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*). Customs routinely establishes, expands, and consolidates Customs ports of entry throughout the U.S. to accommodate the volume of Customs-related activity in various parts of the country. Although the proposal may have a limited effect upon some small entities in the affected areas, it is not expected to be significant because changes in the Customs field organization in other areas have not had a significant economic impact upon a substantial number of small entities to the extent contemplated by the Act. Nor is it expected to impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Lists of Subjects in 19 CFR Part 101

Customs duties and inspection, Exports, Imports, Organization and functions (Government agencies).

Proposed Amendments

It is proposed to amend part 101, Customs Regulations (19 CFR part 101) as set forth below:

PART 101—GENERAL PROVISIONS

1. The authority for part 101 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 2, 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States) 1623, 1624.

§ 101.3 [Amended]

2. § 101.3(b), Customs Regulations (19 CFR 101.3(b)), is amended by removing the listings "Apalachicola, Fla.", "Carrabelle, Fla. (E.O. 7508, Dec. 11, 936; 1 FR 2149)", and "Port St. Joe, Fla. (E.O. 7818, Feb. 17, 1938; 3 FR 503)", in the column headed "Ports of Entry," in the Tampa, Florida, district of the Southeast Region.

§ 101.4 [Amended]

3. Section 101.4(c) is amended by inserting, in appropriate alphabetical order, in the listing for "Tampa, Fla." under the "District" column, "Port St. Joe" in the column headed "Customs stations" and "Panama City" in the column headed "Port of entry having supervision".

Approved: October 17, 1990.

Samuel H. Banks,

Acting Commissioner of Customs.

Peter K. Nunez,

Assistant Secretary of the Treasury.

[FR Doc. 90-25054 Filed 10-23-90; 8:45 am]

BILLING CODE 4820-02-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90-447, RM-7351]

Radio Broadcasting Services; Bowling Green, KY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Bowling Green Broadcasters Inc., licensee of Station WCBZ(FM), Channel 244A, Bowling Green, Kentucky, proposing the substitution of Channel 244C3 for Channel 244A at Bowling Green, and the modification of Station WCBZ(FM)'s license to specify operation on Channel 244C3. The community could receive its first wide coverage area FM service. A site restriction of 15.6 kilometers (9.7 miles) southwest of the community is required at coordinates North Latitude 36-53-00 and West Longitude 86-34-20. In accordance with § 1.420(g) of the Commission's Rules, we shall not accept competing expressions of interest in the higher powered channel at Bowling Green or require the petitioner to demonstrate the availability of an additional equivalent channel for use by interested parties.

DATES: Comments must be filed on or before December 10, 1990, and reply comments on or before December 26, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Jeffrey W. Malickson, P.O. Box 32466, Charlotte, North Carolina 28232 (Attorney for Bowling Green Broadcasters, Inc.).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-447, adopted September 24, 1990, and released October 19, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Docket Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25183 Filed 10-23-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-448, RM-7430]

Radio Broadcasting Services; Morro Bay, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Don Stewart, seeking the allotment of Channel 231A to Morro Bay, California, as that community's second local FM broadcast service. Coordinates for this proposal are 35-21-48 and 120-50-42.

DATES: Comments must be filed on or before December 10, 1990, and reply comments on or before December 26, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the

petitioner, as follows: Don Stewart, c/o William L. Zavelo, Esq., 12360 Brookhurst Street, Suite A, Garden Grove, California 92640.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-449, adopted September 27, 1990, and released October 19, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25161 Filed 10-23-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-449, RM-7427]

Radio Broadcasting Services; Nome, AK

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of the Catholic Bishop of Northern Alaska, seeking the allotment of Channel 241A to Nome, Alaska, as that community's second local FM broadcast service. Coordinates used for Channel 241A at Nome are 64-30-00 and 165-25-00.

DATES: Comments must be filed on or before December 10, 1990, and reply comments on or before December 20, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Leon T. Knauer, Esq., Wilkinson, Barker, Knauer & Quinn, 1735 New York Avenue, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-448, adopted September 27, 1990, and released October 19, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25160 Filed 10-23-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-450, RM-7391]

Radio Broadcasting Services; Winterset, IA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by AFM Associates seeking the substitute of Channel 259C3 for Channel 256A at Winterset, Iowa, and the modification of its construction permit for Station KTDG(FM) to specify operation on the higher powered channel. Channel 259C3 can be allotted to Winterset in compliance with the Commission's minimum distance separation requirements with a site restriction of 13.7 kilometers (8.5 miles) south to avoid a short-spacing to Station KFGQ, Channel 257A, Boone, Iowa, and to the outstanding construction permit for Channel 256A at Eldora, Iowa. The coordinates for this allotment are North Latitude 41-12-34 and West Longitude 94-02-09. In accordance with § 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest for use of Channel 259C3 at Winterset or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before December 10, 1990, and reply comments on or before December 26, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Robert S. Stone, Esq., McCampbell & Young, 2021 Plaza Tower, P.O. Box 550, Knoxville, Tennessee 37901-0550 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-450, adopted September 27, 1990, and released October 19, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is

no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permission *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25162 Filed 10-23-90; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

48 CFR Ch. 53

Air Force Logistics Command Federal Acquisition Regulation Supplement; Special Contracting Methods, Vendor Rating System

AGENCY: Department of the Air Force, DOD.

ACTION: Proposed rule.

SUMMARY: The Air Force proposes to amend chapter 53 of title 48 of the Code of Federal Regulations by adding the Air Force Logistics Command (AFLC) Federal Acquisition Regulation as Appendix A, consisting of parts AFLC 5317 and AFLC 5352. AFLC is developing the Vendor Rating System (VRS) for use as an objective contractor performance evaluating, rating, and ranking system. The intended effect is to assist AFLC contracting officers in determining which competitive offer represents the greatest value to the Government by providing each offer's historical performance on AFLC contracts in terms of rating in quality and delivery. The procedure will facilitate awards to contractors who have delivered quality supplies within specified times under AFLC contracts. VRS provides for a ranking of the offers under a solicitation considering the evaluated offer amount and the VRS ratings.

DATES: Comments must be submitted on or before November 23, 1990

FOR FURTHER INFORMATION CONTACT: S. Wiginton, AFLC/PMPL, Wright-Patterson AFB OH 45433-5001.

SUPPLEMENTARY INFORMATION:

A. Background

AFLC/VRS is intended to implement in part the "DOD Action Plan to improve the Quality of Spare and Repair Parts through Reductions in Contractor Nonconformances." The DOD Action Plan presents 26 objectives for improving the quality of spare parts. The AFLC VRS implements Objective Number 4, which is to encourage the use of quality factors in the source selection process for spare and repair parts by centralizing, automating, collecting, and sharing contractor performance information and by maximizing the use of existing sources of contractor performance information to improve acquisition processes, purge defective material and improve the quality of DOD spare and repair parts.

The VRS will be initiated within AFLC by a 10-month test period at three of the five air logistics centers. Adjustments or revisions to the policy and provision resulting from test period data will be incorporated before AFLC-wide implementation.

B. Regulatory Flexibility Act

This procedure may have a significant impact on a substantial number of small entities. Therefore, an Initial Regulatory Flexibility Analysis (IRFA) has been prepared and will be sent to the Chief Counsel for Advocacy of Small Business Administration. A copy of the IRFA may be obtained from AFLC/PMPL, ATTN: S. Wiginton, Wright-Patterson AFB OH 45433-5001.

C. Paperwork Reduction Act

This rule does not contain information collection requirements which require the approval of OMB under the criteria of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

List of Subjects in 48 CFR Chapter 53

Government procurement.

Therefore, it is proposed to amend title 48 of the Code of Federal Regulations chapter 53 by adding Appendix A to include part AFLC 5317 and part AFLC 5352 to read as follows:

Appendix A to Chapter 53—Air Force Logistics Command Federal Acquisition Regulation Supplement

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

PART AFLC 5317—SPECIAL CONTRACTING METHODS

SUBCHAPTER H—CLAUSES AND FORMS

PART AFLC 5352—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

Part AFLC 5317—Special Contracting Methods

Subpart AFLC 5317.91—Vendor Rating System

Sec.

AFLC 5317.9100 Scope of subpart.
AFLC 5317.9101 Definitions.
AFLC 5317.9102 Policy.
AFLC 5317.9102-1 Uses.
AFLC 5317.9102-2 Objectives.
AFLC 5317.9102-3 Responsibilities.
AFLC 5317.9103 Procedures.
AFLC 5317.9103-1 Data sources.
AFLC 5317.9103-2 Performance standards.
AFLC 5317.9103-3 Evaluation.
AFLC 5317.9103-4 Responsibility determination.
AFLC 5317.9103-5 Approvals.
AFLC 5317.9103-6 Reporting.
AFLC 5317.9103-7 Solicitation provision.

Authority: 5 U.S.C. 301 and FAR 1.301

Subpart AFLC 5317.91—Vendor Rating System

AFLC 5317.9100 Scope of subpart.

This subpart prescribes policies and procedures for the AFLC contractor performance evaluation system identified as the Vendor Rating System (VRS). VRS is a contractor performance evaluation, rating, and ranking system. It is designed to assist the contracting officer in determining the awardee whose offer represents the greatest value to the Government in accordance with stated criteria.

AFLC 5317.9101 Definitions.

The following terms and definitions apply to VRS and this subpart:

(a) *Computed offer.* An initial offer under a solicitation plus all evaluation costs identified in the solicitation, e.g., First Article, transportation, and/or other costs. The computed offer will be calculated by unit or total amount depending on whether the Government requirement and the evaluation costs are established as unit or total quantity amounts.

(b) *Delivery rate (DR).* A computation of the 12-month delivery performance history of a contractor using the number

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of contract schedule deliveries completed after the due date because of contractor caused reasons compared to the number of schedules completed during the same period by that contractor. The computation will be carried to the fourth decimal place.

(c) *Greatest value.* The most value to the Government considering price, quality, delivery, and other factors. It is a determination of the contracting officer based on consideration of factors impacting a Government requirement. Considerations may be, but are not limited to, an offeror's quality and delivery performance history, evaluated price, complexity of the item(s), and time to delivery versus need.

(d) *Quality rate (QR).* A computation of the 12-month quality performance history of a contractor using the count of contractor-caused units reported defective under quality deficiency reports (QDRs) compared to the number of units delivered for the same period by that contractor. The computation will be carried to the fourth decimal place.

(e) *Ranking.* The order of all responsive offerors to a solicitation, considering stated VRS factors and the computed offer amount, from the highest to the lowest with the highest ranked first in order.

(f) *VRS competitive range.* Those offerors on a solicitation whose quality and delivery performance histories result in a minimum rating of 98 in quality and 85 in delivery elements and whose price offers are within 15 percent of the lowest price offer. The low offeror will not be in the VRS competitive range unless performance history meets the minimum ratings. The competitive range may be otherwise established with the approval two levels above the contracting officer.

AFLC 5317.9102 Policy.

AFLC 5317.9102-1 Uses.

(a) VRS shall apply to all AFLC air logistics center (ALC) competitively negotiated, National Stock Number (NSN) identified, spare part acquisitions estimated to exceed $10,000 in total value. These evaluations will be processed through the VRS database/software application.

(b) The VRS:

(1) Provides data to analyze a contractor's historical quality and delivery performance by Federal Stock Class (FSC) and total business with AFLC ALC central contracting activities, and

(2) Provides quality and delivery performance information on those contractors by FSC and total business with the ALC central contracting activities.

AFLC 5317.9102-2 Objectives.

(a) The primary objective of VRS is to provide the contracting officer with a procedure for making an award based on the greatest value to the Air Force. Management information and contract status tracking systems are merged into an evaluation procedure using quality and delivery performance historical data on all AFLC ALC contractors.

(b) An expected benefit from VRS is contractor improvements in performance on AFLC contracts and enhancement of AFLC's ability to acquire quality supplies on time from proven producers.

(c) Improvements in quality and delivery performance will decrease administrative costs of processing unacceptable material and the contract administration actions required on delinquent contract items and enhance the quality of the material.

AFLC 5317.9102-3 Responsibilities.

(a) HQ AFLC/PMMT, Wright-Patterson AFB OH, is responsible for maintenance of records to support the decision making process leading to command-wide implementation including the rationale for systems applications and computations.

(b) HQ AFLC/PMPL, Wright-Patterson AFB OH, is responsible for issuance of policy and AFLC-wide implementation.

(c) HQ AFLC/PMKL (00-ALC/PML), Hill AFB UT, is responsible for providing the Automated Contract Preparation System (ACPS) data feed to VRS.

(d) SM-ALC/PMXD, McClellan AFB CA, is responsible for design, management, and maintenance of the VRS database and applications programs to extract data from J041/G021/ACPS for VRS, and queries required to obtain data from the VRS data base.

AFLC 5317.9103 Procedures.

AFLC 5317.9103-1 Data sources.

(a) The QR is computed using a contractor's data from G021, or its successor system, and the INFOCEN network for QDR data and the J041 system for the number of units delivered.

(b) The DR is computed using a contractor's data from J041 for delivery schedules completed on time and delinquent.

(c) The QR and DR are computed for a contractor's Contract and Government Entity (CAGE) code by each FSC and total business with AFLC. The applicable rates will be provided with the ACPS abstract.

AFLC 5317.9103-2 Performance standards.

(a) The VRS standards and rating symbols for historical quality and delivery performance are:

(1) Exceptional (E)—Exceeds AFLC target performance range. A rating for QR: 99.0000 or higher. A rating for DR: 95.0000 or higher;

(2) Acceptable (A)—Meets AFLC target performance range. A rating for QR: 98.9999 to 98.0000. A rating for DR: 94.9999 to 85.0000;

(3) Marginal (M)—Does not meet AFLC acceptable performance range but may receive award when a higher rated offeror is not responsive to the solicitation, exceeds the competitive range criteria, or is determined unacceptable for some other reason. A rating for QR: 97.9999 to 97.0000. A rating for DR: 84.9999 to 75.0000; and,

(4) Unacceptable (U)—Fails to meet marginal rating and should not be considered for an award. A rating for QR: Less than 97. A rating for DR: Less than 75.

(b) Data for the quality and delivery performance rates will be updated on a monthly basis. The update will be data from the previous month and effective on the tenth working day of the following month.

(c) Performance history ratings will be provided for each contractor by individual FSC and total of all FSCs.

(d) An offeror with performance history in the FSC of the item(s) on the solicitation will be evaluated using that offeror's quality and delivery performance history rating in that FSC.

(e) An offeror with no AFLC performance history in the FSC of the item(s) on the solicitation will be evaluated using that offeror's AFLC total quality and delivery performance history rating in all other FSCs.

(f) An offeror with performance history only in quality performance will be evaluated using that rate and the delivery performance will be evaluated as acceptable with zeros (00.0000) assigned for the DR. A limited preaward survey, as a minimum, should be performed for the delivery element. File documentation of an affirmative determination of contractor responsibility specifically addressing delivery performance is required before award.

(g) An offeror with no AFLC performance history in any FSC will be evaluated as acceptable with zeros (00.0000) assigned for QR and DR for evaluation. A preaward survey should

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be performed. File documentation of an affirmative determination of contractor responsibility is required before award.

(h) HQ AFLC/PM and ALC/PM personnel will have overnight query access to VRS information. Information to be provided to other Government agencies or Air Force offices will only be released in writing by a Director or Deputy Director in the office of the HQ AFLC/PM, or higher level, at HQ AFLC or a division chief or deputy division chief, or higher level, at an ALC. All released data must carry the restrictive legend "CONFIDENTIAL CONTRACTOR INFORMATION—FOR OFFICIAL USE ONLY." All other releases of VRS information must have prior coordination of the local Staff Judge Advocate.

(i) A data retrieval and storage program, the VRS Data Base History (DBH), will be maintained by SM-ALC/PMXD. The data base will be accessed by the ALCs for responding to management and contractor queries and protest documentation. The DBH storage and retention period is 24 months. The retrieval query will provide for overnight response with printout. All printouts will carry

AFLC 5317.9103-3 Evaluation.

(a) The ACPS abstract function will, after completion of all other evaluations established by the solicitation (e.g., Balance of Payments, Quantity Discount, transportation costs, and Multiple Awards), convert the offers for each solicitation item into computed offers and provide the amounts on the abstract.

(b) The VRS spreadsheet will be provided with the abstract as a separate document.

(1) The spreadsheet will list CAGE, computed offer, QR and standard rating symbol, DR and standard rating symbol, and rank each offeror for each separately evaluated item. Offers will be ranked in order of their standard rating and then their computed offer amount.

(i) Three contractors, all rated exceptional in QR and DR, would be ranked in order of their computed offer from the lowest to the highest.

(ii) Three contractors, given a mix of ratings, will be ranked by order of the rating symbols (E/E, E/A, A/A, E/M, A/M, M/M, E/U, A/U, M/U, and U/U).

(2) Items involving subline items, including attachments and exhibits, will be evaluated as one item using total subline items and quantities for the item.

(3) Provide the standard rating symbol (E, A, M, or U) for quality and delivery for each offeror.

(4) The spreadsheet will be annotated as "RESTRICTED EVALUATION DATA—CONTRACTING OFFICER DELIBERATION DOCUMENT."

(5) The contractor performance data on the spreadsheet will be considered confidential contractor information and given appropriate protection.

(c) Only offerors rated exceptional or acceptable in quality and delivery performance will be considered in the VRS competitive range and further evaluated for award. A minimum of two offers rated exceptional or acceptable is required for the competitive range to be established under VRS by the ACPS process.

(d) The contracting officer may make a greatest value award based on, but not limited to, one of the following selection criteria:

(1) The low computed offer with VRS symbol of exceptional.

(2) The computed offer of an AFLC Blue Ribbon Program contractor in the FSC of the solicited item(s) which is within ten percent of the low computed offer.

(3) The computed offer, not from an AFLC Blue Ribbon Program contractor, of an offeror coded exceptional in both areas which is within ten percent of the low computed offer.

(e) The rate differences may be considered in making the award decision when more than one offeror receives the same symbols or symbol combination.

(f) The basis for the award decision will be documented in the contract file.

(g) Each offeror not in the competitive range will be notified when the determination is made. ACPS will provide notice letters to the offerors determined outside the competitive range for contracting officer signature and transmittal. The letters will be provided with the abstract and VRS spreadsheet.

(h) If the criteria in AFLC 5317.9102-2(c) are not met, the ACPS will not generate the notice letters.

(i) If the offer selected for award is not the lowest-priced responsive and responsible offer, the contracting officer shall conduct written or oral discussions as prescribed at FAR 15.610, "Written or Oral Discussions," and solicit best and final offers as prescribed at FAR 15.611, "Best and Final Offers." As a minimum for solicitations under VRS, the technical deficiencies to be addressed to the offerors in the competitive range will be their individual QR and DR.

AFLC 5317.9103-4 Responsibility determination.

(a) VRS establishes performance standards to determine a competitive range based on historical performance. It neither negates the requirement for an affirmative determination of contractor responsibility, determines a contractor ineligible for award, nor makes any other negative determination of contractor responsibility. The rating system may provide an indication of a contractor's responsibility by computing the quality and delivery rates for historical performance. It does not reflect the most current data available on a contractor.

(b) The Automated Contractor Responsibility Review Program (ACRRP) review is not negated by this system. Regardless of the awardee, an affirmative determination of responsibility is required since the VRS ratings are computed using data recorded through the previous month and the rates apply through the following month. ACRRP review is required to obtain current information prior to making an award. Current delinquency rate, notification of issuance of Method C or D letters, results of recent preaward surveys, or notices of potential problem areas from various sources should be considered.

AFLC 5317.9103-5 Approvals.

(a) Division level approval in writing is required prior to:

(1) Issuing a competitive, negotiated solicitation for NSN identified items and estimated to exceed $10,000 when VRS will not be used; or

(2) Awarding a contract to any offeror with a marginal or unacceptable rating in the quality or delivery element.

(b) The following prior approval levels apply when the award is not to be made to the lowest price offeror:

(1) Chief of the contracting branch when the difference between the low price offer and the award price exceeds $50,000 up to $150,000.

(2) Chief or Deputy Chief of the contracting division when the difference between the low price offer and award price exceeds $150,000 up to $250,000.

(3) Director or Deputy Director of the contracting office when the difference between the low price offer and award price exceeds $250,000 up to $500,000.

(4) Commander or Vice Commander, Air Logistics Center, when the difference between the low price offer and the award price is $500,000 or more.

AFLC 5317.9103-6 Reporting.

The following data will be accumulated in the VRS automated system:

(a) Number of competitive awards exceeding $10,000 which did not use the VRS and the reason(s).

(b) Number of competitive awards over $25,000 which did not use the VRS and the reason(s).

(c) Number of awards using VRS including:

(1) Number of awards and total dollars to the highest ranked offeror;

(2) Number of awards, total dollars, and dollar amount of premium price to exceptional ranked offerors who were and were not the low price offeror;

(3) Number of awards, total dollars, and dollar amount of premium price to a combination of exceptional and acceptable rated offerors who were and were not the low price offeror. Breakout between exceptional and acceptable standard ratings in quality and delivery performance;

(4) Number of awards, total dollars, and dollar amount of premium price to acceptable rated offerors who were and were not the low price offeror;

(5) Number of awards, total dollars, and dollar amount of premium price to a combination of acceptable and marginal rated offerors who were and were not the low price offeror. Breakout between acceptable and marginal standard ratings in the quality and delivery performance;

(6) Number of awards, total dollars, and dollar amount of premium price to marginal rated offerors who were and were not the low price offeror;

(7) Number of awards, total dollars, and dollar amount of premium price to a combination of marginal and unacceptable rated offerors who were and were not the low price of feror. Breakout between marginal and unacceptable standard ratings in the quality and delivery performance;

(8) Number of awards, total dollars, and dollar amount of premium price to unacceptable rated offerors who were and were not the low price offeror;

(9) Number of awards, total dollars, and dollar amount of premium price to other rating combinations. Breakout by standard rating combinations and performance areas; and

(10) Total number of awards and dollars.

(d) Listing or tracking system which identifies the contract number and NSN for VRS awards. This listing will be retained for 24 months.

AFLC 5317.9103–7 Solicitation provision.

The contracting officer shall insert the provision at AFLC 5352.217–9031, Vendor Rating System (VRS), in Section L of all solicitations for acquisitions meeting the criteria of AFLC 5317.9102–1(a).

SUBCHAPTER H—CLAUSES AND FORMS

PART 5352—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Authority: 5 U.S.C. 301 and FAR 1.301.

Subpart 5352.2—Texts of Provisions and Clauses

AFLC 5352.217–9031 Vendor Rating System.

As prescribed at AFLC 5317.9103–7, insert the following provision:

AFLC Vendor Rating System (VRS) (XXX 1991)

(a) Award of this contract will be made using the Air Force Logistics Command (AFLC) Vendor Rating System (VRS) procedure. VRS is a contractor performance evaluation system which provides each offeror's historical quality and delivery performance data by Federal Stock Class (FSC) and total business with AFLC central contracting activities. Data will be used to assist the contracting officer in evaluating offers to determine the VRS competitive range and which award will be of greatest value to the Government.

(b) Responsive offerors with quality or delivery performance history rated "Exceptional" or "Acceptable" and within 15 percent of the low evaluated price will be considered in the VRS competitive range. The VRS performance standards are:

(1) Exceptional: AFLC performance history files computing a quality rate of 99.0000 or higher and a schedules-completed-ontime rate of 95.0000 or higher.

(2) Acceptable: AFLC performance history files computing a quality rate of 96.9999 to 98.0000 and a schedules-completed ontime rate of 94.9999 to 85.0000.

(3) Of ferors with no performance history with AFLC will be rated "Acceptable" and assigned rates of 00.0000.

(4) The rate is an arithmetical computation based on the following:

(i) Offeror's history rating of experience with AFLC in the total FSC, not the specific item(s), of the solicited item(s); or

(ii) If the offeror has no AFLC history within the solicited FSC, the offeror's history rating of experience with AFLC in all other FSCs.

(c) Each separately awardable line item will be evaluated.

(d) Offers from contractors who are not rated "Exceptional" or "Acceptable" may be considered for award if the VRS competitive range determination does not permit an award decision by the contracting officer.

(e) The Government will award under this solicitation to the responsive, responsible offeror whose offer is determined to be the greatest value to the Government—price and other factors considered. The determination will be based on consideration of performance history, evaluated price, and time to delivery versus need if best effort delivery is a part of the solicitation. Additional specific evaluation factors may be identified in other provisions of the solicitation.

Note: The following optional wordings for paragraph (f) portrays two possible provisions. The wording to be used during the test period and the AFLC command-wide implementation will depend on the status of legislation and legal decisions regarding the award of negotiated contracts without discussion. Current GAO decisions do not permit award without discussions (Option I) when award is to other than the low price of feror. Comments regarding both options are requested.)

Option I for Paragraph (f)

(f) Award without discussion: The Government may accept other than the lowest offer and award on the basis of initial offers received without discussions.

(End of Provision)

Option II for Paragraph (f)

(f) Award with discussion: If the offer selected for award is not the lowest price responsive and responsible offer, written or oral discussions and solicitation of best and final offers will be conducted. As a minimum, the technical deficiencies to be addressed to the offerors in the competitive range will be their individual VRS quality and delivery rates followed by a request for best and final offers.

(End of Provision)

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 90–25065 Filed 10–23–90; 8:45 am]

BILLING CODE 3810-01-M

Notices

Federal Register
Vol. 55, No. 206
Wednesday, October 24, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

Fees and Costs

AGENCY: Administrative Office of the United States Courts.

ACTION: Notice of change in method of assessing the court's registry fee.

SUMMARY: The registry fee assessment provisions published in the Federal Register, May 11, 1989 (54 FR 20407), are hereby revised and converted from a one-time charge equal to all income earned in the first 45 days of the investment, to a charge of 10 percent of the income earned while funds are held in the court's registry.

Additionally, due to the practice of some courts of authorizing the investment of funds deposited with the court in proceedings beyond the scope of Rule 67 Fed. Rules of Civ. Proc. and, in recognition of the value to the litigants and obligation of the court to manage such funds, the fee is being extended to any funds placed into the court's registry and invested regardless of the nature of the action underlying the deposit.

EFFECTIVE DATE: December 1, 1990.

FOR FURTHER INFORMATION CONTACT: Assistant Accounting Officer, Accounting Branch, Financial Management Division, Administrative Office of the United States Courts, 1120 Vermont Avenue NW., Washington, DC 20544, (202) 633-6278.

SUPPLEMENTARY INFORMATION: Under its authority at 28 U.S.C. 1913, 1914(b), and 1930(b) to establish miscellaneous fees to be charged and collected by the clerks of courts, the Judicial Conference of the United States in September 1988, authorized the Director of the Administrative Office to impose a fee not exceeding three percent for the handling of registry funds held in the courts and invested in interest-bearing accounts. The fee is to be assessed from and may not exceed interest earnings. The Director was also instructed to review implementation of the fee and make adjustments from time to time.

As a result of a continuing review of the imposition of the fee and in consultation with various committees of judges and clerks concerning proposed revisions, the Director has decided that the fee will be revised from a one-time charge equal to the first 45 days interest earned, to a percentage charge on all income earned while funds are held in the court's registry.

Its application is also being extended to any case, where the court has authorized the investment of funds placed in its custody or held by it in trust in its registry regardless of the nature of the underlying action.

The fee will be deducted periodically, either at the time income is credited to the account or prior to any other distribution. Investments having a maturity date greater than one year will be assessed the fee at the time the investment instrument matures.

The revised fee will be (.10) or 10% × I where I = the total income received during each income period. For example, $100,000 deposited and invested in a 90-day certificate of deposit earning interest at an annual rate of 7.5% would be assessed a fee of $184.93 on the $1,849.31 interest earned for the quarter. The fee will be deducted at the time the certificate matures or is terminated.
[$100,000 × 7.5% / 365 × 90 days = $1,849.31 interest.]
$1,849.31 × 10% = $184.93 fee

If a second 90-day certificate was purchased upon maturity of the first, the same fee calculation would be applied to the earnings received from the second certificate.

If the investment instrument is in the form of a certificate of deposit which extends over several years, the fee will be 10% of the interest earned over the entire period. For example, if $100,000.00 were invested in a 3-year CD earning 7.5% compounded annually and payable at maturity, the fee would be $2,422.97.
[$100,000 × 7.5%] + [$107,500 × 7.5%] + [$115,562.50 × 7.5%] = $24,229.69 interest.
$24,229.69 × 10% = $2,422.97 fee

This new method of fee assessment recognizes the recurring cost of administering investment holdings over time. It also varies the fee in proportion to the income earned and the length of time the investment is held, and simplifies the computation of the fee for the courts when frequent fluctuations in principal sums placed into the court's registry for investment occur.

The new method of computing the fee will be applied to new investments of funds placed into court beginning on the effective date.

The new method will not be applied on investments in cases from which a fee has been exacted based on the prior method (interest earned in the first 45 days the funds were invested or the first 45 days following July 12, 1989). The new method will also not be applied in cases where the investment instrument has a maturity date greater than one year, but where a fee under the prior method applies but has not been deducted.

Example: In the three-year example above, if the date of the investment was June 22, 1989, the fee based on the prior method would have been $924.66 [$100,000 × 7.5%] / 365 × 45 = $924.66 payable from the interest received when the CD matures. Under the new method, the fee would be $2,422.97. However, because the previous method applies, only $924.66 is charged.

As with other miscellaneous fees authorized under 28 U.S.C. 1913, 1914, and 1930, this fee may be taxed as costs by the court pursuant to 28 U.S.C. 1920. In cases where the United States Government is a party to the action underlying the registry investment, the funds initially withheld in payment of the fee may be restored to the United States upon application filed with the court by the United States Attorney or other government counsel.

The fee does not apply in the District Court of Guam, the Northern Mariana Islands, the Virgin Islands, the United States Claims Court, or any other federal court whose fees are not set under the statutes cited above.

L. Ralph Mecham,
Director.

[FR Doc. 90-25062 Filed 10-23-90; 8:45 am]
BILLING CODE 2810-01-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Colorado River Basin Salinity Control Program; Determination of Primary Purpose of Program Payments for Consideration as Excludable From Income

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of determination.

SUMMARY: The Secretary of Agriculture has determined that all cost-share payments under the Colorado River Basin Salinity Control Program are made primarily for the purposes of soil and water conservation, protecting or restoring the environment, or providing a habitat for wildlife. This determination is in accordance with section 126 of the Internal Revenue Code of 1954, as amended. This determination permits recipients of these payments to exclude them from gross income to the extent allowed by the Internal Revenue Service.

FOR FURTHER INFORMATION CONTACT: Director, Conservation and Environmental Protection Division, Agricultural Stabilization and Conservation Service, USDA, room 4714, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC 20250, (202) 447-6221; or Director, Land Treatment Program Divsion, Soil Conservation Service, USDA, P.O. Box 2890, Washington, DC 20013 (202) 382-1670.

SUPPLEMENTARY INFORMATION: Section 126 of the Internal Revenue Code of 1954, as amended by the Revenue Act of 1978 and the Technical Corrections Act of 1979, 26 U.S.C 126, provides that certain payments made to persons under certain small watershed programs may be excluded from the recipient's gross income for Federal income tax purposes if the Secretary of Agriculture determines that payments are made "primarily for the purposes of conserving soil and water resources, protecting or restoring the enivronment, improving forests, or providing a habitat for wildlife * * *." The Secretary of Agriculture evaluates these conservation programs on the basis of criteria set forth in 7 CFR part 14, and makes a "primary purpose" determination for the payments made under each program. Before there may be an exclusion, the Secretary of the Treasury must determine that payments made under these conservation programs do not substantially increase the annual income derived from the property benefited by the payments. In addition, the Secretary of the Treasury must determine that the particular small watershed program is similar to the other Federal programs listed in section 126.

The Colorado River Basin Salinity Control Program is authorized by section 202(c) of the Colorado River Basin Salinity Control Act, as amended, 43 U.S.C. 1592(c). Funding for this program is allocated through annual Federal appropriations, which provide for financial, technical, and information and education assistance to owners and operators of agricultural land, helping them install improved irrigation water management systems on their land in order to reduce salt load contributions to the Colorado River system.

The Colorado River Basin Salinity Control Program provides financial and technical assistance to private landowners or operators who have control of agricultural lands located in approved project areas and have consented to the installation, management, and maintenance of improved irrigation water management systems that reduce the quantity of salt delivered to the Colorado River.

The purpose of the financial assistance component of the program is to assist landowners or operators with the cost of the installation of improved irrigation delivery and application systems. This cost-share program is administered within USDA by the Agricultural Stabilization and Conservation Service with technical assistance provided by the Soil Conservation Service and information and education assistance provided by the Cooperative Extension Service.

Under the regulations governing the Colorado River Basin Salinity Control Program (7 CFR part 702) county Agricultural Stabilization and Conservation committees (COC) may enter into contracts with individuals or entities that have control of land identified in USDA Salinity Control Reports as land that is contributing to the salt loading of the Colorado River. Funds are allocated to project areas based on annually prepared project implementation plans (PIP). The National Salinity Control Coordinating Committee (SCCC) approves a list of eligible Salinity Reduction Practices (SRP) for cost sharing. Each local SCCC may select from this list those SRP's it will approve for cost sharing.

Costs eligible for cost sharing include, but are not limited to, any necessary approved costs incurred by the landowner or operator to install or implement an approved SRP, such as equipment costs, material and labor, not to exceed a rate established by the COC to be fair and reasonable.

Procedural Matters

The authorizing legislation and the procedures and policies for the Colorado River Basin Salinity Control Program have been examined using the criteria set forth in 7 CFR part 14. The USDA has concluded that the payments made under this cost share program are made to provide financial assistance to eligible persons in carrying out soil and water conservation measures, and protecting or restoring the environment. Furthermore, the Secretary of the Treasury has determined that the Colorado River Basin Salinity Control Program is a "small watershed program" within the meaning of 26 U.S.C. 126. *See* 26 CFR 16A.126-1(d)(1)(ii).

A Colorado River Basin Salinity Control Program, Primary Purpose Determination for Federal Tax Purposes, "Record of Decision" has been prepared and is available upon request from the Director, Land Treatment Program Division, Soil Conservation Service, P.O. Box 2890, Washington, DC 20013; or Director, Conservation and Environmental Protection Division, Agricultural Stabilization and Conservation Service, USDA, room 4714, South Agricultural Building, 14th and Independence Avenue SW., Washington, DC 20250.

Determination

As required by section 126(b) of the Internal Revenue Code of 1954, as amended, I have examined the authorizing legislation, regulations, and operating procedures of the Colorado River Basin Salinity Control Program. In accordance with the criteria in 7 CFR part 14, I have determined that all cost-share payments made under this program are for soil and water conservation, protecting or restoring the environment, and providing wildlife habitat. Subject to further determination by the Secretary of the Treasury, this determination permits payment recipients to exclude from gross income, for Federal income tax purposes, all or part of such payments made under the Colorado River Basin Salinity Control Program.

Signed at Washington, DC on October 17, 1990.

Clayton K. Yeutter,

Secretary of Agriculture.

[FR Doc. 90-25151 Filed 10-23-90; 8:45 am]

BILLING CODE 3410-01-M

Agricultural Marketing Service

[TB-90-006]

Public Hearing Regarding Establishment of a New Tobacco Auction Market; Georgia

Notice is hereby given of a public hearing regarding an application to establish as a new market Ocilla, Georgia, and to combine the new market with the Fitzgerald, Georgia, tobacco market.

Date: November 1, 1990.
Time: 10 a.m. local time.
Place: Irwin County Court House, Irwin Avenue (Highway 129) Ocilla, Georgia.
Purpose: To hear testimony and to receive evidence regarding an application for tobacco inspection and price support services to a new market, Ocilla, Georgia, which would be consolidated with the currently designated market of Fitzgerald, Georgia. The application was made by B.B. Rogers and Richard Rogers, Gold Leaf Warehouses, Fitzgerald, Georgia.

This public hearing will be conducted pursuant to the joint policy statement and regulations governing the extension of tobacco inspection and price support services to new markets and to additional sales on designated markets (7 CFR 29.1 through 29.3).

Dated: October 22, 1990.
John E. Frydenlund,
Deputy Assistant Secretary, Marketing and Inspection Services.
[FR Doc. 90-25287 Filed 10-23-90; 8:45 am]
BILLING CODE 3410-02-M

[TB-90-009]

Public Hearing Regarding Establishment of a New Tobacco Auction Market; Virginia

Notice is hereby given of a public hearing regarding an application to merge the South Hill and Kenbridge, Virginia, tobacco markets.

Date: October 30, 1990.
Time: 9 a.m. local time.
Place: Conference Room of the Holiday Inn, Interstate 85 and Highway 58, South Hill, Virginia.
Purpose: To hear testimony and to receive evidence regarding an application for tobacco inspection and price support services to a new market, which would be a consolidation of the currently designated markets of South Hill and Kenbridge, Virginia. The application was made by R. R. Gunn, Kenbridge Tobacco Board of Trade, Kenbridge, Virginia.

This public hearing will be conducted pursuant to the joint policy statement and regulations governing the extension of tobacco inspection and price support services to new markets and to additional sales on designated markets (7 CFR 29.1 through 29.3).

Dated: October 22, 1990.
John E. Frydenlund,
Deputy Assistant Secretary, Marketing and Inspection Services.
[FR Doc. 90-25288 Filed 10-23-90; 8:45 am]
BILLING CODE 3410-02-M

COMMISSION ON CIVIL RIGHTS

Agency Information Collection Under Review by the Office of Management and Budget

AGENCY: U.S. Commission on Civil Rights (CCR).
ACTION: Notice.

SUMMARY: The Commission on Civil Rights is evaluating the implementation, enforcement and effectiveness of the Fair Housing Amendments Act of 1988 (FHAA). The proposed, one-time survey of 120 State and local human rights agencies has now been forwarded to OMB for review and clearance under the Paperwork Reduction Act of 1980. Copies of the proposed information collection may be obtained from James S. Cunningham, Director, Office of Programs Policy and Research, U.S. Commission on Civil Rights, 1121 Vermont Ave., NW., Washington, DC 20425, telephone (202) 376-8582. Comments regarding this information collection should be addressed to the OMB Desk Officer: Joe Lackey, Office of Information and Regulatory Affairs, OMB, Room 3208, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: James S. Cunningham.
DATES: Comments must be submitted on or before November 23, 1990.
SUPPLEMENTARY INFORMATION:
TITLE: Survey of State and Local Human Rights Agencies.
DESCRIPTION: The proposed survey of 120 State and local human rights agencies will address issues concerning their role in enforcing Title VIII of the Fair Housing Act. Prior to passage of FHAA, these agencies, which had been certified by HUD as operating under a law that was "substantially equivalent" to Federal law, processed most of the cases filed as Title VIII violations. Although FHAA "grandfathered" in all such agencies, they will become ineligible to process Federal cases if they have not been recertified by January 12, 1992. Two years after passage of the 1988 amendments, only three of the 120 currently equivalent agencies have been recertified. Should significant numbers of agencies fail to be recertified, the Federal fair housing enforcement effort could be seriously weakened. The proposed survey will be used to assess: (1) The role of human rights agencies in Federal fair housing enforcement, (2) problems encountered by agencies in seeking recertification under Title VIII, and (3) consequences and policy options available if many agencies fail to recertify.
RESPONDENTS: 120 State and local human rights agencies that have a role in enforcing Title VIII of the Fair Housing Act.
REPORTING BURDEN: The burden for this one-time data collection of a maximum of 120 responses is estimated at 14 hours per response or 1,680 burden hours for reporting; and at 6 hours per response or 720 hours for the record keeper.

Dated: October 18, 1990.
Wilfredo J. Gonzalez,
Staff Director.
[FR Doc. 90-25157 Filed 10-23-90; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Endangered Marine Mammals; Scripps Institution of Oceanography

AGENCY: National Marine Fisheries Service, NOAA, DOC.
ACTION: Application for Permit, Walter H. Munk Scripps Institution of Oceanography (P470).

SUMMARY: Notice is hereby given that the Applicant has applied in due form for a Permit to take endangered marine mammals as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), the National Marine Fisheries Service Regulations Governing Endangered Fish and Wildlife permits (50 CFR parts 217-222), the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

1. *Applicant:* Walter H. Munk, Scripps Institution of Oceanography (A-025), Institute of Geophysics and Planetary Physics, La Jolla, California 92093
2. *Type of Permit:* Scientific research
3. *Name of Animals:*
Minke whale (*Balaenoptera acutorostrata*)
Blue whale (*Balaenoptera musculus*)
Fin whale (*Balaenoptera physalus*)
Sei whale (*Balaenoptera borealis*)
Humpback whale (*Megaptera novaeanglice*)

Southern right whale (*Balaena australis*)
sperm whale (*Physeter macrocephalus*)
Killer whale (*Orcinus orca*)
Dusky dolphin (*Lagenorhynchus obscurus*)
Commerson's dolphin (*Cephalorhynchus commersonii*)
Long-finned pilot whale (*Globicephala melaena*)
Southern bottlenose whale (*Hyperoodon planifrons*)
Southern elephant seal (*Mirounga leonina*)
Antarctic fur seal (*Arctocephalus gazella*)

4. *Number of Animals*: Applicant estimates that no more than 100 pinnipeds or 10 cetaceans will be harassed during the course of this experiment, depending on the distribution of animals near the test site. All size, sex and age classes of baleen whales, killer whales, Antarctic fur seals, southern elephant seals, and adult make sperm whales may be harassed.

5. *Type of Take*: Acoustic harassment in the course of an experiment to assess potential impacts on marine mammals of acoustic signals designed to detect global ocean warming. Researchers will measure vocalization rates, respiration and direction of swimming to determine whether the behavior of the animals changes in response to the acoustic signal.

6. *Location and Duration of Activity*: January 26 until February 5, 1991, in the vicinity of Heard Island in the Southern Indian Ocean in an area of 40 km radius around a point 53° 14' South, 74° 31' East.

Concurrent with the publication of this notice in the Federal Register, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East West Hwy., rm. 7330, Silver Spring, Maryland 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, room 7330, Silver Spring, Maryland 20910;
Director, Alaska Region, National Marine Fisheries Service, NOAA, 709 West 9th Street, Federal Bldg., Juneau, Alaska 99802;
Director, Northeast Region, National Marine Fisheries Service, NOAA, One Blackburn Drive, Gloucester, Massachusetts 01930;
Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115;
Director, Southeast Region, National Marine Fisheries Service, NOAA, 9450 Koger Boulevard, St. Petersburg, Florida 33702;
Director, Southwest Region, National Marine Fisheries Service, NOAA, 300 South Ferry Street, Terminal Island, California 90731–7415; and
Administrator, Western Pacific Area Office, National Marine Fisheries Service, NOAA, 2570 Dole Street, room 106, Honolulu, Hawaii 96822–2398.

Dated: October 17, 1990.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 90–25080 Filed 10–23–90; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Prospective Grant of Exclusive Patent License; Ross Laboratories

This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Technical Information Service (NTIS), U.S. Department of Commerce, is contemplating the grant of an exclusive license in the United States to practice the invention embodied in U.S. Patent 4,842,886, "Formulated Milk Concentrate and Beverage" to Ross Laboratories, a Division of Abbott Laboratories, having a place of business at Columbus, Ohio 43216. The patent rights in this invention have been assigned to the United States of America.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license for the field of infant and medical nutritional products may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The invention is a formulated milk concentrate emulsion comprising about 25–60% by weight of nonfat dry milk solids, 15–40% by weight of water, 3–40% by weight of a nondairy edible oil, and 0–35% by weight of sugar, wherein the weight ratio of nonfat dry milk solids to water is between 1:0.55 and 1:0.75 and wherein there is no added emulsifier.

The availability of the invention for licensing was published in the Federal Register Vol. 53, No. 176, (1988). A copy of the instant patent application may be purchased from the NTIS Sales Desk by telephoning 703/487–4650 or by writing to Order Department, NTIS, 5285 Port Royal Road, Springfield, VA 22161.

Inquiries, comments and other materials relating to the contemplated license must be submitted to Girish C. Barua, Center for Utilization of Federal Technology, NTIS, Box 1423, Springfield, VA 22151. Properly filed competing applications received by the NTIS in response to this notice will be considered as objections to the grant of the contemplated license.

Douglas J. Campion,

Patent Licensing Specialist, Center for Utilization of Federal Technology, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 90–25109 Filed 10–23–90; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Limit and Guaranteed Access Level for Certain Cotton Textile Products Produced or Manufactured in Guatemala

October 19, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit and a guaranteed access level for the new agreement year.

EFFECTIVE DATE: January 1, 1991.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566–5810. For information on

embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

A Memorandum of Understanding (MOU) dated November 9, 1989 between the Governments of the United States and Guatemala establishes an import limit and a guaranteed access level for cotton textile products in Categories 347/348, produced or manufactured in Guatemala and exported during the period January 1, 1991 through December 31, 1991.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 54 FR 50797, published on December 11, 1989). Information regarding the 1991 CORRELATION will be published in the Federal Register at a later date.

Requirements for participation in the Special Access Program are available in Federal Register notices 51 FR 21208, published on June 11, 1986; 52 FR 26057, published on July 10, 1987; 54 FR 50425, published on December 6, 1989; and 55 FR 3079, published on January 30, 1990.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the MOU, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 19, 1990.

Commissioner of Customs
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further amended on July 31, 1986; pursuant to the Memorandum of Understanding (MOU) dated November 9, 1989 between the Governments of the United States and Guatemala; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1991, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 347/348, produced or manufactured in Guatemala and exported during the period January 1, 1991 through December 31, 1991, in excess of 563,300 dozen.

Imports charged to this category limit for the periods July 1, 1989 through February 28, 1990 and March 1, 1990 through December 31, 1990 shall be charged against the levels of restraint to the extent of any unfilled balances. In the event the limits established for these periods have been exhausted by previous entries, such goods shall be subject to the level set forth in this directive.

The level set forth above is subject to adjustment in the future according to the provisions of the MOU dated November 9, 1989 between the Governments of the United States and Guatemala.

Additionally, pursuant to the MOU dated November 9, 1989 and the terms of the Special Access Program, as set forth in 51 FR 21208 (June 11, 1986), 52 FR 26057 (July 10, 1987) and 54 FR 50425 (December 6, 1989), effective on January 1, 1991, a guaranteed access level of 1,000,000 dozen is being established for properly certified textile products assembled in Guatemala from fabric formed and cut in the United States in cotton textile products in Categories 347/348 which are re-exported to the United States from Guatemala during the period January 1, 1991 through December 31, 1991.

Any shipment for entry under the Special Access Program which is not accompanied by a valid and correct certification and Export Declaration in accordance with the provisions of the certification requirements established in the directive of January 24, 1990 shall be denied entry unless the Government of Guatemala authorizes the entry and any charges to the appropriate specific limit. Any shipment which is declared for entry under the Special Access Program but found not to qualify shall be denied entry into the United States.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-25131 Filed 10-23-90; 8:45 am]

BILLING CODE 3510-DR-M

Permitting Entry of Certain Textile Products Exported From Tanzania

October 19, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs permitting entry of certain textile products.

EFFECTIVE DATE: October 24, 1990.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce (202) 377–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended (42 FR 1453); Executive Order 12475 of May 9, 1984 (49 FR 19996); section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

In a letter published in the Federal Register on August 17, 1990 (55 FR 33744), the Chairman of the Committee for the Implementation of Textile Agreements (CITA) directed the Commissioner of Customs to deny entry for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 340, 341, 347, 348, 640 and 641 which are exported from Tanzania, with Tanzania identified as the country of origin, and presented for entry on and after August 18, 1990, regardless of the date of export.

As a result of an investigation conducted by Commerce and Customs, CITA has identified certain textile and apparel exporters transshipping goods through Tanzania in circumvention of textile agreements negotiated pursuant to Section 204. Accordingly, the Customs Service will deny entry to future shipments from these sources. Additionally, CITA directs the Commissioner of Customs, effective on October 24, 1990, to permit entry of cotton and man-made fiber textile products in Categories 340, 341, 347, 348, 640 and 641 exported from Tanzania.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 54 FR 50797, published on December 11, 1989).

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee For the Implementation of Textile Agreements

October 19, 1990.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Effective on October 24, 1990, this directive cancels the directive of August 13, 1990 issued to you by the Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 340, 341, 347, 348, 640 and 641 which are

exported from Tanzania, with Tanzania identified as the country of origin, and preceded for entry on and after August 18, 1990, regardless of the date of export.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-25130 Filed 10-23-90; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Telecommunications Service Priority System Oversight Committee; Establishment

ACTION: Establishment of the Telecommunications Service Priority System Oversight Committee.

SUMMARY: Under the provisions of Public Law 92-463, "Federal Advisory Committee Act," notice is hereby given that the Telecommunications Service Priority System Oversight Committee (TSPSOC) is being established.

The TSPSOC will advise the Manager, National Communications Systems and senior Defense Department officials regarding developments and problems in the Telecommunications Service Priority (TSP) System with the overall objective of recommending actions to correct system faults and prevent their recurrence. Specific aims of the TSPSOC will include: assessing responsiveness of the TSP System to national security and emergency preparedness requirements; reviewing and evaluating the adequacy and currency of policies, procedures and documentation requirements of the TSP System; and, assessing the design, and operation of the TSP System to ensure continued enhancement of capabilities in the light of emerging technological advances.

The TSPSOC will be composed of approximately 18 members, including both federal, state and local government and non-government individuals. Considerable efforts will be made to ensure that the members will be well-balanced as to points of view represented and the requirements of the functions to be performed. Members will be selected from among National Communications System organizations, private industry, telecommunications service vendors, and state and local governments.

Dated: October 18, 1990.

Linda M. Bynum,

Alternate OSC Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-25125 Filed 10-23-90; 8:45 am]

BILLING CODE 3810-01-M

Corps of Engineers; Department of the Army

Intent To Prepare Draft Environment Impact Statement (DEIS) for the Lower Amite River Flood Control, Louisiana, Study

AGENCY: U.S. Army Corps of Engineers, DOD, New Orleans District.

ACTION: Notice of intent.

SUMMARY: The purpose of this study is to investigate measures to provide flood relief to portions of Baton Rouge, Denham Springs, and other communities along the Amite River and its tributaries.

FOR FURTHER INFORMATION CONTACT: Questions regarding the proposed project and draft EIS should be addressed to: Mr. David Reece, telephone (504) 862-2522 or FTS 403-2522; mailing address—U.S. Army Corps of Engineers, Planning Division (CELMN-PD-RE), P.O. Box 60267, New Orleands, Louisiana 70160-0267.

SUPPLEMENTARY INFORMATION:

1. *Study authority:* This study is being conducted in response to a 1967 resolution of the Committee on Public Works of the United States Senate.

2. *Proposed project:* The purpose of this project is to reduce flood damages in certain areas of the Amite Basin by measures that would either reduce the height of flood stages or protect people and property from floodwaters, or both. Non-structural measures, such as improved floodplain management, will also be investigated.

3. *Alternatives.* Alternatives most likely to be studied in detail include: a 12,000-acre recreation reservoir with an 8,000-acre flood storage pool; a dry reservoir with about 13,000 acres of flood storage capacity; a reservoir with a permanent pool yet to be determined but less than that of the 12,000-acre reservoir; non-structural measures that could stand alone or be conducted with structural measures; and a no-action plan.

4. *Scoping process.* a. Extensive scoping has been done in conjunction with providing flood control measures for the Amite Basin. In 1985, more than 100 persons attended scoping meetings for the state's proposed Darlington Reservoir and, as a result of that scoping, 114 letters of comment were received. Following that scoping, a detailed study was performed under contract by Espey, Huston and Associates for the state. Many of the findings of that investigation will be used by the Corps during the course of the present study. Our present study will examine alternatives similar to those studied by the state, focusing on the same issues of concern. Since 1985, the Corps has continued to interact with state and local officials, as well as various interested groups and individuals, to insure that pertinent issues and concerns are addressed in either a state or Federal study. The scoping document prepared for the 1985 meetings and continued interaction with interested parties, as well as the findings of the study conducted by the state, will guide the course of the present Corps study.

b. Significant issues to be addressed in the EIS include: mineral resources, land use, public safety, fisheries, recreation resources, water quality, displacement of people, wildlife, aquatic habitat, property ownership and values, community cohesion, timber, endangered species, public services and facilities, swamps, cultural and historic resources, bottomland hardwoods, riparian habitat, aesthetics, community and regional growth, agriculture, business and industrial activity, upland hardwoods, natural and scenic streams, local government finance and tax revenues, and economic costs and benefits.

c. The U.S. Department of the Interior will provide a Fish and Wildlife Coordination Act Report. Coordination will be maintained with the U.S. Fish and Wildlife Service on endangered species. Also, coordination will be maintainted with the U.S. Soil Conservation Service regarding prime and unique farmlands. The Agricultural Stabilization and Conservation Service will be consulted regarding the "Swampbuster" provisions of the Food Security Act. The Corps will prepare a section 404(b)(1) Evaluation for review by the U.S. Environmental Protection Agency. Coordination will be maintained with the Advisory Council on Historic Preservation and the State Historic Preservation Officer. The Louisiana Department of Natural Resources will be consulted regarding consistency with the Coastal Zone Management Act. The Lousiana Department of Wildlife and Fisheries will be contacted concerning impacts to Natural and Scenic Streams. Application will be made to the Louisiana Department of Environmental Quality for a Water Quality Certificate.

d. A 45-day review period will be allowed so that all interested agencies, groups, and individuals will have the opportunity to comment on the draft report and EIS.

5. *Scoping meeting.* Since extensive scoping has already occurred, no additional formal scoping meetings will be scheduled.

6. *Availability.* The draft report and EIS are scheduled to be available to the public during the summer of 1992.

Dated: October 1, 1990.

Richard V. Gorski,

Colonel, U.S. Army, District Engineer.

[FR Doc. 90-25108 Filed 10-23-90; 8:45 am]

BILLING CODE 3710-01-M

Office of the Secretary

Defense Nuclear Agency; Membership of the Performance Review Board

AGENCY: Defense Nuclear Agency, DOD.

ACTION: Notice of membership of the Defense Nuclear Agency Performance Review Board.

SUMMARY: This notice announces the appointment of the members of the Performance Review Board (PRB) of the Defense Nuclear Agency (DNA). The publication of PRB membership is required by 5 U.S.C. 4314(c)(4). The Performance Review Board shall provide fair and impartial review of Senior Executive Service performance appraisals and make recommendations regarding performance and performance awards to the Director, Defense Nuclear Agency.

EFFECTIVE DATE: The effective date of service for the appointees of the DNA PRB is on or about 19 November 1990.

FOR FURTHER INFORMATION CONTACT: D. Dial-Alfred, Policy Branch (CVPO), Defense Nuclear Agency, Washington, DC 20305-1000, (703) 325-7593.

SUPPLEMENTARY INFORMATION: The names and titles of the members of the DNA PRB are set forth below. All are DNA officials unless otherwise identified:

Dr. George W. Ullrich, Deputy Director
Major General Walter E. Webb, USAF, Director for Operations
Mr. Robert L. Brittigan, General Counsel
Mr. Curtis L. Dierdorff, Director of Personnel, Defense Mapping Agency
Dr. Spiros G. Pallas, Special Assistant to the Deputy Director for Tactical Warfare Programs, Office of the Secretary of Defense

The following DNA officials will serve as alternate members of the DNA PRB, as appropriate:

Dr. E. John Ainsworth, Scientific Director
Mr. John M. Bachkosky, Director for Plans, Programs and Requirements
Dr. Paul H. Carew, Comptroller
Mr. Frederick S. Celec, Deputy Director for Operations
Mr. Jonathan Z. Farber, Special Assistant to the Deputy Director
Mr. David G. Freeman, Director, Acquisition Management Office
Dr. Kent L. Goering, Chief, Structural Dynamics Division
Mr. Richard L. Gullickson, Chief, Electromagnetic Applications Division
Dr. Don A. Linger, Director for Test
Mr. Clifton B. McFarland, Jr., Chief, Weapons Effects Division
Mrs. Joan Ma Pierre, Director for Radiation Sciences
Mr. Robert C. Webb, Chief, Electronics Effects Division
Dr. Leon A. Wittwer, Chief, Atmospheric Effects Division

Dated: October 16, 1990

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense

[FR Doc. 90-25127 Filed 10-23-90; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Implementation Plan for Conducting Systematic Evaluation Program at the Rocky Flats Plant; Response to Recommendation 90-5 of the Defense Nuclear Facilities Safety Board

AGENCY: Department of Energy.

ACTION: Notice and request for Public comment.

SUMMARY: Pursuant to section 315(d) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2285(d), the Department of Energy (DOE) hereby publishes notice of a response of the Secretary of Energy (Secretary) to Recommendation 90-5 of the Defense Nuclear Facilities Safety Board, concerning an implementation plan for conducting a Systematic Evaluation Program at the Rocky Flats Plant. DOE hereby requests public comment on the response of the Secretary to Recommendation 90-5.

DATES: Comments, data, views, or arguments concerning the Secretary's response are due on or before 30 days from the date of this notice.

ADDRESSES: Send comments, data, views, or arguments concerning the Secretary's response to: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW., Suite 700, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Donald F. Knuth, Deputy Assistant Secretary for Operations, Defense Programs, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

Dated: October 18, 1990.

Donald F. Knuth,

Deputy Assistant Secretary for Operations, Defense Programs.

October 15, 1990.

The Honorable John T. Conway,
Chairman,
Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW., Suite 700, Washington, DC 20004.

Dear Mr. Chairman: In accordance with Section 315 of Public Law 100-456 and with Defense Nuclear Facilities Safety Board Recommendation 90-5, which I accepted in my June 13, 1990, letter to the Board, I am enclosing the Department of Energy's (DOE) implementation plan for conducting a Systematic Evaluation Program at the Rocky Flats Plant. This program has already been initiated. We will keep you informed of our progress.

Our implementation plan is designed to take full account of the experience gained by the commercial power reactor industry under the Systematic Evaluation Program developed by the Nuclear Regulatory Commission to assess the safety adequacy of design at several of the older power reactors. As a result we believe that the overall concept and much of the detailed content of this plan can be equally applicable to other DOE facilities.

In connection with the above, I wish to take this opportunity to inform you that I have directed that a Systematic Evaluation Program also be initiated for the reactors at the Savannah River Site. We will keep you informed of our progress in executing this program as well.

Sincerely,

James D. Watkins,

Admiral, U.S. Navy (Retired).

SYSTEMATIC EVALUATION PROGRAM ROCKY FLATS PLANT IMPLEMENTATION PLAN

1.0 Introduction

1.1 Purpose

The structures and equipment at the U.S. Department of Energy (DOE) Rocky Flats Plant were, for the most part, designed and placed in operation long before current technical standards and criteria, design bases, and analytical procedures applicable to such structures and equipment were developed. In some cases, the design of these structures and equipment falls short of providing protection against natural phenomena and extreme conditions comparable to that which would be provided in facilities recently built. There is, therefore, a need to systematically assess the safety significance of

differences between the facility designs at Rocky Flats and more modern standards to ensure that a balanced and integrated level of safety is achieved for long-term operation of the Rocky Flats Plant.

In the short-term, before plutonium operations are resumed, numerous safety and operational improvements will have been implemented. A DOE operational readiness review will also have been conducted to confirm that these improvements are in place and effective. These efforts will include the actions necessary to respond to Defense Nuclear Facilities Safety Board recommendations 90-4, "Operational Readiness Review," and 90-6, "Criticality Safety at the Rocky Flats Plant."

With the completion of these efforts, the Department believes that the health and safety of the public will be assured during the conduct of plutonium operations while a systematic evaluation program as described below is completed.

Accordingly, DOE will develop and implement a Systematic Evaluation Program (SEP) at the Rocky Flats Plant, to commence as soon as practicable and be completed over about the next 4 years. The DOE has discussed this completion date with the Board, which finds it responsive to the Board's recommendation. The reasons and justification for the 4-year completion schedule will be communicated to the appropriate congressional committees in accordance with the requirements of law. The purpose of the SEP is to establish an integrated approach to assessing the design adequacy of the current Rocky Flats facilities from a safety point of view and to establish a basis for defining any needed facility improvements. The SEP will address all outstanding safety issues related to design and include, but not be limited to, consideration of the following items:

- Severe external events, with particular emphasis on seismic events, high winds, externally initiated fire, and airplane crashes;
- Severe internal events, with particular emphasis on internally initiated fire or explosion, flooding, chemical reactions, and accidental criticality;
- Ventilation system performance under severe external and internal events, including redundancy considerations; and
- Systems interaction.

An integrated assessment of the results of the evaluation, including criteria and procedures for making backfit decisions, will permit appropriate emphasis to be given to improving safety defense in depth at the Rocky Flats Plant. Experience with an SEP at the Nuclear Regulatory Commission (NRC) showed that an integrated assessment process provides an effective and efficient means to resolve a large number of interrelated issues and make balanced decisions regarding the need for improvements in plant safety.

1.2 Background

In 1977, the NRC initiated a Systematic Evaluation program to review the designs of older operating nuclear power plants to reconfirm and document their safety. Phase I of the SEP identified the safety topics to be reviewed and corresponding acceptance critiera. Phase II was the review of these topics for 10 older operating plants, including 5 of the oldest. The plant reviews consisted of comparision of the existing plant design against the current licensing criteria. Subsequently, the differences from current licensing criteria were evaluated in an integrated assessment to determine their relative safety signficance and the appropriate corrective action on a plant-specific basis. The purpose was not necessarily to bring the older plants into compliance with the newer requirements, but rather to ensure that the safety issues addressed by the requirements were either not present, or were adequately treated by the older plants. For example, administrative controls may be provided adequate resolution of issues addressed by design features in later plants. Initial reports from the NRC's SEP were issued in 1982.

The NRC SEP took place at a number of facilities over a period of about 5 years. Although some facility improvements were accomplished during this period, the concept of making plant specific improvements on the basis of integrated assessment meant that most improvements could not be implemented until the SEP was completed at the specific plant.

1.3 Terms and Definitions

The following terms and definitions are used within the SEP:

Topic—A technical subject selected for evaluation within the SEP. The identification of topics is based on consideration of a board range of technical issues, requirements, and potential topics. Topics may vary signficantly in scope.

Safety objective—A concise summary of the basic safety function(s) of the structures, systems, and components associated with a topic with respect to normal operation and design basis events. The safety objective is to be used to assess the significance of any deviations from current design requirements that may be identified during the SEP.

Current design requirements—Current DOE technical requirements for a topic applicable to new design activities. Commercial nuclear and industrial standards other than those currently referenced in DOE requirements will be considered in establishing design requirements, where necessary.

Acceptance criteria—Technical requirements for a topic to be used in the SEP evaluation of the topic. These criteria are to support the safety objective for their respective topic, but they may be less conservative than current design requirements.

Evaluation methodology—Technical approaches and methods to be applied in the evaluation of the facilities at the Rocky Flats Plant to determine how they measure up to the topic acceptance criteria. These methods may include deterministic analyses of selected design basis events, risk assessments to determine the contribution of the topic to overall facility risks, tests, design reviews, or as-built verifications.

2.0 Program Description

2.1 Scope

The SEP will focus primarily on public health and safety risks associated with accident prevention and mitigation. Significant contributors to the public risk resulting from normal operations, that are identified by the SEP, will also be addressed.

Worker safety within a particular facility will be considered when the SEP is applied to that facility. However, public safety is the primary reason for the SEP, and secondary emphasis will be placed on occupational hazards.

The SEP will provide for the early identification and timely resolution of any significant safety deficiencies discovered during the implementation of the program. The Rocky Flats Plant Issues Management Program will provide the necessary mechanism to ensure early evaluation of these significant safety deficiencies.

The Rocky Flats SEP will not address environmental, waste, emergency planning, and security issues, except to the extent that they are involved in the prevention and mitigation of the safety risks defined above. The SEP will not include upgrades of the plant required for the resumption of plutonium operations. However, the SEP will take account of the upgrades made before resumption.

The SEP at the Rocky Flats Plant will include all high and moderate hazard facilities, as defined in DOE Order 5481.1B, and any other facilities which perform a special function required for accident mitigation or emergency management. The SEP will focus on assessing the safety of structures, systems, and components. Operator training, maintenance, organization and management, planning, etc., will not be addressed, except to the extent that they directly affect the functional capability and safety performance of the structures, systems, and components.

The SEP to be performed at the Rocky Flats Plant will be somewhat broader than the SEP performed by the NRC, which was limited to public health and safety risks associated with accident prevention and mitigation. It will not cover the same scope as the NRC's Integrated Safety Assessment Program, which provided the regulatory framework for plant-specific resolution of significant SEP issues, all pending licensing actions, changes in regulatory requirements, and dominant contributors to risk.

The schedule and budget for the required SEP improvement actions will be accomplished outside of the SEP as a part of the normal budget and schedule process for the Rocky Flats Plant. Provisions will be established for tracking the implementation and closure of these SEP-related improvement actions, including an appropriate change control process.

2.2 Approach

The program will be carried out in four phases. The SEP will consist of three phases: identification and selection of the topics and requirements; performance of evaluation; and development of an integrated program of improvements. These will be followed by the fourth phase: implementation. These phases are described more fully in Section 3, below. Plans describing the objectives, procedures, and decision criteria for each phase of the SEP will be developed by the Rocky Flats contractor and approved by DOE. Upon the completion for each phase, a report will be prepared by the Rocky Flats contractor describing implementation and results, with special attention to any changes made to the original plan. DOE will issue a report on its evaluation of the contractor's report for each phase of the SEP.

A project management plan and quality assurance plan, developed by the contractor and approved by DOE, will provide for appropriate documentation and approval of any needed changes from the approved plans. Plan changes, if any, and the justification for the changes will be reported in quarterly reports, as well as in the final report for each phase.

Responsibilities and functions are specified in Section 4.

All plans and reports, including quarterly progress reports, will be submitted to the Defense Nuclear Facilities Safety Board upon receipt at DOE Headquarters.

2.3 SEP Objectives

DOE has established the following objectives for the Systematic Evaluation Program to be conducted at the Rocky Flats Plant:

(a) Compare structures, systems, and components in moderate and high hazard facilities with acceptance criteria for significant safety issues (topics).

(b) Evaluate departures from acceptance criteria, and provide for early identification of significant deficiencies for timely resolution.

(c) Decide on a program of plant improvements based on an integrated assessment.

(d) Assure that the SEP topic evaluations are brought to closure, and that provisions exist for tracking the implementation and closure of SEP-related plant improvements.

(e) Coordinate with other related programs at the Rocky Flats Plant, such as the upgrade of Safety Analysis Reports.

(f) Document the procedures, decision criteria, and results of each phase of the SEP.

2.4 Assumptions

The scope and approach for the SEP have been developed on the basis of the following assumptions:

- The other evaluation and upgrading programs for the Rocky Flats Plant (e.g., security, Safety Analysis Reports) will be implemented in reasonable accordance with current plans and schedules;
- DOE's new backfit policy will be available to guide decisions to be amde in Phase 3 of this SEP;
- The existing program control and tracking systems will allow individual facility improvements derived from the SEP to be identified and tracked to resolution within the context of the overall plant program of upgrades and improvements.

3.0 Detailed Technical Approach

This section describes the four phases of activity that constitute DOE's overall program for defining and implementing integrated safety improvements in the structures, systems, and components at the Rocky Flats Plant. The first three phases constitute the SEP, and the fourth phase covers implementation of any identified improvements.

Phase 1, "Topic Selection and Development of Evaluation Plans," includes the selection of SEP topics and development of a topics list, the definition of safety objectives, the identification of current design requirements, the definition of acceptance criteria and methodologies for the evaluation, and the planning for the detailed evaluation of each topic.

Phase 2, "Evaluation of Topics," includes evaluation of structures, systems, and components for each topic, determination and ranking of the safety significance of deviation(s) from criteria, for resolution of immediate safety concerns, identification of options for resolution of remaining deviations, and initial decisions for implementation of low cost improvements. Throughout this process an acceptable safety-safeguards interface will be maintained. In determining the safety significance of an item, the following attributes will be considered: an increase in the frequency of a plutonium release, an increase in the consequences of a plutonium release, a reduction in the safety margin that is provided to guard against a plutonium release, or identification of an Unreviewed Safety Question.

Phase 3, "Integrated Assessment," includes identification of improvement alternatives for the higher cost improvements, assessment of inter-relationships of topics and improvement alternatives, cost-benefit analyses and evaluations, and decisions regarding needed improvements. This effort will result in the identification and ranking of proposed improvement actions for the Rocky Flats Plant.

Phase 4 includes the planning, budgeting, and implementation of the improvements proposed as a result of the SEP integrated assessment.

3.1 Phase 1: Topic Selection and Development of Evaluation Plans

Phase 1 will include the identification and selection of potentially significant safety topics to be evaluated in the SEP and definition of the evaluation criteria and methodology to be used for evaluating each topic. An SEP Phase 1 Plan and Schedule will be developed by the Rocky Flats contractor and submitted to DOE for approval. The Phase 1 Plan will include more detailed instructions for performance of the Phase 1 activities.

3.1.1 Topic Selection

The topic selection activity will include the identification and selection of safety topics to be evaluated within the SEP at the Rocky Flats Plant. The identification of potential SEP topics is to include reviews of:

- Experience and operating history at Rocky Flats and other comparable facilities, including input from experts on plutonium processing facility design and operations;
- Technical issues contained in the Rocky Flats Plant Issues Management system; and
- NRC experience with commercial reactor SEPs, and commercial nuclear industry issues as identified in NRC generic licensing and inspection activities.

The topic selection process will consider sources of information from a broad perspective, including DOE orders and requirements, SEP experience gained from the commercial reactor sector, and other relevant documents such as NRC Regulatory Guides for plutonium facilities.

Potential topics are to be combined into a single master list of potential SEP topics. When combining these lists, the topics will be reviewed and screened using criteria similar to those applied in the NRC SEP. For example, redundant topics and topics not applicable to the Rocky Flats facilities may be deleted, and related and similar topics will be combined. In addition, topics may be deleted based on an assessment of potential safety significance, and the basis for deletion will be documented. Topic selection criteria are to be defined in the Phase 1 Plan. The underlying criterion for the SEP is that the topic must be of sufficient safety significance to warrant evaluation within the SEP. The resultant topics will be organized, to the extent practical, to align with the NRC standard format guide for safety analysis reports for plutonium processing facilities.

3.1.2 Acceptance Criteria and Evaluation Methodology

Safety objectives, current design requirements, acceptance criteria, and evaluation methodologies will be defined and documented for each of the selected topics. This process will consider the current design requirements defined in regulations and DOE orders, as well as the current industry requirements, standards, or practices.

3.1.3 Evaluation Plan

An evaluation plan will be developed for the evaluation of each topic. The development of the topic evaluation plans is to include the identification of any previous or ongoing safety evaluations at the Rocky Flats Plant that will be incorporated within the SEP evaluation of the topics, and the definition of interfaces with related topics. The topic evaluation plans will be directed towards identifying deviations from the acceptance criteria, with a focus on meeting the safety objectives of the topic with respect to identified design basis events.

3.1.4 Phase 1 Report

The results of the Phase 1 activities will be documented by the Rocky Flats contractor in a Phase 1 Report, which will include the final SEP topics list, and for each topic the safety objectives, current design requirements, acceptance criteria, evaluation methodology, and the topic evaluation plan. DOE will issue a report of its evaluation of the contractor's Phase 1 Report.

3.2 Phase 2: Evaluation of Topics

An SEP Phase 2 Plan and Schedule will be developed by the Rocky Flats contractor and submitted to DOE for approval. The schedule for the evaluation of each topic or group of topics will be developed based on a relative ranking of the topics. This ranking will take into consideration the potential safety significance of the topic, relationship to other topics, sequential requirements, and other factors.

Phase 2 of the SEP will include the evaluation of the SEP topics and the definition of any proposed facility improvements. The evaluation of each topic will be performed in accordance with the topic evaluation plan. The evaluation will identify and address differences and departures between the existing facility configuration and the acceptance criteria. If the evaluation determines that the safety objectives, current design requirements, and acceptance criteria are met, the topic will be closed with no further action required, other than documentation of the basis for reaching this conclusion. The safety significance of any deviations from current design requirements will be evaluated with respect to the safety objectives and to determine if the acceptance criteria are met.

If potential Unreviewed Safety Questions are identified during the SEP, they will be promptly referred to plant managers for processing and resolution. Prompt corrective actions will be taken where necessary for protection of the health and safety of the public. If Unreviewed Safety Questions are identified early in the SEP program that could affect resumption of operations, prompt notification to management will be made and appropriate actions will be taken to resolve the questions or to suspend any associated plutonium operations that may have been resumed.

Those deviations from acceptance criteria that can be resolved at a low cost (for example, procedure or programmatic changes), will be identified for early action. If the deviation is determined to be of minor or no safety significance, the topic will be closed.

At the conclusion of the evaluation of each topic, the results will be documented in an evaluation report for that topic. Where appropriate, the topic evaluation reports will include proposed action(s) to resolve deviations from acceptance criteria.

The results of the Phase 2 evaluations will be documented in a Phase 2 Report prepared by the Rocky Flats contractor. DOE will issue a report on its evaluation of the contractor's Phase 2 Report.

3.3 Phase 3: Integrated Assessment

An SEP Phase 3 Plan and Schedule for the integrated assessment will be prepared by the Rocky Flats contractor and submitted to DOE for approval.

Upon completion of the Phase 2 evaluation of all topics, an integrated assessment of the SEP Phase 2 results and proposed improvement actions will be performed. This effort will include consideration of alternative means of satisfying the safety objective for each topic. The integrated assessment will be performed in accordance with a documented decision process, which will include the following considerations:

- Interrelationship between individual topics and the associated actions for improvement;
- Relationships between other ongoing DOE defense complex programs, e.g., Defense Programs modernization, and SEP proposed actions for improvement;
- Cost-effectiveness of proposed actions with respect to a reduction in risk to the public health and safety;
- DOE's new backfit policy, including alternative actions for improvement;
- Remaining facility lifetime; and
- Improvements in defense in depth provided by safety systems and administrative controls.

The integrated assessment will result in the definition of an integrated set of recommended improvement actions. These proposed improvement actions will be ranked in broad categories of significance to facilitate the subsequent budgeting and scheduling of proposed

plant improvement projects. The SEP will ensure that provisions have been made for tracking the proposed improvements to completion. However, the planning, budgeting, and implementation of the improvements will be carried out in Phase 4.

The results of the integrated assessment process will be documented in a Phase 3 report by the Rocky Flats contractor. DOE will issue a report on its evaluation of the contractor's Phase 3 Report.

3.4 Phase 4: Implementation

Upon completion of the integrated assessment as documented in the Phase 3 Report, the recommended SEP corrective actions and improvements will be planned and scheduled. This process will include ranking the proposed actions consistent with other ongoing or future programs to upgrade the Rocky Flats Plant, and obtaining necessary approvals including any required for NEPA.

4.0 Administration of the Program

4.1 Responsibilities

The principal DOE responsibility for the SEP at the Rocky Flats Plant is assigned to the Deputy Assistant Secretary for Facilities, Defense Programs. To ensure adequate DOE management direction to the SEP and ongoing oversight of the SEP implementation, these responsibilities are delegated, through the Defense Programs management chain, to the DOE Systematic Evaluation Program Manager. The DOE SEP Manager is responsible for development of overall SEP policy, program development, budget preparation and justification, and broad program direction. The SEP Manager will ensure proper involvement of affected DOE Headquarters staff in the Rocky Flats SEP, and proper coordination and approval of SEP plans and reports.

The DOE Rocky Flats Office SEP Coordinator is responsible for the routine DOE activities of the SEP, consistent with the SEP Implementation Plan for the Rocky Flats Plant and directions from the DOE SEP Manager. The DOE Rocky Flats Office SEP Coordinator is to be the point of contact for routine information flow from the Rocky Flats Contractor to Headquarters.

The Rocky Flats Contractor has principal responsibility for the implementation of the Rocky Flats SEP consistent with the SEP Implementation Plan and the DOE approved plans for each Phase of the SEP. This responsibility includes: development and maintenance of the Project Management Plan, the Quality Assurance Plan, and the detailed plans for Phases 1, 2, and 3; implementation of Phases 1, 2, and 3; preparation of reports to document the results of each Phase; and coordination of plans and reports with DOE for review and approval. The Rocky Flats contractor is responsible for assembling the necessary team to ensure effective execution of the SEP.

4.2 Project Management Plan

A Project Management Plan (PMP) will be developed for the Rocky Flats SEP by the Rocky Flats contractor in accordance with the requirements of DOE 4700.1, "Project Management System." The PMP is to document the plans, schedules, and systems that those responsible for managing the project are to use.

The Rocky Flats SEP PMP is to include:

(1) Project Summary (including a project description and objectives).

(2) Project Milestones (Levels 1 and 2).

(3) Work Breakdown Structure (Levels 1, 2, and 3).

(4) Activity Network (to reflect sequences and dependencies).

(5) Organization and Responsibilities (for both DOE and the Rocky Flats Contractor).

(6) Budget.

(7) Reporting and Review Process.

4.3 Quality Assurance Plan

A Quality Assurance Plan (QAP) will be developed for the Rocky Flats SEP in accordance with the requirements of DOE 4700.1, "Project Management System," DOE 5700.6B, "Quality Assurance," and ANSI/ASME NQA-1. NQA-1 has been chosen as the basic document since it is endorsed by DOE 5700.6B as the preferred standard for nuclear facilities. The purpose of the QAP is to provide adequate confidence that the Rocky Flats SEP objectives are accomplished, and that SEP activities are performed in a controlled manner to meet technical and documentation requirements.

Development of the QAP is to include identification of the quality assurance elements which are applicable to each phase of the Rocky Flats SEP, and definition of the specific requirements for each element. The QAP will include activities and responsibilities for the Rocky Flats contractor and for interfaces with DOE.

The QAP is to include provisions for establishment and implementation of a change control process for the Rocky Flats SEP. This change control process will not include those change controls associated with the implementation of the SEP improvements because they are outside the scope of the SEP.

The QAP is to be developed and maintained by the Rocky Flats contractor and approved by DOE. Annual reviews of the QAP are to be performed to assure that the plan is kept current.

5.0 Schedule

Phase I of the SEP will be completed within 1 year of the issuance of this Implementation Plan. The Phase I report will include a schedule for the remaining phases. DOE will provide quarterly progress reports to keep the Board apprised of the status of progress being made toward completion of the SEP. In the event that additional time is necessary to complete a phase, or in the event that changes or supplements are required for already issued reports, DOE will promptly inform the Board and indicate the reasons justifying the change in the schedule or report content.

[FR Doc. 90-25155 Filed 10-23-90; 8:45 am]
BILLING CODE 6450-01-M

Bonneville Power Administration

Availability Announcement of the Alternative Cost Determination for Fiscal Year 1990 Billing Credits Solicitation

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of availability. BPA File No.: BCR-3. BPA is announcing the availability of the Alternative Cost Proposal in the BPA Billing Credits Solicitation.

SUMMARY: BPA, in compliance with its Billing Credits Policy, as amended August 30, 1984 (48 FR 20275), has determined the alternative costs for the Billing Credits Solicitation. The alternative costs represent the estimated costs BPA would incur as a result of acquiring new resources to meet future firm load obligations. These alternative costs are consistent with BPA's Resource Program. BPA is willing to commit to these Alternative Costs for the full duration of billing credit contracts signed pursuant to this Billing Credits solicitation. These alternative costs form the basis for billing credits for conservation activities, and the upper limit on the amount of a billing credit for a resource other than conservation.

Responsible official: Paul Norman, Billing Credits Project Manager, is the official responsible for BPA's alternative costs.

DATES: Alternative costs are effective immediately.

FOR FURTHER INFORMATION CONTACT: For a copy of the BPA alternative costs, please contact the Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

Telephone numbers, voice/TTY, for the Public Involvement office are: 503–230–3478 in Portland; toll-free 800–452–8429 for Oregon outside of Portland; 800–847–6048 for Washington, Idaho, Montana, Utah, Nevada, Wyoming, and California. Information may also be obtained from:

Mr. George E. Gwinnutt, Lower Columbia Area Manager, suite 243, 1500 NE. Irving Street, Portland, Oregon 97232, 503–230–4551.

Mr. Robert N. Laffel, Eugene District Manager, room 306, 211 East Seventh Avenue, Eugene, Oregon 97401, 503–687–6952.

Mr. Wayne R. Lee, Upper Columbia Area Manager, room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2518.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406–329–3060.

Mr. Ronald K. Rodewald, Wenatchee District Manager, room 307, 301 Yakima Street, Wenatchee, Washington 98801, 509–662–4377, extension 379.

Mr. Terence G. Esvelt, Puget Sound Area Manager, suite 400, 201 Queen Anne Avenue North, Seattle, Washington 98109–1030, 206–442–4130.

Mr. Thomas V. Wagenhoffer, Snake River Area Manager, 101 West Poplar, Walla Walla, Washington 99362, 509–522–6225.

Mr. Richard Itami, Idaho Falls District Manager, 1527 Hollipark Drive, Idaho Falls, Idaho 83401, 208–523–2706.

Mr. Thomas H. Hankenship, Boise District Manager, room 480, 304 North Eighth Street, Boise, Idaho 83702, 208–334–9137.

SUPPLEMENTARY INFORMATION:

I. Background

The alternative costs represent the estimated costs which BPA would incur as a result of acquiring new resources to meet future firm load obligations. These alternative costs reflect BPA's cost of acquisition, and are set forth in the way these costs would be recovered in BPA's rates for firm electric power.

A. Basis for Alternative Costs

These alternative costs stem from the BPA Resource Program analysis, and are therefore consistent with the Resource Program. These alternative cost determinations agree with resource offers which are currently being considered by BPA. Part of BPA's alternative cost analysis was a survey of current market conditions, and BPA found that other resource developments and purchases in the region today also agreed with BPA's alternative cost determinations.

BPA is willing to commit to these alternative costs for the full duration of billing credit contracts signed in this first round of billing credits. However, new alternative costs would be calculated for subsequent billing credit solicitations, and the methodology and assumptions for deriving these new alternative costs may change significantly from those relied on today.

BPA expects to have completed at least one round of competitive solicitations prior to the next billing credit solicitation, and this should provide additional information about the cost of future resource acquisitions.

These alternative costs form the basis for billing credits for conservation activities, and the upper limit on the amount of a billing credit for a resource other than conservation.

B. Alternative Resource Types

The Resource Program analysis and market surveys indicated that a single resource type cannot be considered as the alternative resource. There are several types of potentially cost-effective resources available for acquisition, all at about the same real levelized cost. These alternative resource types include:

- Cogeneration.
- System purchases.
- Displaceable purchases.
- Small hydro.
- Conservation.
- Combustion turbines (CT).

Therefore, rather than base the alternative costs on a single resource type, a range of alternative cost streams was identified, based on the range of alternative types of resources available to BPA for acquisition. The range of cost streams reflects the different fixed-to-variable cost ratios for these resource alternatives. These alternative cost streams differ in terms of the first year cost and rate of increase over time of the total alternative cost, but not in terms of the real levelized value of the alternative cost. Some resources, like small hydro, are capital intensive with most of the cost being fixed over time, while other resource types such as combustion turbines and displaceable purchases have costs that are predominantly composed of variable, or operating costs. One advantage of having a range of alternative cost streams is that it allows an alternative cost stream to be chosen which is most consistent with the cost stream of the billing credit resource.

C. Adjustment for Resource Characteristics

Since resource operating characteristics may have a significant effect on the cost of the resource to BPA, differences between the operating characteristics of the alternative cost resource and the billing credit resource must be taken into account.

These important characteristics are:

Capacity: The amount of capacity the resource would provide, or peak load reduction it would cause.

Seasonal distribution: The amount of firm energy the resource provides or saves in each month.

Displaceability: The ability to displace a resource when substitute sources of energy are available at lower operating costs.

BPA has estimated the marginal value of each of these resource characteristics, and will adjust the benchmark alternative costs as necessary to account for any differences between the alternative resource and the actual billing credit resource.

A special case of this potential adjustment to alternative costs is the Puget Sound Area of Western Washington. This area is a net importer of electric power, principally from regions east of the Cascades. This circumstance, coupled with rapid load growth in the area, is expected to cause voltage instability problems in the area under certain contingencies (*e.g.*, extremely cold weather, temporary loss of transmission lines). This voltage instability could result in reduction in service quality throughout the area, including blackouts. BPA and utilities serving the area are examining alternative solutions to this problem, including the acceleration of conservation programs and the development of additional generation within the area. To the extent that BPA can estimate the value of a billing credits proposal as it serves to alleviate the voltage instability problem, credit will be given in the evaluation.

D. Final Alternative Costs Determination

The alternative costs and adjustment values included in the solicitation are not sufficient to allow customers to determine the exact final alternative cost that would be included in a billing credit contract. The information in this solicitation does allow an approximation of the alternative cost. However, the final alternative cost determination for contract approval will be subject to BPA's evaluation of the

billing credit resource characteristics and contract negotiations.

II. Benchmark Real Levelized Alternative Costs

BPA's benchmark alternative costs are listed in Table 1. These alternative costs are presented in real levelized values (1990 dollars), for different on-line dates and various contract terms. These are called "benchmark" alternative costs because they will typically need to be adjusted to reflect the operating characteristics of a particular billing credit resource.

TABLE 1.—BENCHMARK REAL LEVELIZED ALTERNATIVE COSTS

[Mills per kWh (1990 Dollars)]

Resource life	1992	1993	1994	1995	1996
5	25.0	25.3	25.5	25.8	26.0
10	25.9	26.2	26.4	26.7	26.9
15	26.8	27.0	27.3	27.5	27.8
20	27.7	28.0	28.2	28.5	28.7
25	28.5	28.8	29.2	29.6	30.0
30	29.2	29.7	30.2	30.7	31.2
35	30.0	30.6	31.2	31.9	32.5
40	30.7	31.5	32.3	33.0	33.8
45	31.5	32.4	33.3	34.2	35.1
50	32.2	33.2	34.3	35.3	36.3

III. Nominal Alternative Costs

A. Introduction

The real levelized alternative costs described above are the basis for the nominal alternative costs upon which billing credits are actually computed.

Real levelized costs exclude the effects of inflation on resource costs. "Nominal" alternative costs include the effects of inflation, and are not levelized. Nominal alternative costs represent the actual year-by-year payments BPA would expect to make if it adquired the alternative resources.

B. Alternative Resource Types

As explained previously, BPA might acquire any of several types of resources, all at approximately the same real levelized cost. These resource types fall into three basic categories:

a. Hydro-type resources, with high capital costs and low variable cost. Nominal costs for these resources tend to start high, but do not rise very fast over the project life.

b. Cogenerative and system purchases. The fixed-to-variable cost ratios on these resouces vary, but tend to be more evenly split than for hydro-type resources.

c. Combustion turbine and displaceable purchases. These resources have low capital costs, but high variable costs. Consequently, their annual costs are low at first, but are subject to substantial escalation over time.

C. Fixed and Variable Alternative Costs

The nominal alternative costs have been divided into fixed and variable components. Table 2 shows the fixed, variable, and total alternative costs for the first contract years, expressed in 1990 dollars, corresponding to the benchmark real levelized alternative costs presented previously for two different on-line dates, two different contract terms, and for the three resource types described above.

The fixed component represents the annual payment to recover the capital cost of the alternative resource.

The variable component of the nominal alternative cost will be specified in 1990 dollars when the contract is signed, and then will be adjusted for each year of the contract by multiplying by the ratio of the Gross National Product (GNP) deflator index for each contract year to the GNP deflator index in 1990 to account for the effects of general inflation.

TABLE 2.—NOMINAL FIRST YEAR ALTERNATIVE COST: EXPRESSED IN 1990 DOLLARS

	Var cost (mills/kWh)	Fix Cost (mills/kWh)	Total (mills/kWh)
On-Line 1992:			
Displaceable Purchase/CT-Type Resource 20 yr Life	21.5	9.3	30.8
Displaceable Purchase/CT-Type Resource 40 yr Life	21.5	18.1	39.6
Cogen/System Sale-Type Resource 20 yr Life	14.3	21.9	36.2
Cogen/System Sale-Type Resource 40 yr Life	14.3	34.3	48.6
Hydro-Type Resource 20 yr Life	4.1	36.2	40.3
Hydro-Type Resource 40 yr Life	4.1	52.4	56.5
On-Line 1996:			
Displaceable Purchase/CT-Type Resource 20 yr Life	23.6	7.8	31.4
Displaceable Purchase/CT-Type Resource 40 yr Life	23.6	20.4	44.0
Cogen/System Sale-Type Resource 20 yr Life	15.4	20.4	35.8
Cogen/System Sale-Type Resource 40 yr Life	15.4	36.2	51.6
Hydro-Type Resource 20 yr Life	5.1	36.2	41.3
Hydro-Type Resource 40 yr Life	5.1	56.5	61.6

D. Example Nominal Cost Streams

Table 2 shows the nominal fixed, variable, and total alternative costs for three resource types corresponding to the 27.7-mill real levelized benchmark alternative cost for a 20-year resource and 40-year resource for 1992 and 1996 on-line dates. These nominal costs would correspond with the benchmark real levelized alternative costs from Table 1 of 27.7 and 30.7 for the 1992 on-line date (20-year and 40-year resource life, respectively) and 28.7 and 33.8 for the 1996 on-line date (20-year and 40-year resource life, respectively).

E. Adjustment of Fixed Alternative Costs

The nominal fixed alternative costs presented here are based on certain assumptions about how the alternative resources would be financed, and how BPA would pay those capital costs. There is no way of knowing in advance exactly how the fixed costs of the alternative resources would be shaped over the resource life, because financing arrangements can vary dramatically from resource to resource. In addition, the actual operating life of the alternative resources may vary from what is assumed here.

Because of this uncertainty, BPA is willing to adjust the shape of the fixed component of alternative cost. Shapes different from those shown here may be proposed by customers, and will be considered by BPA. Limitations on BPA's willingness to change the shape of alternative costs are:

a. That the real levelized alternative cost not increase,

b. That the new shape be one which BPA might reasonably expect to actually face on a resource acquisition, and

c. That the change in shape is to accommodate some real financing constraint or resource characteristic which makes the fixed cost shapes presented here unworkable for a particular billing credit resource.

IV. Materials Available

Copies of the BPA Billing Credits Solicitation (July 1990) and the BPA Billing Credits Policy (August 1984) are available from BPA's Public Involvement office. Refer to the "For Further Information Contact" section of this notice.

Issued in Portland, Oregon, on October 15, 1990.

James J. Jura,

Administrator.

[FR Doc. 90-25153 Filed 10-23-90; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. QF85-282-004, et al.]

Archbald Power Corporation, et al. Electric Rate, Small Power Production, and Interlocking Directorate Filings

October 16, 1990

Take notice that the following filings have been made with the Commission:

1. Archbald Power Corporation

[Docket No. QF85-282-004]

On October 9, 1990, Archbald Power Corporation (Applicant) of 100 Australian Avenue, Suite 304, West Palm Beach, Florida 33406, submitted for filing a Petition for Temporary Waiver of Operating Standard and Request For Expedited Consideration. Specifically, Applicant requests waiver of the Commission's operating standard for the period beginning September 11, 1990, through December 31, 1990, with respect to its 20.2 MW topping-cycle cogeneration facility located in Archbald Borough, Pennsylvania.

The original certification was issued on April 24, 1985. A recertification was issued on September 8, 1988. Applicant filed notices of qualifying status on December 29, 1988, and April 9, 1990.

Comment date: November 5, 1990, in accordance with Standard Paragraph E at the end of this notice.

2. New England Power Company

[Docket No. EL91-13-000]

Take notice that on October 4, 1990, New England Power Company (NEP) tendered for filing an amendment of service agreement between NEP and New Hampshire Electric Cooperative.

Comment date: October 29, 1990, in accordance with Standard Paragraph E at the end of this notice.

3. Central Virginia Electric Cooperative, Inc. and Craig-Botetourt Electric Cooperative, Inc. v. Virginia Electric and Power Company

[Docket No. EL90-52-000]

Take notice that on September 21, 1990 Central Virginia Electric Cooperative, Inc. (Central Virginia) and Craig-Botetourt Electric Cooperative, Inc. (Craig) (collectively, Cooperatives) tendered for filing a complaint against Virginia Electric and Power Company (VEPCO). Cooperatives state that the rates currently charged Cooperatives by VEPCO are excessive, unjust, unreasonably and unduly discriminatory. Cooperatives further state that the increased rates proposed by VEPCO in Docket No. ER90-540-000 are excessive, unjust, unreasonable and unduly discriminatory and therefore unlawful under the Federal Power Act.

In their complaint Cooperatives request that the Commission consolidate this docket with Docket Nos. EL90-49-000, EL90-51-000, and ER90-540-000.

Comment date: November 15, 1990, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-25076 Filed 10-23-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP91-112-000, et al.]

Transwestern Pipeline Co., et al.; Natural Gas Certificate Filings

October 18, 1990.

Take notice that the following filings have been made with the Commission:

1. Transwestern Pipeline Co.

[Docket No. CP91-112-000]

Take notice that on October 11, 1990, Transwestern Pipeline Company (Transwestern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP91-112-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and the Natural Gas Policy Act (18 CFR 284.223) for authorization to transport gas on behalf of Enron Gas Marketing, Inc. (Enron), a marketer of natural gas, under Transwestern's blanket certificate issued in Docket No. CP88-133-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Transwestern proposes to transport on an interruptible basis up to 200,000 MMBtu of natural gas equivalent per day on behalf of Enron pursuant to a transportation agreement dated September 11, 1990, between Transwestern and Enron. Transwestern would receive the gas at existing delivery points in Arizona, Oklahoma, Texas and New Mexico and redeliver equivalent volumes at existing delivery points in Arizona, Texas, Oklahoma and New Mexico.

Transwestern states that the estimated average daily and annual quantities would be 150,000 MMBtu and 73,000,000 MMBtu, respectively. Service under § 284.223(a) commenced on September 11, 1990, as reported in Docket No. ST91–57–000, it is stated.

Comment date: November 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

2. Northern Natural Gas Co., Division of Enron Corp.

[Docket No. CP91–114–000]

Take notice that on October 11, 1990, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, Houston, Texas 77002, filed in Docekt No. CP91–114–000 an application pursuant to section 7(b) of the Natural Gas Act for permission for and approval to abandon, by removal, the Gray County #1 compressor station and all appurtenant facilities, including miscellaneous valves and piping, located in Gray County, Texas, all as more fully set forth in the application on file with the Commission and open to public inspection.

Northern states that the Gray County #1 compressor station (Gray #1) was constructed to maintain the Panhandle-White Deer gas supply system and was placed into service on October 18, 1980. It is stated that the Gray #1 is a single stage compression facility and consists of one 228 horsepower single stage unit and one 111 horsepower single stage unit. It is submitted that currently, 15 wells flow gas at an average throughput of approximately 1,000 Mcf per day to the suction side of the Gray #1. It is stated that the gas is then discharged into the suction side of the McConnell compressor station, which is a two stage compression facility and consists of two 736 horsepower units and one 810 horsepower unit.

Northern submits that the Gray #1 has not been utilized for several years because compression has not been needed at this location to maintain deliveries of system supply to Northern's customers because of a decline in deliverabilities due to the plugging and abandoning of numerous wells. It is stated that compression located at the McConnell compressor station currently provides all of the required compression since there is sufficient line and compression capability at the McConnell compressor station to handle both McConnell's and Gray's gas. Therefore, Northern explains, the proposed abandonment of the Gray #1 will not result in the abandonment of any service to any of Northern's existing customers or producers, nor will the proposed abandonment adversely affect Northern's ability to receive gas since compression at the Gray #1 is no longer needed. Northern further states that approval of the abandonment will improve the efficiency of Northern's overall system operations by making the Gray #1 compression, unnecessary at its present location, available for possible future use elsewhere.

Comment date: November 6, 1990, in accordance with Standard Paragraph F at the end of this notice.

3. Southern Natural Gas Co.

[Docket No. CP91–120–000]

Take notice that on October 11, 1990, Southern Natural Gas Company (Southern), Post Office Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP91–120–000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of Municipal Gas Authority of Georgia (MGAG), under Southern's blanket certificate issued in Docket No. CP88–316–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern requests authorization to transport, on an interruptible basis, up to a maximum of 100,000 MMBtu of natural gas per day for MGAG from receipt points located in Offshore Texas, Offshore Louisiana, Texas, Louisiana, Mississippi and Alabama to various points of delivery located in Georgia. Southern anticipates transporting 7,500 MMBtu of natural gas on an average day and an annual volume of 2,737,500 MMBtu.

Southern states that the transportation of natural gas for MGAG commenced August 23, 1990, as reported in Docket No. ST90–4599–000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to Southern in Docket No. CP88–316–000.

Comment date: November 20, 1990, in accordance with Standard Paragraph G at the end of this notice.

4. K N Energy, Inc.

[Docket No. CP63–140–007]

Take notice that on October 1, 1990, K N Energy, Inc. (K N), 12055 West Second Place, Lakewood, Colorado 80215, filed in Docket No. CP63–140–007 a petition pursuant to section 7 of the Natural Gas Act to amend the Commission order issued in Docket Nos. CP63–140–000 and CP63–140–001, as amended, in order to construct and operate sales taps to make direct retail sales to customers located on or near K N's transmission facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

K N requests that the Commission issue an order amending K N's blanket certificate issued in Docket Nos. CP63–140–000 and CP63–140–001, as amended, granting K N permission to use the automatic authorization procedure set forth in § 157.211(a)(1) of the Commission's Regulations to construct and operate sales taps in order to make direct retail sales to customers located on or near its transmission facilities, or to issue an order approving such proposal. As an alternative, K N requests that the Commission issue an order reinstituting the historical automatic sales tap authority on a broad basis to those pipelines that would qualify.

K N states that on March 16, 1983, in Docket Nos. CP63–140–000 and CP63–140–001, the Commission granted K N a blanket certificate of public convenience and necessity pursuant to subpart F of part 157 of the Regulations, authorizing K N to perform certain routine activities on a self-implementing basis, subject to the notice procedure as set forth in § 157.205.

It is stated that on June 18, 1984, K N petitioned for an amended blanket certificate authorizing K N to utilize the prior notice procedure pursuant to § 157.205 for § 157.211(b) construction and operation of on-system sale taps for new or existing direct retail customers. K N states that in that petition it stated that the added costs, delays and uncertainties involved in obtaining a section 7(c) certificate were a deterrent to potential customers and an impediment to K N's ability to provide service. It is indicated that on November 23, 1984, the Commission granted K N the blanket authority it had requested in Docket No. CP63–140–002 and that to date, K N has filed such requests for

Market authorization to install approximately 414 sales taps.

K N states that on October 20, 1986, it filed a petition to amend its blanket certificate in order to permit K N to use the automatic authorization procedure of § 157.211(a)(1) of the Regulations to construct and operate sales taps to make direct retail sales to 200 MMBtu or less of natural gas per day to customers who are at or near its transmission facilities but who are not right-of-way grantors. It is indicated that such petition was denied by the Commission order dated September 17, 1987, and that rehearing was denied by the Commission order dated March 24, 1988.

K N states that by this subject petition it is renewing its request that the Commission amend the blanket certificate issued to K N in Docket Nos. CP83–140–000 and CP83–140–001, as amended, to permit K N to use the automatic authorization procedure set forth in § 157.211(a)(1) of the Regulations in order to construct and operate sales taps for the ultimate delivery of up to 200 MMBtu of natural gas per day to residential, small commercial, agricultural, and small industrial end users located on or near K N's transmission facilities. K N states that it is limiting its request in that the proposed automatic authority would not be used to service customers within another local distributor's franchise area. K N points out that it is unique in that it makes most of its gas sales at retail as a local distributor subject to state and local regulation. K N further indicates that, unlike most other interstate pipelines, many of its jurisdictional transmission pipelines are used to serve rural customers for domestic and agricultural purposes. Finally, K N states that it has a retail service obligation under state law.

K N specifically states that it is not seeking automatic authorization to add additional wholesale delivery points to new or existing sales-for-resale customers or to add sales taps for large volume customers.

Comment date: November 6, 1990, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

5. Texas Eastern Transmission Corp.

[Docket No. CP91–10–000, Docket No. CP91–11–000]

Take notice that on October 1, 1990, Texas Gas Transmission Corporation, Post Office Box 2521, Houston, Texas 77252–2521, filed in the respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. CP88–136–007, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.[1]

A summary of each transportation service which includes the shippers identity, the peak day, average day and annual volumes, the receipt point(s), the delivery point(s), the applicable rate schedule, and the docket number and service commencement date of the 120-day automatic authorization under § 284.223 of the Commission's Regulations is provided in the attached appendix.

Comment date: November 30, 1990, in accordance with Standard Paragraph G at the end of this notice.

[1] These prior notice requests are not consolidated.

Docket No. (date filed)	Applicant	Shipper name	Peak day avg, annual [2]	Points of Receipt	Points of Delivery	Start up date, rate schedule	Related dockets [3]
CP91–10–000 (10–1–91)	Texas Eastern Transmission Company.	Amerada Hess Corporation.	100,000 100,000 36,500,000	Offshore LA, LA, AL, AR, IL, IN, KY, MO, NJ, MS, NY, OH, PA, TN, TX, WV.	Offshore TX & LA, TX, LA.	8–1–90, IT–1	CP88–136–007, ST90–4562–000.
CP91–11–000 (10–1–91)	Texas Eastern Transmission Company.	Delta Pipeline Company.	2,511 2,511 916,515	Offshore LA, LA, AL, AR, IL, IN, KY, MO, MS, NJ, NY, OH, PA, TN, TX, WV.	Offshore TX & LA	8–1–90, IT–1	CP88–136–007, ST90–4561–000.

[2] Quantities are shown in MMBtu unless otherwise indicated.
[3] The RP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

6. Questar Pipeline Co.

[Docket No. CP90–2265–000]

Take notice that on September 21, 1990, Questar Pipeline Company (Questar), 79 South State Street, Salt Lake City, Utah 84111, filed an application, as supplemented October 5, 1990, with the Commission pursuant to section 7(b) of the Natural Gas Act (NGA) for permission and approval to retroactively abandon a firm natural gas sale which was converted to a firm natural gas transportation service for Mountain Fuel Supply Company (Mountain Fuel), all as more fully set forth in the application which is open to public inspection.

Questar proposes to abandon, effective November 1, 1989, a daily firm natural gas sale of 53,850 dekatherms under its FERC Rate Schedule CD–1 to Mountain Fuel. Questar states that it converted this sale to a daily firm transportation service of 53,850 dekatherms under its FERC Rate Schedule T–1 for Mountain Fuel on November 1, 1989, as reported in its initial report filed in Docket No. ST90–3746.

Comment date: November 6, 1990, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural

Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 90-25087 Filed 10-23-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA90-1-63-003]

Carnegie Natural Gas Co.; Compliance Filing

October 17, 1990.

Take notice that on October 12, 1990, Carnegie Natural Gas Company ("Carnegie") tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

Third Substitute Ninth Revised Sheet No. 8
Third Substitute Ninth Revised Sheet No. 9
First Revised Sheet No. 114
Original Sheet No. 114a
First Revised Sheet No. 115
Original Sheet No. 115a

Carnegie states that these revised tariff sheets, which among other things revises sections of its purchased gas adjustment ("PGA") clause, are being filed in compliance with a Commission order issued on September 13, 1990, in Docket Nos. TA90-1-63-000, TA90-1-63-001, and TA90-1-63-002. Pursuant to this order, the Commission required Carnegie to recompute its surcharge rate included in Carnegie's annual PGA filed on June 19, 1990, in Docket No. TA90-1-63-000, with an effective date of September 1, 1990. The September 13th Commission order required changes in certain tariff language to specify the method used by Carnegie to compute its current adjustment for Rate Schedule LVIS and to comply with § 154.305(b)(2) of the Commission's regulations. The Commission also required Carnegie to provide additional information supporting its filing. Carnegie states that its filing complies with the Commission's order in these dockets. In support of its filing, Carnegie attached revised tariff sheets, schedules, working papers, and other information.

Carnegie states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before October 25, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-25089 Filed 10-23-90; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 1417-001; Project No. 1835-013]

Central Nebraska Public Power and Irrigation District; Nebraska Public Power District; Extend Comment Date

October 5, 1990.

On August 20, 1990, the Federal Energy Regulatory Commission (FERC) issued notices of application for Projects No. 1835 and 1417 that established October 5, 1990, as the notice comment due date for each. (55 FR 35937, September 4, 1990).

Numerous parties have requested to extend the notice comment dates of the above-mentioned projects. Therefore, we are extending the comment period to November 20, 1990, as to coincide with receipt of the environmental impact statement scoping comments.

Lois D. Cashell,

Secretary.

[FR Doc. 90-25075 Filed 10-23-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-3-22-000]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

October 17, 1990.

Take notice that CNG Transmission Corporation ("CNG"), on October 15, 1990, pursuant to section 4 of the Natural Gas Act, the Stipulation and Agreement approved by the Commission on October 6, 1989, in Docket Nos. RP88-217, *et al.*, and § 12.9 of the General Terms and Conditions of CNG's FERC Gas Tariff, filed six (6) copies of the following revised tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1:

Proposed To Be Effective September 1, 1990

Second Substitute First Revised Sheet No. 211
Substitute First Revised Sheet No. 212

Proposed To Be Effective October 1, 1990

First Revised Sheet No. 41
First Revised Sheet No. 45
Second Revised Sheet No. 46
First Revised Sheet No. 49
Second Revised Sheet No. 52
First Revised Sheet No. 203
First Revised Sheet No. 205
First Revised Sheet No. 206
First Revised Sheet No. 207
First Revised Sheet No. 208
Second Revised Sheet No. 209
Third Revised Sheet No. 210
Second Revised Sheet No. 211
Second Revised Sheet No. 212
Original Sheet No. 212A

Proposed To Be Effective November 1, 1990

Third Revised Original Sheet No. 32
Second Revised Sheet No. 49

BEST COPY AVAILABLE

The purpose of the filing is to flow through changes in take-or-pay costs allocated to CNG by its pipeline suppliers. Also, CNG is proposing to revise tariff language to permit it to recover past take-or-pay amounts that are billed from Tennessee Gas Pipeline Company to CNG that are directly assignable to Corning National Gas Corporation. CNG is also proposing a voluntary reduction in its fuel retention and fuel charges under Rate Schedules TF and TI.

CNG states that copies of this filing were served upon CNG's customers as well as interested parties.

Any person desiring to be heard or to protest said filing should be file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should filed on or before October 25, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,
Secretary.

[FR Doc. 90-25096 Filed 10-23-90; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. G-4579-004, et al.[1]]

Mobil Exploration and Producing North America, Inc., et al.; Order on Remand and Filing Requirements For Successors-in-Interest

Issued October 17, 1990.

Before Commissioners: Martin L. Allday, Chairman; Charles A. Trabandt, Elizabeth Anne Moler and Jerry J. Langdon.

In *Mobil Exploration and Producing North America, Inc.* v. *FERC*,[2] (Mobil) the United States Court of Appeals for the Fifth Circuit affirmed in part and vacated in part the Commission's order in *George R. Brown Partnership*, (George R. Brown) [3] which had applied the Commission's new policy on successor certificates that the Commission announced in February 1988 in Tenneco Oil Co. (Tenneco).[4] In George R. Brown, the Commission reviewed appeals of orders issued by the Director of the Office of Pipeline and Producer Regulation (Director) [5] that had been filed by various producers who had acquired leasehold interests in gas producing property, and requested successor certificates. The orders issued by the Director granted the certificates but limited the rates to the predecessors' rates in effect on the date of transfer of the properties and required the producers to refund any amounts in excess of the predecessor's rates collected between the time of acquisition of the leasehold interest and the time of filing for a successor certificate because the producers had failed to meet the one-year limit imposed in Tenneco.

Prior to 1988, the Commission's policy was to issue certificates to successors and to permit the successors to collect all periodic and monthly escalations from the time of acquisition to the time they filed for the successor certificate, regardless of when the application was made. In Tenneco, the Commission changed its policy and imposed a one-year time limit for making the successor filing, and stated that if the successor filing was not timely, the successor would be limited to the rate in effect when the property was acquired. However, Tenneco stated that the new policy would be prospective and would not apply to successor applications already on file.[6]

Several months after Tenneco, petitioners in Mobil [7] filed their applications for successor certificates for interests acquired by them more than one year prior to the filings. Applying the Tenneco rule, the Director issued the certificates but required the applicants to refund amounts in excess of the predecessors' rates collected between the time each acquired the property and the time each filed for a successor certificate. On review, in George R. Brown, the Commission waived the Tenneco one-year filing requirement for a period of ninety (90) days following the February 5, 1988 issuance of Tenneco.[8] However, since the filings by petitioners were made more than one year after the effective date of the property transfer, and were not made within the 90-day waiver period, the Commission upheld the Director's orders directing petitioners to make refunds.[9]

In Mobil, the court affirmed the portions of the Commission's orders that required successors in interest to file for a certificate within one year of the effective date of the transfer, or within the 90-day waiver period following the Tenneco order. The court also upheld the Commission's decision to announce the change in policy in an adjudication rather than in a rulemaking. However, the court stated that where the Commission changes its policy and announces a new principle, and it does so by adjudication, the Commission must provide notice of the new policy "which is reasonably calculated to inform all those whose legally protected interests may be affected by the new principle."[10] The Tenneco order was not published in the Federal Register, was one of 75 orders on a consent agenda and passed with no discussion at the Commission meeting, no request for rehearing was filed because the new policy announced therein was inapplicable to the producer in Tenneco, and there was nothing in the heading or the ordering paragraphs to signal a change in policy. Under these circumstances, the court found that the Commission "failed to provide actual or constructive notice reasonably calculated to inform petitioners of the one-year time limit." [11] Accordingly, the court vacated the portions of the order requiring refunds as to petitioners who did not have actual or constructive notice of the one year time limit to file. This order implements the court's decision.

The portions of the George R. Brown order that require petitioners to refund any rates in excess of the predecessors' rates collected until the time of filing are vacated. In addition, this order shall be published in the Federal Register to provide all affected parties with notice to Tenneco policy.

In order to allow sufficient time for compliance, the Commissioin will waive the Tenneco policy for a period of 90 days following publication of this order in the Federal Register.

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[1] See attached Appendix.

[2] 883 F.2d 388 (5th Cir. 1989).

[3] 44 FERC ¶ 61,169 (1988), *reh'g denied, sub nom.* Mobil Exploration and Producing North America, Inc. *et al.*, 46 FERC ¶ 61,281 (1989).

[4] 34 FERC ¶ 61,063 (1986).

[5] The orders were issued on July 7, 1987, August 10, 1987, September 3, 1987, September 25, 1987, and September 28, 1987.

[6] Since the Commission allowed the applicant in Tenneco to retain all rate increases, no rehearing was filed.

[7] Petitioners were Mobil Exploration and Producing North America, Inc., Tenneco Inc. and Texas Producing Inc., and OXY USA Inc. (formerly Cities Service Oil and Gas Corporation). Other producers directed to make refunds in George R. Brown were not parties to the appeal.

[8] The Commission explained that the 90-day waiver period was to provide 30 days for rehearing of Tenneco, 30 days for Commission action on the request, and 30 days for successors to prepare and make the filing with the Commission.

[9] The Commission's order granted the appeals of producers whose filings were within the 90-day waiver period or who had demonstrated good cause for a waiver of the refund.

[10] 877 F.2d at 198.

[11] *Id.* at 200.

In light of the Court's finding concerning the notice issue, we believe that other successors who were required to make refunds because of untimely filings may not have had adequate notice and sufficient time to comply. Accordingly, we will also vacate the refund condition imposed in successor certificates listed in the Appendix.

The Commission Orders

(A) The portions of the *George R. Brown* order that require petitioners to refund any rate in excess of the predecessors' rates collected from the date of transfer until the successor filing are vacated.

(B) The portions of any certificated of public convenience and necessity listed on the Appendix that imposed a refund obligation based upon the failure to timely file in accordance with the Tenneco rule are vacated.[18]

(C) The Secretary shall cause this order to be published in the Federal Register.

By the Commission.

Lois D. Cashell,

Secretary.

[18] The petition filed by Pennzoil Product Co. in Docket NO. CI91-[illegible], a docket on the appendix, to reopen the proceeding and vacate the refund obligation, is dismissed as moot.

APPENDIX

Order date	Docket No.	Successors subject to refund conditions
7-7-87	G-4579-040 [1]	Cities Service Oil and Gas Corporation.
	G-8751	The George R. Brown Partnership.
	G-12015-000	The George R. Brown Partnership.
	CI60-580	The George R. Brown Partnership.
	CI64-1392-002	BHP Petroleum Company Inc.
	CI77-735-000	Odeco Oil & Gas Company.
	CI85-38-001	Mobil Exploration and Producing North America Inc.
	CI86-258-000	Amoco Production Company.
	CI86-386-000	Amoco Production Company.
	CI86-566-000	Phillips Petroleum Company.
	CI86-813-000	BHP Petroleum (Americas) Inc.
	CI87-186-000	TXO Production Corp.
	CI87-234-000	Chevron U.S.A. Inc.
	CI87-235-000	Chevron U.S.A. Inc.
	CI87-312-000	CNG Producing Company.
	CI87-313-000	Texaco Inc.
	CI87-333-000	Texaco Producing Inc.
	CI87-351-000	Texaco Producing Inc.
	CI87-377-000	Amoco Production Company.
	CI87-383-000	Cabot Petroleum Corporation.
[2] 6-10-87	CI86-885-000	Amoco Production Company.
	CI86-726-000	Amoco Production Company.
	CI87-671-000	Texaco Producing Inc.
	CI87-575-000	Texaco Producing Inc.
	CI87-576-000	Texaco Producing Inc.
	CI87-647-000	Exxon Corporation.
[3] 6-10-87	CI86-788-000	Amoco Production Company.
	CI87-193-000	Koch Exploration Company.
6-16-87	CI87-32-000 [1] through CI87-44-000	ONEOK Exploration, Inc.
9-3-87	CI88-1045-000 [1]	Samson Resources Company.
	CI87-775-000	Cities Services Oil and Gas Corporation.
9-24-87	CI87-274-000 [1] through CI87-286-000	Anadarko Petroleum Corporation.
9-25-87	G-5044 [1]	Samson Resources Company.
	CI86-426	Sameen Resources Company.
[4] 9-29-87	CI87-695-000	Cities Service Oil and Gas Corporation.
	CI87-696-000	Cities Service Oil and Gas Corporation.
8-5-88	CI88-197-000 [1]	Tenneco Oil Company.
	CI88-283-000	Amoco Production Company.
	CI88-318-000	Mobil Oil Exploration & Producing Southeast Inc.
8-26-88	G-4579-049 [1]	Cities Service Oil and Gas Corporation.
	CI85-749	Amoco Production Company.
	CI88-361-000	Tenneco Oil Company.
	CI88-463-000	Cabot Petroleum Corporation.
9-21-88	CI88-50-000 [1]	Anadarko Petroleum Corporation.
9-21-88	CI88-239-000 [1]	Mobil Producing Texas & New Mexico Inc.
10-20-88	CI86-452-000 [1] through CI86-499-000	Marathon Oil Company.
10-31-88	G-4579-050 [1]	OXY USA Inc. (formerly Cities Service Oil and Gas Corporation).
	G-8123-000	Shell Western E&P Inc.
11-3-88	CI81-845-000, *et al* [1]	Pennzoil Products Company.
[5] 11-3-88	CI84-295-000	Mesa Operating Limited Partnership.
	CI84-323-001	Mesa Operating Limited Partnership.
11-22-88	CI88-639-000 [1]	Amoco Production Company.
[6] 12-19-88	CI88-430-000	Amoco Production Company.
	CI88-502-000	Terra Resources, Inc.
[7] 2-17-89	CI89-67-000	Amoco Production Company.
	CI89-68-000	Amoco Production Company.
	CI89-69-000	Amoco Production Company.
[8] 2-22-89	CI89-35-000	Mesa Operating Limited Partnership.
[9] 3-28-89	CI84-293	Mesa Operating Limited Partnership.
	CI89-197-000	Helmerich & Payne, Inc.
5-26-89	CI81-1791-000 [1]	Mitchell Energy Corporation.
	CI89-153-000	Amoco Production Company.

APPENDIX—Continued

Order date	Docket No.	Successors subject to refund conditions
[10] 8-28-90	C89-203-000	Samedan Oil Corporation.
	C89-287-000	Amoco Production Company.
	C89-288-000	Amoco Production Company.
	C89-289-000	Amoco Production Company.
	C89-290-000	Amoco Production Company.
	C89-291-000	Amoco Production Company.
	C89-292-000	Amoco Production Company.
	C89-293-000	Amoco Production Company.
	C89-298-000	ARCO Oil and Gas Company, Division of Atlantic Richfield Company.
[11] 8-28-90	C89-426-000	Exxon Corporation.

[1] Lead docket number.
[2] Lead Docket No. G-2758-000, *et al.*
[3] Lead Docket No. G-15153-001, *et al.*
[4] Lead Docket No. G-3246-000, *et al.*
[5] Lead Docket No. CI61-65-000, *et al.*
[6] Lead Docket No. G-5880, *et al.*
[7] Lead Docket No. G-4578-068, *et al.*
[8] Lead Docket No. G-3810-000, *et al.*
[9] Lead Docket No. G-4578-081, *et al.*
[10] Lead Docket No. C84-26-000, *et al.*
[11] Lead Docket No. C89-425-000, *et al.*

[FR Doc. 90-25073 Filed 10-23-90; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP91-9-000]

National Fuel Gas Supply Corp.; Limited Purpose Rate Change Filing

October 17, 1990.

Take notice that on October 15, 1990, National Fuel Gas Supply Corporation (National), pursuant to Section 4 of the Natural Gas Act and in compliance with the Niagara Import Point Projects Phase III certificate order, 52 FERC ¶61,257, issued on September 13, 1990 in CP88-194-001 et al, submitted a limited purpose rate change.

National states the purpose of this filing is to change the firm transportation rates for specific shippers in Phase I and Phase II to match the rates approved for Phase III. This limited purpose rate change filing was authorized by the Commission in the Niagara Import Point Project Phase III certificate order.

Phase I service is National's firm transportation of gas into and out of storage, between Ellisburg and Leidy, Pennsylvania, associated with Transco's SS-2 storage service, certificated on July 27, 1989. National Fuel Gas Supply Corporation, et al., 48 FERC ¶61,121 (1989). Phase II service is National's firm transportation for the TEMCO/ESSO project between the Niagara import point and Wharton, Pennsylvania, certificated on May 2, 1990. National Fuel Gas Supply Corporation, et al., 51 FERC ¶61,113 (1990).

National states that this limited purpose rate change will have no impact on any of National's other existing customers. These rates are based only on the costs of the incremental facilities to be built to provide the Phase I, II, and III transportation services.

National proposes to charge the following rates for all its Niagara transportation services, regardless of Phase, for each zone:

	Demand	Commodity
Zone I	$1.2[illegible] per Mcf	$0.0480 per Mcf
Zone II	$0.65[illegible] per Mcf	$0.0243 per Mcf
Zone III	$0.90[illegible] per Mcf	$0.0409 per Mcf
Total	$2.87[illegible] per Mcf	$0.1132 per Mcf

The following revised tariff sheets have been filed, as part of Volume 2 of National's FERC Gas Tariff, to reflect these proposed rates:

Phase I

Special Rate Schedule X-54
First Revised Sheet No. 796

Phase II

Special Rate Schedule X-57
Second Revised Sheet No. 857
First Revised Sheet No. 869

National requests that: (1) The notice of this limited purpose rate filing be published immediately, with a shortened comment period of no more than seven days; (2) the proposed rates for National's Niagara Import Point Project Phase I and Phase II shippers not be suspended and made subject to refund; and (3) these rates be put into effect immediately thereafter, and in no case later than November 1, 1990.

National has appended to this filing two exhibits to support the rate changes.

Exhibit 1 is a copy of the Staff's actual workpapers used to compute the approved rates in the Phase III order for National. The Staff has these workpapers included in the formal record for the Niagara Import Point Projects on October 2, 1990.

Exhibit 2 is National's own worksheets for deriving costs-of-service and setting the rates for all three zones. National states that it replicated Staff's worksheets, adjusted only to correct obvious computing errors. These errors are described in the filing, and relate to Zone I billing determinants, Zone III billing determinants, accumulated deferred income taxes, and equity component of AFUDC.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before October 24, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,
Secretary.

[FR Doc. 90-25074 Filed 10-23-90; 8:45 am]
BILLING CODE 6717-01-M

Federal Energy Regulatory Commission

[Docket No. TA91-1-37-005]

Northwest Pipeline Corp.; Refund Report

October 17, 1990.

Take notice that on September 28, 1990, Northwest Pipeline Corporation (Northwest) tendered for filing a refund report that reflects refunds made under tariff sheets accepted by the Commission in compliance with the Commission order that was issued on March 29, 1990 in Docket No. TA90-1-37-000.

Northwest notes that a copy of this refund report is being served on all jurisdictional sales customers and affected state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 25, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 90-25070 Filed 10-23-90; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TQ91-1-8-007; TM91-1-8-001]

Tennessee Gas Pipeline Co.; Tariff Filing

October 17, 1990.

Take notice that on October 15, 1990, Tennessee Gas Pipeline Company (Tennessee) tendered for filing, in compliance with the Commission's September 27, 1990 Letter Order (Letter Order) in the captioned proceedings, the following tariff sheets to be effective October 1, 1990:

Second Revised Volume No. 1
Substitute Twentieth Revised Sheet No. 30
Substitute Eighteenth Revised Sheet No. 20A
Substitute Eleventh Revised Sheet No. 22
Substitute Sixth Revised Sheet No. 22A
Substitute Tenth Revised Sheet No. 23
Substitute Tenth Revised Sheet No. 24

Original Volume No. 2
Substitute Tenth Revised Sheet No. 10

Tennessee also tendered for filing Substitute Eleventh Revised Sheet No. 10 to Original Volume No. 2, to become effective November 1, 1990.

The purpose of this filing is to revise the Annual Charge Adjustment (ACA) to reflect the revision in the ACA rate established in the Commission's order in Docket Nos. RM87-3-000, TM91-1-20-000, *et al.*, and in the Commission's Letter Order. Tennessee filed Substitute Eleventh Revised Sheet No. 10, to be effective November 1, 1990, to replace Eleventh Revised Sheet No. 10, which reflected the old ACA rate and was filed on October 1, 1990 in Tennessee Gas Pipeline Company, Docket No. CP87-132.

Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before October 24, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 90-25071 Filed 10-23-90; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TM91-3-29-000]

Transcontinental Gas Pipe Corp.; Proposed Changes in FERC Gas Tariff

October 17, 1990.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on October 15, 1990, certain revised tariff sheets to Second Revised Volume No. 1 of its FERC Gas Tariff included in Appendix A attached to the filing.

Transco states that the purpose of the filing is to track rate changes attributable to (1) storage services purchased from Consolidated Natural Gas (CNG) under its Rate Schedule GSS and transportation services purchased from National Fuel Gas Supply Corporation (National Fuel) under its Rate Schedule X-42 the costs of which are included in the rates and charges payable under Transco's Rate Schedule LSS, (2) storage services purchased from Texas Eastern Transmission Corporation (TETCO) under its Rate Schedule X-28 the costs of which are included in the rates and charges payable under Transco's Rate Schedule S-2, (3) transportation services purchased from National Fuel under its Rate Schedule X-34 the costs of which are included in the rates and charges payable under Transco's Rate Schedule SS-2, and (4) transportation services purchased from North Penn Gas Company (North Penn) under its rate Schedule SS the costs of which are included in the rates and charges payable under Transco's Rate Schedule SS-1. The tracking filing is being made pursuant to Section 4 of Transco's Rate Schedule LSS Section 4 of Transco's Rate Schedule SS-2, Section 5 of Transco's Rate Schedule SS-1, and Section 26 of the General Terms and Conditions of Volume No. 1 of its FERC Gas Tariff.

Included in Appendices B through H attached to the filing are explanations of each of the tracking rate changes, the proposed effective date of such changes and details regarding the computation of the revised LSS, S-2, SS-2, and SS-1 rates.

Also included therein for filing are revised tariff sheets which incorporate the Rate Schedule LSS, S-2, SS-2, and SS-1 rate changes proposed therein into subsequent intervening rate filings which have been accepted or are currently pending Commission acceptance on the effective dates reflected thereon.

Transco states that copies of the filing are being mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE. Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 24, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,
Secretary.

[FR Doc. 90-25072 Filed 10-23-90; 8:45 am]
BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 90-86-NG]

V.H.C. Gas Systems, L.P.; Order Granting Blanket Authorization To Import and Export Natural Gas, Including Liquefied Natural Gas

AGENCY: Office of Fossil Energy, DOE.
ACTION: Notice of an order granting blanket authorization to import and to export natural gas, including liquefied natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting V.H.C. Gas Systems, L.P. (V.H.C. Gas Systems) blanket authorization to import up to 150 Bcf and to export up to 150 Bcf of natural gas, including liquefied natural gas, over a two-year period beginning on the date of the first import or export.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 15, 1990.

Clifford P. Tomaszewski,
Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-25184 Filed 10-23-90; 8:45 am]
BILLING CODE 6450-01-M

Office of Hearings and Appeals

Proposed Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.
ACTION: Notice of proposed implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the proposed procedures for the disbursement of $788,586.45, plus accrued interest, obtained by the DOE under the terms of five consent orders. The DOE received $101,000 pursuant to a consent order with Benton Pruet d/b/a P & R Trading Company and a total of $687,586.45 pursuant to four separate consent orders with Trigon Exploration Company, Inc., *et al.* The four Trigon Exploration Company, Inc. (Trigon) consent orders are with Trigon and C. William Rogers, Trigon and Omni Drilling Partnership No. 1978-2, Trigon and D. Bryan Ferguson, and Trigon and Entex, Inc. The OHA has tentatively determined that the funds will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986).

DATES AND ADDRESSES: Comments must be filed in duplicate on or before November 23, 1990, and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. All comments should display a reference to case numbers LEF-0018 & LEF-0019.

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Deputy Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-2390.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy (DOE), 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute $788,586.45 that has been remitted to the DOE pursuant to the terms of five consent orders. The DOE received $101,000 pursuant to a consent order with Benton Pruet d/b/a P & R Trading Company. The DOE also received $687,586.45 pursuant to four separate Trigon Exploration Company, Inc. (Trigon) consent orders with Trigon and C. William Rogers, Trigon and Omni Drilling Partnership No. 1978-2, Trigon and D. Bryan Ferguson, and Trigon and Entex, Inc. The DOE is currently holding the funds in an interest bearing account pending distribution.

The DOE has tentatively determined to distribute these funds in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986). Under the Modified Policy, crude oil overcharge monies are divided among the states, federal government, and injured purchasers of refined products. Under the plan we are proposing, refunds to the states would be in proportion of each state's consumption of petroleum products during the period of price controls. Refunds to eligible purchasers would be based on the number of gallons of petroleum products which they purchased and the extent to which they can demonstrate injury.

Applications for refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of the publication in the Federal Register, and should be sent to the address set forth at the beginning of this notice. All comments received will be available for public inspection between the hours of 1 p.m. through 5 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Hearings and Appeals, located in room 1E-234, 1000 Independence Avenue SW., Washington, DC 20585.

Dated: October 18, 1990.

George B. Breznay,
Director, Office of Hearings and Appeals.

Implementation of Special Refund Procedures

Names of Firms: Benton Pruet d/b/a P&R Trading Company Trigon Exploration Company, Inc., *et al.*
Dates of Filing: July 7, 1990, July 17, 1990.
Case Numbers: LEF-0018, LEF-0019.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special refund procedures. 10 CFR 205.281. These procedures are used to refund monies to those injured by actual or alleged violations of the DOE price regulations.

In this Decision and Order, we consider two Petitions for the Implementation of Special Refund Procedures filed by the ERA for crude oil overcharge funds. The first petition deals with Benton Pruet d/b/a P&R Trading Company (Pruet) (Case No. LEF-0018). This Office issued a Remedial Order against Pruet for violations of the crude oil resale regulations during the period from September 1979 through November 1980. *P&R Trading Company*, 13 DOE ¶ 83,023 (1985). Pruet subsequently appealed to the Federal Energy Regulatory Commission. Pruet and the DOE then entered into a consent order (No. 0A03X00035) under which Pruet remitted $101,000 in settlement of the DOE's claims.[1]

[1] The Remedial Order found that Pruet committed violations of the regulations concerning the resale of crude oil during the period from September 1979 through November 1980. The consent order settles Pruet's liability with regard to any potential violation of the federal petroleum and price regulations during the period from September 1, 1979 through January 27, 1981. Consent Order at ¶

Continued

The second petition deals with Trigon Exploration Company, Inc. (Trigon), *et al.*, a producer of crude oil (Case No. LEF-0019). On August 30, 1985 the ERA issued a Proposed Remedial Order to Trigon alleging violations of the regulations regarding the sale of crude oil during the period June 1979 through December 1980. The DOE has subsequently entered into four consent orders with Trigon and four working interest owners who have remitted a total amount of $687,586.45 in settlement of any potential violations arising out of the sale of crude oil from June 1979 through January 21, 1981 (all four consent orders are subsumed under one consent order number: 650C00374). 52 FR 27574 (July 22, 1987). These consent orders are with Trigon and C. William Rogers, Trigon and Omni Drilling Partnership No. 1978–2, Trigon and D. Bryan Ferguson, Trigon and Entex, Inc. (hereinafter collectively referred to as Trigon, *et al.*).

In sum, Pruet and Trigon, *et al.*, remitted $788,586.45 to the DOE. This Proposed Decision and Order sets forth the OHA's tentative plan to distribute these funds. Comments are solicited.

The general guidelines which the OHA may use to formulate and implement a plan to distribute refunds are set forth in 10 CFR part 205, subpart V. The subpart V process may be used in situations where the DOE cannot readily identify the persons who may have been injured as a result of actual or alleged violations of the regulations or ascertain the amount of the refund each person should receive. For a more detailed discussion of subpart V and the authority of the OHA to fashion procedures to distribute refunds, see Office of Enforcement, 9 DOE ¶ 82,508 (1981), and Office of Enforcement, 8 DOE ¶ 82,597 (1981). We have considered the ERA's request to implement subpart V procedures with respect to the monies received from Pruet and Trigon, *et al.*, and have determined that such procedures are appropriate.

I. Background

On July 28, 1986, the DOE issued a Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986) (the MSRP). The MSRP, issued as a result of a court-approved Settlement Agreement in In re: The Department of Energy Stripper Well Exemption Litigation, M.D.L. No. 378 (D. Kan. 1986) (the Stripper Well Agreement), provides that crude oil overcharge funds will be divided among the states, the federal government, and injured purchasers of refined petroleum products. Under the MSRP, up to twenty percent of these crude oil overcharge funds will be reserved to satisfy valid claims by injured purchasers of petroleum products. Eighty percent of the funds, and any monies remaining after all valid claims are paid, are to be disbursed equally to the states and federal government for indirect restitution.

Shortly after the issuance of the MSRP, the OHA issued an Order that announced its intention to apply the Modified Policy in all subpart V proceedings involving alleged crude oil violations. Order Implementing the MSRP, 51 FR 29689 (August 20, 1986). In that Order, the OHA solicited comments concerning the appropriate procedures to follow in processing refund applications in crude oil refund proceedings. On April 6, 1987, the OHA issued a Notice analyzing the numerous comments and setting forth generalized procedures to assist claimants that file refund applications for crude oil monies under the Subpart V regulations. 52 FR 11737 (April 10, 1987) (the April Notice).

The OHA has applied these procedures in numerous cases since the April Notice, i.e., New York Petroleum, Inc., 18 DOE ¶ 85,435 (1988) (*NYP*); Shell Oil Co., 17 DOE ¶ 85,204 (1988) (Shell); Ernest A. Allerkamp, 17 DOE ¶ 85,079 (1988) (Allerkamp), and the procedures have been approved by the United States District Court for the District of Kansas as well as the Temporary Emergency Court of Appeals (TECA). In the case In re: The Department of Energy Stripper Well Exemption Litigation, various states filed a Motion with the Kansas District Court, claiming that the OHA violated the Stripper Well Agreement by employing presumptions of injury for end-users and by improperly calculating the refund amount to be used in those proceedings. In re: The Department of Energy Stripper Well Exemption Litigation, 671 F. Supp. 1318 (D. Kan. 1987), aff'd 857 F.2d 1481 (Temp. Emer. Ct. App. 1988). On August 17, 1987, Judge Theis issued an Opinion and Order denying the states' Motion in its entirety. The court concluded that the Stripper Well Agreement "does not bar [the] OHA from permitting claimants to employ reasonable presumptions in affirmatively demonstrating injury entitling them to a refund." *Id.* at 1323. The court also ruled that, as specified in the April Notice, the OHA could calculate refunds based on a portion of the M.D.L. 378 overcharges. *Id.* at 1323–24.

II. The Proposed Refund Procedures

A. Refund Claims

We now propose to apply the procedures discussed in the April Notice to the crude oil subpart V proceeding that is the subject of the present determination. As noted above, an alleged crude oil violation amount of $788,586.45, plus interest, is covered by this proposed Decision. We have decided to reserve the full twenty percent of the alleged crude oil violation amount, or $157,717.29, plus interest, for direct refunds to claimants, in order to insure that sufficient funds will be available for refunds to injured parties.

The process which the OHA will use to evaluate claims based on alleged crude oil violations will be modeled after the process the OHA has used in subpart V proceedings to evaluate claims based upon alleged overcharges involving refined products. *E.g.*, Mountain Fuel Supply Co., 14 DOE ¶ 85,475 (1986) (Mountain Fuel). As in non-crude oil cases, applicants will be required to document their purchase volumes and prove that they were injured as a result of the alleged violations. Applicants who were end-users or ultimate consumers of petroleum products, whose businesses are unrelated to the petroleum industry, and who were not subject to the DOE price regulations are presumed to have been injured by any alleged crude oil overcharges. In order to receive a refund, end-users need not submit any further evidence of injury beyond the volume of petroleum products purchased during the period of price controls. *E.g.*, A. Tarricone, Inc., 15 DOE ¶ 85,495 at 88,893–96 (1987). However, the end-user presumption of injury can be rebutted by evidence which establishes that the specific end-user in question was not injured by the crude oil overcharges. *E.g.*, Berry Holding Co., 16 DOE ¶ 85,405 at 88,797 (1987). If an interested party submits evidence that is sufficient to cast serious doubt on the end-user presumption, the applicant will be required to produce further evidence of injury. *E.g.*, NYP, 18 DOE at 88,701–03.

Reseller and retailer claimants must submit detailed evidence of injury, and may not rely on the presumptions of injury utilized in refund cases involving refined petroleum products. They can, however, use econometric evidence of the type employed in the OHA Report to the District Court in the Stripper Well Litigation, 6 Fed. Energy Guidelines ¶ 90,507. Applicants who executed and submitted a valid waiver pursuant to one of the escrows established in the Stripper Well Agreement have waived their rights to apply for crude oil refunds under subpart V. *Mid-America Dairyman, Inc.* v. *Herrington*, 878 F.2d 1448 (Temp. Emer. Ct. App. 1989); *accord*, Boise Cascade Corp., 18 DOE ¶ 85,970 (1989).

Refunds to eligible claimants who purchased refined petroleum products will be calculated on the basis of a volumetric refund amount derived by dividing the alleged crude oil violation amounts involved in this determination ($788,586.45) by the total consumption of petroleum products in the United States during the period of price controls (2,020,997,335,000 gallons). Mountain Fuel, 14 DOE at 88,868 n.4. This yields a volumetric refund amount of $0.00000039 per gallon.

As we stated in previous Decisions, a crude oil refund applicant will be required to submit only one application for crude oil overcharge funds. *E.g.*, Allerkamp, 17 DOE at 88,176. Any party that has previously submitted a refund application in the crude oil refund proceedings need not file another application. That previously filed application will be deemed to be filed in all crude oil proceedings as the procedures are finalized. A deadline of June 30, 1988 was established for the first pool of crude oil funds. The first pool was funded by crude oil refund proceedings, implemented pursuant to the MSRP, up to and including Shell. A deadline of October 31, 1990 was established for applications for refunds from the second pool of crude oil funds. The second pool was funded by those crude oil proceedings beginning with World Oil Co., 17 DOE ¶ 85,568, corrected, 17 DOE ¶ 85,669 (1988), and ending with Texaco Inc., 19 DOE ¶ 85,200, corrected, 19 DOE ¶ 85,238 (1989). The

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101 & 501. The OHA has contacted Pruet's attorney and has determined that Pruet never engaged in any refined product related activities. *See* Record of Telephone Conversation between Raymond P. Rayner, Jr., OHA Attorney Advisor, and William F. Cockrell, Jr., Attorney for Pruet (September 21, 1990). Accordingly, the OHA believes that the entire settlement was for potential crude oil violations.

deadline for filing an application for refund from the third pool of funds was established as March 31, 1991 by Bi-Petro, Inc., 20 DOE ¶ 85,271 (1990). The volumetric refund amount for the third pool of funds will be increased as additional crude oil violation amounts are received in the future. Notice of any additional amounts available in the future will be published in the Federal Register.

B. Payments to the States and Federal Government

Under the terms of the MSRP, we propose that eighty percent of the alleged crude oil violation amounts subject to this Proposed Decision, or $830,880.16, plus interest, should be disbursed in equal shares to the states and federal government for indirect restitution. Refunds to the states will be in proportion to the consumption of petroleum products in each state during the period of price controls. The share or ratio of the funds which each state will receive is contained in Exhibit H of the Stripper Well Agreement. When disbursed, these funds will be subject to the same limitations and reporting requirements as all other crude oil monies received by the states under the Stripper Well Agreement.

It Is Therefore Ordered That:

The refund amounts remitted to the Department of Energy by Beaton Frost d/b/a P & R Trading Co. and Trigon Exploration Company, Inc., *et al.*, will be distributed in accordance with the foregoing Decision.

[FR Doc. 90-25158 Filed 10-23-90; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 3954-6]

Agency Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before November 23, 1990.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

Title: Hazardous Waste Industry Studies (EPA ICR # 0918.04; OMB # 2050-0042). This is a renewal of a currently approved collection.

Abstract: EPA proposes to conduct surveys of, and site visits to, facilities in various industries to collect hazardous waste information on industrial process residuals, their quantities, characteristics, and how they are managed. The information will be used to expand and refine the list of RCRA hazardous wastes requiring management controls in the industries studied.

Burden statement: The estimated average public reporting and recordkeeping burden for this collection of information is about 27 hours per respondent. This estimate includes all aspects of the information collection including time for reviewing instructions, gathering data, and preparing and submitting the instrument to the Agency.

Respondents: Industries that generate or manage hazardous waste. The specific fifteen industries projected for study are: Dioxin Producing Industries, Carbamate Pesticides, Organobromines, Solvents, Petroleum Refining, Chlorinated Aromatics, Dyes and Pigments, Coke and By-products, Paint Production, Wood Preserving, Used Oil Recycling, Pharmaceuticals, Pulp and Paper, Plastics and Resins, and Industrial Organics.

Estimated number of respondents: 1377.

Estimated total annual burden of respondents: 44,147 hours.

Frequency of collection: On occasion.

Send comments regarding the burden estimate, or any other aspect of these information collections, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223), 401 M Street SW., Washington, DC 20460

and

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street NW., Washington, DC 20530

OMB Responses to Agency PRA Clearance Requests

EPA ICR # 0032.05; Final Rule to Implement the Recommendations of the Domestic Sewage Study; was approved 8/20/90; OMB # 2040-0150; expires 8/31/93.

EPA ICR # 0270.18; Phase V Drinking Water Regulations; was approved 9/24/90; OMB # 2040-0090; expires 9/30/90.

EPA ICR # 1360.01; State Revolving Fund Report to Congress Questionnaire; expiration date was extended to 1/31/91.

Dated: October 17, 1990.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 90-25134 Filed 10-23-90; 8:45 am]

BILLING CODE 6560-50-M

[FRL 3954-6]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the nature of the information collection and their expected cost and burden; where appropriate, they include the actual data collection instruments.

DATE: Comments must be submitted on or before November 23, 1990.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: NSPS for Grain Elevators—Information Requirements. (Subpart DD) (ICR #1130.06; OMB #2060-0082). This is a renewal of a previously approved collection.

Abstract: Owners or operators of grain storage elevators, must notify EPA of construction, reconstructions, modifications, shutdowns, date of anticipated and actual start-ups, and date and results of all performance tests. They must also maintain records of all performance test results, as well as the occurrence and duration of any start-up or malfunction. The States and/or EPA use these data to determine compliance with the standards, to target inspections, and, when necessary, to use as evidence in court.

Burden statement: The annual public burden for this collection of information is estimated to average approximately 43 hours per response for reporting, and 3 hours per recordkeeper. This estimate includes the time needed to review instructions, search existing data sources, gather the data needed, and review the collection of information.

Respondents: Owners and operators of grain elevators.

Estimated no. of respondents: 1 respondent will report and 20 respondents will keep records.

Estimated no. of responses per respondent: 2.

Estimated total annual burden on respondents: 145 hours.

Frequency of collection: Once and on occasion.

Title: NSPS for Hot Mix Asphalt Facilities—Information Requirements. (Subpart I) (ICR #1127.03; OMB #2060–0083). This is a renewal of a previously approved collection.

Abstract: Owners or operators of hot mix asphalt facilities must notify EPA of construction, reconstructions, modifications, shutdowns, date of anticipated and actual start-ups, and date and results of all performance tests. They must also maintain records of all performance test results, as well as the occurrence and duration of any start-up or malfunction. The States and/or EPA use these data to determine compliance with the standards, to target inspections, and, when necessary, to use as evidence in court.

Burden statement: The public annual burden for this collection of information is estimated to average approximately 43 hours per response for reporting, and 1.5 hours per recordkeeper. This estimate includes the time needed to review instructions, search for existing data sources, gather the data needed, and review the collection of information.

Respondents: Owners and operators of hot mix asphalt facilities.

Estimated no. of respondents: 60 respondents will report and 1,010 respondents will keep records.

Estimated no. of responses per respondent: 1.

Estimated total annual burden on respondents: 4,071 hours.

Frequency of collection: Once and on occasion.

Title: NSPS for Petroleum Dry Cleaners—Information Requirements (subpart JJJ) (ICR #0997.03; OMB #2060–0079). This is a renewal of a previously approved collection.

Abstract: Owners or operators of the affected facilities must notify EPA of construction, reconstructions, modifications, shutdowns, date of anticipated and actual start-ups, and date and result of all performance tests. They must also maintain records of all performance test results, as well as the occurrence and duration of any start-up or malfunction. The States and/or EP use these data to determine compliance with the standards, to target inspections, and, when necessary, to use as evidence in court.

Burden statement: The annual public burden for this collection of information is estimated to average approximately 8 hours per response for reporting, and 73 hours per recordkeeper. This estimate includes the time needed to review instructions, search existing data sources, gather data needed, and review the collection of information.

Respondents: Owners and operators of petroleum dry cleaning plants which were installed after December 14, 1982, and having a dryer capacity greater than 84 pounds.

Estimated no. of respondents: 18.

Estimated no. of responses per respondent: 1.

Estimated total annual burden on respondents: 1,462 hours.

Frequency of collection: Once and on occasion.

Title: Benzene NESHAP—Information Requirements (subpart J) (ICR #1153.03; OMB #2060–0068). This is a reinstatement of a previously approved collection. The clearance for this collection expired July 31, 1990.

Abstract: Owners or operators of petroleum refineries and chemical manufacturers, must notify EPA of construction, reconstructions, modifications shutdowns, and date of anticipated and actual start-up. They must monitor for fugitive benzene emissions, and must keep records of this monitoring and of the leaks detected from valves, pumps, and compressors, as the steps taken to make repairs. Owners or operators must also submit semiannual reports of these emissions, leaks, and repairs. The States and/or EPA use these data to determine compliance, to target inspections, and, when necessary, as evidence in court.

Burden statement: The annual public burden for this collection of information is estimated to average approximately 17 hours per response for reporting, and 57 hours per recordkeeper. This estimate includes the time needed to review instructions, search existing data sources, gather data needed, and review the collection of information.

Respondents: Owners and operators of petroleum refineries and chemical manufacturers.

Estimated no. of respondents: 200.

Estimated no. of responses per respondent: 2.

Estimated total annual burden on respondents: 17,985 hours.

Frequency of collection: Once and semiannually.

Send comments regarding the burden estimates, or any other aspect of the information collections, including suggestions for reducing the burdens, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch, 401 M Street SW., Washington, DC 20460

and

Nicolas Garcia, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place NW., Washington, DC 20530

Dated: October 18, 1990.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 90–25135 Filed 10–23–90; 8:45 am]

BILLING CODE 6560–50–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Senior Executive Service Performance Review Board Members

AGENCY: Equal Employment Opportunity Commission (EEOC).

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of the members of the SES Performance Review Board of EEOC.

FOR FURTHER INFORMATION CONTACT: Jo-Ann Henry, Director, Personnel Management Services, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC, 20507, 202/663–4306.

SUPPLEMENTARY INFORMATION: Pursuant to the requirement of section 4314(c)(1), chapter 43 title 5 U.S.C., membership of the SES Performance Review Board is as follows: Elizabeth Thornton, Deputy Legal Counsel, Equal Employment Opportunity Commission (Chairperson); Mr. Andrew Fishel, Managing Director, Federal Communications Commission; Ms. Evangeline Swift, Director, Office of Policy and Evaluation, Merit Systems Protection Board; Mr. John Seal (Alternate), Executive Officer, ACTION. Signed at Washington, DC on this 19th day of October, 1990.

Evan J. Kemp, Jr.,

Chairman.

[FR Doc. 90–25150 Filed 10–23–90; 8:45 am]

BILLING CODE 6570–06–M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Request for Comment on Personal Property Appraising

AGENCY: Appraisal Subcommittee, Federal Financial Institutions Examination Council.

ACTION: Request for comments.

SUMMARY: The Appraisal Subcommittee of the Federal Financial Institutions Examination Council ("Appraisal Subcommittee") is issuing a request for comments on the feasibility and

desirability of extending the provisions of title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 to the function of personal property appraising and personal property appraisers.

This request for comments affords all interested parties an opportunity to provide substantive comments and data on the possibility of creating an appraisal regulatory framework for personal property evaluations similar to the supervisory scheme for real estate appraisals. The Appraisal Subcommittee will carefully review and consider the comments received within the context of completing its study.

DATES: Comments must be received on or before December 24, 1990.

ADDRESSES: All comments should be sent to the Appraisal Subcommittee, Federal Financial Institutions Examination Council, 1776 G Street NW., suite 850B, Washington, DC 20006 or delivered to the same address between the hours of 9 a.m. and 5 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Jim Porter at (202) 906–5743.

SUPPLEMENTARY INFORMATION: The purpose of title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is to promote the safety and soundness of insured institutions by requiring the real estate appraisals utilized in connection with federally related transactions be performed in writing in accordance with uniform standards by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision. Section 1122 of title XI directs the Appraisal Subcommittee of the Federal Financial Institutions Examination Council to conduct a study to determine the feasibility and desirably of extending the provisions of title XI to the function of personal property appraising and personal property appraisers in connection with Federal financial and public policy interests. The Appraisal Subcommittee is to report its findings to Congress in February 1991.

For the purposes of this Notice for Public Comment, "personal property" is defined as:

identifiable portable and tangible objects with are considered by the general public as being "personal," e.g. furnishings, artwork, antiques, gems and jewelry, collectibles, machinery and equipment; all property that is not classified as real estate. (Source: Uniform Standards of Professional Appraisal Practice published by The Appraisal Foundation.)

As part of this study the Appraisal Subcommittee is seeking, from all interested parties, substantive comments on issues surrounding the costs and benefits of extending the real estate appraisal regulatory scheme to personal property evaluation. The following questions raise significant issues on which comment is sought, but are not intended to be limiting in nature. Comments are invited on any substantive issue relating to personal property appraising and personal property appraisers. The Subcommittee is especially interested in any factual supporting information or examples that serve as the basis for comments, in particular, information presented in the form of lists, charts, graphs, and tables, which detail specific data. Please respond to as many of the following questions as you consider appropriate.

General

(1) Respondent Affiliation:
(a) A financial institution with federally insured deposits.
(b) A financial institution with trade association.
(c) A personal property appraisal firm or individual.
(d) A personal property appraiser trade association.
(e) A real estate appraisal firm or individual.
(f) A real estate appraiser trade association.
(g) Law firm or individual.
(h) Accounting firm or individual.
(i) Governmental agency.
(j) Other.

(2) What are the major categories of personal property used as collateral for loans and what are the methods for evaluation of each category?

(3) What types of loans collateralized by personal property have caused the largest losses to financial institutions?

(4) What role have weaknesses in the personal property evaluation process had in the losses on loans collateralized by personal property? If possible, segregate losses associated with failure to perfect an interest in collateral and losses from assets that are expected to depreciate more rapidly than the related loan amortizes from losses caused by faulty evaluation.

(5) What types of loans collateralized by personal property have a good record of performance and how has the collateral evaluation process assisted in maintaining the favorable record?

(6) What factors should be used in determing the level of detail required in a personal property evaluation?

(7) What are the similarities and differences between personal property lending and real estate lending? (For example, loan terms, loan-to-value ratios, emphasis on collateral protection, payment sources, methods for evaluating collateral and other pertinent aspects of the credit decision process.)

Personal Property Appraisal Standards

(8) Considering the diversity of categories of personnal property, is it feasible to have one set of uniform appraisal standards for all possible types of non-real assets or would there have to be different standards for major categories of personal property?

(9) What would be the direct and indirect cost of requiring federally mandated uniform personnal property appraisal standards and how can these costs be measured?

(1) How would public policy interests benefit from the creation of uniform personal property appraisal standards and how can these benefits by quantified?

Personal Property Licensing Procedures and Qualification Criteria

(11) If there is licensing, should there be one licensing process for all categories of personal property appraisers or should there be different licensing procedures for each major category of personal property?

(12) What should be the minimum qualifications criteria for appraisers that conduct personal property evaluations for insured financial institutions?

(13) What would be the direct and indirect costs of federally mandated licensing and how can these costs be measured?

(14) Would financial institutions and the federal deposit insurance system benefit from the creation of a licensing process and how can these benefits be qualified?

Regulation and Supervision of Personal Property Appraisers

(For discussion purposes only, questions #15 through #23 assume that uniform personal property appraisal standards and licensing of personal property appraisers are both feasible and desirable.)

(15) Who should establish the uniform evaluation standards—financial institution trade associations, personal property apraiser trade associations, regulatory agencies, federal or state legislative bodies, or others?

(16) What type of procedure should be required to initially formulate uniform standards and what would be the process for amending the standards?

(17) Who should establish the qualification and testing criteria—financial institution trade associations, personal property appraiser trade associations, regulatory agencies, federal or state legislative bodies, or others?

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(18) Should the licensing and testing boards be state or federal agencies, trade associations, or some other form of organization?

(19) What type of procedures should be required initially to formulate licensing qualification benchmarks and what should be the process for amending the criteria?

(20) If uniform personal property appraisal standards are developed, what level of supervisory enforcement is required—should standards be made into regulations carrying the force of law, be informational safety and soundness guidelines, or have some other form?

(21) Should the standards, licensing requirements, and regulatory structure be imposed on a financial institution's purchase of, and investment in, personal property, or limited only to lending collateralized by personal property?

(22) If the licensing body is not a federal agency, should it be subject to federal monitoring and supervision and what type of disciplinary powers should the federal agency have, if any?

(23) If licensing is implemented, should registry fees for personal property appraiser be the same as those levied on real property appraisers?

Other Comments

(24) Please discuss other issues concerning the feasibility and desirability of extending the provisions of title XI to the function of personal property appraising and personal property appraisers not addressed in the previous questions.

(25) In summary, do you believe that uniform personal property standards and licensing of personal property appraisers are:

(a) Desirable and—

(b) Feasible?

Why?

Information generated from the comments received will be used to augment other sources of data available to the Appraisal Subcommittee and ensures that the Subcommittee's findings reflect the broadest range of possibilities.

Dated: October 19, 1990.

Fred D. Finke,

Acting Chair of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

[FR Doc. 90-25110 Filed 10-23-90; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL MARITIME COMMISSION

Inquiry Into Practices Affecting Shipping in the United States/Japan Trade; Harbor Management Fund

The Foreign Shipping Practices Act of 1988, 46 U.S.C. app. 1710a ("FSPA" or "1988 Act") directs and authorizes the Federal Maritime Commission ("Commission") to take corrective action against foreign shipping practices that have an adverse effect upon the operations of United States carriers. Section 10002(b) of the FSPA provides that the Commission shall investigate whether "any laws, rules, regulations, policies, or practices of foreign governments, or any practices of foreign carriers or other persons providing maritime services in a foreign country result in the existence of conditions that—(1) adversely affect the operations of United States carriers in United States oceanborne trade; and (2) do not exist for foreign carriers of that country in the United States under the laws of the United States or as a result of acts of United States carriers or other persons providing maritime or maritime-related services in the United States." 46 U.S.C. app. 1710a(b). The FSPA thus authorizes the Commission to investigate not only foreign governmental laws, rules or policies, but also the practices of foreign carriers or other persons or groups providing maritime or maritime-related services in a foreign country.

The FSPA defines "maritime services" as "port-to-port carriage of cargo by the vessels operated by ocean common carriers." 46 U.S.C. app. 1710a(a)(3). The FSPA defines "maritime-related services" as "intermodal operations, terminal operations, cargo solicitation, forwarding and agency services, non-vessel-operating common carrier operations, and all other activities and services integral to total transportation systems of ocean common carriers and their foreign domiciled affiliates on their own and others' behalf." 46 U.S.C. app. 1710a(a)(4).

In furtherance of the authority to investigate and take corrective action against adverse foreign shipping practices, section 10002(d) of the FSPA provides that the Commission may, by order, require common carriers and other persons to provide information to the Commission as is necessary and appropriate. 46 U.S.C. app. 1710a(d). The FSPA provides also that the Commission may require the response to such an informational order to be made under oath and in the form and within the time prescribed by the Commission. 46 U.S.C. app. 1710a(d).

In addition, section 15 of the Shipping Act of 1984 ("1984 Act") authorizes the Commission to require any common carrier to file with the Commission reports on that carrier's operations. 46 U.S.C. app. 1714(a). Whoever violates an order issued under the 1984 Act is liable for civil penalties. 46 U.S.C. app. 1712(a).

By separate Order issued pursuant to section 10002(d) of the FSPA and section 15 of the 1984 Act, the Commission is requiring certain named ocean common carriers to report on the status of a particular shipping condition in the United States/Japan trade ("Trade"). The particular condition which is the subject of the Commission's Order is a fund established by the Japan Harbor Transportation Association ("JHTA") which is known as the Harbor Management Fund ("Fund").

According to accounts appearing in the trade press and other sources of information, the JHTA levies a charge against U.S. and other carriers serving ports in Japan which charge is paid into the Fund. The charge imposed on U.S. and other carriers is allegedly not related to maritime services provided to carriers at Japanese ports but is used to finance other projects, in particular, an import distribution system, a type of project not generally considered the responsibility of ocean common carriers. Moreover, it has been reported that the Fund has been used to support nonshipping related business activities of JHTA members through the International Port Cargo Distribution Association ("IPCD"), an organization said to be created by JHTA. Press accounts also report allegations that the Fund's schedule of charges favors Japanese carriers, and that the Fund is at least implicitly supported by the Japan Ministry of Transport ("MOT"). The establishment and administration and use of the Fund by the JHTA raises a question of whether the Fund constitutes an unfavorable or adverse shipping condition in the U.S.-Japan trade, within the meaning of the 1988 Act. The Commission is not aware of any similar practice imposed upon Japanese carriers at U.S. ports.

The Commission's informational order requires the U.S.-flag and Japanese-flag carriers serving the Trade to report on the purposes and uses of the Fund, its effect on carrier operations, and possible disparate impact on U.S. and Japanese carriers and other matters.

The Commission notes that representatives of the governments of the affected countries will be holding a series of meetings beginning in November 1990 to discuss and seek to resolve the issue of the Fund. The

Commission welcomes and supports these efforts and hopes that the discussions will lead to a resolution of this issue. In this regard, the Commission is also seeking information from the U.S. Departments of State and Transportation concerning the Harbor Management Fund and the progress of these governmental discussions.

The Commission, however, has its own responsibility and obligation under the FSPA to keep U.S. trade in shipping services open and free of unfair impediments and practices that adversely affect U.S. carriers. The Commission will therefore carefully review and evaluate the information received in response to its Order to determine whether further action under the Foreign Shipping Practices Act, or other authority, is warranted.

In order to have as full and complete a consideration of this issue as possible, the Commission, by this Notice, is also inviting all interested persons to file information, views, and comments with respect to the effect of the Fund on ocean shipping services used in the import or export of goods to or from the United States and Japan. The Commission welcomes these comments and any suggestions for action that the Commission might usefully take to ameliorate this problem. It is expected that the information received from all sources will allow for a full evaluation of the Harbor Management Fund and will enable the Commission to determine whether an investigation under the Foreign Shipping Practices Act, or other authority, is warranted or required.

Any interested person may submit such information, views or comments on or before November 20, 1990 by addressing them to the Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573 in an original and 15 copies.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 90-25080 Filed 10-23-90; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., room 10220. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments and protests are found in §§ 560.602 and/or 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No: 224-003813-013.

Title: Department of Transportation of the State of Hawaii/Matson Terminals, Inc. Terminal Agreement.

Parties:

Department of Transportation of the State of Hawaii

Matson Terminals, Inc.

Filing Party: Edward Y. Hirata, Director, Department of Transportation of the State of Hawaii, 869 Punchbowl Street, Honolulu, Hawaii 96813-5097.

Synopsis: The Agreement provides for design, construction and lease of improvements to the Sand Island container terminal. Payment of the cost of such improvements shall be in accordance with the terms and conditions set forth in this Agreement.

By Order of the Federal Maritime Commission.

Dated: October 18, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90-25081 Filed 10-23-90; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-004008-011.

Title: Port of Oakland/Marine Terminals Corporation Terminal Agreement.

Parties:

Port of Oakland (Port)

Marine Terminals Corporation (MTC).

Synopsis: The Agreement amends the parties' basic agreement to provide: (1) MTC with 90 days time, from the date the Port gives notice of the availability of assigned premises following completion of earthquake damage repairs, to procure users for available terminal areas; (2) for a minimum annual tariff revenue standard of 35,000 revenue tons per net acre; (3) for an annual crane usage compensation quota of 25 crane hours per net acre following the return of portions of the assigned premises after completion of earthquake repairs; and (4) for setting forth certain negotiated adjustment compensation factors to be applicable during the agreement's option extended period ending June 30, 1994.

Agreement No.: 224-200287-001.

Title: Port of Oakland/Mitsui O.S.K. Lines, Ltd. Terminal Agreement.

Parties:

Port of Oakland

Mitsui O.S.K. Lines, Ltd. (Mitsui).

Synopsis: The Agreement amends the final subparagraph of Paragraph 2 of the parties' basic agreement to provide that in the event Mitsui exercises either of its options to extend the term of the agreement and/or relocates its operation to another Port of Oakland facility, the parties will file with the Commission amendment(s) setting forth the exercise of such option(s) and/or, if applicable, the adjusted compensation involved.

By Order of the Federal Maritime Commission.

Dated: October 18, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90-25082 Filed 10-23-90; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Banc One Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding

company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 13, 1990.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East sixth Street, Cleveland, Ohio 44101:

1. Banc One Corporation, Columbus, Ohio; to acquire 100 percent of the voting shares of Marine Bank Chicago, Chicago, Illinois.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Button Gwinnett Bancorp, Inc., Norcross, Georgia; to become a bank holding company by converting the charter of its subsidiary, Button Gwinnett Savings Bank FSB, Norcross, Georgia, to a national banking association charter.

2. Community Trust Financial Services Corporation, Hiram, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Community Trust Bank, Hiram, Georgia.

3. Southtrust Corporation, Birmingham, Alabama; to acquire 100 percent of the voting shares of SouthTrust Bank of columbia, N.A., Columbia, South Carolina, a *de novo* bank.

C. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. First Michigan Bank Corporation, Holland, Michigan; to acquire 100 percent of the voting shares of Maynard Allen State Bank, Portland, Michigan.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Hooker Bank Holding Company, Lincoln, Nebraska; to become a bank holding company by acquiring Republic Bank of Nebraska, Columbus, Nebraska, in organization, which will be the successor to a merger with Commerce Savings Columbus, Columbus, Nebraska.

2. SCB Financial Corporation, Smith Center, Kansas, parent of Smith County Bank and Trust Company, Smith Center, Kansas; to merge with Lull and Rush Agency, Lebanon, Kansas, and thereby indirectly acquire First National Bank of Lebanon, Lebanon, Kansas. The banks will merge subsequent to the holding company merger.

E. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Landmark Bancshares, Inc., Euless, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Landmark Bank-Mid Cities, Euless, Texas.

F. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Assistant Vice President) 101 Market Street, San Francisco, California 94105:

1. Interwest National Bancorp, Reno, Nevada; to become a bank holding company by acquiring 85.67 percent of the voting shares of Fallon National Bank of Nevada, Fallon, Nevada.

Board of Governors of the Federal Reserve System, October 18, 1990.

Jennifer J. Johnson,

Associate Secretary of hte Board.

[FR Doc. 90-25086 Filed 10-23-90; 8:45 am]

BILLING CODE 6210-01-M

Deutsche Bank AG; Acquisition of Company Engaged in Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a) or (f) of the Board's Regulation Y (12 CFR 225.23(a) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 13, 1990.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. Deutsche Bank AG, Frankfurt (Main), Germany; to engage through a fee-sharing arrangement with Gleacher & Co. Inc., New York, New York in providing merger and acquisition and corporate advice to U.S. and non-U.S. clients; performing feasibility studies for U.S. and non-U.S. clients; providing valuation services in connection with foregoing; and rendering fairness opinions in connection with M&A transactions. First Regional Bancorporation, 76 Federal Reserve Bulletin ____ (1990); The Fuji Bank, Ltd., 75 Federal Reserve Bulletin 577 (1989).

Board of Governors of the Federal Reserve System, October 18, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-25087 Filed 10-23-90; 8:45 am]

BILLING CODE 6210-01-M

Valley National Bancorp, et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Banking Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless

otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than November 13, 1990.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. Valley National Bancorp, Wayne, New Jersey; to acquire Mayflower Financial Corporation and its subsidiary, Mayflower Savings Bank, SLA, both of Livingston, New Jersey, and thereby engage in operating a savings and loan association pursuant to § 225.25(b)(9); and selling travelers checks, money orders with a face value of $1,000 or less and U.S. savings bonds pursuant to § 225.25(b)(12) of the Board's Regulation Y.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. ANB Corporation, Muncie, Indiana; to acquire Muncie Federal Savings Bank, Muncie, Indiana, and Service Management Corporation, Muncie, Indiana, and thereby engage in the operation of a savings association pursuant to § 225.25(b)(9); financial planning pursuant to § 225.25(b)(20); and brokerage services pursuant to § 225.25(b)(15) of the Board's Regulation Y. These activities will be conducted in the State of Indiana.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Nebraska Bancorporation, Inc., Alliance, Nebraska; to acquire ANB Savings Bank, F.S.B., Alliance, Nebraska, and thereby engage in operating a savings and loan association pursuant to § 225.25(b)(9) of the Board's Regulation Y. This is an OAKAR transation.

D. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Assistant Vice President) 101 Market Street, San Francisco, California 94105:

1. U.S. Bancorp, Portland, Oregon; to acquire Heartfed Financial Corporation, Auburn, California, and thereby engage in operating a savings association pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 18, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-25085 Filed 10-23-90; 8:45 am]

BILLING CODE 6210-01-M

Citicorp; Proposal To Act as Drawee for Variably Denominated Payment Instruments

Citicorp, New York, New York, has applied, pursuant to secton 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), for prior approval to act as drawee directly and indirectly through its subsidiary, Citicorp Services Inc., Chicago, Illinois, for variably denominated payment instruments without limitation as to face value when such instruments are sold or issued by Citicorp affiliates or unaffiliated third parties. The Board previously has approved the issuance of certain payment instruments without limitation as to face value subject to a number of restrictions that impose reporting and reserve requirements. *See, e.g., Well Fargo & Company*, 72 Federal Reserve Bulletin 148 (1986). Citicorp proposes to conduct this activity free of the reserve requirements previously imposed by the Board.

Citicorp proposes to issue payment instruments through unaffiliated financial institutions and other organizations as well as through its own depository institution subsidiaries. Where payment instruments are to be issued or sold by these unaffiliated institutions, Citicorp proposes that reserve requirements be eliminated. Where payment instruments with face amounts of over $10,000 are to be issued or sold by Citicorp affiliates, Citicorp proposes to place only the excess amounts over $10,000, rather than the entire face amount, in demand deposit accounts at Citicorp bank subsidiaries until the instruments are paid. Citicorp proposes to offer these services nationwide.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with the Board's approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." 12 U.S.C. 1843(c)(8). The Board has previously determined that, subject to certain reporting and reserve requirements, the sale of issuance of payment instruments without limit as to face value is an activity permissible for bank holding companies. *See, e.g., Wells Fargo & Co.* 72 Federal Reserve Bulletin 148 (1986).

In determining whether an activity is a proper incident to banking, the Board must consider whether the proposal may "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." 12 U.S.C. 1843(c)(8). Citicorp contends that permitting Citicorp to engage in the proposed activities would result in increased competition, greater convenience to customers, and increased efficiency in the provision of financial services.

In publishing the proposal for comment the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets or is likely to meet the standards of the BHC Act.

Any comments or requests for a hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than November 13, 1990. Any request for a hearing on this application must be accompanied, as required by § 262.3(e)) of the Board's Rules of Procedure (12 CFR 262.3(e)), by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute,

summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, October 18, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-25060 Filed 10-23-90; 8:45 am]

BILLING CODE 6210-01-M

Patrick R. Wilmerding, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 7, 1990.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Patrick R. Wilmerding*, Brookline, Massachusetts, and J. Crosby Player, Lenox, Massachusetts; to acquire 24.99 percent of the voting shares of USA Bancorp, Incorporated, Boston, Massachusetts, and thereby indirectly acquire Olympic International Bank and Trust Company, Boston, Massachusetts.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *William Warner Williams, Sr.*, Opelika, Alabama; Kathryn Ann Mitchell, Opelika, Alabama; Jimmy Alan LaFoy, Opelika, Alabama; and Wanda Streetman McCaghren, Auburn, Alabama; to acquire 10.1 percent of the voting shares of Farmers National Bancshares, Inc., Opelika, Alabama, and thereby indirectly acquire Farmers National Bank of Opelika, Opelika, Alabama.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Bobby J. Osborne*, North Little Rock, Arkansas; to acquire an additional 10.25 percent of the voting shares of National Banking Corp., North Little Rock, Arkansas, for a total of 27.55 percent, and thereby indirectly acquire National Bank of Arkansas in North Little Rock, North Little Rock, Arkansas.

D. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Lazard Freres & Co.*, New York, New York; LFCP Corporation, New York, New York; Corporate Advisors, L.P., New York, New York; Corporate Partners, L.P., New York, New York; Corporate Offshore Partners, L.P., Hamilton, Bermuda; State Board of Administration of Florida, Tallahassee, Florida; LFXR Corp., New York, New York; and LFXR Partners, L.P., New York, New York; to acquire 1.2 percent of the voting share of First Bank System, Inc., Minneapolis, Minnesota, and thereby indirectly acquire First Bank, N.A., Minneapolis, Minnesota; First Bank North, N.A., Duluth, Minnesota; First Bank Southeast, Rochester, Minnesota; First Bank Central, N.A., St. Cloud, Minnesota; First National Bank East, Grand Forks, North Dakota; First Bank of Minnesota, Virginia, Minnesota; First Bank South, N.A., Mankato, Minnesota; First Bank of North Dakota, N.A., Fargo, North Dakota; First Bank Montana, N.A., Billings, Montana; First Bank, N.A., Milwaukee, Wisconsin; and First Bank South Dakota, N.A., Sioux Falls, South Dakota; FBS Washington Bancorporation, Inc., Minneapolis, Minnesota, and thereby indirectly acquire First Bank Washington, Omak, Washington; and Central Bancorporation, Inc., Denver, Colorado, and thereby indirectly acquire Central Bank of Denver, Denver, Colorado; Central Bank Southeast, N.A., Englewood, Colorado; Central Bank of Pueblo, N.A., Pueblo, Colorado; Central Bank of North Denver, N.A., Denver, Colorado; Central Bank Centennial, Littleton, N.A., Colorado; Central Bank Westminster, N.A., Westminster, Colorado; Central Bank Broomfield, N.A., Broomfield, Colorado; Central Bank Chatfield, N.A., Littleton, Colorado; Central Bank Grand Junction, N.A., Grand Junction, Colorado; Central Bank of Greeley, N.A., Greeley, Colorado; Central Bank Academy Blvd, N.A., Colorado Springs, Colorado; Central Bank Aspen, N.A., Aspen, Colorado; Central Bank Glenwood Springs, N.A., Nagelwood Springs, Colorado; Central Bank Garden of Gods, N.A., Colorado Springs, Colorado; Central Bank of Chapel Hills, N.A., Colorado Springs, Colorado; and Central Bank of Aurora, N.A., Aurora, Colorado.

2. *Janice W. Maher*, Grand Rapids, Minnesota; to acquire an additional 46.63 percent of the voting shares of Jan-Mar Corporation, Coleraine, Minnesota, for a total of 89 percent and thereby indirectly acquire First National Bank, Coleraine, Minnesota.

3. *Trust of Richard W. Perkins*, Wayzata, Minnesota; to acquire 28.13 percent of the voting shares of Duke Financial Group, Inc., St. Paul, Minnesota, and thereby indirectly acquire Citizens State Bank of Montgomery, Montgomery, Minnesota; Peoples Bank of Commerce, Cambridge, Minnesota; and State Bank of New Prague, New Prague, Minnesota.

4. *Mark R. White*, Grand Rapids, Minnesota; to acquire an additional 43.63 percent of the voting shares of Jan-Mar Corporation, Coleraine, Minnesota, and thereby indirectly acquire First National Bank, Coleraine, Minnesota.

F. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Don R. Simcox*, Norman, Oklahoma; to acquire an additional 7.23 percent of the voting shares of City Bancorp of Norman, Inc., Norman, Oklahoma, for a total of 25.93 percent and thereby indirectly acquire City National Bank and Trust Company, Norman, Oklahoma.

G. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Bill Hull Barbee*, Kilgore, Texas, to acquire an additional 1.01 percent for a total of 1.17 percent; Francis Elmo Brown, Jr., Kilgore, Texas, to acquire 12.25 percent for a total of 12.80 percent; William Robert Crim, Kilgore, Texas, to acquire 4.08 percent for a total of 5.12 percent; Gibson Management Group, Inc., Longview, Texas, to acquire 1.68 percent; Sanny Sue Holland, Kilgore, Texas, to acquire 2.84 percent; Thomas Mancel Hopkins, Kilgore, Texas, to acquire 0.82 percent; Hydro-Seal Valve Company, Inc., Kilgore, Texas, to acquire 4.08 percent; Don Milton Kerr, Kilgore, Texas, to acquire 8.16 percent for a total of 8.36 percent; Jimmy Dolan Kirkland, White Oak, Texas, to acquire 4.08 percent; Janet Stanley Miller, Dallas, Texas, to acquire 4.08 percent; David Mobley Grantor Trust, to acquire 8.16 percent; Tom Marion Mobley, II, Kilgore, Texas, to acquire 4.08 percent; Claude Willard Rhodes, Jr., Kilgore, Texas, to acquire 4.08 percent; Robert Wayne Sigmon, White Oak, Texas, to

acquire 4.68 percent; Constance Smith, Kilgore, Texas, to acquire 2.04 percent; Ronald E. Spradlin, III, Kilgore, Texas, to acquire 4.09 percent for a total of 6.20 percent; Paul Henry Story, Kilgore, Texas, to acquire 0.68 percent; and Larry Von Tate, Kilgore, Texas, to acquire 4.08 percent of the voting shares of Kilgore First Bancorp, Inc., Kilgore, Texas, and thereby indirectly acquire Kilgore First National Bank, Kilgore, Texas.

Board of Governors of the Federal Reserve System, October 18, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-25089 Filed 10-23-90; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Public Meeting on Clinical Practice Guidelines for Management of Acute Post-Operative Pain

A public meeting is being held on clinical practice guidelines for Management of Acute Post-Operative Pain. The guidelines are under development by a panel of experts and health care consumers, arranged by the Agency for Health Care Policy and Research. A Notice announcing the development of seven sets of clinical practice guidelines and inviting written comments was published in the Federal Register on August 28 (55 FR 35186).

In addition to the solicitation of written material in the August 28 Federal Register, a series of public meetings is being arranged to provide an opportunity for interested parties to provide relevant information and comments concerning the particular guidelines under development.

The meeting to address guidelines for Management of Acute Post-Operative Pain will be held on November 20, as follows:

November 20, 1990, 8 a.m. to Noon
J. W. Marriott Hotel, 1331 Pennsylvania Avenue, Washington, DC 20004 (Salons D & E)

Background

The Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101–239), enacted on December 19, 1989, added a new title IX to the Public Health Service Act (the Act) which established the Agency for Health Care Policy and Research (the Agency) to enhance the quality, appropriateness and effectiveness of health care services, and access to such services.

Section 911 of the Act established, within the Agency, the Office of the Forum for Quality and Effectiveness in Health Care (the Forum). Section 912 of the Act directs the Forum to arrange for the development and periodic review and updating of: Clinically relevant guidelines that may be used by physicians, educators and health care practitioners to assist in determining how diseases, disorders, and other health conditions can most effectively and appropriately be prevented, diagnosed, treated, and managed clinically.

Section 912 of the Act also provides that by not later than January 1, 1991, the Administrator of the Agency shall assure the development of an initial set of guidelines, standards, performance measures, and review criteria that includes not less than 3 clinical treatments or conditions that:

1. Account for a significant portion of expenditures under the Medicare program, and have a significant variation in the frequency of the type of treatment provided; or
2. Otherwise meet the needs and priorities of the Medicare program.

Section 914 of the Act lists factors to be considered in establishing priorities for guidelines, including the extent to which the proposed guidelines would:

1. Improve methods of prevention, diagnosis, treatment and clinical management, and thereby benefit a significant number of individuals;
2. Reduce clinically significant variations among providers in making diagnoses and providing treatments, or reduce significant variations in the outcomes of health care services or procedures; and
3. Reduce variations in the services and procedures utilized for diagnosis and treatment (and potentially produce savings in health care expenditures).

Based on these statutory criteria, consultation with the Health Care Financing Administration (in accordance with 42 U.S.C. 1320b–12(a)), studies conducted by the Institute of Medicine, availability of reliable research data, and a high degree of professional consensus, the following topics have been selected for initial guideline development.

1. Visual Impairment due to Cataract in the Aging Eye
2. Diagnosis and Treatment of Benign Prostatic Hyperplasia
3. Urinary Incontinence in the Adult
4. Prediction, Prevention and Early Treatment of Pressure Sores in Adults
5. Delivery of Comprehensive Care in Sickle Cell Disease
6. Management of Acute Post-Operative Pain
7. Diagnosis and Treatment of Depressed Outpatients in the Primary Care Setting

To meet the requirement to assure the development of initial guidelines by January 1991, the Forum has arranged for panels of experts in the above-listed topics and consumers who will develop the specific guidelines. Panel responsibilities include assessment of the available scientific evidence and clinical consensus and determination of the scope of the guideline.

Arrangements for November 20 Public Meeting on Management of Acute Post-Operative Pain

Representatives of organizations and other individuals are invited to provide relevant written comments and information and make a brief (5 minutes or less) oral statement to the panel. The Office of the Forum for Quality and Effectiveness in Health Care is making the administrative arrangements for this public meeting on behalf of the panel. Individuals and representatives who would like to attend must register with the Forum at the address set out below by November 12 and indicate whether they plan to make an oral statement. Those wishing to make oral statements and provide written comments and information should also submit copies of these to the Forum by November 12. If more requests to make oral statements are received than can be accommodated between 8 a.m. and Noon on November 20, the co-chair persons will allocate speaking time in a manner which ensures, to the extend possible, that a range of views of health care professionals and providers, health care consumers, and product and pharmaceutical manufacturers is presented. Those who cannot be allocated their requested speaking time because of time constraints may be assured that their written comments will be considered by the panel in developing the guidelines.

Stephen H. King, M.D., Director, Forum for Quality & Effectiveness in Health Care, Agency for Health Care Policy & Research, Parklawn Building, rm 18A46, 5600 Fishers Lane, Rockville, Md 20857, Phone 301–443–8754, Fax 301–443–7470.

Meetings on additional topics will also be announced in the Federal Register.

Dated: October 18, 1990.

J. Jarrett Clinton,

Assistant Surgeon General, Acting Administrator.

[FR Doc. 90-25120 Filed 10-23-90; 8:45 am]

BILLING CODE 4160-90-M

Food and Drug Administration

Advisory Committee Meeting; Cancellation

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is canceling the meeting of the Veterinary Medicine Advisory Committee scheduled for October 31 and November 1, 1990. The meeting was announced by notice in the Federal Register of September 28, 1990 (55 FR 39729). The decision to cancel this meeting was prompted by the uncertainty surrounding FDA's Fiscal Year 1991 budget appropriation.

FOR FURTHER INFORMATION CONTACT: Gary E. Stefan, Center for Veterinary Medicine (HFV-244), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-0830.

Dated: October 18, 1990.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-25119 Filed 10-23-90; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Public Information Collection Requirements Submitted to the Office of Management and Budget for Clearance

AGENCY: Health Care Financing Administration, HHS.

The Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information in compliance with the Paperwork Reduction Act (Pub. L. 96-511).

1. *Type of Request:* New; *Title of Information Collection:* Information Collection Requirements in BPD-306, Termination of Enrollment; *Form Numbers:* HCFA-R-141; *Use:* The termination of enrollment requirement will allow States the option of restricting disenrollment from certain Medicaid HMOs and Community Health Centers by requiring enrollees to meet good cause criteria for disenrollment after the first month of enrollment; *Frequency:* On occasion; *Respondents:* State/local governments, businesses/other for profit, and small businesses/organizations; *Estimated Number of Responses:* 2,000; *Average Hours per Response:* .25; *Total Estimated Burden Hours:* 500.

2. *Type of Request:* Revision; *Title of Information Collection:* Medicaid Program Budget Report; *Form Number:* HCFA-25; *Use:* State Medicaid Agencies prepares these forms which are used by HCFA for developing national Medicaid budget estimates, quantification of budget assumptions, and issuance of quarterly Medicaid Grant Awards; *Frequency:* Quarterly; *Respondents:* State/local governments; *Estimated Number of Responses:* 228; *Average Hours per Response:* 25; *Total Estimated Burden Hours:* 5,700.

3. *Type of Request:* Revision; *Title of Information Collection:* Medicaid Integrated Review Schedule; *Form Number:* HCFA-301; *Use:* Medicaid State Agencies are rquired to perform quality control reviews. The review schedule serves as the comprehensive data entry form for all quality control reviews in the Aid to Families with Dependent Children (AFDC), Food Stampe, and Medicaid programs; *Frequency:* Monthly; *Respondents:* State/local governments; *Estimated Number of Responses:* 37,000 Medicaid Assistance Only (MAO) and 65,192 AFDC; *Average Hours per Response:* MAO-.65 reporting and .43333 recordkeeping; AFDC-.10 reporting and .06659 recordkeeping; *Total Estimated Burden Hours:* 30,569 reporting and 20,374 recordkeeping for a total of 50,943.

4. *Type of Request:* Extension; *Title of Information Collection:* Medicare Therapeutic Shoe Demonstration Program Certification And Prescription Form; *Form Number:* HCFA-609; *Use:* These forms are completed by providers participating in a demonstration and are used by the demonstration contractor to check Medicare eligibility, randomize applicants, and provide baseline information for the evaluation; *Frequency:* Annually; *Respondents:* Businesses/other for profit; and small businesses/organizations; *Estimated Number of Responses:* 27,466; *Average Time per Response:* 5 minutes; *Total Estimated Burden Hours:* 2,291.

5. *Type of Requests:* Extension; *Title of Information Collection:* Chronic Renal Disease Medical Evidence Report; *Form Number:* HCFA-2728; *Use:* These forms are completed by End-stage Renal Disease (ESRD) facilities and patients so that HCFA and the Social Security Administration can determine whether ESRD claimants are entitled to Medicare benefits; *Frequency:* On occasion; *Respondents: Individuals/households, businesses/other for profit; and small businesses/organizations; Estimated Number of Responses:* 48,000; *Average Hours per Response:* .25; *Total Estimated Burden Hours:* 12,000.

6. *Type of Request:* Revision; *Title of Information Collection:* Medicaid Integrated Quality Control Review Workaheet; *Form Number:* HCFA-316; *Use:* These forms are completed by State agencies to collect both case characteristics and quality control data for all quality control reviews for the Aid to Families with Dependent Children (AFDC), Food Stamps, and Medicaid programs; *Frequency:* Monthly; *Respondents:* State/local governments; *Estimated Number of Responses:* Integrated States: 17,700 for Medical Assistance Only (MAO) and 1,091 for ineligible AFDC stratum cases; non-integrated States: 20,582 for MAO and 1,466 for ineligible AFDC stratum cases; *Average Hours per Response:* Reporting: Integrated States 5.42 for MAO and 2.71 for ineligible AFDC stratum cases; non-integrated States: 8 for MAO and 4 for ineligible AFDC stratum cases; Recordkeeping: Integrated States: .8 for MAO and .8 for ineligible AFDC stratum cases; non-integrated States: .33 for MAO and .67 for ineligible AFDC stratum cases; *Total Estimated Burden Hours:* 259,419 (reporting) and 19,239 (recordkeeping) for a total of 278,658.

Additional Information or Comments: Call the Reports Clearance Officer on 301-966-2088 for copies of the clearance request packages. Written comments and recommendations for the proposed information collections should be sent directly to the following address: OMB Reports Management Branch, Attention: Allison Herron, New Executive Office Building, room 3208, Washington, DC 20503.

Dated: October 16, 1990.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

[FR Doc. 90-25122 Filed 10-23-90; 8:45 am]

BILLING CODE 4120-03-M

[BPO-091-PN]

Medicare Program; Data, Standards and Methodology Used To Establish Budgets for Fiscal Intermediaries and Carriers

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed notice.

SUMMARY: This notice describes the data, standards, and methodology that would be used to establish fiscal intermediary and carrier budgets for fiscal year (FY) 1991, beginning October 1, 1990. Intermediaries and carriers assist in the administration of the Medicare program by performing numerous functions related to paying for medical services and equipment.

Sections 1816(c)(1) and 1842(c)(1) of the Social Security Act require us to publish for public comment in the Federal Register data, standards, and methodology we intend to use to establish budgets for Medicare intermediaries and carriers.

DATES: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on November 23, 1990.

ADDRESSES: Address comments in writing to: Health Care Financing Administration, Department of Health and Human Services, Attention: BPO-091-PN, P.O. Box 26676, Baltimore, Maryland 21207.

Due to staffing and resource limitations, we cannot accept facsimile (FAX) copies of comments.

In commenting, please refer to file code BPO-091-PN.

If you prefer, you may deliver your comments to room 309-G Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC or to room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Comments will be available for public inspection as they are received, beginning approximately three weeks after publication, in room 309-G of the Department's office at 200 Independence Avenue SW., Washington, DC 20201, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone 202-245-7890).

FOR FURTHER INFORMATION CONTACT: J. Thomas Hessenauer, (301) 966-7542.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 1816 of the Social Security Act (the Act), public or private organizations and agencies participate in the administration of part A of the Medicare program (Hospital Insurance) under agreements with the Secretary of HHS. These agencies or organizations are known as fiscal intermediaries, and they perform bill processing and benefit payment functions for the Medicare program. Most providers of services (such as hospitals, skilled nursing facilities (SNFs), and home health agencies (HHAs)) submit bills to these intermediaries, which determine whether the services are covered under Medicare and determine correct payment amounts. The intermediaries then make payments to the providers on behalf of the beneficiaries.

Under section 1842 of the Act, the Secretary of HHS is also authorized to enter into contracts with entities, known as carriers, to fulfill various functions in the administration of part B of the Medicare program (Supplementary Medical Insurance). Beneficiaries, physicians, and other suppliers of services or supplies, submit claims to these carriers. The carriers determine whether the services or supplies are covered under Medicare and the payment amount (usually on the basis of reasonable charges) for the services or supplies and then make payment to the appropriate party.

Fiscal Intermediary and Carrier Budget Process

Oversight of intermediary and carrier performance by HCFA is exercised by staff of both the central office and regional office (RO). In general, national policies are addressed at the central office level, and regional and local policies and operations are addressed by the regional offices. Communication between HCFA and the intermediaries and carriers is continuous. Established consultation workgroups, consisting of representatives of HCFA central office, regional offices and Medicare contractors, meet periodically.

HCFA central office is responsible for developing a national contractor budget for both part A and part B of the Medicare program. The budget is formulated over a 15-month period, beginning in March of the year preceding the fiscal year to which it applies. It is formulated after input from the contractor community, HCFA's ROs, various central office components, several levels in the Department of HHS, and the Office of Management and Budget (OMB). Prior to submittal to the President for approval and forwarding to Congress.

Our past practice has involved use of the HCFA ROs in obtaining budget estimates from the contractors. The ROs' assessment of the contractor's needs is reviewed during a budget level determination process based on current claims processing trends, legislative mandates, administrative initiatives, current year performance standards and criteria, and the availability of funds appropriated by Congress, subsequently allocate funding within these constraints.

Section 4035(a) of Public Law 100-203; the Omnibus Budget Reconciliation Act of 1987 (OBRA7), amended sections 1816(c) (1) and 1842(c) (1) of the Act by requiring the Secretary to publish in the Federal Register, by no later than September 1 before each fiscal year, the final data, standards, and methodology to be used to establish budgets for fiscal intermediaries and carriers under these sections for that fiscal year. We also are required to publish in the Federal Register for public comment the data, standards, and methodology we will use at least 90 days before September 1.

We have been unable to meet the statutory mandate to publish a proposed notice at least 90 days before September 1. Although we have not published the proposed notice within the timeframe contemplated by the statute, we nevertheless want to assure interested parties that they will be provided an adequate opportunity to comment on the data, standards, and methodology to be used to establish budgets before they are issued in final. To the extent that comments received warrant revisions to the proposed data, standards, and methodology, we will make such changes before issuing the final notice. Moreover, if appropriate, we will issue revised Budget Performance Requirements (BPRs) to intermediaries and carriers. We will also renegotiate any affected areas of intermediary and carrier budgets within the level of funding made available by Congress.

Additionally, as in prior years, we have had and will continue to seek extensive input from the involved parties, particularly contractors. Their input is used as part of the basis for the national contractor budget that was presented to Congress. That budget is the basis for the contents of this notice. Therefore, we do not believe that the delay in publishing this proposed notice will disadvantage the contractors as they have already been apprised of the contents of this document at meetings, via letters, and telephone calls. The delay will neither diminish the depth of the consultation nor the negotiation with the parties most affected by this notice.

We will make every effort to meet the requirement to publish a final notice by September 1. If providing a 30 day comment period and evaluating comments after the proposed notice on the data, standards, and methodology is

published makes this not possible, we will make every effort to publish the final notice as near as possible to September 1.

II. Overview of Fiscal Year 1991 National Medicare Contractor Budget: Data, Standards and Methodology

The FY 1991 Medicare contractor budget request was submitted to Congress in January 1990. Due to budget constraints the workload for the FY 1991 request is expressed in terms of work processed and for part A (82.4 million) is 1.4% less than the FY 1990 workload which was based on receipts. For part B (465.1 million) the workload results in a 0.5% increase. Our estimate involved the use of a regression model that uses the last 36 months of actual contractor workload data. The software runs the historical data through five different statistical models, selects the one best suited to the characteristics of the data, and provides a forecast using the model providing the best fit. For the FY 1991 projections, we used January 1990 data which were the latest available at the time. The resulting projections will be updated monthly to assure that the most timely data are available for budgeting purposes.

Based on the projected FY 1990 unit costs for processing bills and claims, we applied a 3.3 percent inflation factor (the economic assumption used by the OMB based on changes to the Consumer Price and Wage Index as developed by the Department of Labor). This amount is then further adjusted for savings achieved by prior and anticipated productivity investments, and costs associated with new legislation. This calculation results in a new unit cost, which, when multiplied by the part A and/or part B workloads, shows the total amount to be earmarked for bills and claims payment in FY 1991.

A. Medicare Contractor Functional Areas

The Medicare contractor budget consists of seven functional area responsibilities performed by intermediaries for part A and eight functional area responsibilities performed by carriers for part B. The functional area responsibilities for part A are: (1) Bills Payment; (2) Reconsiderations and Hearings; (3) Medicare Secondary Payer; (4) Medical Review and Utilization Review; (5) Provider Audit (Desk Reviews, Field Audits and Provider Settlements); (6) Provider Reimbursement; and (7) Productivity Investments. The functional area responsibilities for part B are: (1) Claims Payment; (2) Reviews and Hearings; (3) Beneficiary/Physician Inquiries; (4) Medical Review and Utilization Review; (5) Medicare Secondary Payer; (6) Participating Physicians; (7) Professional Relations; and (8) Productivity Investments. These functions are funded from the Hospital Insurance (HI) and Supplementary Medical Insurance (SMI) trust funds. The data, standards and methodology used in these functional areas are discussed in section III. In the following national budget summary, we have combined the discussion of functional areas common to both intermediaries and carriers. However, data specific to part A and part B are provided under each heading.

1. Bills Payment and Claims Payment

We currently estimate the part A processed workload to be 82.4 million bills in FY 1991. This estimate results from a workload regression model that uses the last 36 months of intermediary data through January 1990 and the current funding available for processing claims. Intermediaries are required by section 1816(c) of the Act (as amended by section 9311 of Pub. L. 99–509, the Omnibus Budget Reconciliation Act of 1986 (OBRA 86)), to pay 95 percent of part A bills within 24 days of receipt. This workload level includes 2.2 million claims for PAP smears as provided for in Omnibus Budget Reconciliation Act of 1989, Pub. L. 101–239 (OBRA 89).

The part B processed workload is currently projected at 465.1 million claims based on the current funding available. All part B claims must be processed within the same timeframes as part A bills, except that participating physician claims must be paid within 17 days of receipt. This workload level includes 4.5 million claims for PAP smears as provided for in OBRA 89.

Section 4031 of OBRA 87 amended sections 1816(c) and 1842(c) of the Act to impose a 14-day payment floor standard effective October 1, 1988 for part A bills and part B claims. This standard provides that no payment may be made within 14 calendar days after the date that the bill/claim is received. The OBRA 87 provisions expired in September 1989. HCFA has administratively retained the statutory floor with a waiver period. The waiver period is scheduled to end on September 30, 1990. Thus, the 14-day payment floor will apply again beginning October, 1990. Section 4031 also prohibits the Secretary from issuing before October 1, 1990, other regulations, instructions or policies intended to slow down Medicare payments.

2. Reconsiderations (Reviews Under Part B) and Hearings

This function includes all activities related to guaranteeing due process of law as a result of contractor action (i.e., disallowances) on bills and claims.

Section 4032 of OBRA 87 amended section 1816(f) of the Act to require that intermediaries process 75 percent of reconsiderations within 60 days beginning in FY 1990. As a result of the FY 1990 funding levels, we reevaluated the reconsiderations, reviews, and hearings process with an aim to further increase efficiency. For FY 1991 we expect to achieve reduced costs through expanded use of on-the-record and telephone hearings and through the use of audio response units to replace labor intensive methods of answering inquiries.

3. Medicare Secondary Payer

The Medicare Secondary Payer (MSP) function is the first of three initiatives (Medicare Secondary Payer, Medical Review and Utilization Review, and Provider Audit) we developed as "Payment Safeguards" in an attempt to safeguard the Medicare program against improper payments.

The focus of the MSP initiative is to ensure that the Medicare program pays for covered care only after reimbursement from other primary insurers has been made. An intermediary and a carrier must administer the program in a manner that achieves maximum savings and cost avoidance to the Medicare trust funds. Medicare Secondary Payer activities center on claims involving: the working aged; spousal working aged; beneficiaries with end-stage renal disease; beneficiaries eligible for payment under automobile, medical liability and no-fault insurance; individuals eligible for or receiving workers compensation; and the disabled. By concentrating efforts in these key areas, the Medicare program has had tremendous success in recovering and reducing improper program payments.

Medicare contractors are responsible for identifying MSP situations and aggressively pursuing the recovery of improper payments from the appropriate party. In conjunction with the actuary, we develop specific savings goals for each contractor based on past performance.

The standard for determining the amount of MSP funding a contractor will receive in FY 1991 is based on savings goals, workload volumes, required systems changes, and any special

projects that may be assigned to contractors.

We gather actual MSP claims volume, overall claims volume for the prior fiscal year, and special project data (e.g., cost of claims, amount of savings achieved). We compare a contractor's previous year's data to the contractor's projections for the next fiscal year and allocate funding in proportion to the savings goals to be achieved. Additional funding is allocated for specific projects as required. The amounts vary based on the scope of the project, extent of systems changes if any, and workload.

For FY 1991 we have included funding to implement the IRS/SSA/HCFA data match project created by section 6202 of OBRA '89 (Pub. L. 101–239).

4. Medical Review and Utilization Review

In addition to processing and paying claims from providers of services and Medicare beneficiaries, the contractors perform a medical review (MR) of claims to determine whether services were medically necessary and constituted an appropriate level of care.

Intermediaries are responsible for medical review of HHA, SNF, outpatient hospital services (excluding surgery), and other outpatient services, such as those provided by rehabilitation facilities, rural health clinics, etc. This review assures that medical care is necessary and appropriate and that quality medical services are delivered to Medicare beneficiaries.

During FY 1991, the review of HHA and outpatient services will account for most of the uses of medical review resources. Medical review of all HHA provider claims will be the responsibility of regional home health intermediaries.

In FY 1991, we will continue efforts in the standard cost analysis system developed in FY 1987 to evaluate the efficiency of carrier prepayment medical review screens. This systematic approach is expected to yield benefits to the medical review process, such as: (1) A current inventory of the number, types, and cost effectiveness of medical review screens; (2) ability to analyze the current inventory of screens and set a framework that yields a high return on investment; (3) ability to target strategies for specific medical review activities; and (4) measurement of the relative cost effectiveness of screens among different contractors.

In FY 1991, we will continue to focus on prepayment review, including additional mandatory prepayment screens. We also will continue with our efforts with postpayment medical review.

The carrier postpayment process consists of preparing profiles of providers and beneficiaries, identifying patterns of fraud and abuse, correcting program abuse or overutilization, preventing further abuse in service utilization by educating providers in acceptable norms and proper billing practices, recommending administrative action, where appropriate, and identifying areas for the development and installation of future prepayment review screens.

For FY 1991 an analytical diagnosis-based approach to identification of services for more intensified MR, termed patterns of care, will be implemented nationally. Funding is for carrier staff review of the system rather than development, which will be accomplished in FY 1990. We estimate that 20% of FY 1991 prepayment MR will be diagnosis related.

Carriers must continue to provide support to HHS/Office of Inspector General (OIG) in developing cases of suspected fraud and abuse. This is in addition to the fraud and abuse activities that currently exist in other intermediary and carrier functions.

The distribution of funding is in proportion to workload, individual contractor medical review/utilization review (MR/UR) projects, and the budget constraints brought about by reduced funding availability.

The actual and cost avoidance benefits in safeguarding program dollars are significant. Educational encounters lead to fewer incorrect billings and administrative cost avoidance in the form of reductions in the number of requests for reviews and hearings. We will continue to focus on: review of providers with demonstrably aberrant billing and practice patterns; review of educational efforts; and development of a methodology for quantifying the level of program and administrative cost avoidance resulting from postpayment medical review activities.

Carrier medical review costs will be offset by avoiding payment for medically unnecessary services through proper medical review/utilization review.

5. Provider Audit

For FY 1991 we have planned for the full compliment of audits to help in the identification and prevention of improper payments. These will include desk reviews, field audits, special audit activities and final settlements. Considering provider growth and the increase in cost-based reimbursement to PPS hospitals, HCFA will continue to give priority to the audits of PPS multi-facility hospitals as well as chain-affiliated providers. In addition, by concentrating effort on HHAs and SNFs which meet minimum audit criteria, HCFA will maximize the potential savings available from these providers. HCFA will also focus audit efforts on costs reported and allocated by home offices, since there are numerous incentives for chain home offices to maximize reimbursement through creative cost allocation practices.

6. Provider Reimbursement (Part A Only)

In FY 1991, Medicare contractors are required to provide reimbursement services to 28,000 health care providers. This represents an increase of approximately 3.5 percent over the number of providers requiring reimbursement services in FY 1990. Reimbursement services are required for provider-based SNFs and HHAs in addition to ESRD facilities, comprehensive outpatient rehabilitation facilities (CORFs), and hospices regardless of whether the provider is audited on an annual or other basis. The budget provides for the following activities:

- Collection of Provider Overpayments—A system must be maintained to collect and record overpayments made to providers. In addition to collection and recordkeeping activities, contractors will investigate and provide profile data on uncollectible overpayment cases and provide monthly reports to HCFA on the uncollectible accounts.
- Interim Payments—Interim payment rates must be established and periodically reviewed throughout the fiscal year for all Medicare providers. The interim rates process requires the review of provider cost and utilization statistics and the calculation of adjusted rates.
- Consultative Services—Onsite assistance must be provided to any provider experiencing difficulties in preparing the cost report, preparing claims or any other payment area.
- Records and Reports—According to specific instructions from HCFA, files and records must be established and maintained by the contractors to ensure proper payments to providers. In addition, several different provider cost and payment reports must be prepared and submitted quarterly to HCFA.
- System Tracking for Audit and Reimbursement (STAR)—The STAR system collects data on individual provider identification such as: name, provider number, number of beds/visits etc. The system also collected all data on the cost of Medicare contractors

performing audit and reimbursement functions, including interim rate setting, desk reviews, settlements and field audits. The STAR system will be integrated with other data retrieval systems to eliminate duplicate reporting and to establish one data base for information reported by intermediaries.

In determining the amount of reimbursement funding each contractor receives, we analyze provider profiles submitted by contractors. The provider profiles show types and numbers of periodic interim payment (PIP) and non-PIP providers. We review prior periods of reimbursement funding and assess the contractor's future needs based on projected provider workload and the availability of funds. We make every attempt to distribute funds in proportion to workload.

7. Productivity Investments

The costs of implementing new initiatives designed to improve the effectiveness of Medicare program administration are referred to as productivity investments (PIs). Productivity investments generally provide start-up funds for contractor activities. Once these projects are operational, funding for these projects becomes part of the contractor's ongoing costs. The criteria for selection of PIs to be implemented vary. For example, some PIs are required by legislation or regulatory requirements. We also fund projects that will improve administrative cost efficiency, for example, the Common Working File and Shared Maintenance/Shared Processing.

There is no single distribution methodology for the allocation of PI funds. After we determine the national cost of a PI, funds are divided among the contractors based on either the contractors' cost estimates or through HCFA derived formulas based on project specifications. Other PI initiatives require equal effort by all contractors regardless of size, and are, therefore, divided equally among contractors. Finally, other PIs, such as the common working file and shared maintenance/shared processing, are given only to contractors that are involved in the specific projects.

In FY 1991, we will fund the following PIs: for part A—common working file, shared software maintenance, shared claims processing, quality assurance program initiatives, facilities management and changes in UB-92; and for part B—common working file, shared software maintenance, shared claim processing, quality assurance program, revised HCFA 1500, beneficiary initiatives, durable medical equipment, standard statistical conventions, facilities management, revision of payment software, payment for physicians in under-served areas, electronic media claims, and provisions initiated as a result of OBRA 89.

8. Beneficiary/Physician Inquiries

The Medicare program is complex. It is based on many provisions required by law, regulations and policy dealing with entitlement, coverage of services, comprehensive payment rules, and the rights and responsibilities of beneficiaries. Since contractors are the direct link between beneficiaries, physicians, and the program, this activity includes all costs related to beneficiary, physician and supplier inquiries generated by means of telephone calls, correspondence, and personal visits, estimated to be 28.1 million in FY 1991. Current contractor performance and evaluation criteria and standards require that inquiries be processed within 30 calendar days. For telephone inquiries, the level of service for a busy signal must equate to an "all trunks busy" of no higher than 20 percent. All calls must be acknowledged in no more than 20 seconds and must be handled by a telephone representative within 120 seconds of acknowledgement. The standards require that 80 percent of the calls must be handled to completion during the initial call and that call backs must be made within 2 working days. These standards apply to both toll free and local calls.

9. Participating Physicians (Part B Only)

Participating physicians are those who agree to accept assignment on all Medicare claims in return for certain incentives/benefits. All physicians must be given an opportunity to enroll/disenroll in the participation program annually.

The participating physician program for carriers includes the following activities: monitoring Maximum Allowable Actual Charges (MAAC); producing and distributing Medicare Participating Physician Directory (MEDPARD); monitoring nonparticipating physicians for compliance with section 1842(m) of the Act as added by section 9332(d) of OBRA 1986; monitoring participating physicians; furnishing toll-free electronic media claims lines for participating physicians; responding to participation related inquiries from beneficiaries in a timely and responsive manner; enrolling participating physicians and suppliers; monitoring systems changes for pricing screens and files related to the participating physician program; and monitoring data requests (participation counts).

When the Congress initially provided funding for the participation program, we identified each of the activities involved and priced each activity nationally. An algorithm was developed for distributing the funds to each contractor for each activity. Some algorithms distributed funds based on workload and others based on the number of sites with systems changes. One activity was funded based on the participation rates. We then totaled the cost of the various activities for each carrier and provided funding accordingly.

Section 9332 of OBRA 86 requires HCFA to pay carrier bonuses for increasing the rate of physician participation in the Medicare program. The methodology used to determine carrier bonuses for FY 1991 will be published in a separate notice.

10. Professional Relations

The success of the Medicare program depends upon the continuing cooperation of individuals and institutions providing health care services.

Carriers must notify physicians and suppliers, in writing, of policy and procedure changes prior to the effective dates of changes. They are to develop claims prior to denial or reduction. Carriers must initiate regular contact with physicians/suppliers through representative organizations. Scheduling regular and periodic training for new personnel and as part of a continuing education program for previously trained staff on current Medicare coverage, reimbursement, and billing policy is required. Carriers must conduct regular meetings with beneficiaries or their representative organizations to inform them about the participation program. Carriers must also provide adequate telephone service in order to answer queries concerning claims status and processing questions. The funding provided in FY 1991 will allow carriers to perform the above activities and others as outlined in the Medicare Carriers Manual, section 4000. Funding is also included for the enforcement of proper diagnostic coding of claims, identification of referring, ordering and rendering physician and other provisions as required by provisions included in OBRA 90.

11. Printing Claims Forms

Although this activity is not among the seven contractor functional areas, it is a part of the national Medicare contractor budget. In the interest of

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maintaining standard formats and quality of Medicare entitlement and report forms, intermediaries and carriers supply beneficiary enrollment and provider cost reporting forms. The use of these forms is essential to beneficiary notification, effective and efficient contractor operations, and other program purposes.

With a steady increase in the number of beneficiaries and providers, we project a corresponding increase in a substantial number of HCFA forms.

B. Contractor Unit Cost Calculations

A key step in the contractor budget process is the development of contractor unit costs for processing part A bills and part B claims. A factor in the development of contractor unit costs is a reduction (where appropriate) of the unit cost based upon the application of the Industrial Engineering (IE) Study. Among other objectives, the IE study was commissioned by HCFA to develop an optimal unit cost for processing bills and claims. To do so, the performers of the study conducted on-site visits to virtually every Medicare contractor. The following is a brief description of how we used the results of the IE study.

The IE study determined through an analysis of quality, timeliness and cost, an optimal national unit cost range for processing each claim type and processing medium (a range was established in order to compensate for the variety of claims processing environments among contractors). For example, a part A contractor typically processes (among others) inpatient hospital bills. These bills are received in either hardcopy form or are electronically submitted. The IE study determined the optimal national unit cost range associated with processing a hardcopy inpatient bill versus an electronically submitted inpatient bill. The study did the same with every type and medium of bill and claim.

Using the ranges established by the IE study, we developed one optimal national unit cost for each type and medium of bill and claim. For part A, we used the appropriate mean optimal unit cost and for part B we used the low end of the optimal cost range as the optimal cost by claim type and medium.

After establishing the optimal national unit cost for all types and mediums of bills and claims, we determined the workload mix for each contractor by calculating the proportion of its work by bill/claim type and medium. We then applied the appropriate optimal national unit cost to the workload mix in order to develop a weighted unit cost for each contractor, resulting in the individualized optimal unit cost that was used in determining each contractor's unit cost as described in section III.C under Bills Payment and Claims Payment.

III. Fiscal Year 1991 National Medicare Contractor Budget: Standards, Data, and Methodology

After the President's FY 1991 Medicare contractor budget request was submitted to the Congress in January 1990, HCFA proceeded to develop budget and performance requirements to be issued to the contractors. These requirements outline the scope of work that intermediaries and carriers are expected to perform during the upcoming fiscal year in each of the functional areas for which they are responsible. In April 1990, the budget and performance requirements were issued to the regional offices. The regional offices add information pertinent to intermediaries and carriers within their own region. These final individualized requirements were sent to each intermediary and carrier in early June to provide them with assistance in preparing their FY 1991 budget requests. Intermediaries and carriers must submit their budget requests to HCFA no later than six weeks after the issuance of the budget guidelines.

While intermediaries and carriers are preparing their budget requests, the Division of Contractor Financial Management within HCFA will develop preliminary budget allocations for the functional areas based upon historical patterns, workload growth/inflation assumptions, and any other available information. Both central office and regional office staff will review intermediary and carrier budget requests as they are submitted. Regional office staff will discuss the differences between the intermediary and carrier requests and the HCFA derived allocations and negotiate with each intermediary and carrier a final, mutually acceptable budget within the limits of the funding available to HCFA. The central office prepares a Financial Operating Plan (FOP) for each regional office that provides total regional funding authority for each functional area. The regional offices in turn prepare a Notice of Budget Approval (NOBA) for each intermediary and carrier that provides a full year budget plan subject to quarterly cash draw limitations.

A. Standards

In April 1990, the basic scope of work, along with new and special activities that intermediaries and carriers will be expected to perform, are described in the budget and performance requirements package. Intermediaries and carriers are expected to perform the work as described in the budget and performance requirements package and in accordance with the standards included in the CPEP for FY 1991. For consideration in developing their initial budget requests, we issued a draft copy of the CPEP standards to contractors on May 29, 1990.

B. Data

In developing the individual intermediary and carrier budgets for FY 1991, we will utilize the following sources of data that contain various workload volumes, functional costs, and manpower information. (The basic forms that supply the data that are utilized in developing intermediary and carrier budgets are the HCFA–1523/1524 and the HCFA–1565/1566.) Forms HCFA–1523/1524 (a multipurpose form which serves as the Budget Request, Notice of Budget Approval and Interim Expenditure Report); Forms HCFA–1523/1524A Schedule of Productivity Investments and Other; Forms HCFA–1523/1524B Schedule of Credits, EDP and Overhead; Forms HCFA–1523/1524C Schedule of Appeals; Forms HCFA–1523/1524D Schedule of MSP Costs; Forms HCFA–1525/1525A Contractor Audit Settlement Report (CASR); Schedules A, B, & C; Audit Priority Matrix; Crossover from CASR to Audit Priority Matrix; Provider Reimbursement Profile; Schedule of Providers Serviced; MSP Savings Report; MR/UR Savings Report; Form HCFA–2580 Cost Classification Report; Form HCFA–3259 Facilities and Occupancy Schedule; Forms HCFA–1565/1566 Carrier Performance Report/Monthly and Intermediary Workload Report; HCFA Actuary's Workload Estimates; OMB's Economic Assumption of 3.3 Percent; Industrial Engineering Study; Savings from Prior Productivity Investments; New Legislation Costs; Regional Office Recommendations; and Contract Provisions.

C. Methodology

The Medicare contractor budget is built around the previously listed seven major functions performed by intermediaries for part A and eight major functions performed by carriers for part B.

1. Bills Payment and Claims Payment

The individual intermediary and carrier workload levels for FY 1991 (subject to the national workload levels and approved funding) are determined by the regional offices based upon regional forecasted totals that are

derived from a statistical forecasting model. We are also projecting the number of bills/claims an intermediary and carrier expect to have pending at the end of FY 1990 using the same data. We then combine the FY 1991 receipt estimate with the anticipated end of FY 1990 pending level, and subtract the estimated FY 1991 pending for each intermediary and carrier to establish a processed workload (i.e., Estimated FY 1991 receipts + Estimated end of FY 1990 pending − Estimated end of FY 1991 pending = Estimated FY 1991 Processed Workload).

In order to price individual contractor bills/claims workloads, we develop a unit cost that is the cost of processing a single bill/claim. The individual intermediary and carrier unit costs for FY 1991 are calculated based upon unit costs (line 1 of the FY 1990 NOBA HCFA–1523/1524) in effect at the time that we perform our computations. The calculations include increases to recognize the cost of new legislation, and 3.3 percent for price inflation. Reductions associated with the application of the IE study and savings achieved from the common working file and other prior Productivity Investments will also be part of the formula employed in computing FY 1991 target unit costs. The regional offices will negotiate with intermediaries and carriers to resolve any differences between the HCFA target unit cost and the contractors' requested unit costs, within the limits of the funding available to HCFA.

2. Reconsiderations (Reviews Under Part B) and Hearings

We will allocate funding based on the amount of dollars spent (line 2 of the NOBA HCFA–1523/1524C) in the prior year, adjusted for inflation and volume. Specifically, we will adjust the previous year's costs for reconsiderations and hearings by the percentage change in inflation, which for FY 1991 is a 3.3 percent increase (a rate that reflects productivity gains generally for the economy, but which may cause over/understatement of costs depending on the productivity efficiencies experienced by the individual contractors), and for the percentage change in workload. We have revised these forms to allow us to capture more discrete workload and cost data. We will use these data to develop budgeted costs for reconsiderations and hearings as we do for bills payment and claims payment costs, that is, forecasted processed volume times unit cost. The individual intermediary and carrier budget allocations for reconsiderations, reviews, and hearings are determined by using the old methodology. If sufficient reliable data are collected, then we may redetermine the allocations by multiplying anticipated workload levels in FY 1991 times the newly developed unit cost. We will consider the current pending workload and projected receipts for each intermediary and carrier. The regional offices will negotiate with intermediaries and carriers to resolve any differences between the HCFA allocations and the contractors' requests, within the limits of the funding available to HCFA.

3. Beneficiary/Provider Inquiries (Part B Only)

The prior year's cost is adjusted by the percentage change in inflation, which for FY 1991 will be a 3.3 percent increase, as well as any projected workload increase or decrease to establish a budgeted amount for beneficiary and provider inquiries. We also consider special conditions unique to specific carriers in negotiating the budget. We are now developing new reporting requirements that will allow us to capture more discrete workload and cost data. We are beginning the year using the old budgeting methodology until we have sufficient reliable data under the new reporting system. We may use the data to develop a budgeted cost for beneficiary/provider inquiries by multiplying forecasted processed volume times unit cost The regional offices will negotiate with the carriers to resolve any differences between the HCFA allocations and carriers' requests, within the limits of the funding available to HCFA.

4. Provider Reimbursement (Part A Only)

In determining individual intermediary budgets for reimbursement activities, we first calculate an FY 1990 unit cost using the funding included on the latest FY 1990 NOBA (HCFA 1523/1524C) and dividing that amount of money by the workload reported on the Schedule of Providers Serviced (SPS) for the same period.

The SPS is a listing of all the facilities serviced by the intermediary. This report offers a more detailed description of the providers because it identifies them by type, bed size, and freestanding or provider-based and whether they are paid on a periodic interim payment basis. The SPS is submitted with each initial budget request so that a part of the analysis is the comparison of the composition of the provider community serviced by the intermediary and any change reported between fiscal years.

The unit cost found by dividing the amount of the FY 1990 NOBA by the workload from the SPS for the same period forms the first of the "raw" data used to project the FY 1991 budget. This unit cost is increased by 3.3 percent, which is the rate of inflation provided to HCFA by OMB. This adjusted unit cost is then multiplied by the FY 1991 workload as reported on the SPS. The result is then adjusted based on a review of cost documentation of special initiatives.

In order to resolve major differences between the intermediary's budget request and the amount developed by the preceding approach, we analyze the reimbursement profile that is an addendum to the budget request. This profile shows the cost claimed by type of reimbursement activity (Interim Rate Determinations, Overpayment Recoupment, Consulting Services, etc.).

The regional offices will negotiate with the intermediaries to resolve any differences between the HCFA allocations and the intermediaries' requests, within the limits of the funding available to HCFA.

5. Provider Audit (Part A Only)

For FY 1991, the provider audit function is divided into two major activities, desk reviews and settlements.

The basic report on all audit analysis is based on the Contractor Auditing and Settlement Report (CASR) (HCFA–1523/1525A). This form provides a breakout of audit activities and costs by type of provider as well as documents the savings incurred as a result of audit activity. Using this as a base, the desk review costs are developed by projecting the workload using the total count of providers serviced. (All cost reports must be desk reviewed.). The count of providers serviced is compared to the total shown on the Schedule of Providers Serviced for verification. We then multiply this count by the unit cost per desk review (developed from the latest CASR for FY 1990) to determine the cost of handling the FY 1991 workload at the FY 1990 unit cost.

Settlement costs are based on the workload projected in the intermediary's budget request multiplied by the unit cost for settlements found in the most recent CASR for FY 1990. This will cost out the FY 1991 activity at the FY 1990 level of expenditure.

The overriding priority of all audit efforts is comprised of the special activities required by legislation [e.g. COBRA, OBRAs]. The second priority is that all cost reports must be desk reviewed, and, to the extent possible, settled.

All of the above costs are adjusted for inflation, which for FY 1991 will be a 3.3 percent increase.

The regional offices will negotiate with intermediaries to resolve any differences between the HCFA allocations and the intermediaries' requests, within the limits of the funding available to HCFA.

6. Medicare Secondary Payer (MSP)

We will extract data, including processed volumes, costs and program savings, from the HCFA-1523/1524D and the MSP Savings Report (HCFA-1883/1884) to determine MSP funding allocations. These reports will include IRS/SSA/HCFA data match costs, volumes, and savings. In allocating the FY 1991 MSP budget to individual intermediaries and carriers, we consider (1) estimated potential savings goals by category and by State (e.g., working aged and spousal working aged insurance, automobile, medical liability and no-fault insurance, end-stage renal disease, disability, and workers compensation); (2) the relationship of available funds to expected savings among contractors; and (3) staffing mix differences, levels of systems sophistication, and special tasks. The regional offices will consider items 1, 2, and 3 of this paragraph when negotiating with intermediaries and carriers within the limits of the funding available to HCFA.

7. Medical Review/Utilization Review (MR/UR)

The individual intermediary and carrier MR/UR budgets for FY 1991 will be calculated in three components: prepayment medical review, postpayment activities, and medical review policy development (carriers only). As a part of the budget guidelines, we asked intermediaries and carriers to estimate (1) the number of bills/claims to be processed by bill types, (2) the required funding, (3) staff level changes expressed in terms of percent of full-time equivalents, and (4) the percent of electronic data processing costs attributable to MR/UR review. We will allocate to each contractor prepayment and postpayment medical review funding based upon the workload that an intermediary or carrier projects will be processed under the FY 1991 budget guidelines for medical review and the funds requested by the intermediary or carrier to perform the reviews. Carrier budgets for medical review policy development are based on levels of sophistication of carrier policy development and dissemination and the need for medical direction. The funding calculations for all MR/UR activities will include a 3.3 percent factor for price inflation, where applicable. The regional offices will negotiate with intermediaries and carriers to resolve any differences between the HCFA allocations and the contractors' requests, within the limits of the funding available to HCFA.

8. Participating Physicians (Part B Only)

In determining the individual carrier funding levels for the participating physician program for FY 1991, we considered the following factors: the number of physicians in the carrier's service area; the carrier's current participation rate; the carrier's recent performance in increasing its participation rate; the scope of work to be performed as outlined in the budget guidelines; and last year's cost experience. Since participating physicians are eligible for free electronic media claims (EMC) lines for billing, allowance has been made for these expenses. Carriers with lower participation rates will receive greater funding for MAAC violation monitoring and monitoring of nonparticipating physicians for compliance with elective surgery disclosure requirements. Carrier monitoring funds are allocated based on the national percentage of nonparticipating physicians. All carriers will receive the same funding amount for reporting participation statistics. Our computations of the carriers' budgets for these activities will include an allowance for price inflation. The regional offices will negotiate with the carriers to resolve any differences between the HCFA allocations and the carriers' requests, within the limits of the funding available to HCFA.

9. Productivity Investments

The costs of implementing legislation and new initiatives designed to improve the effectiveness and efficiency of Medicare program administration are referred to as Productivity Investments. Several allocation methodologies will be employed in calculating the Productivity Investment budgets for individual intermediaries and carriers. For those projects involving only single contractors or small groups of contractors, we will allocate funds based upon the specifications of the particular project. For those projects involving all intermediaries and/or carriers in that the costs are driven by bill/claims volume, we will distribute the funding based upon our workload projections for each contractor. Finally, for those projects involving all intermediaries and/or carriers that require equal effort regardless of the contractor's size, we derived a standard allocation to be given to all contractors. The regional offices will negotiate with the intermediaries and carriers to resolve any differences between the HCFA allocations and the contractors' requests, within the limits of the funding available to HCFA.

10. Professional Relations

In determining the individual carrier funding levels for the professional relations function for FY 1991, we considered the number of physicians and suppliers in the carrier's service area. Distribution of funds made available to HCFA for the performance of the professional relations function by carriers is made to each carrier based upon the ratio of physicians and suppliers in the carrier's service area to the national total of physicians and suppliers.

The sum of the preceding functions, plus printing costs, is the FY 1991 national Medicare contractor budget. HCFA distributes the funding to intermediaries and carriers in accordance with the established guidelines and allocations as previously discussed.

IV. Regulatory Impact Statement

Executive Order (E.O.) 12291 requires us to prepare and publish a regulatory impact analysis for any proposed notice that meets one of the E.O. 12291 criteria for a "major rule"; that is, that will be likely to result in—

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Also, we generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless the Administrator certifies that a proposed notice would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, fiscal intermediaries and carriers are not considered to be small entities. Additionally, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis for any notice such as this that may have a significant impact on the operations of a substantial number of small rural

hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital which is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

This notice does not contain rules. Rather, the purpose of this notice is to fulfill our obligation under sections 1816(c) and 1842(c) of the Act, as amended by section 4035(a) of Public Law 100-203 to publish annually in the Federal Register, the data, standards, and methodology proposed to be used in establishing fiscal intermediary and carrier budgets. This information is to be published for public comment at least 90 days prior to the publication of the final data, standards, and methodology to be used. This proposed notice would not promulgate any rule or implement any policy, nor would it be a part of, or substitute for, any negotiations we intend to conduct with the intermediaries and carriers. The data, standards and methodology utilized to determine the FY 91 carrier and intermediary budgets have not been changed from those utilized to determine the FY 90 budgets. Any changes to the budget amounts would be the result of changes in the workload and the inflation factor as well as our negotiations with contractors rather than as a result of this notice. Thus, this document would not produce a change either in contractor operations or on program activities. In additon, this proposed notice would not affect provider or supplier reimbursement rates or fees.

For these reasons (than is, this proposed notice does not represent an attempt at rulemaking, and the publishing of this notice would not have a significant impact on any aspect of the Medicare program), this notice does not meet the $100 million criterion nor do we believe than it meets the other E.O. 12291 criteria. Therefore, this proposed notice is not a major rule under E.O. 12291, and a regulatory impact analysis is not required.

For these same reasons, we also have determined, and the Secretary certifies, that this proposed notice would not result in a significant impact on a substantial number of small entities and would not have a significant effect on the operations of a substantial number of small rural hospitals. Therefore, we are not preparing analyses for either the RFA or section 1102(b) of the Act.

VI. Response to Comments

Because of the large number of pieces of correspondence we normally receive on a proposed notice we are not able to acknowledge or respond to them individually. We will consider all comments contained in correspondence that we receive by the date specified in the "DATE" section of this preamble and will respond to the comments in our final notice.

(Sec. 1816 and 1842 of the Social Security Act (42 U.S.C. 1395h and 1395u))

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance Program; No. 13.774, Medicare-Supplementary Medical Insurance.)

Dated: July 23, 1990.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

[FR Doc. 90-25123 Filed 10-23-90; 8:45 am]

BILLING CODE 4120-01-M

[HSQ-182-NC]

Medicare Program; Standards Applied by Utilization and Quality Control Peer Review Organizations: Consideration of Remote Rural Location and Other Relevant Factors

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of policy and request for comments.

SUMMARY: This notice advises interested parties about HCFA's implementation, without change in existing regulations, of section 4094(a) of the Omnibus Budger Reconciliation Act of 1987 (Pub. L. 100-203), and it provides the opportunity for comment. Section 4094(a) of Public Law 100-203 directs Utilization and Quality Control Peer Review Organizations (PROs), when developing review standards and norms, to "take into account the special problems associated with delivering care in remote rural areas, the availability of service alternatives to inpatient hospitalization, and other appropriate factors (such as the distance from a patients's residence to the site of care, family support, availability of proximate alternative sites of care, and the patient's ability to carry out necessary or prescribed self-care regimens) that could adversely affect the safety or effectiveness of treatment provided on an outpatient basis."

Since PROs are already supposed to take such factors into account when making medical review determinations, no change in existing regulations or policies is needed to ensure compliance with section 4094(a) of Public Law 100-203. We are, however, publishing this notice so that all interested parties will understand our current policies and have the opportunity to make their views known. Based on the comments we receive, we will reevaluate our current policies and, if necessary, further define those policies.

DATES: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on December 24, 1990.

ADDRESSES: Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HSQ-182-NC, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC, or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland

Due to staffing and resource limitations, we cannot accept facsimile (FAX) copies of comments. In commenting, please refer to file code HSQ-182-NC. Comments received timely will be available for public inspection as they are received, beginning approximately 3 weeks after publication of this document, in room 309-G of the Department's offices at 200 Independence Avenue SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: 202-245-7890).

FOR FURTHER INFORMATION CONTACT: Patricia Booth (301) 966-6660.

SUPPLEMENTARY INFORMATION:

I. Background

The Peer Review Improvement Act of 1982 (title I, subtitle C of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248)) amended part B of title XI of the Social Security Act (the Act) to establish the Utilization and Quality Control Peer Review Organization (PRO) program. The 1982 legislation provided that PROs assume the responsibilities that previously had been assigned to Professional Standards Review Organizations and fiscal intermediaries. Those responsibilities include the review of health care services funded under Medicare (title XVIII of the Act), to ensure that services furnished to Medicare beneficiaries are medically necessary and provided in the most appropriate setting (for example, acute care hospital versus skilled nursing facility (SNF) or a lesser level of care) and meet professionally recognized standards of quality. Where

services are not medically necessary or not delivered in the most appropriate setting. PROs have the authority to deny payments. In addition, PROs monitor and validate a sample of diagnostic and procedural information supplied by hospitals to fiscal intermediaries to establish for individual cases the propective payment amounts for hospitals.

Section 1154(a)(6)(A) of the Act requires that PROs "apply professionally developed norms of care, diagnosis, and treatment based upon typical patterns of practice within the geographic area served by the organization as principal points of evaluation and review, taking into consideration national norms where appropriate." Section 4084(a) of Public Law 100-203 amended this section of the Act by adding the requirement that PROs "shall take into account the special problems associated with delivering care in remote rural areas, the availability of service alternatives to inpatient hospitalization, and other appropriate factors (such as the distance from a patient's residence to the site of care, family support, availability of proximate alternative sites of care, and the patient's ability to carry out necessary or prescribed self-care regimens) that could adversely affect the safety or effectiveness of treatment provided on an outpatient basis."

In developing their review criteria, PROs generally use nationally recognized criteria adapted to meet PRO review requirements and to reflect local norms of practice and standards of medical practice (42 CFR 466.100). Additionally, 42 CFR 466.96 requires that a PRO denial of payment must be based on review by a local peer (or practitioner as appropriate).

When a PRO proposes to deny a payment or identifies a potential quality problem, the PRO must also permit the affected physicians or providers an opportunity to discuss the issue and present evidence to refute the PRO's provisional findings (42 CFR 466.93 and 1004.50).

In 1986, HCFA issued a policy statement to all PROs through its regional offices about the consideration of location and other relevant factors that stated, in part:

> Factors which may result in an inconvenience to a patient or family do not, of themselves, justify hospital admission or continued stay. Where such factors, however, affect the patient's health, the PRO will consider them in determining whether inpatient hospitalization is appropriate.

HCFA has interpreted this policy to require that PROs consider factors that affect the patient's need for inpatient hospitalization (that is, medical, environmental, social, etc.). This would include whether services that, under normal circumstances, could be provided on an outpatient basis should be provided on an inpatient hospital basis because of factors that could affect the health and safety of the patient. Thus, consistent with the provisions of section 4018(a) of Public Law 100-203, we already have policies in place that require that PROs take into account location and the other relevant factors cited in the law in conjunction with medical necessity when making decisions about inpatient hospital admissions and continued stays.

HCFA does not require PROs to make special efforts to obtain information about these factors when they are not included in the medical record. If medical records do not contain any documentation to allow the application of the factors, it is incumbent upon either the attending physician or the hospital to present, as part of the "opportunity to discuss," this evidance for the PRO's consideration. (If the case was denied, the beneficiary would be able to present the evidence as part of his or her request for reconsideration.)

Regulations governing PRO Medicare review activities are located in various parts of title 42 of the CFR (that is, parts 405, 412, 462, 466, 473, 476, 480, and 1004).

II. Request for Comments

HCFA has not established specific standards for PROs to use when considering location and other factors in the review process. This approach permits PROs flexibility to apply these factors based on practice patterns within their geographic areas. (This same flexibility is mandated by the Act for medical review criteria.) PROs should base determinations on circumstances peculiar to the areas they service (for example, terrain, weather conditions) and based on their staff's knowledge, experience, and training. Even with general guidelines, because of the uniqueness of each PRO area in terms of local norms of practice, topography, etc., and the fact that for questioned cases a physician makes the determination without reliance on criteria, we would expect some degree of variation in application of the statutory provision.

We have received some criticism alleging that PROs are not uniformly recognizing the factors cited in the law when making determinations. Therefore, we are seeking public input on the following specific issues:

1. Applicability to Both Admission and Continued Stay Decisions

HCFA maintains that the plain reading of the statutory language is that this provision applies to both continued stay and admission determinations. Several hospital industry organizations have communicated to us their contention that congressional intent was to have the provision apply "only" to admission determinations. This interpretation would create irrational situations in which a patient ostensibly could have an admission covered, taking into consideration other relevant factors, but could not remain in the hospital because the same factors would not be considered. Without specific statutory language to support the latter position, we contend that our interpretation of the provision, applying it equally to admissions and continued stay determinations, is consistent with the statutory requirement.

2. Meaning of "Outpatient Basis"

Section 4084(a) of Public Law 100-203 discusses situations (for example, availability of proximate alternative sites of care) that could adversely affect the safety or effectiveness of treatment provided on an "outpatient basis." We believe that it was the intent of Congress to limit the consideration of the factors cited in the law to short-term medically necessary services and not to expand Medicare coverage beyond the traditional benefit package. For example, the PRO would not approve hospitalization for SNF, intermediate care facility (ICF) or home health care level services because of these other factors, but could approve a short-term hospitalization when determining whether a patient having a surgical procedure performed should be admitted to the hospital as an inpatient versus having the procedure performed in the hospital outpatient department or an ambulatory surgical center. We do not believe these factors alone justify inpatient hospital admissions or continued stays for nonsurgical patients who require a lesser level of care such as a skilled nursing facility level of care or skilled home health services.

3. Definition of "Other Appropriate Factors"

We have not defined "other appropriate factors," but have relied on PROs to make determinations based on circumstances peculiar to their service areas and/or the individual case being reviewed. We are seeking public input about factors such as the distance a patient would be expected to travel, recognizing that there are differences

from area to area (for example, mountains, unimproved roads).

(Sec. 1154(a)(6) of the Social Security Act (42 U.S.C. 1320c–4(a)(6)).

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare Hospital Insurance)

Dated: July 11, 1990.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

[FR Doc. 90–25124 Filed 10–23–90; 8:45 am]

BILLING CODE 4120–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N–90–3162]

Privacy Act of 1974; Proposed Amendment to a System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notification of a proposed amendment to an existing system of records.

SUMMARY: The Department is giving notice that it intends to amend the following Privacy Act system of records: HUD/H–11, Multifamily Tenant Characteristics Data.

EFFECTIVE DATE: This amendment shall become effective without further notice on November 23, 1990, unless comments are received on or before that date which would result in a contrary determination.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

As a convenience to commenters, the Rules Docket Clerk will accept brief public comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 708–4337. Only public comments of six or fewer *total* pages will be accepted via FAX transmittal. This limitation is necessary in order to assure reasonable access to the equipment. Comments sent by FAX in excess of six pages will *not* be accepted. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Rules Docket Clerk ((202) 708–2084). [These are not toll-free numbers.]

FOR FURTHER INFORMATION CONTACT: Donna L. Eden, Privacy Act Officer, Telephone Number (202) 708–0050. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION: HUD/H–11 contains a record for each individual receiving housing assistance from HUD under one of the following programs: Section 8, Public/Indian Housing, Section 236 (including Section 236 RAP), Rent Supplement, Section 221 (d)3 BMIR, and Section 202/8. This amendment is being made to reflect the Department's intention to maintain and use records that will identify all individuals who underreported income which was discovered while conducting income computer matches. In addition this system of records is being amended to change the name of the system to better reflect program coverage.

The amended portion of the system notice is set forth below. Previously, the system and prefatory statement containing the general routine uses applicable to all of the Department's systems of records were published in the "Federal Register Privacy Act Issuances, 1987 Compilation, Volume II."

A report, as required by 5 U.S.C. 552(a) of the Privacy Act, has been submitted to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget (OMB) pursuant to paragraph 4b of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 1985 (50 FR 52730, December 24, 1985).

Authority: United States Housing Act of 1937, as amended, 42 U.S.C. 1437 et seq., and the Housing and Community Development Amendments of 1981, Pub. L. 97–35, 95 Stat. 405.

Issued at Washington, DC October 18, 1990.

Michael F. Hill,

Acting Assistant Secretary for Administration.

HUD/H–11

SYSTEM NAME:

Multifamily Tenant Characteristics Data.

SYSTEM LOCATION:

Headquarters and Field Offices. For a listing of Field Offices with addresses, see 24 CFR part 16, Appendix A. Decentralized portions of this file may be maintained by selected contractors with research contracts.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This file contains a record for each individual receiving housing assistance from HUD under the following programs: Section 8, Public/Indian Housing, Section 236 (including Section 236 RAP), Rent Supplement, Section 221(d)3 BMIR, and Section 202/8. The file also contains a record of unreported or underreported income discovered in conducting an income verification match.

CATEGORIES OF RECORDS IN THE SYSTEM:

Manual and automated records consisting of: Identification information such as name; Social Security Number(s) (SSNs) for all individuals six (6) years of age and older; Alien Registration Information; address and tenant unit number; financial data such as income, contract rent amount; tenant characteristics such as number in family, sex of family member and minority code; unit characteristics such as number of bedrooms; geographic data such as county code and census tract; information used to verify data in the system; and information on the results of the follow-up phase of a computer match of tenant income verification (i.e., dollar amount of overpaid assistance, amount repaid, prosecution, and eviction).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

United States Housing Act of 1937; as amended, 42 U.S.C. 1437 et. seq., and the Housing and Community Development Amendments of 1981, Pub. L. 97–35, 95 Stat. 406.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

See routine uses paragraph in prefatory statement. Other routine uses include:

1. Federal, State, and local agencies (e.g., State agencies administering the State's unemployment compensation law, Office of Personnel Management, United States Postal Service, Department of Defense, and Social Security Administration)—to verify the accuracy and completeness of the data provided, to verify eligibility or continued eligibility in HUD's rental assistance programs, and to detect tenant fraud and abuse in assisted housing through the Department's tenant income computer matching program;

2. HUD persons under contract to HUD or under contract to another agency with funds provided by HUD—for the performance of research and statistical activities directly related to

the management of HUD's rental assistance programs, to support a quality control for tenant eligibility efforts requiring a random sampling of tenant files to determine the extent of administrative errors in making rent calculations, eligibility determinations, etc., and for processing certifications/recertifications; and,

3. Social Security Administration and Immigration and Naturalization Service—to verify alien status and continued eligibility to HUD's rental assistance programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folder; magnetic tape/disk/drum.

RETRIEVABILITY:

Name of tenant and all household members, address, SSN, or other identification number.

SAFEGUARDS:

File folders, automated records kept in a secured area. Access restricted to authorized individuals.

RETENTION AND DISPOSAL:

Obsolete records are destroyed or sent to a storage facility in accordance with HUD Handbook 2225.6, Records Disposition Management; HUD Records Schedules.

SYSTEM MANAGER AND ADDRESS:

For Section 8, Section 236 (including Section 236 RAP), Rent Supplement, Section 221(d)3 BMIR, and Section 202/8—

Office of the Assistant Secretary for Housing: Director, Housing Information and Statistics Division, Office of Management; Director, Planning and Procedures Division, Office of Multifamily Housing Management, Deputy Assistant Secretary for Multifamily Housing Programs.

For Public and Indian Housing—

Office of Assistant Secretary for Public and Indian Housing: Office of Public Housing, Chief, Occupancy Branch.

For Computer Matching Activities—

Office of Inspector General, Director, Program Integrity Division, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410.

NOTIFICATION PROCEDURE:

For information assistance, or inquiry about the existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials by the individual concerned appear in 24 CFR part 16. If additional information or assistance is needed in relation to contesting the contents of records, it may be obtained by contacting the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A. If additional information or assistance is needed in relation to appeals of initial denials, it may be obtained by contacting the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410.

RECORD SOURCE CATEGORIES:

Subject individuals, other individuals and organizations, Federal, State, and local agencies. PHA staff/private owners/management agents.

[FR Doc. 90-25065 Filed 10-23-90; 8:45 am]

BILLING CODE 4210-62-M

DEPARTMENT OF THE INTERIOR

Nomination for National Indian Gaming Commission

AGENCY: Office of the Secretary, Interior.

ACTION: Notice.

SUMMARY: The Indian Gaming Regulatory Act (25 U.S.C. 2701, *et seq.*) provides for appointment by the Secretary of the Interior of two associate members of the National Indian Gaming Commission after public notice and an opportunity for comment. Notice is hereby given of the proposed appointment of Joel Matthew Frank, Sr., as an associate member of the Commission.

DATES: Comments must received by: November 23, 1990.

ADDRESSES: Comments should be addressed to: Morris Sharp, Director of Personnel, Department of the Interior, 849 C Street NW., Washington, DC 20240, (202) 208-6761.

SUPPLEMENTARY INFORMATION: Section 5(a) of the Indian Gaming Regulatory Act (25 U.S.C. 2704(a)) establishes a three-member National Indian Gaming Commission within the Department of the Interior. The Act provides that the Chairman of the Commission is to be appointed by the President with the advice and consent of the Senate. The two associate members of the Commission are to be appointed by the Secretary of the Interior (25 U.S.C. 2704(b)(1)). The Act provides that the Secretary shall publish notice of nominations for the associate member positions in the Federal Register and provide an opportunity for public comment.

Notice is hereby given of the proposed appointment of the following individual to be an associate member of the Commission for a term of three (3) years:

Joel Matthew Frank, Sr. Mr. Frank is an enrolled member of the Seminole Tribe of Florida. Since March, 1982, he has been employed as Executive Administrator of the Seminole Tribe of Florida and is currently responsible for the overall management and administration of all operations of the Seminole Tribe. He previously was employed by the Seminole Tribe of Florida for approximately two years as the Assistant Health Director and prior to that as a Health Planner. Beginning in 1975, he served for approximately four years as the Health Administrator for the Miccosukee Tribe of Indians of Florida. He currently serves as the President, United South and Eastern Tribes, Inc., Vice Chairman of the National Indian Gaming Association, and Board Member of the Florida Governor's Council on Indian Affairs. He previously served as the Vice President and Secretary of the United South College and St. Thomas University in Miami, Florida.

Persons wishing to comment on this proposed appointment may submit written comments to the address identified above. Comments must be received within 30 days of the date of the publication of this notice.

Dated: October 17, 1990.

Manuel Lujan, Jr.,

Secretary of the Interior.

[FR Doc. 90-25127 Filed 10-23-90; 8:45 am]

BILLING CODE 4310-RK-M

Bureau of Land Management

[WY-040-01-6910-10]

Rock Springs District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of the Rock Springs District Advisory Council.

SUMMARY: This notice sets forth the schedule and agenda of a meeting of the Rock Springs District Advisory Council.

DATES: November 13, 1990, 9 a.m. until 4:30 p.m. and November 14, 1990, 8 a.m. until 12 p.m.

ADDRESSES: Rock Springs District Office, Bureau of Land Management, Highway 191 North, Rock Springs, Wyoming 82901.

FOR FURTHER INFORMATION CONTACT: Donald H. Sweep, District Manager, Rock Springs District, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82902-1869, (307) 382-5350.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include:

November 13, 1990:

1. Tour of BLM public lands in the Green River Resource Area. Tour topics include: Coal Bed Methane Proposals; Proposed Bridger Mine Expansion; and the Natural Corrals ACEC.

November 14, 1990:

1. Introduction and opening remarks.
2. Review of minutes from last meeting.
3. Review of tour topics.
4. Minerals Program activities briefing: Coal Bed Methane Proposals; Oil and Gas Activities; and Trona Expansion Including Brine Proposals.
5. Green River Resource Area Resource Management Plan update.
6. Highway 28 Farson Fence update.
7. Big Piney/LaBarge Coordinated Activity Plan update.
8. Update of Cumberland Grazing Allotment Management Plan.
9. Wild Horse Program update.
10. FY 91 Budget update.
11. Public comment period.

The meeting is open to the public. Interested persons may make oral statements to the Council between 11 a.m. and 12 p.m. on November 14, or file written statements for the Council's consideration. Anyone wishing to make an oral statement should notify the District Manager at the preceding address by November 9, 1990. Depending on the number of persons wishing to make oral statements, a time limit per person may be established by the District Manager.

Donald H. Sweep,

District Manager.

[FR Doc. 90-25083 Filed 10-23-90; 8:45 am]

BILLING CODE 4310-22-M

[WY-930-41-5700; WYW72253]

Proposed Reinstatement of Terminated Oil and Gas Lease; Wyoming

October 15, 1990.

Pursuant to the provisions of Public Law 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3 (a) and (b)(1), a petition for reinstatement of oil and gas lease WYW72253 for lands in Fremont County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this Federal Register notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW72253 effective June 1, 1990, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Beverly J. Priest,

Supervisory Land Law Examiner.

[FR Doc. 90-25084 Filed 10-23-90; 8:45 am]

BILLING CODE 4310-22-M

INTERNATIONAL TRADE COMMISSION

The Effects of Greater Economic Integration Within the European Community on the United States

AGENCY: International Trade Commission.

ACTION: Scheduling of deadline for submissions in connection with the third followup report.

SUMMARY: The Commission has commenced work on the third in a series of followup reports updating its initial report issued in July 1989 in connection with investigation No. 332-267, "The effects of Greater Economic Integration Within the European Community on the United States." The reports were requested under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) by the House Committee on Ways and Means and the Senate Committee on Finance in a letter received on October 13, 1988. Notice of the institution of the investigation and scheduling of a public hearing was published in the Federal Register of December 23, 1988 (54 FR 51328), and notice of the procedure to be followed in followup reports was published in the Federal Register of September 20, 1989 (54 FR 38751).

The report on the initial phase of the investigation was sent to the Committees on Monday, July 17, 1989. The first followup report was sent to the Committees on Friday, March 30, 1990, and the second followup report was sent on September 28, 1990. Copies of either the initial report "The Effects of Greater Economic Integration Within the European Community on the United States" (Investigation 332-267, USITC Publication 2204, July 1989), the first followup reports (Investigation 332-267, USITC Publication 2268, March 1990), or the second followup report (Investigation 332-267, USITC Publication 2318, September 1990) may be obtained by calling 202-252-1809, or from the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Requests can also be faxed to 202-252-2186.

The third followup report will be sent to the Committees on March 28, 1991.

EFFECTIVE DATE: October 5, 1990.

FOR FURTHER INFORMATION CONTACT: For further information on other than the legal aspects of the investigation contact Mr. John J. Gersic at 202-252-1342. For information on the legal aspects of the investigation contact Mr. William W. Gearhart at 202-252-1091.

WRITTEN SUBMISSIONS: Interested persons are invited to submit written statements concerning the investigation. Written submissions to be considered by the Commission for the third followup report should be received by the close of business on January 11, 1991. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be available

for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, DC.

Hearing impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810

Issued: October 18, 1990.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-25106 Filed 10-23-90; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-462 (Final)]

Benzyl Paraben From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of a final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731-TA-462 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of benzyl p-hydroxybenzoate (benzyl paraben), provided for in subheading 2916.29.50 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce, in a preliminary determination, to be sold in the United States at less than fair value (LTFV). Unless the investigation is extended, Commerce will make its final LTFV determination on or before December 12, 1990 and the Commission will make its final injury determination by February 5, 1991 (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR part 207), and part 201, subparts A through E (19 CFR part 201).

EFFECTIVE DATE: October 9, 1990.

FOR FURTHER INFORMATION CONTACT: Jeff Doidge, (202-252-1183), Office of Investigations, U.S International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of benzyl paraben from Japan are being sold in the United States at less than fair value within the meaning of seciton 733 of the act (19 U.S.C. 1673b). The investigation was requested in a petition filed on June 29, 1990, by ChemDesign Corp., Fitchburg, MA. In response to that petition the Commission conducted a preliminary antidumping investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that the establishment of an industry in the United States was being materially retarded by reason of imports of the subject merchandise (55 FR 34626, August 23, 1990).

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Public service list.—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each public document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the public service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Limited disclosure of business proprietary information under a protective order and business proprietary information service list.—Pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)), the Secretary will make available business proprietary information gathered in this final investigation to authorized applicants under a protective order, provided that the application be made not later than twenty-one (21) days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under a protective order. The Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that is has been served on all the parties that are authorized to receive such information under a protective order.

Staff report.—The prehearing staff report in this investigation will be placed in the nonpublic record on December 3, 1990, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rule (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on December 18, 1990, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on December 10, 1990. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on December 13, 1990, at the U.S. International Trade Commission Building. Pursuant to § 207.22 of the Commission's rules (19 CFR 207.22) each party is encouraged to submit a prehearing brief to the Commission. The deadline for filing prehearing briefs is December 13, 1990. If prehearing briefs contain business proprietary information, a nonbusiness proprietary version is due December 14, 1990. Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonbusiness proprietary summary and analysis of material contained in prehearing briefs and to information not

available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any business proprietary materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2))).

Written submissions.—Prehearing briefs submitted by parties must conform with the provisions of § 207.22 of the Commission's rules (19 CFR 207.22) and should include all legal arguments, economic analyses, and factual materials relevant to the public hearing. Posthearing briefs submitted by parties must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on December 24, 1990. If posthearing briefs contain business proprietary information, a nonbusiness proprietary version is due December 26, 1990. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before December 24, 1990.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for business proprietary data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)) may comment on such information in their prehearing and posthearing briefs, and may also file additional written comments on such information no later than December 31, 1990. Such additional comments must be limited to comments on business proprietary information received in or after the posthearing briefs. A nonbusiness proprietary version of such additional comments is due January 2, 1991.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.20 of the Commission's rules (19 CFR 207.20).

Issued: October 17, 1990.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-25105 Filed 10-23-90; 8:45 am]

BILLING CODE 7020-02-M

[Investigation 337-TA-313]

Receipt of Initial Determination Terminating Respondents on the Basis of Consent Order Agreement; Spunbound Nonwoven Fabric and Fabric Made Therefrom

In the matter of certain process, apparatus, and components thereof, for the production of spunbound nonwoven fabric, and fabric made therefrom.

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a consent order agreement: Reifenhauser GmbH & Co. Maschinenfabrik, Silver-Plastics GmbH & Co. KG, and Wayn-Tex, Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on October 18, 1990.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-252-1000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

WRITTEN COMMENTS: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such documents must be filed with the Secretary to the Commission, 500 E Street SW., Washington, DC 20436, no later than 10 days after publication of this notice in the Federal Register. Any person desiring to submit a document (or portions thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, Telephone 202-252-1806.

Issued: October 18, 1990.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-25104 Filed 10-23-90; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Financial Docket No. 31736]

Dardanelle and Russellville Railroad; Acquisition Exemption, East Camden and Highland Southern Division

The Dardanelle & Russellville Railroad (D&R), a Class III railroad operating in Arkansas, has filed a notice of exemption to acquire a line of railroad from the East Camden & Highland Railroad Co. (EACH), also a Class III railroad. The involved line, EACH's Southern Division, extends between milepost L 99, near El Dorado, AR, and milepost L 125.2, near Lillie, LA, a distance of 26.2 miles.

D&R indicates that: (1) The properties operated by D&R and EACH will not connect with each other or with any other railroad in their corporate family; (2) the transaction is not part of a series of anticipated transactions that would connect the railroads with each other or with any other railroad in their corporate family; and (3) the transaction does not involve a Class I carrier.

Therefore, this transaction involves the acquisition of a nonconnecting carrier and is exempt from the prior review requirements of 49 U.S.C. 11343. *See* 49 CFR 1180.2(d)(2).

As a condition to use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in "New York Dock

Ry.—Control—Brooklyn Eastern Dist.," 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: James M. Moody, Jr., Wright, Lindsey & Jennings, 2200 Worthen Bank Building, 200 West Capitol Avenue, Little Rock, AR 72201.

Decided: October 15, 1990.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-25133 Filed 10-23-90; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31745]

Clyde S. and Saundra Forbes and CSF Acquisition, Inc., Control, Operation, and Acquisition Exemption, Washington County Railroad Corp.

Clyde S. and Saundra Forbes and CSF Acquisition, Inc. (CSF), (jointly, petitioners) have filed a notice of exemption to manage, operate, and ultimately purchase the properties of Washington County Railroad Corporation (Washington). CSF, a noncarrier, is under control of the Forbes, its only shareholders. Petitioners will manage Washington for a period of 150 days, with the option to renew management and operation for additional 1-year periods.[1] Washington, a class III shortline railroad, holds authority to operate a rail line between Montpelier Junction and Graniteville, VT, owned by the State of Vermont.

CSF and the Forbes own and operate two other class III shortline railroads, Florida West Coast Railroad Company and New Hampshire and Vermont Railroad Company. They also manage and have the right (as yet unexercised) to acquire stock control of Northern Vermont Corporation, a noncarrier holding company that owns 100 percent of the common stock of two other class III shortline railroads: Lamoille Valley Railroad Corporation and Twin State Railroad Corporation. These arrangements have all been exempted from prior Commission approval by exemption notices or an exemption decision of the Commission.[2]

Petitioners state that: (1) The properties they operate and control do not connect with each other; (2) the acquisition of control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (3) the transaction does not involve a class I carrier. The transaction involves the control of a nonconnecting carrier, and comes within the class exemption of 49 CFR 1180.2(d)(2).

As a condition to use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in "New York Dock Ry.—Control—Brooklyn Eastern Dist.", 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: John D. Heffner, Gerst, Heffner, Carpenter & Podgorsky, 1700 K Street NW., suite 1107, Washington, DC 20006, and James S. Brock, Cheney, Brock & Saudek, P.C., P.O. Box 489, Montpelier, VT 05601.

Decided: October 11, 1990.

By the Commission, David M. Konschnick, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 25132 Filed 10-23-90; 8:45 am]

BILLING CODE 7035-01-M

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[1] Petitioners assert that the proposed management arrangement may not require the Commission's prior review and approval under 49 U.S.C. 11343, citing the decision in Finance Docket No. 30703, "Canonie Atlantic Co. and Canonie, Inc.—Exemption from 49 U.S.C. 10901, 11301, and 11343 (Canonie)" (not printed), served September 11, 1986, but that this notice invoking the class exemption was filed out of an abundance of caution. Petitioners' reliance on *Canonie* is misplaced. The petitioner in *Canonie*, at the time of management, was not involved in any other regulated activity. The words "control or management" as used in 49 U.S.C. 11343 embrace all types of control or management. Here, the fact that petitioners, theoretically at least, would be subject to the orders of Washington's board of directors does not negative possession by them of actual control within the meaning of the statute. See "Collett—Control—Comet Freight Lines", 28 M.C.C. 85, 87-8 (1942).

[2] Finance Docket No. 31545, "Clyde S. and Saundra Forbes and CSF Acquisition, Inc.—Control Exemption—Lamoille Valley Railroad Company and Twin State Railroad Corporation" (not printed), decision served January 26, 1990, notice published January 29, 1990 (55 FR 2989), a petition for revocation and reconsideration is pending; Finance Docket No. 31548, "Clyde S. and Saundra Forbes and CSF Acquisition, Inc.—Continuance in Control Exemption—New Hampshire and Vermont Railroad Company" (not printed), notice served and published December 8, 1989 (54 FR 50660); and Finance Docket No. 31547, "New Hampshire and Vermont Railroad Company—Lease, Operation, and Acquisition Exemption—Boston and Maine Corporation" (not printed), notice served and published December 8, 1989 (54 FR 50660), a petition for revocation is pending.

DEPARTMENT OF JUSTICE

Lodging of Consent Decree; D & J Auto Sales, Inc.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on October 11, 1990 a proposed Consent Decree in *U.S.* v. *D & J Auto Sales, Inc.*, Civil Action No. 89-0044-H, was lodged with the United States District Court for the Western District of Virginia. The proposed Consent Decree involves claims against the defendant, a used car dealer, for allegedly knowingly tampering or causing tampering with catalytic converters on used cars in its sales inventory in violation of section 203(a)(3)(B) or the Clean Air Act, 42 U.S.C. 7522(a)(3)(B). The Decree requires defendant to pay a $5,000 civil penalty for past violations and not to violate the statute in the future.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *U.S.* v. *D & J Auto Sales, Inc.*, D.J. No. 90-5-2-1-1358.

The proposed Consent Decree may be examined at the office of the United States Attorney for the Western District of Virginia, U.S. Attorney's Office, Room 456, Poff Federal Building, 210 Franklin Road SW., Roanoke, VA 24011 or the U.S. Environmental Protection Agency, Field Operations and Support Division, Eastern Field Office I (EN-397F), 401 M Street SW., Washington, DC 20460. The proposed Consent Decree may also be examined at the Environmental Enforcement Section Document Center, 1333 F Street NW., suite 600, Washington, DC 20004, 202-347-7829. A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclosed a check in the amount of $1.50 (25 cents per page reproduction costs) payable to "Consent Decree Library."

George Van Cleve,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 90-25101 Filed 10-23-90; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree; Town and Country Auto Sales

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby

given that on October 11, 1990 a proposed Consent Decree in *U.S.* v. *William R. Johnson and Bonita M. Johnson d/b/a Town and Country Auto Sales*, Civil Action No. 89-0046-H, was lodged with the United States District Court for the Western District of Virginia. The proposed Consent Decree involves claims against the defendants, used car dealers, for allegedly knowingly tampering or causing tampering with catalytic converters on used cars in their sales inventory in violation of section 203(a)(3)(B) of the Clean Air Act, 42 U.S.C. 7522(a)(3)(B). The Decree requires the defendants to pay a $4,800 civil penalty for past violations and not to violate the statute in the future.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environmental and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *U.S.* v. *William R. Johnson and Bonita M. Johnson d/b/a Town and Country Auto Sales*, D.J. No. 90-5-2-1-1360.

The proposed Consent Decree may be examined at the office of the United States Attorney for the Western District of Virginia, U.S. Attorney's Office, room 456, Poff Federal Building, 210 Franklin Road SW., Roanoke, VA 24011 or the U.S. Environmental Protection Agency, Field Operations and Support Division, Eastern Field Office I (EN-397F), 401 M Street SW., Washington, DC 20460. The proposed Consent Decree may also be examined at the Environmental Enforcement Section Document Center, 1333 F Street NW., suite 600, Washington DC 20004 202-347-7829. A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $1.75 (25 cents per page reproduction costs) payable to "Consent Decree Library."

George Van Cleve,

Acting Assistant Attorney General, Environmental and Natural Resources Division.

[FR Doc. 90-25102 Filed 10-23-90; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree; E.H. Schilling & Son, General Contractors, et al.

In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9622(i), and the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that on October 11, 1990, a proposed consent decree in *United States* v. *E.H. Schilling & Son, General Contractors, Inc., et al.*, Civ. Act. No. C-1-90-705 was lodged with the United States District Court for the Southern District of Ohio. This action was brought pursuant to CERCLA for cleanup of the E.H. Schelling & Son Landfill ("Site") located in Hamilton Township, Lawrence County, Ohio, and for the recovery of costs expended by the United States in connection with the Site.

The consent decree is entered into between plaintiff, the United States, and four defendants: E.H. Schilling & Son, General Contractors, Inc., Aristech Chemical Corporation, The Dow Chemical Company, and Ashland Chemical, Inc. (collectively "Settling Defendants"). The Settling Defendants are among the parties potentially responsible for the contamination at the Site.

The Decree requires the Settling Defendants to finance, design, and perform a $9.4 million remedial action at the Site. Under the Decree, Settling Defendants shall, *inter alia:* (1) Install and maintain a fence around the Site; (2) install and operate a leachate collection and treatment system; (3) implement a groundwater monitoring program, and, if the groundwater monitoring reveals contamination in excess of certain action levels, install and operate a groundwater collection system; (4) improve the stability of the earthen dam to meet requisite safety levels; (5) design and install a multi-layer cap over the Site; and (6) install and design a perimeter wall to prevent groundwater from flowing into the Site.

The Decree also requires the Settling Defendants to pay all outstanding past response costs incurred by EPA. Further, the Settling Defendants have agreed to pay all of EPA's future oversight costs, except for the first $236,000 of such costs.

The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530. All comments should refer to *United States* v. *E.H. Schilling & Son, General Contractors, Inc., et al.*, DJ Ref. #90-11-2-474.

The proposed consent decree may be examined at the office of the United States Attorney, room 200, United States Post Office and Courthouse Building, 5th & Walnut Streets, Cincinnati, Ohio, and at the Region V Office of the Environmental Protection Agency, 230 S. Dearborn Street, Chicago, Illinois 60604; and the Environmental Enforcement Section, Environment and Natural Resources Division of the Department of Justice, room 1515, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 1333 F Street suite 600, NW., Washington, DC 20004, Telephone Number (202) 347-2072. In requesting a copy, please enclose a check in the amount of $66 (25 cents per page reproduction charge) payable to the Consent Decree Library.

Richard B. Stewart,

Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 90-25103 Filed 10-23-90; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to Comprehensive Environmental Response, Compensation, and Liability Act; Puget Sound Power & Light Co., et al.; Correction

This is to correct the Notice which was published in the Federal Register on September 20, 1990, cited at Vol. 55, No. 183, pp. 38760-38761, *United States* v. *Puget Sound Power & Light Company et. al.*

This notice corrects the following errors:

In the first paragraph, the name of the case should appear as *United States* v. *Joseph Simon & Sons, et. al.* instead of *United States* v. *Puget Sound Power & Light Company, et al.* There are no other changes to this paragraph.

In the second paragraph, comments addressed to the Department of Justice should refer to *United States* v. *Joseph Simon & Sons, et. al.* instead of *United States* v. *Puget Sound Power & Light Company, et al.* There are no other changes to this paragraph.

In the third paragraph, the person to contact for examination of the proposed consent decree at Region X of the Environmental Protection Agency's Office of Regional Counsel has been added. The contact is Lynn M. Williams, Administrative Records Coordinator. There are no other changes to this paragraph.

The following new paragraph should be added as the last paragraph in this notice:

The Administrative Record may be examined at the Region X Office of the United States Environmental Protection Agency, Lynn M. Williams, Administrative Records Coordinator, Office of Regional Counsel, 1200 Sixth Avenue, Seattle, WA 98101, and at the Tacoma Public Library, Main Branch, 1102 Tacoma Avenue South, Tacoma, Washington 98402.

Richard B. Stewart,
Assistant Attorney General.

[FR Doc. 90-25089 Filed 10-23-90; 8:45 am]
BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act; Town of Southampton

In accordance with departmental policy as set forth in 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Town of Southampton*, Civil Action No. 90-3360, has been lodged with the United States District Court for the Eastern District of New York on September 24, 1990. The proposed consent decree requires the Town of Southampton to reimburse the United States for most of its past costs incurred at the North Sea Landfill Site, and to implement the remedy selected by the U.S. Environmental Protection Agency in its September 29, 1989 Record of Decision with respect to the first of three operable units at the Site.

The United States Department of Justice will receive comments relating to the proposed consent decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States* v. *Town of Southampton*, DJ 90-11-3-837.

The proposed consent decree may be examined at the Office of the United States Attorney, Eastern District of New York, One Pierrepont Plaza, Brooklyn, New York 11201, and at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278. A copy of the proposed consent decree can be obtained in person or by mail at the Environmental Enforcement Section Document Center, 1333 F Street NW., suite 600, Washington, DC 20004. In requesting a copy, please enclose a check in the amount of $16.75 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Richard B. Stewart,
Environment and Natural Resources Division, Assistant Attorney General.

[FR Doc. 90-25100 Filed 10-23-90; 8:45 am]
BILLING CODE 4410-01-M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984; Microelectronics and Computer Technology Corp.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Microelectronics and Computer Technology Corporation ("MCC") on July 11, 1990 filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing an additional area of planned activity and changes in its membership. The additional written notification was filed for the purpose of extending the protections of section 4 of the Act limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

On December 21, 1984, MCC and its shareholders filed their original notification pursuant to section 6(a) of the Act. The Department of Justice (the "Department") published a notice in the Federal Register pursuant to section 6(b) of the Act on January 17, 1985 (50 F.R. 2333). MCC and its shareholders filed additional notifications on March 29, 1985, July 30, 1986, November 7, 1988, December 23, 1988, February 25, 1987, December 23, 1987, March 4, 1988, August 16, 1988, September 19, 1988, January 16, 1990, March 7, 1990, and April 11, 1990. The Department published notices in the Federal Register in response to these additional notifications on April 23, 1985 (50 FR 15899), September 10, 1986 (51 FR 32263), December 8, 1986 (51 FR 44132), February 3, 1987 (52 FR 3356), March 19, 1987 (52 FR 8681), January 22, 1988 (53 FR 1850), March 29, 1988 (53 FR 10159), September 22, 1988 (53 FR 36810), October 26, 1988 (54 FR 43831), March 8, 1990 (55 FR 8612), April 9, 1990 (55 FR 13200), May 8, 1990 (55 FR 19114), and May 8, 1990 (55 FR 19114), respectively. On October 21, 1985, MCC filed an additional notification for which a Federal Register notice was not required.

MCC disclosed that it has established the Open System Satellite ("OSS") to its Packaging/Interconnect Technology program. OSS will conduct research in the area of multi-chip modules suitable for use in high performance work stations, personal computers, and high performance computers.

Effective April 25, 1990, and June 12, 1990, respectively, Advanced Packaging Systems and Tandem Computers, Inc. became Associate Members of MCC and participants in OSS.

Effective June 6, 1990, Conner Peripherals, Inc. became an Associate Member of MCC and a participant in MCC's Optics Program.

Joseph H. Widmar,
Director of Operations, Antitrust Division.

[FR Doc. 90-25090 Filed 10-23-90; 8:45 am]
BILLING CODE 4410-01-M

LIBRARY OF CONGRESS

Copyright Office

[Docket No. RM 90-6]

Digital Audio Broadcast and Cable Services; Copyright Office Study

AGENCY: Library of Congress, Copyright Office.

ACTION: Notice of inquiry.

SUMMARY: The Copyright Office issues this Notice of Inquiry to inform the public that, responsive to a congressional request, it will examine the development of new digital audio broadcast and cable services and the effects implementation of such services may have on performers and copyright owners of copyrightable works under the Copyright Act of 1976, title 17 of the United States Code. The Office seeks public comment as to whether or not delivery of digital audio programming, transmitted by satellite systems, terrestrial systems, or by cable television systems, will affect copyright owners, and, if so, in what manner. In addition, should implementation new audio systems have negative effects on copyright owners for retransmissions of their works, the Office seeks proposals on the proper methods of compensating copyright owners while promoting the greatest availability of creative works to the public.

DATES: Initial comments should be received by no later than December 15, 1990. Reply comments should be received on or before January 31, 1991.

ADDRESSES: Interested persons should submit comments as follows: If sent by mail: United States Copyright Office, Library of Congress, Department 17, Washington, DC 20540. If delivered by hand: Office of the Register of Copyrights, Copyright Office, James

Madison Memorial Building, room 407, First and Independence Avenue SE., Washington, DC.

FOR ADDITIONAL INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, DC 20540. Telephone: (202) 707–8380.

SUPPLEMENTARY INFORMATION:

1. Background

The Copyright Office is aware that several organizations in the United States plan to introduce audio services that will provide listeners with digital quality programming delivered to them over cable lines. In addition, other companies have applied to the Federal Communications Commission ("FCC") for permission to use certain frequencies to broadcast digital programming to home and automobile radios via satellite. There has also been discussion of a worldwide digital satellite service. Several foreign countries have already designed, manufactured, and tested digital audio systems that deliver quality signals to listeners via satellite and terrestrial equipment.

Technological developments in digital audio transmission currently follow two paths. The first is digital audio broadcasting, which promises to be a replacement for current FM and AM radio. Digital audio broadcasting is an interference-free, compact disc-quality signal that can be delivered via terrestrial-based and satellite transmission systems. Interest in digital audio broadcasting was sparked by receipt at the FCC of three separate applications requesting frequency allocations and authorization to begin transmission in digital audio format. The applications, filed on May 18, May 22, and July 27, 1990, respectively, petition the Commission for a rulemaking to allocate spectrum, adopt rules for a terrestrial digital audio broadcasting system, and approve satellite carriage and sale of digital audio signals. In response to the applications, the FCC published a Notice of Inquiry seeking comment on the applications, and posing broader regulatory questions as to technical requirements. *See* FCC Docket No. 90–357 (August 21, 1990). Indications are, however, that a regulatory framework will not likely be in place before 1992, which is when the World Administrative Radio Conference is scheduled to consider setting aside frequencies for digital audio broadcasting.

The second development in digital audio services involves cable systems. In the United States three companies are already testing digital audio music services made available via cable, which does not involve the same spectrum allocation limitations that digital audio broadcasting does. Services to be offered to cable subscribers include packages of channels containing all-digital music recorded on compact discs and delivered to homes via a special tuner, as well as digital simulcast of the sound tracks of motion pictures and television shows. Because it does not require prior FCC authorization, digital cable radio will probably become widespread sooner than will digital audio broadcasting.

The Chairman of the Senate Subcommittee on Patents, Copyrights, and Trademarks, Senator Dennis DeConcini of Arizona, by letter of July 25, 1990, requested the Copyright Office to conduct a study "to determine how the rights of copyrights owners of sound recordings and performers are protected with respect to digital audio transmissions." The Senator requested that the study include "any recommendations as to any additional means that may be necessary to protect the rights of copyright owners."

By this Notice of Inquiry, the Copyright Office seeks and invites public comment to assist the Office in the preparation of this study.

2. Policy Questions for Addressing Copyright Interests Regarding Digital Audio Broadcasting

Although certain inquiries pending before the FCC focus on technical aspects of digital audio broadcasting, and legislation has been introduced addressing the issue of spectrum allocation, the Office's concern is that the rights and interests of those who own copyrights in works that may easily be transmitted and then copied in digital form should be balanced with the public's interest in enhanced technology and improved sound quality. These concerns bring to light often-aired debates about home taping, the introduction of digital audio taping equipment into the United States' consumer market, and the possible introduction of royalty payment systems.

The Office seeks general comments and specific proposals from interested parties about the state of the technology in the field of digital audio transmissions, the economic viability of proposed systems, and information about how copyright interests might be affected by the introduction of digital audio transmission services. Commenting parties are encouraged to include descriptions of methods for compensating copyright owners for copying of near-perfect reproductions of their works via regional, national, or international digital audio transmission systems. Comments are also invited regarding the impact of copyright controls and royalties on public access to new digital audio transmission services.

Specifically, the Office invites public comment or information regarding the following:

(1) Would introduction of digital audio broadcasting services prompt the average listener to copy copyrighted works? Would a listener be more likely to copy digitally transmitted works than works now broadcast on AM or FM radio frequencies, or on television? To what degree can a listener's home taping habits be monitored and what technical limitations on home taping are feasible?

(2) Would the copying of works transmitted via digital audio broadcasting services significantly displace sales of copyrighted works recorded on phonorecords, audio tapes, or compact discs?

(3) Would a copyright owner have the practical ability to negotiate with the owners/operators of digital audio services for compensation for transmission of his/her works? If not could representatives of copyright owners, such as performing rights organizations, accomplish this task?

(4) Should a royalty be placed on recording materials, such as blank tapes, or on digital recording equipment itself, to be distributed among copyright claimants? If so, who would be responsible for administering this process?

(5) Should digital audio broadcasters be forced to scramble their broadcasts so that listeners wishing to receive a signal containing copyrighted works would be forced to acquire special equipment, thereby becoming accountable for the possible copying of copyrighted works?

(6) Describe existing and contemplated digital audio transmission services, including a description of (a) encryption systems, if any; (b) the means of transmitting prerecorded digital signals; (c) any plans to compress the digital signals; and (d) any proposals concerning transmission of digital subcode information embodied on prerecorded works.

(7) Provide information relating to the business and commercial aspects of digital audio transmission services, including (a) the current number of subscribers and predictions of future growth for existing digital cable services; (b) the anticipated start-up

dates and predicted audience size of proposed digital cable and broadcast services; (c) a description of the music channel offerings—both existing and contemplated; (d) the availability of "pay-per-listen" services; and (e) copyright licensing arrangements, if any.

Ralph Oman,

Register of Copyrights.

[FR Doc. 90-25094 Filed 10-23-90; 8:45 am]

BILLING CODE 1410-07-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (90-67)]

NASA Advisory Council (NAC), Space Station Advisory Committee (SSAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Station Advisory Committee.

DATES: November 13, 1990, 8:30 a.m. to 5 p.m. and November 14, 1990, 8:30 a.m. to 2 p.m.

ADDRESSES: 600 Maryland Avenue SW., suite 2X52, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Dr. W.P. Raney, Code M-6, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-4165.

SUPPLEMENTARY INFORMATION: The Space Station Advisory Committee (SSAC) is a standing committee of the NASA Advisory Council, which advises senior management on all Agency activities. The SSAC is an interdisciplinary group charged to advise Agency management on the development, operation, and utilization of the Space Station. The committee is chaired by Mr. Laurence J. Adams and is composed of 15 members including individuals who also serve on other NASA advisory committees.

This meeting will be open to the public up to the seating capacity of the room (which is approximately 40 persons including committee members and other participants). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the participants.

TYPE OF MEETING: Open.

Agenda

November 13, 1990—

8:30 a.m.—Chairman's Remarks
9 a.m.—Program Status
  Budget
  Congressional
  Preliminary Design Review
10:30 a.m.—Special Review Activities
  Synthesis Group
  Advisory Committee on the Future of the U.S. Space Program
11:30 a.m.—Discussion
1 p.m.—Level II Integration Function
2 p.m.—Discussion
3 p.m.—Solutions Team Follow-up
4 p.m.—Discussion
5 p.m.—Adjourn

November 14, 1990—

8:30 a.m.—Task Group on Verification
9:30 a.m.—Task Group on Orbital Debris
10 a.m.—Space Station Science and Applications Advisory Subcommittee (SSSAAS) Update
11 a.m.—Discussion
2 p.m.—Adjourn

Dated: October 17, 1990.

John W. Gaff,

Advisory Committee Management Officer.

[FR Doc. 90-25094 Filed 10-23-90; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME

Meeting

AGENCY: National Commission on Acquired Immune Deficiency Syndrome.

ACTION: Notice of hearing and site visits.

SUMMARY: In accordance with Federal Advisory Committee Act, Public Law 92-463 as amended, the National Commission on Acquired Immune Deficiency Syndrome announces the forthcoming meeting of the Commission.

DATE AND TIME: November 27, 1990—9 a.m.-5 p.m., November 28, 1990—9 a.m.-5 p.m.

PLACE: Hearing Site, Gold Room, Radisson Normandie Hotel, San Juan, Puerto Rico.

TYPE OF MEETING: Open.

FOR FURTHER INFORMATION CONTACT: Maureen Byrnes, Executive Director, National Commission on Acquired Immune Deficiency Syndrome, 1730 K Street NW., suite 815, (202) 254-5125.

AGENDA: Both days in the morning, the Commission will hear testimony regarding the HIV epidemic in the Commonwealth of Puerto Rico and in the afternoons the Commission will visit facilities providing services to people with HIV infection and AIDS throughout the Island.

Maureen Byrnes,

Executive Director.

[FR Doc. 90-25121 Filed 10-23-90; 8:45 am]

BILLING CODE 6820-CN-M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panels; Meetings

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting(s) to be held at 1800 G Street NW., Washington, DC 20550 (except where otherwise indicated).

SUPPLEMENTARY INFORMATION: The purpose of the meetings is to provide advice and recommendations to the National Science Foundation concerning the support of research, engineering, and science education. The agenda is to review and evaluate proposals as part of the selection process for awards. The entire meeting is closed to the public because the panels are reviewing proposals that include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

CONTACT PERSON: M. Rebecca Winkler, Committee Management Officer, room 208, 357-7363.

Dated: October 18, 1990.

M. Rebecca Winkler,

Committee Management Officer.

Committee name	Agenda	Date(s)	Time	Room *
Special Emphasis Panel in Cross-Disciplinary Activities	CISE Instrumentation Prop	11/07/90, 11/08/90	8:30 a.m. to 5 p.m. 8:30 a.m. to 5 p.m.	414

* At 1800 G Street NW., Washington, DC

[FR Doc. 90-25099 Filed 10-23-90; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-280 and 50-281]

Virginia Electric and Power Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of license amendments revising the Technical Specifications for the Surry Power Station, Units 1 and 2, located in Surry County, Virginia. The proposed amendments change reactor coolant system pressure/temperature (P/T) limits and the power operated relief valve (PORV) setpoint for low temperature overpressure protection (LTOP).

Environmental Assessment

Identification of Proposed Action

The proposed amendments revise the reactor coolant system P/T limits based on evaluation of reactor vessel material properties expected for 15 effective full power years of operation (EFPY). The existing single P/T curve shown in Technical Specification Figure 3.1-1 is revised into two figures, representing P/T limits for heatup or cooldown, as appropriate. The amendments would limit the maximum plant heatup rate to 40°F/hr. The proposed amendments also revise the PORV setpoint for LTOP from 435 to 385 psig.

The Need for the Proposed Action

The existing P/T and LTOP specifications are based on a maximum of 11 EFPY. Facility operation beyond this point requires new P/T curves and LTOP limits representative of future operating conditions, reflecting changes in the reactor vessel material properties. The revisions provide operating limits to 15 EFPY. The revised P/T limits are also based on Regulatory Guide 1.99, Revision 2, and are consistent with guidance provided in Generic Letter 88-11.

Environmental Impacts of the Proposed Action

The proposed amendments affect power plant operating limits, but do not change the manner in which the facility is operated. Therefore, the proposed amendments do not increase normal radiological effluents, or add to occupational exposure. The proposed amendments do not change the generation or decay of isotopes present during normal operation. Therefore, possible post-accident radiological releases will not be more severe than previously determined. Furthermore, the amendments do not affect nonradiological effluents, so there is no other environmental impact. Therefore, the Commission concludes that there are no significant radiological or nonradiological environmental impacts associated with the proposed amendments.

Alternatives to the Proposed Action

Since the Commission has concluded there are no measurable environmental impacts associated with the proposed amendments, any alternatives will either have equivalent or greater impact.

The principal alternative would be to deny the requested amendments. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

The proposed amendments do not use resources in a manner other than that previously considered in the Final Environmental Statements dated May and June 1972 for Surry Units 1 and 2, respectively.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

Based on the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment. The Commission has therefore determined not to prepare an environmental impact statement for the proposed amendments.

For further details with respect to this action, see the application for amendments dated January 29, 1988, as supplemented February 20, 1989. These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and at the Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Dated at Rockville, Maryland, this 19th day of October 1990.

For the Nuclear Regulatory Commission.

Jon A. Norris,

Acting Director, Project Directorate II-2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90-25114 Filed 10-23-90; 8:45 am]

BILLING CODE 7590-01-M

Nuclear Safety Research Review Committee; Meeting

In accordance with the requirements of the Federal Advisory Committee Act (FACA), the Nuclear Safety Research Review Committee (NSRRC) will hold its next meeting on November 8 and 9, 1990. The meeting will be held at the Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland. The meeting will be open to public attendance. The NSRRC provides advice to the Director of the Office of Nuclear Regulatory Research (RES) on matters of overall management importance in the direction of the NRC's program of nuclear safety research. The purpose of this meeting is to prepare a report providing NSRRC advice on what the strategy and content should be for a research program designed to meet NRC's essential regulatory requirements. This topic was the subject of detailed presentations made by the NRC staff at the previous NSRRC meeting on September 25 and 26.

Thursday, November 8, 1990

8 a.m.–5 p.m.: Prepare a working agenda for November 8 and 9, 1990. Review the status of Subcommittee information gathered from non-public meetings and direct inquiries. Deliberate on advice to be given to the NRC in a Committee report. Begin drafting the text of that report.

Friday, November 9, 1990

8 a.m.–4:30 p.m.: Continue activities initiated on Thursday, November 8, 1990.

4:30 p.m.: Adjourn.

Members of the public may file written statements regarding any matter to be discussed at the meeting. Members of the public may also make requests to speak at the meeting, but permission to speak will be determined by the Committee Chairperson in accordance with procedures established by the Committee. A verbatim transcription will be made of the meeting, and a copy of the transcript will be placed in the NRC's Public Document Room in Washington, DC.

Inquiries regarding this notice, any subsequent changes in the status of the meeting, the filing of written statements, requests to speak at the meeting, or the transcription, may be made to the Designated Federal Officer, Dr. Ralph O. Meyer (telephone: 301/492-3804), between 8:15 a.m. and 5 p.m.

Dated at Rockville, Maryland, this 18th day of October, 1990.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 90-25117 Filed 10-23-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-261]

Carolina Power & Light Co. (H. B. Robinson Steam Electric Plant, Unit No. 2); Exemption

I

The Carolina Power & Light Company (CP&L or the licensee) is the holder of Facility Operating License No. DPR-23 that authorizes operation of the H. B. Robinson Steam Electric Plant, Unit No. 2. The license provides, among other things, that the licensee is subject to all rules, regulations, and Orders of the Commission now or hereafter in effect.

The facility is a single-unit pressurized water reactor at the licensee's site located in Darlington County, South Carolina.

II

On November 19, 1980, the Commission published a revised § 50.48 and a new appendix R to 10 CFR part 50 regarding fire protection features of nuclear power plants. The revised § 50.48 and appendix R became effective on February 17, 1981. Section III of appendix R contains 15 subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these subsections, III.G.2 is the subject of the licensee's exemption request.

To achieve and maintain safe shutdown using one train of component cooling water (CCW) cables and equipment, section III.G.2.b of appendix R requires that:

> Separation of cables and equipment and associated non-safety circuits of redundant trains by a horizontal distance of more than 20 feet with no intervening combustible or fire hazards. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area * * *.

By letter dated July 30, 1990, as supplemented August 16, 1990, CP&L requested approval of an exemption from the above requirements of section III.G.2 for the CCW pump room. In specific, the requested exemption related to the "no intervening combustible" provision of section III.G.2.b.

III

By letter dated July 30, 1990, as supplemented August 16, 1990 the licensee requested approval of an exemption from the technical requirements of section III.G.2 of appendix R to 10 CFR part 50 for the CCW pump room. The requested exemption would allow for an increase in the quantity of intervening combustibles between redundant trains to a combined quantity that will not exceed a 1-hour fire loading. Previously, an exemption to appendix R section III.G.2 for the CCW pump room was granted on October 25, 1984. In part, that exemption allowed a combined quantity of intervening combustibles or fire hazards between redundant shutdown trains for a fire loading of 16 minutes.

The licensee plans to install new cable trays in the CCW pump room. Cable installed in these trays will be qualified to IEEE-383, Vertical Flame Test. The requested exemption would allow an increase in the quantity of intervening combustibles between redundant trains as well as an increase in the overall combustible loading in the area. Through existing design and administrative controls, CP&L has committed that the in-situ combustible fire severity in the area will not exceed a 1-hour fire loading.

The licensee has provided information on the level of fire protection already provided. These provisions include:

1. An early warning redundant cross-zoned fire detection system is provided;
2. A partial fire suppression sprinkler system is installed above all cable trays (including the presently proposed cable trays) and pumps;
3. No other combustible materials are in the CCW pump room except for one quart of lubricating oil with a high flashpoint (350°F) for each of the three pumps;
4. A portable fire extinguisher is in the CCW pump room, and additional fire extinguishers and manual fire hose stations are in adjacent areas;
5. Power cables to the redundant CCW pumps are installed in conduits with a 1-hour fire barrier wrap. All other cables are coated with flame retarded material or are IEEE-383, Vertical Flame Test, qualified. All cable trays (including the proposed cable trays) are qualified to IEEE 383.

Based on our review of the above information, the staff concludes that the licensee's existing fire protection configuration provides an equivalent level of safety to that achieved by compliance with appendix R to 10 CFR part 50.

Therefore, the Commission has determined that the exemption from section III.G.2.b of appendix R to 10 CFR part 50 in the CCW pump room should be granted.

IV

Pursuant to 10 CFR 50.12(a)(2), the Commission will not consider granting an exemption unless special circumstances are present. Item (ii) of the subject regulation includes special circumstances where application of the subject regulation would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.

The underlying purpose of section III.G is to provide adequate protection of redundant components of safety-related equipment by limiting damage in the event of a fire at one safety-related component location so that the performance of the other safety-related component is not affected. The licensee has established that the substantial fire protection measures described in the licensee's July 30, 1990 submittal ensure that the configuration will not present an undue risk to public health and safety pursuant to 10 CFR 50.12(a)(1).

As described in the evaluation section of the exemption, the staff has concluded that the existing fire protection systems provide equivalent fire protection to that which would be provided by meeting the literal requirements of section III.G.2.b of appendix R. Therefore, the staff concludes that "special circumstances" exist for the licensee's requested exemption in that imposition of the literal requirements of the regulation in these particular circumstances is not necessary to achieve the underlying purpose of appendix R to 10 CFR part 50.

V

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a)(2)(ii), special circumstances are present in that the current level of fire protection satisfies the underlying sections of appendix R to 10 CFR part 50. Further, the staff has concluded that the requested exemption is authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest. Therefore, the Commission hereby grants an exemption from the requirements of section III.G.2.b of appendix R to 10 CFR part 50 for the CCW pump room as described in section II above.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of this exemption will have no significant impact on the environment (55 FR 41619).

For further details with respect to this section, see the licensee's request for exemption dated July 30, 1990, as

supplemented August 16, 1990, which are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 17th day of October 1990.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects–I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90-25112 Filed 10-23-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-458]

Gulf States Utilities Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–47, issued to Gulf States Utilities Company (GSU) (the licensee), for operation of the River Bend Station, Unit 1, located in West Feliciana Parish, Louisiana.

In letters dated August 22, 1990, and October 17, 1990, GSU proposed an amendment which would permanently disable the steam condensing mode (SCM) of the residual heat removal (RHR) system. The August 22, 1990, submittal was previously noticed on September 19, 1990 (55 FR 38662), and described GSU's plans to weld plugs in the steam supply lines. Due to the exposure rates predicted using this method, GSU provided supplemental information in a letter dated October 17, 1990, which described the removal of the two steam supply line valves in the auxiliary building and installation of a blind flange in place of each. The two methods accomplish the same purpose, closing off the steam lines, but the latter will result in lower worker exposures. The TS modifications originally proposed remain unchanged.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee provided a revised analysis that addressed the above three standards with regard to the addition of the blank flanges. The analysis addressing the rest of the proposed amendment remains unchanged, but is repeated for completeness.

1. The proposed change would not significantly increase the probability or consequences of an accident because the only accident is the high energy line break (HELB) in the steam tunnel and auxiliary building. Valves 1E12*VF052MO A and B will be replaced by blind flanges in the steam supply lines to the RHR heat exchangers. With the proposed location of the blind flanges, a HELB in the auxiliary building due to the rupture of steam line to the RHR heat exchangers is unchanged from originally contained in the SAR. The HELB of the steam lines in the steam tunnel and of the RCIC [Reactor Coolant Isolation Cooling] steam supply line in the auxiliary building have also been previously evaluated and this analysis is not affected.

The HELB of the steam supply line is determined by the closure of the containment isolation valves 1E51*MOVF 063 and 064. This modification does not affect the operability of these valves or associated instrumentation. GSU has re-evaluated the setpoint of the RHR/RCIC steam line flow-high isolation instrumentation and concluded that the exiting setpoint is adequate. This conclusion is based upon the mass and energy release calculations for steam line breaks in the steam tunnel and auxiliary building. Calculations indicate that for a break of the 4" RCIC steam supply line in the auxiliary building, the existing trip setpoint would be exceeded within 0.1 seconds after the break and that flow would be terminated by closure of the containment isolation valves within 12 seconds. Lowering the existing setpoint would not significantly increase the response time of the containment isolation valves or decrease the inventory lost through the break. All equipment in the area is qualified based on the existing setpoint and calculated inventory loss. No increase in offsite release rates in excess of those previously would occur as a result of maintaining the existing setpoint. Based on the above, GSU concludes that the current setpoint of 60.7 inches H_2O is adequate and should become the permanent setpoint.

The blind flanges will be fabricated and installed to the same quality requirements as the original piping. Also the steam line piping supports were reviewed for the decrease weight and will be modified to ensure the seismic adequacy of the line. The blank flanges have been located so as to ensure that piping designed for steam service remains drained.

Valves 1E12*MOVF052A, 1E12*MOVF052B, and 1E12*MOVF028A were identified in the Fire Hazards Analysis as valves that must not spuriously reposition during a fire event. To ensure that these valves could be placed in the correct position during a fire event, control switches for these valves were included on the remote shutdown panel. Spurious repositioning of 1E12*MOVF052A or B could result in an interfacing system LOCA [Loss of Coolant Accident] (Wash 1400, Event V). Spurious repositioning of 1E12*MOVF028A could result in an overpressurization of the RCIC pump suction piping. With the implementation of this modification, the above events are no longer possible. The blind flanges in the RHR steam supply lines remove the possibility of the interfacing system LOCA. Electrically disabling 1E12*MOVF028A ensures that the valve cannot spuriously open during a fire event.

A review of the transient analyses (chapter 15 of SAR [Safety Analysis Report]) indicates that no credit has been taken for the SCM, including the radiological consequences of an MSIV [Main Steam Isolation Valve] isolation event as analyzed in [the] SAR. Section 15.2.4.2 did not take credit for SCM of RHR. Therefore, the elimination of this mode of operation will not affect the radiological consequences as reported in the SAR section 15.2.4.5 for the MSIV isolation event.

The only analysis which may be impacted by the permanent disabling of SCM is the number of main steam SRV [Safety/Relief Valve] cycles following an MSIV isolation. The SRV cycle analysis has been performed assuming that the SCM is unavailable. The value obtained is not greater than the current value of 15 used in section A.6A.9 of the SAR.

It is, therefore, concluded that this modification does not involve a significant increase in the probability or consequence of an accident.

2. The proposed change would not create the possibility of a new or different kind of accident from any previously evaluated because the design, fabrication and installation of the blind flanges will be the same requirements as the original piping (ASME III, Div. I). The blind flanges have been located so as to ensure that piping designed for steam service does not fill with water. Measures have been taken to ensure that the piping designed for steam service remains drained. No new or different relationships or interfaces with other systems or components have been created which could result in a new or different type of accident.

3. The proposed change would not involve a significant reduction in the margin of safety because there are no Technical Specification requirements for the SCM or RHR to be operable. Also, this mode is not a requirement for any other system required to be operable per the Technical Specifications.

Technical Specification section 3/4.3.2, "Isolation Actuation Instrumentation," specified that the RHR/RCIC steam line flow-high trip setpoint be less than or equal to 60.7 inches of water. This setpoint has been evaluated based on an RCIC steam supply line break maximum flow with the SMC or RHR disabled. A review of the mass and energy release calculations for a break of the 4" RCIC steam supply line in the auxiliary building indicates that the containment isolation valves would perform their function within the same time frame as previously analyzed. There would be no increase in offsite release rates. Environmental conditions in the RCIC steam line areas are not affected.

Therefore, based on the above considerations, the Commission has made a proposed determination that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is disussed below.

By November 23, 1990, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555 and at the local public document room located at the Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularly the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted; In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully on the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1 (800) 325-6000 (in Missouri 1 (800) 342-6700). The Western Union operator should be given Datagram identification Number 3737 and the following message addressed to James C. Linville: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mark Wetterhahn, Esq., Bishop, Cook, Purcell and Reynolds, 1401 L Street NW., Washington, DC 20005, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request, should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated October 17, 1990, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803.

Dated at Rockville, Maryland, this 18th day of October 1990.

For the Nuclear Regulatory Commission.

James C. Linville,

Acting Director, Project Directorate IV-2, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90-25113 Filed 10-23-90; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request, Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, 450 Fifth Street, NW., Washington, DC 20549.

Extension

Form N-8B-3
File No. 270-179
Form N-8B-4
File No. 270-180
Rule 30d-1
File No. 270-21

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq*), the Securities and Exchange Commission has submitted for extension of OMB approval Forms N-8B-3 and N-8B-4 and Rule 30d-1, all under the Investment Company Act of 1940.

Forms N-8B-3 is used by unincorporated management investment companies currently issuing periodic payment plan certificates to register under the Investment Company Act of 1940. Form N-8B-4 is used by face amount certificate companies to registar under that act. Each requires approximately 170 hours of reporting per respondent, annually.

Rule 30d-1 prescribes the minimum content of reports to shareholders that management investment companies must send at least semi-annually. The rule requires approximately 600 hours, annually, per respondent.

The estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules and forms.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with SEC rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0004, and Gary Waxman, Clearance Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (Paperwork Reduction Projects 3235-0166 [Form N-8B-3], 3235-0247 [Form N-8B-4], and 3235-0025 [Rule 30d-1], room 3208 NEOB, Washington, DC 20503.

Dated: October 18, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-25144 Filed 10-23-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-28551; File No. 600-30]

Self-Regulatory Organizations; International Securities Clearing Corporation; Filing of Request for Extension of Temporary Registration as Clearing Agency

Notice is hereby given that on October 16, 1990, International Securities Clearing Corporation ("ISCC") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(a) of the Securities Exchange Act of 1934 ("Act"), a request for extension of its registration as a clearing agency under section 17A of the Act for a period of one year.[1]

On May 12, 1989, the Commission granted the application of ISCC to become registered as a clearing agency pursuant to sections 17A and 19(a) of the Act, and rule 17Ab2-1(c) thereunder, for a period of eighteen months. At that time, the Commission granted ISCC an exemption from compliance with section 17A(b) (3)(C) of the Act.

ISCC provides clearance and settlement services to its members and to foreign financial institutions primarily by providing links that enable market participants to process and settle their international securities transactions through the facilities of centralized clearing entities in the United States and abroad. The Commission is publishing this notice of a request for an extension of that registration for a period of one year to solicit comment from interested persons.

[1] See letter from Karen L. Saperstein, Associate General Counsel, ISCC, to Brandon Becker, Associate Director, dated October 16, 1990.

BEST COPY AVAILABLE

Interested persons are invited to submit written data, views and arguments concerning the foregoing within thirty days of the date of publication of this notice in the Federal Register. Such written data, views and arguments will be considered by the Commission in granting registration or instituting proceedings to determine whether registration should be denied in accordance with section 19(a)(1) of the Act. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the application and all written comments will be available for inspection at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. All submissions should refer to file number 600-20 and should be submitted by November 14, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 18, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-25145 Filed 10-23-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-28542; File No. SR-NASD-90-57]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to Small Order Execution System Tier Size Classifications

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 4, 1990, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The NASD has designated this proposal as "a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule" under section 19(b)(3)(A)(i) of the Act, which renders the rule effective upon the Commission's receipt of this filing. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing an interpretation of an existing rule pertaining to the Association's periodic reclassification of securities in the appropriate Small Order Execution System ("SOES") maximum order size tiers, as described more fully below.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the rule change is to notify the Commission of the reclassification of some 450 National Market System securities within the maximum SOES order size tier levels. The Association reviews the tier levels applicable to each security periodically (approximately every six months) to determine if the trading characteristics of the issue have changed so as to warrant a SOES tier level move. Such a review was conducted as of June 29, 1990, using second quarter, 1990 trading data and the established criteria:

A 1,000-share maximum order size for NASDAQ/NMS securities with an average daily nonblock volume of 3,000 shares or more a day, a bid price less than or equal to $100, and three or more market makers;

A 500-share maximum order size for NASDAQ/NMS securities with an average daily nonblock volume of 1,000 shares or more a day, a bid price less than or equal to $100, and two or more market makers;

A 200-share maximum order size for NASDAQ/NMS securities with an average daily nonblock volume of less than 1,000 shares a day, a bid price less than or equal to $250, and less than two market makers.

The 450 NASDAQ/NMS securities that have been reclassified as of October 15, 1990, are set out in an exhibit to the filing.

Notice to Members 90-67

The NASD believes that the proposed rule change is consistent with section 15A(b)(6) of the Act. Section 15A(b)(6) requires, among other things, that the rulemaking initiatives of the NASD be designed to "foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanism of a free and open market." The NASD believes that the reassessment of securities within SOES tier levels will further these ends by providing an efficient mechanism to facilitate small order executions in the NASDAQ market.

B. Self-Regulatory Organization's Statement on Burden of Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The following rule change has become effective pursuant to section 19(b)(3)(A)(i) of the Act and subparagraph (e) of Securities Exchange Act rule 19b-4 because the proposal has been filed as "a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule." At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission

and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by November 14, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: October 18, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-25146 Filed 10-23-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-28554; File No. SR-NASD-90-35]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to Articles II and III of the NASD Code of Procedure

The National Association of Securities Dealers, Inc. ("NASD") submitted on July 13, 1990, and amended on September 24, 1990,[1] to the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[2] to amend Articles II and III of the NASD Code of Procedure ("Code"). The proposed rule change makes two substantive changes to the Code: (1) NASD National Business Conduct Committee ("NBCC") hearing panels will consist exclusively of current or former Governors associated with members;[3] and (2) decisions of the NBCC will be final decisions of the NASD, unless the Board, at the request of one or more Governors, calls for review of specific NBCC decisions.

Notice of the proposal, together with the substance of the terms of the proposed rule change, was given by the issuance of a Commission release (Securities Exchange Act Release No. 28405, August 31, 1990) and by publication in the Federal Register (55 FR 37787, September 13, 1990). No comments were received on the proposal.

This proposed rule change will amend article III, section 2(d) of the Code to eliminate the requirement that a current Governor serve on every hearing panel. The proposal allows hearing panels to consist of current or former Governors associated with members, thereby permitting hearing panels to be composed exclusively of recent former industry Governors.

The proposal will also amend article III, sections 6 and 7 in that the decisions of the NBCC will no longer require action by the full Board to be effective. The proposal provides that the decisions of the NBCC are the final decisions of the NASD in disciplinary cases, unless the Board calls for review on the request of one or more Governors.

In addition, the proposed rule change amends relevant sections of articles I, II, III, IV and X of the Code of Procedure to reflect and conform with the changes discussed above.[4] The proposed rule also amends article IX of the Code of Procedure regarding procedures on grievances concerning automated systems to allow the NASDAQ Hearing Review Committee to review subject decisions. Determinations of the NASDAQ Hearing Committee may be reviewed at the Board's discretion upon the request of one or more Governors.

The NASD believes the proposed rule change is necessary in order to improve the disciplinary process and to reduce the burden that this process imposes on the NBCC and the Board. Prior to approval of this rule the NBCC would normally appoint a Governor serving on the NBCC and a recent former Governor as a hearing panel. The allocation of time required of Governors serving on the NBCC to hearing panels was increasing to a level that could detract from the ability of the Governors to effectively address regulatory policy issues. The NASD found the increasing workload of the NBCC could be viewed as limiting the opportunity of members of the NBCC to participate on other committees and in the increasingly demanding work of the Board itself.[5] In addition, the NASD believes that by limiting the Board's review of NBCC decisions to occasions when one or more Governors believe such review is appropriate will limit the time commitment required from Governors, yet not reduce the fairness of the NASD disciplinary process.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of section 15A and the rules and regulations thereunder.[6] However, it is noted that the Division is concerned that the rule change does not provide a time frame in which the Board must determine whether it will review a decision of the NBCC. After this issue is examined by the Board in January 1991, the Division expects to be informed and will carefully consider the NASD's resolution regarding the necessity of determining a time period in which the board must decide if they are going to review NBCC decisions.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change, SR-NASD-90-35, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: October 18, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-25147 Filed 10-23-90; 8:45 am]

BILLING CODE 8010-01-M

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[1] Amendment No. 1 indicated that, in response to concerns raised by the Division of Market Regulation ("Division") the NASD will bring before the NASD Board of Governors at the January 1991 NASD Board Meeting the issue of whether a time period should be adopted in which the Board of Governors must decide whether or not to review NBCC decisions. The amendment also stated the Commission will be able to determine if decisions from the NASD NBCC are final or pending final review by the Board of Governors because the SEC will not receive any decision that is not final. In addition, a technical amendment was made to art. II, sec. 12 which added the word "either" before the words "is of the opinion that." This change was approved prior to the receipt of the amendment and is reflected in the notice published in the Federal Register. *See* the letter from Suzanne E. Rothwell to Katherine England, dated September 24, 1990.

[2] 15 U.S.C. 78s(b)(1) (1982).

[3] Article III, sec. 2(c) of the Code requires that (unless otherwise consented to by the parties) every member of a hearing panel must be currently associated with a member of the NASD. The proposed amendments would not alter this requirement.

[4] The NASD in this proposed rule change is amending art. I, sec. 2 of the Code of Procedure (which defines terms used in the Code) by adding definitions of "Extended Proceeding" and "Extended Proceeding Committee" to conform to the definitional changes made to art. III, sec. 2 that were previously approved in SR-NASD-89-49. Also, minor language changes are being proposed to secs. 2(c), (e) and (f) of the Code of Procedure to clarify that the NBCC review will include written briefs, if submitted.

[5] The NASD also stated that the increased burden on the NBCC service could discourage valuable prospective industry and public candidates from serving on the Board.

[6] Specifically, the proposed rule change is consistent with the provisions of secs. 15A(b)(6) of the Act, which requires that "(t)he rules of the association [NASD] are in accordance with the provisions of subsection (h) of this section, and, in general, provide a fair procedure for the disciplining of members and persons associated with members, the denial of membership to any person seeking membership therein, the barring of any person from becoming associated with a member thereof, and the prohibition or limitation by the association of any person with respect to access to services offered by the association or a member thereof."

[Rel. No. 34-28455; File No. SR-NYSE-90-41]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Accelerated Approval of Proposed Rule Change Relating to Rule 80A (Limitations on Trading During Significant Market Declines)

On September 19, 1990, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and rule 19b-4 thereunder,[2] a proposed rule change which will exempt from rule 80A any index arbitrage market-at-the-close ("MOC") orders to liquidate stock positions previously established in relation to derivative index products entered on the last business day prior to expiration or settlement of such derivative products ("expiration Fridays").

The Exchange's proposal was approved on a temporary basis for the most recent expiration Friday, September 21, 1990, in order to allow for the orderly unwinding of previously established arbitrage positions in the event that rule 80A was triggered on that day. The proposed rule change was noticed for comment in Securities Exchange Act Release No. 28454 (September 20, 1990), 55 FR 40028 (October 1, 1990). No comments have been received on the proposal.

The purpose of the proposed rule change is to clarify the stabilization requirements of rule 80A as they apply to orders to liquidate stock positions established in relation to index options or futures contracts entered on expiration Fridays. Under paragraphs (c) and (d) of rule 80A, when the Dow Jones Industrial Average ("DJIA") advances or declines by 50 points or more from its previous trading day's closing value, all index arbitrage orders, as defined in rule 80A, to buy or sell any of the component stocks of the Standard & Poor's 500 Stock Price Index ("S&P 500 Index") must be entered with the instruction "buy minus" (in the event of a 50 point advance in the DJIA) or "sell plus" (in the event of a 50 point decline in the DJIA).[3] The requirements remain in effect for the remainder of the trading day, unless the DJIA moves to within 25 points of its previous day's close, when the restrictions are removed. They are reinstated if the DJIA again moves 50 points or more away from the previous day's close. The purpose of the "buy minus"-"sell plus" requirements for index arbitrage orders is to promote market stabilization by minimizing excess volatility during periods of significant market movement.

The Exchange proposes to add paragraph (g) to rule 80A to specify that on provisions of paragraphs (c) and (d) of rule 80A will not apply on expiration Fridays to index arbitrage MOC orders to liquidate previously established stock positions.[4] The Exchange believes that this provision will not adversely affect market stability because the order entry and imbalance publication procedures utilized by the Exchange on expiration Fridays foster market stabilization in what are usually the most actively traded stocks. Under the order entry and imbalance publication procedures, MOC orders relating to index derivative products in the 50 highest capitalized stocks in the S&P 500 Index, and any component stocks of the Major Market Index not included in this group of 50, must be entered by 3 p.m. Eastern Time. This allows for publication of order imbalances in these stocks to be made at times subsequent to 3 p.m. to attract orders on the opposite side of an imbalance. The only MOC orders in such stocks which may be entered after 3 p.m. are orders which offset a published imbalance. However, the procedures do not permit the liquidation of positions relating to a strategy involving stock index futures, stock index options, or options on stock index futures using MOC orders entered after 3 p.m., even if such orders might offset reported imbalances. The NYSE represents that, in general, these procedures have been helpful in maintaining market equilibrium on expiration Fridays.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, section 6.[5] Specifically, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act because it will promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. As the Commission stated in approving the proposal on a temporary basis for Friday, September 21, 1990, the Commission believes that the market stabilizing effects of the NYSE's closing procedures on expiration Fridays should help to counteract the impact of the unwinding of previously established arbitrage positions.[6] For this reason, the Commission believes that the proposed rule change will not vitiate the effectiveness of rule 80A, and will allow for the orderly liquidation of index arbitrage positions in the event that rule 80A is triggered. Without the rule, market participants could be forced to maintain the stock side of an arbitrage in the event that rule 80A is triggered on an expiration Friday and the last transaction of the day is not on the requisite tick for selling or buying stock to liquidate the arbitrage position. The Commission believes that it is reasonable for the NYSE in its marketplace judgment to make an exception to rule 80A to ensure that market participants can liquidate a stock position on expiration Fridays.

The Commission finds good cause for approving the proposal prior to the thirtieth day of publication of notice of filing thereof in the Federal Register. The Commission believes that it is appropriate to approve the proposal on an accelerated basis in order to permit investors to unwind previously established index arbitrage positions without the risk of market exposure should Exchange rule 80A be triggered on Friday, October 19, 1990. In addition, the Commission has not received any comments on the proposed rule change, although the proposal was in effect on a temporary basis on Friday, September 21, 1990, and notice of the proposal appeared in the Federal Register on October 1, 1990. Because there have been no adverse comments to date concerning the proposal and because of the importance of maintaining the stability of the NYSE's markets, the Commission believes good cause exists to approve the proposed rule change on an accelerated basis.

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1989).

[3] "Sell plus" means that the order only can be executed on a plus or zero plus tick. A plus tick is a price above the price of the last preceding sale. A zero plus tick is a price equal to the last sale if the last preceding transaction at a different price was at a lower price. Conversely, a "buy minus" order can only be executed on a minus or zero minus tick. A minus tick is a price below the price of the last preceding sale. A zero minus tick is a price equal to the last sale if the last preceding transaction at a different price was at a higher price.

[4] The Commission approved the provisions of paragraphs (c) and (d) of Exchange rule 80A as a pilot program to run until July 31, 1991. *See* Securities Exchange Act Release No. 28227 (July 30, 1990), 55 FR 31423 (August 2, 1990) (order approving File Nos. SR-NYSE-88-6 and SR-NYSE-88-11).

[5] 15 U.S.C. 78f (1934).

[6] *See* Securities Exchange Act Release No. 28454 (September 20, 1990), 55 FR 40028 (File No. SR-NYSE-90-41).

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[7] that the proposed rule change (SR–NYSE–90–41) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Dated: October 18, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-25148 Filed 10-23-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-28552; File No. SR-PTC-90-04]

Self-Regulatory Organizations; Participants Trust Co.; Filing of Proposed Rule Change Relating to the Rebate of Fees

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 3, 1990, the Participants Trust Company ("PTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (SR–PTC–90–04) as described in Items I, II, and III below, which items have been prepared by PTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

PTC proposes to adopt a policy with respect to the rebate of fees. Below is the text of this proposed rule change:

The Board of Directors of Participants Trust Company may decide from time to time to return revenues received from its Participants, Limited Purpose Participants or participants of any other category of participant to those participants based upon such considerations as the Board of Directors deems relevant, including projected earnings of PTC in the event of the return of revenues or in the absence thereof, the projected financial needs of PTC and the desirability of paying dividends on PTC's outstanding capital stock.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In filing with the Commission, PTC included statements concerning the purpose of, and statutory basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. PTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change is to confirm PTC's policy with respect to the rebate of fees to its participants. Since PTC cannot predict the volume of its business, it may, during periods of higher than anticipated activity or for other reasons, have revenues in excess of its needs; the Board of Directors may decide it is appropriate to return those excess revenues to participants.

The basis for the proposed rule change under the Act is the requirement under section 17A(b)(3)(D) that the rules of a clearing agency provide for the equitable allocation of dues, fees and other charges among its participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

PTC does not perceive that the proposed rule change imposes any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

PTC has not solicited, and does not intend to solicit, comments on this proposed rule change. PTC has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which PTC consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

PTC has requested accelerated effectiveness of this proposed rule change. PTC has expressed its belief that there is good cause for the Commission to approve this proposed rule change prior to the thirtieth day after the date of publication of notice of the filing in that the proposed rule change confirms PTC's policy adopted at the time of its organization and accelerated approval would enable PTC to implement this policy within the calendar year 1990.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of PTC. All submissions should refer to File No. SR PTC–90–04 and should be submitted by November 14, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 18, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-25149 Filed 10-23-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-17957; 812-7557]

The Baupost Fund, et al.; Application

October 17, 1990.

AGENCY: Securities & Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: The Baupost Fund ("Fund"); Baupost Limited Partnership 1986 E–1 ("Partnership"); The Baupost Group, Inc. ("Baupost"); Seth A. Klarman ("Klarman"); Howard H. Stevenson ("Stevenson"); and William J. Poorvu ("Poorvu").

RELEVANT 1940 ACT SECTIONS: Exemption requested under Section 17(b) from Section 17(a).

SUMMARY OF APPLICATION: Applicants seek an order to permit a proposed

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[7] 15 U.S.C. 78s(b) (1982).

[8] 17 CFR 200.30-3(a)(12) (1989).

reorganization between the Partnership and the Fund. The Partnership will transfer all of its assets and liabilities to the Fund in exchange for shares of the Fund, which will then be distributed to the partners of the Partnership.

FILING DATE: The application was filed on July 26, 1990 and amended on October 5, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 12, 1990, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, c/o The Baupost Group, Inc., 44 Brattle Street, Cambridge, Massachusetts 02138.

FOR FURTHER INFORMATION CONTACT: Barry A. Mendelson, Staff Attorney, at (202) 504–2284, or Jeremy N. Rubenstein, Branch Chief, at (202) 272–3023 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231–3282 (in Maryland (301) 738–1400).

Applicants' Representations

1. The Fund is a Massachusetts business trust, organized on June 29, 1990, that is registered under the 1940 Act as an open-end non-diversified management investment company. Baupost will serve as the investment adviser of the Fund. Klarman and Stevenson are trustees of the Fund, managing directors of Baupost, and officers of both entities. Poorvu is chairman of the Fund's board of trustees and Baupost's board of directors.

2. The Partnership was formed in 1986 as a limited partnership under the laws of Massachusetts. The Partnership is a private investment partnership that has not been registered under the 1940 Act in reliance on section 3(c)(1) of the 1940 Act and the interests therein have not been registered under the Securities Act of 1933 (the "1933 Act") in reliance on section 4(2) o the 1933 Act. Baupost is the managing general partner of the Partnership and has exclusive control of the business of the Partnership. Klarman and Stevenson are also general partners of the Partnership. The general partners have maintained an investment in the Partnership equal to not less than 1% of the net assets of the Partnership, and are allocated net income, gains and losses of the Partnership in proportion to their investment.

3. Applicants propose that, after the effective date of the Fund's N–1A registration statement, the Fund acquire all of the assets and assume all of the liabilities of the Partnership in exchange for shares of the Fund equal in value to the net asset value of the Partnership (the "Exchange"). Thereafter, the Partnership will dissolve and distribute the shares received from the Fund pro rata to its partners (including Baupost, Klarman, and Stevenson as general partners). Upon completion of the Exchange, the partners of the Partnership will hold all of the shares of the Fund, except for shares representing seed capital contributed to the Fund by Poorvu pursuant to section 14(a) of the 1940 Act.

4. The Exchange has been proposed primarily to permit limited partners of the Partnership to pursue, as shareholders of the Fund, similar investment objectives and policies in a potentially larger pool of assets. The Partnership was not registered as an investment company under the 1940 Act in reliance on an exception to the definition of "investment company" that prohibits the Partnership's securities from being owned by more than 100 persons. The Fund, by contrast, as a registered investment company, is not subject to any limitation on the number of shareholders.

5. There is no present intention to solicit widespread interest in the Fund. The Fund will be made available primarily to existing clients of Baupost and their families. The Fund will not enlist the assistance of an outside broker-dealer to market its shares and there is no intention to advertise the fund in newspapers or other media.

6. For the foreseeable future after the Exchange is accomplished, Baupost intends to manage the Fund in substantially the same manner as it previously managed the Partnership, except as may be necessary or desirable (a) to qualify as a regulated investment company under the Internal Revenue Code, (b) to comply with investment restrictions adopted by the Fund in accordance with the requirements of the 1940 Act or the securities laws of states where shares will be offered or (c) in light of changed market conditions.

7. The Exchange will be effectuated pursuant to an agreement and plan of exchange (the "Plan") to be approved both by a majority in number of the general partners and by a majority in interest of the limited partners of the Partnership, in accordance with the Partnership Agreement. A registration statement under the 1933 Act on Form N–14 relating to the Exchange has been filed on behalf of the Fund. Solicitation of limited partner approval of the Plan will be made by means of a prospectus/proxy statement that forms part of the N–14 registration statement. The prospectus/proxy statement will disclose all material facts relevant to a consideration of the Exchange, including, but not limited to, the nature of and reasons for the Exchange, the tax and other consequences to the partners of the Partnership, the financial information required by Form N–14, and comparisons of the Fund and the Partnership in terms of their investment objectives and policies, fee structures, management structures and other aspects of their operations.

8. The Exchange will benefit partners of the Partnership, who will gain the benefits of liquidity (Fund shares, unlike Partnership interests, will not be subject to trading restrictions) and diversification (the Fund's pool of assets should be larger than the Partnership's because the Fund is not limited to 100 shareholders). Moreover, the Exchange will not result in the recognition of any gain or loss by the partners and will allow the Fund to acquire portfolio securities without incurring brokerage expenses.

9. No brokerage commission, fee or other remuneration will be paid in connection with the Exchange. Neither the limited partners nor Baupost, Klarman, Stevenson, or Poorvu will receive any financial benefit from the Exchange except for their pro rata interest in shares of the Fund distributed by the Partnership upon its dissolution and the generalized benefits described in the preceding paragraph.

10. The Exchange will not be effected unless and until each of the following has occurred: (a) The N–1A and N–14 registration statements have been declared effective; (b) the Plan has been approved by a majority in number of the general partners and by a majority in interest of the limited partners of the Partnership; (c) the SEC has issued an order relating to this application; and (d) the Fund has received a favorable opinion of counsel regarding the tax consequences of the Exchange to the

Fund, the Partnership, and the limited partners.

11. The Partnership pays Baupost a quarterly fee for its advisory and custodial services equal to .10% of the Partnership's net asset value on the last day of each calendar quarter. Each limited partner also pays Baupost a quarterly fee of .15% of the net asset value of his account, subject to adjustment in certain circumstances. The Partnership pays all of its own operating expenses.

12. The Fund will pay Baupost a quarterly management fee at the annual rate of 1.0% of the Fund's average net assets. The Fund will also pay Baupost a quarterly administrative fee at the annual rate of .25% of the Fund's average net assets for acting as the Fund's transfer and dividend disbursing agent and administrator. Baupost has agreed to reduce its management fee by up to .75% until further notice to the extent that the Fund's total annual expenses (including the management and administrative fees, but excluding brokerage commissions, transfer taxes, interest and expenses relating to preserving the value of the Fund's investments) would otherwise exceed 1.5% of the Fund's average net assets. The Fund pays all of its own operating expenses.

13. The Fund will bear all costs incurred in connection with the Exchange and the organization of the Fund, which are estimated to be $150,000.

14. The board of trustees of the Fund has considered the desirability of the Exchange from the point of view of both the Fund and the Partnership, and a majority of the board, including a majority of the noninterested trustees, has concluded that (a) the Exchange is in the best interests of the Fund, the Partnership, and the limited partners of the Partnership, (b) the Exchange will not dilute the financial interests of the Fund's sole shareholder (Poorvu) or of the partners of the Partnership when their interests are converted to shares of the Fund, and (c) the terms of the Exchange as reflected in the Plan have been designed to meet the criteria contained in section 17(b) of the 1940 Act, i.e., that the Exchange be reasonable and fair, not involve overreaching and be consistent with the policies of the Fund.

15. The general partners of the Partnership have considered the desirability of the Exchange from the point of view of the Partnership, and a majority of the general partners have concluded that (a) the Exchange is in the best interest of the Partnership and the limited partners thereof, and (2) the Exchange will not dilute the financial interests of the partners when their Partnership interests are converted to Fund shares.

Applicant's Legal Conclusions

1. Applicants seek an exemption pursuant to section 17(b) of the Act from the provisions of section 17(a) to the extent necessary to permit the Fund to acquire the assets of the Partnership in exchange for Fund shares. Section 17(a), in pertinent part, prohibits an affiliated person of a registered investment company, or an affiliated person of such affiliated person, from selling to or purchasing from such investment company any security or other property. The Partnership, Baupost, Klarman, Stevenson, and Poorvu may all be considered affiliates, or affiliates of affiliates, of the Fund under section 2(a)(3)(C) of the Act.

2. Section 17(b) of the Act authorizes the SEC to exempt any person from the provisions of section 17(a) if evidence establishes that: (a) The terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, (b) the proposed transaction is consistent with the policy of the registered company concerned, and (c) the proposed transaction is consistent with the general purposes of the Act.

3. After the Exchange, former limited partners will hold substantially the same assets as Fund shareholders as they had previously held as limited partners. In this sense, the Exchange can be viewed as a change in the form in which assets are held, rather than as a disposition giving rise to section 17(a) concerns. In any event, applicants assert that the Exchange meets all of the standards of section 17(b).

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-25077 Filed 10-23-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17609; 811-4668]

Flexsecure

October 17, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: Flexsecure.

RELEVANT 1940 ACT SECTIONS: Section 8(f) and Rule 8f-1 thereunder.

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on September 24, 1990.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on November 13, 1990. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, Flexsecure, c/o Security Benefit Life Insurance Company, 700 Harrison, Topeka, Kansas 66636.

FOR FURTHER INFORMATION CONTACT: Evelyn C. Maloney, Legal Technician, (202) 272-2011, or Heidi Stam, Assistant Chief (202) 272-2060, Office of Insurance Products and Legal Compliance (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. The Applicant, a unit investment trust registered as an investment company under the 1940 Act, is a separate account of Security Benefit Life Insurance Company. A registration statement was filed on May 13, 1988 (File No. 33-21740) for an indefinite amount of shares of the same title and class. The registration statement was never declared effective and therefore no public offering was commenced.

2. The Applicant has never had any assets nor has it ever had any securityholders.

3. The Applicant has not debts or liabilities which remain outstanding.

4. The Applicant is not a party to any litigation or administrative proceedings.

5. The Applicant is not now engaged, nor does it propose to engage, in any business activities other than those

necessary for the winding-up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-25078 Filed 10-23-90; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 1277]

United States Organization for the International Telegraph and Telephone Consultative Committee (CCITT), Study Group B; Meeting

The Department of State announces that Study Group B (Switching, Signaling, and ISDN) of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on Wednesday, November 7, 1990, 9:30 a.m., in Conference Room 1912, Department of State, 2201 C Street NW., Washington, DC 20520.

The agenda for the meeting is as follows:

1. Approve September 12 meeting minutes.
2. Review results and activities of CCITT Study Group XI Meeting (October 1–12).
3. Consider contributions—
—CCITT Study Group XVIII (November 26–December 7)
—Others appropriate for Study Group B
4. Review Recommendations G.702, G.704, G.705, G.707, G.708, G.709, I.113, I.121, I.150, I.211, I.311, I.321, I.327, I.361, I.362, I.363, I.413, I.432, and I.610 to be approved at Study Group XVIII Meeting according to Resolution No. 2 procedures.
5. Consider nominations for U.S. delegation to Study Group XVIII Meeting.
6. Other business.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chair. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should so advise the Office of Earl S. Barbely, Department of State, 202–647–2592 (fax 202–647–7407). The above includes government and non-government attendees. All attendees must use the C Street entrance.

Dated: October 11, 1990.

Earl S. Barbely,

Director, Telecommunications and Information Standards, Chairman U.S. CCITT National Committee.

[FR Doc. 90-25095 Filed 10-23-90; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice 1278]

Shipping Coordinating Committee; Meeting

The National Committee for the Prevention of Marine Pollution (NCPMP), a subcommittee of the Shipping Coordinating Committee, will conduct an open meeting on November 7, 1990, at 9:30 a.m. in room 2415 of U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC.

The purpose of this meeting will be to review the agenda items to be considered at the thirtieth session of the International Maritime Organization's (IMO) Marine Environment Protection Committee (MEPC) scheduled for November 12–16, 1990. Proposed U.S. position on MEPC agenda item issues will be discussed.

The major items for discussion will be the following:

1. Amendments to the International Convention for the Prevention of Pollution for Ships, 1973, and the Protocols related thereto, 1978, as amended, (MARPOL 73/78), for the provision of shipboard oil spill response plans. The MEPC will be considering the form and content of such plans.
2. Adoption of amendments to MARPOL 73/78 to designate the Antarctic Area as a special area under Annexes I and V. This proposal is unique in that the required reception facilities for oily and garbage wastes would not be permitted to be located in the Antarctic Area. The flag state of the vessels entering the Antarctic Area would have the primary burden of ensuring that adequate reception facilities are provided.
3. Adoption of amendments to the 1973 Intervention Protocol to the International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969.
4. Prevention of air pollution from ships, including fuel oil quality. The text of the resolution from the Helsinski Commission will be considered concerning harmful emissions of chlorofluorocarbons.
5. Continued development of drafts for section 2 (Search and Recovery of Packaged Goods Lost at Sea) of the IMO Manual on Chemical Pollution. At this session of MEPC, experts will be dealing with the actions to be taken in case of loss of explosives and radioactive materials.
6. Enforcement of pollution conventions; specifically, violations of conventions and penalties imposed, and reports on marine pollution incidents.
7. Use of tributyl tin compounds in antifouling paints for ships. The U.S. has prepared and submitted a resolution to the MEPC concerning proposed control measures for tributyl tin compounds.
8. Inter-related work of other Committees and Subcommittees.

Following this meeting, at 1 p.m., the NCPMP will conduct an open meeting to review the agenda items to be considered at the Conference on International Cooperation on Oil Pollution Preparedness and Response (OPPR) scheduled for November 19–30, 1990. Proposed U.S. positions on the articles of the proposed convention will be discussed.

The major items for discussion will be the following:

1. The mechanisms by which IMO can best facilitate and coordinate provision of information, advisory services, and technical assistance to Parties engaged in oil pollution preparedness or spoil response.
2. Requirements for oil spill response plans for commercial vessels. The form and content of such plans will be discussed.
3. Promotion of research and development efforts into pollution response and the sharing of such information among interested parties.
4. Promotion of bilateral and multilateral cooperation in pollution spill preparedness and response.
5. Development of procedures for reimbursement of governments providing assistance in pollution response.

Members of the public may attend both meetings up to the seating capacity of the room.

For further information pertaining to these NCPMP meetings, contact either Commander W. St. J. Chubb or Lieutenant M.L. McEwen, U.S. Coast Guard Headquarters (G–MEP–3), 2100 Second Street SW., Washington, DC 20593, Telephone: (202) 267–0419.

Dated October 16, 1990.

Stephen M. Miller,

Acting Chairman, Shipping Coordinating Committee.

[FR Doc. 90-25096 Filed 10-23-90; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice 1278]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Working Group on Ship Design and Equipment; Meeting

The Working Group on Ship Design and Equipment of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting on November 7, 1990 at 9:30 a.m. in room 6419 at United States Coast Guard Headquarters, 2100 2nd Street SW., Washington, DC.

The purpose of the meeting will be to prepare for the 34th Session of the International Maritime Organization (IMO) Subcommittee on Ship Design and Equipment (DE) scheduled for March 4 to 8, 1991. Items of discussion will include the following: Use on board ships of ozone-depleting halons; guidelines on standard calculations for anchor positioning systems for MODUs: Guidelines for dynamic positioning systems for MODUs and ships engaged in similar operations; materials other than steel for pipes; maneuverability of ships and maneuvering standards; helicopter facilities offshore; revision of design and construction requirements in the 1977 Torremolinos Convention; requirements for purpose and non-purpose-built ships dedicated to the carriage of irradiated nuclear fuel; development of a code on alarms and indicators; amendments of regulation II-1/45 of SOLAS 1974, as amended; ventilation of vehicle decks during loading and unloading; review of implementation status of Assembly resolutions related to the work of the Subcommittee; underpressure in cargo oil tanks due to oil outflow after damage; carriage of dangerous goods on vehicle decks of passenger ships; consideration of the introduction of the Harmonized System of Surveys and Certification into the MODU Code; standards for shipboard incinerators for disposing of ship-generated waste; revision of the Code of Safety for Dynamically Supported Craft; hull cracking on ships; fuel line failures; bilge de-watering requirements in open-top container ships; review of the adequacy of IMO instruments in preventing and mitigating marine pollution incidents; and, the role of the human element in maritime casualties.

Members of the public may attend up to the seating capacity of the room.

The IMO DE Subcommittee works to develop international agreements, guidelines, and standards for machinery, equipment, and systems as these relate to the marine industry. In most cases, these international agreements, guidelines, and standards form the basis for national standards/regulations and class society rules. The U.S. SOLAS Working Group supports the U.S. Representative to the IMO DE Subcommittee in developing the U.S. position on those issues raised at the IMO DE Subcommittee meetings. Because of the impact on domestic regulations through development of these international guidelines, standards, and regulations, the U.S. SOLAS Working Group serves as an excellent forum for the U.S. maritime industry to express their ideas. All shipping companies, shipyards, design firms, naval architects, marine engineers, and consultants are encouraged to send representatives to participate in the development of U.S. positions on those issues affecting your maritime industry and remain abreast of all activities ongoing within IMO DE. Since these meetings are open to the public, anyone may attend.

For further information contact Captain T.E. Thompson at (202) 267-2967, U.S. Coast Guard Headquarters (G-MTH), 2100 Second Street, SW., Washington, DC 20593-0001.

Dated: October 16, 1990.

Stephen M. Miller,

Acting Chairman, Shipping Coordinating Committee.

[FR Doc. 90-25087 Filed 10-23-90; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Portland International Jetport, Portland, ME; FAA Approval of Noise Compatibility Program

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the City of Portland, Maine under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96-52 (1980). On March 27, 1990, the FAA determined that the noise exposure maps, submitted by the City of Portland, Maine, under part 150, were in compliance with applicable requirements. On September 21, 1990, the Administrator approved the Portland International Jetport (PWM) noise compatibility program. Out of the 18 proposed program elements 17 were approved. One was approved in part.

EFFECTIVE DATE: The effective date of the FAA's approval of the PWM noise compatibility program is September 21, 1990.

FOR FURTHER INFORMATION CONTACT: John C. Silva, Federal Aviation Administration, New England Region, Airports Division, ANE-602, 12 New England Executive Park, Burlington, Massachusetts 01803, Telephone (617) 273-7060.

Documents reflecting this FAA action may be obtained from the same individual.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the PWM noise compatibility program, effective September 21, 1990.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter the Act), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing non-compatible land uses and prevention of additional non-compatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulation (FAR), part 150 is a local program, not a federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval or FAR part 150 program recommendations is measured according to the standards expressed in part 150 and the Act, and is limited to the following determinations:

(a) the noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

(b) Program measures are reasonably consistent with achieving the goals of reducing existing non-compatible land uses around the airpt and preventing the introduction of additional non-compatible land uses;

(c) Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant

agreements, or intrude into areas preempted by the federal government; and

(d) Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator as prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, § 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, State, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA under the Airport and Airway Improvement Act of 1982. Where Federal funding is sought, requests for project grants must be submitted to the FAA Regional Office in Burlington, Massachusetts.

The city of Portland submitted to the FAA, on December 27, 1988, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from November 1986 to November 1988. The PWM noise exposure maps were determined by FAA to be in compliance with applicable requirements on March 27, 1990. Notice of this determination was published in the Federal Register on May 1, 1990.

The PWM study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to beyond the year 1990. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 104(b) of the Act. The FAA began its review of the program on March 27, 1990, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such a program within the 180-day period shall be deemed to be an approval of such a program.

The submitted program contained 18 proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR part 150 have been satisfied. The overall program, therefore, was approved by the Administrator effective September 21, 1990.

Approval was granted for 17 specific program elements. One element (monitoring proposals for new scheduled operations between 11:30 p.m. and 6:15 a.m.) was approved in part.

The 17 approved program elements include a noise barrier, engine runup building, preferential runway use, preferential arrival and departure routes, noise abatement departure profiles, Noise Abatement Committee review of implementation, quantitative review of changes in noise exposure, and land use measures which deal with land acquisition and relocation, soundproofing, easement acquisition, airport zoning and real estate disclosure.

FAA's determinations are set forth in detail in a Record of Approval endorsed by the Assistant Administrator September 21, 1990. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the office of the Airport Manager, Portland International Jetport, 1001 Westbrook Street, Portland, Maine.

Issued in Burlington, Massachusetts on October 10, 1990.

Vincent A. Scarano,

Manager, Airports Division, New England Region.

[FR Doc. 90-25140 Filed 10-23-90; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-90-43]

Petitions for Exemptions; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before: November 14, 1990.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Petition Docket No. _____, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), room 915G, FAA Headquarters Building (FOB) 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on October 18, 1990.

Denise Donohue Hall,

Manager, Program Management Staff, Office of the Chief Counsel.

Petitions for Exemption

Docket No.: 25052.

Petitioner: Temsco Helicopters, Inc.

Sections of the FAR Affected: 14 CFR 135.203(a)(1).

Description of Relief Sought: To extend Exemption No. 4760A, which allows petitioner and other air taxi/commercial operators to conduct seaplane operations inside the Ketchikan, Alaska, control zone under Special Visual Flight Rules below 500 feet above the surface. Exemption No. 4760A will expire on February 28, 1991.

Docket No. 26340.

Petitioner: Delta Air Lines, Inc.

Sections of the FAR Affected: 14 CFR 121.433, 121.440, and 121.441.

Description of Relief Sought: To allow petitioner to conduct a single annual visit recurrent-training program for its pilots as a transition to the advanced qualification program.

Disposition of Petitions

Docket No.: 24808.
Petitioner: Pan American World Airways.
Sections of the FAR Affected: 14 CFR 121.440, 121.433, and 121.441 and Part 121, Appendix F.
Description of Relief Sought/ Disposition: To extend Exemption No. 4833, as amended, that allows petitioner to combine recurrent training and proficiency checks for pilots in command into one annual training and proficiency check session. In addition, the exemption allows the line check required by § 121.440 to be administered 6 months subsequent to the annual training and proficiency check session in lieu of the recurrent training.

Grant, October 10, 1990, Exemption No. 4833B

Docket No.: 25482.
Petitioner: Acme School of Aeronautics.
Sections of the FAR Affected: 14 CFR 141.65.
Description of Relief Sought/ Disposition: To amend and extend Exemption No. 4919, as amended, which permits petitioner to hold examining authority for flight instructor and airline transport pilot written tests. The amendment would clarify the language of the conditions and limitations of the exemption.

Grant, October 12, 1990, Exemption No. 4919B

Docket No.: 25636.
Petitioner: International Aero Engines.
Sections of the FAR Affected: 14 CFR 21.325 (b)(1) and (b)(3).
Description of Relief Sought/ Disposition: To extend Exemption No. 4991 that allows export airworthiness approvals to be issued for Class I products (engines) assembled and tested in the United Kingdom and Class II and III products manufactured in the International Aero Engines consortium countries of Italy, West Germany, Japan, and the United Kingdom.

Grant, October 10, 1990, Exemption No. 4991A

Docket No.: 25844.
Petitioner: 4 W Air.
Sections of the FAR Affected: 14 CFR 43.3(g).
Description of Relief Sought/ Disposition: To allow properly trained pilots employed by petitioner to perform the task of converting the cabins of certain aircraft from passenger to cargo configurations, and the reverse, using the aircraft manufacturer's instructions for guidance, when such aircraft are specifically designed to be so converted.

Grant, October 5, 1990, Exemption No. 5242.

[FR Doc. 90-25137 Filed 10-23-90; 8:45 am]
BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA) Executive Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., appendix I), notice is hereby given for the meeting of the Executive Committee to be held November 16, 1990, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., suite 500, Washington, DC 20005, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's remarks and introductions; (2) Approval of the September 27, 1990, Executive Committee meeting minutes; (3) Executive Director's report; (4) Special Committee activities report for September-October 1990; (5) Review/ approve 1991 operating and 1992 planning budgets; (6) Consideration for approval of Special Committee reports; (7) Consideration of proposals to establish new Special Committees; (a) Boeing request to establish a new Special Committee on Automatic Dependent Surveillance; (b) FAA request to establish a Special Committee for the review and update of DO-198, Minimum Operational Performance Standards for Airborne MLS Area Navigation Equipment; (c) ARINC request to establish a new Special Committee that will address VHF transceivers optimized for data communications; (8) Other business; (9) Date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on October 17, 1990.

Geoffrey R. McIntyre,
Designated Officer.

[FR Doc. 90-25138 Filed 10-23-90; 8:45 am]
BILLING CODE 4910-13-M

Federal Highway Administration

National Motor Carrier Advisory Committee; Meetings

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The FHWA announces that the National Motor Carrier Advisory Committee will hold its next regularly scheduled meeting on November 1-2, 1990, at the U.S. Department of Transportation Headquarters, 400 Seventh Street SW., Washington, DC 20590. The meeting will begin at 8:30 a.m. on both days, in room 4234 and is open to the public.

Topics to be discussed include the diesel fuel situation, DOT reauthorization proposal, truck accident data, long-term highway financing, uniformity, and the National Governors' Association Consensus Agenda.

FOR FURTHER INFORMATION CONTACT: Mr. Douglas J. McKelvey, Federal Highway Administration, HIA-20, room 3104, 400 Seventh Street SW., Washington, DC 20590, (202) 366-1861. Office hours are from 7:45 a.m. to 4:15 p.m., est., Monday through Friday, except for legal holidays.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: October 17, 1990.

T.D. Larson,
Administrator.

[FR Doc. 90-25125 Filed 10-23-90; 8:45 am]
BILLING CODE 4910-22-M

Urban Mass Transportation Administration; UMTA Section 3 and 9 Grant Obligations

AGENCY: Urban Mass Transportation Administration (UMTA), DOT.

ACTION: Notice.

SUMMARY: The Department of Transportation and Related Agencies Appropriations Act, 1990, Public Law 101-164, signed into law by President George Bush on November 21, 1989, contained a provision requiring the Urban Mass Transportation Administration to publish an announcement in the Federal Register every 30 days of grants obligated pursuant to Sections 3 and 9 of Urban Mass Transportation Act of 1964, as amended. The statute requires that the announcement include the grant number, the grant amount, and the transit property receiving each grant. This notice provides the information as required by statute.

FOR FURTHER INFORMATION CONTACT: Janet Lynn Sahaj, Chief, Resource Management Division, Office of Capital and Formula Assistance, Department of Transportation, Urban Mass Transportation Administration, Office of Grants Management, 400 Seventh Street SW., room 9301, Washington, DC 20590, (202) 366-2053.

SUPPLEMENTARY INFORMATION: The section 3 program was established by the Urban Mass Transportation Act of 1964 to provide capital assistance to eligible recipients in urban areas. Funding for this program is distributed on a discretionary basis. The Section 9 formula program was established by the Surface Transportation Assistance Act of 1982. Funds appropriated to this program are allocated on a formula basis to provide capital and operating assistance in urbanized areas. Pursuant to the statute UMTA reports the following grant information:

SECTION 3 GRANTS

Transit property	Grant number	Grant amount	Obligation date
Santa Cruz Metropolitan Transit District, Santa Cruz, CA	CA-03-0353-00	$75,000	09/28/90
Yolo County Transit Authority, Sacramento, CA	CA-03-0357-00	757,000	09/28/90
Connecticut Department of Transportation, Connecticut	CT-03-0066-00	16,572,000	09/24/90
Norwalk Transit District, Norwalk, CT	CT-03-0077-00	4,800,000	09/28/90
Washington Metropolitan Area Transit Authority, Washington, DC, MD, VA	DC-03-0022-00	4,613,000	09/20/90
Metropolitan Dade Transit Agency, Miami, FL	FL-03-0065-01	20,100,000	09/28/90
Metropolitan Dade Transit Agency, Miami, FL	FL-03-0106-00	3,375,000	09/28/90
Lakeland Area Mass Transit District, Lakeland, FL	FL-03-0107-00	219,999	09/27/90
Bloomington-Normal Public Transit System, Bloomington-Normal, IL	IL-03-0148-00	418,500	09/28/90
City of Chicago, Chicago, IL-Northwestern, IN	IL-03-0150-00	992,015	09/17/90
City of Decatur, Decatur, IL	IL-03-0151-00	91,500	09/28/90
Greater Peoria Mass Transit District, Peoria, IL	IL-03-0152-00	2,499,999	09/28/90
Northern Indiana Commuter Transportation District, Chicago, IL-Northwestern, IN	IN-03-0060-00	2,250,000	09/28/90
Northern Indiana Commuter Transporation District, Chicago, IL-Northwestern IN	IN-03-0061-00	16,062,999	09/28/90
Kansas Department of Transportation, Kansas	KS-03-0011-00	450,000	09/28/90
Massachusetts Bay Transportation Authority, Boston, MA	MA-03-0165-00	44,250,000	09/13/90
Brockton Area Transit Authority, Brockton, MA	MA-03-0167-00	3,999,999	09/28/90
Grand Rapids Area Transit Authority, Grand Rapids, MI	MI-03-0118-00	1,074,015	09/28/90
Michigan Dept. of Transportation, Michigan	MI-03-0119-00	3,147,612	09/28/90
Metropolitan Transit Commission, Minneapolis-St Paul, MN	MN-03-0042-00	8,124,998	09/28/90
Bi-State Development Agency, St Louis, MO-IL	MO-03-0027-01	58,511,012	09/27/90
City of Farmington, Farmington, MO	MO-03-0028-00	16,000	09/27/90
Missouri Highway and Transportation Department, Missouri	MO-03-0029-00	2,550,000	09/28/90
Great Falls Transit District, Great Falls, MT	MT-03-0010-00	1,579,617	09/27/90
City of Billings, Billings, MT	MT-03-0013-00	1,931,250	09/27/90
City of Charlotte, Charlotte, NC	NC-03-0025-00	3,881,250	09/27/90
City of Lincoln, Lincoln, NE	NE-03-0024-00	831,000	09/28/90
New York Metropolitan Transportation Authority, New York, NY-Northeastern, NJ	NY-03-0250-00	2,512,500	09/21/90
New York City Department of Transportation, New York, NY-Northeastern, NJ	NY-03-0259-00	3,538,125	09/21/90
Tri-County Metropolitan Transportation District of Oregon, Portland, OR-WA	OR-03-0038-00	14,200,000	09/28/90
City of Philadelphia, Philadelphia, PA-NJ	PA-03-0068-05	1,104,744	09/20/90
Port Authority of Allegheny County, Pittsburgh, PA	PA-03-0204-01	5,000,001	09/27/90
Port Authority of Allegheny County, Pittsburgh, PA	PA-03-0214-00	3,999,999	09/28/90
Metropolitan Bus Authority, San Juan, PR	PR-03-0040-00	3,000,000	09/27/90
Rhode Island Department of Transportation, Providence-Paw-War, MA-RI	RI-03-0014-00	248,625	09/28/90
Brazos Valley Community Action Agency, Bryan-College Station, TX	TX-03-0135-00	173,424	09/28/90
Potomac and Rappahannock Transportation Commission, Prince William County, Virginia	VA-03-0039-00	3,511,248	09/28/90
Peninsula Transportation District Commission, Newport News-Hampton, VA	VA-03-0045-00	3,600,000	09/27/90
Pierce County Public Transportation Benefit Area, Tacoma, WA	WA-03-0067-00	2,533,332	09/27/90
Grays Harbor Transportation Authority, Hoquiam, Washington	WA-03-0068-00	1,170,000	09/28/90

SECTION 9 GRANTS

Transit Property	Grant number	Grant amount	Obligation date
Municipality of Anchorage, Anchorage, AK	AK-90-X009-00	$796,997	09/28/90
Birmingham-Jefferson County Transit Authority, Birmingham, AL	AL-90-X021-02	66,000	09/27/90
Tuscaloosa County Parking and Transit Authority, Tuscaloosa, AL	AL-90-X048-00	216,520	09/20/90
Mobile Transit Authority, Mobile, AL	AL-90-X049-00	1,594,351	09/28/90
Alabama Highway Department, Columbus, GA-AL	AL-90-X050-00	850,500	09/28/90
Alabama Highway Department, Columbus, GA.-AL	AL-90-X051-00	196,000	09/28/90
City of Huntsville, Huntsville, AL	AL-90-X052-00	822,180	09/28/90
Metropolitan Transit Development Board, San Diego, CA	CA-90-X110-04	2,300,000	09/28/90
Metropolitan Transit Development Board, San Diego, CA	CA-90-X327-02	208,000	09/28/90
Metropolitan Transit Development Board, San Diego, CA	CA-90-X376-00	10,851,199	09/28/90

SECTION 9 GRANTS—Continued

Transit Property	Grant number	Grant amount	Obligation date
Southern California Rapid Transit District, Los Angeles-Long Beach, CA	CA-90-X377-03	$4,472,000	09/26/90
Southern California Rapid Transit District, Los Angeles-Long Beach, CA	CA-90-X377-02	4,972,000	09/26/90
North San Diego County Transit Development Board, San Diego, CA	CA-90-X387-01	2,982,400	09/28/90
City of Santa Maria Area Transit, Santa Maria, CA	CA-90-X401-00	1,005,609	09/29/90
Yolo County Transit Authority, Sacramento, CA	CA-90-X404-00	123,096	09/29/90
South Coast Area Transit, Oxnard-Ventura-1,000 Oaks, CA	CA-90-X405-00	1,582,073	09/26/90
City of Riverside, San Bernardino-Riverside, CA	CA-90-X406-00	146,400	09/28/90
City of Laguna Beach, Los Angeles-Long Beach, CA	CA-90-X407-00	206,000	09/29/90
Santa Cruz Metropolitan Transit District, Santa Cruz, CA	CA-90-X408-00	882,886	09/28/90
Riverside Transit Agency, San Bernardino-Riverside, CA	CA-90-X409-00	2,030,754	09/25/90
Riverside Transit Agency, San Bernardino-Riverside, CA	CA-90-X410-00	279,891	09/25/90
San Diego Association of Governments, San Diego, CA	CA-90-X412-00	400,000	09/25/90
Valley Regional Planning Agency, Bridgeport, CT	CT-90-X164-00	160,000	09/28/90
Milford Transit District, Bridgeport, CT	CT-90-X170-00	223,000	09/29/90
Greater Bridgeport Regional Planning Agency, Bridgeport, CT	CT-90-X171-00	48,000	09/29/90
Midstate Regional Planning Agency, Meriden, CT	CT-90-X172-00	50,000	09/29/90
Greater Waterbury Transit District, Waterbury, CT	CT-90-X173-00	206,000	09/28/90
Greater Bridgeport Transit District, Bridgeport, CT	CT-90-X174-00	6,966,800	09/25/90
Connecticut Department of Transportation, Connecticut	CT-90-X176-00	9,429,880	09/25/90
Central Connecticut Regional Planning Agency, Bristol, CT	CT-90-X177-00	36,400	09/25/90
Capitol Region Council of Governments, Hartford, CT	CT-90-X178-00	55,246	09/29/90
Delaware Transportation Authority, Delaware	DE-90-X009-01	120,021	09/19/90
Metropolitan Dade Transit Agency, Miami, FL	FL-90-X140-01	480,000	09/29/90
Manatee County Board of County Commissioners, Sarasota-Bradenton, FL	FL-90-X153-00	771,895	09/27/90
Pasco County Board of County Commissioners, St. Petersburg, FL	FL-90-X154-00	245,470	09/28/90
Pinellas Suncoast Transit Authority, St. Petersburg, FL	FL-90-X155-00	5,086,565	09/28/90
Okaloosa County Board of County Commissioners, Fort Walton Beach, FL	FL-90-X157-00	112,745	09/26/90
Panama City Urbanized Area Metropolitan Planning Organization, Panama City, FL	FL-90-X158-00	64,000	09/26/90
Georgia Dept. of Transportation—Bureau of Public Transportation, Georgia	GA-90-X058-00	3,384,843	09/26/90
City of Kankakee, Kankakee, Illinois	IL-90-X164-00	16,042	09/29/90
City of Danville, Danville, IL	IL-90-X166-00	1,214,600	09/29/90
South Bend Public Transportation Corporation, South Bend, IN-MI	IN-90-X136-01	64,346	09/28/90
East Chicago Bus Transit System, Chicago, IL-Northwestern IN	IN-90-X140-00	312,437	09/25/90
Evansville Urban Transit Study, Evansville, IN-KY	IN-90-X141-00	1,485,742	09/28/90
Gary Public Transportation Corporation, Chicago, IL-Northwestern IN	IN-90-X142-00	2,587,949	09/26/90
Michiana Area Council of Governments, South Bend, IN-MI	IN-90-X143-00	479,382	09/28/90
City of Alexandria, Alexandria, LA	LA-90-X107-00	1,299,400	09/21/90
City of Shreveport, Shreveport, LA	LA-90-X110-00	1,334,604	09/28/90
Pioneer Valley Transit Authority, Springfield Chic-Holy, MA-CT	MA-90-X100-01	378,864	09/26/90
Mass Transit Administration, Baltimore, MD	MD-90-X043-03	1,057,353	09/25/90
Lewiston-Auburn Transit Committee, Lewiston-Auburn, ME	ME-90-X050-00	8,750	09/28/90
Duluth Transit Authority, Duluth-Superior, MN-WI	MN-90-X049-00	177,038	09/26/90
City of Columbia Department of Public Works, Columbia, MO	MO-90-X070-00	330,724	09/25/90
City of St. Joseph, St. Joseph, MO-KS	MO-90-X072-00	567,200	09/28/90
Central Mississippi Planning and Development District, Jackson, MS	MS-90-X034-00	10,264	09/28/90
City of Jackson—Mayor's Office of Development Assistance, Jackson, MS	MS-90-X035-00	1,090,376	09/27/90
City of Billings, Billings, MT	MT-90-X028-00	966,146	09/25/90
City of Fayetteville, Fayetteville, NC	NC-90-X113-00	945,376	09/26/90
Town of Chapel Hill, Durham, NC	NC-90-X114-00	1,263,970	09/25/90
City of Wilmington, Wilmington, NC	NC-90-X115-00	391,316	09/28/90
Guilford County, Greensboro, NC	NC-90-X116-00	297,052	09/26/90
City of Gastonia, Gastonia, NC	NC-90-X118-00	796,826	09/27/90
City of Winston-Salem, Winston-Salem, NC	NC-90-X119-00	1,406,149	09/28/90
City of Bismarck, Bismarck-Mandan, ND	ND-90-X022-00	176,700	09/28/90
City of Lincoln, Lincoln, NE	NE-90-X020-01	450,400	09/28/90
Omaha Metro Area Transit, Omaha, NE-IA	NE-90-X026-00	168,000	09/28/90
City of Nashua, Nashua, NH	NH-90-X023-00	824,701	09/28/90
Cooperative Alliance for Seacoast Transportation, Portsmouth-Dover-Roch, NW	NH-90-X024-00	366,695	09/28/90
City of Albuquerque, Albuquerque, NM	MN-90-X029-00	1,646,121	09/28/90
City of Rome, V.I.P. Transportation, Utica-Rome, NY	NY-90-X186-00	141,477	09/27/90
City of Poughkeepsie, Poughkeepsie, NY	NY-90-X189-00	560,000	09/27/90
Broome County, Binghamton, NY	NY-90-X190-00	1,781,351	09/26/90
Central Ohio Transit Authority, Columbus, OH	OH-90-X107-01	1,600,000	09/28/90
Southwest Ohio Regional Transit Authority, Cincinnati, OH-KY	OH-90-X123-01	96,000	09/28/90
Southwest Ohio Regional Transit Authority, Cincinnati, OH-KY	OH-90-X130-01	364,000	09/28/90
Canton Regional Transit Authority, Canton, OH	OH-90-X132-01	4,000	09/28/90
Central Ohio Transit Authority, Columbus, OH	OH-90-X135-00	74,400	09/28/90
Ohio Dept. of Transportation, Columbus, OH	OH-90-X136-00	5,893,857	09/28/90
Enid Public Transportation Authority, Enid, OK	OK-90-X025-00	316,150	09/28/90

SECTION 9 GRANTS—Continued

Transit Property	Grant number	Grant amount	Obligation date
County of Lackawanna Transit System, Scranton-Wilkes Barre, PA	PA-90-X147-04	119,061	09/14/90
Cumberland-Dauphin-Harrisburg Transit Authority, Harrisburg, PA	PA-90-X197-00	282,418	09/26/90
Commonwealth of Puerto Rico—Department of Transp. and Public Works, San Juan, PR	PR-90-X011-05	2,500,000	09/27/90
Municipality of Cayano, San Juan, PR	PR-90-X013-01	200,000	09/26/90
Municipality of Canovanas, San Juan, PR	PR-90-X032-03	125,000	09/26/90
Municipality of Aguadilla, Aguadilla, PR	PR-90-X036-01	1,592,132	09/26/90
Municipality of Loiza, San Juan, PR	PR-90-X048-01	160,000	09/26/90
Municipality of Arecibo, Arecibo, PR	PR-90-X054-00	160,000	09/27/90
Municipality of Moca, Aguadilla, PR	PR-90-X057-00	40,000	09/26/90
Rhode Island Department of Transportation, Providence-Paw-War, MA-RI	RI-90-X015-00	1,057,812	09/26/90
City of Anderson, Anderson, SC	SC-90-X034-00	169,500	09/26/90
City of Charleston, Charleston, SC	SC-90-X039-00	1,701,787	09/26/90
City of Bristol, Tennessee, Bristol, TN-VA	TN-90-X062-01	80,000	09/26/90
City of Clarksville, Clarksville, TN-KY	TN-90-X063-02	624,800	09/26/90
City of Kingsport, Kingsport, TN-VA	TN-90-X067-00	164,890	09/26/90
Capital Metropolitan Transportation Authority, Austin, TX	TX-90-X091-03	875,362	09/24/90
City of Port Arthur, Port Arthur, TX	TX-90-X111-01	116,000	09/26/90
City of Arlington, Dallas-Ft. Worth, TX	TX-90-X159-00	527,000	09/26/90
City of Brownsville, Brownsville, TX	TX-90-X191-00	2,961,260	09/26/90
City of Abilene, Abilene, TX	TX-90-X192-00	2,200,280	09/26/90
Texoma Council of Governments, Sherman-Denison, TX	TX-90-X194-00	219,821	09/26/90
Permian Basin Regional Planning Commission, Midland, TX	TX-90-X195-00	40,000	09/26/90
City of Lubbock, Lubbock, TX	TX-90-X196-00	1,843,000	09/26/90
City of Waco, Waco, TX	TX-90-X197-00	427,539	09/26/90
City of Port Arthur, Port Arthur, TX	TX-90-X198-00	1,467,320	09/26/90
Brazos Valley Community Action Agency, Bryan-College Station, TX	TX-90-X199-00	447,408	09/26/90
Tidewater Transportation District Commission, Norfolk-Portsmouth, VA	VA-90-X073-01	560,000	09/26/90
City of Bristol, Virginia, Bristol, TN-VA	VA-90-X077-00	80,067	09/26/90
City of Petersburg, Petersburg-Col Hgts-Hope, VA	VA-90-X078-00	274,139	09/26/90
City of Charlottesville, Charlottesville, VA	VA-90-X079-00	694,097	09/27/90
Greater Richmond Transit Company, Richmond, VA	VA-90-X080-00	719,200	09/26/90
Greater Lynchburg Transit Company, Lynchburg, VA	VA-90-X081-00	579,743	09/26/90
Washington State Department of Transportation Marine Division, Seattle, Washington	WA-90-X106-00	1,200,000	09/26/90
City of Yakima, Yakima, WA	WA-90-X109-00	1,544,222	09/26/90
City of Green Bay Transit System, Green Bay, WI	WI-90-X121-01	15,400	09/26/90
City of Eau Claire Transit System, Eau Claire, WI	WI-90-X133-00	346,368	09/26/90
City of Racine, Racine, WI	WI-90-X134-00	1,245,034	09/26/90
City of Sheboygan, Sheboygan, WI	WI-90-X136-00	4,000	09/26/90
City of Madison, Madison, WI	WI-90-X137-00	191,462	09/26/90
Kanawha Valley Regional Transportation Authority, Charleston, WV	WV-90-X038-00	180,000	09/26/90
Tri-State Transit Authority, Huntington-Ash, WV-KY-OH	WV-90-X039-00	743,409	09/27/90
Eastern Ohio/Ohio Valley Regional Transportation Authority, Wheeling, OH-WV	WV-90-X040-00	858,856	09/27/90
City of Casper, Casper, WY	WY-90-X008-00	352,409	09/26/90

Brian W. Clymer,
Administrator.

[FR Doc. 90-25079 Filed 10-23-90; 8:45 am]
BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC-59; OTS No. 4956]

FirstSouth Savings Association, Pittsburgh, PA; Final Action; Approval of Conversion Application

Notice is hereby given that on October 3, 1990, the office of the Chief Counsel, Office of the Thrift Supervision, acting pursuant to the delegated authority, approved the application of FirstSouth Savings Association, Pittsburgh, Pennsylvania, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552, and District Director, Office of Thrift Supervision of Pittsburgh, One Riverfront Center, 20 Stanwix Street, Pittsburgh, Pennsylvania 15222-4893.

Dated: October 10, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,
Executive Secretary.

[FR Doc. 90-25082 Filed 10-23-90; 8:45 am]
BILLING CODE 6720-01-M

[AC-59]

United Federal Savings Bank, Galesburg, IL; Final Action; Approval of Conversion Application

Notice is hereby given that on October 10, 1990, the Director of the Office of Thrift Supervision, or his designee acting pursuant to delegated authority, approved the application of United Federal Savings Bank, Galesburg, Illinois, for permission to convert to the stock form of organization pursuant to a supervisory conversion. Copies of the approval are available for inspection at the Secretariat, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552.

Dated: October 10, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-25093 Filed 10-23-90; 8:45 am]

BILLING CODE 6720-01-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 206
Wednesday, October 24, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 55 FR 41167, October 9, 1990.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 11:30 a.m., Friday, October 12, 1990.

CHANGE IN THE MEETING: The Commission has cancelled the closed meeting to discuss enforcement matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, Secretary of the Commission.

Jean A. Webb,
Secretary for the Commission.

[FR Doc. 90-25222 Filed 10-22-90; 2:19 pm]
BILLING CODE 6351-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of October 22, 29, November 5, and 12, 1990.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of October 22

Thursday, October 25

10:00 a.m.
Periodic Briefing on Industry Implementation of Generic Safety Issues (Public Meeting)

Friday, October 26

10:00 a.m.
Briefing on NUMARC's Perspective of the State of the Nuclear Industry (Public Meeting)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Intervenors' Motion to Reopen the Record in Seabrook and to Shutdown the Reactor

Week of October 29—Tentative

Monday, October 29

10:00 a.m.
Briefing on Issues Raised by the Provision Requiring Title Transfer of Low Level Waste (Public Meeting)

Tuesday, October 30

10:00 a.m.
Briefing on Nonprescriptive Nuclear Safety Regulation (Public Meeting)

Wednesday, October 31

10:00 a.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of November 5—Tentative

Thursday, November 8

10:00 a.m.
Briefing on Progress of Research in the Area of Organization and Management (Public Meeting)

2:00 p.m.
Periodic Meeting with the Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of November 12—Tentative

Friday, November 16

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

ADDITIONAL INFORMATION: By a vote of 4–0 on October 17, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Affirmation of Final Rule: Interim Procedures for Agency Appellate Review" (Public Meeting), be held on October 17 and on less than one week's notice to the public.

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To Verify the Status of Meetings Call (Recording)—(301) 492–0292

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492–1661.

Dated: October 18, 1990.

Andrew L. Bates,
Office of the Secretary.

[FR Doc. 90-25220 Filed 10-22-90; 2:19 pm]
BILLING CODE 7590-01-M

federal register

Wednesday
October 24, 1990

Part II

Department of Housing and Urban Development

Office of Assistant Secretary

Public Housing Development/Major Reconstruction of Obsolete Public Housing, FY 1990; Invitation for New and Revised Applications; Notice

VOL 55 ISS 206 OCT 24 1990 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Public and Indian Housing

[Docket No. N-90-3089; FR-2765-N-03]

Revision to Notice of Fund Availability: Public Housing Development/Major Reconstruction of Obsolete Public Housing, Fiscal Year 1990—Invitation for New and Revised Applications

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Revision to notice of fund availability (Revised NOFA); invitation for new and revised applications.

SUMMARY: On June 18, 1990 (55 FR 24816), the Department published in the Federal Register a notice announcing the availability of FY 1990 funding, and inviting eligible Public Housing Agencies (PHAs) to submit applications, for public housing development, or for the Major Reconstruction of Obsolete Public Housing (MROP) program, or for both programs (June 18, 1990 NOFA). The Department has determined that some aspects of the June 18, 1990 NOFA were flawed. Many of the applications were missing information or exhibits. In previous fiscal years, these documents would have been accepted after the application deadline, but the June 18, 1990 NOFA contained no process for correcting application deficiencies after the deadline date. In addition, the Department's June 18, 1990 NOFA imposed a strict priority for large family MROP applications, which did not realistically correspond to MROP needs. In fact, 15 MROP applications were submitted, but only one was found to be approvable under the June 18, 1990 NOFA. Given these circumstances, the Department elects to revise the June 18, 1990 NOFA.

This notice revises the June 18, 1990 NOFA to: (1) Afford eligible PHAs the opportunity to correct deficiencies in applications submitted under the June 18, 1990 NOFA; (2) modify the large family housing requirement for MROP applications; and (3) afford eligible PHAs, which previously did not submit applications under the June 18, 1990 NOFA, the opportunity to submit applications under the Revised NOFA. (The phrase "Revised NOFA" means the June 18, 1990 NOFA, as revised by this notice.) Applications previously submitted in response to the June 18, 1990 NOFA will be considered under the criteria of the Revised NOFA. The procedures for application submission under the Revised NOFA, and the criteria revised by this notice, are set forth in the Supplementary Information section of this document.

FOR FURTHER INFORMATION CONTACT: The HUD Field Office for the PHA's jurisdiction.

SUPPLEMENTARY INFORMATION:

1. Application Invitation

The Department of Housing and Urban Development (HUD) is accepting, and all eligible PHAs are invited to submit, new applications, and applications revised to correct deficiencies in applications previously submitted under the June 18, 1990 NOFA. Applications submitted under the June 18, 1990 NOFA which are not revised will be considered under the criteria prescribed by the Revised NOFA. All revised or new applications must be received by the Field Office by close of business (local time) on November 23, 1990.

2. Application Screening

Immediately after the deadline for receipt of applications under the Revised NOFA, Field Offices will screen each application to determine whether all information and exhibits required by the Revised NOFA were submitted. If an application lacks any information or exhibits, the PHA will be advised in writing, and will have 14 calendar days from the date of the issuance of such notification to deliver the missing information or documentation to the Field Office.

3. MROP Housing Type

Subparagraphs 4(i) and 9(b) of the June 18, 1990 NOFA are modified to exempt MROP applications from the requirement that only housing consisting of three or more bedrooms may be approved unless a Field Office written determination is made that there is little or no need for large family housing. MROP applications are also exempt from the requirements of section 6(j) of the United States Housing Act of 1937 which pertains to priority consideration to housing projects suitable for occupancy by families requiring three or more bedrooms.

4. Funding Assignments

Threshold approvable "fair-share exempt" applications and applications to be funded from the Headquarters Reserve shall have funds set aside before the balance of available funds is allocated to Regional Offices on the basis of fair-share factors. The following factors have been changed because of the transfer of the Caribbean Office from New York to the Atlanta Region:

Region	Fair-share factors (Percentage)
II. New York	18
IV. Atlanta	14

Within 100 calendar days of the PHA application submission deadline, each Regional Administrator shall submit to Headquarters a list identifying the 15 highest ranked "other" development and/or MROP projects.

Dated: October 17, 1990.

Joseph G. Schiff,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 90-25111 Filed 10-23-90; 8:45 am]

BILLING CODE 4210-33-M

federal register

Wednesday
October 24, 1990

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 23

Small Airplane Airworthiness Review Program Notice No. 4; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. 26269, Notice No. 90-18A]

RIN 2120-AD29

Small Airplane Airworthiness Review Program Notice No. 4

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Extension of Comment Period.

SUMMARY: This notice announces the extension of the comment period for the notice of proposed rulemaking (NPRM) for airframe and flight airworthiness standards resulting from the small airplane airworthiness review. The extension responds to a request from the Joint Airworthiness Authorities (JAA). The extension is needed to permit the JAA additional time to provide substantive response to the NPRM.

DATES: The comment period is being extended from October 25, 1990 to December 14, 1990.

ADDRESSES: Comments on this notice may be mailed in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Docket No. 26269, 800 Independence Avenue SW., Washington, DC 20591, or delivered in triplicate to room 915-G, 800 Independence Avenue SW., Washington DC 20591. Comments delivered must be marked Docket No. 26269. Comments may be inspected in room 915-G between 8:30 a.m. and 5 p.m. on weekdays, except on Federal holidays.

In addition, the FAA is maintaining an information docket of comments in the Office of the Assistant Chief Counsel, ACE-7, Federal Aviation Administration, Central Region, 601 East 12th Street, Kansas City, Missouri 64106. Comments in the information docket may be inspected in the Office of the Assistant Chief Counsel weekdays, except Federal holidays between the hours of 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Victor F. Sokoloski, Aerospace Engineer, Standards Office (ACE-110), Aircraft Certification Service, Central Region, Federal Aviation Administration, room 1544, 601 East 12th Street, Federal Office Building, Kansas City, Missouri 64106; telephone (816) 426-5688.

SUPPLEMENTARY INFORMATION: On June 28, 1990, the FAA issued Notice 90-18, Small Small Airplane Airworthiness Review Program Notice No. 4 (55 FR 26594). This resulted from proposals received at the Small Airplane Airworthiness Review Conference held on October 22-26, 1984, in St. Louis, Missouri.

By letter dated October 9, 1990, the Joint Airworthiness Authorities (JAA) requested that the FAA extend the comment period for Notice 90-18 in order to enable the JAA-23 Study Group to coordinate a European position. In view of the possibility of obtaining additional technical information and to provide for a more consistent set of airworthiness standards, the FAA agrees that it would be in the best interest of all concerned to grant the request. Accordingly, the comment period is being extended to December 14, 1990, to afford all interested persons the opportunity to comment on this notice.

Issued in Washington, DC on October 19, 1990.

Thomas E. McSweeny,

Deputy Director, Aircraft Certification Service, AIR-2.

[FR Doc. 90-25136 Filed 10-23-90; 8:45 am]

BILLING CODE 4910-13-M

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federal register

Wednesday
October 24, 1990

Part IV

Nuclear Regulatory Commission

10 CFR Part 2

Interim Procedures for Agency Appellate Review and Options and Procedures for Direct Commission Review of Licensing Board Decisions; Final Rule and Proposed Rule

BEST COPY AVAILABLE

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

RIN 3150-AD77

Interim Procedures for Agency Appellate Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: This final rule puts into place a transition plan which the Nuclear Regulatory Commission (NRC) is adopting to handle all appeals from initial decisions of presiding officers in all formal and informal agency adjudications, and certain other appellate and related matters, which are filed from the day after the date of publication of this final rule until the effective date of a final rule to be issued pursuant to the Commission's ongoing rulemaking proceeding for establishing procedures for direct agency appellate review by the Commission. A notice of proposed rulemaking in that proceeding is being published in this issue of the Federal Register. As that proposed rule explains, a new procedural system for direct appellate review by the Commission is necessitated by the Commission's recent decision to abolish the Atomic Safety and Licensing Appeal Panel which heretofore has provided an intermediate level of appeal as of right from initial decisions. The transition plan implemented by this final rule provides that, with certain exceptions, the Commission, rather than an appeal board, will provide agency appellate review for appellate matters filed in the interim period between the day after the date of this final rule and the effective date of a final appellate review rule. The Commission review, in this interim period, will follow existing procedures. Specific appellate matters which are pending before appeal boards on the date of this final rule will be decided by the appeal boards.

EFFECTIVE DATE: October 25, 1990.

FOR FURTHER INFORMATION CONTACT: E. Neil Jensen, Senior Attorney, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301–492–1634.

SUPPLEMENTARY INFORMATION: In a companion document published in this issue of the Federal Register, the NRC announces a proposed rulemaking to establish procedures for direct review of initial decisions of presiding officers in all formal and informal agency adjudications by the commissioners of the NRC. Direct review by the commissioners will replace review by appeal boards constituted from the Atomic Safety and Licensing Appeal Panel. The Commission has decided to abolish the Appeal Panel. The notice of proposed rulemaking proposes to adopt a discretionary system of Commission review and invites comments on that choice and on what particular procedures should be adopted.

This final rule implements the plan the Commission is adopting to provide for an orderly transition from appellate review by appeal boards to appellate review by the Commission. The Commission has determined that an orderly transition will be assisted by the commissioners taking to themselves, with certain exceptions, all appeals and other appellate and related matters (including appeals from initial decisions, interlocutory appeals and motions, certified questions, referrals and petitions for directed certification) filed in the period beginning one day after publication of this document and ending on the effective date of a final rule. The Commission review during this interim period will follow existing procedures. Thus the present right of parties to a mandatory review on the merits of initial decisions will not be affected. All appeals and other appellate and related matters pending before an appeal board on the date of publication of this notice will be decided by the appeal board under current regulations.

This transition plan will enable appeal boards to conclude their work on pending appeals without interruption by new ones. In addition, by allowing appeal boards to complete all pending matters the work already expended on these matters will not be lost.

The Commission has allowed for an exception to the requirement that all new appellate matters be filed with it. If a filing is closely related to a matter currently pending before an appeal board, it should be decided by the appeal board even if it is filed after the date of publication of this final rule. For example, a motion for stay pending an appeal on a matter that is pending before an appeal board should be decided by the appeal board even if filed after the effective date of this final rule. Under this exception the Commission expects the appeal board to continue performing its currently pending appellate functions in the Seabrook operating license proceeding.

This will conserve agency resources by assuring that an appeal board will be able to make use of its familiarity with a case to decide pending matters connected with the case. The appeal board is to decide in the first instance whether papers filed with it should be referred to the Commission under this transition plan.

The final rule being issued today amends certain of the Commission's regulations to make them consistent with this transition plan. Thus, the authorization for appeal boards to exercise the authority and perform the review functions which would otherwise be exercised and performed by the Commission in 10 CFR 2.785 and 2.1255 is revoked with respect to new appellate matters. 10 CFR 2.788 is amended to make clear that stay requests in the interim period are not to be filed with an appeal board unless closely related to a matter currently pending before the appeal board. Similarly, 10 CFR 2.1015 is amended to make clear that appeals governed by that regulation are to be filed with the Commission and not with an appeal board.

The Commission's procedure in 10 CFR 2.786 for filing a petition for review of an appeal board decision or action with the Commission remains effective for cases pending before an appeal board on the date of publication of this notice. Such a petition for review will be superfluous and will not be available to a party whose appeal is heard by the Commission under the transition plan. However, the Commission's procedure at § 2.771 for petitioning for reconsideration of a Commission decision remains effective.

Because this amendment preserves the right of parties to a merits review of initial decisions of presiding officers and relates solely to matters of agency practice, notice of proposed rulemaking and public procedures thereon are unnecessary and the amendment may be made effective upon publication without deferring effectiveness for 30 days.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final regulation.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget approval number 3150-0136.

Regulatory Analysis

The Commission needs a plan to achieve an efficient transition between agency appellate review by appeal boards and agency appellate review by the Commission. The transition plan put in place by this rule change will have no effect on parties other than to change the forum for appellate review of initial decisions in affected proceedings. The transition plan will, however, enable appeal boards to complete their work on existing cases without being interrupted by new appeals. By leaving all pending appellate matters for resolution by appeal boards, this transition plan also prevents any potential loss in the efforts already expended by an appeal board. Thus the cost entailed in the promulgation and application of this final rule is necessary and appropriate. The foregoing discussion constitutes the regulatory analysis for this rule.

Backfit Analysis

This rule does not modify or add to systems, structures, components, or design of a production or utilization facility; the design approval or manufacturing license for a production or utilization facility; or the procedures or organization required to design, construct, or operate a production or utilization facility. Accordingly, no backfit analysis pursuant to 10 CFR 50.109 is required for this final rule.

List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalties, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the Nuclear Regulatory Commission is adopting the following amendments to 10 CFR part 2:

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

1. The authority citation for part 2 continues to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87-615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114(f), Pub. L. 97-425, 96 Stat. 2213, as amended (42 U.S.C. 10134(f)); sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2239). Section 2.105 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 186, 234, 68 Stat. 955, 83 Stat. 444, as amended (42 U.S.C. 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued 5 U.S.C. 557. Section 2.764 and Table 1A of Appendix C also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85-256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239; sec. 134, Pub. L. 97-425, 96 Stat. 2230 (42 U.S.C. 10154). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91-560, 84 Stat. 1473 (42 U.S.C. 2135). Appendix B also issued under sec. 10, Pub. L. 99-240, 99 Stat. 1842 (42 U.S.C. 2021b et seq.).

2. Section 2.785 is amended to add the following note:

§ 2.785 Functions of Atomic Safety and Licensing Appeal Board.

* * * * *

Note: Pending completion of the Commission's ongoing rulemaking proceeding for establishing procedures for direct Commission review of initial decisions, i.e., until the effective date of a final rule, the authorization of Atomic Safety and Licensing Appeal Boards to exercise the authority and perform the review functions which would otherwise be exercised and performed by the Commission is restricted as set forth in paragraphs (a) and (b) of this note, notwithstanding any provisions of this regulation to the contrary.

(a) Appeal boards are authorized to decide all appeals and other appellate and related matters (including appeals from initial decisions, interlocutory appeals and motions, certified questions, referrals and petitions for directed certification) pending before an appeal board on October 24, 1990.

(b) Appeal boards are not authorized to decide appeals and other appellate and related matters filed in the period beginning October 25, 1990, and ending on the effective date of a final rule in the rulemaking proceeding referred to above, unless a filing is closely related to a matter currently pending before an appeal board. Appeals and other appellate and related matters filed in this period will be decided by the Commission under current regulations. The appeal board should decide in the first instance whether papers filed with it should be referred to the Commission under the terms of this Note.

3. Section 2.786 is amended to add the following note:

§ 2.786 Stays of decisions of presiding officers and Atomic Safety and Licensing Appeal Boards pending review.

* * * * *

Note: Pending completion of the Commission's ongoing rulemaking proceeding establishing procedures for direct Commission review of initial decisions, requests for stays of decisions of presiding officers shall not be filed with an Atomic Safety and Licensing Appeal Board in the period beginning October 25, 1990, unless a stay request is related closely to a matter currently pending before an appeal board.

4. Section 2.1015 is amended to add the following note:

§ 2.1015 Appeals.

* * * * *

Note: Any appeal taken pursuant to the terms of this regulation after October 24, 1990, shall be filed with the Commission rather than with an Atomic Safety and Licensing Appeal Board notwithstanding any provisions of this regulation to the contrary.

5. Section 2.1255 is amended to add the following note:

§ 2.1255 Review by the Atomic Safety and Licensing Appeal Board.

* * * * *

Note: Pending completion of the Commission's ongoing rulemaking proceeding for establishing procedures for direct Commission review of initial decisions, i.e., until the effective date of a final rule, the authorization of Atomic Safety and Licensing Appeal Boards to exercise the authority and perform the review functions which would otherwise be exercised and performed by the Commission is restricted as set forth in paragraphs (a) and (b) of this note, notwithstanding any provisions of this regulation to the contrary.

(a) Appeal boards are authorized to decide all appeals and other appellate and related matters (including appeals from initial decisions, interlocutory appeals and motions, certified questions, referrals and petitions for directed certification) pending before an appeal board on October 24, 1990.

(b) Appeal boards are not authorized to decide appeals and other appellate and related matters filed in the period beginning October 25, 1990, and ending on the effective date of a final rule in the rulemaking proceeding referred to above *unless* a filing is closely related to a matter currently pending

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before an appeal board. Appeals and other appellate and related matters filed in this period will be decided by the Commission under current regulations. Appeal boards should decide in the first instance whether papers filed with it should be referred to the Commission under the terms of this Note.

Dated at Rockville, Maryland, this 18th day of October 1990.

For the Nuclear Regulatory Commission.
Samuel J. Chilk,
Secretary of the Commission.

[FR Doc. 90-25115 Filed 10-23-90; 8:45 am]
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NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

RIN 3150-AD73

Options and Procedures for Direct Commission Review of Licensing Board Decisions

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to provide rules of procedure for direct Commission review of the initial decisions of presiding officers in all formal and informal adjudicatory proceedings. These regulatory changes are necessitated by the Commission's decision to abolish the Atomic Safety and Licensing Appeal Panel (ASLAP or Appeal Panel) which now provides an intermediate level of review of initial decisions of presiding officers in Commission adjudications. The Commissioners of the Nuclear Regulatory Commission will now themselves review initial decisions. The two broad alternatives for a new agency appellate review system are mandatory review, in which the Commission will review initial decisions on the merits on the appeal of a party (as appeal boards presently do) or discretionary review, in which the Commission will consider petitions for review and, in its discretion, take or reject review (as the Commission presently does with respect to appeal board decisions). The Commission seeks public comments on (1) the advantages and disadvantages of these two types of review systems, and (2) necessary or desirable procedural changes incident to either system, e.g., if a discretionary system is chosen, what should be the standard for the Commission taking discretionary review.

DATES: The comment period expires December 10, 1990. Comments received after this date will be considered if it is practical to do so, but assurance of consideration is given only for comments filed on or before that date.

ADDRESSES: Submit written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Docketing and Service Branch. Hand deliver comments to: Office of the Secretary, Docketing and Service Branch, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: E. Neil Jensen, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301-492-1634.

SUPPLEMENTARY INFORMATION: Section 189a of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)) provides a right to a hearing to any person whose interest may be affected

> [i]n any proceeding under this Act, for the granting, suspending, revoking, or amending of any license or construction permit, or application to transfer control, and in any proceeding for the issuance or modification of rules and regulations dealing with the activities of licensees, and in any proceeding for the payment of compensation, an award, or royalties under sections 153, 157, 186c, or 186 [of the Act].

The Commission now implements this statutory requirement through a three-stage process: (1)The presiding officer (usually a licensing board or an administrative law judge) [1] issues an initial decision; (2) a party may appeal the initial decision to an appeal board constituted from the ASLAP for a review on the merits; and (3) the appeal board's decision is then subject to discretionary review by the Commission, either on its own initiative (*sua sponte*) or by petition of a party.

Since the Commission was established in 1975, the bulk of its adjudicatory functions were associated with contested nuclear power reactor construction permit and operating license proceedings. Now, after 15 years of sometimes long and complex administrative litigation, only one such proceeding remains. That proceeding, considering the Seabrook operating license, is now in the appellate stage and is likely to be completed in the next fiscal year.

When the Appeal Board was established by the Atomic Energy Commission in 1969, an intermediate level of review was thought necessary in order to focus the Commissioner's time on important policy matters rather than on routine appeals in the numerous cases then pending. When the Commission was established in 1975, the Appeal Panel was continued for the same reason. In the years since 1969 the Appeal Panel has developed a consistent, well-reasoned, and well-articulated body of case law which assured both safety and the due process rights of parties to nuclear licensing proceedings. The members of the ASLAP must be commended for their sustained, outstanding performance. However, the impending completion of the last major operating license proceeding, as well as the shift in the fundamental character of agency litigation away from licensing proceedings on power plants, present the Commission with an opportunity to restructure the NRC's appellate process and to address some of the criticisms that have been directed to the Commission's isolation from that process over the years by, for example, the Kemeny Commission and the Rogovin Special Inquiry Group. Direct Commission review of licensing board decisions will enable the Commission to increase its direct involvement in agency adjudications, provide earlier regulatory and policy guidance in litigation, and remove some of the overly-judicialized layers of formal appellate procedures that have evloved over the years. Thus the Commission is now faced with the need to devise a procedural mechanism whereby the Commission itself will provide some type of appellate review of licensing board decisions in lieu of that now provided by appeal boards. By its decision to abolish the Appeal panel, the Commission does not intend to abrogate the existing body of appeal board case law and begin writing on a clean slate. To the extend consistent with the procedural rule changes contemplated by this notice, and any other rule change that may be made in the future, existing appeal board precedent may still be cited and relied upon, and will be modified only on a case-by-case basis as issues arise, as any body of case law is modified over time.

I. Options and Procedures for Direct Commission Review of Licensing Board Decisions

In sums, there are two broad options for direct Commission review of initial decisions: discretionary review and mandatory review. Each option can be implemented with a variety of procedures. When using either option under consideration the Commission will need to examine each decision to determine if review at the Commission's own initiative (*sua sponte*) is warranted. The Commission will also be required to decide the merits of certain types of adjudicatory decisions, such as questions certified to the Commission and stay motions. The Commission is not at this time proposing any changes to its standards for interlocutory review or stay motions.

[1] For simplicity, these initial decisions will be referred to as licensing board decisions; however, all initial adjudicatory decisions are covered by this notice of proposed rulemaking.

A. Discretionary Commission Review of Licensing Board Decisions

An appellate system in which the Commission would allow only discretionary review of licensing board decisions, either upon petition of a party or *sua sponte*, is consistent with both the Atomic Energy Act and the Administrative Procedure Act. The advantage of a discretionary review system is that it would enable the Commission to focus its attention only on those cases that meet its standard for granting review.

A disadvantage to a discretionary review system is the possibility that the licensing board's decision might be appealed to a court without any petition for review having been submitted to the agency (which would alert the agency to potential problems with the decision) and in advance of the Commission deciding whether to take review to correct possible problems with the decision. This would occur if (1) the Commission permits the licensing or other action authorized by the licensing board's decision to take place at the time the decision issues [3] and (2) the court does not require the petitioner to file a discretionary petition for review with the agency before coming to court.

The Commission can prevent premature judicial review from occurring by continuing its immediate effectiveness regulation so that the more significant licensing board decisions will not become effective immediately. In addition, NRC's rules of practice could be amended to make explicit that the filing of a petition for review with the Commission is a remedy available before the decision becomes final. The Commission will thereby be creating a potential procedural remedy for a disappointed party which the party will need to exhaust before going to court.

If the Commission adopts a discretionary review system, it will need to establish standards for taking review. At the time the Atomic Safety and Licensing Board was established in 1962 to preside over contested adjudications, the Commission provided for discretionary petitions for review which were evaluated according to the following standard:

The petition for review may be granted in the discretion of the Commission, giving due weight to the existence of a substantial question with respect to such considerations as the following:

(1) A finding of a material fact is clearly erroneous;

(2) A necessary legal conclusion is without governing precedent or is a departure from or contrary to established law;

(3) A substantial and important question of law, policy or discretion has been raised;

(4) The conduct of the proceeding involved a prejudicial procedural error; or

(5) Any other consideration which the Commission may deem to be in the public interest.

10 CFR 2.762(d) (1962). The Commission's present regulation governing acceptance of petitions for review of appeal board decisions, 10 CFR 2.786(b)(4), is somewhat more restrictive:

(i) A petition for review of matters of law or policy will not ordinarily be granted unless it appears the case involves an important matter that could significantly affect the environment, the public health and safety, or the common defense and security, constitutes an important antitrust question, involves an important procedural issue, or otherwise raises important questions of public policy.

This regulation further provides that a petition for review of matters of fact will not be granted absent contrary decisions by the licensing board and the appeal board. However, the Commission has retained supervisory authority to review decisions regardless whether the review standards are met. The advantage of the less restrictive standard is that it gives the Commission greater discretion to review licensing board decisions consistent with its inherent supervisory authority.

B. Mandatory Commission Review of Licensing Board Decisions

If the Commission decides to grant an appeal as-of-right to parties before the licensing board, it will be necessary to review on the merits whatever "errors of fact or law" a party may choose to appeal. *See* 10 CFR 2.762(d)(1). A possible advantage of providing a mandatory review system is that it requires a high degree of Commission involvement because all matters properly appealed would have to be decided by the Commission itself. However, in many routine cases this degree of involvement would be unnecessary. The Commission could retain its present system of allowing licensing to go forward pending a final agency decision if the immediate effectiveness criteria were met and no stay was warranted.

Proposal

The Commission proposes that a discretionary review system be adopted. It will be administratively more efficient in that Commission review would be reserved for only those cases found by the Commission to have a particular problem. Acceptable licensing board decisions would not require further merits review, thus expeditiously ending the adjudicatory proceeding. However, comments are invited on this choice.

The Commission further proposes a review standard like that which applied when the Atomic Safety and Licensing Board was established in 1962. With this revised standard, the review system the Commission has in mind will operate procedurally like the current certiorari Commission review system (10 CFR 2.786). There will be a short petition for review which will need to be filed within a fixed period (perhaps 20 days). If the petition is granted, a schedule will be set for full briefing and the sequence and length of briefs will be established. Decisions on the need for oral argument will be made on a case-by-case basis. Following briefing and any oral argument, a final merits decision will be issued. If the petition for review is denied, and there is no *sua sponte* review, the Licensing Board's decision will become final. Comments are invited on the review standard and review procedures described in this proposed approach.

To assist the Commission in performing its appellate adjudicatory functions, which primarily involves reviewing the licensing board decision and the sometimes voluminous record on which the decision is based and drafting decisions, the Commission will need to use an existing organization or establish a separate opinion writing office. While this is primarily a matter of internal Commission organization, comments are invited on the choice.

II. Transition Plan

Whatever review option is adopted, parties will need to know how cases pending while the final rule is under consideration will be handled. The Commission's transition plan for these cases is as follows.

All appeals and other appellate and related matters (including appeals from initial decisions, interlocutory appeals and motions, certified questions, referrals and petitions for directed certification) pending before an appeal board on the date of publication of this notice will be decided by the appeal board under current regulations. All appeals and other appellate and related matters filed in the period beginning one day after publication of this notice and ending on the effective date of the final rule shall be filed with the Commission, with the Commission assuming the

[3] Under agency practice, finality and effectiveness are not the same: certain licensing board decisions (those comprised within NRC's immediate effectiveness rule (10 CFR 2.764)) can be effective, so the license may be issued, even though the decision is still under Commission review and is therefore not final.

decision role that would otherwise have been performed by the appeal board. However, if a filing is related closely to a matter to be decided by an appeal board, it should be decided by the appeal board even if it is filed after the date of publication of this notice. For example, a motion for stay pending an appeal before the appeal board should be decided by the appeal board even if filed after the date of publication. The appeal board should decide in the first instance whether papers filed with it should be referred to the Commission under this transition plan. The Secretary may refer papers improperly filed with the Commission to an appeal board.

The NRC is publishing in this issue of the Federal Register, in a companion document, a final rule amending certain of its regulations to make them consistent with the transition plan described above.

Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed regulation is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed regulation.

Paperwork Reduction Review

This proposed rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*).

Regulatory Analysis

Section 189a(1) of the Atomic Energy Act (42 U.S.C. 2239) affords any person whose interest may be affected a right to a hearing

> [i]n any proceeding under this Act, for the granting, suspending, revoking, or amending of any license or construction permit, or application to transfer control, and in any proceeding for the issuance or modification of rules and regulations dealing with the activities of licensees, and in any proceeding for the payment of compensation, an award, or royalties under sections 153, 157, 186c, or 188. . . .

The Commission's procedural rules now provide an intermediate layer of administrative appellate review of initial decisions of presiding officers by appeal boards constituted from the ASLAP. However, the Commission has recently determined to abolish the ASLAP. In its place, the Commission intends to establish a mechanism for direct review of decisions of presiding officers by the Commission. The two broad alternative mechanisms being considered by the Commission are a mandatory system of agency appellate review and a discretionary system of agency appellate review. The cost of whatever mechanism is eventually adopted is not expected to be significantly more, in terms of the time and resources needed by the Commission and parties to achieve administrative appellate review of initial decisions, than the present system of appellate review by appeal boards. If a discretionary system is ultimately adopted, the cost for the parties as well as for the Commission in the time and resources needed for appellate review of initial decisions is likely to be less. It is thus apparent that the cost entailed in the promulgation and application of this proposed rule is necessary and appropriate. The foregoing discussion constitutes the regulatory analysis for this proposed rule.

Regulatory Flexibility Certification

The proposed rule will not have a significant economic impact upon a substantial number of small entities. Many applicants, licensees and intervenors fall within the definition of small businesses found in section 34 of the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR part 121, or the NRC's size standards published December 9, 1985 (50 FR 50241). If a discretionary review system is adopted, the procedural requirements on licensees or intervenors may be reduced because they will not need to fully brief errors of fact or law that they may perceive in a presiding officer's decision prior to seeking judicial review unless the Commission first determines to take review of the decision. Licensees and intervenors will, however, need to file petitions for discretionary review with the Commission if they perceive errors in the presiding officer's decision and intend to seek judicial review. If a mandatory review system is adopted, the burden on licensees and intervenors will be substantially the same as it is at present. Thus, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), the NRC hereby certifies that this rule, if promulgated, will not have a significant economic impact upon a substantial number of small entities.

Backfit Analysis

This proposed rule does not modify or add to systems, structures, components, or design of a production or utilization facility; the design approval or manufacturing license for a production or utilization facility; or the procedures or organization required to design, construct, or operate a production or utilization facility. Accordingly, no backfit analysis pursuant to 10 CFR 50.109(c) is required for this proposed rule.

List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalties, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the Nuclear Regulatory Commission is proposing to adopt amendments to 10 CFR part 2. After consideration of public comments, a final rule and notice of final rulemaking will be prepared and published.

Dated at Rockville, Maryland, this 18th day of October 1990.

For the Nuclear Regulatory Commission.
Samuel J. Chilk,
Secretary of the Commission.

[FR Doc. 90-25116 Filed 10-23-90; 8:45 am]
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October 24, 1990

Part V

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Parts 27 and 52

Federal Acquisition Regulation (FAR); Rights in Technical Data; Advanced Notice of Proposed Rulemaking

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 27 and 52

Federal Acquisition Regulation (FAR); Rights in Technical Data

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Spac.. dministration (NASA).

ACTION: Advanced notice of proposed rule making; change in meeting location.

SUMMARY: The Department of Defense, General Services Administration and the National Aeronautics and Space Administration published an advanced notice of proposed rulemaking on Rights in Technical Data on October 15, 1990, (55 FR 41788). The original public hearing location for all public hearings was to be at the U.S. Chamber of Commerce. This document changes the public hearing location and time for the first public hearing, October 26, 1990.

DATES: The public hearing on October 26, 1990, will be held from 10:00 am to 5:30 pm local time.

ADDRESSES: The public hearing on October 26, 1990, will be held in Room 1E245, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585. Note: Participants should plan to arrive early to allow time for building security.

FOR FURTHER INFORMATION CONTACT: Linda W. Neilson, telephone (703) 697-7266.

(40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c)).

Nancy L. Ladd,

Colonel (sel), USAF, Director, Defense Acquisition Regulatory System.

[FR Doc. 90-25366 Filed 10-23-90; 11:03 am]

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LIST OF PUBLIC LAWS

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523-6641. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.R. 4739/Pub. L. 101-436

Rio Grande American Canal Extension Act of 1990. (Oct. 18, 1990; 104 Stat. 1001; 3 pages) Price: $1.00

H.J. Res. 662/Pub. L. 101-437

Designating October 1990 as "National Domestic Violence Awareness Month". (Oct. 18, 1990; 104 Stat. 1004; 2 pages) Price: $1.00

S. 247/Pub. L. 101-440

State Energy Efficiency Programs Improvement Act of 1990. (Oct. 18, 1990; 104 Stat. 1006; 11 pages) Price: $1.00

S. 930/Pub. L. 101-441

To amend Public Law 98-547, establishing the Blackstone

River Valley National Heritage Corridor 1 Commission, to authorize the Commission to take immediate action in furtherance of its purposes and to increase the authorization of appropriations for the Commission. (Oct. 18, 1990; 104 Stat. 1017; 2 pages) Price: $1.00

S. 3457/Pub. L. 101-445

To authorize the acquisition of certain lands in the States of Louisiana and Mississippi for inclusion in the Vicksburg National Military Park, to improve the management of certain public lands in the State of Minnesota, and for other purposes. (Oct. 18, 1990; 104 Stat. 1019; 9 pages) Price: $1.00

H.R. 3489/Pub. L. 101-443

Connecticut Coastal Protection Act of 1990. (Oct. 16, 1990; 104 Stat. 1023; 2 pages) Price: $1.00

H.J. Res. 677/Pub. L. 101-444

Making further continuing appropriations for the fiscal year 1991, and for other purposes. (Oct. 19, 1990; 104 Stat. 1030; 4 pages) Price: $1.00

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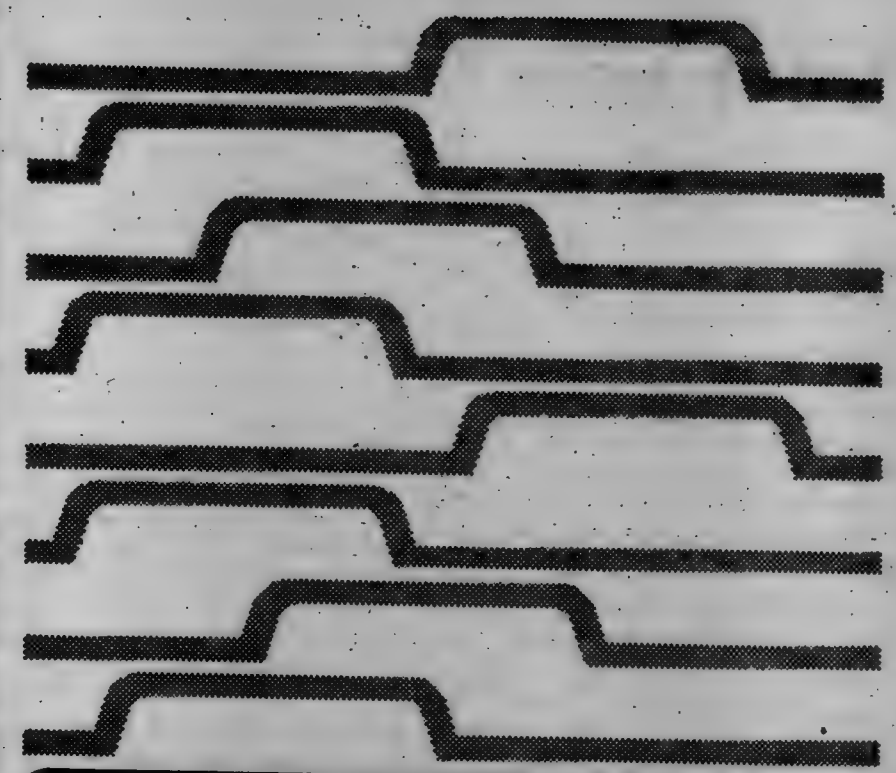

Guide to Record Retention Requirements

in the Code of Federal Regulations (CFR)

GUIDE: Revised January 1, 1989
SUPPLEMENT: Revised January 1, 1990

The GUIDE and the SUPPLEMENT should be used together. This useful reference tool, compiled from agency regulations, is designed to assist anyone with Federal recordkeeping obligations.

The various abstracts in the GUIDE tell the user (1) what records must be kept, (2) who must keep them, and (3) how long they must be kept.

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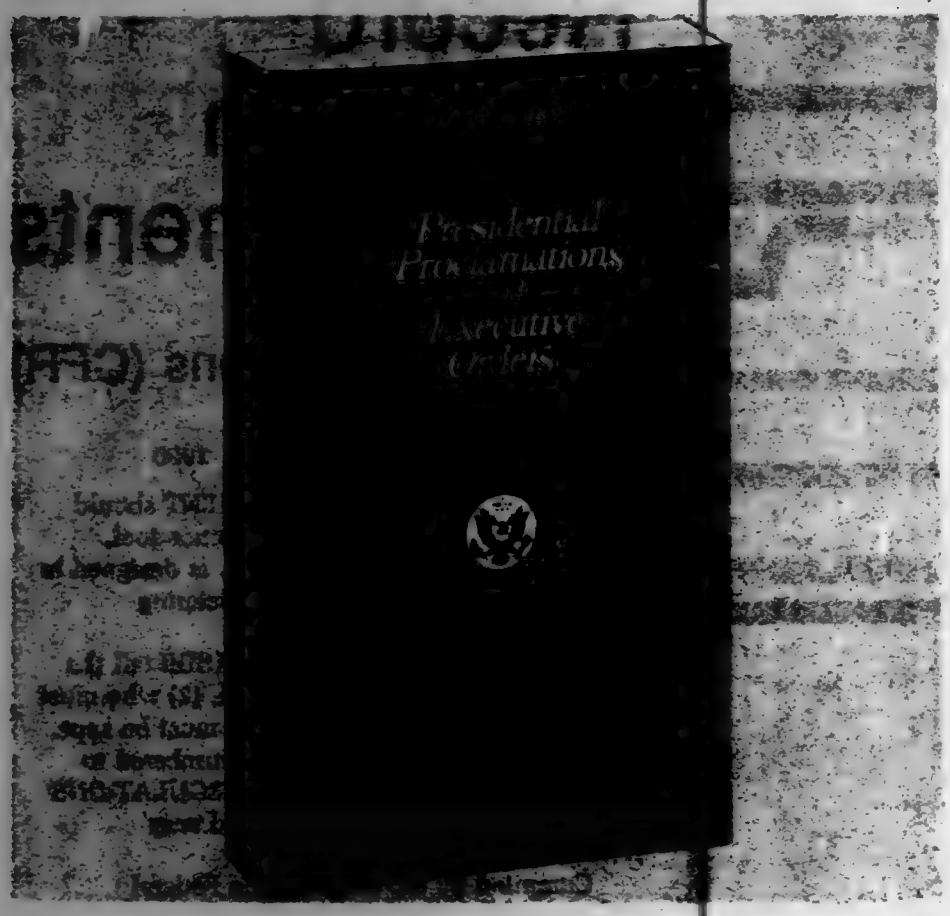

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 90-205]

Mediterranean Fruit Fly; Removal From the Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the Mediterranean fruit fly regulations by removing from the list of quarantined areas in California portions of Los Angeles County near Whittier and Artesia, and the quarantined area in Orange County near Brea. We have determined that the Mediterranean fruit fly has been eradicated from these areas and that the restrictions are no longer necessary. This action relieves unnecessary restrictions on the interstate movement of regulated articles from these areas.

DATES: Interim rule effective October 19, 1990. Consideration will be given only to comments received on or before December 24, 1990.

ADDRESSES: To help ensure that your comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 90-205. Comments received may be inspected at USDA, room 1141, South Building, 14th and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Milton C. Holmes, Senior Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, room 642, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8247.

SUPPLEMENTARY INFORMATION:

Background

The Mediterranean fruit fly, *Ceratitis capitata* (Wiedemann), is one of the world's most destructive pests of numerous fruits and vegetables, especially citrus fruits. The Mediterranean fruit fly (Medfly) can cause serious economic losses. Heavy infestations can cause complete loss of crops, and losses of 25 to 50 percent are not uncommon. The short life cycle of this pest permits the rapid development of serious outbreaks.

We established the Mediterranean fruit fly regulations and quarantined an area in Los Angeles County, California (7 CFR 301.78 *et seq.*; referred to below as the regulations), in a document effective August 23, 1989, and published in the Federal Register on August 29, 1989 (54 FR 35629-35635, Docket Number 89-146). We have published a series of interim rules amending these regulations by adding or removing certain portions of Los Angeles, Orange, San Bernardino, and Santa Clara Counties, California, from the list of quarantined areas. Amendments affecting California were made effective on September 14, October 11, November 17, and December 7, 1989; and on January 3, January 25, February 16, March 9, May 9, June 1, August 3, September 6, September 14, September 21, and October 12, 1990 (54 FR 38643-38645, Docket Number 89-169; 54 FR 42478-42480, Docket Number 89-182; 54 FR 48571-48572, Docket Number 89-202; 54 FR 51189-51191, Docket Number 89-208; 55 FR 712-715, Docket Number 89-212; 55 FR 3037-3039, Docket Number 89-227; 55 FR 6353-6355, Docket Number 90-014; 55 FR 9719-9721, Docket Number 90-031; 55 FR 19241-19243, Docket Number 90-050; 55 FR 22320-22323, Docket Number 90-081; 55 FR 32236-32238, Docket Number 90-151; 55 FR 37697-37699, Docket Number 90-175; 55 FR 38529-38530, Docket Number 90-179; 55 FR 39261-39162, Docket Number 90-182; 55 FR 41981-41983, Docket Number 90-199).

Based on insect trapping surveys by inspectors of California State and county agencies and by inspectors of the Animal and Plant Health Inspection Service (APHIS), we have determined that the Medfly has been eradicated from portions of the quarantined area in California in Los Angeles County, near Whittier and Artesia, and in Orange County near Brea. The last finding of Medfly thought to be associated with the infestation in these areas was made on January 24, 1990, in the Whittier area; on May 1, 1990, in the area near Artesia; and on November 17, 1989, in the Brea area. Since then, no evidence of infestations has been found in these areas. We have determined that the Medfly no longer exists in these areas, and we are therefore removing them from the list of areas in § 301.78-3(c) quarantined because of the Mediterranean fruit fly. As a result of this action there are no longer any quarantined areas in Orange County; the Mediterranean fruit fly has been eradicated from this county. Only a portion of Los Angeles County remains quarantined. A description of that area is set forth in full in the rule portion of this document.

Emergency Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that an emergency situation exists that warrants publication of this interim rule without prior opportunity for public comment. The areas in California affected by this document were quarantined due to the possibility that the Mediterranean fruit fly could spread to noninfested areas of the United States. Since this situation no longer exists, and the continued quarantined status of these areas would impose unnecessary regulatory restrictions on the public, we have taken immediate action to remove restrictions from the noninfested areas.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these conditions, there is good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments received within 60 days of publication of this interim rule in the Federal Register. After the comment period closes, we will publish another document in the Federal Register, including a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

This regulation affects the interstate movement of regulated articles from portions of Los Angeles and Orange Counties in California. Within the regulated area being removed there are approximately 1,118 entities that could be affected, including 175 nurseries, 439 fruit/produce vendors, 12 community gardens, 5 swap meets, 62 commercial growers, 7 farmers market, 194 yard maintenance services, 171 mobile vendors, and 53 miscellaneous (i.e., packing, processing, and dehydrator sites and small backyard sellers).

The effect of this rule on these entities should be insignificant since most of these small entities handle regulated articles primarily for local intrastate movement, not interstate movement, and the distribution of these articles was not affected by the regulatory provisions we are removing.

Many of these entities also handle other items in addition to the previously regulated articles so that the effect, if any, on these entities is minimal. Further, the conditions in the Mediterranean fruit fly regulations and treatments in the Plant Protection and quarantine Treatment Manual, incorporated by reference in the regulations, allowed interstate movement of most articles without significant added costs.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The regulations in this subpart contain no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR 3015, subpart V).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Incorporation by reference, Mediterranean fruit fly, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

Accordingly, 7 CFR part 301 is amended to read as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for 7 CFR part 301 continues to read as follows:

Authority: U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. Section 301.78–3, paragraph (c), is revised to read as follows:

§ 301.78–3 Quarantined areas.

* * * * *

(c) The area described below is designated as a quarantined area: California

Los Angeles County

That portion of the county near Pasadena, El Monte, and Los Angeles areas bounded by a line drawn as follows: Beginning at the intersection of Interstate Highway 210 and Interstate 605; then southerly along Interstate 605 to its intersection with State Highway 60; then westerly along this highway to its intersection with Soto Street; then northeasterly along this street to its intersection with Whittier Boulevard; then westerly along this boulevard to its intersection with 6th Street; then northwesterly along this street to its intersection with Broadway; then southwesterly along Broadway to its intersection with Interstate Highway 10; then westerly along this highway to its intersection with La Brea Avenue; then northerly along this avenue to its intersection with Hollywood Boulevard; then easterly along this boulevard to its intersection with Highland Avenue; then northerly along this avenue to its intersection with U.S. Highway 101; then northeasterly along this highway to its intersection with State Highway 134; then easterly along this highway to its intersection with Interstate Highway 210; then easterly along this highway to the point of beginning.

Done in Washington, DC, this 19 day of October 1990

James W. Glosser,

Administrator, Animal and Plant Health Inspection service.

[FR Doc. 90–25192 Filed 10–24–90; 8:45 am]

BILLING CODE 3410–34–M

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9 CFR Part 78

[Docket No. 90–210]

Brucellosis in Cattle; State and Area Classifications

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Arkansas from Class B to Class A. We have determined that Arkansas now meets the standards for Class A status. This action relieves certain restrictions on the interstate movement of cattle from Arkansas.

DATES: Interim rule effective October 19, 1990. Consideration will be given only to comments received on or before December 24, 1990.

ADDRESSES: To help ensure that your comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 90–210. Comments received may be inspected at USDA, room 1141, South Building, 14th and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. John D. Kopec, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, VS, APHIS, USDA, room 729, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–6188.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease affecting animals and man, caused by bacteria of the genus *Brucella*.

The brucellosis regulations contained in 9 CFR part 78 (referred to below as the regulations) provide a system for classifying States or portions of States according to the rate of brucella

infection present, and the general effectiveness of a brucellosis control and eradication program. The classifications are Class Free, Class A, Class B, and Class C. States or areas that do not meet the minimum standards for Class C are required to be placed under Federal quarantine.

The brucellosis Class Free classification is based on a finding of no known brucellosis in cattle for the 12 months preceding classification as Class Free. The Class C classification is for States or areas with the highest rate of brucellosis. Class B and Class A fall between these two extremes. Restrictions on moving cattle interstate become less stringent as a State approaches or achieves Class Free status.

The standards for the different classifications of States or areas entail maintaining (1) a cattle herd infection rate not to exceed a stated level during 12 consecutive months; (2) a rate of infection in the cattle population (based on the percentage of brucellosis reactors found in the Market Cattle Identification (MCI) program—a program of testing at stockyards, farms, ranches, and slaughter establishments) not to exceed a stated level; (3) a surveillance system that includes testing of dairy herds, participation of all slaughtering establishments in the MCI program, identification and monitoring of herds at high risk of infection—including herds adjacent to infected herds and herds from which infected animals have been sold or received, and having an individual herd plan in effect within a stated number of days after the herd owner is notified of the finding of brucellosis in a herd he or she owns; and (4) minimum procedural standards for administering the program.

Before the publication of this interim rule, Arkansas was classified as a Class B State because of its herd infection rate and its MCI reactor prevalence rate. However, after reviewing its brucellosis program records, we have concluded that the State of Arkansas meets the standards for Class A status.

To attain and maintain Class A status, a State or area must (1) not exceed a cattle herd infection rate, due to field strain *Brucella abortus* of 0.25 percent or 2.5 herds per 1,000 based on the number of reactors found within the State or area during any 12 consecutive months, except in States with 10,000 or fewer herds; (2) maintain a 12 consecutive months MCI reactor prevalence rate not to exceed one reactor per 1,000 cattle tested (0.10 percent); and (3) have an approved individual herd plan in effect within 15 days of locating the source herd or recipient herd.

Therefore, we are removing Arkansas from the list of Class B States in § 78.41(c) and adding to the list of Class A States in § 78.41(b). This action relieves certain restrictions on moving cattle interstate from Arkansas.

Immediate Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that there is good cause to publish this interim rule without prior opportunity for public comment. Immediate action is warranted to remove unnecessary restrictions on the interstate movement of cattle from Arkansas.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these conditions, there is good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments that are received within 60 days of publication of this interim rule in the Federal Register. After the comment period closes, we will publish another document in the Federal Register, including discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million, will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the status of Arkansas from Class B to Class A reduces certain testing and other requirements governing the interstate movement of cattle from Arkansas. However, cattle from certified brucellosis-free herds moving interstate are not affected by this change.

The principal group affected would be the owners of noncertified herds in Arkansas not know to be affected with brucellosis who seek to sell cattle.

There are an estimated 54,000 herds in Arkansas, most of which are owned by small entities that potentially would be affected by this rule. During fiscal year 1989 Arkansas tested 220,394 eligible cattle at saleyards. We estimate that approximately 12 percent of this testing was done to qualify cattle for interstate movement for purposes other than slaughter. This testing costs approximately $3.40 per head. Since herd sizes vary, larger herds will accumulate more savings than smaller herds. Also, not all herd owners will choose to market their cattle in a way that accrues these costs savings. The overall effect of this rule on small entities should be to provide very small economic benefit.

Therefore, we believe that changing Arkansas's brucellosis status will not significantly affect market patterns, and will not have a significant economic impact on the small entities affected by this interim rule.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015 subpart V.)

List of Subjects in 9 CFR Part 78

Animal diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

Accordingly, we are amending 9 CFR part 78 as follows:

PART 78—BRUCELLOSIS

1. The authority citation for part 78 continues to read as follows:

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 70.41 [Amended]

2. Section 70.41, paragraph (b) is amended by adding "Arkansas," immediately after "Alabama,".

3. Section 70.42, paragraph (a) is amended by removing "Arkansas,".

Done in Washington, DC, this 19 day of October 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-25029 Filed 10-24-90; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 176

Flathead Irrigation and Power Project, Montana; Revision of Power Rate Schedule

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs (BIA) is publishing a revised power rate schedule pursuant to the provision for the Area Director to provide authority to pass increased power costs on the Flathead Irrigation and Power Project to the customer, as provided for in the November 10, 1982, Federal Register, 47 FR 50839, the following changes in 25 CFR part 176, authorized rate increases to become effective on the first billing after December 1, 1990.

This revised rate schedule is required in order to collect sufficient funds to pay for the increased cost of electricity supplied to the Flathead Power Project.

EFFECTIVE DATE: December 1, 1990.

ADDRESSES: Mail or hand deliver comments to Stanley Speaks, Portland Area Director, 911 NE. 11th Avenue, Portland, Oregon 97232-4169.

FOR FURTHER INFORMATION CONTACT: Dirk Sorgen, Manager, Mission Valley Power, Post Office Box 880, Polson, Montana 59860-0880, (406) 883-5321.

SUPPLEMENTARY INFORMATION: This notice of power rate schedule change is published under the authority delegated by the Secretary of the Interior to the Assistant Secretary (Indian Affairs) in 209 DM 8 and redelegated by the Assistant Secretary to the Area Director.

Pursuant to the provision for the Area Director to provide authority to pass increased power costs on the Flathead Irrigation and Power Project to the customer, as provided in the November 10, 1982, Federal Register, Volume 47, No. 218, the following changes in 25 CFR part 176, authorized rate increases to become effective on the first billing after December 1, 1990.

List of Subjects in 25 CFR Part 176

Electric power, Indian lands, Irrigation, Standard Rate Schedules.

For the reasons set out in the preamble, title 25, chapter I, part 176, of the Code of Federal Regulations, is amended to read as follows:

PART 176—[AMENDED]

1. The authority citation for part 176 continues to read as follows:

Authority: Sec. 7, 62 Stat. 273; 5 U.S.C. 301.

* * * * *

2. Revise 25 CFR 176.51 to read as follows:

§ 176.51 Rate Schedule No. 1: Residential, farm and rural.

(a) *Application of schedule.* This schedule is available for single-phase electric service delivered through one meter to a single family residence, either urban or rural, for domestic and farm use, including operation of motors as part of the appliances within the residence, no one of which exceeds 5 horsepower in capacity. The electric service is to be used only on the consumer's own premises, and must not be resold.

(b) *Monthly rate.* 3.954 cents per kilowatt-hour for all kilowatt-hours.

(c) *Basic charge.* (1) $6.00 per month rural.

(2) $3.00 per month within incorporated municipalities.

(3) All kilowatt-hour charges to be in addition to basic charges.

3. Revise 25 CFR 176.52 to read as follows:

§ 176.52 Rate Schedule No. 2: General.

(a) *Application of schedule.* This schedule is available for single-phase or three-phase electric service not exceeding a maximum demand of 20 kilowatts, delivered through one meter, for use in lighting, heating, operating appliances, and for power for motors which do not exceed 5 horsepower in capacity. The electric service is to be used only on the consumer's own premises, and must not be resold. The use of this schedule is required for second delivery to a consumer's installation that is already being served by Rate Schedule No. 1.

(b) *Monthly rate.* (1) 9.954 cents per kilowatt-hour for first 50 kilowatt-hours.

(2) 5.954 cents per kilowatt-hour for next 50 kilowatt-hours.

(3) 4.264 cents per kilowatt-hour for all over 100 kilowatt-hours.

(c) *Minimum bill.* (1) $6.00 per month rural.

(2) $3.00 per month within incorporated municipalities.

4. Revise 25 CFR 176.54 to read as follows:

§ 176.54 Rate schedule No. 4: General.

(a) *Application of schedule.* This schedule is available for single-phase and three-phase electric service for all purposes. Unless specifically permitted by the contract, use must be limited to the consumer's premises, and the power supplied must not be resold. If more than one meter is required by the consumer's installations, or for the consumer's convenience, a separate computation shall be made for each meter.

(b) *Energy.* (1) 3.954 cents per kilowatt-hour for first 15,000 kilowatt hours.

(2) 2.954 cents per kilowatt-hour for all additional kilowatt hours.

(c) *Demand.* $3.00 per kilowatt.

(d) *Discount.* A discount will be allowed and applied after the monthly bill has been computed:

(1) If a customer takes delivery at the primary voltage of the distribution or transmission system of the Project and at a location where the Project has adequate and suitable facilities for such delivery.

(2) If the customer furnishes, installs, operates, and maintains the substation or substations with step-down transformers, protective equipment, and all other facilities (except metering equipment) needed by the customer in distributing and utilizing the delivered power and energy.

(3) When the conditions and specifications in paragraphs (d)(1) and (d)(2) of this section are satisfactory to the Project Engineer, the following discounts apply:

(i) For three-phase delivery at the Project distribution voltage, a discount of 5 percent.

(ii) For three-phase delivery from the Project transmission system where not more than one transformation intervenes between the highest voltage of the Project power system and the delivery to the customer, a discount of 8 percent.

(e) *Minimum bill.* $3.00 per month per kilowatt of billing demand, but not less than $30.00 per month or 60 cents per KVA of transformer capacity.

(f) *Contract demand.* Each contract shall state the number of kilowatts which the customer expects to require and desires to have reserved for his service. This quantity is called the contract demand. The contract demand shall not be less than 10 kilowatts.

(g) *Actual demand.* The actual demand for any month shall be the average amount of power used during that period of 15 consecutive minutes when such average is the greatest for the month as determined by suitable meters, or if meters are unavailable, the actual demand shall be the connected load or such portion of the connected load as the General Manager may determine to be appropriate, based on available information as to the customer's use of connected lights and appliances, or from check metering.

(h) *Billing demand.* The billing demand for a month shall be the contract demand or the actual demand for that month, whichever is the greater.

(i) *Power factor adjustment.* An adjustment for power factor will be made by increasing the billing demand for each month by one (1) percent for one (1) percent or major fraction thereof by which lagging power factor is less than 95.

5. Revise 25 CFR 176.55 (b), (c) (1) and (4) to read as follows:

§ 176.55 Rate schedule No. 5: Irrigation pumping and sprinkling.

* * * * *

(b) *Rate per season or fraction thereof.* (1) $10.20 per horsepower connected:

(2) 2.954 cents per kilowatt-hour for all kilowatt-hours used.

(3) The minimum connected horsepower charge will be $50.00.

(c) *Special terms and conditions.* (1) The minimum annual (seasonal) horsepower charge of $10.20 per connected horsepower shall be paid each year during the life of the contract. Payment shall be required each year before service is connected. If the service has not been connected by the close of the irrigation season, but in no case later than October 15, the minimum annual (seasonal) charge will be assessed.

* * * * *

(4) For a delinquent account to be reconnected, payment of all delinquent bills will be required, plus the estimated energy charge for the coming season, plus the annual seasonal charge of $10.20 per horsepower.

* * * * *

Wilford Bowker,
Acting Portland Area Director.

[FR Doc. 90-25177 Filed 10-24-90; 8:45 am]
BILLING CODE 4310-02-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners; Modification of Procedures for Forfeiture of Time Under Parole Supervision; Correction

AGENCY: United States Parole Commission, Justice.

ACTION: Interim general statement of policy; correction.

SUMMARY: The Parole Commission is correcting an error that appeared in the summary of the interim general statement of policy to bring its parole revocation decisions into compliance with *Rizzo v. Armstrong*, ____ F.2d ____ (9th Cir. August 30, 1990), a decision holding that the forfeiture of the time that a parole violator has spent under parole supervision ("street time") is discretionary, and not a mandatory penalty under 18 U.S.C. 4210(b)(2) (1976).

FOR FURTHER INFORMATION CONTACT: Pamela Posch, Paralegal Specialist, Office of the General Counsel, U.S. Parole Commission, Telephone (301) 492-5959.

SUPPLEMENTARY INFORMATION: The Parole Commission is correcting an error in regards to the date which appears on page 42184, first column, last sentence in the summary paragraph. The sentence which reads, "This policy will be limited to revocation hearings conducted within the Ninth Circuit after October 15, 1990." is revised to read as follows:

"This policy will be limited to revocation hearings conducted within the Ninth Circuit after October 22, 1990."

Dated: October 22, 1990.

Michael A. Stover,
General Counsel.

[FR Doc. 90-25255 Filed 10-24-90; 8:45 a.m.]
BILLING CODE 4410-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD7 90-68]

Special Local Regulations: Seddon Channel, Hillsborough Bay, Tampa, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: Special local regulations are being adopted for the Tampa Powerboat Classic. This event will be held on Saturday, October 27 and 28, at 10 a.m. e.d.s.t. These regulations are needed to provide for the safety of life on navigable waters during the events.

EFFECTIVE DATES: This regulation becomes effective at 10 a.m. e.d.s.t. and terminates at 4 p.m. e.d.s.t. on 27 and 28 October 1990.

FOR FURTHER INFORMATION CONTACT: QMC J.J. COOK, Coast Guard Group St. Petersburg, FL at (813) 824-7527.

Drafting Information

The drafter of this regulation is QMC J.J. COOK, project officer for Group St. Petersburg.

Discussion of Regulation

This regulation is needed to provide for the safety of participant and spectator boaters and their vessels on the navigable waters during the running of the Tampa Powerboat Classic. There will be approximately 40 racing vessels ranging in length from 13 feet to 17 feet. Seddon Channel will be closed to all marine traffic during the race.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rule making does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, part 100 of title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary § 100.35-T0796 is added to read as follows:

§ 100.35-T0796 Special local regulations—Tampa Powerboat Classic.

(a) *Regulated Area:* A regulated area is established in Seddon Channel in North Hillsborough Bay between 27-55.9N and 27-56.5N.

(b) *Special Local Regulations:* All vessels are restricted from entering the regulated area. After termination of the Tampa Powerboat Classic, all vessels may resume normal operations.

(c) *Effective Dates:* This regulation becomes effective at 10 a.m. e.d.s.t. and terminates at 4 p.m. e.d.s.t. on 27 and 28 October 1990.

Dated: October 4, 1990.

Robert E. Kramek,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 90-25257 Filed 10-24-90; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[COTP-90-171]

Safety Zone Regulations: East River, New York, NY

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone in the East River, New York. This Zone is needed to protect the maritime community from the possible dangers and hazards to navigation associated with a fireworks display. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective 6:30 p.m. local time on Oct. 21, 1990. It terminates at 8 p.m. local time on Oct. 21, 1990.

FOR FURTHER INFORMATION CONTACT: MST1 S.T. Whinham of Captain of the Port, New York, (212) 668-7934.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing an NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to respond to any potential hazards. This action has been analyzed in accordance with the principle and criteria of E.O. 12612, and it has been determined that the final rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Drafting Information

The drafters of this regulation are LTJG C.W. Jennings, project officer for the Captain of the Port, New York, and LT R.E. Korroch, project attorney, First Coast Guard District Legal Office.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, subpart C of part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 USC 1225 and 1231; 50 USC 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5.

2. Part 165 is amended by adding section 165.T1171 to read as follows:

§ 165.T1171 Safety zone: East River, New York, NY.

(a) *Location.* The following area has been declared a safety zone: That portion of the Upper Bay and the lower East River bounded by a line drawn from the northwest corner of Pier One (1) Brooklyn west to the northeastern corner of Pier Eighteen (18) Manhattan, thence south along the shoreline to the northeastern end of the Governors Islands Ferry Slip, at Slip Seven (7) Manhattan, thence east to the northwest corner of Pier Five (5) Brooklyn, thence north along the Brooklyn shoreline to the point of origin.

(b) *Effective date.* This regulation becomes effective at 6:30 p.m. local time on Oct. 21, 1990. It terminates at 8 p.m. local time on Oct. 21, 1990.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

Dated: October 5, 1990.

R.M. Larrabee,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 90-25258 Filed 10-24-90; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6805

[AK-932-00-4214-10; A-043400]

Partial Revocation of Public Land Order No. 3324 for Selection of Land by the State of Alaska; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a public land order insofar as it affects 3,850 acres of public land withdrawn for recreation purposes at Lake George, Alaska. The land is no longer needed for the purpose for which it was withdrawn. This action also opens the land for selection by the State of Alaska, if such land is otherwise available. Any land described herein that is not conveyed to the State will be subject to the terms and conditions of withdrawals of record.

EFFECTIVE DATE: October 25, 1990.

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513-7599, 907-271-5477.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), and by section 17(d)(1) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1616(d)(1) (1988), it is ordered as follows:

1. Public Land Order No. 3324 which withdrew public land for a recreation area at Lake George is hereby revoked insofar as it affects the following described land:

Seward Meridian

Beginning at Point No. 1, common with M.C. corner No. 4, U.S. Survey No. 3290, Tract B,
Thence south 7 chains to corner No. 3, U.S. Survey No. 3290, Tract B;
Thence continuing south 13 chains to Point No. 2, the point of beginning;
Thence southeasterly 15 miles, approximately, paralleling with the south bank of the Knik River (a strip ¼ mile wide) to a point opposite foot of Knik Glacier;
Thence southerly 7 miles, approximately, continuing in a southerly direction paralleling the river drainage from Lake George (continuing a strip ¼ mile wide) to a point opposite outlet of Lake George;
Thence southwesterly 8 miles, approximately, paralleling west side of Lake George (continuing a strip ¼ mile wide) to southwest inlet of Lake George;
Excluding therefrom a tract of land described as:
Beginning at corner No. 1, common with meander corner No. 4, U.S. Survey No. 3290, Tract B and the true point of beginning for this description;
From Corner No. 1, by metes and bounds,
Thence south 7 chains to corner No. 3, U.S. Survey No. 3290, Tract B and continuing South 13 chains to corner No. 2;
Thence southeasterly on a line approximately 20 chains south of and parallel to the left bank of the Knik River, approximately 501 chains to corner No. 3 located on the east boundary of T. 16 N., R. 3 E., Seward Meridian;
Thence north on the east boundary of T. 16 N., R. 3 E., Seward Meridian, approximately 20 chains to corner No. 4, a meander corner at the line of mean high water on the left bank of the Knik River;
Thence northwesterly along the line of mean high water on the left bank of the Knik River approximately 501 chains to corner No. 1, the point of beginning.
The area described contains approximately 3,850 acres.

2. Subject to valid existing rights, the land described above is hereby opened

to selection by the State of Alaska under either the Alaska Statehood Act of July 7, 1958, 48 U.S.C. prec. 21 (1988), or section 906(b) of the Alaska National Interest Lands Conservation Act, 43 U.S.C. 1635(b) (1988).

3. The State of Alaska selections made under section 906(e) of the Alaska National Interest Lands Conservation Act, 43 U.S.C. 1635(e) (1988), become effective without further action by the State upon publication of this public land order in the Federal Register, if such land is otherwise available. Land not conveyed to the State will be subject to the terms and conditions of withdrawals of record.

Dated: October 15, 1990.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-25238 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-JA-M

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43 CFR Public Land Order 6806

[OR-943-00-4130-12; GPO-211; OR-19146]

Partial Revocation of the Secretarial Order Dated February 26, 1927; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Secretarial order insofar as it affects 115.47 acres of land withdrawn for the Bureau of Land Management's Powersite Classification No. 170. The Bureau of Land Management has determined that the land is no longer needed for the purpose for which it was withdrawn. The revocation action is needed to permit disposal of the land through land exchange. This action will open the land to surface entry. The land has been and remains open to mineral leasing and is temporarily closed to mining by a land exchange proposal.

EFFECTIVE DATE: November 26, 1990.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order dated February 26, 1927, is hereby revoked insofar as it affects the following described land:

Willamette Meridian

T. 7 S., R. 4 E.,
Sec. 6, lots 6 and 7.

The area described contains 115.47 acres in Clackamas County.

2. The State of Oregon has waived its preference right for public highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

3. At 8:30 a.m., on November 26, 1990, the above described land will be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, any segregations of record, and the requirements of applicable law. All valid applications received at or prior to 8:30 a.m., on November 26, 1990, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Dated: October 16, 1990.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-25240 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-33-M

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43 CFR Public Land Order 6807

[OR-943-00-4130-12; GPO-378; WASH-01484]

Partial Revocation of Public Land Order No. 2434; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a public land order insofar as it affects approximately 2 acres of National Forest System land withdrawn for use as a roadside zone. The land is no longer needed for this purpose and the revocation is needed to permit disposal of the land through land exchange. This action will open the land to such forms of disposition as may by law be made of National Forest System land. The land is temporarily closed to mining by a Forest Service exchange proposal. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: November 26, 1990.

FOR FURTHER INFORMATION CONTACT: Linda Sullivan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503-280-7171.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 2434 is hereby revoked insofar as it affects the following described land:

Willamette Meridian

Snoqualmie National Forest

T. 17 N., R. 14 E.,
Sec. 28, that portion of lot 3 lying within 330 feet of the centerline of State Highway 410.

The area described contains approximately 2 acres in Yakima County.

2. At 8:30 a.m., on November 26, 1990, the land shall be opened to such forms of disposition as may by law be made of National Forest System land, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law.

Dated: October 17, 1990.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-25241 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-33-M

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43 CFR Public Land Order 6808

[CO-930-01-4214-10; COC-48957]

Withdrawal of National Forest System Land for Protection of Recreational Values; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws approximately 878 acres of National Forest System land from mining for a period of 50 years for the protection of existing and planned recreational facilities at the Buttermilk Ski Area. The land has been and remains open to such forms of disposition as may by law be made of National Forest System land and to mineral leasing.

EFFECTIVE DATE: October 25, 1990.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215-7076, 303-239-3706.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described National Forest System land, which is under the jurisdiction of the Secretary of Agriculture, is hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. ch. 2) to protect existing and planned recreational values which are a part of the Buttermilk Ski Area:

Sixth Principal Meridian

White River National Forest

T. 10 S., R. 85 W.,
Sec. 6, lot 8;
Sec. 10, lots 12, 14, 15, 17, 18, and 22, and SE¼;
Sec. 15, lots 1, 2, 3, and 4, N½NE¼, N½SW¼NE¼, N½SW¼SW¼NE¼, N½NW¼SE¼NE¼, and N½NW¼S W¼;
Sec. 16, lots 1, 2, 3, and 4, E½NW¼NE¼, SW¼NE¼, and NE¼NW¼SE¼.

The area described contains approximately 577.81 acres of National Forest System land in Pitkin County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of National Forest System land under lease, license, or permit, or governing the disposal of its mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 50 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

Dated: October 18, 1990.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-25190 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-32-M

43 CFR Public Land Order 6809

[AZ-060-4214-10; A-22665]

Withdrawal of National Forest System Lands in Support of a Land Exchange Program; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws, for a period of 20 years, 2,065.06 acres of National Forest System lands from location and entry under the general mining laws in support of the Forest Service's land exchange program. The Forest Service desires to obtain the more remote lands within the forest boundaries, and the town of Payson has a need for a land base which will allow for growth and expansion. The lands have been and will remain open to mineral leasing subject to regulations found in 43 CFR 3101.7.

EFFECTIVE DATE: October 25, 1990.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM, Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, 602-640-5509.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described National Forest System lands are hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. ch. 2) to protect the lands for forest exchange purposes:

Gila and Salt River Meridian

T. 10 N., R. 10 E.,
Sec. 5, Lots 3 and 4, S½NW¼, N½NW¼SW¼, SW¼NW¼SW¼;
Sec. 6, Lots 1 and 2, S½NE¼, N½SE¼, S½S½SW¼SE¼, N½SW¼SE¼SE¼, S½S½SE¼SE¼, NW¼SE¼SE¼SE¼;
Sec. 7, NE¼;
Sec. 8, SW¼NE¼NW¼, NW¼NW¼NW¼, S½NW¼NW¼, SW¼NW¼, W½SE¼NW¼, N½SE¼;
Sec. 9, Lots and 6, E½SW¼NW¼, S½NW¼SE¼NW¼, SW¼SE¼NW¼, W½NE¼SW¼, NW¼SW¼, SW¼SW¼, NW¼SE¼SW¼, S½SE¼SW¼;
Sec. 10, N½SW¼.
T. 11 N., R. 10 E.,
Sec. 27, N½SE¼;
Sec. 28, Lots 2, 3, 6, 7, 8 and 9, S½SW¼;
Sec. 31, Lots 1, 5, 6, 11 and 12, NW¼NE¼;
Sec. 32, Lots 1, 2, 3, 4, 8, 9, 10, 11, 14, 15, 16, and 17, NW¼NE¼;
Sec. 33, Lots 10, 11, and 13; Tracts 38, 39, and 40.

The areas described aggregate 2,065.06 acres of National Forest System lands in Gila County, Arizona.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the National Forest System lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

Dated: October 19, 1990.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-25189 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-32-M

43 CFR Public Land Order 6811

[WY-930-4214-10; WYW 112132]

Transfer of Federal Mineral Estate for the Spook Site; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order permanently transfers 80 acres of Federal mineral estate to the Department of Energy in accordance with the terms of the Uranium Mill Tailings Remedial Action Amendments Act of 1988.

EFFECTIVE DATE: October 25, 1990.

FOR FURTHER INFORMATION CONTACT: Tamara J. Gertsch, Bureau of Land Management, Wyoming State Office, 2515 Warren Avenue, Cheyenne, Wyoming 82001, 307-775-6115.

By virtue of the authority vested in the Secretary of the Interior by section 108 of the Uranium Mill Tailings Radiation Control Act of 1978, as amended by the Uranium Mill Tailings Remedial Action Amendments Act of 1988, 42 U.S.C. 7916(2)(F), it is ordered as follows:

1. Subject to valid existing rights, the following described Federal mineral estate is hereby permanently transferred to the Department of Energy for the Spook Site, and as a result of this transfer, this mineral estate is no longer subject to the operation of the mining and mineral leasing laws:

Sixth Principal Meridian

T. 38 N., R. 73 W.,
Sec. 27, W½W½SW¼NW¼;
Sec. 28, SE¼NE¼, N½NE¼SE¼, SE¼NE¼SE¼.

The area described contains 80 acres of Federal mineral estate in Converse County.

2. The transfer of the above described Federal mineral estate to the Department of Energy vests in that Department the full management jurisdiction, responsibility, and liability for such subsurface estate and all activities conducted thereon, except as provided in paragraph 3.

3. The Secretary of the Interior shall retain the authority to administer any existing claims, rights, and interests in this land and in the subsurface mineral estate that were established before the effective date of the transfer.

Dated: October 19, 1990.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-25230 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-22-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-507; RM-6945]

Radio Broadcasting Services; Breaux Bridge, LA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 243C3 for Channel 243A at Breaux Bridge, Louisiana, and modifies the construction permit for Channel 243A to specify operation on Channel 243C3. The Notice was issued in response to a petition filed by JBC, Inc. *See* 54 FR 48655, November 11, 1989. The coordinates for Channel 243C3 are 30-13-00 and 92-05-00.

EFFECTIVE DATE: December 6, 1990.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-507, adopted September 27, 1990, and released October 22, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Louisiana, is amended by removing Channel 243A and adding Channel 243C3 at Breaux Bridge.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25288 Filed 10-24-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-364; RM-6796, RM-7158]

Radio Broadcasting Services; Plantersville and Pawley's Island, SC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Carocom Media, dismisses its request to allot Channel 253A to Plantersville, South Carolina, and instead allots Channel 253A to Pawley's Island, South Carolina, as its second local FM service. *See* 54 FR 35706, published August 29, 1989. Channel 253A can be allotted to Pawley's Island in compliance with the Commission's minimum distance separation requirements with a site restriction of 6.7 kilometers northeast to avoid a short-spacing to Station WWKT-FM, Channel 252A, Kingstree, South Carolina, and to the pending applications for Channel 255C2 at McClellanville, South Carolina. The coordinates for this allotment are North Latitude 33-29-18 and West Longitude 79-05-32. With this action, this proceeding is terminated.

DATES: Effective December 6, 1990. The window period for filing applications will open on December 7, 1990, and close on January 7, 1991.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-364, adopted September 27, 1990, and released October 22, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments under South Carolina, is amended by adding Channel 253A at Pawley's Island.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25289 Filed 10-24-90; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB26

Endangered and Threatened Wildlife and Plants; Endangered Status Determined for the Fish Cahaba Shiner (Notropis Cahabae)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the Cahaba shiner (*Notropis cahabae*) to be an endangered species. The Cahaba shiner is found only in Alabama in about 60 miles (formerly 76 miles) of the Cahaba River in Perry, Bibb and Shelby Counties, with the stronghold of the population restricted to 15 river miles. The Cahaba shiner is vulnerable to adverse habitat alteration from residential, industrial, and commercial development because of its restricted range and occurrence in small, scattered populations.

EFFECTIVE DATE: November 28, 1990.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, 6578 Dogwood View Parkway, Suite A, Jackson, Mississippi 39213.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Stewart at the above address (601/965-4900 or FTS 490-4900).

SUPPLEMENTARY INFORMATION:

Background

The Cahaba shiner (*Notropis cahabae*) is a small delicate bodied, silvery colored shiner about 2.5 inches (6.35 centimeters) long with a peach colored narrow stripe over the dark lateral stripe. The species was described in 1989 (Mayden and Kuhajda 1989). The Cahaba shiner differs from the mimic shiner (*N. volucellus*) (a closely related species) by a lateral stripe that does not expand before the caudal spot, the absence of a predorsal dark blotch, the dorsal caudal peduncle scales are uniformly dark and pigmented and predorsal scales broadly outlined and diffuse (Mayden and Kuhajda 1989).

The Cahaba shiner has been collected in Alabama in about 76 miles (121 km) of the Cahaba River from 3 miles (4.8 km) northeast of Helberger in Perry County to Highway 52 bridge near Helena in Shelby County (Ramsey 1982, Pierson *et al.* 1989a). Ramsey (1982) speculates that the Cahaba shiner had a wider historical distribution that possibly included the Cocoa River. The present known range of about 60 miles (96 km) extends from 3 miles (4.8 km) northeast of Helberger (Pierson *et al.* 1989a) to 3.75 miles (2.34 km) above Booth Ford (Howell *et al.* 1982). This range reduction of over 20 percent occurred between 1969 and 1977 (Ramsey 1982). Further reductions in total populations are evident, with the stronghold for the species now limited to about 15 river miles between the Fall Line and Piper Bridge or 20 percent of the historic range.

The habitat of the Cahaba shiner appears to be large shoal areas of the main channel of the Cahaba River. The species is found in the quieter waters less than 1.64 feet (0.5 meters) deep just below swift riffle areas (Howell *et al.* 1982). The Cahaba shiner seems to prefer patches of sandy substrate at the edge of or scattered throughout gravel beds or downstream of larger rocks and boulders. Many different types of habitats have been surveyed by ichthyologists to identify Cahaba shiner habitat. Ramsey (1982) searched large tributaries of the Cahaba River and small rivers of the upper Mobile River system. Howell *et al.* (1982) stated that the Cahaba shiner did not occupy deep water habitats or any other sites other than that of large, shallow shoals. The Cahaba shiner is found in streams with a stable riparian zone and water quality parameters of 11° to 28°C, 5 to 10 milligrams/liter dissolved oxygen, 7.2 to 8.9 pH, and 4 to 375 Jackson Turbidity Units. It probably requires a river with sufficient small crustaceans, insect larvae, and algae for food, similar to its close relative, the mimic shiner (Gilbert and Burgess 1980).

The Cahaba shiner seems consistent with other fish in the mimic shiner group, spawning much later than do other North American cyprinids. They appear to spawn from late May through June and seem to have a more limited spawning period than do many fish which reach a rather small adult size. Pre-spawning aggregations have been observed at the tail of a long pool, in a moderate current at 1.3 to 2.0 feet (0.39 to 0.61 meters) depth, just before the current quickened at the head of the main riffle (Ramsey 1982).

Of 56 collection records from 1936 through 1985, 22 records were collections of single specimens and 20 other records were collections of less than 15 specimens. These few collections resulted from at least 280 collections of 40,000 specimens of fish using nine different techniques over a 27 year period (Howell *et al.* 1982, Ramsey 1982; Stiles 1978; Howell, personal communication 1988; Pierson, *in litt.* 1984; Stiles, personal communication 1985). In addition, Ramsey (1982) used six associates of the Cahaba shiner as indicator species to identify collections for examination from over nine river systems in at least seven museums. No Cahaba shiners were found in any of these collections.

In more recent sampling, Stiles (1990) collected at known population sites for the Cahaba shiner in 1989 and 1990. In February and March 1990, sampling at the mouths of tributaries under the most favorable collecting conditions, he captured from one to nine Cahaba shiners at three of four sites. During September and October 1989, he sampled six sites on the mainstem, including the usually productive site at Bibb County Highway 27, and did not capture any Cahaba shiners. A series of six collections were made near Little Ugly Creek during January to March 1990 under conditions and at sites that have yielded the largest numbers of Cahaba shiners. From two to six Cahaba shiners were captured in five of the six collections. In comparing the results of Stiles' 1989–90 sampling with historic collections, the decreasing population trend is evident. Within the stronghold of the species, Stiles captured an average of 3.2 Cahaba shiners as compared with an average of 38.5 during the period of 1981–83. The ratio of Cahaba shiners to the closely related and more widespread mimic shiner in the earlier sampling was about 1 to 1. In Stiles' recent survey, the ratio was about 16 mimic shiners to each Cahaba shiner. In addition to the change in ratio, the abundance of both species has decreased, with the Cahaba shiner possibly the less adaptable of the two species.

The limited range, scattered populations, and low numbers of the Cahaba shiner have been known since its discovery (Gilbert 1972, Ramsey *et al.* 1972, Ramsey 1978, Stiles 1978, Howell *et al.* 1982, Ramsey 1982, Ramsey 1982). O'Neil (1983) and the Environmental Impact Statement for the Cahaba River Wastewater Facilities, Jefferson, Shelby, and St. Clair Counties, Alabama (U.S. Environmental Protection Agency 1978) identified past, present, and future water quality problems in the Cahaba River. Water quality impacts have apparently extirpated the blue shiner (*N. caeruleus*) from the Cahaba River (Pierson and Krotzer 1987) and reduced the historic range of the Cahaba shiner by over 20 percent. The Cahaba shiner appears to have specialized habitat requirements and is vulnerable to adverse changes in its environment.

A proposal to list the Cahaba shiner as endangered was published in the Federal Register on November 29, 1977 (42 FR 60765). A notice that extended the comment period and provided a date for a public hearing was published on February 6, 1978 (43 FR 4672). Following the public hearing on March 15, 1978, the Service published a critical habitat correction and again extended the comment period on April 7, 1978 (43 FR 14697). The 1978 Endangered Species Act Amendments required the withdrawal of any rule that was not finalized within 1 year of the Amendments' enactment. In accordance with the Amendments, the still pending proposal to list the Cahaba shiner was withdrawn, effective November 29, 1978, and announced in the Federal Register on January 24, 1980 (45 FR 5762). Among new information that has been received since the proposal was withdrawn are two studies contracted by the Service. Dr. Mike Howell (Howell *et al.* 1982) was contracted to survey the Cahaba River for this species from Booth Ford to Trussville. The Alabama Geological Survey, under contract, conducted an historical water quality analysis of the Cahaba River above Centreville (O'Neil 1983). Other data received since the 1977 proposal are status reports by Ramsey (1982), Stiles (1978) and Pierson *et al.* (1989a, 1989b). The Cahaba shiner was again proposed as endangered in the Federal Register (55 FR 10023) on March 19, 1990. A notice of public hearing and reopening of the comment period was published in the Federal Register (55 FR 24133) on June 14, 1990, and the public hearing was held on July 10, 1990.

A petition dated January 22, 1990, was received by the Service from Mr. Ned Mudd, Jr., requesting that the Service protect the Cahaba shiner as an endangered species and also designate critical habitat. However, the petition was not accepted since it represented a request for action on which the Service had in essence already reached a decision, as reflected in the content of this final rule.

Summary of Comments and Recommendations

In the March 19, 1990, proposed rule and associated notifications, all

interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. The comment period was reopened and extended until July 20, 1990, to accommodate the public hearing. Appropriate Federal and State agencies, county governments, scientific and conservation organizations, and other interested parties were contacted and requested to comment. A newspaper notice was published in the *Montgomery Advertiser* on April 6, 1990, and the *Birmingham News* on April 8, 1990. The newspaper notice of the public hearing and reopening of the comment period was published in the *Birmingham News* on June 24, 1990. A total of 455 comments and a petition with 229 signatures were received on the proposed rule. Two Federal agencies commented, with one in support and one expressing no position. Two State agencies commented in support of the proposed rule. There were six comments from local government agencies expressing concerns about the proposed rule, but none opposed it. Seven comments were received from conservation organizations in support of the rule. Four professional ichthyologists commented in support of the proposed rule. Thirty individuals commented on the need to protect the Cahaba River without specifically mentioning the Cahaba shiner. The remaining 404 comments were from individuals in support of the proposed rule as was the petition with 229 signatures.

A public hearing was requested by the Environmental Economics Committee of the Birmingham Chamber of Commerce, the Birmingham Water Works and Sewer Board, and the Jefferson County Commission. The hearing was held at the Dwight Beeson Hall Auditorium on the campus of Samford University, Birmingham, Alabama, on July 16, 1990, with 83 attendees. Comments were received from 25 individuals following a statement by the Service. Representatives from one State and two local government agencies commented without expressing a position on the proposed rule. Fifteen conservation organization representatives, six individuals and one professional ichthyologist commented in support of the proposed rule. A question and answer session resulted in only three questions, with only one of these pertaining directly to the Cahaba shiner.

Written comments and oral statements presented at the public hearing and received during the comment periods are covered in the following summary. Comments of a similar nature or point are grouped into a number of general issues. These issues and the Service's response to each, are discussed below.

Issue 1: The Cahaba shiner warrants emergency listing. Response: Based upon all available information, the Service does not believe the Cahaba shiner requires emergency listing. There has been no data provided to the Service to indicate this species is in immediate danger of extinction. The shiner is surviving in low numbers in portions of its historical range, as it has over the past decade or more. It is expected to remain relatively stable for the immediate future. This negates the need for emergency protection.

Issue 2: List the Cahaba shiner as a threatened species. Response: Based upon communication with the Alabama Wildlife Federation, these commenters were using language provided to them in error. According to the Federation, the intent of the commenters was to list the species as proposed, rather than downlist it. Endangered status was chosen for reasons discussed elsewhere in this rule.

Issue 3: Critical habitat should be designated. Response: The basis for not determining critical habitat is discussed in that section.

Issue 4: Some data relative to sewage treatment plants is outdated. Response: The Service has corrected the data in this rule based upon information provided by various commenters.

Issue 5: Improve water quality standards for the Cahaba River. Response: Water quality standards are determined by the Environmental Protection Agency and various State agencies.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Cahaba shiner should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Cahaba shiner (*Notropis cahabae*) are as follows:

A. *The present or threatened destruction, modification or curtailment of its habitat or range.* Degradation of water quality in the Cahaba River has and continues to have the greatest adverse impact to the Cahaba shiner. Howell *et al.* (1982), during their study of the upper Cahaba River, observed adverse impacts to water quality from the Cahaba and Patton Creek Sewage Treatment Plants, limestone quarries on Buck Creek, and strip-mining in the area of Piney Woods Creek and Booth Ford. Historic populations of the Cahaba shiner have been seriously affected by urbanization, sewage pollution, and strip-mining activities in the upper Cahaba River Basin. Observations in the Howell *et al.* (1982) report and other reports that increased pH levels from limestone quarries and high inorganic nitrogen levels are apparently not adversely affecting the water quality of the Cahaba River and the Cahaba shiner have been demonstrated to be incorrect. This is evidenced by the continued decrease in the range and population of the Cahaba shiner.

Ramsey (1982) in his study of the Cahaba River observed an increase in blue-green algae, an indicator of water quality degradation, at several localities since he began collecting on the Cahaba River in 1962. One location in particular, just below the Shelby County Highway 52 bridge, has been adversely affected by a diminution of riverweed, apparently displaced by a substantial growth of blue-green algae on much of the rock and rubble substrate. This has resulted in the extirpation of Cahaba shiners, goldline darters, and blue shiners from this area since 1962. The effect on the fauna of water rich in dissolved nutrients can be magnified in still pools during low flows and high temperatures when dissolved oxygen drops to low levels. Virtually all of the water flow in the Cahaba River below the Cahaba Sewage Treatment Plant during low flows consists of treated sewage effluent until augmented by tributaries downstream.

Siltation from construction, agriculture, forestry, and strip-mining activities can have an adverse effect on water quality. Recent fish collections in the Cahaba River have shown a significant decrease in species diversity and numbers of specimens with an apparent increase in siltation (Howell *et al.* 1982, Ramsey 1982, Pierson and Krotzer 1987, Pierson *et al.* 1989a, Stiles 1990). Water quality degradation has apparently contributed to the extirpation of the blue shiner from the Cahaba River and the reduction in range and population of the Cahaba shiner. Collections at Booth Ford have shown a significant decrease in species diversity and numbers of specimens (Stiles 1978).

Because of the number of sewage treatment plants within the Cahaba River system, chlorination could have an

adverse impact on the Cahaba shiner. Observations by Ramsey (1982) of Cahaba shiners in aquaria indicate it is possibly more sensitive to chlorine than other *Notropis* species. There are efforts ongoing to dechlorinate some wastewater prior to release. This will undoubtedly be beneficial to the Cahaba shiner, provided the species used for toxicity monitoring are similarly susceptible to chlorine. In that regard, the use of the fathead minnow (*Pimephales promelas*) as the toxicity test species is questionable. The fathead minnow is acknowledged as a hardy species and likely more tolerant to toxicity than the Cahaba shiner. For the dechlorination effort to have maximum benefit to the Cahaba shiner, a more appropriate test species would be the mimic shiner.

The Environmental Impact Statement for the Cahaba River Wastewater Facilities, Jefferson, Shelby, and St. Clair Counties, Alabama, (U.S. Environmental Protection Agency 1979) identified and projected water quality problems in the Cahaba River. Relatively high levels of total inorganic nitrogen and total phosphorus were found at several locations through the basin. Algal biomass, increased production, high diurnal oxygen fluctuations, and decreased oxygen were found at lower water depths. The U.S. Environmental Protection Agency (EPA) found there was not enough water flow in the Cahaba River to handle sewage needs and that alternative water supplies to increase flow could have an adverse effect on the biota.

At the time of the EPA study there were 4 municipal wastewater treatment plants and 13 private wastewater treatment systems in the study area. The proposed rule for listing the Cahaba shiner stated that the Patton Creek Sewage treatment plant contributes nutrients to and affects the Cahaba River below the mouth of Patton Creek. That was an error. Sewage flow from the Patton Creek plant was diverted to the Cahaba River plant in December 1987, and the Patton Creek plant was shutdown. The Cahaba River plant has been upgraded to tertiary treatment. While this is certainly an improvement, the upgrade of the Cahaba River plant has not eliminated all the problems. Sewage that has received tertiary treatment is still high in nutrients and can contribute to eutrophication of an aquatic system. This plant is designed for 12 million gallons per day and receives an average of 9 million gallons per day. During periods of heavy inflows, i.e. rainfall, etc., the capacity of the plant is exceeded and sewage bypasses some treatment stages (Leigh Pegues, Alabama Department of Environmental Management, *in litt.*). Since the improvements in December 1987, there have been 14 reportable periods of time when some sewage bypassed the treatment at the Cahaba River plant. These reportable periods were of 1 to 14 days duration with an estimated bypass of 520 million gallons of raw sewage. This periodic addition of organic matter to the Cahaba River from the Cahaba Wastewater Treatment Plant and other smaller wastewater treatment systems continues many of the problems identified by the EPA report, albeit at a reduced scale. Further EPA findings included 55 coal and iron surface mined areas, 22 deep mines, and 15 open pit mines and mine tailings that may contribute to siltation of the Cahaba River. While some of the EPA findings have been corrected, the Cahaba shiner has declined as a result of these impacts and continues to be affected by many of them.

Methane gas extraction is of considerable interest in the Cahaba River Basin. The Alabama Department of Environmental Management (ADEM) has issued three permits for the discharge of wastewater into the Cahaba River from methane gas wells. One of these permits has been returned to ADEM as a result of a permit violation, and neither of the other permittees are currently discharging wastewater (Tim Forester, Alabama Department of Environmental Management, pers. comm. 1990). Available information indicates the Cahaba shiner can tolerate the permitted chloride levels. However, the potential for the discharge of wastewater from these wells in excess of permitted levels and the impact on the Cahaba shiner is of concern. The impact of other pollutants that may be in wastewater from methane gas wells is unknown.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* According to Ramsey (1982), incidental take and occasional collecting are not considered to have a bearing on the Cahaba shiner's status. However, when a population is stressed by other factors, the removal of individuals under any circumstances becomes more significant.

C. *Disease or predation.* No adverse impacts from this factor are documented in the literature. However, the Cahaba shiner is a prey species for larger fish and when the population is stressed by other factors, the removal of individuals by predation or disease becomes more significant.

D. *The inadequacy of existing regulatory mechanisms.* The species is not given any special consideration under Federal environmental law when project design and potential impacts are considered. The determination of endangered status will provide that special consideration. Scientific Collectors Permits are required by the State of Alabama to collect Cahaba shiners for scientific purposes. Enforcement of this requirement is difficult.

E. *Other natural or manmade factors affecting its continued existence.* Approximately 700 specimens (one collection of 370) of the Cahaba shiner were collected from 1958 through 1985 in 56 collections (Ramsey 1982; Howell *et al.* 1982; Howell, personal communication 1982; Stiles, personal communication 1985; Pierson, *in litt.*). Of these 56 collections, 22 were of single specimens and all but 4 of the remaining collections contained fewer than 15. These low numbers of specimens and few successful collection localities illustrate the species' low abundance despite intensive collection effort. Stiles' (1990) more recent collecting documents a continuing decline in the population of this uncommon species.

The low numbers, scattered populations, restricted range, and unusually limited spawning interval (Ramsey 1982) of the Cahaba shiner make this species especially susceptible to any natural or manmade factors that adversely affect it. As the range is reduced, the populations become more scattered and isolated. This isolation increases the difficulty of successful reproduction and lessens the probability of genetic exchange between populations. As genetic diversity is reduced, the ability of a species to adapt to adversity is also reduced. As successful reproduction becomes more difficult, the susceptibility to environmental perturbation increases. The reduced population of the Cahaba shiner in those areas that have historically produced good numbers may be the effect of increased siltation and other environmental degradation acting synergistically with consecutive years of abnormally low rainfall to impact the ability of this species to reproduce (Stiles 1990).

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list the Cahaba shiner as endangered, defined under the Act as being in danger of extinction

throughout all or a significant portion of its range. This preferred action is chosen due to the restricted range, scattered populations, low numbers, unusual biological traits, and water quality problems. Critical habitat is not designated for reasons discussed in that section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary may designate any habitat of a species that is considered to be critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for this species. All involved Federal and State agencies are aware of the existence of this species in the Cahaba River and the importance of protecting its habitat. The designation of critical habitat will not provide significant net benefits to the Cahaba shiner above and beyond species listing when combined Federal and State protections are considered. Any activity in the Cahaba River Basin that is within or upstream of the range of the Cahaba shiner that adversely affects this species will be carefully reviewed. Protection of this species' habitat will be addressed through the recovery process and through the Section 7 jeopardy standard.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal involvement is expected to include the Environmental Protection Agency in consideration of the Clean Water Act's provision for pesticides registration, and waste management actions. The Corps of Engineers will include this species in project planning and operation and during the permit review process. The Federal Highway Administration will consider impacts of bridge and road construction at points where known habitat is crossed. Urban development within the drainage basin may involve the Farmers Home Administration and their loan programs.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

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Ramsey, J.S. 1986. Cahaba shiner, *Notropis* D. cf. *volucellus*. Pages 2–3 *in* R.H. Mount, ed., Vertebrate animals of Alabama in need of special attention. AL Agr. Expt. Sta., Auburn Univ. 124 pp.

Ramsey, J.S., W.M. Howell, and H.T. Boschung, Jr. 1972. Rare and endangered fishes of Alabama, pages 57–66 *in* Rare and Endangered Vertebrates of Alabama.

Stiles, R.A. 1978. A report on the status of the goldline darter, *Percina aurolineata*, and the Cahaba shiner, *Notropis* D., in the Cahaba River system of Alabama. Cahaba River Study Project. 6 pp. + Maps and Appendices.

BEST COPY AVAILABLE

Stiles, R.A. 1990. A preliminary report on the current status of the goldline darter, *Percina aurolineata*, and the Cahaba shiner, *Notropis cahabae*, in the Little Cahaba and Cahaba Rivers of Alabama. A report to the U.S. Fish and Wildlife Service. 20 pg.

U.S. Environmental Protection Agency. 1978. Final environmental impact statement for Cahaba River wastewater facilities. Jefferson, Shelby, and St. Clair Counties, Alabama. 95 pg. + Transcript, Comments, Correspondence, and Appendices (1978).

Author

The primary author of this rule is James H. Stewart (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1543; 16 U.S.C. 4201–4245, Public Law 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under "FISHES", to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species							
Common name	Scientific name	Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Fishes							
Shiner, Cahaba	*Notropis cahabae*	U.S.A. (AL)	Entire	E	405	NA	NA

Dated: October 12, 1990.

Bruce Blanchard,

Acting Director, Fish and Wildlife Service.

[FR Doc. 90-25215 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 900427-0058]

RIN 0648-AD48

Western Pacific Bottomfish Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues this final rule as an addition to the regulations implementing the Fishery Management Plan for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region (FMP). The rule makes it a Federal requirement that catch and effort data for all bottomfish be reported to the State of Hawaii, the Territory of American Samoa, and the Territory of Guam in compliance with the respective laws and regulations of each area. The intended effect of this action is to improve the ability of NMFS, American Samoa, Guam, and Hawaii to monitor all catches of bottomfish and seamount groundfish management unit species (BMUS). This rule will foster cooperative enforcement efforts between NMFS, the U.S. Coast Guard, and the state/territorial enforcement agents to ensure compliance with catch reporting requirements without imposing additional Federal data collection rules.

EFFECTIVE DATE: November 26, 1990.

FOR FURTHER INFORMATION CONTACT: Svein Fougner, Fisheries Management Division, Southwest Region, Terminal Island, California (213-514-6660), or Alvin Katekaru, Pacific Area Office, Honolulu, Hawaii, (808-955-8831).

SUPPLEMENTARY INFORMATION: The bottomfish and seamount groundfish fisheries in the western Pacific are managed by the Fishery Management Plan for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region (FMP). As long as the data collection and catch reporting systems of the State of Hawaii, and the Territories of American Samoa and Guam provide the Secretary of Commerce (Secretary) with adequate statistical information necessary for management, no Federal reports are required of domestic fishermen or processors engaged in the bottomfish and seamount groundfish fisheries of the U.S. Exclusive Economic Zone (EEZ). The proposed rule published on July 3, 1990 (55 FR 27479), explains that the existing systems of the State of Hawaii (mandatory reporting), American Samoa (voluntary reporting at present), and Guam (voluntary reporting at present) are the most comprehensive depositories of catch and effort data available on the BMUS. These local systems have weaknesses due to inadequate reporting of catch information by domestic fishermen. The intended long-term effect of this proposed rule is: (a) To facilitate improved monitoring and assessment of the bottomfish and seamount groundfish fisheries; (b) to evaluate the impacts of possible catch restrictions upon the BMUS within the outside the EEZ; (c) to develop and refine measurable indicators for monitoring the status of stocks of BMUS; and (d) to regulate the domestic fishing fleet to diminish gear conflicts. This action is consistant with the objective of the FMP to improve the data base for future decisions through data reporting requirements and cooperative programs between Federal and state/territorial agencies.

There are no foreseeable environmental or economic effects from implementing this regulatory change because the action is not expected to affect the amount of BMUS harvested, or the species composition of the catch, or the time and location of fishing activity. This is an administrative action which should have no effect on marine resources, ocean and coastal habitats, or public health and safety. No additional Federal reporting requirements will be imposed as long as the data collection and reporting systems operated by the

State and Territories continue to provide the Secretary with statistical information adequate for management. It is the intent of NMFS to build upon existing state, territorial, and NMFS data collection systems to obtain data needed by the Western Pacific Fishery Management Council (Council) to effectively monitor the fisheries. The long-term effects from this action are expected to be a better understanding of bottomfish and seamount fish stocks and fisheries, and an increase in the knowledge necessary to manage the domestic fishery. This action should result in improved compliance by domestic fishermen with state and territorial fish catch reporting requirements.

Public Comments

Comments were received from the Hawaii Department of Land and Natural Resources (DLNR) and the Guam Division of Aquatic and Wildlife Resources supporting the action. No negative comments were received.

Classification

The final rule is published under authority of section 305(g) of the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* (Magnuson Act) and was prepared at the request of the Council. The Assistant Administrator for Fisheries, NOAA, (Assistant Administrator) has determined that this rule is necessary for the conservation and management of the bottomfish and seamount groundfish resources of the western Pacific region and that it is consistent with the Magnuson Act and other applicable law.

The Assistant Administrator has determined that the final rule falls within a categorical exclusion from the requirements of the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*, by NOAA Directive 02–10, because it would not result in any significant change from the status quo and because the reporting of landings data is routine with limited potential for affecting the human environment. This action should result in providing an effective means of obtaining better reporting of catches by fishermen in compliance with state and territorial laws and regulations.

The Assistant Administrator also has determined that it is not a major rule requiring a regulatory impact analysis under Executive Order 12291. This action will not have a cumulative effect on the economy of $100 million or more nor will it result in a major increase in costs to consumers, industries, government agencies, or geographical regions. No significant adverse impacts are anticipated on competition, employment, investments, productivity, innovation, or competitiveness of U.S.-based enterprises.

The General Counsel of the Department of Commerce has certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 603 *et seq.*, because it does not create any additional burdens. As a result, a regulatory flexibility analysis was not prepared.

This final rule does not contain new collection-of-information requirements subject to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

The Assistant Administrator has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of American Samoa, Guam, and Hawaii. This determination was submitted for review to the responsible state and territorial agencies under section 307 of the Coastal Zone Management Act. The agencies failed to comment within the statutory time period.

This final rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

List of Subjects in 50 CFR Part 663

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: October 19, 1990.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 663 is amended as follows:

PART 663—WESTERN PACIFIC BOTTOMFISH AND SEAMOUNT GROUNDFISH FISHERIES

1. The authority citation for 50 CFR part 663 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 663.4, a new paragraph (c) is added to read as follows:

§ 663.4 Recordkeeping and reporting.

* * * * *

(c) Any person who is required to do so by the applicable State laws and regulations, shall make and/or file any and all reports of bottomfish and seamount groundfish landings, containing all data and in the exact manner, required by the applicable State laws and regulations.

§ 663.6 [Amended]

3. In section 663.6, paragraph (g), "§ 663.11" is revised to read "§ 663.4 (b) and (c)."

§ 663.11 [Removed]

4. Section 663.11 is removed.

[FR Doc. 90-25217 Filed 10-24-90; 8:45 am]
BILLING CODE 3510-22-M

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50 CFR Part 685

[Docket No. 900498-0257]

RIN 0648-AD41

Pelagic Fisheries of the Western Pacific Region

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues this final rule as an addition to the regulations implementing the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (FMP). The rule makes it a Federal requirement that catch and effort data for pelagic management unit species (PMUS) be reported to the State of Hawaii, the Territory of American Samoa, and the Territory of Guam in compliance with the respective laws and regulations of each area. The intended effect of this action is to improve the ability of NMFS, American Samoa, Guam, and Hawaii to monitor catch and effort of the PMUS. This rule will foster cooperative enforcement efforts between NMFS, the U.S. Coast Guard, and the state/territorial enforcement agents to ensure compliance with catch reporting requirements without imposing any additional Federal data collection rules.

EFFECTIVE DATE: November 28, 1990.

FOR FURTHER INFORMATION CONTACT: Svein Fougner, Fisheries Management Division, Southwest Region, Terminal Island, California (213–514–6660), or Alvin Katekaru, Pacific Area Office, Honolulu, Hawaii, (808–955–8831).

SUPPLEMENTARY INFORMATION: Fisheries for billfish and associated species in the western Pacific are managed by the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region. As long as the data collection and catch reporting systems of the State of Hawaii, and the Territories of American Samoa and Guam provide the Secretary of Commerce (Secretary) with adequate statistical information necessary for management, no Federal reports are

required of domestic fishermen or processors engaged in the fisheries of the U.S. Exclusive Economic Zone (EEZ). The proposed rule published on July 3, 1990 (55 FR 27601), explains that the existing data systems of the State of Hawaii (mandatory reporting), American Samoa (voluntary reporting at present) and Guam (voluntary reporting at present) are the most comprehensive depositories of catch and effort data available on billfish and other migratory fish. These local systems have weaknesses due to inadequate reporting of catch information by domestic fishermen. The intended long-term effect of the final rule is: (a) To improve monitoring and assessment of the pelagic fisheries; (b) to evaluate the impacts of possible catch restrictions upon the PMUS within and outside the EEZ; (c) to develop and refine measurable indicators for monitoring the status of stocks of pelagic fish; and (d) to regulate the domestic fishing fleet to diminish gear conflicts. This action is consistent with Objective 2 of the FMP to improve the statistical base for better stock assessments, and for making better decisions to conserve and manage highly migratory resources throughout their range in the Pacific Ocean.

There are no foreseeable environmental or economic effects from implementing this regulatory change, because the action is not expected to affect the amount of PMUS harvested, or the species composition of the catch, or the time and location of fishing activity. This is an administrative action that will have no impact upon marine resources, ocean and coastal habitats, or public health and safety. It is the intent of NMFS to build upon existing state, territorial, and NMFS data collection systems to obtain data needed by the Western Pacific Fishery Management Council (Council) to effectively monitor the pelagic fisheries and achieve the goals and objectives of the FMP. The long-term effects for this action are expected to be a better understanding of pelagic fish stocks and fisheries, and increase in the quality of the knowledge necessary to manage the domestic fisheries. This action should result in improved compliance by domestic fishermen with state and territorial catch reporting requirements.

Public Comments

Comments were received from the Hawaii Department of Land and Natural Resources (DLNR) and the Guam Division of Aquatic and Wildlife Resources supporting the action. DLNR also pointed out a typographical error in the summary (last sentence) section of the proposed rule published on July 3, 1990. The sentence erroneously indicated that additional Federal data collection requirements would be imposed as a result of the proposed action. No negative comments were received.

Classification

The final rule is published under authority of section 305(g) of the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* (Magnuson Act) and was prepared at the request of the Council. The Assistant Administrator for Fisheries, NOAA, (Assistant Administrator) has determined that this rule is necessary for the conservation and management of the pelagic resources of the western Pacific region and that it is consistent with the Magnuson Act and other applicable law.

The Assistant Administrator has determined that the final rule falls within a categorical exclusion from the requirements of the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*, by NOAA Directive 02-10, because it would not result in any significant change from the status quo and because the reporting of landings data is routine with limited potential for effect on the human environment.

The Assistant Administrator also has determined that this is not a major rule requiring a regulatory impact analysis under Executive Order 12291. The final rule will not have a cumulative effect on the economy of $100 million or more nor will it result in a major increase in costs to consumers, industries, government agencies, or geographical regions. No significant adverse impacts are anticipated on competition, employment, investments, productivity, innovation, or competitiveness of U.S.-based enterprises.

The General Counsel of the Department of Commerce has certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 603 *et seq.*, because it does not create any additional burdens. As a result, a regulatory flexibility analysis was not prepared.

This final rule does not contain new collection-of-information requirements subject to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

The Assistant Administrator has determined that the final rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of American Samoa, Guam, and Hawaii. This determination was submitted for review to the responsible state and territorial agencies under section 307 of the Coastal Zone Management Act. The agencies failed to comment within the statutory time period.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

List of Subjects in 50 CFR Part 685

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: October 12, 1990.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 685 is amended as follows:

PART 685—PELAGIC FISHERIES OF THE WESTERN PACIFIC REGION

1. The authority citation for part 685 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 685.4 the current text is designated paragraph (a) and a new paragraph (b) is added to read as follows:

§ 685.4 Recordkeeping and reporting.

* * * * *

(b) Any person who is required to do so by the applicable State laws and regulations shall make and/or file any and all reports of billfish and associated species landings, containing all data and in the exact manner, required by the applicable State laws and regulations.

3. In § 685.5, a new paragraph (d) is added to read as follows:

§ 685.5 Prohibitions.

* * * * *

(d) Falsify or fail to make and/or file any and all reports of billfish and associated species landings, containing all data and in the exact manner, required by the applicable State laws and regulations, as specified in § 685.4(b), provided that the person is required to do so by the applicable State laws and regulations.

[FR Doc. 90-25016 Filed 10-24-90; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 207
Thursday, October 25, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1007, 1093, 1094, 1096, and 1108

[Docket No. AO-366-A31, etc.; DA-90-029]

Milk in the Georgia and Certain Other Marketing Areas; Hearing on Proposed Amendments to Tentative Marketing Agreement and Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

In the matter of:

	Marketing area	Docket Nos.
7 CFR Part:		
1007	Georgia	AO-366-A31
1093	Alabama-West Florida	AO-286-A9
1094	New Orleans-Mississippi	AO-103-A61
1096	Greater Louisiana	AO-257-A39
1108	Central Arkansas	AO-242-A41

SUMMARY:

This hearing is being held to consider proposals by five cooperative associations and two dairy processors to amend the above-listed Federal milk marketing orders. A proposal by Dairymen, Inc.; Associated Milk Producers, Inc.; Gulf Coast Dairymen's Association; Gulf Dairy Association; and Southern Milk Sales, Inc., would merge the marketing areas of the Georgia, Alabama-West Florida, New Orleans-Mississippi and Greater Louisiana milk orders into a single marketing area. The provisions of the proposed "Gulf States" order are patterned after the Alabama-West Florida order with some modifications. Such modifications include the producer-handler definition, the use of a seasonal Class III price, and some price restructuring including a reduction in the Class I price of seven cents per hundredweight in southern Louisiana.

Land-O-Sun Dairies, Inc., proposed that producers deliver at least six days' production to pool plants in order to divert milk to nonpool plants as producer milk during the months of seasonally short production. Malone & Hyde Dairy, Nashville, Tennessee proposed a modification of the merged order affecting the zoning of the marketing area, the producer milk definition, and plant location adjustments for handlers. Associated Milk Producers, Inc., proposed that the Central Arkansas order be revised to continue pooling status for a distributing plant located in the marketing area that has greater sales in another order unless the Class I price at such plant location under the other order is greater than the Class I price at such location under the "Gulf States" milk order.

DATES: The hearing will convene at 1 p.m., local time on December 17, 1990.

ADDRESSES: The hearing will be held at the Atlanta Airport Hilton, 1031 Virginia Avenue, Atlanta, GA 30354, (404) 767-9000.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P. O. Box 96456, Washington, DC 20090-6456, (202) 447-2089.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Atlanta Airport Hilton, 1031 Virginia Avenue, Atlanta, GA 30354, (404) 767-9000, beginnign at 1 p.m., local time on December 17, 1990, with respect to proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the aforesaid specified marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

Actions under the Federal milk order program are subject to the Regulatory Flexibility Act (Pub. L. 96-354). This Act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purposes of the Act, a dairy farm is a "small business" if it has an annual gross revenue of less than $500,000, and dairy products manufacturer is a "small business" if it has fewer than 500 employees. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

Interested parties who wish to introduce exhibits should provide the Presiding Officer at the hearing with four copies of such exhibits for the Official Record. Also, it would be helpful if additional copies are available for the use of other participants at the hearing.

Proposal No. 1, a proposal to combine the Georgia, Alabama-West Florida, New Orleans-Mississippi and Greater Louisiana marketing areas under one order, raises the issue of whether the provision set forth in that proposal would tend to effectuate the declared policy of the Act if they are applied to the proposed merged marketed area, and, if not, what modifications of the provisions would be appropriate.

The issues raised by proposal No. 1 include whether the declared policy of the Act would tend to be effectuated by:

(a) Merger of one or more of the marketing areas, or any combination of marketing areas for separate or combined orders which include part or all of the areas presently defined in the respective orders; and

(b) Adoption of any of the proposed provisions, or appropriate modifications thereof, for any separate order or any combination of such orders including a review of the appropriate pricing and pooling provisions of the orders whether separate or in any combination.

The proposed merger of orders as specified in Proposal No. 1 also raises

the issue of the appropriate disposition of the producer-settlement funds, marketing service funds, and administrative funds accumulated under the Georgia, Alabama-West Florida, New Orleans-Mississippi and Greater Louisiana milk orders.

List of Subjects in 7 CFR Parts 1007, 1093, 1094, 1096 and 1108

Milk marketing orders.

The authority citation for 7 CFR parts 1007, 1093, 1094, 1096, 1108 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Dairymen Inc.; Associated Milk Producers, Inc.; Gulf Coast Dairymen's Association; Gulf Dairy Association; and Southern Milk Sales, Inc.:

Proposal No. 1:

Merge the marketing areas of the Georgia (part 1007), Alabama-West Florida (part 1093), New Orleans-Mississippi (part 1094), and Greater Louisiana (part 1096) milk orders to form a "Gulf States" marketing area (part 1093) with terms and provisions as follows:

PART 1093—MILK IN GULF STATES MARKETING AREA

Subpart—Order Regulating Handling

General Provisions

§ 1093.1 General provision.

The terms, definitions, and provisions in part 1000 of this chapter are hereby incorporated by reference and made a part this order.

Definitions

§ 1093.2 Gulf States marketing area.

The "Gulf States marketing area" hereinafter called the "marketing area" means all territory within the boundaries of the following Alabama, Florida, Georgia and Mississippi counties and Louisiana parishes, including all piers, docks, and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed counties or parishes:

Zone 1

Alabama Counties

Cherokee, Colbert, Cullman, DeKalb, Franklin, Jackson, Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall, Morgan and Winston.

Georgia Counties

Bartow, Cherokee, Dawson, Floyd, Forsyth, Gilmer, Gordon, Habersham, Hall, Lumpkin, Pickens, Towns, Union, and White.

Mississippi Counties

Alcorn, Benton, Itawamba, Lee, Pontotoc, Prentiss, Tippah, Tishomingo and Union.

Zone 2:

Alabama Counties

Blount, Calhoun, Clay, Cleburne, Etowah, Fayette, Jefferson, Lamar, Randolph, St. Clair, Shelby, Talledega, and Walker.

Georgia Counties

Banks, Barrow, Butts, Carroll, Clarke, Clayton, Cobb, Coweta, DeKalb, Douglas, Elbert, Fayette, Franklin, Fulton, Greene, Gwinnet, Harolson, Hart, Heard, Henry, Jackson, Jasper, Lamar, Lincoln, Madison, Meriwether, Morgan, Newton, Oconee, Oglethorpe, Paulding, Pike, Polk, Putnam, Rockdale, Spalding, Stephens, Taliaferro, Troup, Walton, and Wilkes.

Mississippi Counties

Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Clay, Coahoma, Grenada, Leflore, Lowndes, Monroe, Montgomery, Oktibbeha, Quitman, Sunflower, Tallahatchie, Webster, and Yalobusha.

Zone 3:

Alabama Counties

Autauga, Bibb, Chambers, Chilton, Coosa, Elmore, Greene, Hale, Lee, Macon, Perry, Pickens, Russell, Talapoosa, and Tuscaloosa.

Georgia Counties

Baldwin, Bibb, Burke, Chattahoochee, Columbia, Crawford, Glascock, Hancock, Harris, Houston, Jefferson, Jones, Macon, Marion, McDuffie, Monroe, Muscogee, Peach, Richmond, Schley, Talbot, Taylor, Twiggs, Upson, Warren, Washington, and Wilkinson.

Mississippi Counties

Attala, Holmes, Humphreys, Noxubee, Washington, and Winston.

Zone 4:

Alabama Counties

Barbour, Bullock, Choctaw, Dallas, Lowndes, Marengo, Montgomery, Sumter, and Wilcox.

Georgia Counties

Ben Hill, Bleckley, Bulloch, Candler, Clay, Crisp, Dodge, Dooly, Effingham, Emanuel, Evans, Jeff Davis, Jenkins, Johnson, Laurens, Lee, Montgomery, Pulaski, Quitman, Randolph, Screven, Stewart, Sumter, Tattnall, Telfair, Terrell, Toombs, Turner, Treutlen, Webster, Wheeler, and Wilcox.

Louisiana Parishes

Bienville, Bossier, Caddo, Caldwell, Claiborne, De Soto, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Red River, Richland, Tensas, Union, Webster, West Carroll and Winn.

Mississippi Counties

Claiborne, Clarke, Copiah, Hinds, Issaquena, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Rankin, Scott, Sharkey, Simpson, Smith, Warren, and Yazoo.

Zone 5:

Alabama Counties

Butler, Clarke, Coffee, Conecuh, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Monroe, Pike and Washington.

Georgia Counties

Appling, Atkinson, Bacon, Baker, Berrien, Brantley, Brooks, Bryan, Calhoun, Camden, Charlton, Chatham, Clinch, Coffee, Colquitt, Cook, Decatur, Dougherty, Early, Echols, Glynn, Grady, Irwin, Lanier, Liberty, Long, Lowndes, McIntosh, Miller, Mitchell, Pierce, Seminole, Thomas, Tift, Ware, Wayne, and Worth.

Louisiana Parishes

Avoyelles, Catahoula, Concordia, Grant, La Salle, Natchitoches, Rapides, Sabine and Vernon.

Mississippi Counties

Adams, Amite, Covington, Forrest, Franklin, Greene, Jefferson, Jefferson Davis, Jones, Lamar, Lawrence, Lincoln, Marion, Perry, Pike, Walthall, Wayne and Wilkinson.

Zone 6:

Alabama Counties

Baldwin, Escambia and Mobile.

Florida Counties

Escambia, Okaloosa, Santa Rosa and Walton.

Louisiana Parishes

East Feliciana, St. Helena, St. Tammany, Tangipahoa, Washington and West Feliciana.

Mississippi Counties

George, Hancock, Harrison, Jackson, Pearl River and Stone.

Zone 7:

Louisiana Parishes

Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, Evangaline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, Terrebonne, Vermillion and West Baton Rouge.

§ 1093.3 Route disposition.

Route disposition means a delivery to a retail or wholesale outlet (except to a plant) either directly or through any distribution facility (including

disposition from a plant store, vender or vending machine) of a fluid milk product classified as Class I milk.

§ 1093.4 Plant.

Plant means the land, buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products, including filled milk, are received, processed, or packaged. Separate facilities without stationary storage tanks that are used only as a reload point for transferring bulk milk from one tank truck to another or separate facilities used only as a distribution point for storing packaged fluid milk products in transit for route disposition shall not be a plant under this definition.

§ 1093.5 Distributing plant.

Distributing plant means a plant that is approved by a duly constituted regulatory agency for the handling of Grade A milk and at which fluid milk products are processed or packaged and from which there is route disposition in the marketing area during the month.

§ 1093.6 Supply plant.

Supply plant means a plant that is approved by a duly constituted regulatory agency for the handling of Grade A milk and from which fluid milk products are transferred during the month to a pool distributing plant.

§ 1093.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) A distributing plant from which during the month there is:

(1) Total route disposition, except filled milk, equal to 50 percent or more of the total quantity of Grade A fluid milk products, except filled milk, physically received at such plant or diverted therefrom pursuant to § 1093.13; and

(2) Route disposition, except filled milk, in the marketing area is at least the lesser of a daily average of 1,500 pounds or 10 percent of the total quantity of fluid milk products, except filled milk, physically received or diverted therefrom pursuant to § 1093.13.

(b) A supply plant from which fluid milk products are transferred to pool distributing plants. Such transfers, in excess of receipts by transfer from pool distributing plants, must equal not less than 60 percent in each of the months of August through December, and 40 percent in each of the months of January through July, of the total quantity of Grade A milk that is received during the month from dairy farmers (including producer milk diverted from the plant pursuant to § 1093.13 but excluding milk diverted to such plant) and handlers described in § 1093.9(c).

(c) A plant operated by a cooperative association if pool plant status under this paragraph is requested for such plant by the cooperative association and during the month producer milk of members of such cooperative association is delivered directly from farms to pool distributing plants or is transferred to such plants as a fluid milk product from the cooperative's plant. Such deliveries, in excess of receipts by transfer from pool distributing plants, must equal not less than 60 percent of the total producer milk of such cooperative association in each of the months of August through December, and 40 percent of such milk in each of the months of January through July. The plant's pool plant status shall be subject to the following conditions:

(1) The plant does not qualify as a pool plant under paragraph (a) or (b) of this section or under the provisions of another Federal order applicable to a distributing plant or a supply plant; and

(2) The plant is approved by a duly constituted regulatory agency to handle Grade A milk.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) An exempt plant as defined pursuant to § 1093.8(e) (1) or (2);

(3) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area;

(4) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition in such other marketing area and from which there is a greater quantity of route disposition, except filled milk, in this marketing area than such other marketing area but the plant is, nevertheless, fully regulated under such other Federal order; and

(5) A plant qualified pursuant to paragraph (b) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under such other order than are made to plants regulated under this part, or such plant has automatic pooling status under such other order.

§ 1093.8 Nonpool plant.

Nonpool plant means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants ar further defined as follows:

(a) *Other order plant* means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) *Producer-handler plant* means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) *Partially regulated distributing plant* means a nonpool plant that is not an other order plant, a producer-handler plant or a exempt plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) *Unregulated supply plant* means a supply plant that does not qualify as a pool supply plant and is not an other order plant, a producer-handler plant, or a governmental agency plant.

(e) *Exempt plant* means a plant:

(1) Operated by a governmental agency from which fluid milk products are distributed in the marketing area. Such plant shall be exempt from all provisions of this part; or

(2) Which has monthly route disposition of 100,000 pounds or less during the month. Such plant will be exempt from the pricing and pooling provisions of this order. However, such handler must file periodic reports as prescribed by the market administrator to enable determination of the exempt status of such handler.

§ 1093.9 Handler.

Handler means:

(a) Any person who operates one or more pool plants;

(b) Any cooperative with respect to producer milk which it causes to be diverted pursuant to § 1093.13 for the account of such cooperative association;

(c) Any cooperative association with respect to milk that receives for its account from the farm of a producer for delivery to a pool plant of another handler in a tank truck owned and operated by, or under the control of, such cooperative association, unless both the cooperative association and the operator of the pool plant notify the market administrator prior to the time that such milk is delivered that the plant operator will be handler of such milk and will purchase such milk on the basis of weights determined from its

measurement at the farm and butterfat tests determined from farm bulk tank samples. Milk for which the cooperative association is the handler pursuant to this paragraph shall be deemed to have been received by the cooperative association at the location of the pool plant to which such milk is delivered;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person who operates an other order plant described in § 1093.7(d);

(g) Any person who operates an unregulated supply plant; and

(h) Any person who operates an exempt plant.

§ 1093.10 Producer-handler.

Producer-handler means a person who is engaged in the production of milk and also operates a plant from which during the month fluid milk products, except filled milk, is disposed of only direct to consumers through home delivery retail routes or through a retail store located on the same property as the plant, and who has been so designated by the market administrator upon the market administrator's determination that all the requirements of this section have been met, and that none of the conditions therein for cancellation of such designation exists. All designations shall remain in effect until cancelled pursuant to paragraph (c) of this section.

(a) *Requirements for designation.* (1) The producer-handler has an exercises (in such persons's capacity as a handler) complete and exclusive control over the operation and management of a plant at which milk is processed and received from the milk production resources and facilities of such handler (designated as such prusuant to paragraph (b)(1) of this section, the operation and management of which are under the complete and exclusive control of the producer-handler (in that person's capacity as a dairy farmer).

(2) The producer-handler neither recieves at such designated milk production resources and facilities nor receives, handles, processes or distributes at or through any of such person's milk handling, processing or distributing resources and facilities (designated as such pursuant to paragraph (b)(2) of this section) milk products for reconstitution into fluid milk products, or fluid milk products derived from any source other than:

(i) Such person's designated milk production resources and facilites,

(ii) Pool plants within the limitation specified in paragraph (c)(2) of this section, or

(iii) Nonfat milk solids which are used to fortify fluid milk products.

(3) The producer-handler is neither directly nor indirectly associated with the business or management of, nor has financial interest in another handler's operation; nor is any other handler so associated with the producer-handler's operation.

(4) The producer-handler is neither directly nor indirectly associated with the business or management of, nor has financial interest in another producer's operation (in this or any Federal order).

(5) Designation of any person as a producer-handler following a cancellation of such person's prior designation shall be preceded by performance in accordance with paragraphs (a)(1), (2), (3) and (4) of this section for a period of one month.

(b) *Resources and facilities.* Designation of a person as a producer-handler shall include the determination and designation of the milk production, handling, processing and distribution resources and facilities, all of which shall be deemed to constitute an integrated operation, as follows:

(1) As milk production resources and facilities: All resources and facilities (milking herd(s), buildings housing such herd(s), and the land on which such buildings are located) used for the production of milk:

(i) Which are directly, indirectly or partially owned, operated or controlled by the producer-handler;

(ii) In which the producer-handler in any way has an interest including an contractual arrangement; and

(iii) Which are directly, indirectly, or partially owned, operated or controlled by any partner or stockholder of the producer-handler.

(2) As milk handling, processing and distribution resources and facilities: All resources and facilities (including store outlets) used for handling, processing and distributing any fluid milk product:

(i) Which are directly, indirectly or partially owned, operated or controlled by the producer-handler;

(ii) In which the producer-handler in any way has an interest including any contractual arrangement, or with respect to which the producer-handler directly or indirectly exercises any degree of management or control.

(c) *Cancellation.* The designation as a producer-handler shall be cancelled under any of the conditions set forth in paragraph (c) (1) and (2) of this section or upon determination by the market administrator that any of the requirements of paragraphs (a) (1), (2), (3) and (4) of this section are not continuing to be met. Such cancellation is to apply to any month in which the requirements are not met, or the conditions for cancellation occurred.

(1) Milk from the designated production resources and facilities of the producer-handler is delivered in the name of another person as producer milk to another handler under this or any other Federal order.

(2) The producer-handler handles fluid milk products derived from sources other than designated milk production facilities and resources, with the exception of purchases from pool plants in the form of fluid milk products which does not exceed the lessor of 5 percent of the producer-handler's Class I disposition during the month or 5,000 pounds.

(d) *Public announcement.* The market administrator shall publicly announce the name, plant location and farm location(s) of persons designated as producer-handler, of those whose designations have been cancelled and the effective dates of producer-handler status or loss of producer-handler status of each.

(e) *Burden of establishing* and maintaining producer-handler status. The burden rests upon the handler who is designated as a producer-handler to establish through records required pursuant to § 1093.5 of this chapter that the requirements set forth in paragraph (a) of this section have been and are continuing to be met, and that the conditions set forth in paragraph (c) of this section for cancellation do not exist.

§ 1093.11 [Reserved]

§ 1093.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk is:

(1) Received at a pool plant directly from such producer;

(2) Received by a handler described in § 1093.9(c); or

(3) Diverted from a pool plant in accordance with § 1093.13.

(b) *Producer* shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by such person whose milk is delivered to an exempt plant, excluding producer milk diverted to such exempt plant pursuant to § 1093.9(d);

(3) Any person with respect to milk produced by such person which is diverted to a pool plant from an other order plant if the other order plant designates such person under the order

as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1093.44(a)(8)(iii)and the corresponding step of § 1093.44(b);

(4) Any person with respect to milk produced by such person which is reported as directed to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order; or

(5) Any person with respect to milk produced by him during the months of January through July that is caused to be delivered to a pool plant by a cooperative association or a pool plant operator if during the immediately preceding months of August through December more than one-fifth of the milk from the same farm was caused by such cooperative association or pool plant operator to be delivered to plants as other than producer milk (except milk that is not producer milk as a result of a temporary loss of grade A approval or the application of § 1093.13(e) (5), (6), and (7), unless such pool plant was a nonpool plant during any of such immediately preceding months.

§ 1093.12 Producer milk.

Producer milk means the skim milk and butterfat contained in milk of a producer that is:

(a) Received at a pool plant directly from such producer by the operator of the plant;

(b) Received by a handler described in § 1093.9(c); or

(c) Diverted from the pool plant to the pool plant of another handler. Milk so diverted shall be deemed to have been received at the location of the plant to which diverted; and

(d) Divered by the operator of a pool plant or cooperative association to a nonpool plant that is not a producer-handler plant, subject to the following conditions:

(1) In any month of January through July, not less than four days; production of the producer whose milk is diverted is physically received at a pool plant during the month;

(2) In any month of August through December, not less than ten days; production of the producer whose milk is diverted is physically received at a pool plant during the month;

(3) The total quantity of milk so diverted during any month by a cooperative association shall not exceed 30 percent of the producer milk that the cooperative association caused to be delivered to, and is physically received at, pool plants during the month;

(4) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (d)(3) of this section. The total quantity of milk so diverted during any month shall not exceed 30 percent of the producer milk physically received at such plant during the month;

(5) Any milk diverted in excess of the limits prescribed in paragraphs (d) (3) and (4) of this section shall not be producer milk. The diverting handler shall designate the dairy farmer deliveres that will not be producer milk pursuant to paragraph (d) (3) and (4) of this section. If the handler fails to make such designation, no milk diverted by such handler shall be producer milk;

(6) To the extent that it would result in nonpool status for the plant from which diverted, milk diverted for the account of a cooperative association from the pool plant of another handler shall be be producer milk;

(7) The cooperative association shall designate the dairy farmer deliveries that are not prducer milk pursuant to paragraph (c)(6) of this section. If the cooperative association fails to make such designation, no milk diverted by it to a nonpool plant shall be producer milk.

(8) Diverted milk shall be priced at the location of the plant to which diverted.

§ 1093.14 Other source milk.

Other source milk means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1093.40(b)(1) from any source other than producers, a handler described in § 1093.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1093.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1093.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1093.40(b)(1)) for which the handler fails to establish a disposition.

§ 1093.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1093.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent of more butterfat, with or without the addition of other ingredients.

§ 1093.17 Filled milk.

Filled milk means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1093.18 Cooperative association.

Cooperative association means any cooperative marketing association of producers which the Secretary determines after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and be engaged in making collective sales of or marketing milk or milk products for its members.

§ 1093.19 [Reserved]

§ 1093.20 Product prices.

The following prices shall be used in calculating the basic Class II formula price:

(a) *Butter Price. "Butter price"* means the simple average, for the first 15 days

of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar Cheese Price.* "*Cheddar cheese price*" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat Dry Milk Price.* "*Nonfat dry milk price*" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible Whey Price.* "*Edible whey price*" means the simple average for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday, except national holidays.

Handler Reports

§ 1093.30 Reports of receipts and utilization.

On or before the 5th day after the end of the month (if postmarked), or not later than the 7th day if the report is delivered in person to the office of the market administrator, each handler shall report for such month to the market administrator, in the detail and on forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of its pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1093.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of each month of fluid milk products and products specified in § 1093.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1093.9 (b) and (c) shall report:

(1) The quantities of skim milk and butterfat contained in receipts from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to its receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1093.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1093.9 (a), (b), and (c) shall report to the market administrator its producer payroll for such month, in detail prescribed by the market administrator, showing for each producer:

(1) Such producer's name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk;

(4) The price per hundredweight, the gross amount due, the amount and nature of any deduction, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1093.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1093.32 Other reports.

(a) Each handler described in § 1093.9 (a), (b) and (c) shall report to the market administrator on or before the 7th day after the end of each month of February through June the aggregate quantity of base milk received from producers during the month, and on or before the 20th day after the end of each month of February through June the pounds of base milk received from each producer during the month.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1093.30 and 1093.31, each handler shall report such information as the market administrator deems necessary to verify or establish each handler's obligation under the order.

Classification of Milk

§ 1093.40 Classes of utilization.

Except as provided in § 1093.42, all skim milk and butterfat required to be reported pursuant to § 1093.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Disposed of in the form of buttermilk or buttermilk mix, regardless of the nonmilk solids content of such product, used in and labeled for the commercial (or foodservice) production of biscuits, or for other bakingpurposes, except buttermilk or buttermilk mix defined as a fluid milk product pursuant to § 1093.15(c).

(5) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, and Creole cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed all metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, dry curd cottage cheese, and Creole cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated or condensed milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section.

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1093.15; and

(6) In shrinkage assigned pursuant to § 1093.41(a) to the receipts specified in § 1093.41(a)(2) and in shrinkage specified in § 1093.41 (b) and (c).

§ 1093.41 Shrinkage.

For the purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1093.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraphs (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraphs (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product.

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1093.9(c), except that if the operator of the plant to which the milk is delivered purchased such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchased such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amount of skim milk and butterfat to which percentages are applied in paragraphs (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1093.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1093.42 Classification of transfers and diversions.

(a) *Transfers and Diversions to Pool Plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or transferred in the form of a bulk fluid cream product from

a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1093.44(a)(12) or the corresponding step of § 1093.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1093.44(a)(7) or the corresponding step of § 1093.44(b), the skim milk or butterfat so transferred, shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-plant or diverter-plant received during the month other source milk to be allocated pursuant to § 1093.44(a) (11) or (12) or the corresponding steps of § 1093.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant or divertee-plant.

(b) *Transfers and Diversions to Other Order Plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or transferred in the form of a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category and described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be Class I subject to adjustment when such information is available;

(5) For purposes of this paragraph if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to the class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1093.40.

(c) *Transfers to Producer-Handlers and Transfers and Diversions to Exempt Plants.* Skim milk or butterfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to an exempt plant shall be classified:

(1) As Class I milk if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and Diversions to Other Nonpool Plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant, or a governmental agency plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or transferred in the form of a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraphs (d)(2)(i)(*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraphs (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in such handler's report of receipts and utilization filed pursuant to § 1093.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plant fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plants from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plants from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be classified to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(b) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

(e) *Tranfers by a Handler Described In* § 1093.9(c) To Pool Plants. Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1093.9(c) to another handler's pool plant shall be classified pursuant to § 1093.44 pro rata with producer milk received at the transferee-handler's plant.

§ 1093.43 General classification rules.

In determining the classification of producer milk pursuant to § 1093.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1093.30 and shall compute separately for each pool plant, and for each cooperative association with respect to milk for which it is the handler pursuant to § 1093.9 (b) or (c) that was not received at a pool plant, the pounds of skim milk and butterfat, respectively, in each class in accordance with § 1093.40, 1093.41, and 1093.42. The combined pounds of skim milk and butterfat so determined in each class for a handler described in § 1093.9(b) or (c) shall be such handler's classification of producer milk;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by the handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1093.9(b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1093.44 Classification of producer milk.

For each month the market administrator shall determine for each handler described in § 1093.9(a) for each pool plant of the handler separately the classification of producer milk and milk received from a handler described in § 1093.9(c), by allocating the handler's receipts of skim milk and butterfat to the utilization of such receipts by such handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1093.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from another order plant, except that to be subtracted pursuant to (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1093.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II.

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1093.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or fluid cream product) that is used to produce, or added to, any product specified in § 1093.40(b)(1), but not in excess of the pounds of skim milk remaining in Class II.

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1093.40(b)(1) that were not subtracted pursuant to paragraphs (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under any Federal milk order and from an exempt plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from another order plant that is fully regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraphs (a)(8)(ii)(*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased

(increasing as necessary Class III then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased in like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount;

(*a*) Multiply by 1.25 the sum of the pound of skim milk remaining in Class I at this allocation step at all pool plant of the handler (excluding and duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler;

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1093.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1093.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraphs (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and then from Class III combined being subtracted first from Class III and then from Class II, the pounds of skim in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plant shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant that were not subtracted pursuant to paragraphs (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraphs (a)(12)(ii), (iii) and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1093.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and the Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such

excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case the pounds of skim milk remaining in each class at this allocation step at the handlers other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1093.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk and milk received from a handler described in § 1093.9(c), subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk and milk received from a handler described in § 1093.9(c) in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1093.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1093.44(a)(12) and the corresponding step of § 1093.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of reciepts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from another order plant, the class to which such receipts are allocated pursuant to § 1093.44 on the basis of such report, and, thereafter, any changes required to correct errors disclosed in the verification of such report.

(c) Furnish each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to another order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the percentage of producer milk delivered by members of such association that was used in each class by each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

Class Prices

§ 1093.50 Class prices.

Subject to the provisions of § 1093.53 the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I Price.* The Class I price shall be the basic formula price for the second preceding month plus $3.08.

(b) *Class II Price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1093.52 for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1093.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1093.52.

(c) *Class III Price.* Subject to the adjustment set forth below for the applicable month, the Class III price shall be the basic formula price for the month.

Month	Amount
January	−$0.10
February	−0.10
March	−0.20
April	−0.20
May	−0.20
June	+0.10
July	+0.20
August	+0.20
September	+0.20
October	+0.20
November	+0.10
December	−0.10

§ 1093.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92 score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1093.52 Basic Class II formula price.

The "Basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1093.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1093.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to produce cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by

the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to produce cheddar cheese and the gross value of milk used to produce butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross value for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraphs (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

§ 1093.53 Plant location adjustments for handlers.

(a) For milk received at a plant from producers or a handler described in § 1093.9(c) and which is classified as Class I milk without movement in bulk form to a pool distributing plant at which a higher Class I price applies, the price specified in § 1093.50(c) shall be adjusted by the amount stated in paragraphs (a) (1) through (4) of this section for the location of such plant:

(1) For a plant located within one of the zones set forth in § 1093.2 the adjustment shall be as follows:

Zone	Adjustment per hundredweight (cents)
Zone 1	Minus 23
Zone 2	No Adjustment
Zone 3	Plus 19
Zone 4	Plus 30
Zone 5	Plus 37
Zone 6	Plus 57
Zone 7	Plus 70

(2) For a plant located within the marketing area of another order issued pursuant to the Act, the location adjustment shall be computed by subtracting the Class I price applicable in Zone 1 of this order from the Class I price applicable at such plant, had the plant been regulated under such order.

(3) For a plant located outside the areas described in paragraphs (a) (1) and (2) of this section, and north of a line extending through the northern borders of the States of Alabama, Georgia, and Mississippi the adjustment shall be a minus 23 cents for plants located nearest the city hall of Florence of Huntsville, Alabama; Rome or Blairsville, Georgia; Clarksdale or Corinth, Mississippi; or plus 20 cents for plants located nearest the city hall of Shreveport, Louisiana. Such minus adjustment shall be increased (plus adjustments decreased) 2.5 cents for each 10 miles or fraction thereof (by the shortest hardsurfaced highway distance as determined by the market administrator) that such plant is from the nearer of the cities of Florence or Huntsville, Alabama; Rome or Blairsville, Georgia; Clarksdale or Corinth, Mississippi; or Shreveport, Louisiana;

(4) For a plant located outside the areas specified in paragraphs (a) (1) through (3) of this section the adjustment shall be the adjustment applicable at the nearer of the cities of Lavonia, Augusta, or Savannah, Georgia; or Lake Charles, Leesville, or Shreveport, Louisiana.

(b) For fluid milk products transferred in bulk form from a pool plant to a pool distributing plant at which a higher Class I price applies and which are classified as Class I milk, the Class I price shall be the Class I price at the transferee-plant subject to a location adjustment credit for the transferor-plant which shall be determined by the market administrator for skim milk and butterfat, respectively, as follows:

(1) Subtract from the pounds of skim milk remaining in Class I at the transferee-plant after the computations pursuant to § 1093.44(a)(12), an amount equal to:

(i) The pounds of skim milk in receipts of milk at the transferee-plant from producers and handlers described in § 1093.9(c); and

(ii) the pounds of skim milk in receipts of packaged fluid milk products from other pool plants.

(2) Assign any remaining pounds of skim milk in Class I at the transferee-plant to the skim milk in receipts of fluid milk products from other pool plants, first to the transferor-plants at which the highest Class I price applies and then to other plants in sequence beginning with the plant at which the next highest Class I price applies;

(3) Compute the total amount of location adjustment credits to be assigned to transferor-plants by multiplying the hundredweight of skim milk assigned pursuant to paragraph (b)(2) of this section to each transferor-plant at which the Class I price is lower than the class I price applicable at the transferor-plant and the transferee-plant, and add the resulting amounts.

(4) Assign the total amount of location adjustment credits computed pursuant to paragraph (b)(3) of this section to those transferor-plants that transferred fluid milk products containing skim milk classified as Class I milk pursuant to § 1093.42(a) and at which the applicable Class I price is less than the Class I price at the transferee-plant, in sequence beginning with the plant at which the highest Class I price applies. Subject to the availability of such credits, the credit assigned to each plant shall be equal to the hundredweight of such Class I skim milk multiplied by the adjustment rate determined pursuant to paragraph (b)(3) of this section for such plant. If the aggregate of this computation for all plants having the same adjustment as determined pursuant to paragraph (b)(3) of this section exceeds the credits that are available to these plants, such credits shall be prorated to the volume of skim milk in Class I in transfers from such plants; and

(5) Location adjustment credit for butterfat shall be determined in accordance with the procedure outlined for skim milk in paragraph (b) (1) through (4) of this section.

(c) The market administrator shall determine and publicly announce the zone location of each plant of each handler. The market administrator shall notify the handler on or before the first

day of any month in which a change in a plant locations zone will apply.

(d) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1093.54 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1093.58(b).

§ 1093.55 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1093.60 Handler's value of milk for computing the uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler's pool plants and of each handler described in § 1093.9 (b) and (c) with respect to milk that was not received at a pool plant as follows:

(a) Multiply the pounds of producer milk and milk received from a handler described in § 1093.9(c) that were classified in each class pursuant to §§ 1093.43(a) and 1093.44(c) by the applicable class prices, and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1093.44(14) and the corresponding step of § 1093.44(c) by the respective class prices, as adjusted by the butterfat differential specified in § 1093.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1093.44(a)(9) and the corresponding step of § 1093.44(b).

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1093.44(a)(7) (i) through (iv) and the corresponding step of § 1093.44(b), excluding receipts of a bulk fluid cream product from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1093.44(a)(7) (v) and (vi) and the corresponding step of § 1093.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1093.44(a)(11) and the corresponding step § 1093.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk and butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under the any order.

§ 1093.61 Computation of uniforms price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each month of July through January per hundredweight of milk of 3.5 butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1093.60 for all handlers who filed the reports prescribed in § 1093.30 for the month and who made payments pursuant to § 1093.71 for the preceding month;

(2) Add not less than one-half the unobligated balance in the producer-settlement fund;

(3) Add an amount equal to the total value of the minus adjustments and subtract an amount equal to the total value of the plus adjustments computed pursuant to § 1093.75;

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations;

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1093.60(j); and

(5) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The resulting figure, rounded to the nearest cent, shall be the weighted average price for each month and the uniform price for the months of July through January.

(b) For each month of February through June, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each 3.5 percent butterfat content, as follows:

(1) Compute the total value of excess milk for all handlers included in the computations pursuant to paragraphs (a)(1) of this section as follows:

(i) Multiply the hundredweight quantity of excess milk that does not exceed the total quantity of such handlers' producer milk assigned to Class III by the Class III price;

(ii) Multiply the remaining hundredweight quantity of excess milk that does not exceed the the total quantity of such handlers' producer milk assigned to Class II by the Class II price;

(iii) Multiply the remaining hunderweight quantity of excess milk by the Class I price; and

(iv) Add together the resulting amounts;

(2) Divide the total value of excess milk obtained in paragraph (b)(1) of this section by the total hundredweight of such milk and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk.

(3) From the amount resulting from the computations pursuant to paragraphs (a)(1) through (3) of this section subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(4) Subtract the total value of excess milk determined by multiplying the uniform price obtained in paragraph (b)(2) of this section times the hundreweight of excess milk from the amount computed pursuant to paragraph (b)(3) of this section;

(5) Divide the amount calculated pursuant to paragraph (b)(4) of this section by the total hundredweight of base milk included in these computations; and

(6) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (b)(5) of this section. The resulting figure, rounded to the nearest cent, shall be the uniform price for base milk.

§ 1093.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The 10th day after the end of each month the butterfat differential for such month; and

(b) The 11th day after the end of the month the applicable uniform price(s) pursuant to § 1093.61 for such month.

Payments For Milk

§ 1093.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which the market administrator shall deposit all payments made by handlers pursuant to §§ 1093.71, 1093.76, and 1093.77, and out of which the market administrator shall make all payments pursuant to §§ 1093.72 and 1093.77. Payments due any handler shall be offset by any payments due from such handler.

§ 1093.71 Payments to the producer-settlement fund.

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1093.60.

(2) The sum of:

(i) The value at the uniform price(s) as adjusted pursuant to § 1093.75, of such handler's receipts of producer milk and milk received from handlers pursuant to § 1093.9(c); and

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1093.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragarph (b)(1) of this section to route disposition in this marketing area by the difference between the Class I price under this part applicable at the location of the other plant (but not to be less than the Class III price) and the Class III price.

§ 1093.72 Payments from the producer-settlement fund.

On or before the 13th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1093.71(a)(2) exceeds the amount computed pursuant to § 1093.71(a)(1), if, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1093.73 Payments to produce and to cooperative associations.

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, as follows:

(1) On or before the 26th day of each month, for milk received during the first 15 days of the month from such producer who has not discontinued delivery of milk to such handler before the 23rd day of the month at not less than the Class III price for the preceding month, or 90 percent of the weighted average price for the preceding month, whichever is higher, less proper deductions authorized in writing by the producer. If the producer had discontinued shipping milk to such handler before the 25th day of any month, or if the producer had no established base upon which to receive payments during the base paying months of February through June, the applicable rate for making payments to such producer shall be the Class III price for the preceding month; and

(2) On or before the 15th day of the following month, an amount equal to not less than the uniform price(s), as adjusted pursuant to §§ 1093.74 and 1093.75, multiplied by the hundredweight of milk or base milk and excess milk received from such producer during the month, subject to the following adjustments.

(i) Less payments made to such producer pursuant to paragraph (a)(1) of this section;

(ii) Less deductions for marketing services made pursuant to § 1093.80;

(iii) Plus or minus adjustments for errors made in previous payments made to such producers; and

(iv) Less proper deductions authorized in writing by such producer.

(3) If a handler has not received full payment from the market administrator pursuant to § 1093.72 by the 15th day of such month, such handler may reduce payments pursuant to this paragraph to producers on a pro rata basis but not by more than the amount of the underpayment. Such payments shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after receipt of the balance due from the market administrator.

(b) On or before the day prior to the dates specified in paragraph (a) (1) and (2) of this section, each handler shall make payment to the cooperative association for milk from producers who market their milk through the cooperative association and who have authorized the cooperative to collect such payments on their behalf an amount equal to the sum of the individual payments otherwise payable for such producer milk pursuant to paragraph (a) (1) and (2) of this section.

(c) If a handler has not received full payment from the market administrator pursuant to § 1093.72 by the 14th day of such month, such handler may reduce payments pursuant to paragraph (b) of this section to such cooperative association on a pro rata basis, prorating such underpayment to the volume of milk received from such cooperative association in proportion to the total milk received from producers by the handler, but not by more than the amount of the underpayment. Such payments shall be completed in the following manner:

(1) If the handler receives full payment from the market administrator by the 15th day of the month, the handler shall make payment to the cooperative association of the full value of the underpayment on the 15th day of the month;

(2) If the handler has not received full payment from the market administrator by the 15th day of the month, the handler shall make payment to the cooperative association of the full value of the underpayment on or before the date for making such payments pursuant to this paragraph next following after receipt of the balance due from the market administrator.

(d) Each handler pursuant to § 1093.9(a) who receives milk from a cooperative association as a handler pursuant to § 1093.9(c), including the milk of producers who are not members

of such association, and who the market administrator determines have authorized such cooperative association to collect payment for their milk, shall pay such cooperative for such milk as follows:

(1) On or before the 25th day of the month for milk received during the first 15 days of the month, not less than the Class III price for the preceding month or 90 percent of the weighted average price for the preceding month, whichever is higher; and

(2) On or before the 14th day of the following month, not less than the appropriate uniform price(s) as adjusted pursuant to §§ 1093.74 and 1093.75, and less any payments made pursuant to paragraph (d)(1) of this section.

(e) If a handler has not received full payment from the market administrator pursuant to § 1093.72 by the 14th day of such month, such handler may reduce payments pursuant to paragraph (d) of this section to such cooperative association and complete such payments for milk received from such cooperative association in its capacity as a handler pursuant to § 1093.9(c), in the manner prescribed in paragraph (c) (1) and (2) of this section.

(f) In making payments for producer milk pursuant to this section, each handler shall furnish each producer or cooperative association from whom such handler has received producer milk a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The month and identity of the producer;

(2) The daily and total pounds and the average butterfat content of producer milk;

(3) For the months of February through June the total pounds of base milk received from such producer;

(4) The minimum rate(s) at which payment to the producer is required pursuant to this order;

(5) The rate(s) used in making the payment if such rate(s) is other than the applicable minimum rate(s);

(6) The amount, or rate per hundredweight, and nature of each deduction claimed by the handler; and

(7) The net of payment to such producer or cooperative association.

§ 1093.74 Butter differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price(s) shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1093.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price and the uniform price for base milk shall be adjusted according to the location of the plant at which the milk was physically received at the rates set forth in § 1093.53; and

(b) The weighted average price applicable to other source milk shall be adjusted at the rates set forth in § 1093.53(a) applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

§ 1093.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1093.30(b) and 1093.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be an amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and weighted average price shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1093.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other orderplant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be computed to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1093.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest price class of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1093.60 for such handler shall include, in lieu of the value of other source milk specified in § 1093.60(f) less the value of such other source milk specified in § 1093.71(a)(2)(ii), a value of milk determined pursuant to § 1093.60 for each nonpool plant that is not an other

order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributed plant during the month equivalent to the requirements of § 1093.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with its reports filed pursuant to §§ 1093.30(b) and 1093.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1093.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of the partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1093.74, for milk received at the plant during the month that would have been producer milk had the plant been fully regulated;

(ii) If paragraph (b)(2)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1093.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1093.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts, or other verification discloses errors resulting in money due the market administrator from a handler, or due a handler from the market administrator, or due a producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which the error(s) occurred.

§ 1093.78 Charges on overdue accounts.

Any unpaid obligation due the market administrator from a handler pursuant to §§ 1093.71, 1093.76, 1093.77, 1093.78, 1093.85 and 1093.86, shall be increased 1.5 percent each month beginning with the day following the date such obligation was due under the order. Any remaining amount due shall be increased at the same rate on the corresponding day of each month until paid. The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation and shall include any unpaid charges previously made pursuant to this section. For the purpose of this section, any obligation that was determined at a date later than prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

Administrative Assessment and Marketing Service Deduction

§ 1093.85 Assessment for order administration.

As each handler's pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Receipts of producer milk (including such handler's own production) other than such receipts by a handler described in § 1093.9(c) that were delivered to pool plants of other handlers;

(b) Receipts from a handler described in § 1093.9(c);

(c) Other source milk allocated to Class I pursuant to § 1093.44(a) (7) and (11) and the corresponding steps of § 1093.44(b), except such other source milk that is excluded from the computations pursuant to § 1093.60 (d) and (f); and

(d) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1093.76(a)(2).

§ 1093.86 Deduction for marketing services.

(a) Except as provided in paragraph (b) of this section each handler, in making payments to producers for milk (other than milk of such handler's own production) pursuant to § 1093.73, shall deduct 7 cents per hundredweight or such lesser amount as the Secretary may prescribe and shall pay such deductions to the market administrator not later than the 15th day after the month. Such money shall be used by the market administrator to verify or establish weights, samples and tests of producer milk and provide market information for producers who are not receiving such services from a cooperative association. Such services shall be performed in whole or in part by the market administrator or an agent engaged by and responsible to the market administrator;

(b) In the case of producers for whom a cooperative association that the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall (in lieu of the deduction specified in paragraph (a) of this section), make such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 15th day after the end of the month, pay such deductions to the cooperative association rendering such services accompanied by a statement showing the amount of any such deductions and the amount of milk for which such deduction was computed for each producer.

Base-Excess Plan

§ 1093.90 Base milk.

Base milk means the producer milk of a producer in each month of February through June that is not in excess of the producer's base multiplied by the number of days in the month.

§ 1093.91 Excess milk.

Excess milk means the producer milk of a producer in each month of February through June in excess of the producer's base milk for the month, and shall include all the producer milk in such months of a producer who has no base.

§ 1093.92 Computation of base for each producer.

(a) Subject to § 1093.93, the base for each producer shall be an amount obtained by dividing the total pounds of producer milk delivered by such producer during the immediately preceding months of August through December by the number of days represented by such producer milk or 120, whichever is more. If a producer operated more than one farm at the same time, a separate computation of base shall be made for each such farm.

(b) Any producer who, during the immediately preceding months of August through December, delivered milk to a nonpool plant that became a pool plant after the beginning of such base-forming period shall be assigned a base calculated as if the plant were a pool plant during such entire base-forming period. A base thus assigned shall not be transferable.

§ 1093.93 Base rules.

(a) Except as provided in § 1093.92(b) and paragraph (b) of this section, a base may be transferred in its entirety or in amounts of not less than 300 pounds effective on the first day of the month following the date on which such application is received by the market administrator. Base may be transferred only to a person who is or will be a producer by the end of the month that the transfer is to be effective. A base transfer to be effective on February 1 for the month of February must be received on or before February 15. Such application shall be on a form approved by the market administrator and signed by the baseholder or the legal representative of the baseholder's estate and the person to whom the base is to be transferred. If a base is held jointly, the application shall be signed by all joint holders or the legal representative of the estate of any deceased baseholder.

(b) A producer who transferred base on or after February 1 may not receive by transfer additional base that would be applicable during February through June of the same year. A producer who received base by transfer on or after February 1 may not transfer a portion of the base to be applicable during February through June of the same year, but may transfer the entire base.

(c) The base established by a partnership may be divided between the partners on any basis agreed to in writing by them if written notification of the agreed upon division of base by each partner is received by the market administrator prior to the first day of the month in which such division is to be effective.

(d) Two or more producers in a partnership may combine their separately established bases by giving notice to the market administrator prior to the first day of the month in which such combination of bases is to be effective.

(e) The base assigned a person who was a producer during the immediately preceding months of August through December may be increased to such producer's average daily producer milk deliveries in the month immediately preceding the month during which a condition described in paragraphs (e)(1), (2), or (3) of this section occurred, providing such producer submitted to the market administrator in writing on or before February 1 a statement that established to the satisfaction of the market administrator that in the immediately preceding August through December base-forming period the amount of milk produced on such producer's farm was substantially reduced because of conditions beyond the control of such person, which resulted from:

(1) The loss by fire or windstorm of a farm building used in the production of milk on the producer's farm;

(2) Brucellosis, bovine tuberculosis or other infectious diseases in the producer's milking herd as certified by a licensed veterinarian; or

(3) A quarantine by a Federal or State authority that prevents the dairy farmer from supplying milk from the farm of such producer to a plant.

§ 1093.94 Announcement of established bases.

On or before February 1 of each year, the market administrator shall calculate a base for each person who was a producer during any of the preceding months of August through December and shall notify each producer and the handler receiving milk from such dairy farmer of the base established by the producer. If requested by a cooperative association, the market administrator shall notify the cooperative association of each producer-member's base.

Proposed by Land-O-Sun Dairies, Inc.

Proposal No. 2:

Revise § 1093.13(d) (2) and (4) to read as follows:

§ 1093.13 Producer milk.

* * * * *

(d) * * *

(2) In any month of September through January not less than six days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

(3) * * *

(4) A handler operating a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (c)(3) of this section. The total quantity of milk so diverted during any month shall not exceed 30 percent of the producer milk physically received at such handler's pool plant(s) during the month;

* * * * *

Proposal No. 3

Proposed by Malone & Hyde Dairy, Nashville, Tennessee

Adopt the provisions of the proposal by Dairymen, Inc., Southern Milk Sales, et al., including a base-excess payment plan if desired by producers, with the following modifications to sections 2, 13, and 52(a)(1) of said proposal:

§ 1093.2 Gulf States Marketing Area

The "Gulf States marketing area" hereinafter called the "marketing area" means all territory within the boundaries of the following Alabama, Florida, Georgia and Mississippi counties and Louisiana parishes, including all piers, docks, and wharves connected therewith and all craft moored therat, and all territory occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed counties or parishes:

Zone 1:

Alabama Counties

Cherokee, Colbert, Cullman, DeKalb, Franklin, Jackson, Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall, Morgan and Winston.

Georgia Counties

Bartow, Cherokee, Dawson, Floyd, Forsyth, Gilmer, Gordon, Habersham, Hall, Lumpkin, Pickens, Rabun, Towns, Union, and White.

Zone 2:

Mississippi Counties

Alcorn, Benton, Itawamba, Lee, Pontotoc, Prentiss, Tippah, Tishomingo and Union.

Zone 3:

Alabama Counties

Blount, Calhoun, Clay, Cleburne, Etowah, Fayette, Jefferson, Lamar, Randolph, St. Clair, Shelby, Talladega, and Walker.

Georgia Counties

Banks, Barrow, Butts, Carroll, Clarke, Clayton, Cobb, Coweta, DeKalb, Douglas, Elbert, Fayette, Franklin, Fulton, Greene, Gwinnet, Haralson, Hart, Heard, Henry, Jackson, Jasper, Lamar, Lincoln, Madison, Meriwether, Morgan, Newton, Oconee, Oglethorpe, Paulding, Pike, Polk, Putnam, Rockdale, Spalding, Stephens, Taliaferro, Troup, Walton, and Wilkes.

Mississippi Counties

Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Clay, Coahoma, Grenada, Leflore, Lowndes, Monroe, Montgomery, Oktibbeha, Quitman, Sunflower, Tallahatchie, Washington, Webster, and Yalobusha.

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Zone 6:

Alabama Counties

Autauga, Bibb, Chambers, Chilton, Coosa, Elmore, Greene, Hale, Lee, Macon, Perry, Pickens, Russell, Tallapoosa, and Tuscaloosa.

Georgia Counties

Baldwin, Bibb, Burke, Chattahoochee, Columbia, Crawford, Glascock, Hancock, Harris, Houston, Jefferson, Jones, Macon, Marion, McDuffie, Monroe, Muscogee, Peach, Richmond, Schley, Talbot, Taylor, Twiggs, Upson, Warren, Washington, and Wilkinson.

Mississippi Counties

Attala, Holmes, Humphreys, Noxubee, Washington, and Winston.

Zone 5:

Louisiana Parishes

Bienville, Bossier, Caddo, Caldwell, Claiborne, De Soto, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Red River, Richland, Tensas, Union, Webster, West Carroll and Winn.

Zone 4:

Alabama Counties

Barbour, Bullock, Choctaw, Dallas, Lowndes, Marengo, Montgomery, Pike, Sumter, and Wilcox.

Georgia Counties

Ben Hill, Bleckley, Bulloch, Candler, Clay, Crisp, Dodge, Dooly, Effingham, Emanuel, Evans, Jeff Davis, Jenkins, Johnson, Laurens, Lee, Montgomery, Pulaski, Quitman, Randolph, Screven, Steward, Sumter, Tattnall, Telfair, Terrell, Toombs, Treutlen, Turner, Webster, Wheeler, and Wilcox.

Mississippi Counties

Claiborne, Clarke, Copiah, Hinds, Issaquena, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Rankin, Scott, Sharkey, Simpson, Smith, Warren, and Yazoo.

Zone 7:

Alabama Counties

Coffee, Dale, Geneva, Henry and Houston.

Georgia Counties:

Appling, Atkins, Bacon, Baker, Berrien, Brantley, Brooks, Bryan, Calhoun, Camden, Charlton, Chatham, Clinch, Coffee, Coulquitt, Cook, Decatur, Dougherty, Early, Echols, Glynn, Grady, Irwin, Lanier, Liberty, Long, Lowndes, McIntosh, Miller, Mitchell, Pierce, Seminole, Thomas, Tift, Ware, Wayne and Worth.

Zone 8:

Alabama Counties:

Butler, Clarke, Conecuh, Covington, Crenshaw, Monroe, and Washington.

Louisiana Parishes

Avoyelles, Catahoula, Concordia, Grant, La Salle, Natchitoches, Rapides, Sabine and Vernon.

Mississippi Counties

Adams, Amite, Covington, Forrest, Franklin, Greene, Jefferson, Jefferson Davis, Jones, Lamar, Lawrence, Lincoln, Marion, Perry, Pike, Walthall, Wayne and Wilkinson.

Zone 9:

Alabama Counties:

Baldwin, Escambia and Mobile.

Florida Counties

Escambia, Okaloosa, Santa Rosa and Walton.

Louisiana Parishes

East Feliciana, St. Helena, St. Tammany, Tangipahoa, Washington and West Feliciana.

Mississippi Counties

George, Hancock, Harrison, Jackson, Pearl River and Stone.

Zone 10:

Louisiana Parishes

Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, Evangaline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, Vermilion and West Baton Rouge.

Zone 11

Louisiana Parishes

Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles and Terrebonne.

§ 1093.13 Producer milk.

Producer milk means the skim milk and butterfat contained in milk of a producer that is:

(a) Received at a pool plant directly from such producer by the operator of the plant;

(b) Received by a handler described in § 1093.9(c); or

(c) Diverted from a pool plant to the pool plant of another handler. Milk so diverted shall be deemed to have been received at the location of the plant to which diverted; and

(d) Diverted by the operator of a pool plant or cooperative association to a nonpool plant that is not a producer-handler plant, subject to the following conditions:

(1) Not less than one day's production of the producer whose milk is diverted is physically received at a pool plant during the month;

(2) The total quantity of milk so diverted during any month by a cooperative association shall not exceed 40 percent of the producer milk for which the cooperative association is the handler;

(3) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (c)(2) of this section. The total quantity of milk so diverted during any month shall not exceed 40 percent of the producer milk for which the pool plant operator is the handler;

(4) Any milk diverted in excess of the limits prescribed in paragraphs (c) (2) and (3) of this section shall not be producer milk. The diverting handler shall designate the dairy farmer deliveries that will not be producer milk pursuant to paragraph (c) (2) and (3) of this section. If the handler fails to make such designation, no milk diverted by such handler shall be producer milk.

(5) To the extent that it would result in nonpool status for the plant from which diverted, milk diverted for the account of a cooperative association from the pool plant of another handler shall not be producer milk;

(6) The cooperative association shall designate the dairy farmer deliveries that are not producer milk pursuant to paragraph (c)(6) of this section. If the cooperative association fails to make such designation, no milk diverted by it to a nonpool plant shall be producer milk;

(7) Diverted milk shall be priced at the location of the plant to which diverted.

§ 1093.52 Plant location adjustments for handlers.

(a) For milk received at a plant from producers or a handler described in § 1093.9(c) and which is classified as Class I milk without movement in bulk form to a pool distributing plant at which a higher Class I price applies, the price specified in § 1093.50(a) shall be adjusted by the amount stated in paragraph (a) (1) through (4) of this section for the location of such plant:

(1) For a plant located within one of the zones set forth in § 1093.2 adjustment shall be as follows:

Zone	Adjustment per hundredweight (cents)
Zone 1	Minus 23.
Zone 2	Minus 16.
Zone 3	No adjustment.
Zone 4	Plus 10.
Zone 5	Plus 20.
Zone 6	Plus 27.
Zone 7	Plus 30.
Zone 8	Plus 37.
Zone 9	Plus 57.
Zone 10	Plus 63.
Zone 11	Plus 70.

Proposed by Associated Milk Producers, Inc.
Proposal No. 4:

PART 1108—MILK IN CENTRAL ARKANSAS MARKETING AREA

Revise § 1108.7(a) by changing the current paragraph (a) to (a)(1) and adding a new paragraph (2) to read as follows:

§ 1108.7 Pool plant.

* * * * *

(a) * * *

(2) A plant located in the marketing area that qualifies pursuant to paragraph (a)(1) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition shall be subject to all the provisions of this part so long as this order's Class I price applicable at such plant location is not less than the other order's Class I price applicable at the same location even though the plant may have greater disposition in the other marketing area than in the Central Arkansas marketing area.

* * * * *

Proposed by the Dairy Division, Agricultural Marketing Service:

Proposal No. 5

Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the orders may be procured from the Market Administrator, Dorsal Newberry, USDA/AMS/Dairy Division, P.O. Box 49025, Atlanta, GA 30359, or from USDA/AMS/Dairy Division, Order Formulation Branch, room 2968-South Building, P.O. Box 96456, Washington, DC 20090-6456.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service [Washington office only]
Office of the Market Administrator, Georgia, Alabama-West Florida, New Orleans-Mississippi, Greater Louisiana and Central Arkansas Marketing Areas

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, DC, on October 18, 1990.

Daniel Haley,
Administrator.

[FR Doc. 90-25020 Filed 10-24-90; 8:45 am]
BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1951

Recapture of Section 502 Rural Housing Subsidy

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to revise the formula for the recapture of subsidy granted on section 502 rural housing loans. This action is necessary because of an accounting system change resulting from the September, 1987, Congressional mandated rural housing asset sale. The intended effect of this action is to adjust the formula to coincide with the revised method of applying monthly subsidy to interest credit accounts.

DATES: Comments must be received on or before December 24, 1990.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Regulation, Analysis and Control Branch, FmHA, room 6348, South Agriculture Building, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the above address.

FOR FURTHER INFORMATION CONTACT: Phil Girard, Senior Loan Specialist, Single Family Housing Servicing and Property Management Division, FmHA, room 5309, South Agriculture Building, Washington, DC, telephone (202) 382-1452.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures established in Department Regulation 1512-1 which implements Executive Order 12291 and has been determined to be "nonmajor." It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions, or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Le Verne Anderson, Administrator, Farmers Home Administration has determined that this action will not have a significant economic impact on a substantial number of small entities because the change being proposed deals solely with revising the instruction concerning calculation of subsidy recapture on single family housing loans made by the Agency.

This action eliminates the two major problem areas associated with the present formula, compounding of principal reduction attributed to subsidy (PRAS) and not recognizing property improvements. PRAS and average interest rate have been deleted and credit for value added by capital improvements has been added to the calculation formula. The Subsidy Repayment Agreement has been deleted but the Interest Credit Agreement and the Promissory Note have been revised to better inform borrowers of their recapture obligation. Specific discussion, including examples, has been added that explains how to determine recapture on houses that are cross-collateralized with Farmer Program loans.

Since the inception of interest credit, FmHA's accounting system has accounted for subsidy granted by reducing the effective interest rate on the borrower's account rather than crediting the account with a fixed dollar amount. Because of this accounting system, principal on accounts that have received interest credit has been reduced at an accelerated rate. This is PRAS. This happens because payments, while the borrower is on interest credit, are applied at the effective (reduced) rate rather than at the note interest rate. This method of payment applications results in a faster writedown of principal than if payments were applied at the higher, note interest rate. Because principal reduction has been accelerated, this benefit continues after a borrower stops receiving interest credit.

The compounding of PRAS is a difficult concept to understand. Under the Agency's new accounting method of applying interest credit payments at the note rate with a non cash credit for subsidy, PRAS will be eliminated on

new accounts after the change. This will not, however, prevent the continuing effect of compounding PRAS on existing accounts. The only way to eliminate further compounding of PRAS is to add accumulated PRAS back to the borrower's unpaid principal balance. This would be a one time adjustment that would not increase the borrower's monthly installment and would only apply to loans approved on or after October 1, 1979 that have received interest credit. Another alternative considered was to save the PRAS "on the books" at the time of the accounting change and forgive the PRAS that compounds after that date. This would provide an unwarranted windfall to the borrower and would be fiscally unacceptable to the Government.

There have been many complaints regarding PRAS. It has been difficult to adequately resolve the complaints because PRAS is a concept that is hard to understand. It is not an entitlement. The intent was never to subsidize principal, only interest. Most borrowers know the unpaid balance on their accounts and the amount of interest credit they receive each month. They do not, however, know the amount of accumulated PRAS nor are most even aware that PRAS exists. As a result, borrowers perceive an inflated equity position in their property.

As proposed, recapture will be based on a percentage, not to exceed 50 percent, of value appreciation in the property determined by dividing months of interest credit by the number of months the loan was outstanding. The proposed changes will apply to all borrowers subject to recapture. In our opinion, both borrowers and the Government will benefit from the change.

Borrowers will get credit for home improvements and be relieved from the continuing effects of compounding PRAS. By providing value added credit for capital improvements, the proposed instruction will more fully comply with section 521(a)(1)(D) of the Housing Act of 1949 which requires incentives to maintain the property in a marketable condition. The credit for capital improvements is based on the value added by the improvements, not the cost to the borrower of making the improvements. Normally FmHA RH program loans are for 100 percent of the purchase price of the dwelling so the borrower has little or no equity. If credit is given for the value of capital improvements, the borrower will have an incentive to improve the property. The desire to protect the equity gained from these improvements will encourage proper maintenance of the security property.

The effect of the proposed changes is that the Government will get existing PRAS back in the form of unpaid principal, recapture interest credit, have a more effective and efficient debt collection system and a more straightforward program to administer.

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environment Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.410, Low-Income Housing Loans (Section 502 Rural Housing Loans), and is not subject to the provision of Executive Order 12372 which requires intergovernmental consultation with State and local officials. *See* 7 CFR 3015, subpart V (48 FR 29112, June 24, 1983) and FmHA Instruction 1940–J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (December 23, 1983).

List of Subjects in 7 CFR Part 1951

Account servicing, Recapture of subsidy.

Accordingly, FmHA proposes to amend chapter XVIII, part 1951, title 7, Code of Federal Regulations, as follows:

PART 1951—SERVICING AND COLLECTIONS

1. The authority citation for part 1951 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

2. Subpart I of part 1951 is revised to read as follows:

Subpart I—Recapture of Section 502 Rural Housing Subsidy

Sec.
1951.401 [Reserved]
1951.402 Policy.
1951.403–1951.406 [Reserved]
1951.407 Determining the amount of recapture.
1951.408 Option to defer payment of recapture.
1951.409 Miscellaneous provisions.
1951.410 Elimination of principal reduction attributed to subsidy.
1951.411–1951.412 [Reserved]
1951.413 Internal agency management instructions.
1951.414–1951.450 [Reserved]

Subpart I—Recapture of Section 502 Rural Housing Subsidy

§ 1951.401 [Reserved]

§ 1951.402 Policy.

The policy of the Farmers Home Administration (FmHA) is to recapture all or a portion of subsidy granted on a section 502 loan, assumption or credit sale closed on or after October 1, 1979, when any equity exists in the secured property.

§§ 1951.403–1951.406 [Reserved]

§ 1951.407 Determining the amount of recapture.

(a) *Calculation.* Recapture will be calculated in the FmHA County Office and reported on Form Letter FmHA 1951–I–1, "Notification of Payoff Including Subsidy Recapture". Documentation of the recapture computation will be retained in the borrower's file.

(1) *When will recapture be calculated.* Recapture will be calculated when a borrower's account is settled by sale, refinancing or payment in full. If a borrower with multiple loans wants to pay off some, but not all of the loans, recapture will be calculated only if the remaining loan(s) is not subject to recapture.

(2) *How will recapture be calculated.* Value appreciation in the property will first be determined by subtracting from market value, in the following order, non-FmHA prior liens, unpaid balance of all FmHA loans against the property, farm equity recapture in accordance with subpart A of part 1965 of this chapter, sale/refinancing expense, original borrower equity and value of capital improvements. If there is no value appreciation, there will not be any recapture. If there is value appreciation, the percent available for recapture (not to exceed 50 percent) will be determined by dividing months of interest credit received by the number of months the loan was outstanding (partial months are to be considered as full months). This percent will be adjusted if the initial FmHA loan is not subject to recapture but a subsequent loan(s) is. If only a subsequent loan(s) is subject to recapture, the subsequent loan(s) amount will be divided by the amount of the total FmHA debt against the property, then multiplied by the percentage obtained above to determine the percent of value appreciation available for recapture. Recapture will be the lesser of subsidy granted or the amount of value appreciation available for recapture.

(3) *Notification of payoff.* The payoff amount on Form Letter FmHA 1951–I–1 is an estimated amount based on the information provided. There are many variables involved in determining a payoff including recapture. A change in the selling price or sales expense, for example, could result in a change in the payoff amount. To help assure the accuracy of the payoff information, the local FmHA County Office should be contacted 2 or 3 days before closing to verify the payoff amount.

(b) *Market value.* Market value refers to the fair market value of the property on the date the loan is to be paid in full as determined by the sales contract or the other lender's appraisal, if the loan is being refinanced, provided that the value reasonably represents the market value based on the County Supervisor's knowledge of the property and the area. The FmHA appraisal will be used in all other circumstances.

(c) *Sales/refinancing expenses.* Sales/refinancing expenses include unreimbursed expenses commonly associated with the sale or refinancing of real estate, such as sales commissions, advertising cost, recording fees, pro rata taxes, points based on the current interest rate, appraisal fees, transfer tax, deed preparation fee, loan origination fee, etc. In refinancing situations where the borrower is obtaining a loan for more than the FmHA debt, only allow points based on the amount of the FmHA debt. Recapture may be calculated using estimated expenses if actual expenses cannot be obtained and the County Supervisor is satisfied that the estimated amount and the proration of the expenses are accurate for the transaction.

(d) *Original borrower equity.* Original borrower equity will consist of an actual contribution by the borrower to the extent that the contribution reduces the amount of the FmHA loan below the market value of the house. The contribution can represent cash, value of the lot if the home was constructed on the borrower's property, or equity acquired by participation in the Self Help program.

(e) *Capital improvements.* Capital improvements that increase the value of the security property will be considered to the extent that the capital improvements do not exceed local market value contribution, as indicated by a sales comparison. Generally, value added by capital improvements will be the difference between market value at the time of sale and market value without the capital improvements. Maintenance costs (yard maintenance, painting, wallpapering, etc.) and replacement of short-lived components (roof, siding, floorcovering, appliances, furnace, water heater, etc.) are normal expenses associated with homeownership and are not considered capital improvements. Examples:

(1) A borrower sells security property including a garage added subsequent to closing for $50,000. A similar property without a garage sells for $42,000. The garage could have cost the borrower more or less than the $8,000 difference, but the value added credit will be $8,000.

(2) A borrower is refinancing and the property is appraised at $50,000, which includes a den and children's playroom finished in the basement subsequent to loan closing. Similar homes without finished basements are selling for $47,000. The improvements could have cost the borrower more or less than the $3,000 difference but the value added credit will be $3,000.

(3) A borrower encloses the carport and does the work. The project cost $1,500 but the workmanship was unprofessional and actually caused a decrease in the property value. Since no value was added, an adjustment for capital improvements would not be authorized.

(f) *Assumptions.* When a loan subject to recapture of subsidy is assumed, the amount of subsidy to be repaid by the transferor must be paid at closing or be assumed by the transferee and amortized with unpaid principal and interest. Exception: When a dwelling is situated on more than a minimum adequate site and all of the security property is not being transferred, if proceeds are insufficient to repay all of the recapture due, the amount of recapture not paid will be combined with the remaining debt of the retained property and amortized over a period not to exceed 10 years.

(1) When a loan approved before October 1, 1979, is assumed by a program transferee with very low, low or moderate income other than a divorced or deceased borrower's spouse or other relative as provided for in § 1965.126(c)(2) of subpart C of part 1965 of this chapter, a new or supplemental security instrument will be recorded to secure the recapture of subsidy which may be granted to the transferee. If a subsequent loan is made in connection with the assumption, a new security instrument will always be taken.

(2) When a loan approved before October 1, 1979, is assumed by a divorced or deceased borrower's spouse or other relative as authorized in § 1965.126(c)(2) of subpart C of part 1965 of this chapter, it will not become subject to recapture and a new security instrument will not be required. If a subsequent loan is also closed it will be subject to recapture and a new security instrument will be required for the subsequent loan.

(g) *Subsequent loan payoffs.* When only a subsequent loan(s) is being paid off and the remaining loan is subject to recapture, recapture will not be calculated. Recapture will be calculated when the account is paid in full, taking into consideration all subsidy that was granted on the account, including subsidy on a previously paid off subsequent loan(s). If the remaining loan is not subject to recapture, recapture will be calculated using an appraisal as market value in accordance with paragraph (a) of this section. In this situation, the borrower may defer payment of the recapture amount until the property is sold or, if refinanced, the recapture may be subordinated.

§ 1951.408 Option to defer payment of recapture.

If an account is refinanced, paid in full without transfer of title, or conveyed by the borrower to their spouse or child, the borrower has the option of paying recapture or of deferring payment until the property is sold. If payment is deferred, interest will not accure on the deferred balance and the promissory note will not be cancelled and mortgage securing the FmHA loan(s) will not be released of record until the total amount owed the government is paid. The FmHA mortgage securing the recapture amount, however, may be subordinated to permit refinancing in accordance with § 1965.106 of subpart C of part 1965 of this chapter, if the subordinated recapture is adequately secured.

§ 1951.409 Miscellaneous provisions

(a) *House on a farm.* Calculate a payoff with recapture on a crosscollaterized housing loan on a farm in accordance with paragraph (a) of §1951.407 of this subpart. Value appreciation will be determined based on the market value of the property being sold, paid off (including net recovery buyout) or refinanced. Recapture will be based on the portion of value appreciation attributed to the RH property. If the borrower is refinancing the house, the other lender's appraisal may be used if the County Supervisor believes the appraisal reasonably represents market value. Examples:

(1) Borrower has FO loan on 200 acres with a crosscollaterized RH loan. The 200 acre farm, including the house, is being sold for its current market value of $175,000. The market value of the house

and a minimum adequate site if on the farm or the house and lot if off the farm is $60,000 which is 20.6% of the market value of the farm. Value appreciation based on the market value of the farm (including the house) is $20,000. Recapture would be calculated based on an adjusted value appreciation of $5720 (28.6% of $20,000).

(2) Same situation as above except the borrower has added another 100 acres subsequent to loan closing. The 300 acres, including the house, has a market value of $280,000. The market value of the house is $50,000 which is 25% of the market value of the farm. The borrower would be given credit for the value added by the additional 100 acres and, if value appreciation was $25,000, recapture would be calculated based on an adjusted value appreciation of $6250 (25% of $25,000).

(3) This same borrower is selling 200 acres to the adjoining farmer and keeping the house and 10 acres. Since the house is not being sold, recapture would not be calculated.

(4) This same borrower sells 200 acres to the adjoining farmer and sells the house and 10 acres to a separate family. The payoff on the RH loan would be based only on the market value of the house and 10 acres. The farm loans would not be considered in the recapture calculation.

(b) *Reamortization.* Recapture will not be calculated when an account is reamortized.

(c) *Soldiers and Sailors Relief Act.* Interest reduced to 6 percent under this Act is not subject to recapture. If a borrower qualifies for interest credit after reduction to 6 percent, the amount of subsidy would be the difference between the interest credit payment and the payment at 6 percent interest, not the note rate payment. When a borrower receiving subsidy also qualifies under the Act, the amount of subsidy subject to recapture is computed by adding the subsidy calculated in the customary manner before qualification to the subsidy calculated herein after qualification.

(d) *Non-FmHA junior liens.* Non-FmHA junior liens are not considered in the recapture calculation. In the event a junior lienholder forecloses, recapture will be calculated before providing the lienholder with a payoff amount.

§ 1951.410 Elimination of principal reduction attributed to subsidy.

Principal reduction attributed to subsidy (PRAS) will be eliminated on new accounts under the Agency's new accounting method of applying the borrower's reduced payment at the note rate with a monthly non cash credit for the amount of interest credit. For borrowers who accrued PRAS prior to FmHA's conversion to the note rate subsidy method of granting interest assistance, FmHA will make a one-time adjustment by adding the accumulated PRAS to the unpaid principal balance. This adjustment will not increase the monthly installment and will allow the account to pay out over the full term rather than ahead of schedule. Affected borrowers will be notified of the amount and date of the adjustment.

§ 1951.411—1951.412 [Reserved]

§ 1951.413 Internal agency management instructions.

Internal agency management instructions are covered in FmHA instruction 1951–I, Recapture of section 502 Rural Housing Subsidy, which is available in any FmHA office.

§ 1951.414—1951.450 [Reserved]

3. Exhibits A and B of subpart I of part 1951 are removed and reserved.

Dated: August 16, 1990.

La Verne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 90-25194 Filed 10-24-90; 8:45 am]

BILLING CODE 3410-07-M

Animal and Plant Health Inspection Service

9 CFR Part 113

[Docket No. 90-042]

Viruses, Serums, Toxins, and Analogous Products; Revision of Standard Requirements for Clostridium Bacterin-Toxoids and Tetanus Toxoid

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed action would amend the test methods used in conducting potency tests for serial release of Clostridium Novyi Bacterin-Toxoid, Clostridium Sordellii Baterin-Toxoid, and Tetanus Toxoid. The current test methods for Clostridium Novyi Bacterin-Toxoid and Clostridium Sordellii Bacterin-Toxoid products require that potency be measured in a valid vaccination-challenge test in guinea pigs. The proposed tests for these products involve serological conversion in rabbits and quantitation of the antitoxins in mice. The potency of Tetanus Toxoid products is presently determined by measuring the neutralization capacity of pooled serum from vaccinated guinea pigs. In the proposed tests for Tetanus Toxoid products, an ELISA assay is used to quantitate the Antitoxin Units per ml of a serum pool derived from vaccinated guinea pigs. The proposed test procedures measure antitoxin responses which have been correlated to protective levels of antitoxin in the host species. These procedures would result in a more precise evaluation of potency of the products than test procedures which are currently being used. The proposed test procedures also allow for testing multiple antigens in the same test animals which results in using a reduced number of animals in potency tests for serial release.

DATE: Consideration will be given only to comments received on or before December 24, 1990.

ADDRESSES: Send an original and three copies of written comments to Chief, Regulatory Analysis and Development Staff, APHIS, USDA, room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 90–042. Comments received may be inspected at USDA, room 1141, South Building, 14th and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. David A. Espeseth, Deputy Director, Veterinary Biologics; Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–6332.

SUPPLEMENTARY INFORMATION:

Background

Clostridium Novyi Bacterin-Toxoid and Clostridium Sordellii Bacterin-Toxoid

The current Standard Requirements for Clostridium Novyi Bacterin-Toxoid and Clostridium Sordellii Bacterin-Toxoid specify that each serial of product must be tested for potency in guinea pigs prior to release. The test animals are vaccinated with a prescribed dose of the product. Fourteen to fifteen days after a second injection, vaccinated animals, along with an acceptable number of controls, are challenged with an applicable virulent organism generally furnished by the Animal and Plant Health Inspection Service (APHIS). For a test to be satisfactory, at least 80 percent of the guinea pigs used as controls must die during the 3-day post challenge observation period and seven of eight

treated animals must survive the challenge. If two of the vaccinated animals succumb to the challenge, the current standards provide for a second stage test. The use of virulent, spore forming challenge organisms in guinea pigs results in progressive, fatal disease in virtually all the controls. Using the present test procedure, guinea pigs can be tested for only a single antigen. Therefore, each product must be tested separately, since the test does not allow for differentiation of multicomponent products.

The Animal and Plant Health Inspection Service and the manufacturers of the products discussed in this proposal have cooperated in developing tests modeled after the potency test currently codified in §§ 113.98 and 113.97 for Clostridium Perfringens Type C Bacterin-Toxoid and Clostridium Perfringens Type D, Bacterin-Toxoid, respectively. The cooperative effort was undertaken to (1) Determine the minimum protective levels of antitoxin in sheep and cattle (animals for which the products in this proposal are indicated); and, (2) to develop a potency test that would correlate the serological response and protective levels of antitoxin in sheep and cattle to the serological response in rabbits. The tests which were developed allow for serological conversion in rabbits and quantitation of the antibody (antitoxin) level in mice. Using these tests, a product containing more than one antigen can be inoculated into rabbits and the serological responses to individual antigens measured in mice. Quantitating the response to individual antigens is accomplished by determining the neutralizing capacity of each antitoxin against its homologous antigen. For each antitoxin to be measured, an equal quantity of serum from each test rabbit is combined and tested as a single serum pool. At least seven rabbits are required to make an acceptable serum pool. Graded volumes of the undiluted serum pool are combined with prescribed amounts of diluted Standard Toxin, as specified in the proposed test procedures, and allowed to neutralize. Each resulting diluted mixture is then injected into five mice (for each antitoxin being measured). Although the highest dilution of antitoxin will not protect mice from death, the disease process is not progressive and therefore is more humane than the present spore challenge of guinea pigs.

The data accumulated from the cooperative studies with nine participating manufacturers has been analyzed. Based on that analysis, the Agency has concluded that the proposed potency tests conserve time and animals, are more humane, and are a more accurate measurement of the quantity of antigens in the products and the quality of antitoxins produced in host animals. The proposed tests are more precise than the current tests in evaluating products containing a single antigen or multiple antigens.

Tetanus Toxoid

The current Standard Requirement for Tetanus Toxoid specifies that each serial of product must be tested for potency in 10 guinea pigs. The test animals are vaccinated with a prescribed dose of the product and bled 6 weeks later. An equal volume of serum from each of at least 10 guinea pigs is combined to make a serum pool. A prescribed amount of serum from the pool is combined with a standard amount of tetanus toxin, and inoculated into additional guinea pigs to determine if the serum from the vaccinated guinea pigs contain sufficient antitoxin to neutralize the toxin. A failure to neutralize the toxin would result in the deaths of the innoculated guinea pigs. It has been determined that the pool of guinea pig serum must contain at least 2.0 antitoxin units (A.U.) per ml for the product serial to be satisfactory. If the serial test is unsatisfactory, the pooled serum can be retested using 20 guinea pigs.

APHIS and manufacturers of Tetanus Toxoid developed an assay method to replace the current toxin neutralization test conducted in guinea pigs. The cooperative effort resulted in an enzyme-linked immunosorbent assay (ELISA) which accurately quantitates the A.U. per ml of the serum pool from the guinea pigs vaccinated with toxoid without requiring the inoculation and death of the additional guinea pigs used in the toxin neutralization test. The minimum antitoxin level required for a satisfactory guinea pig serum pool would be retained at 2 A.U. per ml. Because the ELISA is more precise than the toxin neutralization test, the prescribed retest of unsatisfactory serials would be conducted in 10 rather than 20 animals.

The Agency analyzed the data accumulated from cooperative studies with six participating manufacturers. It has concluded that the proposed potency test would conserve time and animals, and is more humane and economical than the current potency test. This proposed test accurately measures the quantity of antitoxin(s) produced by the product in susceptible host species.

The proposal specifies that the antitoxin level shall be determined by an ELISA acceptable to the Animal and Plant Health Inspection Service. The Agency has prepared a Supplemental Assay Method (SAM) in accordance with 9 CFR 113.2(a) which details the ELISA test procedure that is used by the animal and Plant Health Inspection Service.

Executive Order 12291 and Regulatory Flexibility Act

This proposed rule is issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1 and has been determined not to be a "major rule." Based on information compiled by the Department, it has been determined that this proposed rule would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The purpose of this proposed action is to codify in the Standard Requirements updated procedures for conducting potency tests for serial release that are more economical, more humane, and more accurate than the current test procedures in measuring the quantity of antigen and quality of these products.

Under these circumstances, the Administrator of APHIS has determined that this action would not have significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et. seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR 3015, subpart V.)

List of Subjects in 9 CFR Part 113

Animal biologics.

PART 113—STANDARD REQUIREMENTS

Accordingly, title 9, Code of Federal Regulations, would be amended as follows:

1. The authority citation for part 113 would continue to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.17, 2.55, and 371.2(d).

2. In § 113.93, paragraph (c), would be revised to read as follows:

§ 113.93 Clostridium novyi Bacterin-Toxoid.

* * * * *

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested for potency using the Alpha toxin-neutralization test provided in this paragraph.

(1) When used in this test, the following words and terms shall mean:

(i) *International antitoxin unit.* (I.U.) That quantity of Alpha Antitoxin which reacts with Lo and L+ doses of Standard Toxin according to their definitions.

(ii) *Lo dose.* The largest quantity of toxin which can be mixed with one unit of Standard Antitoxin and not cause sickness or death in injected mice.

(iii) *L+ dose.* The smallest quantity of toxin which can be mixed with one unit of Standard Antitoxin and cause death in at least 80 percent of injected mice.

(iv) *Standard antitoxin.* The Alpha Antitoxin preparation which has been standardized as to antitoxin unitage on the basis of the International *Clostridium novyi* Alpha Antitoxin Standard and which is either supplied by or acceptable to the Animal and Plant Health Inspection Service. The antitoxin unit value shall be stated on the label.

(v) *Standard toxin.* The Alpha toxin preparation which is supplied by or is acceptable to the Animal and Plant Health Inspection Service.

(vi) *Diluent.* The solution used to make proper dilutions prescribed in this test. Such solutions shall be made by dissolving 1 gram of peptone and 0.25 gram of sodium chloride in each 100 ml of distilled water; adjusting the pH to 7.2; autoclaving at 121° C for 25 minutes; and storing at 4° C until used.

(2) Each of at least eight rabbits of a strain acceptable to the Animal and Plant Health Inspection Service, each weighing 4–8 pounds, shall be injected subcutaneously with not more than half of the recommended cattle dose. *Provided,* That, if the product is recommended only for sheep, half of the recommended sheep dose shall be used. A second dose shall be given not less than 20 days nor more than 23 days after the first dose.

(3) Fourteen to seventeen days after the second dose, all surviving rabbits shall be bled, and the serum tested for antitoxin content.

(i) At least seven rabbits are required to make an acceptable serum pool.

(ii) Equal quantities of serum from each rabbit shall be combined and tested as a single pooled serum.

(iii) If less than seven rabbits are available, the test is invalid and shall be repeated: *Provided,* That, if the test is not repeated, the serial shall be declared unsatisfactory.

(4) The antitoxin content of the rabbit serums shall be determined by the serum neutralization test as follows:

(i) Make a dilution of Standard Antitoxin to contain 0.1 International Unit of antitoxin per ml.

(ii) Make a dilution of Standard Toxin in which 0.1 Lo dose is contained in a volume of 1 ml or less. Make a second dilution of Standard Toxin in which 0.1 L+ dose is contained in a volume of 1 ml or less.

(iii) Combine 0.1 International Unit of Standar Antitoxin with 0.1 Lo dose of diluted Standard Toxin and combine 0.1 International Unit of Standard Antitoxin with 0.1 L+ dose of diluted Standard Toxin. Each mixture is adjusted to a final volume of 2.0 ml with diluent.

(iv) Combine 0.1 Lo dose of diluted Standard Toxin with a 0.2 ml volume of undiluted serum. The mixture is adjusted to a final volume of 2.0 ml with diluent.

(v) Neutralize all toxin-antitoxin mixtures at room temperature for 1 hour and hold in ice water until injections of mice can be made.

(vi) Five Swiss white mice, each weighing 18–20 grams, shall be used for each toxin-antitoxin mixture. A dose of 0.2 ml shall be injected intravenously into each mouse. Conclude the test 72 hours post injection and record all deaths.

(5) Test interpretation shall be as follows:

(i) If any mice inoculated with the mixture of 0.1 International Unit of Standard Antitoxin and 0.1 Lo doses of Standard Toxin die, the results of the serum neutralization test are inconclusive and shall be repeated: *Provided,* That, if the test is not repeated, the serial shall be declared unsatisfactory.

(ii) If less than 80 percent of the mice inoculated with the mixture of 0.1 International Unit of Standard Antitoxin and 0.1 L+ doses of Standard Toxin die, the results of the serum neutralization test are inconclusive and shall be repeated: *Provided,* That, if the test is not repeated, the serial shall be declared unsatisfactory.

(iii) If any mice inoculated with the mixture of 0.2 ml undiluted serum with 0.1 Lo dose of Standard Toxin die, the serum is considered to contain less than 0.50 International Units per ml.

(iv) If the single pooled serum from seven or more rabbits contains less than 0.5 International Unit per ml, the serial is unsatisfactory.

3. In § 113.94, paragraph (c), would be revised to read as follows:

§ 113.94 Clostridium Sordellii Bacterin-Toxoid.

* * * * *

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested for potency using the toxin-neutralization test provided in this paragraph.

(1) When used in this test, the following words and terms shall mean:

(i) *International antitoxin unit.* (I.U.) That quantity of antitoxin which reacts with Lo and L+ doses of Standard Toxin according to their definitions.

(ii) *Lo dose.* The largest quantity of toxin which can be mixed with one unit of Standard Antitoxin and not cause sickness or death in injected mice.

(iii) *L+ dose.* The smallest quantity of toxin which can be mixed with one unit of Standard Antitoxin and cause death in at least 80 percent of injected mice.

(iv) *Standard antitoxin.* The antitoxin preparation which has been standardized as to antitoxin unitage on the basis of the International *Clostridium sordellii* Antitoxin Standard and which is either supplied by or acceptable to the Animal and Plant Health Inspection Service. The antitoxin unit value shall be stated on the label.

(v) *Standard toxin.* The toxin preparation which is supplied by or is acceptable to the Animal and Plant Health Inspection Service.

(vi) *Diluent.* The solution used to make proper dilutions prescribed in this test. Such solutions shall be made by dissolving 1 gram of peptone and 0.25 gram of sodium chloride in each 100 ml of distilled water; adjusting the pH to 7.2; autoclaving at 121° C for 25 minutes; and storing at 4° C until used.

(2) Each of at least eight rabbits of a strain acceptable to the Animal and Plant Health Inspection Service, each weighing 4–8 pounds, shall be injected subcutaneously with not more than half of the recomended cattle dose. *Provided,* That, if the product is recommended only for sheep, half of the recommended sheep dose shall be used. A second dose shall be given not less than 20 days nor more than 23 days after the first dose.

(3) Fourteen to seventeen days after the second dose, all surviving rabbits shall be bled, and the serum tested for antitoxin content.

(i) At least seven rabbits are required to make an acceptable serum pool.

(ii) Equal quantities of serum from each rabbit shall be combined and tested as a single pooled serum.

(iii) If less than seven rabbits are available, the test is invalid and shall be repeated: *Provided,* That, if the test is not repeated, the serial shall be declared unsatisfactory.

(4) The antitoxin content of the rabbit serums shall be determined by the serum neutralization test as follows:

(i) Make a dilution of Standard Antitoxin to contain 1.0 international unit of antitoxin per ml.

(ii) Make a dilution of Standard Toxin in which 1.0 Lo dose is contained in a volume of 1 ml or less. Make a second dilution of Standard Toxin in which 1.0 L+ dose is contained in a volume of 1 ml or less.

(iii) Combine 1.0 International Unit of Standard Antitoxin with 1.0 Lo dose of diluted Standard Toxin and combine 1.0 International Unit of Standard Antitoxin with 1.0 L+ dose of diluted Standard Toxin. Each mixture is adjusted to a final volume of 2.0 ml with diluent.

(iv) Combine 1.0 Lo dose of diluted Standard Toxin with a 1.0 ml volume of undiluted serum. This mixture is adjusted to a final volume of 2.0 ml with diluent.

(v) Neutralize all toxin-antitoxin mixtures at room temperature for 1 hour and hold in ice water until injections of mice can be made.

(vi) Five Swiss white mice, each weighing 16–20 grams, shall be used for each toxin-antitoxin mixture. A dose of 0.2 ml shall be injected intravenously into each mouse. Conclude the test 72 hours post injection and record all deaths.

(5) Test interpretation shall be as follows:

(i) If any mice inoculated with the mixture of 1.0 International Unit of Standard Antitoxin and 1.0 *Lo* doses of Standard Toxin die, the results of the serum neutralization test are inconclusive and shall be repeated: *Provided,* That, if the test is not repeated, the serial shall be declared unsatisfactory.

(ii) If less than 80 percent of the mice inoculated with the mixture of 1.0 International Unit of Standard Antitoxin and 1.0 L+ doses of Standard Toxin die, the results of the serum neutralization test are inconclusive and shall be repeated: *Provided,* That, if the test is not repeated, the serial shall be declared unsatisfactory.

(iii) If any mice inoculated with the mixture of 1.0 ml undiluted serum with 1.0 Lo dose of Standard Toxin die, the serum is considered to contain less than 1.0 International Units per ml.

(iv) If the single pooled serum from seven or more rabbits contains less than 1.0 International Unit per ml, the serial is unsatisfactory.

4. In § 113.99, paragraph (c), would be revised to read as follows:

§ 113.99 Tetanus Toxoid.

* * * * *

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested for potency. A group of 10 guinea pigs consisting of an equal number of males and females weighing 450 to 550 grams shall each be injected subcutaneously with 0.4 of the horse dose recommended on the product label.

(1) Six weeks after injection, all surviving guinea pigs shall be bled and equal portions of serum from at least eight guinea pigs, but not less than 0.5 ml from each, shall be pooled. Serum from not less than eight animals shall be used.

(2) The antitoxin titer of the pooled serum shall be determined in antitoxin units (A.U.) per ml using an enzyme-linked immunosorbent assay method acceptable to the Animal and Plant Health Inspection Service.

(3) If the antitoxin titer of the serum pool is at least 2.0 A.U. per ml, the serial is satisfactory. If the antitoxin titer of the serum pool is less than 2.0 A.U. per ml, the serial may be retested by the following procedure: *Provided,* That, if the serial is not retested, it shall be declared unsatisfactory.

(4) For serials in which the serum pool contains less than 2.0 A.U. per ml, the individual sera that constituted the pool may be tested by the enzyme-linked immunosorbent assay. If at least 80 percent of the individual serums have an antitoxin titer of at least 2.0 A.U. per ml, the serial is satisfactory. If less than 80 percent of the individual serums have an antitoxin titer of at least 2.0 A.U. per ml, the serial may be retested in 10 guinea pigs using the procedure described in (c) (1) and (2) above. The antitoxin titer of the pooled serum from the guinea pigs used in the retest shall be averaged with the antitoxin level of the pooled serum from the initial test. If the average of the two pools is at least 2.0 A.U. per ml, the serial is satisfactory. If the average of the two pools is less than 2.0 A.U. per ml, the serial is unsatisfactory and shall not be retested further.

Done in Washington, DC, this 19 day of October 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-25125 Filed 10-24-90; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 720

[Docket No. 88P-0130]

Modification in Voluntary Registration of Cosmetic Product Ingredient and Raw Material Composition Statements

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Adminstration (FDA) is proposing to modify its program of voluntary filing of cosmetic product formulations and raw material compositions by eliminating the reporting of semiquantitative ingredient information, integrating raw material composition disclosures into cosmetic product formulation statements, and discontinuing the form for reporting raw material compositions. This proposal is in response to a petition filed by the Cosmetic, Toiletry and Fragrance Association. In addition, FDA is proposing clarifying changes to update and to remove references from its regulations that would be obsolete if this proposal becomes final. The proposed changes will have no significant effect on the quality of the cosmetic registration program.

DATES: Written comments by December 24, 1990. The proposed effective date of the final rule based on this proposal is 30 days after its date of publication in the Federal Register.

ADDRESSES: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Raymond L. Decker, Jr., Center for Food Safety and Applied Nutrition (HFT–444), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–245–1493.

SUPPLEMENTARY INFORMATION: The regulations in 21 CFR part 720 provide for the voluntary filing of cosmetic product ingredient and cosmetic raw material composition statements. On May 15, 1989, the Cosmetic, Toiletry and

Fragrance Association (CTFA) petitioned FDA to amend 21 CFR part 720 by removing the requirement for declaration of semiquantitative ingredient information on cosmetic product ingredient statements (Form FDA 2512) and by discontinuing the voluntary filing of cosmetic raw material composition statements (Form FDA 2513). CTFA further requested that the participants in the voluntary registration program be permitted to follow the new filing procedures without awaiting completion of the rulemaking process. CTFA argued in its petition that these revisions of 21 CFR part 720 would not reduce the value of the information reported to the agency, and that a less burdensome registration process would increase participation in this voluntary program (Ref. 1).

Modification of the registration process was first suggested by CTFA in a letter to the agency dated February 3, 1989. In that letter, CTFA urged FDA to discontinue the requirement that semiquantitative information be submitted to the agency (Ref. 2). At a meeting with CTFA representatives on March 9, 1989, FDA suggested that, because of the requirement for cosmetic ingredient labeling and the associated disclosure of ingredient compositions, firms could also discontinue their submission of cosmetic raw material composition statements on Form FDA 2513 without compromising the value of the information registered with the agency (Ref. 3). FDA confirmed this view in a letter to CTFA dated March 10, 1989 (Ref. 4).

On September 28, 1989, FDA informed CTFA that the agency did not object to the immediate discontinuation of disclosure of semiquantitative data on cosmetic product ingredient statements (Ref. 5). However, the agency did not accede to the request for immediate discontinuation of the use of Form FDA 2513. This form has served as a vehicle not only for filing of proprietary cosmetic raw material compositions but also for registering "base" or "master batch" formulations, mostly by contract manufacturers, to which other ingredients are added to complete various product formulations with specific characteristics that differ from those of the respective base or master batch. If a base that has been filed with FDA on a Form FDA 2513 is processed into a product, and the product formulation is voluntarily registered on a Form FDA 2512, the base formulation is declared on the Form FDA 2512 as a single ingredient. If Form FDA 2513 is to be discontinued, FDA will need to ensure that there are arrangements, and instructions for registering base formulations as well as finished product formulations on Form FDA 2512 and for cross-referencing such registrations.

I. Proposed Changes in Voluntary Registration

FDA is proposing to grant CTFA's petition to change the requirement for voluntary registration of cosmetic product ingredient statements and to discontinue the registration of cosmetic raw material composition statements. FDA concurs with CTFA that it is not necessary to continue to disclose semiquantitative data on Form FDA 2512 because information on customary use concentrations of cosmetic ingredients is readily available in the cosmetic technical literature. In cases involving specific toxicological issues, where precise information about the concentration of a suspected ingredient in a product is needed, semiquantitative data offer little or no assistance in determining the safety or harmfulness of an ingredient or of the product in which it is present.

To reflect its tentative determination, FDA is proposing to amend 21 CFR 720.4(d)(1) by removing the requirement that the list of each ingredient in a cosmetic product in descending order of predominance on Form FDA 2512 be accompanied by a letter (A through H) designating the percentage of the ingredient added. The agency is also proposing to amend § 720.4 by removing paragraphs (d)(1)(i) through (d)(1)(viii) that specify the letters (A through H) to be used to designate the percentage of the ingredient added.

FDA further proposes that Form FDA 2513 for voluntary registration of cosmetic raw material compositions, including proprietary raw material mixtures and formulations of fragrances, flavors, and "bases" or "master batches," be discontinued. The ingredient labeling regulations (21 CFR 701.3), adopted after the voluntary registration of cosmetic product ingredient and raw material composition statements was initiated, requires the declaration on the label of the names of each ingredient (except the name of each flavor or fragrance ingredient), whether the ingredient is added to the product formulation as a single entity or added as a component of a mixture of ingredients. FDA proposes that this method of ingredient disclosure also be adapted for the voluntary registration of cosmetic product formulations on Form FDA 2512 to simplify the registration process.

With the discontinuance of Form FDA 2513, FDA proposes to amend the regulations in 21 CFR part 720 by removing the requirements regarding the filing of Form FDA 2513 in 21 CFR 720.1(b), 720.2(b), and 720.4(b). The agency also proposes to remove and reserve § 720.5 *Information requested about cosmetic raw materials*, which defines the contents of Form FDA 2513. In addition, FDA proposes to remove 21 CFR 720.9(b) which permits the uses of the Food and Drug Administration Cosmetic Raw Material Composition Statement Number (FDA CRMCS No.). If the agency adopts its proposal to discontinue the filing of raw materials statements, it will no longer assign numbers to these statements. Therefore, there will no longer be a need for a regulation that provides for the use of these numbers.

Other information currently registered on Form FDA 2513, namely, formulations representing a fragrance, flavor, "base," or "master batch," may, if this proposal is adopted, be registered on Form FDA 2512 as further explained elsewhere in this proposed rule.

While reviewing the remaining reporting requirements of 21 CFR part 720 and the impact of the reported information on the quality of the voluntary reporting program, FDA has identified several additional items in data reporting that it is proposing to change or to remove as appropriate.

Because of an administrative change in the identification of forms for filing cosmetic formulations and raw material composition statements, FDA is proposing that the new designations "Form FDA 2512" (for former "Form FD–2512") and "Form FDA 2514" (for former Form FD–2514") be adopted throughout the regulation.

FDA is proposing to remove from 21 CFR 720.4(c)(12) the skin care preparation categories "Hormone," "Skin lighteners," and "Wrinkle smoothing (removers)." These designations have consistently been the subject of regulatory controversy because these designations identify cosmetics that legally are also drugs. These designations were included in the list of product categories when the regulation was published in the Federal Register of April 11, 1972 (37 FR 7151), to permit the registration of these types of products as cosmetics but with the understanding that these products usually are legally drugs and cosmetics. However, this listing has been interpreted by cosmetic manufacturers and others to mean that FDA considers these products to be exclusively cosmetics. Removal of these category designations and registration of such products, if they are also cosmetics, under the remaining category

designations is expected to prevent future misunderstanding. For the same reason, FDA is proposing to change the designation of the suntan product category (21 CFR 720.4(c)(13)) to "Suntan preparations."

FDA is further proposing to change the name of the category "Face, body, and hand (excluding shaving preparations)" in 21 CFR 720.4(c)(12)(iii) to "Face and neck (excluding shaving prepartions)" and adding the new category "Body and hand (excluding shaving preparations)" in paragraph 21 CFR 720.4(c)(12)(iv). These changes permit more precise classification of skin care preparations according to human body exposure and accommodate proper categorization of products currently classified under "Hormore," "Skin lighteners," and "Wrinkle smoothing (removers)."

FDA proposes in revised § 720.4(d) that each ingredient listed on Form FDA 2512, including each ingredient that consists of a mixture of ingredients, be identified by the name appropriate for cosmetic ingredient labeling pursuant to § 701.3(c). Under the revised regulation, an ingredient representing a voluntarily registered formulation of a fragrance or flavor, or of a "base" or "master batch," would be identified as "fragrance," "flavor," "fragrance and flavor" or "base formulation," as appropriate, and by stating its FDA-assigned cosmetic product ingredient statement number. The agency proposes to amend § 720.4 by redesignating paragraph (d)(3) as paragraph (d)(5), by revising paragraphs (d)(2) and newly redesignated (d)(5), and by adding paragraphs (d)(3) and (d)(4).

FDA proposes to revise redesignated paragraph (d)(5) by removing the requirement for providing the product name or trade name for a fragrance or flavor mixture as well as the supplier's name. A review of the value of this information to FDA or others when released in accordance with § 720.8 and Freedom of Information regulations (21 CFR part 20) has demonstrated that it has not been as useful as originally envisioned.

FDA is not proposing to make the modification of 21 CFR 720.8 that CTFA requested. CTFA suggested dividing 21 CFR 720.8 into two sections by establishing an additional section consisting of paragraphs (b)(1) through (b)(6). The agency does not find any basis to conclude that the recommended change will clarify the existing regulation.

II. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Petition of May 15, 1989 [Docket No. 89P-0180/0001] from the Cosmetic, Toiletry and Fragrance Association requesting amendment of 21 CFR part 720 to permit a simplified format for filing cosmetic product ingredient statements.

2. Letter of February 3, 1989, from the President, Cosmetic, Toiletry and Fragrance Association, to the Commissioner of Food and Drugs recommending adoption of a simplified format for filing statements of cosmetic product ingredients.

3. Memorandum of meeting of March 9, 1989, between representatives of the Food and Drug Administration and the Cosmetic, Toiletry and Fragrance Association on the issue of modification of the voluntary cosmetic registration program.

4. Letter of March 10, 1989, from the Commissioner of Food and Drugs to the President, Cosmetic, Toiletry and Fragrance Association, expressing concurrence with the suggested modification of the process of voluntary filing of cosmetic product ingredient statements.

5. Letter of September 28, 1989, from the Acting Associate Commissioner for Regulatory Affairs, Food and Drug Administration, to the President, Cosmetic, Toiletry and Fragrance Association, concurring with the interim adoption of filing cosmetic ingredient information on Form FDA 2512 without disclosure of semiquantitative data.

III. Reporting Forms

FDA will redesign Form FDA 2512 to accommodate the proposed changes and deletions. The current form may be used without detriment to register cosmetic product ingredient statements in accordance with the revised requirements. The agency will maintain a sufficient inventory of the current form to meet the requirements of participating firms and to ensure continuity of voluntary participation in the registration of cosmetic formulations. If the agency adopts this proposal, FDA will discontinue Form FDA 2513 at the time the final rule becomes effective. Form FDA 2514 remains unchanged. FDA will modify the instructions for completing Forms FDA 2512 and FDA 2514 and voluntary filing of cosmetic formulations, including those representing a "base formulation" or "master batch," in accordance with the proposed modifications of 21 CFR part 720.

IV. Paperwork Reduction Act of 1980

This proposed rule contains information collections which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35). The title, description, and respondent description of the information collections are shown below with an estimate of the annual reporting and recording burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Title: Modification in Voluntary Registration of Cosmetic Product Ingredient and Raw Material Composition Statements.

Description: The Food and Drug Administration is proposing to modify its program of voluntary filing of cosmetic product formulations and raw material compositions by eliminating the reporting of semiquantitative ingredient information, integrating raw material composition disclosures into cosmetic product formulation statements, and discontinuing the form for reporting raw material compositions (FDA 2513). This proposal would have no significant impact on the quality of the cosmetic registration program. The existing information collections have been approved under OMB Nos. 0910-0028, 0910-0030, and 0910-0031.

Description of Respondents: Businesses or other for-profit organizations.

Estimated Annual Reporting and Recordkeeping Burden

Section	Annual number of respondents	Annual frequency	Average burden per response	Annual burden hours
21 CFR 720.4 (Form FDA 2512)				
Existing	280	10	0.5	1,400
Proposed	310	10	0.5	930
21 CFR 720.5 (Form FDA 2513)				
Existing	40	10	0.5	200
Proposed	0	10	0	0

Section	Annual number of respondents	Annual frequency	Average burden per response	Annual burden hours
21 CFR 720.6 (Forms FDA 2512 and FDA 2514)				
Existing	2,250	1	0.2	510
Proposed	2,250	1	0.1	258
21 CFR 720.8 (Forms FDA 2512 and FDA 2514)				
Existing	12.5	1	(1)	(1)
Proposed	4	1	(1)	(1)

(1) Included in 21 CFR 720.4, 720.5 or 720.6.
Total existing annual burden hours, 2,100.
Total existing proposed burden hours, 1,158.
Total burden hours difference, 922 (44 percent reduction).

As required by section 3504(h) of the Paperwork Reduction Act of 1980, FDA has submitted a copy of this proposed rule to OMB for its review of these information collection requirements. Other organizations and individuals desiring to submit comments regarding this burden estimate or any aspects of these information collection requirements, including suggestions for reducing the burdens, should direct them to FDA's Dockets Management Branch (address above) and to the Office of Information and Regulatory Affairs, OMB, rm. 3208, New Executive Office Bldg., Washington, DC 20503, Attn: Desk Officer for FDA.

V. Environmental and Economic Impact

The agency has determined under 21 CFR 25.24(a)(11) that this proposed action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal and has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that no significant impact on a substantial number of small entities will derive from this action.

Interested persons may, on or before December 24, 1990, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 720

Confidential business information, Cosmetics, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 720 be amended as follows:

PART 720—[AMENDED]

1. The heading for part 720 is revised to read as follows:

PART 720—VOLUNTARY FILING OF COSMETIC INGREDIENT STATEMENTS

2. The authority citation for 21 CFR part 720 continues to read as follows:

Authority: Secs. 201, 301, 601, 602, 701, 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 361, 362, 371, 374).

3. Sections 720.1, 720.2, and 720.3 are revised to read as follows:

§ 720.1 Who should file.

Either the manufacturer, packer, or distributor of a cosmetic product is requested to file Form FDA 2512 ("Cosmetic Product Ingredient Statement"), whether or not the cosmetic product enters interstate commerce. This request extends to any foreign manufacturer, packer, or distributor of a cosmetic product exported for sale in any State as defined in section 201(a)(1) of the Federal Food, Drug, and Cosmetic Act. No filing fee is required.

§ 720.2 Time for filing.

Within 180 days after forms are made available to the industry, Form FDA 2512 should be filed for each cosmetic product being commercially distributed as of the effective date of this part. Form FDA 2512 should be filed within 60 days after the beginning of commercial distribution of any product not covered within the 180-day period.

§ 720.3 How and where to file.

Forms FDA 2512 and FDA 2514 ("Discontinuance of Commercial Distribution of Cosmetic Product") are obtainable on request from the Food and Drug Administration, Department of Health and Human Services, Washington, DC 20204, or at any Food and Drug Administration district office. The completed form should be mailed or delivered to: Cosmetic Product Statement, Food and Drug Administration, Department of Health and Human Services, Washington, DC 20204, according to the instructions provided with the forms.

4. Section 720.4 is amended in the introductory texts of paragraphs (a) and (b) by removing "FD–2512" and replacing it with "FDA 2512"; by removing paragraph (b)(5); by revising paragraphs (c)(12)(iii) through (c)(12)(v), (c)(12)(ix), and (c)(12)(x); by removing paragraphs (c)(12)(xi) and (c)(12)(xii); by revising the paragraph heading in the introductory text of paragraph (c)(13); by revising paragraph (d); and by removing in paragraph (e) "FD–2512" in the first and second sentences and replacing it with "FDA 2512" to read as follows:

§ 720.4 Information requested about cosmetic products.

* * * * *

(c) * * *

(12) * * *

(iii) Face and neck (excluding shaving preparations).

(iv) Body and hand (excluding shaving preparations).

(v) Foot powders and sprays.

* * * * *

(ix) Skin fresheners.

(x) Other skin care preparations.

(13) *Suntan preparations.* * * *

* * * * *

(d) Ingredients in the product should be listed as follows:

(1) A list of each ingredient of the cosmetic product in descending order of predominance by weight (except that the fragrance and/or flavor may be designated as such without naming each individual ingredient when the

manufacturer or supplier of the fragrance and/or flavor refuses to disclose ingredient data).

(2) An ingredient should be listed by the name adopted by the Food and Drug Administration (FDA) for that ingredient pursuant to § 701.3(c) of this chapter.

(3) In the absence of a name adopted by FDA pursuant to § 701.3(c) of this chapter, its common or usual name, if it has one, or its chemical or technical name should be listed.

(4) If an ingredient is a mixture, each ingredient of the mixture should be listed in accordance with paragraphs (d)(2) and (d)(3) of this section, unless such mixture is a formulation voluntarily registered on Form FDA 2512, in which case such mixture should be identified as "fragrance," "flavor," "fragrance and flavor" or "base formulation," as appropriate, and by stating its FDA-assigned cosmetic product ingredient statement number.

(5) When the manufacturer or supplier of a fragrance and/or flavor refuses to disclose ingredient data, the fragrance and/or flavor should be listed as such. The nonconfidential listing of the product name and/or trade name or name of the manufacturer or supplier of each proprietary fragrance and/or flavor mixture is optional.

* * * * *

§ 720.5 [Removed and Reserved]

5. Section 720.5 *Information requested about cosmetic raw materials* is removed and reserved.

6. Sections 720.6 and 720.7 are revised to read as follows:

§ 720.6 Amendments to statement.

Changes in the information requested under § 720.4 (a)(3) and (a)(5) on the ingredients or brand name of a cosmetic product should be submitted by filing an amended Form FDA 2512 within 60 days after the product is entered into commercial distribution. Other changes do not justify immediate amendment, but should be shown by filing an amended Form FDA 2512 within a year after such changes. Notice of discontinuance of commercial distribution of a cosmetic product should be submitted by Form FDA 2514 within 180 days after discontinuance of commercial distribution becomes known to the person filing.

§ 720.7 Notification of person submitting cosmetic product ingredient statement.

When Form FDA 2512 is received, FDA will either assign a permanent cosmetic product ingredient statement number or a Food and Drug Administration reference number in those cases where a permanent number cannot be assigned. Receipt of the form will be acknowledged by sending the individual signing the statement an appropriate notice bearing either the FDA reference number or the permanent cosmetic product ingredient statement number. If the person submitting Form FDA 2512 has not complied with § 720.4 (b)(1) and (b)(2), the person will be notified as to the manner in which the statement is incomplete.

7. Section 720.8 is amended by revising the first sentence in paragraph (a) to read as follows:

§ 720.8 Confidentiality of statements.

(a) Data and information contained in, attached to, or included with Forms FDA 2512 and FDA 2514, and amendments thereto are submitted voluntarily to the Food and Drug Administration (FDA). * * *

* * * * *

8. Section 720.9 is revised to read as follows:

§ 720.9 Misbranding by reference to filing or to statement number.

The filing of Form FDA 2512 or assignment of a number to the statement does not in any way denote approval by the Food and Drug Administration of the firm or the product. Any representation in labeling or advertising that creates an impression of official approval because of such filing or such number will be considered misleading.

Dated: August 6, 1990.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-25208 Filed 10-24-90; 8:45 am]

BILLING CODE 4160-01-M

Office of Human Development Services

45 CFR Part 1301

RIN 0980-AA32

Head Start Program

AGENCY: Administration for Children, Youth and Families (ACYF), Office of Human Development Services (OHDS), Department of Health and Human Services (HHS).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Administration for Children, Youth and Families is issuing this Notice of Proposed Rulemaking to revise and clarify for Head Start grantees the requirements implementing the statutory provision that limits development and administrative costs to 15 percent of total costs. This rule also clarifies that funds for training and technical assistance must be included in total approved costs and are, therefore, subject to the 20 percent non-Federal matching requirement.

DATES: In order to be considered, comments on this proposed rule must be received on or before December 24, 1990.

ADDRESSES: Please address comments to: Associate Commissioner, Head Start Bureau, Administration for Children, Youth and Families, P.O. Box 1182, Washington, DC 20013.

Beginning 14 days after close of the comment period, comments will be available for public inspection in Room 2217, 330 C Street SW., Washington, DC 20201, Monday through Friday between the hours of 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Dr. Maiso Bryant, (202) 245-0549.

SUPPLEMENTAL INFORMATION:

I. Program Description

Head Start is authorized under the Head Start Act (Act), section 635 of Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, (42 U.S.C. 9831, *et seq.*) It is a national program providing comprehensive developmental services primarily to low income preschool children, age three to the age of compulsory school attendance, and their families. To help enrolled children to achieve their full potential, Head Start programs provide comprehensive health, nutritional, educational, social and other services. In addition, Head Start programs are required to provide for the direct participation of parents of enrolled children in the development, conduct, and direction of local programs. In fiscal year 1989, Head Start served more than 450,000 children through a network of 1,284 grantees and more than 620 delegate agencies, each of which has an approved written agreement with a grantee to operate a Head Start program.

While Head Start is targeted primarily on children whose families have incomes at or below the poverty line or are eligible for public assistance, Head Start policy permits up to 10 percent of the children in local programs to be from families who do not meet these low income criteria. Head Start also requires that a minimum of 10 percent of the enrollment opportunities in each State be made available to handicapped children. Such children are expected to be enrolled in the full range of Head Start services and activities in a setting with their non-handicapped peers and to receive needed special education and related services.

B. Head Start Grantee Application

The Head Start grant application and 45 CFR 1301.32 currently require that grantees provide a statement that the costs of development and administration will not exceed 15 percent of the total approved costs. Additionally, the Standard Form 269, the quarterly financial status report, will require the reporting of the actual cost of development and administration for each budget period.

A proposed new revised grant application form and instructions were published as a notice with a request for public comments on December 28, 1988 (53 FR 52490). The new instructions would require grantees to indicate proposed administrative costs on the application.

III. Summary of the Proposed Regulation

The authority for this Notice of Proposed Rulemaking (NPRM) is section 644(b) of the Head Start Act (42 U.S.C. 9839), which limits reimbursement of the costs of developing and administering a Head Start program to 15 percent of total approved costs and requires the Secretary to establish, by regulation, criteria for determining the costs of developing and administering the Head Start program and for determining total approved costs. Also, section 640(b) (42 U.S.C. 9835) provides that the Secretary shall not require non-Federal contributions in excess of 20 percent of the total approved costs of programs or activities assisted under the Head Start program.

These changes are proposed in order to: (1) Clarify and emphasize the differences between project costs and development and administrative costs; (2) assist grantees in determining these costs; (3) clarify that training and technical assistance costs must be included in total approved costs and therefore are subject to the 20 percent matching requirement; and (4) assure that grantees are in compliance with the law. This NPRM incorporates material from an Information Memorandum entitled, "Limitations on Costs of Development and Administration," issued by the Administration for Children, Youth and Families and dated April 11, 1988.

The proposed rule:

- Revises and clarifies the definitions of the terms "development and administrative costs" and "total approved costs" and adds definitions for the terms "program costs" and "indirect costs;"
- Establishes and defines a new category of costs called dual benefit costs, i.e., costs that benefit both the program components as well as the development and administrative functions within the Head Start program;
- Provides that development and administrative costs, even if less than the 15 percent limitation, may not be approved where judged excessive;
- Specifies the situations for which a waiver can be granted by the responsible HHS official;
- Allows waiver periods not to exceed twelve months;
- Specifies that the grantee must include in its application information to meet the requirements regarding development and administrative costs; and
- Specifies that training and technical assistance funds awarded in grants must be included in the total approved costs and therefore are subject to the same matching requirements as other Head Start funds.

IV. Section by Section Discussion of the NPRM

Section 1301.2—Definitions

The proposed amendments to § 1301.2 provide definitions of terms used in the proposed rule. New definitions of the terms "program costs," "dual benefit costs," and "indirect costs" are added to the rule. Definitions for development and administrative costs and total approved costs are revised and clarified. For example, "total approved costs" is redefined as the approved costs of the Head Start program including training and technical assistance funds as indicated on the Financial Assistance Award. Total approved costs include both the Federal and the non-Federal share.

Section 1301.20—Matching Requirements

We are proposing to amend the current regulation at § 1301.20 to add a new paragraph (c) specifying that Federal financial assistance to Head Start grantees for training and technical assistance activities that support a Head Start program are part of the program's total approved costs. Such funds are, therefore, subject to the 20 percent non-Federal matching requirement. This clarification is necessary since, in the past, not all grantees have included training and technical assistance funds in their computation of total approved costs.

Section 1301.32—Limitations on Costs of Development and Administration of a Head Start Program

We propose to revise paragraph (a). Delete and add a new paragraph (b), and add new paragraphs (c) through (g). Currently, paragraph (a) sets forth the statutory requirements that development and administrative costs may not exceed 15 percent of the total approved cost. It allows the Responsible HHS Official to approve a higher percentage for periods not to exceed 6 month .. The proposed revision to paragraph (a) would (1) Change the approval for a higher percentage to a period not to exceed 12 months in accordance with the statute; and (2) provide that such costs, even if less than the 15 percent limitation, may not be approved where judged to be excessive.

Paragraph (b), which currently requires grantees to provide on their applications a statement of compliance with the 15 percent limitation has been deleted. A new paragraph (f) in this section proposes, among other things, to require applicants to delineate all development and administrative costs in their application.

In order to clarify and emphasize the difference between program costs and administrative costs, new paragraphs (b) and (c) provide examples.

New paragraph (d) proposes to establish a new cost category called dual benefit costs. These are costs that benefit both the program components and the development and administrative functions within the Head Start program. An example of a dual benefit cost would be the salary and fringe benefits paid to a Director/Education Coordinator of a small program. The percentage of time the individual performs the duties as the Director and that portion of the individual's salary would be determined and allocated as an administrative or development cost. The remainder of the salary would be allocated as a program cost for the time the individual acts as the Education Coordinator.

Paragraph (e) discusses the relationship between development and administrative costs and indirect costs.

Paragraph (f) proposes the requirements for grantee compliance with this rule including calculating the percentage of total approved costs that are allocated to development and administration and delineating those costs in the grant application.

Paragraph (g) specifies the situations under which the responsible HHS official may grant a waiver of the 15 percent limitation on development and administrative costs. These situations are: when a new Head Start grantee or delegate agency is being established, when an existing grantee or delegate agency is expanding the number of children, or when component services

are disrupted in an existing Head Start program due to circumstances beyond the control of the grantee.

Paragraph (g), allowing a grantee waiver for specific periods of time not to exceed twelve months, as stated earlier, is a change from the existing regulation which allows a waiver for periods not to exceed six months. The purpose of the change is to make the waiver period consistent with the language in the Act. Waivers can only be granted by the responsible Health and Human Services (HHS) official.

VI. Impact Analysis

Executive Order 12291

Executive Order 12291 requires that a regulatory impact analysis be prepared for major rules, which are defined in the Order as any rule that has an annual effect on the national economy of $100 million or more, or certain other specified effects. The Department concluded that these regulations are not major rules within the meaning of the Executive Order because they do not have an effect on the economy of $100 million or more or otherwise meet the threshold criteria.

Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act (5 U.S.C. ch. 6) requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses. For each rule with a "significant economic impact on a substantial number of small entities" an analysis must be prepared describing the rule's impact on small entities. Small entities are defined by the Act to include small businesses, small non-profit organizations and other small entities. While these regulations would affect small entities, these requirements are not substantial and in most instances the small entities already meet some of the proposals. For these reasons, the Secretary certifies that these rules will not have a significant impact on substantial numbers of small entities.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1980, Public Law 96–511, all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval any reporting or recordkeeping requirement inherent in a proposed or final rule. The proposed rule contains a new information collection requirement in § 1301.32(f)(2) which requires that certain information must be provided as a part of a grantee's application. We estimate that this proposed requirement will take each grantee approximately 2 hours annually to complete. As there are 1890 grantees and delegate agencies, the total number of hours annually will be 3780. This proposed requirement is reflected in the proposed new Head Start grant application which was published for public comment on December 28, 1988 (53 FR 5249), and for which OMB approval is being requested.

Organizations and individuals desiring to submit comments on the information collection requirement should direct them to the agency official designated for this purpose whose name appears in this preamble and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building (room 308), Washington, DC 20503. ATTN: Angela Antonelli, Desk Officer for the Office of Human Development Services.

List of Subjects in 45 CFR Part 1301

Head Start, Development and administrative costs, Program costs, Dual benefit costs, Indirect costs, Approved, Total/costs.

(Catalog of Federal Domestic Assistance Program Number 13.600, Project Head Start)

Dated: March 21, 1990.

Mary Sheila Gall,

Assistant Secretary for Human Development Services.

Approved: July 27, 1990.

Louis W. Sullivan,

Secretary.

For the reasons set forth in the Preamble, we propose to amend 45 CFR part 1301 as follows:

PART 1301—HEAD START GRANTS ADMINISTRATION

1. The authority citation for part 1301 is as follows:

Authority: 42 U.S.C. 9831 et seq.

2. Section 1301.2 is amended by revising the definitions for "development and administrative costs" and "total approved costs"; by adding alphabetically definitions for "dual benefit costs," "indirect costs," and "program costs"; and by republishing the introductory text, to read as follows:

§ 1301.2 Definitions.

For the purposes of this part, unless the context requires otherwise:

* * * * *

Development and administrative costs mean costs incurred in accordance with an approved Head Start budget which do not directly relate to the provision of program component services, including services to handicapped children, as set forth and described in the Head Start program performance standards (45 CFR part 1304).

Dual benefit costs mean costs incurred in accordance with an approved Head Start budget which directly relate to both development and administrative functions and to the program component services, including services to handicapped children, as set forth and described in the Head Start program performance standards (45 CFR part 1304).

* * * * *

Indirect costs mean those costs that are incurred by an agency for common or joint objectives and that cannot be readily identified with a particular program such as Head Start.

Program costs mean costs incurred in accordance with an approved Head Start budget which directly relate to the provision of program component services, including services to handicapped children, as set forth and described in the Head Start program performance standards (45 CFR part 1304).

* * * * *

Total approved costs mean the sum of all approved costs of the Head Start program approved for a given budget period by the Administration for Children, Youth and Families, as indicated on the Financial Assistance Award. Total approved costs consists of the Federal share plus the non-Federal share.

3. Section 1301.20 is amended by adding a new paragraph (c) as follows:

§ 1301.20 Matching requirements.

* * * * *

(c) Federal financial assistance awarded to Head Start grantees for training and technical assistance activities shall be included in the Federal share in determining the total approved costs of the program. Such financial assistance is, therefore, subject to the 20 percent non-Federal matching requirement of this subpart.

4. Section 1301.32 is revised to read as follows:

§ 1301.32 Limitations on costs of development and administration of a Head Start program.

(a) *General provisions.* (1) Reimbursement of costs of developing and administering a Head Start program may not exceed 15 percent of the total approved costs of the program, unless the responsible HHS official grants a waiver approving a higher percentage for a specific period of time not to exceed twelve months.

(2) The limit of 15 percent for development and administrative costs is a maximum. In cases where the costs for development and administration are at or below 15 percent, but are judged by the responsible HHS official to be excessive, the grantee must eliminate excessive development and administrative costs.

(b) *Development and administrative costs.* (1) Costs classified as development and administrative costs are those costs related to the overall management of the program. These costs can be both in the personnel and non-personnel categories.

(2) Grantees must charge the costs of organization-wide management functions as development and administrative costs. These functions include planning, coordination and direction; budgeting, accounting, and auditing; and managing purchasing, property, payroll and personnel.

(3) Development and administrative costs include, but are not limited to, the salaries of the executive director, Head Start director, center director, personnel officer, fiscal officer/bookkeeper, purchasing officer, secretary, payroll/insurance/property clerk, janitor for administrative office space and costs associated with volunteers carrying administrative functions.

(4) Other development and administrative costs include expenses related to administrative staff functions such as the costs allocated to fringe benefits, travel, per diem, transportation and training.

(5) Bookkeeping and payroll services, audits, bonding, insurance, office supplies, copy machines, postage, utilities and occupying, operating and maintaining space used for administrative purposes are development and administrative costs.

(c) *Program costs.* Program costs include, but are not limited to:

(1) Personnel and non-personnel costs directly related to the provision of program component services and component training and transportation for staff, parents and volunteers;

(2) Costs of functions directly associated with the delivery of program component services through the direction, coordination or implementation of a specific component;

(3) Costs of the salaries of program component coordinators and component staff, janitorial and transportation staff involved in program component efforts, and the costs associated with parent involvement and component volunteer services; and,

(4) Expenses related to program staff functions, such as the allocable costs of fringe benefits, travel, per diem and transportation, training materials, food, center/classroom supplies and equipment, parent activities funds and the occupation, operation and maintenance of program component space, including utilities.

(d) *Dual benefit costs.* (1) Some costs benefit both the program components as well as development and administrative functions within the Head Start program. In such cases, grantees must identify and allocate appropriately the portion of the costs that are developmental and administrative.

(2) Dual benefit costs include, but are not limited to, salaries, benefits and expenses of staff who perform both program and administrative and developmental functions. Grantees must determine and allocate appropriately, the part of these costs dedicated to administration and development.

(3) Space costs are frequently dual benefit costs. The grantee must determine and allocate appropriately, the amount or percentage of space dedicated to administration and development.

(e) *Relationship between development and administrative costs and indirect costs.* (1) Grantees must categorize costs in a Head Start program as development and administrative or program costs. These categorizations are separate from the decision to charge such costs directly or indirectly.

(2) Grantees must charge all costs, whether program or developmental and administrative, either directly to the project or as part of an indirect cost pool.

(f) *Requirement for compliance.* (1) Head Start grantees must calculate the percentage of their total approved costs allocated to development and administration as a part of their development of a budget for initial funding, refunding or for a request for supplemental assistance in connection with a Head Start program. These costs may be a part of the direct or the indirect cost pool.

(2) The Head Start grant applicant shall delineate all development and administrative costs in its application.

(g) *Waiver.* (1) The responsible HHS official may grant a waiver of the 15 percent limitation on development and administrative costs and approve a higher percentage for a specific period of time not to exceed twelve months. The conditions under which a waiver will be considered are listed below and encompass those situations under which development and administrative costs are being incurred, but the costs of providing actual services has not begun or has been suspended. A waiver may be granted when:

(i) A new Head Start grantee or delegate agency is being established or services are being expanded in an existing Head Start grantee or delegate agency, and the delivery of component services to children and families is delayed until all program development and planning is well underway or completed; or

(ii) Component services are disrupted in an existing Head Start program due to circumstances not under the control of the grantee.

(2) A Head Start grantee that estimates that the cost of development and administration will exceed 15 percent of total approved costs must submit a request for a waiver that explains the reasons for exceeding the limitation. This must be done as soon as the grantee determines there is a problem with the 15 percent limit, regardless of where the grantee is within the grant funding cycle.

(3) The request for the waiver must include the period of time for which the waiver is requested. It must also describe the action the grantee will take to reduce its development and administrative costs so that the grantee will be able to assure that these costs will not exceed 15 percent of the total approved costs of the program at the completion of the waiver period or in the future.

(4) If granted, the waiver and the period of time for which it will be granted will be indicated on the Financial Assistance Award.

(5) If a waiver, requested as a part of the grant application for funding or refunding, is not approved, no Financial Assistance Award will be awarded to the Head Start program until the grantee resubmits a revised budget that complies with the 15 percent limitation.

[FR Doc. 90-25219 Filed 10-24-90; 8:45 am]

BILLING CODE 4130-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90-452, RM-7424]

Radio Broadcasting Services; Aguila, AZ

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Michael R. Hagans, seeking the allotment of FM Channel 242A to Aguila, Arizona, as that community's

first local broadcast service. Since Aguila is located within 320 kilometers of the Mexican border, international coordination of this proposal with Mexico is required, pursuant to the terms of the *United States-Mexican FM Broadcasting Agreement of 1972*, 24 UST 1815, TIAS No. 7697. Coordinates for this proposal are 33–56–30 and 113–10–36.

DATES: Comments must be filed on or before December 13, 1990, and reply comments on or before December 28, 1990.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Michael R. Hagans, 1705 N. Queensbury St., Mesa, Arizona 85201.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–452, adopted September 27, 1990, and released October 22, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–25270 Filed 10–24–90; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 90–453, RM–7337]

Radio Broadcasting Services; Columbus, KS

AGENCY: Federal Communications Commission

ACTION: Proposed rule.

SUMMARY: This document requests comments on a proposal to substitute Channel 287C3 for Channel 252A at Columbus, Kansas. Petitioner also requests modification of its license for Station KOCD(FM), Channel 252A, to specify operation on Channel 287C3. The coordinates for Channel 287C3 are 37–04–02 and 94–50–10.

DATES: Comments must be filed on or before December 13, 1990, and reply comments on or before December 28, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Barbara L. Waite, Venable, Baetjer, Howard & Civiletti, 1201 New York Avenue, NW., Suite 1000, Washington, DC 20005 (counsel for the petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commissioner's Notice of Proposed Rule Making, MM Docket No. 90–453, adopted September 27, 1990, and released October 22, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–25271 Filed 10–24–90; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 89–367, RM–6925]

Radio Broadcasting Services; Klondike, SC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of.

SUMMARY: The Commission dismisses the request of Sandlapper Broadcasting to allot Channel 253A to Klondike, South Carolina, as its first local FM service. Comments expressing continuing interest were not filed by the petitioner or any other party.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–367, adopted September 26, 1990, and released October 22, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–25272 Filed 10–24–90; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 89–519; RM–7048]

Radio Broadcasting Services; Bridport, VT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of proposal.

SUMMARY: This document dismisses a petition filed by Peter S. Morton, based upon the lack of an expression of interest in pursuing the proposal by the petitioner or any other party. See 55 FR 1008, January 11, 1990. With this action, the proceeding is terminated.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–619, adopted September 27, 1990, and released October 22, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service (202) 857–3800, 2100 M Street NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25273 Filed 10-24-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90–451, RM–7237]

Radio Broadcasting Services; Laramie, WY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Jay Lellman proposing the allotment of Channel 289C2 to Laramie, Wyoming, as that community's fourth local FM service. Channel 289C2 can be allotted to Laramie consistent with the Commission's minimum distance separation requirements at coordinates 41–19–09 and 106–34–52.

DATES: Comments must be filed on or before December 13, 1990, and reply comments on or before December 28, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Jay Lellman, P.O Box 1307 Eau Claire, WI 54702 (petitioner)

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–451, adopted September 28, 1990, and released October 22, 1990. The full text of this Commission's decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service (202) 857–3800, 2100 M Street NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25274 Filed 10-24-90; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB52

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Lower Keys Population of the Rice Rat (Silver Rice Rat)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to list the Lower Keys population of the rice rat, or silver rice rat (*Oryzomys palustris natator* [=*Oryzomys argentatus*]), a small mammal restricted to wetlands of the Lower Keys of Monroe County, Florida as endangered. This species is known to occur on nine keys, generally at low population levels. It is believed extirpated from one key where it formerly occurred, and may also have been extirpated from two other keys. The species is endangered by habitat loss due to residential and commercial development, and by predation, competition, and habitat modification from various introduced mammals. Its low populations may endanger it because of reduced genetic variability. This proposal, if made final, would extend the protection of the Endangered Species Act of 1973, as amended, to the silver rice rat.

DATES: Comments must be received by December 24, 1990. Public hearing requests must be received by December 10, 1990.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, 3100 University Boulevard South, suite 120, Jacksonville, Florida 32216. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. David J. Wesley, Field Supervisor, at the above address (904/791–2580 or FTS 946–2580.

SUPPLEMENTARY INFORMATION:

Background

Rice rats (*Oryzomys*) are New World rats of generalized rat-like appearance, with coarse fur and a long, sparsely-haired tail. The genus occurs from the southeastern U.S. and Mexico through Central America to northern South America. Rice rats occur on the Galapagos Islands and on several islands in the Caribbean. Hall (1981) recognized five subgenera, and over a dozen species, in North and Central America. Numi Spitzer (now Goodyear) trapped two rice rats in a fresh water marsh on Cudjoe Key in the Lower Keys of Monroe County, Florida in 1973, and believed that they represented a new species or subspecies of *Oryzomys* (Spitzer 1978). These two specimens were later used to describe a new species, *Oryzomys argentatus* (Spitzer and Lazell 1978). *O. argentatus* was diagnosed as differing from other species in the subgenus *Oryzomys* (one of five subgenera in the genus *Oryzomys*) in lacking digital bristles projecting beyond the ends of the

median claws on the hind foot; and in having large, wide sphenopalatine vacuities; a slender skull with long narrow nasal bones; and silver-grey pelage dorsally. Spitzer and Lazell (1978) stated that *Q. argentatus* could be separated from *Q. palustris*, the common marsh rice rat of the southeastern U.S., by skull comparisons. They computed a ratio based on the maximum length of both nasals divided by their combined width; this number was then compared to the quotient of the condylobasal length divided by the zygomatic width. *Q. argentatus* specimens had high scores for both ratios, and could be separated from 105 *Q. palustris* by plotting the ratios on two axes. The measurements of the holotype and paratype specimens, respectively, in millimeters (inches) were: total length 251 (9¾, 259 (10¼); tail length, 121 (4¾), 132 (5¼); hind foot length, 32 (1¼), 32 (1¼); length of ear from notch, 17 (¾, 18 (¾) (Spitzer and Lazell 1978).

An unpublished report (Vessey *et al.* 1976) resulting from a biological study of Raccoon Key in the Lower Keys found that rice rats were common there; the investigators considered them to be *O. palustris* but subsequent examination showed that they were silver rice rats. In 1978 and 1979, Humphrey and Barbour (1979; Barbour and Humphrey 1982) trapped for silver rice rats at the type locality on Cudjoe Key and at sites on Little Torch, Middle Torch and Sugarloaf Keys. They caught no rice rats, and believed that the species had been extirpated from these keys. They also suggested that the characters used to distinguish *O. argentatus* were more indicative of subspecific rather than specific status.

In Service-funded status survey work (Spitzer 1982; Goodyear 1984), Goodyear trapped silver rice rats on eight additional Lower Keys, confirming their presence on Raccoon Key. The additional sites consisted of salt, rather than fresh water marsh. Using radiotelemetry, she found that silver rice rats used three vegetational zones: 1. Low intertidal areas, usually flooded, vegetated with mangroves (*Rhizophora mangle* and *Avicennia germinans*), and used for foraging and travelling; 2. Saltmarsh flats, flooded only occasionally, with low grassy vegetation (*Distichlis spicata, Batis maritima*, and *Sporobolus* sp.) and used for foraging and nesting; and 3. Elevated areas flooded only by the highest tides, vegetated with abundant grasses (*Distichlis* and *Sporobolus*), sea oxeye (*Borrichia frutescens*) and buttonwood (*Conocarpus erectus*), and used mainly for nesting. She found that silver rice rats had unusually large home ranges (about 20 hectares (50 acres)) and occurred at very low densities for a small rodent. Both plant (seeds and plant parts) and animal foods (arthropods) are taken by silver rice rats (Spitzer 1983). She was unable to find rice rats in the Upper Keys and concluded that inadequate marsh habitat was available there. Further information on the ecology of the silver rice rat is provided in Spitzer (1983).

Goodyear and Lazell (1986) compared nine skulls of *O. argentatus* (including some related laboratory-reared animals) with 109 skulls of six subspecies of *O. palustris*, using canonical discriminant function to analyze four skull variables (condylobasal length, zygomatic breadth, nasal length, and nasal width) and to generate three models based on preselected taxonomic arrangements. The statistic Roy's Greatest Root was used to determine which model best fit the data. It was concluded that the taxonomic arrangement with the best fit considered *O. argentatus* and *O. palustris* to be separate taxa.

Humphrey and Setzer (1989) revised the genus *Oryzomys* in the U.S., including six subspecies of *O. palustris*, *O. couesi*, and *O. argentatus*. They analyzed twelve skull measurements and pelage color. They did not include nasal width as a character (one of the characters considered diagnostic for *O. argentatus* by Spitzer and Lazell (1978)), citing the lack of a standard position for taking this measurement. Their quantitative analysis included 261 *Oryzomys;* all were adult males except for the five specimens of *O. argentatus* available to them, which consisted of four subadults and one adult of unknown sex. Adult male Oryzomys are regarded as being more likely to show diagnostic skull characters (Merriam 1901). Humphrey and Setzer first examined the existing taxonomic arrangement of U.S. *Oryzomys* with principle components analysis. Only minor differences were found; canonical discriminant analysis was then used to maximize intergroup differences. A simplified taxonomic arrangement was compared to the original classification, using both of the above statistical methods. Overlap among groups of the original and simplified classifications was compared by testing for misclassification of specimens with discriminant function analysis. To avoid recognizing trivial differences resulting from discriminant analysis, the original variables were subjected to analysis of variance to show how the groups defined actually differed. These authors pointed out that canonical-discriminant function, as used by Goodyear and Lazell (1986), is designed to find differences, and that it is necessary to determine whether differences found are biologically meaningful. A colorimeter was used in an attempt to quantify pelage color objectively, but the samples so measured were judged too small to be analyzed statistically. They expressed concern that pelage color might vary with age, both in living animals and museum specimens. They also noted that some mainland specimens of *O. palustris* had silver pelage. Humphrey and Setzer concluded that a simplified taxonomy was more appropriate for U.S. *Oryzomys*, including only two subspecies of *O. palustris*; *O.p. palustris* in most of the southeast and *O.p. natator* in peninsular Florida. *O. argentatus* was considered to be synonymous with *O.p. natator*.

Service actions regarding the silver rice rat began with the receipt of a petition dated March 12, 1980, from the Center for Action on Endangered Species, requesting that the silver rice rat be listed as an endangered species. In the Federal Register of July 14, 1980 (45 FR 47355), the Service issued a notice accepting the petition and announcing a status review of the species. The 1982 amendments to the Endangered Species Act required that petitions of this kind, which were pending as of October 13, 1982, be treated as having been received on that date. Section 4(b)(3) of the Act, as amended, requires that, within 12 months of the receipt of such a petition, a finding be made as to whether the requested action is warranted, not warranted, or warranted but precluded by other activity involving additions to or removals from the Federal Lists of Endangered and Threatened Wildlife and Plants. On October 13, 1983, the Service made the finding that the determination of endangered was warranted but precluded by other listing activity. That finding was published in the Federal Register of January 20, 1984 (49 FR 2487), as corrected in the Federal Register of February 16, 1984 (49 FR 5977). In the case of such a finding, the petition is recycled and another finding is due in 12 months. Repeated findings of warranted but precluded were made on October 12, 1984 (published on May 10, 1985 (50 FR 19762)); on October 11, 1985 (published on January 9, 1986 (51 FR 24312)); on October 10, 1986 (published on June 30, 1987 (52 FR 25512)); and on October 14, 1987 (published on July 7, 1988 (53 FR 25511)).

In 1988, Drs. Henry Setzer and Steven Humphrey of The Florida Museum of Natural History advised the Service's

Jacksonville Field Office that their taxonomic work on U.S. rice rats, then in progress, indicated that the silver rice rat was not distinguishable from mainland rice rats (*O. palustris*) at either the specific or subspecific level. These authors believe that the silver rice rat is only a peripheral population of *O.p. natator*, a subspecies common in fresh and salt water marshes throughout the Florida peninsula.

As a result of the Humphrey-Setzer findings, the Service's Southeastern Regional Office requested that any decision on proposing the silver rice rat be delayed until the taxonomic issue could be resolved, and recommended that a panel of Service zoologists review the taxonomic controversy. Three zoologists from the Service's Division of Research were detailed to this task in July, 1988; they concluded that the Lower Keys rice rats were "* * * a weakly distinguished geographical variant of *O. palustris* that may be known as *O. palustris argentatus* * * *". They recommended that additional material, particularly adult males, be collected to assist in determining the taxonomic status of the silver rice rat. Based on this continuing uncertainty, the Service made a negative petition finding on December 9, 1988 (published on December 29, 1988 (53 FR 52746)). On January 6, 1989 (54 FR 562), the Service placed the silver rice rat in category 3B of the animal notice of review, indicating that it was not a taxon that met the Endangered Species Act's definition of a species. Such entities are not current listing candidates, but additional information can lead to reevaluation of their suitability for listing.

On December 20, 1989, Sierra Club Legal Defense fund, Inc. filed suit on behalf of the silver rice rat and James D. Lazell, Jr. in the U.S. District Court for the District of Columbia (*Silver Rice Rat and James D. Lazell, Jr. v. Lujan*, Civil Action No. 89–3369), challenging the Service's decision not to proceed with listing the silver rice rat. The complaint stated, in part, that the Service had not adequately addressed listing the silver rice rat as a distinct population segment as defined in section 3(15) of the Act.

In a Federal Register review notice dated April 26, 1990, the Service announced a review period for listing the silver rice rat as a vertebrate population and rescinded the negative petition finding for the silver rice rat, returning the petition finding to the "warranted but precluded" category until the conclusion of the review. The notice also solicited general comments concerning standards that should be used to define vetebrate populations under the Act.

In a Stipulation of Parties dated May 3, 1990, the Service agreed to announce the results of its reconsideration of the previous decision by October 25, 1990. It was further agreed that if listing was appropriate, the "warranted but precluded" status would not be repeated, but that a final listing regulation would be published by May 1, 1991. This listing proposal constitutes the Service's finding required by the Stipulation of Parties, and the final petition finding for the silver rice rat.

Comments

One comment was received in response to the Service's July 14, 1980, notice of petition acceptance and status review for the silver rice rat. The Florida Department of Transportation stated that future projects of that agency could affect rice rat habitat, and that they would cooperate to protect such habitat. They pointed out that further distribution and habitat information was important to minimize impact on silver rice rat habitat. Service response: The Service agrees that, at that time, further information was needed before listing the species; accordingly, the Service funded status survey work (Spitzer 1982, Goodyear 1984) to provide additional information on distribution and habitat.

Ten comments were received in response to the April 26, 1990, review notice. Comments addressed both the issue of listing the silver rice rat and general listing policy with regard to distinct population segments of vertebrate species. Commenters included five individuals, four conservation organizations, and the Service's Division of Research (Biological Survey). Eight comments supported the listing of the silver rice rat, while two comments questioned the listing. Comments, and Service responses, can be categorized as follows:

Comment: The April 26 notice of review was prepared solely by the Service's Jacksonville Field Office and lacked input from other Service units. The notice contained misleading statements concerning the Service's previous use of the vertebrate population listings, and was a tactic of the field office to delay listing the silver rice rat and to develop a vertebrate population definition to exclude cases like the silver rice rat. The resulting definition would lead to the delisting of numerous rodent subspecies, a reduction in listing activity, and a loss of biodiversity. Service response: The notice of review was prepared by the field office at the request of the Service's Washington Office, and was reviewed and approved by the Service and the Department of the Interior prior to Federal Register publication. The Service is currently developing guidance on the vertebrate population listing issue. All interested parties, will have an opportunity to comment on this guidance once developed. The Service believes that the review notice description of current vertebrate population listings was generally accurate, while recognizing that there are listings that differ from those described. The notice was not intended to delay potential listing of the silver rice rat, but to obtain further information; this was achieved. Vertebrate population listing policy has no bearing on the listing of valid subspecies; subspecies are by definition qualified for protection as "species" under the Endangered Species Act. The Jacksonville Field Office has prepared recommendations leading to the listing of eleven subspecies of plants and animals (including seven small rodents) and two vertebrate populations, a large proportion of such Service listings. The Service will continue to actively pursue its responsibilities to list subspecies and vertebrate populations.

Comment: The listing of every population of a widely distributed species or subspecies would not be merited or practical under the Endangered Species Act. Service response: The Service agrees with this view and, as discussed above, is developing standards to provide guidance in the listing of vertebrate populations.

Comment: Data were manipulated in an improper scientific manner to cause the silver rice rat to be delisted (sic), and the paper on which this action was based may not have been refered. Service response: Since the silver rice rat has not previously been federally listed, the Service assumes that the comment refers to the Service's December 29, 1988 (53 FR 52746) negative petition finding for the silver rice rat. This decision was based on the taxonomic revision of Humphrey and Setzer (1989), then in press in the *Journal of Mammalogy*, a refereed journal. The Humphrey-Setzer revision was not undertaken for the purpose of removing taxonomic recognition from the silver rice rat, but rather to taxonomically revise U.S. rice rats. Four other taxa of *Oryzomys* were synonymized in addition to the silver rice rat. The work used widely accepted taxonomic and statistical techniques, and was published in the same journal in which the original description of the rice rat

(Spitzer and Lazell 1978) was published. The Service recognizes that different investigators often come to different taxonomic conclusions and rejects the claim that, in the case of the silver rice rat, improper scientific methods were used by any party.

Comment: The Service's Division of Research (Biological Survey) stated that the silver dorsal pelage of the silver rice rat was the primary feature distinguishing the silver rice rat from Florida peninsula populations of *O. palustris*. They believed that the Florida Keys population of rice rats warranted protection under the Endangered Species Act regardless of its taxonomic status. Service response: The Service has considered these recommendations in preparing this proposed rule.

Comment: Dr. Goodyear's comments in response to the notice have resolved the taxonomic questions concerning the silver rice rat, and there is no need to consider whether it constitutes a distinct population segment. Service response: The Service disagrees that the taxonomic issue is resolved. Dr. Goodyear's comments included a manuscript that has not yet been fully reviewed or accepted for publication. Existing taxonomies are often changed. It is likely that further interpretations and publications concerning the taxonomic status of the silver rice rat will appear, although the scientific community may eventually come to a consensus on what taxonomic rank best fits the silver rice rat. At all times, however, the Service attempts to use the best available scientific information to make listing decisions.

Comment: The silver rice rat is distinct for geographic and genetic reasons and merits listing. Service respone: The Service has considered these factors in developing this listing proposal.

Comment: Commenters suggested several factors that could be used to define distinct population segments, including disjunctness, ecology, morphological and other variations, U.S. populations, and research value. Service response: The Service will consider these, and othe factors, in developing any future guidance or regulations concerning the listing of vertebrate populations.

Comment: There is no need for a Service policy review concerning vertebrate population segments. Only a few such petitions have been received; these have been and should continue to be addressed on a case-by-case basis. Service response: The Service feels that it is appropriate to develop guidelines on the vertebrate population listing policy at this time. The issue is not restricted to the petition responses, but also involves evaluation of candidates for listing. Both the Fish and Wildlife and Natural Marine Fisheries Services have received a number of recent petitions involving vertebrate population segments, and feel it would be helpful to provide guidelines or standards to assist in evaluating petitions and making decisions on listing candidates. The use of such standards would not obviate individual, case-by-case review of petitions or listing candidates.

Comment: Dr. Humphrey's comments noted the lack of diagnostic material (adult males) available during his work, and the difficulty in obtaining such material due to the endangered status of the silver rice rat afforded by the State listing (chapter 39–27.0011 of the Florida Administrative Code prohibits kill-taking of endangered and threatened species). He commented on the importance of locally adapted populations to provide resilience to environmental change, and the fact that many extirpations of local populations have occurred, and continue to occur, in Florida. In his opinion, the extent to which the Service listed vertebrate populations would be fundamentally a political decision. He noted that the Endangered Species Act was designed to prevent extinction, not endangerment, and thus was directed to a crisis condition. He included a manuscript showing that the methods used to revise U.S. rice rats (Humphrey and Setzer 1989) were able to distinguish a weakly differentiated extinct species of rice rat in Jamaica. Service response: The conservation importance of locally adapted populations will be considered in formulating guidance on vertebrate population listings. The Service notes that the threatened category under the Act does allow the Service to list species before they are endangered, but agrees that species may often have severe conservation problems before they are listed.

Comment: Dr. Goodyear's comments addressed the taxonomic question concerning the silver rice rat. She enclosed a manuscript providing further information supporting the distinctiveness of the species. Dr. Goodyear reiterated her belief that the silver rice rat represented a distinct species. She stated that the Humphrey and Setzer (1989) paper was not a sound analysis of *O. argentatus* for the following reasons: No known adult males of *O. argentatus* were examined. The colorimetric data were plotted on different scales. Only one diagnostic skull measurement was used. Dr. Goodyear stated that the only taxonomic question concerning the silver rice rat was whether it was a species or subspecies, but that it would qualify as a distinct population segment for the following reasons: The silver rice rat is geographically separated, ecologically distinct (living in salt marshes and mangroves, and having a very large home range), and is morphologically distinct in pelage color and skull measurements from *O. palustris*. Dr. Goodyear's manuscript, entitled "The taxonomic status of the silver rice rat, *Oryzomys argentatus*", expanded on her previous taxonomic work.

Her ecological work in the Lower Keys in 1987-1988 resulted in the trap-deaths of ten silver rice rats, including seven adult males. Dr. Goodyear examined adult males of thirteen silver rice rats and 73 *O. palustris*. She used canonical discriminant function to separate seven designated taxa of *Oryzomys* and determined the Mahalonobis distance between each of the seven centroids. She found that silver rice rat males formed a distinct cluster, which was not affected by including laboratory-reared animals, but that only two of six female silver rice rats could be correctly classified by the discriminant analysis model generated using the ten males. Dr. Goodyear noted that specimens of *O. couesi*, currently considered a species by some mammologists, were more similar to *O. palustris* than *O. argentatus*, indicating that *O. argentatus* merited specific rank. She stated that adult males were necessary to distinguish silver rice rats on the basis of skull characteristics, but that pelage color could always be used to distinguish female silver rice rats from *O. palustris*. Dr. Goodyear noted that the pelage of silver rice rats had maintained its distinctive coloration in the 57 wild-caught, captive-reared and museum specimens with which she was familiar. She concluded that Humphrey and Setzer were not justified in placing *O. argentatus* in synonymy with *O. palustris*, because they did not examine the necessary diagnostic adult male silver rice rats specimens in their work.

Service response: The Service agrees that recently published taxonomic evaluations of *O. argentatus* have examined different specimens, used different measurements, and different statistical methodologies (see discussion below). The Service notes that the suggested ecological differences between the silver rice rat and mainland *O. palustris* may be exaggerated; *O. palustris* is common in many wetland habitats, including salt marshes (Wolfe 1982) while the silver rice rat apparently

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uses fresh water marshes when available (Spitzer and Lazell 1978). Dr. Goodyear's comments and new information have been incorporated into this listing proposal (see discussion below).

After reviewing the best available information on the taxonomy of the silver rice rat, the Service makes the following observations. The taxonomic treatments discussed above (Spitzer and Lazell 1978; Goodyear and Lazell 1980; Humphrey and Setzer 1989) examined different samples, used different statistical techniques, and formed different opinions on the significance of the variation in *Oryzomys*. The principal characteristics analyzed consisted of skull measurements and pelage color. Humphrey and Setzer (1989) were limited in the material of *O. argentatus* available to them, lacking adult males, and were unable to find persuasive evidence that specific or subspecific status was warranted for the silver rice rat. They speculated that a larger sample of silver rice rats would be likely to have larger variance, further indicating the relationship of *O. argentatus* to mainland *O. palustris*. Dr. Goodyear's recent information, however, indicates that the silver pelage color and differences in skull ratios have remained distinctive as more material of Lower Keys rice rats has become available. She intends to publish her manuscript in the near future.

The Service panel, as well as another mammalogist, believe that the silver rice rat merits subspecific rank. It is difficult, to predict what analysis of this material by Humphrey and Setzer's (1989) methods would yield; the interpretation of observed differences would continue to be subjective. The taxonomic questions concerning the silver rice rat appear likely to be reexamined and discussed by taxonomic mammalogists into the future. At this time, the Service reserves judgement on the appropriate taxonomic rank (species, subspecies, or population) for the silver rice rat. The scientific community may come to a prevailing view on this matter in the future. However, the Service concludes that, regardless of its taxonomic status, the silver rice rat currently qualifies for protection under the Endangered Species Act because it constitutes a distinct population segment, and therefore a "species", as defined by section 3(15) of the Act. The silver rice rat of the Lower Florida Keys is disjunct from the rice rats of the Florida mainland, with very little potential for interbreeding with those populations; it has developed at least two consistent, nearly exclusive morphological characteristics (silver pelage and elongate nasal bones). A number of other vertebrate populations of the Lower Florida Keys are accepted as subspecies, indicating that natural selection has resulted in the evolution of a number of differentiated vertebrate population there. (Two mammal subspecies already federally listed as endangered species in the Lower Keys are the Key deer (*Odocoileus virginianus clavium*) and the Lower Keys rabbit (*Sylvilagus palustris hefneri*)).

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to the silver rice rat are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The ancestor of the silver rice rat may have colonized the Lower Florida Keys during the late Pleistocene, when sea levels were lower than at present. The cooler climate prevailing at that time, and the larger exposed land mass, would have supported more extensive mangrove forests and salt marshes than exist currently. Rising sea levels several thousand years ago reduced the land area of the Lower Keys to their current configuration, probably fragmenting and reducing the distribution and numbers of the silver rice rat (Spitzer 1983). In recent times, human impacts have further reduced silver rice rat populations. A known population on Cudjoe Key was recently extirpated (Barbour and Humphrey 1982), and Goodyear (1984) believed that the species recently occurred on Big Pine and Boca Chica Keys, where suitable habitat still exists but where she was unable to trap rice rats.

The silver rice rat is currently known from transitional wetland area on eight keys (Big Torch, Johnston, Middle Torch, Raccoon, Saddlebunch, Little Pine, Summerland, and Water Keys), where it usually occurs at very low densities for a small rodent. (Spitzer 1982; Goodyear 1984). Goodyear (1984) had only 0.47 percent trap success over the course of her survey work, although she had a 5.2 percent trap success rate on Johnston Key, an off-road key; and Vessey *et al.* (1976) considered rice rats to be common on Raccoon Key, where they had a 9.5 percent capture rate.

Much silver rice rat habitat has been lost because of commercial and residential development during the past few decades. Remaining habitat on the highway keys continues to be filled for house pads, driveways, and other purposes.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* The silver rice rat is one of the most recently named species of mammals in the United States, and there are interesting questions concerning its taxonomic status, relationship to other rice rats, behavior, and ecology. Therefore, it is likely that specimens will continue to be sought by collectors for purposes of scientific study, or by amateur naturalists. Silver rice rat populations on the on-road keys may have abnormally low densities, and collecting could have serious effects. This proposed regulation would add the additional protections against take provided by the Endangered Species Act.

C. *Disease or predation.* Goodyear (1983) found that raccoons preyed on silver rice rats. Although a native mammal of the Lower Keys, raccoons on developed keys may be unnaturally abundant due to the availability of human garbage as food. This increase may have adversely affected silver rice rat populations on these keys.

D. *The inadequacy of existing regulatory mechanisms.* The silver rice rat is listed as endangered by the Florida Game and Fresh Water Fish Commission (chapter 39–27.003, Florida Administrative Code) and is protected from pursuit, harm, harassment, capture, possession, or killing (chapter 39–27.002 and 39–27.011, Florida Administrative Code). This protection does not, however, address habitat destruction.

Portions of the range of the silver rice rat are included in Great White Heron National Wildlife Refuge and National Key Deer Refuge. Federal listing of this species would increase consideration or the habitat needs of this species in refuge management decisions.

E. *Other natural or manmade factors affecting its continued existence.* The black rat (*Rattus rattus*), an introduced Old World rat, is found on many of the Lower Florida Keys, particularly near human habitation. It may compete with the silver rice rat for space and food. The black rat is abundant on Big Pine and Coca Chica Keys, and may have contributed to the disappearance of silver rice rats from these keys. Conversely, silver rice rats are relatively abundant on Johnston (Goodyear 1984)

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and Raccoon (Veasey *et al.* 1976) Keys, where black rats are absent.

On Raccoon Key, a breeding colony of rhesus monkeys (*Macaca mulatta*) has been introduced and maintained. The monkeys have defoliated the fringing mangrove trees on this key, making the silver rice rat more vulnerable to storm effects and predation.

Because of the limited amount of habitat suitable for the silver rice rat, and its large home range, further habitat fragmentation could reduce silver rice rat populations to the point that adequate genetic viability for long-term survival is not maintained.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that "critical habitat" be designated "to the maximum extent prudent and determinable" concurrent with the determination that a species is endangered or threatened. The Service finds that designation of critical habiat is not prudent at this time. As noted in factor "B" in the "Summary of Factors Affecting the Species", there may continue to be interest in collecting specimens of the silver rice rat. Most populations are of such low density that removal of even a few individuals may be deleterious to this species. Publication of critical habitat descriptions and maps could increase enforcement problems and expose the species to undesirable collecting and disturbance, placing its survival in further jeopardy. Habitat protection for the silver rice rat will be addressed through the Act's section 7 jeopardy standard.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened pursuant to the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened, and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Currently known Federal activities that may affect the silver rice rat include the management of the Service's Great White Heron and Key Deer National Wildlife Refuges, and the U.S. Army Corps of Engineer's wetland permitting activities in the Lower Keys. These Federal agency activities, among others, will require conference or consultation with regard to any aspects that may affect the silver rice rat.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to posses, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and or for incidental take in connection with otherwise lawful activities.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as efective as possible. Therefore, comments and suggestions regarding any aspect of this proposal are hereby solicited from the public, concerned governmental agencies, the scientific community, industry, and other interested parties. Comments are particularly sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to the silver rice rat;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the distribution of this species; and

(4) Current or planned activities in the involved area and their impacts on the subject species.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and directed to the party named in the above "ADDRESSES" section.

National Environmental Policy Act

The Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared for regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register of October 25, 1983 (48 FR 49244).

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Author

The primary author of this proposed rule is Dr. Michael M. Bentzien, U.S. Fish and Wildlife Service, 3100 University Boulevard South, suite 120, Jacksonville, Florida 32216.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Imports, Exports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order under "MAMMALS", to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species							
Common name	Scientific name	Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
MAMMALS							
*	*	*	*	*	*	*	
Rat, rice (=silver rice)	Oryzomys palustris natator [=O. argentatus].	U.S.A. (FL)	Lower FL Keys (west of the Seven Mile Bridge).	E		NA	NA
*	*	*	*	*	*	*	

Dated: October 19, 1990.

Richard M. Smith,

Director, Fish and Wildlife Service.

[FR Doc. 90-25208 Filed 10-24-90; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 638

[Docket No. 901069-0269]

RIN 0648-AD26

Coral and Coral Reefs of the Gulf of Mexico and the South Atlantic

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA issues this proposed rule to implement Amendment 1 to the Fishery Management Plan for Coral and Coral Reefs of the Gulf of Mexico and the South Atlantic (FMP). This proposed rule would (1) Provide for a limited harvest of certain octocorals; (2) require a permit to take such octocorals; (3) provide for reports of harvest by selected persons who are permitted to take such octocorals; (4) limit the recreational harvest of such octocorals; (5) condition the renewal of coral permits on the submission of all required reports during the 12 months preceding the renewal application; and (6) make other changes to clarify the regulations and conform them to current usage. The intended effect of this rule is to conserve and manage the coral resources.

DATES: Written comments must be received on or before December 6, 1990.

ADDRESSES: Requests for copies of the FMP, which includes a regulatory impact review/environmental assessment (RIR/EA) should be sent to the Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 881, Tampa, Florida 33609, or the South Atlantic Fishery Management Council, Southpark Building, Suite 306, One Southpark Circle, Charleston, South Carolina 29407–4699

Comments on the proposed rule should be sent to Michael E. Justen, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702

Comments on the information collection requirements should be sent to Edward E. Burgess, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702, and to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Washington, DC 20503 (Attention: Desk Officer for NOAA).

FOR FURTHER INFORMATION CONTACT: Michael E. Justen, 813–893–3722.

SUPPLEMENTARY INFORMATION: Coral and coral reefs in the exclusive economic zone (EEZ) off the South Atlantic coastal states and in the Gulf of Mexico are managed under the FMP prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils), and its implementing regulations at 50 CFR part 638, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). Amendment 1 to the FMP would provide for a limited harvest of certain octocorals, implement conservation and management measure for such octocorals, add to the FMP a definition of overfishing, and restate the FMP's determination of optimum yield (OY) to include octocorals.

Allowable octocorals, which are octocorals other than seafans, are harvested in small quantities, estimated

to be less than 20,000 colonies per year, by the aquarium trade. Such harvest is considered to be within the capability of octocorals to regenerate. Accordingly, Amendment 1 would authorize such harvest with appropriate management measures.

To control the harvest of allowable octocorals, most of which occur in waters adjacent to Florida, a commercial or recreational permit to take these octocorals in the EEZ would be required. In lieu of a Federal permit, a state permit for the state of landing would suffice. Florida provides for a commercial marine life license and a recreational salt water fishing license, either of which would meet the permit requirement. An individual holding a commercial permit would not be restricted to a bag and possession limit, but a holder of a recreational permit would be limited to six colonies of allowable octocorals per day. The cost of the Federal commercial permit would not exceed the administrative cost of processing the application, $20. The cost of the Federal recreational permit would be $5.

Allowable octocoral taken as incidental catch without a permit would have to be returned to the sea. Allowable octocoral incidentally taken in fisheries such as the groundfish and scallop fisheries, where catch is not sorted on board, would be allowed to be landed but could not be sold, traded, or bartered, as is the case with prohibited coral.

A person fishing for allowable octocoral in the EEZ with either a Federal or state of landing permit or license would agree to be subject to the regulations in this part or, if the state of landing catch, landing, or gear requirements were more restrictive, to the state requirements. The applicable Federal or state of landing catch, landing, or gear requirements, except for seasonal closures, would apply without regard to whether fishing occurs in the EEZ or landward of the EEZ and without regard to where the allowable octocoral or gear are possessed, taken, or landed.

A person with a Federal permit to take allowable octocoral and who is selected by the Science and Research Director would be required to report harvests of such octocoral. This requirement to report would be exercised only in the event that there are significant numbers of Federal permit holders who would not be included in the statistical reporting requirements of Florida. In any event, a means would be provided for determining the level of annual harvest so that the annual quota is not exceeded.

An annual quota would be established of 50,000 colonies of allowable octocoral from the EEZ. When the quota is reached, or is projected to be reached, no further harvest of allowable octocoral from the EEZ would be allowed.

Amendment 1 would define overfishing of coral and coral reef as an annual harvest that exceeds OY, which is zero for prohibited coral and 50,000 colonies of allowable octocoral per year from the EEZ. Further information on this definition, on the revised statement of OY for corals, and on allowable octocorals and their management measures is contained in Amendment 1, the availability of which was announced in the Federal Register on September 26, 1990 (55 FR 39310).

In addition to the changes contained in Amendment 1, NOAA proposes additional changes to clarify the regulations and conform them to current usage. The purpose and scope section (§ 638.1(b)) would be modified to express the scope of the regulations in the broadest terms consistent with the FMP. NOAA has determined that the public is better served by a general expression of scope in this section, with the specific scope of each management provison or measure specified in that provision or measure. This approach avoids the possibility of misleading fishermen, dealers, and processors as to the scope of the regulations in this part.

To clarify the use of chemicals to take fish and other marine organisms, the terms "allowable chemical" and "toxic chemical" would be defined. In accordance with the intent of the FMP, an allowable chemical may be used with a permit, while a toxic chemical may not be used.

The definition of "management unit" would be removed because that term is not used in the regulations.

The existing permit requirements would be reordered for clarity and to conform them to current usage. Additional identifying information would be required of applicants for permits, and the renewal of permits would be conditioned on compliance with all applicable reporting requirements during the 12 months immediately preceding the renewal application. NOAA believes that a permittee who has not complied with applicable reporting requirements should not receive renewal of his permit.

The prohibitions section (§ 638.5) would be rewritten to provide a specific prohibition applicable to each management measure. Other minor changes are proposed for clarity and to remove redundancies.

Specific authority would be added to cover the existing data collection program that is carried out by NMFS statistical reporting agents and to require that coral be made available, upon request, to an authorized officer.

Classification

Section 304(a)(1)(D)(ii) of the Magnuson Act, as amended by Public Law 99-659, requires the Secretary of Commerce (Secretary) to publish regulations proposed by a Regional Fishery Management Council within 15 days of receipt of an FMP amendment and regulations. At this time, the Secretary has not determined that Amendment 1, which this proposed rule would implement, is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period.

This proposed rule is exempt from the procedures of E.O. 12291 under section 8(a)(2) of that order. It is being reported to the Director, Office of Management and Budget, with an explanation of why it is not possible to follow the procedures of that order.

The Assistant Administrator for Fisheries, NOAA, has initially determined that this proposed rule is not a "major rule" requiring the preparation of a regulatory impact analysis under E.O. 12291. This proposed rule, if adopted, is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Councils prepared a regulatory impact review (RIR), which concludes that Amendment 1, if adopted, would have the economic effects summarized as follows. The setting of an annual level of harvest of octocoral above the current level of harvest will provide for expansion of the fishery without jeopardizing the biological integrity of the stock. Requiring a Federal permit to harvest allowable octocoral from the EEZ, or a state of landing permit or license, will affect few harvesters as most harvest of allowable octocoral takes place in waters adjacent to Florida where harvesters are licensed. A bag and possession limit of six colonies of allowable octocoral for recreational

users collecting for personal aquaria will be ample, according to public testimony obtained at hearings.

The Councils concluded that this rule will not have a significant economic impact on a substantial number of small entities for the reasons summarized as follows. The number of commercial harvesters of allowable octocoral is not known but is believed to be less than 100. Current harvest of octocoral is thought to be less than 20,000 colonies per year. An allowable harvest of 50,000 colonies per year would not adversely impact commercial users. The number of recreational harvesters who take octocorals is also not known, but a bag and possession limit of six colonies was recommended by these harvesters. Only a few individuals are expected to take coral from the EEZ without a Florida permit, thus few Federal permits will be required. However, if this number becomes significant, the Science and Research Director may monitor the catch by requiring reporting by these individuals. Accordingly, the General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. No regulatory flexibility analysis was prepared.

The Councils prepared an environmental assessment (EA) that discusses the impact on the environment as a result of this rule. A copy of the EA may be obtained at the address listed above and comments on it are requested.

The Councils have determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Alabama, Florida, Louisiana, Mississippi, North Carolina, and South Carolina. Georgia and Texas do not participate in the coastal zone management program. These determinations have been submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act.

This proposed rule contains two new collections of information subject to the Paperwork Reduction Act, namely, applications for annual Federal permits to take allowable octocorals and catch reports from selected Federal permittees. Requests to make these collections have been submitted to the Office of Management and Budget (OMB) for approval. The public reporting burdens for these collections of information are estimated to average 15 minutes each per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This proposed rule restates for clarity the application procedures for permits to take prohibited coral and to use an allowable chemical in a coral area. Those collections of information were previously approved and OMB control number 0648-0205 applies. The public reporting burden for those collections of information were estimated to average 15 minutes each per response including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burdens, to Edward E. Burgess, NMFS, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (see **ADDRESSES**, above).

This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

List of Subjects in 50 CFR Part 638

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: October 16, 1990.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 638 is proposed to be amended as follows:

PART 638—CORAL AND CORAL REEFS OF THE GULF OF MEXICO AND THE SOUTH ATLANTIC

1. The authority citation for part 638 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

§ 638.1 [Amended]

2. In § 638.1, in paragraph (b), the phrase "by fishing vessels of the United States" is removed.

3. In § 638.2, the definition for *Management area* is removed; new definitions for *Allowable chemical, Allowable octocoral, Colony,* and *Toxic chemical* are added in alphabetical order; and the definitions for *Prohibited coral* and *Take* are revised to read as follows:

§ 638.2 Definitions.

* * * * *

Allowable chemical means a substance, generally used to immobilize marine life so that it can be captured alive, that, when introduced into the water:

(a) Does not take prohibited coral; and

(b) Is allowed by Florida for the harvest of tropical fish (e.g., quinaldine, quinaldine compounds, or similar substances).

Allowable octocoral means a species of coral outside an HAPC and belonging to the Subclass Octocorallia, except the seafans *Gorgonia flabellum* and *G. ventalina.*

Colony means a continuous group of coral polyps forming a single unit.

* * * * *

Prohibited coral means—

(a) A species of coral belonging to the Class Hydrozoa (fire corals and hydrocorals),

(b) A species of coral belonging to the Class Anthozoa, Subclass Zooantharia (stony corals and black corals),

(c) A seafan, *Gorgonia flabellum* or *G. ventalina,*

(d) A coral reef, except for allowable octocorals, or

(e) Coral in an HAPC.

* * * * *

Take means to damage, harm, kill, possess, or attempt to damage, harm, kill, or possess.

Toxic chemical means any substance, other than an allowable chemical, that, when introduced into the water, can stun, immobilize, or take marine life.

4. In § 638.4, paragraphs (a) and (c) through (g) are revised and new paragraphs (h) through (m) are added to read as follows:

§ 638.4 Permits and fees.

(a) *Applicability*—(1) *Federal permits.* A Federal permit is required each fishing year for a person to—

(i) Take prohibited coral in the EEZ,

(ii) Use an allowable chemical to collect fish or other marine organisms in a coral area in the EEZ, or

(iii) Take an allowable octocoral in the EEZ.

(2) *Acceptable state permits*—(i) A Florida permit is acceptable in lieu of the Federal permit to use an allowable chemical to collect fish or other marine organisms in a coral area in the EEZ.

(ii) A state of landing permit or license applicable to allowable octocorals is acceptable in lieu of the Federal permit to take an allowable octocoral in the EEZ. A person who applies for a permit to take an allowable octocoral under paragraph (c)(3) of this section, or who uses a valid state of landing permit or license to take an allowable octocoral in the EEZ, must agree as a condition of using either permit that his/her catch, landing, or gear (without regard to whether fishing occurs in the EEZ or

landward of the EEZ, and without regard to where allowable octocoral or gear is possessed, taken, or landed) will be subject to the requirements of this part. If a regulation in this part and a catch, landing, or gear regulation of a state of landing differ, a person issued a permit under paragraph (c)(3) of this section or using a valid state permit or license to take an allowable octocoral from the EEZ must comply with the more restrictive regulation. In the event there is not equivalent regulation in this part to a state of landing catch, landing, or gear regulation, a person issued a permit under paragraph (c)(3) of this section or using a valid state permit or license applicable to an allowable octocoral harvested form the EEZ must comply with such state regulation.

* * * * *

(c) *Application.* An application for a Federal permit must be signed and submitted by the applicant on an appropriate form, which may be obtained from the Regional Director. The application should be submitted to the Regional Director at least 45 days prior to the date on which the applicant desires to have the permit made effective. An applicant must provide the following information.

(1) *For a prohibited coral permit:*

(i) Name, mailing address including zip code, and telephone number of the applicant;

(ii) Social security number and date of birth of the applicant;

(iii) Name and address of harvester, company, institution, or affiliation;

(iv) Amount of coral to be fished for by species;

(v) Size of each species;

(vi) Projected use of each species;

(vii) Collection techniques (vessel types, gear, number of trips);

(viii) Period of fishing; and

(ix) Location of fishing.

(2) *For an allowable chemical permit:*

(i) Name, mailing address including zip code, and telephone number of the applicant;

(ii) Social security number and date of birth of the applicant;

(iii) Type of chemical to be used;

(iv) Period of fishing; and

(v) Location of fishing.

(3) *For an allowable octocoral permit:*

(i) Name, mailing address including zip code, and telephone number of the applicant;

(ii) Social security number and date of birth of the applicant;

(iii) Whether applicant desires a commercial or recreational permit (see paragraph (d) of this section for appropriate fees and § 638.21(b) for the recreational bag and possession limit);

(iv) Estimated number of colonies to be taken during the fishing year;

(v) If the applicant is a corporation, the name and position of the signer; and

(vi) A sworn statement that the applicant agrees to conform to each regulation on allowable octocoral of this part or to any catch, landing, or gear regulation on allowable octocoral of the state of landing, if such state regulation is more restrictive than the regulation in this part or there is no equivalent regulation in this part, regardless of where such allowable octocoral or gear is possessed, taken, or landed.

(d) *Fees.* (1) A fee will be charged for each application submitted under paragraph (c)(3) of this section for an allowable octocoral permit as follows:

(i) Application for a commercial permit—$20.

(ii) Application for a recreational permit—$5.

(2) The appropriate fee must accompany each permit application.

(e) *Issuance.* (1) The Regional Director will issue a permit at any time during the fishing year to an applicant if:

(i) The application is complete; and

(ii) The applicant has complied with all applicable reporting requirements of § 638.7 during the 12 months immediately preceding the application.

(2) Upon receipt of an incomplete application, or an application from a person who has not complied with all applicable reporting requirements of § 638.7 during the 12 months immediately preceding the application, the Regional Director will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 30 days of the Regional Director's notification, the application will be considered abandoned.

(f) *Permit conditions.* (1) It is a condition of each permit issued under paragraph (c)(3) of this section or any state permit used to take octocorals in the EEZ that each regulation on allowable octocoral in this part or any catch, landing, or gear regulation on allowable octocoral of the state of landing, if such state regulation is more restrictive than the regulation in this part or there is not equivalent regulation in this part, applies to the permittee, regardless of where such allowable octocoral is possessed, taken, or landed.

(2) Other conditions and restrictions that may be necessary for the conservation and management of corals may be specified on a permit.

(g) *Duration.* A permit remains valid for the remainder of the fishing year for which it is issued unless revoked, suspended, or modified pursuant to support D of 15 CFR part 904.

(h) *Transfer.* A permit issued under this section is not transferable or assignable.

(i) *Display.* A Federal permit issued under this section, or an acceptable state permit or license as specified in paragraph (a)(2) of this section, must be in the possession of the permittee while fishing for prohibited coral in the EEZ, using an allowable chemical in a coral area in the EEZ, or fishing for an allowable octocoral in the EEZ. Such Federal permit, or acceptable state permit or license, must be presented for inspection upon the request of an authorized officer. A permittee must have in possession documentation to establish identity as the permittee (e.g., driver's license).

(j) *Sanctions and denials.* Procedures governing enforcement-related permit sanctions and denials are found at subpart D of 15 CFR part 904.

(k) *Alteration.* A permit that is altered, erased, or mutilated is invalid.

(l) *Replacement.* A replacement permit may be issued upon request. An application for a replacement permit will not be considered a new application.

(m) *Change in application information.* A permittee must notify the Regional Director within 30 days after any change in the application information required by paragraphs (c)(1) through (c)(3) of this section. A permit is void if any change in the information is not reported within 30 days.

5. Section 638.5 is revised to read as follows:

§ 638.5 Prohibitions.

In addition to the general prohibitions specified in § 620.7 of this chapter, it is unlawful for any person to do any of the following:

(a) Take prohibited coral in the EEZ without a Federal permit; use an allowable chemical to collect fish or other marine organisms in a coral area in the EEZ without a Federal permit or acceptable state permit; or take an allowable octocoral in the EEZ without a Federal permit or an acceptable state permit, as specified in § 638.4(a).

(b) Falsify information specified in § 638.4(c) on an application for a Federal permit.

(c) Fail to comply with a catch, landing, or gear regulation on allowable octocoral of a state of landing, if such state regulation is more restrictive than the regulation in this part or there is no equivalent regulation in this part, as specified in § 638.4(f)(1).

(d) Fail to comply with a permit condition or restriction, as specified in accordance with § 638.4(f)(2).

(e) Fail to display a Federal permit, or an acceptable state permit or license, as specified in § 638.4(i).

(f) Fail to notify the Regional Director after a change in the information provided on an application for a Federal permit, as specified in § 638.4(m).

(g) Falsify or fail to provide information required to be submitted or reported, as required by § 638.7 (a) or (b).

(h) Fail to make prohibited coral or allowable octocoral available for inspection, as required by § 638.7(c).

(i) Fail to return to the sea prohibited coral and allowable octocoral taken as incidental catch, as specified in § 638.21(a).

(j) In those fisheries in which the entire catch is landed, land sorted prohibited coral or allowable octocoral, or sell, trade, or barter prohibited coral or allowable octocoral, as specified in § 638.21(a).

(k) Exceed the bag and possession limit when fishing under a recreational permit to take allowable octocoral, as specified in § 638.21(b).

(l) Use prohibited fishing gear in an HAPC, as specified in § 638.22(a)(2), (b)(2), and (c)(2).

(m) Use a toxic chemical to take fish or other marine organisms, as specified in § 638.23.

(n) Take allowable octocoral after harvest from the EEZ is prohibited, as specified in § 638.25.

6. In § 638.7, the existing text is designated as paragraph (a) and new paragraphs (b) and (c) are added to read as follows:

§ 638.7 Recordkeeping and reporting

* * * * *

(b) A person with a Federal permit to take allowable octocoral in the EEZ, if selected by the Science and Research Director, must submit a report of his harvest to the Science and Research Director on a form available from the Science and Research Director. These forms must be submitted to the Science and Research Director on a quarterly basis within 25 days of the end of each quarter. The following information must be included on the forms:

(1) Federal permit number;

(2) Name of permit holder;

(3) Quarter when fishing occurred;

(4) Number of colonies harvested by month and by species name if known;

(5) Area fished;

(6) Signature of the person submitting the form; and

(7) Other information deemed necessary by the Science and Research Director.

(c) Additional data will be collected by authorized statistical reporting agents, as designees of the Science and Research Director, and by authorized officers. An owner or operator of a fishing vessel and a dealer or processor are required upon request to make prohibited coral or allowable octocoral available for inspection by the Science and Research Director or an authorized officer.

7. Section 638.21 is revised to read as follows:

§ 638.21 Harvest limitations.

(a) Prohibited coral and allowable octocoral taken as incidental catch to other fishing activities by a person who does not have a permit must be returned to the sea in the general area of fishing immediately. In those fisheries, such as scallops and groundfish, where the entire catch is landed, unsorted prohibited coral and unsorted allowable octocoral may be landed but not sold, traded, or bartered.

(b) A person who has a recreational permit to take allowable octocoral may not posses during a single day, regardless of the number of trips or the duration of a trip, allowable octocoral in excess of six colonies.

8. Section 638.23 is revised to read as follows:

§ 638.23 Gear limitations.

A toxic chemical may not be used to take fish or other marine organisms in or on a coral area.

9. Section 638.24 is redesignated as § 638.26, and new §§ 638.24 and 638.25 are added to read as follows:

§ 638.24 Quota.

The quota of allowable octocoral is 50,000 colonies from the EEZ each fishing year.

§ 638.25 Closure.

When the quota specified in § 638.24 is reached, or is projected to be reached, the Secretary will publish a notice to that effect in the Federal Register. After the effective date of such notice, for the remainder of the fishing year, the harvest of allowable octocoral from the EEZ is prohibited.

[FR Doc. 90-25218 Filed 10-22-90; 11:51 am]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 55, No. 207
Thursday, October 25, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Rulemaking; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Rulemaking of the Administrative Conference of the United States. The meeting will be held at 4:30 p.m. on Thursday, November 8, 1990, at the Administrative Conference of the United States, 2120 L Street, NW., suite 500, Washington, DC 20037 (Library, 5th Floor).

The committee will meet to discuss two new projects: (1) A study of the Medicaid rulemaking process, conducted by Eleanor Kinney, Director, Program for Law, Medicine and the Health Care Industry, Indiana University School of Law; and (2) a study of administrative responses to congressional demands for information, by Peter Shane, Professor of Law, University of Iowa.

For further information concerning this meeting, contact Kevin Jessar, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., suite 500, Washington, DC. (Telephone: 202–254–7020.)

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman at least one day is advance. The committee chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request.

Dated: October 22, 1990.
Jeffrey S. Lubbers,
Research Director.
[FR Doc. 90–25379 Filed 10–24–90; 8:45 am]
BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

October 19, 1990.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Public Law 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms of supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404–W Admin. Bldg., Washington, DC 20250, (202) 447–2118.

Extension

• Food Safety and Inspection Service, Regulations Governing Voluntary Reimbursable Inspection Service. MP 85, 225; FSIS 9080–8, 9060–13. Recordkeeping. On occasion. Individuals or households; State or local governments; Businesses or other for-profit; Small businesses or organizations; 800 responses; 78 hours; not applicable under 3504(h). Roy Purdie, Jr. (202) 447–5372.

• National Agricultural Statistics Service, Field Crop Production. Weekly; Monthly; Quarterly; Annually. Farms; Businesses or other for-profit; 299,960 responses; 54,620 hours; not applicable under 3504(h). Larry Gambrell (20..) 447–7737.

New Collection

• Cooperative State Research Service, Preconstruction Environmental Report. One time only. Non-profit institutions; 12 responses; 120 hours; not applicable under 3504(h). Evelyn O'Connor-Miller (202) 401–6456.

Reinstatement

• Federal Crop Insurance Corporation, Field Inspection And Claim For Indemnity. FCI–63 and FCI–74. On occasion. Individuals or households; Farms; 40,000 responses; 10,000 hours; not applicable under 3504(h). Garland Westmoreland (202) 447–5251.

Donald E. Hulcher,
Acting Departmental Clearance Officer.
[FR Doc. 90–25101 Filed 10–24–90; 8:45 am]
BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Intent To Prepare an Environmental Impact Statement on Management of the Subsistence Uses of Fish and Wildlife on Public Lands in Alaska

AGENCY: Forest Service, USDA; Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: The Federal Subsistence Board (Board), on behalf of the Bureau of Indian Affairs, Bureau of Land Management, Fish and Wildlife Service, National Park Service and USDA-Forest Service (land managing agencies in Alaska), intends to gather in formation necessary for the preparation of an environmental impact statement on the Federal management of subsistence uses of fish and wildlife on public lands in Alaska. Public meetings will be held throughout Alaska to solicit comments on the Federal subsistence management program and possible effects of the program on the subsistence user and resources in accordance with the provisions of Section 810 of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA).

DATES: Written comments should be received by December 31, 1990. Public meetings to receive comments will be held throughout Alaska during October and November and in Seattle, Washington and Washington, DC. Widespread local announcement of these meetings will be provided as soon as possible. Tentative meeting locations and dates are as follows:

Allakaket	Oct. 29
Anaktuvuk Pass	Oct. 30
Anchorage	Nov. 20
Angoon	Oct. 30
Aniak	Nov. 8
Arctic Village	Nov. 27
Barrow	Nov. 1
Bethel	Nov. 1
Cantwell	Nov. 16
Chenega	Nov. 6
Chignik	Nov. 15
Cold Bay	Nov. 14
Craig	Nov. 14
Delta Junction	Nov. 13
Dillingham	Oct. 30
Eagle	Nov. 19
Egegik	Nov. 13
Emmonak	Nov. 28
Fairbanks	Nov. 14
Fort Yukon	Nov. 26
Galena	Nov. 6
Glennallen	Nov. 15
Haines	Nov. 1
Holy Cross	Nov. 7
Homer	Nov. 27
Hoonah	Nov. 29
Hooper Bay	Nov. 27
Iliamna	Oct. 29
Juneau	Oct. 23
Kaktovik	Oct. 31
Ketchikan	Nov. 13
Kodiak	Nov. 16
Kongiganak	Oct. 31
Kotzebue	Nov. 2
Lime Village	Nov. 5
McGrath	Nov. 19
Mekoryuk	Nov. 28
Minto	Nov. 6
Mountain Village	Nov. 29
Naknek	Nov. 29
Nenana	Nov. 15
Nome	Nov. 1
Palmer	Nov. 6
Petersburg	Oct. 24
Port Graham	Nov. 26
Quinhagak	Oct. 31
Seward	Nov. 8
Shageluk	Nov. 8
Sitka	Oct. 29
Soldotna	Nov. 19
Tanana	Nov. 7
Tatitlek	Nov. 7
Tenakee Springs	Oct. 28
Togiak	Oct. 30
Tok	Nov. 29
Unalakleet	Nov. 5
Valdez	Nov. 5
Yakutat	Nov. 16
Seattle, WA	Dec. 6
Washington, DC	Dec. 4

ADDRESSES: Comments should be addressed to the Federal Subsistence Board, U.S. Fish and Wildlife Service, ATTN: Richard Pospahala, 1011 E. Tudor Road, Anchorage, Alaska 99503.

FOR FURTHER INFORMATION CONTACT: Richard Pospahala, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; telephone (907) 267–1461.

SUPPLEMENTARY INFORMATION: Title VIII of ANILCA (16 U.S.C. 3111–3126) requires the Secretaries of Agriculture and Interior to implement a program to ensure preference to rural Alaskans for subsistence uses of fish and wildlife on public lands unless the State of Alaska implements a subsistence program consistent with ANILCA's requirements. The State of Alaska had such a program that the Department of the Interior found to be consistent with ANILCA. In December 1989, however, the Alaska Supreme Court ruled in *McDowell* v. *State of Alaska* that the rural limitation in the State subsistence definition, which is required by ANILCA, violates the Alaska Constitution. The Court stayed the effect of the decision until July 1, 1990.

As a result of the decision, the Departments of Agriculture and Interior were required to take over implementation of title VIII of ANILCA on public lands on July 1, 1990. Temporary regulations were developed to implement the Federal Subsistence Program until final regulations could be prepared. The Federal Subsistence Board, as the managing entity, is now starting the process of collecting public comments relating to a number of issues on subsistence management on public lands in order to prepare an environmental impact statement (EIS). This EIS will evaluate alternative approaches in the Federal Subsistence Management Program. Public lands in Alaska affected by this program include those managed by the Fish and Wildlife Service, National Park Service, Bureau of Land Management, Bureau of Indian Affairs, Forest Service, Air Force, Army and possibly other Federal land managing agencies.

The Fish and Wildlife Service is designated the lead agency for the preparation of the EIS. The National Park Service, Bureau of Land Management, Bureau of Indian Affairs, and Forest Service are participating as cooperating agencies. The environmental review of the program will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 *et seq.*), Council on Environmental Quality Regulations (40 CFR 1500–1508), other appropriate Federal regulations and Department of the Interior procedures for compliance with those regulations.

The Draft Environmental Impact Statement is estimated to be available to the public for review by October, 1991.

Walter O. Stieglitz,

Chairman, Federal Subsistence Board, Regional Director, U.S. Fish and Wildlife Service.

Michael A. Barton,

Regional Forester, USDA—Forest Service.

[FR Doc. 90-25248 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF AGRICULTURE

Forest Service

Metropolitan Water District, Inland Feeder Project, San Bernardino National Forest, San Bernardino and Riverside Counties, CA; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service, in cooperation with the Department of Interior, Bureau of Land Management (BLM) and the Metropolitan Water District of Southern California (Metropolitan), will prepare a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for a proposal to permit the construction of the Inland Feeder Project on Federal and other lands in San Bernardino and Riverside Counties, California. The EIS/EIR will meet the requirements of both the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). For purposes of complying with NEPA, the Forest Service will serve as the lead Federal agency and the BLM will be a cooperating agency for those portions of the proposal on Federal lands. The Metropolitan Water District will be the lead agency under CEQA for all other lands.

The San Bernardino National Forest Land and Resource Management Plan directs that the following three criteria be met before a permit may be issued: (a) The use must be compatible with Forest Service management objectives, (b) the opportunity for the use does not exist on private lands, and (c) impacts to Forest resources can be mitigated. The EIS/EIR will determine if these criteria can be satisfied by the proposed action.

The Inland Feeder is a proposed 42 to 48 mile raw water conduit that will convey water from the enlarged East Branch of the California Aqueduct into Metropolitan's distribution system. The project will originate at the afterbay of the Devil Canyon powerplant and will terminate at Colorado River Aqueduct

at the junction of the Casa Loma Canal, Lakeview Pipeline, and the San Diego Canal. Four alternative routes are being considered. A fifth project alternative originating at Silverwood Lake is also being examined for inclusion in the environmental analysis.

Issues Identified: Preliminary discussions between the Forest Service, BLM, and Metropolitan have identified the following issues: Threatened and endangered species, wildlife, traffic circulation, water quality, ground water, cultural resources, and aesthetics.

The EIS/EIR will evaluate four, and perhaps five, project alternatives and a No Project alternative. Two, or three is the fifth project alternative is included, of the project alternatives are within the San Bernardino National Forest and would involve the boring of tunnels.

SUPPLEMENTARY INFORMATION: Metropolitan is proposing the Inland Feeder Project to increase raw water conveyance capacity for its service area, which covers the southern California coastal plain from Ventura County to the Mexican border. Metropolitan supplies supplemental imported water from the State Water Project and the Colorado River to its member public agencies in Riverside, San Bernardino, San Diego, Orange, Los Angeles, and Ventura counties. Annual water needs within Metropolitan's service area in 1990 are estimated to be 3.7 million acre feet to supply the 15 million people serveed.

Studies prepared by the regional planning agencies, the Southern California Association of Governments (SCAG), the San Diego Association of Governments, and the California Department of Finance indicate population in this area will increase from 15 million to 18.3 million by the year 2010. SCAG estimates a regional water supply shortfall of over 1 million acre feet by the year 2010. Metropolitan estimates that additional capacity will be needed by the year 1997.

The draft EIS/EIR is expected to be available for public review by June 1991 and comments will be received for a period of 45 days following the date that the notice of its availability is published in the Federal Register. It is important that those interested in the management of the San Bernardino National Forest and adjacent Public Domain lands participate at that time. To be most helpful, comments on the draft EIS/EIR should be as specific as possible and may address the adequacy of the document or the merits of the alternatives discussed [see The Council on Environmental Quality Regulations For Implementing The Procedural Provisions Of The National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal Court decisions have established that reviewers of draft EIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions, (Vermont Nuclear Power Corp. v. NRDC, 435 U.S. 519, 553 (1978)), and that environmental objections that could have been raised at the draft stage may be waived if raised until after completion of the final EIS, (Wisconsin Heritages, Inc. v. Harris, 490 F. Supp. 1338 (E.D. Wisc. 1980)). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service when they can meaningfully consider them and respond to them in the final document. All comments will be considered and analyzed in preparing the final EIS/EIR, which is scheduled to be completed by September 1991. The responsible official will document the decision in a Record of Decision which will be subject to appeal under the provisions of 36 CFR Part 217.

DATES: Comments are requested on this notice concerning the scope of analysis of the draft EIS/EIR. Comments must be received within 30 days of the publication date of this notice.

PUBLIC MEETINGS: The Forest Service and Metropolitan will conduct the following meetings to provide information on the project to the public: Riverside City Hall, Nov. 5, 1990, 7 p.m.; San Bernardino County Museum, Nov. 8, 1990, 8 p.m.; Rialto City Hall, Nov. 14, 1990, 7 p.m.; and Moreno Valley City Hall, Nov. 15, 1990, 7 p.m.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis for the Inland Feeder Project to Charles H. Irby, Forest Supervisor, San Bernardino National Forest, 1824 S. Commercenter Circle, San Bernardino, CA 92408-3430.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed Metropolitan Water District Inland Feeder Project and preparation of the EIS/EIR to Ernie Dierking, Lands Officer at the above address or call (714) 383-5692.

Dated: October 17, 1990.

Charles H. Irby,

Forest Supervisor.

[FR Doc. 90-25247 Filed 10-24-90; 8:45 am]

BILLING CODE 3410-11-M

Oil and Gas Leasing Suitability Analysis for the Grand Mesa National Forest et al.

In the matter Grand Mesa, Uncompahgre, and Gunnison National Forests located in Delta, Garfield, Gunnison, Hinsdale, Mesa, Montrose, Ouray, Saguache, San Juan, and San Miguel Counties, CO.

AGENCY: Forest Service, USDA; Bureau of Land Management, USDI.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service and Bureau of Land Management will prepare an environmental impact statement to analyze and disclose the expected environmental consequences, and possible cumulative effects of issuing or not issuing oil and gas leases on the Grand Mesa, Uncompahgre, & Gunnison National Forests. The Forest Service will serve as lead agency, and the Bureau of Land Management will serve as a cooperating agency providing special expertise.

DATES: Comments concerning the scope of the analysis should be received in writing by December 10, 1990.

ADDRESSES: Send written comments to Richard E. Greffenius, Forest Supervisor, 2250 Highway 50, Delta, Colorado 81416.

FOR FURTHER INFORMATION CONTACT: Larry Meshew, Forest Hydrologist, 303-874-7691.

SUPPLEMENTARY INFORMATION: The environmental analysis will identify areas: (1) Open to oil & gas development subject to the terms and conditions of the standard lease form; (2) Open to development but subject to constraints requiring lease stipulations such as those prohibiting or controlling surface occupancy; (3) Closed to leasing through the exercise of management direction, laws, or regulations on National Forest system lands within the Grand Mesa, Uncompahgre, & Gunnison National Forests. The analysis will include split estate lands within the administrative boundaries of the Grand Mesa, Uncompahgre, & Gunnison National Forests where the minerals are federally owned and managed, but the surface is not.

In preparing the environmental impact statement, the Forest Service will identify and consider a full range of alternatives, including a no action alternative, to help analyze the significant issues identified during the scoping process.

Preliminary issues include: (1) Will leasing in unroaded areas harm the character of unroaded areas; (2) Will access and travel management problems

occur as a result of leasing or not leasing certain lands; (3) Will leasing or not leasing certain lands affect economic stability; (4) What are the environmental effects of oil and gas leasing on wildlife, fish, vegetation, soils, water quality, air quality, recreation, wetlands, and threatened & endangered plant and animal species; (5) Should leasing occur in municipal watersheds, wild & scenic river-ways, scenic-byways, research natural areas, or other special interest areas.

Public participation will be an important aspect of the analysis. The Forest Service is seeking comments and suggestions from individuals and groups or other Federal, State and local agencies who may be interested in the proposed action. To facilitate input, the Forest Supervisor has prepared a preliminary scoping document and has scheduled an open house. The open house is scheduled to be held on November 14, 1990, 7 P.M. at the bureau of Land Management District Office in Montrose, CO. The preliminary scoping document is available upon request at the Forest Supervisors Office in Delta. Information gathered during the scoping process will be used to identify significant analysis issues.

A draft environmental impact statement is expected to be filed with the Environmental Protection Agency and to be available for public review by October 1991. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the Federal Register.

It is very important for interested reviewers to participate during the 45 day draft environmental impact statement comment period. To be the most helpful, comments on the draft environmental impact statement should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed.

In addition, Federal court decisions have established that reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *City of Angoon* v. *Hodel*, (9th Circuit, 1988) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason is to ensure substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns, comments on the draft environmental impact statement should be as specific as possible. Comments should refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

The final environmental impact statement is scheduled to be completed by September 1992. The responsible official for the Forest Service will consider comments, responses, and environmental consequences discussed in the environmental impact statement as well as applicable laws, regulations, and policies in making a decision regarding the proposal. The decision will be documented in a Record of Decision, and is subject to review under 36 CFR 217.8. The Bureau of Land Management is a cooperating agency and is providing special expertise. The responsible official for the Forest Service is Richard E. Greffenius, Forest Supervisor, Grand Mesa, Uncompahgre, & Gunnison National Forests. The responsible officials for the Bureau of Land Management are Allan L. Kesterke, Montrose District Manager, Colorado and Bruce Conrad, Grand Junction District Manager, Colorado.

Dated: October 19, 1990.

Larry M. Hill,

Acting Forest Supervisor.

[FR Doc. 90-25212 Filed 10-24-90; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

Saluda River Electric Cooperative, Inc. Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Finding of no significant impact relating to the construction of an operations center in Laurens County, South Carolina.

SUMMARY: Notice is hereby given that the Rural Electrification Administration, pursuant to the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), the Council on Environmental Policies and Procedures (7 CFR part 1794), has made a Finding of No Significant Impact with respect to the construction of an operations center in Laurens County, South Carolina. Saluda River Electric Cooperative Inc., has requested the Rural Electrification Administration's approval to construct the project.

FOR FURTHER INFORMATION CONTACT: Alex M. Cockey, Jr., Director, Southeast Area—Electric, room 0270, South Agriculture Building, Rural Electrification Administration, Washington, DC 20250, telephone (202) 382-8436.

SUPPLEMENTARY INFORMATION: The proposed operations center will consist of a 9,700 square foot operations building/workshop, a 19,300 square foot warehouse, a 13,900 square foot garage and maintenance building with refueling area incorporating one diesel fuel pump and one gasoline fuel pump, diesel and gasoline above ground fuel tanks each having a capacity of 3,000 gallons, a self supporting lattice type radio tower with a maximum height of 400 feet, a storm water retention pond with a maximum surface area of three acres, a pole and equipment storage area, and employee' and visitor parking to accommodate approximately 60 cars and 20 trucks.

Alternatives considered to constructing the operations center as proposed were no action and leasing building space in or near the City of Laurens. Various site locations for the operations center were also considered. The Rural Electrification Administration's preferred alternative is for Saluda River Electric Cooperative, Inc., to construct the operations center at their 29 acre site in Laurens County.

The Rural Electrification Administration, in accordance with its environmental policies and procedures, required that Saluda River Electric Cooperative, Inc., submit a Borrower's Environmental Report (BER) reflecting the potential impacts of the proposed operations center. The Rural Electrification Administration has reviewed the BER and believes it represents a fair and accurate representation of the project and its potential impacts.

Saluda River Electric Cooperative, Inc., published a legal notice and advertisement in the Laurens County Advertiser which has a general circulation in Laurens County, South Carolina. The notice and advertisement appeared in the September 14, 1990 issue. The notice described the project,

announced the availability of the BER, gave information on how the BER could be obtained for review and gave addresses where comments could be sent. The advertisement appeared in the same issue of the newspaper and briefly described the project and referred the reader to the legal notice. The public was given at least 30 days to respond to the notice. No responses to the notice were received by Saluda River Electric Cooperative, Inc., or the Rural Electrification Administration.

As a result of its independent evaluation of the environmental issues and concurrence with the BER's scope and content, the Rural Electrification Administration adopted the BER as its Environmental Assessment of the project.

The Rural Electrification Administration has concluded that the proposed operations center will have no significant impact on the health and welfare of people living or working in the project area, water quality or air quality. The project is not likely to adversely affect federally listed threatened and endangered species. There are no wetlands, 100-year floodplains, properties listed or eligible for listing on the National Register of Historic Places, National Forests, National Wilderness Areas, National Landmarks, or streams and rivers on, or under review for the Wild and Scenic River System in the project area.

The proposed operations center site is composed of Cecil sandy loam soil which is recognized as prime and statewide important farmland soil. No practicable alternatives to locating on prime and statewide important farmland soils were identified due to the high concentration of these types of soils in the immediate area. The site is not, or has not recently been, in agricultural production.

No potential significant impacts resulting from the construction and use of the proposed operations center have been identifieid. Therefore, the Rural Electrification Administration has determined that its action related to this project will have no significant impact on the quality of the human environment and has subsequently reached a Finding of No Significant Impact.

The Rural Electrification Administration has determined that the Finding of No Significant Impact fulfills its obligations under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality Regulations (40 CFR parts 1500–1508) and the Rural Electrification Administration Policies and Procedures (7 CFR part 1794) for its action related to the proposed operations center.

Copies of the Environmental Assessment and Finding of No Significant Impact can be obtained from REA at the address provided herein or at the office of Saluda River Electric Cooperative, Inc., P.O. Box 929, Laurens, South Carolina 29360.

Dated: October 19, 1990.

Approved:

John H. Arnesen,

Assistant Administrator—Electric Rural Electrification Administration, United States of America.

[FR Doc. 90-25229 Filed 10-24-90; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF COMMERCE

Office of the Secretary

Senior Executive Service in Performance Review Board; Membership

Below is a listing of individuals who are eligible to serve on the Performance Review Board in accordance with the Office of the Secretary Senior Executive Service (SES) Performance Appraisal System:

Hugh L. Brennan
Guy W. Chamberlin, Jr.
David L. Edgell
David Farber
Mary Ann T. Fish
Jose A. Lira
James M. LeMunyon
Michael A. Levitt
Otto J. Wolff

Edward A. McCaw,

Executive Secretary, Office of the Secretary, Performance Review Board.

[FR Doc. 90-25176 Filed 10-24-90; 8:45 am]

BILLING CODE 3510-BS-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.
Title: Current Population Survey—Asian or Pacific Islander Supplement (March 1991).
Form Number(s): CPS–1, CPS–260.
Agency Approval Number: None.
Type of Request: New collection.
Burden: 250 hours.
Number of Respondents: 60,000.
Avg Hours per Response: 15 seconds.
Needs and Uses: The Bureau of the Census will use this supplement to the Current Population Survey (CPS) to provide the only data during the 1980–2000 intercensal years on the size and socioeconomic characteristics of specific Asian and Pacific Islander subgroups. The Department of Health and Human Services will use these data to evaluate refugee programs and social and economic progress of immigrant groups. The supplement will provide timely and accurate data to policymakers who plan and implement relevant programs and policies.
Affected Public: Individuals or households.
Frequency: One time only.
Respondent's Obligation: Voluntary.
OMB Desk Officer: Marshall Mills, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Clearance Officer, (202) 377–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Marshall Mills, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 19, 1990.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 90-25211 Filed 10-24-90; 8:45 am]

BILLING CODE 3510-07-M

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration.
Title: Sea Grant Budget.
Form Number: NOAA Form 90–4; OMB–0648–0034.
Type of Request: Request for extension of the expiration date of a currently approved collection without any change in the substance or method of the collection.
Burden: 40 respondents; 200 reporting hours; average hours per response—.25 hours.
Needs and Uses: The information is used by both grantee and grantor to

determine the cost of each project in a multi-project proposal and to determine the allowability of matching costs offered. Also used in negotiating costs and administrative control of expenditures by both parties.

Affected Public: State or local governments, non-profit institutions.

Frequency: Annually.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Ronald Minsk 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Ronald Minsk, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 18, 1990.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 90-25166 Filed 10-24-90; 8:45 am]

BILLING CODE 3510-CW-M

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

Doc has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

AGENCY: National Oceanic and Atmospheric Administration.

Title: Sea Grant Control.

Form Number: NOAA Form 90–1; OMB–0048–0008.

Type of Request: Request for extension of the expiration date of a currently approved collection without any change in the substance or method of the collection.

Burden: 40 respondents; 20 reporting hours; average hours per response—.5 hours.

Needs and Uses: The information gathered identifies the participating organizations and personnel in a proposed Sea Grant project. It is used in the review of proposals.

Affected Public: State or local governments, non-profit institutions.

Frequency: Annually.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Ronald Minsk 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Ronald Minsk, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 18, 1990.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 90-25165 Filed 10-24-90; 8:45 am]

BILLING CODE 3510-CW-M

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35.)

Agency: Bureau of Export Administration.

Title: Quarterly Report on Export of Parts to Service Equipment Shipped Against a Validated Export License.

Form Number: EAR §776.4(d)(e); OMB Control No. 0694–0003.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 12 respondents reporting quarterly; 25 reporting/recordkeeping hours. Average time per respondent is ½ hour.

Needs and Uses: This reporting requirement allows U.S. exporters to export parts to service U.S. equipment in Country Groups Q, W, and Y provided that the equipment was previously exported from the U.S. under a validated license.

Affected Public: Businesses or other for-profit. institutions; small businesses or organizations.

Frequency: Quarterly.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Marshall Mills, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Marshall Mills, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 18, 1990.

Edward Michals,

Department Clearance Officer, Office of Management and Organization.

[FR Doc. 90-25167 Filed 10-24-90; 8:45 am]

BILLING CODE 3510-CW-M

Foreign-Trade Zones Board

[Docket 39-90]

Foreign-Trade Zone 141—Monroe County, NY; Application for Subzone, General Motors Corp. Auto Parts Plant, Rochester, NY.

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the County of Monroe, New York, grantee of FTZ 141, requesting special-purpose subzone status for the auto parts manufacturing plant of General Motors Corporation (GM), Delco Products Division, located in Rochester, New York. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on October 2, 1990.

The GM plant (36 acres) is located at 1555 Lyell Avenue in Rochester. The facility employs 3,500 persons and is used to produce windshield wiper systems, car seat actuators, door lock actuators, windowlift actuators, power antennae, heater and blower motors, compressors and engine cooling systems. Foreign subcomponents and materials account for up to 70 percent (average—15%) of material value of the auto parts made at the plant. They include housings, motor assemblies, magnets, pumps, antennae and circuit boards. Foreign sourced bearings would enter the plant in duty-paid domestic status.

Zone procedures would exempt GM from Customs duties on the foreign components used in the manufacture of products that are exported. On products shipped to GM's domestic auto assembly plants with subzone status, the company would be able to choose the rate that applies to finished autos (2.5%), whereas the duty rates on the subcomponents and material used at the plant range from 3.0 to 6.0 percent. Normal duty rates would apply to components used for products that are sold in the U.S. aftermarket. The application indicates that the savings

will help improve the company's international competitiveness.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Edward A. Goggin, Assistant Regional Commissioner, U.S. Customs Service, Northeast Region, 10 Causeway Street, Boston, Massachusetts 02222–1056; and Colonel Hugh F. Boyd III, District Engineer, U.S. Army Engineer District, Buffalo, 1776 Niagara Street, Buffalo, New York 14207–3199.

Comments concerning the proposed subzone are invited in writing from interested parties. They shall be addressed to the Board's Executive Secretary at the address below and postmarked on or before December 4, 1990.

A copy of the application is available for public inspection at each of the following locations.

U.S. Department of Commerce, Branch Office, 121 East Avenue, Rochester, New York 14604.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 4213, 14th and Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: October 17, 1990.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 90-25168 Filed 10-24-90; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-351-503]

Certain Iron Construction Castings From Brazil; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On August 21, 1990, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on certain iron construction castings from Brazil. The review covers one manufacturer of this merchandise and the period May 1, 1988 through April 30, 1989. COSIGUA failed to provide a complete response to our questionnaire and indicated that they would not cooperate further to complete the response. As a result, we have determined to use the best information otherwise available for cash deposit and appraisement purposes.

EFFECTIVE DATE: October 25, 1990.

FOR FURTHER INFORMATION CONTACT: Christopher Beach or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On August 21, 1990, the Department of Commerce (the Department) published in the **Federal Register** (55 FR 34047) the preliminary results of its administrative review of the antidumping duty order on certain iron construction castings from Brazil (51 FR 17220; May 9, 1986). We have now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

Imports covered by the review are shipments of certain heavy and light iron construction castings. Heavy castings are limited to manhole covers, rings and frames, catch basins, grates and frames, cleanout covers and frames used for drainage or access purposes for public utility, water and sanitary systems. Light castings are limited to valve, service, and meter boxes which are placed below ground to encase water, gas, or other valves, or water or gas meters. These articles must be of cast iron, not alloyed, and not malleable.

During the review period, heavy castings were classifiable under *Tariff Schedules of the United States Annotated* (TSUSA) item number 657.0950, and light castings were classifiable under TSUSA item number 657.0990.

Heavy castings are currently classifiable under *Harmonized Tariff Schedule* (HTS) item numbers 7325.10.00.10 and 7325.10.00.50, and light castings are currently classifiable under HTS item numbers 8305.29.00.00 and 8310.00.00.00. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers one manufacturer/exporter, COSIGUA, and the period May 1, 1988 through April 30, 1989.

Analysis of Comments Received

We gave interested parties an opportunity to comment on our preliminary results. We received no comments.

Final Results of Review

As a result of our review, we determine the dumping margin to be:

Manufacturer	Period	Margin (percent)
COSIGUA	05/01/88–04/30/89	58.74

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margin will be required for COSIGUA. For any shipments of this merchandise manufactured or exported by the remaining known manufacturers and exporters not covered by this review, the cash deposit will continue to be at the latest rate applicable to each of these firms. Since we do not rely on the best information available for establishing the new exporter rate, for any future entries of this merchandise from a new exporter, not covered in this or prior administrative reviews, whose first shipments of Brazilian iron construction castings occurred after April 30, 1989, and who is unrelated to any reviewed firm, the cash deposit will continue at the rate established in the final results of the last administrative review. These deposit requirements are effective for all shipments of certain Brazilian iron construction castings entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: October 18, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-25172 Filed 10-24-90; 8:45 am]

BILLING CODE 3510-DS-M

[C-351-005]

Frozen Concentrated Orange Juice From Brazil; Determination Not To Terminate Suspended Investigation

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of determination not to terminate suspended investigation.

SUMMARY: The Department of Commerce is notifying the public of its determination not to terminate the suspended countervailing duty investigation on frozen concentrated orange juice from Brazil.

EFFECTIVE DATE: October 25, 1990.

FOR FURTHER INFORMATION CONTACT: Millie Mack or Barbara Williams, Office of Agreements Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–3793.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 1990, the Department of Commerce ("the Department") published in the **Federal Register** (55 FR 7357) notice of its intent to terminate the suspended countervailing duty investigation on frozen concentrated orange juice from Brazil (March 2, 1983, 48 FR 8839). The Department may terminate a suspended investigation if the Secretary concludes that the agreement is no longer of interest to interested parties. The Department has not received a request to conduct an administrative review of the agreement suspending the countervailing duty investigation on frozen concentrated orange juice from Brazil for more than four consecutive annual anniversary months.

On March 28, 1990, the petitioner, Florida Citrus Mutual, and certain producers of frozen concentrated orange juice objected to the Department's intent to terminate this suspended investigation. Therefore, we no longer intend to terminate the suspended investigation.

This notice is in accordance with section 355.25(d)(4) of the Commerce Department's regulations.

Dated: October 18, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-25171 Filed 10-24-90; 8:45 am]

BILLING CODE 3510-DS-M

Scope Rulings

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of scope rulings.

SUMMARY: The International Trade Administration (ITA) hereby publishes a list of scope rulings completed between July 1, 1990 and September 30, 1990. In conjunction with this list the ITA is also publishing a list of pending scope inquiries. The ITA intends to publish future lists within thirty days of the end of each quarter.

EFFECTIVE DATE: October 25, 1990.

FOR FURTHER INFORMATION CONTACT: Melissa G. Skinner, Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377–4851.

SUPPLEMENTARY INFORMATION:

Background

Sections 353.29(d)(8) and 355.29(d)(8) of the Department's regulations (19 CFR 353.29(d)(8) and 355.29(d)(8)) provide that on a quarterly basis the Secretary will publish in the **Federal Register** a list of scope rulings completed within the last three months. The lists are to include the case name, reference number, and brief description of the ruling.

This notice lists scope rulings completed between July 1, 1990 and September 30, 1990, and pending scope clarification requests. The ITA intends to publish in January 1991, a notice of scope rulings completed between October 1, 1990 and December 31, 1990.

The following lists provide the country, case reference number, requester(s), and a brief description of either the ruling or product subject to the request.

Scope Rulings Completed Between July 1, 1990 and September 30, 1990

Country: Canada

A–122–506: OCTG—modified scope by abolishing the end use certification procedure and adopting new procedures—9/4/90

Country: United Kingdom

A–412–801: Antifriction Bearings; Durbal GmbH, Nippon Thompson Co., Ltd., and Minebea Co., Ltd.—rod ends are within the scope of the order—8/6/90

Country: France

A–427–801: Antifriction Bearings:

Valeo, Societe Anonyme—clutch release bearings are within the scope of the order—8/6/90

Bell Helicopter Textron Inc.—ball bearings used in the manufacture of helicopters are within the scope of the order—9/14/90

Country: Federal Republic of Germany

A–428–801: Antifriction Bearings; Durbal GmbH, Nippon Thompson Co., Ltd., and Minebea Co., Ltd.—rod ends are within the scope of the order—8/6/90

Country: People's Republic of China

A–570–506: Porcelain-on-Steel Cookware; Texsport—camping sets, with the exception of the cups and plates included in those sets, are within the scope of the order—8/8/90

A–570–003: Cotton Shop Towels; Able Textile—towels assembled in Canada from cotton grey fabric from the People's Republic of China are outside the scope of the order—8/21/90

Country: Republic of Korea

A–580–501: Photo Albums and Filler Pages; WorldSource—commemorative binders are within the scope of the order—8/30/90

A–580–803: Certain Small Business Telephone Systems and Subassemblies Thereof:

DBA—Smartalk 206 and 308 systems are within the scope of the order—7/3/90

Executone—System 432 and subassemblies exclusive to it, as well as subassemblies of the Isoetec line (P/N 15200, P/N 21660, P/N 15640, P/N 15700, P/N 15600, P/N 15620, P/N 15590, P/N 15610, P/N 15680, P/N 15650, P/N 15100, P/N 15410, P/N 15660, P/N 15340, P/N 15870, P/N 09010, P/N 82300, P/N 82100, P/N 82200, P/N 82500, P/N 82400, P/N 83500/80500, P/N 82030, P/N 83700/80700, P/N 82020, P/N 15780, P/N 15790, P/N 15770, P/N 09004, and P/N 15510) are outside the scope of the order—8/7/90

Country: Taiwan

A–583–508: Porcelain-on-Steel Cookware; RSVP—BBQ grill baskets are outside the scope of the order—8/23/90

Country: Japan

A–588–087: Portable Electric Typewriters; Matsushita—Office typewriter models KX–E400, KX–E500B ("Jetwriter"), KX–E500 [E]*, KX–E501 [E]* ("Jetwriter"), KX–E506 [E]* (Jetwriter IIe"), KX–E508 [E]* (*—[E] is updated version) are outside the scope of the order—7/6/90

A–588–405: Cellular Mobile Telephones and Subassemblies:

Matsushita—Models EB–3510 and 3511 are outside the scope of the order—8/6/90

NovAtel—Model PTR–825 is outside the scope of the order—8/6/90

Mitsubishi—Models MT–706FOR8A and 792FOR8A are outside the scope of the order—8/6/90

Sanyo—Model CMP–310 is outside the scope of the order—8/6/90

NEC—message recording device (AVA) is outside the scope of the order—7/14/90

A–588–609: Color Picture Tubes:

Tektronix—Sony produced cathode ray tube SD–97FS is outside the scope of the order—8/21/90

Toshiba—models A36JAR90X and A36JAR50X are within the scope of the order—9/7/90

A–588–802: 3.5" Microdisks and Media Thereof; Toshiba—barium ferrite coated microdisks are within the scope of the order—8/29/90

A–588–804: Antifriction Bearings

Durbal GmbH, Nippon Thompson Co., Ltd., and Minebea Co., Ltd.—rod ends are within the scope of the order—8/6/90

Imprimis Technology Inc.—ball bearings used in the production of disk drives are within the scope of the order—9/14/90

A–588–809: Certain Small Business Telephone Systems and Subassemblies Thereof:

NEC—NEAX 2400 system and subassemblies are outside the scope of the order—7/17/90

Fujitsu—Starlog system is outside the scope of the order—7/27/90

Toshiba—Perception II and Perception Ex systerms are outside the scope of the order and subassemblies (telephone sets—EKT 6000–N, EKT 6000–NM, EKT 6015–H, EKT 6015–S, EKT 6025H, EKT 6025–SD, EKT 6025–D, EKT 6520–SD, EKT 6510–S, EKT 6510–H, EKT 6520–H, HDSS 6060, AND HDSS6560) are within the scope of the order—7/27/90

Pending Scope Inquiries As of September 30, 1990

Country: Federal Republic of Germany

A–428–801: Antifriction Bearings:

Textilmaschinen-Komponenten GmbH and SKF Textile Products, Inc.—textile machinery component (rotor assembly number TE 226–0036225)

Sachs Automotive Products Company—clutch releasers

Country: Korea

A–580–008: Color Television Receivers:

Orion Electric Co.—TV/Radio model 759C/Chassis: CTV–5x

Goldstar—TV/Radio model RCV–0615

Goldstar—TV/VCR model KMV–9002

Commodore Business Machines—computer monitor model 1084(D)

A–580–501: Photo Albums and Filler Pages:

U.S. Customs inquiry—unfinished filler pages

Bowon Trading Co.—photo frame/albums (models 101257, 201257, 200957, 214357, 279757, 301457, 401357, 200857, 201057, and 318357)

A–580–605: Color Picture Tubes; Penn-Ray Sutra Corp.—video game displays

Country: Japan

A–588–007: Certain High Capacity Pagers; Motorola—components and subassemblies

A–588–018: Television Receiving Sets, Monochrome and Color:

NEC—Subassemblies: W5A–1 (HE), W4A–1 (HE), W3A–1 (HE), W5A–1, and W4A–1

Sharp—LCD TV/Radio/Cassette model 3C–AV1

Teknika Electronics Corp.—P.C.B. subassemblies

Sharp—LCD TV/VCR model VC–V542U

Casio Computer Co., Ltd., Casio, Inc., Citizen Watch Co., Ltd. Hitachi, Ltd., Hitachi Sales Corporation of America, Hitachi Sales Corporation of Hawaii, Inc., Matsushita Electric Industrial Co., Ltd., Matsushita Electric Corporation of America, NEC Corporation, NEC Home Electronics (U.S.A.), Inc., Seiko Epson Corporation, Toshiba Corporation, and Toshiba America, Inc.—certain hand-held liquid crystal display televisions (Casio Computer Co., Ltd. models TV–400T, TV–500, TV–1400, TV–3100, TV–3500; Citizen Watch Co., Ltd. models 06TA, 06TA, TB20, TA80, TC50, TC53, DD–T126, DD–P226, TC52; Matsushita Electric Industrial Co., Inc. models CT–301E/302B, CT–311E/312B; and Seiko Epson Corporation models LVD–602, LVD–702, LVD–802) and all other LCD TVs under 6" in screen size imported into the United States

A–588–041: Synthetic Methionine; Mitsui—lactet

A–588–087: Portable Electric Typewriters:

Smith Corona—"later developed" typewriters — preliminary issued 8/7/90

Tokyo Juki—"office" typewriter models: Juki Seirra 4500, Sierra 3300, Sierra 3400, Sierra 3400C, Sierra 3500, Sierra 3500XL, Sierra Officewriter, Remington Rand 770, Remington Rand 775, Remington Rand 880, Avanti 1400, and Avanti 1500

Swintec/Nakajima—"office" typewriter models: 8000, 8000SP, 8011, 8011SP, 8012, 8014S, 8014KSR, 8016, 8017, 1145CM, 1146CM, 1146CMA, 1146CMP, 1146CMSp, 1186CM, and 1186CMP

Silver Reed/Silver Seiko—"office" typewriter models: EX–300, EX–300, EX–30 (85–EP), EX–32 (87–EP), EX–34 (89–EP), EX–36 (88–SP), EX–42, EX–43, EX–44, EZ–30, and EZ–50

Matsushita—"penwriter" typewriter models: X–Y Writer, RK–P200C, RK–P240, RK–P300, RK–P400, RK–P400C, and RK–P440

A–588–702: Stainless Steel Butt Weld Pipefittings:

Benkan Corporation—super clean pipe fittings—preliminary issued 8/23/90

Inox, Inc.—sanitary pipe fittings—preliminary issued 9/25/90

A–588–808: Electrolytic Manganese Dioxide; Sumitomo—High-grade chemical manganese dioxide (CMD–U)

A–588–810: Mechanical Transfer Presses; Aida Engineering—spare and replacement parts

Interested parties are invited to comment on the accuracy of the list of pending scope clarification requests. Any comments should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230.

Dated: October 19, 1990.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 90–25173 Filed 10–24–90; 8:45 am]

BILLING CODE 3510–DS–M

Short-Supply Request for Comments: Certain Alloy Steel Plate

AGENCY: Import Administration/International Trade Administration, Commerce.

ACTION: Notice of short-supply review and request for comments; certain alloy steel plate.

SUMMARY: The Secretary of Commerce ("Secretary") hereby announces a review and request for comments on a short-supply request for 200 metric tons of certain alloy steel plate for the remainder of 1990 under paragraph 8 of U.S.-Japan steel arrangement.

SHORT-SUPPLY REVIEW NUMBER: 28.

SUPPLEMENTARY INFORMATION: Pursuant to section 4(b)(3)(B) of the Steel Trade Liberalization Program Implementation Act, Public Law No. 101–221, 103 Stat. 1886 (1989) ("the Act"), and section 104(b) of the Department of Commerce's Short-Supply Procedures (19 CFR 357.104(b)) ("Commerce's Short-Supply Procedures"), the Secretary hereby announces that a short-supply request is under review with respect to certain alloy steel plate. On October 12, 1990, the Secretary received an adequate petition from U.S. Metalsource, requesting a short-supply allowance for 200 metric tons of this product during the remainder of 1990 under Paragraph 8 of the Arrangement Between Japan and the Government of the United States of America Concerning Trade in Certain Steel Products. U.S. Metalsource has requested short supply because its

Japanese supplier has no regular export licenses available and it believes the product is not produced in the United States.

The requested material meets the following specifications:

Chemical Composition, Typical

C	Mn	S	Si	Cu	Ni	Al
0.15	1.50	0.10	0.30	1.00	3.00	1.00

Manufacturing Practice

NAK 55 is initially air melted to restrictive clean steel standards and then Vacuum Arc Remelted to obtain the level of internal soundness and cleanliness necessary. The ingots are then hot rolled or forged to the billet, plate, or bar sizes.

Thermal Treatment

NAK 55 is solution treated and age hardened to obtain the desired mechanical properties and hardness.

Mechanical Properties, typical

Tensile Strength	—189 ksi
Yield Strength	—147 ksi
Reduction of Area	—30%
Elongation in 2 inches	—15%
Hardness	—40 HRC

Size Ranges

Thickness: 0.750 inch to 4.000 inches
Widths: 15 inches to 40 inches.

Polishability

Nak 55 can be readily polished to a uniform mirror finish.

Weldability

Using prescribed welding procedure and welding rods, NAK 55 can be readily weld repaired. The welded component can then be re-aged to obtain the same properties and characteristics in the weld region as in the parent metal with no distortion.

Section 4(b)(4)(D)(ii) of the Act and § 357.102(b)(2) of Commerce's Short-Supply Procedures require the Secretary to make a determination with respect to a short-supply petition not later than the 30th day after the petition is filed, unless the Secretary finds that one of the following conditions exist: (1) The raw steelmaking capacity utilization in the United States equals or exceeds 90 percent; (2) the importation of additional quantities of the requested steel product was authorized by the Secretary during each of the two immediately preceding years; or (3) the requested steel product is not produced in the United States. The Secretary finds that none of these conditions exist with respect to the requested product, and therefore, the Secretary will determine whether this product is in short supply not later than November 9, 1990.

Comments: Interested parties wishing to comment upon this review must send written comments not later than November 1, 1990. to the Secretary of Commerce, Attention: Import Administration, room 7866, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230. Interested parties may file replies to any comments submitted. All replies must be filed not later than 5 days after (November 1, 1990). All documents submitted to the Secretary shall be accompanied by four copies. Interested parties shall certify that the factual information contained in any submission they make is accurate and complete to the best of their knowledge.

Any person who submits information in connection with a short-supply review may designate that information, or any part thereof, as proprietary, thereby requesting that the Secretary treat that information as proprietary. Information that the Secretary designates as proprietary will not be disclosed to any person (other than officers or employees of the United States Government who are directly concerned with the short-supply determination) without the consent of the submitter unless disclosure is ordered by a court of competent jurisdiction. Each submission of proprietary information shall be accompanied by a full public summary or approximated presentation of all proprietary information which will be placed in the public record. All comments concerning this review must reference the above-noted short-supply review number.

FOR FURTHER INFORMATION CONTACT: Marissa A. Rauch or Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, room 7866, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230, (202) 377–1382 or (202) 377–0159.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-25170 Filed 10-24-90; 8:45 am]

BILLING CODE 3510-DS-M

Short-Supply Determination: Certain Continuous Cast Steel Slabs

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice of short-supply determination on certain continuous cast steel slabs.

SHORT-SUPPLY REVIEW NUMBER: M.

SUMMARY: The Secretary of Commerce ("Secretary") hereby grants a request for a short-supply allowance of 195,000 net tons of certain continuous cast steel slabs for October 1990 through June 1991 under Article 8 of the U.S.–E.C. and U.S.–Brazil steel arrangements, and Paragraph 8 of the U.S.-Japan steel arrangement.

EFFECTIVE DATE: October 18, 1990.

FOR FURTHER INFORMATION CONTACT: Kathy McNamara or Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230 (202) 377–1390 or (202) 377–0159.

SUPPLEMENTARY INFORMATION: On September 18, 1990, the Secretary received an adequate short-supply petition from Rouge Steel Company ("Rouge Steel") requesting a short-supply allowance for 215,000 net tons of certain continuous cast steel slabs for the fourth quarter of 1990 and the first and second quarters of 1991 under Article 8 of the Arrangement Between the European Coal and Steel Community and the European Economic Community, and the Government of the United States of America Concerning Trade in Certain Steel Products, Article 8 of the Arrangement Between the Government of Brazil and the Government of the United States Concerning Trade in Certain Steel Products, and Paragraph 8 of the Arrangement Between the Government of Japan and the Government of the United States Concerning Trade in Certain Steel Products. Rouge Steel's petition alleges that due to a planned reline of one of its blast furnaces in the second quarter of 1991, as well as the domestic industry's inability to supply slabs meeting Rouge's specifications, short supply will exist during the period October 1990 through June 1991 for the noted continuous cast slabs. Rouge Steel further alleges that, although the blast furnace outage will not occur until the second quarter of 1991, it must import some replacement material prior to the outage so that the material is available when the outage occurs.

The Secretary conducted this short-supply review pursuant to section 4(b)(4)(A) of the Steel Trade Liberalization Program Implementation Act, Public Law No. 101–221, 103 Stat. 1886 (1989) ("the Act"), and Section

357.102 of the Department of Commerce's Short-Supply Procedures, 19 CFR 357.102 ("Commerce's Short-Supply Procedures").

The requested material meets the following specifications:

1. Continuous cast slabs—Class I, Class II, & Class III—Critical exposed material
2. Gauge—7.0 inches to 8.25 inches
3. Length—362 inches
4. Width—38 inches to 66 inches
5. Type—Class I: SAE C-1008 AK, Class II: SAE C-1010 AK, Class III: SAE 980 XP-950 XF

Tolerances:

1. Width: Plus or minus 0.5 inch
2. Thickness: Plus 0.25 inch or minus 0.5 inch
3. Length: Plus or minus 2.0 inch.

Action

On September 18, 1990, the Secretary established an official record on this short-supply request (Case Number 24) in the Central Records Unit, room B-099, Import Administration, U.S. Department of Commerce at the above address. On September 28, 1990, the Secretary published a notice in the Federal Register announcing a review of this request and soliciting comments from interested parties. Comments were required to be received no later than October 3, 1990, and interested parties were invited to file replies to any comments no later than five days after that date. In order to determine whether this product, or a viable alternative product, could be supplied in the U.S. market for the period of this review, the Secretary sent questionnaries to: Armco Inc. ("Armco"), Bethlehem Steel Corporation ("Bethlehem"), Citisteel USA ("Citisteel"), Geneva Steel Company ("Geneva"), Gulf States Steel ("Gulf States"), Inland Steel Industries ("Inland"), LTV Steel Company ("LTV"), Lukens Steel Company ("Lukens"), McLouth Steel ("McLouth"), National Steel Corporation ("National"), Oregon Steel, Inc. ("Oregon"), USX Corporation ("USX"), Wheeling-Pittsburgh Steel Corporation ("Wheeling-Pittsburgh"), and Weirton Steel Corporation ("Weirton"). The Secretary received adequate questionnaire responses from 10 of the 14 companies. No comments were filed in response to the Federal Register notice.

Questionnaire Responses:

Seven of the 10 respondents (Inland, USX, National, Gulf States, Armco, Lukens, and Weirton) responded that they could not produce slabs in the physical dimensions required by Rouge. One respondent, McLouth, stated that it could not produce critical exposed material. LTV indicated that it could supply ingot-teemed slabs meeting the physical specifications, but it could not produce concast slabs meeting the physical dimensions required. Bethlehem indicated that it may be able to supply up to 20,000 net tons in the second quarter of 1991, but it is unable to commit to this quantity so far in advance of the second quarter.

Analysis

Rouge Steel alleges that the Department presently can determine short supply exists for the requested period based upon the inability of the domestic steel industry to produce slabs meeting Rouge's specifications. Of the potential suppliers contacted, only two indicated that they could possibly supply material that would meet Rouge's needs. LTV stated that it could meet Rouge's requirements in the second quarter using ingot-teemed slabs. However, Rouge states that continuous cast material is necessary for the noted slabs. It states that this material will be used to produce automotive parts such as the outer skins of hoods, decks, roofs, fenders and doors, as well as the support pillars on roofs and the arms on hoods and trunks. In fact, its customers for the sheet products made from these slabs demand that the steel being supplied be made by the continuous cast process. Therefore, the continuous cast requirement represents a reasonable specification.

Bethlehem stated that it may be able to supply up to 20,000 net tons of continuous cast material meeting Rouge's specifications in the second quarter. However, Rouge notes that Bethlehem cannot currently commit to supply this quantity. The Secretary notes that this request includes three months for the production outage when the short-supply tonnage will be consumed and the six months prior to the outage. Since the market for slabs is very volatile, it is not unreasonable for Bethlehem to be unable to commit to supply the 20,000 net tons six months prior to the second quarter. However, it would be unreasonable for the Department to grant short supply this far in advance of the second quarter based on Bethlehem's lack of commitment. Therefore, this tonnage must be deducted from Rouge's total projected shortfall, leaving Rouge with a shortfall of 195,000 net tons. Should Rouge be informed in the near future that Bethlehem will be unable to supply this material, the Secretary will reconsider its decision on this tonnage.

Conclusion

Because Rouge requires 215,000 net tons of continuous cast material to meet its production needs during the reline of its blast furnace in the second quarter, and because one domestic producer may supply up to 20,000 net tons of the needed material, the Secretary determines that short supply exists for 195,000 net tons of continuous cast steel slabs meeting Rouge's specifications. Pursuant to section 4(b)(4)(A) of the Act, and § 357.102 of Commerce's Short-Supply Procedures, the Secretary grants Rouge's request for a short-supply allowance of 195,000 net tons of certain continuous cast steel slabs for the fourth quarter of 1990 and the first and second quarters of 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-25169 Filed 10-24-90; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

Business Development Center Applications: Williamsburg (Brooklyn) New York (Service Area)

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for approximately a 3 year period, subject to the availability of funds. The cost of performance for the first 12 months is estimated at $320,000 in Federal funds and a minimum of $56,470 in non-Federal contributions for the budget period April 1, 1991 to March 31, 1992. Cost-sharing contributions may be in the form of cash contributions, client fees for services, in-kind contributions, or combinations thereof. The MBDC will operate in the Williamsburg, Brooklyn, N.Y. SMSA geographic service area. This project should focus on assisting the minority business community in general and specifically the Hasidic Community of Williamsburg.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can

coordinate and broker public and private resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodology) to performing the work requirements included in the application (20 Points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive.

MBDC shall be required to contribute at least 15% of the total project cost through non-Federal contributions. Client fees for billable management and technical assistance (M&TA) rendered must be charged by MBDCs. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for the firms with gross sales of $500,000 or less and 35% of the total cost for firms with gross sales of over $500,000.

The MBDC may continue to operate, after the initial competitive year, for up to 2 additional budget periods. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDC based on such factors as an MBDC's satisfactory performance, the availability of funds and Agency priorities.

• Applicants who have an outstanding account receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements satisfactory to the Department are made to pay the debt.

• Section 319 of Public Law 101-121 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. A "Certification for Contracts, Grants Loans, and Cooperative Agreements" and the SF-LLL, "Disclosure of Lobbying Activities" (if applicable), is required.

• Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26. In accordance with the Drug-Free Workplace Act of 1988, each applicant must make the appropriate certification as a "prior condition" to receiving a grant or cooperative agreement.

• Awards under this program shall be subject to all Federal and Departmental regulations, policies, and, procedures applicable to Federal assistance awards.

• Applicants should be reminded that a false statement on the application may be grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment.

Closing Date: The closing date for applications is November 26, 1990. Applications must be postmarked on or before November 26, 1990.

ADDRESS: New York Regional Office, Minority Business Development Agency, Jacob K. Javits Federal Building, 3720, New York, New York 10278, Area Code/ Telephone Number: (212) 264-3262.

FOR FURTHER INFORMATION CONTACT: William R. Fuller, Regional Director, New York Regional Office.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372 "Intergovernmental Review of Federal Programs" is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: October 16, 1990.

William R. Fuller, Regional Director (Acting),
New York Regional Officer.

[FR Doc. 90-25254 Filed 10-24-90; 8:45 am]
BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Marine Mammals; Permits

AGENCY: National Marine Fisheries Service, NOAA, DOC.

ACTION: Modification #1 to Permit No. 537 (P77#16).

SUMMARY: The Northwest & Alaska Fisheries Center, National Marine Fisheries Service, 7600 Sand Point Way, NE., Seattle, Washington 98115, requested an extension of Permit No. 537. Notice is hereby given that pursuant to the provisions of §§ 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), Scientific Research Permit No. 537 is modified as follows:

Special Condition B.5 is revised to read:

"5. This Permit is valid with respect to the activities authorized herein until June 30, 1991."

This modification is effective upon publication in the Federal Register.

Documents submitted in connection with the above Permit and modification are available for review in the following offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, Silver Spring, Maryland 20910; and

Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, Washington 98115.

Dated: October 18, 1990.

Nancy Foster,
Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 90-25198 Filed 10-24-90; 8:45 am]
BILLING CODE 3510-22-M

National Technical Information Service

Prospective Grant of Exclusive Patent License; Harrison Western Environmental Services, Inc.

This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Technical Information Service (NTIS), U.S. Department of Commerce, is contemplating the grant of coexclusive licenses in the United States to practice the invention embodied in U.S. Patent Application Number 7-429,326, "Polymer Bead Containing Immobilized Metal Extractant" to Harrison Western Environmental Services, Inc., having a place of business at 1206 Quail Street, Lakewood, Colorado 80215 and R.A. Hanson Company, Inc., having a place of business at North 8200 Crestline, Spokane, WA 99207. The patent rights in this invention have been assigned to the United States of America.

The prospective exclusive licenses will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive licenses may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the licenses would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The invention covers spherical polymeric beads having internal pore structures containing extractant material capable of sorbing toxic metals, a process for producing such beads and a method for removing toxic metal wastes dissolved in dilute aqueous streams.

The availability of the invention for licensing was published in the Federal Register of July 18, 1990, Vol. 55, No. 138, p. 29255. A copy of the instant patent application may be purchased from NTIS Sales Desk by telephoning 703/487–4650 or by writing to Order Department, NTIS, 5285 Port Royal Road, Springfield, VA 22161.

Inquiries, comments and other materials relating to the contemplated licenses must be submitted to Charles A. Bevelacqua, Center for Utilization of Federal Technology, NTIS, Box 1423, Springfield, VA 22151. Properly filed competing applications received by NTIS is response to this notice will be considered as objections to the grant of the contemplated licenses.

Douglas J. Campion,

Center for Utilization of Federal Technology, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 90–25178 Filed 10–24–90; 8:45 am]

BILLING CODE 3810-04-M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.165A]

Magnet Schools Assistance Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1991

Purpose of Program: Provides grants to eligible local educational agencies to support magnet schools that are part of approved desegregation plans.

Deadline for Transmittal of Applications: December 12, 1990.

Deadline for Intergovernmental Review: February 11, 1991.

Applications Available: October 24, 1990.

Available Funds: The Department has requested $113,189,000 for this program in fiscal year 1991. However, the level of funding is contingent upon final congressional action.

Estimated Range of Awards: $183,705–$4,000,000.

Estimated Number of Awards: 60.

Average Award: $1,886,000.

Project Period: 24 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82 (published at 55 FR 6736, February 26, 1990), 85, and 86 (published at 55 FR 33580, August 16, 1990); and (b) The regulations for this program in 34 CFR part 280.

SUPPLEMENTARY INFORMATION: Applicants must submit with their applications one of the following types of desegregation plans: (1) A plan required by a court order; (2) a plan required by a State agency or official of competent jurisdiction; (3) a plan required by the Office for Civil Rights (OCR), United States Department of Education, under Title VI of the Civil Rights Act of 1964 (Title VI plan); or (4) a plan voluntarily adopted by the applicant.

An applicant that submits a plan required by a court, State agency or official of competent jurisdiction, must obtain approval for any modification to the plan from the court, agency, or official that originally approved the plan. A previously approved desegregation plan that does not include the magnet school or program for which an applicant is now seeking assistance under this program must be modified to include the magnet school component, and the modification to the plan must be approved by a court, agency, or official, as appropriate. An applicant should indicate in its application if it is seeking to modify its previously approved plan. However, all applicants must submit proof to the Department of approval of all modifications to their plans by January 15, 1991. If an applicant submits a modification to a previously approved Title VI plan, the proposed modification will be reviewed by OCR for approval as part of this magnet schools application process.

An applicant submitting a desegregation plan as described in 1, 2, or 3 above, must provide an assurance that the plan is being implemented as approved. An applicant submitting a voluntary plan or a modification to a Title VI plan for approval by the Secretary must provide a copy of a school board resolution or other evidence of final official action adopting and implementing the plan, or agreeing to adopt and implement it if MSAP funds are made available.

For the purpose of reviewing voluntary and Title VI plans, the Secretary has adopted the following general statement of policy. It is the Secretary's intention, in reviewing a voluntary or Title VI plan for approval, to consider: (1) Whether each magnet school or program for which funding is sought actually reduces, eliminates or prevents minority group isolation, or is expected to do so, either in the magnet school(s) or in the school(s) from which students are drawn to attend magnet schools or programs, as appropriate; and (2) whether the establishment of the magnet school or program does not result in the increase of minority enrollment, at any school from which students are drawn to attend the magnet school or program, above the district-wide proportion of minority students at those schools.

The Secretary intends to apply both criteria as well as other pertinent factors in deciding whether to approve a plan. For a plan intended to reduce minority group isolation in a school, the Secretary will also consider whether, but for the magnet school, minority group isolation would be greater at that school.

FOR APPLICATIONS OR INFORMATION CONTACT: Annie R. Mack, U.S. Department of Education, 400 Maryland Avenue, SW., room 2059, FOB #6, Washington, DC 20202–6439. Telephone (202) 401–1361.

Program Authority: 20 U.S.C. 3021–3032.

Dated: October 18, 1990.

Lauro F. Cavazos,

Secretary of Education.

[FR Doc. 90–25174 Filed 10–24–90; 8:45 am]

BILLING CODE 4000-01-M

Education Indicators Special Study Panel; Meeting

AGENCY: Special Study Panel on Education Indicators; Meeting.

ACTION: Cancellation of meeting.

SUMMARY: This notice cancels a meeting of the Special Study Panel on Education Indicators scheduled for November 1–2, 1990 at the Hyatt Regency, 1 Bethesda Metro Center, Bethesda, Maryland, as announced in the Federal Register on October 2, 1990, (55 FR 40220).

Dated: October 22, 1990.

Thomas E. Hill,

Acting Assistant Secretary for Educational Research and Improvement.

[FR Doc. 90–25402 Filed 10–24–90; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. QF91-6-000, et al.]

Georgetown Cogeneration, L.P., et al.; Electric rate, Small power production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

BEST COPY AVAILABLE

2. Georgetown Cogeneration, L.P.

[Docket No. QF91-8-000]

October 17, 1990.

On October 2, 1990, Georgetown Cogeneration, L.P., of 701 East Byrd Street, Richmond, Virginia 23219, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Washington, D.C. on the campus of Georgetown University. The facility will consist of a combustion turbine generator, a supplementary fired waste heat recovery boiler and an extraction/condensing steam turbine generator. Thermal energy recovered from the facility will be used for campus heating and cooling requirements. The maximum net electric power production capacity of the facility will be 56 MW. The primary source of energy will be natural gas. Construction of the facility is expected to commence in 1991.

Comment date: Thirty days from publication in the Federal Register, in accordance with Standard Paragraph E at the end of this notice.

3. PacifiCorp Electric Operations and Arizona Public Service Company

[Docket No. ER91-26-000]

October 18, 1990.

Take notice that on October 12, 1990, PacifiCorp Electric Operations ("PacifiCorp") and Arizona Public Service Company ("Arizona") (collectively the "Companies") jointly tendered for filing, in accordance with 18 CFR 35.13 of the Commission's Rules and Regulations, an Asset Purchase and Power Exchange Agreement, Transmission Agreement and Long-Term Power Transactions Agreement between the Companies each dated September 21, 1990. Collectively these agreements provide PacifiCorp with transmission rights associated with purchased generation facilities in Arizona, reciprocal use of the parties' Cholla plant and combustion turbine generating facilities, firm power sales by PacifiCorp to Arizona, seasonal power exchanges, transmission system improvements energy storage services an energy purchase option and additional transmission rights.

The Companies request, that the notice requirements prescribed in 18 CFR 35.3 be waived and that the agreements be made effective as of January 11, 1991, the negotiated effective date of the agreements and the closing of the transactions.

Copies of this filing have been served upon the Arizona Corporation Commission, the Public Utilities Commission of the State of California, the Idaho Public Utilities Commission, the Montana Public Service Commission, the Public Utility Commission of Oregon, the Utah Public Service Commission, the Washington Utilities and Transportation Commission and the Public Service Commission of Wyoming.

Comment date: November 1, 1990, in accordance with Standard Paragraph E at the end of this notice.

3. American Municipal Power-Ohio, Inc., City of Dover, Ohio, City of Orrville, Ohio, City of St. Marys, Ohio, City of Shelby, Ohio, City of Hamilton, Ohio, Complainants v. Ohio Power Company, American Electric Power Company, Inc., Respondents

[Docket No. EL91-1-000]

October 18, 1990.

Take notice that on October 15, 1990, American Municipal Power-Ohio, Inc. ("AMP-Ohio") and the Cities of Dover, Orrville, St. Marys, Shelby, and Hamilton, Ohio, pursuant to Rules 206, 207 and 212 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206, 385.207, 385.212, and §§ 206 and 306 of the Federal Power Act, 16 U.S.C. 824e, 825e, filed a Complaint, Petition for Declaratory Order and Request for Hearing and Refund Effective Date (and related motions) against Ohio Power Company and American Electric Power Company, Inc.

The Complaint alleges that AMP-Ohio and Ohio Power are parties to an Interconnection Agreement dated as of April 1, 1974 ("1974 Agreement"), and that four of the Cities currently obtain services from Ohio Power through AMP-Ohio under the 1974 Agreement. The Complaint alleges that Ohio Power has breached the 1974 Agreement in a number of respects, including improperly charging AMP-Ohio and the Cities for power and energy at Excess Inadvertent rates, imposing reserve requirements not provided for in the 1974 Agreement, and refusing to provide additional or upgraded interconnection points. Certain issues relating to Excess Inadvertent charges and reserve requirements are the subject of Docket No. EL90-42-000.

The Complaint also alleges that certain rates, terms and conditions of the 1974 Agreement are unjust and unreasonable.

AMP-Ohio and the Cities request the Commission to initiate a hearing to investigate the allegations made by them in the Complaint and to establish just and reasonable rates, terms and conditions for the services at issue. AMP-Ohio and the Cities also request the Commission to invoke the provisions of the Regulatory Fairness Act, Pub. L. 100-473 (1988) and establish a Refund Effective Date 60 days after the date of this filing.

Comment date: November 19, 1990, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-25165 Filed 10-24-90; 8:45 am]

BILLING CODE 6717-01-M

Western Area Power Administration

Boulder Canyon Project—Proposed Power Rate

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed power rate adjustment, Boulder Canyon project.

SUMMARY: The Western Area Power Administration (Western) is proposing to adjust the rates for the sale of power and energy from the Boulder Canyon Project (BCP). The rate adjustment for the BCP is necessary to cover annual operating expenses and to repay the Federal investment and the funds advanced by certain customers to complete the uprating of existing generating units (Uprating Program) of the BCP. The proposed rate schedule is composed of an energy charge of 5.00 mills per kilowatthour (kWh) and a capacity charge of $1.03 per kilowatt (kW) per month. The present rate schedule is composed of an energy

charge of 3.41 mills per KWh for energy and $0.75 per kW per month for capacity. The present power rate was placed in effect on June 1, 1987.

The power repayment study utilized in the calculation of the proposed capacity charge and energy rate indicates that this charge and rate will provide sufficient revenue to pay all annual costs plus required debt service.

Western has analyzed the subject study and notes that the ratesetting year is fiscal year (FY) 1995. As a result of the high annual costs (operation, maintenance, replacements, and the Uprating Program debt service) during the first 5 future years (FY's 1991–1995), the power repayment study has calculated, consistent with Departmental policy and the BCP's general regulations for sale of power, an average capacity charge and energy rate. However, the calculated average capacity charge and energy rate result in an accumulation of significant revenues in excess of the annual cost and required debt service after FY 2008.

In order to provide the necessary cash-flow to the Bureau of Reclamation (Reclamation) for the operation, maintenance, replacement, and debt service during FY's 1991–1995, Western must set the rates at the proposed level with the expectation of reducing these rates at some time in the future (after the critical cash-flow period has been resolved).

Western is also considering an alternative to the above-described proposal that would consist of a base rate and an additional revenue assessment component. Under this approach, the rate schedule is composed of an energy charge of 4.56 mills per kilowatthour (kWh) and a capacity charge of $0.94 per kilowatt (kW) per month with a revenue assessment to be effective for each of fiscal years (FY) 1991–1995. The revenue amounts will be determined by the project requirements less revenues expected to be realized from the base rate. These revenues will differ from year to year and be distributed to customers based upon the customer's amount of Hoover entitlement.

The power repayment study utilized in the calculation of this alternative indicates that this rate, plus an associated revenue assessment during the period of FY's 1991–1995, will provide sufficient revenue to pay all annual costs plus required debt service.

Western has analyzed this alternative study and notes that the ratesetting year is FY 2012. As a result of the high annual costs (operation, maintenance, interest, replacements, and the Uprating Program debt service) during the years 1991–2017, the power repayment study calculates an average capacity charge and energy rate that results in an accumulation of significant revenues in excess of the annual cost and required debt service after FY 2016.

Adoption of this alternative would provide the necessary cash-flow to Reclamation for the operation, maintenance, replacement, and debt service during FY's 1991–1995. In addition, it would reduce the revenues in excess of the annual cost and required debt service during the study period through a base rate for the study period with an annual revenue assessment to be effective for each of FY's 1991–1995. This option was discussed with the customers during an informal meeting on September 7, 1990, and may be further discussed, as well as any other options offered by the customers, during the public participating and consultation period.

Under either alternative, Western will continue to add to the proposed rate a charge of 2.5 mills for every kWh of energy generated from the BCP and sold to customers in California and Nevada, and 4.5 mills for every kWh of energy generated from the BCP and sold to customers in Arizona for augmentation of the Lower Colorado River Basin Development Fund.

This notice will cancel the Notice of Proposed Power Rates, Boulder Canyon Project, published in the Federal Register on June 22, 1988 (53 FR 23446), which provided notice of a proposed rate of 3.94 mills per kWh for energy and $0.91 per kW for capacity. On May 17, 1989, the Administrator of Western submitted Rate Order No. WAPA–41 to the Deputy Secretary for approval of rates adjusted to 3.01 mills per kWh for energy and $0.62 per kW per month for capacity, which was a composite rate reduction of about 17 percent. Subsequently, due to further review of more recent BCP cost data, Western withdrew its request for approval of the proposed rates under Rate Order No. WAPA–41, and the rate order was returned to Western on October 16, 1989, without action. By letter dated October 24, 1989, Western's Boulder City Area Office [1] notified the BCP contractors about the withdrawal of Rate Order No. WAPA–41.

The proposed rates provided for in this notice will replace the rates put into effect on an interim basis on June 1, 1987, by the Under Secretary of the Department of Energy (DOE) and approved on a final basis by the Federal Energy Regulatory Commission (FERC) order issued May 18, 1988.

In Rate Order No. WAPA–84 (52 FR 21351, June 5, 1987), Western indicated that a new computer program would be developed and that issues raised in the determination of the rates put into effect on June 1, 1987, would be addressed. Western developed the new computer program, which included the modifications requested by the BCP customers. The new program, which was explained to the BCP customers at an informal meeting held in Los Angeles, California, on May 5, 1988, was used in the rate analysis in determining the need for this rate adjustment. The research and analysis information in support of the need for and the probable effect of the proposed rates, including the BCP repayment analysis, is available for review and copying at Western's Boulder City Office. In addition, copies of the revenue requirements analysis to support the need for the adjusted rates will be distributed to the BCP customers and other interested parties. Since the proposed rates constitute a major rate adjustment as defined by the current procedures for public participation in general rate adjustments, as cited below, a public information and a public comment forum will be held. After review of public comments, Western will recommend final proposed rates.

DATES: the effective date of the rate adjustment is intended to be the first full billing period beginning not less than 30 days after the rates are put into effect on an interim basis by the Deputy Secretary of DOE. The consultation and comment period will begin with publication of this notice in the Federal Register and will end January 28, 1991. A public information forum at which Western will outline the methodology used in developing the proposed rates will be held at 10 a.m. on November 15, 1990. A public comment forum at which Western will receive oral and written comments will be held at 10 a.m. on November 30, 1990.

Written comments should be received by the end of the consultation and comment period to be assured consideration and should be sent to the address below.

ADDRESSES: The public information forum and public comment forum will be held at Western's Boulder City Office, 3 miles south on Buchanan Road, Boulder City, Nevada, on the dates and times cited above. Written comments may be sent to:

Mr. Thomas A. Hine, Area Manager, Phoenix Area Office, Western Area

[1] Effective June 17, 1990, the Boulder City Area Office became the Phoenix Area Office located in Phoenix, Arizona.

Power Administration, P.O. Box 6457, Phoenix, AZ 85005.

A copy of written comment should also be sent to the Assistant Area Manager for Power Marketing at the address below.

FOR FURTHER INFORMATION CONTACT: Mr. Earl W. Hodge, Assistant Area Manager for Power Marketing, Boulder City Office, Phoenix Area Office, Western Area Power Administration, P.O. Box 200, Boulder City, NV 89005, [702] 294-3256.

SUPPLEMENTARY INFORMATION: Power rates for the BCP are stablished pursuant to the Department of Energy Organization Act (42 U.S.C. 7101, *et seq.*); the Reclamation Act of 1902 (43 U.S.C. 372) and all acts amendatory thereof and supplementary thereto, and particularly section 9(c) of the Reclamation Act of 1939 (43 U.S.C. 485h(c)); the Colorado River Basin Project Act of 1968 (43 U.S.C. 1501, *et seq.*); the Boulder Canyon Project Act of 1928 (43 U.S.C. 617, *et seq.*); the Boulder Canyon Adjustment Act of 1940 (43 U.S.C., 618, *et seq.*); the Hoover Power Plant Act of 1984 (43 U.S.C. 619, *et seq.*); and the General Regulations for the Charges for the Sale of Power from the Boulder Canyon Project, Final Rule (General Regulations) [10 CFR part 904] published in the Federal Register at 51 FR 43114 on November 28, 1986. By Delegation Order No. 0204-108, effective December 14, 1983 (48 FR 55664), as amended May 30, 1986 (51 FR 19744), reassigned by DOE Notice 1110.29 dated October 27, 1988, and clarified by Secretary of Energy Notice SEN-10-89 dated August 3, 1989, and subsequent revisions, the Secretary of Energy delegate: (1) The authority on a nonexclusive basis to develop long-term power and transmission rates to the Administrator of Western; (2) the authority to confirm, approve, and place such rates in effect on an interim basis to the Deputy Secretary of DOE; and the authority to confirm, approve, and place in effect on a final basis, to remand, or to disapprove such rates to FERC.

The procedures for public participation in rate adjustments for power marketed by Western are formally cited as Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions (10 CFR part 903), published in the Federal Register at 50 FR 37837 on September 18, 1985, and 50 FR 48075 on November 21, 1985.

Availability of Information

All brochures, studies, comments, letters, memorandums, and other documents made or kept by Western for the purpose of developing the proposed rate are and will be available for inspection and copying at the Boulder City Office, located at the address noted above.

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, the initiation of the BCP rate adjustment is related to nonregulatory services provided by Western at a particular rate. Under 5 U.S.C. 601(2), rules of particular applicability relating to rates or services are not considered rules within the meaning of the act. Since the BCP rate is of limited applicability, no flexibility analysis is required.

Determination Under Executive Order 12291

DOE has determined that this is not a major rule within the meaning of the criteria of section 1(b) of Executive Order 12291. In addition, Western is exempt from sections 3, 4, and 7 of that order, and therefore will not prepare a regulatory impact statement.

Paperwork Reduction Act of 1980

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520) requires that certain information collection requirements be approved by the Office of Management and Budget (OMB) before information is demanded of the public. OMB has issued a final rule on the Paperwork Burdens on the Public (48 FR 13666) dated March 31, 1983. Ample opportunity was provided in the proposed rule for the interested public to participate in the development of the General Regulations. There is no requirement that members of the public participating in the development of the BCP rate supply information about themselves to the Government. It follows that the BCP rates are exempt from the Paperwork Reduction Act.

Environmental Evaluation

In compliance with the National Environmental Policy Act of 1969 (NEPA), Council on Environmental Quality Regulations (40 CFR parts 1500 through 1508), and DOE guidelines published in the Federal Register on December 15, 1987 (52 FR 47662), Western conducts an environmental evaluation of the proposed rate adjustments.

Section D of the DOE guidelines identifies the appropriate level of NEPA compliance for rate adjustments. Western will evaluate the proposed rate adjustment and prepare the appropriate documentation of NEPA compliance.

Issued at Golden, Colorado, October 18, 1990.

William H. Clagett,
Administrator.

[FR Doc. 90-25267 Filed 10-24-90; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 3854-7]

California State Motor Vehicle Pollution Control Standards; Waiver of Federal Preemption; Decision

AGENCY: Environmental Protection Agency.

ACTION: Notice of waiver of federal preemption.

SUMMARY: EPA is granting California a waiver of Federal preemption pursuant to section 209(b) of the Clean Air Act, as amended, 42 U.S.C. 7543(b), to adopt and enforce its revised emission standards and accompanying regulatory amendments for 1993 and later model year passenger cars and light duty trucks.

ADDRESSES: A copy of the above standards and procedures, and other amendments, the decision document containing an explanation of the Administrator's determination and the record of those documents used in arriving at this decision are available for public inspection in Docket A-90-11 during the working hours of 8:30 a.m. to 12 p.m., and 1:30 p.m. to 3:30 p.m., at the U.S. Environmental Protection Agency, Air Docket (LE-131), room M1500, First Floor Waterside Mall, 401 M Street, SW., Washington, DC 20460. Copies of the decision document can be obtained from EPA's Manufacturers Operations Division by contacting either Robert Doyle or Andy Brooks, whose address and telephone numbers appear below.

FOR FURTHER INFORMATION CONTACT: Rober M. Doyle, Attorney/Advisor, Manufacturers Operations Division (EN-340F), U.S. Environmental Protection Agency, Washington, DC 20460, Telephone: (202) 475-8666 or Andy Brooks, Chief, Recall Branch, Manufacturers Operations Division (EN-340F), U.S. Environmental Protection Agency, Washington, DC 20460, Telephone: (202) 382-2491.

SUPPLEMENTARY INFORMATION: I have decided to grant California a waiver of Federal preemption pursuant to section 209 (b)of the Clean Air Act, as amended (Act), 42 U.S.C. 7543(b), for its amendments which establish new standards, certification and enforcement procedures for 1993 and later model year passenger cars and light duty trucks. I also have determined that certain of CARB's amendments are within the scope of waivers of Federal preemption previously granted pursuant to section 209(b) of the Act.[1]

By letter dated April 23, 1990, the California Air Resources Board (CARB) submitted to the U.S. Environmental Protection Agency (EPA) a request for waiver of Federal preemption to enforce certain amendments to its motor vehicle pollution control program.[2] These amendments establish new, more stringent standards for hydrocarbon (HC) and carbon monoxide (CO) emissions from new light duty vehicles (LDVs) beginning with model year 1993.[3] The amendments also extend the applicable period of the amended HC and CO standards to 100,000 miles, thus requiring manufacturers to demonstrate at certification that their vehicles can meet the new HC and CO emission standards to 100,000 miles.[4] The new certification standards are to be phased in over the 1993 to 1995 model years, with manufacturers to certify 40 percent of their model year 1993 vehicles, 80 percent of their model year 1994 vehicles and 100 percent of their model year 1995 vehicles to the new standards. Small volume manufacturers are exempt from the new certification standards until model year 1995, when the standards apply to 100 percent of the vehicles produced by the small volume manufacturers.[5]

The amendments also establish separate in-use compliance standards for LDVs. Until model year 1997, the amendments allow manufacturers some transitional relief regarding in-use compliance by establishing "alternative in-use standards". For the 1993 and 1994 model years, the in-use compliance standards for HC and CO are relaxed to levels less stringent than the corresponding certification standards for these pollutants. In addition, in-use compliance enforcement for the 1993 and 1994 model year vehicles is limited to 50,000 miles. During model years 1995 and 1996, the stricter in-use compliance standards are in effect (i.e., the in-use standards are the same as the certification standards) but the enforcement period for those in-use standards will be phased in. For the 1995 and 1996 model years, respectively, 60 percent and 20 percent of a manufacturer's vehicles are permitted to use "alternative in-use compliance" standards (the relaxed standards from the 1993/1994 model years). The remaining respective 40 percent and 80 percent of production, however, must comply with the stricter in-use standards. In model year 1997, the certification standards and the in-use compliance standards become identical and all LDVs must comply with these standards for 100,000 miles.

Small volume manufacturers are not required to meet the 40 percent or 80 percent phase-in requirements; they are permitted to use the relaxed alternative in-use standards for all their production through the 1996 model year. Thereafter, all their vehicles are subject to the stricter in-use standards. Accordingly, there is no in-use compliance phase-in for small volume manufacturers.

To correspond to the new 100,000 mile durability certification standard, CARB has amended its recall regulations to establish a "useful life" for LDVs of 100,000 miles or 10 years, whichever occurs first. Therefore, the applicable recall period for vehicles certified to the new HC and CO standards is 100,100 miles or 10 years, whichever comes first. Although the recall liability extends to 100,000 miles, the amended standards direct that in-use compliance (i.e., recall) testing will not be conducted on vehicles with mileage accumulations of over 75,000 miles. CARB stated that it was practical to impose an upper limit on in-use testing for three reasons. First, the CARB mileage limit of 75,000 miles, or 75 percent of the useful lives of the affected vehicles, is consistent with the current Federal practice of setting the upper-limit compliance testing of 75 percent of useful life for vehicles and engines with longer useful lives (i.e., light-duty trucks and heavy-duty engines.) Second, CARB believes that it is difficult to procure acceptable in-use test vehicles with high mileages that have been maintained properly. Finally, CARB believes that the emission benefit of recalling and fixing failing engine families declines when older vehicles are involved since the cumulative emissions benefit per vehicle would be reduced because of its shorter remaining life.

The new certification requirements and durability requirements take effect beginning in the 1993 model year. To ease the burden of compliance for manufacturers, CARB has developed a phase-in schedule for the standards which results in a mix of vehicles with respect to the certification and in-use standards during model years 1993 through 1996. The following table shows this phase-in schedule:

Certification and In-use Standards Phase-in Percent Compliance per Model Year

[Based upon sales volume]

Model year	Certify to New Stds. (Percent)	Certify to Former Stds. (Percent)	Comply w/ Intermediate in-use Stds. (Percent)	Comply w/Final in-use Stds. (Percent)
1993	40	60	100	n/a
1994	80	20	100	n/a
1995	100	n/a	80	40
1996	100	n/a	20	80

[1] *See* 55 FR 20623 (July 13, 1990), 53 FR 21523 (June 8, 1988), and 49 FR 43502 (October 29, 1984).

[2] *See* letter from James D. Boyd, Executive Officer, CARB, to William K. Reilly, Administrator, EPA, dated April 23, 1990.

[3] The CARB amendments use the term "light-duty vehicles" (LDVs) to include passenger cars (PCs) and light-duty trucks (LDTs). LDTs are further broken down to "light light-duty trucks" (up to 3750 lbs. loaded vehicle weight) and "heavy light-duty trucks (from 3751 lbs. to 5750 lbs.).

[4] The CARB standards for exhaust emissions of nitrogen oxide (NO_x) and the standards for evaporative emissions both have a durability requirement of 50,000 miles.

[5] Title 13, California Code of Regulations, section 1960.1, as amended, defines "small volume manufacturer" to include any manufacturer with California sales of fewer than 3000 units.

Certification and In-use Standards Phase-in Percent Compliance per Model Year—Continued

[Based upon sales volume]

Model year	Certify to New Stds. (Percent)	Certify to Former Stds. (Percent)	Comply w/ Interme-diate in-use Stds. (Percent)	Comply w/Final In-use Stds. (Percent)
1997	100	n/a	n/a	100

The amendments also establish new certification procedures under which manufacturers must demonstrate 100,000 mile vehicle emission control durability. Manufacturers may satisfy this requirement either by providing emission data after accumulating 100,000 miles on a durability data vehicle, or by accumulating no fewer than 75,000 miles on a durability data vehicle and submitting other information (such as bench test data or in-use emission data) which will project compliance at 100,000 miles. If a manufacturer wishes to employ the alternative compliance durability vehicle test (i.e., submitting the 75,000 mile accumulation data, and the supplementary data), it must receive advance approval from the CARB Executive Director.

Manufacturers may choose to accrue durability data on either California configuration or "50-state" configuration vehicles, or on Federal ("49-state") vehicles, under certain conditions. Manufacturers may use Federal durability data vehicles during the phase-in period (model years 1993–1996) if the durability data were generated by a vehicle certified by EPA or CARB prior to the 1993 model year. In addition, even after model year 1996, manufacturers may request advance permission from the CARB Executive Director to use data from a later model year Federal durability vehicle if that vehicle's emission control system configuration is similar to the configuration in the corresponding California vehicle.

Manufacturers must also demonstrate that the durability vehicle can comply with the requirements of California's Inspection and Maintenance (I/M) Test standards. CARB adopted this amendment in an attempt to eliminate the problem of vehicles which are able to pass California certification, but, because of their design, may be prone to fail the California I/M test, even though the vehicles are properly maintained and used.[6]

Finally, CARB has amended existing regulations which implemented the "AB 965 Program" [7], also called the "Offset Program". Under this program, manufacturers may certify for sale in California certain Federally-certified vehicles if the excess emissions from these vehicles that exceed the California standards can be offset by the manufacturer's California certified vehicles with emissions below the California standards. The program grants manufacturers credits for their low-emitting California vehicles which they can then apply to their Federally certified vehicles which do not meet the California standards. The offset program thus allows manufacturers to sell in California vehicles which could not ordinarily be sold there, increasing model availability for California consumers.[8]

There are two amendments to the AB 965 program. First, the amendments add HC to the list of pollutants which are eligible for credits. Before the new CARB HC standards were adopted, the Federal and the California standards for total HC were identical (0.41 grams per mile (gpm)).[9] Since the offset program includes only those vehicle pollutants for which the California standards are more stringent than the Federal standards, HC was not previously eligible for the offset program. Because the new California HC standard is more stringent than the Federal standards (0.25 gpm non-methane hydrocarbons versus 0.41 gpm total hydrocarbons), the amendments make HC credits available to manufacturers participating in the AB 965 program.

Second, the amendments reduce by half the offset credits for CO and NOx available to manufacturers. CARB notes that in recent years, model unavailability has decreased significantly in California. CARB states that much of the usage of the AB 965 program is for economic and not technical reasons; although many of the vehicles now in California through the AB 965 program could have achieved compliance with California standards, it is less expensive and more convenient for manufacturers to use the AB 965 program and certify to the Federal standards only. Therefore, manufacturers have a reduced technological need for these AB 965 credits. CARB notes that the reduction in the available AB 965 credits will reduce the adverse emissions impact of the offsets program.

On May 15, 1990, EPA published a notice of opportunity for a public hearing and a request for written comments concerning California's request.[10] EPA received no request for a hearing, but received comments from three interested parties which have been addressed in the Decision Document. This determination is thus based on CARB's written submissions, the written comments received by EPA, and all other relevant information.[11]

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[6] For example, CARB reported that the California-certified 1985 and 1986 Ford Bronco and Aerostar have an I/M failure rate of approximately 60% due to the calibration of their air injection systems. *See* "Staff Report: Initial Statement of Reasons for Proposed Rulemaking," pp. 7–8, April 21, 1989, Docket A–90–11.

[7] "AB 965" stands for California Assembly Bill 965, the California law which established the offset program.

[8] These vehicles are usually high-performance cars.

[9] Under the former CARB procedures, manufacturers could certify their vehicles to either a total HC standard (0.41 gpm) or a non-methane HC standard (0.39 gpm).

[10] 55 FR 20189 (May 15, 1990).

[11] All this information is contained in Docket A–90–11. CARB's responses to the various comments by manufacturers and others are contained in the CARB document entitled "Final Statement of Reasons for Rulemaking, Including Summary of Comments and Agency Responses", an undated document submitted to EPA as the package of documents supporting CARB's waiver request. Other pertinent discussion of the technological feasibility, lead time and cost issues is found in the earlier CARB documents entitled "Staff Report: Initial Statement of Reasons for Proposed Rulemaking", dated April 21, 1989, and "Technical Support Document for A Proposal to Amend Regulations Regarding Exhaust Emission Standards, Test Procedures and Durability Requirements Applicable to Passenger Cars and Light-Duty Trucks for the Control of Hydrocarbon, Carbon Monoxide and Benzene Emissions", dated June 8, 1989.

Section 209(b) of the Act provides that, if certain criteria are met, the Administrator shall waive Federal preemption for California to enforce new motor vehicle emission standards and accompanying enforcement procedures. These criteria are consideration of whether California arbitrarily and capriciously determined that its standards are, in the aggregate, at least as protective of public health and welfare as the applicable Federal standards; whether California needs the State standards to meet compelling and extraordinary conditoins; and whether California's amendments are consistent with section 202(a) of the Act. As previous decisions granting waivers of Federal preemption have explained, State standards are inconsistent with section 202(a) if there is inadequate lead time to permit the development of the necessary technology given the cost of compliance within that time period or if the Federal and State test procedures impose inconsistent certification requirements.[12]

With regard to enforcement procedures accompanying standards, I must grant the requested waiver unless I find that these procedures may cause the California standards, in the aggregate, to be less protective of public health and welfare than the applicable Federal standards promulgated pursuant to section 202(a), or unless the Federal and California certification and test procedures are inconsistent.[13]

CARB has made a determination that, with the adoption of the new amendments, its State standards are, in the aggregate, at least as protective of public health and welfare as applicable Federal standards.[14] This conclusion is supported by the fact that the amended California standards are either equal to or more stringent than the corresponding Federal standards. Additionally, the increased vehicle durability standards in California will mean that vehicles produced to these new standards have a greater potential to be cleaner for a longer period than their counterpart Federally-certified vehicles.[15] No comments were received which question either CARB's "protectiveness" determination for these standards, or whether the new certification requirements undermine the protectiveness of the standards. Therefore, based on the record before me, I find that CARB's amendments do not undermine its determination that its state standards are, in the aggregate, at least as protective of public health and welfare as applicable Federal standards.

CARB has repeatedly demonstrated the existence of compelling and extraordinary conditions in California justifying California's need for its own motor vehicle pollution control program.[16] In its letter requesting this waiver, CARB stated that California continues to experience serious air pollution problems, unique to the state, which justify its need to achieve the maximum reductions in emissions from motor vehicles.[17] Based on previous showings by California in this regard, CARB's submission to the record, and the absence of any public comments questioning the need for CARB's own motor vehicle pollution control program, I agree that California continues to face the requisite compelling and extraordinary conditions. Thus, I cannot deny the waiver request on the basis of a lack of compelling and extraordinary conditions.

CARB has submitted information demonstrating that the requirements of its emissions standards and test procedures are consistent with section 202(a) of the Act. CARB stated its finding that the revised emission standards are technologically feasible within the lead time provided considering the costs of compliance because appropriate technology enabling vehicles to meet these standards is widely available and readily adaptable. No commenter submitted data or other information sufficient to satisfy its burden of persuading EPA that the standards are not technologically feasible within the available lead time, considering costs. With regards to certification, manufacturers will be able to satisfy both the current Federal certification requirements and the amended CARB certification requirements by running the same test on a single vehicle. No comments were received from manufacturers or other interested parties that questioned CARB's finding of consistency between the CARB requirements and the Federal reqirements. Therefore, I cannot find that California's amendments will be inconsistent with section 202(a) of the Act. Accordingly, I hereby grant the waiver requested by California.

With respect to CARB's request for confirmation of a "within the scope" determination, I find that CARB's amended recall and offset program regulations do not undermine CARB's "protectiveness" determination and are not inconsistent with section 202(a). I must also evaluate CARB's confirmation request against the third prong of the "within the scope" test; i.e., whether the amendments raise any new issues regarding previous waiver decisions. Based on my review of the record of the CARB proceding, and the absence of any comment on this issue in the EPA waiver proceeding, I find that no new issues regarding previous waiver decisions are raised by these proceedings. Therefore I find that the amendments to the CARB recall [redacted] offset program regulations are within the scope of previous waivers.

My decision will affect not only persons in California but also the manufacturers outside the State who must comply with California's requirements in order to produce motor vehicles for sale in California. For this reason, I hereby determine and find that this is a final action of national applicability.

Under section 307(b)(1) of the Clean Air Act, judicial review of this final action may be sought only in the United States Court of Appeals for the District of Columbia Circuit. Petition for review must be filed by December 24, 1990. Under section 307(b)(2), judicial review may not be obtained in subsequent enforcement proceedings.

This action is not a rule as defined by section 1(a) of Executive Order 12291, 46 FR 13193 (February 19, 1981). Therefore, it is exempt from review by the Office of Management and Budget as required for rules and regulations by Executive Order 12291. Nor is a Regulatory Impact Analysis being prepared under Executive Order 12291 for this waiver determination, since it is not a rule.

In addition, this action is not a rule as defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2). Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on small business entities.

Finally, the Administrator has delegated the authority to grant a State a waiver of Federal preemption, under

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[12] *See, e.g.*, 43 FR 32182 (July 25, 1978).

[13] *See, e.g., Motor and Equipment Manufacturers Association, Inc.* v. *EPA*, 627 F.2d 1095, 1111–14 (D.C. 1979), *cert. denied*, 446 U.S. 952 (1980); 43 FR 25729 (June 14, 1978), ("*MEMA I*").

To be consistent, the California procedures need not be identical to the Federal procedures. California procedures would be inconsistent, however, if manufacturers would be unable to meet both the state and the Federal requirements with the same vehicle. *See, e.g.*, 43 FR 32182 (July 25, 1978).

[14] CARB Resolution 89–61, at p. 6, (June 8, 1989).

[15] This statement is based upon a comparison of the new California standards with current Federal standards. If the Clean Air Act is amended, there may be a need for EPA to reconsider this waiver decision to ensure that the protectiveness criteria of section 209 are still met.

[16] *See, e.g.*, 49 FR 18887, 18890–91 (May 31,1984).

[17] *See* letter from James D. Boyd, Executive Officer, CARB, to William K. Reilly, Administrator, EPA, p. 6, dated April 23, 1990.

section 209(b) of the Act to the Assistant Administrator for Air and Radiation.

Dated: October 19, 1990.

William G. Rosenberg,

Assistant Administrator for Air and Radiation.

[FR Doc. 90-25285 Filed 10-24-90; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-66000; FRL 3838-6]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the Federal Register of May 13, 1983 (48 FR 21722). In the Federal Register of November 11, 1984, (49 FR 48066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 23 such PMN(s) and provides a summary of each.

DATES: Close of Review Periods:

Y 90-281, September 17, 1990.

Y 90-285, October 4, 1990.

Y 90-286, 90-287, 90-288, October 8, 1990.

Y 90-289, 90-292, October 15, 1990.

Y 90-294, October 16, 1990.

Y 91-1, 91-2, 91-3, 91-4, 91-5, 91-6, October 22, 1990.

Y 91-7, October 25, 1990.

Y 91-8, 91-9, 91-10, 91-11, October 28, 1990.

Y 91-12, 91-13, 91-14, 91-15, October 30, 1990.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, room E-545, 401 M Street, SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the Public Reading Room NE-G004 at the above address between 8 a.m. and noon, and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

Y 90-281

Importer. Reichhold Chemicals, Inc.

Chemical. (G) Alkyd resin.

Use/Import. (S) Industrial coatings. Import range: Confidential.

Y 90-285

Manufacturer. General Electric Company, Plastics Group.

Chemical. (G) Aromatic-cycloaliphatic copolyester.

Use/Production. (G) Thermoplastic molding resins. Prod. range: Confidential.

Y 90-286

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Unsaturated polyester.

Use/Production. (S) Flexible blending resin for high-performance marine applications. Prod. range: Confidential.

Y 90-287

Manufacturer. Cook Composites and Polymers, Co.

Chemical. (G) Acrylic copolymer.

Use/Production. (S) High solids two-component acrylic urethane enamel. Prod. range: 17,000-21,000 kg/yr.

Y 90-288

Manufacturer. Sybron Chemicals, Inc.

Chemical. (G) Benzene, ethenylethyl-, polymer with butyl 2-propenoate, diethylbenzene, ethoxylbenzene and (1-methylethyl) benzene.

Use/Production. (S) Toner polymer for use in reprographic inks. Prod. range: Confidential.

Y 90-289

Importer. Confidential.

Chemical. (G) Polyester resin.

Use/Import. (G) An additive in the plastic industry. Import range: Confidential.

Y 90-292

Importer. Confidential.

Chemical. (G) Aliphatic polyurethane resin.

Use/Import. (S) Textile coating. Import range: Confidential.

Y 90-294

Importer. Guthrie Latex Inc.

Chemical. (S) Formic acid; hydrogen peroxide; natural rubber.

Use/Import. (S) Manufacture of general and specialty rubber goods. Import range: 1,000,000 kg/yr.

Y 91-1

Manufacturer. Confidential.

Chemical. (G) Styrene-acrylic polymer.

Use/Production. (G) Overprint varnishes for paper. Prod. range: Confidential.

Y 91-2

Manufacturer. Confidential.

Chemical. (G) Styrene-acrylic polymer, ammonium salt.

Use/Production. (G) Overprint varnishes for paper. Prod. range: Confidential.

Y 91-3

Manufacturer. Confidential.

Chemical. (G) Styrene-acrylic polymer, *N,N*-dimethylethanolamine salt.

Use/Production. (G) Overprint varnishes for paper. Prod. range: Confidential.

Y 91-4

Manufacturer. Confidential.

Chemical. (G) Styrene-acrylic polymer, 2-amino-2-methyl propanol salt.

Use/Production. (G) Overprint varnishes for paper. Prod. range: Confidential.

Y 91-5

Manufacturer. Confidential.

Chemical. (G) Styrene-acrylic polymer, 2-amino ethanol salt.

Use/Production. (G) Overprint varnishes for paper. Prod. range: Confidential.

Y 91-6

Manufacturer. Confidential.

Chemical. (G) Styrene-acrylic polymer, sodium salt.

Use/Production. (G) Overprint varnishes for paper. Prod. range: Confidential.

Y 91-7

Manufacturer. Confidential.

Chemical. (G) Styrene-acrylic modified polyester.

Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

Y 91-8

Manufacturer. S.C. Johnson & Sons, Inc.

Chemical. (G) Aqueous acrylic polymer and aqueous acrylic polymer salts.

Use/Production. (G) Aqueous emulsion polymers. Prod. range: Confidential.

Y 91-9

Manufacturer. S.C. Johnson & Sons, Inc.

Chemical. (G) Aqueous acrylic polymer and aqueous acrylic polymer salts.

Use/Production. (G) Aqueous emulsion polymers. Prod. range: Confidential.

V 91-10

Manufacturer. S.C. Johnson & Sons, Inc.

Chemical. (G) Aqueous acrylic polymer and aqueous acrylic polymer salts.

Use/Production. (G) Aqueous emulsion polymers. Prod. range: Confidential.

V 91-11

Manufacturer. S.C. Johnson & Sons, Inc.

Chemical. (G) Aqueous acrylic polymer and aqueous acrylic polymer salts.

Use/Production. (G) Aqueous emulsion polymers. Prod. range: Confidential.

V 91-12

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Epoxy ester.

Use/Production. (S) Coating resin intermediate. Prod. range: Confidential.

V 91-13

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Styrene-acrylate copolymer with epoxy ester.

Use/Production. (S) Coating resin intermediate. Prod. range: Confidential.

V 91-14

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Dimethylethanolamine salt of styrene-acrylate copolymer with epoxy ester.

Use/Production. (G) Industrial coatings. Prod. range: Confidential.

V 91-15

Manufacturer. Confidential.

Chemical. (G) Polyester resin.

Use/Production. (G) An additive used in the plastics industry. Prod. range: Confidential.

Dated: October 18, 1990.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 90-25204 Filed 10-24-90; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

Comments Invited on Louisiana Regional Public Safety Plan

October 17, 1990.

The Commission has received the public safety radio communications plan for Louisiana (Region 18).

In accordance with the Commission's Report and Order in General Docket No. 87-112 implementing the Public Safety National Plan, parties are hereby given thirty days from the date of Federal Register publication of this public notice to file comments and fifteen days to reply to any comments filed. (See Report and Order, General Docket No. 87-112, 3 FCC Rcd 905 (1987), at pargraph 54.)

In accordance with the Commission's Memorandum Opinion and Order in General Docket No. 87-112, Region 18 consists of the State of Louisiana. General Docket No. 87-112, 3 FCC Rcd 2113 (1988).

Comments should be clearly identified as submissions to General Docket 90-498, Louisiana Area—Region 18, and commenters should send an original and five copies to the Secretary, Federal Communications Commission, Washington, DC 20554.

Questions regarding this public notice may be directed to Maureen Cesaitis, Private Radio Bureau, (202) 632-6497 or Fred Thomas, Office of Engineering and Technology, (202) 653-8112.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-25206 Filed 10-24-90; 8:45 am]

BILLING CODE 6712-01-M

Western Cities Broadcasting, Inc., et al.; Applications for Consolidated Hearing

1. The Commission has before it the following applications for renewal of license of Station KQKS(FM), Longmont, Colorado; for new FM stations at Longmont, Colorado; and for a license to cover minor changes to Station KQKS(FM), Longmont, Colorado:

Applicant	File No.	MM docket No.
A. Western Cities Broadcasting, Inc. (Renewal of KQKS(FM)); Longmont, CO.	BRH-891201XU	90-424
B. Amador S. Bustos (New FM Station), Longmont, CO.	BPH-900226MB	
C. Longmont Broadcasting Corporation (New FM Station); Longmont, CO.	BPH-900216AA	
D. Western Cities Broadcasting, Inc. (Minor Changes to KQKS(FM)); Longmont, CO.	BLH-890104KC	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the following issues:

(a) If a final environmental impact statement is issued with respect to Bustos and/or LBC in which it is concluded that the proposed facilities are likely to have an adverse effect on the quality of the environment, to determine whether the proposals are consistent with the National Environmental Policy Act, as implemented by 47 CFR 1.1301-1319.

(b) To determine whether there is a reasonable possibility that the proposals of Bustos and LBC would constitute a hazard to air navigation.

(c) To determine whether Western committed a misrepresentation or was lacking in candor in its response to section I, Item 2, of its application (FCC Form 304) for a license to cover minor changes to KQKS(FM) and the effect(s) thereof on Western's qualifications to be a Commission licensee.

(d) If a final decision is rendered in the Montecito, California, proceeding (MM Docket No. 87-426), in which it is determined that Richard C. (Rick) Phalen was an undisclosed real party-in-interest in the application of his daughter, Shawn Phalen, to determine the effect(s) thereof on Western's qualifications to be a Commission licensee.

(e) To determine which of the captioned mutually exclusive applications for authority to operate on Channel 282C1 at Longmont, Colorado, would, on a comparative basis, best serve the public interest; and

(f) To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if any, of the captioned mutually exclusive applications to operate on Channel 282C1 at Longmont, Colorado, should be granted.

(g) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether the captioned application of Western for a license to cover minor changes to KQKS(FM) should be granted.

3. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC 20554. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc. 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,
Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 90-25275 Filed 10-24-90; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 212-011234-011.
Title: U.S.A./South Europe Pool Agreement.
Parties:
Compania Trasatlantica Espanola, S.A.,
Costa Container Lines, S.p.A.,
Evergreen Marine Corporation;
Italia di Navigazione S.p.A.,
Lykes Lines,
Nedlloyd Lines,
P&O Containers Limited,
Sea-Land Service, Inc.,
Zim Israel Navigation Company, Ltd.

Synopsis: The proposed amendment would add a new Article 5.C.6 which provides that the Pool Administrator shall periodically issue guidelines to the members to ensure that each member achieves its basic pool share. It would also provide that at least 60 days prior to the end of the pool period, the Pool Administrator shall issue adjusted guidelines to each member of each pool section. Additionally, the amendment provides that if a member adheres to the adjusted guidelines, the member would not be liable to pay any overcarriage penalty attributable to cargo carried in the final 30 days of the pool period.

Agreement No.: 232-011301.
Title: CSAV/TNE Reciprocal Space Charter and Coordinated Sailing Agreement.
Parties:
Compania Sud Americana De Vapores S.A.,
Transportes Navieros Ecuatorianos.

Synopsis: The proposed Agreement would permit the parties to consult and agree on sailing schedules, service frequency, ports to be served and port rotations in the trade between U.S. Gulf Coast ports and inland coastal points and ports and points in Mexico, Colombia, Panama, Ecuador, Peru and Chile, including Bolivian inland points. The Agreement would enable the parties to charter space to and from each other on their respective vessels or on vessels on which they have contracted for space. It would also enable the parties to interchange their empty containers, chassis and/or related equipment. In addition, the parties may also jointly contract with or coordinate in contracting with stevedores, terminals, ports and suppliers of equipment, land or services.

Agreement No.: 207-011302.
Title: DSR/Senator Joint Service Agreement.
Parties:
Deutsche Seereederei Rostock GmbH,
Senator Linie GmbH & Co., KG.

Synopsis: The proposed Agreement would authorize the parties to establish and operate a single-entity joint ocean common carrier service in the trades between ports and points in the United States and other countries, except in the trade between North Europe and ports and points in Puerto Rico and the U.S. Virgin Islands, as set forth in the scope of Agreement No. 207-011291, DSR/Stinnes West Indies Services Agreement.

By Order of the Federal Maritime Commission.

Dated: October 22, 1990.
Joseph C. Polking,
Secretary.

[FR Doc. 90-25227 Filed 10-24-90; 8:45 am]
BILLING CODE 6730-01-M

[Fact Finding Investigation No. 19]

Passenger Vessel Financial Responsibility Requirements; Hearings

On August 17, 1990, the Federal Maritime Commission ("Commission" or "FMC") instituted the instant Fact Finding Investigation. The purpose of this proceeding is to collect and analyze information to establish a sound basis for review of current FMC regulations at 46 CFR part 540, subpart A, on the financial responsibility of passenger vessel operators.

The Investigation will address how the Commission may best implement its statutory authority and responsibility to fairly and adequately ensure the indemnification of the public in the event of nonperformance of a passenger vessel operator. It will obtain evidence concerning the financial transactions and operations relating to unearned passenger revenues. The Investigation will also study procedures and practices employed by passenger vessel operators to demonstrate to the FMC their financial responsibility, and alternative approaches and procedures which may meet the statutory objective of providing the passenger public security against nonperformance. This Fact Finding Investigation will also consider possible recommendations for legislative improvements to section 3 of Public Law 89-777.

In order to assist the Fact Finding Officer in the conduct of this Investigation, all parties listed in Appendix A hereto, and any other party interested in participating in this proceeding, shall submit written comments on the following specific issues:

1. The intent of Congress in enacting the financial responsibility requirements of section 3 of Public Law 89-777.

2. The levels of unearned passenger revenue collected and maintained by passenger vessel operators in the United States trades.

3. The advisability of using a sliding scale as a basis for establishing the amount of financial responsibility required.

4. Whether the FMC should continue to require that guarantors, insurers, and other persons providing evidence of financial responsibility on behalf of passenger vessel operators maintain sufficient assets in the United States to cover possible liability.

5. The costs incurred by passenger vessel operators in complying with the financial responsibility requirements for non-performance.

6. Whether the $15 million maximum of evidence of financial responsibility is adequate.

7. The effectiveness of the FMC's administration of the financial responsibility requirements to date. Suggestions for improving the adminstration of this program.

8. The number of claims for nonperformance you have received or made or have knowledge of during the past five yaears and the disposition of these claims.

9. The differences, if any, in financial statements and accounting standards between the United States and foreign countries that might impact upon the financial responsibility program administered by the FMC.

10. Suggested legislative improvements to section 3 of Public Law 89-777.

11. How passenger cruise operators utilize their unearned passenger revenue and whether and at what amounts these revenues earn interest.

12. Whether a central fund should be established to serve as the repository of all unearned passenger income.

13. Whether the FMC should establish a dollar-for-dollar coverage.

14. Any other areas concerning the administration or requirements of section 3 of Public Law 89-777 upon which you wish to comment.

Written submissions are to be submitted to Fact Finding Officer Commissioner Francis J. Ivancie, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573 on or before November 16, 1990 and served on the parties listed in Appendix A. Confidential financial information need not be served to the other participants of this proceeding, and may be submitted in a separate document. Replies and supplemental testimony may be offered at the oral hearings which will be held at the following locations:

Wednesday, December 5, 1990—New York, NY

Wednesday, December 12, 1990—Miami, FL

Wednesday, January 16, 1991—Los Angeles, CA

Persons wishing to offer testimony should notify the Fact Finding Officer, on or before November 16, 1990 indicating the regional hearing preferred.

Francis J. Ivancie,

Fact Finding Officer.

Fact Finding Investigation No. 19
Participants

1. The Peninsular and Oriental Steam Navigation Company of London, Princess Cruises, Inc. (P&O), Gibson, Dunn & Crutcher, 1050 Connecticut Avenue., NW., Washington, DC 20036-5303
2. American Hawaii Cruises (AHC), Graham & James, 2000 M Street, NW., suite 700, Washington, DC 20036
3. International Council of Cruise Lines, Mr. John T. Estes, 2300 N Street, NW., Washington, DC 20037
4. Royal Caribbean Cruises Ltd., Mr. Richard J. Glasier, Royal Caribbean Cruise Line and Admiral Cruises, 903 South American Way, Miami, FL 33132
5. Carnival Cruise Lines, Mr. Lawrence D. Winson, Carnival Cruise Lines, One Centrust Financial Center, 100 Southeast 2nd Street, 32nd Floor, Miami, FL 33131-2136
6. International Group of P & I Clubs, D.J.L. Watkins, International Group of P & I Clubs, 78 Fenchurch Street, London EC3M 4BT
7. First of America Bank-Southeast Michigan, N.A., Mr. Larry J. Zahra, The Travel Industry Group, First of America Bank—Southeast Michigan, N.A., 645 Griswold Street, Detroit, Michigan 48226
8. Security Pacific National Trust Co., Mr. Silvestro J. Diasparra, Security Pacific National Trust Co., P.O. Box 464, Bowling Green Station, New York, NY 10274-0464

[FR Doc. 90-25179 Filed 10-24-90; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Brooke Holdings, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than November 13, 1990.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Brooke Holdings, Inc.*, Jewell, Kansas; to acquire Gypsum Valley Agency, Inc., Jewell, Kansas, and thereby engage in the sale of general insurance pursuant to § 225.25(b)(8)(vi) of the Board's Regulation Y.

B. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Assistant Vice President) 101 Market Street, San Francisco, California 94105:

1. *U.S. Bancorp*, Portland, Oregon; to acquire Credco of Washington, Inc., Solana Beach, California, and thereby engage in selling credit reports on individuals to credit providers in connection with mortgage and consumer loan applications and providing related services to credit providers such as verification of certain credit report information pursuant to § 225.25(b)(24) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 18, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-25180 Filed 10-24-90; 8:45 am]
BILLING CODE 6210-01-M

Citicorp, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal

Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 15, 1990.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York; to acquire 100 percent of the voting shares of De Anza Holding Corporation, Sunnyvale, California, and thereby indirectly acquire De Anza Bank, Sunnyvale, California.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *VBST Bancshares Corp.*, Valdosta, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Valdosta Bank & Trust, Valdosta, Georgia.

C. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *CommunitiFirst Bancorp, Inc.*, Chicago, Illinois; to become a bank holding company by acquiring 86.66 percent of the voting shares of Community Bank of Lawndale, Chicago, Illinois.

2. *Worthington Bancorporation*, Farley, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of State Bank of Worthington, Worthington, Iowa.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Community Bankshares of Wyoming*, Guernsey, Wyoming; to become a bank holding company by acquiring 100 percent of the voting shares of Oregon Trail Bank, Guernsey, Wyoming.

E. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Abilene Bankshares, Inc.*, Abilene, Texas; to acquire 100 percent of the voting shares of First National Bank in Cleburne, Cleburne, Texas.

Comments on this application must be received by November 7, 1990.

Board of Governors of the Federal Reserve System, October 18, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-25200 Filed 10-24-90; 8:45 am]

BILLING CODE 6210-01-M

Bank of North America Bancorp, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under § 3 of the Bank Holding Company Act (12 U.S.C. 1842) and 225.14 of the Board's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than November 9, 1990.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street N.W., Atlanta, Georgia 30303:

1. *Bank of North America Bancorp, Inc.*, Miami, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of North America, Miami, Florida.

Board of Governors of the Federal Reserve System, October 19, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-25201 Filed 10-25-90; 8:45 am]

BILLING CODE 6210-01-M

William Eugene Rowland, et al.; Change in Bank Control, Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 9, 1990.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *William Eugene Rowland, Robert Bell Murfree, and William Kent Coleman*, as trustees for the First City Bancorp, Inc., ESOP, all of Murfreesboro, Tennessee; to acquire up to 24.9 percent of the voting shares of First City Bancorp, Inc., Murfreesboro, Tennessee, and thereby indirectly acquire First City Bank, Murfreesboro, Tennessee.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Mr. Larry Rolfsted, Mr. Marion M. Coons, and Mr. Dwight C. Vredenburg*, all of Carlisle, Iowa; to acquire 100 percent of the voting shares of Schooler Bancshares, Inc., Carlisle, Iowa, and thereby indirectly acquire Hartford Carlisle Bank, Carlisle, Iowa.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Sidney William Cauthorn*, Del Rio, Texas; to acquire an additional 0.88 percent (for a total of 10.83 percent) of the voting shares of Westex Bancorp, Inc., Del Rio, Texas, and thereby indirectly acquire The First State Bank, Bracketville, Texas, Del Rio Bank & Trust Company, Del Rio, Texas, and Sutton County National Bank, Sonora, Texas.

Board of Governors of the Federal Reserve System, October 19, 1990.
Jennifer J. Johnson,
Associate Secretary of the Board.
[FR Doc. 90-25202 Filed 10-24-90; 8:45 am]
BILLING CODE 6210-01-M

Joel I. Salk Revocable Trust, et al.; Change in Bank Control; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 7, 1990.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Joel I. Salk Revocable Trust and Mildred J. Salk Revocable Trust*; to acquire 100 percent of the voting shares of First Eagle Bancshares, Inc., Roselle, Illinois, and thereby indirectly acquire First National Bank of Roselle, Roselle, Illinois.

2. *Joseph K. Simington*, Milford, Iowa; to acquire 100 percent of the voting shares of Fostoria Bankshares, Inc., Fostoria, Iowa, and thereby indirectly acquire Farmers Savings Bank, Fostoria, Iowa.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Mike C. Daly*, Wheatland, Wyoming; to acquire an additional 1.72 percent of the voting shares of Wheatland Bankshares, Inc., Wheatland, Wyoming, for a total of 21.92 percent, and thereby indirectly acquire First State Bank of Wheatland, Wheatland, Wyoming.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Pat S. Bolin*, Dallas, Texas, to acquire an additional 35.78 percent for a total of 39.45 percent; D. Phil Bolin, Wichita Falls, Texas, to acquire 17.80 percent for a total of 20.71 percent; Dan H. Bolin, M.D., Wichita Falls, Texas, to acquire 8.94 percent for a total of 9.68 percent; Warren T. Ayers, Wichita Falls, Texas, to acquire 8.94 percent for a total of 9.96 percent; and Eagle I, Wichita Falls, Texas, to retain 0.06 percent of the voting shares of Fidelity Resources Company, Dallas, Texas, and thereby indirectly acquire Fidelity National Bank, Dallas, Texas.

Board of Governors of the Federal Reserve System, October 18, 1990.
Jennifer J. Johnson,
Associate Secretary of the Board.
[FR Doc. 90-25203 Filed 10-24-90; 8:45 am]
BILLING CODE 6210-01-M

Security Pacific Corporation, Los Angeles, CA; Request for Exemption From Tying Provisions

Security Pacific Corporation, Los Angeles, California ("Security Pacific"), has requested, pursuant to section 106 of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1971 *et seq.*) ("Section 106"), that the Board grant an exemption from the anti-tying provisions of section 106, in order to permit its wholly-owned subsidiary, Security Pacific Bank, National Association, Tempe, Arizona ("Security Pacific Bank"), which houses a centralized credit card operation for the consolidated bank holding company, to offer reduced rates on credit cards issued to customers with loans or deposit accounts at affiliated banks in California, Washington, Oregon, Alaska, Nevada and Arizona. The pricing of credit cards, a traditional bank loan product, is the only product pricing to be linked to products and services of affiliate banks, which include loans and deposit accounts that allow for automatic transfers to pay on credit card balances. In no case would the availability of the credit card be used to vary pricing of other bank services.

Although section 106 permits a bank to fix or to vary the consideration for extending credit or furnishing services on the condition that a customer also obtain a traditional banking service (loan, discount, deposit or trust service) from that bank, it prohibits a bank from engaging in these same activities on condition that a customer obtain any additional credit or services from any other subsidiary of the bank's parent holding company. The Board may grant, however, an exemption that is not contrary to the purposes of this provision.

Security Pacific, with consolidated assets of $94.5 billion as of June 30, 1990, ranked as the nation's fifth largest bank holding company in a comparative analysis based upon consolidated assets at yearend 1989. Security Pacific owns 12 commercial banks and one savings bank in ten states in the Western and Southwestern regions of the United States. Security Pacific also engages both directly and indirectly in a variety of permissible nonbanking activities. Security Pacific has recently undertaken to centralize all credit card operations in Security Pacific Bank by transfer of credit card receivables from affiliated banks in California, Washington, Oregon, Alaska, Nevada and Arizona. Security Pacific proposes that Security Pacific Bank provide reduced credit card rates to customers who have deposit or borrowing relationships with the affiliated banks. Inasmuch as the variation in consideration afforded by Security Pacific Bank under the reduced-rate credit card program would be conditioned upon a customer's obtaining additional banking services from other Security Pacific banking subsidiaries, it would be barred by the literal terms of Section 106 without an exemption from the Board.

In support of its request for an exemption, Security Pacific cites the Board's Order of June 20, 1990, approving requests by Northwest Corporation and NCNB Corporation for an exemption to permit their banks to offer a credit card at lower cost in conjunction with traditional banking services provided by their other subsidiary banks. In this connection, Security Pacific has also committed to conform such tying activity to any conditions and limitations determined appropriate by the Board upon completion of the rulemaking process which commenced with notice on June 20, 1990, of a proposed amendment to § 225.4(d) of the Board's Regulation Y (12 CFR 225.4(d)) to permit a bank owned by a bank holding company to vary the consideration (including interest rates and fees) charged in connection with extensions of credit pursuant to a credit card offered by the bank on the basis of the condition or requirement that a customer also obtain a traditional banking service from another bank subsidiary of the card-issuing bank's holding company. Further, assurance is provided that banking affiliates of Security Pacific Bank would offer the same deposit and loan products to customers who do not have a credit card issued by Security Pacific Bank.

Notice of the request is published solely in order to seek the views of interested persons on the issues presented by the request and does not represent determination by the Board that the request meets or is likely to

meet the standards of section 108. Any request for hearing on this issue must, as required by § 262.3(e) of the Board's Rule of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the request for exemption.

The request may be inspected at the offices of the Board of Governors. Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary of the Board of Governors of the Federal Reserve System, Washington, DC 20551 not later than November 23, 1990.

Board of Governors of the Federal Reserve System, October 19, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-25204 Filed 10-24-90; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Senior Executive Service Performance Review Board Membership

Summary Statement; Department of Health and Human Services

AGENCY: Listing of members of this Department's Senior Executive Service Performance Review Boards.

DATES: Performance Review Boards effective November 13, 1990.

FOR FURTHER INFORMATION CONTACT: Renita R. Morse, 202: 245-6528.

Title 5, U.S. Code, section 4314(c)(4) of the Civil Service Reform Act of 1978, Public Law 95-454, requires that the appointment of Performance Review Board members be published in the Federal Register.

The following persons will serve on the Performance Review Boards or Panels which oversee the evaluation of performance appraisals of Senior Executive Service members of the Department of Health and Human Services:

Richard H. Adamson, Ph.D.
Ann C. Agnew
Duane F. Alexander, M.D.
Joseph R. Antos, Ph.D.
Michele W. Applegate
William H. Aspden, Jr.
Michael J. Astrue
Paul D. Barnum
James S. Benson
Joyce T. Berry, Ph.D.
Annetta H. Blum
Samuel Broder, M.D.
Kathleen A. Buto
Robin Carle
Ronald H. Carlson
Bruce A. Chabner, M.D.
Philip S. Chen, Jr., Ph.D.
Andria T. Childs
Pamela A. Coughlin
Glenda S. Cowart
Don J. Davis
Beverly Dennis, III
John W. Diggs, Ph.D.
Walter R. Dowdle, Ph.D.
Robert G. Eaton
Joyce D. Eastes, M.D.
Anthony S. Fauci, M.D.
Dennis J. Fischer
Gail F. Fisher, Ph.D.
Gil Fisher
William T. Fitzsimmons
Margaret Foertschbeck
Richard K. Fuller, M.D.
Barbara J. Gagel
George J. Galasso, Ph.D.
John I. Gallin, M.D.
Donna N. Givens
Murray Goldstein, M.D.
Phillip Gorden, M.D.
Alexander R. Grant
Jerome C. Green, M.D.
Joseph A. Gribbin
Gerald B. Guest, D.V.M.
George E. Hardy, Jr., M.D.
Louis B. Hays
Michael Heningburg
Alan R. Hinman, M.D.
Ada Sue Hinshaw, Ph.D.
George R. Holland
Sharon Smith Holston
Robert A. Israel
Barry L. Johnson, Ph.D.
Elaine M. Johnson, Ph.D.
Martha F. Katz
John H. Kelso
Eugene Kinlow
Ruth L. Karschstein, M.D.
Irwin J. Kopin, Ph.D.
Edward D. Korn, Ph.D.
Carl Kupfer, M.D.
Richard P. Kusserow
Claude J. Lenfant, M.D.
Joseph R. Leone
Alan I. Leshner, Ph.D.
Arthur S. Levine, M.D.
Joseph A. Levitt
Huldah Lieberman
Donald A. B. Lindberg, M.D.
Harald A. Loe, D.D.S.
Laurence J. Love
John D. Mahoney
Thomas E. Malone, Ph.D.
Dorothy H. Mann, M.P.H.
Norman D. Mansfield
George Martin, M.D.
Thomas S. McFee
John McLachlan, Ph.D.
Henry Metzger
Kevin E. Moley
Larry D. Morey
Jay Moskowitz, Ph.D.
Clennie H. Murphy, Jr.
Frederick A. Murphy, Ph.D.
Stuart L. Nightingale
Alexe L. Notkins, M.D.
Kenneth Olden, Ph.D.
Steven Paul, M.D.
Carl C. Peck, M.D.
Roy W. Pickens, Ph.D.
Alan S. Rabson, M.D.
Joseph E. Rall, M.D.
Juan Ramos, Ph.D.
William F. Raub, Ph.D.
Luana L. Reyes
William A. Robinson, M.D.
Saul W. Rosen, M.D.
Mary E. Ross
Philip E. Schambra, Ph.D.
Matthew G. Schwientek
Lawrence E. Shulman, M.D.
Maxime Singer, Ph.D.
Robert Singyke
James B. Snow, Jr., M.D.
Dale W. Sopper
Joan F.M. Steward
Robert E. Stevenour
Robert A. Streimer
Boris Tabakoff, Ph.D.
Stephen B. Thacker, M.D.
Robert L. Trachtenberg
Margaret A. VanAmringe
James A. Walsh
S. Timothy Wapato
Kenneth R. Warren, Ph.D.
Rueben C. Warren, Ph.D.
Williams E. Wead
John C. West
Storm H. Whaley
Daniel F. Whiteside, D.D.S.
Robert A. Whitney, Ph.D.
T. Franklin Williams, M.D.
Luther Williams, Ph.D.

Dated: October 18, 1990.

Eugene Kinlow,

Acting Assistant Secretary for Personnel Administration.

[FR Doc. 90-25221 Filed 10-24-90; 8:45 am]

BILLING CODE 4140-01-M

Health Resources and Services Administration

Final Funding Priorities for Grants for Area Health Education Centers Special Initiatives

The Health Resources and Services Administration (HRSA) announces the final funding priorities for fiscal year (FY) 1991 for Grants for Area Health Education Centers Special Initiatives under the authority of section 781(a)(2) of the Public Health Service (PHS) Act, extended by the Health Professions Reauthorization Act of 1988, Pub. L. 100-607, title VI.

Section 781(a)(2) authorizes Federal Assistance to medical and osteopathic schools which have previously received Federal financial assistance for the Area Health Education Centers (AHEC) program under either section 802 of Pub. L. 94-484 in FY 1979 or under section 781. In addition, section 781(a)(2) authorizes medical and osteopathic schools currently receiving Federal support for an AHEC program to apply for project aid on behalf of an Area

Health Education Center that is no longer federally-funded as part of that program.

Section 781(a)(2) applications will be for the purpose of improving the distribution, supply, quality, utilization, and efficiency of health personnel in the health services delivery system; to encourage regionalization of educational responsibility of the health professions schools; or to prepare, through preceptorships and other programs, individuals subject to a service obligation under the National Health Service Corps Scholarship program to provide effective health services in health manpower shortage areas.

To receive support, programs must meet the requirements of regulations set forth in 42 CFR part 57, subpart MM.

Review Criteria

The review of applications will take into consideration the following criteria:

1. The relative merit of the proposed project; and

2. The relative cost-efficiency of the proposed project.

In addition,the following mechanisms will be applied in determining the funding of approved applications.

1. Funding preferences—funding of a specific category or group of approved applications ahead of other categories or groups of applications, such as competing continuations ahead of new projects.

2. Funding priorities—favorable adjustment of review scores when applications meet specified objective criteria.

The following funding preference and priorities were established in FY 1988 after public comment and the Administration is extending this preference and these priorities in FY 1991.

Funding Preference for Fiscal Year 1991

In making awards under section 781 for fiscal year 1991, a funding preference will be given to approved competing continuation applications as authorized by section 781(a)(1).

Funding Priorities for Fiscal Year 1991

In determining the order of funding of approved applications funding priorities will be given to the following:

1. Applications proposing to develop, expand or implement curricula concerning ambulatory and inpatient case management of needs of persons with HIV/AIDS infection.

2. Applications demonstrating a commitment to geriatrics through development of innovative educational ways to provide improved and more effective care for the elderly.

3. Applications which are innovative in their educational approaches to quality assurance/risk management activities: monitoring and evaluation of health care services and utilization of peer-developed guidelines and standards.

Proposed additional funding priorities were published in the **Federal Register** of August 31, 1990 (55 FR 35725) for public comment. No comments were received during the 30-day comment period. Therefore, as proposed, the following funding priorities will be retained as listed below. Additional funding priorities will be given to:

1. Applications proposing centers in which substantial training experience is in a Health Manpower Shortage Area, section 332 of the PHS Act; and/or Migrant Health Center, section 329 of the PHS Act; Community Health Center, section 330 of the PHS Act; or State designated clinic-center serving an underserved population.

2. Applications proposing centers that will serve Health Manpower Shortage Areas with a greater proportion of American Indian/Alaskan Natives, Asians/Pacific Islanders, Blacks and/or Hispanics than exists in the general population in the United States.

3. Applications demonstrating a commitment to reducing infant mortality through the development of innovative educational ways to provide improved and more effective maternal and child health care: For example, the development and implementation of undergraduate, graduate and/or continuing education curricula/courses to enhance the delivery of maternal and child health care to low-income populations; or the provision of clinical training experiences to undergraduate students or residents in areas where the infant mortality rate is higher than the State or national average.

FOR FURTHER INFORMATION: Please contact: Division of Medicine, Multidisciplinary Centers and Programs Branch, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, room 4C-05, Rockville, Maryland 20857, Telephone: (301) 443-6950.

The *Catalog of Federal Domestic Assistance* number assigned to this program has been changed from 13.824 to 93.824. This program is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100.

Dated: October 19, 1990.

Robert G. Harmon,

Administrator.

[FR Doc. 90-25207 Filed 10-24-90; 8:45 am]

BILLING CODE 4160-15-M

Public Health Service

National Toxicology Program; Availability of Technical Report on Toxicology and Carcinogenesis Studies of Furfural

The HHS' National Toxicology Program announces the availability of the NTP Technical Report on toxicology and carcinogenesis studies of furfural, used for the production of furan, furfuryl alcohol, tetrahydrofuran, and their derivatives; as a solvent for selectively separating saturated from unsaturated compounds in petroleum lubricating oil, gas oil, and diesel fuel; in the extractive distillation of butadiene and other C4 hydrocarbons used in the manufacture of synthetic rubber; as a resin solvent and wetting agent in the manufacture of abrasive wheels and authomobile brake linings; and as a solvent in various other industrial processes.

Toxicology and carcinogenesis studies of furfural were conducted by administering 0, 30, or 60 mg/kg furfural in corn oil by gavage to groups of 50 rats of each sex, 5 days per week for 103 weeks. Groups of 50 mice of each sex were administered 0, 50, 100, or 175 mg/kg on the same schedule.

Under the conditions of these 2-year gavage studies, there was some evidence of carcinogenic activity* of furfural for male F344/N rats, based on the occurrence of uncommon cholangiocarcinomas in two animals and bile duct dysplasia with fibrosis in two other animals. There was no evidence of carcinogenic activity for femal F344/N rats that received doses of 0, 30, or 60 mg/kg furfural. There was clear evidence of carcinogenic activity for male B6C3F1 mice, based on increased incidences of hepatocellular adenomas and hepatocellular carcinomas. There was some evidence of carcinogenic activity in female B6C3F1 mice, based on increased incidences of hepatocellular adenomas. Renal cortical adenomas or carcinomas in male mice and squamous cell

* The NTP uses five categories of evidence of carcinogenic activity to summarize the strength of the evidence observed in each experiment: Two categories of positive results ("clear evidence" and "some evidence"); one category for uncertain findings ("equivocal evidence"); one category for no observable effects ("no evidence"); one category for experiments that because of major flaws cannot be evaluated ("inadequate study").

papillomas of the forestomach in female mice may have been related to exposure to furfural.

The study scientist for these studies is Dr. Richard Irwin. Questions or comments about this Technical Report should be directed to Dr. Irwin at P.O. Box 12233, Research Triangle Park, NC 27709 or telephone (919) 541–3340.

Copies of Toxicology and Carcinogenesis Studies of Furfural in F344/N Rats and B6C3F1 Mice (Gavage Studies) (TR 382) are available from the NTP Public Information Office, MD B2–04, P.O. Box 12233, Research Triangle Park, NC 27709.

Dated: October 18, 1990.

David G. Hoel,

Acting Director, National Toxicology Program.

[FR Doc. 90–25197 Filed 10–24–90; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-90-3182; FR-2813-N-01]

National Manufactured Home Advisory Council—Request for Nominations

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This Notice gives the public an opportunity to nominate persons for appointments to the National Manufactured Home Advisory Council. The Council, consisting of representatives from consumer, government and industry organizations or agencies, is consulted to the extent feasible before the Department establishes, amends, or revokes manufactured home construction and safety standards.

DATES: Persons wishing to submit nominations must do so on or before November 26, 1990.

FOR FURTHER INFORMATION CONTACT: Henry Omson, Coordinator, National Manufactured Home Council, Office of Manufactured Housing and Regulatory Functions, Office of Single Family Housing, Department of Housing and Urban Development, 451 7th Street, SW., room 6270, Washington, DC 20410, Telephone: (202) 708–0798. The TDD number is (202) 708–4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Notice is hereby given that members of the public wishing to nominate persons for appointment to the National Manufactured Home Advisory Council should submit such nominations in writing to the Assistant Secretary for Housing—Federal Housing Commissioner (Attention: Officer of Manufactured Housing and Regulatory Functions), Department of Housing and Urban Development, 451 7th Street, SW., room 6270, Washington, DC 20410.

A twenty-four member Council was created under the National Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 *et. seq.* (The Act) to provide the Department with an opportunity to obtain balanced views on manufactured home standards issues. The Act stipulates that one-third of the membership of the Council must be chosen from each of the following categories: (a) Consumer organizations and recognized consumer leaders; (b) the manufactured home industry and related groups, including at least one representative of small business; and (c) government agencies including Federal, State and local governments.

Section 6(a) of the National Manufactured Home Advisory Council Charter stipulates that the Council members shall be appointed by the Secretary to serve two-year terms. In accordance with the Charter, one-half of these terms will expire on August 21, 1991 and the other half will expire on August 21, 1992.

Because the Advisory Council has not met in the past two years, all positions on the Council are vacant. The Secretary will appoint one-half of the Council for a one-year term which will expire on August 21, 1991 and the other half of the Council to a two-year term which will expire on August 21, 1992.

The Secretary will appoint a total of twenty-four (24) new members to the Council, selecting eight (8) members from each of the three groups which make up the Council. Nominations may be made for representatives of consumer, industry and government organizations or agencies. Interested persons may nominate themselves.

In submitting nominations, include the following information:

1. Name of nominee.
2. Home address and telephone number of nominee.
3. Business address and telephone number of nominee.
4. Section (i.e. consumer, industry, or government) the nominee represents.
5. Pertinent experience and/or background of nominee that is believed will qualify the nominee as an appropriate member of the Council.
6. Name of group or person(s) making nomination.
7. The following data should be furnished for those nominated as official representatives of organized consumer or industrial groups or associations:
   (a) Name and address of organizations.
   (b) Number of official members in organization.
   (c) Nominee's position in organization.
8. The name of the government agency, its location, and the nominee's position or title should be provided for those nominated to represent government agencies.
9. Any other pertinent comments or remarks.

The nominees selected by the Secretary are expected to be announced by publication in the Federal Register.

Dated: October 17, 1990.

Arthur J. Hill,

Acting, Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 90–25183 Filed 10–24–90; 8:45 am]

BILLING CODE 4210-01-M

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-90-3184; FR-2818-N-01]

Neighborhood Development Demonstration Program; Announcement of Funding Awards, Iron Mountain/Ozan Ingram NDC, et al.

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of funding awards.

SUMMARY: Under section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Neighborhood Development Demonstration Program. This announcement contains the names and addresses of the award winners and the amounts of the awards.

EFFECTIVE DATE: October 25, 1990.

FOR FURTHER INFORMATION CONTACT: Samuel Jones, Office of Procurement and Contracts, Community Services Division (ACC–SJ), Department of Housing and Urban Development, room 5252, 451 Seventh Street, SW., Washington, DC 20410. Telephone number (202) 708–1162. A telecommunications device for deaf persons (TDD) is available at (202) 708–2565. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The Neighborhood Development Demonstration Program (NDDP) was

authorized under section 123 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318). The purpose of the program is to determine the ability of neighborhood organizations to support eligible neighborhood development activities using cooperative efforts and monetary contributions from individuals, businesses, and nonprofit and other organizations located within established neighborhood boundaries

On March 14, 1990 (55 FR 9612) HUD announced in the Federal Register the availability of $1.85 million in NDDP funds for grants.

The application deadline was May 15, 1990. A total of $1.85 million was awarded to thirty-nine organizations which are located in twenty states and Puerto Rico. In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, the Department is publishing the names, addresses, and amounts of those awards, as follows:

Neighborhood Development Demonstration Program Grantees

1. Iron Mountain/Ozan Inghram NDC, 1101 Couch St., Texarkana, AR 75502, Mr. Freddie L. Johnson, $50,000
2. S. Berkeley Neigh. Dev. Corp., 1767 Alcatraz Ave., Berkeley, CA 94703, Ms. Barbara Sanders, $50,000
3. El Pajaro Comm. Dev. Corp., 420 Main St., Ste 313, Watsonville, CA 95076, Ms. Pamela Salsedo, $50,000
4. Southern Ute Comm. Action, P.O. Box 800, Ignacio, CO 81137, Mr. Harry N. Pearson, $50,000
5. Quality Living Services, Inc., P.O. Box 311045, Atlanta, GA 30331, Ms. Irene M. Richardson, $50,000
6. Uptown Chicago Commission, 4763 N. Broadway, Chicago, IL 60640, Ms. Patricia A. Reskey, $50,000
7. Rockford Neigh. Dev. Corp., 318 N. Church St., Rockford, IL 61101, Mr. R. Haines Moffat, $50,000
8. East Central Reinvest Corp., 615 East Washington St., Muncie, IN 47305, Ms. Lynn K. Thornburg, $50,000
9. Acorn Housing Corp., Inc., 808 N First St., Phoenix, AZ 85004, Mr. Martin Shalloo, $50,000
10. Charity Cultural Services Ctr., 827 Stockton St., San Francisco, CA 94108, Ms. Yvonne Badger, $50,000
11. North East Denver Housing, 1735 Gaylord, Denver, CO 80206, Ms. Getabecha Mekonnen, $50,000
12. Latin American Youth Center, 3045 15th St., NW., Washington, DC 20009, Ms. Lori M. Kaplan, $30,000
13. Cabbagetown Revitalization, 230 Carroll St., SE., Atlanta, GA 30312, Ms. Peggy P. Williams, $50,000
14. East Bluff Neigh. Heg. Ser., 413 E. Illinois, Peoria, IL 61603, Ms. Paula J. Day, $50,000
15. Eastside Comm Investn., Inc., 3228 E. Tenth St., Indianapolis, IN 46201, Mr. Dennis J. West, $50,000
16. Nueva Esperanza, Inc., 362 South Summer St., Holyoke, MA 01040, Ms. Kathryn Kroll, $50,000
17. Oakhill Comm. Dev. Corp., 17 Wall St., Worcester, MA 01604, Mr. Franklin D. Mathews, $21,278
18. Pinelake Village Coop., Inc., 2560 Adrienne Drive, Ann Arbor, MI 48103, Mr. David Friedrichs, $50,000
19. Phillips Community Dev. Corp., 1931 Thirteenth Ave. South, Minneapolis, MN 55404, Mr. Ron Otterson, $35,000
20. Mt. Hope Hous. Co., Inc., 1892 Morris Ave., Bronx, NY 10452, Mr. Brien O'Toole, $50,000
21. Church Ave. Merchants Assn., 1720 Church Ave., Brooklyn, NY 11226, Ms. Joanne Oplustil, $50,000
22. St. Nicholas Neigh. Pres. Corp., 11–29 Catherine St., Brooklyn, NY 11211, Mr. Joel E. Patenaude, $50,000
23. Walnut Hills Redev. Found., Inc., 2601 Melrose Ave., Cincinnati, OH 45206, Ms. Daphne A. Sloan, $50,000
24. Clark-Metro Dev. Corp., 3310 Clark Ave., Cleveland, OH 44109, Ms. Betty J. Sitka, $50,000
25. SE Comm. Dev. Org., Inc., Ten South Wolfe St., Baltimore, MD 21231, Mr. Robert P. Ciloth, $50,000
26. West Bank CDC, Inc., 2000 S. 5th St., Minneapolis, MN 55454, Mr. George A. Garnett, $25,000
27. Banana Kelly Comm Improv Assn, 965 Longwood Avenue, Brooklyn, NY 11206, Mr. Getz Obstfeld, $49,575
28. Cypress Hills Local Dev. Corp., 3152 Fulton St., Brooklyn, NY 10458, Ms. Angela Surace Curci, $44,000
29. Mutual Housing Assn. of NY, 845 Flatbush Ave., Brooklyn, NY 11226, Mr. Peter Wood, $50,000
30. Clinton Comm. Ser., Inc., 441 West 49th St., New York, NY 10019, Ms. Mary Clark, $50,000
31. Cudell Improvement, Inc., 11311 Franklin Blvd., Cleveland, OH 44102, Ms. Carol Johnson, $50,000
32. Edgemont Neigh. Coal., Inc., 1199 Wildwood Ave., Dayton, OH 45408, Mr. Dean Lovelace, $50,000
33. 4500 N. 20th Block Assn. Corp., 4541 N. 20th St., Philadelphia, PA 19140, Ms. Delores Dennison, $50,000
34. Kensington Action Now, 3034 Frankford Ave., Philadelphia, PA 19134, Ms. Deborah Fischetti, $50,000
35. Servicio De Viviendas, P.O. Box 887, Pueblo Station, Carolina, PR 00630, Mr. José Gaztambide, $50,000
36. South Community Org., Inc., 2201 S. 7th St., Milwaukee, WI 53215, Ms. Karen M. Schaber, $50,000
37. K.J.A.C., 1616 E. Huntingdon St., Philadelphia, PA 19125, Mr. Bill Lenahan, $47,500
38. Central Germantown Council, 5600 Germantown Ave., Philadelphia, PA 19144, Mr. Donald P. Scott, $36,000
39. NW Neigh. Environment Org., 802 Loudon Ave., NW., Roanoke, VA 24016, Ms. Florine Thornhill, $50,000.

Dated: October 17, 1990.

S. Anne Kendeigh,

Assistant Secretary for Community Planning and Development.

[FR Doc. 90–25182 Filed 10–24–90; 8:45 am]

BILLING CODE 4210–29–M

[Docket No. D–90–833]

Office of the Regional Administrator, Regional Housing Commissioner, Fort Worth Regional Office, Region VI (Fort Worth); Designation

AGENCY: Department of Housing and Urban Development.

ACTION: Designation of order of succession.

SUMMARY: The Regional Administrator—Regional Housing Commissioner is designating officials who may serve as Acting Regional Administrator—Regional Housing Commissioner during the absence, disability, or vacancy in the position of the Regional Administrator—Regional Housing Commissioner.

EFFECTIVE DATE: This designation is effective October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Rita M. Vinson, Director, Management and Budget Division, Office of Administration, Fort Worth Regional Office, Department of Housing and Urban Development, 1600 Throckmorton, P.O. Box 2905, Fort Worth, Texas 76113–2905, Telephone (817) 885–5451 (this is not a toll-free number).

DESIGNATION: Each of the officials appointed to the following positions is designated to serve as Acting Regional Administrator—Regional Housing Commissioner during the absence, disability, or vacancy in the position of the Regional Administrator—Regional Housing Commissioner with all the powers, functions, and duties redelegated or assigned to the Regional Administrator—Regional Housing Commissioner: Provided that no official is authorized to serve as Acting Regional Administrator unless all preceding listed officials in this designation are unavailable to act by reason of absence, disability, or vacancy in the position:

1. Deputy Regional Administrator
2. Regional Counsel
3. Director, Office of Community Planning and Development
4. Director, Office of Housing
5. Director, Office of Administration
6. Director, Office of Fair Housing and Equal Opportunity
7. Director, Office of Public Housing

This designation supersedes the designation effective October 8, 1986, published as Docket No. D-86-824 in the Federal Register issue of November 6, 1986 (51 FR 40356).

Authority: Delegation of Authority by the Secretary effective May 4, 1982, (27 FR 4319, May 4, 1982); Department Interim Order II (31 FR 815, January 21, 1966.

Sam R. Moseley,

Regional Administrator—Regional Housing Commissioner, Region VI (Fort Worth).

[FR Doc. 90-25184 Filed 10-24-90; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT-060-4333-11]

Notice of Participation in a Block Management Program, Valley Resource Area, Lewistown District, Montana

October 19, 1990.

AGENCY: Bureau of Land Management, Interior.

ACTION: Cooperation in a block management program which would temporarily change off-road vehicle designations in the area.

SUMMARY: Notice is hereby given that effective immediately all public lands in the following description will be managed in a cooperative block management program among the Montana Department of Fish, Wildlife, and Parks, the Page-Whitham Ranches of South Valley County and the BLM throughout the 1990 Montana big game hunting season.

Legal Description of Public Lands within the Block:

T. 25 N., R. 34 E.,
Sec. 26, 27, 34, 35, and 36.
T. 25 N., R. 35E.,
Sec. 26, 29, 31, 32, 33, and 34.
T. 24 N., R. 34 E.,
Sec. 1, 2, 11, 12, 13, 14, and 24.
T. 24 N., R. 35 E.,
Sec. 1-15, 17, 18, 19, 20, 23, 24, 25, 26, 27, 28, 29, 33, 34 and 36.
T. 24 N., R. 36 E.,
Sec. 5, 6, 7, 8, 17, 18, 30, and 31.
T. 23 N., R. 35 E.,
Sec. 1, 2, 3, 10, 11, 14, 15, 22, 23, 26, 27, and 35.

DATES: Public land restrictions within the block will coincide with the Montana big game hunting season, October 21, through November 25.

SUPPLEMENTARY INFORMATION: Hunting or other forms of recreation will be subject to the following regulations; no off-road vehicle travel, no open fires; and recreationists may obtain additional information from the Montana Department of Fish, Wildlife & Parks or Bureau of Land Management offices in Glasgow.

Authority for this participation is 43 CFR part 8342.

FOR FURTHER INFORMATION CONTACT: Terry Hueth, Valley Resource Area Manager, Route 1 Box 775, Glasgow, MT 59230.

B. Gene Miller,

Acting District Manager.

[FR Doc. 90-25242 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-DN-M

[WY-060-D1-4410-08]

Notice of Availability of Draft Environmental Impact Statement for Nebraska Resource Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of the Draft Environmental Impact Statement for the Nebraska Resource Management Plan.

SUMMARY: The Bureau of Land Management (BLM) has completed the Nebraska Resource Management Plan/draft Environmental Impact Statement (RMP/draft EIS). The BLM's preferred alternative in the RMP/draft EIS proposes land and resource uses, and identifies management goals, constraints, and general management practices needed to manage the public lands in Nebraska. It also contains proposed off-road vehicle (ORV) designations for all BLM administered land surface. The term "public lands" means federally-owned land surface and federally-owned minerals administered by the BLM.

When completed the Nebraska RMP will guide management of the public lands administered by BLM in the State of Nebraska.

DATES: Written comments will be accepted for 90 days following the date the Environmental Protection Agency publishes the filing of the Nebraska RMP/draft EIS in the Federal Register.

ADDRESSES: Copies of the Nebraska RMP/draft EIS are available from the Newcastle Resource Area Office at 1101 Washington Blvd., Newcastle, Wyoming 82701, or the Casper District Office at 1701 East E Street, Casper, Wyoming 82601. Comments should be sent to the Newcastle Area Manager at the Newcastle Resource Area Office.

FOR FURTHER INFORMATION CONTACT: Floyd Ewing, Newcastle Area Manager, at the above address or telephone (307) 746-4453.

SUPPLEMENTARY INFORMATION: The Newcastle Resource Area of the Bureau of Land Management has the responsibility of managing all BLM administered public lands in Nebraska. BLM administered public land surface (about 6,700 acres) is found in 30 of the 93 counties in Nebraska, with parcels ranging in size from less than one acre to 240 acres. The majority of this public land surface is located in the western part of the state. Some of the BLM administered Federal minerals lie beneath the BLM administered public lands. However, most of the Federal minerals lie beneath land surface in private ownership or owned by the State of Nebraska (about 240,000 acres) or federally-owned land surface that is managed by other Federal agencies. The planning effort will not address the Federal mineral estate under those Federal lands administered by other Federal agencies (about 280,000 acres) or those withdrawn for purposes of other agencies (about 81,000 acres).

After the public comment period closes all comments received will be addressed in a final EIS. The final EIS will also be made available to the public and will be subject to a 30 day protest period before any planning decisions are made.

Dated: October 18, 1990.

Ray Brubaker,

State Director, Wyoming.

[FR Doc. 90-25234 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-22-M

[G010-4333-02/G1-0109]

Albuquerque District, New Mexico; District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Albuquerque District Advisory Council Meeting.

SUMMARY: The BLM Albuquerque District Advisory Council will meet on November 19, 1990 in the Albuquerque District Office conference room from 10 a.m. until 3:30 p.m. The office is located at 435 Montano NE, Albuquerque, New Mexico. Topics on the agenda include a discussion of how to involve the Council in the preparation of the Rio Grande Corridor Plan, and a discussion of the District-Wide Resource Management Plan Amendment process to look at the cumulative impacts of oil and gas development activity. Also on the agenda will be an update for the Council of major activities on the District.

The meeting is open to the public. Individuals wishing to address the Council are urged to contact Alan Hoffmeister, Public Affairs Specialist, at (505) 761-4513, Bureau of Land

Management, 435 Montana NE. Albuquerque, NM 87107.

Robert T. Dale,

District Manager.

[FR Doc. 90-25232 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-FB-M

[NV-030-01-4830-02-24-1A]

Meetings; Carson City District Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting of the Carson City District Advisory Council.

DATES: November 29, 1990.

ADDRESSES: 1535 Hot Springs Road, suite 300, Carson City, Nevada.

SUMMARY: The Council will meet at 9:30 a.m. The agenda will include the following:

1. Minutes from the last meeting.
2. Proposed wild horse and burro gathers for Fiscal Year 1991.
3. Briefing on the Marietta Burro Range designation and proposed dedication ceremony.
4. Briefing on the Stewart Valley Management Plan.
5. Update on the Walker Lake recreation complex.
6. Current status of public land closures adjacent to Navy Bombing Ranges B-16, B-17 and B-19.
7. Law enforcement activities during Fiscal Year 1990.

At 11:30 a.m., comments from the public will be heard.

FOR FURTHER INFORMATION CONTACT: Chuck Pope, BLM Public Affairs Officer, 1535 Hot Springs Road, suite 300, Carson City, Nevada 89706-0638. (Phone: (702) 885-6000).

Dated this 18th day of October 1990.

James W. Elliott,

District Manager, Carson City District.

[FR Doc. 90-25118 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-HC-M

[Alaska AA-58130-K]

Proposed Reinstatement of a Terminated Oil and Gas Lease

In accordance with title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease AA-58130-K has been received covering the following lands:

Kateel River Meridian, Alaska

T. 6 S., R. 9 W.,
Sec. 19, SE¼ SE¼.
(40 acres)

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $5 per acre per year, and royalty increased to 16⅔ percent. The $500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accruing from June 1, 1990, the date of termination have been paid.

Having met all the requirements for reinstatement of lease AA-58130-K as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective June 1, 1990. subject to the terms and conditions cited above.

Dated: October 11, 1990.

Ruth Stockie,

Chief, Branch of Mineral Adjudication.

[FR Doc. 90-25235 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-JA-M

[Alaska AA-58306-AI, AA-58306-AJ, AA-58307-I]

Proposed Reinstatement of Terminated Oil and Gas Leases

In accordance with title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas leases AA-58306-AI, AA-58306-AJ, and AA-58307-I has been received covering the following lands:

Kateel River Meridian, Alaska

T. 5 S., R. 5 W.,
Sec. 5, N2NW; (80 acres)
Sec. 8, S2SW; (80 acres)
Sec. 20, N2NW; (80 acres)

The proposed reinstatement of the leases would be under the same terms and conditions of the original leases, except the rental will be increased to $5 per acre per year, and royalty increased to 16⅔ percent. The $1,500 administrative fees and the cost of publishing this Notice have been paid. The required rentals and royalties accruing from July 1, 1990, the date of termination have been paid.

Having met all the requirements for reinstatement of leases AA-58306-AI, AA-58306-AJ, and AA-58307-I as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate these leases, effective June 1, 1990, subject to the terms and conditions cited above.

Dated: October 11, 1990.

Ruth Stockie,

Chief, Branch of Mineral Adjudication.

[FR Doc. 90-25236 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-JA-M

[A-010-4213-11; AZA-24827]

Arizona Strip District; Realty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: (1) The following described 10 acres of public land has been determined to be suitable for disposal by sale to Mohave County, Arizona, under provisions of section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713):

Gila & Salt River Meridian, Mohave County, Arizona

T. 41 N., R. 15 W.,
Sec. 33, NE¼SW¼NE¼, 10 acres.

Disposal of this tract will serve important public objectives that cannot be prudently achieved on other public lands or by maintaining it in public ownership.

(2) Under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869) the following described public land is hereby classified as suitable for conveyance or lease:

Gila & Salt River Meridian, Mohave County, Arizona

T. 41 N., R. 15 W.,
Sec. 33, Lots 4 and 5, NW¼SW¼NE¼, S½ SW¼NE¼, SE¼SW¼, NW¼SE¼, N½ SW¼SE¼, SE¼SW¼SE¼, 189.58 acres.

This notice shall segregate the land described in both items (1) and (2) above from appropriation under other public land laws and the mining laws. The segregation of the land for sale in item (1) will terminate upon sale or 270 days after publication of this notice in the Federal Register. The segregation of the land for recreation and public purposes described in item (2) will terminate on lease or sale or in 18 months from publication of this notice in the Federal Register.

For a period of 45 days from the date of publication in the Federal Register interested parties may submit comments to the District Manager, Bureau of Land Management, 390 North 3050 East, St. George, UT 84770. In the absence of any objections the decision to approve this realty action will become the final determination of the Department of the Interior.

Dated: October 11, 1990.

Raymond D. Mapston,

Acting District Manager.

[FR Doc. 90-25243 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-GG-M

INTERIOR DEPARTMENT

Realty Action; Exchange; California

REALTY ACTION: Exchange of Public Lands; Modoc County, CA.

AGENCY: Bureau of Land Management, Department of Interior.

ACTION: CACA 25721; California Realty Action, exchange of public lands in Modoc County, California.

SUMMARY: The following described public lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

Mount Diablo Meridian, California

T. 44 N., R. 14 E.
Sec. 31: Lot 4, SE¼SW¼
Sec. 32: N½SW¼, E½SE¼, SE¼SE¼
T. 43 N., R. 14 E.
Sec. 4: Lot 4, SW¼NW¼
Sec. 5: Lot 1, Lot 2, Lot 3, SW¼NE¼, SE¼NW¼
T. 43 N., R. 13 E.
Sec. 12: Lot 4, SE¼SW¼, SW¼SE¼
Sec. 25: NW¼SW¼
Sec. 30: Lot 1, Lot 2, Lot 3, E½NE¼, NW¼NE¼, NE¼NW¼, NE¼SE¼
T. 43 N., R. 12 E.
Sec. 35: NE¼NE¼
T. 42 N., R. 14 E.
Sec. 6: SW¼NE¼, NW¼SE¼
T. 42 N., R. 12 E.
Sec. 31: SE¼NE¼
T. 42 N., R. 9 E.
Sec. 10: NE¼NE¼, NW¼SE¼, S½SE¼
Sec. 12: SE¼NE¼, NE¼SE¼
Sec. 14: S½NW¼, NW¼SW¼
Sec. 15: NE¼, N½SE¼
Sec. 22: SW¼SW¼
Sec. 24: NE¼NW¼
Sec. 26: SW¼SW¼
Sec. 27: SE¼
Sec. 34: N½NE¼
Sec. 35: NW¼NE¼
T. 41 N., R. 11 E.
Sec. 14: NE¼NW¼
Sec. 23: SW¼NW¼
T. 40 N., R. 9 E.
Sec. 32: W½SE¼
T. 40 N., R. 7 E.
Sec. 14: N½SW¼, SE¼SW¼
Sec. 15: E½NE¼, NE¼SE¼
Sec. 23: SW¼NW¼, W½SW¼, SE¼SW¼
Sec. 25: N½NW¼
T. 39 N., R. 9 E.
Sec. 3: Lot 2, S½NE¼
Sec. 4: S½NW¼, W½SE¼
Sec. 8: S½SE¼
Sec. 17: NE¼NW¼
Sec. 21: W½NE¼
T. 39 N., R. 7 E.
Sec. 17: NW¼NW¼
Sec. 18: NE¼NE¼
A total of 3422.34 Acres.

In exchange for these lands, the Federal Government will acquire an interest in tracts of non-federal lands in Modoc County from the Trust for Public Lands, in the form of a mortgage holder's lien/deed of trust and payment of property taxes owed. The lands are described as follows:

Mount Diablo Meridian, California

T.41N., R.14E.
Sec. 8: E½SW¼, SE¼
Sec. 9: S½SW¼
Sec. 16: All
Sec. 17: N½, W½SW¼
Sec. 18: SE¼SE¼
A total of 1400.00 acres.

All mineral rights on the public lands will be exchanged with the surface rights. All mineral rights will also be acquired with the private land.

The purpose of the exchange is to acquire clear title to non-federal lands that provide wetlands and critical deer winter range. These values outweigh the values found on the Federal lands to be exchanged. The exchange will benefit the general public and the local agricultural economy, and provide improved management of Federal and private lands. The exchange is consistent with Bureau planning and has been discussed with Modoc County. The public interest will be served by making this exchange. An environmental assessment will be prepared before any of the above mentioned public lands are exchanged.

The interest in private lands will be acquired in exchange for an equal value of public lands, under the Cooperative Land Exchange Agreement between Bureau of Land Management (BLM) and the Trust for Public Land (TPL) for the State of California, dated February 15, 1990. Under that agreement, the BLM and TPL will "pool" offered private lands and selected public lands throughout California, and convey said lands through exchange between the two parties. Values of the offered private lands and selected public lands conveyed from the pool shall be balanced on a statewide basis at least every two years.

There will be reserved to the United States in the public lands to be exchanged, a right-of-way thereon for ditches and canals constructed by the authority of the United States (Act of August 30, 1890, 43 U.S.C. 945).

Certain parcels of public lands may be patented subject to valid existing rights. The following rights-of-way or reservations are present on the public lands to be exchanged:

T. 44 N., R. 14 E., M.D.M.
Sec. 31: SW¼SW¼; Right-of-way CACA 6761, for a powerline.
Sec. 32: NW¼SW¼; Right-of-way CACA 6761, for powerline guys and anchors.
T. 43 N., R. 13 E., M.D.M.
Sec. 30: SE¼NE¼, NE¼SE¼; Right-of-way S 3084, for an irrigation ditch.
T. 39 N., R. 9 E., M.D.M.
Sec. 17: NE¼NW¼; Reservation to the United States CACA 13827, for a road.
Sec. 21: W½NE¼; Reservation to the United States CACA 13827, for a road.

The publication of this notice in the Federal Register shall segregate the public lands described herein from all other forms of appropriation and entry under the public land laws and the mining laws for a period of two years. The exchange is expected to be completed before the end of that period.

Detailed information concerning the exchange is available for review at the Bureau of Land Management's District Office, 705 Hall Street, Susanville, California 96130, and at the Alturas Resource Area Office, 608 West 12th Street, Alturas, California 96101.

COMMENTS: The publication date of this notice will commence the 45 day comment period. Within that 45 day time period, interested parties may submit comments to the District Manager.

ADDRESSES: Comments should be sent to the Susanville District Manager, Bureau of Land Management, 705 Hall Street, Susanville, California 96130.

Robert J. Sherve,
Acting District Manager.

[FR Doc. 90-25231 Filed 10-24-90; 8:45 am]
BILLING CODE 4310-40-M

[NV-930-91-4212-11-; N-51517]

Corrected Notice of Realty Action; Nevada

The Notice of Realty Action published in the Federal Register on September 28, 1990 (FR Doc. 90-22927), is hereby corrected with respect to the legal description for application N-51517. The proper legal description is as follows:

Mount Diablo Meridian, Nevada

T. 20 S., R. 60 E.,
Sec. 22, SE¼SW¼SE¼ Aggregating 10 acres.

All other terms and conditions of the Notice continue to apply.

Dated: October 18, 1990.

Ben F. Collins,
District Manager, Las Vegas, NV.

[FR Doc. 90-25239 Filed 10-24-90; 8:45 am]
BILLING CODE 4310-HC-M

[WY-040-01-4410-00]

Resource Management Plan; Green River Resource Area, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Publication of the proposed planning criteria for the Resource

Management Plan (RMP) for the Green River Resource Area, Rock Springs District, Wyoming.

SUMMARY: Planning criteria are used to guide development of alternatives in the RMP and to ensure that the RMP is tailored to the issues. Planning criteria are generally based upon applicable law such as the Federal Land Management Policy Act (FLPMA) and the National Environmental Policy Act (NEPA).

DATES: December 30, 1990.

ADDRESSES: Copies of the planning criteria are available upon request from the Green River Resource Area Office, P.O. Box 1170, Green River, Wyoming 82902-1170, (307) 362-6422.

FOR FURTHER INFORMATION CONTACT: If you wish to comment on the planning criteria or wish to be placed on the mailing list for the RMP, contact Bill LeBarron, Green River Resource Area Manager, at the above address. Please submit your comments to the above address by December 30, 1990.

SUPPLEMENTARY INFORMATION: Planning criteria are the constraints or ground rules that are developed to guide and direct the resource management plan. The planning criteria serves to:

1. Ensure that the planning effort is focused on the issues, provides for management of all resource uses in the Green River Resource Area, and that plan preparation is accomplished efficiently.

2. Establish a written link between the decision maker, the interdisciplinary planning team, and the public to determine the scope and parameters of the planning effort.

3. Allow the public to know what they should or should not expect from the plan and to identify issues and questions that are not ready for a decision and that will be addressed only through subsequent planning efforts.

4. Incorporate and document legal requirements.

5. Planning criteria are based on standards prescribed by policy, laws and regulations, State Director guidance, public input, results of consultation and coordination with other agencies and governmental entities, analysis of information pertinent to the planning area, and professional judgement.

6. Planning criteria will be developed with public input.

Planning criteria may be modified throughout the planning process, if necessary, based upon public comments and additional resource information.

Dated: October 17, 1990.

F. William Eikenberry,

Associate State Director, Wyoming.

[FR Doc. 90-25239 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-22-M

[CO-942-91-4730-12]

Colorado: Filing of Plats of Survey

October 16, 1990.

The plats of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10 a.m., October 18, 1990.

The plat representing the dependent resurvey of portions of the south and east boundaries and the subdivisional lines and the subdivision of certain sections, T. 35 N., R. 19 W., New Mexico Principal Meridian, Colorado, Group No. 735, was accepted October 16, 1990.

This survey was executed to meet certain administrative needs of the Bureau of Indian Affairs.

The plat representing the dependent resurvey of portions of the Second Standard Parallel South (south boundary), the Eleventh Guide Meridian West (west boundary), and the subdivisional lines, and the subdivision of certain sections, T. 10 S., R. 88 W., Sixth Principal Meridian, Colorado, Group No. 832, was accepted October 9, 1990.

This survey was executed to meet certain administrative needs of the U.S. Forest Service.

The plat representing the dependent resurvey of portions of the Tenth Guide Meridian West (west boundary) and subdivisional lines, and the subdivision of certain sections, T. 1 N., R. 81 W., Sixth Principal Meridian, Colorado, Group No. 877, was accepted October 11, 1990.

The plat representing the dependent resurvey of portions of the New Mexico Principal Meridian (Townships 32 and 33 North), the Eighth Standard Parallel North (south boundary, T. 33 N., R. 1 E.), and the subdivisional lines and the subdivision of certain sections, Fractional T. 32 N., R. 1 E., New Mexico Principal Meridian, Colorado, Group No. 929, was accepted October 16, 1990.

These surveys were executed to meet certain administrative needs of this Bureau.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado, 80215.

Jack A. Eaves,

Chief, Cadastral Surveyor for Colorado.

[FR Doc. 90-25237 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-JB-M

Fish and Wildlife Service

Availability of Draft Recovery Plans for Spikedace and Loach Minnow for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of draft recovery plans for the spikedace (*Meda fulgida*) and the loach minnow (*Tiaroga cobitis*). These two threatened fish occur in portions of the Gila, Tularosa, San Francisco, Blue, White, and Verde Rivers and Eagle, Aravaipa, Dry Blue, and Campbell Blue Creeks on Federal, state, and private lands in Grant and Catron Counties, New Mexico; and Gila, Greenlee, Graham, Pinal, Navajo, and Yavapai Counties, Arizona. The Service solicits review and comment from the public on these draft plans.

DATES: Comments on the draft recovery plans must be received on or before November 26, 1990, to receive consideration by the Service.

ADDRESSES: Persons wishing to review either or both of the draft recovery plans may obtain a copy by contacting the U.S. Fish and Wildlife Service, 3616 West Thomas Road, suite 6, Phoenix, Arizona 85019. Written comments and materials regarding the plans should be addressed to the Field Supervisor at the above address. Comments and materials received are available on request for pulic inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Sally Stefferud, Fish and Wildlife Biologist; telephone (602) 379-4720, FTS 261-4720 (see ADDRESSES).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals or plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed

BEST COPY AVAILABLE

species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1413 *et seq.*), requires the development of recovery plans for listed species unless than a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The Loach minnow is a threatened fish that has been extirpated from most of its historic range in the Gila River basin of New Mexico, Arizona, and Sonora, Mexico. It is presently found only in the upper Gila, San Francisco, and Tularosa Rivers in Grant and Catron Counties, New Mexico; and in the White, San Francisco, and Blue Rivers, and Aravaipa, Dry Blue, and Campbell Blue Creeks in Gila, Greenlee, Graham, Navajo, and Pinal Counties, Arizona. The loach minnow is a bottom dwelling species that inhabits turbulent waters over gravel/cobble bottoms in fast-flowing streams.

The spikedace is a threatened fish that has also been extirpated from most of its historic range in the Gila River basin of Arizona and New Mexico. It is presently found only in the upper Gila River in Grant and Catron Counties, New Mexico; and in the upper Verde River, and Aravaipa and Eagle Creeks in Graham, Greenlee, Pinal, and Yavapai Counties, Arizona. The spikedace inhabits riffles and runs in shallow, flowing waters over gravel, cobble, and sand bottoms. The primary habitat for adults consists of shear zones where fast water meets slow water.

All existing populations of both spikedace and loach minnow are under threat. Major threats include dams, water diversion, watershed deterioration, channelization, and introduction of non-native predatory and competitive fishes. The objective of both recovery plans is to set forth measures that will provide for protection of existing loach minnow and spikedace populations, restoration of populations in portions of historic habitat, and eventual downlisting, if possible. Mechanisms are set forth in each plan for defining the standard by which recovery progress to downlisting will be judged. Actions called for in the plans include protection, monitoring, enhancement, and study of existing populations and their habitat; study of interactions with non-native fishes; quantification of effects of habitat modification; reintroduction into portions of the historic range; possible captive propagation; and information and education.

Both the loach minnow and spikedace recovery plans have already undergone extensive review by Federal, state, and local agencies; species experts; business organizations; conservation organizations; and other interested parties. The plans will be issued as final following incorporation of comments and material received during this comment period.

Public Comments Solicited

The Service solicits written comments on the recovery plans described. All comments received by the date specified above will be considered prior to approval of the plans.

Authority

The Authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: October 16, 1990.

Pat A. Langley,

Acting Regional Director.

[FR Doc. 90-25249 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

[MMS Account No. 0-01-5300-415]

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Alaska Outer Continental Shelf

AGENCY: Minerals Management Service (MMS), Department of the Interior.

ACTION: Notice of the availability of environmental documents prepared for outer continental shelf (OCS) minerals exploration proposals on the Alaska OCS.

SUMMARY: The MMS, in accordance with Federal regulations (40 CFR 1501.4 and 40 CFR 506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related Environmental Assessments (EA's) and Findings of No Significant Impact (FONSI's) prepared by the MMS for oil and gas exploration activities proposed on the Alaska OCS. This listing includes all proposals for which FONSI's were prepared by the Alaska OCS in the 3-month period preceding this Notice.

Proposal

Shell Western E&P Inc. proposes to permanently abandon and dismantle Tern "A" Artificial Island. The island is located on Sale BF lease OCS–Y 0196 in the Beaufort Sea, which is in Foggy Island Bay about 20 miles east of Prudhoe Bay. It is a gravel island that is protected by gravel bags and filter fabric. The abandonment plan involves proper abandonment of wells and the recovery from the island of all surface hardware from wells and slope protection gravel bags and filter fabric to the mudline. The material will be removed from the island and disposed of at an approved solid-waste disposal site. Sizeable holes will be filled and small hummocks will be created in the gravel surface to provide an improved habitat for bird nesting. Wells to be abandoned explored leases OCS–Y 0195, 0196, and 0197. The abandonment operation will be conducted with heavy equipment between mid-July and early September 1990.

Location

Lease numbers	Block numbers
OCS–Y:	
0195	744
0196	745
0197	788

EA Number

EA No. AK 90–03.

FONSI Date

July 11, 1990.

Proposal

Chevron, as operator for itself and CONOCO Inc., proposes to drill one or two wells per year, a maximum of three wells, to explore three leases collectively called the Canvasback Prospect. The leases, acquired from Lease Sale 87, are located in the western Beaufort Sea about 50 miles east of Point Barrow in 118 to 210 feet of water. As part of the Exploration Plan (EP), Chevron is requesting an exception to Sale 87 Stipulation No. 4 to conduct drilling operations during the fall bowhead whale migration. Stipulation No. 4 prohibits exploratory drilling, testing, and other downhole exploratory activities during the spring and fall bowhead whale migrations. The wells will be drilled during the open-water season, as early as June 16 through

November, from the BeauDril Limited *Kulluk*, a conically shaped, ice-strengthened semisubmersible. Drilling would occur 1991 through 1993.

Location

Lease numbers	Block numbers
OCS-Y:	
0729	NR 5-1 516
0732	562
0733	563

EA Number

EA No. AK 90-04.

FONSI Date

August 20, 1990.

Proposal

Chevron, as operator for itself and others, proposes to drill one or two wells per year to explore the West Maktar prospect: five leases acquired from Lease Sales 87 and 97. Leases are located in the eastern Alaskan Beaufort Sea off Camden Bay, in approximately 108 feet of water. As part of the EP, Chevron is requesting an exception to Sale 87 Stipulation No. 4 to conduct drilling operations during the fall bowhead whale migration. Stipulation No. 4 prohibits exploratory drilling, testing, and other downhole exploratory activities during the spring and fall bowhead whale migrations. The wells will be drilled during the open-water season, generally August through November, from the BeauDril Limited *Kulluk*, a conically shaped ice-strengthened semisubmersible, beginning as early as 1991 and ending in 1993.

Location

Lease numbers	Block numbers
OCS-Y:	
0652	NR 6-4 629
0666	673
0667	674
0677	718
1102	717

EA Number

EA No. AK 90-05.

FONSI Date

August 28, 1990.

FOR FURTHER INFORMATION: Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EA's and FONSI's prepared for activities on the Alaska OCS are encouraged to contact the Alaska OCS Regional office of MMS.

The FONSI's and associated EA's are available for public inspection between the hours of 7:45 a.m. and 4:30 p.m., Monday through Friday at: Minerals Management Service, Alaska OCS Region, Library, 949 East 36th Avenue, Room 502, Anchorage, Alaska 99508-4302, phone: (907) 261-4435.

SUPPLEMENTAL INFORMATION: The MMS prepares EA's and FONSI's for proposals which relate to exploration for oil and gas resources on the Alaska OCS. The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. The EA is used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA 102(2)(C). A FONSI is prepared in those instances where MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This Notice constitutes the public Notice of Availability of environmental documents required under the NEPA regulations.

Dated: October 11, 1990.

Alan D. Powers,

Regional Director, Alaska OCS Region.

[FR Doc. 90-25245 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Overseas Private Investment Corporation

Public Hearing

AGENCY: Overseas Private Investment Corporation, IDCA.

ACTION: Notice of public hearing.

SUMMARY: This notice sets forth the schedule and requirements for participation in an annual public hearing to be conducted by the Board of Directors of the Overseas Private Investment Corporation (OPIC) on November 27, 1990. This hearing is required by the OPIC Amendments Act of 1985, and this notice is being published to facilitate public participation. The notice also describes OPIC and the subject matter of the hearing.

DATES: The hearing will be held on November 27, 1990, and will begin promptly at 1:30 p.m. Prospective participants must submit to OPIC on or before November 8, 1990, notice of their intent to participate.

ADDRESSES: The location of the hearing will be: Overseas Private Investment Corporation, 1615 M Street, NW., Fourth Floor, Washington, DC.

Notices and prepared statements should be sent to James R. Offutt, Office of the General Counsel, Overseas Private Investment Corporation, 1615 M Street, NW., Washington, DC. 20527.

PROCEDURE: (a) *Attendance; Participation.* The hearing will be open to the public. However, a person wishing to present his or her views at the hearing must provide OPIC with advance notice on or before November 9, 1990. The notice must include the name, address and telephone number of the person who will make the presentation, the name and address of the organization which the person represents (if any) and a concise summary of the subject matter of the presentation.

(b) *Prepared Statements.* Any participant wishing to submit a prepared statement for the record must submit it to OPIC with the notice or, in any event, not later than 5 p.m. on November 16, 1990. Prepared statements must be typewritten, double spaced and should not exceed twenty-five (25) pages.

(c) *Duration of Presentations.* Oral presentations will in no event exceed ten (10) minutes, and the time for individual presentations may be reduced proportionately, if necessary, to afford all prospective participants on a particular subject an opportunity to be heard or to permit all subjects to be covered.

(d) *Agenda.* Upon receipt of the required notices, OPIC will draw up an agenda for the hearing setting forth the subjects on which each participant will speak and the time allotted for each presentation. OPIC will provide each prospective participant with a copy of the agenda.

(e) *Publication of Proceedings.* A verbatim transcript of the hearing will be compiled and published. The transcript will be available to members of the public at the cost of reproduction.

SUPPLEMENTARY INFORMATION: OPIC is a U.S. Government agency which provides, on a commercial basis, political risk insurance and financing in friendly developing countries and emerging democracies for projects which confer positive developmental benefits upon the project country while

avoiding negative effects on the U.S. economy and the environment of the host country. OPIC's Board of Directors is required by section 233A(b) of the Foreign Assistance Act of 1961, as amended ("the Act") to hold at least one public hearing each year.

Among other issues, OPIC's annual public hearing has, in previous years, provided a forum for testimony concerning Section 231A(a) of the Act. This section provides that OPIC may operate its programs only in those countries that are determined to be "taking steps to adopt and implement laws that extend internationally recognized worker rights to workers in that country (including any designated zone in that country)."

Based on consultations with Congress, OPIC complies with annual determinations made by the Executive Branch with respect to worker rights for countries that are eligible for the Generalized System of Preferences (GSP). Any country for which GSP eligibility is revoked on account of its failure to take steps to adopt and implement internationally recognized worker rights is subject concurrently to the suspension of OPIC programs until such time as a favorable worker rights determination can be made.

For non-GSP countries in which OPIC operates its programs, OPIC has agreed to provide a worker rights report to the Congress for any country which is the subject of a formal challenge at its annual public hearing. To qualify as a formal challenge, testimony must pertain directly to the worker rights requirements of the law as defined in OPIC's 1985 reauthorizing legislation (Pub. L. 99-204) with reference to the Trade Act of 1974, as amended, and be supported by factual information.

FOR FURTHER INFORMATION ABOUT THE PUBLIC HEARING CONTACT: James R. Offutt, Office of General Counsel, Overseas Private Investment Corporation, 1615 M Street, NW., Washington, DC. 20527 (202) 457-7038.

October 18, 1990.

Dennis K. Dolan,

Corporate Secretary.

[FR Doc. 90-25188 Filed 10-25-90; 8:45 am]

BILLING CODE 3210-01-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31745]

The Indiana & Ohio Central Railroad, Inc.; Modified Rail Certificate

On September 25, 1990, the Indiana & Ohio Central Railroad, Inc. (IOC), filed a notice for a modified certificate of public convenience and necessity under 49 CFR 1150.23 to operate approximately 8.73 miles of railroad acquired by the Clark County-Fayette County Port Authority (CFPA).[1] The line has been owned and operated by The Grand Trunk Western Railroad Company (GTW) as is known as the Springfield Subdivision. Abandonment of the line was authorized by the Commission in Docket No. AB-31 (Sub-No. 29), *The Grand Trunk Western Railroad Company—Abandonment—In Clark, Madison and Fayette Counties, OH* (not printed), served March 7, 1990.[2]

On September 4, 1990, IOC entered into a 100-year renewable lease with CFPA under which IOC would begin to operate and maintain the line within 24 hours of the date CFPA acquires the property. IOC intends to interchange and connect traffic with CSX Transportation, Inc., at an interchange point with the latter's line near Washington, Court House, at Fayne.

This notice involves the lease of property, which is defined by the regulations of the Advisory Council on Historic Preservation as potentially having an adverse effect on properties. IOC shall maintain its interest in and take no steps to alter the historic integrity of all sites and structures on the line that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470.

This notice must be served on the Association of American Railroads (Car Service Division) as agent of all railroad subscribing to the car-service and car-hire agreement, and on the American Short Line Railroad Association.

Dated: October 18, 1990.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-25202 Filed 10-24-90; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31749]

Trac-Work, Inc.; Continuance in Control Exemption; Ogeechee Railway Company and Acadiana Railway Co.

Trac-Work, Inc., (TWI), filed a notice of exemption to continue to control Ogeechee Railway Company (Ogeechee), an existing class III rail carrier, and Acadiana Railway Company (Acadiana) upon Acadiana becoming a carrier. Prior to filing the notice TWI was in control of Ogeechee and Acadiana through direct or indirect stock ownership.

In Finance Docket No. 31570, *Ogeechee Railway Company—Purchase and Trackage Rights—Missouri Pacific Railroad Company Lines in Louisiana* (not printed), served August 2, 1990,[1] (*MP and SP*) the Commission approved the purchase and acquisition by Ogeechee of certain assets including rail lines and trackage rights. Acadiana has not previously been a carrier, but under a notice of exemption in Finance Docket No. 31753, *Acadiana Railway Company—Acquistion and Operation Exemption—Ogeechee Railway Company*, Ogeechee was to transfer a substantial portion of the rail assets involved in *MP and SP* to Acadiana. None of the Assets involved in *MP and SP* will be retained by Ogeechee.

A reallocation of ownership interests with respect to Acadiana and Ogeechee was intended to occur at the same time as the transfer to Acadiana. After this reallocation, TWI would own, directly and indirectly, at least two-thirds of the stock of Ogeechee and of Acadiana. Thus the two railroads remain members of the same corporate family.

This transaction involves the acquisition or continuance in control of nonconnecting carriers where: (1) The railroads would not connect with each other or any railroads in their corporate family; (2) the acquisition or continuance in control is not a part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (3) the transaction does not involve a Class I carrier. The transaction therefore is exempt from the prior

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[1] CFPA is a political subdivision of the State of Ohio and, thus, qualifies as a "State" as defined at 49 CFR 1150.21.

CFPA is acquiring the line in two stages: (1) The 8.73-mile segment between milepost 221.1, near Jeffersonville, OH, and milepost 228.83, at Fayne, OH, was to have been acquired on October 5, 1990, and operations were to have commenced on October 8, 1990; and (2) the balance of the line, from milepost 202.70, at Springfield, OH, to milepost 221.1, near Jeffersonville, OH, a distance of approximately 18.4 miles, is to be acquired on December 31, 1990, with operations scheduled to commence on January 1, 1991. IOC may not begin operations on the second segment until CFPA's acquisition of that segment has been consummated.

[2] After an unsuccessful attempt by CFPA and GTW to transfer the line through an offer of financial assistance (OFA), GTW and CFPA continued to negotiate and reached an agreement for the purchase of the subject line outside the OFA process.

[1] Embracing Finance Docket No. 31571, Ogeechee Railway Company—Purchase—Southern Pacific Transportation Company Line near Opelousas, LA.

approval requirements of 49 U.S.C. 11343. *See* 49 CFR 1180.2(d)(2).

As a condition to use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505 (d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Any pleadings must be filed with the Commission and served on John M. Robinson, 9618 Old Spring Road, Kensington, MD 20895.

Decided: October 17, 1990.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-25263 Filed 10-24-90; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree

In accordance with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that a complaint styled *United States* v. *Bell Petroleum Services, Inc., et al.*, Civil Action No. MO-88-CA-005, was filed in the United States District Court for the Western District of Texas on December 1, 1988. On October 18, 1990, a consent decree between the United States as plaintiff, and John R. Leigh as defendant was lodged with the court in partial settlement of the allegations in the complaint. This consent decree settles the government's claims in the complaint against John R. Leigh, pursuant to sections 104, 106 and 107 of CERCLA, 42 U.S.C. 9604, 9606, 9607, for injunctive relief to abate an imminent and substantial endangerment to the public health, welfare or the environment because of actual or threatened release of hazardous substances from a facility, and for the recovery of response costs incurred by the United States with respect to a facility located in Odessa, Ector County, Texas, known as the "Odessa Chromium I Site" (hereafter "the Site"). The complaint alleged, among other things, that the defendant is a person who at the time of disposal of any hazardous substance owned and operated any facility at which such hazardous substances were disposed of. The complaint further alleged that the United States has incurred and will continue to incur response costs in response to the release or threat of release of hazardous substances.

Under the terms of the proposed consent decree, the defendant John R. Leigh agrees to pay to the United States the sum of one hundred thousand dollars ($100,000.00) for the United States' response costs. The United States will continue to seek the remainder of its response costs from defendants named in the complaint who are not parties to the consent decree.

The Department of Justice will received comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, 10th and Pennsylvania Avenue, NW., Washington, DC 20530. All comments should refer to *United States* v. *Bell Petroleum Services, Inc.*, D.J. Ref. 90-11-3-229A. The proposed consent decree may be examined at the following offices of the United States Attorney and the Environmental Protection Agency ("EPA"):

United States Attorney's Office

Office of the United States Attorney, U.S. Courthouse, 200 East Wall Street, room 304 Midland, Texas 79701, (915) 684-4120

EPA Region VI

Contact: Bruce Jones, Office of Regional Counsel U.S. Environmental Protection Agency, Region VI, 1445 Ross Avenue, Dallas, Texas 75202-2733, (214) 655-2120.

Copies of the proposed consent decree may also be examined at the Environmental Enforcement Section Document Center, 1333 F. Street, NW., Washington, DC 20004, (202) 347-7829. A copy of the proposed consent decree may be obtained by mail from the Document Center. When requesting a copy of the decree, please enclose a check for copying costs in the amount of $3.75 payable to "Consent Decree Library."

George Van Cleave,

Environment and Natural Resources Division.

[FR Doc. 90-25259 Filed 10-24-90; 8:45 am]

BILLING CODE 4410-01-M

Consent Judgment in Action Pursuant to the Resource Conservation and Recovery Act

In accordance with Departmental Policy, (*see generally* 28 CFR 50.7, 38 FR 19029), notice is hereby given that a Consent Decree settling the claims alleged in the complaint in *United States* v. *General Electric Company*, Civ. Action No. 88-CV-948 (Hon. J. Cholakis), an action filed against the General Electric Company in 1988 pursuant to the Resource Conservation and Recovery Act was lodged with the United States District court for the Northern District of New York on October 11, 1990.

The complaint was filed on July 28, 1988 under section 3008 (a) and (g) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6928 (a) and (g), seeking injunctive relief and payment of civil penalties for alleged violations of RCRA Subchapter III, 42 U.S.C. 6921-6939a, and implementing regulations at GE's silicone production facility in Waterford, New York.

Pursuant to the terms of the Consent Decree, GE will construct a container/drum storage pad with a protective roof, implement additional procedures for the management of its container/drum storage pad, and provide personnel training in the application and implementation of the procedures. GE will also pay a civil penalty in the amount of $176,000.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530 and should refer to DOJ #90-7-1-327.

The Consent Decree may be examined at the Office of the United States Attorney, 369 Federal Building, 100 South Clinton St., Syracuse, New York, 13260 and U.S. Courthouse & Post Office, 2nd Floor, Region II Office of the Environmental Protection Agency, Federal Plaza, New York, New York, 10278; and the Environmental Enforcement Section, Environment and Natural Resources Division of the Department of Justice, room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 1333 F Street, NW., suite 600, Washington, DC 20004, Telephone Number (202) 347-2072. In requesting a copy, please enclose a check in the amount of $9.75 (25 cents per page reproduction charge) payable to Consent Decree Library.

Richard B. Stewart,

Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 90-25251 Filed 10-24-90; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984—Fuel Cell Commercialization Group

Notice is hereby given that, on September 21, 1990, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the Fuel Cell Commercialization Group ("FCCG") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to FCCG and (2) the FCCG's nature and objectives. The notifications were filed for the purpose of invoking the Act's provisions limiting the potential recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to FCCG and its general area of planned activities are given below.

The current members to the FCCG are: Alabama Municipal Electric Authority; City of Anaheim; Lincoln Electric System; Los Angeles Department of Water & Power; National Rural Electric Cooperative Association; Pacific Gas & Electric Company; City of Palo Alto; Salt River Project Agricultural Improvement and Power District; City of Santa Clara; and United Power Association.

Membership to the FCCG remains open, and the members intend to file additional written notifications disclosing all changes in membership.

The FCCG's planned area of activity is research and development related to technology for the production of electrical energy by molten carbonate fuel cells.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 90-25252 Filed 10-24-90; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

[Docket No. 90-53]

Richard A. Cole, M.D. Erie, PA; Notice of Hearing

Notice is hereby given that on July 25, 1990, the Drug Enforcement Administration, Department of Justice, issued to Richard A. Cole, M.D., an Order to Show Cause as to why the Drug Enforcement Administration should not revoke your DEA Certificate of Registration, AC8141628, and deny any pending applications for a DEA Certificate of Registration.

Thirty days have elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on November 6 and 7, 1990, commencing at 9:30 a.m., at the Drug Enforcement Administration Headquarters, 600 Army Navy Drive, Hearing Room, Room E-2103, Arlington, Virginia.

Dated: October 15, 1990.

Robert C. Bonner,

Administrator, Drug Enforcement Administration.

[FR Doc. 90-25228 Filed 10-24-90; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Arts in Education Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Arts In Education Advisory Panel (Advancement Section) to the National Council on the Arts will held on November 16, 1990 from 9 a.m.–4 p.m. in room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman of October 19, 1990 these sessions will be closed to the public pursuant to subsections (c) (4), (6) and (9) (B) of section 552b of title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: October 19, 1990.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90-25276 Filed 10-24-90; 8:45 am]

BILLING CODE 7537-01-M

Arts National Council; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on November 2, 1990, from 9 a.m.–5:30 p.m. and on November 3 from 9 a.m.–5:45 p.m. in room M-09 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting will be open to the public on a space available basis. The topics for discussion will be on Opening Remarks, Legislative Update, Discussion of Recommendations of Independent Commission, Institutional Grants: Project Support vs. Seasonal Support, Fellowships: Career Development vs. Project Support, Report of the International Committee, Regional Representative Report, and Application Review and/or Guidelines and/or Program Review for the Arts in Education: Special Projects; Challenge/Advancement; Dance; Design Arts; Inter-Arts; Literature; Media Arts; Museum; Music: Presenters and Festivals; Opera-Musical Theater; Policy, Planning and Research; Theater and Visual Arts Programs.

If in the course of application review it becomes necessary for the Council to discuss non-public financial information about individuals, such as salary information, submitted with grant applications, the Council will go into closed session for that limited purpose only pursuant to subsection (c)(4) of section 552b of title 5, United States Code. Such closure would be in accordance with the determination of the Chairman of October 19, 1990.

Any interested persons may attend, as observers, Council discussions and reviews which are open to the public.

If you need special accommodation due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: October 19, 1990.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90-25277 Filed 10-24-90; 8:45 am]

BILLING CODE 7537-01-M

Dance Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (Dance Presenters Section) to the National Council on the Arts will be held on November 14–15, 1990 from 9 a.m.–6 p.m. and on November 16 from 9 a.m.–6 p.m. in Room M–07 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on November 16 from 4 p.m.–6 p.m. The topic will be policy discussion.

The remaining portions of this meeting on November 14–15 from 9 a.m.–6 p.m. and November 16 from 9 a.m.–4 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of October 19, 1990 these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any interested persons may attend, as observers, meetings, or portions thereof, of advisory panels which are open to the public.

Members of the public attending an open session of a meeting will be permitted to participate in the panel's discussions at the discretion of the chairman of the panel if the chairman is a full-time Federal employee. If the chairman is not a full-time Federal employee, then public participation will be permitted at the chairman's discretion with the approval of the full-time Federal employee in attendance at the meeting, in compliance with this guidance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting an be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: October 19, 1990.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90-25280 Filed 10-24-90; 8:45 am]

BILLING CODE 7537-01-M

Design Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Design Arts Advisory Panel (Design Advancement Project Grants for Individuals, Design Innovation, USA Fellowships, and International Exchange Fellowships Sections)) to the National Council on the Arts will be held on November 14–15, 1990 from 9 a.m.–7 p.m. and on November 16 from 9 a.m.–4 p.m. in Room M–14 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public on November 14 from 9 a.m.–10 a.m. and November 16 from 3 p.m.–4 p.m. The topics will be introductory remarks and policy discussion.

The remaining portions of this meeting on November 14 from 10 a.m.–7 p.m., November 15 from 9 a.m.–7 p.m. and November 16 from 9 a.m.–3 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of October 19, 1990 these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any interested persons may attend, as observers, meetings, or portions thereof, of advisory panels which are open to the public.

Members of the public attending an open session of a meeting will be permitted to participate in the panel's discussions at the discretion of the chairman of the panel if the chairman is a full-time Federal employee. If the chairman is not a full-time Federal employee, then public participation will be permitted at the chairman's discretion with the approval of the full-time Federal employee in attendance at the meeting, in compliance with this guidance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: October 19, 1990.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90-25281 Filed 10-24-90; 8:45 am]

BILLING CODE 7537-01-M

Museum Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel (Care of Collections Section) to the National Council on the Arts will be held on November 13–15, 1990 from 9:15 a.m.–5:30 p.m. in Room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on November 13 from 9:15 a.m.–10 a.m. The topics will be opening remarks and general discussion.

The remaining portions of this meeting on November 13 from 10 a.m.–5:30 p.m. and November 14–15 from 9:15 a.m.–5:30 p.m. are for the purpose of Panel review, discussions, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of October 19, 1990 these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any interested persons may attend, as obeservers, meetings, or portions thereof, of advisory panels which are open to the public.

Members of the public attending an open session of a meeting will be permitted to participate in the panel's discussions at the discretion of the chairman of the panel if the chairman is a full-time Federal employee. If the chairman is not a full-time Federal employee, then public participation will be permitted at the chairman's discretion with the approval of the full-time Federal employee in attendance at the meeting, in compliance with this guidance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: October 19, 1990.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90–25282 Filed 10–24–90; 8:45 am]

BILLING CODE 7537–01–M

President's Committee on the Arts and the Humanities; Meeting

Wednesday, November 14 at nine o'clock in the morning has been designated by the President's Committee on the Arts and the Humanities for Meeting XXI. This meeting will be held in the Council Room (M–09), Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., in Washington, DC. This is a regularly scheduled meeting at which the Honorable Nicholas F. Brady, Secretary of the Treasury, will address the Committee. In addition, presentations will be made on priorities for private support in the humanities by Lynne Cheney, Chairman of the National Endowment for the Humanities and in the arts by John Frohnmayer, Chairman of the National Endowment for the Arts. The plenary session is expected to adjourn at 10:30 a.m.

The Committee, charged with exploring ways to increase private support for the arts and the humanities, has generated private funds which support projects and programs initiated by the President's Committee.

Please call 202–682–5409 or 212–512–5957 if you expect to attend, as space is limited.

Dated: October 22, 1990.

Yvonne M. Sabine,

Director, Council & Panel Operations, National Endowment for the Arts.

[FR Doc. 90–25283 Filed 10–24–90; 8:45 am]

BILLING CODE 7537–01–M

Theater Advisory Council; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Advancement Section) to the National Council on the Arts will be held on November 7, 1990 from 9:30 a.m.–6 p.m. in room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public from 9:30 a.m.–10 a.m. and 5:30 p.m.–6 p.m. The topics will be introductory remarks and guidelines discussion.

The remaining portion of this meeting from 10 a.m.–5:30 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of October 19, 1990 these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any interested persons may attend, as observers, meetings, or portions thereof, of advisory panels which are open to the public.

Members of the public attending an open session of a meeting will be permitted to participate in the panel's discussions at the discretion of the chairman of the panel if the chairman is a full-time Federal employee. If the chairman is not a full-time Federal employee, then public participation will be permitted at the chairman's discretion with the approval of the full-time Federal employee in attendance at the meeting, in compliance with this guidance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: October 19, 1990.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90–25278 Filed 10–24–90; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Information, Robotic, and Intelligent Systems Advisory Committee Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463 as amended, the National Science Foundation announces the following meeting.

Name: Advisory Committee for Information, Robotics, and Intelligent Systems.

Date and Time: November 13–14, 1990, 8:30 to 5:30 daily.

Place: Hotel Lombardy, 2109 I Street, NW., International room, Washington, DC 20006.

Type of Meeting: All open.

Contact Person: Dr. Y. T. Chien, Division Director, Division of Information, Robotics, and Intelligent Systems, room 310, National Science Foundation, 1800 G Street, NW., Washington, DC 20550. Telephone: (202) 357–9572. Anyone planning to attend this meeting should notify Dr. Chien no later than November 5, 1990.

Minutes: May be obtained from contact person listed above.

Purpose of Committee: To provide advice and recommendations concerning support of research in Information, Robotics, and Intelligent Systems.

Agenda: November 13—Overview of the Division and Programs; Discussion of new NSF and CISE Programs; Presentation and discussion of IRIS workshop reports.

November 14—Discussion of strategic issues and divisional initiatives; Committee Business.

Dated: October 22, 1990

[FR Doc. 90–25250 Filed 10–24–90; 8:45 am]

BILLING CODE 7555–01–M

Law and Social Science Advisory Panel Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Law and Social Science.

Date/Time: November 16, 1990, 3 p.m. to 8 p.m. November 17, 1990, 9 a.m. to 5 p.m. November 18, 1990, 9 a.m. to 12 p.m.

Place: The Inn at Foggy Bottom, 824 New Hampshire Avenue, NW., Washington, DC 20037.

Type of Meeting: Part Open—November 16, 1990, 5—6 p.m. Closed Remainder.

Contact Person: Dr. Felice J. Levine, Program Director for Law and Social Science, National Science Foundation, Washington, DC 20550 Telephone (202) 357–9567.

Purpose of Panel: To provide advice and recommendations concerning research in Law and Social Science.

Agenda: To review and evaluate research proposals as part of the selection process for awards. (Closed) (Open) Discussion of future trends in Law & Social Sciences.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Dated: October 22, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90–25260 Filed 10–24–90; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panels; Meetings

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting(s) to be held at 1800 G. Street, NW., Washington, DC 20550 (except where otherwise indicated).

SUPPLEMENTARY INFORMATION: The purpose of the meetings is to provide advice and recommendations to the National Science Foundation concerning the support of research, engineering, and science education. The agenda is to review and evaluate proposals as part of the selection process for awards. The entire meeting is closed to the public because the panels are reviewing proposals that include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

CONTACT PERSON: M. Rebecca Winkler, Committee Management Officer, room 208, 357–7363.

Dated: October 22, 1990.

M. Rebecca Winkler,

Committee Management Officer.

Committee name	Date(s)	Time		Location
Special Emphasis Panel in Cross-Disciplinary Activities—Agenda: CDA Site Visit.	11/16/90	8:30 am–5:00 pm	University of Wisconsin,	Madison, WI.
Special Emphasis Panel in Cross-Disciplinary Activities—Agenda: CDA Site Visit.	11/20/90	8:30 am–5:00 pm	Cornell University,	Ithaca, NY.
Special Emphasis Panel in Cross-Disciplinary Activities—Agenda: CDA Site Visit.	12/04/90	8:30 am–5:00 pm	Columbia University,	New York, NY.

Committee name	Agenda	Date(s)	Time	Room [1]
Special Emphasis Panel in Networking and Communications Research and Infrastructure.	Net & Communications Res.	11/19/90, 11/20/90	8:30 AM–5:00 PM, 8:30 AM–5:00 PM.	540–8
Special Emphasis Panel in Cross-Disciplinary Activities.	Faculty Awards for Women	12/04/90, 12/05/90	8:30 AM–5:00 PM, 8:30 AM–5:00 PM.	414
Special Emphasis Panel in Cross-Disciplinary Activities.	Res Experiences/Undergrad	12/12/90	8:30 AM–5:00 PM	414
Special Emphasis Panel in Materials Research	Faculty Awards for Women	11/19/90, 11/20/90	8:30 AM–5:00 PM, 8:30 AM–5:00 PM.	408
Special Emphasis Panel in Mathematical Sciences	Res Experiences/Undergrad	11/19/90, 11/20/90	8:30 AM–5:00 PM, 8:30 AM–5:00 PM.	523

[1] At 1800 G Street, N.W., Washington, DC

[FR Doc. 90–25261 Filed 10–24–90; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrences for Second Quarter CY 1990; Dissemination of Information

Section 208 of the Energy Reorganization Act of 1974, as amended, requires the NRC to disseminate information on abnormal occurrences (i.e., unscheduled incidents or events that the Commission determines are significant from the standpoint of public health and safety). The following incidents at NRC licenses were determined to be abnormal occurrences (AOs) using the criteria published in the Federal Register on February 24, 1977 (42 FR 10950). The AOs are described below, together with the remedial actions taken. The events are also being included in NUREG–0090, Vol 13, No. 2 ("Report to Congress on Abnormal Occurrences: April–June 1990"). This report will be available in the NRC's Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC about three weeks after the publication date of this Federal Register Notice.

Other NRC licensees

90–11 Deficiencies in Brachytherapy Program

One of the AO examples notes that an event involving serious deficiences in management controls can be considered an Abnormal Occurrence.

Date and Place—On March 28, 1990, NRC Region III received allegations

pertaining to brachytherapy treatments at the St. Mary Medical Center facilities in Gary and Hobart, Indiana. The NRC also conducted a special inspection at Porter Memorial Hospital, Valparaiso, Indiana. Although the original allegations did not include Porter Memorial Hospital, the NRC inspection was made because brachytherapy procedures at Porter Memorial Hospital were performed by the same physician as those at the St. Mary facilities. Following the NRC inspections at the facilities, Orders suspending the brachytherapy procedures were issued by the NRC staff to the three hospitals. The Order to the St. Mary Medical Center facilities was issued on April 27, 1990. The Order to Porter Memorial Hospital was issued on May 2, 1990.

Nature and Probable Consequences—On March 28, 1990, NRC Region III (Chicago) received allegations pertaining to brachytherapy treatments performed by one of the authorized users at St. Mary Medical Center in Gary and Hobart, Indiana. The alleger contended that the authorized user did not evaluate patients' treatment plans prior to treatment and that the patients therefore did not receive the prescribed dose of radiation during the procedure.

Brachytherapy involves the use of small sealed capsules containing readioactive material. These capsules, which are used in the treatment of cancer, are either surgically implanted, placed in body cavities, or applied to the skin.

Assisted by a medical consultant, the NRC conducted a preliminary inquiry into the allegations on March 30–April 19, 1990. This inspection substantiated some of the allegations, and the NRC concluded that the two St. Mary facilities were not exercising adequate management control to assure that NRC requirements were met.

Because the same authorized user performed brachytherapy treatments at Porter Memorial Hospital, the NRC performed a special inspection April 5–April 27, 1990, at this facility. The inspection determined that adequate records had not been maintained at the hospital to evaluate whether or not the brachytherapy procedures had been administered as prescribed and planned.

On April 27, 1990, the NRC Staff issued an Order to the two St. Mary Medical Center facilities suspending brachytherapy activities. The Order also directed the medical facilities to perform an independent evaluation of brachytherapy procedures performed since the brachytherapy program was started in May 1988. On May 2, 1990, the NRC Staff issued a Confirmatory Order to Porter Memorial Hospital confirming the licensee's agreement to suspend its brachytherapy program and to require an independent evaluation of previous brachytherapy procedures.

Planning for these two independent evaluation programs is underway. One of the goals of the programs is to determine if any patients received radiation exposures different from those that were prescribed.

The NRC special inspection at the St. Mary facilities identified several instance where the actual therapy radiation dose may have varied from the prescribed dose by more than 10 percent. The NRC requires that a therapy radiation dose that varies from the prescribed dose by more than 10 percent be reported to the NRC and that the patient's physician be notified. Such a deviation from the prescription would be a "misadministration."

At the Porter Memorial Hospital, sufficent records were immediately available to determine if any misadministrations occurred.

The Orders did not affect other activities performed under NRC licenses issued to the three facilities, including diagnostic tests using radiopharmaceuticals and other radiation therapy programs.

Cause or Causes—The NRC inspections determined that none of the three facilities had maintained adequate records of the treatment plans and prescriptions at the facility. The inspections also determined that licensee management at each of the facilities had not taken action to assure that established procedures were followed including maintenance of required records.

At the St. Mary facilities, hospital management was notified by a staff member as early as May 1988 that appropriate records were not being maintained nor established procedures followed, but the corrective actions taken were not effective and the inadequate recordkeeping and procedural failures continued.

Six brachytherapy procedures were performed at the Porter Memorial Hospital between 1987 and 1989. The hospital's Radiation Safety Committee and Radiation Safety Officer, however, were not aware when brachytherapy treatments were being performed or when the radioactive sources for brachytherapy were ordered.

Actions Taken to Prevent Recurrence

Licensees—The two St. Mary facilities have submitted revisions to their NRC licenses to provide quality assurance procedures for brachytherapy procedures. Porter Memorial Hospital has also submitted revisions to its NRC license providing quality assurance procedures. The proposed license amendments are under review.

The two St. Mary facilities filed a request for a hearing on the NRC Order. The authorized user, who was involved in brachytherapy treatments at the facilities, also requested a hearing and he was admitted to the proceeding as an intervenor.

The proceeding is currently pending before an Atomic Safety and Licensing Board, although settlement discussions are underway.

NRC—The NRC staff issued orders to the three facilities, suspending brachytherapy procedures at the St. Mary facilities and confirming that Porter Memorial Hospital had ceased brachytherapy treatments. The Orders also required the licensees to undertake independent evaluation of completed brachytherapy procedures to determine if the treatments were consistent with the prescribed doses and treatment plans. The licensees were also required to submit proposed license amendments to provide quality assurance procedures should they desire to continue their brachytherapy programs. The licensees were not to resume brachytherapy without NRC authorization.

90-12 Radiation Exposure of a Radiographer

One of the AO examples notes that exposure of the skin of any individual to 150 rem or more of radiation can be considered an abnormal occurrence.

Date and Place—April 6, 1990; Barnett Industrial X-Ray; Stillwater Oklahoma; the radiation overexposure occurred at a temporary jobsite in Ardmore, Oklahoma.

Nature and Probable Consequences—On the evening of April 6, 1990, the licensee notified the NRC that an incident had occurred earlier that evening while a radiographer and his assistant were working at a temporary jobsite. The radiographic operation involved the use of radiography device containing an approximately 80-curie iridium-192 sealed source. (A radiography device uses a radioactive sealed source to make x-ray-like images of welds and heavy metal objects. The position of the source is controlled by a drive cable which is used to crank the source out of the exposure device and retract it back to a shielded position within the device via an unshielded source guide tube.) The licensee reported that the source became disconnected from the drive cable and remained in the source guide tube. Unaware that the source remained in the tube, the assistant wrapped the

source guide tube around his neck while he moved equipment at the worksite. The licensee initially estimated that the assistant received an exposure of 4000 rem to the exposed area of his neck. Two NRC Region IV inspectors were dispatched the following morning to investigate the incident. The circumstance associated with the radiation overexposure are described below.

After completing two radiographs of a pipe weld, the radiographer proceeded to develop the radiographs while the assistant disassembled the equipment to move the exposure device to another location. While doing this, he moved the source guide tube and draped it around his neck so that his hands would be free to carry the remaining equipment. He walked approximately 30–50 feet before stopping to set the equipment down. As he removed the guide tube from around his neck, he noticed that the sealed source fell from the tube to the ground. The assistant notified the radiographer who telephoned the company owner and, following his direction, successfully retrieved the source to a shielded position within the exposure device. During his conversation with the owner, the radiographer identified: (1) That he failed to conduct a radiation survey of the exposure device after each of the exposures, (2) that the assistant's pocket dosimeter had gone offscale (greater than 200 millirem), and (3) that the assistant was not wearing his film badge during these operations. Under the owner's direction, the assistant was taken for medical examination at a local hospital later that evening.

Based on interviews conducted with the radiographer and company owner together with NRC reenactments of the radiographer's actions during the event, NRC inspectors determined that he might also have received an exposure in excess of regulatory limits. When the radiographer later confirmed that his pocket dosimeter had gone offscale, his film badge was sent for immediate processing. Both the assistant and radiographer were referred for examination by a radiation oncologist (a physician experienced in examining patients who have been treated with large doses of radiation) and blood samples were obtained for cytogenetic studies.

The cytogenetic studies revealed equivalent whole body doses of 17 rem for the radiographer and 24 rem for the assistant. The assistant developed an area of erythema on the left side of his neck, which later showed signs of more significant damage to skin tissue in an area approximately 10 centimeters in diameter. The oncologist determined that the observed effect corresponded to a local skin dose of 5000–7000 rem. As of June 1990, the skin tissue in this area had regenerated and the physician did not predict any long-term effects as a result of this exposure. The assistant remains under the physician's care, and the NRC continues to receive reports on his progress. There were no medical effects observed for the radiographer.

Cause or Causes—The radiographer and assistant failed to conduct a radiation survey of the exposure device after either of the exposures was completed to ensure that the source had been retracted to its shielded position. The radiographer was exposed to the unshielded source as he changed films between the two exposures, and the assistant received a large exposure as he carried the source tube containing the source draped around his neck. Without a radiation survey, neither individual was aware that the source had not been connected to the drive cable and remained in the guide tube.

Actions Taken to Prevent Recurrence

Licensee—The licensee's proposed corrective actions include retraining the radiographer in radiation safety procedures and continued observation of his performance. The assistant radiographer is no longer employed by the licensee.

NRC—During the investigation of this event, on April 2, 1990, an Order modifying the license was issued, prohibiting the radiographer and assistant from participating in licensed activities. This Order has since been relaxed due to the licensee's implementation of corrective action. NRC Region IV conducted an enforcement conference with the licensee on May 25, 1990, to discuss the event. On September 7, 1990, the NRC issued to the licensee a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of $7,500. The basis for the proposed penalty were violations associated with failure to conduct the required radiation survey and the resultant overexposures. These two violations collectively were classified as Severity Level I (on a scale of Levels I through V, in which Level I is the most significant).

90–13 Medical Diagnostic Misadministration

The general AO criterion notes that an event involving a moderate or more severe impact on public health or safety can be considered an abnormal occurrence.

Date and Place—June 5, 1990; Mercy Memorial Medical Center; St. Joseph, Michigan.

Nature and Probable Consequences—A 79-year-old female patient was scheduled to undergo a diagnostic evaluation to determine whether she was suffering from an enlarged thyroid gland (substernal thyroid). No prescribed dose was indicated.

The scan was scheduled for the following day. The technologist, in attempting to order the proper amount of radioactive material, noted that her standard dose chart (created by authorized users) did not list dosage for a substernal thyroid gland study.

She then referred to the department's procedures manual, which indicated that the proper dose for a substernal thyroid gland study was 3–5 millicuries of iodine–131, or 100–300 microcuries of iodine–123. The technologist then asked an authorized user which isotope to use. He instructed her to order a sufficient quantity of iodine–131 to visualize the thyroid gland. On June 5, 1990, the patient was given 4.3 millicuries of iodine–131, which conformed to the procedures manual. The dosage listed in the procedure, however, was wrong. The standard dose for a substernal thyroid scan should have been 50 to 100 microcuries of iodine–131, or approximately one-fiftieth of the amount noted in the manual. The mistake was identified by the Chief of the Nuclear Medicine Department on June 6 and reported as a misadministration to the NRC on June 8, 1990.

The licensee estimated that the misadministration resulted in a mean dose to the thyroid gland of 5,752 rads. The NRC's medical consultant investigated the case. Based on certain assumptions, the consultant estimated the dose to be 3,400 rads to the thyroid gland which, according to the consultant, would yield a 10 percent chance of hypothyroidism over five years. The licensee is monitoring the patient's condition.

Cause or Causes—The Nuclear Medicine Department's procedures manual listed the wrong iodine–131 dosage for a substernal thyroid scan. The dosage was not reviewed by an authorized user prior to its administration.

Actions Taken to Prevent Recurrence

Licensee—The license has been amended to incorporate the following changes in iodine–131 procedures: (1) Two nuclear medicine technologists will independently verify the prescribed dosage and check the dose calibrator assay; (2) A written prescription by an

authorized user will be required before the procedure is carried out; and (3) Two signatures or initials will be required on all documents involving iodine-131. The licensee also corrected the department's procedures manual to reflect the proper dosage for a substernal thyroid scan. Dosage for a substernal thyroid scan also was added to the department's Standard Dose Chart.

NRC—An NRC inspection was conducted on June 19, 1990. Seven violations of NRC requirements (unrelated to this event) were identified. The licensee's corrective actions to prevent recurrence were found to be satisfactory. The NRC notified its medical consultant who reviewed the circumstances. He made certain procedural recommendations for consideration by the licensee.

90-14 Administration of Iodine-131 to a Lactating Female With Uptake by Her Infant

The general AO criterion notes that an event involving a moderate or more severe impact on public health or safety can be considered an abnormal occurrence.

Date and Place—June 18, 1990; Tripler Army Medical Center; Honolulu, Hawaii.

Nature and Probable Consequences—A nursing mother was given a 4.89 millicurie dose of iodine-131 at an NRC licensed medical facility that resulted in an unintentional radiation dose to her infant's thyroid gland estimated at 30,000 rads and a dose to the infant's whole body of 17 rads. The error was detected on June 21, 1990, when the patient returned to the medical center for a whole body scan. The scan indicated an unusually high breast uptake of iodine-131. In the opinion of the patient's physician and an NRC medical consultant, the infant's thyroid function will be completely lost. The infant will require artificial thyroid hormone medication for life to ensure normal growth and development.

Cause or Causes—The physician and nuclear medicine technologist failed to confirm that the patient was not breast feeding. The patient arrived at the medical center from a remote South Pacific island. Communication between the island physician and the Army physicians was poor and the Tripler physicians were not aware that the mother had given birth on June 1, 1990.

Actions Taken to Prevent Recurrence

Licensee—Immediately following discovery of the error the licensee began using a new questionnaire that more clearly requires the collection and documentation of information concerning patient pregnancy and breast feeding. The Commanding Officer has ordered a special investigation to define the cause and appropriate corrective actions. The licensee has contacted the patient and the patient's physician and is finalizing arrangements for long term follow-up medical care.

NRC—An Enforcement Conference was held on August 16, 1990, and enforcement action is being considered.

90-15 Medical Therapy Misadministration

The general AO criterion notes that an event involving a moderate or more severe impact on public health or safety can be considered an abnormal occurrance.

Date and Place—June 22, 1990; St. Luke's Hospital; Cleveland, Ohio.

Nature and Probable Consequences—A 57-year-old woman, being treated for lung cancer, was erroneously given a 178 rem radiation does to the left side of the head on June 22, 1990, using the licensee's cobalt-60 teletherapy unit. The patient was scheduled to receive a 200 rem radiation dose to the chest area at the time of the misadministration. The treatment was the ninth of a total of ten treatments in the series for a total of 2,000 rem to the chest. The treatment began June 11, 1990.

A technologist set the patient up for brain irradiation without looking at the treatment documents. After the left side of the head was treated, the patient asked if her chest would also be treated. At this time, the treatment staff discover the error.

Because the misadministration involved a single treatment and because of the dosage involved, no adverse medical effects are expected. Subsequent to the misadministration, the patient received the intended 200 rem radiation dose to the chest area. The tenth treatment was administered, and the patient began a second phase of 25 radiation treatments of 150 rem each to the chest area.

Cause or Causes—This misadministration was caused by the failure of the technologist to examine the treatment documentation (the setup sheet and a treatment field picture). Although the technologist had previously treated the patient, the technologist erroneously assumed the brain was the area to be treated. (The staff determined that although lung cancers of this type often do metastasize to the brain, the irradiation of the brain in this case was a misadministration nonetheless.)

Actions Taken to Prevent Recurrence

Licensee—The licensee has revised its procedures to require the verification, when circumstances permit, of the treatment setup by a second technologist using the setup documentation. All technologists have been trained in the procedure. The NRC is requesting the licensee to amend its quality assurance procedures to include dual verification of treatment setups prior to any treatment.

NRC—The NRC conducted a special inspection on June 27-29, 1990, to review the circumstances of the misadministration and to evaluate the licensee's radiation safety and management control programs. The inspection also covered an earlier therapy misadministration in which a patient received less than the intended dose. In this misadministration, a patient received a dose that was 12 per cent less than that intended during a treatment series February 15 through April 3, 1990. A Notice of Violation was issued for two instances of failure to report the misadministrations within the required time period. The inspection also identified a concern about staff shortages that may adversely affect the licensee's radiation therapy program. The NRC requested the hospital's response to this concern.

Dated at Rockville, MD, this 19th day of October 1990.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 90-25226 Filed 10-24-90; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Meeting Agenda

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on November 8-10, 1990, in room P-110, 7920 Norfolk Avenue, Bethesda, Maryland. Notice of this meeting was published in the Federal Register on September 19, 1990.

Thursday November 8, 1990, room P-110, 7920 Norfolk Avenue, Bethesda, MD

8:30 a.m.-8:40 a.m.: Chairman's Remarks (Open)—The ACRS Chairman will make opening remarks and comment briefly regarding items of current interest.

8:40 a.m.-10:30 a.m.: NRC Regulatory Impact Survey (Open)—A briefing by and discussion with representatives of

the NRC staff will be held regarding proposed regulatory changes resulting from the NRC survey of the impact of regulatory requirements on the safety of nuclear power plant operations.

10:45 a.m.–11:15 a.m.: Level of Design for Standardized Nuclear Power Plants (10 CFR part 52) (Open)—A briefing and discussion will be held regarding the level of design detail appropriate for standardized nuclear plants licensed in accordance with 10 CFR part 52.

Representatives of the NRC staff and NUMARC will participate as appropriate.

11:15 a.m.–12:30 p.m.: Preparation for Meeting With NRC Commissioners (Open)—The Committee will discuss topics selected for discussion regarding nuclear facility regulation and safety and related activities of the ACRS and the Commission.

2 p.m.–3:30 p.m.: Meeting with NRC Commissioners (First Floor Commissioners' Conference Room, One White Flint North, Rockville, MD (Open)—The Committee will meet with the Commissioners to discuss the selected topics.

4 p.m.–4:45 p.m.: Future ACRS Activities (Open)—The Committee will discuss the scope and nature of ACRS activities, including anticipated activities of ACRS subcommittees, items proposed for consideration by the full Committee, and proposed ACRS meeting dates for Calendar Year 1991.

4:45 p.m.–6 p.m.: Discuss Proposed ACRS Report to the NRC (Open)—The members will discuss a proposed report to the NRC regarding NUREG–1150, Severe Accident Risks: An Assessment for Five U.S. Nuclear Power Plants, and other items considered during this meeting.

Friday, November 9, 1990, room P–110, 7920 Norfolk Avenue, Bethesda, MD

8:30 a.m.–10 a.m.: Combustion Engineering System 80+ (Open/Closed)—A presentation and discussion will be held regarding NRC staff comments and recommendations (SECY–90–353) on the proposed License Review Basis document for this standardized nuclear power plant design.

Members of the NRC staff and representatives of the applicant will participate as appropriate.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this facility design.

10:15 a.m.–12 Noon and 1 p.m.–1:45 p.m.: Proposed Final Rule—10 CFR part 55, Fitness for Duty Requirements for Licensed Operators (Open)—A presentation and discussion will be held regarding proposed final rule—10 CFR part 55, Fitness for Duty Requirements for Licensed Operators.

Members of the NRC staff and NUMARC will participate as appropriate.

2 p.m.–3:30 p.m.: Biological Effects of Ionizing Radiation (Open)—A briefing and discussion will be held regarding Report No. V of the BEIR Committee on the effects on populations of exposures to low levels of ionizing radiation.

3:30 p.m.–6 p.m.: Westinghouse SP/90 Standardized Nuclear Plant Design—(Open/Closed)—A report will be given and a discussion will be held on the proposed Preliminary Design Approval for this standardized nuclear plant design.

Members of the NRC staff and representatives of the applicant will participate as appropriate.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this facility design.

Saturday, November 10, 1990, room P–110, 9720 Norfolk Avenue, Bethesda, MD

8:30 a.m.–12 Noon: Preparation of ACRS Reports (Open)—The Committee will discuss proposed reports to the NRC regarding items considered during this meeting and previous meetings to the degree that the availability of information and time permit.

1 p.m.–1:45 p.m.: ACRS Subcommittee Activities (Open)—The members will hear and discuss the reports of subcommittee activities in designated areas, including reconstitution of design basis documentation, interfacing systems loss of coolant accidents, and the development of containment design criteria for advanced reactors.

1:45 p.m.–2:15 p.m.: ACRS Procedures and Practices (Open)—The Committee will hold a discussion regarding revised ACRS Bylaws and related aspects of Committee operations.

2:15 p.m.–2:30 p.m.: Appointment of ACRS Member (Open/Closed)—The Committee will discuss the status of the selection of a nominee to fill a forthcoming vacancy on the Committee.

This session will be closed to discuss information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

2:30 p.m.–3 p.m.: Miscellaneous (Open)—The members will complete discussion of items considered during this meeting.

Procedures for the conduct of and participation in ACRS meetings were published in the Federal Register on October 2, 1990 (55 FR 40246). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with subsection 10(d) Public Law 92–463 that it is necessary to close portions of this meeting noted above to discuss Proprietary Information applicable to the matters being considered (5 U.S.C. 552b(c)(4)) and information the release of which would represent an unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 301/492–8049), between 7:45 a.m. and 4:30 p.m.

Date: October 19, 1990.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 90-25224 Filed 10-24-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-322-OLA and ASLBP No. 91-621-01-OLA]

Long Island Lighting Co.; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the Federal Register, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702,

2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established to preside over the following proceeding.

Long Island Lighting Company

Shoreham Nuclear Power Station, Unit 1
Facility Operating License No. NPF-82

This Atomic Safety and Licensing Board is being designated pursuant to the provisions of a Memorandum and Order issued by the Commission on October 17, 1990 with respect to six petitions to intervene and requests for hearings related to various actions taken by the NRC Staff and the Long Island Lighting Company (LILCO) concerning the Shoreham Nuclear Power Station.[1] CLI-90-08, 32 NRC [1990]. In its Memorandum and Order the Commission determined that the National Environmental Policy Act and the Atomic Energy Act of 1954, as amended, do not require the NRC to consider "resumed operation" as an alternative to decommissioning. The Commission forwarded the six petitions to the Atomic Safety and Licensing Board with directions to "review and resolve all other aspects of these hearing requests in a manner consistent with this opinion."

The Board is comprised of the following administrative judges:

Morton B. Margulies, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

George A. Ferguson, 5307 A1 Jones Drive, Columbia Beach, MD 20764.

Jerry R. Kline, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

All correspondence, documents and other materials shall be filed with the judges in accordance with 10 CFR 2.701.

Issued at Bethesda, Maryland, this 18th day of October 1990.

S. Paul Cotter, Jr.,
Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 90-25223 Filed 10-24-90; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-029]

Yankee Atomic Electric Co. (Yankee Nuclear Power Station); Exemption

I

Yankee Atomic Electric Company (YAEC or the licensee) holds Facility Operating License No. DPR-3 which authorizes the operation of the Yankee Nuclear Power Station (Yankee or the facility) at steady-state power levels not in excess of 600 megawatts thermal. This license provides, among other things, that the facility is subject to all rules, regulations and Orders of the U.S. Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facility is a pressurized water reactor located at the licensee's site near Rowe, Massachusetts.

II

The Code of Federal Regulations, in § 55.59(c)(3)(i), "On the job training" requires that each licensed operator and senior operators of a utilization facility must perform certain manipulations annually. Additionally, § 55.59(c)(3)(v) allows a simulator to be used in those manipulations.

By letter dated August 2, 1990, the Yankee Atomic Electric Company (the licensee) requested a one-time exemption from the requirement in 10 CFR 55.59(c)(3)(i)(A)-(L) to conduct annual simulator training of reactor operators and senior reactor operators on certain control manipulations. Simulator training of Yankee-Rowe licensed operators was last conducted on a non-plant specific simulator from September 1989 to October 1989. Yankee-Rowe anticipates having a plant specific simulator available for operator training on or about October 1, 1990. The required training would commence when the simulator is available, and the required training in control manipulations would be completed by March 1, 1991. The exemption from the requirements of the regulations would therefore be for a period of about five months.

Immediate compliance with the annual training requirement would entail all the licensed operators traveling to a non-plant specific simulator in Illinois and covering all twelve evolutions in a time span of 30 hours of simulator time for each crew. With the imminent arrival of the plant specific simulator, the licensee believes more effective and thorough training can be provided using the combination of control room based job performance measures, static simulator walkthroughs and, once it is available for training, the plant specific simulator.

Requiring the licensee's operators to travel to the non-plant specific simulator would result in the completion of the simulator training on time. However, since the quality of the training the operators would receive by performing the control manipulations on a plant specific simulator would be higher, it would be in the public interest to grant this exemption.

The Staff has reviewed the licensee's request for exemption and finds that since a plant specific simulator will be available on site in the very near future, requiring the licensee to meet the annual requirement to perform the control manipulations of 10 CFR 55.59(c)(3)(i)(A)-(L) on a non-plant specific simulator would not enhance the protection of the environment and would result in an expenditure of licensee resources not required for public health and safety.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission has further determined that special circumstances, as set forth in 10 CFR 50.12(a)(2)(v), are present justifying the exemption, namely that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. Therefore, the Commission hereby grants an exemption from the requirements of 10 CFR 55.59(c)(3)(i)(A)-(L).

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the environment (55-FR-42523).

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 19th day of October, 1990.

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[1] On April 16, 1990, each of two organizations, the Scientists and Engineers for Secure Energy ("SE2") and the Shoreham-Wading Central School District ("Shoreham-Wading"), filed a "Petition to Intervene and Request for Hearing" in response to the NRC's March 20, 1990 Confirmatory Order which prohibited LILCO from placing any nuclear fuel in the Shoreham reactor vessel without prior approval from the NRC. 55 Fed. Reg. 12799 (April 6, 1990).

On April 20, 1990, SE2 and Shoreham-Wading each filed a "Petition to Intervene and Request for Hearing" in response to a notice the Staff had previously published announcing that LILCO had requested an amendment to the Shoreham operating license allowing changes in the physical security plan for the plant. 55 FR 10529, 10540 (March 21, 1990). The Notice contained the Staff's proposed finding that the amendment "did not involve a significant hazards consideration."

Subsequently, the Staff published another Federal Register Notice announcing (1) LILCO's request for an amendment to its license removing certain license conditions regarding offsite emergency preparedness activities, and (2) the Staff's proposed finding of "No Significant Hazards Consideration." 55 FR 12079 (March 30, 1990). On April 30, 1990, SE2 and Shoreham-Wading each filed a "Petition to Intervene and Request for Hearing" regarding this proposed amendment. Both the Staff and LILCO have responded to all three sets of petitions.

For the Nuclear Regulatory Commission.
Steven A. Varga,
Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.
[FR Doc. 90-25229 Filed 10-24-90; 8:45 am]
BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Compliance Supplement for Single Audits of State and Local Governments

AGENCY: Office of Management and Budget.

ACTION: Notice of availability of Compliance Supplement for single audits of State and local governments.

SUMMARY: This Notice indicates the availability of a revised Compliance Supplement which sets forth the major compliance requirements that should be considered by independent auditors in making organization-wide audits of State and local governments. It replaces the "Compliance Supplement for State and Local Governments" issued in April 1985.

DATES: The Compliance Supplement is effective immediately.

FOR FURTHER INFORMATION CONTACT: Palmer Marcantonio, Financial Management Division, 10235 NEOB, OMB, Washington, DC 20503 (Telephone: 202-395-3993).

SUPPLEMENTARY INFORMATION: The "Compliance Supplement for Single Audits of State and Local Governments" contains major compliance requirements which, if not observed, could have a material effect on Federal programs. Each compliance requirement is accompanied by suggested audit procedures that may be used to test for compliance. These are not the only procedures an auditor may use, nor are they mandatory procedures. Auditors should apply professional judgment in choosing a procedure to decide the extent of reviews and tests performed.

The Federal departments and agencies have identified the compliance requirements and have suggested for each program audit procedures that will meet the compliance testing requirements of OMB Circular A-128, "Audits of State and Local Governments." However, the auditor is responsible for ensuring that specific requirements which are modified because of changes in laws or regulations are included in the audit procedures.

The Compliance Supplement may be purchased from the Government Printing Office. OMB will not have a supply for distribution.

Richard G. Darman,
Director.
[FR Doc. 90-25230 Filed 10-24-90; 8:45 am]
BILLING CODE 3110-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Power Plan Amendments, Columbia River Basin Fish and Wildlife Program

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of proposed wildlife amendments to the Columbia River Basin Fish and Wildlife Program (Dworshak and Minidoka wildlife amendments).

SUMMARY: On November 15, 1982, pursuant to the Pacific Electric Power Planning and Conservation Act (the Northwest Power Act, 16 U.S.C. section 839, *et seq.*) the Pacific Northwest Electric Power and Conservation Planning Council (Council) adopted a Columbia River Basin Fish and Wildlife Program (program). The program has been amended from time to time since then. In 1988, the Council amended the program to establish wildlife mitigation goals and a process for adopting wildlife loss estimates developed by wildlife agencies and Indian tribes as starting points for wildlife mitigation measures. To be used as starting points, loss estimates must first be amended into the Council's program.

On October 10, 1990, the Council voted to initiate proceedings pursuant to section 4(d)(1) of the Northwest Power Act to consider amending the program to include wildlife loss estimates for the Dworshak and Minidoka hydroelectric projects. Comments are solicited on the proposed amendments. This notice describes how to obtain a full copy of the proposed amendments and background information concerning them, and explains how to participate in the amendment process.

PUBLIC COMMENT: All written comments must be received in the Council's central office, 851 SW Sixth Avenue, suite 1100, Portland, Oregon, 97204, by 5 p.m. Pacific time on February 11, 1991. Comments should be submitted to Daicy Mahar, Director of Public Involvement, at this address. Comments should be clearly marked "Dworshak-Minidoka Wildlife Comments."

After the close of written comment, and up to the time of the Council's final decision on the proposed amendments, the Council may hold consultations with interested parties to clarify points made in written comment.

HEARINGS: Public hearings will be held in conjunction with the regularly scheduled Council meetings as follows:

November 15, 1990, at the Park Plaza Hotel, Helena, Montana;

December 13, 1990, at the Council's central office, 851 SW. Sixth Ave., Portland, Oregon;

January 10, 1991, in Idaho, location to be announced;

February 14, 1991, in Washington, location to be announced. Specific locations for the January and February hearings will be announced in the Council's Update! publication.

To reserve a time period for presenting oral comments at a hearing, or for further information on hearing times and locations, contact Judy Gibson in the Council's Public Involvement Division, 851 SW. Sixth Avenue, suite 1100, Portland, Oregon 97204 or (503) 222-5161, toll free 1-800-222-3355 in Idaho, Montana, and Washington or 1-800-452-2324 in Oregon. Requests to reserve a time period for oral comments must be received no later than two work days before the hearing.

FINAL ACTION: The Council expects to take final action on the proposed wildlife amendments at its March 1991 meeting. The actual date on which the Council will make its final decision will be announced in accordance with applicable law and the Council's practice of providing notice of its meeting agendas.

FOR FURTHER INFORMATION: The Council's wildlife mitigation process is explained in a document called "Wildlife Mitigation Rule and Response to Comments," paper no. 89-55. This paper explains the nature of wildlife loss estimates and the role they play in the Council's wildlife program. In addition, the Council has prepared a short paper, called "Dworshak and Minidoka Wildlife Loss Summaries," which summarizes the loss estimates involved in this amendment process, and contains an actual draft of the proposed program amendments. Finally, the loss estimates themselves, entitled "Wildlife Protection, Mitigation, and Enhancement Planning, Dworshak Reservoir," and "Minidoka Dam Wildlife Impact Assessment" are available from the Council upon request. Those wishing to receive copies of any of these papers should contact the Council's Public Involvement Division at

the address or telephone numbers listed above.

Edward Sheets,
Executive Director.
[FR Doc. 90-25246 Filed 10-24-90; 8:45 am]
BILLING CODE 0000-00-00

DEPARTMENT OF STATE

[Public Notice 1260]

Advisory Committee on Historical Diplomatic Documentation; Meeting

The Advisory Committee on Historical Diplomatic Documentation will meet on November 15, 1990, at 9 a.m. in room 1205 of the Department of State.

The Advisory Committee advises the Bureau of Public Affairs, and in particular the Office of the Historian, concerning problems related to the preparation of the documentary series entitled Foreign Relations of the United States and other responsibilities of that Office.

In accordance with section 10(d) of the Advisory Committee Act (Pub. L. 92-463) it has been determined that certain discussions during the meeting will necessarily involve consideration of matters recognized as not subject to public disclosure under 5 U.S.C. 552(b)(c)(1), and that the public interest requires that such activities will be withheld from disclosure. The meeting will therefore be closed when such discussions take place from 2 p.m. to 5 p.m. on Thursday, November 15 and all day Friday November 16.

Persons wishing to attend the open portion of the meeting should come before 9 a.m. on November 15 to the Diplomatic Entrance of the Department of State at 22nd and C Streets, NW., Washington, DC. They will be escorted to room 1205 and at the conclusion of the open portion of the meeting escorted back to the Diplomatic Entrance.

Questions concerning the meeting should be directed to William Z. Slany, Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian, Washington, DC 20520, telephone (202) 663-1122.

Dated: October 15, 1990.

William Z. Slany,
Executive Secretary.

[FR Doc. 90-25263 Filed 10-24-90; 8:45 am]
BILLING CODE 4710-00-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Announcement of the Seventh Meeting of the Motor Vehicle Safety Research Advisory Committee

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Meeting announcement.

SUMMARY: This notice announces the seventh meeting of the Motor Vehicle Safety Research Advisory Committee (MVSRAC). The Committee was established in accordance with the provisions of the Federal Advisory Committee Act to obtain independent advice on motor vehicle safety research. At this meeting the Committee will discuss research matters relating to pedestrian protection, biomechanics, data collections, and the advanced driving simulator.

DATE AND TIME: The meeting is scheduled to begin at 10 a.m. on Thursday, November 15, 1990, and conclude at 5:50 p.m. that afternoon.

ADDRESSES: The meeting will be held in room 9230 of the U.S. Department of Transportation Building, which is located at 400 Seventh Street, SW., Washington, DC.

SUPPLEMENTARY INFORMATION: In May 1967, the Motor Vehicle Safety Research Advisory Committee was established. The purpose of the Committee is to provide an independent source of ideas for motor vehicle safety research. The MVSRAC will provide information, advice, and recommendations to NHTSA on matters relating to motor vehicle safety research, and provide a forum for the development, consideration and communication of motor vehicle safety research, as set forth in the MVSRAC Charter.

The meeting is open to the public, but attendance may be limited due to space availability. Participation by the public will be determined by the Committee Chairman.

A public reference file (Number 90-01) has been established to contain the products of the Committee and will be open to the public during the hours of 9:30 a.m. to 4 p.m. at the National Highway Traffic Safety Administration's Technical Reference Division in room 5108 at 400 Seventh Street, SW., Washington, DC 20590, telephone: (202) 366-2768.

FOR FURTHER INFORMATION CONTACT: Mary Coyle, Office of Research and Development, 400 Seventh Street, SW., room 6200, Washington, DC 20590, telephone: (202) 366-5926.

Issued on: October 19, 1990.
George L. Parker,
Chairman, Motor Vehicle Safety Research Advisory Committee.
[FR Doc. 90-25205 Filed 10-24-90; 8:45 am]
BILLING CODE 4910-59-M

Announcement of Seventh Meeting of the Heavy Truck Subcommittee of the Motor Vehicle Safety Research Advisory Committee

AGENCY: National Highway Traffic Safety Administraiton (NHTSA), DOT.

ACTION: Meeting announcement.

SUMMARY: This notice announces the seventh meeting of the Heavy Truck Subcommittee of the Motor Vehicle Safety Research Advisory Committee (MVSRAC). The MVSRAC established this subcommittee at the February 1988 meeting to examine research questions regarding crashworthiness and crash avoidance for vehicles over 10,000 pounds GVWR.

DATE AND TIME: The meeting is scheduled for Wednesday, November 14, 1990, from 10 a.m. until 4 p.m.

ADDRESS: The meeting will be held in Room 4436 of the U.S. Department of Transportation Building, which is located at 400 Seventh Street SW., Washington, DC.

SUPPLEMENTARY INFORMATION: In May 1967, the Motor Vehicle Safety Research Advisory Committee was established. The purpose of the Committee is to provide an independent source of ideas for safety research. The MVRSAC will provide information, advice, and recommendations to NHTSA on matters relating to motor vehicle safety research and provide a forum for the development, consideration, and communication of motor vehicle safety research, as set forth in the MVSRAC Charter.

At this meeting the subcommittee will discuss the possible safety implications of allowing longer and heavier trucks to be used on a more widespread basis than that which is currently permitted.

The meeting will use, as a departure point for discussions, two recently completed Transportation Research Board (TRB) studies, one titled, "Heavy Truck Weight Study," and the other, "New Trucks for Greater Productivity and Less Road Wear—An Evaluation of the Turner Proposal." Both studies describe the varying amount of productivity enhancement that could be obtained by allowing, on a nationwide special permitting basis, different configurations of heavy trucks (primarily long multiple trailer

combinations) to carry more freight on a given trip. Both studies describe the economic (including modal shifts), bridge and pavement wear, traffic operations, and vehicle dynamic performance effects of allowing larger trucks. Both studies offer prescriptive recommendations for balancing potentially negative concerns relative to these later issues, against the positive productivity benefits that could be obtained.

The meeting will begin with informal presentations by TRB staff describing the key points of the two studies; Federal Highway Administration (FHWA)/Office of Policy Development staff describing their ongoing analyses of truck size and weights related issues; NHTSA research staff describing vehicle dynamic and operational safety performance concerns related to the use of larger trucks; American Trucking Association Trucking Research Institute staff describing the results of a study it sponsored on the "Productivity and Consumer Benefits of Longer Combination Vehicles;" and a representative from the Freightliner Corporation describing the results of that company's analysis of the implications of the TRB studies relative to heavy truck design.

Following these presentations, the subcommittee members and audience will be given an opportunity to offer suggestions to NHTSA relative to research topics it may wish to consider conducting relative to this issue.

The meeting is open to the public, and participation by the public will be determined by the Subcommittee Chairman.

A public reference file (Number 88-01—Heavy Truck Subcommittee) has been established to contain the products of the subcommittee and will be open to the public during the hours of 8 a.m. to 4 p.m. at the National Highway Traffic Safety Administration's Technical Reference Division in room 5108 at 400 Seventh Street SW., Washington, DC 20590, telephone: (202) 366-2768.

FOR FURTHER INFORMATION CONTACT: William A. Leasure, Jr., Chairman, Heavy Truck Subcommittee, Office of Research and Development, 400 Seventh Street SW., Room 6220, Washington, DC 20590, telephone: (202) 366-5002.

George L. Parker,

Chairman, Motor Vehicle Safety Research Advisory Committee.

[FR Doc. 90-25276 Filed 10-24-90; 8:45 am]

BILLING CODE 4910-59-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 207
Thursday, October 25, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 2:00 p.m. (Eastern Time), Tuesday, November 6, 1990.

PLACE: Conference Room on the Ninth Floor of the EEOC Office Building, 1801 "L" Street, N.W., Washington, D.C. 20507.

STATUS: Part of the Meeting will be Open to the Public and Part will be Closed to the Public.

MATTERS TO BE CONSIDERED:

Open Session

1. Announcement of Notation Vote(s).
2. A Report on Commission Operations.

Closed Session

1. Litigation Authorization: General Counsel Recommendations
2. Agency Adjudication and Determination on the Record of Federal Agency Discrimination Complaint Appeals

Note: Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the Federal Register, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 663-7100 at any time for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 663-7100.

Dated: October 23, 1990.

This Notice Issued October 23, 1990.

Frances M. Hart,
Executive Officer, Executive Secretariat.
[FR Doc. 90-25419 Filed 10-23-90; 1:50 pm]
BILLING CODE 6750-06-M

FEDERAL ELECTION COMMISSION

"FEDERAL REGISTER" NUMBER: 90-24806.

PREVIOUSLY ANNOUNCED DATE AND TIME:
Thursday, October 25, 1990, 10:00 a.m.
Meeting Open to the Public
This Meeting Has been Cancelled.

DATE AND TIME: Tuesday, October 30, 1990, 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This Meeting Will Be Closed to the Public

ITEMS TO BE DISCUSSED:
Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, November 1, 1990, 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (Ninth Floor).

STATUS: This Meeting Will Be Open to the Public.

MATTERS TO BE CONSIDERED:
Correction and Approval of Minutes
Advisory Opinion:
1990-19—Gordon M. Strauss on behalf of the Suarez Corporation
1990-23—Donald J. Simon on behalf of Representative Martin Frost of Texas
Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Press Officer, Telephone: (202) 376-3155.

Delores Harris,
Administrative Assistant, Office of the Secretariat.
[FR Doc. 90-25431 Filed 10-23-90; 2:48 pm]
BILLING CODE 6715-01-M

Corrections

Federal Register
Vol. 55, No. 207
Thursday, October 25, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Correction

In notice document 90-24252 beginning on page 41736 in the issue of Monday, October 15, 1990, make the following correction:

On page 41737, in the second column, in the first full paragraph, in the ninth line "date" should read "data".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611, 672, and 675

[Docket No. 900633-0233]

RIN 0648-AD18

Foreign Fishing; Groundfish of the Gulf of Alaska, Groundfish Fishery of the Bering Sea and Aleutian Islands Area

Correction

In proposed rule document 90-21950 beginning on page 38347 in the issue of Tuesday, September 18, 1990, make the following corrections:

1. On page 38347, in the 2nd column, under "SUPPLEMENTARY INFORMATION", in the 2nd paragraph, in the 12th line "dn" should read "and".

2. On the same page, in the 3rd column, in the 32nd line, "groundfish" was misspelled.

3. On page 38352, in the 2nd column, in the 17th line from the bottom, "DPA" should read "DAP".

4. On page 38353, in the 2nd column, 28 lines from the bottom of the page, the heading should read "Biodegradable Panels on Groundfish Pots".

5. On page 38354, in the third column, in the fifth line, "panel" should read "panels".

6. On page 38357, in the second column, in amendatory instruction 7., in the second line "August 7, 1990" should read "August 17, 1990".

§ 675.2 [Corrected]

7. On page 38358, in the second column, in § 675.2, in the definition for "Bycatch Limitation Zone 2", in the table, after the third entry, insert "60°00'" and "171°00'" in the first and second columns, respectively.

§ 675.2 [Corrected]

8. On the same page, in the same section, in the third column, in the ninth line of the definition for "Pelagic trawl", "(12 inches)" should read "(12 inches)".

§ 675.20 [Corrected]

9. In § 675.20(a)(7), on page 38359, in the 1st column, in the 13th line from the top of the page, "January l" should read "January 1".

§ 675.21 [Corrected]

10. On the same page, in the same column, under § 675.21(a), in the fourth line "Zone l" should read "Zone 1".

§ 675.26 [Corrected]

11. On page 38361, in the second column, under § 675.26(d)(1)(i), in the sixth line, "notify" was misspelled

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ES91-01-000 et al.]

Louisville Gas and Electric Co. et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Correction

In notice document 90-24504 beginning on page 42245 in the issue of Thursday, October 18, 1990, make the following correction:

On page 42245, in the second column, under 1. Louisville Gas and Electric Company, the docket number should read "ES91-01-000".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPP-66144; FRL 3823-6]

Amitrole; Receipt of Request to Cancel Registrations

Correction

In notice document 90-24205 beginning on page 41763, in the issue of Monday, October 15, 1990, make the following correction:

On page 41764, in the first column, in the file line at the end of the document, "FR Doc. 90-24206" should read "FR Doc. 90-24205".

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Air Act

Correction

In notice document 90-24379 beginning on page 42060, in the issue of Wednesday, October 17, 1990, make the following correction:

On page 42061, in the first column, in the file line at the end of the document, "FR Doc. 90-24378" should read "FR Doc. 90-24379".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 38, 54, 95, and 151

[CGD 85-061]

RIN 2115-AC15

Intervals for Required Internal Examination and Hydrostatic Testing of Pressure Vessel Type Cargo Tanks on Barges

Correction

In rule document 90-22558 beginning on page 41916, in the issue of Tuesday, October 16, 1990, make the following correction:

On page 41918, in the third column, in the file line at the end of the document, "FR Doc. 90-22555" should read "FR Doc. 90-22556".

BILLING CODE 1505-01-D

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federal register

Thursday
October 25, 1990

Part II

Department of Health and Human Services

Food and Drug Administration

21 CFR Parts 1000 and 1002
Records and Reports Regulations for Radiation Emitting Electronic Products; Proposed Rule

BEST COPY AVAILABLE

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 1000 and 1002

[Docket No. 89N-0273]

Records and Reports Regulations for Radiation Emitting Electronic Products

AGENCY: Food and Drug Administration HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend its regulations regarding the requirements for recordkeeping and reporting of adverse experiences and other information relating to radiation emitting electronic products. The kinds of information to be maintained and submitted by manufacturers will be defined more clearly. The timing and content of certain reports will be revised to enhance the usefulness of the information. The purpose of these proposed changes is to improve the protection of the public health while also reducing the regulatory burden on manufacturers, dealers, and distributors of radiation emitting electronic products.

DATES: Comments by January 22, 1991. FDA proposes that any final rule based on this proposal become effective 30 days after date of publication in the Federal Register.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Center for Devices and Radiological Health (HFZ-84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601) and Executive Order 12291 require FDA to periodically conduct a comprehensive review of existing regulations. This review is to analyze alternative regulatory approaches and to identify regulations that need to be revised or revoked because they impose an unnecessary burden on specific segments of the public, such as manufacturers, dealers, or small businesses, or the general public. In the Federal Register of July 14, 1981 (46 FR 36337), FDA announced its plan to undertake a systematic review of existing regulations and requested the submission of data, information, and views concerning a priority order for the review. In the Federal Register of July 2, 1982 (47 FR 29004), FDA announced its plan to review the records and reports regulations in 21 CFR Part 1002. FDA recognized that, although 21 CFR Part 1002 does not appear to have a major impact on the overall radiation emitting electronic products industry, its impact on industry, especially on small manufacturers, should not be overly burdensome and should be determined.

On November 16, 1982, FDA published a Federal Register notice (47 FR 51706) that invited the public to submit comments, data, and information regarding the agency's assessment of the benefit, economic cost, and need to revise the regulations at Part 1002. FDA also invited comments on several alternative approaches for minimizing regulatory burdens while protecting the public from radiation emitting electronic products. The comment period ended on February 14, 1983. FDA convened an internal task force that reviewed the regulations, analyzed the comments, and prepared recommendations for further agency action.

FDA received 12 comments in response to the July 14, 1981, Federal Register notice and 40 comments in response to the November 16, 1982, notice. In general, these comments acknowledged the need to revise the recordkeeping and reporting regulations in order to be more effective and to reduce the regulatory burden on industry.

FDA responded to these comments through a Federal Register notice of July 1, 1985 (50 FR 27028), announcing that the task force's report, entitled "Report of the CDRH Task Force for Retrospective Review of the Recordkeeping and Reporting Requirements," was available for public comment and review. The report was divided into five sections. Each section included background information, summarized comments received in response to the previous Federal Register notices, and offered conclusions and recommendations. Section 1.0 "Introduction and Background," provided general information and discussed several relevant record and reporting regulations in 21 CFR parts 1000 and 1002. This section also summarized criteria used by the task force to review the regulations. Section 2.0, "General Provisions/Product Listing and Records Requirements," discussed issues relating to general provisions of the regulations as well as sections dealing with manufacturer, dealer, and distributor records. Section 3.0, "Reporting Requirements," addressed various reports, such as initial reports, model change reports, and annual reports. Section 4.0, "Exemptions," covered conditions and criteria for exemptions from the annual reporting and recordkeeping requirements. Section 5.0, "Economic Anaylsis," discussed the current regulations' economic impacts and estimated the economic effec' the recommended changes would have on industry.

A. Task Force Findings and Recommendations

The task force found that:

1. Records and reports are generally of value in enforcing the Radiation Control for Health and Safety Act (the Act). However, the value of each requirement varies among products and manufacturers. Products whose records and reports are found to be of little or no benefit to protecting the public health should be exempt from the requirements.

2. The list of products for which records and reports are required can be reduced.

3. Information required in the reports can be reduced or simplified for some products.

4. The dollar value for products exempted from purchaser recordkeeping requirements need not be increased above the present $50. Criteria other than product cost provide a more appropriate basis for granting such exemptions.

5. The estimated aggregate economic cost of the Records and Reports Regulations, part 1002, is about $40 million. This amount exceeds the Regulatory Flexibility Act's operational threshold of $1 million, but is less than the $100 million major economic impact threshold of Executive Order 12291.

6. The estimated savings to industry of the reduced records and reporting recommended by the task force is $3.6 million, of which $3.1 million is attributable to deletion of dealer and distributor maintained purchaser records.

The task force also recommended numerous changes such as changing the reporting and recordkeeping requirements for specific, selected products; defining or redefining certain terms; and creating or revising reports to clarify agency requirements, avoid duplication of information, and optimize regulatory review. This proposal is intended to implement the task force's recommendations.

FDA received only one comment in response to the July 1, 1985, Federal Register notice announcing the availability of the task force's report. The comment supported the concept of

reporting and recordkeeping requirements for radiation emitting electronic products as being beneficial to public health and safety. The comment also indicated that most of the affected industries would benefit from the task force's recommendations and efforts to simplify reporting requirements but expressed some concern with regard to the X-ray industry. As each of the proposed regulation changes is explained, this comment will be discussed in detail.

FDA recognizes that, for some products, meeting the full recordkeeping and reporting requirements is not necessary in all instances to protect the public health. In this regard, FDA is proposing that the record and reporting requirements for some products be reduced and that, in other products, an abbreviated report serve as sufficient regulatory monitoring. FDA also recognizes that some sections of the regulations need additional clarification to be more meaningful. Thus, to address these concerns and to implement the task force's recommendations, FDA is proposing the following amendments:

B. Proposed Table Format

FDA is proposing to amend part 1002 to simplify the applicability of the recordkeeping and reporting requirements into a new table format. This new table format would eliminate some requirements, clarify others, and combine reporting requirements into one table. This proposal provides more guidance and regulatory flexibility in the recordkeeping and reporting requirements. Because of the new table format, FDA proposes to remove § 1002.61 *List of specific product groups* in subpart G.

C. Reducing the Reporting and Recordkeeping Complexity

To simplify the reporting and recordkeeping requirements, FDA is proposing to remove and transfer the requirements for selected products.

The range of electronic products marketed today is diverse with regard to radiation emission levels, sales volume, product complexity, and consumer use. The public health significance of these products also varies greatly, and so FDA is proposing that the reporting requirements for some of these products be tailored to address these concerns. In general, reporting requirements will be greater for those products that emit the highest radiation levels and/or are sold in the largest quantities, thus presenting the greatest potential risks to public health. For those products that present the least public health risk, FDA proposes a reduced reporting requirement. The proposed changes are:

1. Remove the following products from all of the record and reporting requirements of Part 1002 with the exception of an accidental radiation occurrence report that has not been exempted under § 1002.50 or § 1002.51: (a) High-voltage vacuum switches, (b) rectifiers, (c) shunt tubes, and (d) cathode ray tubes.

2. Transfer the following products from the requirements for initial reports (proposed to be called "product reports") and supplemental reports to abbreviated reports (proposed elsewhere in this proposal). These products include: (a) diagnostic X-ray tables, cradles, film changers, certain cassette holders, cephalometric devices, and image receptor support devices for mammography, (b) medical X-ray systems other than diagnostic, (c) analytical and industrial X-ray systems, (d) microwave diathermy devices, (e) microwave heating, drying, and security systems (RF) sealers, (f) R type mercury vapor lamps, (g) nonmedical ultrasound products, (h) certain television products, and (i) RF sealers, electromagnetic induction heating systems operating between 2 and 500 megahertz.

3. As an alternative to the full reporting requirements of § 1002.10 *Initial reports* and § 1002.11 *Annual reports*, FDA is proposing to transfer some reporting requirements to a new category that will be listed in Table 1, "Abbreviated Reports" in § 1002.1. FDA recognizes that, for certain products, especially those for which an exemption has been granted from initial, model change, and annual reporting, compliance with the abbreviated report requirements (proposed elsewhere in this rule) in lieu of the full reporting requirements will be satisfactory. This proposal, however, contains a provision that will allow FDA to request additional information if necessary.

FDA received one comment that urged it not to rename the recordkeeping and reporting provisions in the regulation. This comment said that manufacturers have spent considerable time and money familiarizing their staff with the specifics of the current regulation so that changes in any section title would cause confusion and unnecessary problems.

FDA recognizes that, as with any new proposal, manufacturers may need some training in order to appreciate and understand the changes. The change in this respect is to shorten the reporting requirements by clearly describing which reports are required, when a report is to be filed, and what should be in a report. FDA believes that the proposal's long-term benefits—clearer regulatory requirements, a reduced regulatory burden on industry, and improved cost effectiveness and efficiency—outweigh its short-term training costs.

4. Remove certain products from the requirements of "supplemental reports" but not from those of "product reports." Additional information could be obtained through the review process for the product reports, but routine submissions will be discouraged unless a major change in product design or testing warrants a new product report. These products include: (a) television receivers emitting less than 0.1 milliroentgen (mR) per hour under certain test conditions; (b) class I, II, IIa, and IIIa lasers and class I products containing such lasers; and (c) sunlamps (not products containing such lamps).

5. Remove certain products from the requirements for annual reporting. These products include: (a) X-ray high voltage generators, diagnostic X-ray cradles, X-ray tables, film changers, vertical cassette holders, cephalometric devices manufactured after February 25, 1978, image receptor support devices for mammographic X-ray systems manufactured after September 5, 1978, and medical X-ray products other than diagnostic products; (b) analytical and industrial X-ray systems; (c) RF sealers; (d) sunlamps (not products containing such lamps); (e) R type mercury vapor lamps; and (f) microwave diathermy devices.

Other products are already not subject to the requirements for annual reporting. These products include: optical phototherapy products; microwave heating, drying, and security systems; and medical and nonmedical ultrasound.

6. Remove certain products from the requirements of maintaining manufacturers' testing and distribution records. These products include: (a) Television receivers emitting less than 0.1 mR per hour under certain test conditions, (b) microwave diathermy devices, (c) RF sealers, and (d) mercury vapor lamps and sunlamps.

Other products are already not subject to the requirements for maintaining manufacturers testing and distribution records. These products include: television receivers; microwave diathermy; microwave heating, drying, and security systems; optical phototherapy; and medical and nonmedical ultrasound.

7. Remove certain products from the requirements for dealers and distributors to maintain distribution

records. These products include: (a) diagnostic X-ray cradles, film changers, cephalometric devices manufactured after February 25, 1978, image receptor support devices for mammographic X-ray systems manufactured after September 5, 1978, tube housing assemblies, X-ray tables, and cabinet X-ray systems other than baggage inspection; (b) television receivers, (c) class I, II, IIa, IIb lasers and class I products containing such lasers, (d) sunlamps (not products containing such lamps), (e) mercury vapor lamps (both R and T types), and (f) microwave ovens.

Other products are already not subject to the requirements for dealers and distributors to maintain distribution records. These products include: medical X-ray products other than diagnostic; analytical and industrial X-ray systems; microwave diathermy; microwave heating, drying, and security systems; RF sealers; optical phototherapy; and medical and nonmedical ultrasound.

A minor change is also proposed for cathode ray tubes. In Table 1 in § 1002.1, the proposal divides cathode ray tube voltages consistent with those used for television receivers.

B. Definitions

FDA is proposing to amend and combine the definitions relevant to records and reports contained in § 1002.2 with the definitions at § 1003.3. Section 1002.3 will be clarified and amended to contain definitions that will be applicable throughout "Subchapter J—Radiological Health" of the regulations, thereby providing a clear distinction between similar terms that are defined for different product areas. This section will include new definitions for an "accidental radiation occurrence," "model family," "chassis family," "modified model," and "components."

E. Components and Accessories

FDA is proposing to remove § 1002.3 concerning applicability of the record and reporting requirements to components and revise § 1002.10 to include information on components and accessories in the reports. This revision should eliminate any confusion on the reporting of component parts while still providing a means of reporting electrical specifications for components that can affect emissions from finished products.

F. Dealer and Distributor Records

FDA is proposing to clarify the dealer and distributor records requirement at § 1002.40(a). Dealers and distributors will continue to be responsible for being able to trace a specific product to a specific purchaser based on criteria including, but not limited to, a retail purchase price greater than or equal to $50. Some products will no longer be subject to this requirement based on their product safety record, radiation emission levels, and the practicability of tracing ownership of that product.

FDA, on its own initiative, is also proposing to exempt dealers and distributors of some electronic products from the requirements of §§ 1002.40 and 1002.41. FDA is taking this action because it has no recall, repair, or replacement data that justify retaining these requirements for these products.

G. Notification to User of Performance and Technical Data

Section 360A(c) of the Radiation Control for Health and Safety Act (42 U.S.C. 263i(c)) authorizes the Secretary of Health and Human Services (the Secretary) to require every electronic products manufacturer to provide performance data and other data related to the product's safety. The Secretary is also authorized, after consulting with the affected industry, to require manufacturers to notify the ultimate purchaser of the product of such performance and technical data at the time of original purchase as the Secretary determines necessary.

One task force recommendation was to develop regulations that would provide pertinent radiation emission specifications for selected electronic products, especially those products not subject to the performance standards, to users. FDA determined that this information could be submitted with the abbreviated report requirement and could relate to an actual or potential exposure in individuals. This information could also provide a comparison with relevant standards and background levels between similar products.

One comment said that it was inappropriate to require manufacturers to provide radiation emissions specifications to users at this time and that any proposal to add requirements for such information to users should be subjected to public review and comment before rulemaking. The comment suggest that FDA establish a need for this data before setting standards.

FDA recognizes the potential public health safety benefits that could be derived from an informed public on radiation emissions. Users or potential users of a radiation-emitting product should be informed about a product's performance and given technical data so they can make an informed decision when considering the product's safety and use. This performance and technical data should be presented in a concise and consistent manner to enable consumers to make an appropriate evaluation.

FDA is proposing to remove the information requirement contained in § 1002.3 *Records and reports on components* and include it as part of § 1002.10; the agency is also proposing to revise the section heading of § 1002.3 to read, "1002.3 *Notification to user of performance and technical data*". This user notification requirement will be proposed after consulting with the affected industry as required by section 360A(c) of the Radiation Control for Health and Safety Act of 1968.

H. Reporting Requirements

FDA is amending the existing reporting process of §1002.10 *Initial reports*, §1002.11 *Annual reports*, and §1002.12 *Reports of model changes* to include proposed §1002.10 *Product reports*, §1002.12 *Abbreviated reports*, and §1002.13 *Annual reports*.

1. *Initial reports and product reports.* FDA is changing the term "initial reports" to "product reports" for clarity and consistency with current practice. Product reports will be required before a manufacturer introduces into commerce: (a) each electronic product listed in Table 1 of §1002.1, or (b) a new design of an existing product of the same product category of an electronic product as previously reported where the design characteristics have substantially changed, i.e., a new model family or what is commonly referred to as a "model change report."

To facilitate the consolidation of information that is common to more than one model or model family, such as similar quality control or testing information, FDA will continue to provide reporting guides and instructions pursuant to §1002.7 to reduce the reporting requirements.

2. *Model changes and supplemental reports.* FDA is proposing to revise §1002.12 *Reports of model changes* to read "§1002.11 *Supplemental reports*" for clarity and consistency with current practices for updating "initial" and "model change" (new model family) reports. The proposal would require supplemental reports when changes in a product's physical or electrical design affect radiation emission, or when there are changes in the radiation quality control program. Specifically, supplemental reports would be required for changes that: (a) affect actual or potential radiation emission, (b) decrease the degree of compliance with a performance standard, or (c) result in a decreased probability of detecting

product noncompliance or increased radiation emission.

Under proposed §1002.13, supplemental reports would not be required for new models of a general class that do not change emission or compliance with performance requirements prior to their introduction into commerce. Manufacturers would report these model numbers in quarterly updates to the annual report.

3. *Abbreviated reports.* FDA recognizes that, for some products, meeting the full reporting requirements is not necessary in all instances to protect the public health. Thus, FDA is proposing §1002.12 *Abbreviated reports.* Products for which FDA would accept an abbreviated report are listed in Table 1 of §1002.1. Abbreviated reports would constitute the only reporting requirement for products without performance standards unless there is an active monitoring program for conforming to specific guidelines or to a voluntary standard in effect. Abbreviated reports will include the following information: (a) firm and model identification, (b) a brief description of operational characteristics that affect radiation or control exposure, (c) a list of applications or uses, and (d) radiation emission levels.

FDA may request additional information, if necessary, to determine whether the manufacturer acted or is acting in compliance with these provisions.

4. *Annual reports.* Because annual reports contain summaries of test results, current production status, information from manufacturers' complaint files, and other necessary information, they serve as an effective audit mechanism for both industry and the agency. For some products, this report may indicate whether the product meets radiation emission standards. FDA believes that annual reports can be an effective means for staff to monitor many electronic products, especially those that pose a significant health hazard.

FDA is proposing to amend the annual reporting requirement as follows: The requirements of §1002.11 will be amended to require reporting only on products subject to standards or that pose a significant public health hazard. The requirements of §1002.30 will also be amended to permit FDA to request information on production and product sales volumes. FDA is proposing that the following products also be eliminated from the annual reporting or retention of purchase record requirements: (1) X-ray generators, X-ray tables, vertical cassette holders, diagnostic X-ray cradles, film changers, cephalometric devices manufactured after February 25, 1978, and image receptor support devices for mammographic X-ray systems manufactured after September 5, 1978, (2) medical X-ray other than diagnostic, analytical and industrial X-ray, (3) television receivers emitting less than 0.1 mR per hour under certain test conditions, (4) RF sealers, (5) sunlamps (not products containing such lamps), (6) R type mercury vapor lamps, (7) microwave diathermy devices, and (8) certain ultrasonic devices.

I. Accidental Radiation Occurrences

One comment on the task force report said that the accidental radiation occurrence (ARO) reporting criteria are redundant, ambiguous, and require discretion on the part of both government and industry to determine what is a reportable ARO. The comment expressed some concern about the duplication of reporting requirements under §1002.20 *Reporting of accidental radiation occurrences* and §1003.10 *Discovery of defect or failure of compliance by manufacturer; notice requirements.*

In current §1003.10, a product defect is a manufacturing problem that may or may not result in an ARO. A reported ARO under current § 1002.20 may result in a determination by FDA that a product defect exists and may also result in a corrective action program by the manufacturer. In order to clarify the ARO provisions, FDA is proposing to revise § 1002.20 *Reporting of occidental radiation occurrence* to permit consolidation of a manufacturer's report under §1003.10.

J. Consolidation of Reporting Requirements

One task force recommendation was to develop procedures that would consolidate some reporting requirements in the Medical Device Amendments of 1976 and the radiation Control for Health and Safety Act of 1968. This recommendation recognized that, while reports cannot be combined in all situations, in some cases it may be advantageous to combine the reporting of electronic products that are also medical devices.

One comment agreed with FDA's intent to eliminate the duplicate reporting requirements if possible. This comment suggested that, in some situations, combining the reporting requirements would result in either an advantage or a disadvantage. Disadvantages would be apparent in situations where the reports are required to be submitted for different purposes and at different times.

FDA acknowledges that, in many situations, it would be impractical to consolidate different product reports that are for different purposes or that are due at a different reporting time.

Moreover, different expertise could be required to effectively evaluate different electronic products or medical devices. In some circumstances, this consolidation could even extend the review period due to these difficulties.

With respect to these concerns, FDA has concluded that this effort should undergo additional evaluation regarding which section and in what manner such a reporting consolidation can be most effectively utilized. To expedite this evaluation, the agency will coordinate this effort with the industry on a case-by-case basis until and effective consolidation can be determined.

FDA has concluded that, for the situation in which there is no performance standard for an electronic product, sufficient information regarding product safety can be obtained through FDA review of an investigational device exemption (IDE) pursuant to 21 CFR 812.20 or a premarket approval application (PMA) pursuant to 21 CFR part 814. Hence, FDA proposes to exempt from the requirements of this part manufacturers of electronic products which are also medical devices that are subjects of an IDE or PMA.

Some consolidation was instituted in 1984 when the medical device reporting (MDR) requirements were implemented. Manufacturers need not submit reports of accidental radiation occurrences if the incident is also required to be reported under MDR.

K. Exemptions

FDA recognizes the need for and value of a practical reporting regulation that clearly delineates the criteria and procedures for granting exemptions to the requirements of product reports (proposed), annual reports, abbreviated reports (proposed), and distribution records. Consequently, FDA is proposing to amend and to clarify the exemption procedures and criteria. FDA encourages industry and individual manufacturers to use the proposed exemption provisions when appropriate.

Proposed § 1002.50(a) clarifies the provisions under which manufacturers, dealers, and distributors may request exemptions from any requirement listed in Table 1 in § 1002.1. FDA intends to consider exempting products manufactured in small quantities (e.g., for self-use, research, training, or prototype); products with low radiation emission; and products with conservative design and a good quality

control record, and products subject to IDE regulation pursuant to 21 CFR 812.20 and premarket approval pursuant to 21 CFR part 814. FDA is also proposing to periodically review the requirements applicable to specific products and specific exemption criteria that do not present a public health hazard. Further, FDA is proposing that each manufacturer, dealer, or distributor for which an exemption is granted be given a written notification of the product or products exempted, together with a list of the requirements exempted and the conditions, if any, for the exemption. Proposed § 1002.50(c) provides parties who have been denied an exemption with written notification of the denial and the reasons for the decision. Under the proposal, exemptions may be revoked based on evidence that the basis for the exemption is not valid or that revocation is necessary to protect the public health and safety.

L. Economic Impact

This proposed rule is the result of an extensive retrospective review, including a cost-benefit analysis of the regulatory impact in accordance with the requirements of Executive Order 12291 and the Regulatory Flexibility Act (Pub. L. 96-354). The agency concludes that the proposed rule is not a major rule as defined in Executive Order 12291. Further, the agency certifies that the proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act. A copy of the document supporting this determination, "Report of the CDRH Task Force for Retrospective Review of the Recordkeeping and Reporting Requirements of 21 CFR 1002," is on file at the Documents Management Branch and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

M. Paperwork Reduction Act of 1980

This proposed rule contains information collections which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35). The title, description and respondent description of the information collection are shown below with an estimate of the annual reporting and recordkeeping burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. *Title:* Reporting and Recordkeeping Requirements for Electronic Products Under Public Law 90-602—General Requirements. *Description:* The Food and Drug Administration is proposing to amend its regulations regarding the requirements for recordkeeping and reporting of adverse experiences and other information relating to radiation emitting electronic products. The timing and content of certain reports will be revised to enhance the usefulness of the information. The purpose of these proposed changes is to improve the protection of the public health while also reducing the regulatory burden on manufacturers, dealers, and distributors of radiation emitting electronic products. The existing information collections have been approved under OMB No. 0910-0025. *Description of Respondents:* Businesses or other for profit organizations.

Estimated annual reporting and recordkeeping burden

Section	Annual number and reports of records	Average burden per response hours	Annual burden
1002.10 1002.12 Existing initial reports	360	24.0	10,869.0
Supplements	1,110	0.5	552.5
Model change reports	735	42.0	30,460.0
Supplements	1,415	0.5	707.5
Subtotals	3,610		42,590.0
Proposed products	1,200	24.0	28,800
Supplements			
1002.30(a)	1,200	0.5	600
Existing	4,000,000	0.12	480,000
Proposed	1,904,000	0.12	228,480
Existing	[1] 42,000,000	0.048	2,016,000
Proposed	146,000	0.048	6,960

[1] The dealer record burden had previously been incorrectly reported as 17,000,000.
Total existing annual burden hours, 2,536,590.
Total proposed annual burden hours, 314,940.
Total annual burden hours reduced, 2,272,750 (87.6 percent reduction).

The distribution records required of manufacturers by § 1002.30(b) have not previously been considered since the aspect of business and the regulation places no additional burden on manufacturers.

As required by section 3504(h) of the Paperwork Reduction Act of 1980, FDA has submitted a copy of this proposed rule to OMB for its review of these information collection requirements. Other organizations and individuals desiring to submit comments regarding this burden estimate or any aspects of these information collection requirements, including suggestions for reducing the burden, should direct them to FDA's Dockets Management Branch (address above) and to the Office of Information and Regulatory Affairs, OMB, Rm. 3208, New Executive Office Bldg., Washington, DC 20503, Attn: Desk Officer for FDA.

List of Subjects in 21 CFR

Part 1000

Electronic products, Radiation protection, Reporting and recordkeeping requirements, X-rays.

Part 1002

Electronic products, Radiation protection, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act, the Radiation Control for Health and Safety Act, and the Freedom of Information Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR parts 1000 and 1002 be amended as follows:

PART 1000—GENERAL

1. The authority citation for 21 CFR Part 1000 continues to read as follows:

Authority: Secs. 354-360F of the Public Health Service Act (42 U.S.C. 263b-263n).

2. Section 1000.3 is revised to read as follows:

§ 1000.3 Definitions.

As used in this Subchapter J:

(a) *Accidental radiation occurrence* means a single event or series of events that has/have resulted in injurious or potentially injurious exposure of any person to electronic product radiation as a result of the manufacturing, testing, or use of that product.

(b) *Act* means the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90-602, 42 U.S.C. 263b *et seq.*).

(c) *Chassis family* means a group of one or more models with all of the following common characteristics:

(1) The same circuitry in the high voltage, horizontal oscillator, and power supply sections,

(2) The same worst component failures,

(3) The same type or design high voltage hold-down or safety circuits, and

(4) The same design and installation.

(d) *Commerce* means:

(1) Commerce between any place in any State and any place outside thereof, and

(2) Commerce wholly within the District of Columbia.

(e) *Component*, for the purposes of this part, means a finished product which may be used in an assembled electronic product and which may affect the quantity, quality, direction, or radiation mission of the finished product.

(f) *Dealer* means a person engaged in the business of offering electronic products for sale to purchasers, without regard to whether such person is or has been primarily engaged in such business, and includes persons who offer such products for lease or as prizes or awards.

(g) *Distributor* means a person engaged in the business of offering electronic products for sale to dealers without regard to whether such person is or has been primarily or customarily engaged in such business.

(h) *Electromagnetic radiation* includes the entire electromagnetic spectrum of radiation of any wavelength. The electromagnetic spectrum illustrated in Figure 1 includes, but is not limited to, gamma rays, X-rays, ultra-violet, visible, infrared, microwave, radiowave, and low frequency radiation.

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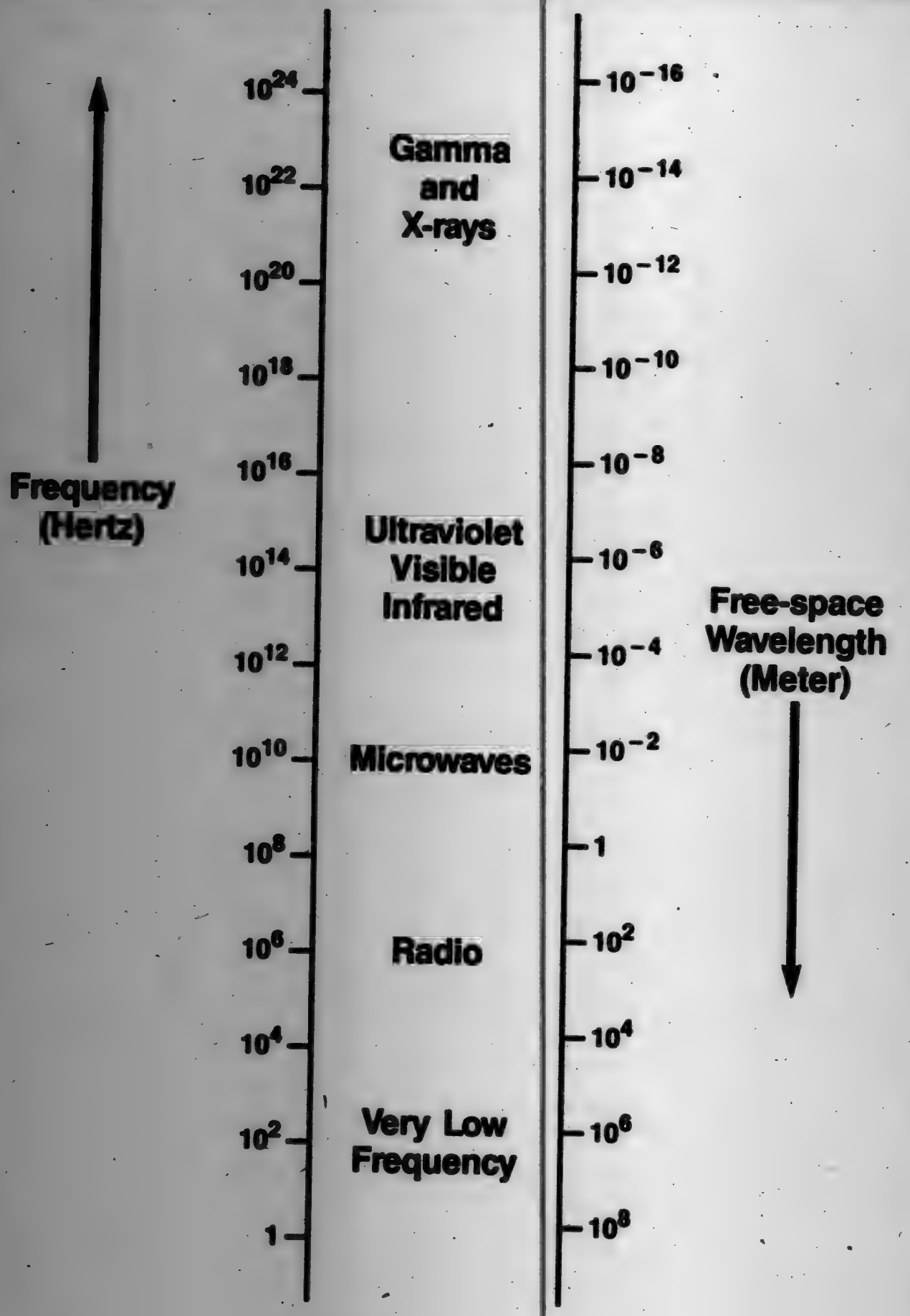
Frequency (Hertz)
10^24
10^22
10^20
10^18
10^16
10^14
10^12
10^10
10^8
10^6
10^4
10^2
1
Gamma and X-rays
Ultraviolet
Visible
Infrared
Microwaves
Radio
Very Low Frequency
10^-16
10^-14
10^-12
10^-10
10^-8
10^-6
10^-4
10^-2
1
10^2
10^4
10^6
10^8
Free-space Wavelength (Meter)

Figure 1

(i) *Electronic product* means:

(1) any manufactured or assembled product which, when in operation,

(i) contains or acts as part of an electronic circuit and

(ii) emits (or in the absence of effective shielding or other controls would emit) electronic product radiation, or

(2) any manufactured or assembled article which is intended for use as a component, part, or accessory of a product described in paragraph (i)(1) of this section and which when in operation emits (or in the absence of effective shielding or other controls would emit) such radiation.

(j) *Electronic product radiation* means:

(1) Any ionizing or nonionizing electromagnetic or particulate radiation, or

(2) Any sonic, infrasonic, or ultrasonic wave, which is emitted from an electronic product as the result of the operation of an electronic circuit in such product.

(k) *Federal standard* means a performance standard issued pursuant to section 358 of the Act.

(l) *Infrasonic, sonic (or audible) and ultrasonic waves* refer to energy transmitted as an alteration (pressure, particle displacement or density) in a property of an elastic medium (gas, liquid or solid) that can be detected by an instrument or listener.

(m) *Manufacturer* means any person engaged in the business of manufacturing, assembling, or importing of electronic products.

(n) *Model* means any identifiable, unique electronic product design, and refers to products having the same structural and electrical design characteristics and to which the manufacturer has assigned a specific designation to differentiate between it and other products produced by that manufacturer.

(o) *Model family* means products having similar design and radiation characteristics but different manufacturer model numbers.

(p) *Modified model* means a product that is redesigned so that actual or potential radiation emission is affected or the possibility of detecting emission or noncompliance with a performance standard is decreased.

(q) *Particulate radiation* is defined as:

(1) charged particles, such as protons, electrons, alpha particles, heavy particles, etc., which have sufficient kinetic energy to produce ionization or atomic or electron excitation by collision, electrical attractions or electrical repulsion; or

(2) uncharged particles such as neutrons, which can initiate a nuclear transformation or liberate charged particles having sufficient kinetic energy to produce ionization or atomic or electron excitation.

(r) *Phototherapy product* means any ultraviolet lamp, or product containing such lamp, that is intended for irradiation of any part of the living human body at light of wavelength in the range of 200 to 400 nanometers, in order to perform a diagnostic or therapeutic function.

(s) *Purchaser* means the first person who, for value, or as an award or prize, acquires an electronic product for purposes other than resale, and also includes a person who leases an electronic product for purposes other than subleasing.

(t) *Secretary* means the Secretary of the Department of Health and Human Services.

(u) *State* means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

PART 1002—RECORDS AND REPORTS

3. The authority citation for 21 CFR Part 1002 continues to read as follows:

Authority: Secs. 302, 518, 519, 520, 701, 704, of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 352, 360, 360i, 360j, 371, 374); secs. 354–360F of the Public Health Service Act (42 U.S.C. 263b–263n).

4. Section 1002.1 is revised to read as follows:

§ 1002.1 Applicability

The provisions of this part are applicable as follows:

(a) All manufacturers of electronic products are subjects to § 1002.20.

(b) Manufacturers, dealers, and distributors of electronic products are subject to the provisions of Part 1002 as shown in Table 1 of this section, unless excluded by paragraph (c) of this section, or unless an exemption has been granted under § 1002.50 or § 1002.51.

(c) The requirements of Part 1002 as specified in Table 1 of this section are not applicable to:

(1) Manufacturers of electronic products intended solely for export if such product is labeled or tagged to show that the product meets all the applicable requirements of the country to which such product is intended for export.

(2) Manufacturers of electronic products listed in Table of this section if sold exclusively to other manufacturers for use as components of electronic products to be sold to purchasers, with the exception that the provisions are applicable to those manufacturers certifying components of diagnostic X-ray systems pursuant to provisions of § 1020.30(c) of this chapter.

(3) Manufacturers of electronic products which are intended for use by the U.S. Government and whose function or design cannot be divulged by the manufacturer for reasons of national security, as evidenced by government security classification.

(4) Assemblers of diagnostic X-ray equipment subject to the provisions of § 1020.30(d) of this chapter, provided the assembler has submitted the report required by § 1020.30(d)(1) or (2) of this chapter and retains a copy of such report for a period of 5 years from its date.

SECTION 1002.1, TABLE 1—RECORD AND REPORTING REQUIREMENTS BY PRODUCT

Products	Manufacturer						Dealer/distributor
	Product reports 1002.10	Supplemental reports 1002.11	Abbreviated reports 1002.12	Annual reports 1002.13	Test records 1002.30(a)	Distribution records 1002.30(b)	Distribution records 1002.40,41
X RAY:							
Diagnostic X Ray (1020.30,31,32) computer tomography	X	X		X	X	X	X
X-Ray system * *	X	X		X	X	X	X
Tube housing assembly	X	X		X	X	X	
X-ray control	X	X		X	X	X	X
X-ray high voltage generator	X	X			X	X	X
X-ray table			X		X	X	
X-ray cradle			X		X	X	

SECTION 1002.1, TABLE 1—RECORD AND REPORTING REQUIREMENTS BY PRODUCT—Continued

Products	Manufacturer						Dealer/distributor
	Product reports 1002.10	Supplemental reports 1002.11	Abbreviated reports 1002.12	Annual reports 1002.13	Test records 1002.30(a)	Distribution records 1002.30(b)	Distribution records 1002.40.41
X-ray film changer			X		X	X	
Vertical cassette holders mounted in a fixed location and cassette holders with front panels.			X		X	X	X
Beam-lighting devices	X	X		X	X	X	X
Spot-film devices and image intensifiers manufactured after April 26, 1977.	X	X		X	X	X	X
Cephalometric devices manufactured after February 25, 1978			X		X	X	
Image receptor support devices for mammographic X-ray systems manufactured after September 5, 1978.			X		X	X	
Cabinet X Ray (1020.40) baggage inspection	X	X		X	X	X	X
Other	X	X		X	X	X	
Products intended to produce particulate radiation or X-rays other than diagnostic or cabinet X-ray medical.			X		X	X	
Analytical			X		X	X	
Industrial			X		X	X	
Television receivers (1020.10) < 25 kV and <0.1 mR/h**			X	X			
> 25 kV and <0.1 mR/h**	X	X		X			
> 0.1 mR/hr**	X			X			
MICROWAVE/RF:							
MW ovens (1030.10)	X	X		X	X	X	
MW diathermy			X				
MW heating, drying, security systems			X				
RF sealers, electromagnetic interaction and heating equipment dielectric heaters (2–500MHz).			X				
Optical phototherapy products	X	X					
Laser products (1040.10,.11) Class I,"Ia,II,IIa lasers & Class I products containing such lasers.	X			X	X	X	
Class IIb & IV lasers and products containing such lasers	X	X		X	X	X	X
Sunlamp products (1040.20) lamps only	X						
Sunlamp products	X	X		X	X	X	X
Mercury vapor lamps (1040.30) T-lamps	X	X		X			
R lamps			X				
ACOUSTIC:							
Ultrasonic therapy (1035.10)	X	X		X	X	X	X
Medical ultrasound other than therapy or diagnostic	X	X					
Non-medical ultrasound			X				

*1002.31, .42, if applicable.
**Under image III test conditions (1020.10(c)(2)(ii)).

§ 1002.2 [Removed]

5. Section 1002.2 *Definitions* is removed from subpart A.

6. Section 1002.3 is revised to read as follows:

§ 1002.3 Notification to user of performance and technical data.

The Secretary of Health and Human Services may require a manufacturer of a radiation emitting electronic product to include in the labeling of the product at the time of original purchase to the ultimate purchaser such performance data and other technical data related to safety as he or she finds necessary.

7. Section 1002.7 is amended by adding a new sentence to the end of the introductory text, by revising the first sentence in paragraph (b), and by adding new paragraph (c) to read as follows:

§ 1002.7 Submission of data and reports.

* * * All submissions required by this part shall be addressed to the Director, Office of Compliance and Surveillance (HFZ–352), Center for Devices and Radiological Health, 1390 Piccard Dr., Rockville, MD 20850.

* * * * *

(b) Where guides or instructions have been issued by the Director, Center for Devices and Radiological Health, for the submission of material required by this part such as test data, product reports, abbreviated reports, supplemental reports, and annual reports, the material submitted shall conform to the applicable reporting guide or instruction to the extent that it is possible or appropriate to do so. * * *

(c) Where the submission of quality control and testing information is common to more than one model, or model family of the same product category, a "common aspects report" consolidating similar information may be provided, if applicable.

8. Subpart B, consisting of §§ 1002.10 to 1002.13, is revised to read as follows:

Subpart B—Required Manufacturers' Reports for Listed Electronic Products

Sec.
1002.10 Product reports.
1002.11 Supplemental reports.
1002.12 Abbreviated reports.
1002.13 Annual reports.

Subpart B—Required Manufacturers' Reports for Listed Electronic Products

§ 1002.10 Product reports.

Every manufacturer of a product or component requiring a product report as specified in Table 1 of § 1002.1 shall submit a product report to the Director, Office of Compliance and Surveillance (HFZ–352), Center for Devices and Radiological Health, Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, in accordance with this section. The report shall be submitted for each model or chassis family within 90 days following the effective date of listing such product in Table 1 of § 1002.1 or prior to the introduction of such product into

commerce, whichever is later. The report shall be distinctly marked "Product Report of (name of manufacturer)" and shall:

(a) State in the report for each model of a listed product whether the report is submitted pursuant to Table 1 in § 1002.1.

(b) Identify each model of the listed product together with sufficient information concerning the manufacturer's code or other system of labeling sufficient to enable the Secretary of Health and Human Services (the Secretary) to determine the place of manufacture.

(c) For records and reports required for products listed in Table 1 in § 1002.1, include information on all components and accessories which the manufacturer may provide in, on, or with the listed product and which affect the quantity, quality, or direction of the radiation emissions.

(d) Describe the function, operational characteristics affecting radiation emissions and intended and known uses of each model of the listed product.

(e) State the standard or design specifications, if any, for each model with respect to electronic product radiation safety. Reference may be made to a Federal standard, if applicable.

(f) For each model, describe the physical or electrical characteristics such as shielding or electronic circuitry, etc., incorporated into the product in order that the standards or specifications reported pursuant to paragraph (e) of this section are met.

(g) Describe the methods and procedures employed, if any, in testing and measuring each model with respect to electronic product radiation safety including the control of unnecessary, secondary, or leakage electronic product radiation, the applicable quality control procedures used for each model, and the basis for selecting such testing and quality control procedures.

(h) For those products which may produce increased radiation with aging, describe the methods and procedures used, and frequency of testing each model for durability and stability with respect to electronic product radiation safety. Include the basis for selecting such methods and procedures, or for determining that such testing and quality control procedures are not necessary.

(i) Provide sufficient results of the testing and measuring of electronic product radiation safety and of the quality control procedures described in accordance with paragraphs (g) and (h) of this section to enable the Secretary to determine the effectiveness of the methods and procedures used to accomplish the stated procedures.

(j) Report for each model all warning signs, labels, and instructions for installation, operation, and use which relate to electronic product radiation safety.

(k) Provide upon request such other information as the Secretary may reasonably require to enable him/her to determine whether the manufacturer has acted or is acting in compliance with the Act and any standards prescribed thereunder, and to enable the Secretary to carry out the purposes of the Act.

§ 1002.11 Supplemental reports.

Prior to the introduction into commerce of a new or modified model within a model or chassis family of a product listed in Table 1 of § 1002.1 for which a report under § 1002.10 was required, each manufacturer shall submit a report with respect to such new or modified model containing any changes in the information submitted in the product report. Reports will be required for changes that:

(a) Affect actual or potential radiation emission.

(b) Decrease the degree of compliance with a performance standard.

(c) Result in a decreased probability of detecting product noncompliance or increased radiation emission.

§ 1002.12 Abbreviated reports.

Manufacturers of products requiring abbreviated reports as specified in Table 1 of § 1002.1 shall submit an abbreviated report which shall include:

(a) Firm and model identification.

(b) A brief description of operational characteristics that affect radiation emissions, transmission, leakage or that control exposure.

(c) A list of applications or uses.

(d) Radiation emission, transmission, or leakage levels.

(e) If necessary, additional information as may be requested to determine compliance with the Act and this part.

§ 1002.13 Annual reports.

(a) Every manufacturer of products requiring an annual report as specified in Table 1 of § 1002.1 shall submit an annual report summarizing the contents of the records required to be maintained by § 1002.30(a) and providing the volume of products produced, sold, or installed.

(b) Reports are due annually. Such reports shall cover the 12-month period ending on June 30 preceding the due date of the report.

(c) New models of a model family that do not involve changes in radiation emission or requirements of a performance standard do not require supplemental reports prior to introduction into commerce. These model numbers should be reported in quarterly updates to the annual report.

9. Section 1002.20 is amended by adding a sentence at the end of paragraph (c) to read as follows:

§ 1002.20 Reporting of accidental radiation occurrence.

* * * * *

(c) * * * A manufacturer need not file a separate report under this section if an incident involving an accidental radiation occurrence is associated with a defect or noncompliance and is reported pursuant to § 1003.10 of this chapter.

10. Section 1002.30 is amended in the first sentence of paragraph (a) introductory text, by removing "under paragraphs (b) and (c) of § 1002.61" and adding in its place "in Table 1 of § 1002.1"; in paragraph (b) introductory text, by removing "paragraph (c) of § 1002.61" and adding in its place "Table 1 of § 1002.1"; and adding new paragraph (a)(5) to read as follows:

§ 1002.30 Records to be maintained by manufacturers.

(a) * * *

(5) Data on production and sales volume levels if available.

* * * * *

§ 1002.31 [Amended]

11. Section 1002.31 *Preservation and inspection of records* is amended in paragraph (c) by removing "paragraph (c) of § 1002.61" and adding in its place "Table 1 of § 1002.1".

12. Section 1002.40 is amended by revising paragraph (a) to read as follows:

§ 1002.40 Records to be obtained by dealers and distributors.

(a) Dealers and distributors of electronic products for which there are performance standards and for which the retail price is $50 or more shall obtain such information as is necessary to identify and locate first purchasers if the product is subject to this section by virtue of Table 1 of § 1002.1.

* * * * *

13. Section 1002.50 is revised to read as follows:

§ 1002.50 Special exemptions.

(a) Manufacturers of electronic products may submit to the Director, Center for Devices and Radiological Health, a request together with accompanying justification for exemption from any requirements listed

in Table 1 of § 1002.1. The request must specify each requirement from which an exemption is requested. In addition to other information which is required, the justification must contain documented evidence showing that the product or product type for which the exemption is requested does not pose a public health risk and meets at least one of the following criteria:

(1) The products cannot emit electronic product radiation in sufficient intensity or of such quality under any conditions or use or product failure to be hazardous;

(2) The products are produced in small quantities;

(3) The products are used by trained individuals and are to be used by the same manufacturing corporation or for research, investigation, or training.

(4) The products are custom designed and used by trained individuals knowledgeable of the hazards; or

(5) The products are produced in such a way that the requirements are inappropriate or unnecessary.

(b) The Director, Center for Devices and Radiological Health, may, subject to any conditions that he/she deems necessary to protect the public health, exempt manufacturers from all or part of the record and reporting requirements of this part on the basis of information submitted in accordance with paragraph (a) of this section or such other information which he/she may possess if he/she determines that such exemption is in keeping with the purposes of the Act.

(c) The Director, Center for Devices and Radiological Health, will provide written notification of the reason for any denial. If the exemption is granted, the Director will provide written notification of:

(1) The electronic product or products for which the exemption has been granted;

(2) The requirements that are exempted; and

(3) Such conditions as are deemed necessary to protect the public health and safety. Copies of granted exemptions shall be available upon request from the Office of Compliance and Surveillance (HFZ–300), Center for Devices and Radiological Health, 1390 Piccard Dr., Rockville, MD 20850.

(d) The Director, Center for Devices and Radiological Health, may, on his own motion exempt certain classes of products from the reporting requirements listed in Table 1 of § 1002.1, provided that he finds that such exemption is in keeping with the purpose of the Act.

(e) Manufacturers of products for which there is no applicable performance standard under part 1020 of this chapter and for which an investigational device exemption has been approved under § 812.30 of this chapter or for which a premarket approval application has been approved in accordance with § 814.44(d) of this chapter are exempt from submitting all reports listed in Table 1 of § 1002.1.

Subpart G [Removed]

14. Subpart G, consisting of § 1002.61 *List of specific product groups*, is removed.

Dated: May 15, 1990.

James S. Benson,

Acting Commissioner of Food and Drugs.

[FR Doc. 90–25209 Filed 10–24–90; 8:45 am]

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federal register

Thursday
October 25, 1990

Part III

The President

Proclamation 6212—Polish American Heritage Month, 1990

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Presidential Documents

Title 3—

The President

Proclamation 6212 of October 23, 1990

Polish American Heritage Month, 1990

By the President of the United States of America

A Proclamation

Many Americans proudly trace their roots to Poland, a land whose rich and colorful past is rivalled only by the bright promise of its future. This month, as we celebrate the many contributions that Polish Americans have made to our Nation's history and culture, we also reaffirm the strong and friendly ties between the United States and their ancestral homeland.

Poles were among the first immigrants who came to these shores in search of liberty and opportunity, and they and their descendants have always been in the forefront of efforts to keep America free, strong, and prosperous. During the Revolutionary War, the great Polish heroes Tadeusz Kosciuszko and Kazimierz Pulaski helped to secure the Independence of our fledgling Republic. Since then millions of other men and women of Polish extraction have likewise invested their hopes in this Nation's bold experiment in self-government, working hard to ensure its success and inspiring us all through their great faith in God and their devotion to democratic ideals.

While Polish Americans have inspired us by their example, they have also enriched us through efforts to preserve their unique ethnic heritage. Heirs to the rich historic and cultural legacy established in the land of Copernicus and Chopin, these Americans have shared with their fellow citizens a wealth of Polish music, art, craftsmanship, and folklore.

The deep cultural and familial ties between the peoples of the United States and Poland have long been intertwined with the sturdy fiber of shared values and aspirations. For generations Poles have demonstrated the same belief in individual rights and dignity that inspires our own system of government. The Polish Constitution of May 3, 1791, one of the first written national constitutions in history, was modeled after that of the United States and dramatically asserted the Polish people's desire for liberty and self-determination. Despite decades of repression by ruling officials, military invasion by Nazi Germany and the Soviet Union in 1939, and the declaration of martial law in 1981, the people of Poland have remained firm in their devotion to democratic ideals. During the past year they have thrown off the heavy yoke of communism and begun to enter the community of free nations. Under the leadership of Eastern Europe's first non-Communist government in more than 40 years, they have been working to build a new economic order to break the cycle of impoverishment and decline imposed by nearly half a century of totalitarian rule.

The United States wholeheartedly supports Poland's democratic transition and her people's ongoing efforts to establish a pluralistic society and free market economy. In addition to direct financial aid, the United States has launched a series of initiatives designed to encourage private sector investment in Poland and to promote the growth of market institutions in that country. In May, I proudly announced the decision to create the Citizens Democracy Corps, whose first mission is to establish a center and clearinghouse for American private sector assistance and voluntary activities in Eastern Europe. Moreover, throughout the past several months, U.S. Government officials, as well as business and labor leaders, have traveled to Poland

to share their expertise and to help establish cooperative ventures in areas such as agriculture, business management, and financial services.

Polish Americans are especially proud of the positive developments that have been taking place in their ancestral homeland, and rightly so. During this Polish American Heritage Month, we celebrate both their unique ethnic identity and the enduring ties that unite all Americans with the courageous, freedom-loving people of Poland.

The Congress, by Senate Joint Resolution 289, has designated October 1990 as "Polish American Heritage Month" and has authorized and requested the President to issue a proclamation in observance of this month.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim October 1990 as Polish American Heritage Month. I urge all Americans to join their fellow citizens of Polish descent in observance of this month.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of October, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.

George Bush

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H.R. 1608/Pub. L. 101-448
National Nutrition Monitoring and Related Research Act of 1990; (Oct. 22, 1990; 104 Stat. 1034; 11 pages) Price: $1.00

H.R. 4622/Pub. L. 101-446
Firefighters' Safety Study Act (Oct. 22, 1990; 104 Stat. 1045; 2 pages) Price: $1.00

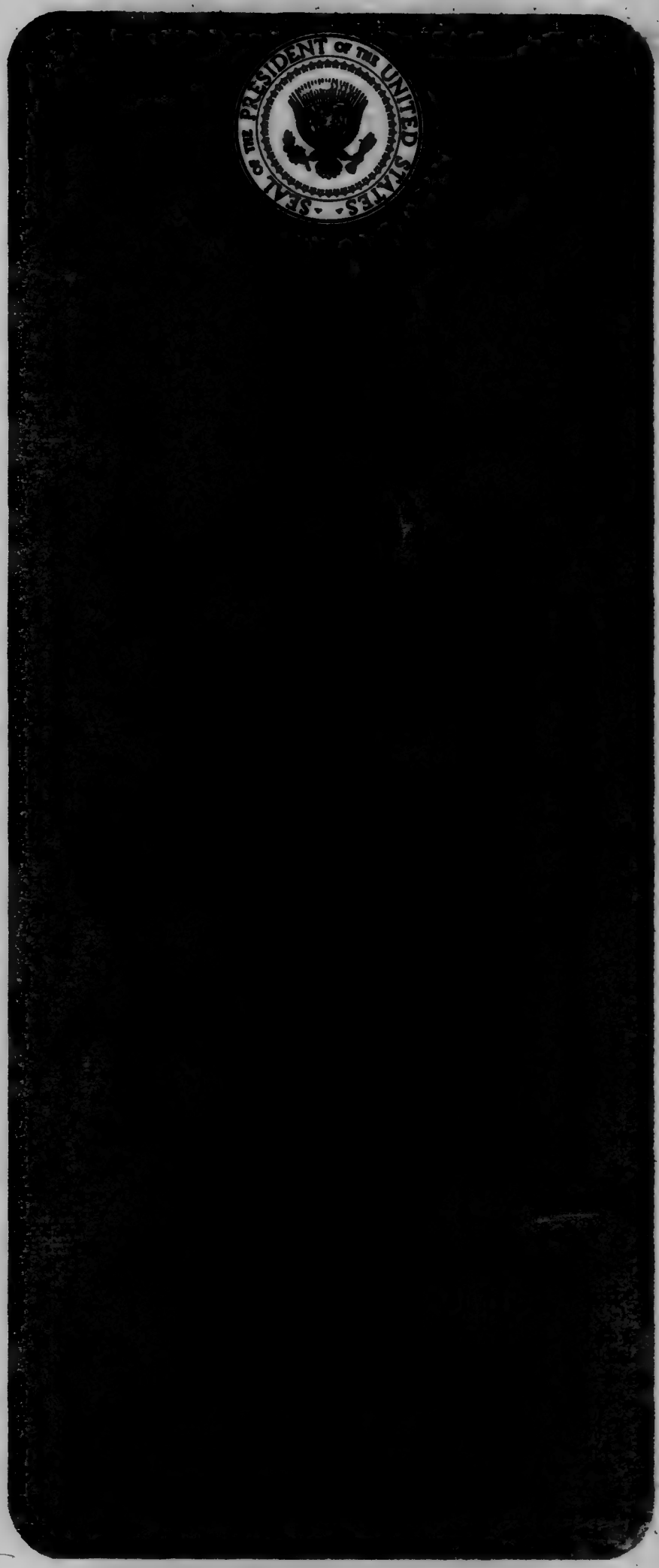
H.R. 4863/Pub. L. 101-447
San Carlos Mineral Strip Act of 1990. (Oct. 22, 1990; 104 Stat. 1047; 2 pages) Price: $1.00

H.R. 4868/Pub. L. 101-448
To designate the Federal building located at 51 Southwest 1st Avenue in Miami, Florida, as the "Claude Pepper Federal Building". (Oct. 22, 1990; 104 Stat. 1049; 1 page) Price: $1.00

H.R. 5878/Pub. L. 101-449
To amend the John F. Kennedy Center Act to authorize appropriations for maintenance, repair, alteration and other services necessary for the John F. Kennedy Center for the Performing Arts, and for other purposes. (Oct. 22, 1990; 104 Stat. 1050; 2 pages) Price: $1.00

S.J. Res. 304/Pub. L. 101-450
To designate October 17, 1990, as "National Drug-Free Schools and Communities Education and Awareness Day". (Oct. 22, 1990; 104 Stat. 1052; 1 page) Price: $1.00

S.J. Res. 317/Pub. L. 101-451
To designate the week of October 14, 1990, through October 20, 1990, as "National Realtor Action Week". (Oct. 22, 1990; 104 Stat. 1053; 1 page) Price: $1.00



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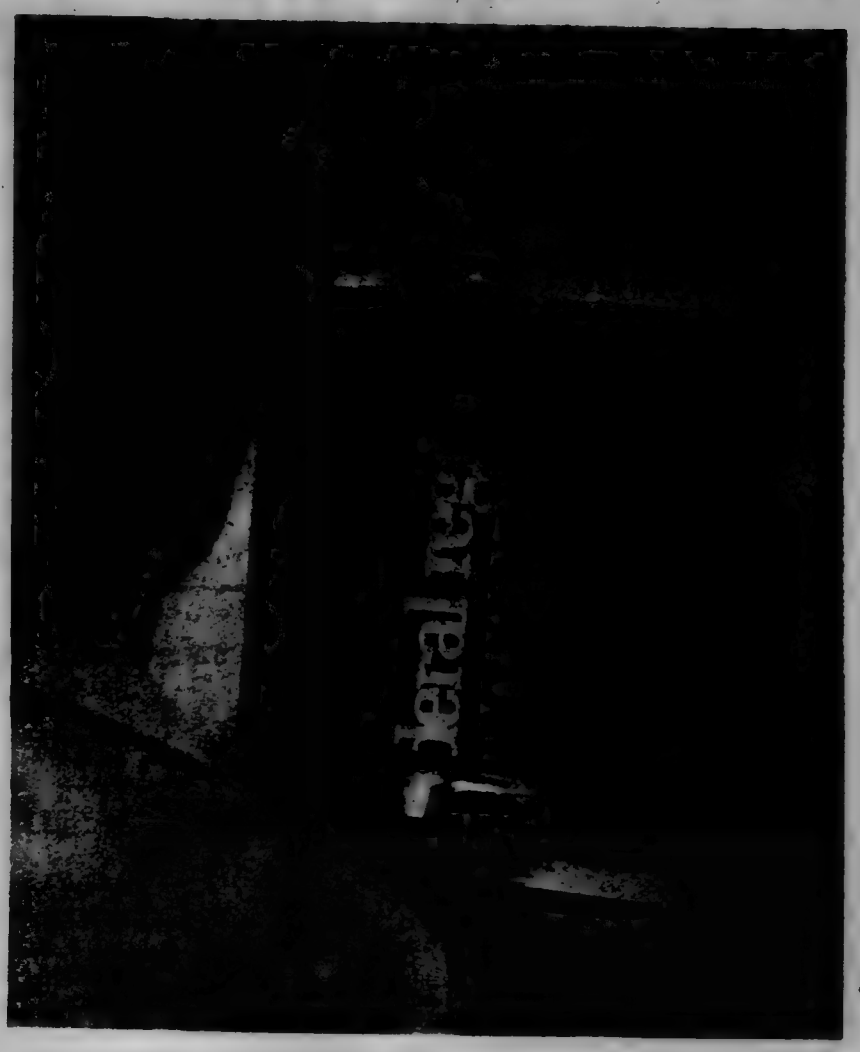

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Federal Register
Vol. 55, No. 208
Friday, October 26, 1990

Presidential Documents

Title 3—

The President

Proclamation 6213 of October 24, 1990

National Domestic Violence Awareness Month, 1990

By the President of the United States of America

A Proclamation

For most Americans, home is, as it should be, a beloved place of refuge, a place where one can enjoy the unconditional love and acceptance of his or her family as well as physical comfort and security. Tragically, however, for far too many of our citizens the blessings of home and family are marred by domestic violence.

Each year, hundreds of thousands of Americans—people of every age, gender, and race, and from every social, religious, and economic background—are affected by domestic violence. Domestic violence is not just a series of angry exchanges or the kind of simple quarrels that occur occasionally in almost every family. Rather, it is a grave pattern of destructive behavior and a serious crime problem that inflicts untold harm upon individuals and families and weakens the very fabric of our society.

Domestic violence involves not only spouses, but also some of our Nation's most vulnerable citizens. Its victims include abused and neglected children, elderly relatives, and persons with disabilities. In every case, domestic violence leaves deep physical and emotional scars, often haunting for years the children who suffer or simply witness its terrifying effects. All too often, domestic violence results in death.

Fortunately, Americans throughout both the public and private sectors are working to assist the victims of domestic violence and to stop the vicious cycle of abuse and despair. Law enforcement officials at the Federal, State, and local level, health care providers, members of private voluntary organizations, the clergy, and other concerned citizens are engaged in efforts to prevent domestic violence and to provide shelter and counseling for its victims. Many communities now have special outreach programs and residential services for affected individuals and families.

This month we recognize the generosity, compassion, and hard work of all those volunteers and professionals who are working to prevent domestic violence and to help its victims. We also reaffirm our support for their vital efforts.

The Congress, by House Joint Resolution 602, has designated October 1990 as "National Domestic Violence Awareness Month" and has authorized and requested the President to issue a proclamation in observance of this month.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim October 1990 as National Domestic Violence Awareness Month. I urge all Americans to observe this month by learning more about the tragedy of domestic violence and how each of us can help bring an end to it.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of October, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.

George Bush

[FR Doc. 90-25257
Filed 10-24-90; 2:22 pm]
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Rules and Regulations

Federal Register
Vol. 55, No. 208
Friday, October 26, 1990

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1005

[DA-90-031]

Milk in the Carolina Marketing Area; Temporary Revision of Pool Distributing Plant Route Disposition Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Temporary revision of rules.

SUMMARY: This action decreases temporarily the route disposition requirements applicable to a pool distributing plant under the Carolina milk order. For the months of October and November 1990 and January and February 1991, the percentage of route disposition by a pool distributing plant is decreased from 60 percent to 50 percent. The action was requested by a cooperative association and a proprietary handler. The revision, as indicated by proponents, would avoid some additional costs in pooling milk at one of two distributing plants operated by the handler.

EFFECTIVE DATE: October 1, 1990 through February 28, 1991.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456 (202) 447-2089.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of proposed Temporary Revision of Pool Distributing Plant Route Disposition Requirements: Issued September 18, 1990; published September 24, 1990 (55 FR 39002).

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. Such action eliminates the need to make uneconomic shipments of milk to meet the pooling standards of the order.

This rule has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This revision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the provisions of § 1005.7(a)(2) of the order.

Notice of proposed rulemaking was published in the Federal Register (55 FR 39002) concerning a proposed decrease in the route disposition percentages for a pool distributing plant for the months of September through November 1990 and January and February 1991. The public was offered the opportunity to comment on the proposal by submitting written data, views and arguments by October 1, 1990. One comment was received in support of the revision. No comments were received in opposition to the revision.

Statement of Consideration

This action decreases the Carolina milk order's route disposition percentages for a pool distributing plant for the months of October and November 1990 and January and February 1991. The revision decreases for such months the distributing plant route disposition requirements from 60 percent to 50 percent.

Southern Milk Sales, Inc. and Hunter Jersey Farms, Inc. (Hunter Jersey) requested the action. The proponents indicated that Hunter Jersey operates two distributing plants located in the marketing area. One of the two plants is expected to have about 50 percent route disposition and the other plant is expected to have about 86 percent route disposition. The combined route disposition of the two plants would be about 72 percent.

Proponents also requested that the order be amended to permit any handler that operates two or more distributing plants to combine the receipts and utilization of milk and milk products at such plants for reporting purposes. Pending the completion of such amendatory proceeding, proponents have requested that the Director of the Dairy Division lower the 60 percent route disposition standard by 10 percent points.

Unless this action is granted, Hunter Jersey would have to incur additional costs in order to pool the milk received at the plant having about 50 percent route disposition. The other alternative would be to not pool the plant which would result in a reduction in income for the dairy farmers supplying such plant.

Interested parties were provided 7 days after publication of the proposed temporary revision for submitting written comments. The Carolina-Virginia Milk Producers Association filed comments in support of the temporary revision. No comments in opposition to the proposed action were filed.

The time needed to complete the revision procedures, however, does not permit the inclusion of the month of September in this action. It is appropriate under the circumstances, therefore, to relax the aforementioned provision of § 1005.7(a)(2) for the months of October and November 1990 and January and February 1991. A reduction of the route disposition percentage to 50 percent for this period should avoid the additional expense that a handler would otherwise incur in meeting the pooling requirements of the order.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This temporary revision is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area;

(b) This temporary revision does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of the proposed temporary revision was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this temporary revision.

Therefore, good cause exists for making this temporary revision effective October 1, 1990 through February 28, 1991.

List of Subjects in 7 CFR Part 1005

Milk marketing orders.

It is therefore ordered, that the following provision of § 1005.7(a)(2) is hereby revised for the months of October and November 1990 and January and February 1991.

PART 1005—MILK IN THE CAROLINA MARKETING AREA

1. The authority for 7 CFR part 1005 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

§ 1005.7 [Amended]

2. In § 1005.7(a)(2) the provision "60 percent" is revised to "50 percent" for the months of October and November 1990 and January and February 1991.

Signed at Washington, DC, on: October 22, 1990.

W. H. Blanchard,

Director, Dairy Division.

[FR Doc. 90-25315 Filed 10-25-90; 8:45 am]

BILLING CODE 3410-02-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701 and 741

Organization and Operations of Federal Credit Unions; Requirements for Insurance

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: This action implements section 914 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") by adding new §§ 701.14 and 741.8 to NCUA's Regulations. These sections require that federally insured insured credit unions within specified categories file a notice with NCUA prior to adding or replacing a member of the board of directors, committee member or senior executive officer. NCUA may disapprove any change that it determines not to be in the best interests of the members of the credit union or the public.

EFFECTIVE DATE: November 26, 1990.

ADDRESSES: National Credit Union Administration, 1776 G Street NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Michael J. McKenna, Staff Attorney, Office of General Counsel, at the above address or telephone: (202) 682–9630.

SUPPLEMENTARY INFORMATION:

A. Background

FIRREA amended the Federal Credit Union Act (FCU Act) by adding a new section 212 (12 U.S.C. 1791). Section 212 requires that an insured credit union that has been chartered less than 2 years or is in troubled condition notify NCUA at least 30 days prior to the addition of any individual to the board of directors or a committee or the employment of any individual as a senior executive officer. If NCUA issues a Notice of Disapproval, the insured credit union is prohibited from making the change. To implement section 212, NCUA is adding §§ 701.14 and 741.8 to its regualtions. These sections define key terms and establish notice and application requirements. As mandated by FIRREA, the requirements apply to all federally insured credit unions.

In a separate action, NCUA is issuing a final regulation establishing the appeal process for those cases where the proposed addition or change in directors, committee members or senior employees is disapproved. That regulation is being published in the **Federal Register** simultaneously with this action and will be contained in part 747 of the NCUA Rules and Regulations (12 CFR part 747).

B. Comments

The NCUA Board issued a proposed rule on March 20, 1990 (55 FR 12852, 4/6/90)). Fifty comments were received. Thirty of the commenters were federal credit unions and nine were state-chartered credit unions. Four commenters were state credit union leagues and three were national credit union trade associations. Two comments were received from state regulatory agencies. Comments were also received from a law firm and a banker's trade association. As many commenters favored the proposed rule as opposed it, with most commenters recommending at least one change in the final regulation.

C. Discussion

Troubled Credit Union

Section 212(f) of the FCU Act as added by FIRREA directs the NCUA Board to prescribe by regulation a definition of "troubled credit union." The definition is found in § 701.14(b)(3) of the final rule. The proposed definition included all credit unions assigned a composite rating of 4 or 5 under the CAMEL Rating System by the NCUA or the state supervisor; all credit unions subject to adinistrative action proceedings as outlined in section 206 of the FCU Act (12 U.S.C. 1786) or similar action by the appropriate state supervisory authority; credit unions which had been granted assistance as outlined under section 116 or 206 of the FCU Act (12 U.S.C. 1762 or 1788); and credit unions that were informed in writing, based on an examination, supervisory contract, or insurance review that they had been designated as in a "troubled condition" for purposes of this regulation. A credit union receiving a Letter of Understanding and Agreement ("LUA") based on safety and soundness concerns was also included. Few commenters approved of the definition in the proposed rule. A number of commenters found the definition to be unnecessarily broad and subjective.

Six commenters objected to the inclusion of all credit unions subject to an LUA. These commenters argue that if a credit union has received an LUA and is taking appropriate steps to satisfy the requirements set forth in the LUA, then it need not be included in the definition. The NCUA Board agrees and has removed this provision from the final rule.

Three commenters argued that NCUA sending a letter to a credit union based on supervisory contact, examination, or insurance review should not automatically place the credit union in the "troubled condition" category without an investigation into the accuracy of such claims. The NCUA Board agrees that this aspect of the proposal has some potential for administrative misues. Further, other provisions of this definition will generally cover any credit union in troubled condition. Accordingly, this provision is not included in the final rule.

One Commenter objected to including within the definition a credit union granted assistance pursuant to section 116 of the the FCU Act, that is, a credit union receiving a decrease or waiver of its usual reserve transfer requirement. The Board continues to believe that a credit union that is not able to meet the normal statutory reserve transfer requirements expected of a healthy credit union must be considered a troubled credit union for purposes of section 212 and hence those credit unions remain within the definition.

Another commenter did not believe that a credit union should fall within the definition solely because it is involved in an administrative action proceeding pursuant to section 206 of the FCU Act. The Board agrees that administrative action, depending on the facts and nature of a given case, may have little or nothing to do with the financial health of the credit union, and that in those cases

were the credit union is in troubled financial condition, the definition will be triggered under its other provisions. Accordingly, credit unions involved in section 208 proceedings are not included in the final rule.

Four commenters objected to including credit unions that have been chartered less than 2 years within the definition. The thrust of this argument is that if there are no problems in the credit union that threaten safety and soundness, the credit union should be allowed to function normally. Those commenters apparently have overlooked the fact that FIRREA mandates that credit unions chartered for less than two years be included in the notice provisions.

In summary, the definition of troubled credit union has been narrowed in the final rule, and covers those specific, and readily identifiable cases necessary to meet the statutory mandate. The definition is limited to those credit unions assigned a Code 4 or 5 CAMEL rating or those that have been granted assistance under section 116 (reserve transfer) or 208 (National Credit Union Share Insurance Fund (NCUSIF) financial assistance) of the FCU Act (12 U.S.C. 1762 and 1788). The Board believes this definition is consistent with the intent of section 212 of the FCU Act added by FIRREA and at the same time appropriately limits the number of cases where NCUA review and approval is required, thus reducing associated costs and administrative burdens. A broad definition is not necessary because, unlike other financial institutions, the management of a credit union is elected by its member/owners, and thus it is not possible for outsiders to purchase control of, and abuse, a troubled institution.

Senior Executive Officer

Section 212(f) of the amended FCU Act directs the NCUA Board to define "senior executive officer." The definition is found in § 701.14(b)(2) of the final rule. In the proposed rule, the definition included any individual who exercised significant influence over, or participated in, major policy-making decisions of an insured credit union, without regard to title, salary, or compensation. Certain positions, listed in generic form, were automatically covered. Included were senior executive officer (president/manager/treasurer), assistant senior executive officer (vice-president/assistant manager/assistant treasurer) and chief financial officer. The term "senior executive officer" also included employees of an entity, such as a consulting firm, hired to perform the functions of positions covered by the regulation. Eight commenters suggested a change in this definition. Most of these commenters suggested that the definition was overinclusive. Some commenters would not include individuals holding the positions of vice president or assistant manager within the definition because the individuals holding these positions, in their view, do not have significant influence on the actions of credit unions. The NCUA Board disagrees. By definition, a vice president or assistant manager holds a senior position, ranking immediately below the president or manager, serves as a deputy or assistant in carrying out management functions, and is empowered, among other things, to assume the duties of president or manager in that individual's absence. The Board believes the intent of FIRREA requires the inclusion of these positions.

Three commenters objected to including outside employees of a credit union, such as a consulting firm. These commenters believe that including individuals who have the status of independent contractors in the definition is inappropriate because they are outside the scope of section 212. The NCUA Board believes such individuals should be included since they can make management decisions. It should be noted that such outside employees are included only to the extent that they perform functions of a senior executive officer. Where that is the case, the Board believes their inclusion is required to fulfill the Congressional intent of section 212.

The NCUA Board does not believe that the proposed definition of "senior executive officer" was overinclusive. However, for the sake of clarity and consistency, the definition has been reworded so it conforms to similar definitions of "senior management employee" located elsewhere in NCUA's Rules and Regulations. (*See*, e.g., §§ 701.21(c)(8) and 721.2(c), 12 CFR 701.21(c)(8) and 721.2(c).)

Laterals and Transfers

The NCUA Board requested comment on whether section 212's notice requirement should include promotions and lateral transfers to senior positions. Two commenters believed they should be included. Four commenters recommended they be excluded. Inasmuch as a promotion or lateral transfer results in a new individual filling the affected senior executive position, the Board has concluded that the change constitutes "employment" within the meaning of section 212, of a new individual with respect to that position, and the notice requirement should be triggered. With respect to section 212's coverage of the "proposed addition of any individual to the board of directors," the rule covers not only increases in board membership, but also replacement of board members and the filling of vacancies on the board.

Notification

Section 212(a) requires that the credit unions provide NCUA at least 30 days advance notice of any management change covered by the rule. Section 212(c) provides for NCUA waiver of the advance notice requirement under certain circumstances. These provisions are implemented by § 701.14(d) of the final rule. Final § 701.14(d) is substantially unchanged from the proposal. Some additional changes have been made, including the addition of language in § 701.14(d)(2) clarifying that, in those cases where prior notice is waived, NCUA may, in its discretion, require notice at the time of or after the individual's assumption of office, and that in those cases, the right of disapproval runs for 30 days after receipt of the notice.

Nine commenters disagreed with the 30-day decision period of the proposed rule. These commenters argue that this decision period is excessive and will make it difficult for credit unions to attract good people because many qualified people may be unwilling to be kept in limbo for 30 days while NCUA reviews their character. These commenters apparently overlooked the fact that section 212 of the Act mandates the 30-day decision period. In any event, these commenters' concerns should be mitigated by the fact that, under § 701.14(e) of the proposed and final rules, an individual may commence service while waiting for NCUA's decision.

The proposed rule stated that prior notice would not be required when directors are elected at members' meetings, but that information on newly elected directors would have to be submitted to NCUA within 48 hours of the election. NCUA asked for comment on how to address the situation where the NCUA Board disapproves of an elected candidate.

Four commenters recommended that the board of directors of the credit union appoint its own alternate director to serve until the next annual meeting, contingent upon subsequent NCUA approval. The NCUA Board agrees with this recommendation and has incorporated it into the final rule. This procedure is consistent with the authority of the board of directors to fill a vacancy on the board. (See section

111(a) of FCU Act, 12 U.S.C. 1761(a).) The Board has also added the same procedure for elected credit committee members since federal credit unions have the option of either an elected or appointed credit committee.

State Involvement

Nine commenters requested the involvement of the state regulator in the approval process. Most of these commenters believe that state officials are generally more familiar with the details and personalities in state chartered credit unions. Commenters also suggested consultation between the state regulator and the NCUA Regional Director before issuing a notice of disapproval or approval. The NCUA Board agrees and has incorporated into the final rule a requirement that the prior notification be sent by federally insured state chartered credit unions concurrently to the state regulator and to NCUA. NCUA will consult with the appropriate state supervisor before issuing a notice of approval or disapproval.

Regulatory Flexibility Analysis

The NCUA Board hereby certifies that this regulation does not have a significant impact on a substantial number of small credit unions because the rule applies only to newly chartered and troubled credit unions. Federally insured credit unions will only be required to report if changes in officials or senior executives occur. Accordingly, the NCUA Board has determined that a Regulatory Analysis is not required.

Executive Order 12612

This regulation will apply to all federally insured credit unions. The NCUA Board, pursuant to Executive Order 12612, has determined that the final amendment may have a direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. However, FIRREA requires that this regulation apply to all federally insured credit unions. To mitigate any adverse effects, the final rule contains provisions mandating that required notices be submitted by federally insured state chartered credit unions to the state regulator as well as NCUA.

Paperwork Reduction Act

The Office of Management and Budget has approved the collection requirements contained in § 701.14 of NCUA's Regulations (OMB No. 3133–0033) relating to the notice of change of officials and senior executive staff.

List of Subjects in 12 CFR Parts 701 and 741

Troubled credit unions, Senior executive officials, Notice of disapprovals, and Prior notice requirements.

By the National Credit Union Administration Board on October 19, 1990.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA amends its regulations as follows:

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1765, 1767, 1782, 1784, 1787, 1789, and Pub. L. 101–73. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.*, 42 U.S.C. 1981 and 42 U.S.C. 3601–3610.

2. Section 701.14 is added to read as follows:

§ 701.14 Change in official or senior executive officer in credit unions that are newly chartered or are in troubled condition.

(a) *Statement of scope and purpose.* Section 212 of the Federal Credit Union Act (12 U.S.C. 1791) sets forth conditions under which a credit union must notify NCUA in writing of any proposed changes in its board of directors, committee members or senior executive staff. The regulation only applies in cases of newly chartered credit unions and credit unions in troubled condition.

(b) *Definitions.* For the purposes of this section:

(1) *Committee member* means any individual who serves as an official of the credit union in the capacity of a credit committee member or supervisory committee member.

(2) *Senior executive officer* means a credit union's chief executive officer (typically this individual holds the title of president or treasurer/manager), any assistant chief executive officer (e.g., any assistant president, any vice president or any assistant treasurer/manager) and the chief financial officer (controller). The term "senior executive officer" also includes employees of an entity, such as a consulting firm, hired to perform the functions of positions covered by the regulation.

(3) *Troubled condition* means any insured credit union that has one or a combination of the following conditions:

(i) Has been assigned

(A) A 4 or 5 Camel composite rating by the NCUA in the case of a federal credit union, or

(B) An equivalent 4 or 5 Camel composite rating by the state supervisor in the case of a federally insured, state-chartered credit union, or

(C) A 4 or 5 Camel composite rating by NCUA based on core workpapers received from the state supervisor in the case of a federally insured, state-chartered credit union in a state that does ot use the Camel system. In this case, the state supervisor will be notified in writing by the Regional Director in the Region in which the credit union is located that the credit union has been designated by NCUA as a troubled institution;

(ii) Has been granted assistance as outlined under sections 116 or 208 of the Federal Credit Union Act.

(c) *Prior notice requirement.* An insured credit union shall give NCUA written notice at least 30 days prior to the effective date of any addition or replacement of a member of the board of directors or committee member or the employment or change in responsibilities of any individual to a position as a senior executive officer if:

(1) The credit union has been chartered for less than 2 years; or

(2) The credit union meets the definition of troubled condition as set forth in paragraph 701.14(b)(3).

(d) *Procedures for notice of proposed change in official or senior executive officer.* (1) Filing and acceptance. Notices shall be filed with the appropriate Regional Director. State-chartered federally insured credit unions shall also file a copy of the notice with their state supervisor. The notice shall contain information pertaining to the competence, experience, character, or integrity of the individual with respect to whom the notice is submitted, subject to the authority of the Regional Director or his or her designee to require additional information. The information submitted must include the identity, personal history, business background, and experience of the individual, including material business activities and affiliations during the past 5 years, and a description of any material pending legal or administrative proceedings in which the individual is a party and any criminal indictment or conviction of such person by a state or Federal court. Each individual on whose behalf the notice is filed must attest to the validity of the information filed. At the option of the individual, the information may be forwarded to the Regional Director by the individual; however, in such cases, the credit union

must file a notice to that effect. The credit union submitting the notice shall be notified in writing of the date on which all required information is received and the notice is accepted for processing. Before the end of the 30-day period beginning on the date NCUA accepts the information for processing, the Regional Director will issue a written notice to the individual and the credit union of disapproval or approval of the proposed official or employee. If, after the 30-day period has ended, the individual has not been informed in writing of NCUA's disposition, the individual shall be considered approved.

(2) Waiver of prior notice requirement. Parties may petition the appropriate Regional Director for a waiver of the prior notice required under this section. Waiver may be granted if it is found that delay could harm the credit union or the public interest. Any waiver shall not affect the authority of NCUA to issue a Notice of Disapproval within 30 days of the waiver, or within 30 days of any subsequent required notice.

(3) Election of directors or credit committee members. (i) In the case of the election of a new member of the board of directors or credit committee member at a meeting of the members of a federally insured credit union, prior notice is not required. However, a completed notice must be filed with the appropriate Regional Director within 48 hours of the election.

(ii) If a director or credit committee member is disapproved by NCUA, the board of directors of the credit union may appoint its own alternate, to serve until the next annual meeting, contingent upon NCUA approval.

(e) *Commencement of service.* A proposed director, committee member or senior executive officer may begin to serve temporarily until the credit union and the individual are notified in writing of NCUA's approval or disapproval of the proposed addition or employment.

(f) *Notice of disapproval.* NCUA may disapprove the individual's serving as a director, committee member or senior executive officer if it finds that the competence, experience, character, or integrity of the individual with respect to whom a notice under this section is submitted indicates that it would not be in the best interests of the members of the credit union or of the public to permit the individual to be employed by, or associated with, the credit union. The Notice of Disapproval will advise the parties of their rights of appeal pursuant to part 747 subpart L, of NCUA's Regulations (12 CFR 747.1201 et seq.).

PART 741—[AMENDED]

1. Part 741, Requirements for Insurance, is amended as follows:

2. The authority citation for part 741 continues to read as follows:

Authority: 12 U.S.C. 1757, 1766, 1781 through 1790, and Pub. L. 101–73. Section 741.9 is also authorized by 31 U.S.C. 3717.

§§ 741.8–741.12 [Redesignated as §§ 741.9–741.13]

3. Sections 741.8, 741.9, 741.10, 741.11 and 741.12 are redesignated as §§ 741.9, 741.10, 741.11, 741.12 and 741.13, respectively.

4. A new § 741.8 is added to read as follows:

§ 741.8 Reporting requirements for credit unions that are newly chartered or in troubled condition.

Any federally insured credit union chartered for less than 2 years or any credit union defined to be in troubled condition as set forth in § 701.14(b)(3) must adhere to the requirements stated in § 701.14(c) concerning the prior notice and NCUA review. Credit unions must submit required information to both the appropriate NCUA Regional Director and their state supervisor. NCUA will consult with the state supervisor before making its determination pursuant to § 701.14(d)(2) and (f). NCUA will notify the state supervisor of its approval/disapproval no later than the time that it notifies the affected individual pursuant to § 701.14(d)(1).

[FR Doc. 90–25383 Filed 10–25–90; 8:45 am]
BILLING CODE 7535–01–M

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12 CFR Part 741

Requirements for Insurance

AGENCY: National Credit Union Administration (NCUA).
ACTION: Final amendment.

SUMMARY: A limited number of states authorize state-chartered credit unions to offer "uninsured membership shares." These shares are at risk to the member in the event of liquidation of the credit union. The purpose of this final amendment is to provide that, as a condition of federal share insurance, federally insured state-chartered credit unions may not offer these uninsured shares. This amendment will only affect a small number of credit unions.
EFFECTIVE DATE: November 26, 1990.
ADDRESSES: National Credit Union Administration, 1776 G Street NW., Washington, DC 20456.
FOR FURTHER INFORMATION CONTACT: Michael J. McKenna, Office of General Counsel, at the above address or telephone: (202) 682–9630.
SUPPLEMENTARY INFORMATION:

A. Background

In general, the aggregate of a member's individual share accounts in a federally insured credit union is insured up to $100,000 by the National Credit Union Share Insurance Fund (NCUSIF). There may be as many as thirteen state statutes, however, that authorize state-chartered credit unions to have uninsured membership shares. The amount of a member's uninsured share may be as little as a few dollars or as much as several thousand dollars, depending on state law and the policies of the individual credit union. In any case, a situation is presented where, even though the member may have significantly less than $100,000 in his combined individual share accounts, an initial amount of the member's funds is not insured.

The NCUA has a number of concerns with uninsured membership shares:

—Section 207(k)(1) of the FCU Act (12 U.S.C. 1787(k)(1)) states in part that "the term 'insured account' means the total amount of the account in the member's name (after deducting offsets) less any part thereof which is in excess of $100,000" and that "in determining the amount due any member, there shall be added together all accounts maintained by him * * *." Thus, the FCU Act does not appear to contemplate uninsured membership shares; rather, it indicates an intent to provide insurance coverage on all of the first $100,000. This is consistent with the purpose of share insurance; to protect the average saver.

—Federally insured credit unions are required to place an official sign, regarding federal insurance coverage up to $100,000, at all branches and at all teller stations or windows where insured shares are received (see 12 CFR 740.3). Also, many credit unions routinely advertise federal insurance coverage up to $100,000. NCUA is concerned that if federally insured credit unions require or offer uninsured membership shares, confusion will inevitably result, even where good faith efforts are made to disclose the uninsured status of the account. The failure of a credit union offering these accounts is likely to result in substantial adverse public reaction, litigation, and potentially increased liability to the National Credit Union Share Insurance Fund.

—There appears to be no effective and coherent plan, on the part of some

credit unions offering or planning to offer these accounts, to deal with losses that must be absorbed by uninsured shares. Important questions are not addressed, including whether other capital accounts are used first to absorb losses, what type of notice is to be provided to members, whether the member is obligated to replenish the shares, and whether the credit union is obligated at any point to restore amounts used to absorb losses.

—Proponents of the uninsured membership share concept argue that these shares serve as an additional source of capital to support more rapid asset growth and to enable credit unions to fund new programs and services. While NCUA encourages sound levels of asset growth, it is concerned with the potential for the use of uninsured share to support excessive rates of growth. It is noted that federal credit unions, and the vast majority of state-chartered credit unions, continue to successfully use the traditional method of building capital, *i.e.*, setting aside earnings to both support reasonable rates of asset growth and improve overall capital levels.

B. Comments

The NCUA Board published a proposed rule prohibiting uninsured membership shares on May 3, 1990, with a sixty-day comment period (see 55 FR 18618). Forty comments were received. Fifteen of the commenters were state-chatered credit unions and ten were federal credit unions. Six of the commenters were credit union leagues and six were state agencies. Three comments were received from national credit union trade associations.

C. Discussion

The commenters were split on the desirability of the proposed amendment. Most of the commenters supporting the prohibition cited NCUA's concerns set forth in the proposed rule and noted above as the basis of their position, with a number of commenters specifically stating that uninsured membership shares will lead to significant confusion among members concerning insurance coverage. A number of commenters believe that the practice is inherently unsafe and unsound.

Half of the commenters disagreed with the proposed rule. Ten commenters stated that uninsured membership shares are a necessary mechanism to accumulate capital. Six commenters disapproved of a blanket prohibition on uninsured membership shares but recommended allowing uninsured membership shares with a limit placed on the amount of share, typically somewhere between $100.00 and $200.00.

Six commenters believe that NCUA has no authority to prohibit uninsured membership shares in state-chartered credit unions. They stated that section 201(b)(7) of the FCU Act requires an agreement from credit unions applying for NCUSIF insurance "not to issue or have outstanding any account * * * the form of which, by regulation or in special cases, has not been approved by the Board except for accounts authorized by State law for State credit unions." These commenters believe that this language expressly permits the states to determine which member accounts are permissible for federally insured state-chartered credit unions.

The NCUA Board disagrees with the commenters' analysis. The Board believes that the commenters are misconstruing section 201(b)(7) of the FCU Act. The fact that a credit union does not have to receive approval by the NCUA Board for state-authorized accounts does not mean that if the practice is unsafe and unsound, the NCUA Board may not prohibit the account as a condition of insurance. Any other interpretation could lead to absurd results. It would allow the states to permit any type of account, without regard to risk to the Share Insurance Fund.

Twelve commenters disagreed with NCUA's reasoning that confusion may arise among members about the uninsured status of uninsured membership shares which may cause adverse public reaction and litigation and could be a threat to the NCUSIF if a credit union offering these accounts failed. These commenters believe that concerns in this area could be adequately addressed by regulation of uninsured shares. In regard to increased liability to the NCUSIF, these commenters believe that, because the shares are uninsured, the only risk would come from inadequate disclosure, which NCUA can regulate. Numerous commenters agreeing with the proposed regulations cited the disclosure problem as the primary reason for their support of the prohibition.

Nine commenters disagreed with NCUA's concern that there is no coherent plan by credit unions offering or planning to offer uninsured membership shares for dealing with losses on these types of accounts. The commenters believe that NCUA can promulgate regulations to create an effective and coherent plan concerning how to deal with losses that must be absorbed by uninsured membership shares.

Although NCUA could regulate this area, the NCUA Board's belief that this type of activity presents potential safety and soundness problems dissuades the Board at this time from encouraging the development of uninsured membership share through the regulation of disclosure requirements and plans for losses.

Ten commenters disagreed with NCUA's concern that the traditional mechanisms for raising capital are adequate and that uninsured membership shares may be used to support excessive growth. The commenters believe that these accounts will serve as additional capital to absorb investment, loan and/or operating losses. They believe any concern about unhealthy asset growth can be handled by regulation. While it might be possible to reduce this concern though regulation, variances in state laws concerning uninsured membership shares make the adoption of a uniform system of regulation by NCUA impractical, and the Board continues to believe that any benefits of such action are outweighted at this time by the concerns expressed in the Background discussion above. The Board has adoted the proposed amendment in final form without modification.

Regulatory Requirements

Paperwork Reduction Act

The proposed amendment does not contain any paperwork requirements.

Regulatory Flexibility Act

The NCUA Board has determined and certifies that the proposed amendment will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the Board has determined that a Regulatory Flexibility Analysis is not required.

Executive Order 12612: Effect on the States and State-Chartered Credit Unions

The NCUA Board is aware of only four federally insured state-chartered credit unions that currently offer uninsured membership shares. Under the rule, those credit unions should coordinate with their appropriate Regional Director to either pay out the uninsured shares or convert them to insured shares status. Although the amendment does restrict federally insured state-chartered credit unions from implementing authority granted under state law, the NCUA believes that the protection of the NCUSIF warrants the prohibition. Since the number of

affected credit unions is minimal, the amendment will not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 12 CFR Part 741

Credit unions, Uninsured member shares.

By the National Credit Union Administration Board on October 19, 1990.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA amends its regulations as follows:

PART 741—REQUIREMENTS FOR INSURANCE

1. The authority citation for part 741 is revised to read as follows:

Authority: 12 U.S.C. 1757, 1766, 1781 through 1790 and Public Law 101–73. Section 741.11 also issued under 31 U.S.C. 3717.

2. A new § 741.14 is added to read as follows:

§ 741.14 Uninsured membership shares.

Any credit union that is insured pursuant to title II of the Act may not offer membership shares that, due to the terms and conditions of the account, are not eligible for insurance coverage. This prohibition does not apply to shares that are uninsured solely because the amount is in excess of the maximum insurance coverage provided pursuant to part 745.

[FR Doc. 90–25386 Filed 10–25–90; 8:45 am]

BILLING CODE 7535-01-M

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12 CFR Part 747

Rules of Practice and Procedure

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: NCUA is adding a new subpart L to part 747 of its Regulations. Along with new §§ 701.14 and 741.18, issued concurrently with this action, subpart L implements recent amendments to the Federal Credit Union Act requiring prior notice and NCUA approval of senior management changes in certain federally insured credit unions.

DATES: November 26, 1990.

ADDRESSES: National Credit Union Administration, 1776 G Street NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Michael J. Mckenna, Staff Attorney, Office of General Counsel, at the above address or telephone: (202) 682–8630.

SUPPLEMENTARY INFORMATION:

A. Background

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) amended the FCU Act by adding a new section 212 (12 U.S.C. 1791). Section 212 requires specified categories of federally insured credit unions to furnish NCUA with a least 30 days' notice before adding any individual to the board of directors or credit or supervisory committees or employing and individual as a senior executive officer. A federally insured credit union is covered by the notice requirement if the credit union: (1) Has been chartered less than 2 years, or (2) is otherwise is a "troubled condition," as defined in § 701.14 of NCUA's Regulations. Section 212 also prohibits the credit union from adding the individual to the board or committee, or employing the individual as a senior executive officer, if NCUA issues a Notice of Disapproval. NCUA is adding subpart L to part 747 of its Regulations to set forth the rights that an individual or a credit union may exercise and procedures which must be followed when NCUA issues a Notice of Disapproval pursuant to section 212 of the FCU Act.

B. Comments

The NCUA Board issued a proposed rule on March 20, 1990 (55 FR 12855, 4/6/90). Fifty comments were received. Thirty of the commenters were federal credit unions. Four commenters were state credit union leagues and three were national credit union trade associations. Two comments were received from state regulatory agencies. Comments were also received from a law firm and a banker's trade association. As many commenters favored the proposed rule as opposed it, with most commenters recommending at least one change in the final regulation.

A number of commenter found the time frame set forth in the proposed rule excessive and potentially unworkable. Other commenters found the substance of the notice and appeal provisions confusing.

Having considered these comments, and after further staff review, the Board has made substantial revisions in order to clarify the final rule.

C. Section-by-Section Discussion

Section 747.1201 sets forth the scope of subpart L. It is substantially the same as in the proposed rule. Reference has been added to the credit and supervisory committees in order to clarify that the rule does not apply to other internal committees of the credit union.

Section 747.1202 sets forth criteria the NCUA Board or its designee will use to issue a Notice of Disapproval, i.e., that the individual's competence, experience, character, or integrity indicate that it would not be in the best interest of the members of the credit union or of the public to permit the individual to be associated with the credit union. The two subsections of the proposed rule have been combined, with no change in substance.

Section 747.1203 sets forth procedures to be followed where a Notice of Disapproval is issued. This section provides that the notice will be served on the credit union and the individual and describes the required content of the Notice. This section has been revised to clarify that, prior to deciding whether to appeal to the NCUA Board, the individual and the credit union may request the Regional Director's reconsideration. This information will be contained in the Notice of Disapproval.

Section 747.1204 sets forth procedures for an appeal to the NCUA Board or its designee of a disapproval by the Regional Director. This section provides that, within 15 days after receipt of a Notice of Disapproval or a denial of a request for reconsideration, the individual or credit union may submit an appeal to the NCUA Board. The section states that the appeal shall be in writing and describes the required contents of the appeal. Appeals will be decided by the board within 90 days of receipt of all required information. The section replaces §§ 747.1204 and 747.1205 of the proposed rule, which had proposed oral hearing procedures for appeals. The Board has determined, based on considerations of time, costs, and agency resources, that appeals on the written record are preferable to oral hearings.

New § 747.1205(a) of subpart L provides that a failure to file an Appeal, either to the initial determination or a decision on a request for reconsideration, is a failure to exhaust administrative remedies and the determination or decision will be deemed to have been accepted by, and binding upon, the individual or credit union. Section 747.1205(b) sets forth those jurisdictions where a petitioner may seek judicial review.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board certifies that the final rule will not have a significant impact on a substantial number of small credit unions. The rule sets forth procedures for the handling of statutorily mandated review of changes in officials and senior executive staff and applies only to newly chartered or troubled credit unions. Accordingly, the NCUA Board has determined that a Regulatory Analysis is not required.

Executive Order 12612

This regulation will apply to all federally insured credit unions. The NCUA Board, pursuant to Executive Order 12612, has determined that the final amendment may have a direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. However, FIRREA requires that this regulation apply to all federally insured credit unions.

Paperwork Reduction Act

The Office of Management and Budget has approved the collection requirement contained in part 747, subpart L, of NCUA's Rules and Regulations (OMB No. 3133–0035) which sets forth the rights that an individual or a credit union may exercise and procedures which must be followed when NCUA issues a Notice of Disapproval pursuant to section 212 of the FCU Act.

List of Subjects in 12 CFR Part 747

Administrative practice and procedure, Credit unions.

By the National Credit Union Administration Board on October 19, 1990.

[redacted]
Secretary of the NCUA Board.

Accordingly, NCUA amends its regulations in 12 CFR chapter VII, part 747, to read as follows:

PART 747—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 747 is revised to read as follows:

Authority: 12 U.S.C. 1766, 12 U.S.C. 1786, 12 U.S.C. 1784, 12 U.S.C. 1787, 12 U.S.C. 1791, 12 U.S.C. 1795c.

2. A new subpart L consisting of §§ 747.1201 through 747.1205, is added to read as follows:

Subpart L—Procedure and Standards Applicable to a Notice of Change in Senior Executive Officers, Directors or Committee Members Pursuant to Section 212 of the Act

Sec.
747.1201 Scope.
747.1202 Grounds for disapproval of notice.
747.1203 Procedures where Notices of Disapproval issued; reconsideration.
747.1204 Appeal.
747.1205 Judicial review.

§ 747.1201 Scope.

The rules and procedures set forth in this subpart shall apply to the notice filed by a credit union pursuant to section 212 of the FCU Act, 12 U.S.C. 1791, and § 701.14 of the Rules and Regulations, for the consent of NCUA to add to or replace an individual on the board of directors of supervisory or credit committee, or to employ any individual as a senior executive officer or change the responsibilities of any individual to a position of senior executive officer where the credit union:

(a) Has been chartered less than 2 years; or

(b) Is in "troubled condition," as defined in § 701.14.

§ 747.1202 Grounds for disapproval of notice.

The NCUA Board or its designee may issue a notice of disapproval with respect to a notice submitted by a credit union pursuant to section 212 of the FCU Act and § 701.14 of the Rules and Regulations, where the competence, experience, character, or integrity of the individual with respect to whom such notice is submitted indicates that it would not be in the best interest of the members of the credit union or the public to permit the individual to be employed by, or associated with, such credit union.

§ 747.1203 Procedures where Notice of Disapproval issued; reconsideration.

(a) The Notice of Disapproval shall be served upon the federally insured credit union and the candidate for director, committee member or senior executive officer. The Notice of Disapproval shall:

(1) Summarize or cite the relevant consideration specified in § 747.1202;

(2) Inform the individual and the credit union that, within 15 days of receipt of the Notice of Disapproval, they can request a reconsideration from the regional director of the initial determination or appeal the determination directly to the NCUA Board;

(3) Specify what additional information, if any, must be contained in the reconsideration.

(b) The request for reconsideration must be filed at the appropriate Regional Office.

(c) The Regional Directors shall act on a request for reconsideration within 30 days of its receipt.

§ 747.1204 Appeal.

(a) *Time for filing.* Within 15 days after issuance of a Notice of Disapproval or a determination on a request for reconsideration by the Regional Director, the individual or credit union (henceforth petitioner) may appeal by filing with the Board a written request for appeal.

(b) *Contents of request.* Any appeal must be in writing and include:

(1) The reasons why NCUA should review its disapproval; and

(2) Relevant, substantive and material documents that for good cause were not previously set forth in the notice required to be filed pursuant to section 212 of the FCU Act and § 701.14 of the Rules and Regulations.

(c) *Procedures for review of request.* Within 30 days of the Board's receipt of an appeal, the Board may request in writing that the petitioner submit additional facts and records to support the appeal. The petitioner shall have 15 days from the date of issuance of such written request to provide such additional information. Failure by the petitioner to provide additional information may, as determined solely by the Board or its designee, result in denial of the petitioner's appeal.

(d) *Determination on appeal by NCUA Board or its designee.* (1) Within 90 days from the date of the receipt of an appeal by the NCUA Board or its designee or of its receipt of additional information requested under paragraph (c) of this section, the NCUA Board or its designee shall notify the petitioner whether the disapproval will be continued, terminated, or otherwise modified. The NCUA Board or its designee shall promptly rescind or modify the Notice of Disapproval where the decision is favorable to the petitioner.

(2) The determination by the Board on the appeal shall be provided to the petitioner in writing, stating the basis for any decision of the NCUA Board or its designee that is adverse to the petitioner, and shall constitute a final Agency order.

(3) Failure by the Board to issue a determination on the petitioner's appeal within the 90-day period provided for under this paragraph (d)(1) shall be deemed a denial of the appeal for purposes of § 747.1205.

§ 747.1205 Judicial review.

(a) Failure to file an appeal within the applicable time periods, either to the initial determination or to the decision on a request for reconsideration, shall constitute a failure by the petitioner to exhaust available administrative remedies and, due to such failure, any objections to the initial determination or request for reconsideration shall be deemed to be waived and such determination shall be deemed to have been accepted by, and binding upon, the petitioner.

(b) For purposes of seeking judicial review of actions taken pursuant to this section, suit may be filed in the District Court of the United States in the district where the requestor resides, where the credit union's principal place of business is located, or in the District of Columbia.

[FR Doc. 90-25384 Filed 10-25-90; 8:45 am]
BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 71 and 73

[Airspace Docket No. 90-AWP-6]

Subdivision of Restricted Area R-4807 Tonopah, NV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These actions subdivide Restricted Area R-4807 Tonopah, NV, into two separate areas designated as R-4807A and R-4807B. This subdivision will facilitate the release of portions of the existing restricted area for public access when military activities permit. The Continental Control Area is also amended by removing R-4807 and including R-4807A and R-4807B.

EFFECTIVE DATE: 0901 u.t.c., December 13, 1990.

FOR FURTHER INFORMATION CONTACT: Linda Ullom, Military Operations Program Office (ATM-420), Office of Air Traffic System Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-7683.

The Rule

These amendments to parts 71 and 73 of the Federal Aviation Regulations alter the existing R-4807 by subdividing it into two separate areas designated as R-4807A and R-4807B. Subdividing the existing R-4807 will result in more efficient management and utilization of airspace by facilitating the release of restricted airspace for public access when military activities permit. The Continental Control Area is also amended by removing R-4807 and including R-4807A and R-4807B. The amendments to this rule are contained totally within existing restricted airspace. No new restricted airspace is established. For the above reasons, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because these actions are minor technical amendments in which the public would not be particularly interested. Sections 71.151 and 73.48 of parts 71 and 73 of the Federal Aviation Regulations were republished in Handbook 7400.6F dated January 2, 1990.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Parts 71 and 73

Aviation safety, Continental control area, and Restricted areas.

Adoption of the Amendments

Accordingly, pursuant to the authority delegated to me, parts 71 and 73 of the Federal Aviation Regulations (14 CFR parts 71 and 73) are amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.151 [Amended]

2. Section 71.151 is amended as follows:

R-4807 Tonopah, NV [Removed]

R-4807A Tonopah, NV [New]

R-4807B Tonopah, NV [New]

PART 73—SPECIAL USE AIRSPACE

3. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 73.48 [Amended]

4. Section 73.48 is amended as follows:

R-4807 Tonopah, NV [Removed]

R-4807A Tonopah, NV [New]

Boundaries. Beginning at lat. 38°31'00" N., long. 116°33'30" W.; to lat. 37°25'30" N., long. 117°04'30" W.; to lat. 37°33'00" N., long. 117°05'30" W.; to lat. 37°53'00" N., long. 117°05'30" W.; to lat. 37°53'00" N., long. 116°55'00" W.; to lat. 37°47'00" N., long. 116°55'00" W.; to lat. 37°39'00" N., long. 116°43'00" W.; to lat. 37°33'00" N., long. 116°26'00" W.; to lat. 37°53'00" N., long. 116°26'00" W.; to lat. 37°53'00" N., long. 116°11'00" W.; to lat. 37°42'00" N., long. 116°11'00" W.; to lat. 37°42'00" N., long. 115°53'00" W.; to lat. 37°33'00" N., long. 115°53'00" W.; to lat. 37°33'00" N., long. 115°48'00" W.; to lat. 37°28'00" N., long. 115°48'00" W.; to lat. 37°28'00" N., long. 116°00'00" W.; to lat. 37°16'00" N., long. 116°00'00" W.; to lat. 37°16'00" N., long. 116°11'00" W.; to lat. 37°20'00" N., long. 116°11'00" W.; to lat. 37°23'00" N., long. 116°17'00" W.; to lat. 37°23'00" N., long. 116°22'00" W.; to lat. 37°21'00" N., long. 116°27'00" W.; to lat. 37°21'00" N., long. 116°34'00" W.; to lat. 37°16'00" N., long. 116°31'00" W.; to lat. 37°16'00" N., long. 116°34'00" W.; to the point of beginning.

Designated altitudes. Unlimited.

Time of designation. Continuous.

Controlling agency. FAA, Los Angeles ARTCC.

Using agency. U.S. Air Force, Commander, Tactical Fighter Weapons Center, Nellis AFB, NV.

R-4807B Tonopah, NV [New]

Boundaries Beginning to lat. 37°16'00" N., long. 116°11'00" W.; to lat. 37°20'00" N., long. 116°11'00" W.; to lat. 37°23'00" N., long. 116°17'00" W.; to lat. 37°23'00" N., long. 116°22'00" W.; to lat. 37°21'00" N., long. 116°27'00" W.; to lat. 37°21'00" N., long. 116°34'00" W.; to lat. 37°16'00" N., long. 116°31'00" W.; to the point of beginning.

Designated altitudes. Unlimited.

Time of designation. Continuous.

Controlling agency. FAA, Los Angeles ARTCC.

Using agency. U.S. Air Force, Commander, Tactical Fighter Weapons Center, Nellis AFB, NV.

Issued in Washington, DC, on October 15, 1990.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 90-25345 Filed 10-25-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 90-AWP-6]

Change to Controlling Agencies for Restricted Areas; HI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action changes the controlling agencies for twelve restricted areas in the Hawaiian Islands. The majority of the changes reflect a facility designation change from Air Route Traffic Control Center (ARTCC) to Combined Center Radar Approach Control (CERAP). In the case of R-3109 and R-3110, the controlling agencies are changed from Honolulu Flight Service Station (FSS) to Honolulu Air Traffic Control Tower (ATCT).

EFFECTIVE DATE: 0901 u.t.c., December 13, 1990.

FOR FURTHER INFORMATION CONTACT: Lina Ullom, Military Operations Program Office (ATM-420), Office of Air Traffic System Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-7653.

The Rule

This amendment to part 73 of the Federal Aviation Regulations changes the controlling agencies for R-3101, R-3104A, R-3104B, R-3107A and R-3107B from FAA Honolulu ARTCC to FAA, Honolulu CERAP due to a facility designation change. The controlling agency for R-3103 is changed from FAA, Hilo Combined Station/Tower to FAA, Honolulu CERAP. For R-3109A, R3109B, R-3109C, R-3110A, R-3110B and R-3110C, the controlling agencies are changed from FAA, Honolulu FSS to FAA, Honolulu ATCT. These changes are made to create a more operationally advantageous environment for nonparticipants wishing to transit the restricted airspace. This action does not involve a change in the amount of controlled airspace. I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor technical amendment in which the public would not be particularly interested. Section 73.31 of part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore,—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 73

Aviation safety, Restricted areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 73 of the Federal Aviation Regulations (14 CFR part 73) is amended, as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 73.31 [Amended]

2. Section 73.31 is amended as follows:

R-3101 PMRFAC Four, HI [Amended]

By removing "Controlling agency. FAA, Honolulu ARTCC." and substituting "Controlling agency. FAA, Honolulu CERAP."

R-3103 Humuula, HI [Amended]

By removing "Controlling agency. FAA, Hilo Combined Station/Tower." and substituting "Controlling agency. FAA, Honolulu CERAP."

R-3104A, R-3104B Island of Kahoolawe, HI [Amended]

By removing "Controlling agency. FAA, Honolulu ARTCC." and substituting "Controlling agency. FAA, Honolulu CERAP."

R-3107A, R-3107B Kaula Rock, HI [Amended]

By removing "Controlling agency. FAA, Honolulu ARTCC." and substituting "Controlling agency. FAA, Honolulu CERAP."

R-3109A, R-3109B, R-3109C, R-3110A, R-3110B, R-3110C, Schofield-Makuia, Oahu, HI [Amended]

By removing "Controlling agency. FAA, Honolulu FSS." and substituting "Controlling agency. FAA, Honolulu ATCT."

Issued in Washington, DC on October 15, 1990.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 90-25346 Filed 10-25-90; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 305

RIN 3084-AA23

Rules for Using Energy Cost and Consumption Information Used in Labeling and Advertising of Consumer Appliances Under the Energy Policy and Conservation Act; Ranges of Comparability for Central Air Conditioners and Heat Pumps

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission announces that the present ranges of comparability for central air conditioners and heat pumps will remain in effect until new ranges are published, and amends its Appliance Labeling Rule by updating the national average cost figure for electricity that must be used in the cost calculation formulas that manufacturers must provide on fact sheets or in directories. These cost calculation formulas are for consumers to use to calculate their own heating and cooling costs.

EFFECTIVE DATE: January 24, 1991.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, Division of Enforcement, Federal Trade Commission, Washington, DC 20580 (202-326-3035).

SUPPLEMENTARY INFORMATION: Section 324 of the Energy Policy and Conservation Act of 1975 (EPCA) [1] requires the Federal Trade Commission to consider labeling rules for the disclosure of estimated annual energy cost or alternative energy consumption information for at least thirteen categories of appliances. Central air conditioners (including heat pumps) are included as one of the categories.

Section 305.8(b) of the rule requires manufacturers, after filing an initial report, to report annually by specified dates for each product type.[2] These

[1] Public Law 94-163, 89 Stat. 871 (Dec. 22, 1975).

[2] Reports for central air conditioners (including heat pumps) are due by July 1.

reports, which are to assist the Commission in preparing the ranges of comparability, contain the estimated annual cost or energy efficiency rating for the appliances derived from tests performed pursuant to the DOE test procedures. The reports also contain the model number, the number of tests performed on each model, and the capacity of each. Because the costs for the various types of energy change yearly, and because manufacturers regularly add new models to their lines, improve existing models and drop others, the data base from which the ranges of comparability are calculated is constantly changing. To keep the required information in line with these changes, the Commission is empowered, under Section 305.10 of the rule, to publish new ranges (but not more often then annually) if an analysis of the new data indicates that the upper or lower limits of the ranges have changed by more than 15%. Otherwise, the Commission must publish a statement that the prior range or ranges remain in effect for the next year.

The annual reports for central air conditioners (including heat pumps) have been received and analyzed and it has been determined to retain the ranges that were published on May 27, 1988.[3] In consideration of the foregoing, the present ranges for central air conditioners (including heat pumps) will remain in effect until the Commission publishes new ranges for these products.

In addition, this Notice provides an updated figure for the annual national average cost of electricity. This figure, along with national average cost figures for natural gas, propane, heating oil and kerosene, is published annually by the Department of Energy for the industry's use in calculating the cost figures required by the Commission's rule. The cost figure for electricity must be used in the cost calculation formulas that appear in appendices H and I. These formulas must be provided on fact sheets and in directories so consumers can calculate their own costs of operation for the central air conditioners and heat pumps that they are considering purchasing. The updated figure, which DOE published on March 12, 1990 (55 FR 9184), is 7.88 cents per kilowatt-hour. The formulas (and calculations) in both appendices have been changed to reflect this.

In consideration of the foregoing, the Commission revises Appendices H(2) and I(2) of its Appliance Labeling Rule by publishing the following cost figures for use in the labeling and advertising of central air conditioners and heat pumps beginning January 24, 1991.

[3] 53 FR 19728.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

PART 305—[AMENDED]

Accordingly, 16 CFR part 305 is amended as follows:

1. The authority citation for part 305 continues to read as follows:

Authority: Sec. 324 of the Energy Policy and Conservation Act (Pub. L. 94–163) (1975), as amended by the National Energy Conservation Policy Act (Pub. L. 95–619) (1978), the National Appliance Energy Conservation Act (Pub. L. 100–12) (1987), and the National Appliance Energy Conservation Amendments of 1988 (Pub. L. 100–357) (1988), 42 U.S.C. 6294; sec. 553 of the Administrative Procedure Act, 42 U.S.C. 553.

2. In section 2. of both appendices H and I of part 305, the formulas are amended by removing the figure "7.70¢" and adding in its place, the figure "7.88¢". In addition, the formulas are amended by removing the figure "11.55¢" and adding, in its place, the figure "11.82¢".

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 90–25407 Filed 10–25–90; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 286

[DoD 5400.7–R]

Freedom of Information Act (FOIA) Program

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Final rule.

SUMMARY: This revision of 32 CFR part 286 provides substantive and administrative changes. It conforms to recent, significant court rulings in Freedom of Information Act litigation, and provides guidance relative to the treatment of electronic data under the Freedom of Information Act.

EFFECTIVE DATE: October 3, 1990.

ADDRESSES: Office of the Assistant Secretary of Defense (Public Affairs), Washington, DC 20301–1400.

FOR FURTHER INFORMATION CONTACT: Mr. C. Talbott, telephone number (202) 697–1180.

SUPPLEMENTARY INFORMATION: The Department of Defense published a proposed rule on August 31, 1990 (55 FR 35652) for public comments. No comments were received. It is hereby certified that this final rule does not exert a significant economic impact on a substantial number of small entities. This determination is made based upon the fact that the rule merely recodifies the procedural aspects of the Department of Defense's Freedom of Information Act Program, which includes guidance on how and from whom to request information pertaining to the Department of Defense; imposes no new requirements, rights, or benefits on small entities; and will have neither a beneficial nor an adverse effect on small entities.

List of Subjects in 32 CFR Part 286

Freedom of Information.

Accordingly, 32 CFR part 286 is revised as follows:

PART 286—FREEDOM OF INFORMATION ACT (FOIA) PROGRAM

Subpart A—General Provisions

Sec.
§ 286.1 Purpose.
§ 286.2 Applicability.
§ 286.3 DoD public information.
§ 286.4 Control system.
§ 286.5 Definitions.
§ 286.7 Policy.

Subpart B—FOIA Reading Rooms

§ 286.9 Requirements.
§ 286.11 Indexes.

Subpart C—Exemptions

§ 286.12 General provisions.
§ 286.13 Exemptions.

Subpart D—For Official Use Only

§ 286.15 General provisions.
§ 286.17 Location of markings.
§ 286.19 Dissemination and transmission.
§ 286.20 Safeguarding FOUO information.
§ 286.23 Termination, disposal and unauthorized disclosures.

Subpart E—Release and Processing Procedures

§ 286.25 General provisions.
§ 286.27 Initial determinations.
§ 286.29 Appeals.
§ 286.31 Judicial actions.

Subpart F—Fee Schedule

§ 286.33 General provisions.
§ 286.35 Collection of fees and fee rates.
§ 286.37 Collection of fees and fee rates for technical data.

Subpart G—Reports

§ 286.39 Reports control.
§ 286.41 Annual report.

Subpart H—Education and Training

§ 286.43 Responsibility and purpose.

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Appendix A to Part 286—Unified Commands—Processing Procedures For FOIA Appeals
Appendix B to Part 286—Addressing FOIA Requests
Appendix C to Part 286—Litigation Status Sheet
Appendix D to Part 286—Other Reason Categories
Appendix E to Part 286—Record of Freedom of Information (FOI) Processing Cost (DD Form 2086)
Appendix F to Part 286—Record of Freedom of Information (FOI) Processing Cost for Technical Data (DD Form 2086–1)
Appendix G to Part 286—Annual Report Freedom of Information Act (DD Form 2564)
Appendix H to Part 286—DOD Freedom of Information Act Program Components

Authority: 5 U.S.C. 552.

Subpart A—General Provisions

§ 286.1 Purpose.

The purpose of this part is to provide policies and procedures for the Department of Defense (DoD) implementation of the Freedom of Information Act and DoD Directive 5400.7 [1] and to promote uniformity in the DoD Freedom of Information Act (FOIA) Program.

§ 286.2 Applicability.

(a) This part applies to the Office of the Secretary of Defense (OSD) which includes for the purpose of this part the Chairman, Joint Chiefs of Staff and Joint Staff, Unified Commands, the Military Departments, the Defense Agencies, and the DoD Field Activities (hereafter referred to as "DoD Components"), and takes precedence over all DoD Component regulations that supplement the DoD FOIA Program. A list of DoD Components is in Appendix F to this part.

(b) The National Security Agency records are subject to the provisions of this part, only to the extent the records are not exempt under Public Law 86–36.

§ 286.3 DoD public information.

The public has a right to information concerning the activities of its Government. DoD policy is to conduct its activities in an open manner and provide the public with a maximum amount of accurate and timely information concerning its activities, consistent always with the legitimate public and private interests of the American people. A DoD record requested by a member of the public who follows rules established by proper authority in the Department of Defense shall be withheld only when it is exempt from mandatory public disclosure under the FOIA. In order that the public may have timely information concerning DoD activities, records requested through public information channels by news media representatives that would not be withheld if requested under the FOIA should be released upon request. Prompt responses to requests for information from news media representatives should be encouraged to eliminate the need for these requesters to invoke the provisions of the FOIA and thereby assist in providing timely information to the public. Similarly, requests from other members of the public for information should continue to be honored through appropriate means even though the request does not qualify under FOIA requirements.

§ 286.4 Control system.

A request for records that invokes the FOIA shall enter a formal control system designed to ensure compliance with the FOIA. A release determination must be made and the requester informed within the time limits specified in this part. Any request for DoD records that either explicitly or implicitly cites the FOIA shall be processed under the provisions of this part, unless otherwise required by § 286.7(m).

§ 286.5 Definitions.

As used in this part, the following terms and meanings shall be applicable:

(a) *FOIA request.* A written request for DoD records, made by any person, including a member of the public (U.S. or foreign citizen), an organization, or a business, but not including a Federal agency or a fugitive from the law that either explicitly or implicitly invokes the FOIA, DoD Directive 5400.7, this part, or DoD Component supplementing regulations or instructions.

(b) *Agency record.* (1) The products of data compilation, such as all books, papers, maps, and photographs, machine readable materials or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law in connection with the transaction of public business and in DoD's possession and control at the time the FOIA request is made.

(2) The following are not included within the definition of the word "record":

(i) Objects or articles, such as structures, furniture, vehicles and equipment, whatever their historical value, or value as evidence.

(ii) Administrative tools by which records are created, stored, and retrieved, if not created or used as sources of information about organizations, policies, functions, decisions, or procedures of a DoD Component. Normally, computer software, including source code, object code, and listings of source and object codes, regardless of medium are not agency records. (This does not include the underlying data which is processed and produced by such software and which may in some instances be stored with the software.) Exceptions to this position are outlined in paragraph (b)(3) of this section.

(iii) Anything that is not a tangible or documentary record, such as an individual's memory or oral communication.

(iv) Personal records of an individual not subject to agency creation or retention requirements, created and maintained primarily for the convenience of an agency employee, and not distributed to other agency employees for their official use.

(v) Information stored within a computer for which there is no existing computer program for retrieval of the requested information.

(3) In some instances, computer software may have to be treated as an agency record and processed under the FOIA. These situations are rare, and shall be treated on a case-by-case basis. Examples of when computer software may have to be treated as an agency record are:

(i) When the data is embedded within the software and cannot be extracted without the software. In this situation, both the data and the software must be reviewed for release or denial under the FOIA.

(ii) Where the software itself reveals information about organizations, policies, functions, decisions, or procedures of a DoD Component, such as computer models used to forecast budget outlays, calculate retirement system costs, or optimization models on travel costs.

(iii) See subpart C of this part for guidance on release determinations of computer software.

(iv) A record must exist and be in the possession and control of the Department of Defense at the time of the request to be considered subject to this part and the FOIA. There is no obligation to create, compile, or obtain a record to satisfy a FOIA request.

(v) If unaltered publications and processed documents, such as regulations, manuals, maps, charts, and related geophysical materials are available to the public through an established distribution system with or

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[1] Copies may be obtained, at cost, from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

without charge, the provisions of 5 USC 552(a)(3) normally do not apply and they need not be processed under the FOIA. Normally, documents disclosed to the public by publication in the Federal Register also require no processing under the FOIA. In such cases, Components should direct the requester to the appropriate source, to obtain the record.

(c) *DoD Component.* An element of the Department of Defense, as defined in § 286.1, authorized to receive and act independently on FOIA requests. A DoD Component has its own initial denial authority (IDA) or appellate authority, and general counsel.

(d) *Initial denial authority (IDA).* An official who has been granted authority by the head of a DoD Component to withhold records requested under the FOIA for one or more of the nine categories of records exempt from mandatory disclosure.

(e) *Appellate authority.* The Head of the DoD Component or the Component head's designee having jurisdiction for this purpose over the record.

(f) *Administrative appeal.* A request by a member of the general public, made under the FOIA, asking the appellate authority of a DoD Component to reverse an IDA decision to withhold all or part of a requested record or to deny a request for waiver or reduction of fees.

(g) *Public interest.* Public interest is official information that sheds light on an agency's performance of its statutory duties because it falls within the statutory purpose of the FOIA in informing citizens about what their government is doing. That statutory purpose, however, is not fostered by disclosure of information about private citizens that is accumulated in various governmental files that reveals little or nothing about an agency's or official's own conduct.

(h) *Electronic data.* Electronic data are those records and information which are created, stored, and retrievable by electronic means. This does not include computer software, which is the tool by which to create, store, or retrieve electronic data. See paragraph (b)(2)(ii) and (iii) of this section for a discussion of computer software.

§ 286.7 Policy.

(a) *Compliance with the FOIA.* DoD personnel are expected to comply with the FOIA and this part in both letter and spirit. This strict adherence is necessary to provide uniformity in the implementation of the DoD FOIA Program and to create conditions that will promote public trust.

(b) *Openness with the public.* The Department of Defense shall conduct its activities in an open manner consistent with the need or security and adherence to other requirements of law and regulation. Records not specifically exempt from disclosure under the Act shall, upon request, be made readily accessible to the public in accordance with rules promulgated by competent authority, whether or not the Act is invoknd.

(c) *Avoidance of procedural obstacles.* DoD Components shall ensure that procedural matters do not unnecessarily impede a requester from obtaining DoD records promptly. Components shall provide assistance to requesters to help them understand and comply with procedures established by this part and any supplemental regulations published by the DoD Components.

(d) *Prompt action on requests.* When a member of the public complies with the procedures established in this part for obtaining DoD records, the request shall receive prompt attention; a reply shall be dispatched within 10 working days, unless a delay is authorized. When a Component has a significant number of requests, *e.g.*, 10 or more, the requests shall be processed in order of receipt. However, this does not preclude a Component from completing action on a request which can be easily answered, regardless of its ranking within the order of receipt. A DoD Component may expedite action on a request regardless of its ranking within the order of receipt upon a showing of exceptional need or urgency. Exceptional need or urgency is determined at the discretion of the Component processing the request.

(e) *Use of FOIA exemptions.* It is DoD policy to make records publicly available, unless they qualify for exemption under one or more of the nine exemptions. Components may elect to make a discretionary release, however, a discretionary release is generally not appropriate for records exempt under exemptions 1, 3, 4, 6 and 7(C). Exemptions 4, 6 and 7(C) cannot be claimed when the requester is the submitter of the information.

(f) *Public domain.* Nonexempt records released under the authority of this part are considered to be in the public domain. Such records may also be made available in Components' reading rooms to facilitate public access. Exempt records released pursuant to this part or other statutory or regulatory authority, however, may be considered to be in the public domain only when their release constitutes a waiver of the FOIA exemption. When the release does not constitute such a waiver, such as when disclosure is made to a properly constituted advisory committee or to a Congressional Committee, the released records do not lose their exempt status. Also, while authority may exist to disclose records to individuals in their official capacity, the provisions of this part apply if the same individual seeks the records in a private or personal capacity.

(g) *Creating a record.* (1) A record must exist and be in the possession and control of the Department of Defense at the time of the search to be considered subject to this part and the FOIA. Mere possession of a record does not presume departmental control and such records, or identifiable portions thereof, would be referred to the originating Agency for direct response to the requester. There is no obligation to create nor compile a record to satisfy an FOIA request. A DoD Component, however, may compile a new record when so doing would result in a more useful response to the requester, or be less burdensome to the agency than providing existing records, and the requester does not object. Cost of creating or compiling such a record may not be charged to the requester unless the fee for creating the record is equal to or less than the fee which would be charged for providing the existing record. Fee assessments shall be in accordance with subpart D of this part.

(2) With respect to electronic data, the issue of whether records are actually created or merely extracted from an existing database is not always readily apparent. Consequently, when responding to FOIA requests for electronic data where creation of a record, programming, or particular format are questionable, Components should apply a standard of reasonableness. In other words, if the capability exists to respond to the request, and the effect would be a business as usual approach, then the request should be processed. However, the request need not be processed where the capability to respond does not exist without a significant expenditure of resources, thus not being a normal business as usual approach.

(h) *Description of requested record.* (1) Identification of the record desired is the responsibility of the member of the public who requests a record. The requester must provide a description of the desired record, that enables the Government to locate the record with a reasonable amount of effort. The Act does not authorize "fishing expeditions." When a DoD Component receives a request that does not "reasonably describe" the requested record, it shall notify the requester of the defect. The defect should be highlighted in a

specificity letter, asking the requester to provide the type of information outlined in paragraph (h)(2) of this section. Components are not obligated to act on the request until the requester responds to the specificity letter. When practicable, Components shall offer assistance to the requester in identifying the records sought and in reformulating the request to reduce the burden on the agency in complying with the Act.

(2) The following guidelines are provided to deal with "fishing expedition" requests and are based on the principle of reasonable effort. Descriptive information about a record may be divided into two broad categories.

(i) Category I is file-related and includes information such as type of record (for example, memorandum), title, index citation, subject area, date the record was created, and originator.

(ii) Category II is event-related and includes the circumstances that resulted in the record being created or the date and circumstances surrounding the event the record covers.

(iii) Generally, a record is not reasonably described unless the description contains sufficient Category I information to permit the conduct of an organized, non random search based on the Component's filing arrangements and existing retrieval systems, or unless the record contains sufficient Category II information to permit inference of the Category I elements needed to conduct such a search.

(iv) The following guidelines deal with requests for personal records. Ordinarily, when personal identifiers are provided only in connection with a request for records concerning the requester, only records retrievable by personal identifiers need be searched. Search for such records may be conducted under Privacy Act procedures. No record may be denied that is releasable under the FOIA.

(v) The previous guidelines notwithstanding, the decision of the DoD Component concerning reasonableness of description must be based on knowledge of its files. If the description enables DoD Component personnel to locate the record with reasonable effort, the description is adequate.

(i) *Referrals.* (1) A request received by a DoD Component having no records responsive to a request shall be referred routinely to another DoD Component , if the other Component confirms that it has the requested record, and this belief can be confirmed by the other DoD Component. In cases where the Component receiving the request has reason to believe that the existence or nonexistence of the record may in it self be classified, that Component shall consult the DoD Component having cognizance over the record in question before referring the request. If the DoD Component that is consulted determines that the existence or nonexistence of the record is in itself classified, the requester shall be so notified by the DoD Component originally receiving the request, and no referral shall take place. Otherwise, the request shall be referred to the other DoD Component, and the requester shall be notified of any such referral. Any DoD Component receiving a request that has been misaddressed shall refer the request to the proper address and advise the requester.

(2) Whenever a record or a portion of a record is, after prior consultation, referred to another DoD Component or to a Government agency outside of the Department of Defense for a release determination and direct response, the requester shall be informed of the referral. Referred records shall only be identified to the extent consistent with security requirements.

(3) A DoD Component shall refer an FOIA request for a classified record that it holds to another DoD Component or agency outside the Department of Defense, if the record originated in the other DoD Component or outside agency or if the classification is derivative. In this situation, provide the record and a release recommendation on the record with the referral action.

(4) A DoD Component may refer a request for a record that it originated to another DoD Component or agency when the record was created for the use of the other DoD Component or agency. The DoD Component or agency for which the record was created may have an equally valid interest in withholding the record as the DoD Component that created the record. In such situations, provide the record and a release recommendation on the record with the referral action. An example of such a situation is a request for audit reports prepared by the Defense Contract Audit Agency. These advisory reports are prepared for the use of contracting officers and their release to the audited contractor shall be at the discretion of the contracting officer. Any FOIA request shall be referred to the appropriate contracting officer and the requester shall be notified of the referral.

(5) Within the Department of Defense, a Component shall ordinarily refer an FOIA request for a record that it holds, but that was originated by another DoD Component or that contains substantial information obtained from another DoD Component, to that Component for direct response, after direct coordination and obtaining concurrence from the Component. The requester then shall be notified of such referral. DoD Components shall not, in any case, release or deny such records without prior consultation with the other DoD Component.

(6) DoD Components that receive referred requests shall answer them in accordance with the time limits established by the FOIA and this part. Those time limits shall begin to run upon receipt of the referral by the official designated to respond.

(7) Agencies outside the Department of Defense that are subject to the FOIA:

(i) A Component may refer an FOIA request for any record that originated in an agency outside the DoD or that is based on information obtained from an outside agency to the agency for direct response to the requester after coordination with the outside agency, if that agency is subject to FOIA. Otherwise, the Component must respond to the request.

(ii) A DoD Component shall refer to the agency that provided the record any FOIA request for investigative, intelligence, or any other type of records that are on loan to the Department of Defense for a specific purpose, if the records are restricted from further release and so marked. However, if for investigative or intelligence purposes, the outside agency desires anonymity, a Component may only respond directly to the requester after coordination with the outside agency.

(iii) Notwithstanding anything to the contrary in paragraph (i)(1) of this section, Component shall notify requesters seeking National Security Council (NSD) or White House documents that they should write directly to the NSC or White House for such documents. DoD documents in which the NSC or White House has a concurrent reviewing interest shall be forwarded to the Office of the Assistant Secretary of Defense (Public Affairs)(OASD(PA)), ATTN: Directorate For Freedom of Information and Security Review (DFOISR), which shall effect coordination with the NSC or White House, and return the documents to the originating agency after NSC review and determination. NSC or White House documents discovered in Components' files which are responsive to the FOIA request shall be forwarded ASD(PA), ATTN: DFOISR, for subsequent coordination with the NSC or White House, and returned to the Component with a release determination.

(8) To the extent referrals are consistent with the policies expressed by this paragraph, referrals between offices of the same DoD Component are authorized.

(9) On occasion, the Department of Defense receives FOIA requests for General Accounting Office (GAO) documents containing DoD information, either directly from requesters, or as referrals from the GAO. The GAO is outside the Executive Branch, and as such, all FOIA requests for GAO documents containing DoD information will be processed under the provisions of Security Review or Mandatory Declassification Review (MDR) Directives. Requests received in DoD for unclassified GAO reports containing DoD information shall be transferred to the GAO Distribution Center, ATTN: DHISF, P.O. Box 6015, Gaithersburg, MD 20877-1450. Requests received in the Department of Defense for classified GAO documents (or documents unidentifiable as to classification) shall be referred to the GAO, Office of Security and Safety, Washington, DC 20548. After internal review, the GAO shall refer the request and documents to Office of the Inspector General, Department of Defense (OIG, DoD) and that Component shall refer the action to the OASD(PA), ATTN: DFOISR, for processing under Security Review or MDR provisions. (See DoD Directive 7650.2 [2]).

(j) *Authentication.* Records provided under this part shall be authenticated with an appropriate seal, whenever necessary, to fulfill an official Government or other legal function. This service, however, is in addition to that required under the FOIA and is not included in the FOIA fee schedule. DoD Components may charge for the service at a rate of $5.20 for each authentication.

(k) *Unified and Specified Commands.* (1) The Unified Commands are placed under the jurisdiction of the OSD, instead of the administering Military Department, only for the purpose of administering the DoD FOIA Program. This policy represents an exception to the policies directed in DoD Directive 5100.3 [2]; it authorizes and requires the Unified Commands to process Freedom of Information (FOI) requests in accordance with DoD Directive 5400.7 and this part. The Unified Commands shall forward directly to the OASD(PA), all correspondence associated with the appeal of an initial denial for records under the provisions of the FOIA. Procedures to effect this administrative requirement are outlined in appendix A of this part.

(2) The Specified Commands remain under the jurisdiction of the administering Military Department. The Commands shall designate IDAs within their headquarters; however, the appellate authority shall reside with the Military Department.

(l) *Records management.* FOIA records shall be maintained and disposed of in accordance with DoD Component Disposition instructions and schedules.

(m) *Relationship between the FOIA and the Privacy Act (PA).* Not all requesters are knowledgeable of the appropriate statutory authority to cite when requesting records. In some instances, they may cite neither Act, but will imply one or both Acts. For these reasons, the following guidelines are provided to ensure that requesters receive the greatest amount of access under both Acts:

(1) Requesters who seek records about themselves contained in a PA system of records and who cite or imply the PA, will have their requests processed under the provisions of the PA.

(2) Requesters who seek records about themselves which are not contained in a PA system of records and who cite or imply the PA, will have their requests processed under the provisions of the FOIA, since they have no access under the PA.

(3) Requesters who seek records about themselves which are contained in a PA system of records and who cite or imply the FOIA or both acts will have their requests processed under the time limits of the FOIA and the exemptions and fees of the PA. This is appropriate since greater access will be received under the PA.

(4) Requesters who seek access to agency records and who cite or imply the PA and FOIA, will have their requests processed under the FOIA.

(5) Requesters who seek access to agency records and who cite or imply the FOIA, will have their requests processed under the FOIA.

(6) Requesters should be advised in final responses why their request was processed under a particular Act.

Subpart B—FOIA Reading Rooms

§ 286.9 Requirements.

(a) *Reading room.* Each Component shall provide an appropriate facility or facilities where the public may inspect and copy or have copied the materials described in the following paragraphs. In addition to the materials described in the following paragraphs, Components may elect to place other documents in their reading rooms as a means to provide public access to such documents. DoD Components may share reading room facilities if the public is not unduly inconvenienced. When appropriate, the cost of copying may be imposed on the person requesting the material in accordance with the provisions of subpart D of this part. The availability of records in a public reading room does not automatically place the material into the public domain.

(b) *Material availability.* The FOIA requires that so-called "(a)(2)" materials shall be made available in the FOI reading room for inspection and copying, unless such materials are published and copies are offered for sale. Identifying details that, if revealed would create a clearly unwarranted invasion of personal privacy may be deleted from "(a)(2)" materials made available for inspection and copying. In every case, justification for the deletion must be fully explained in writing. However, a DoD Component may publish in the Federal Register a description of the basis upon which it will delete identifying details of particular types of documents to avoid clearly unwarranted invasions of privacy. In appropriate cases, the DoD Component may refer to this description rather than write a separate justification for each deletion. So-called "(a)(2)" materials are:

(1) Final opinions, including concurring and dissenting opinions, and orders made in the adjudication of cases, as defined in 5 U.S.C. 551, that may be cited, used, or relied upon as precedents in future adjudications.

(2) Statements of policy and interpretations that have been adopted by the agency and are not published in the Federal Register.

(3) Administrative staff manuals and instructions, or portions thereof, that establish DoD policy or interpretations of policy that affect a member of the public. This provision does not apply to instructions for employees on tactics and techniques to be used in performing their duties, or to instructions relating only to the internal management of the DoD Component. Examples of manuals and instructions not normally made available are:

(i) Those issued for audit, investigation, and inspection purposes, or those that prescribe operational tactics, standards of performance, or criteria for defense, prosecution, or settlement of cases.

(ii) Operations and maintenance manuals and technical information concerning munitions, equipment,

[2] See footnote 1 to § 286.1
[3] See footnote 1 to § 286.1

systems, and foreign intelligence operations.

§ 286.11 Indexes.

(a) *"(a)(2)" materials.* (1) Each DoD Component shall maintain in each facility prescribed in § 286.9(a) an index of materials described in § 286.9(b), that are issued, adopted, or promulgated, after July 4, 1967. No "(a)(2)" materials issued, promulgated, or adopted after July 4, 1967 that are not indexed and either made available or published may be relied upon, used or cited as precedent against any individual unless such individual has actual and timely notice of the contents of such materials. Such materials issued, promulgated, or adopted before July 4, 1967, need not be indexed, but must be made available upon request if not exempted under this part.

(2) Each DoD Component shall promptly publish quarterly or more frequently, and distribute, by sale or otherwise, copies of each index of "(a)(2)" materials or supplements thereto unless it publishes in the Federal Register an order containing a determination that publication is unnecessary and impracticable. A copy of each index or supplement not published shall be provided to a requester at a cost not to exceed the direct cost of duplication as set forth in subpart D of this part.

(3) Each index of "(a)(2)" materials or supplement thereto shall be arranged topically or by descriptive words rather than by case name or numbering system so that members of the public can readily locate material. Case name and numbering arrangements, however, may also be included for DoD Component convenience.

(b) *Other materials.* (1) Any available index of DoD Component material published in the Federal Register, such as material required to be published by section 552(a)(1) of the FOIA, shall be made available in DoD Component FOIA reading rooms.

(2) Although not required to be made available in response to FOIA requests or made available in FOIA Reading Rooms, "(a)(1)" materials shall, when feasible, be made available in FOIA reading rooms for inspection and copying. Examples of "(a)(1)" materials are: Descriptions of an agency's central and field organization, and to the extent they affect the public, rules of procedures, descriptions of forms available, instruction as to the scope and contents of papers, reports, or examinations, and any amendment, revision, or report of the aforementioned.

Subpart C—Exemptions

§ 286.12 General provisions.

Records that meet the exemption criteria in § 286.13 may be withheld from public disclosure and need not be published in the Federal Register, made available in a library reading room, or provided in response to an FOIA request.

§ 286.13 Exemptions.

(a) *FOIA exemptions.* The following types of records may be withheld in whole or in part from public disclosure under the FOIA, unless otherwise prescribed by law. A discretionary release (see also § 286.7(e)) to one requester may preclude the withholding of the same record under a FOIA exemption if the record is subsequently requested by someone else. In applying exemptions, the identity of the requester and the purpose for which the record is sought are irrelevant with the exception that an exemption may not be invoked where the particular interest to be protected is the requester's interest.

(1) *Number 1.* Those properly and currently classified in the interest of national defense or foreign policy, as specifically authorized under the criteria established by executive order and implemented by regulations, such as DoD 5200.1–R.[4] Although material is not classified at the time of the FOIA request, a classification review may be undertaken to determine whether the information should be classified. The procedures in DoD 5200.1–R, section 2–204f., apply. In addition, this exemption shall be invoked when the following situations are apparent:

(i) The fact of the existence or nonexistence of a record would itself reveal classifiable information. In this situation, Components shall neither confirm nor deny the existence or nonexistence of the record being requested. A "refusal to confirm or deny" response must be used consistently, not only when a record exists, but also when a record does not exist. Otherwise, the pattern of using a "no record" response when a record does exist, and a "refusal to confirm or deny" when a record does not exist will itself disclose national security information.

(ii) Information that concerns one or more of the classification categories established by executive order and DoD 5200.1–R shall be classified if its unauthorized disclosure, either by itself or in the context of other information, reasonably could be expected to cause damage to the national security.

[4] See footnote 1 to § 286.1

(iii) Release of unclassified records which would enable a knowledgeable person to analyze the records either in isolation, or in concert with other unclassified records previously released, and determine information that is classified.

(2) *Number 2.* Those related solely to the internal personnel rules and practices of DoD or any of its Components. This exemption has two profiles, high b2 and low b2.

(i) Records qualifying under high b2 are those containing or constituting statutes, rules, regulations, orders, manuals, directives, and instructions the release of which would allow circumvention of these records thereby substantially hindering the effective performance of a significant function of the Department of Defense. Examples include:

(A) Those operating rules, guidelines, and manuals for DoD investigators, inspectors, auditors, or examiners that must remain privileged in order for the DoD Component to fulfill a legal requirement.

(B) Personnel and other administrative matters, such as examination questions and answers used in training courses or in the determination of the qualifications of candidates for employment, entrance on duty, advancement, or promotion.

(C) Computer software meeting the standards of § 286.5(b)(3), the release of which would allow circumvention of a statute or DoD rules, regulations, orders, manuals, directives, or instructions. In this situation, the use of the software must be closely examined to ensure a circumvention possibility exists.

(ii) Records qualifying under the low b2 profile are those that are trivial and housekeeping in nature for which there is no legitimate public interest or benefit to be gained by release, and it would constitute an administrative burden to process the request in order to disclose the records. Examples include rules of personnel's use of parking facilities or regulation of lunch hours, statements of policy as to sick leave, and trivial administrative data such as file numbers, mail routing stamps, initials, data processing notations, brief references to previous communications, and other like administrative markings.

(3) *Number 3.* Those concerning matters that a statute specifically exempts from disclosure by terms that permit no discretion on the issue, or in accordance with criteria established by that statute for withholding or referring to particular types of matters to be withheld. Examples of statutes are:

(i) National Security Agency Information Exemption, Public Law 86–36, section 6.

(ii) Patent Secrecy, 35 U.S.C. 181–188. Any records containing information relating to inventions that are the subject of patent applications on which Patent Secrecy Orders have been issued.

(iii) Restricted Data and Formerly Restricted Data, 42 U.S.C. 2162.

(iv) Communication Intelligence, 18 U.S.C. 798.

(v) Authority to Withhold From Public Disclosure Certain Technical Data, 10 U.S.C. 130 and DoD Directive 5230.25 [5].

(vi) Confidentiality of Medical Quality Records: Qualified Immunity Participants, 10 U.S.C. 1102.

(vii) Physical Protection of Special Nuclear Material: Limitation on Dissemination of Unclassified Information, 10 U.S.C. 128.

(viii) Protection of Intelligence Sources and Methods, 50 U.S.C. 403(d)(3).

(4) *Number 4.* Those containing trade secrets or commercial or financial information that a DoD Component receives from a person or organization outside the Government with the understanding that the information or record will be retained on a privileged or confidential basis in accordance with the customary handling of such records. Records within the exemption must contain trade secrets, or commercial or financial records, the disclosure of which is likely to cause substantial harm to the competitive position of the source providing the information; impair some other legitimate government interest. Examples include:

(i) Commercial or financial information received in confidence in connection with loans, bids, contracts, or proposals, as well as other information received in confidence or privileged, such as trade secrets, inventions, discoveries, or other proprietary data. See also 32 CFR part 286h, "release of Acquisition-Related Information."

(ii) Statistical data and commercial or financial information concerning contract performance, income, profits, losses, and expenditures, if offered and received in confidence from a contractor or potential contractor.

(iii) Personal statements given in the course of inspections, investigations, or audits, when such statements are received in confidence from the individual and retained in confidence because they reveal trade secrets or commercial or financial information normally considered confidential or privileged.

(iv) Financial data provided in confidence by private employers in connection with locality wage surveys that are used to fix and adjust pay schedules applicable to the prevailing wage rate of employees within the Department of Defense.

(v) Scientific and manufacturing processes or developments concerning technical or scientific data or other information submitted with an application for a research grant, or with a report while research is in progress.

(vi) Technical or scientific data developed by a contractor or subcontractor exclusively at private expense, and technical or scientific data developed in part with Federal funds and in part at private expense, wherein the contractor or subcontractor has retained legitimate proprietary interests in such data in accordance with 10 U.S.C. 2320–2321 and DoD Federal Acquisition Regulation Supplement (DFARS), 48 CFR subpart 27.4. Technical data developed exclusively with Federal funds may be withheld under Exemption Number 3 if it meets the criteria of 10 U.S.C. 130 and 32 CFR part 250 (see § 286.13(a)(3)(v)).

(vii) Computer software meeting the conditions of § 286.5(b)(3), which is copyrighted under the Copyright Act of 1976 (17 U.S.C. 106), the disclosure of which would have an adverse impact on the potential market value of a copyrighted work.

(5) *Number 5.* Except as provided in § 286.12(a)(5)(ii) through (v), internal advice, recommendations, and subjective evaluations, as contrasted with factual matters, that are reflected in records pertaining to the decision-making process of an agency, whether within or among agencies (as defined in 5 U.S.C. 552(e)), or within or among DoD Components. Also exempted are records pertaining to the attorney-client privilege and the attorney work-product privilege.

(i) Examples include:

(A) The nonfactual portions of staff papers, to include after-action reports and situation reports containing staff evaluations, advice, opinions, or suggestions.

(B) Advice, suggestions, or evaluations prepared on behalf of the Department of Defense by individual consultants or by boards, committees, councils, groups, panels, conferences, commissions, task forces, or other similar groups that are formed for the purpose of obtaining advice and recommendations.

(C) Those nonfactual portions of evaluations by DoD Component personnel of contractors and their products.

(D) Information of a speculative, tentative, or evaluative nature or such matters as proposed plans to procure, lease or otherwise acquire and dispose of materials, real estate, facilities or functions, when such information would provide undue or unfair competitive advantage to private personal interests or would impede legitimate government functions.

(E) Trade secret or other confidential research development, or commercial information owned by the Government, where premature release is likely to affect the Government's negotiating position or other commercial interest.

(F) Records that are exchanged among agency personnel and within and among DoD Components or agencies as part of the preparation for anticipated administrative proceeding by an agency or litigation before any attorney-client privilege.

(G) Those portions of official reports of inspection, reports of the Inspector Generals, audits, investigations, or surveys pertaining to safety, security, or the internal management, administration, or operation of one or more DoD Components, when these records have traditionally been treated by the courts as privileged against disclosure in litigation.

(H) Computer software meeting the standards of § 286.5(b)(3), which is deliberative in nature, the disclosure of which would inhibit or chill the decision making process. In this situation, the use of software must be closely examined to ensure its deliberative nature.

(I) Planning, programming, and budgetary information which is involved in the defense planning and resource allocation process. (ii) If any such intra or inter-agency record or reasonably segregable portion of such record hypothetically would be made available routinely through the "discovery process" in the course of litigation with the agency, i.e., the process by which litigants obtain information from each other that is relevant to the issues in a trial or hearing, then it should not be withheld from the general public even though discovery has not been sought in actual litigation. If, however, the information hypothetically would only be made available through the "discovery process" by special order of the court based on agency maintaining its confidentiality, then the record or document need not be made available under this part. Consult with legal counsel to determine whether FOIA exemption 5 material would be routinely made available through the discovery process.

[5] See footnote 1 to § 286.1

(iii) Intra- or inter-agency memoranda or letters that are factual, or those reasonably segregable portions that are factual, are routinely made available through "discovery," and shall be made available to a requester, unless the factual material is otherwise exempt from release, inextricably intertwined with the exempt information, so fragmented as to be uninformative, or so redundant of information already available to the requester as to provide no new substantive information.

(iv) A direction or order from a superior to a subordinate, though contained in an internal communication, generally cannot be withheld from a requester if it constitutes policy guidance or a decision, as distinguished from a discussion of preliminary matters or a request for information or advice that would compromise the decision-making process.

(v) An internal communication concerning a decision that subsequently has been made a matter of public record must be made available to a requester when the rationale for the decision is expressly adopted or incorporated by reference in the record containing the decision.

(6) *Number 6.* Information in personnel and medical files, as well as similar personal information in other files, that, if disclosed to the requester would result in a clearly unwarranted invasion of personal privacy. Release of information about an individual contained in a Privacy Act System of records that would constitute a clearly unwarranted invasion of privacy is prohibited, and could subject the releaser to civil and criminal penalties.

(i) Examples of other files containing personal information similar to that contained in personnel and medical files include:

(A) Those compiled to evaluate or adjudicate the suitability of candidates for civilian employment or membership in the Armed Forces, and the eligibility of individuals (civilian, military, or contractor employees) for security clearances, or for access to particularly sensitive classified information.

(B) Files containing reports, records, and other material pertaining to personnel matters in which administrative action, including disciplinary action, may be taken.

(ii) Home addresses are normally not releasable without the consent of the individuals concerned. In addition, lists of DoD military and civilian personnel's names and duty addresses who are assigned to units that are sensitive, routinely deployable, or stationed in foreign territories can constitute a clearly unwarranted invasion of personal privacy.

(A) *Privacy interest.* A privacy interest may exist in personal information even though the information has been disclosed at some place and time. If personal information is not freely available from sources other than the Federal Government expended funds to prepare, index and maintain records on personal information, and the fact that a requester invokes FOIA to obtain these records indicates the information is not freely available.

(B) Published telephone directories, organization charts, rosters and similar materials for personnel assigned to units that are sensitive, routinely deployable, or stationed in foreign territories may be withheld under this exemption.

(iii) This exemption shall not be used in an attempt to protect the privacy of a deceased person, but it may be used to protect the privacy of the deceased person's family.

(iv) Individuals' personnel, medical, or similar file may be withheld from them or their designated legal representative only to the extent consistent with DoD Directive 5400.11.

(v) A clearly unwarranted invasion of the privacy of the persons identified in a personnel, medical or similar record may constitute a basis for deleting those reasonable segregable portions of that record, even when providing it to the subject of the record. When withholding personal information from the subject of the record, legal counsel should first be consulted.

(7) *Number 7.* Records or information compiled for law enforcement purposes; i.e., civil, or military law, including the implementation of executive orders or regulations issued pursuant to law. This exemption may be invoked to prevent disclosure of documents not originally created for, but later gathered for law enforcement purposes.

(i) This exemption applies, however, only to the extent that production of such law enforcement records or information could result in the following:

(A) Could reasonably be expected to interfere with enforcement proceeding.

(B) Would deprive a person of the right to a fair trial or to an impartial adjudication.

(C) Could reasonably be expected to constitute an unwarranted invasion of personal privacy of a living person, including surviving family members of an individual identified in such a record.

(*1*) This exemption also applies when the fact of the existence or nonexistence of a responsive record would itself reveal personally private information, and the public interest in disclosure is not sufficient to outweigh the privacy interest. In this situation, Components shall neither confirm nor deny the existence or nonexistence of the record being requested.

(*2*) A "refusal to confirm or deny" response must be used consistently, not only when a record exists, but also when a record does not exist. Otherwise, the pattern of using a "no records" response when a record does not exist and a "refusal to confirm or deny" when a record does exist will itself disclose personally private information.

(*3*) Refusal to confirm or deny should not be used when

(*i*) The person whose personal privacy is in jeopardy has provided the requester with a waiver of his or her privacy rights; or

(*ii*) The person whose personal privacy is in jeopardy is deceased, and the agency is aware of that fact.

(D) Could reasonably be expected to disclose the identify of a confidential source, including a source within the Department of Defense, a State, local, or foreign agency or authority, or any private institution which furnishes the information on a confidential basis.

(E) Could disclose information furnished from a confidential source and obtained by a criminal law enforcement authority in a criminal investigation or by an agency conducting a lawful national security intelligence investigation.

(F) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law.

(G) Could reasonably be expected to endanger the life or physical safety of any individual.

(ii) Examples include:

(A) Statements of witnesses and other material developed during the course of the investigation and all materials prepared in connection with related government litigation or adjudicative proceedings.

(B) The identity of firms or individuals being investigated for alleged irregularities involving contracting with the Department of Defense when no indictment has been obtained nor any civil action filed against them by the United States.

(C) Information obtained in confidence, expressed or implied, in the course of a criminal investigation by a criminal law enforcement agency or office with a DoD Component, or a lawful national security intelligence investigation conducted by an

authorized agency or office within a DoD Component. National security intelligence investigations include background security investigations and conducted for the purpose of obtaining affirmative or counterintelligence information.

(iii) The right of individual litigants to investigative records currently available by law (such as, the Jencks Act, 18 U.S.C. 3500) is not diminished.

(iv) When the subject of an investigative record is the requester of the record, it may be withheld only as authorized by DoD Directive 5400.11.

(v) Exclusions. Excluded from the previous exemptions are the following two situations applicable to the Department of Defense:

(A) Whenever a request is made which involves access to records or information compiled for law enforcement purposes, and the investigation or proceeding involves a possible violation of criminal law where there is reason to believe that the subject of the investigation or proceedings is unaware of its pendency, and the disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings, Components may, during only such times as that circumstance continues, treat the records or information as not subject to the FOIA. In such situation, the response to the requester will state that no records were found.

(B) Whenever informant records maintained by a criminal law enforcement organization within a DoD Component under the informant's name or personal identifier, the Component may treat the records as not subject to the FOIA, unless the informant's status as an informant has been officially confirmed. If it is determined that the records are not subject the exemption 7, the response to the requester will state that no records were found.

(8) *Number 8.* Those contained in or related to examination, operation or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions.

(9) *Number 9.* Those containing geological and geophysical information and data (including maps) concerning wells.

Subpart D—For Official Use Only

§ 286.15 General provisions.

(a) *General.* Information that has not been given a security classification pursuant to the criteria of an Executive Order, but which may be withheld from the public for one or more of the reasons cited in FOIA Exemptions 2 through 9 shall be considered as being for official use only. No other material shall be considered or marked "For Official Use Only" (FOUO) and FOUO is not authorized as an anemic form of classification to protect national security interests.

(b) *Prior FOUO application.* The prior application of FOUO markings is not a conclusive basis for withholding a record that is requested under the FOIA. When such a record is requested, the information in it shall be evaluated to determine whether, under current circumstances, FOIA exemptions apply in withholding the record or portions of it. If any exemption or exemptions apply or applies, it may nonetheless be released when it is determined that no governmental interest will be jeopardized by its release.

(c) *Historical papers.* Records such as notes, working papers, and drafts retained as historical evidence of DoD Component actions enjoy no special status apart from the exemptions under the FOIA.

(d) *Time to mark records.* The marking of records at the time of their creation provides notice of FOUO content and facilities review when a record is requested under the FOIA. Records request under the FOIA that do not bear such markings, shall not be assumed to be releasable without examination for the presence of information that requires continued protection and qualifies as exempt from public release.

(e) *Distribution statement.* Information in a technical document that requires a distribution statement pursuant to DoD Directive 5230.24 [6] shall bear that statement and may be marked FOUO, as appropriate.

§ 286.17 Location of markings.

(a) An unclassified document containing FOUO information shall be marked "For Official Use Only" at the bottom on the outside of the front cover (if any), on each page containing FOUO information and on the outside of the back.

(b) Within a classified document, an individual page that contains both FOUO and classified information shall be marked at the top and bottom with the highest security classification of information appearing on the page.

(c) Within a classified document, an individual page that contains FOUO information but no classified information shall be marked "For Official Use Only" at the bottom of the page.

(d) Other records, such as photographs, films, tapes, or slides, shall be marked "For Official Use Only" or "FOUO" in a manner that ensures that a recipient or viewer is aware of the status of the information therein.

(e) FOUO material transmitted outside the Department of Defense requires application of an expanded marking to explain the significance of the FOUO marking. This may be accomplished by typing or stamping the following statement on the record prior to transfer:

This document contains information EXEMPT FROM MANDATORY DISCLOSURE under the FOIA. Exemptions . . . . apply.

§ 286.19 Dissemination and transmission.

(a) *Release and transmission procedures.* Until FOUO status is terminated, the release and transmission instructions that follow apply:

(1) FOUO information may be disseminated within DoD Components and between officials of DoD Components and DoD contractors, consultants, and grantees to conduct official business for the Department of Defense. Recipients shall be made aware of the status of such information, and transmission shall be by means that preclude unauthorized public disclosure. Transmittal documents shall call attention to the presence of FOUO attachments.

(2) DoD holders of FOUO information are authorized to convey such information to officials in other departments and agencies of the executive and judicial branches to fulfill a government function, except to the extent prohibited by the Privacy Act. Records thus transmitted shall be marked "For Official Use Only", and the recipient shall be advised that the information has been exempted from public disclosure, pursuant to the FOIA, and that special handling instructions do or do not apply.

(3) Release of FOUO information to Members of Congress is governed by DoD Directive 5400.4 [7]. Release to the GAO is governed by DoD Directive 7650.1 [8]. Records released to the Congress or GAO should be reviewed to determine whether the information warrants FOUO status. If not, prior FOUO markings shall be removed or effaced. If withholding criteria are met, the records shall be marked FOUO and the recipient provided an explanation for such exemption and marking. Alternatively, the recipient may be

[6] See footnote 1 to § 286.1

[7] See footnote 1 to § 286.1

[8] See footnote 1 to § 286.1

requested, without marking the record, to protect against its public disclosure for reasons that are explained.

(b) *Transporting FOUO information.* Records containing FOUO information shall be transported in a manner that precludes disclosure of the contents. When not commingled with classified information, FOUO information may be sent via first-class mail or parcel post. Bulky shipments, such as distributions of FOUO Directives or testing materials, that otherwise qualify under postal regulations may be sent by fourth-class mail.

(c) *Electrically transmitted messages.* Each part of electrically transmitted messages containing FOUO information shall be marked appropriately. Unclassified messages containing FOUO information shall contain the abbreviation "FOUO" before the beginning of the text. Such messages shall be transmitted in accordance with communications security procedures.

§ 286.23 Safeguarding FOUO information.

(a) *During duty hours.* During normal working hours, records determined to be FOUO shall be placed in an out-of-sight location if the work area is accessible to non-governmental personnel.

(b) *During nonduty hours.* At the close of business, FOUO records shall be stored so as to preclude unauthorized access. Filing such material with other unclassified records in unlocked files or desks, etc., is adequate when normal U.S. Government or government contractor internal building security is provided during nonduty hours. When such internal security control is not exercised, locked buildings or rooms normally provide adequate after-hours protection. If such protection is not considered adequate, FOUO material shall be stored in locked receptacles such as file cabinets, desks, or bookcases. FOUO records that are subject to the provisions of Public Law 86–36 shall meet the safeguards outlined for that group of records.

§ 286.22 Termination, disposal and unauthorized disclosures.

(a) *Termination.* The originator or other competent authority; e.g., initial denial and appellate authorities, shall terminate "For Official Use Only" markings or status when circumstances indicate that the information no longer requires protection from public disclosure. When FOUO status is terminated, all known holders shall be notified, to the extent practical. Upon notification, holders shall efface or remove the "For Official Use Only" markings, but records in file or storage need not be retrieved solely for that purpose.

(b) *Disposal.* (1) Nonrecord copies of FOUO materials may be destroyed by tearing each copy into pieces to preclude reconstructing, and placing them in regular trash containers. When local circumstances or experience indicate that this destruction method is not sufficiently protective of FOUO information, local authorities may direct other methods but must give due consideration to the additional expense balanced against the degree of sensitivity of the type of FOUO information contained in the records.

(2) Record copies of FOUO documents shall be disposed of in accordance with the disposal standards established under 44 U.S.C. chapter 33, as implemented by DoD Component instructions concerning records disposal.

(c) *Unauthorized disclosure.* The unauthorized disclosure of FOUO records does not constitute an unauthorized disclosure of DoD information classified for security purposes. Appropriate administrative action shall be taken, however, to fix responsibility for unauthorized disclosure whenever feasible, and appropriate disciplinary action shall be taken against those responsible. Unauthorized disclosure of FOUO information that is protected by the Privacy Act may also result in civil and criminal sanctions against responsible persons. The DoD Component that originated the FOUO information shall be informed of its unauthorized disclosure.

Subpart E—Release and Processing Procedures

§ 286.25 General provisions.

(a) *Public information.* (1) Since the policy of the Department of Defense is to make the maximum amount of information available to the public consistent with its other responsibilities, written requests for a DoD record made under the FOIA may be denied only when:

(i) The record is subject to one or more of the exemptions in subpart C of this part;

(ii) The record has not been described well enough to enable the DoD Component to locate it with a reasonable amount of effort by an employee familiar with the files;

(iii) The requester has failed to comply with the procedural requirements, including the written agreement to pay or payment of any required fee imposed by the instructions of the DoD Component concerned.

When personally identifiable information in a record is requested by the subject of the record or his attorney, notarization of the request may be required.

(2) Individuals seeking DoD information should address their FOI requests to one of the addresses listed in appendix B of this part.

(b) *Requests from private parties.* The provisions of the FOIA are reserved for persons with private interests as opposed to federal or foreign governments seeking official information. Requests from private persons will be made in writing, and will clearly show all other addressees within the Federal Government to whom the request was also sent. This procedure will reduce processing time requirements, and ensure better inter- and intra-agency coordination. Components are under no obligation to establish procedures to receive hand delivered requests. Release of records to individuals under the FOIA is considered public release of information, except as provided for in §§ 286.7(f) and 286.13(a).

(c) *Requests from government officials.* Requests from officials of State, or local Governments for DoD Component records shall be considered the same as any other requester. Requests from members of Congress not seeking records on behalf of a Congressional Committee, Subcommittee, either House sitting as a whole, or made on behalf of their constituents shall be considered the same as any other requester (See also §§ 286.7(f) and 286.28(d)). Requests from officials of foreign governments shall be considered the same as any other requester. Requests from officials of foreign governments that do not invoke the FOIA shall be referred to appropriate foreign disclosure channels and the requester so notified.

(d) *Privileged release to U.S. government officials.*

(1) Subject to 32 CFR part 159a, applicable to classified information; 32 CFR part 286a, applicable to personal privacy, or other applicable law; records exempt from release under Subpart C of this part may be authenticated and released, without requiring release to other FOIA requesters, in accordance with DoD Component regulations to U.S. government officials requesting them on behalf of Federal governmental bodies, whether legislative, executive, administrative, or judicial, as follows:

(i) To a Committee or Subcommittee of Congress, or to either House sitting as a whole in accordance with DoD Directive 5400.4.

(ii) To the Federal courts, whenever ordered by officers of the court as necessary for the proper administration of justice.

(iii) To other Federal Agencies, both executive and administrative, as determined by the Head of a DoD Component or designee.

(2) DoD Components shall inform officials receiving records under the provisions of paragraph (d)(1) of this section, that those records are exempt from public release under the FOIA and are privileged. DoD Components also shall advise officials of any special handling instructions

§ 286.27 Initial determinations.

(a) *Initial denial authority.* (1) Components shall limit the number of IDAs appointed. In designating its IDAs, a DoD Component shall balance the goals of centralization of authority to promote uniform decisions and decentralization to facilitate responding to each request within the time limitations of the FOIA.

(2) The initial determination of whether to make a record available upon request may be made by any suitable official designated by the DoD Component in published regulations. The presence of the marking "For Official Use Only" does not relieve the designated official of the responsibility to review the requested record for the purpose of determining whether an exemption under this part is applicable and should be invoked.

(3) The officials designated by DoD Components to make initial determinations should consult with public affairs officers (PAOs) to become familiar with subject matter that is considered to be newsworthy, and advise PAOs of all requests from news media representatives. In addition, the officials should inform PAOs in advance when they intend to withhold or partially withhold a record, if it appears that the withholding action may be challenged in the media.

(b) *Reasons for not releasing a record.* There are seven reasons for not complying with a request for a record:

(1) The request is transferred to another DoD Component, or to another federal agency.

(2) The request is withdrawn by the requester.

(3) The information requested is not a record within the meaning of the FOIA and this part.

(4) A record has not been described with sufficient particularity to enable the DoD Component to locate it by conducting a reasonable search.

(5) The requester has failed unreasonably to comply with procedural requirements, including payment of fees, imposed by this part or DoD Component supplementing regulations.

(6) The DoD Component determines through knowledge of its files and reasonable search efforts that it neither controls nor otherwise possesses the requested record. (a "no record" determination is not considered a denial; therefore an appeal is not appropriate).

(7) The record is denied in accordance with procedures set forth in the FOIA and this part.

(c) *Denial tests.* To deny a requested record that is in the possession or control of a DoD Component, it must be determined that the record is included in one or more of the nine categories of records exempt from mandatory disclosure as provided by the FOIA and outlined in subpart C of this part.

(d) *Reasonably segregable portions.* Although portions of some records may be denied, the remaining reasonably segregable portions must be released to the requester when it reasonably can be assumed that a skillful and knowledgeable person could not reconstruct the excised information. When a record is denied in whole, the response advising the requester of that determination will specifically state that it is not reasonable to segregate portions of the record for release.

(e) *Response to requester.*

(1) Initial determinations to release or deny a record normally shall be made and the decision reported to the requester within 10 working days after receipt of the request by the official designated to respond.

(2) When a decision is made to release a record, a copy should be made available promptly to the requester once he has complied with preliminary procedural requirements.

(3) When a request for a record is denied in whole or in part, the official designated to respond shall inform the requester in writing of the name and title or position of the official who made the determination, and shall explain to the requester the basis for the determination in sufficient detail to permit the requester to make a decision concerning appeal. The requester specifically shall be informed of the exemptions on which the denial is based. When the initial denial is based in whole or in part on a security classification, the explanation should include a summary of the applicable criteria for classification, as well as an explanation, to the extent reasonably feasible, of how those criteria apply to the particular record in question. The requester shall also be advised of the opportunity and procedures for appealing an unfavorable determination to a higher final authority within the DoD Component.

(4) The response to the requester should contain information concerning the fee status of the request, consistent the provisions of subpart F of this part.

(5) The explanation of the substantive basis for a denial shall include specific citation of the statutory exemption applied under provisions of this part. Merely referring to a classification or to a "For Official Use Only" marking on the requested record does not constitute a proper citation or explanation of the basis for invoking an exemption.

(6) When the time for response becomes an issue, the official responsible for replying shall acknowledge to the requester the date of the receipt of the request.

(f) *Extension of time.* (1) In unusual circumstances, when additional time is needed to respond, the DoD Component shall acknowledge the request in writing within the 10-day period, describe the circumstances requiring the delay, and indicate the anticipated date for substantive response that may not exceed 10 additional working days. Unusual circumstances that may justify delay are:

(i) The requested record is located in whole or in part at places other than the office processing the request.

(ii) The request requires the collection and evaluation of a substantial number of records.

(iii) Consultation is required with other DoD Components or agencies having substantial interest in the subject matter to determine whether the records requested are exempt from disclosure in whole or in part under provisions of this part or should be released as a matter of discretion.

(2) The statutory extension of time for responding to an initial request must be approved on a case-by-case basis by the final appellate authority for the DoD Component, or in accordance with regulations of the DoD Component, or in accordance with regulations of the DoD Component that establish guidance governing the circumstances in which such extensions may be granted.

(3) In these unusual cases where the statutory time limits cannot be met and no informal extension of time has been agreed to, the inability to process any part of the request within the specified time should be explained to the requester with a request that he agree to await a substantive response by an anticipated date. It should be made clear that any such agreement does not prejudice the right of the requester to appeal the initial decision after it is

made. Components are reminded that the requester still retains the right to treat this delay as a definite denial with full administrative remedies.

(4) As an alternative to the taking of formal extensions of time as described in paragraph (f), (f)(3), (f)(2) and (f)(3) of this section, the negotiation by the cognizant FOIA coordinating office of informal extensions in time with requesters is encouraged where appropriate.

(g) *Misdirected requests.* Misdirected requests shall be forwarded promptly to the DoD Component with the responsibility for the records requested. The period allowed for responding to the request misdirected by the requester shall not begin until the request is received by the DoD Component that manages the records requested.

(h) *Records of non-U.S. government source.* (1) When a request is received for a record that was obtained from a non-U.S. Government source, or for a record containing information clearly identified as having been provided by a non-U.S. Government source, the source of the record or information (also known as "the submitter" for matters pertaining to proprietary data under 5 U.S.C. 552(b)(4), § 286.13(a)(4), and 31 U.S.C. 3717) shall be notified promptly of that request and afforded reasonable time (e.g. 30 calendar days) to present any objections concerning the release, unless it is clear that there can be no valid basis for objection. This practice is required for those FOIA requests for data not obviously exempt from disclosure under FOIA exemption (d)(4). If, for example, the record or information was provided with actual or presumptive knowledge of the non-U.S. Government source and established that it would be made available to the public upon request, there is no obligation to notify the source. Any objections shall be evaluated. The final decision to disclose information claimed to be exempt under FOIA exemption (b)(4) shall be made by an official equivalent in rank to the official who would make the decision to withhold that information under the FOIA. When a substantial issue has been raised, the DoD Component may seek additional information from the source of the information and afford the source and requester reasonable opportunities to present their arguments on the legal and substantive issues involved prior to making an agency determination. When the source advises it will seek a restraining order or take court action to prevent release of the record or information, the requester shall be notified, and action on the request normally shall not be taken until after the outcome of that court action is known. When the requester brings court action to compel disclosure, the submitter shall be promptly notified of this action.

(2) The coordination provisions of this paragraph apply to any non-U.S. Government record in the possession and control of the Department of Defense from multi-national organizations, such as North Atlantic Treaty Organization (NATO) and North American Aerospace Defense Command (NORAD), or foreign governments. Coordination with foreign governments under the provisions of this paragraph shall be made through Department of State.

(i) *File of initial denials.* Copies of all initial denials shall be maintained by each DoD Component in a form suitable for rapid retrieval, periodic statistical compilation, and management evaluation.

(j) *Special mail services.* Components are authorized to use registered mail, certified mail, certificates of mailing and return receipts. However, their use should be limited to instances where it appears advisable to establish proof of dispatch or receipt of FOIA correspondence.

(k) *Receipt accounts.* The Treasurer of the United States has established two accounts for FOIA receipts. These accounts, which are described the following, shall be used for depositing all FOIA receipts, except receipts for industrially-funded and non-appropriated funded activities. Components are reminded that the following account numbers must be preceded by the appropriate disbursing office two digit prefix. Industrially-funded and nonappropriated funded activity FOIA receipts shall be deposited to the applicable fund.

(1) *Receipt Account 3210 Sale of Publications and Reproductions, Freedom of Information Act.* This account shall be used when depositing funds received from providing existing publications and forms that meet the Receipt Account Series description found in Federal Account Symbols and Titles.

(2) *Receipt Account 3210 Fees and Other Charges for Services, Freedom of Information Act.* This account is used to deposit search fees, fees for duplication and reviewing (in the case of commercial requesters) records to satisfy requests that could not be filed with existing publications or forms.

§ 286.28 Appeals.

(a) *General.* If the official designated by the DoD Component to make initial determinations on requests for records declines to provide a record because the official considers it exempt, that decision may be appealed by the requester, in writing, to a designated appellate authority. The appeal should be accompanied by a copy of the letter denying the initial request. Such appeals should contain the basis for disagreement with the initial refusal. Appeal procedures also apply to the disapproval of a request for waiver or reduction of fees. A "no record" finding may not be appealed, although the requester may ask the agency to search other files or provide more detailed identification to facilitate another search of the files.

(b) *Time of receipt.* An FOI appeal has been received by a DoD Component when it reaches the office of an appellate authority having jurisdiction. Misdirected appeals should be referred expeditiously to the proper appellate authority.

(c) *Time limits.* (1) The requester shall be advised to file an appeal so that it reaches the appellate authority no later than 60 calendar days after the date of the initial denial letter. At the conclusion of this period, the case may be considered closed; however, such closure does not preclude the requester from filing litigation. In cases where the requester is provided several incremental determinations for a single request, the time for the appeal shall not begin until the requester receives the last such notification. Records which are denied shall be retained for a period of six years to meet the statute of limitations of claims requirement.

(2) Final determinations on appeals normally shall be made within 20 working days after receipt.

(d) *Delay in responding to an appeal.* (1) If additional time is needed due to the unusual circumstances described in paragraph § 286.27(f), the final decision may be delayed for the number of working days (not to exceed 10), that were not used as additional time for responding to the initial request.

(2) If a determination cannot be made and the requester notified within 20 working days, the appellate authority shall acknowledge to the requester in writing the date of receipt of the appeal, the circumstances surrounding the delay, and the anticipated date for substantive response. Requesters shall be advised that, if the delay exceeds the statutory extension provision or is for reasons other than the unusual circumstances identified in § 286.27(f), they may consider their administrative remedies exhausted. They may, however, without prejudicing their right

of judicial remedy, await a substantive response. The DoD Component shall continue to process the case expeditiously, whether or not the requester seeks a court order for release of the records, but a copy of any response provided subsequent to filing of a complaint shall be forwarded to the Department of Justice.

(e) *Response to the requester.* (1) When an appellate authority makes a determination to release all or a portion of records withheld by an IDA, a copy of the records so released should be forwarded promptly to the requester after compliance with any preliminary procedural requirements, such as payment of fees.

(2) Final refusal to provide a requested record or to approve a request for waiver or reduction of fees must be made in writing by the Head of the DoD Component or by a designated representative.

The response, at a minimum, shall include the following: (i) The basis for the refusal shall be explained to the requester, in writing, both with regard to the applicable statutory exemption or exemptions invoked under provisions of this part.

(ii) When the final refusal is based in whole or in part on a security classification, the explanation shall include a determination that the record meets the cited criteria and rationale of the governing Executive Order, and that this determination is based on a declassification review, with the explanation of how that review confirmed the continuing validity of the security classification.

(iii) The final denial shall include the name and title or position of the official responsible for the denial.

(iv) The response shall advise the requester that the material being denied does not contain meaningful portions that are reasonably segregable.

(v) The response shall advise the requester of the right to judicial review.

(f) *Consultation.* (1) Final refusal, involving issues not previously resolved or that the DoD Component knows to be inconsistent with rulings of other DoD Component, ordinarily should not be made before consultation with the Office of the General Counsel of the Department of Defense.

(2) Tentative decisions to deny records that raise new or significant legal issues of potential significance to other agencies of the Government shall be provided to the Department of Justice, ATTN: Office of Legal Policy, Office of Information and Policy, Washington, DC 20530.

§ 286.24 Judicial actions.

(a) *General.* (1) This section states current legal and procedural rules for the convenience of the reader. The statements of rules do not create rights or remedies not otherwise available, nor do they bind the Department of Defense to particular judicial interpretations or procedures.

(2) A requester may seek an order from a United States District Court to compel release of a record after administrative remedies have been exhausted; i.e., when refused a record by the head of a Component or an appellate designee or when the DoD Component has failed to respond within the time limits prescribed by the FOIA and in this part.

(b) *Jurisdiction.* The requester may bring suit in the United States District Court in the district in which the requester resides or is the requesters place of business, in the district in which the record is located, or in the District of Columbia.

(c) *Burden of proof.* The burden of proof is on the DoD Component to justify its refusal to provide a record. The court shall evaluate the case de novo (anew) and may elect to examine any requested record in camera (in private) to determine whether the denial was justified.

(d) *Actions by the court.* (1) When a DoD Component has failed to make a determination within the statutory time limits but can demonstrate due diligence in exceptional circumstances, the court may retain jurisdiction and allow the Component additional time to complete its review of the records.

(2) If the court determines that the requester's complaint is substantially correct, it may require the United States to pay reasonable attorney fees and other litigation costs.

(3) When the court orders the release of denied records, it may also issue a written finding that the circumstances surrounding the withholding raise questions whether DoD Component personnel acted arbitrarily and capriciously. In these cases, the special counsel of the Merit System Protection Board shall conduct an investigation to determine whether or not disciplinary action is warranted. The DoD Component is obligated to take the action recommended by the special counsel.

(4) The court may punish the responsible official for contempt when a DoD Component fails to comply with the court order to produce records that it determines have been withheld improperly.

(e) *Non-United States government source information.* A requester may bring suit in a U.S. District Court to compel the release of records obtained from a nongovernment source or records based on information obtained from a nongovernment source. Such source shall be notified promptly of the court action. When the source advises that it is seeking court action to prevent release, the DoD Component shall defer answering or otherwise pleading to the complainant as long as permitted by the Court or until a decision is rendered in the court action of the source, whichever is sooner.

(f) *Litigation status sheet.* FOIA managers at DoD Component level shall be aware of litigation under the FOIA. Such information will provide management insights into the use of the nine exemptions by Component personnel. The Litigation Status Sheet at appendix C provides a standard format for recording information concerning FOIA litigation and forwarding that information to the Office of the Secretary of Defense. Whenever a complaint under the FOIA is filed in a U.S. District Court, the DoD Component named in the complaint shall forward a Litigation Status Sheet, with items 1 through 6 completed, and a copy of the complaint to the OASD(PA), ATTN: DFOISR, with an information copy to the General Counsel, Department of Defense, ATTN: Office of Legal Counsel. A revised Litigation Status Sheet shall be provided at each stage of the litigation.

Subpart F—Fee Schedule

§ 286.33 General provisions.

(a) *Authorities.* The Freedom of Information Act (5 U.S.C. 552), as amended; the Freedom of Information Reform Act of 1986; the Paperwork Reduction Act (44 U.S.C. 35); the Privacy Act of 1974 (5 U.S.C. 552a); the Budget and Accounting Act of 1921 (31 U.S.C. 1 *et seq.*); the Budget and Accounting Procedures Act (31 U.S.C. 67 *et seq.*); the Defense Authorization Act for FY 87, section 954, (Pub. L. 99-661), as amended by the Defense Technical Corrections Act of 1987 (Pub. L. 100-26).

(b) *Application.* (1) The fees described in this Subpart apply to FOIA requests, and conform to the Office of Management and Budget Uniform Freedom of Information Act Fee Schedule and Guidelines. They reflect direct costs for search, review (in the case of commercial requesters); and duplication of documents, collection of which is permitted by the FOIA. They are neither intended to imply that fees must be charged in connection with providing information to the public in

the routine course of business, nor are they meant as a substitute for any other schedule of fees, such as 32 CFR part 286, which does not supersede the collection of fees under the FOIA. Nothing in this Subpart shall supersede fees chargeable under a statute specifically providing for setting the level of fees for particular types of records. A "statute specifically providing for setting the level of fees for particular types of records" (5 U.S.C. 552(a)(4)(a)(vi)) means any statute that enables a Government Agency such as the Government Printing Office (GPO) or the National Technical Information Service (NTIS), to set and collect fees. Components should ensure that when documents that would be responsive to a request are maintained for distribution by agencies operating statutory-based fee schedule programs such as the GPO or NTIS, they inform requesters of the steps necessary to obtain records from those sources.

(2) The term "direct costs" means those expenditures a Component actually makes in searching for, reviewing (in the case of commercial requesters), and duplicating documents to respond to an FOIA request. Direct costs include, for example, the salary of the employee performing the work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits), and the costs of operating duplicating machinery. These factors have been included in the fee rates prescribed at § 286.35(a). Not included in direct costs are overhead expenses such as costs of space, heating or lighting the facility in which the records are stored.

(3) The term "search" includes all time spent looking for material that is responsive to a request. Search also includes a page-by-page or line-by-line identification (if necessary) of material in the document to determine if it, or portions thereof are responsive to the request. Components should ensure that searches are done in the most effective and least expensive manner so as to minimize costs for both the Component and the requester. For example, Components should not engage in line-by-line searches when duplicating an entire document known to contain responsive information would prove to be the less expensive and quicker method of complying with the request. Time spent reviewing documents in order to determine whether to apply one or more of the statutory exemptions is not search time, but review time. See paragraph (b)(5) of this section, for the definition of review, and § 286.35(b)(2), for information pertaining to computer searches.

(4) The term "duplication" refers to the process of making a copy of a document in response to an FOIA request. Such copies can take the form of paper copy, microfiche, audiovisual, or machine readable documentation (*e.g.*, magnetic tape or disc), among others. Every effort will be made to ensure that the copy provided is in a form that is reasonably usable, the requester shall be notified that their copy is the best available and that the agency's master copy shall be made available for review upon appointment. For duplication of computer tapes and audiovisual, the actual cost, including the operator's time, shall be charged. In practice, if a Component estimates that assessable duplication charges are likely to exceed $25.00, it shall notify the requester of the estimate, unless the requester has indicated in advance his or her willingness to pay fees as high as those anticipated. Such a notice shall offer a requester the opportunity to confer with Component personnel with the object of reformulating the request to meet his or her needs at a lower cost.

(5) The term "review" refers to the process of examining documents located in response to an FOIA request to determine whether one or more of the statutory exemptions permit withholding. It also includes processing the documents for disclosure, such as excising them for release. Review does not include the time spent resolving general legal or policy issues regarding the application of exemptions. It should be noted that charges for commercial requesters may be assessed only for the initial review. Components may not charge for reviews required at the administrative appeal level of an exemption already applied. However, records or portions of records withheld in full under an exemption which is subsequently determined not to apply may be reviewed again to determine the applicability of other exemptions not previously considered. The costs for such a subsequent review would be properly assessable.

(c) *Fee restrictions.* (1) No fees may be charges by any DOD Components if the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee. With the exception of requesters seeking documents for a commercial use, Components shall provide the first two hours of search time, and the first one hundred pages of duplication without charge. For example, for a request (other than one from a commercial requester) that involved two hours and ten minutes of search time, and resulted in one hundred and five pages of documents, a Component would determine the cost of only ten minutes of search time, and only five pages of reproduction. If this processing cost was equal to, or less than the cost to the Component for billing the requester and processing the fee collected, no charges would result.

(2) Requesters receiving the first two hours of search and the first one hundred pages of duplication without charge are entitled to such only once per request. Consequently, if a Component, after completing its portion of a request, finds it necessary to refer the request to a subordinate office, another DOD Component, or another Federal Agency to action their portion of the request, the referring Component shall inform the recipient of the referral of the expended amount of search time and duplication cost to date.

(3) The elements to be considered in determining the "cost of collecting a fee" are the administrative costs to the Component of receiving and recording a remittance, and processing the fee for deposit in the Department of Treasury's special account. The cost to the Department of the Treasury to handle such remittance is negligible and shall not be considered in Components' determinations.

(4) For the purposes of these restrictions, the word "pages" refers to paper copies of a standard size, which will normally be "8½×11" or "11×14". Thus, requesters would not be entitled to 100 microfiche or 100 computer disks, for example. A microfiche containing the equivalent of 100 pages or 100 pages of computer printout; however, might meet the terms of the restriction.

(5) In the case of computer searches, the first two free hours will be determined against the salary scale of the individual operating the computer for the purposes of the search. As an example, when the direct costs of the computer central processing unit, input-output devices, and memory capacity equal $24.00 (two hours of equivalent search at the clerical level), amounts of computer costs in excess of that amount are chargeable as computer search time.

(d) *Fee waivers.* (1) Documents shall be furnished without charge, or at a charge reduced below fees accessed to the catgories of requesters in paragraph (e) of this section when the Component determines that waiver or reduction of the fees is in the public interest because furnishing the information is likely to contribute significantly to public understanding of the operations or activities of the Department of Defense and is not primarily in the commercial interest of the requester.

(2) When assessable costs for an FOIA request total $15.00 or less, fees shall be waived automatically for all requesters, regardless of category.

(3) Decisions to waive or reduce fees that exceed the automatic waiver threshold shall be made on a case-by-case basis, consistent with the following factors:

(i) Disclosure of the information "is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government."

(A) *The subject of the request.* Components should analyze whether the subject matter of the request involves issues which will significantly contribute to the public understanding of the operations or activities of the Department of Defense. Requests for records in the possession of the Department of Defense which were originated by nongovernment organizations and are sought for their intrinsic content, rather than informative value will likely not contribute to public understanding of the operations or activities of the Department of Defense. An example of such records might be press clippings, magazine articles, or records forwarding a particular opinion or concern from a member of the public regarding a DOD activity. Similarly, disclosures of records of considerable age may or may not bear directly on the current activities of the Department of Defense; however, the age of a particular record shall not be the sole criteria for denying relative significance under this factor. It is possible to envisage an informative issue concerning the current activities of the Department of Defense, based upon historical documentation. Requests of this nature must be closely reviewed consistent with the requester's stated purpose for desiring the records and the potential for public understanding of the operations and activities of the Department of Defense.

(B) *The informative value of the information to be disclosed.* This factor requires a close analysis of the substantive contents of a record, or portion of the record, to determine whether disclosure is meaningful, and shall inform the public on the operations or activities of the Department of Defense. While the subject of a request may contain information which concerns operations or activities of the Department of Defense, it may not always hold great potential for contributing to a meaningful understanding of these operations or activities. An example of such would be a heavily redacted record, the balance of which may contain only random words, fragmented sentences, or paragraph headings. A determination as to whether a record in this situation will contribute to the public understanding of the operations or activities of the Department of Defense must be approached with caution, and carefully weighed against the arguments offered by the requester. Another example is information already known to be in the public domain. Disclosure of duplicative, or nearly identical information already existing in the public domain may add no meaningful new information concerning the operations and activities of the Department of Defense.

(C) *The contribution to an understanding of the subject by the general public likely to result from disclosure.* The key element in determining the applicability of this factor is whether disclosure will inform, or have the potential to inform the public, rather than simply the individual requester or small segment of interested persons. The identity of the requester is essential in this situation in order to determine whether such requester has the capability and intention to disseminate the information to the public. Mere assertions of plans to author a book, researching a particular subject, doing doctoral dissertation work, or indigence are insufficient without demonstrating the capacity to further disclose the information in a manner which will be informative to the general public. Requesters should be asked to describe their qualifications, the nature of their research, the purpose of the requested information, and their intended means of dissemination to the public.

(D) *The significance of the contribution to public understanding.* In applying this factor, Components must differentiate the relative significance or impact of the disclosure against the current level of public knowledge, or understanding which exists before the disclosure. In other words, will disclosure on a current subject of wide public interest be unique in contributing previously unknown facts, thereby enhancing public knowledge, or will it basically duplicate what is already known by the general public. A decision regarding significance requires objective judgment, rather than subjective determination, and must be applied carefully to determine whether disclosure will likely lead to a significant public understanding of the issue. Components shall not make value judgments as to whether the information is important enough to be made public.

(ii) Disclosure of the information "is not primarily in the commercial interest of the requester."

(A) *The existence and magnitude of a commercial interest.* If the request is determined to be of a commercial interest, Components should address the magnitude of that interest to determine if the requester's commercial interest is primary, as opposed to any secondary personal or non-commercial interest. In addition to profit-making organizations, individual persons or other organizations may have a commercial interest in obtaining certain records. Where it is difficult to determine whether the requester is of a commercial nature, Components may draw inference from the requester's identity and circumstances of the request. In such situations, the provisions of § 286.33(e), apply. Components are reminded that in order to apply the commercial standards of the FOIA, the requester's commercial benefit must clearly override any personal or non-profit interest.

(B) *The primary interest in disclosure.* Once a requester's commercial interest has been determined, Components should then determine if the disclosure would be primarily in that interest. This requires a balancing test between the commercial interest of the request against any public benefit to be derived as a result of that disclosure. Where the public interest is served above and beyond that of the requester's commercial interest, a waiver or reduction of fees would be appropriate. Conversely, even if a significant public interest exists, and the relative commercial interest of the requester is determined to be greater than the public interest, then a waiver of reduction of fees would be inappropriate. As examples, news media organizations have a commercial interest as business organizations; however, their inherent role of disseminating news to the general public can ordinarily be presumed to be of a primary interest. Therefore, any commercial interest becomes secondary to the primary interest in serving the public. Similarly, scholars writing books or engaged in other forms of academic research, may recognize a commercial benefit, either directly, or indirectly (through the institution they represent); however, normally such pursuits are primarily undertaken for educational purposes, and the application of a fee charge would be inappropriate. Conversely, data brokers or others who merely compile government information for marketing can normally be presumed to have an interest primarily of a commercial nature.

(4) Components are reminded that the above factors and examples are not all inclusive. Each fee decision must be

considered on a case-by-case basis and upon the merits of the information provided in each request. When the element of doubt as to whether to charge or waive the fee cannot be clearly resolved, Components should rule in favor of the requester.

(5) In addition, the following additional circumstances describe situations where waiver or reduction of fees are most likely to be warranted:

(i) A record is voluntarily created to preclude an otherwise burdensome effort to provide voluminous amounts of available records, including additional information not requested.

(ii) A previous denial of records is reversed in total, or in part, and the assessable costs are not substantial (e.g. $15.00—$90.00).

(e) *Fee assessment.* (1) Fees may not be used to discourage requesters, and to this end, FOIA fees are limited to standard charges for direct document search, review (in the case of commercial requesters) and duplication.

(2) In order to be as responsive as possible to FOIA requests while minimizing unwarranted costs to the taxpayer, Components shall adhere to the following procedures:

(i) Analyze each request to determine the category of the requester. If the Component determination regarding the category of the requester is different than that claimed by the requester, the Component shall:

(A) Notify the requester that he should provide additional justification to warrant the category claimed, and that a search for responsive records will not be initiated until agreement has been attained relative to the category of the requester. Absent further category justification from the requester, and within a reasonable period of time (i.e., 30 calendar days), the Component shall render a final category determination, and notify the requester of such determination, to include normal administrative appeal rights of the determination.

(B) Advise the requester that, notwithstanding any appeal, a search for responsive records will not be initiated until the requester indicates a willingness to pay assessable costs appropriate for the category determined by the Component.

(ii) Requesters must submit a fee declaration appropriate for the below categories.

(A) *Commercial.* Requesters must indicate a willingness to pay all search, review and duplication costs.

(B) *Educational or noncommercial scientific institution or news media.* Requesters must indicate a willingness to pay duplication charges in excess of 100 pages if more than 100 pages of records are desired.

(C) *All others.* Requesters must indicate a willingness to pay assessable search and duplication costs if more than two hours of search effort or 100 pages of records are desired.

(iii) If the above conditions are not met, then the request need not be processed and the requester shall be so informed.

(iv) In the situations described by paragraphs (e)(2) (i) and (ii) of this section, Components must be prepared to provide an estimate of assessable fees if desired by the requester. While it is recognized that search situations will vary among Components, and that an estimate is often difficult to obtain prior to an actual search, requesters who desire estimates are entitled to such before committing to a willingness to pay. Should Component estimates exceed the actual amount of the estimate or the amount agreed to by the requester, the amount in excess of the estimate or the requester's agreed amount shall not be charged without the requester's agreement.

(v) No DoD Component may require advance payment of any fee; i.e., payment before work is commenced or continued on a request, unless the requester has previously failed to pay fees in a timely fashion, or the agency has determined that the fee will exceed $250.00. As used in this sense, a timely fashion is 30 calendar days from the date of billing (the fees have been assessed in writing) by the Component.

(vi) Where a Component estimates or determines that allowable charges that a requester may be required to pay are likely to exceed $250.00, the Component shall notify the requester of the likely cost and obtain satisfactory assurance of full payment where the requester has a history of prompt payments, or require an advance payment of an amount up to the full estimated charges in the case of requesters with no history of payment.

(vii) Where a requester has previously failed to pay a fee charged in a timely fashion (*i.e.*, within 30 calendar days from the date of the billing), the Component may require the requester to pay the full amount owed, plus any applicable interest, or demonstrate that he or she has paid the fee, and to make an advance payment of the full amount of the estimated fee before the Component begins to process a new or pending request from the requester. Interest will be at the rate prescribed in 31 U.S.C. 3717, and confirmed with respective Finance and Accounting Offices.

(viii) After all work is completed on a request, and the documents are ready for release, Components may request payment before forwarding the documents if there is no payment history on the requester, or if the requester has previously failed to pay a fee in a timely fashion (*i.e.*, within 30 calendar days from the date of the billing). In the case of the latter, the previsions of paragraph (e)(2)(vii) of this section apply. Components may not hold documents ready for release pending payment from requesters with a history of prompt payment.

(ix) When Components act under paragraphs (e)(i) through (vii) of this section, the administrative time limits of the FOIA (*i.e.*, 10 working days from receipt of initial requests, and 20 working days from receipt of appeals, plus permissible extensions of these time limits) will begin only after the Component has received a willingness to pay fees and satisfaction as to category determination, or fee payments (if appropriate).

(x) Components may charge for time spent searching for records, even if that search fails to locate records responsive to the request. Components may also charge search and review (in the case of commercial requesters) time if records located are determined to be exempt from disclosure. In practice, if the Component estimates that search charges are likely to exceed $25.00 it shall notify the requester of the estimated amount of fees, unless the requester has indicated in advance his or her willingness to pay fees as high as those anticipated. Such a notice shall offer the requester the opportunity to confer with Component personnel with the object of reformulating the request to meet his or her needs at a lower cost.

(3) *Commercial requesters.* Fees shall be limited to reasonable standard charges for document search, review and duplication when records are requested for commercial use. Requesters must reasonably describe the records sought (see § 286.7(h)).

(i) The term "Commercial use" request refers to a request from, or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interest of the requester or the person on whose behalf the request is made. In determining whether a requester properly belongs in this category, Components must determine the use to which a requester will put the documents requested. Moreover, where a Component has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not clear from the request itself, Copmponents should seek additional

clarification before assigning the request to a specific category.

(ii) When Components receive a request for documents for commercial use, they should assess charges which recover the full direct costs of searching for, reviewing for release, and duplicating the records sought. Commercial requesters (unlike other requesters) are not entitled to two hours of free search time, nor 100 free pages of reproduction of documents. Moreover, commercial requesters are not normally entitled to a waiver or reduction of fees based upon an assertion that disclosure would be in the public interest. However, because use is the exclusive determining criteria, it is possible to envision a commercial enterprise making a request that is not for commercial use. It is also possible that a non-profit organization could make a request that is for commercial use. Such situations must be addressed on a case-by-case basis.

(4) *Educational institution requesters.* Fees shall be limited to only reasonable standard charges for document duplication (excluding charges for the first 100 pages) when the request is made by an educational institution whose purpose is scholarly research. Requesters must reasonably describe the records sought (see § 286.7(h)). The term "educational institution" refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, and institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(5) *Non-commercial scientific institution requesters.* Fees shall be limited to only reasonable standard charges for document duplication (excluding charges for the first 100 pages) when the request in made by a non-commercial scientific institution whose purpose is scientific research. Requesters must reasonably describe the records sought (see § 286.7(h)). The term "non-commercial scientific institution" refers to an institution that is not operated on a "commercial" basis as defined in paragraph (e)(3) of this section and which is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(6) Components shall provide documents to requesters in paragraph (e)(4) and (5) of this section, for the cost of duplication alone, excluding charges for the first 100 pages. To be eligible for inclusion in these categories, requesters must show that the request is being made under the auspices of a qualifying institution and that the records are not sought for commercial use, but in furtherance of scholarly (from an educational institution) or scientific (from a non-commercial scientific institution) research.

(7) *Representatives of the news media.* Fees shall be limited to only reasonable standard charges for document duplication (excluding charges for the first 100 pages) when the request is made by a representative of the news media. Requesters must reasonably describe the records sought (see § 286.7(h)).

(i) The term "representative of the news media" refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who make their products available for purchase or subscription by the general public. These examples are not meant to be all-inclusive. Moreover, as traditional methods of news delivery evolve (*e.g.*, electronic dissemination of newspapers through telecommunications services), such alternative media would be included in this category. In the case of "freelance" journalists, they may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it. A publication contract would be the clearest proof, but Components may also look to the past publication record of a requester in making this determination.

(ii) To be eligible for inclusion in this category, a requester must meet the criteria in paragraph (e)(7)(i) of this section, and his or her request must not be made for commercial use. A request for records supporting the news dissemination function of the requester shall not be considered to be a request that is for a commercial use. For example, a document request by a newspaper for records relating to the investigation of a defendant in a current criminal trial of public interest could be presumed to be a request from an entity eligible for inclusion in this category, and entitled to records at the cost of reproduction alone (excluding charges for the first 100 pages).

(iii) "Representative of the news media" does not include private libraries, private repositories of Government records, or middlemen, such as information vendors or data brokers.

(8) *All other requesters.* Components shall charge requesters who do not fit into any of the above categories, fees which recover the full direct cost of searching for and duplicating records, except that the first two hours of search time and the first 100 pages of duplication shall be furnished without charge. Requestes must reasonably describe the records sought (see § 286.7(h)). Requests from subjects about themselves will continue to be treated under the fee provisions of the Privacy Act of 1974, which permit fees only for duplication. Components are reminded that this category of requester may also be eligible for a waiver or reduction of fees if disclosure of the information is in the public interest as defined under paragraph (d) of this section (See also paragraph (e)(3)(ii)) of this section.

(f) *Aggregating requests.* Except for requests that are for a commercial use, a Component may not charge for the first two hours of search time or for the first 100 pages of reproduction. However, a requester may not file multiple requests at the same time, each seeking portions of a document or documents, solely in order to avoid payment of fees. When a Component reasonably believes that a requester or, on rare occasions, a group of requesters acting in concert, is attempting to break a request down into a series of requests for the purpose of avoiding the assessment of fees, the agency may aggregate any such requests and charge accordingly. One element to be considered in determining whether a belief would be reasonable is the time period in which the requests have occurred. For example, it would be reasonable to presume that multiple requests of this type made within a 30 day period had been made to avoid fees. For requests made over a longer period; however, such a presumption becomes harder to sustain and Components should have a solid basis for determining that aggregation is warranted in such cases. Components are cautioned that before aggregating requests from more than one requester, they must have a concrete basis on which to conclude that the requesters are acting in concert and are acting specifically to avoid payment of fees. In no case may Components aggregate multiple requests on unrelated subjects from one requester.

Effect of the Debt Collection Act of 1982 (Pub. L. 97-365). The Debt

Collection Act of 1982 (Pub. L. 97-365) provides for a minimum annual rate of interest to be charged on overdue debts owed the Federal Government. Components may levy this interest penalty for any fees that remain outstanding 30 calendar days from the date of billing (the first demand notice) to the requester of the amount owed. The interest rate shall be as prescribed in 31 U.S.C. 3717. Components should verify the current interest rate with respective Finance and Accounting Offices. After one demand letter has been sent, and 30 calendar days have lapsed with no payment, Components may submit the debt to respective Finance and Accounting Offices for collection pursuant to the Debt Collection Act of 1982.

(h) *Computation of fees.* The fee schedule in this Subpart shall be used to compute the search, review (in the case of commercial requesters) and duplication costs associated with processing a given FOIA request. Costs shall be computed on time actually spent. Neither time-based nor dollar-based minimum charges for search, review and duplication are authorized.

§ 286.35 Collection of fees and fee rates.

(a) *Collection of fees.* Collection of fees will be made at the time of providing the documents to the requester or recipient when the requester specifically states that the costs involved shall be acceptable or acceptable up to a specified limit that covers the anticipated costs. Collection of fees may not be made in advance unless the requester has failed to pay previously assessed fees within 30 calendar days from the date of the billing by the DoD Component, or the Component has determined that the fee will be in excess of $250 (see § 286.33(e)).

(b) *Search time.*

(1) Manual search:

Type	Grade	Hourly rate ($)
Clerical	E9/GS8 and below	12
Professional	01-06/GS9-GS/GM15.	25
Executive	07/GS/GM16/ES1 and above.	45

(2) *Computer search:* Computer search is based on direct cost of the central processing unit, input-output devices, and memory capacity of the actual computer configuration. The salary scale (equating to paragraph (a)(1) of this section) for the computer operator/programmer determining how to conduct and subsequently executing the search will be recorded as part of the computer search.

(c) *Duplication.*

Type	Cost per page (cents)
Pre-Printed material	02.
Office copy	15.
Microfiche	25.
Computer copies	Actual cost of duplicating (tapes or printouts) the tape or printout (includes operator's time and cost of the tape).

(d) *Review time* (in the case of commercial requesters):

Type	Grade	Hourly rate($)
Clerical	E9/GS8 and below	12
Professional	01-06/GS9-GS/GM15.	25
Executive	07/GS/GM16/ES1 and above.	45

(e) *Audiovisual documentary materials.* Search costs are computed as for any other record. Duplication cost is the actual direct cost of reproducing the material, including the wage of the person doing the work. Audiovisual materials provided to a requester need not be in reproducible format or quality.

(f) *Other records.* Direct search and duplication cost for any record not described above shall be computed in the manner described for audiovisual documentary material.

(g) *Costs for special services.* Complying with requests for special services is at the discretion of the Components. Neither the FOIA, nor its fee structure cover these kinds of services. Therefore, Components may recover the costs of special services requested by the requester after agreement has been obtained in writing from the requester to pay for one or more of the following services:

(1) Certifying that records are true copies.

(2) Sending records by special methods such as express mail, etc.

§ 286.37 Collection of fees and fee rates for technical data.

(a) *Fees for technical data.* (1) Technical data, other than technical data that discloses critical technology with military or space application, if required to be released under the FOIA, shall be released after the person requesting such technical data pays all reasonable costs attributed to search, duplication and review of the records to be released. Technical data, as used in this section, means recorded information, regardless of the form or method of the recording of a scientific or technical nature (including computer software documentation). This term does not include computer software, or data incidental to contract administration, such as financial and/or management information. DoD Components shall retain the amounts received by such a release, and it shall be merged with and available for the same purpose and the same time period as the appropriation from which the costs were incurred in complying with request. All reasonable costs as used in this sense are the full costs to the Federal Government of rendering the service, or fair market value of the service, whichever is higher. Fair market value shall be determined in accordance with commercial rates in the local geographical area. In the absence of a known market value, charges shall be based on recovery of full costs to the Federal Government. The full costs shall include all direct and indirect costs to conduct the search and to duplicate the records responsive to the request. This cost is to be differentiated from the direct costs allowable under § 286.35 for other types of information released under the FOIA.

(2) *Waiver.* Components shall waive the payment of costs required in § 286.37(a)(1), which are greater than the costs that would be required for release of this same information under § 286.35 if:

(i) The request is made by a citizen of the United States or a United States corporation, and such citizen or corporation certifies that the technical data requested is required to enable it to submit an offer, or determine whether it is capable of submitting an offer to provide the product to which the technical data relates to the United States or a contractor with the United States. However, Components may require the citizen or corporation to pay a deposit in an amount equal to not more than the cost of complying with the request, which will be refunded upon submission of an offer by the citizen or corporation;

(ii) The release of technical data is requested in order to comply with the terms of an international agreement; or,

(iii) The Component determines in accordance with § 286.37(d)(1), that such a waiver is in the interest of the United States.

(3) *Fee rates*—(i) *Search time*—(A) *Manual search.*

Type	Grade	Hourly rate ($)
Clerical	E9/GS8 and below	13.25
(Minimum Charge)		8.30

Professional and Executive (To be established at actual hourly rate prior to search. A minimum charge will be established at ½ hourly rates)

(B) Computer search is based on the total cost of the central processing unit, input-output devices, and memory capacity of the actual computer configuration. The wage (based upon the scale in paragraph (a)(3)(i) of this section) for the computer operator and/or programmer determining how to conduct, and subsequently executing the search will be recorded as part of the computer search:

(ii) *Duplication.*

Type	Cost ($)
Aerial photographs, specifications, permits, charts, blueprints, and other technical documents	2.50
Engineering data (microfilm):	
Aperture cards:	
Silver duplicate negative, per card	.75
When key punched and verified, per card	.85
Diazo duplicate negative, per card	.85
When key punched and verified, per card	.75
32mm roll film, per frame	.50
16mm roll film, per frame	.45
Paper prints (engineering drawings), each	1.50
Paper reprints of microfilm indices, each	.10

(iii) *Review time.*

Type	Grade	Hourly rate ($)
Clerical	E9/GS8 and below	13.25
(Minimum Charge)		8.30

Professional and Executive (To be established at actual hourly rate prior to review. A minimum charge will be established at ½ hourly rates).

(4) *Other technical data records.* Charges for any additional services not specifically provided in § 286.37(a)(3), consistent with DoD Instruction 7230.7 [9], shall be made by Components at the following rates:

(i) Minimum charge for office copy (up to six images) $3.50
(ii) Each additional image ..... .10
(iii) Each typewritten page 3.50
(iv) Certification and validation with seal, each 5.20
(v) Hand-drawn plots and sketches, each hour or fraction thereof 12.00

[9] See footnote 1 to § 286.1

Subpart G—Reports

§ 286.39 Reports control.

The reporting requirement outlined in this Subpart is assigned Report Control Symbol DD–PA(A)1365.

§ 286.41 Annual report.

(a) *Reporting time.* Each DoD component shall prepare statistics and accumulate paperwork for the preceding calendar year on those items prescribed for the annual report and submit them in duplicate to the ASD(PA) on or before each February 1. Existing DoD standards and registered date elements are to be used for all data requirements to the greatest extent possible in accordance with the provisions of DoD Directive 5000.11 [10]. The standard data elements are contained in DoD Directive 5000.12–M [11].

(b) *Annual report content.* The following instructions and attached format shall be used in preparing the annual report:

(1) *Item 1.*—(i) *Total requests.* Enter the total number of FOIA requests responded to during the calendar year.

(ii) *Granted in full.* Enter the total number of FOIA requests responded to and granted in full during the calendar year. (This may include requests granted by your office, yet still requiring action by another office.)

(iii) *Denied in part.* Enter the total number of FOIA requests responded to and denied in part based on one or more of the nine FOIA exemptions. (Do not report denial of fee waivers.)

(iv) *Denied in full.* Enter the total number of FOIA requests responded to and denied in full based on one or more of the nine FOIA exemptions. (Do not report denial of fee waivers.)

(v) *"Other Reason" responses.* Enter the total number of FOIA requests in which you were unable to provide all or part of the requested information based on an "Other Reason" response. Paragraph (b)(2) of this section explains the six possible "Other Reasons".

(vi) *Total actions.* Enter the total number of FOIA actions taken during the calendar year. This number will be the sum of paragraphs (b)(1)(i) through (v) of this section.

(2) *Item 2*—(i) *Exemptions invoked on initial determinations.* Enter the number of times an exemption was claimed for each request that was denied in full or in part. Since more than one exemption may be claimed when responding to a single request, this number will be equal to or greater than the sum of paragraph (b)(1) (iii) and (iv) of this section.

[10] See footnote 1 to § 286.1
[11] See footnote 1 to § 286.1

(ii) *"(b)(3)" statutes invoked on initial determinations.* Identify the statutes cited and number of times invoked when you claimed an FOIA (b)(3) exemption. The total number of instances will be equal to the total in paragraph (b)(2)(i) of this section. Cite the specific sections when invoking the Atomic Energy Act of 1954 or the National Security Act of 1947. To qualify as an FOIA (b)(3) exemption, the statute must contain clear wording that the information covered will not be disclosed. The following examples are not FOIA (b)(3) statutes:

(A) 5 U.S.C. 552a—Privacy Act
(B) 17 U.S.C. 101 et. seq.—Copyright Act
(C) 18 U.S.C. 793—Gathering, Transmitting or Losing Defense Information
(D) 18 U.S.C. 794—Gathering or Delivering Defense Information to Aid Foreign Governments
(E) 18 U.S.C. 1905—Trade Secrets Act
(F) 28 U.S.C. 1498—Patent and Copyright Cases

(iii) *"Other reasons" cited on initial determinations.* Identify the "Other Reason" response cited when responding to a FOIA request and enter the number of times each was claimed.

(A) *Transferred request.* Enter the number of times a request was transferred to another DoD component or Federal Agency for action.

(B) *Lack of records.* Enter the number of times a search of files failed to identify records responsive to subject request and there was no statutory obligation to create a record.

(C) *Failure of requester to reasonbly describe record.* Enter the number of times a FOIA request could not be acted upon since the requester failed to reasonably describe the record(s) being sought.

(D) *Other failures by requester to comply with published rules and/or directives.* Enter the number of times a requester failed to follow published rules concerning time, place, fees, and procedures.

(E) *Request withdrawn by requester.* Enter the number of times a requester withdrew a request and/or appeal.

(F) *Not an agency record.* Enter the number of times a requester was provided a response indicating the requested information was not an agency record.

(G) *Total.* Enter the sum of paragraphs (b)(2) (i) through (iii) of this section. This number will be equal to or greater than the number in paragraph (b)(1)(v) of this section, since more than one reason may be claimed for each "other Reason" response.

(3) *Item 3—Initial denial authorities by participation.* Enter the name, title,

and activity of each individual who signed a partial or total denial response and give the number of instances of participation. The total number of instances will equal the sum of paragraphs (b)(1) (iii) and (iv) of this section. For military show the rank (abbreviated) with the name; for civilians use Mr., Mrs., Ms., Hon, etc. Show the individual's full title and complete organization (do not use acronyms or abbreviations, other than US). See example shown.

BG John C. Smith, Director, Personnel and Administration, US European Command

(4) *Item 4.*

(i) *Total requests.* Enter the total number of FOIA appeals responded to during the calendar year.

(ii) *Granted in full.* Enter the total number of FOIA appeals responded to and granted in full during the year.

(iii) *Denied in part.* Enter the total number of FOIA appeals responded to and denied in part based on one or more of the nine FOIA exemptions.

(iv) *Denied in full.* Enter the total number of FOIA appeals responded to and denied in full based on one or more of the nine FOIA exemptions.

(v) *"Other Reason" responses.* Enter the total number of FOIA appeals in which you were unable to provide the requested information based on an "Other Reason" response. Paragraph (b)(2)(iii) of this section explains the six possible "Other Reasons".

(vi) *Total actions.* Enter the total number of FOIA appeal actions taken during the calendar year. This number will be the sum of paragraphs (b)(4)(ii) through (v) of this section.

(5) *Item 5.*—(i) *Exemptions invoked on appeal determinations.* Enter the number of times an exemption was claimed for each appeal that was denied in full or in part. Since more than one exemption may be claimed when responding to a single request, this number will be equal to or greater than the sum of paragraphs (b)(4)(iii) and (iv) of this section.

(ii) *"(b)(3)" statues invoked on appeal determinations.* Identify the statutes cited and number of times invoked when you claimed an FOIA (b)(3) exemption. The total number of instances will be equal to the total in paragraph (b)(5)(i) of this section. Cite the specific sections when invoking the Atomic Energy Act of 1954 or the National Security Act of 1947. To qualify as an FOIA (b)(3) exemption, the statute must contain clear wording that the information covered will not be disclosed. Examples which are not FOIA (b)(3) statutes are listed in paragraph (b)(2)(ii) of this section.

(iii) *"Other Reasons" cited on appeal determinations.* Identify the "Other Reason" response cited when responding to a FOIA appeal and enter the number of times each was claimed. See paragraph (b)(2)(iii) of this section for description of "Other Reasons".

(6) *Item 6—Appeal denial authorities by participation.* Enter the name, title, and activity of each individual who signed a partial or total appeal denial response and give the number of instances of participation. The total number of instances will equal the sum of paragraphs (b)(4)(iii) and (iv) of this section. For military show the rank (abbreviated) with the name; for civilians use Mr., Mrs., Ms., Hon, etc. Show the full title and complete organization (do not use acronyms or abbreviations, other than US). See paragraph (b)(3)(i) of this section for example shown.

(7) *Item 7—Court opinions and actions taken.* Briefly describe the results of each suit the Judge Advocate General and/or the General Counsel participated in during the calendar year. See example in paragraph (b)(7)(i) of this section. *Armed Forces Relief and Benefit Association v. Department of Defense, Department of the Army, Department of the Air Force and Department of the Navy*, C.A. 89–0969, U.S.D.C. D.C., March 15, 1989. Plaintiff filed suit for defendent's refusal to release servicemen's name and duty addresses. Information was held pursuant to 5 USC 552(b)(2) and (b)(6). Plaintiff voluntarily dismissed suit June 19, 1989.

(8) *Item 8—FOIA implementation rules or regulations.* List all changes or revisions of FOIA rules or regulations affecting the implementation of the FOIA program, followed by the Federal Register reference (volume number, date, and page) that announces the change or revision to the public. Append a copy of each. See example shown.

DoD 5400.7–R "DoD Freedom of Information Act Program"—32 CFR Part 286, Vol 54, No. 155, pg 33180, 14 Aug 89.

(9) *Item 9—Fees collected from the public.* Enter the total amount of fees collected from the public during the calendar year. This includes search, review and reproduction costs only.

(10) *Item 10.*—(i) *Availability of records.* Report all new categories or segregable portions of records now being released upon request. (Since this item is very seldom used, it does not appear on the form. Report any such records on a separate sheet of paper.)

(ii) *FOI program costs.*—(A) *Personnel costs.* Paragraphs (b)(10)(ii)(A)(*1*) and (*2*) of this section are used to capture manyears and salary costs of personnel primarily involved in planning, program management and/or administrative handling of FOIA requests. Determine salaries for military personnel by using the Composite Standard Pay Rates (DoD 7220.9–M [12], "Department of Defense Accounting Manual"). For civilian personnel use Office of Personnel Management salary table and add 16 percent for benefits. A sample computation is shown in the following table.

Grade	Number of personnel	Salary	Percentage of time	Cost
0–5	1	$68,465	10	$6,846
0–1	1	37,219	30	11,165
GS–12	1	41,557	50	20,779
Total			90	40,790

(*1*) *Estimated manyears.* Add the total percentages of time for personnel involved in administering the FOI program and divide by 100. In the example shown previously (10+30+50)/100=.9 manyears.

(*2*) *Manyear costs.* Total costs associated with salaries of individuals involved in administering FOIA program. In the example shown previously, the total cost is $40,790.

(*3*) *Estimated manhour costs by category.* This section accounts for all other personnel not reported in paragraphs (b)(10)(ii) (*1*) and (*2*) of this section who are involved in processing FOIA requests. Enter the total hourly cost for each of the five areas described in the following:

(*i*) *Search time.* This includes only those direct costs associated with time spent looking for material that is responsive to a request, including line-by-line identificaton of material within a document to determine if it is responsive to the request. Searches may be done manually or by computer using existing programming.

(*ii*) *Review and excising.* This includes all direct costs incurred during the process of examining documents located in response to a request to determine whether any portion of any document located is permitted to be withheld. It also includes excising documents to prepare them for release. It does not include time spent resolving general legal or policy issues regarding the application of exemptions.

[12] See footnote 1 § 286.1

(iii) *Coordination and approval.* This includes all costs involved in coordinating the release/denial of documents requested under the FOIA.

(iv) *Correspondence/form preparation.* This includes all costs involved in typing responses, filling out forms, etc., to respond to a FOIA request.

(v) *Other activities.* This includes all other processing costs not covered above, such as processing time by the mail room.

(vi) *Total.* Enter the sum of paragraphs (b)(10)(ii)(A)(3) (*i*) through (*v*) of this section.

(4) *Overhead.* This is the cost of supervision, space, and administrative support. It is computed as 25 percent of the sum of paragraph (b)(10) (ii) and (iii) of this section.

(5) *Total.* Enter the sum of paragraphs (b)(10) (ii), (iii) and (iv) of this section.

(B) *Other case-related costs.* Using the fee schedule, enter the total amounts incurred in each of the areas in the following.

(1) *Computer search time.* This includes cost of central processing unit, input/output devices, memory, etc. of the computer system used, as well as the wage of the machine's operator/programmer.

(2) *Office copy reproduction.* This is the cost of reproducing normal documents with office copying equipment.

(3) *Microfiche reproduction.* This is the cost of reproducing records and providing microfiche.

(4) *Printed records.* This is the cost of providing reproduced copies of forms, publications, or reports.

(5) *Computer copy.* This is the actual cost of duplicating magnetic tapes, floppy diskettes, computer printouts, etc.

(6) *Audiovisual materials.* This is the actual cost of duplicating audio or video tapes or like materials, to include the wage of the person doing the work.

(7) *Other.* Report all other costs which are easily identifiable, such as per diem, operation of courier vehicles, training courses, printing (indexes and forms), long distance telephone calls, special mail services, use of indicia, etc.

(8) *Subtotal.* Enter the sum of paragraphs (b)(10)(ii)(B) (*1*) through (*7*) of this section.

(9) *Overhead.* This is the cost of supervision, space, and administrative support. It is computed as 25 percent of (b)(10)(B)(*8*) of this section.

(10) *Total.* Enter the sum or paragraphs (b)(10)(ii)(b) (*8*) and (*9*) of this section.

(C) *Cost of routine requests processed.* This item is optional. Some reporting activities may find it economical to develop an average cost factor for processing repetitive routine requests rather than tracking costs on each request as it is processed. Care should be exercised so that costs are comprehensive to include a 25 percent overhead, yet are not duplicated elsewhere in the report. Multiply the number of routine requests processed times the cost factor to compute this amount.

(D) *Total costs.* Enter the sum of paragraphs (b)(10)(ii)(C) (*1*) through (*3*) of this section. *Formal time limit extensions.* Enter the total number of instances in which it was necessary to seek a formal 10-working-day time extension for one of the reasons explained below.

(*1*) *Locations.* The need to search for and collect the requested records from another activity that was separate from the office processing the request.

(*2*) *Volume.* The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records indicated in a single request.

(*3*) *Consultation.* The need for consultation with another agency having a substantial interest in the material requested.

(*4*) *Court involvement.* Where court actions were taken on the basis of exhaustion of administrative procedures because the department/activity was unable to comply with the request within the applicable time limits, and in which a court allowed additional time upon a showing of exceptinal circumstances, provide a copy of each court opinion and court order containing such an extension of time.

(*5*) *Total.* Enter the sum of paragraphs (b)(10)(ii)(D) (*1*) through (*iv*) of this section.

Subpart H—Education and Training

§ 286.43 Responsibility and purpose.

(a) *Responsibility.* The Head of each DOD Component is responsible for the establishment of educational and training programs on the provisions and requirements of this part. The educational programs should be targeted toward all members of the DOD Component, developing a general understanding and appreciation of the DOD FOIA Program; whereas, the training programs should be focused toward those personnel who are involved in the day-to-day processing of FOI requests, and should provide a thorough understanding of the procedures outlined in this part.

(b) *Purpose.* The purpose of the educational and training programs is to promote a positive attitude among DOD personnel and raise the level of understanding and appreciation of the DOD FOIA Program, thereby improving the interaction with members of the public and improving the public trust in the Department of Defense.

(c) *Scope and principles.* Each Component shall design its FOIA educational and training programs to fit the particular requirements of personnel dependent upon their degree of involvement in the implementation of this part. The program should be designed to accomplish the following objectives:

(1) Familiarize personnel with the requirements of the FOIA and its implementation by this part.

(2) Instruct personnel, who act in FOI matters, concerning the provisions of this part, advising them of the legal hazards involved and the strict prohibition against arbitrary and capricious withholding of information.

(3) Provide for the procedural and legal guidance and instruction, as may be required, in the discharge of the responsibilities of initial denial and appellate authorities.

(4) Advise personnel of the penalties for noncompliance with the FOIA.

(d) *Implementation.* To ensure uniformity of interpretation, all major educational and training programs concerning the implementation of this Regulation should be coordinated with the Director, Freedom of Information and Security Review, OASD(PA).

(e) *Uniformity of legal interpretation.* In accordance with DOD Directive 5400.7, the General Counsel of the Department of Defense shall ensure uniformity in the legal position and interpretation of the DOD FOIA Program.

Appendix A to Part 286—Unified Commands—Processing Procedures for FOIA Appeals

1. General.

a. In accordance with DOD Directive 5400.7 and this part, the Unified Commands are placed under the jurisdiction of the Office of the Secretary of Defense, instead of the administering Military Department, only for the purpose of administering the Freedom of Information Act (FOIA) Program. This policy represents an exception to the policies in DOD Directive 5100.3.

b. The policy change above authorizes and requires the Unified Commands to process FOIA requests in accordance with DOD Directive 5400.7 and DOD Instruction 5400.10 [1] and to forward directly to the

[1] Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

BEST COPY AVAILABLE

OASD(PA) all correspondence associated with the appeal of an initial denial for information under the provisions of the FOIA.

2. Responsibilities of Commands. Unified Commanders in Chief shall:

a. Designate the officials authorized to deny initial FOI requests for records.

b. Designate an office as the point-of-contact for FOI matters.

c. Refer FOIA cases to the OASD(PA)for review and evaluation when the issues raised are of unusual significance, precedent setting, or otherwise require special attention or guidance.

d. Consult with other OSD and DOD Components that may have a significant interest in the requested record prior to a final determination. Coordination with agencies outside of the Department of Defense, if required, is authorized.

e. Coordinate proposed denials of records with the appropriate Unified Command's Office of the Staff Judge Advocate.

f. Answer any request for a record within 10 working days of receipt. The requester shall be notified that his request has been granted or denied. In unusual circumstances, such notification may state that additional time, not to exceed 10 working days, is required to make a determination.

g. Provide to the OASD(PA) when the request for a record is denied in whole or in part, a copy of the response to the requester of his representative, and any internal memoranda that provide background information or rationale for the denial.

h. State in the response that the decision to deny the release of the requested information, in whole or in part, may be appealed to the Assistant Secretary of Defense (Public Affairs), the Pentagon, Washington, DC 20301–1400.

i. Upon request, submit to OASD(PA) a copy of the records that were denied. ASD(PA) shall make such requests when adjudicating appeals.

3. Fees for FOI Requests. The fees charged for requested records shall be in accordance with subpart F of this part.

4. Communications. Excellent communication capabilities currently exist between the OASD(PA) and the Public Affairs Offices of the Unified Commands. This communication capability shall be used for FOI cases that are time sensitive.

5. Reporting Requirements.

a. The Unified Commands shall submit to the OASD(PA) an annual report. The instructions for the report are outlined in subpart F of this part.

b. The annual report shall be submitted in duplicate to the OASD(PA) not later than each February 1. This reporting requirement is assigned Report Control Symbol DD–PA(A) 1365.

Appendix B to Part 286—Addressing FOIA Requests

1. General.

a. The Department of Defense includes the Office of the Secretary of Defense and the Joint Staff, the Military Departments, the Unified Commands, the Defense Agencies, and the DoD Field Activities.

b. The Department does not have a central repository for DoD records. FOIA requests, therefore, should be addressed to the DoD Component that has custody of the record desired. In answering inquiries regarding FOIA requests, DoD personnel shall assist requesters in determining the correct DoD Component to address their requests. If there is uncertainty as to the ownership of the record desired, the requester shall be referred to the DoD Component that is most likely to have the record.

2. Listing of DoD Component Addresses for FOI Requests.

a. Office of the Secretary of Defense and the Joint Staff. Send all requests for records from the below listed offices to: Office of the Assistant Secretary of Defense (Public Affairs), ATTN: Directorate for Freedon of Information and Security Review, room 2C757, The Pentagon, Washington, DC 20301–1400. Executive Secretariat
Under Secretary of Defense (Policy)
Assistant Secretary of Defense (International Security Affairs)
Assistant Secretary of Defense (International Security Policy)
Assistant Secretary of Defense (Special Operations/Low Intensity Conflict)
Principal Deputy Under Secretary of Defense (Strategy and Resources)
Deputy Under Secretary of Defense (Trade Security Policy)
Deputy Under Secretary of Defense (Security Policy)
Director of Net Assessment
Director, Defense Security Assistance Agency
Defense Technology Security Administration
Under Secretary of Defense (Acquisition)
Assistant Secretary of Defense (Production & Logistics
Assistant Secretary of Defense for Command, Control, Communications, and Intelligence
Assistant to the Secretary of Defense (Atomic Energy)
Director of Defense Research and Engineering
Director of Small and Disadvantaged Business Utilization
Comptroller of the Department of Defense
Assistant Secretary of Defense (Force Management & Personnel)
Assistant Secretary of Defense (Health Affairs)
Assistant Secretary of Defense (Legislative Affairs)
Assistant Secretary of Defense (Public Affairs)
Assistant Secretary of Defense (Program Analysis and Evaluation)
Assistant Secretary of Defense (Reserve Affairs)
General Counsel, Department of Defense
Director, Operational Test and Evaluation
Assistant to the Secretary of Defense (Intelligence Oversight)
Assistant to the Secretary of Defense (Intelligence Policy)
Defense Advanced Research Projects Agency
Strategic Defense Initiative Organization
Defense Systems Management College
National Defense University
Armed Forces Staff College
Department of Defense Dependents Schools Uniformed Services University of the Health Sciences

b. Department of the Army. Army records may be requested from those Army officials who are listed in 32 CFR part 518, appendix B. Send requests to the Chief, Freedon of Information and Privacy Acts Division, Information System Command, ATTN: ASQNS–OP F, room 1146, Hoffman I, 2461 Eisenhower Avenue, Alexandria, VA 22331–0301 for records of Headquarters, U.S. Army, or if there is uncertainty as to which Army activity may have the records.

c. Department of the Navy. Navy and Marine Corps records may be requested from any Navy or Marine Corps activity by addressing a letter to the Commanding Officer and clearly indicating that it is an FOI request. Send request to Chief of Naval Operations, Code OP–09B30, room 5E521, Pentagon, Washington, DC 20350–2000, for records of the Headquarters, Department of the Navy, and to Freedom of Information and Privacy Act Office, Code MI–3, HQMC, room 4327, Washington, DC 10308–0001, for records of the U.S. Marine Corps, or if there is uncertainty as to which Navy or Marine activities may have the records.

d. Department of the Air Force. Air Force records may be requested from the Commander of any any Air Force installation, major command, or separate operating agency (ATTN: FOIA Office). For Air Force records of Headquarters, United States Air Force, or if there is uncertainty as to which Air Force activity may have the records, send requests to Secretary of the Air Force, ATTN: SAF/AAIS(FOIA), Pentagon, Room 4A1088C Washington, DC 20330–1000.

e. Defense Contract Audit Agency (DCAA). DCAA records may be requested from any of its regional offices or from its Headquarters. Requesters should send FOI requests to the Defense Contract Audit Agency, ATTN: CMR, Cameron Station, Alexandria, VA 22304–6178, for records of its headquarters or if there is uncertainty as to which DCAA region may have the records sought.

f. Defense Communications Agency (DCA). DCA records may be requested from any DCA field activity or from its Headquarters. Requesters should send FOI requests to Defense Communications Agency, Code ADR, Washington, DC 20305–2000.

g. Defense Intelligence Agency (DIA). FOI requests for DIA records may be addressed to Defense Intelligence Agency, ATTN: RTS–1, Washington, DC 20340–3299.

h. Defense Investigation Service (DIS). All FOI requests for DIS records

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should be sent to the Defense Investigative Service, ATTN: V0020, 1900 Half St., SW, Washington, DC 20324–1700.

(i) Defense Logistics Agency (DLA). DLA records may be requested from its headquarters or from any of its field activities. Requesters should send FOI requests to Defense Logistics Agency, ATTN: DLA–XAM, Cameron Station, Alexandria, VA 22304–6100.

j. Defense Mapping Agency (DMA). FOI requests for DMA records may be sent to the Defense Mapping Agency, 8613 Lee Highway, Fairfax, VA 22031–2137.

k. Defense Nuclear Agency (DNA). FOI requests for DNA records may be sent to the Defense Nuclear Agency, Public Affairs Office, room 113, 6801 Telegraph Road, Alexandria, VA 22310–3398.

l. National Security Agency (NSA). FOI requests for NSA records may be sent to the National Security Agency/Central Security Service, ATTN: Q–43, Fort George G. Meade, MD 20755–6000.

m. Office of the Inspector General, Department of Defense (OIG, DoD). FOI requests for IG, DoD records may be sent to the Department of Defense Office of the Inspector General, Assistant Inspector General for Investigations, ATTN: Deputy Director FOIA/PA Division, 400 Army Navy Drive, Arlington, VA 22202–2884.

3. Other Addresses. Although the below organizations are OSD and Joint Staff Components for the purposes of the FOIA, requests may be sent directly to the addresses indicated.

a. Office of Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS). Director, OCHAMPUS, ATTN: Freedom of Information Officer, Aurora, CO 80045–6900.

b. Chairman, Armed Services Board of Contract Appeals (ASBCA). Chairman, Armed Services Board of Contract Appeals, Skyline Six, 5109 Leesburg Pike, Falls Church, VA 22041–5203.

c. U.S. Central Command. U.S. Central Command/CCJ1/AG, MacDill Air Force Base, FL 33608–7001.

d. U.S. European Command. Headquarters, U.S. European Command/ECJ1–AR(FOIA), APO New York 09128–4209.

e. U.S. Southern Command. U.S. Commander-in-Chief, Southern Command/SCSJA, APO Miami 34003–0007.

f. U.S. Pacific Command. U.S. Commander-in-Chief, Pacific Command, USPACOM FOIA Coordinator (J18A), Administrative Support Division, Joint Secretariat, Box 28, Camp H. M. Smith, HI 96861–5025.

g. U.S. Special Operation Command. U.S. Special Operations Command, ATTN: Freedom of Information Officer, ATTN: SOJ1–AG, MacDill Air Force Base, FL 33608.

h. U.S. Atlantic Command. Commander-in-Chief, Atlantic Command, Code J02P, Norfolk, VA 23511–5100.

i. U.S. Space Command. Chief, Records Management Division, Directorate of Administration, United States Space Command, Peterson Air Force Base, CO 80914–5001.

4. National Guard Bureau. FOI requests for National Guard Bureau records may be sent to the Chief, National Guard Bureau, (NGB–DAI), Pentagon, room 2C362, Washington, DC 20310–2500.

5. Miscellaneous. If there is uncertainty as to which DoD Component may have the DoD record sought, the requester may address a Freedom of Information request to the Office of the Assistant Secretary of Defense (Public Affairs), ATTN: Directorate for Freedom of Information and Security Review, room 2C757, The Pentagon, Washington, DC 20301–1400.

Appendix C to Part 286—Litigation Status Sheet

1. Case Number: [1]

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[1] Number used by Component for reference purposes

2. Requester
3. Document Title or Description
4. Litigation
a. Date Complaint Filed
b. Court
c. Case File Number [1]
5. Defendants (agency and individual)
6. Remarks: (brief explanation of what the case is about)
7. Court Action
a. Court's Finding
b. Disciplinary Action (as appropriate)
8. Appeal (as appropriate)
a. Date Complaint Filed
b. Court
c. Case File Number [1]
d. Court's Finding
e. Disciplinary Action (as appropriate)

Appendix D to Part 286—Other Reason Categories

1. *Transferred Requests.* This category applies when responsibility for making a determination or a decision on categories 2, 3, or 4 below is shifted from one Component to another, or to another Federal Agency.

2. *Lack of Records.* This category covers those situations wherein the requester is advised the DoD Component has no record or has no statutory obligation to create a record.

3. *Failure of Requester to Reasonably Described Record.* This category is specifically based on Section 552(a)(3)(a) of the FOIA.

4. *Other Failures by Requesters to Comply with Published Rules or Directives.* This category is based on section 552(a)(3)(b) of the FOIA and includes instances of failure to follow published rules concerning time, place, fees, and procedures.

5. Request Withdrawn by Requester. This category covers those situations wherein the requester asks an agency to disregard the request (or appeal) or pursues the request outside FOIA channels.

6. *Not an Agency Record.* This category covers situations where the information requested is not an agency record within the meaning of the FOIA and this part.

Appendix E to Part 286—Record of Freedom of Information (FOI) Processing Cost (DD Form 2086)

BILLING CODE 3810–01–M

RECORD OF FREEDOM OF INFORMATION (FOI) PROCESSING COST

Please read instructions on reverse before completing form.

1. REQUEST NUMBER	2. TYPE OF REQUEST (X one)		3. DATE COMPLETED (YYMMDD)
	a. INITIAL	b. APPEAL	

	TOTAL HOURS (1)	HOURLY RATE (2)		COST (3)
4. CLERICAL HOURS (E-5/GS-8 and below)				
a. SEARCH		X $12.00	=	
b. REVIEW / EXCISING			=	
c. CORRESPONDENCE AND FORMS PREPARATION				
d. OTHER ACTIVITY				
5. PROFESSIONAL HOURS (O-1 - O-6/GS-9 - GS/GM-15)	TOTAL HOURS (1)	HOURLY RATE (2)		COST (3)
a. SEARCH				
b. REVIEW / EXCISING		X $25.00	=	
c. COORDINATION / APPROVAL / DENIAL			=	
d. OTHER ACTIVITY				
6. EXECUTIVE HOURS (O-7/GS/GM-16/ES 1 and above)	TOTAL HOURS (1)	HOURLY RATE (2)		COST (3)
a. SEARCH				
b. REVIEW / EXCISING		X $45.00	=	
c. COORDINATION - APPROVAL DENIAL			=	
7. COMPUTER SEARCH	TOTAL HOURS (1)	HOURLY RATE (2)		COST (3)
a. MACHINE HOURS				
b. PROGRAMMER / OPERATOR TIME		X	=	
(1) Clerical		$12.00		
(2) Professional		$25.00		
8. OFFICE COPY REPRODUCTION	NUMBER (1)	RATE (2)		COST (3)
a. PAGES REPRODUCED		X .15	=	
9. MICROFICHE REPRODUCTION	NUMBER (1)	RATE (2)		COST (3)
a. MICROFICHE REPRODUCED		X .25	=	
10. PRINTED RECORDS	TOTAL PAGES (1)	RATE (2)		COST (3)
a. FORMS				
b. PUBLICATIONS		X .02	=	
c. REPORTS			=	
11. COMPUTER COPY	NUMBER (1)	ACTUAL COST (2)		COST (3)
a. TAPE				
b. PRINTOUT		X	=	
12. AUDIOVISUAL MATERIALS	NUMBER (1)	ACTUAL COST (2)		COST (3)
a. MATERIALS REPRODUCED		X	=	

13. For FOI Office Use Only

a. SEARCH FEES PAID		f. TOTAL COLLECTABLE COSTS	
b. REVIEW FEES PAID		g. TOTAL PROCESSING COSTS	
c. COPY FEES PAID		h. TOTAL CHARGED	
d. TOTAL PAID		i. FEES WAIVED/REDUCED (X one)	Yes / No
e. DATE PAID (YYMMDD)			

* Chargeable to all requesters after application of all waiver criteria.

** Chargeable only to commercial requesters.

DD Form 2086, JUN 88 — Previous editions are obsolete. — 1015/198

BILLING CODE 3810-01-C

INSTRUCTIONS FOR COMPLETING DD FORM 2086

This form is used to record costs associated with the processing of a Freedom of Information request.

1. REQUEST NUMBER—First two digits will express Calendar Year followed by dash (—) and Component's request number, i.e. 87–001.

2. TYPE OF REQUEST—Mark the appropriate block to indicate initial request or appeal of a denial

3. DATE COMPLETED—Enter year, month and day. i.e., 870621.

4. CLERICAL HOURS—For each applicable activity category, enter time expended to the nearest 15 minutes in the total hours column. The activity categories are:

Search—Time spent in locating from the files the requested information.

Review/Excising—Time spend reviewing the document content and determining if the entire entire document must retain its classification or segments could be excised thereby permitting the remainder of the document to be declassified. In reviews for other than classification, FOI exemptions 2 through 9 should be considered.

Correspondence and Forms Preparation—Time spent in preparing the necessary correspondence and forms to answer the request.

Other Activity—Time spent in activity other than above, such as, duplicating documents, hand carrying documents to other locations, restoring files, etc.

—Multiply the time in the total hours column of each category by the hourly rate and enter the cost figures for each category.

5. PROFESSIONAL HOURS—For each applicable activity category, enter time expended to the nearest 15 minutes in the total hours column. The activity categories are:

Search/Review/Excising, and Other Activity—See explanation above.

Coordination/Approval/Denial—Time spent coordinating the staff action with interested offices or agencies and obtaining the approval for the release or denial of the requested information.

—Multiply the time in the total hours column of each category by the hourly rate and enter the cost figures for each category.

6. EXECUTIVE HOURS—For each applicable activity category, enter the time expended to the nearest 15 minutes in the total hours column. The activity categories are:

Search/Review/Excising—See explanation above.

Coordination/Approval/Denial—See explanation above.

—Multiply the time in the total hours column in each category by the hourly rate and enter the cost figures for each category.

7. COMPUTER SEARCH—Enter exact computer processing value in the total hours column. The salary scale (equating to items 4 and/or 5) for the programmer/operator executing the search will be recorded as part of the computer search cost, and entered in the appropriate block.

—Multiply the total hours by the hourly rates and enter the cost figures. Computer search will be based on direct cost of the Central Processing Unit, input/output devices, and memory capacity of the actual computer configuration used.

8. OFFICE COPY REPRODUCTION—Enter the number of pages reproduced.

—Multiply by the rate per copy and enter cost figures.

9. MICROFICHE REPRODUCTION—Enter the number of microfiche copies reproduced.

—Multiply by the rate per copy and enter cost figures.

10. PRINTED RECORDS—Enter total pages in each category. The categories are:

Forms (include any type of printed forms)

Publications (Include any type of bound document, such as directives, regulations, studies, etc.)

Reports (Include any type of memorandum, staff action paper, etc.)

—Multiply the total number of pages in each category by the rate per page and enter cost figures.

11. COMPUTER COPY—Enter the total number of tapes and/or printouts.

—Multiply by the actual cost per tape or printout and enter cost figures.

12. AUDIOVISUAL MATERIALS—Duplication cost is the actual cost of reproducing the material including the wage of the person doing the work.

13. FOR FOI OFFICE USE ONLY—

Search fees paid—Enter total search fees paid by the requester.

Review Fees Paid—Enter total review fees paid by the requester.

Copy Fees Paid—Enter the total of copy fees paid by the requester.

Total Paid—Add search fees paid and copy fees paid. Enter total in the total paid block.

Date Paid—Enter year, month and day, i.e., 871024, the fee payment was received.

Total Collectable Costs—Add the blocks in the cost column marked with an asterisk and enter total in the total collectable cost block. Apply the appropriate waiver for the category of requester prior to inserting the final figure. Further discussion of chargeable fees is contained in Chapter VI of DoD Regualtion 5400.7–R.

Total Processing Costs—Add all blocks in the cost column and enter total in the total prcessing cost block. The total processing cost in most cases will exceed the total collectable cost.

Total Charged—Enter the total amount that the requester was charged. taking into account the fee waiver threshold and fee waiver policy.

Fees Waived/Reduced—Indicate if the cost of processing the request was waived or reduced by placing an "X" in the "Yes" block or an "X" in the "No" block.

Appendix F to Part 286—Record of Freedom of Information (FOI) Processing Cost for Technical Data (DD Form 2086–1)

BILLING CODE 3810-01-M

RECORD OF FREEDOM OF INFORMATION (FOI) PROCESSING COST FOR TECHNICAL DATA

Please read instructions on reverse before completing form.

1. REQUEST NUMBER	2. TYPE OF REQUEST (X one) a. INITIAL / b. APPEAL	3. DATE COMPLETED (YYMMDD)			
4. CLERICAL HOURS (E-9/GS-8 and below)	TOTAL HOURS (1)	HOURLY RATE (2)			COST (3)
a. SEARCH		X	$ 13.25	=	
b. REVIEW / EXCISING		X	$ 13.25	=	
c. CORRESPONDENCE AND FORMS PREPARATION		X	$ 13.25	=	
d. OTHER ACTIVITY		X	$ 13.25	=	
e. MINIMUM CHARGE			$ 8.30		
5. PROFESSIONAL HOURS (O-1 / E-9/GS-9 / GS/GM-15)	TOTAL HOURS (1)	HOURLY RATE (2)			COST (3)
a. SEARCH		X	ACTUAL HOURLY RATE	=	
b. REVIEW / EXCISING		X	ACTUAL HOURLY RATE	=	
c. COORDINATION / APPROVAL / DENIAL		X	ACTUAL HOURLY RATE	=	
d. OTHER ACTIVITY		X	ACTUAL HOURLY RATE	=	
e. MINIMUM CHARGE			1/2 HOURLY RATE		
6. EXECUTIVE HOURS (O-7/GS/GM-15/ES I and above)	TOTAL HOURS (1)	HOURLY RATE (2)			COST (3)
a. SEARCH		X	ACTUAL HOURLY RATE	=	
b. REVIEW EXCISING		X	ACTUAL HOURLY RATE	=	
c. COORDINATION APPROVAL DENIAL		X	ACTUAL HOURLY RATE	=	
d. MINIMUM CHARGE			1/2 HOURLY RATE		
7. COMPUTER SEARCH	TOTAL HOURS (1)	HOURLY RATE (2)			COST (3)
a. MACHINE HOURS		X		=	
b. PROGRAMMER/ OPERATOR TIME					
- Clerical			$13.25 OR MINIMUM		
- Professional			ACTUAL OR MINIMUM		
8. REPRODUCTION	NUMBER (1)	RATE (2)			COST (3)
a. AERIAL PHOTOGRAPHS, SPECIFICATIONS, PERMITS, CHARTS, BLUEPRINTS, AND OTHER TECHNICAL DOCUMENTS			$ 2.50		
b. ENGINEERING DATA (Microfilm)					
- Aperture cards					
– Silver duplicate negative, per card		X	.75	=	
– When keypunched and verified, per card		X	.85	=	
– Diazo duplicate negative, per card		X	.65	=	
–* When keypunched and verified, per card		X	.75	=	
- 35 mm roll film, per frame		X	.50	=	
- 16 mm roll film, per frame		X	.45	=	
- Paper prints (*engineering drawings*), each		X	1.50	=	
- Paper reprints of microfilm indices, each		X	.10	=	
c. AUDIOVISUAL MATERIALS (*Insert actual cost in block (2)*)					
d. OTHER TECHNICAL DATA RECORDS Charges for any additional services not specifically provided above shall be made by components at the following rates:					
- Minimum charge for office copy (*up to six images*)			$ 3.50		
- Each additional image		X	.10	=	
- Each typewritten page		X	3.50	=	
- Certification and validation with seal, each		X	5.20	=	
- Hand-drawn plots and sketches, each hour or fraction thereof		X	12.00	=	

* Chargeable to all requesters.

9. For FOI Office Use Only

a. SEARCH FEES PAID		d. TOTAL PAID		g. TOTAL PROCESSING COSTS			
b. REVIEW FEES PAID		e. DATE PAID (YYMMDD)		h. TOTAL CHARGED			
c. COPY FEES PAID		f. TOTAL COLLECTABLE COSTS		i. FEES WAIVED / REDUCED (X one)		YES	NO

DD Form 2086-1, JUN 89 — 1BAA158

BILLING CODE 3910-01-C

INSTRUCTIONS FOR COMPLETING DD FORM 2086-1

This form is used to record costs associated with the processing of a Freedom of Information request for technical data.

1. REQUEST NUMBER—First two digits will express Calendar Year followed by dash (—) and Component's request number, i.e., 87-001.

2. TYPE OF REQUEST—Mark the appropriate block to indicate initial request or appeal of a denial.

3. DATE COMPLETED—Enter year, month and day, i.e., 870621.

4. CLERICAL HOURS—For each applicable activity category, enter time expended to the nearest 15 minutes in the total hours column. The activity categories are:

Search—Time spent in locating from the files the requested information.

Review/Excising—Time spent reviewing the document content and determining if the entire document must retain its classification or segments could be excised thereby permitting the remainder of the document to be declassified. In reviews for other than classification, FOI exemptions 2 through 9 should be considered.

Correspondence and Forms Preparation—Time spent in preparing the necessary correspondence and forms to answer the request.

Other Activity—Time spent in activity other than above, such as, duplicating documents, hand carrying documents to other locations, restoring files, etc.

—Multiply the time in the total hours column of each category by the hourly rate and enter the cost figures for each category. Both search and review costs are chargeable to the requester.

5. PROFESSIONAL HOURS—For each applicable activity category, enter time expended to the nearest 15 minutes in the total hours column. The activity categories are:

Search/Review/Excising, and Other Activity—See explanation above.

Coordination/Approval/Denial—Time spent coordinating the staff action with interested offices or agencies and obtaining the approval for the release or denial of the requested information.

—Multiply the time in the total hours column of each category by the hourly rate and enter the cost figures for each category. Both search and review costs are chargeable to the requester.

6. EXECUTIVE HOURS—For each applicable activity category, enter the time expended to the nearest 15 minutes in the total hours column. The activity categories are:

Search/Review/Excising—See explanation above.

Coordination/Approval/Denial—See explanation above.

—Multiply the time in the total hours column in each category by the hourly rate and enter the cost figures for each category. Review costs are chargeable to the requester.

7. COMPUTER SEARCH—Enter exact computer processing value in the total hours column. The salary scale (equating to items 4 and/or 5) for the programmer/operator executing the search will be recorded as part of the computer search cost, and entered in the appropriate block.

—Multiply the total hours by the computer hourly rates and enter the cost figures. Computer search will be based on direct cost only of the Central Processing Unit, input/output devices, and memory capacity of the actual computer configuration used. This amount is fully chargeable to the requester.

8. REPRODUCTION—Enter the number of pages or items reproduced.

—Multiply by the rate per copy and enter cost figures. The entire cost is chargeable to the requester. Reproduction cost for audiovisual material is the actual cost of reproducing the material, including the wage of the person doing the work.

9. FOR FOI OFFICE USE ONLY—

Search Fees paid—Enter total search fees paid by the requester.

Review Fees Paid—Enter total review fees paid by the requester.

Copy Fees Paid—Enter the total of copy fees paid by the requester.

Total Paid—Add search fees paid and copy fees paid. Enter total in the total paid block.

Date Paid—Enter year, month and day, i.e., 871024, the fee payment was received.

Total Collectable Costs—Add the blocks in the cost column marked with an asterisk and enter total in the total collectable cost block. Only search, reproduction and printed records are chargeable to the requester. Further discussion of collectable costs is contained in Chapter VI, Section 3, DoD Regulation 5400.7-R.

Total Processing Costs—Add all blocks in the cost column and enter total in the total processing cost block. The total processing cost in most cases will exceed the total collectable cost.

Total Charged—Enter the total amount that the requester was charged, taking into account the fee waiver threshold and fee waiver policy.

Fees Waived/Reduced—Indicate if the cost of processing the request was waived or reduced by placing an "X" in the "Yes" block or an "X" in the "No" block.

Appendix G to Part 286—Annual Report Freedom of Information Act (DD Form 2564)

BILLING CODE 3810-01-M

ANNUAL REPORT
FREEDOM OF INFORMATION ACT

REPORT CONTROL SYMBOL

1. INITIAL DETERMINATIONS

a. TOTAL REQUESTS	b. GRANTED IN FULL	c. DENIED IN PART	d. DENIED IN FULL	e. "OTHER REASONS"	f. TOTAL ACTIONS

2a. EXEMPTIONS INVOKED ON INITIAL DETERMINATIONS

(b) (1)	(b) (2)	(b) (3)	(b) (4)	(b) (5)	(b) (6)	(b) (7)	(b) (8)	(b) (9)	TOTAL

2b. (b)(3) STATUTES INVOKED ON INITIAL DETERMINATIONS (Continue on separate sheet if necessary)

(1) (b)(3) STATUTES CLAIMED	(2) NUMBER OF INSTANCES

2c. "OTHER REASONS" CITED ON INITIAL DETERMINATIONS

1	2	3	4	5	6	TOTAL

3. INITIAL DENIAL AUTHORITIES BY PARTICIPATION (Continue on separate sheet if necessary)

a. NAME (Last, First, Middle Initial)	b. RANK (If Military)	c. TITLE AND ORGANIZATION	d. NUMBER OF INSTANCES

4. APPEAL DETERMINATIONS

a. TOTAL REQUESTS	b. GRANTED IN FULL	c. DENIED IN PART	d. DENIED IN FULL	e. "OTHER REASONS"	f. TOTAL ACTIONS

5a. EXEMPTIONS INVOKED ON APPEAL DETERMINATIONS

(b) (1)	(b) (2)	(b) (3)	(b) (4)	(b) (5)	(b) (6)	(b) (7)	(b) (8)	(b) (9)	TOTAL

5b. (b)(3) STATUTES INVOKED ON APPEAL DETERMINATIONS (Continue on separate sheet if necessary)

(1) (b)(3) STATUTES CLAIMED	(2) NUMBER OF INSTANCES

5c. "OTHER REASONS" CITED ON APPEAL DETERMINATIONS

1	2	3	4	5	6	TOTAL

6. APPEAL DENIAL AUTHORITIES BY PARTICIPATION (Continue on separate sheet if necessary)

a. NAME (Last, First, Middle Initial)	b. RANK (If Military)	c. TITLE AND ORGANIZATION	d. NUMBER OF INSTANCES

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7. COURT OPINIONS AND ACTIONS TAKEN (Continue on separate sheet if necessary)	
8. FREEDOM OF INFORMATION ACT IMPLEMENTATION RULES OR REGULATIONS (Continue on separate sheet if necessary)	
9. FEES COLLECTED FROM THE PUBLIC	
TOTAL AMOUNT COLLECTED FROM PUBLIC	$
10a. AVAILABILITY OF RECORDS (Continue on separate sheet if necessary)	
10b. FOI PROGRAM COSTS	
PERSONNEL COSTS	
A ESTIMATED MANYEARS	
B MANYEAR COSTS	$
C ESTIMATED MANHOUR COSTS BY CATEGORY	
(1) Search Time	$
(2) Review and Editing	$
(3) Coordination and Approval	$
(4) Correspondence Form Preparation	$
(5) Other Activities	$
(6) Total ((1) through (5))	$
D OVERHEAD ((B + C) x 25%)	$
E TOTAL (B through D)	$
II OTHER CASE - RELATED COSTS	
A COMPUTER SEARCH TIME	$
B OFFICE COPY REPRODUCTION	$
C MICROFICHE REPRODUCTION	$
D PRINTED RECORDS	$
E COMPUTER COPY	$
F AUDIOVISUAL MATERIALS	$
G OTHER	$
SUBTOTAL (A through G)	$
OVERHEAD (25% x H)	$
TOTAL (H + I)	$
COST OF ROUTINE REQUESTS PROCESSED	$
V TOTAL COSTS (I through III)	$

10c. FORMAL TIME LIMIT EXTENSIONS

(1) LOCATION	(2) VOLUME	(3) CONSULTATION	(4) COURT	(5) TOTAL

DD Form 2564 Reverse, AUG 90

BILLING CODE 3910-01-C

Appendix H to Part 286—DoD Freedom of Information Act Program Components

Office of the Secretary of Defense/ Chairman, Joint Chiefs of Staff and Joint Staff/Unified Commands, Defense Agencies, and the DoD Field Activities

Department of the Army
Department of the Navy
Department of the Air Force
Defense Communications Agency
Defense Contract Audit Agency
Defense Intelligence Agency
Defense Investigative Service
Defense Logistics Agency
Defense Mapping Agency
Defense Nuclear Agency
National Security Agency
Office of the Inspector General, Department of Defense

Dated: October 22, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-25289 Filed 10-25-90; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Los Angeles/Long Beach Reg. 90-13]

Security Zone Regulations; Port Hueneme, CA

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a security zone in Port Hueneme, California, around any vessels moored at Port Hueneme wharfs 3, 4, 5, and 6 during the effective period of these regulations. The zone is needed to safeguard vessels involved in military equipment outloads at Port Hueneme wharfs 3, 4, 5, and 6 against destruction, loss, or injury from sabotage or other subversive acts, accidents, or causes of a similar nature. Entry into this zone is prohibited unless authorized by the captain of the port.

EFFECTIVE DATE: This regulation becomes effective at 1 a.m., October 16, 1990. It terminates at 12 midnight, December 31, 1990.

FOR FURTHER INFORMATION CONTACT: Lt. R.F. Shields at (213) 499-5570.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent destruction, loss, or injury to vessels involved in military equipment outloads at Port Hueneme wharfs 3, 4, 5, and 6.

Drafting Information

The drafters of this regulation are Lt. R.F. Shields, project officer for the captain of the port, and LCdr. J.J. Jaskot, project attorney, Eleventh Coast Guard District Legal Office.

Discussion of Regulation

The incident requiring this regulation will begin 1 a.m., on October 16, 1990. This security zone is necessary to ensure the security of vessels involved in military equipment outloads at Port Hueneme wharfs 3, 4, 5, and 6.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, subpart D of part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 33 CFR 160.5.

2. A new § 165.T1114 is added to read as follows:

§ 165.T1114 Security Zone: Vessels moored at wharfs 3, 4, 5, and 6, Port Hueneme, California.

(a) *Location.* The following area is a security zone: The waters of Port Hueneme within 100 yards of any vessels moored at Port Hueneme wharfs 3, 4, 5, and 6.

(b) *Effective date:* This regulation becomes effective at 1 a.m., October 16, 1990. It terminates at 12 midnight, December 31, 1990.

(c) *Regulations:* In accordance with the general regulations in section 165.33 of this part, entry into this zone is prohibited unless authorized by the captain of the port. Section 165.33 also contains other general requirements.

Dated: October 22, 1990.

J.B. Morris,

Captain, U.S. Coast Guard, Captain of the Port, Los Angeles/Long Beach.

[FR Doc. 90-25388 Filed 10-25-90; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[COTP Duluth, MN Regulation 90-01]

Safety Zone Regulations; Lake Superior—Talmadge, MN

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone around a number of sunken barrels in Lake Superior from the lake bottom up to 50 feet above the bottom. The zone is needed to protect the area from unauthorized entry and agitation. A potential safety hazard exists if anyone attempts to salvage or recover the barrels. All persons are prohibited from either entering this zone or placing any object in this zone unless authorized by the Captain of the Port.

EFFECTIVE DATE: This regulation becomes effective on 0001 hours 18 October 1990. It terminates at 2400 31 December 1990 unless sooner terminated by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: Lt. J.C. Hillerns, Marine Safety Office, Canal Park, Duluth, MN 55802 at (218) 720-5288.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to insure safety of life and property and to prevent possible disturbance of the site involved.

Drafting Information

The drafter of this regulation is Lt. J.C. Hillerns, Project Officer for the Captain of the Port.

Discussion of Regulation

The circumstances requiring this regulation result from the possible presence of hazardous materials contained in or around more than 1,400 steel barrels which were dumped under a federal government permit in Lake Superior from 1959 to 1961. The barrels reportedly contained inert scrap metal parts from classified bomb-making operations, and were weighted with concrete. Over the years, allegations have persisted which indicate that dangerous chemicals or radioactive materials are contained in the barrels. Although official records do not confirm this, the U.S. Army Corps of Engineers has undertaken the task of locating the

barrels, and recovering some for testing of the contents.

A preliminary search located a string of barrels in a 2,000 foot line approximately 2,300 yards offshore from Talmadge, MN at a depth of 170–200 feet. The District Engineer, St. Paul District, U.S. Army Corps of Engineers has requested that access to this area be restricted for safety reasons until the operation is completed. This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of part 165.

Federalism

This action has been analyzed in accordance with the principals and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of these regulations is expected to be so minimal that a full regulatory evaluation is unnecessary and the Coast Guard certifies that, if adopted, it will not have a significant impact on a substantial number of small entities. This section is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, subpart F of part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1 and 160.5.

2. A new § 165.T0924 is added to read as follows:

§ 165.T0924 Safety zone: Lake Superior—Talmadge, MN.

(a) *Location.* The following area is a Safety Zone: In the vicinity offshore from Talmadge, MN an area from the bottom of the lake up to 50 feet above the bottom, bounded by the following coordinates: (a) 91–54.9W, 46–52.9N; (b) 91–53.3W, 46–52.3N; (c) 91–55.7W, 46–51.0N; (d) 91–57.0W, 46–51.7N and back to the starting position.

(b) *Effective dates.* This regulation became effective at 0001 hours on October 18, 1990. It terminates at 2400 December 31, 1990, unless sooner terminated by the Captain of the Port.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part. All persons are prohibited from either entering this zone or placing any object in this zone unless authorized by the Captain of the Port.

(2) Persons desiring to enter the safety zone may do so only with prior approval of the Captain of the Port, Duluth, MN.

Dated: 17 October 1990.

C.A. Fust,

Commander, U.S. Coast Guard Captain of the Port, U.S. Coast Guard, Duluth, MN.

[FR Doc. 90-25369 Filed 10-25-90; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 3 and 4

RIN 2900-AE09

Claims Based on Service in Vietnam

AGENCY: Department of Veterans Affairs.

ACTION: Final regulations.

SUMMARY: The Department of Veterans Affairs (VA) is amending its adjudication regulations to establish criteria to be followed in considering claims for service connection for non-Hodgkin's lymphoma (NHL) by veterans who served in Vietnam during the Vietnam Era. VA has also amended the Schedule for Rating Disabilities to add a specific diagnostic code for NHL as well as evaluation criteria. These changes are necessary to implement a decision by the Secretary based on the results of a study of the association of selected cancers with service in the U.S. military in Vietnam by the Centers for Disease Control (CDC). The intended effect will be to establish a rule for making determinations regarding service connection for NHL for veterans with Vietnam service and specific criteria for rating NHL.

DATES: The amendment to part 3 is effective August 5, 1964. The amendment to part 4 is effective October 26, 1990.

FOR FURTHER INFORMATION CONTACT: Joel Drembus, Regulations Staff (211B), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-3005.

SUPPLEMENTARY INFORMATION: On pages 25339–25340 of the Federal Register of June 21, 1990, VA published a proposal to amend part 3 by adding a new section and to amend part 4 by adding a new diagnostic code. Interested persons were invited to submit comments, suggestions, or objections by July 23, 1990. Four comments were received.

One individual objected to the Secretary's decision to service-connect NHL, stating it represented a total abuse of the Secretary's authority under 38 U.S.C. 210(c).

VA does not concur. The Secretary has broad rulemaking authority under 38 U.S.C. 210(c)(1), which provides that the Secretary has the authority to make all rules and regulations which are necessary or appropriate to carry out the laws administered by VA and are consistent therewith, including regulations "with respect to the nature and extent of proofs and evidence." This authority is broad enough to encompass establishment of service connection on predetermined bases. In this case, the Secretary has determined that proof of service in Vietnam during the Vietnam era and the subsequent development of NHL is sufficient evidence to establish that the resulting disability was incurred in the line of duty in the active military, naval, or air service, i.e., that such evidence meets the criteria for establishment of service connection. See 38 U.S.C. 310.

Another individual objected to the portion of the VA General Counsel advisory opinion of May 1, 1990, which held that VA may authorize payment to claimants whose claims were previously denied based on the dates that the prior claims were submitted. The commenter stated it is not equitable to financially punish veterans who had not filed claims prior to March 29, 1990, the date the Secretary announced his decision to service-connect NHL, and suggested that payment be authorized based on the date of diagnosis rather than the date of claim.

VA does not concur. The law (38 U.S.C. 3001(a)) provides that a specific claim must be filed in order for benefits to be paid or furnished to any individual under laws administered by VA, and 38 U.S.C. 3010(a) provides that the effective date of compensation shall be fixed in accordance with the facts found, but generally shall not be earlier than the date of receipt of applicant therefor.

The same commenter objected to the proposed rating criteria for NHL in part 4, stating that in comments to the press after his announcement on March 29, 1990, the Secretary was quoted as saying a veteran with NHL "will be considered 100% disabled and will be paid full benefits for the rest of his life." The commenter suggested that the rating criteria for NHL be revised to implement the Secretary's comment.

VA does not concur. At the Secretary's press conference of March 29, 1990, both the Secretary and the Director of the Compensation and Pension Service stated that VA was assuming that veterans with NHL would be 100% disabled. That assumption was used to establish VA's initial cost estimates, but there was no indication that NHL would necessarily warrant a permanent 100% evaluation. The Schedule for Rating Disabilities provides that malignancies be rated based on residual disability at some point following surgery or the cessation of radiation treatment, chemotherapy, etc. The rating schedule is a guide in the evaluation of disability resulting from diseases or injuries. The law (38 U.S.C. 355) requires that the percentage ratings represent, as far as can practically be determined, the average impairment in earning capacity resulting from such diseases and injuries and their residual conditions. To rate NHL we will use rating criteria identical to that used for Hodgkin's disease, a medically similar condition.

Three commenters objected to the proposed effective date of the new section of part 3. One Congressman forwarded the same or similar letters from 14 constituents, all requesting that the date be changed from August 5, 1964 to February 1, 1961, when the use of herbicides in Vietnam began.

VA does not concur. Since the Secretary's decision, and the CDC study on which it was based, noted an increased risk of developing NHL based on service in Vietnam during the Vietnam era rather than exposure to herbicides containing dioxin, there is no basis for establishing an effective date prior to August 5, 1964, the beginning date of the Vietnam era.

One individual questioned the rationale for making the effective date earlier than the date of the CDC study upon which the Secretary's decision was based.

There is no requirement that an effective date in a situation such as this cannot be earlier than the date on which a particular study was released, nor has the commenter cited any authority imposing such a requirement. The Secretary's decision to establish August 5, 1964—the beginning of the Vietnam era (38 U.S.C. 101(29))—as the effective date was an exercise of his discretion premised on a study which found an increased risk of developing NHL based on service in Vietnam during a portion of the Vietnam era. This decision is fully consistent with VA's longstanding policy to administer the law under a broad interpretation for the benefit of veterans and their dependents. (38 CFR 3.102.)

The Chairman and the Ranking Minority Member of the House Committee on Veterans' Affairs stated that, despite a VA General Counsel advisory opinion of May 1, 1990, they find it difficult to reconcile a retroactive effective date with existing law and VA regulations.

The cited General Counsel opinion noted that rulemaking is generally subject to the provisions of the Administrative Procedures Act (APA) and concluded that the APA does not bar the adoption of a retroactive rule which grants benefits or liberalizes a restriction. In accordance with VA's defined and consistently applied policy of administering title 38, United States Code, under a broad interpretation for the benefit of veterans and their dependents, the opinion further concluded that current law and VA regulations do not present an obstacle to the retroactive application of a regulation with a retroactive effective date to previously denied claims. In particular, the General Counsel stated that 38 U.S.C. 3010(g) provides an exception to the finality provisions of 38 U.S.C. 4004(b) and 4005(c) and authorizes a fresh look at a disallowed claim, even in the absence of new and material evidence, when a statute or regulation liberalizes burdens of proof. VA respectfully submits that the General Counsel advisory opinion does, in fact, legally justify the Secretary's decision to establish a retroactive effective date for § 3.313.

We appreciate the comments and suggestions of those who responded to publication of the proposed regulations which are adopted without change.

The Secretary hereby certifies that these regulatory amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The reason for this certification is that these amendments would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that these regulatory amendments are non-major for the following reasons:

(1) They will not have an annual effect on the economy of $100 million or more.

(2) They will not cause a major increase in costs or prices.

(3) They will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects

38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

38 CFR Part 4

Handicapped, Pensions, Veterans.

Catalog of Federal Domestic Assistance program numbers are 64.101, 64.109, and 64.110

Approved: October 2, 1990.

Edward J. Derwinski,

Secretary of Veterans Affairs.

38 CFR part 3, Adjudication, is amended by adding § 3.313 and its authority citation to read as follows:

§ 3.313 Claims based on service in Vietnam.

(a) *Service in Vietnam.* "Service in Vietnam" includes service in the waters offshore, or service in other locations if the conditions of service involved duty or visitation in Vietnam.

(b) *Service connection based on service in Vietnam.* Service in Vietnam during the Vietnam Era together with the development of non-Hodgkin's lymphoma manifested subsequent to such service is sufficient to establish service connection for that disease.

(Authority: 38 U.S.C. 210(c)(1))

1. In 38 CFR Part 4, Schedule for Rating Disabilities, § 4.117 is amended by adding diagnostic code 7715 and its authority citation after diagnostic code 7714 to read as follows:

§ 4.117 Schedule of ratings—hemic and lymphatic systems.

* * * * *

7715 Non-Hodgkin's lymphoma.
Rate as for lymphogranulomatosis (Hodgkin's disease).

(Authority: 38 U.S.C. 355)

[FR Doc. 90-25286 Filed 10-25-90; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL 3854-8]

Redesignation of Areas for Air Quality Planning Purposes; Illinois

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: USEPA is approving a change of the ozone designation for Macoupin County from nonattainment to attainment. The revision is based on a request from the State of Illinois to redesignate this area on the supporting data the State submitted. Under the Clean Air Act (Act), designations can be changed if sufficient data are available to warrant such change.

DATES: This action will be effective November 26, 1990, unless notice is received by November 26, 1990, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the redesignation request, technical support documents and the supporting air quality data are available at the following address.

United States Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Comments on this rulemaking should be addressed to:

Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Kathleen D'Agostino, Air and Radiation Branch (5AR-26), United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-1767.

SUPPLEMENTARY INFORMATION: Under section 107(d) of the Act, the Administrator of USEPA has promulgated the National Ambient Air Quality Standards (NAAQS) attainment status for each of every State. For Illinois, see 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). These area designations may be revised whenever the data warrant. On May 28, 1987, the Illinois Environmental Protection Agency (IEPA) submitted a request for the redesignation of Macoupin County, Illinois to attainment of the NAAQS for ozone. The redesignation request was accompanied by a report containing information supporting the redesignation request.

Ozone Redesignation Policy

USEPA's ozone redesignation policy is summarized in the following USEPA policy memoranda:

1. December 7, 1979, from Richard G. Rhoads to the Directors of Air and Hazardous Materials Divisions, Subject: Criteria for Ozone Redesignations Under section 107.
2. April 21, 1983, from Sheldon Meyers to Directors of Air and Radiation Divisions, subject: Section 107 Designation Policy Summary.
3. December 23, 1983, from G.T. Helms to Chiefs of Air Programs Branches, Region I-X, subject: Section 107 Questions and Answers.
4. April 6, 1987, from Gerald A. Emison, Director, Office of Air Quality Planning and Standards, to Regional Air Directors, which includes a March 16, 1987, letter from David Kee, Director, Region V, Air and Radiation Division, to Robert P. Miller, Chief, Air Quality Division, Michigan Department of Natural Resources, subject: Ozone Redesignation Policy.

A discussion of the ozone redesignation policy as applicable to Macoupin County is contained in USEPA's July 6, 1987, technical support document, which is available at the Region V office listed above.

Data Supporting the Requested Redesignation

IEPA's redesignation request for Macoupin County was based on ambient data showing no violation of the ozone standard during the period of 1984 through 1988 and on IEPA's determination that all stationary volatile organic compound (VOC) sources were in compliance with applicable Reasonably Available Control Technology (RACT) regulations.

A. Air Quality Data

Ozone is monitored at a single site (Nilwood) in Macoupin County. During the period of 1984-1988, the data recorded at this monitor indicated no violation of the standard. In addition, USEPA reviewed the most recent years of data, 1987-1989, which also indicated no violation of the standard.

B. Ozone Emission Control Measures

The IEPA points out that Macoupin County is a rural area with a 1985 population of 50,018 and few stationary sources of VOC. Only 14 stationary VOC sources are noted in the State's emissions inventory system for the County. The inventory does not list any of these sources as "major", with all emitting less than 100 tons of VOC per year.

USEPA Evaluation and Rulemaking Action

Review of the ozone data on file in USEPA's National Areometric Data Bank confirms that no monitored violation of the ozone standard occurred in Macoupin County during the 1984-1989 period. In addition, USEPA verified that there is evidence of an implemented ozone SIP that has been fully approved by USEPA, that RACT rules are in place for applicable sources, and that all stationary sources of VOC are in compliance with RACT rules. Therefore, at the request of the State of Illinois, USEPA is redesignating Macoupin County to attainment of the ozone NAAQS.

Because USEPA considers today's action noncontroversial and routine, we are approving it today without prior proposal. The action will become effective on (60 days from the date of this notice) that someone wishes to submit critical comments, then USEPA will publish:

(1) A notice that withdraws the action, and

(2) A notice that begins a new rulemaking proposing the action and establishing a comment period.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for redesignation. Each request for redesignation shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

Today's action is contingent upon the State and/or county maintaining an adequate ozone ambient air quality monitoring network and continuing full implementation of their nonattainment plan. Under the reasoning of Bethlehem Steel Corp. vs. USEPA, 723 F.2d 1304 (7th Cir. 1983), USEPA believes that it may not have the authority to redesignate an area to nonattainment without first receiving a request to do so from the affected state. Therefore USEPA anticipates that should violations of the ozone NAAQS occur in the future, the state will request that USEPA redesignate the area nonattainment. Also, this redesignation does not in any way relieve sources from their obligation to meet all applicable requirements of the approved

ozone nonattainment plans (SIPs), nor does it authorize the State and/or county to delete or relax RACT emission limiting regulations. Changes to ozone SIP VOC regulations rendering them less stringent than those contained in the USEPA approved plan cannot be made unless a revised plan for attainment and maintenance is submitted to and approved by USEPA. Unauthorized relaxations, deletions, and changes could result in both a finding of nonimplementation (section 179(b) of the Act) and in a SIP deficiency call made pursuant to section 110(a)(2)(H) of the Act.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of 2 years.

Under 5 U.S.C. section 605(b), I certify that this redesignation will not have a significant economic impact on a substantial number of small entities. [See 46 FR 8709].

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 26, 1990. This action may not be challenged later in proceedings to enforce its requirements. [See 307(b)(2)].

List of Subjects in 40 CFR Part 81

Air pollution control, Environmental protection, Ozone, Intergovernmental relations.

Dated: August 9, 1990.

John B. Kelly,

Acting Regional Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PURPOSES—ILLINOIS

Part 81 of chapter 1, title 40 of the Code of Federal Regulations is amended as follows:

1. The authority citation of part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7642, unless otherwise noted.

2. Within § 81.314—Illinois, the ozone table is amended by revising the entry for "Macoupin County" to read as follows:

§ 81.314 Illinois

Illinois—Ozone (O₃)

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Macoupin County.		X

[FR Doc. 90-25308 Filed 10-25-90; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 81

[FRL-3855-3]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: USEPA is approving a change of the carbon monoxide (CO) designation for the Chicago CO nonattainment areas from nonattainment to attainment. The revisions are based on a request from the State of Illinois to redesignate these areas and on the supporting data the State submitted. Under the Clean Air Act (Act), designations can be changed if sufficient data are available to warrant such change.

DATES: USEPA's approval will be effective December 26, 1990, unless notice is received within 30 days that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of the redesignation request, technical support documents and the supporting air quality data are available at the following addresses:

United States Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Comments on this rulemaking should be addressed to:

Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: William Jones, Air and Radiation Branch (5AR–26), Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6058.

SUPPLEMENTARY INFORMATION: Under section 107(d) of the Act, the Administrator of USEPA has promulgated the National Ambient Air Quality Standard (NAAQS) attainment status for each area of every State, including CO.[1] For Illinois, see 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). These area designations may be revised whenever the data warrant. On November 3, 1987, the Illinois Environmental Protection Agency (IEPA) submitted a request for the redesignation of the entire Chicago area to attainment of the NAAQS for CO.[2] The redesignation request was accompanied by a report containing information supporting the redesignation request.

CO Redesignation Policy

USEPA's current redesignation policy for CO may be found in three policy memoranda: June 12, 1979, from Richard G. Rhoads, to Directors of Air and Hazardous Materials Divisions, Region I–X, Subject: Section 107 Redesignation Criteria; April 21, 1983, from Sheldon Meyers, to Directors of Air Division, Regions I–X, Subject: Section 107 Designation Policy Summary; and December 23, 1983, from G.T. Helms, to Air Branch Chiefs, Regions I–X, Subject: Section 107 Questions and Answers.

Data Supporting the Requested Redesignation

In support of the redesignation request, the IEPA submitted a report addressing the current status of CO levels in the Chicago area; in particular, in the designated CO nonattainment areas. This report was accompanied by related documents and supplemental data reports. Detailed information on this data is contained in USEPA's

[1] The NAAQS for CO is defined (40 CFR part 50) to be 35 parts per million (ppm), 1-hour average, or 9 ppm, 8-hour average, neither of which is to be exceeded more than once per year. As discussed in a May 27, 1988, memorandum from Richard G. Rhoads to Gary L. O'Neal, Subject: "Summary of NAAQS Interpretation," the 8-hour concentrations are to be based on running 8-hour averages, with the convention that a monitored violation of the NAAQS requires at least two non-overlapping 8-hour averages above the level of the 9 ppm standard.

[2] There are three designated nonattainment subareas within the greater Chicago area. One nonattainment area is defined to be the core area of Chicago. This area is bounded by Lake Shore Drive on the east, Roosevelt Road on the south, Halsted Street on the west, and Lake Street and Wacker Drive on the north. The other two nonattainment areas are centered on the Dan Ryan Expressway between 71st and 75th Streets, and between 47th and 55th Streets. The specific boundaries of the Dan Ryan Expressway nonattainment areas are not discussed in 40 CFR part 81. The report submitted with the redesignation request, however, states that these nonattainment areas may be thought of as including the expressway itself and the area within 100 feet of the roadway edges. All the remainder of the city is designated attainment for CO.

February 10, 1988, Technical Support Document, which is available at the Region V Office listed above.

A. Air Quality Data

There have been no monitored violations of the CO NAAQS in the Chicago area during the most recent 2 complete years of monitoring. The redesignation requested addressed the available 1987 CO data for the 160 North LaSalle monitor, the only monitor in the Chicago area which has recorded recent exceedances. Through July 1987, the monitor recorded only one exceedance of 10.0 ppm. Subsequent data indicate that no further exceedances of the 8-hour standard (9 ppm), or of the 1-hour standard have been observed anywhere in the Chicago area. Therefore, USEPA has concluded that no violations of the CO NAAQS are currently being monitored in the Chicago area.

B. Modeling Results

Based on CO dispersion modeling conducted for Illinois' 1982 CO State Implementation Plan (SIP) revision, IEPA determined that only the two areas along the Dan Ryan Expressway (those areas currently designated as nonattainment) and the urban core area should experience CO standards violations after 1982. Modeling showed that the Dan Ryan Expressway areas should come into attainment of the CO NAAQS by the end of 1985. Additional post-SIP revision CO dispersion modeling conducted in 1984 confirmed this result. Attainment of the NAAQS was expected to occur without the implementation of any further emission controls beyond the Federal Motor Vehicle Control Program (FMVCP). The modeling shows all modeled locations to be in attainment of the CO NAAQS in 1987.

In addition to CO dispersion modeling, the redesignation request includes a description of a CO emission linear rollback analysis conducted for the urban core, the Central Business District (CBD) of Chicago. Using a 1982 CO design value of 14.5 ppm (8-hour average), the MOBILE 3 emissions factor model, and a linear rollback approach, CO design values were projected for the CBD through 1990. The CO standards were shown to be attained in 1986, with or without a vehicle Inspection/ Maintenance (I/M) program.[3] Attainment of the CO NAAQS was shown to be maintained in the CBD through 1990.

C. CO Emission Control Measures

The primary CO emissions control measure relied on by the IEPA was the FMVCP. This control measure alone has been shown to be sufficient to bring about attainment of the CO NAAQS by December 31, 1987, in the entire Chicago area and by 1986 in the CBD. Illinois implemented a vehicle I/M program in the Chicago urban area in May 1986. This program has added to the emission reductions produced by the FMVCP to further reduce CO emissions below the attainment level.

The redesignation request also states that Transportation Control Measures (TCMs) were discussed in the SIP. It was noted that the State's TCMs are fully implemented, and the planned reduction in emissions achieved. In a separate rulemaking published on October 4, 1990 (55 FR 40658), USEPA approved the State's CO plan, including the TCMs and the vehicle I/M program, which are both parts of both the Illinois CO plan and its Ozone plan.

USEPA Evaluation and Rulemaking Action

The redesignation request submitted by the State of Illinois on November 3, 1987, meets USEPA's redesignation policy for redesignating areas to attainment in that it: (1) Indicates that all monitoring data currently show attainment of the NAAQS; (2) shows that reductions in CO emissions support the observed improvement in monitored CO air quality or modelled attainment of the NAAQS; (3) shows maintenance of the NAAQS in the previously monitored nonattainment area (the CBD). As noted above, USEPA approved the State's CO plan, including the TCMs and the vehicle inspection and maintenance program, on October 4, 1990 (55 FR 40658). At the request of the State of Illinois, USEPA is redesignating the Chicago CO nonattainment areas to attainment of the CO NAAQS.

Because USEPA considers today's action noncontroversial and routine, we are approving it today without prior proposal. The action will become effective on (60 days from the date of this notice). However, if we receive notice by (30 days from the date of this notice) that someone wishes to submit critical comments, then USEPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking proposing the action and establishing a comment period.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of 2 years.

Under 5 U.S.C. section 605(b), I certify that this redesignation will not have a significant economic impact on a substantial number of small entities.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 26, 1990. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 81

Air pollution control, Environmental Protection, Carbon monoxide, Intergovernmental relations.

Authority: 42 U.S.C. 7401–7642.

Dated: October 3rd, 1990.

Valdas V. Adamkus,

Regional Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PURPOSES—ILLINOIS

Part 81 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

1. The authority citation of part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7642, unless otherwise noted.

2. Within § 81.314—Illinois, the CO table is amended by revising the entry for "Cook County" to read as follows:

§ 81.314 Illinois.

Illinois—CO

[3] An I/M program is required under part D for all areas where the State determines and USEPA agrees that an area cannot meet either the ozone and/or CO NAAQS by the statutory deadline of 1982, despite the implementation of all reasonably available control measures. In the case of the Chicago area, Illinois made such a finding for both ozone and CO, USEPA approved it, and USEPA granted an extension for attainment of both the ozone and CO standards in the Chicago area until 1987. Therefore, an I/M program is required for the Chicago area.

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Cook County		X

[FR Doc. 90-25460 Filed 10-25-90; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 261

[SW-FRL-3865-1]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) today is granting a final exclusion from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32 for a specific solid waste generated by Philway Products, Incorporated, Ashland, Ohio. This action responds to a delisting petition submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 266, 124, 270, and 271 of title 40 of the Code of Federal Regulations, and under 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists.

EFFECTIVE DATE: October 26, 1990.

ADDRESSES: The public docket for this final rule is located at the U.S. Environmental Protection Agency, 401 M Street, SW. (room M2427), Washington, DC 20460, and is available for viewing from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Call (202) 475-9327 for appointments. The reference number for this docket is "F-90-PHEF-FFFFF". The public may copy material from any regulatory docket at a cost of $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline, toll free at (800) 424-9346, or at (202) 382-3000. For technical information concerning this notice, contact Chicheng Chen, Office of Solid Waste (OS-343), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382-4782.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

Under 40 CFR 260.20 and 260.22, facilities may petition the Agency to remove their wastes from hazardous waste control by excluding them from the lists of hazardous wastes contained at 40 CFR 261.31 and 261.32. Petitioners must provide sufficient information to EPA to allow the Agency to determine that:

(1) The waste to be excluded is not hazardous based upon the criteria for which it was listed, and

(2) No other hazardous constituents are present in the waste at levels of regulatory concern.

B. History of this Rulemaking

Philway Products, Incorporated (Philway), located in Ashland, Ohio, petitioned the Agency to exclude its filter press sludge from hazardous waste regulation. After evaluating the petition, EPA proposed, on October 27, 1988, to exclude Philway's waste from the lists of hazardous waste under 40 CFR 261.31 and 261.32 (see 54 FR 43829).

This rulemaking addresses public comments received on the proposal and finalizes the proposed decision to grant Philway's petition.

II. Disposition of Delisting Petition

Philway Products, Incorporated, Ashland, Ohio.

1. Proposed Exclusion

Philway petitioned the Agency for an exclusion of its filter press sludge generated during the treatment of electroplating wastewaters, presently listed as EPA Hazardous Waste No. F006—"Wastewater, treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum". The listed constituents for EPA Hazardous Waste No. F006 are cadmium, hexavalent chromium, nickel, and complexed cyanide (see 40 CFR part 261, appendix VII).

Philway petitioned to exclude its waste because it does not believe that the waste meets the criteria of the listing. Philway also believes that the waste does not contain appreciable amounts of the listed constituents. To support its claim that the concentrations of hazardous constituents in the filter press sludge are not above levels of regulatory concern, Philway submitted:

(1) A detailed description of the manufacturing and treatment processes used in the fabrication of printed circuit boards;

(2) A list of raw materials and material safety data sheets (MSDSs) for tradename materials used in its manufacturing and treatment processes;

(3) Results from total constituent and EP leachate analyses for the EP toxic metals and nickel on representative samples of the waste;

(4) Results from total constituent analyses for cyanide on representative samples of the waste;

(5) Results from total constituent analyses for acetone, acrylamide, formaldehyde, methylene chloride, thiourea, toluene, 1,1,1-trichloroethane, trichloroethylene, and xylene on representative samples of the waste;

(6) Results from total oil and greases analyses; and

(7) Test data and explanations regarding the characteristics of ignitability, corrosivity, and reactivity.

The Agency evaluated the information and analytical data provided by Philway in support of its petition and determined that the hazardous constituents found in the petitioned waste would not pose a threat to human health and the environment. Specifically, the Agency used its vertical and horizontal spread (VHS) model to predict the potential mobility of the hazardous constituents found in the petitioned waste. Based on this evaluation, the Agency determined that the hazardous constituents in Philway's waste would not leach and migrate at concentrations above the Agency's health-based levels used in delisting decision-making. See 54 FR 43829, October 27, 1989, for a more detailed explanation on EPA's proposed rule to grant Philway's petition for its filter press sludge.

2. Agency Response to Public Comments

The Agency received comments on the proposed rule from one interested party. This commenter opposed the Agency's proposed decision to exclude Philway's filter press sludge. The comments noted the Agency's failure to: (1) Evaluate total constituent levels of metals in the waste, (2) consider alternative disposal scenarios, (3) consider the probable high alkalinity of Philway's petitioned waste, and (4) consider the recently proposed drinking water standard for lead. These comments are discussed below, along with the Agency's responses.

Evaluation of Total Constituent Levels of Metals

The commenter claimed that Philway has failed to demonstrate that its F006 waste is not capable of posing a hazard to human health or the environment. In particular, the commenter emphasized that the maximum total constituent concentration of lead in Philway's filter press sludge is 3,200 ppm, which is greater than the "significant concentration" of 1,000 ppm for toxic metals referred to by the Agency in its background document for the listing of F006 wastes.

The Agency agrees that the presence of significant concentrations of hazardous inorganic constituents in F006 wastes was one of the reasons for listing F006 wastes as "T" (toxic) wastes. See 40 CFR 261.11(a)(3)(ii) and the "Background Document, Resources Conservation and Recovery Act, Subtitle C, Hazardous Waste Management, Section 3001, Identification and Listing of Hazardous Waste—Electroplating and Metal Finishing Operations," 1980. The data presented in the Background Document broadly characterize the physical/chemical nature of a wide variety of electroplating wastes. However, the Agency believes that these data are not representative of the physical/chemical nature of the treated wastes generated by Philway. Specifically, EPA believes it is reasonable to expect that, as the total constituent concentration of an unbound or loosely bound metal present in a waste increases, the potential for the metal to leach from the waste also increases. (Generally, the higher the total constituent concentration of an unbound or loosely bound metal, the higher the potential EP leachate concentration.) Thus, wastes having significant total constituent concentrations of unbound or loosely bound metals are more likely to impact the underlying ground water than wastes having lower total constituent concentrations of unbound or loosely bound metals. In this case, however, the metals in Philway's petitioned waste are tightly bound within the waste matrix. The Agency's conclusion that the inorganic constituents of concern, including lead, are bound in the waste matrix and are unavailable for leaching is supported by the results of the EP leachate analyses of Philway's petitioned waste. See the proposed rule (54 FR 43829, October 27, 1989) for the EP leachate results.

EPA evaluated the potential mobility of Philway's petitioned waste using the maximum EP leachate concentrations as inputs into the VHS model. The VHS model predicts a dilution factor of approximately 32.3 for the estimated maximum volume of waste generated by Philway (96 cubic yards per year). The VHS model analysis provides a conservative and reasonable worst-case evaluation of the waste's impact on the underlying aquifer. The predicted compliance-point concentrations resulting from this conservative analysis were below the levels of concern used for delisting purposes. See 54 FR 43829, October 27, 1989, for a description of the modeling analysis of Philway's filter press sludge. Thus, the Agency believes that the levels of the metals present in Philway's petitioned waste should not pose a threat to either human health or the environment.

Furthermore, in delisting evaluations, EPA considers all factors that could cause a waste to be hazardous. The Agency considers both factors for which the waste was listed and additional factors (such as other constituents), other than those for which the waste was originally listed, that could cause the waste to be hazardous (see 40 CFR 260.22(a) and 42 U.S.C. 6921(f)). For Philway's petitioned waste, based on the discussions presented above and in the proposed rule, EPA does not believe that any other factors, including total concentrations of the listed and non-listed inorganic constituents of concern, could cause this waste to present a hazard to human health and the environment.

Consideration of Alternative Disposal Scenarios

The commenter also stated that the Agency, in its reliance on the VHS model, has focused solely on the leaching potential of hazardous constituents in a landfill setting and has not evaluated other plausible, non-ground water mismanagement scenarios. The commenter believed that, if the waste were delisted, the waste could be improperly managed during transport for off-site disposal, or inadequately handled prior to disposal. As such, there could be opportunities for airborne and waterborne dispersal resulting in human and environmental exposure. The commenter thus claimed that focusing on leachable constituents has resulted in a serious underestimation of the risks posed by non-ground water exposure routes that could result from mismanagement prior to disposal.

The Agency disagrees with the commenter that use of the VHS model for the prediction of hazardous constituents migration in the ground water has underestimated the potential hazard posed to human health and the environment by Philway's petitioned waste. The Agency believes that direct contact from airborne exposure to hazardous constituents from Philway's petitioned waste is unlikely because the waste has an average moisture content of 78.5 percent. The Agency believes that the petitioned waste's moisture content is sufficient to prevent dust formation and dispersion. Although EPA does not believe that exposure to hazardous airborne contaminants from Philway's waste is likely to present a hazard to human health or the environment, the Agency, in order to fully respond to the specific comment, evaluated the hazards resulting from such an exposure to Philway's waste. Specifically, EPA used the methodology documented in "Rapid Assessment of Exposure to Particulate Emissions from Surface Contamination Sites," U.S. Environmental Protection Agency, Office of Health and Environmental Assessment, EPA/600/8-85/002, February 1985, to estimate reprirable particulate emissions from wind erosion of surfaces with an "unlimited reservoir" of erodible particles. The worst-case emission rate derived from this methodology then was used as an input to the Agency's Ambient Air Dispersion Model (AADM), a steady-state Gaussian plume dispersion model, to predict the concentrations of the inorganic constituents 1,000 feet downwind of the facility. For a complete description and discussion of the AADM, see 50 FR 46963, November 27, 1985.

In this specific analysis, the Agency assumed conservative values for all variables likely to influence potential soil erosion, including wind velocity and vegetation. The Agency, however, modified the assumptions regarding unit dimensions used in the AADM to more closely resemble a landfill as used in the VHS model. The results of this reasonable, worst-case analysis indicated that no substantial present or potential hazard to human health or the environment is likely from airborne exposure to both the listed and non-listed inorganic constituents from Philway's waste. (The results of the Agency's modeling and analysis of air emissions from Philway's waste is available in the docket for today's final rule.)

With regard to waterborne dispersal, the Agency acknowledges that it may be possible for surface water runoff (*i.e.*, rainwater, leachate, or other liquid) to transport hazardous constituents from a waste disposal are to a nearby surface water body. However, the Agency does not believe that analysis of such

overland transport of hazardous constituents as an exposure route for the petitioned waste would indicate a different result for this petition. As described in the proposed rule, the Agency believes that disposal in a landfill is a reasonable worst-case management scenario for Philway's petitioned waste. Contamination of surface water might occur, therefore, through runoff from the waste disposal area. However, EPA believes that the concentrations of any hazardous constituents in that runoff will tend to be lower than the levels indicated by the EP leachate analyses, reported in the proposed rule, due to the acidic medium and extended testing period (24 hours) used in the EP toxicity test. Furthermore, any transported constituents would be further diluted in the surface water body.

Finally, the Agency believes that, in general, the leachate derived from this waste will not directly enter a surface water body without first travelling through the saturated (subsurface) zone where dilution and attenuation of hazardous constituents may occur. The VHS model takes this saturated zone into account as it predicts the ultimate fate and transport of hazardous constituents.

The Agency notes that, once delisted, the petitioned waste remains a solid waste (as defined under 40 CFR 261.2) and is subject to regulation under the State solid waste management program. Philway must either dispose of the delisted waste on site, or ensure that the waste is delivered to an off-site storage, treatment, or disposal facility, either of which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste.

Consideration of the Alkalinity of Philway's Petitioned Waste

The commenter explained that common forms of lead are amphoteric and may be solubilized by alkaline as well as acidic media. Because the petitioned waste itself is alkaline due to the presence of lime, the lead present may be solubilized over time. The commenter further stated that the Agency only required Philway to submit the results of the EP toxicity test, an acidic leaching procedure. The commenter believed that leaching the waste with distilled water or by the Multiple Extraction Procedure (MEP) would have yielded higher concentrations of lead in the extract.

In support of this contention, the commenter cited the results of a column leaching study of municipal solid waste incinerator ash treated with Portland cement.[1] The experimenters observed initially low leachability but then a sharp increase to 9–15 ppm of lead, as the alkalinity of the extraction fluid resulted in the solubilization of the lead present in the incinerator ash. The commenter also noted that while discussing treatment options for certain wastes subject to the land disposal restrictions (see 54 FR 1101, January 11, 1989), the Agency indicated that the attempted stabilization of K031 wastes using Portland cement actually increased arsenic leaching and that this increase was attributable to the amphoteric nature of arsenic compounds.

The Agency disagrees with these comments. The Agency believes the EP leaching test is an appropriate method to use to evaluate the plausible worst-case assumption that the delisted waste might be co-disposed with municipal solid wastes. An acidic leaching medium, such as employed in the EP, simulates the acidic conditions expected to be present in a municipal landfill due to the formation of organic acids from the decay of organic wastes. To simulate the acidic leaching medium which occurs in actively decomposing municipal landfills, the Agency chose to employ an acetic acid leaching medium with a pH of 5.0. (See 45 FR 33084, May 19, 1980.)

The Agency further notes that even if the petitioned waste were managed in an on-site landfill or surface impoundment, or in a dedicated off-site unit, it would still be subject to acidic leaching. The pH of rainwater in equilibrium with atmospheric carbon dioxide is 5.6. According to a 1987 report by the International Institute for Environmental and Development and the World Resources Institute (a copy of the relevant pages of the report is included in the RCRA public docket for today's notice), actual precipitation normally has a pH between 5.6 and 6.8. A detailed study by EPA's Atmospheric Research and Exposure Assessment Laboratory on acid precipitation in North America (see EPA Publication EPA/600/4–89/005, January 1989) showed that pH values for 1986 precipitation ranged from 3.91 to 6.73. Therefore, it is unlikely that the petitioned waste will be subject to alkaline leaching by precipitation.

The Agency also disagrees with the commenter's suggested use of the MEP to evaluate Philways' waste. The MEP consists of a series of repetitive extractions, starting with the EP as the first step, followed by the multiple extractions with pH 3 acid solution. While the MEP may be appropriated to evaluate the long-term stability of stabilized waste, such a procedure is not necessary for unstabilized waste such as Philway's. In any case, the MEP is still an acidic leaching procedure and would not, we believe, address the commenter's concern. Furthermore, the Agency does not believe that leaching the waste with distilled water, as suggested by the commenter, would be likely to leach higher concentrations of lead from Philway's waste. In this case, Philway's sludge has already been exposed to an alkaline wastewater with a pH in the range of 8.2 to 9.0, therefore any extraction with distilled water is unlikely to yield to any further solubilization of lead present in the waste.

EPA also believes that the two examples cited by the commenter are not germane to this case. First, the column leaching study of cement-treated incinerator ash is not analogous to any reasonably probable waste management scenario for Philway's petitioned waste. Such column leaching procedure was implemented to solubilize the constituents present in solidified ash, while the petitioned waste has never been stabilized and has already been exposed to the alkaline wastewater. The Agency, therefore, does not believe the results cited by the commenter are relevant to Philway's waste. Furthermore, the Agency notes that it is difficult to draw comparisons between the data obtained from the column leaching test and the data obtained from the EP toxicity tests due to significant differences in analytical procedures and assumptions regarding leachate generation. Specifically, the data obtained from the column leaching test was generated by continuously leaching 36.1 kg of crushed solidified incinerator residue having a particle size of less than one-half inch in a 60-inch (height) x 10-inch (diameter) column, using a pH 4.0 solution as a leaching medium. Whereas, the data obtained from the EP toxicity tests were generated by agitating the mixture of a pH 5.0 acetate buffer solution and 100 grams of ground sample having a particle size of less than 9.5 mm (0.375 inch), contained in an extractor, for a period of 24 hours. The commenter's view from the review of the column leaching study that "the alkalinity of the extraction fluid resulted

[1] Holland, P.J. et al., "Evaluation of Leachate Properties and Assessment of Heavy Metal Immobilization from Cement and Lime Amended Incinerator Residues," *Proceedings of the International Conference on Municipal Waste Combustion*, sponsored by U.S. EPA and Environment Canada, held April 11–14, 1989 in Hollywood, Florida, Vol. 1.

in solubilization of the lead present in the ash" is incorrect. In fact, that column leaching study adopted a pH 4.0 synthetic acid rain consisting of H_2SO_4 and HNO_3 acids as the leaching media; thus, the release (or solubilization) of lead at high pH levels did not appear to be attributed to the alkalinity of the extraction fluid as mentioned by the commenter. On the contrary, the acidic leaching media used in the column leaching study should have caused some degree of neutralization of the high pH in the alkaline waste matrix under study. Additionally, the column leaching test utilized a liquid to solid (L/S) ratio of 0.6 while the EP tests utilized a L/S ratio of 20. The Agency, therefore, is unable to compare the results obtained from two very different leaching procedures.

Lastly, arsenic is not a concern in this case. The maximum total arsenic concentration in the petitioned waste was found to be 0.05 ppm. Even if 100 percent of arsenic were to leach from the waste, the maximum arsenic concentration that could be present in the leachate would be only 0.0025 ppm (or 1/20th of the total concentration present in the waste, due to 20-fold dilution inherent in the EP toxicity test). This leachate concentration is well below the Agency's health-based level of 0.05 ppm for arsenic, and, therefore, the leaching of arsenic from Phiway's waste is not of concern.

Consideration of the Recently Proposed Drinking Waste Standard for Lead

The commenter also expressed concern that the Agency did not consider the recent proposal to lower the drinking water standard for lead to 0.005 ppm (see 53 FR 31516, August 18, 1988), especially since the compliance-point concentration for lead (0.0062 ppm) calculated using the VHS model exceeds this new standard.

In its delisting decision-making, the Agency relies on the existing health-based levels cited in "Docket Report on Health-Based Levels and Solubilities Used in the Evaluation of Delisting Petitions" (located in the RCRA public docket). EPA is unable to predict the final drinking water standard for lead until it is actually promulgated (*i.e.*, the standard could be less than or greater than the proposed level or the 0.005 ppm level cited by the commenter). Neither can the Agency be certain exactly when the new drinking water standard for lead might be promulgated. As a matter of equity, the Agency does not believe that the final decision on Phiway's petition should be postponed until a new drinking water standard for lead is promulgated.

3. Final Agency Decision

For the reasons stated in the proposal and described above, the Agency believes that Phiway's filter press sludge should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to Phiway Products, Incorporated, located in Ashland, Ohio, for its wastewater treatment filter press sludge described in its petition as EPA Hazardous Waste No. F006. The exclusion only applies to the processes and waste volume (a maximum of 90 cubic yards per year) covered by the original demonstration. The exclusion is only valid for lime-treated waste and does not cover any wastes produced by the substitution of caustic soda or other chemicals for lime as a neutralizing agent and precipitant. The facility would require a new exclusion if either its manufacturing or treatment processes are significantly altered such that a change in waste composition or increase in waste volume occurred. Accordingly, the facility would need to file a new petition for the altered waste. The facility must treat waste generated from changed processes as hazardous until a new exclusion is granted.

Although management of the waste covered by this petition is relieved from Subtitle C jurisdiction, the generator of a delisted waste must either treat, store, or dispose of the waste in an on-site facility, or ensure that the waste is delivered to an off-site storage, treatment, or disposal facility, either of which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste. Alternatively, the delisted waste may be delivered to a facility that beneficially uses or reuses, or legitimately recycles or reclaims the waste, or treats the waste prior to such beneficial use, reuse, recycling, or reclamation.

III. Limited Effect of Federal Exclusion

The final exclusion being granted today is being issued under the Federal (RCRA) delisting program. States, however, are allowed to impose their own, non-RCRA regulatory requirements that are more stringent than EPA's, pursuant to section 3009 of RCRA. These more stringent requirements may include a provision which prohibits a Federally-issued exclusion from taking effect in the State. Because a petitioner's waste may be regulated under a dual system (*i.e.*, both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact their State regulatory authority to determine the current status of their wastes under the State law.

IV. Effective Date

This rule is effective immediately. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here because this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense that would be imposed on this petitioner by an effective date six months after promulgation and the fact that a six-month deadline is not necessary to achieve the purpose of section 3010, EPA believes that this rule should be effective immediately upon promulgation. These reasons also provide a basis for making this rule effective immediately under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

V. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This rule to grant an exclusion is not major since its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thereby enabling this facility to treat its waste as non-hazardous. There is no additional economic impact, therefore, due to today's rule.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, Whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis, which describes the impact of the rule on small entities *i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator or delegated representative may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have an adverse economic impact on small entities since its effect will be to reduce the overall costs of EPA's hazardous waste regulations and is limited to one facility. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a

substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VII. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this final rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511, 44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2060-0053

VIII. List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Authority: Sec. 3001 RCRA, 42 U.S.C. 6921.

Dated: September 20, 1990.

Jeffery D. Denit,

Deputy Director, Office of Solid Waste.

For the reasons set out in the preamble, 40 CFR part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. In Table 1 of appendix IX. add the following wastestream in alphabetical order by facility:

Appendix IX—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 1. WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
•	•	•
Philway Products, Incorporated.	Ashland, Ohio.	Filter press sludge generated (at a maximum annual rate of 95 cubic yards) during the treatment of electroplating wastewaters using lime (EPA Hazardous Waste No. F006). This exclusion was published on October 26, 1990.
•	•	•

* * * * *

[FR Doc. 90-25360 Filed 10-25-90; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Office of Hearings and Appeals

43 CFR Part 4

Department Hearings and Appeals Procedures; Indian Probate Proceedings

AGENCY: Office of Hearings and Appeals, Interior.

ACTION: Final rule.

SUMMARY: This Office amends certain of its rules in 43 CFR part 4, subpart D, applicable in Indian Affairs Hearings and Appeals proceedings, by updating references and cross-references to section numbers and editions of the United States Code contained therin, as indicated below. This office also amends § 4.210 of these regulations by removing paragraph (d) thereof because it is generally repetitive of paragraph (c) of the regulation and, therefore, it is considered to be unnecessary. These amendments will improve the accuracy and clarity of the regulations concerned. The amendments do not later any substantive legal rights.

EFFECTIVE DATE: October 26, 1990.

FOR FURTHER INFORMATION CONTACT: Parlen L. McKenna, Chief Administrative Law Judge, Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Blvd., Arlington, VA 22203. Telephone: 703-235-3800 (not toll free).

SUPPLEMENTARY INFORMATION: Because these amendments are nonsubstantive in nature and because prompt action is in the public interest, the proposed rulemaking process is determined to be unnecessary and impracticable (5 U.S.C. 553(b)(B)).

Paperwork Reduction Act

This rulemaking does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *se seq.*

Compliance With Other Laws

The Department of the Interior has determined this document is not a major rule under Executive Order No. 12291 and certifies this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rulemaking has no economic effect since it neither removes existing requirements nor imposes new ones. Also, this rulemaking is categorically excluded from the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 through 4347), process because it is of an adminstrative, financial, legal technical, and procedural nature, and therefore neigher an environmental assessment nor an environmental impact statement is required. 40 CFR 1508.4; 516 DM 2.3A.

List of Subjects in 43 CFR Part 4

Administrative practice and procedure, Indians.

Dated: September 5, 1990.

Lou Gallegos,

Assistant Secretary—Policy, Management and Budget.

For the reasons set out in the preamble, title 43, part 4, subpart D, Code of Federal Regulations, is amended as set forth below.

PART 4—[AMENDED]

Subpart D—Rules Applicable in Indian Affairs Hearings and Appeals

1. The authority citation for part 4, subpart D, continues to read:

Authority: Secs. 1, 2, 36 Stat. 855, as amended, 856, as amended, sec. 1, 38 Stat. 586, 42 Stat. 1185, as amended, secs. 1, 2, 56 Stat. 1021, 1022; R.S. 463, 465; 5 U.S.C. 301, 25 U.S.C. secs. 2, 9, 372, 373, 374, 373a, 373b.

§ 4.200 [Amended]

2. Section 4.200 Scope of regulations is amended by removing from the second sentence thereof the reference "§§ 4.203 through 4.297" and by adding, in its place, the following: "§§ 4.203 through 4.282 and §§ 4.310 through 4.323." This sentence of the regulation is amended further by removing the reference therein to the 1970 edition of the United States Code, with the result that the citation will read only as follows: "25 U.S.C. 476."

§ 4.205 [Amended]

3. Section 4.205 Escheat is amended by removing references in paragraphs (a) and (b) thereof to the 1964 edition of the United States Code, with the result that the citations will read only as follows, respectively: "25 U.S.C. 373a" and "25 U.S.C. 373b."

§ 4.207 [Amended]

4. Paragraph (c) of § 4.207 Compromise settlement is amended by removing from the second sentence thereof the reference "25 CFR part 121" and by adding, in its place, the following: "25 CFR part 152."

§ 4.210 [Amended]

5. In § 4.210 Commencement of probate, paragraph (d) is removed.

§ 4.230 [Amended]

6. In paragraph (b) of § 4.230 Administrative law judges; authority and duties the reference to the 1964 edition of the United States Code is removed, with the result that the citation will read only as follows: "25 U.S.C. 374."

§ 4.270 [Amended]

7. Section 4.270 Custody and control of trust estates is amended by removing the reference "§ 4.296" and by adding, in its place, the following: "§ 4.312."

§ 4.272 [Amended]

8. Paragraph (a) of § 4.272 Omitted property is amended by removing the reference "§ 4.296" and by adding, in its place, the following: "§ 4.312."

§ 4.273 [Amended]

9. Paragraphs (a) and (d) of § 4.273 Improperly included property are amended by removing from paragraph (a) the reference "§ 4.296" and by adding, in its place, the following: "§ 4.312." The section is also amended by removing from paragraph (d), the reference "§§ 4.291—4.297," and by adding, in its place, the following: "§§ 4.310 through 4.323."

§ 4.274 [Amended]

10. Paragraph (a) of § 4.274 Distribution of estates is amended by removing the reference "§ 4.291(b)" and by adding, in its place, the following: "§ 4.320(b)."

§ 4.302 [Amended]

11. Paragraph (a) of § 4.320 Conclusion of probate and tribal exercise of statutory option is amended by removing the reference "§§ 4.200—4.296" and by adding, in its place, the following: "§§ 4.200 through 4.282 and §§ 4.310 through 4.323."

§ 4.305 [Amended]

12. Paragraph (c) of § 4.305 Hearing is amended by removing the reference "§§ 4.291—4.297" and by adding, in its place, the following: "§§ 4.310 through 4.323."

[FR Doc. 90-25380 Filed 10-25-90; 8:45 am]
BILLING CODE 4310-79-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 40

Announcement of Seminar on DOT-Required Drug Testing

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Notice of seminar.

SUMMARY: The Department of Transportation is sponsoring a one-day seminar on Implementing Programs for a Drug-Free Transportation System. This notice concerns the date, locations, agenda, and registration information for this seminar.

DATES: The seminar will be broadcast by satellite on October 30, 1990, to 20 cities across the United States. The seminar will be broadcast to the following cities: Mobile, Ala.; Sacramento and San Diego, CA; Denver, CO; Tampa, FL; Indianapolis, IN; Kansas City, KS; Baltimore, MD; Boston, MA; St. Paul, MN; Billings, MO; Charlotte, NC; White Plains, NY; Oklahoma City, OK; Portland, OR; Pittsburgh, PA; Nashville, TN; Houston and El Paso, TX; and Salt Lake City, UT.

FOR FURTHER INFORMATION CONTACT: Mary Duke Sanders, Office of the Secretary, Department of Transportation, 400 7th Street, SW., Room 10200, Washington, DC 20590, (202-366-3784) (See supplementary information for phone number and address of contact for conference registration).

SUPPLEMENTARY INFORMATION: In November 1988, the Department of Transportation published regulations requiring drug testing programs in the aviation, maritime, railroad, mass transit, pipeline, and motor carrier industries. Employers in these industries must begin drug testing between December 1989 and December 1990. The Department is pleased that those who are responsible for transportation safety are responding positively to the challenge of implementing this significant and complex program.

This seminar is designed to assist all transportation companies and is particularly targeted to smaller operations, generally fewer than 50 employees, in implementing DOT's drug testing regulations scheduled to go into effect for these companies by December 21 of this year.

The seminar is designed to provide a forum for discussing the rules and how to implement them. Participants will be able to learn about drug rule implementation issues and will meet with DOT regional field representatives as well as have the opportunity to ask a panel of DOT officials via satellite to Washington questions during a Question and Answer period. Participants will also receive a copy of the new DOT drug testing procedures handbook.

The seminar will be one-day in length. Event format will include an overview of DOT drug testing regulations, an introduction to 49 CFR part 40 (the Department's Drug Testing Procedures rule, detailed discussion of such issues under part 40 as collection procedures, the chain of custody form, the testing process, quality control measures, and the role of the medical review officer; and the drug awareness and training requirements of the DOT rules. The afternoon portion of the seminar will feature presentations by the operating administration's drug program coordinators regarding requirements particularly to that industry.

Conference participation may be limited depending on industry response. The conference registration fee will be $25 per person. Attendees are responsible for their own hotel reservation if needed.

For registration materials and information, you should contact Art MacHugh, Transportation Safety Institute, at (405) 680-7196, (405) 680-3521 [fax].

Issued this 23d day of October, 1990, at Washington, DC.

Terrance W. Gainer,

Special Assistant to the Secretary and Director for Drug Enforcement and Program Compliance, U.S. Department of Transportation.

[FR Doc. 90-25468 Filed 10-24-90; 11:13 am]
BILLING CODE 4910-62-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

RIN 1018-AA71

Refuge-Specific Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) here amends certain regulations in 50 CFR part 32 that pertain to migratory game bird, upland game, and big game hunting on individual national wildlife refuges. Refuge hunting programs are reviewed annually to determine whether the regulations governing individual refuge hunts should be modified, deleted or added to. Changing environmental conditions, State and Federal regulations, and other factors affecting wildlife populations and habitats may warrant modifications to ensure the continued compatibility of hunting with the purposes for which the individual refuges involved were established and, to the extent practical, make refuge

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hunting programs consistent with State regulations.

EFFECTIVE DATES: October 26, 1990.

FOR FURTHER INFORMATION CONTACT: Robert Karges, U.S. Fish and Wildlife Service, Division of Refuges, 1849 C Street, NW., MS 670–ARLSQ, Washington, DC 20240; telephone (703) 358–2043.

SUPPLEMENTARY INFORMATION: 50 CFR part 32 contains provisions governing hunting on national wildlife refuges. Hunting is regulated on refuges to (1) ensure compatibility with refuge purposes, (2) properly manage the wildlife resource, (3) protect other refuge values, and (4) ensure the safety of refuge users and neighbors. On many refuges, the Service policy of adopting state hunting regulations is adequate in meeting these objectives. On other refuges, it is necessary to supplement State regulations with more restrictive Federal regulations to ensure that the Service meets its management responsibilities, as outlined under the section entitled "Conformance with Statutory and Regulatory Authorities." Refuge-specific hunting regulations may be issued only after a wildlife refuge is opened to migratory game bird, upland game, or big game hunting through publication in the Federal Register. These regulations may list the wildlife species that may be hunted, seasons, bag limits, methods of hunting, descriptions of open areas, and other provisions. Previously issued refuge-specific regulations for migratory game bird, upland game, and big game hunting are contained in 50 CFR 32.12, 32.22, and 32.32 respectively. Some of the proposed amendments to these sections are being promulgated to standardize and clarify the existing language of these regulations.

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process.

In the July 24, 1990, issue of the Federal Register (55 FR 30014) the Service published a proposed rulemaking to amend certain regulations in 50 CFR part 32 and invited public comment. The Service's responses to those comments are contained in the following section.

Responses to Comments Received

Written comments on the proposed rule were received from six parties. One party, the Wildlife Legislative Fund of America supported biologically sound hunting regulations in general. The remaining five parties opposed establishing a motorless/electric motor hunting area at the Lower Klamath National Wildlife Refuge in California.

Issue 1: Motorless areas are unnecessary.

Response: A portion of the hunting public requested a motorless area. It is an objective of the refuge to provide diverse hunting opportunities to all the hunting public.

Issue. 2: The area selected and the size of the area were not agreed to by the public.

Response: At a February 1990 meeting in Klamath Falls, Oregon, those in attendance opposed designation of Unit 9 on Lower Klamath as a motorless area. Some suggested Unit 4–C as an alternative. Refuge staff reviewed this recommendation and concurred. In addition, Units 4–D, E, and F were included since they are essentially walk-in hunting areas with little or no opportunity for outboard boat access except in some of the field edge ditches when there is sufficient water. The total area will provide a variety of hunting opportunities, i.e., open water, permanent marsh, and seasonally flooded wetlands for hunters in an area where outboard motors are precluded.

Issue 3: When ice forms, access to motorless areas will be difficult since larger outboards can break ice and provide access.

Response: Ice formation at Lower Klamath is a highly variable matter each year. Freeze-up is early some years and very late others. In addition, there can be periods of thaw interspersed throughout the season. The small amount of access that may be precluded by thick ice that otherwise could have been broken by outboard boats will not be significant. The amount of open water previously maintained by boats in these units is not necessary for the general welfare of the waterfowl populations utilizing the refuge.

Issue 4: Refuge management does not consult with guides and other hunters regularly on hunting issues.

Response: Public meetings have been held each of the past 2 years to gather input from all hunters. Future actions will provide opportunity for public input at a public meeting. In addition, new releases and a refuge newsletter will be used to disseminate information to hunters and other refuge users regarding public use activities on all refuge units in the Klamath Basin Complex.

During the 1990–91 hunting season the motorless area will be closely monitored to evaluate hunter use and acceptance, impacts, if any, to waterfowl populations, and its relationship to the total hunting opportunity at Lower Klamath Refuge. Comments by hunters are encouraged throughout or immediately following the season.

Conformance With Statutory and Regulatory Authorities

The National Wildlife Refuge System Administration Act (NWSAA) of 1966, as amended (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (16 U.S.C. 460K) govern the administration and public use of national wildlife refuges. Specifically, section 4(d)(1)(A) of the NWRSAA authorizes the Secretary of the Interior to permit the use of any area within the Refuge System for any purpose, including but not limited to, hunting, fishing, public recreation, accommodations, and access, when he determines that such uses are compatible with the major purpose(s) for which area was established.

The Refuge Recreation Act authorizes the Secretary to administer areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purpose(s) for which the areas were established. The Refuge Recreation Act also authorizes the Secretary to issue regulations to carry out the purposes of the Act. Hunting plans are developed for each refuge prior to opening it to hunting. In many cases, refuge-specific hunting regulations are included in the hunting plan to ensure the compatibility of the hunting programs with the purposes for which the refuge Recreation Act is ensured when hunting plans are developed, and the determinations required by these acts are made prior to the addition of refuges to the list of areas open to hunting in 50 CFR. Continued compliance is ensured by annual review of hunting programs and regulations.

In view of the rapidly approaching hunting seasons, there is an immediate need to place these regulations into effect. It is Service policy to conduct hunting within the framework of State laws, regulations and seasons. To delay opening the refuges to hunting may cause confusion to the public, deny a benefit to the public and small related businesses and would not be in the best interest of the Service or the public. Thus the Department of the Interior concludes that good cause exists within the meaning of 5 U.S.C 553(d)(3) of the Administrative Procedure Act to make these regulations effective upon publication in the Federal Register.

Economic Effect

Executive Order 12291 requires the preparation of regulatory impact analyses for major rules. A major rule is one likely to result in an annual effect

on the economy of $100 million or more; or a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) further requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions.

These amendments to the codified refuge-specific hunting regulations make relatively minor adjustments to existing hunting programs. The regulations are not expected to have any gross economic effect and will not cause an increase in costs or prices for consumers, individual industries, Federal, state, or local governments, agencies, or geographic regions. The benefits accruing to the public are expected to exceed by a large margin the costs of administering this rule. Accordingly, the Department of the Interior has determined that this rule is not a "major rule" within the meaning of E.O. 12291 and will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Paperwork Reduction Act

The Service has approval from the Office of Management and Budget (OMB) for the information collection requirements of these regulations pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). These requirements are presently approved by OMB as cited below:

Type of information collection	OMB approval no.
Economic and public use permits	1018–0014

Public reporting burden for this form is estimated to average six (6) minutes per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments on the burden estimate or any other aspect of this form to: Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street, NW., MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (1018–0014), Washington, DC 20503.

Environmental Considerations

Compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(2)(C)) and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) is ensured when hunting plans are developed, and the determinations required by these acts are made prior to the addition of refuges to the lists of areas open to hunting in 50 CFR part 32. Refuge-specific hunting regulations are subject to a categorical exclusion from the NEPA process if they do not significantly alter the existing use of a particular national wildlife refuge. The changes enacted in this rulemaking do not substantially alter the existing uses of the refuges involved. Information regarding hunting permits and the conditions that apply to individual refuge hunts and maps of the hunt areas are available at refuge headquarters or can be obtained from the regional offices of the U.S. Fish and Wildlife Service at the addresses listed below:

Region 1—California, Hawaii, Idaho, Nevada, Oregon, and Washington. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Eastside Federal Complex, 911 NE. 11th Avenue, Portland, Oregon 97232–4181; telephone (503) 231–6214.

Region 2—Arizona, New Mexico, Oklahoma and Texas. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103; telephone (505) 766–1829.

Region 3—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111; telephone (612) 725–3507.

Region 4—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Tennessee, South Carolina, Puerto Rico and the Virgin Islands. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303; telephone (404) 331–0333.

Region 5—Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, One Gateway Center, suite 700, Newton Corner, Massachusetts 02158; telephone (617) 965–9222.

Region 6—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Box 25486, Denver Federal Center, Denver, Colorado 80225; telephone (303) 236–8145.

Region 7—Alaska (Hunting on Alaska refuges is in accordance with State regulations. There are no refuge-specific hunting regulations for these refuges). Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1011 E. Tudor Rd., Anchorage, Alaska 99503; telephone (907) 786–3538.

List of Subjects in 50 CFR Part 32

Hunting, Reporting and recordkeeping requirements, Wildlife, Wildlife refuges.

Accordingly, part 32 of chapter I of title 50 of the *Code of Federal Regulations* is amended as set forth below:

1. The authority citation for part 32 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, and 715i.

2. Section 32.12 is amended by revising paragraphs (d)(1) and (d)(3); adding paragraph (f)(7)(vii); revising paragraphs (k)(2), (m), (g), (u)(2), (u)(3), (u)(4), (u)(5) and (u)(6); redesignating paragraphs (y)(1) as (y)(2) adding new paragraph (y)(1); removing paragraphs (cc)(2) (v) (vi) revising paragraphs (dd)(3), (hh)(11)(v); adding paragraphs (hh)(4)(v) and (hh)(11)(vii); revising paragraphs (mm)(1)(ii), (mm)(5)(vi), (mm)(7) (i) and (v); adding paragraphs (mm)(1)(vii), (mm)(5)(vii) and (mm)(7)(vi); revising paragraph (pp) and (qq) (4) (ii) and (v); adding new paragraph (qq)(4) (vii), revising paragraphs (qq)(5)(iv), (qq)(6) and (qq)(7) (iii) and (iv) as follows:

§ 32.12 Refuge-specific regulations; migratory game birds.

* * * * *

(d) *Arizona and California—(1) Cibola National Wildlife Refuge.* Hunting of geese, ducks, coots, mooshens, mourning and white-winged doves is permitted on designated areas of the refuge subject to the following conditions:

(i) Non-toxic shot, is required for all migratory game bird hunting. It is prohibited to posses migratory game birds with lead shot in possession.

(ii) Legal weapon shall be shotgun only.

(iii) Special Use Permits are required for all hunting guides.

(iv) Hunting is not permitted within 50 yards of any road or levee or within 250 yards of any farm worker.

(v) Pit or permanent blinds are not permitted.

(vi) Migratory game bird hunting will cease at 3:00 p.m. each day.

(vii) The following additional restrictions apply to Zone IIA:

(A) During the Arizona waterfowl season, Farm Unit 2 is closed to dove hunting until noon each day.

(B) In Farm Unit 2, waterfowl hunters must remain within 50 feet or designated stations while hunting except when actively retrieving downed birds.

(C) During the goose season, the Hart Mine Marsh Area is closed to hunting until 10 a.m. daily.

(D) Hunters are restricted to 10 shells per day, except in the Hart Mine Marsh area.

* * * * *

(3) *Imperial National Wildlife Refuge.* Hunting of mourning and white-winged dover, ducks, coots, moorhens, geese and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Pits and permanent blinds are not permitted.

* * * * *

(f) *California*—* * *

(7) *Lower Klamath National Wildlife Refuge.* * * *

(vii) Only nonmotorized boats and boats with electric motors are permitted in Units 4 c, d, e, and f.

* * * * *

(k) *Illinois*—* * *

(2) *Crab Orchard National Wildlife Refuge.* (i) Waterfowl hunting is permitted on the controlled areas of Grassy Point, Carterville and Greenbrair land areas; plus Orchard, Turkey, and Sawmill and Grassy Islands, from sunrise to posted closing times each day during the goose season. Waterfowl hunting in these areas, including lake shorelines, is permitted only from existing refuge blinds during the goose season. Hunters must comply with the special rules posted at the blind drawing site.

(ii) All hunters are prohibited from possessing alcoholic beverages in the hunting areas.

(iii) Outside of the controlled goose hunting areas, only portable or temporary blinds may be used. Blinds may not be located beyond the shoreline of refuge waters, must be removed or dismantled at the end of each day's hunt, and must be located a minimum of 100 yards apart.

* * * * *

(m) *Illinois, Iowa and Missouri—Mark Twain National Wildlife Refuge.* (1) On the Big Timber Division, including Turkey and Otter Islands, only temporary wood or brush blinds are permitted. Blinds cannot be locked or otherwise sealed against public entry. Blinds are open to the public on a first-come, first-served basis if not occupied 30 minutes after the start of the legal shooting hours.

(2) On the Gardner Division, waterfowl and coot hunting is permitted only from blinds constructed on sites posted by the Illinois Department of Conservation.

* * * * *

(q) *Maine—Rachel Carson National Wildlife Refuge.* Hunting of ducks, geese, coots, woodcock and snipe is permitted on designated areas on the refuge subject to the following condition: Boats, decoys and portable blinds, must be moved from the refuge after each day's hunt.

* * * * *

(u) *Mississippi*—* * *

(2) *Hillside National Wildlife Refuge.* Hunting of mourning doves, ducks, coots, snipe and woodcock is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(3) *Mathews Brake National Wildlife Refuge.* Hunting of ducks, coots, snipe, and woodcock is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(4) *Morgan Brake National Wildlife Refuge.* Hunting of ducks, coots, snipe, and woodcock is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(5) *Noxubee National Wildlife Refuge.* Hunting of ducks, and coots is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(6) *Panther Swamp National Wildlife Refuge.* Hunting of ducks coots, snipe, and woodcock is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(y) *Nevada*—(1) *Ash Meadows National Wildlife Refuge.* Hunting of geese, ducks, coots, moorhens, snipe, and dove is permitted on designated areas of the refuge.

* * * * *

(dd) *North Carolina*—* * *

(3) *Mattamuskeet National Wildlife Refuge.* Hunting of swans, ducks and coots is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(hh) *Oregon*—* * *

(4) *Cold Springs National Wildlife Refuge*—* * *

(v) The refuge is closed from 10 p.m. to 5 a.m.

* * * * *

(11) *Umatilla National Wildlife Refuge.* * * *

(v) Hunters may not possess or use more than 20 shells per day. * * *

(vii) The refuge is closed from 10 p.m. to 5 a.m. except for the Hunter Check Station parking lot, which is open each morning two hours prior to State shooting hours for waterfowl.

* * * * *

(mm) *Texas (1) Anahuac National Wildlife Refuge.* * * *

(ii) The refuge unit located north of Onion Bayou and Jackson Ditch, known as the East Unit, is open to hunting only on designated days of the week. Notice of actual hunting days is issued as provided in 50 CFR 25.31.

(vii) Only shotguns are permitted.

* * * * *

(5) *McFaddin National Wildlife Refuge.* * * *

(vi) Use of airboats is permitted only in accordance with guidelines issues as provided in 50 CFR 25.31.

(vii) Only shotguns are permitted.

* * * * *

(7) *Texas Point National Wildlife Refuge.* * * *

(i) Hunting is permitted only on designated days of the week. Notice of actual hunting days is issued as provided in 50 CFR 25.31.

* * * * *

(v) Use of airboats is permitted only in accordance with specific guidelines issued as provided in 50 CFR 25.31.

(vi) Only shotguns are permitted.

* * * * *

(pp) *Virginia—Chincoteague National Wildlife Refuge.* Hunting of waterfowl is permitted on designated areas of the refuge subject to the following conditions:

(1) Permits are required on the non-guided public hunting areas on Wildcat Marsh and Morris Island.

(2) On Wildcat Marsh, compartments 1–4 are reserved for guided hunting only, with refuge-designated commercial guides.

(3) Permanent blinds are not permitted in public hunting areas.

(4) Permanent blinds are permitted in compartments 1–4 on Wildcat Marsh during the season but must be removed within ten (10) days following the end of the season.

(5) Blind sites are limited to one party of hunters, with a maximum of 4 hunters per party.

(6) Hunters shall possess and use while in the field only non-toxic shot.

(7) Public hunting is permitted only on Thursday, Friday, and Saturday during the Virginia waterfowl season.

* * * * *

(qq) *Washington*—* * *

(4) *McNary National Wildlife Refuge.* * * *

(ii) In the McNary Division hunting area, public entry is permitted only on Wednesdays, Saturdays, Sundays, Veterans Day, Thanksgiving Day, Christmas Day and New Years Day.

* * * * *

(v) Hunters may not enter or be on the refuge between one hour after sunset and 5 a.m. or leave decoys or other

personal property on the refuge overnight. * * *

(vii) Hunters may not possess or use more than 20 shells per day.

(5) *Ridgefield National Wildlife Refuge.* * * *

(iv) Hunters may not use or possess more than 20 shells per day.

(6) *Toppenish National Wildlife Refuge.* Hunting of geese, ducks, coots and snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only within 50 feet of designated blind sites except when shooting to retrieve crippled birds.

(ii) Hunters may not use or possess more than 20 shells per day.

(7) *Umatilla National Wildlife Refuge.* * * *

(iii) The refuge is closed from 10:00 p.m. to 5:00 a.m. No decoys or other personal property may be left on the refuge overnight.

(iv) Hunters may not use or possess more than 20 shells per day.

* * * * *

3. Section 32.22 is amended by revising paragraphs (c)(1), (h)(4), (k), and (l)(2); adding paragraphs (q)(4)(iv) and (q)(8) (iv); revising paragraphs (r), (v)(2), (v)(3), (v)(4), (v)(6) and (v)(7); respectively; adding new paragraph (z)(1); revising paragraph (bb)(2); revising paragraph (oo)(2) as follows:

§ 32.22 Refuge-specific regulations; upland game.

* * * * *

(c) *Arizona and California—(1) Cibola National Wildlife Refuge.* Hunting of quail and cottontail rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) The legal weapon shall be shotguns and bows and arrows.

(ii) Non-toxic shot is required for Farm Unit 2 and the Island Unit.

(iii) During the Arizona waterfowl season, hunting of quail and rabbit is not permitted in Farm Unit 2 until noon.

(iv) Hunting of cottontail rabbit is permitted from September 1, through the last day of the respective State's quail season.

(v) Hunting is permitted from one half-hour before sunrise to 3:00 p.m. daily.

(vi) Hunting is not permitted within 50 yards of any road or levee or 250 yards of any farm worker.

* * * * *

(h) *Florida*— * * *

(4) St. Vincent National Wildlife Refuge. Hunting of raccoon is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(k) *Illinois—Crab Orchard National Wildlife Refuge.* Hunting of upland game is permitted on designated areas of the refuge subject to the following conditions:

(1) Upland game hunting is not permitted in the controlled goose hunting areas during the permitted waterfowl hunting hours.

(2) No rifles may be used with ammunition larger than .22 caliber rim fire, except black powder weapons up to and including .40 caliber may be used.

(l) *Illinois, Iowa, and Missouri—Mark Twain National Wildlife Refuge.* * * *

(2) Hunting of squirrel is permitted on the Keithsburg Division from September 1 through September 15.

* * * * *

(q) *Louisiana*— * * *

(4) *D'Arbonne National Wildlife Refuge*— * * *

(iv) Lead shot is permitted only on designated portions of the refuge.

* * * * *

(8) *Upper Ouachita National Wildlife Refuge.* * * *

(iv) Lead shot is permitted only on designated portions of the refuge.

* * * * *

(r) *Maine—Rachel Carson National Wildlife Refuge.* Hunting of upland game birds, grey squirrel, cottontail rabbit, snowshoe hare, fox, and coyote is permitted on designated areas of the refuge subject to the following conditions: Fox and coyote may be hunted only during the State deer season.

* * * * *

(v) *Mississippi*— * * *

(2) *Hillside National Wildlife Refuge.* Hunting of quail, rabbit, squirrel, beaver, raccoon, and opossum is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(3) *Mathews Brake National Wildlife Refuge.* Hunting of quail, rabbit, squirrel, beaver, raccoon, and opossum is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(4) *Morgan Brake National Wildlife Refuge.* Hunting of quail, rabbit, squirrel, beaver, raccoon, and opossum is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(6) *Panther Swamp National Wildlife Refuge.* Hunting of quail, rabbit, squirrel, beaver, raccoon, and opossum is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(7) *Yazoo National Wildlife Refuge.* Hunting of squirrel, rabbit, raccoon, opossum, and furbearers is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(z) *Nevada—(1) Ash Meadows National Wildlife Refuge.* Hunting of quail, and rabbit is permitted on designated areas of the refuge subject to the following condition: Hunting of jackrabbit is permitted only during the regular State season for cottontail rabbit.

* * * * *

(bb) *New York*— * * *

(2) *Montezuma National Wildlife Refuge.*

(i) All hunters must possess and return at day's end, a valid daily hunt permit card.

(ii) A Special Use Permit is required for night hunting of furbearers.

(iii) Hunting is permitted from the close of the refuge deer season through the close of the respective State season.

(iv) Shotguns only are permitted, except that .22 caliber rim fire firearms may be used to take furbearers at night.

* * * * *

(oo) *Wisconsin*— * * *

(2) *Necedah National Wildlife Refuge.* Hunting of wild turkey, ruffed grouse, gray squirrel, fox squirrel, cottontail rabbit, snowshoe hare, and raccoon only is permitted on designated areas of the refuge subject to the following conditions:

(i) During the State waterfowl hunting season, guns must be unloaded or cased in the retrieval zone of Refuge Area 5.

(ii) During the spring turkey hunting season only, persons having an unexpired State Spring Turkey Permit in possession may enter and hunt wild turkeys in Refuge Area 3.

(iii) Refuge Area 3 is open to hunting after the State deer gun season through the end of the respective State seasons or until February 28, whichever occurs first.

* * * * *

4. Section 32.32 is amended by revising paragraphs (h)(5), (i)(5), (l) (2) and (3), (n) (1) and (2), (r)(4) (i) and (ii), (r)(9) (i) and (ii), (t)(2), (y)(2), (y)(3), (y)(4), (y)(5), (y)(6), and (y)(7); adding (ff)(2) (i), (ii) and (iii); removing (gg)(2)(vi); designating (gg)(2)(vii) as (gg)(2)(vi); revising (gg)(5), (nn)(1), (nn)(3), (nn)(4) and (rr)(2); revising (rr)(3) (ii) through (vi); removing (rr)(3)(vii); revising (tt)(3)(i) and adding (tt)(3) (iv) through (vi) as follows:

§ 32.32 Refuge-specific regulations; big game.

* * * * *

(h) *Florida*— * * *

(5) *St. Vincent National Wildlife Refuge.* Hunting of white-tailed and sambar deer, turkey, and feral hogs is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(l) *Georgia*— * * *

(5) *Piedmont National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(l) *Illinois—Crab Orchard National Wildlife Refuge.* * * *

(2) Hunters using the Closed Area are required to check in at the refuge visitor contact station prior to hunting and must comply with the special rules provided to them.

(3) Deer hunting is not permitted in the controlled goose hunting areas during the permitted waterfowl hunting hours.

* * * * *

(n) *Illinois, Iowa, and Missouri—Mark Twain National Wildlife Refuge.* * * *

(1) Hunting is permitted on the Gardner and Big Timber Division, including Turkey and Otter Island.

(2) Hunting of antlerless deer only is permitted on the Delair Division during a portion of the State season and/or during specially designated dates subject to the following conditions: Permits are required, hunters must be 16 years of age or older, and hunting hours will be 7 a.m. until 3 p.m.

* * * * *

(r) *Louisiana*— * * *

(4) *D'Arbonne National Wildlife Refuge*— * * *

(i) Either-sex deer hunting with firearms is permitted for two consecutive days beginning with the first day of the Union Parish either-sex season and the following Friday and Saturday.

(ii) Two consecutive days of either-sex deer hunting with muzzleloaders and archery will be permitted beginning the first Saturday in December.

* * * * *

(9) *Upper Ouachita National Wildlife Refuge.*— * * *

(i) Either-sex deer hunting with firearms is permitted for two consecutive days beginning with the first day of the Union Parish either-sex season and the following Friday and Saturday.

(ii) Two consecutive days of either-sex deer hunting with muzzleloaders and archery will be permitted beginning the first Saturday in December.

* * * * *

(t) *Maine*— * * *

(2) *Rachel Carson National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge.

* * * * *

(y) *Mississippi*— * * *

(2) *Hillside National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(3) *Mathews Brake National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(4) *Morgan Brake National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(5) *Noxubee National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(6) *Panther Swamp National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(ff) *New York*— * * *

(2) *Montezuma National Wildlife Refuge.*

(i) All hunters must possess and return at day's end, a valid daily hunt permit card.

(ii) Hunting of deer is permitted on designated portions of the refuge by archery, shotgun, or muzzleloader only during established refuge seasons set within the general State deer season.

(iii) Hunters during the refuge firearms season, must wear in a conspicuous manner on head, chest, and back a minimum of 400 square inches of solid-colored blaze orange clothing or material.

* * * * *

(gg) *North Carolina*— * * *

(2) *Great Dismal Swamp National Wildlife.* * * *

(vi) Hunting and/or possession of loaded firearms on refuge roads and road rights-of-way is prohibited.

* * * * *

(5) *Pungo National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Permits are required:

* * * * *

(nn) *Tennessee—(1) Chickasaw National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(3) *Hatchie National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(4) *Lower Hatchie National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(rr) *Virginia*— * * *

(2) *Chincoteague National Wildlife Refuge.* Hunting of sika deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Dogs are not permitted.

(iii) During the State firearms season, hunters must wear in a conspicuous manner on head, chest, and back a minimum of 400 square inches of solid-colored hunter orange clothing or material.

(3) Great Dismal Swamp National Wildlife Refuge. * * *

(ii) Only shotguns, 20 gauge or larger, loaded with buckshot and/or rifled slugs, and bows and arrows, are permitted

(iii) Dogs are not permitted.

(iv) Hunters must wear in a conspicuous manner on head, chest, and back a minimum of 400 square inches of solid-colored hunter orange clothing or material.

(v) Hunting and/or possession of loaded firearms on refuge roads including road rights-of-way is prohibited.

(vi) Hunters are required to sign in and sign out.

* * * * *

(tt) *Wisconsin*— * * *

(3) *Necedah National Wildlife Refuge.*

* * *

(i) Hunting with a loaded rifle or shotgun within 50 feet of the centerline of all refuge roads or trails, as shown on the refuge hunting leaflet or discharging these weapons from, across, down, or alongside these roads and trails is prohibited.

* * * * *

(iv) Refuge Areas 1, 2, 4, 5, and 6 are open to deer hunting during the State gun and both early and late archery seasons.

(v) Refuge Area 3 is open to deer hunting during the State gun and late archery season.

(vi) Target or practice shooting is not permitted.

* * * * *

Dated: October 4, 1990.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 90-25256 Filed 10-25-90; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 55, No. 208
Friday, October 26, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 122

Business Loans, Interest Rates

AGENCY: Small Business Administration (SBA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The SBA is proposing to amend the regulations so that lenders which make guaranteed loans of $50,000 or less would be permitted to receive a higher interest rate. It is contemplated that if this proposal is promulgated in final it would encourage lenders to make smaller loans to more business concerns.

DATES: Comments must be submitted on or before November 26, 1990.

ADDRESSES: Comments may be mailed to Charles R. Hertzberg, Assistant Administrator for Financial Assistance, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Charles R. Hertzberg, 202/653–6574.

SUPPLEMENTARY INFORMATION: Under present provisions of the Small Business Act (15 U.S.C. 636(a)(19)(B)), an SBA participating lender which makes a loan of $50,000 or less is permitted to retain one half of the guaranty fee (the guaranty fee is equivalent to two percent of such guaranteed portion). This, if the guaranteed portion is $40,000, the guaranty fee is $800, and the lender is permitted to keep $400 and remit to the SBA the remaining $400. If the guaranteed amount of the loan is $25,000, the lender is allowed to retain $250, and it would remit $250 to the SBA. Under the legislation, such guaranty fee sharing for smaller loans terminates September 30, 1991.

The cost of processing and servicing loans is relatively constant. There is little processing or servicing cost differential to a lender between a $50,000 loan and a $500,000 loan. There does exist, however, a notable benefit differential to the lender. The lender's interest earnings are greater on a large loan. Congress recognized this fact when it enacted Public Law 100–533 on October 25, 1988 (102 Stat. 2693) which initially authorized the guaranty fee sharing for smaller loans.

In 1989, the year in which such guaranty fee sharing was introduced, 14.7 percent of the SBA guaranteed loans was under $50,000. In the first two quarters of fiscal 1990, 15.3 percent of such loans was less than $50,000. In the third quarter of fiscal 1990, the percentage of guaranteed loans less than $50,000 was 16.8 percent. The incentives appear to be having a positive impact, although not so great as SBA desires. SBA wants lenders to make smaller loans available to more small businesses and it believes that this can be accomplished if the interest rate structure was adjusted in order to give lenders a greater incentive to offer such loans.

SBA has statistical information indicating that many of the loans presently made in amounts up to $50,000 are made at interest rates below the SBA maximum permissible rate. This would indicate the existence of competition among these lenders for loans in such amounts. For this reason, SBA believes it is unlikely that this proposal, if adopted in final form, would increase interest costs to qualifying borrowers at currently participating institutions. The proposal is intended to provide an inducement to those lenders which do not presently make such loans by offsetting all or part of the proportionately higher costs of making smaller loans.

The law requires that the interest rate charged by an SBA participating lender be legal and reasonable. Within these parameters, the Agency has promulgated maximum interest rates which lenders must comply with in making guaranteed loans. Thus, for a variable rate loan with a maturity under seven years, the initial maximum interest rate cannot exceed 2¼ percentage points over a base rate. For a variable rate loan with a maturity of seven years or more, the initial maximum interest rate cannot exceed 2¾ percentage points over a base rate. Allowing lenders to remain one half of the guaranty fee with respect to smaller loans may not be a sufficient incentive for them to make these loans in the numbers that SBA believes to be desirable as a matter of public policy. SBA wants the interest rate maximums as set forth in the regulations and summarized above to be changed to encourage lenders to make more loans of $50,000 and less. However, SBA intends to monitor all loans made in amount, up to $50,000 to determine whether such loans continue to be made at competitive rates and to assure that the maximum permissible rate does not become an automatic floor.

Accordingly, SBA is proposing to amend the regulations so that for variable rate loans between $25,000 and $50,000 the lender would be permitted to add one percentage point to the above-stated maximums. For variable rate loans less than $25,000, a lender would be allowed to add two percentage points to the above maximums. For guaranteed loans carrying a fixed rate of interest, SBA, pursuant to § 122.8–3 of the regulations (13 CFR 122.8–3), will publish from time to time in the Federal Register the maximum rate permitted for smaller loans, adding the same percentage points described above. The use of these higher maximums for smaller loans would not be mandated or required. The marketplace would still determine if a borrower in need of minimal financing would be prepared to pay additional interest. The Agency is proposing these changes to encourage lenders by giving them this option of a greater return for making a smaller loan.

As noted above, the guaranty fee sharing provisions for the smaller loans terminates, by law, on September 30, 1991. SBA plans to analyze the effect of all the incentives prior to program termination and to report to the Congress on the results. Because the program terminates, under present law, in less than a year, SBA is seeking public comment for 30 days in order to give the Agency time to evaluate responses and promulgate a final rule which would be effective for a reasonable period of time before termination.

Section 122.8–4 would be repealed since it relates to a pilot project established in 1984 for one year. Fluctuations of the interest rates for loans made purusant to this pilot are

governed by other provisions in the regulations.

For purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, SBA certifies that this proposed rule, if promulgated in final form, will not have a significant impact on a substantial number of small entities. SBA certifies that this proposed rule does not constitute a major rule for the purposes of Executive Order 12291, since the proposed change is not likely to result in an annual effect on the economy of $100 million or more.

The proposed rule, if promulgated in final form, would not impose additional reporting or recordkeeping requirements which would be subject to the Paperwork Reduction Act, 44 U.S.C. chapter 35.

This proposed rule would not have federalism implications warranting the preparation of a Federal Assessment in accordance with Executive Order 12612.

List of Subjects in 13 CFR Part 122

Loan programs/business, Small businessess.

Pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)), SBA proposes to amend part 122, chapter I, title 13, Code of Federal Regulations, as follows:

PART 122—Business Loans

1. The authority citation for part 122 would continue to read as follows:

Authority: 15 U.S.C. 634(b)(6) and 636(a).

2. Section 122.8–4 would be amended by removing paragraph (h); redesignating paragraph (g) as paragraph (h); and adding a new paragraph (g) to read as follows:

§ 122.8–4 Variable (fluctuating) rate.

* * * * *

(g) *Special rules for small loans approved through September 30, 1991.* For a variable rate loan over $25,000 through $50,000, the maximum interest rate described above may be increased by one percentage point. For a variable rate loan of $25,000 or less, the maximum interest rate described above may be increased by two percentage points.

(Catalogue of Federal Domestic Assistance Programs, No. 59.012, Small Business Loans)

Dated: September 17, 1990.

Susan Engeleiter,

Administrator

[FR Doc. 90–25334 Filed 10–25–90; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90–CE–33–AD]

Airworthiness Directives; Pilatus Britten-Norman (PBN) Limited Model BN–2T Turbine Islander Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new Airworthiness Directive (AD), applicable to Pilatus Britten-Norman (PBN) Limited Model BN–2T Turbine Islander airplanes, that would modify the engine ignition system to provide continuous ignition when engine inlet heat is selected. Incidents have been reported of single and dual engine flameouts resulting from undetected ice ingestion. This modification would prevent engine flameout due to ice ingestion.

DATES: Comments must be received on or before December 14, 1990.

ADDRESSES: PBN Service Bulletin (SB) BN–2/SB 193, dated April 11, 1990, applicable to this AD, may be obtained form Pilatus Britten-Norman Limited, Bembridge, Isle of Wight, PO36 5PR, England; telephone (44–983) 872511. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90–CE–33–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m. Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Carl F. Mittag, Aircraft Certification Staff, Europe, Africa, and Middle East Office, FAA c/o American Embassy, B–1000 Brussels, Belgium; telephone (322) 513.38.30 ext. 2710; Facsimile (322) 230.68.99; or Mr. John P. Dow, Sr., Small Airplane Directorate Airplane Certification Service, FAA, 601 E. 12th Street, Kansas City, Missouri 64106; telephone (816) 426–6932; Facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report, summarizing each FAA-public contact concerned with the substance of this proposal, will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90–CE–33–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Incidents of ice-induced engine flameout have been reported on PBN Limited Model BN–2T airplanes because of ice ingestion after the selection of engine inlet heat. Ice formation may occur in the engine inlet and in the compressor when visible moisture exists and the air temperature is less than 5 degrees centigrade. This ice will then be ingested into the engine when the engine inlet heat is turned on as required in the airplane flight manual (AFM) and may result in flameout of the engine and total loss of power. Since loss of power can occur almost simultaneously to both engines, the resulting condition could be serious if the airplane were operating at an altitude that would preclude restarting the engines before contacting the ground.

In addition to the manufacturer's reports, the Civil Aviation Authority of the United Kingdom (CAA–UK), which is the airworthiness authority of the UK, notified the FAA that an unsafe condition may exist on these PBN Limited Model BN–2T airplanes. The CAA–UK advises that ice formation could occur in the engine inlet and in the compressor of these airplanes when visiable moisture exists and the air temperature is less than 5 degrees. This could result in engine flameout and total loss of power. Pilatus Britten-Norman (PBN) Limited issued PBN SB BN–2/SB

193, dated April 11, 1990, which when followed would provide a modification that prevents flameouts from occurring by automatically selecting continuous ignition when engine inlet heat is utilized. The CAA–UK classified this SB as mandatory and issued AD 021–04–90 to require the modification. These airplanes are manufactured in the United Kingdom and are type certificated for operation in the United States.

Under the provisions of a bilateral airworthiness agreement, the FAA relies upon the findings of the CAA–UK, combined with FAA review of pertinent information, in determining that AD action is necessary for products of this type design, certificated for operation in the United States.

Consequently, the FAA is proposing an AD that would require the modification of the engine ignition system on PBN Model BN–2T Turbine Islander airplanes in accordance with PBN SB BN–2/SB 193.

While there are no PBN Model BN–2T Turbine Islander airplanes currently listed on the U.S. registry, they may be imported at any time since they are type certificated in the United States. The cost of modifying the engine ignition system per the proposed AD is estimated to be $240 for labor and approximately $5,695 for parts for a total of $5,935 per airplane. At this time, there would be no cost to U.S. operators. It would be necessary for small business entities to import more than 8 of the affected airplanes to incur a cost of compliance to equal or exceed the significant threshold cost level for small business entities.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small business entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Pilatus Britten-Norman (PBN) Limited: Docket No. 90–CE–33–AD. Applicability: Model BN–2T (all serial numbers) Turbine Islander airplanes, certificated in any category, that do not have PBN Modification Number NB/M/1429 incorporated.

Compliance: Required within the next 200 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent the loss of engine power on both engines simultaneously, accomplish the following:

(a) Modify the airplane engine ignition system as described in PBN Service Bulletin BN–2/SB 193, dated April 11, 1990.

(b) Airplanes may be flown in accordance with FAR 21.197 of the FAR to a location where this AD may be accomplished.

(c) An alternate method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium.

Note: The request should be forwarded through an FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Staff. All persons affected by this directive may obtain copies of the document referred to herein upon request to Pilatus Britten-Norman Limited, Bembridge Airport, Isle of Wight, PO36 5PR, England; telephone (44–983) 872511; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 12, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–25247 Filed 10–25–90; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 90–CE–32–AD]

Airworthiness Directives; Pilatus Britten-Norman (PBN) Limited Model BN–2T Turbine Islander Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness Directive (AD), applicable to certain Pilatus Britten-Norman (PBN) Limited Model BN–2T Turbine Islander airplanes, that would require modification of the starter/generator electrical circuit. Service experience has shown that it is possible to have an undetected circuit breaker trip in the starter/generator circuit after an engine shutdown that would prevent a restart. This modification would ensure the ability to restart engines in flight.

DATES: Comments must be received on or before December 14, 1990.

ADDRESSES: PBN Service Bulletin (SB) BN2/SB 194, dated April 11, 1990, applicable to this AD, may be obtained from Pilatus Britten-Norman Limited, Bembridge, Isle of Wight, PO36 5PR, England; telephone (44–983) 872511. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90–CE–32–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Carl F. Mittag, Aircraft Certification Staff, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, B–1000 Brussels, Belgium; telephone (322) 513.38.30 ext. 2710; Facsimile (322) 230.68.99; or Mr. John P. Dow, Sr., Small Airplane Directorate, Airplane Certification Service, FAA, 601 E. 12th Street, Kansas City, Missouri 64106; Telephone (816) 426–6932; Facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as

they may desire. Communications should identify the regulatory docket and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. .

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report, summarizing each FAA-public contact concerned with the substance of this proposal, will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90–CE–32–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The manufacturer has discovered through service experience on PBN Limited Model BN–2T airplanes that if the engines were shut down either in flight or on the ground, and the starter generator switch remains in the on position, then current flowing in the field circuit of the starter/generator could cause a starter/generator circuit breaker (CB) trip and isolate the starter circuit. Since this condition is not covered by appropriate flight manual instructions, the pilot may not be able to identify the condition and thus, would be unable to restart the engine, which could result in a serious accident.

In addition to the manufacture's reports, the civil Aviation Authority of the United Kingdom (CAA–UK), which is the airworthiness authority of the UK, notified the FAA that an unsafe condition may exist on these PBN Limited Model BN–2T airplanes. The CAA–UK advises that these airplanes could have an undetected circuit breaker trip in the starter/restarter generator circuit after an engine shutdown that would prevent a restart. Pilatus Britten-Norman (PBN) Limited has issued PBN SB 194, dated April 11, 1990, which sets forth a modification to the starter/generator circuit that reduces the field circuit current and ensures that excitation voltage is available to the generator contactor. The CAA–UK classified this SB as mandatory and issued AD 022–04–90 to require the modification. These airplanes are manufactured in the United Kingdom and are type certificated for operation in the United States.

Under the provisions of a bilateral airworthiness agreement, the FAA relies upon the findings of the CAA–UK, combined with FAA review of pertinent information, in determining that AD action is necessary for products of this type design, certificated for operation in the United States.

Consequently, the FAA is proposing an AD that would require the modification of the starter/generator circuit on the PBN Model BN–2T Turbine Islander airplanes in accordance with PBN SB BN–2/SB 193, dated April 11, 1990.

While there are no BN–2T Turbine Islander airplanes currently listed on the U.S. registry, they may be imported at any time since they are type certificated in the United States. The cost of modifying the starter/generator circuit per the proposed AD is estimated to be $120 for labor and approximately $278 for parts for a total of $398 per airplane. There would be no cost to U.S. operators at this time, and even if airplanes were imported into the United States there would not be a significant financial impact on any small business entities operating these airplanes.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small business entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Pilatus Britten-Norman (PBN) Limited: Docket No. 90–CE–32–AD.

Applicability: Model BN–2T all serial numbers) Turbine Islander airplanes, certificated in any category, that do not have PBN Modification Number NB/M/1415 incorporated.

Compliance: Required within the next 200 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To ensure the ability to restart the engines in flight, accomplish the following:

(a) Modify the airplance electrical system as described in PBN Service Bulletin BN2/SB 194, dated April 11, 1990.

(b) Airplanes may be flown in accordance with § 21.197 of the FAR to a location where this AD may be accomplished.

(c) An alternate method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium.

Note: The request should be forwarded through an FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Staff. All persons affected by this directive may obtain copies of the document referred to herein upon request to Pilatus Britten-Norman Limited, Bembridge Airport, Isle of Wight, PO36 5PR, England; telephone (44–983) 872511; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 12, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–25348 Filed 10–25–90; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 90-ACE-16]

Proposed Designation of Transition Area—Washington, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice propose to designate a 700-foot transition area at Washington, Kansas, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Washington County Memorial Airport, Washington, Kansas, utilizing the Morrison NDB as a navigational aid. This proposed action would change the airport status from visual flight rules (VFR) to instrument flight rules IFR.

DATES: Comments must be received on or before November 30, 1990.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Manager, System Management Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, telephone (816) 426-3408.

The official docket may be examined at the Office of the Assistant Chief Counsel, Central Region, Federal Aviation Administration, room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, System Management Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, System Management Branch, Air Traffic Division, ACE-530, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, telephone (816) 426-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the System Management Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obain a copy of this NPRM by submitting a request to the Federal Aviation Administration, System Management Branch, 601 East 12th Street, Kansas City, Missouri 64106, or by calling (816) 426-3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMS should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to subpart G, §71.181, of the Federal Aviation Regulations (14 CFR part 71) to designate a 700-foot transition area at Washington, Kansas. To enhance airport usage, a new instrument approach procedure is being developed for the Washington County Memorial Airport, Washington, Kansas, utilizing the Morrison NDB as a navigational aid. This navigational aid would provide new navigational guidance for aircraft utilizing the airport. The establishment of a new instrument approach procedure based on this navigational aid entails designation of a transition area at Washington, Kansas, at and above 700 feet above ground level within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operations and while transiting between the terminal and en route environment. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under instrument flight rules (IFR) from other aircraft operating under visual flight rules (VFR). This action would change the airport status from VFR to IFR. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under this criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§71.181 [Revised]

2. Section 71.181 is amended as follows:

Washington, Kansas

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Washington County Memorial Airport (lat. 39°44'10" N., long. 97°02'31" W.); within 5.25 miles each side of the Morrison NDB (lat. 39°45'42" N., long. 97°02'31" W.) 021° bearing extending from the 6.5-mile radius area to 13.5 miles north of the NDB.

Issued in Kansas City, Missouri on October 4, 1990.

Clarence E. Newbern,

Manager, Air Traffic Division, Central Region.

[FR Doc. 90-25349 Filed 10-25-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 90-AGL-17]

Proposed Transition Area Establishment; Two Harbors, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish the Two Harbors, MN, transition area to accommodate a new NDB Runway 24 Standard Instrument

Approach Procedure (SIAP) to Two Harbors Municipal Airport, Two Harbors, MN. The intended effect of this action is to ensure segregation of the aircraft using approach procedures under instrument flight rules from other aircraft operating under visual flight rules in controlled airspace.

DATES: Comments must be received on or before December 4, 1990.

ADDRESSES: Send comments on the proposal in triplicate to:

Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL-7, Attn: Rules Docket No. 90-AGL-17, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Air Traffic Division, System Management Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Douglas F. Powers, Air Traffic Division, System Management Branch, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 90-AGL-17". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being place on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 71.181 of part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish a transition area airspace near Two Harbors, MN. The transition area would be established to accommodate a new NDB Runway 24 SIAP to Two Harbors Municipal Airport.

The development of the procedure requires that the FAA alter the designated airspace to insure that the procedure would be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts would reflect the defined area which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rules requirements. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation Safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Two Harbors, MN [New]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Two Harbors Municipal Airport (lat. 47°03'04" N., long. 91°46'22" W.); and within 3 miles each side of the 73° bearing from Two Harbors Municipal Airport extending from the 5-mile radius to 8.5 miles northeast of the airport.

Issued in Des Plaines, Illinois, on October 15, 1990.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 90-25059 Filed 10-25-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 90-ASO-4]

Proposed Establishment of Jet Route J-238; GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish new jet Route J-238 between Atlanta, GA, and Meridian, MS. This jet route would provide precise navigation in the area and reduce controller workload by eliminating radar vectoring between Atlanta and Meridian.

DATES: Comments must be received on or before December 6, 1990.

ADDRESSES: Send comments on the proposal in triplicate to:

Manager, Air Traffic Division, ASO-500, Docket No. 90-ASO-4, Federal

Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8250.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 90-ASO-4." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 75 of the Federal Aviation Regulations (14 CFR part 75) to establish a new jet route between Atlanta, GA, and Meridian, MS. This new jet route would improve navigation between Atlanta and Meridian, thereby reducing controller workload by eliminating radar vectors and by providing a shorter route for that area. Section 75.100 of part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 75 of the Federal Aviation Regulations (14 CFR part 75) as follows:

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

1. The authority citation for part 75 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J-239 [New]

From Atlanta, GA, INT Atlanta 260°T(260°M) and Meridian, MS, 061°T(056°M) radials; to Meridian.

Issued in Washington, DC, on October 17, 1990.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 90-25351 Filed 10-25-90; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90-457, RM-7389]

Radio Broadcasting Services; Zolfo Springs, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Ted L. Hite, seeking the allotment of Channel 295A to Zolfo Springs, Florida, as that community's first local FM service. The coordinates for this proposal are North Latitude 27-22-00 and West Longitude 81-48-00.

DATES: Comments must be filed on or before December 14, 1990, and reply comments on or before December 31, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Cary S. Tepper, Putbrese, Hunsaker, & Ruddy, 6300 Fleetwood Road, Suite 100, P.O. Box 539, McLean, Virginia 22101 (Attorney for petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-457, adopted September 28, 1990, and released October 23, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International

Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contracts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25425 Filed 10-25-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-455, RM-7388]

Radio Broadcasting Services; Warrenton, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Radio Warrenton ("petitioner") requesting the substitution of Channel 226C3 for Channel 226A at Warrenton, Georgia, and modification of its construction permit (BPH-890612MH) to specify operations on the higher class channel. Channel 226C3 can be allotted to Warrenton in compliance with the Commission's minimum distance separation requirements with a site restriction of 13.4 kilometers (8.3 miles) west of the city. The coordinates for this allotment are North Latitude 33-21-35 and West Longitude 82-47-40.

DATES: Comments must be filed on or before December 14, 1990, and reply comments on or before December 31, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Arthur V. Belendiuk, Smithwick & Belendiuk, P.C., 2033 M Street NW., Suite 207, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-456, adopted September 28, 1990, and released October 23, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contracts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25426 Filed 10-25-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-454, RM-7436]

Radio Broadcasting Services; Clearwater, KS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Central K Communications proposing the allotment of Channel 254A to Clearwater, Kansas, as that community's first FM broadcast service. The coordinates for Channel 254A are 37-27-21 and 97-3-48, with a site restriction 7.2 kilometers (4.5 miles) southwest of the community.

DATES: Comments must be filed on or before December 14, 1990, and reply comments on or before December 31, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Stanley G. Emert, Jr., Lockridge & Becker, P.C., Post Office Box 107, Knoxville, Tennessee 37901 (Counsel for the petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-454, adopted September 27, 1990, and released October 23, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 2300, 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR Section 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25422 Filed 10-25-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-459, RM-7388]

Radio Broadcasting Services; Clovis, NM

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on petition by Alton Lloyd Finley, Jr., seeking the allotment of Channel 272C3 to Clovis, New Mexico, as the community's fifth local FM service. Channel 262C3 can be allotted to Clovis in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for this allotment are North Latitude 36-24-06 and West Longitude 103-12-18.

DATES: Comments must be filed on or before December 14, 1990, and reply comments on or before December 31, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Alton Lloyd Finley, Jr., Rural Route #5, Box 442-M, Seneca, South Carolina 29678 (petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-459, adopted September 28, 1990, and released October 23, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25427 Filed 10-25-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-458, RM-7475]

Radio Broadcasting Services; Taos, NM

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Taos County Radio seeking the substitution of Channel 260C for Channel 260C2 at Taos, New Mexico, and the modification of its construction permit for Station KRBJ to specify operation on the higher powered channel. Channel 260C2 can be allotted to Taos in compliance with the Commission's minimum distance separation requirements with a site restriction of 28.6 kilometers (17.7 miles) south to accommodate petitioner's desired transmitter site. The coordinates for Channel 260C at Taos are North Latitude 36-09-30 and West Longitude 105-29-30. In accordance with Section 1.420 of the Commission's Rules, we will not accept competing expressions of interest in use of Channel 260C at Taos or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before December 14, 1990, and reply comments on or before December 31, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Stephen E. Coran, Esq., Brown Finn & Nietert, Chartered, 1920 N Street NW., Suite 660, Washington, DC. 20036 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of proposed Rule Making, MM Docket No. 90-458, adopted September 28, 1990, and released October 23, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25428 Filed 10-25-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-455, RM-7356]

Radio Broadcasting Services; Bloomer, WI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Starcom, Inc., proposing the substitution of FM Channel 236C3 for Channel 236A at Bloomer, Wisconsin, and modification of its construction permit for Station WPHQ(FM) to specify operation on Channel 236C3. The coordinates for Channel 236C3 are 45-00-30 and 91-19-59.

DATES: Comments must be filed on or before December 14, 1990, and reply comments on or before December 31, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20544. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant,

as follows: Richard J. Bodorff, Edward A. Yorkgitis, Jr., Wiley, Rein & Fielding, 1776 K Street NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–455, adopted September 27, 1990, and released October 23, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230)), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–25423 Filed 10–25–90; 8:45 am]

BILLING CODE 6712–01–M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 507 and 510

[GSAR Notice No. 6–309]

General Services Administration Acquisition Regulation; Use of the Metric System in GSA Procurements

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on a proposed change to the General Services Administration Acquisition Regulation (GSAR) that would provide guidance to GSA contracting activities concerning the use of the metric system of measurement in acquisition planning and in preparing solicitations to meet the requirements of section 5164 of the Omnibus Trade and Competitiveness Act of 1988, GSA Order ADM 8000.1A and the GSA Metric Transition Plan (55 FR 12904). The proposed change is also intended to encourage industries to make the conversion to the International System of Units (SI) and to invite them to make Federal agencies aware of their ability to supply conforming supplies and services in metric units.

DATES: Comments or suggestions may be submitted in writing on or before November 26, 1990.

ADDRESSES: Comments should be addressed to Marjorie Ashby, Office of GSA Acquisition Policy (VP), 18th and F Streets, NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Paul L. Linfield, Office of GSA Acquisition Policy (202) 501–1224.

SUPPLEMENTARY INFORMATION:

A. Background

Section 5164 of the Omnibus Trade and Competitiveness Act of 1988 designates the metric system of measurement as the preferred system of weights and measures for U.S. trade and commerce and mandates certain requirements on Federal agencies, which are intended to stimulate this nation's conversion to the International System of Units. GSA, in issuing its GSA order, "GSA Metric Program" (ADM 8000.1A), and its Metric Transition Plan, met certain requirements of the statute. For a summary of the background and purpose of the statute and GSA's order and plan, the reader is directed to 55 FR 12904. Since the suggested language in this proposed rule has applicability for other Federal agencies, a revision to the Federal Acquisition Regulation has been proposed. Pending adoption of that change, guidance for GSA contracting activities is necessary.

B. Executive Order 12291

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this proposed rule.

C. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), GSA certifies that this proposed rule will not have a significant impact on a substantial number of small entities because it is intended to provide internal guidance to GSA contracting activities to satisfy a current requirement that Federal agencies review, prepare and revise Federal documents and specifications to eliminate barriers to the use of the metric system in Federal procurements. Use of the metric system of measurement for Federal agency procurements is mandated by September 30, 1992, to the extent economically feasible, by section 5164 of the Omnibus Trade and Competitiveness Act of 1988, which amended the Metric Conversion Act of 1975. Consequently, no regulatory flexibility analysis has been prepared though comments from small entities are hereby solicited and will be considered in accordance with section 610 of the Regulatory Flexibility Act.

D. Paperwork Reduction Act

The proposed rule does not contain information collection requirements that require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Parts 507 and 510

Government procurement.

1. The authority citation for 48 CFR parts 507 and 510 continues to read as follows:

Authority: 40 U.S.C. 486(c).

PART 507—[AMENDED]

2. Section 507.103 is added to read as follows:

507.103 Agency head responsibilities.

The head of the contracting activity (HCA) shall ensure that, during the acquisition planning phase, requirements personnel consider the use of the metric system of measurement consistent with 15 U.S.C. 205 et seq. (see 510.002), GSA Order ADM 8000.1A, and GSA Metric Transition Plan. Use of the metric system must be coordinated with the contracting officer and be consistent with security, operational, economic, technical, logistical, training, and safety requirements.

PART 510—[AMENDED]

3. Section 510.001 is amended to add alphabetically a definition of "metric system" to read as follows:

510.001 Definitions.

Metric system means the International System of Units established by the General Conference of Weights and Measures in 1960. The units are listed in Federal Standard

3781, Preferred Metric Units for General Use by the Federal Government.

* * * * *

4. Section 510.002 is added to read as follows:

510.002 Policy.

(a) The Metric Conversion Act of 1975, as amended by section 5164 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 205 et seq.), (1) designates the metric system of measurement as the preferred system of weights and measures for U.S. trade and commerce and (2) requires by September 30, 1992, each Federal agency, to the extent economically feasible, to use the metric system of measurements in its procurements, grants, and other business related activities. The GSA Metric Transition Plan, dated March 27, 1990, describes GSA's comprehensive and integrated programs to comply with section 5164 and GSA Order ADM 8000.1A.

(b) Consistent with the policy expressed in GSA Order ADM 8000.1A, solicitations shall include specifications and purchase descriptions stated in metric units of measurement whenever metric is the accepted industry system. Whenever possible, commercially developed metric specifications and internationally developed voluntary standards using metric measurements must be adopted. While an industry is in transition to metric, solicitations should include specifications and purchase descriptions stated in soft metric, hybrid, or dual systems, when practical. To further the cultural change, solicitations should encourage offers of metric products.

Dated: October 22, 1990.

Richard H. Hopf, III,

Associate Administrator for Acquisition Policy.

[FR Doc. 90-25421 Filed 10-25-90; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF DEFENSE

Department of the Navy

48 CFR Parts 5243 and 5252

Navy Acquisition Procedures Supplement; Adjustments to Prices Under Shipbuilding Contracts

AGENCY: Department of the Navy, DOD.

ACTION: Proposed rule; extension of date for receipt of post hearing comments, and notice that records will be available for public review.

SUMMARY: The Department of the Navy promulgated proposed regulations on part 5243, subpart 5243.70 of Navy Acquisition Procedures Supplement (NAPS) to restrict contract price adjustments under shipbuilding contracts, thus implementing by regulation the requirements of 10 U.S.C. 2405. The Department also promulgated proposed amendments to part 5252 to add the text of a solicitation provision and a contract clause. The proposed regulation was published on June 29, 1990 at 54 FR 26708. That proposed regulation amended earlier proposed rules and, among other things, established August 23, 1990 as the date for a public hearing and September 6, 1990 as the date for receipt of post hearing comments. By notice of August 10, 1990 at 54 FR 33541, the date of the public hearing was changed to September 24, 1990 and the date for receipt of post hearing comments was changed to October 5, 1990. These dates are being amended as set forth below along with a notice of the availability of a public record.

DATES: A public hearing on the proposed rule will be held on November 9, 1990, commencing 9 a.m. Post hearing comments may be submitted until 5 p.m., e.s.t. December 7, 1990.

ADDRESSES: *Public record:* A record of this matter will be available for public review. This record will include the Federal register notices, public comments, questions, a transcript of the public hearing, and post hearing comments. Interested parties desiring to review this record should make arrangements with: Mr. Richard Moye, Office of the Assistant Secretary of the Navy (Research, Development and Acquisition), APIA–PP, Washington, DC 20350–1000. Mr Moye may be reached at (703) 602–2607.

Attendance: All interested persons desiring to attend the hearing should advise the above-named person of the name of the interested party, the number of expected attendees, and the telephone number for a designated point of contact. This will permit attendees to be contacted should there be a need to further changes the date, time or place set for the hearing.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Moye, (703) 602–2607.

Dated: October 12, 1990

Wayne T. Baucino,

LT. JAGC, USNR, Alternative Federal Register Liaison Office.

[FR Doc. 90-25255 Filed 10-24-90; 8:45 am]

BILLING CODE 3810-AE-M

Notices

Federal Register
Vol. 55, No. 208
Friday, October 26, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Breckenridge Ski Area Expansion Environmental Impact Statement; Arapaho National Forest, Summit County, CO

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare an Environmental Impact Statement.

SUMMARY: The Department of Agriculture, Forest Service will prepare an environmental impact statement on a proposal from Breckenridge Ski Corporation to expand their existing permit boundary by 2,635 acres and to increase their existing skiers capacity by 7,000 skiers at one time (SAOT).

DATES: Comments concerning the scope of the analysis should be received in writing by January 1, 1991.

ADDRESSES: Send written comments to Jeff Bailey, District Ranger, Dillon Ranger District, 135 Highway 9, Blue River Center, P.O. Box 620, Silverthorne, Colorado 80498.

FOR FURTHER INFORMATION CONTACT: Stu Saucke, Dillon Ranger District, 135 Highway 9, Blue River Center, P.O. Box 620, Silverthorne, Colorado 80498, Phone: (303) 468–5400.

SUPPLEMENTARY INFORMATION: The Dillon Ranger District, where Breckenridge Ski Area is located, is on the Arapaho National Forest but is administered by the White River National Forest. The proponent Breckenridge Ski Corporation proposes to expand their existing permit boundary by 2,635 acres and to increase their existing capacity by 7,000 SAOT. Breckenridge Ski Corporation proposes to build a funicular (cable railway) at Peak 8 near the Colorado lift which has the capacity to transport 240 passengers at one time. A restaurant at the top of Peak 8 is proposed as well as an additional race area at Peak 8.

The existing permit boundary is within the 1B management area in the *White River Land and Resource Management Plan* (Forest Plan) which provides for existing and potential winter sports sites. A portion of the proposed expansion is outside of the 1B management area and would require an amendment to the Forest Plan.

The Forest Service joint review process will be initiated. Known interested publics will be notified in writing. The Forest Service will also make efforts to contract the general public through newsreleases, public meetings, etc.

Preliminary issues identified thus far are: Impacts to tundra environment, wildlife, travel routes of big game, wetlands, threatened and endangered plant species (if any), visual quality, changing of Forest Plan prescriptions, compatibility of a four-season resort with tundra environment, location of restaurant site, sufficient parking, cross country skiing versus downhill skiing across the Wheeler Tenmile National Recreation Trail, and cumulative impacts.

Preliminary alternatives identified thus far are: (1) No Action in which Breckenridge Ski Corporation's special use permit would not be amended to include any expansion outside of their current boundary, (2) Allow Breckenridge Ski Corporation to expand as proposed in their master development plan, and (3) Allow Breckenridge Ski Corporation to expand as modified by the environmental analysis.

The lead agency is the Forest Service, USDA. Comments may be sent in writing to Jeff Bailey, District Ranger, 135 Highway 9, Blue River Center, P.O. Box 620, Silverthorne, Colorado 80498.

The draft environmental impact statement is expected to be published for public review in August, 1991. The final environmental impact statement is expected to be published in May, 1992.

The Forest Service will seek comments on the draft environmental impact statement for a period of 45 days after publication of the draft environmental impact statement. The Forest Service will summarize and respond to the comments in the final environmental impact statement.

The responsible official is Thomas A. Hoots, Forest Supervisor, White River National Forest, 900 Grand Ave., P.O. Box 948, Glenwood Springs, Colorado 81602.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specified as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merit of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.).

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

Dated: October 16, 1990.

Thomas A. Hoots,

Forest Supervisor.

[FR Doc. 90–25331 Filed 10–25–90; 8:45 am]
BILLING CODE 3410-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 49-90]

Proposed Foreign-Trade Zone—Miami, FL

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Wynwood Community Economic Development Corporation (WCEDC), a Florida non-profit corporation, requesting authority to establish a general-purpose foreign-trade zone in the City of Miami, Florida, within the Miami Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zone Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on October 17, 1990. The applicant is authorized to make the proposal under § 288.28 of the 1990 Florida Statutes.

The proposed WCEDC project would be the third general-purpose zone project in the Miami Customs port of entry area. FTZ 32, located in Dade County four miles west of the Miami International Airport, was approved in 1977 (FTZ Board Order 123, 42 FR 46328, 9/16/77); and, FTZ 100 in Homestead, Florida, was approved in August 1988 (FTZ Board Order 402, 55 FR 34691, 8/23/90).

The WCEDC foreign-trade zone project involves a proposed site (13 acres) on Northwest Second Avenue at 22nd Street in the Wynwood Community of Miami, within a mile of the Port of Miami. The City of Miami recently agreed to donate the site to WCEDC for development as a foreign-trade zone. The site is also within a state-designated enterprise zone area.

The applicant contends that the additional zone is needed to provide zone services to the Wynwood area of the Miami port of entry as part of the economic development efforts underway in that community. Several firms have expressed an interest in using zone procedures for warehouse/distribution of products including apparel, rubber and plastics, electrical instruments and machinery. Specific manufacturing approvals are not being sought at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Howard Cooperman, Deputy Assistant Regional Commissioner, U.S. Customs Service, Southeast Region, 909 SE First Avenue, Miami, Florida 33131–2595; and, Colonel Bruce A. Malson, District Engineer, U.S. Army Engineer District Jacksonville, P.O. Box 4970, Jacksonville, Florida 32232-0019.

Comments concerning the proposed zone are invited in writing from interested parties. They shall be addressed to the Board's Executive Secretary at the address below and postmarked on or before December 14, 1990.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

U.S. Department of Commerce District Office, Federal Building, Suite 224, 51 SW., First Avenue, Miami, Florida 33130

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Pennsylvania Avenue, NW., room 4213, Washington, DC 20230.

Dated: October 22, 1990.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 90-25409 Filed 10-25-90; 8:45 am]
BILLING CODE 3510-DS-M

International Trade Administration

[A-122-047]

Elemental Sulphur From Canada; Final Results of Antidumping Duty; Administrative Review and Revocation in Part

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review and revocation in part.

SUMMARY: On July 13, 1990, the Department of Commerce published the preliminary results of its antidumping duty administrative review and intent to revoke in part the antidumping finding on elemental sulphur in Canada. The review covers seven producers and/or exporters and generally the period December 1, 1987 through November 30, 1988.

We gave interested parties an opportunity to comment on our preliminary results and intent to revoke in part. Based on our analysis of the comment received, our final results are unchanged from the preliminary results, and we revoke the antidumping finding in part with respect to four companies.

EFFECTIVE DATE: October 26, 1990.

FOR FURTHER INFORMATION CONTACT: Joseph A. Fargo or Laurie A. Lucksinger, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–5252.

SUPPLEMENTARY INFORMATION:

Background

On July 13, 1990, the Department of Commerce (the Department) published in the Federal Register (55 FR 28795) the preliminary results of antidumping duty administrative review and intent to revoke in part the antidumping finding on elemental sulphur from Canada (December 17, 1973, 38 FR 34955). We have now completed the administrative review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).

Scope of the Review

Imports covered by the review are shipments of elemental sulphur from Canada. During the period such merchandise was classifiable under item 415.4500 of the Tariff Schedules of the United States Annotated (TSUSA). This merchandise is currently classifiable under Harmonized Tariff System (HTS) item 2503.10.00. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers seven producers and/or exporters and the period December 1, 1987 through November 30, 1988.

Analysis of Comments

We gave interested parties an opportunity to comment on our notice of preliminary results. We received one comment from a respondent, InterRedec Sulphur Corporation.

Comment: InterRedec contends that the Department should issue a notice of intent to revoke in part the antidumping finding with respect to InterRedec. In support of its request, InterRedec notes that it has requested revocation from the finding three times. The Department's final results of review for the December 1, 1981 through November 30, 1982 period indicated that InterRedec was not making sales at less than fair value (50 FR 37888, September 16, 1985). The Department has also published its final results of review for the December 1, 1982 through November 30, 1983 period, indicating no sales at less than fair value by InterRedec (55 FR 28794, July 13, 1990). Even though InterRedec has demonstrated no sales at less than fair value for five review periods, the Department has yet to act on InterRedec's requests for revocation. Because it has met the requirements of

the Department's regulations (19 CFR 353.25(a)), InterRedec maintains that the Department should issue a notice of intent to revoke in part the antidumping finding on elemental sulphur from Canada.

Department's Position: We will consider InterRedec's request for revocation in the administrative review of the period December 1, 1988 through November 30, 1989, which we initiated on February 16, 1990 (55 FR 5846).

Final Results of Review

Based of our analysis of the comment received, our final results of review are unchanged from those presented in the notice of preliminary results of review, and we determine that the following margins exist:

Producer/ Exporter	Period of review	Margin (Percent)
BP Resources Canada	12/01/87-9/2/89	0
Cornwall Chemicals	12/01/87-3/2/89	[1] 3.84
Home Oil	12/01/87-3/2/89	0
InterRedec	12/01/87-11/30/89	0
Petro-Canada	12/01/87-11/30/89	0
Sulco Chemicals	12/01/87-11/30/89	0
Suncor	12/01/87-3/2/89	[1] 0

[1] No shipments during the period; margins from last review in which there were shipments.

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, as provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required for these firms. For any shipments of this merchandise produced or exported by the remaining known producers and/or exporters not covered in this review, the cash deposit will continue to be at the rate published in the final results of the last administrative review for these firms. For any future entries of this merchandise from a new producer and/ or exporter, not covered in this or prior administrative reviews, whose first shipments occurred after November 30, 1989, and who is unrelated to the reviewed firms or any previously reviewed firm, no cash deposit shall be required. These deposit requirements are effective for all shipments of Canadian elemental sulphur entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

Revocation in Part

For the reasons set forth in the preliminary results, and because we are satisfied that there is no likelihood of resumption of sales at less than fair value, we revoke in part the antidumping finding on elemental sulphur from Canada. This partial revocation applies to all unliquidated entries of this merchandise exported by B.P. Resources, Cornwall Chemical, Home Oil, and Suncor for consumption on or after March 2, 1989, the date of our tentative revocation in part with respect to these firms (54 FR 8770). The Department shall instruct the Customs Service to assess antidumping duties on all appropriate entries.

This administrative review, tentative revocation in part, and notice are in accordance with sections 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1), (c)), 19 CFR 353.54 (1989), and 19 CFR 353.22 (1989).

Dated: October 19, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-25409 Filed 10-25-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-045]

Steel Wire Rope From Japan; Determination Not To Revoke Antidumping Finding

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of determination not to revoke antidumping finding.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the antidumping finding on steel wire rope from Japan.

EFFECTIVE DATE: October 26, 1990.

FOR FURTHER INFORMATION CONTACT: Sheila Forbes or Robert Marsnick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington DC 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION: On October 2, 1990, the Department of Commerce (the Department) published in the Federal Register (55 FR 40212) its intent to revoke the antidumping finding on steel wire rope from Japan (38 FR 28571, October 15, 1973). The Department may revoke an order if the Secretary concludes that the order is no longer of interest to interested parties. We had not received a request for an administrative review of the finding for the last four consecutive annual anniversary months and therefore published a notice of intent to revoke pursuant to 19 CFR 353.25(d)(4) (1989).

On October 10, 1990, the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers objected to our intent to revoke the finding. Therefore, we no longer intend to revoke the finding.

Dated: October 18, 1990.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 90-25294 Filed 10-25-90; 8:45 am]

BILLING CODE 3510-DS-M

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders, findings, and suspension agreements. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: October 26, 1990.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce ("the Department") has received timely requests, in accordance with § 353.22(a)(1) of the Department's regulations, for administrative reviews of various antidumping and countervailing duty orders, findings, and suspension agreements.

Initiation of Reviews

In accordance with §§ 353.22(c) and 355.22(c) of the Department's regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders, findings and suspension agreements. We intend to issue the final results of these reviews not later than September 30, 1991.

BEST COPY AVAILABLE

Antidumping duty proceedings and firms	Periods to be reviewed
Canada:	
Paving Equipment	
A-122-057	
Allen Paving Equipment	09/01/89-08/31/90
New Steel Rails	
A-122-804	
Algoma Steel Corp.	09/20/89-08/31/90
United Kingdom:	
Certain Forged Steel Crankshafts	
A-412-602	
United Engineering & Forging	09/01/89-08/31/90

Countervailing duty proceedings	Periods to be reviewed
Argentina:	
Certain Welded Carbon Steel Pipe and Tube Products	
C-357-801	01/01/89-12/31/89
Canada:	
Fresh Chilled and Frozen Pork	
C-122-607	05/08/89-03/31/90
Mexico:	
Portland Hydraulic Cement and Cement Clinker	
C-201-013	01/01/89-12/31/89
New Zealand:	
Lamb Meat	
C-614-503	04/01/89-03/31/90

Suspension agreements	Period to be reviewed
Argentina:	
Carbon Steel Wire Rod	
C-357-004	01/01/89-12/31/89

Interested parties must submit applications for administrative protective orders in accordance with §§ 353.34(b) and 355.34(b) of the Department's regulations.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and 19 CFR 353.22(c) (1989) and 355.22(c) (1989).

Dated: October 17, 1990.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 90-25292 Filed 10-25-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-403-801, C-403-802]

Postponement of Final Antidumping Duty and Final Countervailing Duty Determinations and Postponement of Public Hearings: Fresh and Chilled Atlantic Salmon from Norway

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: This notice informs the public that we have received a request from the counsel for respondents in the antidumping duty investigation to postpone the final determination, as permitted in section 735(a)(2) of the Tariff Act of 1930, as amended (the Act), (19 U.S.C. 1673(a)(2)). Based on this request, we are postponing our final determination as to whether sales of fresh and chilled Atlantic salmon from Norway have occurred at less than fair value until not later than February 15, 1991. In accordance with 705(a)(1) of the Act (19 U.S.C. 1671d(a)(1)), the final determination in the countervailing duty determination will also be postponed until not later than February 15, 1991.

EFFECTIVE DATE: October 26, 1990.

FOR FURTHER INFORMATION CONTACT: Tracey Oakes (AD) (202) 377-3174, Louis Apple (AD) (202) 377-1769, Rick Herring (CVD) (202) 377-3530, or Elizabeth Graham (CVD) (202) 377-4105, Offices of Antidumping and Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: On Ocrober 5, 1990 counsel for respondents in the antidumping duty investigation requested that the Department postpone the final determination until not later than 135 days after the date of publication of the preliminary determination, in accordance with section 735(a)(2) of the Act. Accordingly, we are postponing the date of the final determination until not later than February 8, 1991. On August 7, 1990, we published a notice in the Federal Register (55 FR 32167) aligning the final determination of the countervailing duty determination with the final determination of the antidumping duty determination. This was done at the request of petitioner under section 705(a)(1) of the Act (19 U.S.C. 1671d(a)(1)). Therefore, we are also postponing the date of the final determination of the countervailing duty determination until not later than February 8, 1991.

The case briefs in the antidumping duty investigation are now due on January 14, and rebuttal briefs are due on January 22, 1991. The hearing will be held on January 24, 1991. The public hearing for the countervailing duty investigation which was scheduled for November 7, will now be held on December 17, 1990, at 10 a.m. at the U.S. Department of Commerce, room 1412, 14th Street and Constitution Avenue NW., Washington DC. Case briefs in the countervailing duty investigation are now due on December 10, and rebuttal briefs are now due on December 14, 1990.

The U.S. International Trade Commission is being advised of this postponement in accordance with sections 705(d) and 735(d) of the Act. This notice is published pursuant to sections 705(d) and 735(d) of the Act and 19 CFR 355.20(c)(3) and 353.20(b)(2).

Dated: October 19, 1990.

Majorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-25295 Filed 10-25-90; 8:45 am]

BILLING CODE 3510-DS-M

[C-357-004]

Certain Carbon Steel Wire Rod From Argentina; Determination Not To Terminate Suspended Investigation

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of determination not to terminate suspended investigation.

SUMMARY: The Department of Commerce is notifying the public of its determination not to terminate the suspended countervailing duty investigation on certain carbon steel wire rod from Argentina.

EFFECTIVE DATE: October 26, 1990.

FOR FURTHER INFORMATION CONTACT: Robert Bolling or Barbara Williams, Office of Agreements Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-3793.

SUPPLEMENTARY INFORMATION:

Background

On August 31, 1990, the Department of Commerce ("the Department") published in the Federal Register (55 FR 35704) its second notice of intent to terminate the suspended countervailing duty investigation on certain carbon steel wire rod from Argentina (September 27, 1982, 47 FR 42363). The first notice of intent to terminate the suspended investigation was published last year, at which time the Department received an objection to termination from the petitioners and interested parties. We did not, however, receive a request for an administrative review at that time.

The Department will terminate a suspended investigation if the Secretary concludes that the agreement is no longer of interest to interested parties. 19 CFR 355.25(d)(4) On September 13, 1990, four petitioners, Atlantic Steel Company, Georgetown Steel Corporation, North Star Steel Texas Incorporated and Raritan Steel Company, objected to the Department's second notice of intent to terminate this suspended investigation. On September 13, 1990, one interested party, Bethlehem Steel Corporation, objected to the Department's intent to terminate this suspended investigation. In addition, on September 28, 1990, the petitioners, requested that the Department conduct an administrative review of the agreement suspending the countervailing duty investigation on certain carbon steel wire rod from Argentina for the period January 1, 1989 through December 31, 1989. Therefore, we no longer intent to terminate the suspended investigation.

This notice is published in accordance with § 355.25(d)(4) of the Commerce Department's regulations. 19 CFR 355.25(d)(4)(1990)

Dated: October 18, 1990.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 90-25293 Filed 10-25-90; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

ACTION: Application for an amendment to an export trade certificate of review.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an amendment to an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the Certificate should be amended.

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the Federal Register identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a Certificate should be amended. An original and five (5) copies should be submitted not later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, room 1800, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 87-3A009."

OETCA has received the following application for an amendment to Export Trade Certificate of Review No. 87-00009, issued on August 27, 1987 (52 FR 22368, June 11, 1987).

Summary of the Application

Applicant: California Cherry Export Association, 48 E. Oak Street, Lodi, California 95240.

Contact: James C. Christie, General Manager, telephone: (209) 369-6965.

Application No.: 87-3A009.

Date Deemed Submitted: October 15, 1990.

The California Cherry Export Association (CCEA) seeks to amend its Certificate by (1) adding the following companies as "Members" of the Certificate: All State Packers, Inc., Lodi, CA; Felix Costa & Sons, Lodi, CA; and Hillsdale Packing Company, Lodi, CA; (2) expanding the covered export markets to include all parts of the world except the U.S.; and (3) revising the list of directors of CCEA to include the General Manager and representatives of the newly proposed Members.

Dated: October 22, 1990.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 90-25304 Filed 10-25-90; 8:45 am]

BILLING CODE 3510-DR-M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council's Ad Hoc Bycatch Committee (AHBC) and Data Gathering Committee will hold separate public meetings, at the National Marine Fisheries Service (NMFS) Alaska Fisheries Science Center, 7600 Sand Point Way, NE., Building 4, room 2079, Seattle, WA, as indicated below.

On October 30, 1990, at 9 a.m., the AHBC will: (1) Review a vessel incentive program to reduce prohibited species bycatch rates in the groundfish fisheries and, if time permits, (2) review the AHBC's "comprehensive" proposal for bycatch management.

Development of a vessel incentive program to reduce bycatch rates in the groundfish fisheries has become a critical issue as the Council anticipates disapproval by the Secretary of Commerce of the incentive program adopted as a portion of the Amendment 16/21 package to the Groundfish Fishery Management Plans for the Bering Sea/Aleutian Islands and the Gulf of Alaska, respectively. If this element of the package is disapproved, the Council will need to act expeditiously to prepare a substitute incentive program which can be implemented early in 1991. For more information contact Hal Weeks at the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 271-2809.

On November 26, 1990, the Council's Data Gathering Committee will meet at 9 a.m., to receive reports on the 1990 data gathering program and proposed changes to the 1991 program. The Committee also will receive a status report on a proposed user-fee system, review system options, and develop a

work schedule. For more information contact Steve Davis, Deputy Director, North Pacific Fishery Management Council, at the Council Office, address, above.

Dated: October 22, 1990.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90-25335 Filed 10-25-90; 8:45 am]

BILLING CODE 3510-22-M

Notice of Sea Grant Review Panel Meeting

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of open meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Sea Grant Review Panel. The meeting will have several purposes. Panel members will provide and discuss follow-up reports of business transacted at the last Sea Grant Review Panel Meeting in the areas of artificial intelligence, scientific misconduct, developing new business initiatives with the Sea Grant Program for enhancement of Department of Commerce goals, and new business. A nomination and election will be held for Chair Elect

DATES: The announced meeting is scheduled during two days: Tuesday, November 13, 1990, 4:30–6:30 p.m. and Wednesday, November 14, 1990, 8–10 a.m.

ADDRESSES: The Westin Crown Center, One Pershing Road, The Westport room, Kansas City, Missouri 64108.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Shephard, National Sea Grant College Program, National Oceanic and Atmospheric Administration, 1335 East-West Highway, #5104, Silver Spring, Maryland 20910, (301) 427–2431.

SUPPLEMENTARY INFORMATION: The Panel, which consists of balanced representation from academia, industry, state government, and citizens groups, was established in 1976 by section 209 of the Sea Grant Improvement Act (Pub. L. 94–461, 33 U.S.C. 1128) and advises the Secretary of Commerce, Under Secretary, NOAA, and the Director of the National Sea Grant College Program with respect to operations under the act, and such other matters as the Secretary refers to the Panel for review and advice. The agenda for the meeting is:

Tuesday, November 13, 1990—4:30–6:30 p.m.

Committee Reports, USDA National Extension Committee, New Technology, Coastal Business Initiatives, Scientific Law and Policy, Use of State Advisory Committees, Panel Member Status, New Funding Procedures, Planning Task Forces, Site Visits, Communication Update, Panel Chair Elect (Nomination and Election).

Wednesday, November 14, 1990—8–10 a.m.

Good of the Panel, New Business.

The meeting will be open to the public.

Dated: October 22, 1990.

Alan R. Thomas,

Acting Assistant Administrator, Oceanic and Atmospheric Research.

[FR Doc. 90-25382 Filed 10-25-90; 8:45 am]

BILLING CODE 3510-12-M

South Atlantic Fishery Management Council; Meeting Notice Addendum: Closed Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The meeting notice, previously published at 55 FR 41122 on October 9, 1990, has been amended to include notice of closed meetings for the South Atlantic Fishery Management Council (Council), and the Council's Committees at the Shell Island Resort Hotel, 2700 Lumina Boulevard, Wrightsville Beach, NC, as stated below. All other information as originally published remains unchanged.

The Council's Advisory Panel Selection and Personnel Committees both will hold separate closed meetings (not open to the public) on November 1, 1990. The Advisory Panel Selection Committee will begin meeting at 6:30 a.m. and will adjourn at 9:30 a.m. The Personnel Committee will begin meeting at 1:30 p.m. and will adjourn at 2:15 p.m.

The Committees' reports will be presented on November 2 to the Council, during a closed meeting.

For more information contact Carrie Knight, Public Information Officer, South Atlantic Fishery Management Council, One Southpark Circle, suite 306, Charleston, SC 29407, telephone: (803) 571–4366.

Dated: October 19, 1990.

David S. Crestin,

Deputy Director, Officer of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90-25336 Filed 10-25-90; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1990; Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to procurement list.

SUMMARY: This action adds to Procurement List 1990 a commodity to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: November 26, 1990.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: On September 7, 1990, the Committee for Purchase from the Blind and Other Severely Handicapped published notice (55 FR 36847) of proposed addition to Procurement List 1990, which was published on November 3, 1989 (54 FR 46540). After consideration of the material presented to it concerning the capability of a qualified workshop to produce this commodity at a fair market price, the impact of the addition on the current or most recent contractor, the Committee has determined that the commodity listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 52–2.6.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.
b. The action will not have a serious economic impact on any contractors for the commodity listed.
c. The action will result in authorizing small entities to produce the commodity procured by the Government.

Accordingly, the following commodity is hereby added to Procurement List 1990:

Belt, High Visibility,
8465–01–163–8835.

This action does not affect contracts awarded prior to the effective date of

this addition or options exercised under those contracts.

H.G. Fischer,

Associate Director for Facility Operations.

[FR Doc. 90-25386 Filed 10-25-90; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1990; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1990 commodities to be produced by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: November 26, 1990.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities to Procurement List 1990, which was published on November 3, 1989 (54 FR 46540):

Rod, Straight, Headless
5340-01-102-4539
Correction Fluid
7510-00-176-8949

H.G. Fischer,

Associate Director for Facility Operations.

[FR Doc. 90-25387 Filed 10-25-90; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before November 26, 1990.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to James O'Donnell, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: James O'Donnell, (202) 708-5174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its stautory obligations.

The Acting Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.*, new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from James O'Donnell at the address specified above.

Dated: October 22, 1990.

James O'Donnell,

Acting Director, for Office of Information Resources Management.

Office of Planning of Budget, and Evaluation

Type of Review: Reinstatement.
Title: National Asessment of Educational Progress (NEAP) 1991 Field Test: and 1991-92 Assessment Background/Attitude 1991 Field Test: Reading, Mathematics and Writing.
Frequency: One time only.
Affected Public: Individuals or households; State or local governments.
Reporting Burden:
Responses: 23,920.
Burden Hours: 22,556.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: Congress mandated the collection of the National assessment survey data. Development of background questions and exercises, as well as field testing of items for the 1991-92 assessments in reading, mathematics and writing, including the Trial State Assessment Program will occur during the 1990-91 school year. The data will be useful for policymakers in education, research, legislatures, and the public.

[FR Doc. 90-25330 Filed 10-25-90; 8:45 am]

BILLING CODE 4000-1-M

DEPARTMENT OF ENERGY

Assistant Secretary for International Affairs and Energy Emergencies

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Switzerland concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer: RTD/SD(EU)-03, for the transfer of 4 irradiated fuel rods from the Federal Republic of Germany to Switzerland for storage. The fuel rods contain 5,212 grams of uranium.

enriched to 1.32 percent in the isotope uranium-235, and 50 grams of plutonium.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Issued in Washington, DC, on October 22, 1990.

Richard H. Williamson,

Associate Deputy Assistant Secretary for International Affairs.

[FR Doc. 90-25417 Filed 10-25-90; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER91-25-000, et al.]

Tampa Electric Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

October 18, 1990.

Take notice that the following filings have been made with the Commission:

1. Tampa Electric Co.

[Docket No. ER91-25-000]

Take notice that on October 12, 1990, Tampa Electric Company (Tampa Electric) tendered for filing a Letter of Commitment providing for the sale by Tampa Electric to Seminole Electric Cooperative, Inc. (Seminole) of 150 megawatts of capacity and energy. Tampa Electric states that the Letter of Commitment is submitted as a supplement to Service Schedule J (negotiated interchange service) under the existing agreement for interchange service between Tampa Electric And Seminole, designated as Tampa Electric Rate Schedule FERC No. 22.

Tampa Electric proposes an effective date of October 13, 1990 for the commitment of capacity and energy, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served on Seminole and the Florida Public Service Commission.

Comment date: November 1, 1990, in accordance with Standard Paragraph E at the end of this notice.

2. Public Service Co. of Indiana, Inc.

[Docket No. ER90-472-004]

October 18, 1990.

Take notice that on October 15, 1990, PSI Energy, Inc. (PSI), formerly named Public Service Company of Indiana, Inc., submitted its Compliance Filing in the above-captioned dockets concerning its Rate Schedule FS-1 and its Transmission Service Tariff. This Compliance Filing was submitted pursuant to the requirements of the Commission's Opinion Nos. 349 and 349-A.

Copies of the Compliance Filing have been served on the Indiana Utility Regulatory Commission, the Attorney General of the State of Indiana, the Utility Consumer Counselor, the Indiana Municipal Power Agency, the Wabash Valley Power Association, the City of Logansport, Indiana, PSI's existing wholesale customers who purchase under Rate MUN and Rate REMC-1, and upon persons who have intervened in this docket.

Comment date: November 1, 1990, in accordance with Standard Paragraph E at the end of this notice.

3. Northern States Power Co. (Wisconsin)

[Docket No. ER91-34-000]

Take notice that on October 11, 1990, Northern States Power Company-Wisconsin (NSP-W) filed for a rate decrease. NSP-W states that the purpose of its filing is to eliminate entirely the rate increase aspect of its recent filing in Docket No. ER90-544-000. NSP-W requests waiver of the prior notice provisions and an effective date of October 11, 1990, the same date that the Commission authorized NSP-W's increase in Docket No. ER90-544-000 to take effect.

Comment date: November 1, 1990, in accordance with Standard Paragraph E at the end of this notice.

4. Niagara Mohawk Power Corp.

[Docket No. ES90-54-000]

October 18, 1990.

Take notice that on October 11, 1990, the Niagara Mohawk Power Corporation (the Company) tendered for filing an applicant pursuant to section 204 of the Federal Power Act, seeking authority to issue and renew drafts issued pursuant to a Bankers Acceptance Facility Agreement in an aggregate principal amount outstanding at any time in an amount not exceeding $100,000,000 and short-term unsecured notes, commercial paper and other obligations in an aggregate principal amount outstanding at any time in an amount exceeding an amount equal to 10% of the aggregate of total consolidated surplus and secured indebtedness of the Company plus $50,000,000 maturing, in each case, less than one year after the date of issuance. The short-term debt will be issued on or before December 31, 1992, with a final maturity date no later than December 31, 1993.

Comment date: November 9, 1990, in accordance with Standard Paragraph E at the end of this notice.

5. Idaho Power Co.

[Docket No. ER91-23-000]

October 18, 1990.

Take notice that on October 11, 1990, Idaho Power Company tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during March through October 7, 1990, along with cost justification for the rate charged. This filing includes the following supplements:

Utah Power & Light Co...	Supplement No. 82.
Sierra Pacific Power Co..	Supplement No. 82.
Pacific Power & Light Co..	Supplement No. 28.
Portland General Electric.	Supplement No. 64.
Montana Power Co.....	Supplement No. 61.
Washington Water Power Co..	Supplement No. 62.
Puget Sound Power & Light Co..	Supplement No. 37.
Pacific Gas & Electric Co..	Supplement No. 37.
Seattle City Light	Supplement No. 1.
City of Burbank	Supplement No. 33.
City Pasadena	Supplement No. 31.
San Diego Gas & Electric.	Supplement No. 33.
California Dept. of Water Resource.	Supplement No. 9.
Los Angeles Dept. of Water & Power.	Supplement No. 40.
Sacramento Municipal Utility Dist..	Supplement No. 8.
Southern California Edison.	Supplement No. 44.
City of Glendale	Supplement No. 35.
Western Area Power Administration.	Supplement No. 5.

Comment date: November 1, 1990, in accordance with Standard Paragraph E at the end of this notice.

6. Pacific Gas and Electric Co.

[Docket No. ER91-27-000]

October 18, 1990.

Take notice that on October 15, 1990, Pacific Gas and Electric Company (PG&E) tendered for filing a Letter of Understanding (Letter Agreement) concerning the Western Systems Power Pool Agreement (Power Agreement) and the Interconnection Agreement between PG&E and the City of Santa Clara (Interconnection Agreement).

The City of Santa Clara (CSC) wishes to become a member of the Western System Power Pool (WSPP), and requires transmission services from PG&E to do so. The Letter Agreement clarifies how PG&E will provide transmission services for the transactions under the Pool Agreement. It specifies which transmission services for WSPP transactions shall be provided under the Pool Agreement and which shall be provided under the Interconnection Agreement. All firm transmission services for WSPP firm power purchases and sales will be provided by PG&E will be under the Pool Agreement. All interruptible transmission services provided by PG&E will be under the Interconnection Agreement. WSPP transactions will be billed separately from Interconnection Agreement transactions, and compensation for WSPP transaction will in no way effect either party's obligation for services offered under the Interconnection Agreement.

Copies of this filing have been served upon CSC, the WSPP participants, the California Public Utilities Commission, and those parties who have intervened in previous WSPP dockets.

Comment date: November 1, 1990, in accordance with Standard Paragraph E at the end of this notice.

7. Puget Sound Power & Light Co.

[Docket No. ER91-20-000]

October 18, 1990.

Take notice that Puget Sound Power & Light Company ("Puget") on October 15, 1990 tendered for filing, as an initial rate schedule, the Sale and Exchange Agreement between the United States of America, Department of Energy, acting by and through the Bonneville Power Administration ("Bonneville"), and Puget, executed as of November 23, 1988.

The Agreement provides for a sale by Bonneville of power and energy to Puget which converts to a seasonal exchange during which Puget and Bonneville will exchange power and energy as described in the Agreement.

Puget requests an effective date of November 1, 1988, the beginning of the term as set forth in the Agreement.

A copy of the filing has been mailed to Bonneville.

Comment date: November 1, 1990, in accordance with Standard Paragraph E at the end of this notice.

8. Kansas Gas and Electric Co.

[Docket No. ES91-2-000]

October 18, 1990.

Take notice that on October 16, 1990, Kansas Gas and Electric Company (Applicant) filed an application pursuant to Section 204 of the Federal Power Act seeking authority to issue not more than $250 million of unsecured promissory notes on or before December 31, 1992, with a final maturity date no later than December 31, 1993.

Comment date: November 15, 1990, in accordance with Standard Paragraph E at the end of this notice.

9. Gary Hibbert

[Docket No. QF90-236-000]

October 18, 1990.

On September 21, 1990, Gary Hibbert (Applicant), of Route 3, Box 38, Hudson, Kansas 67545, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in the geographical area confined in Ellis, Russel, Rush, and Barton Counties, Kansas. The facility will consist of combustion turbine generators with a total electric power production capacity of 20 MW. Applicant proposes to deliver biochemically produced methane gas to a natural gas pipeline system and utilize an equivalent amount of natural gas from that system as the primary energy source for the facility.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

10. Baltimore Gas and Electric Co.

[Docket No. ES91-3-000]

October 18, 1990.

Take notice that on October 17, 1990, Baltimore Gas and Electric Company (Applicant) filed an application pursuant to Section 204 of the Federal Power Act seeking authority to issue not more than $500 million of short-term unsecured promissory notes and commercial paper with a final maturities no later than December 31, 1993 and not more than $100 million of unsecured medium-term promissory notes with final maturities no later than December 31, 1993.

Comment date: November 16, 1990, in accordance with Standard Paragraph E end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-25316 Filed 10-25-90; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 9340-000 Maine]

Lawrence E. and Veronica P. Smith; Availability of Environmental Assessment

October 18, 1990.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for minor license for the proposed Kezar Falls Hydroelectric Project located on the Ossipee River in Cumberland and York Counties, near Kezar Falls, Maine, and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the proposed project, with appropriate mitigative measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 3308, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90-25317 Filed 10-25-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP91-154-000, et al.]

U-T Offshore Systems, et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. U-T Offshore Systems

[Docket No. CP91-154-000]

October 18, 1990.

Take notice that on October 15, 1990, U-T Offshore Systems (U-TOS), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP91-154-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Centran Corporation (Centran), a marketing company, under the blanket certificate issued by the Commission's Order No. 509, pursuant to section 7 of the Natural Gas Act, corresponding to the rates, terms and conditions filed in Docket No. RP89-89-000, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

U-TOS requests authorization to transport, on an interruptible basis, up to a maximum of 37,000 Mcf of natural gas per day for Centran from a receipt point located in Offshore Louisiana to a delivery point located in Cameron Parish, Louisiana. U-TOS anticipates transporting 37,000 Mcf of natural gas on an average day and an annual volume of 13,505,000 Mcf. U-TOS advises that service under § 284.223(a) commenced August 13, 1990, as reported in Docket No. ST90-6729-000.

Comment date: December 3, 1990, in accordance with Standard Paragraph G at the end of this notice.

2. Lone Star Gas Co.

[Docket No. CP91-141-000]

October 18, 1990.

Take notice that on October 12, 1990, Lone Star Gas Company, a Division of ENSERCH Corporation (Lone Star), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP91-141-000, as supplemented on October 17, 1990, a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act for authorization to add a new delivery point for the transportation of natural gas for Coastal States Gas Transmission Company (Coastal), under the blanket certificate issued in Docket No. CP83-59-000, as amended, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Lone Star proposes to add a new delivery point for gas transported by Lone Star through the interstate portion of its facilities for Coastal under the authorization granted in Docket No. CP87-193-000, as amended. Lone Star states that the proposed delivery point will be located on its Line T at Sta. 430+54 at a new point of interconnection between Lone Star's interstate facilities and Lone Star's intrastate facilities as established in the order issued in Docket Nos. CP89-1742-000 and CP89-1743-000 on October 4, 1990. Lone Star states that no authorization for construction or retirement of facilities to add the new delivery point is requested herein.

Comment date: December 3, 1990, in accordance with Standard Paragraph G at the end of this notice.

3. Trunkline Gas Co.

[Docket No. CP91-182-000]

October 19, 1990.

Take notice that on October 17, 1990, Trunkline Gas Company (Trunkline), Post Office Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP91-182-000 a request pursuant §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for Catamount Natural Gas, Inc. (Catamount), under Trunkline's blanket certificate issued in Docket No. CP86-586-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Trunkline proposes to transport on an interruptible basis up to 150,000 Mcf of natural gas on a peak day, 27,397 Mcf on an average day, and 10,000,000 Mcf on an annual basis for Catamount. Trunkline states that it would perform the transportation service for Catamount under Trunkline's Rate Schedule PT. Trunkline indicates that it would receive the gas from various existing points of interconnection in the states of Illinois, Louisiana, Tennessee, and Texas; from the Panhandle Eastern Pipe Line Company point of interconnection at Douglas County, Illinois; and from the areas of offshore Louisiana and offshire Texas. Trunkline states that it would then deliver the gas, less fuel and unaccounted for line loss, to Columbia Gulf Transmission Company at Centerville in St. Mary Parish, Louisiana.

It is explained that the service commended September 1, 1990, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST90-5299. Trunkline indicates that no new facilities would be necessary to provide the subject service.

Comment date: December 3, 1990, in accordance with Standard Paragraph G at the end of this notice.

4. Florida Gas Transmission Co.

[Docket No. CP91-65-000]

October 18, 1990.

Take notice that on October 5, 1990, Florida Gas Transmission Company (FGT), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP91-65-000, an application pursuant to section 7(c) of the Natural Gas Act and part 157 of the Commission's Regulations hereunder, for a certificate of public convenience and necessity authorizing FGT to construct, own and operate approximately 36 miles of 18-inch pipeline and related appurtenances (Connecting Facilities) to connect FGT's existing St. Petersburg and Sarasota Laterals. The proposed Connecting Facilities will extend from a point near FGT's Compressor Station No. 30 on FGT's St. Petersburg Lateral to a point approximately 2.3 miles north of State Road 62 where FGT's Sarasota Lateral intersects State Road 39. The Connecting Facilities will enhance the operational flexibility and integrity of FGT's pipeline system and also enable FFT to offer available capacity to existing customers and potentially to new markets during certain reasons, thus allowing maximum utilization of FGT's system.

Comment date: November 8, 1990, in accordance with Standard Paragraph F at the end of this notice.

5. High Island Offshore System

[Docket Nos. CP91-178-000, CP91-179-000, and CP91-180-000]

October 19, 1990.

Take notice that on October 17, 1990, High Island Offshore System (HIOS), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket Nos. CP91-178-000, CP91-179-000, and CP91-180-000 requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorizations to transport natural gas on an interruptible basis pursuant to HIOS's Rate Schedule IT on behalf of various shippers under HIOS's blanket certificate issued by the Commission's Order No. 509, pursuant to section 7 of the Natural Gas Act, corresponding to the rates, terms and conditions filed in Docket No. RP89-83-000, all as more fully set forth in the prior notice requests which are on file with the Commssion and open to public inspection.[1]

Information applicable to each transaction, including the identity of the shipper, the peak day, average day and annual volumes, and the initiation

[1] These prior notice requests are not consolidated.

service dates and related docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by HIOS and is summarized in the attached appendix. It is explained that the gas would be received by HIOS at existing points located in the High Island and West Cameron Areas, offshore Texas and offshore Louisiana respectively, and redeliver the gas for the various accounts at existing interconnections located in offshore Texas and offshore Louisiana.

Comment date: December 3, 1990, in accordance with Standard Paragraph C at the end of this notice.

Docket No.	Shipper	Volumes—Mcf (Peak day, average annual)	Related docket	Commencement date
CP91-178-000	Associated Natural Gas Inc.	200,000 200,000 165,000,000	ST90-4539	Aug. 16, 1990.
CP91-179-000	E P Operating Company, LP	71,500 71,500 26,097,500	ST90-4533	Aug. 21, 1990.
CP91-180-000	Calcasieu Gas Gathering System	140,000 140,000 51,100,000	ST90-4537	Aug. 21, 1990.

[1] HIOS reported the 120-day transportation service in the referenced ST dockets.

6. Panhandle Eastern Pipe Line Co. and Columbia Gulf Transmission Co.

[Docket Nos. CP91-157-000[2], CP91-158-000, CP91-159-000, and CP91-160-000]

October 19, 1990.

Take notice that on October 15, 1990, Texas Gas Transmission Corporation (Applicant), filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicant and is included in the attached appendix.

The Applicant also states that it would provide the service for each shipper under an executed transportation agreement, and that the Applicant would charge rates and abide by the terms and conditions of the referenced transportation rate schedule(s).

Comment date: December 3, 1990, in accordance with Standard Paragraph G at the end of this notice.

[2] These prior notice requests are not consolidated.

Docket No. (date filed)	Applicant	Shipper name	Peak day [1] average annual	Point of Receipt	Point of Delivery	Start up date rate schedule	Related [2] dockets
CP91-157-000 10-15-90	Panhandle Transmission Company, P.O. Box 1642, Houston, TX 77251-1642.	Anadarko Trading Company.	50,000 50,000 18,250,000	CO, IL, KS, MI, OH, OK, TX.	OK.	PT Interruptible 9/1/90	CP88-686-000, ST90-4986-000.
CP91-158-000 10-15-90	Panhandle Transmission Company, P.O. Box 1642, Houston, TX 77251-1642.	Amoco, Inc.	70 35 25,550	KS, WY, CO, OK, TX.	IL.	PT Interruptible 9/1/90	CP88-585-000, ST90-4988-000.
CP91-159-000 10-15-90	Panhandle Transmission Company, P.O. Box 1642, Houston, TX 77251-1642.	Amoco, Inc.	50 30 21,900	KS, CO, OK, TX	IL.	PT Interruptible 9/1/90	CP88-585-000, ST90-4987-000.
CP91-160-000 10-15-90	Columbia Gulf Transmission Company, 3805 West Alabama, Houston, TX 77027	Anadarko Trading Company.	75,000 20,000 7,30,000	Onshore Offshore LA.	LA.	ITS-2 Interruptible	CP88-230-000, ST90-4988-000.

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it

7. Williams Natural Gas Co.

[Docket No. CP91-158-000]

October 18, 1990.

Take notice that on October 15, 1990, Williams Natural Gas Company (WNG) P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP91-158-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport gas on an interruptible basis for Centran Corporation (Centran) under the blanket certificate issued in Docket No. CP86-631-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

WNG states that it proposes to transport, on an interruptible basis, up to 20,000 dth of natural gas per day for Centran from various receipt points in Colorado, Kansas, Missouri, Oklahoma, Texas, and Wyoming to various delivery points on WNG's pipeline system located in Kansas.

WNG also states that the estimated average day and annual quantities would be 20,000 and 7,300,000 dth, respectively.

WNG further states that it commenced their service on August 1, 1990, as reported in Docket No. ST91-9-000.

Comment date: December 3, 1990, in accordance with Standard Paragraph G at the end of this notice.

8. Northwest Pipeline Corp.

[Docket No. CP91-167-000]

October 18, 1990.

Take notice that on October 16, 1990, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed a request with the Commission in Docket No. CP91-167-000, pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA), for authorization to construct and operate a new meter station, under Northwest's blanket certificate issued in Docket No. CP82-433-000 pursuant to section 7 of the NGA, all as more fully set forth in the request which is open to public inspection.

Northwest proposes to construct and operate the Chevron Rangely meter station in Rio Blanco County, Colorado, in order to deliver up to 12,000 MMBtu of natural gas per day to Chevron U.S.A., Inc. Northwest states that it estimates the proposed meter station's construction cost at $170,380. Northwest also states that Chevron would install approximately 600 feet of six-inch pipeline from the proposed meter station to a tie-in point on Chevron's existing fuel gas system.

Comment date: December 3, 1990, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs:

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene if filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary

[FR Doc. 90-25318 Filed 10-25-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP91-164-000, et al.]

United Gas Pipe Line Co., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. United Gas Pipe Line Co.

[Docket No. CP91-164-000]

October 17, 1990.

Take notice that on October 16, 1990, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP91-164-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a new delivery point as a sales tap to provide additional natural gas to Entex Inc. (Entex), a local distributor, under the certificate authorization issued in Docket No. CP82-430-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

United proposes to construct and operate a 2-inch sales tap to be located on United's 8-inch Bogalusa-Amite Line in the vicinity of Enon, St. Tammany Parish, Louisiana. United states that the new sales tap would enable United to supply an estimated average of 180 Mcf per day of natural gas to Entex for resale to an industrial customer, Barriere Construction Co., Inc.

United states that this new sales tap for Entex would not result in an increase in Entex's aggregate base requirements or contractual MDQ. United further states that the total certificated entitlements of the Entex Bogalusa Billing Area is 15,453 Mcf per day, which is the contracted MDQ. United avers that the proposed sale is within the limitation set for this particular billing location. It is stated that the following chart illustrates the impact of United 's proposal on its daily sales of natural gas in the Entex Bogalusa, Louisiana, Billing Area.

	Actual Mcf	Additional Mcf	Total Mcf
Peak Day	8,592	180	8,772
Annual	221,310	86,709	257,019

It is stated that Entex would reimburse United for all costs resulting from the tap installation.

United further states that it would construct and operate the proposed sales tap in compliance with 18 CFR part 157, subpart F, and that it has sufficient capacity to render the proposed service without detriment or disadvantage to its other existing customers.

Comment date: December 3, 1990, in accordance with Standard Paragraph G at the end of this notice.

Texas Eastern Transmission Corp.

[Docket No. CP91-161-000]

Natural Gas Pipeline Co. of America

[Docket No. CP91-162-000]

Natural Gas Pipeline Co. of America

[Docket No. CP91-163-000]

October 17, 1990.

Take notice that Texas Eastern Transmission Corporation, P.O. Box 2521, houston, Texas 77252-2521, and Natural Gas Pipeline Company of America, 701 East 22nd Street, Lombard, Illinois 60148, (Applicants), filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under the blanket certificates issued in Docket No. CP88-136-000 and Docket No. CP86-582-000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[1]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

Comment date: December 3, 1990, in accordance with Standard Paragraph G at the end of this notice.

[1] These prior notice requests are not consolidated.

Docket number (date filed)	Shipper name (type)	Peak day average day annual MMBtu	Receipt [1] points	Delivery points	Contract date rate schedule service type	Related docket, start up date
CP91-161-000 (10-15-90)	Citrus Industrial Sales Company, Inc. (Marketer).	75,000 75,000 27,375,000	Various	LA, TX	6-25-90 IT-1, interruptible.	ST90-4215-000, 7-30-90.
CP91-162-000 (10-16-90)	Phillips Petroleum Company (Producer).	20,000 20,000 7,300,000	OTX	OTX	6-25-90, ITS, interruptible.	ST90-4288-000, 8-10-90.
CP91-163-000 (10-16-90)	EP Operating Company (Producer).	30,000 15,000 5,475,000	OTX, LA	OTX, LA	5-11-89, ITS, interruptible.	ST89-4759-000, 8-31-89.

[1] Offshore Texas is shown as OTX.

3. Colorado Interstate Gas Co.

[Docket Nos. CP91-132-000, CP91-133-000]

October 18, 1990.

Take notice that on October 12, 1990, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944 filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under CIG's blanket certificate issued in Docket No. CP86-589-000 issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction including the indentity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by CIG and is included in the attached appendix.

CIG also states that it would provide the service for each shipper under an executed transportation agreement, and that CIG would charge rates and abide by the terms and conditions of the referenced transportation rate schedule(s).

Comment date: December 3, 1990, in accordance with Standard Paragraph G at the end of this notice.[2]

[2] These prior notice requests are not consolidated.

Docket number	Shipper name	Peak day[1] average annual	Points of		Start up date rate schedule	Related dockets
			Receipt	Delivery		
CP91-132-000	Coastal Gas Marketing Co.	2,500 912 912,000	KS, WY, OK	CO	9-1-90, TI-1	ST89-4384-000.
CP91-133-000	Marathon Oil Co	15,000 8,000 2,920,000	WY, CO, TX, KS, OK	CO	8-4-90, TI-1	ST91-247-000.

Quantities are shown in Mcf unless otherwise indicated.

4. Natural Gas Pipeline Co. of America

[Docket No. CP91-115-000]

October 16, 1990.

Take notice that on October 11, 1990, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois, 60148, filed in Docket No. CP91-115-000, an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to partially abandon or reduce the firm transportation service performed by Natural for Chevron Chemical Company (Chevron Chemical) under Natural for Chevron Chemical Company (Chevron Chemical) under Natural's Rate Schedule X-139, as authorized in Docket No. CP85-347-000, from a daily contract demand level of 10,000 to 5,000 Mcf of natural gas, effective November 5, 1990, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Natural states that its firm transportation service for Chevron Chemical is currently effected by Chevron U.S.A., Inc. (Chevron U.S.A.), a producer, tendering natural gas it produces in West Cameron Blocks 532, 533, 534, offshore Louisiana, for Chevron Chemical's account at existing interconnections between Chevron U.S.A. and Stingray Pipeline Company (Stingray). It is stated that Natural and Trunkline Gas Company (Trunkline) then transport their proportionate share of said natural gas volumes by means of Stingray to an existing onshore interconnection between Natural and Stingray located in Cameron Parish, Louisiana. Natural indicates that it further transports the total daily demand quantity to an interconnection with United Gas Pipe Line Company (United) at the Texaco Henry Plant in Vermillion Parish, Louisiana. United further transports such gas for Chevron Chemical from the Texaco Henry Plant to points on United's Lirette-Mobile Line in St. Charles Parish, Louisiana for use by Chevron Chemical at its ammonia plant located in Luling, Louisiana, it is stated.

Natural states that pursuant to the terms of its Rate Schedule X-139, a gas transportation agreement with Chevron Chemical and Trunkline dated September 28, 1977 (Agreement), Chevron Chemical notified Natural and Trunkline by a letter dated April 25, 1990 of its election to reduce the daily demand quantity from 10,000 to 5,000 Mcf of natural gas, effective November 5, 1990, the five year anniversary date of initial deliveries of natural gas under the Agreement. Natural further states that it has filed its application as a result of Chevron Chemical's election.

Comment date: November 8, 1990, in accordance with Standard Paragraph F at the end of this notice.

5. El Paso Natural Gas Co.

[Docket No. CP91-121-000]

October 18, 1990.

Take notice that on October 11, 1990, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas, 79978, filed an application in Docket No. CP91-121-000, under sections 7(b) and 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity under the optional certificate procedures, subpart E of part 157 of the Commission's Regulations. El Paso requests authorization for: (i) The construction and operation of additional facilities on the eastern portion of its interstate pipeline system to provide incremental capacity for new transportation service under its blanket transportation certificate, and (ii) conditional pre-granted abandonment of the facilities and related transportation services. El Paso's proposal is more fully set forth in the application which is on file with the Commission and open to public inspection.

El Paso states that in the event that the Commission is unable to issue a single order addressing both non-environmental and environmental issues, El Paso requests the issuance of a phased determination of non-environmental and environmental issues, in order that it may proceed with necessary administrative and purchasing activities to facilitate commencement of construction at the earliest possible date. In any event, El Paso requests approval of its proposal by December 31, 1990.

Specifically, El Paso states it is seeking a certificate of public convenience and necessity authorizing the construction and operation of facilities to provide 680,000 Mcf/d of incremental pipeline capacity on its East-End System to accommodate a new transportation service through El Paso's expanded interstate transmission system.

El Paso estimates that the total capital cost of the proposed expansion is $109.2 million. This includes facilities costing $107.1 million for which El Paso is specifically seeking authorization in this application and auxiliary installations costing $2.1 million which El Paso states will be constructed under § 2.55(a) of the Commission's Regulations. El Paso proposes to finance the cost of the proposed facilities through the use of internally generated funds. El Paso plans to place the proposed facilities in service by Spring, 1992, assuming shipper subscriptions are sufficient and that regulatory authorizations are in place.

El Paso claims that in order to add 680,000 Mcf/d of firm new capacity of its East-End System, it must construct and operate approximately 120 miles of pipeline, additional compression facilities totalling 12,000 horsepower, and additional metering facilities on that system that will connect El Paso's Plains and Waha Compressor Stations. El Paso states that the new facilities will allow El Paso to move excess volumes out of the San Juan Basin to its East-End System for further transportation to eastern and midwestern United States markets. El Paso states that these facilities will also give El Paso greatly expanded system flexibility to load its northern or southern systems.

El Paso states that it does not seek specific authorization to transport gas through its proposed facilities for specific shippers. Rather, El Paso states that it intends to render firm transportation services pursuant to a new rate schedule under the provisions of its blanket transportation certificate issued in Docket No. CP88-433-000.

El Paso states its proposed new incremental firm transportation service will be offered under the provisions of proposed Rate Schedule T-5, which is to be contained in its FERC Gas Tariff, First Revised Volume No. 1-A, and will incorporate, as applicable, the general terms and conditions contained in that tariff. El Paso states that its proposed two-part firm rate which is embodied in El Paso's proposed new firm Rate Schedule T-5 is consistent with the requirements of 157.103 of the Commission's Regulations. El Paso states that the rates are cost-based and have prescribed maximum and minimum levels.

El Paso will offer a separate Transportation Service Agreement for transportation from Plains to Waha Stations in accordance with the proposed terms and provisions of Rate Schedule T-5. The proposed initial rate for the Plains to Waha service consists of a Monthly Reservation Charge with a minimum of $0.00 and a maximum of $2.1033, and a Usage Charge which has a minimum of $0.00 and a maximum of $0.0942.

El Paso states that the proposed Plains to Waha service under proposed Rate Schedule T-5 is complementary to additional proposed transportation services under proposed Rate Schedule

T–5 pending before the Commission in Docket No. CP90–2214–000. Docket No. CP90–2214–000 was filed on September 17, 1990 and a Notice of Application in that docket was issued by the Commission on September 25, 1990, and published in the **Federal Register** on October 3, 1990, (55 FR 40429).

El Paso states that new incremental firm transportation service will be available to prospective shippers based on El Paso's existing firm transportation log. El Paso proposes that in the event that the aggregate volumes of firm incremental transportation service sought by prospective shippers exceeds the incremental capacity which El Paso proposes to add to its system through this application, El Paso will give preference to those shippers, in the order they appear in the log, who provide assurance that gas will, in fact, flow under their contracts, as evidenced by the Shipper's demonstration of an existing entitlement to receive firm transportation service from the downstream pipeline or the local distribution system which will receive the shipper's gas that El Paso proposes to deliver.

El Paso further notes that on August 31, 1990, it filed an application to amend its blanket transportation certificate issued in Docket No. CP88–433–000 to allow for brokering of firm capacity on El Paso's existing and proposed incremental facilities. El Paso's proposes that this capacity brokering program will be available to shippers contracting for incremental firm capacity under the proposed Rate Schedule T–5 on such terms and conditions as are ultimately approved by the Commission.

El Paso states it will continue to provide interruptible service in accordance with existing Rate Schedule T–1 of its FERC Gas Tariff, First Revised Volume No. 1–A. El Paso states that interruptible service will be offered from time to time, based on the availability of capacity, to those shippers that have executed a transportation agreement consistent with Rate Schedule T–1, and in accordance with the Shipper's position of El Paso's interruptible transportation queue. In providing Rate Schedule T–1 service, El Paso does not propose to make any distinction between existing capacity and the additional capacity which El Paso proposes to add to its system by this application.

El Paso further states that in the event of a facility outage or other event which prevents the full use of El Paso's facilities at design capacity, the allocation of available capacity among firm customers shall be pro rata based on each such customer's confirmed quantities, not to exceed contract demand, to total confirmed quantities which are affected by the capacity constraints. In making such allocation, El Paso does not propose to make any distinction between existing capacity and the additional capacity which El Paso proposes to add to its system by this application, or between shippers receiving service under Rate Schedule T–3 and those shippers receiving service under Rate Schedule T–5.

El Paso states that it has chosen to offer its new firm transportation service on an incremental rate basis, reflecting the complete cost of the new facilities plus an allocated portion of existing costs. Consequently, El Paso says it can insure, as the optional certificate regulations require, that none of the risk of investment in the new service will fall on the existing customers. El Paso further claims that because the rates are set on an incremental basis and reflect the actual cost of the proposed service, prospective shippers can more accurately gauge their market alternatives, and El Paso will be able to obtain, prior to construction, a precise measure of shipper needs.

El Paso notes it has used the depreciation component of its presently effective rates, and a return component as detailed in its application. El Paso further notes that the proposed rates do not differentiate between seasonal peak and off-peak service. Because this is an entirely new service without any history, El Paso believes that this is the most reasonable basis upon which to devise rates.

El Paso claims that the proposed facilities are required by the present and future public convenience and necessity in order to provide El Paso with incremental capacity necessary to accommodate the anticipated increased availability of natural gas in the San Juan Basin producing area, and otherwise to permit El Paso to service increasing demands in off-system markets. El Paso states that its proposal will serve a national security interest by relieving capacity constraints which are and will continue to restrain the delivery of available domestically produced natural gas to U.S. consumers.

El Paso asserts that the need for increased pipeline capacity has arisen because of major new reserve additions, most particularly of coal seam gas, in the San Juan Basin producing area. El Paso claims that the additional facilities will permit the receipt of incremental volumes from the San Juan Basin for transportation and delivery to markets to the east of El Paso's system. El Paso further claims that such facility additions will also significantly increase the operational flexibility and reliability of El Paso's system generally, to the benefit of all of El Paso's customers including users of its existing system.

El Paso states that given the worldwide energy situation which exists, the proposed project offers substantial, assured benefits to the United States as a whole in terms of enhancing national energy security. El Paso claims that its incremental capacity expansion will facilitate the movement of large new supplies of domestic natural gas to markets throughout the United States. El Paso says it will do this by eliminating current and projected capacity constraints which otherwise will increasingly inhibit the production and delivery of gas from one of the Nation's most important producing areas, the San Juan Basin.

El Paso states that when completed, the project will permit the transportation and delivery of additional San Juan Basin volumes equivalent to approximately 130,000 barrels per day of oil, which in turn will serve to reduce the need for an equivalent amount of oil imports. El Paso further states that the additional revenues which San Juan Basin producers will realize through the marketing of these incremental volumes will also be available to finance domestic exploration and development which will further increase the Nation's energy resource base.

The Commission advises all interested parties that it intends to hold a technical conference in this application to discuss any issues requiring Commission review that are raised by the application or by any interventions in this application. Notice of such a technical conference in Docket No. CP91–121–000 will be issued at a later date.

Comment date: November 2, 1990, in accordance with Standard Paragraph F at the end of this notice.

8. Southwestern Gas Pipeline, Inc.

[Docket No. CP91–155–000]

October 16, 1990

Take notice that on October 15, 1990, Southwestern Gas Pipeline, Inc. (Southwestern), 2001 Timberloch Place, P.O. Box 4000, The Woodlands, Texas, 77380–4000, filed in Docket No. CP91–155–000 a petition under Rule 207 of the Commission's Rules of Practice and Procedure (18 CFR 385.207) for a declaratory order requesting that the non-jurisdictional character of its intrastate gathering activities in the State of Texas will not change as a result of its entering into a proposed gathering transaction with Mitchell

Energy Corporation (Mitchell). Southwestern states that natural gas gathered by it on behalf of Mitchell will be delivered to Natural Gas Pipeline Company of America (NGPL). Southerwestern believes that the proposed transaction, which contemplates the construction of points of interconnection between the Southwestern and NGPL gathering systems, should not effect the status of Southwestern as an exempt gathering company for purposes of jurisdiction under the Natural Gas Act (NGA) and the Natural Gas Policy Act of 1978 (NGPA).

Southwestern states that it is a wholly-owned tiered subsidiary of Mitchell Energy and Development Corporation, of which Mitchell is also a subsidiary.

Southwestern states that it owns and operates approximately 2,100 miles of small diameter, low pressure gathering lines an appurtenant facilities in North Texas, principally in Wise, Jack, Palo Pinto and Parker Counties. According to Southwestern, approximately 65 percent of its system consists of 1-inch to 6-inch diameter lines. Southwestern states that it operates one 31-mile segment of 12-inch diameter line between Palo Pinto and Parker Counties, Texas. Southwestern submits that its system is arranged in a cob-like configuration which enables it to gather gas from approximately 2,000 wells connected to the system and to deliver the gas to several small processing plants. It is further states that these plants are owned and operated by Liquid Energy corporation (LEC), an affiliate of Southwestern. For the most part, Southwestern states that gas that is processed at each plant is then delivered to one of three non-affiliated intrastate pipelines, Valero Intrastate Pipeline Company, Lone Star Gas Company and TUFCO, Inc.

According to Southwestern, throughput on the system was recently measured at 90.094 Mcf per day (Mcfd) or an average production per well of less than 46 Mcfd. Southwestern operates 98 individual small compressors which range in size from 18 horsepower (hp) to 880 hp with the overwhelming majority operating at 90 hp or less. Southwestern gathers gas from the wells of more than 400 producers on behalf of a variety of customers. In addition, Southwest states that it sells approximately five percent of its daily throughput principally to a small municipal distribution system, Brazos Gas Company. Southwestern further states that its remaining sales of extremely small amounts are to Gaylyn, Inc. (17 Mcfd), House of Webster (20 Mcfd) and Texaco, Inc. (4 Mcfd). Southwestern avers that it is subject to the jurisdiction of the Texas Railroad Commission which governs, among other things, its limited sales activities.

Southwestern submits that it has been offered a proposal by Mitchell to gather gas on behalf of Mitchell for delivery to NGPL. Specifically, Southwestern states that the proposal would assist Mitchell in satisfying its obligations to NGPL under their natural gas agreement that became effective April 1, 1990 (1990 Agreement). It is stated that the 1990 Agreement covers the sale by Mitchell and the purchase by NGPL of natural gas to be produced in the North Texas area. NGPL also owns and operates a large gathering system in Wise County.

Southwestern states that NGPL's gathering system is in close proximity to the Southwestern system in Wise County, and that incident to the 1990 Agreement, Mitchell will be able to sell gas to NGPL that it produced from wells which are at locations not immediately adjacent to NGPL's gathering system in the area. It is averred that Mitchell has leased blocks of acreage that are near Southwestern's gathering system with the goal in mind of utilizing the production from wells on those leases and potential interconnections with Southwestern's gathering system as supply sources for the 1990 Agreement.

In its gathering proposal to Southwestern, it is stated that Mitchell expressed its desire to avoid unnecessary duplication of facilities and related investments. According to Southwestern, Mitchell proposed that Southwestern gather gas from various wellhead locations on behalf of Mitchell, move the gas through Southwestern's gathering system and redeliver the gas either directly or by displacement to a point or points of interconnection (to be established) between the gathering systems of Southwestern and NGPL in the Wise County area upstream of the NGPL transmission facilities. In addition, Southwestern submits that a portion of the gas it proposes to gather for Mitchell may be redelivered to Mitchell immediately upstream of LEC's Bridgeport, Texas gas processing facility.

Southwestern states that in recent years, the Commission has adopted a clear preference for applying the primary function test set forth in Farmland Industries, Inc., 23 FERC ¶ 61,063 (1983), to a particular factual situation in order to determine whether particular facilities or services qualify for exemption under section 1(b) of the NGA.

Southwestern states that factors that have been considered by the Commission in applying the primary function test include: (1) The diameter and length of the pipeline; (2) the location of compressors and processing plants; (3) the extension of the facility beyond the central point in the field; (4) the location of wells along all or part of the facility; and (5) the geographical configuration of the system. Southwestern believes that application of the primary function test to its current and proposed facilities clearly demonstrates that they should continue to be classified as gathering.

As to the diameter and length of the pipeline, Southwestern states that its system ranges in size from 1¼-inch to 12-inches, with only approximately 15 percent exceeding 6-inches in diameter. Southwestern believes that this is fully consistent with a typical gathering facility.

As to the location of compressors and processing plants, Southwestern notes that it provides no processing services. With respect to the relatively small processing plants of LEC sprinkled throughout the system, Southwestern states that it is immediately downstream of these plants where gas gathered by it is delivered to third parties. In this regard, it is noted that the Mineral Wells Plant is the point of sale to Brazos River Company. As for the proposed interconnections with NGPL, Southwestern states that it will not provide any processing services. In addition, Southwestern avers that 74 percent of its system is operated at pressures less than 20 percent of the specified minimum yield strength, which indicates that the gathering system is operated at a reasonably low pressure, unlike typical pipeline transmission pressures. Southwestern also states that compression horsepower provided by the 98 units on its system averages only 140.2 hp per unit. This, Southwestern believes is also indicative of a gathering facility.

Southwest states that the central point in the field test is probably not applicable to its gathering system since it provides no processing services. Nevertheless, Southwestern states that the configuration of its system and the scattered small processing plants is unlike a typical transmission line, and the proposed transaction with Mitchell will not alter this.

As to the location of wells along all or part of the facility, Southwestern states that the scattered nature of approximately 2000 wells connected to Southwestern's system attests to the gathering function of these facilities.

Southwestern states that the geographical configuration of the system is typical of the network-like pattern of many gathering facilities, and the proposed transaction with Mitchell will in no way alter this configuration.

After considering all the relevant facts and circumstances under the primary function test, Southwestern states that it becomes apparent that the primary function of its system is and will remain gathering gas. Under the proposed transaction with Mitchell, Southwestern states that it will simply gather gas for ultimate delivery to an interstates pipeline. With the exception of the fact that the proposed transaction involves gas that will flow in interstate commerce, Southwestern states that it is no different in character from the currently existing gathering activities it performs for more than 400 producers whose wells are attached to its gathering system.

Southwestern further states that in 1983, the Commission authorized it to perform service under section 311(a)(2) of the NGPA, 24 FERC ¶61,379. According to Southwestern, the discrete activities associated with that order, which involved the delivery of gas on behalf of natural, have long since concluded. Southwestern states that these activities were entered into at a time when the Commission regulations involving section 311 were still evolving and when Southwestern, like many intrastate companies, was unclear of the implications of the provision of the NGPA on its gathering operations and the specific arrangements that were in place in 1983. In view of this, Southwestern submits that the Commission's finding in that order that Southwestern is an intrastate pipeline within the meaning of section 2(16) of the NGPA is simply inapplicable to the situation at hand. It is stated that the transactions that were the subject to the prior Commission order have terminated.

Comment date: November 8, 1990, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

7. Texas Gas Transmission Corp.

[Docket Nos. CP91-152-000 [3] and CP91-153-000]

October 16, 1990.

Take notice that on October 15, 1990, Texas Gas Transmission Corporation (Applicant), filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicant and is included in the attached appendix.

The Applicant also states that it would provide the service for each shipper under an executed transportation agreement, and that the Applicant would charge rates and abide by the terms and conditions of the referenced transportation rate schedule(s).

Comment date: December 3, 1990, in accordance with Standard Paragraph G at the end of this notice.

[3] These prior notice requests are not consolidated.

Docket No. (Date filed)	Applicant	Shipper Name	Peak day,[1] avg, annual	Points of		Start up date rate schedule	Related [2] dockets
				Receipt	Delivery		
CP91-152-000 (10-15-90)	Texas Gas Transmission Corporation 3800 Frederica St., Owensboro, KY 42301.	Access Energy Corporation.	30,000 20,000 12,000,000	LA, IN, KY, TX, Off LA, TN, Off TX, IL, AR, OH.	OH, KY	9-6-90 IT	CP88-686-000, ST90-4734-000.
CP91-153-000 (10-15-90)	Texas Gas Transmission Corporation 3800 Frederica St., Owensboro, KY 42301.	Graham Energy Marketing Corp.	5,000 5,000 1,825,000	Off LA	Off LA	9-2-90 IT	CP88-686-000, ST90-4711-000.

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

8. Northern Natural Gas Co., Division of Enron Corp.

[Docket Nos. CP91-125-000, CP91-127-000, and CP91-140-000]

October 16, 1990.

Take notice that Northern Natural Gas Company, Division of Enron Corp., 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, (Applicant), filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. CP86-435-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[4]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Comment date: December 3, 1990, in accordance with Standard Paragraph G at the end of this notice.

[4] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-138-000 (10-12-90)	Phillips Petroleum Company (Producer).	100,000 75,000 36,500,000	Various	Various	9-1-90, IT-1, interruptible.	ST90-4722, 9-1-90.
CP91-137-000 (10-12-90)	Phillips Gas Marketing Company (Marketer).	100,000 75,000 36,500,000	Various	Various	9-1-90, IT-1, interruptible.	ST90-4716, 9-1-90.
CP91-140-000 (10-12-90)	Phillips 66 Natural Gas Company (Market).	200,000 150,000 73,000,000	Various	Various	9-1-90, IT-1, interruptible.	ST90-4720, 9-1-90.

9. Columbia Gulf Transmission Co.

[Docket Nos. CP91-142-000, CP91-143-000, and CP91-144-000]

October 18, 1990.

Take notice that Applicant filed in the respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[5]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Applicant states that each of the proposed services would be provided under an executed transportation agreement, and that Applicant would charge the rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: December 3, 1990, in accordance with Standard Paragraph G at the end of this notice.

[5] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name	Peak day,[1] avg. annual	Points of		Start up date, rate schedule	Related dockets[2]
			Receipt	Delivery		
CP91-145-000 (10-12-90)	Centran Corporation	100,000 30,000 10,950,000	KY, LA, Offshore LA.	MI, TN, KY, LA, Offshore LA.	09-01-90, ITS-1 & ITS-2.	ST90-4661-000.
CP91-142-000 (10-12-90)	Tenngasco Corporation	55,000 20,000 7,300,000	LA, Offshore LA.	LA	09-01-90, ITS-1 & ITS-2.	ST90-4664-000.
CP91-144-000 (10-12-90)	NGC Transportation Inc.	200,000 100,000 36,500,000	LA, Offshore LA.	LA, TN, TX, MI	09-01-90, ITS-1 & ITS-2.	ST90-4663-000.

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] If an ST docket is shown, 120-day transportation service was reported in it.

10. High Island Offshore System

[Docket Nos. CP91-89-000, CP91-90-000, CP91-91-000, CP91-92-000, and CP91-93-000]

October 18, 1990.

Take notice that on October 9, 1990, High Island Offshore System, 500 Renaissance Center, Detroit, Michigan 48243 filed in the respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket Nos. RM86-14-001 and RM86-15-000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.[6]

A summary of each transportation service which includes the shippers identity, the peak day, average day and annual volumes, the receipt point(s), the delivery point(s), the applicable rate schedule, and the docket number and service commencement date of the 120-day automatic authorization under §§ 284.223 of the Commission's Regulations is provided in the attached appendix.

Comment date: December 3, 1990, in accordance with Standard Paragraph G at the end of this notice.

[6] These prior notice requests are not consolidated.

Docket No. (date filed)	Applicant	Shipper name	Peak day [1], avg. annual	Points of		Start up date, rate schedule	Related dockets [2]
				Receipt	Delivery		
CP91-89-000 (10-9-90)	High Island Offshore System.	Meth Corporation.	137,500 137,500 50,187,500	Offshore TX&LA	Offshore TX&LA	8-10-90, IT	RM86-14-001, RM86-15-000, ST90-4359-000.
CP91-90-000 (10-9-90)	High Island Offshore System.	Access Energy Corporation.	290,000 290,000 105,850,000	Offshore TX&LA	Offshore TX&LA	8-15-90, IT	RM86-14-001, RM86-15-000, ST90-4356-000.
CP91-91-000 (10-9-90)	High Island Offshore System.	Energy Marketing Exchange, Inc.	200,000 200,000 73,000,000	Offshore TX&LA	Offshore TX&LA	8-11-90, IT	RM86-14-001, RM86-15-000, ST90-4363-000.

Docket No. (date filed)	Applicant	Shipper name	Peak day [1], avg. annual	Points of		Start up date, rate schedule	Related dockets [2]
				Receipt	Delivery		
CP91-82-000 (10-9-90)	High Island Offshore System.	Houston Gas Exchange Corporation.	500,000 500,000 211,700,000	Offshore TX&LA	Offshore TX&LA	9-10-90, IT	RM89-14-001, RM89-15-000, ST90-4358-000.
CP91-83-000 (10-9-90)	High Island Offshore System.	Koch Hydrocarbon Company.	620,000 620,000 226,300,000	Offshore TX&LA	Offshore TX&LA	9-9-90, IT	RM89-14-001, RM89-15-000, ST90-4364-000.

[1] Quantities are shown in Mcf unless otherwise indicated.
[2] The RM dockets corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

11. U-T Offshore System

[Docket Nos. CP91-137-000, 91-138-000, and 91-139-000]

October 18, 1990.

Take notice that on October 12, 1990, U-T Offshore System (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in the above referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. RP88-99-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[7]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related docket numbers of the 120-day transactions under section 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Applicant states that each of the proposed services would be provided under an executed transportation agreement, and that Applicant would charge the rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: December 3, 1990, in accordance with Standard Paragraph G at the end of the notice.

[7] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name	Peak day,[1] average day, annual	Receipt points [2]	Delivery points	Start up date, rate schedule, service type	Related [3] docket, contract date
CP91-137-000 (10-12-90)	Philadelphia Electric Company	200,000 200,000 73,000,000	OLA	LA	9-10-90, IT, Interruptible.	ST90-4357-000, 7-01-90.
CP91-138-000 (10-12-90)	Graham Energy Marketing Corp.	75,000 75,000 27,375,000	OLA	LA	9-10-90, IT, Interruptible.	ST90-4356-000, 7-01-90.
CP91-139-000 (10-12-90)	Delmarva Power & Light Company.	100,000 100,000 12,000,000	OLA	LA	9-10-90, IT, Interruptible.	ST90-4793-000, 7-01-90.

[1] Quantities are shown in Mcf.
[2] Offshore Louisiana is shown as OLA.
[3] If an ST docket is shown, 120-day transportation service was reported in it.

12. Tennessee Gas Pipeline Co. and Trunkline Gas Co.

[Docket Nos. CP91-145-000, CP91-146-000, CP91-147-000, CP91-148-000, CP91-149-000, and CP91-150-000]

October 18, 1990.

Take notice that Tennessee Gas Pipeline Company, P.O. Box 2511, Houston, Texas 77252, and Trunkline Gas Company, P.O. Box 1642, Houston, Texas 77251-1642, (Applicants), filed with the Commission in the above-referenced dockets prior notice requests pursuant to §§ 57.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to transport natural gas on behalf of various shippers under the blanket certificates issued in Docket No. CP87-115-000 and Docket No. CP86-586-000, respectively, pursuant to section 7 of the NGA, all as more fully set forth in the requests are open to public inspection.[8]

Information applicable to each transaction, including the shipper's identity; the type of transportation service; the appropriate transportation rate schedule; the peak day, average day and annual volumes; the service initiation dates; and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

Comment date: December 3, 1990, in accordance with Standard Paragraph G at the end of this notice.

[8] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, Average day, annual MMBtu	Receipt [1] points	Delivery points	Contract date, rate schedule, service type	Related ST docket, start up date
CP91-145-000 (10-12-90)	OXY USA, Inc. (Producer)	100,000 100,000 36,500,000 [2]	LA, OLA, MS, TX.	LA, TX	9-31-90, IT, Interruptible.	ST90-246, 9-15-90
CP91-146-000 (10-12-90)	Amoco Production Company (Producer).	50,000 25,000 9,125,000	IL, LA, OLA, TN, TX, OTX.	LA	5-7-90, PT, Interruptible.	ST90-5303, 9-5-90
CP91-147-000 (10-12-90)	Panhandle Trading Company (Marketer).	100,000 100,000 36,500,000	LA, OLA	LA	5-22-90, PT, Interruptible.	ST90-5300, 9-6-90
CP91-148-000 (10-12-90)	Amerada Hess Corporation (Producer).	75,000 25,000 9,125,000	IL, LA, OLA, TN, TX, OTX.	LA	8-8-90, PT, Interruptible.	ST90-5346, 9-1-90
CP91-149-000 (10-12-90)	B.P. Gas, Inc. (Marketer)	50,000 30,000 10,050,000	IL, LA, OLA, TN, TX, OTX.	IL	4-4-90, PT, Interruptible.	ST90-5302, 9-1-90
CP91-150-000 (10-12-90)	Tennessee Corporation (Marketer).	100,000 100,000 36,500,000	IL, LA, OLA, TN, TX, OTX.	LA	8-17-90, PT, Interruptible.	ST90-5301, 9-1-90

[1] Offshore Louisiana and offshore Texas are shown as OLA and OTX.
[2] Tennessee Gas Pipeline Company lists its volumes in dekatherms.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest if filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,
Secretary.

[FR Doc. 90-25310 Filed 10-25-90; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. MT90-6-002]

Mississippi River Transmission Corp., et al., Natural Gas Pipeline Filings

October 18, 1990.

Take notice that the following filings have been made with the Commission:

1. Mississippi River Transmission Corporation

[Docket No. MT90-6-002]

Take notice that on October 12, 1990, U-T Offshore System (UTOS), tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497-A and § 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, Second Revised Volume No. 1, to be effective November 17, 1990.

First Revised Sheet No. 2
First Revised Sheet No. 3
First Revised Sheet No. 4
First Revised Sheet No. 4
First Revised Sheet No. 5
First Revised Sheet No. 5
First Revised Sheet No. 5
First Revised Sheet No. 7
First Revised Sheet No. 7
First Revised Sheet No. 7
First Revised Sheet No. 7

Comment date: November 1, 1990, in accordance with Standard Paragraph K at the end of this notice.

2. U-T Offshore System

[Docket Nos. MT91-1-000, and MG91-1-000]

Take notice that on October 12, 1990, U-T Offshore System (UTOS), tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497-A and § 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, Second Revised Volume No. 1, to be effective November 17, 1990.

First Revised Sheet No. 2
First Revised Sheet No. 3
First Revised Sheet No. 4
First Revised Sheet No. 4
First Revised Sheet No. 5
First Revised Sheet No. 5
First Revised Sheet No. 5
First Revised Sheet No. 7
First Revised Sheet No. 7
First Revised Sheet No. 7
First Revised Sheet No. 7

Comment date: November 1, in accordance with Standard Paragraph K at the end of this notice.

Standard Paragraphs

K. Any person desiring to be heard or to protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-25363 Filed 10-25-90; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $77,500, plus accrued interest, obtained by the DOE under the terms of a Remedial Order issued to Gasoline Marketers of America (GMA), and $45,534, plus accrued interest, obtained by the DOE under the terms of a Consent Order entered into by the DOE and Mr. Hadley Paul, owner of Paul Investments, Inc. (Paul). The funds will be available to customers who purchased motor gasoline from GMA during the audit period March 1, 1979 through August 30, 1979, and to customers who purchased motor gasoline from Paul during the audit period March 1, 1979 through December 31, 1979.

DATES AND ADDRESSES: Applications for Refund must be received on or before January 24, 1991, and should be addressed to: Gasoline Marketers of America or Paul Investments, Inc., Special Refund Proceeding, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

All Applications for Refund should be filed in duplicate and display a prominent reference to Case No. KEF-0138 (GMA) or LEF-0006 (Paul).

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision sets forth the procedures that the DOE has formulated to distribute funds obtained from GMA and Paul. The funds are being held in interest-bearing escrow accounts pending distribution by the DOE. The funds were provided pursuant to a Remedial Order issued to GMA and to a Consent Order entered into by Paul and the DOE. Customers of GMA or Paul who purchased motor gasoline during the audit periods set forth at the beginning of this notice may file claims for refunds.

A Proposed Decision and Order tentatively establishing refund procedures and soliciting comments from the public concerning the distribution of the GMA/Paul settlement funds was issued on May 1, 1990. 55 FR 18944 (May 7, 1990).

As the Decision and Order published with this Notice indicates, Applications for Refunds may now be filed by customers who purchased motor gasoline from GMA and/or Paul during their respective audit periods. Applications will be accepted provided they are received no later than 90 days after publication of this Decision and Order in the **Federal Register**. The specific information required in an Application for Refund is set forth in the Decision and Order.

Dated: October 22, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Names of firms: Gasoline Marketers of America, Paul Investments, Inc.

Dates of filing: July 13, 1989, December 21, 1989.

Case numbers: KEF-0138, LEF-0006.

In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR part 205, subpart V, the Economic Regulatory Administration (ERA) of the DOE filed petitions for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) on July 13, 1989 and December 21, 1989. In those petitions, the ERA requests that the OHA formulate and implement procedures for the distribution of funds received from Gasoline Marketers of America (GMA) and Mr. Hadley Paul, former president of Paul Investments, Inc. (Paul).

This Decision and Order establishes procedures for distributing these funds to qualified refund applicants.

I. Background

Each of these firms was a "reseller-retailer" of motor gasoline as that term was defined in 10 CFR 212.31. GMA is located in Chatham, New Jersey, and Paul is located in San Antonio, Texas. An ERA audit of each firm's records revealed possible violations of the Mandatory Petroleum Price Regulations, 10 CFR part 212, subpart F.

The ERA audit of GMA alleged that during the audit period March 1, 1979 through August 30, 1979 the firm committed possible pricing violations amounting to $841,395.66 with respect to its sales of motor gasoline to 33 retailers, 13 wholesale-resellers and one bulk-purchaser.[1] In order to obtain restitution for these alleged overcharges, the ERA issued a Proposed Remedial Order (PRO) to GMA on August 13, 1982. On September 30, 1983, the DOE issued the PRO as a final Remedial Order. *Gasoline Marketers of America*, 11 DOE ¶ 83,013 (1983). On January 28, 1988, the United States Bankruptcy Court for the District of New Jersey, which had jurisdiction over a bankruptcy petition previously filed by GMA, approved an agreement between GMA and DOE under which the DOE's claim was limited to $77,500 in full settlement of the remedial order proceeding. This amount was received by the DOE on June 14, 1988, and deposited into an interest bearing escrow account for ultimate distribution by the DOE.

The ERA audit of Paul revealed possible pricing violations amounting to $480,364.41 with respect to Paul's sales of regular and unleaded motor gasoline to nine retailers and four resellers during the audit period March 1, 1979 through December 31, 1979. In order to settle all claims and disputes between Paul and the DOE regarding the firm's sales of motor gasoline during the audit period, Paul and the DOE entered into a Consent Order on February 13, 1985 which directed Paul to remit $50,000 to the DOE.[2] As a result of Paul's financial

[1] In arriving at this total overcharge amount in its audit workpapers, the ERA made a mathematical error of $1.55. The correct sum of the individual overcharge amounts is $841,394.11.

[2] The Consent Order resolved all issues involved in a PRO that the ERA had issued to Paul on September 21, 1982. See March 4, 1986 Dismissal Letter from Thomas L. Wieker, Deputy Director, OHA, to the attorneys for Paul and ERA (Case No. HRO-0006).

difficulties, the settlement amount was subsequently limited to ERA to $45,534, which was paid in full as of November 13, 1989.

On May 1, 1990, the OHA issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of the GMA and Paul escrow fund accounts. In order to give notice to all potentially affected parties, a copy of the PD&O was published in the Federal Register and comments were solicited. 55 FR 18945 (May 7, 1990). No comments were received. In this Decision and Order, we will adopt final refund procedures for the distribution of the funds in the GMA and Paul escrow accounts.

II. Jurisdiction

The procedural regulations of the DOE set forth general guidelines by which the OHA may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR part 205, subpart V. The DOE policy is to use the subpart V process to distribute such funds. For a more detailed discussion of subpart V and the authority of the OHA to fashion procedures to distribute refunds obtained as part of settlement agreements, see *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (*Vickers*).

As we stated in the PD&O, we have reviewed the record in these cases and have determined that a subpart V proceeding is an appropriate mechanism for distributing the GMA and Paul escrow funds. We will therefore grant the ERA's petition and assume jurisdiction over these funds.

III. Final Refund Procedures

A. Eligible Claimants

In the first stage, refund monies will be distributed to those parties which were directly injured in transactions with GMA/Paul. As discussed in the Proposed Decision, we believe the potential refund claimants in this proceeding are those included on the list of identified customers which was attached to the PRO issued to GMA and to the Consent Order entered into by Paul. These potential refund claimants are listed in Appendices A and B to this Decision.

1. *Showing of injury.* As we noted in the PD&O, refund claimants who resold GMA or Paul motor gasoline (all of the identified customers except one) and who do not accept the small claims presumption described below, will be required to demonstrate that they were injured by GMA/Paul's alleged overcharges.[3] To make this showing, a reseller applicant (including retailers and refiners) will generally be required to show that at the time it purchased motor gasoline from GMA or Paul, market conditions would not permit it to increase its prices to pass through to its customers the additional cost associated with the overcharges. See *Gulf Oil Corp./Thermagas, Inc.*, 18 DOE ¶ 85,885 (1989); *Plaquemines Oil Sales Corp.*, 17 DOE ¶ 85,059 (1988) (*Plaquemines*). This showing may be made in a competitive disadvantage analysis, which compares the price paid by the applicant for motor gasoline purchased from the settlement firm with the average market price for that product. In order to demonstrate that it did not subsequently recover the increased costs associated with the alleged overcharges by raising its prices, a reseller must also show, through credible, firm-specific data, that it had a bank of unrecovered increased costs beginning in the first month of the period for which a refund is claimed through the date when the "banking" regulations were terminated.[4]

We realize that some applicants may be unable to provide actual, contemporaneous cost bank records. We therefore are willing to accept reasonable approximations of cost banks calculated in a manner consistent with the price regulations. See *Plaquemines; see also Plaquemines/Delta Marina*, 17 DOE ¶ 85,415 (1988). The maintenance of a bank does not, however, automatically establish injury. *See Tenneco Oil Co./Chevron U.S.A., Inc.*, 10 DOE ¶ 85,014 (1982).

2. *Small claims presumption.* We shall adopt, as proposed in the PD&O, a small claims presumption of injury which has been used in many previous special refund proceedings. We recognize that making a detailed showing of injury may be too complicated and burdensome for resellers who purchased relatively small amounts of motor gasoline from GMA or Paul. For example, such firms may have limited accounting and data-retrieval capabilities and therefore may be unable to produce the records necessary to prove that they did not pass the alleged overcharges through to their own customers. We also are concerned that the cost to the applicant and to the government of compiling and analyzing information sufficient to make a detailed showing of injury not exceed the amount of the refund to be gained. See, *e.g.*, *Marion*. Therefore, any reseller whose "allocable share" (as defined in part III B, *infra*.) is $5,000 or less need only document its purchase volumes rather than make a detailed showing of injury in order to be eligible to receive a refund.[5]

3. *Spot-purchaser.* We shall also adopt a rebuttable presumption that resellers which made only spot purchases of GMA or Paul motor gasoline have suffered no injury. Spot purchasers tend to have considerable discretion in where and when to make purchases and therefore would not have made spot purchases of GMA or Paul products at increased prices unless they were able to pass through the full amount of the overcharges to their own customers. See *Vickers*, 8 DOE at 85,396-97. Accordingly, any reseller claimant who was a spot purchaser must submit evidence to rebut the spot purchaser presumption and establish the extent to which it was injured by the spot purchase(s).

B. Allocation of Consent Order Funds.

In most subpart V proceedings, we have distributed consent order funds to successful claimants based upon a volumetric approach which allocates a portion of the consent order fund to each gallon of product which the applicant purchased from the consent order firm. However, in certain proceedings, we have utilized the material gathered in the ERA audit to allocate the consent order funds in a way which makes the refunds correspond more closely to the alleged overcharges that were experienced. See, *e.g.*, *Plaquemines*. Those proceedings involved an audit which was relatively narrow in scope, a consent order or other type of settlement agreement which was limited to the same products and time period as the audit, and a relatively small number of customers, all or most of whom were identified in the enforcement proceeding or settlement documents.

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[3] In the GMA proceeding, there appears to be one potential claimant who is an end-user (Energy Engineering Inc.). We will adopt a presumption of injury for end-users. They will therefore not be required to make a demonstration of injury beyond submitting purchase volume information. See, *e.g.*; *Marion Corp.*, 12 DOE ¶ 85,014 (1984) (*Marion*); *Thornton Oil Corp.*, 12 DOE ¶ 85,014 (1984).

[4] Retailers and most resellers were permitted to utilize cost banks for motor gasoline pricing purposes only until July 15, 1979 and April 30, 1980, respectively. 42 FR 42542 (July 19, 1979); 45 FR 29548 (May 2, 1980). Therefore, retailer and reseller applicants will not be required to submit cost bank data subsequent to those dates.

[5] As in prior special refund proceedings, in determining the "allocable share" of an applicant, we intend to combine the claims of all affiliated entities. See *Exxon Corp./Tate Oil Co.*, 18 DOE ¶ 85,460 (1989); *see also Marathon Oil Co./Swiftly Oil Co.*, 15 DOE ¶ 85,347 (1987). A reseller applicant whose allocable share is in excess of $5,000 may choose to limit its claim to $5,000 in lieu of making a detailed showing of injury.

Because these factors are present in these two proceedings, we shall use this approach to allocate the GMA and Paul settlement funds. We recognize that the audit files and other relevant enforcement and settlement documents do not provide conclusive evidence as to the identity of the refund recipients or the amount of money that they should receive. Nevertheless, these documents can be used for guidance in fashioning a refund allocation plan that is more equitable than a plan based on the volumetric approach. Therefore, we shall, as proposed, use the distribution of the alleged overcharges set forth in the attachments to the GMA PRO and the Paul Consent Order to allocate the settlement funds. (These figures are set forth in appendices A and B, respectively.) As indicated above, the escrow funds resulted from negotiated settlements and are substantially less than the total overcharge amounts in the GMA Remedial Order and Paul PRO. Accordingly, as proposed in the PD&O, each purchaser's maximum potential refund, or allocable share of the settlement fund, will be a prorated amount of the alleged overcharges experienced by that firm. In the case of GMA's customers, the allocable shares listed in appendix A are equivalent to approximately 9.2 percent of the alleged overcharge amounts ($77,500 settlement amount divided by the $841,394.11 alleged overcharge amount). The allocable shares of Paul's customers, as listed in appendix B, are equivalent to 9.47 percent of the alleged overcharge amounts ($45,534 settlement amount divided by $480,364.41 alleged overcharge amount). In addition, a successful claimant will receive a pro rata share of the interest that has accrued in the GMA and Paul escrow accounts.

In the event that money remains after all refund claims from this proceeding have been analyzed, those funds will be disbursed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986, 15 U.S.C.A. 4501–4507.

C. General Refund Application Requirements

Pursuant to 10 CFR 205.283, we will now accept Applications for Refund from individuals and firms identified in appendix A or B of this Decision and Order. There is no specific application form that must be used. All Applications for Refund should include the following information:

(1) A conspicuous reference to Case Number KEF-0138 (GMA) or LEF-0008 (Paul) and the name and address of the applicant during the period for which the claim is filed, as well as the name to whom the refund check should be made out and the address to which the check should be sent;

(2) The name, title, address and telephone number of a person who may be contacted by OHA for additional information concerning the Application;

(3) The manner in which the applicant used the GMA or Paul motor gasoline i.e., whether it was a reseller, retailer, end-user, etc.;

(4) A monthly schedule of the number of gallons that the applicant purchased from GMA or Paul during the refund period. If a claimant was an indirect purchaser of GMA or Paul gasoline, it must also submit the name of its immediate supplier and indicate why it believes the products were originally sold by GMA or Paul;

(5) If the applicant is a reseller requesting a refund in excess of $5,000, it must submit all relevant material necessary to support its claim in accordance with the injury requirements outlined above;

(6) If the applicant was or is in any way affiliated with GMA or Paul, an explanation of the nature of that affiliation;

(7) A statement as to whether there was a change in ownership of the applicant's firm during or since the refund period. If there was such a change in ownership, the applicant must submit a detailed explanation as well as provide the names and addresses of the previous or subsequent owners;

(8) A statement as to whether the claimant is or has been involved in any DOE enforcement proceedings or private actions filed under section 210 of the Economic Stabilization Act. If these actions have been concluded, the applicant should furnish a copy of the final order issued in the matter. If the action is still in progress, the applicant should briefly describe the actions and its current status. The applicant must inform OHA of any change in status while its Application for Refund is pending. See 10 CFR 205.9(d);

(9) A statement as to whether the applicant or a related firm has filed any other Application for Refund in this proceeding;

(10) A statement as to whether the claimant or a related firm has authorized any other individual(s) to file an Application for Refund on the claimant's behalf in this proceeding; and

(11) The following statement signed by the applicant or a responsible official of the business or organization claiming the refund: "I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the Federal Government may be subject to a fine, a jail sentence, or both, pursuant to 18 U.S.C. 1001."

Applications for Refund should be sent to: Gasoline Marketers of America or Paul Investments, Inc. Special Refund Proceeding, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

All applications must be filed in duplicate and postmarked within 90 days from the date of publication of this Decision in the Federal Register. A copy of each Application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals. Any claimant that believes that its Application for Refund contains confidential information must submit two additional copies of the application in which the confidential information is deleted, together with a statement specifying why the information is confidential.

It is therefore ordered that:

(1) Applications for Refund from the funds remitted to the Department of Energy by the Gasoline Marketers of America pursuant to the agreement finalized on January 28, 1988, may now be filed.

(2) Applications for Refund from the funds remitted to the Department of Energy by Paul Investments, Inc., pursuant to the Consent Order finalized on February 13, 1985, may now be filed.

(3) All Applications for Refund must be filed no later than 90 days after publication of this Decision and Order in the Federal Register.

Dated: October 22, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

APPENDIX A.—SCHEDULE OF POTENTIAL REFUNDS (GMA CUSTOMERS)

Customer name	Alleged overcharge amount	Allocable share
Retailers:		
S&L Gas	$35,983.13	$2,301
Public Auto Service a/k/a Perseid's Auto Svc	8,995.76	819
Belonse Service Station	17,136.08	1,578
Phillipsburg Chevron	28,985.76	2,670
Steve Cornfield a/k/a Westwood Public	5,845.38	550
M&F Auto	21,872.08	1,998
Rockaway Public a/k/a H&L Auto Repair	7,661.98	706
J. Schmidt #139 a/k/a Ridgedale Public a/k/a Accurate Auto	30,994.28	2,788
Forrest Ave. 66 Corp	9,085.85	879
S'Ge Corp	3,298.82	306
West Orange Public a/k/a Frank & Sal Corvino	6,169.78	568
Alfred Fichter a/k/a Hildi Sales Ltd., Inc	16,650.58	1,532
Luis Cleve a/k/a Condotos Auto	2,181.82	201
Summit Public	16,365.85	1,506
Pete Sommo a/k/a Pete's Service Station	18,464.97	1,700
James Rotes a/k/a East Orange Public	4,771.88	440
James Doolen #147	14,858.40	1,378
Sigmor, Inc. a/k/a Autotronics	28,216.87	2,594
Jefferson Service	511.11	47
George Mottesini	169.92	16
Remote Services	3,658.11	334
Sal's Car Wash #016	306.78	28

BEST COPY AVAILABLE

APPENDIX A.—SCHEDULE OF POTENTIAL REFUNDS (GMA CUSTOMERS)—Continued

Customer name	Alleged overcharge amount	Allocable share
Walter Tweedowski	$72.76	$25
Harry's Elec. Gas & Tire	4,344.56	499
Randolph Town & Country #116	36,914.49	2,479
Cornell Heights, PA. a/k/a Town & Country, PA	1,258.76	115
Bill's Town & Country	27,288.19	2,512
Town & Country Marketing	21,284.62	1,979
Ledgewood Town & Country #102	52,948.80	4,877
Livingston Town & Country #119	66,125.91	5,178
Parlin Town & Country #124	22,570.88	2,081
Rockaway Town & Country #116	5,758.79	695
Tom's River Town & Country	1,991.75	191
Wholesalers:		
Citrb Gasoline Corp	222,384.98	20,482
White Meadow Petroleum	2,999.36	276
Cedar Hill Oil	1,368.47	127
MacArthur Petroleum	499.20	48
Queen City Fuel	799.05	95
TEFCO	1,697.14	191
Rappaport Oil Co	2,697.21	249
General Oil Dist	15,363.89	1,414
Good Hope Refineries	84,791.04	9,200
Wykoff Oil Co	3,346.89	308
Affuso's Plumb. & Oil	191.23	54
M. Spiegel & Son Oil Corp	1,492.53	137
Bellevue Fuel Co	3,065.64	282
Wholesale Bulk:		
Energy Engineering Inc	69,595.48	5,851
Totals	841,394.11	77,509

APPENDIX B.—SCHEDULE OF POTENTIAL REFUNDS (PAUL CUSTOMERS)

Customer name	Alleged overcharge amount	Allocable share
Allsk Oil Co	57,838.16	$724
Amaroll	18,617.24	1,008
Everett	18,818.71	1,025
Independent Enterprises	1,851.29	155
Harry Tappan	19,838.69	1,991
Herman Miller	24,588.69	2,330
Hilwan Oil Co	1,558.11	147
National Convenience Stores	41,764.82	3,963
Neal Fine	367.61	35
Sanco	220,283.24	21,938
Signor	49,081.33	4,853
Southland, Inc	48,298.84	4,578
Telson Oil Co	33,952.22	3,209
Totals	490,284.41	48,534

[FR Doc. 90-25418 Filed 10-25-90; 8:45 am]
BILLING CODE 6560-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3956-4]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information, (202) 382-5073 or (202) 382-5075. Availability of Environmental Impact Statements Filed October 15, 1990 Through October 19, 1990 Pursuant to 40 CFR 1506.9.

EIS No. 900387, FINAL EIS, MMS, HI, Hawaiian Archipelago and Johnston Island Exclusive Economic Zones, Marine Mineral Sale (Non-Oil and Gas Minerals), Leasing, Possible 404 Permit, Hawaii and Pacific, Due: November 26, 1990, Contact: Robert G. Paul, (213) 894-2233.

EIS No. 900388, DRAFT, EIS, SFW, WY, Cokeville Meadows National Wildlife Refuge, Management Plan, Land Acquisition, Implementation, Bear River Valley, Lincoln County, WY, Due: December 19, 1990, Contact: David E. Jones, (303) 236-8148.

EIS No. 900389, DRAFT EIS, BLM, NV, Clark County Regional Flood Control Master Plan, Facilities Construction and Operation, Implementation, Section 404 Permit, Clark County, NV, Due: December 14, 1990, Contact: Dorn Siebert, (702) 647-5000.

EIS No. 900390, DRAFT EIS, AFS, CA, Castle Rock Compartment Timber Sales and Road Construction, Implementation, Six Rivers National Forest, Lower Trinity Ranger District, Trinity County, CA, Due: December 21, 1990, Contact: Lawrence L. Cabodi, (916) 629-2118.

EIS No. 900391, FINAL EIS, FHW, UT, UT-91 Highway Improvement, Brigham City to Wellsville, Funding and Section 404 Permit, Box Elder and Cache Counties, UT, Due: December 10, 1990, Contact: Thomas S. Allen, (801) 524-5141.

EIS No. 900392, DRAFT EIS, BLM, WY, Nebraska Resource Management Plan, Implementation, Newcastle Resource Area, Casper District, Several Counties, WY, Due: Janaury 23, 1991, Contact: Floyd Ewing, (307) 746-4453.

EIS No. 900393, FINAL EIS, UAF, IL, Fort Sheridan Base Closure Headquarters 4th US Army Relocation to Fort Benjamin Harrison, IN and Fort McCoy, WI, Implementation, Lake County, IL, Due: November 26, 1990, Contact: William R. Haynes, (502) 502-5926.

Amended Notices

EIS No. 900327, DRAFT EIS, AFS, NM, Creek Diversity Unit Timber Sales and Road Construction, Implementation, Santa Fe National Forest, Pecos Ranger District, San Miguel County, NM, Due: December 6, 1990, Contact: Larry Roybal, (505) 757-6121.

Published FR 9-7-90—Review period extended.

Dated: October 23, 1990.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 90-25403 Filed 10-25-90; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3955-5]

Environmental Impact Statements and Regulations, Availability of EPA Comments

Availability of EPA comments prepared October 08, 1990 Through October 12, 1990 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5073.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 13, 1990 (55 FR 13949).

Draft EISs

ERP No. D-USN-G11010-TX Rating LO, Naval Air Station Chase Field Base Closure and Realignment, Possible NAS Kingsville, TX and NAS Meridan, MS, Implementation, Beeville and Bee County, TX.

Summary EPA has no objection to the proposed project as described.

Final EISs

ERP No. F-BLM-G01010-NM, Fence Lake Federal Coal Project, Lease Approval Catron and Cibola Counties, NM.

Summary, EPA has no objection to the proposed Federal Coal leasing action as described.

Regulations

ERP No. R-NRC-A00170-00, 10 CFR parts 2, 50, and 54: Nuclear Power Plant License Renewal (55 FR 29043).

Summary: EPA will provide background information to NRC and recommends that NRC incorporate geophysical inspections/surveys and preventive damage procedures in seismically active plant locations.

Dated: October 23, 1990.

William D. Dickerson,
Deputy Director, Office of Federal Activities.

[FR Doc. 90-25404 Filed 10-25-90; 8:45 am]
BILLING CODE 6560-50-M

[FRL-3854-9]

Transfer of Data to Contractors

AGENCY: Environmental Protection Agency.

ACTION: Notice of transfer of data and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) will transfer to its contractor, Science Applications International Corporation (SAIC), and their subcontractors: Arthur D. Little, CH2M Hill, Combustion Engineering Environmental, Industrial Economics, Inc., National Conference of State Legislatures, Radian Corporation, Ross & Associates, SCS Engineers, SRA Technologies, Inc., and Wade Miller Associates, information which has been, or will be submitted to EPA under the authority of the Resource Conservation and Recovery Act (RCRA). These firms will assist EPA in writing new standards, revising and expanding existing standards for the solid and hazardous waste management facilities to ensure that they are located, designed, and operated to protect human health and the environment. The contractor and their subcontractors will also evaluate waste management alternatives; develop guidance documents, training materials, and courses to aid in implementation of hazardous and solid waste regulations; and conduct special studies under section 8002 of RCRA on a number of industries that generate large volume waste. Some of the information may have a claim of business confidentiality.

DATES: Transfer of confidential data submitted to EPA will occur no sooner than November 2, 1990.

ADDRESSES: Comments should be sent to Margaret Lee, Document Control Officer, Office of Solid Waste (OS-312), U.S. Environmental Protection Agency, 401 M. Street SW., Washington, DC 20460. Comments should be identified as "Transfer of Confidential Data."

FOR FURTHER INFORMATION CONTACT: Margaret Lee, Document Control Officer, Office of Solid Waste (OS-312), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382-3410.

SUPPLEMENTARY INFORMATION:

I. Transfer of Data

The U.S. Environmental Protection Agency is in the process of writing new standards, revising and expanding existing standards for the solid (municipal, commercial, industrial, and large volumes) and hazardous waste management facilities to ensure that they are located, designed, and operated to protect human health and the environment. The EPA is also evaluating waste management alternatives; developing guidance documents, training materials, and courses to aid in implementation of hazardous and solid waste regulations; and conducting special studies under Section 8002 of RCRA on industries that generate large volume wastes.

Under EPA Contract 68-WO-0025, SAIC and their subcontractors will assist the Waste Management Division, Land Disposal Branch and the Municipal Solid Waste Program of the Office of Solid Waste in writing new standards, revising and expanding existing standards for the solid and hazardous waste management facilities to ensure that they are located, designed, and operated to protect human health and the environment. In addition the contractor and their subcontractors will evaluate waste management alternatives; develop guidance documents, training materials, and courses to aid in implementation of hazardous and solid waste regulations; and conduct special studies under section 8002 of RCRA on a number of industries that generate large volume wastes. The information being transferred to SAIC and their subcontractors, may have been or will be claimed as confidential business information (CBI).

In accordance with 40 CFR 2.305(h), EPA has determined that SAIC and their subcontractors require access to confidential business information (CBI) submitted to EPA under the authority of RCRA to perform work satisfactorily under the above noted contract. EPA is issuing this notice to inform all submitters of confidential business information that EPA may transfer to these firms, on a need-to-know basis CBI collected under the authority of RCRA. Upon completing their review of materials submitted, SAIC and their subcontractors will return all such materials to EPA.

SAIC, and their subcontractors, have been authorized to have access to RCRA CBI under the EPA "Contractor Requirements for the Control and Security of RCRA Confidential Business Information" security manual. EPA will approve the security plans of the contractors and will inspect their facilities, and approve them, prior to RCRA CBI being transmitted to the contractors. Personnel from these firms will be required to sign nondisclosure agreements and be briefed on appropriate security procedures before they are permitted access to confidential information, in accordance with the "RCRA Confidential Business Information Security Manual" and the Contractor Requirements Manual.

Dated: September 27, 1990.

Sylvia K. Lawrence,
Acting Assistant Administrator.

[FR Doc. 90-25431 Filed 10-25-90; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

October 22, 1990.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037. For further information on this submission contact Judy Boley, Federal Communications Commission (202) 632-7513. Persons wishing to comment on this information collection should contact Bruce McConnell, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503 (202) 395-3785.

Please note: The Commission has requested emergency review of this item by October 24, 1990, under the provisions of 5 CFR 1320.18.

OMB Number: None.
Title: Local Exchange Carrier, Tariff Review Plan.
Action: New collection.
Respondents: Business or other for-profit.
Frequency of Response: One time filing requirement.
Estimated Annual Burden: 58 responses; 50 hours average burden per response; 2,900 hours total annual burden.
Needs and Uses: The information is needed to provide a simplified, consistent filing to reflect a new, lower authorized rate of return (adopted by the FCC in October 1990) and to initiate incentive regulation for

some local telephone companies (also adopted by the FCC in October 1990). Respondents are local telephone companies, with the exception of small telephone companies.

Federal Communications Commission.
Donna R. Searcy,
Secretary.
BILLING CODE 6712-01-M

VOL 55 ISS 208 OCT 26 1990 UMI

ATTACHMENT A--PRICE CAP
TARIFF REVIEW PLAN

TARIFF REVIEW PLAN DATA GUIDELINES

1. ALL AMOUNTS ARE TO BE IN WHOLE NUMBERS EXCEPT AS SPECIFIED ON A PARTICULAR TABLE.

2. ALL PERCENTAGES ARE TO BE CARRIED OUT TO 2 DECIMAL PLACES EXCEPT WHERE NOTED ON A PARTICULAR TABLE. EXAMPLE; 29 2/3 PERCENT SHOULD BE SHOWN AS 29.67

3. ALL RATIOS ARE TO BE CARRIED OUT TO 4 DECIMAL PLACES EXCEPT WHERE NOTED ON A PARTICULAR TABLE.

4. ALL FOOTNOTES, ADDITIONAL TO THOSE PREPRINTED ON FORMS, SHOULD BE PUT ON A SEPARATE FOOTNOTED PAGE AND INSERTED FOLLOWING THE FORM THEY REFERENCE. THE FOOTNOTE PAGE SHOULD INCLUDE THE COMPANY, STUDY AREA AND FORM TO WHICH THEY PERTAIN.

RULES FOR SUBMISSION OF DATA TO FCC ON MAGNETIC MEDIA

(FOR PRICE CAP AND TIER 1 NON-PRICE CAP COMPANIES ONLY)

1. ALL DATA SHOULD BE SUBMITTED ON 5.25 INCH PC FLOPPY DISKS DOUBLE SIDED DOUBLE DENSITY.

2. ALL FILES SHOULD BE CODED IN ASCII.

3. ALL FILES FOR A FILING ENTITY, I.E. STUDY AREA, OPERATING COMPANY, OR HOLDING COMPANY, SHOULD BE CONTAINED ON A SEPARATE DISK(S).

4. A SEPARATE FILE SHOULD BE PREPARED FOR EACH SEPARATE TABLE OF DATA, E.G., EXG-1, SUM-1, T1WS-1, ETC. THE FILE NAME, FOR EACH TABLE, IS A COMBINATION OF COSA (CO = COMPANY, SA = STUDY AREA, E.G., THE COSA FOR PACIFIC BELL OR CALIFORNIA IS PTCA) PLUS THE TABLE NAME. THE TABLE NAME IS THE TABLE NAME WITHOUT THE HYPHEN, E.G. THE TABLE NAME FOR EXG-1 IS EXG1. THE TABLE NAMES FOR THE RATE OF RETURN CARRIERS EXCLUDE 'T1' OR 'T2', E.G. THE TABLE NAME FOR T1WS-1 IS WS1.

   FOR EXAMPLE, THE FILE NAME FOR TABLE EXG-1 FOR PACIFIC BELL-CALIFORNIA SHOULD BE PTCAEXG1.

5. EACH DATA FILE SHOULD CONTAIN ONLY TABLE ROW NUMBERS AND THE APPROPRIATE NUMBER OF DATA ITEMS PER ROW. DATA MUST BE DELIMITED BY EITHER A COMMA OR SPACE, E.G.:

```
FILENAME PTCAEXG1 [FILE FOR PACIFIC BELL, TABLE SUM-1]
100,12345,12356,12367
110,10010,10021,10032

ETC.

- OR -

100 12345 12356 12367
110 10010 10021 10032

ETC.
```

6. ANY DATA ITEM FOR WHICH NO VALID DATA EXISTS FOR A PARTICULAR FILING ENTITY SHOULD BE POPULATED WITH -99999. IF THE DATA ITEM IS A TRUE ZERO, THEN A 0 (ZERO) SHOULD BE ENTERED.

7. ANY NON-NUMERIC DATA MUST BE ENCLOSED IN QUOTATION MARKS. E.G. DATE FIELD IN EXHIBIT T1WS-3 MUST BE SHOWN AS "07/16/90".

FILING ENTITY:

SUM-1
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1991 TRANSITION FILING
PRICE CAP TARIFF REVIEW PLAN
PRICE OUT
($000)

		BASE PERIOD DEMAND X 7/1/90 RATES (A)	BASE PERIOD DEMAND X CURRENT RATES (B)	BASE PERIOD DEMAND X PROPOSED RATES (C)
	COMMON LINE BASKET			
100	END USER COMMON LINE			
110	CARRIER COMMON LINE			
120	TOTAL COMMON LINE			
	TRAFFIC SENSITIVE BASKET			
130	LOCAL SWITCHING			
140	LOCAL TRANSPORT			
150	INFORMATION			
160	TOTAL SWITCHED ACCESS			
	SPECIAL ACCESS BASKET			
170	VOICEGRADE, WATS, METALLIC, & TELEGRAPH			
180	AUDIO & VIDEO			
190	HIGH CAP & DDS			
200	WIDEBAND			
210	TOTAL SPECIAL ACCESS			
	INTEREXCHANGE BASKET			
220	TOTAL INTEREXCHANGE			

FILING ENTITY:

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1991 TRANSITION FILING
PRICE CAP TARIFF REVIEW PLAN
PRICE OUT
($000)

		PCI	API	SBI	UPPER SBI LIMIT	LOWER SBI LIMIT
		(D)	(E)	(F)	(G)	(H)
	COMMON LINE BASKET					
100	END USER COMMON LINE	N/A	N/A	N/A	N/A	N/A
110	CARRIER COMMON LINE*		N/A	N/A	N/A	N/A
120	TOTAL COMMON LINE		N/A	N/A	N/A	N/A
	TRAFFIC SENSITIVE BASKET					
130	LOCAL SWITCHING	N/A	N/A			
140	LOCAL TRANSPORT	N/A	N/A			
150	INFORMATION	N/A	N/A			
160	TOTAL SWITCHED ACCESS			N/A	N/A	N/A
	SPECIAL ACCESS BASKET					
170	VOICEGRADE, WATS, METALLIC, & TELEGRAPH	N/A	N/A			
180	AUDIO & VIDEO	N/A	N/A			
190	HIGH CAP & DDS	N/A	N/A			
200	WIDEBAND	N/A	N/A			
210	TOTAL SPECIAL ACCESS			N/A	N/A	N/A
	INTEREXCHANGE BASKET					
230	TOTAL INTEREXCHANGE			N/A	N/A	N/A

* FOR ROW 110(B), SHOW HYPOTHETICAL CAPPED CCL PER MINUTE RATE, I.E., CCL MOU RATE FROM SECTION 61.46(d) OF THE RULES.

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1991 TRANSITION FILING
PRICE CAP TARIFF REVIEW PLAN
COMMON LINE BASKET
(REVENUES AND MINUTES IN THOUSANDS)

		BASE PERIOD DEMAND	BASE PERIOD DEMAND X 7/1/90 RATES	BASE PERIOD DEMAND X CURRENT RATES	BASE PERIOD DEMAND X PROPOSED RATES
		(A)	(B)	(C)	(D)
	END USER COMMON LINE				
100	MULTILINE BUSINESS EUCL				
110	RES & SINGLE LINE BUS EUCL				
120	LIFELINE				
130	SPECIAL ACCESS SURCHARGE				
	CARRIER COMMON LINE				
140	TERMINATING CCL PREM				
150	TERMINATING CCL NON-PREM				
160	ORIGINATING CCL PREM				
170	ORIGINATING CCL NON-PREM				
180	TOTAL BASKET		N/A		

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1991 TRANSITION FILING
PRICE CAP TARIFF REVIEW PLAN
TRAFFIC SENSITIVE BASKET
(REVENUES AND MINUTES IN THOUSANDS)

		BASE PERIOD DEMAND	BASE PERIOD DEMAND X 7/1/90 RATES	BASE PERIOD DEMAND X CURRENT RATES	BASE PERIOD DEMAND X PROPOSED RATES	INDEX RESULTS
		(A)	(B)	(C)	(D)	(E)
	LOCAL SWITCHING SERVICE CATEGORY					
200	PREMIUM SWITCHING LS1					N/A
210	PREMIUM SWITCHING LS2					N/A
220	NON-PREM SWITCHING					N/A
230	EQUAL ACCESS					N/A
240	OTHER SWITCHING	N/A				N/A
250	TOTAL SERVICE CAT	N/A				N/A
260	SBI	N/A	N/A	N/A	N/A	XX.XX
270	UPPER SBI LIMIT	N/A	N/A	N/A	N/A	XXX.XX
280	LOWER SBI LIMIT	N/A	N/A	N/A	N/A	XX.XX
	LOCAL TRANSPORT SERVICE CATEGORY					
	PREMIUM LOCAL TRANSPORT:					
290	LOCAL TRANS - MB1					N/A
300	LOCAL TRANS - MB2					N/A
310	LOCAL TRANS - MB3					N/A
320	LOCAL TRANS - MB4					N/A
330	LOCAL TRANS - MB5					N/A
340	LOCAL TRANS - MB6					N/A
350	LOCAL TRANS - MB7					N/A
360	LOCAL TRANS - MB8					N/A
370	LOCAL TRANS - MB9					N/A
380	LOCAL TRANS - MB10					N/A
390	MILE PER LINE ON TRUNK					N/A
400	TERMINATION					N/A
410	FACILITY					N/A

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1991 TRANSITION FILING
PRICE CAP TARIFF REVIEW PLAN
TRAFFIC SENSITIVE BASKET
(REVENUES AND MINUTES IN THOUSANDS)

		BASE PERIOD DEMAND	BASE PERIOD DEMAND X 7/1/90 RATES	BASE PERIOD DEMAND X CURRENT RATES	BASE PERIOD DEMAND X PROPOSED RATES	INDEX RESULTS
		(A)	(B)	(C)	(D)	(E)
	LOCAL TRANSPORT SERVICE CATEGORY (CONTINUED)					
	NON-PREM LOCAL TRANSPORT:					
500	LOCAL TRANS - MB1					N/A
510	LOCAL TRANS - MB2					N/A
520	LOCAL TRANS - MB3					N/A
530	LOCAL TRANS - MB4					N/A
540	LOCAL TRANS - MB5					N/A
550	LOCAL TRANS - MB6					N/A
560	LOCAL TRANS - MB7					N/A
570	LOCAL TRANS - MB8					N/A
580	LOCAL TRANS - MB9					N/A
590	LOCAL TRANS - MB10					N/A
600	MMUC PER LINE OR TRUNK					N/A
610	TERMINATION					N/A
620	FACILITY					N/A
630	INSTALLATION PER LN OR TRK	N/A				N/A
640	OTHER TRANSPORT	N/A				N/A
650	TOTAL SERVICE CAT	N/A				N/A
660	SBI	N/A	N/A	N/A	N/A	XX.XX
670	UPPER SBI LIMIT	N/A	N/A	N/A	N/A	XXX.XX
680	LOWER SBI LIMIT	N/A	N/A	N/A	N/A	XX.XX

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1991 TRANSITION FILING
PRICE CAP TARIFF REVIEW PLAN
TRAFFIC SENSITIVE BASKET
(REVENUES AND MINUTES IN THOUSANDS)

		BASE PERIOD DEMAND	BASE PERIOD DEMAND X 7/1/90 RATES	BASE PERIOD DEMAND X CURRENT RATES	BASE PERIOD DEMAND X PROPOSED RATES	INDEX RESULTS
		(A)	(B)	(C)	(D)	(E)
	INFORMATION SERVICE CATEGORY					
700	INFORMATION - PER MSG.					N/A
710	INFO - PREMIUM SURCHARGE					N/A
720	INFO - NON-PREM SURCHARGE					N/A
730	INFORMATION - OTHER	N/A				N/A
740	TOTAL SERVICE CAT	N/A				N/A
750	SBI	N/A	N/A	N/A	N/A	XX.XX
760	UPPER SBI LIMIT	N/A	N/A	N/A	N/A	XXX.XX
770	LOWER SBI LIMIT	N/A	N/A	N/A	N/A	XX.XX
780	TOTAL BASKET	N/A				N/A
790	TOTAL API	N/A	N/A	N/A	N/A	XX.XX
800	TOTAL PCI	N/A	N/A	N/A	N/A	XX.XX

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1991 TRANSITION FILING
PRICE CAP TARIFF REVIEW PLAN
SPECIAL ACCESS BASKET
(REVENUES AND MINUTES IN THOUSANDS)

		BASE PERIOD DEMAND		BASE PERIOD DEMAND X 7/1/90 RATES		BASE PERIOD DEMAND X CURRENT RATES	
		FIXED	VARIABLE	FIXED	VARIABLE	FIXED	VARIABLE
		(A)	(B)	(C)	(D)	(E)	(F)
	VOICE GRADE, WATS, METALLIC & TELEGRAPH SERVICE CATEGORY						
	VOICE GRADE & WATS:						
900	CHAN TERM - 2 WIRE		N/A		N/A		N/A
910	CHAN TERM - 4 WIRE		N/A		N/A		N/A
	INTER-OFFICE MILEAGE:						
920	V G & WATS - MB1						
930	V G & WATS - MB2						
940	V G & WATS - MB3						
950	V G & WATS - MB4						
960	V G & WATS - MB5						
970	V G & WATS - MB6						
980	V G & WATS - MB7						
990	V G & WATS - MB8						
1000	V G & WATS - MB9						
1010	V G & WATS - MB10						
1020	OTHER VOICE GRADE	N/A	N/A				
	METALLIC:						
1030	CHAN TERM		N/A		N/A		N/A
1040	INTER-OFFICE MILEAGE						
1050	OTHER	N/A	N/A				
	TELEGRAPH:						
1060	CHAN TERM - 2 WIRE		N/A		N/A		N/A
1070	CHAN TERM - 4 WIRE		N/A		N/A		N/A
1080	INTER-OFFICE MILEAGE						
1090	OTHER	N/A	N/A				
1100	OTHER	N/A	N/A				
1110	TOTAL SERVICE CAT	N/A	N/A				
1120	SBI	N/A	N/A	N/A	N/A	N/A	N/A
1130	UPPER SBI LIMIT	N/A	N/A	N/A	N/A	N/A	N/A
1140	LOWER SBI LIMIT	N/A	N/A	N/A	N/A	N/A	N/A

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1991 TRANSITION FILING
PRICE CAP TARIFF REVIEW PLAN
SPECIAL ACCESS BASKET
(REVENUES AND MINUTES IN THOUSANDS)

		BASE PERIOD DEMAND X PROPOSED RATES		
		FIXED	VARIABLE	INDEX RESULTS
		(G)	(H)	(I)
	VOICE GRADE, WATS, METALLIC & TELEGRAPH SERVICE CATEGORY			
	VOICE GRADE & WATS:			
900	CHAN TERM - 2 WIRE		N/A	N/A
910	CHAN TERM - 4 WIRE		N/A	N/A
	INTER-OFFICE MILEAGE:			
920	V G & WATS - MB1			N/A
930	V G & WATS - MB2			N/A
940	V G & WATS - MB3			N/A
950	V G & WATS - MB4			N/A
960	V G & WATS - MB5			N/A
970	V G & WATS - MB6			N/A
980	V G & WATS - MB7			N/A
990	V G & WATS - MB8			N/A
1000	V G & WATS - MB9			N/A
1010	V G & WATS - MB10			N/A
1020	OTHER VOICE GRADE			N/A
	METALLIC:			
1030	CHAN TERM		N/A	N/A
1040	INTER-OFFICE MILEAGE			N/A
1050	OTHER			N/A
	TELEGRAPH:			
1060	CHAN TERM - 2 WIRE		N/A	N/A
1070	CHAN TERM - 4 WIRE		N/A	N/A
1080	INTER-OFFICE MILEAGE			N/A
1090	OTHER			N/A
1100	OTHER			N/A
1110	TOTAL SERVICE CAT			N/A
1120	SBI	N/A	N/A	XX.XX
1130	UPPER SBI LIMIT	N/A	N/A	XXX.XX
1140	LOWER SBI LIMIT	N/A	N/A	XX.XX

FILING

1200
1210
1220
1230
1240
1250
1260
1270
1280
1290

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1991 TRANSITION FILING
PRICE CAP TARIFF REVIEW PLAN
SPECIAL ACCESS BASKET
(REVENUES AND MINUTES IN THOUSANDS)

		BASE PERIOD DEMAND	BASE PERIOD DEMAND X 7/1/88 RATES	BASE PERIOD DEMAND X CURRENT RATES	BASE PERIOD DEMAND X PROPOSED RATES	INDEX RESULTS
		(A)	(B)	(C)	(D)	(E)
	AUDIO & VIDEO SERVICE CATEGORY					
	AUDIO:					
1200	CHAN TERM					N/A
1210	INTER-OFFICE MILEAGE					N/A
1220	OTHER	N/A				N/A
	VIDEO:					
1230	CHAN TERM					N/A
1240	INTER-OFFICE MILEAGE					N/A
1250	OTHER	N/A				N/A
1260	TOTAL SERVICE CAT	N/A				N/A
1270	SBI	N/A	N/A	N/A	N/A	XX.XX
1280	UPPER SBI LIMIT	N/A	N/A	N/A	N/A	XXX.XX
1290	LOWER SBI LIMIT	N/A	N/A	N/A	N/A	XX.XX

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1991 TRANSITION FILING
PRICE CAP TARIFF REVIEW PLAN
SPECIAL ACCESS BASKET
(REVENUES AND MINUTES IN THOUSANDS)

		BASE PERIOD DEMAND	BASE PERIOD DEMAND X 7/1/89 RATES	BASE PERIOD DEMAND X CURRENT RATES	BASE PERIOD DEMAND X PROPOSED RATES	INDEX RESULTS
		(A)	(B)	(C)	(D)	(E)
	HIGH CAP & DDS SERVICE CATEGORY					
	DS1 SUB-CAT:					
1400	CHAN TERM					N/A
	INTER-OFFICE MILEAGE:					
1410	DS1 - MB1					N/A
1420	DS1 - MB2					N/A
1430	DS1 - MB3					N/A
1440	DS1 - MB4					N/A
1450	DS1 - MB5					N/A
1460	DS1 - MB6					N/A
1470	DS1 - MB7					N/A
1480	DS1 - MB8					N/A
1490	DS1 - MB9					N/A
1500	DS1 - MB10					N/A
1510	OTHER	N/A				N/A
1520	DS1 SUBINDEX	N/A	N/A	N/A	N/A	XX.XX
1530	UPPER LIMIT	N/A	N/A	N/A	N/A	XXX.XX
1540	LOWER LIMIT	N/A	N/A	N/A	N/A	XX.XX

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1991 TRANSITION FILING
PRICE CAP TARIFF REVIEW PLAN
SPECIAL ACCESS BASKET
(REVENUES AND MINUTES IN THOUSANDS)

		BASE PERIOD DEMAND	BASE PERIOD DEMAND X 7/1/90 RATES	BASE PERIOD DEMAND X CURRENT RATES	BASE PERIOD DEMAND X PROPOSED RATES	INDEX RESULTS
		(A)	(B)	(C)	(D)	(E)
	HIGH CAP & DDS SERVICE CATEGORY (CONTINUED)					
	DS3 SUB-CAT:					
1600	CHAN TERM					N/A
	INTER-OFFICE MILEAGE:					
1610	DS3 - MB1					N/A
1620	DS3 - MB2					N/A
1630	DS3 - MB3					N/A
1640	DS3 - MB4					N/A
1650	DS3 - MB5					N/A
1660	DS3 - MB6					N/A
1670	DS3 - MB7					N/A
1680	DS3 - MB8					N/A
1690	DS3 - MB9					N/A
1700	DS3 - MB10					N/A
1710	OTHER	N/A				N/A
1720	DS3 SUBINDEX	N/A	N/A	N/A	N/A	XX.XX
1730	UPPER LIMIT	N/A	N/A	N/A	N/A	XXX.XX
1740	LOWER LIMIT	N/A	N/A	N/A	N/A	XX.XX
	DDS:					
1750	CHAN TERM					N/A
1760	INTER-OFFICE MILEAGE					N/A
1770	OTHER	N/A				N/A
1780	TOTAL SERVICE CAT	N/A				N/A
1790	SBI	N/A	N/A	N/A	N/A	XX.XX
1800	UPPER SBI LIMIT	N/A	N/A	N/A	N/A	XXX.XX
1810	LOWER SBI LIMIT	N/A	N/A	N/A	N/A	XX.XX

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1991 TRANSITION FILING
PRICE CAP TARIFF REVIEW PLAN
SPECIAL ACCESS BASKET
(REVENUES AND MINUTES IN THOUSANDS)

	WIDEBAND SERVICE CATEGORY	BASE PERIOD DEMAND	BASE PERIOD DEMAND X 7/1/90 RATES	BASE PERIOD DEMAND X CURRENT RATES	BASE PERIOD DEMAND X PROPOSED RATES	INDEX RESULTS
		(A)	(B)	(C)	(D)	(E)
	DATA:					
1900	CHAN TERM					N/A
1910	INTER-OFFICE MILEAGE					N/A
1920	OTHER	N/A				N/A
	ANALOG:					
1930	CHAN TERM					N/A
1940	INTER-OFFICE MILEAGE					N/A
1950	OTHER	N/A				N/A
1960	OTHER WIDEBAND	N/A				N/A
1970	TOTAL SERVICE CAT	N/A				N/A
1980	SBI	N/A	N/A	N/A	N/A	XX.XX
1990	UPPER SBI LIMIT	N/A	N/A	N/A	N/A	XXX.XX
2000	LOWER SBI LIMIT	N/A	N/A	N/A	N/A	XX.XX
2010	TOTAL BASKET	N/A				N/A
2020	TOTAL API	N/A	N/A	N/A	N/A	XX.XX
2030	TOTAL PCI	N/A	N/A	N/A	N/A	XX.XX

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PRICE CAP TARIFF REVIEW PLAN
INTEREXCHANGE BASKET
(REVENUES AND MINUTES IN THOUSANDS)

INTEREXCHANGE		BASE PERIOD DEMAND (A)	BASE PERIOD DEMAND X 7/1/90 RATES (B)	BASE PERIOD DEMAND X CURRENT RATES (C)	BASE PERIOD DEMAND X PROPOSED RATES (D)	INDEX RESULTS (E)
2100	TOTAL BASKET	N/A				N/A
2110	TOTAL API	N/A	N/A	N/A	N/A	XX.XX
2120	TOTAL PCI	N/A	N/A	N/A	N/A	XX.XX

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1991 TRANSITION FILING
PRICE CAP TARIFF REVIEW PLAN
COMMON LINE BASKET
(REVENUES IN THOUSANDS)

		7/1/90 RATES	CURRENT RATES	PROPOSED RATES	BASE PER DEM X PROP RATES MINUS BASE PER DEM X CUR RATES
		(A)	(B)	(C)	(D)
	END USER COMMON LINE				
100	MULTILINE BUSINESS EUCL*				
110	RES & SINGLE LINE BUS EUCL*				
120	LIFELINE*				
130	SPECIAL ACCESS SURCHARGE				
	CARRIER COMMON LINE				
140	TERMINATING CCL PREM				
150	TERMINATING CCL NON-PREM				
160	ORIGINATING CCL PREM				
170	ORIGINATING CCL NON-PREM				
180	TOTAL BASKET	N/A	N/A	N/A	

* MAY BE COMPOSITE RATE.

FILING EN

LOCA

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210
220
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LOCA

PR

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300
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340
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370
380
390
400
410

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1991 TRANSITION FILING
PRICE CAP TARIFF REVIEW PLAN
TRAFFIC SENSITIVE BASKET
(REVENUES IN THOUSANDS)

		7/1/90 RATES	CURRENT RATES	PROPOSED RATES	BASE PER DEM X PROP RATES MINUS BASE PER DEM X CUR RATES
		(A)	(B)	(C)	(D)
	LOCAL SWITCHING SERVICE CATEGORY				
200	PREMIUM SWITCHING LS1				
210	PREMIUM SWITCHING LS2				
220	NON-PREM SWITCHING				
230	EQUAL ACCESS				
240	OTHER SWITCHING	N/A	N/A	N/A	
250	TOTAL SERVICE CAT	N/A	N/A	N/A	
260	SBI	N/A	N/A	N/A	N/A
270	UPPER SBI LIMIT	N/A	N/A	N/A	N/A
280	LOWER SBI LIMIT	N/A	N/A	N/A	N/A
	LOCAL TRANSPORT SERVICE CATEGORY				
	PREMIUM LOCAL TRANSPORT:				
290	LOCAL TRANS - MB1				
300	LOCAL TRANS - MB2				
310	LOCAL TRANS - MB3				
320	LOCAL TRANS - MB4				
330	LOCAL TRANS - MB5				
340	LOCAL TRANS - MB6				
350	LOCAL TRANS - MB7				
360	LOCAL TRANS - MB8				
370	LOCAL TRANS - MB9				
380	LOCAL TRANS - MB10				
390	MMUC PER LINE OR TRUNK				
400	TERMINATION				
410	FACILITY				

BEST COPY AVAILABLE

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1991 TRANSITION FILING
PRICE CAP TARIFF REVIEW PLAN
TRAFFIC SENSITIVE BASKET
(REVENUES IN THOUSANDS)

		7/1/90 RATES	CURRENT RATES	PROPOSED RATES	BASE PER DEM X PROP RATES MINUS BASE PER DEM X CUR RATES
		(A)	(B)	(C)	(D)
	LOCAL TRANSPORT SERVICE CATEGORY (CONTINUED)				
	NON-PREM LOCAL TRANSPORT:				
500	LOCAL TRANS - MS1				
510	LOCAL TRANS - MS2				
520	LOCAL TRANS - MS3				
530	LOCAL TRANS - MS4				
540	LOCAL TRANS - MS5				
550	LOCAL TRANS - MS6				
560	LOCAL TRANS - MS7				
570	LOCAL TRANS - MS8				
580	LOCAL TRANS - MS9				
590	LOCAL TRANS - MS10				
600	MAUC PER LINE OR TRUNK				
610	TERMINATION				
620	FACILITY				
630	INSTALLATION PER LN OR TRK	N/A	N/A	N/A	
640	OTHER TRANSPORT	N/A	N/A	N/A	
650	TOTAL SERVICE CAT	N/A	N/A	N/A	
660	SBI	N/A	N/A	N/A	N/A
670	UPPER SBI LIMIT	N/A	N/A	N/A	N/A
680	LOWER SBI LIMIT	N/A	N/A	N/A	N/A

INFO
700
710
720
730
740
750
760
770
790
799
800

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1991 TRANSITION FILING
PRICE CAP TARIFF REVIEW PLAN
TRAFFIC SENSITIVE BASKET
(REVENUES IN THOUSANDS)

	INFORMATION SERVICE CATEGORY	7/1/90 RATES (A)	CURRENT RATES (B)	PROPOSED RATES (C)	BASE PER DEM X PROP RATES MINUS BASE PER DEM X CUR RATES (D)
700	INFORMATION - PER MSG.				
710	INFO - PREMIUM SURCHARGE				
720	INFO - NON-PREM SURCHARGE				
730	INFORMATION - OTHER	N/A	N/A	N/A	
740	TOTAL SERVICE CAT	N/A	N/A	N/A	
750	SBI	N/A	N/A	N/A	N/A
760	UPPER SBI LIMIT	N/A	N/A	N/A	N/A
770	LOWER SBI LIMIT	N/A	N/A	N/A	N/A
780	TOTAL BASKET	N/A	N/A	N/A	
790	TOTAL API	N/A	N/A	N/A	N/A
800	TOTAL PCI	N/A	N/A	N/A	N/A

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1991 TRANSITION FILING
PRICE CAP TARIFF REVIEW PLAN
SPECIAL ACCESS BASKET
(REVENUES IN THOUSANDS)

		7/1/90 RATES		CURRENT RATES	
		FIXED	VARIABLE	FIXED	VARIABLE
		(A)	(B)	(C)	(D)
	VOICE GRADE, WATS, METALLIC & TELEGRAPH SERVICE CATEGORY				
	VOICE GRADE & WATS:				
900	CHAN TERM - 2 WIRE		N/A		N/A
910	CHAN TERM - 4 WIRE		N/A		N/A
	INTER-OFFICE MILEAGE:				
920	V G & WATS - MB1				
930	V G & WATS - MB2				
940	V G & WATS - MB3				
950	V G & WATS - MB4				
960	V G & WATS - MB5				
970	V G & WATS - MB6				
980	V G & WATS - MB7				
990	V G & WATS - MB8				
1000	V G & WATS - MB9				
1010	V G & WATS - MB10				
1020	OTHER VOICE GRADE	N/A	N/A	N/A	N/A
	METALLIC:				
1030	CHAN TERM		N/A		N/A
1040	INTER-OFFICE MILEAGE	N/A	N/A	N/A	N/A
1050	OTHER	N/A	N/A	N/A	N/A
	TELEGRAPH:				
1060	CHAN TERM - 2 WIRE		N/A		N/A
1070	CHAN TERM - 4 WIRE		N/A		N/A
1080	INTER-OFFICE MILEAGE	N/A	N/A	N/A	N/A
1090	OTHER	N/A	N/A	N/A	N/A
1100	OTHER	N/A	N/A	N/A	N/A
1110	TOTAL SERVICE CAT	N/A	N/A	N/A	N/A
1120	SBI	N/A	N/A	N/A	N/A
1130	UPPER SBI LIMIT	N/A	N/A	N/A	N/A
1140	LOWER SBI LIMIT	N/A	N/A	N/A	N/A

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1991 TRANSITION FILING
PRICE CAP TARIFF REVIEW PLAN
SPECIAL ACCESS BASKET
(REVENUES IN THOUSANDS)

		PROPOSED RATES		BASE PERIOD DEMAND X PROPOSED RATES MINUS BASE PERIOD DEMAND X CURRENT RATES	
		FIXED	VARIABLE	FIXED	VARIABLE
		(E)	(F)	(G)	(H)
	VOICE GRADE, WATS, METALLIC & TELEGRAPH SERVICE CATEGORY				
	VOICE GRADE & WATS:				
0900	CHAN TERM - 2 WIRE		N/A		N/A
0910	CHAN TERM - 4 WIRE		N/A		N/A
	INTER-OFFICE MILEAGE				
0920	V G & WATS - MB1				
0930	V G & WATS - MB2				
0940	V G & WATS - MB3				
0950	V G & WATS - MB4				
0960	V G & WATS - MB5				
0970	V G & WATS - MB6				
0980	V G & WATS - MB7				
0990	V G & WATS - MB8				
1000	V G & WATS - MB9				
1010	V G & WATS - MB10				
1020	OTHER VOICE GRADE	N/A	N/A		
	METALLIC:				
1030	CHAN TERM		N/A		N/A
1040	INTER-OFFICE MILEAGE	N/A	N/A		
1050	OTHER	N/A	N/A		
	TELEGRAPH:				
1060	CHAN TERM - 2 WIRE		N/A		N/A
1070	CHAN TERM - 4 WIRE		N/A		N/A
1080	INTER-OFFICE MILEAGE	N/A	N/A		
1090	OTHER	N/A	N/A		
1100	OTHER	N/A	N/A		
1110	TOTAL SERVICE CAT	N/A	N/A		
1120	SBI	N/A	N/A	N/A	N/A
1130	UPPER SBI LIMIT	N/A	N/A	N/A	N/A
1140	LOWER SBI LIMIT	N/A	N/A	N/A	N/A

FILING ENTITY:

1991 TRANSITION FILING
PRICE CAP TARIFF REVIEW PLAN
SPECIAL ACCESS BASKET
(REVENUES IN THOUSANDS)

		7/1/90 RATES	CURRENT RATES	PROPOSED RATES	BASE PER DEM X PROP RATES MINUS BASE PER DEM X CUR RATES
		(A)	(B)	(C)	(D)
	AUDIO & VIDEO SERVICE CATEGORY				
	AUDIO:				
1200	CHAN TERM	N/A	N/A	N/A	
1210	INTER-OFFICE MILEAGE	N/A	N/A	N/A	
1220	OTHER	N/A	N/A	N/A	
	VIDEO:				
1230	CHAN TERM	N/A	N/A	N/A	
1240	INTER-OFFICE MILEAGE	N/A	N/A	N/A	
1250	OTHER	N/A	N/A	N/A	
1260	TOTAL SERVICE CAT	N/A	N/A	N/A	
1270	SBI	N/A	N/A	N/A	N/A
1280	UPPER SBI LIMIT	N/A	N/A	N/A	N/A
1290	LOWER SBI LIMIT	N/A	N/A	N/A	N/A

1400
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1540

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1991 TRANSITION FILING
PRICE CAP TARIFF REVIEW PLAN
SPECIAL ACCESS BASKET
(REVENUES IN THOUSANDS)

		7/1/90 RATES	CURRENT RATES	PROPOSED RATES	BASE PER DEM X PROP RATES MINUS BASE PER DEM X CUR RATES
		(A)	(B)	(C)	(D)
	HIGH CAP & DDS SERVICE CATEGORY				
	DS1 SUB-CAT:				
1400	CHAN TERM				
	INTER-OFFICE MILEAGE:				
1410	DS1 - MB1				
1420	DS1 - MB2				
1430	DS1 - MB3				
1440	DS1 - MB4				
1450	DS1 - MB5				
1460	DS1 - MB6				
1470	DS1 - MB7				
1480	DS1 - MB8				
1490	DS1 - MB9				
1500	DS1 - MB10				
1510	OTHER	N/A	N/A	N/A	
1520	DS1 SUBINDEX	N/A	N/A	N/A	N/A
1530	UPPER LIMIT	N/A	N/A	N/A	N/A
1540	LOWER LIMIT	N/A	N/A	N/A	N/A

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PRICE CAP TARIFF REVIEW PLAN
SPECIAL ACCESS BASKET
(REVENUES IN THOUSANDS)

		7/1/90 RATES	CURRENT RATES	PROPOSED RATES	BASE PER DEM X PROP RATES MINUS BASE PER DEM X CUR RATES
		(A)	(B)	(C)	(D)
	HIGH CAP & DDS SERVICE CATEGORY (CONTINUED)				
	DS3 SUB-CAT:				
1600	CHAN TERM				
	INTER-OFFICE MILEAGE:				
1610	DS3 - MB1				
1620	DS3 - MB2				
1630	DS3 - MB3				
1640	DS3 - MB4				
1650	DS3 - MB5				
1660	DS3 - MB6				
1670	DS3 - MB7				
1680	DS3 - MB8				
1690	DS3 - MB9				
1700	DS3 - MB10				
1710	OTHER	N/A	N/A	N/A	
1720	DS3 SUBINDEX	N/A	N/A	N/A	N/A
1730	UPPER LIMIT	N/A	N/A	N/A	N/A
1740	LOWER LIMIT	N/A	N/A	N/A	N/A
	DDS:				
1750	CHAN TERM				
1760	INTER-OFFICE MILEAGE				
1770	OTHER	N/A	N/A	N/A	
1780	TOTAL SERVICE CAT	N/A	N/A	N/A	
1790	SBI	N/A	N/A	N/A	N/A
1800	UPPER SBI LIMIT	N/A	N/A	N/A	N/A
1810	LOWER SBI LIMIT	N/A	N/A	N/A	N/A

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PRICE CAP TARIFF REVIEW PLAN
SPECIAL ACCESS BASKET
(REVENUES IN THOUSANDS)

		F/L/W RATES (A)	CURRENT RATES (B)	PROPOSED RATES (C)	BASE PER DEM X PROP RATES MINUS BASE PER DEM X CUR RATES (D)
	WIDEBAND SERVICE CATEGORY				
	DATA:				
1900	CHAN TERM	N/A	N/A	N/A	
1910	INTER-OFFICE MILEAGE	N/A	N/A	N/A	
1920	OTHER	N/A	N/A	N/A	
	ANALOG:				
1930	CHAN TERM	N/A	N/A	N/A	
1940	INTER-OFFICE MILEAGE	N/A	N/A	N/A	
1950	OTHER	N/A	N/A	N/A	
1960	OTHER WIDEBAND	N/A	N/A	N/A	
1970	TOTAL SERVICE CAT	N/A	N/A	N/A	
1980	SBI	N/A	N/A	N/A	N/A
1990	UPPER SBI LIMIT	N/A	N/A	N/A	N/A
2000	LOWER SBI LIMIT	N/A	N/A	N/A	N/A
2810	TOTAL BASKET	N/A	N/A	N/A	
2820	TOTAL API	N/A	N/A	N/A	N/A
2830	TOTAL PCI	N/A	N/A	N/A	N/A

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1991 TRANSITION FILING
PRICE CAP TARIFF REVIEW PLAN
INTEREXCHANGE BASKET
(REVENUES IN THOUSANDS)

		7/1/90 RATES	CURRENT RATES	PROPOSED RATES	BASE PER DEM X PROP RATES MINUS BASE PER DEM X CUR RATES
		(A)	(B)	(C)	(D)
INTEREXCHANGE					
2100	TOTAL BASKET	N/A	N/A	N/A	
2110	TOTAL API	N/A	N/A	N/A	N/A
2120	TOTAL PCI	N/A	N/A	N/A	N/A

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EXG-1
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1991 TRANSITION FILING
PRICE CAP TARIFF REVIEW PLAN
EFFECT OF EXOGENOUS CHANGES
($000)

	SERVICE BASKET	DISALLOWANCE ADJUSTMENT (A)	ROR REPRESCRIPTION (B)	LTS/TRS (C)	OTHER (D)	COMBINED EFFECT (E)
	COMMON LINE:					
100	AVERAGE NET INVESTMENT	N/A		N/A		N/A
110	TAX EFFECT	N/A		N/A		N/A
120	REVENUE EFFECT					N/A
130	BASE REVENUE *					N/A
140	DELTA Z / R **					N/A
	TRAFFIC SENSITIVE:					
150	AVERAGE NET INVESTMENT	N/A		N/A		N/A
160	TAX EFFECT	N/A		N/A		N/A
170	REVENUE EFFECT			N/A		N/A
180	BASE REVENUE *			N/A		N/A
190	DELTA Z / R **			N/A		N/A
	SPECIAL ACCESS:					
200	AVERAGE NET INVESTMENT	N/A		N/A		N/A
210	TAX EFFECT	N/A		N/A		N/A
220	REVENUE EFFECT			N/A		N/A
230	BASE REVENUE *			N/A		N/A
240	DELTA Z / R **			N/A		N/A
	INTEREXCHANGE:					
250	AVERAGE NET INVESTMENT	N/A	N/A	N/A		N/A
260	TAX EFFECT	N/A	N/A	N/A		N/A
270	REVENUE EFFECT	N/A	N/A	N/A		N/A
280	BASE REVENUE	N/A	N/A	N/A		N/A
290	DELTA Z / R	N/A	N/A	N/A		N/A

* BASE REVENUE FOR COLUMN A EQUALS Z/1/90 REVENUE REQUIREMENT.

** DELTA Z / R = REVENUE EFFECT DIVIDED BY BASE REVENUE, I.E., ROW 120 / ROW 130, ROW 170 / ROW 180, ETC
FOR COLUMN E ONLY, DELTA Z / R = ((1 + ROW 140A) X (1 + ROW 140B + ROW 140C) - 1), ETC.

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ATTACHMENT B--RATE OF RETURN
TARIFF REVIEW PLAN

TARIFF REVIEW PLAN DATA GUIDELINES

1. ALL AMOUNTS ARE TO BE IN WHOLE NUMBERS EXCEPT AS SPECIFIED ON A PARTICULAR TABLE.

2. ALL PERCENTAGES ARE TO BE CARRIED OUT TO 2 DECIMAL PLACES EXCEPT WHERE NOTED ON A PARTICULAR TABLE. EXAMPLE; 29 2/3 PERCENT SHOULD BE SHOWN AS 29.67

3. ALL RATIOS ARE TO BE CARRIED OUT TO 4 DECIMAL PLACES EXCEPT WHERE NOTED ON A PARTICULAR TABLE.

4. ALL FOOTNOTES, ADDITIONAL TO THOSE PREPRINTED ON FORMS, SHOULD BE PUT ON A SEPARATE FOOTNOTED PAGE AND INSERTED FOLLOWING THE FORM THEY REFERENCE. THE FOOTNOTE PAGE SHOULD INCLUDE THE COMPANY, STUDY AREA AND FORM TO WHICH THEY PERTAIN.

1.

2.

3.

4.

5.

6.

7.

RULES FOR SUBMISSION OF DATA TO FCC ON MAGNETIC MEDIA

(FOR PRICE CAP AND TIER 1 NON-PRICE CAP COMPANIES ONLY)

1. ALL DATA SHOULD BE SUBMITTED ON 5.25 INCH PC FLOPPY DISKS DOUBLE SIDED DOUBLE DENSITY.

2. ALL FILES SHOULD BE CODED IN ASCII.

3. ALL FILES FOR A FILING ENTITY, I.E. STUDY AREA, OPERATING COMPANY, OR HOLDING COMPANY, SHOULD BE CONTAINED ON A SEPARATE DISK(S).

4. A SEPARATE FILE SHOULD BE PREPARED FOR EACH SEPARATE TABLE OF DATA, E.G., EXG-1, SUM-1, T1WS-1, ETC. THE FILE NAME, FOR EACH TABLE, IS A COMBINATION OF COSA (CO = COMPANY, SA = STUDY AREA, E.G., THE COSA FOR PACIFIC BELL OF CALIFORNIA IS PTCA) PLUS THE TABLE NAME. THE TABLE NAME IS THE TABLE NAME WITHOUT THE HYPHEN, E.G. THE TABLE NAME FOR EXG-1 IS EXG1. THE TABLE NAMES FOR THE RATE OF RETURN CARRIERS EXCLUDE 'T1' OR 'T2', E.G. THE TABLE NAME FOR T1WS-1 IS WS1.

   FOR EXAMPLE, THE FILE NAME FOR TABLE EXG-1 FOR PACIFIC BELL-CALIFORNIA SHOULD BE PTCAEXG1.

5. EACH DATA FILE SHOULD CONTAIN ONLY TABLE ROW NUMBERS AND THE APPROPRIATE NUMBER OF DATA ITEMS PER ROW. DATA MUST BE DELIMITED BY EITHER A COMMA OR SPACE, E.G.:

   FILENAME PTCAEXG1 [FILE FOR PACIFIC BELL, TABLE SUM-1]
   100,12345,12356,12367
   110,10010,10021,10032

   ETC.

   - OR -

   100 12345 12356 12367
   110 10010 10021 10032

   ETC.

6. ANY DATA ITEM FOR WHICH NO VALID DATA EXISTS FOR A PARTICULAR FILING ENTITY SHOULD BE POPULATED WITH -99999. IF THE DATA ITEM IS A TRUE ZERO, THEN A 0 (ZERO) SHOULD BE ENTERED.

7. ANY NON-NUMERIC DATA MUST BE ENCLOSED IN QUOTATION MARKS. E.G. DATE FIELD IN EXHIBIT T1WS-3 MUST BE SHOWN AS "07/16/90".

STUDY AREA: _____ TIWS-1

RATE ADJUSTMENT ANALYSIS SUMMARY

	RATE CATEGORIES	CURRENT RATES	RATE ADJUSTMENT FACTOR*	RATES EFFECTIVE 1/1/91
		(A)	(B)	(C)=A*B
	END USER**			
100	MULTI-LINE BUSINESS	_____	_____	_____
110	RES. & SNG. LN. BUS.	_____	N/A	_____
	TRAFFIC SENSITIVE			
	SWITCHING			
120	LS2	_____	_____	_____
130	LS1	_____	_____	_____
140	NON PREMIUM	_____	_____	_____
	LT TERMINATION			
150	PREMIUM	_____	_____	_____
160	NON-PREMIUM	_____	_____	_____
	LT FACILITY			
170	PREMIUM	_____	_____	_____
180	NON-PREMIUM	_____	_____	_____
190	TOTAL TRANSPORT***	N/A	_____	N/A
	INFORMATION			
200	PREMIUM	_____	_____	_____
210	NON-PREMIUM	_____	_____	_____
220	SPECIAL ACCESS****	N/A	_____	N/A

* SOURCE IS TIWS-2

** ROW 100 COLUMN A SHOULD REFLECT THE BFP REVENUE REQUIREMENT @ 12% / TEST PERIOD ACCESS LINES / 12. IF THE RESULT LISTED ON ROW 100 COLUMN C, IS LESS THAN $3.50, SINGLE LINE BUSINESS AND RESIDENTIAL RATES IN ROW 110 COLUMN C MUST BE FILED AT THAT LEVEL. IF THE RESULT ON ROW 100 COLUMN C IS GREATER THAN $6.00, THE MULTI-LINE END USER RATE IS CAPPED AT $6.00 AND THE SINGLE LINE RATE IS CAPPED AT $3.50.

*** TRANSPORT RATES FOR SOME COMPANIES ARE DEVELOPED ON MILEAGE BANDS RATHER THAN BROKEN INTO FACILITY AND TERMINATION CHARGES. IN THESE INSTANCES, ROWS 150 THRU 180 ARE NOT APPLICABLE AND THE RAF CONTAINED ON ROW 190 COLUMN B IS APPLICABLE TO ALL TRAFFIC SENSITIVE TRANSPORT RATES FILED.

**** THE RAF FACTOR FOR SPECIAL ACCESS IS APPLICABLE TO COMPANY SPECIFIC SPECIAL ACCESS RATES.

STUDY AREA: _____ TIWS-2

COST ANAYSIS SUMMARY

	COST CATEGORIES	REV REQ UNDERLYING CURRENT RATES* (A)	NONRECURRING AND ICB REVENUE IN COLUMN A*** (B)	RECURRING REVENUE REQUIREMENT (C)=A-B	EXOGENOUS COST CHANGES** (D)	RECURRING REV REQ ADJ FOR EXOGENOUS COST CHANGES (E)=C+D	RATE ADJUSTMENT FACTOR (F)=E/C
100	COMMON LINE						N/A
110	BFP						
120	ISW						N/A
130	PAY						N/A
140	SWITCHED TRAFFIC SENSITIVE						N/A
150	SWITCHING						
160	TRANSPORT						
170	INFORMATION						
180	SPECIAL ACCESS						
190	TOTAL ACCESS						N/A

* SOURCE IS TIWS-3 COLUMN D
** SOURCE IS TIWS-4 COLUMN D
*** REQUIRED FOR THOSE COMPANIES THAT ARE NOT APPLYING RAF FACTORS TO NON-RECURRING AND ICB RATES. COMPANIES APPLYING RAF FACTORS TO ALL RATES, INCLUDING NRC'S AND ICB'S, SHOULD COMPLETE COLUMN B WITH ZEROS.

STUDY AREA: _____ TIWS-3

DEVELOPMENT OF REVENUE REQUIREMENT UNDERLYING CURRENT RATES

	COST CATEGORIES	REV. REQ. UNDERLYING RATES IN EFFECT ON 7/1/90 (A)	DISALLOWANCE ADJUSTMENTS* (B)	EC SPECIFIC ADJUSTMENTS BY TRANSMIT.** (C)	REV. REQ. UNDERLYING CURRENT RATES*** (D)=A+B+C
100	COMMON LINE				
110	BFP				
120	ISW				
130	PAY				
140	SWITCHED TRAFFIC SENSITIVE				
150	SWITCHING				
160	TRANSPORT				
170	INFORMATION				
180	SPECIAL ACCESS				
190	TOTAL ACCESS				
200	TRANSMITTAL NUMBER****	N/A	N/A		N/A
210	TRANSMITTAL DATE*****	N/A	N/A		N/A

* REFLECT DISALLOWANCES MADE IN 7/2/90 AND 10/3/90 ORDERS
** IDENTIFY TRANSMITTAL ASSOCIATED WITH THIS VIEW
*** MUST AGREE WITH TIWS-2, COL A.
**** THE TRANSMITTAL NUMBER FOR COL B AND C SHOULD BE ENTERED ON ROW 200. ENTER NONE IF NO TRANSMITTALS WERE SUBMITTED.
***** THE TRANSMITTAL DATE FOR COL B AND C SHOULD BE ENTERED ON ROW 210. ENTER NONE IF NO TRANSMITTALS WERE SUBMITTED.

STUDY AREA: _____ TIWS-4

ROR REPRESCRIPTION
EXOGENOUS COST CHANGES

	COST CATEGORIES	RATEBASE AS ADJUST. FOR DISALLOW. (A)	ROR EFFECTS (B)=A*-.0075	TAX EFFECTS (C)SEE NOTE	TOTAL EXOGENOUS CHANGES (D)=B+C	TOTAL REV. REQ. AS ADJ. FOR DISALLOW. (E)
100	COMMON LINE					
110	BFP					
120	ISW					
130	PAY					
140	SWITCHED TRAFFIC SENSITIVE					
150	SWITCHING					
160	TRANSPORT					
170	INFORMATION					
180	SPECIAL ACCESS					
190	TOTAL ACCESS					

NOTE: COLUMN A IS THE RATEBASE UNDERLYING CURRENTLY EFFECTIVE RATES AS ADJUSTED FOR DISALLOWANCES (I.E. SPECIFIED IN 7/2/90 AND 10/3/90 FCC ORDERS)

COLUMN C REPRESENTS THE TAX EFFECTS OF THE DECREASE IN RETURN ASSOCIATED WITH COLUMN B. THE SPECIFIC TAX CONSEQUENCES WILL BE COMPANY SPECIFIC BASED ON APPLICABLE FEDERAL AND STATE TAX GROSS UP RATES.

COLUMN D IS THE TOTAL EFFECT OF THE ROR REPRESCRIPTION AND WILL BE USED TO DEVELOP THE RAF ON TIWS-2. TIWS-4 COLUMN D SHOULD EQUAL TIWS-2 COLUMN D.

COLUMN E IS THE REVENUE REQUIREMENTS UNDERLYING CURRENT RATES INCLUSIVE OF ANY DISALLOWANCES, BOTH RATEBASE (CONTAINED IN COLUMN A) AND EXPENSE ITEMS.

STUDY AREA: _____ TIWS-5

ANNUALIZED ACCESS PRICE OUT COMPARISONS

		REVENUES AT CURRENT RATES (A)	REVENUES AT PROPOSED RATES (B)	CHANGE (C)=B-A
100	TOTAL MULTI-LINE BUSINESS (INCL. SPEC. ACC. SURCHARGE REV.)	_____	_____	_____
110	TOTAL RESIDENCE AND SINGLE-LINE BUSINESS	_____	_____	_____
120	TOTAL CCL*	_____	_____	_____
130	TOTAL TS SWITCHED (EXCL. DA)	_____	_____	_____
140	TOTAL SPECIAL ACCESS	_____	_____	_____
150	DIRECTORY ASSISTANCE	_____	_____	_____

NOTE: REVENUES ARE CALCULATED USING DEMAND UNDERLYING CURRENT RATES. THE DEMAND USED TO CALCULATE THE REVENUES IN COL'S A AND B SHOULD BE IDENTICAL.

COMPANIES THAT PARTICIPATE IN THE NECA EU POOL ARE NOT REQUIRED TO POPULATE ROW 100 AND ROW 110.

* POPULATED ONLY BY CARRIERS FILING THEIR OWN CCL RATES (NON-NECA POOLED)

STUDY

100
110
120
130
140
150
160
170
180
190
200
210
220
230

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STUDY AREA: _____ T1WS-6

CARRIER COMMON LINE RATE DEVELOPMENT

		DATA UNDERLYING CURRENT RATES (A)	DATA UNDERLYING PROPOSED RATES (B)	CHANGE (C)=B-A
100	TOTAL COMMON LINE REV. REQ.			
110	LTS + TRS			
120	END USER REVENUE (NOTE 1)			
130	SPECIAL ACCESS SURCHARGE REVENUE			
140	REV. REQ. FOR CARRIER COMMON LINE (NOTE 2)			
150	ORIGINATING CCL RATEMAKING MOU (NOTE 3)			
160	REVENUE FROM ORIGINATING CCL (NOTE 4)			
170	REV. REQ. FOR TERMINATING CCL (NOTE 5)			
180	TERMINATING CCL RATEMAKING MOU (NOTE 3)			
190	PREMIUM TERMINATING CCL RATE (NOTE 6)			
200	NON PREMIUM TERMINATING CCL RATE (NOTE 7)			
210	TOTAL RATEMAKING MOU (NOTE 8)			
220	PREMIUM ORIG. AND TERM. CCL RATE (NOTE 9)			
230	NON-PREMIUM ORIG. AND TERM. CCL RATE (NOTE 10)			

NOTE 1 -- SOURCE IS T1WS-5, ROW 100 + ROW 110
NOTE 2 -- ROW 140 = ROW 100 + ROW 110 - ROW 120 - ROW 130
NOTE 3 -- RATEMAKING MOU = PREMIUM MOU + (.45 * NON PREMIUM MOU)
NOTE 4 -- ROW 160 = ROW 150 * 0.01
NOTE 5 -- ROW 170 = ROW 140 - ROW 160
NOTE 6 -- ROW 190 = ROW 170 / ROW 180
NOTE 7 -- ROW 200 = ROW 190 * .45
NOTE 8 -- ROW 210 = ROW 150 + ROW 180
NOTE 9 -- ROW 220 = ROW 140 / ROW 210
NOTE 10-- ROW 230 = ROW 220 * .45

STUDY AREA: _____ T2WS-1

RATE ADJUSTMENT ANALYSIS SUMMARY

	RATE CATEGORIES	CURRENT RATES (A)	RATE ADJUSTMENT FACTOR* (B)	RATES EFFECTIVE 1/1/91 (C)=A*B
	END USER**			
100	MULTI-LINE BUSINESS	_____	_____	_____
110	RES. & SNG. LN. BUS.	_____	N/A	_____
	TRAFFIC SENSITIVE			
	SWITCHING			
120	LS2	_____	_____	_____
130	LS1	_____	_____	_____
140	NON PREMIUM	_____	_____	_____
	LT TERMINATION			
150	PREMIUM	_____	_____	_____
160	NON-PREMIUM	_____	_____	_____
	LT FACILITY			
170	PREMIUM	_____	_____	_____
180	NON-PREMIUM	_____	_____	_____
190	TOTAL TRANSPORT***	N/A	_____	N/A
	INFORMATION			
200	PREMIUM	_____	_____	_____
210	NON-PREMIUM	_____	_____	_____
220	SPECIAL ACCESS****	N/A	_____	N/A

* SOURCE IS T2WS-2

** ROW 100 COLUMN A SHOULD REFLECT THE BFP REVENUE REQUIREMENT @ 12% / TEST PERIOD ACCESS LINES / 12. IF THE RESULT LISTED ON ROW 100 COLUMN C, IS LESS THAN $3.50, SINGLE LINE BUSINESS AND RESIDENTIAL RATES IN ROW 110 COLUMN C MUST BE FILED AT THAT LEVEL. IF THE RESULT ON ROW 100 COLUMN C IS GREATER THAN $6.00, THE MULTI-LINE END USER RATE IS CAPPED AT $6.00 AND THE SINGLE LINE RATE IS CAPPED AT $3.50

*** TRANSPORT RATES FOR SOME COMPANIES ARE DEVELOPED ON MILEAGE BANDS RATHER THAN BROKEN INTO FACILITY AND TERMINATION CHARGES. IN THESE INSTANCES, ROWS 150 THRU 180 ARE NOT APPLICABLE AND THE RAF CONTAINED ON ROW 190 COLUMN B IS APPLICABLE TO ALL TRAFFIC SENSITIVE TRANSPORT RATES FILED.

**** THE RAF FACTOR FOR SPECIAL ACCESS IS APPLICABLE TO COMPANY SPECIFIC SPECIAL ACCESS RATES.

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STUDY AREA: _____ T2WS-2

COST ANAYSIS SUMMARY

	COST CATEGORIES	REV REQ UNDERLYING CURRENT RATES* (A)	NONRECURRING AND ICB REVENUE IN COLUMN A*** (B)	RECURRING REVENUE REQUIREMENT (C)=A-B	EXOGENOUS COST CHANGES** (D)	RECURRING REV REQ ADJ FOR EXOGENOUS COST CHANGES (E)=C+D	RATE ADJUSTMENT FACTOR (F)=E/C
100	COMMON LINE						N/A
110	BFP						
120	ISW						N/A
130	PAY						N/A
140	SWITCHED TRAFFIC SENSITIVE						N/A
150	SWITCHING						
160	TRANSPORT						
170	INFORMATION						
180	SPECIAL ACCESS						
190	TOTAL ACCESS						N/A

* SOURCE IS T2WS-3 COLUMN D
** SOURCE IS T2WS-4 COLUMN C
*** REQUIRED FOR THOSE COMPANIES THAT ARE NOT APPLYING RAF FACTORS TO NON-RECURRING AND ICB RATES. COMPANIES APPLYING RAF FACTORS TO ALL RATES, INCLUDING NRC'S AND ICB'S, SHOULD COMPLETE COLUMN B WITH ZEROS.

BEST COPY AVAILABLE

STUDY AREA: _____ T2WS-3

DEVELOPMENT OF REVENUE REQUIREMENT UNDERLYING CURRENT RATES

	COST CATEGORIES	REV. REQ. UNDERLYING RATES IN EFFECT ON 7/1/90 (A)	EC SPECIFIC ADJUSTMENTS BY TRANSMIT.* (B)	EC SPECIFIC ADJUSTMENTS BY TRANSMIT.* (C)	REV. REQ. UNDERLYING CURRENT RATES** (D)=A+B+C
100	COMMON LINE				
110	BFP				
120	ISW				
130	PAY				
140	SWITCHED TRAFFIC SENSITIVE				
150	SWITCHING				
160	TRANSPORT				
170	INFORMATION				
180	SPECIAL ACCESS				
190	TOTAL ACCESS				
200	TRANSMITTAL NUMBER***	N/A			N/A
210	TRANSMITTAL DATE****	N/A			N/A

* IDENTIFY TRANSMITTAL ASSOCIATED WITH THIS VIEW
** MUST AGREE WITH T2WS-2, COL A.
*** THE TRANSMITTAL NUMBER FOR COL B AND C SHOULD BE ENTERED ON ROW 200. ENTER NONE IF NO TRANSMITTALS WERE SUBMITTED.
**** THE TRANSMITTAL DATE FOR COL B AND C SHOULD BE ENTERED ON ROW 210. ENTER NONE IF NO TRANSMITTALS WERE SUBMITTED.

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BEST COPY AVAILABLE

STUDY AREA: _____

T2VS-4

	COST CATEGORIES	REV. REQ. UNDERLYING CURRENT RATES (A)	EXOGENOUS COST CHANGES: REV. REQ. IN (A) RESTATED WITH 11.25% ROR (B)	EXOGENOUS COST CHANGES: EXOGENOUS COST CHANGES (C)=B-A
100	COMMON LINE			
110	BFP			
120	ISW			
130	PAY			
140	SWITCHED TRAFFIC SENSITIVE			
150	SWITCHING			
160	TRANSPORT			
170	INFORMATION			
18C	SPECIAL ACCESS			
19C	TOTAL ACCESS			

STUDY AREA: _____ T2WS-5

ANNUALIZED ACCESS
PRICE OUT COMPARISONS

		REVENUES AT CURRENT RATES	REVENUES AT PROPOSED RATES	CHANGE
		(A)	(B)	(C)=B-A
100	TOTAL MULTI-LINE BUSINESS (INCL. SPEC. ACC. SURCHARGE REV.)	_____	_____	_____
110	TOTAL RESIDENCE AND SINGLE-LINE BUSINESS	_____	_____	_____
120	TOTAL CCL	N/A	N/A	N/A
130	TOTAL TS SWITCHED (EXCL. DA)	_____	_____	_____
140	TOTAL SPECIAL ACCESS	_____	_____	_____
150	DIRECTORY ASSISTANCE	_____	_____	_____

NOTE: REVENUES ARE CALCULATED USING DEMAND UNDERLYING CURRENT RATES. THE DEMAND USED TO CALCULATE THE REVENUES IN COL'S A AND B SHOULD BE IDENTICAL.

COMPANIES THAT PARTICPATE IN THE NECA EU POOL ARE NOT REQUIRED TO POPULATE ROW 100 AND 110.

STUDY AREA: _____ [illegible]

MULTI-LINE END USER RATE
FLOW THROUGH OF ROR REPRESCRIPTION

100	BFP REVENUE REQUIREMENT UNDERLYING CURRENT RATES	_____
110	BFP REVENUE REQUIREMENT IN ROW 100 RECAST AT 11.25% ROR	_____
120	END USER RATE ADJUSTMENT FACTOR (ROW 110/ROW 100)	_____
130	CURRENT MULTI-LINE BUSINESS END USER RATE	_____
140	1/1/91 MULTI-LINE BUSINESS END USER RATE (ROW 120 * ROW 130) SEE NOTE	_____

NOTE: IF THE RESULT LISTED ON ROW 140 IS LESS THAN $3.50, SINGLE LINE BUSINESS AND RESIDENTIAL RATES MUST BE FILED AT THAT LEVEL. IF THE RESULTS ON ROW 140 ARE GREATER THAN $6.00, THE MULTI-LINE END USER RATE IS CAPPED AT $6.00 AND THE SINGLE LINE RATE IS CAPPED AT $3.50.

[FR Doc. 90-25512 Filed 10-25-90; 8:45 am]
BILLING CODE 6712-01-C

FEDERAL MEDIATION AND CONCILIATION SERVICE

Agency Information Collection Activity Under Review by the Office of Management and Budget

ACTION: Notice: Form R–43 Submitted for review to the Office of Management and Budget.

The Federal Mediation and Conciliation Service (FMCS) has submitted to the Office of Management and Budget (OMB) a request for review of FMCS Form R–43, Request for Arbitration Panel. The request seeks OMB approval to extend the expiration date of Form R–43 from September 30, 1990 to March 30, 1991. The request was submitted pursuant to the Paperwork Reduction Act (44 U.S.C. chapter 35).

Form R–43 is employed by FMCS in order to allow employers and labor organizations to request lists of arbitrators. In most instances a list of seven arbitrators is furnished in response to the submission of a Form R–43. The employer and the labor organization then strike names from the list until they decide, by a process of elimination, on the person who will serve as their arbitrator.

There are approximately 1,600 persons on the FMCS roster of arbitrators. These persons are not employees of the Federal Government, but rather are economists, university professors and other individuals who are professinal arbitrators.

The information furnished on Form R–43 consists generally of the name, address and phone number of the employer, the same information for the labor organization, the location and nature of the dispute, the type of industry involved, any special requirements, and signatures.

The submission of Form R–43 for OMB review is for the purpose of continuing this Form, pending FMCS consideration of changes to the Form and to FMCS arbitration regulations. Additional information pertaining to this Form is as follows:

Agency: Federal Mediation and Conciliation Service

Title: Request for Arbitration Panel.

Form Number: Agency Form R–43; OMB No. 3076–0002.

Type of Request: Extension of expiration date of a currently approved collection without any change in the substance or in the method of collection.

Authority: 29 U.S.C. 171(b) and 29 CFR Part 1404.

Burden: Approximately 27,000 respondents and 4,500 reporting hours per year. Generally, a Form R–43 is filled out only once and the time needed to fill out the Form is about 10 minutes or less.

Needs and Uses: The need for this Form is to obtain information—name, address, phone number, location, type of dispute, type of industry and special requirements—so that this information may be used to respond to requests for list of arbitrators.

Affected Public: Employers and labor organizations.

Frequency: On occasion, as needed by the parties.

Respondents Obligation: Voluntary.

Comments regarding the burden estimate given above, or any other aspect of this information collection, including suggestions for reducing the burden, should be sent to: Diana Rowen, OMB Desk Officer, 725 17th Street, NW., Room 3001, Washington, DC 20503, (202) 395–6880 and Ted M. Chaskelson, General Counsel, Federal Mediation and Conciliation Service, 2100 K Street, NW. 20427 (202) 653–5305.

Dated: October 22, 1990.

Bernard E. DeLury,

Director.

[FR Doc. 90–25342 Filed 10–25–90; 8:45 am]

BILLING CODE 6372–01–M

FEDERAL RESERVE SYSTEM

Caisse Nationale de Credit Agricole, S.A.; Acquisition of Company Engaged in Permissible Nonbanking Activities; Correction

This notice corrects a previous Federal Register Notice (FR Doc. 90–21977) published as page 38390 of the issue for Tuesday, September 18, 1990.

Under the Federal Reserve Bank of Chicago, the entry for Caisse Nationale de Credit Agricole, S.A., is amended to read as follows:

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Caisse Nationale de Credit Agricole, S.A., Paris, France; to acquire 49.9 percent of the voting shares of Locasuez America, Inc., New York, New York, and thereby engage in making and servicing loans, investment or financial advisory activities, and leasing activities pursuant to §§ 225.25(b) (1), (4) and (5) of the Board's Regulation Y.

Comments on this application must be received by November 9, 1990.

Board of Governors of the Federal Reserve System, October 22, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–25362 Filed 10–25–90; 8:45 am]

BILLING CODE 6210–01–M

Kennon Ray Patterson, Sr., et al., Change in Bank Control Notice, Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than November 13, 1990.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Kennon Ray Patterson, Sr., Bishop Kenner Walker, Jr., and Dicey Strickland Childers, as trustees for the Community Bancshares, Inc. Employee Stock Ownership Plan, all of Blountsville, Alabama; to acquire an additional 5.37 percent (totalling 13.42 percent) of the voting shares of Community Bancshares, Inc., Blountsville, Alabama, and thereby indirectly acquire Community Bank, Blountsville, Alabama.

Board of Governors of the Federal Reserve System, October 22, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–25361 Filed 10–25–90; 8:45 am]

BILLING CODE 6210–01–M

GENERAL SERVICES ADMINISTRATION

Information Collection Activities Under Office of Management and Budget Review

AGENCY: Office of Acquisition Policy (VP), GSA.

SUMMARY: The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to approve a new information collection, Placement of Orders. This information is used by GSA contractors in the Stock and Special Order Program and the Schedule Program who want to be able

to accept orders through Electronic Data Interchange (EDI) as an alternative to oral or paper delivery orders.

ADDRESSES: Send comments to Bruce McConnell, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), 18th & F Street, NW., Washington, DC 20405.

Annual Reporting Burden

Participation in this alternative method of receiving delivery orders under a contract is voluntary and GSA has no basis for calculating the number of contractors that have capability to receive delivery orders through EDI. Unless a contractor is currently using EDI in its private business transactions, it will not participate. Since the procedures and guidelines established in the Trading Partner Agreement (TPA) authorized in this regulation will be what it prudently required under private sector transactions, there will be no additional burden imposed by this collection.

FOR FURTHER INFORMATION CONTACT: Ida M. Ustad, (202) 501–1224.

Copy of Proposal

May be obtained from the Information Collection Management Branch (CAIR), Room 7102, GSA Building, 18th & F St. NW., Washington, DC 20405, by telephoning (202) 501–3931, or by faxing your request to (202) 501–2727.

Dated: October 16, 1990.

Emily Karam,

Director, Information Management Division.

[FR Doc. 90–25302 Filed 10–25–90; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSR—30]

Availability of Medical Waste Tracking Act Report

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Public Health Service (PHS), Department of Health and Human Services (DHHS).

ACTION: Notice.

SUMMARY: This notice announces the availability of the ATSDR Medical Waste Tracking Act Report, "The Public Health Implications of Medical Waste: A Report to Congress."

The Medical Waste Tracking Act of 1988 (Pub. L. 100–582) (42 U.S.C. 6992) amended the Solid Waste Disposal Act and mandated that within 24 months after enactment (November 1, 1990) the Administrator of ATSDR shall prepare for Congress a report on the health effects of medical waste.

AVAILABILITY: This notice is to announce that the ATSDR Medical Waste Tracking Act Report, "The Public Health Implications of Medical Waste: A Report to Congress" (NTIS Document Number PB 91–100271), is now available by mail from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22151, telephone (703) 487–4650.

FOR FURTHER INFORMATION CONTACT: Maureen Y. Lichtveld, M.D., M.P.H., Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, Mail Stop E–32, Atlanta, Georgia 30333, (404) 639–0610, FTS 236–0610.

SUPPLEMENTARY INFORMATION: On November 1, 1988, the President signed the Medical Tracking Act of 1988 (Pub. L. 100–582), which amended the Solid Waste Disposal Act. Section 11009 of the Medical Waste Tracking Act states (42 U.S.C. 6992h):

Within 24 months after the enactment of this section (November 1, 1988), the Administrator of ATSDR shall prepare for Congress a report on the health effects of medical waste, including each of the following:

(1) A description of the potential for infection or injury from the segregation, handling, storage, treatment, or disposal of medical wastes.

(2) An estimate of the number of people injured or infected annually by sharps, and the nature and seriousness of those injuries or infections.

(3) An estimate of the number of people infected annually by other means related to waste segregation, handling, storage, treatment, or disposal, and the nature and seriousness of those infections.

(4) For diseases possibly spread by medical waste, including Acquired Immune Deficiency Syndrome and hepatitis B, an estimate of what percentage of the total number of cases nationally may be traceable to medical wastes.

Medical waste is defined by the Medical Waste Tracking Act as any solid waste (solid, liquid, or gaseous phase) that is generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals. Medical waste does not include any hazardous waste identified or listed under subtitle C of the Solid Waste Disposal Act or household waste as defined in regulations under subtitle C (42 U.S.C. 6903 (40)).

This notice announces the availability of the final Report. The Report has undergone extensive internal review, has been subjected to scientific and technical peer review by experts both within and outside the federal government, and was available for Public Comment from January 31, 1990 through April 2, 1990 (55 FR 12, page 1770). On the basis of the comments received, the Report was finalized and submitted to Congress on September 28, 1990, as required by the Medical Waste Tracking Act of 1988.

Dated: October 18, 1990.

William L. Roper,

Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 90–25305 Filed 10–25–90; 8:45 am]

BILLING CODE 4160–70–M

Alcohol, Drug Abuse, and Mental Health Administration

Partial Suspension of a Laboratory Which No Longer Meets Minimum Standards To Engage in Confirmatory Urine Drug Testing for Amphetamines

AGENCY: National Institute on Drug Abuse, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services routinely publishes in the Federal Register a list of laboratories certified to meet standards of subpart C of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (53 FR 11970–11996) dated April 11, 1988. This notice informs the public that, effective October 22, 1990, the following laboratory's certification is partially suspended under section 3.14 of the Guidelines:

Roche Biomedical Laboratories, 1912 Alexander Drive, P.O. Box 13973, Research Triangle Park, NC 27709; Telephone (919)–361–7770.

The certification of the above named laboratory is suspended from conducting confirmatory testing of amphetamines. Under the terms of the suspension, the laboratory is required to send a portion of each urine specimen that it determines by initial testing to be positive for amphetamines to another HHS/NIDA certified laboratory for independent testing of the specimen for amphetamines. The result determined by this independent testing will be the result reported.

The laboratory named above continues to meet all requirements for HHS/NIDA certification for testing urine specimens for marijuana, cocaine, opiates and phencyclidine.

FOR FURTHER INFORMATION CONTACT: Mona W. Brown, Press Officer, National Institute on Drug Abuse, room 9-A-54, 5600 Fishers Lane, Rockville, Maryland 20857; telephone (301)-443-6245.

Charles R. Schuster,

Director, National Institute on Drug Abuse.

[FR Doc. 90-25368 Filed 10-25-90; 8:45 am]

BILLING CODE 4160-20-M

National Institutes of Health

National Institute on Aging; Meetings

Pursuant to Public Law 92-463, notice is hereby given of meetings of the National Institute on Aging.

These meetings will be open to the public to discuss administrative details and other issues relating to committee activities as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, for the review, discussion, and evaluation of individual research grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June C. McCann, Committee Management Officer, National Institute on Aging, Building 31, room 5C06, National Institutes of Health, Bethesda, Maryland, 20892, (301/496-9322), will provide summaries of the meetings and rosters of the committee members upon request.

Other information pertaining to the meetings can be obtained from the Executive Secretary indicated.

Name of Subcommittee: Biological and Clinical Aging Review Subcommittee B.

Executive Secretary: Dr. James Harwood, Building 31, room 5C12, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301/496-9666.

Dates of Meeting: October 29-30, 1990.

Place of Meeting: Building 31, Conference Room 7, National Institutes of Health, Bethesda, Maryland 20892.

Open: October 29—7:30 p.m. to recess.

Closed: October 30—8:30 a.m. to adjournment.

Name of Subcommittee: Biological and Clinical Aging Review Subcommittee A.

Executive Secretary: Dr. Daniel Eskanizi, Building 31, room 5C12, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301/496-9666.

Dates of Meeting: November 7-8, 1990.

Place of Meeting: Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

Open: November 7—7:30 p.m. to recess.

Closed: November 8-9—8:30 a.m. to adjournment.

Dates of Meeting: November 27-30, 1990.

Place of Meeting: Hyatt Regency Hotel, Bethesda, Maryland.

Open: November 27—7:30 to recess.

Closed: November 28-30—8:30 a.m. to adjournment.

Name of Committee: Neuroscience, Behavior and Sociology of Aging Review, Subcommittee B Meeting.

Executive Secretary: Dr. Walter Spieth, Building 31, room 5C12, National Institutes of Health, Bethesda, Maryland 20892.

Dates of Meeting: November 27-30, 1990.

Place of Meeting: Hyatt Regency Hotel, Bethesda, Maryland.

Open: November 27—7:30 p.m. to recess.

Closed: November 28-30—8:30 a.m. to adjournment.

(Catalog of Federal Domestic Assistance Program No. 13.866, Aging Research, National Institutes of Health)

Dated: October 15, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-25320 Filed 10-25-90; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Allergy and Infectious Diseases; Meeting of Basic Sciences I Subcommittee of Acquired Immunodeficiency Syndrome Research Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Basic Sciences I Subcommittee of the Acquired Immunodeficiency Syndrome Research Review Committee, National Institute of Allergy and Infectious Diseases, on November 16, 1990, at the Chevy Chase Holiday Inn, Palladian Center Room, 5520 Wisconsin Avenue, Bethesda, Maryland 20815.

The meeting will be open to the public from 8:30 a.m. to 9 a.m. on November 16 to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 9 a.m. until adjournment on November 16. These applications, proposals, and the discussions could reveal confidential trade secrets or commerical property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301-496-5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Sherry L. Dupere, Executive Secretary, Basic Sciences I Subcommittee, of the Acquired Immunodeficiency Syndrome Research Review Committee, NIAID, NIH, Westwood Building, room 3A11, Bethesda, Maryland 20892, telephone (301-496-7042), will provide subetantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: October 15, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-25231 Filed 10-25-90; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Dental Research; Meeting of NIDR Special Grants Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Special Grants Review Committee, National Institute of Dental Research, November 13-14, 1990, in the American Inn of Bethesda, 8130 Wisconsin Avenue, Bethesda, Maryland 20814. The Committee will meet in the Canterbury Room. The meeting will be open to the public from 8:30 to 9 a.m. on November 13 for general discussions. Attendance by the public is limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public on November 13, from 9

a.m. to recess and on November 14, from 8:30 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Ethel B. Jackson, Executive Secretary, NIDR Special Grants Review Committee, NIH, Westwood Building, room 519, Bethesda, MD 20892, (telephone 301/496-7658) will provide a summary of the meeting, roster of committee members and substantive program information upon request.

(Catalog of Federal Domestic Assistance Program Nos. 13.121—Diseases of the Teeth and Supporting Tissues: Caries and Restorative Materials; Periodontal and Soft Tissue Diseases; 13-122—Disorders of Structure, Function, and Behavior: Craniofacial Anomalies, Pain Control, and Behavioral Studies; 13-845—Dental Research Institute; National Institute of Health)

Dated: October 15, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-25322 Filed 10-25-90; 8:45 am]

BILLING CODE 4140-01-M

National Center for Nursing Research; Meeting of the Nursing Science Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Nursing Science Review Committee, National Center for Nursing Research, November 14-16, 1990, Building 31C, Conference Room 8, National Institutes of Health, Bethesda, Maryland 20892.

This meeting will be open to the public on November 14 from 9 a.m. to 10 a.m. Agenda items to be discussed include the report of the director.

Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S. Code and section 10(d)) of Public Law 92-463, the meeting will be closed to the public on November 14 at approximately 10 a.m. to adjournment on November 16 for completion of the review, discussion, and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. John Chah, Executive Secretary, Nursing Science Review Committee, National Institutes of Health, Building 31, room 5B19, Bethesda, Maryland 20892, (301) 496-0472, will provide a summary of the meeting, roster of committee members, and substantive program information upon request.

Dated: October 15, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-25323 Filed 10-25-90; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-90-1917; FR-2906-N-05]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

EFFECTIVE DATE: October 26, 1990.

ADDRESSES: For further information, contact James Forsberg, Department of Housing and Urban Development, room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708-4300; TDD number for the hearing- and speech-impaired (202) 708-2565. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized and underutilized Federal buildings and real property determined by HUD to be suitable for use for facilities to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable this week.

Dated: October 18, 1990.

Paul Roitman Bardack,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 90-25181 Filed 10-25-90; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Government of the Trust Territory of the Pacific Islands

Notice is hereby given that the Secretary of the Interior has issued Order Number 3142 dated October 15, 1990. The Order provides for maximum self-government within the Trust Territory, by continuing to define the extent and nature of the authority of the government of Palau in such Trust Territory, consistent with the authority and responsibilities delegated to the Secretary of the Interior, under Executive order 11021. The Order continues to delegate to the Assistant Secretary, Territorial and International Affairs, the authority of the Secretary of the Interior pursuant to administration of the Trust Territory.

The Order is published in its entirety below.

Additional information regarding the Order may be obtained from Larry L. Morgan, Director, Legislative and Public Affairs, Office of Territorial and International Affairs, U.S. Department of the Interior, 1849 C Street NW., Washington, DC 20240. Telephone number 202-208-4754.

Dated: October 16, 1990.

Stella Guerra,

Assistant Secretary of the Interior.

Order No. 3142

Subject: Government in the Trust Territory of the Pacific Islands

Section 1. *Purpose.* The purpose of this order is: (a) To further promote education, health care, economic development, and public safety in Palau as responsibilities of the United States under the 1947 Trusteeship Agreement with the United Nations Security Council, (b) to continue to the traditions of constitutional self-government in Palau, and (c) to strengthen the close relations of the Department of the Interior and Palau.

This order provides for maximum self-government within the Trust Territory of the Pacific Islands by continuing to define the extent and nature of the authority of government in such Trust Territory, consistent with the authority and responsibilities delegated to the

Secretary of the Interior under Executive Order 11021. Until the future political status of Palau is determined, the United States will continue to discharge its responsibilities as Administering Authority under the Trusteeship Agreement.

Section 2. *Delegation of authority.* The authority of the Secretary of the Interior, with respect to the Trust Territory of the Pacific Islands derived from the President, the Congress, and the Trusteeship Agreement, continues to be delegated to the Assistant Secretary of the Interior for Territorial and International Affairs (hereinafter referred to as "Assistant Secretary"). The Assistant Secretary shall exercise this authority to the extent necessary to ensure that the obligations and responsibilities of the United States under the Trusteeship Agreement are met and that the actions of the government of Palau are consistent with the provisions of the Trusteeship Agreement, this order, and treaties, laws, regulations, and agreements applicable in the Trust Territory of the Pacific Islands. The Assistant Secretary shall consult annually with Palau's President and the presiding officers of its national legislature regarding this order.

Section 3. *Government of the Trust Territory of the Pacific Islands.* The executive, legislative, and judicial functions of the Government of the Trust Territory of the Pacific Islands shall remain delegated to the constitutional government of Palau, subject to the authority of the Assistant Secretary under the Trusteeship Agreement, this order, and treaties, laws, and regulations of the United States applicable in the Trust Territory of the Pacific Islands.

Section. 4. *Interior representative and staffing.* The Assistant Secretary shall appoint a well-qualified and experienced representative to be stationed in Palau who will serve as a liaison between the government of Palau and the Assistant Secretary. In addition, the Assistant Secretary may appoint such professional, technical, and administrative staff (including emergency law enforcement personnel) as may be necessary to carry out official duties and responsibilities under the Trusteeship Agreement. The Assistant Secretary may assist the government of Palau in locating a special prosecutor and a public auditor, as needed, and in the event of a vacancy may appoint a special prosecutor or public auditor, as the case may be, on an interim basis. To the extent authorized by Federal law, the Assistant Secretary may request the assistance of other Federal agencies in meeting responsibilities of the United States, including utilization of Federal law enforcement personnel for the full range of law enforcement responsibilities.

Section 5. *Financial assistance.* The Department of the Interior shall provide annual financial assistance to Palau in such amounts as may be appropriated by the Congress. The Government of Palau shall be invited to participate in the process by submitting an annual budget request to the Assistant Secretary. Such budget request shall detail the amount of assistance needed, the proposed distribution of Federal assistance in accordance with Palau's structure of accounts and the anticipated amounts and distribution of local revenues that are being augmented by this assistance. Upon congressional appropriation, the Assistant Secretary shall issue grants to Palau, which specify the purposes and conditions of the assistance in accordance with Trusteeship responsibilities (including education, health care, economic development, and public safety), congressional directives, and applicable Federal law and regulations. In the grant document, the government of Palau will be given some authority to reprogram administratively. Unless otherwise authorized in a grant or reprogramming, Federal funds may be used only to satisfy obligations incurred for the particular year for which such funds were appropriated or granted, or, in exceptional circumstances, for a subsequent year. Payments made to satisfy obligations of the government of Palau from past years shall be paid out of local Palau funds.

Section 6. *Environmental protection and planning.* In order to protect the exceptional and delicate environment of the Rock Islands and properly for development throughout Palau, a master national development plan shall be developed that is applicable to all of Palau and approved in public law by the government of Palau. Until approval and implementation of such plan, the natural environment of the Rock Islands shall be preserved through a process whereby construction on any rock island in Palau is allowed only after approval on an individual project basis in public law by the government of Palau. Rock Island is defined here as an island of Palau, any part of which lies in the area between the southern-most point of Koror Island and the northern-most point of Peleliu.

According to mutual agreement with the President of Palau regarding steps in the process for development the master plan, including related legislation and times for approval, the Assistant Secretary may offer assistance for developing such a plan, but only if such agreement contains provisions guaranteeing that the plan and related legislation shall be approved in Palau within a reasonable amount of time after the views of Palau authorities have been incorporated and the plan completed.

Section 7. *Borrowing.* The Assistant Secretary shall consult with representatives of the government of Palau regarding amortization of Palau's existing and potential long-term debt.

No government in Palau may borrow funds, except as authorized by the Constitution of Palau. Such borrowing may occur only upon approval of the specific debt in public law by the initiating government and the government of Palau. Any debt instrument or series of related debt instruments in an amount of $250,000 or more shall be submitted to the Assistant Secretary, in advance of receipt of any funds, together with information showing (a) The amount, terms, and conditions of the borrowing; (b) its purpose; (c) the source of funds earmarked for repayment; and (d) the total debt outstanding by the initiating government.

The Assistant Secretary shall disapprove any loan, or curtail or proscribe any borrowing, if analysis reveals that the total amount of outstanding debt is beyond the ability of the borrower to repay or if the requirements of this section for providing information are not fulfilled.

Section 8. *Auditing and accounting.* The Assistant Secretary shall assist Palau in complying with proper accounting principles, internal controls, and audit recommendations, and shall resolve all questions involving Department of the Interior grants.

Section 9. *Grant-in-aid programs.* The President of Palau shall designate an official within the executive branch of the government of Palau whose primary responsibility shall be to coordinate applications for grant-in-aid assistance and to monitor compliance with conditions of such assistance. Such official shall inform the representative regarding applications for, and the status of, grants-in-aid for Palau. The representative shall assist Palau with Federal program participation and requirements.

Section 10. *Relations with other United States Government agencies.* The Assistant Secretary shall assist Palau with regard to its participation in Federal programs. In order to facilitate such assistance, the government of

Palau shall concurrently provide the Assistant Secretary with copies of written communications of the government of a Palau with agencies of the United States, except in those specific cases in which a different procedure is agreed to by the Assistant Secretary.

Section 11. *Relations with Foreign Governments and International Organizations.* During the period of trusteeship, the United States remains responsible for the international relations of Palau. In conducting such relations, the United States will continue to fulfill all of its obligations under the Trusteeship Agreement, particularly its responsibility to foster the development of Palau's economic, political and social institutions.

Official communications and relations by the government of Palau with foreign governments or international organizations (with the exception of the United Nations Trusteeship Council), whether undertaken in Palau or elsewhere, shall occur only with the approval of the Department of State. The Government of Palau shall submit plans for relations with foreign governments and international organizations to the Assistant Secretary, who shall submit them to the Department of State for approval. Using the same channel, the government of Palau shall (a) Obtain Department of State concurrence with any communication that the government of Palau proposes to send to a foreign government or international organization, and (b) provide the Department of State with a copy of incoming communications from or a report on conversations with officials of foreign governments or international organizations. The provisions of the Trusteeship Agreement and the rules of procedure of the Trusteeship Council shall continue to govern Palau's relationship with the Council. The requirements of this section apply to all officials of all governments in Palau, and their representatives.

Section 12. *Capital projects, other contracts and proprietary interests.* The Assistant Secretary shall review requests for capital improvement projects, which must conform to the Palau master national development plan when such plan becomes effective, and the Assistant Secretary shall consult the government of Palau with respect to the priorities and financing of such projects, including private financing. No government in Palau (national, state, or local) may contract, in a single contract or series of related contracts, in an amount of $250,000 or more, or hold any proprietary interest in a business endeavor unless such contract or interest, along with necessary information, has been submitted to the Assistant Secretary for review and has received a statement of no objection from the Assistant Secretary. Such statement shall not constitute an endorsement of a project, contract or endeavor by the United States. Other information that may be requested may include (1) A copy of the applicable Palau law authorizing the project or endeavor, or an opinion of the Palau Attorney General as to its legality; (2) an identification of funds required for the project and their sources; (3) the identity and financial standing of the contractors or parties; (4) documentation regarding the procurement procedures that will be used in awarding the contract; (5) a showing that the project or endeavor complies with land alienation provisions applicable in Palau; (6) an identification of the laws or regulations of the United States, if any, that apply to the project or endeavor; and (7) if necessary, an independent feasibility study. If necessary, the Assistant Secretary may provide technical assistance to aid in meeting the information requirements.

Any contract or endeavor that is not submitted for review or that has not received from the Assistant Secretary a statement of no objection is subject to suspension of construction, at the discretion of the Assistant Secretary, with the government in Palau that ordered the commencement of construction liable for the termination.

Section 13. *Telecommunications.* The Assistant Secretary shall take such steps as may be deemed necessary to insure that telecommunications within Palau are operated in compliance with treaties, laws, and regulations of the United States applicable to the Trust Territory of the Pacific Islands.

Section 14. *Legislation.* In order to achieve greater cooperation with regard to legislation, early communication is essential. Therefore, upon request of the appropriate committee chairman of a legislative body in Palau, the Interior representative shall provide comment, informally or in writing, on legislation under consideration by such legislative body.

Every newly enacted national law in Palau, and every newly enacted state law in Palau that involves finance or the expenditure of funds, shall be submitted by the President of Palau to the Assistant Secretary through the representative within ten (10) days after gaining legislative passage and any other approvals (except the approval of the Assistant Secretary) necessary for such law to become effective within the jurisdiction of the enacting government. Appropriations legislation shall be accompanied by a funds availability analysis from the affected legislative body (agreed to by the affected executive branch) that shows funds to be available, or such legislation itself must provide acceptable sources of funding that cover the entire life of the activity set forth therein.

The Assistant Secretary may suspend such law, or any part thereof, no later than twenty (20) days after receipt of such law by the representative by notifying the President of Palau of the action and the reasons therefor. The Assistant Secretary shall exercise this suspension power only if such law, or part thereof, is inconsistent with the provisions of this order, the Trusteeship Agreement, or with treaties, laws, or regulations of the United States applicable to the Trust Territory of the Pacific Islands.

A decision of the Assistant Secretary to suspend legislation shall become final within thirty days after receipt of notice, unless appealed to the Secretary of the Interior by the President of Palau, on his own behalf or on behalf of another government in Palau. A decision of the Assistant Secretary to suspend legislation that has been timely appealed to the Secretary shall remain in effect until the Secretary provides otherwise. If the suspended legislation was enacted by means of a legislative override of a veto, the President of Palau shall transmit to the Secretary, in timely fashion, any appeal of the affected legislative body, including all related documentation forwarded by such legislative body.

No law shall take effect until the period during which the Assistant Secretary may suspend the law has expired, unless the Assistant Secretary earlier notifies the President of Palau that the authority to suspend the law will not be exercised. Any suspended law shall be null and of no effect unless the Assistant Secretary specifies otherwise in the notification of suspension.

Section 15. *Judicial.* a. The Appellate Division of the High Court of the Trust Territory of the Pacific Islands shall have jurisdiction to review, by *writ of certiorari*, the final decisions of the highest court of Palau in which a decision may be had, that are rendered after January 14, 1968. The rulings of the courts of Palau shall be conclusive on questions of the local law of Palau, except in cases in which the Government of the Trust Territory of the Pacific Islands, the Government of the

United States, its subdivisions and agencies, or its military or civilian personnel are parties. Decisions of the High Court of the Trust Territory of the Pacific Islands shall be final, binding and enforceable according to their terms.

b. The judicial functions provided for in the Occupational Safety and Health Act of 1970 (Pub. L. 91–596; 84 Stat. 1590) relating to Palau shall be performed by the appropriate division of the High Court of the Trust Territory of the Pacific Islands.

Section 18. *Effective date.* This order shall become effective upon signature and may be incorporated in the Manual of the Department of the Interior.

Section 17. *Prior orders.* Secretary's Orders No. 2918 and No. 3119, as amended, are superseded by this order.

Dated: October 15, 1990.

[FR Doc. 90-25305 Filed 10-25-90; 8:45 am]
BILLING CODE 4310-RF-M

Bureau of Land Management

[NV-030-91-4220-13]

Las Vegas District Grazing Advisory Board Meeting; NV.

Notice is hereby given in accordance with Public Law 92-463 that a meetig of the Las Vegas District Grazing Advisory Board will be held Thursday, November 15, 1990. The meeting will begin at 8 a.m., in the conference room of the VFW, Hall, corner of Dixon and Poplar Streets, Caliente, Nevada, and continue until 5 p.m.

The agenda is as follows:

1. Welcome and introductions.
2. Election of Chairperson and Vice Chairperson.
3. Range improvement program, status update, and proposals.
4. Allotment management plans, evaluations, decisions, and agreements.
5. Terms and conditions for livestock grazing on Desert Tortoise habitat.
6. Public comments.
7. Arrangements for next meeting.

The meeting is open to the public. Interested persons may make oral comments to the Board during the public comment period on the day of the meeting or they may file written statements for the Board's consideration during the meeting. Notify the District Manager, BLM, 4765 West Vegas Drive, P.O. Box 26569, Las Vegas, Nevada 89126, if you wish to make an oral statement to the Board. Summary minutes of the Board meeting will be maintained at the Las Vegas District Office. The minutes will be available for public inspection during regular office hours (7:30 a.m. to 4:15 p.m.) within 30 days after the meeting.

Dated: October 18, 1990

Ben F. Collins,
District Manager, Las Vegas.

[FR Doc. 90-25300 Filed 10-25-90; 8:45 am]
BILLING CODE 4310-HC-M

[AZ-050-0-4232-13]

Interim Route Designation and Closure of Route H-001, in Mohave County, AZ

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Interim route designation of route HE-001 on Crossman Peak in Mohave County, Arizona. Interim designation to remain in effect until final designation during the update of the Yuma District Resource Management Plan in 1992.

SUMMARY: The Yuma District Manager announced the interim designation of route HE-001 as closed to vehicle use. This action is being taken to provide for public safety, reduce disturbance to critical desert bighorn sheep habitat, and prevent unnecessary environmental degradation of the Crossman Peak Natural Scenic Area.

DATES: Effective from November 26, 1990, until completion of the Yuma District Resource Management Plan update, planned for 1992.

FOR FURTHER INFORMATION CONTACT: Leslie D. Allert, Outdoor Recreation Planner, Havasu Resource Area, 3189 Sweetwater Avenue, Lake Havasu City, Arizona 86403, 602-855-8017.

SUPPLEMENTARY INFORMATION: Public vehicle use of this route brings up the following issues:

Safety. The upper end of the road is extremely rugged and dangerous for vehicle use. The road is about 25 degrees slope, strewn with large rocks and boulders, and has about 75 degrees side slope. Any vehicle that would leave the road, would be a total loss and driver and passengers would be unlikely to survive.

Critical habitat. This area is part of the desert bighorn sheep lambing grounds and yearling use areas. Disturbance of this wildlife and its habitat would have a detrimental effect on the species.

Natural scenic area. As a designated Natural Scenic Area, this area is to be protected against damage to the visual resources. Vehicular use could cause erosive scarring and fires that would degrade the scenic quality of the mountain that provides the scenic backdrop to Lake Havasu City.

Vandalism. The KZUL and Department of Public Safety repeaters location on private land at the end of the road have experienced vandalism. The road leads from the end of Bison Avenue at the upper edge of Lake Havasu City, crossing lands owned by Arizona State Land Department and then entering public lands. The road follows Falls Springs Wash up the western slope of the mountain, ending at the boundary with the private and in T. 14 N., R. 19 W., section 13. The road provides access to a 20-acre private parcel which includes the repeater for the KZUL radio station and Department of Public Safety radio facility. The vegetation on Crossman Peak includes an unusually low elevation, pure stand of pinyon pine (*Pinus monophylla*). Authority to designate routes closed is found in 43 CFR part 8340, § 8342.2 which is authorized under 43 U.S.C. 1701–1782 (Federal Land Policy and Management Act); 37 FR 2877, February 9, 1977 (Executive Order 11644, Use of Off-Road Vehicles of Public Lands); and 42 FR 26959, May 25, 1977 (Executive Order 11989, Use of Off-Road Vehicles of Public Land). The designation criteria is found in part 8340, § 8342.1(a) and 8342.1(b). Persons who violate this closure order are subject to arrest and, upon conviction, may be fined not more than $1,000 and/or imprisoned for not more than 12 months.

Dated: October 15, 1990.

Herman L. Kast,
District Manager.

[FR Doc. 90-25298 Filed 10-25-90; 8:45 am]
BILLING CODE 4310-32-M

[NM-030-90-4212-13; NMNM86004(15)]

An Exchange of Public Land, Dona Ana County, NM

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of realty action.

SUMMARY: The following described land has been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716):

T. 24 S., 3 E., NMPM.
Sec. 21, SE¼SW¼, S½SE¼;
Sec. 28, E½NW¼, NE¼.
T. 25 S., R. 3 E.,

Sec. 34, Part of the N½ (160 acres) west of I–10.

The above land aggregates 480.00 acres. This is a continuation of the exchange process as provided for in the Memorandum of Understanding between the New Mexico State Office BLM and The Nature Conservancy dated September 19, 1988. The proposed conveyance of the above land to TNC is to equalize the exchange running account for non-Federal land that has been previously conveyed to the United States. The subject land has been identified for disposal in the BLM's Record of Decision for the Southern Rio Grande Plan Amendment (December 1986).

EFFECTIVE DATE: Comments on the proposed conveyance must be submitted on or before December 10, 1990.

ADDRESSES: Comments should be sent to the BLM, Las Cruces District, 1800 Marquess, Las Cruces, New Mexico 88005.

FOR FURTHER INFORMATION CONTACT: Marvin M. James at the address above or at (505) 525–8228 or FTS 476–8200.

SUPPLEMENTARY INFORMATION: The land to be conveyed from the United States will be subject to the following reservations, terms, and conditions:

1. A reservation for a right-of-way for ditches or canals constructed by the authority of the United States Act of August 30, 1890 (43 U.S.C. 945).

2. A reservation retaining the geothermal resources and the right to prospect for, mine, and remove the geothermal resources.

3. Subject to the continuance of present livestock grazing use authorized by Bureau of Land Management Grazing Permit Allotment No. 15009, issued to Ms. Paul Price until September 24, 1992 as to the subject public land.

4. All valid existing rights of record.

Publication of this notice in the Federal Register will segregate the public land from appropriations under the public land laws, including the mining laws but not mineral leasing laws. This segregation will terminate upon the issuance of a patent or 2 years from date of publication of this notice in the Federal Register or upon publication of a Notice of Termination.

Any adverse comments will be by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: October 22, 1990.

Richard T. Watts,
Acting District Manager.

[FR Doc. 90-25303 Filed 10-25-90; 8:45 am]
BILLING CODE 4310-FB-M

[WY-040-01-4730-12]

Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Filing of plats of survey.

SUMMARY: The plats of survey of the following described lands were officially filed in the Wyoming State Office, Bureau of Land Management, Cheyenne, Wyoming, effective 10 a.m., October 12, 1990.

Sixth Principal Meridian

T. 55 N., R. 94 W.

The plat, representing the dependent resurvey of portions of certain lots and subdivisional lines, the subdivision of certain sections, and the metes and bounds survey of the Bighorn Canyon National Recreation Area Boundary, from Angle Points 80 through 123, T. 55 N., R. 94 W., Sixth Principal Meridian, Wyoming, Group No. 502, was accepted September 19, 1990.

T. 56 N., R. 94 W.

The plat, in five sheets, representing the dependent resurvey of portions of certain lots, south boundary and subdivisional lines, the subdivision of certain sections, and the metes and bounds survey of the Bighorn Canyon National Recreation Area Boundary, from Angle Points 45 through 80 and Angle Points 123 through 144, T. 56 N., R. 94 W., Sixth Principal Meridian, Wyoming, Group No. 503, was accepted September 18, 1990.

T. 57 N., R. 94 W.

The plat, in three sheets, representing the dependent resurvey of a portion of the Fourteenth Standard Parallel North, through Range 94 West, portions of the north boundary and subdivisional lines, and the subdivision of certain sections and the metes and bounds survey of the Bighorn Canyon National Recreation Area, from Angle Points 21 through 41 and from Angle Points 144 through 170, T. 57 N., R. 94 W., Sixth Principal Meridian, Wyoming, Group No. 505, was accepted September 19, 1990.

T. 58 N., R. 94 W.

The plat representing the dependent resurvey of a portion of the subdivisional lines, the subdivision of section 32 and the metes and bounds survey of the Bighorn Canyon National Recreation Area Boundary, from Angle Points 170 through 1, T. 58 N., R. 94 W., Sixth Principal Meridian, Wyoming, Group No. 508, was accepted September 19, 1990.

T. 56 N., R. 95 W.

The plat representing the metes and bounds survey of the Bighorn Canyon National Recreation Area Boundary, from Angle Points 41 through 45, T. 56 N., R. 95 W., Sixth Principal Meridian, Wyoming, Group No. 503, was accepted September 19, 1990.

T. 57 N., R. 95 W.

The plat representing the dependent resurvey of portions of the east boundary and subdivisional lines, the subdivision of certain sections and the metes and bounds survey of the Bighorn Canyon National Recreation Area Boundary, from Angle Points 21 through 41, T. 57 N., R. 95 W., Sixth Principal Meridian, Wyoming, Group No. 505, was accepted September 19, 1990.

T. 58 N., R. 95 W.

The plat representing the retracement of the Montana-Wyoming State Boundary between Mile Post 136 and 141, the dependent resurvey of portions of the south boundary, subdivisional lines, and subdivision of section 34, and the survey of the subdivision of certain sections and the metes and bounds survey of Parcel A, section 35 and Bighorn Canyon National Recreation Area Boundary, from Angle Points 1 through 11, T. 58 N., R. 95 W., Sixth Principal Meridian, Wyoming, Group Nos. 503 and 508, was accepted September 19, 1990.

These surveys were executed to meet certain administrative needs of the National Park Service.

ADDRESSES: All inquiries concerning these lands should be sent to the Wyoming State Office, Bureau of Land Management, P.O. Box 1828, 2515 Warren Avenue, Cheyenne, Wyoming 82003.

Dated: October 12, 1990.

Dennis D. Bland,
Acting Chief, Branch of Cadastral Survey.

[FR Doc. 90-25297 Filed 10-25-90; 8:45 am]
BILLING CODE 4310-84-M

RAILROAD RETIREMENT BOARD

Program Accessibility Self-Evaluation

AGENCY: Railroad Retirement Board (RRB).

ACTION: Notice of availability for comment.

SUMMARY: Notice is hereby given that the RRB has completed the self-evaluation of its policies and practices required by 20 CFR part 385, Enforcement of Nondiscrimination on the Basis of Handicap in Railroad Retirement Board Programs. A copy of the summary report is available for review and comment by interested parties.

DATES: To be assured of consideration, comments must be submitted either in

writing or on audiotape and must be received on or before January 24, 1991. Comments should refer to specific sections of the self-evaluation summary.

ADDRESSES: Copies of the self-evaluation summary may be obtained by writing to: Samuel D. Lyons, Equal Employment Opportunity Officer, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611. Comments should be sent to the same address.

FOR FURTHER INFORMATION CONTACT: Candace R. Marr, Equal Employment Specialist, at 312–751–4943 (FTS 386–4943). TDD 312–751–4701 (FTS 386–4701). Copies of the self-evaluation will be made available on tape for persons with impaired vision who request them. They may be obtained by contacting the above office.

Dated: October 18, 1990.

Beatrice E. Ezerski,

Secretary to the Board.

[FR Doc. 90–25301 Filed 10–25–90; 8:45 am]

BILLING CODE 7905–01–M

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Terex Corporation, 201 West Walnut Street, Green Bay, WI 54303.

2. Wholly-owned subsidiaries which will participate in the operations, and states of incorporation:

Jacksonville Shipyards, Inc.—Florida
The Mercer Company—Delaware
Electro Labs Devices, Inc.—Florida
Delphos Axle Corporation—Delaware
Maryland Shipbuilding & Drydock Company—Maryland
Truckstar Trailer Corporation—Delaware

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90–25336 Filed 10–25–90; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30365 (Sub-No. 7)]

Blue Mountain and Reading Railroad Company, Modified Rail Certificate

On October 13, 1990, a notice was filed by Blue Mountain and Reading Railroad Company (BM&R) for a modified certificate of public convenience and necessity under 49 CFR 1150.23. BM&R currently operates four lines of railroad under (1) a Second Supplemental Modified Rail Certificate, issued August 23, 1984; and (2) a Modified Rail Certificate, issued June 13, 1988.

BM&R and the Pennsylvania Department of Transportation (PDOT) have entered into a agreement for BM&R to provide common carrier freight service over USRA Line 196 between mileposts 84.70 and 86.05, in Auburn, Berks County, PA. The line to be operated connects with Consolidated Rail Corporation at Shamokin Secondary in Auburn. This notice is filed to obtain a modified certificate for this operation.[1]

This notice must be served on the Association of American Railroads (Car Service Division), as agent of all railroads subscribing to the car-service and car-hire railroads subscribing to the car-service and car-hire agreement, and on the American Short Line Railroad Association.

Dated: October 22, 1990.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90–25395 Filed 10–25–90; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket Nos. 31730 and 31731]

Exemption; Rio Grande Industries, Inc., Southern Pacific Transportation Co., The Denver and Rio Grande Western Railroad Co., St. Louis Southwestern Railway Co., SPCSL Corp.; Trackage Rights; Burlington Northern Railroad Co. Lines Between Kansas City, MO, and Chicago, IL, et al.

Burlington Northern Railroad Company has agreed to grant overhead trackage rights to Southern Pacific Railroad Company, The Denver and Rio Grande Western Railroad Company, St. Louis Southwestern Railway Company, and SPCSL Corp. between Kansas City, MO, and Chicago, IL. Norfolk and Western Railway Company has agreed to grant Southern Pacific Transportation Company, The Denver and Rio Grande Western Railroad Company, St. Louis Southwestern Railway Company, and SPCSL Corp., overhead trackage rights between Birmingham, MO, and Maxwell, MO, and between Birmingham, MO, and North Kansas City, MO. SPCSL Corp., has been designated as the carrier that will initially conduct trackage rights operations over the subject lines. These trackage rights will be consummated on or after September 28, 1990.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Any pleadings must be filed with the Commission and served on George W. Mayo, Jr., Hogan & Hartson, 555 13th Street NW., Washington, DC 20004–1109.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected prusuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980), as clarified in *Wilmington Term. R.R., Inc.—Pur. & Lease—CSX Transp.*, 6 I.C.C.2d 799 (1990).

Dated: October 17, 1990.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90–25397 Filed 10–25–90; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Bureau of Prisons

Availability of Environmental Assessment for Conversion of the Way College of Emporia, Kansas to a Federal Prison Camp

AGENCY: Bureau of Prisons, Justice.

ACTION: Notice of availability of an environmental assessment (EA).

SUMMARY:

Proposed Action

The Federal Bureau of Prisons (FBOP) has determined that additional minimum security capacity is needd in its system. The conversion of The Way College, Lyon County, Emporia, Kansas is being evaluated for such a purpose. the proposal calls for the adaptation of the buildings and grounds to accommodate approximately 650 minimum security inmates and a staff of approximately 150 employees. Potential impacts of the proposed action are evaluated by an

[1] USRA Line 196, a former Penn Central line, was acquired by the Commonwealth of Pennsylvania in May 1982. BM&R has been operating the line for some time under an agreement with PDOT, but inadvertently no modified rail certificate was obtained for this operation. BM&R and PDOT have agreed to extend the agreement and this notice has been filed to correct the failure to previously file.

Environmental Assessment (EA) which is available for review and comment.

The campus is comprised of approximately 41 acres and 275,000 square feet of building space distributed among eleven buildings including four dormitories, two libraries, gymnasium, administration/classrooms, chapel, food service building and maintenance/power plant facilities.

The EA focuses on cumulative impacts on topography, soils, geology, hydrology, utilities (i.e., water, sewer, and electric and natural gas supply), socioeconomics, transportation, archaeological or historic resources, and biological resources. The options of no action and alternative sites for the proposed facility are examined.

DATES: Copies of the EA will be available for review at the Emporia Public Library, 110 East Sixth Avenue and the FBOP beginning

October 26, 1990, which will commence a 30 day review and comment period. Comments concerning the EA should be made to the office listed below: Bureau of Prisons, Office of Facilities Development and Operations, Site Acquisition Office, 320 First Street, NW., Washington, DC 20534, (202) 514–6482.

William J. Patrick,

Chief, Office of Facilities Development and Operations, Bureau of Prisons, U.S. Department of Justice.

[FR Doc. 90–25429 Filed 10–25–90; 8:45 am]

BILLING CODE 4410-05-M

DEPARTMENT OF LABOR

Office of Secretary

Advisory Commission on United Mine Workers of America (UMWA) Retiree Health Benefits; Extension

In accordance with the provisions of the Federal Advisory Committee Act, and after consultation with the General Services Administration, the Secretary of Labor has determined that an extension to October 31, 1990 of the Advisory Commission on United Mine Workers of America (UMWA) Retiree Health Benefits is in the public interest. The extension is necessary for the Advisory Commission to complete its final report.

The Advisory Commission was created on March 12, 1990 to advise the Secretary of Labor on matters concerning health care issues arising from the United Mine Workers of America (UMWA) 1950 and 1974 Benefit Plans and the effects of resolving these issues on the coal industry as a whole.

The Advisory Commission consists of representatives of the UMWA, the coal operators—both UMWA and nonUMWA, the private insurance industry, academics, actuarial, medical care, and government policy experts, and those with extensive experience in labor law, mediation, and labor negotiation. Other than the Federal Government members, the members of the Advisory Commission shall not be compensated and shall not be deemed to be employees of the United States.

The Advisory Commission will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act.

Signed at Washington, DC, this 19th day of October 1990.

Elizabeth Dole,

Secretary of Labor.

[FR Doc. 90–25410 Filed 10–25–90; 8:45 am]

BILLING CODE 4510-23-M

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S–3014, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the Federal Register are in parentheses following the decisions being modified.

Volume I:	
Maine, ME90-2 [Jan. 5, 1990]	p. 503–504
Pennsylvania:	
PA90-1 [Jan. 5, 1990]	p. 909–910
PA90-2 [Jan. 5, 1990]	p. 921–922
Volume II:	
Iowa:	
IA90-2 [Jan. 5, 1990]	p. 23–24
IA90-3 [Jan. 5, 1990]	p. 37–38–39
Illinois:	
IL90-8 [Jan. 5, 1990]	p. 135–136
IL90-9 [Jan. 5, 1990]	p. 143, 144–145
IL90-17 [Jan. 5, 1990]	p. 215, 215–215, 221
Michigan, MI90-2 [Jan. 5, 1990]	p. 441–442
Missouri, MO90-1 [Jan. 5, 1990]	p. 627, 628–640b
New Mexico, NM90-1 [Jan. 5, 1990]	p. 747–748, 750
Texas:	
TX90-9 [Jan. 5, 1990]	p. 1009–1010
TX90-10 [Jan. 5, 1990]	p. 1011–1012
Wisconsin: WI90-7 [Jan. 5, 1990]	p. 1181–1182
Volume III:	
Alaska, AK90-1 [Jan. 5, 1990]	p. 1, 2–3
Idaho, ID90-1 [Jan. 5, 1990]	p. 147–148
Oregon, OR90-1 [Jan. 5, 1990]	p. 309, 310–311, 317
Washington:	
WA90-1 [Jan. 5, 1990]	p. 369–371
WA90-2 [Jan. 5, 1990]	p. 395, 396–398, 401
WA90-3 [Jan. 5, 1990]	p. 405–406
WA90-7 [Jan. 5, 1990]	p. 419–420
WA90-8 [Jan. 5, 1990]	p. 425, 426–427.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 19th day of October 1990.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 90-25152 Filed 10-25-90; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

[TA-W-24, 148 et al.]

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

TA-W-24,148, Fairchild Aircraft Corp., San Antonio, TX; TA-W-24,148A Crestview Aerospace Corporation, Crestview, FL; TA-W-24,148B Fairchild Gen-Aero Inc., San Antonio, TX.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 18, 1990 to workers of Fairchild Aircraft Corporation, San Antonio, Texas and to workers of Crestview Aerospace Corporation, Crestview, Florida, a subsidiary of Fairchild Aircraft.

Based on new information from the company, production is integrated between Fairchild Gen-Aero in San Antonio and Fairchild Aircraft Corporation, San Antonio, Texas. Workers at Fairchild Gen-Aero produce the avionics and the interior of the aircraft produced by Fairchild Aircraft. Accordingly, the certification is amended by including workers at Fairchild Gen-Aero in San Antonio, Texas. The amended notice applicable to TA-W-24,148 is hereby issued as follows:

All workers of Fairchild Aircraft Corporation, San Antonio, Texas; Crestview Aerospace Corporation, Crestview, Florida and Fairchild Gen-Aero, San Antonio, Texas who became totally or partially separated from employment on or after March 1, 1989 are eligible to apply for adjustment assistance under section 222 of the Trade Act of 1974.

Signed at Washington, DC, this 11th day of October, 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90-25411 Filed 10-25-90; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-20,948 et al.]

Halliburton Geophysical Services, Inc.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of TA-W-20,948, Geophysical Services, Inc., Stafford, TX; TA-W-21,184, Geosource, Inc., Operating in 27 States; TA-W-22,223, Geophysical Service, Inc., Dallas, TX; TA-W-22,224, Geophysical Service, Inc., in 42 States.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued Certifications of Eligibility To Apply for Worker Adjustment Assistance on November 11, 1988 (TA-W-20,948) and on February 9, 1989 (TA-W-22,223 and TA-W-22,224) applicable to all workers of Geophysical Service, Inc., Stafford, Texas, Dallas, Texas and at various locations in 42 States, respectively. A Certification was also issued on November 25, 1988 to workers of Geosource, Inc. (TA-W-21,184). Certification (TA-W-21,184) was amended on April 25, 1990 to include workers in all locations in 27 States.

At the request of the State Agency the Department reviewed the instant certifications for Geophysical Services, Inc., and Geosource, Inc., and found that Halliburton Geophysical Services, Inc., Houston, Texas, meets all the requirements for a successor-in-interest firm.

Signed at Washington, DC, this 12th day of October 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90-25413 Filed 10-25-90; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-24,712 & TA-W-24,715]

Hazlehurst Lingerie Co., Glennville Lingerie Co., Hazlehurst and Glennville, GA; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 13, 1990 in response to a worker petition which was filed on behalf of workers at Hazlehurst Lingerie Company and Glennville Lingerie

Company, Hazlehurst and Glennville, Georgia.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, DC, this 17th day of October, 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90-25412 Filed 10-25-90; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-24,302 et al.]

Tucker Drilling Co., Inc., San Angelo, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of TA-W-24,301 San Angelo, TX; TA-W-24,301A Kermit, TX; TA-W-24,301B Big Lake, TX; TA-W-24,301C Andrews, TX; TA-W-24,301D Odessa, TX.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on June 8, 1990, applicable to all workers of Tucker Drilling Company, Inc., and its affiliate TDC Supply, Inc., both of San Angelo, Texas. The notice was published in the **Federal Register** on July 26, 1990 (55 FR 26035).

At the request of the State Agency, the Department reviewed its investigation and found that TDC Supply had other locations which had worker separations during the relevant period. The Department also found that a substantial portion of TDC Supply's activities were for the Tucker Drilling Company. Also, TDC Supply was sold on November 17, 1989 to the Union Supply Company. Therefore, the certification in amended by including worker separations at all locations of TDC Supply, Inc. through November 16, 1989. The amended notice applicable to TA-W-24,301 and TA-W-24,302 is hereby issued as follows:

All workers of TDC Supply, Inc., San Angelo, Texas; Big Lake, Texas; Kermit, Texas; Andrews, Texas and Odessa, Texas who became totally or partially separated from employment on or after March 30, 1989 and before November 17, 1989 and all workers of the Tucker Drilling Company, Inc., San Angelo, Texas who became totally or partially separated from employment on or after March 30, 1989 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 15th day of October 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90-25414 Filed 10-25-90; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-90-133-C]

Peabody Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Peabody Coal Company, P.O. Box 373, St. Louis, Missouri 63166, has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its Mine No. 10, (I.D. No. 11-00585) located in Christian County, Illinois. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air currents used to ventilate structures or areas enclosing electrical installations be coursed directly into the return.

2. Petitioner states that application of the standard would result in a diminution of safety for the following reasons:

(a) Airborne dust would be deposited in and on the electrical components of the transformers, causing arcing between components;

(b) Air velocities would be increased on track and belt entries; and

(c) Areas of unstable roof could fall, pushing out return stoppings and causing return air to be coursed over electrical installations.

3. As an alternate method, the petitioner proposes to use dry type, sheet steel enclosed electrical transformers equipped with safety equipment, installed in crosscuts adjacent to the track entry where they can be observed, maintained, and kept clean and dusted. Fire sensors would be placed above the transformers. Belt and track entries would not be used to ventilate the working sections.

4. For these reasons, the petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 26, 1990. Copies of the petition are available for inspection at that address.

Dated: October 10, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-25415 Filed 10-25-90; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

[Docket No. NRTL-1-89]

ETL Testing Laboratories, Inc.; Request for Expansion of Recognition as Nationally Recognized Testing Laboratory

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of request for expansion of recognition as a Nationally Recognized Testing Laboratory.

SUMMARY: This notice announces the application of the ETL Testing Laboratories, Inc., for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL) under 29 CFR 1910.7, and presents the Agency's preliminary finding.

DATES: The last date for interested parties to submit comments is November 26, 1990.

ADDRESSES: Send Comments to: NRTL Recognition Program, Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue, NW., room N3653, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: James J. Concannon, Director, Office of Variance Determination, NRTL Recognition Program, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue, NW., room N3653, Washington, DC 20210.

Notice of Application

SUPPLEMENTARY INFORMATION: Notice is hereby given that the ETL Testing Laboratories, Inc., (ETL), which previously made application pursuant to section 6(b) of the Occupational Safety and Health Act of 1970, (84 Stat. 1593, 29 U.S.C. 655), Secretary of Labor's Order No. 9-83 (48 FR 35763), and 29 CFR 1910.7 for recognition as a Nationally

Recognized Testing Laboratory (see 54 FR 6411, 2/28/89), and which was so recognized (see 54 FR 37345, 9/13/89), has made application for an expansion of its current recognition, for the equipment or materials listed below.

The addresses of the concerned laboratories are:

ETL Testing Laboratories, Inc., Cortland Safety Division, Industrial Park, Cortland, New York 13045.

ETL Testing Laboratories, Inc., 3655–P Oakbrook Parkway, Norcross, Georgia 30093.

ETL Testing Laboratories, Inc., West Coast Division, 660 Forbes Boulevard, South San Francisco, California 94080.

Expansion of Recognition

ETL Testing Laboratories, Inc. (ETL) submitted an application for expansion of its current recognition, (Exhibit 13A), to include the following test standards, which are appropriate within the meaning of 29 CFR 1910.7(c).

ANSI/UL 5—Surface Metal Electrical Raceways and Fittings
UL 181—Factory Made Air Ducts and Connectors
UL 478—Draft Equipment
ANSI/UL 510—Insulating Tape
ANSI/UL 521—Floor-Finishing Machines
ANSI/UL 651—Schedule 40 and 80 PVC Conduit
ANSI/UL 674 (1)—Electric Motors and Generators for Use in Hazardous Locations, Class I, Groups C and D, Class II, Groups E, F, and G
ANSI/UL 698 (2)—Industrial Control Equipment for Use in Hazardous (Classified) Locations
UL 746C—Polymeric Materials—Use in Electrical Equipment Evaluations
ANSI/UL 756—Coin and Currency Changers and Actuators
ANSI/UL 823 (2)—Electric Heaters for Use in Hazardous (Classified) Locations
ANSI/UL 844 (2)—Electric Lighting Fixtures for Use in Hazardous (Classified) Locations
ANSI/UL 857—Electric Busways and Associated Fittings
ANSI/UL 894 (2)—Switches for Use in Hazardous (Classified) Locations
ANSI/UL 916—Energy Management Equipment
ANSI/UL 924—Emergency Lighting and Power Equipment
ANSI/UL 961—Hobby and Sports Equipment
ANSI/UL 1002 (2)—Electrically Operated Valves for Use in Hazardous Locations, Class I, Groups A, B, C, and D, and Class II, Groups E, F, and G
ANSI/UL 1037—Antitheft Alarms and Devices
ANSI/UL 1069—Hospital Signaling and Nurse-Call Equipment
UL 1604—Electrical Equipment for Use in Class I and II, Division 2, and Class III Hazardous (Classified) Locations
UL 1950—Information Technology Equipment Including Electrical Business Equipment
ANSI Z21.56 (3)—Direct Vent Central Furnaces
ANSI Z83.19 (3)—Direct Gas-Fired Industrial Air Heaters

(1)—Testing and certification is limited to Class I, Division I locations.
(2)—Testing and certification is limited to equipment designed for use with "liquefied petroleum gas" ("LPG" or "LP-GAS").

In addition, in a letter from ETL dated April 5, 1990, a request was made to include additional test standards, (Exhibit 13B), of which the following were applicable:

ANSI/UL 44—Rubber-Insulated Wires and Cables
UL 910—Test Method for Fire and Smoke Characteristics of Electrical and Optical-Fiber Cables Used in Air Handling Spaces
UL 1459—Telephone Equipment
UL 1581—Reference Standard for Electrical Wires, Cables, and Flexible Cords
UL 1666—Standard Test for Flame Propagation Height of Electrical and Optical-Fiber Cables Installed Vertically in Shafts

The NRTL Recognition Program staff made an in-depth study of the details of ETL's application, amendments, and supplementary material and determined that an additional on-site visit to the Cortland facility was not warranted. A report on the "Expansion of ETL's Recognition under the NRTL Program", dated August 7, 1990, was prepared (see Exhibit 13C).

Preliminary Finding

Based upon a review of the details of ETL's recognition, an evaluation of its present application including details of necessary test equipment, procedures, and special apparatus or facilities needed, and the NRTL staff's report on the expansion of ETL's recognition, the Assistant Secretary has made a preliminary finding that the equipment and expertise required to list products to the aforementioned standards are within the capabilities of the laboratory, and that the proposed additional test standards (product categories) can be added to ETL's recognition.

All interested members of the public are invited to supply detailed reasons and evidence supporting or challenging the proposed expansion of the current recognition of the ETL Testing Laboratories, Inc., as required by 29 CFR 1910.7. Submission of pertinent written documents and exhibits shall be made no later than November 26, 1990, and must be addressed to the NRTL Recognition Program, Office of Variance Determination, room N 3653, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, DC 20210.

Copies of all pertinent documents (Docket No. NRTL–1–89), are available for inspection and duplication at the Docket Office, room N 2634, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address.

Signed at Washington, DC, this 19th day of October 1990.

Gerard F. Scannell,
Assistant Secretary.

[FR Doc. 90-25436 Filed 10-25-90; 8:45 am]
BILLING CODE 4510-26-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Advisory Committee on Presidential Libraries; Meeting

Notice is hereby given that the Committee on Presidential Libraries will meet on Wednesday, November 14, 1990, from 10 a.m. to 4 p.m., in room 105 of the National Archives Building, 7th and Pennsylvania Avenue, NW., Washington, DC.

This will be the fourth meeting of the committee. The agenda for the meeting will be the development of presidential library core programs and a discussion of future presidential libraries.

The meeting will be open to the public. For further information, call John Fawcett on (202) 501–5700.

Dated: October 18, 1990.

Don W. Wilson,
Archivist of the United States.

[FR Doc. 90-25405 Filed 10-25-90; 8:45 am]
BILLING CODE 7515-01-M

NATIONAL SCIENCE FOUNDATION

Collection of Information Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting this notice of information collection that will affect the public. This collection is a revision of the Foundation's process for receiving and awarding of proposals. Interested persons are invited to submit comments to the following individuals within 30 days of the published date of this notice. Comments may be submitted to:

1. *Agency Clearance Officer:* Herman G. Fleming, Division of Personnel and Management, National Science Foundation, Washington, DC 20550, or telephone (202) 357–7335.

2. *OMB Desk Officer:* Office of Information and Regulatory Affairs, ATTN: Dan Chenok, Desk Officer, Paperwork Reduction Project (3145–0058), OMB, 722 Jackson Place, Room 3208, NEOB, Washington, DC 20503.

Title: 1991 National Survey of Natural and Social Scientists and Engineers.
Affected Public: Individuals.
Responses/Burden Hours: 39,839 respondents; 10 minutes per response.
Abstract: The date collected in this survey enable NSF to partly fulfill the legislative requirement which obligates the agency to develop data on the Nation's scientific and technical population of the United States. The information provided allows for policy and planning activities by officials of government, private industries, and academic institutions.

Dated: October 22, 1990.
Herman G. Fleming,
NSF Reports Clearance Officer.
[FR Doc. 90-25313 Filed 10-25-90; 8:45 am]
BILLING CODE 7555-01-M

Collection of Information Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting this notice of information collection that will affect the public. This collection is a revision of the Foundation's process for receiving and awarding of proposals. Interested persons are invited to submit comments to the following individuals within 30 days of the published date of this notice. Comments may be submitted to:

1. *Agency Clearing Officer:* Herman G. Fleming, Division of Personnel and Management, National Science Foundation, Washington, DC 20550, or telephone (202) 357-7335.
2. *OMB Desk Officer:* Office of Information and Regulatory Affairs, ATTN: Dan Chenok, Desk Officer, Paperwork Reduction Project (3145-0058), OMB, 722 Jackson Place, Room 3208, NEOB, Washington, DC 20503.

Title: Survey by the U.S.-Japan Task Force on Access of U.S. investigators who have done research in Japan since January 1, 1988.
Affected Public: Individuals.
Responses/Burden Hours: 200 respondents; 30 minutes per response.
Abstract: Annex II to the "Agreement between the Government of the United States of America and the Government of Japan on Cooperation in Research & Development in S&T" authorized a Task Force on Access to survey major government-sponsored research & development in the U.S. & Japan. The extension of the approval of NSF Form 1265 is needed to enable information on U.S. researchers spending time in Japan to be recorded until the end of the above agreement.

Dated: October 22, 1990.
Herman G. Fleming,
NSF Reports Clearance Officer.
[FR Doc. 90-25314 Filed 10-25-90; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Possible Safety Impacts of Economic Performance Incentives; Draft Policy Statement

AGENCY: Nuclear Regulatory Commission.
ACTION: Draft policy statement.

SUMMARY: This statement presents the policy of the Nuclear Regulatory Commission (NRC) with respect to the possible safety impacts of economic performance incentive programs established by State commissions regulating electric utilities. The policy statement (1) contains a discussion of the potential impact of the policies and actions of State regulatory bodies, emphasizing that such actions can have either a positive or negative impact on public health and safety; (2) reflects the Commission's concern that certain forms of economic performance incentive regulation have the potential for adversely affecting nuclear plant operation and public health and safety; (3) specifically identifies those methods or approaches that are of particular concern (e.g. use of sharp thresholds, measurement of performance over very short time intervals, lack of "null zone," and inappropriate reliance on SALP scores); (4) indicates that the NRC will continue to monitor the application of economic performance incentives and performance criteria to nuclear power plant operations; and (5) urges licensees and State regulatory commissions to apprise the NRC of economic performance incentive programs that are being considered for application to NRC licensees.

DATES: The comment period expires on December 10, 1990. Comments received after this time will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

ADDRESSES: Mail written comments to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Deliver comments to One White Flint North, 11555 Rockville Pike, Rockville, Maryland between 7:30 a.m. and 4:15 p.m. Federal workdays. Comments may also be delivered to the NRC Public Document room, 2120 L Street NW., Washington, DC, between 7:45 a.m. and 4:15 p.m. Copies of comments received may be examined at the NRC Public Document room.

FOR FURTHER INFORMATION CONTACT: Anthony T. Gody, Sr., Chief, Policy Development and Technical Support Branch, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492-1254.

SUPPLEMENTARY INFORMATION:

Introduction

After reviewing the information on economic performance incentive programs put in place by State regulatory commissions that regulate the economic returns of utilities operating nuclear power plants, the Commission has decided that it would be appropriate to set forth its views on the possible safety impacts of such programs in a Commission Policy Statement.

Background

In the exercise of their jurisdiction over the economics of the generation of electricity, a number of State regulatory commissions and the Federal Regulatory Commission have established economic performance incentive programs relating to electric power plants. Some programs have existed unchanged for a number of years, whereas others have been substantially modified or are newly established. They can play an important role in improving the economic performance of electric power plants. They can also have an impact on the safety of nuclear power plants. The NRC monitors and evaluates these incentive programs to determine their possible impact on the safe operation of nuclear power reactors. The NRC firmly believes that these programs should not create incentives to operate a plant when it should be shut down for safety reasons.

Statement of Policy

The Commission's views on economic performance incentive programs are as follows:

Potential Impacts

The NRC recognizes that the existing programs vary considerably from State to State and that the plans are not easily classified, especially as to their possible impact on safe plant operations. However, certain general characteristics of programs can be evaluated and found to be either desirable (or at least neutral) or undesirable in their safety impact.

A desirable plan provides incentives to make improvements in operation and maintenance that result in long-term

improvement in the reliability of the reactor, main generator and their support systems. An undesirable plan provides incentives to operate a facility with potential safety problems or to start up before fully ready merely to meet an operational goal.

A desirable economic performance incentive rewards a utility for a sound operations and maintenance program and for correcting recurrent or predictable failures or other potential problems that could lead to an operational transient, unplanned plant outage or derating. Such an incentive is desirable because a well run plant and prompt correction of problems enhance safety. Unanticipated transients and shutdowns challenge operators and safety systems and, although a low probability, could initiate a more serious event. Improved performance in a utility's operational organization, which can be encouraged by economic performance incentives, can be conducive to improving both safety and economic performance.

The current influence of incentive plans on reactor safety is believed to be small. However, the Commission's concern with incentive plans is that, in the interest of real or perceived short-term economic benefit, utilities might hurry work, take short cuts, or delay a shutdown for maintenance in order to meet a deadline, a cost limitation, or other incentive plan factor. Such a program could encourage, directly or indirectly, the adoption of actions designed to maximize measured performance in the short term at the expense of plant safety (public health and safety). If a licensee keeps a reactor online when it should be taken down for preventive or corrective maintenance and uses shortcuts or compressed work schedules to minimize down time, these actions could adversely impact safety.

Potential Adverse Impacts on Plant Operation and Public Health and Safety

Some specific features of incentive plans now used by some States could adversely affect public health and safety. These features are (1) sharp thresholds between rewards and penalties, (or between penalties and null zones, or rewards and null zones) and (2) performance measurements having short time intervals.

A sharp threshold occurs when a licensee misses a target capacity factor and must bear a large part or all of the resulting replacement power costs. A sharp threshold provides an incentive to continue plant operation to achieve a target capacity factor to avoid the large replacement power cost or to earn a substantial reward. This type of incentive could divert attention from safe plant operation.

Performance measurements for short-term intervals provide incentives to focus on a short term target, such as a higher capacity factor or availability factor. This target could become the primary focus, diverting attention from long-term goals of reliability and operational safety. In contrast, performance measurements for long-term intervals provide incentives to the utility to follow sound maintenance and operational practices and make system and component changes so that the licensee improves operating performance in terms of availability and capacity factors.

Short-term measurements tend to make safety and economic goals conflict; long-term measurements tend to make the two goals complementary.

Specific Features That Cause NRC Concern

Sharp thresholds and short-term performance measures can adversely impact safety. In addition, plans that use NRC periodic performance assessments and performance indicators of the NRC or industry as a basis for rewards or penalties present several major concerns. First, the NRC's Systematic Assessment of Licensee Performance (SALP) was developed to assist the NRC in assessing the performance relative to the safety of individual facilities and to serve as a basis for communicating to the licensees. It therefore addresses selected areas of licensee activity, but does not necessarily cover all significant performance areas. Further, the scores are not based on absolute quantitative considerations, and therefore the significance of the actual numerical score is limited. The NRC staff expects licensees to focus on the facts in the SALP report, the issues identified, and the apparent root causes of problems. The prospect of financial rewards or punishments for licensees based on SALP ratings causes concern in that it may change the focus of the SALP process from the underlying issues, where it should properly be, to the numerical ratings themselves. If the issues identified in a SALP report are obscured by concerns over the financial consequences incurred as a result of that rating, the process may not achieve the desired objective and may instead result in a licensee adopting corrective actions which produce rapid results rather than those which yield the highest increase in safety in the long term.

Similarly, performance indicators were developed to assist the NRC and licensees in identifying trends and areas of performance that should receive a more detailed assessment. Inappropriate emphasis on these indicators in an incentive program could direct a licensee's attention toward improving the scores by possibly inappropriate means rather than toward identifying and correcting underlying safety conditions.[1]

Continued NRC Monitoring Program

The NRC will periodically survey State regulatory commissions having rate regulation over power reactors and the Federal Energy Regulatory Commission (FERC) to identify any new programs or substantial changes in existing programs and to ascertain how the programs have been implemented, in particular whether large penalties have been imposed.

We plan to update the survey annually. We will periodically assess the frequency of the surveys to determine the need for schedule adjustments.

Licensees and Utility Commissions Urged To Inform NRC of Program Initiatives

The NRC needs to be apprised of economic performance incentive programs that are being planned by State regulatory commissions and that can impact safety. Frequently, these programs are developed in coordination with regulated utilities. Therefore, the NRC will be requesting that licensees report whenever these commissions are developing or substantially revising economic performance incentives. The NRC also will be asking FERC and the State utility regulatory commissions to discuss with the NRC initiatives to impose or change an economic performance incentive program that applies to an NRC licensee. The objective will be that the NRC be informed of the principal features of the program so that its likely impact on plant safety can be assessed. Further, the NRC will be requesting licensees to report the penalties assessed through these programs as they occur. A free exchange of information between the

[1] For further information on existing economic incentive programs and the possible impact of such programs on nuclear safety, see NUREG/CR-5008, "Incentive Regulation of Nuclear Power Plants by State Public Utility Commissions", 1988. Copies of NUREG/CR-5008 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013-7082. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. A copy is also available for public inspection and/or copying at the NRC Public Document room, 2120 L St., NW., Washington, DC.

NRC and the agencies with economic jurisdiction will assist the NRC and those agencies to work together in their pursuit of the goals of safe and economical operation of nuclear power plants.

Dated at Rockville, Maryland, this 22nd day of October, 1990.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 90-25376 Filed 10-25-90; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Request for Extension of OF-300 Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a proposed unchanged extension of a form which collects information from the public. Optional Form 300, Qualifications Analysis and Appraisal of Candidates for Supervisory Positions, is completed by the employers and/or co-workers of applicants for supervisory positions throughout the Federal Government. The qualification standard for supervisory positions in General Schedule occupations (GS–15 and below) contained in the Qualification Standards Handbook, recommends the use of this form to facilitate the collection of information used in evaluating supervisory candidates. Approximately 400 forms are completed annually and require about 15 minutes to complete for a total burden of 100 hours. For copies of this proposal, call C. Ronald Trueworthy on (202) 606–2261.

DATES: Comments on this proposal should be received within 10 working days from the date of this publication.

ADDRESSES: Send or deliver comments to:

C. Ronald Trueworthy, Agency Clearance Officer, U.S. Office of Personnel Management, room 6410, 1900 E Street, NW., Washington, DC 20415,

and

Joseph Lackey, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, room 3002, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Stephen Perloff (202) 606–2557.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 90-25377 Filed 10-25-90; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-28358; File No. SR-CBOE-90-08]

Self-Regulatory Organizations; the Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change and Notice and Order Granting Accelerated Approval to Amendments No. 3, 4, 5, and 6 Relating to Trading in Stocks, Warrants, and Securities Other Than Options

I. Introduction

On April 27, 1990, the Chicago Board Options Exchange ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 there under,[2] a proposed rule change to establish rules governing the trading of stocks, warrants, and other securities instruments and contracts on the CBOE. Amendments Number 1, 2, 3, 4, 5, and 6 submitted on June 19, July 24, September 14, October 16, October 17, and October 19, 1990, respectively, proposed additional changes to the proposed rule change.[3]

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1989).

[3] In Amendment No. 1, the CBOE proposed, among other things, a requirement that issuers have a minimum stock price of $5 per share and a minimum public market value of $3,000,000 to list an equity security on the Exchange. The changes proposed by the CBOE in Amendment No. 2 include the addition of rules governing the trading of odd-lots, modifications to the Exchange's alternate listing criteria for research and development issuers, and clarification of the Exchange's margin requirements for market-makers. Amendment No. 3 provides that adjusted Intermarket Trading System ("ITS") bids and offers will be used to execute odd-lot market orders and requests accelerated approval. Amendments No. 4 and 5, which are both non-substantive amendments clarifying points that were included already in the CBOE proposal, make clear that the CBOE will trade stocks and related options on separate trading floors and that the Exchange's listing criteria are fixed requirements which are not discretionary as to their application. Amendment No. 5 also deletes Interpretation and Policy .02 to Rule 30.40, to correct an error in the original proposed rule change The CBOE requests accelerated approval of Amendments No. 4 and 5. In Amendment No. 6, the CBOE proposes to establish a requirement that all CBOE-listed companies have an audit committee comprised entirely of independent directors. The CBOE requests accelerated approval of Amendment No. 6.

The proposed rule change and Amendments Number 1 and 2 were published for comment in Securities Exchange Act Release No. 28015 (May 14, 1990), 55 FR 21280 (May 23, 1990) and Securities Exchange Act Release No. 28280 (July 31, 1990), 55 FR 32161 (August 7, 1990). One comment letter was received by the Commission on the proposal.[4]

II. Description of the Proposal

The CBOE currently is an options marketplace listing and trading options on more than 300 listed and over-the-counter equity securities, index options based on the Standard & Poor's ("S&P") 100-Stock Price Index ("S&P 100") and the S&P 500-Stock Price Index ("S&P 500"), market baskets, and options based on United States treasury bonds and notes. The CBOE proposes to expand its current market by authorizing the trading on the Exchange of stocks, warrants, and other securities instruments and contracts, other than options, on either a listed or unlisted basis. To facilitate the trading on the Exchange of these securities instruments, the CBOE proposes to amend substantially the existing rules of its Board of Governors.

Currently, the CBOE rules in chapters I through XIX govern the trading on the Exchange of options.[5] Under the CBOE proposal, these rules would be expanded to include two new chapters setting forth the rules that would govern the trading and listing on the Exchange of stocks, warrants, and other securities instruments and contracts, chapter XXX, entitled *Stocks, Warrants and Other Securities*, and chapter XXXI, entitled, *Approval of Securities for Original Listing*. These two new chapters would consist of rules governing, among other things, trading procedures and practices on the Exchange floor, the ITS Plan, procedures for the settlement of securities transactions, original listing and maintenance criteria, suspension and delisting policies, and listing application procedures and fees. In addition to adding two new chapters, the CBOE proposes to modify several of its existing options rules to make them applicable to the trading of securities other than options.

Under the proposal, in addition to the trading of options, and options products, the Exchange would trade stocks, warrants, including currency and index

[4] See note 22, *infra* and accompanying text.

[5] The complete CBOE rules are comprised of chapters I through XXVI, with chapters XXI through XXVI setting forth specific rules governing options products, such as Index Options and Market Baskets.

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warrants, and such other securities instruments and contracts as the CBOE Board of Directors may from time to time declare subject to its proposed new rules.[6] The new rules proposed as chapter XXX would be applicable only to the trading of stocks and warrants, and such other securities instruments and contracts as determined subject to these rules by the CBOE Board of Directors. Securities subject to the chapter XXX rules would also be subject to the existing CBOE rules in chapters I through XIX to the same extent as those rules presently apply to options contracts, unless otherwise supplemented by the new rules in chapter XXX.[7] In instances where existing CBOE rules have been replaced by particular rules in chapter XXX, stocks, warrants, and other securities would be governed only by the rules in new chapter XXX.

The existing rules of the Exchange that apply to options already address many of the subjects that are applicable to a national securities exchange engaged in trading of securities other than options. Consequently, the CBOE proposal amends its rules only as necessary to incorporate any additional or differing standards that are necessary for the trading of such securities. In addition, the Commission notes that many of the CBOE's proposed rules applicable to the trading of such securities are patterned after existing rules of several of the existing national securities exchanges.[8] For instance, the CBOE has proposed standards for the intitial and continued listing of stock and other securities on the Exchange, including listing standards for common stock, preferred stock, bonds and debentures, warrants, and currency and index warrants.[9] With slight variations, the CBOE's proposed listing standards are the same as the existing listing standards on the American Stock Exchange ("Amex"), *e.g.*, to list common stock on the CBOE, an issuer must have: A net worth (defined as total assets, including the value of patents, copyrights, and trademarks, but excluding the value of goodwill, less total liabilities) of $4,000,000; pre-tax income of $750,000 in its last fiscal year, or in two of its last three fiscal years and net income of at least $400,000; a public distribution of shares as follows: 500,000 shares and 800 holders, or 1,000,000 shares and 400 holders, or 500,000 shares and 400 holders with an average daily trading volume of 2,000 shares for the six months prior to the listing application; a minimum price per share of $5; and a $3,000,000 market value of shares publicly held. Three significant aspsects of the CBOE's proposal that are different from other national securities exchanges are discussed below.

The CBOE currently employs a competitive, multiple market-maker system to trade options on its trading floor. Under this system, the Exchange uses no specialist; instead, CBOE "market-makers" compete with one another on the trading floor as dealers for their own accounts. The Exchange has a separate Order Book Official ("OBNO")[10] who operates the public order book.[11] CBOE floor brokers act only as agents and execute customer and firm proprietary orders. In addition, the CBOE currently has a specialist-type trading system in the form of Designated Primary Market-Makers ("DPMs") in various options classes. A DPM, who has a number of functions resembling those of a specialist, is a CBOE member who functions in approved options classes as a market-maker, and in the place of the OBO, the agent for the limit order book.[12] For instance, when acting as a market-maker, the DPM is obligated to fulfill all obligations of a market-maker in his or her appointed option class or classes. When acting in the place of the OBO in appointed options classes, the DPM must fulfill his or her obligation of due diligence and all other obligations associated with these functions.[13]

Under the proposal, the CBOE will use its competitive, multiple market-maker system to trade stocks, warrants, and securities other than options.[14] As is the case with certain options classes, an OBO or DPM would manage the public order book. With regard to whether a DPM would be appointed for certain stocks, warrants, and other securities, the CBOE intends to offer or place all of these new securities to be traded up for DPM selection in a manner similar to its existing procedure for allocating new option classes in Rule 8.80.[15] As is currently the case with options trading on the Exchange floor, the essential functions of a specialist would be fulfilled by market makers, OBOs, or DPMs. Floor brokers would act as agents and execute customer and firm proprietary orders on the CBOE floor. While Floor Brokers also could function as market-makers, they are restricted to

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[6] The CBOE recently filed with the Commission a proposed rule change in trade on the Exchange interests in unit investment trusts ("UIT interests"). See Securities Exchange Act Release No. 28132 (June 19, 1990), 55 FR 26000 (June 26, 1990) (File No. SR–CBOE–90–13). The CBOE rule filing defines UIT interests as any share, unit or other interest in or relating to a unit investment trust, including any component resulting from the subdivision or separation of such an interest. As of this date, this rule filing still is under review by the Commission.

[7] Appendix A to chapter XXX lists the Exchange rules in chapters I through XIX that apply to the trading of stocks, warrants, and other securities, and, where applicable, indicates that a rule in chapter I through XIX is supplemented by a rule in chapter XXX.

[8] For instance, many of the CBOE's proposed rules in new chapters XXX and XXXI, as well as many changes to its existing options rules, are similar to existing rules of the New York and American Stock Exchanges.

[9] As discussed previously, the Commission is currently reviewing a proposed rule change filed by the CBOE to trade UIT interests on the Exchange. See Securities Exchange Act Release No. 28132 (June 19, 1990), 55 FR 26000 (June 26, 1990) (File No. SR–CBOE–90–13). In that filing, the CBOE proposes standards for the intitial and continued listing of UIT interests on the Exchange.

[10] The OBO is an exchange employee who maintains the public customer limit book in the class of options assigned to him or her and is responsible for ensuring that orders placed with him or her on the book are executed properly. See CBOE Rule 7.1

[11] Most national securities exchanges use a specialist system to trade securities. For instance, the Philadelphia, New York, and American Stock Exchanges centralize the functions of market maker and OBO in the person of a specialist. The Cincinnati Stock Exchange uses a competitive market-maker system, but it is automated with no trading crowd.

[12] The DPM's responsibilities are set forth in CBOE Rule 8.80.

[13] See CBOE Rules 8.1, 8.2, 8.3 and 8.7. In addition to the normal obligations of a floor broker and a market-maker, the DPM is responsible for, among other things, the dissemination of accurate market quotations and resolving trading disputes in accordance with Exchange Rules.

[14] The CBOE has stated to the Commission that its trading of stocks, warrants, and securities other than options will take place on a trading floor separate from the location where its options are traded. *See* Amendment No. 4 and letter from Robert P. Ackermann, Vice President, Legal Services, CBOE, to Howard Kramer, Assistant Director, Division of Market Regulation, SEC, dated October 15, 1990. In the past, the Commission has raised concerns about the trading of derivative and underlying securities at the same physical location ("side-by-side trading"). Primarily, the Commission has been concerned that professionals with competitive advantages in one marketplace may utilize such advantages for personal gain in a related marketplace. The Commission believes the CBOE's proposal to physically separate its trading floors (no side-by-side trading) should adequately address these issues and prevent any predatory and/or manipulative practices by CBOE members. For a complete discussion of this issue, see *supra* notes 31–33 and accompanying text.

[15] See letter from Robert P. Ackermann, Vice President, Legal Services, CBOE, to Howard Kramer, Assistant Director, Division of Market Regulation, SEC, dated October 15, 1990. Most of the standards in that rule are capable of being applied to a DPM selection for stocks, warrants, and securities other than options. Nevertheless, the Commission expects the CBOE, after gaining one year's experience with trading stocks and warrants, to determine if any different DPM selection standards and trading crowd evaluation criteria are necessary.

acting in only one of these capacities in any particular security on a given day.[15]

Under the CBOE proposal, the DPM system would be extended to stocks and the other non-options securities subject to the new chapter XXX rules. In addition to his or her responsibilities as a market-maker, a DPM in securities other than options would be required to maintain continuously on the floor of the Exchange a two-sided market in the securities for which he or she has been appointed [17] to afford liquidity to other buyers and sellers of such securities whose orders are represented on the Exchange floor.

Another significant aspect of the CBOE proposal is that it does not contain any off-board trading restrictions, such as New York Stock Exchange ("NYSE") Rule 390, which prevents NYSE members from executing trades off the exchange floor.[18] Because the CBOE proposal does not impose on its members off-board trading restrictions, CBOE member broker-dealers, unless members of other exchanges and therefore subject to their off-board trading restrictions, would be able to effect principal or in-house agency cross transactions in exchange-listed stocks off the exchange floor, would be able to compete with market-makers in making markets in exchange-listed stocks, and would be able to execute trades in exchange-listed stocks in the domestic OTC market.[19]

Finally, the CBOE proposal contains a "book priority" rule that would apply to the trading of stocks, warrants, and securities other than options. Under the CBOE's proposed book priority rule, where two or more bids or offers are made at the same price, and one order is displayed on the limit order book, the order on the book is entitled to priority, and will have precedence, over all other orders at that price announced in the trading crowd.[20] For example, where two or more bids represent the best price and one such bid is displayed in the book, such bid shall have priority over any other bid at the post. In addition, even after a transaction has been effected, removing all bids and offers from the floor, orders left on the book would continue to retain priority over subsequent bids or offers made at the same price as the orders on the book.

The CBOE has proposed also a "time priority" rule. Thus, for example, an order made first in time at a particular price and placed on the book retains priority over a subsequent order at the same price which is placed on the book. Further, under the CBOE's current rules, which will apply to stock trading, the OBO (or DPM) may accept for the book only market or limit orders from public customers.[21] Firm proprietary and market maker orders are not acepted.

III. Comments Received

The NYSE commented on the CBOE proposal in a recent letter to the Commission that addressed primarily the cooperative efforts of the options exchanges in developing a linkage system for the options markets.[22] In that letter, the NYSE suggested also that it would be inappropriate for the Commission to grant the CBOE the authority to trade stocks until the NYSE and all the other exchanges could compete fully on options. The NYSE further suggested, in its letter, that the CBOE should not be granted Participant status in the Consolidated Tape Association ("CTA"), the Consolidated Quotation System ("CQS"), or the Intermarket Trading System ("ITS") until the NYSE commences multiple listing of options.

In a response to the NYSE's comments, the CBOE stated that the NYSE letter improperly ties the NYSE's cooperation regarding the development of a linkage system in the options markets to the CBOE's proposed stock trading.[23] The CBOE stated also that the NYSE wrongly suggests that the CBOE should not be permitted to become a participant in CTA, CQS, and ITS until the NYSE commences multiple listing of options.

The NYSE responded to the CBOE's letter and stated that the CBOE had misinterpreted the NYSE's comments with respect to the CBOE's proposal to trade stocks, warrants, and securities other than options.[24] In its response letter, the NYSE stated that its concern with the timing of the CBOE's participation in CTA, CQS, and ITS was predicated solely upon whether the Commission approved SR-CBOE-90-08, the instant rule filing. The NYSE's response letter made no substantive comment on whether the CBOE proposal to trade stocks, warrants, and securities other than options, should be approved.[25]

IV. Discussion and Conclusion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of sections 6 and 11 of the Act.[26] The Commission believes that the proposal is consistent with the section 6(b)(5) requirements that the rules of an exchange be designed to perfect the mechanism of a free and open market and a national market system, to protect investors and the public interest, and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. In addition, the Commission believes that the proposed rule change is not contrary to the section 11(a) requirement that member transactions must be consistent with Commission requirements

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[15] CBOE Rule 8.8, which deals with the activities of market-makers, generally prohibits a member firm from acting in both a principal and agency capacity on the same business day with respect to any of the securities traded at a given station of the Exchange floor. Under the proposal, this restriction would be applicable to any of the securities traded subject to the rules in new chapter XXX, as well as any securities related to chapter XXX securities. For example, index options, market baskets, index participations, and index warrants based on the S&P 100 or the S&P 500 are all related to each other, so that a member could not act as a market-maker and as a floor broker in any of these securities on the same business day. See proposed Interpretation and Policy .02 to Rule 8.8.

[17] Under the proposal, a two-sided market would consist of a current bid and a current offer at prices reasonably calculated, under existing circumstances, to contribute to the maintenance of a supply of and demand for each securities.

[18] In addition to the NYSE, the Amex and four regional exchanges impose restrictions on where their member firms may trade. See Amex Rule 8; Boston Stock Exchange, section 23 of chapter II; Midwest Stock Exchange, rule 9 of Article VIII; Pacific Stock Exchange Rule XIII; and Philadelphia Stock Exchange Rule 132.

[19] While the CBOE does not have off-board trading restrictions, it does have an exclusive license from S&P to trade options on the S&P 100 and 500 indexes. In this approval order, however, the Commission is not addressing the appropriateness of any limitations that may be imposed by the CBOE with regard to trading securities based upon the S&P's stock indexes that may arise in connection with any contractual relationships between the CBOE and S&P.

[20] The CBOE rules currently contain a book priority rule for the trading of options. See CBOE Rules 6.45(a) and 7.7.

[21] CBOE 7.4. This policy differs from most other exchanges which allow the public order book to accept orders not only from public customers, but also from professional floor traders trading for themselves and from brokerage firms trading for their own accounts.

[22] See letter from Richard A. Grasso, President and Chief Operating Officer, NYSE, to Richard C. Breeden, Chairman, SEC, dated July 25, 1990.

[23] See letter from Alger B. Chapman, Chairman and Chief Executive Officer, CBOE, to Richard C. Breeden, Chairman, SEC, dated August 7, 1990.

[24] See letter from Richard A. Grasso, President and Chief Operating Officer, NYSE, to Alger B. Chapman, Chairman and Chief Operating Officer, CBOE, dated August 14, 1990.

[25] On August 16, 1990, the CTA voted to accept the CBOE as a CTA Plan Participant. Upon becoming a CTA Plan Participant, the CBOE would be able to have quotes and trades disseminated over the CQS and the Consolidated Tape Service ("CTS"). In addition, the CBOE currently has an application pending with ITS for Participant status in the ITS plan.

[26] 15 U.S.C. 78f and 78k (1982).

regarding execution, priority, parity, and precedence and the maintenance of fair and orderly markets.

Most of the CBOE's proposed rules governing the trading of stocks, warrants, and other securities mirror the rules of existing national securities exchanges, and are equally acceptable for the CBOE.

Specifically, the CBOE's proposed rules relating to trading, sales practices, customer protection (such as suitability and disclosure requirements), and anti-fraud provisions for stocks are virtually identical to the rules of existing national securities exchanges. With regard to index warrants, the CBOE has proposed the same regulatory approach as that of the exchanges that are trading index warrants. The CBOE intends to apply its options suitability standards, in Exchange Rule 9.9, to recommendations regarding index warrants. The Exchange also will recommend that index warrants be sold to customers whose accounts have been approved for options trading.[27] The Commission believes that by imposing special suitability requirements on transactions in index warrants, the CBOE has addressed potential public customer problems that could arise because of the derivative nature of these products. In addition, in order to list a specific index warrant, the CBOE has committed to file a separate proposed rule change under Rule 19b-4 for Commission review.[28] The Commission believes that the submission of these separate rule changes will provide it with an opportunity to determine if a particular index raises potential manipulation or other trading abuse concerns.

Further, the Commission is satisfied that the CBOE's proposed initial and maintenance criteria for listing stocks, warrants, bonds and debentures, currency and index warrants, and securities of foreign issuers, will ensure that only bona fide companies with sufficient financial resources to meet their financial obligations will list their securities on the Exchange.[29] These rules are substantially similar to those of the Amex. To the extent that CBOE's proposed rules are different, the Commission has found them also to be consistent with the Act.[30]

In addition, as noted above, the CBOE plans to trade stocks, warrants, and other non-options securities on a trading floor segregated from its options trading floor.[31] The Commission believes that physically separating the stock trading floor from the options trading floor should constitute an adequate safeguard to ensure that concerns regarding manipulation and market information abuses by CBOE members, which could result from trading options and stock underlying those options in physical proximity to each other, are minimal. As a new stock exchange, the CBOE is unlikely to be the primary market for the stocks it proposes to trade. As a result, CBOE floor participants are not likely to possess the material market information about those stocks that floor professionals on a primary exchange would likely have access to because of "time and place" advantages; that is, they are unlikely to possess at various times more market information at an earlier time than other market participants. Nevertheless, because the CBOE is the primary, or sole, market for most of the options on individual stocks it trades, maintaining a presence on the trading floor may present a floor participant with the advantage of having access to certain market information. Accordingly, the Commission believes that it is important that the CBOE stock and options floors be separated.[32]

The Commission also expects to CBOE to monitor carefully the trading on the Exchange of stocks and related options to prevent any abuse of market information or manipulation. The Commission is conditioning this approval order on the CBOE developing a surveillance program, prior to the commencement of stock trading, which is capable of detecting any problems in this area and which provides the safeguards necessary to prevent abuses that could result from the trading of stocks and related options in physical proximity to each other.[33] The Commission is further conditioning this approval order on the CBOE conducting surveillance of trading in stocks, warrants, and securities other than options through routine post-trade

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[27] See proposed Rule 30.50, Interpretation .02.

[28] The CBOE's proposed standards for the listing and trading on the Exchange of currency warrants are nearly identical to the current Amex standards in this area [see Amex Company Guide, section 106, and Amex rule 411, Commentary .01]. Like the Amex rules, the CBOE's proposed rules contain special suitability standards that must be met in order for the Exchange to trade currency warrants in customer accounts.

[29] The Commission notes that the CBOE's proposed new listing standards are substantially similar to those of the Amex and should ensure that only bona fide companies list on the Exchange. The Commission, however, currently is reviewing the list standards and policies of all the national securities exchanges in an effort to encourage the exchanges to adopt uniform listing criteria. The CBOE's proposed new listing standards will be included in the Commission's review in this area.

[30] The Commission does not believe that the comments submitted to the Commission by the NYSE urging the Commission to delay approval of the CBOE proposal until the NYSE can commence multiple listing of options have any merit. The NYSE asserts that the CBOE proposal should not be approved at the present time, but provides no reason for its position other than that it wishes to commence multiple listing of options before the CBOE order is approved and the CBOE commence the trading of securities other than options. The Commission does not believe that the Commission's approval of the CBOE's proposal imposes any unfair competitive burden on the NYSE, or any other market, which is not otherwise consistent with the Act. The Commission approved the NYSE's proposal to trade options in 1985. Moreover, in 1989, the Commission adopted Rule 19c-5 which allows each options exchange to multiply trade any new option class listed after January 22, 1990, and permits, from January 22, 1990, to January 21, 1991, each exchange to multiply trade up to ten previously listed options classes on an exchange-listed security. Rule 19c-5 further provides that, subsequent to January 21, 1991, there will be no restrictions on options multiple trading. Separately, each options exchange has voluntarily agreed with a Commission request to defer multiple trading of previously listed options classes until February 1, 1991, while the exchanges continue their efforts to develop and implement an options market linkage. The Commission notes that the NYSE strongly supported a deferral in options multiple trading until an options linkage was built. As discussed below, the CBOE effectively has restricted side-by-side trading of options and their underlying stocks, thus alleviating any concerns that the CBOE's position as the predominant options exchange will provide it with any significant competitive advantage over competing stock markets. In particular, the Commission believes that the CBOE's establishment of an equity trading floor in a separate physical location from the options trading floor should preclude unfair access by CBOE options traders to information generated by the CBOE equity floor. In addition, the Commission believes that the CBOE's present surveillance capabilities should be sufficient to frustrate any manipulative schemes based on the potential to discern material, non-public equity market information and to effect a transaction in the derivative market prior to public dissemination of the equity market information.

[31] See note 14, *supra*. Because the physical separation of the stock trading and options trading floors is a critical element in the CBOE proposal, any decision by the CBOE to change the location of the stock trading floor relative to the options trading floor, or to modify the means of access between them, would require submission of a proposed rule change under Section 19(b) of the Act. The CBOE has agreed to submit a proposed rule change under Section 19(b) of the Act to the Commission prior to any modification to its plan to trade stocks in a separate location from the options trading floor. *See* letter from Robert P. Ackerman, Vice President, Legal Services, CBOE, to Howard Kramer, Assistant Director, Division of Market Regulation, SEC, dated October 15, 1990.

[32] In 1985, the Commission approved a NYSE proposal to trade options on NYSE-listed stocks in a separate physical location from the equity trading floor. See Securities Exchange Act Release No. 21759 (February 14, 1985), 50 FR 7250 and NYSE Rules 750.80(a) and 758(a) and (b). More recently, in 1988, the Commission approved the trading on the Amex of options on Amex-listed stocks, concluding that side-by-side trading or integrated market-making issues did not arise because the Amex proposed to trade stocks and related options in physically separate locations. See Securities Exchange Act Release No. 25147 (October 3, 1988), 53 FR 39558.

[33] The CBOE has made a commitment to the Commission that, prior to the commencement of trading of stocks, warrants, and securities other than options, it will submit surveillance procedures to the Commission.

monitoring, intermarket surveillance, and the Exchange's own frontrunning circular.

Finally, the Commission finds good cause for approving Amendments No. 3, 4, 5, and 6 prior to the thirtieth day after the date of publication of notice of filing thereof. Amendment No. 3 amends Rule 30.22,[34] of chapter XXX, to provide that adjusted ITS bids or offers will be used to execute odd-lot market orders, instead of those market quotations in the roundlot market on the floor of the Exchange. This modification to the CBOE's proposed odd-lot rules would conform the CBOE odd-lot rules to the rules of the other existing national securities exchanges regarding the use of the ITS best bid or offer for executing odd-lot orders.[35] Amendments No. 4 and 5 are non-substantive amendments that clarify points that are contained already in the proposed rule change. For instance, Amendments No. 4 and 5 make clear that the Exchange's listing criteria are fixed requirements which are not discretionary in their application and that the CBOE will trade stocks and related options in separate trading locations. Amendment No. 6 amends proposed Rule 31.10 which, in the original rule filing, recommended that issuers maintain an audit committee composed of independent directors. In Amendment No. 6, the CBOE strengthens this proposed audit committee recommendation by making it a requirement that all issuers maintain an audit committee composed entirely of independent directors. The Commission believes that the CBOE's proposed requirement that issuers maintain completely independent directors is more effective than its prior proposed recommendation, and further believes that independent audit committees should enhance the relibility of financial disclosures and the credibility of financial information. Therefore, the Commission finds that accelerated approval of Amendments No. 3, 4, 5, and 6 is necessary in order for the Exchange to have the necessary rules in place before it begins the trading of stocks, warrants, and other securities.

Interested persons are invited to submit written data, views and arguments concerning Amendments No. 3, 4, 5, and 6 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will be also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-90-8 and should be submitted by November 16, 1990.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[36] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[37]

[FR Doc. 90-25325 Filed 10-25-90; 8:45 am]

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[34] Rule 30.22 was proposed in Amendment No. 2. See note 3 *supra*.

[35] See e.g., NYSE Rule 124.

[36] 15 U.S.C. 78s(b)(2) (1982).

[37] 17 CFR 240.30-3(a)(12) (1989).

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Inc.

October 22, 1990.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Mexico Equity & Income Fund, Inc.
Common Stock, $.001 Par Value (File No. 7-6295)

Compania de Telefonos de Chile S.A.
American Depositary Shares (File No. 7-6296)

Springs Industries, Inc.
Class A Common Stock, $.25 Par Value (File No. 7-6297)

NACCO Industries, Inc.
Class A Common Stock, $1.00 Par Value (File No. 7-6298)

Mountain Medical Equipment, Inc.
Common Stock, $.10 Par Value (File No. 7-6299)

Monarch Machine Tool Company
Common Stock, No Par Value (File No. 7-6300)

Latin American Investment Fund, Inc.
Common Stock, $.001 Par Value (File No. 7-6301)

Golden Valley Microwave Foods, Inc.
Common Stock, $.01 Par Value (File No. 7-6302)

European Warrant Fund, Inc.
Common Stock, $.001 Par Value (File No. 7-6303)

Church and Dwight Company, Inc.
Common Stock, No Par Value (File No. 7-6304)

Centex Corporation
Common Stock, $.25 Par Value (File No. 7-6305)

Cadence Design Systems, Inc.
Common Stock, $.01 Par Value (File No. 7-6306)

Brown Group, Inc.
Common Stock, $3.75 Par Value (File No. 7-6307)

Brown and Sharpe Manufacturing
Class A Common Stock, $1.00 Par Value (File No. 7-6308)

Banner Aerospace, Inc.
Primes, Scores & Units (File No. 7-6309)

Americus Trust for Xerox Shares
Primes, Scores & Units (File No. 7-6310)

Americus Trust for Union Pacific Shares
Primes, Scores & Units (File No. 7-6311)

Americus Trust for Sears Shares
Primes, Scores & Units (File No. 7-6312)

Americus Trust for Proctor & Gamble Shares
Primes, Scores & Units (File No. 7-6313)

Americus Trust for Mobil Shares
Primes, Scores & Units (File No. 7-6314)

Americus Trust for Merck Shares
Primes, Scores & Units (File No. 7-6315)

Americus Trust for Johnson & Johnson Shares
Primes, Scores & Units (File No. 7-6316)

Americus Trust for Hewlett-Packard Shares
Primes, Scores & Units (File No. 7-6317)

Americus Trust for General Motors Shares
Primes, Scores & Units (File No. 7-6318)

Americus Trust for Ford Shares
Primes, Scores & Units (File No. 7-6319)

Americus Trust for Eastman Kodak Shares
Primes, Scores & Units (File No. 7-6320)

Americus Trust for Chevron Shares
Primes, Scores & Units (File No. 7-6321)

Americus Trust for Bristol-Myers Shares
Primes, Scores & Units (File No. 7-6322)

Americus Trust for ARCO Shares
Primes, Scores & Units (File No. 7-6323)

Americus Trust for Amoco Shares
Primes, Scores & Units (File No. 7-6324)

Americus Trust for American Home Products Shares
Primes, Scores & Units (File No. 7-6325

Alberto Culver Company
Class B Common Stock, $.22 Par Value (File No. 7-6327)

ACME Cleveland Corporation
Common Stock, $1.00 Par Value (File No. 7-6328)

RJR Nabisco Holdings Corporation
Cumulative Convertible Preferred Stock, $.01 Par Value (File No. 7-6329)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 13, 1990, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the

Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[redacted]

Secretary.

[FR Doc. 90-[redacted] Filed 10-25-90; 8:45 am]

BILLING CODE [redacted]

[Release No. 34-28553; File No. SR-PSE-90-34]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by the Pacific Stock Exchange, Inc. Relating to the Adoption of Listing Standards and a Notice to the Membership for Contingent Value Rights

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 11, 1990, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The PSE has requested accelerated approval of the proposal. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE proposes to amend Exchange Rules 3.2 and 3.5 to provide listing and delisting standards applicable to Contingent Value Right ("CVRs").[1] The Exchange also proposes the adoption of a Notice to the Membership ("Notice") which will be distributed to members regarding the trading of CVRs.

[1] The exact text of the proposed listing standards and the notice to customers was attached to the rule filing as Exhibits A and B, respectively, and is available at the PSE and the Commission at the address noted in Item III below.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regualtory organization has prepared summaries, set forth in section A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The PSE is proposing to amend Exchange Rules 3.2 and 3.5 to provide listing standards to permit the listing of CVRs which are unsecured obligations of the issuer providing for a possible cash payment at maturity.[2] However, such payment, if any, is based upon the price performance of an affiliate's equity security.

At maturity, the holder of a CVR is entitled to a cash payment if the average market price of the related security is less than a pre-set target price. The target price is typically established at the time the CVR is issued. Conversely, should the average market price of the related equity security equal or exceed the target price, the CVR holder is not entitled to any cash payment at maturity.

Only CVRs issued by companies that meet the Exchange's financial listing criteria for size and earnings [3] and that have assets in excess of $100 million would be considered eligible for listing. The Exchange proposes to require minimum public distribution of 600,000 CVRs, together with a minimum of 1,200 public holders and an aggregate market value of $18,000,000. In addition, the maturity of the CVRs must be at least one year.

[2] The Commission has approved similar proposals by the New York ("NYSE"), American ("Amex"), and Midwest ("MSE") Stock Exchanges. *See* Securities Exchange Act Release No. 28072 (May 30, 1990), 55 FR 23169 (June 6, 1990) (adoption by the NYSE of listing standards for CVRs); Securities Exchange Act Release No. 27753 (March 1, 1990), 55 FR 8624 (March 9, 1990) (adoption by the Amex of listing standards for new hybrid products); and Securities Exchange Act Release No. 28143 (June 25, 1990), 55 FR 27217 (July 2, 1990) (adoption by the MSE of listing standards for CVRs).

[3] The PSE requires that, in order to list common stock on the Exchange, an issuer must have $1,000,000 in net tangible assets and $200,000 in pretax earnings for the two years preceding the application for listing.

The Exchange also proposes continued listing standards for CVRs which would require a minimum aggregate market value of publicly-held CVRs of $1,000,000. In addition, the Exchange will give consideration to delisting the CVRs if the related equity security to which cash payment at maturity is tied is delisted.

The Exchange will require that the membership provide its customers with a Notice that calls attention to the specific risks associated with CVRs. The Notice will require that CVR investors must be given an explanation of the special characteristics and risks of the CVRs and that transactions in CVRs be recommended only to investors whose accounts have been approved for options trading or after ascertaining that CVRs are otherwise suitable for the customer.

The statutory basis for the proposed rule change is Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by this title matters not related to the purpose of this title or the administration of the exchange. Furthermore, the proposed rule change is consistent with section 11A(a)(1)(C)(ii) of the Act in that it will tend to assure fair competition among exchange markets and between exchange markets and markets other than exchange markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and

arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR–PSE–90–34 and should be submitted by November 16, 1990.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the PSE's proposal to provide listing standards for the listing of CVRs on the Exchange is consistent with the requirements of the Act and the rules and requirements thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5) of the Act.[4] In particular, the Commission believes the proposal is consistent with the section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade and not to permit unfair discrimination between customers, brokers, or dealers. In today's financial markets, innovative financial vehicles continues to be created that are issued and proposed for trading on exchange markets. Over the past several years, the Commission has approved listing criteria for various new products for trading on exchange markets, such as index warrants [5] and foreign currency warrants.[6] In addition, the Commission recently approved listing standards on the NYSE and MSE applicable to CVRs and listing standards on the Amex to accommodate new products, such as CVRs.[7] In response to these new products, the Commission has carefully identified and evaluated certain regulatory concerns which must be addressed by the exchange that proposes to list and trade these products.

The Commission believes that the PSE's proposal to establish listing criteria for CVRs addresses the special concerns raised by these new investment products. The proposed quantitative listing standards should ensure that only substantial companies capable of meeting their financial obligations issue CVRs. This is important in light of the contingent financial obligations created by these instruments, and should serve to protect investors and the public interest by ensuring that the companies listing CVRs on the Exchange have sufficient financial means to meet their settlement obligations.

In addition, the Exchange has proposed to distribute a Notice apprising member firms of the special characteristics, risks, and suitability obligations associated with CVRs and requiring members to provide their customers with the Notice. The Commission believes distribution of this Notice should provide the PSE with the ability to address any potential sales practice problems and questions that may arise in connection with these CVRs. Moreover, the Commission believes that use of this Notice will help ensure that only customers with an understanding of the risks attendant to the trading of CVRs trade these products on their brokers' recommendations. Finally, this Notice will alert members to the special disclosure and suitability obligations involved in this product and suggest that transactions in CVRs be recommended only to investors whose accounts have been approved for options trading or after ascertaining that CVRs are suitable for the customer.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. As discussed supra, the Commission has approved substantially similar proposals by the NYSE and the MSE, which both adopted listing standards and a membership circular for trading CVRs on those exchanges.[8] In addition, the Commission believes that the assets and earnings standards set by the PSE for issuers seeking to list CVRs will ensure that only bona fide companies capable of meeting their settlement obligations list CVRs on the Exchange. Finally, both the NYSE's proposal to list CVRs and the Amex's proposal to list new hybrid products were noticed and published for comment for the full statutory time period and no comments were received by the Commission on either proposal.[9]

It is therefore ordered, pursuant to section 19(b)(2) of the Act [10] that the proposed rule change is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 22, 1990.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 90-25361 Filed 10-25-90; 8:45 am]
BILLING CODE 8010-01-M

[File No. 22-20501]

Application and Opportunity for Hearing; American Airlines, Inc.

October 22, 1990.

Notice is hereby given that American Airlines, Inc. (the "Applicant") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Commission that the trusteeship of The Connecticut National Bank ("CNB") under (a) each of up to six indentures expected to be qualified under the Act and (b) certain other indentures described below is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify CNB from acting as trustee under any of such indentures.

Section 310(b) of the Act provides, in part, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall within ninety days after ascertaining that it has

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[4] 15 U.S.C. 78f (1982).

[5] *See* Securities Exchange Act Release No. 26152 (October 3, 1988), 53 FR 39332 (October 12, 1988) (approving File No. SR–Amex–87–27) (listing guidelines for foreign currency and index warrants) and Securities Exchange Act Release No. 27565 (December 22, 1989), 55 FR 376 (January 4, 1990) (File No. SR-Amex-89-22) (proposal to list index warrants based on the Nikkei Stock Average).

[6] *See* Securities Exchange Act Release No. 24555 (June 5, 1987), 52 FR 22570 (June 12, 1987) (File No. SR-Amex-87-15) (proposal to list warrants on foreign currencies).

[7] *See* Securities Exchange Act Release No. 28073 (May 30, 1990), 55 FR 23166 (June 6, 1990) (approving File No. SR-NYSE-90-15); Securities Exchange Act Release No. 28143 (June 25, 1990), 55 FR 27317 (July 3, 1990) (approving File No. SR-MSE-90-5); and Securities Exchange Act Release No. 27783 (March 1, 1990), 55 FR 8024 (March 8, 1990) (approving File No. SR-Amex-89-39).

[8] *See, supra* note 2.

[9] The MSE proposal to adopt listing standards and a membership circular for the trading of CVRs on the exchange was approved by the Commission on an accelerated basis on June 25, 1990. *See supra* note 2. No comments were received by the Commission regarding this proposal.

[10] 15 U.S.C. 78s(b)(2) (1982).

such conflicting interest either eliminate such conflicting interest or resign. Subsection (1) of such section provides, with certain exceptions, that a trustee is deemed to have a conflicting interest if it is acting as trustee under another indenture under which any other securities of the same obligor are outstanding. However, pursuant to clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture or indentures under which other securities of such obligor are outstanding, if the issuer shall have sustained the burden of proving on application to the Commission, and after opportunity for a hearing thereon, that trusteeship under the qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as Trustee under any of such indentures.

The Applicant Alleges that:

1. The Applicant has filed five Registration Statements on Form S-3 covering the proposed issuance up to six series of 1990 Equipment Trust Certificates, to be designated as Series U through Z (the "Proposed Certificates").

2. Each series of the Proposed Certificates will be issued pursuant to a separate indenture (a "Proposed Indenture"), each expected to be qualified under the Act, among a banking institution, as trustee for an institutional investor acting as the equity participant (an "owner trustee"), the Applicant, as lessee, and an indenture trustee (the "Proposed Indenture Trustee"). The Applicant desires to appoint CNB as the Proposed Indenture Trustee under each such Proposed Indenture.

3. The proceeds from the sale of the Proposed Certificates will be used to provide long-term financing for a portion of the equipment cost of up to six Boeing 757–223 Aircraft or McConnell Douglas DC–9–82 Aircraft, each of which will be leased by the owner trustee to the Applicant.

4. Each series of the Proposed Certificates will be secured by a security interest in one of the aircraft and by the right of the owner trustee to receive rentals payable in respect of such aircraft by the Applicant under the applicable lease. No aircraft will be covered by more than one Proposed Indenture or by any other indenture, and the Proposed Certificates to be issued pursuant to any one Proposed Indenture will be separate from the proposed Certificates to be issued pursuant to any other Proposed Indenture.

5. CNB currently acts as indenture trustee under eight qualified indentures under which the Applicant's 1990 Equipment Trust Certificates, Series M through T are outstanding (the "July 1990 Qualified Indentures"). Each of the July 1990 Qualified Indentures relates to a separate leveraged lease transaction in which an owner trustee leases one Boeing 757–233 Aircraft or one McDonnell Douglas DC–9–82 Aircraft to the Applicant. Each such series of certificates is secured by a security interest in the aircraft to which the relevant July 1990 Qualified Indenture relates and by the right of the owner trustee to receive rentals on such aircraft from the Applicant.

6. CNB currently acts as indenture trustee under five qualified indentures under which the Applicant's 1990 Equipment Trust Certificates, Series H through L are outstanding (the "May 1990 Qualified Indentures"). Each of the May 1990 Qualified Indentures relates to a separate leveraged lease transaction in which an owner trustee leases one Boeing 757–223 Aircraft or one McDonnell Douglas DC–9–82 Aircraft to the Applicant. Each such series of certificates is secured by a security interest in the aircraft to which the relevant May 1990 Qualified Indenture relates and by the right of the owner trustee to receive rentals on such aircraft from the Applicant.

7. CNB currently acts as indenture trustee under three qualified indentures, under which the Applicant's 1990 Equipment Trust Certificates, Series E through G are outstanding (the "August 1990 Qualified Indentures"). Each of the August 1990 Qualified Indentures relates to a separate leveraged lease transaction in which an institutional investor acting as the equity participant leases one Boeing 757–223 Aircraft to the Applicant. Each such series of certificates is secured by a security interest in the aircraft to which the relevant August 1990 Qualified Indenture relates and by the right of the equity participant to receive rentals on such aircraft from the Applicant.

8. CNB currently acts as indenture trustee under four qualified indentures, under which the Applicant's 1990 Equipment Trust Certificates, Series A through D are outstanding (the "July 1990 Qualified Indentures"). Each of the July 1990 Qualified Indentures relates to a separate leveraged lease transaction in which an owner leases one McDonnell Douglas DC–9–82 or Boeing 757–223 Aircraft to the Applicant. Each such series of certificates is secured by a security interest in the aircraft to which the relevant July 1990 Qualified Indenture relates and by the right of the lower trustee to receive rentals on such aircraft from the Applicant.

9. CNB currently acts as indenture trustee (a "1988 Pass Through Trustee") under four qualified indentures under which the Equipment Note Pass Through Certificates, Series 1988–A are outstanding (the "1988 Qualified Indentures") and as indenture trustee under four separate leveraged lease indentures related to the 1988 Qualified Indentures (the "1988 Lease Indentures"). Each of the 1988 Lease Indentures relates to a separate leveraged lease transaction in which an owner trustee leases one McDonnell Douglas DC–9–82 Aircraft to the Applicant. In 1988, each owner trustee issued four series of loan certificates (the "1988 Equipment Notes") under each 1988 Lease Indenture to four separate grantor trusts. These grantor trusts in turn issued four series of Pass Through Certificates (the "1988 Pass Through Certificates") under the four separate 1988 Qualified Indentures. The 1988 Equipment Notes issued with respect to each 1988 Lease Indenture are secured by a security interest in the aircraft to which such 1988 Lease Indenture relates and by the right of the owner trustee to receive rentals on such aircraft from the Applicant. The Pass Through Certificates issued under the 1988 Qualified Indentures represent undivided interests in the 1988 Equipment Notes held by the related 1988 Pass Through Trustee.

10. CNB currently acts as Pass Through Trustee (a "1987 Pass Through Trustee") under four qualified indentures under which the Equipment Note Pass Through Certificates, Series 1987–A, are outstanding (the "1987 Qualified Indentures") and as indenture trustee under six separate leveraged lease indentures related to the 1987 Qualified Indentures (the "1987 Lease Indentures"). Each of the 1987 Lease Indentures relates to a separate leveraged lease transaction in which an owner trustee leases one McDonnell Douglas DC–9–82 Aircraft to the Applicant. In 1987, each owner trustee issued seven series of loan certificates (the "1987 Equipment Notes") under each 1987 Lease Indenture to seven separate grantor trusts. These grantor trusts in turn issued seven series of Pass Through Certificates (the "1987 Pass Through Certificates") under the seven separate 1987 Qualified Indentures. (To date, three series of 1987 Equipment Notes have matured, and the 1987 Pass Through Certificates issued by the three grantor trusts holding such Equipment Notes similarly matured and were paid at maturity. As a result, the three 1987

Qualified Indentures under which such 1967 Pass Through Certificates were issued terminated. Thus only four 1967 Qualified Indentures remain.) The 1967 Equipment Notes issued with respect to each 1967 Lease Indenture are secured by a security interest in the aircraft to which such 1967 Lease Indenture relates and by the right of the owner trustee to receive rentals on such aircraft from the Applicant. The Pass Through Certificates issued under the 1967 Qualified Indentures represent undivided interests in the 1967 Equipment Notes held by the related 1967 Pass Through Trustee.

11. CNB currently acts as indenture trustee under an indenture, dated as of October 15, 1966 (the "Other Indenture"), between CNB and an owner trustee that relates to a leveraged lease transaction in which the owner trustee, for the benefit of certain institutional investors acting as equity participants, issued in a private placement loan certificates to institutional investors acting as loan participants. The proceeds of the issuance of the loan certificates issued under the Other Indenture were used by the owner trustee to purchase one Boeing 767–223 Aircraft that was then leased by such owner trustee to the Applicant. The Applicant is not a party to the Other Indenture (only the owner trustee as issuer of the loan certificates and CNB are parties), but the Applicant's unconditional obligation to make rental payments under the lease relating to such Other Indenture is the only credit source for principal and interest payments on the loan certificates. The loan certificates issued under the Other Indenture are secured by a security interest in the aforementioned Boeing 767–223 Aircraft and the right of the owner trustee to receive rentals on such aircraft for the Applicant.

12. CNB's acting as trustee under the Proposed Indentures, the July 1990 Qualified Indentures, the May 1990 Qualified Indentures, the August 1989 Qualified Indentures, the July 1989 Qualified Indentures, the 1988 Qualified Indentures, the 1988 Lease Indentures, the 1987 Qualified Indentures, the 1987 Lease Indentures or the Other Indenture does not present any likelihood of a material conflict of interest within the meaning of section 310(b)(1) of the Act. Each series of the Proposed certificates will be secured under the relevant Proposed Indenture by collateral specific to such Proposed Indenture, and each series of loan certificates outstanding under the July 1990 Qualified Indentures, the May 1990 Qualified Indentures, the August 1989 Qualified Indentures, the July 1989 Qualified Indentures, the 1988 Qualified Indentures, the 1988 Lease Indentures, the 1987 Qualified Indentures, the 1987 Lease Indentures or the Other Indenture will be secured under the relevant indenture by collateral specific to such indenture. None of the Proposed Indentures, the July 1990 Qualified Indentures, the May 1990 Qualified Indentures, the August 1989 Qualified Indentures, the July 1989 Qualified Indentures, the 1988 Qualified Indentures, the 1988 Lease Indentures, the 1987 Qualified Indentures, the 1987 Lease Indentures or the Other Indenture provides for cross-collateralization. The collateral relating to each series of the Proposed Certificates is not subject to the claims of holders of any Other Proposed Indentures, the May 1990 Qualified Indentures, the August 1989 Qualified Indentures, the July 1989 Qualified Indentures, the 1988 Qualified Indentures, the 1988 Lease Indentures, the 1987 Qualified Indentures, the 1987 Lease Indentures or the Other Indenture. None of the collateral relating to the July 1990 Qualified Indentures, the May 1990 Qualified Indentures, August 1989 Qualified Indentures, the July 1989 Qualified Indentures, the 1988 Qualified Indentures, the 1988 Lease Indentures, the 1987 Qualified Indentures, the 1987 Lease Indentures or the Other Indenture is subject to the claims of holders of the Proposed Certificates.

13. CNB's powers as trustee in respect of any default under any Proposed Indenture are not restricted by the provisions of any other Proposed Indenture, the July 1990 Qualified Indentures, the August 1989 Qualified Indentures, the July 1989 Qualified Indentures, the 1988 Qualified Indentures, the 1988 Lease Indentures, the 1987 Qualified Indentures, the 1987 Lease Indentures or the Other Indenture.

14. The Applicant is not in default in any respect under any of the July 1990 Qualified Indentures, the May 1990 Qualified Indentures, the August 1989 Qualified Indentures, the July 1989 Qualified Indentures, the 1988 Qualified Indentures, the 1988 Lease Indentures, the 1987 Qualified Indentures, the 1987 Lease Indentures or the Other Indenture and will not, at the time of execution thereof, be in default in any respect under any of the Proposed Indentures.

15. Such differences as exist among the Indentures referred to herein and the respective obligations of the Company as obligor are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as trustee under any of the Indentures.

The applicant waives notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Commission with respect to the application.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application which is on file in the Office of the Commission's Public Reference Section, File No. 22-20591, 450 Fifth Street, NW., Washington DC 20549.

Notice is further given that any interested persons may, no later than November 16, 1990, request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission orders a hearing thereon. Any such request should be addressed: Jonathan G. Katz, Secretary, Securities and Exchange Commission 450 Fifth Street, NW., Washington DC 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest or for the protection of investors, unless a hearing is ordered by by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-25138 Filed 10-25-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17811; 811-4967]

First Fidelity Investment Trust for Retirement Accounts; Application for Deregistration

October 22, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: First Fidelity Investment Trust For Retirement Accounts.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N-8F was filed on August 22, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 19, 1990 and should be accompanied by proof of service on Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549. Applicant, 550 Broad Street, Newark, New Jersey 07192.

FOR FURTHER INFORMATION CONTACT: C. Christopher Sprague, Staff Attorney, (202) 272–3035, or Max Berueffy, Branch Chief, (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231–3282 (in Maryland (301) 738–1400).

Applicant's Representations

1. Applicant is an open-end, diversified management investment company organized as a New Jersey collective investment trust. Applicant consists of one series of units of beneficial interest, entitled the Stock Fund.

2. On December 31, 1986, Applicant filed a registration statement on Form N–1A to register an indefinite number of its units of beneficial interest. The registration statement, as amended by two pre-effective amendments, became effective on March 16, 1987, and Applicant commenced its initial public offering immediately thereafter. All of Applicant's required N–SAR filings have been made, and such filings will continue to be made until Applicant is deregistered under the Act.

3. Applicant ceased legal existence under the banking laws of New Jersey on June 15, 1990 upon the transfer of all its assets and liabilities to FFB Funds Trust, a registered investment company, pursuant to an Agreement of Sale and Plan of Reorganization (the "Plan"), and upon notifying the Office of the Comptroller of the Currency of its termination as a collective investment trust.

4. On January 25, 1990, the Supervisory Committee of Applicant approved the Plan under which all of the assets and certain liabilities of Applicant would be transferred to FFB Funds Trust on June 15, 1990. Proxy materials relating to the Plan were mailed to unitholders on or about April 12, 1990, and were filed with the Commission. The unitholders of Applicant approved the Plan on May 29, 1990 by a majority vote.

5. As of June 15, 1990, Applicant had 140,371.702 units of beneficial interest outstanding, with an aggregate net asset value of $1,788,552.29, and a per unit net asset value of $12.74.

6. Purusant to the Plan, the Stock Fund on June 15, 1990 transferred to FFB Equity Fund, a series of FFB Funds Trust, all of its portfolio securities and other assets. In consideration therefor, FFB Equity Fund assumed certain identified liabilities of the Stock Fund, and delivered to the Stock Fund a number of full and fractional shares of beneficial interest of FFB Equity Fund. Those shares then were distributed pro rata to the Stock Funds's unitholders of record as of June 15, 1990 to liquidate their interests in the Stock Fund. The voting rights of shares of FFB Equity Fund are substantially similar to those of Stock Fund shares. No brokerage commissions were paid in connection with the reorganization.

7. The expenses of the reorganization amounted to approximately $25,000, and were allocated between the funds involved in the application. Applicant's share of those expenses was $18,000.

8. Applicant has no assets, debts, or securityholders. There is no securityholder of Applicant to whom a distribution in complete liquidation of its interest has not been made.

9. Apart from the reorganization pursuant to the Plan, Applicant has not, within the last 18 months, transferred any of its assets to a separate trust, the beneficiaries of which were or are securityholders of Applicant.

10. Applicant is not a party to any litigation or administrative proceeding.

11. Applicant is not now engaged, and does not propose to engage, in any business activity than that needed to windup its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–25327 Filed 10–25–90; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–25176]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

October 19, 1990.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by November 13, 1990 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Eastern Utilities Associates, et al. (70–7740)

Eastern Utilities Associates ("EUA"), P.O. Box 2333, Boston, Massachusetts 02107, a registered holding company, and EUA Power Corporation ("EUA Power"), 40 Stark Street, P.O. Box 326, Manchester, New Hampshire 03105, its wholly-owned public-utility subsidiary company, have filed a post-effective amendment to their application-declaration under sections 6(a), 7 and 12(b) of the Act and Rules 45 and 50(a)(5) thereunder.

By order dated April 30, 1990 (HCAR No. 25060), EUA and EUA Power were authorized to engage in various financing transactions intended to enable EUA Power to meet its interest and other obligations and working capital requirements, for the period through May 15, 1991.

EUA Power now proposes to borrow the proceeds from tax exempt solid waste revenue bonds ("Bonds") to be

issued by the Industrial Development Authority of the State of New Hampshire ("NHIDA") in an aggregate amount of up to $25 million. The proceeds of the Bonds would be loaned by the NHIDA to EUA Power pursuant to a Loan and Trust Agreement ("Trust Agreement") with the NHIDA and Shawmut Bank, N.A., as trustee ("Trustee"), and be used to reimburse EUA Power for certain solid waste disposal expenditures. EUA will make payments to the Trustee in an amount equal to the payment then coming due on the Bonds.

To ensure the payment of principal of, premium, if any, and interest on the Bonds (and payment of purchase price upon tender of the Bonds for mandatory purchase), Citibank, N.A. ("Bank") will issue an irrevocable letter of credit ("Letter of Credit") in an amount not to exceed $26 million. EUA Power proposes to execute an agreement ("Reimbursement Agreement") with the Bank whereby EUA Power will agree to reimburse the Bank for all draws on the Letter of Credit and to pay the Bank's related fees. In addition, EUA proposes to enter into a related guaranty agreement pursuant to which EUA will guarantee payment of EUA Power's obligations to the Bank of up to $26 million.

The Bonds will have a 30 year nominal maturity with no principal amortization and will initially bear interest as weekly variable rate demand notes ("Weekly Mode"), but all or part of the Bonds may be converted or reconverted to other interest modes at the option of EUA Power. The other interest modes are for periods of from one to 270 days ("Flexible Mode"), one year or any multiple thereof ("Multiannual Mode"), and the remaining term of the Bond issue ("Fixed Rate Mode"). The interest rate in each case will be set by Goldman, Sachs & Co. ("Remarketing Agent"), but in no event will the interest rates in effect from time to time for any mode exceed 12% without further Commission authorization. When the Bonds are in the Weekly Mode, the bondholders will have the right at predetermined dates to tender their Bonds to the Trustee for mandatory purchase at 100% of principal amount plus accrued interest. In addition, EUA Power may convert or reconvert the Bonds, or any portion thereof, which are in the Weekly Mode, Flexible Mode, or Multiannual Mode to any other such mode or the Fixed Rate Mode. As a condition to conversion to the Weekly Mode or the Flexible Mode, EUA Power must deliver a substitute letter of credit meeting the requirements of the Trust Agreement.

In addition to various redemption rights, the Bonds will be subject to mandatory tender by the bondholders upon certain conditions including the expiration of the rate periods under the Flexible and Multiannual Modes.

EUA Power also requests an exception from the competitive bidding requirements of Rule 50 pursuant to Subsection (a)(5) thereunder regarding EUA Power's obligations under the Trust Agreement and the Reimbursement Agreement.

Arkansas Power & Light Company (70-7902)

Arkansas Power & Light Company ("AP&L"), 425 West Capitol, 40th Floor, Little Rock, Arkansas 72201, an electric utility subsidiary company of Entergy Corporation, a registered holding company, has filed an application under Sections 9(a) and 10 of the Act.

AP&L proposes, through December 31, 1991, to enter into one or more installment sale agreements ("Agreement") with Pope County, Arkansas ("County"), concerning the construction, installation, equipping, financing, sale and reacquisition of solid waste disposal facilities ("Facilities") at AP&L's Nuclear One Generating Station located in the County.

Under the Agreement, the County may issue one or more series of its tax exempt revenue bonds ("Solid Waste Disposal Bonds") in an aggregate principal amount not to exceed $120 million with a maturity date from 5 to 30 years. The proceeds from the Solid Waste Disposal Bonds will be deposited by the County with the trustee ("Trustee") under one or more indentures ("Indenture") entered into between the County and the Trustee pursuant to which Indenture the Solid Waste Disposal Bonds are issued, and the proceeds are accrued. The proceeds, net any underwriters' discount or other expenses payable from the proceeds, will be applied by the Trustee to the costs of, or to permanently finance on a tax exempt basis, the construction, acquisition, installation, or equipping of the Facilities.

AP&L also proposes to convey the Facilities to the County for cash, and to reacquire the Facilities under the Agreement requiring AP&L to pay as the purchase price installments in such amounts, together with other monies held by the Trustee under the Indenture for that purpose, as to enable the County to pay, when due, the principal or purchase price of, the premium, if any, and the interest on the Solid Waste Disposal Bonds. Under the Agreement, AP&L will also be obligated to pay certain fees incurred in the transactions.

In order to obtain security for holders of the Solid Waste Disposal Bonds, AP&L may seek to obtain the authentication of one or more new series of first mortgage bonds ("Bonds"). The Bonds would be issued on the basis of unfunded net property additions and/or previously retired Bonds. AP&L believes that the possible issuances and pledge of the Bonds to the Trustee under the Indenture will meet the standards for an exemption from section 6(a) of the Act provided by Rule 52 thereunder. However, AP&L states that if it is not able to meet the capitalization tests provided in subsection (a)(3) of Rule 52 in connection with the issuance and pledge of all the Bonds, AP&L would file an amendment to this application seeking approval under sections 6(a) and 7 of the Act to issue and pledge such additional Bonds to the Trustee under the Indenture. Moreover, in such event, AP&L would also request an exception from the competitive bidding requirements of Rule 50 under subsection (a)(5) in connection with the issuance of the Bonds.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-25326 Filed 10-25-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17819; 812-7382]

T. Rowe Price California Tax-Free Trust, et al.; Notice of Application

October 19, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: T. Rowe Price California Tax-Free Trust on behalf of the California Tax-Free Bond Fund, T. Rowe Price State Tax-Free Trust on behalf of the Maryland Tax-Free Bond Fund and the New York Tax-Free Bond Fund, T. Rowe Price Tax-Free High Yield Fund, Inc., T. Rowe Price Tax-Free Income Fund, Inc., and T. Rowe Price Tax-Free Short-Intermediate Fund, Inc. (the "Tax-Free Funds"); T. Rowe Price Capital Appreciation Fund, T. Rowe Price Equity Income Fund, T. Rowe Price Growth & Income Fund, Inc., T. Rowe Price Growth Stock Fund, Inc., T. Rowe Price High Yield Fund, Inc., Institutional International Funds, Inc., T. Rowe Price

Index Trust, Inc., T. Rowe Price International Equity Fund, Inc., T. Rowe Price International Funds, Inc., T. Rowe Price New America Growth Fund, T. Rowe Price New Era Fund, Inc., T. Rowe Price New Horizons Fund, Inc., T. Rowe Price New Income Fund, Inc., T. Rowe Price Science & Technology Fund, Inc., T. Rowe Price Overnight Bond Fund, Inc., T. Rowe Price Small-Cap Value Fund, Inc. (the "Taxable Funds"); T. Rowe Price U.S. Treasury Funds, Inc. on behalf of the U.S. Treasury Intermediate Fund and U.S. Treasury Long-Term Fund, and T. Rowe Price GNMA Fund (the "Treasury Funds") (the Tax-Free Funds, the Taxable Funds, and the Treasury Funds are collectively referred to as the "Funds"); T. Rowe Price Associates, Inc. ("Price Associates"), Rowe Price-Fleming International, Inc. ("Price-Fleming" and collectively with Price Associates, the "Advisers"); and all future management investment companies, other than money market funds or funds using the amortized cost or penny rounding method of valuation, advised by Price Associates, Price-Fleming, or any future investment adviser or subadviser which is a direct or indirect wholly-owned subsidiary of Price Associates or Price-Fleming.

RELEVANT ACT SECTIONS: Section 17(d) and rule 17d–1.

Summary of Application: Applicants seek an order permitting the Funds to participate in joint accounts designed to pool cash balances and reserves. Applicants seek to establish three joint accounts: the Commercial Paper Joint Account, which will invest in overnight commercial paper; the Treasury Joint Account, which will invest in repurchase agreements with banks or brokerage houses; and the Tax-Free Joint Account, which will invest in tax-exempt daily variable rate demand notes.

FILING DATE: The application was filed on May 15, 1990 and amended on February 8, 1990 and July 25, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 15, 1990, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 100 East Pratt Street, Baltimore, MD 21202.

FOR FURTHER INFORMATION CONTACT: Nicholas D. Thomas, Staff Attorney, at (202) 504–2283, or Jeremy N. Rubenstein, Branch Chief, at (202) 272–3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231–3282 (in Maryland (301) 738–1400).

Applicants' Representations

1. The Funds comprise most of the investment company complex known as T. Rowe Price Mutual Funds. Each Fund is registered under the Act as an open-end management investment company.

2. In the normal course of business, each Fund frequently has uninvested cash balances at the end of its business day. Each fund normally invests this otherwise uninvested cash in overnight securities which mature and pay interest on the following business day. The Funds enter into these investments because (a) they provide additional income to the Funds, and (b) they allow the Funds to maintain the liquidity they require in case any Fund shareholders wish to redeem their shares. At the present time, each Fund makes its own overnight investments and bears the transaction costs of making such investments. This has resulted in certain inefficiencies, and has limited the return which the Funds achieve.

3. The Funds now wish to establish three Joint Accounts into which they will be able to deposit their uninvested cash: The Commercial Paper Joint Account, which will invest in overnight commercial paper; the Treasury Joint Account, which will invest in repurchase agreements with banks or brokerage houses; and the Tax-Free Joint Account, which will invest in tax-exempt daily variable rate demand notes ("Daily VRDNs"). The Joint Accounts will invest only in securities with an overnight, over-the-weekend, or over-the-holiday maturity, or, in the case of the Tax-Free Joint Account, Daily VRDNs with a demand feature that allows a Fund to obtain the full payment of principal and interest on a same-day basis (collectively, "overnight investments").

4. At the end of the business day, each Fund will have the option of depositing its uninvested cash in one of the Joint Accounts. Each Joint Account will then invest in one or more large overnight investments. No Fund will be required to participate in a Joint Account. Each Fund will have the option to continue investing in its own overnight investments.

5. The types of investments proposed for each Joint Account are exactly the types of investments made currently by the individual participating Funds. Selection of an overnight investment for the Joint Accounts will be made on the same basis (creditworthiness of the issuer, yield, and liquidity) as selection of an overnight investment for any participating Fund. However, because the overnight investments will be made jointly, the transaction costs will be reduced, and because a larger amount of cash will be available for fewer investments, there is the possibility that the interest earned on the investments will be higher.

6. Each Fund will participate in the Joint Accounts on the same basis as every other Fund. Each Fund will also participate in the Joint Accounts in conformity with its investment objections and restrictions.

7. The Advisers will have no monetary participation in the account, but will be responsible for investing amounts in the Joint Accounts, establishing accounting and control procedures, and ensuring the equal treatment of each Fund.

8. The Commercial Paper Joint Account will invest only in interest bearing or discounted commercial paper, including dollar denominated commercial paper of foreign issuers, which matures and pays interest daily. Only the taxable Funds, which are presently the only Funds authorized by their investment policies to invest in commercial paper, will be allowed to invest in the Commercial Paper Joint Account. All such investments will satisfy the investment criteria of any participating Fund as to yield, quality, and liquidity.

9. Commercial paper generally pays a higher rate of interest than repurchase agreements secured by U.S. government obligations, although this higher yield is generally accompanied by a higher degree of risk. Applicants manage the higher risk by investing only in commercial paper which is on their approved list. The one-day maturity of the commercial paper which will be eligible for the Commercial Paper Joint Account also mitigates the credit risk of such investments. By investing only in commercial paper issued by persons on the approved list, applicants believe that

the existence of the Commercial Paper Joint Account will not increase the investment risk of any of the Taxable Funds.

10. The Treasury Joint Account will invest only in repurchase agreements collateralized by U.S. Government obligations,i.e., obligations issued or guaranteed as to principal and interest by the Government of the United States. Both the Treasury Funds and the taxable Funds will be permitted to deposit their otherwise uninvested cash in the Treasury Joint Account because the Funds in these two groups are authorized by their individual investment policies to invest in repurchase agreements secured by U.S. Government obligations.[1]

11. With regard to the Taxable Funds, the decision whether to invest in the Commercial Paper Joint Account or the Treasury Joint Account will be made by the Adviser. This decision will be made by comparing the yield and liquidity of the repurchase agreement and the creditworthiness of its issuer with the yield, quality, and liquidity of the available commercial paper.

12. Each of the Taxable and Treasury Funds has established the same minimum standards for repurchase transactions. These include credit worthiness standards for both the issuers of the repurchase agreements and the collateral. The Funds also require that the repurchase agreements be fully collateralized at all times. The collateral requirement on overnight repurchase agreements is 101 percent.

13. The funds will not enter into repurchase agreements with their custodian banks.

14. The Tax-Free Joint Account will invest only in daily VRDNs. Because Daily VRDNs are tax-free securities, and because only the Tax-Free Funds are authorized by their investment policies to invest in such securities, only the Tax-Free Funds will be allowed to invest in the Tax-Free Joint Account.[2]

15. Daily VRDNs are tax-exempt municipal obligations which contain a variable or floating interest rate and an unconditional right of demand to receive payment of the unpaid principal and accrued interest upon a same day notice period. A variable rate instrument subject to a same-day demand feature is deemed to have a maturity equal to the longer of the period remaining until the next readjustment of the interest rate or the period remaining until the principal amount can be recovered through demand. The interest rate adjustments for Daily VRDNs are priced to reflect current market demand for such securities.

16. The demand feature of Daily VRDNs is backed by a credit facility. Most Daily VRDNs require a direct pay, irrevocable, bank letter of credit to ensure immediate liquidity for the investor, to provide for a more uniform aftermarket for remarketing efforts, and to receive a high credit rating from one or more of the major rating services. Only those issuers whose underlying credit is rated as high quality by the rating services are able to issue Daily VRDNs backed only by a line of credit.

17. Although each Joint Account will seek to make only one overnight investment, it may be necessary to make more than one overnight investment because many of the funds are subject to section 5(b) of the Act, which limits to 5% the assets that may be invested in any single issuer (other than U.S. governmental issuers). When a Fund subject to the 5% restriction invests more than 5% of its assets in a Joint Account, the Joint Account will have to make more than one overnight investment in order to avoid causing such Fund to violate its 5% restriction.

Applicants' Legal Analysis

1. Each Fund, by participating in one or more of the proposed Joint Accounts, and the Advisers, by managing the proposed Joint Accounts, could be deemed to be "joint participant[s] * * * in a transaction" within the meaning of section 17(d)(1) of the Act, and the proposed Joint Accounts could be deemed to be "joint enterprise[s] or other joint arrangement[s]" within the meaning of rule 17d–1 under the Act.

2. The Board of Directors/Trustees of each Fund has considered the proposed Joint Accounts and has determined that the Fund will benefit by participating in the Joint Accounts for the following reasons:

(a) Due to the pooled nature of the investments, the transaction costs are expected to be reduced,

(b) Due to the larger size of the investments being made, the terms of the investments are expected to be more favorable, and

(c) Due to the reduction in the number of trades, the potential for errors is expected to be reduced.

3. The proposed method of operating the Joint Accounts, as discussed herein, will not result in conflicts of interest between any of the Funds or between a Fund and its Adviser. Applicants believe that the operation of the Joint Accounts will be free of any inherent bias favoring one Fund over another.

4. Although the Adviser will gain some benefit through administrative convenience and some possible reduction in clerical costs, the primary beneficiaries will be the Funds because the Joint Accounts will be a more efficient way of administering daily investment transactions.

5. Applicants believe that future participation in the Joint Accounts by one of more Funds which do not presently exist or are not currently in operation will be desirable. Applicants represent that future Funds will be required to participate in the Joint Accounts on the same terms and conditions as the existing Funds have set forth herein.

6. The sole differences between this application and orders previously granted by the Commission to allow the establishment and operation of Joint Accounts for the pooling of cash reserves are that: (a) Applicants will establish three accounts; (b) two of the Joint Accounts will be allowed to invest in overnight investment other than repurchase agreements collateralized by U.S. government securities; and (c) the Taxable Funds will be allowed to invest in either of two Joint Accounts. Applicants do not regard these differences as material for the reasons discussed below.

7. The existence of more than one Joint Account is a function of the type of investments to which certain Funds are limited. Thus the Tax-Free Funds seek to invest only in securities which pay interest not subject to federal income tax. As a result, an investment in an account that invests in taxable instruments would not be appropriate. Similarly, the Treasury Funds may not invest in the Commercial Paper Joint Accounts because they are limited to investments guaranteed as to principal and interest by the U.S. Government, including repurchase agreements secured by such securities. Each Taxable Fund must determine, based on considerations of yield, liquidity, and creditworthiness, whether to invest in

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[1] T. Rowe Price Growth Stock Fund, Inc., T. Rowe Price New Horizons Fund, Inc., and T. Rowe Price New Era Fund, Inc., all three of which are Taxable Funds, will not be able to participate in the Treasury Joint Account because their investment policies prohibit investments in repurchase agreements. If any of these Funds change their fundamental policies to allow for investments in repurchase agreements, they will be allowed to participate in the Treasury Joint Account in the same manner as the other Taxable and Treasury Funds.

[2] It is presently contemplated that T. Rowe Price State Tax-Free Trust and T. Rowe Price California Tax-Free Trust will not participate in the Tax-Free Joint Account, or any other Joint Account, because each portfolio within these two trusts is state-specific and only invests in securities which enjoy tax-exempt status under specific states.

repurchase agreements or commercial paper. Commercial paper may entail a slightly higher degree of risk than repurchase agreements. Thus, certain Taxable Funds may choose the Treasury Joint Account over the Commercial Paper Joint Account. Other Funds may decide to invest their reserves intended for overnight investment in the Commercial Paper Joint Account because of its potentially higher yield. In either case, there is no conflict of interest for the Advisers in making this decision and no Fund is disadvantaged by the existence of two Joint Accounts in which to invest.

8. Applicants believe that the Commercial Paper Joint Account and the Tax-Free Joint Account will generate savings for the Taxable and Tax-Free Fund, respectively. Although the savings for the Tax-Free Funds are not great, such savings should increase over time as the size of the Tax-Free Funds increases. Further, given the protection afforded by the conditions under which the Joint Accounts will operate, there does not seem to be any valid regulatory purpose for denying the Tax-Free Funds even a small degree of savings. For the Treasury Funds, applicants submit that the prospect of future savings is a sufficient basis to grant relief given the protection of the below stated conditions.

9. The type of investments proposed for each Joint Account are exactly the types of investments made currently by the individual participating funds. Selection of an overnight investment for the Joint Accounts will be made on the same basis (creditworthiness of the issuer, yield and liquidity) as selection of an overnight investment for any participating Funds, except that the Joint Accounts, because they will have a greater asset base, may have greater flexibility in seeking higher yielding overnight investments. Accordingly, applicants see no basis for distinguishing the Commercial Paper Joint Account, which will invest in overnight commercial paper, and the Tax-Free Joint Account, which will invest in Daily VRDNs, from the joint accounts previously authorized by the above-referenced Commission orders which invest solely in repurchase agreements.

Applicants' Conditions

The Joint Accounts will operate subject to the following conditions:

1. Three separate custodial cash accounts will be established. After the conclusion of its daily trading activity, each Fund will transfer the cash it wishes to invest in a Joint Account into one or more such accounts. The accounts will not be distinguishable from any other accounts maintained by a Fund with its custodian bank except that the Funds' money will be deposited on a commingled basis. The account will not have any separate existence which will have indicia of a separate legal entity. The sole function of the account will be to provide a convenient way of aggregating individual transactions.

2. Cash in the Joint Account will be invested in:

(a) For the Commercial Paper Joint Account, interest bearing or discounted commercial paper with a duration not to exceed one business day and satisfying the uniform standards set by the Taxable Funds for such investments;

(b) For the Treasury Joint Account, repurchase agreements with a duration not to exceed one business day, collateralized by U.S. Government obligations, and satisfying the uniform standards set by the Taxable Funds or Treasury Funds, respectively, for such investments; or

(c) For the Tax-Free Joint Account, Daily VRDNs with a same-day demand feature and satisfying the uniform standards set by the Tax-Free Funds for such investments.

3. All investments held by the Joint Accounts will be valued on the basis of current market value.

4. Securities purchased by the Joint Accounts will be rated A2 or A1/SP-1 or better by Standard and Poor's, P2 or MIG-2/V-MIG2 or better by Moody's, (depending on whether the security is taxable or tax-free) or, if unrated, will have a rating of equivalent quality as determined by the advisers under the supervision of the boards of directors/trustees of the applicable Funds. These rating standards will not be changed without first obtaining an amendment of any order issued on the application.

5. In order to assure that there will be no opportunity for one Fund to use any part of a balance of a Joint Account credited to another Fund, no Fund will be allowed to create a negative balance in a Joint Account for any reason, although it will be permitted to draw down its entire balance at any time. A Fund's decision to invest in a Joint Account will be solely at the Fund's option. No Fund will be obligated to invest in the Joint Accounts or maintain any minimum balance therein. A Fund may withdraw all or a portion of its investment in a Joint Account at any time. In addition, each Fund will retain the sole rights of ownership of any of its assets invested in the Joint Accounts, including interest payable on such assets.[3] Each Fund's investment in a Joint Account will be documented daily on the books of each Fund as well as on the books of the Funds' custodian. Each Fund's liability on any overnight investment purchased by a Joint Account will be limited to that Fund's portion of such overnight investment.

6. Each Fund will participate in the income earned or accrued in the Joint Account in which it participated, including all instruments held by the Joint Account, on the basis of the Fund's percentage of the total amount in the Joint Account on any day represented by its share of the Joint Account.

7. The Advisers will administer the investment of the cash balances in and operation of the Joint Account as part of their duties under their existing or any future investment advisory contracts with each Fund and will not collect any additional fee for the management of the Joint Accounts. (The Advisers will collect fees in accordance with each Fund's respective investment advisory agreement.)

8. The Boards of Directors/Trustees of the Funds will evaluate the Joint Accounts' arrangements annually, and will continue the Joint Accounts only if they determine that there is a reasonable likelihood that the Joint Accounts will benefit the Funds and their shareholders.

9. The administration of the Joint Accounts will be within the fidelity bond coverage required by section 17(g) of the Act and rule 17g-1 thereunder.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-25328 Filed 10-25-90; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0472]

Croyden Capital Corp.; Surrender of License

Notice is hereby given that Croyden Capital Corporation, 45 Rockefeller Plaza, New York, New York 10111 has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (The Act). Croyden Capital Corporation was

[3] Applicants believe that a Fund's investment in a Joint Account will not be subject to the claims of creditors (whether brought in bankruptcy, insolvency, or other legal proceedings) of any other Fund participating in the Joint Account

licensed by the Small Business Administration on May 23, 1984.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender was accepted on October 3, 1990, and, accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 17, 1990.

Bernard Kulik,

Associate Administrator for Investment.

[FR Doc. 90-25332 Filed 10-25-90; 8:45 am]

BILLING CODE 8025-01-M

[License No. 05/05-0105]

JRM Capital Corp.; License Surrender

Notice is hereby given that JRM Capital Corporation, 13900 Broadway Avenue, Cleveland, Ohio 44125-0040 has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (Act). JRM Capital Corporation was licensed by the Small Business Administration on September 18, 1975.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender of the license was accepted on September 24, 1990, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 18, 1990.

Bernard Kulik,

Associate Administrator for Investment.

[FR Doc. 90-25333 Filed 10-25-90; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended October 19, 1990

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 47215.
Date filed: October 15, 1990.
Parties: Members of the International Air Transport Association.
Subject: Mail Vote 433—Amending Resolution 021H—Special rules for sale of Air Transportation/Brazil.
Proposed Effective Date: December 1, 1990.

Docket Number: 47218.
Date filed: October 19, 1990.
Parties: Members of the International Air Transport Association.
Subject: Expedited South Atlantic-Europe/Middle East.
Proposed Effective Date: November 1, 1990.

Docket Number: 47219.
Date filed: October 19, 1990.
Parties: Members of the International Air Transport Association.
Subject: TC3 Reso/P 0399 Expedited Resos R-1 To R-29.
Proposed Effective Date: November 1, 1990.

Docket Number: 47220.
Date filed: October 19, 1990.
Parties: Members of the International Air Transport Association.
Subject: TC2 Reso/P 0685 Expedited Within Europe R-1—R-9 et al.
Proposed Effective Date:

Docket Number: 47221.
Date filed: October 19, 1990.
Parties: Members of the International Air Transport Association.
Subject: SNATC/1931 dated October 11, 1990 Report—Resolution 015 Meeting.
Proposed Effective Date: December 1, 1990.

Docket Number: 47222.
Date filed: October 19, 1990.
Parties: Members of the International Air Transport Association.
Subject: COMP Meet/P 0182 dated October 11, 1990 Report COMP Fares 0461 dated October 10, 1990 Tables—USA Add-ON Amounts.
Proposed Effective Date: December 1, 1990.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 90-25338 Filed 10-25-90; 8:45 am]

BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended October 19, 1990

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each Application. Following the Answer period DOT may process the Application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 45166.
Date filed: October 19, 1990.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 16, 1990.

Description

Amendment No. 1 to the Application of Lineas Aereas Trans Costa Rica, S.A. pursuant to section 402 of the Act and subpart Q of the Regulations, requests authority to operate scheduled as well as non-scheduled waybilled traffic between San Jose, Costa Rica, on the one hand, and Miami, Florida; Houston, Texas; San Juan, Puerto Rico; New York, Newark; and Los Angeles, California, on the other. In addition, LAT seeks authority to operate charters pursuant to the provisions of part 212 of the Department's Regulations.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 90-25339 Filed 10-25-90; 8:45 am]

BILLING CODE 4910-62-M

[Order 90-10-31 Docket No. 47223]

Order Instituting Miami-Cancun Service Proceeding

AGENCY: OST, Department of Transportation.

ACTION: Institution of Miami-Cancun Service Proceeding.

SUMMARY: The Department has decided to institute the *Miami-Cancun Service Proceeding*, Docket 47223, to select a primary and backup carrier to engage in scheduled foreign air transportation of persons, property, and mail between Miami, Florida, and Cancun, Mexico. Eastern Air Lines, Inc., currently holds certificate authority and is designated to serve the route. In April 1990, the Governments of the United States and Mexico agreed to permit the designation of an additional carrier from each country on the route. The case will be decided using written, non-oral evidentiary hearing procedures under rule 1750 of the Department's regulations (14 CFR 302.1750). The Department is not inviting further applications for the authority at issue and has established an expedited schedule for processing this case so that the selected carrier may begin its Cancun service in time for the 1990 peak winter season. By this order, the Department also dismisses the exemption applications filed by Pan American World Airways, Inc., and

American Airlines, Inc., for Miami-Cancun authority (Dockets 46488 and 46479, respectively), and grants the application of American Airlines for exemption authority to serve the Miami-Cozumel market (Docket 46479).

DATES: Petitions for consideration of Order 90-10-31, should be filed by October 29, 1990; and answers by November 1, 1990.

ADDRESSES: Petitions for reconsideration should be filed in Docket 47223 and served on all parties in Docket 47223.

Dated: October 22, 1990.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 90-25341 Filed 10-25-90; 8:45 am]

BILLING CODE 4910-62-M

Office of the Secretary

[Order 90-10-34; Docket 44645]

Final Intra-Alaska Bush Service Mail Rates

AGENCY: Department of Transportation.

ACTION: Notice of order terminating investigation.

SUMMARY: The Department of Transportation is advising all interested persons that we are terminating the investigation of the intra-Alaska bush service mail rate structure instituted by Order 88-10-45, October 29, 1988.[1] The order established new final mail rates effective from April 13, 1988, through March 31, 1989, and from April 1, 1989, through March 31, 1990.

FOR FURTHER INFORMATION CONTACT: James E. Gardner, Office of Aviation Analysis, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. (202) 366-2438.

Dated: October 22, 1990.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 90-25340 Filed 10-25-90; 8:45 am]

BILLING CODE 4910-62-M

[Docket No. 47224]

Order Instituting Miami/Tampa-Toronto Service Investigation

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Institution of the Miami/Tampa-Toronto Service Investigation Order 90-10-32.

SUMMARY: By Order 90-5-5, the Department approved the transfer of several Eastern Air Lines' and Continental Airlines' routes to American Airlines. However, the Department withheld approval for transfer of the Miami/Tampa-Toronto route based on its finding that Eastern's existing service was inadequate and decided to reexamine the service needs of this market in a new proceeding and to invite competing applications from other U.S. carriers.

Consistent with its decision in Order 90-5-5, the Department has decided to institute the *Miami/Tampa-Toronto Service Investigation* to determine which carrier should be selected to serve the Miami/Tampa-Toronto markets. Under the U.S.-Canada aviation agreement, only one U.S. carrier may be designated to provide service on the route. Eastern holds the designation, but serves only the Miami-Toronto market. The order invites applications from U.S. carriers interested in serving the subject markets and also places at issue amendment or modification of the Eastern/Continental authority to serve this route. The Department states that it will decide the issue of appropriate carrier selection procedures after receipt of the applications. The Department also dismisses the exemption applications filed by American Airlines, Pan American World Airways and USAir for either Miami-Toronto or Tampa-Toronto authority and reinstates the certificate application filed by Pan American World Airways which was inadvertently dismissed by Order 90-5-5.

DATES: Applications for Miami/Tampa-Toronto authority, motions to consolidate, petitions for leave to intervene, and petitions for reconsideration of Order 90-10-32 should be filed by November 16, 1990. Answers should be filed by November 20, 1990.

ADDRESSES: Applications, motions to consolidate, petitions for leave to intervene, petitions for reconsideration, etc., should be filed in Docket 47224, addressed to the Documentary Services Division, U.S. Department of Transportation, 400 Seventh Street, SW., Room 4107, Washington, DC 20590 and should be served on all parties in Docket 47224, as well as Mr. Robert Goldner, room 9216, at the above address.

Dated: October 22, 1990.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 90-25337 Filed 10-25-90; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

[FAA Billing No: BOAC 090021]

Intent To Prepare Environmental Impact Statement for Proposed Development at Lambert-St. Louis International Airport; St. Louis, MO

AGENCY: Federal Aviation Administration, Central Region, Kansas City, Missouri.

ACTION: Notice of intent.

SUMMARY: The Federal Aviation Administration is issuing a Notice of Intent that an Environmental Impact Statement will be prepared for the proposed development at Lambert-St. Louis International Airport, St. Louis, Missouri.

FOR FURTHER INFORMATION CONTACT: Dr. John L. Tatschl, Federal Aviation Administration, Airports Division, 601 E. 12th Street, Kansas City, Missouri 64106, telephone (816) 426-3614.

SUPPLEMENTARY INFORMATION: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as implemented by the Council on Environmental Quality (CEQ) regulations (40 CFR parts 1500-1506), the Federal Aviation Administration (FAA will prepare an Environmental Impact Statement for the proposed development planned for the next 10 to 20 years at Lambert-St. Louis International Airport, St. Louis, Missouri. The proposed development includes, but is not limited to, the following: construction of four parallel runways, terminal expansion, relocation of the Air Traffic Control Tower, reconstruction and expansion of existing terminal area parking garage, relocation of segments of Lindberg Boulevard and Interstate Highway 70, terminal access roadway relocation and expansion, and relocation of the Air National Guard, TWA Hangar, General Aviation, and Air Cargo Facilities. The Environmental Impact Statement will address environmental considerations of the proposed actions and of numerous alternatives to the proposed action. The document will address direct and indirect environmental impacts, both beneficial and detrimental to the natural and human environment.

The Federal Aviation Administration will utilize the scoping process as

[1] Published at 53 FR [illegible], October 29, 1988.

outlined in the CEQ guidelines. This process will determine potentially significant issues related to the proposed airport development. To initiate the formal scoping process, interested individuals, governmental agencies, and private organizations will be invited in the near future to submit information and comments on this proposed action for consideration by the Federal Aviation Administration for incorporation into the Environmental Impact Statement. Concerned individuals and agencies will be asked to express their views either by writing or by participating in a future scoping meeting. Adequate notice will be published in local area newspapers and other local media at a later date to inform interested parties of the exact place and time of any scoping meetings. The purpose of public scoping meetings are: (1) To provide a description of the proposed action, (2) to identify potential impacts and issues that should be included in the Environmental Impact Statement, and (3) to identify other coordination and permit requirements associated with the proposed action. Questions and comments regarding the scope of the environmental analysis should be directed to: Dr. John Tatschl, Federal Aviation Administration, Central Region Office, 601 E. 12th Street, Federal Office Building, Kansas City, Missouri, 64106, (816) 426–6614.

George A. Hendon,

Manager, Airports Division.

[FR Doc. 90-25299 Filed 10-25-90; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: Cumberland, Sampson and Duplin Counties, NC

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for a proposed highway project in Cumberland, Sampson and Duplin Counties, North Carolina.

FOR FURTHER INFORMATION CONTACT: Robert L. Lee, District Engineer, Federal Highway Administration, P.O. Box 26806, Raleigh, North Carolina 27611. Telephone: (919) 790–2856.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration, in cooperation with the North Carolina Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to provide improved traffic flow between I–95 near Fayetteville and I–40 near Warsaw. The proposed project would consist of construction of NC 24 as a four-lane controlled access highway on new location from a point 2.8 miles east of I–95 to I–40. The proposed highway is considered necessary to handle existing and projected traffic demand and to provide a link between two major interstate routes. This portion of NC 24 also provides a link between several large military bases and many cities, towns and communities. Alternatives under consideration include: (1) Taking no action (No Build); (2) improvement of existing routes (Upgrade); and (3) two Build alternatives.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies and to private organizations who have previously expressed interest in this project. A series of public meetings and a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be made available for public and agency review and comment.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning the proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Robert L. Lee,

District Engineer, Raleigh, North Carolina.

[FR Doc. 90-25304 Filed 10-25-90; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review.

Dated: October 19, 1990.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1513–0006.
Form Number: ATF REC 5110/01, ATF F 5110.40.
Type of Review: Extension.
Title: Distilled Spirits Records and Monthly Report of Production Operations.
Description: The information collected is used to account for proprietor's tax liability, adequacy of bond coverage and protection of the revenue. The information also provides data to analyze trends in the industry, and plan efficient allocation of field resources, audit plant operations and compilation of statistics for government economic analysis.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 140.
Estimated Burden Hours Per Response: 2 hours.
Frequency of Response: Monthly.
Estimated Total Reporting Burden: 3,360 hours.
Clearance Officer: Robert Masarsky (202), 566–7077, Bureau of Alcohol, Tobacco and Firearms, room 7011, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 90-25307 Filed 10-25-90; 8:45 am]

BILLING CODE 4810-31-M

Public Information Collection Requirements Submitted to OMB for Review

Dated: October 22, 1990.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department

Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512-0341.
Form Number: ATF REC 5150/8.
Type of Review: Extension.
Title: Stills-Notices, Registration and Records.
Description: The information collected is used to account for and regulate the distillation of spirits. As there could be a substantial tax revenue loss that would be incurred through the illegal distillation of spirits, the data collected identifies the manufacturers, vendors and users of spirits as well as providing an accounting of stills and other apparatus.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 10.
Estimated Burden Hours Per Response: 30 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 21 hours.

OMB Number: 1512-0461.
Form Number: ATF 5110/11.
Type of Review: Extension.
Title: Marks and Labels on Containers of Distilled Spirits.
Description: The marking, branding and labeling of containers of spirits by distilled spirits plants provide the data to identify, trace, and quantify the spirits.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 254.
Estimated Burden Hours Per Response: 1 hour.
Frequency of Response: Other (No recordkeeping or reporting).
Estimated Total Reporting Burden: 1 hour.

OMB Number: 1512-0462.
Form Number: ATF 5100/1.
Type of Review: Extension.
Title: Labeling and Advertising Requirements Under the Federal Alcohol Administration Act.
Description: Under the Federal Alcohol Administration Act, bottlers and importers of alcohol beverages are required to display certain information for consumers on labels and in advertisements. Other optional statements are also required.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 6,060.
Estimated Burden Hours Per Response: 1 hour.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 1 hour.
Clearance Officer: Robert Masarsky (202), 566-7077, Bureau of Alcohol, Tobacco and Firearms, room 7011, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,
Departmental Reports Management Officer.
[FR Doc. 90-25368 Filed 10-25-90; 8:45 am]
BILLING CODE 4810-31-M

Public Information Collection Requirements Submitted to OMB for Review

Dated: October 22, 1990.

The Department of the Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New.
Form Number: 8824.
Type of Review: Resubmission.
Title: Like-Kind Exchanges.
Description: Form 8824 is used by individuals, corporations, partnerships, and other entities to report the exchange of business or investment property, and the deferral of gains from such transactions under section 1031. It is also used to report the deferral of gain under section 1043 by members of the executive branch of the Federal government.
Respondents: Individuals or households, Businesses or other for-profit.
Estimated Number of Respondents: 200,000.
Estimated Burden Hours Per Response/Recordkeeping:
Recordkeeping, 37 minutes
Learning about the law or the form, 22 minutes
Preparing the form, 54 minutes
Copying, assembling, and sending the form to IRS, 17 minutes
Frequency of Response: Annually.
Estimated Total Recordkeeping/Reporting Burden: 321,892 hours.
Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,
Departmental Reports Management Officer.
[FR Doc. 90-25369 Filed 10-25-90; 8:45 am]
BILLING CODE 4830-01-M

[Delegation Order No. 218 (Rev. 2)]

Internal Revenue Service

Delegation of Authority; Austin Compliance Center

AGENCY: Internal Revenue Service.
ACTION: Delegation of authority.

SUMMARY: Delegation Order No. 218 has been revoked since specific delegations have been provided for the Austin Compliance Center in various delegation orders.

EFFECTIVE DATE: May 21, 1990.

FOR FURTHER INFORMATION CONTACT: Melva Scruggs, P:P:O:D, Room 3139, 1111 Constitution Ave., NW., Washington, DC 20224, Telephone: (202) 566-4273 (not a toll-free telephone number).

Order No. 218 (Rev. 2) [Revoked]

Effective Date: May 21, 1990.

Dated: May 21, 1990.
Approved:
Charles H. Brennan,
Deputy Commissioner (Operations).

Note: This document was received by the Office of the Federal Register on October 22, 1990.

[FR Doc. 90-25290 Filed 10-25-90; 8:45 am]
BILLING CODE 4830-01-M

Office of Thrift Supervision

Heritage Federal Savings Bank; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for

Heritage Federal Savings Bank, Richmond, Virginia on October 19, 1990.

Dated: October 22, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-25372 Filed 10-25-90; 8:45 am]

BILLING CODE 6720-01-M

Fortune Financial Federal Savings and Loan Association; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Fortune Financial Federal Savings and Loan Association, Copperas Cove, Texas, with the Resolution Trust Corporation as sole Receiver for the Association on October 19, 1990.

Dated: October 22, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-25370 Filed 10-25-90; 8:45 am]

BILLING CODE 6720-01-M

Office of Thrift Supervision Gold Coast Savings Bank; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(C) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Gold Coast Savings Bank, Plantation, Florida on October 19, 1990.

Dated: October 22, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-25371 Filed 10-25-90; 8:45 am]

BILLING CODE 6720-01-M

Heritage Savings Bank, F.S.B.; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(A) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Heritage Savings Bank, F.S.B., Richmond, Virginia, OTS No. 7198, on October 19, 1990.

Dated: October 22, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-25373 Filed 10-25-90; 8:45 am]

BILLING CODE 6720-01-M

Uvalde Federal Savings and Loan Association; Replacement of Conservator with a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owner's Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Uvalde Federal Savings and Loan Association, Uvalde, Texas, Docket No. 8733, with the Resolution Trust Corporation as sole Receiver for the Association on October 19, 1990.

Dated: October 22, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-25374 Filed 10-25-90; 8:45 am]

BILLING CODE 6720-01-M

[AC-90; OTS No. 05312]

Founders Federal Savings and Loan Association, Williamsport, Pennsylvania; Final Action; Approval of Conversion Application

Notice is hereby given that on October 16, 1990, the Office of the Chief Counsel, Office of the Thrift Supervision, acting pursuant to delegated authority, approved the application of Founders Federal Savings and Loan Association, Williamsport, Pennsylvania, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and District Director, Office of Thrift Supervision of Pittsburgh, One Riverfront Center, Twenty Stanwick Street Pittsburgh, Pennsylvania 15222.

Dated: October 19, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-25375 Filed 10-25-90; 8:45 am]

BILLING CODE 6720-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-60]

Section 302 Investigation: Canada's Restrictive Practices Affecting the Importation of Beer

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of request for comment on issues included in investigation under section 302 of the Trade Act of 1974, as amended ("the Trade Act").

SUMMARY: On September 14, 1990, the Stroh Brewery Company ("Stroh") filed a petition pursuant to section 302 of the Trade Act regarding Canada's restrictive practices affecting imports of beer. The allegations raised by Stroh in its petition are already being considered by the United States Trade Representative (USTR) in an investigation initiated by USTR under section 302 of the Trade Act on June 29, 1990 (Docket No. 301-60), in response to a petition filed by G. Heileman Brewing Company, Inc. ("Heileman"). Therefore, rather than initiate a separate investigation, the USTR will investigate the matters raised in the Stroh petition in the course of its investigation in Docket No. 301-60, and USTR requests public comment on the matters raised in the Stroh petition.

DATES: Written comments from interested persons are due by 12 noon on November 26, 1990.

ADDRESSES: Comments must be addressed to: Chairman, Section 301 Committee, Office of the United States Trade Representative, room 223, 600 17th St., NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Ellen Terpstra, Advisor to the Assistant U.S. Trade Representative for Agriculture, (202) 395-5006, or Andrew Shoyer, Assistant General Counsel, (202) 395-7203.

SUPPLEMENTARY INFORMATION: On September 14, 1990, the Stroh Brewery Company ("Stroh") filed a petition pursuant to section 302 of the Trade Act regarding Canadian practices affecting imports of beer. In particular, Stroh asserts that discriminatory mark-ups and restrictions on distribution of beer within the Canadian province of Ontario violate the General Agreement on

Tariffs and Trade (GATT) and the U.S.-Canada Free-Trade Agreement. Stroh alleges that the Canadian practices are therefore unjustifiable, unreasonable and discriminatory, and constitute a burden or restriction on U.S. commerce. Stroh requests that the USTR take appropriate action under section 301 of the Trade Act.

On June 29, 1990, pursuant to section 302(a) of the Trade Act, the USTR initiated an investigation with respect to Canadian practices referred to in a petition filed on May 15, 1990 by Heileman. In its petition, Heileman referred to the same pricing and distribution practices within the province of Ontario as alleged by Stroh in its petition. Accordingly, the practices referred to by Stroh in its petition are already the subject of an investigation under section 302 of the Trade Act and will be fully considered and addressed in the context of that investigation.

For these reasons, the USTR has determined not to initiate a separate investigation under section 302 of the Trade Act with respect to the petition filed by Stroh on September 14, 1990, and Stroh concurs in this decision. The Stroh petition has been included in the docket (Docket No. 301–80) that has been established for the investigation initiated on June 29, 1990 with respect to the petition filed by Heileman, and all factual information contained in the Stroh petition has been made part of the official record. Copies of the public version of the Stroh petition are available for public inspection at the USTR Reading room, room 101, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC. An appointment to review the docket may be made by calling Brenda Webb, (202) 395–6186. The USTR Reading room is open to the public from 10 a.m. to 12 noon and from 1 p.m. to 4 p.m., Monday to Friday.

PUBLIC COMMENT: Interested persons are invited to submit written comments on the issues raised in the Stroh petition. Comments must be filed in accordance with the requirements set forth in 15 CFR 2006.8(b) and are due by noon on November 26, 1990. Comments must be in English and provided in twenty copies to: Chairman, Section 301 Committee, room 223, USTR, 600 17th Street, NW., Washington, DC 20506.

Comments will be placed in Docket 301–80, open to public inspection pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15. [Confidential business information submitted in accordance with 15 CFR 2006.15 must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page on each of 20 copies, and must be accompanied by a nonconfidential summary of the confidential information. The nonconfidential summary shall be placed in the Docket which is open to public inspection.)

A. Jane Bradley,

Chairman, Section 301 Committee.

[FR Doc. 90-25406 Filed 10-25-90; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF VETERANS AFFAIRS

Prosthetics Services Advisory Committee; Establishment

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended by Pub. L. 94–409) and Office of Management and Budget Circular A–63, as revised, and after consultation with the General Services Administration, the Secretary, VA (Department of Veterans Affairs), has determined that establishment of the Prosthetics Services Advisory Committee is necessary and in the public interest in connection with the performance of duties imposed on VA by law.

This Committee has been established to review and address the prosthetics programs within VA to include how the Department can best improve program accountability, quality, and timeliness of services; allocate resources; promote equity of access; expand the use of national contracts for prosthetic items and services; consolidate purchasing power; standardize requirements; and define the national mission of the Prosthetics Research and Development Center (PRDC) currently located in Baltimore, Maryland.

The Committee shall submit a report to the Secretary on its findings and recommendations on the above mentioned issues. Thereafter, the Committee shall submit annually a report to the Secretary on the status of prosthetic services and associated rehabilitation research and development programs within VA, with special emphasis on program effectiveness, information dissemination, sufficiency of resources; adequacy of the testing and evaluation of new rehabilitation technology available commercially or from VA research; and suggested priority areas for future VA funded research.

Members of the Committee will be selected from among individuals with expertise in fields such as Audiology and Speech Pathology, Blind Rehabilitation, Orthopedics, Orthotics, Prosthetics, Recreation Therapy, Rehabilitation Medicine, and Spinal Cord Injury. Membership will include disabled veteran users of VA prosthetic services and representation from veteran service organizations with a prominent interest in the field of prosthetics.

Comments of interested persons concerning the establishment of the Prosthetics Services Committee may be submitted to Margaret J. Giannini, M.D., Deputy Assistant Chief Medical Director for Rehabilitation & Prosthetics (141D), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington DC 20420, (202) 233–5177.

Dated: October 12, 1990.

By direction of the Secretary.

Sylvia Chavez Long,

Committee Management Officer.

[FR Doc. 90-25285 Filed 10-25-90; 8:45 am]

BILLING CODE 8320-01-M

Summary of Legal Interpretation of the General Counsel—Precedent Opinion 74–90; Discontinuance of Apportionment Due to Divorce

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—(1) Does title 38, United States Code, support the general rule set forth in 38 CFR 3.500(d), that an apportionment of benefits is to be discontinued the date of last payment when the reason for the apportionment no longer exists? (2) If the general rule provided by 38 CFR 3.500(d) is sustainable, does it govern discontinuance of an apportionment as to the apportionee in the event of divorce? (3) If an apportionment may be discontinued retroactively, is the apportionee or the veteran the "indebted beneficiary" within the meaning of 38 U.S.C. 3101(b)?

EFFECTIVE DATE: July 10, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233–2159.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel. (This opinion, previously issued as General Counsel Opinion 10–87, dated May 19, 1987, is reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text of the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.)

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 74–90, Discontinuance of Apportionment Due to Divorce, requested by Chairman, Board of Veterans Appeals, is as follows:

Held

(1) Section 3.500(d)(1) of title 38, CFR, is supported by statutory authority, i.e., 38 U.S.C. 210(c)(1), 3012, and 3107(a).

(2) "Date of last payment" found in §3.500(d) refers to DLP as of the time the reason for the apportionment ceases to exist.

(3) Section 3.500(d) does not apply to discontinuance of apportionment due to divorce; rather, § 3.501(d) applies in such cases.

(4) Section 3101(b) of title 38, U.S.C., does not shift the label "debtor" from the apportionee to the primary beneficiary, or vice versa. The primary beneficiary is responsible to refund the overpayments that the primary beneficiary has received, and the apportionee is responsible to refund benefit overpayments that the apportionee has received.

(5) Section 3101(b) supplements the common law so as to permit collection by offset against benefits due the primary beneficiary of a debt occasioned by overpayment to the apportionee on the same account.

(6) The Agency is at liberty to first assert a claim against the apportionee and resort to offset against the benefits due the primary beneficiary on the same account only if efforts to collect from the apportionee prove unsuccessful.

Dated: August 27, 1990.

Raoul L. Carroll,

General Counsel.

[FR Doc. 90–25339 Filed 10–25–90; 8:45 am]

BILLING CODE 8320-01-M

Summary of Legal Interpretation of the General Counsel-Precedent Opinion 57–90; Congenital/Developmental Conditions under 38 CFR 3.303(c)

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—whether an hereditary disease under 38 CFR 3.303(c) always rebuts the presumption of soundness found in 38 U.S.C. 311 and 332.

EFFECTIVE DATE: July 18, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–2159.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel. (This opinion, previously issued as General Counsel Opinion 8–88, dated September 29, 1988, is reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text of the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.).

Va publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 57–90, Congenital/Developmental Conditions under 38 CFR 3.303(c), requested by Chairman, Board of Veterans Appeals, is as follows:

Held: An hereditary disease under 38 CFR 3.303(c) does not always rebut the presumption of soundness found in 38 U.S.C. 311 and 332. Service connection may be granted for hereditary diseases which either first manifest themselves during service or which preexist service and progress at an abnormally high rate during service.

Dated: August 27, 1990.

Raoul L. Carroll,

General Counsel.

[FR Doc. 90–25352 Filed 10–25–90; 8:45 am]

BILLING CODE 8320-01-M

Summary of Legal Interpretation of the General Counsel-Precedent Opinion 70–90; Countability for Improved Pension Purposes of Interest Accrued on Retirement Annuity Accounts

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives,

BEST COPY AVAILABLE

with notice of VA's interpretation regarding the legal matter at issue—Whether interest accrued on an Individual Retirement Annuity owned by a deceased veteran's surviving spouse, who is in receipt of death pension under the improved pension program, is countable as income for pension purposes, and, if so, when and to what extent.

EFFECTIVE DATE: July 18, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-2150.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel. (This opinion, previously issued as General Counsel Opinion 3-88, dated June 14, 1988, is reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.507. The text of the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.)

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 70-90, Countability for Improved Pension Purposes of Interest Accrued on Retirement Annuity Accounts, requested by Chairman, Board of Veterans Appeals, is as follows:

Held: As it appears that the interest credited to the claimant's annuity accounts cannot currently be obtained without substantial penalty, such interest should not be counted at this time as income for purposes of determining the claimant's entitlement to improved pension. This does not prevent the counting of such interest as income at some future date when it may be considered as having actually been received by the claimant. Further, annuity contracts may be considered under the net-worth factors listed in 38 CFR 3.275(d) in determining whether it is reasonable that some portion of the claimant's estate should be consumed for the claimant's maintenance.

Dated: August 27, 1990.

Raoul L. Carroll,

General Counsel.

[FR Doc. 90-25355 Filed 10-25-90; 8:45 am]

BILLING CODE 8320-01-M

Summary of Legal Interpretation of the General Counsel Precedent Opinion 69-90; Application of Change in Law during Pendency of Appeal

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—Did the Board of Veterans Appeals exceed its authority by rendering a decision based upon criteria superceded by 38 CFR 3.311b, which was adopted during the pendency of the appeal, and, if so, should the Board be required to reconsider such a decision, presumably with application of the new regulations?

EFFECTIVE DATE: July 18, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-2150.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel. (This opinion, previously issued as General Counsel Opinion 4-88, dated June 14, 1988, is reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.507. The text of the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.)

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 69-90, Application of Change in Law during Pendency of Appeal, requested by Chief, Benefits Director, is as follows:

Held: The criteria set forth in 38 CFR 3.311b are proper for application to any decision entered by the Board of Veterans Appeals after adoption of the new regulation, notwithstanding that the appeal may have been pending before the regulation became effective. The Board may be requested to reconsider any decision based on criteria superceded by 38 CFR 3.311b, but any decision to do so is at the discretion of the Board.

Dated: August 27, 1990.

Raoul L. Carroll,

General Counsel.

[FR Doc. 90-25354 Filed 10-25-90; 8:45 am]

BILLING CODE 8320-01-M

Summary of Legal Interpretation of the General Counsel-Precedent Opinion 75-90; Entitlement to Service-Connected Benefits Where Disability or Death Is Compensable Under 38 U.S.C. 310 "As If" Service-Connected

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public,

and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—Whether entitlement to compensation under 38 U.S.C. 360 will serve to provide entitlement to the following ancillary benefits: a. Dependency and indemnity compensation under 38 U.S.C. 410(b); b. Specially adapted housing and special home adaptation grant under 38 U.S.C. 801; c. Dependents educational assistance under 38 U.S.C. 801, chapt. 35; and d. Special allowance under 38 U.S.C. 412.

EFFECTIVE DATE: July 18, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–2150.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel. (This, opinion, previously issued as General Counsel Opinion 9–87, dated October 21, 1987, is reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text of the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.)

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 75–90, Entitlement to Service-Connected Benefits Where Disability or Death Is Compensable Under 38 U.S.C. 360 "As If" Service-Connected, requested by Chief Benefits Director, is as follows:

Held: In summary, 38 U.S.C. 360 entitlement will provide eligibility to section 410(b) DIC, if the other requirements are met. Section 360 entitlement will not supply eligibility to specially adapted housing under section 801, dependents educational assistance under chapter 35, or the special Social Security allowance under section 412(a).

Dated: August 27, 1990.

Raoul L. Carroll,

General Counsel.

[FR Doc. 90–25360 Filed 10–25–90; 8:45 am]

BILLING CODE 8320-01-M

Summary of Legal Interpretation of the General Counsel—Precedent Opinion 68–90; Applicability of 38 U.S.C. 410(b) Where Total Disability May Have Preceded Effective Date of Total Disability Rating

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—(1) Whether the previously adjudicated effective date of a total service-connected disability rating assigned by the originating agency is final, for purposes of entitlement to benefits under section 410(b), absent clear and unmistakable error, or whether 38 CFR 19.196 mandates a *de novo* review by the Board of Veterans Appeals; and (2) Whether, if it were determined from a medical standpoint that an unemployed veteran was totally disabled for a continuous period of 10 or more years immediately preceding his death, a date of claim less than 10 years before date of death and more than 1 year after the date it is factually ascertainable that total disability has occurred, would permit an award of section 410(b) benefits.

EFFECTIVE DATE: July 18, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233–2150.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel. (This, opinion, previously issued as General Counsel Opinion 7–88, dated September 22, 1988, is reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text of the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.)

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 68–90, Applicability of 38 U.S.C. 410(b) Where Total Disability May Have Preceded Effective Date of Total Disability Rating, requested by Chairman, Board of Veterans Appeals, is as follows:

Held: In summary, it is held that:

(1) The effective date of a total service-connected disability rating assigned by the originating agency is final (subject to timely appeal), for purposes of entitlement of a veteran's survivors to benefits under 38 U.S.C. 410(b), in the absence of clear and unmistakable error; and

(2) Where a claim for total service-connected disability rating was filed more than one year after the onset of total disability and granted effective on the date of claim, the death of the veteran less than ten years after such effective date precludes entitlement to section 410(b) benefits, absent clear and unmistakable error in the assignment of that effective date.

Dated: August 27, 1990.

Raoul L. Carroll,

General Counsel.

[FR Doc. 90–25353 Filed 10–25–90; 8:45 am]

BILLING CODE 8320-01-M

Summary of Legal Interpretation of the General Counsel-Precedent Opinion 71-90; Treatment of Tribal Per Capita Payments for Improved Pension Purposes

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—Whether tribal per capita payments or dividends, received by a veteran, should be considered income for improved pension purposes.

EFFECTIVE DATE: July 18, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Ferris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-2159.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel. (This, opinion, previously issued as General Counsel Opinion 2-88, dated March 1, 1988, is reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text of the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.)

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 71-90, Treatment of Tribal Per Capita Payments for Improved Pension Purposes, requested by Chief Benefits Director, is as follows:

Held: Congress' purpose in enacting Public Law No. 98-64 and 97-458 was clearly that per capita distributions within the terms of those statutes are not to be counted in determining income or resources in any Federal or federally assisted program, except where such payments exceed $2,000. Accordingly, if the veteran has received per capita distributions of funds held in trust by the Secretary of the Interior for an Indian tribe and not otherwise excludable from income under section 503(a) of title 38, such distributions, not exceeding $2,000 are excludable from income for improved pension purposes pursuant to Public Law No. 98-64.

Dated: August 27, 1990.

Raoul L. Carroll,
General Counsel.

[FR Doc. 90-25156 Filed 10-25-90; 8:45 am]
BILLING CODE 8320-01-M

Summary of Legal Interpretation of the General Counsel-Precedent Opinion 72-90; Trust Property, Countable Income and Net Worth

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—(1) Are the trust assets at issue in this case which are being held for the benefit of the veteran countable as income in determining the veteran's entitlement to improved pension? (2) If so, at what point? (3) Are these trust assets countable in the veteran's estate for purposes of the $2,500 limitation provisions of 38 U.S.C. 3203(b)(1)(A)? (4) Is the trustee of the estate a fiduciary within the meaning of 38 CFR 3.557(c)(1)(iv)?

EFFECTIVE DATE: July 18, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Ferris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-2159.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulations or superseding written legal opinion of the General Counsel. (This opinion, previously issued as General Counsel Opinion 1-88, dated February 10, 1988, is reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text of the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.)

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 72-90, Trust Property, Countable Income and Net Worth, requested by Chairman, Board of Veterans Appeals, is as follows:

Held

(1) For purposes of the income and net worth limitations applied under 38 U.S.C. 503, 521, 522 to determinations of eligibility for improved pension, and for purposes of the $1,500 estate limitation provisions imposed by 38 U.S.C. 3203(b)(1)(A), the property held in a discretionary trust, and income therefrom, is not countable until it is actually allocated for the claimant's use, unless the claimant possesses such control over the property that the claimant may direct it to be used for the claimant's benefit.* [* For the same reasons, the principles enunciated above apply to determinations of eligibility of

surviving spouses and children to improved death pension.]

(2) The term "fiduciary" in 38 CFR 3.557(c)(1)(iv) refers to a person or entity recognized as such for the payment of VA-benefit funds.

Dated: August 27, 1990.

Raoul L. Carroll,

General Counsel.

[FR Doc. 90-25357 Filed 10-25-90; 8:45 am]

BILLING CODE 8320-01-M

Summary of Legal Interpretation of the General Counsel-Precedent Opinion 73-90; Scope of 38 U.S.C. 360 in Relation to 38 U.S.C. 351

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—Whether the provisions of 38 U.S.C. 360 are applicable where a veteran's loss of use of an extremity is compensable under 38 U.S.C. 351 and loss of use of the other paired extremity is neither service-connected nor quasi-service-connected under section 351.

EFFECTIVE DATE: July 18, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-2150.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel. (This, opinion, previously issued as General Counsel Opinion 11-87, dated October 2, 1987, is released as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.507. The text of the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.)

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 73-90, Scope of 38 U.S.C. in Relation to 38 U.S.C. 351, requested by Chief Benefits Director, is as follows:

Held

Section 351 eligibility confers entitlement to disability compensation provided under section 360, if eligibility otherwise exists.

Dated: August 27, 1990.

Raoul L. Carroll,

General Counsel.

[FR Doc. 90-25358 Filed 10-25-90; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 208
Friday, October 26, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL MARITIME COMMISSION

TIME AND DATE: 10:00 a.m., October 31, 1990.

PLACE: Hearing Room One, 1100 L Street, N.W., Washington, D.C. 20573-0001.

STATUS:

A portion of the meeting will be open to the public.

A portion of the meeting will be closed to the public.

MATTER(S) TO BE CONSIDERED:

Portion Open to the Public

Docket No. 90-06 *Notice of Inquiry—Marine Terminal Operator Regulations*—Consideration of Comments.

Portion Closed to the Public

1. Maritime Restrictions in Foreign Trades—Korea.
2. Trans-Atlantic Enforcement Initiative.
3. Trans-Pacific Malpractice Program.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Secretary, (202) 523-5725.

Joseph C. Polking,
Secretary.

[FR Doc. 90-25585 Filed 10-24-90; 3:35 pm]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, October 31, 1990.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be voted on without discussion unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposed 1991 Private Sector Adjustment Factor for Federal Reserve priced services.
2. Proposed national Automated Clearing House (ACH) net settlement service.

Discussion Agenda

3. Publication for comment of a proposed amendment to Regulation Y (Bank Holding Companies and Change in Bank Control) regarding appraisal standards for Federally related transactions.
4. Proposals regarding the Federal Reserve System's seasonal credit program.
5. Proposed 1991 Fee Schedules for Federal Reserve priced services.
6. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to:

Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: October 24, 1990.

William W. Wiles,
Secretary of the Board.

[FR Doc. 90-25503 Filed 10-24-90; 12:04 pm]
BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: Approximately 11:30 a.m., Wednesday, October 31, 1990, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 24, 1990.

William W. Wiles,
Secretary of the Board.

[FR Doc. 90-25504 Filed 10-24-90; 12:04 pm]
BILLING CODE 6210-01-M

POSTAL SERVICE BOARD OF GOVERNORS

Notice of a Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 C.F.R. Section 7.5) and the Government in the Sunshine Act (5 U.S.C. Section 552b), hereby gives notice that it intends to hold a meeting at 1:00 p.m. on Monday, November 5, 1990, and at 8:30 a.m. on Tuesday, November 6, 1990, in Washington, DC. The November 5 meeting, at which the Board will discuss possible strategies in collective bargaining negotiations, is closed to the public (See 55 F.R. 40894, October 5, 1990). The November 6 meeting is open to the public and will be held on the Benjamin Franklin Room at Postal Service Headquarters, 475 L'Enfant Plaza, SW. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268-4800.

AGENDA

Monday Session

November 5—1:00 p.m. (Closed)

1. Status Report on Collective Bargaining Negotiations. (David H. Charters, Senior Assistant Postmaster General, Human Resources Group, and Joseph J. Mahon, Jr., Assistant Postmaster General, Labor Relations Department)

Tuesday Session

November 6—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, October 1-2, 1990.
2. Remarks of the Postmaster General. (Anthony M. Frank)
3. Report on Technology Resource Department. (Karen T. Uemoto, Assistant Postmaster General, Technology Resource Department)
4. Capital Investments:
   a. Boston, Massachusetts, Northwest Center Mail Processing Facility. (Stanley W. Smith, Assistant Postmaster General, Facilities Department; and Thomas K. Ranft, Boston Field Division General Manager/Postmaster)
   b. Washington, D.C., National Postal History and Philatelic Museum. (Mr. Smith and Gordon C. Morison, Assistant

Postmaster General, Philatelic and Retail Services Department)

5. Quarterly Report on Service Performance. (Ann McK. Robinson, Consumer Advocate)

6. Tentative Agenda for December 3–4, 1990, meeting in New Orleans, Louisiana.

David P. Harris,

Secretary.

[FR Doc. 90-25486 Filed 10-24-90; 10:27 am]

BILLING CODE 7710-12-M

Corrections

Federal Register
Vol. 55, No. 206
Friday, October 26, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Public Meeting

Correction

In notice document 90-24257 appearing on page 41740 in the issue of Monday, October 15, 1990, make the following correction:

On page 41740, in the second column, in the file line at the end of the document, the FR document number should read "90-24257".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP90-122-004, RP88-191-024, and RP85-178-071]

Tennessee Gas Pipeline Co.; Tariff Filing

Correction

In notice document 90-24536 beginning on page 42256 in the issue of Thursday, October 18, 1990, make the following correction:

On page 42256, in the third column, the docket numbers should read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 90N-0195]

RIN 0905-AD06

Food Labeling; Serving Sizes; Correction

Correction

In proposed rule document 90-23742 beginning on page 41106 in the issue of Tuesday, October 9, 1990, make the following corrections:

On page 41106, in the third column, in the paragraph numbered 1, the last three lines should have appeared in larger print; and in the third line from the bottom of that paragraph, the symbol "$>$" should read "$\geq$".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 90P-0271]

Eggnog Deviating From Identity Standard; Temporary Permit for Market Testing

Correction

In notice document 90-24411 appearing on page 42071 in the issue of Wednesday, October 17, 1990, make the following correction:

On page 42071, in the third column, in the first full paragraph, in the third line "1948" should read "946".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committees; Meetings

Correction

In notice document 90-24560 beginning on page 42071 in the issue of Wednesday, October 17, 1990, make the following corrections:

1. On page 42073, in the first column, in the fifth paragraph, in the second line "Council" should read "Counsel".

2. On the same page, in the second column, in the first full paragraph, in the fourth line "FDCA" should read "FACA".

BILLING CODE 1505-01-D

INTERSTATE COMMERCE COMMISSION

Intent to Engage in Compensated Intercorporate Hauling Operations

Correction

In notice document 90-24100 appearing on page 41606 in the issue of Friday, October 12, 1990, make the following correction:

On page 41606, in the first column, in the third paragraph, in the second line insert "operations, and State of operations:" after "the" and before "P.C".

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 7, 18, 57, and 75

RIN 1219-AA57

Electric Cables, Signaling Cables and Cable Splice Kits

Correction

In proposed rule document 90-23106 beginning on page 40124 in the issue of Monday, October 1, 1990, make the following corrections:

1. On page 40124, in the second column, in the third full paragraph, in the second line, "and" should read "any".

2. On page 40126, in the 3rd column, in the first full paragraph, in the 13th line, "Assembly" should read "assembly".

3. On page 40127, in the second column, in the first full paragraph, in the eighth line, "instruction" should read "instrument".

4. On page 40130, in the third column, in the table, under the heading "New section", in the fifth entry, "*" should be deleted.

§ 7.406 [Corrected]

5. On page 40132, in the second column, in § 7.406, in paragraph (a), in the second line, "measuring" was misspelled.

§ 7.407 [Corrected]

6. On the same page, in the third column, in § 7.407, in paragraph (a)(2), in the third line, "7010" should read "70±10".

BILLING CODE 1505-01-D

DEPARTMENT OF VETERANS AFFAIRS

Summary of Legal Interpretation of the General Counsel-Precedent Opinion 8-90, VA Disposition of Residential Real Property Owned by Other Federal Agencies or Related Entities

Correction

In notice document 90-15129 beginning on page 26809 in the issue of Friday, June 29, 1990, in the second column, in the subject heading, the opinion number should have read as set forth above.

BILLING CODE 1505-01-D

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federal register

Friday
October 26, 1990

Part II

Department of Transportation

Federal Highway Administration

Final Orders in Motor Carrier Safety Enforcement Cases; Notice

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Final Orders in Motor Carrier Safety Enforcement Cases

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of final orders.

SUMMARY: This document gives notice of the Final Orders served from March 26, 1990, through the present time concerning motor carrier and hazardous materials proceedings conducted pursuant to 49 CFR part 386. The Orders include both those issued by the Associate Administrator and those issued by Administrative Law Judges and adopted by the Associate Administrator.

FOR FURTHER INFORMATION CONTACT: Mr. David C. Oliver, Motor Carrier and Highway Safety Law Division (202) 366–1356; or Mr. Michael J. Laska, Legislation and Regulations Division (202) 366–1383, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 pm., e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: The following Final Orders are being published:

Name	Docket No.
Texas Highway Transport, Inc.	R6-89-37
Autotrans, Inc.	R1-90-10
Propane Transportation Corp.	R1-90-09
RAJ Chemicals, Inc., of Virginia	R3-90-056
Browning Services, Inc.	R3-90-06
Woodbury Horse Transportation, Inc. (Administrative Law Judge Order).	R1-88-1
Yankee Trails, Inc. (Administrative Law Judge Order).	R1-89-07
Ronald William Dayes	R5-88-132
Alamo Distributing Service, Inc.	R6-89-09
R. Brown & Sons, Inc.	R9-89-06
David Salinas	R6-89-20
Wisconsin Protein Carriers, Inc.	R5-90-07
Edgar J. Anderson	R6-90-225
Ramsorth of Tennessee, Inc.	86-TN-031-5A
Tonawanda Tank Transport Service, Inc.	R1-86-130
Corey Brothers, Inc.	R3-90-05
Drotzmann, Inc. (Administrative Law Judge Order).	R10-89-11
Schaffner Mfg. & Sales Corp.	R1-90-060
D & N Bus Service, Inc.	R3-90-107
Johnny D. Bacnet 88-030	
A. Weinfeld & Sons, Inc.	R3-90-032
D & D Transportation Co., Inc.	R1-89-276
Abbey Metal Corp.	R1-90-014
Rig Runner Express, Inc.	R6-89-11
Alamo Distributing Service, Inc.	R6-89-63
Uncle Bo's Equipment Co.	R6-89-15
James David Caver dba, J.D. Caver & Co.	R6-89-32
Aaron McGruder Trucking, Inc.	R6-89-56
Chaparral Van Lines	R6-89-55
Plating Products Co., Inc.	R1-90-008
Drotzmann, Inc.	R10-89-11
Service Bus Co., Inc.	R1-89-052
Bower Tiling Service, Inc.	R5-89-88
Charles M. Cephas, Inc.	R3-89-090
Warehouse Imports, trading as Continental Imports, Inc.	R3-89-091
Arthur Shelley Inc.	R3-89-034
Chemical Commodities, Inc.	R7-88-02
A. Weinfeld & Sons, Inc.	R3-89-032
Arizona Freight Systems, Inc.	R9-89-052
J. L. McCoy, Inc.	R3-88-089
Wilmington Tank Lines, Inc.	R3-89-105
Carter's Bus Service, Inc.	R3-89-109
Trinity Transportation, Inc.	R9-89-091
Horizon Transportation, Inc.	R3-89-114
John T. Lesnak	R3-88-083
A. T. Pinto, Inc.	R3-89-088
American Bulk Transport Co., Inc.	R7-89-06
Channel Solvents and Chemicals, Inc.	R6-88-41
Williams Bus Excursions	R3-88-015
Medi-Call Ambulance Services, Inc.	R3-89-092
Vend-Rite Service Corp.	R3-89-050
M & T Trucking Service, Inc., V.I. Gas, Inc., Challenger's Trucking, Inc.	Consolidated Docket No. 89-41
White's Bus Rental, Inc.	R3-89-039
Stenger Gas Corp.	R3-89-105
Stanford & Inge, Inc.	R3-89-211
Industrial Nuclear Co. United States Testing Co., Inc.	R9-89-002
Strong Trucking (Ashbell & Mary Strong, d/b/a).	R3-88-081
Krug Trucking Co. (Michael Krug, d/b/a).	R3-89-125
Action Metal Co., Inc.	R1-88-244
J. R. Christoni	R1-89-2223
Calgon Corporation	R3-86-171
Wonder Chemical Company	R3-89-073
Leroy Randolph	R3-89-089
John Steven Johnson	R3-89-058
Williams Bus Excursions	R3-88-015
Hunter Oil Co., Inc.	R3-88-089
E. L. Lawson Trucking, Inc.	R1-89-015
A. T. Pinto	R3-89-088
Rent-A-Steelz	89-195
C & W Enterprises	R3-89-084
Onnie O. Hadow	R6-89-35
Service Bus Co., Inc. (Administrative Law Judge Order).	R1-89-85

Issued on: October 15, 1990.

T.D. Larson,

Administrator.

In the Matter of Autotrans, Inc.

[Docket No. R1–90–10 (Formerly R1–89–199)]

Order Appointing Administrative Law Judge

This matter comes before me upon request of the Respondent for an administrative hearing to contest the alleged violations charged in a Notice of Claim dated June 26, 1990. The Notice alleged 25 violations of 49 CFR 395.8, failing to retain supporting documents with records of duty status for a period of 6 months, and 6 violations of 49 CFR 396.3, failing to keep minimum records of inspection and maintenance. The Regional Director, Office of Motor Carrier Safety, Region 1, does not raise any objection to the request.

Respondent contends that with respect to the 25 violations of § 395.8, the records have been retained, were made available to the inspectors and remain available. With respect to the 6 violations of § 396.3 respondent contends that records are retained, were made available and remain available.

Therefore, it is hereby ordered, That Respondent's request for a hearing is granted. In accordance with 49 CFR 386.54(a), I hereby appoint an Administrative Law Judge to be designated by the Chief Administrative Law Judge of the Department of Transportation, as the Presiding Judge in this matter. The Judge appointed is authorized to perform those duties specified in 49 CFR 386.54(b).

Dated: September 1, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Propane Transportation Corp.

[Docket No. R1–90–09 (Formerly R1–90–143)]

Order Appointing Administrative Law Judge

This matter comes before me upon request of the Respondent for an administrative hearing and a denial of alleged violations of the Hazardous Materials Transportation Act and regulations issued thereunder.

The Regional Director, Office of Motor Carrier Safety, Region 1, does not oppose the request for a hearing. The Regional Director, by Notice of Claim letter dated June 18, 1990 alleged 20 violations of the regulations, specifically requiring or permitting a driver to make false entries upon a record of duty status while transporting a hazardous material.

For the most part, Respondent's denial is in broad general terms. It is difficult to determine the precise nature of the denial without a full record before me. However, it has been settled, and accepted by this Agency that responsibility cannot be escaped if it can be shown that Respondent had the means to detect the alleged violation, see *Riss & Co.* v. *U.S.*, 262 F.2d 245, 250 (5th Cir., 1958) and *U.S.* v. *Time-DC, Inc.*, 361 F. Supp. 730, 739 (W.D. Va., 1974).

I will appoint an Administrative Law Judge to ascertain (1) whether there are false entries upon the records of duty status, as alleged, and (2) whether Respondent had the means to detect and eliminate such violations.

Therefore, it is ordered, That Respondent's request for a hearing is granted. In accordance with 49 CFR 386.54(a), I hereby appoint an Administrative Law Judge to be designated by the Chief Administrative Law Judge of the Department of

Transportation, as the Presiding Judge in this matter. The Judge appointed is authorized to perform those duties specified in 49 CFR 386.54(b).

Dated: September 11, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the matter of RAJ Chemicals, Inc. of Virginia

[Docket. No. R3-90-055]

Final Order

This matter comes before me upon request of the Respondent for a hearing and Motion in opposition thereto and Motion for a Final Order filed by the Regional Director, Office of Motor Carrier Safety, Region 3. On December 14, 1989, the Regional Director sent the Respondent a Notice of Claim alleging 6 violations of the Hazardous Materials Regulations. The specific violation involved the offer of a shipment of hazardous materials for transportation in commerce that was not properly classed, described, packaged, marked, labeled and in condition for shipment, in violation of 49 CFR 171.2(a), (49 CFR 173.22(a).

Respondent denies the alleged violations and contends that its agent, an independent contractor, was the shipper and had sole and total control over the shipments in question. Respondent also questions the validity of the complaint and contends that it did not "knowingly" violate any regulation.

The Regional Director correctly points out that all three of Respondent's arguments are legal, not factual in nature. Respondent offers a Terminal Throughput Agreement to support its contentions. The terms of the Agreement facially support the Regional Director. Any dispute as to the applicability of its provisions is a matter to be resolved between RAJ and First Energy Corporation, not by an Administrative Law Judge in an administrative forum.

Likewise, Respondent's second and third supporting arguments for a hearing are not factual. In fact, argument number 2 is misplaced and not relevant to this proceeding. Argument number 3 appears to invoke a layman's understanding of the term "knowingly". Substantial case law exists on which basis this contention could be disposed, even were it properly before me.

Therefore, it is ordered, That Respondent's request for a hearing is denied as it fails to properly raise material factual issues in dispute. The Regional Director's Motion for a Final Order is supported by the record before me and it is granted. Respondent shall pay to the Regional Director the sum of $9,000 within 30 days of the date of this Order.

Dated: September 11, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the matter of Browning Services, Inc.

[Docket. No. R3-90-08 (Formerly R3-90-211)]

Order Appointing Administrative Law Judge

This matter comes before me upon request of Respondent for an administrative hearing and opposition thereto filed by the Regional Director, Office of Motor Carrier Safety, Region 3 (hereafter referred to as Petitioner).

On July 18, 1990, Respondent was sent a Notice of Claim and Notice of Abatement. Therein it was alleged that Respondent was in violation of the Financial Responsibility portions of the Federal Motor Carrier Safety Regulations (FMCSRs) by virtue of its operation in interstate commerce without the requisite levels of insurance.

Respondent operates tow trucks. On occasion, Respondent admittedly tows vehicles across state lines. Respondent contends that the act of towing is legally distinguishable from transporting in interstate commerce subject to the provisions of the FMCSRs.

Petitioner contends that the act of providing towing services for remuneration is covered by the regulations when interstate travel is involved.

Petitioner argues that Respondent's contentions are legal and that there are no material factual issues involved. Therefore, Petitioner contends the request for a hearing must be denied. Respondent apparently concedes that its objections are primarily legal. Nevertheless, Respondent requests a hearing and attempts to differentiate between the acts of towing for remuneration and transportation for hire.

Ordinarily, such arguments are law school balderdash. The government of the United States has no time to enter into semantic metaphysics, particularly where the lives and well-being of its citizens are placed in limbo. The government does acknowledge, on the other hand, that all its citizens are important to it. Much is written and spoken today about the onerous requirements of government regulations on individuals, small businesses and even large entities. We all feel aggrieved at one time or another.

It must be understood that Congress enacts laws. The Executive Branch implements those laws. At times there is wide discretion in implementing the law, at times there is no discretion. The financial responsibility requirements are laid out in statute. It is not for us to say that $500,000 is enough coverage; it is not for Respondent to say $500,000 is enough coverage. Congress has spoken.

It does not advance the cause of safety for Respondent and Petitioner to carry on in petulant disagreement over the applicability of the law. Respondent should note that the maximum penalty for this alleged violation is $10,000 per violation. Respondent cannot operate for very long in the face of such fines.

At the same time, Petitioner has been admonished in the past about the need to exercise discretion in fostering compliance with this requirement and others when dealing with small operations, some of which have little familiarity with these regulations.

Respondent seeks a definitive interpretation of his inclusion under these regulations. If Respondent chooses to argue his point in a Court of law, he may withdraw his request for a hearing and I will grant a Final Order upon which he may proceed with a legal action. I feel strongly this will only delay the inevitable.

I am therefore assigning an Administrative Law Judge to hear Respondent's arguments on the differentiation between towing for remuneration and transportation for hire. I am doing so in the face of longstanding interpretations which efface any distinction in the hope that a decision by an Administrative Law Judge will constitute sufficient authority for Respondent to comply. Normally, I would even consider a reduction of the penalty in such a case where a positive attitude towards compliance is evident. In this matter, Respondent's shows absolutely no willingness to comply without formal edict. Accordingly, the Judge appointed is to consider the factual nature of Respondent's argument only. I will entertain no recommendation for reduction of this penalty in the event that the Judge finds Respondent is covered by the regulation.

Therefore, it is ordered, That Respondent's request for a hearing is granted and Petitioner's request for a Final Order is denied. In accordance with 49 CFR 386.54(a), I hereby appoint an Administrative Law Judge to be designated by the Chief Administrative Law Judge of the Department of Transportation, as the Presiding Judge in this matter. The Judge appointed is authorized to perform those duties specified in 49 CFR 386.54(b). The Judge may make factual determinations or recommend conclusions of law.

however, the amount of the penalty is beyond the scope of this proceeding.

Date: September 6, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Woodbury Horse Transportation, Inc.

[FHWA Docket No. R1–88–1 (Motor Carrier Safety)]

Order of Administrative Law Judge Served September 4, 1990; Errata

Served September 5, 1990

		Reads	Should read
Page 5.....	Line 23	1990	1989
Page 30.....	Line 20	October 26	October 29

Dated: September 5, 1990.

Ronnie A. Yoder,

Administrative Law Judge.

In the Matter of Woodbury Horse Transportation, Inc.

[FHWA Docket No. R1–88–1 (Motor Carrier Safety)]

Order of Administrative Law Judge

This proceeding arises from a Notice of Claim dated April 7, 1988, alleging violations of the Federal Motor Carrier Safety Regulations (49 CFR parts 350–399) and Woodbury Horse Transportation's request for hearing. The undersigned administrative law judge was assigned to the proceeding by Notice dated December 6, 1988, pursuant to the order of the Associate Administrator for Motor Carriers dated December 1, 1988, and the request of the Assistant Chief Counsel for Motor Carrier and Highway Safety Law dated December 5, 1988.

On May 16, 1989, the Regional Director moved for summary judgment on the ground that Respondent failed to respond to a request for admissions served February 17, 1989, that pursuant to 49 CFR 386.44(a)(2) those requests were thereby deemed admitted, that Respondent failed to comply with the Regional Director's request for interrogatories and production of documents or the Judge's order dated April 28, 1989, directing the filing of such answers and documents, and that the answers filed were not attested as required by the FHWA Rules (49 CFR 386.42(b)) and the Federal Rules of Civil Procedure.

Respondent filed no answer to the Regional Director's motion within the seven-day period permitted by the Rules.[1] Respondent did belatedly on May 8, 1989, file answers to interrogatories and to the request for admissions. That filing did not attempt to provide good cause for Respondent's failure to file an answer to the request for admissions within the time prescribed by the Rules.

Those Rules provide that each request for admission is deemed admitted unless a written answer is filed within 15 days after service (49 CFR 386.44(a)(2)) and that "any matter admitted is conclusively established" unless the judge permits withdrawal or amendment (49 CFR 386.44(b)). Respondent made no effort to justify the failure to make a timely response or to seek relief from that failure. Accordingly, as indicated by the Rules the admissions requested encompassing the allegations of violation were deemed to be conclusively established.[2]

On the basis of Respondent's admissions and failure to comply with the discovery requests and the Judge's Order and to answer the subject motion, we concluded that summary judgment should be entered against Respondent.

The Notice of Claim dated April 7, 1988, alleged six violations of 49 CFR 395.3(a), which involved requiring or permitting drivers to drive more than 10 hours, and four violations of 49 CFR 395.3(b), which involved requiring or permitting drivers to drive after having been on duty more than 70 hours in eight consecutive days. The facts established by the request for admissions, which are deemed admitted and conclusively established under the FHWA Rules, substantially established the violations and Respondent's liability. Admissions one (1) through twenty-three (23) show that Respondent's drivers exceeded the hours of service requirements as set forth in the Notice of Claim and thus violated 49 CFR 395.3(a) and 49 CFR 395.3(b).

Respondent also ignored the initial request for production of documents including current drivers' daily logs. The documents were sought by Regional Counsel to establish a continuous and current pattern of noncompliance and show that any disciplinary program of the Respondent, if one exists, is mere "lip service." Respondent's failure to submit the documents raises an inference that violations would be established if the requested documents were produced.

Respondent's answer dated August 18, 1988, p. 3, asserted affirmatively that the violations do not warrant a fine of $1,000 per violation (*i.e.* a total of $10,000 as requested in the complaint) in view of Respondent's "past history, which does not, in any way, indicate a pattern of serious safety violations, and its financial status, which can be described as hardship, at best." Respondent, however, waived its opportunity to present those defenses by its failure to comply with the Regional Counsel's production requests and the Judge's Order directed to those issues.

Accordingly, we concluded that summary judgment in favor of the Regional Director could and should be entered,[3] and summary judgment was entered against Respondent Woodbury Horse in the amount of $10,000.

Upon review by the Associate Administrator for Motor Carriers this proceeding was remanded to the Judge (Order dated September 25, 1989) to

> review the facts and arguments surrounding the decision to find that the Respondent did not comply procedurally with the rules on the request for Admissions and Interrogatories, and more importantly to provide a complete review over the circumstances surrounding the failure to respond to the Motion for the Summary Judgment.

That remand order further stated that

> Should the Judge determine that his original findings are correct and that Respondent did, in fact, receive and have ample opportunity to reply to the Motion for Summary Judgment, I would welcome his recommendation on possible disciplinary action.

Thereafter, by Order dated October 23, 1989, the Judge scheduled a prehearing conference for December 5, 1989, and directed each party to file a statement by November 9, 1989, setting forth in separately numbered paragraphing each fact and conclusion of law alleged by each party and directed each party to answer by

[1] 49 CFR 386.35(c). By letter dated June 1, 1989, a secretary in the law firm representing Respondent asked for a copy of the summary judgment motion and a ten-day period in which to answer that motion. That letter indicated that the attorneys for Respondent had been aware of the motion since at least May 24, 1989. They nevertheless filed no answer, no request for a copy of the motion, and no motion for extension of time. The secretary's letter did not state that the motion was not served or received, did not purport to show good cause for the extension, for failure to file an answer or comply with the Judge's prior Order, or to emanate from the attorneys or be authorized or directed by them. Moreover, even if authorized by or submitted on behalf of the attorneys, we do not consider such a letter from an attorney's secretary to the Judge received after the time to answer had expired and at least twelve days after the motion for summary judgment was known to be pending to be an appropriate or timely request for an extension of time, to be an appropriate pleading in appropriate form, or to show good cause for relief.

[2] See Order dated June 13, 1989, pp. 2–4.

[3] See Order dated June 13, 1989, pp. 6–8.

November 24, 1989, admitting or denying or otherwise pleading with respect to each alleged fact and proposed conclusion of law. Both parties filed the statements required by November 6, 1989, and the Regional Director filed a timely answer. Respondent failed to file a timely answer by November 24, 1989, as directed by the Judge's order.

On November 30, 1989, at 3:21 p.m., Kenneth Piken sent to the Judge and the Regional Director a telefax copy of an "Answer" bearing a November 24, 1989, date and an affidavit of service dated as of November 24, 1989, enclosed in an envelope which was meter stamped November 24, 1989, but bore a cancellation stamp dated November 30, 1989. That document was received by telefax on November 30, 1989, after the Judge was notified by Mr. Piken's office at 10:10 a.m. on that date that no such answer was in their file (PHC Tr. 12). Since a filing is not complete until received,[4] even under the most generous reading of that document and the circumstances surrounding its filing, it was not filed on time.[5] Moreover, the circumstances of its filing raise serious questions concerning the accuracy of the affidavit of service. By letter dated November 29, 1989, the Regional Director requested that sanctions be imposed against Respondent for its failure to file a timely answer and that the Regional Director's allegations of fact and conclusions of law be deemed admitted. No response to that request was ever filed.

The substance of Respondent's belated "Answer" contained numerous inaccurate and improper pleadings as acknowledged at the prehearing conference on December 5, 1989. See *infra* and PHC Tr. 20, 26, 27 (denial of para. 2 changed to "Admits") 28, 29, 30 (denial of paras. 4 and 5 changed to "Admits"), 32 (denial of para. 9 changed to "Admits"), 36 (denial of para. 11 changed to "Admits"). Mr. Piken did not appear at that prehearing conference, raising serious difficulties in attempting to obtain explanations for the positions taken by the Piken firm on behalf of Woodbury Horse or itself (PHC Tr. 21–23).

Woodbury Horse and the Piken firm were represented at the prehearing conference by Robert B. Walker of Sims, Walker & Steinfeld. At that time Mr. Walker was cautioned about the risk of criminal prosecution for false statements and perjury (PHC Tr. 7–8, 56), references to the bar for disciplinary action (PHC Tr. 56), and conflict of interest (PHC Tr. 35, 55, 57) inherent in these proceedings.

At the prehearing conference the issues on remand were established, and the fact issues framed by the parties' previous pleadings were substantially narrowed by admissions of counsel for Woodbury Horse that pleadings previously served by Piken & Piken were incorrect. Each of the following allegations of the Regional Director was admitted in Respondent's response or at the prehearing conference:

1. Regional Counsel filed interrogatories, requests for admissions, and requests for production of documents on February 17, 1989.[6]

2. Respondent failed to respond to the request for admissions within 15 days of service.

3. On March 20, 1989 a notice of deemed admissions was filed and served by Regional Counsel.[7]

4. Respondent failed to reply to the interrogatories within 30 days of service thereof.

5. Respondent failed to respond to the Notice to Produce within 30 days of service thereof.

6. Regional Counsel filed and served a motion to compel a response to the request for production of documents and to the interrogatories on March 28, 1989.[8]

7. The Respondent failed to reply to the motion to compel.

8. On April 26, 1989, the Judge issued an order compelling a response within 15 days to the interrogatories and request for production of documents only. The Judge further determined that the requests for admissions were deemed admitted pursuant to 48 CFR 386.44.

9. On May 11, 1989, Respondent filed and served a response to the interrogatories which was neither sworn nor signed by the person answering.

10. 49 CFR 386.42(b) requires responses to interrogatories to be signed and sworn to by the person answering.

11. Respondent failed to respond to the Notice to Produce in direct violation of the Judge's order of April 26, 1989.[9]

12. Respondent submitted a response to the request for admissions in violation of the Judge's order of April 26.[10]

13. The Piken firm has offered no explanation as to its failure to respond to the request for admissions within the prescribed time period, despite many opportunities to do so.

14. The Piken firm has offered no explanation for its total failure to respond to the notice to produce despite many opportunities to do so.

15. Regional Counsel filed a motion for summary judgment on May 18 which was served on respondent by certified mail.[11]

16. An employee of the Piken firm conveyed a letter dated June 1, 1989, to the Judge requesting an additional 10-day period to respond to the motion and requesting a copy of the motion.

18. The June 1 letter was not served in accordance with the Rules of Practice, 49 CFR part 386.

20. In a letter dated June 30, 1989, Attorney Kenneth Piken asserted that the letter was not authorized and therefore the secretary, acting without authority, was not bound by the canons of ethics.

21. In Respondent's petition for review dated July 20, 1989, the Piken firm asserted that the letter of June 30 was expressly authorized by Kenneth Piken.

Respondent denied allegations 16, 17 and 22:

16. A certified mail receipt shows receipt (of Regional Counsel's motion for summary judgment) by an agent of the Piken law firm on May 18 (Sandra F).

17. The signature of Sandra F matches her signature on other documents.

22. The assertions by the Piken firm as to the authorization of the June 30 letter are in

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[4] 49 CFR 386.2. Five days are added to the due date when documents are mailed, as filing was required by November 29, 1989. No request to late file was ever made, and no effort was made to show good cause for the failure to file.

[5] The filing was due on November 29, 1989, and a fax copy was received by the Docket on November 30, 1989. A hard copy of the filing was not received until December 4, 1989.

[6] Respondent confirmed at the prehearing conference that its initial assertion of lack of knowledge and information related only to the date of filing, which does not present a triable issue of material fact. The docket shows that the document was served on February 17 and filed on February 22, 1989.

[7] Respondent confirmed at the prehearing conference that its initial assertion of lack of knowledge and information related only to the date of filing, which does not present a triable issue of material fact. The docket shows that the document was served on March 20, 1989, and filed between March 20 and March 21, 1989. (The actual filing date is not stamped on the document.)

[8] Respondent confirmed at the prehearing conference that its initial assertion of lack of knowledge and information related only to the date of filing, which does not present a triable issue of material fact. The docket shows that the document was served on March 29 and filed on March 31, 1989.

[9] Respondent confirmed at the prehearing conference that he would accept the Regional Director's assertion that no production occurred. PHC Tr. 34.

[10] Respondent confirmed at the prehearing conference that it only questioned whether its filing of the response violated the Judge's Order of April 26 deeming the requests admitted. PHC Tr. 36–37.

[11] Respondent confirmed at the prehearing conference that its initial assertion of lack of knowledge and information related only to the date of filing, which does not present a triable issue of material fact. The docket shows that the document was served on May 16 and filed on May 22, 1989.

direct contradiction and represent a falsehood presented to the Judge and Associate Administrator.[12]

Thus the primary fact issue to be determined on remand related to the certified mail receipt allegedly signed by an agent of the Piken firm, Sandra F. A further issue was identified at the prehearing conference relating to the circumstances of the service and filing of Respondent's answer dated November 24, 1989.

Respondent never filed any explanation of its failure to timely file its answer to the filing of the Regional Director and never sought relief from its failure to timely file. Under normal circumstances a single failure to timely file might not warrant the entry of default. In this case, however, where there is a history of failure to comply with the Rules of the FHWA and orders of the Judge, where the case is before the Judge on remand to consider the entry of summary judgment for such past failures and to consider sanctions against counsel, where the belated filing shows a lack of professional responsibility and care in the substance of its submission, and the circumstances of its transmittal raise serious questions about the truthfulness of the accompanying affidavit of service, where Respondent's counsel failed to appear at the prehearing conference scheduled, *inter alia*, to discuss these questions, and where Respondent made no effort to show good cause for the late filing or to request that it be received, we conclude that the filing should not be received, that the pleadings on the Regional Director's Proposed Statements of Fact and Conclusions of Law as amended at the prehearing conference should be taken as admitted, and that summary judgment should be entered against Woodbury Horse on the pleadings.

If Respondent's answer were accepted for filing we would nonetheless enter summary judgment against Respondent because of its failure to file complete or verified answers to the Regional Director's Interrogatories on Remand served January 5, 1990, and its subsequent failure to file a timely answer to the Regional Director's motion for summary judgment on remand served February 22, 1990.

At the prehearing conference when the question of conflict of interest between Respondent and its counsel was raised, the Judge directed that "counsel for Woodbury Horse, specifically Mr. Walker and Mr. Piken" provide the Judge a communication "with respect to the representation of Woodbury Horse and/or Mr. Piken in this proceeding," on or before January 19, 1990. Thereafter, Mr. Walker, by letter to the Judge dated December 22, 1989, stated that:

> Woodbury Horse Transportation, Inc. is seeking new counsel to represent it in any further proceedings. At the present time, Piken & Piken will represent itself. A decision has not been made as to whether Piken and Piken will seek representation by other counsel, but if a decision to do so is made, that fact will promptly be communicated to Your Honor.

No further communication on this subject was received prior to January 19, 1990, the date specified in the Judge's order, and Piken & Piken in fact continued thereafter to represent Respondent.

On January 23, 1990, Piken & Piken served "Respondent's Proposed Procedural Schedule on Remand" as "Attorneys for Respondent;" and on January 30, 1990, Piken & Piken served "Response to Regional Director's First Set of Interrogatories and Notice to Produce upon Demand," which had been served January 5, 1990. That response was timely filed by Piken & Piken as "Attorneys for Respondent" but was not verified as required by the FHWA rules, despite the fact that the verification requirement had been set forth in the January 5 interrogatories and had been specifically addressed at the prehearing conference as a defect in its filing prior to the earlier summary judgment and remand.[13] That defect in Respondent's response was subsequently pointed out in the Regional Director's motion for summary Judgment on remand, but Respondent never sought to explain, excuse, or correct that deficiency. Since those interrogatories related to the central factual issues in dispute and Respondent failed to file responses under oath as required by the rules, that failure likewise warrants the entry of summary Judgment against Respondent on those issues. Moreover, the response, apart from being unsworn, was largely unresponsive, or established admissions against interest contrary to prior submissions in this proceeding.

At the prehearing conference counsel for Respondent stated that Respondent was not asserting that counsel for the Regional Director had created a fraudulent postal receipt. Moreover, in response to the Regional Director's interrogatories, Respondent through Piken & Piken stated that it did not know whether the signature on the postal receipt was that of Sandra Ferrarotti or whose signature it was (Interrogatory No. 6), did not know whether the receipt was fraudulent, and had no evidence or proof that the document was falsified (Interrogatory No. 7).

Absent such a contention or proof that the postal receipt was false or incorrect, the presumption of validity of such a receipt would establish service of the summary Judgment motion,[14] particularly where the signature of Sandra F. was apparently the same as that of Sandra Ferrarotti,[15] an employee of Piken & Piken; where her affidavit failed to deny receipt of the motion or to deny that the signature was hers; where Piken & Piken acknowledged on remand that no records of such deliveries were kept—contrary to its prior submission in the proceeding; and where that firm has in this proceeding established a record of failing to meet procedural dates. Accordingly, Respondent's submissions create no substantial issue for trial on the issue of service of the original summary judgment motion.[16]

The affidavit of Sandra Ferrarotti dated August 7, 1989, submitted by Kenneth Piken with his own affirmation dated August 3, 1989, in support of its petition for review stated that "all legal correspondence entering this office is duly recorded and office records show no certified mailing from Mr. Dymond was received on May 19, 1989." [17]

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[12] The Respondent also asserted in its statement of issues that sanctions should be imposed against counsel for the Regional Director, but Respondent has furnished no substantive support for that suggestion.

[13] The earlier summary judgment order did not rely on the verification requirement, because it was not cited in the Regional Director's motion; but the requirement was cited by the Regional Director in his brief in opposition to Respondent's petition for review (p. 2, n. 2), was discussed at the prehearing conference (PHC Tr. 30-32), and was specifically cited in the interrogatories which noted that "pursuant to 49 CFR 386.31 you are hereby required to answer the following interrogatories in writing and under oath within thirty (30) days from service hereof."

[14] See *Schultz* v. *Jordan*, 141 U.S. 213 (1981); *Beck* v. *Somerset Technologies*, 882 F.2d 993, 996 (5th Cir. 1989); *Hollis* v. *Bowen*, 832 F.2d 605 (5th Cir. 1987).

[15] Respondent at the prehearing conference admitted that the signature "bears a resemblance to the signature of Sandra Ferrarotti." PHC Tr. 44.

[16] Respondent asserted in its statement of issues that an affidavit of Jose Sprauve, Branch Supervisor, U.S. Postal Service, Rego Park, New York, showed that that office had no record of the certified letter in question being received by that office and that all certified mail deliveries to Piken & Piken are delivered by that office. That affidavit does not rebut or impugn the presumptive validity of the postal receipt, since the affidavit does not state that the letter was not received or delivered by the Postal Service or by that branch office, but only that the branch office had no record of such receipt or delivery.

[17] That affirmation, which states that Mr. Piken was duly sworn but is not notarized, was sent by letter dated August 3, 1989, with an unsigned

Continued

Moreover, the Respondent's statement of allegations and contentions dated November 3, 1989, stated that "meticulous office records" showed no receipt of the motion:

> 6. Sandra Ferrarotti, the secretary who allegedly accepted the certified mailing, has sworn that she is often not yet at work when the mail is delivered, she consistently signs her full name to mailings received and that meticulous office records do not show any mailing received from Regional Counsel on the day in question.[10]

Nevertheless, the response to interrogatories served January 30, 1990, stated that no such system for recording mail, and no such records, existed. Interrogatory No. 2 said: "State the procedure used by the Piken firm in recording the receipt of incoming correspondence and other types of mail." Piken & Piken replied:

> No system is utilized for recording the receipt of incoming correspondence other than whoever happens to be present when the mail arrives by postal carrier, receives the mail, signs for any certification, the mail is then transmitted to a partner of the firm, who opens all mail, date stamps the receipt of same and distributes.

Interrogatory No. 9 asked:

> State which office records respondent is referring to when it cites "meticulous office records" in paragraph 6, Part II Motion for Summary Judgment, in respondent's Statements of Fact and Conclusions of Law, dated November 3, 1989.

Piken & Piken responded: "All office records."

Notice to Produce No. 1 asked for "Logs for the receipt of certified mail and first class mail for May 19, 1989 for the firm of Piken & Piken," and that firm responded:

> No logs for receipt of certified or first class mail are kept by the law firm, however, periodic checks, when the need arises, are made with the United States Postal Service.

These submissions appear to directly conflict with the previous affidavit of Sandra Ferrarotti submitted by Piken & Piken in support of their petition for review.

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certificate of service attesting to service on August 3, 1989, and enclosed Ms. Ferrarotti's affidavit notarized four days later on August 7, 1989.

[10] Her affidavit stated that "I have no recollection of signing for or receiving the correspondence from Mr. Kenneth Dymond, known as a Motion for Summary Judgment," "that I often am not present when the mail is delivered," and that "when I do sign for certified mail, I consistently sign my full name to the receipt," as well as the assertion quoted above that "all legal correspondence entering this office is duly recorded and office records show no certified mailing from Mr. Dymond was received on May 19, 1989." Affidavit dated August 7, 1989, paras. 2, 3, 4, 5. The affidavit did not mention "meticulous office records."

On February 22, 1990, the Regional Director moved for an order granting summary judgment on remand pursuant to 49 CFR 386.35, reaffirming the previous grant of summary judgment, finding that Respondent's counsel has acted in violation of standards of conduct for attorneys in FHWA proceedings, and imposing sanctions or issuing an order to show cause with respect to such imposition after a hearing on such sanctions. As grounds for that motion the Regional Director asserted a "pattern of neglect and contemptuous conduct," (p. 1) including:

1. Failure to respond to the request for admissions within the period specified by the rules of practice.
2. Failure to respond to interrogatories and a notice to produce.
3. Filing a response to request for admissions without a request for leave to late file, or a showing of good cause for failure to timely file, and after an order of the Judge recognizing the requests were deemed admitted pursuant to the FHWA's rules.
4. Failure to respond to the Judge's order to produce.
5. Failure to submit sworn answers to interrogatories as required by the FHWA's rules.
6. Failure to answer the motion for summary judgment.
7. Causing an *ex parte* communication to the Judge, requesting a copy of that motion and requesting an extension of time to answer the motion.
8. Submitting conflicting and disingenuous representations to the Judge, first that the *ex parte* submission was authorized and subsequently that it was not.
9. Failing to file a timely answer to the issues on remand as required by the Judge's order.
10. Filing and serving an untruthful affidavit of service with respect to that pleading.
11. Failing to file sworn responses to interrogatories on remand.
12. Filing responses which reflected a lack of candor and outright deceit, and which were intended to delay these proceedings.

In addition, the Regional Director asserted that Respondent had proffered no contention or evidence to rebut the presumption of service arising from the signed receipt and that sanctions against Piken & Piken and Kenneth Piken are within the power of the FHWA and within the scope of this proceeding following a hearing, which that motion suggested should be held prior to the imposition of sanctions. As noted above, we agree with the Regional Director's contention concerning the presumption of service, and accordingly we conclude that that summary judgment should be entered on that basis.

No answer to that motion was filed by March 6, 1990, the due date under FHWA rules. By letter dated March 7, 1990, Piken & Piken, sought to obtain an extension of time for "their client" Woodbury Horse, while at the same time asserting that they no longer represented Woodbury Horse. Thereafter, Robert A. O'Rourke, an attorney with the firm of Piken & Piken filed an affidavit dated March 23, 1990, seeking similar relief. By Order dated March 28, 1990, the Judge denied the request of Piken & Piken noting that while they were still counsel of record for Woodbury Horse, they asserted a conflict with their client, and that respondent should have an opportunity to make one further submission to address the status of its representation, its failure to answer the motion for summary judgment, and any appropriate response to that motion:

> Woodbury Horse apparently had notice of the motion for summary judgment no later than February 28, 1990. Piken & Piken immediately told Woodbury Horse; and contrary to counsel's assertions they still are counsel of record for Woodbury. They have not filed a motion to withdrew or to substitute counsel. Indeed on January 30, 1990, Piken & Piken filed on behalf of Woodbury Horse a "Response to Regional Director's First Set of Interrogatories and Notice to Produce Upon Remand." Moreover, Piken & Piken's letter states that if an extension to April 30 was not granted, Piken & Piken will file a response on behalf of Woodbury Horse by March 23, 1990. By affidavit dated March 23, 1990, that date is amended to April 6, 1990.
>
> None of these requests are appropriate. Piken & Piken is still counsel of record for Woodbury Horse. Counsel did not respond to the motion for summary judgment or seek an extension within the time prescribed by the rules, *i.e. 7 days (49 CFR 386.35(c)), plus 5 days for service by mail (49 CFR 386.32(c)(3)), to wit March 6, 1990. Moreover, such a request for extension must be in the form of a motion (49 CFR 386.35(a)), not a letter or affidavit as in counsel's submission dated March 23, 1990. Counsel notes that the firm has a conflict with its client, that it no longer represents the client, but nevertheless repeatedly refers to Woodbury Horse as its client, seeks an extension of its behalf, and proposes to file an answer to the motion for summary judgment on its clients' behalf if the extension to April 30 is not granted.*
>
> We will not grant the requested extensions. Counsel has not officially withdrawn its representation of Woodbury Horse; but it has stated that it no longer represents Woodbury Horse in this proceeding and has acknowledged that it had a conflict with Woodbury Horse. Given these submissions by Piken & Piken we cannot treat that firm as appropriate counsel of record for Woodbury

Horse or authorize its filing of a response on Woodbury Horse's behalf. Woodbury Horse has had at least three months to obtain other counsel and has not done so. Woodbury Horse had notice of the procedural posture of the case and the need for new counsel and has failed to obtain counsel, to file a response to the summary judgment motion, or to file a timely or appropriate request for extension of time. Nevertheless, we will afford Woodbury Horse an opportunity to make one further submission in this matter on or before April 20, 1990. That submission should address the status of its representation, its failure to answer the motion for summary judgment, and any appropriate response to that motion.

By letter dated April 24, 1990, Arthur Piken wrote the Judge on behalf of Piken & Piken stating "please deem this letter to be formal advice that this office will not represent the interests of any former client," Woodbury Horse, and that:

> A motion will be filed by express mail on Friday, April 27th, for formal request to be relieved. The reason for the letter is that the litigation partner in this firm, Kenneth Piken, is currently engaged in a trial in the United States District Court [and] the motion for being relieved as counsel of record will be made when Kenneth Piken, the attorney of record in this proceeding concludes his trial.

No such motion was ever filed.

The Piken letter also stated that he had advised his client of the April 30 deadline in a letter which could not be provided to the Judge because of the attorney-client privilege. That letter also stated that Sims, Walker & Steinfeld would not be retained by Woodbury Horse.

By letter dated April 24, 1990, Ronald G. Vercesi, President of Woodbury Horse, stated that he had relied on his attorney to ensure that this matter was "properly handled." That letter did not otherwise attempt to explain the failure to file a response to the motion for summary judgment or address the substance of that motion. Rather he stated that he had incurred legal fees of $8,000, that his attorneys had advised that they could no longer represent him, that he was sorry for the violations, that they would not recur, that a $10,000 fine would "immensely hurt" the company, and that he asked for "mercy" and "leniency" to "give our company a chance to continue to exist." Accordingly, summary judgment can and should be entered on the basis of Respondent's failure to answer the motion for summary judgment on remand, and the amount of that judgment should be amended to reflect the agreement of the parties in the proffered settlement.

Mr. Vercesi's letter enclosed a letter from Arthur Piken to Mr. Vercesi, dated April 5, 1990, which stated that that firm could not continue to represent Woodbury Horse, recommended other counsel, and stated *inter alia* that:

> 1. The appeal was successful and the appeal level remanded the case back to the same Judge, unfortunately.
>
> 2. At this point, it is now apparent that the Judge is very much against our firm, inasmuch as his mind has been poisoned by the Regional Counsel.
>
> 3. This [prehearing] conference turned out to be a total "snow-job" and turned into a session whereby Bob Walker of Sims, Walker & Steinfeld spent virtually an entire day [the conference was held between 10:00 a.m. and 12:05 p.m.] listening [to] Regional Counsel agreeing with the Judge, and the Judge agreeing with Regional Counsel why their firm should not be "sanctioned."
>
> 4. The Regional Director/Counsel filed a new Motion for Summary Judgment [February 28, 1990]. We immediately wrote to the Regional Director for an extension so that you could obtain suitable replacement counsel * * *. [As noted above, Piken & Piken wrote a letter to the Judge dated March 7, 1990, after the time to reply had expired.]
>
> 5. We immediately filed a motion for extension of time [no motion was filed], and we currently have until *April 30, 1990* in which to answer this latest motion for Summary Judgment. [No extension was granted, though Woodbury Horse, not Piken & Piken, was granted leave to make one additional submission.] [Emphasis in original.]
>
> 6. I enclose the latest Order of the Administrative Law Judge. As you can readily see, this is a complete and utter set-up.

Since these letters were not filed or served, the Judge sent a copy of each to each party and the docket; and since the Piken & Piken letter seriously misrepresented the events and status of the proceeding, the Judge sent a copy of each order in the proceeding and the prehearing conference transcript to Mr. Vercesi on May 3, 1990.

By letter dated March 12, 1990, the Regional Director requested that Piken & Piken be made a party to this proceeding. By order dated March 26, 1990, we declined to make Piken & Piken a party to the proceeding at that time, since that firm continued as counsel of record, and it had not responded to the Regional Director's request, which was not filed as a motion under the rules. That Order noted that we would reconsider that question if it were resubmitted in an appropriate form following April 30, 1990.

By motion dated May 3, 1990, the Regional Director asked to add Kenneth and Arthur Piken as parties to the proceeding. As grounds for that motion, the Regional Director incorporated the grounds for sanctions stated in the motion for summary judgment on remand and noted the authority of the Judge "to take any action and make all needful rules and regulations to govern the conduct of the proceedings (49 CFR 386.54) and the terms of Associate Administrator's remand order that:

> Should the Judge determine that his original findings are correct and that Respondent did, in fact, receive and have ample opportunity to reply to the Motion for Summary Judgment, I would welcome his recommendation on possible disciplinary action.

Kenneth and Arthur Piken filed an answer dated May 23, 1990,[19] asserting that the remand order "clearly indicated that Administrative Law Judge, the Honorable Ronnie Yoder, is free to explore this possibility" ["specific relief against Kenneth and Arthur Piken as to why sanctions should not be imposed"] "at such time as is ascertained by the Judge presiding in this matter that the original motion for summary judgment was, in fact, served upon this office in a proper and timely fashion." Since no such determination had been made at that time, the Pikens suggested that all matters should be "held in abeyance as it relates to this firm." The Pikens also asserted that their presence as parties in the case would pressure Woodbury Horse to settle the proceeding and that one of the cases cited by the Regional Director, *Zola* v. *ICC*, 869 F2d 506 (3d Cir. 1989), did not support sanctions against an attorney. No objection was made to the pendency of the sanction question or the FHWA's jurisdiction in that regard, or to the power of the Judge to add the Pikens as parties under 49 CFR 386.54 and the remand order. Moreover, in view of the conclusion reached above that service is presumptively established by the postal receipt and the lack of any rebuttal of that presumption, and the entry of summary judgment on that issue, we conclude that the Pikens have asserted no valid or timely objection to their addition as parties to this proceeding concurrently with the entry of summary judgment against, and effectuation of the settlement with, Respondent.

By letter dated May 23, 1990, the Regional Director stated that settlement discussions were being initiated directly with Mr. Vercesi. That letter also noted that the Piken letter "seriously misrepresents the facts and fails to detail the allegations against him pertaining to neglect of the matter and submitting false documents," and renewed the request that the Pikens be

[19] That answer was served 20 days after the motion, *i.e.* eight days after the answer was due under FHWA rules, without a request for leave to late file and without any attempt to show good cause for such late filing. 49 CFR 386.36(c), 386.32(c)(3).

added as parties to this proceeding and that sanctions be imposed.

By letter dated July 23, 1990, the Regional Director forwarded an Order and Stipulation of Compromise and Settlement purporting to "settle and compromise this action . . . upon the terms stated herein," including the payment of a $7,000 fine, an undertaking to take remedial measures to avoid the conditions that led to the Administrator's claim, including an adequate safety training course for drivers, use of those drivers to transport cargo, and close monitoring of drivers' logs to insure compliance with federal safety regulations. That letter purported to moot the prior motion for summary judgment with respect to Respondent and to continue that motion with respect to the Pikens. The letter submitted an order for the Judge dismissing the claim against Respondent "in accordance with the terms of the settlement agreement" and retaining jurisdiction over the matter and the parties to resolve the issue of disciplinary action against the Pikens.

While we will effectuate the intent of the settlement we cannot approve that settlement and order in the form submitted, insofar as they reflect no adjudication of the questions presented in the FHWA claim. Such a resolution following the lengthy proceedings to date would be an unconscionable waste of governmental resources.[20]

Nor can the parties enter such a settlement without the Judge's concurrence. A party may withdraw his/her pleading only on approval of the administrative law judge or Associate Administrator. 49 CFR 386.52. Moreover, it is clear that settlement must be approved by the judge, unless a settlement and consent order are submitted directly to the Associate Administrator under 49 CFR 386.21—which was not done here and should not be done where an administrative law judge has been assigned to the proceeding.[21]

While the Pikens have questioned the applicability of the *Zola* case to this proceeding, they have never denied the jurisdiction of the FHWA to impose disciplinary sanctions or the judge to consider such sanctions. Moreover, we tentatively conclude that the imposition of such sanctions is within the authority of the FHWA [22] and that consideration of such sanctions is within the mandate of the Judge in this proceeding.[23]

The record in this proceeding raises the question of multiple violations of the ABA Standards of Professional Responsibility, including the New York Code of Professional Responsibility, which is the jurisdiction in which counsel are admitted to practice. Including to the items specified in the Regional Director's motion for summary judgment on remand, *supra*, pp. 15–16, at least the following derelictions of the indicated disciplinary rules ("DR") of the Model Code of Professional Responsibility (see appendix B) are raised by the record in this proceeding:

1. Failure to respond to the request for admission within the period specified by the rules of practice. DR 1–102(A)(1)(5)(6), DR 6–101(A)(2)(3), DR 7–106(A)(C).

2. Failure to respond to interrogatories and a notice to produce. DR 1–102(A)(1)(5)(6), DR 7–106(A)(C).

3. Filing a response to request for admissions without a request for leave to late file, or a showing of good cause for failure to timely file, and after an order of the Judge recognizing the requests were deemed admitted pursuant to the FHWA's rules. DR 1–102(A)(1)(5)(6), DR 6–101(A)(2)(3), DR 7–106(A)(C).

4. Failure to respond to the Judge's order to produce. DR 1–102(A)(1)(5)(6), DR 6–101(A)(2)(3), DR 7–106(A)(C).

5. Failure to submit sworn answers to interrogatories as required by the FHWA's rules. DR 1–102(A)(1)(5)(6), DR 6–101(A)(2)(3), DR 7–106(A)(C).

6. Failure to answer the motion for summary judgment resulting in entry of default judgment. DR 1–102(A)(1)(5)(6), DR 6–101(A)(2)(3), DR 7–106(A)(C).

7. Causing an *ex parte* communication to the Judge, requesting a copy of that motion and requesting an extension of time to answer the motion causing a nonlawyer to act as a lawyer in seeking an extension of time in an administrative proceeding. DR 3–101(A), DR 7–110(B).

8. Submitting conflicting and disingenuous representations to the Judge, first that the *ex parte* submission was authorized and subsequently that it was not. DR 1–102(A)(1)(5)(6), DR 6–101(A)(2)(3), DR 7–106(C).

9. Submitting a false affidavit concerning the maintenance of office records at Piken & Piken with respect to the receipt of legal correspondence including certified mail. DR 1–102(A)(4), DR 7–102(A)(2)–(6).

10. Submitting a false, unsigned affidavit of service together with that affidavit. DR 1–102(A)(4), DR 7–102(A)(2)–(6).

11. Failure to file a timely answer to the issues on remand as required by the Judge's order resulting in a default judgment. DR 1–102(A)(1)(5)(6), DR 6–101(A)(2)(3), DR 7–106(A)(C).

12. Filing and serving an untruthful affidavit of service with respect to that pleading. DR 1–102(A) (4), DR 7 102(A)(2)–(6).

13. Failure to file sworn responses to interrogatories on remand. DR 1–102(A)(1)(5)(6), DR 6–101(A)(2)(3), DR 7–106(A)(C).

14. Filing responses which reflected a lack of candor or deceit, and which were intended to delay these proceedings. DR 1–102(A)(1)(5)(6), DR 6–101(A)(2)(3), DR 7–106(C).

15. Failure to answer the motion for summary judgment in remand resulting in a second summary judgment. DR 1–

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[20] See *Tourist Enterprises Corporation* "ORBIS", Docket 27914, Notice to All Parties dated July 19, 1977, Recommended Decision dated September 22, 1977, pp. 6–8, 11–12, *aff'd*, Order 78–5–11; *Dominion Intercontinental Airlines Fitness Investigation*, Docket 41035, Supplemental Recommended Decision dated September 12, 1985, pp. 6–9, *aff'd*, Order 85–1–75.

[21] See *Bower Tiling Service*, FHWA Docket No. RS–90–08, Order dated June 12, 1990; *Rodgers Johnson/J and J Bus Service*, Docket RS–89–02, Order dated May 4, 1989.

[22] See, e.g. *Touche Ross & Co. v. SEC*, 609 F.2d 570 (2nd Cir. 1979); *Theodore Polydoroff and Timothy C. Miller*, 133 M.C.C. 384 (1984); *John M. Nader*, 264 I.C.C. 69 (1980); *United Air Lines, Inc. v. C.A.B.*, 201 F.2d 59 (D.C. Cir. 1960).

[23] On December 8, 1988, the Administrator of the Federal Aviation Administration issued a decision in *Western Airlines* (FAA Docket 85–108), *et al.*, which stated, *inter alia*, that under the Administrative Procedure Act "ALJs lack the authority to modify or add to the procedures provided in published agency regulations, even if the modifications or additions do not actually conflict with specific provisions of the agency's rules." (p. 6.) The decision cites no precedent or other authority for that statement, and the uniform precedent at the Civil Aeronautics Board and theretofore at the Department of Transportation had been that the Judge can adopt any procedures for the conduct of the proceeding consistent with statute, the rules, and considerations of due process and agency policy and precedent. Decisions of the FAA Administrator are not binding in non-FAA proceedings, and the decision of the Administrator in *Western, et al.*, should be limited to its facts and should not be applied in this proceeding. See *Continental Airlines*, FAA Dockets CP88CO0018, *et al.*, Order dated May 4, 1989, p. 4, n. 6; *Robert O. Nay*, DOT Docket 45663, Orders dated February 15 and March 8, 1990. Moreover, as noted above, the FHWA rules specifically permit the Judge to "take any action and to make all needful rules and regulations to govern the conduct of the proceedings to ensure a fair and impartial hearing, and to avoid delay in the disposition of the proceedings." Finally, the ABA Model Code of Judicial Conduct and Model Code of Judicial Conduct for Federal Administrative Law Judges (ABA 1990) also recognize the obligation of the judge to "take or initiate appropriate disciplinary measures against a judge or lawyer for unprofessional conduct of which the judge may become aware." Canon 3B(3). Previous decisions have recognized the possible applicability of that Code to administrative law judges at DOT. See *In re Chocallo*, 2 M.S.P.B. 20, Supp. Opinion, p. 13 [1980]; ABA Informal Opinion 85–1513, dated December 24, 1985; *Competitive Marketing Investigation*, C.A.B. Docket 36566, Order 36566–418, dated June 29, 1981, p. 2, n. 5; *N.L. Industries Inc.*, FAA Docket 84–39 (HM), Order dated February 13, 1986, pp. 6–8, n. 12, *rev'd on other grounds*, Order of FAA Administrator dated December 8, 1988.

102(A)(1)(5)(6), DR 6-101(A)(2)(3), DR 7-106(A)(C).

16. Continuing to represent Woodbury Horse after the summary judgment was entered when an apparent conflict existed and was pointed out on the record at the PHC. DR 2-110(A), DR 2-110(B) (2), DR 5-101(A), DR 5-102(A), DR 7-101(A)(3).

17. Misrepresenting the facts of the proceeding in a letter to Woodbury Horse. DR 1-102(A)(4), DR 6-102(A).

18. Publishing scurrilous and unfounded accusations against the Judge in that letter. DR 7-106(C), DR 8-102(B).

Those derelictions present possible violations of at least the indicated 25 Disciplinary Rules of the Model Code of Professional Responsibility, which are set forth in Appendix B. In order to ensure a complete and appropriate statement of the violations at issue and assure the availability of any appropriate defense and process to the Pikens before recommending sanctions in accordance with the direction of the remand order, we will direct the Regional Director to file a statement of such charges and a proposed procedural schedule, with an appropriate response by the Pikens.[24]

Accordingly, *it is ordered* 2That:

1. Kenneth Piken, Arthur Piken and the law firm Piken & Piken, P.C. are hereby made parties to this proceeding.

2. Piken & Piken is granted leave to withdraw as attorney for Woodbury Horse Transportation, Inc.

3. The Judge's Order dated June 13, 1989 (appendix A), is reaffirmed with the modification that summary judgment is entered against Woodbury Horse Transportation, Inc. in the amount of $7,000 in accordance with the settlement amount agreed by the parties.

4. By September 28, 1990, the Regional Director shall serve and file a specification of charges against Piken & Piken, P.C., Kenneth Piken, and Arthur Piken detailing each charge with respect to possible sanctions against those parties, including without limitation those specifications set forth herein, together with a proposed procedural schedule.

5. By October 26, 1990, Kenneth Piken, Arthur Piken and Piken & Piken, P.C., shall file an answer to each such charge and a response to the proposed procedural schedule and shall otherwise show cause why an order should not be entered:

a. Finding that the violations set forth therein occurred.

b. Barring them from further practice before the FHWA and the DOT.

c. Referring their actions in this proceeding to the New York State Bar and the Interstate Commerce Commission for disciplinary action.

d. Referring their submissions in this proceeding to the Department of Justice for prosecution.

So Ordered.

Dated: September 4, 1990.

Ronnie A. Yoder,

Administrative Law Judge.

[24] Previous decisions have noted that these Rules are appropriate standards for evaluating ethical conduct of practitioners before the Department. *New York-San Francisco Nonstop Service, Reopened*, 35 C.A.B. 423, 494-95 (1962); *Ephrata/Moses Lake Deletion Case*, 74 C.A.B. 881, 890, n. 45 (1977); *Northeast Imperial Airlines, Fitness Investigation*, 105 C.A.B. 32, 37 (1984); *N.L. Industries* FAA Docket 84-20 (HM), Order dated February 13, 1986, p. 8, n. 12, *rev'd on other grounds*, Order of FAA Administrator dated December 8, 1988.

In the Matter of Woodbury Horse Transportation, Inc.

[FHWA Docket No. I-1-88-1 (Motor Carrier Safety)]

Order of Administrative Law Judge

Served June 13, 1989.

By motion dated May 16, 1989, the Regional Director moves for summary judgment. As grounds for that motion the Regional Director asserts that Respondent failed to respond to the request for admissions served February 17, 1989, that pursuant to 49 CFR 386.44(a)(2) those requests were thereby deemed admitted, that Respondent has failed to comply with the Regional Director's request for interrogatories and production of documents, or the Judge's order dated April 25, 1989 directing the filing of such answers and documents, and that the answers filed were not attested as required by the FHWA Rules and the Federal Rules of Civil Procedures.[1]

Respondent has filed no answer to the Regional Director's motion within the seven-day period permitted by the Rules.[2] Respondent did belatedly on May 8, 1989, file answers to interrogatories and to the request for admissions. That filing did not attempt to provide good cause for Respondent's failure to file an answer to the Request for Admissions within the time prescribed by the Rules.

Those Rules provide that each request for admission is deemed admitted unless a written answer is filed within 15 days after service (49 CFR 386.44(a)(2)) and that "any matter admitted is conclusively established" unless the judge permits withdrawal or amendment (49 CFR 386.44(b)). Respondent has made no effort to justify the failure to make a timely response. Accordingly, as indicated by the Rules the admissions requested are deemed to be conclusively established.

On the basis of those admissions we find and conclude that:

1. Exhibit 1 attached to Regional Counsel' s request for admissions is a true and accurate copy of the driver's daily logs for September 15 and 16, 1987 for driver Shawn Mertens.

2. Exhibit 2 is a true and accurate copy of driver's daily logs for September 22 and 23, 1987 for driver Wayne Oke.

3. Exhibit 3 is a true and accurate copy of driver's daily logs for driver Kevin Keilly for October 8 and 9, 1987.

4. Exhibit 4 is a true and accurate copy of driver's daily logs for driver Kevin Keilly for October 15 and 16, 1987.

5. Exhibit 5 is a true and accurate copy of driver's daily logs for driver Craig Coffin for October 21 and 22, 1987.

6. Exhibit 6 is a true and accurate copy of driver's daily logs for driver Craig Coffin for December 1 and 2, 1987.

7. Exhibit 7 is a true and accurate copy of driver's daily logs for driver Kevin Keilly for September 16 through 23, 1987.

8. Exhibit 8 is a true and accurate copy of driver's daily logs for driver Keith Craig for October 2 through 9, 1987.

9. Exhibit 9 is a true and accurate copy of driver's daily logs for driver Kevin Keilly for October 3 through 10, 1987.

10. Exhibit 10 is a true and accurate copy of driver's daily logs for driver Craig Coffin for November 8 through 15, 1987.

11. On September 16, 1987, Shawn Mertens drove 14 ½ hours without having 8 consecutive hours off-duty.

[1] The Regional Director cites no support for this assertion, and the Rules do not require such attestation or incorporate such a requirement from the Federal Rules. 49 CFR 386.44. Cf. 49 CFR 386.43(c)(4), 386.56(c). Accordingly, we give no weight to Regional Counsel's assertion in this regard.

[2] 49 CFR 386.35(c). By letter dated June 1, 1989, a secretary in the law firm representing Respondent asked for a copy of the summary judgment motion and a ten-day period in which to answer that motion. That letter indicated that the attorneys for Respondent have been aware of the motion since at least May 24, 1989. They have nevertheless filed no answer, no request for a copy of the motion, and no motion for extension of time. The secretary's letter does not state that the motion was not served or received, does not purport to show good cause for the extension, for failure to file an answer or comply with the Judge's prior Order, or to emanate from the attorneys or be authorized or directed by them. Moreover, even if authorized by or submitted on behalf of the attorneys, we do not consider such a letter from an attorney's secretary to the Judge received twelve days after a motion for summary judgment is known to be pending to be an appropriate or timely request for an extension of time, to be an appropriate pleading in appropriate form, or to show good cause for relief.

12. On September 23, 1987, Wayne Oke drove 20 hours without having 8 consecutive hours off-duty.

13. On October 9, 1987, Kevin Keilly drove 12½ hours without having 8 consecutive hours off-duty.

14. On October 16, 1987 Kevin Keilly drove 16½ hours without having 8 consecutive hours off-duty.

15. On October 21 and 22, 1987, Craig Coffin drove 12½ hours without having 8 consecutive hours off-duty.

16. On December 2, 1987, Craig Coffin drove 13 hours without having 8 consecutive hours off-duty.

17. From September 16, 1987, to September 23, 1987, Kevin Keilly drove 39 hours after being on duty 70 hours in 8 consecutive days.

18. From October 2, 1987, to October 9, 1987, Keith Craig drove 11½ hours after being on duty 70 hours in 8 consecutive days.

19. From October 3, 1987, to October 10, 1987, Kevin Keilly drove 28 hours after being on duty 70 hours in 8 consecutive days.

20. From November 8, 1987, to November 15, 1987, Craig Coffin drove 17 hours after being on duty 70 hours in 8 consecutive days.

21. Drivers Shawn Mertens, Wayne Oke, Kevin Keilly, Craig Coffin and Keith Craig are employees and drive for Woodbury Horse Transportation, Inc.

22. The trips shown in exhibits 1 through 10 (drivers daily logs) involve travel in interstate commerce.

23. Woodbury Horse Transportation, Inc. is subject to the Federal Motor Carrier Safety Regulations, 49 CFR part 383 *et seq.*

On the basis of Respondent's admissions and failure to comply with the discovery requests and the judge's Order and to answer the subject motion, we conclude that summary judgment may appropriately be entered against Respondent.

The Notice of Claim dated April 7, 1988, alleged violations of 49 CFR 395.3(a), which involved requiring or permitting drivers to drive more than 10 hours, and four violations of 49 CFR 395.3(b), which involved requiring or permitting drivers to drive after having been on duty more than 70 hours in eight consecutive days. The facts established by the request for admissions, which are deemed admitted and conclusively established under the FHWA Rules, substantially establish the violations and Respondent's liability. Admissions one (1) through twenty-three (23) show that Respondent's drivers exceeded the hours of service requirements as set forth in the Notice of Claim and thus violated 49 CFR 395.3(a) and 49 CFR 395.3(b).

Respondent also ignored the initial request for production of documents including current drivers' daily logs. The documents were sought by Regional Counsel to establish a continuous and current pattern of noncompliance and show that any disciplinary program of the Respondent, if one exists, is mere "lip service." Respondent's failure to submit the documents raises an inference that violations would be established if the requested documents were produced.

Respondent's answer dated August 18, 1988, p. 3, asserts affirmatively that the violations do not warrant a fine of $1000 in view of Respondent's "past history, which does not, in any way, indicate a pattern of serious safety violations, and its financial status, which can be described as hardship, at best." Respondent has, however, waived its opportunity to present those defenses by its failure to comply with the Regional counsel's production requests and the Judge's Order directed to those issues.

Regional Counsel submits and we agree that the Judge's authority under the Administrative Procedure Act and the Federal Highway Administration's Rules enables the entry of summary judgment. Section 7(b) of the Administrative Procedure Act, 5 U.S.C. 556(c), provides:

> Officers presiding at hearings shall have authority, subject to the published rules of the agency and within its powers, to (1) administer oaths and affirmations, (2) issue subpoenas authorized by law, (3) rule upon offers of proof and receive relevant evidence, (4) take or cause depositions to be taken whenever the ends of justice would be served thereby, (5) regulate the course of the hearing, (6) hold conferences for the settlement or simplification of the issues by consent of the parties, (7) dispose of procedural requests or similar matters, (8) make decisions or recommend decisions in conformity with section 8, and (9) take any other action authorized by agency rule consistent with this Act.[5]

The FHWA Rules provide:

(b) Power and duties. Except as provided in paragraph (c) of this section,[6] *the administrative law judge has power to take any action and to make all needful rules and regulations to govern the conduct of the proceedings to ensure a fair and impartial hearing, and to avoid delay in the disposition of the proceedings.* His/her powers include the following:

* * * * *

(6) To consider and rule upon all procedural and other motions, except motions which, under this part, are made directly to the Associate Administrator.

* * * * *

(8) To make and file decisions; and

(9) To take any other action authorized by these rules and permitted by law." 49 CFR 386.54 (emphasis added).

The Administrative Procedure Act and the FHWA Rules give the judge broad authority to control the hearing, nothing in the Rules proscribes the entry of such an order, and the judge is empowered to enter orders not inconsistent with those rules.[7]

We conclude that summary judgment in favor of the Regional Director can and should be entered. Accordingly, IT IS ORDERED THAT:

1. The Regional Director's motin is granted.

2. Summary judgments entered against respondent Woodbury Horse Transportation, Inc., in the findings and conclusions herein.

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[5] The Attorney General's Manual on the Administrative Procedure Act (1947), p. 74, points out that the "quoted language automatically vests in hearing officers [now administrative law judges] the enumerated powers" and that "an agency is without power to withhold such powers from its hearing officers." Accord *Tourist Enterprises Corp. "ORBIS,"* CAB Docket 27914, Recommended Decision, dated September 22, 1977, p. 11, n.8, *adopted*, Order 78-6-17, p. 2. See also Attorney General's Opinion dated January 18, 1977, p. 7.

[6] There is no paragraph (c) in section 386.54.

[7] Compare *Rodgers Johnson/[and] Bus Service*, FHWA Docket No. R3-88-02, Order dated May 4, 1988. On December 6, 1988, the Administrator of the Federal Aviation Administration issued a decision in *Western Airlines* (FAA Docket 88-108), *et al.*, which stated, *inter alia*, that under the Administrative Procedure Act "ALJs lack the authority to modify or add to the procedures provided in published agency regulations, even if the modifications or additions do not actually conflict with specific provisions of the agency's rules." (p. 6.) The decision cites no precedent or other authority for that statement, and the uniform precedent at the Civil Aeronautics Board and theretofore at the Department of Transportation had been that the judge can adopt any procedures for the conduct of the proceeding consistent with statute, the rules, and considerations of due process and agency policy and precedent. Decisions of the FAA administrator are not binding in non-FAA proceedings, and the decision of the Administrator in *Western, et al.*, should be limited to its facts and should not be applied in this proceeding. See *Continental Airlines*, FAA Dockets CP88SO0018, *et al.*, Order dated May 4, 1988, p. 4, n. 8; *Robert O. Nay*, DOT Docket 46852, Orders dated February 13 and March 8, 1988. Moreover, as noted above, the FHWA rules specifically permit the judge to "take any action and to make all needful rules and regulations to govern the conduct of the proceedings to ensure a fair and impartial hearing, and to avoid delay in the disposition of the proceedings."

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Dated: June 13, 1990.

Ronnie A. Yoder,

Administrative Law Judge.

Appendix B

Model Code of Professional Responsibility (ABA 1986)

DR 1–102(A)—A lawyer shall not:

(1) Violate a Disciplinary Rule.

(4) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.

(5) Engage in conduct that is prejudicial to the administration of justice.

(6) Engage in any other conduct that adversely reflects on his fitness to practice law.

DR 2–110(A)—In general.

(1) If permission for withdrawal from employment is required by the rules of a tribunal, a lawyer shall not withdraw from employment in a proceeding before that tribunal without its permission.

(2) In any event, a lawyer shall not withdraw from employment until he has taken reasonable steps to avoid foreseeable prejudice to the rights of his client, including giving due notice to his client, allowing time for employment of other counsel, delivering to the client all papers and property to which the client is entitled, and complying with applicable laws and rules.

DR 2–110(B)—A lawyer representing a client before a tribunal, with its permission if required by its rules, shall withdraw from employment, and a lawyer representing a client in other matters shall withdraw from employment, if:

* * * * *

(2) He knows or it is obvious that his continued employment will result in violation of a Disciplinary Rule.

DR 3–101(A)—A lawyer shall not aid a non-lawyer in the unauthorized practice of law.

DR 5–101(A)—Except with the consent of his client after full disclosure, a lawyer shall not accept employment if the exercise of his professional judgment on behalf of his client will be or reasonably may be affected by his own financial, business, property, or personal interests.

DR 5–102(A)—If, after undertaking employment in contemplated or pending litigation, a lawyer learns or it is obvious that he or a lawyer in his firm ought to be called as a witness on behalf of his client, he shall withdraw from the conduct of the trial and his firm, if any, shall not continue representation in the trial, except that he may continue the representation and he or a lawyer in his firm may testify in the circumstances enumerated in DR 5–101(B) (1) through (4).

DR 6–101(A)—A lawyer shall not:

* * * * *

(2) Handle a legal matter without preparation adequate in the circumstances.

(3) Neglect a legal matter entrusted to him.

DR 6–102(A)—A lawyer shall not attempt to exonerate himself from or limit his liability to his client for his personal malpractice.

DR 7–101(A)—A lawyer shall not intentionally:

* * * * *

(3) Prejudice or damage his client during the course of the professional relationship, except as required under DR 7–102(B).

DR 7–102(A)—In his representation of a client, a lawyer shall not:

* * * * *

(2) Knowingly advance a claim or defense that is unwarranted under existing law, except that he may advance such claim or defense if it can be supported by good faith argument for an extension, modification, or reversal of existing law.

(3) Conceal or knowingly fail to disclose that which he is required by law to reveal.

(4) Knowingly use perjured testimony or false evidence.

(5) Knowingly make a false statement of law or fact.

(6) Participate in the creation or preservation of evidence when he knows or it is obvious that the evidence is false.

(8) Knowingly engage in other illegal conduct or conduct contrary to a Disciplinary Rule.

DR 7–106(A)—A lawyer shall not disregard or advise his client to disregard a standing rule of a tribunal or a ruling of a tribunal made in the course of a proceeding, but he may take appropriate steps in good faith to test the validity of such rule or ruling.

DR 7–106(C)—In appearing in his professional capacity before a tribunal, a lawyer shall not:

(3) Assert his personal knowledge of the facts in issue, except when testifying as a witness.

(6) Engage in undignified or discourteous conduct which is degrading to a tribunal.

(7) Intentionally or habitually violate any established rule of procedure or of evidence.

DR 7–110(B)—In an adversary proceeding, a lawyer shall not communicate, or cause another to communicate, as to the merits of the cause with a judge or an official before whom the proceeding is pending, except:

(1) In the course of official proceedings in the cause.

(2) In writing if he promptly delivers a copy of the writing to opposing counsel or to the adverse party if he is not represented by a lawyer.

(3) Orally upon adequate notice to opposing counsel or to the adverse party if he is not represented by a lawyer.

(4) As otherwise authorized by law, or by Section A(4) under Canon 3 of the Code of Judicial Conduct.

DR 8–102(B)—A lawyer shall not knowingly make false accusations against a judge or other adjudicatory officer.

Yankee Trails Inc.

[Docket No. RI89–07 (Motor Carrier Safety—FHWA)]

Order of Chief Administrative Law Judge John J. Mathias

Appearances:

Edwin J. Tobin, Esq., Gentak, Brown & Tobin, 111 Pine Street, Albany, New York 12207, for Yankee Trails, Inc.

Kenneth Dymond, Esq., Counsel for the Regional Director, Federal Highway Administration, Leo W. O'Brien Federal Building, Albany, New York 12207

Pursuant to the Order Appointing Administrative Law Judge herein, dated May 11, 1989, and the Notice of Claim in this matter, dated March 9, 1989, this is the Administrative Law Judge's decision under Rule 386.61 of the Federal Highway Administration's rules of practice and procedure, 49 CFR 386.61.

The Notice of Claim in this matter charges respondent, Yankee Trails, Inc. with the following violations: (1) Two instances in which it failed. to report accidents, in violation of 49 CFR 394.9; and (2) Fifteen instances in which it required or permitted a driver to make false entries upon a record of duty status, in violation of 49 CFR 395.8. After careful consideration of all the evidence of record, I find the violations as charged and assess a civil penalty of $1,800.00.

This decision is based upon the entire record of this proceeding, including: The evidentiary record compiled at the hearing; the proposed findings of fact and reply findings submitted by the parties, and the briefs and reply briefs filed by the parties. I have also taken into account my observation of the witnesses who appeared before me and their demeanor. Proposed findings not herein adopted, either in the form submitted or in substance, are rejected either as not supported by the evidence or as involving immaterial matters.

The findings of fact include references to supporting evidentiary items in the record. Such references are intended to serve as guides to the testimony and exhibits supporting the findings of fact. They do not necessarily represent complete summaries of the evidence supporting each finding.

* * * * *

The following abbreviations are used in this Decision:

Tr.—Page of the hearing transcript, usually preceded by the name of the witness.
CX—Exhibit of Assistant Regional Counsel, also referred to as Complaint Counsel.
RX—Exhibit of Respondent.
CBr.—Complaint counsel's brief.
CRBr.—Complaint counsel's reply brief.
RBr.—Respondent's brief.
RRBr.—Respondent's reply brief.
CPF—Complaint counsel's proposed finding of fact.
RPF—Respondent's proposed finding of fact.

Findings of Fact

A. The Violations Charged

1. Respondent Yankee Trails, Inc., is a corporation having its principal office located at 3rd Avenue Extension, Rensselaer, New York 12144. (Notice of Claim; Tobin, Tr. 192–193, 196–197, 209).

2. Respondent Yankee Trails, Inc., is a carrier of passengers operating in interstate commerce and subject to the Federal Motor Carriers Safety Regulations. (Admitted, see response to CPF 1).

3. A safety compliance review was conducted of respondent in January 1989 by Safety Investigator Christopher Rotondo. (CX 15; Admitted, response to CPF 14).

4. The safety review revealed that reportable injury accidents occurring on August 4, 1988 and September 14, 1988, involving vehicles owned by respondent, were not reported to the Federal Highway Administration within 30 days of occurrence, as required by 49 CFR 394.9. (CX 5, 6; Tobin, Tr. 208–209; Barbour, Tr. 226).

5. The report of the January 1989 safety compliance review, filed by Investigator Rotondo, also indicated that he discovered 20 instances of drivers being required or permitted to make false entries upon a record of duty status in violation of 49 CFR 395.8. The report also noted that Mr. Rotondo had checked 51 records of duty status in making this finding. (CX 5).

6. The Notice of Claim in this matter cites 15 of such instances as violations by respondent of 49 CFR 395.8. (Notice of Claim, Exhibit B).

7. CX 12, 13, and 15–25 reveal fourteen instances of drivers for respondent who were on charter runs omitting the reporting of commuter runs made on the same day. (Stipulation, Tr. 31–32).

8. CX 14 reveals that a driver for respondent did not record a charter trip on his log. (Rotondo, Tr. 33–34).

9. Respondent does not now contest the fact that the omissions noted in findings 4, 7 and 8 above were violations of the Federal Motor Carriers Safety Regulations. Instead, it urges that mitigating circumstances render unfair the penalty proposed by the Federal Highway Administration. (Respondent's Brief and Reply Brief; Opening Statement, Tr. 10–14).

B. Prior Safety Compliance Review

10. Respondent was the subject of safety audits in 1979, 1980, 1982 and 1984. (CX 1, 2, 3 and 4).

11. The 1979 audit did not reveal any instances of failure to report reportable accidents to the Federal Highway Administration. (CX 1).

12. Counsel for the Federal Highway Administration ("Complaint Counsel") have stipulated that there is little or no evidence of false logs in the 1979 audit. (Tr. 93).

13. A second safety audit was conducted in January 1980, by Investigator Nicholas Walsh. (Exhibit 2).

14. The 1980 audit revealed 3 instances of failing to report accidents. (Exhibit 2, Entry C).

15. The 1980 audit also revealed 5 instances of drivers being required or permitted to make false entries on a daily log. (Exhibit 2, Entry I).

16. Mr. Walsh examined 900 logs during his 1980 audit and found only the 5 instances of drivers being required or permitted to make false entries on a daily log. (CX 2, Entry I; Walsh, Tr. 98).

17. There is no reliable evidence to show that Investigator Walsh found any instances of failure to log commuter runs during his 1980 audit. (Walsh, Tr. 97–98).

18. One case of false entry showed the driver off duty when he was taking a charter to Portland. (Walsh, Tr. 98; CX 28, at p. 2).

19. A third safety audit of respondent was conducted in November 1982, by Safety Inspector Ian Smith. (CX 3).

20. The audit report for the 1982 inspection revealed 4 instances of failure to report an accident (CX 3, Entry D).

21. The audit report for the 1982 audit also shows 3 instances, out of 635 logs examined, of drivers being required or permitted to make false entries upon a daily log. (CX 3, Entry H).

22. A fourth safety audit of respondent was conducted by Safety Inspector Ian Smith in November 1984. (CX 4).

23. The audit report for the 1984 inspection revealed 2 instances of failure to report an accident. (CX 4, Entry J).

24. The audit report for the 1984 audit also shows 2 instances, out of 100 logs checked, of drivers being required or permitted to make false entries upon a daily log. (CX 4, Entry M).

25. Inspector Smith did not find any instance of a driver failing to log a commuter run. If a driver took a commuter and charter run on the same day and didn't log the commuter run he would have cited it. He had all the records available to him and found no such instance. (Smith, Tr. 114).

26. Inspector Smith found that the false logs listed in his audits did not warrant further action at the time. (Smith, Tr. 113).

27. In connection with the four prior safety audits of 1979, 1980, 1982 and 1984, there is no evidence of a finding of instances of drivers failing to log a commuter run when required to do so. (Findings 12, 17, 25, *supra*).

C. Other Factors Considered

28. In his experience, Inspector Smith found occasional errors arising from the application of the 100 mile exemption. (Smith, Tr. 121).

29. In each of the 14 instances of failure to log commuter runs found in the 1989 audit, the drivers would not have been in violation of the hours of service regulation if they had recorded commuter runs. (Gruin, Tr. 136).

30. Mr. Gruin, the federal program manager who assessed the claims in this matter, admitted that there was no proof of failure to log commuter runs in each of the audits prior to the 1989 audit. (Gruin, Tr. 125, 127, 136, 147).

31. One of the things an assessing officer should consider is whether prior violations were similar or dissimilar. (Gruin, Tr. 145).

32. Mr. Gruin considered past compliance to Part 395, which included hours of service violations shown on the logs, in assessing the penalty against respondent. (Gruin, Tr. 188).

33. Mr. Gruin admitted that hours of service violations were dissimilar to the false logs charged in the present case. (Gruin, Tr. 188).

34. Mr. Tobin, president of respondent, testified that he was never advised in the past that drivers who were operating charters and commuter runs were deleting the commuter runs from their logs. (Tobin, Tr. 204).

35. Mr. Gruin admitted that there was some confusion in the industry concerning the application of the 100 mile exemption. (Gruin, Tr. 186–187).

36. Mr. Barry Rubinstein, who assisted Inspector Rotondo in the 1989 audit of

respondent, admitted that there could be some confusion in the industry regarding the application of the 100 mile exemption. (RX 2, at 3, 5).

37. Mr. Rotondo's interviews of two of respondent's drivers and respondent's dispatcher indicates that they were not aware that the commuter runs needed to be recorded in the logs. (CX 6).

38. Despite the fact that respondent had been cited in three prior audits for requiring or permitting drivers to make false entries upon a daily log (see, Findings 15, 21, and 24), respondent did not have any employee reviewing logs for falsifications at the time of the 1989 audit. (CX 6, statement of Margaret Barbour).

39. Respondent has now hired a full time employee to check the logs. (Tobin, Tr. 210; Barbour, Tr. 234).

40. No proof of remedying this problem was offered to the Federal Highway officials at the settlement conference. (Gruin, Tr. 178).

OPINION

Respondent has admitted to the violations charged in this case. (Finding 9). The position of the respondent at the hearing and on brief is that mitigating circumstances render unfair the penalty proposed by the Federal Highway Administration. (Finding 9). I find that there are mitigating factors with regard to the failure to log commuter runs, but can find no mitigating factors in connection with the failure to report accidents or the failure to log a charter run.

In three prior audits, in 1980, 1982 and 1984, the inspector found instances of failure to report accidents. (Findings 14, 20 and 23). Certainly by the time of the 1989 audit, respondent should have been well aware of its responsibility under 49 CFR 394.9. The arguments of respondent as to inadvertent failure to file, and that the accidents were promptly reported to the insurance company and state authorities (RBr., at 8) have no bearing on the separate requirement to file accident reports with the Federal Highway Administration. The further argument that these failures were mere record-keeping violations is already implicitly taken into account by the amount of the maximum penalty which can be applied in such cases. (RX 2).

Accordingly, I find that in view of the repeated violations by respondent of 49 CFR 394.9, through the failure to file reports concerning reportable accidents, that the maximum penalty for the two violations of the type found herein should be applied. Thus, I assess a penalty of $1,000.00 for these two violations--$500.00 for each offense.

In connection with the 15 instances with which respondent was charged concerning the falsification of logs in violation of 49 CFR 395.8 (Findings 6–8), I find mitigating circumstances in connection with the 14 instances involving failure of drivers to log commuter runs. However, there have been no mitigating circumstances shown with respect to the one failure to record a charter run in the driver's log. (Finding 8). Therefore, the maximum penalty of $500.00 should be assessed for the latter violation, in view of respondent's prior record of log falsifications. (Findings 15, 18, 21, and 24).

Insofar as the failure to log commuter runs is concerned, the evidence revealed there was some confusion in the industry, and within respondent, concerning the application of the 100 mile exemption. (Findings 28, 34–37). There is also no evidence that this same type violation had been found of respondent in four prior audits. (Finding 30). The log falsification violations found in prior audits were not shown to be similar to the failure to record commuter run violations found in the 1989 audit. (Findings 30, 32 33). Also, in each of the fourteen instances in which the driver failed to log commuter runs, the drivers would not have been in violation of the hours of service regulation if they had recorded their commuter runs. (Finding 29). Thus, respondent had no reason to falsify the logs.

On the other hand, respondent had been charged with requiring or permitting drivers to make false entries upon their logs in each of three prior audits. (Findings 15, 21, and 24). The 1989 audit also found 20 logs out of 51 logs checked to have been falsified. (Finding 5). Moreover, despite the past history of some violations in this regard, respondent had no employee checking the driver's logs to ensure they were prepared in accordance with the federal highway regulations. (Finding 38).

Even considering the fact that the failure to log commuter runs may be dissimilar to prior log falsification charges, and the other mitigating factors above, the large percentage of log falsifications out of the total logs checked in the 1989 audit (20 out of 51—see Finding 5), coupled with respondent's failure to institute any checks of the logs following the three prior audits where log falsifications were found, indicated the need for at least a minimum penalty for these fourteen violations.[1] I find, therefore, that the fourteen instances of failing to log commuter runs should be lumped together as one violation and the minimum penalty of $300.00 should be assessed therefor.

Accordingly, I find that a total penalty of $1,800.00 should be assessed against respondent—$1,000.00 for the failures to report reportable accidents, $500.00 for the failure to log a charter run, and $300.00 for the failure to log commuter runs.

John J. Mathias,
Chief Administrative Law Judge.

In the Matter of Ronald William Dreyer

[Docket No. R5–89–137]

Order Appointing an Administrative Law Judge

This matter comes before me upon Petition to Review Driver Qualification Proceedings Pursuant to 49 CFR § 386.13 (1989) filed by Mr. Ronald William Dreyer, hereinafter referred to as Petitioner. In his petition Mr. Dreyer also requests an oral hearing pursuant to 49 CFR 386.13(a) (1989) to determine whether or not he was on duty time, as defined in § 395.2(a), at the time of the alleged disqualifying offense.

The Regional Director alleged in a Notice of Disqualification dated August 28, 1989, that in the course of an inspection dated July 1, 1989, it was discovered that Petitioner was not qualified to drive in interstate commerce under 49 CFR 391.15(c)(2)(i) because of a conviction of operating a motor vehicle under the influence of alcohol. Said conviction resulted from Petitioner's plea of guilty on July 28, 1989, to the charge of "DRIVING WHILE UNDER THE INFLUENCE OF AN ALCOHOLIC BEVERAGE". The Regional Director included with his notice copy of all documentary evidence supporting his decision, and gave notice to the Petitioner of his right to petition for review of the disqualification and formal hearing.

Mr. Dreyer's petition for review and hearing is supported by an affidavit, in which he makes allegations concerning the facts surrounding his conviction for the above described charge. Petitioner alleges that at the time he committed the offense he was moving his semi-tractor four blocks from his residence to a truck parking lot, and was not at the time engaged in interstate commerce. He alleges he was not waiting to be dispatched to any other facility or terminal, or inspecting, servicing or conditioning his vehicle.

[1] The institution of a review procedure following the receipt of the Notice of Claim does not indicate that degree of good faith which would warrant total relief from any penalty for these violations.

By Notice dated January 5, 1990, the Regional Director amended his notice of disqualification to state that Petitioner was "not qualified to drive in interstate commerce under 49 CFR 391.15(c)(2)(i) and 49 CFR 383.51(b)(2)(i)". In a letter to Petitioner's attorney dated January 5, 1990, the Regional Director's Counsel encloses copy of the amended notice and alleges that "49 CFR 383.51(b)(2)(i) does not depend upon a showing that a driver was 'on duty' during the commission of the disqualifying offense as does 49 CFR 391.15(c)(2)(i)."

Having reviewed the record and pleadings, I find that there is a substantial issue of fact in dispute in this case. The circumstances surrounding the Petitioner's disqualifying offense are not clear. In view of the above and in fairness to the parties in this case, I have determined that the material factual issue in dispute be submitted to an Administrative Law Judge for additional proceedings. The Judge appointed shall, in addition to the authority cited below, specifically address the matters discussed above and should review the record, oral arguments and briefs prior to making recommendations. Petitioner should be aware that the burden of proof in this proceeding will rest upon him, 49 CFR 386.58(b) and 391.47(e) (1989).

Therefore, it is ordered, That Petitioner's request for a hearing is granted. I hereby appoint an Administrative Law Judge in accordance with 49 CFR 386.54(a) (1989) to be designated by the Chief Administrative Law Judge of the Department of Transportation as the Presiding Judge. The Judge appointed is authorized to perform those duties specified in 49 CFR 386.54(b) (1989).

In Washington, District of Columbia, this 27th day of July, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Alamo Distributing Service, Inc.

[Docket No. R6-89-63]

Order in Response to Motion for Reconsideration

On April 30, 1990, I issued a Final Order in this matter finding the facts to be as alleged and Ordering Respondent to pay an assessed penalty of $11,000. At that time, there was no answer or request from Respondent on the questions of violation or penalty.

On May 25, 1990, I received a letter from Respondent explaining that his business was not such that it could absorb a penalty in this amount. That letter, which I will treat as a Motion for Reconsideration, did not deny the violations but set forth the statement that the company has taken all actions necessary to comply with the regulations.

The violations alleged and proven are not casual violations. Those concerning excess driving hours are serious. Records of duty status and failure to keep adequate driver files are also serious. Nevertheless, although complete forgiveness of the penalty is unwarranted, I am willing to consider the Respondent's current status.

The Regional Director should contact Respondent and schedule an audit within the next thirty (30) days. If the Respondent is in compliance with the regulations, the penalty will be reduced to $5,000. If continuing violations are found, the penalty will remain as assessed in the Order of April 30.

The original Order was partly granted because of an absence of response on the part of the Respondent to the Regional Director's Motion. Likewise, this present Order is granted in part because of an absence of response on the part of the Regional Director to Respondent's letter.

Therefore, it is ordered, That the Order of April 30 is stayed for 30 days from the date of this Order pending a reaudit of Respondent. Should that audit find that Respondent is now in compliance, the penalty assessed shall be reduced to $5,000. Should that audit find continuing violations, the penalty assessed will remain at $11,000.

Dated: July 23, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of R. Brown & Sons, Inc.

[Docket No. R1-90-06 (Formerly R1-90-101)]

Order Appointing an Administrative Law Judge

This matter comes before me upon request for a hearing filed by Respondent. The Petitioner, Regional Director, Office of Motor Carrier Safety, agrees that Respondent has identified material factual issues in dispute.

Petitioner alleged in a Notice of Claim dated May 7, 1990, that Respondent violated several sections of the Federal Motor Carrier Safety Regulations (FMCSRs), 49 CFR 391.51, 395.8 and 395.11.

Respondent contests each of these allegations. Respondent questions whether it was required to maintain a complete driver qualification file, whether it was exempt or whether the failure, if any, to maintain a file was attributable to it. Respondent also denies that it ever required any driver to make a false entry upon a record of duty status and also denies that any necessary repairs to its vehicles were not made. Respondent asserts that it kept such records or certified that no repairs were necessary.

Therefore, it is ordered, That the Respondent's request for a hearing is granted. In accordance with 49 CFR 386.54(a), I hereby appoint an Administrative Law Judge to be designated by the Chief Administrative Law Judge of the Department of Transportation, as the Presiding Judge in this matter. The Judge appointed is authorized to perform those duties specified in 49 CFR 386.54(b).

Dated: July 19, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of David Salinas

[Docket No. R6-90-20]

Final Order

This matter comes before me upon request of the Regional Director, Region 6, Office of Motor Carrier Safety for a Final Order finding the facts to be as alleged in a Notice of Claim dated March 6, 1990, and assessing a penalty of $500 (not $1,500 as requested incorrectly in the motion).

Respondent has not requested a hearing and settlement negotiations were unsuccessful. Having reviewed the Motion and the supporting documents appended thereto, I find that the evidence supports the charges and specifications in the Notice of Claim relating to violations of the Federal Motor Carrier Safety Regulations (FMCSRs).

Therefore, it is ordered, That the Motion for a Final Order is granted and the Respondent is directed to pay $500 the amount of assessed penalty to the Regional Director within 30 days of the date of this Order.

Dated: July 13, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers

In the Matter of Wisconsin Protein Carriers, Inc.

[Docket No. R5-90-07 (Formerly R5-89-140)]

Final, Order, in Part and Order Appointing Administrative Law Judge

This matter comes before me upon request of the Respondent for a hearing. This request originates in a Notice of Claim dated October 31, 1989. The Regional Director, Office of Motor Carrier Safety, Region 5, raises no objection to the hearing and asks for the expedited appointment of an Administrative Law Judge.

The Notice of Claim alleges violations of the Federal Motor Carrier Safety Regulations (FMCSRs) in three areas: (1) 49 CFR 387.7(a), failing to have the requisite level of insurance; (2) § 395.8(e), false entries upon a record of duty status; and (3) § 395.8(k)(1), failing to preserve record of duty status.

Respondent has a long involvement with this Agency and its regulations. There can be no excuse based on inadequate knowledge of the requirements of the regulations. There is ample case law to establish that a commercial entity is deemed to have knowledge of regulatory violations if the means were present to detect the violation, see *Rise & Co.* v. *U.S.* 262 F. 2d 245, 250 (9th Cir., 1958) and *U.S.* v. Time-DC. Inc., 381 F. Supp. 730, 739 (W.D. Va., 1374).

Respondent admits to the transportation as alleged in Count 1, but denies knowingly transporting cargo requiring public liability insurance in the amount required. Such knowledge is fundamental to successful business operations. It is simply not enough to say that such a violation was inadvertent. It is my fervent hope that most violations are inadvertent. To assume that any violation is deliberate is callous and in such instance criminal action, not civil, would be warranted. Therefore, I can find no material factual issue here. Respondent transported materials in violation of the requirement. The forfeiture penalty assessed at $1,000 is reasonable.

With respect to the alleged violations in the second count, the falsification violations, Respondent contends that although there are inconsistent records, it denies that the payroll and toll records are necessarily accurate. This is a novel contention in terms of this violation, however, in the absence of any contest by petitioner, I am appointing an Administrative Law Judge to examine these counts, to hear the evidence and to make a judgment concerning the validity of the alleged violations.

With respect to the alleged violations in the third count, failure to preserve a driver's duty record, I am in a quandry as to the underlying claim. Respondent contends that each of these counts involves an exception under the rules and that although not retained, all required records have been prepared. In addition, Respondent contends these same records have been prepared (and apparently disposed of) in exactly the same manner for over 20 years. In that time and through a number of audits, no previous violations of this regulation have been alleged.

These averments stand uncontested by Petitioner. This is different than factual issues in dispute. Either Respondent is within the exception, or not. Either the records are prepared or they are not. If, in fact this has been the mode of operation, and violations have not been discovered or discussed previously, I am giving the Respondent the benefit of the doubt. No *prima facie* violations are established by the material before me. If Petitioner feels that there are substantive violations here, I suggest that it discuss its concerns with Respondent and document its case for any future audits. These counts are dismissed.

Respondent also raises serious concerns with the process of assessment. Obviously, Petitioner feels that serious violations have been discovered. This is a carrier with a fairly long history of involvement with the Agency. I would welcome th Judge's review of the assessment process in this case and any recommendations which would guide Petitioner in the future in applying the statutory requisites to its penalty assessments in the face of Respondent's contentions.

Therefore, it is ordered, That Respondent's request for a Hearing on the matter of transporting material without the proper insurance is denied and Respondent shall pay to the Regional Director the sum of $1,000 within 30 days. Alleged violation counts 18–34, failing to preserve driver's records are dismissed as discussed above.

I am appointing an Administrative Law Judge to hear testimony and consider evidence for counts 2–17, the alleged violations of requiring or permitting a driver to make false entries upon a record of duty status. I am appointing the Judge in accordance with 49 CFR 386.54(a), to be designated by the Chief Administrative Law Judge of the Department of Transportation, to be the Presiding Judge in this matter. The Judge appointed is authorized to perform those duties. specified in 49 CFR 386.54(b).

Dated: July 10, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Edgar J. Anderson

[Docket No. R6–90–225]

Final Order

This matter comes before me upon request of the Regional Director, Region 6, Office of Motor Carrier Safety for a Final Order finding the facts to be as alleged in a Notice of Claim dated February 6, 1990, and assessing a penalty of $1,500.

Respondent has not requested a hearing and settlement negotiations were unsuccessful. Having reviewed the Motion and the supporting documents appended thereto, I find that the evidence supports the charges and specifications in the Notice of Claim relating to violations of the Federal Motor Carrier Safety Regulations (FMCSRs).

Therefore, it is ordered, That the Motion for a Final Order is granted and the Respondent is directed to pay $1,500 the amount of assessed penalty to the Regional Director within 30 days of the date of this Order.

Dated: July 10, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Kenworth of Tennessee, Inc.

[Docket No. 89–TN–031–SA]

Final Order

This matter comes before me upon request for a Hearing by Respondent and Motion for Final Order by Petitioner. Petitioner (Regional Director, Office of Motor Carrier Safety, Region 4) has alleged 10 violations of the Federal Motor Carrier Safety Regulations (FMCSRs). These alleged violations were discovered during a Compliance Review of Respondent.

The violations involve 49 CFR 391.51(c) and (d) and 395.8(i). Respondent admits to certain of the violations but denies others on the basis of a jurisdictional challenge. Respondent argues that some of its drivers are not primarily drivers, are intermittent drivers only, or are not regularly employed. Accordingly, Respondent contends they are not covered by the applicable regulation allegedly violated.

Respondent also contests Agency jurisdiction under the 100 air-mile radius exemption in § 395.8(l) and the imposition of a maximum penalty of $500 for each count. Petitioner has sought to clarify its authority in these very areas through widely disseminated interpretations. There appear to be no factual issues left in dispute. Jurisdictional challenges are not countenanced in the regulations governing these hearings and there is no reason for me to appoint an Administrative Law Judge. Respondent's recourse is in the Courts.

With respect to the imposition of the penalty, I have stated on many occasions that the Regional Director is in the best position to make the original assessment. Only where the circumstances warrant will I intervene to change such an assessment. Respondent has not made a clear

showing that the number of counts is unjustified; Respondent has not convinced the Regional Director that willing compliance will be implemented in the future; Respondent has not substantiated its allegations that it is being treated differently than similar organizations in this Region.

Therefore, it is ordered, That Respondent's Request for a Hearing is denied and petitioner's Motion for a Final Order is granted. Respondent shall pay the sum of $5,000 to the Regional Director within 30 days of the date of this Order.

Dated: July 5, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Tonawanda Tank Transport Service, Inc.

[Docket No. R1–90–130]

Final Order

This matter comes before me upon request of the Regional Director, Office of Motor Carrier Safety, Region 1, for a Final Order. In its original response to the Notice of Claim, Respondent requested an informal settlement conference and reserved its right to request an administrative hearing. Such a request has not been perfected, and in any case would not be granted as Respondent admits the violations. Respondent has requested mitigation and we will address that point herein. Mitigation alone is not a material factual issue in dispute subject to hearing.

A Notice of Claim issued in September, 1988 following an audit in July, 1988 alleged 18 violations of the Federal Motor Carrier Safety Regulations (requiring or permitting false logs). A penalty assessment of $13,500 was levied. The parties have been unable to resolve this matter informally.

Between June, 1985 and July, 1988 Respondent was the subject of three audits. The audit previous to the one at issue here resulted in a penalty settlement of $9,000 for alleged hours of service and false records of duty status violations.

In its reply to the Notice of Claim, Respondent notes these facts. Respondent then goes on to discuss in detail the many actions taken to stem the tide, including cautioning drivers of the consequences of continuing violations, computerization of log monitoring, hiring of new personnel and maintenance of a strong safety training program. Its brief states: "* * * has simply spent too much time and money in attempting to bring its company into full compliance to risk substantial fines and penalties in the future due to a lack of effort of its employees."

Respondent notes that time was compressed between the settlement for the violations in the 1987 audit and the follow-up audit which resulted in the documentation of these violations. Respondent contends it would have been "more equitable appropriate" to conduct a follow-up audit after the computer system became fully operational.

Petitioner responds to these arguments by applauding any efforts to improve safety, but dismisses the efficacy of Respondent's implemented plans. Petitioner states that it is unsure of the success of such program even if in fact it has been implemented.

The record does' not indicate that the program is now in place, there is no discussion of the success or failure of the program if it is in place, nor is there any indication of the likelihood of a new audit soon.

The violations have been admitted. I would like to state for the record that even had Respondent contested the allegations on the basis of not knowing or requiring the violations, there is ample case law to establish that a corporate entity is deemed to have knowledge of regulatory violations if the means were present to detect the violations, see *Riss & Co.* v. *U.S.*, 282 F.2d 245, 250 (8th Cir., 1958) and *U.S.* v. *Time-DC, Inc.*, 381 F. Supp. 730, 739 (W.D. Va., 1974). I make these observations by way of stating that in the case of Respondent, its present averments should put any such arguments to rest in the future as regards its circumstances.

Judge Kolko, in a recent opinion in the matter of *Drotzmann. Inc.*, Docket No. R10–89–11, indicated that an effective safety program may have an effect on certain types of alleged violations. The effectiveness of such a program is indicated by the presence or absence of continuing violations. Mitigation could accordingly be given where an established program is showing results. I have no such information before me. However, the age of this case and these violations, the upgrading of programs to detect these violations and eliminate them and the Respondent's contention that the passage of so little time between audits worked to its disadvantage, warrant a slight reduction in the assessment.

At the same time, it appears that sufficient time has elapsed for a follow-up audit to ascertain the efficacy of the proferred improvements. The Regional Director should work with the Respondent to select an appropriate time for such an audit. If violations are continuing, then a clear pattern case will have been established. Further action will be predicated on Respondent's good faith implementation and continuation of a program to eliminate these violations.

Therefore, it is ordered, That Petitioner's Motion for A Final Order is granted. However, for the reasons discussed above, the penalty is reduced to $10,000. Respondent shall pay this amount to the Regional Director within 30 days of the date of this Order.

Dated: July 5, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Corey Brothers, Inc.

[Docket No. R3–90–06 (Formerly R3–90–066)]

Order Appointing Administrative Law Judge

This matter comes before me upon request of the Respondent (Corey Brothers, Inc.) for a hearing and opposition thereto and request for a Final Order by Petitioner (Regional Director, Office of Motor Carrier Safety, Region 3). The request for a hearing is occasioned by receipt of a Notice of Claim, dated December 18, 1989, alleging 35 documented violations of the Federal Motor Carrier Safety Regulations (FMCSRs). Petitioner seeks the imposition of a civil penalty in the amount of $16,200.

Respondent replied to the Notice of Claim on January 15, 1990. That reply addressed each claim, denied its allegations and added specific notations, where it deemed appropriate. The reply also noted that a key staff member was apparently incapacitated at the time of the audit, which accounts for some missing documentation. Certain assertions are of little consequence in this proceeding. The fact that most of the transportation provided is at the local level does not affect the jurisdiction of this agency. Respondent does transport in interstate commerce and is subject to the FMCSRs.

Petitioner opposes the request for a hearing and states that Respondent's request contains only general denials. Such is not the case. Statements such as Respondent's answer to Claim 3, to wit, "Corey Brothers, Inc., denies all of the allegations contained in this paragraph and asserts that it maintained the required records in the files * * *", seem to indicate the presence of a fairly specific factual issue in dispute. Petitioner seeks to support its claim by referencing the documentary evidence in appendix B. Without a specific recitation of that evidence, I cannot

agree with the Petitioner. I will note that Respondent contests that allegation that it did not report an accident by stating that no accident occurred. The record before me does seem to provide evidence of a truck, in an accident, with a report, insurance claim and photos as verification. However, being of a relatively open minded disposition, I am willing to allow respondent to explain this discrepancy to an Administrative Law Judge. Respondent also seizes on an apparent typographical error in one count, involving a trip from Charleston, West Virginia, to Bland, WV, and claims no interstate transport was involved. Possibly there is a Bland in both West Virginia and Virginia. Respondent will have to convince the Judge of this.

Counsel for the Petitioner should stand advised that I will not make his argument for him. In the future, if Counsel believes that the documents substantiate an argument, these documents shall be properly referenced and described in the pleading. Counsel for the Respondent should stand advised that this Agency places the highest priority on highway safety. The FMCSRs have been promulgated in furtherance of Congressional objectives to that end. The allegations levied here are serious. Corey Brothers protests its innocence of any violation. Corey Brothers seeks an opportunity to put forth its arguments. I shall grant Corey Brothers that opportunity. However, Respondent should be counseled that I will not countenance frivolous pleadings where highway safety is at stake. The Judge appointed by this Order is hereby requested to examine each of the arguments in this matter and to determine if any pleadings are, in fact, frivolous, and I would welcome any recommendations on further action.

Therefore, it is ordered, That I hereby appoint, in accordance with 49 CFR 386.54(a), an Administrative Law Judge to be designated by the Chief Administrative Law Judge of the Department of Transportation, as the Presiding Judge in this matter. The Judge appointed is authorized to perform those duties specified in 49 CFR 386.54(b).

Dated: June 22, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Drotzmann, Inc.

[Docket No. R10-89-11 (Formerly R10-89-39)]

Final Order

Upon request of the Respondent this matter was assigned to an Administrative Law Judge for hearing. That hearing took place on April 5, 1990. At the close of the evidentiary and argumentation portion of the hearing, the Judge found and concluded that the agency had made out a prima facie case, that it (the agency) had carried its burden of proof with regard to the fact that the violations had occurred, and that the respondent had permitted the violations to occur.

Of particular interest to me was the Judge's discussion on the establishment of a pattern of violations and the interrelationship between a safety program and proof of pattern. The Judge indicated that *an effective safety program* may have an effect on pattern arguments. In this matter, however, although the Judge would not call the Respondent's safety program at the time of the violations a sham, he did state that the program had no teeth in it.

The effectiveness, or lack thereof, was demonstrated by the evidence of continuing violations. The Judge concluded that it was this continuation of violations which establish a pattern.

The Judge then went on to recommend a reduction of the penalty. This recommendation relies on the apparent beginning of effectiveness of the respondent's safety program. The Judge found evidence of actual termination of drivers, whom he characterized as recidivist violators who just won't listen to letters or warnings.

The Judge articulated the reasoning underlying his recommendation as follows:

> I'm doing so in the hope * * * that a future safety audit by the Highway Administration will indicate that the teeth in the enforcement program have finally had some effect upon the pattern of violations, because otherwise, chances are we will be back in another proceeding at some point, and at that point, the respondent will have had its one bite at the apple, because I can't imagine either myself or some future judge reducing the penalty one more time if the program is not working.

The Judge also underscored the establishment of a pattern in noting that when a company has half of its drivers violating the law, this goes beyond the lone ranger theory, and the ability of a company to control a driver. In the Judge's words, "These are not individual driver violations * * * this is a company violation".

The Agency has appealed the Judge's reduction of the penalty and means of payment set forth. In its Appeal Memorandum, the Agency contests the Judge's recommendation for a lower penalty. In so doing, many prior statements of mine are cited. These statements all reference the wide latitude given to the Regional Director in establishing the amount of a civil penalty. I will underscore those statements here; nevertheless, I have also said that the Administrative Law Judge is free to make a recommendation on the amount of the penalty based on the facts presented at the hearing, and I will accept or modify that recommendation. Reference to the *N. L. Industries, Inc.*, v. *FAA* case is not dispositive here. Any final decision on penalties is resident in my office. If I make no modification in a recommended penalty within the 45 day period it becomes my penalty decision. If I do modify the penalty, that remains within my authority. The delegated authority of the Regional Director never supercedes that authority.

At this point, I see no reason to withdraw my offer to the Administrative Law Judges to recommend penalty terms.

Having said this, I partly accept Judge Kolko's recommendation in reducing the amount of the penalty to provide an incentive to compliance. I do not agree with that part of his recommendation stretching out the payments for six months. In view of the sharp reduction in the amount of the penalty, the agency is entitled to receive the amount due as expeditiously as possible.

Therefore, it is ordered, That the decision of Judge Kolko is accepted and affirmed, except as modified above. In addition, in keeping with the spirit of the Judge's ruling, the Regional Director is directed to reaudit Respondent within 6 months. If the pattern of violations continues, then the Agency is directed to prepare an action sufficient to compel compliance. Payment of the assessed civil penalty is to be made to the Regional Director within 30 days of the date of this Order.

Dated: June 20, 1990.

Attschment

(Transcript Pages from Judge Kolko's Hearing).

Richard P. Landis,

Associate Administrator for Motor Carriers.

There's testimony today that they hired someone who wasn't doing her job, and yet Mr. Kelley nor Mr. Drotzmann was supervising closely enough to figure out that that was the case.

Judge Kolko: Okay. That concludes the evidentiary and argument portion of this, and the case is ripe for decision, which is as follows:

I find and conclude that the government has not only made out a *prima facie* case, it has carried its burden of proof with regard to the fact that the violations occurred—that actually was established before this proceeding started this morning—and that the respondent permitted those driver violations to occur.

How did it permit those to occur? I think we had ample testimony from the government

witnesses, principally Ms. Phillips and Mr. Arnold, with regard to what a better safety program would be, one that actually had teeth in it, and from all of the government's witnesses with regard to the lack of effectiveness of merely jumping up and down and screaming at your drivers or writing them letters, that an effective safety program, even coupled with a training program, has to go past stern looks and words, and that this was a safety program that had no teeth in it.

Whether or not it was a sham, I don't need to find. It may well have been evidence introduced in good faith by the respondent, but nevertheless, by virtue of the fact that after repeated visits from the government—nevertheless, it was a safety program that really had no clout to it, and that clout was—that absence of clout was reflected by the fact that there were continuing violations, continuing violations which, up to the point of this notice of claim, do establish a pattern of violations, as alleged and as I find proven by the government. And those were the matters which the Associate Administrator set this proceeding for hearing to determine and which I so find.

The bottom line, then, comes, what is the sanction to be effected? Ordinarily, given the overwhelming amount of proof which the government has introduced, I would go along with the fine, as suggested in the very persuasive document of Ms. Taylor—I think it's Exhibit P–13; it is Exhibit P–13—in which, for very cogent reasons, she recommended a fine of $15,000, but she also indicated in her examination that that was based upon information which was up to the then most current audit, and not based upon information that—of a more recent nature.

More recently, it appears, and unbeknownst, apparently, to the government, there have been, finally, some actions taken by the respondent which indicate that it is starting to do the very thing that the government witnesses suggest, which is, if you want to run a responsible program, one that makes an impression on the other employees, you start to terminate people who are recidivist violators and just won't listen to your letters and warnings.

And in Exhibit R–1, there are examples of six such terminations, which occurred in December of 1989. Let me ask Mr. Kelley a question, who's still under oath, even though he's not on the witness stand right now. Have any of those drivers been rehired?

Mr. Kelley: By me? No one.

Judge Kolko: By Drotzmann?

Mr. Kelley: No.

Judge Kolko: Very well. So, as I say, ordinarily, up to the date of the notice of claim, a $15,000 fine would be eminently in order, given that a pattern of violation has occurred, and the Highway Administration was quite understandably frustrated in the fact that it was escalating the fines, and nothing was happening.

It now appears that something is finally starting to happen. We don't know all the details yet, because pursuant to its policy of not auditing a respondent while a previous case is ongoing, a safety audit has not been conducted, but we do have indications that six terminations occurred in one month when, during the prior period of time involved in this and the previous notices of claim that established a pattern of violation, there was no termination.

And so for that reason, and that reason alone, I'm going to reduce the amount of the penalty by $1,000 for each of those drivers terminated and establish a penalty of $9,000, since R–1 indicates six terminations. I'm doing so in the hope, Mr. Kelley, that a future safety audit by the Highway Administration will indicate that the teeth in the enforcement program have finally had some effect upon the pattern of violations, because otherwise, chances are we will be back in another proceeding at some point, and at that point, the respondent will have had its one bite at the apple, because I can't imagine either myself or some future judge reducing the penalty one more time if the program is not working.

I am impressed that it may be working based upon the fact that six—which is a very impressive number of terminations, given that there were zero before, and so for that reason, I reduce the penalty.

Just so that you understand, by the way, in response to the argument which you have—the respondent has stoutly maintained, that it really can't control its drivers, when you have half your drivers violating the law, this goes beyond the lone ranger theory of violating the law. These are not individual driver violations, gentlemen; this is a company violation. And as I say, I may be going out on a limb, reducing this penalty, but I am impressed by the fact that the very recommendations which have been made to you off the record and this morning on the record by the Highway Administrations people are finally starting to be implemented, and solely for that reason, because otherwise, I'm very impressed with the Highway Administration's case and very unimpressed with your defense—solely for that reason am I reducing the penalty by $1,000 for each of those terminations.

The result is that each side has a right of appeal, because nobody has won fully, and I might as well read that to you, as I indicated earlier I would.

"The decision of the Administrative Law Judge," which I have just issued, "becomes the final decision of the Associate Administrator 45 days after it is served, unless a petition or motion for review is filed under 49 CFR 386.62. The decision shall be served on all parties and the Associate Administrator." Since it's an oral decision you've just been served, the Associate Administrator will be notified by virtue of the transcript arriving in the docket section.

There are further regulations which deal with the petition for review. I won't read them into the record. I just cited it to you. It's 49 386.62. So if you wish to appeal to the Associate Administrator, you have 45 days to do so, and what you have to do is contained in 386.62.

Is there anything else to occupy us?

Mr. Hanf: Just one point of clarification, Your Honor. When would that penalty be due?

Judge Kolko: That penalty would be due in 30 days, unless the respondent and the government wish to work out a payment schedule, which I have done in other enforcement proceedings for other agencies. It's a payment schedule that's still meant to have some teeth in it, and I would think that six payments of $1,500 would be the most stretching out that I would countenance.

Mr. Hanf: I guess I didn't understand, Your Honor. Are you asking us to work it out, or are you saying that that's an acceptable payment schedule?

Judge Kolko: Well, that's acceptable to me, if you—

Mr. Hanf: It's—

Judge Kolko:—if the respondent wishes to do that. What other agencies do is enter into a promissory note arrangement with the respondent, with the schedule indicated in that note.

Mr. Hanf: Your Honor, our position has to be that you reduce the fine $9,000, as you viewed, appropriately, but that that reduction alone is enough to satisfy Drotzmann, Incorporated and that since—given the fact they have this large line of credit, and they are a large corporation, I mean, relatively speaking—over $3 million a year—that the $9,000 be due in 30 days.

Judge Kolko: Well, I'll tell you why sometimes—I hear what you're saying, I don't necessarily disagree, Mr. Hanf. There are two theories of this. One is which—that writing any large several-digit check hurts and has the required effect upon bringing the mind to bear on the part of the person who's writing that check as to why he's writing it. On the other hand, having to write a check six times, albeit for a smaller amount, has a similar effect. Each time Mr. Leonard sits down and writes that check, he's going to remember why he's writing it, and you could argue it either way as to which has the greater punitive/remedial effect, both, both of which I'm charged to implement. So while I hear what you're saying and don't necessarily disagree, I would like the respondent to be continuously reminded for six more months as to just what has happened, and I think writing that check will do it.

Mr. Hanf: Is it possible to get interest on that money, then, Your Honor?

Judge Kolko: I don't think it works that way. I think, since it all goes to the General Treasury anyway—I don't recall—

Mr. Hanf: Actually, it goes in the Highways Trust Fund.

Judge Kolko: It does go to the Highway Trust Fund? Okay. Well, we certainly could use it.

But, in any event, I'm basically doing this because I want the respondent to—the same as you do, to feel the bite. We just have different avenues of coming at it, and I don't want them to just write a check and walk away from this proceeding.

Anything else to come before us?

Mr. Hanf: Thank you, Your Honor.

Judge Kolko: All right. We're adjourned. Thank you all. You all did a fine job, and, Mr. Leonard, for somebody who's not a lawyer, you might want to consider going to law school; you did pretty good.

Mr. Leonard: Thank you.

(Whereupon, at 2:55 p.m., the hearing in the above entitled matter was closed.)

In the Matter of Schaffner Mfg. & Sales Corp.

Docket No. R1-90-063

Final Order

This matter comes before me upon request of the Regional Director, Office of Motor Carrier Safety, Region 1 for a Final Order finding the violations to be as alleged and imposing a civil penalty in the amount of $9,500. Respondent has answered with a plea for reduction in the amount of the penalty.

There are several salient points presented by this case. Respondent is a small manufacturer of kitchen cabinets who delivers its own products. Trucking is not its primary operation. The trucking part of the business is ancillary to its operations, however, it appears to provide an essential component of its profitability.

In many previous decisions, I have stated that smallness of size is no excuse for violation of the safety regulations. That continues to be my position. At the same time, however, it must be noted that some distinction needs to be made between those in the transportation services area and those in the manufacturing area, with a distribution sideline. The expanded coverage of the law and regulations is bringing new operators within the scope of coverage. The addition of new investigators means that identification of trucking operations is now more proficient and the possibility of multiple visits to those rated less than satisfactory has increased.

How should the programmatic directions laid out in the guidelines reflect these considerations? Firstly, it is absolutely essential that a degree of decorum be instilled in the process. I recognize that small operations are often pressed for time and personnel. Government requirements for recordkeeping are onerous and seemingly unimportant when viewed in the context of a balance sheet or payroll. Nonetheless, there is no reason to subject the Government's auditors to personal or professional abuse. This record reflects some degree of ridicule, which can easily be translated into noncooperation.

Secondly, the Government has an obligation to schedule its reviews of these smaller operations in such a manner as to ease the scheduling burden. Great care must be taken to impart a sense of understanding, both of the role the regulations provide in enhancing safety and the role we play in ensuring compliance with the regulations.

Respondent has been visited several times in the past 15 years. Enough times, in fact, to know the requirements of the regulations and their importance. The record indicates that on one visit, our investigator was told something to the effect of "give me 6 months and I will be in compliance." Well, more than 6 months has passed since that visit and the Respondent is still in disarray.

Respondent asserts that it has a small, reliable driver force and that it seeks no immunity from Government safety regulations. What the Respondent now needs is to incorporate recordkeeping into its business transaction records. All businesses need to maintain records. The addition of safety records for these few drivers cannot be considered unduly burdensome.

The record indicates that the violations did occur. The Regional Director has already reviewed the record and reduced the original assessment. No hearing is warranted on the issue of penalty alone.

Therefore, it is ordered, That Respondent's request for a hearing is denied. Petitioner's request for a Final Order is granted. I am imposing a civil penalty in the amount of $9,500 as requested. However, I am directing the Regional Director to revisit Schaffner Mfg. & Sales Corp. in 30 days. I expect that by this visit, a proper recordkeeping system will be in place. I am also directing that Schaffner be revisited within 1 year from this Order. If the records are in place and properly maintained, this penalty will be dismissed. However, if the records are not in order, then the full amount is due. In addition, should Respondent remain in noncompliance at that 1 year review, the Regional Director shall institute such action as to compel the cessation of violations.

Dated: June 12, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of D & N Bus Service, Inc.

[Docket No. R3-90-107]

Final Order

This matter comes before me upon request of the Respondent for an oral hearing and the Regional Director's (Petitioner) opposition thereto and request for a Final Order. These motions originate in a Notice of Claim dated February 20, 1990, alleging 19 violations of the Federal Motor Carrier Safety Regulations (FMCSRs) and assessing a penalty of $300 for each alleged violation for a total of $5,700.

Respondent, through Counsel, has replied in a somewhat innovative, if not legally correct manner. Respondent contests the jurisdiction of the Federal Highway Administration (FHWA) in this matter on the grounds that it is, by virtue of a contract with the State of Delaware, an "arm of the State of Delaware." Although Respondent may be contractually responsible to the State of Delaware, the Congress has empowered the FHWA to enforce the FMCSRs, which apply to the transportation of material and passengers, as specified by statute, in interstate commerce. An administrative hearing is not the proper forum for the explication of unsound, even though innovative legal theories.

I fail to understand the thrust of Respondent's defense. The transportation of passengers is a sacred duty; should that transportation involve schoolchildren the burden is of even greater weight. It is of no consequence to this Agency whether Respondent complied with its contractual requirements to the State of Delaware.

With respect to the charge that this action has been the result of selective enforcement, discriminatory enforcement or otherwise prejudicial enforcement, the record establishes that such charges are pure bunkum. The Affidavit of Mr. Harlan Tull, the State Transportation Supervisor for the Delaware State Board of Education states explicitly that Respondent is not an agency or department of the State of Delaware, nor is it an agent of the Board. Respondent is properly characterized as a contract carrier of passengers.

The Affidavit of Mr. Walter H. Johnson, Jr., establishes that there have been other enforcement actions against carriers transporting school children in interstate commerce pursuant to contracts with State and local governments.

These arguments of Respondent do not constitute material factual issues in dispute. It is not enough to say that the facts of each individual violation will be addressed at hearing. The regulations are clear and specific: to get to the hearing stage, all material factual issues in dispute must be identified. Respondent's pleading has not met this basic test.

On the other hand, the record before me substantiates that there was transportation in interstate commerce and that the alleged violations did take place.

Therefore, it is ordered, that Respondent's request for a hearing is denied and Petitioner's request for a Final Order is granted. Respondent is directed to pay the amount of $5,700 to

the Regional Director within 30 days of the date of this Order. In addition, Respondent should note that the Notice of Claim also provides a Notice of Abatement. The Regional Director is hereby directed to ascertain immediately if the Notice of Abatement has been followed. If Respondent has not complied with the Notice of Abatement, further action to compel compliance should be brought immediately.

Dated: June 12, 1990.

Richard P. Landis

Associate Administrator for Motor Carriers.

In the Matter of Johnny D. Secrest Driver Qualification

[Docket No. 89-03D]

Order Appointing Administrative Law Judge

This matter comes before me upon petition filed by Johnny Dean Secrest, petitioner, requesting review of the Determination of Qualification issued by the Acting Director, Office of Motor Carrier Standards, Federal Highway Administration (FHWA). In support of his request, petitioner submits for our consideration additional information and arguments; and expresses his belief that the Federal Motor Carrier Safety Regulations (FMCSRs) should be changed or revised to permit the interstate operation of commercial motor vehicles by low vision and monocular drivers. Such a change in the regulations is not to be considered as part of this proceeding. Rather, petitioner's physical qualifications to operate a commercial motor vehicle is the matter at hand. Petitioner should note that the FHWA will be considering changes to its regulations, including issues relating to low vision and monocular drivers.

Having carefully reviewed the record, I find that there is a material issue in dispute in this case. The issue is whether petitioner use of an Ocutech Lens System will correct his vision to at least 20/40 in each eye, and whether such a lens system constitutes "corrective lenses" within the meaning of 49 CFR 391.41(b)(10) and 392.9a (1989). Although the second part of the issue appears to be more of a legal issue than one of fact, it is invested with factual characteristics.

It must be determined whether the Ocutech Lens System is something different from glasses or contact lenses and thus, not contemplated in the cited regulation, or whether it is merely a sophisticated or technologically advanced set of glasses. This is a matter of factual proof, including the possible review of technical or medical evidence. The record is replete with reference by all parties to different lens systems—Ocutech, bioptic, telescope types—but there is a lack of substantial information on these systems. Even the type of lens to be used by petitioner was in question. The Acting Director determined that bioptic telescopes are not corrective lenses authorized by the FMCSRs. Petitioner argues that his doctor examined his vision using a Ocutech lens system, which, he alleges, is not a bioptic or telescope type lens.

In view of the above and in fairness to the parties in this case, I have determined that the material factual issue in dispute be submitted to an Administrative Law Judge for additional proceedings. The Judge appointed shall, in addition to the authority cited below, specifically address the matters discussed above and should review the record, oral arguments and briefs prior to making recommendations. Petitioner should be aware that the burden of proof in this proceeding will rest upon him, 49 CFR 391.49(e) (1989).

Therefore, it is ordered, that I hereby appoint an Administrative Law Judge in accordance with 49 CFR 386.54(a) (1989) to be designated by the Chief Administrative Law Judge of the Department of Transportation as the Presiding Judge. The Judge appointed is authorized to perform those duties specified in 49 CFR 386.54(b) (1989).

Dated: May 31, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of A. Weinfeld & Sons, Inc.

Order Denying Petition for Reconsideration and Stay

This matter comes before me upon Petition of Respondent for Reconsideration of a Final Order and Motion for Stay of such Order. The Final Order, issued on March 1, 1990, discussed in detail the reasons for not granting a hearing or other relief as requested by Respondent. This matter involves documented allegations of violations of the regulations. The Respondent has had similar violations in the past. Therefore, this is not a case of first impression for this Respondent.

Respondent's present motion for reconsideration breaks no new ground. Once again, Respondent would like to shift the burden for noncompliance onto an allegedly recalcitrant union. This is not a material factual issue in dispute. For whatever reason, Respondent has violated the regulations. Collective bargaining problems, while they may be real problems for an employer, do not override the safety of the public. The Federal Motor Carrier Safety Regulations are intended to protect the safety of the public.

Petitioner opposes the Motion. Its argument is based on the absence of material factual issues in dispute and the fact that the Respondent was informed in 1988 of the need to establish these files. Yet some 18 months later, Respondent still relies on the excuse that it has labor difficulties.

Although these arguments may be considered in mitigation of a proposed penalty, I find that no further mitigation is warranted. Congress has directed this Agency to secure compliance. In the case of reluctant, recalcitrant or unconvinced carriers, the penalty authority has been increased and strengthened.

With respect to the request for a Stay in the Final Order, I find that no compelling legal or factual argument has been advanced by Respondent. There will be no irreparable harm to Respondent through the imposition of this penalty, there appears to be little chance of success on the merits in a legal action against this Agency, should Respondent wish to pursue that course of action, and whatever public interest considerations are involved must lie in favor of public safety. In this case, the Respondent has been in violation for far too long. The public interest will best be served by the timely resolution of this matter. Respondent has not shown that the Agency has departed in any way from established practice.

Therefore, it is ordered, That Respondent's Motion for Reconsideration and Stay is denied. The terms of the Final Order are to be complied with as written.

Dated: May 7, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of D & D Transportation Co., Inc.

[Docket No. RI-89-276]

Final Order

This matter comes before me upon request of the Regional Director, Office of Motor Carrier Safety, Region 1, for a Final Order finding the facts to be as alleged in a Notice of Claim dated November 15, 1989, and assessing a penalty of $4,800.

The Notice of Claim alleges 10 instances of failing to maintain a complete driver qualification file (49 CFR 391.51) and 6 instances of failing to require a driver to prepare a vehicle inspection report (49 CFR 396.11). Each of the documented instances involves

separate drivers. The Notice of Claim follows an Enforcement Report/ Compliance Review and a Safety Compliance Review. Little appears to have been done in the way of corrective action and the carrier is rated unsatisfactory.

Respondent has not requested a hearing and appears only casually to dispute the allegations in contending that the drivers lease their equipment to Respondent on a trip lease basis and that they are regularly employed by other motor carriers. I do not find Respondent's answers to be either responsive or dispositive of this action.

The record supports the allegations and I am granting the Motion for Final Order.

Therefore, it is Ordered, That the Motion for a Final Order is granted and Respondent is directed to cease operating in violation of the regulations immediately and to pay to the Regional Director the sum of $4,800 within 30 days of the date of this Order.

Dated: May 7, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Abbey Metal Corporation

[Docket No. R1-90-04 (Formerly R1-90-032)]

Final Order, in Part, and Order Appointing Administrative Law Judge, in Part

This matter comes before me upon Motion for a Final Order filed by the Regional Director, Office of Motor Carrier Safety, Region 1 (Petitioner), and Request for Hearing filed by Respondent. This matter arises out of allegations in a Notice of Claim, dated February 9, 1990, alleging 12 violations of the Federal Motor Carrier Safety Regulations (FMCSRs).

The alleged violations include three cases of using a driver physically unqualified under the regulations, three violations of failing to maintain driver qualification files, and 6 violations of failing to require drivers to prepare vehicle inspection reports.

Respondent employs one driver and makes only occasional trips out of state. Informal discussions resulted in no conclusion to this matter. Respondent contends that its driver, a long-term employee of the company is due to retire in September, 1990, that he is examined on a regular basis by a doctor and that inspection reports have been found.

Having reviewed the record before me, I find that the facts support Petitioner's request for a Final Order with respect to the usage of an unqualified driver in interstate commerce. The driver acknowledges that he has not had "a DOT physical" and that he is an insulin controlled diabetic. Three trips are documented.

With respect to the allegations of failing to maintain a qualification file for each driver used or employed, there is no argument that such file is not kept. However, as there is only one driver, I find that Petitioner's request for a Final Order on this count is supported by the record, but the penalty is reduced to one count—for a file not kept at the time of the audit.

The allegations of failing to require a driver to prepare a vehicle inspection report appear to be a matter of factual dispute. Respondent contends misunderstanding as to what was meant by vehicle inspection report at the time of the audit. The record now contains copies of drivers' daily vehicle condition reports. Petitioner stands prepared tocontest the authenticity of these documents.

Therefore, it is ordered, That the Motion for a Final Order is granted as follows: with respect to the three alleged violations of using a physically unqualified driver, $300 for each (total $900); with respect to the three alleged violations of failing to maintain driver qualification files, $300 for one violation (total $300). Respondent is directed to establish files for each driver now and in the future and to cease using an unqualified driver in Interstate commerce. Respondent is further directed to pay to the Regional Director the sum of $1,200 as discussed above within 30 days of the date of this Order.

To determine the remaining 6 alleged violations, I hereby appoint, in accordance with 49 CFR 386.54(a), an Administrative Law Judge to be designated by the Chief Administrative Law Judge of the Department of Transportation, as the Presiding Judge in this matter. The Judge appointed is authorized to perform those duties specified in 49 CFR 386.54(b).

Dated: April 30, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Rig Runner Express, Inc.

[Docket No. R6-89-11]

Final Order

This matter comes before me upon request of the Regional Director, Region 6, Office of Motor Carrier Safety for a Final Order finding the facts to be as alleged in a Notice of Claim dated February 13, 1989 [not September 5, 1989, as referenced in Motion for Final Order] and assessing a penalty of $10,500.

Respondent has not requested a hearing and settlement negotiations were unsuccessful. Having reviewed the Motion and the supporting documents appended thereto, I find that the evidence supports the charges and specifications in the Notice of Claim relating to violations of the Federal Motor Carrier Safety Regulations (FMCSRs).

Therefore, it is ordered, That the Motion for a Final Order is granted and the Respondent is directed to pay $10,500 the amount of assessed penalty to the Regional Director within 30 days of the date of this Order.

Dated: April 30, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Alamo Distributing Service, Inc.

[Docket No. R6-89-63]

Final Order

This matter comes before me upon request of the Regional Director, Region 6, Office of Motor Carrier Safety for a Final Order finding the facts to be as alleged in a Notice of Claim dated September 5, 1989, and assessing a penalty of $11,000.

Respondent has not requested a hearing and settlement negotiations were unsuccessful. Having reviewed the Motion and the supporting documents appended thereto, I find that the evidence supports the charges and specifications in the Notice of Claim relating to violations of the Federal Motor Carrier Safety Regulations (FMCSRs).

Therefore, it is ordered, That the Motion for a Final Order is granted and the Respondent is directed to pay $11,000 the amount of assessed penalty to the Regional Director within 30 days of the date of this Order.

Dated: April 30, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Uncle Bo's Equipment Company

[Docket No. R6-89-15]

Final Order

This matter comes before me upon request of the Regional Director, Office of Motor Carrier Safety, Region 6, for a Final Order finding the facts to be as alleged in a Notice of Claim dated April 7, 1989, and assessing a penalty of $4,500.

The Notice of Claim issued on April 7, 1989, alleges violations of the Financial Responsibility Regulations. Three

violations alleging operations without the requisite level of insurance and failure to have an MCS–90 indicating the proper levels of insurance were discovered during a Safety Audit conducted on November 21, 1988. All three trips were entirely within Houston, Texas.

Respondent has not denied the violations and has not requested a hearing. Settlement negotiations were unsuccessful. Respondent indicates that it did not have the required insurance as a result of the economic climate surrounding this business. Insurance of $500,000 rather than the required $750,000 has been maintained.

No evidence of an MCS–90 is in the record. No evidence as to Respondent's current compliance is in the record. The record does substantiate the allegations and Petitioner is entitled to a Final Order. Nevertheless, this does not satisfy the requirements of the regulations.

Therefore, it is ordered, That Petitioner's request for a Final Order is granted. Respondent is directed to pay the sum of $4,500 to the Regional Director within 30 days of the date of this Order, unless it can produce an MCS–90 for the required amount of insurance. If the MCS–90 is produced, this penalty will be reduced to $1,500. In the absence of an MCS–90 under the terms of this Order, Respondent is directed to cease operating in violation of these regulations. The Director will take whatever actions are necessary to ensure compliance herewith.

Dated: April 30, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of James David Caver dba J. D. Caver & Company

[Docket No. R6–89–32]

Final Order

This matter comes before me upon request of the Regional Director, Region 6, Office of Motor Carrier Safety for a Final Order finding the facts to be as alleged in a Notice of Claim dated June 1, 1989, and assessing a penalty of $6,000.

Respondent has not requested a hearing and settlement negotiations were unsuccessful. Having reviewed the Motion and the supporting documents appended thereto, I find that the evidence supports the charges and specifications in the Notice of Claim relating to violations of the Federal Motor Carrier Safety Regulations (FMCSRs).

Therefore, it is ordered, That the Motion for a Final Order is granted and the Respondent is directed to pay $6,000 the amount of assessed penalty to the Regional Director within 30 days of the date of this Order.

Dated: April 30, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Aaron McGruder Trucking, Inc.

[Docket No. R6–89–50]

Final Order

This matter comes before me upon request of the Regional Director, Region 6, Office of Motor Carrier Safety for a Final Order finding the facts to be as alleged in a Notice of Claim dated September 5, 1989, and assessing a penalty of $13,750.

Respondent has not requested a hearing and settlement negotiations were unsuccessful. Having reviewed the Motion and the supporting documents appended thereto, I find that the evidence supports the charges and specifications in the Notice of Claim relating to violations of the Federal Motor Carrier Safety Regulations (FMCSRs).

Therefore, it is ordered, That the Motion for a Final Order is granted and the Respondent is directed to pay $13,750 the amount of assessed penalty to the Regional Director within 30 days of the date of this Order.

Dated: April 30, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Chaparral Van Lines

[Docket No. R6–89–55]

Final Order

This matter comes before me upon request of the Regional Director, Region 6, Office of Motor Carrier Safety for a Final Order finding the facts to be as alleged in a Notice of Claim dated September 5, 1989, and assessing a penalty of $11,000.

Respondent has not requested a hearing and settlement negotiations were unsuccessful. Having reviewed the Motion and the supporting documents appended thereto, I find that the evidence supports the charges and specifications in the Notice of Claim relating to violations of the Federal Motor Carrier Safety Regulations (FMCSRs).

Therefore, it is ordered, That the Motion for a Final Order is granted and the Respondent is directed to pay $11,000 the amount of assessed penalty to the Regional Director within 30 days of the date of this Order.

Dated: April 30, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Plating Products Co., Inc.

[Docket No. R1–90–008]

Final Order

This matter comes before me upon request of the Regional Director, Office of Motor Carrier Safety, Region 1, for a Final Order finding the facts to be as alleged in a Notice of Claim dated January 18, 1990, and assessing a civil penalty of $4,200. Respondent has replied with a letter which for the most part denies the violations.

Once again, we find that we have encountered a problem common to small, private carriers subject to our regulations, but obviously unaware of the importance of keeping proper files and documentation. Petitioner makes the point that the size of the operation is not necessarily relevant to the alleged violations, as set forth in previous decisions. This is true.

Nevertheless, the enforcement actions of this Agency must reflect some relationship to the ultimate goal of the laws and regulations—to wit, safe operations of carriers in interstate commerce. The facts surrounding this matter are striking. Respondent is a small operation, with one driver and two trucks, making limited runs from its home base to Philadelphia. Petitioner acknowledges that for most out of state business common carriers are used. Petitioner does not dispute the fact that throughout the long history of this business there are no known accidents, spills or other life threatening occurrences involving Respondent's trucks or driver.

If we put these alleged violations on a grid and use a simple form-book approach, there can be no denying that violations do exist. If I grant this Order and impose a fine of $4,200, can we be assured that the violations will cease? Can we be assured that the safety of the traveling public will be enhanced?

I would rather that the Agency makes every effort in its power to educate Respondent as to the requirements of the law and regulations and their reason for being. If this means that we sit down with management and carefully articulate the need for records and go so far as to show management how to keep records, then so be it. Only in those instances where management appears not concerned, recalcitrant or refuses to comply with the regulations should we bring an action with a fine of this magnitude, when dealing with these

small one or two truck private operations.

As there are documented violations here, I am granting the motion for a Final Order. However, with respect to the violation of § 391.51 failure to maintain a complete qualification file for each driver, I find that one violation exists and I am assessing the penalty at $100 for this count. For the violation of § 395.8 not requiring the driver to make and submit a record of duty status, again one violation assessed at $300. For the violation of § 396.11 not preparing a vehicle inspection report, one violation assessed at $200. For the violation of § 172.301 one violation at $300. The total assessed amount for these violations is $1,000.

At the same time I am directing the Regional Director to revisit Respondent and to assure himself that Respondent has a complete understanding of our regulations and programs and the need therefore. Once having done this, the revelation of future violations through audits should result in an Order of Cessation or injunctive action if necessary.

Therefore, it is ordered, That the alleged violations having been documented as discussed above, I am granting the request for a Final Order and direct the Respondent to pay the assessed civil penalty in the amount of $1,000 to the Regional Director within 30 days of the date of this Order. Respondent, Plating Products Co., Inc., should further be aware of the fact that although I recognize the difficulty of operating in the economic environment surrounding its business, if it continues to operate in interstate commerce then the rules and regulations of this Agency apply. It is far more economical for a business of its size to take the time to know what is required and to adopt practices which will ensure compliance than to receive a civil assessment penalty for each and every violation.

Dated: April 2, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Dretzmann, Inc.

[FHWA Docket No. R10-89-11 (Motor Carrier Safety)]

Order Granting Partial Summary Judgment

By motion dated March 14, 1990, the Regional Director (Claimant) moves for summary judgment pursuant to 49 CFR 386.36 and Rule 56 of the Federal Rules of Civil Procedure. As grounds for that request it states that no genuine issues of material fact exist and that it is entitled to judgment as a matter of law. In the alternative, Claimant requests partial summary judgment.

In support of its motion, the Regional Director states that Respondent's answers to its request for admissions establish that the violations of 49 CFR 395.3(a) (1) and 395.3(b) alleged in the Notice of Claim [1] occurred. Furthermore, it argues, the violations were committed by Drotzmann employees acting in the scope of their employment and in furtherance of the company's business. Therefore, it concludes, Respondent "permitted or required" the violations and summary judgment is appropriate. Claimant also contends that the violations constitute a "pattern" within the meaning of the regulations and seeks summary judgment on that issue. Further, it asserts that summary judgment should be granted on the issue of the amount of the fine proposed. It contends that the penalty proposed is not a material issue in dispute and should not be altered absent a showing of abuse of discretion.

Respondent answered the motion and acknowledges that the violations alleged did occur but denies that it required or permitted them within the meaning of the regulations. It also denies that the company's actions have constituted a "pattern" within the meaning of FHwA rules and contends that the proposed fine is excessive. Claimant filed a response to Respondent's motion, asserting that Respondent's answer did not raise any genuine issues of material fact.[2]

I grant summary judgment for Claimant on the issue of whether Droztmann drivers committed the violation alleged in the Notice of Claim. Respondent has admitted these allegations and I find that they took place. However, viewing (as I must) all the evidence and inferences to be drawn therefrom in the light most favorable to the nonmoving party, see *Adickes* v. *Kress & Co.*, 398 U.S. 144 (1970), I find that genuine issues of material fact exist as to whether Respondent "required" or "permitted" these violations and whether a "pattern" of violations exists. While these issues may be legal in nature and thus *prima facie* amenable to a summary judgment motion, Respondent's answers to Claimant's request for admissions and its answer to the summary judgment motion dispute the facts alleged in support of these charges and set out genuine issues of fact for trial.[3] I therefore deny Claimant's motion for summary judgment on these issues and will hear evidence on the question of whether Respondent "required" or "permitted" the violations and whether a "pattern" of violations exists.

My action moots the request for summary judgment as to the level of penalty, since the penalty amount will flow from the proof to be adduced at the hearing. In this connection, the Regional Director's assertion that upon proof the penalty amount cannot be altered absent a showing of an abuse of discretion is a fundamental misconstruction of our respective roles in proceedings under 49 CFR part 386. Complainant's proposed standard of review suggests that it is an adjudicatory entity. Claimant, however, acts only as the prosecutor in these proceedings. It brings charges but plays no role in deciding their legal effect on Respondents. Determination of the penalty by the prosecutor would deprive Respondents of a fair and impartial hearing. Such a practice would run afoul of elementary tenets of due process.

Moreover, my power to preside over these proceedings derives from the Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.* which forbids prosecutorial and judicial functions to mix.[4] Additionally, FHwA's own

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[1] The Notice of Claim, dated May 17, 1988, sets out 25 violations of § 395.3(a)(1)—which prohibits "permitting or requiring" a driver to drive more than ten hours without eight consecutive hours off duty or in a sleeper berth—and 5 counts of violating § 395.3(b), which prohibits "permitting or requiring" a driver to be on duty for more than 70 hours in eight consecutive days. It seeks a civil penalty of $10,000 for the alleged violations of § 395.3(a)(1) and $5,000 for those pertaining to § 395.3(b), for a total fine of $15,000.

[2] I need not consider Claimant's response, since Rules of Practice, 49 CFR part 386, do not provide for replies to answers. Claimant has not moved for leave to file its response or sought other appropriate relief from the rules. I have nonetheless decided to consider the document, noting that it raises no new substantive issues.

[3] Respondent states, for example, that it requires its drivers daily to report in their activities, and attempts by various means to bring into line those drivers who fail to follow the rules. These alleged facts are relevant to the level of penalty at the very least, to the separate but related question of whether and to what extent a "pattern" of violations exists, and to the question of whether Respondent "permitted or required" the violations committed by its drivers as found herein. While on the latter issue Complainant as a matter of law may have established a *prima facie* case, Respondent is entitled to present evidence in an effort to meet its burden of going forward to overcome that *prima facie* case.

[4] See *In the Matter of Woodbury House Transportation Inc.*, FHwA Docket No. R3-88-1, Order served June 13, 1989, p. 5, in which the presiding judge found, in accordance with Regional Counsel's view in that proceeding, that he held authority under the APA which enabled the entry of summary judgment. Here, as there, my power to rule on a motion for summary judgment derives from my power to preside pursuant to the APA.

precedent—including a ruling made in the instant proceeding—permits me to alter the Regional Director's suggested penalty. The Associate Administrator order appointing an ALJ pointedly noted, in response to Claimant's objections, that the Judge is free to recommend a penalty modification based on his determination of the facts, citing *In the Matter of Emnire Gas*, R187–87 (February 24, 1989). Finally, FHwA's own rules enable me to modify Claimant's penalty recommendation. The rules provide that the administrative law judge has the power "to ensure a fair and impartial hearing" (49 CFR 386.54(b)). I would be remiss in my responsibilities under that section were I to submit to Regional Director's proposed level of penalty without affording Respondent its right, here literal as well as figurative, to be heard.

Burton S Kolko,

Administrative Law Judge.

In the Matter of Service Bus Company, Inc.

[Docket No. RI–89–05 (Formerly RI–88–137)]

Denial of Petition for Review of the Decision of the Administrative Law Judge

This matter comes before me upon Petition of the Respondent for review of the Decision of the Administrative Law Judge entered on October 6, 1989. The Regional Director has opposed this Petition.

Having reviewed the record and the Decision of the Judge, I find that Respondent has advanced no valid reason, either in fact or in law to change, alter or amend the Decision in any form. The record and the Decision provide adequate basis on which to sustain the original assessment.

Therefore, it is ordered, that the Decision of the Administrative Law Judge is adopted as written and Respondent is directed to comply with the terms thereof immediately.

Dated: March 26, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Bower Tiling Service, Inc.

[Docket No. R5–90–03 (Formerly R5–89–106)]

Order Appointing Administrative Law Judge

This matter comes before me upon request for a hearing filed by Respondent in response to a Notice of Claim, originally dated September 28, 1989, as amended by Notice of Claim dated December 1, 1989. The amended Notice alleges one violation of 49 CFR 396.7(a) and assesses a civil penalty of $3,000.

Respondent has denied the violation and asserts that some person or persons unknown loosened certain brake assemblies to facilitate removal of the vehicle in question. Respondent also asserts that said brake assemblies were operable and properly adjusted.

There is an obvious material factual in dispute here, acknowledged by Petitioner.

Therefore, it is ordered, that in accordance with 49 CFR 386.54(a), I hereby appoint an Administrative Law Judge to be designated by the Chief Administrative Law Judge of the Department of Transportation, as the Presiding Judge in this matter. The Judge appointed is authorized to perform those duties specified in 49 CFR 386.54(b).

Dated: March 22, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Charles M. Cephas, Inc.

[Docket No. R3–88–098]

Final Order

This matter comes before me upon request of the Regional Director, Office of Motor Carrier Safety, Region 3, for a Final Order finding the facts to be as alleged in a Notice of Claim dated December 20, 1988, and assessing a civil penalty of $5,400.

Respondent has not requested a hearing. Petitioner's Motion indicates that there were compromise discussions which took place over a considerable period of time. No compromise having been reached, Petitioner seeks this Order. All references to the compromise discussions have been deleted from the record and Petitioner seeks to have any consideration thereof excluded. Although petitioner is free to delete such discussions from the record, the record submitted should be complete in its documentation of the allegations and the reasoning underlying its penalty request. In this matter, the amount requested in the Motion differs from that stated in the Notice of Claim. Am I to divine that notwithstanding the deletion of discussions between the parties and in view of the request that such discussions be given no weight that the new sum in the Motion is the result of a mistake on Petitioner's part? Or perhaps a newfound sense of justice or overweaning development of mercy has taken hold in the administrative process. Petitioner cannot have it both ways. The record is to be supplemented with the reasoning underlying both its allegations and its recommended resolution, or I shall try to develop an understanding of the matter based on what is before me.

Respondent is obviously a marginal operation. This enforcement action arises out of a safety review. The facts and happenstances surrounding these alleged violations are thoroughly documented. Respondent employs three drivers, himself included, however, the last name of one of these drivers appears to be unknown. Produce is hauled in the mid-Atlantic Region. The records, at least as included herein, appear to be at a fairly unsophisticated level.

Having said this, Respondent clearly made a number of interstate trips without the required levels of insurance. Whether these trips were limited to the 6 documented or more is neither discussed nor is its relevance ascertained. Respondent did secure the requisite insurance subsequent to this action. I have no idea if Respondent continues to operate with insurance or is even solvent.

The premium for insurance for this Respondent is in excess of $17,000. The Petitioner has requested a penalty of an additional $5,400, which is coincidentally about the amount of one insurance payment. The record does not indicate if Respondent has had any accidents. The record does not indicate if Respondent is flagrantly abusive. On the contrary, it appears that Respondent is trying to accommodate the requirements of the regulations and at the same time keep its head above the swirling financial waters engulfing its operations.

I cannot ascertain the impact imposition of this penalty will have on Respondent's business or his attitude towards compliance. These violations have occurred. They should not occur in the future. It should be noted that the letter sent to Respondent relating to the Financial Responsibility regulations states, in part, "If the minimum level of financial responsibility has not been obtained for your fleet, you are directed to cease your trucking operation."

As I am unable to fathom the efficacy the requested penalty will have with regard to this Respondent, I am going to reduce it. Some penalty appears warranted, therefore, I am dismissing the $400 claim for not having the form in the file and assessing half the request of the Petitioner in the Notice of Claim. If Respondent is found to be operating in the future without the required insurance then an injunction against his operations appears to be the proper remedy.

Therefore, it is ordered, that the Motion for a Final Order is granted.

modified above. Respondent shall pay to the Regional Director the sum of $3,000 within 30 days of the date of this Order.

Dated: March 12, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Warehouse Exports, trading as Continental Imports, Inc.

[Docket No. R3-89-031]

Final Order

This matter comes before me upon Motion for a Final Order filed by the Regional Director, Office of Motor Carrier Safety, Region 3, finding the facts to be as alleged in a Notice of Claim dated March 31, 1989, and assessing a penalty of $6,300.

The Notice of Claim alleged 21 violations of the Federal Motor Carrier Safety Regulations (FMCSRs), all involving failure to maintain a driver's qualification file. Respondent sought to resolve this matter through a negotiated settlement, however, it appears no resolution was possible. The record does not indicate any perfected request for a hearing.

The record indicates three significant sets of facts to me. First, the Respondent is a relatively small operation, employing 3 drivers and operating within the 100 mile radius provision of the regulations. The alleged violations involve the records for two drivers, with the number of allegations being a composite of trips documented and made by these drivers. Second, Respondent may have been recalcitrant at the time of the initial review. Third, it appears that with certain personnel changes and a new attitude, Respondent now realizes the importance of keeping the required files.

In several earlier cases, particularly, *Continental Petroleum & Energy Co.*, R3-89-068, *Continental Tank Lines, Ltd.*, R3-89-069, and *Coco Chemical Corporation*, R3-89-106, I addressed the documentation of multiple violations in record and files cases. Because of the small, localized nature of the operations and the apparent willingness of management to institute the necessary controls to ensure compliance, I find that violations have occurred. However, as the files were incomplete at the time of the audit, I find that there is one violation in the case of each driver. Each of these violations is substantiated by the record and will be assessed at $500.

Therefore, It is Ordered, That Petitioner's Motion for a Final Order is hereby granted, except as modified above. Respondent shall pay the sum of $1,000 to the Regional Director within 30 days of the date of this Order and shall take all appropriate steps to ensure that the files are placed and maintained in order.

Dated: March 8, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Arthur Shelley, Inc.

[Docket No. R3-89-034]

Final Order

This matter comes before me upon request of the Respondent for a hearing and a Motion in Opposition Thereto and for a Final Order submitted by Petitioner. Petitioner, the Regional Director, Office of Motor Carrier Safety, Region 3, opposes the request of Respondent on the grounds that no specific factual issues have ever been identified.

This case has a rather detailed history. The Respondent was sent a Notice of Claim on March 20, 1989, alleging 9 "serious pattern of safety violations" for violations of the regulations governing the duty time of drivers. Specifically, Respondent was alleged to have required or permitted drivers to drive after having been on duty more than 70 hours. The civil forfeiture claim was assessed at $900 per violation.

Respondent replied to the Notice by denying the alleged violations, at first specifically denying knowledge of the violations (leased drivers), then averring that if knowledge were to be imputed to Respondent that it wished to contest the amount of the claim. I have discussed the knowledge issue in several recent cases, see, *Trinity Transportation, R9-90-001*, and *Horizon Transportation R3-89-114*. In summary, I will only state here that knowledge, in the circumstances presented in this civil forfeiture claim, is imputed. The case law is clear on this point and is referenced in those Orders.

Respondent also met with Petitioner to discuss settlement of this claim. No settlement was made. Respondent offered up the institution of a monitoring system and disciplinary action to prevent the recurrence of such violations in the future. This was done by way of mitigation. Respondent also contends that it has had no similar penalty actions against it and that it was operating with a satisfactory rating.

There are a number of concerns which I would like to address here. It appears that Respondent acknowledged that violations have occurred. I have expressed a sense of unease with respect to pattern violations in previous cases. In those in which Respondent has provided information of an existing monitoring and disciplinary system, I have called the matter for hearing. In those in which the Respondent made no vigorous protestation, could show no system in place or merely contested the amount of the penalty, I have issued Final Orders.

This case presents a middle ground. The record indicates that the violations documented in the Notice were a mere sampling of violations discovered. Normally, to sustain a pattern violation, I would like to see a significant number of violations documented. However, here it appears that Respondent has come to a recognition of possible deficiencies and is now instituting a system to address these deficiencies. This is a situation which appears to meet the standards established by the Congress for just such "middle violations." The penalty provided was designed to positively reinforce compliance.

Petitioner has taken into account Respondent's actions. Petitioner further has revealed that Respondent, contrary to its assertions has been the subject of previous enforcement action and did not have a satisfactory rating. Nevertheless, in an effort to encourage compliance, a substantial reduction of the civil assessment reducing the claim from $5,100 to $5,300 was offered. This reduction is not considered sufficient by Respondent.

In discussing the issue of penalty assessments in previous cases, I have repeatedly stated that the local judgment of the Regional Director is the standard guiding these matters. The amount of the penalty is not a material issue in dispute and therefore not entitled to hearing status. I will modify the assessment where warranted, but not as a matter of routine. In this case, the reduced penalty requested by Petitioner in his motion appears fair and supportable on the record. Respondent's intransigence is not sustained by the record. Violations have occurred; it appears that Respondent's previous position was, if not acceptance thereof, then a fatalism about their occurrence or reoccurrence. Respondent's new attitude, in instituting a monitoring system and disciplinary action is a positive step in the right direction. The Congressional remedy in this instance appears to be right on the mark.

The record disposes of the matter of material factual issues in dispute. As discussed above, I find that the record supports the allegation that violations have occurred.

Therefore, it is ordered, That Respondent's Request for a Hearing is denied. Respondent's request for a

reduction in the amount of the penalty is likewise denied. Petitioner's request for a Final Order is granted. Respondent shall pay to the Regional Director the sum of $5,300 within 30 days of the date of this Order.

Dated: March 5, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Chemical Commodities, Inc.

[Docket No. R7-90-02 (Formerly R7-89-053)]

Order Appointing Administrative Law Judge

This matter comes before me upon request for a hearing filed by Respondent and Opposition Thereto and Request for a Final Order filed by Petitioner. Petitioner, the Regional Director, Office of Motor Carrier Safety, Region 7, alleged, in a Notice of Claim dated June 14, 1989, violations of the Hazardous Materials regulations and assessed a civil penalty of $5,000. Respondent replied to the Notice on June 28, 1989, requested a hearing and stated that Respondent did not believe that the allegations are accurate or applicable and denied any violations of the regulations.

I have withheld ruling on Motions at the request of Petitioner on the basis that settlement was possible. Such has not been the case.

Petitioner argues that Respondent's request for a hearing should be denied for failure to admit or deny the alleged violations, for failure to list material factual issues in dispute, and for failure to provide a Certificate of Service as required by the regulations.

Respondent's letter clearly and specifically denies any violation of the law. The contention that the allegations are not accurate or applicable appears to constitute a rejoinder to Petitioner's allegations. In sum, Respondent is putting Petitioner to the proof. The record before me is insufficient to dispose of this matter. As there is a clear issue of fact in this case, I am appointing an Administrative Law Judge to hear the matter.

Therefore it is ordered, That Petitioner's Motion for a Final Order is denied and Respondent's Request for a Hearing is granted. In accordance with 49 CFR 386.54(a), I hereby appoint an Administrative Law Judge to be designated by the Chief Administrative Law Judge of the Department of Transportation, as the Presiding Judge in this matter. The Judge appointed is authorized to perform those duties specified in 49 CFR 386.54(b).

Dated: March 2, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of A. Weinfeld & Sons, Inc.

[Docket No. R3-90-002]

Final Order

This matter comes before me upon request of the Respondent for a hearing, Motion for Final Order and in Opposition to the Request for Hearing filed by Petitioner and Answer thereto filed by Respondent. Petitioner, the Director, Office of Motor Carrier Safety, Region 3, initiated a Notice of Claim, dated November 20, 1989, alleging 24 violations of the Federal Motor Carrier Safety Regulations (FMCSRs) and assessing a penalty of $68,400.

The parties have apparently met to discuss settlement of this case but have been unable to reach agreement.

Petitioner's Motion cites in its support the failure of Respondent to articulate any specific factual issues in dispute failure to present in writing mitigating evidence, and the fact that Respondent was the subject of a prior Safety Review during which similar violations were pointed out.

Respondent's answer avers everything but factual matters in dispute. Respondent contends it has not received documentation or information pertaining to the audit; that it is not legally responsible for the alleged violations; that there are extenuating and mitigating circumstances which would preclude liability; that it is not legally required to present its case at this time; and that the investigator's biased view of the facts is heresay.

The regulations governing the grant of a hearing are clear and straightforward. 49 CFR 386.14(b)(2) states in pertinent part "* * * A request for a hearing must contain a listing of all material factual issues believed to be in dispute * * *." I fail to understand the mystery in Respondent's inability to comply therewith. An administrative hearing under these regulations is a factual hearing. If there are no factual differences, then there can be no hearing. If Respondent has a problem with the legality of the regulation, then its remedy will lie in a legal action following the conclusion of the administrative action. See: *In the Matter of Alan Party Rental, Inc.* Docket No. 89-185.

Respondent has been visited in the past, and received the benefit of a Safety Review. It was given an unsatisfactory rating based on the discovery of similar violations. Respondent is familiar with the requirements of the regulations. The alleged violations all involve failure to have required records in the files. This does not appear a difficult matter in which to identify factual differences. Either the records are in the file, or they are not. If they are not, then they are not because of an act of God, man or mystery of nature. The Notice of Claim specifies the missing records. Respondent cannot rely on the lack of "documentation" as a reason for its inability to articulate factual differences.

There are, therefore, no facts before me upon which determine a difference. The regulations clearly require factual differences for the appointment of an Administrative Law Judge. Respondent has not met this basic test. On the other hand, the record before me clearly establishes that Respondent is subject to the regulations, has knowledge of this and has been audited previously, that similar violations were documented, and that there are no mitigating circumstances before me upon which to reduce the amount of the assessment. The violations stand without controverting opposition.

Therefore, it is ordered, That Respondent's request for a Hearing is denied and Petitioner's Motion for A Final Order is granted and a penalty in the amount of $68,400 is assessed. The penalty shall be paid to the Regional Director within 30 days of the date of this Order.

Dated: March 1, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Arizona Freight Systems, Inc.

[Docket No. R9-89-052]

Final Order

This matter comes before me upon request of the Regional Director, Office of Motor Carrier Safety, Region 9, for a Final Order finding the facts to be as alleged in a Notice of Claim dated August 24, 1989, and assessing a civil penalty of $6,750. The Notice of Claim alleged nine documented counts of transporting a shipment of hazardous materials not accompanied by a properly prepared shipping paper (49 CFR 177.817(a)).

The Respondent has not requested a hearing and has not denied the violations. Rather, Respondent takes the approach that the violations were the result of incorrect preparation by others, that it has taken action to bring about compliance in the future, that its past actions indicate a posture of

cooperative, voluntary compliance and that the fine is excessive and punitive.

The actions detailed by Respondent have not been disputed. Following a prior visit by the Agency, Respondent hired a motor carrier safety compliance expert, employed a safety supervisor and embarked upon a program to obtain safety compliance. Although Respondent is commended for these actions, it cannot help but raise the question in my mind why this level of noncompliance in the present matter?

Respondent has had ample notice of its responsibilities under the regulations. The violations have been documented, and notwithstanding the actions of the Respondent to prevent their reoccurrence, petitioner has substantiated its case.

Turning to the amount of the penalty, the reasons therefore and the Agency's posture on these matters, I would like to cite a recent study printed by the Senate Committee on Commerce, Science, and Transportation, entitled *Motor Carrier Safety and the Federal Highway Administration's Education and Enforcement Efforts: Options Intended to Improve an Overloaded Program*, S. Print 101–30 (April, 1989). This report noted that the motor carrier safety program is a multi-faceted, essential education and enforcement effort. Education is noted as being useful when motor carriers take significant actions to comply with the regulations. However, the report notes that operational improvement often follows only after the institution of an enforcement action.

In its discussion of enforcement, the report notes that the agency considers the penalty action to be one of several methods to improve compliance. There is a necessarily subjective and judgmental element to penalty actions. Many factors are involved.

In addressing hazardous materials, the report is critical of the Agency for not devoting the level of attention to such transport as is necessary.

Keeping in mind the above thoughts, the report correctly states the Agency philosophy as follows: "FHMA maintains that the purpose of a civil penalty imposed on a motor carrier is not to cripple its operations or financial stability. By getting the attention of management, the penalty is supposed to promote future compliance." The report also discusses the effects of penalties and states: "Too low a penalty sends the unwanted message to industry that noncompliance with the * * * regulations is tolerated by FHMA. Furthermore, low or insignificant penalty actions tend to have adverse impact on the morale of FHWA safety investigators. For some carriers, FHMA's penalties might be considered part of the expected costs of doing business." This is prelude to admonishing the Agency over the need to assess penalties of a sufficiently meaningful magnitude to encourage voluntary compliance.

Whether the policy of an enforcement audit without penalty action, the so-called "freebie", is effective or not, there is no guarantee that a carrier can expect to receive a visit without penalty for each and every alleged violation. The Agency attempts to notify the carrier community of the applicability of the regulations, then visits to check compliance and advises of shortcomings. The institution of penalty proceedings depends on many factors.

In this matter before me, there can be no argument that the Respondent has received the benefit of an Agency audit. The Respondent avers it has taken positive compliance actions. Yet, there can be no arguing that these actions have left gaps. Hazardous materials transport has been approached somewhat casually, particularly in view of the presence on the payroll of a safety supervisor.

I have addressed the issue of penalty assessment in many previous matters. My view is that penalty assessment is best left to the recommendation of the Regional Director, as this person is closer to the audit, the carrier and the considerations of the investigating officer. Nevertheless, I have also indicated that this does not constrain my ability to modify the penalty requested if the facts and circumstances presented warrant such action.

Respondent is obviously trying to reach compliance. Respondent is also obviously in violation of the regulations. It is my belief that Respondent has gotten a clear message from these proceedings of the importance of compliance. In Petitioner's Motion, these factors are noted. Petitioner notes that of the nine violations, three contain improper hazard class designations, which are viewed as particularly serious. Petitioner states: "In the event of a hazardous material accident, the response team effort to contain a hazardous material spill is often dependent upon the correct designation of hazard class." The remaining six violations involve improper shipping names and sequence. The record appears to indicate that many of these violations were discovered-only these few were documented.

The violations considered significant have been properly assessed. The others appear not to warrant the imposition of a penalty based upon Respondent's actions to come into and remain in compliance.

Therefore, it is ordered, That the Motion for a Final Order is hereby granted finding the Respondent to be in violation of the regulations as alleged and assessing a penalty of $3,000 for the three violations of improper hazard class designations. All other penalty assessments are dismissed. Respondent shall pay the sum of $3,000 to the Regional Director within 30 days of the date of this Order.

Dated: February 20, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of J.L. McCoy, Inc.

[Docket No. R3–89–020]

Final Order

This matter comes before me upon request of the Regional Director, Region 3, for a Final Order finding the facts to be alleged in a Notice of Claim dated March 17, 1988.

Having reviewed the Motion and supporting documents appended thereto, I find that no valid request for a hearing has been made. I find that the evidence supports the charges and specifications in the Notice of Claim relating to violations of the Federal Motor Carrier Safety Regulations (FMCSRs).

Therefore, it is ordered, That Respondent is directed to satisfy the penalty assessment by paying to the Regional Director the full amount of $58,000 within 30 days of the date of this Order.

Dated: February 20, 1990.

Richard P. Landis

Associate Administrator for Motor Carriers.

In the Matter of Wilmington Tank Lines, Inc.

[Docket No. R3–89–198]

Final Order

This matter comes before me upon request of the Regional Director, Office of Motor Carrier Safety, Region 3, for a Final Order finding the facts to be as alleged in a Notice of Claim dated September 18, 1989, and imposing a penalty of $6,500. The Notice of Claim alleged five violations of the Hazardous Materials Regulations.

The Respondent requested a settlement conference. No hearing was requested. The record indicates that no settlement has been reached in this matter. I find that the evidence supports the charges and specifications in the Notice of Claim.

Therefore, it is ordered, That Respondent is directed to satisfy the

penalty assessment by paying ω the Regional Director the full amount of $6,500 within 30 days of the date of this Order.

Dated: February 20, 1990.

Richard P. Landis

Associate Administrator for Motor Carriers.

In the Matter of Carter's Bus Service, Inc.

[Docket No. R3-89-156]

Final Order

This matter comes before me upon request of the Regional Director, Region 3, for a Final Order finding the facts to be as alleged in a Notice of Claim dated August 4, 1989.

Having reviewed the Motion and supporting documents appended thereto, I find that no valid request for a hearing has been made. I find that the evidence supports the charges and specifications in the Notice of Claim relating to violations of the Federal Motor Carrier Safety Regulations (FMCSRs).

Therefore, it is ordered, That Respondent is directed to satisfy the penalty assessment by paying to the Regional Director the full amount of $6,400 within 30 days of the date of this Order.

Dated: February 20, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Trinity Transportation, Inc.

[Docket No. R9-90-001 (FORMERLY R9-89-061)]

Order Appointing an Administrative Law Judge

This matter comes before me upon request of the Regional Director, Office of Motor Carrier Safety, Region 9, for a Motion for A Partial Final Order, which in part states opposition to a request for a Hearing made by Respondent and in part agrees that a Hearing appears necessary on some issues. Respondent has countered with a Motion in Opposition to this request and a Motion for Dismissal or in the alternative for Hearing as originally requested.

These proceedings are occasioned by a Notice of Claim letter dated August 14, 1989, alleging that Respondent has violated the Federal Motor Carrier Safety Regulations (FMCSRs). The original allegations of violation included a 7-count pattern violation assessed at $750 for each count, a 6-count pattern violation assessed at $600 for each count and 14 alleged recordkeeping violations assessed at $400 for each count. A total assessment of $15,650 was levied in that letter. Subsequent thereto, as a result of information apparently uncovered in the pleadings, 2 counts have been dismissed and Petitioner agrees to the necessity for a hearing on 3 others, thus modifying the present assessment to $12,500. I have tried to add and subtract these assessments three different ways and cannot arrive at the sum of $12,500. The closest I come is $12,550.

I state this by way of pointing out that I find the original Notice of Claim to be abstruse at best and difficult for a layperson to understand at least. Perhaps the intransigence of the parties in this matter is explained by the difficulty in deciphering the intent of the Notice. In the future, Petitioner should set forth clearly, in tabular form, if necessary, for multiple count violation allegations, the violation and assessment next to each other.

I also fail to understand how it is that the parties could have communicated with each other over the telephone and in correspondence, yet Petitioner waited until the pleading stage to dismiss counts alleged in error. The informal negotiation process is designed to function in such a matter as to clarify and crystallize the issues. Obviously, in this matter the parties talked but did not communicate.

The substantive issues presented here are significant. Allegations of patterns of violation are relatively new and no body of decision or hearing law is available for review. There is, on the other hand, a long history of recordkeeping violation allegation materials available. There are some significant basic facts which I would like to discuss here.

Respondent states, apparently without contradiction, that it was incorporated in late 1987 and began operations in January, 1988. A Safety Review was conducted within 6 months of commencement of operations. Several recommendations were made at the time, and apparently were followed. A Compliance Review was conducted one year later. This is approximately 18 months after commencement of operations.

Each side quotes from the statute or Congressional Report concerning the nature of the violations and the need to account for a totality of circumstances in determining whether an enforcement matter is present. Each side is partially correct in its arguments. Respondent raises some interesting points to consider, i.e., the alacrity with which it was rated and the surveyed for compliance, the necessity to consider a number of factors in making an assessment and the necessity to consider the attitude of the Respondent.

Petitioner correctly points out that Congress has directed stronger enforcement efforts, that patterns of violation cannot be tolerated as simply a way of doing business and that knowledge of the regulations and the behavior of one's employees is imputed to an employer.

Having established these points the trail of this case leads us into the thickets of both legal and factual argument. Respondent contends that it has in place a vigorous system of discovering and taking action against violators. Therefore, Respondent contends it should not be faulted with a violation of the regulations. Petitioner contends that there was no or an inadequate system of review and that violations occurring over as long as a three month stretch before the imposition of disciplinary action constitute clear violations of the regulations, in fact, so clear as to constitute an identifiable pattern.

Respondent argues that its system militates against a finding of "knowing or requiring" violations. Petitioner resorts to the reasoning expressed in *Rias & Co.* v. *U.S.*, 282 F 2d 245,250 (8th Cir., 1958) and *U.S.* v. *Time-DC, Inc.*, 381 F. Supp. 730, 739 (W.D.Va., 1974). Under the holding of these cases, long adhered to by the FHWA a corporate entity is deemed to have had knowledge of regulatory violations if the means were present by which the company could have detected the infractions. Were this a case involving a respondent with a history of regulatory contacts with the Agency or at least an established operating history, I would have no trouble agreeing with Petitioner. The Respondent contends that it has had a monitoring system in place and that it takes disciplinary action. The documentation of violations in such a situation would be sufficient to find a violation of the "knowing or permitting" standard.

Such is not the case here. This Respondent has offered mitigating reasons. It appears that Respondent has had in place some type of monitoring system as drivers have been terminated. The record indicates the Safety Director has taken an active stance in such matters. Petitioner contends that the system was not functioning or has broken down. Time periods as long as three months with records violations have been discovered before the institution of disciplinary action. These are all factual matters.

Under other circumstances I might consider granting a split motion, sending the pattern violations to hearing and issuing an Order for the recordkeeping violations. However, due to the relative newness of Respondent's operations, the

speed with which the Agency has completed both a Safety Review and a Compliance Review, the Respondent's apparent attempts to comply with the regulations and the guidance given at the Rating review and the Agency's stated position that its goal is compliance and that punitive actions will usually only be taken where the record indicates that such encouragement is needed, I am appointing an Administrative Law Judge to hear the arguments in this matter, to sort out the facts and to make recommendations to me.

I am particularly interested in the pattern violations. Has the Petitioner established that a pattern in fact exists? What constitutes a pattern? Are two documented violations of the same section sufficient? Is it necessary to show a history of enforcement actions? Can Respondent show mitigation through vigorous action such as terminating violating drivers? Is mitigation sufficient to rebut the violation or should it be applied only to the amount of the penalty? Similar questions must be answered for the recordkeeping violations where the Respondent can show a program in operation.

Therefore, it is ordered, That Petitioner's Motion is denied in part wherein requesting a Final Order and granted in part for a hearing. Respondent's Motion is similarly denied in requesting dismissal of this action and granted in part for a hearing. In accordance with 49 CFR 386.54(a), I hereby appoint an Administrative Law Judge to be designated by the Chief Administrative Law Judge of the Department of Transportation, as the Presiding Judge in this matter. The Judge appointed is authorized to perform those duties specific in 49 CFR 386.54(b).

Dated: February 20, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Horizon Transportation, Inc.

[Docket No. R3-89-114]

Final Order

This matter comes before me upon request of Horizon Transportation, Inc. (Respondent) for a hearing and Motion in Opposition thereto and for Final Order filed by the Regional Director, Office of Motor Carrier Safety, Region 3 (Petitioner). Respondent seeks a hearing on the alleged violations of the Federal Motor Carrier Safety Regulations (FMCSRs) and the penalty assessed therefore in a Notice of Claim dated August 4, 1989.

The Notice documented 24 alleged violations of 49 CFR 395.8(e) for requiring or permitting drivers to make false entries upon driver records. The record before me indicates that this is not the first instance in which Respondent has been audited, nor is it the first time such violations have been called to its attention.

In a letter of January 26, 1990, Respondent sets forth the basis of its request for a hearing on the grounds that it did not require or permit such violations, as construed in light of the Webster's Dictionary definition of those terms. Respondent also calls attention to the fact that it, along with other old line carriers is struggling to survive the effects of deregulation. Respondent points out the difficulty of paying high fines and assessments and of keeping qualified help in such an environment. Similar sentiments are expressed in an earlier letter dated August 18, 1989.

I am not unmindful of the burdens raised in Respondent's letters. At the same time, I must point out that the burdens imposed upon the industry in the interests of operating safely will not decrease. I would also like to point out that under no circumstances must economics be allowed to overrule safety needs and requirements. I have pointed out over and over in my Orders the stringency of Congressional mandates, the need to know and keep abreast of regulatory developments, and the requirement to be aware of the legal operating framework of the industry. Anyone who reads the newspapers, trade journals or general media should be aware that operations in a modern, technological society such as ours are demanding and maybe even burdensome. The rewards for those who operate successfully are high. The risks, which are shared by the public at large, can be devastating. It is hard to explain to someone who has just lost a loved one in an accident that it is difficult to operate in compliance with safety regulations in a deregulated environment.

All this is preface to consideration of the request before me. I have granted the request for a hearing in several previous instances on the question of whether the knowing or permitting requirement had been violated. In these cases, i.e., *Woodbury Horse Transportation, Inc.*, R1-88-01; *Drotzmann, Inc.*, R1D-89-11; and, *Transformer Services, Inc.*, 88-34, Respondent had made a vigorous representation as to why it should not be found to be in violation. The presence of disciplinary programs, actions and even terminations as well as review procedures and the like were all presented and provided a basis on which to find material factual issues in dispute. We do not as of this writing have any guidance from an Administrative Law Judge on this subject.

In the present case, no such information is forthcoming. Reliance on a Dictionary definition is misplaced. This is a legal proceeding. The regulations have been promulgated in a regulatory, therefore legalistic setting. Lay arguments may provide some insight in the absence of legal reasoning, but such is not the case here.

Within the context of these regulations, employers are liable for the actions of employees. This is standard concept from the basic law of agency. The mental state or intent element is not part of the burden faced by an auditing agency in enforcing civil penalty statutes. There is a considerable body of case law along this line, see *United States* v. *Sawyer Transportation*, 337 F. Supp. 29 (D. Minn. 1971), *Riss Co.* v. *U.S.*, 262 F. 2d 245 (8th Cir., 1958), and *Steer Tank Lines* v. *U.S.*, 330 F. 2d 719 (5th Cir., 1963). The fact that the drivers were employed by Respondent at the time of violation, and that Respondent had been put on notice about the regulations and this type of violation previous to this enforcement action are sufficient to establish culpability.

In fact, the Exhibits clearly show that during a prior compliance audit Respondent was advised of the need to institute a progressive system of disciplinary action for hours of service violations and falsification of records of duty status. Obviously, no such system is in place. There is no basis for Respondent's avoiding liability for the actions of its drivers by shifting the burden to their noncompliance. The regulations do not condone a carrier's violations because its drivers do not comply with the requirements.

In the absence of particularized information indicating a vigorous effort on the part of Respondent to educate and discipline its drivers and to review and organize its records in such a manner as to understand the shortcomings of its operations, I must deny the request for a hearing.

Therefore, it is ordered, That Respondent's request for a hearing is denied and Petitioner's request for a Final Order finding the facts to be as alleged in the Notice of Claim dated August 4, 1989, and imposing a civil penalty of $9,600 is granted. Respondent shall pay that amount to the Regional Director within 30 days of the date of this Order.

Dated: February 20, 1990.
Richard P. Landis,
Associate Administrator for Motor Carriers.

In the Matter of John T. Lesnak

[Docket No. R3-89-023]

Order

This matter comes before me upon request of the Regional Director, Office of Motor Carrier Safety, Region 3, for a Final Order finding the facts to be as alleged in a Notice of Claim dated March 1, 1988, and assessing a penalty of $1,000.

The Notice alleged that Respondent violated the regulations by driving in interstate commerce without having a currently valid medical examiner's certificate. The Notice alleges that the certificate in Respondent's possession was forged.

Having reviewed the motion and the documents appended thereto, Petitioner's allegations are substantiated by the record. Nevertheless, this case is now quite old. No purpose will be served by imposing the full penalty requested, to wit, $1,000, assessed on the basis of $250 for each of 4 documented violations. Many more probably could have been substantiated.

The crux of the matter is whether Respondent has in fact corrected the violation. I have these questions:

1. Is Respondent still employed in a position where he drives a motor vehicle in interstate commerce? If so, does he possess a currently valid medical examiner's certificate?

2. If Respondent is found to be operating a motor vehicle in interstate commerce without possessing a currently valid medical examiner's certificate, why has such activity gone without challenge?

The Regional Director is directed to examine this case and determine whether Respondent is still operating in interstate commerce. If the finding is that Respondent is still operating in interstate commerce, the application of a penalty will have some validity. If Respondent has not come into compliance additional action is necessary to bring about compliance.

Therefore, it is ordered, That Petitioner's motion for a Final Order is granted in part. The record supports the allegations and Respondent is found to have violated the regulations as charged. Respondent is directed to pay the sum of $250 for such violation, if he is still employed in a position where he operates motor vehicles in interstate commerce. If Respondent no longer drives in interstate commerce, the penalty is waived. If Respondent still drives in interstate commerce and remains in violation of the regulations, he is ordered to cease and desist from all violating activity immediately. Any penalty due under this Order is to be paid to the Regional Director within 60 days of the date of the Order.

Dated: February 20, 1990.
Richard P. Landis,
Associate Administrator for Motor Carriers.

In the Matter of A.T. Pinto, Inc.

[Docket No. R3-90-006]

Reconsideration of Final Order

On December 7, 1989, I issued a Final Order in this matter. Relying on the absence of written motions or pleadings from Respondent I found that violations had occurred as alleged. The record indicated that the parties were unable to settle this matter and I therefore granted the request imposing a full penalty of $5,100.

On January 10, 1990, I received a letter from Respondent. No service list was attached. The letter was couched in terms of a simple appeal for relief. The Director, Office of Motor Carrier Safety, Region 3, upon being informed of the letter from Respondent, has filed a Motion in Opposition. That Motion correctly points out that there are many procedural irregularities in Respondent's request.

Ordinarily, I would have no problems granting Petitioner's Motion in Opposition. However, there are certain factual allegations raised in Respondent's letter which provide me with an opportunity to discuss this process. Respondent indicates that he met with Program Officials in the Regional Office. At that meeting, the Agency apparently agreed to some reduction in the amount of the penalty. Respondent's counter offer was rejected as too low. Respondent then alleges that he was told the Regional Office had no authority to reduce the penalty by more than 25 percent. Respondent's letter next states:

> I told him that I would like to appeal to higher authority. * * * indicated that the matter would automatically be brought to your attention (in 5 to 6 months) and that I could appeal to you.

Respondent next admits that in fact violations were present but that corrective actions have been taken. What disturbs me is the casualness which appears to surround this entire process. It is this that I would like to address.

There are several concerns in this regulatory program. The highest concern is to provide a safe highway environment for the entire public. We try to achieve this through the promulgation of rules and regulations implementing congressional laws. Compliance with these regulations is necessary to avoid penalty. Education is a necessary part of the process. Throughout the entire process, however, procedural regularity is required, both for Respondent and Petitioner.

All audited carriers must first be informed of the applicability of the regulations. When a Notice of Claim is sent, the regulations should again be prominently mentioned. The Respondent has an obligation to read the regulations and to conform thereto. In discussing the violations and regulations, Petitioner should advise Respondent of the necessity for procedural regularity. Petitioner must not dispense casual advice as to general nature of the regulatory process and must clarify procedural rights for the Respondent.

In this case, if Respondent is correct he was misled. His appeal to higher authority on the amount of a penalty claim is not provided by right in the regulations. The amount of the penalty is not a material issue in fact entitled to a hearing. Negotiations, if at an impasse, must proceed along the line of enforcement authority. That channel includes the Regional Director and the Director of the Office of Motor Carrier Safety Field Operations. These matters should not be automatically brought to my attention.

Respondent has an obligation to participate in the administrative process fully and in accordance with the regulations. Somewhere in the chain of command note will be taken of his arguments and operations, if documented. I have repeatedly stated that the assessment of the penalty is best left to those closest to the alleged violations. I have also stated that I reserve the right to alter a penalty assessment if the record warrants such change. But I am not the disburser of financial good will in this process.

This program must not become a wooden, bureaucratic regimen, hiding behind such strictures as the 25 percent rule. Penalties should be assessed in line with the violations alleged. Reductions in settlement should rely upon the presentation of good information. Failure of the parties to agree indicates that either the penalties are assessed too high, there has been a breakdown in communications in the enforcement chain of command, or the respondent is not aware of the seriousness of violations and the necessity for high penalties.

I have faith that the Agency's Program Officials are carrying out their responsibilities in a positive, good-faith

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manner. We have embarked on a relatively new process here. Everything in that process is underscored by the requirement for procedural regularity. That is the minimum requirement.

It appears to me that Respondent has in fact taken considerable effort to achieve a satisfactory level of compliance. It also appears that the Regional Director was willing to settle this claim for less than originally assessed. For whatever reason, Respondent was misdirected in his attempt to further resolve this matter. Respondent is cautioned that he should remain in compliance, follow procedural requirements and inform himself of his procedural rights.

Therefore, it is ordered, That upon reconsideration of the information as presented to me I am modifying my Order of December 7, 1989. Respondent shall pay the sum of $4,000 to the Regional Director within 30 days of the date of this Order.

Dated, February 20, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of American Bulk Transport Co., Inc.

[FHWA Docket No. R7-89-08 (Motor Carrier Safety)]

Order of Civil Penalty and Order Canceling Hearing

By motion dated January 17, 1990, FHMA Regional Counsel requests that final decision be entered in the form of an order of civil penalty. In support of its motion, Regional Counsel states that:

1. On September 19, 1989; Requests for Admission were served on Respondent, by and through its counsel, Robert B. Zeldin, Suite 240, 8330 Ward Parkway, Kansas City, Missouri 64114 * * *.

2. Said requests for Admission requested Respondent to admit or deny every material issue of fact alleged in the Notice of Claim served on Respondent on November 22, 1988 * * *.

3. Said Requests for Admission required Respondent to respond within 20 days of receipt thereof.

4. Respondent has failed to respond to said Requests for Admission within the prescribed time, and has still failed to respond despite the passage of 60 days at the time of the filing of this Motion.

5. Pursuant to the Rules of Practice for Motor Carrier Safety and Hazardous Materials Proceedings, 49 CFR 386.44, "[t]he matter is admitted unless within 15 days after service of the request, the party to whom the request is directed serves upon the party requesting the admission to written answer signed by the party or his/her attorney." (See also Rule 36(a), Federal Rules of Civil Procedure).

6. The Admission of the information contained in the Requests for Admission leaves no material issue of fact in dispute between the parties.

7. There being no material issues of fact in dispute, a hearing on the matter is unnecessary.

8. Findings of Facts based on the Notice of Claim and supporting documents are warranted.

No answer to the motion has been received. Accordingly, pursuant to 49 CFR 386.44 and 49 CFR 386.61, I enter a decision that upholds the allegations in the Notice of Claim dated October 26, 1988 and enters a civil penalty in the amount of $10,500. Pursuant to 49 CFR 386.61 and 62, if no petition for review is filed within 45 days from the date of service herein, this decision and order becomes the final order of the Associate Administrator.[1]

Burton S. Kolko,

Administrative Law Judge.

In the Matter of Channel Solvents and Chemicals, Inc.

[Docket No. R6-88-41]

Final Order

This matter comes before me upon request for a Final Order submitted by the Regional Director, Office of Motor Carrier Safety, Region 6. This motion requests that we find that the allegations of violation of the regulations as set forth in a Notice of Claim issued on July 12, 1988, be established and that a civil penalty of $3,000 be imposed. Respondent (Channel Solvents and Chemicals, Inc.) has not replied. I find that there has been no request for a hearing and that Respondent has not denied the violations as charged.

Nevertheless, it appears that some evidence of Respondent's having the required insurance was produced after somewhat lengthy and protracted attempts on the part of the Regional Director to resolve this matter.

Having reviewed the Motion and the supporting documents attached thereto, it appears that the Respondent did not have in its files as required the Form MCS-90. This is a violation. The Director, in recognition of the fact that the insurance coverage appeared to be in place, but that the documents were not in order in the files as required, offered to resolve this matter on payment of a $1,500 civil penalty.

Therefore, it is ordered, That the Motion for a Final Order is granted. The civil forfeiture penalty is established at $1,500 which Respondent is directed to pay to the Regional Director within 30 days of the date of this Order.

[1] In view of the foregoing, the hearing scheduled for March 13, 1990 is cancelled.

Dated: January 30, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Williams Bus Excursions

[Docket No. R3-88-015]

Final Order

This matter comes before me upon request of the Regional Director, Region 3, for a Final Order finding the facts to be as alleged in a Notice of Claim dated February 16, 1988.

Having reviewed the Motion and the supporting documents appended thereto, I find that although informal contacts were made by telephone, no formal written response or request for hearing has ever been made. The evidence stands uncontroverted and therefore supports the charges and specifications in the Notice of Claim relating to violations of the regulations requiring that Respondent maintain proof of financial responsibility at its principal place of business.

Therefore, it is ordered, That Respondent is directed to pay the penalty of $1,000, as requested in the Motion for Final Order. This sum is to be paid to the Regional Director within 60 days of the date of this Order.

Dated: January 30, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Medi-Call Ambulance Services, Inc.

[Docket No. R3-89-202]

Final Order

This matter comes before me upon request of the Regional Director, Office of Motor Carrier Safety, Region 3, for a Final Order finding the facts to be as alleged in a Notice of Claim dated September 25, 1989, and assessing a penalty of $750.

The Notice of Claim alleged a violation of 49 CFR 387.31(d), failing to maintain proof of financial responsibility at the principal place of business. The Respondent has not requested a hearing.

Petitioner alleges that only a blank MCS-90B, attached to an insurance policy, was in the files at the time of the audit. The petitioner alleges that an incorrect endorsement would nullify the coverage required.

Respondent argues that the deficient MCS-90B attached to the policy was sufficient, that a FAX copy provided to the investigator would have cured any irregularity, that there was no violation. Respondent argues that it has never

operated without maintaining the proper coverage.

The record indicates that this is not the first time Respondent has encountered an investigator or the requirement of the regulation. The regulation is clear. It states: "Proof of the required financial responsibility shall be maintained at the motor carrier's principal place of business." The regulation does not state that the proof shall accord with industry practices or that the carrier could decide where to keep the form.

Our audits are designed to ensure compliance with the regulations. The regulations have been promulgated to ensure highway safety. The field agents are to have access to certain documents to ensure that the required information is available. There is then a deficiency here. It may be technical, but it is not petty. The Respondent had prior notice and its records should have been in order.

Therefore, it is ordered, That Petitioner's motion for a Final Order is granted. The record supports the allegations. However, the request for a final order is modified to reduce the assessed penalty to $100. The Respondent shall pay the sum of $100 to the Regional Director within 30 days of the date of this Order.

Dated: January 24, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Vend-Rite Service Corporation

[Docket No. R3-90-050]

Final Order

This matter comes before me upon Motion for Final Order and in Opposition to a Request for Hearing filed by the Regional Director, Office of Motor Carrier Safety, Region 3. This Motion was filed in response to a letter from Vend-Rite Service Corporation (Respondent) which was in turn a reply to a Notice of Claim dated December 4, 1989. The Notice of Claim alleged 16 violations of the Federal Motor Carrier Safety Regulations (FMCSRs) and assessed a penalty of $5,600.

The letter from Respondent reserved the right to request an administrative hearing and contested the Notice of Claim. Respondent advances as reasons for contesting the Claim that it was aware of no other vending companies subject to an audit and that it was not sure that the regulations applied in its case.

Petitioner argues that Respondent is not entitled to a hearing as no material factual issues have been identified as required by the regulations, 49 CFR 386.14(b)(2).

It is unclear from Respondent's letter whether it is in fact requesting a hearing at this time, however, we will review the pleadings as if such a request has been made. Respondent contends that it is not clear in the regulations as to the applicability of the FMCSRs to its case. Respondent cites to § 383.5 in support of its contention

The citation in and of itself provides evidence of some familiarity with the regulations. When viewed together with the evidence in the record of prior contacts (1984 letter and Safety Review in 1988), it appears that Respondent is attempting to hold Petitioner responsible for its own misreading of the regulations. The regulations state in the definition section, § 390.5 under Commercial Motor Vehicle, that the regulations are applicable to vehicles with weight ratings of 10,001 or more pounds. Denial of the allegations on the basis of confusion over the regulations cannot support a hearing in light of the prior experience of this carrier.

Respondent also contends that because no other vending company is familiar with the regulations, it is unfair to hold it to the requirements of the FMCSRs. I do not know whether any other vending companies have ever been audited or cited for violations but if Respondent will provide us with a list of names and addresses, I will be happy to include them in the number of businesses to be audited within the near future. Nevertheless, Respondent should be aware of the fact that we are operating in an atmosphere of heightened enforcement. The Congress has directed this Agency to upgrade its efforts to ensure the safety of the traveling public and many businesses not formerly within the reach of our limited program resources are finding themselves subject not only to the regulations but also to safety audits.

I find that Respondent advances no good reasons either in law or equity to excuse these violations completely. However, as the Regional Director did recognize efforts of Respondent to come into compliance and offered a reduction of the penalty, I find that to encourage a positive compliance posture in the future I will accept the reduced amount quoted in Respondent's letter.

Therefore, it is ordered, that Respondent has not complied with the requirements of the regulations and that no hearing can be granted. Petitioner's Motion to Deny Hearing is granted. Petitioner has requested a Final Order assessing the full amount of the penalty, $5,600. For the reasons set forth above, I am granting the Motion for a Final Order in the amount of $4,200. Respondent shall pay that amount to the Regional Director within 30 days of the date of this Order.

Dated: January 24, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of M & T Trucking Services, Inc. V. I. Gas, Inc., Challenger's Trucking Inc.

[Consolidated Docket No 89-41]

Final Order

This matter comes before me upon request of the Respondents for an Administrative Hearing on the claims against them for failing to comply with the required minimum levels of financial responsibility regulations, 49 C.F.R. part 387. The Regional Director, Office of Motor Carrier Safety, does not contest the unavailability of insurance in the Virgin Islands.

It appears that each of the carriers maintains insurance coverage at the limits available to them. Therefore, following the reasoning set forth in the matter of *Empire Gas, Inc.*, the companies will be found to be in technical violation of the regulations. The Regional Director will periodically monitor the situation with respect to the availability of the required amounts of insurance in the Virgin Islands.

Therefore, it is ordered, that no material issues of fact existing, no cause for a hearing has been shown and the request is denied. However, as there is no insurance available in the required amounts in the Virgin Islands at the time of violation, I find that a technical violation exists and the Respondent carriers shall pay the amount of $1.00 each to the Regional Director within 30 days of the date of this Order.

Dated: January 24, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of White's Bus Rental, Inc.

[Docket No. R3-90-039]

Final Order

This matter comes before me upon request of the Regional Director, Office of Motor Carrier Safety, Region 3, for a Final Order finding the facts to be as alleged in a Notice of Claim dated November 27, 1989, and assessing a penalty of $9,750.

Respondent has not requested a hearing and the parties have been unable to reach any compromise agreement. The Notice of Claim alleged serious violations, including a substantial health and safety violation for operating a motor vehicle (bus) in

such condition as to be likely to cause an accident or breakdown.

Having reviewed the Motion and the supporting documents attached thereto, I find that the evidence supports the charges and specifications therein.

Therefore, it is ordered, That Respondent is directed to pay to the Regional Director the sum of $8,750 within 30 days of the date of this Order.

Dated: January 23, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Stenger Gas Corp.

[Docket No. R3-89-185]

Final Order

This matter comes before me upon request of the Director, Office of Motor Carrier Safety, Region 3, for a Final Order finding the facts to be as alleged in a Notice of Claim dated September 11, 1989, and assessing a penalty of $9,000.

The Notice of Claim alleged 15 violations of the Federal Motor Carrier Safety Regulations (FMCSRs). The record indicates that the Respondent has had prior notification of the applicability of the regulations and that there has been prior contact with the Agency. Although there has been some ostensible contact on this Notice of Claim, no request for a hearing has been made and no indication of material issues in dispute is present. Upon review of the record, I find adequate documentation to support the findings and allegations of violations.

Therefore, it is ordered, That the Motion for a Final Order is granted and Respondent is directed to pay the full assessed amount of $9,000 to the Regional Director within 30 days of the date of this Order.

Dated: January 23, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Stanford & Inge, Inc.

[Docket No. R3-89-211]

Reconsideration

This matter comes before me upon request for Reconsideration filed by Counsel on behalf of Respondent. In its petition, Respondent avers that it is a small corporation, that it had no intent to purposely avoid or evade the regulations, that it is now in full compliance with the regulations and that it will suffer financial hardship if required to pay the amount levied in the Final Order.

The Regional Director, Office of Motor Carrier Safety, Region 3, has responded to the Motion for Reconsideration. No procedural objections have been raised and I will therefore accept the Petition.

I cannot, however, grant the full relief requested by Respondent. It appears from the record that Respondent has had prior contacts with the Agency and should have been familiar with the requirements of the regulations. Respondent's silence throughout the course of these proceedings speaks of the relatively low importance Respondent apparently considers the regulations, their enforcement and the role of the Agency. It is not until a fairly painful penalty was assessed that the seriousness of this matter came home to Respondent.

I have recently addressed the plight of small, private carriers in complying with the regulations in another case, *In the Matter of Action Metal Co., Inc.* I am attaching a copy of that Final Order. Its contents apply here, except for the final paragraph in the main text.

The regulations are important, the process of determining compliance and enforcing is important, and casualness towards safety is not acceptable. We must make our judgments on the basis of a record review. Employees of this Agency must make determinations based upon the record. As stated in *Action Metal,* the Regional Director is closer to the operations of Respondent. Generally speaking, cogent reasons for the mitigation of a penalty will be brought out in the process of negotiations or discussions surrounding compliance actions.

I cannot find any evidence in the record supporting a major reduction of this penalty. Respondent contends it is now in full compliance. Respondent should have been in full compliance prior to this action based upon its earlier contacts with the Agency. Nevertheless, I am aware of the difficulties faced by smaller entities. As the Regional Director has indicated a willingness to accept a reduced penalty, provided additional evidence is presented supporting the request, I will reduce the penalty assessed subject to the presentment of that evidence to the Regional Director within 30 days of the date of this Order. Further, I will accept a schedule of payments over a period of not to exceed 90 days to be worked out between the parties.

Therefore, it is ordered, That the Final Order issued on November 21, 1989, is modified to the extent accepted by the Regional Director after review of additional information to be presented by the Respondent within 30 days of the date of this Order. Failing the production of such information, the Final Order will apply in its entirety.

Attachment: Final Order In the Matter of Action Metal Co., Inc., Docket No. RI-89-244.

Dated: January 22, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Industrial Nuclear Company, United States Testing Company, Inc.

[Docket No. R9-90-002]

Order Granting Extension of Time

This matter comes before me upon Motion of Respondent for Additional Time to Respond to a Notice of Claim and also a request for records under the Freedom of Information Act. The Notice of Claim was issued on December 20, 1989, and alleges 7 violations of the Hazardous Materials Transportation Regulations for which a civil assessment of $70,000 is made.

Counsel for the Director, Office of Motor Carrier Safety, Region 9 (Petitioner), does not object to the grant of additional time. The Respondent will be provided with a copy of the Agency investigation report and Petitioner avers that 30 days from receipt should suffice.

Respondent's Motion requests the investigation report and other related materials under the Freedom of Information Act. Such a request is not properly made in a Motion under 49 CFR part 386. However, as Petitioner is providing the investigation report, it is unnecessary for us to discuss this issue further.

As both parties agree that additional time to respond is necessary, I am granting Respondent's Motion. Respondent requested until March 15, 1990, or 30 days after receipt of the requested materials. No good reason having been advanced for the necessity of establishing receipt and determining a 30 day future period, the March date appears to satisfy all requisites of these proceedings.

Therefore, it is ordered, That Respondent's Motion for Additional Time to Respond is granted. The new reply date for the Notice of Claim is March 15, 1990.

Dated: January 19, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Strong Trucking (Ashbell & Mary Strong, d/b/a)

[Docket No. R3-88-081]

Order

On November 24, 1989, I issued an Order setting forth several questions which I wanted Petitioner to consider. Petitioner was instructed to review this

matter and file an amended request or withdraw the motion.

On December 27, 1989, Petitioner filed a Motion Requesting Withdrawal of the Motion for Final Order. It appears that further investigation has revealed that the carrier has gone out of business and that no tangible assets remain.

It is therefore ordered, That this matter is dismissed.

Dated: January 12, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Krug Trucking Co. (Michael Krug d/b/a)

[Docket No. R3-89-125]

Final Order

This matter comes before upon request of the Regional Director, Region 3, Office of Motor Carrier Safety (Petitioner) for a Final Order finding the facts to be as alleged in a Notice of Claim dated July 28, 1989. That Notice alleged that 11 violations of the Federal Motor Carrier Safety Regulations (FMCSRs) and Financial Responsibility requirements had been documented.

Respondent did not request a hearing and in his correspondence reply asserted corrective actions had been taken, requested a compromise offer and requested time to pay any penalty based on financial status.

Petitioner has taken into account Respondent's requests and now asks for a penalty of $3,000.

Therefore, it is ordered, That in the absence of any material factual issues in dispute and any request for hearing, the alleged violations are supported by the record. Respondent shall pay the Regional Director the sum of $3,000 within 30 days of the date of this Order.

Dated: January 29, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Action Metal Co., Inc.

[Docket No. RI-89-244]

Final Order

This matter comes before me upon request of Action Metal Co., Inc. (Respondent), for a hearing and Motion in Opposition thereto and request for a Final Order filed by the Regional Director, Region 1, Office of Motor Carrier Safety (Petitioner). Petitioner alleges that Respondent has committed 9 violations of the Federal Motor Carrier Safety Regulations (FMCSRs). There has been previous contact with the Respondent, earlier violations have been found of a similar nature, and the Respondent has been given a copy of the applicable regulations governing this matter.

Respondent is a small, private carrier, and asserts that it carries only its own steel. The total distance driven is 48 miles one way. The Respondent, through its President asserts that 9 violations of the same charge is unfair and that only one violation and penalty should be charged.

This case presents us with an interesting set of facts and propositions. Many smaller businesses are now falling within the scope of the FMCSRs. The Agency's increased enforcement has reached many businesses not formerly visited by an investigator. We hear quite often that the charges are unfair, the fines too high and due process is unavailable. The Congress has passed stringent laws and has directed the Agency to upgrade its enforcement efforts. The end purpose is a safer highway environment. Smaller businesses are just as culpable as larger entities. The fines imposed may have a greater impact on the bottom line, but a fatality resulting from a violation by a smaller business is just as dead as one resulting from a violation by a larger business.

This Agency operates on a relatively decentralized chain of command. Those officials closest to the audits and violations are in the best position to determine the amount of the fine. We have stated this premise over and over. There are several levels of review, culminating with the potential for administrative review. If there are sufficient, cogent reasons supporting the reduction of a fine, they will be brought out in the process, considered and acted upon.

At the same time, there are rules, regulations and Procedures in place which must be followed to ensure impartiality and equity of treatment and application. It is not sufficient that a business feels it is small and therefore should be held to a lesser standard. It is not sufficient that a business feels it should receive a $10 penalty as if these violations were traffic citations. Human life is sacred. The laws of this Country are important. The regulations of this Agency must be followed. Any company which does less, or believes less places the public at risk and itself at risk. The penalties assessed are designed to create an awareness of the necessity for compliance. Obviously, some entities comply faster than others.

There is not the slightest evidence of any good faith attempt to comply with the regulations here. An attitude of casualness permeates the Respondent's filings. No facts are placed in evidence; only peevish excuses. Such are not enough.

Therefore, it is ordered, That Respondent having failed to comply with the requirements of the regulations governing this process, has not made a valid request for hearing and his request is denied. Petitioner has provided evidence of violations and no reason supporting a request for reduction of the penalty has been substantiated. Petitioner's request for a Final Order is granted and Respondent is directed to pay to the Regional Director within 30 days of the date of this Order the sum of $2,700.

Dated: January 10, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of J.R. Chestnut

[Docket No. RI-89-123]

Final Order

This matter comes before me upon request of the Director, Region 1, Office of Motor Carrier Safety (Petitioner) for a Final Order finding the facts to be as alleged in a Notice of Claim dated September 20, 1989. Respondent has requested a hearing and Petitioner objects thereto on the basis that Respondent's request fails to comport with regulatory requirements.

The Notice of Claim alleges numerous violations of incomplete files, excess hours and false entries upon the record of duty status. These violations have been substantiated by a Compliance Review and report thereof. This is not the Respondent's first contact with the Agency or the regulations. In fact, there have been previous violations.

In its initial reply and request for a hearing, Respondent generally denied the allegations and submitted that its drivers did not engage in "serious" violations. Respondent also stated that the Notice of Claim does not provide the complete factual situation. Respondent then stated that at the hearing it intends to submit its position that there are material factual issues in dispute.

Respondent followed up with a second filing taking umbrage at Petitioner's Motion and objecting on the basis that a denial would limit its right to cross-examination. Without such, Respondent contends, it is unable to be more specific and precise.

Perhaps Respondent and its Counsel should read the regulations. 49 CFR 386.14 clearly requires that each reply must contain an admission or denial and a concise statement of facts and each request for a hearing must contain a listing of all material factual issues

believed to be in dispute. It is not for Respondent to determine violations are "serious" and which are not. The law, the regulations and the administration thereof by this Agency will determine if a violation has taken place and will assess a penalty based on the seriousness of that violation.

The regulations nowhere contemplate the use of the administrative hearing process as a fishing expedition. Surely, if Respondent wishes to advance the argument that its alleged violations are not of a serious nature it should have ample facts readily available to list those material factual issues needing a determination. It boggles the mind to try to understand the claim that violations have not occurred, are not serious, but the specifics to support these contentions are unavailable without cross-examination.

Respondent requested an opportunity to meet informally with Petitioner to resolve these matters. Surely, if there was anything unclear about the alleged violations, the audit report or the hearing process, a simple question to Petitioner would have clarified the entire matter.

The regulations do not contemplate dilatory tactics, lack of preparation or carelessness on the part of pleaders in knowing the basic requirements governing the process.

Of a more substantive nature, examination of the pleadings and the documents appended thereto establish that there have been violations, that these violations are serious and that they stand not controverted by Respondent.

Therefore, it is ordered, That Respondent's request for a hearing fails to meet the basic requirements of the regulations and is hereby denied. Petitioner's motion for a Final Order finding the facts to be as alleged in the Notice of Claim and imposing a civil penalty is hereby granted. Respondent is directed to pay the amount of $22,000 to the Regional Director within 30 days of the date of this Order.

Dated: December 20, 1989.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Calgon Corporation

[Docket No. R3-89-171]

Final Order

This matter comes before me upon request of Calgon Corporation (Respondent) for a hearing on the alleged violations charged in a Notice of Claim dated August 29, 1989. The Regional Director, Region 3, Office of Motor Carrier Safety, does not object to the request for a hearing.

The Notice of Claim alleges four violations of the regulations: one is for violation of the Financial Responsibility requirements in that Respondent did not have a copy of an MCS-90 in the files; three are for failure to retain written reports of visual inspections of a cargo tank in the files for two years after the date of inspection. The latter three violations involve only two tanks, however, three interstate trips have been made.

Respondent has corresponded several times with the Director. Respondent denies the alleged violations and has presented a Certificate of Insurance from an insurance agency showing the required level of insurance and a statement of visual inspection from a mechanic, accompanied by proof thereof.

With respect to the violation of the Financial Responsibility regulations, § 387.7(d) specifically requires that a Form MCS-90, issued by the insurer be maintained in the files. Respondent, even now presents only a Certificate of Insurance. Although seemingly innocuous and overly technical, it is only through perusal of the MCS-90 that the Agency can be assured that all requisite insurance coverage, including environmental restoration, is in place. There is a violation, the violation has been proven and the violation is continuing. Respondent shall take all necessary action to obtain the MCS-90 immediately.

With respect to the three violations of the regulations, failing to retain written reports of each visual inspection of a cargo tank for a period of two years, Respondent has provided statement to the effect that the inspections were performed, that there are written inspection reports and that these reports were in the files at the time of the audit. The Director has failed to respond to this information. There are no statements or affidavits from the reviewing agents rebutting this information, nor is there any indication in the record that these forms are in some way inadequate. There is more than a material factual issue in dispute here, there is a failure to prove and substantiate the allegation.

Therefore, it is hereby ordered, That Respondent's request for a hearing is denied. The violation of § 387.7(d) has been established and Respondent shall pay to the Director $750 within 30 days of the date of this Order. The alleged violations of § 177.824(b) are dismissed.

Dated: December 28, 1989.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Wonder Chemical Company

[Docket No. R3-88-073]

Order Appointing Administrative Law Judge

This matter comes before me upon a Request for Determination On Agreed Statement of Facts submitted by the Director, Region 3, Office of Motor Carrier Safety. The agreed Statement of Facts has been jointly signed by attorneys for both parties.

On September 25, 1989, a Notice of Claim was issued to Wonder Chemical Company (Respondent) by the Director (Petitioner) alleging 6 violations of 49 CFR 387.7(a) failing to maintain the minimum levels of financial responsibility. The Agreed upon Statement of Facts establish that there were at least 6 trips within the scope of the regulations; that the involved vehicles were leased; that the lessor did have the required financial responsibility coverage; that Respondent had in its possession an MCS-90 in the name of lessor; that the insurance company issued a Certificate of Accord stating that Wonder was covered by the policy issued to lessor; that Wonder did not have an MCS-90 in its own name while operating the vehicles at the time of the alleged violations.

Throughout the discussions between the parties leading up to this request for a determination, Respondent has maintained that it (a) did have the required level of financial responsibility under the regulations, and (b) that the MCS-90 issued to its lessor was sufficient to comply with the regulations There are two subsections of the regulation involved here. In § 387.7(a) motor carriers are required to obtain and have in effect the minimum levels of financial responsibility set forth. In § 387.7(d) it is required to maintain proof thereof at the principal place of business (Form MCS-90 issued by an insurer).

The Agreed upon Statement of Facts do not resolve this matter. There remain two significant material issues in dispute here. Firstly, does the acknowledgement by the insurer that Respondent is covered by the insurance policy issued to the lessor meet the requirements of the regulations, specifically § 387.7(a). Respondent contends it has the required levels of insurance and has proferred proof of such through this Certificate of Accord issued by the insurer. Petitioner apparently contends no insurance or

less than the required level of insurance has been shown to exist.

Secondly, notwithstanding the establishment of the required levels of insurance, it appears that there is a dispute as to whether Respondent has an MCS-90 as required. Respondent has an MCS-90 albeit issued in the name of its lessor. Petitioner has failed to allege a violation of the regulations, to wit § 387.7(d). However, the answer to this question has a bearing on the alleged violation and the quantum of the penalty.

Notwithstanding the Agreed upon Statement of Facts there are material factual issues to be established sufficient for me to assign this matter to an Administrative Law Judge (ALJ) for additional proceedings. The ALJ assigned shall, in addition to the authority below, specifically address the matters above and should review both the record presented, oral argument and briefs prior to making his or her recommendation to me, including the quantum of any assessment if a violation is found.

Therefore, it is ordered, That I hereby appoint an Administrative Law Judge in accordance with 49 CFR 386.54(a) (1985) to be designated by the Chief Administrative Law Judge of the Department of Transportation as the Presiding Judge. The judge appointed is authorized to perform those duties specified in 49 CFR 386.54(b) (1985).

Dated: December 2, 1988.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Leroy Randolph

[Docket No. R3-88-030]

Final Order

This matter comes before me upon request of the Regional Director, Region 3, Office of Motor Carrier Safety, for a Final Order finding the facts to be as alleged in a Notice of Claim dated December 7, 1988, and assessing a penalty of $700.

It is alleged that Respondent violated 49 CFR 391.15(a) by operating a motor vehicle on two trips while his license was suspended. Although there has been correspondence between the Respondent and Director, no request for a hearing has been made. The facts are clear: Respondent knowingly violated the regulation. It is unfortunate that such occurrences take place; they should not. This is not a case of reasonable doubt or ostensible excuse. It is a flagrant violation and I am unable to find any rationale warranting a reduction of the amount assessed.

Therefore, it is ordered, That the evidence supports the charges and specifications as set forth in the Notice of Claim and Respondent is directed to pay the sum of $700 to the Regional Director within 60 days of the date of this Order.

Dated: December 21, 1988.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the matter of John Steven Johnson, in his Individual Capacity as President of Steve Johnson and Sons Trucking, Inc., and Steve Johnson & Sons Trucking, Inc., a Corporation

[Docket No. R3-80-058]

Denial of Petition For Reconsideration

On October 20, 1988, Respondent submitted a Motion for Reconsideration of the Final Order issued on September 20, 1988. Respondent makes an elaborate argument that his Request should not be denied on procedural grounds for dilatory filing. Without attempting to sort out the facts advanced by Respondent we will accept the Petition for purposes of review.

Notwithstanding this review, we find no reason to recall or otherwise modify the Final Order. To recap briefly, the Final Order found that no request for a hearing had ever been made in this matter, that communications received from the Respondent were querulous and admitted culpability, disclaimed responsibility for the actions of others, to wit, employees, and denied knowledge of the requirements of the regulations despite past encounters with this Agency.

Now suddenly, through Counsel, Respondent recognizes the foolhardiness of venting his spleen in the bizarre manner originally chosen. Respondent seeks another bite of the apple in this Petition. Nevertheless, the basic thrust of his arguments has not changed. There has not been established a request for a hearing in compliance with the regulations. There continues to be a disavowal of the responsibility to manage this business in accord with the regulations, which includes the responsibility to know of the misfeasances or malfeasances of employees by reviewing the record. The issue is not, as Respondent would have it, whether he should require his employees to change any statements after the fact. The issue is: did the corporation or its employees violate the regulations. Clearly in this case, such violation is present.

No letter or communication from Respondent has been responsive. I still have difficulty reading, let alone understanding, the filings of Respondent and Counsel in this matter. The law and regulations do not tolerate financial, legal or administrative shuffleggery. This business has been run in a sloppy manner, legal violations have been documented, and no proper defense has been raised. I will state for the record that the silence of petitioner in this matter is a dangerous and unfounded precedent. This matter is clear for us and we find no difficulty in reaching the conclusions reached. However, Counsel is cautioned that lest he find himself in the same Position as Respondent in the future, he should support his case with filed pleadings.

Therefore, it is ordered, That the Petition for Reconsideration is denied and the terms of the Final Order remain in effect.

Dated: December 20, 1988.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Williams Bus Excursions

[Docket No. R3-88-015]

Final Order

This matter comes before me upon request of the Regional Director, Region 3, for a Final Order finding the facts to be as alleged in a Notice of Claim dated February 18, 1988.

Having reviewed the Motion and the supporting documents appended thereto, I find that although informal contacts were made by telephone, no formal written response or request for hearing has ever been made. The evidence stands uncontroverted and therefore supports the charges and specifications in the Notice of Claim relating to violations of the regulations requiring that Respondent maintain proof of financial responsibility at its principal place of business.

Therefore, it is ordered, That Respondent is directed to pay the penalty of $1,000, as requested in the Motion for Final Order. This sum is to be paid to the Regional Director within 30 days of the date of this Order.

Dated: December 15, 1988.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Hunter Oil Company, Inc.

[Docket No. R3-88-038]

Interim Order

This matter comes before me upon request of the Regional Director for a Final Order and his stated opposition to the request of Respondent for a hearing.

On November 30, 1988, Respondent was sent a Notice of Claim alleging 20 violations of the regulation requiring drivers to make daily records of duty status. All of the alleged violations involved one driver. The Notice assessed a penalty of $450 for each of the 20 alleged violations for a total of $9,000.

Respondent (Hunter Oil) in its answer to the Motion for Final Order submits a letter of December 15, 1988, which was in response to the Notice of Claim. This letter requested a hearing and set forth a statement of facts and explanation of the facts. This letter was inexplicably Omitted from the Regional Director's filing.

Discussions between the parties have not resolved the outstanding issues. Nevertheless, the record appears to reveal that there was a technical deficiency of the regulations present here. The facts, as set forth in a letter of February 10, 1989, from Respondent, not controverted by the Director, appear to be that Respondent is a small, family owned business with three drivers. Deliveries appear to be for the most part local in nature. The driver in question has had a change in status with the company. There is no indication in the record of transgressions in the past of the same or similar nature.

Respondent has taken efforts to correct the technical deficiency alleged and contends that there was a compliance in spirit, if not letter with the regulations.

It is my feeling that matters of this nature are capable of resolution at the local level. The transportation of hazardous materials requires an extraordinary degree of caution. Strict compliance is expected by the law and regulations. At the same time, smaller business entities may feel disadvantaged by the onerous requirements placed upon them, and to some degree they are. It is our intent to secure a safe driving environment for the public. This means that carriers subject to our regulations must operate in a climate of compliance.

It does not mean, however, that such entities will or should be subjected to high penalty amounts unless the record clearly shows that the violations are of a magnitude as to warrant high assessments. The Regional Director and his staff are commended for the diligence of effort to visit with, review the record of and document the violations of all carriers in the Region. Such efforts are not to be minimized.

Care must be taken to completely and thoroughly document the reasoning underlying penalty assessments. In the absence of such materials in the record, the thought process remains a matter for dispute. The record here indicates 20 short trips made by a driver with a long-standing record of employment with the carrier, with no apparent noncompliance. Without additional information, I choose to view this as a single infraction, easily correctable. The Director should work with the carrier to reach an understanding of what record-form is acceptable.

As I have indicated in the past, it is only with great reluctance that I will interfere in the assessment of a penalty. The Regional Director is closer to the alleged violation and the circumstances surrounding the carrier's operations. Notwithstanding this reluctance, I do exercise the option of altering the penalty assessment where warranted. A violation exists or it does not exist. The penalty therefore, if proven, is more subjective. My aim in this Order is to ensure the future compliance of the carrier. I cannot find within the four corners of the documents submitted to me a justification for this magnitude of penalty. If there be such it is lost in the mists of bureaucracy.

Therefore, it is ordered, That Respondent is in technical violation of the regulation, although there are factual differences present which could alter this conclusion. There are two choices before me at this time. Respondent may pay a penalty of $450 within 30 days of the date of this Order to the Regional Director and work with the Director to arrive at a mutually agreeable form to bring about complete compliance; or 2. I shall appoint an Administrative Law Judge to determine whether the facts support the establishment of the alleged violations (20 at $9,000). As option 1 is self-executing, payment of the penalty as set forth will terminate this matter. Option 2 needs additional communication before it will be effected. If Respondent still wants a hearing before an Administrative Law Judge, he must forward a letter to the Docket and all parties on the Service List within the 30 day period.

Dated: December 19, 1990.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of E.L. Lawson Trucking, Inc.

[Docket No. R1-89-015 (Formerly RI-89-245)]

Final Order and Order Appointing Administrative Law Judge

This matter arises out of a Notice of Claim, dated October 6, 1989, issued by the Regional Director, Region 1 (hereafter referred to as Petitioner or Director). The Notice of Claim alleges that E. L. Lawson Trucking, Inc. (hereafter referred to as Respondent) violated the Federal Motor Carrier Safety Regulations (FMCSRs). It is alleged that four separate regulations have been violated: 49 CFR 391.15; 49 CFR 394.9; 49 CFR 395.3; and 49 CFR 395.8. The alleged violations for two of these regulations, constituting 9 separate alleged violations, have been brought as substantial health and safety violations, which incur much higher penalties.

The Respondent has contested these allegations and has requested an administrative hearing. Among the requirements governing the request for a hearing two elements which must be strictly complied with are the requirement that the request must be accompanied by a denial and concise statement of facts and a listing of all material factual issues believed to be in dispute.

With respect to the alleged violations of § 391.15, Respondent contends that it did not know the driver's license had been suspended and that he was disqualified. The ambiguity surrounding the alleged violation allows the simple statement that knowledge was not present to meet the requirements of the regulation. There are material factual issues in dispute. However, this is not to say that Respondent's reply would have met the test under all circumstances. Could Respondent have been the victim of circumstances by timing or failure of the driver to notify him of the suspension? Was Respondent careless in review of the required files? What is there in this particular violation that constitutes a substantial health and safety violation? Was the Respondent's behavior such that it could be characterized as negligent or wanton? Were the transgressions underlying the disqualification significant in that they involved alcohol or drugs or gave rise to a fear that the motoring public was in jeopardy? The Administrative Law Judge must make two determinations here: 1. Has a violation of the regulation been established? 2. If so, can it be supported that there was something in this violation that raised the threshold of the penalty? If the ALJ finds in the affirmative on question 1, but negative on number 2, then it will be necessary for the Notice of Claim to be amended.

With respect to the alleged violations of § 394.9, it has been documented that Respondent failed to report accidents. Respondent replies he had no knowledge that he was required to report all accidents. The regulations are clear on what must be reported. Respondent has been involved in prior matters with the Petitioner and is

charged with knowing the requirements of the regulations. I am denying the request for a hearing on these violations and issuing a Final Order herein assessing a penalty of $1,500 for three violations ($500 for each violation).

With respect to the alleged violations of § 395.3 requiring or permitting a driver to drive after having been on duty more than 70 hours in 8 consecutive days, Respondent denies the violation and contends drivers were instructed to stop driving. This is sufficient to call the question for hearing. The ALJ should focus on how the drivers were so instructed. Was disciplinary action taken against any driver? Has any driver ever been suspended or terminated for continued driving? How did the Respondent monitor this situation? Neither an oral warning nor even a memorandum without some threat of disciplinary action is sufficient to constitute a complete defense to this charge. Further, in view of the unreported accidents of Respondent and prior enforcement actions in this area, a prima facie case has been made for substantial health and safety violations if the basic violation is established.

With respect to the alleged violations of § 395.8 requiring or permitting false entries upon a record of duty status, Respondent denies the allegations and contends that "when the employer had knowledge of false entries, the employee was told to correct the entries before he would receive his weekly pay check." This reply is sufficient to call the matter for hearing. The ALJ must be convinced that Respondent had a proper review mechanism in place and that its efforts were sufficient to shift the onus of responsibility elsewhere. Respondent is required to comply with the regulations and this requirement includes knowledge or constructive knowledge of the records.

Therefore it is ordered, That Respondents request for a hearing is granted on the issues of compliance with 49 CFR 391.15; 395.3; and 395.8. However, the request is denied for those violations alleged and as found above, proved, for § 394.9. Respondent is directed to pay the Regional Director $1,300 within 30 days of the date of this Order.

To determine the other questions, I hereby appoint an Administrative Law Judge in accordance with 49 CFR 386.54(a)(1985), to be designated by the Chief Administrative Law Judge of the Department of Transportation as the Presiding Judge. The Judge appointed is authorized to perform those duties specified in 49 CFR 386.54(b)(1985).

Dated: December 14, 1989.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of A.T. Finto, Inc.

[Docket No. R3-89-008]

Final Order

This matter comes before me upon request of the Regional Director, Region 3, for a Final Order finding the facts to be as alleged in a Notice of Claim dated October 16, 1989.

Having reviewed the Motion and supporting documents appended thereto, I find that no valid request for a hearing has been made. I find that the evidence supports the charges and specifications in the Notice of Claim relating to violations of the Federal Motor Carrier Safety Regulations (FMCSRs).

Therefore, it is ordered, That Respondent is directed to satisfy the penalty assessment by paying to the Regional Director the full amount of $8,100 within 30 days of the date of this Order.

Dated: December 7, 1989.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of Rent-A-Stretch, Inc.

[Docket No. 89-196]

Final Order

This matter comes before me upon request of the Respondent for a hearing and Motion in Opposition thereto and for a Final Order submitted by the Regional Director, Office of Motor Carrier Safety, Region 1. At issue are allegations that Respondent has violated the required minimum level of financial responsibility regulation (49 C.F.R. 387.31).

The Petitioner bases these allegations on the results of an audit which established that Respondent has been operating with public liability coverage of only $500,000 rather than the required coverage of $1,500,000 (not $5,000,000 as stated in the Motion for Final Order, see § 387.33). There has been a prior enforcement case against Respondent for previous violations of this section.

In requesting a hearing, Counsel for Respondent avers that Respondent has attempted to comply in good faith with the spirit and intent of the regulations. It is argued that a violation, if any, is the result of the actions of third parties.

This is not the first time that Respondent has been charged with this alleged violation. What good faith attempt to comply has been made? Counsel has not brought forth evidence of a general inability of Respondent and those similarly situated to obtain the requisite coverage. Counsel has failed to identify any material issues in dispute. The facts appear to be: Respondent is operating in interstate commerce without the required level of insurance.

There can be no good faith compliance in this matter. Respondent has the insurance or does not. Respondent operates in interstate commerce or does not. Am I to assume that some conspiracy lurks behind these allegations? Is it an insurance company cabal which is depriving Respondent of its insurance coverage? Counsel's request reads as a script from Godzilla swallows Manhattan.

Respondent must cease operation until such time as proof of compliance is obtained. There is no valid reason proferred for any other determination. There is no good cause in these motions upon which I can send the matter to hearing.

Therefore, it is ordered, That Respondent's request for a hearing is denied and Petitioner's Motion for a Final Order is granted. Respondent is directed to pay to the Regional Director the full amount of $10,000 within 30 days of the date of this Order. The Regional Director is directed to ascertain whether the Respondent has obtained the required levels of insurance. If not, such action shall be taken as necessary to compel Respondent to cease and desist from noncomplying behavior.

Dated: November 28, 1989.

Richard P. Landis,

Associate Administrator for Motor Carriers.

In the Matter of C & W Enterprises

[Docket No. R3-89-084]

Final Order

This matter comes before me upon request of the Regional Director, Region 3, for a Final Order finding the facts to be as alleged in a Notice of Claim dated August 4, 1989.

Having reviewed the Motion and supporting documents appended thereto, I find that no valid request for a hearing has been made. I find that the evidence supports the charges and specifications in the Notice of Claim relating to violations of the Federal Motor Carrier Safety Regulations (FMCSRs).

Therefore, it is ordered, That Respondent is directed to satisfy the penalty assessment by paying to the Regional Director the full amount of $4,000 within 30 days of the date of this Order.

Dated: November 20, 1989.
Richard P. Landis,
Associate Administrator for Motor Carriers.

In the Matter of Gussie O. Harlow

[Docket No. FI-89-38]

Final Order

This matter comes before me upon request for a hearing and opposition thereto arising out of a Notice of Claim issued by the Regional Director, Office of Motor Carriers, Region 6.

The Notice of Claim, dated June 9, 1989, alleges one documented violation of the Federal Motor Carrier Safety Regulations (FMCSRs), falsifying records of duty status. The Respondent does not deny that the violation occurred. Rather he makes a plea for understanding based upon many years of good driving service and recognition of the practical realities of the industry.

I accept Mr. Harlow's representations as to his driving record. The fact that it is difficult to comply with the regulations in every instance and still make commercial ends meet cannot be denied. The FMCSRs, however, take priority over these arguments as the safety of the traveling public, and indeed, the drivers themselves is involved. Enforcement is not, as Mr. Harlow represents, merely a matter of going by the book. We also have families, we also must pay our bills, we also must meet rules and regulations in our everyday lives, some of which appear onerous. This does not constitute an excuse or rationalization for violation of the rules.

The violations are present; they have been documented. Respondent makes no compelling case for granting a hearing. I would like to assure him that notwithstanding this denial of his request and the imposition of a penalty his arguments have been heard and considered.

Therefore, it is ordered, That Respondent's request for a hearing is hereby denied. Petitioner's request for a Final Order is granted, with the modification the penalty is reduced to $100. This penalty must be paid to the Regional Director within 45 days of the date of this Order.

Dated: November 20, 1989.
Richard P. Landis,
Associate Administrator for Motor Carriers.

Service Bus Company, Inc.

[Docket No. FI-89-05 (Motor Carrier Safety—FHWA)]

Decision of Administrative Law Judge Burton S. Kolko

Served: October 6, 1989.

Complainant Assistant Regional Counsel, Federal Highway Administration (FHWA), charged Respondent Service Bus Company, Inc., a motor carrier, with thirty violations of the Federal Motor Carrier Safety Regulations, 49 CFR part 350 *et seq.*, which are issued under the authority of 49 U.S.C. 3102. The Government's Notice of Claim initiating this proceeding, dated October 3, 1988, cited four counts of failing to maintain driver qualification files for drivers employed, as required by 49 CFR 391.51; twenty-one counts of failing to require drivers to make and submit a record of duty status under 49 CFR 395.8(a); and five counts of requiring or permitting part-time drivers to operate without obtaining from the driver a signed statement regarding duty hours for the previous seven days (49 CFR 395.8(j)(2)). Pursuant to 49 U.S.C. 521(b), FHWA seeks the maximum civil penalty assessment of $500 per count for a total assessment of $15,000.

Respondent denied the charges and requested a hearing. I was appointed to preside over the action under 49 CFR 386.54. The hearing was held May 30, 1989 in New York City, and the parties filed briefs on June 26, 1989. After careful consideration, I find the violations as charged and assess a civil penalty of $15,000.

The Notice of Claim arose from an investigation undertaken by FHWA Safety Investigator Donald Moruzzi. Moruzzi first appeared at Respondent's principal place of business in Yonkers, N.Y. on July 20, 1988 and asked to see certain records to be maintained by interstate motor carriers under federal law. He specifically sought drivers' logs, dispatch sheets, and charter contracts. The President of Service Bus, Salvatore DiPaolo, told him that the company no longer operated in interstate transportation and therefore was not subject to federal requirements (Tr. 22–23). He explained that Service Bus no longer kept such records because it had no need (Tr. 23). Investigator Moruzzi returned the following day and repeated his request. DiPaolo then produced charter contracts involving local transportation but no other documents. He again stated that he no longer kept drivers' logs or dispatch sheets, but this time added that some records might be found at another location used by Service Bus (Tr. 24). Moruzzi was then directed to dispatcher Arnold Jeffries at the second location. Jeffries, who had begun work at the carrier about a week earlier (Tr. 70–71, 79), told Moruzzi that the records and files at the second location were "in a bad disarray" and that nothing could be found (Tr. 73–74).

Shortly thereafter Investigator Moruzzi obtained proof that, contrary to DiPaolo's representations, Service Bus had indeed operated in interstate transportation during relevant time periods. Atlantic City casino records confirmed that Service Bus operated on many occasions between Yonkers, New York and Atlantic City, New Jersey (Tr. 25, 27, 33, 36-37). Confronted with this proof, DiPaolo produced various driver qualification files and records of duty status (drivers' logs) (Tr. 25–26).

A driver qualification file for a regularly employed driver must include a medical examiner's certificate of his physical qualification to drive a motor vehicle; an annual review of his driving record; a copy of his driver's license or certification of road test; an inquiry into the driver's driving and employment records during the previous three years; and the driver's application for employment (49 CFR 391.51; Tr. 27–28). The driver's record of duty status, formerly known as a driver's log, requires a driver to report his duty status for every 24-hour period on a grid divided into four descriptions, (1) Off duty; (2) Sleeper berth; (3) Driving; and (4) On-duty not driving. A regular driver would submit one for each day of the month (See 49 CFR 395.8; Tr. 29–30). Intermittent drivers (as defined in the regulations) must submit a statement showing the total duty time during the previous seven days and the time at which the driver was last released from duty prior to the current assignment (49 CFR 395.8(j)(2); Tr. 30).

Upon reviewing the proffered records of Service Bus, Moruzzi discovered that driver qualification files for four drivers were missing.[1] The company also lacked record-of-duty status files and seven-day statements for various dates between March 7 and July 18, 1988. Moruzzi drew up a checklist of his findings which DiPaolo signed (Exh. 5; Tr. 28, 58).

DiPaolo offered various reasons for the state of his records. He testified that the records had in fact been maintained by Service Bus, but that a former employee charged with maintaining them had left the company in May 1988 coincident with their disappearance (Tr. 43, 58–59, 62). He also claimed that the files may have been located in another office (Tr. 63). DiPaolo also stated that one of the drivers cited for lacking any driver qualification files, Louis Gomez,

[1] A fifth driver alleged to have no qualification file, Joseph Monaco, was not named in the complaint. DiPaolo stated that he was not a driver but a company mechanic who had rented a bus (Exh. 5; Tr. 46).

had actually rented a bus from Service Bus and was therefore not an employee subject to FHWA requirements (Tr. 45–46, 54, 65–66).[2] Additionally, DiPaolo claimed that he required drivers to turn in their logs or else forfeit their pay (Tr. 44–45), implying that it was unlikely that drivers would fail to turn in their records of duty status. This account was confirmed by one of his drivers (Tr. 89–90, 93–94). In sum, DiPaolo maintains that he was in full compliance with all requirements cited by Complainant at all times.[3]

I find the violations as charged. Mr. DiPaolo signed the checklist confirming the findings of Investigator Moruzzi which are the subject of this action. He thereby acknowledged that Moruzzi's findings, with the exception of the status of Gomez, were correct. I need go no further in determining whether the alleged violations which were not contested occurred.

DiPaolo's claims in mitigation of these findings were vague and unsubstantiated, and I do not credit them. He stated that the files may have been stolen, but never offered to show Inspector Moruzzi a police record of such theft (Tr. 36). Nor did he explain why a former employee would make off with these files. Furthermore, while it was also suggested that the files may have been located at a place other than Service Bus' headquarters, dispatcher Jeffries indicated that the records at the second location (assuming they were pertinent) were in disarray and effectively available. The regulations in any event generally require records to be maintained at the motor carrier's "principal place of business" (49 CFR 391.51(f))

Finally, DiPaolo's claim that Louis Gomez was a lessee rather than an employee driver strains credibility. No written lease was executed between Gomez and Service Bus; the company carried the insurance; and the company paid for the gas without reimbursement (Tr. 65–66). Those circumstances are not consistent with a rental agreement. In keeping with the overwhelming weight of the evidence, I find that Gomez was a driver employed by Service Bus and consequently also find the violations alleged with respect to him.[4]

My decision is also grounded in the fact that I have accorded greater weight to the evidence offered by Inspector Moruzzi than to that offered by Mr. DiPaolo. While I see no reason to question Moruzzi's findings and testimony, DiPaolo's credibility suffered by his initial claim that Service Bus made no interstate trips. Only when confronted with written evidence to the contrary did he acknowledge that that claim was untrue. He later stated that the reason he had told Moruzzi that he no longer operated interstate was because he was too "busy" to know where all his buses traveled (Tr. 47; see also Tr. 49). But that claim is of dubious believability in view of the 32 Atlantic City trips undertaken by Service Bus' fleet of only 7–11 buses between March and July 1988 (Exh. 5; Tr. 21, 48). Moreover, DiPaolo acknowledged that some of his drivers operated exclusively to and from Atlantic City (Tr. 60). Against this background, DiPaolo's credibility in this action cannot be accorded the same weight as Morvzzi's.

Under 49 U.S.C. 521(b), Service Bus is liable for a civil penalty not to exceed $500 for each violation. The determination of the amount of any civil penalty is based on

> * * * the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree of culpability, history or prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice and public safety may require. In each case, the assessment shall be calculated to induce further compliance.

49 U.S.C. 521(b)(2)(c). The agency seeks the maximum penalty of $500 per violation. It stated that its determinations take into account the carrier's past record and ability to pay (Tr. 40–41).

Service Bus has been the subject of four previous safety audits since 1979. The 1979 audit cited 52 violations (Exh. 2; Tr. 13–14); a 1980 audit listed 51 (Exh. 3; Tr. 15–16).[5] No sanctions were sought on these two occasions. Rather, written recommendations were made to the carrier which essentially set out a program for ensuring compliance. In each case the agency report containing these recommendations was delivered to and signed by Salvatore DiPaolo as President of Service Bus (Tr. 14, 16). As a result of a third audit conducted in 1982, the agency issued a Notice of Claim against Respondent on June 15, 1983 citing eight counts of failing to retain on file driver's daily logs. The claim resulted in a civil penalty assessment of $4,000 (Exhs. 4, 6; Tr. 16–21).

I agree with the recommendation of agency counsel and hereby set a penalty of $15,000 for the violations. I do not arrive at this figure casually. Service Bus has been cited on three previous occasions for the same or similar problems. The responsible company officials have not changed during this period. Service Bus has been more than suitably apprised of the need to comply. The record shows that it has failed in its responsibilities.

These are not mere record-keeping violations. They affect the safety of the traveling public. Failure to adhere to them undermines the integrity of the Congressionally-mandated enforcement program, public confidence in motor carrier safety, and ultimately the safety of motor carriers themselves. The Motor Carrier Safety Regulations are not to be lightly regarded.

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[2] DiPaolo conditioned his signing of Moruzzi's checklist by this claim. See Exh. 5, p. 2.

[3] Tr. 52–56. Respondent also states in support of his case that on September 13, 1988 he was found in compliance with applicable regulations of the state of New York (Tr. 58, 60, 72, 74–75, 84). This claim, however, is irrelevant to the matter before me. No showing was made regarding the New York requirements, the nature and extent of the inspection there made, or the standards utilized in arriving at that result. Indeed, the New York inspection makes reference to the compliance of the company's *school* buses, another operation and not the subject of this action (Tr. 9–10, 79–80). Moreover, even if New York's program and enforcement standards were identical to FHWA's, the State's September 13 findings have no probative value for the findings made at FHWA's earlier July 20–August 5 inspection. Indeed, I rejected Respondent's proffer of two exhibits reflecting New York State's findings and permitted these documents to accompany the record only as an offer of proof. See Tr. 74–83.

[4] The Notice of Claim alleges that Service Bus did not maintain for Gomez a driver qualification file (violation #4) and failed to require him to make and submit a record of duty status for a July 10, 1988 Yonkers-Atlantic City trip (violation #23). See Notice of Claim dated October 3, 1988.

[5] The 1979 safety audit cited the following violations (the number found follows in parentheses): failure to maintain driver qualification files (two); requiring or permitting drivers to drive more than ten hours (two); failure to require drivers to prepare appropriate daily log (forty); failure to require a driver to forward each day the original of his log (seven); and failure to retain vehicle condition reports (one). The 1980 audit cited a failure to maintain driver qualification files (three); missing items from driver qualification files (four); permitting driver to drive more than ten hours (three); permitting driver to drive after having been on duty 15 hours (six); failure to require driver to make a daily log (ten); failure to require driver to prepare an appropriate daily log (twenty-five). See Tr. 13–16.

The statute requires that the penalty be calculated "to induce further compliance". Against the background I have described, I believe the maximum assessment is the only penalty which will fulfill the statutory goal. Additionally, there has been no showing that the carrier lacks the ability to pay.

Service Bus Company, Inc. is hereby ordered to pay a civil penalty in amount of $15,000 for violating Federal Motor Carrier Safety Regulations 49 CFR 391.51, 395.8(a), and 395.8(j).

This decision is issued pursuant to 49 CFR 386.61. This decision becomes the final decision of the Associate Administrator 45 days after it is served unless a petition or motion for review is filed under 49 CFR 386.62.

Barton S. Kolko,

Administrative Law Judge.

[FR Doc. 90-25081 Filed 10-25-90; 8:45 am]

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Part III

Department of Transportation

Federal Aviation Administration

14 CFR Parts 23, 91 and 135
Small Airplane Airworthiness Review Program Amendment No. 5; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 23, 91, and 135

[Docket No. 25812; Amendment Nos. 23-41, 91-230, 135-26]

RIN 2120-AC14

Small Airplane Airworthiness Review Program Amendment No. 5

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the airworthiness standards for equipment, systems, and installations and establishes airworthiness standards for the installation of electronic display instrument systems in normal, utility, acrobatic, and commuter category airplanes. It also provides alternative airworthiness standards for the instrument configuration for general, air taxi and commercial operations. This amendment updates the airworthiness and operating requirements to reflect advanced technology being incorporated in current designs while maintaining an acceptable level of safety.

EFFECTIVE DATE: November 26, 1990.

FOR FURTHER INFORMATION CONTACT: Ervin Dvorak, Standards Office (ACE-112), Small Airplane Directorate, Aircraft Certification Division, Central Region, Federal Aviation Administration, 601 East 12th Street, Kansas City Missouri 64106, telephone (816) 426-5688.

SUPPLEMENTARY INFORMATION:

Background

This amendment is based on Notice of Proposed Rulemaking, Notice No. 89-6, published on March 6, 1989 (54 FR 9338). All comments received in response to Notice No. 89-6 have been considered in adopting this amendment.

Related Activity

The FAA announced its Small Airplane Airworthiness Review Program in Notice No. CE-83-1 (48 FR 4290, January 31, 1983) and invited all interested persons to submit proposals for consideration. The goal of the review program was to provide an opportunity for the public to participate in improving, updating, and developing the airwothiness standards applicable to small airplanes, as set forth in part 23 of the Federal Aviation Regulations (FAR). Where applicable, the review program was extended to the new commuter category requirements because that commuter category incorporated existing small airplane requirements, as set forth in Amendment 23-34 (52 FR 1806, January 15, 1987).

In Notice No. CE-83-1A (48 FR 20623, June 9, 1983), the FAA extended the period for submission of review proposals, invited by Notice No CE-83-1, to May 3, 1984. Approximately 500 proposals were received in response to Notices No. CE-83-1 and CE-83-1A.

Following receipt of the proposals, the FAA published Notice No. CE-83-1 (49 FR 30053, July 25, 1984) containing the availability of agenda, compilation of proposals, and announcement of the Small Airplane Airworthiness Review Program Conference. That conference was held October 22-26, 1984, in St. Louis, Missouri. A copy of the transcript of all discussions held during the conference is filed in FAA Regulatory Docket No. 23494.

After reviewing the proposals and the public comments received at the conference, the FAA's first related rulemaking action concentrated on updating safety standards related to cabin safety and improved crashworthiness. On December 12, 1986, the FAA published Notice No. 86-19, titled, "Small Airplane Airworthiness Review Notice No. 1" (51 FR 44878). Notice No. 86-19 proposed to upgrade the standards for cabin safety and occupant protection during emergency landing conditions, which included dynamic testing requirements for the seat/restrain systems of small airplanes. The proposals from Notice No. 86-19 were adopted in Amendment 23-36 (53 FR 30802, August 15, 1988).

From the Small Airplane Airworthiness Review Program, Notices No. 2 and 5 were published in the **Federal Register** as Notices No. 89-5 and 89-6, respectively. These two notices, No. 89-5 and 89-6, were published March 6, 1989 (54 FR 9276 and 54 FR 9338). Action on Notice No. 89-5 will be accomplished in a separate final rulemaking document. This final rulemaking action, resulting from Notice No. 89-6, has been prepared with the consideraion of all comments received on that notice.

The proposals to amend §§ 91.205 and 135.159 are the result of the petitions for rulemaking action that the FAA has received and were not specifically discussed at the Small Airplane Airworthiness Review Conference. These proposals are related to the proposals for §§ 23.1309, 23.1311, and 23.1321, therefore, this notice was expanded to include these proposals.

Discussion of Comments

General

Interested persons were invited to participate in the development of these final rules by submitting written data, views, or arguments to the regulatory docket on or before July 5, 1989. Five commenters responded to Notice No. 89-6. Minor technical and editorial changes have been made to the proposed rules based on both relevant comments received and further review by the FAA. Two of these commenters strongly support the adoption of these proposals.

One commenter believes that ongoing rulemaking actions have resulted in a continuing increase in the cost and complexity of certification requirements for general aviation airplanes. This commenter cites, as an example of this increased cost, the "dynamic testing of an airplane to prove it will meet the new certification requirements," and states that "For a small airplane, this test would mean the destruction of a minimum of 3 to 9 fuselages costing a total of from one to two million dollars." Consequently, this commenter expresses support for the primary category rulemaking (54 FR 9738, March 7, 1989) and urges expeditious adoption of that rulemaking action.

Proposals in this rulemaking action respond to changes in design technology that were not envisioned in the current airworthiness standards and provide an acceptable level of safety for that new technology. Any additional airplane costs that may occur from these proposed new requirements are the result of an airplane manufacturer's selection of the technology for a new airplane design. In regard to the commenter's example of dynamic testing requirements that would require the destruction of several fuselages, the FAA has not been able to identify dynamic requirements that would require destruction of a single fuselage. The FAA believes that this comment refers to the recently adopted dynamic seat testing requirements of Amendment 23-36. The new seat design and dynamic testing needed to establish compliance may exceed the cost of the seat design and static test needed to show compliance with older requirements; however, the net benefits to be realized from the reduction in occupant fatalities and injuries are expected to exceed the increase in cost. Finally, this commenter's recommendation on the expeditious adoption of the proposed primary category aircraft rule is beyond the scope of this notice.

Discussion of Comments to Specific Sections of Parts 23, 91, and 135

The following comments and discussion are keyed to like-numbered proposals in Notice No. 89-6.

Proposals 1, 5, 7. These proposals contain the authority citations for parts 23, 91, and 135. No comments were received on these proposals.

Proposal 2. This proposal would retain the existing reliability requirements of current § 23.1309 for airplane equipment, systems, and installations that are not complex and do not perform safety-critical functions. For those cases where the applicant finds it necessary or desirable to include complex, safety-critical systems, this proposal also would provide additional requirements for identifying such equipment, systems, and installations and would define additional requirements needed for their certification. This proposal would permit the approval of more advanced systems having the capability to perform critical functions and whose failure condition would prevent the continued safe flight and landing of the airplane.

Two commenters offer comments on proposed § 23.1309. One of these commenters concurs with the concept of updating the reliability requirements applicable to airplanes not limited to Visual Flight Rules (VFR) flight, but does not concur with this updating for all airplanes. As discussed in Notice No. 89-6, this proposal addresses the systems installed on airplanes and is not limited to the operations approval of the airplane. The airworthiness standards, as adopted in § 23.1309(a), are based on single-fault or fail-safe concepts and experience based on service-proven designs and engineering judgment. These requirements should be used for airplanes whose systems are not complex and do not perform safety-critical functions. Therefore, § 23.1309(a) is structured to allow the use of existing procedures for simple airplane system designs.

If the design of the airplane includes equipment, systems, and installations that perform functions whose failure condition would prevent continued safe flight and landing of the airplane, the occurrence of each failure conditions must be extremely improbable. In addition, on airplanes designed for any type of operation not limited to VFR, the systems whose failure conditions would significantly reduce the airplane's capability, or the ability of the crew, to cope with the adverse operating conditions must be improbable. It was recognized that any failure would reduce the airplane's or crew's capability by some degree, but that reduction may not be of the degree that would make operation of the airplane potentially catastrophic. The intent of § 23.1309(b) is to require that systems whose failure would be catastrophic or potentially catastrophic be evaluated using the latest available analysis techniques.

Although future airplane designs limited to VFR operations are not likely to include equipment, systems, and installations whose failure condition would prevent continued safe flight and landing of the airplane, the applicability of this requirement, as discussed above, will provide airworthiness standards if the applicant elects to include such systems in the airplane's design. Therefore, the applicability of this requirement has not been revised as suggested by this commenter.

One commenter suggests that the critical environmental system considered in § 23.1309(c) would be better defined by removing the words "such as" from the proposed paragraph and replacing them with the word "including." The FAA agrees that the suggested wording more accurately identifies the intent of this paragraph, as discussed in this notice. The wording of paragraph (e) of § 23.1309 has been revised accordingly.

This same commenter notes that there are proposals being considered for a new §§ 25.1315 and 15.1317, which deal with the effects of lightning and external high energy radiated electromagnetic fields, and suggests that similar actions be considered for part 23 rules. Although this comment is beyond the scope of the actions proposed in Notice No. 89-6, the FAA recognizes the desirability of having the various airworthiness standards address like requirements in the respective sections and will consider this comment in future rulemaking actions.

Proposal 3. This proposal adds a new § 23.1311 to provide the requirements for the installation of an electronic display instrument system. It provides a separate section to address the airworthiness standards for those indicators. A significant number of electronic display systems have been approved for installation in part 23 airplanes by means of special conditions.

One commenter asks if the wording of proposed § 23.1311(c), concerning electronic display indicators with features that make isolation and independence between powerplant instrument systems impractical, will be supported by an appropriate amendment to require such isolation. As discussed in Notice No. 89-6, the current requirements of part 23 address powerplant instruments that could provide the required data only by using individual instruments. Accordingly, the isolation and independence referred to in § 23.1311(c) are currently required in § 23.903(c). The objective of this regulation is to allow the use of electronic display indicators that will not provide the isolation and independence considered in the current requirements. The FAA is not considering an additional amendment to address this issue.

Proposal 4. This proposal would revise § 23.1321 to provide that flight instruments to be used by any required pilot be located so that only minimal eye and head movement are needed to monitor the airplane's flight path and these instruments. This proposal would also extend the T-arrangement of the flight instruments to all airplanes that are certificated for flight under instrument flight rules (IFR) and would provide for electronic display indicators to be located in this T-arrangement. No comments were received on this proposal and it is adopted as proposed.

Proposal 6. This proposal would revise § 91.205 to permit the operation of all airplanes with the installation of a third attitude instrument system instead of the gyroscopic rate-of-turn indicator, providing that the instrument and installation comply with the requirements of § 121.305(j). [Part 91 was reorganized and its sections renumbered (54 FR 34284, August 18, 1989). The original proposal would have revised § 91.33, but that section is renumbered as § 91.205.] No comments were received on this proposal and it is adopted as proposed.

Proposal 8. This proposal would revise § 135.149 to establish uniformity in installation requirements when a third attitude instrument system is installed. No comments were received on this proposal and it is adopted as proposed.

Proposal 9. This proposal would revise § 135.150 to permit part 135 operation of any airplane, with the installation of a third attitude instrument system instead of a gyroscopic rate-of-turn indicator, that is substantially the same as airplanes, similarly equipped, that are permitted in part 121 operation. No comments were received on this proposal and it is adopted as proposed.

Regulatory Evaluation Summary

Introduction

This section summarizes the full regulatory evaluation prepared by the

FAA that provides more detailed estimates of the economic consequences of this regulatory action. This summary and the full evaluation quantify, to the extent practicable, estimated costs to the private sector, consumers, Federal, State, and local governments, as well as anticipated benefits.

Executive Order 12291, dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if potential benefits to society for each regulatory change outweigh potential costs. The order also requires the preparation of a Regulatory Impact Analysis of all "major" rules except those responding to emergency situations or other narrowly defined exigencies. A "major" rule is one that is likely to result in an annual increase in consumer costs, a significant adverse effect on the economy of $100 million or more, a major increase in consumer costs, a significant adverse effect on competition, or is highly controversial.

The FAA has determined that this rule is not "major" as defined in the executive order; therefore, a full regulatory analysis, which includes the identification and evaluation of cost-reducing alternatives to this rule, has not been prepared. Instead, the agency has prepared a more concise document, termed a "regulatory evaluation", that analyzes onl this rule without identifying alternatives. In addition to a summary of the regulatory flexibility determination required by the Regulatory Flexibility Act and an International Trade Impact assessment. If more detailed economic information is desired, the reader may refer to the full regulatory evaluation contained in the docket.

Economic Evaluation

The regulatory evaluation examines the effect of a final rule to amend parts 23, 91, and 135. The amendments to parts 91 and 135 contained in this rule allow the installation of a third attitude indicator instead of the currently required rate-of-turn indicator. Flight instrument systems now being proposed for installation need not include the rate-of-turn function. Allowing an additional attitude indicator with a dedicated power supply relieves the burden on the manufacturer and allows safer operations because of the greater utility of third attitude indicators.

The amendments to Part 91 and 135 impose no cost on the aviation community or other persons, but rather, include provisions for an alternative.

The amendments to part 23 contained in this rule upgrade airworthiness standards to include design requirements for complex systems critical for safety in small airplanes. These upgraded standards, which are based on proposals submitted at the Small Airplane Airworthiness Review Conference in St. Louis, apply only to aircraft for which an application for a type certificate under part 23 is made after the effective date of this rule. The amendments require examination of systems and equipment for their criticality to continued safe flight and landing of the airplane, require reliability of such systems based on their criticality and set forth standards for installation of instrument systems utilizing electronic display indicators.

Current computer and instrumentation technology has resulted in systems and equipment being available for small airplanes that are novel and unusual relative to what was envisioned and considered when the previous part 23 requirements were promulgated. Therefore, the FAA found it necessary to issue special conditions and expend significant resources to assure adequate airworthiness standards for these systems.

The amendments to part 23 are cost-relieving because they eliminate the need for special conditions processing, which often involves costly and unnecessary delays. In addition, these amendments are optional in the sense that the manufacturers are not being directed to incorporate the newest technology in their future models, but instead are being afforded a set of regulations to observe should they choose the new equipment.

Furthermore, it was concluded that an undetermined measure of safety benefits could be attributed to the three amendments to part 23. These benefits are based on: (1) The reduction in accidents that might otherwise occur under the "single fault" or "fail safe" analysis of failure potential for both complex, safety critical systems and multi-function electronic instrument displays, and (2) the reduction in accidents that could be afforded by the use of these advanced systems and displays.

The gross value of these benefits was estimated to range between $2.14 million and $2.46 million, depending on the assumptions concerning equipage rates and accident reduction effectiveness. However, it should be noted that this estimate measures the isolated effect on the regulatory amendments in and of themselves. Future airplane designs with advanced systems and instrument displays could be evaluated without these amendments through the special conditions process of § 21.16. Therefore, only a portion of the gross safety benefit estimate actually will be realized. The net benefit would be determined by the extent to which these amendments, as compared to the special conditions procedures, expedite the development of airplanes that employ advanced systems and instrument displays and improve the analysis of their safety and reliability.

International Trade Impact Analysis

The provisions of this rule will have little or no impact on trade for both U.S. firms doing business in foreign countries and foreign firms doing business in the United States. In the United States, foreign manufacturers would have to meet U.S. requirements, and, thus, they would gain no competitive advantage. In foreign countries, U.S. manufacturers would not be bound by part 23 requirements and could, therefore, implement the provisions of the rule solely on the basis of competitive considerations.

Regulatory Flexibility Determination

The FAA has determined that the rule changes will not have a significant economic impact on a substantial number of small entities. The FAA's criteria for a small airplane manufacturer is one with fewer than 75 employees. A substantial number is a number that is not fewer than 11 and that is more than one-third of the small entities subject to the rule.

A review of domestic general aviation manufacturing companies indicates that only two companies meet the size threshold of 75 employees or fewer. Therefore, the amendments to parts 23, 91, and 135 will not affect a substantial number of small entities.

Federalism Implications

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

This document amends the airworthiness standards for complex, safety-related critical systems and the installation of electronic display systems. These standards provide design options to the manufacturer that are not available under existing regulations. This document concerns rules that do not impose a burden, but merely afford an alternative, and they will not result in an annual increase in consumer costs or have an adverse

effect on the economy. The FAA has determined that this amendment is not major as defined in Executive Order 12291. For the same reason, this amendment is not considered to be significant as defined in Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since there are no small entities affected by this rulemaking, it is certified, under the criteria of the Regulatory Flexibility Act, that this amendment will not have a significant economic impact, positive or negative, on a substantial number of small entities. In addition, these final rules will have little or no impact on trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States. A copy of the regulatory evaluation prepared for this project may be examined in the Rules Docket or obtained from the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

List of Subjects

14 CFR Parts 23, 91, and 135

Aircraft, Air transportation, Aviation safety, Safety.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends parts 23, 91, and 135 of the Federal Aviation Regulations (14 CFR parts 23, 91 and 135) as follows:

PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, ACROBATIC AND COMMUTER CATEGORY AIRPLANES

1. The authority citation for part 23 continues to read as follows:

Authority: 49 U.S.C. 1344, 1354(a), 1355, 1421, 1423, 1425, 1428, 1429, 1430; 49 U.S.C. 106(g).

2. Section 23.1309 is revised to read as follows:

§ 23.1309 Equipment, systems, and installations.

(a) Each item of equipment, each system, and each installation:

(1) When performing its intended function, may not adversely affect the response, operation, or accuracy of any—

(i) Equipment essential to safe operation; or

(ii) Other equipment unless there is a means to inform the pilot of the effect.

(2) In a single-engine airplane, must be designed to minimize hazards to the airplane in the event of a probable malfunction or failure

(3) In a multiengine airplane, must be designed to prevent hazards to the airplane in the event of a probable malfunction or failure.

(b) The design of each item of equipment, each system, and each installation must be examined separately and in relationship to other airplane systems and installations to determine if the airplane is dependent upon its function for continued safe flight and landing and, for airplanes not limited to VFR conditions, if failure of a system would significantly reduce the capability of the airplane or the ability of the crew to cope with adverse operating conditions. Each item of equipment, each system, and each installation identified by this examination as one upon which the airplane is dependent for proper functioning to ensure continued safe flight and landing, or whose failure would significantly reduce the capability of the airplane or the ability of the crew to cope with adverse operating conditions, must be designed to comply with the following additional requirements:

(1) It must perform its intended function under any foreseeable operating condition.

(2) When systems and associated components are considered separately and in relation to other systems—

(i) The occurrence of any failure condition that would prevent the continued safe flight and landing of the airplane must be extremely improbable; and

(ii) The occurrence of any other failure condition that would significantly reduce the capability of the airplane or the ability of the crew to cope with adverse operating conditions must be improbable.

(3) Warning information must be provided to alert the crew to unsafe system operating conditions and to enable them to make appropriate corrective action. Systems, controls, and associated monitoring and warning means must be designed to minimize crew errors that could create additional hazards.

(4) Compliance with the requirements of paragraph (b)(2) of this section may be shown by analysis and, where necessary, by appropriate ground, flight, or simulator tests. The analysis must consider—

(i) Possible modes of failure, including malfunctions and damage from external sources;

(ii) The probability of multiple failures, and the probability of undetected faults;

(iii) The resulting effects on the airplane and occupants, considering the stage of flight and operating conditions; and

(iv) The crew warning cues, corrective action required, and the crew's capability of determining faults.

(c) Each item of equipment, each system, and each installation whose functioning is required by this chapter and that requires a power supply is an "essential load" on the power supply. The power sources and the system must be able to supply the following power loads in probable operating combinations and for probable durations:

(1) Loads connected to the power distribution system with the system functioning normally.

(2) Essential loads after failure of—

(i) Any one engine on two-engine airplanes; or

(ii) Any two engines on an airplane with three or more engines; or

(iii) Any power converter or energy storage device.

(3) Essential loads for which an alternate source of power is required, as applicable, by the operating rules of this chapter, after any failure or malfunction in any one power supply system, distribution system, or other utilization system.

(d) In determining compliance with paragraph (c)(2) of this section, the power loads may be assumed to be reduced under a monitoring procedure consistent with safety in the kinds of operations authorized. Loads not required in controlled flight need not be considered for the two-engine-inoperative condition on airplanes with three or more engines.

(e) In showing compliance with this section with regard to the electrical power system and to equipment design and installation, critical environmental and atmospheric conditions, including radio frequency energy and the effects (both direct and indirect) of lightning strikes, must be considered. For electrical generation, distribution, and utilization equipment required by or used in complying with this chapter, the ability to provide continuous, safe service under foreseeable environmental conditions may be shown by environmental tests, design analysis, or reference to previous comparable service experience on other airplanes.

(f) As used in this section, "system" refers to all pneumatic systems, fluid systems, electrical systems, mechanical systems, and powerplant systems included in the airplane design, except for the following:

(1) Powerplant systems provided as part of the certificated engine.

(2) The flight structure (such a wing, empennage, control surfaces and their systems, the fuselage, engine mounting, and landing gear and their related primary attachments) whose requirements are specific in subparts C and D of this part.

(3) A new § 23.1311 is added under the heading "Instruments: Installation" to read as follows:

§ 23.1311 Electronic display instrument systems.

(a) Electonic display indicator requirements in this section are independent to each pilot station required by the airworthiness standards or by the applicable operating rules for each airplane that is to be approved for operation in IFR conditions.

(b) Electronic display indicators required by § 23.1301(a), (b), and (c) must be independent of the airplane's electrical power system.

(c) Electronic display indicators, including those with features that make isolation and independence between powerplant instrument systems impractical must—

(1) Be easily legible under all lighting conditions encountered in the cockpit, including direct sunlight, considering the expected electronic display brightness level at the end of an electronic display indicator's useful life. Specific limitations on display system useful life must be addressed in the Instructions for Continued Airworthiness requirements of § 23.1529;

(2) Not inhibit the primary display of attitude, airspeed, altitude, or powerplant parameters needed by any pilot to set power within established limitations, in any normal mode of operation;

(3) Not inhibit the primary display of engine parameters needed by any pilot to properly set or monitor powerplant limitations during the engine starting mode of operation;

(4) Have independent secondary attitude and rate-of-turn instruments that comply with § 23.1321(a) if the primary electronic display instrument system for a pilot presents this information. Instrument displays that are located in accordance with § 23.1321(d) are considered the primary displays. A rate-of-turn instrument is not required if a third attitude instrument system is installed in accordance with the instrument requirements prescribed in § 121.305(j) of this chapter.

(5) Incorporate sensory cues for the pilot that are equivalent to those in the instrument being replaced by the electronic display indicators; and

(6) Incorporate visual displays of instrument markings, required by §§ 23.1541 through 23.1553, or visual displays that alert the pilot to abnormal operational values or approaches to established limitation values, for each parameter required to be displayed by this part.

(d) The electronic display indicators, including their systems and installations, and considering other airplane systems, must be designed so that one display of information essential for continued safe flight and landing will remain available to the crew, without need for immediate action by any pilot for continued safe operation, after any single failure or probable combination of failures.

(e) As used in this section, "instrument" includes devices that are physically contained in one unit, and devices that are composed of two or more physically separate units or components connected together (such as a remote indicating gyroscopic direction indicator that includes a magnetic sensing element, a gyroscopic unit, an amplifier, and an indicator connected together). As used in this section, "primary" display refers to the display of a parameter that is located in the instrument panel such that the pilot looks at it first when wanting to view that parameter.

4. Section 23.1321 is amended by removing the word "and" at the end of paragraph (d)(3); by removing the period at the end of paragraph (d)(4) and replacing it with "; and"; by revising paragraphs (a) and (b) introductory text and by adding a new paragraph (d)(5) to read as follows:

§ 23.1321 Arrangement and visibility.

(a) Each flight, navigation, and powerplant instrument for use by any required pilot during takeoff, initial climb, final approach, and landing must be located so that any pilot seated at the controls can monitor the airplane's flight path and these instruments with minimum head and eye movement. The powerplant instruments for these flight conditions are those needed to set power within powerplant limitations.

* * * * *

(d) For each airplane certificated for flight under instrument flight rules or of more than 6,000 pounds maximum weight, the flight instruments required by § 23.1303, and, as applicable, by the operating rules of this chapter, must be grouped on the instrument panel and centered as nearly as practicable about the vertical plane of each required pilot's forward vision. In addition:

* * * * *

(5) Electronic display indicators may be used for compliance with paragraphs (d)(1) through (d)(4) of this section when such displays comply with requirements in § 23.1311.

PART 91—GENERAL OPERATING AND FLIGHT RULES

5. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 *et seq.*; E.O. 11514; 49 U.S.C. 106(g).

§ 91.205 [Amended]

6. Section 91.205(d)(3)(i), is amended by removing the word "Large", by capitalizing the following word to read "Airplanes", and by adding the words "the instrument requirements prescribed in" after the words "in accordance with".

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

7. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355(a), 1421 through 1431, and 1502; 49 U.S.C. 106(g).

8. Section 135.149 is amended by revising paragraph (c) to read as follows:

§ 135.149 Equipment requirements: General.

* * * * *

(c) For turbojet airplanes, in addition to two gyroscopic bank-and-pitch indicators (artificial horizons) for use at the pilot stations, a third indicator that is installed in accordance with the instrument requirements prescribed in § 121.305(j) of this chapter.

* * * * *

9. Section 135.150 is amended by redesignating paragraphs (a)(1) and (a)(2) as (a)(2) and (a)(3), respectively; and by adding a new paragraph (a)(1) to read as follows:

§ 135.150 Equipment requirements: Carrying passengers under VFR at night or under VFR over-the-top conditions.

* * * * *

(a) * * *

(1) Airplanes with a third attitude

instrument system usable through flight attitudes of 360 degrees of pitch-and-roll and installed in accordance with the instrument requirements prescribed in § 121.305(j) of this chapter.

* * * * *

Issued in Washington, DC on October 22, 1990.

James B. Busey,

Administrator.

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Part IV

The President

Proclamation 6214—World Population Awareness Week, 1990

Proclamation 6215—Eating Disorders Awareness Week, 1990

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Title 3—

The President

Proclamation 6214 of October 24, 1990

World Population Awareness Week, 1990

By the President of the United States of America

A Proclamation

If current projections prove accurate, the present global population of more than 5 billion will likely double by the year 2025. It may reach 14 billion by the end of the next century. In many areas of the world, particularly in less developed countries, populations are increasing without concomitant economic growth. In other, more developed nations, however, birthrates are so low that populations are not replacing themselves. The implications of both trends merit careful study and consideration—as experience has clearly shown us, there is a significant relationship between demographic change, economic development, the use of resources, and environmental management.

The United States has long recognized that population growth, in and of itself, is a neutral phenomenon. As we noted during the 1984 International Conference on Population, because human beings are producers as well as consumers, population growth may be an asset or a liability depending on such factors as government economic policies, agricultural practices, and a nation's ability to put men and women to work. Demographic change can become problematic when a nation fails to anticipate or to accommodate growth. Increases in population can pose difficulties when the creation of housing and health facilities does not keep pace or when valuable resources such as arable land, forests, and water are used without regard to future needs. Population growth may also be viewed as a threat in countries where centralized economic planning and government price controls eliminate incentives for farmers and other workers to produce.

Many governments, private organizations, and concerned individuals around the world have been studying population trends and working to meet the challenges and opportunities those trends create. Over the years, the United States has been a leader in efforts to focus attention on population issues; to promote international cooperation; and to develop and implement population programs that are consistent with individual dignity and human rights. For example, in addition to supporting voluntary family planning activities, we have strived to promote environmental conservation and sustainable economic development in poor countries. We have also steadfastly advocated the political and economic freedom that is vital to the advancement of individuals and nations.

The United States believes that population programs must be truly voluntary, that they must not only recognize the rights and responsibilities of individuals and families but also respect their religious and cultural values. When population programs are conducted in accordance with this view, when they affirm and enhance the dignity and potential of the individual, they can and do promote the health of mothers and children, the stability of families, and, subsequently, the strength and well-being of entire nations.

The Congress, by Senate Joint Resolution 158, has designated the week of October 21 through October 27, 1990, as "World Population Awareness Week" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week of October 21 through October 27, 1990, as World Population Awareness Week. I invite all Americans to observe this week with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of October, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.

George Bush

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Presidential Documents

Proclamation 6215 of October 24, 1990

Eating Disorders Awareness Week, 1990

By the President of the United States of America

A Proclamation

Anorexia nervosa and bulimia, collectively known as eating disorders, are emotional disorders that can lead to serious physical illness and even death. Anorexia nervosa is expressed in deliberate self-starvation, which is manifested in an extreme aversion to food. It is closely related to, and often accompanied by, bulimia, which is marked by binge eating and purging.

Experts who have studied eating disorders estimate that one out of every 100 women between the ages of 12 and 25 suffers from anorexia nervosa, and that one of every seven women in the same age group develops bulimia. However, they also note that nearly 10 percent of all patients referred to eating disorder clinics are men.

Although the causes of anorexia nervosa and bulimia are still unknown, researchers believe that a combination of psychological, environmental, and physiological factors contribute to the development of one or both of these disorders. Treatment for anorexia and bulimia entails a combination of medical care and psychotherapy for the patient, as well as counseling for parents, spouses, and siblings. The patient's participation in a self-help group is an adjunct to medical and psychiatric care.

Advances in our understanding of anorexia nervosa and bulimia have been made possible through the concerted efforts of scientists, physicians, and counselors, as well as victims and their families. Researchers at the National Institute of Mental Health and the National Institutes of Health are working to discover the causes of these disorders and are using a multidisciplinary approach to diagnose and treat them. Private voluntary organizations such as the American Anorexia/Bulimia Association, the National Anorexic Aid Society, and the National Association of Anorexia Nervosa and Associated Disorders offer information regarding treatment centers, hospitals, clinics, and doctors specializing in eating disorders.

To recognize the importance of such efforts and to enhance public awareness of the dangers of eating disorders, the Congress, by House Joint Resolution 214, has designated the week beginning October 22, 1990, as "Eating Disorders Awareness Week" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week of October 22, 1990, as Eating Disorders Awareness Week. I invite all Americans to join with concerned health care professionals and government officials in observing this week through appropriate programs and activities directed toward the prevention and cure of anorexia nervosa and bulimia.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of October, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.

George Bush

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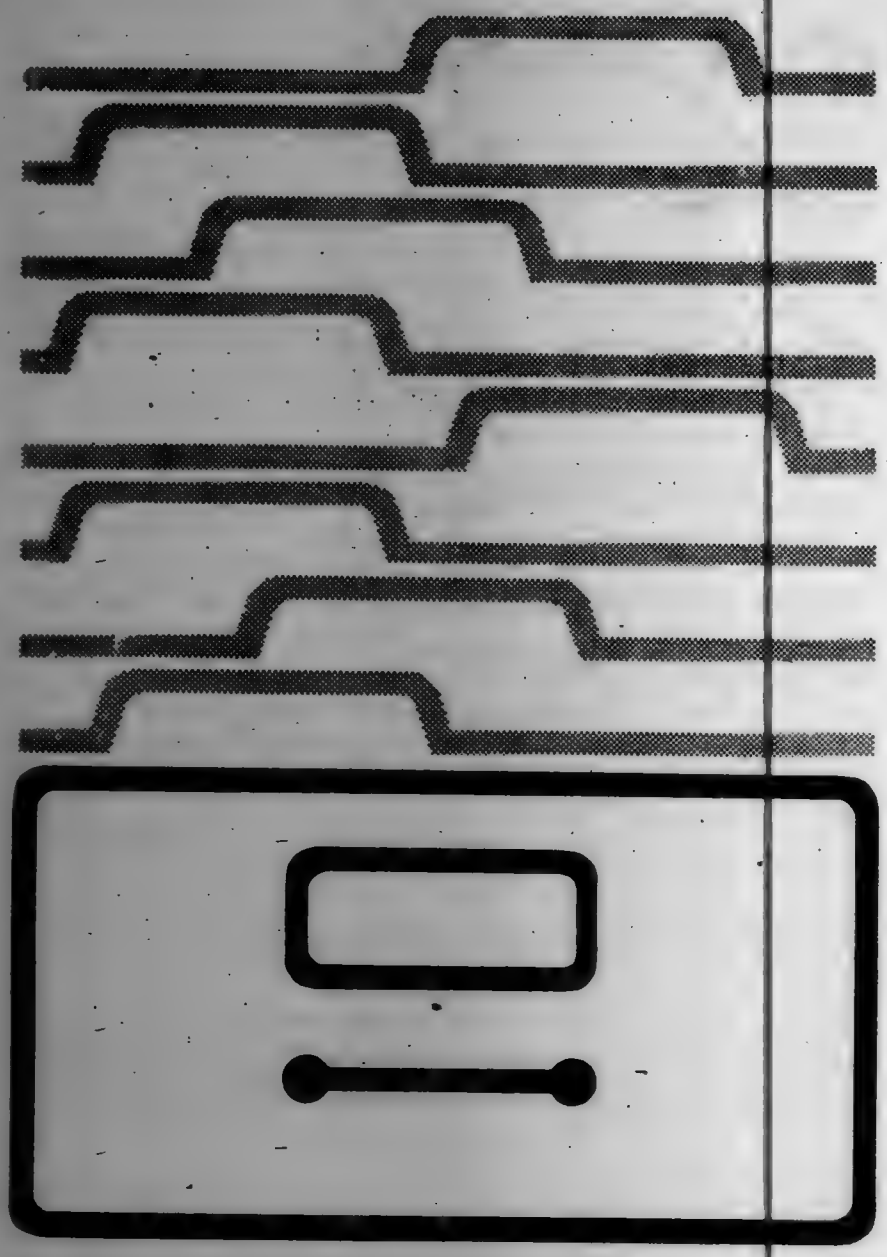

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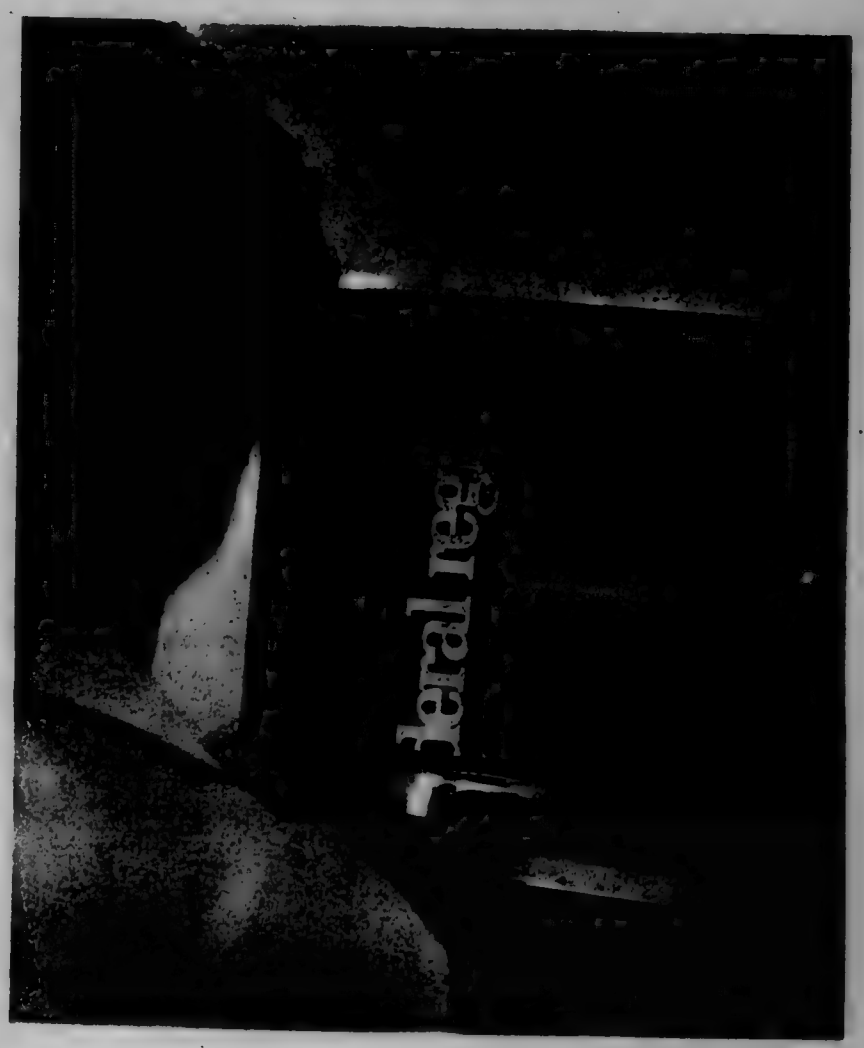

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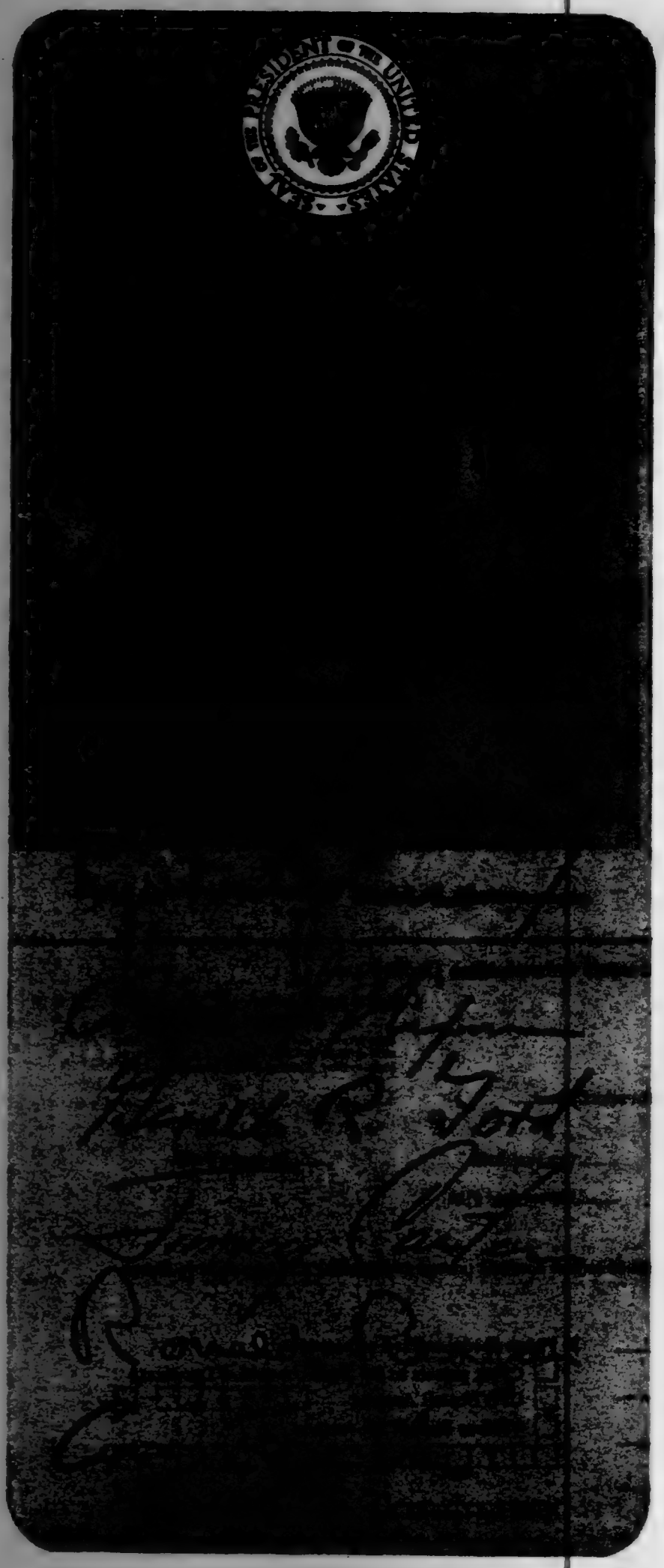

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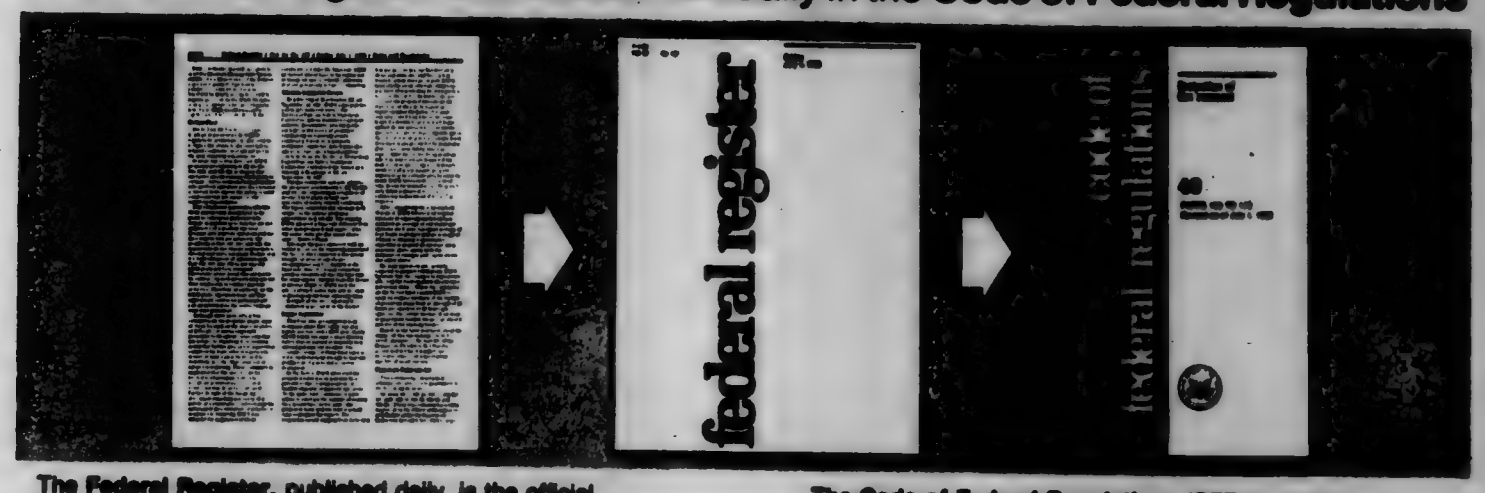

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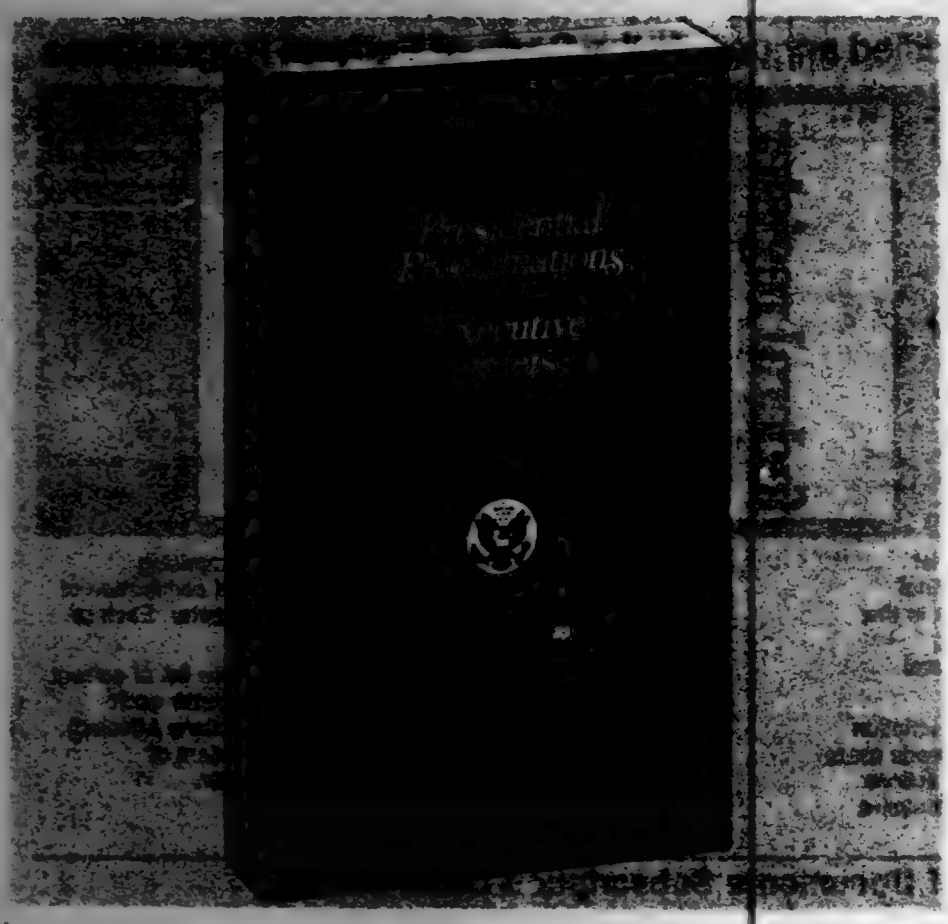

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Title 3—

The President

Proclamation 6218 of October 25, 1990

Yosemite National Park Centennial Year, 1990–1991

By the President of the United States of America

A Proclamation

One hundred years ago, on October 1, 1890, President Benjamin Harrison signed into law an act establishing Yosemite National Park. Located in the Sierra Nevada Mountains of California, Yosemite is the Nation's third oldest national park and one of its greatest natural treasures. During this centennial year all Americans can be grateful for the vision and foresight of those who advocated the preservation of this magnificent portion of our country. They not only saved a priceless legacy for succeeding generations, but also provided an enduring model of environmental stewardship for all Americans to emulate.

Almost 3 decades before the legislation signed by President Harrison established Yosemite as the Nation's third national park, the beautiful and majestic lands it now encompasses helped to animate the environmental conservation movement. On June 30, 1864, President Lincoln signed into law an act granting Yosemite Valley and the Mariposa Grove of Giant Sequoias to the State of California, to "... be held for public use, resort, and recreation ... inalienable for all time." Known as the Yosemite Grant, this act was the first law to set aside lands for the preservation of their unique characteristics and extraordinary scenic value. In fact, the historic Yosemite Grant laid the foundation for the development of national parks, the first of which became a reality in 1872 with the establishment of Yellowstone. Uniquely American, the concept of national parks—and the preservation ethic they affirm and inspire—has spread worldwide.

Today, spanning more than 750,000 acres or approximately 1,190 square miles, Yosemite National Park is acclaimed for its spectacular scenery, exotic plants, and wide array of wildlife. The glacially carved Yosemite Valley contains two of the world's highest waterfalls. El Capitan is one of the largest exposed monoliths of granite in the world, and it is one of the many magnificent granite formations in the park. Half Dome itself is a geographic feature recognized around the world. The three groves of giant sequoias found in the park astound visitors with their breathtaking beauty and sheer size—the Grizzly Giant is the fifth largest tree in the world. Yosemite also contains more than 1,300 species of flowering plants, many of them rare. The wildlife inhabiting the park includes several rare and/or endangered species, among them the bald eagle and the peregrine falcon.

Yosemite's unparalleled beauty, abundant wildlife, and other natural resources enrich us in many ways. Each year thousands of people from around the Nation and the world visit the park for recreation and renewal. Families on leisurely visits explore Yosemite as eagerly as students and professionals, all of them embarked, to one degree or another, on great adventures in learning. Indeed, Yosemite is a wonderful place to study not only the earth's development and fragile ecosystems but also the history of the peoples who have inhabited this great land through the ages. Native peoples occupied the region that is now Yosemite as many as 4,000 or more years ago, and the known prehistoric trade routes through the region are among the most important in the Sierra Nevada mountain range. The park also contains a wealth of artifacts and historic sites that tell the story of more recent inhabitants, such

as the explorers and traders who flocked to the region during the California gold rush era.

Designated a World Heritage Site in 1984 by the United Nations Educational, Scientific, and Cultural Organization (UNESCO), Yosemite is one of the most beautiful and fascinating places on the North American continent and, indeed, the entire planet. This year we proudly celebrate its centennial and express our appreciation for all those who have maintained the park during the past 100 years.

By House Joint Resolution 398, the Congress has recognized and commemorated the 100th anniversary of Yosemite National Park and has authorized and requested the President to issue a proclamation in observance of this occasion.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the year beginning October 1, 1990, as Yosemite National Park Centennial Year. I encourage the people of the United States and their elected representatives at the Federal, State, and local level to observe this year with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of October, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.

George Bush

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Presidential Documents

Proclamation 6217 of October 25, 1990

Ending Hunger Month, 1990

By the President of the United States of America

A Proclamation

The United States has long been a leader in efforts to end world hunger. Through a number of public and private programs, the American people have given generously of this Nation's abundant agricultural goods. We have also provided economic and technical assistance to foreign countries to help them increase their food production and promote needed economic development.

Despite these and other efforts, however, hunger and malnutrition remain chronic problems in many countries. While famines arouse deep and widespread concern, the problem of chronic hunger often receives far less attention, even though it affects more people. It is estimated that some 700 million people in developing countries—up to 60 percent of the population in the world's poorest countries—are affected by chronic hunger.

The problem of chronic hunger is as large and complex as it is compelling. Its causes vary. Some countries lack sufficient food supplies because of inadequate agricultural production—a problem readily attributed to adverse weather patterns, but one that is, in fact, often caused by centralized government planning, which eliminates farmers' incentives to produce bountiful crops. In countries where adequate food supplies may be available, political strife and civil war often disrupt or prevent their distribution. Moreover, in a number of developing countries, the natural resource base on which sustainable agriculture depends is being degraded. Forests are being destroyed, and soils are being depleted through erosion. Such losses pose a major long-term risk to the ability of those countries to feed their citizens.

While the causes of chronic hunger vary, its effects are always the same: hunger and malnutrition contribute to a vicious cycle of poverty and limited human development. Without adequate nutrition, good health is impossible. Without good health, man cannot maintain high levels of learning and productivity. Alleviating hunger is thus vital to the well-being of both individuals and nations.

The United States is working to help developing countries increase their food production through market-oriented, sustainable agricultural and rural development activities. We continue to share our agricultural surpluses with hungry people overseas through our Food for Peace and other assistance programs, such as the World Food Program. America is the largest donor of food aid, contributing annually more than 8 million tons of food worth more than $1.7 billion to hungry people overseas. Because any effective answer to chronic hunger must include measures to promote broad-based, sustainable economic growth, we are also encouraging the development of market-oriented policies that harness the creative power of individual initiative and free enterprise.

In addition to efforts abroad, the United States is also engaged in hunger relief activities at home. Government officials, health care professionals, educators, and religious congregations, as well as members of community groups and other private voluntary organizations, have been working to promote public awareness of the extent of chronic hunger, its causes, and its consequences. This year the U.S. Government is providing nearly $25 billion worth of food assistance to needy Americans—many of whom are children. Individual

volunteers and private donors are generously supporting canned food drives, food banks, and soup kitchens for the homeless. For example, this fall the Boy Scouts of America—recently recognized with a Presidential End Hunger Award—will be conducting a canned food drive that is expected to yield nearly 100 million items of food for people in need.

As an expression of our collective commitment to the fight against hunger, the United States joined 150 other countries in observing World Food Day on October 16, 1990. Related educational activities have been, and will continue to be, conducted throughout the month.

The Congress, by Senate Joint Resolution 342, has designated October 1990 as "Ending Hunger Month" and has authorized and requested the President to issue a proclamation in observance of this month.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim October 1990 as Ending Hunger Month. I call upon the people of the United States to observe this month with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of October, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.

George Bush

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Monday, October 29, 1990

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 741]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to domestic markets during the period from October 28 through November 3, 1990. Consistent with program objectives, such action is needed to balance the supplies of fresh lemons with the demand for such lemons during the period specified. This action was recommended by the Lemon Administrative Committee (Committee), which is responsible for local administration of the lemon marketing order.

EFFECTIVE DATE: Regulation 741 (7 CFR part 910) is effective for the period from October 28 through November 3, 1990.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture (Department), room 2524–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 475–3551.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order 910 (7 CFR part 910), as amended, regulating the handling of lemons grown in California and Arizona. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the Act.

This final rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities as well as larger ones.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 70 handlers of lemons grown in California and Arizona subject to regulation under the lemon marketing order and approximately 2,000 lemon producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona lemons may be classified as small entities.

The California-Arizona lemon industry is characterized by a large number of growers located over a wide area. The Committee's estimate of the 1990–91 production is 42,140 cars (one car equals 1,000 cartons at 38 pounds net weight each), compared to 37,881 cars during the 1989–90 season. The production area is divided into three districts which span California and Arizona. The Committee estimates District 1, central California, 1990–91 production at 6,000 cars compared to the 4,156 cars produced in 1989–90. In District 2, southern California, the crop is expected to be 24,709 cars compared to the 24,292 cars produced last year. In District 3, the California desert and Arizona, the Committee estimates a production of 10,940 cars compared to the 9,436 cars produced last year. According to the National Agricultural Statistics Service, 1990–91 lemon production is expected to total 40,200 cars, 6 percent above the 1989–90 season and 1 percent more than the crop utilized in 1989–90.

The three basic outlets for California-Arizona lemons are the domestic fresh, export, and processing markets. The domestic (regulated) fresh market is a preferred market for California-Arizona lemons. Based on its crop estimate of 42,140 cars, the Committee estimates that about 42.5 percent of the 1990–91 crop will be utilized in fresh domestic channels (17,900 cars), compared with the 1989–90 total of 16,800 cars, about 44 percent of the total production of 37,881 cars in 1989–90. Fresh exports are projected at 20.1 percent of the total 1990–91 crop utilization compared with 22 percent in 1989–90. Processed and other uses would account for the residual 37.4 percent compared with 34 percent of the 1989–90 crop.

Volume regulations issued under the authority of the Act and Marketing Order No. 910 are intended to provide benefits to growers and consumers. Reduced fluctuations in supplies and prices result from regulating shipping levels and contribute to a more stable market. The intent of regulation is to achieve a more even distribution of lemons in the market throughout the marketing season and to avoid unreasonable fluctuations in supplies and prices.

Based on the Committee's marketing policy, the crop and market information provided by the Committee, and other information available to the Department, the costs of implementing the regulations are expected to be more than offset by the potential benefits of regulation.

Reporting and recordkeeping requirements under the lemon marketing order are required by the Committee from handlers of lemons. However, handlers in turn may require individual growers to utilize certain reporting and recordkeeping practices to enable handlers to carry out their functions. Costs incurred by handlers in connection with recordkeeping and reporting requirements may be passed on to growers.

The Committee submitted its marketing policy for the 1990–91 season to the Department on June 19. The marketing policy discussed, among other things, the potential use of volume and

size regulations for the ensuing season. The Committee considered the use of volume regulation for the season. This marketing policy is available from the Committee or Ms. Rodriguez. The Department reviewed that policy with respect to administrative requirements and regulatory alternatives in order to determine if the use of volume regulations would be appropriate.

The Committee met publicly on October 23, 1990, in Newhall, California, to consider the current and prospective conditions of supply and demand and unanimously recommended that 325,000 cartons is the quantity of lemons deemed advisable to be shipped to fresh domestic markets during the specified week. The marketing information and data provided to the Committee and used in its deliberations were compiled by the Committee's staff or presented by Committee members at the meeting. This information included, but was not limited to, price data for the previous week from Department market news reports and other sources, the preceding week's shipments and shipments to date, crop conditions, weather and transportation conditions, and a reevaluation of the prior week's recommendation in view of the above.

The Department reviewed the Committee's recommendation in light of the Committee's projections as set forth in its 1990-91 marketing policy. This recommended amount is 15,000 cartons above the estimated projections in the Committee's current shipping schedule.

During the week ending on October 20, 1990, shipments of lemons to fresh domestic markets, including Canada, totaled 308,000 cartons compared with 300,000 cartons shipped during the week ending on October 21, 1989. Export shipments totaled 186,000 cartons compared with 191,000 cartons shipped during the week ending on October 21, 1989. Processing and other uses accounted for 293,000 cartons compared with 200,000 cartons shipped during the week ending on October 21, 1989.

Fresh domestic shipments to date for the 1990-91 season total 3,666,000 cartons compared with 3,509,000 cartons shipped by this time during the 1989-90 season. Export shipments total 1,655,000 cartons compared with 1,828,000 cartons shipped by this time during 1989-90. Processing and other use shipments total 2,772,000 cartons compared with 1,748,000 cartons shipped by this time during 1989-90.

For the week ending on October 20, 1990, regulated shipments of lemons to the fresh domestic market were 308,000 cartons on an adjusted allotment of 346,000 cartons which resulted in net undershipments of 38,000 cartons. Regulated shipments for the current week (October 21 through October 27, 1990) are estimated at 315,000 cartons on an adjusted allotment of 361,000 cartons. Thus, undershipments of 46,000 cartons could be carried over into the week ending on November 3, 1990.

The average f.o.b. shipping point price for the week ending on October 20, 1990, was $13.06 per carton based on a reported sales volume of 307,000 cartons compared with last week's average of $13.48 per carton on a reported sales volume of 306,000 cartons. The 1990-91 season average f.o.b. shipping point price to date is $13.15 per carton. The average f.o.b. shipping point price for the week ending on October 20, 1989, was $13.15 per carton; the season average f.o.b. shipping point price at this time during 1989-90 was $14.67 per carton.

The Department's Market News Service reported that, as of October 23, the demand for lemons is "fairly light" and the market is "about steady". At the meeting, one Committee member commented that the overall demand for and movement of lemons is good. There is some price discounting and inventory build-up on choice grade fruit sized 115 to 165. Another Committee member emphasized the need for volume regulation with the increase of lemons in storage and the transition between districts. The Committee unanimously recommended volume regulation for the period from October 28 through November 3, 1990.

Based upon fresh utilization levels indicated by the Committee and an econometric model developed by the Department, the California-Arizona 1990-91 season average fresh on-tree price is estimated at $8.83 per carton, 107 percent of the projected season average fresh on-tree parity equivalent price of $8.24 per carton. The California-Arizona 1989-90 season average fresh on-tree price is estimated at $9.02, 121 percent of the projected season average fresh on-tree parity equivalent price of $7.47 per carton.

Limiting the quantity of lemons that may be shipped during the period from October 28 through November 3, 1990, would be consistent with the provisions of the marketing order by tending to establish and maintain, in the interest of producers and consumers, an orderly flow of lemons to market.

Based on considerations of supply and market conditions, it is found that this action will tend to effectuate the declared policy of the Act.

Based on the above information, the Administrator of the AMS has determined that issuance of this rule will not have a significant economic impact on a substantial number of small entities.

Pursuant to 5 U.S.C. 553, it is further found and determined that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register**. This is because there is insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act.

In addition, market information needed for the formulation of the basis for this action was not available until October 23, 1990, and this action needs to be effective for the regulatory week which begins on October 28, 1990. Further, interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and handlers were apprised of its provisions and effective time. It is necessary, therefore, in order to effectuate the declared purposes of the Act, to make this regulatory provision effective as specified.

List of Subjects in 7 CFR Part 910

Lemons, Marketing agreements, and Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 910 is amended as follows:

1. The authority citation for 7 CFR part 910 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

2. Section 910.1041 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 910.1041 Lemon Regulation 741.

The quantity of lemons grown in California and Arizona which may be handled during the period from October 28 through November 3, 1990, is established at 325,000 cartons.

Dated: October 24, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-25528 Filed 10-26-90; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1900

Delegation of Authority

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) is implementing a Field Office Specialization Project (FOSP) in 14 States. The effect of this Project will be to improve credit quality and portfolio management of its Single-Family Housing and Farmer Program loans. This Project creates new job titles not mentioned in existing regulations. FmHA is therefore amending the delegation of authorities to provide for delegation of certain responsibilities to new positions.

EFFECTIVE DATE: October 29, 1990.

FOR FURTHER INFORMATION CONTACT: Don R. Peterson, Project Manager, Office of the Administrator, Farmers Home Administration, USDA, South Agriculture Building, room 5049, Washington, DC 20250, Telephone: (202) 475–4618.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in Departmental Regulation 1512–1 which implements Executive Order 12291, and since this action has no impact on FmHA borrowers or other members of the public, it has been determined to be exempt from those requirements because it involves only internal Agency management. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts, shall be published for comments notwithstanding the exemption in 5 U.S.C. 533 with respect to such rules. This action, however, is not published for proposed rulemaking since it involves internal Agency management and publication for comment is unnecessary.

Background Information

For some time FmHA has been concerned about the lack of separation of duties by staff in its field offices. That is, the same individual takes loan applications, determines eligibility, processes loans, appraises security property, provides closing instructions, services the loan, determines when liquidation is necessary, and manages and sells any acquired property. The Field Office Specialization Project (FOSP) consists of 3 types of specialized staffs: Appraisal, Underwriting, and Servicing and Inventory. Six States will have Appraisal Staffs, 12 will have Underwriting Staffs, and 14 will have Servicing and Inventory Staffs. In some States, the Appraisal and Underwriting Staffs will be combined.

This Project is anticipated to separate duties by having the appraisals either made or obtained by contract by the Appraisal Staffs, by having the Underwriting staffs review all loan dockets before approval, and by having the Servicing and Inventory Staffs take over seriously delinquent loans for servicing, oversee the liquidation of loans, and manage and sell the acquired property. More uniform appraisals will be obtained. Credit quality will be enhanced by the Underwriter review prior to approval of loans. Seriously delinquent loans should be serviced more timely and effectively. Inventory property will be managed more uniformly and efficiently to maximize the financial recovery.

As part of the internal management of the Agency it may sometimes be expedient to have different personnel under the supervision of the State Director to perform functions which are different from those specifically identified in regulation. Thus, the State Director needs authority to assign personnel to carry out duties and responsibilities under various programs and activities in order to effectively carry out the mission of the Agency. Such reassignment of responsibilities to perform certain functions of the Agency will not change any rights or opportunities of the public to benefit from Agency activities. For example, the State Directors may find it expedient to assign activities relating to appraisals to a specialized staff or another office.

Programs Affected

These changes affect the following FmHA programs/activities listed in the Catalog of Federal Domestic Assistance (CFDA) under Nos.:

10.404 Emergency Loans
10.406 Farm Operating Loans
10.407 Farm Ownership Loans
10.410 Low-Income Housing Loans
10.416 Soil and Water Loans
10.417 Very Low-Income Housing Repair Loans and Grants

Intergovernmental Consultation

For the reasons set forth in the Final Rule related Notice(s) to 7 CFR part 3015, subpart V, the following programs are excluded from the scope of Executive Order 12372 which requires Intergovernmental consultation with State and local officials: 10.404—Emergency Loans, 10.406—Farm Operating Loans, 10.407—Farm Ownership Loans, 10.410—Low-Income Housing Loans, 10.416—Soil and Water Loans, and 10.417—Very Low-Income Housing Repair Loans and Grants. The following programs are subject to intergovernmental consultation with State and local officials: 10.405—Farm Labor Housing Loans and Grants, 10.411—Rural Housing Site Loans, 10.414—Resource Conservation and Development Loans, 10.415—Rural Rental Housing Loans, 10.418—Water and Waste Disposal Systems for Rural Communities, 10.419—Watershed Protection and Flood Prevention Loans, 10.421—Indian Tribes and Tribal Corporation Loans, 10.422—Business and Industrial Loans, 10.423—Community Facility Loans, and 10.427—Rural Rental Assistance Payments.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of the FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91–90, an Environmental Impact Statement is not required.

List of Subjects in 7 CFR Part 1900

Appeals, Credit, Loan programs—housing and community development.

Therefore, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1900—GENERAL

1. The authority citation for part 1900 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Delegations of Authority

§ 1900.3 [Amended]

2. Section 1900.3 is amended by inserting in the list of employees, after "Chief, Community and Business Programs/Specialist;" the following positions: "Chief, Appraisal Staff/Appraiser; Chief, Underwriting Staff/Underwriter; Chief, Underwriting and Appraisal Staff; Chief, Servicing and Inventory Staff/Credit Management Specialist/Realty Specialist;".

3. Section 1900.5 is redesignated as § 1900.6, and a new § 1900.5 is added to read as follows:

§ 1900.5 Assignment of cases.

The State Director may, in writing, assign responsibilities and functions to a different office or staff position within the FmHA State organizational structure other than that referred to in regulations,

provided no benefits, rights, or opportunities of the public are changed.

Dated: October 17, 1990.

La Verne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 90-25447 Filed 10-26-90; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 242 and 287

[INS Number: 1294-90]

Apprehension, Custody and Detention; Issuance of Service Detainers (Form I-247); Field Officers; Powers and Duties

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule will remove the restriction prohibiting a Service officer from placing a detainer (Form I-247) against an alien who is an applicant or is eligible to apply for Legalization or for Special Agricultural Worker (SAW) status, if amenable to exclusion or deportation from the United States. This will ensure that aliens who are applicants for Legalization or SAW status incarcerated in correctional institutions be turned over to the Immigration and Naturalization Service if deemed deportable from the United States. As a result of this rule, aliens who are criminals and ineligible for Legalization or SAW status will not be free in the community, but instead, will be taken into custody by the Immigration and Naturalization Service to face possible exclusion or deportation from the United States.

EFFECTIVE DATE: This interim rule is effective October 22, 1990. Written comments must be received on or before November 28, 1990.

ADDRESSES: Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, room 5304, 425 I Street NW., Washington, DC 20536. Please include INS number 1294-90 on the mailing envelope to ensure proper handling.

FOR FURTHER INFORMATION CONTACT: Ira L. Frank, Senior Special Agent, Investigations Division, Immigration and Naturalization Service, 425 I Street NW., room 2207, Washington, DC 20536, Telephone: (202) 514-0747.

SUPPLEMENTARY INFORMATION:

A provision was placed in 8 CFR 242.2(a)(1) and 8 CFR 287.7(a)(1), restricting the placement of detainers on an alien illegally or unlawfully in the United States but who is eligible to apply, or has applied, for Legalization or SAW status under the provisions of section 245A or 210 of the Immigration and Nationality Act (the Act), unless the Service has denied, or issued notice of intent to deny, the benefit for which the alien has applied.

This has effectively prevented the Service from placing detainers against aliens who are prima facie ineligible for Legalization or S. AW status under the above-stated sections of the Act. Section 242(a)(2) of the Act mandates that any alien convicted of an aggravated felony as defined under section 101(a)(43) of the Act, be held without bond upon completion of his or her sentence pending deportation proceedings and removal from the United States. The Immigration Reform and Control Act (IRCA) prohibits the actual deportation of an applicant for Legalization or SAW status who has filed a prima facie or nonfrivolous application until a final determination has been made on the application. It does not prohibit the Service from placing a detainer on an applicant for Legalization or SAW status during the pendency of the application nor does it prohibit the commencement of deportation proceedings. A detainer does not effect an alien's deportation. The detainer is merely a notice to an alien's custodian that the Service is interested in assuming custody of the alien when he is released from his incarceration. Thus, placing a statement against an incarcerated SAW or Legalization applicant does not violate the stay of the alien's deportation.

The Attorney General is not to deport incarcerated aliens until they have completed their sentences in accordance with section 242(h) of the Act. He must, however, begin proceedings against an alien deportable because of a criminal conviction "as expeditiously as possible" as required by section 242(i). Placing detainers against aliens helps effectuate section 241(i) by making it reasonably likely that the Service will be notified of an alien's imminent release. Early notice will permit the Service to begin proceedings immediately upon the alien's release. With this amendment to the regulations, the Service will not be restricted from placing a detainer against an alien who has applied for Legalization or SAW status. Aliens who are criminals generally will be taken into Service custody to face exclusion or deportation from the United States rather than be allowed back into the community after release from a correctional institution. Aggravated felons as defined by section 101(a)(43) of the Act, will be taken in custody and held without bond as required by section 242(a)(2) of the Act.

In accordance with 5 U.S.C. 605(b), the Commissioner certifies that this rule will not have a significant economic impact on a substantial number of small entities. This is not a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have federalism implications warranting the preparation of a Federal Assessment in accordance with E.O. 12612.

The Immigration and Naturalization Service is invoking the "good cause" exception to the notice of proposed rulemaking requirement of 5 U.S.C. 553(b). The justification for waiving notice of proposed rulemaking is as follows: Notice of this rule and relevant public procedure would be contrary to the public interest and the intent of the statute. This rule is necessary in order to ensure that aliens who are subject to exclusion or deportation from the United States are released from correctional institutions to the custody of the Service. Some of these aliens are "aggravated felons" as defined in section 101(a)(43) of the Act and in accordance with section 242(a), must be held by the Service in custody without bond. The changes are designed to ensure the integrity of the expulsion process and protect the public interest and safety. Therefore, the Service believes the public interest is served by invoking the "good cause" exception to the notice of proposed rulemaking and the 30-day effective date requirements of 5 U.S.C. 553 (b) and (d), and by implementing this rule effective with a 30-day comment period.

List of Subjects

8 CFR Part 242

Administrative practice and procedure, Aliens, Apprehension, custody, and detention, Crime.

8 CFR Part 287

Administrative practice and procedure, Aliens, Apprehension, custody, and detention, Crime.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

1. The authority citation for part 242 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1186a, 1251, 1252, 1254, 1362; 8 CFR part 2.

2. In § 242.2, paragraph (a)(1) is revised to read as follows:

§ 242.2 Apprehension, custody and detention.

(a) *Detainers in general.* (1) Only an immigration officer as defined in section 101(a)(18) of the Act, or § 103.1(q) of this chapter is authorized to issue a detainer. Detainers may be issued only in the case of an alien who is amenable to exclusion or deportation proceedings under any provision of law.

* * * * *

PART 287—FIELD OFFICERS; POWERS AND DUTIES

3. The authority citation for part 287 continues to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1225, 1226, 1251, 1252, 1357; 8 CFR part 2.

4. In § 287.7, paragraph (a)(1) is revised to read as follows:

§ 287.7 Detainer provisions under section 287(d)(3) of the Act.

(a) *Detainers in general.* (1) Only an immigration officer as defined in section 101(a)(18) of the Act, or § 103.1(q) of this chapter is authorized to issue a detainer. Detainers may be issued only in the case of an alien who is amenable to exclusion or deportation proceedings under any provision of law.

* * * * *

Dated: August 31, 1990.

Michael S. Williams,

Acting Associate Commissioner, Enforcement, Immigration and Naturalization Service.

[FR Doc. 90-25470 Filed 10-26-90; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject To Certification; Enrofloxacin Tablets

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Mobay Corp., Animal Health Division. The supplemental NADA provides for the use of enrofloxacin tablets for the treatment of dermal infections in cats caused by susceptible bacterial pathogens.

EFFECTIVE DATE: October 29, 1990.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Center for Veterinary Medicine (HFV-114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Mobay Corp., Animal Health Division, P.O. Box 390, Shawnee Mission, KS 66201, is the sponsor of NADA 140-441 which currently provides for the use of Baytril® (enrofloxacin) Tablets to treat susceptible bacterial dermal, respiratory, and urinary tract infections in dogs. The supplement provides for the use of the enrofloxacin tablets in cats for the treatment of dermal infections caused by susceptible strains of *Pasteurella multocida, Staphylococcus aureus*, and *Staphylococcus epidermidis*. The supplement is approved as of October 22, 1990, and the regulations are amended in § 520.812(c) to reflect the approval. The basis for approval is discussed in the freedom of information summary.

As provided under the Generic Animal Drug and Patent Term Restoration Act of 1988 and section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this supplemental approval qualifies for 3 years of marketing exclusivity beginning October 22, 1990, because a new clinical investigation was required.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) [21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

2. Section 520.812 *Enrofloxacin tablets* is amended by redesignating paragraph (c)(2) as paragraph (c)(2)(i), by adding a new paragraph (c)(2)(ii), and by revising paragraph (c)(3) to read as follows:

§ 520.812 Enrofloxacin tablets.

* * * * *

(c) * * *

(2) * * *

(ii) Cats for treatment of the following bacterial infections: dermal infections (wounds and abscesses) caused by susceptible strains of *Pasteurella multocida, Staphylococcus aureus*, and *Staphylococcus epidermidis*.

(3) *Limitations.* Treatment should be continued for 2 to 3 days beyond cessation of clinical symptoms. Do not use for more than 10 days. Safe use in breeding female cats has not been established. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: October 19, 1990.

Richard H. Teske,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 90-25429 Filed 10-26-90; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Monensin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Elanco

Products Co. The supplemental NADA provides for the use of monensin in feedlot cattle for the prevention of coccidiosis caused by *Eimeria bovis* and *E. zuernii*.

EFFECTIVE DATE: October 29, 1990.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6713.

SUPPLEMENTARY INFORMATION: Elanco Products Co., a Division of Eli Lilly & Co., Lilly Corporate Center, Indianapolis, IN 46285, filed supplemental NADA 95–725 which provides for the use of a Type A medicated article containing 90 grams (g) of monensin per pound to manufacture a Type C medicated feed containing between 10 and 20 g of monensin per ton. Depending upon body weight, this medicated feed is intended to provide not less than 100 nor more than 360 milligrams of monensin per day per head of feedlot cattle, for the prevention and control of coccidiosis due to *Eimeria bovis* and *E. zuernii*. It is intended to be fed continuously during periods of exposure to coccidia or when coccidiosis is likely to be a hazard.

The supplemental NADA is approved as of October 22, 1990, and 21 CFR 558.355(f)(3) is amended to reflect the approval. The basis for approval is discussed in the freedom of information summary. Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this supplemental approval qualifies for 3 years of exclusive marketing privilege beginning October 22, 1990, because the sponsor submitted new clinical trials to support the approval.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.355 [Amended]

2. Section 558.355 is amended by adding paragraph (f)(3)(vii) to read as follows:

§ 558.355 Monensin.

* * * * *

(f) * * *

(3) * * *

(vii) *Amount per ton.* Monensin, 10 to 30 grams.

(*a*) *Indications for use.* For the prevention and control of coccidiosis caused by *Eimeria bovis* and *E. zuernii*.

(*b*) *Limitations.* Feed continuously to feedlot cattle during periods of exposure to coccidia or when coccidiosis is likely to be a hazard. Feed at the rate of not less than 100 nor more than 360 milligrams of monensin per head per day depending on the body weight of the cattle.

* * * * *

Dated: October 23, 1990.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 90-25420 Filed 10-26-90; 8:45 am]

BILLING CODE 4160-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 212

Regulations Implementing the Freedom of Information Act

AGENCY: Agency for International Development (A.I.D.), International Development Cooperation Agency (IDCA).

ACTION: Final rule.

SUMMARY: The Agency for International Development is revising its Freedom of Information (FOIA) regulations in their entirety. The principal revisions are to: Implement the provisions of Executive Order 12600 dated June 23, 1987; delete the citizenship requirement in §§ 212.25 and 212.33; and change the "Appeals Officer" from the Administrator to the Assistant Administrator, Bureau for External Affairs in § 212.2.

EFFECTIVE DATE: October 29, 1990.

FOR FURTHER INFORMATION CONTACT: James Harper, Director, Office of Public Inquiries Bureau for External Affairs, Agency for International Development, room 4889, Washington, DC, (202) 647–1850.

SUPPLEMENTARY INFORMATION: A.I.D. received no comments to the proposed rule published in the Federal Register on May 3, 1990 [55 FR 18620–26].

List of Subjects in 22 CFR Part 212

Freedom of information.

Dated: October, 25, 1990.

James L. Harper,

Director, Office of Public Inquiries.

22 CFR Part 212 is revised to read as follows:

PART 212—PUBLIC INFORMATION

Subpart A—General

Sec.

212.1 Statement of policy.

Subpart B—Publication in the Federal Register

212.11 Materials to be published.
212.12 Effect of nonpublication.
212.13 Incorporation by reference.

Subpart C—Availability of Information for Public Inspection and Copying

212.21 Public records.
212.22 Protection of personal privacy.
212.23 Current index.
212.24 Effect of noncompliance.
212.25 Procedures for obtaining materials under this subpart.

Subpart D—Access to Agency Records

212.31 Availability of Agency records.
212.32 Identification of records.
212.33 Procedure for making requests.
212.34 Procedure for responding to requests for records.
212.35 Schedule for fees and methods of payment for services rendered.
212.36 Denial of request for access to records.
212.37 Procedures for Agency consideration of appeals.
212.38 Predisclosure notification procedures for confidential commercial information.

Subpart E—Exemptions from Disclosure

212.41 Exemptions from the publication and disclosure requirements of Subparts B, C, and D of this part.
212.42 Exemption from 5 U.S.C. 552.

Subpart F—Opening of Records for Nonofficial Research Purposes

212.31 General policy.

Authority: 22 U.S.C. 2381; 5 U.S.C. 552; E.O. 12600 of June 23, 1987, 52 FR 23781, 3 CFR, 1987 Comp., p. 235.

Subpart A—General

§ 212.1 Statement of policy.

(a) It is the policy of the International Development Cooperation Agency (I.D.C.A.) and the Agency for International Development (A.I.D.) that information about its objectives and operations be freely available to the public in accordance with the provisions of Public Law 89-487 (80 Stat. 250), as amended by Public Law 93-502. The Assistant Administrator for External Affairs for A.I.D. and the Assistant Director, Office of Legislative and Public Affairs, for I.D.C.A. are responsible for administration of the provisions of the regulations of this part.

(b) All records of the International Development Cooperation Agency and the Agency for International Development shall be made available to the public upon compliance with the procedures established in this regulation except to the extent a determination is made to withhold a record exemptable under 5 U.S.C. 552(b), as amended. Such a determination shall be made pursuant to procedures set forth in §§ 212.36, 212.37 and 212.38.

(c) *Record* includes all books, papers, maps, photographs, or other documentary material, or copies thereof, regardless of physcial form or characteristics, made in or received by the International Development Cooperation Agency or the Agency for International Development (including its Missions abroad), and preserved as evidence of its organization, functions, policies, decisions, procedures, operations, or other activities. It does not include copies of the records of other Government agencies, foreign governments, international organizations, or non-governmental entities.

(d) *Agency* refers to either the International Development Cooperation Agency or the Agency for International Development..

(e) *Freedom of Information Officer* means the Assistant Director for Legislative and Public Affairs for I.D.C.A. and the Assistant Administrator for External Affairs for A.I.D. or his/her designee.

(f) *Appeals Officer* means the Assistant Administrator, Bureau for External Affairs as designated by the head of the Agency.

Subpart B—Publication in the Federal Register

§ 212.11 Materials to be published.

(a) The Agency separately states and currently publishes in the Federal Register for the guidance of the public:

(1) Descriptions of its central and field organizations and the established places at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions;

(2) Statements of the general course and method by which its functions are channelled and determined, including the nature and requirements of all formal and informal procedures available;

(3) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(4) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the Agency; and

(5) Every amendment, revision or repeal of the foregoing.

(b) A.I.D. Public Notice No. 1 and the A.I.D. Regulations published in chapter II of title 22 and in subtitle A, Chapter 7 of title 41 of the Code of Federal Regulations, implement the provisions of this section.

§ 212.12 Effect of nonpublication.

Except to the extent that a person has actual and timely notice of the terms thereof, no person shall in any manner be required to resort to, or be adversely affected by any, I.D.C.A. or A.I.D. matter required to be published in the Federal Register and not so published.

§ 212.13 Incorporation by reference.

For purposes of this subpart B, I.D.C.A. and A.I.D. matters which are reasonably available to the class of persons affected thereby is deemed to be published in the Federal Register when it has been incorporated by reference therein with the approval of the Director of the Federal Register.

Subpart C—Availability of Information for Public Inspection and Copying

§ 212.21 Public records.

In accordance with this subpart, I.D.C.A. and A.I.D. make the following information and materials available for public inspection and copying:

(a) All final opinions (including concurring and dissenting opinions), and all orders made in the adjudication of cases;

(b) Those statements of policy and interpretations which have been adopted by the Agency and are not published in the Federal Register; and

(c) Administrative staff manuals and instructions to staff that affect any member of the public.

§ 212.22 Protection of personal privacy.

To the extent required to prevent a clearly unwarranted invasion of personal privacy, the Agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction, and will, in each such case, explain in writing the justification for the deletion.

§ 212.23 Current index.

The Agency maintains and makes available for public inspection and copying a current index providing identifying information for the public as to any matter which is issued, adopted, or promulgated after July 4, 1967, and which is required by § 212.21 to be made available or published. Publication of an index is deemed both unnecessary and impractical. However, copies of the index are available upon request for a fee per § 212.35.

§ 212.24 Effect of noncompliance.

No final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects any member of the public will be relied upon, used, or cited as precedent by the Agency against any private party unless it has been indexed and either made available or published as provided by this subpart, or unless that private party shall have actual and timely notice of the terms thereof.

§ 212.25 Procedures for obtaining materials under this subpart.

(a) The materials required to be made available for public inspection and copying in accordance with this subpart are available to members of the public at the International Development Cooperation Agency and the Agency for International Development, Department of State Building, 21st and Virginia Ave., NW., Washington, DC (20523) from 8 a.m. to 5 p.m., Monday through Friday, except on weekends and holidays.

(b) Requests for materials which are available under this subpart should follow the procedures under subpart D.

(c) The costs of any necessary duplication will be charged in accordance with the fee schedule set forth in § 212.35.

(d) The USAID Missions in countries abroad are not responsible for the maintenance of the index and materials available under this subpart. However, in so far as they do have these materials, they will make them available upon application either in person or writing to the Director, USAID c/o American Embassy in the applicable country.

Subpart D—Access to Agency Records

§ 212.31 Availability of Agency records.

Upon receiving a request for a record, which reasonably describes such a record, and which is made in accordance with the provisions of this subpart, the Agency will make such records promptly available to any person, except the following:

(a) Matters published in the Federal Register pursuant to Subpart B of this part;

(b) Matters made available to the public pursuant to Subpart C of this part; and

(c) Matters exempt from disclosure pursuant to § 212.41 and § 212.42.

§ 212.32 Identification of records.

The request for a record by a member of the public must contain a reasonable description of the record sought so that an officer of the Agency who is familiar with the subject may be able to locate the record with a reasonable amount of effort. A description that includes as much information as possible, such as the subject matter, format, approximate date, and where pertinent, the name of the country or person involved, will facilitate the search for the requested record.

§ 212.33 Procedure for making requests.

(a) Requests for reasonably described records may be made by a member of the public either in person or by writing to the Assistant Director For Legislative and Public Affairs, International Development Cooperation Agency, Washington, DC 20523 and the Director, Office of Public Inquiries, Agency for International Development, Washington, DC 20523. The request and the envelope should be plainly marked "FOIA Request". Requests may be made in person by going to the International Development Cooperation Agency and the Agency for International Development, Department of State Building, 21st and Virginia Ave., NW., Washington, DC from 9 a.m. to 5 p.m. Monday through Friday, except on weekends and holidays. Telephonic requests cannot be accepted.

(b) Requests for reasonably described records may be made directly to USAID missions abroad in person or in writing to the Director, USAID, care of the American Embassy in the applicable country. Any written request and its envelope should be plainly marked "FOIA Request".

(c) If a request not properly marked "FOIA Request" is inadvertently delayed in reaching the Freedom of Information Officer, or is erroneously sent to a USAID mission abroad, it will not be deemed received by the Agency until actually received by the Freedom of Information Officer. In such event, the person making the request will be furnished a notice of the effective date of receipt.

§ 212.34 Procedure for responding to a request for records.

(a) Upon receipt of the request by the Freedom of Information Officer, a maximum of 10 working days will normally be taken to determine to what extent the Agency can provide the information requested, and upon the making of the determination, the person making the request will be immediately informed. Copies of the releasable documents shall be made available promptly thereafter upon receipt of appropriate fees as set forth in § 212.35.

(b) In some circumstances, the Agency may not be able to determine the availability of the requested documents within 10 working days. In which event, the person making the request will be informed by written notice of the delay, the reasons for the delay and the date on which a determination may be expected. The maximum time in making a determination of availability will be 20 working days from receipt of the request. A time extension for unusual circumstance will be used as reasonably necessary for a particular request in the following instances:

(1) When there is a need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) When there is a need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) When there is a need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(c) If a request is made to this Agency for material that is controlled or held by another agency, the person making the request will be immediately notified that this Agency does not have or control the requested material and he/she will be advised of the controlling agency and the address from which the material may be requested, unless the other agency has, by public regulation, delegated the release authority to this Agency. If release authority has been delegated, this Agency will follow the procedures authorized by the delegation in determining whether to release the information. If a request for material is referred to this Agency from another agency, the time period for determination will not start until the request is received by the Freedom of Information Officer. The person making the request will be immediately notified of the referral and the date the request was received in this Agency. This Agency will not accept referral of requests unless and until the Freedom of Information Officer determines that the material requested is actually within the scope and control of the release authority of the Agency for International Development or the International Development Cooperation Agency.

(d) If only a part of a record is exempt from disclosure, any reasonably segregable portion of such record shall be furnished after deletion of the portions which are exempt, provided that the segregable portion constitutes an intelligible record which is not distorted out of context or contradictory to the substance of the entire record before segregation.

§ 212.35 Schedule of fees and methods of payment for services rendered.

(a) *Definitions.* (1) *Direct costs* means those expenditures which the Agency actually incurs in searching for and duplicating (and in the case of commercial requesters, reviewing) documents to respond to a FOIA request.

(2) *Search* includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents. Line-by-line search will not be done when duplicating an entire document would prove the less expensive and quicker method of complying with a request. "Search" is distinguished from "review" (see paragraph (a)(4) of this section).

(3) *Duplication* refers to the process of making a copy of a document available to the FOIA requester. Copies can take a form of paper copy, microfilm, audio-visual materials among others and will be in a form that is reasonably usable by requesters.

(4) *Review* refers to the process of examining documents located in response to a commercial use request (see paragraph (a)(5) of this section) to determine whether any portion of any document located is permitted to be withheld. It also includes processing any documents for disclosure, *e.g.* doing all that is necessary to excise them and otherwise prepare them for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(5) *Commercial use request* refers to a request from or on behalf of one who seeks information for a use or purpose that is related to commerce, trade, or profit interest of the requester or the person on whose behalf the request is made. In determining whether a requester properly belongs in this category, the Agency will determine the use to which a requester will put the documents requested. Where the Agency has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not clear from the request itself, the Agency may seek additional clarification before assigning the request to a specific category.

(6) *Educational institution* refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(7) *Non-commercial scientific institution* refers to an institution that is not operated on a "commercial" basis as that term is referenced in paragraph (a)(5) of this section and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(8) *Representative of the news media* refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminator of "news" who make their products available for purchase or subscription by the general public). These examples are not intended to be all-inclusive. Moreover, as traditional methods of news delivery evolve (e.g. electronic dissemination of newspapers through telecommunications services), such alternative media would be included in this category. In the case of "freelance" journalists, they may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it. A publication contract would be the clearest proof, but the Agency may also look to the past publication record of the requester in making this determination.

(b) *Fees to be charged.* The following specific fees shall be applicable with respect for services rendered as outlined below:

(1) *Commercial use requesters.* Fees will cover the full direct costs of searching for, reviewing for release, and duplicating the records requested. Search costs are $11.00 per hour. Review costs are $24.00 per hour. Duplicating costs are 20¢ per page. Search costs will be assessed even though no records may be found or, after review, there is no disclosure of records.

(2) *Educational and non-commercial scientific institution requester.* The Agency will provide documents to requesters in this category for the cost of duplication alone (20¢ per page), excluding charges for the first 100 pages. To be eligible for inclusion in this category, requesters must show that a request is being made under the auspices of a qualifying institution and that the records are sought in furtherance of scholarly (if the request is from an educational institution) or scientific (a non-commercial scientific institution) research. Requesters eligible for free search must reasonably describe the records sought.

(3) *Requesters who are representatives of the news media.* The Agency will provide documents to requesters in this category for the cost of reproduction alone (20¢ per page) excluding charges for the first 100 pages. To be eligible for inclusion in this category a requester must meet the criteria in paragraph (a)(8) of this section, and his or her request must not be made for commercial use. In reference to this class of requesters, a request for records supporting the news dissemination function of the requester shall not be considered to be a request that is for a commercial use. Requesters eligible for free search must reasonably describe the records sought.

(4) *All other requesters.* The Agency will charge requesters who do not fit into any of the categories in paragraphs (b) (1), (2), and (3) of this section fees which recover the full direct cost of search, and for reproducing records that are responsive to the request, except that the first 100 pages and the first two hours of search time shall be furnished without charge. The hourly rates outlined in paragraph (b)(1) of this section will prevail. Requesters must reasonably describe the records sought. Moreover, requests from subjects for records filed in the Agency's Privacy Act System of Records will continue to be treated under the fee provisions of the Privacy Act of 1975 except that the 100 pages of reproduction will be furnished without charge.

(c) *Non Payment of fees.* (1) The Agency will begin assessing interest charges on the 31st day following the day in which the requester is advised of the fee charged. Interest will be at the rate prescribed in 31 U.S.C. 3717.

(2) Where a requester has previously failed to pay a fee charged in a timely fashion (i.e. within 30 days of the billing date), the Agency will require the requester to pay the full amount owed plus any applicable interest as provided above, and to make an advance payment of the full amount of the estimated fee before the Agency begins to process a new request or a pending request from the requester.

(3) When the Agency acts under paragraph (c) (1) or (2) of this section the administrative time limits prescribed in subsection (a)(6) of the FOIA (i.e., 10 working days from receipt of initial request and 20 working days from receipt of appeals from initial denial plus permissible extentions of these time limits) will begin only after the Agency has received fee payments described above.

(d) *Advance payments.* Where the Agency estimates or determines that allowable charges that a requester may be required to pay are likely to exceed $250.00 the Agency will require a requester to make an advance payment of the entire fee before continuing to process the request.

(e) *Waiving or reducing fee.* In accordance with section (4)(A)(ii) of the FOIA the Agency will furnish documents without charge or at reduced charges if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government and is not primarily in the commercial interest of the requester.

(f) *Restrictions on assessing fees.* With the exception of requesters seeking documents for a commercial use, section (4)(A)(iv) of the FOIA, as amended, requires agencies to provide the first 100 pages of duplication and the first two hours of search time without charge.

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Moreover, this section prohibits agencies from charging fees to any requester, including commercial use requesters, if the cost of collecting a fee would be equal to or greater than the fee itself. These provisions work together so that, except for commercial use requesters, the Agency will not begin to assess fees until after providing the free search and reproduction. For example, for a request that involved two hours and ten minutes of search time and resulted in 105 pages of documents, the Agency will determine the cost of only 10 minutes of search time and only five pages of reproduction. If this cost is equal to or less than the cost of processing the payment instrument (currently $15.00), there will be no charge to the requester.

(g) *Other provisions*—(1) *Charges for unsuccessful search.* The Agency will assess charges for time spent searching, even if the Agency fails to locate the records or if records located are determined to be exempt from disclosure.

(2) *Aggregating requesters.* When the Agency reasonably believes that a requester or group of requesters is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the Agency will aggregate any such requests and charge accordingly.

(3) *Effect of the Debt Collection Act of 1982 (Pub. L. 97-365).* The Agency will use the authorities of the Debt Collection Act, including disclosure to consumer reporting agencies and use of collection agencies, where appropriate, to encourage repayment.

(4) *Remittances.* (i) Remittances will be in the form of either a personal check or bank draft drawn on a bank in the United States, a money order, or cash.

(ii) Remittances shall be made payable to the order of the U.S. Treasurer and mailed to the Director, Office of Public Inquiries, Bureau for External Affairs, Agency for International Development, Washington, DC 20523. The Agency will assume no responsibility for cash which is lost in the mail.

(iii) A receipt for fees paid will be given only upon request.

(iv) Where it is anticipated that the fees chargeable under this section will amount to more than $25.00, and the requester has not indicated in advance a willingness to pay fees as high as are anticipated, the requester will be promptly notified of the amount of the anticipated fee or such portion thereof as can readily be estimated. In appropriate cases an advance deposit may be required. The requester is at any time welcome to confer with knowledgeable Agency personnel in an attempt to formulate the request in a manner which will reduce the fee and meet the needs of the requester.

(v) When no specific fee has been established for a service, for example, when the search involves computer time or special travel, transportation or communications costs, the FOI Officer or his/her designee is authorized to determine the direct costs of the service and include such costs in the fees chargeable under this section.

§ 212.36 Denial of request for access to records.

(a) If it is determined that the Agency cannot comply with all or part of a request for records, the person making the request shall be immediately notified of the determination, the reasons for the determination, the name and title of each officer responsible for the denial, and the right of the person to appeal the adverse determination.

(b) The denial of a request for records may be made only by the Freedom of Information Officer or his or her designee. The Office of the General Counsel may be consulted by the Office of Public Inquiries prior to a decision to deny access.

(c) Any person who has been denied access to records pursuant to this section may appeal the adverse decision not later than 60 days after the date of the notification of denial or, in the case of a partial denial, after the date the releasable documents are actually furnished the person making the request, whichever is later. The appeal should be in writing addressed to (for I.D.C.A.) Director or Deputy Director, International Development Cooperation Agency, or (for A.I.D.) the Appeals Officer, Agency for International Development, 21st and Virginia Ave., NW., Washington, DC 20523. In order to make a timely response to the appeal, both the appeal and the envelope should be plainly marked "FOIA Appeal". The appeal should contain a reasonable description of the record sought and withheld, a copy of the initial decision to deny access and any other information that will enable the Appeals Officer to make the final decision.

§ 212.37 Procedure for Agency consideration of appeals.

(a) Upon receipt of the appeal by the Appeals Officer, a maximum of 20 working days will normally be taken to decide the appeal. In unusual circumstances, as defined in § 212.34, the 20 working days may be extended by 10 working days.

(b) If the appeal is granted, the person making the appeal shall be immediately notified and copies of releasable documents shall be made available promptly thereafter upon receipt of appropriate fees as set forth in § 212.35. If the appeal is denied in whole or part, the person making the appeal shall be immediately notified of the decision and the provisions for judicial review of the Agency's denial.

(c) In the event a determination is not issued within the appropriate time limit and the person making the appeal chooses to sue the Agency, the determination process shall continue and the Appeals Officer will review any initial denial of the requested records.

(d) If appeals not properly marked "FOIA Appeal" on the appeal and envelope are inadvertently delayed in reaching the Appeals Officer, they will not be deemed received by the Agency until actually received by the Appeals Officer. In such event, the person making the appeal will be furnished a notice of the effective date of receipt.

§ 212.38 Predisclosure notification procedures for confidential commercial information.

(a) *In General.* Confidential commercial information provided to the Agency shall not be disclosed pursuant to a Freedom of Information Act request except in accordance with this section. For purposes of this section, the following definitions apply:

(1) *Confidential Commercial Information* means records provided to the Agency by a submitter that arguably contain material exempt from release under Exemption 4 of the Freedom of Information Act, 5 U.S.C. 552(b)(4), because disclosure could reasonably be expected to cause substantial competitive harm.

(2) *Submitter* means any person or entity who provides confidential commercial information to the Agency. The term "submitter" includes, but is not limited to, corporations, state governments and foreign governments.

(b) *Notice to submitters.* Whenever the Agency receives a Freedom of Information Act request for confidential commercial information and, pursuant to paragraph (c) of this section, the submitter is entitled to receive notice of that request. The Agency shall promptly notify the submitter that it has received the request, unless such a notice is excused under paragraph (g) of this section. The notice shall be in writing and either describe the exact nature of the confidential commercial information requested or provide a copy of the records or portion of the records containing the confidential commercial information. The notice shall be

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addressed to the submitter and mailed, postage prepaid, first class mail, to the submitter's last known address. Where notice is required to be given to a voluminous number of submitters, in lieu of mailing, the notice may be posted or published in a manner and place reasonably calculated to provide notice to the submitters.

(c) *When notice is required.* (1) For confidential commercial information submitted prior to January 1, 1988, the Agency shall provide a submitter with notice of a receipt of a Freedom of Information Act request whenever:

(i) The records are less than ten [10] years old and the information has been designated by the submitter as confidential commercial information; or

(ii) The Agency has reason to believe that the disclosure of the information could reasonably be expected to cause substantial competitive harm.

(2) For confidential commercial information submitted to the Agency on or after January 1, 1988, the Agency shall provide a submitter with notice of receipt of a Freedom of Information Act request whenever:

(i) The submitter has designated the information as confidential commercial information pursuant to the requirements of this section; or

(ii) The Agency has reason to believe that the disclosure of the information could reasonably be expected to cause substantial competitive harm.

(3) Notice of a request for confidential commercial information falling within paragraph (c)(2)(i) of this section shall be required for a period of not more than ten [10] years after the date of submission unless the submitter provides reasonable justification for a designation period of greater duration.

(4) A submitter shall use good-faith efforts to designate by appropriate markings, either at the time a record is submitted to the Agency or within a reasonable period of time thereafter, those portions of the record which it deems to contain confidential commercial information. The designation shall be accompanied by a certification made by the submitter, its agent or designee, that to the best of the submitter's knowledge, information and belief, the record does, in fact, contain confidential commercial information that theretofore has not been disclosed to the public.

(5) Whenever the Agency provides notice to the submitter in accordance with paragraph (c) of this section, the Agency shall at the same time provide written notice to the requester that it is affording the submitter a reasonable period of time within which to object to the disclosure, and that, therefore, the Agency may be required to enlarge the time within which it otherwise would respond to the request.

(d) *Opportunity to object to disclosure.* To the extent permitted by law, the notice required by paragraph (c) of this section shall afford a submitter a reasonable period of time within which the submitter or its authorized representative may provide the Agency with a written objection to the disclosure of the confidential commercial information and demonstrate why the submitter believes that the records contain confidential commercial information. Except where a certification already had been made in conformance with the requirements of paragraph (c)(4) of this section, the objection shall be accompanied by certification made by the submitter, its agent or designee, that to the best of the submitter's knowledge, information and belief, the record does, in fact, contain confidential commercial information that theretofore has not been disclosed to the public. Information provided by a submitter pursuant to this paragraph may itself be subject to disclosure under the Freedom of Information Act.

(e) *Notice of intent to disclose.* (1) The Agency shall give careful consideration to objections made by a submitter pursuant to paragraph (d) of this section prior to making any administrative determination of the issue. Whenever the Agency decides to disclose information over the objeciton of a submitter, the Agency shall forward to the submitter a written notice which shall include:

(i) A statement of the reasons for which a submitter's disclosure objections were not sustained;

(ii) A description of the information to be disclosed; and

(iii) A specified disclosure date.

(2) To the extent permitted by law, the notice required to be given by paragraph (e)(1) of this section shall be provided to the submitter a reasonable number of days prior to the specified disclosure date.

(3) Whenever the Agency provides notice to the submitter in accordance with paragraphs (e) (1) and (2) of this section, the Agency shall at the same time notify the requester that such notice has been given and the proposed date for disclosure.

(f) *Notice of lawsuit.* Whenever a requester brings suit seeking to compel the disclosure of information for which notice is required pursuant to paragraph (c) of this section, the Agency shall promptly notify the submitter that such suit has been filed.

(g) *Exceptions to notice requirements.* The notice requirements of this section shall not apply if:

(1) The Agency determines that the information should not be disclosed;

(2) The information has been published or has been officially made available to the public;

(3) Disclosure of the information is required by a Agency rule that;

(i) Was adopted pursuant to notice and public comment;

(ii) Specifies narrow classes of records submitted to the agency that are to be released under the Freedom of Information Act; and

(iii) Provides in exceptional circumstances for notice when the submitter provides written justification, at the time the information is submitted or a reasonable time thereafter, that disclosure of the information could reasonably be expected to cause substantial competitive harm;

(5) The information requested was not designated by the submitter as exempt from disclosure in accordance with paragraph (c) of this section, when the submitter had an opportunity to do so at the time of submission of the information or a reasonable time thereafter, unless the Agency has substantial reason to believe that disclosure of the information would result in competitive harm; or

(6) The designation made by the submitter in accordance with paragraph (c) of this section appears obviously frivolous; except that, in such case, the Agency must provide the submitter with written notice of any final administrative disclosure determination within a reasonable number of days prior to the specified disclosure date.

Subpart E—Exemptions From Disclosure

§ 212.41 Exemptions from the publication and disclosure requirements of subparts B, C, and D.

None of the provisions of subparts B, C, and D which provide for publication and disclosure of certain information and records shall be applicable to matters that are:

(a)(1) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and

(2) Are in fact properly classified pursuant to such Executive Order;

(b) Related solely to the internal personnel rules and practices of the Agency;

(c) Specifically exempted from disclosure by statute;

(d) Trade secrets and commercial or financial information obtained from a person and privileged and confidential;

(e) Interagency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(f) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(g) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(1) Could reasonably be expected to interfere with enforcement proceedings;

(2) Would deprive a person of a right to a fair trial or an impartial adjudication;

(3) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(4) Could reasonably be expected to disclose the identity of a confidential source, including a State, local or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful security intelligence investigation, information furnished by a confidential source;

(5) Would disclose techniques and procedure for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(6) Could reasonably be expected to endanger the life or physical safety of any individual.

(h) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions; and

(i) Geological and geophysical information and data (including maps) concerning wells.

§ 212.43 Exemption from 5 U.S.C. 552.

Whenever a request is made which involves access to records described in paragraph (g) of § 212.41 and the investigation or proceeding involves a possible violation of criminal law; and there is reason to believe that the subject of the investigation or proceeding is not aware of its pendency, and disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings, the Agency may, during only such time as that circumstance continues, treat the records as not subject to the requirements of 5 U.S.C. 552 and this subpart.

Subpart F—Opening of Records for Nonofficial Research Purposes

§ 212.51 General policy.

(a) A.I.D. and I.D.C.A. will open their records on an equitable basis to all individuals engaged in private research as soon as such action may be taken without adversely affecting the national security, the maintenance of friendly relations with other nations, the efficient operation of the agency, and the administrative feasibility of servicing requests for access to such records.

(b) Access for research in the classified foreign policy records in I.D.C.A.'s or A.I.D.'s custody will be governed by the regulations of the Department of State in respect thereto, as set forth in part 171, chapter I of title 22 of the Code of Federal Regulations. Application will be made to the Freedom of Information Officer at the addresses listed in § 212.33(a). The Freedom of Information Officer, in consultation with the Director, Historical Office, Department of State, will determine the action to be taken and advise the researcher.

Dated: October 18, 1990.

James Harper,

Director, Office of Public Inquiries.

[FR Doc. 90-25244 Filed 10-26-90; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD 6010.8-R]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Multiple Updates to DoD 6010.8-R

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule incorporates multiple revisions to DoD 6010.8-R (32 CFR part 199) regarding CHAMPUS. Incorporation of these revisions updates the Regulation and clarifies Program guidelines.

EFFECTIVE DATE: This rule is effective October 29, 1990. That portion of the rule extending the dental contract for the Dependents Dental Plan to Guam is retroactively effective to August 1, 1990.

ADDRESSES: Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Office of Program Development, Aurora, CO 80045-6900.

FOR FURTHER INFORMATION CONTACT: Rose Sabo, M.P.A., Health Care Policy Analyst, Office of Program Development, OCHAMPUS, telephone (301) 361-4014.

SUPPLEMENTARY INFORMATION: In FR Doc. 77-7694, appearing in the Federal Register on April 4, 1977 (42 FR 17872), the Office of the Secretary of Defense published its regulation, DoD 6010.8-R, "Implementation of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)," as part 199 of this title. 32 CFR part 199 (DoD 6010.8-R) was reissued in the Federal Register on July 1, 1988 (53 FR 26036).

I. Background

On February 28, 1990, we published a proposed rule offering the opportunity for public comment on the CHAMPUS proposal to make multiple revisions to the regulation for the purpose of clarifying, updating and incorporating previously omitted provisions. Primary changes in the proposal included:

• Incorporation of a definition for abortions and updating that section to reflect current legislative restrictions. This revision also incorporates into the Regulation the recommendation of the DoD Inspector General to require a signed certification by the attending physician that the abortion was performed because a life-endangering condition existed. The definition of abortion and the benefit language was formulated based on the legislative provision, following an extensive review of the legislative history on abortions. It was clear that Congress intended that federal funds be extended for abortions only in those cases where the mother's life was in danger. Language which would have permitted coverage of abortions for fetal deformities or for a mental or physical impairment of the mother was discussed but not adopted by Congress.

• Clarification that the exclusion for artificial insemination encompasses in-vitro fertilization and gamete intrafallopian transfer and all other noncoital reproductive technologies. With the recent technological advances in the area of infertility, other types of noncoital reproductive techniques have been developed such as in-vitro fertilization and gamete intrafallopian transfer. On numerous occasions, CHAMPUS has been asked to provide clear guidance on coverage policy for these new technologies. We have interpreted our current exclusion on artificial insemination to apply to these

new noncoital reproductive techniques since, as with artificial insemination, they do not treat or cure the patient's underlying condition. At the time the original exclusion of artificial insemination was published, it was the only noncoital reproductive technology in general use. This change is intended to clarify the original intent to exclude all such noncoital reproductive technologies and update the exclusion consistent with current medical technology.

• Elimination of undue financial hardship created by cost-sharing of emergency room charges on an outpatient basis when the beneficiary dies prior to formal admission. This change allows inpatient cost-sharing of emergency room charges in situations where emergency room services are provided by a hospital, and the intent was to admit the patient once stabilized, but death occurred before the patient was formally admitted. We are making this change to allow for inpatient cost-sharing by deleting the last sentence of the current definition of "inpatient."

• Inclusion of the geographical area of Guam within the Dependents Dental Plan. The geographical area is being expanded to include Guam so dependents stationed in that area can have access to the Dependents Dental Plan.

• Revisions identifying peer review organizations (PROs) as sources of initial denial determinations of CHAMPUS claims. These are corollary changes based on a previous amendment to the Regulation identifying PROs as sources of initial denial determinations of CHAMPUS claims.

• Expansion of the definition of "attending physician" to include other authorized individual professional providers. This will allow for other authorized individual professional providers such as podiatrists, clinical psychologists, oral surgeons, etc., to be treated as an attending physician, as long as the provider is operating within the confines of the scope of practice of that particular discipline.

• Expansion of the definition of "surgical assistant." This revision will allow a dentist or podiatrist to assist when the surgery is of sufficient complexity to warrant an assistant.

• Clarification that the requirement for preauthorization could apply to any or all mental health services. Currently the Regulation discusses preauthorization and the type of documentation required. Preauthorization is a decision issued by the Director, OCHAMPUS, or a designee, that CHAMPUS benefits are payable for certain services that a beneficiary has not yet received. This revision identifies mental health care as a type of care for which preauthorization could be required. It also removes the provision limiting the initial preauthorization to 30 days of inpatient care.

• Updating of several provisions to clarify that individual authorized professional providers can receive CHAMPUS reimbursement for providing certain services within the Regulation, as long as acting within the scope of their licensure. This revision will preclude denial of services when otherwise covered and ordered by an authorized provider acting within the scope of his or her particular discipline. For example, physical therapy when medically necessary and ordered by a podiatrist would be covered.

• Clarification of the CHAMPUS requirement that all providers be licensed or certified by the state or locality in which they practice. CHAMPUS has always required that all providers meet the licensing or certification provided in their particular locality. This requirement pertains in all cases even if the certification/licensure is offered on a voluntary basis by the state. The requirement also applies for those categories of providers that would otherwise be exempt by the state because the provider is working in a non-profit, state-owned or church setting. Licensure/certification is mandatory for a provider to become a CHAMPUS-authorized provider.

• Clarification that the exclusion for counseling services encompasses nutritional counseling, diabetic self-help counseling, diabetic self-education programs, stress management, life style modification, etc.

• Clarification that CHAMPUS does not cover self-help courses or items or charges related to exercising or relaxation, such as spas, whirlpools, hot tubs, swimming pools, and other such items. Even though these items may have some therapeutic value, they are not medical in nature and are not intended to be included within the scope of medical benefits of CHAMPUS.

• Clarification that a freestanding ambulatory surgical center is not authorized by CHAMPUS to provide childbirth services unless also authorized as a CHAMPUS-approved birthing center. Recently a question was raised as to whether an ambulatory surgery center authorized under the criteria contained in § 199.6(b)(4)(x)(B)(1) would have to also meet the criteria at 199.6(b)(4)(xi) as an authorized birthing center in order to provide non-emergency childbirth services. In order to avoid any uncertainty as to the intended role of the freestanding ambulatory surgery center and the birthing center institutional provider within the CHAMPUS benefit structure, a clarification has been added to the ambulatory surgery provider certification section. This provision explains that a childbirth procedure provided by a CHAMPUS-approved freestanding ambulatory surgical center shall not be cost-shared unless the surgical center is also a CHAMPUS-approved birthing center. It is the intent of the institutional provider certification provisions of the CHAMPUS regulation to limit institutional charges related to a childbirth procedure to the institutional provider hospital and birthing center categories. This limitation is consistent with the limited circumstances within which delivery as an ambulatory procedure is appropriate.

I. Clarifications

It has been our policy that whether licensure/certification is available on an optional or mandatory basis, that it be obtained by those who want to become a CHAMPUS authorized provider. As an example, if a state does not have specific licensure/certification for a marriage, family, or pastoral counselor or mental health counselor, but offers licensure under a general category such as a licensed professional counselor, CHAMPUS requires the provider obtain the licensure that the state offers. State licensure/certification is one of the limited means CHAMPUS has to determine whether a provider meets minimal professional standards. It allows for an official networking system for identifying providers that have been sanctioned by the state. It also adds protection to the beneficiary who may seek relief through a malpractice action. A recent report by the General Accounting Office (GAO) reiterated the importance of ensuring providers meet state-licensure standards.

This requirement exists even if the state exempts certain non-profit or other categories of providers (such as pastoral counselors). This exemption is generally intended to apply to ministers or clergymen of any religious denomination or sect when performing activities within the scope of the performance of their religious or specialized ministerial duties and no separate charge is made, or when performing, whether with or without charge, under the sponsorship of an established and legally cognizable church under which the person rendering the service remains accountable to its established authority. Pastoral settings appear to consist of work done for parishioners who belong

to a particular church as part of a pastor's duties and teaching of Biblical doctrine. For the purpose of submitting billings for psychotherapy, CHAMPUS has determined that all individuals in every provider category must be licensed/certified by the state when licensure/certification is available if the provider wants authorization under CHAMPUS. Not to require licensure/certification of pastoral counselors would be inconsistent with the policy of always requiring licensure/certification, and would create administrative entanglements for the CHAMPUS contractor which would be placed in a position of having to screen claims to see if the beneficiary was an active member of the parish for which the pastor was responsible.

In the case of marriage, family, pastoral and mental health counselors, as in the case of all other individual professional providers, state licensure is required, whether it's offered on a voluntary basis by the state or mandated by the state. Some states have licensure that is specific for designated counselor groups such as marriage and family counselors or mental health counselors. Other states offer licensure/certification for professional counselors in general. This latter category is a general, all-inclusive one, encompassing all areas of mental health counseling. When either general or specific licensure is offered, we require that the counselor obtain that licensure. It is within the province of the state legislative process as to whether it chooses to offer general or specific licensure. It is also up to the state to determine which providers it will consider under a given category of licensure. If a state is willing to provide licensure/certification (including for otherwise exempted categories of providers), CHAMPUS requires that licensure/certification be obtained as a prerequisite to CHAMPUS authorization.

As a result of reviewing our proposed rule and the comments it generated, it appears this requirement may not have been clearly stated for certain categories of providers. Specifically, language was modified in the regulation in 1988 stipulating that anyone in the counselor category was mandated to seek licensure/certification in any jurisdiction that provided for it, whether or not it was mandated by the state or offered on a voluntary basis. CHAMPUS will be revalidating counselors for the requirement of licensure and certification approximately one year from the date of this amendment. We are providing this grade period in order not to discriminate against those counselors for whom the policy was not clear and to avoid inadvert prejudice to anyone. As discussed above, the state exemption for pastoral counselors may have mislead this group into thinking licensure was not required. The same situation may have occurred with the other counselor categories where licensure was either not mandated by the state or was provided under a more general category of "professional counselors." The one-year grace period will provide counselors who are impacted by this clarification the opportunity to obtain state licensure/certification. Any counselor who is not licensed/certified in the state in which he/she is practicing by August 1, 1991, will be terminated under the provisions of Section 199.9 of this part. This opportunity for delayed certification/licensure for providers in the situations outlined above is limited to the counselor category and only to those counselors who are already CHAMPUS-certified as of the date this rule is published. The language in all of the other provider categories has been consistent and unmodified from the time each of the other provider categories was added. It does not change any of the other existing provider requirements which remain in effect; they remain in effect.

The dental contractor is required to provide dental contract coverage of Guam under the Dependents Dental Plan effective August 1, 1990. We are, therefore, making that portion of this amendment retroactively effective.

II. Public Comments

We received several comments on the proposed rule. Four were from national associations and one was from an attorney representing a national residential treatment center association. Below we provide an analysis of the comments and our responses.

Comment—Recommend that CHAMPUS take this opportunity to specify that its requirements for licensing and credentialing of individual providers apply only to those individual professional providers who are billing CHAMPUS for their separate services on an individual basis. The licensing and certification requirements should not affect in any way the payments made to institutions or the certification status of institutions who employ unlicensed or uncredentialed individuals.

Response—The requirement for state licensure/certification of all providers, whether employed by an institution or in independent practice, has existed for a long time. We are requiring staff who have direct responsibility for primary therapies, i.e., individual, group and family therapy, to be qualified to perform that modality. This means that they are not only licensed, but also trained, in the modality. CHAMPUS is committed to ensuring that its beneficiaries have the same access to qualified providers on an inpatient, as well as on an outpatient basis.

Comment—The commenter states that the Medicare program has always allowed payment for services provided by individuals "incident to" physician services even though the individual providing such services might not be eligible for payment by Medicare if the services were not rendered in conjunction with and at the direction of a physician.

Response—The Medicare provision covering "services incident to a physician's service" is neither comparable nor analogous. The provision applies in office-based practice and covers the services of nurses and technicians performing, in fact, services incident to the primary service. In an RTC, primary individual, group and family psychotherapy is hardly incident to the primary service. They are the primary service and must be performed by qualified staff.

Comment—The commenter argues that prior to the implementation of the all-inclusive rate regulation governing RTC services, many individual professional providers billed CHAMPUS separately for services provided by them to patients residing in residential treatment centers. With implementation of the all-inclusive rate, the commenter states that some RTCs began employing masters level social workers who were not immediately eligible for state certification, to assist in providing psychotherapy. The commenter argues that the RTC should be permitted to provide such services to CHAMPUS patients and receive CHAMPUS payment for such services.

Response—The claim made by the RTCs to justify re-basing the rates was that re-basing was required due to their increased costs to provide a high-level professional staff. It is incongruent, after succeeding in their re-basing argument to obtain higher rates to pay for high-level professional staffing, to attempt to treat CHAMPUS patients with an unqualified staff. CHAMPUS payment will be denied to any RTC found using unqualified staff to provide psychotherapy, and the RTC will be terminated as a CHAMPUS-authorized provider.

Comment—The commenter is arguing that CHAMPUS should not require a

treatment plan prior to a patient being admitted to a residential treatment center, unless CHAMPUS is prepared to pay for the costs of such preadmission activities. The commenter states that CHAMPUS has allowed completion of the treatment plan after the admission of a patient to an RTC.

Response—The portion of the amendment the commenter is referring to has been consistently in effect since promulgation of the Regulation in 1977. It was only repeated as other language in that paragraph was being amended. RTC care is always elective. For that reason and in the child's best interest, there must be an assessment prior to admission in order to determine the need for RTC care. Current CHAMPUS requirements state that there must be a preliminary plan of treatment identified, based on the assessment data at the time of admission. While it is acknowledged that additional assessments and evaluations might be required which can be furnished after admission, there should be sufficient assessment and evaluation data available to justify admission to a residential level of care at the time the admission is being requested.

Comment—One commenter objected to the exclusion for abortion services. The commenter felt that it was unduly harsh to limit payment for an abortion to those circumstances where the life of the woman would be endangered if the fetus were carried to term. The commenter also objected to the restrictions against abortions performed for mental health reasons and for suspected or confirmed fetal abnormality.

Response—The restriction on abortion is statutory, not one in which there is agency discretion. Congress has determined that public funds should not be expended for abortions except in a single limited circumstance—that is, the circumstance when the mother's life would be endangered if she carried the baby to term. The legislative history of the pertinent legislative enactments make it clear that this language was to be narrowly construed. Various proposals to authorize funding of abortion on the basis of physical or psychological health considerations have repeatedly been rejected by Congress. The Department of Defense is committed to enforcing Congressional intent.

Comment—A national organization suggested revision of the physician certification statement to minimize the likelihood of attempted abuse or evasion of the regulation prohibiting abortion. The requested revision reads as follows: "Physician certification is required attesting that the abortion was performed because the woman suffered from a grave physical disorder or disease which would, with reasonable medical certainty, cause the death of that woman if an abortion is not performed."

Response—To ensure compliance with the intent of Congress, the physician certification statement will continue to contain the actual language used in the law.

Comment—One commenter suggested clarification be added advising that reimbursement is not available for services involving preparation for, or normal follow-up to, a disallowable abortion.

Response—We agree and have incorporated this language in the final rule.

Comment—One commenter supported the exclusion of funding for in-vitro fertilization as consistent with that of other federally funded health programs and appropriate due to the ethical problems associated with current IVF practices.

Response—Comment noted, and no change required.

Comment—A few comments were received concerning the revision throughout the regulation extending recognition to authorized individual professional providers under CHAMPUS to provide certain services to include the diagnosis and treatment of a patient. The commenter felt that only physicians have the education, training and experience to diagnose and treat medical illness and thereby have the primary responsibility for the medical treatment and diagnosis of patients.

Response—This revision merely allows a provider to practice within the scope of the license permitted by the state licensing authorities. Much of the concern was directed at the definition revision for "attending physician." Because of these concerns, we have dropped that revision from this final rule. This action will not affect recognition of other independent authorized providers such as a podiatrist or dentist acting as a primary or assistant surgeon.

Comment—One commenter supported the authorization for the doctor of podiatric medicine to serve both as attending physician and as an assistant surgeon, to order medically necessary physical therapy services and to prescribe necessary medications. The commenter did feel that a change authorizing podiatrists to order medically necessary lab services was also needed.

Response—As indicated in the previous response, the attending physician definition is dropped. Other changes throughout the Regulation will allow the podiatrist to order medically necessary lab services which are considered appropriate within a podiatric scope of license.

Comment—The commenter wanted a variety of other definitions changed to include a reference to the podiatrist. These include anesthesia, orthopedic shoes and resident.

Response—Program benefits for podiatrists will not be affected by altering the definition of orthopedic shoes and resident. Currently, anesthesia may only be provided under the supervision of a dentist or physician. Before we alter this definition, we feel additional research and information is needed on the safety and efficacy of a podiatrist supervising a nurse anesthetist. We invite followup comments in this area.

Comment—One commenter was very concerned about allowing independent billing of services on a fee-for-service basis for those individuals who, absent any state licensure or certification, must only be eligible for full clinical membership in the appropriate national or professional association that sets standards for the profession of which the provider is a member. The commenter is concerned about the quality of care provided to CHAMPUS program beneficiaries by individuals who are not licensed or certified by the state.

Response—We share the commenter's concern about the importance of requiring state licensure or certification and have reaffirmed our position in this final rule despite some protest. Providers who practice in a state where licensure or certification is optional are required to obtain that licensure or certification to become authorized under CHAMPUS. If a state does not have licensure/certification in the general or specific area the provider practices in, then the provider is required to provide documentation that he/she meets the standards for full clinical membership in the appropriate recognized national or professional association that sets standards for the profession of which the provider is a member. Meeting full clinical membership standards is only acceptable if the state licensing agency does not have a certification or licensure process under which it is able or willing to evaluate a particular provider. Other requirements must still be met to include graduation from an accredited college in an appropriate field, followed by satisfactory completion of post-graduate requirements under designated

supervision in an appropriate clinical setting.

Comment—Two organizations commented on the requirement for preauthorization. One organization felt that requiring preauthorization for mental health services was discriminatory, stigmatized patients and might act as a barrier for the delivery of needed care.

Response—The Director of the Office of CHAMPUS has always had the authority to require preauthorization, and does not restrict this requirement to mental health. The purpose of preauthorization is not to direct treatment decisions, but to give providers and patients advance information on what benefits will be available. It can be financially devastating to a beneficiary to have costly care retroactively denied. An elaborate appeals system exists by which denials can be disputed. The current system does not require certification prior to admission. Certification can be requested within two days before to two days after admission. Cases can also be reviewed retrospectively.

Comment—One commenter objected to the "unauthorized practice of medicine by non-physician health professionals." The commenter reviewed the differences in education, training and experiences of psychiatrists and non-physician mental health professionals and the likely impact of inappropriately expanding medical diagnostic and treatment functions to such non-physicians. The commenter pointed out the danger inherent in misdiagnosis of patients' illnesses and that major medical illnesses remain undiagnosed. Patients are labeled as "psychosomatic" at an alarming rate. Illnesses in these patients far surpass the expected rate found in the general population. The commenter quoted studies which concluded that psychological symptomatology does not necessarily represent a psychiatric disorder and that psychotherapy should not be blindly applied. The commenter stated that 9 to 18 percent of mental disorders are caused solely by physical illness and that 48 percent of mental disorders are significantly aggravated by physical illness. The commenter questions how psychologists, social workers, mental health counselors or phychiatric nurses, uneducated and untrained in the diagnosis of physical illness and lacking the ability to rule out physical causes through physical and lab examination, can be expected to provide equal or superior diagnostic expertise equal or superior to that of a physician?

Response—The scope of practice is an area that reats within the province of state licensing authorities. CHAMPUS requires that providers practice within the limitations established by the licensing state. The categories of providers who may be reimbursed independent of physician referral and supervision has been legislatively mandated, and CHAMPUS must follow Congressional mandate. Over the last several years, Congress has mandated, through legislation, that CHAMPUS grant independent provider status to clinical social workers, nurse practitioners and phychiatric nurse specialists. The only mental health category which still requires physician referral and supervision is the category of counselors, including marriage, family, pastoral, and mental health counselors. Currently, Congress is discussing removing the requirement for physician referral and supervision for the counselor category. If this change is enacted, we will announce it through future rulemaking action.

This final rule does not impose information collection requirements. Therefore, it does not need to be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3511).

List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health Insurance, and Military Personnel.

PART 199—[AMENDED]

Accordingly, 32 CFR part 199 is amended as follows:

1. The authority citation for part 199 continues to read as follows:

Authority: 10 U.S.C. 1079, 1086, 5 U.S.C. 301, Pub. L. 101–165, section 9100.

2. Section 199.1 is amended by revising the first sentence of paragraph (p)(1)(i) to read as follows:

§ 199.1 General provisions.

* * * * *

(p) * * *

(1) * * *

(i) The external partnership agreement is an agreement between a military treatment facility Commander and a CHAMPUS-authorized institutional provider, enabling Uniformed Services health care personnel to provide otherwise covered medical care to CHAMPUS beneficiaries in a civilian facility. * * *

* * * * *

3. Section 199.2 is amended by adding the definition of abortion in alphabetical order and revising the following definitions to read as follows:

§ 199.2 Definitions.

* * * * *

(b) * * *

Abortion. Abortion means the intentional termination of a pregnancy by artificial means done for a purpose other than that of producing a live birth. A spontaneous, missed or threatened abortion or termination of an ectopic (tubal) pregnancy are not included within the term "abortion" as used herein.

* * * * *

Allowable charge. The CHAMPUS-determined level of payment to physicians, other individual professional providers and other providers, based on one of the approved reimbursement methods set forth in § 199.14 of this part. Allowable charge also may be referred to as the CHAMPUS-determined reasonable charge.

Allowable cost. The CHAMPUS-determined level of payment to hospitals or other insitutions, based on one of the approved reimbursement methods set fourth in § 199.14 of this part. Allowable cost may also be referred to as the CHAMPUS-determined reasonable cost.

* * * * *

Durable medical equipment. Equipment for which the allowable charge is over $100 and which:

(1) Is medically necessary for the treatment of a covered illness or injury;

(2) Improves the function of a malformed, diseased, or injured body part, or retards further deterioration of a patient's physical condition;

(3) Is primarily and customarily designed and intended to serve a medical purpose rather than primarily for transportation, comfort, or convenience;

(4) Can withstand repeated use;

(5) Provides the medically appropriate level of performance and quality for the medical condition present (that is, nonluxury and nondeluxe);

(6) Is other than spectacles, eyeglasses, contact lenses, or other optical devices; hearing aids; or other communication devices; and

(7) Is other than exercise equipment, spas, whirlpools, hot tubs, swimming pools or other such items.

* * * * *

External Partnership Agreement. The external partnership agreement is an agreement between a military treatment facility commander and a CHAMPUS authorized institutional provider, enabling Uniformed Services health care personnel to provide otherwise covered

medical care to CHAMPUS beneficiaries in a civilian facility under the Military-Civilian Health Services Partnership Program. Authorized costs associated with the use of the facility will be financed through CHAMPUS under normal cost-sharing and reimbursement procedures currently applicable under the basic CHAMPUS.

* * * * *

Inpatient. A patient who has been admitted to a hospital or other authorized institution for bed occupancy for purposes of receiving necessary medical care, with the reasonable expectation that the patient will remain in the institution at least 24 hours, and with the registration and assignment of an inpatient number or designation. Institutional care in connection with in and out (ambulatory) surgery is not included within the meaning of inpatient whether or not an inpatient number or designation is made by the hospital or other institution. If the patient has been received at the hospital, but death occurs before the actual admission occurs, an inpatient admission exists as if the patient had lived and had been formally admitted.

* * * * *

Laboratory and pathological services. Laboratory and pathological examinations (including machine diagnostic tests that produce hard-copy results) when necessary to, and rendered in connection with medical, obstetrical, or surgical diagnosis or treatment of an illness or injury, or in connection with well-baby care.

* * * * *

Surgical assistant. A physician (or dentist or podiatrist) who assists the operating surgeon in the performance of a covered surgical service when such assistance is certified as necessary by the attending surgeon, when the type of surgical procedure being performed is of such complexity and seriousness as to require a surgical assistant, and when interns, residents, or other house staff are not available to provide the surgical assistance services in the specialty area required.

* * * * *

4. Section 199.4 is amended by revising paragraph (a)(11)(ii); redesignating (a)(11)(iii) as paragraph (a)(11)(iv) and adding a new paragraph (a)(11)(iii); revising (c)(3)(iii) introductory text, (c)(3)(vi), (c)(3)(ix) introductory text and first sentence to paragraph (c)(3)(x)(A); (d)(1) introductory text; (d)(3)(ii)(A) introductory text; (d)(3)(vi) introductory text; (e)(2); (e)(3)(i)(B)(*3*); second sentence of paragraph (f)(2)(i)(D); (g)(34) and (39); and adding new paragraphs (g)(42) and (43) to read as follows:

§ 199.4 Basic program benefits.

* * * * *

(a) * * *

(11) * * *

(ii) *Admissions to authorized institutions requiring preauthorization.* When the Director, OCHAMPUS, requires preauthorization to an inpatient facility, the request for preauthorization is processed by OCHAMPUS or a designee. If the beneficiary elects to proceed with an admission prior to receiving written preauthorization from OCHAMPUS, authorization may be requested subsequently. If the stay in the institution is determined to be appropriate under the provisions of this Regulation, the Director, OCHAMPUS, or a designee, shall authorize benefits retroactively to the date of admission to the institution. If the stay is determined not to qualify under the provisions of this Regulation, the Director, or a designee, shall deny benefits as of the date the care failed to meet the requirements for coverage.

(iii) *Documentation for preauthorization—approved treatment plan.* A request for preauthorization described in paragraph (a)(11) of this section, requires submission of a detailed treatment plan, in accordance with guidelines and procedures issued by the Director, OCHAMPUS.

* * * * *

(c) * * *

(3) * * *

(iii) *Need for surgical assistance.* Surgical assistance is payable only when the complexity of the procedure warrants a surgical assistant (other than the surgical nurse or other such operating room personnel), subject to utilization review. In order for benefits to be extended for surgical assistance service, the primary surgeon may be required to certify in writing to the nonavailability of a qualified intern, resident, or other house physician. When a claim is received for a surgical assistant involving the following circumstances, special review is required to ascertain whether the surgical assistance service meets the medical necessity and other requirements of paragraph (c) of this section.

* * * * *

(vi) *Inpatient care, concurrent.* Concurrent inpatient care by more than one individual professional provider is covered if required because of the severity and complexity of the beneficiary's condition or because the beneficiary has multiple conditions that require treatment by providers of different specialities. Any claim for concurrent care must be reviewed before extending benefits in order to ascertain the condition of the beneficiary at the time the concurrent care was rendered. In the absence of such determination, benefits are payable only for inpatient care rendered by one attending physician or other authorized individual professional provider.

* * * * *

(ix) *Treatment of mental disorders.* CHAMPUS benefits for the treatment of mental disorders are payable for beneficiaries who are outpatients or inpatients of CHAMPUS-authorized general or psychiatric hospitals, RTCs, or specialized treatment facilities, as authorized by the Director, OCHAMPUS, or a designee. All such services are subject to review for medical or psychological necessity and for quality of care. The Director, OCHAMPUS, reserves the right to require preauthorization of mental health services. Preauthorization may be conducted by the Director, OCHAMPUS, or a designee.

* * * * *

(x) * * *

(A) *Physical therapy.* To be covered, physical therapy must be related to a covered medical condition. If performed by other than a physician, a physician (or other authorized individual professional provider acting within the scope of their license) shall refer the patient for treatment and supervise the physical therapy. * * *

* * * * *

(d) * * *

(1) *General.* Benefits may be extended for the allowable charge of those other covered services and supplies described in paragraph (d) of this section, which are provided in accordance with good medical practice and established standards of quality by those other authorized providers described in § 199.6 of this Regulation. Such benefits are subject to all applicable definitions, conditions, limitations, or exclusions as otherwise may be set forth in this or other chapters of this Regulation. To be considered for benefits under paragraph (d) of this section, the described services or supplies must be prescribed and ordered by a physician. Other authorized individual professional providers acting within their scope of licensure may also prescribe and order these services and supplies unless otherwise specified in paragraph (d) of this section. For example, durable medical equipment and

cardiorespiratory monitors can only be ordered by a physician.

* * * * *

(3) * * *

(ii) * * *

(A) *Scope of benefit.* Subject to the exceptions in paragraphs (B) and (C) below, only durable medical equipment (DME) which is ordered by a physician for the specific use of the beneficiary, and which complies with the definition of "Durable Medical Equipment" in § 199.2 of this part, and which is not otherwise excluded by this Regulation qualifies as a Basic Program benefit.

* * * * *

(vi) *Prescription drugs and medicines.* Prescription drugs and medicines that by U.S. law require a physician's or other authorized individual professional provider's prescription (acting within the scope of their license) and that are ordered or prescribed by a physician or other authorized individual professional provider (except that insulin is covered for a known diabetic, even though a prescription may not be required for its purchase) in connection with an otherwise covered condition or treatment, including Rh immune globulin.

* * * * *

(e) * * *

(2) *Abortion.* The statute under which CHAMPUS operates prohibits payment for abortions with one single exception—where the life of the mother would be endangered if the fetus were carried to term. Covered abortion services are limited to medical services and supplies only. Physician certification is required attesting that the abortion was performed because the mother's life would be endangered if the fetus were carried to term. Abortions performed for suspected or confirmed fetal abnormality (e.g., anencephalic) or for mental health reasons (e.g., threatened suicide) do not fall within the exceptions permitted within the language of the statute and are not authorized for payment under CHAMPUS.

Note: Covered abortion services are limited to medical services or supplies only for the single circumstance outlined above and do not include abortion counseling or referral fees. Payment is not allowed for any services involving preparation for, or normal followup to, a noncovered abortion. The Director, OCHAMPUS, or a designee, shall issue guidelines describing the policy on abortion.

* * * * *

(3) *Family planning.* * * *

(i) * * *

(B) * * *

(*3*) Services and supplies related to noncoital reproductive technologies, including but not limited to artificial insemination (including any costs related to donors or semen banks), in-vitro fertilization and gamete intrafallopian transfer.

* * * * *

(f) * * *

(2) * * *

(i) * * *

(D) * * * Such deductible certificate must be attached to the current claim being submitted for benefits. * * *

* * * * *

(g) * * *

(34) *Noncoital reproductive procedures including artifical insemination, in-vitro fertilization, gamete intrafallopian transfer and all other such reproductive technologies.* Services and supplies related to artificial insemination (including semen donors and semen banks), in-vitro fertilization, gamete intrafallopian transfer and all other noncoital reproductive technologies.

* * * * *

(39) *Counseling.* Educational counseling, nutritional counseling, vocational counseling, and counseling for socio-economic purposes. Counseling services that are not medically necessary in the treatment of a diagnosed medical condition, e.g., diabetic self-education programs, stress management, life style modification, etc. Services provided by a marriage, family, pastoral or mental health counselor in the treatment of a mental disorder are covered only as specifically provided in § 199.6. Services provided by alcoholism rehabilitation counselors are covered only when rendered in a CHAMPUS-authorized alcohol rehabilitation facility and only when the cost of those services is included in the facility's CHAMPUS-determined allowable cost-rate.

* * * * *

(42) *Education or training.* Self-help, academic education or vocational training services and supplies, unless the provisions of § 199.4, paragraph (b)(1)(v) relating to general or special education, apply.

(43) *Exercise/relaxation/comfort devices.* Exercise equipment, spas, whirlpools, hot tubs, swimming pools, health club membership or other such charges or items.

* * * * *

5. Section 199.6 is amended by redesignating paragraphs (b)(3)(iii), (iv) and (v) as (b)(3)(iv), (v) and (vi) and adding a new paragraph (b)(3)(iii); adding a new paragraph (b)(4)(x)(B)(*1*)(*v*); and revising the introductory text of (c)(1) and paragraph (c)(1)(i); (c)(3)(iii)(A); (c)(3)(iii)(G)(*2*); (c)(3)(iv)(A)(*4*)(*i*) and (c)(3)(iv)(A)(*6*); and adding a new paragraph (c)(3)(iv)(A)(*7*) to read as follows:

§ 199.6 Authorized providers

* * * * *

(b) * * *

(3) * * *

(iii) *Notice of peer review rights.* All health care facilities subject to the DRG-based payment system shall provide CHAMPUS beneficiaries, upon admission, with information about peer review including their appeal rights. The notices shall be in a form specified by the Director, OCHAMPUS.

* * * * *

(4) * * *

(x) * * *

(B) * * *

(*1*) * * *

(*v*) A childbirth procedure provided by a CHAMPUS-approved free-standing ambulatory surgical center shall not be cost-shared by the CHAMPUS unless the surgical center is also a CHAMPUS-approved birthing center institutional provider as established by the birthing center provider certification requirement of this Regulation.

* * * * *

(c) * * *

(1) *General.* Individual professional providers of care are those providers who bill for their services on a fee-for-service basis and are not employed or contracted with by an institutional provider. This category also includes those individuals who have formed professional corporations or associations qualifying as a domestic corporation under § 301.7701–5 of the Internal Revenue Service Regulations. Such individual professional providers must be licensed or certified by the local licensing or certifying agency for the jurisdiction in which the care is provided; or in the absence of state licensure/certification, be a member of or demonstrate eligibility for, full clinical membership in the appropriate national or professional certifying association that sets standards for the profession of which the provider is a member. Services provided must be in accordance with good medical practice and prevailing standards of quality of care and within recognized utilization norms.

(i) *Licensing/certification required, scope of license.* Otherwise covered services shall be cost-shared only if the individual professional provider holds a current, valid license or certification to practice his or her profession in the jurisdiction where the service is rendered. Licensure/certification must be at the full clinical practice level. The services provided must be within the

scope of the license, certification or other legal authorization. Licensure or certification is required to be a CHAMPUS authorized provider if offered in the jurisdiction where the service is rendered, whether such licensure or certification is required by law or available on a voluntary basis. The requirement also applies for those categories of providers that would otherwise be exempt by the state because the provider is working in a non-profit, state-owned or church setting. Licensure/certification is mandatory for a provider to become a CHAMPUS-authorized provider.

* * * * *

(3) * * *

(iii) * * *

(A) *Clinical psychologist.* For purposes of CHAMPUS, a clinical psychologist is an individual who is licensed or certified by the state for the independent practice of psychology and:

(*1*) Possesses a doctoral degree in psychology from a regionally accredited university; and

(*2*) Has has 2 years of supervised clinical experience in psychological health services of which at least 1 year is post-doctoral and 1 year (may be the post-doctoral year) is in an organized psychological health service training program; or

(*3*) As an alternative to paragraphs (c)(3)(iii)(A)(*1*) and (*2*) of this section is listed in the National Register of Health Service Providers in Psychology.

* * * * *

(G) * * *

(*2*) Has at least a master's degree in nursing from a regionally accredited institution with a specialization in psychiatric and mental health nursing; and

* * * * *

(iv) * * *

(A) * * *

(4) * * *

(*i*) Recognized graduate professional education with the minimum of an earned master's degree from a regionally accedited educational institution in an appropriate behavioral science field, mental health discipline.

* * * * *

(*6*) These providers must also be licensed or certified to practice as a marriage and family counselor, pastoral counselor or mental health counselor by the jurisdiction where practicing. If specific licensure is not available in the state, then licensure under general provisions, where available, is required. If the jurisdiction does not provide for licensure or certification either in a specific or general counselor category, the provider must be certified by or eligible for full clinical membership in the appropriate national professional association that sets standards for the specific profession.

(*7*) Grace period for counselors in states where licensure/certification is optional. CHAMPUS is providing a grace period for those counselors who did not obtain optional licensure/certification in their jurisdiction, not realizing it was a CHAMPUS requirement for authorization. The exemption by state law for pastoral counselors may have misled this group into thinking licensure was not required. The same situation may have occured with the other counselor categories where licensure was either not mandated by the state or was provided under a more general category such as "professional counselor." This grace period only pertains to the licensure/certification requirement, applies only to counselors who are already approved as of October 29, 1990, and only in those areas where the licensure/certification is optional. Any counselor who is not liecensed/certified in the state in which he/she is practicing by August 1, 1991, will be terminated under the provisions of § 199.9 of this part. This grace period does not change any of the other existing requirements which remain in effect. During this grace period, membership or proof of eligibility for membership in a recognized professional association is required for those counselors who are not licensed or certified by the state. The following organizations are recognized for counselors at the level indicated: full clinical member of the American Association of Marriage and Family Counselors; membership at the fellow or diplomate level of the American Association of Pastoral Counselors; and membership in the National Academy of Certified Clinical Mental Health Counselors. Acceptable proof of eligibility for membership is a letter from the appropriate certifying organization. This opportunity for delayed certification/licensure is limited to the counselor category only as the language in all of the other provider categories has been consistent and unmodified from the time each of the other provider categories were added. The grace period does not apply in those states where licensure is mandatory.

* * * * *

6. Section 199.10 is amended by redesignating paragraph (a)(1)(i)(C) through (E) as paragraphs (D) through (F) and adding a new paragraph (a)(1)(i)(C); revising paragraphs (a)(1)(ii); first sentence to paragraph (a)(7)(iv)(C); (a)(8) introductory text, (a)(8)(i) introductory heading, (a)(8)(i) (A) and (B); (b) introductory text; (b)(1) through (b)(3); (b)(4) introductory text; and (c) to read as follows:

§ 199.10 Appeal and hearing procedures.

* * * * *

(a) * * *

(1) * * *

(i) * * *

(C) CHAMPUS peer review organizations shall notify providers and fiscal intermediaries of a denial determination on a claim.

(ii) *Effect of initial determination.* The initial determination is final unless appealed in accordance with this chapter, or unless the initial determination is reopened by OCHAMPUS, the CHAMPUS contractor, or the CHAMPUS peer review organization.

* * * * *

(7) * * *

(iv) * * *

(C) At least one of the claims so combined has had a reconsideration decision issued by OCHAMPUSEUR, a CHAMPUS contractor, or a CHAMPUS peer review organization.

* * * * *

(8) *Levels of appeal.* The sequence and procedures of a CHAMPUS appeal vary, depending on whether the initial determination was made by OCHAMPUS, OCHAMPUSEUR, a CHAMPUS contractor, or a CHAMPUS peer review organization.

(i) *Appeal levels for initial determination made by OCHAMPUSEUR, CHAMPUS contractor, or CHAMPUS peer review organization.* (A) Reconsideration by OCHAMPUSEUR, CHAMPUS contractor, or CHAMPUS peer review organization.

(B) Formal review by OCHAMPUS (except for CHAMPUS peer review organization reconsiderations).

* * * * *

(b) *Reconsideration.* Any part to the initial determination made by OCHAMPUSEUR, the CHAMPUS contractor, or a CHAMPUS peer review organization may request a reconsideration.

(1) *Requesting a reconsideration*—(i) *Written request required.* The request must be in writing, shall state the specific matter in dispute, and shall include a copy of the notice of initial determination (such as the CEOB form) made by OCHAMPUSEUR, the CHAMPUS contractor, or the CHAMPUS peer review organization.

(ii) *Where to file.* The request shall be submitted to the office that made the initial determination (i.e., OCHAMPUSEUR, the CHAMPUS contractor, or the CHAMPUS peer review organization) or any other CHAMPUS contractor designated in the notice of initial determination.

(iii) *Allowed time to file.* The request must be mailed within 90 days after the date of the notice of initial determination.

(iv) *Official filing date.* A request for a reconsideration shall be deemed filed on the date it is mailed and postmarked. If the request does not have a postmark, it shall be deemed filed on the date received by OCHAMPUSEUR, the CHAMPUS contractor or the CHAMPUS peer review organization.

(2) *The reconsideration process.* The purpose of the reconsideration is to determine whether the initial determination was made in accordance with law, regulation, policies, and guidelines in effect at the time the care was provided or requested, or at the time of the initial determination and/or reconsideration decision involving a provider request for approval as an authorized provider under CHAMPUS. The reconsideration is performed by a member of the OCHAMPUSEUR, CHAMPUS contractor, or CHAMPUS peer review organization staff who was not involved in making the initial determination and is a thorough and independent reveiw of the case. The reconsideration is based on the information submitted that led to the initial determination, plus any additional information that the appealing party may submit or OCHAMPUSEUR, the CHAMPUS contractor, or CHAMPUS peer review organization may obtain.

(3) *Timeliness of reconsideration determination.* OCHAMPUSEUR, the CHAMPUS contractor, or CHAMPUS peer review organization normally shall issue its reconsideration determination no later than 60 days from the date of receipt of the request for reconsideration by OCHAMPUSEUR, the CHAMPUS contractor, or the CHAMPUS peer review organization.

(4) *Notice of reconsideration determination.* OCHAMPUSEUR, the CHAMPUS contractor, or the CHAMPUS peer review organization shall issue a written notice of the reconsideration determination to the appealing party at his or her last known address. The notice of the reconsideration must contain the following elements:

* * * * *

(c) *Formal review.* Except as explained in this paragraph, any party to an initial determination made by OCHAMPUS, or a reconsideration determination made by the CHAMPUS contractor may request a formal review by OCHAMPUS if the party is dissatisfied with the initial or reconsideration determination unless the initial or reconsideration determination

(1) Is final under paragraph (b)(5) of this section;

(2) Involves the sanctioning of a provider by the exclusion, suspension or termination of authorized provider status;

(3) Involves a written decision issued pursuant to § 199.9, paragraph (h)(1)(iv)(A) regarding the temporary suspension of claims processing; or

(4) Involves a reconsideration determination by a CHAMPUS peer review organization. A hearing, but not a formal review level of appeal, may be available to a party to an initial determination involving the sanctioning of a provider or to a party to a written decision involving a temporary suspension of claims processing. A beneficiary (or an authorized representative of a beneficiary), but not a provider, may request a hearing, but not a formal review, of a reconsideration determination made by a CHAMPUS peer review organization.

* * * * *

7. Section 199.13 is amended by revising paragraphs (a)(2)(i) and (e)(1)(v)(B) to read as follows:

§ 199.13 Active duty dependents dental plan.

* * * * *

(a) * * *

(2) * * *

(i) *Geographic.* This section is applicable geographically within the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the U.S. Virgin Islands.

* * * * *

(e) * * *

(1) * * *

(v) * * *

(B) *Distribution.* The dental benefits brochure shall be printed and distributed with the assistance of the Uniformed Services health benefits advisors, major personnel centers at Uniformed Services installations, and authorized providers of care to all active duty members enrolling their dependents.

* * * * *

§ 199.14 [Amended]

8. Section 199.14(g)(1)(i)(B) is updated by removing the first two sentences in the "Note."

Dated: October 22, 1990.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-25433 Filed 10-26-90; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-3856-2]

Minnesota: Schedule of Compliance for Modification of Minnesota's Hazardous Waste Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of Minnesota's compliance schedule to adopt a program modification.

SUMMARY: On September 22, 1986, U.S. EPA promulgated amendments to the deadlines for State program modifications, and published requirements for States to be placed on a compliance schedule to adopt necessary program modifications if the State cannot meet the prescribed deadlines. U.S. EPA is today publishing a compliance schedule for Minnesota to modify its program, for one rule, in accordance with 40 Code of Federal Regulations § 271.21(g).

EFFECTIVE DATE: October 29, 1990.

FOR FURTHER INFORMATION CONTACT: Christine Klemme, Minnesota Regulatory Specialist, Office of RCRA, U.S. EPA, Region V, 230 South Dearborn Street, 5HR-JCK-13, Chicago, Illinois 60604, (312) 886-3715, (FTS 8-886-3715).

SUPPLEMENTARY INFORMATION:

A. Background

Final authorization to implement the Federal hazardous waste program within a State is granted by U.S. EPA, if the Agency finds that the State program: (1) Is "equivalent" to the Federal program; (2) is "consistent" with the Federal program and other State programs; and (3) provides for adequate enforcement (section 3006(b), 42 U.S.C. 6926(b)). U.S. EPA regulations setting forth these standards for final authorization appear at 40 CFR 271.1-271.25. In order to retain authorization, a State must revise its program to adopt new Federal requirements by the cluster deadlines and procedures specified in 40

CFR 271.21. See 51 FR 33712, September 22, 1986, for a complete discussion of these procedures and deadlines.

B. Minnesota

Minnesota received final authorization of its hazardous waste program on February 11, 1985 (see 50 FR 3756, January 28, 1985), and subsequent revisions on September 18, 1987 (see 52 FR 27199, July 20, 1987), June 23, 1989 (see 54 FR 16361, April 24, 1989) and August 14, 1990 (see 55 FR 24232, June 15, 1990). Today U.S. EPA is publishing a compliance schedule for Minnesota to complete a program revision for the Federal double liner regulations (50 FR 28702, July 15, 1985). The adoption deadline under 40 CFR 271.21 for this Federal regulation was July 1, 1989.

Minnesota had intended to adopt the July 15, 1985, double liner regulation by the July 1, 1989 deadline by incorporating this rule with other applicable proposed rules. However, these proposed rules were never finalized. The State will complete the required revision to its authorized program by presenting the double liner rule to the Minnesota Pollution Control Agency in September 1990; the rule will become effective by December 31, 1990. Minnesota expects to submit an application to U.S. EPA for authorization of the above mentioned program revision by July 1, 1991.

Authority: This notice is issued under authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the RCRA of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 90-25517 Filed 10-26-90; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6810

[OR-943-00-4214-10; GPO-105; OR-19124, OR-19822(WASH)]

Partial Revocation of the Executive Order Dated December 6, 1918; Oregon and Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order insofar as it affects 361.70 acres of land withdrawn for the Bureau of Land Management's Powersite Reserve No. 725. The withdrawal is no longer needed. This action will open approximately 237.88 acres to surface entry, and of the balance, 80 acres have been conveyed out of United States ownership and approximately 43.82 acres are included in other existing withdrawals.

EFFECTIVE DATE: November 28, 1990.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503-280-7171.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive order dated December 6, 1918, is hereby revoked insofar as it affects the following described lands:

Willamette Meridian, Oregon

T. 6 N., R. 46 E.,
Sec. 17, lots 1, 2, 3, and 4.

Wallowa National Forest

T. 6 N., R. 47 E.,
Sec. 15, lot 1.

The areas described aggregate 241.70 acres in Wallowa County.

Willamette Meridian, Washington

T. 7 N., R. 46 E.,
Sec. 12, NE¼NE¼ and SW¼NE¼.
T. 8 N., R. 47 E.,
Sec. 7, NE¼NE¼.

The areas described aggregate 120 acres in Asotin County.

2. The NE¼NE¼ of Sec. 12, T. 7 N., R. 46 E., and the NE¼NE¼ of Sec. 7, T. 8 N., R. 47 E., have been conveyed out of United States ownership and will not be opened to operation of the public land laws.

3. Those portions of the NE¼NE¼ and SW¼NE¼ of Sec. 12, T. 7 N., R. 46 E., and the NE¼NE¼ of Sec. 7, T. 8 N., R. 47 E., within the boundary of the Snake Wild and Scenic Study River withdrawal remain closed to operation of the public land laws generally, including the mining laws.

4. Lot 1 of Sec. 15, T. 6 N., R. 47 E., remains closed to operation of the public land laws generally, including the mining and mineral leasing laws by the Hells Canyon National Recreation Area withdrawal.

5. At 8:30 a.m., on November 28, 1990, the lands described in paragraph 1, except as provided in paragraphs 2, 3, and 4, will be opened to operation of the public land laws generally, subject to valid existing rights; the provisions of existing withdrawals; where applicable, the provisions of Section 24 of the Federal Power Act; any segregations of record; and the requirements of applicable law. All valid applications received at or prior to 8:30 a.m., on November 28, 1990, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Dated: October 19, 1990.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-25469 Filed 10-26-90; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Family Support Administration

45 CFR Part 235

RIN 0970-AA56

Administration of Financial Assistance Programs

AGENCY: Family Support Administration, HHS.

ACTION: Correction of final rule.

SUMMARY: This document makes a correction to the Pre-eligibility Fraud Detection Measures regulations that appeared in the **Federal Register** on May 4, 1990 (55 FR 18727-18729).

FOR FURTHER INFORMATION CONTACT: Mr. Mack Storrs, Director, Division of Policy, Office of Family Assistance, Family Support Administration, SW., Washington, DC 20201, telephone (202) 252-5116.

List of Subjects in 45 CFR Part 235

Aid to Families with Dependent Children; Fraud; Grant programs/social programs; Public assistance programs.

Dated: October 17, 1990.

Neil J. Stillman,

Deputy Assistant Secretary for Information Resources Management.

PART 235—[AMENDED]

1. The authority citation for part 235 continues to read as follows:

Authority: Sections 2, 3, 402, 403, 1002, 1003, 1402, 1403, 1602, and 1603 of the Social Security Act (42 U.S.C. 302, 303, 602, 603, 1202, 1203, 1302, 1352, 1353, 1382 (Note), 1383 (Note)), and Part XXIII of Pub. L. 97-35, 45 Stat. 843.

§ 235.111 [Corrected]

2. On page 18728, in the third column, in amendatory instruction 2, in the first line, the statement "New § 235.111 is added to read as follows" should be

corrected to read: "§235.111 is revised to read as follows".

[FR Doc. 90-25516 Filed 10-26-90; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 70365-71271]

Atlantic Tuna Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: NOAA issues this notice to close the fishery for Atlantic bluefin tuna conducted by vessels angling for young school, school, or medium sized bluefin tuna. Closure of this segment of the fishery is necessary because the annual quota for this category has been attained. The intent of this action is to prevent overharvest of the quota established for this fishery.

EFFECTIVE DATE: The closure is effective from 0001 hours local time, October 27, 1990, through December 31, 1990.

FOR FURTHER INFORMATION CONTACT: Kathi L. Rodrigues, 508-281-9324.

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971-971h), regulating the harvest of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction, were published in the **Federal Register** on October 25, 1985 (50 FR 43396).

Section 285.22(e) of the regulations provides for an annual quota of 139 short tons (st) (126 mt) of young school, school and medium sized Atlantic bluefin tuna to be harvested from the Regulatory Area by anglers. The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), is authorized under § 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the total catch of Atlantic bluefin tuna will equal any quota under § 285.22. The Assistant Administrator is further authorized under § 285.20(b)(1) to prohibit the fishing for, or retention of, Atlantic bluefin tuna by the category of gear subject to the quotas. The Assistant Administrator has determined, based on the reported catch, that the annual quota of Atlantic bluefin tuna for the Angling category will be attained by the effective date. Fishing for, and retention of, any young school, school, or medium Atlantic bluefin tuna harvested under § 285.22(e) must cease at 0001 local time on October 27, 1990.

Other Matters

Notice of this action will be mailed to all Atlantic bluefin tuna dealers, several industry publications, associations and state agencies. This action is taken under the authority of 50 CFR 285.20, and is taken in compliance with E.O. 12291.

List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements, Treaties.

Authority: 16 U.S.C. 971 *et seq.*

Dated: October 23, 1990.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90-25464 Filed 10-26-90; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 209
Monday, October 29, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 735

Cotton Warehouses—United States Warehouse Act

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed rule; reopening of the comment period.

SUMMARY: On August 21, 1990, the Agricultural Stabilization and Conservation Service (ASCS) published a proposed rule (55 FR 34021) which would amend the regulations governing cotton warehouses licensed pursuant to the U.S. Warehouse Act 7 U.S.C. 241 *et seq.* The proposed rule contained amendments which would allow federally licensed cotton warehouses to issue negotiable warehouse receipts for reginned cotton motes and to include certain language relating to the applicability of warehouse liens in their schedule of warehouse charges. The comment period provided in the proposed rule ended on October 22, 1990.

During the comment period, ASCS received requests to have the comment period extended to allow more time to provide comments. In response to those requests, comments concerning this proposed rule will be accepted on or before November 9, 1990.

DATES: Comments due on or before November 9, 1990.

ADDRESS: Interested parties are invited to submit comments to: Director, Licensing Authority Division, ASCS, U.S. Department of Agriculture (USDA), P.O. Box 2415, Room 5962–S, Washington, DC 20013, Telephone (202) 447–2121.

FOR FURTHER INFORMATION CONTACT: Lynda Moore, Agricultural Marketing Specialist, ASCS–USDA, telephone: (202) 382–8004.

Signed in Washington, DC on October 23, 1990.

Keith D. Bjerke,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 90–25672 Filed 10–26–90; 8:45 am]

BILLING CODE 3410–05–M

Agricultural Marketing Service

7 CFR Parts 1106, 1120, 1126, 1132, and 1138

[Docket Nos. AO–335–A34, et al.; DA–89–033]

Milk in the Rio Grande Valley and Certain Other Marketing Areas; Recommended Decision and Opportunity to File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

7 CFR Parts	Marketing area	Docket Nos.
1138	Rio Grande Valley	AO–335–A34
1106	Southwest Plains	AO–210–A50
1120	Lubbock–Plainview, Texas.	AO–329–A28
1126	Texas	AO–231–A58
1132	Texas Panhandle	AO–362–A36

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends that the marketing areas of the Rio Grande Valley; Lubbock-Plainview, Texas; and the Texas Panhandle orders be merged under one order. The merged area also would be expanded to include all of the unregulated territory in the State of New Mexico and Lipscomb and Parmer Counties, Texas. The regulatory provisions of the recommended "New Mexico-West Texas" marketing order are patterned after the adjacent Southwest Plains order, including that order's payment plan, but with modifications in other provisions. One modification would regulate a distributing plant located in the marketing area under the order even if a greater proportion of its fluid milk sales is made in another Federal order marketing area.

The decision also provides for some price restructuring that would increase the Class I price by 15 cents in eastern New Mexico (Clovis). In addition, the decision provides for reducing the Texas order Class I differential by 12 cents per hundredweight and for establishing a minus 21-cent location adjustment in Zone 6 of the marketing area. Other conforming location adjustment changes are recommended for the Texas and Southwest Plains orders to recognize the pricing structure of the recommended order.

The recommended changes, which are based on industry proposals considered at a public hearing held December 6–8, 1989, in El Paso, Texas, are necessary to reflect current marketing conditions and to assure orderly marketing in the respective areas.

DATES: Comments are due not later than November 28, 1990.

ADDRESSES: Comments (five copies) should be filed with the Hearing Clerk, room 1083, South Building, United States Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 447–2089.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. The amendments would promote orderly marketing of milk by producers and regulated handlers.

Prior document in this proceeding:

Notice of Hearing: Issued November 21, 1989; published November 27, 1989 (54 FR 48753).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and the orders regulating the handling of milk in the respective marketing areas. This notice

is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, DC, 20250, by the 30th day after publication of this decision in the Federal Register. Five copies of the exceptions should be filed. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments set forth below are based on the record of a public hearing held at El Paso, Texas, on December 6–8, 1989, pursuant to a notice of hearing issued November 21, 1989 (54 FR 48763).

The material issues on the record of hearing relate to:

1. Interstate commerce, merger of marketing areas under one order, and expansion of the marketing area.

2. Provisions of the merged order with respect to:

(a) Milk to be priced and pooled;

(b) Classification of milk, class prices and other uniform provisions;

(c) Distribution of proceeds to producers; and

(d) Administrative provisions.

3. Location adjustments under the merged order and the Texas and Southwest Plains orders.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Interstate commerce, merger of marketing areas under one order and expansion of the marketing area.* The handling of milk in the proposed merged and expanded marketing area is in the current of interstate commerce and directly burdens or obstructs interstate commerce in milk and milk products. Interstate commerce is involved in both the procurement and sale of fluid milk and dairy products by handlers operating plants in the proposed marketing area.

The proposed merged and expanded marketing area, designated as the New Mexico-West Texas" marketing area, includes the present adjacent marketing areas of Order 120 (Lubbock-Plainview, Texas), Order 132 (Texas Panhandle), and Order 138 (Rio Grande Valley), and presently unregulated territory in the States of New Mexico and Texas. The marketing area includes territory in three states (the entire State of New Mexico, 43 counties in the State of Texas and three counties in the State of Colorado).

Associated Milk Producers, Inc. (AMPI), proposed the marketing area merger and expansion that is adopted herein. AMPI operates a manufacturing plant at El Paso that is pooled under Order 138 and represents virtually all of the dairy farmers who would be producers under the merged order. AMPI also supplies all of the plants operating in the area that would be regulated under the order.

AMPI testified that the area constitutes a single fluid milk market and that all handlers should be subject to the same terms and provisions. AMPI noted that there are significant differences with respect to definitions, pooling, payment and administrative provisions of the three orders. AMPI contended that, because of different diversion limitations and pooling provisions, it is administratively difficult to keep milk moving from a common New Mexico production area to plants that are regulated under different orders.

AMPI testified that a primary reason for merging the markets is to provide for a broader sharing of the reserve milk supplies among all producers who supply distributing plants regulated under the separate orders. Because of different pooling standards and the small size of the Order 120 and Order 132 markets, AMPI testified that it is difficult to apportion reserve milk supplies among the separate markets. AMPI testified that the consequences of pooling reserve milk supplies of each market on the Order 138 market have the result of reducing the Order 138 blend price in relation to the blend prices for Orders 120 and 132.

For example, AMPI noted that the Class I utilization during the first nine months of 1989 was about 86 percent under Order 120 and 76 percent under Order 132. During the same period, Order 138 experienced about a 57 percent Class I use. During this period the blend prices under Orders 120 and 132 averaged $13.86 and $13.65 per hundredweight, respectively, compared to a blend price of $11.13 under Order 138. AMPI testified that these announced blend price differences present difficulties for the cooperative in explaining the basis for the reblended payments that are made to its producer members in a common production area.

AMPI's proposal to merge the marketing areas was supported by a number of interested parties. There was no opposition expressed to the merger by any party, either at the hearing or in briefs.

A relatively small amount of milk is regulated under each of the three separate orders, although Orders 120 and 132 are substantially smaller than Order 138. Currently, about 10 million pounds of milk per month is regulated under Order 120 and about seven million pounds under Order 132. Of these amounts, in excess of 85 percent is used in Class I under Order 120 (about 8.5 million pounds per month) and over 77 percent is used in Class I under Order 132 (about 5.3 million pounds per month). Over 50 million pounds of producer milk per month is regulated under Order 138 with less than 58 percent being priced in Class I (about 28.8 million pounds per month). Combined, these averages reflect about 67 million pounds per month of producer receipts and a Class I utilization of about 64 percent (about 43 million pounds per month.) Additional quantities of milk and Class I sales, however, would be regulated under the merged order because a plant that is now regulated under the Texas order (Order 126) would be regulated under the merged order. Elimination of these smaller volume markets, through consolidation, will tend to promote a greater degree of marketing stability throughout the marketing area.

A structural relationship exists among the markets to be merged in terms of both overlapping sales and procurement areas. In fact, such a relationship extends beyond the boundaries of the proposed marketing area to include neighboring Federal order markets. Such a situation exists because of the ever-increasing sales areas exhibited by a number of milk processing plants. Also, AMPI, as the primary supplier of raw milk supplies for plants in the three markets, operates throughout a number of other Federal order markets included in its Southern Region that extends well beyond the area in question. However, there is a sufficient association among the three markets to warrant the proposed consolidation as a step in recognizing the regionalization of milk marketing activities that has been occurring.

Two distributing plants located in Lubbock that are operated by Borden and Dean Foods are regulated under Order 120. The Bordan plant has fluid milk sales in nonfederally regulated territory and within the marketing areas of Order 126 (Texas) and Order 132. The Dean plant has distribution into the marketing areas of Orders 132 and 138. Within the Order 120 marketing area, the two plants account for more than 85

percent of the total route disposition. Plants regulated under Orders 126 and 132 also have sales in the Order 129 marketing area with Order 126 accounting for more than 10 percent of the total in-area route disposition and Order 132 accounting for the remaining route disposition.

Two distributing plants located in Amarillo that are operated by Borden and Plains Creamery were regulated under Order 132 at the time of the hearing. Both plants had sales into the Order 136 marketing area. The Plains Creamery plant also had fluid milk sales into Order 120, the marketing areas of Orders 106 (Southwest Plains), 126, and 137 (Eastern Colorado) and in nonfederally regulated territory. For the most recent month for which data is available, the two regulated plants accounted for about two-thirds of the total route disposition in the Order 132 marketing area. Remaining route disposition in the Order 132 marketing area originates from plants regulated under Orders 106 (about 17 percent, Order 126 (over 12 percent), and Order 120 (about four percent). The sales relationship between plants regulated under Orders 120 and 132 is likely to increase as a result of the closing of the Borden plant at Amarillo in December 1989.

Five distributing plants are currently regulated under Order 136. Three of the plants are located in El Paso and are operated by Borden, Dean and Farmers Dairies. Two plants, operated by Borden and Dean, are located in Albuquerque. None of these plants have sales in other Federal order marketing areas although all of the plants, except for Borden at El Paso, have sales in nonfederally regulated territory. The five regulated plants account for about 77 percent of total route disposition in the Order 136 marketing area. The plants that are regulated under Orders 120 and 132, combined, account for a little more than 5 percent of route disposition in the marketing area. Other plants regulated under Orders 126, 131 (Central Arizona), 134 (Western Colorado) and 137 account for about 7 percent of route disposition in the marketing area. In addition, nine producer-handlers that are regulated under the order account for more than 9 percent of route disposition in the marketing area.

One additional distributing plant that is located in Clovis, New Mexico, (Gold Star) is regulated under Order 126. Although located within the Order 136 marketing area, it has been regulated under Order 126 since it began operating in February 1989 because a greater proportion of its distribution is in that marketing area. The Gold Star plant is a specialized operation that markets a relatively limited fluid milk product line that is distributed in corrugated boxes through warehouse distribution centers. The distribution area of the plant, which extends through the warehouses that it supplies, covers a broad territory that includes population centers in Louisiana, Texas, New Mexico, Colorado and Oklahoma. Regulation of the plant under the merged order, for reasons set forth under a following issue, will result in regulated plants having a greater proportion of total route disposition in the marketing area than is suggested by record data.

Arrangements for supplying the raw milk needs of distributing plants are made primarily by AMPI. As previously stated, AMPI supplies each of the distributing plants operating in the area with all or part of their fluid milk needs. Milk supplies that are excess to the needs of distributing plants are processed at AMPI's El Paso manufacturing plant that is regulated under Order 136. Milk production that is in excess of all plant capacity in New Mexico and western Texas is shipped by AMPI to distant plants located outside the proposed marketing area for processing. Thus, AMPI performs a major function in supplying and balancing the fluid milk needs of distributing plants and marketing milk that is in excess of fluid milk needs and available plant capacity in the area.

In total, milk production within the proposed order area is surplus to plant needs, although milk production is not distributed uniformly throughout the area. The western Texas areas in Orders 120 and 132 are deficit milk-producing areas whereas a substantial surplus exists in New Mexico. New Mexico represents a primary source of supply for all of the distributing plants operating in the area. This is indicated by the sources of producer milk data for each of the orders for the months of May and September during the years 1985 through 1989.

During May 1985, about 50 percent of the milk pooled on Order 120 originated in New Mexico and 50 percent originated in the western Texas counties in the Order 120 marketing area. The reliance on New Mexico production increased substantially to the point where such production represented more than 91 percent of the milk pooled under the order during May and September 1989. Most of this New Mexico production originated in the eastern counties of the State, particularly the counties of Chaves and Lea. In addition to AMPI, Southern Milk Sales (SMS), a cooperative association that represents several producers, began supplying one of the Order 120 distributing plants in July 1989. Such milk also originated in eastern New Mexico.

New Mexico production has also been a significant supply source for Order 132 distributing plants. During the month of May for the years through 1989, New Mexico production has represented as much as 84 percent and as little as 30 percent of the Order 132 milk supply. During the month of September, New Mexico production represented as much as 70 percent (1988) and as little as 7 percent (1989) of the Order 132 milk supply. The data for September 1989 reflect a restructuring of the milk supplies as well as a decline in the amount of milk pooled under the order. Most of the New Mexico production originated in the eastern counties of the State, particularly the counties of Chaves and Roosevelt.

The primary source of supply for Order 136 handlers is New Mexico and El Paso County, Texas, which is in the Order 136 marketing area. A small amount of milk also originates in two Colorado counties that are within the marketing area. New Mexico production consistently represents in excess of 80 percent of total producer milk while El Paso represents from about 11 to 18 percent of milk pooled under the order.

There are three major production areas in the Order 136 marketing area. The heaviest concentration of production is in the southern part of the marketing area in the two adjacent counties of Dona Ana in New Mexico and El Paso in Texas. More than 43 million pounds of milk was produced in these two counties in September 1989 and more than 48 million pounds in May 1989. Milk produced in these counties is regulated under Orders 136 and 126.

Another primary production area includes the eastern New Mexico counties of Chaves, Lea and Roosevelt. Production in these three counties exceeded 39 million pounds in September and May of 1989. Milk from this three-county area is regulated under each of the orders to be merged as well as Orders 106 and 126.

A third concentration of production is located in the center of New Mexico and includes the three counties of Bernalillo, Socorro and Valencia. Milk production in this area exceeded 17 million pounds in September 1989 and 18 million pounds in May 1989. Milk from this area was regulated under Orders 136 and 106 during May and also Order 126 during September.

Total milk production in the eight counties cited above exceeded 100 million pounds in September and 106 million pounds in May. Such production is substantially in excess of the total amount of producer milk pooled under the three orders. About 80 million pounds of producer milk was pooled under the three orders in September and about 70 million pounds in May, indicating a surplus of production over producer receipts of about 40 million pounds in September and 36 million pounds in May. In terms of producer milk in Class I use for the three orders (46 million pounds in September and 43 million pounds in May), there was about 34 million pounds of surplus production in September and 63 million pounds of surplus production in May originating in this eight-county area. Milk in excess of the fluid milk and plant requirements was pooled under Orders 106 and 126.

There are five counties within the current three marketing areas that had a 1987 population in excess of 100,000. These include three West Texas counties of Potter, which includes Amarillo (105,000), Lubbock (228,000) and El Paso (573,000). In New Mexico, the greatest population is in Bernalillo County, which includes Albuquerque (466,000) and Dona Ana County, which includes Las Cruces (129,000). All of the milk plants that would be fully regulated under the merged order are located in these population centers with the exception of the Gold Star plant at Clovis (Curry County).

Merger of the three marketing areas under one order will tend to promote a greater degree of marketing stability simply by the formation of a larger volume market. The announcement of a single blend price that reflects the utilization of milk over a broader area will be more meaningful and less confusing to producers in a common production area than the announcement of three blend prices that are not entirely reflective of marketing conditions. In fact, absent a merger of marketing areas, statistical information would not be available for release under Order 132 as a result of the December closing of the Borden plant at Amarillo. Furthermore, a merger will recognize the structural relationship among the markets that is exhibited by the overlapping of sales and procurement areas that exists. The three separate orders are no longer viable in view of the marketing practices of handlers and suppliers of raw milk that extend beyond current marketing area boundaries. The application of one order will promote marketing and administrative efficiencies by applying the same terms and provisions to regulated handlers.

In addition to a consolidation of the three marketing areas, the marketing area should be expanded to include currently unregulated territory in New Mexico and western Texas. The marketing area should include the two western Texas counties of Lipscomb and Parmer and the five New Mexico counties of Catron, Cibola, Colfax, Hidalgo and Union. All of the counties are relatively sparsely populated, with the greatest population being in Cibola County (21,000). The territory in this county was formerly a part of Valencia County, which has been a part of the Order 130 marketing area since the inception of the order. Thus, its inclusion within the marketing area will not add any territory that was not previously included in the marketing area.

The six remaining counties that should be added to the marketing area are either adjacent to or completely surrounded by Federally regulated territory. Colfax and Union Counties are located in the northeastern corner of New Mexico while Catron and Hidalgo are in the southwestern area of the State. Lipscomb County is in the northeastern corner of the panhandle area of Texas while Parmer County is on the western border of the State and is surrounded by the current marketing area of Orders 120, 132 and 138.

There are no known processing plants operating in any of the added territory. Inclusion of this territory will simplify the administration of the order and the recordkeeping and reporting requirements of regulated handlers who have sales in these counties. Currently, plants with sales in these counties must designate such sales as route disposition that is made outside the marketing boundaries. Such information is necessary for determining pool plant status. The inclusion of these counties within the marketing area will alleviate the need for this additional sales area data with respect to these counties.

The merged order adopted herein continues the use of the part number for the present Rio Grande Valley order, part 1138. The amended part 1138, upon issuance, would supersede parts 1120 and 1132.

Although the present three orders would no longer exist upon effectuation of the New Mexico-West Texas order, this merger action is not intended to preclude the completion of those procedures that would otherwise have existed under the separate orders with respect to milk handled prior to the effective date of the merger. Such procedures, which would need to be carried out after the merger date, include the announcement of certain class prices and butterfat differentials, submission of reports, computation of uniform prices, payment of obligations and verification activities. The provisions of the merged order would apply only to that milk handled after the effective date of the merger.

2(a) *Milk to be priced and pooled.* It is necessary to designate what milk and which persons would be subject to the merged order. This is accomplished by providing definitions to describe the persons, plants and milk to which the applicable provisions of the order relate.

The definitions included in the order serve to identify the specific types of milk and milk products to be subject to regulation and the persons and facilities involved with the handling of such milk and milk products. Definitions relating to handling and facilities are "route disposition," "plant," "distributing plant," "supply plant," "pool plant," and "nonpool plant." Definitions of persons include "handler," "producer-handler," "producer," and "cooperative association." Definitions relating to milk and milk products include "producer milk," "other source milk," "fluid milk product," "fluid cream product," "filled milk," and "product prices."

Only two of the definitions were of particular issue at the hearing, the pool plant definition (as it relates to plants located in the marketing area that meet the pooling standards of more than one order) and the producer-handler definition. All of the remaining definitions are patterned after the adjacent Southwest Plains order. Official notice of the final decision setting forth the need and basis of such provisions in the Southwest Plains order was taken at the hearing. Also, each of these definitions is contained in one or more of the current orders to be merged. Although there are some differences in style and form, the substance of the definitions is basically the same and is carried out in the merged order. A discussion of those definitions that were of particular issue at the hearing, as well as those that involve substantive modifications, is set forth below.

Pool plants. Essential to the operation of a marketwide pool is the establishment of minimum performance standards to distinguish between those plants substantially engaged in serving the fluid needs of the regulated market and those plants that do not serve the market in a way or to a degree that warrants their sharing in the Class I utilization of the market. The pooling standards that are contained in the

attached order would carry out this concept under present marketing conditions.

The pooling standards contained herein were proposed by AMPI and were not opposed by any party. The pooling standards provide for three categories of pool plants: Distributing plants, supply plants and plants located in the marketing area that are operated by cooperative associations that supply the market. All three of the current orders provide for pooling distributing plants and supply plants while the Rio Grande Valley order provides for pooling cooperative association plants.

With respect to distributing plants, each of the three current orders provides two measures to determine whether the performance of such plants in supplying the fluid market is sufficient to warrant their inclusion in the marketwide pool. One standard reflects a plant's overall performance in distributing fluid milk products while a second standard reflects each plant's performance in distributing fluid milk products within the marketing area. Each order, however, specifies the degree of performance in different ways and relies on different measures of milk receipts.

For example, the Lubbock-Plainview order defines a pool distributing plant as one from which there is route disposition (a delivery of a fluid milk product) that is equal to not less than 50 percent of the Grade A milk received at the plant from dairy farmers and from a cooperative association that is a handler for milk received at the plant unless the volume disposed of in the marketing area is less than 15 percent of such receipts. The Texas Panhandle order specifies that a volume of Class I milk be disposed of on routes that is not less than 50 percent of receipts of Grade A milk from dairy farmers, cooperative association handlers, and from other plants, and that not less than 15 percent of such receipts is disposed of in the marketing area. The Rio Grande Valley order specifies that route disposition in the marketing area be equal to not less than 15 percent of the total Class I sales of the plant and that the total quantity of Class I milk be not less than 50 percent of such plant's receipts of Grade A milk, including milk diverted from the plant to a nonpool plant of the handler operating the plant.

The pooling standards for distributing plants contained herein provide for the use of a plant's total route disposition and route disposition in the marketing area as a percentage of such plant's milk receipts. However, the 50 percent overall requirement and the 10 percent in-area requirement should be based on the plant's total receipts of fluid milk products rather than the varying limited receipts of milk that are specified in the current orders. Reliance on a plant's total receipts of fluid milk products, including producer milk diverted from the plant, represents a better measure of a plant's performance in supplying the fluid milk needs of the market than the current pooling standards of the three orders. The term "fluid milk product" encompasses the receipts that collectively are currently specified under the three orders (milk from dairy farmers, cooperative association handlers and other pool and nonpool plants). Milk that is diverted from the plant, either by the plant operator or by a cooperatives association, also represents a supply of milk that is associated with the weekly or seasonal requirements of the particular plant's needs for fluid milk. As such, it is appropriate to utilize such receipts of milk in determining whether the plant should be pooled under the order. Likewise, milk that may be received by diversion from another pool plant is an integral part of the receiving plant's milk requirements.

A plant that distributes less than 10 percent of its receipts inside the marketing area should not be a fully regulated plant under the merged order. A plant with a limited association with the market is not a major competitive factor for fully regulated handlers whose sales are primarily in the marketing area. Only three partially regulated plants were identified as having sales within the consolidated marketing area. One of these plants is located in Kansas and two are located in California. Full regulation of such plants is not necessary to assure the orderly marketing of milk in the proposed market. Payment provisions that are currently applicable to such plants are contained in the merged order to assure that route disposition in the marketing area from such plants is treated in such a way as to minimize any buying advantage on raw milk relative to fully regulated handlers. Such payment provisions have been applicable under each of the three orders for many years.

A distributing plant that is located in the marketing area, and which meets the pooling standards of the merged order and another order, should be regulated under the merged order regardless of the quantity of fluid milk products distributed in any other order marketing area. However, such pool plant status should be accorded only as long as the merged order's Class I price at the plant location is not less than the Class I price that would be applicable at the plant if it were regulated under the provisions of another Federal order in which the plant has greater route disposition.

This provision to "lock" a plant into regulation under the merged order was proposed by AMPI and was opposed by several handlers who operate a number of plants that are regulated under either the three orders to be merged or adjacent Federal orders. The issue of determining the order under which a plant should be regulated centered on the marketing conditions that arise as a result of the operation of the Gold Star distributing plant located in Clovis, New Mexico. As indicated under a previous issue, the Gold Star plant is principally a fluid milk processing plant that has a wide distribution area. The plant is currently regulated under the Texas order since it has a greater proportion of its fluid milk sales in that marketing area than in any other Federal milk marketing area.

AMPI testified that even with a consolidation of the three marketing areas, it is anticipated that the plant would continue to have a greater proportion of its sales in the Texas marketing area. AMPI contends that the plant should be regulated under the merged order since it competes for supplies of milk in a common procurement area with other plants that would be regulated under the merged order, particularly plants that are located at Amarillo and Lubbock. Thus, AMPI contends that regulation under the merged order would assure that producers in the same production area would receive the same price. Furthermore, AMPI contends that regulation under the merged order would facilitate the shifting of milk supplies as needed among the Clovis, Amarillo and Lubbock plants. Currently, milk of producers who supply Lubbock and Amarillo plants cannot be shifted to the Clovis plant during certain months of the year because of certain provisions of the Texas order relating to the movement of producer milk supplies among markets.

A number of the handlers contended that the Gold Star plant should not be subject to pooling under the merged order if a greater proportion of its fluid milk sales is made in another Federal order marketing area. They maintain that plants should be regulated under the order where most of its sales are made so that the handler operating the plant is subject to the same terms and provisions as other handlers who are the primary competitors for sales of fluid milk products. They testified that the need to make an exception to such a policy (such as frequent shifts in regulation among orders as a result of

minor sales changes) is not evident with respect to Gold Star since the primary population centers served by the plant are located in the Texas marketing area. Handlers further maintained that regulating Gold Star under the merged order would result in removing a significant quantity of Class I sales from the Texas pool. The handlers maintained that Class I sales in the Texas marketing area should accrue to the benefit of all dairy farmers who are producers under the Texas order rather than dairy farmers who are producers under the merged order.

Regulation of the Gold Star plant under the merged order rather than the Texas order would have no impact on Gold Star's cost for milk at minimum order class prices. The Class II and Class III prices would be identical under both orders and the Texas order Class I price adjusted to the Clovis, New Mexico, location would be the same as the New Mexico-West Texas order Class I price at the same location. Currently, the Texas order recognizes the Class I prices that are established under the Rio Grande Valley order and provide for a minus $1.08 per hundredweight location adjustment at Clovis. Such location adjustment is the difference between the Texas order Class I differential of $3.28 and the $2.20 Class I differential that currently applies at Clovis under the Rio Grande Valley order. Recognition of the merged order's Class I price at Clovis would be continued under the Texas order, although the price levels under both orders would be modified to some extent as set forth under Issue No. 3. Since the classified use value of milk would be the same whether the plant is regulated under the merged order or the Texas order, a primary consideration is the difference in minimum order blend prices to producers that would be applicable under the respective orders at Clovis.

A Federal order blend price reflects the marketwide utilization of all producer milk associated with the market. The application of different order blend prices that reflect different supply and demand conditions to plants that rely on a common production area for a source of milk raises the potential for unstable marketing conditions in that the delivery of adequate supplies of milk for fluid use may be jeopardized. This would be expected since, all other factors being equal, dairy farmers would prefer to supply the plant at which the higher price applies. Consequently, the plant at which the lower blend price applies may have difficulty attracting a supply of milk even though identical class prices may apply.

It is not possible at this time to predict the blend price differences that may occur between the Texas and merged order. As previously stated, blend prices reflect a number of economic factors that influence supply and demand conditions in a given market. In addition, it is not possible to predict the amount of reserve milk supplies that will be pooled under the respective orders. With all the different factors involved, it would be extremely unlikely that the Texas order and merged order blend prices adjusted to the Clovis location would be the same.

The Rio Grande Valley order blend price has continually exceeded the Texas order blend price at Clovis since the location adjustment provisions of the Texas order were amended on September 1, 1986, to conform with the Class I differentials that were mandated in the 1985 Farm Bill. The Rio Grande Valley order blend price exceeded the Texas order blend by as much as 84 cents and by as little as 25 cents per hundredweight during September 1, 1986 through October 1989. It is not known if the Rio Grande Valley blend during this period is indicative of the blend prices that will result in the future. However, the Rio Grande Valley order is the largest and lowest Class I use market of the three orders that are being merged. Consequently, the blend price of the merged order, all other things being equal, would have exceeded the Texas blend at Clovis by somewhat greater amounts than previously indicated.

The Gold Star plant at Clovis is located deep within the proposed marketing area. The supplies of milk for the plant are primarily located in eastern New Mexico counties that are also a source of supply for other distributing plants at Amarillo and Lubbock that would be regulated under the merged order. As a result, this plant should be regulated under the merged order rather than under another order where most of its sales of fluid milk products are made. This will provide greater assurances that prices established at all plant locations (both class prices to handlers and blend prices to producers) will establish sufficient incentives for the delivery of milk for fluid use. There would be no assurance that regulating the plant under the order where it has the most sales would result in a price at such plant that is sufficient to attract milk to a specific location under the marketing conditions depicted.

The order should also provide shipping standards for pooling supply plants under the order on the basis of actual shipments of milk from such plants to distributing plants. The attached order provides for pooling a supply plant that transfers at least 50 percent of its receipts of milk during the month to pool distributing plants. The supply plant's receipts of milk would include the total quantity of milk received from dairy farmers and cooperative association handlers. Milk received from dairy farmers would include milk that is diverted from the supply plant as producer milk but would exclude milk received by diversion from another plant at the supply plant. Any supply plant that qualifies as a pool plant during each of the immediately preceding months of September through January should continue to qualify as a pool plant in each of the following months of February through August.

Each of the current orders that are being merged provides for pooling supply plants. However, there are no supply plants pooled under any of the orders and there is no recent history of supply plant activity in any of these markets. The production area is characterized by the existence of large dairy farms from which milk is moved directly to plants for processing without any need for the consolidation of milk supplies at supply plants. However, the merged order should provide for pooling supply plants in the event that any such plant should become associated with the market. In the event that such a plant were to become associated with the merged order, its performance should be based entirely on transfers of milk from such plant to pool distributing plants. No recognition should be given to milk that may be diverted from a supply plant to a distributing plant in determining whether the supply plant should be pooled under the order. Milk that is diverted from a supply plant to a distributing plant is essentially direct-shipped milk that, in effect, negates the necessity for the existence of the supply plant. Although some marketing efficiencies can result by basing the pooling performance in part on diverted milk, depending on the locations of the dairy farms relative to supply and distributing plants, there is no history of supply plant activity in these markets on which such a decision can be made. Consequently, in the absence of specific marketing conditions, the pooling standards for supply plants should be based on transfers of milk to recognize the traditional function of supply plants. In conjunction with the pooling standard, the supply plant definition contained herein also is restricted to

recognize transfers of milk to distributing plants.

The merged order should continue to provide for pooling cooperative association plants that are located in the marketing area as is currently provided under the Rio Grande Valley order. Such a provision recognizes the important function performed by cooperative associations in balancing the fluid milk needs of distributing plants.

Currently, there is only one manufacturing plant, operated by AMPI at El Paso, that is pooled under the Rio Grande Valley order. Such plant processes milk supplies that are in excess of the fluid milk needs of distributing plants. It is pooled under the order on the basis of AMPI's total performance in supplying the market.

Such a plant is currently pooled under the order if at least 50 percent of the milk delivered during the month by producers who are members of the cooperative association operating the plant is delivered to pool plants operated by other handlers. AMPI proposed that this overall pooling standard be reduced to 35 percent even though about 70 percent of its producer milk supply under the Rio Grande Valley order is delivered to pool plants. The lower pooling standard was proposed because AMPI anticipates that the substantial production increases that have occurred in New Mexico are likely to continue.

The Class I utilization of producer milk under the Rio Grande Valley order has declined from a yearly average of 72 percent in 1987 and 68 percent in 1988 to a ten-month average of 58 percent in 1989. However, the Class I utilization of producer milk under the order is not indicative of the milk production that is available in New Mexico. As previously stated, a substantial quantity of New Mexico production is pooled under the Southwest Plains and Texas orders. Consequently, the reduced pooling standard for cooperative association plants seems appropriate in view of marketing conditions.

The 35 percent pooling standard for a cooperative association plant that is located in the marketing area should be based on the total quantity of producer milk that is marketed by the cooperative association, not just the milk of members of the cooperative association. A true measure of the cooperative's overall performance must include all milk that is marketed. Also, the 35 percent standard should relate to shipments of milk to pool distributing plants, rather than shipments to pool plants of other handlers, in order to recognize the extent to which the cooperative association supplies the fluid milk needs of the market.

The pooling standards of the merged order for supply plants and cooperative association plants also provide for adjustments of up to 10 percentage points in the shipping standards by the Director of the Dairy Division. The opportunity to increase or decrease the shipping standards, if adjustments are needed to obtain additional shipments or to prevent uneconomic shipments, provides additional flexibility of the order to adjust to changes in supply and demand conditions.

The pool plant provisions of the order also specify that certain types of plants should not be pool plants. In addition to applying to "producer-handler" plants, such provisions basically pertain to distributing plants and supply plants that meet the pooling standards of other Federal orders. Such provisions are necessary to help eliminate the conflict that would otherwise exist if plants meet the pooling standards of more than one order.

Nonpool plants. A "nonpool plant" definition is provided to facilitate formulation of the various provisions of the order as they apply to such a plant. The three separate orders contain comparable nonpool plant definitions except that the Lubbock-Plainview order defines a "state institution plant" as a nonpool plant. It is also noted that the Rio Grande Valley order treats a governmental agency plant as a producer-handler.

The nonpool plant definition of the merged order includes the first four categories of nonpool plants that are contained in the three separate orders. This definition includes an "other order plant," a "producer-handler plant," a "partially regulated distributing plant," and an "unregulated supply plant." In addition, the merged order would include a "Governmental agency plant" as a nonpool plant, which basically incorporates a "State institution plant" that is currently defined in the Lubbock-Plainview order. Such a plant would be exempt from only the pricing and pooling provisions of the order, rather than from all order provisions as was proposed by AMPI. Such treatment would carry out the current regulatory treatment of the Rio Grande Valley order for a governmental agency plant. In addition, the merged order contains an "exempt plant" definition.

An exempt plant is defined as a plant that has a monthly route disposition of 150,000 pounds or less. The handler operating the plant would be exempt from the pricing and pooling provisions of the order, but would be required to file reports and maintain adequate books and records to allow the market administrator to verify the exempt status.

The exemption was proposed by AMPI on the grounds that a plant with such a limited volume of sales would not be a major competitive factor in the market. AMPI testified that one plant that was operating at the time the proposal was submitted would have qualified for the proposed exemption, but such plant ceased operations before the hearing was held.

It is noted that the 150,000-pound monthly size limitation for an exempt plant is substantially less than the average size of producers that are currently associated with these markets. Consequently, it would appear that a plant of such size would not be a disruptive factor in the market either in terms of sales of fluid milk products or in the procurement of raw milk supplies. Thus, the proposal, which was not opposed by any party, is adopted in the merged order.

Handler. The impact of regulation under an order is primarily on handlers. The handler definition identifies persons who will have responsibility for filing reports and making payments for milk under the merged order. The degree of regulatory responsibility of the various categories of handlers is specified in other provisions as is currently provided under the separate orders. The attached order designates handler status for the following persons:

(1) Any person who operates a pool plant;

(2) A cooperative association with respect to milk of producers that is diverted for its account;

(3) A cooperative association with respect to bulk tank milk of producers that is picked up at the farm for delivery to the pool plant of another handler;

(4) The operator of a partially regulated distributing plant;

(5) A producer-handler and any person who operates an exempt plant or a governmental agency plant; and

(6) The operator of an other order plant from which milk is disposed of in the marketing area and the operator of an unregulated supply plant.

The attached handler definition is a composite of the handler definitions of the three orders being merged and the definition proposed by AMPI. The AMPI proposal is similar to the current three orders, but excluded persons who operate other order plants and unregulated supply plants. No testimony or reasons were provided as to why such persons should be excluded from the handler definition. Since such persons are currently defined as

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handlers and in the event that reports of milk receipts and disposition are needed from such persons by the market administrator, the merged order provides for a continuation of such designation. Also, the merged order identifies as handlers persons who operate an exempt plant or a governmental agency plant since such categories of nonpool plants are recognized under the order.

The AMPI proposal provided for a modification of the cooperative association bulk tank handler provision that is incorporated in the merged order. Each of the current orders provides that a cooperative association can be the handler on milk that is picked up at the farm for delivery to the pool plant of another handler in a tank truck owned and operated by or under the control of the cooperative association. However, two of the orders provide the cooperative association with the option to not be the handler on such milk by notifying both the market administrator and the handler operating the pool plant.

The attached order permits the pool plant operator to be the responsible handler on such milk if both the cooperative association and the pool plant operator notify the market administrator prior to the milk movement that they have agreed to this handling arrangement. The plant operator would also have to agree to purchase the milk on the basis of weights and tests determined at the farm. Under this arrangement the pool plant operator would be responsible for the milk in the same manner as producer milk received from individual producers at the plant directly from the farm. If the cooperative association and the pool plant operator do not agree on this handling arrangement, then the cooperative association would be the handler on such milk.

Producer-handler. The merged order provides for the exemption of a "producer-handler" from the pooling and pricing provisions of the order. The definition of a producer-handler that is contained in the merged order is the definition that is currently contained in the Rio Grande Valley order. Such definition is modified slightly to remove language that is no longer necessary and to specifically provide for the use of nonfat dry milk to fortify fluid milk products.

Each of the current orders being merged contains a producer-handler definition. The three definitions are significantly different in both construction and substance. The only relevant definition of the three, however, is the Rio Grande Valley order definition since there are no producer-handlers operating under the Lubbock-Plainview or Texas Panhandle orders.

In general terms, the Rio Grande Valley order defines a producer-handler as a person who processes and packages his or her own farm's milk production for route distribution in the marketing area. A producer-handler cannot receive fluid milk products from other dairy farms or from any source other than a pool plant. Purchases of fluid milk products from pool plants are limited to 11,000 pounds per month. The order also provides that a person who desires to qualify as a producer-handler must furnish proof to the market administrator that the care and management of all the dairy animals and other resources necessary to produce the fluid milk products handled is the personal enterprise of and at the personal risk of such person. The order also provides that the operation of the processing and distribution business must also be the personal enterprise of and at the personal risk of the same person.

The Rio Grande Valley order also defines a governmental agency plant and dairy farmers who produce and market "certified" milk as producer-handlers. These two aspects of the definition are deleted from the merged order definition since a governmental agency plant is handled under another provision and because there are no longer any certified milk producers.

AMPI testified that all persons operating plants that have route disposition in the marketing area should either be fully or partially regulated by the merged order. However, AMPI also testified that if it is the policy of the Department to provide an exemption from full regulation of persons who basically distribute only their own farm production on routes in the marketing area, then the producer-handler definition contained in the hearing notice should be adopted.

AMPI's proposed producer-handler definition contains substantial regulatory language that is designed to specify in greater detail than current provisions those criteria which the market administrator must consider in determining whether a person qualifies as a producer-handler. Generally, AMPI testified that the detailed provisions address the issue of whether the production, handling and distribution functions are attributable to the same person and whether such persons interact with other producers or handlers. Basically, AMPI testified that the proposed definition carries out the concept of the current definitions by requiring that a producer-handler exercise complete and exclusive control over the operation, both at the plant and farm level. Also, a producer-handler would be prohibited from being directly or indirectly associated with the business or management of, or having a financial interest in, any other handler's or producer's operation. In addition, the proposal would limit a producer-handler's purchases from pool plants to the lesser of 5 percent of Class I disposition or 5,000 pounds per month.

Two handlers that operate fully regulated plants supported AMPI's position with respect to producer-handlers. One handler testified that producer-handlers who are big enough to be a factor in the market should be fully regulated. The other handler testified that producer-handlers have a competitive advantage over fully regulated handlers since producer-handlers are not required to pay at least the minimum order Class I price for milk disposed of in fluid milk products. Also, the handler testified that the area is characterized by the existence of large production units, both among producers and current producer-handlers. Consequently, the handler testified that the producer-handler definition should continue to limit the amount of milk that producer-handlers can purchase from other handlers. The handler basically expressed the view that if producer-handlers were able to purchase unlimited supplies of milk from pool plants, they would have an advantage in competing with regulated handlers for fluid milk accounts because they are not fully subject to classified pricing.

Five producer-handlers that are currently regulated under the Rio Grande Valley order opposed the producer-handler definition proposed by AMPI. As an alternative, they proposed that the producer-handler definition of the Southwest Plains order be implemented in the merged order. They contend that the permitted purchases from pool plants (both in the AMPI proposal and the current Rio Grande Valley order) are overly restrictive for a producer-handler operation. They contend that producer-handlers are in general becoming a lesser factor in Federal order markets, even in those markets where there are no limits on the amount of regulated milk that producer-handlers can purchase. Furthermore, they argue that since purchases from pool plants accrue to the benefit of all producers who supply the market, there need not be any restriction on such purchases.

The producer-handlers also testified that they do not have a competitive advantage over regulated handlers because of the costs associated with

producing and balancing their own supplies of milk. Furthermore, they contend that they can only service certain types of accounts because their own farm production cannot be easily increased or decreased to meet varying sales volumes. Thus, the producer-handlers maintain that they are not able to compete with regulated handlers for sales to institutions, schools, or large-volume accounts whose demand for fluid milk products may fluctuate substantially.

The marketing of milk by producer-handlers in a regulated market has the potential of creating disorderly marketing conditions. When milk of a producer-handler is sold in a Federal milk marketing area, such milk is not priced by the order. In such case, the order does not provide uniform regulated pricing among competing handlers since fully regulated handlers must pay the minimum order Class I price for milk in fluid uses while producer-handlers are not required to do so. This raises the potential for competitive inequities among handlers. Furthermore, there is not an equal sharing among all dairy farmers in the market of the returns from the sale of all milk in all uses since producers whose milk is being priced under the order do not share in the Class I sales of producer-handlers.

The potential for producer-handler activity in a regulated market to be disruptive is minimized to the extent that they are required to be self-sufficient in their operations by order provisions. Generally, producer-handlers do not have a demonstrated advantage in a market in their capacity as either handlers or producers as long as they are solely responsible for their production and processing facilities and assume essentially the entire burden of balancing their production with their fluid milk needs. The degree to which producer-handlers must bear the risk of their total operations, including distribution activities, is a function of market characteristics and is the primary issue involved with respect to the producer-handler definition of the merged order.

Producer-handlers have historically represented a significant proportion of the fluid milk products distributed in the Rio Grande Valley marketing area. The nine producer-handlers regulated under the order during the most recent four months for which data is available (July-October 1989) represented as much as 9.7 percent and as little as 9.2 percent of route disposition in the marketing area.

Over time, the number of producer-handlers has gradually declined from 14 in January 1985 to the nine that are currently operating. During this time period, the proportion of sales each month by producer-handlers has generally tended to increase from about 7 or 8 percent in 1985 to 9 or 11 percent in 1989.

In view of the influence of producer-handlers in the Rio Grande Valley market, the producer handler definition of the merged order should not be relaxed to allow unlimited purchases from pool plants as proposed by producer-handlers. The Southwest Plains order definition that they proposed is not appropriate for the merged order. The marketing conditions of the Southwest Plains order are significantly different from those of the Rio Grande Valley order. Producer-handlers are an insignificant factor in terms of the Southwest Plains market in that such handlers represent less than 1 percent of sales in that marketing area. In addition, the producers who supply the Southwest Plains market are on average substantially smaller than those who supply the Rio Grande Valley market. In terms of the average daily deliveries per producer, producers who supply the Rio Grande Valley market are about 10 times larger than those who supply the Southwest Plains market. If any of these larger producers should acquire producer-handler status, they could represent a significant volume of fluid milk sales that would not be priced under the order.

In view of the production characteristics and the role played by producer-handlers in the Rio Grande Valley market, the producer-handler definition of the merged order should continue to require that producer-handlers bear a significant proportion of the risk of their total operations in order to be exempt from the pricing and pooling provisions of the order. Unlimited purchases from pool plants would amount to a reduction of the risk currently required of producer-handlers, even though such purchases would accrue to the benefits of all producers. Unlimited purchases from pool plants, in effect, results in nothing more than allowing producer-handlers to transfer a portion of the cost of balancing their milk supplies to other producers who supply the market. In order to assure that producer-handlers are bona fide operations that assume essentially all of the risk, the Rio Grande Valley order has restricted purchases from pool plants to 11,000 pounds per month since the inception of the order in 1962.

The Rio Grande Valley order producer-handler definition differs from that of the Southwest Plains in another significant manner. The Rio Grande Valley order requires that the distribution business, as well as the production and processing facilities, must be the personal enterprise of and at the personal risk of the same person. The Southwest Plains order does not address the distribution activities in its definition. This aspect of the Rio Grande Valley order has also been included since the order's inception. The continuation of this requirement in the merged order essentially encompasses the major criteria for acquiring producer-handler status under the AMPI proposal, but without the unnecessary order language contained in that proposal.

The current Rio Grande Valley order producer-handlers have operated under that order's definition for a number of years. Thus, they are knowledgeable of the current requirements to maintain their exemption from the pricing and pooling provisions of the order. To the extent that they currently satisfy the requirements for producer-handler status, they would be expected to continue to retain their current status under the same provision in the merged order.

Producer-handlers should not be subject to the administrative assessment applied under the order to defray the cost of administering the order as was proposed by AMPI. None of the orders being merged apply such an assessment to producer-handlers. The principal beneficiaries of the market administrator's activities with respect to producer-handlers are the regulated parties in the market. They are assured that producer-handlers are operating in accordance with the order requirements for attaining a partial exemption from the order.

Producer and producer milk. The "producer" and "producer milk" definitions of the merged order identify those dairy farmers who constitute the regular source of supply for the merged market and the milk that would be priced and pooled under the order. Generally, the producer definition identifies those dairy farmers who can or cannot be producers while the producer milk definition sets forth greater details on the ways that such milk can be handled and be subject to pricing under the order. The three current orders carry out the same concept although the construction of the regulatory language differs among the three orders and two of the orders contain in the producer definition the different handling methods that will be specified in the producer milk definition. Both definitions provided herein follow closely the definitions proposed by AMPI, except for a few modifications.

"Producer" status under the merged order is provided for any dairy farmer who produces milk approved by a duly constituted regulatory agency for disposition in the marketing area and whose milk is received at a pool plant directly from the dairy farmer or received by a cooperative association as a bulk tank handler. Producer status is also accorded to a dairy farmer who has established an association with the market and whose milk is diverted to nonpool plants on occasion for surplus disposal by cooperatives or pool plant operators. Such standards for producer status are currently specified under each of the three orders.

The merged order also provides that certain categories of operations should be excluded from the producer definition. Such exemption applies to producer-handler operations, exempt plants and plants operated by a governmental agency. Since these operations are exempt from the pricing and pooling provisions of the order, milk which is excess to the needs of such operators should not be treated as producer milk when it is moved directly from the farms of such operators to a pool plant. Any such milk delivered to a pool plant from such operations would be other source milk.

In addition, the merged order precludes the possibility of a dairy farmer being a producer under two orders with respect to the same milk. This is currently provided under each of the current orders.

AMPI proposed that producer status should not be provided to any person who delivers milk to or receives milk from a producer-handler, an exempt plant or who has disposition of fluid milk products to consumers at the farm in excess of 110 pounds per day during the month. Such a provision is not contained in any of the current orders and is not necessary under the merged order.

Provisions discussed previously excluded producer-handler, governmental agency and exempt plants from being pool plants. Thus, any dairy farmers who ship milk from the farm to a governmental agency or exempt plants would not be producers under the order. Furthermore, producer-handlers cannot receive milk from dairy farmers without losing their exempt status. A producer-handler that receives milk from another dairy farmer would become a pool plant under the order and, consequently, the dairy farmer supplier would qualify as a producer. Also, milk shipped from any such facility to another person who operates a pool plant would be treated as other source milk.

The proposed provision appears to be directed primarily to a hypothetical relationship between these exempt operations and another dairy farmer. The situation would involve the movement of milk from the exempt operation to a dairy farmer who has producer status under the order. Apparently, AMPI is concerned that such a subterfuge would allow an exempt handler to obtain the order bland price for milk that is surplus to the fluid milk needs of the handler's operations.

With respect to a producer-handler, such a movement of milk would represent a transfer of a portion of the risk associated with the operation since other dairy farmers would be bearing a portion of the costs of balancing the milk supplies for the producer-handler. In the absence of bearing the total risk, the requirements of the producer-handler definition in the merged order would not be met. In any event, there was no evidence presented, or any suggestion of the existence of such a marketing problem with respect to any of these exempt operations. Likewise, there is no indication that dairy farmers may be selling unprocessed milk directly to consumers. In the absence of evidence of a marketing problem, these aspects of the AMPI proposal are denied.

Producer milk is generally that milk which is received by the operator of a pool plant, milk that is received by a cooperative association as a bulk tank handler for delivery to a pool plant, and milk that is diverted to a nonpool plant. This is the case with respect to each of the orders being merged and such definition is continued in the merged order as proposed by AMPI. Modifications that were also proposed by AMPI are also incorporated in the merged order. The modifications concern the treatment of milk that is in transit at the end of a month, the amount of milk that may be diverted to nonpool plants, the degree of association with the market required of individual producers, the manner of accommodating excess diversions to nonpool plants, and the pricing point for diverted milk. In addition, the merged order contains a procedure to deal with diversions of milk that would otherwise result in depooling a distributing plant.

The attached order provides for pooling producer milk under the order during the month in which it is picked up at the farm, even if such milk is not received at a plant until the following month. Under this procedure, such milk would be included in the responsible handler's end-of-month inventory and will be priced at the location of the plant where the milk is physically received in the following month. A uniform application of pooling milk in the month in which it is picked up at the farm will simplify accounting procedures and is consistent with the regulatory treatment of such milk in adjacent orders that also regulate handlers who will be operating plants under the merged order.

The merged order should continue to provide for the pooling of milk that is associated with the market but which may not be needed at fluid milk plants during certain days of the week or seasons of the year. The most efficient way of handling such milk is to allow it to be moved directly from the farm to nonpool plants for processing. Allowing milk to be diverted to plants other than where it would normally be received, either by a cooperative association or the pool plant operator, minimizes hauling and handling problems that may otherwise be associated with the marketing of milk that exceeds the need for milk at pool plants.

The diversion limitations proposed by AMPI, and which are adopted herein, are less restrictive than those of the current orders and are more reflective of current marketing conditions. In order for a dairy farmer's milk to be eligible for diversion to nonpool plants during the months of September through January, at least one day's production of milk must be received at a pool plant during each of these months. Such requirement recognizes the months of the year when supply/demand conditions are relatively tighter and assures that a producer's milk is eligible for use in fluid milk products. During other months, the milk of a producer need not be received at a pool plant.

In addition to the individual producer requirement, pool plant operators would be allowed to divert to nonpool plants a quantity of milk that does not exceed the total quantity of milk that is physically received at pool plants of the handler as producer milk. Cooperative associations would be able to divert a quantity of milk that does not exceed the quantity of producer milk that the cooperative association caused to be delivered to and physically received at pool plants during the month. Such overall diversion limitations would apply during each month.

Any milk diverted in excess of the prescribed limits would not be producer milk. In such event, the diverting handler may designate the dairy farmer deliveries that should not be producer milk. If the handler fails to make a designation, then milk diverted on the last day of the month, then the second-

to-last day of the month, and so on, should be excluded until all diversions in excess of the prescribed limits are accounted for.

The merged order provides that milk may be diverted from pool plants to nonpool plants by both cooperative associations and the operator of the pool plant. With more than one handler diverting milk from the same plant, it is possible that a plant might not meet the order pooling standards. This could occur because diverted milk is considered to be a receipt of milk at the plant from which it is diverted. Consequently, the order should provide that the quantity of diverted milk that would cause a plant to lose its pooling status not be producer milk. Such excess diversions should be prorated among the diverting handlers.

All diverted milk should be priced at the location of the plant where the milk is physically received. The application of consistent pricing of milk at the plant of physical receipt is consistent with the requirement that the order establish prices that are uniform among handlers, subject to the location at which the milk is received.

2(b) *Classification of milk, class prices and other uniform provisions.* Each of the three orders being merged have the same classification plan. Such a uniform classification plan was implemented in these and most other orders on August 1, 1974. The need and basis for the implementation of uniform classification provisions is set forth in the Assistant Secretary's final decision issued on February 19, 1974, and published March 6, 1974 (39 FR 8712). In addition to providing for the uniform classification of milk according to use, the plan includes rules for determining the classification of milk that is moved from one plant to another and the procedure for allocating a handler's receipts of milk and milk products from various sources to the utilization of such receipts in each class.

The officially noticed classification decision also provided for a uniform butterfat differential to producers and definitions of "fluid milk product," "fluid cream product," and "filled milk." The fluid milk product definition was further amended on August 1, 1975, on the basis of a final decision issued on July 11, 1975, and published July 17, 1975 (40 FR 30119). The application of these uniform provisions will be continued under the merged order.

Other provisions that are the same in each of the three orders and most other orders would also be continued under the merged order. These provisions concern the obligations of a partially regulated distributing plant and the minimum order class prices to handlers. Each of the three orders provide for the same basic formula price, which is the Class III price for the month, and the same Class II price. The Class II price as well as the definitions of "product prices" and the "basic Class II formula price," are based on a final decision issued July 8, 1981, and published on July 14, 1981 (46 FR 36151). The procedure for announcing and determining the Class II price was modified in the three orders being merged and 36 other orders on December 4, 1989, on the basis of a tentative decision issued on November 8, 1989, and published on November 15, 1989 (54 FR 47527). The final decision, issued on March 23, 1990, and the order amendments issued were unchanged from the tentative decision.

The determination of the Class I price for the three orders, as well as all other orders, is also the same and will be continued in the merged order. The announced Class I price will be the basic formula price for the second preceding month plus a fixed differential. The current Rio Grande Valley order Class I differential of $2.35 will be continued as the announced Class I price under the merged order. Also, the $2.49 Class I differential that is currently applicable to plants regulated under the Lubbock-Plainview and Texas Panhandle orders will also be continued under the merged order in the form of location adjustments to the announced Class I price.

With the exception of the Class I price level and location adjustments, AMPI proposed a continuation of all those provisions that are uniform among a large number of orders and the three orders being merged. There was no opposition to a continued implementation of any of these uniform provisions or any testimony to consider a need to deviate from uniform procedures. There was also no opposition to or any proposed alternative to the method of determining the Class I price for the merged order. The only area of controversy concerned the intramarket and intermarket alignment of Class I pricing. The discussion of this issue, as well as the basis for continuing the current Class I differentials, is set forth under issue No. 3. Consequently, a continued application of the uniform provisions will not result in any change in regulation for currently regulated handlers.

2(c) *Distribution of proceeds to producers.* The merged order, as well as the three separate orders, provides for distributing among all producers who supply the market the total proceeds derived from the use of their milk by handlers. Essential to the operation of the order is the requirement that handlers report their total receipts and utilization of milk each month. The total value of all milk at the minimum order class prices is combined by the market administrator to compute the average or uniform price payable to producers. Handlers whose use value of milk exceeds the average use value for the market pay the difference into the producer-settlement fund that is maintained by the market administrator for distribution to handlers whose use value is less than the marketwide use value. Through this procedure, all producers who supply the market are able to share equally in the proceeds from the sale of all milk in all its uses. This concept of the payment procedure is continued in the merged order. Additional provisions that pertain to the dates when payment obligations to the market administrator and producers are required vary somewhat from the current orders. These modifications would not affect the total obligation required of handlers under the order at class prices for milk.

The major change from the current payment plans contained in the three orders that is incorporated in the merged order pertains to additional regulatory incentives for handlers to make prompt and timely payments to producers. This payment plan, which is currently operational in the adjacent Southwest Plains order, specifies that any handler who is more than three days late in meeting any payment obligation under the order is required to make all payments to the market administrator for three consecutive months. During such period, the market administrator makes payments directly to producers and cooperative associations as would otherwise be required of the handler.

AMPI testified that any handler who fails to make payments by the due dates specified is in violation of the order. However, AMPI also testified that it is often difficult to initiate and complete enforcement action in a timely manner to deal with late-payment issues.

AMPI testified that the Southwest Plains order payment plan has been successful in encouraging handlers to make payments on time. The plan establishes an economic incentive and a business practice motive to make timely payments. Any delinquent handler (one who is more than three days late in making any payment) is required to make payments to the market administrator. Thus, a delinquent handler forfeits the right to pay individual producers and cooperative

associations for three consecutive months for milk receipts. Also, such payments to the market administrator are required to be made one day earlier than they would otherwise be due so that the market administrator is able to make the payments to producers on the due dates specified in the order.

The failure of a handler to make timely payments deprives dairy farmers of the use of their income and affects their ability to meet their economic obligations. Furthermore, late payments by a handler affects the uniformity of the application of the regulatory program among competing handlers. Those handlers who make payments in accordance with the order provisions are disadvantaged relative to handlers whose obligations are paid late.

The proposed payment plan should be adopted to promote timely payments by handlers. The plan will not have an impact on handlers who continue to make their payment obligations by the dates specified in the merged order.

The dates for payments under the order are predicated on receiving handlers' reports of their receipts and utilization of milk on the seventh day of the month. This is the same day on which reports are due under the current Texas Panhandle order and the adjacent Southwest Plains order that served as a model for the proposed payment plan. The uniform price is to be announced on the 12th day of the month, which is the same as the current date for the Rio Grande Valley order. Payments to the producer-settlement fund would be required on the 14th day of the month while payments from the producer-settlement fund to handlers would be due on the 15th of the month. The final payment by handlers to producers would be due on the 17th of the month while payments to a cooperative association would be due two days earlier. Such payment procedures and the dates for making payments are the same as those provided under the Southwest Plains order. The only deviation from the Southwest Plains order is that the uniform price announcement date is the 12th of the month rather than the 11th. The use of the 12th of the month, however, provides for the same two-day duration between the uniform price announcement and the date for making payments to the producer-settlement fund that exists under two of the orders being merged and an additional day from what the Rio Grande Valley order provides. All of these dates were proposed by AMPI and they were not opposed by any regulated handler.

The order should also provide for a partial payment to producers for milk delivered during the first 15 days of the month as is currently provided by each of the three orders being merged. The partial payment rate should be the uniform price for the preceding month as is provided by the Rio Grande Valley order. The partial payment should be due on the last day of the month as is currently required under the three orders being merged for milk received from producers.

AMPI proposed that the partial payment be due on the 25th day of the month for milk received from producers and two days earlier for milk received from cooperative associations. AMPI testified that the partial payment date should be earlier than the current dates to get money to producers at an earlier date.

For milk received by a handler from producers who are members of a cooperative association, the proposed partial payment date (23rd of the month) would be three days earlier than what is provided under the Lubbock-Plainview and Texas Panhandle orders and three to six days earlier than what is provided by the Rio Grande Valley order. On the other hand, the proposed final payment date would be one to two days later than the dates provided by the current order. Thus, the proposed payment dates are somewhat in conflict with the stated purpose of earlier payments to producers. Also, AMPI, which represents virtually all the producers who supply the markets, already pays its members a partial payment on the 23rd and a final payment on the 12th or 13th of the month. Consequently, changing the partial payment date would not appear to have any significant effect in meeting the stated objective.

AMPI's proposal would compress the payment schedule to provide eight days between the final payment for the previous month and the partial payment for the current month. Providing for a partial payment at the end of the month would provide as few as 11 and as many as 14 days between the final and partial payments. Thus, the adopted partial payment date would seem to provide for a more even distribution of proceeds to producers and workload for handlers. Also, such partial and final payment dates would be identical to those of the Southwest Plains order and result in greater uniformity of payment schedules throughout the region.

AMPI also proposed additional regulatory language to specify in greater detail the rate and manner for making payments to a cooperative association that is the handler on milk supplied to pool plants and for milk that is purchased by a handler from a pool plant operated by a cooperative association. Under the proposal, the partial payment would be at the uniform price for the previous month, although purchases from cooperative association pool plants could be adjusted by the butterfat differential for the previous month to better reflect the butterfat content of such purchases. The proposed final payment would be at the current month's blend price for milk purchased from a cooperative association handler and at class prices for milk purchased from a cooperative association pool plant. Such payment provisions are identical to those contained in the Southwest Plains order and should be equally appropriate for the merged order.

At the hearing, AMPI revised its proposal to distinguish between bulk fluid milk and bulk fluid cream products purchased from a cooperative association pool plant. AMPI suggested that the partial payment for bulk fluid cream products should be at the Class II price with a permitted adjustment for butterfat content.

The proposed modification would not change the total obligation for purchases from pool plants. Consequently, it does not appear necessary to complicate the payment provisions to differentiate between purchases of bulk fluid milk and cream purchases from cooperative association pool plants. Such a distinction is not recognized in any of the three orders being merged or adjacent Federal order markets.

2(d) Administrative provisions. A number of administrative provisions that are contained in the three orders must of necessity be continued in the merged order. Also, the separate funds that have been accumulated under each of the orders to defray the cost of administration and providing marketing services to producers, as well as the producer-settlement fund reserves, should be consolidated under the merged order. Consolidation of these funds provides an effective and equitable way of avoiding an interruption of services and regulations in the area. Any liabilities of such funds under the current orders should be paid from the appropriate new fund under the merged order. Similarly, any obligations that are due to the several funds under the individual orders should be paid to the appropriate combined fund under the merged order.

Each of the three orders provides for a maximum administrative assessment of five cents per hundredweight and

maximum marketing service deduction of six cents per hundredweight. Such rates should be continued under the merged order. Both the administrative assessment (which is paid by handlers) and the marketing service assessment (which is paid by producers) are established at maximum rates that can be reduced as circumstances warrant. The producer-settlement fund reserve of each of the three orders is maintained by deducting not less than four cents nor more than five cents per hundredweight in the uniform price computation each month while one-half of the unobligated balance in such fund is added to the price computation each month. Such process is continued in the merged order although a procedure is established to allow for a reduction to the producer-settlement fund reserve. This is accomplished by specifying that no more than five cents can be deducted in the uniform price computation. This procedure, as well as the continuation of the current assessment rates and the consolidation of the funds mentioned previously, were proposed by AMPI and were not opposed.

A proposal by AMPI to establish a charge on overdue accounts under the merged order should also be adopted. Such a charge is currently applicable under the Lubbock-Plainview and Texas Panhandle orders. Under the merged order, such charge on any unpaid obligation of a handler should be increased by one percent. The charges should apply on the first day the payment is past due and on the same day of each succeeding month until the obligation is paid. Payments subject to the charge would be those due from handlers to the producer-settlement fund, to producers and cooperative associations, for order administration, for marketing services and for audit adjustments.

Any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due should be considered to have been payable by the date it would have been due if the report had been filed when due. Also, the order provides that all late-payment charges shall accrue to the administrative expense fund.

A charge on overdue accounts is necessary to maintain a sufficient incentive for handlers to meet their financial obligations in accordance with the payment dates specified in the order. Effective administration of the order cannot be maintained if funds are not made available on a timely basis to meet all financial obligations associated with the administration of the order and payments for milk received from producers and cooperative associations. Late payments by handlers disrupt the operation of the order, disrupt the financial obligations of other parties, and result in inequities among handlers. Although handlers who pay late are subject to enforcement proceedings, the late-payment charge, in conjunction with the payment provisions adopted herein, may serve to lessen the need for such actions.

AMPI proposed that any late-payment charges that are applied should accrue to the fund to which the payments apply. This aspect of the proposal, however, should not be adopted. Rather, all charges on overdue accounts should accrue to the administrative fund since it is this fund that is used by the market administrator to enforce the payment provisions of the order on all handlers.

3. *Location adjustments under the merged order and the Texas and Southwest Plains orders.* The location adjustment provisions of the merged New Mexico-West Texas order should incorporate, for the most part, the pricing structure within the marketing area that currently exists under the three separate orders. The only pricing change that is necessary in the merged marketing area is the elimination of a minus 15-cent location adjustment in four eastern New Mexico counties that currently applies under the Rio Grande Valley order. No location adjustments should apply to milk that is priced under the merged order but which may be received at plants located outside the marketing area. Also, in order to recognize the creation of the merged order, conforming changes are necessary in the location adjustment provisions of the adjacent Southwest Plains and Texas orders. Both orders reference the three separate orders in their respective location adjustment provisions, and, thus, such provisions must be modified to reflect the marketing area consolidation and marketing area name change.

In conjunction with the 15-cent pricing change in eastern New Mexico, the Texas order Zone 1 Class I differential should be reduced by 12 cents per hundredweight. Such pricing change will reduce the entire price level for the Texas market since Class I prices paid by handlers and blend prices payable to producers for milk received at plants in all other pricing zones in the marketing area are specified as either plus or minus adjustments to the Zone l price. These pricing changes will result in reducing the difference in Class I prices between eastern New Mexico (Clovis) and the Texas market by 27 cents per hundredweight. Such pricing change will reflect the appropriate intermarket alignment of pricing that is necessary to recognize the cost of hauling milk from a common surplus production area to alternative outlets for Class I use. These pricing changes refine the west to east alignment of pricing that currently exists under the separate orders. In order to further recognize the increasing prices from west to east, a minus 21-cent location adjustment should be established in Zone 6 (San Angelo) of the Texas marketing area. Such zone is the westernmost zone in the marketing area and its western boundary is adjacent to the lower-priced eastern New Mexico production area.

The current Rio Grande Valley order utilizes a zone pricing system for establishing location adjustments for Class I prices paid by handlers and blend prices payable to producers. The order specifies three pricing zones although only two price levels are provided. Zone 1, which is the base zone for announcing Class I prices to handlers and blend prices to producers, includes El Paso county, Texas and most of the New Mexico territory (20 counties) in the marketing area. Zone 1 includes the major population centers in the marketing area and all of the distributing plants that are currently regulated under the order are located in such zone. No location adjustment applies to milk received at plants in Zone 1. Thus, the Class I price is the basic formula price for the second preceding month plus a Class I differential of $2.35 per hundredweight.

Zone 2 includes San Juan County in New Mexico and the three southwestern Colorado counties that are in the marketing area. A minus 15-cent location adjustment, or a $2.20 Class I differential, applies to such area, although there were no longer any fully regulated plants located in the area at the time of the hearing.

A minus 15-cent location adjustment also applies to Zone 3 of the marketing area, which includes seven eastern New Mexico counties. The Gold Star plant at Clovis and the Roswell production area are located in this Zone. As previously stated, the Gold Star plant is currently regulated under the Texas order and a $2.20 Class I differential is applicable at such plant under the Texas order as well as under the Rio Grande Valley order.

The Lubbock-Plainview order currently provides for a $2.40 Class I differential and no location adjustments are applicable within the marketing area. The Texas Panhandle order also provides for a $2.40 Class I differential.

The location adjustment provisions provide for reducing the Class I and blend prices by 1.5 cents per ten miles for plants that are located 100 miles or more from Amarillo. Such adjustment, however, is not applicable to any regulated plants. The Class I differentials for the two orders were increased to $2.40 effective May 1, 1986, as mandated by the Food Security Act of 1985. Prior to such date, the Lubbock-Plainview Class I differential was $2.42 and the Texas Panhandle Class I differential was $2.25.

The Texas order currently utilizes a pricing structure that provides for 13 pricing zones in the marketing area. Zone 1 (which includes the Dallas/Ft. Worth metropolitan area) is the basing point for announcing the Class I price to handlers and the blend price payable to producers each month. No location adjustment is applicable to milk received at plants in such zone, thus the order Class I differential of $3.28 is directly applicable in establishing monthly Class I prices. Monthly Class I and blend prices for milk received in all other zones are established by location adjustments to the Zone 1 price.

A minus 25-cent location adjustment applies to Zone 1A, which is northwest of Zone 1. Zones 2 and 6 are located east and west, respectively, to Zone 1 and currently no location adjustments are applied to milk received at plants in such zones. In effect, the $3.28 Class I differential is applicable in such zones and extends across the State of Texas from the western Louisiana border to the eastern New Mexico border. On the east the $3.28 Class I differential abuts with an identical differential under the Greater Louisiana order while on the west the $3.28 differential abuts with the $2.20 Class I differential that is applicable under the Rio Grande Valley order.

The current Texas order Class I differential was implemented on May 1, 1986, as a result of the 1985 Farm Bill and represents a 96-cent increase from the $2.32 Class I differential that existed previously. The previous Texas order Class I differential was three cents per hundredweight less than the Rio Grande Valley order Zone 1 differential that was not modified by the 1985 Farm Bill. The significant change in the east-west price relationship, which currently provides for a $1.08 per hundredweight difference between the Texas order and eastern New Mexico Class I differentials ($3.28–2.20), is the focal point for the price changing proposals considered at this hearing. It is noted that the pricing issue was previously considered at a regional hearing that was held on proposals to amend the location adjustment provisions of these orders to conform with the Class I differentials mandated by the Food Security Act of 1985. On the basis of that hearing, the Zone 6 plus 25-cent location adjustment was eliminated. The final decision setting forth the reasons for this and other pricing changes was issued on October 30, 1986 (51 FR 40176).

The remaining zones in the Texas marketing area are south of Zones 1, 2, and 6. Plus location adjustments are applicable to milk received at plants in such zones. The purpose of the higher prices in the southern zones of the marketing area is to compensate producers for the economic service they provide to handlers by hauling milk from northern production areas to the deficit milk producing area in the south for fluid use. A detailed explanation for the need and purpose of this pricing structure is set forth in the previously noticed final decision.

Resolution of the pricing issue involves a consideration of both the intramarket pricing structure for the merged marketing area as well as the intermarket pricing structure between the merged order and the Texas order. AMPI's location adjustment proposal was directed primarily towards the pricing structure within the merged marketing area. However, AMPI's proposed pricing change for the eastern New Mexico area would lessen the current price differences between Clovis and the Texas market. Handler proposals, on the other hand, focused primarily on the intermarket price relationship and were intended to reduce the price difference by a greater amount than would be provided by AMPI's proposal. Summaries of the various proposals, as well as the testimony presented as to the need and basis for the proposals, are as follows. Also, testimony in opposition to various aspects of the proposals, as well as testimony in opposition to any pricing change, is presented.

AMPI proposed that the zone pricing structure of the Rio Grande Valley order be extended to the merged marketing area, but with some price modifications. AMPI proposed that Zone 1 of the marketing area include El Paso County, Texas, and six southwestern New Mexico counties. For such zone AMPI proposed a $2.36 Class I differential, or five cents below the current price level applicable in the area. Zone 2 would include the same counties currently included in Zone II of the Rio Grande Valley order, with a minus location adjustment of 16 cents per hundredweight. Thus, the proposal would provide for the same price level that currently exists in such area and would reflect a Class I differential of $2.20.

All remaining territory in New Mexico would be included in Zone 3 with a plus five-cent location adjustment, resulting in a $2.35 Class I differential. This would result in maintaining the current price level in Albuquerque and increasing the price level at Clovis in eastern New Mexico by 15 cents per hundredweight. The proposal would also provide for including all remaining Texas territory in Zone 4 with a plus 14-cent location adjustment, or a $2.34 Class I differential. This would result in a 5-cent per hundredweight price decrease from the current price level at Amarillo and Lubbock.

AMPI testified that the 15-cent increase in eastern New Mexico is necessary to help bear the cost of hauling milk to the Gold Star plant at Clovis. AMPI testified that most of the milk supply for the plant originates in Chaves County (Roswell) and that the distance from the center of the production area to Clovis is about 100 to 110 miles. Thus, the implied hauling rate is about 1.5 cents per 10 miles. Also, AMPI testified that the nine-cent higher price at Lubbock, relative to Clovis, is necessary to reflect the additional 60-mile distance to haul milk to Lubbock from Roswell versus hauling the milk to Clovis. Such rate also equates to 1.5 cents per 10 miles.

AMPI also testified that the 1.5-cent rate was used because it is the rate for establishing location adjustments that is currently used under the three orders being merged. AMPI testified that actual hauling costs are in excess of 3.0 cents per hundredweight per 10 miles. In addition, AMPI testified that milk production in the Roswell area is utilized to supply milk to plants at Clovis and Lubbock and on occasion for plants at Amarillo and Albuquerque. Overall, AMPI testified that the pricing changes were intended to result in approximately the same amount of total dollars being paid to producers for milk under the merged order that exists currently under the three separate orders.

AMPI's proposed price increase at Clovis, to cover some of the cost of hauling milk from Roswell to Clovis, would result in reducing the difference between the Class I prices at Clovis and the Texas market by 15 cents per hundredweight. AMPI opposed all other proposals that would reduce the price difference between the two areas by greater amounts. AMPI testified that its proposed 93-cent price difference

between Dallas and Clovis ($3.28 Class I differential at Dallas minus the proposed $2.35 Class I differential at Clovis) is essentially the same over the 425 miles between the two locations as the current price difference between Hillsboro, Kansas, and Dallas. AMPI also noted that for a plant located at a similar distance to the east of Dallas the Class I price would be seven cents higher than at Dallas. As a result, AMPI concluded that a number of different pricing relationships exist and that it would appropriate to establish handler prices on the basis of competitive prices that exist in their areas of distribution. Such prices, AMPI contends, should be based on the price level that is necessary to attract a supply of milk to plant locations for Class I use.

AMPI further argued that the current price relationship in the western and southern parts of the country are superior to the pricing alignment that existed prior to the May 1986 implementation of the Congressionally mandated Class I differentials. As a result, AMPI testified that any action to reduce the Texas order Class I differential would disrupt the improved price relationship between the Texas market and other Federal order markets. In addition, AMPI testified that any such price reduction would not be warranted in view of the supply/demand relationship exhibited for the Texas market.

The Dairy Products Institute of Texas (DPIT) proposed that the Class I price difference between Clovis and the Texas market should be reduced by 50 cents per hundredweight through a combination of a price increase at Clovis and a price decrease at Dallas. DPIT testified that the mandated Class I differentials destroyed the Class I price alignment that existed previously between the Texas and Rio Grande Valley orders. It argued that the price relationship that existed previously (Dallas was 12 cents higher than Clovis) was superior to its proposed pricing changes but that its proposal would alleviate some of the inequity that currently exists. DPIT testified that under the current pricing structure, the Class I price differences between Clovis and Texas order distributing plants at San Angelo, San Antonio and Corpus Christi reflect alignment rates of 3.8 cents, 3.0 cents, and 2.7 cents per hundredweight, respectively, over the distances involved. DPIT argues that such price differences are excessive and represent a significant misalignment of prices. Under its proposal, DPIT testified that the price alignments would reflect a rate of about 2.0 cents per hundredweight between Clovis and the three Texas locations.

DPIT testified that a misalignment of prices can have at least two different disruptive impacts on distributing plants. In the first instance, a plant may not be able to obtain a sufficient supply of milk if it is competing with other plants at which higher prices apply. In such case, the plant operator would have to increase the price it pays to obtain a milk supply. On the other hand, DPIT testified that a plant that has a sufficient milk supply may not be able to compete successfully in selling fluid milk products in competition with other plants whose procurement costs are significantly lower.

DPIT maintains that the statute authorizing milk orders requires that prices for milk be uniform among regulated handlers and that an administered pricing system should minimize any misalignment of prices that creates inequities among handlers or causes handlers to go out of business. Basically, DPIT maintains that the present pricing structure is misaligned to the extent that competition among regulated handlers is inequitable and disorderly. It contends that operators of distributing plants in the Texas marketing area are unable to compete effectively with the Clovis distributing plant for sales of fluid milk products in the Texas marketing area because the minimum order Class I price that is applicable to the Clovis plant is substantially lower than the Class I prices that apply to plants in the Texas marketing area.

DPIT further testified that a price reduction is warranted for the Texas market. DPIT maintains that a price reduction is appropriate in view of the significant increase in milk production that has occurred in Texas. As a result of the production increase, DPIT testified that substantial quantities of Texas production must be hauled to distant manufacturing plants located outside Texas for surplus disposal. In addition, DPIT notes that a number of suspension actions have been taken in response to production increases to accommodate the marketing of Texas milk that is surplus to the needs of the market.

MorningStar Foods, Inc., and Hygeia Dairy Company supported the DPIT proposal to reduce the Class I price difference between eastern New Mexico and the Texas order by 50 cents per hundredweight. The two handlers, which account for seven distributing plants that are regulated under the Texas order and two nonpool plants at which regulated milk is received, also proposed location adjustment changes for areas within the Texas marketing area that are located north and east of Dallas. Such changes are conditioned on the extent to which the Texas order Class I differential is reduced in response to the DPIT proposal. For the area north of Dallas, which encompasses Zone 1A of the Texas marketing area (Burkburnett), the handlers proposed that the current minus location adjustment be revised to result in a Class I differential that continues to be one-half of the difference between the Dallas and Oklahoma City Class I differentials. For east Texas areas included in Zones 2 and 4 of the marketing area, the handlers proposed a price increase if the Dallas Class I differential is reduced by more than 20 cents. For each one-cent reduction beyond 20 cents, the handlers proposed that the Zone 2 and 4 plus location adjustments be increased by one cent. Also, for each one-cent drop in the Dallas Class I differential beyond 16 cents, the handlers proposed a plus one-cent location adjustment for a proposed Zone 8–A that would include Jefferson and Orange counties. The handlers testified that these location adjustment changes for east Texas locations are necessary to establish a reasonable price alignment between the prices established in such areas under the Texas order and the prices established in adjacent Louisiana territory under the Greater Louisiana order. These price modification proposals were also proposed and supported by Borden, Inc., which operates seven distributing plants that are regulated under the Texas order.

A witness for MorningStar and Hygeia testified that the current price difference between eastern New Mexico and Texas is excessive. As an example, the witness testified that the Clovis distributing plant has a $1.50 per hundredweight Class I price advantage over the MorningStar plant located at San Antonio. The witness testified that such price difference over the 500 miles between Clovis and San Antonio equates to a disadvantage of three cents per hundredweight per 10 miles.

The witness also testified that the Texas market is no longer a deficit market. The witness maintained that production increases in Texas have resulted in a surplus of production over the milk needs of the market. The witness noted that Texas order provides a transportation credit to handlers for costs incurred in hauling milk to plants outside Texas for surplus disposal. During the last half of December 1988 and June 1989, the witness noted that 26

and 35 million pounds of Texas production, respectively, qualified for the transportation credit.

Under these marketing conditions, the witness testified that there is no basis for the continuation of the current pricing structure that encourages the movement of packaged milk into the Texas marketing area from New Mexico. Basically, the witness maintained that current prices provide a competitive advantage to the distant Clovis plant over Texas plants while a surplus of milk production already exists in the Texas market.

The witness also supported a modification of AMPT's zoning proposal for the merged order. The modification would include Curry county (where the Gold Star plant at Clovis is located) and four other eastern new Mexico counties in the same pricing zone as Amarillo and Lubbock and at the same price level that currently exists for plants in these west Texas cities. Such a modification would result in a $2.49 Class I differential value being applicable at Clovis, a 29-cent increase from the current differential. The witness testified that this would result in including all directly competing fluid milk processing plants located in the Panhandle area and eastern New Mexico in the same pricing zone. Also, the witness testified that the distributing plants at these three locations form a triangle where all the plants are about 100 miles from each other. With a 29-cent increase at Clovis, the Texas order Class I differential would have to be decreased by 21 cents to establish the 50-cent pricing realignment.

The witness further testified that bulk raw milk can be hauled for about $1.60 per loaded mile. Such cost represents a hauling rate of about 3.3 cents per hundredweight per 10 miles for a 48,000-pound load. The witness testified that historically the cost of hauling packaged milk has exceeded the cost of hauling bulk milk. However, the witness maintained that this situation may no longer be true because of the advent of new distribution methods. The witness contended that the distribution of packaged fluid milk products in one-way corrugated boxes, with the availability of backhaul revenues, reduces hauling costs to one-half of the cost of hauling packaged milk in milk cases. Under these circumstances, the witness maintained that price differences should not exceed more than the two cents per hundredweight per 10 miles that would be provided by the DPTT proposal.

As previously stated, MorningStar, Hygeia and Borden, Inc., also proposed location adjustment changes for north and east Texas pricing zones to conform with the proposal to realign prices between eastern New Mexico and Texas. The handlers proposed that the minus location adjustment for Zone 1A (Burkburnett), which is north of the Dallas-Fort Worth base zone, continue to be one-half of the difference between the Class I differentials at Dallas and Oklahoma City. Currently, the Texas order provides for a minus 25-cent location adjustment for Zone 1A, which is about half of the 51-cent difference between the $2.77 Class I differential at Oklahoma City and the $3.28 Texas order Class I differential at Dallas. Thus, if the Dallas Class I differential were reduced by 20 cents, the handler proposed that the Zone 1A location adjustment be reduced to minus 15 cents.

The handlers also proposed location adjustment changes for Zones 2 and 4 of the Texas marketing area to maintain an alignment of pricing with the Greater Louisiana order if the Texas order Class I differential were reduced by more than 20 cents. The handler proposed that for each one-cent drop of the Class I differential beyond 20 cents, the Zones 2 and 4 plus location adjustments should be increased by one cent. In addition, the handlers proposed that a new Zone 8A, consisting of the east Texas counties of Jefferson and Orange, be established if the Texas order Class I differential were reduced by more than 16 cents. For each one-cent drop beyond 16 cents, the Zone 8A plus location adjustment would be increased by one cent. Currently, Zone 8 (Houston) has a plus 54-cent location adjustment. Thus, the handlers maintain that with a price drop of more than 16 cents, a price increase would be necessary in the eastern portion of Zone 8 to align prices with those established under the adjacent Greater Louisiana order.

Borden, Inc., which operates a substantial number of regulated distributing plants located in Texas and New Mexico, supported the DPIT proposal to realign prices between New Mexico and Texas. Borden testified that the Class I differentials established by the 1985 Farm Bill placed Texas handlers at a severe disadvantage in competing for fluid milk sales in the Texas marketing area with the Gold Star plant at Clovis. Borden noted that the mandated differentials resulted in changing the Class I differential at Albuquerque from three cents more than Dallas to 93 cents less than Dallas and that the differential at Clovis changed from 12 cents less than Dallas to $1.08 less than Dallas. Furthermore, Borden maintains that the plant at Clovis has a significant additional advantage over plants located in the Texas marketing area south of Dallas. For example, Borden testified that the differential at Clovis was changed from 54 cents less to $1.50 less than the differential at San Antonio, and that the differential at Clovis was changed from 78 cents less to $1.74 less than the differential at Corpus Christi.

Borden maintains that these price differences are so great that they created an incentive for a handler to locate a plant at Clovis and distribute packaged milk into the Texas marketing area in competition with Texas plants. Borden contends that such an incentive for west to east movements of milk is contrary to the flow of national Federal order pricing. It claims that a 50-cent change in price alignment is the minimum amount that is necessary to limit the current misalignment, but that there appears to be no reason why the differential at Clovis should be any less than the $3.28 Class I differential that is applicable at Dallas. Borden testified that it had lost a number of fluid milk accounts, had been unable to obtain a number of new accounts, or had to reduce prices because of Gold Star's ability to offer a lower price based on its milk procurement cost advantage.

Dean Foods Co., which operates at least one distributing plant under each of the orders (except the Texas Panhandle order) involved in this proceeding, supported AMPT's proposal to increase the Class I price at Clovis by 15 cents. Dean contends that there never was a reason for a lower Class I price at Clovis than at Albuquerque. Dean testified that an attempt was made to correct the pricing problem at Clovis at the regional hearing that was held to make the location adjustment provisions conform with the mandated Class I differentials. Dean noted that at that time (1986) the plant was regulated under the Rio Grande Valley order and was operated by Safeway. Dean testified that Safeway's distribution was confined to a smaller area and was limited to its own stores. Dean testified that marketing conditions have changed in that Gold Star's sales are not limited to its own stores and that its distribution area is extensive, as evidenced by the plant's regulation under the Texas order.

Dean testified that with a 15-cent increase at Clovis, the Texas order Class I differential should be decreased by 15 cents, resulting in a 30-cent price decrease between Texas and New Mexico. Dean testified that a price reduction of more than 15 cents for the Texas order would disrupt the pricing alignment between the Texas order and other orders to the north and east.

Although Dean supported a 30-cent change in price alignment between New Mexico and Texas, Dean also supported

the proposed modification to include Amarillo, Clovis and Lubbock in the same price zone on the basis that handlers at such locations compete with each other for fluid milk sales. In addition, Dean offered a location adjustment modification at the hearing to provide for a minus 24-cent location adjustment for Zone 6 (San Angelo) of the Texas marketing area. Dean testified that such lower price for this westernmost portion of the Texas marketing area is consistent with the west to east alignment of pricing indicated by other proposals.

Scheppe-Foremost, which operates distributing plants under the Texas and Greater Louisiana orders, also testified to the misalignment of Class I prices between Clovis and Dallas that resulted from the Food Security Act of 1985. Although Schepps concurred with other handlers that the Texas order Class I price is too high, Scheppe testified that the Texas order Class I differential should not be decreased because such action would result in a misalignment of pricing between Class I prices at Dallas and Shreveport under the Texas and Greater Louisiana orders, respectively. Schepps testified that Class I prices should be the same at Dallas and Shreveport, which is currently the case, since its plant at Shreveport distributes in the Texas marketing area and because at least eight Texas plants distribute in the Greater Louisiana marketing area. Schepps maintained that such plants should not be given a competitive advantage over Greater Louisiana plants in selling fluid milk products in that marketing area because of a pricing problem between Texas and New Mexico.

Schepps testified that the pricing problem should be rectified by increasing the Class I price at Clovis by 28 cents. Schepps maintained that such a price increase is justified in view of the distance that milk is shipped to supply the Clovis plant versus the distance that milk is shipped to supply plants in El Paso. Schepps testified that the weighted average distance that milk is hauled to Clovis is about 40 miles further than the weighted average hauling distance to plants in El Paso. On this basis, Schepps concludes that with a 3.3-cent per ten-mile hauling rate, the Class I price at Clovis should be about 13 cents higher than the current Rio Grande Valley order Zone 1 differential of $2.35, or $2.48 per hundredweight.

The Kroger Company, which operates one distributing plant under the Texas order, supported a reduction of the difference in the Class I differentials between eastern New Mexico and the Texas order. However, Kroger opposed any significant decrease in the Texas order Class I differential that would disrupt the Class I price alignment between the Texas order and other orders to the north and east.

Dairymen Inc. (DI), a cooperative association that represents producers under the Greater Louisiana order and other orders in the Southeast, opposed any lowering of prices in east Texas that would disrupt the alignment of pricing with the Greater Louisiana order and markets further to the east. DI testified that any change in the eastern Texas pricing should be limited to the price differences that existed prior to the 1985 Farm Bill. DI testified that any changes beyond such differences (nine cents between Tyler and Shreveport and one cent between Beaumont and Lake Charles) could result in a need for further price adjustments in southeastern markets. In this regard, DI testified that there is no indication of any price alignment problems in the southeast and that current prices existing in the southeast are necessary to obtain adequate milk supplies.

Mid-America Dairymen, Inc., and Southern Milk Sales, cooperative associations that represent producers under the Texas and other orders, opposed any lowering of the Texas order Class I differential. The cooperatives testified that the basis for establishing prices under Federal orders should be limited to a consideration of the price levels necessary to attract a supply of raw milk to distributing plants. The cooperatives testified that on the basis of the 420-mile distance between Clovis and Dallas and a conservative bulk milk hauling cost of $1.65 per loaded mile, the cost of milk delivered to Dallas from Clovis is 36 cents more per hundredweight than the Dallas Class I differential. Thus, the cooperatives contend that there is no basis for lowering the Texas order Class I differential.

Farm Fresh, Inc., a handler who operates a distributing plant under the Southwest Plains order, filed a brief in opposition to proposals to lower the Texas order Class I differential. Farm Fresh contends that a lowering of the Texas price would disrupt the alignment of prices between the Texas order and other orders to the north and east. Farm Fresh contends that any such action would place Oklahoma handlers in a disadvantageous pricing position. Farm Fresh contends that plants to the north and east of Oklahoma would continue to have their prices reduced at 2.6 to 2.8 cents per 10 miles while Oklahoma plants would have a lesser price gradient to move packaged products south and west.

Gold Star Dairy, which operates a distributing plant at Little Rock under the Central Arkansas order in addition to the plant at Clovis, testified in opposition to the pricing proposals. Gold Star maintained that neither the price increase at Clovis nor the decrease to the Texas order Class I differential were justified. In fact, in its brief, Gold Star argued that the Clovis price should be reduced because of the production increases that have occurred in New Mexico while the Texas price should be increased because the market exhibits characteristics of a deficit market.

Gold Star testified that considerations involved in the acquisition of the Clovis plant included the proximity of the plant to New Mexico surplus production, the nature of its distribution system to supply distant warehouse customers, and the ability to serve such customers from a production area with transportation costs averaging about 3 cents per 10 miles for packaged milk, which is slightly less than bulk milk hauling costs. Nevertheless, Gold Star maintained that in no case are its transportation costs less than the current Federal order location adjustment allowances.

Gold Star testified that Class I prices under Federal orders are generally established on the basis of distance from major surplus milk producing areas to deficit markets. In this regard, Gold Star testified that the Class I price increases mandated by the 1985 Farm bill included Texas and Oklahoma, as well as other markets whose supply sources are directly or indirectly related to the surplus milk areas in Wisconsin. However, no increase was provided for New Mexico, which Gold Star contends was an apparent recognition of New Mexico as a secondary surplus production area for purposes of establishing minimum class prices under other orders.

In this regard, Gold Star testified that the price relationship between Clovis and Dallas is essentially the same as the price relationship between Springfield, Missouri, and Dallas. In addition, Gold Star contends that eastern New Mexico now represents a more efficient source of milk supplies for the Texas market than northern milk supplies in southeastern Missouri because farms in New Mexico are substantially larger than those in Missouri. Gold Star maintains that milk can be picked up at a single farm in New Mexico for shipment to Dallas plants and, thus, is a more efficient milk supply than milk

collected from a number of farms in Missouri for shipment to Dallas.

In view of the production increases in New Mexico, and in view of the large size of the farms, Gold Star maintains that New Mexico now represents an alternative source of milk for the Texas market and possibly the Southwest Plains market. Furthermore, Gold Star maintains that the competition for New Mexico supplies is not significant since there is evidence of a substantial surplus of production that is hauled to distant plants in Texas, Oklahoma and Kansas for manufacturing.

Gold Star also testified that the cost of hauling bulk milk from Clovis to a number of Texas locations is greater than the difference between the Class I prices at Clovis and these Texas locations. On the basis of a 3.5 cent per hundredweight hauling cost, Gold Star concludes that at all Texas locations, except San Angelo, hauling costs exceed the Federal order minimum price differences. With respect to a similar comparison between Roswell and Texas locations, Gold Star concludes that it is only at San Angelo where a significant misalignment of pricing exists. At all other locations, Gold Star contends, the amount of unrecovered transportation costs (hauling costs in excess of order price differences) would be intensified by the price change proposals. Basically, Gold Star contends that based on bulk milk hauling costs, there is no basis for either increasing the price at Clovis or decreasing the Texas order price at any location except possibly at San Angelo. Since hauling costs exceed order price differences, Gold Star concludes that there is no misalignment of prices or any indication that the pricing changes are necessary to compensate producers for the economic service that they provide to various handlers by delivering milk to plants at different locations for fluid use.

The pricing issues involved in this proceeding are essentially the same as those considered at a regional hearing held in 1988 on proposals to modify location adjustments to align prices among Federal order markets to conform with the Class I differentials mandated by the Food Security Act of 1985. Such officially noticed final decision (51 FR 40176) for the Texas and six other Federal order markets clearly sets forth the economic concept and basis for establishing an appropriate alignment of pricing within and among Federal order markets. Basically, the Class I price level in any market is constrained by the cost of milk in alternative markets plus the cost of hauling bulk milk from such alternative sources of supply. In effect, the regulated minimum price level in each market, in the long run, cannot significantly exceed the cost of milk from an alternative lower-price production area. Such an alignment recognizes economic alternatives and results in the lower-price area being a basing point from which price constraints in other markets are established.

Such decision also explains that adjustments to Class I and blend prices are necessary to reflect the various locations at which milk may be received from producers. Such adjustments reflect the cost of hauling milk from where it is produced to where it is needed for use in fluid milk products. Location adjustments reflect the cost of the economic service provided by producers to handlers at varying locations. The value of the service provided varies in terms of both distance and the cost of hauling bulk milk. The extent to which there is adequate compensation for the value of the services provided raises an issue of equity, both among producers and handlers.

In this context of Federal order pricing, the concept of price alignment involves a consideration of whether the price that applies at any plant or in any pricing zone is too high or too low relative to the prices that are established to attract milk to other locations. A resolution of the issue requires an identification of the primary production areas, the location of the processing plants, the alternative distances between production areas and plants, and the cost of hauling bulk milk.

As a further prelude to a resolution of the issue, it is necessary to point out that the issue of price alignment between New Mexico and Zone 6 of the Texas marketing area was also considered in the previously noticed final decision. On the basis of that hearing, a plus 25-cent location adjustment that applied in Zone 6 was eliminated to recognize a lower-cost alternative source of supply located to the west of San Angelo. A proposal to provide for a minus 25-cent location adjustment in Zone 6, however, was denied. Such denial was based on the fact that Zone 6 covers a large geographic area that extends from New Mexico on the west to Zone 3 of the Texas order on the east. Also, a distributing plant, which no longer exists, was located in the eastern part of Zone 6 in Brown County adjacent to the heavy milk-producing counties in the Stephensville, Texas, area. Thus, the decision concluded that any price change in Zone 6 was limited by the proximity of such plant to the heavy milk-producing area of the Texas market. Consequently, the decision concluded that the elimination of the plus 25-cent location adjustment was as much of a pricing change that could be made at that time to reflect the changed price relationship between west Texas and the Rio Grande Valley order.

It is further noted that a proposal to establish a plus 15-cent location adjustment in eastern New Mexico was also denied in the same decision. Such price increase was denied because it would have been totally inconsistent with the intent of Congress (which mandated no price change for the Rio Grande Valley order), the supply/demand relationship within the marketing area, and the pricing structure of the market. The decision noted that the pricing structure of the Rio Grande Valley order reflected the need for milk to move from eastern New Mexico to consumption centers in central New Mexico and El Paso.

It is also noted that a previous proposal by Dean Foods, Borden and MorningStar to hold a hearing to change the pricing structure of the Rio Grande Valley order was denied. The proposal would have increased the Class I differential in Zone III of the marketing area (Clovis) to $2.49 (the same level as Amarillo and Lubbock) and decreased the Zone 1 Class I differential (Albuquerque and El Paso) to $2.28. Such proposal was denied for consideration at a hearing since it would be inconsistent with the purpose of location adjustments in that it would increase the price in a surplus area and decrease the price in an area of somewhat deficit production. The denial indicates that a price increase in southeastern New Mexico would inhibit the movement of milk from that area to plants located to the east and west that rely on such production for their supplies of milk for fluid use.

The proposals to reconsider the pricing issues, particularly the handler proposals to realign prices between eastern New Mexico and Texas, are based on two changes in marketing conditions. The primary change and area of concern among Texas handlers is the distribution of fluid milk products into the Texas marketing area from the Clovis plant since Gold Star began operating the facility. The second change in marketing conditions is the increase in milk production that has occurred in the Texas marketing area. Handlers basically contend that the price level for the Texas market could stand to be reduced to some extent, to assist in rectifying the price alignment

problem, because of the increase in production that has occurred.

The handlers' position that a price reduction is justified for the Texas order because milk production has increased is somewhat in conflict with their position that milk prices should be increased in eastern New Mexico where milk production has also increased significantly. Milk production has increased in both Texas and New Mexico even though the Food Security Act of 1985 provided for no Class I price increase under the Rio Grande Valley order and a 96-cent increase under the Texas order. There is no information in the record of this proceeding to determine the extent to which price levels should be reduced, separate and apart from the price alignment issue, to establish a disincentive for milk production. A resolution of the price alignment issue, however, does require a 12-cent per hundredweight reduction of the Class I differential under the Texas order, as well as other pricing changes. In total, the pricing changes included herein will result in a lowering of returns to producers in the Texas and New Mexico areas. Although the price changes will lower returns to producers, and possibly production, such action is being taken for price alignment reasons and is not an attempt to determine the extent to which a disincentive for milk production may be necessary.

With respect to the price alignment issue, Texas handlers contend that they are not able to compete on an equitable basis with Gold Star for fluid milk sales in the Texas marketing area because of the substantially lower price that applies at Clovis relative to prices at Texas locations. They basically contend that prices are not uniform among competing handlers, as required by the Act, since the Clovis Class I price is $1.08 less than the base zone Texas price, with even greater price differences between Clovis and southern portions of the Texas marketing area.

In this regard, price uniformity among handlers does not mean that price levels must be the same at all plants that compete with each other for fluid milk sales. The Act specifically provides that prices shall be uniform as to all handlers, subject to a number of adjustments including the locations at which the delivery of milk is made to handlers. In order to have any meaning, such adjustments must be related to those prices that are necessary to attract raw milk to specific locations relative to other locations. Once a pricing structure is established to attract raw milk to where it is needed, handlers are then free to compete for sales in any area that they desire. This does not mean, however, that all handlers will have the same economic access to all sales areas.

The contention by handlers that price differences affect their ability to compete for sales is not, in itself, an appropriate basis for establishing location adjustments. As previously stated, location adjustments are based on those factors that are relevant to determining the prices that are necessary to attract raw milk to various plant locations. However, to the extent that location adjustments, or price differences, do not reflect the appropriate delivery incentives for producers, handlers may be unduly affected in either sales or procurement activities.

In this regard, there were a number of contentions expressed at the hearing and in briefs as to the possible reasons for which any one handler may lose, or may have lost, sales to other handlers. Sales of fluid milk products change hands continuously for any number of reasons. Price, quality, product line, plant and distribution efficiency, type of distribution, and any number of other interacting factors may be reasons for sales shifts among plants. A differentiation of the probable impact of these variables on sales, however, is not necessary to resolve an identified raw milk price alignment problem. A significant misalignment of pricing, because of an improper recognition of factors justifying price differences, is a basis for pricing changes. Proper price alignment is necessary to assure that inequitable raw milk prices are not a significant factor in affecting the competitive conditions among regulated handlers.

The difference in Class I prices between Clovis and Dallas is essentially the same as the current price difference between Springfield, Missouri, and Dallas. With the distances between Dallas and Clovis and between Dallas and Springfield being similar, the price differences reflect alignment rates of a little more than 2.5 cents per 10 miles. It is on this basis that Gold Star contends that the price level at Dallas is not out of line with the price level at Clovis. However, the Texas order provides for plus location adjustments for areas south of Dallas. Such higher prices in southern portions of the Texas marketing area are necessary to provide incentives and compensate producers for hauling milk from the major northern production area of the Texas market to deficit major consumption areas in the south, particularly Houston and San Antonio. As a result of the plus location adjustments to the south, as well as the east to west pricing that maintains the Texas order base zone price from Louisiana to New Mexico, it is in the southern and western portions of the Texas marketing area where prices are out of line with the eastern New Mexico price at Clovis. The magnitude of the problem is best illustrated by the $1.08 price drop at the New Mexico-Texas border. However, the actual degree of price misalignment is calculated by comparing the current Class I differential of $2.20 at Clovis plus the additional cost of hauling bulk milk from the Roswell production area to Texas locations with the current Texas order Class I differential at such locations.

The calculations to determine the necessary price alignment change are similar to those made by Gold Star. However, a hauling rate of 3.0 cents per 10 miles is used rather than the 3.5-cent rate used by Gold Star. The 3-cent rate is a conservative estimate of bulk milk hauling costs and is the same hauling rate used to establish the appropriate pricing differences between the major consumption centers of the Texas market. Testimony presented at the hearing with respect to actual hauling rates does not suggest that current bulk milk hauling costs are significantly different than those utilized to construct the Texas order pricing structure. Also, it is necessary to use a conservative hauling cost estimate to avoid the possibility of using overstated hauling costs that could provide incentives for uneconomic movements of milk for hauling profits. Furthermore, since the issue is one of alignment between New Mexico and Texas, it is appropriate to utilize the same hauling rate as reflected in the Texas market in the absence of testimony indicating a significantly different hauling cost.

In addition to using a lower hauling rate, the calculation procedure differs from Gold Star's procedure by using only the additional mileage that milk would have to be hauled to Texas locations from Roswell rather than being hauled to Clovis. Also, all mileages are those that are contained in the officially noticed Mileage Guide (Household Goods Carriers' Bureau, Mileage Guide No. 13, issued May 31, 1985).

Roswell represents a heavy milk-producing area from which milk is shipped to Clovis and Texas locations. As indicated under issue No. 1, milk production in eastern New Mexico is surplus to local needs and is currently shipped to plants regulated under five different Federal orders. Consequently, milk produced in the area is an actual

and potential source of supply for fluid milk plants in New Mexico and Texas.

Clovis represents the nearest outlet for Roswell production and the cost of hauling milk the 111 miles is paid by the dairy farmer suppliers. In order for prices to be properly aligned, and to attract Roswell production to other locations, the price level at any other location would have to approximate the Clovis price level plus the additional cost of hauling the milk the additional mileage to such location. If the constructed price (Roswell price of $2.20 plus hauling) is less than the current price level at any location, then the current price level is too high, or misaligned, relative to the Roswell supply area. If the constructed price is greater than the current price, then Roswell does not represent an economical source of supply.

The additional distances that milk would have to be hauled from Roswell to Texas locations are as follows: San Angelo, 194 miles; Dallas, 371 miles; Austin, 404 miles; San Antonio, 409 miles; and Corpus Christi, 551 miles. The additional hauling costs plus the $2.20 Clovis Class I differential would result in the following Class I differentials: San Angelo, $2.80; Dallas, $3.34; Austin, $3.43; San Antonio, $3.43; and Corpus Christi, $3.88.

The constructed Class I differential for Dallas exceeds the current Texas order Class I differential by six cents per hundredweight. At all other locations the constructed differentials are less than the Texas order Class I differentials by the following amounts: San Angelo, 48 cents; Austin, 15 cents; San Antonio, 27 cents; and Corpus Christi, six cents.

The preceding price differences illustrate that the price misalignment with Clovis is greatest in the southern and southwestern portions of the Texas marketing area. Obviously, the greatest price differences exist for those portions of the Texas marketing area that are nearest to the lower-priced eastern New Mexico supply area. The more distant areas in eastern Texas are more insulated from the lower-priced Roswell production area by distance and the associated hauling costs. This is also true with respect to the northern portion of the Texas market because of the lower value of milk in that area.

The focal point for determining the magnitude of the price alignment problem must rest with the price comparison between Clovis and San Antonio. San Antonio in Zone 9 is the third most heavily populated pricing zone in the Texas marketing area. Such zone, in conjunction with Zone 1 (Dallas) and Zone 8 (Houston), is a major pricing point within the entire pricing structure of the Texas marketing area. Each of these heavily populated areas relies on the heavy northern Texas production areas for their sources of milk. The price relationship between these three zones is designed to attract milk from northern areas and to compensate producers for the varying services they provide in shipping milk to plants in each of the pricing zones. The prices in all other zones, except Zone 6 (San Angelo) and Zones 10, 11 and 12 that are south of San Antonio, are based to some extent on the prices necessary to attract milk to plants in Zones 1, 8 and 9 from north Texas production areas. Consequently, the price relationship between eastern New Mexico and the Texas market should be reduced by 27 cents rather than the 50-cent change that was proposed by a number of handlers. Any price alignment change of less than 27 cents would not resolve the pricing problem between Clovis and San Antonio. On the other hand, a change of more than 27 cents (such as the 48-cent difference at San Angelo) would be excessive at San Antonio and at all other locations except San Angelo.

It is important to emphasize at this point that it would not be possible to restrict the pricing changes that are necessary to only the southern and western portions of the Texas marketing area. Any limitation of pricing changes to such areas of the Texas marketing area (which were not proposed except for San Angelo) would make no economic sense and would disrupt the pricing structure of the Texas order. For example, a 27-cent price change only at San Antonio, on the basis of the Roswell production area, would result in a price at San Antonio that would not be sufficient to attract a supply of milk from the nearer north Texas production area. The current plus 42-cent location adjustment at San Antonio under the Texas order is necessary to attract milk from and compensate producers in the Erath County area for shipping milk the extra distance to San Antonio rather than shipping milk to plants in the Dallas/Fort Worth area. Basically, a lower price limited to San Antonio would provide a pricing structure to attract milk from 320 miles away in Roswell rather than from 205 miles away in Erath County. Such a pricing structure would not promote hauling efficiencies. Consequently, the 27-cent price change between eastern New Mexico and the Texas market can only be accomplished through a combination of a price increase at Clovis and a price reduction for the Texas market by reducing the Base Zone Class I differential.

The Class I price at Clovis should be increased by 15 cents per hundredweight as proposed by AMPI. As a result of the increased volume of milk that is processed at the plant, the supply source for the Gold Star plant now extends to the Roswell production area. The higher price will compensate producers for a greater proportion of the hauling cost that they incur in shipping milk over the 111 miles from Roswell to Clovis. The expansion of the procurement area to obtain sufficient supplies of milk for the plant indicates that producers are providing a service of greater value to Gold Star than was previously provided by producers when sufficient supplies of milk were available nearer to Clovis than Roswell.

In this regard, there is some merit to the testimony presented by Schepps-Foremost which indicates that the weighted average hauling distance to supply Gold Star at Clovis is greater than the average hauling distances involved in supplying distributing plants at either Albuquerque or El Paso. On this basis, it would appear to be reasonable to conclude that the Class I price at Clovis should be higher, rather than lower, than the current price levels at either Albuquerque or El Paso.

Establishing a higher price at Clovis that would be about the same as the current price level at plants to the east would provide for no price difference to recognize the additional hauling costs incurred in shipping milk beyond Clovis to either Amarillo or Lubbock. There is currently a 29-cent higher Class I price at Amarillo and Lubbock than at Clovis. These cities are 104 and 65 miles further, respectively, from the Roswell supply area than is Clovis. Consequently, the argument by handlers to include the three cities in the same pricing zone because plants at these locations compete for fluid milk sales is irrelevant in view of the different distances that such cities are from the Roswell supply area. Milk in the Roswell production area continues to be necessary to supply the fluid milk needs at Lubbock, and to a lesser extent, Amarillo. Thus, the price increase at Clovis should be limited to 15 cents and the current price levels should be maintained at Amarillo and Lubbock to provide an additional 14 cents to cover a portion of the extra hauling cost to such locations. As a result, the proposal to reduce the Class I price at Amarillo and Lubbock is denied since a price reduction would be contrary to the west to east price increase to reflect additional hauling costs.

Although the Class I price should be increased at Clovis, such increase should not be applied to the three southeastern New Mexico counties of Chaves (Roswell), Eddy and Lea, as was proposed by AMPI. Although there are currently no fully regulated plants in these counties, the Roswell production area should not be included in the same pricing zone as Clovis. Since the principal issue is the additional price that is necessary to compensate for some of the hauling cost to Clovis, the production area should continue to be priced at a lower level. Thus, a minus 15-cent location adjustment should continue to apply in this area.

The proposal to lower the Class I price at El Paso by five cents per hundredweight also should not be adopted. The only reason presented by AMPI for such a reduction (as well as the reductions at Amarillo and Lubbock) was the objective to offset the price increase at Clovis. As previously stated, the objective of AMPI's pricing proposals for the merged order was to maintain about the same overall level of returns to dairy farmers as currently exists under the three separate orders. This objective will not be attained under the merged order. The only pricing change that is necessary is the price increase at Clovis to cover more of the hauling cost incurred in moving milk greater distances from Roswell to meet the fluid milk needs of the Clovis distributing plant. However, on a broader basis, overall returns to producers will be reduced in the Texas—New Mexico region because of the reduction to the Texas order Class I differential to reflect the price alignment problem.

The price increase at Clovis will result in all of the major distributing plants in New Mexico being subject to the same minimum order Class I price. Such pricing change recognizes that it is no longer necessary to maintain a pricing structure in New Mexico that encourages milk from the southeastern New Mexico production area to move south to El Paso or west to Albuquerque as well as to the east. Although the Roswell production area will be included in the lowest price zone and milk from that area will be able to be moved in all directions as needed, the pricing change recognizes the primary need for such milk to move north and east.

The prices that are necessary to compensate producers for hauling services that they provide to handlers has been considered in terms of differences in Class I prices that are paid by handlers. The location adjustments to Class I prices are the same adjustments that are applicable to blend prices that are payable to producers. However, an analysis of the differences in blend prices between orders at specific locations as calculated by Gold Star in considering whether location adjustment changes may be necessary was not relied on in this decision. As stated under a previous issue, the blend price that may result under the merged order is not known. Furthermore, a market's blend price is a measure of a market's supply/demand situation at a given point in time that is a response to any number of factors that affect the supply of and demand for milk and dairy products. A blend price comparison among markets which merely illustrates different varying supply/demand relationships among markets is not in itself a sufficient basis to modify or not modify location adjustments.

The merged New Mexico-West Texas order should not provide for any location adjustments on milk received at plants located outside the marketing area. As a result, it is also not necessary to provide for location adjustment credits for milk that may be transferred from supply plants to distributing plants for Class I use. Such credits, which are intended to prevent a lowering of returns to producers, are unnecessary because any milk received from distant sources would be priced at the same level as milk received in Zone 1 of the marketing area.

AMPI proposed that the location adjustments for distributing plants located outside the marketing area be equal to the differences between the merged order's Class I differential and the price established at the plant by the Federal order regulating milk marketing in the area of such plant. The concept of the proposal is that the prices that are established in other Federal orders are those prices that are necessary to attract sufficient supplies of milk to any plant location. Thus, the value of milk at any distant plant that may become regulated under the merged order should not change as a result of a regulatory change.

The Class I price level for the New Mexico-West Texas order is significantly lower than the Class I prices that are provided in all surrounding Federal milk orders. Consequently, the proposal would result in establishing plus location adjustments for milk received at plants that are located outside the marketing area. In this regard, AMPI suggested that such adjustments should be applied to distributing plants but not to supply plants or to milk that is diverted from the New Mexico-West Texas order to distant plants for surplus disposal. Establishing higher prices outside the marketing area would not provide an incentive for distant supply plants to ship milk to distributing plants for Class I use. Also, milk that may be diverted to distant plants would be worth more than milk received at plants in the marketing area for fluid use.

In view of the pricing structure in the region, it is not possible to establish a lower value of milk at distant locations relative to the marketing area and also recognize the greater value of milk established under surrounding Federal order markets. Consequently, no location adjustments should be established under the New Mexico-West Texas order for milk received at plants located outside the marketing area.

The Texas order Class I differential should be reduced by 12 cents, from $3.28 to $3.16 per hundredweight. The reduction is necessary to incorporate the 27-cent pricing change between eastern New Mexico and the Texas order. As previously stated, this pricing change is necessary to reflect an appropriate alignment of pricing between the orders on the basis of the alternative costs of hauling bulk milk from the Roswell production area to alternative plant outlets for fluid use. The 12-cent reduction would apply throughout the Texas marketing area and would result in Class I differential values of $3.16, $3.58, and $3.82 at San Angelo, San Antonio and Corpus Christi, respectively. At San Antonio, the focal point for determining the appropriate price alignment on the basis of the three cents per 10-mile bulk milk hauling cost, the $1.23 price difference between Clovis and San Antonio ($3.58–$2.35) would reflect an alignment rate of 2.46 cents per 10 miles over the 494 miles between the two locations. At Corpus Christi, the 12-cent price drop would reflect a 2.3-cent per 10-mile alignment rate with Clovis over the 636 miles. Thus, a constant price drop reflects a lesser alignment rate as distance from Clovis increases. Also, at San Angelo, the 81-cent price difference from Clovis would reflect a 2.79-cent per 10-mile alignment rate over the 282 miles from Clovis.

Because of its proximity to Roswell, an additional price reduction is necessary at San Angelo as proposed by Dean and as recognized by other hearing participants. As previously calculated, the additional cost of hauling bulk milk from Roswell to San Angelo versus hauling milk to Clovis results in a Class I differential value at San Angelo

that is 48 cents below the current Texas order Class I price at San Angelo. As a result of the 27-cent change in the price relationship between Clovis and the Texas market, a further reduction of 21 cents at San Angelo is necessary to reflect the appropriate value of milk delivered to San Angelo relative to the Roswell supply area.

It is noted that a 21-cent reduction at San Angelo will no longer result in a price that will be competitive to attract milk to San Angelo from the heavy milk-producing areas of the Texas marketing area around Erath County. Obviously, in order to attract milk from such an area that is east of San Angelo, the price at San Angelo would have to be higher, rather than lower, than prices that exist to the east of San Angelo. However, the application of a higher price, or even the application of the same price at San Angelo as at Dallas that currently applies, does not recognize the lower value of milk that is available to the west in New Mexico. It is the New Mexico supply of milk with its lower value that must be recognized in establishing the value of milk delivered to San Angelo.

It is also noted that Zone 6 of the Texas marketing area covers a large geographic area although only the San Angelo plant currently exists in the area. Consequently, the minus 21-cent location adjustment for Zone 6 that is necessary at the San Angelo location is not necessarily representative of the value of milk delivered to any other potential plant location in this zone.

As a result of lowering the Class I differential, the minus location adjustment for Zone 1A of the Texas marketing area should be changed to continue to reflect one-half of the difference between the Texas and Southwest Plains Class I differentials. Currently, the Texas order Class I differential is 51 cents greater than the Southwest Plains order Class I differential. As a result, the location adjustment for Zone 1A is minus 25 cents. With a 12-cent decrease to the Texas differential, the Zone 1A location adjustment should be reduced to minus 19 cents, about one-half of the established 39-cent difference between the Texas and Southwest Plains order Class I differentials. Such change will result in recognizing the north to south alignment of pricing between the two orders.

The 12-cent reduction of the differential does not require any changes to the location adjustments of the pricing zones in the eastern portion of the Texas marketing area that are adjacent to the Greater Louisiana marketing area. The 12-cent reduction in Zones 2 (Tyler), 4 (Lufkin), and 8 (Beaumont) of the Texas marketing area will not result in Class I prices that are out of line with the Class I prices established under the Greater Louisiana order at the relevant points of Shreveport and Lake Charles.

Currently, the Class I price at Tyler is the same as the Class I price at Shreveport, which is 95 miles east of Tyler. Prior to the 1986 increase to the Texas and Greater Louisiana orders, the price at Tyler was nine cents less than the price at Shreveport. Basically, lowering the Class I price at Tyler will reestablish the west to east pricing that previously existed and is not excessive over the mileage involved.

The price at Lufkin, which is south of Tyler and Shreveport, is currently 18 cents greater than the price at Shreveport and 22 cents less than the price at Lake Charles, which is further to the south. With the price reduction, the Lufkin price will be six cents greater than the Shreveport price and 34 cents less than the price at Lake Charles. The latter price difference is not excessive over the 140 miles between Lufkin and Lake Charles.

Currently, the price at Beaumont is four cents greater than the Lake Charles price and will be eight cents less than such price because of the reduced Class I differential. Such price difference is also not excessive over the 58 miles between the cities.

In addition to purely Class I price alignment considerations, there is no information in the record of this proceeding to indicate that prices need to be modified, or increased, in these eastern Texas locations as a result of decreasing the Texas order Class I differential. Current prices in these eastern zones are based on the additional bulk milk hauling costs that are incurred in shipping milk to such zones from the northern production areas of the Texas market. Since the prices in these zones will continue to have the same relationship with the Class I price at Dallas, there is no indication that price increases are necessary to compensate northern area producers for the additional service they provide to handlers in these zones relative to shipping milk to Dallas area plants.

As a result of the marketing area merger to form the New Mexico-West Texas order, conforming changes are necessary to the location adjustment provisions of the Texas and Southwest Plains orders. Both orders reference, by name and CFR Part number, the three separate orders included in the merger. Thus, the provisions are modified to recognize the merged order.

An additional modification to the Texas order location adjustment provisions is included to delete the reference to a number of counties in southwest Missouri. Such counties were included in the Southwest Plains marketing area after the Texas order was last amended to recognize the pricing of milk in such counties. Since the Texas order references the Southwest Plains marketing area, the listing of such counties in the Texas order is no longer necessary.

The Texas order is also modified by changing the minus 20-cent location adjustment for Bowie and Cass counties in Texas to minus 8 cents. Such modification reflects the 12-cent reduction to the Class I differential and continues to establish the same price in such counties that is recognized by the Central Arkansas and Southwest Plains orders. Such modification is consistent with the 12-cent location adjustment change that occurs in all those areas where the Texas order location adjustment is the difference between the Texas order Class I price and the Class I price established by another order. In addition, to reflect the 12-cent price drop, the Texas order location adjustment for Louisiana locations is modified to establish the plus location adjustments that are necessary to reflect the higher value of milk in Louisiana. Currently, no location adjustments are applied to Louisiana because the Class I price of milk at Shreveport and Dallas is the same.

Three additional nonsubstantive changes are included for the Southwest Plains order. Typographical errors in three different sections of the order are corrected.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

A brief filed by Gold Star argues that little weight should be given to certain testimony presented by two witnesses representing MorningStar Foods, Inc., Hygeia Dairy Co., and Borden, Inc. Additionally, Gold Star argues that it

would be more appropriate to reverse rulings of the Administrative Law Judge and, thus, strike the testimony of the witnesses. In the event that such motions are not granted, Gold Star requests that the hearing be reopened or the record be supplemented with additional information obtained by Gold Star after the closing of the hearing.

All the testimony and information associated with Gold Star's requests relate to changes in sales outlets among regulated handlers, and the possible reasons for such shifts in outlets. In this regard, the decision concludes that changes in sales occur for any number of reasons. However, the extent to which sales shifts may or have occurred is of little importance to the extent that a misalignment of raw milk pricing is identified. The magnitude of the misalignment of pricing, in terms of the additional costs involved in hauling bulk milk from procurement areas to alternative outlets, is identified and rectified. The magnitude of the price alignment problem is a sufficient basis in itself to justify the pricing changes included herein. Basically, little weight need be given to the testimony concerning sales shifts among plants, and additional information concerning possible reasons, other than price, that may have caused changes in sales is not necessary. Consequently, the motion to reopen or supplement the record is denied. Also, no useful purpose would be served in reversing the rulings of the Administrative Law Judge. Such rulings were appropriate since testimony of regulated handlers concerning sales changes that may be a result of inequitable pricing is relevant to the issues considered at the hearing. However, the extent to which factors other than raw milk prices may be associated with sales shifts is not a matter that needs to be dealt with in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when each of the aforesaid orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) The tentative marketing agreements and the New Mexico-West Texas order (which merges and amends the Rio Grande Valley, Texas Panhandle, and Lubbock-Plainview, Texas, orders), and the Texas and Southwestern Plains orders as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in each of the aforesaid marketing areas, and the minimum prices specified in the tentative marketing agreements, the merged New Mexico-West Texas order, and in the Texas and Southwest Plains orders, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(c) The tentative marketing agreements, the merged New Mexico-West Texas order, and the Texas and Southwest Plains orders, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, marketing agreements upon which a hearing has been held;

(d) All milk and milk products handled by handlers, as defined in the tentative marketing agreements, the merged New Mexico-West Texas order, and in the Texas and Southwest Plains orders, as hereby proposed to be amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(e) It is hereby found that for the merged New Mexico-West Texas order the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rate share of such expense, 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1138.85 of the aforesaid tentative marketing agreement and the New Mexico-West Texas order.

Recommended Marketing Agreements and Order Amending the Orders

The recommended marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the merged New Mexico-West Texas order and the Texas and Southwest Plains orders, as hereby proposed to be amended. The following order amending the orders regulating the handling of milk in the respective marketing areas of these orders is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out.

List of Subjects in 7 CFR Parts 1106, 1126, and 1138

Milk marketing orders.

The authority citation for 7 CFR parts 1106, 1126, and 1138 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

1. 7 CFR part 1138 is revised to read as follows:

PART 1138—MILK IN NEW MEXICO-WEST TEXAS MARKETING AREA

Subpart—Order Regulating Handling

General Provisions

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1138.1 General provisions.

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1138.3 Route Disposition.
1138.4 Plant.
1138.5 Distributing plant.
1138.6 Supply plant.
1138.7 Pool plant.
1138.8 Nonpool plant.
1138.9 Handler.
1138.10 Producer-handler.
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1138.12 Producer.
1138.13 Producer milk.
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Handler Reports

1138.30 Report of receipts and utilization.
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Classification of Milk

1138.40 Classes of utilization.
1138.41 Shrinkage.
1138.42 Classification of transfers and diversions.
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1138.44 Classification of producer milk.
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Class Prices

1138.50 Class prices.
1138.51 Basic formula price.
1138.52 Basic Class II formula price.
1138.53 Plant location adjustments for handlers.
1138.54 Announcement of class prices.
1138.55 Equivalent price.

Uniform Price

1138.60 Handler's value of milk for computing uniform price.

Sec.
1138.61 Computation of uniform price.
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Payments for Milk

1138.70 Producer-settlement fund.
1138.71 Payments to the producer-settlement fund.
1138.72 Payments from the producer-settlement fund.
1138.73 Payments to producers and to cooperative associations.
1138.74 Butterfat differential.
1138.75 Plant location adjustments for producers and on nonpool milk.
1138.76 Payments by a handler operating a partially regulated distributing plant.
1138.77 Adjustment of accounts.
1138.78 Charges on overdue accounts.

Administrative Assessment and Marketing Service Deduction

1138.85 Assessment for order administration.
1138.86 Deduction for marketing services.

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674

Subpart—Order Regulating Handling

General Provisions

§ 1138.1 General Provisions.

The terms, definitions, and provisions in part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

Definitions

§ 1138.2 New Mexico-West Texas marketing area.

The *New Mexico-West Texas marketing area*, hereinafter called the "marketing area", means all territory within the boundaries of the following counties, and all territory occupied by government (Municipal, State or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed counties:

Zone 1: Following counties—Bernalillo, Catron, Cibola, Colfax, Curry, De Baca, Dona Ana, Grant, Guadalupe, Harding, Hidalgo, Lincoln, Los Alamos, Luna, McKinley, Mora, Otero, Quay, Rio Arriba, Roosevelt, Sandoval, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, Union and Valencia, all in the State of New Mexico, and El Paso in Texas.

Zone 2: Following counties—Archuleta, LaPlata and Montezuma in Colorado, and Chaves, Eddy, Lea and San Juan in New Mexico.

Zone 3: Following counties—Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Crosby, Dallam, Deaf Smith, Dickens, Donley, Floyd, Gaines, Garza, Gray, Hale, Hall, Hansford, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Lubbock, Lynn, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Terry, Wheeler and Yoakum, all in the state of Texas.

§ 1138.3 Route disposition.

Route disposition means any delivery to a retail or wholesale outlet (except to a plant) either direct or through any distribution facility (including disposition from a plant store, vendor or vending machine) of any fluid milk product classified as Class I milk.

§ 1138.4 Plant.

Plant means the land, buildings, facilities and equipment constituting a single operating unit or establishment at which milk or milk products (including filled milk) are received, processed or packaged. Separate facilities used only as a reload point for transferring bulk milk from one tank truck to another or separate facilities used only as a distribution point for storing packaged fluid milk products in transit for route disposition shall not be a plant under this definition.

§ 1138.5 Distributing plant.

Distributing plant means any plant:

(a) Approved by a duly constituted regulatory agency for the handling of milk approved for fluid consumption.

(b) In which fluid milk products are processed or packaged; and

(c) From which there is route disposition in the marketing area during the month.

§ 1138.6 Supply plant.

Supply plant means a plant approved by a duly constituted regulatory agency for the handling of milk approved for fluid consumption from which fluid milk products are transferred to a distributing plant(s) during the month.

§ 1138.7 Pool plant.

Pool plant means:

(a) A distributing plant:

(1) From which during the month there is total route disposition (except filled milk) in an amount not less than 50 percent of the total quantity of fluid milk products (except filled milk) received at such plant, including producer milk diverted from the plant, and not less than 10 percent of such receipts are disposed of as fluid milk products on routes in the marketing area; or

(2) Located in the marketing area that qualifies pursuant to paragraph (a)(1) of this section so long as this order's Class I price applicable at such plant location is not less than an other order's Class I price applicable at the same location even though the plant may meet the pooling requirements of the other Federal order and have greater route disposition in the other marketing area than in the New Mexico-West Texas marketing area.

(b) A supply plant from which during the month not less than 50 percent of the total quantity of milk that is received from dairy farmers (including producer milk diverted from the plant pursuant to § 1138.13, but excluding milk diverted to such plant) and handlers described in § 1138.9(c) is transferred to plants described in paragraph (a) of this section, subject to the following:

(1) A supply plant that has qualified as a pool plant during each of the immediately preceding months of September through January shall continue to qualify in each of the following months of February through August.

(c) Any plant located in the marketing area that is operated by a cooperative association if pool plant status under this paragraph is requested by the cooperative association and 35 percent or more of the producer milk of members of the cooperative association (and any producer milk of nonmembers and members of another cooperative association which may be marketed by the cooperative association) is physically received during the month in the form of bulk fluid milk products at plants specified in paragraph (a) of this section either directly from farms or by transfer from supply plants operated by the cooperative association and from plants of the cooperative association for which pool plant status has been requested under this paragraph subject to the following conditions:

(1) The plant does not qualify as a pool plant under paragraph (a) or (b) of this section or under comparable provisions of another Federal order; and

(2) The plant is approved by a duly constituted regulatory agency for the handling of milk approved for fluid consumption in the marketing area.

(d) The shipping standards in paragraphs (b) and (c) of this section may be increased or decreased up to 10 percentage points by the Director of the Dairy Division if the Director finds such revision is necessary to obtain needed shipments or to prevent uneconomic shipments. Before making such a finding the Director shall investigate the need for revision, either at the Director's initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the Director shall issue a notice stating that revision is being considered and inviting data, views, and arguments. If a plant

which would not otherwise qualify as a pool plant during the month qualifies as a pool plant because of a reduction in shipping standards pursuant to this paragraph, such plant shall be a nonpool plant for such month if the operator files a written request for nonpool plant status with the market administrator at the time the report is filed for such plant pursuant to § 1138.30.

(e) The term "Pool plant" shall not apply to the following plants:

(1) A producer-handler plant, a governmental agency plant, or an exempt plant.

(2) A distributing plant qualified pursuant to paragraph (a) (1) of this section which also meets the pooling requirements of another Federal order and from which there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order. On the basis of a written application made by the plant operator at least 15 days prior to the date for which a determination of the Secretary is to be effective, the Secretary may determine that the route disposition in the respective marketing areas to be used for purposes of this paragraph shall exclude (for a specified period of time) route disposition made under limited term contracts to governmental bases and institutions;

(3) A distributing plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which there is a greater quantity of route disposition, except filled milk, during the month in this marketing area than in such other Federal order marketing area but which plant is, nevertheless, fully regulated under such other Federal order;

(4) A supply plant qualified pursuant to paragraph (b) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part; or

(5) A plant qualified pursuant to paragraph (b) of this section which has automatic pooling status under another Federal order.

§ 1138.8 Nonpool plant.

Nonpool plant means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) *Other order plant* means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) *Producer-handler plant* means a plant operated by a producer-handler as defined in any order (including this Part) issued pursuant to the Act.

(c) *Partially regulated distributing plant* means a distributing plant that does not qualify as a pool plant and is not an other order plant, a governmental agency plant, or a producer-handler plant.

(d) *Unregulated supply plant* means a nonpool plant, except an other order plant, a governmental agency plant, or a producer handler plant, from which fluid milk products are moved during the month to a pool plant qualified pursuant to § 1138.7.

(e) *Governmental agency plant* means a plant owned and operated by a governmental agency or establishment which processes or packages milk or filled milk that is distributed in the marketing area. Such plant shall be exempt from the pricing and pooling provisions of this order.

(f) *Exempt plant* means any plant that has monthly route disposition of 150,000 pounds or less that may be exempt from the pricing and pooling provisions of this order if the handler operating the plant files timely reports as specified by the market administrator and maintains adequate books and records that are made available to the market administrator which will enable determination of the exempt status of such plant.

§ 1138.9 Handler.

Handler means:

(a) Any person who operates a pool plant;

(b) Any cooperative association with respect to the milk of producers which it causes to be diverted pursuant to § 1138.13 for the account of such cooperative association;

(c) Any cooperative association with respect to milk that it receives for its account from the farm of a producer for delivery to a pool plant of another handler in a tank truck owned and operated by, or under the control of, such cooperative association, unless both the cooperative association and the operator of the pool plant notify the market administrator prior to the time that such milk is delivered to the pool plant that the plant operator will be the handler for such milk and will purchase such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples. Milk for which the cooperative association is the handler pursuant to this paragraph shall be deemed to have been received by the cooperative association at the location of the pool plant to which such milk is delivered;

(d) Any person who operates a partially regulated distributing plant;

(e) Any person who is a producer-handler or who operates a governmental agency or exempt plant; and

(f) Any person who operates an other order plant described in § 1138.7(e) or an unregulated supply plant.

§ 1138.10 Producer-handler.

Producer-handler means any person:

(a) Who processes and packages milk from his or her own farm's production;

(b) Who has route disposition within the marketing area consisting of any portion of such milk;

(c) Who receives no fluid milk products from other dairy farmers or from any source other than a pool plant and whose receipts from pool plants are not in excess of 11,000 pounds per month;

(d) Who disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products received from own farm production or pool plants; and

(e) Who furnishes to the Market Administrator for verification, subject to review by the Secretary, evidence that the care and management of all the dairy animals and other resources necessary to produce the entire amount of fluid milk products handled (excluding receipts from pool plants) is the personal enterprise of and at the personal risk of such person and the operation of the processing and distribution business is the personal enterprise of and at the personal risk of the same person.

§ 1138.11 [Reserved]

§ 1138.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk approved for fluid consumption by a duly constituted regulatory agency and whose milk is:

(1) Received at a pool plant or by a handler described in § 1138.9(c); or

(2) Diverted pursuant to § 1138.13 by a handler for such handler's account.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) A governmental agency that operates a plant exempt pursuant to § 1138.8(e) and a handler that operates an exempt plant pursuant to § 1138.8(f);

(3) Any person with respect to milk production that is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1138.44(a)(8)(iii) and the corresponding step of § 1138.44(b); or

(4) Any person with respect to milk production that is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1138.13 Producer milk.

Producer milk means the skim milk and butterfat in milk from a producer that is:

(a) Received by the operator of a pool plant directly from such producer. Any milk picked up from the producer's farm tank in a tank truck owned and operated by, or under the control of, the operator of a pool plant but which is not received at a plant until the following month, shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm and shall be priced at the location of the plant where it is physically received in the following month. This paragraph shall apply in like manner to milk received by the operator of a pool plant who, in accordance with § 1138.9(c), is the handler for such milk.

(b) Received by a handler described in § 1138.9(c).

(c) Diverted from a pool plant for the account of the handler operating such plant to another pool plant, without limit in any month. Such milk shall be priced at the location of the plant to which diverted.

(d) Diverted by the operator of a pool plant or by a cooperative association from a pool plant to a nonpool plant (other than a producer-handler plant), subject to the following conditions:

(1) In each of the months of September through January, milk of a producer shall not be eligible for diversion from a pool plant under this section unless at least one day's production from such producer is physically received at a pool plant during the month;

(2) The total quantity of milk diverted by a cooperative association in any month shall not exceed the total quantity of producer milk that the cooperative association caused to be delivered to and was physically received at pool plants during the month;

(3) The operator of a pool plant other than a cooperative association may divert any milk that is not under the control of a cooperative association that is diverting milk during the month pursuant to paragraph (d)(2) of this section. The total quantity of milk so diverted in any month shall not exceed the total quantity of milk that was physically received at pool plant(s) as producer milk for which the plant operator is the handler;

(4) Any milk diverted in excess of the limits prescribed in paragraphs (d) (2) and (3) of this section shall not be producer milk. In such event, the diverting handler may designate the dairy farmer deliveries that shall not be producer milk. If the handler fails to so designate, milk diverted on the last day of the month, then the second-to-last-day of the month, and so on, shall be excluded until all diversions in excess of the prescribed limits are accounted for;

(5) The quantity of milk diverted from a pool plant that would cause the pool plant to become a nonpool plant shall not be producer milk. Diversions in excess of the prescribed limit shall be prorated among the diverting handlers;

(6) If a dairy farmer loses producer status under this order (except as a result of temporary loss of approval from a duly constituted regulatory agency for the production of milk for fluid consumption), such dairy farmer's milk shall not be eligible for diversion until it has been physically received as producer milk at a pool plant; and

(7) Diverted milk shall be priced at the location of the plant to which diverted.

§ 1138.14 Other source milk.

Other source milk means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1138.40(b)(1) from any source other than producers, handlers described in § 1138.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1138.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1138.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1138.40(b)(1) for which the handler fails to establish a disposition.

§ 1138.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey, and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1138.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1138.17 Filled milk.

Filled milk means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1138.18 Cooperative association.

Cooperative association means any cooperative marketing association of producers which the Secretary determines after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members; and

(c) To be engaged in making collective sales or marketing milk or milk products for its members.

§ 1138.19 [Reserved]

§ 1138.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1138.51(a);

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average for the first 15 days of the month of the daily price per pound of cheddar cheese in 40-pound blocks. The price used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average price shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily price per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

Handler Reports

§ 1138.30 Reports of receipts and utilization.

On or before the 7th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of such handler's pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1138.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk.

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1138.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1138.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report for each of the handler's plants with respect to its receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1138.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1138.9 (a), (b) and (c) who pays producers pursuant to § 1138.73 shall report to the market administrator the following information with respect to the handler's partial and final payments for producer milk received during such month;

(1) The name and address of each producer;

(2) The amount paid each producer; and

(3) The dates such payments were made.

(b) On or before the 20th day after the end of the month, each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1138.76(b) shall report to the market administrator with respect to milk received from each dairy farmer who would have been a producer if the plant had been fully regulated the following information for such month;

(1) The name and address of each dairy farmer;

(2) The total pounds of milk received from each dairy farmer;

(3) The average butterfat content of such milk;

(4) The amount and nature of any deductions, as authorized in writing by the dairy farmer, from the payment for such milk; and

(5) The rate of payment per hundredweight and the net amount paid each dairy farmer.

§ 1138.32 Other reports.

(a) On or before the 21st day of each month, each handler described in § 1138.9(a) who is required pursuant to § 1138.71(c) to make payments to the market administrator for milk received from producers and cooperative associations shall report to the market administrator the following information

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with respect to its receipts of milk during the first 15 days of the month:

(1) The name and address of each producer from whom milk was received;

(2) The total pounds of milk received from such producer;

(3) The amount and nature of any deductions, as authorized in writing by the producer, to be made from the partial payment for such milk;

(4) The total pounds of milk received from a handler described in § 1138.9(c); and

(5) The pounds of skim milk and butterfat in bulk fluid milk products received from a pool plant operated by a cooperative association.

(b) On or before the 7th day after the end of each month, each handler described in § 1138.9 (a), (b) and (c) shall report to the market administrator the following information with respect to its receipts of milk during such month.

(1) The name and address of each producer from whom milk was received;

(2) The total pounds of producer milk received from such producer, its average butterfat content and the total pounds of milk diverted to each plant that is not a pool plant;

(3) Except in the case of producer milk for which a cooperative association is collecting payments, the amount and nature of any deductions, as authorized in writing by the producer, to be made from the final payment for such milk;

(4) The total pounds of skim and butterfat received from a handler described in § 1138.9(c) and

(5) The pounds of skim milk and butterfat in bulk fluid milk products received from a pool plant operated by a cooperative association.

(c) On or before the reporting dates specified in paragraphs (a) and (b) of this section, each cooperative association that operates a pool plant from which bulk fluid milk products were transferred to pool plants of other handlers within the time periods described in paragraphs (a) and (b) of this section shall report to each such pool plant operator and to the market administrator the name and location of the transferor-plant and the total pounds and butterfat content of the bulk fluid milk products transferred from the plant.

(d) In addition to the reports required pursuant to paragraphs (a) through (c) of this section and § 1138.30 and § 1138.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

(3) Each handler other than a cooperative association who causes milk to be diverted shall, prior to such diversion, report to the market administrator his intention to divert such milk, the proposed date or dates of such diversion, and the plant to which such milk is to be diverted.

Classification of Milk

§ 1138.40 Classes of utilization.

Except as provided in § 1138.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1138.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custard, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section.

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition.

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1138.15; and

(6) In shrinkage assigned pursuant to § 1138.41(a) to the receipts specified in § 1138.41(a)(2) and in shrinkage specified in § 1138.41(b) and (c).

§ 1138.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1138.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat;

(1) In the receipts specified in paragraphs (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1138.9(c) and in milk diverted to such plant from another pool plant, except that, in either case, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraphs (b))(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1138.9(b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1138.43 Classification of transfers and diversions.

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or divertee-plant after the computations pursuant to § 1138.44(a)(12) and the corresponding step of § 1138.44(b);

(2) If the transferor-plant or divertor-plant received during the month other source milk to be allocated pursuant to § 1138.44(a)(7) or the corresponding step of § 1138.44(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler or divertor-handler received during the month other source milk to be allocated pursuant to § 1138.44(a)(11) or (12) or the corresponding step of § 1138.44(b), the skim milk or butterfat so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant or divertee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the class to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I subject to adjustment when such information is available.

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1138.40.

(c) *Transfers to producer-handlers and transfers and diversions to exempt plants and governmental agency plants.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to an exempt plant or and a governmental agency plant shall be classified:

(1) As Class I milk, if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipt of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant, an exempt handler plant, or a governmental agency plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i)(a) and (b) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraphs (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1138.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator.

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

(e) *Transfers by a handler described in § 1138.9(c) to pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1138.9(c) to another handler's pool plant shall be classified pursuant to § 1138.44 pro rata with producer milk received at the transferee-handler's plant and the value thereof at the class prices shall be included in the pool plant handler's value of milk pursuant to § 1138.60.

§ 1138.43 General classification rules.

In determining the classification of producer milk pursuant to § 1138.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1138.30 and shall compute separately for each pool plant, and for each cooperative association with respect to milk for which it is the handler pursuant to § 1138.9(b) or (c) that was not received at a pool plant, the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1138.40, 1138.41 and 1138.42. The combined pounds of skim milk and butterfat so determined in each Class for a handler described in § 1138.9(b) or (c) shall be such handler's classification of producer milk;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1138.9(b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1138.44 Classification of producer milk.

For each month the market administrator shall determine for each handler described in § 1138.9(a) for each pool plant of the handler separately the classification of producer milk and milk received from a handler described in § 1138.9(c), by allocating the handler's receipts of skim milk and butterfat to the utilization of such receipts by such handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1138.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted

pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts.

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1138.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1138.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1138.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1138.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5) and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from a governmental agency plant and an exempt plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section;

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant; and

(vii) Receipts of fluid milk products from a person described in § 1138.12(b)(5);

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraphs (a)(8)(ii)(*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount;

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1138.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1138.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraphs (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity pro-rated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received;

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining

in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraphs (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraphs (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1138.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such product pursuant to § 1138.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk and milk received from a handler described in § 1138.9(c), subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk and milk received from a handler described in § 1138.9(c) in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1138.48 Market Administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1138.44(a)(12) and the corresponding step of § 1138.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1138.44 on the basis of such report, and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the amount and class utilization of milk received by each handler from producers whose milk is being marketed by such cooperative association. For the purpose of this report, the milk caused to be so delivered by a cooperative association shall be pro-rated to each class in the proportion that the total receipts of producer milk by such handler were used in each class.

§ 1138.50 Class prices.

Subject to the provisions of § 1138.53, the class prices for the month per hundredweight of milk shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.35.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1138.52 for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1138.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1138.52.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1138.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk f.o.b. plants in Minnesota and Wisconsin as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1138.52 Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1138.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1138.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraphs (c)(1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the National Agricultural Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the National Agricultural Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

§ 1138.53 Plant location adjustments for handlers.

For milk received at a plant from producers or a handler described in § 1138.9(c) and which is classified as Class I milk, the price specified in § 1138.50(a) shall be adjusted by the amount stated in paragraph (a) of this section for the location of such plant:

(a) For a plant located within one of the zones set forth in § 1138.2, the adjustment shall be as follows:

Zone	Adjustment per hundredweight
Zone 1	No adjustment.
Zone 2	Minus 16 cents.
Zone 3	Plus 14 cents.

(b) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section.

§ 1138.54 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1138.50(b).

§ 1138.55 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1138.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1138.9 (b) and (c) with respect to milk that was not received at a pool plant as follows:

(a) Multiply the pounds of producer milk and milk received from a handler described in § 1138.9(c) that were classified in each class pursuant to §§ 1138.43(a) and 1138.44(c) by the applicable class prices, and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1138.44(a)(14) and the corresponding step of § 1138.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1138.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I Price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1138.44(a)(9) and the corresponding step of § 1138.44(b);

(d) And the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1138.44(a)(7)(i) through (iv) and (vii) and the corresponding step of § 1138.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1138.44(a)(7)(v) and (vi) and the corresponding step of 1138.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1138.44(a)(11) and the corresponding step of § 1138.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) Subtract for a handler described in § 1138.9(c) the amount obtained from multiplying the Class III price for the preceding month by the hundredweight of skim milk and butterfat contained in inventory at the beginning of the month that was delivered to another handler's pool plant during the month.

§ 1138.61 Computation of uniform price.

The market administrator shall compute for each month the uniform price per hundredweight for milk of 3.5 percent butterfat content as follows:

(a) Combine into one total the values computed pursuant to § 1138.60 for all handlers who filed the reports prescribed in § 1138.30 for the month and who made the payments pursuant to § 1138.71 for the preceding month;

(b) Add not less than one-half of the unobligated balance in the producer-settlement fund;

(c) Add the aggregate of all minus location adjustments and subtract the aggregate of all plus location adjustments computed pursuant to § 1138.75;

(d) Divide the resulting amount by the sum of the following for all handlers included in the computations;

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1138.60(f); and

(e) Subtract not more than 5 cents. The result shall be the "uniform price" for milk received from producers.

§ 1138.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the applicable uniform price pursuant to § 1138.61 for such month.

Payments for Milk

§ 1138.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1138.71, 1138.76 and 1138.77 and from which he shall make all payments pursuant to §§ 1138.72 and 1138.77, except that payments to a cooperative association pursuant to § 1138.72 shall be offset by any payments due from such cooperative association pursuant to § 1138.71 that have not been received by the market administrator.

§ 1138.71 Payments to the producer-settlement fund.

(a) Subject to paragraph (d) of this section, each handler shall pay to the market administrator on or before the 14th day after the end of the month the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1138.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1138.75, of such handler's receipts of producer milk and milk received from handlers pursuant to § 1138.9(c). In the case of a cooperative association which is a handler, less the amount due from other handlers pursuant to § 1138.73(d), exclusive of differential butterfat values; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1138.60(f).

(b) Subject to paragraph (d) of this section, each person who operated a plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator on or before the 25th day after the end of each month an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

(c) Any handler who the market administrator determines was more than 3 days late in making any payment obligation under Part 1138 shall pay to the market administrator the amount the handler would have otherwise been required to pay to producers and cooperative associations pursuant to § 1138.73. Payment shall be made to the market administrator on or before the day prior to the dates specified in § 1138.73 and such payments shall continue until the handler has met all payment obligations for 3 consecutive months.

(d) The following conditions shall apply with respect to payments prescribed in paragraphs (a), (b) and (c) of this section:

(1) Payments to the market administrator shall be deemed not to have been made until such payments have been received by the market administrator.

(2) If the date by which payments must be received by the market administrator falls on a Saturday or Sunday or any day that is a national holiday, payment shall not be due until the next day on which the market administrator's office is open for public business.

(3) Payments due the market administrator from a cooperative association handler may be offset by payments determined by the market administrator to be due the cooperative association pursuant to § 1138.73 (b) and (d).

§ 1138.72 Payments from the producer-settlement fund.

(a) On or before the 15th day after the end of each month the market administrator shall pay to each handler except one making payment pursuant to § 1138.71(c) the amount, if any, by which the amount computed pursuant to § 1138.71(a)(2) exceeds the amount computed pursuant to § 1138.71(a)(1).

(b) If the market administrator received payment from a handler(s) pursuant to § 1138.71(c), he shall distribute such amount plus any amount due such handler(s) pursuant to paragraph (a) of this section to producers and to cooperative associations in the same manner as provided in § 1138.73. In the event the handler fails to transmit the total amount due, the market administrator shall reduce uniformly the payments due to producers of such handler and complete such payments when the remaining amount is received.

(c) If at any time the balance in the producer-settlement fund is insufficient to make all payments pursuant to paragraph (a) of this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

§ 1138.73 Payments to producers and to cooperative associations.

(a) Except as provided in § 1138.71(c) and paragraphs (b), (d) and (f) of this section, each handler shall make payment to each producer from whom milk is received during the month as follows:

(1) On or before the last day of each month to each producer who did not discontinue shipping milk to such handler before the 23rd day of the month, an amount equal to not less than the previous month's uniform price (adjusted for location of such plant) multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized in writing by the producer, provided that the deductions do not exceed the value of the milk received during the partial payment period and the handler has paid such deductions to assignees by the date payment is otherwise due the producer.

(2) On or before the 17th day of the following month, an amount equal to not less than the appropriate uniform price adjusted by the butterfat differential and location adjustments to producers multiplied by the hundredweight of milk received from such producer during the month, subject to the following adjustments:

(i) Less payments made to such producer pursuant to paragraph (a)(1) of this section;

(ii) Less deductions for marketing services made pursuant to § 1138.86;

(iii) Plus or minus adjustments for errors made in previous payments made to such producer; and

(iv) Less proper deductions authorized in writing by such producer, provided that the deductions do not exceed the value of the milk received during the final payment period and the handler has paid such deductions to assignees by the date payment is otherwise due to the producer: *Provided*, That if by such date such handler had not received full payment from the market administrator pursuant to § 1138.72(a) for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producer shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator.

(b) Except as provided in paragraph (f) of this section, in the case of a cooperative association which the market administrator determines is authorized by those producers for whom it markets milk to collect payment for their milk and which has so requested any handler in writing, such handler other than one specified in § 1138.71(c) shall on or before the 2nd day prior to the date on which payments are due individual producers pay the cooperative association for milk received during the month from those producers for whom it markets milk as determined by the market administrator an amount equal to not less than the amount due such producers as determined pursuant to paragraph (a) of this section.

(c) In making payments to producers pursuant to paragraph (a) of this section, or to a cooperative association pursuant to paragraph (b) of this section, each handler shall furnish such producer or cooperative association with respect to each of the producers for whom it markets milk and from whom the handler received milk during the month, a written statement showing:

(1) The identity of the handler and the producer and the month to which the payment applies;

(2) The total pounds, and, with respect to final payments, the average butterfat content of the milk for which payment is being made;

(3) The minimum rate of payment required by the order and the rate of payment used if such rate is other than the applicable minimum rate;

(4) The amount and nature of any deductions from the amount otherwise due the producer; and

(5) The net amount of payment to the producer.

(d) Except as provided in § 1138.71(c) and paragraph (f) of this section, each handler pursuant to § 1138.9(a) who receives milk from a cooperative association as a handler pursuant to § 1138.9(c), including the milk of producers who are not members of such association, and who the market administrator determines have authorized such cooperative association to collect payment for their milk, shall pay such cooperative for such milk as follows:

(1) On or before the 2nd day prior to the last day of the month for milk received during the first 15 days of the month, not less than the applicable partial payment rate specified for such month in paragraph (a)(1) of this section; and

(2) On or before the 15th day of the following month for milk received during the month, not less than the uniform price as adjusted pursuant to § 1138.74 and § 1138.75, less any payments made pursuant to paragraph (a)(1) of this section.

(e) Except as provided in § 1138.71(c), each handler who received bulk fluid milk or bulk fluid cream products from a pool plant operated by a cooperative association shall pay the following amounts for such products to the cooperative association:

(1) On or before the 2nd day prior to the last day of each month, an amount determined by multiplying such receipts during the first 15 days of the month by the applicable partial payment rate

specified for such month in paragraph (a)(1) of this section. If the handler so elects, such price may be adjusted by the butterfat differential specified in § 1138.74 for the preceding month.

(2) On or before the 15th day after the end of each month, an amount determined by multiplying the quantity of such receipts during the month that was classified in each class pursuant to § 1138.42(a) by the applicable class price, as adjusted by the butterfat differential specified in § 1138.74, less any payments made by the handler pursuant to paragraph (e)(1) of this section for such month. For the purpose of such computation, the applicable Class I price shall be the Class I price applicable at the transferee plant including the applicable administrative assessment rate.

(f) If the application of § 1138.71(d)(2) results in a delay in payment by the market administrator to handlers, the payments prescribed in paragraphs (a), (b) and (d) of this section may be delayed by the same number of days.

(g) If the market administrator does not receive the full payment required of a handler pursuant to § 1138.71(c), he shall reduce uniformly per hundredweight the payments due producers and cooperative associations for their milk received by such handler by a total amount not in excess of the amount due from such handler. The market administrator shall complete such payments on or before the next date for making payments pursuant to this section following the date on which the remaining payment is received from such handler.

§ 1138.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1138.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payments required pursuant to § 1138.73, the uniform price computed pursuant to § 1138.61 shall be adjusted by the amounts set forth in § 1138.53 according to the location of the plant where the milk being priced was received.

(b) For the purpose of computations pursuant to §§ 1138.71 and 1138.72, the uniform price shall be adjusted by the amount set forth in § 1138.53 that is applicable at the location of the nonpool plant from which the milk was received.

§ 1138.76 Payments by a handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to § 1138.30(b) and § 1138.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant; and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1138.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1138.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1138.60 for such handler shall include, in lieu of the value of other source milk specified in § 1138.60(f) less the value of such other source milk specified in § 1138.71(a)(2)(ii), a value of milk determined pursuant to § 1138.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1138.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with its reports filed pursuant to §§ 1138.30(b) and 1138.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1138.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1138.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated.

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1138.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1138.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses adjustments to be made, for any reason, which results in monies due the market administrator from such handler, the market administrator shall promptly notify such handler of any such amount due, and payment thereof shall be made on or before the next date for making payment set forth in the provision under which the error occurred. Any monies found to be due a handler from the market administrator shall be paid promptly to such handler, except that the market administrator shall offset any monies due a handler against monies due from such handler. Whenever verification by the market administrator of the payment by a handler to any producer or cooperative association for milk received by such handler discloses payment of less than is required pursuant to § 1138.73, the handler shall pay such balance due such producer or cooperative association not later than the time of making payment to producers or cooperative associations next following such disclosure.

§ 1138.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1138.71, 1138.73, 1138.76, 1138.77, 1138.85, or 1138.86 shall be increased 1 percent beginning on the first day after the due date, and on the same day of each subsequent month until such obligation is paid, subject to the following conditions:

(a) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid charges previously computed pursuant to this section; and

(b) For the purpose of this section, any obligation that was determined at a date later than prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

(c) All monies collected pursuant to this section shall be paid to the administrative assessment fund maintained by the market administrator.

Administrative Assessment and Marketing Service Deduction

§ 1138.85 Assessment for order administration.

As each handler's pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Receipts of producer milk (including such handler's own production) other than such receipts by a handler described in § 1138.9(c) that were delivered to pool plants of other handlers or held in inventory at the end of the month;

(b) Receipts from a handler described in § 1138.9(c);

(c) Other source milk allocated to Class I pursuant to § 1138.44(a)(7) and (11) and the corresponding steps of § 1138.44(b), except such other source milk that is excluded from the computation pursuant to § 1138.60 (d) and (f); and

(d) Route disposition from a partially regulated distributing plant in the marketing area that exceeds the skim milk and butterfat specified in § 1138.76(a)(2).

§ 1138.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers pursuant to § 1138.73, shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to the milk of such producer (except a handler's own farm production) for whom the marketing services set forth in this paragraph are not being performed by a cooperative association as determined by the Secretary. Each handler making such deductions shall pay the deductions to the market administrator on or before the 15th day after the end of the month. The monies shall be used by the market administrator to verify or establish weights, samples and tests of producer milk and provide producers with market information. The services shall be performed by the market administrator or an agent engaged by and responsible to the market administrator.

(b) In the case of producers for whom a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producer as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 15th day after the end of each month, pay such deduction to the cooperative association rendering such services accompanied by a statement showing the quantity of milk for which such deduction was computed for each such producer.

PART 1126—MILK IN THE TEXAS MARKETING AREA

1. In § 1126.50, paragraph (a) is revised to read as follows:

§ 1126.50 Class prices.

* * * * *

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $3.10.

* * * * *

2. In § 1126.52, paragraph (a) is revised to read as follows:

§ 1126.52 Plant location adjustments for handlers.

(a) For milk received at a plant from producers or a handler described in § 1126.9(c) and which is classified as Class I milk without movement in bulk form to a pool distributing plant at which a higher Class I price applies, the price specified in § 1126.50(a) shall be adjusted by the amount stated in paragraphs (a) (1) through (8) of this section for the location of such plant;

(1) For a plant located within one of the zones set forth in § 1126.2, the adjustment shall be as follows:

	Adjustment per hundredweight
Zone 1	No adjustment.
Zone 1A	Minus 19 cents.
Zone 2	No adjustment.
Zone 3	Plus 15 cents.
Zone 4	Plus 18 cents.
Zone 5	Plus 20 cents.
Zone 6	Minus 21 cents.
Zone 7	Plus 30 cents.
Zone 8	Plus 34 cents.
Zone 9	Plus 42 cents.
Zone 10	Plus 53 cents.
Zone 11	Plus 66 cents.
Zone 12	Plus 75 cents.

(2) For a plant located in the New Mexico-West Texas marketing area, the minus adjustment shall be the difference between the applicable Class I price effective at such plant location under the New Mexico-West Texas order (part 1136) and the Class I price specified in § 1126.50(a).

(3) For a plant located in Bowie or Cass County, Texas, the adjustment shall be minus 8 cents.

(4) For a plant located in the State of Texas that is outside the designated pricing areas described in paragraphs (a)(1) through (3) of this section, the adjustment shall be the adjustment applicable at the nearer of Corpus Christi, San Angelo, or San Antonio, Texas, except that for a plant is located in the Texas counties of Brewster, Crane, Crockett, Culberson, Hudspeth, Irion, Jeff Davis, Loving, Pecos, Presidio, Reagan, Reeves, Terrell, Upton, Ward, and Winkler, the adjustment shall be minus 2.2 cents per hundredweight for each 10 miles or fraction thereof that such plant is located from the City Hall in San Angelo, Texas (based on the shortest hard-surfaced highway distance as determined by the Market Administrator.)

(5) For a plant located in the Southwest Plains marketing area or in Pulaski County, Missouri, the minus adjustment shall be the difference between the applicable Class I price effective under the Southwest Plains order (part 1106) and the Class I price specified in § 1126.50(a).

(6) For a plant located in the State of Arkansas, the minus adjustment shall be the difference between the applicable Class I price effective at such plant location under the Central Arkansas order (part 1108) and the Class I price specified in § 1126.50(a).

(7) For a plant located in the State of Louisiana, the plus adjustment shall be the difference between the applicable Class I price effective at such plant location under the Greater Louisiana order (part 1098) and the Class I price specified in § 1126.50(a).

(8) For a plant located outside the designated pricing areas described in paragraphs (a)(1) through (7) of this section, the adjustment shall be minus 2.2 cents per hundredweight for each 10 miles or fraction thereof that such plant is located from the City Hall in Dallas, Texas, (based on the shortest hard-surfaced highway distance as determined by the Market Administrator.)

* * * * *

PART 1106—MILK IN THE SOUTHWEST PLAINS MARKETING AREA

1. In § 1106.9(f), the reference to "§ 1106.7(e)" is changed to "§ 1106.7(f)."

2. In the preamble of § 1106.43, the reference to "§ 1160.44" is changed to "§ 1106.44."

3. In § 1106.44(a)(1), the reference to "§ 1106.4(b)" is changed to "§ 1106.41(b)."

4. Section 1106.52 is amended by changing the reference to "paragraphs (a)(1) through (9)" in the introductory text of paragraph (a) to "paragraphs (a)(1) through (7)", by removing paragraphs (a)(6) through (9) and adding new paragraphs (a)(6) and (7) to read as follows:

§ 1106.52 Plant location adjustments for handlers.

(a) * * *

(6) For a plant located in any of the following territory in the States of Texas, New Mexico and Colorado, the adjustments shall be as follows:

(i) In the Texas marketing area, the plus adjustment shall be the difference between the applicable Class I price effective at such plant location under the Texas order (Part 1126) and the Class I price specified in § 1106.50(a).

(ii) In Bowie or Cass Counties, Texas, the adjustment shall be plus 31 cents.

(iii) In any other Texas territory that is outside the marketing area of any Federal order, the adjustment shall be plus 2.25 cents per hundredweight for each 10 miles or fraction thereof that such plant is from the City Hall in Oklahoma City, Oklahoma, (based on the shortest hard-surfaced highway distance as determined by the Market Administrator.)

(iv) In the New Mexico-West Texas marketing area, the minus adjustment shall be the difference between the applicable Class I price effective at such plant location under the New Mexico-West Texas order (part 1136) and the Class I price specified in § 1106.50(a).

(v) In the Eastern Colorado marketing area or in the Colorado counties of Baca, Bent or Powers, the adjustment shall be the difference (plus or minus) between the applicable Class I price effective at such plant location under the Eastern Colorado order (part 1137) and the Class I price specified in § 1106.50(a).

(vi) In any other Colorado territory that is outside the designated pricing areas described in paragraphs (a)(6)(iv) and (v), the adjustment shall be minus 77 cents.

(7) For a plant located outside the designated pricing areas described in paragraphs (a)(1) through (6) of this section, the adjustment shall be minus 18 cents plus an additional reduction of 2.25 cents per hundredweight for each 10 miles or fraction thereof that such plant is located from the nearer of the City Hall in Tulsa or Ponca City, Oklahoma (based on the shortest hard-surfaced highway distance as determined by the Market Administrator.)

* * * * *

PARTS 1120 AND 1132—[REMOVED]

Parts 1120 and 1132 would be removed.

Signed at Washington, DC on: October 22, 1990.

Daniel Haley,

Administrator.

[FR Doc. 90-25306 Filed 10-26-90; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024-AB56

Voyageurs National Park, MN Snowmobile Regulations;

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rulemaking will amend the current regulation by adding a section which will designate routes, portages and water surfaces open to snowmobile use. This addition is necessary to authorize snowmobile use within Voyageurs National Park. The intended effects are to provide for safe snowmobile use, to protect park resources, and to provide appropriate enjoyment to park users.

DATES: Written comments will be accepted through November 28, 1990.

ADDRESSES: Comments should be directed to: Superintendent, Voyageurs National Park, P.O. Box 50, International Falls, MN 56649.

FOR FURTHER INFORMATION CONTACT:
Chief Ranger, Voyageurs National Park, P.O. Box 50, International Falls, MN 56649. Telephone: 218 283-9821.

SUPPLEMENTARY INFORMATION:

Background

Title 36, Code of Federal Regulations (36 CFR), § 2.18(c) requires the promulgation of special regulations to authorize snowmobile use within areas of the National Park System.

These regulations are proposed by the National Park Service (NPS) to allow snowmobiling on designated lakes, land trails and safety portages within Voyageurs National Park. They reflect the legislative history and planning and public participation process summarized below.

Voyageurs National Park was authorized in 1971 and established in 1975. The park consists of approximately 219,128 acres of which 85,506 acres or 39 percent are water. The water portions of the park have long served as primary transportation routes, and motorized travel on the major lakes (Rainy, Kabetogama, Namakan and Sand Point) precedes the park's establishment. Today motorboats and snowmobiles are used both for recreation, and to provide year-round access to homes and vacation cabins in the adjacent region.

Overland snowmobile travel is also long established. The most popular overland snowmobile route existing today is the Chain of Lakes Trail located on the western half of the Kabetogama Peninsula. This twelve mile trail connects five interior lakes with Kabetogama Lake by a series of portages and abandoned logging roads.

"NPS Management Policies" and 36 CFR 2.18 state that snowmobiling will be limited to designated routes and frozen lake surfaces used by motorized vehicles during other seasons or as otherwise provided by Federal statute.

The legislation authorizing Voyageurs National Park (Pub. L. 91-681, as codified at 16 U.S.C. 160 *et seq.*) includes such a provision. Section 303 of the Act, 16 U.S.C. 160h, states: "The Secretary [of the Interior] may, when planning for development of the park, include appropriate provisions for winter sports, including the use of snowmobiles."

The park's 1980 "Master Plan" followed this direction by providing for the use of snowmobiles on lakes and traditionally used land routes.

In 1983 the park's initial wilderness study was completed and the resulting draft "Wilderness Recommendation" and accompanying "Environmental Impact Statement" (EIS) were submitted to the Department of Interior's Legislative Counsel on June 8, 1983. A second recommendation superseding the June 8, 1983 recommendation was transmitted on November 17, 1983. Neither the first nor the second recommendation was transmitted to the President or to the Congress. An update of the wilderness study is scheduled to commence in the fall of 1990.

In April, 1989 the park's "Trail Plan and Environmental Assessment" was completed. This document proposed the development of certain overland snowmobile trails with the understanding that these trails would not preclude further wilderness study and potential wilderness designation.

A "Special Regulations For Lake Surface Snowmobiling Environmental Assessment" was completed in 1990 and supported the master plan's recommendation to allow snowmobiling on Rainy, Kabetogama, Namakan and Sand Point lakes.

This proposed regulation intends to implement the above recommendations by authorizing snowmobile use on the frozen lake surfaces of the four major lakes, across associated safety portages, and on several short spur routes.

Snowmobile use would also be allowed on the Chain of Lakes Trail.

This proposed regulation would not authorize snowmobile use on the 26.0 mile Kabetogama Peninsula Trail recommended in the "Trail Plan".

The pending wilderness study will address the Kabetogama Peninsula Trail. Decisions concerning snowmobile use of the Chain of Lakes Trail and the proposed Kabetogama Peninsula Trail will be evaluated based on those recommendations and this regulation will be amended at the appropriate time to reflect those decisions.

In order to mitigate snowmobile impacts on critical wildlife habitat within the park, temporary closures of the lake surfaces may occur under the authority of § 1.5 of 36 CFR. Other mitigation measures to reduce the potential impacts of snowmobiles on the park's resources will also be implemented. These actions include continued monitoring and analysis by the resource management and research staffs of resource conditions and trends, and visitor use and behavior. Non-regulatory measures will be adopted, including marking and grooming of trails on the lake surfaces to route snowmobiles away from areas frequented by wolves and other wildlife.

Public Participation

The policy of the National Park Service is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this proposed rule to the address noted at the beginning of this rulemaking.

Extensive public involvement has also taken place through public review of the "Master Plan", the wilderness studies, and the "Trail Plan".

Drafting Information

The primary author of this rulemaking is Hugh Dougher, Park Ranger, Voyageurs National Park.

Paperwork Reduction Act

This rulemaking does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C 3501 *et seq.*

Compliance With Other Laws

Pursuant to the National Environmental Policy Act, 42 U.S.C. Section 4332, the Service prepared a Draft Trail Plan and Environmental Assessment. The environmental assessment led to a Finding of No Significant Impact. Public input was provided during a series of public hearings. Extensive public comment, both oral and written, was received regarding the matter of snowmobile use.

The NPS has determined that this rulemaking is not a "major rule" within the meaning of E.O. 12291 ((46 FR 13193); Feb. 19, 1981). In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, which became effective January 1, 1981, the Service has determined that the regulations proposed in the rulemaking will not have a significant economic effect on a substantial number of small entities, nor does it require a preparation of a regulatory analysis.

The Service has reviewed this rule as directed by Executive Order 12360, "Governmental Actions and Interference with Constitutionally Protected Property Rights," to determine if this rule has "policies that have taking implications." The Service has determined that this rule does not have taking implications because it allows an activity previously prohibited by Service regulations. This will allow winter access to private lands within and adjacent to the park which is otherwise prohibited.

List of Subjects in 36 CFR Part 7

National Parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, it is proposed to amend 36 CFR chapter I, part 7 as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation continues to read as follows:

Authority: 16 U.S.C. 1,3,9a, 460(q), 462(k); Sec. 7.96 also issued under D.C. Code 8-137 (1981) and DC Code 40-721 (1981).

2. Section 7.33 is amended by adding paragraph (b) to read as follows:

§ 7.33 Voyageurs National Park.

* * * * *

(b) *Snowmobiles.* (1) The following lakes and trails within Voyageurs National Park are open to snowmobile use:

(i) The frozen waters of Rainy, Kabetogama, Namakan, Mukooda, Little Trout and Sand Point lakes.

(ii) The Moose River Railroad Grade from the park boundary north to Ash River, and then east to Moose Bay, Namakan Lake.

(iii) The portage trail between Grassy Bay and Little Trout Lake.

(iv) The Chain of Lakes Trail from its intersection with the Black Bay to Moose Bay portage, across Locator, War Club, Quill, Loiten, and Shoepack Lakes, to Kabetogama Lake.

(2) Snowmobile use is allowed across the following marked safety portages: Black Bay to Moose Bay, Lost Bay to Saginaw Bay, Laurins Bay to Kettle Falls, Squirrel Narrows, Squaw Narrows, Grassy Bay, Namakan Narrows, Swansons Bay, Mukooda Lake to Sand Point Lake (north), Mukooda Lake to Sand Point Lake (south), Mukooda Lake to Crane Lake, Tar Point, Kohler Bay, and Sullivan Bay to Kabetogama Lake.

(3) The Superintendent may determine yearly opening and closing dates for snowmobile use, and temporarily close trails or lake surfaces, taking into consideration public safety, wildlife management, weather, and park management objectives.

(4) Maps showing the designated routes are available at park headquarters and at ranger stations.

(5) Snowmobile use outside open designated routes and lake surfaces is prohibited.

Dated: October 1, 1990.

Scott Sewell,

Acting Assistant Secretary for Fish, Wildlife and Parks.

[FR Doc. 90-25468 Filed 10-26-90; 8:45 am]

BILLING CODE 4310-70-M

36 CFR Part 62

National Natural Landmarks Program: Identification, Notification, Evaluation, Nomination and Designation of Nationally Significant Geological and Ecological Natural Areas as National Natural Landmarks

AGENCY: National Park Service, DOI.

ACTION: Advance Notice of Proposed Rulemaking; Request for Comments.

SUMMARY: The National Park Service (NPS) is requesting comments and suggestions regarding its intent to amend regulations governing the identification, notification, evaluation, nomination and designation of geological and ecological natural areas as National Natural Landmarks (NNLs). It has come to the NPS' attention that, in some cases, over the tenure of the National Natural Landmarks Program from 1962 forward, some resource identifications, onsite evaluations, nominations, and designations have been done without appropriate notification and/or consent of the legal landowners. To rectify this situation, amended regulations are required to specifically ensure that landowners are fully notified, are provided full Program disclosure and an understanding of the consequences relative to NNL designation, and have given their consent to having their property so considered. NPS believes full disclosure to willing landowners will be constructive and ensure that landowner rights are fully respected at all times. NPS seeks recommendations before amending the regulations. It is anticipated that proposed regulations will be published in the Federal Register for a 90-day public comment period commencing on or about November 1, 1990. Public hearings may also be held during this public comment period (*See* **SUPPLEMENTARY INFORMATION**" below).

DATES: Response to this notice is without expiration until the proposed rulemaking is published in the Federal Register.

ADDRESSES: Please mail written comments to Director, National Park Service (490), P.O. Box 37127, Washington, DC 20013-7127.

FOR FURTHER INFORMATION CONTACT: Anne Frondorf, Wildlife and Vegetation Division, National Park Service, Washington, DC (202) 343-6100.

SUPPLEMENTARY INFORMATION:

Comments

Interested persons are invited to submit comments concerning this Notice. Comments should refer to the docket number that appears in the heading of this document. All comments submitted in response to this Notice shall be made available for public inspection in the Natural Landmarks Program office, Wildlife and Vegetation Division, located in room 3319, 1100 L Street NW., Washington, DC between 9 a.m. and 4 p.m., Monday through Friday.

Public Hearings

To assist the NPS in gaining a more complete perspective of all Program associated problematic issues for prompt resolution and to provide adequate public input into the regulatory process, NPS anticipates the need for a series of public hearings. During the 90-day public comment period for the proposed regulations, the following localities are under consideration for public hearings: Boise, Idaho; Davis, California; Albuquerque, New Mexico; Denver, Colorado; Porter, Indiana; Bangor, Maine; Harrisburg, Pennsylvania; Washington, District of Columbia; and Tallahassee, Florida. Suggestions for alternative potential localities are requested from the public, although the total number of hearings shall not exceed nine (9).

Background

The Secretary of the Interior established the National Natural Landmarks Program in 1962 to identify and encourage the preservation of the full range of geological and ecological features that are determined to be among the most significant examples of the Nation's natural heritage. Potential natural landmarks are identified through studies conducted by the National Park Service and other sources, evaluated by expert natural scientists, and, if judged nationally significant, designated as landmarks by the Secretary of the Interior. Once a landmark is designated, it is included on the National Registry of Natural Landmarks, which currently lists 587 natural landmarks nationwide.

The National Natural Landmarks Program has been administered by NPS since May 18, 1962 with the exception of the period from January 25, 1978 to May 31, 1981, when it was administered by the Heritage Conservation and Recreation Service (HCRS). HCRS was abolished by Secretarial Order 3060 on May 31, 1981.

The act of designating an area as a natural landmark is not a land withdrawal. Landmark designation does not dictate the type or intensity of activity that may be undertaken on the subject real property involved. However, there may be State and/or local land use or land planning

implications of landmark designation and therefore designation may indirectly restrict some uses and compromise future changes of land usage. Landmark conservation is often made possible only through the long-term voluntary commitment of public and private owners to protect an area's outstanding natural values. The Department encourages owners and managers to protect the nationally significant values located on their properties. This cooperation is wholly voluntary. Landowners who agree to participate in the Program are expected to preserve the integrity of the natural values being recognized. Landowners are eligible to receive a certificate which recognizes the special status of their property. A bronze plaque may also be presented when considered appropriate for display at the landmark.

Federal agencies are responsible for considering National Natural Landmarks when assessing the effects of their actions on the environment under section 102(2)(C) of the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. 4321).

The National Registry of Natural Landmarks includes nationally significant geological and ecological features in 48 states, American Samoa, Guam, Puerto Rico, and the Virgin Islands. Of the 587 landmarks currently listed on the Registry, approximately one-half are administered solely by public agencies, i.e., Federal, State, county, or municipal governments. Nearly one-third are owned entirely by private parties. The remaining natural landmarks are owned or administered by a mixture of public and private owners. Because many natural landmarks are privately owned and/or not managed for public access, landowner permission must be obtained prior to visitation. Designation in no way infers any right of public access.

Discussion

Over the twenty-eight (28) year history of the Program, full sensitivity to landowner interests, including landowner notification and consent, has not always been demonstrated by the NPS. From 1962 through 1979, no program regulations existed. Existing program regulations (36 CFR part 62) were published in 1980. These regulations contain provisions for landowner notification, but do not explicitly address landowner consent. There are indications that some landowners may not have received appropriate notification. It is the intent of the NPS to publish a proposed rulemaking resulting in a final regulatory authority which shall ensure landowner rights are fully respected at all times. In addition, any changes in program regulations will be applied to all currently designated natural landmarks and other sites which have previously received onsite evaluations. Landowners will be provided with the opportunity to have the natural landmark designation removed from their properties. In addition, the NPS will propose, as part of this proposed rulemaking, that the National Park System Advisory Board will review any future natural landmark nominations and make recommendations to the Secretary as to their designation.

NPS believes amended regulations containing specific language on landowner notification and consent requirements, together with full Program disclosure, coupled with the development of a step-by-step internal Program procedures handbook to ensure uniform application of these regulations and the development of a landowner contact element in the Program, will serve to enhance the value of the Program for both the public and private sectors.

Additional Information Sources

Any person may write the NPS for National Natural Landmark Program documents including the "National Registry of Natural Landmarks," the current Program regulations (36 CFR part 62), and other general or specific Program materials. In addition, natural area theme studies, onsite evaluation reports, and other associated program documents are available by mail. By prior appointment, all Program documents remain available for public examination in Washington, DC and at the National Park Service's ten regional offices. The following list of National Natural Landmarks Program Regional Coordinators and direct contact information is provided for all interested persons:

Alaska Regional Office: Gary Vequist, NNL Coordinator, 2525 Gambell Street, Anchorage, Alaska 99503, (907) 257-2570

Midwest Regional Office: Michael Gallagher, NNL Coordinator, 1709 Jackson Street, Omaha, Nebraska 68102, (402) 221-3418

Pacific Northwest Regional Office: Gordon Atkins, NNL Coordinator, 83 S. King Street, Suite 212, Seattle, Washington 98104, (206) 442-2352

Western Regional Office: Gene Wehunt, NNL Coordinator, 450 Golden Gate Ave., Box 36063, San Francisco, California 94102, (415) 556-6560

Rocky Mountain Regional Office: Kay Salazar, NNL Coordinator, P.O. Box 25287, Denver, Colorado 80225, (303) 969-2850

Southwest Regional Office: Keith Yarborough, NNL Coordinator, P.O. Box 728, Santa Fe, New Mexico 87504, (505) 988-6570

Southeast Regional Office: Wallace Brittain, NNL Coordinator, 75 Spring Street, Atlanta, Georgia 30303, (404) 331-5536

Mid-Atlantic Regional Office: Pat Bentley, NNL Coordinator, 143 South Third Street, Philadelphia, Pennsylvania 19106, (215) 597-0011

North Atlantic Regional Office: Mary Foley, NNL Coordinator, 15 State Street, Boston, Massachusetts 02109, (617) 223-5129

National Capital Regional Office: Dick Hammerschlag, NNL Coordinator, 1100 Ohio Drive, SW, Washington, DC 20042, (202) 342-1443

Authority

Authority for the National Natural Landmarks Program is based on the Historic Sites Act of 1935 (49 Stat. 666, 16 U.S.C. 461 *et seq.*); and, section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262).

References

45 FR 81190, December 9, 1980. Redesignated at 46 FR 34329, July 1, 1981.

Additional Statutory Compliance Requirements

A determination will be made by the Department of the Interior whether or not this rulemaking is a major rule under the provisions of Executive Order 12291. If the Department determined this rulemaking is a major rule, a Regulatory Impact Analysis will be required. Regulations will also be constructed in compliance with the Administrative Procedures Act (5 U.S.C. 551 *et seq.*) and the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) which may require preparation of a Regulatory Flexibility Analysis. These regulations will also be constructed in full compliance with all provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). A determination also will be made on the necessity or lack thereof for preparation of an environmental assessment or an impact statement, as required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347). Major issues affecting landowners shall be fully addressed.

The preamble to the proposed regulations shall include a summary and a discussion of the comments received in response to this Notice.

Dated: October 12, 1990.

Scott Sewell,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 90-25469 Filed 10-26-90; 8:45 am]

BILLING CODE 4310-70-M

FEDERAL MARITIME COMMISSION

46 CFR Part 502

[Docket No. 90-29]

Amendment to Rules of Practice and Procedure; Interest in Reparation Proceedings

AGENCY: Federal Maritime Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Maritime Commission ("Commission" or "FMC") proposes to amend Rule 253 of its Rules of Practice and Procedure, 46 CFR 502.253, interest in reparation proceedings. The Rule currently limits payment of interest to proceedings involving misrating of cargo and arising under section 10(b) of the Shipping Act of 1984 and section 2 of the Intercoastal Shipping Act, 1933. The proposed amendment would make Rule 253 applicable to the computation of interest on awards of reparation granted under the Shipping Act of 1984 and the Shipping Act, 1916 on the basis of the average rate on six-month U.S. Treasury bills. Under the Intercoastal Shipping Act, 1933, interest would be computed on the average of the prime rate charged by major banks as published by the Board of Governors of the Federal Reserve System.

DATES: Comments due on or before November 28, 1990.

ADDRESSES: Send comments (original and fifteen copies) to: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523-5725.

FOR FURTHER INFORMATION CONTACT: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523-5740.

SUPPLEMENTARY INFORMATION: Rule 253 of the FMC's Rules of Practice and Procedure, 46 CFR 502.253, governs the payment of interest on awards of reparation. It currently provides for the payment of interest "in cases involving the misrating of cargo and arising under section 10(b) of the Shipping Act of 1984 and section 2 of the Intercoastal Shipping Act, 1933." Interest is to be computed on the basis of the average monthly rates on six-month U.S. Treasury bills.

However, section 11(g) of the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. 1710(g), contemplates awards of reparation not only for injuries caused by misrating but also for "actual injury" caused by any violation of the 1984 Act. Actual injury includes "the loss of interest at commercial rates compounded from the date of injury."

Further, section 22(a) of the Shipping Act, 1916, ("1916 Act") permits the Commission to direct full reparation to a complainant for any violation of the 1916 Act. 46 U.S.C. app. 821. It, however, contains no reference to the payment of interest on such awards.[1]

Section 2 of the Intercoastal Shipping Act, 1933 ("1933 Act"), 46 U.S.C. 844, referred to in Rule 253, prohibits the collection of freight charges different from the rates and charges on file with the Commission. In addition, section 3(c)(2) of the 1933 Act permits the Commission to order a refund of that portion of a general rate increase that is not just and reasonable and section 4 allows reparations for unjust or unreasonable rates. Under these situations, interest is to be "computed on the basis of the average of the prime rate charged by major banks, as published by the Board of Governors of the Federal Reserve System."[2]

Under the proposed rule, interest on awards of reparation for all violations of the 1984 Act and the 1916 Act would be computed on the basis of the average monthly rate on six-month U.S. Treasury bills. This is a continuation of the standard currently used only for reparations in misrating cases.[3] The Commission believes that this standard is particularly appropriate for all 1984 Act and 1916 Act cases for the reasons stated when it was originally adopted, *i.e.*, persons to whom reparations have been awarded would have had the additional funds to use or invest and should be compensated according to investment rates in money and capital markets. Docket No. 81-22, Interest in Reparation Proceedings, 20 S.R.R. 1511, 1514 (1981). After having chosen an investment rate rather than loan rate, the Commission there chose the short term T-Bill rate, because the uncertainty and the general short duration of overpayments made it unlikely that such funds could have been used for longer term investments. *Id.* When the Commission later adopted a rule to implement the 1984 Act, it again chose the T-Bill rate, but changed the method of calculating interest from simple to compound. Docket No. 84-17, Interest in Reparation Proceedings, 22 S.R.R. 1069 (1984). The Commission there stated that it intended to establish a benchmark interest rate that would produce a reasonable result for the reparations process. Although noting several alternative forms of investments, the Commission determined that monthly yields on six-month T-Bills produced a fair rate of interest. Interest in Reparation Proceedings, *supra*, 22 S.R.R. at 1071. In this regard, it should be noted that Congress has chosen a T-Bill rate for interest award on money judgments in civil cases in United States district courts. *See* 28 U.S.C. 1961(a).

In view of the specific statutory requirement, interest on refunds and reparation awards granted under the 1933 Act would be computed on the basis of the average of the prime rate charged by major banks, as published by the Board of Governors of the Federal Reserve System, during the period to which the reparation applies.

The Federal Maritime Commission has determined that this proposed rule is not a "major rule" as defined in Executive Order 12291, dated February 17, 1981, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or investment productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Federal Maritime Commission certifies, pursuant to section 605(b), of the Regulatory Flexibility Act, 5 U.S.C. 605(b) that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units or small governmental organizations.

The Paperwork Reduction Act, 44 U.S.C. 3501-3520, does not apply to this Notice of Proposed Rulemaking because the amendments to part 502 of title 46, Code, of Federal Regulations, do not impose any additional reporting or

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[1] The Commission's policy has been to assess interest on reparation awards granted under section 22 of the 1916 Act. *See, e.g., Oakland Car Co.* v. *Great Lakes Transit Corp.*, 1 U.S.S.B.B. 208, 211 (1945); *United States Borax & Chemical Corporation* v. *Pacific Coast European Conference et al.*, 11 F.M.C. 451, 470 (1968), citing *L.& N.R.R.* v. *Sloss-Sheffield Co.*, 269 U.S. 217, 229 (1925), where the Court recognized the loss of interest on charges unlawfully collected as an element of damages.

[2] The 1933 Act was enacted as an amendment to the 1916 Act. Both presently apply to transportation by water in the U.S. domestic offshore trades.

[3] Due to a technical error made in the course of preparing final rules under the 1984 Act, this standard was inadvertently made applicable to only misrating of cargo cases.

record keeping requirements or change the information collection requirements which require the approval of the Office of Management and Budget.

List of Subjects in 46 CFR Part 502

Administrative practice and procedure.

PART 502—[AMENDED]

Therefore, pursuant to 5 U.S.C. 551, 553, 559, the Federal Maritime Commission proposes to amend part 502 of title 46 of the Code of Federal Regulations as follows:

1. The authority citation for part 502 continues to read as follows:

Authority: 5 U.S.C. 504, 551, 552, 553, 559; 12 U.S.C. 1141j(a); 13 U.S.C. 207; 26 U.S.C. 501(c)(3); 28 U.S.C. 2112(a); 46 U.S.C. app. 817, 820, 821, 826, 841a, 1114(b), 1705, 1707–1711, 1713–1716; E.O. 11222 of May 8, 1965 (30 FR 6469); and 21 U.S.C. 853a.

2. Section 502.253 is revised to read as follows:

§ 502.253 Interest in reparation proceedings.

Except as to applications for refund or waiver of freight charges under § 502.92 and claims which are settled by agreement of the parties, and absent fraud or misconduct of a party, interest granted on awards of reparation in complaint proceedings instituted under the Shipping Act of 1984, the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933, will accrue from the date of injury to the date specified in the Commission order awarding reparations. Compounding will be daily from the date specified in the Commission order awarding reparation. Normally, the date specified within which payment must be made will be fifteen (15) days subsequent to the date of service of the Commission order.

(a) On awards of reparation granted under the Shipping Act of 1984, or the Shipping Act, 1916, interest shall be computed on the basis of the average monthly rate on six-month U.S. Treasury bills commencing with the rate for the month that the injury occurred and concluding with the latest available U.S. Treasury bill rate at the date of the Commission order awarding reparation. The monthly rates on six-month U.S. Treasury bills for the reparation period will be summed up and divided by the number of months for which interest rates are available in the reparation period to determine the average interest rate applicable during the period.

(b) On refunds ordered under section 3(c)(2) and awards of reparation granted under section 4 of the Intercoastal Shipping Act, 1933 interest shall be computed on the basis of the average of the prime rate charged by major banks, as published by the Board of Governors of the Federal Reserve System during the period to which the reparation applies. (Rule 253.)

By the Commission.

Joseph C. Polking,
Secretary.

[FR Doc. 90–25471 Filed 10–26–90; 8:45 am]
BILLING CODE 6730-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Finding on the Petition Involving the Yacare Caiman, and Review of Status of Nile Crocodile (Ranched and Wild Populations) and Yacare Caiman

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding and initiation of status reviews.

SUMMARY: In this notice, the Service announces its finding on the substantiality of information presented in an earlier petition to downlist the yacare caiman (*Caiman crocodilus yacare*) from endangered to threatened under the provisions of the Endangered Species Act of 1973. The yacare has been listed as endangered since 1970 and is native to Argentina, Bolivia, Brazil and Paraguay.

The Service also announces a review of the status of the Nile crocodile (*Crocodylus niloticus*) in Africa, and the yacare caiman (*Caiman crocodilus yacare*) in South America. All populations of yacare and Nile crocodiles, except those populations of Nile crocodiles in Zimbabwe, are currently listed as endangered. Comments are also being sought on whether other subspecies of caiman (*Caiman crocodilus crocodilus* and *Caiman crocodilus fuscus*), and their manufactured product which closely resemble the yacare caiman, should be listed under the "similarity of appearance" provisions of the Endangered Species Act.

DATES: The finding announced in this notice was made on June 13, 1990. Comments and information on the status reviews may be submitted until February 26, 1991.

ADDRESSES: Comments, information, and questions should be submitted to the Chief, Office of Scientific Authority; Mail Stop: Room 725, Arlington Square; U.S. Fish and Wildlife Service; Washington, DC 20240. Comments and other information received will be available for public inspection, by appointment, from 8:00 a.m. to 4:00 p.m., Monday through Friday, in Room 750, 4401 North Fairfax Drive, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Chief, Office of Scientific Authority, at the above address (phone 703–358–1708 or FTS 921–1708).

SUPPLEMENTARY INFORMATION:

Finding

Section 4(b)(3) of the Endangered Species Act, as amended, requires that within 90 days of receipt of a petition to list, delist, or reclassify a species, or to revise a critical habitat designation, a finding be made on whether the petition presents substantial information indicating that the action may be warranted.

On March 15, 1988, the Service received a petition dated March 10, 1988, from Mr. Armand S. Bennett, President of Columbia Impex Corporation, requesting the reclassification of the yacare caiman (*Caiman crocodilus yacare*) from an endangered to a threatened status. The petition dealt chiefly with the problem of identification between the yacare caiman and the common caiman (*Caiman crocodilus crocodilus*), especially of the parts (flanks) that enter trade.

The Service reviewed the petition and concluded that it did not present substantial scientific or commercial information to indicate that a downlisting action was warranted.

Yacare Caiman

The Service is aware of the controversy associated with defining the range of *Caiman* species of southern South America, especially that of *Caiman crocodylus yacare*. To assist in the clarification of the status of the yacare caiman, the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in conjunction with the International Union for the Conservation of Nature and Natural Resources (IUCN) Crocodile Specialist Group undertook a 2-year survey (starting in late 1986 and early 1987) and conservation program for the crocodilians of the genus *Caiman* in Brazil, Bolivia, and Paraguay. These surveys were conducted under the auspices of CITES, and were carried out

by the IUCN/Crocodile Specialist Group, and the Governments of Brazil, Bolivia, and Paraguay. The Service furnished assistance in the form of funding to the CITES Secretariat and field staff for the Paraguay phase of the study. These surveys should provide data that will enable the Service to assess the present status of the yacare.

The yacare caiman (*Caiman crocodilus yacare*) is limited in distribution to the lowland areas and river systems of northeastern Argentina, southeastern and northern Bolivia, Paraguay, and the western regions of the States of Rondonia, Mato Grosso, and Mato Grosso do Sul of Brazil. These include the river systems of the Rio Paraguay, Mamore (also referred to as the Itenez in Bolivia) southward to the mouth of the Rio Parana. The race is not found in the drainage system of the Rio Solimoes and Amazon in northern and eastern Brazil (Brazitis *et al.* 1989).

Caiman crocodilus crocodilus occurs in the drainages and the basin of the Amazon River in French Guiana, Surinam, Guyana, Venezuela, eastern Ecuador, Colombia, Peru and Brazil. A narrow zone of integration exists between *C. c. yacare* and *C. c. crocodilus* which coincides with the northern border of Bolivia and Brazil in the State of Acre to the Rio Acre and Abuna, and northward to approximately Humaita on the Rio Madeira through the State of Amazonia (Brazitis 1985).

Caiman crocodilus fuscus occurs from Mexico through Central America to Columbia west of the Andes and along the coastal and western regions of Venezuela south through Ecuador to the northwestern border of Peru.

The yacare has been listed as endangered since 1970 and was placed in appendix II of CITES on July 1, 1975. The endangered listing halted all commercial imports of the species into the United States, except under permit for conservation purposes; the appendix II listing allows for regulated commercial trade elsewhere in the world. All commercial imports of yacare into the United States are prohibited under the Act even though shipments originating from range states are carrying apparently valid CITES export documents. All four of the originating countries have been closed to *yacare* export in recent years, thereby calling into question the validity of shipments to intermediary manufacturing countries.

To assist in the clarification of the status of the crocodilians of the genus *Caiman*, especially the yacare caiman, the CITES Secretariat, the IUCN-Crocodile Specialist Group, and the Governments of Brazil, Bolivia, and Paraguay, undertook a 2-year survey (1986–1988) to determine the present status of caimans in southern South America. The results of these surveys have been finalized and the reports (Brazitis et al. 1989, King and Videz Roca 1987, Scott et al. undated) have been filed with the CITES Secretariat. Draft copies have been provided to the Service.

Nile Crocodile

Historically, the Nile crocodile (*Crocodylus niloticus*) was widespread throughout Africa and even as far north as Syria, but presently, it is confined chiefly to the lower Nile, tropical and southern Africa, and Madagascar. In the 1950's and 1960's, it was eliminated throughout much of its range or populations were seriously reduced because of habitat alteration, hunting for the hide industry, or killing to eliminate a potential threat to humans, livestock, and the fishing industry.

The Nile crocodile was listed as endangered in the June 2, 1970, Federal Register notice (35 FR 8495) because of the widespread decline of the species. Since that time, a number of African countries have recognized the Nile crocodile as a valuable part of their natural heritage, both in terms of its ecological role and as a source of sustainable economic benefit if provided proper management, especially the ranching of animals, for a controlled harvest of skins.

In Africa today, some crocodile populations are increasing or have at least stabilized. In some areas, human development has increased available habitat through the creation of lakes and lagoons from damming swift-flowing rivers. Of those countries that have started ranching operations, Zimbabwe appears to have the best information on native populations. Other nations, particularly Malawi, Mozambique, and Zambia have expanded their data base on crocodilian populations in their countries.

In the June 17, 1987, Federal Register notice (52 FR 23148), the Service reclassified ranched populations of Nile crocodile in Zimbabwe from endangered to threatened. At the same time, the Service announced that existing information indicated that wild populations in Zimbabwe should also be reclassified from endangered to threatened, and issued a proposed rule to that effect (52 FR 23152). On September 30, 1988, the Service issued a final rule (53 FR 38451) reclassifying wild populations of Nile crocodiles in Zimbabwe from endangered to threatened.

In 1981, the Parties to CITES recognized that some populations of Appendix I species were less "endangered" than others and could benefit from controlled utilization. Criteria were presented for the transfer of ranched populations to appendix II (resolution Conf. 3.15). Since Zimbabwe had a well-developed ranching scheme and considerable data on the status of its wild populations, its ranching proposal was accepted by the CITES Parties in 1983.

In 1984, at a meeting in Brussels to discuss CITES implementation in Africa, the transfer of the Nile crocodile to appendix II and the difficulty of satisfying the Berne criteria were major issues of discussion. Not all African nations had ranching schemes at that time or intended to develop one. It was recognized that an alternative procedure was needed to allow the utilization of wild populations while information was being gathered to satisfy the rigorous criteria of resolution Conf. 1.2 (Berne criteria) or Conf. 3.15 (ranching). The outcome was the establishment of a quota system introduced at the fifth meeting of the Parties as resolution Conf. 5.21 in 1985. Under this procedure, Nile crocodile populations from nine African countries (Cameroon, Congo, Kenya, Madagascar, Malawi, Mozambique, Sudan, Tanzania, and Zambia), were transferred from appendix I to appendix II, subject to export quotas established by the Parties and described by the CITES Secretariat in the appendices. The population of Botswana was added in 1986 through a postal vote. In 1987, export quotas were continued for specimens from all ten countries. In October, 1987, the CITES Nile Crocodile Project was initiated by the CITES Secretariat in eastern and central Africa and Madagascar (Hutton 1989).

At the seventh meeting of the Conference of Parties to CITES (October 9–20, 1989), the transfer of additional populations of Nile crocodile from appendix I to appendix II, pursuant to resolution Conf. 3.15 on ranching, was approved, including those populations in Botswana, Malawi, Mozambique, and Zambia. Also at the seventh meeting of the Parties, the Party nations agreed to continue an export quota for Nile crocodiles, pursuant to resolution Conf. 5.21 and Conf. 7.14. However, the export quotas for Cameroon, Congo and Madagascar populations were set at zero for the present with the export of only captive-raised specimens allowed from Madagascar in 1991 and 1992, and a zero quota for Sudan in those years. The Parties also approved the transfer

of Nile crocodile populations in Ethiopia and Somalia from appendix I to appendix II pursuant to Conf. 5.21.

At the time of the transfer of these populations from appendix I to appendix II, information on the wild populations of Nile crocodile was incomplete. Since that time, at least some of the countries have developed better population status information and management programs. The Nile crocodile population in each country will be evaluated separately.

Requested Comments

In order to obtain additional information, the Service now solicits relevant data, comments, and publications dealing with the present status and distribution, biological information, and bioconservation measures of the Nile crocodile (both wild and ranched populations), and the yacare caiman.

With reference to the yacare, the Service is also interested in comments on the necessity and advisability of treating the subspecies *C. c. crocodilus* and *C. c. fuscus* (also listed in appendix II of CITES) as endangered or threatened due to its similarity of appearance to the listed *C. c. yacare*. Section 4(e) of the Act and 50 CFR 17.50 authorize such treatment in cases where a species which is not itself listed as endangered or threatened closely resembles a listed species, if it is determined that (1) this resemblance creates substantial difficulty for enforcement personnel in differentiating between the two species, (2) this difficulty causes an additional threat to the listed species, and (3) control of taking or trade in the similar species will substantially facilitate protection of the listed species. Any decision to undertake such controls would, of course, first depend on the results of the yacare status review.

Living yacare caiman are largely distinguishable from the common caiman and the brown caiman. However, portions of skins, hides and products manufactured from cut pieces of these taxa may be difficult or impossible to distinguish as to subspecies or identify.

References Cited

Brazitis, P., C. Yamashita, and G. Rebelo. 1989. A summary report of the CITES Central South America caiman study: Phase I: Brazil. 7 pp + Figs.

Brazitis, P. 1989. The caiman of the Pantanal: past, present, and future. Presented at the 8th working meeting of the IUCN/Crocodile Specialist Group. Quito, Ecuador. 62 pp.

Hutton, J.M. 1989. CITES and the Nile crocodile in East/Central Africa and Madagascar. The CITES Nile Crocodile Project Report. 32 pp.

King, F.W. and D.H. Videz Roca. 1987. The Caimans of Bolivia. A preliminary report on a CITES and Centro de Desarrollo Forestral sponsored survey of species distribution and status. 30 pp.

Scott, N.J., A.L. Aquino, L.A. Fitzgerald. Undated. Distribution, habitats, and conservation of the caiman (*Alligatoridae*) of Paraguay. 30 pp.

Author

This document was prepared by Dr. Richard M. Mitchell (*see* **ADDRESSES**), Office of Scientific Authority, U.S. Fish and Wildlife Service, Washington, DC 20240.

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record keeping requirements, and Transportation.

Dated: October 19, 1990.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 90-25463 Filed 10-26-90; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Finding on Petition to List the California Floater (Clam)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding.

SUMMARY: The U.S. Fish and Wildlife Service announces a 90-day petition finding for a petition to amend the Lists of Endangered and Threatened Wildlife and Plants. The petition to list a clam, the California floater (*Anodonta californiensis*), does not present substantial information to indicate that listing the species as endangered or threatened is warranted.

DATES: The finding announced in this notice was made on September 18, 1990.

ADDRESSES: Information, comments, or questions regarding the petition may be submitted to the Field Supervisor, U.S. Fish and Wildlife Service, Ecological Services Field Office, 3616 West Thomas, Suite 6, Phoenix, Arizona 85019. The petition, petition finding, and supporting data are available for public inspection, by appointment, during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Sally Stefferud, Fish and Wildlife Biologist, at the above address (Telephone 602/379-4720, FTS 261-4720).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that for any petition to revise the Lists of Endangered and Threatened Wildlife and Plants the Fish and Wildlife Service (Service) shall make a finding within 90 days of the date of receipt of the petition on whether the petition (a) presents substantial scientific or commercial information indicating that the petitioned action may be warranted, or (b) does not present substantial scientific or commercial information indicating that the petitioned action may be warranted. Such a 90-day finding is to be published promptly in the Federal Register.

A petition, dated December 20, 1989, from Thomas Hulen of the Pueblo Grande Museum in Phoenix, Arizona, was received by the Service on December 26, 1989. The petition requested the Service to list a clam, the California floater (*Anodonta californiensis*) as an endangered or threatened species.

The California floater is a freshwater mussel that is found in Pacific drainages of Washington, Oregon, California, Idaho, Nevada, Utah, and Arizona; southern British Columbia, Canada; and Chihuahua and possibly Sonora, Mexico. In its larval stage it is parasitic on the gills, fins, or barbels of fish. Whether the California floater is host-specific to a certain species or genus of fish is unknown. As an adult, the floater lives in sand and mud on stream bottoms. The life span is unknown, but closely related species live for 10 to 15 years.

Threats to the California floater come primarily from alteration and destruction of riverine habitats, including channelization, dredging, impoundment, erosion, siltation, water diversion, groundwater pumping, pollution, and watershed modifications. Status of the California floater may also be tied to a specific fish or group of fish that serve as hosts for the larval stage. Many of the native fishes within the range of the floater are depleted by habitat alteration and by competition and predation by non-native fishes introduced by humans either inadvertently or for various purposes. The proliferation of the introduced Asian clam (*Corbicula manilensis*) may also be adversely affecting the California floater through interspecific competition.

Information in the petition indicates that, although the California floater was apparently historically relatively widespread in Arizona, it is now restricted to only one area of the upper Black River in eastern Arizona and possibly in Chevelon Creek in north central Arizona. Historic populations in the Colorado River have been extirpated due to extensive modification of the habitat by dams, channelization, water diversion, and dredging. Other historic Arizona populations, such as those in the Santa Cruz and San Pedro Rivers, have been extirpated by the drying up of those rivers through water diversion, groundwater pumping, and watershed modification. Data also exist that indicate that populations of California floater have been extirpated in the area of Los Angeles, California, by channelization and other modifications of the habitat.

No data are available on the California floater in the majority of its range. The status of the species in British Columbia, Washington, Oregon, Idaho, Nevada, northern California, Utah, and Chihuahua is unknown. Although many of the streams in that range have been subject to various degrees of modification by humans, there is no information to support an assumption that the California floater has been substantially depleted or is subject to serious threats throughout all or a significant portion of its range. The Service has reviewed the best scientific and commercial information available on the California floater, and has determined that the petition did not present substantial information indicating that listing this species as endangered or threatened may be warranted.

The Service intends to add the California floater to the list of species considered to be candidates for Federal listing as a category 2 species. Category 2 species are those for which information now in possession of the Service indicates that proposing to list as endangered or threatened is possibly appropriate, but for which conclusive data on biological vulnerability and threats are not currently available to support a proposed rule.

The Service would appreciate any additional data, comments, and suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any interested party concerning this species.

Author

This notice was prepared by Sally Stefferud (see **ADDRESSES**) and Sonja Jahrsdoerfer, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766-3972 or FTS 474-3972).

Authority: The authority for this action is the Endangered Species Act (16 U.S.C. 1531-1543).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record-keeping requirements, and Transportation.

Dated: October 17, 1990.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 90-25494 Filed 10-26-90; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period and Public Hearing on Proposed Endangered Status for the Ouachita Rock-Pocketbook (*Arkansia wheeleri*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period and notice of public hearing.

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice that a public hearing will be held and the comment period reopened on the proposed rule to list the Ouachita rock-pocketbook (*Arkansia wheeleri*) as an endangered species. The hearing and the reopening of the comment period will allow all interested parties to submit oral or written comments on the proposal.

DATES: The public hearing will be held from 7 p.m. to 11 p.m. on November 19, 1990, in Antlers, Oklahoma. The comment period for this proposal will be reopened on November 14, 1990, and will close on December 4, 1990. Comments must be received by the closing date. Any comments that are received after the closing date may not be considered in the final decision on this proposal.

ADDRESSES: The public hearing will be held at the Antlers Community Center, 200 S. High Street, Antlers, Oklahoma. Written comments and materials should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, 222 S. Houston, suite A, Tulsa, Oklahoma 74127. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: David Martinez, at the above address (918/581-7458 or FTS 745-7458).

SUPPLEMENTARY INFORMATION:

Background

The Ouachita rock-pocketbook is known to occur only in an approximately 80-mile reach of the Kiamichi River upstream from Hugo Reservoir in Oklahoma and a 5-mile segment of the Little River in southwestern Arkansas. The species is threatened by reservoir construction, water quality degradation, and possibly by invasion of the exotic Asiatic clam (*Corbicula fluminea*). A proposed rule to list this species as endangered was published in the Federal Register (55 FR 29665) on July 20, 1990.

Section 4(b)(5)(E) of the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 et seq.), requires that a public hearing be held if it is requested within 45 days of the publication of a proposed rule. On August 24, 1990, the Service received a written request for a public hearing from Mr. Bill Rowton, City Manager, Antlers, Oklahoma.

The Service has scheduled this public hearing for November 19, 1990, from 7 p.m. to 11 p.m. in the Antlers Community Center, 200 S. High Street, Antlers, Oklahoma. Those parties wishing to make statements for the record should bring a copy of their statement to present to the Service at the start of the hearing. Oral statements may be limited in length, if the number of parties present at the hearing necessitates such a limitation. There are, however, no limits to the length of written comments or materials presented at the hearing or mailed to the Service. The comment period on the proposed rule originally closed on September 21, 1990. The Service is reopening the comment period from November 14, 1990, to December 4, 1990. Written comments should be submitted to the Service office listed in the **ADDRESSES** section above.

Author

The primary author of this notice is Sonja Jahrsdoerfer, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103, (505) 766-3972 or FTS 474-3972.

Authority: The authority for this action is the Endangered Species Act (16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record-

keeping requirements, and
Transportation.

Dated: October 22, 1990.
James A. Young,
Acting Regional Director.
[FR Doc. 90-25400 Filed 10-26-90; 8:45 am]
BILLING CODE 4310-55-M

BEST COPY AVAILABLE

Notices

Federal Register
Vol. 55, No. 209
Monday, October 29, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Judicial Review and Committee on Governmental Processes; Public Meetings and Notice of Proposed Recommendation

This notice of a committee meeting is given pursuant to the Federal Advisory Committee Act (Pub. L. No. 92-463). Attendance at each meeting is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman at least one day in advance. The committee chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request.

Committee on Judicial Review

Date: Thursday, November 8, 1990.
Time: 2:00 p.m.
Location: Administrative Conference, 2120 L Street, NW., suite 500, Washington, DC (Library, 5th floor).
Contact: Mary Candace Fowler, 202-254-7020.
Agenda: The Committee will meet to discuss a draft report on licensing procedures and judicial review under the Export Administration Act, prepared by Professor Howard N. Fenton, of Ohio Northern University, Pettit College of Law.

Committee on Governmental Processes

Date: Friday, November 16, 1990.
Time: 2:30 p.m.
Location: Administrative Conference, 2120 L Street, NW., suite 500, Washington, DC (Library, 5th floor).
Contact: David M. Pritzker, 202-254-7020.
Agenda: The Administrative Conference's Committee on Governmental Processes has under consideration a draft recommendation on Federal agency practices for management of archival records. The proposed recomendation is based in part on a draft report by Professor Henry H. Perritt, Jr. of Villanova University School of Law. The draft recommendation is summarized in this notice. Copies of the full text of the draft recommendation and of the draft report are available from the Office of the Chairman of the Administrative Conference.

The Conference's Committee on Governmental Processes will meet on Friday, November 16, 1990, at 2:30 p.m., for further consideration of the draft recommendation. At that time, the committee will decide whether to approve a recommendation for consideration by the Administrative Conference at its Plenary Session scheduled for December 17 and 18, 1990. Comments should be sent to the address given above not later than November 13.

Summary of the Draft Recommendation

The draft recommendation takes the position that the evolution of Federal record management technology—from paper to electronic media, and through future changes in technology—should not alter existing law and policy applicable to records management. Agencies should be guided by the principle that the content of a record, not the format of its storage, should govern agency practice as to retention and accessibility.

The recommendation also calls attention to the problem of maintaining accessibility of records when the format or equipment used to create the records becomes obsolete. The National Archives and Records Administration is advised to take an active role in developing ways for government to modernize its record-keeping technology while mitigating potential problems. The Office of Management and Budget and the Department of Justice are urged to issue guidance on questions relating to the admissibility of electronic records as evidence and issues of reliability of documents including signature requirements.

Dated: October 25, 1990.
Jeffrey S. Lubbers,
Research Director.
[FR Doc. 90-25641 Filed 10-26-90; 8:45 am]
BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Determination of Total Amount and Quota Period for Tariff-Rate Quota for Certain Imported Sugars, Syrups, and Molasses

AGENCY: Office of the Secretary, USDA.
ACTION: Notice.

SUMMARY: This notice establishes the total amount of 1,725,000 metric tons, raw value, of sugars, syrups, and molasses that may be entered under subheadings 1701.11.01, 1701.12.01, 1701.91.21, 1701.99.01, 1702.90.31, 1806.10.41, and 2106.90.11 of the Harmonized Tariff Schedule of the United States (HTS) and establishes the period of October 1, 1990 through September 30, 1991 for the entry of such total amount of sugars, syrups, and molasses.

EFFECTIVE DATE: October 27, 1990.
ADDRESSES: Inquiries may be mailed or delivered to the Team Leader, Import Quota Programs, Foreign Agricultural Service, Room 6095, South Building, U.S. Department of Agriculture, Washington, DC 20250.
FOR FURTHER INFORMATION CONTACT: Cleveland Marsh (Team Leader, Import Quota Programs), 202-447-2916.
SUPPLEMENTARY INFORMATION: Presidential Proclamation No. 6179 of September 13, 1990, 55 FR 38293, converted the U.S. sugar import quota into a tariff-rate quota, effective October 1, 1990. Proclamation No. 6179 modified additional U.S. note 3 to chapter 17 of the HTS to provide, in paragraph (a)(i) as follows:

The total amount of sugars, syrups and molasses entered, or withdrawn from warehouse for consumption, under subheadings 1701.11.01, 1701.12.01, 1701.91.21, 1701.99.01, 1702.90.31, 1806.10.41, and 2106.90.11, during such period as shall be established by the Secretary of Agriculture (hereinafter referred to as "the Secretary"), shall not exceed in the aggregate an amount (expressed in terms of raw value) as shall be established by the Secretary. The Secretary shall determine such total amount as will give due consideration to the interests in the U.S. sugar market of domestic producers and materially affected contracting parties to the General Agreement on Tariffs and Trade. Such total amount shall consist of (1) a base quota amount, and (2) an amount reserved for the importation of specialty sugars as defined

by the United States Trade Representative, to be allocated by the United States Trade Representative in accordance with paragraph (b)(i) of this note.

These provisions of paragraph (a)(i) of additional U.S. note 3 to chapter 17 of the HTS, as modified by the President in Proclamation No. 6179, authorize the Secretary of Agriculture to establish a total amount (expressed in terms of raw value) for imports of sugars, syrups, and molasses that may be entered under the subheadings of the HTS subject to the lower tier of duties [1] of the tariff-rate quota and to establish the time period for entry of such total amount.

The Secretary is required to determine such total amount as will give due consideration to the interests in the U.S. sugar market of domestic producers and materially affected contracting parties to the General Agreement on Tariffs and Trade (GATT). The total amount, consisting of a base quota amount and an amount reserved for the importation of specialty sugars, is to be allocated by the United States Trade Representative (USTR) in accordance with paragraph (b)(i) of additional U.S. note 3 to chapter 17 of the HTS.

Notice

Notice is hereby given that I have determined, in accordance with paragraph (a) of additional U.S. note 3 to chapter 17 of the HTS, that a total amount of up to 1,725,000 metric tons, raw value, of sugars, syrups, and molasses described in subheadings 1701.11.01, 1701.12.01, 1701.91.21, 1701.99.01, 1702.90.31, 1806.10.41, and 2106.90.11 of the HTS may be entered or withdrawn from warehouse for consumption during the period from October 1, 1990 through September 30, 1991. I have further determined that the base quota amount is 1,718,308 metric tons, raw value; the amount reserved for the importation of specialty sugars is 1,815 metric tons, raw value; and 4,877 metric tons, raw value, are reserved as a quota adjustment amount to be allocated by the United States Trade Representative.

I have also determined that such total amount will give due consideration to the interests in the U.S. sugar market of domestic producers and materially affected contracting parties to the General Agreement on Tariffs and Trade.

Signed at Washington, DC, on October 19, 1990.

Jack C. Parnell,

Deputy Secretary of Agriculture.

[FR Doc. 90-25508 Filed 10-26-90; 8:45 am]

BILLING CODE 3410-10-M

[1] Pursuant to paragraph (a) of additional U.S. note 4 to chapter 17 of the HTS, as modified by the President in Proclamation No. 6179, the duty-free treatment accorded to the importation of sugars, syrups and molasses from the beneficiary countries of the Generalized System of Preferences (GSP) and Caribbean Basin Economic Recovery Act (CBERA), entered under the subheadings of the HTS subject to the lower tier of the tariff-rate quota, is limited to the quantities as established by the Secretary and allocated by the United States Trade Representative pursuant to paragraphs (a) and (b), respectively, of additional U.S. note 3 to chapter 17. Currently, imports of sugars, syrups, and molasses from all beneficiary countries for purposes of the GSP and CBERA, except Brazil, are eligible for duty free entry in amounts not exceeding those allocated by the United States Trade Representative pursuant to paragraph (b) of additional U.S. note 3 to chapter 17 of the HTS.

Agricultural Research Service

Intent To Grant an Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant an exclusive license to Firesafe Products Corporation, New York, New York, on U.S. Patent Application Serial No. 07/366,702, "System for Producing Core/Wrap Yarn," filed June 15, 1989, and U.S. Patent Application Serial No. 07/469,120, "System for Producing Staple-Wrapped Core Yarn," filed January 24, 1990.

DATES: Comments must be received December 28, 1990.

ADDRESSES: Send comments to: USDA–ARS–Office of Cooperative Interactions, Beltsville Agricultural Research Center, Baltimore Boulevard, Building 005, Room 401–A, BARC–W, Beltsville, Maryland 20705.

FOR FURTHER INFORMATION CONTACT: M. Ann Whitehead of the Office of Cooperative Interactions at the Beltsville address given above; telephone: 301/344–2786, (FTS) 344–2786.

SUPPLEMENTARY INFORMATION: The USDA–ARS intends to grant to Firesafe Products Corporation a partially exclusive license to practice the aforementioned inventions. Notices of availability were given in the Federal Register on December 19, 1989, and July 23, 1990, respectively. Patent rights to these inventions are assigned to the United States of America as represented by the Secretary of Agriculture. It is in the public interest to so license these inventions as Firesafe Products Corporation, has submitted a complete and sufficient application for a license and is entering into a Cooperative Research and Development Agreement with the Agricultural Research Service providing for further development of the inventions.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7 and will conform to the intent of 15 U.S.C. 3710a. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, ARS receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209, 37 CFR 404.7 and the intent 15 U.S.C. 209, 37 CFR 404.7 and the intent 15 U.S.C. 3710a.

William H. Tallent,

Assistant Administrator.

[FR Doc. 90-25509 Filed 10-26-90; 8:45 am]

BILLING CODE 3410-05-M

Rural Electrification Administration

Holy Cross Electric Assoc., Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Finding of no significant impact relating to the construction of the Cooley Mesa Substation in Eagle County, Colorado.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended, the Council on Environmental Quality Regulations (40 CFR parts 1500–1508), and REA Environmental Policies and Procedures (7 CFR part 1794), has made a Finding of No Significant Impact (FONSI) with respect to the construction and operation of the Cooley Mesa Substation in Eagle County, Colorado.

FOR INFORMATION CONTACT: Mr. Martin G. Seipel, Director, Southwest Area—Electric, Rural Electrification Administration, Room 0207, Agriculture South Building, Washington, DC 20250, telephone: (202) 382–8448. Copies of the FONSI can be obtained from REA at the address provided above or at the office of Holy Cross Electric Association, Inc., 3799 Highway 82, P.O. Drawer 2150, Glenwood Springs, Colorado 81602.

SUPPLEMENTARY INFORMATION: REA, in accordance with its environmental policies and procedures, required that Holy Cross Electric Association, Inc. (Holy Cross) develop a Borrower's Environmental Report (BER) reflecting the potential impacts of the proposed facility. The BER, which includes input from Federal, State and local agencies,

has been adopted as REA's Environmental Assessment (EA) for the project in accordance with 7 CFR 1794.61. REA has concluded that the BER represents an accurate assessment of the environmental impacts of the project. The project will allow Holy Cross to meet its present and future needs in the area.

The Cooley Mesa Substation will be located on a site south of the Eagle County Airport. The property, already owned by Holy Cross, is in the NE 1/4, Section 10, Township 5 Sough, Range 85 West of the 6th P.M. and currently contains an existing warehouse and storage yard. The new substation will be a 230 kV to 25 kV facility which will require an additional 4.0 hectares (9.9 acres) of land to be disturbed. An existing 230 kV transmission line crosses the southern end of the site, so no transmission line extension is necessary.

Alternatives examined for the proposed project included the no action alternative and alternative sites. The alternative sites included construction of a 115/25 kV substation at the Wolcott Substation, construction of a 115/69/25 kV substation at the old Eagle 69 kV substation site and construction of a 115/25 kV substation at a site west of the proposed Cooley Mesa site. REA determined that the proposed project will meet Holy Cross's existing and future needs and will have no significant impact on the environment.

REA has concluded that its approval to allow Holy Cross to construct the proposed project does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, REA has reached a FONSI with respect to its action related to the project.

In accordance with REA Environmental Policies and Procedures, 7 CFR part 1794, Holy Cross published a notice and advertisement in the Vail Daily, the Avon Beaver Creek Times, the Vail Trail and the Eagle Valley Enterprise. The newspapers have a general circulation in Eagle County, Colorado. The notice described the project, announced the availability of the BER for review, how copies could be obtained and gave addresses where comments could be sent. The public was given at least 30 days to respond and submit comments. No responses were received by Holy Cross or REA.

As a result of its independent evaluation, REA concluded that approval to construct the proposed project will not constitute a major Federal action significantly affecting the quality of the human environment. REA hereby reaches a Finding of No Significant Impact with respect to the proposed project in accordance with 7 CFR part 1794.

Dated: October 19, 1990.

John H. Arnesen,

Assistant Administrator-Electric.

[FR Doc. 90-25505 Filed 10-26-90; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisons of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Service Annual Survey.

Form Number(s): B-500T, T1, T2, T3, T4, T5, T6, T7 B-500M, M1, M2.

Agency Approval Number: 0607-0422.

Type of Request: Revision of a currently approved collection.

Burden: 5,400 hours.

Number of Respondents: 21,000.

Avg Hours Per Response: 18 minutes.

Needs and Uses: The Service Annual Survey (SAS) is the only annual source of data on the dollar volume of receipts for various service industries. The Bureau of Economic Analysis uses SAS data in their preparation of the national income and product accounts, and their benchmark and annual input-output tables. The Bureau of Labor Statistics uses the data as input to their Producer Price Indexes and in developing productivity measurements. Other government agencies use the data for program planning and development. We are revising the SAS to enhance the data collected for some of the fastest growing activities. We are increasing the amount of data collected for computer and data processing services, management and consulting services, equipment rental and leasing services, automotive rental and leasing services, amusement parks, and offices of health practitioners. The enhanced data will allow us to produce more than just a single estimate (total receipts) for these industries to that data users can conduct a more in-depth analysis of changes in the service sector.

Affected Public: Businesses or other for-profit organizations, Non-profit institutions, Small businesses or organizations.

Frequency: Annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Marshall Mills, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Clearance Officer, (202) 377-3271, Department of Commerce, Room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Marshall Mills, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 24, 1990.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 90-25491 Filed 10-26-90; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

[C-333-401]

Cotton Shop Towels From Peru; Determination Not To Terminate Suspended Investigation

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of determination not to terminate suspended investigation.

SUMMARY: The Department of Commerce is notifying the public of its determination not to terminate the suspended countervailing duty investigation on cotton shop towels from Peru.

EFFECTIVE DATE: October 29, 1990.

FOR FURTHER INFORMATION CONTACT: Megan Pilarescia or Barbara Williams, Office of Agreements Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-3793.

SUPPLEMENTARY INFORMATION:

Background

On September 4, 1990, the Department of Commerce ("the Department") published in the Federal Register (55 FR 35921) its notice of intent to terminate the suspended countervailing duty investigation on cotton shop towels from Peru (September 12, 1984, 49 FR 35835). The Department may terminate a suspended investigation if the Secretary concludes that the agreement is no longer of interest to interested parties. The Department has not received a request to conduct an administrative review of the agreement suspending the countervailing duty investigation on cotton shop towels from Peru for five consecutive annual anniversary months.

On September 12, 1990, the petitioner, Milliken & Company, objected to the

Department's intent to terminate this suspended investigation. Therefore, we no longer intend to terminate the suspended investigation.

This notice is in accordance with § 355.25(d)(4) of the Commerce Department's regulations.

Dated: October 23, 1990.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 90-25492 Filed 10-26-90; 8:45 am]

BILLING CODE 3510-DS-M

Bureau of the Census

Census Advisory Committees on the American Indian and Alaska Native Populations the Asian and Pacific Islander Populations the Black Population and the Hispanic Population for the 1990 Census; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463 as amended by Public Law 94-409), we are giving notice of a joint meeting followed by separate and jointly held meetings (described below) of the CAC on the American Indian and Alaska Native Populations for the 1990 Census, the CAC on the Asian and Pacific Islander Populations for the 1990 Census, the CAC on the Black Population for the 1990 Census, and the CAC on the Hispanic Population for the 1990 Census. The join meeting will convene on November 8, 1990 at the Hyatt Regency (Crystal City), 2799 Jefferson Davis Highway, Arlington, Virginia 22202.

Each of these committees is composed of 12 members appointed by the Secretary of Commerce. They provide an organized and continuing channel of communication between the communities they represent and the Bureau of the Census on the problems and opportunities of the 1990 decennial census.

The Committees will draw on the knowledge and insight of their members to provide advice during the planning of the 1990 Census of Population and Housing on such elements as improving the accuracy of the population count, suggesting areas of research, recommending subject content and tabulations of particular use to the populations they represent, expanding the dissemination of census results among present and potential users of census data in their communities, and generally improving the usefulness of the census product.

The agenda for the November 8 combined meeting that will begin at 8:45 a.m. and end at 2 p.m. is: (1) Introductory remarks by the Director, Bureau of the Census; (2) 1990 decennial census update; (3) committee involvement in 1990 census activities; and (4) research conference on the undercounted populations.

The agendas for the four committees in their separate and jointly held meetings that will begin at 2 p.m. and adjourn at 5 p.m. on November 8 are as follows:

The CAC on the American Indian and Alaska Native Populations for the 1990 Census: (1) Election of chair-elect; (2) review of Census Bureau responses to Committee recommendations; (3) development and discussion of recommendations; and (4) closing session including (a) presentation of recommendations, (b) plans for the next meeting, and (c) comments by outside observers.

The CAC on the Asian and Pacific Islander Population for the 1990 Census: (1) Election of chair-elect; (2) review of Census Bureau responses to Committee recommendations; (3) development and discussion of recommendations; and (4) closing session including (a) presentation of recommendations, (b) plans for the next meeting, and (c) comments by observers.

The CAC on the Black Population: (1) Election of chair-elect; (2) review of Census Bureau responses to Committee recommendations; (3) development and discussion of recommendations; and (4) closing session including (a) presentation of recommendations, (b) plans for the next meeting, and (c) comments by outside observers.

The CAC on the Hispanic Population: (1) Election of chair-elect; (2) review of Census Bureau responses to Committee recommendations; (3) development and discussion of recommendations; and (4) closing session including (a) presentation of recommendations, (b) plans for the next meeting, and (c) comments by outside observers.

All meetings are open to the public, and a brief period is set aside for public comment and questions. Those persons with extensive questions or statements must submit them in writing to the Census Bureau official named below at lest 3 days before the meeting.

Persons wishing additional information regarding these meetings or who wish to submit written statements may contact Ms. Diana Harley, Decennial Planning Division, Bureau of the Census, Room 3541, Federal Building 3, Suitland, Maryland. (Mailing address: Washington, DC 20233). Telephone: (301) 763-4275.

Dated: October 23, 1990.

Barbara Everitt Bryant,

Director, Bureau of the Census.

[FR Doc. 90-25494 Filed 10-26-90; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

European Community Common Approach to Standards, Testing and Certification in 1992

AGENCY: International Trade Administration, Commerce.

ACTION: Notice and request for public comment.

SUMMARY: The first meeting of the Federal Advisory Committee on the European Community Common Approach to Standards, Testing and Certification in 1992 was held on October 10, 1990 from 10 a.m.-3:30 p.m. The meeting was held in the Herbert C. Hoover Building, room 3407, 14th and Constitution Avenue, NW., Washington, DC 20230. As part of the Committee's mandate to advise the Secretary of Commerce on EC standards-related activities, the Committee has identified the following key issues in the area of standards, testing and certification. The issue list will provide the basis for a comprehensive Committee report to the Secretary of Commerce by February, 1991.

DEADLINE FOR COMMENTS: Interested members of the public are invited to submit their comments to Charles Ludolph in the Office of European Community Affairs, Telephone (202) 377-5276; fax (202) 377-2155. The deadline for submission of comments is November 12, 1990.

ISSUE LIST:

Standards Issues

1. Regarding U.S. business access to EC standards development, what further action by government and the private sector is appropriate to advance U.S. access and interests?

2. What can the United States do to prompt the EC to establish mechanisms to clarify the relationship between products and EC product safety directives and between these directives and EC product standards?

3. What are the appropriate steps that U.S. business and government should undertake to raise awareness in the business community of the importance of international standards and international standards activities? What actions, if any, should be undertaken by government and industry to facilitate and/or accelerate implementation of

international standards in the United States?

4. In light of the EC initiatives, what can the USG and industry do to increase U.S. support for domestic and international standards activities, and to assure that the U.S. is adequately represented and participates effectively in international standards organizations that have a bearing on access to European markets?

5. What is the appropriate role of the Federal Government in international standards activities and how should this role be coordinated with that of the U.S. private sector standards community? What policies and principles should guide this coordination?

6. Are there uncertainties regarding the nature and timing of the transition period leading up to full implementation of the EC product standards program that affect U.S. business interests in regulated and non-regulated products, at the EC and national level? What should be done to alleviate this situation?

7. Should there be a focal point within the Federal Government on standards matters related to EC 1992 and if so what should be its scope?

8. What aspects of the recent "EC Green Paper on the Development of European Standardization and Action for Faster Technological Integration in Europe" does the Committee believe will help and hinder U.S. business interests and what is their advice to the Secretary on this proposal?

Testing and Certification Issues

1. How should the United States prepare to deal with the EC proposals to enter into negotiations for mutual recognition agreements for regulated product sectors, covering both public and private sector testing and certification systems? What are the acceptable conditions for concluding mutual recognition agreements on conformity assessment matters such as notified body status, subcontracting arrangements, and reciprocal recognition of certification marks? What objectives and cautions should guide the U.S. position?

2. What are the Committee's views and recommendations for the U.S. government on the appropriate conditions to attain access to the EC market for U.S. business regarding conformity assessment, *e.g.*, self-certification, third party testing, and third party certifications, quality [illegible], etc.?

3. What is the Committee's advice to the U.S. government on the appropriate makeup and approach of U.S. teams formed to advance U.S. interests with the EC for effective market access in conformity assessment, e.g., government only, private/public, private sector only?

4. In light of the developments in Europe, what adjustments, if any, should the United States consider in U.S. testing and certification practices to make them more compatible with those of the EC or other trading partners? What measures should be undertaken by industry or government to establish a mechanism for interfacing with EC testing and certification authorities, specifically organizations such as EOTC?

5. What is the Committee's advice to the U.S. government on the product liability implications for U.S. products marketed in Europe under the safety requirements implicit and explicit in the EC directives, standards, testing and certification systems?

6. What is the Committee's advice to the Secretary on the outreach programs the U.S. government should undertake to increase broad awareness in the general U.S. business community of the commercial and technical issues in the EC standards and conformity assessment initiatives?

7. What criteria should be used to determine competence of U.S. certification and accrediting bodies? Should the EC be encouraged to adopt the same criteria? If so, how should such recommendations be conveyed to the EC?

8. What are the Committee's conclusions on the potential problems created for U.S. business by the EC requirements for conforming to quality assurance standards, good manufacturing practices, and plant inspections? What actions should be taken by U.S. government and industry to respond to these requirements when implemented?

9. What are the appropriate steps that U.S. business and government should undertake to raise awareness in the business community of the importance of EC 1992 conformity assessment?

10. What is the most appropriate mechanism and process for coordinating the federal government role in international conformity assessment activities with the activities of the private sector?

Dated: October 24, 1990.

Charles M. Ludolph,

Director, Office of European Community Affairs.

[FR Doc. 90-25522 Filed 10-26-90; 8:45 am]

BILLING CODE 3510-DA-M

National Oceanic and Atmospheric Administration

Marine Mammals; Permit Modifications; Norris et al.

AGENCY: National Marine Fisheries Service.

ACTION: *Permit Modification:* Modification No. 2 to Permit No. 603 issued to Dr. Kenneth S. Norris, Dr. Randall S. Wells, Mr. Jan S. Östman, Dr. William T. Doyle, and Ms. Ania Driscoll (P20H).

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), Scientific Research Permit No. 603 issued to Dr. Kenneth S. Norris, Dr. Randall S. Wells, Mr. Jan S. Östman, Dr. William T. Doyle, and Ms. Ania Driscoll, University of California, Institute of Marine Sciences, Long Marine Laboratory, 100 Shaffer Road, Santa Cruz, California 95060, on August 17, 1987, (52 FR 31799) and modified on June 13, 1990, (55 FR 25152), is further modified as follows:

Section B.6. is replaced by:

"6. The authority to conduct this research shall extend from the date of issuance through December 31, 1992."

This modification becomes effective on October 22, 1990.

Documents submitted in connection with the above application are available for review by appointment at the following offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, room 7324, Silver Spring, MD 20910 (301/427-2289);

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731 (213/514-6196); and

Administrator, Pacific Area Office, National Marine Fisheries Service, 2570 Dole Street, room 106, Honolulu, HI 96822-2396 (808/955-8831).

Dated: October 22, 1990.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 90-25467 Filed 10-26-90; 8:45 am]

BILLING CODE 3510-22-M

Endangered Marine Mammals; Request for Permit Modification

AGENCY: National Marine Fisheries Service, NOAA, DOC.

ACTION: Notice of correction for modification to Scientific Research Permit No. 675.

SUMMARY: This notice revises the third paragraph under the "Summary" section previously published in the Federal Register August 6, 1990 (55 FR 31872) as follows:

1. On page 31873, column 1, the first full paragraph is revised to read:

This proposed modification would allow for the collection of skin biopsy samples from a maximum of 200 gray whales (*Eschrichtius robustus*) 200 bowhead whales (*Balaena mysticetus*) and 100 blue whales (*Balaenoptera musculus*) in the territorial waters of the United States, and the importation of tissue samples collected from these species in territorial waters of other nations. This proposed modification would also authorize the export, from the United States to New Zealand, of biopsy samples of humpback, minke and southern right whales, collected under NMFS Permit No. 675.

Dated: October 22, 1990.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 90-25465 Filed 10-26-90; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Permit Issuance, Braham

AGENCY: National Marine Fisheries Service, NOAA, DOC.

ACTION: Issuance of Scientific Research Permit No. 717.

SUMMARY: On Tuesday, September 4, 1990, notice was published in the Federal Register (55 FR 35923) that an application (P77#44) had been filed by Dr. Howard W. Braham, Alaska Fisheries Science Center, NMFS, NOAA, National Marine Mammal Laboratory, 7600 Sand Point Way, NE. Bldg. 4, Seattle, WA 98115, to take up to 2,600 California sea lions, *(Zalophus californianus)* to continue population monitoring and assessment programs, including movements, migration, feeding ecology, and the impact of sea lions-fishery interactions, to be conducted on San Miguel Island, California, for a five-year period.

Notice is hereby given that on October 22, 1990, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the National Marine Fisheries Service issued a Permit for the above activities subject to the Special Conditions set forth therein.

The permit is available for review by interested persons in the following offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, room 7330, Silver Spring, Maryland 20910;

Director, Alaska Region, National Marine Fisheries Service, NOAA, 709 West 9th Street, Federal Bldg., Juneau, Alaska 99802;

Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE, BIN C15700, Seattle, Washington, 98115;

and

Director, Southwest Region, National Marine Fisheries Service, NOAA, 300 South Ferry Street, Terminal Island, California 90731–7415.

Dated: October 22, 1990.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 90-25466 Filed 10-26-90; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Final Environmental Impact Statement for the Fort Sheridan Base Closure

AGENCY: DOD, Army.

SUMMARY: Fort Sheridan was recommended for closure by the Defense Secretary's Commission on Base Realignment and Closure. The Commission specifically recommended the relocation of Headquarters, Fourth Army, and Headquarters, U.S. Army Recruiting Command to Fort Benjamin Harrison, IN; and the U.S. Army Recruiting Battalion, Chicago and the U.S. Army Recruiting Brigade, Midwest to leased space in Chicago. This document focuses upon the environmental and socioeconomic impacts and mitigations associated with the planned closure of Fort Sheridan and realignment activities at Fort Benjamin Harrison and Fort McCoy, WI.

No long-term adverse environmental effects at Fort Sheridan are expected as a result of realignment and closure implementation. The Department of Defense Office of Economic Adjustment is working with the local community to develop reuse alternatives to lessen the socioeconomic impacts. No adverse environmental or socioeconomic impacts are anticipated at either Fort Benjamin Harrison or Fort McCoy.

A copy of the Final EIS may be obtained by contacting Mr. Ray Haynes, (502) 582–5606, or writing to: Commander, U.S. Army Engineer District, Louisville; P.O. Box 59; Louisville, Kentucky 40201–0059.

Lewis D. Walker,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health), OASA (I,L&E).

[FR Doc. 90-5435 Filed 10-26-90; 8:45 am]

BILLING CODE 3710-08-M

Department of the Air Force

Advisory Committee on the Air Force History Program; Meeting

October 15, 1990.

The Advisory Committee on the Air Force History Program will hold a meeting on December 13, 1990 from 8:30 a.m. to 4 p.m. and December 14, 1990 from 8:30 a.m. to 12 noon at Bolling Air Force Base (AFB), DC, Building 5681, Office of Air Force History's 2nd floor conference room. The purpose of the meeting is to examine the mission, scope, progress, and productivity of the Air Force History Program and make recommendations thereon for the consideration of the Secretary of the Air Force. The meeting will be open to the public. Topics to be discussed include: Organization and personnel, current status of historical projects, and the status of the field history program.

For further information, contact Captain Lucinda M. Hackman, Executive Officer, Office of Air Force History, Bolling AFB, DC, telephone (202) 767–5764.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 90-25469 Filed 10-26-90; 8:45 am]

BILLING CODE 3910-01-M

Defense Logistics Agency

Meeting: Department of Defense Clothing and Textiles Board

AGENCY: Defense Logistics Agency, Department of Defense.

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Deputy Director for Acquisition Management, Defense Logistics Agency, announces the third meeting of the Department of Defense Clothing and Textiles (DoD D&T) Board.

DATES AND TIMES: November 14, 1990, 0900–1530.

ADDRESSES: Defense Contract Management Area Operations (DCMAO), New York, room 1073H, 201 Varick Street, New York, NY.

FOR FURTHER INFORMATION CONTACT: Ms. Maxine James; Quality Assurance Specialist, Product Quality Management Division, Defense Logistics Agency, Department of Defense, Cameron Station, Alexandria, VA, (202) 274-7141.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will focus on improvements to DoD acquisition of clothing and textile products.

[CAPT M. J. Schlichenmeier, USN,
Executive Secretary, DoD C&T Board.

[FR Doc. 90-25290 Filed 10-26-90; 8:45 am]
BILLING CODE 3820-01-M

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Criteria for Judging the Adequacy of DOE Responses and Implementation Plans for DNFSB Recommendations

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Notice of Board adoption of policy guidance.

SUMMARY: The Defense Nuclear Facilities Safety Board has unanimously adopted a policy statement which establishes the criteria that the Board will use for judging the adequacy of Department of Energy (DOE) responses to, and implementation plans for, Board recommendations.

FOR FURTHER INFORMATION CONTACT: Robert M. Andersen, General Counsel, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004, (202) 208-6387.

SUPPLEMENTARY INFORMATION: The Defense Nuclear Facilities Safety Board issues recommendations to the Secretary of the Department of Energy and to the President regarding public health and safety at DOE's defense nuclear facilities. The Board's enabling statute requires the Secretary of energy to either accept or reject Board recommendations and to subsequently develop implementation plans for those portions of Board recommendations which are accepted. The Board has now received DOE responses to six of the first seven recommendations made to the Secretary and has reviewed the first five implementation plans submitted by DOE.

This Defense Nuclear Facilities Safety Board Policy Statement (PS-1), the Board's first, will guide the board and its staff in evaluating the adequacy of DOE responses and implementation plans, as well as assist the Board in structuring appropriate follow-up action in the event a recommendation is not fully or adequately addressed in DOE's response and implementation plan. Furthermore, the statement formally identifies, for the benefit of DOE and the public, the Board's expectations regarding the elements the Board believes are necessary for an adequate response and implementation plan.

Policy Statement

Criteria for Judging the Adequacy of DOE Responses and Implementation Plans for DNFSB Recommendations

The Board's authorizing statute requires the Secretary of Energy to respond to each Board recommendation and to subsequently prepare an implementation plan for those portions of the recommendation that DOE accepts. The statute allows the Board to use its discretion and judgment in assessing the adequacy of DOE responses and implementation plans.

I. Evaluating DOE Responses

The statute requires the Secretary of Energy to "transmit his response to the Board within 45 days after the date of publication [in the Federal Register] * * * of the notice with respect to such recommendation or within such additional period, not to exceed 45 days, as the Board may grant." The Act anticipates responses which accept the Board's recommendations, and responses which reject the Board's recommendations, in whole or in part. As we have already learned from DOE's responses to the Board's first six recommendations, however, there is a whole range of possible written responses that the Board must prepared to deal with in the future.

For example, DOE may choose to rely upon a response letter which simply states that the Secretary agrees with or accepts a recommendation of the Board. Such action constitutes an unconditional acceptance of the Board's recommendation, and acquiesces in the Board's interpretation of the recommendation's terms and requirements. Any subsequent contradiction or retrenchment for the response's unconditional acceptance in the implementation plan will ordinarily be unacceptable to the Board. Therefore, it is far preferable to air any real differences that DOE may have with the recommendation in the response itself. Moreover, preliminary discussions between the Board, its staff, and DOE prior to the Secretary's issuance of a final response can avoid confusion, disputes, misunderstanding, and wasted effort later in the process.

It should be noted that a response which rejects portions of a recommendation may be an adequate response if, in the Board's judgment, sound reasons are given for rejecting the recommendation, and alternative means of protecting public health and safety are specified. On the other hand, an evasive, nonresponsive, ambiguous, or unclear response which is labeled an acceptance by DOE is not adequate. The Board recognizes that a flawed response, if left uncorrected, will only lead to further problems in the implementation plan.

The following types of DOE responses may be encountered by the Board:

1. A response which says it is an acceptance, but by its language or terms in fact rejects part of the recommendation.

2. Ambiguous responses that could be interpreted either as acceptance or rejection of the recommendation.

3. Failure to address certain issues.

4. Unqualified rejection of the entire recommendation.

5. Silence, or no response.

6. Unconditional acceptance of the entire recommendation consistent with the terms set by the Board.

Comparing DOE responses against this list of response types will assist the Board in sorting out actual DOE acceptances from rejections. A valid acceptance is filed in a timely manner and exhibits three key features: (1) an understanding of what is being asked or recommended; (2) a commitment by DOE to take action to meet the recommendation; and (3) specification of what DOE intends to do so that the Board can determine if all material terms of the recommendation will be met, rather than avoided.

DOE's response need not be detailed or long, provided the Board is satisfied that DOE understands what is being asked and intends to accomplish the recommended action in a timely manner. If a response satisfies the above three requirements, however, it need not present the details of how and when the recommendation will be met—that is the purpose of the implementation plan.

II. Evaluating DOE's Implementation Plan

As with responses, the statute, for the most part, gives the Board discretion to use its judgment in assessing the adequacy of implementation plans. The statutory language expresses one major substantive measure of an implementation plan's effectiveness, which is perhaps self-evident. Since the Secretary must ordinarily "carry out" and "complete" implementation in one year, it necessarily follows that the plan must schedule, and otherwise assure,

that action is taken to accomplish the recommendation. The statute also imposes two procedural requirements. First, the Secretary must "transmit the implementation plan to the Board within 90 days after the date" of the Secretary's final decision on the recommendation. If additional time is necessary to write the plan, the Secretary may take an additional 45 days, provided he submits the reasons for the delay to the appropriate congressional commmittees. Second, if the Secretary cannot carry out and complete the implementation plan within one year, he must report the reasons for the delay to the appropriate congressional committees.

The purpose of the implementation plan is to provide a basis and a schedule for assuring that accepted recommendations are accomplished.

A. Substantive Criteria

1. Does DOE understand the Board's recommendation?

DOE's responses give the first indication of whether or not the Board's recommendations have been communicated and understood. If a respose is adequate, the implementation plan should track the response in this regard and clearly demonstrate an understanding of the recomendation. If there is a clear restatement by DOE in the implementation plan of the recommendation's goals, or of the underlying issues or problems identified by the recommendation, the Board can then reasonably assume that its initial recommendation was understood. DOE, however, maintains latitude to implement recommendations in a wide variety of ways so long as the Board's recommendations are achieved. Ultimately, the totality of all the terms of the plan will exhibit the level of DOE's understanding and acceptance of the recommendation.

2. What does DOE intend to do to accomplish the recommendation?

A clear acceptance of the Board's recommendation in DOE's response is the initial indicator that DOE is committed to achieving the recommended action. On the other hand, if an initial implementation plan incorporates a response which does not signal DOE's intent to fully meet the recommendation, the Board has grounds for serious concern. A specific description of DOE's intended course of action, in the implementation plan itself, is the best indicator of whether DOE is committed to the accomplishment of the recommendation. Such a description can also resolve questions raised by ambiguous or unclear DOE responses, and clarify how DOE has chosen to interpret the recommendation.

If DOE's response meets the terms of the recommendation, and that response is incorporated in the implementation plan by reference, or restated, the Board has reason to believe that DOE intends to comply. That intent must be confirmed, however, by a full review of the details of how DOE plans to accomplish the recommendation.

3. What are DOE's baseline assumptions?

The depth and type of baseline assumptions can vary greatly depending on the recommendation. Most implementation plans will be based on engineering or technical assumptions. Some implementation plans, if not all, will embrace administrative and legislative assumptions also, i.e. compliance provided sufficient funds are appropriated. Important assumptions should be presented in the plan.

4. Has DOE adequately outlined its approach?

DOE's approach must be outlined in sufficient detail to enable the Board to independently assess the approach without doing the underlying work. The plan should address the questions of how the goals relating to safety will be achieved and maintained. The Board should be able to assess whether the approach is reasonable and achievable within the specified time period.

5. Has DOE adequately justified a course of action proposed in the implementation plan?

The plan should contain a sound evaluation of the problem first identified in the recommendation, including a root cause analysis (or summary thereof), so that it is clear why DOE is taking the proposed action. The causes of any technical problems should be identified, when appropriate, not just the administrative controls (or lack thereof) that allowed the situation to occur. Reasons should be given for agreeing with the recommendation, based on DOE's own analysis.

6. Has the plan truly called for completion or closure?

The plan should clearly provide a method for demonstrating completion or closure in a manner that can be easily verified by the Board.

B. Procedural Requirements

1. Has DOE submitted the plan to the Board in accordance with statutory deadlines?

2. Has DOE established a realistic and achievable schedule for completion?

Final deadlines, as well as intermediary milestones or checks and deliverables with measures of accomplishment, should be identified in the implementation plan.

3. Has DOE adequately provided for implementation course corrections or process change in appropriate cases?

Complex, long range plans must be flexible enough to accommodate change if necessary. A process should be defined for configuration management or change control so that the proposed action can be modified if additional information dictates, or changes in the assumptions occur.

4. Has DOE provided for quality assurance in appropriate cases?

The Board may require a plan to specify how the qualify of the proposed action will be assured. Quality issues include qualifications of people involved, internal checks on the implementation as the task is completed, final verification, independent oversight, and chain of custody on records, samples, other critical data and documentation.

5. Does the Plan provide for adequate reporting in appropriate cases?

A reporting scheme and schedule should be specified to assure the Board remains informed of the status of the progress and any new related issues that may appear.

John T. Conway,
Chairman.

Appendix—Transmittal Letter to the Secretary of Energy

October 19, 1990.

The Honorable James D. Watkins, Secretary of Energy, Washington, DC 20585

Ref: DNFSB Policy Statement No. 1: Criteria for Judging the Adequacy of DOE Responses and Implementation Plans

Dear Mr. Secretary: Enclosed please find policy criteria which the Board unanimously adopted for judging the adequacy of DOE responses and implementation plans for Board recommendations. We have previously circulated draft criteria with DOE staff responsible for preparing responses and implementation plans. The use of the criteria, together with the close cooperation of DOE and Board staff, have resulted in more complete and sound responses and implementation plans.

Sincerely,
John T. Conway,
Chairman.
[FR Doc. 90-25507 Filed 10-26-90; 8:45 am]
BILLING CODE 6820-KD-M

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Request for Public Input on the Long-Range Plan of the National Institute on Disability and Rehabilitation Research

AGENCY: Department of Education.
ACTION: Notice of public hearing and request for comments.

SUMMARY: The National Institute on Disability and Rehabilitation Research (NIDRR) is authorized to support research and related activities to improve the lives of individuals with disabilities, and invites interested parties to present comments on research and dissemination needs and opportunities during the coming decade in all areas of disability, including but not limited to:

—Vocational rehabilitation services, including but not limited to, counseling, vocational evaluation, job placement, and case management;
—Supported employment for individuals who have mental retardation, mental illness, or physical or sensory disabilities;
—Independent living services;
—Community integration services and behavioral and social rehabilitation services;
—Rehabilitation service issues related to disability groups of low-incidence;
—Children and youth with disabilities and their families;
—Disability policy and demographics;
—Training for researchers, service providers, clinicians, and consumers;
—Technology for individuals with disabilities, including but not limited to, the development, evaluation, and distribution of appropriate technology;
—Knowledge dissemination and the utilization of research findings; and
—Physical restoration, medical rehabilitation, and long-term health care for individuals with disabilities.

The purpose of the hearing is to obtain ideas from the public on the content and direction of the next NIDRR Long-Range Plan.

NIDRR intends this to be the first of a series of hearings on this subject. Subsequent hearings concerning this subject will be held in various locations around the country.

MEETING INFORMATION: The public hearing is scheduled to be held on November 26–27, 1990 from 9:30 am to 3:30 pm at the General Services Administration (GSA) Auditorium, 18th and F Streets, NW., Washington, DC.

NIDRR encourages interested parties to attend the public meeting. Persons desiring to participate or seeking additional information should telephone Joyce Y. Caldwell at (202) 732–1187; deaf and hearing-impaired persons may call (202) 732–5316 for TDD services.

COMMENTS: For those who will not be able to attend the public hearing, NIDRR invites written comments.

ADDRESSES: Written comments should be addressed to Betty Jo Berland, Planning Officer, Division of Program Development, National Institute on Disability and Rehabilitation Research, Department of Education, 400 Maryland Avenue, SW., (Switzer Building, room 3422), Washington, DC 20202–2601.

FOR FURTHER INFORMATION CONTACT: Persons desiring to participate or seeking additional information should telephone (202) 732–1080; deaf and hearing-impaired persons may call (202) 732–5316 for TDD services.

Dated: October 24, 1990.
Robert R. Davila,
Assistant Secretary, Office of Special Education and Rehabilitative Services.
[FR Doc. 90-25506 Filed 10-26-90; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM87-17-000]

Natural Gas Data Collection System; Availability of Rate Filing Software and Revisions to the Instructions Relating to the Rate Filing Record Formats

Issued October 22, 1990.
AGENCY: Federal Energy Regulatory Commission, DOE.
ACTION: Notice of Availability of rate filing software and revisions to the instructions relating to the rate filing record formats.

SUMMARY: New software for data entry and edit-checking of the structured data file and revised software for generating a file containing a print image of the hardcopy rate filing is now available. This software has been developed for Commission use and to assist pipelines in complying with the electronic submission requirements for rate filings in accordance with Order Nos. 493 (53 FR 15,025 (Apr. 27, 1988)], 493–A (53 FR 30,027 (Aug. 10, 1988)), and 493–B (53 FR 49,652 (Dec. 9, 1988)).

Only a PC version of the software is available at this time. A mainframe version of the edit-check software and the hardcopy print software is in the final stage of development and should be available next month. Hardcopy print software is available for all schedules/statements except for Statement G (Schedules/Records RA29–RA39). The edit-checking software is being issued for validation of the edits performed. User suggestions and comments on potential improvements to the edit-check software are solicited. A User/Operations Manual for all modules and for PC and mainframe versions of the rate filing software is also available. This notice also identifies two minor revisions to the electronic reporting instructions for rate filings. An order form is attached for requesting the software on diskette.

DATES: The PC software and User/Operations Manual are available on October 22, 1990.

ADDRESSES: Request for the various software modules should be directed to: Reference and Information Center, Federal Energy Regulatory Commission, 941 North Capitol Street, NE., room 3308, Washington, DC 20426, (202) 208–1371.

FOR FURTHER INFORMATION CONTACT: For general information contact Bill Anderson at (202) 208–2221. For information related to the execution of the software contact Craig Hill at (202) 208–1222.

SUPPLEMENTARY INFORMATION: PC software is now available to provide for data entry and edit-checking of the structured data file for rate filings submitted in accordance with the instructions and record formats for rate filings as revised August 31, 1989, May 25, 1990 and updated with this notice. In addition, revised PC print software is available at this time, with the exception of software for printing Statement G (Schedules/Records RA29—RA39). Programs to produce a print image file containing the Statement G reports will be issued when completed later this year or early next year. Also the mainframe version of the rate filing edit-checking and hardcopy print software (excluding Statement G) will be available next month.

The User/Operations Manual is available in WordPerfect 5.0 and ASCII format. The software can be run on an IBM-compatible PC with at least 640K RAM and DOS 3.0 (or later version). The software is available on 3.5" (1.44MB) or 5.25" (1.2MB) double-sided, high density diskettes. The rate filing software consists of three separate packages for: Data entry, edit-check, and hardcopy

print. Each module is available in a separate package. The User/Operations Manual is also available in a separate package. The latest revisions to the instructions for the rate filing record formats are described in appendix A. Appendix B describes the directory of files for each package.

Each software module has been tested by staff. If problems occur relating to the software modules, the Commission staff encourages users to provide written comments as to the exact nature of the problem and submit them to Craig Hill, room 6106, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

This notice is available through the Commission Issuance Posting System (CIPS), an electronic bulletin board service that provides access to formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed on a 24-hour basis using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, eight data bits and one stop bit. The notice will be available on CIPS for 30 days from the date of issuance of the notice.

In addition to publishing the text of this notice in the Federal Register, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this notice during normal business hours in the Reference and Information Center (room 3308) at the Commission's headquarters, 941 North Capitol Street, NE., Washington, DC 20426.

The PC software packages are available from the Commission's copy contractor, LaDorn Systems Corporation ((202) 898–1151), located in room 3308, 941 North Capitol Street, NE., Washington, DC 20426. Persons requesting the software should fill out the attached Order Form. The software is available without charge. However, the Commission's copy contractor has a copy fee of $6.00 per 3.5" diskette and $5.00 per 5.25" diskette. The User/Operations Manual is also available in hardcopy at 20 cents per page.

Lois D. Cashell,

Secretary.

Appendix A—Revisions to the Instructions Relating to the Rate Filing Record Formats

1. Page 284, Exhibit G (Functionalization Codes). Delete the following codes: 70, 71, 72, 77, 78.

2. Page 284, Exhibit G (Functionalization Codes). Add a new code: Code=98, Total–Prime Account.

3. Page 286, Exhibit H (Rate Filings: Statements/Schedule Record Codes). Add the following codes:

	Code	Structured data record(s)	Statement/schedule and/or information to be reported
SLSR		Service List, Statement of Chief Accountant, Federal Register Notice, and Other Data.	
G–00	RA/29–39	Statement G	Gas Operating Revenues and Sales Volumes [All Standardized Reports].
G–29	RA/29	Statement G	Gas Operating Revenues and Sales Volumes.
G–30	RA/30	Statement G	Gas Operating Revenues and Sales Volumes—Field Sales, Jurisdictional Sales, Non-Jurisdictional Sales, and Other Sales.
G–31	RA/31	Statement G	Gas Operating Revenues and Sales Volumes—Total Jurisdictional, Non-Jurisdictional, Field, and Other Sales.
G–32	RA/32	Statement G	Gas Operating Revenues and Sales Volumes—Transportation of Gas for Others.
G–33	RA/33	Statement G	Gas Operating Revenues and Sales Volumes—Process Plant.
G–34	RA/34	Statement G	Gas Operating Revenues and Sales Volumes—Products Extracted.
G–35	RA/35	Statement G	Gas Operating Revenues and Sales Volumes—Incidental Sales.
G–36	RA/36	Statement G	Gas Operating Revenues and Sales Volumes—Other Gas Revenues.
G–37	RA/37	Statement G	Gas Operating Revenues and Sales Volumes—Rents.
G–38	RA/38	Statement G	Gas Operating Revenues and Sales Volumes—Liquids and Liquefiables—Details.
G–39	RA/39	Statement G	Gas Operating Revenues and Sales Volumes—Liquids and Liquefiables—Totals.

Appendix B—Directory of Files

Note: With regard to edit-checking and printing, the executable code to process RB records (schedule N) is incorporated within the executable code to process correlating RA records. For example, the source code for file REA02B11.EXE will process 'statement A' for RA02 records and 'statement N–G' for RB11 records.

EDIT-CHECKING (executable code)

Edit-Checking Disk #1—Driver & Subdrivers (Menu Screens)

REDRIVER	EXE	249072	Primary Menu & Driver: Statements A, B, D.[1]
RERA0408	EXE	27936	Secondary Menu & Driver: Statement/Schs C.
RERA1015	EXE	27264	Secondary Menu & Driver: Statement/Schs E.
RERA1628	EXE	28592	Secondary Menu & Driver: Statement/Schs F.
RERA2939	EXE	28500	Secondary Menu & Driver: Statement G.
RERA4052	EXE	29312	Secondary Menu & Driver: Statement/Sch H.
RERA4244	EXE	123424	Secondary Menu & Driver: Statement/Sch H.
RERA5360	EXE	27280	Secondary Menu & Driver: Statement/Schs I
RERA6160	EXE	25600	Secondary Menu & Driver: Statement L & M
RERB0117	EXE	35064	Secondary Menu & Driver: Statement N.

Edit-Checking Disk #2—Record Nos. RA02–RA09

REA02B11	EXE	70560	Statement A, Schedule N–9.
REA03B09	EXE	90816	Statement B, Schedule N–7.
REA04B01	EXE	75040	Statment/Schs. C, Schedule N–1.
REA05B02	EXE	104976	Statement/Schs C, Schedule N–1

RERA08	EXE	72176	Do.
RERA07	EXE	57606	Do.
RERA08	EXE	97808	Do.
REA09B03	EXE	66832	Statement D, Schedule N-2.
Edit-Checking Disk #5—Record Nos. RA10–RA15			
REA10B04	EXE	66352	Statement/Schs E, Schedule N-3.
RERA11	EXE	130752	Do.
RERA11A	EXE	82496	Do.
RERA12	EXE	68192	Do.
RERA13	EXE	55424	Do.
RERA14	EXE	82496	Do.
REA15B17	EXE	63840	Statement/Schs E, Schedule N-11.
Edit-Checking Disk #4—Record Nos. RA16–RA20			
REA16B06	EXE	71248	Statement/Schs F, Schedule N-4.
RERA17	EXE	70400	Do.
RERA18	EXE	63424	Do.
RERA18B9	EXE	78656	Do.
RERA21	EXE	72416	Do.
RERA22	EXE	72764	Do.
RERA23	EXE	60720	Do.
RERA24	EXE	66224	Do.
RERA25	EXE	67568	Do.
RERA26B	EXE	90528	Do.
Edit-Checking Disk #5—Record Nos. RA29–RA39			
REA29B13	EXE	87264	Statement G, Schedule N-10.
REA30B14	EXE	61136	Statement G, Schedule N-10.
REA31B15	EXE	57680	Statement G, Schedule N-10.
REA32B16	EXE	60512	Statement G, Schedule N-10.
RERA33	EXE	57408	Do.
RERA34	EXE	59760	Do.
RERA35	EXE	60992	Do.
RERA36	EXE	55584	Do.
RERA37	EXE	55664	Do.
RERA38	EXE	54944	Do.
RERA39	EXE	56816	Do.
Edit-Checking Disk #6—Record Nos. RA40.RA52			
REA40B05	EXE	72112	Statement/Schedules H, Schedule N-5.
REA41B07	EXE	130512	Statement/Schedules H, Schedule N-6.
REA50B08	EXE	69184	Statement/Schedules H, Schedule N-7.
REA52B10	EXE	64976	Statement/Schedules H, Schedule N-8.
RERA41	EXE	73920	Do.
RERA42A4	EXE	125424	Do.
RERA45	EXE	62592	Do.
RERA46	EXE	76512	Do.
RERA47	EXE	63264	Do.
RERA49	EXE	61616	Do.
RERA51	EXE	58416	Do.
Edit-Checking Disk #7—Record Nos. RA53–RA60			
REA53B12	EXE	52672	Statement/Schs I, Schedule N-9.
RERA54	EXE	72272	Do.
RERA55	EXE	48048	Do.
RERA56	EXE	65576	Do.
RERA57	EXE	60464	Do.
RERA58	EXE	67504	Do.
RERA59	EXE	57376	Do.
RERA60	EXE	64688	Do.
RERA51B8	EXE	131040	Statement L (Major).
RERA59T3	EXE	110992	Statement L (Nonmajor).
RERA7477	EXE	84272	Statement M (Major).
RERA7580	EXE	97184	Statement M (Nonmajor).
DATA ENTRY [removable code]			
Data Entry Disk #1—Driver & Subdrivers			
ADRSCTRL	EXE	10496	Required Data Entry File (must be located)
RDDRIVER	EXE	216944	Primary Menu & Driver: Statements A, B, D.[a]
RDRA0409	EXE	41072	Secondary Menu & Driver: Statement/Schs C.
RDRA1015	EXE	41408	Secondary Menu & Driver: Statement/Schs E.
RDRA1620	EXE	43648	Secondary Menu & Driver: Statement/Schs F.
RDRA2529	EXE	42880	Secondary Menu & Driver: Statement/Schs G.
RDRA4052	EXE	43792	Secondary Menu & Driver: Statement/Schs H.
RDRA5360	EXE	41968	Secondary Menu & Driver: Statement/Schs I.
RDRA6172	EXE	43872	Secondary Menu & Driver: Statement/L.
RDRA7480	EXE	41872	Secondary Menu & Driver: Statement/M.
RDRB9117	EXE	45280	Secondary Menu & Driver: Schedules N.
Data Entry Disk #2—Record Nos. RA01–RA15			
RDRA01	EXE	56576	Rate Case Filing Requirements.
RDRA02	EXE	57792	Statement A.
RDRA03	EXE	72368	Statement B

RDRA04	EXE	58095	Statement/Schs C.
RDRA05	EXE	94352	Do.
RDRA06	EXE	54464	Do.
RDRA07	EXE	51056	Do.
RDRA08	EXE	63568	Do.
RDRA09	EXE	60992	Statement D.
RDRA10	EXE	52432	Statement/Schs E.
RDRA11	EXE	69568	Do.
RDRA12	EXE	58208	Do.
RDRA13	EXE	47872	Do.
RDRA14	EXE	52976	Do.
RDRA15	EXE	59728	Do.

Data Entry Disk #3—Record Nos. RA16–RA28

RDRA16	EXE	58032	Statement/Schs F
RDRA17	EXE	68624	Do.
RDRA18	EXE	56832	Do.
RDRA19	EXE	62336	Do.
RDRA20	EXE	45392	Do.
RDRA21	EXE	65280	Do.
RDRA22	EXE	63632	Do.
RDRA23	EXE	58720	Do.
RDRA24	EXE	59088	Do.
RDRA25	EXE	59408	Do.
RDRA26	EXE	52864	Do.
RDRA27	EXE	53136	Do.
RDRA28	EXE	50496	Do.

Data Entry Disk #4—Record Nos. RA29–RA39

RDRA29	EXE	60816	Statement G.
RDRA30	EXE	53504	Do.
RDRA31	EXE	51408	Do.
RDRA32	EXE	57664	Do.
RDRA33	EXE	53488	Do.
RDRA34	EXE	53632	Do.
RDRA35	EXE	54528	Do.
RDRA36	EXE	48544	Do.
RDRA37	EXE	46320	Do.
RDRA38	EXE	58400	Do.
RDRA39	EXE	50976	Do.

Data Entry Disk #5—Record Nos. RA40–RA52

RDRA40	EXE	62016	Statements/Schedules H.
RDRA41	EXE	62160	Do.
RDRA42	EXE	59808	Do.
RDRA43	EXE	60080	Do.
RDRA44	EXE	59472	Do.
RDRA45	EXE	59808	Do.
RDRA46	EXE	76048	Do.
RDRA47	EXE	58080	Do.
RDRA48	EXE	60224	Do.
RDRA49	EXE	51520	Do.
RDRA50	EXE	58448	Do.
RDRA51	EXE	47168	Do.
RDRA52	EXE	55616	Do.

Data Entry Disk #6—Record Nos. RA453–RA73

RDRA53	EXE	45824	Statement/Schs I.
RDRA54	EXE	62192	Do.
RDRA55	EXE	49536	Do.
RDRA56	EXE	62608	Do.
RDRA57	EXE	50048	Do.
RDRA58	EXE	53792	Do.
RDRA59	EXE	53552	Do.
RDRA60	EXE	52656	Do.
RDRA61	EXE	53040	Statement L (Major).
RDRA62	EXE	52448	Do.
RDRA63	EXE	50784	Do.
RDRA64	EXE	52064	Do.
RDRA65	EXE	51136	Do.
RDRA66	EXE	51568	Do.
RDRA67	EXE	51088	Do.
RDRA68	EXE	48432	Do.
RDRA69	EXE	52608	Statement L (Nonmajor).
RDRA70	EXE	49152	Do.
RDRA71	EXE	52160	Do.
RDRA72	EXE	49064	Do.
RDRA73	EXE	51616	Do.

Data Entry Disk #7—Record Nos. RA74–RA80

RDRA74	EXE	52608	Statement M (Major).
RDRA75	EXE	52608	Do.
RDRA76	EXE	48928	Do.
RDRA77	EXE	52512	Do.

RDRA78	EXE	51584	Statement M (Nonmajor).
RDRA79	EXE	53296	Do.
RDRA80	EXE	52160	Do.

Data Entry Disk #9—Record Nos. RB01–RS17

RDRB01	EXE	58096	Schedule N.
RDRB02	EXE	94352	Do.
RDRB03	EXE	80992	Do.
RDRB04	EXE	52432	Do.
RDRB05	EXE	57984	Do.
RDRB06	EXE	61760	Do.
RDRB07	EXE	60208	Do.
RDRB08	EXE	55440	Do.
RDRB09	EXE	72704	Do.
RDRB10	EXE	55616	Do.
RDRB11	EXE	57792	Do.
RDRB12	EXE	45824	Do.
RDRB13	EXE	60816	Do.
RDRB14	EXE	53504	Do.
RDRB15	EXE	50624	Do.
RDRB16	EXE	57376	Do.
RDRB17	EXE	59728	Do.

HARDCOPY PRINT (Executable Code—Excluding Statement G)

Hardcopy Print Disk #1—Driver & Subdrivers

RHDRIVER	EXE	241984	Primary Menu & Driver: Statements A, B, D.[3]
RHRA0408	EXE	27776	Secondary Menu & Driver: Statement/Schs C.
RHRA1015	EXE	27024	Secondary Menu & Driver: Statement/Schs E.
RHRA1626	EXE	28800	Secondary Menu & Driver: Statement/Schs F.
RHRA2939	EXE	28656	Secondary Menu & Driver: Statement G.
RHRA4052	EXE	29584	Secondary Menu & Driver: Statement/Schs H.
RHRA5360	EXE	26352	Secondary Menu & Driver: Statement/Schs I.
RHRA6173	EXE	24432	Secondary Menu & Driver: Statement L.
RHRA7480	EXE	24480	Secondary Menu & Driver: Statement M.
RHRA8117	EXE	38192	Secondary Menu & Driver: Statement N.

Hardcopy Print Disk #2—Record Nos. RA02–RA09

RHA02911	EXE	78672	Statement A, Schedule N–9.
RHA03809	EXE	81056	Statement B, Schedule N–7.
RHA04201	EXE	79456	Statement/Schs C, Schedule N–1.
RHA05902	EXE	103360	Statement/Schs C, Schedule N–1.
RHRA06	EXE	60976	Do.
RHRA07	EXE	58112	Do.
RHRA08	EXE	115424	Do.
RHA09009	EXE	127920	Statement D, Schedule N–2.

Hardcopy Print Disk #3—Record Nos. RA10–RA15

RHA10804	EXE	69600	Statement/Schs E, Schedule N–3.
RHA12817	EXE	86736	Statement/Schs E, Schedule N–11.
RHRA11	EXE	74976	Do.
RHRA12	EXE	73280	Do.
RHRA13	EXE	57600	Do.
RHRA14	EXE	73168	Do.

Hardcopy Print Disk #4—Record Nos. RA16–RA28

RHA16806	EXE	60848	Statement/Schs F, Schedule N–4.
RHRA17	EXE	77408	Do.
RHRA18	EXE	63888	Do.
RHRA19	EXE	65200	Do.
RHRA20	EXE	49200	Do.
RHRA21	EXE	90576	Do.
RHRA22	EXE	88096	Do.
RHRA23	EXE	58512	Do.
RHRA24	EXE	51408	Do.
RHRA25	EXE	51744	Do.
RHRA2628	EXE	92720	Do.

Hardcopy Print Disk #5—Record Nos. RA40–RA52

RHA40806	EXE	130992	Statement/Schedules H, Schedule N–5.
RHA40ERT	EXE	49600	Statement/Schedules H, Schedule N–5.
RHA40807	EXE	114800	Statement/Schedules H, Schedule N–6.
RHA50808	EXE	80768	Statement/Schedules H, Schedule N–7.
RHA53810	EXE	53120	Statement/Schedules H, Schedule N–8.
RHRA41	EXE	78128	Do.
RHRA42	EXE	75344	Do.
RHRA43	EXE	57104	Do.
RHRA44	EXE	57856	Do.
RHRA45	EXE	72976	Do.
RHRA46	EXE	89200	Do.
RHRA47	EXE	78656	Do.
RHRA48	EXE	95504	Do.
RHRA51	EXE	77696	Do.

Hardcopy Print Disk #3—Record Nos. RA53–RA60

RHA53B12	EXE	56008	Statement/Sche I, Schedule N–9.
RHRA54	EXE	96304	Do.
RHRA55	EXE	47084	Do.
RHRA5657	EXE	97424	Do.
RHRA5860	EXE	81536	Do.
RHRA6168	EXE	90048	Statement L (Major).
RHRA6973	EXE	77824	Statement L (Nonmajor).
RHRA7477	EXE	82512	Statement M (Major).
RHRA7880	EXE	76064	Statement M (Nonmajor).

USER/OPERATIONS MANUAL

Disk #1—User/Operations Manual in WP5.0

Notice	W50	.....	Availability of Rate Filing Software—WP5.0.
RUOM	2	99651	User/Operations Manual—WP 5.0.
APPA	RUO	202169	Appendix A.
APPB	RUO	35090	Appendix B.
APPC	RUO	5944	Appendix C.
APPD	RUO	245706	Appendix D.
APPE	RUO	142215	Appendix E.
APPF	RUO	2418	Appendix F.
APPG	RUO	9073	Appendix G.
APPH	RUO	81786	Appendix H.
APPI	RUO	3565	Appendix I.
APPJ	RUO	3732	Appendix J.
APPK	RUO	2455	Appendix K.
APPL	RUO	7297	Appendix L.
APPM	RUO	71356	Appendix M.
APPN	RUO	9630	Appendix N.

Disk #1-Package E—User/Operations Manual in ASCII

Notice	ASC	.....	Availability of Rate Filing Software—ASCII.
RUOM	ASC	111562	User/Operations Manual—ASCII.
APPA	ASC	245667	Appendix A.
APPB	ASC	43039	Appendix B.
APPC	ASC	5045	Appendix C.
APPD	ASC	293030	Appendix D.
APPE	ASC	169843	Appendix E.
APPF	ASC	1237	Appendix F.
APPG	ASC	7276	Appendix G.
APPH	ASC	63867	Appendix H.
APPI	ASC	3245	Appendix I.
APPJ	ASC	1518	Appendix J.
APPK	ASC	1240	Appendix K.
APPL	ASC	7569	Appendix L.
APPM	ASC	91830	Appendix M.
APPN	ASC	10904	Appendix N.

[1] The file 'REDRIVER.EXE' drives Statements A, B, and D plus it provides a primary menu screen for access to secondary menus and the related subdrivers for all other statements/schedules. Accordingly, the 'REDRIVER/EXE' file must always be loaded to run the Edit-Checking software.
[2] The file 'RDDRIVER.EXE' drives Statements A, B, and D plus it provides a primary menu screen for access to secondary menus and the related subdrivers for all other statements/schedules. Accordingly, the "RDDRIVER.EXE' must always be loaded to run the Data Entry software.
[3] The file 'RHDRIVER.EXE' drives Statements A, B and D plus it provides a primary menu screen for access to secondary menus and the related subdrivers for all other statements/schedules. Accordingly, the "RHDRIVER.EXE' must always be loaded to run the hard copy print software.

[FR Doc. 90–25450 Filed 10–26–90; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. RP91–9–000]

Florida Gas Transmission Co.; Petition for Limited Waiver of Tariff Provisions

October 22, 1990.

Taken notice that on October 18, 1990, Florida Gas Transmission Company (FGT), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. RP91–9–000 a petition requesting authorization for waivers of Federal Energy Regulatory Commission policy and FGT's FERC Gas Tariff to the extent necessary to revise or replace delivery points under existing Service Agreements for firm, preferred, and interruptible transportation and sales service between FGT and Florida Power & Light Company, The City of Lakeland, Peoples Gas System, Inc., and St. Joe Natural Gas Company, and to permit these customers/shippers to maintain their existing priority in FGT's first-come, first-served queues.

FGT states that adding the delivery points on behalf of such customers will not violate the Commission's first-come, first-served principle because (i) the same end-users and/or the same customers would be served by the new delivery points; (ii) the additional delivery points are in the same geographic location as the customers or end-users; and (iii) the addition of any new delivery points will not interfere with FGT's ability to render firm service to any other customer. In each instance, the additional delivery points are necessary due to extenuating operational or other circumstances applicable to each customer.

Any person desiring to be heard or to protest to said petition should on or before October 29, 1990 file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or protest in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene in accordance with the Commission's rules.

Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 90-25452 Filed 10-26-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC89-1-46-031 and RP88-186-014]

Kentucky West Virginia Gas Co.; Compliance of Filing

October 22, 1990.

Take notice that on October 17, 1990, Kentucky West Virginia Gas Company (Kentucky West), filed tariff sheets to clarify and correct previous compliance filings related to Commission orders issued on August 3, 1990 and September 7, 1990, in which the Commission approved settlements between the City Utilities Commission of Prestonsburg, Kentucky (Prestonsburg) and Kentucky West, and between the City of Paintsville, Kentucky (Paintsville) and Kentucky West, respectively.

The previous compliance filings were made on August 10, 1990 and September 12, 1990, and were accepted by letter orders issued on September 18, 1990, and October 2, 1990.

Kentucky West states that the tariff sheets as submitted do not reflect the actual monthly payment amounts for Prestonsburg and Paintsville due to the accumulation of interest on certain refunds, and that it was anticipated in the settlements that these actual figures would be substituted for an approximate amount after the settlements were approved by the Commission. Kentucky West also states that in the interest of uniformity, a similar charge must be made to the tariff sheets containing the Paintsville settlement to reflect the actual payment amounts to be paid by Paintsville.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before October 30, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-25451 Filed 10-26-90; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3856-1]

Office of Research and Development

Ambient Air Monitoring Reference and Equivalent Methods Designation

Notice is hereby given that EPA, in accordance with 40 CFR part 53, has designated another equivalent method for the determination of ambient concentrations of particulate matter measured as PM_{10}. The new equivalent method is an automated method which utilizes a tapered element oscillating microbalance for the determination of mass concentrations of PM_{10}. The new designated method is identified as follows:

EQPM-1090-079, "Rupprecht & Patashnick TEOM® Series 1400 PM_{10} Monitor", consisting of the following components:

TEOM Sensor Unit
TEOM Control Unit
Sierra-Andersen Model 246b PM-10 Inlet (16.7 liter/min)
Flow Splitter
Teflon-Coated Glass Fiber Filter Cartridges

operated for 24-hour average measurements, with the total mass averaging time set at 300 seconds, the mass rate/mass concentration averaging time set at 300 seconds, the gate time set at 2 seconds, and with or without either of the following options:

Tripod
Outdoor Enclosure

This method is available from Rupprecht & Patashnick Co., Inc., 8 Corporate Circle, Albany, New York 12203. A notice of receipt of application for this method appeared in the Federal Register, Volume 55, July 10, 1990, page 28287.

Test monitors representative of this method have been tested by the applicant, in accordance with the test procedures specified in 40 CFR part 53. After reviewing the results of these tests and other information submitted by the applicant, EPA has determined, in accordance with part 53, that this method should be designated as an equivalent method. The information submitted by the applicant will be kept on file at EPA's Atmospheric Research and Exposure Assessment Laboratory, Research Triangle Park, North Carolina 27711, and will be available for inspection to the extent consistent with 40 CFR part 2 (EPA's regulations implementing the Freedom of Information Act).

As a designated equivalent method, this method is acceptable for use by states and other air monitoring agencies under requirements of 40 CFR part 58, Ambient Air Quality Surveillance. For such purposes, the method must be used in strict accordance with the operation or instruction manual associated with the method and subject to any limitations (*e.g.*, averaging time) specified in the applicable designation (see description of the method above). Users of this method should note that its equivalent method designation applies only to 24-hour average PM_{10} concentration measurements. The TEOM® Series 1400 PM-10 Monitor can also provide average PM_{10} measurements over other, shorter averaging periods, including one-half-hour averages. However, such shorter average concentration measurements may be less precise than the 24-hour measurements. Average measurements over periods shorter than 24 hours are not required for use in determining attainment under the air quality surveillance requirements of part 58 (although they may be useful for other purposes) and should not be reported under § 58.35 (NAMS data submittal).

Vendor modifications of a designated method used for purposes of part 58 are permitted only with prior approval of EPA, as provided in part 53. Provisions concerning modification of such methods by users are specified under § 2.8 of appendix C to 40 CFR part 58 (Modifications of Methods by Users).

Part 53 requres that sellers of designated methods comply with certain conditions. These conditions are given in 40 CFR 53.9 and are summarized below:

(1) A copy of the approved operation or instruction manual must accompany the PM_{10} monitor when it is delivered to the ultimate purchaser.

(2) The PM_{10} Monitor must not generate any unreasonable hazard to operators or to the environment.

(3) The PM_{10} monitor mus function within the limits of the performance specifications given in Table D-1 of part 53 for at least one year after delivery when maintained and operated in accordance with the operation manual.

(4) Any PM_{10} monitor offered for sale as an equivalent method must bear a label or sticker indicating that it has been designated as an equivalent method in accordance with part 53.

(5) An applicant who offers PM_{10} monitors for sale as equivalent methods is required to maintain a list of ultimate purchasers of such monitors and to notify them within 30 days if an equivalent method designation applicable to the monitor has been cancelled or if adjustment of the monitors is necesary under 40 CFR 53.11(b) to avoid a cancellation.

(6) An applicant who modifies a PM_{10} monitor previously designated as an equivalent method is not permitted to sell the monitor (as modified) as an equivalent method (although he may choose to sell it without such representation), nor to attach a label or sticker to the monitor (as modified) under the provisions described above, until he has received notice under 40 CFR 53.14(c) that the original designation or a new designation applies to the method as modified or until he has applied for and received notice under 50 CFR 53.8(b) of a new equivalent method determination for the monitor as modified.

Aside from occasional breakdowns or malfunctions, consistent or repeated noncompliance with any of these conditions should be reported to: Director, Atmospheric Research and Exposure Assessment Laboratory, Department E (MD–77), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Designation of this equivalent method will provide assistance to the states in establishing and operating their air quality surveillance systems under part 58. Technical questions concerning the method should be directed to the manufacturer. Additional information concerning this action may be obtained from Frank F. McElroy, Quality Assurance Division (MD–77), Atmospheric Research and Exposure Assessment Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Telephone (919) 541–2622.

Erich W. Bretthauer,

Assistant Administrator for Research and Development.

[FR Doc. 90–25620 Filed 10–26–90; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3855–5]

Mille Lacs Lake Confined Drift Aquifer, Minnesota Sole Source Aquifer Petition; Final Determination

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of final determination.

SUMMARY: Notice is hereby given that, under section 1424(e) of the Safe Drinking Water Act, the U.S. Environmental Protection Agency (EPA) Region V Administrator has determined that the petitioned portion of the Confined Drive Aquifer within the Rum River and Mille Lacs Lake watersheds in east-central Minnesota, hereafter called the Mille Lacs Lake Confined Drift Aquifer (MLLCDA), is the sole or principal source of drinking water in the petitioned area and that this aquifer, if contaminated, would create a significant hazard to public health. As a result of this action, all Federal financially assisted projects constructed in the MLLCDA area and its recharge zone will be subject to EPA's review to insure that these projects are designed and constructed so that they do not create a significant hazard to public health.

DATES: Because the economic and regulatory impact of this action will be minimal, this determination will be effective as of the date it is signed by the Regional Administrator.

ADDRESSES: The data on which these findings are based are available to the public and may be inspected during normal business hours at the U.S. Environmental Protection Agency, Region V, Ground Water Protection Branch, 230 South Dearborn Street, 5WG–TUB8, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Glenn Wittman, Ground Water Protection Branch, U.S. EPA, Region V, at 312/886–1503.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1424(e) of the Safe Drinking Water Act (42 U.S.C., 300f, 300h–3(e), Pub. L. 93–523) states:

(e) If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the Federal Register. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

Effective March 9, 1987, authority to make a Sole Source Aquifer designation determination was delegated to the U.S. EPA Regional Administrators.

On February 21, 1989, EPA received a complete petition from the Mille Lacs Band of Chippewa Indians (the petitioner) to designate the MLLCDA as a Sole Source Aquifer. On June 14, 1989, EPA published a notice announcing a 30-day public comment period regarding the petition. Comments were received from three commenters, all of whom supported designation of the aquifer.

II. Basis for Determination

Among the factors to be considered by the U.S. EPA in connection with the designation of an aquifer under section 1424(e) are: (1) Whether the aquifer is the area's sole or principal source of drinking water, and (2) whether contamination of the aquifer would create a significant hazard to public health. On the basis of technical information available to EPA, the Regional Administrator has made the following findings which are the bases for the determination noted above:

1. The MLLCDA currently serves as the "sole source" of drinking water for approximately 6,500 residents of Mille Lacs and Aitkin Counties.

2. There is no existing alternative drinking water source of combination of sources which provides 50 percent or more of the drinking water to the designated area, nor is there any available, cost-effective, potential source capable of replacing the drinking water needs of the communities and individuals that presently relay on the aquifer.

3. The Mille Lacs Lake Confined Drift Aquifer is a confined aquifer that transmits water through unconsolidated glacial deposits. Its moderate to high permeability makes the MLLCDA vulnerable to contamination. Potential sources of contamination include, but are not limited to, leaking underground storage tanks and spills of hazardous materials. Should the ground water become contaminated, there could be a significant negative impact on drinking water quality and a consequent adverse effect on public health.

III. Description of the Mille Lacs Lake Confined Drift Aquifer: Hydrogeology; Use; Recharge; Boundaries

The MLLCDA was formed about 12,000 years ago during the most recent episode of glaciation of North American continent. This glacial activity left behind heterogeneous deposits of rocks, gravel, sand, silt, and clay (glacial drift). These deposits form the MLLCSA and range from 15 to 175 feet in thickness.

Total ground water withdrawal from public and private water supply wells tapping the MLLCDA is approximately

450,000 gallons per day. This resource is the most technically and economically feasible source of drinking water in the area. In fact, over 95 percent of the drinking water in the proposed designated area is drawn from the MLLCDA.

The MLLCDA is recharged primarily by precipitation infiltrating from the land surface. Available hydrogeological information indicates that the potentiometric surface of the aquifer is a subdued expression of the topography and suggests that there is a ground water divide, or hydralic boundary, within the aquifer that roughly corresponds to the watershed boundary of Mille Lacs Lake and the Rum River headwaters area. Maps of the boundaries are available from the U.S. EPA, Region V, Ground Water Protection Branch.

IV. Alternative Sources

The petitioner considered several alternatives to the MLLCDA to supply drinking water: An unconfined surificial sandy acquifer; fractured crystalline bedrock; and Mille Lacs Lake. The comparatively small, unconfined, surficial sandy acquifer lies largely outside the aquifer service area and is neither technically nor economically feasible as an alternative source. Fractured crystalline bedrock does not possess the hydrogeologic characteristics to enable it to yield sufficient water to replace the amount currently supplied by the confined drift aquifer. Mille Lacs Lake could supply sufficient water to the aquifer. Mille Lacs Lake could supply sufficient water to the aquifer service area, but the costs for water treatment and distribution system would exceed guidance thresholds. The petitioner conducted a cost analysis for development of Mille Lacs Lake as a potential alternative source. The cost analysis revealed that a lake water supply system would be too costly and exceed the guidance thresholds of 0.4–0.6 percent of the average annual income for the aquifer service area.

V. Information Utilized in the Determination

The information utilized in this determination includes the petition, published State and Federal reports, and various technical publications. The petition file is available to the public and may be inspected during normal business hours at the U.S. Environmental Protection Agency, Region V, Ground Water Protection Branch, 111 West Jackson Boulevard, 8th floor, Chicago, Illinois 60604.

VI. Project Review

EPA Region V is working with the Federal agencies that may in the future provide financial assistance to projects in the area of concern. Interagency procedures will be developed through which EPA will be notified of proposed commitments of funding by Federal agencies for projects and, where necessary, conduct an in-depth review, including soliciation of public comments where appropriate. Should the Administrator determine that a project may contaminate the aquifer through its recharge zone so as to create a significant hazard to public health, no commitment for Federal financial assistance may be made. However, a commitment for Federal financial assistance may, if authorized under another provision of law, be made to plan or design the project to assure that it will not contaminate the acquifer.

Although the project review process cannot be delegated, EPA will rely to the maximum extent possible on existing or future State and local control mechanisms to protect the ground water quality of the MLLCDA. Included in the review of any Federal financially assisted project will be coordination with State, Tribal, and local agencies. Their comments will be given full consideration, and the Federal review process will attempt to complement and support State, Tribal, and local ground water protection mechanisms.

VII. Summary of Public Comments

Three comments were received during the pubic comment period, and all were in support of designation.

VIII. Economic and Regulatory Impact

Under the provisions of the Regulatory Flexibility Act (RFA), 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant impact on a substantial number of small entities. For purposes of this certification, "small entity" shall have the same meaning as given in section 601 of the RFA. This action is only applicable to the designated area of the Confined Drift Aquifer. The only affected entities will be those area-based businesses, organizations, or governmental jurisdictions that request Federal financial assistance for projects which have the potential to contaminate the aquifer so as to create a significant hazard to public health. EPA does not expect to review small isolated commitments of financial asistance on an individual basis, unless a cumulative impact on the aquifer is anticipated; accordingly, the number of affected small entities will be minimal.

For those small entities which are subject to review, the impact of today's action will not be significant. Most projects subject to this review will be preceded by a ground water impact assessment required under other Federal laws, such as the National Environmental Policy Act as amended, 42 U.S.C. 4321, *et seq.* Integration of those related review procedures with Sole Source Acquifer review will allow EPA and other Federal agencies to avoid delay or duplication of effort in approving financial assistance, thus minimizing any adverse effect on those small entities which are affected. Finally, today's action does not prevent grants of Federal financial assistance which may be available to any affected small entity in order to pay for the redesign of the project to assure protection of the aquifer.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it will not have an annual effect of $100 million or more on the economy, will not cause any major increase in costs or prices, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States enterprises to compete in domestic or export markets. Today's action provides for an in-depth review or ground water protection measures, incorporating State, Tribal, and local measures whenever possible, for only those projects which request Federal financial assistance.

Dated: September 28, 1990

Valdas V. Adamkus,

Regional Adinistrator.

[FR Doc. 90-25519 Filed 10-26-90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the FDIC hereby gives notice that it

has submitted to the Office of Management and Budget a request for OMB review of the information collection system identified below.

Type of Review: Extension of expiration date without any change in substance or method of collection.

Title: Transfer agent registration and amendment form.

Form Number: TA–1.

OMB Number: 3064–0026.

Expiration Date of OMB Clearance: November 30, 1990.

Frequency of Response: On occasion.

Respondents: Insured nonmember banks.

Number of Respondents: 28.

Number of Responses Per Respondent: 1.

Total Annual Responses: 28.

Average Number of Hours Per Response: 0.83.

Total Annual Burden Hours: 23.

OMB Reviewer: Gary Waxman, (202) 395–7340, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Assistant Executive Secretary, Room F–400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before December 28, 1990.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: The FDIC is requesting OMB approval to extend, for another three year period, the use of the form TA–1 by insured nonmember banks to register with the FDIC as transfer agents. Such registration is required by the Securities Exchange Act of 1934 and FDIC regulation 12 CFR part 341. The form is also used to amend a registration.

Dated: September 20, 1990.

Federal Deposit Insurance Corporation

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 90–25400 Filed 10–26–90; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; Jacksonville Port Authority, et al.

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10220. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments and protests are found in § 560.7 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 224–200431

Title: Jacksonville Port Authority/ Marine Transportation Services Sea Barge Group, Inc., Terminal Agreement.

Parties: Jacksonville Port Authority/ Marine Transportation Services Sea Barge Group, Inc., (MTSSBG).

Filing Party: Mr. Carl L. Timmer, General Traffic Manager, Jacksonville Port Authority, 2831 Talleyrand Avenue, Jacksonville, FL 32206.

Synopsis: The Agreement provides for: MTSSBG's lease of approximately 11 acres of land at an annual rental rate of $128,500; a container rate, including wharfage and terminal use, of $28 per loaded container, discharged or loaded; certain container crane rental charges; and a dockage charge of $2.71 per lineal foot of barges and vessels. MTSSBG guarantees a minimum of $350,000 in total revenues each lease year.

By Order of the Federal Maritime Commission.

Dated: October 23, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90–25443 Filed 10–26–90; 8:45 am]

BILLING CODE 6730–01–M

Agreement(s) Filed; Tampa Port Authority, et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No: 224–200432

Title: Tampa Port Authority/ MacMillan Bloedel of America, Inc. Terminal Agreement.

Parties: Tampa Port Authority (Port), MacMillan Bloedel of America, Inc. (MBA)

Synopsis: The Agreement provides that the Port will assess MBA certain incentive wharfage rates based on a minimum annual guarantee of 25 million board feet of lumber.

Agreement No: 224–200430

Title: North Carolina State Ports Authority/Yangming Marine Transport Corporation Terminal Agreement.

Parties: North Carolina State Ports Authority, Yangming Marine Transport Corporation.

Synopsis: The Agreement provides Yangming wharfage incentive rates for annual volume of over 50,000 tons of cargo. The Agreement also provides certain reduced tariff rates for dockage, container handling, and crane rental, as well as certain guarantees for the availability of a berth and two container cranes. The Agreement's term is for two years and may be extended for one additional year.

Agreement No: 224–200429

Title: Port of Seattle/Stevedoring Services of America Terminal Agreement.

Parties: Port of Seattle (Port), Stevedoring Services of America (SSA).

Synopsis: The Agreement provides for SSA's 10-year lease of approximately 23 acres of land and preferential use of berthing area and two Port-owned container cranes at Terminals 42 and 37 in the City of Seattle, Washington. The Agreement supercedes the parties' existing 5-year agreement (Agreement NO. 224–011032).

Dated: October 23, 1990.
Joseph C. Polking,
Secretary.
[FR Doc. 90-25442 Filed 10-26-90; 8:45 am]
BILLING CODE 6730-01-M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89-777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended: Crown Cruise Line of Florida, Inc., Grundstad Maritime Overseas, Inc., Palm Beach Cruises S.A. and Cruceros de Valencia S.A., P.O. Box 3000, 2780 N. Federal Highway, Boca Raton, FL 33431.

Vessel: Crown Monarch.

Dated: October 23, 1990.
Joseph C. Polking,
Secretary.
[FR Doc. 90-25444 Filed 10-26-90; 8:45 am]
BILLING CODE 6730-01-M

Ocean Freight Forwarder License Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR part 510.

License Number: 1291R.
Name: Robert J. Semany & Co., dba Altransco.
Address: 930 E. Lafayette Blvd., #203, Detroit, MI 48207.
Date Revoked: August 2, 1990.
Reason: Failed to furnish a valid surety bond.

License Number: 3249.
Name: Chesapeake International Forwarding, Inc.
Address: 1801 South Clinton St., Baltimore, MD 21224.
Date Revoked: September 26, 1990.
Reason: Surrendered license voluntarily.

License Number: 2871.
Name: C. Martin Landry dba Landry Forwarding International.
Address: 14950 Heathrow Forest Parkway, #171, Houston, TX 77032.
Date Revoked: September 27, 1990.
Reason: Failed to maintain a valid surety bond.

License Number: 2646.
Name: International Distribution Enterprises, Inc.
Address: P.O. Box 140793, Coral Gables, FL 33114.
Date Revoked: September 27, 1990.
Reason: Failed to maintain a valid surety bond.

License Number: 1486A.
Name: Ana T. Binns dba AAA International Shipping.
Date Revoked: October 15, 1990.
Reason: Surrendered license voluntarily.

Bryant L. VanErskle,
Acting Director, Bureau of Domestic Regulation.
[FR Doc. 90-25446 Filed 10-26-90; 8:45 am]
BILLING CODE 6730-01-M

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of freight Forwarder and Passenger Vessel Operations, Federal Maritime Commission, Washington, DC 20573.

R & R Forwarders, Inc., 2714 NW 72nd Ave., Miami, FL 33166, Officers: Ronald Rodrigue, President, Nelson Lopez, Vice President.
Leyda S. Orellana, 13903 NW 12th Street, Pembroke Pines, FL 33026, Sole Proprietor.
E.C. McAfee Company, Customhouse Brokers, 3446 Penobscot Bldg., Detroit, MI 48226, Officers: James Armelagos, Vice President, Judith Corby, Secretary, Stephen Karpus, Treasurer
All Freight Services International Inc., 7925 NW 12th St., suite 129, Miami, FL 33126, Officers: Murray Norkin, President, Elizabeth Norkin, Exec. Vice President, Thomas G. Meditz, Vice President Operations, Ira Benjamin, Director
Damco Maritime Corp., 2174 Hewlett Ave., New York, NY 11566, Officers: Jan Van Der Hoek, President, P. Robert Doernte, Exec. Vice President/Director, Henri Marcuse, Vice President, Dieter Kasprzyk, Treasurer
Freight Forwarder Inc., 6001 Gulf Freeway, C-135, Houston, TX 77023, Officers: Faber F. McMullen, III, President, Gregory E. Hall, Treasurer/Vice President, James D. Farasey, Secretary/General Manager
William B. Skinner Inc., Hemisphere Center Rte. 1 & 9 South, Newark, NJ 07114, Officers: William B. Skinner, President, William B. Skinner, III, Vice President, Julia E. Hartenfels, Vice President, Michael R. Skinner, Vice President
Unitran Broker, 46921 Warm Springs Blvd., Fremont, CA 94539, Officer: Sunny C. Yang, Sole Proprietor
Coral International Transport, Inc., 142 Mine Lake Court, Raleigh, NC 27615, Marc Ivens, President/Director, Philippe Boe, Secretary/Treasurer/Director, Ernest Henry Beauregard, Vice President/Director
P&O Containers (Agencies) Inc., One Meadowlands Plaza, East Rutherford, NJ 07073, Officers: C. J. Rankin, President, O. A. Sweedlund, Senior Vice President/General Manager, P. L. Shahbazian, Vice President/National Accounts, N. D. Shaw, Vice President/Marketing.

By the Federal Maritime Commission.
Dated: October 23, 1990.
Joseph C. Polking,
Secretary.
[FR Doc. 90-25445 Filed 10-26-90; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

October 23, 1990.

Background

Notice is hereby given of the submission of proposed information collection to the Office of Management and Budget (OMB) for its review and approval under the Paperwork Reduction Act (44 U.S.C. chapter 35) and under OMB regulations on Controlling Paperwork Burdens on the Public (5 CFR part 1320). A copy of the proposed information collection and supporting documents is available from the agency clearance officer listed in the notice. Any comments on the proposal should be sent to the OMB desk officer listed in the notice. OMB's usual practice is not to take any action on a proposed information collection until at least ten working days after notice in the Federal Register, but occasionally the public interest requires more rapid action.

FOR FURTHER INFORMATION CONTACT:
Federal Reserve Board Clearance Officer—Frederick Schroeder—Division of Research and Statistics, Board of Governors of the Federal

Reserve System, Washington, DC 20551 (202–452–3822).

OMB Desk Officer.—Gary Waxman—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, room 3208, Washington, DC 20503 (202–395–7340).

Request for OMB approval to revise

Report title: Foreign Branch Report of Condition.

Agency form number: FFIEC 030.

OMB Docket number: 7100–0071.

Frequency: Annually, and quarterly for large branches and agencies.

Reporters: State member banks that have foreign branches and agencies.

Annual reporting hours: 522.

Estimated average hours per response: 3 hours.

Estimated number of respondents: 102 annual respondents, 18 quarterly respondents.

Small businesses are not affected.

General description of report: This information collection is mandatory (12 U.S.C. 321, 324, and 602) and is given confidential treatment (5 U.S.C. 552(b)(8)).

This annual report contains detailed asset and liability information for foreign branches and agencies of insured U.S. commercial banks and is required for regulatory and supervisory purposes. The information is used to analyze the foreign operations of U.S. commercial banks. The proposed revisions involve minor changes to the reporting form and instructions and a shift to quarterly reporting for large foreign branches.

Board of Governors of the Federal Reserve System, October 23, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90–25476 Filed 10–26–90; 8:45 am]

BILLING CODE 6210–01–M

Lyle P. Campbell; Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than November 16, 1990.

A. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Lyle P. Campbell,* Downers Grove, Illinois; to acquire 24.79 percent of the voting shares of Founders Bancorp, Inc., Scottsdale, Arizona, and thereby indirectly acquire Founders Bank of Arizona, Scottsdale, Arizona.

Board of Governors of the Federal Reserve System, October 23, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–25477 Filed 10–26–90; 8:45 am]

BILLING CODE 6210–01–M

Harleysville National Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the applicaiton has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 13, 1990.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Harleysville National Corporation,* Harleysville, Pennsylvania; to acquire 100 percent of the voting shares of Citizens National Bank of Lansford, Lansford, Pennsylvania.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Krause Financial, Inc.,* Winnebago, Minnesota; to become a bank holding company by acquiring 67.10 percent of the voting shares of First National Bank in Winnebago, Winnebago, Minnesota

2. *Minowa Bancshares, Inc.,* Decorah, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of Decorah State Bank, Decorah, Iowa, and thereby indirectly acquire The First National Bank of Mabel, Mabel, Minnesota.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *FS Bano, Inc.,* Malta, Montana; to become a bank holding company by acquiring at least 90 percent of the voting shares of The First State Bank of Malta, Malta, Montana.

2. *Hayward Bancshares of Hayward, Inc.,* Hayward, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of Peoples Bancshares of Hayward, Inc., Hayward, Wisconsin, and thereby indirectly acquire The Peoples National Bank of Hayward, Hayward, Wisconsin.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Bancorp of Durango, Inc.,* Durango, Colorado; to become a bank holding company by acquiring 82.3 percent of the voting shares of First National Bank of Durango, Colorado.

2. *The James Stuart, Jr. Family Partnership, The Catherine Stuart Schmoker Family Partnership, The Scott Stuart Family Partnership, parents of The Stuart Family Partnership, parent of First Commerce Bancshares, Inc.,* all of Lincoln, Nebraska; to acquire through acquisition and merger with First Commerce Bancshares, Inc., 100 percent of the voting shares of First National McCook Company, McCook, Nebraska, the parent of First National Bank of McCook, McCook, Nebraska.

Board of Governors of the Federal Reserve System, October 23, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–25478 Filed 10–26–90; 8:45 am]

BILLING CODE 6210–01–M

BEST COPY AVAILABLE

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Privacy Act of 1974; Computer Matching Program

AGENCY: Department of Health and Human Services (HHS) Health Care Financing Administration (HCFA).

ACTION: Notice of a Matching Program—HCFA's Health Insurance (HI) Master Record and information from four Railroad Retirement Board (RRB) Systems of Records.

SUMMARY: The Department of Health and Human Services is providing public notice that the RRB agrees to disclose information concerning Medicare eligible railroad retirees to HCFA.

The matching report set forth below is in compliance with the Computer Matching and Privacy Protection Act of 1988 (Pub. L. No. 100–503).

DATES: The match will begin 30 days after notice has been published in the Federal Register and agreements by the parties participating in the match have been submitted to Congress and the Office of Management and Budget, and shall remain in effect for a period not to exceed 18 months unless 90 days prior to the actual expiration date, the Data Integrity Boards (DIB) of HHS and the RRB find that the program will be conducted without change and each party certifies that the program has been conducted in compliance with the Matching Agreement. Under this finding, the respective DIBs may extend the Agreement for one additional year.

ADDRESSES: The public should address comments to Richard A. DeMeo, Privacy Act Officer, Office of Budget and Administration, Health Care Financing Administration, Room 108, Security Office Park Building, 7008 Security Boulevard, Baltimore, Maryland 21207. Comments will be available for inspection at this location.

FOR FURTHER INFORMATION CONTACT: William A. Grant, Division of Entitlement Requirements, Office of Program Operations Procedures, Bureau of Program Operations, Health Care Financing Administration, C–E–7 Meadows East Building, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone Number 301–966–6464.

SUPPLEMENTARY INFORMATION: The RRB information contains data from four RRB Systems of Records: Health Insurance and Supplementary Medicare Insurance Enrollment and Premium Payment System (RRB–20), Railroad Retirement, Survivor, and Pensioner Benefit System (RRB–22), Research Master Record for Survivor Beneficiaries under the Railroad Retirement Act (RRB–25), and Research Master Record for Retired Railroad Employees and their Dependents (RRB–26).

The RRB information is matched against the HI Master Record (HHS/HCFA/BPO No. 09–70–0502), which contains a record of each individual who is or has been entitled to health insurance benefits under title XVIII of the Social Security Act.

The purpose of the disclosure is to enable HCFA to identify possible railroad working aged in order to determine when Medicare should be the secondary payer after employer group health insurance. This disclsoure of information will ensure that HCFA has accurate information about possible railroad working aged. The RRB is the only source HCFA has for information about possible railroad working aged.

For the purposes of this match, "Working Aged" means Medicare beneficiaries aged 65 or over who are currently employed by employers of 20 or more employees or the spouses of currently employed individuals of any age. "Working Aged" also refers to those individuals under age 65 who are disabled and covered under large group health plans as an employee, an employer, an individual associated with the employer in a business relationship, or a member of a family of any of these individuals.

By identifying possible railroad working aged and determining if the railroad retiree has employer group health insurance, Medicare can become the secondary payer, thus paying only the portion of the payment not paid by the employee's group health insurance. This results in savings to the Medicare Trust Funds. Before the RRB may release the working aged information to HCFA, both agencies must sign a Matching Agreement that has been approved by each agency's DIB.

The results of the match are only used when a railroad retiree (or spouse) or disabled beneficiary or an appropriate person on his or her behalf submits a claim for reimbursement for Medicare covered services or supplies. If the railroad retiree (or spouse) or disabled beneficiary is identified as possible working aged, the railroad retiree (or spouse) or disabled beneficiary is contacted by HCFA to determine if he/she has employer group health insurance benefits. If he/she does have employer group health insurance benefits Medicare is the secondary payer to the employer group health insurance.

Set forth below is the information required by the Computer Matching and Privacy Protection Act of 1988. A copy of this notice has been provided to the Chairman of the Committee on Government Operation of the House of Representatives, the Chairman of the Committee on Governmental Affairs of the Senate and the Administrator of the Office of Information and Regulatory Affairs in the Office of Management and Budget.

Dated: October 9, 1990.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

Report of Computer Matching Program—HCFA and RRB

a. *Authority:* Section 1106(a) of the Social Security Act (42 U.S.C. 1306(a)), Section 1874(b) of the Social Security Act (42 U.S.C. 1395kk(b)), the Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. No. 100–503).

b. *Purpose and description:* The purpose of this disclosure is to enable HCFA to identify possible railroad working aged in order to determine when Medicare should be the secondary payer after employer group health insurance.

This information consists of name, HI number, gender, date of birth, Ledger Account File Code (for working aged code is S2), and Requester Identification (for working aged code is 02WA).

c. *Personal records to be matched:* HCFA will match the RRB information to the HI Master Record and annotate the beneficiary's record with the possible working aged indicator.

There are between 12,000–19,000 records matched each quarter.

d. *Period of match:* The RRB will electronically transmit the working aged information to HCFA via the Social Security Administration's (SSA) National Computer Center (NCC) quarterly. The information will be for continuous use by HCFA for a period not to exceed 18 months, unless 90 days prior to the actual expiration date, the DIBs of HHS and the RRB find that the program will be conducted without change and each party certifies that the program has been conducted in compliance with the Matching Agreement. Under this finding, the respective DIBs may extend the Agreement for one additional year.

e. *Safeguards:* Before the RRB information is released to HCFA, the RRB and HCFA must sign an Agreement to protect the confidentiality of the information received. The HHS DIB

approved the Agreement on August 16, 1990. The RRB DIB approved the Agreement on August 23, 1990.

Through an inter-agency agreement, SSA performs EDP functions for HCFA. SSA maintains HCFA's data under strict security at the NCC. If, at any time during the life of the Matching Agreement, the RRB wishes to make onsite inspections to ensure adequate safeguards are being maintained by HCFA or SSA, the procedures to obtain clearance to the NCC will be followed.

Access to the records matched and any records created by the match will be stored in areas that are physically safe from access by unauthorized persons during duty hours as well as non-duty hours or when not in use.

The records matched and any records created by the match will be processed under the immediate supervision and control of authorized personnel in a manner which will protect the confidentiality of the records and in such a way that unauthorized persons cannot retrieve any such records by computer, remote terminal or other means.

All personnel who will have access to the records matched and to any records created by the match will be advised of the confidential nature of the information, the safeguards required to protect the information and the civil and criminal sanctions for noncompliance contained in applicable Federal laws.

f. *Retention and disposition of records:* As a result of the matching program, any changes made to railroad retirees' records in the HI Master Record (possible working aged identifier) will be retained until determined (through development with the railroad retiree) to be incorrect.

[FR Doc. 90-25487 Filed 10-26-90; 8:45 am]
BILLING CODE 4120-03-M

Health Resources and Services Administration

Program Announcement for Grants for Faculty Development in Family Medicine (Second Cycle)

The Health Resources and Services Administration (HRSA) announces that applications for a second solicitation for Fiscal Year 1991 for Grants for Faculty Development in Family Medicine are being accepted under the authority of section 786(a), title VII of the Public Health Service Act, Health Professions Reauthorization Act of 1988, (Title VI), Public Law 100-607.

Section 786(a) of the Public Health Service Act authorizes the award of grants to public or nonprofit private hospitals, schools of medicine or osteopathic medicine, or other public or private nonprofit entities to assist in meeting the cost of planning, developing and operating programs for the training of physicians who plan to teach in family medicine training programs. In addition, section 786(a) authorizes assistance in meeting the cost of supporting physicians who are trainees in such programs and who plan to teach in a family medicine training program.

The Administration's budget request for Fiscal Year 1991 does not include funding for this program. Applicants should be advised that this program announcement is a contingency action being taken to ensure that should funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the programs as well as to provide for even distribution of funds throughout the fiscal year. This notice regarding applications does not reflect any change in this policy.

To receive support, programs must meet the requirements of regulations as set forth in 42 CFR part 57, subpart Q.

Change in Project Requirement

A final rule was published in the Federal Register of December 6, 1989 (54 FR 50373) which states that there has been one change in the project requirements since Fiscal Year 1990. The maximum length of stipend support for trainees has been extended from one calendar year to 24 cumulative months.

Review Criteria

The review of applications will take into consideration the following criteria:

(1) The degree to which the proposed project provides for the project requirements;

(2) The administrative and management ability of the applicant to carry out the proposed project in a cost-effective manner; and

(3) The potential of the project to continue on a self-sustaining basis.

In addition, the following mechanisms may be applied in determining the funding of approved applications.

(1) Funding preferences—funding of a specific category or group of approved applications ahead of other categories or groups of applications, such as competing continuations ahead of new projects.

(2) Funding priorities—favorable adjustment of review scores when applications meet specified objective criteria.

(3) Special considerations—enhancement of priority scores by merit reviewers based on the extent to which applicants address special areas of concern.

Funding Priorities for Fiscal Year 1991

The following funding priorities were established in Fiscal Year 1989 after public comment and the Administration is extending these priorities again in Fiscal Year 1991.

In determining the order of funding of approved applications, a funding priority will be given to:

(1) Projects which satisfactorily demonstrate enrollment of underrepresented minorities in proportion to or greater than their percentage in the general population or can document an increase in the number of underrepresented minorities (*i.e.* Black, Hispanic, and American Indian/Alaskan Native minority trainees).

(2) Applications designed to develop faculty competence for teaching ambulatory and inpatient case management of those with HIV infection-related diseases.

(3) Applications designed to develop faculty competence for teaching quality assurance/risk management activities: monitoring and evaluation of health care services and utilization of peer-developed guidelines and standards.

(4) Applications designed to develop faculty competence for teaching geriatric content and/or develop educational materials for teaching geriatric content to medical students, residents and practitioners.

Special Consideration

Special consideration will be given to applications demonstrating a commitment to family medicine.

Public Law 100-607, section 633(a), requires that for grants issued under sections 780, 784, 785 and 786 for Fiscal Year 1990 or subsequent fiscal years, the Secretary of Health and Human Services shall, not less than twice each fiscal year, issue solicitations for applications for such grants if amounts appropriated for such grants and remaining unobligated at the end of the first solicitation period, are sufficient with respect to issuing a second solicitation. Should a second cycle be necessary, the application deadline date will be approximately six months from the first deadline.

The second deadline date for receipt of applications is January 25, 1991. Applications shall be considered as meeting the deadline if they are either:

(1) Received on or before the deadline date, or

(2) Postmarked on or before the deadline date and received in time for submission to the independent review

group. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

Applications received after the deadline date will be returned to the applicant.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (D–15) Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 8C–26, Rockville, Maryland 20857, Telephone: (301) 443–6880.

Completed applications should be forwarded to the Grants Management Officer at the above address.

The standard application form PHS 6025–1, HRSA Competing Training Grant Application, General Instructions and supplement for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915–0060.

Should additional programmatic information be required please contact: Primary Care Medical Education Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 4C–04, Rockville, Maryland 20857, Telephone: (301) 443–3674.

This program is listed at 13.895 in the Catalog of Federal Domestic Assistance. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

Dated: September 18, 1990.

Robert G. Harmon,

Administrator.

[FR Doc. 90-25401 Filed 10-26-90, 8:45 am]

BILLING CODE 4160-15-M

Program Announcement for Grants for Graduate Training in Family Medicine (Second Cycle)

The Health Resources and Services Administration (HRSA) announces that applications for a second solicitation for Fiscal Year 1991 Grants for Graduate Training in Family Medicine are being accepted under the authority of section 786(a), title VII of the Public Health Service Act, extended by the Health Professions Reauthorization Act of 1988, Public Law 100–607, title VI.

The Administration's budget request for Fiscal Year 1991 does not include funding for this program. Applicants should be advised that this program announcement is a contingency action being taken to ensure that should funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the programs as well as provide for even distribution of funds throughout the fiscal year. This notice regarding applications does not reflect any change in this policy.

Section 786(a) of the Public Health Service Act authorizes the Secretary to award grants to public or nonprofit private hospitals, schools of medicine or osteopathic medicine or other public or private nonprofit entities to assist in meeting the costs of planning, developing and operating or participating in approved graduate training programs in the field of family medicine. In addition, section 786(a) authorizes assistance in meeting the cost of supporting trainees in such programs who plan to specialize or work in the practice of family medicine. To receive support, programs must meet the requirements of regulations as set forth in 42 CFR part 57, subpart Q.

Review Criteria

The review of applications will take into consideration the following criteria:

1. The degree to which the proposed project provides for the project requirements;

2. The administrative and management ability of the applicant to carry out the proposed project in a cost-effective manner; and

3. The potential of the project to continue on a self-sustaining basis.

In addition, the following mechanisms may be applied in determining the funding of approved applications:

1. Funding preferences—funding of a specific category or group of approved applications ahead of other categories or groups of applications, such as competing continuations ahead of new projects.

2. Funding priorities—favorable adjustment of review scores when applications meet specified objective criteria.

3. Special considerations—enhancement of priority scores by merit reviewers based on the extent to which applicants address special areas of concern.

Funding Priorities for Fiscal Year 1991

The following funding priorities were established in FY 1989 after public comment and the Administration is again extending these priorities in Fiscal Year 1991.

In determining the order of funding of approved applications a funding priority will be given to:

(1) Projects which satisfactorily demonstrate an enrollment of underrepresented minorities in proportion to or greater than their percentage in the general population or can document an increase in the number of underrepresented minorities (*i.e.*, Black, Hispanic and American Indian/Alaskan Native) over the average of the past three years in postgraduate year (PGY) trainees.

(2) Projects in which substantial training experience is in one or more of the following: a PHS Act, section 332 health manpower shortage area; PHS Act, section 329 migrant health center, PHS Act, section 330 community health center; PHS Act, section 781 funded Area Health Education Center, or State designated clinic/center serving an underserved population.

(3) Applications that demonstrate sufficient curricular time and offering devoted to assuring competence in the prevention, recognition and treatment of those with HIV infection-related diseases.

(4) Applications that demonstrate sufficient curricular time and offering devoted to assuring competence in quality assurance/risk management activities: monitoring and evaluation of health care services and utilization of peer-developed guidelines and standards.

(5) Applications proposing to provide substantial multidisciplinary geriatric training experiences in multiple ambulatory settings and inpatient and extended care facilities.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (D–15), Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 8C–26, Rockville, Maryland 20857, Telephone: (301) 443–6880.

Completed applications should be forwarded to the Grants Management Officer at the above address. If additional programmatic information is needed, please contact: Primary Care Medical Education Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 4C–04, Rockville, Maryland 20857, Telephone: (301) 443–6820.

The standard application form PHS 6025–1, HRSA Competing Training Grant Application, General Instructions and supplement for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915–0060.

Public Law 100–607, section 633(a), requires that for grants issued under sections 780, 784, 785 and 786 for Fiscal Year 1991 or subsequent fiscal years, the Secretary of Health and Human Services shall, not less than twice each fiscal year, issue solicitations for applications for such grants if amounts appropriated for such grants and remaining unobligated at the end of the first solicitation period, are sufficient with respect to issuing a second solicitation.

The second deadline date for receipt of applications is January 18, 1991. Applications shall be considered as meeting the deadline if they are either:

(1) Received on or before the deadline date, or

(2) Postmarked on or before the deadline and received in time for submission to the independent review group. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

Applications received after the deadline will be returned to the applicant.

This program is listed at 13.379 in the Catalog of Federal Domestic Assistance. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

Dated: September 18, 1990.

Robert G. Harmon,

Administrator.

[FR Doc. 90–25485 Filed 10–26–90; 8:45 am]

BILLING CODE 4130–15–M

Public Health Service

Health Resources and Services Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, chapter HB (Health Resources and Services Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (47 FR 38409–24, August 31, 1982, as amendd most recently at 55 FR 20210–11, May 15, 1990) is amended to reflect: The transfer of information-related functions from the Office of Program Support to the Division of Information and Analysis.

Section HB–10, Organization and Functions is amended as follows:

(1) Under the Office of Program Support (HBB 12): amend item number (12) to: serves as liaison or provides the Bureau with support services such as supply management, space management, manual issuances, forms, records, reports, and the support of Civil Rights compliance activities;

(2) Under the Division of Information and Analysis (HBB4): Delete the word "and" after item #(17), change the period at the end of item #(18) to a semicolon; and add the following "and (19) Provides direction for the Bureau's correspondence control, Freedom of Information Act and Privacy Act coordination, and committee management.

Dated: October 18, 1990.

Robert G. Harmon,

Administrator, Health Resources and Services Administrator.

[FR Doc. 90–25428 Filed 10–26–90; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–030–01–4320–02; GP1–015]

Meeting, Vale District Grazing Advisory Board; Oregon

AGENCY: Vale District, Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is given in accordance with Public Law 92–463 that a meeting of the Vale District Grazing Advisory Board will be held November 27, 1990.

The agenda of the meeting will include: Maintenance strategy for range improvement projects, Policy for grazing use of public lands if drought conditions persist, Maintenance of range improvement seedings, Update on plans and activities in the Trout Creek Mountains, Grazing Advisory Board elections, Long-range grazing issues, Range improvement projects for 1991, and Noxious weed control plans.

The meeting is open to the public. Interested persons may make oral statements to the Board or may file written statements for the Board's consideration. Anyone wishing to make oral statements may do so at 1:30 p.m. M.S.T. the day of the meeting.

Summary minutes of the Board's meeting will be maintained in the district office and will be available for public inspection, or personal copies may be purchased for the cost of duplication, within 30 days of the meeting.

DATES: The meeting will begin at 10 a.m. M.S.T. November 27, 1990.

ADDRESSES: The meeting will be held in the conference room of the Vale District Office, 100 Oregon Street, Vale, OR 97918.

FOR FURTHER INFORMATION CONTACT: Gerard Hubbard, Bureau of Land Management, Vale District, 100 Oregon Street, Vale, OR 97918, (Telephone 503 473–3144).

William C. Calkins,

District Manager.

[FR Doc. 90–25441 Filed 10–26–90; 8:45 am]

BILLING CODE 4310–33–M

Fish and Wildlife Service

Meeting, Klamath Fishery Management Council; California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Klamath Fishery Management Council, established under the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss *et seq.*). The meeting is open to the public.

DATES: The Klamath Fishery Management Council will meet from 9:30 a.m. to 5 p.m. on Thursday, November 1, 1990; and from 8 a.m. to 3 p.m. on Friday, November 2, 1990.

PLACE: The meeting will be held in the conference room of the Red Lion Motor Inn, 1929 Fourth Street, Eureka, California.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald A. Iverson, Project Leader, U.S. Fish and Wildlife Service, P.O. Box 1006 (1030 South Main), Yreka, California 96097–1006, telephone (916) 842–5763.

SUPPLEMENTARY INFORMATION: For background information on the Management Council, please refer to the notice of their initial meeting that appeared in the Federal Register on July 8, 1987 (52 FR 25639).

The Council will approve a public review draft of the long-range plan for management of harvest of Klamath anadromous fish stocks, completed at their meeting held October 2–4, 1990. The Council will also hear reports on 1990 fisheries, and will identify a process for reviewing plans for 1991 fisheries affecting Klamath basin anadromous stocks.

Dated: October 19, 1990.

Marvin L. Plenert,

Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 90-25440 Filed 10-26-90; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Women's Rights National Historical Park; Seneca Falls, NY; Public Review Period for Amendment to the 1986 General Management Plan

In accordance with the National Park Service Planning Guidelines in the preparation of General Management Plans, notice is hereby given that the National Park Service is amending the 1986 General Management Plan for Women's Rights National Historical Park. A Draft Amendment/ Environmental Assessment, which contains several alternatives addressing needs for interpretation, park operations, and maintenance, is available for review from the Superintendent beginning October 19, 1990. Comments on the draft document should be submitted in writing by November 19, 1990, to the Superintendent, Women's Rights National Historical Park, P.O. Box 70, Seneca Falls, New York 13148. The National Park Service prepares General Management Plans to provide adequate consideration of reasonable alternatives in advance of pursuing general management directions.

Dated: October 18, 1990.

Marie Rust,

Acting Regional Director.

[FR Doc. 90-25461 Filed 10-26-90; 8:45 am]

BILLING CODE 4310-70-M

Interim Bison Management Plan, Environmental Assessment; Yellowstone Park, Wyoming

AGENCY: National Park Service, Interior.

ACTION: Notice of availability of Environmental Assessment.

SUMMARY: In accordance with the National Environmental Policy Act and National Park Service (NPS) regulations, an Environmental Assessment (EA) has been prepared to analyze the environmental impacts of proposed short-term, interim management actions for the control of bison exiting Yellowstone National Park. the short-term will cover actions during the winter of 1990–1991. Long-term planning for bison management is the subject of an Environmental Impact Statement process which was announced in the Federal Register on July 2, 1990. The short-term management actions to be evaluated will deal with the extent and involvement of the NPS in the control of bison; to prevent the spread of bison-carried brucella organism to domestic cattle outside the park, to reduce property damage, to increase human safety, and to further reduce entrenchment of migratory behavior of the northern bison herd. Three alternatives are considered in the EA; No Action Alternative (continue current management), Control of Bison Inside the Park, and Control of Bison Outside the Park (proposal).

DATES: Comments on the EA should be sent to the Superintendent, Yellowstone National Park, P.O. Box 168, Yellowstone National Park, Wyoming 82190, no later than November 28, 1990.

ADDRESSES: Copies of the EA are available from the Superintendent, Yellowstone National Park, P.O. Box 168, Yellowstone National Park, Wyoming 82190. Copies are also available for review in the Office of Public Affairs, room 155, National Park Service, Rocky Mountain Regional Office, 12795 W. Alameda Pkwy., Denver, Colorado 80225.

Dated: October 17, 1990.

Jack W. Neckels,

Acting Regional Director, Rocky Mountain Region.

[FR Doc. 90-25475 Filed 10-25-90; 8:45 am]

BILLING CODE 4310-70-M

Massachusetts and Connecticut; Farmington River Study Committee; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770, 5 U.S.C. App. 1 10), that a meeting of the Farmington River Study Committee will be held Thursday, November 8, 1990.

The Committee was established pursuant to Public Law 99-590. The purpose of the Committee is to consult with the Secretary of the Interior and to advise the Secretary in conducting the study of the Farmington River segments.

The meeting will convene at 7:30 p.m. at the Tolland Town Hall, Tolland, Massachusetts, for the following purpose:

1. A study overview;
2. Approval of minutes from September 13, 1990 meeting;
3. Reports from Subcommittees:
   A. Water Resources Subcommittee, including the status of instream flow study;
   B. River Conservation Planning and Public Involvement Subcommittee, including an update on local activity—town meetings, ordinances, etc., and the private land protection program;
5. Opportunity for public comment; and
6. Other business including the reappointment process and the next meeting dates and locations.

Interested persons may make oral/ written presentations to the Committee or file written statements. Such requests should be made to the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from the Public Affairs Officer, National Park Service, North Atlantic Region, 15 State Street, Boston, MA 02109 (617) 223-5199.

Dated: October 19, 1990.

Marie Rust,

Acting Regional Director.

[FR Doc. 90-25462 Filed 10-26-90; 8:45 am]

BILLING CODE 4310-70-M

National Parks Service

Meetings; Subsistence Resource Commission

AGENCY: National Park Service, Interior.

ACTION: Subsistence Resource Commission meeting.

SUMMARY: The Superintendent of Gates of the Arctic National Park and Preserve and the Chairperson of the Subsistence Resource Commission for Gates of the Arctic National Park announce a forthcoming meeting of the Gates of the Arctic National Park Subsistence Resource Commission.

The following agenda items will be discussed:

(1) Introduction of commission members.
(2) Introduction of guests.
(3) Review of minutes from last meeting.
(4) Federal subsistence management status report.
(5) Draft hunting plan progress report/work session.
(6) Update on land exchange.
(7) Old and new business.

DATES: The meeting will begin at 9 a.m. on Wednesday, November 14, 1990, and conclude at 5 p.m. The meeting will reconvene at 9 a.m. on Thursday, November 15, 1990, and conclude at 5 p.m.

LOCATION: The meeting will be held at the Regency Hotel, 95 10th Avenue, Fairbanks, Alaska.

FOR FURTHER INFORMATION CONTACT: Roger Siglin, Superintendent, P.O. Box 74680, Fairbanks, Alaska 99707. Phone (907) 456-0281.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commission is authorized under title VIII, section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96–487, and operates in accordance with the provisions of the Federal Advisory Committees Act.

Paul F. Haertel,

Acting Regional Director.

[FR Doc. 90–25463 Filed 10–26–90; 8:45 am]

BILLING CODE 4310-70-M

National Park Service

Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission; Meetings

Notice is hereby given in accordance with the Federal Advisory Committee Act that meetings of the Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission will be held at 7:30 p.m. (PST) on Wednesday, November 14, 1990, at the Presidio NCO Club, Building 135, Presidio of San Francisco, California, and at 7:30 p.m. (PST) on Thursday, December 6, 1990 at the Tamalpais High School Student Center in Mill Valley, California.

The Advisory Commission was established by Public Law 92–589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service Systems in Marin, San Francisco and San Mateo Counties. Members of the Commission are as follows:

Mr. Richard Bartke, Chairman
Ms. Amy Meyer, Vice Chair
Mr. Ernest Ayala
Dr. Howard Cogswell
Brig. Gen. John Crowley, USA (ret)
Mr. Margot Patterson Doss
Mr. Neil D. Eisenberg
Mr. Jerry Friedman
Mr. Steve Jeong
Ms. Daphne Greene
Ms. Gimmy Park Li
Mr. Gary Pinkston
Mr. Merritt Robinson
Mr. R.H. Sciaroni
Mr. John J. Spring
Dr. Edgar Wayburn
Mr. Joseph Williams

The main agenda items at the November 14 public meeting will be presentation and public comment on revised Presidio Planning Guidelines, the planning process, and issues and concerns relating to the planning effort by the National Park Service for the Presidio of San Francisco when the U.S. Army vacates the areas under the Base Closure Act of 1988. Draft Presidio Planning Guidelines were presented at five public hearings around the Bay Area on May 15, May 22, May 29, May 31, and June 2, 1990. Those public hearings were the first of many such public meetings anticipated over the next two-three years on the National Park Service planning process for the Presidio.

The draft Presidio Planning Guidelines were published in the newsletter "Reveille" and made available for public review between April 30, 1990 and June 30, 1990. In addition, comments on the draft Planning Guidelines were received at various comunity and other presentations and from the San Francisco Committee of the GGNRA Advisory Commission. The revised Presidio Planning Guidelines based on the public comments received are to be published in the newsletter "Presidio Update".

The main agenda item at the December 6 public hearing will be public comment on the Staff Report on Trail Designations within the Marin County portion of the Golden Gate National Recreation Area.

The Environmental Assessment on Trail Designations was presented for public comment on Thursday, April 26, 1990 at the Redwood High School Auditorium in Larkspur. The Environmental Assessment addressed the impacts of four alternative trail use designations for Marin Headlands portion of the Golden Gate National Recreation Area (GGNRA), and one designation for the GGNRA lands between Muir Beach and Sir Francis Drake Boulevard in Marin County. During the summer of 1990, a series of focused workshops were held by the National Park Service to discuss the concerns of the equestrain, bike, and hiking communities related to the alternative designations described in the Environmental Assessment.

There has been a great deal of public input and discussion of the trail designations in GGNRA in the last three years. On January 7, 1988, the first draft trail use designation plan for GGNRA was presented at a meeting of the GGNRA Advisory Commission at Fort Mason in San Francisco. Subsequently, an Ad Hoc Trails Committee studied the proposed trail plans and provided further recommendations. Separate recommendations concerning bicycle trails were also provided to the park by representatives of the bicycling community.

The Code of Federal Regulations requires that park trails are closed to bicycles in each unit of the National Park System unless a written determination is made based on a finding that such use is consistent with the protection of the park's natural, scenic, and aesthetic values, safety considerations and management objectives, and will not disturb the park's wildlife or resources.

Also included at these meetings will be a Superintendent's Report.

These meetings are open to the public. Persons wishing to receive a copy of "Presidio Update" containing the Presidio Planning Guidelines should write to the Presidio Planning Office, Building 277, Crissy Field, GGNRA, Building 201, Fort Mason, San Francisco, California 94123 or telephone (415) 556–0600.

Persons wishing to receive the Staff Report for Trail Designations within the Golden Gate National Recreation Area should contact the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123 or telephone (415) 556–4484.

These meetings will be recorded for documentation and transcribed for dissemination. Minutes of the meetings will be available to the public after approval of the full Advisory Commission. Transcripts will be available for the November 14 public meeting after November 29, 1990 and for the December 6 public meeting after December 20, 1990. For copies of the minutes contact the Office of the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123.

Dated: October 19, 1990.

Lewis Albert,

Acting Regional Director, Western Region.

[FR Doc. 90–25474 Filed 10–26–90; 8:45 am]

BILLING CODE 4310-70-M

National Capital Region; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the National Capital Memorial Commission will be held on Thursday, November 8, 1990, at 1:30 p.m., in the 10th Floor Conference Room at the National Capital Planning Commission, 1325 G Street, NW., Washington, DC.

The Commission was established by Public Law 99–652, for the purpose of advising the Secretary of the Interior or the Administrator of the General Services Administration, depending on

which agency has jurisdiction over the lands involved in the matter, or policy and procedures for establishment of [and proposals to establish] commemorative works in the District of Columbia or its environs, as well as such other matters concerning commemorative works in the Nation's Capital as it may deem appropriate. The Commission evaluates each memorial proposal and makes recommendations to the Secretary or the Administrator with respect to appropriateness, site location and design, and serves as an information focal point for those seeking to erect memorials on Federal land in Washington, DC, or its environs.

The members of the Commission are as follows:

James Ridenour, Chairman, Director, National Park Service, Washington, DC
George M. White, Architect of the Capitol, Washington, DC
Honorable Andrew J. Goodpaster, Chairman, American Battle Monuments Commission, Washington, DC
J. Carter Brown, Chairman, Commission of Fine Arts, Washington, DC
Glen Urquhart, Chairman, National Capital Planning Commission, Washington, DC
Honorable Marion S. Barry, Jr., Mayor of the District of Columbia, Washington, DC
Honorable John Alderson, Administrator, General Services Administration, Washington, DC
Honorable Frank Carlucci, Secretary of Defense, Washington, DC

The purpose of the meeting will be to review and take action on the following:

I. Korean War Veterans Memorial (Pub. L. 99–572, October 28, 1986)—Review of the revised design.

II. Memorial to George Mason (Pub. L. 101–358 August 10, 1990)—Area I designation.

Dated: October 13, 1990.

Ronald N. Wyss,

Acting Regional Director, National Capital Region.

[FR Doc. 90–25475 Filed 10–26–90; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information, the related form and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirements should be made directly to the Bureau clearance officer listed below and to the Office of Management and Budget, Paperwork Reduction Project (1029–0041), Washington, DC 20503, telephone 202–395–7340.

Title: Part 773—Requirements for Permits and Permit Processing.

OMB No.: 1029–0041.

Abstract: Ensures that applicants for permanent program permits or their associates, who are in violation of the Surface Mining Control and Reclamation Act do not receive or maintain Surface Mining permits.

Bureau form No.: None.

Frequency: On Occasion.

Description of respondents: State Regulatory Authorities and Mining Company officials.

Annual responses: 2,028.

Annual burden hours: 28,336.

Estimated completion time: 14 hours.

Bureau clearance officer: Richard L. Wolfe, (202) 343–5143.

Dated: October 10, 1990.

John P. Mosesso,

Chief, Division of Technical Services.

[FR Doc. 90–25436 Filed 10–26–90; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL TRADE COMMISSION

Peanuts; Request for Comments Concerning the Institution of a Section 22(d) Investigation

AGENCY: United States International Trade Commission.

ACTION: Request for comments regarding the proposed institution of an investigation under section 22(d) of the Agricultural Adjustment Act of 1933, as amended (7 U.S.C. 624) concerning the modification, removal, or suspension of the annual import restriction currently in effect on peanuts.

SUMMARY: The Commission invites comments from the public on whether changed circumstances exist sufficient to warrant the institution of an investigation pursuant to section 22(d) of the Agricultural Adjustment Act. The purpose of the proposed investigation would be to determine whether the annual import quota on peanuts may be modified, removed, or suspended without rendering or tending to render ineffective, or materially interfering with, any program or operation undertaken by the Department of Agriculture with respect to peanuts, or reducing substantially the amount of any product processed in the United States from peanuts.

FOR FURTHER INFORMATION CONTACT: Mary Trimble (202–252–1193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–252–1000.

Background Information

On October 12, 1990, the Commission received a request for an expedited hearing and investigation under section 22(d) of the Agricultural Adjustment Act to remove entirely the restriction currently in effect on the importation of peanuts. In addition, an immediate suspension of the quota and an authorization of imports of 400 million pounds shelled basis was requested pending the outcome of the proposed investigation by the Commission. The request was filed by the Peanut Butter and Nut Processors Association, Potomac, MD, a national trade association of manufacturers of peanut butter, roasted and salted peanuts, peanut butter cracker sandwiches, and peanut bakery products.

As indicated in the following tabulation, although the forecasts for the Virginia-North Carolina and Southwest areas are currently relatively favorable, the projections for the Southeast area, which traditionally accounts for almost two-thirds of production for the U.S. market, indicate a 30 percent production decline from 1989. This leads to an overall U.S. production forecast that is down 16 percent from 1989.

[In millions of pounds, in-shell basis]

	1988	1989	1990 (indicated)
Southeast	2,694	2,635	1,858
Southwest	679	739	795
Virginia-N. Carolina	834	816	709
Total	3,231	3,990	3,359

SOURCE: Compiled from official statistics of the U.S. Department of Agriculture

The Association asserts that domestic peanut supply is currently very tight, primarily due to drought conditions in the Southeast producing area, and that

the supply situation is exacerbated by the following circumstances: (1) Susceptibility of crops to frost before harvesting; (2) the indication by the USDA that in several Southeast area states almost 20 percent of the peanut production are found to contain aflatoxin and not eligible for edible uses (the Association contends that based on the current projection of the loss expected to occur as a result of the amount of peanuts containing aflatoxin, there will be a 360 million pound shortfall due to the quality deficiency alone); (3) an estimated 400 million pound commitment by contract to foreign destinations; (4) the lack of a 1989 peanut crop carry forward as of the beginning of the current crop year; and (5) the congressionally mandated peanut program, which restricts the right to grow and market peanuts in the United States through a quota program.

According to those peanut processors whose comments are contained in the Association's request, the in-stock supply situation is varied. Some processors have indicated that no supplies are currently available, while others have indicated that they have contracted for supplies through March 1991, although actual delivery is not assured. Processors also indicate that due to the current shortage situation, the prices of peanuts have increased 50 to 100 percent over the prices of the 1989 crop.

The Association also cites the action taken in 1960 with the increased quota of 300 million pounds as being an instance of "too little and too late". It explains that the quota was filled well in advance of the July 31, 1961 cutoff date and orders arriving in June and early July 1961 were refused entry. In addition, the Association contends that "meaningful amounts" did not arrive until March 1961.

Written Comments Requested

The Commission requests comments concerning whether alleged changed circumstances are sufficient to warrant an institution of a section 22(d) investigation regarding modification, removal, or suspension of the quantitative import restriction on peanuts. In accordance with § 201.8 of the Commission's rules (19 CFR 201.8), the signed original and 14 copies of all written submissions must be filed with Secretary to the Commission, 500 E Street SW., Washington, DC 20436. All comments must be filed no later than 14 days after the date of publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request business confidential treatment under § 201.6 of the Commission's rules (19 CFR 201.6). Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Each sheet must clearly be marked at the top "Confidential Business Information." The Commission will either accept the submission in confidence or return it. All nonconfidential submissions will be available for public inspection in the Office of the Secretary.

Copies of the request for a hearing and investigation and any other documents in this matter are available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission; telephone 202–252–1000.

By order of the Commission.

Issued: October 23, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90–25449 Filed 10–26–90; 8:45 am]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Information Collections Under Review

October 24, 1990

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published.

Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and,

(7) An indication as to whether section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Edward H. Clarke, on (202) 395–7340 *and* to the Department of Justice's Clearance Officer, Mr. Larry E. Miesse, on (202) 514–4312.

If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer *and* the DOJ Clearance Officer of your intent as soon as possible.

Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, *and* to Mr. Larry E. Miesse, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

Extension of Expiration Date of a Currently Approved Collection Without any Change in Substance or in Method of Collection

(1) *Certification of Satisfactory Pursuit.*

(2) I–699, Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households, State or local governments, businesses or other for-profit, non-profit institutions, small businesses or organizations. In compliance with Public Law's 99–603 and 100–204, section 902 (specifically 8 CFR 245a.3(b)(10)(a)), the INS will use this form to verify that certified course provider has supplied the required instruction to temporary resident aliens.

(5) 250,000 estimated responses at .166 hours per response.

(6) 41,500 estimated annual public burden hours.

(7) Not applicable under 3504(h).

(1) *National Judical Reporting Program, Felony Sentence Report.*

(2) NJRP–1, Bureau of Justice Statistics.

(3) Biennially.

(4) State or local government. Used to conduct a continuing survey to enumerate and describe sentences of adult felons in general jurisdiction courts. Respondents are personnel in State and local general jurisdiction courts selected for sample.

(5) 100,000 annual respondents at .03485 hours per response.

(6) 3,485 estimated annual public burden hours.

(7) Not applicable under 3504(h).

(1) *Justice Assistance Data/Survey of Civil and Criminal Justice Activities.*

(2) CJ–6, CJ–23, Bureau of Justice Statistics.

(3) Biennially.

(4) State or local governments. This survey will collect data from State or local governments needed to comply with grant allocation procedures mandated by the Congress under the Justice Assistance Improvement Act of 1984, as amended by the Anti-Drug Act of 1988. These data will be used to administer the grant program and provide descriptive data to policymakers, planners and practitioners.

(5) 10,000 annual respondents at .475 hours per response.

(6) 4,750 estimated annual public burden hours.

(7) Not applicable under 3504(h).

Revisions of Currently Approved Collections

(1) *Application To Adjust Status From Temporary to Permanent Resident.*

(2) I-698, Immigration and Naturalization Service.

(3) One time only.

(4) Individuals or households. In compliance with Public Law's 99-603 and 100-204, section 902, the INS will accept and review applications from temporary resident aliens to adjust their status to permanent residence. This form will collect the necessary information to adjudicate the application and issue an alien registration card.

(5) 300,000 annual respondents at 1 hour per response.

(6) 300,000 estimated annual public burden hours.

(7) Not applicable under 3504(h).

(1) *Interagency Record of Individual Requesting Change/Adjustment to, or From, A or G Status or Requesting A or G Dependent Employment Authorization.*

(2) I-566, Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. This form facilitates processing applicants for benefits filed by diplomatic and international organizational personnel, or by persons requesting such status. The data assists the Department of State and the INS in exercising joint adjudicative responsibility in such matters, replacing the I-86 and previous edition I-566.

(5) 3,000 annual respondents at .25 hours per response.

(6) 750 estimated annual public burden hours.

(7) Not applicable under 3504(h).

(1) *Certification by Designating School Official.*

(2) I-538, Immigration and Naturalization Services.

(3) On occasion.

(4) Individuals or households, businesses or other for-profit, non-profit institutions. Form is provided for by Section 101(a)(15) of the Immigration and Nationality Act and is submitted by a nonimmigration student as a supporting document to an application for employment authorization, extension of stay, or school transfer.

(5) 150,000 annual respondents at .083 hours per response.

(6) 12,450 estimated annual public burden hours.

(7) Not applicable under 3504(h).

New Collection

(1) *Drug Use Information for Sensitive Positions.*

(2) DEA-500, Drug Enforcement Administration.

(3) On occasion.

(4) Individuals or households. Information is needed to determine any use of illicit drugs cited in the Controlled Substances Act of 1970, by an individual selected for a job vacancy, prior to employment.

(5) 2,000 annual respondents at .25 hours per response.

(6) 500 estimated annual public burden hours.

(7) Not applicable under 3504(h).

Larry E. Miesse,

Department Clearance Officer, U.S. Department of Justice.

[FR Doc. 90-25480 Filed 10-26-90; 8:45 am]

BILLING CODE 4410-10-M

Lodging of Consent Decree; Ben Hardy, et al.

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on October 18, 1990, a proposed Consent Decree in *United States* v. *Ben Hardy, et al.*, was lodged with the United States District Court for the Western District of Kentucky. The complaint in this action seeks recovery of costs under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499, 42 U.S.C. 9607. This action concerns the Lee's Lane Landfill Superfund Site near Louisville, Kentucky.

Under the proposed Consent Decree, twenty-three of the twenty-six defendants will pay $2,459,290.00 to reimburse the Superfund for costs incurred by the United States in performing certain response actions at the Lee's Lane Landfill Superfund Site. The Decree reserves the right of the United States to recover future costs except, under certain circumstances, the first $500,000 incurred by the United States and/or the Commonwealth of Kentucky in conducting operation and maintenance activities, and to seek injunctive relief from the settling defendants. The United States will seek unreimbursed costs from defendants who are not signatories to the Consent Decree.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments concerning the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States* v. *Ben Hardy, et al.*, D.J. Ref. 90-11-3-215.

The proposed Consent Decree may be examined at any of the following offices: (1) The Office of the United States Attorney for the Western District of Kentucky, 10th Floor, Bank of Louisville Bldg., 510 West Broadway, Louisville, Kentucky (2) the U.S. Environmental Protection Agency, Region 4, 345 Courtland Street NE., Atlanta, Georgia; and (3) the Environmental Enforcement Section, Environment & Natural Resources Division, U.S. Department of Justice, 10th & Pennsylvania Avenue NW., Washington, DC. Copies of the proposed Decree may be obtained by mail from the Environmental Enforcement Section Document Center, 1333 F Street NW., suite 600, Washington, DC (Telephone: (202) 347-2072). Please enclose a check for $11.00 ($.25 per page reproduction charge) payable to "Consent Decree Library."

Barry M. Hartman,

Acting Assistant Attorney General, Environment & Natural Resources Division.

[FR Doc. 90-25437 Filed 10-26-90; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has

instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 8, 1990.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 8, 1990.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 15th day of October 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition number	Articles produced
Adria Laboratories (Workers)	Columbus, OH	10/15/90	9/27/90	24,936	Pharmaceutical.
Allegheny Apparel, Inc. (Workers)	Covington, VA	10/15/90	9/25/90	24,936	Sportswear.
Atron of Michigan, Inc. (HIQ Mfg) (Workers)	Clarksville, MI	10/15/90	10/02/90	24,937	Wiring Harness.
Bensalem Pipe & Tube Corp. (Workers)	Bensalem, PA	10/15/90	9/27/90	24,938	Oil Pipes.
C.P. Chemicals, Inc. (Workers)	Sewaren, NJ	10/15/90	10/01/90	24,939	Acids.
Cedarroth O.R. Medical (Workers)	Buffalo, NY	10/15/90	9/22/90	24,940	Surgical Sponges
Cinco Services, Inc. (Workers)	Alice, TX	10/15/90	9/20/90	24,941	Oil & Gas.
Cinco Services, Inc. (Workers)	Freer, TX	10/15/90	9/20/90	24,942	Oil & Gas.
E.F. Johnson (Workers)	Waseca, MN	10/15/90	10/02/90	24,943	Radio Products.
Emerson Quiet Kool (Workers)	Dover, NJ	10/15/90	10/04/90	24,944	Air Conditioners.
Flexicore Systems, Inc. (Workers)	Huber Heights, OH	10/15/90	10/05/90	24,945	Concrete.
Georgia-Pacific Corp. (WCIW)	Coquille, OR	10/15/90	9/28/90	24,946	Plywood.
Kearney & Trecker Corp. (Workers)	W. Allis, WI	10/15/90	10/04/90	24,947	Tools.
Ladd Petroleum (Hqs(Workers)	Denver, CO	10/15/90	10/04/90	24,948	Oil & Gas.
Ladd Petroleum Corp. (East(Workers)	Tulsa, CO	10/15/90	10/04/90	24,949	Oil & Gas.
Ladd Petroleum Corp.(Gulf(Workers)	Houston, TX	10/15/90	10/04/90	24,950	Oil & Gas.
Ladd Petroleum Corp. Nti Gas (Workers)	Denver, CO	10/15/90	10/04/90	24,951	Oil & Gas.
Ladd Petroleum Corp., West(Workers)	Denver, CO	10/15/90	10/04/90	24,952	Oil & Gas.
Max West, Inc. (Workers)	Randle, VA	10/15/90	10/02/90	24,953	Plywood.
Paul Reed, Inc. (Workers)	Secaucus, NJ	10/15/90	9/28/90	24,954	Sportswear.
Price Brothers Co. (LIU)	Dayton, OH	10/15/90	10/05/90	24,955	Pipes.
R&M Shake & Ridge (Workers)	Aberdeen, WA	10/15/90	9/19/90	24,956	Shingles.
Rollic of NC, Inc. (Workers)	Murfreesboro, NC	10/15/90	10/15/90	24,957	Playwear.
Shulton, Inc. (Workers)	Clifton, NJ	10/15/90	10/02/90	24,958	Skin Care.
Silgan Plastics (GMP)	Stonington, CT	10/15/90	10/02/90	24,959	Bottles.
Spinnerin Yarn Co. (Workers)	S. Hackeneack, NJ	10/15/90	10/01/90	24,960	Yarn.
Team Bank/Wichita Olc. (Workers)	Wichita Falls, TX	10/15/90	10/02/90	24,961	Investments.
Transfer Machine, Inc. (UAW)	Troy, MI	10/15/90	10/05/90	24,962	Tools.
Umetco Minerals Corp. (Workers)	Western, CO	10/15/90	10/04/90	24,963	Uranium.
Valley Vulcan Mold Co. (UAW)	Latrobe, PA	10/15/90	9/28/90	24,964	Cast Iron.
Wellman Thermal Systems Corp	Shelbyville, IN	10/15/90	10/09/90	24,965	Plugs.

[FR Doc. 90-25500 Filed 10-26-90; 8:45 am]

BILLING CODE 4510-30-M

Employment Service Reform Initiative; Reopening and Extension of Comment Period

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice; reopening and extension of comment period.

SUMMARY: On September 19, 1990 (55 FR 38636), the Employment and Training Administration (ETA) published in the **Federal Register** for notice and comment the Secretary's Employment Service (ES) Reform Initiative. The notice summarized the objectives of the Initiative and set forth the concerns which lie behind the Initiative. The ETA sought public comment, recommendations and/or suggestions in response to six specific questions about what the ES should be, whom the ES should serve, and how it can most effectively fulfill its mission.

ETA has received a number of comments requesting additional time to study and comment on the key issues, and has determined to reopen and extend the comment period through November 2, 1990.

DATES: The comment period on the ES Reform Initiative published at 55 FR 38636 (September 19, 1990) is reopened and extended and comments are invited to be received by November 2, 1990.

ADDRESSES: Comments shall be mailed to Roberts T. Jones, Assistant Secretary for Employment and Training, U.S. Department of Labor, 200 Constitution Avenue, NW., room N-4470, Washington, DC 20210, Attention: Robert A. Schaerfl, Director, U.S. Employment Service.

FOR FURTHER INFORMATION CONTACT: Robert A. Schaerfl, Director, U.S. Employment Service, Employment and Training Administration, Telephone: (202) 535-0157 (this is not a toll free number).

Signed at Washington, DC, this 15th day of October, 1990.

Roberts T. Jones,

Assistant Secretary for Employment and Training.

[FR Doc. 90-25501 Filed 10-26-90; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 90-98]

NASA Advisory Council (NAC), Space Science and Applications Advisory Committee (SSAAC); Space Station Science and Applications Advisory Subcommittee (SSSAAS); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting change.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 55 FR 41907, Notice Number 90-81, October 16, 1990.

PREVIOUSLY ANNOUNCED DATES, TIMES AND ADDRESS OF MEETING: October 29, 1990, 8:30 a.m. to 10 p.m.; October 30, 1990, 8 a.m. to 10 p.m.; and October 31, 1990, 8 a.m. to 2 p.m.; Greenbelt Marriott Hotel, 6400 Ivy Lane, Greenbelt, MD 20770.

CHANGES IN THE MEETING: Dates and times changed to November 28, 1990, 8:30 a.m. to 10 p.m.; November 29, 1990, 8 a.m. to 10 p.m.; and November 30, 1990, 8 a.m. to 2 p.m. Address changed to National Aeronautics and Space Administration, Room 226A, 600 Independence Avenue SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Robert C. Rhome, Code S, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1425).

Dated: October 24, 1990.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 90-25042 Filed 10-26-90; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-346]

Toledo Edison Co.; The Cleveland Electric Illuminating Co., Environmental Assessment and Finding of no Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-3, issued to Toledo Edison Company and The Cleveland Electric Illuminating Company (the licensees), for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 located in Ottawa County, Ohio.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would add the Centerior Service Company as a licensee in the Facility Operating License for Davis-Besse Nuclear Power Station, Unit 1 (DBNPS).

The proposed addition would authorize both the Toledo Edison Company and Centerior Service Company to act as agent for the Cleveland Electric Illuminating Company, and have exclusive responsibility and control over the construction, operation and maintenance of the facility. It also specifies that the Toledo Edison nuclear organization reports to the existing Centerior Service Company.

The proposed action is in accordance with the licensee's application for amendment dated July 17, 1990.

The Need for the Proposed Action

The proposed changes are needed to reflect the reorganization of the Centerior Energy Corporation, its operating company subsidiaries—The Cleveland Electric Illuminating Company and The Toledo Edison Company, and its existing service company subsidiary—Centerior Service Company. These changes also define the reporting mechanism with regard to Davis-Besse Nuclear Power Station in the new organization.

Environmental Impacts of the Proposed Action

The proposed changes would add Centerior Service Company as a licensee in the Davis-Besse Facility Operating License. Under this reorganization, Toledo Edison's nuclear organization reports to Centerior Service Company. These two companies act as agents for the Cleveland Electric Illuminating Company and have exclusive responsibility and control over the construction, operation and maintenance of the Davis-Besse plant. There will be no changes to the facility, to the operations, maintenance, engineering, nuclear-related personnel or the environment as a result of the license amendment. Accordingly, the Commission concludes that this action would result in no radiological or non-radiological environmental impact.

The Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the Federal Register on September 10, 1990 (55 FR 36806). No request for hearing or petition for leave to intervene was filed following this notice.

Alternatives to the Proposed Action

Since the Commission concluded that the environmental effects of the proposed action are not significant, any alternative with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce the environmental impacts attributable to this facility and would result in the Facility Operating License not reflecting the latest organization and management chains involving Toledo Edison Company, Centerior Service Company and Davis-Besse Nuclear Power Station.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement related to operation of the Davis-Besse facility.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of no Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment. Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated July 17, 1990, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC and at the University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Dated at Rockville, Maryland, this 23rd day of October 1990.

For the Nuclear Regulatory Commission.

John N. Hannon,

Director, Project Directorate III-3, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90-25502 Filed 10-26-90; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Requests Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash (202) 272-2142.

Upon written request copy available from: Securities and Exchange Commission, Public Reference Branch, Washington, DC 20549–1002.

Extension, Rule 17f–2(d), File No. 270–36

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et.seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 17f–2(d) [17 CFR 240.17f–2(d)] promulgated under the Securities Exchange Act of 1934 [15 U.S.C. 78 *et. seq.*], which generally requires covered entities or their designated examining authorities to keep fingerprint cards (or microfilm copies) together with criminal histories (if any) returned by the FBI to the entities. A total of 9,000 respondents produce an annual total of 7,500 burden hours in complying with rule 17f–2(d).

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Securities and Exchange Commission rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0004 and Gary Waxman, Clearance Officer, Office of Management and Budget (Paperwork Reduction Project 3235–0028), Room 3208, New Executive Office Building, Washington, DC 20503.

October 23, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–25515 Filed 10–25–90; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Application for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Inc.

October 23, 1990.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following security:

Nike, Inc.

Class B Common Stock, No Par Value
(File No. 7–6364)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 14, 1990, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–25513 Filed 10–26–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–28366; File No. SR–CBOE–90–20]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to the Extension of Eligibility Standards for OEX RAES

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 22, 1990, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed ruled change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange has established eligibility requirements that market makers must meet in order to participate on the Exchange's Retail Automatic Execution System ("RAES") for options on the Standard and Poor's 100 Index ("OEX").[1] These eligibility requirements, that were approved by the Commission on a pilot basis, previously have been extended by the Commission.[2] In the current filing, the CBOE seeks a further extension, until April 22, 1991, of its eligibility standards for market makers to participate on RAES for OEX options.

The text of the Exchange's market maker eligibility requirements for OEX RAES is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections A, B, and C below.

A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis, for the Proposed Rule Change

In October 1989, the Commission approved on a pilot basis a CBOE proposal to amend the Exchange's eligibility standards for individuals and groups to participate in RAES for OEX. The pilot program restricts RAES OEX participation to market makers who are members of the OEX or Standard & Poor's 500 Index Option ("SPX") trading crowds by requiring that an eligible market maker execute 50% of its market maker contracts for the preceding quarter in OEX or SPX, and execute 25% of these trades in person. A member must meet these requirements before the member may participate in RAES individually or as a member of a group and the Index Floor Procedure Committee ("IFPC") may bar, restrict or condition a group account's participation in RAES if any member of the group fails to meet OEX/SPX market maker requirements.

The pilot program also modifies the eligibility requirements for group accounts operating on RAES and imposes additional obligations on group accounts by prohibiting the "purchasing" of RAES rights from an OEX or SPX market maker and by requiring that all OEX/RAES group participants be afforded a reasonable

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[1] The Commission approved the CBOE's current RAES eligibility standards on a six-month pilot basis on October 24, 1989. *See* Securities Exchange Act Rel. No. 27378 (October 24, 1989), 54 FR 46168 (order approving File SR–CBOE–87–22, Amendment No. 2).

[2] *See* Securities Exchange Act Rel. No. 27854 (April 27, 1990), 55 FR 18798.

participation in the group's profits and losses. In addition, no member may participate directly or indirectly in more than one OEX/RAES group, and a group may be managed only by a member of the group. The program also specifies the maximum number of allowable participants in any one RAES group account and clarifies the authority of the IFPC to limit group sizes.

Once a group account has been logged onto RAES, all members of the group are required to remain on RAES until the next monthly expiration. Group participants may be relieved of their RAES obligations only with the approval of the IFPC. In addition, the IFPC may impose a sign off fee of $500.00 per member when a group account improperly signs off RAES.

The pilot program also provides the IFPC with the additional authority to ensure adequate RAES participation in OEX by allowing the IFPC to require market makers who are members of the OEX trading crowd to log on RAES if the IFPC believes there is inadequate RAES participation in OEX, absent reasonable justification or excuse for non-participation. If RAES participation continues to be inadequate, the IFPC may request participation of all market makers whether or not they are members of the OEX trading crowd.

Since implementation of the pilot program, the Exchange has found that the pilot program's rules have resulted in adequate market maker participation in RAES, while limiting the system to those market makers necessary for its operation. In particular, since January 1990, the Exchange indicates that OEX RAES has accounted for 22% to 28% of the total monthly OEX customer business. The Exchange notes from January 1990 to September 1990, the average number of market makers signed on RAES for each month has ranged between 109 and 183 market makers.[3] Further, the Exchange notes that 14 group accounts, representing 100 market makers, have participated on OEX RAES during this period, with the remaining OEX RAES participants being individual market makers who have signed onto OEX RAES for their own account.

The CBOE notes that, since the establishment of the eligibility requirements, the Exchange's IFPC has had to take action against market maker groups and individuals regarding their participation on OEX RAES, but only on a limited basis. Specifically, the IFPC has brought action against two groups for improperly signing off OEX RAES. Pursuant to the new eligibility provisions, the IFPC also has taken action to suspend 48 individual market makers from OEX RAES for their failure to sign onto OEX RAES on Expiration Fridays. In each instance, the market maker was precluded from participating on OEX RAES for one month.

Additionally, the IFPC has removed 53 market makers from groups participating in OEX RAES because of their failure to meet the requirement that market makers participating on OEX RAES must execute 50% of their market maker contracts for the preceding quarter in OEX or SPX, and execute 25% of these trades in person. The Exchange notes, however, that 47 of these suspensions occurred in January 1990, the first month that the requirements were in effect.

Accordingly, the Exchange believes that the eligibility standards requirements for market makers to participate on OEX RAES have been very effective. Specifically, the Exchange believes that the level of market maker participation in OEX RAES since the adoption of the eligibility requirements has been adequate and these standards have helped the Exchange to maintain a fair and orderly OEX market and to protect investors by ensuring the continued availability of OEX RAES to public customers. Although some IFPC action has been necessary to enforce the new eligibility requirements, the Exchange feels that the RAES System has not encountered any significant problems due to the enforcement of the market maker eligibility standards. Therefore, the Exchange believes it is appropriate to extend the OEX RAES eligibility standards for an additional six months, until April 22, 1991.

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act in that it will facilitate transactions in securities and protect investors and the public interest. In particular, the Exchange believes that the proposed rule change furthers the objectives of section 6(b)(5) which provides, among other things, that the rules of the Exchange are to be designed to promote just and equitable principles of trade and to protect investors and the public interest.

B. Self-Regulatory Organizations Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange requests that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act.

The Commission finds that the proposed rule change to extend the pilot program is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6 thereunder.[4] In particular, the Commission finds that the extension of the pilot is consistent with section 6(b)(5) of the Act because the requirements are designed to strengthen the integrity of the RAES system for OEX options, thereby contributing to the maintenance of fair and orderly markets and the protection of investors. The presence of an adequate number of market makers helps the Exchange to maintain the continued availability of RAES for OEX and thus contribute to the effective execution of public investor orders at the best available prices. Although some market makers no longer participate in OEX RAES because they do not meet the eligibility requirements, the Commission believes that the level of market maker participation on OEX RAES since the adoption of the new eligibility requirements has been sufficient.[5] In addition, the Commission believes that the actions of the Exchange to enforce the new eligibility standards have strengthened the integrity of OEX RAES without jeopardizing its continued availability.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register** in order to permit the pilot program to continue uninterrupted. In addition, because there have been no adverse comments concerning the pilot program since its implementation and because of the importance of maintaining the quality and efficiency of the CBOE's markets, the Commission believes good cause exists to approve

[3] Specifically, the average number of market makers signed on OEX RAES for the months January 1990 to September 1990 have been 183, 109, 116, 138, 145, 180, 144, 139 and 132, respectively.

[4] 15 U.S.C. 78f(6) (1982).

[5] The Commission is reviewing the performance of the options markets during the market volatility of October 1989, and may have further recommendations for RAES based on that review.

the extension of the pilot program on an accelerated basis.[6]

V. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 19, 1990.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[7] that the proposed rule change (SR–CBOE–90–25) relating to the extension of a pilot program is approved until April 22, 1991.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Dated: October 23, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–25456 Filed 10–26–90; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

October 23, 1990.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Alliance Global Environmental Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7–6330)
Crawford & Company
Class A Common Stock, $1.00 Par Value (File No. 7–6331)
Curragh Resources, Inc.
Common Stock, No Par Value (File No. 7–6332)
Dycom Industries, Inc.
Common Stock, $0.33 ⅓ Par Value (File No. 7–6333)
First of American Bank Corp.
Common Stock, $10.00 Par Value (File No. 7–6334)
Hancock (John) Investors, Inc.
Common Stock, No Par Value (File No. 7–6335)
L.S. Starrett C.
Common Stock, $1.00 Par Value (File No. 7–6336)
Molecular Biosystems, Inc.
Common Stock, $0.01 Par Value (File No. 7–6337)
National Australia Bank
American Depositary Receipts (File No. 7–6338)
Nuveen Investment Quality Municipal Fund
Common Stock, $0.01 Par Value (File No. 7–6339)
Omnicom Group, Inc.
Common Stock, $0.50 Par Value (File No. 7–6340)
Oxford Industries, Inc.
Common Stock, $1.00 Par Value (File No. 7–6341)
RJ Nabisco Holdings Corp.
Warrants, No Par Value (File No. 7–6342)
Standard Commercial Group
Common Stock, $0.20 Par Value (File No. 7–6343)
SYMS Corp.
Common Stock, $0.05 Par Value (File No. 7–6344)
THAI Capital Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7–6345)
Transatlantic Holdings, Inc.
Common Stock, $1.00 Par Value (File No. 7–6346)
Unifi, Incorporated
Common Stock, $0.10 Par Value (File No. 7–6347)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 14, 1990, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–25453 Filed 10–26–90; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

October 23, 1990.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f–1 thereunder for unlisted trading privileges in the following securities:

PSI Resources, Inc.
Common Stock, No Par Value (File No. 7–6361)
Compania De Telefonos De Chiles S.A.
American Depositary Shares, No Par Value (File No. 7–6362)
Nike, Inc.
Class B Common Stock, No Par Value (File No. 7–6363)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 14, 1990, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–25454 Filed 10–26–90; 8:45 am]

BILLING CODE 8010–01–M

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[6] The Commission expects the CBOE to submit to the Commission by March 1, 1991, a complete review of the pilot program including low and average monthly OEX RAES participation levels and an analysis of the adequacy of these levels.

[7] 15 U.S.C. 78s(b)(2) (1982).

[8] 17 CFR 200.30–3(a)(12) (1990).

[Release No. 34-28667; File No. SR-NSCC-90-20]

Self-Regulatory Organizations; National Securities Clearing Corporation; Proposed Rule Change Relating to Changes in its Standard Letter of Credit Form

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 5, 1990, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would revise NSCC's standard letter of credit form to clarify NSCC's right to pledge letters of credit deposited by clearing members to satisfy their clearing fund contribution requirements.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

NSCC wishes to revise the standard letter of credit form that it requires be used by approved banks issuing letters of credit on behalf of its members as clearing fund collateral. Based on discussions with its lead bank, NSCC believes that these changes will enhance its liquidity position by providing it, through an arrangement similar to that used by its affiliate, the Government Securities Clearing Corporation, with the ability to more readily pledge letter of credit collateral to meet temporary financing needs.

The basic change made will be to have the standard letter of credit state on its face that NSCC may transfer and assign to a bank transferee the right to draw the entire amount of the letter of credit upon presentation to the issuing bank of an executed transfer and assignment form. In order to ensure that the transfer and pledge of letter of credit collateral does not impair a member's rights to its clearing fund collateral, as set forth in NSCC's rules, the bank transferee will, by agreement with NSCC, be able to draw down on the letter of credit only under certain limited circumstances; essentially, the circumstances are if requested by NSCC or if NSCC defaults on its borrowing obligation that is secured by the letter of credit. As a further protection, the revised letter of credit will expressly provide that the bank transferee would not be able to assign or transfer the letter of credit except to transfer it back to NSCC.

In conjunction with ensuring that the standard letter of credit is readily transferable and to remove any pre-conditions that would raise question as to such, the letter of credit will be revised to delete the requirement that NSCC at the time of a drawdown must present to the issuing bank a signed statement certifying, in effect, that the amount of the drawdown does not exceed the amount necessary to satisfy the member's liabilities to NSCC after first applying to such liabilities clearing fund assets in the form of cash and securities and that the member has failed to meet an obligation to NSCC that permits such drawdown.

The proposed changes will help ensure the ability of NSCC to meet its temporary liquidity needs and, thus, are consistent with the requirements of section 17A of the Act and the rules and regulations thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have an impact or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments on the proposed changes have not yet been solicited or received. Members will be notified of the rule filing, and comments will be solicited by an Important Notice. NSCC will notify the Securities and Exchange Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents; the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statement with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549.

Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to file number (SR–NSCC–90–20) and should be submitted by November 19, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 23, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–25511 Filed 10–26–90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-28804; File No. SR-NYSE-90-49]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by New York Stock Exchange, Inc., Relating to Extension of the Effectiveness of Auxiliary Closing Procedures for Expiration Fridays for an Additional Year

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 9, 1990 the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange seeks to extend the pilot program for auxiliary closing procedures utilized on "expiration Fridays" for market-on-close ("MOC") orders associated with the expiration and settlement of stock index futures, stock index options, and options on stock index futures.[1]

II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below and is set forth in sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

Since September 1988, the Exchange has utilized auxiliary closing procedures on days when stock index futures, stock index options and options on stock index futures (collectively, "derivative instruments") expire or settle concurrently. Since November, 1988, the Exchange has used these auxiliary closing procedures for each monthly expiration Friday. These procedures currently require the entry by 3 p.m. of all MOC orders in positions relating to any strategy involving any index derivative product.[2] The procedures also require the specialist to make public MOC order imbalances of 50,000 shares or more in the so-called pilot stocks[3] as soon as possible after 3 p.m. and then again after 3:30 p.m. Any MOC orders entered after 3 p.m. must offset a published imbalance.

The Commission granted approval of the pilot period for these closing procedures discussed above in Release No. 34-26408, and renewed the extension of the pilot in Release No. 34-27448, dated November 16, 1989.[4] At the time these procedures were filed, the Exchange had hoped that during the pilot year all options and futures markets would base the settlement price of their derivative products on opening, rather than on closing, Exchange prices.

As the settlement price of certain derivative products continues to be based on closing NYSE prices, the Exchange believes it is appropriate to extend the pilot program for auxiliary closing procedures on expiration Fridays for another year. These procedures have proven to be an effective means of reducing some of the excess market volatility which may result from entering MOC orders related to trading strategies involving index derivative products. Accordingly, the Exchange is seeking at this time to continue to use these procedures on expiration Fridays.

The Exchange continues to believe, however, that concerns about excess market volatility that may be associated with the expiration or settlement of derivative index products would be most appropriately addressed if the expiration or settlement value of all such products were based on the NYSE opening rather than the closing price on the last business day prior to the expiration or settlement of the product.

(b) Statutory Basis

The statutory basis under the Act for this proposed rule change is section 6(b)(5), which requires that the rules of the Exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organizations's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-HYSE-90-49 and should be submitted by November 19, 1990.

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[1] These procedures were approved by the Commission on a pilot basis for a one year period beginning in November, 1988 and extending through October, 1989, and then were extended for an additional year through October, 1990. *See* Securities Exchange Act Releases No. 26293 (November 17, 1988), 53 FR 47809; No. 26408 (December 29, 1988), 54 FR 343 (approving File No. SR-NYSE-88-37); and No. 27448 (November 16, 1989), 54 FR 48343 (approving File No. SR-NYSE-89-39).

[2] The cut-off time for the pilot program was changed from 3:30 to 3:00 in Securities Exchange Act Rel. No. 27040 (July 17, 1989), 54 FR 30808 (approving File No. SR-NYSE-89-11).

[3] The expiration Friday procedures apply to 82 pilot stocks on a list consisting of the 50 highest-weighted Standard & Poor's 500 index stocks, based on market values, and any of the 20 Major Market Index stocks not among the 50 highest-weighted stocks.

[4] *See* note 1, *supra*.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6 [5] and the rules and regulations thereunder. The MOC procedures described herein have been utilized on previous quarterly expirations dating back to September 1986 and on monthly expirations on a pilot basis since November 1988.[6] These procedures were part of efforts by the Commission and the self-regulatory organizations to address stock market volatility associated with the expiration of index derivative products traded in conjunction with stocks as part of index derivative instrument trading strategies. By requiring early submission of MOC orders and disseminating imbalances, the NYSE has been better able to attract contra-side interest to help alleviate imbalances caused by the liquidation of stock positions related to index derivative product trading strategies. As long as some index derivative products continue to expire based on closing stock prices on expiration Fridays, the Commission agrees with the NYSE that such procedures are necessary to provide a mechanism to handle the huge imbalances that can be engendered by firms unwinding index derivative related positions.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. This will permit the pilot program to continue on an uninterrupted basis, and will allow the Exchange to apprise interested parties of the pilot program extension in advance of the November, 1990 expiration. In addition, the procedures proposed here are the identical procedures utilized by the NYSE on earlier expirations, and are intended to reduce excessive market volatility at the close.[7]

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[8] that the proposed rule change is approved for a one-year period ending on October 31, 1991.

For the Commission, by Division of Market Regulation, pursuant to delegated authority.[9]

Dated: October 22, 1990.

[FR Doc. 90-25457 Filed 10-26-90; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-28345; File No. SR-PHLX 90-28]

Self-Regulatory Organizations; Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Proposed Amendments to Options Floor Procedure Advices B-4 and F-5

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 2, 1990, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PHLX, pursuant to Rule 19b-4 of the Act, hereby proposes to amend two of its Floor Procedure Advices promulgated under PHLX Rule 970. The text of the proposed advices—B-4 and F-5—is attached hereto, as Exhibit A, with additions in italics and deletions bracketed.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change

The proposed rule change relates to two housekeeping changes to existing Exchange Options Floor Procedure Advices ("OFPA" or "Advice"). Accordingly, no changes are being made to any Advice fine schedule.

The first change relates to OFPA B-4 regarding trading from off-floor. The amendments would assure that the Advice is consistent with recent proposed amendments to the Exchange's options party and priority rule, Rule 1014. (*See* SR-PHLX-90-20 and OFPA B-6 for equity options, *see also* SR-PHLX-90-21 and OFPA B-7 for foreign currency options). For example, the amendments would delete material found in the last substantive text paragraph of the advice, which is clearly now to be covered by Rule 1014 as well as its related amendments and floor procedure advices.

Secondly, the amendments clarify the meaning of OFPA F-5 relating to changes or corrections to material terms of a cleared trade. A change in a material term of the transaction will now include a change in designation from customer to firm participation. Additionally, the amendments indicate that the signature of an Exchange surveillance staff member on a correction sheet submission only acknowledges a party to the trade's absence in reviewing and signing the sheet.

The proposed rule change is based on section 6(b)(5) of the Act in that it is designed to further promote the mechanism of a free and open market and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such

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[5] 15 U.S.C. 78f (1982).

[6] *See* Securities Exchange Act Rel. No. 26409 (December 28, 1988), 54 FR 343 (approving File No. SR-NYSE-88-37).

[7] No comments were received on the proposed rule change which implemented these procedures, the proposed rule change which changed the cut-off time for these procedures from 3:30 to 3:00, nor the proposed rule change which extended these procedures through October 1990. *See* Securities Exchange Act Rel. No. 26409 (December 28, 1988), 54 FR 343; No. 27060 (July 17, 1989), 54 FR 30302; and No. 27668 (November 16, 1989), 54 FR 48343, respectively.

[8] 15 U.S.C. 78s(b)(2) (1982).

[9] 17 CFR 200.30-3(a)(12) (1989).

longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–PHLX–90–28 and should be submitted by November 19, 1990.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 22, 1990.

Margaret H. McFarland,

Deputy Secretary.

Exhibit A

B–4 [Trading from Off-Floor]

PHLX ROTs Entering Orders from On-Floor and Off-Floor for Execution on the Exchange

[A Registered Options Trader] *An ROT* may not enter from off the floor opening orders for his market maker account[. A Registered Options Trader may only], *but may* enter from off the floor *or on the floor* opening *or closing* orders for *his* [their] customer account. *An ROT may enter from off the floor closing orders for either his market maker or customer account.*

[A Registered Options Trader may enter] *An ROT who enters an order* from off the floor [closing orders for either his market maker or customer account.] *must advise the person receiving the order that it is an order for an ROT and must state whether the order is opening or closing and whether it is for a customer or market maker account.*

[For purposes of priority and parity, an order which is placed from off the floor by a Registered Options Trader who has been on the floor on the same day is to be treated as an on-floor order by the Registered Options Trader. If this order is an opening order, it must yeild to other customer orders.]

[A Registered Options Trader who enters an order from off the floor must tell his phone clerk whether such order is opening or closing and whether it is for a customer or market maker account.]

While on the floor, [a Registered Options Trader] *an ROT* may [enter Good-til-Cancelled ("GTC" orders] *place opening orders for his market maker account* with a Floor Broker or with *a* [the] Specialist which [would, if executed open a position in his market maker account, and such orders] may *then* be excuted [for the market maker account] even if the [Registered Options Trader] *ROT* has left the floor *prior to its execution.*

[If Registered Options Trader] *An ROT may cancel* from off-the-floor *opening or closing orders for his market maker or customer accounts but if he wishes to* effect[s] a change in the terms of an *opening* order (e.g., security, price, volume, series, class *or contingencies*) [which was initiated while he was on the floor,] *from off the floor* such changed order must be executed in his customer account.

[A Registered Options Trader] *An ROT* shall not give discretion to a Floor Broker and shall not give a Floor Broker "not held" orders. With respect to delta orders placed with a Floor Broker for the account of [a Registered Options Trader] *an ROT*, such orders may only be placed as day orders and must have the applicable delta legibly recorded on both the broker's floor ticket and the [Registered Options Trader's] *ROT's* record of the order.

[A Registered Options Trader who is closing a position, whether for his market maker or customer account, is on parity with all off-floor orders including those of Registered Options Traders who are also closing their positions. A Registered Options Trader who is on the floor may for his customer account execute closing transactions without utilizing a Floor Broker.]

See generally Rule 1014 and particularly Commentaries .08, .09, .10, [.12] and .15 thereof and Rule 1065, Commentary .01

Fine Schedule: B–4

1st Occurrence: $250.000
2nd Occurrence: $500.00
3rd and Thereafter: Sanction is discretionary with Business Conduct Committee.

* * * * *

F–5 Changes or Corrections to Material Terms of a Cleared Trade

All correction sheet submissions which change material terms of a transaction (security, price, volume, series, class *and customer to firm participations*) must be signed by all parties to the transaction and by a representative of the specialist unit [and/or assigned surveillance staff]. *Also if one of the parties to the transaction is not present at a time such matter is being resolved, a signature by surveillance staff is required to acknowledge the contra side's absence. The surveillance signature in any such case does not relieve any party to the trade of liability in connection with the change.*

Fine Schedule: F–5

1st Occurrence: $50.00
2nd and Thereafter: $60.00

See generally rule 1054.

[FR Doc. 90–25514 Filed 10–25–90; 8:45 am]
BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

October 23, 1990.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f–1 thereunder for unlisted trading privileges in the following securities:

American Waste Services, Inc.
Class A Common Stock, No Par Value (File No. 7–6348)
Cadence Design Systems, Inc.
Common Stock, $.01 Par Value (File No. 7–6349)
Diagnostek, Inc.
Common Stock, $0.01 Par Value (File No. 7–6350)
Dycom Industries, Inc.
Common Stock, $.33⅓ Par Value (File No. 7–6351)
Emerging Mexico Fund, Inc.
Common Stock, $0.10 Par Value (File No. 7–6352)
Old Republic International Corporation
Common Stock, $1 Par Value (File No. 7–6353)
Preferred Health Care, Ltd.
Common Stock, $0.01 Par Value (File No. 7–6354)
Nike, Inc.
Class B Common Stock, No Par Value (File No. 7–6355)
Templeton Value Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7–6356)
AIM Strategic Income Fund, Inc.
Common Stock, $0.001 Par Value (File No. 7–6357)
MFS Income Opportunity Trust
Shares of Beneficial Interest, No Par Value (File No. 7–6358)
Templeton Global Utilities, Inc.
Common Stock, $0.01 Par Value (File No. 7–6359)
Florida Public Utilities Company
Common Stock, $1.50 Par Value (File No. 7–6360)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 14, 1990, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-25455 Filed 10-26-90; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-6722]

Issuer Delisting; Application To Withdraw From Listing and Registration (GACC Holding Company, 13¼% Senior Extendable Reset Notes; 14½% Senior Notes)

October 23, 1990.

GACC Holding Company ("Company") has filed an application with the Securities and Exchange Commission ("Commission") pursuant to section 12(d) of the Securities Exchange Act of 1934 and rule 12d2-2(d) promulgated thereunder to withdraw the above specified securities from listing and registration on the Cincinnati Stock Exchange ("CSE") and the Pacific Stock Exchange, Inc. ("PSE")

The reasons alleged in the application for withdrawing these securities from listing and registration include the following:

The reason for initially listing the above-described securities for trading on the CSE and/or PSE was to create and maintain a market which would provide an accurate and reliable market price for the issues. Because there has been little or no recent exchange trading activity on any of the above issues, the need to list them for trading on the CSE and/or PSE no longer exists.

Any interested person may, on or before November 14, 1990, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the CSE and/or PSE and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-25458 Filed 10-26-90; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-8263]

Issuer Delisting; Application To Withdraw From Listing and Registration (Great American Communications Co., 14¾% Senior Subordinated Debentures; 11% Senior Debentures)

October 23, 1990.

Great American Communications Company ("Company") has filed an application with the Securities and Exchange Commission ("Commission") pursuant to section 12(d) of the Securities Exchange Act of 1934 and rule 12d2-2(d) promulgated thereunder to withdraw the 11% Senior Debentures from listing and registration on the Cincinnati Stock Exchange ("CSE") and the 14-3/8% Senior Subordinated Debentures from the CSE and the Pacific Stock Exchange, Inc. ("PSE").

The reasons alleged in the application for withdrawing these securities from listing and registration include the following:

The reason for initially listing the above-described securities for trading on the CSE and/or PSE was to create and maintain a market which would provide an accurate and reliable market price for the issues. Because there has been little or no recent exchange trading activity on any of the above issues, the need to list them for trading on the CSE and/or PSE no longer exists.

Any interested person may, on or before November 14, 1990, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the CSE and/or PSE and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-25459 Filed 10-26-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-17814; 812-7340]

Select Cash Management Fund Inc.

October 23, 1990

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: Select Cash Management Fund, Inc.

RELEVANT 1940 ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N-8F was filed on August 31, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requrest should be received by the SEC by 5:30 p.m. on November 19, 1990 and should be accompanied by proof of service on Applicant in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 20 Washington Avenue South, Minneapolis, Minnesota 55401.

FOR FURTHER INFORMATION CONTACT: L. Bryce Stovell, Staff Attorney, at (202) 504-2272, or Heidi Stam, Assistant Chief, Office of Insurance Products and Legal Compliance (Division of Investment Management) at (202) 272-2060.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application may be obtained for a fee from either the SEC's Public Reference Branch or

the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant is a Minnesota corporation and an open-end diversified management company registered under the 1940 Act. Prior to Applicant's liquidation, securities of Applicant were sold directly to and held exclusively by Northwestern National Life Insurance Company ("NWNL"), and the Sub-Accounts of two separate accounts of NWNL, i.e., the NWNL Select Variable Account and the NWNL Select Life Account (collectively, the "Variable Accounts"). The Variable Accounts are registered under the 1940 Act as unit investment trusts and were established by NWNL to fund certain variable annuity contracts and variable life insurance policies issued by NWNL (collectively, the "Contracts" or "Contract").

2. On December 4, 1981, Applicant filed a registration statement pursuant to section 8(b) of the 1940 Act. On the same date, Applicant registered an unlimited number of shares of Common Stock, having no designated par value, on Form N-1 (File No. 2-75184) under the Securities Act of 1933. The Registration Statement, as amended, became effective on February 1, 1982. On the same date, Applicant commenced the initial offering of its securities to NWNL and the Variable Accounts.

3. On December 20, 1989, the Board of Directors of Applicant unanimously (a) concurred in the recommendation of NWNL, Applicant's principal shareholder, to implement a substitution of investment options for Contract owners and recommended approval of such substitution by Applicant's shareholders, i.e., NWNL and the Variable Accounts, (b) resolved that, contingent upon shareholder approval of such substitution and receipt of approval of such substitution by the SEC, Applicant be liquidated and dissolved pursuant to Minnesota law, and (c) resolved that, if Applicant proceeds with such liquidation and dissolution, Applicant shall file with the SEC an application to deregister Applicant pursuant to section 8(f) of the 1940 Act.

4. On March 14, 1990, Applicant's shareholders voted their shares in accordance with the instructions of the Contract owners, as agreed, and approved the substitution. On April 27, 1990, the SEC staff responded to a no-action request by Applicant, indicating that the staff would not recommend enforcement action if the substitution was effected in the manner described by Applicant.

5. A share redemption and the substitution occurred on May 18, 1990. On that date Applicant sold $6,475,758 of its portfolio securities, constituting the bulk of its assets. Applicant used these proceeds to redeem its shares held by the Variable Accounts, leaving NWNL as Applicant's sole shareholder. The Variable Accounts then used the proceeds of the share redemption to purchase shares of the Money Market Portfolio of the Variable Insurance Products Fund (the "Fund") in order to perform the substitution. The substitution, in turn, was effected on a simple relative net asset value basis with no change in the amount of any Contract owner's accumulated value or in the dollar value of his investment in the relevant Variable Account. The accumulated values of Contract owners were transferred from the Sub-Account of each Variable Account that held shares of Applicant to the Sub-Account of each Variable Account that acquired shares of the Fund.

6. On June 13, 1990, NWNL implemented the December 20, 1989 resolution of Applicant's Board of Directors by approving a proposal to liquidate and dissolve Applicant (the "Plan") under Minnesota law.

7. Applicant now retains no property except $100 cash. Such cash will not be invested in securities. NWNL, Applicant's sole shareholder, owns 100 shares of Applicant's stock valued at $1 of net asset value per share. When the Plan is completed Applicant will distribute any cash that remains to NWNL and dissolve. NWNL and Washington Square Capital, Inc., Applicant's investment adviser and a subsidiary of NWNL, are paying all expenses associated with Applicant's liquidation and dissolution.

8. Applicant has not transferred any of its assets to a separate trust the beneficiaries of which were or are shareholders of Applicant. Applicant is not a party to any litigation or administrative proceeding, and is not engaged, nor does it propose to engage, in any business activities other than those necessary to wind up its affairs, in accordance with the Plan. Applicant will file its Articles of Dissolution under state law after the relief requested herein has been granted.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-25509 Filed 10-26-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-17815; 811-2877]

Select High Yield Fund, Inc.

October 23, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: Select High Yield Fund, Inc.

RELEVANT 1940 ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATES: The application on Form N-8F was filed on August 31, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 19, 1990 and should be accompanied by proof of service on Applicant in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 20 Washington Avenue South, Minneapolis, Minnesota 55401.

FOR FURTHER INFORMATION CONTACT: L. Bryce Stovell, Staff Attorney, at (202) 504-2272, or Heidi Stam, Assistant Chief, Office of Insurance Products and Legal Compliance (Division of Investment Management) at (202) 272-2060.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application may be obtained for a fee from either the SEC's Public Reference Branch or the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant is a Minnesota corporation and an open-end diversified management company registered under the 1940 Act. Prior to Applicant's liquidation, securities of Applicant were sold directly to and held exclusively by Northwestern National Life Insurance Company ("NWNL"), and the Sub-Accounts of two separate accounts of

BEST COPY AVAILABLE

NWNL, i.e., the NWNL Select Variable Account and the NWNL Select Life Account (collectively, the "Variable Accounts"). The Variable Accounts are registered under the 1940 Act as unit investment trusts and were established by NWNL to fund certain variable annuity contracts and variable life insurance policies issued by NWNL (collectively, the "Contracts" or "Contract").

2. On March 4, 1983, Applicant filed a registration statement pursuant to section 8(b) of the 1940 Act. On the same date, Applicant registered an unlimited number of shares of Common Stock, having no designated par value, on Form N-1 (File No. 2-82226) under the Securities Act of 1933. The Registration Statement, as amended, became effective on April 1, 1983. On the same date, Applicant commenced the initial offering of its securities to NWNL and the Variable Accounts.

3. On December 20, 1989, the Board of Directors of Applicant unanimously (a) concurred in the recommendation of NWNL, Applicant's principal shareholder, to implement a substitution of investment options for Contract owners and recommended approval of such substitution by Applicant's shareholders, i.e., NWNL and the Variable Accounts, (b) resolved that, contingent upon shareholder approval of such substitution and receipt of approval of such substitution by the SEC, Applicant be liquidated and dissolved pursuant to Minnesota law, and (c) resolved that, if Applicant proceeds with such liquidation and dissolution, Applicant shall file with the SEC an application to deregister Applicant pursuant to section 8(f) of the 1940 Act.

4. On March 14, 1990, Applicant's shareholders voted their shares in accordance with the instructions of the Contract owners, as agreed, and approved the substitution. On April 27, 1990, the SEC staff responded to a no-action request by Applicant, indicating that the staff would not recommend enforcement action if the substitution was effected in the manner described by Applicant.

5. A share redemption and the substitution occurred on May 18, 1990. On that date Applicant sold $5,436,388.46 of its portfolio securities, constituting the bulk of its assets. Applicant used these proceeds to redeem its shares held by the Variable Accounts, leaving NWNL as Applicant's sole shareholder. The Variable Accounts then used the proceeds of the share redemption to purchase shares of the Money Market Portfolio of the Variable Insurance Products Fund (the "Fund") in order to perform the substitution. The substitution, in turn, was effected on a simple relative net asset value basis with no change in the amount of any Contract owner's accumulated value or in the dollar value of his investment in the relevant Variable Account. The accumulated values of Contract owners were transferred from the Sub-Account of each Variable Account that held shares of Applicant to the Sub-Account of each Variable Account that acquired shares of the Fund.

6. On June 13, 1990, NWNL implemented the December 20, 1989 resolution of Applicant's Board of Directors by approving a proposal to liquidate and dissolve Applicant (the "Plan") under Minnesota law.

7. Applicant now retains no property except $100 cash. Such cash will not be invested in securities. NWNL, Applicant's sole shareholder, owns 11,074 shares of Applicant's stock valued at $9.03 of net asset value per share. When the Plan is completed Applicant will distribute any cash that remains to NWNL and dissolve. NWNL and Washington Square Capital, Inc., Applicant's investment adviser and a subsidiary of NWNL, are paying all expenses associated with Applicant's liquidation and dissolution.

8. Applicant has not transferred any of its assets to a separate trust the beneficiaries of which were or are shareholders of Applicant. Applicant is not a party to any litigation or administrative proceeding, and is not engaged, nor does it propose to engage, in any business activities other than those necessary to wind up its affairs. In accordance with the Plan, Applicant will file its Articles of Dissolution under state law after the relief requested herein has been granted.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-25510 Filed 10-26-90; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 1281; Redelegation of Authority No. 184]

Redelegation to the Chief of Transportation Providing for Pre-Payment Audit of Transportation Bills Relating to Freight, Personal Property and Passenger Movements Arranged by the Transportation Division

By virtue of the authority delegated to me on August 13, 1990 by the Honorable Richard G. Austin, Administrator, General Services Administration, I hereby redelegate to the Chief of Transportation, and any person acting in that position due to absence, disability or vacancy in office, the functions delegated to me, including the prepayment audit of transportation bills relating to freight, personal property and passenger movements arranged by the Transportation Division, Department of State.

Dated: October 12, 1990.

James A. Baker, III,

Secretary of State.

[FR Doc. 90-25438 Filed 10-26-90; 8:45 am]

BILLING CODE 4710-10-M

[Public Notice 1282]

Assistance to the Republic of Guyana; Determination

Pursuant to the authority vested in me by section 620(q) of the Foreign Assistance Act of 1961, as amended, (the Act), and Executive Order 12163 and the Department of State Delegation of Authority No. 145, I hereby determine that the furnishing of assistance under the Act to the Republic of Guyana is in the national interest of the United States.

This Determination shall be reported to the Congress as required by law.

This Determination shall be published in the Federal Register.

Dated: September 29, 1990.

Lawrence S. Eagleburger,

Acting Secretary of State.

[FR Doc. 90-25439 Filed 10-26-90; 8:45 am]

BILLING CODE 4710-10-M

DEPARTMENT OF THE TREASURY

[Department Circular—Public Debt Series—No. 29-90]

Treasury Notes of October 31, 1992, Series AF–1992

Washington, October 18, 1990.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for approximately $12,000,000,000 of United States securities, designated Treasury Notes of October 31, 1992, Series AF–1992 (CUSIP No. 912827 ZL 9), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated October 31, 1990, and will accrue interest from that date, payable on a semiannual basis on April 30, 1991, and each subsequent 6 months on October 31 and April 30 through the date that the principal becomes payable. They will mature October 31, 1992, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in a minimum amount of $5,000 and in multiples of that amount. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, *i.e.*, Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2–86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500, prior to 1 p.m., Eastern Daylight Saving time, Wednesday, October 24, 1990. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, October 23, 1990, and received no later than Wednesday, October 31, 1990.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yielded is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or

reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Wednesday, October 31, 1990. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, October 29, 1990. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in Treasury Direct are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in Treasury Direct must be completed to show all the information required thereon, or the Treasury Direct account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may, at any time, supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

[FR Doc. 90-25547 Filed 10-24-90; 2:57 pm]

BILLING CODE 4810-40-M

Internal Revenue Service

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegations of authority.

SUMMARY: The delegation orders listed below are revised to reflect authorities redelegated to the Director, Austin Compliance Center and other officials in the Center. Also, other changes have been made to account for organizational changes and new office titles.

Order No.	Title
11 (Rev. 20)	Authority to Accept or Reject Offers in Compromise.
16 (Rev. 8)	Authorization to Approve Confidential Expenditures.
23 (Rev. 13)	Settlement of Tort Claims, Claims under the Small Claims Act, and Claims Made by an Employee of the Internal Revenue Service for Damage to or Loss of Personal Property Incident to Service.
29 (Rev. 4)	Certification and Approval of Internal Revenue Service Collections.
40 (Rev. 4)	Credits and Refunds.
66 (Rev. 13)	Authority of Regional Director of Appeals in Protested and Tax Court Cases.
77 (Rev. 25)	Authority to Issue or Execute Agreements to Rescind Notice of Deficiency.
97 (Rev. 29)	Closing Agreements Concerning Internal Revenue Tax Liability.
111 (Rev. 11)	Federal Claims Collection Act of 1966.
118 (Rev. 7)	Delegation of Authority to Grant Extension of Time to File Income and Estate Tax Returns.
134 (Rev. 2)	Authority to Discharge an Executor from Personal Liability for Certain Income, Estate and Gift Taxes and to Issue Estate Tax Closing Letters.
169 (Rev. 3)	Authority for the Issuance of Immunity Orders Pursuant to 18 U.S.C. Sections 6002 and 6004 in Proceedings Arising Under the Law Administered by the Internal Revenue Service.
178 (Rev. 5)	Authority to Obligate Funds for Payment to Third Parties Who Request Reimbursement for Cost of Complying With a Summons.
180 (Rev. 1)	Authority to Request Financial Records from Financial Institutions Pursuant to a Formal Written Request.
182 (Rev. 5)	Authority to Execute Returns.
191 (Rev. 1)	Delegation of Authority to Levy on Property in Hands of Third Parties.
196 (Rev. 1)	Delegation of Authority to File Tax Liens.
204 (Rev. 2)	Authority to Approve Rewards for Information Relating to Violations of Internal Revenue Laws.
213 (Rev. 2)	Authority to Issue Formal Document Requisits.
228 (Rev. 1)	Authority to Abate Interest Due to IRS Error or Delay.
231 (Rev. 1)	Repayment of Erroneous Refunds Without Interest Acceptable Under Certain Circumstances.

The delegation orders are on file and may be reviewed in the IRS Freedom of Information (FOI) Reading Room, located at 1111 Constitution Avenue, NW., Washington, DC 20224, Room 1545, or interested parties may contact the Disclosure Officer at the appropriate IRS Regional Office.

EFFECTIVE DATE: October 4, 1990.

FOR FURTHER INFORMATION CONTACT: Melva Scruggs, P:P:O:D, Room 3139, 1111 Constitution Avenue NW., Washington, DC 20224, Telephone: (202) 566-4273 (not a toll-free telephone number).

Dated: October 22, 1990.

Ralph Collinson,

Chief, Office of Organizational Planning and Directives.

[FR Doc. 90-25432 Filed 10-26-90; 8:45 am]

BILLING CODE 4830-01-M

Office of Thrift Supervision

[No. 90-572]

Adoption of Privacy Act Systems of Records

AGENCY: Office of Thrift Supervision, Treasury

ACTION: Adoption of Privacy Act Systems of Records.

SUMMARY: The Office of Thrift Supervision (Office), a bureau of the Department of the Treasury, is publishing this notice to notify all interested parties that pursuant to section 552a(e)(4) of the Privacy Act (5 U.S.C. 552a(e)(4)), the Director of the Office hereby adopts the Privacy Act systems of records of the Office's predecessor agency, the Federal Home Loan Bank Board.

A complete list of the systems of the Federal Home Loan Bank Board can be found in the Privacy Act Issuances, 1987 Compilation, Volume IV, at pages 329–337.

EFFECTIVE DATE: October 29, 1990.

FOR FURTHER INFORMATION CONTACT: Karen F. Bibbs, (202) 416–2636, Congressional Relations and Communications, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: The Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), Pub. L. 101–73, 103 Stat. 183, enacted August 9, 1989, established the Office of Thrift Supervision (Office) as an office within the Department of the Treasury which will perform those functions formerly performed by the Federal Home Loan Bank Board (Bank Board) in its own right and as operating head of the Federal Home Loan Bank System and the Federal Savings and Loan Insurance Corporation that have been transferred to it by the FIRREA. Pursuant to the FIRREA, all rules, regulations, resolutions, (including delegations), orders, directives, decisions, systems of records, and other determinations of the Bank Board and the Federal Savings and Loan Insurance Corporation promulgated under or implementing the Privacy Act, and not transferred to the Federal Deposit Insurance Corporation or the Federal Housing Finance Board, which were in force and effect on the day prior to enactment of FIRREA, remain in effect and enforceable by the Office, until such time as modified, canceled, or repealed by the Office. *See* FIRREA, Title III, section 301 amending subsection 3(e) of the Home Owners' Loan Act of 1933, and Title IV, sections 401(f), 401(g), 401(h).

The Office anticipates adopting and publishing in the **Federal Register** all changes to the Bank Board's Privacy Act regulations and Privacy Act systems of records necessary for the Office to carry out the provisions of the FIRREA and all other laws within the jurisdiction of the Office.

Dated: October 22, 1990.

Linda M. Combs,

Assistant Secretary of the Treasury (Management).

[FR Doc. 90–25446 Filed 10–26–90; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection: (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable, (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96–511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (23), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316. Please do not send applications for benefits to the above addressees.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 30 days of this notice.

Dated: October 23, 1990.

By direction of the Secretary.

Frank E. Lalley,

Director, Office of Information Resources Policies.

Extension

1. Veterans Benefits Administration.
2. Application for Designation as Management Broker.
3. VA Form 26–6685.
4. The information is used to determine the qualifications and acceptability of local management brokers who apply to participate in the sale and management of VA-owned properties.
5. On occasion.
6. Individuals or households.
7. 250 responses.
8. ¼ hour.
9. Not applicable.

[FR Doc. 90–25472 Filed 10–26–90; 8:45 am]

BILLING CODE 8320–01–M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public law 96–511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (23), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–2744

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316. Please do not send

applications for benefits to the above addressees.

DATES: Comments on the information collection should be directed to the OMB Desk Officer by November 28, 1990.

Dated: October 25, 1990.

By direction of the Secretary.

Frank E. Lalley,

Director, Office of Information Resources Policies.

Extension

1. Veterans Benefits Administration.
2. Student Beneficiary Reports—REPS.
3. VA Form 21–8938.
4. The form is used to verify a student beneficiary's school attendance and continued eligibility for REPS (Restored Entitlement Program for Survivors) benefit payments.
5. On occasion.
6. Individuals or households.
7. 5,300 responses.
8. ⅙ hours.
9. Not applicable.

[FR Doc. 90–25523 Filed 10–26–90; 8:45 am]

BILLING CODE 8320–01–M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96–511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (23), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–3744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316. Please do not send applications for benefits to the above addressees.

DATES: Comments on the information collection should be directed to the OMB Desk Officer by November 29, 1990.

Dated: October 23, 1990.

By director of the Secretary.

Frank E. Lalley,

Director, Office of Information Resources Policies.

Extension

1. Veterans Benefits Administration.
2. Application for Survivors' and Dependents Educational Assistance (Under chapter 35, title 38, U.S.C.).
3. VA Form 22–5490.
4. The form is used to gather the necessary information to determine the entitlement of a veteran or serviceperson's son, daughter, spouse or surviving spouse to education assistance under chapter 35 benefits. The information is used to determine eligibility.
5. On occasion.
6. Individuals or households.
7. 11,000 responses.
8. ½ hour.
9. Not applicable.

[FR Doc. 90–25524 Filed 10–26–90; 8:45 am]

BILLING CODE 8320–01–M

Advisory Commission on the Future Structure of Veterans Health Care; Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 that a meeting of the Commission on the Future Structure of Veterans Health Care will be held on December 11 and 21, 1990. The session will be held between 8 a.m. and 5 p.m. on December 11, and 8:30 a.m. and 1 p.m. on December 12, at the Hyatt Regency Tampa Hotel, Two Tampa City Center, Regency Rooms 5 and 6, Tampa, Florida. The Commission's purpose is to review the missions and programs of the VA's health care facilities to determine whether changes in services, programs, or missions at individual facilities are needed, with a focus on providing care to eligible veterans in 2010. The agenda for the meeting will include presentations to the Commission by various VA and non-VA officials as well as working sessions for the Commissioners to discuss, study, and analyze specific critical VA health care issues. The meeting will be open to the public up to the seating capacity of the room. Interested persons may file written statements with the Commission before or within 10 days after the close of the meeting for inclusion in the official hearing transcript.

Persons wanting to file written statements or wanting additional information regarding the meeting should contact Mr. Robert Moran, Commission on the Future Structure of Veterans Health Care, Techworld Plaza, 800 K Street, NW., P.O. Box 88, Washington, DC 20001, telephone (202) 633–7079.

Dated: October 23, 1990.

By Direction of the Secretary.

Sylvia Chavez Long,

Committee Management Officer.

[FR Doc. 90–25526 Filed 10–26–90; 8:45 am]

BILLING CODE 8320–01–M

Advisory Committee on Readjustment Problems of Vietnam Veterans; Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 that a meeting of the Advisory Committee on Readjustment Problems of Vietnam Veterans will be held November 16, 1990. This is a regularly scheduled meeting for the purpose of reviewing VA and other relevant services to Vietnam veterans, to review Committee work in progress and to formulate Committee recommendations and objectives. This meeting will be held in the VA Central Office, Omar Bradley Conference Room, 810 Vermont Avenue, NW., Washington, DC 20420.

The meeting on November 16 will begin at 8:30 a.m. and conclude at 4:30 p.m. The agenda for this meeting will consist of a Committee executive session involving discussion and planning regarding the work in progress of three subcommittees. The major subcommittee topic areas include revision of the Committee charter to encompass the readjustment of all war veterans, provision and coordination of transition management services for the readjustment of recently separated military personnel, and coordination of compensation and treatment for war-related post-traumatic stress disorder. This meeting will be preceded by three separate, concurrent subcommittee meetings to finalize respective findings and conclusions for presentation to the full Committee during the November 16 meeting. This meeting will be open to the public to the seating capacity of the room. Due to limited seating capacity of the room, those who plan to attend or who have questions concerning the

meeting should contact Arthur S. Blank, Jr., M.D. Director, Readjustment Counseling Service, Department of Veterans Affairs, (phone number: 202–233–3317/3303).

Dated: October 23, 1990.

By Direction of the Secretary.

Sylvia Chavez Long,

Committee Management Officer.

[FR Doc. 90–25479 Filed 10–26–90; 8:45 am]

BILLING CODE 8320-01-

Sunshine Act Meetings

Federal Register
Vol. 55, No. 209
Monday, October 29, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMITTEE ON EMPLOYEE BENEFITS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Thursday, November 1, 1990.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of the 1991 budget of the Office of Employee Benefits.
2. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to:

Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: October 25, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90-25593 Filed 10-25-90; 10:32 am]

BILLING CODE 6210-01-M

COMMITTEE ON EMPLOYEE BENEFITS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 10:30 a.m., Thursday, November 1, 1990, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. The Committee's agenda will consist of matters relating to: (a) The general administration policies and procedures of the Retirement Plan, Thrift Plan, Long-Term Disability Income Plan, and Insurance Plan for Employees of the Federal Reserve System; (b) general supervision of the operations of the Plans; (c) the maintenance of proper accounts and accounting procedures in respect to the Plans; (d) the preparation and submission of an annual report on the operations of each of such Plans; (e) the maintenance and staffing of the Office of the Federal Reserve Employee Benefits System; and (f) the arrangement for such legal, actuarial, accounting, administrative, and other services as the Committee deems necessary to carry out the provisions of the Plans.

Specific items include: (A) Long-range automation proposals regarding System benefits; and (B) Office of Employee Benefits operations review issues.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: October 25, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90-25594 Filed 10-25-90; 10:32 am]

BILLING CODE 6210-01-M

POSTAL RATE COMMISSION

Meeting

TIME AND DATE: 10:00 a.m. and 2:00 p.m. on November 1, 2, 9, 13, 15, 26, 27, 28, 29, 30 and December 3, 4, 5, 6, 7, 10, 11, 12, 13, 14 and 10:00 a.m. on November 6, 7, 8, and 2:00 p.m. on November 5, 1990.

PLACE: Conference Room 1313 H Street, NW., Suite 300, Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED: A series of closed meetings to discuss and decide issues in Docket No. R90-1.

CONTACT PERSON FOR MORE INFORMATION: Charles L. Clapp, Secretary, Postal Rate Commission, room 300, 1333 H Street, NW., Washington, DC 20268-0001, Telephone (202) 789-6840.

Charles L. Clapp,

Secretary.

[FR Doc. 90-25661 Filed 10-25-90 3:39 pm]

BILLING CODE 7710-FW-M

Corrections

Federal Register
Vol. 55, No. 209
Monday, October 29, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 246

Special Supplemental Food Program for Women, Infants and Children (WIC); Review of Nutritional Risk Criteria

Correction

In proposed rule document 90-21716 beginning on page 37882 in the issue of Friday, September 14, 1990, make the following corrections on page 37885:

a. In the first column, in the paragraph numbered 3, in the second line, "dietary" was misspelled.

b. In the same column, in the paragraph numbered 5, in the seventh line, "In" should read "If".

c. In the second column, in the first line, "casual" should read "causal".

d. In the same column, in the paragraph numbered 9, in the fourth line, "casually" should read "causally".

BILLING CODE 1505-01-D

FEDERAL COMMUNICATIONS COMMISSION

Applications for Consolidated Hearing

Correction

In notice document 90-22337 beginning on page 38749 in the issue of Thursday, September 20, 1990, make the following correction:

On page 38750, in the first column, in the table under section IV, insert "90-370" as the first entry in the third column.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control (CDC), NIOSH Assessment of Performance Levels for Industrial Respirators: Prerulemaking Technical Conference; Meeting

Correction

In notice document 90-24744 beginning on page 42482 in the issue of Friday, October 19, 1990, in the third column, under **CONTACT PERSON FOR ADDITIONAL INFORMATION**, in the last line, "304/291-4594" should read "304/291-4595".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[E-630-1-4214-10; MTM 087221]

Proposed Withdrawal, Opportunity for Public Meeting, and Correction; Montana

Correction

In notice document 90-24094 beginning on page 41606 in the issue of Friday, October 12, 1990, make the following corrections:

1. On page 41606, in the second column, under the "**DATES**" caption, "January 10, 1990" should read "January 10, 1991".

2. On the same page, in the third column, in the seventh line of the paragraph designated "2", "w½" should read "W½".

3. On the same page, in the same column, in the next-to-last paragraph, starting in the sixth line and continuing to the eighth line, delete the words "with the proposed withdrawal may present their views in writing".

4. On page 41607, in the first column, in the seventh line, "at least l30 days" should read "at least 30 days".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-930-01-4214-10; WYW 121186]

Proposed Withdrawal and Opportunity for Public Meeting; Wyoming

Correction

In notice document 90-24162 appearing on page 41776 in the issue of Monday, October 15, 1990, in the second column, under **DATES**, in the third line, "January 14, 1990." should read "January 14, 1991."

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103 and 214

[Order No. 1447-90]

Withdrawal of Approval for School or School System To Enroll Foreign Students

Correction

In rule document 90-24380 beginning on page 41987 in the issue of Wednesday, October 17, 1990, make the following correction:

On page 41988, in the second column, in the ninth line, "title 5" should read "title 8".

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 90-67; Exemption Application No. D-7776 et al.]

Grant of Individual Exemptions; Mutual Life Insurance Co. of New York (MONY), et al.

Correction

In notice document 90-22993 beginning on page 39754, in the issue of Friday, September 28, 1990, make the following correction:

On page 39755, in the first column, in the file line at the end of the document, "FR Doc. 90-22933" should read "FR Doc. 90-22993".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 564

[No. 90-1466]

RIN 1550-AA24

Real Estate Appraisals

Correction

In rule document 90-19892 beginning on page 34532 in the issue of Thursday, August 23, 1990, make the following corrections:

§ 564.8 [Corrected]

On page 34450, in the first column, in the last line of § 564.8(c)(2), "§ 546.6" should read "§ 564.6", and in the second line of § 564.8(d), "§ 546.4" should read "564.4.

BILLING CODE 1505-01-D

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 523-6641. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.R. 3767/Pub. L. 101-452

Chehalis River Basin Fishery Resources Study and Restoration Act of 1990. (Oct. 24, 1990; 104 Stat. 1054; 4 pages) Price: $1.00

H.R. 4371/Pub. L. 101-453

Cash Management Improvement Act of 1990. (Oct. 24, 1990; 104 Stat. 1058; 5 pages) Price: $1.00

H. 3617/Pub. L. 101-454

Eisenhower Exchange Fellowship Act of 1990. (Oct. 24, 1990; 104 Stat. 1063; 4 pages) Price: $1.00

S. 2540/Pub. L. 101-455

To authorize the Board of Regents of the Smithsonian Institution to plan, design, construct, and equip space in the East Court of the National Museum of Natural History building, and for other purposes. (Oct. 24, 1990; 104 Stat. 1067; 1 page) Price: $1.00

S. 3046/Pub. L. 101-456

To redesignate the Federal building located at 1 Bowling Green in New York, New York, as the "Alexander Hamilton United States Custom House". (Oct. 24, 1990; 104 Stat. 1068; 1 page) Price: $1.00

S. 3127/Pub. L. 101-457

To designate the Department of Veterans Affairs Medical Center in Albany, New York, as the "Samuel S. Stratton Department of Veterans Affairs Medical Center". (Oct. 24, 1990; 104 Stat. 1069; 1 page) Price: $1.00

S.J. Res. 342/Pub. L. 101-458

Designating October 1990 as "Ending Hunger Month". (Oct. 24, 1990; 104 Stat. 1070; 1 page) Price: $1.00

S.J. Res. 346/Pub. L. 101-459

To designate October 20 through 28, 1990, as "National Red Ribbon Week for a Drug-Free America". (Oct. 24, 1990; 104 Stat. 1071; 3 pages) Price: $1.00

S.J. Res. 349/Pub. L. 101-460

Designating October 1990 as "Italian-American Heritage and Culture Month". (Oct. 24, 1990; 104 Stat. 1074; 1 page) Price: $1.00

H.J. Res. 681/Pub. L. 101-461

Making further continuing appropriations for the fiscal year 1991, and for other purposes. (Oct. 25, 1990; 104 Stat. 1075; 4 pages) Price: $1.00

CFR CHECKLIST

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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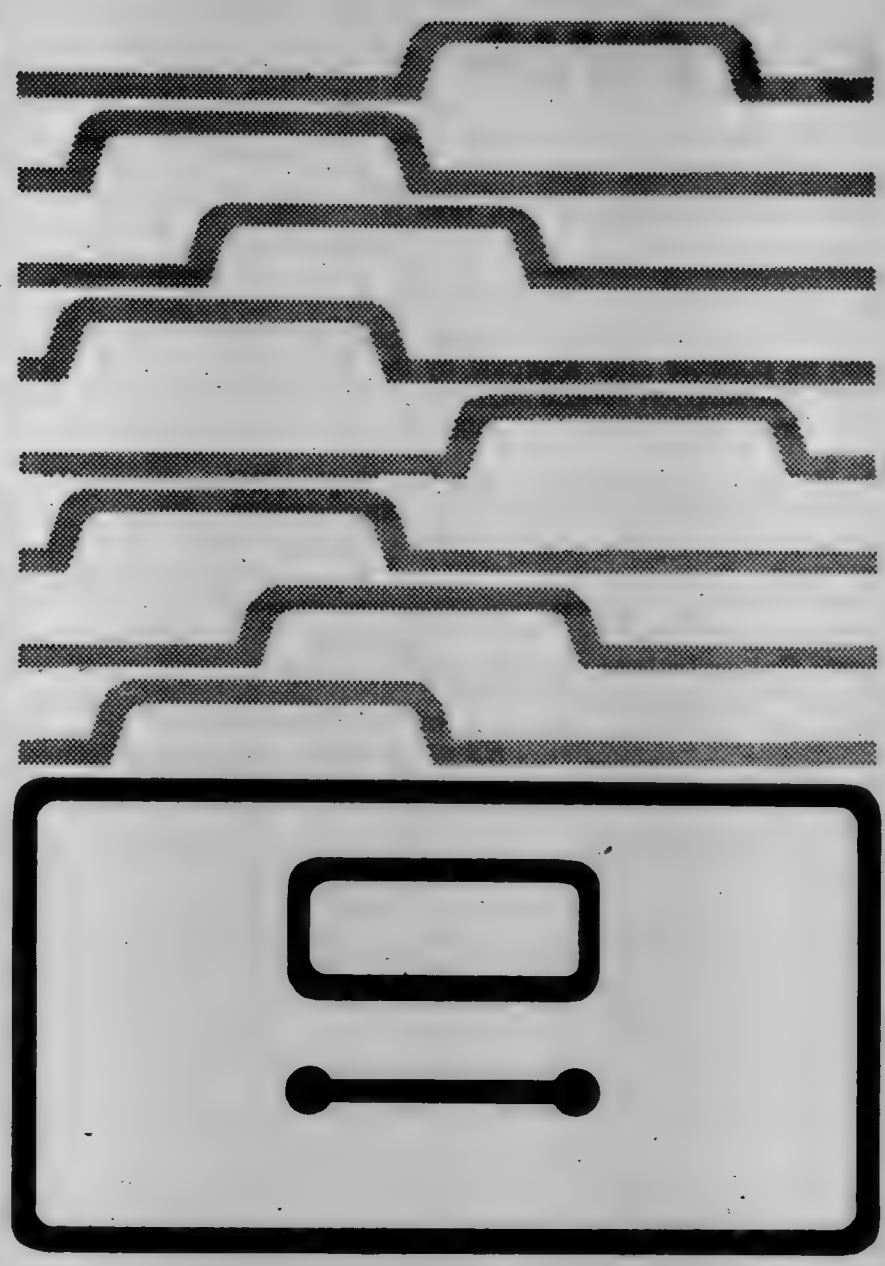

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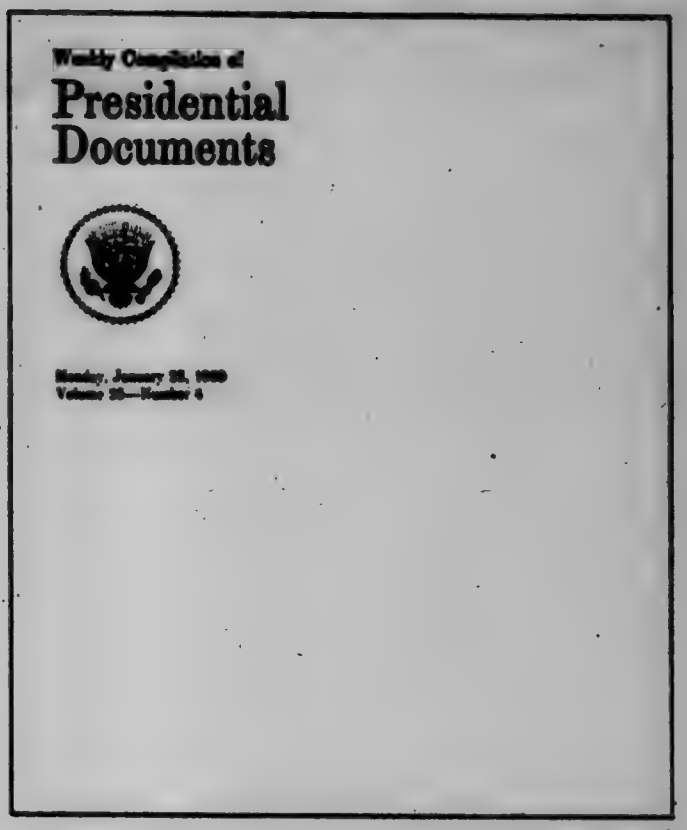

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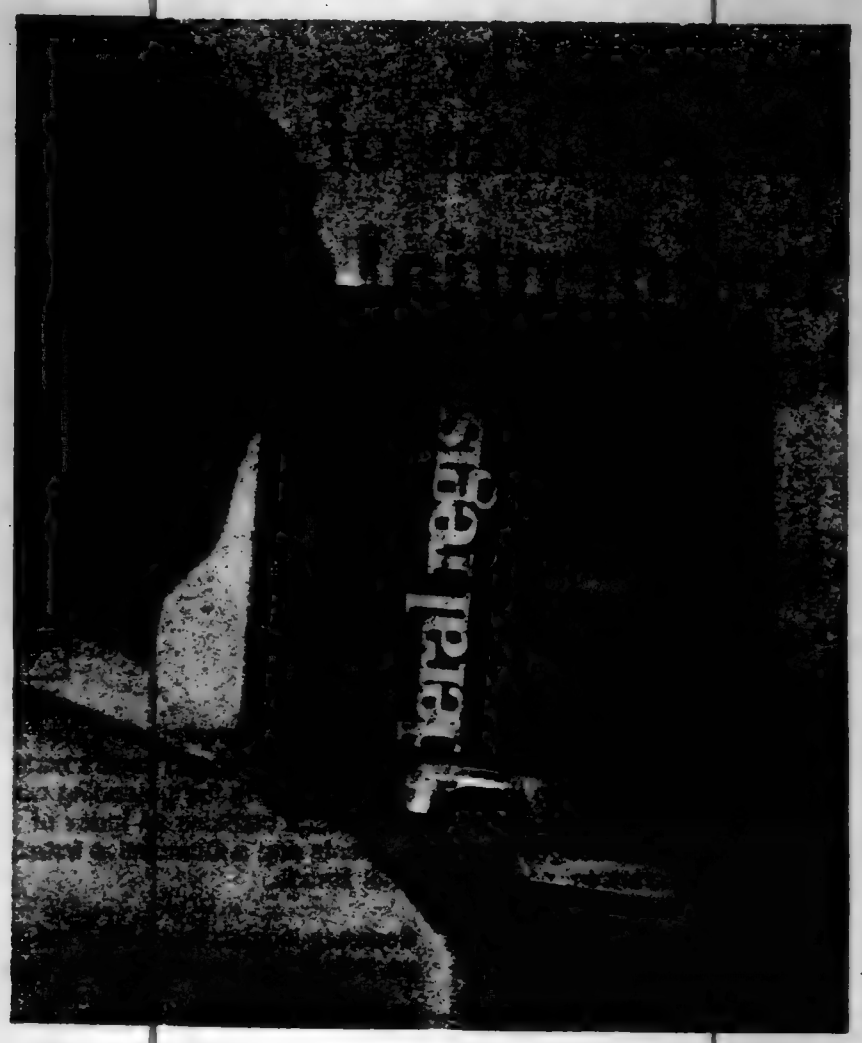

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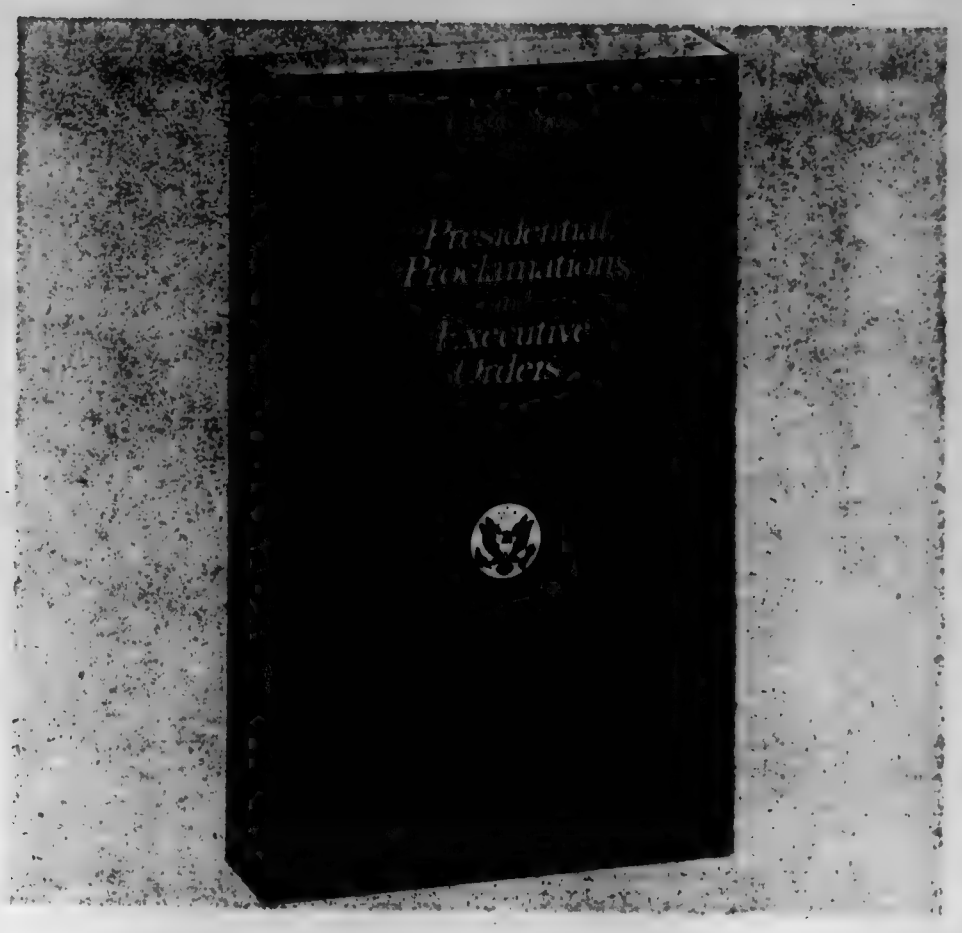

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AGENCY: Regulatory Information Service Center.

ACTION: Introduction to the Unified Agenda of Federal Regulations.

SUMMARY: The Regulatory Flexibility Act (5 U.S.C. 602) requires that agencies publish semiannual regulatory agendas describing regulatory actions they are developing. Executive Order 12291 and OMB Bulletins implementing section 5 of the Executive order establish minimum standards for executive agencies' agendas, including specific types of information for each entry and publication in a uniform format. In addition, the Office of Federal Procurement Policy Act Amendments of 1988 (41 U.S.C. 402) require the development and semiannual publication of a report on procurement regulations. The Unified Agenda helps fulfill that requirement. All Federal regulatory agencies have chosen to publish their regulatory agendas as part of this Unified Agenda of Federal Regulations.

The following separate parts in this issue of the Federal Register are the agency agendas, which together comprise the October 1990 edition of the semiannual Unified Agenda of Federal Regulations.

ADDRESS: Regulatory Information Service Center, Suite 500, 750 17th Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: For further information about specific regulatory actions, please refer to the Agency Contact listed for each entry. To provide comment on or to obtain further information about the Unified Agenda of Federal Regulations, contact: Mark G. Schoenberg, Executive Director, (202) 634-6222, or Margaret M. Donohoe, Project Director, (202) 634-6220.

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INTRODUCTION TO THE UNIFIED AGENDA OF FEDERAL REGULATIONS

About the Unified Agenda

The Regulatory Information Service Center (the Center) compiles the Unified Agenda of Federal Regulations for the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The Center provides information about Federal regulatory activity to the President and his Executive Office, the Congress, agency managers, and the public.

The Office of Information and Regulatory Affairs is responsible for overseeing the Federal Government's regulatory, paperwork, and information-management activities and for implementing Executive Orders 12291 "Federal Regulation" (46 FR 13193; 3 CFR 1981 Comp., p. 127) and 12498 "Regulatory Planning Process" (50 FR 1036; 3 CFR 1985 Comp., p. 323). Under E.O. 12498, OMB publishes the Regulatory Program of the United States Government each year.

The Regulatory Program is a policy document and a management tool that sets forth the priorities of the agency head and of the President regarding the Significant Regulatory Actions (SRAs) that will be conducted during the program year to which it pertains.

The Regulatory Program and the Unified Agenda differ in several ways. The Unified Agenda includes more regulatory actions, because it covers all Federal agencies that issue regulations and includes almost all the rulemakings they have under development. The Regulatory Program includes fewer than half of those agencies and contains only the most significant of all the regulatory actions that each of those agencies plans to undertake. The Regulatory Program, however, describes each entry more thoroughly than the Unified Agenda.

The regulatory actions described in the **Regulatory Program of the United States Government** are included in this Agenda. In general, the Regulation Identifier Number (RIN) for the action is the same for both publications; however, occasionally, several Agenda entries are combined into one Program entry, and a new RIN is assigned to that entry in the Program.

The Unified Agenda provides uniform reporting of data on regulatory activities under development throughout the Federal Government. This edition of the Unified Agenda includes 60 regulatory agendas from all Federal departments, agencies, and commissions that publish agendas. The National Capital Planning Commission has published a regulatory agenda in the past but has nothing to report for this edition of the Unified Agenda. Agencies of the United States Congress are not included.

Beginning with the October 1989 edition, the Agenda has helped fulfill the statutory requirement that the Office of Federal Procurement Policy (OFPP) publish a **Procurement Regulatory Activity Report** as required by the Office of Federal Procurement Policy Act Amendments of 1988 (102 Stat. 4055; 41 U.S.C. 402). In their agendas, agencies indicate which regulatory actions are procurement-related, as well as whether or not there is a statutory requirement or a paperwork burden associated with the procurement-related actions. This procurement information will be used by OFPP to produce its report.

The Unified Agenda is produced through a computer system designed and maintained by the Center with the advice and assistance of the Government Printing Office. The system was designed to save agencies time and money by automating the preparation and printing of their agendas in a uniform format and to make the Agenda easier to use. In order to further facilitate producing the Agenda, many agencies currently use computer terminals at their offices to enter agenda information into the Center's computer system.

The Agenda contains a Subject Index based on the **Federal Register Thesaurus of Indexing Terms** to help the reader locate entries from various agencies that may affect a particular area of interest. The index also contains cross references to assist the reader's search. The numbers in the index refer to the sequence numbers that appear before the title of each entry in the Agenda. All entries are numbered sequentially from the beginning to the end of the Agenda.

For each agency that requested it, the Center provided a computer-produced Table of Contents that appears after the preamble of the agency's agenda. The agency Tables of Contents help readers locate quickly those entries within an agency that may be of most interest to them.

All agendas contain uniform data elements -- regulation title, significance, legal authority, CFR citation, legal deadline, abstract, timetable, small entities affected, government levels affected, agency contact, and a unique Regulation Identifier Number. Agencies also include any additional information they consider important. If any of the data elements is not included, the agency either did not report the information or may provide an explanation in its preamble. For further information, please contact the individual agency.

Congress generally authorizes a single Federal agency to implement, through regulation, a specific policy objective. Sometimes, however, a statute may require that several agencies issue regulations to accomplish a policy objective. In such cases, the agencies, working with a central coordinator, jointly publish the documents issued in the course of the rulemaking proceeding. These proceedings are referred to as Governmentwide common rules.

In this edition of the Unified Agenda, three Governmentwide common rules are reported by the agencies participating in their development. They are:

- Implementation of the Drug-Free Workplace Act of 1988
- New Restrictions on Lobbying
- Protection of Human Subjects

Agencies participating in the development of these common rules have reported them in their individual parts of the Unified Agenda.

The **Unified Agenda of Federal Regulations** is published in April and October of each year. We welcome comments on this edition and suggestions for improving future ones.

How to Use the Unified Agenda

Each agency agenda appears as a separate part in this edition of the **Federal Register**. The parts are organized alphabetically in four groups: Cabinet departments, other executive agencies, joint authorities, and independent agencies. Departments are divided into agencies, which may in turn be divided into subagencies.

Each agency begins its agenda with a preamble providing information specific to its agenda. Each agency lists its rules in four groups:

1. Prerule Stage -- actions agencies will undertake in the next 12 months to determine whether or how to initiate rulemaking. Such actions occur prior to a Notice of Proposed Rulemaking (NPRM) and may include Advance Notices of Proposed Rulemaking (ANPRMs) and reviews of existing regulations.

2. Proposed Rule Stage -- actions for which agencies plan to publish a NPRM as the next step in their rulemaking process or for which the closing date of the NPRM comment period is the next step.

3. Final Rule Stage -- actions for which agencies plan to publish a final rule or an interim final rule or to take other final action as the next step in their rulemaking process.

4. Completed Actions -- actions or reviews the agency completed or withdrew since publishing its last agenda. This section also includes items that were begun and completed between issues of the Unified Agenda.

An agency may use a subheading to identify regulations that it has grouped according to a particular topic. When these subheadings are used, they appear above the title of the first regulation in the group.

A bullet (●) preceding an entry indicates that the entry appears in the Agenda for the first time.

The Agenda Sequence Number preceding the title of each entry identifies the location of the entry in this edition of the Agenda. The same number is used in the index to enable readers to

find entries on specific subjects. Those agencies that chose to provide a Table of Contents at the beginning of their agendas also use the sequence number in their Table of Contents. Sequence numbers should help readers easily locate items of most interest to them, either by agency or by subject.

The regulatory activities included in the agency agendas are those currently planned for the next 12 months. The agendas do not include regulations excluded from review under E.O. 12291, such as those concerning military or foreign affairs functions and regulations related to internal agency management.

Entries describing regulations in the Agenda should contain, at a minimum, the following information:

- Title of the Regulation.
- Significance -- an indication of the significance of the entry that appears when:
  a. The action is included in the Regulatory Program of the United States Government for the 1990 program year, or
  b. The agency otherwise considers the action a priority.

The Significance heading appears only if the entry is a significant action.

- Legal Authority -- the section(s) of the United States Code (U.S.C.) or Public Law (P.L.) or the Executive order (E.O.) that authorize(s) the regulatory action. Agencies may provide common name references to laws in addition to U.S.C. or P.L. references.
- CFR Citation -- the section(s) of the Code of Federal Regulations that affects or will be affected by the action.
- Legal Deadline -- an indication of whether the rule is subject to a statutory or judicial deadline; the date of that deadline; and whether the deadline pertains to an NPRM, a Final Action, or some "Other" action.
- Abstract -- a description of the problem the regulation will address; the need for a Federal solution; and, to the extent available, the alternatives that the agency is considering to address the problem and the potential costs and benefits of the action.
- Timetable -- the dates and citations (if available) for all past stages and at least the next future stage of rulemaking. If a date appears in this section as 00/00/00, it means the date of the action is presently undetermined. Similarly, 10/00/90 means the agency can predict the month and year the action will take place but not the day it will occur.
- Small Entities Affected -- indicates whether the rule is expected to have a significant economic impact on a substantial number of "small entities" as defined by the Regulatory Flexibility Act (5 U.S.C. 601) and, if so, whether the small entities are businesses, governmental jurisdictions, and/or organizations.
- Government Levels Affected -- indicates whether the rule is expected to affect levels of government and, if so, whether the governments are local, State, and/or Federal.
- Agency Contact -- the name, title, address, and phone number of a person in the agency who is knowledgeable about the regulation.
- Procurement-Related Actions -- in the Additional Information section, a statement identifying procurement-related actions and indicating whether there is a statutory requirement for the action and whether or not there is a paperwork burden associated with the action.

Some agencies have provided other optional information at their discretion.

Data Limitations

Agencies prepared entries for this edition of the Unified Agenda to give the public notice of their plans to review, propose, and issue regulations. They have tried to predict their activities over the next 12 months as accurately as possible, but dates and schedules are subject to change. Agencies may withdraw some of the regulations now under development, and they may issue or propose other regulations not included in their agendas. Agency actions in the rulemaking process may occur before or after the dates they have listed. The Agenda does not create a legal obligation on agencies to adhere to schedules within it or to confine their regulatory activities to those regulations that appear in it. The information in this edition is accurate as of August 24, 1990, in the judgment of the submitting agencies, except as otherwise noted in individual agency preambles. Where applicable, individual actions will be subject to review for compliance with Executive Order 12291, the Regulatory Flexibility Act, the OFPP Act, and the Paperwork Reduction Act at appropriate points in the regulatory process.

List of Abbreviations

The following abbreviations appear throughout this edition of the Agenda:

ANPRM -- An Advance Notice of Proposed Rulemaking is a preliminary notice that an agency is considering a regulatory action. The agency issues an ANPRM before it develops a detailed proposed rule. The ANPRM describes the general area that may be subject to regulation and usually asks for public comment on the issues and options being discussed. An ANPRM is issued only when an agency believes it needs to gather more information before proceeding to a notice of proposed rulemaking.

CFR -- The Code of Federal Regulations is an annual codification of the general and permanent regulations published in the Federal Register by the departments and agencies of the Federal Government. The Code is divided into 50 titles and each title covers a broad area subject to Federal regulation. The CFR is keyed to and kept up-to-date by the daily issues of the Federal Register.

EO -- An Executive order is a directive from the President to an executive agency issued under constitutional or statutory authority. Executive orders are published in the Federal Register and in title 3 of the Code of Federal Regulations.

FR -- The Federal Register is a daily Federal Government publication that provides a uniform system for publishing Presidential documents, all proposed and final regulations, notices of meetings, and other official documents issued by Federal departments and agencies.

FY -- The Federal fiscal year runs from October 1 to September 30.

NPRM -- A Notice of Proposed Rulemaking is the document an agency issues and publishes in the Federal Register that describes and solicits public comments on a proposed regulatory action. Under the Administrative Procedure Act, an NPRM must include, at a minimum:

- A statement of the time, place, and nature of the public rulemaking proceeding;
- A reference to the legal authority under which the rule is proposed; and
- Either the terms or substance of the proposed rule or a description of the subjects and issues involved.

PL -- A Public Law is a law passed by Congress and signed by the President or enacted over his veto. It has general applicability, as opposed to a private law that applies only to those persons or entities specifically designated. Public laws are numbered in sequence throughout the 2-year life of each Congress; for example, PL 97-17 would

be the 17th public law of the 97th Congress.

RFA -- A Regulatory Flexibility Analysis (RFA) describes the impact of a proposed rule on small entities as required by the Regulatory Flexibility Act (5 U.S.C. 601). An RFA describes why the agency is considering the action; the objectives of and legal basis for the proposed rule; an estimate of the number of small entities that could be affected and the compliance requirements they would have to fulfill; any other duplicative, overlapping, or conflicting Federal rules; and alternatives to the proposed action. When required, an initial RFA accompanies an NPRM, and a final RFA accompanies a final rule.

RIA -- A Regulatory Impact Analysis is required by E.O. 12291 for all major rules and other regulations designated by the Office of Management and Budget. An RIA is prepared to determine whether a proposed regulatory action meets the requirements of section 2 of E.O. 12291; namely, that it:

- Be based on adequate information concerning the need for and consequences of the action;
- Not be undertaken unless the potential benefits outweigh the potential costs to society;
- Maximize net benefits to society;
- Entail the least net cost to society of the alternatives considered; and
- Take into account the condition of particular affected industries, the national economy, and contemplated future regulatory actions.

RIN -- The Regulation Identifier Number is assigned by the Regulatory Information Service Center to identify each regulatory action listed in the Agenda.

USC -- The United States Code is a consolidation and codification of all general and permanent laws of the United States. The USC is divided into 50 titles and each title covers a broad area of Federal law.

Information About Additional Copies

Additional copies of this edition of the **Federal Register** are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

Copies of individual agency agendas may be available directly from the agency. Please contact the particular agency for further information.

Dated: October 1, 1990

Mark G. Schoenberg,

Executive Director.

[FR Doc. 90-23310 Filed 10-26-90; 8:45 am]

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October 29, 1990

Part III

Department of Agriculture

Semiannual Regulatory Agenda

DEPARTMENT OF AGRICULTURE (USDA)

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR, Subtitle A, Chs. I-VII, IX-XII, XIV-XVIII, XXI, XXIV-XXIX

9 CFR, Chs. I-IV

36 CFR, Ch. II

41 CFR, Ch. 4

Semiannual Regulatory Agenda; October 1990

AGENCY: Office of the Secretary, USDA.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of major and nonmajor regulations being developed in agencies of the U.S. Department of Agriculture in conformance with Executive Order 12291, Federal Regulation. The agenda also describes regulations affecting small entities as required by section 602 of the Regulatory Flexibility Act, Pub. L. 96-354.

USDA has attempted to list all regulations and regulatory reviews pending at the time of publication, except for minor and routine or repetitive actions, but some may have been inadvertently missed. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the date shown.

FOR FURTHER INFORMATION CONTACT: For further information on any specific entry shown in this agenda, please contact the person listed for that action.

Requests for copies of the agenda should include a self-addressed, stamped envelope and be directed to: Regulatory Agenda, OBPA, Office of the Secretary, Room 147-E, Administration Building, U.S. Department of Agriculture, Washington, DC 20250, (202) 382-1272.

Dated: August 24, 1990.

Jacquelyn C. Patterson,

Chief, Regulatory & Legislative Staff.

Agricultural Marketing Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1	Voluntary Inspection of Egg Products and Grading	0581-AA33
2	Grading of Shell Eggs	0581-AA34
3	Mandatory Inspection of Eggs and Egg Products	0581-AA35
4	Voluntary Grading of Poultry Products and Rabbit Products	0581-AA36

Agricultural Marketing Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
5	Fees for Service for Voluntary and Mandatory Programs	0581-AA19
6	Proposed New Marketing Agreement and Order for Seedless European Cucumbers	0581-AA30
7	Review of Pricing Provisions in all Federal Milk Marketing Orders	0581-AA37

Agricultural Marketing Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
8	Proposed New Milk Marketing Order for North Carolina and South Carolina	0581-AA28
9	Proposed Marketing Order for Vidalia Onions Grown in Georgia	0581-AA29

Agricultural Research Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
10	Federal Policy for the Protection of Human Subjects	0518-AA00

USDA

Agricultural Stabilization and Conservation Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
11	Standards for Approval of Warehouses for Cotton or Cotton Linters—Bond Requirements for State of South Carolina Operated Warehouses	0560-AB84

Agricultural Stabilization and Conservation Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
12	1990 Crop Peanuts National Poundage Quota	0560-AB54
13	1990 Crop Honey Price Support Program	0560-AB60
14	1990 Price Support Levels for Five Kinds of Tobacco	0560-AB64
15	1990 Crop Marketing Quotas and Acreage Allotments for Five Kinds of Tobacco	0560-AB65
16	1991 Crop Peanuts National Poundage Quota	0560-AB66
17	1990 Soybean Program	0560-AB67
18	1990 CCC Cotton Loan Program Regulations—Bale Packaging Materials	0560-AB69
19	1991 Crop Burley Tobacco Marketing Quotas and Price Support Level	0560-AB74
20	1991 Crop Flue-Cured Tobacco Marketing Quota and Price Support Level	0560-AB75
21	1991 Crop Price Support Levels for Six Kinds of Tobacco	0560-AB76
22	1991 Crop Marketing Quotas and Acreage Allotments for Five Kinds of Tobacco	0560-AB77
23	1990 Marketing Year Penalty Rate for Puerto Rican Cigar-Filler Tobacco	0560-AB78
24	Regulations for Procurement of Processed Agricultural Commodities for Donation Under Title II, P.L. 480	0560-AB79
25	1991 CCC Cotton Loan Program Regulations—Bale Packaging Materials	0560-AB80
26	1991 Marketing Year Penalty Rate for All Kinds of Tobacco Subject to Quotas	0560-AB83
27	Colorado River Basin Salinity Control Program—Project Approval Guidelines	0560-AB85
28	Cotton Warehouse Regulations Governing 1)Issuance of Warehouse Receipts for Non-gradable Cotton and 2)Inclusion of Lien Language in Warehousemen's Schedules of Charges	0560-AB86
29	Milk Price Support Program—FY 1991 Reduction in Price Received by Producers	0560-AB87

Agricultural Stabilization and Conservation Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
30	1990 Rice Program	0560-AB45
31	1990 Wool and Mohair program	0560-AB49
32	1990 Upland Cotton Program	0560-AB55
33	1990 Crop Burley Tobacco Marketing Quotas and Price Support Level	0560-AB61
34	1990 Crop Flue-Cured Tobacco Marketing Quota and Price Support Level	0560-AB62
35	1990 Crop National Average Loan Rates for Quota and Additional Peanuts and Minimum CCC Export Edible Sales Price for Additional Peanuts	0560-AB63
36	1990 Crop Sugar Beet and Sugarcane Price Support Loan Rates	0560-AB68
37	1990 Marketing Year Penalty Rates for all Kinds of Tobacco Subject to Quotas (Except Puerto-Rican Cigar Filler)	0560-AB70
38	Consolidate Regulations Governing Farm Marketing Quotas, Acreage Allotments, and Production Adjustment—Tobacco	0560-AB82

Animal and Plant Health Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
39	Revision of 7 CFR 319.56, Importation of Fruits and Vegetables	0579-AA12
40	Importation of Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products- Phase I	0579-AA21
41	Exotic Newcastle Disease in all Birds and Poultry; Psittacosis and Ornithosis in Poultry	0579-AA22
42	Animals Destroyed Because of Scrapie	0579-AA24
43	Imported Fire Ant	0579-AA25

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Animal and Plant Health Inspection Service—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
44	Importation of Certain Animals and Poultry and Certain Animal and Poultry Products—Communicable Animal Diseases	0579-AA26
45	Notice of Intent to Regulate Horses and Farm Animals and Activities Involving These Animals Under the Animal Welfare Act, Advance Notice of Proposed Rulemaking	0579-AA31
46	National Environmental Policy Act Implementing Regulations	0579-AA33
47	Cyclical Review of 9 CFR Part 92, Phase II	0579-AA34
48	Importation of Certain Animal Embryos	0579-AA35
49	Gypsy Moth	0579-AA39
50	Ruminants and Swine Imported from Foot-and-Mouth-Disease Countries	0579-AA40
51	Importation of Nursery Stock Plants, Roots, Bulbs, Seeds, and Other Plant Products - Phase II	0579-AA41

Animal and Plant Health Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
52	Horse Protection Inspection Guidelines	0579-AA32
53	Importation of Horses from Countries Affected with Contagious Equine Metritis	0579-AA36
54	Honeybees and Honeybee Semen; Removing Certain Restrictions on Honeybees and Honeybee Semen from New Zealand	0579-AA37
55	Importation of Certain Animals and Poultry and Certain Animal and Poultry Products—Prevention of Poultry Diseases	0579-AA38

Animal and Plant Health Inspection Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
56	Animal Welfare Regulations; Standards	0579-AA20
57	Revision of 7 CFR 319.56, Importation of Fruits and Vegetables	0579-AA23
58	Citrus Canker	0579-AA29
59	Cyclical Review of 9 CFR Part 92, Phase I	0579-AA30

Cooperative State Research Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
60	Higher Education Challenge Grants Program; Administrative Provisions	0524-AA02

Cooperative State Research Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
61	Research Guidelines for the Planned Introduction into the Environment of Organisms with Modified Hereditary Traits	0524-AA00
62	Agency Procedures to Implement the National Environmental Policy Act	0524-AA01
63	1890 Institution Capacity Building Grants Program; Administrative Provisions	0524-AA03

USDA

Farmers Home Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
64	Property Management	0575-AA03
65	Housing Preservation Grants	0575-AA16
66	Recapture of Section 502 Rural Housing Subsidy	0575-AA29
67	Section 502 Rural Housing Loan Policies, Procedures, and Authorizations	0575-AA35
68	Security Servicing for Multiple Housing Loans	0575-AA38
69	Borrower Supervision Servicing and Collection of Single Family Housing Loan Accounts	0575-AA42
70	Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients	0575-AA49
71	Real Property Insurance	0575-AA53
72	Secondary Market for Farmer Program Loans	0575-AA59
73	Farm Labor Housing Loan and Grant Policies, Procedures, and Authorizations	0575-AA60
74	Changes to Farmers Home Administration (FmHA) Guaranteed Loan Making and Servicing Regulations as a Result of a Study of the Program Requested by OMB	0575-AA66
75	Rural Rental Housing Loan Policies, Procedures and Authorizations —Processing Preapplications	0575-AA67
76	Servicing Cases Where Unauthorized Loan or Other Financial Assistance was Received - Multiple Family Housing	0575-AA69
77	Farmer Program Loans	0575-AA80
78	Conservation Easements on Inventory Property	0575-AA81
79	Civil Rights Compliance Requirements - 1940-D	0575-AA83

Farmers Home Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
80	Self-Help Technical Assistance Grants	0575-AA34
81	Management and Collection of Nonprogram (NP) Loans	0575-AA39
82	Complaints and Compensation for Construction Defects	0575-AA41
83	Security Servicing for Multiple Housing Loans	0575-AA51
84	Security Servicing for Single Family Rural Housing Loans	0575-AA54
85	Changes to the Farmers Home Administration (FmHA) Farmer Program Loan Making, Supervision and Servicing Regulations to Implement Applicable Provisions of "The Agricultural Credit Act of 1987"	0575-AA56
86	Farm Labor Loan and Grant Policies, Procedures, and Authorization	0575-AA62
87	Rural Rental Housing Loan Policies, Procedures, and Authorizations—Cooperative Housing Loans	0575-AA63
88	Processing and Servicing FmHA Assistance to Employees, Relatives and Associates	0575-AA64
89	Adverse Decisions and Administrative Appeals FmHA Instruction 1900-B	0575-AA70
90	Community Programs Guaranteed Loans	0575-AA72
91	Rural Rental Housing Policies, Procedures and Authorizations 1944-E	0575-AA73
92	1951-K Account Servicing and Collections	0575-AA74
93	Rural Rental Housing Policies, Procedures and Authorizations 1944-E	0575-AA77
94	Rural Housing Program Loans	0575-AA78
95	Rural Rental Housing Policies, Procedures and Authorizations, 1944-E or (Accountability in Funding Rural Housing Program Awards or Assistance)	0575-AA79
96	Disaster Assistance for Rural Business Enterprises	0575-AA85

Farmers Home Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
97	Borrower Supervision Servicing and Collection of Single Family Housing Loan Accounts	0575-AA55
98	Rural Rental Housing Loan Policies, Procedures and Authorizations —Congregate Housing and Group Homes	0575-AA58
99	Drought and Disaster Guaranteed Loans	0575-AA65
100	Appraisal of Rural Rental Housing Properties	0575-AA71
101	Rural Rental Housing Policies, Procedures and Authorizations 1944-E	0575-AA75
102	Appraisal of Real Estate Security for Rental, Cooperative and Labor Housing Loans	0575-AA76
103	Rural Rental Housing Displacement Prevention	0575-AA82
104	Emergency Community Water Assistance Grants	0575-AA84

USDA

Federal Crop Insurance Corporation—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
105	Common Crop Insurance Regulations and Policy	0563-AA03
106	General Crop Insurance Regulations	0563-AA46
107	Apple Crop Insurance Regulations	0563-AA51

Federal Crop Insurance Corporation—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
108	Forage Production Crop Insurance Regulations	0563-AA52

Federal Crop Insurance Corporation—Completed Actions

Sequence Number	Title	Regulation Identifier Number
109	Barley Crop Provisions	0563-AA04
110	Oat Crop Provisions	0563-AA05
111	Rye Crop Provisions	0563-AA06
112	Wheat Crop Provisions	0563-AA07
113	Apple Crop Insurance Regulations	0563-AA08
114	Arizona/California Citrus Crop Insurance Regulations	0563-AA09
115	Canning and Freezing Sweet Corn Crop Insurance Regulations	0563-AA10
116	Canning Peach Crop Insurance Regulations	0563-AA11
117	Fresh Market Tomato Crop Insurance Regulations	0563-AA12
118	Hybrid Seed Crop Insurance Regulations	0563-AA13
119	Macadamia Nut Crop Insurance Regulations	0563-AA14
120	Macadamia Tree Crop Insurance Regulations	0563-AA15
121	Pea Crop Insurance Regulations	0563-AA16
122	Peach Crop Insurance Regulations	0563-AA17
123	Peanut Crop Insurance Regulations	0563-AA18
124	Pepper Crop Insurance Regulations	0563-AA19
125	Popcorn Crop Insurance Regulations	0563-AA20
126	Potato Crop Insurance Regulations	0563-AA21
127	Prune Crop Insurance Regulations	0563-AA22
128	Table Grape Crop Insurance Regulations	0563-AA23
129	Tobacco (Quota Plan) Crop Insurance Regulations	0563-AA24
130	Walnut Crop Insurance Regulations	0563-AA25
131	Nursery Crop Insurance Regulations	0563-AA26
132	Arizona/California Citrus Crop Insurance Regulations	0563-AA28
133	Macadamia Tree Crop Insurance Regulations	0563-AA29
134	General Crop Insurance Regulations; Sugarcane Endorsement	0563-AA30
135	Potato Crop Insurance Regulations	0563-AA31
136	General Crop Insurance Regulations; High-Risk Land Exclusion Option	0563-AA32
137	General Crop Insurance Regulations; Cotton Endorsement	0563-AA33
138	General Crop Insurance Regulations; Raisin Endorsement	0563-AA34
139	General Crop Insurance Regulations; Grape Endorsement	0563-AA35
140	Fresh Market Tomato (Guaranteed Production Plan) Crop Insurance Regulations	0563-AA36
141	General Crop Insurance Regulations; ELS Cotton Endorsement	0563-AA37
142	General Crop Insurance Regulations; Rice Endorsement	0563-AA38
143	General Crop Insurance Regulations; Soybean Endorsement	0563-AA39
144	General Crop Insurance Regulations: Tobacco (Guaranteed Plan) Endorsement	0563-AA40
145	General Crop Insurance Regulations; Fresh Market Tomato Minimum Value Option	0563-AA41
146	General Crop Insurance Regulations; Fresh Market Tomato (Dollar Plan) Endorsement	0563-AA42
147	General Crop Insurance Regulations; Canning and Processing Bean Endorsement	0563-AA43
148	Macadamia Tree Crop Insurance Regulations	0563-AA44
149	General Administrative Regulations; Crop Insurance; Preemption of State Laws and Regulations	0563-AA45
150	General Crop Insurance Regulations; Fresh Market Sweet Corn Endorsement	0563-AA47
151	General Administrative Regulations; Crop Insurance; Non-Standard Underwriting Classification System	0563-AA48

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Federal Crop Insurance Corporation—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
152	General Crop Insurance Regulations; Fresh Plum Endorsement	0563-AA53

Federal Grain Inspection Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
153	Fees for Federal Aflatoxin Testing and Falling Number Determination Services	0580-AA16

Federal Grain Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
154	Regulations Under the United States Grain Standards Act; Reg. Review	0580-AA06
155	United States Standards for Sorghum	0580-AA10
156	United States Standards for Rice	0580-AA11
157	United States Standards of Canola	0580-AA12
158	United States Standards for Soybeans	0580-AA14
159	United States Standards for Wheat	0580-AA15
160	Fees for Rice Inspection and Laboratory Test Services	0580-AA18
161	Official Performance Requirements for Grain Inspection Equipment	0580-AA21
162	Fees for Official Inspection and Official Weighing Services	0580-AA22
163	Official Performance and Procedural Requirements for Grain Weighing Equipment and Related Grain Handling Systems	0580-AA23

Federal Grain Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
164	Fees for Railroad Track Scale Testing Services	0580-AA17

Federal Grain Inspection Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
165	Shiplot Inspection Plan - Cu-Sum	0580-AA09
166	United States Standards for Beans	0580-AA13

Food and Nutrition Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
167	Rules of Procedure	0584-AA75
168	Miscellaneous QC Provisions of Hunger Prevention Act of 1988	0584-AA76
169	Special Supplemental Food Program for Women, Infants and Children (WIC): Food Delivery Systems	0584-AA80
170	Outcome-Based Performance Standards for Food Stamp Employment and Training Programs	0584-AA82

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Food and Nutrition Service—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
171	Coordinated Review Effort	0584-AA84
172	Food Stamp and Food Distribution Programs: Emergency Assistance for Victims of Disasters	0584-AA85

Food and Nutrition Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
173	Food Distribution Program - Part 250	0584-AA07
174	Systematic Alien Verification for Entitlements	0584-AA73
175	Child and Adult Care Food Program - Adult Day Care Provision	0584-AA74
176	Employment and Training Requirements - Nondiscretionary Provisions from the Hunger Prevention Act of 1988	0584-AA79
177	Special Supplemental Food Program for Women, Infants and Children Non-Discretionary Funding Rule	0584-AA83

Food and Nutrition Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
178	Emergency Food Assistance for Victims of Disasters	0584-AA24
179	Employment and Training Requirements Technical Corrections Proposed Rule	0584-AA72

Food Safety and Inspection Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
180	Automatic Expiration System for Approved Labels	0583-AA87
181	Processing, Distribution, Storage, and Retail Handling of Ready- to-Eat, Uncured, Perishable Meat and Poultry Products Packaged in Sealed Containers	0583-AB14
182	Non-Residue Labeling Claims About Animal Production Practices	0583-AB21

Food Safety and Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
183	Requirements for Partially Defatted Meat Products	0583-AA27
184	Voluntary Residue Control Program	0583-AA29
185	Sulfonamide Residues in Swine	0583-AA31
186	Use and Protection of Approved Water Systems	0583-AA54
187	Certain Products with Meat Ingredients—Exemptions From Definition of a "Meat Food Product"	0583-AA62
188	Additional Trichina Detection Methods	0583-AA67
189	Increase in Use Levels of Sodium Citrate as an Anticoagulant	0583-AA76
190	Requirements for the Production of Fermented Sausage	0583-AA77
191	Use of Various Binders in Cured Pork Products	0583-AA78
192	Use of Sorbitol as a Flavoring Agent in Specific Meat Products	0583-AA79
193	Sodium/Potassium Lactate as Antimicrobial Agents in Specific Meat and Poultry Products	0583-AA83
194	Cross-Contamination Prevention for All Heat Processed Meat and Poultry Products	0583-AA88
195	Labeling of Frankfurters and Similar Products Containing Binders	0583-AA92
196	Substances Approved for Use in Meat Products—Revision of Listings	0583-AA93
197	Imported Product; Movement Prior to Reinspection	0583-AA94
198	Revision of Requirements for Finished Product Inspection	0583-AA95

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Food Safety and Inspection Service—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
199	Review of Retail Store Inspection Exemptions	0583-AA96
200	Processing Requirements for Dried Ready-to-Eat Meat and Poultry Products	0583-AA97
201	Ante-Mortem Inspection of Disabled Animals on Transport Vehicles	0583-AA98
202	Jar Closure Requirements	0583-AB00
203	Exemption From "Equal To" Requirements	0583-AB01
204	Food Additives and GRAS Substances Used as Ingredients in Meat Food and Poultry Products	0583-AB02
205	Poultry Post-Mortem Inspection System	0583-AB03
206	Export Certification Procedures	0583-AB04
207	Pest Control in Official Establishments	0583-AB06
208	Undenuded Beef Stomachs; Finished Product Standards and Manufacturing and Inspection Procedures	0583-AB11
209	Labeling Requirements for Packaged Products Which Require Special Handling to Maintain Their Wholesome Condition	0583-AB12
210	Use of Compressed Air in Boning Operations	0583-AB13
211	Use of Ascorbic Acid, Erythorbic Acid, Citric Acid, Sodium Citrate, and Sodium Ascorbate in Fresh Beef and Lamb	0583-AB15
212	Additional Methods for Destroying Trichinae; Prosciutto	0583-AB17
213	Heat Processing Procedures; Cooking Instructions and Cooling, Handling and Storage Requirements for Uncured Comminuted Meat and Poultry Products	0583-AB19
214	Use of Citric Acid as a Color Preservative on the Surface of Cured Meat Cuts	0583-AB20
215	Use of Tocopherols as Antioxidants and Citric Acid as a Synergist in Various Meat Products	0583-AB25
216	Use of Flavorings in Meat and Poultry Products	0583-AB26
217	Irradiation of Poultry	0583-AB27
218	Poultry Products Containing Pork; Trichina Treatment	0583-AB28
219	Amenability of Specific Exotic Species Under the Federal Meat Inspection Act and the Poultry Products Inspection Act	0583-AB29
220	Removal of Packaging Limitations on Imported Ground or Comminuted Meats	0583-AB31
221	Notification of Residue Violators and Testing of Subsequent Shipments of Animals	0583-AB32

Food Safety and Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
222	Cattle Post-Mortem Inspection Procedures and Staffing Procedures	0583-AA32
223	Requirements for Foreign Country Import Certification and Live Animal Importation	0583-AA47
224	Trichina Control Requirements for Dry-Cured Ham	0583-AA49
225	Sulfonamide and Antibiotic Residues in Young Veal Calves; Reduced Testing	0583-AA68
226	Net Weight	0583-AA69
227	Labeling of Meat Food Products That Contain Mechanically Separated (Species) Under Certain Circumstances	0583-AA71
228	Use of Sodium Lactate and Potassium Lactate as Flavor Enhancers in Meat and Poultry Products	0583-AA75
229	Processing Procedures and Cooking Instructions for Cooked, Uncured Meat Patties	0583-AA81
230	PFF for Turkey Ham	0583-AA84
231	Importation of Livestock Carcasses with Tissues Removed	0583-AA85
232	Imported Canadian Product; Provision for "Streamlined" Inspection Procedures; Exemption From Official Mark of Inspection	0583-AA99
233	Product Detentions	0583-AB10
234	Policy for Differentiating Between Calves and Adult Cattle	0583-AB18
235	Imported Product: Further Implementation of U.S. Canada Free-Trade Agreement	0583-AB30

Food Safety and Inspection Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
236	Eligibility of Foreign Countries for Importation of Products into the United States	0583-AA55
237	Use of Certain Binders in Meat and Poultry Products and Transfer of Binders in Text to the Tables of Approved Substances	0583-AA64
238	Partially Cooked, Cured and Smoked Poultry Breakfast Strips	0583-AA82
239	Use of Tricalcium Phosphate as a Sequestrant in Mechanically Deboned Chicken	0583-AB09

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Foreign Agricultural Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
240	Types and Quantities of Agricultural Commodities Available for Donation Overseas Under Section 416(b) of the Agricultural Act of 1949 for Each Fiscal Year	0551-AA23
241	Proposed Regulations Governing Implementation of the Targeted Export Assistance Program (TEA) Overseas	0551-AA24
242	Proposed Regulations Governing the Operation of the Export Enhancement Program (EEP)	0551-AA25
243	Proposed Regulations Governing Implementation of the Cooperator Market Development Program Overseas	0551-AA26

Forest Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
244	Whiskeytown-Shasta-Trinity National Recreation Area	0596-AA88
245	36 CFR 223 Sale and Disposal of National Forest Timber, Subpart A - General Provisions	0596-AA89
246	36 CFR 223 Sale and Disposal of National Forest Timber, Subpart B - Timber Sale Contracts	0596-AA90
247	Special Areas	0596-AA91

Forest Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
248	Suspension and Debarment of Timber Purchasers, 36 CFR 223, Subpart C	0596-AA09
249	Financial Security of National Forest System Timber Sale Contracts	0596-AA33
250	Grazing and Livestock Use	0596-AA35
251	Special-Use Applications and Administration of Special-Use Authorizations	0596-AA36
252	Prohibition on Mechanical Transport and Other Activities in Wilderness	0596-AA39
253	Land Exchanges	0596-AA42
254	Leasable Minerals Other than Oil and Gas	0596-AA46
255	Application Procedures and Fees for Hydroelectric Uses on National Forest System Lands	0596-AA47
256	Locatable Minerals	0596-AA49
257	36 CFR 271—Use of "Smokey Bear" Symbol	0596-AA66
258	National Forest Prohibitions; Law Enforcement Support Activities	0596-AA75
259	Revise Small Tracts Act Regulations	0596-AA79
260	Revise Rules Governing Special Uses of National Forest System Lands and Resources at 36 CFR 251 to Remove Ambiguities Regarding First Amendment Rights	0596-AA80
261	36 CFR 241 Wildlife: Cooperation in Wildlife Protection, Wildlife Management and Federal Refuge Regulations	0596-AA81
262	Hell's Canyon National Recreation Area—Private Lands	0596-AA86
263	Solid Waste Disposal Policy	0596-AA92
264	Irrevocable Letter of Credit	0596-AA93
265	Disposal of Quartz Minerals on the Ouachita National Forest	0596-AB01
266	Federal Cave Resources Protection	0596-AB02
267	Pre-Award Information Requirements	0596-AB03
268	Forest Service Wilderness Management Policy	0596-AB04
269	National Environmental Policy Act Revised Implementing Policy and Procedures	0596-AB05
270	Recreation Residence Authorization Policy	0596-AB06
271	Fee Policy for Reservoirs	0596-AB07
272	Graduated Rate Fee System	0596-AB11
273	Expanded Use of Prospecting Permits and Preference Right Sales for Mineral Materials	0596-AB12
274	Intervention in Appeals	0596-AB15
275	Clarification and revision of appealable decisions under 36 CFR Part 251, Subpart C	0596-AB17
276	Improving Financial Security of Timber Sale Contracts	0596-AB18
277	Oil and Gas Leasing Surface Use Operations	0596-AB19
278	Land and Resource Management Planning	0596-AB20
279	Government Cancellation of Timber Sale Contracts	0596-AB21
280	Federal Timber Export and Substitution Restrictions	0596-AB22
281	Use of Smokey Bear Symbol	0596-AB23

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Forest Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
282	Land Status and Title Records	0596-AA24
283	Access to Non-Federal Lands	0596-AA31
284	Conservation of Fish, Wildlife, and Their Habitats; Chugach National Forest, Alaska	0596-AA41
285	Definition of Common Variety Mineral Materials	0596-AA44
286	Indian Allotments on National Forest System Lands	0596-AA52
287	Prohibitions; Fossil Collecting	0596-AA56
288	Surety Bond Form Revision	0596-AA84
289	Douglas-Fir Lumber Price Index Review	0596-AB00
290	Hells Canyon National Recreation Area—Use of National Forest Lands	0596-AB06
291	Giving Notice of Decisions Subject to Appeal	0596-AB10
292	Contributions to the National Commission on Wildfire Disasters	0596-AB16

Forest Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
293	Modify the General Prohibition Against Use of Vehicles in Excess of 40 Inches in Width on Trails	0596-AA38
294	Small Business Timber Sale Set Aside Program	0596-AA43
295	Revision of Timber Sale Contract Forms FS-2400-6 and FS-2400-6T	0596-AA45
296	Part 219 Planning	0596-AA50
297	Reserved and Outstanding Mineral Rights	0596-AA09
298	Old-Growth Values and Definition—Policy	0596-AB13
299	Rulemaking: Implementation and Revision of Forest Plans	0596-AB14

Office of Finance and Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
300	Audits of Institutions of Higher Education and Other Nonprofit Organizations	0505-AA07
301	Audits of State, Local and Indian Tribal Governments	0505-AA09

Office of Finance and Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
302	Implementation of the Program Fraud Civil Remedies Act of 1986	0505-AA05

Office of Finance and Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
303	Governmentwide Requirements for Drug Free Work Place (Grants)	0505-AA06
304	Debt Collection	0505-AA08

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Packers and Stockyards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
305	General Bonding Regulations	0590-AA06

Rural Electrification Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
306	List of Standard Forms of Telecommunications Contracts	0572-AA20
307	Accounting Requirements for REA Electric Borrowers	0572-AA23
308	Loan Security Documents—Telephone Program	0572-AA30
309	REA Policy on Audits of Electric and Telephone Borrowers	0572-AA36
310	Rural Economic Development Loan and Grant Program	0572-AA37
311	REA Requirements for Engineering and Economic Support Requests for Loans and Loan Guarantees for New Generation and Related Transmission Facilities	0572-AA38
312	Member Credit Support of Power Supply Borrowers	0572-AA39
313	Wholesale Contracts for the Purchase and Sale of Electric Power and Energy	0572-AA41
314	General and Preloan Policies and Procedures for Electric Loans	0572-AA43
315	Telecommunications Standards and Specifications for Material, Equipment, and Construction	0572-AA45

Rural Electrification Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
316	Federal Pre-emption in Rate Making in Connection with Power Supply Borrowers	0572-AA40
317	Prepayment of REA Guaranteed Federal Financing Bank Loans - Electric	0572-AA42
318	Federal Preemption in Rate Making in Connection with REA Electric Borrowers in Bankruptcy	0572-AA44

Soil Conservation Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
319	Relocation Assistance	0578-AA12

Soil Conservation Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
320	Soil Surveys	0578-AA00
321	Snow Surveys and Water Supply Forecasts	0578-AA01
322	Farmland Protection Policy Act	0578-AA14

USDA

Office of Operations—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
323	Agriculture Acquisition Regulation	0599-AA00

Office of Operations—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
324	New Restrictions on Lobbying	0599-AA01

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS)

Prerule Stage

1. VOLUNTARY INSPECTION OF EGG PRODUCTS AND GRADING

Significance: Agency Priority

Legal Authority: 7 USC 1621 to 1627 Agricultural Marketing Act of 1946

CFR Citation: 7 CFR 55

Legal Deadline: None

Abstract: This regulation describes the basis, requirements, and administration of voluntary inspection and grading services for egg products.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/89	
End Review	11/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janice L. Lockard, Chief, Standardization Branch, Poultry Division, Department of Agriculture, Agricultural Marketing Service, Room 3944 South Building, PO Box 96456, Washington DC 20090-6456, 202 447-3506

RIN: 0581-AA33

2. GRADING OF SHELL EGGS

Significance: Agency Priority

Legal Authority: 7 USC 1621 to 1627 Agricultural Marketing Act of 1946

CFR Citation: 7 CFR 56

Legal Deadline: None

Abstract: This regulation describes the basis, requirements, and administration of the service for grading shell eggs and U.S. standards, grades, and weight classes.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/89	
End Review	11/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janice L. Lockard, Chief, Standardization Branch, Poultry Division, Department of Agriculture, Agricultural Marketing Service, Room 3944 South Building, PO Box 96456, Washington, DC 20090-6456, 202 447-3506

RIN: 0581-AA34

3. MANDATORY INSPECTION OF EGGS AND EGG PRODUCTS

Significance: Agency Priority

Legal Authority: 21 USC 1031 to 1056 Egg Products Inspection Act

CFR Citation: 7 CFR 59

Legal Deadline: None

Abstract: This regulation describes the basis, requirements, and administration of the mandatory inspection program for eggs and egg products.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/89	
End Review	11/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janice L. Lockard, Chief, Standardization Branch, Poultry Division, Department of Agriculture, Agricultural Marketing Service, Room 3944 South Building, PO Box 96456, Washington, DC 20090-6456, 202 447-3506

RIN: 0581-AA35

4. VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS

Significance: Agency Priority

Legal Authority: 7 USC 1621 to 1627 Agricultural Marketing Act of 1946

CFR Citation: 7 CFR 70

Legal Deadline: None

Abstract: This regulation describes the basis, requirements, and administration of the voluntary grading service for poultry and rabbit products and U.S. classes, standards and grades.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/89	
End Review	11/01/90	

Small Entities Affected: None

Government Levels Affected: None

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USDA—AMS

Prerule Stage

Agency Contact: Janice L. Lockard, Chief, Standardization Branch, Poultry Division, Department of Agriculture, Agricultural Marketing Service, Room 3944 South Building, PO Box 96456, Washington DC 20090-6456, 202 447-3506

RIN: 0581–AA36

DEPARTMENT OF AGRICULTURE (USDA)

Proposed Rule Stage

Agricultural Marketing Service (AMS)

5. FEES FOR SERVICE FOR VOLUNTARY AND MANDATORY PROGRAMS

Legal Authority: 7 USC 1621 to 1627; Agricultural Marketing Act of 1946; 21 USC 1031 to 1056; Egg Products Inspection Act; 7 USC 51 et seq Cotton Standards Act; 7 USC 511 to 511q; Tobacco Inspection Act; 7 USC 499a to 499s; Perishable Agricultural Commodities Act; 7 USC 471 to 476; Cotton Statistics and Estimates Act of 1927; 7 USC 511r; Tobacco Adjustment Act of 1983; 7 USC 15b; US Cotton Futures Act

CFR Citation: 7 CFR 27 to 209

Legal Deadline: None

Abstract: Fees for the voluntary inspection, grading and classing of agricultural commodities and certain mandatory inspection rates are reviewed periodically and changes are made to reflect cost of providing the service. [AMS 84-008]

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Barbara Bryant, Acting, Regulatory Review Officer, Department of Agriculture, Agricultural Marketing Service, Room 3510-S, Washington, DC 20250, 202 447-3785

RIN: 0581–AA19

6. PROPOSED NEW MARKETING AGREEMENT AND ORDER FOR SEEDLESS EUROPEAN CUCUMBERS

Significance: Agency Priority

Legal Authority: 7 USC 601 to 674 Agricultural Marketing Agreement Act of 1937

CFR Citation: 7 CFR 988, (New)

Legal Deadline: None

Abstract: To establish minimum quality standards, container requirements and market promotion. The proposal was submitted by the Greenhouse Vegetable Growers Association. The proposed agreement and order would promote the quality and pack of seedless European cucumbers in the marketplace. In addition, it would enable the establishment of production research and marketing research and development activities to improve production practices and increase the consumption of seedless European cucumbers. The program would be financed by assessments levied on seedless European cucumber handlers. The assessment rate would be recommended by the committee and approved by the Secretary.

Timetable:

Action	Date	FR Cite
NPRM	05/22/88	52 FR 24070
NPRM Public hearing	06/22/88	52 FR 24070
NPRM Recommended Decision	10/11/89	54 FR 41601
Proposed Rule and Referendum Order	09/17/90	55 FR 38066

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Jay Guerber, Marketing Order Administrative Branch, Fruit and Vegetable Division, Department of Agriculture, Agricultural Marketing Service, Room 2525 South Bldg., Washington, DC 20250, 202 447-2491

RIN: 0581–AA30

7. ● REVIEW OF PRICING PROVISIONS IN ALL FEDERAL MILK MARKETING ORDERS

Significance: Agency Priority

Legal Authority: 7 USC 601-674 Agricultural Marketing Agreement Act

CFR Citation: 7 CFR 1001 to 1139

Legal Deadline: None

Abstract: To consider proposed amendments to the Class I milk price, Class II milk price, classification of milk products, and reconstituted milk provisions of all milk orders. Certain of these provisions have not been reviewed at a hearing for many years.

Timetable:

Action	Date	FR Cite
Advance Notice for Proposals Submit Proposed Amendments by May 31, 1990	04/03/90	55 FR 12369
Notice of Hearing Public Hearing on Proposed Amendments	07/17/90	55 FR 29034

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Clayton H. Plumb, Chief, Order Formulation Branch, Dairy Division, Department of Agriculture, Agricultural Marketing Service, Room 2968 South Bldg Washington, DC 20250, 202 447-6263

RIN: 0581–AA37

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS)
Completed Actions

8. PROPOSED NEW MILK MARKETING ORDER FOR NORTH CAROLINA AND SOUTH CAROLINA

Significance: Agency Priority

CFR Citation: 7 CFR 1005 (New)

Completed:

Reason	Date	FR Cite
Final Action	08/09/90	55 FR 31351

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Clayton Plumb 202 447-8373

RIN: 0581–AA28

9. PROPOSED MARKETING ORDER FOR VIDALIA ONIONS GROWN IN GEORGIA

Significance: Agency Priority

CFR Citation: 7 CFR 955, (New)

Completed:

Reason	Date	FR Cite
Final Action	01/09/90	55 FR 715
Final Action Effective	02/08/90	55 FR 715

Small Entities Affected: Businesses

Government Levels Affected: Local

Agency Contact: Jay Guerber 202 447-2481

RIN: 0581–AA29

BILLING CODE 3410-02-T

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Research Service (ARS)
Final Rule Stage

10. ● FEDERAL POLICY FOR THE PROTECTION OF HUMAN SUBJECTS

Significance: Regulatory Program

Legal Authority: 5 USC 301; 42 USC 289; 42 USC 300v-1(b)

CFR Citation: 7 CFR 1c

Legal Deadline: None

Abstract: This final rule will add USDA regulations for the protection of human subjects at Title 7 CFR Part 1c to incorporate changes developed by the Interagency Human Subjects Coordinating Committee, Federal Coordinating Council on Science Engineering and Technology (FCCSET). The Committee drafted a common rule for Federal departments and agencies conducting or supporting research involving human subjects which was based on the HHS regulations. This effort was in response to a key recommendation of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research in the First Biennial Report in 1981.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45681
NPRM Comment Period End	01/09/89	
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Gerald F. Combs, Assistant Deputy Administrator for Human Nutrition, Department of Agriculture, Agricultural Research Service, Room 132, Bldg. 005, BARC-W, Beltsville, MD 20705, 301 344-3216

RIN: 0518–AA00

BILLING CODE 3410-03-T

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Stabilization and Conservation Service (ASCS)
Proposed Rule Stage

11. ● STANDARDS FOR APPROVAL OF WAREHOUSES FOR COTTON OR COTTON LINTERS—BOND REQUIREMENTS FOR STATE OF SOUTH CAROLINA OPERATED WAREHOUSES

Legal Authority: 15 USC 714(b) to 714(c); CCC Charter Act, Sec 4 and 5

CFR Citation: 07 CFR 1427.1085(c)

Legal Deadline: None

Abstract: The State of South Carolina has changed its warehouse law to a licensing law and no longer operates warehouses. This action would remove from the Standards the exception to the bond requirements for warehouses operated by the State of South Carolina Department of Agriculture. No cost to the Government is expected.

Timetable:

Action	Date	FR Cite
NPRM	10/01/90	
Final Action	12/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington DC 20013, 202 475-3346

RIN: 0560–AB84

DEPARTMENT OF AGRICULTURE (USDA)

Final Rule Stage

Agricultural Stabilization and Conservation Service (ASCS)

12. 1989 CROP PEANUTS NATIONAL POUNDAGE QUOTA

Significance: Agency Priority

Legal Authority: 7 USC 1358; The Agricultural Adjustment Act of 1938, Sec 358, as amended

CFR Citation: None

Legal Deadline: Final, Statutory, December 15, 1989.

Abstract: The objective of this action is to balance supply with demand at levels that assure stable supplies for domestic use and assure producers a stable income. This action is required by legislation, which provides a formula for computing the national quota. The quota must equal the amount estimated to be devoted to domestic edible, seed, and related uses, and may not be less than 1.1 million tons. A net cost of $1 million is expected.

Timetable:

Action	Date	FR Cite
Announcement	12/15/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4838

RIN: 0560-AB54

13. 1990 CROP HONEY PRICE SUPPORT PROGRAM

Significance: Agency Priority

Legal Authority: 7 USC 1446(b); The Agricultural Act of 1949, as amended, Sec 207(b)

CFR Citation: 7 CFR 1434.26; 7 CFR 1434.27

Legal Deadline: None

Abstract: Legislation requires that 1990-crop honey be supported at 95 percent of the 1989 level, or $0.5402 per pound. This price support level must be further reduced by $0.0025 per pound under the provisions of the Omnibus Budget Reconciliation Act of 1987. Legislation also provides the Secretary with the discretion to allow loan repayment at a rate below the support level. The objective of a lower repayment rate is to (1) minimize loan forfeitures, (2) avoid excessive stocks, (3) reduce Federal storage costs, and (4) maintain the competitiveness of U.S. honey in domestic and export markets. Determinations to be made are (1) the type of support to offer (loans, purchases, or loans and purchases), and (2) implementation of the lower repayment provision. Federal outlays are expected to be less than $60 million if the lower repayment provision is adopted.

Timetable:

Action	Date	FR Cite
NPRM	03/28/90	55 FR 11415
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4838

RIN: 0560-AB60

14. 1990 PRICE SUPPORT LEVELS FOR FIVE KINDS OF TOBACCO

Legal Authority: 7 USC 1445; The Agricultural Act of 1949, Sec 106, as amended

CFR Citation: None

Legal Deadline: None

Abstract: To stabilize prices for five kinds of tobacco and comply with statutory requirements, price support levels are set by statutory formula, based on a prices paid index. The Secretary may lower the price support level at the request of producer associations. Increases may be limited to 65 percent of the formula increase. This price support program is expected to result in net Federal receipts of approximately $16 million in FY 1990.

Timetable:

Action	Date	FR Cite
Announcement	03/05/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4838

RIN: 0560-AB64

15. 1990 CROP MARKETING QUOTAS AND ACREAGE ALLOTMENTS FOR FIVE KINDS OF TOBACCO

Legal Authority: 7 USC 1312(a) et seq; The Agricultural Adjustment Act of 1938, Sec 312, as amended

CFR Citation: None

Legal Deadline: Final, Statutory, March 1, 1990.

Abstract: Marketing quotas and acreage allotments are required by legislation for these five kinds of tobacco. The purpose of quotas and allotments is to balance supply with demand at levels that assure stable supplies for domestic and export use at prices that are fair to producers. Marketing quota and acreage allotment determinations are based on 10-year average marketings adjusted for trends to yield optimal supplies.

The marketing quota and allotment program is expected to result in net Federal receipts of approximately $15 million in FY 1990.

Timetable:

Action	Date	FR Cite
NPRM	02/06/90	55 FR 4460
NPRM	02/06/90	55 FR 4461
Announcement	03/06/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4838

RIN: 0560-AB65

16. 1991 CROP PEANUTS NATIONAL POUNDAGE QUOTA

Significance: Agency Priority

Legal Authority: 7 USC 1358; The Agricultural Adjustment Act of 1938, Sec 358, as amended

CFR Citation: None

Legal Deadline: Final, Statutory, December 15, 1990.

USDA—ASCS

Final Rule Stage

Abstract: The objective of this action is to balance supply with demand at a level that will assure stable supplies for domestic use and assure producers a stable income. This action is required by legislation, which provides a formula for computing the national quota. The quota must equal the amount estimated to be devoted to domestic edible, seed, and related uses, and may not be less than 1.1 million tons. A net cost of $1 million is expected.

Timetable:

Action	Date	FR Cite
Final Action	12/14/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4576

RIN: 0560-AB66

17. 1990 SOYBEAN PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1446; The Agricultural Act of 1949 as amended, Sec 201

CFR Citation: 7 CFR 1421.365-374

Legal Deadline: Final, Statutory, October 1, 1990.

Abstract: To assure sufficient supplies of soybeans for domestic and export use, support farm income, combat inflation, hold down Federal costs, and comply with statutory requirements. Determinations to be made are (1) loan and purchase rate, and (2) whether to implement a marketing loan program. The cost to USDA will likely range from $0.1 to $0.2 billion.

Timetable:

Action	Date	FR Cite
Announcement	09/28/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4576

RIN: 0560-AB67

18. 1990 CCC COTTON LOAN PROGRAM REGULATIONS—BALE PACKAGING MATERIALS

Legal Authority: 15 USC 714b and c; Commodity Credit Corporation Charter Act, Sec 4 and 5

CFR Citation: 7 CFR 1427

Legal Deadline: None

Abstract: This action will incorporate by reference the specifications for bale packaging materials used in wrapping cotton for 1990 that are approved by the Joint Cotton Industry Bale Packaging Committee and that are acceptable to CCC. No cost to Government is expected.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4576

RIN: 0560-AB69

19. 1991 CROP BURLEY TOBACCO MARKETING QUOTAS AND PRICE SUPPORT LEVEL

Significance: Agency Priority

Legal Authority: 7 USC 1314; The Agricultural Adjustment Act of 1938, as amended, Sec 314; 7 USC 1445; The Agricultural Act of 1949, as amended, Sec 106

CFR Citation: None

Legal Deadline: Final, Statutory, February 1, 1991.

Abstract: Burley marketing quotas and price support are required by legislation. The purpose of quotas and price support is to balance supply with demand at levels assuring stable supplies for domestic and export use at prices that are fair to producers. The national quota is based on manufacturer's intentions to purchase tobacco, 3-year average exports, an adjustment to maintain loan stocks, and a discretionary adjustment of plus or minus 3 percent. The price level is based on a formula that weights average market prices (2/3) and changes in cost of production (1/3), plus discretion to limit any increase to 65 percent of the formula increase. The expected cost to USDA is about $2 million.

Timetable:

Action	Date	FR Cite
Final Action	02/01/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4576

RIN: 0560-AB74

20. 1991 CROP FLUE-CURED TOBACCO MARKETING QUOTA AND PRICE SUPPORT LEVEL

Significance: Agency Priority

Legal Authority: 7 USC 1314; Agricultural Adjustment Act of 1938, as amended, Sec 314; 7 USC 1445; Agricultural Act of 1949, as amended, Sec 106

CFR Citation: None

Legal Deadline: Final, Statutory, December 15, 1990.

Abstract: Flue-cured tobacco marketing quotas and price support are required by legislation. The purpose of quotas and price support is to balance supply with demand at levels assuring stable supplies for domestic and export use at prices that are fair to producers. The national quota is based on manufacturers' intentions to purchase tobacco, 3-year average exports, an adjustment to maintain loan stocks, and a discretionary adjustment of plus or minus 3 percent. The price support level is based on a formula that weights average market prices (2/3) and changes in cost of production (1/3), with discretion to limit any increase to 65 percent of the formula increase. A net receipt of $11 million is expected.

USDA—ASCS

Final Rule Stage

Timetable:

Action	Date	FR Cite
Final Action	12/15/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB75

21. 1991 CROP PRICE SUPPORT LEVELS FOR SIX KINDS OF TOBACCO

Legal Authority: 7 USC 1445; Agricultural Act of 1949, as amended, Sec 106

CFR Citation: None

Legal Deadline: None

Abstract: Price Support is required by legislation for Virginia fire-cured, Kentucky-Tennessee fire-cured, Kentucky-Tennessee dark air-cured, Virginia sun-cured, Cigar filler and binder and Puerto Rican filler tobacco. To stabilize tobacco prices and comply with statutory requirements, price support levels are set by statutory formula, based on a prices paid index. The Secretary may lower price support levels at the request of producer associations. Increases may be limited to 65 percent of the formula increase. A net receipt of $6.6 million is expected.

Timetable:

Action	Date	FR Cite
Final Action	04/12/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB76

22. 1991 CROP MARKETING QUOTAS AND ACREAGE ALLOTMENTS FOR FIVE KINDS OF TOBACCO

Legal Authority: 7 USC 1312; The Agricultural Adjustment Act of 1938, as amended, Sec 312

CFR Citation: None

Legal Deadline: Final, Statutory, March 1, 1991.

Abstract: Marketing quotas and acreage allotments are required by legislation for Virginia Fire-cured, Kentucky-Tennessee Fire- cured, Kentucky-Tennessee Dark Air-cured, Virginia Sun-cured, and Cigar filler and binder. The purpose of quotas and allotments is to balance supply with demand at levels that assure stable supplies for domestic and export use at prices that are fair to producers. A net receipt of $7 million is expected.

Timetable:

Action	Date	FR Cite
Final Action	03/01/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB77

23. 1990 MARKETING YEAR PENALTY RATE FOR PUERTO RICAN CIGAR-FILLER TOBACCO

Legal Authority: 7 USC 1314; The Agricultural Adjustment Act of 1938, as amended, Sec 312

CFR Citation: None

Legal Deadline: None

Abstract: This action announces the penalty rates for overmarketing Puerto Rican Cigar-Filler Tobacco for the 1990 marketing year. Legislation provides that the penalty rate shall be 75 percent of the previous year's average marketing price. Tobacco producers and dealers need to be advised of the penalty rate prior to the beginning of the marketing year.

Timetable:

Action	Date	FR Cite
Final Action	10/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB78

24. REGULATIONS FOR PROCUREMENT OF PROCESSED AGRICULTURAL COMMODITIES FOR DONATION UNDER TITLE II, P.L. 480

Legal Authority: 7 USC 1721 et seq; Agricultural Trade Development and Assistance Act of 1954, as amended, Title II

CFR Citation: 07 CFR 1496

Legal Deadline: None

Abstract: This action would advise the public that CCC is giving consideration to changing the manner in which ocean freight rates and services are handled for bid evaluations of processed commodities procured for donation under Title II, P.L. 480.

Timetable:

Action	Date	FR Cite
Final Action	01/00/91	
ANPRM	00/00/00	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB79

25. 1991 CCC COTTON LOAN PROGRAM REGULATIONS—BALE PACKAGING MATERIALS

Legal Authority: 7 USC 714b to 714c; Commodity Credit Corporation Charter Act, Sec 4 and 5

CFR Citation: 07 CFR 1427

Legal Deadline: None

USDA—ASCS

Final Rule Stage

Abstract: To incorporate by reference the specifications for bale packaging materials used in wrapping cotton for 1991 that were approved by the Joint Cotton Industry Bale Packaging Committee and that are acceptable to CCC.

Timetable:

Action	Date	FR Cite
Final Action	07/01/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, 3726-S, P.O. Box 2415, Washington, DC20013, 202 475-4636

RIN: 0560-AB80

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26. ● 1991 MARKETING YEAR PENALTY RATE FOR ALL KINDS OF TOBACCO SUBJECT TO QUOTAS

Legal Authority: 7 USC 1314; The Agricultural Adjustment Act of 1938, Sec 314

CFR Citation: None

Legal Deadline: None

Abstract: This action announces the penalty rate for all kinds of tobacco for the 1991 marketing year. Legislation provides that the penalty shall be 75 percent of the average marketing price for the previous year. Tobacco producers, warehousemen, and dealers need to be advised of the penalty rate prior to the beginning of the marketing year. No cost to the Government is expected.

Timetable:

Action	Date	FR Cite
Final Action	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S P.O. BOX 2415, Washington DC 20013, 202 475-3845

RIN: 0560-AB83

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27. ● COLORADO RIVER BASIN SALINITY CONTROL PROGRAM—PROJECT APPROVAL GUIDELINES

Legal Authority: 43 USC 1592(c); Colorado River Basin Salinity Control Act of 1974

CFR Citation: 07 CFR 702

Legal Deadline: None

Abstract: This action would amend the regulations to include guidelines to be followed by USDA when approving requests for new salinity control projects. This action is needed because requests for new salinity projects are anticipated to be received in the near future. Requests for projects will be initially reviewed by the Colorado River Salinity Control Forum, which will provide recommendations to USDA regarding requests to be considered for final evaluation and approval. No cost to the Government is expected.

Timetable:

Action	Date	FR Cite
Final Action	10/31/90	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S P.O. Box 2415, Washington DC 20013, 202 475-3845

RIN: 0560-AB85

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28. ● COTTON WAREHOUSE REGULATIONS GOVERNING 1)ISSUANCE OF WAREHOUSE RECEIPTS FOR NON-GRADABLE COTTON AND 2)INCLUSION OF LIEN LANGUAGE IN WAREHOUSEMAN'S SCHEDULES OF CHARGES

Significance: Agency Priority

Legal Authority: The United States Warehouse Act, as amended

CFR Citation: 07 CFR 735.2; 07 CFR 735.16; 07 CFR 735.29; 07 CFR 735.69; 07 CFR 735.70

Legal Deadline: None

Abstract: Amends regulations to allow cotton warehousemen to issue warehouse receipts for non-gradable cotton, commonly known as reginned motes, and permit cotton warehousemen to include lien language similar to Part 7-209 of the Uniform Commercial Code in their schedules of charges. No cost to the Government is expected.

Timetable:

Action	Date	FR Cite
NPRM	08/21/90	55 FR 34021
Final Action	11/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S P.O. Box 2415, Washington DC 20013, 202 475-3845

RIN: 0560-AB86

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29. ● MILK PRICE SUPPORT PROGRAM—FY 1991 REDUCTION IN PRICE RECEIVED BY PRODUCERS

Significance: Regulatory Program

Legal Authority: 7 USC 1446; The Agricultural Adjustment Act of 1949, Sec 201(d)(2)(F); Balanced Budget & Emergency Deficit Control Act, 1985, Sec 252

CFR Citation: 7 CFR 1430.349 to 1430.351

Legal Deadline: None

Abstract: Legislation requires that FY 91 outlays under the Milk Price Support Program be reduced by an 8.8 cent per hundredweight reduction in the price received by producers on all milk produced in the United States and marketed for commercial use. The reduction will be achieved through an assessment on producers. This action adopts the same procedures and regulations that applied to the FY 90 sequester-related reduction that took place during the period 1/1/90 through 1/31/90. USDA outlays will be reduced by at least $130 million through assessments.

Timetable:

Action	Date	FR Cite
Final Action	01/14/91	
Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Witzig, Chief, Regulatory and Economic Analysis

USDA—ASCS

Final Rule Stage

Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S,

P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560–AB87

DEPARTMENT OF AGRICULTURE (USDA)

Agricultural Stabilization and Conservation Service (ASCS)

Completed Actions

30. 1990 RICE PROGRAM

Significance: Regulatory Program

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 719 to 720; 7 CFR 794 to 796; 7 CFR 1421

Completed:

Reason	Date	FR Cite
Final Action	07/26/90	55 FR 30482

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB45

31. 1990 WOOL AND MOHAIR PROGRAM

Significance: Regulatory Program

CFR Citation: 7 CFR 1468; 7 CFR 1472

Completed:

Reason	Date	FR Cite
Final Action	06/21/90	55 FR 25347

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB49

32. 1990 UPLAND COTTON PROGRAM

Significance: Regulatory Program

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 719; 7 CFR 770; 7 CFR 792; 7 CFR 794 to 796; 7 CFR 1427

Completed:

Reason	Date	FR Cite
Final Action	01/16/90	55 FR 01495

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB55

33. 1990 CROP BURLEY TOBACCO MARKETING QUOTAS AND PRICE SUPPORT LEVEL

Significance: Agency Priority

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	07/18/90	55 FR 29242

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB61

34. 1990 CROP FLUE-CURED TOBACCO MARKETING QUOTA AND PRICE SUPPORT LEVEL

Significance: Agency Priority

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	09/06/90	55 FR 36674

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB62

35. 1990 CROP NATIONAL AVERAGE LOAN RATES FOR QUOTA AND ADDITIONAL PEANUTS AND MINIMUM CCC EXPORT EDIBLE SALES PRICE FOR ADDITIONAL PEANUTS

Significance: Agency Priority

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	08/21/90	55 FR 34036

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB63

36. 1990 CROP SUGAR BEET AND SUGARCANE PRICE SUPPORT LOAN RATES

Significance: Regulatory Program

CFR Citation: 7 CFR 1435

Completed:

Reason	Date	FR Cite
Final Action	10/03/90	55 FR 40414

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560–AB68

37. 1990 MARKETING YEAR PENALTY RATES FOR ALL KINDS OF TOBACCO SUBJECT TO QUOTAS (EXCEPT PUERTO-RICAN CIGAR FILLER)

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	07/13/90	55 FR 28790

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig 202 475-3646

RIN: 0560–AB70

38. ● CONSOLIDATE REGULATIONS GOVERNING FARM MARKETING QUOTAS, ACREAGE ALLOTMENTS, AND PRODUCTION ADJUSTMENT—TOBACCO

Legal Authority: 7 USC 1301 et seq; The Agricultural Adjustment Act of 1938, Sec 301 et seq

CFR Citation: 07 CFR 723; 07 CFR 724; 07 CFR 725; 07 CFR 726

Legal Deadline: None

Abstract: This action would simplify the regulations that implement the

USDA—ASCS

Completed Actions

tobacco marketing quota and acreage allotment programs by consolidating 7 CFR Parts 723, 724, 725, and 726 into a new Part 723. This action would also amend the regulations to include Puerto Rico (type 46) tobacco, for which producers recently approved marketing quotas for the 1989-91 crops, and would delete obsolete and unnecessary provisions. No substantive changes to current regulations would be included. No cost to the Government is expected.

Timetable:

Action	Date	FR Cite
NPRM	06/20/90	55 FR 25096
Final Action	10/01/90	55 FR 39913

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory and Economic, Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3226-S P.O. Box 2415, Washington DC 20013, 202 475-3648

RIN: 0560-AB62

BILLING CODE 3410-05-T

DEPARTMENT OF AGRICULTURE (USDA)

Animal and Plant Health Inspection Service (APHIS)

Proposed Rule Stage

39. REVISION OF 7 CFR 319.56, IMPORTATION OF FRUITS AND VEGETABLES

Significance: Regulatory Program

Legal Authority: 7 USC 150dd to 150ff; 7 USC 154; 7 USC 155; 7 USC 157; 7 USC 159; 7 USC 160; 7 USC 162; 7 USC 164a

CFR Citation: 7 CFR 319.56

Legal Deadline: None

Abstract: An increased number of exotic pests have been introduced recently into the United States. Some of these pests may have arrived on importations of fruits and vegetables. Since these pests are capable of causing extensive economic damage, APHIS is considering the development of an improved system for determining the entry status of agricultural products, particularly fruits and vegetables.

Timetable:

Action	Date	FR Cite
NPRM	09/00/91	
Public Hearing to Discuss Issues raised in NPRM	10/00/91	
NPRM Comment Period End	12/00/91	
Interim Final Rule	00/00/00	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Frank Cooper, Senior Operations Officer, Plant Protection and Quarantine, Department of Agriculture, Animal and Plant Health Inspection Service, Room 632 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8393

RIN: 0579-AA12

40. IMPORTATION OF NURSERY STOCK, PLANTS, ROOTS, BULBS, SEEDS, AND OTHER PLANT PRODUCTS- PHASE I

Significance: Agency Priority

Legal Authority: 7 USC 150dd to 150ff; 7 USC 154; 7 USC 155; 7 USC 157; 7 USC 159; 7 USC 160; 7 USC 162; 7 USC 164a

CFR Citation: 7 CFR 319.37

Legal Deadline: None

Abstract: To prevent the introduction of plant pests and diseases, Plant Protection and Quarantine (PPQ) prohibits or restricts the importation of living plants, roots, bulbs, seeds, and related articles. PPQ is updating the lists of prohibited and restricted articles and is revising the regulatory requirements for importation of various articles. These revisions will allow the importation of certain living plants and related articles under appropriate regulatory controls, and will prohibit the importation of other living plants and related articles.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
Public Hearing	01/00/91	
NPRM Comment Period End	02/00/91	
Final Action	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Frank Cooper, Senior Operations Officer, Port Operations Staff, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Federal Building, Room 632, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8645

RIN: 0579-AA21

41. EXOTIC NEWCASTLE DISEASE IN ALL BIRDS AND POULTRY; PSITTACOSIS AND ORNITHOSIS IN POULTRY

Significance: Regulatory Program

Legal Authority: 21 USC 111 to 113; 21 USC 115; 21 USC 117; 21 USC 120; 21 USC 123 to 126; 21 USC 134b; 21 USC 134f

CFR Citation: 9 CFR 82

Legal Deadline: None

Abstract: Exotic Newcastle Disease (also known as viscerotropic velogenic Newcastle disease and as VVND) and psittacosis or ornithosis (now generally referred to as chlamydiosis) are communicable diseases of birds and poultry. The spread of these diseases in the United States could have serious consequences for the United States poultry industry. A review of the Department's regulations to prevent the interstate spread of these diseases indicates the need for a complete revision to make the regulations more effective and to increase compliance with them.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	00/00/00	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

USDA—APHIS

Proposed Rule Stage

Government Levels Affected: Undetermined

Agency Contact: M. A. Mixson, Chief Staff Veterinarian, Department of Agriculture, Animal and Plant Health Inspection Service, Federal Building, Room 747, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8073

RIN: 0579-AA22

42. ANIMALS DESTROYED BECAUSE OF SCRAPIE

Significance: Regulatory Program

Legal Authority: 21 USC 111; 21 USC 114; 21 USC 114a; 21 USC 134a; 21 USC 134b; 21 USC 134c; 21 USC 134d; 21 USC 134e; 21 USC 134f; 21 USC 134g; 21 USC 134h

CFR Citation: 9 CFR 54

Legal Deadline: None

Abstract: Under the Scrapie Eradication Program and the regulations in 9 CFR Part 54, indemnity for an animal destroyed because of scrapie, a highly transmissible and fatal disease of the central nervous system of sheep and goats, is paid to its owner at fair market value, not to exceed $300 per head. Under the present program, indemnities are paid for affected and bloodline animals only. There is no diagnostic test for the disease and no treatment. The existing Scrapie Eradication Program is not federally mandated and depends upon state efforts and funds, industry cooperation, and reporting by flock owners. APHIS is considering the regulatory option of negotiated rulemaking in order to develop a program which will satisfy animal health needs, industry needs, and State and Federal governmental needs.

Timetable:

Action	Date	FR Cite
ANPRM	11/02/88	53 FR 44200
ANPRM Comment Period End	03/06/89	
NPRM	07/13/89	54 FR 29576
Notice-Intent to Form Advisory Committee Negotiated Rulemaking	02/26/90	55 FR 6662
Notice of Meeting	04/19/90	55 FR 14843
Notice of Meeting	06/18/90	55 FR 24914
Notice of Meeting	07/25/90	55 FR 30259
Notice of Meeting	08/23/90	55 FR 34561
Notice of Meeting	09/26/90	55 FR 39311

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Agency Contact: William E. Ketter, Chief, Staff Veterinarian, Veterinary Services, Department of Agriculture, Animal and Plant Health Inspection Service, Room 760, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8954

RIN: 0579-AA24

43. IMPORTED FIRE ANT

Significance: Regulatory Program

Legal Authority: 7 USC 150bb; 7 USC 150dd; 7 USC 150ee; 7 USC 150ff; 7 USC 161 to 162; 7 USC 164 to 167

CFR Citation: 7 CFR 301

Legal Deadline: None

Abstract: The Department is proposing to revise "Subpart--Imported Fire Ant," which contains quarantine and interstate movement regulations for the containment and control of this destructive plant pest. Executive Order 12291 and Department Regulation 1512-1 require that agencies initiate reviews of currently effective rules to bring about the goal of reduction of regulatory burdens and to minimize impacts on small entities. The proposed rule is part of the scheduled review of "Subpart--Imported Fire Ant" to meet regulatory review requirements. Revising the regulations would make them easier to understand, thereby increasing compliance and the effectiveness of the regulations in preventing the interstate spread of the imported fire ant.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Mike Stefan, Assistant Operations Officer, Plant Protection and Quarantine, Department of Agriculture, Animal and Plant Health Inspection Service, Room 661 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-6365

RIN: 0579-AA25

44. IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS—COMMUNICABLE ANIMAL DISEASES

Significance: Agency Priority

Legal Authority: 7 USC 1622; 19 USC 1306; 21 USC 102 to 105; 21 USC 111; 21 USC 134a; 21 USC 134b; 21 USC 134c; 21 USC 134d; 21 USC 134f; 21 USC 135; 31 USC 9701

CFR Citation: 9 CFR 92

Legal Deadline: None

Abstract: The Department currently regulates the importation of certain animals and animal products to prevent the introduction of communicable animal diseases into the United States. With certain exceptions, most animals imported into the United States must be quarantined upon arrival at facilities operated by the Federal Government; only sheep, birds, and horses may be quarantined in privately-operated facilities. Some importers have expressed interest, however, in importing ruminants and swine, other than sheep, in greater numbers per shipment than can be handled at existing Federal facilities. The Department is considering amending the regulations to allow all species of domesticated ruminants and swine, from countries free of certain serious diseases, to be quarantined upon arrival in the United States at privately operated facilities.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	02/00/91	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ian Robeson, Senior Staff Veterinarian, Import-Export Animals Staff, Department of Agriculture, Animal and Plant Health Inspection Service, Room 764 Federal

USDA—APHIS **Proposed Rule Stage**

Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8144

RIN: 0579–AA28

45. NOTICE OF INTENT TO REGULATE HORSES AND FARM ANIMALS AND ACTIVITIES INVOLVING THESE ANIMALS UNDER THE ANIMAL WELFARE ACT, ADVANCE NOTICE OF PROPOSED RULEMAKING

Significance: Agency Priority

Legal Authority: 7 USC 2131 to 2157

CFR Citation: 9 CFR 1; 9 CFR 2; 9 CFR 3

Legal Deadline: None

Abstract: The Department is authorized to regulate the treatment of certain horses and other farm animals under the Animal Welfare Act (the Act). Under the Act, the Department is authorized to regulate the treatment of horses used for research purposes, and is authorized to regulate the treatment of other farm animals, unless those animals are used or intended for use as food or fiber, for breeding management or production efficiency, or for improving the quality of food fiber. As a matter of policy, however, the Department has not been regulating such horses and other farm animals. However, because of the increasing use of these animals for research purposes, the Department is giving notice of its intent to regulate such animals, and is requesting comments on standards to be developed for the inclusion of these animals under the regulations. These actions will help ensure that the animals are treated humanely, in accord with the Act.

Timetable:

Action	Date	FR Cite
ANPRM	04/05/90	55 FR 12667
Notice to extend commend period	06/12/90	55 FR 23748
Notice to extend comment period	07/12/90	55 FR 28636
ANPRM Comment Period End	09/10/90	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Helene R. Wright, Chief, Regulatory Analysis, Policy and Program Development, Department of Agriculture, Animal and Plant Health Inspection Service, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8682

RIN: 0579–AA31

46. NATIONAL ENVIRONMENTAL POLICY ACT IMPLEMENTING REGULATIONS

Significance: Regulatory Program

Legal Authority: 40 USC 4321

CFR Citation: 7 CFR 372 (New)

Legal Deadline: None

Abstract: The National Environmental Policy Act (NEPA) (42 USC 4321, et. seq.) and the regulations promulgated by the Council on Environmental Quality (CEQ) (40 CFR 1500 et. seq.) require that every Federal Agency establish procedures to implement NEPA. The proposed APHIS NEPA Implementing Regulations have been developed to ensured compliance with NEPA and are consistent with the Regulations of CEQ for Implementing the Procedural Provisions of NEPA (40 CFR 1500-1509) and the USDA Regulations for Implementing NEPA (7 CFR lb). These Agency-specific regulations will enable APHIS decision makers to reach decisions in which environmental concerns are fully reviewed and will ensure timely public involvement in the NEPA process. The regulations will identify Agency actions, requirements, guidance, and references for completion of environmental assessments, and environmental reviews. The new APHIS NEPA Implementing Regulations will supersede the previous issues, APHIS Guidelines for Implementing NEPA Procedures (44 FR 50381-50384 and 44 FR 51272-51274), upon publication of the final rule.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
NPRM Comment Period End	03/00/91	
Final Action	05/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Michael Werner, Deputy Director, Environmental Documentation, Department of Agriculture, Animal and Plant Health Inspection Service, Room 828, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8682

RIN: 0579–AA33

47. CYCLICAL REVIEW OF 9 CFR PART 92, PHASE II

Significance: Regulatory Program

Legal Authority: 7 USC 1622; 19 USC 1306; 21 USC 102; 21 USC 103; 21 USC 104; 21 USC 105; 21 USC 111; 21 USC 134a; 21 USC 134b; 21 USC 134c; 21 USC 134d; 21 USC 134f; 21 USC 135; 31 USC 9701

CFR Citation: 9 CFR 92

Legal Deadline: None

Abstract: The Department intends to reorganize and revise the regulations in 9 CFR Part 92, which, among other things, govern the importation into the United States of certain animals and poultry, and certain animal and poultry products. Executive Order 12291 and Departmental Regulation 1512-1 require that agencies periodically review current regulations. The Cyclical Review of Part 92 is such a review. Reorganizing and revising the regulations in Part 92 would make them easier to understand, thereby increasing compliance and the effectiveness of the regulations in preventing the introduction into the United States of various diseases of livestock and poultry.

The Department is conducting this Cyclical Review in several phases. Phase II is a revision of a portion of the existing regulations. Later phases will consist of revisions of other portions of the existing regulations.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	
NPRM Comment Period End	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Helene R. Wright, Chief, Regulatory Analysis, Policy and Program Development, Department of Agriculture, Animal and Plant Health Inspection Service, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8682

RIN: 0579–AA34

48. IMPORTATION OF CERTAIN ANIMAL EMBRYOS

Significance: Agency Priority

Legal Authority: 21 USC 103; 21 USC 104; 21 USC 105; 21 USC 111; 21 USC 134a; 21 USC 134b; 21 USC 134c; 21 USC 134d; 21 USC 134f

CFR Citation: 9 CFR 98

Legal Deadline: None

Abstract: The Department regulates the importation of certain animals, animal products, and animal embryos, to prevent the introduction of communicable animal diseases into the United States. Under the current regulations, cattle embryos may not be imported into the United States from countries where rinderpest or foot-and-mouth disease exists. This limits the importation of cattle germplasm to live animals and semen. Live cattle from countries where rinderpest or foot-and-mouth disease exist may be imported through the Harry S. Truman Animal Import Center; importations of animal semen do not provide complete genetics. The Department is considering amending the regulations to establish conditions under which cattle embryos could be imported from countries where rinderpest or foot-and-mouth disease exists.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	01/00/91	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mark Teschmann, Staff Veterinarian, Import-Export Animals Staff, Department of Agriculture, Animal and Plant Health Inspection Service, Room 764, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8695

RIN: 0579–AA35

49. GYPSY MOTH

Significance: Agency Priority

Legal Authority: 7 USC 150(dd) to 150(ff); 7 USC 161; 7 USC 162; 7 USC 164 to 167; 7 USC 150(bb)

CFR Citation: 7 CFR 301.45

Legal Deadline: None

Abstract: Current regulations quarantine certain States to control Gypsy Moth, establish high-risk and low-risk regulated areas within those States, and restrict the interstate movement of regulated articles and outdoor household articles from regulated areas. Plant Protection and Quarantine is developing new definitions and restrictions for these areas and articles to more effectively control Gypsy Moth.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	02/00/91	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas Flanigan, Operations Officer, Operational Support, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Room 646, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8247

RIN: 0579–AA39

50. RUMINANTS AND SWINE IMPORTED FROM FOOT-AND-MOUTH-DISEASE COUNTRIES

Significance: Agency Priority

Legal Authority: 7 USC 1622; 19 USC 1306; 21 USC 102 to 105; 21 USC 111; 21 USC 134a to 134d; 21 USC 134f; 21 USC 135; 31 USC 9701

CFR Citation: 9 CFR 92

Legal Deadline: None

Abstract: Current regulations prohibit, with certain limited exceptions, the importation of ruminants and swine from countries where foot-and-mouth disease (FMD) exists. However, the regulations are unclear with respect to the application of this prohibition to animals that originate in an FMD country but are moved to a FMD-free country and are then offered for importation into the United States. Veterinary Services is developing regulations to clarify import restrictions for these situations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	02/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Samuel Richeson, Senior Staff Veterinarian, Import-Export Products Staff, VS, Department of Agriculture, Animal and Plant Health Inspection Service, Room 759, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8144

RIN: 0579–AA40

51. IMPORTATION OF NURSERY STOCK PLANTS, ROOTS, BULBS, SEEDS, AND OTHER PLANT PRODUCTS - PHASE II

Significance: Regulatory Program

Legal Authority: 7 USC 150dd to 150ff; 7 USC 154; 7 USC 155; 7 USC 157; 7 USC 159; 7 USC 160; 7 USC 162; 7 USC 164a

CFR Citation: 7 CFR 319.37

Legal Deadline: None

Abstract: To prevent the introduction of plant pests and diseases, Plant Protection and Quarantine prohibits or restricts the importation of living plants, roots, bulbs, seeds, and related articles. Plant Protection and Quarantine is updating the lists of prohibited and restricted articles and is revising the regulatory requirements for importation of various articles including imported plants established in growing media.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
NPRM Comment Period End	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Frank Cooper, Senior Operations Officer, Plant Protection and Quarantine, Department of Agriculture, Animal and Plant Health Inspection Service, Room 632, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8645

RIN: 0579–AA41

DEPARTMENT OF AGRICULTURE (USDA)
Animal and Plant Health Inspection Service (APHIS)

Final Rule Stage

52. HORSE PROTECTION INSPECTION GUIDELINES

Significance: Agency Priority

Legal Authority: 15 USC 1823 to 1825; 15 USC 1828; 44 USC 3506

CFR Citation: 9 CFR 11

Legal Deadline: None

Abstract: Horses whose treatment is regulated under the Horse Protection Act are subject to inspection by licensed Designated Qualified Persons (DQP's). As part of the licensing process, DQP's are trained in procedures for examining a horse prior to exhibition. However, the regulations in 9 CFR Part 11 do not contain detailed procedures for conducting inspections. In order to ensure a uniform and adequate inspection of all horses examined by DQP's, the Department is proposing to add such detailed procedures to the regulations. Setting forth these procedures will enable DQP's to better protect horses through more thorough and uniform inspections.

Timetable:

Action	Date	FR Cite
NPRM	03/28/90	55 FR 11385
NPRM Comment Period End	04/27/90	
Final Action	10/00/90	
Final Action Effective	11/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Helene R. Wright, Chief, Regulatory Analysis, Policy and Program Development, Department of Agriculture, Animal and Plant Health Inspection Service, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8682

RIN: 0579–AA32

53. IMPORTATION OF HORSES FROM COUNTRIES AFFECTED WITH CONTAGIOUS EQUINE METRITIS

Significance: Agency Priority

Legal Authority: 7 USC 1622; 19 USC 1306; 21 USC 102 to 105; 21 USC 111; 21 USC 134a to 134d; 21 USC 134f; 21 USC 135; 31 USC 9701

CFR Citation: 9 CFR 92

Legal Deadline: None

Abstract: The regulations covering importation of horses from countries affected with Contagious Equine Metritis (CEM) contain requirements for testing and treating horses in the country of origin. Some of the requirements are duplicative of requirements in the United States. Also, the removal of the clitoral sinuses, required of some mares in the country of origin, could be done in the United States without increasing disease risks. The Department is proposing to amend the regulations to eliminate unnecessary testing and treatment in the country of origin and to allow clitoral sinusectomies to be carried out in the United States. These amendments would eliminate unnecessary restrictions from the regulations, while continuing to ensure that CEM is not introduced into the United States. Also, the regulations do not provide criteria for the approval of laboratories in the United States for CEM culturing and testing. The Department is proposing to add such criteria. Such criteria would help ensure that CEM culturing and testing in the United States is being done accurately.

Timetable:

Action	Date	FR Cite
NPRM	06/01/90	55 FR 22338
NPRM Comment Period End	07/31/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: William Kotter, Chief Staff Veterinarian, Department of Agriculture, Animal and Plant Health Inspection Service, Room 768, Federal Building, 6505 Belcrest Roda, Hyattsville, MD 20782, 301 436-8954

RIN: 0579–AA36

54. HONEYBEES AND HONEYBEE SEMEN; REMOVING CERTAIN RESTRICTIONS ON HONEYBEES AND HONEYBEE SEMEN FROM NEW ZEALAND

Significance: Agency Priority

Legal Authority: 7 USC 281

CFR Citation: 7 CFR 322

Legal Deadline: None

Abstract: The regulations governing the importation into the United States of honeybees and honeybee semen, set forth the criteria for determining which countries may import honeybees and honeybee semen and under what conditions. This change will allow the importation of honeybees and honeybee semen from New Zealand, for other than research purposes, if accompanied by a certificate of origin.

Timetable:

Action	Date	FR Cite
NPRM	02/06/90	55 FR 3968
Extension of Comment Period	03/02/90	55 FR 7499
NPRM Comment Period End	04/02/90	
Final Action	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Philip J. Lima, Staff Specialist, Department of Agriculture, Animal and Plant Health Inspection Service, Room 624, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8677

RIN: 0579–AA37

55. IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS—PREVENTION OF POULTRY DISEASES

Significance: Agency Priority

Legal Authority: 7 USC 1622; 19 USC 1306; 21 USC 102 to 105; 21 USC 111; 21 USC 134a to 134d; 21 USC 134f; 21 USC 135; 31 USC 9701

CFR Citation: 9 CFR 92

Legal Deadline: None

Abstract: The Department currently regulates the importation of poultry and poultry products, including eggs for hatching, to prevent the introduction of certain poultry diseases into the United States. These regulations need to be revised to add restrictions to prevent the introduction of Salmonella enteritidis, serotype enteritidis, phage-type 4 (referred to below as S. enteritidis, phage-type 4), a virulent type of Salmonella that has not been detected in poultry flocks in the United States. Canada is the only country other than the United States in which poultry flocks are recognized as being free of S. enteritidis, phage-type 4. Because poultry and poultry eggs for hatching are being imported from countries where this organism is considered to exist, the Department needs to take prompt action to prevent

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its introduction into the United States. Safeguards under consideration include testing of individual poultry of the flock of origin in the country of origin, and testing and inspection during quarantine in the United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/91	
Interim Final Rule Comment Period End	07/00/91	
Final Action	11/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Keith Hand, Senior Staff Veterinarian, Import-Export Animal Staff, Department of Agriculture, Animal and Plant Health Inspection Service, Room 830, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8172

RIN: 0579–AA38

DEPARTMENT OF AGRICULTURE (USDA)

Animal and Plant Health Inspection Service (APHIS)

Completed Actions

56. ANIMAL WELFARE REGULATIONS; STANDARDS

Significance: Regulatory Program

CFR Citation: 9 CFR 3.1 to 3.17 (Revision); 9 CFR 3.25 to 3.41 (Revision); 9 CFR 3.75 to 3.91 (Revision)

Completed:

Reason	Date	FR Cite
Final Action	07/16/90	55 FR 28879
Final Action Effective	08/15/90	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Agency Contact: Morley Cook 301 436-6491

RIN: 0579–AA20

57. REVISION OF 7 CFR 319.56, IMPORTATION OF FRUITS AND VEGETABLES

Significance: Regulatory Program

CFR Citation: 7 CFR 319.56

Completed:

Reason	Date	FR Cite
RIN Changed to Regulatory Program RIN 0579-AA12	07/23/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Frank Cooper 301 436-8383

RIN: 0579–AA23

58. CITRUS CANKER

Significance: Agency Priority

CFR Citation: 7 CFR 301.75

Completed:

Reason	Date	FR Cite
Final Action	09/11/90	55 FR 37442
Final Action Effective	09/18/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Eddie W. Elder 301 436-6365

RIN: 0579–AA29

59. CYCLICAL REVIEW OF 9 CFR PART 92, PHASE I

Significance: Regulatory Program

CFR Citation: 9 CFR 92

Completed:

Reason	Date	FR Cite
Final Action	08/02/90	55 FR 31485
Final Action Effective	08/02/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Helene R. Wright 301 436-8532

RIN: 0579–AA30

BILLING CODE 3410-34-T

DEPARTMENT OF AGRICULTURE (USDA)

Cooperative State Research Service (CSRS)

Prerule Stage

60. ◎ HIGHER EDUCATION CHALLENGE GRANTS PROGRAM; ADMINISTRATIVE PROVISIONS

Significance: Agency Priority

Legal Authority: 7 USC 3152

CFR Citation: 7 CFR 3405

Legal Deadline: None

Abstract: Regulation will establish the procedures to be followed annually in the solicitation of proposals, the evaluation of such proposals, and the award of project grants under the Higher Education Challenge Grants Program.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Louise Ebaugh, Grant Program Specialist, Department of Agriculture, Cooperative State Research Service, Rm 305-A Administrative Building, 14th & Independence Ave SW., Washington DC 20250-2200, 202 447-7854

RIN: 0524–AA02

DEPARTMENT OF AGRICULTURE (USDA)
Cooperative State Research Service (CSRS)

Proposed Rule Stage

61. RESEARCH GUIDELINES FOR THE PLANNED INTRODUCTION INTO THE ENVIRONMENT OF ORGANISMS WITH MODIFIED HEREDITARY TRAITS

Significance: Regulatory Program

Legal Authority: PL 99-198 Food Security Act of 1985; 7 USC 450(h); 7 USC 3121(12); National Agr. Research Ext. and Teaching Policy Act of 1977; Sec 1405(12) as amended

CFR Citation: 7 CFR 3015.205; 7 CFR 3200.4(d)(7); 7 CFR 3400.4(c)(12); 7 CFR 1b; 7 CFR 2.30(e)

Legal Deadline: None

Abstract: USDA/CSRS is in the process of developing Research Guidelines for the Planned Introduction into the Environment of Organisms with Modified Hereditary Traits. USDA plans to publish these research guidelines for public comment including several public meeting across the country. The Department's current intent is to use these research guidelines as an internal policy instrument to assist agricultural researchers and USDA research funding agencies in satisfying their obligations under the National Environmental Policy Act.

Timetable:

Action	Date	FR Cite
ANPRM	06/26/86	51 FR 23367
ANPRM Comment Period End	09/26/86	
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Alvia Young, Director, Office of Agricultural Biotechnology, Department of Agriculture, Cooperative State Research Service, Room 321-A, 14th and Independence Ave., SW., Washington, DC 20250, 202 447-9185

RIN: 0524-AA00

62. ● AGENCY PROCEDURES TO IMPLEMENT THE NATIONAL ENVIRONMENTAL POLICY ACT

Significance: Agency Priority

Legal Authority: 42 USC 4321 et seq; EO 11514; EO 11991; EO 12144; 5 USC 301

CFR Citation: 7 CFR 3704

Legal Deadline: None

Abstract: The Cooperative State Research Service (CSRS) of the USDA is proposing regulations for agency compliance with the National Environmental Policy Act (NEPA). These regulations will provide the framework for assuring consideration of environmental perspectives in agency decisionmaking.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patrick Canole, Assistant to the Administrator, Cooperative State Research Service, Department of Agriculture, Cooperative State Research Service, Rm 305-A Administration Building, 14th & Independence Ave., SW., Washington DC 20250-2200, 202 447-4423

RIN: 0524-AA01

63. ● 1890 INSTITUTION CAPACITY BUILDING GRANTS PROGRAM; ADMINISTRATIVE PROVISIONS

Significance: Agency Priority

Legal Authority: 7 USC 3318

CFR Citation: 7 CFR 3406

Legal Deadline: None

Abstract: Regulation will establish the procedures to be followed annually in the solicitation of proposals, the evaluation of such proposals, and award of project grants under the 1890 Institution Capacity Building Grants Program.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Louise Ebaugh, Grant Program Specialist, Department of Agriculture, Cooperative State Research Service, Rm 305-A Administration Building, 14th & Independence Ave SW., Washington DC 20250-2200, 202 447-7854

RIN: 0524-AA03

BILLING CODE 3410-09-T

DEPARTMENT OF AGRICULTURE (USDA)
Farmers Home Administration (FmHA)

Proposed Rule Stage

64. PROPERTY MANAGEMENT

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301; 7 CFR 2.23; 7 CFR 2.70

CFR Citation: 7 CFR 1955

Legal Deadline: None

Abstract: Create a new Subpart D to cover liquidation of Single Family Housing (SFH) loans, and management and sale of SFH inventory property; and revise existing Subparts A, B, and C to have them apply to all programs other than SFH. Costs to create new subpart and revise and/or amend existing ones is minimal and would enhance all programs' ability to revise and/or amend the regulations with reduced clearances and provide personnel with clearer and simpler regulations to follow and implement. Will avoid "tie-up" of the regulations for one program subject to changes mandated by legislation or court order for another program, such as SFH changes being held up subject to Farmer Program changes being completed as has frequently been the case.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	
NPRM Comment Period End	04/00/91	
Final Action	10/00/91	
Final Action Effective	11/00/91	

Small Entities Affected: None

USDA—FmHA

Proposed Rule Stage

Government Levels Affected: Undetermined

Additional Information: Action on this project was effectively paralyzed during calendar year 1988 by extensive changes by Farmer Programs pursuant to the Agriculture Act of 1987.

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA03

65. HOUSING PRESERVATION GRANTS

Legal Authority: 42 USC 1490 (m)

CFR Citation: 7 CFR 1944, Subpart N

Legal Deadline: None

Abstract: Expansion of HPG program to include residential rental properties (single and multi-unit) and cooperative housing. Maintain availability of adequate and decent, safe, and sanitary rental housing for very low and low income individuals and families in the rural areas. Compliance with the Housing and Urban Recovery Act of 1983 and Community Development Act of 1987.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	
NPRM Comment Period End	04/00/91	
Final Action	10/00/91	
Final Action Effective	11/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA16

66. RECAPTURE OF SECTION 502 RURAL HOUSING SUBSIDY

Significance: Agency Priority

Legal Authority: 42 USC 1480; 5 USC 301; 7 CFR 2.23; 7 CFR 2.70

CFR Citation: 7 CFR 1951 Subpart I

Legal Deadline: None

Abstract: The Farmers Home Administration (FmHA) proposes to revise the regulation for the recapture of subsidy granted on Section 502 Rural Housing Loans. This action is necessary because of an accounting system change resulting from the September 1987 congressionally mandated rural housing asset sale. The intended effect of this action is to adjust the formula to coincide with the revised method of applying monthly subsidy to interest credit accounts. In addition, this action will also shorten and simplify the recapture process.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	02/00/91	
Final Action	06/00/91	
Final Action Effective	07/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA29

67. SECTION 502 RURAL HOUSING LOAN POLICIES, PROCEDURES, AND AUTHORIZATIONS

Significance: Agency Priority

Legal Authority: 42 USC 1480; 7 CFR 2.23; 7 CFR 2.70

CFR Citation: 7 CFR 1944-A

Legal Deadline: None

Abstract: Address and clarify items to improve program (child support, unemployment compensation, etc.). Revise cost containment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	02/00/91	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348, South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA35

68. SECURITY SERVICING FOR MULTIPLE HOUSING LOANS

Legal Authority: 42 USC 1480

CFR Citation: 7 CFR 1930; 7 CFR 1944; 7 CFR 1965; 7 CFR 1956, Subpart B

Legal Deadline: None

Abstract: This regulation is being revised to provide clarification on the processing differences between membership changes and transfers, to broaden the ability to consolidate and reamortize loans, to clarify actions to be taken during a bankruptcy, and to clarify and discuss the classification of problem loans and their resolution, along with other minor revisions. These revisions are needed so as to provide more complete guidance to field staff and borrowers on the topics discussed above. Potential costs consist of administrative time involved with Agency personnel drafting and completing regulation. No alternatives were identified as being appropriate to address the several problems being corrected with this regulation. Regulations to broaden the ability to consolidate and reamortize loans were issued for prior rulemaking (FR Vol. 54 Nbr. 248) on December 28, 1989 with public comments accepted through February 26, 1990. Regulations governing multi-housing debt settlements were published for prior rulemaking (FR Vol. 54 Nbr. 133) on July 18, 1989 and the public comment period has closed.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348, South

Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA38

69. BORROWER SUPERVISION SERVICING AND COLLECTION OF SINGLE FAMILY HOUSING LOAN ACCOUNTS

Legal Authority: 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 2.23; 7 CFR 2.70

Legal Deadline: None

Abstract: Provide for change in definition of delinquent account and certain other changes.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA42

70. MANAGEMENT AND SUPERVISION OF MULTIPLE FAMILY HOUSING BORROWERS AND GRANT RECIPIENTS

Legal Authority: 42 USC 1480

CFR Citation: 7 CFR 1930, Subpart C; 7 CFR 1944, Subpart E

Legal Deadline: None

Abstract: General revision to keep the regulations current with policy clarification and incorporate changes to comply with recent legislative changes. Alternatives were to not revise or only incorporate some changes.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA49

71. REAL PROPERTY INSURANCE

Significance: Agency Priority

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1806

Legal Deadline: None

Abstract: To update and clarify insurance requirements for FmHA owners.

Timetable:

Action	Date	FR Cite
NPRM	02/28/91	
NPRM Comment Period End	04/28/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348, South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA53

72. SECONDARY MARKET FOR FARMER PROGRAM LOANS

Significance: Regulatory Program

Legal Authority: 7 USC 1988 Consolidated Farm and Rural Devel. Act (amendment); PL 100-233 Sec 711 Agricultural Credit Act of 1987

CFR Citation: 7 CFR 1980

Legal Deadline: Final, Statutory, July 6, 1988.
PL 100-233, Sec 711, states: "Within 180 days after the date of the enactment of this Act, the Secretary shall develop and promulgate final regulations to implement this section (cont)

Abstract: Legislation mandates that the Secretary develop procedures to facilitate, administrate and promote secondary market operations for FmHA guaranteed farm loans. It is suggested that the Secretary, directly or through a market maker, provide for the pooling of guaranteed loans and the issuance and sale of certificates backed by those loan pools. Through this procedure, secondary market activities could be promoted and expanded, thereby increasing the supply of loan money in rural areas to allow rural banks to increase their lending activity to farmers, rural businessmen and residents. Obtaining the services of a private agent to act as a central registry and fiscal agent is the favored alternative expected to successfully meet the legislative mandate. Another alternative considered is establishing an in-house capability to track the sale of guaranteed loans and trans'e: payments as required, but this option would require substantial personnel and other Agency resources and would prove extremely expensive.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis

Additional Information:

LEGAL DEADLINE CONT: and the Amendment made by this section."

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA59

73. FARM LABOR HOUSING LOAN AND GRANT POLICIES, PROCEDURES, AND AUTHORIZATIONS

Legal Authority: 42 USC 1484; 42 USC 1486

CFR Citation: 7 CFR 1944, Subpart D

Legal Deadline: None

Abstract: The Farmers Home Administration (FmHA) proposes to amend its Farm Labor Housing regulations. This action is in response to the general public and FmHA staff requests for clarification of the Farm Labor Housing regulations. The intended effect is to provide more comprehensive guidance to applicants when applying for farm labor housing loans and grants: (1) make certain paragraphs consistent with other related parts and other housing regulations; (2) redefine terminology to ensure appropriate implementation of

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program eligibility standards: (3) incorporate provision of the Housing and Urban Recovery Act of 1983; housing amendments of 1984, 85 and 86; and (4) provide direction to FmHA State and District Office personnel through separate processing instructions.

Timetable:

Action	Date	FR Cite
NPRM	10/01/90	55 FR 39682
NPRM Comment Period End	11/30/90	
Final Action	04/00/91	
Final Action Effective	06/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575-AA60

74. CHANGES TO FARMERS HOME ADMINISTRATION (FMHA) GUARANTEED LOAN MAKING AND SERVICING REGULATIONS AS A RESULT OF A STUDY OF THE PROGRAM REQUESTED BY OMB

Significance: Agency Priority

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301; 7 CFR 2.23; 7 CFR 2.70

CFR Citation: 7 CFR 1980

Legal Deadline: None

Abstract: This revision will propose changes as deemed appropriate as a result of the study to be made which was recommended by OMB recently. Potential costs and benefits will not be known until the recommendations have been made and a criterion of changes established.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575-AA66

75. RURAL RENTAL HOUSING LOAN POLICIES, PROCEDURES AND AUTHORIZATIONS —PROCESSING PREAPPLICATIONS

Legal Authority: 42 USC 1485

CFR Citation: 7 CFR 1944 Subpart E

Legal Deadline: None

Abstract: Revise and simplify the manner in which Multifamily Housing preapplications are rated, ranked, and funded. And add provisions for cooperation between FmHA and HUD when working in the same market area.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
NPRM Comment Period End	03/00/91	
Final Action	07/00/91	
Final Action Effective	09/00/91	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575-AA67

76. SERVICING CASES WHERE UNAUTHORIZED LOAN OR OTHER FINANCIAL ASSISTANCE WAS RECEIVED - MULTIPLE FAMILY HOUSING

Legal Authority: 42 USC 1480; 42 USC 2.942

CFR Citation: 7 CFR 1951

Legal Deadline: None

Abstract: General revision to keep the regulation current with the clarification of policy and incorporation of changes regarding automated processing of payments. The alternative was to not make the revision.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Farmers Home Administration, USDA, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575-AA69

77. FARMER PROGRAM LOANS

Significance: Regulatory Program

Legal Authority: 7 USC 1989

CFR Citation: 7 CFR 1980

Legal Deadline: None

Abstract: The problem is the need to reduce the Government's cost of providing financial assistance to Farmer Programs Borrowers. Lenders and Loan applicants prefer that applicants use the insured loan programs rather than the guaranteed programs due to the lower interest rates on insured loans. This regulation will provide for a government subsidy to lenders for interest rates for guaranteed Farmer Programs loans so the borrower will be paying interest rates for guaranteed loans that is similar to insured loans. This should provide an incentive for using the guaranteed loan program. The potential cost to the Government will be reduced as the Government will only pay a lender up to 90 percent of the losses on loans and only part of the interest rate rather than loaning a borrower the full amount of the loan and paying an investor the full cost of the Government borrowing the money for an insured loan. The benefit is that the borrower will be paying an interest rate for guaranteed loans that is comparable to that for insured loans, the lender will receive the subsidy for the lower interest rate, and the Government (cont)

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

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Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: will reduce the amount of money needed for the program. The alternative is to continue with the present program.

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, D. C. 20250, 202 382-9744

RIN: 0575–AA80

78. CONSERVATION EASEMENTS ON INVENTORY PROPERTY

Significance: Regulatory Program

Legal Authority: 7 USC 1989

CFR Citation: 7 CFR 1951; 7 CFR 1955

Legal Deadline: None

Abstract: Present regulations require the Agency to place conservation easements on inventory farm property. Previous owner and operators have the option of leasing back or buying back such property from inventory. This regulation revision will allow these parties to lease or buy these properties back with limited easements. There should be little cost involved for the Government as the value of the easement is reflected in the lease or sale value of the property. It is estimated that less than seven percent of the inventory farm property is involved. The benefit is that the previous owner/operator will receive the property back in a similar condition as when it was taken into inventory, and the Federal Government will be taking affirmative action to reduce wetland loss.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, D. C. 20250, 202 382-9744

RIN: 0575–AA81

79. CIVIL RIGHTS COMPLIANCE REQUIREMENTS - 1940-D

Significance: Agency Priority

Legal Authority: 7 USC 1989; 42 USC 1840; 5 USC 301; 16 USC 3844; 40 USC 442; 42 USC 2942; EO 11246

CFR Citation: 7 CFR 15; 7 CFR 2.23; 7 CFR 2.70

Legal Deadline: None

Abstract: Will effectuate a comprehensive civil rights regulation implementing the following laws: The Equal Credit Opportunity Act (ECOA), Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (The Fair Housing Act), Title VI of the Civil Rights Act of 1964 (Title VI) Section 504 of the Rehabilitation Act of 1973 (Section 504), The Age Discrimination Act of 1975, and Executive Order 11246.

The revised regulations will provide detailed guidelines for field officers for improved enforcement and compliance with these laws which heavily impact FmHA's programs. Mechanisms for monitoring compliance by field officers and recipients of FmHA's financial assistance at all levels will decrease the Agency's vulnerability due to noncompliance with recently enacted civil rights legislation.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, D. C. 20250, 202 382-9744

RIN: 0575–AA83

DEPARTMENT OF AGRICULTURE (USDA)
Farmers Home Administration (FmHA)

Final Rule Stage

80. SELF-HELP TECHNICAL ASSISTANCE GRANTS

Legal Authority: 7 USC 1989; 42 USC 1480; 7 CFR 2.23; 7 CFR 2.70

CFR Citation: 7 CFR 1944-I

Legal Deadline: None

Abstract: Complete revision to improve grantee's accounting responsibilities. Benefits reduce possibility of program fraud and abuse. Increase borrower's labor contribution.

Timetable:

Action	Date	FR Cite
NPRM	04/25/89	54 FR 17751
NPRM Comment Period End	06/26/89	54 FR 17751
Final Action	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348, South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA34

81. MANAGEMENT AND COLLECTION OF NONPROGRAM (NP) LOANS

Significance: Agency Priority

Legal Authority: 42 USC 1480; 5 USC 301; 7 CFR 2.23; 7 CFR 2.70

CFR Citation: 7 CFR 1951 Subpart J

Legal Deadline: None

Abstract: A new instruction to provide policy and guidance for FmHA field office personnel to make, manage, collect and liquidate nonprogram (NP) loans.

USDA—FmHA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	08/17/89	54 FR 33908
NPRM Comment Period End	10/16/89	54 FR 33908
Final Action	03/31/91	
Final Action Effective	04/30/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA39

82. COMPLAINTS AND COMPENSATION FOR CONSTRUCTION DEFECTS

Legal Authority: 42 USC 1479

CFR Citation: 7 CFR 1924 F

Legal Deadline: None

Abstract: Clarify handling of construction defect complaints on newly constructed homes and provide for handling of construction defect complaints on manufactured homes.

Timetable:

Action	Date	FR Cite
NPRM	07/20/90	55 FR 29597
NPRM Comment Period End	09/18/90	55 FR 29597
Final Action	03/31/91	
Final Action Effective	04/30/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA61

83. SECURITY SERVICING FOR MULTIPLE HOUSING LOANS

Significance: Agency Priority

Legal Authority: 42 USC 1480

CFR Citation: 7 CFR 1965, Subpart B; 7 CFR 1930; 7 CFR 1944; 7 CFR 1951; 7 CFR 1955

Legal Deadline: Final, Statutory, April 22, 1989.

Abstract: This revision implements Subtitle C, "Rural Rental Housing Displacement Prevention," of the Housing and Community Development Act of 1987. Since this revision is mandated by legislation, alternatives were limited. An interim final was published in the Federal Register on April 22, 1990. As a result of public comments received revisions will be needed. These revisions are scheduled for publication as a proposed rulemaking action before consideration of final rulemaking can be achieved. In this case the interim rulemaking action will not proceed directly to a final rulemaking action.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/22/88	53 FR 13244
NPRM	07/20/90	55 FR 29601
NPRM Comment Period End	09/18/90	55 FR 29601

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA51

84. SECURITY SERVICING FOR SINGLE FAMILY RURAL HOUSING LOANS

Significance: Agency Priority

Legal Authority: 42 USC 1480; 7 USC 1989; 5 USC 301; 7 CFR 2.23; 7 CFR 2.70

CFR Citation: 7 CFR 1951; 7 CFR 1965

Legal Deadline: None

Abstract: Provide for the implementation of escrow services for SFH loan accounts.

Timetable:

Action	Date	FR Cite
NPRM	09/28/89	53 FR 39742
NPRM Comment Period End	11/27/89	53 FR 39742
Final Action	12/00/90	
Final Action Effective	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA54

85. CHANGES TO THE FARMERS HOME ADMINISTRATION (FMHA) FARMER PROGRAM LOAN MAKING, SUPERVISION AND SERVICING REGULATIONS TO IMPLEMENT APPLICABLE PROVISIONS OF "THE AGRICULTURAL CREDIT ACT OF 1987"

Significance: Regulatory Program

Legal Authority: PL 100-233, Sec 601

CFR Citation: 7 CFR 1910, Subpart A; 7 CFR 1924, Subpart A; 7 CFR 1924, Subpart B; 7 CFR 1941, Subpart A; 7 CFR 1941, Subpart B; 7 CFR 1943, Subpart A; 7 CFR 1943, Subpart B; 7 CFR 1945, Subpart A; 7 CFR 1945, Subpart C; 7 CFR 1945, Subpart D; 7 CFR 1951, Subpart A; 7 CFR 1951, Subpart S (New)

Legal Deadline: Final, Statutory, June 3, 1988.

Abstract: Final revisions of the provisions to the Agriculture Credit Act of 1987 which was implemented 10/14/88.

Timetable:

Parts 1910, 1941, 1943, and 1945
- Final Action 05/25/90 (55 FR 21517)
- Final Action Effective 05/25/90

Parts 1924 and 1951
- Interim Final Rule 09/14/88 (53 FR 35838)
- Comment Period End 11/14/88
- Final Action 00/00/00

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, 14th & Independence Avenue, Washington, DC 20250, 202 382-9744

RIN: 0575–AA58

USDA—FmHA

Final Rule Stage

84. FARM LABOR LOAN AND GRANT POLICIES, PROCEDURES, AND AUTHORIZATION

Legal Authority: 42 USC 1484; 42 USC 1486

CFR Citation: 7 CFR 1930 Subpart C; 7 CFR 1944 Subpart D

Legal Deadline: None

Abstract: Revision to incorporate provisions of Housing and Community Development Act of 1987 (PL 100-242) regarding the definition of "Domestic Farmworker," that determine the eligibility of such farmworkers to occupy housing financed under the Farm Labor Housing Program. Revisions also incorporate provisions of Omnibus McKinney Homeless Assistance Act of 1988 (PL 100-628) to permit other than farmworker occupancy when no demand by such persons.

Timetable:

Action	Date	FR Cite
NPRM	04/13/89	54 FR 14822
NPRM Comment Period End	06/12/89	54 FR 14822
Final Action	12/00/90	
Final Action Effective	01/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575-AA82

87. RURAL RENTAL HOUSING LOAN POLICIES, PROCEDURES, AND AUTHORIZATIONS—COOPERATIVE HOUSING LOANS

Legal Authority: 42 USC 1485

CFR Citation: 7 CFR 1944 Subpart E; 7 CFR 1930 Subpart C; 7 CFR 1965 Subpart B; 7 CFR 1924 Subpart A

Legal Deadline: None

Abstract: To include provisions for Cooperative Housing Loans in the Rental Housing Regulation.

Timetable:

Action	Date	FR Cite
NPRM	05/18/89	54 FR 21530
NPRM Comment Period End	07/18/89	54 FR 21530
Final Action	12/00/90	
Final Action Effective	01/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575-AA63

88. PROCESSING AND SERVICING FMHA ASSISTANCE TO EMPLOYEES, RELATIVES AND ASSOCIATES

Legal Authority: 7 USC 1988, Sec 336b

CFR Citation: 7 CFR 1900 Subpart D

Legal Deadline: None

Abstract: FmHA Instruction 2045-BB, Employee Responsibilities and Conduct (available in any FmHA office), requires the maintenance of high standards of honesty, integrity, and impartiality by employees. Within the limitations of that instruction and specific program restrictions, FmHA employees, family members, close relatives and other associates are eligible to receive certain types of FmHA loan and grant assistance. To assure that employee conduct is above reproach, any processing, approval, servicing or review activity is conducted only by authorized FmHA employees who (1) are not themselves the recipient; (2) are not family members or close relatives of the recipient; (3) do not have an immediate working relationship with the recipient, the employee related to the recipient, or the employee who would normally conduct the activity; or (4) do not have a business or close personal relationship with the recipient, the employee related to the recipient or the employee who would normally conduct the activity. Nothing in this instruction takes precedence over individual program requirements or restrictions.

Timetable:

Action	Date	FR Cite
NPRM	07/09/90	55 FR 28057
NPRM Comment Period End	09/07/90	55 FR 28057
Final Action	03/31/91	
Final Action Effective	04/30/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575-AA84

89. ADVERSE DECISIONS AND ADMINISTRATIVE APPEALS FMHA INSTRUCTION 1900-B

Significance: Agency Priority

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301; 7 CFR 270

CFR Citation: 7 CFR 1900 Subpart B

Legal Deadline: Final, Statutory, July 1, 1987.
The Agency was required to implement the Act within 150 days of its enactment on January 6, 1988.

Abstract: The Agency proposes to amend FmHA instruction 1900-B, "Adverse Decisions and Administrative Appeals" to provide for multi-party appeal hearings for denials of leaseback/buyback and homestead protection rights and the sale of suitable farmland to eligible applicants. No other alternatives are available since this action is necessary as a result of Section 611 of the Agricultural Credit Act of 1987, and will be published as an interim rule with comment period.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home

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USDA—FmHA

Final Rule Stage

Administration, Department of Agriculture, Farmers Home Administration Room 6348-S, Washington, DC 20250, 202 382-9744

RIN: 0575–AA70

90. COMMUNITY PROGRAMS GUARANTEED LOANS

Significance: Agency Priority

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301; EO 12291

CFR Citation: 7 CFR 1980

Legal Deadline: None

Abstract: Proposed legislation H.R. 2663 relating to Rural Development, Agriculture, and Related Agencies Appropriations Bill 1990 provides for guaranteed community facilities and water and waste disposal loan authorities for fiscal year 1990. Farmers Home Administration has developed and implemented a new Community Guaranteed Loan Program regulation utilizing guidelines established by community programs for loanmaking and loan servicing.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/27/90	55 FR 11133

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Impact Analysis

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348-South Building, Washington DC 20250, 202 382-9744

RIN: 0575–AA72

91. RURAL RENTAL HOUSING POLICIES, PROCEDURES AND AUTHORIZATIONS 1944-E

Significance: Regulatory Program

Legal Authority: 42 USC 1485

CFR Citation: 7 CFR 1944-E; 7 CFR 1944-D; 7 CFR 1910-A; 7 CFR 1940-L

Legal Deadline: Final, Statutory, June 15, 1990.

Abstract: Implement the rural housing provisions of the HUD Reform Act of 1989, which relate to application procedures, award selection criteria and the funding formula.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/20/90	55 FR 29556

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, D. C. 20250, 202 382-9744

RIN: 0575–AA73

92. 1951-K ACCOUNT SERVICING AND COLLECTIONS

Significance: Regulatory Program

Legal Authority: PL 101-235, Sec 207

CFR Citation: 7 CFR 1951

Legal Deadline: NPRM, Statutory, June 15, 1990.

Abstract: Add a provision to the existing regulation to establish a "Special Reserve Account" for multiple family projects approved after July 1, 1990. An interim rulemaking action implementing these provisions was published on June 20, 1990, with a request for public comment until August 20, 1990. Final rulemaking will take place after evaluation of public comments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/20/90	55 FR 25072

Next Action Undetermined

Small Entities Affected: Organizations

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA74

93. RURAL RENTAL HOUSING POLICIES, PROCEDURES AND AUTHORIZATIONS 1944-E

Significance: Regulatory Program

Legal Authority: 42 USC 1485

CFR Citation: 7 CFR 1944-D; 7 CFR 1944-E; 7 CFR 1910-A; 7 CFR 1940-L; 7 CFR 1930-C; 7 CFR 1980-B

Legal Deadline: Final, Statutory, June 15, 1990.

Abstract: To implement provisions of the HUD Reform Act of 1989 that relate to rural housing specifically establishment of a reserve fund for equity loans, prepayment of rural housing loans, etc.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/20/90	55 FR 25072

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington,. D. C. 20250, 202 382-9744

RIN: 0575–AA77

94. RURAL HOUSING PROGRAM LOANS

Significance: Regulatory Program

Legal Authority: 7 USC 1989; 7 USC 1480; 7 USC 301

CFR Citation: 7 CFR 1980 Subpart D; 7 CFR 2.23; 7 CFR 2.70

Legal Deadline: None

Abstract: Revise existing Guaranteed Loan Regulations to provide for a subsidized guaranteed loan program for low-income borrowers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/29/89	54 FR 12873
Final Action	01/00/91	
Final Action Effective	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

USDA—FmHA

Final Rule Stage

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6346 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575–AA78

95. RURAL RENTAL HOUSING POLICIES, PROCEDURES AND AUTHORIZATIONS, 1944-E OR (ACCOUNTABILITY IN FUNDING RURAL HOUSING PROGRAM AWARDS OR ASSISTANCE)

Significance: Regulatory Program

Legal Authority: 42 USC 1285

CFR Citation: 7 CFR 1944-D; 7 CFR 1944-E; 7 CFR 1910-A; 7 CFR 1930-C; 7 CFR 1940-L; 7 CFR 1944-I; 7 CFR 1944-N

Legal Deadline: Final, Statutory, June 15, 1990.

Abstract: To implement that portion of the HUD Reform Act of 1989 which deals with accountability in the award of federal assistance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/20/90	55 FR 25072

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, D. C. 20250, 202 382-9744

RIN: 0575–AA79

96. DISASTER ASSISTANCE FOR RURAL BUSINESS ENTERPRISES

Significance: Agency Priority

Legal Authority: 7 USC 1989 Consolidated Farm and Rural Development Act; PL 101-82, Sec 401

CFR Citation: 7 CFR 1980

Legal Deadline: None

Abstract: Section 401 of the Disaster Assistance Act of 1989 mandated that the Secretary of Agriculture guarantee loans made by private sector lenders to rural business entities which experienced losses or financial distress as the direct or indirect result of drought, freeze, storm, earthquake, excessive moisture or related conditions occurring in 1988 or 1989. The refinancing of existing loans, hotels, motels, tourist and recreation facilities and certain agricultural production are eligible purposes for guaranteed loans. FmHA modified its existing Business and Industry (B & I) guaranteed loan program to implement the Disaster Assistance Act of 1989, using B & I rules as to eligibility, application, loan making and loan servicing except where the statute requires otherwise.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/03/90	54 FR 136

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6438 South Building, Washington, D. C. 20250, 202 382-9744

RIN: 0575–AA85

DEPARTMENT OF AGRICULTURE (USDA)
Farmers Home Administration (FmHA)

Completed Actions

97. BORROWER SUPERVISION SERVICING AND COLLECTION OF SINGLE FAMILY HOUSING LOAN ACCOUNTS

Significance: Agency Priority

CFR Citation: 7 CFR 1951, Subpart G

Completed:

Reason	Date	FR Cite
Duplicate of RIN 0575-AA54	06/02/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann 202 382-9744

RIN: 0575–AA55

98. RURAL RENTAL HOUSING LOAN POLICIES, PROCEDURES AND AUTHORIZATIONS —CONGREGATE HOUSING AND GROUP HOMES

CFR Citation: 7 CFR 1944 Subpart E; 7 CFR 1930 Subpart C

Completed:

Reason	Date	FR Cite
Final Action	06/29/90	55 FR 26536
Final Action Effective	07/30/90	55 FR 26536

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann 202 382-9744

RIN: 0575–AA58

99. DROUGHT AND DISASTER GUARANTEED LOANS

Significance: Agency Priority

CFR Citation: 7 CFR 1980

Completed:

Reason	Date	FR Cite
Final Action	06/27/89	54 FR 26946
Final Action Effective	06/27/89	54 FR 26946

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Chris Goettelmann 202 382-9744

RIN: 0575–AA65

100. APPRAISAL OF RURAL RENTAL HOUSING PROPERTIES

Significance: Agency Priority

CFR Citation: 7 CFR 1922

Completed:

Reason	Date	FR Cite
Duplicate of RIN 0575-AA76	06/01/90	

USDA—FmHA — Completed Actions

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann 202 382-9744

RIN: 0575-AA71

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101. RURAL RENTAL HOUSING POLICIES, PROCEDURES AND AUTHORIZATIONS 1944-E

Significance: Regulatory Program

CFR Citation: 7 CFR 1944 D and E

Completed:

Reason	Date	FR Cite
Incorporated into RIN 0575-AA67	06/02/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann 202 382-9744

RIN: 0575-AA75

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102. APPRAISAL OF REAL ESTATE SECURITY FOR RENTAL, COOPERATIVE AND LABOR HOUSING LOANS

Significance: Regulatory Program

CFR Citation: 7 CFR 1922-B; 7 CFR 1944-D; 7 CFR 1944-E

Completed:

Reason	Date	FR Cite
Withdrawn	10/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann 202 382-9744

RIN: 0575-AA76

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103. RURAL RENTAL HOUSING DISPLACEMENT PREVENTION

Significance: Agency Priority

CFR Citation: 7 CFR 1930; 7 CFR 1944; 7 CFR 1951; 7 CFR 1955; 7 CFR 1965 (new)

Completed:

Reason	Date	FR Cite
Duplicate of RIN 0575-AA51	06/02/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Chris Goettelmann 202 382-9744

RIN: 0575-AA82

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104. EMERGENCY COMMUNITY WATER ASSISTANCE GRANTS

Significance: Agency Priority

CFR Citation: 7 CFR 1942-K

Completed:

Reason	Date	FR Cite
Final Action	09/17/90	55 FR 33645
Final Action Effective	09/17/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann 202 382-9744

RIN: 0575-AA84

BILLING CODE 3410-07-7

DEPARTMENT OF AGRICULTURE (USDA)
Federal Crop Insurance Corporation (FCIC)

Proposed Rule Stage

106. COMMON CROP INSURANCE REGULATIONS AND POLICY

Significance: Agency Priority

Legal Authority: 7 USC 1501 et seq Federal Crop Insurance Act

CFR Citation: 7 CFR 400, (New)

Legal Deadline: None

Abstract: Establishes a single crop insurance regulation and policy for insuring crops which proposes to provide a common set of insurance regulations and terminology between private insurance companies under the Standard Reinsurance Agreement which will (1) substantially reduce the time involved in amendment or revision; and (2) eliminate the necessity of repetitious review process. The portion of this rulemaking concerning FCIC's position on the preemption of inconsistent State laws and regulations is now listed under RIN 0563-AA45.

Timetable:

Action	Date	FR Cite
NPRM	02/07/90	55 FR 4362
NPRM Comment Period End	03/09/90	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The portion of this rulemaking concerning FCIC's position on the preemption of inconsistent State laws and regulations is now listed under RIN 0563-AA45.

Agency Contact: Peter F. Cole, Secretary to the Board of Directors, Department of Agriculture, Federal Crop Insurance Corporation, Room 4090 South Building, 14th and Independence Avenue SW., Washington, D. C. 20250, 202 447-3325

RIN: 0563-AA03

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106. ● GENERAL CROP INSURANCE REGULATIONS

Legal Authority: 7 USC 1501 et seq Federal Crop Insurance Act

CFR Citation: 7 CFR 401

Legal Deadline: None

Abstract: Amends the General Crop Insurance Regulations by adding a mandatory amendment to the General Crop Insurance Policy. The intended effect of this rule is to provide that notwithstanding the terms of the crop insurance policy and any contract for crop insurance, coverage under the terms of such endorsements will be effective subject to the availability of appropriations for the 1991 and subsequent crop years.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/28/90	55 FR 6971

Next Action Undetermined

USDA—FCIC

Proposed Rule Stage

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole, Secretary to the Board of Directors, Department of Agriculture, Federal Crop Insurance Corporation, Rm 4090 South Building, 14th & Independence Ave SW., Washington DC 20250, 202 447-3325

RIN: 0563–AA46

CFR Citation: 7 CFR 405

Legal Deadline: None

Abstract: Amends the Apple Crop Insurance Regulations by changing the policy to provide that premium reduction gained by insureds through good insuring experience will extend beyond the present 1990 crop year expiration. The intended effect of this rule is to allow a continuation of good experience discount for all present policyholders who are eligible for a premium reduction while FCIC reviews the entire good experience discount issue for all policyholders.

Timetable:

Action	Date	FR Cite
NPRM	11/21/89	54 FR 48109

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole, Secretary to the Board of Directors, Department of Agriculture, Federal Crop Insurance Corporation, Rm 4090 South Building, 14th & Independence Ave SW., Washington DC 20250, 202 447-3325

RIN: 0563–AA51

107. ● APPLE CROP INSURANCE REGULATIONS

Legal Authority: 7 USC 1501 et seq Federal Crop Insurance Act

DEPARTMENT OF AGRICULTURE (USDA)

Federal Crop Insurance Corporation (FCIC)

Final Rule Stage

108. ● FORAGE PRODUCTION CROP INSURANCE REGULATIONS

Legal Authority: 7 USC 1501 et seq Federal Crop Insurance Act

CFR Citation: 7 CFR 415

Legal Deadline: None

Abstract: Amends the Forage Production Crop Insurance Regulations by (1) adding insurance period ending dates for additional States; and (2) providing that the premium reduction gained by insureds through good insuring experience will extend beyond the present 1989 crop year expiration. The intended effect of this rule is to provide end of insurance program, and to allow a continuation of good experience discount for all present policyholders who are eligible for a premium reduction while FCIC reviews the entire good experience discount issue for all policyholders.

Timetable:

Action	Date	FR Cite
NPRM	11/21/89	54 FR 48109

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole, Secretary to the Board of Directors, Department of Agriculture, Federal Crop Insurance Corporation, Rm 4090 South Building, 14th & Independence Ave SW., Washington DC 20250, 202 447-3325

RIN: 0563–AA52

DEPARTMENT OF AGRICULTURE (USDA)

Federal Crop Insurance Corporation (FCIC)

Completed Actions

109. BARLEY CROP PROVISIONS

Significance: Agency Priority

CFR Citation: 7 CFR 499.51

Completed:

Reason	Date	FR Cite
Withdrawn Regulation never published	07/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole 202 447-3325

RIN: 0563–AA04

110. OAT CROP PROVISIONS

Significance: Agency Priority

CFR Citation: 7 CFR 499.52

Completed:

Reason	Date	FR Cite
Withdrawn Regulation never published	07/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole 202 447-3325

RIN: 0563–AA05

111. RYE CROP PROVISIONS

CFR Citation: 7 CFR 499.53

Completed:

Reason	Date	FR Cite
Withdrawn Regulation never published	07/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole 202 447-3325

RIN: 0563–AA06

112. WHEAT CROP PROVISIONS

Significance: Agency Priority

CFR Citation: 7 CFR 429.54

Completed:

Reason	Date	FR Cite
Withdrawn Regulation never published	07/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole 202 447-3325

RIN: 0563–AA07

113. APPLE CROP INSURANCE REGULATIONS

Significance: Agency Priority

CFR Citation: 7 CFR 405

Completed:

Reason	Date	FR Cite
Withdrawn Regulation never published	07/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole 202 447-3325

RIN: 0563–AA08

114. ARIZONA/CALIFORNIA CITRUS CROP INSURANCE REGULATIONS

Significance: Agency Priority

CFR Citation: 7 CFR 409

Completed:

Reason	Date	FR Cite
Withdrawn Regulation never published	07/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole 202 447-3325

RIN: 0563–AA09

115. CANNING AND FREEZING SWEET CORN CROP INSURANCE REGULATIONS

Significance: Agency Priority

CFR Citation: 7 CFR 437

Completed:

Reason	Date	FR Cite
Withdrawn Regulation never published	07/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole 202 447-3325

RIN: 0563–AA10

116. CANNING PEACH CROP INSURANCE REGULATIONS

Significance: Agency Priority

CFR Citation: 7 CFR 451

Completed:

Reason	Date	FR Cite
Withdrawn Regulation never published	07/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole 202 447-3325

RIN: 0563–AA11

117. FRESH MARKET TOMATO CROP INSURANCE REGULATIONS

Significance: Agency Priority

CFR Citation: 7 CFR 454

Completed:

Reason	Date	FR Cite
Withdrawn Regulation never published	07/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole 202 447-3325

RIN: 0563–AA12

118. HYBRID SEED CROP INSURANCE REGULATIONS

Significance: Agency Priority

CFR Citation: 7 CFR 443

Completed:

Reason	Date	FR Cite
Withdrawn Regulation never published	07/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole 202 447-3325

RIN: 0563–AA13

119. MACADAMIA NUT CROP INSURANCE REGULATIONS

Significance: Agency Priority

CFR Citation: 7 CFR 455

Completed:

Reason	Date	FR Cite
Withdrawn Regulation never published	07/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole 202 447-3325

RIN: 0563–AA14

120. MACADAMIA TREE CROP INSURANCE REGULATIONS

Significance: Agency Priority

CFR Citation: 7 CFR 456

Completed:

Reason	Date	FR Cite
Withdrawn Regulation never published	07/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole 202 447-3325

RIN: 0563–AA15

121. PEA CROP INSURANCE REGULATIONS

Significance: Agency Priority

CFR Citation: 7 CFR 425

USDA—FCIC

Completed Actions

Completed:

Reason	Date	FR Cite
Withdrawn Regulation never published	07/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole 202 447-3325

RIN: 0563–AA16

122. PEACH CROP INSURANCE REGULATIONS

Significance: Agency Priority

CFR Citation: 7 CFR 403

Completed:

Reason	Date	FR Cite
Withdrawn Regulation never published	07/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole 202 447-3325

RIN: 0563–AA17

123. PEANUT CROP INSURANCE REGULATIONS

Significance: Agency Priority

CFR Citation: 7 CFR 425

Completed:

Reason	Date	FR Cite
Withdrawn Regulation never published	07/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole 202 447-3325

RIN: 0563–AA18

124. PEPPER CROP INSURANCE REGULATIONS

Significance: Agency Priority

CFR Citation: 7 CFR 445

Completed:

Reason	Date	FR Cite
Withdrawn Regulation never published	07/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole 202 447-3325

RIN: 0563–AA19

125. POPCORN CROP INSURANCE REGULATIONS

Significance: Agency Priority

CFR Citation: 7 CFR 447

Completed:

Reason	Date	FR Cite
Withdrawn Regulation never published	07/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole 202 447-3325

RIN: 0563–AA20

126. POTATO CROP INSURANCE REGULATIONS

Significance: Agency Priority

CFR Citation: 7 CFR 422

Completed:

Reason	Date	FR Cite
Withdrawn Regulation never published	07/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole 202 447-3325

RIN: 0563–AA21

127. PRUNE CROP INSURANCE REGULATIONS

Significance: Agency Priority

CFR Citation: 7 CFR 450

Completed:

Reason	Date	FR Cite
Withdrawn Regulation never published	07/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole 202 447-3325

RIN: 0563–AA22

128. TABLE GRAPE CROP INSURANCE REGULATIONS

Significance: Agency Priority

CFR Citation: 7 CFR 441

Completed:

Reason	Date	FR Cite
Withdrawn Regulation never published	07/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole 202 447-3325

RIN: 0563–AA23

129. TOBACCO (QUOTA PLAN) CROP INSURANCE REGULATIONS

Significance: Agency Priority

CFR Citation: 7 CFR 435

Completed:

Reason	Date	FR Cite
Withdrawn Regulation never published	07/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole 202 447-3325

RIN: 0563–AA24

130. WALNUT CROP INSURANCE REGULATIONS

Significance: Agency Priority

CFR Citation: 7 CFR 446

USDA—FCIC

Completed Actions

Completed:

Reason	Date	FR Cite
Withdrawn Regulation never published	07/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole 202 447-3325

RIN: 0563–AA25

131. NURSERY CROP INSURANCE REGULATIONS

Significance: Agency Priority

CFR Citation: 7 CFR 408

Completed:

Reason	Date	FR Cite
Withdrawn Regulation never published	07/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole 202 447-3325

RIN: 0563–AA26

132. ● ARIZONA/CALIFORNIA CITRUS CROP INSURANCE REGULATIONS

Legal Authority: 7 USC 1501 et seq Federal Crop Insurance Act

CFR Citation: 7 CFR 409

Legal Deadline: None

Abstract: Changes the date by which insureds are required to submit reports of production for insurance purposes. The intended effect of this rule is to change the currently incorrect date to reflect the date when such information becomes available to citrus insureds.

Timetable:

Action	Date	FR Cite
NPRM	09/12/89	54 FR 38061
NPRM Comment Period End	11/21/89	
Final Action	09/04/90	55 FR 35888

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole, Secretary to the Board of Directors, Department of Agriculture, Federal Crop Insurance Corporation, Rm 4090 South Building, 14th & Independence Ave., Washington DC 20250, 202 447-3325

RIN: 0563–AA28

133. ● MACADAMIA TREE CROP INSURANCE REGULATIONS

Legal Authority: 7 USC 1501 et seq Federal Crop Insurance Act

CFR Citation: 7 CFR 456

Legal Deadline: None

Abstract: Amends the Macadamia Tree Crop Insurance Regulations to liberalize a policy requirement with respect to the age of bearing macadamia trees when reducing insurance coverage on a unit with less than 90 percent of a complete planting pattern. The intended effect of this rule is to make this provision of the policy more easily administered.

Timetable:

Action	Date	FR Cite
NPRM	10/06/89	
Final Action	01/19/90	55 FR 1785

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole, Secretary to the Board of Directors, Department of Agriculture, Federal Crop Insurance Corporation, Rm 4090 South Building, 14th & Independence Ave., Washington DC 20250, 202 447-3325

RIN: 0563–AA29

134. ● GENERAL CROP INSURANCE REGULATIONS; SUGARCANE ENDORSEMENT

Legal Authority: 7 USC 1501 et seqFederal Crop Insurance Act

CFR Citation: 7 CFR 401

Legal Deadline: None

Abstract: Amends the General Crop Insurance Regulations by adding a new section, Sugarcane Endorsement. The intended effect of this rule is to provide the provisions of crop insurance protection on sugarcane in an endorsement to the general crop insurance policy.

Timetable:

Action	Date	FR Cite
NPRM	10/24/89	54 FR 43295
Final Action	06/26/90	55 FR 25954

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole, Secretary to the Board of Directors, Department of Agriculture, Federal Crop Insurance Corporation, Rm 4090 South Building, 14th & Independence Ave., Washington DC 20250, 202 447-3325

RIN: 0563–AA30

135. ● POTATO CROP INSURANCE REGULATIONS

Legal Authority: 7 USC 1501 et seq Federal Crop Insurance Act

CFR Citation: 7 CFR 422

Legal Deadline: None

Abstract: Amends the Potato Crop Insurance Regulations to change the end of insurance period for potatoes in DE, MD, and NJ. The intended effect of this rule is to change the currently incorrect date to reflect the farming practices for potatoes in such States.

Timetable:

Action	Date	FR Cite
NPRM	10/24/89	54 FR 43276
NPRM Comment Period End	12/26/89	
Final Action	09/04/90	55 FR 35888

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole, Secretary to the Board of Directors, Department of Agriculture, Federal Crop Insurance Corporation, Rm 4090 South Building, 14th & Independence Ave.SW, Washington DC 20250, 202 447-3325

RIN: 0563–AA31

138. ● GENERAL CROP INSURANCE REGULATIONS; HIGH-RISK LAND EXCLUSION OPTION

Legal Authority: 7 USC 1501 et seq Federal Crop Insurance Act

CFR Citation: 7 CFR 401

Legal Deadline: None

Abstract: Amends the General Crop Insurance Regulations by adding a new section to be known as the High-Risk Land Exclusion Option. The intended effect of this rule is to provide the regulations containing the provisions of a High-Risk Land Exclusion Option on several endorsements to the general crop insurance policy.

USDA—FCIC

Completed Actions

Timetable:

Action	Date	FR Cite
Final Action	10/24/89	54 FR 43272
Final Action Effective	10/24/89	54 FR 43272

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole, Secretary to the Board of Directors, Department of Agriculture, Federal Crop Insurance Corporation, Rm 4090 South Building, 14th & Independence Ave SW., Washington DC 20250, 202 447-3325

RIN: 0563–AA32

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137. ● GENERAL CROP INSURANCE REGULATIONS; COTTON ENDORSEMENT

Legal Authority: 7 USC 1501 et seq Federal Crop Insurance Act

CFR Citation: 7 CFR 401

Legal Deadline: None

Abstract: Amends the General Crop Insurance Regulations by revising and reissuing the Cotton Endorsement. The intended effect of this rule is to provide cotton insureds a unit division by share, section, and practice (irrigated and non-irrigated) instead of the previous unit division based on ASCS Farm Serial Number.

Timetable:

Action	Date	FR Cite
Final Action	11/21/89	54 FR 48073
Final Action Effective	11/21/89	54 FR 48073

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole, Secretary to the Board of Directors, Department of Agriculture, Federal Crop Insurance Corporation, Rm 4090 South Building, 14th & Independence Ave SW., Washington DC 20250, 202 447-3325

RIN: 0563–AA33

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138. ● GENERAL CROP INSURANCE REGULATIONS; RAISIN ENDORSEMENT

Legal Authority: 7 USC 1501 et seq Federal Crop Insurance Act

CFR Citation: 7 CFR 401

Legal Deadline: None

Abstract: Amends the General Crop Insurance Regulations by adding a new section, the Raisin Endorsement. The intended effect of this rule is to provide the provisions of crop insurance protection on raisins in an endorsement to the general crop insurance policy.

Timetable:

Action	Date	FR Cite
Final Action	10/24/89	54 FR 43273
Final Action Effective	11/24/89	54 FR 43273

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole, Secretary to the Board of Directors, Department of Agriculture, Federal Crop Insurance Corporation, Room 4090 South Building, 14th & Independence Ave SW., Washington DC 20250, 202 447-3325

RIN: 0563–AA34

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139. ● GENERAL CROP INSURANCE REGULATIONS; GRAPE ENDORSEMENT

Legal Authority: 7 USC 1501 et seq Federal Crop Insurance Act

CFR Citation: 7 CFR 401

Legal Deadline: None

Abstract: Amends the General Crop Insurance Regulations by adding a new section, the Grape Endorsement. The intended effect of this rule is to provide the provisions of crop insurance protection on grapes in an endorsement to the general crop insurance policy.

Timetable:

Action	Date	FR Cite
Final Action	10/24/89	54 FR 43269
Final Action Effective	10/24/89	54 FR 43269

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole, Secretary to the Board of Directors, Department of Agriculture, Federal Crop Insurance Corporation, Rm 4090 South Building, 14th & Independence Ave SW., Washington DC 20250, 202 447-3325

RIN: 0563–AA35

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140. ● FRESH MARKET TOMATO (GUARANTEED PRODUCTION PLAN) CROP INSURANCE REGULATIONS

Legal Authority: 7 USC 1501 et seq Federal Crop Insurance Act

CFR Citation: 7 CFR 454

Legal Deadline: None

Abstract: Amends the Fresh Tomato (Guaranteed Production Plan) Crop Insurance Regulations to (1) change the end of the insurance period and the required date to coincide with fresh market tomato production practices in GA; and (2) include CA in the cancellation and termination dates provisions. The intended effect of this rule is to provide a corrected end of insurance period, change the date for notice of loss and intent to file a claim, and add CA to the cancellation and termination dates provisions.

Timetable:

Action	Date	FR Cite
Final Action	11/21/89	54 FR 48077
Final Action Effective	11/30/89	54 FR 48077

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole, Secretary to the Board of Directors, Department of Agriculture, Federal Crop Insurance Corporation, Rm 4090 South Building, 14th & Independence Ave SW., Washington DC 20250, 202 447-3325

RIN: 0563–AA36

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141. ● GENERAL CROP INSURANCE REGULATIONS; ELS COTTON ENDORSEMENT

Legal Authority: 7 USC 1501 et seq Federal Crop Insurance Act

CFR Citation: 7 CFR 401

Legal Deadline: None

Abstract: Amends the General Crop Insurance Regulations by revising and reissuing the ELS Cotton Endorsement. The intended effect of this rule is to : (1) Provide cotton insureds a unit division by share, section, and practice (irrigated and non-irrigated) instead of the previous unit division based on ASCS Farm Serial Number, and (2) Remove a reference to Late Planting Agreement Option being available.

USDA—FCIC

Completed Actions

Timetable:

Action	Date	FR Cite
Final Action	11/21/89	54 FR 48067
Final Action Effective	11/21/89	54 FR 48067

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole, Secretary to the Board of Directors, Department of Agriculture, Federal Crop Insurance Corporation, Rm 4090 South Building, 14th & Independence Ave SW., Washington DC 20250, 202 447-3325

RIN: 0563–AA37

142. ● GENERAL CROP INSURANCE REGULATIONS; RICE ENDORSEMENT

Legal Authority: 7 USC 1501 et seq Federal Crop Insurance Act

CFR Citation: 7 CFR 401

Legal Deadline: None

Abstract: Amends the General Crop Insurance Regulations by amending the Rice Endorsement to remove restrictions in existing unit division language to standardize the unit structure across commodity program crops. The intended effect of this rule is to standardize units among crops.

Timetable:

Action	Date	FR Cite
Final Action	11/21/89	54 FR 48076
Final Action Effective	11/30/89	54 FR 48076

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole, Secretary to the Board of Directors, Department of Agriculture, Federal Crop Insurance Corporation, 4090 South Building, 14th & Independence Ave SW., Washington DC 20250, 202 447-3325

RIN: 0563–AA38

143. ● GENERAL CROP INSURANCE REGULATIONS; SOYBEAN ENDORSEMENT

Legal Authority: 7 USC 1501 et seq Federal Crop Insurance Act

CFR Citation: 7 CFR 401

Legal Deadline: None

Abstract: Amends the General Crop Insurance Regulations by amending the Soybean Endorsement to remove restrictions in existing unit division language to standardize the unit structure across commodity program crops.

Timetable:

Action	Date	FR Cite
Final Action	11/21/89	54 FR 48071
Final Action Effective	11/21/89	54 FR 48071

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole, Secretary to the Board of Directors, Department of Agriculture, Federal Crop Insurance Corporation, 4090 South Building, 14th & Independence Ave SW., Washington DC 20250, 202 447-3325

RIN: 0563–AA39

144. ● GENERAL CROP INSURANCE REGULATIONS: TOBACCO (GUARANTEED PLAN) ENDORSEMENT

Legal Authority: 7 USC 1501 et seq Federal Crop Insurance Act

CFR Citation: 7 CFR 401

Legal Deadline: None

Abstract: Amends the General Crop Insurance Regulations by adding a new section, the Tobacco (Guaranteed Plan) Endorsement. The intended effect of this rule is to provide the provisions of crop insurance protection on tobacco in an endorsement to the general crop insurance policy.

Timetable:

Action	Date	FR Cite
Final Action	11/21/89	54 FR 48069
Final Action Effective	12/31/89	54 FR 48069

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole, Secretary to the Board of Directors, Department of Agriculture, Federal Crop Insurance Corporation, 4090 South Building, 14th & Independence Ave SW., Washington DC 20250, 202 447-3325

RIN: 0563–AA40

145. ● GENERAL CROP INSURANCE REGULATIONS; FRESH MARKET TOMATO MINIMUM VALUE OPTION

Legal Authority: 7 USC 1501 et seq Federal Crop Insurance Act

CFR Citation: 7 CFR 401

Legal Deadline: None

Abstract: Amends the General Crop Insurance Regulations by adding a new section, the Fresh Market Tomato Minimum Value Option. The intended effect of this rule is to provide the provisions of crop insurance protection on minimum value tomatoes as an option to the Fresh Market Tomato Endorsement to the general crop insurance policy.

Timetable:

Action	Date	FR Cite
Final Action	11/21/89	54 FR 48072
Final Action Effective	12/21/89	54 FR 48072

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole, Secretary to the Board of Directors, Department of Agriculture, Federal Crop Insurance Corporation, 4090 South Building, 14th & Independence Ave SW., Washington DC 20250, 202 447-3325

RIN: 0563–AA41

146. ● GENERAL CROP INSURANCE REGULATIONS; FRESH MARKET TOMATO (DOLLAR PLAN) ENDORSEMENT

Legal Authority: 7 USC 1501 et seq Federal Crop Insurance Act

CFR Citation: 7 CFR 401

Legal Deadline: None

Abstract: Amends the General Crop Insurance Regulations by adding a new section, the Fresh Market Tomato (Dollar Plan) Endorsement. The intended effect of this rule is to provide the provisions of crop insurance protection on tomatoes in an endorsement to the general crop insurance policy.

Timetable:

Action	Date	FR Cite
NPRM	10/06/89	54 FR 41245
NPRM Comment Period End	11/06/89	
Final Action	01/19/90	55 FR 1782

USDA—FCIC

Completed Actions

Action	Date	FR Cite
Final Action Effective	02/20/90	55 FR 1782

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole, Secretary to the Board of Directors, Department of Agriculture, Federal Crop Insurance Corporation, Rm 4090 South Building, 14th & Independence Ave SW., Washington DC 20250, 202 447-3325

RIN: 0563–AA42

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147. ● GENERAL CROP INSURANCE REGULATIONS; CANNING AND PROCESSING BEAN ENDORSEMENT

Legal Authority: 7 USC 1501 et seq Federal Crop Insurance Act

CFR Citation: 7 CFR 401

Legal Deadline: None

Abstract: Amends the Canning and Processing Bean Endorsement to provide for unit division guidelines by type in IL, IN, IA, and PA. The intended effect of this rule is to include these states among those identified in section 5 of the policy at states where unit division by type is permitted.

Timetable:

Action	Date	FR Cite
Final Action Effective	12/31/89	55 FR 1784
Final Action	01/19/90	55 FR 1784

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This item is retroactive.

Agency Contact: Peter F. Cole, Secretary to the Board of Directors, Department of Agriculture, Federal Crop Insurance Corporation, Rm 4090 South Building, 14th & Independence Ave SW., Washington DC 20250, 202 447-3325

RIN: 0563–AA43

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148. ● MACADAMIA TREE CROP INSURANCE REGULATIONS

Legal Authority: 7 USC 1501 et seq Federal Crop Insurance Act

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: Amends the Macadamia Tree Crop Insurance Regulations to liberalize a policy requirement with respect to the age of bearing macadamia trees when reducing insurance coverage on a unit with less than 90 percent of a complete planting pattern. The intended effect of this rule is to make this provision of the policy more easily administered.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/90	55 FR 1785
Final Action	01/19/90	55 FR 1785

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole, Secretary to the Board of Directors, Department of Agriculture, Federal Crop Insurance Corporation, Rm 4090 South Building, 14th & Independence Ave SW., Washington DC 20250, 202 447-3325

RIN: 0563–AA44

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149. ● GENERAL ADMINISTRATIVE REGULATIONS; CROP INSURANCE; PREEMPTION OF STATE LAWS AND REGULATIONS

Legal Authority: 7 USC 1501 et seq Federal Crop Insurance Act

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: Adds a new subpart "P" in chapter IV of title 7 CFR, to set forth the provisions of preemption by the Federal Crop Insurance Corporation of State laws and regulations under the authority contained in the Federal Crop Insurance Act, as amended. The intended effect of this rule is to clarify and further define FCIC's preemption of inconsistent State laws and regulations.

Timetable:

Action	Date	FR Cite
Final Action	06/06/90	55 FR 23066
Final Action Effective	06/06/90	55 FR 23066

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This rule was split from RIN 0563-aa03.

Agency Contact: Peter F. Cole, Secretary to the Board of Directors, Department of Agriculture, Federal Crop Insurance Corporation, Rm 4090 South Building, 14th & Independence Ave SW., Washington DC 20250, 202 447-3325

RIN: 0563–AA45

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150. ● GENERAL CROP INSURANCE REGULATIONS; FRESH MARKET SWEET CORN ENDORSEMENT

Legal Authority: 7 USC 1501 et seq Federal Crop Insurance Act

CFR Citation: 7 CFR 401

Legal Deadline: None

Abstract: Amends the General Crop Insurance Regulation by adding a new section, the Fresh Market Sweet Corn Endorsement. The intended effect of this rule is to provide the provisions of crop insurance protection on fresh market sweet corn in an endorsement to general crop insurance policy.

Timetable:

Action	Date	FR Cite
NPRM	01/19/90	55 FR 1825
Final Action	05/29/90	55 FR 21736

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole, Secretary to the Board of Directors, Department of Agriculture, Federal Crop Insurance Corporation, Rm 4090 South Building, 14th & Independence Ave SW., Washington DC 20250, 202 447-3325

RIN: 0563–AA47

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151. ● GENERAL ADMINISTRATIVE REGULATIONS; CROP INSURANCE; NON-STANDARD UNDERWRITING CLASSIFICATION SYSTEM

Legal Authority: 7 USC 1501 et seq Federal Crop Insurance Act

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: Adds a new subpart "O" to part 400 in chapter IV of title 7 CFR, effective for the 1991 and succeeding crop years. The intended effect of this rule is to set forth procedures and requirements for non-standard assigned yields and premium rates apart from yields and rates prescribed by standard actuarial tables.

Timetable:

Action	Date	FR Cite
NPRM	04/24/90	55 FR 17279
Final Action	09/10/90	55 FR 32582

USDA—FCIC

Completed Actions

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole, Secretary to the Board of Directors, Department of Agriculture, Federal Crop Insurance Corporation, Rm 4090 South Building, 14th & Independence Ave SW., Washington DC 20250, 202 447-3325

RIN: 0563-AA48

152. ● GENERAL CROP INSURANCE REGULATIONS; FRESH PLUM ENDORSEMENT

Legal Authority: 7 USC 1501 et seq Federal Crop Insurance Act

CFR Citation: 7 CFR 401

Legal Deadline: None

Abstract: Amends the General Crop Insurance Regulations by adding a new section, Fresh Plum Endorsement. The intended effect of this rule is to provide the provisions of crop insurance protection on plums in an endorsement to the general crop insurance policy.

Timetable:

Action	Date	FR Cite
NPRM	11/21/89	54 FR 48107
Final Action	02/08/90	55 FR 4395

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter F. Cole, Secretary to the Board of Directors, Department of Agriculture, Federal Crop Insurance Corporation, Rm 4090 South Building, 14th & Independence Ave SW., Washington DC 20250, 202 447-3325

RIN: 0563-AA53

BILLING CODE 3410-08-T

DEPARTMENT OF AGRICULTURE (USDA)

Federal Grain Inspection Service (FGIS)

Prerule Stage

153. FEES FOR FEDERAL AFLATOXIN TESTING AND FALLING NUMBER DETERMINATION SERVICES

Legal Authority: 7 USC 1621 et seq

CFR Citation: 7 CFR 68

Legal Deadline: None

Abstract: The Federal Grain Inspection Service (FGIS or Service) proposes to establish an hourly rate and laboratory fee for a new type of aflatoxin test performed under the Agricultural Marketing Act of 1946 (AMA). In addition, FGIS proposes to establish a unit fee for the aflatoxin test kit. The unit fee will be assessed in addition to the hourly rate when the test is performed at the point of service. The laboratory fee, assessed when the test is performed at the FGIS Commodity and Testing Laboratory in Beltsville, Maryland, will include the test and the aflatoxin test kit. FGIS is also proposing to increase the hourly rate and laboratory fee for falling number determination services. These proposed fees are intended to recover as nearly as practicable, projected operating costs, which include related supervisory and administrative costs, and to maintain reasonable operating reserves. The unit fee for the aflatoxin test kit will cover, as nearly as possible the cost of each test kit used in the aflatoxin tests.

Timetable:

Action	Date	FR Cite
NPRM	03/30/90	55 FR 12140
NPRM Comment Period End	04/30/90	
Final Action	09/00/90	
Final Action Effective	09/00/90	
Begin Review	12/00/91	
End Review	12/00/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul D. Marsden, Manager, Regulations Unit, MIIPS, Department of Agriculture, Federal Grain Inspection Service, Box 96454, Washington, DC 20090-6454, 202 475-3428

RIN: 0580-AA16

DEPARTMENT OF AGRICULTURE (USDA)

Federal Grain Inspection Service (FGIS)

Proposed Rule Stage

154. REGULATIONS UNDER THE UNITED STATES GRAIN STANDARDS ACT; REG. REVIEW

Legal Authority: 7 USC 71 to 87

CFR Citation: 7 CFR 800

Legal Deadline: None

Abstract: Under the requirements of Executive Order 12291 to periodically review all existing regulations, and USDA Departmental Regulation 1512-1 to conduct each such review within a five year timeframe, the Federal Grain Inspection Service will review its General Regulations under the United States Grain Standards Act. To simplify and promote a better understanding of policies and procedures, FGIS will be proposing changes to the regulations. Alternatives will be considered after receipt of public comments.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
NPRM Comment Period End	03/00/91	
Final Action	09/00/91	
Final Action Effective	10/00/91	
Begin Review	06/00/96	
End Review	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul D. Marsden, Regulatory Contact, Department of Agriculture, Federal Grain Inspection Service, Room 0628-South Building, Box

96454, Washington, DC 20090-6454, 202 475-3428

RIN: 0580–AA08

155. UNITED STATES STANDARDS FOR SORGHUM

Legal Authority: 7 USC 75a; 7 USC 76

CFR Citation: 7 CFR 810.1401; 7 CFR 810.1402; 7 CFR 810.1403; 7 CFR 810.1404; 7 CFR 810.1405

Legal Deadline: None

Abstract: Based upon recommendations of the Grain Quality Workshops (which includes representatives from different segments of the industry, government, and academia), and from the National Grain Sorghum Producers Association as well other sources of information, FGIS will propose changes to the sorghum standards. Changes will be proposed to offer end-users the best possible information from which to determine end-product yield and quality, and facilitate the marketing of sorghum. Alternatives will be considered after evaluation of public comments.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	01/00/91	
Final Action	05/00/91	
Final Action Effective	06/00/92	
Begin Review	05/00/93	
End Review	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul D. Marsden, Regulatory Contact, Department of Agriculture, Federal Grain Inspection Service, Room 0628-South Building, Box 96454, Washington, DC 20090-6454, 202 475-3428

RIN: 0580–AA10

156. UNITED STATES STANDARDS FOR RICE

Legal Authority: 7 USC 1621 to 1627

CFR Citation: 7 CFR 68.201 to 68.316

Legal Deadline: None

Abstract: Waxy varieties of rice being grown in the United States are being downgraded under current rice standards because of their chalky characteristic. In the current market for this rice, the chalky characteristic is not a detriment. The Federal Grain Inspection Service will propose establishment of a subclass for this short grain rice to facilitate its marketing. Alternatives will be considered after receipt of public comments.

Timetable:

Action	Date	FR Cite
NPRM	02/06/90	55 FR 4582
NPRM Comment Period End	04/09/90	
Proposed Action: Modified	12/00/90	
Final Action	04/00/91	
Final Action Effective	05/00/91	
Begin Review	12/00/91	
End Review	07/00/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul D. Marsden, Regulatory Contact, Department of Agriculture, Federal Grain Inspection Service, Room 0628-South Building, Box 96454, Washington, DC 20090-6454, 202 475-3428

RIN: 0580–AA11

157. UNITED STATES STANDARDS OF CANOLA

Legal Authority: 7 USC 71 to 87; 7 USC 1621 to 1627

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Rapeseed is increasing in importance as an oilseed crop in the United States. The Federal Grain Inspection Service is considering proposing Official United States Standards for Rapeseed. Standards would be to facilitate domestic and international marketing. Alternatives will be considered after receipt of public comments.

Timetable:

Action	Date	FR Cite
ANPRM	05/30/89	54 FR 22924
ANPRM Comment Period End	08/28/89	
NPRM	12/00/90	
NPRM Comment Period End	02/00/91	
Final Action	09/00/91	
Final Action Effective	10/00/91	
Begin Review	04/00/95	
End Review	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul D. Marsden, Regulatory Contact, Department of Agriculture, Federal Grain Inspection Service, Room 0628-South Building, Box 96454, Washington, DC 20090-6454, 202 475-3428

RIN: 0580–AA12

158. UNITED STATES STANDARDS FOR SOYBEANS

Legal Authority: 7 USC 75a; 7 USC 76

CFR Citation: 7 CFR 810

Legal Deadline: None

Abstract: According to the requirements of Executive Order 12291 and Departmental Regulation 1512-1 regarding periodic reviews of existing regulations, the Federal Grain Inspection Service will review the United States Standards for Soybeans. Public comment will be requested on various aspects of the Standards including tolerances, grading limits, definitions, language clarity and other potential improvements.

Timetable:

Action	Date	FR Cite
ANPRM	03/09/90	55 FR 8956
ANPRM Comment Period End	06/07/90	
NPRM	02/00/91	
NPRM Comment Period End	04/00/91	
Final Action	09/00/91	
Final Action Effective	09/00/92	
Begin Review	04/00/96	
End Review	07/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul D. Marsden, Manager, Regulations Unit, MIIPS, Department of Agriculture, Federal Grain Inspection Service, Box 96454, Washington, DC 20090-6454, 202 475-3428

RIN: 0580–AA14

USDA—FGIS

Proposed Rule Stage

158. UNITED STATES STANDARDS FOR WHEAT

Legal Authority: 7 USC 75a; 7 USC 76

CFR Citation: 7 CFR 810

Legal Deadline: None

Abstract: According to the requirements for the periodic review of existing regulations, the Federal Grain Inspection Service (FGIS) invites comments and suggested changes to the United States Standards for Wheat under the United States Grain Standards Act.

Timetable:

Action	Date	FR Cite
ANPRM	11/27/89	54 FR 48752
ANPRM Comment Period End	01/26/90	
NPRM	02/00/91	
NPRM Comment Period End	04/00/91	
Final Action	10/00/91	
Final Action Effective	10/00/92	
Begin Review	03/00/96	
End Review	07/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul D. Marsden, Manager, Regulations Unit, MIIPS, Department of Agriculture, Federal Grain Inspection Service, Box 96454, Washington, DC 20090-6454, 202 475-3428

RIN: 0580-AA15

160. FEES FOR RICE INSPECTION AND LABORATORY TEST SERVICES

Legal Authority: 7 USC 1621 et seq

CFR Citation: 7 CFR 68

Legal Deadline: None

Abstract: FGIS proposes to increase fees for rice inspection services performed under the Agricultural Marketing Act of 1946, and revise the laboratory test fee schedule for commodities by adding new tests to the fee schedule and eliminating others that are no longer being performed. Additionally, it is being proposed to establish a unit fee per hundred weight (cwt) for all rice inspection services performed on lots at rest at export locations, e.g. condition examination of sacked rice at a dockside warehouse.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	01/00/91	
Final Action	04/00/91	
Final Action Effective	10/00/91	
Begin Review	01/00/93	
End Review	01/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul D. Marsden, Manager, Regulations Unit, MIIP, Department of Agriculture, Federal Grain Inspection Service, Rm 0628 South Building, Box 96454, Washington DC 20090-6454, 202 475-3428

RIN: 0580-AA21

161. ● OFFICIAL PERFORMANCE REQUIREMENTS FOR GRAIN INSPECTION EQUIPMENT

Significance: Agency Priority

Legal Authority: 7 USC 71

CFR Citation: 7 CFR 801

Legal Deadline: None

Abstract: FGIS is proposing to revise the regulations under the USGSA by incorporating by reference the applicable sections of the Grain Moisture Meter Code of the National Institute of Standards and Technology Handbook 44 (1990 edition) into the regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	01/00/91	
Final Action	05/00/91	
Final Action Effective	05/00/91	
Begin Review	12/00/92	
End Review	12/00/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul D. Marsden, Manager, Regulations Unit, MIIPS, Department of Agriculture, Federal Grain Inspection Service, Box 96454, Washington, DC 20090-6454, 202 475-3428

RIN: 0580-AA18

162. ● FEES FOR OFFICIAL INSPECTION AND OFFICIAL WEIGHING SERVICES

Significance: Agency Priority

Legal Authority: 7 USC 71

CFR Citation: 7 CFR 800

Legal Deadline: None

Abstract: The Federal Grain Inspection Service proposes to increase its fees for official inspection and weighing services performed under the USGSA, as amended, by 13.5 percent. The proposed change is intended to cover, as nearly as practicable, the FGIS operating costs, including related supervisory and administrative costs.

Timetable:

Action	Date	FR Cite
NPRM	10/01/90	55 FR 40136
NPRM Comment Period End	10/00/90	
Final Action	01/00/91	
Final Action Effective	01/00/91	
Begin Review	06/00/92	
End Review	12/00/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul D. Marsden, Manager, Regulations Unit, MIIP, Department of Agriculture, Federal Grain Inspection Service, Rm 0628 South Building, Box 96454, Washington DC 20090-6454, 202 475-3428

RIN: 0580-AA22

163. ● OFFICIAL PERFORMANCE AND PROCEDURAL REQUIREMENTS FOR GRAIN WEIGHING EQUIPMENT AND RELATED GRAIN HANDLING SYSTEMS

Legal Authority: 7 USC 71

CFR Citation: 7 CFR 802

Legal Deadline: None

Abstract: In compliance with the requirements for periodic review of existing regulations, FGIS proposes to revise the regulations under the USGSA, as amended, entitled Performance and Procedural Requirements for Grain Weighing Equipment and Related Grain Handling Systems. FGIS proposes to incorporate by reference the applicable requirements of the National Institute of Standards and Technology (NIST) Handbook 44, "Specifications,

USDA—FGIS — **Proposed Rule Stage**

Tolerances, and Other Technical Requirements for Weighing and Measuring Devices", 1990 edition, and all the requirements of NIST Handbook 105-1, "Specifications and Tolerances for Reference Standard Weights and Measures (Handbook 105-1)." Currently, the 1988 edition of Handbook 44 and the 1972 edition of Handbook 105-1 are incorporated into Part 802 by reference.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	
NPRM Comment Period End	03/00/91	
Final Action	06/00/91	
Final Action Effective	09/00/91	
Begin Review	09/00/93	
End Review	09/00/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul D. Marsden, Manager, Regulations Unit, MIIP, Department of Agriculture, Federal Grain Inspection Service, Rm 0628 South Building, Box 96454, Washington DC 20090-6454, 202 475-3428

RIN: 0580–AA23

DEPARTMENT OF AGRICULTURE (USDA)
Federal Grain Inspection Service (FGIS)

Final Rule Stage

164. FEES FOR RAILROAD TRACK SCALE TESTING SERVICES

Legal Authority: 7 USC 71 et seq

CFR Citation: 7 CFR 800

Legal Deadline: None

Abstract: The Federal Grain Inspection Service proposes to establish an hourly rate for providing railroad track scale testing services to all applicants under the United States Standards Act (as amended). The proposed fee is intended to recover, as nearly as practicable, the projected operating costs of this service, which include related supervisory and administrative costs, and to maintain reasonable operating reserves.

Timetable:

Action	Date	FR Cite
NPRM	06/28/90	55 FR 26596
NPRM Comment Period End	07/30/90	
Final Action	11/00/90	
Final Action Effective	11/00/90	
Begin Review	12/00/91	
End Review	12/00/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul D. Marsden, Manager, Regulations Unit, MIIPS, Department of Agriculture, Federal Grain Inspection Service, Box 96454, Washington, DC 20090-6454, 202 475-3428

RIN: 0580–AA17

DEPARTMENT OF AGRICULTURE (USDA)
Federal Grain Inspection Service (FGIS)

Completed Actions

165. SHIPLOT INSPECTION PLAN - CU-SUM

CFR Citation: 7 CFR 800.86; 7 CFR 800.129; 7 CFR 800.135; 7 CFR 800.139

Completed:

Reason	Date	FR Cite
Final Action	06/13/90	55 FR 24030
Final Action Effective	09/11/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Marsden 202 475-3428

RIN: 0580–AA09

166. UNITED STATES STANDARDS FOR BEANS

CFR Citation: 7 CFR 68

Completed:

Reason	Date	FR Cite
Withdrawn no action required.	06/03/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul D. Marsden 202 475-3428

RIN: 0580–AA13

BILLING CODE 3410-EN-F

DEPARTMENT OF AGRICULTURE (USDA)
Food and Nutrition Service (FNS)

Proposed Rule Stage

167. RULES OF PROCEDURE

Legal Authority: PL 100-435, Sec 603

CFR Citation: 7 CFR 275

Legal Deadline: NPRM, Statutory, October 1, 1985.
Retroactive for Fiscal Year 1985 Quality Control payment error rate liability claims.

Abstract: This regulatory action is required because the Hunger Prevention Act of 1988 (PL 100-435) revised the Food Stamp Act of 1977, as amended, specifying that Food Stamp Program quality control (QC) payment error rate (PER) liability appeals by State agencies be conducted by Administrative Law Judges. The use of Administrative Law Judges replaces the current appeal process which is conducted by the State Food Stamp Appeals Board. This regulation will delineate the procedures to be followed in these QC appeals. (88-011)

USDA—FNS

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	02/00/91	
Final Action	05/00/91	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Jeffrey Held, Confidential Assistant to the Administrator, Department of Agriculture, Food and Nutrition Service, Room 605, 3101 Park Center Drive, Alexandria, VA 22302, 703 756-3664

RIN: 0584–AA75

168. MISCELLANEOUS QC PROVISIONS OF HUNGER PREVENTION ACT OF 1988

Significance: Agency Priority

Legal Authority: PL 100-435, Sec 602; PL 100-435, Sec 604(1)

CFR Citation: 7 CFR 275

Legal Deadline: NPRM, Statutory, October 1, 1988.

Most of the changes are retroactive for Fiscal Year 1988 Quality Control payment error rate liability claims.

Abstract: This regulatory action is required because the Hunger Prevention Act of 1988 (PL 100-435) modified the Food Stamp Program quality control (QC) system provisions of the Food Stamp Act of 1977, as amended. Section 602 requires that State agencies be charged interest on unpaid QC payment error rate (PER) liability claims from the date the billing is received by the State agency, unless the State agency appeals the billing. If the State agency appeals, interest will begin to accrue from the date of the appeal decision or 2 years from the date the billing is received by the State agency, whichever is earlier. Section 604 revised the provisions for paying State agencies enhanced administrative funds for low PERs. It also revises the threshold for State agencies' liabilities for excessive payment error rates. Finally, it provides that PER liability claims will be assessed based on a State agency's total allotments issued, rather than as a percentage of administrative costs. [89-021]

Timetable:

Action	Date	FR Cite
NPRM	09/00/90	
NPRM Comment Period End	11/00/90	
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Jeffrey Held, Confidential Assistant to the Administrator, Department of Agriculture, Food and Nutrition Service, Room 803, 3101 Park Center Drive, Alexandria, VA 22302, 703 756-3664

RIN: 0584–AA76

169. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC): FOOD DELIVERY SYSTEMS

Significance: Agency Priority

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: The proposed food delivery regulations will strengthen and improve vendor management and food instrument accountability. Vendor management areas addressed include: selection, training, high-risk identification and monitoring, sanctions, and appeals. Among the additional areas covered are: dual participation, food instrument reconciliation, and food instrument security. The proposed changes are being made in response to a recent audit by the Office of the Inspector General, and program deficiencies identified through management evaluations and ongoing contact with State agencies. This regulation will control potential program vendor and participant abuse and result in more efficient use of program funds.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	02/00/91	
Final Action	07/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: None

Agency Contact: Jeffrey Held, Confidential Assistant to the Administrator, Department of Agriculture, Food and Nutrition Service, Room 803, Park Office Center, 3101 Park Center Drive, Alexandria, VA 22302, 703 756-3664

RIN: 0584–AA80

170. OUTCOME-BASED PERFORMANCE STANDARDS FOR FOOD STAMP EMPLOYMENT AND TRAINING PROGRAMS

Significance: Regulatory Program

Legal Authority: PL 100-435

CFR Citation: 7 CFR 271; 7 CFR 273

Legal Deadline: Final, Statutory, April 1, 1991.

The new performance standards as required by regulations must be implemented by States by April 1, 1991.

Abstract: The Hunger Prevention Act of 1988 mandates that the U.S. Department of Agriculture change the basis of its performance standards for Food Stamp Employment and Training programs from process-based to outcome-based measures. The new standards must be implemented by April 1991. Consequently, the Food Stamp regulations must be revised to reflect the new measurement criteria for performance and the methodology for computing the new standards.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	01/00/91	
Final Action	02/28/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeffrey Held, Confidential Assistant to the Administrator, Department of Agriculture, Food and Nutrition Service, Room 803, 3010 Park Center Drive, Alexandria, Virginia 22302, 703 756-3664

RIN: 0584–AA82

171. COORDINATED REVIEW EFFORT

Significance: Agency Priority

Legal Authority: 42 USC 1751 et seq

CFR Citation: 7 CFR 210; 7 CFR 215; 7 CFR 220; 7 CFR 235; 7 CFR 245

USDA—FNS

Proposed Rule Stage

Legal Deadline: Final, Statutory, July 1, 1990.

Abstract: Public Law 101-147 requires the Secretary to develop a unified accountability system to ensure local compliance with National Lunch Program requirements. Under this proposed rule, Regional Offices are required to conduct management evaluations of each State agency's administration of the program. State agencies are required to conduct supervisory assistance reviews of all large SFAs at least once during a 3 year review cycle and of all small SFA's at least once during a 5 year review cycle. Follow-up reviews are required of all large SFA's exceeding a review threshold and of 25% of the small SFA's exceeding the threshold. Regional Offices may assist State agencies in the conduct of any review or the Regional Office may conduct a review in the place of the State agency. Reviews conducted by the Regional Office in accordance with the provisions of the proposed supervisory assistance review requirements, will be counted toward the SA review requirements.

A number of alternatives exist within the framework envisioned in this proposal. CND expects the request for comments to elicit a number of alternatives which may improve the proposed (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/01/90	
NPRM Comment Period End	12/15/90	
Final Action	02/01/91	
Final Action Effective	07/01/91	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Additional Information: ABSTRACT CONT: review process. The proposed Coordinated Review Effort does not increase the cost but does improve the efficiency of the monitoring effort.

Agency Contact: Jeffrey Held, Confidential Assistant to the Administrator, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 803, Alexandria, Virginia 22302, 703 756-3984

RIN: 0584-AA84

172. ● FOOD STAMP AND FOOD DISTRIBUTION PROGRAMS: EMERGENCY ASSISTANCE FOR VICTIMS OF DISASTERS

Legal Authority: 7 USC 2013 (b); 7 USC 2014 (h); 7 USC 612 (c); 7 USC 1431; 42 USC 5187; 42 USC 5180

CFR Citation: 7 CFR 250; 7 CFR 272; 7 CFR 280

Legal Deadline: None

Abstract: This rule would define special eligibility and issuance procedures during disasters. The rule addresses the eligibility and issuance of food stamps by the Food Stamp Program and the eligibility and distribution of commodities by the Food Distribution Program during a disaster.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	
NPRM Comment Period End	06/00/91	
Final Action	02/00/92	
Final Action Effective	04/00/92	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Jeffrey Held, Confidential Assistant to the Administrator, Department of Agriculture, Food and Nutrition Service, Room 803 Park Center Drive, Alexandria VA 22302, 703 756-3984

RIN: 0584-AA85

DEPARTMENT OF AGRICULTURE (USDA)
Food and Nutrition Service (FNS)

Final Rule Stage

173. FOOD DISTRIBUTION PROGRAM - PART 250

Significance: Agency Priority

Legal Authority: 7 USC 612c; 15 USC 713c; 42 USC 1755; 42 USC 1758; 7 USC 1431; 22 USC 1922; 7 USC 1859; 7 USC 1431b; 7 USC 1431 Note; 7 USC 1446a-1; 42 USC 1761; 42 USC 5179; 42 USC 5180; 42 USC 1762a; 42 USC 1766

CFR Citation: 7 CFR 250

Legal Deadline: None

Abstract: The rule reorganizes existing regulatory provisions for clarity and ease of reference. This rule outlines the responsibilities of the Food and Nutrition Service and State agencies concerning the distribution of USDA-donated foods acquired under various legislative authorities. The rule prescribes the terms and conditions under which donated foods may be obtained through distributing agencies for use in schools, child care institutions, nonprofit summer camps for children, charitable institutions, nutrition programs for the elderly, and otherwise in the assistance of needy persons. A number of provisions to strengthen and improve the State Processing Program were separated and published in a final rule July 1, 1988. (51 FR 23719) (FNS 84-513)

Timetable:

Action	Date	FR Cite
NPRM	08/19/85	50 FR 33470
Interim Final Rule	06/02/88	53 FR 20416
Final Action	09/30/91	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State

Additional Information: ADDITIONAL LEGAL AUTHORITIES: 7 USC 612c Note; 42 USC 3030a; 42 USC 1760; 5 USC 301; 7 USC 1431e; 42 USC 1779

Agency Contact: Jeffrey Held, Confidential Assistant to the Administrator, Department of Agriculture, Food and Nutrition Service, Room 803, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3984

RIN: 0584-AA07

174. SYSTEMATIC ALIEN VERIFICATION FOR ENTITLEMENTS

Significance: Regulatory Program

USDA—FNS

Final Rule Stage

Legal Authority: PL 99-603 Immigration Reform and Control Act of 1986, Sec 121

CFR Citation: 7 CFR 271; 7 CFR 272; 7 CFR 273; 7 CFR 275; 7 CFR 277

Legal Deadline: Other, Statutory, October 1, 1988.
Deadline for interim final rule

Abstract: This rule establishes procedures for State agencies to use to participate in the Systematic Alien Verification for Entitlements (SAVE) system. As required by IRCA, the Immigration and Naturalization Service (INS) implemented this system. IRCA requires the Food Stamp Program (FSP) and certain other entitlement programs to use SAVE to verify the immigration status of aliens applying for benefits. The rule also provides guidelines for Federal reimbursement of administrative costs. In addition the rule implements nondiscretionary provisions of IRCA requiring all household members to attest to their citizenship or alien status and certain requirements relating to documentation of alien status. (87-009)

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/07/88	53 FR 39433
Final Action	06/00/91	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: Jeffrey Held, Confidential Assistant to the Administrator, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 803, Alexandria, Virginia 22302, 703 756-3964

RIN: 0584–AA73

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175. CHILD AND ADULT CARE FOOD PROGRAM - ADULT DAY CARE PROVISION

Legal Authority: 42 USC 1758; 42 USC 1758a; 42 USC 1762a; 42 USC 1765; 42 USC 1766

CFR Citation: 7 CFR 226

Legal Deadline: None

Abstract: The rule amends the Child and Adult Care Food Program (CACFP) regulations by providing Program eligibility for certain adult day care centers. It implements a provision of the Older Americans Act (OAA) Amendments of 1987, which allows these centers to receive cash and commodity assistance available under the CACFP for meals served to eligible enrolled individuals and a provision of the Rural Development, Agriculture and Related Agencies Appropriations Act of 1988, which provides categorical eligibility for free meals for participants of these centers who receive assistance under Title XVI or XIX in the Social Security Act or are members of a household receiving assistance under the Food Stamp Act and defines the income to be included in determining eligibility for free and reduced-price meal benefits. (FNS 88-502)

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/28/88	53 FR 52584

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Jeffrey Held, Confidential Assistant to the Administrator, Department of Agriculture, Food and Nutrition Service, Room 803, Park Office Center, Alexandria, VA 22302, 703 756-3964

RIN: 0584–AA74

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176. EMPLOYMENT AND TRAINING REQUIREMENTS - NONDISCRETIONARY PROVISIONS FROM THE HUNGER PREVENTION ACT OF 1988

Significance: Agency Priority

Legal Authority: PL 100-435

CFR Citation: 7 CFR 272; 7 CFR 273

Legal Deadline: Other, Statutory. Sec. 404(c) of PL 100-435 is effective July 1, 1989. The Remaining provisions are effective October 1, 1988.

Abstract: This interim rule amends Food Stamp Program regulations to implement certain provisions of the Hunger Prevention Act of 1988, Public Law 100-435, 102 Stat.1645 (1988). These provisions are intended to improve the operation of the Food Stamp Employment and Training (E&T) Program by: (1) a clarification that educational programs or activities to improve basic skills or employability are allowable food stamp E&T activities; (2) the establishment of a conciliation procedure to resolve disputes involving participation in the E&T Program; (3) increasing the reimbursement for dependent care costs under the E&T Program to up to $160 per dependent per month; (4) the exclusion of any payment made to and E&T participant for work related expenses or for dependent care from consideration as income under the Food Stamp Program; (5) a clarification that Federal funds made available to a State agency for an educational component cannot be used to supplant non-Federal funds for existing services and activities that promote the purposes of that component;(cont)

Timetable:

Action	Date	FR Cite
NPRM	06/22/90	55 FR 25611
NPRM Comment Period End	08/21/90	
Final Action	02/28/91	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Additional Information: ABSTRACT CONT: and (6) the extension of the current performance standards for the placement of E&T participants beyond Fiscal Year 1990 until new performance standards can be developed and issued in accordance with the provisions of Public Law 100-435.

Agency Contact: Jeffrey Held, Confidential Assistant to the Administrator, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 803, Alexandria, VA 22302, 703 756-3964

RIN: 0584–AA79

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177. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN NON-DISCRETIONARY FUNDING RULE

Significance: Agency Priority

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: Final, Statutory, October 1, 1989.
The law made these provisions effective October 1, 1989.

Abstract: This regulation would set forth the major revisions to the funds allocation process brought about by Public Law 101-147. The objective of

USDA—FNS

Final Rule Stage

this action is to provide guidelines for the allocation of funds, including changes in the administrative funding structure, breastfeeding targets, and conversion of food funds to administrative funds.

The revised funding structure eliminates the 20 percent limit on administrative and program services funds. Instead, administrative and program services funding will be determined based on a national administrative grant per person. In addition, State agencies must spend at least $8 million for breastfeeding promotion in addition to the current 1/6 nutrition education requirement. For those State agencies that achieve participation increases above the federal projected level through acceptable measures such as cost containment, curtailment of vendor abuse, and breastfeeding promotion activities, conversion of food funds to cover administrative expenses is authorized. Finally any State agency using a cost containment measure may temporarily borrow 1st quarter funds to pay 4th quarter expenses.(cont)

Timetable:

Action	Date	FR Cite
NPRM	06/31/90	
Final Action	11/30/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: ABSTRACT CONT: Timelines for the allocation and reallocation of funds are also established by this rule.

Agency Contact: Jeffrey Held, Confidential Assistant to the Administrator, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 808, Alexandria, Virginia 22302, 703 756-3984

RIN: 0584–AA83

DEPARTMENT OF AGRICULTURE (USDA)
Food and Nutrition Service (FNS)

Completed Actions

178. EMERGENCY FOOD ASSISTANCE FOR VICTIMS OF DISASTERS

CFR Citation: 7 CFR 273; 7 CFR 280

Completed:

Reason	Date	FR Cite
Withdrawn To be re-proposed	07/13/90	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: Jeffrey Held 703 756-3984

RIN: 0584–AA24

179. EMPLOYMENT AND TRAINING REQUIREMENTS TECHNICAL CORRECTIONS PROPOSED RULE

Significance: Regulatory Program

CFR Citation: 7 CFR 273.1; 7 CFR 273.7

Completed:

Reason	Date	FR Cite
Final Action	08/15/90	55 FR 33275

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Jeffrey Held 703 756-3984

RIN: 0584–AA72

BILLING CODE 3410-30-T

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS)

Prerule Stage

180. AUTOMATIC EXPIRATION SYSTEM FOR APPROVED LABELS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: This advanced notice of proposed rulemaking would solicit comments and information from the public regarding the need for a system whereby industry labels will have an automatic expiration date upon approval. The information is requested to determine whether approved labels that are no longer in use should remain in the data base and also determine whether this information will benefit both the public and the Agency by improving our responsiveness to label inquiries and enforcement of changes in labeling regulations.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland L. Clemons, Director, Standards and Labeling Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Room 311-Cotton Annex, Washington, DC 20250, 202 447-6042

RIN: 0583–AA87

181. PROCESSING, DISTRIBUTION, STORAGE, AND RETAIL HANDLING OF READY- TO-EAT, UNCURED, PERISHABLE MEAT AND POULTRY PRODUCTS PACKAGED IN SEALED CONTAINERS

Significance: Agency Priority

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 308; 9 CFR 318; 9 CFR 320; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to establish new requirements governing ready-to-eat, uncured, perishable meat and poultry products that are packed in sealed containers bearing a "Perishable, Keep Refrigerated," or similar label

USDA—FSIS — Prerule Stage

statement. Examples of such products include, but are not limited to, soups, sauces, pastas, salads, and entrees.

Timetable:

Action	Date	FR Cite
ANPRM	05/14/90	55 FR 19886
ANPRM; Correction	06/20/90	55 FR 25136
ANPRM Comment Period End	07/13/90	
Extension of Request for Comments	07/13/90	55 FR 28770
Comment Period End	10/11/90	
NPRM	06/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bill Smith, Director, Processed Products and Inspection Division, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Room 2158-South Bldg., Washington, DC 20250, 202 447-3840

RIN: 0583–AB14

182. NON-RESIDUE LABELING CLAIMS ABOUT ANIMAL PRODUCTION PRACTICES

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: This advanced notice of proposed rulemaking would seek information and solicit comments from the public regarding the use of labeling claims on meat and poultry products reflecting various animal production practices; e.g., "raised in fresh air and the sunshine," "grass fed," and "drinks pure spring water." Although some animal production claims have been permitted to be made on labels of meat and poultry products, FSIS is concerned that substantiating documentation currently required may not be sufficient to adequately support some of these claims. This action is taken to determine what kinds of claims should be permitted, what level of verification is necessary, and how and by whom such verification should be conducted.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ashland L. Clemons, Director, Standards and Labeling Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Room 311-Cotton Annex, Washington, DC 20250, 202 447-6042

RIN: 0583–AB21

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS)

Proposed Rule Stage

183. REQUIREMENTS FOR PARTIALLY DEFATTED MEAT PRODUCTS

Significance: Regulatory Program

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 319

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to establish standards of identity and composition, and temperature and handling requirements for partially defatted meat products. This action would also allow for use of these products in a greater number of meat food products at higher use levels, and would assure accurate labeling to prevent commercial misrepresentation of such products.

Timetable:

Action	Date	FR Cite
ANPRM	08/23/85	50 FR 34157
ANPRM Comment Period End	01/21/86	
NPRM	01/31/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland L. Clemons, Director, Standards and Labeling Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Room 311-Cotton Annex, Washington, DC 20250, 202 447-6042

RIN: 0583–AA27

184. VOLUNTARY RESIDUE CONTROL PROGRAM

Significance: Regulatory Program

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 323; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to aid in the control and reduction of residues of drugs, pesticides and other chemicals in meat and poultry products, and permit label claims to appear on meat and poultry products subject to USDA's ability to verify such claims concerning how an animal was raised.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: W. T. Hubbert, Director, Residue Evaluation and Planning Division, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Room 603-Cotton Annex, Washington, DC 20250, 202 447-2325

RIN: 0583–AA29

185. SULFONAMIDE RESIDUES IN SWINE

Significance: Regulatory Program

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 309; 9 CFR 310

Legal Deadline: None

Abstract: Would establish an in-plant testing program to monitor violative levels of sulfonamide residues in swine. Such program would be designed to encourage producers to market and packers to purchase only healthy

USDA—FSIS

Proposed Rule Stage

animals that will produce safe and wholesome meat.

Timetable:

Action	Date	FR Cite
ANPRM	05/20/85	50 FR 20796
ANPRM Comment Period End	08/30/85	
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Richard A. Carnevale, Assistant Deputy Administrator, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250, 202 447-2907

RIN: 0583–AA31

186. USE AND PROTECTION OF APPROVED WATER SYSTEMS

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq; 42 USC 3007 et seq

CFR Citation: 9 CFR 308; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would prescribe acceptable conditions for the reuse of water in official establishments. This rule would outline methods protecting the potable water supply and describe conditions of use of fresh water. In addition, the rule would also consolidate and make uniform pre-existing policies for the use and reuse of water and brine.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Dr. Karen Wesson, Director, Facilities, Equipment, and Sanitation Division, S & T, Department of Agriculture, Food Safety and Inspection Service, Room 1175 South Bldg., Washington, DC 20250, 202 447-5627

RIN: 0583–AA54

187. CERTAIN PRODUCTS WITH MEAT INGREDIENTS—EXEMPTIONS FROM DEFINITION OF A "MEAT FOOD PRODUCT"

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 301; 9 CFR 303

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to exclude specific products and classes of products containing meat, meat byproducts, and/or meat food products from the definition "meat food product" and thereby would exempt these products from Federal inspection. The proposal identifies two broad conditions for exemption: (1) products containing 3 percent or less of raw meat or other portion of any carcass, or less than 2 percent of cooked meat or other portion of any carcass, and (2) products that historically have not been considered by consumers as products of the meat food industry. This proposal would replace current informal standards for exemptions with formal, codified exemptions.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland L. Clemons, Director, Standards and Labeling Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Room 311-Cotton Annex, Washington, DC 20250, 202 447-6042

RIN: 0583–AA62

188. ADDITIONAL TRICHINA DETECTION METHODS

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: This proposed rule would amend the regulations to permit use of an approved method for examining swine for evidence of trichinosis. The Food Safety and Inspection Service (FSIS) has been petitioned by a manufacturer of serological tests to amend the Federal meat inspection regulations to approve the use of immunoassays for the examination of swine for evidence of trichinosis infection. FSIS has reviewed the performance of the petitioner's assay in a laboratory where sera prepared by the Agency were tested by a precisely defined procedure and has concluded that immunoassays can effectively detect evidence of trichinosis in swine.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Bill Smith, Deputy Director, Processed Products Inspection Division, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Room 2158, South Building, Washington, DC 20250, 202 447-3840

RIN: 0583–AA07

189. INCREASE IN USE LEVELS OF SODIUM CITRATE AS AN ANTICOAGULANT

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to increase the level of sodium citrate allowed to be used as an anticoagulant in blood from 0.2 percent to 0.5 percent. FSIS has been petitioned by American Meat Protein Corporation, Ames, Iowa, to approve an increased use level of this substance as an anticoagulant in blood to 0.5 percent to facilitate the cleaning of equipment and the separation of red blood cells from plasma, as well as to improve sanitation.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland L. Clemons, Director, Standards and Labeling Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Room 311-

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USDA—FSIS

Proposed Rule Stage

Cotton Annex, Washington, DC 20250, [illegible] 447-6042

RIN: 0583-AA76

190. REQUIREMENTS FOR THE PRODUCTION OF FERMENTED SAUSAGE

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 320

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to establish specific requirements concerning processing procedures used in the production of semi-dry and dry fermented sausages. Currently, the Agency has only general requirements concerning the processing procedures for these products. This proposal will provide that a manufacturer of semi-dry and/or dry fermented sausages use either a model good manufacturing practice (GMP) procedure with specified or described critical control points, process control limits, and monitoring activities; or an approved processing procedure from a processing authority who would define the critical control points, process control limits, and monitoring activities for each processing procedure. In addition, the proposal requires that all processes for semi-dry and/or dry fermented sausages comply with a set of validation criteria to assure the product is not adulterated. The proposed rule provides the necessary processing requirements to assure that the production of fermented meat food products does not result in adulterated products.

Timetable:

Action	Date	FR Cite
NPRM	05/00/91	
NPRM Comment Period End	08/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Bill Smith, Deputy Director, Processed Products Inspection Division, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Room 2158-South Bldg., Washington, DC 20250, 202 447-5840

RIN: 0583-AA77

191. USE OF VARIOUS BINDERS IN CURED PORK PRODUCTS

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 319

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to permit the use of food starch modified and other binders as water retention agents in cured pork products. FSIS has been petitioned by the Corn Refiners Association, Inc., Washington, DC, for the approval of food starch modified at a rate not to exceed 2 percent to enable ham processors to formulate products which will better meet the needs of consumers and food service operators. FSIS is amending the regulations to add this binder to the table of approved substances as requested by the petitioner. FSIS is also amending the regulations to add several other binders for use as water retention agents in cured pork products.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland L. Clemons, Director, Standards and Labeling Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Room 311-Cotton Annex, Washington, DC 20250, 202 447-6042

RIN: 0583-AA78

192. USE OF SORBITOL AS A FLAVORING AGENT IN SPECIFIC MEAT PRODUCTS

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to permit the use of sorbitol to reduce charring in pizza toppings and other cured meat products subject to severe heat treatment. FSIS has been petitioned by Quality Sausage Company, Inc., Dallas, Texas, to approve the use of sorbitol at a level of 2.0 percent of the product formula.

Timetable:

Action	Date	FR Cite
NPRM	12/31/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland L. Clemons, Director, Standards and Labeling Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Room 311-Cotton Annex, Washington, DC 20250, 202 447-6042

RIN: 0583-AA79

193. SODIUM/POTASSIUM LACTATE AS ANTIMICROBIAL AGENTS IN SPECIFIC MEAT AND POULTRY PRODUCTS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to permit the use of sodium lactate and potassium lactate as antimicrobial agents in cooked meat and poultry products, and would provide for additional protection against the growth and toxin development of Clostridia botulinum in these products. FSIS has received a petition from Oscar Mayer Foods Corporation, Madison, Wisconsin, to use these substances in various cooked meat and poultry products at levels not to exceed 4.8 percent of the formulation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland L. Clemons, Director, Standards and Labeling Divison, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Room 311-Cotton Annex, Washington, DC 20250, 202 447-6042

RIN: 0583-AA83

USDA—FSIS

Proposed Rule Stage

194. CROSS-CONTAMINATION PREVENTION FOR ALL HEAT PROCESSED MEAT AND POULTRY PRODUCTS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 308; 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to extend the current cross-contamination preventive requirements for cooked beef, roast beef and cooked corned beef, to all types of heat processed meat and poultry products.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	12/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Mark T. Mina, Executive Director, Inspection Management Program, Inspection Operations, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW., Washington, DC 20250, 202 447-4585

RIN: 0583–AA88

195. LABELING OF FRANKFURTERS AND SIMILAR PRODUCTS CONTAINING BINDERS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 319

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to remove labeling requirements for certain binders in sausage, breakfast sausage, frankfurters, cheesefurters, bockwurst, and similar products. This proposed rule would also request information from interested persons as to whether granting the petition would result in false or misleading labeling. This proposal is in response to a petition filed by Protein Technologies International, St. Louis, Missouri.

Timetable:

Action	Date	FR Cite
ANPRM	08/24/88	53 FR 32247
ANPRM Comment Period End	09/23/88	
NPRM	12/00/90	
NPRM Comment Period End	02/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland L. Clemons, Director, Standards and Labeling Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Room 311-Cotton Annex, Washington, DC 20250, 202 447-8042

RIN: 0583–AA92

196. SUBSTANCES APPROVED FOR USE IN MEAT PRODUCTS—REVISION OF LISTINGS

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to reorganize the table of approved substances in an alphabetical order by the substance name rather than by class of substance, to include substance approvals not listed as well as amend individual product standards, and separate those substances approved for use as processing aids into a second chart. This proposed rule will assist the user in locating a substance more quickly and provide more consistency in using the table, update the regulations to reflect existing policies and current industry practices, and provide clarity to the chart of substances.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland L. Clemons, Director, Standards and Labeling Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Room 311-Cotton Annex, Washington, DC 20250, 202 447-8042

RIN: 0583–AA93

197. IMPORTED PRODUCT; MOVEMENT PRIOR TO REINSPECTION

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 327; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations by restricting the movement of imported product to within one of five geographical port areas where the product is unloaded. FSIS is also proposing to amend the regulations to require that such imported product be transported directly to an import inspection establishment from the place that the product is unloaded and that such product be reinspected within 30 days of its arrival in the United States. These actions are expected to increase FSIS's ability to gain and maintain control over imported meat and poultry products prior to their reinspection by FSIS.

Timetable:

Action	Date	FR Cite
NPRM	05/13/88	53 FR 17059
NPRM Comment Period End	07/12/88	
Reopening of Comment Period	08/23/88	53 FR 32060
Comment Period End	09/22/88	
Reproposal	11/00/90	
Comment Period End	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mark Manis, Director, Import Inspection Division, International Programs, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-2952

RIN: 0583–AA94

USDA—FSIS

Proposed Rule Stage

198. REVISION OF REQUIREMENTS FOR FINISHED PRODUCT INSPECTION

Significance: Agency Priority

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to permit early shipment of shelf-stable products subject to incubation and to reduce the sampling frequency for product processed in continuous-type processing systems. These actions are a result of petitions submitted by the National Food Processors Association, Washington, DC.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bill Smith, Director, Processed Products Inspection Division, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Room 2158-South Bldg., Washington, DC 20250, 202 447-3940

RIN: 0583-AA95

199. REVIEW OF RETAIL STORE INSPECTION EXEMPTIONS

Significance: Agency Priority

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to remove all provisions relating to sales of retail-prepared products to hotels, restaurants, and institutions, but allow unlimited resale of federally inspected product that has not undergone further processing; redefine "consumer" as a household consumer only; limit retail store operations to specific processes and products associated with minimal health risks; remove restrictions on the quantity of sales to consumers; allow unlimited product distribution by a retail store to other retail stores of the same ownership; require that distribution of products be made by employees of the retail store without any intervening transfer or storage of such products; and require that an exempted retail area be physically separated from an official establishment or, if within the confines of an official establishment, the retail area shall be separated completely from the official establishment by full height floor-to-ceiling walls. A task force reviewed the exemption provisions of the Federal Meat and Poultry Products Inspection Acts as a result of a District Court (cont)

Timetable:

Action	Date	FR Cite
ANPRM	07/21/88	53 FR 27525
ANPRM Comment Period End	09/19/88	
Extension of Comment Period	09/19/88	53 FR 36334
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: decision and as requested by certain members of the industry. This review also included examination of longstanding "two- stores" policy which allows an exemption from Federal inspection requirements for any retail operator that owns only two retail stores and prepares meat and/or poultry products at one of its retail stores for sale to consumers in normal retail quantities at both stores.

Agency Contact: Robert Gomer, Associate Deputy Administrator, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-3521

RIN: 0583-AA96

200. PROCESSING REQUIREMENTS FOR DRIED READY-TO-EAT MEAT AND POULTRY PRODUCTS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to require establishments to treat certain dried, ready-to-eat meat and poultry products to eliminate microbial contamination. Past food-poisoning outbreaks from dried meat products confirm that present processing requirements do not assure that the finished product is free from contamination by salmonellae. Treatment would assure the destruction of infectious disease bacteria, such as Salmonella, often present on the raw ingredients. The proposed rule would cover all dried ready-to-eat meat and poultry products except fermented sausages and dry cured hams and pork shoulders treated by one of the processing methods in section 318.10(c)(3) (ii), (iii), or (iv) of the Federal meat inspection regulations. The required treatment would either be a lethal heating step, a combination curing and heating process, or an alternate processing method which establishments have shown to be effective. The proposed rule would also contain provisions to prevent contamination of treated product by direct or indirect contact with untreated product.

Timetable:

Action	Date	FR Cite
NPRM	05/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bill Smith, Director, Processed Products Inspection Division, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Room 2158-South Bldg., Washington, DC 20250, 202 447-3940

RIN: 0583-AA97

201. ANTE-MORTEM INSPECTION OF DISABLED ANIMALS ON TRANSPORT VEHICLES

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 309; 9 CFR 320

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to permit an alternate method of ante-mortem inspection of disabled animals. This method would allow a transport vehicle to be an extension of an official establishment's premises for purposes of ante-mortem inspection of disabled animal(s) that

are within the vehicle. FSIS received a request from the Western States Meat Association, Oakland, California, to allow ante-mortem inspection of disabled animals to be performed on a transport vehicle. This proposed rule would (1) specify establishment responsibilities for maintaining control over the transport vehicle, for providing proper ante-mortem inspection facilities, for complying with the veterinary disposition, and for providing assistance to the veterinary Medical Officer when performing the ante-mortem inspection; (2) prescribe the facility requirements needed for safe ante-mortem inspection of disabled animals; and (3) provide the requirements for the written request for this inspection.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Jill Hollingsworth, Director, Slaughter Inspection Standards & Procedures Division, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Room 4444-South Bldg., Washington, DC 20250, 202 447-3219

RIN: 0583–AA98

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202. JAR CLOSURE REQUIREMENTS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to revoke the requirements for vacuum packaged meat and poultry products in glass containers. FSIS was petitioned by the National Food Processors Association, Washington, DC, to revoke jar closure regulations that are no longer necessary to prevent contamination of products packed in glass containers. This action would be consistent with the requirements of the Food and Drug Administration for nonmeat products.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bill Smith, Director, Processed Products Inspection Division, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Room 2158-South Bldg., Washington, DC 20250, 202 447-3840

RIN: 0583–AB00

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203. EXEMPTION FROM "EQUAL TO" REQUIREMENTS

Significance: Agency Priority

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 327; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to provide administrative procedures whereby a foreign country may petition FSIS to be exempted from certain specified inspection requirements. FSIS has received several requests for exemption from specific regulations and procedures to assure that the foreign inspection program will maintain its eligibility to export product to the United States. Present meat and poultry products inspection regulations do not contain a procedure that advises how such requests should be made. Exemption requests are received in various forms and with a variety of information included, and as a result unnecessary time and effort is expended to develop an exemption request in the proper form for consideration. This action will provide a procedure for the submission of exemption requests from countries exporting product to the United States and to permit a timely Agency response.

Timetable:

Action	Date	FR Cite
NPRM	10/00/91	
NPRM Comment Period End	11/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Stolfa, Deputy Administrator, International Programs, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-3473

RIN: 0583–AB01

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204. FOOD ADDITIVES AND GRAS SUBSTANCES USED AS INGREDIENTS IN MEAT FOOD AND POULTRY PRODUCTS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to simplify the procedures by which FSIS approves food additives and Generally Recognized as Safe (GRAS) substances to be used as ingredients in meat food products and poultry products. The proposed rule will be developed in cooperation with the Food and Drug Administration to make the Federal regulation of food additives and other substances that may be used as ingredients in meat food and poultry products more efficient and uniform.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carol M. Seymour, Director Policy Evaluation and Planning Staff, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-3317

RIN: 0583–AB02

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205. POULTRY POST-MORTEM INSPECTION SYSTEM

Significance: Agency Priority

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the poultry products inspection regulations to merge the requirements for the new turkey inspection system, new line speed inspection system,

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streamlined inspection system and traditional inspection into two mandatory methods to be known as poultry post-mortem inspection system (PPMIS) and poultry post-mortem inspection system quality control (PPMIS-QC). The finished product standards for carcasses and giblets would be amended to include all classes of poultry. This proposal would describe the facility requirements necessary to implement this new system nationally, and would establish national presentation standards and line speeds for each class of poultry.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Jill Hollingsworth, Director, Slaughter Inspection Standards & Procedures Division, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Room 4444-South Bldg., Washington, DC 20250, 202 447-3219

RIN: 0583–AB01

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206. EXPORT CERTIFICATION PROCEDURES

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 322; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to provide export certification of all meat and poultry products exported to foreign countries. Domestic inspectors certify that the product is USDA inspected and passed, and that all foreign requirements have been met. In 1988, the Agency conducted a pilot test to determine the feasibility of streamlining export certification procedures by centralizing controls; utilizing contemporary communications technology; establishing plant review criteria; and modifying stamping requirements. The export certification project, of which the pilot was a part, continues in 1990. FSIS will review the current regulations and determine what, if any, changes should be considered from the outcome of this project.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Robert Fetzner, Director, Export Coordination Division, International Programs, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-3651

RIN: 0583–AB04

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207. PEST CONTROL IN OFFICIAL ESTABLISHMENTS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 308; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to provide consistency of existing provisions and ensure enforceability of the requirements for controlling pests such as flies, rodents, insects, and vermin in official establishments. In the past, establishments used pesticides as the primary means of controlling pests. Presently, establishments rely on the use of primary controls to prevent pests from entering an establishment; that is, they use such techniques as preventive construction, maintenance and sanitation. This action would also provide uniform requirements for both meat and poultry products regarding the use of the words "pesticides" and "poison," and the use of other chemical compounds as a means for eliminating or controlling pests in official establishments.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Karen Wesson, Director, Facilities, Equipment and Sanitation Division, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Room 1175, South Building, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-5627

RIN: 0583–AB06

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208. UNDENUDED BEEF STOMACHS; FINISHED PRODUCT STANDARDS AND MANUFACTURING AND INSPECTION PROCEDURES

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 310

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to include finished product standards and manufacturing and inspection procedures for unscalded beef stomachs. This action responds to several requests by meat processing companies.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Jill Hollingsworth, Director, Slaughter Inspection Standards & Procedures Division, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Room 4444-South Bldg., Washington, DC 20250, 202 447-3219

RIN: 0583–AB11

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209. LABELING REQUIREMENTS FOR PACKAGED PRODUCTS WHICH REQUIRE SPECIAL HANDLING TO MAINTAIN THEIR WHOLESOME CONDITION

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to promote consistent labeling requirements within the meat and poultry industry. This action would establish a uniform, standardized label statement and logo system for packaged products that could pose a safety hazard if subjected to temperature abuse.

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Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ashland L. Clemons, Director, Standards and Labeling Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Room 311-Cotton Annex, Washington, DC 20250, 202 447-6042

RIN: 0583–AB12

210. USE OF COMPRESSED AIR IN BONING OPERATIONS

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 310; 9 CFR 318

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to permit the use of compressed air or other gases such as nitrogen and carbon dioxide in boning operations as requested by several establishments. Tests indicate that this would facilitate the separation of muscle tissue from the fat tissue and bone of carcasses and parts without affecting the wholesomeness of the product.

Timetable:

Action	Date	FR Cite
NPRM	09/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bill Smith, Deputy Director, Processed Products and Inspection Division, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Room 2158-South Bldg., Washington, DC 20250, 202 447-3580

RIN: 0583–AB13

211. USE OF ASCORBIC ACID, ERYTHORBIC ACID, CITRIC ACID, SODIUM CITRATE, AND SODIUM ASCORBATE IN FRESH BEEF AND LAMB

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to permit the use of ascorbic acid, erythorbic acid, citric acid, sodium citrate, and sodium ascorbate, to maintain the color in fresh beef and lamb. FSIS received a petition from Wilson Foods Corporation, Oklahoma City, OK, to allow the use of these substances in all red meat.

Timetable:

Action	Date	FR Cite
NPRM	09/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ashland L. Clemons, Director, Standards and Labeling Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Room 311-Cotton Annex, Washington, DC 20250, 202 447-6042

RIN: 0583–AB15

212. ADDITIONAL METHODS FOR DESTROYING TRICHINAE; PROSCIUTTO

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to permit the use of additional methods for destroying trichinae for prosciutto. The Food Safety and Inspection Service evaluated reports of tests performed to determine an acceptable method of treatment for destroying trichinae in prosciutto hams. The regulation would be amended to permit establishments to use a minimum time and temperature combination in conjunction with a minimum brine concentration. In addition, this regulations would add a trichinae destruction treatment method for dry-cured sausage.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bill Smith, Deputy Director, Processed Products Inspection Division, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Room 2158-South Bldg., Washington, DC 20250, 202 447-3580

RIN: 0583–AB17

213. MEAT PROCESSING PROCEDURES; COOKING INSTRUCTIONS AND COOLING, HANDLING AND STORAGE REQUIREMENTS FOR UNCURED COMMINUTED MEAT AND POULTRY PRODUCTS

Significance: Agency Priority

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 320; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to establish heat-processing procedures, cooking instructions and cooling, handling, and storage requirements for various, uncured, comminuted meat and poultry products. This action would also mandate processing procedures to ensure that these products would not harbor or promote the growth of pathogenic microorganisms after processing. Products of concern include, but are not limited to, nuggets, fritters, meatballs, crumbles, Jamaican style patties and loaves.

Timetable:

Action	Date	FR Cite
ANPRM	09/05/90	55 FR 22921
ANPRM Comment Period End	09/04/90	
NPRM	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bill Smith, Deputy Director, Processed Products Inspection Division, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Room 2158-South Bldg., Washington, DC 20250, 202 447-3580

RIN: 0583–AB19

214. USE OF CITRIC ACID AS A COLOR PRESERVATIVE ON THE SURFACE OF CURED MEAT CUTS

Legal Authority: 21 USC 601 et seq

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Proposed Rule Stage

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to permit the use of up to a 30 percent solution of citric acid as a color preservative on the surface of cured meat cuts.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ashland L. Clemons, Director, Standards and Labeling Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Room 311-Cotton Annex, Washington, DC 20250, 202 447-6042

RIN: 0583–AB20

215. ● USE OF TOCOPHEROLS AS ANTIOXIDANTS AND CITRIC ACID AS A SYNERGIST IN VARIOUS MEAT PRODUCTS

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to permit the use of tocopherols as antioxidants and the use of citric acid as a synergist in various meat food products. This action is in response to a petition filed jointly by the Akzo Salt, Inc., St. Clair, Michigan, (formerly Diamond Salt Company) and the Henkel Corporation, Minneapolis, Minnesota, requesting that FSIS approve such uses.

Timetable:

Action	Date	FR Cite
NPRM	08/00/91	
NPRM Comment Period End	10/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ashland L. Clemons, Director, Standards and Labeling Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Room 311, Cotton Annex Building, Washington, DC 20250, 202 447-6042

RIN: 0583–AB25

216. ● USE OF FLAVORINGS IN MEAT AND POULTRY PRODUCTS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to restrict the use of ingredients such as hydrolyzed beef plasma as flavorings in meat and poultry products. Such use restriction would apply to any flavoring not currently regulated in the meat and poultry regulations. This action is necessary to control the use of these substances in standardized products.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	02/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ashland L. Clemons, Director, Standards and Labeling Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Room 311 Cotton Annex Building, Washington, DC 20250, 202 447-6042

RIN: 0583–AB26

217. ● IRRADIATION OF POULTRY

Significance: Agency Priority

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the poultry products inspection regulations to permit the use of ionizing radiation sources to treat fresh or frozen, uncooked whole poultry carcasses or parts and mechanically separated poultry product. Ionizing radiation would be applied for the purpose of controlling and/or reducing various foodborne pathogens that may be present on product to reduce the potential for foodborne illness. The proposal would also prescribe facility and production requirements for those establishments wishing to irradiate product. In addition, the proposal would provide labeling requirements for irradiated product.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	02/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Donald D. Derr, Deputy Director for Scientific Support, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Room 407, Cotton Annex Building, Washington, DC 20250, 202 475-3875

RIN: 0583–AB27

218. ● POULTRY PRODUCTS CONTAINING PORK; TRICHINA TREATMENT

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the poultry products inspection regulations to provide that poultry products containing pork as an ingredient must comply with all applicable provisions of section 318.10 of the Federal meat inspection regulations regarding trichinae, including the provisions regarding whether or not treatment for the destruction of trichinae is necessary for certain products and under certain circumstances. FSIS was petitioned by Olsson, Frank, and Weeda, Washington, DC. The petitioners stated that there are inconsistencies between the meat and poultry products inspection regulations. As a result of the inconsistencies, some meat products containing pork, in certain specific and under specified conditions, may be exempt from trichinae treatment requirements. The regulations do not contain similar exemptions for poultry products.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: Undetermined

USDA—FSIS

Proposed Rule Stage

Government Levels Affected: Undetermined

Agency Contact: William C. Smith, Director, Processed Products Inspection, Division, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Room 2158, South Building, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-3840

RIN: 0583–AB28

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219. ● AMENABILITY OF SPECIFIC EXOTIC SPECIES UNDER THE FEDERAL MEAT INSPECTION ACT AND THE POULTRY PRODUCTS INSPECTION ACT

Significance: Agency Priority

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to provide criteria and procedures for determining the amenability of certain exotic animals and birds to inspection requirements under the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA). Because of increasing use of formerly wild species as animals raised for food purposes (e.g., wild turkeys), the hunting of feral animals otherwise covered under the Act (e.g., wild boars), and use of biotechnology techniques to create genetic variations of traditional species (e.g., "Beefalo"), the Agency is increasingly in need of a framework for deciding when a specific food animal is subject to inspection laws. As a result of recent petitions concerning a variety of animal and bird species, FSIS would amend the regulations to provide criteria and procedures for determining in a consistent and equitable manner the amenability of specific animals or birds to the FMIA and PPIA.

Timetable:

Action	Date	FR Cite
NPRM	11/01/90	
NPRM Comment Period End	01/01/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Timetable:

Action	Date	FR Cite
NPRM	04/01/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Carol M. Seymour, Director, Policy Evaluation, and Planning Staff, Department of Agriculture, Food Safety and Inspection Service, Room 202, Portal Building, 14th & Independence Ave., SW., Washington, DC 20250, 202 447-3317

RIN: 0583–AB29

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220. ● REMOVAL OF PACKAGING LIMITATIONS ON IMPORTED GROUND OR COMMINUTED MEATS

Significance: Agency Priority

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 327

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations by eliminating the prohibition against importation of individual meat pieces or trimmings smaller than 2-inch cubes or pieces comparable in size. FSIS was petitioned by Alsmeyer Food Consulting, Potomac, Maryland (on behalf of Melville Developments, Ltd., Papakura, New Zealand), to allow importation of ground lamb in labeled containers of five and 25 pounds. This action will allow ground or comminuted meats, chopped steaks, meat patties, meat loaves, sectioned and formed or ground and formed meat products and products or similar type to be imported in labeled containers of any size.

Timetable:

Action	Date	FR Cite
NPRM	12/01/90	
NPRM Comment Period End	02/01/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: G. Edward McEvoy, Director, Program Development Division, International Programs, Department of Agriculture, Food Safety and Inspection Service, Room 4349, South Building, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-3435

RIN: 0583–AB31

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221. ● NOTIFICATION OF RESIDUE VIOLATORS AND TESTING OF SUBSEQUENT SHIPMENTS OF ANIMALS

Significance: Agency Priority

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 310; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to provide the authority needed to permit FSIS to notify those entities determined to have marketed livestock or poultry with violative levels of residues and to test subsequent shipments of livestock or poultry marketed by the violators. These actions would not establish new policy in these areas but would, instead, permit the Agency to enforce current policy.

Timetable:

Action	Date	FR Cite
NPRM	12/01/90	
NPRM Comment Period End	02/01/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. William Lenz, Director, Residue Operations Staff, Inspection Management Program, IO, Department of Agriculture, Food Safety and Inspection Service, Room 4436, South Building, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-5311

RIN: 0583–AB32

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS)

Final Rule Stage

222. CATTLE POST-MORTEM INSPECTION PROCEDURES AND STAFFING PROCEDURES

Significance: Regulatory Program

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 307; 9 CFR 310

Legal Deadline: None

Abstract: This rule will improve post-mortem inspection procedures for cattle in establishments currently using three or more line inspectors. To keep pace with technological advances, streamline procedures, focus resources on critical areas, and hold establishments accountable for their actions, the Agency wants to modernize its inspection procedures while still assuring that only wholesome products enter commerce. It is anticipated that the meat industry will experience a net gain if this system of inspection is implemented in spite of the initial costs of facility modifications which may be necessary in some establishments. Savings to the industry as a whole should occur because of increased productivity and reduced overtime.

Timetable:

Action	Date	FR Cite
NPRM	11/30/88	53 FR 48282
NPRM Comment Period End	01/30/89	
Reopening of Comment Period	02/14/89	54 FR 6884
Comment Period End	05/15/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Dr. Jill Hollingsworth, Director, Slaughter Inspection Standards & Procedures Division, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Room 4444-South Bldg., Washington, DC 20250, 202 447-3219

RIN: 0583-AA32

223. REQUIREMENTS FOR FOREIGN COUNTRY IMPORT CERTIFICATION AND LIVE ANIMAL IMPORTATION

Legal Authority: PL 99-198

CFR Citation: 9 CFR 327; 9 CFR 381

Legal Deadline: None

Abstract: This rule will respond to amendments to the Federal Meat Inspection Act by the Food Security Act of 1985. The amendments require that FSIS periodically certify residue control programs submitted by foreign countries desiring to export meat and poultry products to the United States and provide the Secretary with the authority to issue an order prohibiting the importation of livestock for immediate slaughter that have been administered a drug or antibiotic banned for use in the United States.

Timetable:

Action	Date	FR Cite
NPRM	07/26/88	53 FR 27996
NPRM Comment Period End	09/26/88	
Repropose Rule	03/06/90	55 FR 8856
Comment Period End	04/06/90	
Final Action	11/00/90	
Final Action Effective	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence Skinner, Director, Foreign Programs Division, International Programs, Department of Agriculture, Food Safety and Inspection Service, Room 0638, South Building, 14th & Independence Ave., SW., Washington, DC 20250, 202 447-6833

RIN: 0583-AA47

224. TRICHINA CONTROL REQUIREMENTS FOR DRY-CURED HAM

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations by incorporating the dry-cured ham research study findings. This study evaluated the efficiency of present procedures in the commercial production of dry-cured hams and determined the combinations of curing time, temperature, salt concentration, and water activity necessary to inactivate t. spiralis.

Timetable:

Action	Date	FR Cite
NPRM	04/20/89	54 FR 15948
NPRM Comment Period End	06/19/89	
Extension of Comment Period	06/19/89	54 FR 25729
Comment Period End	08/18/89	
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill Smith, Deputy Director, Processed Products Inspection Division, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Room 2158-South Bldg., Washington, DC 20250, 202 447-3840

RIN: 0583-AA49

225. SULFONAMIDE AND ANTIBIOTIC RESIDUES IN YOUNG VEAL CALVES; REDUCED TESTING

Significance: Agency Priority

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 308; 9 CFR 310

Legal Deadline: None

Abstract: This rule will amend the Federal meat inspection regulations to modify the testing frequency of young veal calves under certain conditions for residues of sulfonamides and antibiotics.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/20/87	52 FR 2101
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: W. T. Hubbert, Director, Residue Evaluation and Planning Division, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW., Washington, DC 20250, 202 447-2887

RIN: 0583-AA68

226. NET WEIGHT

Significance: Regulatory Program

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

USDA—FSIS

Final Rule Stage

Abstract: This rule will make Federal and State weights and measures procedures and techniques more consistent, objective and equitable. USDA will adopt the National Bureau of Standards Handbooks 133 and 44 as its standards. This amendment will recognize a fixed amount of acceptable moisture loss by product. This will replace the term "reasonable variation." Moreover the amendment will grant concurrent jurisdiction to State and local authorities to enforce net weight labeling of federally inspected meat and poultry products within their geographic area. The amendment will promote uniform treatment of moisture loss and weights and measures standards as well as encourage and enable greater State and local participation.

Timetable:

Action	Date	FR Cite
NPRM	03/06/89	54 FR 9370
NPRM Comment Period End	05/05/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Bill Smith, Deputy Director, Processed Products Inspection Division, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Room 2158-South Bldg., Washington, DC 20250, 202 447-3340

RIN: 0583–AA69

227. LABELING OF MEAT FOOD PRODUCTS THAT CONTAIN MECHANICALLY SEPARATED (SPECIES) UNDER CERTAIN CIRCUMSTANCES

Significance: Agency Priority

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 317

Legal Deadline: None

Abstract: This rule will add a new exception to the requirement that the list of ingredients on the labels of meat food products shall show the common or usual names of the ingredients. The exception would apply to the use of Mechanically Separated (Species) (MS(S)), at levels no greater than ten percent of the livestock and poultry product portion of a meat food product, providing that the labeling of such product bear a calcium content declaration in accordance with section 317.2(j)(13)(ii) of the Federal meat inspection regulations (9 CFR 317.2(j)(13) (ii)). This action is the result of a petition submitted to the Food Safety and Inspection Service by several members of the meat industry to amend the labeling requirements for meat food products containing MS(S).

Timetable:

Action	Date	FR Cite
NPRM	09/09/88	53 FR 35089
NPRM Comment Period End	11/08/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland L. Clemons, Director, Standards and Labeling Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Room 311-Cotton Annex, Washington, DC 20250, 202 447-6042

RIN: 0583–AA71

228. USE OF SODIUM LACTATE AND POTASSIUM LACTATE AS FLAVOR ENHANCERS IN MEAT AND POULTRY PRODUCTS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to permit the use of sodium lactate and potassium lactate as flavoring agents and flavor enhancers in various meat and poultry products. FSIS has been petitioned by Oscar Mayer Foods Corporation, Madison, Wisconsin, and Shenandoah Products, Inc., Bridgewater, Virginia, to allow the use of these substances at a 2.0 percent level for use in preparation of meat and poultry products.

Timetable:

Action	Date	FR Cite
NPRM	03/01/90	55 FR 7339
NPRM Comment Period End	04/02/90	
Extension of Comment Period	04/02/90	55 FR 12203
Comment Period End	05/02/90	
Final Action	04/30/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland L. Clemons, Director, Standards and Labeling Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Room 311-Cotton Annex, Washington, DC 20250, 202 447-6042

RIN: 0583–AA75

229. PROCESSING PROCEDURES AND COOKING INSTRUCTIONS FOR COOKED, UNCURED MEAT PATTIES

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This rule will provide processors of fully and partially cooked, and char-marked, uncured meat patties with specific manufacturing, handling, and labeling requirements for these products to reduce the potential for incidents of food-borne, pathogen-caused illness from consumption of inadequately cooked, uncured meat patties. This rule will also establish (1) holding temperature and time requirements for raw meat used for cooked, uncured meat patties; (2) internal temperature and time combination processing requirements for fully and partially-cooked, uncured meat patties which are char-marked with heat but remain raw; (3) a requirement that a cooking instruction be placed on the label of partially-cooked and char-marked, uncured patties, instructing the final preparer to cook the patties to a well done state (a minimum internal meat temperature of 160 degrees Fahrenheit); and (4) requirements to assure that fully-cooked, uncured meat patties are not contaminated after cooking. This action will prevent instances of illness from the consumption of such patties.

Timetable:

Action	Date	FR Cite
NPRM	12/27/88	53 FR 52179
NPRM Comment Period End	01/26/89	

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Action	Date	FR Cite
Reproposal	06/05/90	55 FR 22930
Comment Period End	07/05/90	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Bill Smith, Deputy Director, Processed Products Inspection Division, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Room 2159-South Bldg., Washington, DC 20250, 202 447-3840

RIN: 0583-AA81

230. PFF FOR TURKEY HAM

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: This rule will amend the poultry products inspection regulations to permit the use of added water in turkey ham. The new standard provides for several categories of products that are delineated according to the protein content on a fat-free basis. FSIS was petitioned by the National Turkey Federation, Reston, Virginia, to establish protein fat-free values for turkey ham to promote product standardization and permit producers of turkey ham to compete more equitably with pork producers. This rule will replace the current provision which limits the amount of added water and other substances contained in turkey ham products by requiring the weight of the finished product to be no more than the original weight of the turkey thigh meat used prior to curing.

Timetable:

Action	Date	FR Cite
NPRM	02/21/89	54 FR 7434
NPRM Comment Period End	04/18/89	
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland L. Clemons, Director, Standards and Labeling Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Room 311-Cotton Annex, Washington, DC 20250, 202 447-8042

RIN: 0583-AA84

231. IMPORTATION OF LIVESTOCK CARCASSES WITH TISSUES REMOVED

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 327

Legal Deadline: None

Abstract: This rule will amend the Federal meat inspection regulations to remove the requirements prohibiting the importation into the United States of carcasses or parts of carcasses of livestock from which the pleura, peritoneum, body or portal lymph nodes are removed. These carcasses or parts would be imported based on the eligibility of the exporting countries, and whether they are wholesome, not adulterated and properly marked and/or labeled. This action is in response to a petition submitted by Cloverdale Foods Company, Minot, North Dakota.

Timetable:

Action	Date	FR Cite
NPRM	01/17/89	54 FR 1724
NPRM Comment Period End	02/16/89	
Final Action	10/00/90	
Final Action Effective	11/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Dr. Jill Hollingsworth, Director, Slaughter Inspection Standards & Procedures Division, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Room 4444-South Bldg., Washington, DC 20250, 202 447-3219

RIN: 0583-AA85

232. IMPORTED CANADIAN PRODUCT; PROVISION FOR "STREAMLINED" INSPECTION PROCEDURES; EXEMPTION FROM OFFICIAL MARK OF INSPECTION

Significance: Agency Priority

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 327; 9 CFR 381

Legal Deadline: None

Abstract: This rule will amend the Federal meat and poultry products inspection regulations to provide "streamlined" inspection procedures for the reinspection of Canadian meat and poultry products and by exempting Canadian meat and poultry products offered for importation from the requirement that such product and/or containers of product be marked with the official mark of inspection once they are passed for entry into the United States. These actions stemmed from the Canada-United States Free Trade Agreement Implementation Act of 1988, Pub. L. 100-449. These actions specifically responded to one goal of the Agreement whereby both countries are charged with liberalizing agriculture trade practices by seeking ways to eliminate technical or procedural requirements which now may serve to impede trade in agricultural products.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/05/89	54 FR 273
Reopening of Comment Period	03/16/89	54 FR 10621
Comment Period End	04/12/89	
Correction Notice	06/22/89	54 FR 26186
Final Action	04/00/91	
Final Action Effective	05/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mark Manis, Director, Import Inspection Division, International Programs, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-2952

RIN: 0583-AA99

233. PRODUCT DETENTIONS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 329; 9 CFR 381

Legal Deadline: None

Abstract: This rule will amend the Federal meat and poultry products inspection regulations to issue new procedures for preparing and processing the Agency's detention notice and revises the form numbers for the detention tags and reports. Currently,

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upon detention of any article, FSIS provides oral notification and a Preliminary Notice to the owner or custodian of the detained article. Preliminary notice will be eliminated and written notification will be promptly furnished to the owner or custodian in the form of a completed "Notice of Detention," FSIS Form 8080-1 (MP-484).

Timetable:

Action	Date	FR Cite
NPRM	03/02/90	55 FR 7499
NPRM Comment Period End	05/01/90	
Final Action	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard VanBlargen, Director, Evaluation and Enforcement, Department of Agriculture, Food Safety and Inspection Service, Room 2925, South Building, 14th & Independence Avenue, SW., Washington, DC 20250, 202 447-6293

RIN: 0583–AB10

234. POLICY FOR DIFFERENTIATING BETWEEN CALVES AND ADULT CATTLE

Significance: Agency Priority

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 309; 9 CFR 310

Legal Deadline: None

Abstract: This rule will amend the Federal meat inspection regulations to define the term "calf" for inspection purposes, as a young bovine animal whose weight does not exceed 750 pounds live, or whose dressed carcass weight does not exceed 450 pounds with the hide on, or 425 pounds with the hide removed. In addition, the rule will provide that certain indicators of maturity, such as teeth and bone formation be used in conjunction with weight to determine if the animal is a "calf."

Timetable:

Action	Date	FR Cite
NPRM	06/06/90	55 FR 23100
NPRM Comment Period End	08/06/90	
Final Action	06/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: W. S. Hume, Deputy Administrator, Inspection Operations, Department of Agriculture, Food Safety and Inspection Service, Room 344-E, Administration Building, 14th and Independence Avenue SW., Washington, D. C. 20250, 202 447-5199

RIN: 0583–AB18

235. ● IMPORTED PRODUCT: FURTHER IMPLEMENTATION OF U.S. CANADA FREE-TRADE AGREEMENT

Significance: Agency Priority

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 312; 9 CFR 322; 9 CFR 327; 9 CFR 381

Legal Deadline: None

Abstract: This rule will amend the Federal meat and poultry products inspection regulations by exempting (1) Canadian meat and poultry products intended to be imported into the United States from product reinspection by U.S. import inspectors; (2) Canada from various requirements applicable to other countries desiring to obtain and or maintain their eligibility to export product to the U.S. and (3) USDA officials from certain review activities. This rule will provide for the use of a new export stamp to be applied to product destined for Canada and would provide new procedures applicable to U.S. establishments exporting product to Canada and to Canadian establishment exporting product to the U.S. on a one-year experimental basis.

Timetable:

Action	Date	FR Cite
NPRM	06/29/90	55 FR 29698
NPRM Comment Period End	07/30/90	
Reopening of Comment Period	08/06/90	55 FR 31840
Comment Period End	09/05/90	
Final Action	01/01/91	
Final Action Effective	02/01/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Stolfa, Deputy Administrator, International Programs, Department of Agriculture, Food Safety and Inspection Service, Room 341-E, Administration Bldg., 14th & Independence Ave., SW., Washington, DC 20250, 202 447-3473

RIN: 0583–AB30

DEPARTMENT OF AGRICULTURE (USDA)

Food Safety and Inspection Service (FSIS)

Completed Actions

236. ELIGIBILITY OF FOREIGN COUNTRIES FOR IMPORTATION OF PRODUCTS INTO THE UNITED STATES

CFR Citation: 9 CFR 327; 9 CFR 381

Completed:

Reason	Date	FR Cite
Ene Review	07/16/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: A. Charles Bonner, Jr. 202 475-3888

RIN: 0583–AA55

237. USE OF CERTAIN BINDERS IN MEAT AND POULTRY PRODUCTS AND TRANSFER OF BINDERS IN TEXT TO THE TABLES OF APPROVED SUBSTANCES

CFR Citation: 9 CFR 318; 9 CFR 319; 9 CFR 381

Completed:

Reason	Date	FR Cite
Final Action	08/24/90	55 FR 34678
Final Action Effective	09/28/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

USDA—FSIS

Completed Actions

Agency Contact: Ashland L. Clemons 202 447-9042

RIN: 0583-AA84

238. PARTIALLY COOKED, CURED AND SMOKED POULTRY BREAKFAST STRIPS

CFR Citation: 9 CFR 381

Completed:

Reason	Date	FR Cite
Final Action	06/06/90	55 FR 23070
Final Action Effective	07/06/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ashland L. Clemons 202 447-9042

RIN: 0583-AA82

239. USE OF TRICALCIUM PHOSPHATE AS A SEQUESTRANT IN MECHANICALLY DEBONED CHICKEN

CFR Citation: 9 CFR 381

Completed:

Reason	Date	FR Cite
No further action at this time.	07/16/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ashland L. Clemons 202 447-9042

RIN: 0583-AB09

BILLING CODE 3410-DM-T

DEPARTMENT OF AGRICULTURE (USDA)

Foreign Agricultural Service (FAS)

Proposed Rule Stage

240. TYPES AND QUANTITIES OF AGRICULTURAL COMMODITIES AVAILABLE FOR DONATION OVERSEAS UNDER SECTION 416(B) OF THE AGRICULTURAL ACT OF 1949 FOR EACH FISCAL YEAR

Legal Authority: PL 99-027 Food Security Act of 1985

CFR Citation: Not applicable

Legal Deadline: None

Abstract: For FY 1988: The "Food Security Improvements Act of 1986" amended the Food Security Act of 1985, as amended, to require an estimate of Commodity Credit Corporation stocks to be made available under Section 416(b) in FY 1988 by kind of commodity and quantity of each kind of commodity. The Food Security Act, as amended, requires that this estimate be published in the Federal Register.

For future FY's: The Food Security Act of 1985, as amended, requires the above estimate be made and published in the Federal Register before the beginning of each fiscal year. (FAS 88-009)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard J. Finkbeiner, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4961-South Bldg., Washington, DC 20250, 202 447-8713

RIN: 0551-AA23

241. PROPOSED REGULATIONS GOVERNING IMPLEMENTATION OF THE TARGETED EXPORT ASSISTANCE PROGRAM (TEA) OVERSEAS

Significance: Regulatory Program

Legal Authority: 7 USC 1485

CFR Citation: 7 CFR 1730; 7 CFR 1485

Legal Deadline: None

Abstract: These regulations are promulgated to provide minimum requirements and criteria under which parties interested in the Targeted Export Assistance Program (TEA), as authorized in the Food Security Act of 1985, may apply and participate.

Timetable:

Action	Date	FR Cite
NPRM	04/26/90	55 FR 17618
NPRM Comment Period End	06/29/90	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard J. Finkbeiner, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4961 South Building, Washington, DC 20250, 202 447-8713

RIN: 0551-AA24

242. PROPOSED REGULATIONS GOVERNING THE OPERATION OF THE EXPORT ENHANCEMENT PROGRAM (EEP)

Significance: Regulatory Program

Legal Authority: 5 USC 301; EO 12291

CFR Citation: 7 CFR 1494

Legal Deadline: None

Abstract: Under the Export Enhancement Program agricultural commodities owned by CCC are made available as a bonus to U.S. exporters for the purpose of expanding export sales of specific U.S. agricultural commodities in targeted markets. The objectives are to increase U.S. agricultural exports and to encourage trading partners to begin serious negotiations on agricultural trade problems.

Timetable:

Action	Date	FR Cite
NPRM	04/25/90	55 FR 17443
NPRM Comment Period End	06/25/90	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard Finkbeiner, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4961 South Building, Washington, D. C. 20250, 202 447-8713

RIN: 0551-AA25

243. PROPOSED REGULATIONS GOVERNING IMPLEMENTATION OF THE COOPERATOR MARKET DEVELOPMENT PROGRAM OVERSEAS

Legal Authority: 7 USC 1704

CFR Citation: 7 CFR 1580

USDA—FAS **Proposed Rule Stage**

Legal Deadline: None

Abstract: These regulations are promulgated to provide minimum requirements and criteria under which parties interested in the cooperator Market Development program, as authorized in the Agricultural Trade Development and Assistance Act of 1954 (PL 480), may apply and participate.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard J. Fishburne, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4951 South Building, Washington, DC 20250, 202 447-8716

RIN: 0551–AA26

BILLING CODE 3410-10-T

DEPARTMENT OF AGRICULTURE (USDA)

Forest Service (FS) **Prerule Stage**

244. WHISKEYTOWN-SHASTA-TRINITY NATIONAL RECREATION AREA

Legal Authority: 16 USC 472; 16 USC 551

CFR Citation: 36 CFR 292, Subpart B

Legal Deadline: None

Abstract: The rules at 36 CFR 292, Subpart B govern joint administration of the Shasta and Clair Engle-Lewiston units of the National Recreation Area by the Forest Service and the Bureau of Reclamation. The rules also set forth standards for defining compatible private land uses within the National Recreation Area to govern decisions by local zoning authorities, or in the absence of such authorities, decisions on land uses by the Secretary of Agriculture. The review has focused on experience under the rules and whether they still serve the public interest in ensuring that development and management of the NRA meet congressional intent.

Timetable:

Action	Date	FR Cite
Begin Review	03/01/88	
End Review	11/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA68

245. 36 CFR 223 SALE AND DISPOSAL OF NATIONAL FOREST TIMBER, SUBPART A - GENERAL PROVISIONS

Legal Authority: 16 USC 472a; 16 USC 516

CFR Citation: 36 CFR 223, Subpart A

Legal Deadline: None

Abstract: This is a scheduled review of 36 CFR 223, Subpart A. Subpart A primarily authorizes the conditions for free use of National Forest timber.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/90	
End Review	09/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA69

246. 36 CFR 223 SALE AND DISPOSAL OF NATIONAL FOREST TIMBER, SUBPART B - TIMBER SALE CONTRACTS

Legal Authority: 16 USC 472a; 16 USC 516

CFR Citation: 36 CFR 223, Subpart B

Legal Deadline: None

Abstract: This is a scheduled review of 36 CFR 223, Subpart B. Subpart B provides for the sale and disposal of National Forest timber, including contract conditions and provisions, advertisement and bids, award of contracts, and contract administration.

Timetable:

Action	Date	FR Cite
Begin Review	10/00/90	
End Review	09/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA70

247. SPECIAL AREAS

Legal Authority: 16 USC 551; 16 USC 472

CFR Citation: 36 CFR 294.1

Legal Deadline: None

Abstract: The agency has undertaken a review of its existing regulations at 36 CFR 294.1 that provide for the setting aside of areas of National Forests, other than Wilderness or wild areas, which should be managed principally for recreation. The rule establishes five classes for areas that may or may not be designated by the Chief of the Forest Service and the Secretary of Agriculture; describes examples of the types of areas that might be set aside; and provides for clearly marking these areas on the ground. Areas classified under this section are set apart and reserved for public recreation use and such classification constitutes a formal closing of the area to any use or occupancy inconsistent with the classification. The review is completed and notice of the results of that review will be published soon.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/88	
End Review	12/01/88	
Notice Completion of Review	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

USDA—FS

Prerule Stage

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA91

DEPARTMENT OF AGRICULTURE (USDA)

Proposed Rule Stage

Forest Service (FS)

248. SUSPENSION AND DEBARMENT OF TIMBER PURCHASERS, 36 CFR 223, SUBPART C

Significance: Agency Priority

Legal Authority: PL 94-588, Sec 14; 16 USC 472a

CFR Citation: 36 CFR 223, Subpart C

Legal Deadline: None

Abstract: Currently, suspension and debarment of timber purchasers means the debarred entity is prevented from bidding or being awarded Forest Service timber sale contracts. Recently, suspended and/or debarred purchasers have been serving as subcontractors on Forest Service timber sale contracts, or acting as purchaser's representatives to receive notices and to take action on contracts. This has the effect of negating the suspension/debarment action, which is to protect the Government. The rule will be revised to prevent suspended and/or debarred purchasers from serving as subcontractors or purchaser representatives.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA09

249. FINANCIAL SECURITY OF NATIONAL FOREST SYSTEM TIMBER SALE CONTRACTS

Legal Authority: 16 USC 472a; 16 USC 618

CFR Citation: 36 CFR 223.52; 36 CFR 223.80

Legal Deadline: None

Abstract: The Federal Timber Sale Contract Payment Modification Act directs the Forest Service to require purchasers to make down payments and periodic payments on timber sales. The objective of these requirements is to discourage speculative bidding on National Forest System timber sales. A rule published 10/11/85 at 50 FR 41408 requires cash down payments and a midpoint payment. However, to fully comply with the Act, additional rules are required. This rule will identify the requirements for down payments and periodic payments. Based on comments received the agency has decided to issue a new proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	01/17/85	50 FR 2591
NPRM	11/06/87	52 FR 43020
NPRM Comment Period End	02/19/88	53 FR 544
NPRM	10/00/90	
NPRM Comment Period End	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: Corollary financial security measures include adoption of a final rule providing for contract term additions to prevent default in adverse markets and a proposed policy to raise minimum bid guarantees, change procedures for determining default damages and removing the cap on performance bonds.

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA33

250. GRAZING AND LIVESTOCK USE

Legal Authority: 7 USC 1011; 16 USC 472; 16 USC 551; 16 USC 572; 16 USC 580g; 16 USC 580h; 16 USC 580l; 16 USC 1600 et seq; 31 USC 9701; 43 USC 1901 to 1903; 43 USC 1751; 43 USC 1752

CFR Citation: 36 CFR 222, Subpart A

Legal Deadline: None

Abstract: This rulemaking seeks to remove outdated provisions, to incorporate policies and procedures issued in the Forest Service directive system, and to revise the remaining regulations making them clearer and easier for the public and Agency personnel to use. The proposed regulations (1) clarify the definitions of excess livestock and unauthorized use rate; (2) remove the rule for grazing advisory boards; (3) establish requirements or procedures for minimum permit size, eligibility related to compliance with permit terms, permits for livestock use in vegetation management, valuing range improvements when livestock grazing is eliminated, charging a fee for processing actions initiated or caused by a permittee or applicant, and association meeting frequency of a least 1 every 12 months; (4) incorporate currently used policies and procedures for escrow waivers, associated member grievances, permit cancellation or suspension for excess use, charges for excess use, running a child's livestock under a parent's permit, requests for information for evaluating grazing applications and action on apparent violations of permit terms. (cont)

Timetable:

Action	Date	FR Cite
NPRM	08/16/88	53 FR 30954
NPRM Comment Period End	10/17/88	53 FR 30954
NPRM - Second	12/00/90	
NPRM Comment Period End	02/00/91	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: On August 16, 1988, a proposed rule was published in 53 FR 30954. In response to comments received a second proposed rule is being issued. The dates projected are for proposed

and final rules revising 36 CFR 222, Subpart A-grazing and livestock use.

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1455

RIN: 0596–AA35

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251. SPECIAL-USE APPLICATIONS AND ADMINISTRATION OF SPECIAL-USE AUTHORIZATIONS

Significance: Regulatory Program

Legal Authority: 43 USC 1764; 31 USC 483a; 30 USC 181 Mineral Leasing Act; 16 USC 551

CFR Citation: 36 CFR 251, Subpart B

Legal Deadline: None

Abstract: The objective of this rulemaking is to conform the rule to the requirements of 3 laws approved since the regulation was revised in 1980. These laws include special provisions for authorizing irrigation and livestock watering facilities constructed prior to 1976, electrical and telephone facilities financed pursuant to the Rural Electrification Act of 1936, and special uses in Alaska. In addition, the proposed rulemaking will clarify applicant responsibilities for providing data and studies needed to process a special use application and will provide for the advanced payment of land use rental fees for longer time periods, including the life of the special use authorization. That portion of this action relating to collection of reimbursable costs for processing special use applications is being deferred and will be addressed as a new action in a future agenda. For other changes affecting special use applications and authorization of special uses, see Agenda entry RIN 0596-AA20.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	
NPRM Comment Period End	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1455

RIN: 0596–AA36

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252. PROHIBITION ON MECHANICAL TRANSPORT AND OTHER ACTIVITIES IN WILDERNESS

Legal Authority: 16 USC 113 to 136; 16 USC 528 to 531; 16 USC 577 to 577c; 16 USC 1133

CFR Citation: 36 CFR 293.6(a); 36 CFR 251

Legal Deadline: None

Abstract: Except where specifically provided for, the Wilderness Act (16 USC 1133) prohibits both motorized equipment and mechanical transport. Mechanical transport includes devices such as bicycles, hang gliders, wheeled carts, and other items designed to carry people or supplies and powered by either "nonliving" or "living" power sources. The objective of this action is to clarify the definition of mechanical transport in 36 CFR 293.6(a) and to make corollary revisions in the prohibitions applicable to wilderness use, including prohibiting competitive events and expanding the definition of aircraft to include hang gliders, parachutes and parasail. (FS 86-009)

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	01/00/91	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1455

RIN: 0596–AA39

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253. LAND EXCHANGES

Significance: Agency Priority

Legal Authority: 16 USC 485; 16 USC 486; 16 USC 516; 7 USC 1011; 16 USC 555a; 43 USC 1715; 43 USC 1716 102 Stat 1086

CFR Citation: 36 CFR 254, Subpart A

Legal Deadline: Final, Statutory, August 20, 1989.

Abstract: Changes in existing regulations are needed to implement provisions of the Federal Land Exchange Facilitation Act of August 20, 1988, as well as to correct errors, delete obsolete portions, update to reflect current authorities, and clarify ambiguities. Upon consideration of public comment and further coordination with the Bureau of Land Management which is also developing rules to implement the act, the agency has decided to issue a new proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	08/18/89	54 FR 34366
NPRM Comment Period End	10/02/89	
Extension of Comment Period	12/01/89	54 FR 41849
NPRM	11/00/90	
NPRM Comment Period End	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1455

RIN: 0596–AA42

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254. LEASABLE MINERALS OTHER THAN OIL AND GAS

Significance: Regulatory Program

Legal Authority: 16 USC 473 to 475; 16 USC 477 to 482; 16 USC 551; 16 USC 528 to 531; 90 Stat. 2949 as amended

CFR Citation: 36 CFR 228, Subparts F to H (New)

Legal Deadline: None

Abstract: These subparts will set forth the rules by which the Forest Service will process and respond to proposals received from the Department of the Interior (DOI) for the issuance of mineral licenses, prospecting permits and leases, and for the approval of operating plans. The Forest Service has no regulations at this time which have resulted in inconsistent and untimely responses to the DOI. The only other alternative considered is not to promulgate regulations. Public costs are insignificant but public benefits could be substantial in that proposals should be processed more efficiently.

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Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA46

256. APPLICATION PROCEDURES AND FEES FOR HYDROELECTRIC USES ON NATIONAL FOREST SYSTEM LANDS

Legal Authority: 16 USC 551; 43 USC 1761

CFR Citation: 36 CFR 251.54; 36 CFR 251.57

Legal Deadline: None

Abstract: Regulations are needed to reduce confusion regarding the role of the Forest Service in permitting hydroelectric uses on National Forest System lands. The objective of the rules will be to establish procedures, compatible with the procedures of the Federal Energy Regulatory Commission (FERC) for obtaining various approvals and involvement of the Forest Service in a timely manner.

In addition, the rules will establish a fee system for hydroelectric uses as required by Title V, Section 501 of the Federal Land Policy and Management Act of 1976. A Notice of Proposed Policy was published 6/8/84 and comments were received. The proposed rule will take those comments into account.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
NPRM Comment Period End	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA47

258. LOCATABLE MINERALS

Significance: Agency Priority

Legal Authority: 16 USC 478; 16 USC 551; 43 USC 1701 et seq

CFR Citation: 36 CFR 228, Subpart A

Legal Deadline: None

Abstract: Since the regulations were promulgated in 1974, certain legal requirements have changed due to the provisions of the Wilderness Act and recent court decisions; some sections of the regulations no longer apply and revisions and updating are necessary. Major changes proposed will specifically address the requirements for wilderness operations and, secondly, will clarify the mechanism for administering locatable mineral activities not conducted on mining claims but which are nevertheless authorized by the 1872 mining law.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	
NPRM Comment Period End	08/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA49

257. 36 CFR 271—USE OF "SMOKEY BEAR" SYMBOL

Legal Authority: 18 USC 711

CFR Citation: 36 CFR 271

Legal Deadline: None

Abstract: The regulations govern how the name or image of "Smokey Bear" may be used, who may authorize the use of "Smokey Bear" and the use of official campaign materials, commercial licensing, and the association with the State Foresters and the Advertising Council. This review will focus on licensing and especially exclusive licenses and will consider counterpart regulations in Part 272-Use of "Woodsy Owl" Symbol as a possible approach.

Timetable:

Action	Date	FR Cite
Begin Review	10/00/89	
End Review	01/01/90	
NPRM	07/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA48

258. NATIONAL FOREST PROHIBITIONS; LAW ENFORCEMENT SUPPORT ACTIVITIES

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 683; 7 USC 1011(f); 16 USC 1246(e); 16 USC 1133(c) to 1133(d)(1); 16 USC 559(a)

CFR Citation: 36 CFR 261; 36 CFR 262

Legal Deadline: None

Abstract: These rules at 36 CFR Part 261 declare the range of unacceptable public behavior when visiting or using National Forest System lands. Among topics covered are prohibitions on setting campfires in certain areas, unlawful cutting of trees, and other unlawful uses of resources and property of the National Forest System. Violations of these prohibitions carry legal penalties. The rules at 36 CFR Part 262 address impoundment of property and rewards for information leading to arrest.

Review has examined the adequacy of the rules for administration of the National Forest System and whether changes in conditions, laws, or other factors require revision. The agency has completed its review and is now preparing a proposed rule to revise the prohibitions.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/87	
End Review	06/01/88	
NPRM	11/00/90	
NPRM Comment Period End	01/00/91	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: RIN 0596-AA66 was combined with RIN 0596-AA75

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of

USDA—FS

Proposed Rule Stage

Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA75

259. REVISE SMALL TRACTS ACT REGULATIONS

Significance: Agency Priority

Legal Authority: 16 USC 521(c) to 521(l)

CFR Citation: 36 CFR 254, "Subpart C"

Legal Deadline: None

Abstract: Implementation of the agency's Small Tracts regulations has revealed an inadvertent inconsistency between the regulations at 36 CFR 254.35(f) and 254.41(a) and the legislative history of the Small Tracts Act of January 12, 1983. The regulations imply that the disposal of mineral fractions by sale can only be made in response to an application from an abutting landowner, thus discouraging the conveyance by sale to the public. The Act clearly authorizes sale of mineral fractions to the public through public sale, as well as individual applications, provided that certain conditions are met. The revisions will clarify the application of the Act to ensure that both individual applications and public sale are permissible means of disposing of qualifying tracts.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA79

260. REVISE RULES GOVERNING SPECIAL USES OF NATIONAL FOREST SYSTEM LANDS AND RESOURCES AT 36 CFR 251 TO REMOVE AMBIGUITIES REGARDING FIRST AMENDMENT RIGHTS

Significance: Agency Priority

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 1134; 16 USC 3210; 30 USC 185; 43 USC 1740; 43 USC 1761 to 1771

CFR Citation: 36 CFR 251 Subpart A; 36 CFR 251 Subpart B; 36 CFR 251 Subpart E (New); 36 CFR 251 Subpart F (New)

Legal Deadline: None

Abstract: A Federal District Court has ruled that existing regulations discriminate against groups who wish to gather on National Forests to exercise their first amendment rights of assembly and free speech. The proposed rule will seek to remove ambiguities regarding these first amendment rights.

The agency is reviewing the rules of other Federal land managing agencies for possible approaches and is considering establishing separate rules for authorizing short-term, noncommercial uses of National Forests.

There will be no additional costs as a result of the proposed rule change. The benefit will be that the Forest Service will be able to adequately regulate large group use on the National Forests in a manner that ensures protection of the public health and safety and National Forest resources.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/10/88	53 FR 16548
Interim Rule Effective	05/10/88	53 FR 16548
NPRM	12/00/90	
NPRM Comment Period End	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA80

261. 36 CFR 241 WILDLIFE: COOPERATION IN WILDLIFE PROTECTION, WILDLIFE MANAGEMENT AND FEDERAL REFUGE REGULATIONS

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 683

CFR Citation: 36 CFR 241

Legal Deadline: None

Abstract: This rule has been reviewed as required by USDA Departmental Regulation 1512-1. The review indicates a need to revise the rule to clarify the roles of Federal and State officials in the enforcement of laws and regulations for the protection of wildlife, to add legal authorities and to revise terminology pertaining to wildlife and enforcement of wildlife laws and regulations. The agency plans to issue a proposed rule as shown in the timetable below.

Timetable:

Action	Date	FR Cite
Begin Review	02/01/88	
End Review	12/01/89	
NPRM	09/00/91	
NPRM Comment Period End	11/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596–AA81

262. HELL'S CANYON NATIONAL RECREATION AREA—PRIVATE LANDS

Legal Authority: PL 94-199, Sec 10(a)

CFR Citation: 36 CFR 292, Subpart E (New)

Legal Deadline: None

Abstract: The Forest Service proposes to issue regulations concerning use of private lands in the Hell's Canyon National Recreation Area (HCNRA) on the Oregon - Idaho border, as required in PL 94-199. The intended effect of this action is to establish standards for use and development of privately owned lands within the HCNRA.

The standards are intended to achieve the following management objectives for the Recreation Area: (1) The conservation and continuance of forest land for forest uses and farm land for farm uses; (2) The maintenance and protection of the free flowing nature of rivers within the HCNRA; (3) Conservation of scenic, wilderness, cultural, scientific, and other values contributing to the public benefit; (4) Preservation, especially in the area

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generally known as Hell's Canyon, of all features and peculiarities believed to be biologically unique; (5) Protection and maintenance of fish and wildlife habitat; (6) Protection of archaeological and paleontological sites; (7) Preservation of historic sites associated with and typifying the economic and social history of the region (cont)

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
NPRM Comment Period End	03/00/91	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local

Additional Information: ABSTRACT CONT: and the American West; and (8) Continuation of traditional uses.

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA86

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263. SOLID WASTE DISPOSAL POLICY

Significance: Regulatory Program

Legal Authority: 16 USC 497; 43 USC 1701

CFR Citation: None

Legal Deadline: None

Abstract: Solid waste disposal sites (sanitary landfills) on National Forest System lands present the potential for resource degradation, hazardous waste dumping, and future liability. A proposal for solid waste disposal is being developed to reflect changes which have occurred as a result of the Resource and Conservation Recovery Act, the Comprehensive Environmental Response, Compensation, and Liability Act, and an increased knowledge of solid waste disposal. The proposal would prohibit the authorization of new sites and provide for the phase out of existing sites. During the phase out period, authorizations would be amended to provide resource protection and limit the Government's potential liability. Adoption of this policy would reduce administrative costs associated with administration of solid waste disposal sites, limit future liability, and protect the resources on National Forest System lands. The proposal would impact 110 sites currently authorized.

Timetable:

Action	Date	FR Cite
NPRM	06/26/90	55 FR 25990
NPRM Withdrawn	07/10/90	55 FR 28256
NPRM	12/00/90	
NPRM Comment Period End	02/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA92

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264. IRREVOCABLE LETTER OF CREDIT

Significance: Agency Priority

Legal Authority: 16 USC 472a; 16 USC 528 to 531; 16 USC 1600 et seq; 12 USC 1 et seq

CFR Citation: None

Legal Deadline: None

Abstract: In a 1987 court decision, a letter of credit issued in lieu of surety bond was found to be unenforceable because the person who signed the letter of credit did not have authority to do so and because the bank had violated State law in regard to limits of liability. Others were invalid because they exceeded the expiration date. To remedy this problem, the Forest Service is proposing to issue Handbook directions that will require the bank president to certify as to the authority of the person signing the letter of credit and the conformance with State and Federal statutes. An automatic extension of the expiration date would also be required.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	
NPRM Comment Period End	05/00/91	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P. O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA93

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265. DISPOSAL OF QUARTZ MINERALS ON THE OUACHITA NATIONAL FOREST

Legal Authority: PL 100-446, Sec 323; 30 USC 601, 603

CFR Citation: 36 CFR 228 Subpart C

Legal Deadline: None

Abstract: This regulation is a direct response to the direction in Section 323 of Public Law 100-446 which classified quartz mineral on the Ouachita National Forest in Arkansas as no longer subject to location under the General Mining Law of 1872. These materials are now to be managed in the same manner as common varieties of mineral materials under regulations prescribed by the Secretary of Agriculture. Publication of this proposal is being delayed until publication of the final rule defining common variety mineral materials (RIN No. 0596-AA44)

Timetable:

Action	Date	FR Cite
NPRM	07/00/91	
NPRM Comment Period End	09/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596-AB01

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266. FEDERAL CAVE RESOURCES PROTECTION

Significance: Agency Priority

Legal Authority: PL 100-691

CFR Citation: 36 CFR 290 Subpart A (New)

Legal Deadline: Final, Statutory, August 18, 1989.

Abstract: These regulations will implement the Federal Cave Resources Protection Act of 1988, which requires that the rules define what is a significant cave for purposes of this

Act. The Act also requires that the rules address an inventory of cave resources, provide for confidentiality of information concerning the nature and location of caves on Federal land, and permits for collection and removal of cave resources. The regulations are being developed in concert with agencies of the U.S. Department of the Interior as required by the act.

Timetable:

Action	Date	FR Cite
ANPRM	03/03/89	54 FR 9086
ANPRM Comment Period End	04/03/89	54 FR 9086
NPRM	11/00/90	
NPRM Comment Period End	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1466

RIN: 0596-AB02

267. PRE-AWARD INFORMATION REQUIREMENTS

Legal Authority: 16 USC 472(a); 16 USC 618

CFR Citation: 36 CFR 223.101

Legal Deadline: None

Abstract: Recently, as the number of timber sale defaults have increased, the number of debarred purchasers have increased, and the Government has initiated a policy of only doing business with responsible parties, it is becoming commonplace for bidders to form new affiliates in order to continue to be awarded Forest Service timber sale contracts. Unless the bidder voluntarily identifies affiliates, the Agency must make the determination through a time consuming process prior to award, prior to determining if double downpayment rules apply, and prior to taking debarment action. This rule would require bidders to disclose, prior to award of sales, all affiliates, and to certify that none are suspended or debarred. Filing false claims would be cause for contract cancellation and debarment action.

Timetable:

Action	Date	FR Cite
NPRM	05/00/91	
NPRM Comment Period End	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, WAshington, DC 20090-6090, 202 235-1466

RIN: 0596-AB03

268. FOREST SERVICE WILDERNESS MANAGEMENT POLICY

Significance: Agency Priority

Legal Authority: 16 USC 1121; 16 USC 1131 to 1136 Wilderness Act

CFR Citation: None

Legal Deadline: None

Abstract: Revisions to Chapter 2320, Forest Service Manual (FSM), are proposed to remove barriers to implementation of the National Recreation Strategy. Also includes revisions needed to be consistent with 36 CFR 261, 293 (see RIN 0596-1139). Changes will include guidance on access by people with disabilities, expanded policy on controlling insect and disease outbreaks, amending prohibited activities to include competitive events and use of hang gliders, parachutes and parasails as aircraft. The policy will incorporate Congressional Grazing Guidelines, provide more specific direction for wildlife and fish management, and will also include guidance on structures, cultural resources, research and law enforcement in wilderness.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	
NPRM Comment Period End	04/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 202 235-1466

RIN: 0596-AB04

269. NATIONAL ENVIRONMENTAL POLICY ACT REVISED IMPLEMENTING POLICY AND PROCEDURES

Significance: Agency Priority

Legal Authority: PL 91-190; PL 91-224

CFR Citation: 40 CFR 1500; 40 CFR 1501; 40 CFR 1502; 40 CFR 1503; 40 CFR 1504; 40 CFR 1505; 40 CFR 1506; 40 CFR 1507; 40 CFR 1508

Legal Deadline: None

Abstract: This action is an update and revision of the agency's policy and procedure pursuant to the Policy Act and Council on Environmental Quality regulations. The proposed revisions will address changes caused by changing conditions and recent case law. It includes establishment of categories of actions excluded from documentation in an environmental assessment or environmental impact statement.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	12/00/90	
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 202 235-1466

RIN: 0596-AB05

270. RECREATION RESIDENCE AUTHORIZATION POLICY

Significance: Agency Priority

Legal Authority: 16 USC 497

CFR Citation: 36 CFR 251

Legal Deadline: None

Abstract: The policy for administering recreation residences on National Forest lands was adopted August 16, 1988 (53 FR 30924) and subsequently appealed under the administrative appeal process (36 CFR 211.18). In rendering his decision on the appeal the Assistant Secretary of Agriculture for Natural Resources and Environment suspended certain provisions related to tenure and the offering of in-lieu sites; designated the remaining features interim policy; and directed the Chief of the Forest Service to review and

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reconsider the entire policy (54 FR 23498; June 1, 1989). The policy is being reconsidered and alternatives are being developed. The purpose of the policy is to improve the administration of recreation residence permits and implement a revised fee schedule that obtains fair market value for the use. The policy affects about 15,800 permittees.

Timetable:

Action	Date	FR Cite
ANPRM	09/20/88	54 FR 38700
ANPRM Comment Period End	11/20/89	
NPRM Comment Period Extended	01/19/90	54 FR 48668
NPRM	10/00/90	
NPRM Comment Period End	12/00/90	
Final Action	02/00/91	
Final Action Effective	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596–AB06

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271. FEE POLICY FOR RESERVOIRS

Significance: Agency Priority

Legal Authority: 43 USC 1764

CFR Citation: None

Legal Deadline: None

Abstract: The Forest Service proposes to change the policy and procedure for determining the land use rental fees for dams and reservoirs located on National Forests lands that are authorized by special use authorizations. This would eliminate the need for individual appraisals of reservoir areas and would reduce the cost of administering the special use permits. The fees would be comparable to the fees charged by the Federal Energy Regulatory Commission for reservoirs on Federal lands. There would be no change in the fee waiver policy for reservoirs. Reservoirs that are currently exempt by law from payment of land use rental fees would not be affected by the proposed change in policy.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596–AB07

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272. GRADUATED RATE FEE SYSTEM

Significance: Agency Priority

Legal Authority: 16 USC 497b; 16 USC 497

CFR Citation: None

Legal Deadline: None

Abstract: There is a need to provide for public review of Forest Service policy and special use permit clauses for the Graduated Rate Fee System. These have not had public review in the past.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
NPRM Comment Period End	03/00/91	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, D. C. 20090-6090, 202 235-1488

RIN: 0596–AB11

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273. EXPANDED USE OF PROSPECTING PERMITS AND PREFERENCE RIGHT SALES FOR MINERAL MATERIALS

Legal Authority: 30 USC 601 et seq

CFR Citation: 36 CFR 228, Subpart C

Legal Deadline: None

Abstract: Currently rules pertaining to prospecting permits and preference right negotiated sales apply only to minerals on acquired National Forest lands. This limitation is felt to encourage parties to locate mining claims on other National Forest lands under the mining laws of 1872, when it would be more appropriate to apply for a sale of mineral materials. This proposed rule would expand the use of prospecting permits to other National Forest System lands and responds to a recent change in the definition of mineral materials and clarification of those minerals that are subject to mining claims and those that are subject to sale.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P. O. Box 96090, Washington, D. C. 20090-6090, 202 235-1488

RIN: 0596–AB12

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274. INTERVENTION IN APPEALS

Significance: Agency Priority

Legal Authority: 16 USC 551; 16 USC 472

CFR Citation: 36 CFR 217

Legal Deadline: None

Abstract: The current rule at 36 CFR Part 217 provides for a streamlined intervention process. Intervention is granted if requested within 20 days of the filing of a notice of appeal. If request is timely, intervenors have an additional 30 days after receiving a copy of the Notice of Appeal from the Reviewing Officer to file comments on issues raised in the Notice of Appeal. Three problems have surfaced with this process: the definition of "filing"; timeframes available for requesting intervention; and the actual comments that intervenors are to submit. The agency will propose a revision of the appeal rules problems.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	12/00/90	

Small Entities Affected: None

USDA—FS

Proposed Rule Stage

Government Levels Affected: Local, State

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P. O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596–AB15

275. ◆ CLARIFICATION AND REVISION OF APPEALABLE DECISIONS UNDER 36 CFR PART 251, SUBPART C

Legal Authority: 16 USC 472; 16 USC 551

CFR Citation: 36 CFR 251 Subpart C

Legal Deadline: None

Abstract: The current rules at 36 CFR Part 251 Subpart C provide appeal procedures for holders of or certain applicants for land use and occupancy authorizations. Experience under this rule indicates a need to revise the rule as to purpose and scope and appealable decision. Questions have arisen on whether terms and conditions of the permit and routine administration of the permit by the Forest Service appealable. In addition, the rule is silent on administrative review of decisions regarding recomputation of timber volume shares for small timber purchasers and decisions related to determination for the need for structural changes in a market area under the small Business Timber Set Aside program. This rulemaking will seek to address the problems.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	02/00/91	
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington DC 20090-6090, 202 235-1488

RIN: 0596–AB17

276. ◆ IMPROVING FINANCIAL SECURITY OF TIMBER SALE CONTRACTS

Significance: Agency Priority

Legal Authority: 16 USC 472a

CFR Citation: 36 CFR 223.49

Legal Deadline: None

Abstract: The Forest Service proposes to strengthen the government's contract financial position by: the elimination of the $500,000 performance bond ceiling; increasing the bid guarantee to 10 percent of the advertised value; assessing damages for contract repudiation based on resale value; and conditions. In addition, the Forest Service is proposing to increase the amount of contract security to deter speculative bidding, decrease the potential for contract defaulting, and provide additional guarantee for payment in the event of default damage claims. Following notice and comment, these changes will be issued in the form of instruction to agency contracting officers in the Forest Service Directive System.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This action separates the rule making issues from the policy proposals contained in RIN-AA33, as listed in the April 1990 Agenda.

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington DC 20090-6090, 202 235-1488

RIN: 0596–AB18

277. ◆ OIL AND GAS LEASING SURFACE USE OPERATIONS

Legal Authority: 16 USC 478; 30 USC 226; 30 USC 352

CFR Citation: 36 CFR 228 Subpart E

Legal Deadline: None

Abstract: Operations on Federal oil and gas Leases on National Forest System lands must comply with 36 CFR Part 228, Subpart E, and regulations of the Secretary of the Interior. This proposed rulemaking will establish guidelines for operators in preparing surface use plans of operations. Development of the rule is specified at 36 CFR 228.105 (a)(1) and (2). The rule is being developed in consultation with the Bureau of Land Management.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	
NPRM Comment Period End	08/00/91	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington DC 20090-6090, 202 235-1488

RIN: 0596–AB19

278. ◆ LAND AND RESOURCE MANAGEMENT PLANNING

Significance: Agency Priority

Legal Authority: 16 USC 1600 et seq; 5 USC 301

CFR Citation: 36 CFR 219

Legal Deadline: None

Abstract: This rulemaking will revise the regulations governing forest land and resource management planning to reflect agency experience in preparing initial forest plans as required by the National Forest Management Act. The rule will articulate and clarify the forest planning and decisionmaking process, propose ways to streamline plan revision, and, in general, adjust and fine tune the rule and its requirements to make the planning process more realistic, meaningful, and efficient.

Timetable:

Action	Date	FR Cite
ANPRM	07/30/90	55 FR 30934
NPRM	11/00/90	
NPRM Comment Period End	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington DC 20090-6090, 202 235-1488

RIN: 0596–AB20

USDA—FS — Proposed Rule Stage

278. ● GOVERNMENT CANCELLATION OF TIMBER SALE CONTRACTS

Significance: Agency Priority

Legal Authority: 16 USC 551

CFR Citation: 36 CFR 223.40; 36 CFR 223.116

Legal Deadline: None

Abstract: Current regulations governing cancellation of National Forest timber sale contracts do not adequately protect the Government's financial interests in the event the Forest Service is forced to cancel contracts due to events beyond its control arising from compliance with environmental statutes. This rulemaking would remove an unworkable compensation of damages formula, remove limits applicable to length of contract term, and establish a termination for environmental protection clause in timber sale contracts, a standard in most Federal procurement contracts.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	12/00/90	
Final Action	03/00/91	
Final Action Effective	03/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596-AB21

280. ● FEDERAL TIMBER EXPORT AND SUBSTITUTION RESTRICTIONS

Significance: Agency Priority

Legal Authority: 16 USC 620 thru 620j

CFR Citation: 36 CFR Part 223, Subpart D

Legal Deadline: Final, Statutory, May 20, 1991.

Abstract: These rule are necessary to carry out the restrictions placed on the export of unprocessed timber from Federal lands and the restrictions on the direct and indirect purchasing of Federal logs to be used in substitution for the export of unprocessed timber originating from private lands. The rules are mandated by the Forest Resources Conservation and Shortage Relief Act of August 20, 1990. The Act calls for various rules to be issued. The agency anticipates several rulemakings to achieve implementation of the act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	02/00/91	
Final Action	04/00/91	
Final Action Effective	05/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P. O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596-AB22

281. ● USE OF SMOKEY BEAR SYMBOL

Legal Authority: 66 Stat 92; 18 USC 711

CFR Citation: 36 CFR 271

Legal Deadline: None

Abstract: The agency has recently completed a review of the existing rules governing permissible uses of the "Smokey Bear," symbol by nonfederal entities. The review indicates a need to improve the licensing requirements to better assure that the symbol is used in ways appropriate to its purpose. Consideration is being given to adopting the same licensing requirements as those in 36 CFR Part 272 to license Woodsy Owl materials.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
NPRM Comment Period End	03/00/91	
Final Action	06/30/91	
Effective		
Final Action	07/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P. O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596-AB23

DEPARTMENT OF AGRICULTURE (USDA)

Final Rule Stage

Forest Service (FS)

282. LAND STATUS AND TITLE RECORDS

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 1608

CFR Citation: 36 CFR 200.12 (New)

Legal Deadline: None

Abstract: The objective is to establish the Land Status Record as the official record of title for National Forest System lands and to set forth the authorities, policies, and procedures for recording, custody, maintenance, and use of title documents and title status reports.Because this rule is limited to agency organization and administration, it is exempt from notice and comment and thus will be published as a final rule. (FS 85-012)

Timetable:

Action	Date	FR Cite
Final Action	11/00/90	
Final Action Effective	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA24

283. ACCESS TO NON-FEDERAL LANDS

Legal Authority: PL 96-487, Sec 1323(a); 16 USC 3210(a)

CFR Citation: 36 CFR 251, Subpart D (New)

USDA—FS

Final Rule Stage

Legal Deadline: None

Abstract: The regulation will tie the granting of special-use authorizations for ingress and egress under the Alaska National Interest Lands and Conservation Act (ANILCA) to the existing authorities for granting authorizations to use or occupy National Forest lands and remove the discretionary aspects of those laws and regulations when applied to parties qualifying for access under ANILCA. (FS 85-001)

Timetable:

Action	Date	FR Cite
NPRM	09/28/88	53 FR 37795
NPRM Comment Period End	11/28/88	
Extension of Comment Period	11/30/88	53 FR 48276
Comment Period End	01/30/89	
Final Action	11/00/90	
Final Action Effective	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA31

284. CONSERVATION OF FISH, WILDLIFE, AND THEIR HABITATS; CHUGACH NATIONAL FOREST, ALASKA

Legal Authority: PL 96-487 Title V

CFR Citation: 36 CFR 241, (New)

Legal Deadline: None

Abstract: December 2, 1980, the Alaska National Interest Lands Conservation Act was signed into law. Section 501 (b) of the law requires that the Secretary of Agriculture promulgate regulations for the conservation of fish and wildlife and their habitats on the Chugach National Forest. The general National Forest System regulations and other existing laws governing management of National Forest System lands are applicable except as supplemented by these regulations or amended by the ANILCA, August 17, 1984. The new Chugach National Forest land management plan was appealed by 17 appellants. The settlement agreement specifies that subject to valid existing rights, the Forest Service will not allow timber harvest, road construction, surface occupancy for mineral leasing prior to publication of final regulations or completion of management area analysis for the Copper River Management Area. There are no alternatives to development of these regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/31/89	54 FR 13199
NPRM Comment Period End	06/29/89	
Final Action	11/00/90	
Final Action Effective	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA41

285. DEFINITION OF COMMON VARIETY MINERAL MATERIALS

Legal Authority: 30 USC 601 to 604; 16 USC 477; 16 USC 520; 7 USC 1010; 30 USC 192c; 16 USC 508b; 66 Stat. 285; 16 USC 521a; 23 USC 101 et seq; 16 USC 539a, Sec 502

CFR Citation: 36 CFR 228, Subpart C

Legal Deadline: None

Abstract: Whether a mineral deposit is a "common variety" determines whether or not it can be disposed of or sold by the Government under the 1947 Mineral Materials Act. Judicial and administrative interpretations defining common variety characterization determinations can only be made in court. Rulings in common variety cases are generally unpredictable, and the costs to both the Government and miner are high.

After a review of the legislative history of the 1955 Surface Resources Act, which defined common varieties, it is clear that Congress did not intend for certain minerals to be locatable under the Mining Laws; however, a failure to explicitly define the "common variety" term has led to misinterpretation and actions contrary to the original intent of the law. This action will amend 36 CFR Part 228, Subpart C to clarify this confusing classification situation.

Timetable:

Action	Date	FR Cite
NPRM	04/28/88	53 FR 15236
NPRM Comment Period End	06/27/88	53 FR 15236
Final Action	10/00/90	
Final Action Effective	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA44

286. INDIAN ALLOTMENTS ON NATIONAL FOREST SYSTEM LANDS

Significance: Agency Priority

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 1603; 43 USC 1740; 25 USC 337

CFR Citation: 36 CFR 254, Subpart D (New)

Legal Deadline: None

Abstract: Objectives are to set forth Forest Service procedures and role in the regulation of Indian allotments on National Forest System land. The Indian Allotment Act, as amended, authorizes the Secretary of the Interior to make allotments of National Forest System lands to Indians for homesteading and agricultural and grazing purposes. The Forest Service has relied upon USDA rules and procedures at 43 CFR 2533 to govern its involvement in Indian allotment cases. Recent litigation and a decision by the Interior Board of Land Appeals indicate the need for the Forest Service to set forth its own regulations when the Forest Service determines that lands are not chiefly valuable for agricultural and grazing purposes. The only alternative is not to issue regulations. This is unacceptable since it leaves the Agency vulnerable to future IBLA appeals cases as well as future litigation.

Timetable:

Action	Date	FR Cite
NPRM	06/22/87	52 FR 23473
NPRM Comment Period End	07/22/87	52 FR 23472

Action	Date	FR Cite
Final Action	10/00/90	
Final Action Effective	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA52

287. PROHIBITIONS; FOSSIL COLLECTING

Legal Authority: 16 USC 551

CFR Citation: 36 CFR 261

Legal Deadline: None

Abstract: In response to comments from the scientific and academic communities and in keeping with the recommendations of the National Academy of Sciences "Report on Guidelines for Paleontological Collecting," the Forest Service is clarifying its regulations concerning fossil collecting on National Forest System lands. The language on "paleontological resources" is being moved to a separate paragraph and the requirement for permits is being limited specifically to quarrying for fossils and for commercial activities. The no-action alternative would be to leave the regulation of paleontological resources the same as for archeological resources, with permits needed for all activities. Since there is no evidence of widespread problems, the permit process imposes unnecessary burdens on the casual collector and creates added paperwork for the Forest officer to manage.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/28/88	53 FR 38265
Final Action	11/00/90	
Final Action Effective	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This rule has been delayed in order to receive and consider a final report from the National Academy of Sciences on "Guidelines for Paleontological Collecting."

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA56

288. SURETY BOND FORM REVISION

Significance: Agency Priority

Legal Authority: 31 USC 9301 to 9309; 31 USC 223 to 225

CFR Citation: None

Legal Deadline: None

Abstract: Following a period of high-priced timber sales bid prior to 1982, the Forest Service experienced a number of contract defaults on these sales. Subsequently, the Forest Service has had difficulty collecting from some sureties on the bonds guaranteeing performance on these sales. As part of a financial security initiative affecting future sales, the Forest Service is proposing to revise the payment and performance bonds to clarify surety's obligation in regard to what is being guaranteed, when payment is due in case of default, what additional charges will be assessed if payment is not made when due and when collection action may be suspended. Other alternatives include eliminating surety bonds as a form of security, reducing surety guarantee to mid-point and periodic payment and retention of current bond forms. Upon adoption the final revised bond forms will be issued for use by Forest Service Contracting and Fiscal Officers for future timber sale contracts.

Timetable:

Action	Date	FR Cite
NPRM	01/17/89	54 FR 1742
NPRM Comment Period End	03/20/89	
Final Action	09/00/91	
Final Action Effective	11/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Final action on this entry will be delayed to obtain advice of the Comptroller General.

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 703 235-1488

RIN: 0596-AA94

289. DOUGLAS-FIR LUMBER PRICE INDEX REVIEW

Legal Authority: 16 USC 528 to 531; 16 USC 1600 to 1614

CFR Citation: None

Legal Deadline: None

Abstract: The agency proposes to change the Lumber price for public timber offered for sale in the North Coastal Area of California from the Inland Douglas Fir/Larch Index to the Pacific Northwest Coast Douglas Fir Index.

Timetable:

Action	Date	FR Cite
Final Action	11/00/90	
Final Action Effective	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 202 235-7688

RIN: 0596-AB00

290. HELLS CANYON NATIONAL RECREATION AREA—USE OF NATIONAL FOREST LANDS

Significance: Agency Priority

Legal Authority: 16 USC 460(gg); Hells Canyon National Recreation Area

CFR Citation: 36 CFR 292 F (New)

Legal Deadline: None

Abstract: In Oregon Natural Resources Council v. Lyng, the 9th Circuit Court of Appeals ruled that the Secretary must promulgate regulations as required by the Hells Canyon National Recreation Act (HCNRA), governing federal and private land uses in the HCNRA. The Department had argued that such rules were discretionary and the agency's comprehensive management plan for the NRA, which was prepared as required by the Act, was sufficient to guide management of the area. As a result of the court's ruling, the risk of litigation to halt ongoing activities, particularly timber sales, is high.

USDA—FS

Final Rule Stage

Accordingly, there is an urgent need to promulgate an interim rule governing management of the federal lands in the HCNRA. While many existing regulations governing National Forest System lands, remain applicable to the Hells Canyon NRA, pending projects and plans are vulnerable to continued litigation until final rules are effective. An interim rule is the most expeditious way to effect rules. Public comment will be invited on the interim rule and will be considered in development of the final rule. (cont)

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/05/89	54 FR 41069
Interim Final Rule Comment Period End	12/04/89	
Final Action	05/00/91	
Final Action Effective	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: The only alternative to the court ruling to promulgate rules is to publish a proposed rule rather than interim rules. This is unacceptable because of the potential for disruption to management of the area and the regulatory void that would be created by the longer time frames involved in going through a Notice of Proposed Rulemaking.

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596–AB06

291. GIVING NOTICE OF DECISIONS SUBJECT TO APPEAL

Significance: Agency Priority

Legal Authority: 16 USC 551; 16 USC 472

CFR Citation: 36 CFR 217

Legal Deadline: None

Abstract: This rule would require Deciding Officers to give notice of decisions in newspapers of general circulation or, in some cases, the Federal Register. The appeal filing period would begin the day after the notice is published. The rulemaking would also clarify grounds for dismissal of an appeal without a decision on the merits, make clear that dismissal decisions are subject to discretionary review at a higher level, and require appellants to submit 2 copies of a notice of appeal when the notice is 10 pages or longer, and delay implementation of a decision for 7 days following publication of legal notice.

Timetable:

Action	Date	FR Cite
Interim Rule	03/06/90	55 FR 7892
Interim Rule Effective	04/05/90	
Final Action	10/00/90	
Final Action Effective	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20013-6090, 202 235-1488

RIN: 0596–AB10

292. ● CONTRIBUTIONS TO THE NATIONAL COMMISSION ON WILDFIRE DISASTERS

Legal Authority: 16 USC 551

CFR Citation: 36 CFR 200

Legal Deadline: None

Abstract: Public Law 101-286 authorized the establishment of a National Commission on Wildfire Disaster, funding for which is to be raised by contribution. The act requires the Secretary of Agriculture to promulgate regulations to "assure that the aggregate amount of contributions from any one person, group of entity shall not exceed 10 percent of the total amount of funds that will be contributed to the commission." The Commission must meet by November 1990 and the act requires the Commission to dissolve 90 days from issuance of its report on December 13, 1991. Therefore, an Interim Rule will be needed to guide handling of contributions of funds to support the Committee's work by the time the Committee meets.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	
Interim Final Rule Comment Period End	12/00/90	
Interim Final Rule	11/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington DC 20090-6090, 202 235-1488

RIN: 0596–AB16

DEPARTMENT OF AGRICULTURE (USDA)

Forest Service (FS)

Completed Actions

293. MODIFY THE GENERAL PROHIBITION AGAINST USE OF VEHICLES IN EXCESS OF 40 INCHES IN WIDTH ON TRAILS

CFR Citation: 36 CFR 261.12(e)

Completed:

Reason	Date	FR Cite
Final Action	06/25/90	55 FR 25830
Final Action Effective	07/25/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly 703 235-1488

RIN: 0596–AA38

294. SMALL BUSINESS TIMBER SALE SET ASIDE PROGRAM

Significance: Regulatory Program

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Final Action	07/26/90	55 FR 30495
Final Action Effective	09/01/90	

Small Entities Affected: None

Government Levels Affected: None

USDA—FS

Completed Actions

Agency Contact: Marian P. Connolly
703 235-1488
RIN: 0596–AA43

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295. REVISION OF TIMBER SALE CONTRACT FORMS FS-2400-6 AND FS-2400-6T

Significance: Regulatory Program

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn	08/09/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly
703 235-1488
RIN: 0596–AA45

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296. PART 219 PLANNING

Significance: Agency Priority

CFR Citation: 36 CFR 219

Completed:

Reason	Date	FR Cite
Final Action	07/30/90	55 FR 30934

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly
703 235-1488
RIN: 0596–AA59

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297. RESERVED AND OUTSTANDING MINERAL RIGHTS

Significance: Regulatory Program

CFR Citation: 36 CFR 228, Subpart B

Completed:

Reason	Date	FR Cite
Withdrawn	08/09/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly
202 235-1488
RIN: 0596–AA99

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298. OLD-GROWTH VALUES AND DEFINITION—POLICY

Significance: Agency Priority

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn	08/22/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marian P. Connolly
202 235-1488
RIN: 0596–AB13

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299. RULEMAKING: IMPLEMENTATION AND REVISION OF FOREST PLANS

Significance: Agency Priority

CFR Citation: 36 CFR 219.10

Completed:

Reason	Date	FR Cite
Withdrawn	07/30/90	55 FR 30934

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly
202 235-1488
RIN: 0596–AB14
BILLING CODE 3410-11-F

DEPARTMENT OF AGRICULTURE (USDA)
Office of Finance and Management (OFM)

Proposed Rule Stage

300. ● AUDITS OF INSTITUTIONS OF HIGHER EDUCATION AND OTHER NONPROFIT ORGANIZATIONS

Significance: Agency Priority

Legal Authority: 5 USC 301

CFR Citation: 7 CFR 3015; 7 CFR 3051

Legal Deadline: None

Abstract: Sets forth USDA's policy for audits of institutions of higher education and other nonprofit organizations and implements OMB's Circular A-133.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Larry Wilson, Director, Department of Agriculture, Office of Finance and Management, Rm 117-W Administration Building, 14th & Independence Ave SW., Washington DC 20250, 202 447-3345
RIN: 0505–AA07

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301. ● AUDITS OF STATE, LOCAL AND INDIAN TRIBAL GOVERNMENTS

Significance: Agency Priority

Legal Authority: 5 USC 301; 31 USC 7505

CFR Citation: 7 CFR 3015; 7 CFR 3016; 7 CFR 3050

Legal Deadline: None

Abstract: Consolidates and revises USDA's policy for audits of State, Local and Indian Tribal Governments.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Larry Wilson, Director, Department of Agriculture, Office of Finance and Management, Rm 117-W Administration Building, 14th & Independence Ave SW., Washington DC 20250, 202 447-3345
RIN: 0505–AA09

DEPARTMENT OF AGRICULTURE (USDA)
Office of Finance and Management (OFM)

Final Rule Stage

302 IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986

Significance: Agency Priority

Legal Authority: PL 99-509

CFR Citation: 7 CFR 1

Legal Deadline: Final, Statutory, April 21, 1987.

Abstract: Sets forth USDA's Administrative Process and Procedures to recompense the Government for false, fictitious and fraudulent claims and statements arising in programs administered by USDA agencies.

Timetable:

Action	Date	FR Cite
NPRM	01/08/90	55 FR 636
NPRM Comment Period End	02/07/90	
Final Action	02/28/91	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Larry Wilson, Director, Department of Agriculture, Office of Finance and Management, Room 118-W Administration Building, Washington, D. C. 20250, 202 447-8945

RIN: 0505-AA05

DEPARTMENT OF AGRICULTURE (USDA)
Office of Finance and Management (OFM)

Completed Actions

303. ● GOVERNMENTWIDE REQUIREMENTS FOR DRUG FREE WORK PLACE (GRANTS)

Significance: Regulatory Program

Legal Authority: PL 100-690; 5 USC 301

CFR Citation: 7 CFR 3017

Legal Deadline: None

Abstract: This rule implements the Drug-Free Workplace Act of 1988 that requires grantees to certify that they will maintain a drug-free workplace or conduct grant activity that will be drug-free.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 4947
Final Action	05/25/90	55 FR 21681
Final Action Effective	07/24/90	55 FR 21681

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Gerald Miske, Supervisory Program Analyst, Department of Agriculture, Office of Finance and Management, Rm 3031 South Building, 14th & Independence Ave SW., Washington DC 20250, 202 382-1853

RIN: 0505-AA06

304. ● DEBT COLLECTION

Significance: Agency Priority

Legal Authority: 31 USC 3701; 31 USC 3711; 31 USC 3716 to 3719; 31 USC 3728

CFR Citation: 7 CFR 1; 7 CFR 3

Legal Deadline: None

Abstract: Establishes the final regulations to implement the statutory provisions of the Debt Collection Act of 1982 (Public Law 97-365). The Debt Collection Act authorizes the Federal Government to collect delinquent debts owed it by means of administrative offsets; charging interest and penalties on overdue debts; contracting for private collection services and disclosing information on delinquent debts to credit reporting agencies and the Internal Revenue Service.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/85	50 FR 7721
Final Action	09/22/90	55 FR 38951
Final Action Effective	10/22/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David C. Rector, Acting Deputy Director for Policy, Office of Finance and Management, Department of Agriculture, Office of Finance and Management, Rm 117-W Administration Building, 14th & Independence Ave., SW., Washington DC 20250, 202 447-8748

RIN: 0505-AA08

BILLING CODE 3410-96-T

DEPARTMENT OF AGRICULTURE (USDA)
Packers and Stockyards Administration (P&SA)

Final Rule Stage

305. GENERAL BONDING REGULATIONS

Legal Authority: 7 USC 222; 7 USC 228

CFR Citation: 9 CFR 201.27; 9 CFR 201.28; 9 CFR 201.33; 9 CFR 201.35

Legal Deadline: None

Abstract: The proposed changes in the regulations would reduce the time for filing bond claims from 120 days to 60 days and the waiting period for filing suit to recover under a bond from 180 to 120 days. The proposal would also consolidate the regulations to provide uniform requirements for all bonds and bond equivalents required under the Packers and Stockyards Act.

Timetable:

Action	Date	FR Cite
NPRM	04/12/90	55 FR 13796
NPRM Comment Period End	06/11/90	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

USDA—PSSA

Final Rule Stage

Agency Contact: Calvin W. Watkins, Deputy Administrator, Department of Agriculture, Packers and Stockyards Administration, Room 3039 South Building, Washington, DC 20250, 202 447-7083

RIN: 0590–AA06

BILLING CODE 3410-80-T

DEPARTMENT OF AGRICULTURE (USDA)

Rural Electrification Administration (REA)

Proposed Rule Stage

306. LIST OF STANDARD FORMS OF TELECOMMUNICATIONS CONTRACTS

Significance: Agency Priority

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1755.93

Legal Deadline: None

Abstract: The purpose of revising 7 CFR Part 1762 is to announce a general revision of REA Contract Form 525, Central Office Equipment Contract (Including Installation).

Timetable:

Action	Date	FR Cite
NPRM	10/25/89	54 FR 43429
Federal Register Correction	11/01/89	54 FR 46187
NPRM Comment Period End	12/25/89	54 FR 43429
NPRM - New Proposed Rule	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave., SW., Rm. 4063-S, Washington, DC 20250, 202 382-8552

RIN: 0572–AA20

307. ACCOUNTING REQUIREMENTS FOR REA ELECTRIC BORROWERS

Significance: Agency Priority

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1767

Legal Deadline: None

Abstract: To codify the policy and procedures currently set forth in REA Bulletin 181-1, Uniform System of Accounts Prescribed for Electric Borrowers of the Rural Electrification Administration and REA Bulletin 181-3, Accounting Interpretation for REA Electric Borrowers. In addition to codifying, revisions are being proposed to the existing policy that will update REA's accounting guidelines.

Timetable:

Action	Date	FR Cite
NPRM	08/17/90	55 FR 33936
NPRM Comment Period End	11/06/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave., SW., Room 4063-S, Washington, DC 20250, 202 382-8552

RIN: 0572–AA23

308. LOAN SECURITY DOCUMENTS—TELEPHONE PROGRAM

Significance: Agency Priority

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1744

Legal Deadline: None

Abstract: This new part provides information on the loan security documents borrowers are required to execute and includes as appendixes REA's standard forms of loan contract, note, and mortgage.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave., SW., Rm. 4063-S, Washington, DC 20250, 202 382-8552

RIN: 0572–AA30

309. REA POLICY ON AUDITS OF ELECTRIC AND TELEPHONE BORROWERS

Significance: Agency Priority

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1773

Legal Deadline: None

Abstract: As a result of an audit of REA's Oversight of Program Operations performed by the Department of Agriculture's Office of Inspector General, REA must revise its current regulations to require the independent certified public accountant to perform the annual audit of an REA borrower in accordance with generally accepted government auditing standards, thereby expanding the scope of the financial audit previously submitted in accordance with 7 CFR 1789 to include a determination of whether the borrower has complied with the applicable laws and regulations for those transactions and events reported in the financial statements.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: A regulation on this subject was published at 7 CFR 1789. As part of REA's project to simplify and clarify Agency regulations, it has been redesignated as shown above.

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave., SW., Rm. 4063-S, Washington, DC 20250, 202 382-8552

RIN: 0572–AA36

USDA—REA

Proposed Rule Stage

310. RURAL ECONOMIC DEVELOPMENT LOAN AND GRANT PROGRAM

Significance: Agency Priority

Legal Authority: 7 USC 901 et seq; PL 100-203

CFR Citation: 7 CFR 1703

Legal Deadline: None

Abstract: This subpart contains policies, requirements and procedures that implement a rural economic development loan and grant program established by Section 313 of the Rural Electrification Act of 1936, as amended (RE Act). The program provides zero interest loans and grants to RE Act borrowers for the purpose of promoting rural economic development and job creation projects.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This rule was originally published a 7 CFR Part 1709. As part of a project to clarify and simplify Agency regulations, it has been redesignated as shown above.

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, Room 4063 South Building, Washington, D. C. 20250, 202 382-8552

RIN: 0572–AA37

311. REA REQUIREMENTS FOR ENGINEERING AND ECONOMIC SUPPORT REQUESTS FOR LOANS AND LOAN GUARANTEES FOR NEW GENERATION AND RELATED TRANSMISSION FACILITIES

Significance: Regulatory Program

Legal Authority: 7 USC 901 et seq; PL 99-591

CFR Citation: 7 CFR 1712.200 to 1712.211

Legal Deadline: None

Abstract: This regulation formalizes requirements that REA borrowers seek out economical proposals for new generation resources from the traditional sources (such as investor owned utilities and governmental power organizations and joint use with other utilities) as an integral part of new capacity resource planning requirements.

The regulation will also require that REA financed borrowers adequately consider the availability of power from Independent Power Producers.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	
NPRM Comment Period End	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, Room 4063 South Building, Washington, D. C. 20250, 202 382-8552

RIN: 0572–AA38

312. MEMBER CREDIT SUPPORT OF POWER SUPPLY BORROWERS

Significance: Regulatory Program

Legal Authority: 7 USC 901 et seq; PL 99-591

CFR Citation: 7 CFR 1710.700 to 1710.713

Legal Deadline: None

Abstract: This regulation establishes REA policy and procedures requiring certain power supply borrowers to obtain credit support from member owners in connection with new loans or loan guarantees made by REA.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, Room 4063 South Building, Washington, D. C. 20250, 202 382-8552

RIN: 0572–AA39

313. WHOLESALE CONTRACTS FOR THE PURCHASE AND SALE OF ELECTRIC POWER AND ENERGY

Significance: Regulatory Program

Legal Authority: 7 USC 901 et seq; PL 99-591

CFR Citation: 7 CFR 1717.000 to 1717.009

Legal Deadline: None

Abstract: This regulation revises REA policies and procedures relating to wholesale power contracts and requires each REA borrower to condition the effectiveness of any contract for the sale or purchase of electric energy upon the approval of the REA administrator.

Timetable:

Action	Date	FR Cite
NPRM	09/21/90	55 FR 38920
NPRM Comment Period End	11/20/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, Room 4063 South Building, Washington, D. C. 20250, 202 382-8552

RIN: 0572–AA41

314. ● GENERAL AND PRELOAN POLICIES AND PROCEDURES FOR ELECTRIC LOANS

Significance: Agency Priority

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1710; 7 CFR 1712; 7 CFR 1714

Legal Deadline: None

Abstract: These regulations will update and codify existing policies and procedures for the REA electric loan program. 7 CFR Part 1710 will deal with policies and procedures common to insured and guaranteed loans, Part 1712 with policies and procedures for guaranteed loans, and Part 1714 with policies and procedures for insured loans.

Timetable:

7 CFR 1710
NPRM 12/00/90
7 CFR 1712
NPRM 02/00/91
7 CFR 1714
NPRM 02/00/91

USDA—REA

Proposed Rule Stage

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave., SW., Room 4063-S, Washington, DC 20250, 202 382-8552

RIN: 0572-AA43

315. ● TELECOMMUNICATIONS STANDARDS AND SPECIFICATIONS FOR MATERIAL, EQUIPMENT, AND CONSTRUCTION

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1755

Legal Deadline: None

Abstract: This regulation will update, consolidate, and clarify REA policies and procedures relating to approvals of REA standards, specifications, equipment contract forms, manual selections, and drawings, and REA acceptances of materials and equipment for use on REA financed telephone facilities.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
NPRM Comment Period End	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: A regulation on this subject was published at 7 CFR 1772. As part of REA's project to simplify and clarify Agency regulations, it has been redesignated as shown above.

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave., SW., Room 4063-S, Washington DC 20250, 202 382-8552

RIN: 0572-AA45

DEPARTMENT OF AGRICULTURE (USDA)

Rural Electrification Administration (REA)

Completed Actions

314. FEDERAL PRE-EMPTION IN RATE MAKING IN CONNECTION WITH POWER SUPPLY BORROWERS

Significance: Regulatory Program

CFR Citation: 7 CFR 1717.500 to 1717.509

Completed:

Reason	Date	FR Cite
Final Action	09/19/90	55 FR 38636
Final Action Effective	10/19/90	55 FR 38636

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Blaine D. Stockton, Jr. 202 382-8552

RIN: 0572-AA40

317. PREPAYMENT OF REA GUARANTEED FEDERAL FINANCING BANK LOANS - ELECTRIC

Significance: Agency Priority

CFR Citation: 7 CFR 1786

Completed:

Reason	Date	FR Cite
Final Action	08/30/90	55 FR 35425
Final Action Effective	10/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Blaine D. Stockton, Jr. 202 382-8552

RIN: 0572-AA42

318. ● FEDERAL PREEMPTION IN RATE MAKING IN CONNECTION WITH REA ELECTRIC BORROWERS IN BANKRUPTCY

Significance: Regulatory Program

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1717

Legal Deadline: None

Abstract: This regulation addresses the pre-emption under certain circumstances of the regulation of the rates of REA borrowers in bankruptcy by State Regulatory Authorities and the assumption of exclusive jurisdiction over rates by REA.

Timetable:

Action	Date	FR Cite
NPRM	04/02/90	55 FR 12194
NPRM Comment Period End	06/01/90	55 FR 12194
Extend Comment Period From 06/12/90 to 07/12/90	06/12/90	55 FR 23748
Final Action	09/19/90	55 FR 38636
Final Action Effective	10/19/90	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: This proposed rule was published at 7 CFR 1714. As part of REA's project to simplify and clarify Agency regulations, it has been redesignated as shown above.

Agency Contact: Blaine D. Stockton, Jr., Assistant Administrator - Management, Department of Agriculture, Rural Electrification Administration, 14th & Independence Ave., SW., Washington, DC 20250, 202 382-8552

RIN: 0572-AA44

BILLING CODE 3410-15-T

DEPARTMENT OF AGRICULTURE (USDA)
Soil Conservation Service (SCS)

Proposed Rule Stage

319. RELOCATION ASSISTANCE

Legal Authority: 42 USC 4601 et seq; PL 91-646

CFR Citation: 7 CFR 652

Legal Deadline: None
No action required. A governmentwide regulation has been issued.

Abstract: Prescribes the policies and procedures for the implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 USC 4601 et seq.) pertaining to the treatment of persons displaced from their homes, businesses, or farms because of Federal financially assisted projects. (SCS 85-001)

Timetable:

Action	Date	FR Cite
End Review	01/31/86	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Michael F. King, Director, Administrative Services Division, Department of Agriculture, Soil Conservation Service, Room 6016 South Building, 14th & Independence Ave SW., Washington DC 20250, 202 447-4811

RIN: 0578-AA12

DEPARTMENT OF AGRICULTURE (USDA)
Soil Conservation Service (SCS)

Final Rule Stage

320. SOIL SURVEYS

Legal Authority: PL 74-46 The Soil Conservation and Domestic Allotment Act; PL 89-560 Soil Surveys for Resource Planning and Development; 42 USC 3271; 42 USC 3274

CFR Citation: 7 CFR 611

Legal Deadline: None

Abstract: Prescribes the policy on soil survey operations including cooperative relationships with State agencies, standards, guidelines and plans on survey operations, distribution of soil survey information, and cartographic operations services furnished. (SCS 83-006)

Timetable:

Action	Date	FR Cite
End Review	12/31/88	
Final Action	10/01/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Michal F. King, Director, Administrative Services Division, Department of Agriculture, Soil Conservation Service, Room 6016 South Building, 14th & Independence Ave SW., Washington DC 20250, 202 447-4811

RIN: 0578-AA00

321. SNOW SURVEYS AND WATER SUPPLY FORECASTS

Legal Authority: PL 50-46

CFR Citation: 7 CFR 612.1 to 612.7

Legal Deadline: None

Abstract: Sets forth policy and procedures for the administration of a cooperative snow survey and water supply forecast program, including the steps involved in carrying out the program. Sets out data collected and forecasts made, and eligible users of the data. (SCS 83-005)

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Michael F. King, Director, Administrative Services Division, Department of Agriculture, Soil Conservation Service, Room 6016 South Building, 14th & Independence Ave SW., Washington DC 20250, 202 447-4811

RIN: 0578-AA01

322. FARMLAND PROTECTION POLICY ACT

Significance: Agency Priority

Legal Authority: 7 USC 4201

CFR Citation: 7 CFR 658

Legal Deadline: None

Abstract: The United States Department of Agriculture amends its rule for implementing the Farmland Protection Policy Act to require progress reports, enable governors to bring action to enforce the requirements of the Act, include a section omitted by clerical error, revise how Federal agencies apply the Act, and revise the definition of farmland. These amendments are necessary in order to comply with amendments to the Farmland Protection Policy Act (FPPA) made by Title XII of the Food Security Act of 1985, PL 99-198, December 23, 1985, and to clarify several provisions of the existing rule. This rule will revise Part 658 of Title 7 of the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
Final Action	12/31/90	
Final Action Effective	12/31/90	

Small Entities Affected: None

Government Levels Affected: Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1987

Sectors Affected: None

Agency Contact: Michael F. King, Director, Administrative Services Division, Department of Agriculture, Soil Conservation Service, Room 6016 South Building, 14th & Independence Ave SW., Washington DC 20250, 202 447-4811

RIN: 0578-AA14

BILLING CODE 3410-05-T

DEPARTMENT OF AGRICULTURE (USDA)
Office of Operations (OO)

Proposed Rule Stage

323. AGRICULTURE ACQUISITION REGULATION

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR 401 to 453, (Revision)

Legal Deadline: None

Abstract: This rule anticipates miscellaneous changes to the Department of Agriculture Acquisition Regulation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	12/00/90	
Final Action	02/00/91	
Final Action Effective	02/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: Multiple

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Don F. Mamm, Chief, Procurement Division, Department of Agriculture, Office of Operations, Procurement Division, 1550-South, Washington, DC 20250, 202 447-3637

RIN: 0599-AA00

DEPARTMENT OF AGRICULTURE (USDA)
Office of Operations (OO)

Final Rule Stage

324. ◎ NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: 5 USC 301; 31 USC 1352

CFR Citation: 7 CFR 2018

Legal Deadline: None

Abstract: Prescribes USDA policy and procedures for compliance with section 319 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 USC 1352). Imposes restrictions and disclosure requirements on payments to persons for influencing activities in connection with contracts (excluding contracts subject to the Federal Acquisition Regulation), grants, cooperative agreements, loans, or commitments to insure or guarantee loans.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Joseph J. Deregas, Procurement Analyst, Department of Agriculture, Office of Operations, Rm 1575 South Building, 14th & Independence Ave SW., Washington DC 20250, 202 447-5729

RIN: 0599-AA01

BILLING CODE 3410-98-T

[FR Doc. 90-21447 Filed 10-26-90; 8:45 am]

Monday
October 29, 1990

federal register

Part IV

Department of Commerce

Semiannual Regulatory Agenda

DEPARTMENT OF COMMERCE (DOC)

DEPARTMENT OF COMMERCE

Office of the Secretary

13 CFR Ch. III

15 CFR Subtitle A; Subtitle B, Chs. I, II, III, IV, VII, VIII, IX

15 CFR Ch. III

37 CFR Chs. I and IV

48 CFR Ch. 13

50 CFR Chs. II, III, VI

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Commerce.

ACTION: October 1990 regulatory agenda.

SUMMARY: In compliance with Executive Order (E.O.) 12291, entitled "Federal Regulation," and the Regulatory Flexibility Act (Pub. L. 96-354), the Department of Commerce in April and October of each year publishes in the Federal Register an agenda of the rulemaking actions covered by section 1 of E.O. 12291 that the Department plans to conduct or review over the next 12 months. Rulemaking actions are grouped according to prerulemaking, proposed rules, final rules, and rulemaking actions completed since the April 1990 agenda. The purpose of the agenda is to provide information to the public on regulations currently under review, being proposed, or issued by the Department. The agenda is intended to facilitate comments and views by interested members of the public.

The Department's October 1990 regulatory agenda includes regulatory activities that are expected to be conducted during the period October 1, 1990, through September 30, 1991.

FOR FURTHER INFORMATION CONTACT:

Specific: For additional information about specific regulatory actions listed in the agenda, contact the individual identified as the contact person.

General: Comments or inquiries of a general nature about the agenda should be directed to Michael A. Levitt, Assistant General Counsel for Legislation and Regulation, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-8843.

SUPPLEMENTARY INFORMATION: E.O. 12291 requires all executive agencies to publish semiannually an agenda of those regulations that are under consideration pursuant to this Order. By memorandum of July 2, 1990, the Office of Management and Budget (OMB) issued guidelines and procedures for the preparation and publication of the October 1990 Unified Agenda of Federal Regulations. E.O. 12291 and the OMB guidelines require that each agency's agenda report the following information on non-exempt regulatory activities being conducted or planned to be conducted by the agency during the 12-month period succeeding publication: The title of the regulation; the name, title, address, and phone number of an agency person who is knowledgeable about the regulation; whether the action is expected to have a significant economic impact on a substantial number of small entities and whether it will affect levels of government; the section(s) of the Code of Federal Regulations which will affect or be affected by the action; the section of the United States Code, Public Law, or Executive Order that authorizes the action; an indication of whether or not the entry is a significant regulatory action included in the Administration's Regulatory Program and if the agency considers it a priority action; an abstract describing the problem the regulation addresses, alternatives to the regulation being considered, and potential costs and benefits of the action; legal deadline, if any and; a timetable of dates and, if available, Federal Register citations for past stages of the action. In addition, OMB requires that procurement-related regulatory actions include additional information on all actions that are covered by section 22 of the Office of Federal Procurement Policy Act Amendments of 1988 and all other actions that will result in a change or addition to the Federal Aquisition Regulation System. This procurement-related information is listed under ADDITIONAL INFORMATION and will be used by the Office of Federal Procurement Policy in preparing the "Procurement Regulatory Activity Report."

The Regulatory Flexibility Act requires agencies to prepare a regulatory flexibility analysis where there is a positive finding that a rule will have a significant economic impact on a substantial number of small entities. E.O. 12291 requires agencies to prepare a regulatory impact analysis for any regulation considered to be a "major rule" as defined in the order.

Explanation of Information Contained in the Agenda

Within the Department, the Office of the Secretary and various operating units may issue regulations. Operating units, such as the Economic Development Administration, the Bureau of Export Administration, the International Trade Administration, the National Institute of Standards and Technology (NIST), the National Oceanic and Atmospheric Administration (NOAA), and the Patent and Trademark Office, issue the greatest share of the Department's regulations.

A large number of regulatory actions reported in the agenda are proposed or final Federal Information Processing Standards (FIPS) issued by NIST under Public Law 100-235. FIPS consist of standards and guidelines to improve Federal Government use and management of computers and information technology. The standards, while often of great use to industry and the public, apply only to the Federal Government. In developing the standards and guidelines and in providing technical guidance and coordination to Federal agencies, NIST works closely with private industry standard-setting organizations.

Another large number of regulatory actions reported in the agenda deal with fishery management programs of NOAA's National Marine Fisheries Service (NMFS). To avoid repetition of programs and definitions, as well as to provide some understanding of the technical and institutional elements of the NMFS programs, a section on "Explanation of Information Contained in NMFS Regulatory Entries" is provided below.

Explanation of Information Contained in NMFS Regulatory Entries

The Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 *et seq.*) (Act) governs the management of fisheries within the Exclusive Economic Zone (EEZ). The EEZ refers to those waters from the outer edge of the State boundaries, generally 3 nautical miles, to a distance of 200 nautical miles. Fishery Management Plans (FMPs) are to be prepared for fisheries which require conservation and management measures. Regulations implementing

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these FMPs regulate domestic fishing and foreign fishing where permitted. Foreign fishing can be conducted in a fishery for which there is no FMP only if a preliminary fishery management plan has been issued to govern that foreign fishing. Under the Act, eight Regional Fishery Management Councils (Councils) prepare FMPs or amendments to FMPs for fisheries within their respective areas. In the development of such plans or amendments and their implementing regulations, the Councils are required by law to conduct public hearings on the draft plans and to consider the use of alternative means of regulating.

The Council's process for developing FMPs and amendments makes it difficult for NMFS to determine the significance of some regulatory actions under consideration at the time the semiannual regulatory agenda is published. Frequently, NMFS does not have specific plan objectives or alternatives for management, since the Councils may not have approved or submitted plans to the Secretary of Commerce for review, adoption, and implementation.

The DOC October 1990 regulatory agenda follows.

Dated: August 21, 1990.

Wendell L. Willkie, II,

General Counsel.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
325	Contract Clauses and Solicitation Provisions for the Commerce Automated Solicitation System	0690-AA06
326	Source Evaluation Procedures and Miscellaneous Revisions to the Commerce Acquisition Regulation	0690-AA13

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
327	Program Fraud Civil Remedies	0690-AA14
328	Protection of Human Subjects	0690-AA17

Bureau of Economic Analysis—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
329	Increase in Exemption Level of the BE-11, Annual Survey of U.S. Direct Investment Abroad	0691-AA16
330	Benchmark Survey of Selected Services Transactions with Unaffiliated Foreign Persons—1991	0691-AA17

Bureau of the Census—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
331	Revision of Foreign Trade Statistics Regulations	0607-AA10

Bureau of the Census—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
332	Elimination of Requirement for Shipper's Export Declarations for Certain Exports to Canada	0607-AA14

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Bureau of the Census—Completed Actions

Sequence Number	Title	Regulation Identifier Number
333	Foreign Trade Statistics Regulations (FTSR)	0607-AA12

Economic Development Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
334	General Requirements for Financial Assistance—Design, Construction of Buildings to Accommodate the Physically Handicapped	0610-AA05
335	General Requirements for Financial Assistance: Employment of Expediters or Administrative Employees; Compensation of Persons Engaged by or on Behalf of Applicants	0610-AA18
336	Overall Economic Development Program; Public Works and Development Facilities Program	0610-AA19
337	Sale of Loans and Loan Guarantees to the Private Sector	0610-AA31
338	General Requirements for Financial Assistance—Nonrelocation	0610-AA32
339	Protection of EDA's Interest in Facilities Acquired, Built, or Improved with EDA Grant Funds	0610-AA35
340	Adjustment Grants—Revolving Loan Funds	0610-AA37
341	Economic Development Districts, District Organization; Civil Rights Requirements	0610-AA38
342	Public Works - Industrial Parks and Sites	0610-AA40
343	Public Works and Development Facilities Programs - Grant Disbursements	0610-AA42
344	General Requirements for Financial Assistance - Electric and Gas Facilities	0610-AA43
345	Overall Economic Development Program - Progress Report	0610-AA44
346	Environmental Requirements	0610-AA45

Economic Development Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
347	Economic Development Administration: Property Management Standards	0610-AA07
348	Area Designation—Special Impact Areas	0610-AA39

General Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
349	Nonprocurement Debarment and Suspension	0605-AA02

General Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
350	Uniform Administrative Requirements for Grants and Cooperative Agreements	0605-AA04
351	New Restrictions on Lobbying	0605-AA06
352	Audit Requirements for Institutions of Higher Education and Other Nonprofit Organizations	0605-AA07

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General Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
353	Nonprocurement Debarment and Suspension and Government Requirements for Drug-Free Workplace (Grants)	0605-AA05

International Trade Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
354	Antidumping Duties	0625-AA29

International Trade Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
355	General Regulations Governing Foreign Trade Zones in the United States, with Rules of Procedures	0625-AA24
356	Countervailing Duties	0625-AA31

International Trade Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
357	Adjustment Assistance for Firms and Industries	0605-AA05
358	Antidumping Duties; Countervailing Duties	0625-AA32
359	Procedures and Rules for Implementing Article 1904 of the United States-Canada Free Trade Agreement	0625-AA33
360	Short Supply Procedures for ITA	0625-AA34

International Trade Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
361	Allocation of Apparel Tariff-Rate Quota Under the U.S.-Canada Free Trade Agreement	0625-AA30

Bureau of Export Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
362	Revision and Reformatting of Commodity Control List	0694-AA51

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Bureau of Export Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
363	Revisions to Short Supply Regulations	0694-AA01
364	Defense Priorities and Allocations System (DPAS)	0694-AA02
365	Definition of Supercomputer	0694-AA03
366	Amendment of Validated License Controls on Magnetically Enhanced Sputtering Equipment	0694-AA05
367	Exports from Abroad of Foreign Products Incorporating U.S.-Origin Parts and Components	0694-AA06
368	General License GFW	0694-AA07
369	Exports of Medical Equipment and of Commodities Controlled Because They Contain Controlled Parts and Components	0694-AA09
370	Revision of Foreign Boycott Provisions of Export Administration Regulations	0694-AA11
371	General License G-TEMP; Temporary Export	0694-AA12
372	Establishment of General License GCT; COCOM Trade	0694-AA13
373	Shipper's Export Declaration: Removal of Requirement that Separate Declarations Must Be Filed for General License and Validated License Commodities in the Same Shipment	0694-AA14
374	Revision of General License GIFT	0694-AA26
375	Change in Reporting Requirements for the Special Licenses	0694-AA27
376	Elimination of Submission Requirement for Certain Supporting Documents	0694-AA28
377	Expansion and Imposition of Foreign Policy Controls on Chemical Weapon Precursors	0694-AA32
378	Establishment of General License GDR; Exports to the German Democratic Republic	0694-AA48
379	Procedural Changes in Validating Licenses and Duplicate Reexport Authorizations for Hong Kong	0694-AA49
380	Conversion to the Metric System	0694-AA50

Bureau of Export Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
381	Revision of Foreign Availability Regulations	0694-AA10
382	Amendments to Enforcement and Administrative Proceedings	0694-AA29
383	Foreign Availability Assessments: Initiation of an Assessment on "Stored Program Controlled" Die (Chip) Mounters and Bonders	0694-AA31
384	Removal of General License G-FTZ; Exports of Petroleum Commodities from U.S. Foreign-Trade Zones and from Guam	0694-AA35
385	Guidelines for Export Transactions Involving Chemical Processing Equipment	0694-AA37
386	Voluntary Self-Disclosures of Export Violations	0694-AA38
387	Increase in the Dollar Value Limit Exemption from the Shipper's Export Declaration Filing Requirement	0694-AA39
388	Amendments to Parts 787 and 788: Export Enforcement and Administrative Proceedings	0694-AA40
389	Validated License Controls on Genetically Modified Organisms	0694-AA42
390	Notice of Foreign Availability Assessment Initiation of an Assessment on Polycrystalline Silicon Rods and Chunks	0694-AA44
391	Notice of Initiation of Foreign Availability Assessment on High Purity Polycrystalline Silicon	0694-AA45

National Institute of Standards & Technology—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
392	FIPS for Recorded Formats for One- and Two-Sided 5.25 Inch (130 mm) and 3.5 Inch (90 mm) Flexible Disk Cartridges	0693-AA54
393	FIPS for Recorded Magnetic Tape and Cartridge for Information Interchange; 18 Track, Parallel, 12.65 mm (1/2 in), 1491 cpmm (37871 cpi) Group-Coded Recording	0693-AA55
394	FIPS for Applications Portability Profile	0693-AA65
395	Revision of FIPS 140, General Security Requirements for Equipment Using the Data Encryption Standard	0693-AA68
396	FIPS for POSIX System Administration	0693-AA71
397	FIPS for Spatial Data Transfer Standard	0693-AA73
398	FIPS for Open Systems Interconnection (OSI) Transport Layer Security Protocol (SP4)	0693-AA75
399	FIPS for IRDS Export/Import File Format	0693-AA76
400	FIPS for IRDS Services Interface	0693-AA77
401	FIPS for Network Management	0693-AA85
402	FIPS for Public Key Signature Algorithm	0693-AA86

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National Institute of Standards & Technology—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
403	Revision to FIPS 100, Interface Between Data Terminal Equipment (DTE) and Data Circuit-Terminating Equipment (DCE) for Operation with Packet-Switched Data Communications Networks (cont)	0693-AA39
404	FIPS for C Programming Language	0693-AA46
405	Revisions to FIPS 60, 61, 62, 63, 97, and 111, Computer System Input/Output (I/O) Interface Standards	0693-AA59
406	FIPS for Electronic Data Interchange (EDI)	0693-AA62
407	FIPS for Conformance Testing Policy and Procedures	0693-AA65
408	FIPS for Document Application Profile (DAP) for the Office Document Architecture (ODA) and Interchange Format Standard	0693-AA67
409	Revision of FIPS 146, Government Open Systems Interconnection Profile (GOSIP)	0693-AA69
410	FIPS for POSIX Shell and Utility Application Interface for Computer Operating System Environments	0693-AA70
411	FIPS for Fiber Distributed Data Interface (FDDI)	0693-AA74
412	FIPS for GOSIP Conformance and Interoperation Testing and Registration	0693-AA78
413	Revision of FIPS 120, Graphical Kernel System	0693-AA80
414	Revision of FIPS 54, Computer Output Microform (COM) Formats and Reduction Ratios, 16mm and 105mm	0693-AA81

National Institute of Standards & Technology—Completed Actions

Sequence Number	Title	Regulation Identifier Number
415	FIPS PUB 151-1, POSIX: Portable Operating System Interface for Computer Environments	0693-AA49
416	FIPS PUB 127-1, Database Language SQL	0693-AA63
417	FIPS PUB 156, User Interface Component of the Applications Portability Profile	0693-AA72
418	Manufacturing Technology Centers	0693-AA82
419	Advanced Technology Program (ATP) Procedures	0693-AA83
420	Boehlert-Rockefeller Technology, Extension Program	0693-AA84

National Oceanic and Atmospheric Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
421	Policy to Require Observers to be Carried on Domestic Fishing Vessels	0648-AC45
422	Amendment 18 to the Fishery Management Plan for the Bering Sea and Aleutian Islands and Amendment 23 to the FMP for Groundfish of the Gulf of Alaska	0648-AD50
423	U.S. Standards for Grades of Fresh and Frozen Fish Fillets	0648-AD53
424	Federal Consistency with Approved Coastal Zone Management Programs	0648-AA34
425	The Monitor National Marine Sanctuary	0648-AC78

National Oceanic and Atmospheric Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
426	Groundfish of the Gulf of Alaska and High Seas Salmon Fishery Off Alaska; Regulatory Amendment	0648-AB51
427	Amendment 1 to the Swordfish FMP	0648-AB92
428	Amendment 4 to the Pacific Coast Groundfish Fishery Management Plan	0648-AC43
429	Scientific Research - Domestic and Foreign Fishing	0648-AC61
430	Regulation to Control Illegal Fishing in the Exclusive Economic Zone (EEZ) and Overfishing Outside the EEZ	0648-AC68
431	Regulatory Amendment for Interaction Between Summer Flounder Fishery and Endangered Species	0648-AC67
432	Interim Fishing Vessel Capital Construction Fund Procedures	0648-AC71
433	Amendment 19 to the FMP for Groundfish of the Gulf of Alaska and Amendment 14 to the FMP for Groundfish of the Bering Sea and Aleutian Islands	0648-AC60
434	Amendment 1 to the Fishery Management Plan for the Summer Flounder Fishery	0648-AC83
435	Amendment 10 to the Fishery Management Plan for Commercial and Recreational Salmon Fisheries Off the Coast of Washington, Oregon, and California Commencing in 1978 (FMP)	0648-AC85

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National Oceanic and Atmospheric Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
436	Regulatory Amendment to the Fishery Management Plan for Atlantic Billfish	0648-AC87
437	Amendment 4 to the Fishery Management Plan for the Northeast Multispecies Fishery	0648-AC89
438	Amendment 6 to the Northern Anchovy Fishery Management Plan	0648-AC95
439	Amendment 4 to the Fishery Management Plan for the Atlantic Sea Scallop Fishery	0648-AC99
440	Atlantic Bluefin Tuna Fishery	0648-AD01
441	Depletion of the Coastal-Migratory Stock of Bottlenose Dolphins in the U.S. Mid-Atlantic	0648-AD02
442	Revised Regulations Governing Permits for the Taking and Importing of Marine Mammals for Scientific Research and Public Display	0648-AD11
443	Secretarial Fishery Management Plan for Atlantic Ocean Sharks	0648-AD12
444	Western Pacific Bottomfish and Seamount Groundfish Fisheries - Amendment 3 to Define Overfishing	0648-AD14
445	Western Pacific Precious Corals - Amendment 2 to Define Overfishing	0648-AD16
446	Amendment 16 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands and Amendment 21 to the FMP for Groundfish of the Gulf of Alaska	0648-AD18
447	Amendment 15 to the Fishery Management Plan for the Bering Sea and Aleutian Islands and Amendment 20 to the FMP for Groundfish of the Gulf of Alaska	0648-AD19
448	Amendment 4 to the American Lobster Fishery Management Plan	0648-AD20
449	Amendment 2 to the Fishery Management Plan for the Spiny Lobster Fishery of Puerto Rico and the U.S. Virgin Islands	0648-AD21
450	Amendment 3 to the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic	0648-AD22
451	Amendment 3 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan	0648-AD23
452	Amendment 5 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico	0648-AD24
453	Foreign Fishing Poundage and Permit Fees, 1991	0648-AD26
454	Corals and Coral Reefs of the Gulf of Mexico and the South Atlantic-Amendment 1 to Define Overfishing	0648-AD28
455	Approaching Marine Mammals	0648-AD30
456	Regulations Governing U.S. Fishing in Columbian Treaty Waters	0648-AD31
457	Stone Crab Fishery of the Gulf of Mexico - Amendment 4 to Define Overfishing	0648-AD32
458	Amendment 5 to the Fishery Management Plan for the Northeast Multispecies Fishery	0648-AD33
459	Feeding Wild Populations of Marine Mammals	0648-AD42
460	Groundfish of the Bering Sea and Aleutian Islands Management Areas; Regulatory Amendment-Definition of Directed Rocksole Fishery and Season for Flatfish Fisheries	0648-AD43
461	Groundfish of the Gulf of Alaska and Groundfish of the Bering Sea and Aleutian Islands Management Areas; Regulatory Amendment— Standard Product Recovery Rates for Groundfish	0648-AD44
462	Groundfish of the Gulf of Alaska—Regulatory Amendment to Define Single-Line Groundfish Pots As Legal Pot Gear	0648-AD45
463	Disposition of Stranded or Distressed Endangered or Threatened Species of Fish and Wildlife	0648-AD46
464	Amendment 17 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands and Amendment 22 to the FMP for Groundfish of the Gulf of Alaska	0648-AD47
465	Regulations Governing the Take of Marine Mammals Incidental to Launches of the Titan IV Space Vehicle—Air Force	0646-AD48
466	Amendment 16A to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands	0648-AD49
467	Regulatory Amendment to the American Lobster Fishery Management Plan	0648-AD54
468	Amendment 1 to the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region	0648-AD55
469	Regulatory Amendment to the South Atlantic Snapper-Grouper FMP to Establish SMZs and Modify Gear Restrictions	0648-AD56
470	Amendment 5 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic	0648-AD57
471	Amendment 4 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic	0648-AD58
472	Amendment 3 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic	0648-AD59
473	Regulatory Amendment to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico	0648-AD60
474	Amendment 6 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico	0648-AD61
475	Regulatory Amendment for Red Snapper-Gulf of Mexico Reef Fish Fishery Management Plan	0648-AD62
476	Amendment 6 to the Pacific Coast Groundfish Fishery Management Plan	0648-AD63
477	Amendment 5 to the Pacific Coast Groundfish Fishery Management Plan	0648-AD64
478	Groundfish of the Gulf of Alaska and Groundfish of the Bering Sea and Aleutian Islands: Regulatory Amendment—Requirements for Observer Coverage; Release of Data on PSC Bycatch Rates	0648-AD65
479	Groundfish of the Gulf of Alaska and Groundfish of the Bering Sea and Aleutian Islands: Regulatory Amendment—Authority for Requiring Daily Catch Reports and Check-In and Check-Out Reports	0648-AD66
480	Groundfish of the Gulf of Alaska: Regulatory Amendment—Apportionment of the Prohibited Species Catch of Halibut Among Hook-and-Line Fisheries	0648-AD67
481	Groundfish of the Gulf of Alaska; Regulatory Amendment—Sablefish Hook-and-Line Fishery	0648-AD68
482	Proposed Regulations for the Key Largo National Marine Sanctuary	0648-AA33
483	Fagatele Bay National Marine Sanctuary	0648-AA74
484	Proposed Regulations for the Looe Key National Marine Sanctuary	0648-AB64
485	Proposed Regulations for the Channel Islands National Marine Sanctuary	0648-AC03
486	Proposed Regulations for the Gulf of the Farallones National Marine Sanctuary	0648-AC05
487	Proposed Regulations for the Monterey Bay National Marine Sanctuary	0648-AC63

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National Oceanic and Atmospheric Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
488	Regulation Implementing 1990 Amendments to Section 315 of the Coastal Zone Management Act	0648-AC80
489	Proposed Regulations for the Northern Puget Sound National Marine Sanctuary	0648-AC81
490	Proposed Regulations for the Norfolk Canyon National Marine Sanctuary	0648-AC82
491	Proposed Regulations for the Stellwagen Bank National Marine Sanctuary	0648-AC84
492	Regulations Implementing 1990 Reauthorization of the Coastal Zone Management Act	0648-AD09
493	National Sea Grant Program Funding Regulations	0648-AC54
494	Licensing of Private Remote Sensing Space Systems	0648-AC64

National Oceanic and Atmospheric Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
495	Processed Fishery Products, Processed Products Thereof & Certain Other Processed Food Products: U.S. Standards for Grades of Frozen Fish Blocks & Products Made Therefrom, Etc	0648-AA46
496	U.S. General Standards for Grades of Shrimp	0648-AA47
497	Regulations on Striped Bass in Exclusive Economic Zone Off North East Atlantic Coast	0648-AB25
498	Endangered Fish and Wildlife; Approaching Humpback Whales in Hawaiian Waters	0648-AB79
499	Amendment 3 to the High Seas Salmon Fishery Off the Coast of Alaska East of 175 E. Longitude	0648-AC00
500	Interim Exemption Governing the Incidental Taking of Marine Mammals During Commercial Fishing Operations	0648-AC55
501	Fishermen's Protective Act	0648-AC73
502	Amendment 2 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic	0648-AC96
503	Regulatory Amendment To Establish a Special Management Zone (SMZ) in Dade County, Florida	0648-AC97
504	Performance Standards for Tuna Vessel Operators	0648-AD03
505	Suspension for 180 Days of Vessel Registration for Sablefish Hook-and-Line Fishery in the Gulf of Alaska	0648-AD06
506	List Winter-Run Chinook Salmon of the Sacramento River as a Threatened Species Under the Endangered Species Act	0648-AD07
507	Prohibition of the Use of Explosives in the Yellowfin Tuna-Dolphin Fishery	0648-AD08
508	Listing of Steller Sea Lions as Threatened Under the Endangered Species Act	0648-AD13
509	Regulatory Amendment-South Pacific Tuna Fisheries	0648-AD15
510	Fishery Management Plan for the Atlantic Coast Red Drum Fishery	0648-AD17
511	Regulations Governing the Take of Dolphins Incidental to Removing Oil and Gas Platforms in the Gulf of Mexico	0648-AD25
512	Amendment 1 to the Shallow-water Reeffish Fishery of Puerto Rico and the U.S. Virgin Islands	0648-AD27
513	Regulatory Amendment - U.S. Nationals Fishing in Soviet Fisheries	0648-AD29
514	Foreign Fishing, Health and Safety Standards	0648-AD35
515	Procedure for Setting Quotas on Removal of Atlantic Bottlenose Dolphins From the Waters of the Gulf of Mexico and Florida's East Coast	0648-AD39
516	Western Pacific Bottom Fish and Seamount Ground Fish: Require Submission of State-Required Reports	0648-AD40
517	Pelagic Fisheries of the Western Pacific: Require Submission of State-Required Reports	0648-AD41
518	Pacific Halibut Regulations for 1991	0648-AD52
519	Final Regulations for the Proposed Flower Garden Banks National Marine Sanctuary	0648-AB49
520	Proposed Regulations for the National Estuarine Reserve Research Program	0648-AB66
521	Proposed Regulations for the Western Washington Outer Coast National Marine Sanctuary	0648-AC93

National Oceanic and Atmospheric Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
522	Fishery Conservation and Management: Confidentiality of Statistics	0648-AA38
523	Regulations Governing the Taking and Importing of Marine Mammals; Importation of Yellowfin Tuna	0648-AB46
524	Endangered Fish or Wildlife; Permits for the Incidental Taking of Endangered Marine Species	0648-AB47
525	U.S. Standards for Grades of Fish Fillets	0648-AC12
526	Amendment 8 to the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries	0648-AC19
527	Regulatory Amendment-Implementation of Conditionally Approved Measures Under Amendment 1 to the Spiny and Slipper Lobster FMP in the Gulf of Mexico and South Atlantic - Permits, Bag Limits	0648-AC25
528	Regulatory Amendment to the Fishery Management Plan for the Atlantic Swordfish Fishery	0648-AC41
529	Bluefish Fishery Management Plan	0648-AC51
530	Regulatory Amendment to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico	0648-AC56

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National Oceanic and Atmospheric Administration—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
531	Regulations Governing the Taking of Small Numbers of Marine Mammals Incidentally to Oil and Gas Exploration in the Beaufort and Chukchi Seas	0648-AC69
532	Foreign Fishing Poundage and Permit Fees, 1991	0648-AC70
533	Resubmitted Part of Amendment 4 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico	0648-AC75
534	Amendment 5 to the Fishery Management Plan for Coastal Migratory Pelagic Resources	0648-AC77
535	Regulatory Amendment to the Fishery Management Plan for the Gulf of Mexico and South Atlantic Spiny Lobster Fishery	0648-AC86
536	Resubmitted Part of Amendment 3 to the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic	0648-AC89
537	Groundfish of the Gulf of Alaska and Groundfish of the Bering Sea and Aleutian Islands: Regulatory Amendment	0648-AC98
538	Establishment of Allocative Management Measures for the Pacific Halibut Fishery in the Pribilof Islands	0648-AD05
539	Amendment 2 Gulf of Mexico Reef Fish Fishery Management Plan	0648-AD10
540	Amendment 16 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands and Amendment 21 to the FMP for Groundfish of the Gulf of Alaska	0648-AD51

Patent and Trademark Office—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
541	Duty of Disclosure—Information Disclosure Statement	0651-AA27
542	Miscellaneous Changes in Patent Practice	0651-AA34
543	Patent and Trademark Assignment Rules	0651-AA43
544	Drawing Changes in Patents Cases	0651-AA44
545	Revision of Patent and Trademark Fees	0651-AA45

Patent and Trademark Office—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
546	Foreign Filing License Requirements	0651-AA09
547	Variety Denomination Requirements for Plant Patent Applications	0651-AA12

Patent and Trademark Office—Completed Actions

Sequence Number	Title	Regulation Identifier Number
548	Requirements for Patent Applications Containing DNA/RNA and Protein Sequence Disclosures	0651-AA37

Technology Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
549	Administration of a Uniform Patent Policy with Respect to Domestic Rights in Inventions Made by Government Employees	0692-AA05

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Technology Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
550	Licensing of Government-Owned Inventions	0692-AA04

Technology Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
551	Metric Conversion Policy for Federal Agencies	0692-AA07

DEPARTMENT OF COMMERCE (DOC)
Office of the Secretary (OS)

Proposed Rule Stage

325. CONTRACT CLAUSES AND SOLICITATION PROVISIONS FOR THE COMMERCE AUTOMATED SOLICITATION SYSTEM

Legal Authority: 41 USC 251 et seq; PL 98-369; PL 98-577

CFR Citation: 48 CFR 1 to 53

Legal Deadline: None

Abstract: The Department of Commerce is currently reviewing standardized contract clauses and solicitation provisions for inclusion in a planned departmentwide automated solicitation system. A proposed amendment to the Commerce Acquisition Regulation (CAR) would illustrate and incorporate these standardized clauses and provisions. This should ultimately be less burdensome to Department contractors and potential contractors, since the clauses and provisions would be used uniformly throughout the Department.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Joyce A. Cavallini, Chief, Procurement Management Division, Office of Procurement, Department of Commerce, Office of the Secretary, 14th Street and Constitution Avenue, NW., Washington, DC 20230, 202 377-5750

RIN: 0690-AA88

326. SOURCE EVALUATION PROCEDURES AND MISCELLANEOUS REVISIONS TO THE COMMERCE ACQUISITION REGULATION

Legal Authority: 41 USC 251 et seq

CFR Citation: 48 CFR 1 to 53

Legal Deadline: None

Abstract: The proposed amendment will revise the CAR to incorporate references to the Department's Acquisition Manual chapter on formal source selection procedures and will also add agency procedures in those areas of the CAR where the FAR specifies that agency procedures are required. In addition, the proposed amendment will update the CAR to conform with the latest policies and procedures of the FAR.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Joyce A. Cavallini, Chief, Procurement Management Division, Office of Procurement, Department of Commerce, Office of the Secretary, 14th Street and Constitution Avenue, NW., Washington, DC 20230, 202 377-5750

RIN: 0690-AA13

DEPARTMENT OF COMMERCE (DOC)
Office of the Secretary (OS)

Final Rule Stage

327. PROGRAM FRAUD CIVIL REMEDIES

Legal Authority: 31 USC 3809

CFR Citation: 15 CFR 25

Legal Deadline: None

Abstract: This rule, if promulgated, would implement the Program Fraud Civil Remedies Act of 1986 which authorizes the Department of Commerce (and certain other Federal agencies) to impose through administrative adjudication civil penalties and assessments against persons making false claims or statements to it.

Timetable:

Action	Date	FR Cite
NPRM	07/06/89	54 FR 28430
NPRM Comment Period End	09/07/89	54 FR 28430
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerry Walz, Chief, Contract Law Division, Room 5893, Department of Commerce, Office of the Secretary, Washington, DC 20230, 202 377-1122

RIN: 0690-AA14

328. ● PROTECTION OF HUMAN SUBJECTS

Significance: Regulatory Program

Legal Authority: 5 USC 301

CFR Citation: 15 CFR 27

Legal Deadline: None

Abstract: Adoption of this policy will implement a recommendation from the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research that "all federal departments and agencies adopt as a common core the regulations governing research with human subjects issued by the Department of Health and Human Services."

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45661
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Michael R. Rubin, Deputy Chief Counsel, NIST, Department of Commerce, Office of the Secretary, Admin. A-1111, Gaithersburg, MD 20899, 301 975-2803

RIN: 0690-AA17

DEPARTMENT OF COMMERCE (DOC)
Bureau of Economic Analysis (BEA)

Proposed Rule Stage

325. INCREASE IN EXEMPTION LEVEL OF THE BE-11, ANNUAL SURVEY OF U.S. DIRECT INVESTMENT ABROAD

Legal Authority: 22 USC 3101 to 3108; Int'l Investment & Trade in Svcs. Survey Act

CFR Citation: 15 CFR 806

Legal Deadline: None

Abstract: This action will raise the overall exemption level for the BE-11 Annual Survey of U.S. Direct Investment Abroad, and for reporting individual foreign affiliates on Forms BE-11B and BE-11C in that survey, from $10 million to $15 million. The purpose of the action is to bring the exemption level into conformance with that for Form BE-10B(LF) for reporting foreign affiliates in the Benchmark Survey of U.S. Direct Investment Abroad--1989. In addition, the action will require filing, in one or more annual surveys between benchmark surveys, Form BE-11C for nonbank foreign affiliates owned at least 10 percent, but less than 20 percent, by the U.S. reporter and for which total assets, sales, or net income exceeds $100 million. Some reporting between benchmark surveys by large, 10-20 percent-owned foreign affiliates is needed to support reliable estimates for the universe of all foreign affiliates.

Timetable:

Action	Date	FR Cite
NPRM	08/16/90	55 FR 33537
NPRM Comment Period End	10/01/90	
Final Action	01/00/91	
Final Action Effective	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Betty L. Barker, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, 1401 K Street, NW., Room 1006, Tower Building, Washington, DC 20230, 202 523-0659

RIN: 0691-AA16

330. ● BENCHMARK SURVEY OF SELECTED SERVICES TRANSACTIONS WITH UNAFFILIATED FOREIGN PERSONS—1991

Significance: Agency Priority

Legal Authority: 22 USC 3101 to 3108; Int'l Investment & Trade in Svcs. Survey Act

CFR Citation: 15 CFR 801

Legal Deadline: None

Abstract: This action will replace the existing rule 15 CFR 801.10 with a new rule to provide for the conduct of the BE-20, Benchmark Survey of Selected Services Transactions with Unaffiliated Foreigners -- 1991, as required by the International Investment and Trade in Services Survey Act, 22 USC 3101 to 3108 (see especially Sec. 4(a)(5) of the Act). The existing rule covers a similar survey for 1986, which has been completed and which the 1991 survey will update. For 1991, the exemption level criteria, which provided inadequate coverage of certain types of services transactions in 1986, will be re-examined.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	
NPRM Comment Period End	08/00/91	
Final Action	10/00/91	
Final Action Effective	11/00/91	

Small Entities Affected: None

Government Levels Affected: None

DOC—BEA

Proposed Rule Stage

Agency Contact: Betty L. Barker, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, 1401 K Street, NW., Room 1006, Tower Building, Washington, DC 20230, [illegible]

RIN: 0691-AA17

DEPARTMENT OF COMMERCE (DOC)
Bureau of the Census (CENSUS)

Proposed Rule Stage

331. REVISION OF FOREIGN TRADE STATISTICS REGULATIONS

Significance: Regulatory Program

Legal Authority: 13 USC 301 to 307

CFR Citation: 15 CFR 30.1 to 30.92

Legal Deadline: None

Abstract: Review of 15 CFR 30 for changes to conform with the new statistical classification (harmonized system for imports and exports). This review will combine elements of housekeeping changes, updating obsolete information, clarification, bringing the system into line with harmonization (including metric measurements), and conformance of reporting with current practices. There should be no added burden or costs placed on the public because no additional information is required, nor new reporting requirements.

The benefits of these changes will be: allowing direct comparisons between U.S. imports and exports, enabling comparisons between trade balances of the United States and of our major trading partners.

With the passage of the Omnibus Trade and Competitiveness Act of 1988 there is no alternative to making these changes in order to conform to the legislation.

Additionally, Section 30.54 will be revised to raise the exemption from Shipper's Export Declaration filing requirements for exports by mail from [illegible] to $2,500.

Timetable:

Action	Date	FR Cite
NPRM	05/00/91	
NPRM Comment Period End	09/00/91	
Final Action	01/00/92	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: All

Agency Contact: Don L. Adams, Chief, Foreign Trade Division, Department of Commerce, Bureau of the Census, Washington, DC 20233, 301 763-5342

RIN: 0607-AA10

DEPARTMENT OF COMMERCE (DOC)
Bureau of the Census (CENSUS)

Final Rule Stage

332. ● ELIMINATION OF REQUIREMENT FOR SHIPPER'S EXPORT DECLARATIONS FOR CERTAIN EXPORTS TO CANADA

Legal Authority: 13 USC 301 to 307

CFR Citation: 15 CFR 30.1 to 30.99

Legal Deadline: None

Abstract: We propose to amend the Foreign Trade Statistics Regulations to eliminate the requirements for Shipper's Export Declarations for most direct exports originating in the United States where the country of ultimate destination is Canada. This change will cause a significant reduction in paperwork and costs to U.S. exporters and to the Federal Government.

Timetable:

Action	Date	FR Cite
NPRM	07/11/90	55 FR 28404
NPRM Comment Period End	09/10/90	55 FR 28404
Final Action	10/00/90	

Small Entities Affected: Businesses, Governmental jurisdictions

Government Levels Affected: Local, State, Federal

Sectors Affected: All

Agency Contact: Don L. Adams, Chief, Foreign Trade Division, Department of Commerce, Bureau of the Census, Washington, DC 20233, 301 763-5342

RIN: 0607-AA14

DEPARTMENT OF COMMERCE (DOC)
Bureau of the Census (CENSUS)

Completed Actions

333. FOREIGN TRADE STATISTICS REGULATIONS (FTSR)

Legal Authority: 13 USC 301 to 307

CFR Citation: 15 CFR 30.55(h)

Legal Deadline: None

Abstract: We have amended the Foreign Trade Statistics Regulations (FTSR) to raise the present exemption for filing Shipper's Export Declarations (SEDs) for qualified shipments destined to Canada, Country Groups T or V, Puerto Rico, or the Virgin Islands of the United States from $1,000 to $2,500. The exemption for shipments through the U.S. Postal Service will remain at $500.

This action will reduce the reporting burden on U.S. exporters as well as reduce the costs of processing the foreign trade statistics. The number of SEDs filed will be reduced by over 1.5 million per year with minimal loss of data.

Timetable:

Action	Date	FR Cite
NPRM	11/16/89	54 FR 47666
NPRM Comment Period End	01/16/90	54 FR 47666

DOC—CENSUS

Completed Actions

Action	Date	FR Cite
Final Action	05/23/90	55 FR 21186
Final Action Effective	05/23/90	55 FR 21186

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Sectors Affected: All

Agency Contact: Don L. Adams, Chief, Foreign Trade Division, Department of Commerce, Bureau of the Census, Washington, DC 20233, 301 763-5342

RIN: 0607–AA12

DEPARTMENT OF COMMERCE (DOC)

Economic Development Administration (EDA)

Final Rule Stage

334. GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE—DESIGN, CONSTRUCTION OF BUILDINGS TO ACCOMMODATE THE PHYSICALLY HANDICAPPED

Legal Authority: 42 USC 4151 to 4156; 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 305.14

Legal Deadline: None

Abstract: These regulations will be changed to conform to the recently amended DOC rule at 15 CFR Part 8b.18 (55 FR 29318, July 18, 1990), to include references to Uniform Federal Accessibility Standards (UFAS).

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/90	
Final Action	03/00/91	
Final Action Effective	03/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: James F. Martan, Deputy Chief Counsel, Department of Commerce, Economic Development Administration, Operations and Administration, 14th & Constitution Ave., NW., Room 7001, Washington, DC 20230, 202 377-5441

RIN: 0610–AA05

335. GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE: EMPLOYMENT OF EXPEDITERS OR ADMINISTRATIVE EMPLOYEES; COMPENSATION OF PERSONS ENGAGED BY OR ON BEHALF OF APPLICANTS

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 309

Legal Deadline: None

Abstract: This rule amends EDA's general requirements regulation -- employment of expediters or administrative employees -- concerning EDA positions involving discretion, to conform to the reorganization of EDA pursuant to Department of Commerce Organization Order 45-1. Old positions which are no longer in existence are deleted. New comparable positions are listed in the amended regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/20/85	50 FR 97
Final Action	03/00/91	
Final Action Effective	03/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: James F. Martan, Deputy Chief Counsel, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th & Constitution Avenue, NW., Washington, DC 20230, 202 377-5441

RIN: 0610–AA18

336. OVERALL ECONOMIC DEVELOPMENT PROGRAM; PUBLIC WORKS AND DEVELOPMENT FACILITIES PROGRAM

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 302; 13 CFR 304; 13 CFR 305

Legal Deadline: None

Abstract: This rule amends EDA's rules by updating provisions concerning Public Works Impact Areas and Special Impact Areas, specifically as to Designation Requirements; Overall Economic Development Program Requirements; and Supplementary Grant Rates.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/07/86	51 FR 24512
Final Action	11/00/90	
Final Action Effective	11/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Walter Archibald, Director, Office of Compliance Review, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th & Constitution Avenue, NW., Room 7215, Washington, DC 20230, 202 377-3710

RIN: 0610–AA19

337. SALE OF LOANS AND LOAN GUARANTEES TO THE PRIVATE SECTOR

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR Chapter III

Legal Deadline: None

Abstract: EDA seeks to repeal the limitation in the Commerce Appropriation Act ("McDade Amendment") whereby funds cannot be used to sell any loan to private interests, except with the consent of the borrower.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State

DOC—EDA

Final Rule Stage

Sectors Affected: Multiple

Agency Contact: Joseph Levine, Chief Counsel, Department of Commerce, Economic Development Administration, 14th Street between Pennsylvania & Constitution Avenues, NW., Washington, DC 20230, 202 377-4687

RIN: 0610–AA31

338. GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE—NONRELOCATION

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 309.3

Legal Deadline: None

Abstract: This rule will amend EDA's nonrelocation rule by changing the rate of interest to be charged when failure to abide by the nonrelocation rule results in termination of financial assistance provided by EDA. Interest will be at the rate used in Federal debt collection and discount evaluation under the Debt Collection Act. The rule will also state that the 48-month period for compliance by covered grantees is retroactive if the violation occurs after September 15, 1986.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/10/87	52 FR 21932
Final Action	11/00/90	
Final Action Effective	11/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph Levine, Chief Counsel, Department of Commerce, Economic Development Administration, 14th Street between Pennsylvania & Constitution Avenues, NW., Washington, DC 20230, 202 377-4687

RIN: 0610–AA32

339. PROTECTION OF EDA'S INTEREST IN FACILITIES ACQUIRED, BUILT, OR IMPROVED WITH EDA GRANT FUNDS

Significance: Regulatory Program

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 314

Legal Deadline: None

Abstract: EDA intends to initiate regulatory action to protect its interests by enabling EDA to expend funds to care for property acquired by virtue of its lien interest in property purchased or improved with EDA grant funds, including liquidation, litigation, or any other necessary action. The proposed regulatory action is contingent upon legislation being enacted which authorizes EDA to expend funds and take other actions to protect its ownership rights in property purchased or improved with EDA grant funds.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/91	
Proposed Legislation	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph Levine, Chief Counsel, Department of Commerce, Economic Development Administration, 14th Street between Pennsylvania & Constitution Avenues, NW., Washington, DC 20230, 202 377-4687

RIN: 0610–AA35

340. ADJUSTMENT GRANTS—REVOLVING LOAN FUNDS

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 308

Legal Deadline: None

Abstract: This would amend EDA's rule on adjustment grants to provide that revolving loan fund (RLF) grants are held in trust by the grantee as trustee for the benefit of borrowers and potential borrowers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/15/88	53 FR 12510
Final Action	03/00/91	
Final Action Effective	03/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph Levine, Chief Counsel, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., Room 7001, 14th St. & Constitution Ave., NW., Washington, DC 20230, 202 377-4687

RIN: 0610–AA37

341. ECONOMIC DEVELOPMENT DISTRICTS, DISTRICT ORGANIZATION; CIVIL RIGHTS REQUIREMENTS

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 303; 13 CFR 311

Legal Deadline: None

Abstract: At the request of the Department of Justice, the Economic Development Administration (EDA) is revising our Civil Rights Regulations at 13 CFR 303 and 311. The specific changes involve minority representation on District Boards funded by EDA and Affirmative Action requirements, as well as a few minor changes in terminology.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/91	
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph M. Levine, Chief Counsel, Department of Commerce, Economic Development Administration, Herbert Hoover Bldg., 14th St. Between Penn. and Const. Aves., NW., Washington, DC 20230, 202 377-4687

RIN: 0610–AA38

342. PUBLIC WORKS - INDUSTRIAL PARKS AND SITES

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 305

Legal Deadline: None

Abstract: The requirement for a property value agreement from the owner of a private industrial park or

DOC—EDA

Final Rule Stage

site will be less restrictive, so that such an agreement will only be required where there is an apparent or actual incidence of the private owner's failure to deal at arm's length, or if the Assistant Secretary chooses for any other reason to impose the requirements for such an agreement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph M. Levine, Chief Counsel, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th St. between Penn. and Const. Aves., NW., Washington, DC 20230, 202 377-4687

RIN: 0610-AA40

343. PUBLIC WORKS AND DEVELOPMENT FACILITIES PROGRAMS - GRANT DISBURSEMENTS

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 305.80

Legal Deadline: None

Abstract: EDA will amend its rule on disbursements under grants at 13 CFR 305.89 to change the title to refer only to grants, since public works loans are no longer made, and at 305.89(b) to omit any reference to increasing the maximum amount allowable, since EDA's grant rate/amount maximum as stated in the grant award cannot subsequently be increased after the project has been completed.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/90	
Final Action	01/00/91	
Final Action Effective	01/00/91	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph M. Levine, Chief Counsel, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th & Constitution Avenue, NW., Washington, DC 20230, 202 377-4687

RIN: 0610-AA42

344. GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE - ELECTRIC AND GAS FACILITIES

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 309.4

Legal Deadline: None

Abstract: EDA will amend its rule on financing gas or electrical facilities to omit references to primary or secondary functions, to be consistent with PWEDA (42 USC 3214(e)).

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/03/90	55 FR 18594
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph M. Levine, Chief Counsel, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th & Constitution Avenue, NW., Washington, DC 20230, 202 377-4687

RIN: 0610-AA43

345. OVERALL ECONOMIC DEVELOPMENT PROGRAM - PROGRESS REPORT

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 304.8

Legal Deadline: None

Abstract: EDA will amend its reporting requirements for Overall Economic Development Program (OEDP) periodic revisions to coincide with the previous project's final report, and the time of submission of the next grant period work program and application. This change applies to EDA's planning grant recipients.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/90	
Final Action	02/00/91	
Final Action Effective	02/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph M. Levine, Chief Counsel, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th & Constitution Avenue, NW., Washington, DC 20230, 202 377-4687

RIN: 0610-AA44

346. ENVIRONMENTAL REQUIREMENTS

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4 as amended

CFR Citation: 13 CFR 309.18

Legal Deadline: None

Abstract: This rule will amend EDA's regulations at 13 CFR 309.18 to include references to Federal, State and local environmental laws dealings with hazardous substances. The amended rule will advise EDA's recipients that they are subject to such laws.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/01/90	55 FR 3400
Final Action	10/00/90	
Final Action Effective	10/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph M. Levine, Chief Counsel, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th & Constitution Avenue, NW., Washington, DC 20230, 202 377-4687

RIN: 0610-AA45

DEPARTMENT OF COMMERCE (DOC)
Economic Development Administration (EDA)

Completed Actions

347. ECONOMIC DEVELOPMENT ADMINISTRATION: PROPERTY MANAGEMENT STANDARDS

Legal Authority: 40 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 314

Legal Deadline: None

Abstract: EDA has decided it is not necessary to revise the EDA rule at 13 CFR 314 regarding the use and disposition of real property acquired or improved with Federal funds.

Timetable:

Action	Date	FR Cite
Withdrawn	08/24/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: James F. Marten, Deputy Chief Counsel, Department of Commerce, Economic Development Administration, Operations and Administration, 14th & Constitution Ave., NW., Room 7001, Washington, DC 20230, 202 377-5441

RIN: 0610-AA07

348. AREA DESIGNATION—SPECIAL IMPACT AREAS

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 302

Legal Deadline: None

Abstract: EDA is deleting its 12-month annual average unemployment rate based upon the calendar year, for Special Impact Area (SIA) designation. Under the current calendar year qualifier, it would be possible that an area's qualifying calendar 1987 average rate could be used in support of its SIA designation as late as February 1989 regardless of a subsequently available, nonqualifying 12-month (noncalendar) rate. This could happen since 1988 calendar year average rates for areas will not be computed by State employment security agencies until February 1989, and EDA will not receive such data until March 1989.

Timetable:

Action	Date	FR Cite
Final Action Effective	12/13/88	55 FR 18563
Interim Final Rule	12/14/88	53 FR 50206
Final Action	05/03/90	55 FR 18563

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Joseph M. Levine, Chief Counsel, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th St. between Penn. and Const. Aves., NW., Washington, DC 20230, 202 377-4687

RIN: 0610-AA39

DEPARTMENT OF COMMERCE (DOC)
General Administration (ADMIN)

Proposed Rule Stage

349. NONPROCUREMENT DEBARMENT AND SUSPENSION

Legal Authority: EO 12549, Debarment and Suspension; EO 12689

CFR Citation: 15 CFR 26

Legal Deadline: None

Abstract: Executive Order 12689, signed August 16, 1989, calls for agency debarment and suspension actions under procurement or nonprocurement activities to have reciprocal governmentwide effect. The common rule will be amended to reflect the requirements contained in the Executive order.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara L. Spithas, Director, Office of Federal Assistance, Office of Finance and Federal Assistance, Department of Commerce, 14th & Constitution Avenue, NW., Washington, DC 20230, 202 377-5817

RIN: 0605-AA02

DEPARTMENT OF COMMERCE (DOC)
General Administration (ADMIN)

Final Rule Stage

350. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Legal Authority: 5 USC 301

CFR Citation: 15 CFR 24

Legal Deadline: None

Abstract: This action states the administrative requirements governing grants to governments and nongovernmental entities. It is intended to simplify and standardize the Federal grant process and eliminate redundant and inconsistent administrative requirements.

Timetable:

Action	Date	FR Cite
ANPRM	06/24/87	52 FR 23729
ANPRM Comment Period End	08/23/87	
NPRM	11/04/88	53 FR 44715
NPRM Comment Period End	01/03/89	
Final Action	00/00/00	

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Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Barbara L. Spithas, Director, Office of Federal Assistance, Office of Finance and Federal Assistance, Department of Commerce, Office of Administration, 14th & Constitution Avenue, NW., Washington, DC 20230, 202 377-5817

RIN: 0605–AA04

351. NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: 31 USC 1352; PL 101-121, sec 319

CFR Citation: 15 CFR 28

Legal Deadline: None

Abstract: The proposed rule is for the purpose of implementing statutory requirements generally prohibiting recipients of Federal contracts, grants and loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, grant, or loan. Each person who requests or receives a Federal contract, grant, cooperative agreement, loan, or a Federal commitment to insure or guarantee a loan, must disclose lobbying.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Interim Final Rule Comment Period End	04/27/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Barbara L. Spithas, Director, Office of Federal Assistance, Office of Finance and Federal Assistance, Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230, 202 377-5817

RIN: 0605–AA06

352. ● AUDIT REQUIREMENTS FOR INSTITUTIONS OF HIGHER EDUCATION AND OTHER NONPROFIT ORGANIZATIONS

Legal Authority: 5 USC 301

CFR Citation: 15 CFR 29(b)

Legal Deadline: None

Abstract: The rule implements Office of Management and Budget guidance provided in Circular A-133, "Audits of Institutions of Higher Education and Other Nonprofit Organizations." The rule establishes audit requirements for institutions of higher education and other nonprofit organizations that receive Federal assistance, and defines the Department's responsibilities for implementing and monitoring these requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara L. Spithas, Director, Office of Federal Assistance, Office of Finance and Federal Assistance, Department of Commerce, 14th & Constitution Avenue, NW., Washington, DC 20230, 202 377-5817

RIN: 0605–AA07

DEPARTMENT OF COMMERCE (DOC)
General Administration (ADMIN)

Completed Actions

353. NONPROCUREMENT DEBARMENT AND SUSPENSION AND GOVERNMENT REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Significance: Regulatory Program

Legal Authority: EO 12549; PL 100-690, Sec 5151 to 5160, Drug-Free Workplace Act of 1988

CFR Citation: 15 CFR 26

Legal Deadline: Final, Statutory, February 16, 1989.

Abstract: This final rule requires grantees of Federal agencies to certify that they will provide drug-free workplaces and imposes sanctions on those who fail to comply with provisions of the rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 04947
Final Action	05/25/90	55 FR 21681
Final Action Effective	07/24/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Barbara L. Spithas, Director, Office of Federal Assistance, Office of Finance and Federal Assistance, Department of Commerce, 14th & Constitution Avenue, NW., Washington, DC 20230, 202 377-5817

RIN: 0605–AA05

DEPARTMENT OF COMMERCE (DOC)
International Trade Administration (ITA)

Prerule Stage

354. ANTIDUMPING DUTIES

Significance: Regulatory Program

Legal Authority: 19 USC 1673 et seq

CFR Citation: 19 CFR 353

Legal Deadline: None

Abstract: Revisions will codify existing administrative practice with respect to the identification and measurement of dumping. Revisions also will account for statutory amendments made by the Omnibus Trade and Competitiveness Act of 1988. The revisions will improve administrative efficiency and make the

DOC—ITA

Prerule Stage

antidumping law more accessible to the public.

Timetable:

Action	Date	FR Cite
ANPRM	02/01/89	54 FR 05092
ANPRM Comment Period End	03/20/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: William D. Hunter, Deputy Chief Counsel for Import Administration, Department of Commerce, International Trade Administration, Room 3622, 14th & Constitution Avenue, NW., Washington, DC 20230, 202 377-1411

RIN: 0625–AA29

DEPARTMENT OF COMMERCE (DOC)
International Trade Administration (ITA)

Proposed Rule Stage

355. GENERAL REGULATIONS GOVERNING FOREIGN TRADE ZONES IN THE UNITED STATES, WITH RULES OF PROCEDURES

Legal Authority: 19 USC 81a et seq Foreign-Trade Zones Act of 1934

CFR Citation: 15 CFR 400

Legal Deadline: None

Abstract: Revision of the regulation is needed to administer the Foreign-Trade Zones Act of 1934, as amended, to provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States. At the time the ANPRM was published the emphasis was on changing the rules to provide improved guidance to the public on procedures and criteria followed in making decisions concerning special-purpose subzones and operations detrimental to the public interest. Since that time, it has been decided to propose revisions to the entire 15 CFR 400 in order to update the language and conform it to current CFR format.

Timetable:

Action	Date	FR Cite
ANPRM	10/14/80	45 FR 67681
ANPRM Comment Period End	12/15/80	
NPRM	02/18/83	48 FR 7151
NPRM Comment Period End	04/19/83	48 FR 7188
NPRM	01/26/90	55 FR 2760
NPRM Comment Period End	03/12/90	
NPRM	10/00/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: William D. Hunter, Deputy Chief Counsel for Import Administration, Department of Commerce, International Trade Administration, Room 3622, Pennsylvania Avenue and 14th Street, NW., Washington, DC 20230, 202 377-1411

RIN: 0625–AA04

356. COUNTERVAILING DUTIES

Significance: Regulatory Program

Legal Authority: 19 USC 1303; 19 USC 1671 et seq

CFR Citation: 19 CFR 355

Legal Deadline: None

Abstract: Current countervailing duty regulations will be revised to codify existing administrative practice with respect to the identification and measurement of subsidies. Revisions also will take into account statutory amendments made by the Omnibus Trade and Competitiveness Act of 1988. The revisions will improve administrative efficiency and will make the countervailing duty law more accessible to the public.

Timetable:

Action	Date	FR Cite
NPRM	05/31/89	54 FR 23366
NPRM Comment Period End	09/05/89	54 FR 36238

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: William D. Hunter, Deputy Chief Counsel for Import Administration, Department of Commerce, International Trade Administration, Room 3622, 14th & Constitution Avenue, NW., Washington, DC 20230, 202 377-1411

RIN: 0625–AA31

DEPARTMENT OF COMMERCE (DOC)
International Trade Administration (ITA)

Final Rule Stage

357. ADJUSTMENT ASSISTANCE FOR FIRMS AND INDUSTRIES

Legal Authority: 19 USC 2341 et seq

CFR Citation: 15 CFR 320

Legal Deadline: None

Abstract: This regulation will implement the responsibilities transferred from EDA to ITA concerning the provision of adjustment assistance to firms and industries adversely affected by imports. The proposed rule will reflect amendments to the authorizing legislation and make procedural changes required because of the transfer of the program to ITA. Proposed rules were published in the Federal Register (November 1984).

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Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	11/13/84	49 FR 44903
NPRM Comment Period End	12/13/84	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Sectors Affected: Multiple

Additional Information: Further action on this regulation is under study by the Department.

Agency Contact: Michael W. Rubinoff, Deputy Assistant Secretary, Department of Commerce, International Trade Administration, Office of Trade Adjustment Assistance, Washington, DC 20230, 202 377-0158

RIN: 0625–AA05

354. ANTIDUMPING DUTIES; COUNTERVAILING DUTIES

Significance: Regulatory Program

Legal Authority: 19 USC 1671 et seq; 19 USC 1673 et seq

CFR Citation: 19 CFR 300 to 399

Legal Deadline: None

Abstract: Revisions to the current antidumping duty and countervailing duty regulations are needed on an expedited basis in order to conform those regulations to certain statutory amendments made by the Omnibus Trade and Competitiveness Act of 1988. Those amendments deal with (1) downstream product monitoring; (2) consultations with the International Trade Commission on certain scope rulings; (3) procedures for administrative protective orders; (4) correction of ministerial errors; and (5) effective dates. The revisions will enable the Department to apply the new statutory provisions in an orderly and efficient basis.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/09/90	55 FR 9046
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: William D. Hunter, Deputy Chief Counsel for Import Administration, Department of Commerce, International Trade Administration, Room 3622, 14th & Constitution Avenue, NW., Washington, DC 20230, 202 377-1411

RIN: 0625–AA32

358. PROCEDURES AND RULES FOR IMPLEMENTING ARTICLE 1904 OF THE UNITED STATES-CANADA FREE TRADE AGREEMENT

Significance: Regulatory Program

Legal Authority: 19 USC 1516a; 19 USC 1677f(d); PL 100-449, Title IV

CFR Citation: 19 CFR 356

Legal Deadline: None

Abstract: Chapter 19 of the U.S.-Canada Free Trade Agreement established a system under which final antidumping and countervailing duty determinations of both the United States and Canada are subject to review by independent binational panels. The legislation implementing the Agreement authorized the Department to issue regulations necessary to implement Chapter 19. Regulations are necessary to establish procedures concerning notice of intent to seek judicial review, requests for panel review, notice of receipt by Canada of class or kind determinations, continued suspension of liquidation pending panel review, release of business proprietary and privileged information under protective order during a panel review, and sanctions for violations of such protective orders. The interim rule became effective January 1, 1989, the date the Agreement entered into force.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/30/88	53 FR 53232
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: William D. Hunter, Deputy Chief Counsel for Import Administration, Department of Commerce, International Trade Administration, Room 3622, 14th & Constitution Avenue, NW., Washington, DC 20230, 202 377-1411

RIN: 0625–AA33

360. SHORT SUPPLY PROCEDURES FOR ITA

Legal Authority: PL 101-221

CFR Citation: 19 CFR 357

Legal Deadline: None

Abstract: In order to implement section 4(b) of the Steel Trade Liberalization Program Implementation Act, ITA promulgated interim regulations on its short supply procedures. The regulations contain uniform rules, criteria, and procedures for ensuring transparency, timeliness, and fairness in the administration of the short supply program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/12/90	55 FR 1348
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Douglas Cohen, Attorney-Advisor, Department of Commerce, International Trade Administration, Washington, DC 20230, 202 377-1008

RIN: 0625–AA34

DEPARTMENT OF COMMERCE (DOC)
International Trade Administration (ITA)

Completed Actions

361. ALLOCATION OF APPAREL TARIFF-RATE QUOTA UNDER THE U.S.-CANADA FREE TRADE AGREEMENT

Legal Authority: PL 100-449, Section 202(g); U.S.-Canada Free Trade Agreement Implementation Act of 1988

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The U.S.-Canada FTA reduces tariffs on textile and apparel products considered to be of U.S. or Canadian origin under the "rules of origin" established by the Agreement. Generally, apparel made in the U.S. or Canada from fabric sourced in a third country will not be considered to be of U.S. or Canadian origin for FTA purposes. Goods which do not qualify for the FTA rate will be subject to the regular most-favored-nation (MFN) rate. However, the FTA also establishes an annual tariff-rate quota (TRQ) under which a limited quantity of apparel products that do not meet the FTA's rules of origin will still be entitled to the FTA duty. As Canadian tariffs on U.S. apparel exports decline, U.S. apparel firms should have a growing incentive to export to Canada, but will need some predictability as to which duty their goods will be subject to.

Unless the Department implements an allocation system, we may find that U.S. firms will either face the chaos of an annual rush to the border to ensure their share of the TRQ or will ignore a lucrative export market to avoid the uncertainties of the TRQ.

Timetable:

Action	Date	FR Cite
Withdrawn - ITA determined no rulemaking action necessary at present	08/24/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ronald I. Levin, Director, Office of Textiles and Apparel, Department of Commerce, International Trade Administration, Room 3100, Washington, DC 20230, 202 377-5078

RIN: 0625-AA30

DEPARTMENT OF COMMERCE (DOC)
Bureau of Export Administration (BXA)

Proposed Rule Stage

362. ● REVISION AND REFORMATTING OF COMMODITY CONTROL LIST

Significance: Agency Priority

Legal Authority: 50 USC app 2401 et seq

CFR Citation: 15 CFR 799.1, Sup. 1

Legal Deadline: None

Abstract: The Commodity Control List is based on the Multinational Industrial List, agreed to by the 17 member nations of the Coordinating Committee (COCOM). COCOM has agreed to replace the Industrial List with a totally new "Core List," developed de novo by the end of CY 1990. The Core List will be arranged and numbered differently. Since the CCL is now based on the Industrial List Numbering System, the entire CCL will have to be reformatted to adapt to the new system. Since the Core List will not be available until early 1991, BXA may not be able to integrate U.S. unilateral export controls into a new list until that time. Ultimately, the new list will incorporate format changes to make it easier to use. While exporters will have to make major changes in their systems to adjust to a totally new control list, they should also benefit from a tighter, more specific list and an improved format that will simplify the process of determining export controls on their products.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel E. Cook, Director, Policy Development Division, Office of Technology and Policy Analysis, Department of Commerce, Bureau of Export Administration, Room 1622, Washington, DC 20230, 202 377-4479

RIN: 0694-AA51

DEPARTMENT OF COMMERCE (DOC)
Bureau of Export Administration (BXA)

Final Rule Stage

363. REVISIONS TO SHORT SUPPLY REGULATIONS

Legal Authority: 50 USC app 2401 et seq; PL 99-64; 42 USC app 2401 et seq; 10 USC 7420 et seq; 43 USC 1354; 30 USC 185; EO 11912; EO 12214; EO 12002; PL 100-418

CFR Citation: 15 CFR 771; 15 CFR 777; 15 CFR 799

Legal Deadline: None

Abstract: On July 12, 1985, the Export Administration Amendments Act of 1985 (PL 99-64) extended and amended the Export Administration Act of 1979 (50 USC app 2401, et seq.)(EAA). Certain changes were made to the Short Supply provisions of section 7 of the EAA. Accordingly, revision of the Short Supply provisions (15 CFR 777) and related licensing requirements (15 CFR 771 and 799) of the Export Administration Regulations (15 CFR 730-799) is necessary. An interim final rule was issued which included (1) elimination of the validated licensing requirement for exports of refined petroleum products so as to permit their export with certain restrictions under a general license; (2) a new definition of "crude oil" for purposes of the regulation; and (3) certain technical and housekeeping changes. There are no

DOC—BY4 Final Rule Stage

costs associated with this action which would promote the export of decontrolled products. The Export Administration was made a Bureau in October 1987. The Export Administration Regulations were thereafter transferred from 15 CFR 368-399 to 15 CFR 730-799. Furthermore, the Export Administration Act of 1979 was amended on August 23, 1988, by the Omnibus Trade and Competitiveness [cont]

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/09/85	50 FR 41131
Final Action	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ABSTRACT CONT: Act of 1988 (P.L. 100-418, 102 Stat. 1107). Section 2424 of the Omnibus Trade and Competitiveness Act of 1988 (OTCA) amends section 7 of the EAA but will not require regulatory measures.

Agency Contact: Sharon Gongwer, Acting Chief, Regulations Branch, Department of Commerce, Bureau of Export Administration, Office of Technology and Policy Analysis, Room 1622, Washington, DC 20230, 202 377-2440

RIN: 0694-AA01

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364. DEFENSE PRIORITIES AND ALLOCATIONS SYSTEM (DPAS)

Legal Authority: 50 USC 2061 et seq; EO 10480

CFR Citation: 15 CFR 700

Legal Deadline: None

Abstract: The Defense Priorities and Allocations System (DPAS) implements the priorities and allocations authority of Title I of the Defense Production Act of 1950, as amended. The DPAS was published as a final rule on July 30, 1984. Based on the findings and recommendations of an interagency sponsored study concerning the controlled materials program, and comments from both defense agency and industry users, this proposed rule would amend the DPAS to remove the controlled materials provisions and make certain revisions to its procedural requirements. These amendments will have no costs associated with them, would reduce the regulatory and information reporting burden on industry and make the DPAS more effective and efficient, and would result in cost savings for defense contractors.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: Richard V. Meyers, DPAS Program Manager, Department of Commerce, Bureau of Export Administration, Office of Industrial Resources Admin., National Security Preparedness Div., Room 3878, Washington, DC 20230, 202 377-3634

RIN: 0694-AA02

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365. DEFINITION OF SUPERCOMPUTER

Legal Authority: 50 USC app 2401; PL 96-72; PL 97-145; PL 99-64; PL 100-418; EO 12525

CFR Citation: 15 CFR 776

Legal Deadline: NPRM, Statutory, November 21, 1989.

Abstract: This proposed rule amends the EAR to provide a definition for the term "supercomputer." Section 5(a)(6) of the Export Administration Act, as amended by the 1988 Trade Act, requires that a definition be included in the EAR. An earlier proposed rule on this subject was published in the Federal Register on 12/5/88. Having considered the comments on that rule as well as other comments from industry, the Department of Commerce has developed a revised definition. Because of the variety of differing opinions that the Commerce Department has received on this issue it intends to solicit additional comments on the revised definition before issuing a final rule. Therefore, the Department published a second proposed rule with request for comments.

Timetable:

Action	Date	FR Cite
NPRM	12/05/88	53 FR 48932
NPRM Comment Period End	01/19/89	
NPRM	01/29/90	55 FR 3017
NPRM Comment Period End	03/15/90	
Interim Final Rule	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Willard Fisher, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Office of Technology and Policy Analysis, Room 1622, Washington, DC 20230, 202 377-2440

RIN: 0694-AA03

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366. AMENDMENT OF VALIDATED LICENSE CONTROLS ON MAGNETICALLY ENHANCED SPUTTERING EQUIPMENT

Legal Authority: 50 USC app 2401 et seq; PL 96-72; PL 97-145; PL 100-418; PL 99-64; PL 95-223; PL 99-440; EO 12525; EO 12532; EO 12571

CFR Citation: 15 CFR 799

Legal Deadline: None

Abstract: On June 24, 1987, the President issued a national security override for a finding of foreign availability for certain types of sputtering equipment controlled under ECCN 1355A of the Commodity Control List. As a result of this override, export controls on the equipment were maintained pending the conclusion of negotiations with the source country to eliminate the foreign availability. The statutorily authorized 18-month negotiating period expired on December 24, 1988, with the source country agreeing to eliminate foreign availability for sputtering equipment until May 31, 1989. The source country has since agreed to eliminate foreign availability for certain types of sputtering equipment for an additional period. This rule amends ECCN 1355A by decontrolling to free world destinations that sputtering equipment that the source country has not agreed to control, and by maintaining controls on that equipment for which foreign availability has been eliminated.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/06/89	54 FR 24166

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John R. Pastore, Electrical Engineer, Department of Commerce, Bureau of Export Administration, Office of Foreign

DOC—BXA

Final Rule Stage

Availability, Room SB701, Washington, DC 20230, 202 377-5653

RIN: 0694–AA05

367. EXPORTS FROM ABROAD OF FOREIGN PRODUCTS INCORPORATING U.S.-ORIGIN PARTS AND COMPONENTS

Significance: Regulatory Program

Legal Authority: 50 USC app 2401; PL 96-72; PL 97-145; PL 99-64; PL 100-418; EO 12525

CFR Citation: 15 CFR 776

Legal Deadline: None

Abstract: In accordance with section 5(a)(A) of the EAA, as amended by the 1988 Trade Act, this rule revises section 776.12 of the EAR to reduce export and reexport controls on U.S.-origin parts and components incorporated in foreign-made products. Under section 776.12 prior authorization is not required when U.S.-origin content comprises 25 percent or less and the foreign-made product is exported to a country listed in Supplements 2 and 3 to Part 773, i.e., countries cooperating in nuclear non-proliferation policy. This interim rule revises section 776.12 to apply the 25 percent exemption to all destinations, except the embargoed countries. The 10 percent exemption, but not the dollar value limitation, is continued for these proscribed destinations. The rule also exempts from control foreign-made products incorporating U.S.-origin content consisting of low level technology specifically designated on the Commodity Control List.

Timetable:

Action	Date	FR Cite
NPRM	12/07/88	53 FR 49327
Interim Final Rule	10/03/89	54 FR 40840

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Willard Fisher, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Office of Technology and Policy Analysis, Room 1622, Washington, DC 20230, 202 377-2440

RIN: 0694–AA06

368. GENERAL LICENSE GFW

Legal Authority: 50 USC app 2401 et seq; PL 96-72; PL 97-145; PL 99-64; PL 100-418; PL 95-223; EO 12525; EO 12532

CFR Citation: 15 CFR 799

Legal Deadline: None

Abstract: Section 5(b)(3)(A) of the Omnibus Trade and Competitiveness Act of 1988 (OTCA) requires the removal of national security based licensing requirements on all exports to Free World countries. Commodities that are covered by this provision are those described in the Advisory Notes in the Commodity Control List that indicate likelihood of approval for Country Groups QWY.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/27/90	55 FR 6791
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Regulations Branch, Room 1622, Washington, DC 20230, 202 377-2440

RIN: 0694–AA07

369. EXPORTS OF MEDICAL EQUIPMENT AND OF COMMODITIES CONTROLLED BECAUSE THEY CONTAIN CONTROLLED PARTS AND COMPONENTS

Significance: Regulatory Program

Legal Authority: 50 USC app 2401 et seq; PL 96-72; PL 97-145; PL 99-64; EO 12525; PL 95-223; PL 99-440; EO 12532; EO 12571

CFR Citation: 15 CFR 776

Legal Deadline: None

Abstract: To implement section 5(C)(5)(A)(ii) and section 5(m) of the Export Administration Act, the Bureau of Export Administration is creating a new section 776.20. This new section permits the export of medical and other equipment containing controlled parts and components to country group T&V (except the People's Republic of China and Afghanistan), without prior written authorization from the Office of Export Licensing, provided that the transaction meets the eligibility criteria described in this section. This interim rule will establish a classification scheme requiring exporters and reexporters to obtain eligibility determinations prior to exporting under this provision.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Gongwer, Acting Chief, Regulations Branch, Department of Commerce, Bureau of Export Administration, Room 1622, Washington, DC 20230, 202 377-4196

RIN: 0694–AA09

370. REVISION OF FOREIGN BOYCOTT PROVISIONS OF EXPORT ADMINISTRATION REGULATIONS

Legal Authority: 50 USC app 2401 et seq; PL 97-145; PL 99-64; PL 100-418; EO 12525

CFR Citation: 15 CFR 769

Legal Deadline: None

Abstract: The Department proposes to revise the foreign boycott provisions of the Export Administration Regulations. The revisions would clarify the application of: (1) the intent provision to the reporting requirement; (2) the jurisdictional requirements relating to the implementation of letters of credit; (3) the furnishing information prohibitions to information about the nationality of directors and about blacklisted persons; (4) the shipping requirement exception to refusals to use blacklisted vessels; and (5) the import and shipping document exception to information about the nationality of carriers and residence of manufacturers or suppliers. The revisions are intended to clarify areas of confusion. In addition, the proposal would remove many references and provisions dealing with effective dates and grace periods that are no longer applicable.

Timetable:

Action	Date	FR Cite
NPRM	09/26/89	54 FR 39415
NPRM Comment Period End	10/26/89	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

DOC—BXA

Final Rule Stage

Agency Contact: Jan Paugh, Director, Compliance Policy Division, Department of Commerce, Bureau of Export Administration, Washington, DC 20230, 202 377-4559

RIN: 0694–AA11

371. GENERAL LICENSE G-TEMP; TEMPORARY EXPORT

Legal Authority: 50 USC app 2401 et seq; PL 96-72; PL 97-145; PL 99-64; PL 100-418; PL 95-223; PL 99-440; EO 12525; EO 12532; EO 12571; EO 12543

CFR Citation: 15 CFR 771; 15 CFR 772; 15 CFR 773; 15 CFR 776; 15 CFR 788; 15 CFR 799; 15 CFR 799

Legal Deadline: None

Abstract: General License GTE authorizes temporary exports for certain purposes such as exhibition, demonstration, inspection and testing, and requires prompt return to the country of export. This proposed rule would redesignate that license as General License G-TEMP and amend it by removing the registration requirement and by establishing guidelines for the use of the general license. One effect of removing the registration requirement would be that parties abroad who were not eligible to register under the former General License GTE would be able to use G-TEMP as authorization for a permissive reexport in accordance with the appropriate provisions of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/03/89	54 FR 40661
NPRM Comment Period End	11/17/89	54 FR 40661
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Muldoonian, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, OTPA, Regulations Branch, Room 1622, Washington, DC 20230, 202 377-2440

RIN: 0694–AA12

372. ESTABLISHMENT OF GENERAL LICENSE GCT; COCOM TRADE

Legal Authority: 50 USC app 2401 et seq; PL 96-72; PL 97-145; PL 99-64; PL 100-418; PL 95-223; PL 99-440; EO 12525; EO 12532; EO 12571

CFR Citation: 15 CFR 770; 15 CFR 771; 15 CFR 772; 15 CFR 773; 15 CFR 776; 15 CFR 779; 15 CFR 786; 15 CFR 799

Legal Deadline: None

Abstract: This rule will amend the Export Administration Regulations to reduce licensing requirements on intra-COCOM trade. This rule will create a new Country Group R to include all COCOM member countries. This rule will also revise validated license requirements for most export control commodity numbers ending in the code letter "A". This rule will create a new General license designated GTC (certain Shipments to Third Countries).

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/20/90	55 FR 25063
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Muldoonian, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Room 1622, Washington, DC 20230, 202 377-4158

RIN: 0694–AA13

373. SHIPPER'S EXPORT DECLARATION; REMOVAL OF REQUIREMENT THAT SEPARATE DECLARATIONS MUST BE FILED FOR GENERAL LICENSE AND VALIDATED LICENSE COMMODITIES IN THE SAME SHIPMENT

Legal Authority: 50 USC app 2401 et seq; PL 96-72; PL 97-145; PL 99-64; PL 100-418; PL 95-223; PL 99-440; EO 12525; EO 12532; EO 12571

CFR Citation: 15 CFR 786

Legal Deadline: None

Abstract: Section 786.3(h) of the Export Administration Regulations contains certain requirements for listing commodities on the Shipper's Export Declaration (SED). Previously, section 786.3(h)(1) contained a general prohibition against combining general license commodities with validated license commodities on the same SED. This interim rule will amend section 786.3(h) to permit general license commodities and validated license commodities to be listed on the SED. The rule also will revise section 786.3(h) to clarify that the commodities that may be listed on the same SED must be included in one shipment on board a single carrier and must be from the same exporter to the same consignee.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Gongwer, Acting Chief, Regulations Branch, Department of Commerce, Bureau of Export Administration, Office of Technology and Policy Analysis, Room 1622, Washington, DC 20230, 202 377-2440

RIN: 0694–AA14

374. REVISION OF GENERAL LICENSE GIFT

Legal Authority: 50 USC app 2401 et seq; PL 96-72; PL 97-145; PL 99-64; PL 100-145; PL 95-223; PL 99-440; EO 12525; EO 12532; EO 12571

CFR Citation: 15 CFR 771

Legal Deadline: None

Abstract: The Bureau of Export Administration is revising section 771.18 of the Export Administration Regulations (15 CFR Parts 768-799), which contains provisions on the applicability of General License GIFT for exports from the United States. General License GIFT authorizes export of parcels from U.S. individuals or charitable organizations overseas. General License GIFT is modified to allow no more than one gift parcel from the same donor to the same donee in any one month. Currently, one parcel may be shipped each week. This change is intended to assure that the license is utilized in conformity with its intended purpose, namely the donative provision of gifts between individuals. Specific authorization to exceed this limit may be granted on a case-by-case basis to meet compelling humanitarian concerns (e.g., gifts of medicine to relatives). The Bureau of Export Administration will grant case-by-case exemptions through issuance of a validated license. For clarity, new text is added on appropriateness of items as gifts.

DOC—BXA

Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/09/89	54 FR 19883

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Regulations Branch, Room 1622, Washington, DC 20230, 202 377-2440

RIN: 0694–AA28

375. CHANGE IN REPORTING REQUIREMENTS FOR THE SPECIAL LICENSES

Legal Authority: 50 USC 2401; PL 96-72; PL 97-145; PL 99-64; PL 100-418; PL 95-223; PL 99-440; EO 12525; EO 12532; EO 12571

CFR Citation: 15 CFR 773

Legal Deadline: None

Abstract: This rule amends the EAR to remove requirements that exporters submit certain documents to BXA with their license applications or concerning their exports under bulk licenses. Instead, exporters will be required to retain the documents in their files for five years. The current retention period is two years. The changes facilitate the EAR provisions governing electronic submission of license applications.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Room 1622, 14th & Pennsylvania Avenue, NW., Washington, DC 20230, 202 377-4150

RIN: 0694–AA27

376. ELIMINATION OF SUBMISSION REQUIREMENT FOR CERTAIN SUPPORTING DOCUMENTS

Legal Authority: 50 USC 2401; PL 96-72; PL 97-145; PL 100-418; PL 99-64; PL 95-223; PL 99-440; EO 12525; EO 12532; EO 12571

CFR Citation: 15 CFR 772; 15 CFR 774; 15 CFR 775; 15 CFR 787

Legal Deadline: None

Abstract: This rule amends the EAR to remove requirements that exporters submit certain documents to BXA with their license applications or concerning their exports under bulk licenses. Instead exporters will be required to retain the documents in their files for five years. The current retention period is two years. The changes facilitate the EAR provisions governing electronic submission of license applications.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Willard Fisher, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, Room 1622, Washington, DC 20230, 202 377-2440

RIN: 0694–AA28

377. EXPANSION AND IMPOSITION OF FOREIGN POLICY CONTROLS ON CHEMICAL WEAPON PRECURSORS

Legal Authority: 50 USC app 2401 et seq; PL 96-72; PL 97-145; PL 99-64; PL 100-418; PL 95-223; PL 99-440; EO 12525; EO 12532; EO 12571

CFR Citation: 15 CFR 770; 15 CFR 799

Legal Deadline: None

Abstract: In support of U.S. foreign policy and particularly U.S. policies of opposing the proliferation and prohibited use of chemical weapons, the Department of Commerce revised the foreign policy controls on exports of certain chemical weapon precursors, i.e., chemicals that can be used in the manufacture of chemical weapons. This rule makes several significant revisions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/20/89	54 FR 52017
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Gongwer, Acting Chief, Regulations Branch, Office of Technology and Policy Analysis, Department of Commerce, Bureau of Export Administration, Room 1622 HCHB, Washington, DC 20230, 202 377-2440

RIN: 0694–AA32

378. ● ESTABLISHMENT OF GENERAL LICENSE GDR; EXPORTS TO THE GERMAN DEMOCRATIC REPUBLIC

Legal Authority: 50 USC app 2401 et seq; PL 96-72; PL 97-145; PL 99-64; PL 100-418; PL 95-223; PL 99-440

CFR Citation: 15 CFR 771; 15 CFR 774; 15 CFR 779; 15 CFR 786; 15 CFR 787; 15 CFR 799

Legal Deadline: None

Abstract: The Bureau of Export Administration is amending the Export Administration Regulations (EAR) (15 CFR Parts 730-799) to reduce licensing requirements on trade with the German Democratic Republic. This action is taken following an agreement reached in COCOM in response to steps taken by the Federal Republic of Germany and the German Democratic Republic toward unification. This rule creates a new General License designated to allow a significant number of items listed on the Commodity Control List (CCL) (15 CFR 799.1, Supplement No. 1) under Export Control Commodity Numbers ending in the code letter "A" ("A" level commodities), as well as certain technical data and software, to be exported to the German Democratic Republic without a validated license.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/29/90	55 FR 26852
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Export Administration Specialist, Office of Technology and Policy Analysis, Department of Commerce, Bureau of Export Administration, Room 1622, Washington, DC 20230, 202 377-2440

RIN: 0694–AA48

379. ● PROCEDURAL CHANGES IN VALIDATING LICENSES AND DUPLICATE REEXPORT AUTHORIZATIONS FOR HONG KONG

Legal Authority: 50 USC app 2401 et seq; PL 96-72; PL 97-145; PL 99-64; PL

DOC—BXA

Final Rule Stage

100-418; PL 95-223; PL 99-440; EO 12525; EO 12532; EO 12571

CFR Citation: 15 CFR 772; 15 CFR 774

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) has made operational changes in validating licenses. The purpose of the regulation is to describe the current computer-generated license validation process and explain the special provisions made for providing duplicate authorizations for reexports from Hong Kong.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Gongwer, Acting Chief, Regulations Branch, Office of Technology and Policy Analysis, Department of Commerce, Bureau of Export Administration, Room 1622, Washington, DC 20230, 202 377-3856

RIN: 0694-AA49

350. ● CONVERSION TO THE METRIC SYSTEM

Legal Authority: PL 100-418

CFR Citation: 15 CFR 730 to 799

Legal Deadline: None

Abstract: The Bureau of Export Administration is amending the Export Administration Regulations to convert units of weight and measure to the metric system. This brings BXA into compliance with the 1988 Omnibus Trade and Competitiveness Act, which amends the Metric Conversion Act of 1975 to authorize the conversion of the weights and measures of "all U.S. trade and commerce" and all Federal agencies to the metric system. It also reflects the current situation of international trade, which is conducted (almost) exclusively in the metric system.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Gongwer, Acting Chief, Regulations Branch, Office of Technology and Policy Analysis, Department of Commerce, Bureau of Export Administration, Room 1622, Washington, DC 20230, 202 377-3856

RIN: 0694-AA50

DEPARTMENT OF COMMERCE (DOC)
Bureau of Export Administration (BXA)

Completed Actions

351. REVISION OF FOREIGN AVAILABILITY REGULATIONS

Significance: Regulatory Program

Legal Authority: 50 USC app 2401 et seq; PL 96-72; PL 97-145; PL 99-64; PL 100-418; PL 95-223; PL 99-440; EO 12525; EO 12532; EO 12571

CFR Citation: 15 CFR 791

Legal Deadline: None

Abstract: Part 791 of the Export Administration Regulations (EAR) establishes the procedures and criteria for initiating and reviewing claims of foreign availability on items controlled for national security purposes. With this notice the Department is proposing to revise Part 791 of the EAR. The revision of the foreign availability regulations is necessary because of legislative changes to the program by the "Trade Act" of 1988, and OFA's own experiences with the program. It is expected that this revision will improve the Foreign Availability process and the effectiveness of the program thereby enhancing national security and improving U.S. competitiveness.

Timetable:

Action	Date	FR Cite
NPRM	11/22/89	54 FR 48273
NPRM Comment Period End	01/08/90	
Final Action	08/13/90	55 FR 32899
Final Action Effective	08/13/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jean Roberts, Director of Special Projects, Department of Commerce, Bureau of Export Administration, Office of Foreign Availability, Room SB-701, Washington, DC 20230, 202 377-8074

RIN: 0694-AA10

352. AMENDMENTS TO ENFORCEMENT AND ADMINISTRATIVE PROCEEDINGS

Legal Authority: 50 USC 2401; PL 96-72; PL 97-145; PL 99-64; PL 100-418; EO 12525; EO 12002

CFR Citation: 15 CFR 770; 15 CFR 772; 15 CFR 788

Legal Deadline: None

Abstract: This final rule will amend the Export Administration Regulations to reflect changes in the EAA (for example, prescribe the method by which denial of export privileges to persons convicted of specified offenses may be extended to related persons), to conform specific procedural provisions to the EAA, and to reflect organizational changes within the Bureau of Export Administration. The rule will note the availability of judicial review of final agency decisions in export control cases and also implement statutory changes governing temporary denial orders.

Timetable:

Action	Date	FR Cite
Final Action	08/01/90	55 FR 31178
Final Action Effective	08/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel C. Hurley, Jr., Attorney-Advisor, Office of Export Enforcement, Department of Commerce, Bureau of Export Administration, Room 3837, Washington, DC 20230, 202 377-5305

RIN: 0694-AA29

DOC—BXA

Completed Actions

383. FOREIGN AVAILABILITY ASSESSMENTS: INITIATION OF AN ASSESSMENT ON "STORED PROGRAM CONTROLLED" DIE (CHIP) MOUNTERS AND BONDERS

Legal Authority: 50 USC 2401

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None
Notice published 02/07/90

Abstract: Pursuant to section 5(f) of the Export Administration Act, the Office of Foreign Availability initiated an assessment to investigate the foreign availability of stored program controlled die (chip) mounters and bonders and sought public comments on the foreign availability of such items.

Timetable:

Action	Date	FR Cite
ANPRM	01/05/90	55 FR 453
Final Action	02/07/90	55 FR 4214

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John R. Pastore, Electric Engineer, Office of Foreign Availability, Department of Commerce, Bureau of Export Administration, Room SB-701, Washington, DC 20230, 202 377-8074

RIN: 0694–AA31

384. REMOVAL OF GENERAL LICENSE G-FTZ; EXPORTS OF PETROLEUM COMMODITIES FROM U.S. FOREIGN-TRADE ZONES AND FROM GUAM

Legal Authority: 50 USC 2401; PL 96-72; PL 99-64; PL 100-418; PL 95-223; PL 99-440; EO 12525; EO 12532; EO 12571

CFR Citation: 15 CFR 771; 15 CFR 774; 15 CFR 777

Legal Deadline: None
Published 06/25/90

Abstract: This rule will remove section 771.7 "General license G-FTZ; exports of petroleum commodities from U.S. foreign-trade zones and from Guam." In 1985 the Department eliminated the validated license requirement for petroleum product exports, unless the products were derived from the NPRC. Because petroleum exports from foreign trade zones and Guam now can be sent under section 771.18 "General license G-NNR; shipments of certain Non-Naval reserve petroleum commodities", General license G-FTZ is unnecessary.

Timetable:

Action	Date	FR Cite
Final Action	06/25/90	55 FR 25820
Final Action Effective	06/25/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Gongwer, Acting Chief, Regulations Branch, Office of Technology and Policy Analysis, Department of Commerce, Bureau of Export Administration, Room 1622, Washington, DC 20230, 202 377-2440

RIN: 0694–AA35

385. GUIDELINES FOR EXPORT TRANSACTIONS INVOLVING CHEMICAL PROCESSING EQUIPMENT

Legal Authority: 50 USC 2401

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: U.S. foreign policy opposes the proliferation and use of chemical weapons. Similar controls, however, have not been imposed on the chemical processing equipment that can be used to produce chemical weapon precursors. Despite the absence of controls, the Department of Commerce encourages U.S. industry to be aware of suspicious business transactions involving chemical processing equipment. This advisory note will set guidelines to enable suppliers of such equipment to identify suspicious transactions and react accordingly.

Timetable:

Action	Date	FR Cite
Final Action	04/03/90	55 FR 12397

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Toni Jackson, Export Policy Analyst, Office of Technology and Policy Analysis, Department of Commerce, Bureau of Export Administration, Room 1618, Washington, DC 20230, 202 377-4931

RIN: 0694–AA37

386. VOLUNTARY SELF-DISCLOSURES OF EXPORT VIOLATIONS

Legal Authority: 50 USC 2401; PL 96-72; PL 97-145; PL 100-418; PL 99-64; PL 95-223; PL 99-440; EO 12525; EO 12532; EO 12571

CFR Citation: 15 CFR 787

Legal Deadline: None

Abstract: On March 6, 1989, the Bureau of Export Administration published a proposed rule that would amend the EAR by adding a new section 787.15 addressing voluntary self-disclosure of export violations. After reviewing the comments on the proposed rule, BXA will issue this rule in final form that adds new section 787.15 "Voluntary Self-Disclosure" into the EAR. Section 787.15 sets forth the following: the intent of the new section; limitations under which this new section is applicable; how to provide voluntarily self-disclosed information to the Office of Export Enforcement; the range of actions OEE could take in response to the received information; criteria used to determine OEE's action; and treatment of unlawfully exported commodities after voluntary self-disclosure.

Timetable:

Action	Date	FR Cite
NPRM	03/06/89	54 FR 9223
Final Action	09/09/90	55 FR 32387
Final Action Effective	09/09/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Gongwer, Acting Chief, Regulations Branch, Office of Technology and Policy Analysis, Department of Commerce, Bureau of Export Administration, Room 1622, Washington, DC 20230, 202 377-2440

RIN: 0694–AA38

387. INCREASE IN THE DOLLAR VALUE LIMIT EXEMPTION FROM THE SHIPPER'S EXPORT DECLARATION FILING REQUIREMENT

Legal Authority: 50 USC 2401; PL 96-72; PL 97-145; PL 100-418; PL 99-64; PL 95-223; PL 99-440; EO 12525; EO 12532; EO 12571

CFR Citation: 15 CFR 786

Legal Deadline: None

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Completed Actions

Abstract: The Bureau of Export Administration is raising the dollar value limit for exemption from the Shipper's Export Declaration (SED) filing requirement for non-mail shipments from $1500 to $2500. This change is being made in accordance with the Bureau of the Census' final rule amending the Foreign Trade Statistics Regulations. This is intended to relieve the processing burden of the Bureau of the Census, which currently receives over 800,000 SED's per month. It is also expected to reduce the exporter's administrative burden by increasing the number of shipments exempt from special documentation requirements.

Timetable:

Action	Date	FR Cite
Final Action	08/03/90	55 FR 31577
Final Action Effective	08/03/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Gosgrove, Acting Chief, Regulations Branch, Office of Technology and Policy Analysis, Department of Commerce, Bureau of Export Administration, Room 1622, Washington, DC 20230, 202 377-4819

RIN: 0694–AA30

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388. AMENDMENTS TO PARTS 787 AND 788: EXPORT ENFORCEMENT AND ADMINISTRATIVE PROCEEDINGS

Legal Authority: 50 USC 2401; PL 96-72; PL 97-145; PL 99-64; PL 95-223; PL 99-440; EO 12525; EO 12532; EO 12571; EO 12002

CFR Citation: 15 CFR 787; 15 CFR 788

Legal Deadline: None

Abstract: The nomenclature changes made by a final rule March 30, 1989, were based on the transfer of the export control functions from the International Trade Administration to the newly created Bureau of Export Administration. Several nomenclature changes that should have been made in Part 788 were not made at that time. This final rule will make those nomenclature changes to Part 788 and also amends certain statutory references in Part 788 to make them conform with other provisions in the Regulations.

Timetable:

Action	Date	FR Cite
Final Action	08/01/90	55 FR 31176

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel C. Hurley, Jr., Attorney-Advisor, Office of Export Enforcement, Department of Commerce, Bureau of Export Administration, Room 3837, Washington, DC 20230, 202 377-5383

RIN: 0694–AA40

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389. VALIDATED LICENSE CONTROLS ON GENETICALLY MODIFIED ORGANISMS

Legal Authority: 50 USC 2401; PL 96-72; PL 97-145; PL 99-64; PL 100-418; PL 95-223; PL 99-440; EO 12525; EO 12532; EO 12571

CFR Citation: 15 CFR 799

Legal Deadline: None
Final rule published 03/28/90

Abstract: Current foreign policy controls on biological agents useful in making weapons include all genetically altered biological organisms, irrespective of hazard. Many of these controlled organisms, however, pose minimal hazard and have beneficial uses in various fields, including medicine. This rule will remove such organisms from controls, while retaining controls on organisms that pose special or extreme hazards.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/28/89	54 FR 8281
Final Action	03/28/90	55 FR 11351
Final Action Effective	03/28/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James I. Seevaratnam, Industrial Analyst, Office of Technology and Policy Analysis, Department of Commerce, Bureau of Export Administration, Room 4080, Washington, DC 20230, 202 377-5695

RIN: 0694–AA42

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390. NOTICE OF FOREIGN AVAILABILITY ASSESSMENT INITIATION OF AN ASSESSMENT ON POLYCRYSTALLINE SILICON RODS AND CHUNKS

Legal Authority: 50 USC 2401

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: Pursuant to the receipt of an allegation of foreign availability under Part 791.4 of the Export Administration Regulations, the Office of Foreign Availability initiated an assessment to investigate the foreign availability to Poland of polycrystalline silicon rods and chunks. The Office of Foreign Availability also sought public comments on the foreign availability to proscribed countries of polycrystalline silicon rods and chunks.

Timetable:

Action	Date	FR Cite
ANPRM	12/06/89	54 FR 50423
Final Action	02/07/90	55 FR 4214

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jo-Anne A. Jackson, Physical Scientist, Office of Foreign Availability, Department of Commerce, Bureau of Export Administration, Room SB-701, Washington, DC 20230, 202 377-5953

RIN: 0694–AA44

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391. NOTICE OF INITIATION OF FOREIGN AVAILABILITY ASSESSMENT ON HIGH PURITY POLYCRYSTALLINE SILICON

Legal Authority: 50 USC 2401

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: Pursuant to the receipt of an allegation of foreign availability, the Office of Foreign Availability initiated an assessment to investigate the foreign availability of high purity polycrystalline silicon. OFA also sought public comments on the foreign availability of high purity polycrystalline silicon.

Timetable:

Action	Date	FR Cite
Assessment Initiation Published	12/06/89	54 FR 50422
Final Action	02/14/90	55 FR 5249

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Completed Actions

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jo-Anne A. Jackson, Physical Scientist, Office of Foreign Availability, Department of Commerce, Bureau of Export Administration, Room SB-701, Washington, DC 20230, 202 377-3953

RIN: 0694–AA45

DEPARTMENT OF COMMERCE (DOC)
National Institute of Standards & Technology (NIST)

Proposed Rule Stage

392. FIPS FOR RECORDED FORMATS FOR ONE- AND TWO-SIDED 5.25 INCH (130 MM) AND 3.5 INCH (90 MM) FLEXIBLE DISK CARTRIDGES

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt an American National Standard (currently draft proposed) that specifies the track layout, track format, and other characteristics of the recorded signal. This is one part of a set of functional specifications needed to ensure interchangeability of data between information processing systems by use of a physically removable medium.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA54

393. FIPS FOR RECORDED MAGNETIC TAPE AND CARTRIDGE FOR INFORMATION INTERCHANGE; 18 TRACK, PARALLEL, 12.65 MM (1/2 IN), 1491 CPMM (37871 CPI) GROUP-CODED RECORDING

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt an American National Standard (currently draft proposed) that provides requirements for a tape cartridge to be used for information interchange among information processing systems, communications systems, and associated equipment. Used with associated standards for unrecorded media, tape labels and file structures, this standard will support data interchange between different systems.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA55

394. FIPS FOR APPLICATIONS PORTABILITY PROFILE

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This FIPS will provide an architectural approach to applications portability, and will include standard elements that can be used to develop and maintain portable applications. Components of the profile will include database management, data interchange, network services, user interfaces, and programming languages.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA65

395. REVISION OF FIPS 140, GENERAL SECURITY REQUIREMENTS FOR EQUIPMENT USING THE DATA ENCRYPTION STANDARD

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This revision will bring the standard up to date to cover new encryption applications, and new policies for testing for conformance to the standard.

Timetable:

Action	Date	FR Cite
ANPRM	12/02/88	53 FR 48722
ANPRM Comment Period End	03/09/89	53 FR 48722
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA68

396. FIPS FOR POSIX SYSTEM ADMINISTRATION

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt a set of specifications on an interim basis to provide functional system

administration requirements for POSIX operating system implementations. Actual utility names and options for system administration will be specified in a future revision to this FIPS. This standard will facilitate the interchange of computer programs among different vendor systems and architectures.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA71

397. FIPS FOR SPATIAL DATA TRANSFER STANDARD

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt specifications developed by the Department of the Interior for representing data used in mapping applications. The standard will improve interchange of information among agencies analyzing land use, demographics, and other geographic information.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA72

398. FIPS FOR OPEN SYSTEMS INTERCONNECTION (OSI) TRANSPORT LAYER SECURITY PROTOCOL (SP4)

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This FIPS will provide for confidentiality and integrity services at the Transport Layer of OSI Systems. The standard will be based on specifications and technical agreements reached through cooperative government and industry efforts.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA75

399. FIPS FOR IRDS EXPORT/IMPORT FILE FORMAT

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt an American National Standard being developed by Standards Committee X3H4. The standard will specify the precise format of files used to exchange information between IRDS's. The specification will complete the IRD-IRD Interface, the functionality of which is specified in FIPS PUB 156.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA76

400. FIPS FOR IRDS SERVICES INTERFACE

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt a draft proposed American National Standard for an Information Resource Dictionary System Services Interface. The standard is an extension of FIPS PUB 156, which adopts ANSI X3.138-1988. The Services Interface addresses the additional need for a programmatic interface through which software external to the IRDS can populate, access, and maintain the contents of an IRDS dictionary and its schema.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA77

401. ● FIPS FOR NETWORK MANAGEMENT

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will specify a management protocol, management information and management functions for interoperable multi-vendor networks that implement Open System Interconnection (OSI) standards. The standard will be based on the stable agreements reached by NIST Workshop for Implementors of OSI as developed by Special Interest Group on Network Management.

DOC—NIST

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA85

402. ● FIPS FOR PUBLIC KEY SIGNATURE ALGORITHM

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will specify a Public Key Signature algorithm appropriate for digital signature applications. The standard will enable users to verify the integrity of the data and the origin of messages sent between computers, and to verify the integrity of data and programs that are stored in computers.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA86

DEPARTMENT OF COMMERCE (DOC)

National Institute of Standards & Technology (NIST)

Final Rule Stage

403. REVISION TO FIPS 100, INTERFACE BETWEEN DATA TERMINAL EQUIPMENT (DTE) AND DATA CIRCUIT-TERMINATING EQUIPMENT (DCE) FOR OPERATION WITH PACKET-SWITCHED DATA COMMUNICATIONS NETWORKS (CONT)

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will specify the interface between data terminating equipment (DTE) and data circuit-terminating equipment (DCE) for terminals operating in the packet mode on package-switched data networks (PSDN), or between two DTEs, by dedicated circuit. The standard will cover both the DTE/DCE and DTE/DTE interfaces, and will be based on the American National Standard ANSI X3.100-1988 which was adopted from CCITT Recommendation X.25-1988, ISO 7776-1986, and ISO 8802-1987.

Timetable:

Action	Date	FR Cite
NPRM	07/10/86	51 FR 25088
NPRM Comment Period End	10/08/86	51 FR 25088
Notice With Request for Comments Comments Due by 06/18/90	03/20/90	55 FR 10276
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Additional Information: TITLE CONT: with Packet-Switched Data Networks (PSDN), or Between Two DTEs, by Dedicated Circuit

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA39

404. FIPS FOR C PROGRAMMING LANGUAGE

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt an American National Standard (X3.159-1989) which defines the syntax of the C programming language and the semantics for its interpretation. The standard will be used by implementors as the reference authority in developing compilers, interpreters or forms of high level language processors and by other computer professionals who need to know the precise syntactic and semantic rules of the standard. Use of this standard will promote the portability of programs between different systems, and will enable organizations to more fully utilize staff training and skills.

Timetable:

Action	Date	FR Cite
NPRM	01/09/87	52 FR 851
NPRM Comment Period End	04/09/87	52 FR 851
Repeated NPRM	05/11/90	55 FR 19768
NPRM Comment Period End	08/09/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA48

405. REVISIONS TO FIPS 60, 61, 62, 83, 97, AND 111, COMPUTER SYSTEM INPUT/OUTPUT (I/O) INTERFACE STANDARDS

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: Revisions to the family of input/output (I/O) interface standards will be proposed to reflect changes in computer technology and to facilitate the interconnection of peripherals to

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Final Rule Stage

personal and minicomputers. New applicability, implementation and waiver provisions will be proposed to existing interface standards to be effective after January 1, 1990. A transition plan to cover the period from January 1988 to January 1990 will also be proposed.

Timetable:

Action	Date	FR Cite
NPRM	11/19/87	52 FR 44462
NPRM Comment Period End	02/17/88	52 FR 44462
Notice With Request for Comments Comments Due by 06/18/90	03/20/90	55 FR 10272
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693-AA59

406. FIPS FOR ELECTRONIC DATA INTERCHANGE (EDI)

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: A group of voluntary industry standards that will facilitate computer-to-computer interchange of procurement data will be adopted as FIPS. Developed by Accredited Standards Committee X12, the standards will provide standard data elements, formats, and contents of electronic messages containing procurement-related information. These standards will reduce paperwork, improve productivity, and enable more effective information and inventory management.

Timetable:

Action	Date	FR Cite
NPRM	09/15/88	54 FR 38424
NPRM Comment Period End	12/13/89	54 FR 38424
Repeated NPRM	07/10/90	55 FR 28274
NPRM Comment Period End	09/24/90	
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693-AA60

407. FIPS FOR CONFORMANCE TESTING POLICY AND PROCEDURES

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This FIPS will specify the policy and procedures for conformance test methods, for conformance testing of implementations of FIPS, and for certifying those implementations that comply with the FIPS requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/03/88	53 FR 20249
NPRM Comment Period End	11/01/88	
Final Action	06/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693-AA66

408. FIPS FOR DOCUMENT APPLICATION PROFILE (DAP) FOR THE OFFICE DOCUMENT ARCHITECTURE (ODA) AND INTERCHANGE FORMAT STANDARD

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This FIPS will be based on international standards for office document architecture and office document interchange formats. The profile will provide necessary functionality to enable documents developed on different manufacturers' equipment to be interchanged between systems.

Timetable:

Action	Date	FR Cite
NPRM	01/27/89	54 FR 4054
NPRM Comment Period End	04/27/89	54 FR 4054
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693-AA67

409. REVISION OF FIPS 146, GOVERNMENT OPEN SYSTEMS INTERCONNECTION PROFILE (GOSIP)

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This revision of FIPS 146 will add new protocols to the Government OSI Profile for virtual terminal, end-system to intermediate-system, connection-oriented network service, office document architecture, connectionless transport, and Integrated Services Digital Network (ISDN) technology. The specification addresses needs to acquire multivendor systems using available or soon-to-be-available standard products.

Timetable:

Action	Date	FR Cite
NPRM	07/13/89	54 FR 29597
NPRM Comment Period End	10/11/89	54 FR 29597
Repeated NPRM	07/05/90	55 FR 27666
NPRM Comment Period End	09/20/90	
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151

DOC—NIST

Final Rule Stage

Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA69

410. FIPS FOR POSIX SHELL AND UTILITY APPLICATION INTERFACE FOR COMPUTER OPERATING SYSTEM ENVIRONMENTS

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt, on an interim basis, Draft 9 of the Institute of Electrical and Electronics Engineers (IEEE) Standard for Shell and Application Utility Interface for Computer Operating Systems Environments (IEEE 1003.2/POSIX Shell and Tools). This standard will extend the functionality of the POSIX standard by providing an interactive interface for users to control processing.

Timetable:

Action	Date	FR Cite
NPRM	06/07/89	54 FR 24375
NPRM Comment Period End	09/05/89	54 FR 24375
Repeated NPRM	06/13/90	55 FR 23959
NPRM Comment Period End	09/11/90	
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA70

411. FIPS FOR FIBER DISTRIBUTED DATA INTERFACE (FDDI)

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This FIPS will adopt five voluntary industry standards that are nearing final approval by ANSI. FDDI is a layered standard for a 100 Mbits fiber optic token ring Local Area Network (LAN).

Timetable:

Action	Date	FR Cite
NPRM	06/10/89	54 FR 32841
NPRM Comment Period End	11/08/89	54 FR 32841
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA74

412. FIPS FOR GOSIP CONFORMANCE AND INTEROPERATION TESTING AND REGISTRATION

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will identify requirements for conformance testing and interoperability testing of GOSIP protocols and protocol stacks. FIPS 146, GOSIP, defines a common set of data communication protocols which enable systems developed by different vendors to interoperate and enable the users of different applications on these systems to exchange information.

Timetable:

Action	Date	FR Cite
NPRM	11/13/89	54 FR 47254
NPRM Comment Period End	02/12/90	54 FR 47254
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA79

413. REVISION OF FIPS 120, GRAPHICAL KERNEL SYSTEM

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This revised standard will revise the current FIPS PUB 120 to require testing of implementations for conformance to the GKS standard. The technical specifications adopted by this revision will not be revised.

Timetable:

Action	Date	FR Cite
Notice With Request for Comments Comments Due by 06/18/90	03/20/90	55 FR 10273
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA80

414. REVISION OF FIPS 54, COMPUTER OUTPUT MICROFORM (COM) FORMATS AND REDUCTION RATIOS, 16MM AND 105MM

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard will adopt American National Standard for Information and Image Management – Microfiche, ANSI/AIIM MS5-1985, and American National Standard for Information and Image Management – Specifications for 16mm and 35mm Roll Microfilm, ANSI/AIIM MS14-1988, which specify the image arrangement, size, and reduction ratios for 16mm and 106mm microforms generated by Computer Output Microfilmers.

Timetable:

Action	Date	FR Cite
NPRM	03/02/90	55 FR 7516
NPRM Comment Period End	05/31/90	55 FR 7516
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151

DOC—NIST

Final Rule Stage

Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA81

DEPARTMENT OF COMMERCE (DOC)
National Institute of Standards & Technology (NIST)

Completed Actions

415. FIPS PUB 151-1, POSIX: PORTABLE OPERATING SYSTEM INTERFACE FOR COMPUTER ENVIRONMENTS

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard revises FIPS 151, which was based on interim specifications, to adopt the Institute of Electrical and Electronics Engineers (IEEE) Standard for Portable Operating System Interface for Computer Environments (IEEE 1003.1-1988). This standard adopts completed industry specifications and will facilitate the interchange of computer application programs between different vendor systems and architectures.

Timetable:

Action	Date	FR Cite
NPRM	04/13/89	54 FR 14829
NPRM Comment Period End	07/12/89	54 FR 14829
Final Action	05/29/90	55 FR 11424
Final Action Effective	09/29/90	55 FR 11424

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA69

416. FIPS PUB 127-1, DATABASE LANGUAGE SQL

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This revision adopts American National Standards X3.135-1989 and X3.168-1989. ANSI X3.135-1989 provides features for assuring the correctness of data that is organized in SQL databases. ANSI X3.168-1989 specifies interfaces between SQL and other programming languages including Ada, C, COBOL, FORTRAN, PASCAL, and PL/I. Use of these extensions will promote the portability of programs between different systems, and will enable organizations to more fully utilize staff skills and training.

Timetable:

Action	Date	FR Cite
NPRM	03/27/89	54 FR 8225
NPRM Comment Period End	05/30/89	54 FR 8225
Final Action	03/02/90	55 FR 3627
Final Action Effective	03/02/90	55 FR 3627

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA63

417. FIPS PUB 154, USER INTERFACE COMPONENT OF THE APPLICATIONS PORTABILITY PROFILE

Legal Authority: PL 100-235

CFR Citation: None

Legal Deadline: None

Abstract: This standard adopts the X Protocol, Xlib Interface, Xt Intrinsics and Bitmap Distribution Format specifications developed by the Massachusetts Institute of Technology (MIT) for the X Window System. This standard will facilitate the interchange of computer programs among different vendor systems and architectures.

Timetable:

Action	Date	FR Cite
NPRM	06/07/89	54 FR 24372
NPRM Comment Period End	09/05/89	54 FR 24372
Final Action	05/29/90	55 FR 21767
Final Action Effective	11/15/90	55 FR 21767

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 357 Computer and Office Equipment

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Institute of Standards & Technology, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693–AA72

418. MANUFACTURING TECHNOLOGY CENTERS

Significance: Regulatory Program

Legal Authority: 15 USC 278k

CFR Citation: 15 CFR 290

Legal Deadline: None

Abstract: These rules prescribe policies and procedures to ensure the fair, equitable and uniform treatment of proposals for assistance under the program. The program is to stimulate the establishment of centers around the United States that serve to enhance productivity by assisting businesses, especially small- and medium-sized businesses, in the adoption of advanced manufacturing technologies, processes and practices.

Timetable:

Action	Date	FR Cite
NPRM	05/01/90	55 FR 18124
NPRM Comment Period End	05/31/90	55 FR 18124
Final Action	09/17/90	55 FR 38274
Final Action Effective	09/17/90	

Small Entities Affected: None

Government Levels Affected: None

DOC—NIST

Completed Actions

Sectors Affected: All

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Philip Nanzetta, Program Manager, Technology Services, Department of Commerce, National Institute of Standards & Technology, Room B112, Building 220, Gaithersburg, MD 20899, 301 975-3414

RIN: 0693–AA82

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418. ADVANCED TECHNOLOGY PROGRAM (ATP) PROCEDURES

Significance: Regulatory Program

Legal Authority: 15 USC 278n

CFR Citation: 15 CFR 295

Legal Deadline: None

Abstract: These rules prescribe policies and procedures to ensure fair, equitable, and uniform treatment of proposals for assistance under the Advanced Technology Program (ATP). The ATP will assist U.S. businesses to (1) rapidly commercialize significant new scientific discoveries and technologies, and (2) refine manufacturing technologies. The program focuses on improving the competitive position of the United States and its businesses by accelerating the development and commercialization of discoveries and technologies that have great economic impact in terms of their potential contribution to the U.S. balance of trade and the creation of jobs.

Timetable:

Action	Date	FR Cite
NPRM	04/04/90	55 FR 12504
NPRM Comment Period End	05/04/90	55 FR 12504
Final Action	07/24/90	55 FR 30140
Final Action Effective	07/24/90	55 FR 30140

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $44,800; Base Year for Dollar Estimates: 1990

Sectors Affected: Multiple

Agency Contact: George Uriano, Acting Director, Advanced Technology Program, Department of Commerce, National Institute of Standards & Technology, Technology Services, Room B110, Building 221, Technology, Gaithersburg, MD 20899, 301 975-5187

RIN: 0693–AA83

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420. BOEHLERT-ROCKEFELLER TECHNOLOGY EXTENSION PROGRAM

Legal Authority: 15 USC 2781

CFR Citation: None

Legal Deadline: Other, Statutory, September 30, 1991.
All cooperative agreements issued under this program must be terminated by September 30, 1991.

Abstract: The notice announces the availability of funds for States seeking to demonstrate new methods to increase the use of Federal technology by businesses within their States and thereby improve their competitiveness.

Timetable:

Action	Date	FR Cite
Final Action	04/27/90	55 FR 17801

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Joseph Berka, Program Manager, Division 221, Department of Commerce, National Institute of Standards & Technology, Room A343, Building 221, Gaithersburg, MD 20899, 301 975-5917

RIN: 0693–AA84

DEPARTMENT OF COMMERCE (DOC)

National Oceanic and Atmospheric Administration (NOAA)

Prerule Stage

NATIONAL MARINE FISHERIES SERVICE

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421. POLICY TO REQUIRE OBSERVERS TO BE CARRIED ON DOMESTIC FISHING VESSELS

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 620

Legal Deadline: None

Abstract: The policy would establish guidelines for the use of observers in the domestic fisheries managed under the Magnuson Act. The observers collect catch and effort data on fishing operations, and biological information on fish stocks and the marine ecosystem.

Timetable:

Action	Date	FR Cite
ANPRM	06/06/88	53 FR 20661
ANPRM Comment Period End	07/18/88	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Additional Information: Following consultation with Regional Fishery Management Councils and industry representatives, the action was put on hold in February 1989, by the Assistant Administrator for Fisheries, NOAA, to await the outcome of voluntary observer programs planned by the fishing industry in Alaska waters for the 1989 and 1990 fishing seasons.

Agency Contact: Peter H. Pelcia, Sociologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Fisheries Cons. & Mgt., 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2384

RIN: 0648–AC45

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422. ● AMENDMENT 18 TO THE FISHERY MANAGEMENT PLAN FOR THE BERING SEA AND ALEUTIAN ISLANDS AND AMENDMENT 23 TO THE FMP FOR GROUNDFISH OF THE GULF OF ALASKA

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 611; 50 CFR 672; 50 CFR 675

Legal Deadline: NPRM, Statutory. Final, Statutory.

DOC—NOAA

Prerule Stage

NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: These amendments would prevent entry of additional fishing and/or processing vessels into groundfish fisheries in the Gulf of Alaska, Aleutian Islands, and Bering Sea management areas.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AD50

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423. ◆ U.S. STANDARDS FOR GRADES OF FRESH AND FROZEN FISH FILLETS

Legal Authority: 7 USC 1621 to 1630 Agricultural Marketing Act of 1946

CFR Citation: 50 CFR 263 Subparts A to E

Legal Deadline: None

Abstract: The purpose of this notice is to invite written comments to evaluate national interest in the deletion of the current five (5) fillet Standards for Grades and the development of a new U.S. General Standard for Grades or Fresh and Frozen Fish Fillets that would be applicable to all species.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Moreau, Director, Technical Services Unit, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930, 508 281-9319

RIN: 0648–AD53

NATIONAL OCEAN SURVEY/OFFICE OF COASTAL RESOURCES MANAGEMENT

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424. FEDERAL CONSISTENCY WITH APPROVED COASTAL ZONE MANAGEMENT PROGRAMS

Significance: Regulatory Program

Legal Authority: 16 USC 1456 Coastal Zone Management Act of 1972

CFR Citation: 15 CFR 930

Legal Deadline: None

Abstract: On January 11, 1984, the U.S. Supreme Court issued its decision in Secretary of the Interior et al. v. California et al. No. 82-1326. The Court held that the sale of Outer Continental Shelf (OCS) oil and gas leases is not an activity "directly affecting" the Coastal Zone Management Act of 1972, as amended (CZMA), and therefore, that a consistency determination is not required under that section before such sales may be made. Section 307(c)(1) required that Federal agencies conducting or supporting activities "directly affecting the coastal zone" must conduct or support those activities in a manner which is consistent to the maximum extent practicable with federally approved State coastal zone management programs. NOAA engaged in rulemaking to revise certain CZMA regulations as a result of the Supreme Court decision. NOAA removed those references which identify OCS lease sales as activities covered by the Section 307(c)(1) requirements.

Timetable:

Action	Date	FR Cite
ANPRM	06/01/84	49 FR 22825
ANPRM Comment Period End	08/31/84	49 FR 22825
NPRM	01/28/85	50 FR 3798
NPRM Comment Period End	03/01/85	50 FR 3798
Final Action	09/30/85	50 FR 35210
Decision Whether To Proceed With Rulemaking	10/31/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Additional Information: NOAA issued a final rule August 31, 1985, making the changes required by the Supreme Court decision, and decided to undertake a comprehensive study of the Federal consistency process. The Draft Study issued April 1985 will assist NOAA in evaluating the need for and consequences of further revision of the Federal consistency regulations. Further revision has been deferred pending review of public comment on the April study, and amendments to the CZMA enacted in 1986. In addition, the CZMA will be reauthorized soon, and amendments to the CZMA may result, which would require further regulatory revision. Based on this review, NOAA will evaluate the need for, and consequences of further revision of the regulations.

Agency Contact: Vickie A. Allin, Chief, Policy Coordination Division, Office of Ocean & Coastal Resource Mgmt., Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Washington, DC 20235, 202 673-5100

RIN: 0648–AA34

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425. THE MONITOR NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1439

CFR Citation: 15 CFR 924

Legal Deadline: None

Abstract: These regulations are being revised to update site management provisions.

Timetable:

Action	Date	FR Cite
ANPRM Comment Period End	01/31/91	
NPRM	03/31/91	
Interim Final Rule	07/31/91	
Final Action	08/31/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Washington, DC 20235, 202 673-5126

RIN: 0648–AC78

DEPARTMENT OF COMMERCE (DOC)
National Oceanic and Atmospheric Administration (NOAA)
Proposed Rule Stage

NATIONAL MARINE FISHERIES SERVICE

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426. GROUNDFISH OF THE GULF OF ALASKA AND HIGH SEAS SALMON FISHERY OFF ALASKA; REGULATORY AMENDMENT

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 672; 50 CFR 674; 50 CFR 611.92

Legal Deadline: None

Abstract: As required under PL 98-623, NOAA issues a regulatory amendment to codify the fishery management boundaries of southeastern Alaska established by that law.

Timetable:

Action	Date	FR Cite
NPRM	05/00/91	
NPRM Comment Period End	06/00/91	
Final Action	08/00/91	
Final Action Effective	09/00/91	

Small Entities Affected: None

Government Levels Affected: State, Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Jonathan Pollard, Attorney-Advisor, Department of Commerce, National Oceanic and Atmospheric Administration, NOAA Office of General Counsel-GCAK, P.O Box 21668, Juneau, AK 99801, 907 586-7414

RIN: 0648-AB51

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427. AMENDMENT 1 TO THE SWORDFISH FMP

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 630

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment will: (1) set a total allowable catch (TAC) for the U.S. fishery in 1991; (2) prohibit directed swordfishing until the TAC projected for the upcoming year exceeds projected catch by at least 10 percent; (3) prohibit use of lightsticks until directed fishery is reopened; (4) allocate TAC to the bycatch fishery in a manner encouraging vessels to pay for and carry observers; (5) prohibit nighttime longlining after the TAC is reached; (6) prohibit imports of swordfish after the quota is taken and the U.S. fishery is closed; (7) allow a small recreational fishery; (8) set a control date of August 16, 1990; (9) prohibit drift entanglement gillnet fishing for swordfish; and (10) add a definition of "overfishing." Objectives are to: (1) rebuild spawning stock to a level associated with F0.1 fishing mortality, (2) begin stabilizing or reducing number of fishery participants, (3) increase yield per recruit by shifting mortality to larger fish, and (4) encourage complementary international management regimes.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	
Final Action	12/00/90	
Final Action Effective	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648-AB92

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428. AMENDMENT 4 TO THE PACIFIC COAST GROUNDFISH FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 663; 50 CFR 611.70

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the Pacific Fishery Management Council.

Abstract: Amendment 4 will restructure and update the Pacific Coast Groundfish FMP to make it a more useful and timely document. It also will consider providing the flexibility to address a wider range of problems. The major issues in Amendment 4 will examine quota management, the application of "optimum yield", the ability to impose management measures for social and economic reasons (as long as the resource will not be jeopardized), deletion of the 30 percent lid on annual in-season increases to ABC and OY, ways to expedite the experimental fishing permit process, and the review and adoption of state regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/17/90	55 FR 38105
NPRM Comment Period End	11/01/90	
Final Action	12/04/90	
Final Action Effective	01/03/91	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Rolland A. Schmitten, Director, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., Bldg. I, Seattle, WA 98115, 206 526-6150

RIN: 0648-AC43

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429. SCIENTIFIC RESEARCH - DOMESTIC AND FOREIGN FISHING

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation and Mgmt. Act

CFR Citation: 50 CFR 611; 50 CFR 620

Legal Deadline: None

Abstract: The rule would define scientific research under the Magnuson Act and would add several prohibitions to the general regulations governing domestic fisheries.

Timetable:

Action	Date	FR Cite
NPRM	05/00/91	
NPRM Comment Period End	06/00/91	
Final Action	08/00/91	
Final Action Effective	09/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

DOC—NOAA

Proposed Rule Stage

Sectors Affected: 091 Commercial Fishing

Agency Contact: Sydney A. Minnerly, Staff Attorney, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2252

RIN: 0648–AC61

430. REGULATION TO CONTROL ILLEGAL FISHING IN THE EXCLUSIVE ECONOMIC ZONE (EEZ) AND OVERFISHING OUTSIDE THE EEZ

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq; 16 USC 971 et seq; 22 USC 1971 et seq; 16 USC 1361 et seq

CFR Citation: 50 CFR 611.7; 50 CFR 611.93

Legal Deadline: None

Abstract: Foreign fishing on the high seas of the central Bering Sea takes excessive amounts of stocks of Alaska pollock, which may be shared in the economic zones of the United States and the Soviet Union. The foreign fleets also use such fishing for illegal fishing incursions in the U.S. EEZ under cloud cover and cover of darkness.

Timetable:

Action	Date	FR Cite
ANPRM	04/25/88	53 FR 13422
ANPRM Comment Period End	05/25/88	
NPRM	01/00/91	
NPRM Comment Period End	02/00/91	
Final Action	03/00/91	
Final Action Effective	03/00/91	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Alfred J. Bilik, Fishery Management Officer, Department of Commerce, National Oceanic and Atmospheric Administration, F/CM1, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2337

RIN: 0648–AC08

431. REGULATORY AMENDMENT FOR INTERACTION BETWEEN SUMMER FLOUNDER FISHERY AND ENDANGERED SPECIES

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 625

Legal Deadline: None

Abstract: Regulatory amendment to establish monitoring and reporting in the summer flounder winter trawl fishery and its interaction with endangered species.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	01/00/91	
Final Action	02/00/91	
Final Action Effective	03/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930, 508 281-9300

RIN: 0648–AC67

432. INTERIM FISHING VESSEL CAPITAL CONSTRUCTION FUND PROCEDURES

Legal Authority: 46 USC 1177, sec 607, Merchant Marine Act, 1936, as amended

CFR Citation: 50 CFR 259

Legal Deadline: None

Abstract: Incorporate into existing regulations, clarification of existing restraints on the use of the Capital Construction Fund by fishermen.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/12/88	53 FR 35202
ANPRM	03/07/90	55 FR 8157
ANPRM Comment Period End	04/06/90	
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Under existing conditions at 50 CFR Part 259, CCF benefits for fishermen are restricted in accordance with Part 251 of 50 CFR. The proposed rule would allow for either the moderation or lifting of these restrictions.

Agency Contact: John A. Kelly, Jr., Program Leader, Capital Construction Fund Program, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2393

RIN: 0648–AC71

433. AMENDMENT 19 TO THE FMP FOR GROUNDFISH OF THE GULF OF ALASKA AND AMENDMENT 14 TO THE FMP FOR GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt Act

CFR Citation: 50 CFR 611; 50 CFR 672; 50 CFR 675

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: These amendments contain management measures to limit roe stripping of pollock in the Gulf of Alaska and the Bering Sea and Aleutian Islands.

Timetable:

Action	Date	FR Cite
NPRM	09/14/90	55 FR 37907
NPRM Comment Period End	10/29/90	
Final Action	11/00/90	
Final Action Effective	12/03/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: 001 Commercial Fishing

DOC—NOAA

Proposed Rule Stage

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AC80

434. AMENDMENT 1 TO THE FISHERY MANAGEMENT PLAN FOR THE SUMMER FLOUNDER FISHERY

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 625

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days of receipt of the amendment from the fishery management council.

Abstract: Amendment 1 to the fishery management plan is expected to: (1) broaden the management unit to include scup and black sea bass; (2) reduce fishing in both the summer flounder and scup fisheries and manage fishing in the black sea bass fishery to ensure that overfishing does not occur; (3) reduce fishing mortality on immature summer flounder, scup, and black sea bass; (4) increase the yield from the fishery; and (5) define overfishing of the stock complex as required by amendment of 50 CFR Part 602, effective August 23, 1989.

Timetable:

Action	Date	FR Cite
NPRM	11/15/90	
NPRM Comment Period End	12/30/90	
Final Action Effective	02/18/91	
Begin Review	03/20/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930, 508 281-9300

RIN: 0648–AC83

435. AMENDMENT 10 TO THE FISHERY MANAGEMENT PLAN FOR COMMERCIAL AND RECREATIONAL SALMON FISHERIES OFF THE COAST OF WASHINGTON, OREGON, AND CALIFORNIA COMMENCING IN 1978 (FMP)

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 661

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: Amendment 10 will address a number of fishery management issues including: (1) modified spawning escapement goal for Klamath River fall chinook; (2) revised criteria for geographic and in-season deviations from the nontreaty harvest allocations north of Cape Falcon, Oregon; (3) achievement of recreational season duration goals between Cape Falcon and Orford Reef Red Buoy following in-season reallocations to the commercial fishery; (4) additional flexibility in fishery opening and closing times and changes in the duration of reopened fisheries; (5) event and date changes in the preseason process for establishing season measures; and (6) add a definition of overfishing for each managed stock or stock complex.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	02/00/91	
Final Action	04/00/91	
Final Action Effective	05/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Analysis: Regulatory Flexibility Analysis

Agency Contact: Rolland A. Schmitten, Director, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way, NE, Building I, Seattle, WA 98115, 206 526-6150

RIN: 0648–AC85

436. REGULATORY AMENDMENT TO THE FISHERY MANAGEMENT PLAN FOR ATLANTIC BILLFISH

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 644

Legal Deadline: None

Abstract: This regulatory amendment will change the regulations implementing the Fishery Management Plan for Atlantic Billfish (FMP) to: (1) broaden the definitions of "dealer" and "billfish" for the limited purposes of ascertaining the eligibility for sale of a billfish possessed by a dealer or processor; (2) clarify the scope of the regulations; and (3) prohibit the removal at sea of the head, fins or bill from a billfish. Purposes of the regulatory amendment are to: (1) ensure that a billfish from its management unit is not purchased, bartered, traded or sold in any State; (2) express clearly the FMP's intent; and (3) enhance enforceability of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	
Final Action	02/00/91	
Final Action Effective	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AC87

437. AMENDMENT 4 TO THE FISHERY MANAGEMENT PLAN FOR THE NORTHEAST MULTISPECIES FISHERY

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

DOC—NOAA

Proposed Rule Stage

CFR Citation: 50 CFR 651

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: Amendment 4 measures will provide tighter controls for some of the Gulf of Maine's small-mesh fisheries because of their high discard rates of cod, haddock, pollock, and flounders. Management measures will include: (1) replacing the exempted fisheries program with an experimental fishery; (2) limiting the shrimp fishery to January, February, and March; (3) including silver hake, red hake, and ocean pout as regulated species with the appropriate management measures; (4) implementing a minimum mesh size of 2 1/2 inches in areas outside the regulated mesh area; (5) establishing a Cultivator Shoals whiting fishery; and (6) establishing a seasonal closure in the Nantucket Lightship Area.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	
Final Action	01/15/91	
Final Action Effective	02/18/91	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Sectors Affected: 061 Commercial Fishing

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930, 508 281-9300

RIN: 0648-AC03

436. AMENDMENT 6 TO THE NORTHERN ANCHOVY FISHERY MANAGEMENT PLAN

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 652

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: The Pacific Fishery Management Council will amend the Fishery Management Plan for Northern Anchovy to modify establishment of quotas from a spawning stock biomass basis to a total standing stock biomass basis. Because unusual environmental conditions can result in large standing stocks with low recruitment/spawning, the reduction fishery can be shut down in the midst of abundant standing stocks. In order to account for such situations, the Council will amend the procedures for determination of harvest allocations. The amendment will also add an overfishing definition.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	
Final Action	01/05/91	
Final Action Effective	02/04/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: 061 Commercial Fishing

Agency Contact: E. Charles Fullerton, Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 300 S. Ferry Street, Room 2005, Terminal Island, CA 90731-7415, 213 514-6194

RIN: 0648-AC95

438. AMENDMENT 4 TO THE FISHERY MANAGEMENT PLAN FOR THE ATLANTIC SEA SCALLOP FISHERY

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 650

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt of the amendment from the fishery management council.

Abstract: The amendment to the Fishery Management Plan for Atlantic sea scallops is expected to: (1) address effort and/or vessel controls; (2) address current meat count/shell height standards; and (3) define overfishing of Atlantic sea scallops as required by an amendment to 50 CFR Part 602, effective August 23, 1990.

Timetable:

Action	Date	FR Cite
NPRM	11/15/90	
NPRM Comment Period End	12/30/90	
Final Action	02/18/91	
Final Action Effective	03/20/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: 061 Commercial Fishing

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930, 508 281-9300

RIN: 0648-AC99

440. ATLANTIC BLUEFIN TUNA FISHERY

Legal Authority: 16 USC 971 et seq

CFR Citation: 50 CFR 285

Legal Deadline: None

Abstract: Proposed rule to address the bycatch of Atlantic bluefin tuna in the South Atlantic and Gulf of Mexico and the catch of young school, school, and medium tuna in the angling category.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Sectors Affected: 061 Commercial Fishing

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930, 508 281-9300

RIN: 0648-AD01

441. DEPLETION OF THE COASTAL-MIGRATORY STOCK OF BOTTLENOSE DOLPHINS IN THE U.S. MID-ATLANTIC

Significance: Agency Priority

DOC—NOAA

Proposed Rule Stage

Legal Authority: 16 USC 1361 et seq Marine Mammal Protection Act; 16 USC 1383b

CFR Citation: 50 CFR 216.15

Legal Deadline: None

Abstract: Based on a review of the best available information on the status of the coastal-migratory stock of bottlenose dolphins in the U.S. Mid-Atlantic, the National Marine Fisheries Service (NOAA Fisheries) is considering the publication of a proposed rule designating this population stock as depleted under the Marine Mammal Protection Act (MMPA). This action is required by the MMPA when a species or population stock falls below its optimum sustainable population (OSP). If this population stock is designated as depleted, the MMPA requires the application of certain additional restrictions on taking and importation, and the preparation and implementation of a conservation plan to restore the stock to OSP. NOAA Fisheries is also requesting any additional scientific information on this action that may be available from interested parties, as required by the MMPA Amendments of 1988.

Timetable:

Action	Date	FR Cite
ANPRM	10/11/89	54 FR 41654
ANPRM Comment Period End	12/17/89	
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Public Compliance Cost: Initial Cost: $25,000; Yearly Recurring Cost: $50,000; Base Year for Dollar Estimates: 1990

Agency Contact: Georgia Cranmore, Ecologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2289

RIN: 0648–AD02

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442. REVISED REGULATIONS GOVERNING PERMITS FOR THE TAKING AND IMPORTING OF MARINE MAMMALS FOR SCIENTIFIC RESEARCH AND PUBLIC DISPLAY

Legal Authority: 16 USC 1361 et seq, Marine Mammal Protection Act

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: The National Marine Fisheries Service is conducting the first comprehensive examination of its permit program for scientific research and public display since the passage of the Marine Mammal Protection Act in 1972 and issuance of permit regulations in 1974 (15 CFR 216). The review encompasses all aspects of permit program policy, procedures, and management concerning marine mammals under the authority of the Marine Mammal Protection Act of 1972, 16 USC 1361 et seq., and the Endangered Species Act, 16 USC 1531 et seq. At the conclusion of this permit program review the National Marine Fisheries Service will issue proposed revised regulations governing permits for the taking and importing of marine mammals for scientific research and public display.

Timetable:

Action	Date	FR Cite
NPRM	11/01/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Art Jeffers, Fishery Management Specialist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2289

RIN: 0648–AD11

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443. SECRETARIAL FISHERY MANAGEMENT PLAN FOR ATLANTIC OCEAN SHARKS

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 678

Legal Deadline: NPRM, Statutory. NPRM 15 days after the beginning of a 60-day period for fishery management council's consideration and comment on the Secretarial Plan.

Abstract: The Secretarial Fishery Management Plan establishes a new management program intended to: (1) prevent overfishing of Atlantic Ocean sharks; (2) encourage management of sharks throughout their range; (3) establish a data collection research, and fishery monitoring program; (4) prohibit the practice of "finning"; and (5) optimize benefits and minimize wastes of shark resources. Proposed measures include: (1) an annual commercial quota; (2) a recreational bag limit; (3) prohibition on "finning" and requirement that fins be landed in proportion to carcass weight; (4) commercial fishing and dealer permits; (5) prohibition on sale of recreational catch; (6) reporting of catch and effort information by commercial vessels and landing and price information by dealers; (7) an annual fishing year beginning July 1 of each year; and (8) a requirement for all fisherman to cut the fishing line for all sharks not taken as part of the quota or bag limit.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	
NPRM Comment Period End	04/00/91	
Final Action	06/00/91	
Final Action Effective	07/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 081 Commercial Fishing

Analysis: Regulatory Flexibility Analysis

Additional Information: Will involve new collections of information under the Paperwork Reduction Act.

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AD12

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444. WESTERN PACIFIC BOTTOMFISH AND SEAMOUNT GROUNDFISH FISHERIES - AMENDMENT 3 TO DEFINE OVERFISHING

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 683

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment will revise the definition of overfishing for bottomfish and seamount groundfish of the Western Pacific. This will satisfy the requirement to revise overfishing

DOC—NOAA

Proposed Rule Stage

definitions in all fishery management plans as established by an amendment to 50 CFR Part 602 effective August 23, 1989.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	01/00/91	
Final Action	02/00/91	
Final Action Effective	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: E. Charles Fullerton, Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 300 S. Ferry Street, Room 2005, Terminal Island, CA 90731-7415, 213 516-6194

RIN: 0648-AD14

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446. WESTERN PACIFIC PRECIOUS CORALS - AMENDMENT 2 TO DEFINE OVERFISHING

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment will revise the definition of overfishing for precious corals of the Western Pacific. This will satisfy the requirement to revise overfishing definitions in all fishery management plans as established by an amendment to 50 CFR Part 602 effective August 23, 1989.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	01/00/91	
Final Action	02/00/91	
Final Action Effective	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: E. Charles Fullerton, Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 300 S. Perry Street, Room 2005, Terminal Island, CA 90731-7415, 213 516-6194

RIN: 0648-AD16

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448. AMENDMENT 16 TO THE FISHERY MANAGEMENT PLAN FOR GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AND AMENDMENT 21 TO THE FMP FOR GROUNDFISH OF THE GULF OF ALASKA

Legal Authority: 16 USC 1801 et seq; 16 USC 971 et seq; 16 USC 1361 et seq; 22 USC 1971 et seq

CFR Citation: 50 CFR 611; 50 CFR 672; 50 CFR 675

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: These amendments contain management measures concerning onshore/offshore allocations in the Gulf of Alaska and the Bering Sea and Aleutian Islands.

Timetable:

Action	Date	FR Cite
NPRM	09/10/90	55 FR 36347
NPRM Comment Period End	10/27/90	
Final Action	11/00/90	
Final Action Effective	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Additional Information: RIN 0648-AC98 has been combined with this RIN.

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P. O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648-AD18

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447. AMENDMENT 15 TO THE FISHERY MANAGEMENT PLAN FOR THE BERING SEA AND ALEUTIAN ISLANDS AND AMENDMENT 20 TO THE FMP FOR GROUNDFISH OF THE GULF OF ALASKA

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq; 16 USC 971 et seq; 16 USC 1361 et seq; 22 USC 1971 et seq

CFR Citation: 50 CFR 611; 50 CFR 672; 50 CFR 675

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: These amendments contain management measures concerning bycatch issues in the Gulf of Alaska and the Bering Sea and Aleutian Islands.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P. O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648-AD19

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449. AMENDMENT 4 TO THE AMERICAN LOBSTER FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 649

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment will define overfishing for American lobster as required by an amendment to 50 CFR Part 602, effective August 23, 1989.

Timetable:

Action	Date	FR Cite
NPRM	11/14/90	
NPRM Comment Period End	12/10/90	
Final Action	01/18/91	
Final Action Effective	02/23/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930, 508 281-9300

RIN: 0648-AD20

449. AMENDMENT 2 TO THE FISHERY MANAGEMENT PLAN FOR THE SPINY LOBSTER FISHERY OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 645

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment defines overfishing for spiny lobster in Puerto Rico and the U.S. Virgin Islands as required by an amendment of 50 CFR Part 602, effective August 23, 1990.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	
Final Action	01/15/91	
Final Action Effective	02/15/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648-AD21

450. AMENDMENT 3 TO THE FISHERY MANAGEMENT PLAN FOR THE SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 640

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days after receipt and final rule 110 days after receipt from the fishery management council.

Abstract: This amendment will (1) define overfishing for spiny lobster in the Gulf of Mexico and South Atlantic, (2) require that vessel owners or operators certify that at least 10 percent of their earned income was derived from commercial fishing, and (3) authorize fees.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	12/00/90	
Final Action	01/30/91	
Final Action Effective	02/25/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648-AD22

451. AMENDMENT 3 TO THE ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 655

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment will define overfishing for mackerel, squid, and butterfish in the northwestern Atlantic Ocean as required by an amendment to 50 CFR Part 602, effective August 23, 1990.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	01/00/91	
Final Action	02/00/91	
Final Action Effective	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930, 508 281-9300

RIN: 0648-AD23

452. AMENDMENT 5 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 658

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment will define overfishing for brown, pink, and white shrimp in the Gulf of Mexico as required by an amendment of 50 CFR Part 602, effective August 23, 1990.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	
Final Action	01/07/91	
Final Action Effective	02/01/91	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648-AD24

453. FOREIGN FISHING POUNDAGE AND PERMIT FEES, 1991

Legal Authority: 16 USC 1801 et seq

DOC—NOAA

Proposed Rule Stage

CFR Citation: 50 CFR 611.22

Legal Deadline: None

Abstract: This rule will set poundage and permit fees for 1991.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	
Final Action	12/15/90	
Final Action Effective	01/01/91	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Alfred J. Bilik, Fishery Management Officer, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2337

RIN: 0648–AD28

454. CORALS AND CORAL REEFS OF THE GULF OF MEXICO AND THE SOUTH ATLANTIC-AMENDMENT 1 TO DEFINE OVERFISHING

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 638

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment will revise the definition of overfishing for corals and coral reefs of the Gulf of Mexico and the South Atlantic. This will satisfy the requirement to revise overfishing definitions in all fishery management plans as established by an amendment to 50 CFR Part 602, effective August 23, 1989.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	
Final Action	01/00/91	
Final Action Effective	02/00/91	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AD28

455. APPROACHING MARINE MAMMALS

Legal Authority: 16 USC 1540(f); 16 USC 1361

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: This rule will establish a minimum distance for approaches to marine mammals by humans, vessels, aircraft, and thrillcraft. These regulations are considered necessary because of the increasing popularity of whale watching and similar activities. Guidelines have not been effective in protecting marine mammals from this growing industry and from individuals wishing to view these animals too closely. An interim regulation regarding approaching humpback whales in Hawaii is working far better than previously used guidelines.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/15/90	
Final Action	02/00/91	
Final Action Effective	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Margaret Lorenz, Marine Resource Management Specialist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2322

RIN: 0648–AD30

456. REGULATIONS GOVERNING U.S. FISHING IN COLUMBIAN TREATY WATERS

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 605

Legal Deadline: None

Abstract: This rule will govern fishing by U.S. vessels in certain waters of the Caribbean Sea covered by a treaty between the United States and Colombia. Owners and operators of vessels fishing in treaty waters will be required to: (1) obtain certificates and permits; (2) report by radio entry and departure from treaty waters; (3) report catch and effort information; and (4) identify their vessels by displaying the official number. These regulations will also: (1) prohibit use of factory vessels, monofilament gillnets, tanks and airhoses, poisons, and explosives; (2) close the treaty waters of Quito Sueno to harvest or possession of conch; (3) close the treaty waters of Serrana and Roncador to harvest or possession of conch from July 1 to Sept. 30 each year; (4) set minimum size for conch; (5) prohibit retention or removal of eggs from berried spiny lobsters; (6) establish a minimum size limit for spiny and smoothtail lobsters; and (7) require lobster or fish traps to have biodegradable escape panels.

Timetable:

Action	Date	FR Cite
NPRM	09/18/90	55 FR 38365
NPRM Comment Period End	10/18/90	
Final Action	10/00/90	
Final Action Effective	01/00/91	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AD31

457. STONE CRAB FISHERY OF THE GULF OF MEXICO - AMENDMENT 4 TO DEFINE OVERFISHING

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 654

Legal Deadline: NPRM, Statutory. Final, Statutory.

DOC—NOAA

Proposed Rule Stage

NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment will revise the definition of overfishing for Gulf of Mexico stone crab. This will satisfy the requirement to revise overfishing definitions in all fishery management plans as established by an amendment to 50 CFR Part 602, effective August 22, 1989.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	01/00/91	
Final Action	03/00/91	
Final Action Effective	04/00/91	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AD32

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458. AMENDMENT 5 TO THE FISHERY MANAGEMENT PLAN FOR THE NORTHEAST MULTISPECIES FISHERY

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 651

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the New England Fishery Management Council.

Abstract: Amendment 5 to the Northeast Multispecies Fishery Management Plan will establish significantly tighter effort controls to allow rebuilding of groundfish stocks. This amendment will address the percent maximum spawning potential targets established by the FMP as defining overfishing. The timeframe and rebuilding strategy to achieve targets will be established by Amendment 5. Emphasis will be on an overall reduction of fishing effort.

Timetable:

Action	Date	FR Cite
NPRM	02/15/91	
NPRM Comment Period End	04/01/91	
Final Action	05/21/91	
Final Action Effective	06/21/91	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930, 508 281-9300

RIN: 0648–AD33

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459. ● FEEDING WILD POPULATIONS OF MARINE MAMMALS

Legal Authority: 16 USC 1361

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: The regulations would amend the definition of "take" to include feeding marine mammals in the wild. A "take" is prohibited under the Marine Mammal Protection Act unless an exception is made. NMFS concludes that feeding marine mammal species in the wild may significantly change their behavior by disrupting normal feeding patterns.

Timetable:

Action	Date	FR Cite
NPRM	08/29/90	55 FR 35328
NPRM Comment Period End	10/15/90	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Lorenz, Protected Resources Management, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1335 East-West Highway, Room 8268, Silver Spring, MD 20910, 301 427-2322

RIN: 0648–AD42

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460. ● GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREAS; REGULATORY AMENDMENT-DEFINITION OF DIRECTED ROCKSOLE FISHERY AND SEASON FOR FLATFISH FISHERIES

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 611; 50 CFR 675

Legal Deadline: None

Abstract: This amendment would redefine the directed rocksole fishery and provide for retainable bycatch of yellowfin sole and other flatfishes, and provide for sequential seasons for the rocksole fishery and directed fisheries for flatfishes other than rocksole. Fisheries for flatfishes other than rocksole would start later in the calendar year.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	12/00/90	
Final Action	03/00/91	
Final Action Effective	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7228

RIN: 0648–AD43

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461. ● GROUNDFISH OF THE GULF OF ALASKA AND GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREAS; REGULATORY AMENDMENT—STANDARD PRODUCT RECOVERY RATES FOR GROUNDFISH

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: Product recovery rates are used to calculate weights of whole groundfish from weights of finished product. These product recovery rates will be published in the Federal Register for public comment.

DOC—NOAA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	12/00/90	
Final Action	03/00/91	
Final Action Effective	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AD44

482. ● GROUNDFISH OF THE GULF OF ALASKA—REGULATORY AMENDMENT TO DEFINE SINGLE-LINE GROUNDFISH POTS AS LEGAL POT GEAR

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: This amendment would provide a definition of groundfish pots that can legally be used to fish groundfish, primarily Pacific cod, in the Gulf of Alaska.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
NPRM Comment Period End	02/00/91	
Final Action	05/00/91	
Final Action Effective	06/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AD45

483. ● DISPOSITION OF STRANDED OR DISTRESSED ENDANGERED OR THREATENED SPECIES OF FISH AND WILDLIFE

Legal Authority: 16 USC 1531 et seq Endangered Species Act of 1973

CFR Citation: 50 CFR 222

Legal Deadline: None

Abstract: Under the provisions of the Marine Mammal Protection Act (16 USC 1361 et seq.), NOAA has set up Marine Mammal Stranding Networks to rescue live stranded marine mammals and to salvage tissues from dead stranded marine mammals for scientific research. Federal and State officials and individuals specifically authorized for such activities currently respond to such strandings. Some marine mammal species are also listed as endangered or threatened under the Endangered Species Act. The U.S. Fish and Wildlife Service has promulgated regulations allowing such activities for endangered species under their jurisdiction (50 CFR 1721(c)(3) and (4)), but NOAA has not promulgated similar regulations for species under their jurisdiction, and the authority to rescue or salvage such species is nebulous. A rule will be proposed to clarify this authority.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Dean Wilkinson, Marine Resource Management Specialist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1335 East-West Highway, Room 8268, Silver Spring, MD 20910, 301 427-2322

RIN: 0648–AD46

484. ● AMENDMENT 17 TO THE FISHERY MANAGEMENT PLAN FOR GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AND AMENDMENT 22 TO THE FMP FOR GROUNDFISH OF THE GULF OF ALASKA

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment would provide for separate allocations of groundfish for offshore processors and processors that are on or near the shore.

Timetable:

Action	Date	FR Cite
NPRM	08/00/91	
NPRM Comment Period End	09/00/91	
Final Action	11/00/91	
Final Action Effective	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AD47

485. ● REGULATIONS GOVERNING THE TAKE OF MARINE MAMMALS INCIDENTAL TO LAUNCHES OF THE TITAN IV SPACE VEHICLE—AIR FORCE

Legal Authority: 16 USC 1371(a)(5)

CFR Citation: 50 CFR 228

Legal Deadline: None

Abstract: NMFS has received a request from the Department of the Air Force for a take of marine mammals incidental to launches of the Titan IV space vehicle from Vandenberg Air Force Base, CA over the next 5 years. Under section 101 (a)(5) of the Marine Mammal Protection Act, NMFS can authorize an incidental take if certain findings are made, and if regulations are issued that require monitoring and reporting.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	12/00/90	
Final Action	03/00/91	
Final Action Effective	04/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis

Agency Contact: Margaret Lorenz, Protected Resources Management, Department of Commerce, National Oceanic and Atmospheric Administration, NMFS – Office of Protected Resources, 1335 East-West

DOC—NOAA

Proposed Rule Stage

Highway, Room 8268, Silver Spring, MD 20910, 301 427-2332

RIN: 0648–AD48

466. ● AMENDMENT 16A TO THE FISHERY MANAGEMENT PLAN FOR GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 611; 50 CFR 672; 50 CFR 675

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment would establish prohibited species caps and areas closed to fishing, provide authority to close geographic areas where bycatch rates of prohibited species are high, and provide authority to apportion pollock to pelagic gear.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	12/00/90	
Final Action	02/00/91	
Final Action Effective	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AD49

467. ● REGULATORY AMENDMENT TO THE AMERICAN LOBSTER FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 649

Legal Deadline: None

Abstract: This amendment would (1) specify the size, location, and material that must be used for escape vents in lobster traps and (2) define the term "V-notch."

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	
Final Action	12/00/90	
Final Action Effective	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930, 508 281-9360

RIN: 0648–AD54

468. ● AMENDMENT 1 TO THE FISHERY MANAGEMENT PLAN FOR PELAGIC FISHERIES OF THE WESTERN PACIFIC REGION

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 685

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment would establish permit and reporting requirements for operators of domestic longline vessels.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	
Final Action	01/00/91	
Final Action Effective	02/00/91	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: E. Charles Fullerton, Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 300 S. Ferry Street, Room 2005, Terminal Island, CA 90731-7415, 213 514-6194

RIN: 0648–AD55

469. ● REGULATORY AMENDMENT TO THE SOUTH ATLANTIC SNAPPER-GROUPER FMP TO ESTABLISH SMZS AND MODIFY GEAR RESTRICTIONS

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 646

Legal Deadline: None

Abstract: This amendment would establish several new special management zones (SMZs) off South Carolina and prohibit the use of powerheads on all SMZs.

Timetable:

Action	Date	FR Cite
NPRM	07/00/91	
NPRM Comment Period End	08/00/91	
Final Action	09/00/91	
Final Action Effective	10/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AD56

470. ● AMENDMENT 5 TO THE FISHERY MANAGEMENT PLAN FOR THE SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 646

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment would establish an entry limitation system to control effort in the wreckfish fishery.

Timetable:

Action	Date	FR Cite
NPRM	05/00/91	
NPRM Comment Period End	06/00/91	
Final Action	08/00/91	
Final Action Effective	09/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

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Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AD67

471. ● AMENDMENT 4 TO THE FISHERY MANAGEMENT PLAN FOR THE SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 646

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment would address growth overfishing of species in the management unit and may include such measures as size limits, area closures, and gear restrictions.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
NPRM Comment Period End	03/00/91	
Final Action	03/00/91	
Final Action Effective	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AD58

472. ● AMENDMENT 5 TO THE FISHERY MANAGEMENT PLAN FOR THE SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 646

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment would add wreckfish to the management unit of the FMP, define overfishing for wreckfish, establish a fishing year, establish a quota, and implement other measures to protect the wreckfish resource. It would also establish a control date for participation in the fishery.

Timetable:

Action	Date	FR Cite
NPRM	09/24/90	55 FR 39023
NPRM Comment Period End	10/16/90	
Final Action	11/00/90	
Final Action Effective	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AD59

473. ● REGULATORY AMENDMENT TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 658

Legal Deadline: None

Abstract: This amendment would modify, temporarily, the boundary of the Tortugas Shrimp Sanctuary to reduce the area closed to trawl fishing. This would enable fishermen to harvest marketable-sized shrimp during specified periods from three small areas that would otherwise be closed.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	10/00/90	
Final Action	03/04/91	
Final Action Effective	04/01/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AD60

474. ● AMENDMENT 6 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 658

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment would reduce bycatch of finfish in the shrimp fishery of the Gulf of Mexico.

Timetable:

Action	Date	FR Cite
NPRM	05/15/91	
NPRM Comment Period End	06/25/91	
Final Action	08/13/91	
Final Action Effective	09/11/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AD61

475. ● REGULATORY AMENDMENT FOR RED SNAPPER-GULF OF MEXICO REEF FISH FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 641

Legal Deadline: Other, Statutory.
Existing regulations at 50 CFR part 641 require annual adjustment of management measures by January 1 of each year to accomplish goals of the FMP.

Abstract: This regulatory amendment, under the annual adjustment of management measures framework of Amendment 1, would modify measures to allow for the rebuilding of red snapper stocks in the Gulf of Mexico reef fish fishery. The regulatory amendment is expected to reduce the

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commercial quota for red snapper in 1991, reduce bag limits for red snapper in 1991, and may modify the red snapper minimum size limit.

Timetable:

Action	Date	FR Cite
NPRM	10/01/90	
NPRM Comment Period End	10/31/90	
Final Action	11/26/90	
Final Action Effective	01/01/91	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AD62

476. ● AMENDMENT 6 TO THE PACIFIC COAST GROUNDFISH FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 611; 50 CFR 663

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the Pacific Fishery Management Council.

Abstract: Amendment 6 would institute a license limitation program ("limited entry") for the Pacific Coast groundfish fishery. Only vessels with groundfish trawl gear, longlines, or fish pots would be required to have permits to use the gear. Permits would be transferable. Control dates for participation were previously established as July 11, 1984, through August 1, 1988.

Timetable:

Action	Date	FR Cite
NPRM	02/15/91	
NPRM Comment Period End	04/03/91	
Final Action	05/21/91	
Final Action Effective	06/21/91	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Rolland A. Schmitten, Director, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., Bldg. 1, Seattle, WA 98115, 206 526-6150

RIN: 0648–AD63

477. ● AMENDMENT 5 TO THE PACIFIC COAST GROUNDFISH FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 611; 50 CFR 663

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the Pacific Fishery Management Council.

Abstract: Amendment 5 will define overfishing in compliance with 50 CFR Part 602 - Guidelines for Fishery Management Plans, for the Pacific Coast groundfish fishery.

Timetable:

Action	Date	FR Cite
NPRM	11/15/90	
NPRM Comment Period End	12/31/90	
Final Action	02/19/91	
Final Action Effective	03/19/91	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Rolland A. Schmitten, Director, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., Bldg. 1, Seattle, WA 98115, 206 526-6150

RIN: 0648–AD64

478. ● GROUNDFISH OF THE GULF OF ALASKA AND GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS: REGULATORY AMENDMENT—REQUIREMENTS FOR OBSERVER COVERAGE; RELEASE OF DATA ON PSC BYCATCH RATES

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 611; 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: Establishes equitable standards for requiring observers on fishing vessels and processors, revises the definition of an "observer trip," and provides authority to release to the public data concerning the rates at which an individual vessel is catching or receiving prohibited species.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	
NPRM Comment Period End	04/00/91	
Final Action	07/00/91	
Final Action Effective	08/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AD65

479. ● GROUNDFISH OF THE GULF OF ALASKA AND GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS: REGULATORY AMENDMENT—AUTHORITY FOR REQUIRING DAILY CATCH REPORTS AND CHECK-IN AND CHECK-OUT REPORTS

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: Provides authority for National Marine Fisheries Service to require vessels of the United States to report daily catches of groundfish and prohibited species when the Director, Alaska Region, requests that they do so. Also provides authority for National Marine Fisheries Service to require vessels of the United States to check in and check out of regulatory areas in the Gulf of Alaska and the Bering Sea/Aleutian Islands management areas.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	01/00/91	
Final Action	04/00/91	
Final Action Effective	05/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and

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Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AD68

490. ● GROUNDFISH OF THE GULF OF ALASKA; REGULATORY AMENDMENT—APPORTIONMENT OF THE PROHIBITED SPECIES CATCH OF HALIBUT AMONG HOOK-AND-LINE FISHERIES

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672

Legal Deadline: None

Abstract: Provides authority to apportion the halibut prohibited species catch between hook-and-line fisheries in the Gulf of Alaska. These fisheries are those for sablefish, Pacific cod, and other groundfish.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
NPRM Comment Period End	02/00/91	
Final Action	05/00/91	
Final Action Effective	06/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AD67

491. ● GROUNDFISH OF THE GULF OF ALASKA; REGULATORY AMENDMENT—SABLEFISH HOOK-AND-LINE FISHERY

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672

Legal Deadline: None

Abstract: Pending Council approval, the hook-and-line fishery for sablefish would be opened on May 1, June 1, or July 1. The hook-and-line fishery for sablefish in the Gulf of Alaska would be closed if the same fishery in the Eastern Regulatory Area is closed before July 1. After July 1, regulatory areas other than the eastern gulf would be reopened to hook-and-line fishing for sablefish.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	
NPRM Comment Period End	04/00/91	
Final Action	07/00/91	
Final Action Effective	08/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P. O. Box 21668, Juneau, AK 99801, 907 586-7221

RIN: 0648–AD66

NATIONAL OCEAN SURVEY/OFFICE OF COASTAL RESOURCES MANAGEMENT

482. PROPOSED REGULATIONS FOR THE KEY LARGO NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: 15 CFR 929

Legal Deadline: None

Abstract: These regulations are being revised to update enforcement provisions and to change research permit requirements.

Timetable:

Action	Date	FR Cite
NPRM	01/31/91	
NPRM Comment Period End	03/31/91	
Final Action	07/31/91	
Final Action Effective	08/31/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Suite 714, Washington, DC 20235, 202 673-5126

RIN: 0648–AA33

483. FAGATELE BAY NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1439

CFR Citation: 15 CFR 941

Legal Deadline: None

Abstract: These regulations are being revised to update on-site management provisions.

Timetable:

Action	Date	FR Cite
NPRM	01/31/91	
NPRM Comment Period End	03/31/91	
Final Action	07/31/91	
Final Action Effective	08/31/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Washington, DC 20235, 202 673-5126

RIN: 0648–AA74

484. PROPOSED REGULATIONS FOR THE LOOE KEY NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: 15 CFR 937

Legal Deadline: None

Abstract: These regulations are being revised to update enforcement provisions and to change research permit requirements.

Timetable:

Action	Date	FR Cite
NPRM	01/31/91	
NPRM Comment Period End	03/31/91	
Final Action	07/31/91	
Final Action Effective	08/31/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825

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Proposed Rule Stage

Connecticut Avenue, NW., Suite 714, Washington, DC 20235, 202 673-5126

RIN: 0648–AB94

485. PROPOSED REGULATIONS FOR THE CHANNEL ISLANDS NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1439

CFR Citation: 15 CFR 935

Legal Deadline: None

Abstract: These regulations are being revised to update enforcement provisions and permit requirements.

Timetable:

Action	Date	FR Cite
NPRM	01/31/91	
NPRM Comment Period End.	03/31/91	
Final Action	07/31/91	
Final Action Effective	08/31/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Suite 714, Washington, DC 20235, 202 673-5126

RIN: 0648–AC03

484. PROPOSED REGULATIONS FOR THE GULF OF THE FARALLONES NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1439

CFR Citation: 15 CFR 936

Legal Deadline: None

Abstract: These regulations are being revised to update enforcement provisions and permit requirements.

Timetable:

Action	Date	FR Cite
NPRM	01/31/91	
NPRM Comment Period End	03/31/91	
Final Action	07/31/91	
Final Action Effective	08/31/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Suite 714, Washington, DC 20235, 202 673-5126

RIN: 0648–AC05

487. PROPOSED REGULATIONS FOR THE MONTEREY BAY NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: These regulations will protect the ecological, recreational, and esthetic resources of the waters surrounding Monterey Bay, if the area is designated as a National Marine Sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	08/03/90	55 FR 31786
NPRM Comment Period End	10/03/90	
Final Action	01/30/91	
Final Action Effective	03/03/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, Universal Bldg., Rm. 714, 1825 Connecticut Avenue, NW., Washington, DC 20235, 202 673-5126

RIN: 0648–AC83

488. REGULATION IMPLEMENTING 1990 AMENDMENTS TO SECTION 315 OF THE COASTAL ZONE MANAGEMENT ACT

Legal Authority: 16 USC 1461

CFR Citation: 15 CFR 921

Legal Deadline: None

Abstract: This action will incorporate any amendments resulting from the planned 1990 reauthorization of section 315 of the Coastal Zone Management Act.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	
NPRM Comment Period End	08/00/91	
Final Action	10/00/91	
Final Action Effective	12/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine & Estuarine Mgmt. Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Ave., NW., Universal Bldg., Rm. 714, Washington, DC 20235, 202 673-5126

RIN: 0648–AC90

489. PROPOSED REGULATIONS FOR THE NORTHERN PUGET SOUND NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: These regulations will protect the ecological, recreational, and esthetic resources of the waters surrounding Northern Puget Sound if the area is designated as a National Marine Sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	
NPRM Comment Period End	05/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Universal Bldg., Rm. 714, Washington, DC 20235, 202 673-5126

RIN: 0648–AC91

490. PROPOSED REGULATIONS FOR THE NORFOLK CANYON NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: These regulations will protect the ecological, recreational, and esthetic resources of the waters surrounding Norfolk Canyon if the area is designated as a National Marine Sanctuary.

DOC—NOAA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	12/00/90	
Final Action	05/00/91	
Final Action Effective	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Universal Bldg., Rm. 714, Washington, DC 20235, [illegible] 673-5126

RIN: 0648–AC03

491. PROPOSED REGULATIONS FOR THE STELLWAGEN BANK NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: 15 CFR 940

Legal Deadline: None

Abstract: These regulations will protect the ecological, recreational, and esthetic resources of the waters surrounding Stellwagen Bank if the area is designated as a National Marine Sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	12/00/90	
Final Action	08/00/91	
Final Action Effective	10/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Ave., NW., Universal Bldg., Rm. 714, Washington, DC 20235, 202 673-5126

RIN: 0648–AC04

492. REGULATIONS IMPLEMENTING 1990 REAUTHORIZATION OF THE COASTAL ZONE MANAGEMENT ACT

Legal Authority: 16 USC 1450 et seq

CFR Citation: 15 CFR 923; 15 CFR 928

Legal Deadline: None

Abstract: This action will incorporate any amendments from the planned 1990 reauthorization of sections 306 and 312 of the Coastal Zone Management Act.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	
NPRM Comment Period End	08/00/91	
Final Action	01/00/92	
Final Action Effective	03/00/92	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Vickie A. Allin, Chief, Policy Coordination Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Room 701, Washington, DC 20235, 202 673-5100

RIN: 0648–AD09

OFFICE OF THE ADMINISTRATOR

493. NATIONAL SEA GRANT PROGRAM FUNDING REGULATIONS

Legal Authority: 33 USC 1123 (d)(7); 33 USC 1125; 33 USC 1127

CFR Citation: 15 CFR 917.2 (Revision); 15 CFR 917.11 (Revision); 15 CFR 917.20 (Revision); 15 CFR 917.21 (Revision); 15 CFR 917.22 (Revision); 15 CFR 917.30 (Revision)

Legal Deadline: Final, Statutory, December 28, 1988.
Applies only to revision of 15 CFR 917.20 to 917.22.

Abstract: Amendments to the Sea Grant Act require updating of implementing regulations to include:

Replace the "National Needs" program with a "strategic research program," essentially to focus on a more limited number of priority research areas;

Include two types of fellowships not previously recognized by statute and set forth selection procedures;

To update the international program in view of the broader geographic areas and activities authorized;

To provide more specific support for graduate education and interdisciplinary research in marine affairs.

There are no alternatives. Statutory amendments explicitly or implicitly require conforming amendments to the funding regulations. There are no costs involved.

Timetable:

Action	Date	FR Cite
NPRM	10/30/90	

Small Entities Affected: None

Government Levels Affected: Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Agency Contact: John Milholland, Senior Counselor, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Universal South Bldg., Rm. 603, Washington, DC 20230, 202 673-5200

RIN: 0648–AC54

494. LICENSING OF PRIVATE REMOTE SENSING SPACE SYSTEMS

Significance: Regulatory Program

Legal Authority: 15 USC 4244

CFR Citation: 15 CFR 960

Legal Deadline: None

Abstract: NOAA has agreed to amend its regulations for licensing private remote sensing space systems in response to a petition by news organizations. Petitioners seek clearer definition of when a license might be restricted because of national security. NOAA will consider ways to provide clarity to reassure potential applicants but will not consider the specific standard proposed by the media, which was rejected during the original rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	01/18/89	54 FR 01945
NPRM	12/31/90	
NPRM Comment Period End	03/02/91	

Small Entities Affected: None

Government Levels Affected: Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Agency Contact: John A. Milholland, Senior Counselor/Satellite, Department of Commerce, National Oceanic and

DOC—NOAA

Proposed Rule Stage

Atmospheric Administration, Room 683, 1825 Connecticut Avenue, NW., Washington, DC 20235, 202 673-5200

RIN: 0648-AC94

DEPARTMENT OF COMMERCE (DOC)
National Oceanic and Atmospheric Administration (NOAA)

Final Rule Stage

NATIONAL MARINE FISHERIES SERVICE

495. PROCESSED FISHERY PRODUCTS, PROCESSED PRODUCTS THEREOF & CERTAIN OTHER PROCESSED FOOD PRODUCTS: U.S. STANDARDS FOR GRADES OF FROZEN FISH BLOCKS & PRODUCTS MADE THEREFROM, ETC

Legal Authority: 7 USC 1621 to 1630 Agricultural Marketing Act of 1946

CFR Citation: 50 CFR 264A

Legal Deadline: None

Abstract: The revised rule will expand the coverage of established voluntary standards for grades of fishery products to include new products made from fish blocks. The standards will take into account new technology and equipment. These standards will be used in a voluntary program of fishery products inspection and certification by the NMFS. Industry has shown a high level of interest and support for the revisions.

Timetable:

Action	Date	FR Cite
NPRM	09/21/89	54 FR 38881
NPRM Comment Period End	11/06/89	
Extension of Comment Period	12/29/89	54 FR 53660
NPRM Comment Period End	01/29/90	54 FR 53660
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 091 Commercial Fishing; 209 Miscellaneous Food Preparations and Kindred Products

Analysis: See Additional Information

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Agency Contact: Tom Moreau, Director, Technical Services Unit, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930, 508 281-9319

RIN: 0648-AA46

496. U.S. GENERAL STANDARDS FOR GRADES OF SHRIMP

Legal Authority: 7 USC 1621 to 1630 Agricultural Marketing Act of 1946

CFR Citation: 50 CFR 265A

Legal Deadline: None

Abstract: The final rule will establish general quality grading standards for all non-breaded forms of fresh or frozen shrimp. These grading standards will provide for the systematic differentiation of the quality of shrimp into categories -- U.S. Grades A, B and Substandard. The proposed standards will be applied to all commercial species of fresh or frozen shrimp in raw or cooked states in all non-breaded market forms. The adoption of grading standards is expected to facilitate trade in shrimp of all commercial species, as consumers will be able to select shrimp on the basis of identified quality. Industry has shown great interest in and support for the standards.

Timetable:

Action	Date	FR Cite
NPRM	05/20/82	47 FR 21840
NPRM Comment Period End	08/18/82	47 FR 21840
NPRM	09/21/89	54 FR 38885
NPRM Comment Period End	11/06/89	
Extension of Comment Period	12/29/89	54 FR 53660
NPRM Comment Period End	01/29/90	54 FR 53660
Interim Final Rule	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 091 Commercial Fishing; 209 Miscellaneous Food Preparations and Kindred Products

Analysis: See Additional Information

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Agency Contact: Tom Moreau, Director, Technical Services Unit, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930, 508 281-9319

RIN: 0648-AA47

497. REGULATIONS ON STRIPED BASS IN EXCLUSIVE ECONOMIC ZONE OFF NORTH EAST ATLANTIC COAST

Legal Authority: PL 100-589; 16 USC 1801 et seq; 16 USC 1851

CFR Citation: 50 CFR 630

Legal Deadline: None

Abstract: Section 6 of the Atlantic Striped Bass Conservation Act requires the Secretary of Commerce to implement regulations on striped bass fishing in the Exclusive Economic Zone. Such regulations are to be consistent with the national standards of the Magnuson Act and complement regulations on striped bass in State waters. Comments were obtained on alternative regulations from various entities through an ANPRM. NOAA is pursuing implementation of regulations that would prohibit the harvest of striped bass from the EEZ and prohibit possession of striped bass while fishing in the EEZ.

Timetable:

Action	Date	FR Cite
ANPRM	08/16/89	54 FR 33725
ANPRM Comment Period End	10/15/89	
NPRM	06/22/90	55 FR 25667
NPRM Comment Period End	07/23/90	
Final Action	10/00/90	
Final Action Effective	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

DOC—NOAA

Final Rule Stage

Sectors Affected: 091 Commercial Fishing

Agency Contact: David G. Deuel, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2347

RIN: 0648–AB25

496. ENDANGERED FISH AND WILDLIFE; APPROACHING HUMPBACK WHALES IN HAWAIIAN WATERS

Legal Authority: 16 USC 1382(a); 16 USC 1540(f)

CFR Citation: 50 CFR 222.31

Legal Deadline: None

Abstract: This rule will establish as regulation a previously published Notice of Interpretation regarding minimum distances that should be maintained in the presence of humpback whales in Hawaii. Establishing a 100-yard perimeter around any of the whales while in the Hawaiian Exclusive Zone as a regulation is considered necessary given a large increase in vessel traffic and other water use activities in areas where this species historically occurs. In response to comments received in the public record, NOAA is defining two specific sites as cow/calf areas in which an approach closer than 300 yards is prohibited. This addition creates a new subsection to the rule.

Timetable:

Action	Date	FR Cite
NPRM	11/24/86	51 FR 42271
NPRM Comment Period End	12/24/86	51 FR 42271
Interim Final Rule	11/23/87	52 FR 44912
Final Action	02/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: 091 Commercial Fishing

Agency Contact: E. Charles Fullerton, Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 300 South Ferry Street, Terminal Island, CA 90731, 213 514-6501

RIN: 0648–AB70

499. AMENDMENT 3 TO THE HIGH SEAS SALMON FISHERY OFF THE COAST OF ALASKA EAST OF 175 E. LONGITUDE

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 674

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This amendment will (1) update the FMP by revising sections containing biological information and catch statistics and correcting minor errors, (2) add sections considering fish habitat and vessel safety, (3) defer regulation of commercial and recreational fisheries in the EEZ off Alaska to the State, (4) continue to allow sport salmon fishing throughout the management area, (5) retain the ban on salmon fishing with nets in both West and East management areas, (6) retain the ban on commercial salmon fishing in the West Area, (7) continue to allow hand-troll and power-troll salmon fishing in the East Area, (8) provide for annual harvest levels or optimum yields to be established by the Pacific Salmon Commission, and (9) provide for extending the FMP to the EEZ west of 175 degrees east longitude should the International Convention for the High Seas Fisheries of the North Pacific Ocean be terminated.

Timetable:

Action	Date	FR Cite
NPRM	07/12/90	55 FR 28661
NPRM Comment Period End	08/29/90	
Final Action	10/00/90	
Final Action Effective	10/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802, 907 586-7221

RIN: 0648–AC00

500. INTERIM EXEMPTION GOVERNING THE INCIDENTAL TAKING OF MARINE MAMMALS DURING COMMERCIAL FISHING OPERATIONS

Significance: Regulatory Program

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216

Legal Deadline: NPRM, Statutory, March 23, 1989. Final, Statutory, July 21, 1989. Other, Statutory, January 20, 1989. ANPRM legal deadline was January 20, 1989.

Abstract: 1988 Amendments to Marine Mammal Protection Act direct Secretary of Commerce to establish within 240 days, a 5-year program for exempting commercial fishing operations within the U.S. Exclusive Economic Zone from the Act's prohibition on taking marine mammals. The exemption will require registration of vessels with the National Marine Fisheries Service, reports on interactions with marine mammals and taking Government observers if required.

Timetable:

Action	Date	FR Cite
ANPRM	01/27/89	54 FR 04154
ANPRM Comment Period End	02/27/89	
Interim Final Rule	05/19/89	54 FR 21910
Final Action	06/00/91	
Final Action Effective	07/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $8,300,000; Yearly Recurring Cost: $7,900,000

Agency Contact: Nancy Foster, Director, Office of Protected Resources and Habitat Program, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2332

RIN: 0648–AC85

501. FISHERMEN'S PROTECTIVE ACT

Legal Authority: 22 USC 1980

CFR Citation: 50 CFR 258

Legal Deadline: None

DOC—NOAA

Final Rule Stage

Abstract: Reinstating regulations inadvertently dropped when Fishermen's Guarantee Program (whose regulations were also included in Part 258) was transferred to State Department.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles Cooper, Program Leader, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2396

RIN: 0648–AC73

502. AMENDMENT 2 TO THE FISHERY MANAGEMENT PLAN FOR THE SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 646

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt of amendment from the South Atlantic Fishery Management Council.

Abstract: This amendment would prohibit the harvest or possession of jewfish in or from the Exclusive Economic Zone off the South Atlantic States. It would also define overfishing for jewfish and all other species in the management unit.

Timetable:

Action	Date	FR Cite
NPRM	08/02/90	55 FR 31406
NPRM Comment Period End	09/10/90	
Final Action	10/00/90	
Final Action Effective	11/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AC96

503. REGULATORY AMENDMENT TO ESTABLISH A SPECIAL MANAGEMENT ZONE (SMZ) IN DADE COUNTY, FLORIDA

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 646

Legal Deadline: None

Abstract: This regulatory Amendment would establish a Special Management Zone (SMZ) as allowed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic. The SMZ would preclude use of certain gear types in a zone surrounding an artificial reef(s) in Dade County, Florida, to maintain reef fish populations for recreational or other purposes.

Timetable:

Action	Date	FR Cite
NPRM	07/09/90	55 FR 28068
NPRM Comment Period End	08/08/90	
Final Action	10/00/90	
Final Action Effective	11/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Local, Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AC97

504. PERFORMANCE STANDARDS FOR TUNA VESSEL OPERATORS

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: NOAA will establish a system of performance standards for operators of U.S.-flag tuna purse seine fishing vessels that catch yellowfin tuna associated with marine mammals in the eastern tropical Pacific Ocean.

Timetable:

Action	Date	FR Cite
NPRM	11/01/89	54 FR 46066
NPRM Comment Period End	12/01/89	
Interim Final Rule Effective	05/16/90	
Interim Final Rule	05/17/90	55 FR 20458
Comment Period End	09/03/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. C. Fullerton, Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 300 South Ferry St., Terminal Island, CA 90731, 213 514-6196

RIN: 0648–AD03

505. SUSPENSION FOR 180 DAYS OF VESSEL REGISTRATION FOR SABLEFISH HOOK-AND-LINE FISHERY IN THE GULF OF ALASKA

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672

Legal Deadline: None

Abstract: This rule would repeal the requirements for vessel registration in the sablefish hook-and-line fishery in the Gulf of Alaska. The regulation at 50 CFR 672.6 was useful in prior years for the management of the sablefish fishery. Now, catches by the fleet during the fishing season can be estimated since the number of vessels in the sablefish fleet has stabilized.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	04/01/90	
Interim Final Rule	04/06/90	55 FR 12632
Comment Period End	06/01/90	
Final Action	11/01/90	
Final Action Effective	12/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ronald J. Berg, Fishery Management Biologist, Department of Commerce, National Oceanic and Atmospheric

DOC—NOAA

Final Rule Stage

Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7230

RIN: 0648-AD08

506. LIST WINTER-RUN CHINOOK SALMON OF THE SACRAMENTO RIVER AS A THREATENED SPECIES UNDER THE ENDANGERED SPECIES ACT

Legal Authority: 16 USC 1533

CFR Citation: 50 CFR 226; 50 CFR 227

Legal Deadline: None

Abstract: NMFS proposes to list the Sacramento River Winter-run Chinook salmon as threatened under provisions of the Endangered Species Act. Between 1967 and 1985, the run declined from a 3-year mean run size of about 84,000 fish to a mean run size of less than 3,000 fish. However, the 1989 run was only 500 fish. Currently, the species is listed on an emergency interim basis, which expires April 4, 1990. Portions of the Sacramento River will be designated as critical habitat.

Timetable:

Action	Date	FR Cite
NPRM	03/20/90	55 FR 10260
NPRM Comment Period End	05/21/90	55 FR 10260
Final Action	10/00/90	
Final Action Effective	11/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Margaret Lorenz, Marine Resource Management Specialist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2322

RIN: 0648-AD07

507. © PROHIBITION OF THE USE OF EXPLOSIVES IN THE YELLOWFIN TUNA-DOLPHIN FISHERY

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216.24(d)(2)(vii)(E)

Legal Deadline: Final, Statutory, April 1, 1990.

Abstract: In 1988, Congress amended the Marine Mammal Protection Act to prohibit the use of explosive devices in tuna purse seine operations that involve marine mammals. An exception from this prohibition was that Class C explosive pest control devices, approved by the Department of Transportation, could continue to be used when marine mammals are present. An interim final rule in this regard was published in the FR (54 FR 411) and became effective January 1, 1989. Continued unrestricted use of the Class C explosive pest control devices was made contingent upon the outcome of a study mandated by Congress and undertaken by NMFS. The MMPA requires the Secretary to prescribe regulations to prohibit or restrict the use of Class C explosives by April 1, 1990, unless the Secretary, based upon the the study, determines "...that the use of such devices does not result in physical impairment or increased mortality of marine mammals." Such a study was conducted by NMFS and the results were reviewed by experts in a workshop. The workshop participants determined that physical injuries to dolphins were caused by Class C explosives that were detonated within 0.5 meters of the animal. (cont)

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/29/90	55 FR 11568
Interim Final Rule Effective	04/01/90	
Comment Period End	04/27/90	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: Therefore, because NMFS cannot show that Class C seal bombs do not result in physical impairment or increased mortality of dolphins, and because these devices have the potential to cause injuries and compromise the future survivability of the marine mammals affected, NMFS implemented an interim final rule.

Agency Contact: Kenneth R. Hollingshead, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2369

RIN: 0648-AD08

508. LISTING OF STELLER SEA LIONS AS THREATENED UNDER THE ENDANGERED SPECIES ACT

Significance: Regulatory Program

Legal Authority: 16 USC 1531 et seq, Endangered Species Act

CFR Citation: 50 CFR 227

Legal Deadline: None

Abstract: The Endangered Species Act (ESA) requires that a species or population be listed as "threatened" when it is likely to become an endangered species, i.e., is in danger of extinction within the foreseeable future throughout all or a significant portion of its range. A survey of Northern Sea Lion abundance from the Central Aleutian Islands to the Central Gulf of Alaska conducted by the National Marine Fisheries Service (NMFS) in June-July 1989 shows a precipitous decline in numbers (63 percent) since 1985. Compared to estimates in 1960, overall abundance declined in the study area by 82 percent. There are about 53,000 adult and juvenile Northern Sea Lions in Alaskan waters. NMFS is adding Northern Sea Lions west of 141 W longitude in Alaska to the list of threatened species contained in 50 CFR 227.4. Further regulatory action may be required to identify critical habitat needs and conservation measures to prevent further declines. This regulatory action is mandated by statute and should result in the recovery of Northern Sea Lion populations to previous levels.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/05/90	55 FR 12645
NPRM	07/20/90	55 FR 29793
NPRM Comment Period End	09/18/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Public Compliance Cost: Initial Cost: $50,000; Yearly Recurring Cost: $100,000; Base Year for Dollar Estimates: 1990

Additional Information: The Environmental Defense Fund, on behalf of 17 environmental organizations, has petitioned NMFS for Emergency Rulemaking to add the Northern Sea Lion in Alaska to the list of Endangered Species.

DOC—NOAA

Final Rule Stage

Agency Contact: Charles Karnella, Chief, Protected Species Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2289

RIN: 0648–AD13

509. REGULATORY AMENDMENT-SOUTH PACIFIC TUNA FISHERIES

Legal Authority: 16 USC 973-973r

CFR Citation: 50 CFR 282

Legal Deadline: None

Abstract: This regulation implements the South Pacific Tuna Act of 1988 by setting forth requirements for U.S. flag tuna vessels to fish in a 10 million square mile area of the South Pacific Ocean encompassing the Treaty on Fisheries Between the Governments of certain Pacific Island States and the Government of the United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/27/89	54 FR 4031
Final Action	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: E.C. Fullerton, Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 300 S. Ferry Street, Room 2005, Terminal Island, CA 90731-7415, 213 514-6196

RIN: 0648–AD15

510. FISHERY MANAGEMENT PLAN FOR THE ATLANTIC COAST RED DRUM FISHERY

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 647

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This fishery management plan will establish objectives, definitions, and management measures to manage and conserve the red drum resource of the Exclusive Economic Zone off the east coast of Florida to the New Jersey/New York line. Management measures include fishing restrictions in the EEZ, measures to increase escapement of young red drum to the offshore stock, and measures to encourage State compliance with Federal measures.

Timetable:

Action	Date	FR Cite
NPRM	08/15/90	55 FR 33337
NPRM Comment Period End	09/24/90	
Final Action	11/05/90	
Final Action Effective	12/05/90	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AD17

511. REGULATIONS GOVERNING THE TAKE OF DOLPHINS INCIDENTAL TO REMOVING OIL AND GAS PLATFORMS IN THE GULF OF MEXICO

Legal Authority: 16 USC 1371(a)(5)

CFR Citation: 50 CFR 228

Legal Deadline: None

Abstract: NMFS has received a request from the American Petroleum Institute for a take of bottlenose and spotted dolphins incidental to the removal of oil and gas platforms in the Gulf of Mexico. This activity is allowed under Section 101(a)(5) of the Marine Mammal Protection Act if the Service makes certain findings and if regulations are issued that cover monitoring and reporting.

Timetable:

Action	Date	FR Cite
Final Action	11/01/90	
Final Action Effective	12/01/90	
NPRM	12/00/90	
NPRM Comment Period End	02/00/91	
Begin Review	05/00/91	
End Review	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Zlobro, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2322

RIN: 0648–AD25

512. AMENDMENT 1 TO THE SHALLOW-WATER REEFFISH FISHERY OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 609

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final rule 110 days after receipt from the fishery management council.

Abstract: This amendment would (1) increase the minimum allowable mesh size used in fish traps, (2) prohibit harvest or possession of Nassau grouper, (3) close an area of the EEZ southeast of St. Thomas, U.S. Virgin Islands during the spawning season for red hind, (4) prohibit the possession of explosives on board vessels in the fishery, (5) authorize collection of socio-economic data in addition to catch/effort, length-frequency, and biological data, (6) add definitions of overfishing, and (7) update the habitat section of the FMP.

Timetable:

Action	Date	FR Cite
NPRM	07/13/90	55 FR 28787
NPRM Comment Period End	09/27/90	55 FR 28787
Final Action	10/00/90	
Final Action Effective	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450

DOC—NOAA

Final Rule Stage

Kogar Boulevard, St. Petersburg, FL 33702, 813 893-3191

RIN: 0648–AD27

516. REGULATORY AMENDMENT - U.S. NATIONALS FISHING IN SOVIET FISHERIES

Legal Authority: 16 USC et seq

CFR Citation: 50 CFR 299

Legal Deadline: None

Abstract: The regulation specifies procedures for U.S. nationals fishing in the Soviet economic zone. Procedures include annual permits, port calls, visas, emergency medical treatment, exchange of crews, research vessels and Soviet-imposed sanctions. U.S. nationals are required to comply with permit requirements, comply with Soviet law, protect marine mammals, and cooperate with enforcement procedures.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/17/89	54 FR 29696
Final Action	10/00/90	
Final Action Effective	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: William W. Fox, Jr., Assistant Administrator for Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2230

RIN: 0648–AD29

514. ● FOREIGN FISHING, HEALTH AND SAFETY STANDARDS

Legal Authority: 16 USC 1801 et seq; 16 USC 971 et seq; 22 USC 1971 et seq; 16 USC 1361 et seq

CFR Citation: 50 CFR 611.8(d)(8)

Legal Deadline: None

Abstract: Proposed rule requiring any foreign fishing vessel fishing in the United States EEZ and carrying an observer, to have on board an emergency position indicating radio beacon that broadcasts on 406 MHz.

Timetable:

Action	Date	FR Cite
NPRM	05/24/90	55 FR 21410
NPRM Comment Period End	08/25/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary A. Wood, Special Agent, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2300

RIN: 0648–AD35

515. ● PROCEDURE FOR SETTING QUOTAS ON REMOVAL OF ATLANTIC BOTTLENOSE DOLPHINS FROM THE WATERS OF THE GULF OF MEXICO AND FLORIDA'S EAST COAST

Legal Authority: 16 USC 1361

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: Regulations will establish a procedure for setting and revising quotas to govern the removal of Atlantic bottlenose dolphins (Tursiops truncatus) from the Gulf of Mexico and Florida east coast. Regulations will be supported by an EIS that will provide a comprehensive review of the status of stocks of bottlenose dolphins in the southeast region and the validity of the 2 percent rule for determining the allowable take to the extent reliable data is available. These regulations and quotas will take into account other types of taking such as those that may occur incidentally to commercial fisheries.

Timetable:

Action	Date	FR Cite
ANPRM	05/31/90	55 FR 22042
ANPRM Comment Period End	07/02/90	
Final Action	08/31/91	
Final Action Effective	09/30/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Aleta Hohn, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2322

RIN: 0648–AD39

518. ● WESTERN PACIFIC BOTTOM FISH AND SEAMOUNT GROUND FISH: REQUIRE SUBMISSION OF STATE-REQUIRED REPORTS

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 663

Legal Deadline: None

Abstract: Requires catch and effort data for bottomfish and seamount groundfish by domestic fishermen to be reported to State/territorial governments.

Timetable:

Action	Date	FR Cite
NPRM	07/03/90	55 FR 27479
NPRM Comment Period End	08/02/90	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: E. Charles Fullerton, Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 300 S. Ferry Street, Room 2005, Terminal Island, CA 90731-7415, 213 514-6194

RIN: 0648–AD40

517. ● PELAGIC FISHERIES OF THE WESTERN PACIFIC: REQUIRE SUBMISSION OF STATE-REQUIRED REPORTS

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 663

Legal Deadline: None

Abstract: Requires catch and effort data for billfish and associated pelagics by domestic fishermen to be reported to State/territorial governments.

Timetable:

Action	Date	FR Cite
NPRM	07/03/90	55 FR 17481
NPRM Comment Period End	08/02/90	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

DOC—NOAA

Final Rule Stage

Agency Contact: E. Charles Fullerton, Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 300 S. Ferry Street, Room 2005, Terminal Island, CA 90731-7415, 213 514-6194

RIN: 0648-AD41

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515. ● PACIFIC HALIBUT REGULATIONS FOR 1991

Legal Authority: 16 USC 773c

CFR Citation: 50 CFR 301

Legal Deadline: None

Abstract: This action provides the quotas for domestic fishing for Pacific halibut as approved by the International Pacific Halibut Commission.

Timetable:

Action	Date	FR Cite
Final Action	04/01/91	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648-AD52

NATIONAL OCEAN SURVEY/OFFICE OF COASTAL RESOURCES MANAGEMENT

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519. FINAL REGULATIONS FOR THE PROPOSED FLOWER GARDEN BANKS NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: 15 CFR 943

Legal Deadline: None

Abstract: These regulations will protect the ecological and biological reef communities of the East and West Flower Garden Banks offshore Texas and Louisiana, if the area is designated as a national marine sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	02/24/89	54 FR 7963
NPRM Comment Period End	04/25/89	
Final Action	10/31/90	
Final Action Effective	11/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Mgt., 1825 Connecticut Avenue, NW., Suite 714, Washington, DC 20235, 202 673-5126

RIN: 0648-AB49

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520. PROPOSED REGULATIONS FOR THE NATIONAL ESTUARINE RESERVE RESEARCH PROGRAM

Legal Authority: 16 USC 1461

CFR Citation: 15 CFR 921

Legal Deadline: None

Abstract: When the Coastal Zone Management Reauthorization Act of 1985 becomes effective, the existing regulations for the National Estuarine Sanctuary Program will need to be updated to reflect the changes that will occur in the program--(1) giving a stronger emphasis for conducting, promoting and coordinating research within the system; (2) changing the name of the program to "National Estuarine Reserve Research System"; (3) increasing the amount of Federal financial assistance to $4,000,000 per site; and (4) requiring submission of an annual report to Congress beginning with fiscal year 1986.

Timetable:

Action	Date	FR Cite
NPRM	10/28/88	53 FR 43816
NPRM Comment Period End	12/30/88	
Interim Final Rule	07/23/90	55 FR 29949
Comment Period End	09/21/90	
Final Action	10/00/90	
Final Action Effective	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Suite 714, Washington, DC 20235, 202 673-5126

RIN: 0648-AB68

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521. PROPOSED REGULATIONS FOR THE WESTERN WASHINGTON OUTER COAST NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: These regulations will protect the ecological, recreational, and esthetic resources of the waters surrounding the Washington Pacific Coast if the area is designated as a National Marine Sanctuary.

Timetable:

Action	Date	FR Cite
Final Action	03/00/91	
Final Action Effective	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Ave., NW., Universal Bldg., Rm. 714, Washington, DC 20235, 202 673-5126

RIN: 0648-AC93

DEPARTMENT OF COMMERCE (DOC)

Completed Actions

National Oceanic and Atmospheric Administration (NOAA)

521. FISHERY CONSERVATION AND MANAGEMENT: CONFIDENTIALITY OF STATISTICS

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation and Mgmt. Act

CFR Citation: 50 CFR 603

Legal Deadline: None

Abstract: The regulations provide internal procedures to protect statistics collected from the public under the Magnuson Fishery Conservation and Management Act from disclosure.

Timetable:

Action	Date	FR Cite
NPRM	01/09/76	43 FR 1460
Interim Final Rule	12/07/79	44 FR 237
Interim Final Rule	07/16/87	52 FR 26885
Final Action	08/03/90	55 FR 31601

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 091 Commercial Fishing

Analysis: See Additional Information

Additional Information: Neither an RIA nor an RFA is required or will be prepared. The Regulatory Flexibility Act does not apply because the regulations affect only internal operations of an agency.

Agency Contact: Mark Holliday, Acting Chief, Fisheries Statistics Division, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Research and Environmental Information, Silver Spring, MD 20910, 301 427-2328

RIN: 0648-AA38

522. REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS; IMPORTATION OF YELLOWFIN TUNA

Significance: Regulatory Program

Legal Authority: 16 USC 1361 et seq Marine Mammal Protection Act of 1972

CFR Citation: 50 CFR 216.24

Legal Deadline: None

Abstract: U.S. tuna purse seine fishermen operating in the eastern tropical Pacific have been subject to certain restrictions relating to the take of marine mammals, whereas other nations fishing in a similar manner that export tuna to the U.S. often do not impose similar constraints on their own industry. Therefore, the Marine Mammal Protection Act of 1972 was amended to require all such nations, prior to being allowed to import tuna, to provide documentary evidence that they have adopted a program governing the incidental taking of marine mammals that is comparable to that of the U.S. and that the average rate of incidental take in the fishery is comparable to that of the U.S. These regulations will implement this requirement.

Timetable:

Action	Date	FR Cite
ANPRM	11/29/84	49 FR 46921
NPRM	08/13/86	51 FR 29063
NPRM Comment Period End	11/14/86	51 FR 36568
Interim Final Rule	03/18/88	53 FR 8910
Interim Final Rule	03/07/89	54 FR 9436
Comment Period End	06/07/89	54 FR 18519
Final Action	03/30/90	55 FR 11921
Final Action Effective	04/30/90	

Small Entities Affected: None

Government Levels Affected: Federal

Public Compliance Cost: Initial Cost: $9,825; Yearly Recurring Cost: $9,825; Base Year for Dollar Estimates: 1985

Sectors Affected: 091 Commercial Fishing

Additional Information: This action will require restrictions on foreign nations that export tuna to the U.S. similar to those imposed on U.S. tuna fishermen. These regulations will have no impact domestically in terms of bringing more U.S. nationals under Federal regulations.

Agency Contact: Kenneth R. Hollingshead, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, Silver Spring, MD 20910, 301 427-2289

RIN: 0648-AB46

524. ENDANGERED FISH OR WILDLIFE; PERMITS FOR THE INCIDENTAL TAKING OF ENDANGERED MARINE SPECIES

Legal Authority: 16 USC 1531 et seq Endangered Species Act of 1973

CFR Citation: 50 CFR 222

Legal Deadline: None

Abstract: The proposed regulations implement Section 10(a)(1)(B) of the Endangered Species Act, as amended (ESA). The proposal provides, under limited circumstances, for issuance of permits allowing the incidental taking of endangered species. The proposal applies to certain Federal permit or license holders and to private entities or State or local governments whose actions are not otherwise subject to Federal involvement or control. Prior to the 1982 amendments to the ESA, the taking of endangered species was prohibited except for scientific research or to enhance the propagation or survival of the species. Permits issued under the proposed regulations would allow permit holders to conduct their activities without risk of prosecution for the incidental take of species authorized by such permits.

Timetable:

Action	Date	FR Cite
NPRM	10/03/89	54 FR 40699
NPRM Comment Period End	12/04/89	54 FR 40699
Final Action	05/18/90	55 FR 20603
Final Action Effective	06/18/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Sectors Affected: 091 Commercial Fishing

Additional Information: Potential cost to applicants is estimated at $420. Cost per applicant is estimated at $210. Each applicant will be required to submit a conservation plan as part of the permit process.

Agency Contact: Charles Karnella, Chief, Protected Species Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, Silver Spring, MD 20910, 301 427-2322

RIN: 0648-AB47

525. U.S. STANDARDS FOR GRADES OF FISH FILLETS

Significance: Agency Priority

Legal Authority: 7 USC 1621 to 1630 Agricultural Marketing Act of 1946

DOC—NOAA

Completed Actions

CFR Citation: 50 CFR 258; 50 CFR 257

Legal Deadline: None

Abstract: This revised rule will expand the coverage of established voluntary standards for grades of fish fillets to include a new market form or style of fillet in which bones are not removed. This style of fillet has become more familiar in the marketplace, resulting in the industry requesting the amendment. Responses to a previous request for comments indicate a national interest in this style of presentation. The amendment will allow this market form, bearing FDA's recommended labeling, to be inspected and reflect the U.S. Grade A mark.

Timetable:

Action	Date	FR Cite
NPRM	05/31/89	54 FR 23235
NPRM Comment Period End	09/06/89	54 FR 32362
Final Action	06/11/90	55 FR 23550
Final Action Effective	07/11/90	55 FR 23550

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Meseau, Director, Technical Services Unit, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930, 508 281-9319

RIN: 0648-AC12

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526. AMENDMENT 8 TO THE FISHERY MANAGEMENT PLAN FOR THE ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 652

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the Mid-Atlantic Fishery Management Council.

Abstract: Amendment 8 addresses current regulatory restraints on industry designed to conserve the resource. The FMP objectives are modified to promote economic stability, simplify regulations, and to allow more operational flexibility for the industry. The rule implementing Amendment 8: (1) replaces the effort limitation system with an annual transferable individual allocation system (allocations initially issued to vessels) in the surf clam and ocean quahog fisheries; (2) removes effort limitations in all areas; (3) combines the Mid-Atlantic, Nantucket Shoals, and Georges Bank Areas to reinstitute common management of the fishery coastwide; (4) and revises the surf clam minimum size limit provision allowing for annual suspension of the size limit.

Timetable:

Action	Date	FR Cite
NPRM	02/01/90	55 FR 3416
NPRM Comment Period End	03/15/90	
Final Action	06/14/90	55 FR 24184
Final Action Effective	09/30/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Additional Information: The rule implementing Amendment 8 contains four collection-of-information requirements subject to the Paperwork Reduction Act.

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930, 508 281-9000

RIN: 0648-AC19

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527. REGULATORY AMENDMENT-IMPLEMENTATION OF CONDITIONALLY APPROVED MEASURES UNDER AMENDMENT 1 TO THE SPINY AND SLIPPER LOBSTER FMP IN THE GULF OF MEXICO AND SOUTH ATLANTIC - PERMITS, BAG LIMITS

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 640

Legal Deadline: None

Abstract: This rule will (1) require a permit to harvest spiny lobsters in the Exclusive Economic Zone (EEZ) in quantities in excess of the bag limits or to sell spiny lobsters in or from the EEZ, (2) require a permit to wring tails from spiny lobsters in or from the EEZ, and (3) establish a recreational bag limit for spiny lobsters in the EEZ.

Timetable:

Action	Date	FR Cite
NPRM	03/19/87	52 FR 8485
NPRM Comment Period End	04/18/87	52 FR 8485
Final Action	09/28/90	55 FR 29447
Final Action Effective	07/28/90	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648-AC25

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528. REGULATORY AMENDMENT TO THE FISHERY MANAGEMENT PLAN FOR THE ATLANTIC SWORDFISH FISHERY

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 630

Legal Deadline: None

Abstract: This regulatory amendment will modify the present data collection system to require 100 percent mandatory dealer reporting of landings and price for swordfish and incidental species caught in the domestic swordfish fishery. This information is required to determine total fishery landings, fishing effort, and biological data (e.g., size of population, age classes) for stock assessment purposes. The regulatory amendment also will (1) clarify the scope of the regulations; (2) modify the requirements and procedures for obtaining a vessel permit; and (3) modify procedures for submitting daily fishing records. The amendment is intended to (1) obtain more timely and accurate data on swordfish and incidentally caught species) landings, value, and size composition of the catch; (2) improve stock assessment capabilities; (3) ensure accountability for information submitted on permit applications; (4) ensure timeliness of information submitted on fishing records; and (5)

clarify the intent of the existing regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/29/89	54 FR 53661
NPRM Comment Period End	01/29/90	
Final Action	08/31/90	55 FR 35843
Final Action Effective	10/01/90	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AC41

529. BLUEFISH FISHERY MANAGEMENT PLAN

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 628

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This FMP was prepared jointly by the Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission to promote conservation of Atlantic bluefish. The FMP will provide uniform management throughout the Atlantic Exclusive Economic Zone from the eastern coast of Florida to Maine. It is expected that complementary measures will be implemented coastwide. In the commercial fishery these measures will require a permit for sale of bluefish and a 20-percent allocation limit and in the recreational fishery a possession limit of ten bluefish per fisherman. The FMP also defines overfishing for bluefish.

Timetable:

Action	Date	FR Cite
ANPRM	07/12/89	54 FR 29363
NPRM	01/29/90	55 FR 2853
NPRM Comment Period End	03/15/90	
Final Action	05/04/90	55 FR 18729
Final Action Effective	05/31/90	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930-3799, 508 637-9300

RIN: 0648–AC51

530. REGULATORY AMENDMENT TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 658

Legal Deadline: None

Abstract: This rule will modify temporarily the boundary of the Tortugas shrimp sanctuary to reduce the area closed to trawl fishing. This action will enable fishermen to harvest marketable-sized shrimp during specified periods from three small areas that would otherwise be closed.

Timetable:

Action	Date	FR Cite
NPRM	01/05/90	55 FR 447
NPRM Comment Period End	02/05/90	
Final Action Effective	04/11/90	55 FR 13793
Final Action	04/12/90	55 FR 13793

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 091 Commercial Fishing

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648–AC56

531. REGULATIONS GOVERNING THE TAKING OF SMALL NUMBERS OF MARINE MAMMALS INCIDENTALLY TO OIL AND GAS EXPLORATION IN THE BEAUFORT AND CHUKCHI SEAS

Legal Authority: 16 USC 1371(a)(5)

CFR Citation: 50 CFR 228

Legal Deadline: None

Abstract: Section 101(a)(5) of the Marine Mammal Protection Act directs the Secretary to allow, on request by U.S. citizens who engage in a specified activity (other than commercial fishing) in a specified geographical region, the incidental take of small numbers of marine mammals. The agency must find that the taking will have a negligible impact on the species or stocks, and will not have an unmitigable adverse impact on the availability of the species for subsistence uses. The Service received a request from 6 oil companies for a take of marine mammals incidental to oil exploration in the Beaufort and Chukchi Seas. These regulations allow a take if certain conditions are met including requirements for monitoring and reporting and a prohibition on taking in the spring lead system used by bowhead whales in the Chukchi Sea. These regulations allow the oil companies to proceed with energy exploration while protecting marine mammals.

Timetable:

Action	Date	FR Cite
ANPRM	04/13/88	53 FR 12169
ANPRM Comment Period End	07/13/88	
NPRM	10/03/89	54 FR 40703
NPRM Comment Period End	01/31/90	55 FR 1685
Final Action	07/18/90	55 FR 29207
Final Action Effective	08/17/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Lorenz, Marine Resource Management Specialist, Department of Commerce, National Oceanic and Atmospheric Administration, NMFS/1335 East-West Highway, Silver Spring, MD 20910, 301 427-2323

RIN: 0648–AC89

DOC—NOAA

Completed Actions

532. FOREIGN FISHING POUNDAGE AND PERMIT FEES, 1991

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 611.22

Legal Deadline: None

Abstract: This rule will set poundage and permit fees for foreign fishing in 1991.

Timetable:

Action	Date	FR Cite
NPRM	12/26/89	54 FR 52971
NPRM Comment Period End	01/10/90	
Duplicate of RIN 0648-AD26	08/24/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Alfred J. Bilik, Fishery Management Officer, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, 301 427-2337

RIN: 0648-AC70

533. RESUBMITTED PART OF AMENDMENT 4 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 658

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days after receipt and final rule 75 days after receipt from the fishery management council.

Abstract: This rule provides that white shrimp take in the Exclusive Economic Zone will be subject to the minimum-size landing and possession limits of Louisiana when possessed within the jurisdiction of that State.

Timetable:

Action	Date	FR Cite
NPRM	03/05/90	55 FR 7747
NPRM Comment Period End	03/14/90	
Final Action	05/01/90	55 FR 18120
Final Action Effective	05/31/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, F/SER, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648-AC75

534. AMENDMENT 5 TO THE FISHERY MANAGEMENT PLAN FOR COASTAL MIGRATORY PELAGIC RESOURCES

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 642

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days after receipt and final action 110 days after receipt from the fishery management council.

Abstract: Amendment will: (1) extend the management area for Atlantic groups of mackerels through the Mid-Atlantic Council's area of jurisdiction; (2) revise previously listed problems and identify new problems in the fishery and new plan objectives; (3) revise the fishing year for Gulf Spanish mackerel; (4) revise the definition of overfishing; (5) add cobia to the annual stock assessment procedure and provide that the S. Atl. Council will be responsible for preseason adjustment of TACs and bag limits for the Atl. groups of mackerel while the Gulf Council will be responsible for Gulf migratory groups; (6) continue to manage the two Gulf migratory groups of king mackerel as one until measures appropriate to the eastern and western zones can be determined; (7) redefine recreational bag limits as daily limits; (8) prohibit sale of king mackerel taken under bag limits; (9) specify that Gulf king mackerel may be taken only by hook and line and runaround gillnets; (10) impose bag limit of two cobia per person per day; (11) establish 12-inch minimum size (FL) or 14-inch TL for king mackerel; and (12) include a definition of "conflict" to provide guidance to the Secretary of Commerce.

Timetable:

Action	Date	FR Cite
NPRM	04/20/90	55 FR 14981
NPRM Comment Period End	05/01/90	
Final Action	07/19/90	55 FR 29370
Final Action Effective	07/20/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648-AC77

535. REGULATORY AMENDMENT TO THE FISHERY MANAGEMENT PLAN FOR THE GULF OF MEXICO AND SOUTH ATLANTIC SPINY LOBSTER FISHERY

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 640

Legal Deadline: None

Abstract: Require licenses for spiny lobster recreational fishermen. Implementation pending Florida licensing system accuracy.

Timetable:

Action	Date	FR Cite
Withdrawn - this action is not being taken	08/24/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, F/SER, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648-AC86

DOC—NOAA

Completed Actions

536. RESUBMITTED PART OF AMENDMENT 3 TO THE FISHERY MANAGEMENT PLAN FOR COASTAL MIGRATORY PELAGIC RESOURCES OF THE GULF OF MEXICO AND SOUTH ATLANTIC

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 642

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 75 days after receipt from the fishery management council.

Abstract: This rule prohibits the use in the Exclusive Economic Zone of drift gillnets for Atlantic migratory group king mackerel and for all other coastal migratory pelagic fish from the Virginia/North Carolina Border to the U.S./Mexico border. The rule also establishes a procedure whereby the use of purse seines and runaround gillnets for the Atlantic migratory group king mackerel may be prohibited when and if that group is determined to be overfished. This prohibition would take effect only if, in the opinion of the Gulf of Mexico and South Atlantic Fishery Management Councils, the commercial allocation could be harvested by other authorized gear.

Timetable:

Action	Date	FR Cite
NPRM	02/13/90	55 FR 5242
NPRM Comment Period End	03/01/90	
Final Action Effective	04/13/90	55 FR 14833
Final Action	04/19/90	55 FR 14833

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, F/SER, 9450 Koger Boulevard, St. Petersburg, FL 33702-2450, 813 893-3141

RIN: 0648-AC89

537. GROUNDFISH OF THE GULF OF ALASKA AND GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS: REGULATORY AMENDMENT

Significance: Agency Priority

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: NOAA would require modifications to fish pot gear to minimize the incidental catch of Pacific halibut.

Timetable:

Action	Date	FR Cite
Withdrawn - combined with RIN 0648-AD16	08/24/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Steven Pennoyer, Regional Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648-AC98

538. ESTABLISHMENT OF ALLOCATIVE MANAGEMENT MEASURES FOR THE PACIFIC HALIBUT FISHERY IN THE PRIBILOF ISLANDS

Legal Authority: 5 UST 5; TIAS 2900; 16 USC 773 to 773K

CFR Citation: 50 CFR 301

Legal Deadline: None

Abstract: This rule would implement certain allocative measures governing fishing for halibut in Regulatory Area 4C around the Pribilof Islands, as recommended by the North Pacific Fishery Management Council. The primary purpose and intended effect of this action is to enhance economic development of the Pacific halibut fishery carried out by persons who live on either of the Pribilof Islands or operate primarily in Regulatory Area 4C.

Timetable:

Action	Date	FR Cite
NPRM	02/22/90	55 FR 06295
NPRM Comment Period End	03/19/90	
Final Action	06/06/90	55 FR 23085
Final Action Effective	06/25/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802-1668, 907 586-7221

RIN: 0648-AD05

539. AMENDMENT 2 GULF OF MEXICO REEF FISH FISHERY MANAGEMENT PLAN

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 641

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the Gulf of Mexico Fishery Management Council.

Abstract: Amendment 2 would prohibit the harvest and possession of jewfish within the exclusive economic zone of the Gulf of Mexico. The intent of Amendment 2 to the Gulf of Mexico Reef Fish Fishery Management Plan is to protect jewfish from apparent overfishing and allow for stock rebuilding.

Timetable:

Action	Date	FR Cite
NPRM	04/03/90	55 FR 12393
NPRM Comment Period End	05/14/90	
Final Action	06/20/90	55 FR 25310
Final Action Effective	08/30/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648-AD10

DOC—NOAA

Completed Actions

540. ● AMENDMENT 16 TO THE FISHERY MANAGEMENT PLAN FOR GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AND AMENDMENT 21 TO THE FMP FOR GROUNDFISH OF THE GULF OF ALASKA

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 611; 50 CFR 672; 50 CFR 675

Legal Deadline: NPRM, Statutory. Final, Statutory.

NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: These amendments contain management measures concerning onshore/offshore allocations in the Gulf of Alaska and the Bering Sea and Aleutian Islands and would require modifications to fish pot gear to minimize the incidental catch of Pacific halibut.

Timetable:

Action	Date	FR Cite
Duplicate of RIN 0648-AD18	09/25/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802, 907 586-7221

RIN: 0648-AD51

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Proposed Rule Stage

541. DUTY OF DISCLOSURE—INFORMATION DISCLOSURE STATEMENT

Significance: Regulatory Program

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1.56; 37 CFR 1.97; 37 CFR 1.98; 37 CFR 1.99

Legal Deadline: None

Abstract: 37 CFR 1.56 and 1.97-1.99, which relate to the duty of patent applicants and owners to disclose information material to the examination of patent applications or to reexaminations, will be amended to specify more clearly the requirements to be met in making disclosures.

Timetable:

Action	Date	FR Cite
NPRM	03/17/89	54 FR 11334
NPRM Comment Period End	06/20/89	54 FR 11334
Second NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: Charles E. VanHorn, Special Assistant to the Assistant Commissioner for Patents, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-4035

RIN: 0651-AA27

542. MISCELLANEOUS CHANGES IN PATENT PRACTICE

Significance: Agency Priority

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1.1; 37 CFR 1.12; 37 CFR 1.84; 37 CFR 1.88

Legal Deadline: None

Abstract: The Patent and Trademark Office proposes revising its requirements for sending mail to the Office and modifying patent administrative processing requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	12/00/90	
Final Action	04/00/91	
Final Action Effective	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeffrey V. Nase, Supervisory Petitions Examiner, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-4282

RIN: 0651-AA34

543. PATENT AND TRADEMARK ASSIGNMENT RULES

Legal Authority: 35 USC 6; 35 USC 261; 15 USC 1060; 15 USC 1113; 15 USC 1123

CFR Citation: 37 CFR 1.331; 37 CFR 1.332; 37 CFR 1.333; 37 CFR 1.334; 37 CFR 1.335; 37 CFR 2.185; 37 CFR 2.186; 37 CFR 2.187

Legal Deadline: None

Abstract: The Patent and Trademark Office proposes to modify the rules relating to recording assignments involving patents and trademarks. Currently, there are two sets of rules -- one for patents and one for trademarks. The Office plans to consolidate the assignment rules into one set of rules.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda M. Skoro, Assistant Solicitor, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-4035

RIN: 0651-AA43

544. DRAWING CHANGES IN PATENTS CASES

Legal Authority: 35 USC 6; 35 USC 41; 35 USC 113; 35 USC 114; 35 USC 161; 35 USC 171

CFR Citation: 37 CFR 1.81; 37 CFR 1.83; 37 CFR 1.84; 37 CFR 1.85; 37 CFR 1.88; 37 CFR 1.96; 37 CFR 1.136; 37 CFR 1.152; 37 CFR 1.154; 37 CFR 1.165; 37 CFR 1.174

Legal Deadline: None

Abstract: Drawing rules have caused confusion and slowed down the processing of patent applications. The PTO proposes to clarify the requirements for patent drawings and also to expedite patent drawing procedures.

DOC—PTO

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jeffrey V. Nase, Supervisory Petitions Examiner, Department of Commerce, Patent and Trademark Office, Washington, DC [illegible]

RIN: 0651–AA44

545. ● REVISION OF PATENT AND TRADEMARK FEES

Significance: Agency Priority

Legal Authority: 35 USC 6; 35 USC 41; 35 USC 376; 35 USC 1113

CFR Citation: 37 CFR 1; 37 CFR 2

Legal Deadline: None

Abstract: Patent and Trademark Office plans to propose amendments of its rules of practice to revise patent and trademark fees consistent with statutory authority.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
NPRM Comment Period End	03/00/91	
Final Action	07/00/91	
Final Action Effective	10/01/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Frances Michalkewicz, Director, Office of Long-Range Planning, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-1610

RIN: 0651–AA45

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Final Rule Stage

546. FOREIGN FILING LICENSE REQUIREMENTS

Significance: Agency Priority

Legal Authority: 35 USC 6; PL 100-418, Sec 9101(c)

CFR Citation: 37 CFR 5.14; 37 CFR 5.15; 37 CFR 5.25

Legal Deadline: None

Abstract: Amends regulations to conform with changes made in Trade Bill (Public Law 100-418) Section 9101 which amended Title 35, United States Code sections 184, 185 and 186. The legislation deleted "inadvertently" in view of narrow interpretation by the Courts. "Inadvertently" was replaced with "through error and without deceptive intent." The change would permit additional subject matter in foreign applications if it does not change the nature of the invention or disclose national security information.

Timetable:

Action	Date	FR Cite
NPRM	08/15/90	55 FR 24270
NPRM Comment Period End	09/15/90	
Final Action	11/00/90	
Final Action Effective	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Agency Contact: T.H. Tubbesing, Special Laws Administration Group, Licensing and Review, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-3377

RIN: 0651–AA09

547. VARIETY DENOMINATION REQUIREMENTS FOR PLANT PATENT APPLICATIONS

Legal Authority: 35 USC 41; 35 USC 6

CFR Citation: 37 CFR 1.17; 37 CFR 1.72; 37 CFR 1.168

Legal Deadline: None

Abstract: PTO will amend its rules of practice in patent cases to implement the International Convention for the Protection of New Varieties of Plants. The International Convention requires registration of a plant variety name at the time a patent on a plant variety is issued. Compliance with the registration requirements of the Convention would be determined in the process of examining plant patent applications.

Timetable:

Action	Date	FR Cite
ANPRM	12/27/85	50 FR 52963
NPRM	11/02/87	52 FR 42016
NPRM Comment Period End	01/00/88	52 FR 42016
Final Action	11/00/90	
Final Action Effective	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Agency Contact: H. Dieter Heinkes, Legislative and International Intellectual Property Specialist, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-3065

RIN: 0651–AA12

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Completed Actions

548. REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING DNA/RNA AND PROTEIN SEQUENCE DISCLOSURES

Significance: Agency Priority

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1.221, (New); 37 CFR 1.222, (New); 37 CFR 1.223, (New); 37 CFR 1.224, (New); 37 CFR 1.225, (New)

Legal Deadline: None

Abstract: The rules would require the submission of DNA/RNA and protein sequences to be in a standard format in patent applications, to be in a separate part and also be submitted in electronic form such as diskette or tape. The submissions would simplify search, examination and publication and would facilitate the establishment of a searchable data base.

Timetable:

Action	Date	FR Cite
NPRM	05/02/89	54 FR 18671
NPRM Comment Period End	07/12/89	54 FR 18671
Final Action	05/01/90	55 FR 18238
Final Action Effective	10/01/90	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Agency Contact: Lois E. Boland, Special Program Examiner, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-3384

RIN: 0651–AA37

DEPARTMENT OF COMMERCE (DOC)
Technology Administration (TA)

Prerule Stage

549. ADMINISTRATION OF A UNIFORM PATENT POLICY WITH RESPECT TO DOMESTIC RIGHTS IN INVENTIONS MADE BY GOVERNMENT EMPLOYEES

Significance: Agency Priority

Legal Authority: EO 10096; EO 10930; 35 USC 207 to 208; 15 USC 3701 et seq

CFR Citation: 37 CFR 100

Legal Deadline: None

Abstract: PL 99-502 amended the Stevenson-Wydler Innovation Act of 1980 by establishing a number of procedures to encourage the development of technologies by laboratories owned or operated by the Federal Government, to facilitate the transfer of such technologies to the public, and to promote cooperation between these laboratories and the private sector.

Executive Order 10096 would be amended with regard to the Government's rights to ownership of inventions created in laboratories owned or operated by the Federal Government. A revised version of the Executive order might be prepared and regulations would be developed to implement the amendments effected by PL 99-502.

This action will not increase Federal costs. In the short run it will encourage private sector collaboration to assist work done in Federal laboratories by appropriated funds, and in the long run increased commercialization of patents and inventions will increase tax revenues.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Joseph P. Allen, Deputy Director, Office of Technology Commercialization, Department of Commerce, Technology Administration, Room H 4204, Washington, DC 20230, 202 377-8101

RIN: 0692–AA05

DEPARTMENT OF COMMERCE (DOC)
Technology Administration (TA)

Proposed Rule Stage

550. LICENSING OF GOVERNMENT-OWNED INVENTIONS

Legal Authority: 35 USC 206

CFR Citation: 37 CFR 404

Legal Deadline: None

Abstract: This action will revise 37 CFR 404 to simplify the process by which U.S. industry can obtain license to patented inventions owned by the Government. PL 99-502 is expected to increase industry interest in licensing inventions from Federal laboratories.

The existing regulation was written by GSA on the basis of 1980 legislation. It may be possible to remove some of the difficulties that potential licensees must overcome.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: All

Agency Contact: Joseph P. Allen, Deputy Director, Office of Technology Commercialization, Department of Commerce, Technology Administration, Room H 4204, Washington, DC 20230, 202 377-8101

RIN: 0692–AA04

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DEPARTMENT OF COMMERCE (DOC)
Technology Administration (TA)

Final Rule Stage

551. METRIC CONVERSION POLICY FOR FEDERAL AGENCIES

Significance: Regulatory Program

Legal Authority: 15 USC 205a et seq Metric Conversion Act

CFR Citation: 15 CFR 19 Subpart B (Revised)

Legal Deadline: Other, Statutory, September 30, 1992.
15 USC 205(1) (as amended by sec. 5164 of PL 100-418) calls for the Comptroller General to review the implementation of the amended policy and report his finding to Congress along (cont)

Abstract: The CFR must be updated to reflect the new Federal policy, as amended by the 1988 Trade Act (PL 100-48), regarding Federal use of the metric system in its procurements, grants and other business-related activities, and the impact on State and local governments and the private sector of this transition. No alternatives are being considered.

The costs to the Federal Government cannot be accurately estimated, but will include the cost of redoing some regulations and publications, costs associated with orienting employees and contractors to use of the metric system and some share of contractor costs for converting. The benefits will be the greater marketability of U.S. products which will improve our competitive posture in world markets and thereby improve U.S. trade balances.

Timetable:

Action	Date	FR Cite
NPRM	10/12/89	54 FR 41848
NPRM Comment Period End	11/13/89	54 FR 41848
Final Action	10/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

LEGAL DEADLINE DESCRIPTION CONT: with any legislative recommendation.

Agency Contact: G. T. Underwood, Director of Metric Program Office, Department of Commerce, Technology Administration, Rm 4841, Washington, DC 20230, 202 377-3936

RIN: 0692-AA07

[FR Doc. 90-21448 Filed 10-26-90; 8:45 am]
BILLING CODE 3510-BW-T

Monday
October 29, 1990

Part V

Department of Defense

Semiannual Regulatory Agenda

Federal Register

DEPARTMENT OF DEFENSE (DOD)

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Chs. I, V, VI, and VII

33 CFR Ch. II

36 CFR Ch. III

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, DoD.

ACTION: Publication of the consolidated semiannual agenda of DoD regulatory documents.

SUMMARY: The Department of Defense is publishing this consolidated semiannual agenda of regulatory documents, including those that are procurement-related, for public information and comments under Executive Order 12291 "Federal Regulation" and the Office of Federal Procurement Policy Act of 1988 (102 Stat. 4055; 41 U.S.C. 402). This agenda incorporates the objective and criteria, when applicable, of the regulatory reform program under E.O. 12291, the Federal Procurement Policy Act, and other regulatory programs. It contains DoD issuances initiated by DoD components that may have economic and environmental impact on State, local, public, or private interests under the criteria of E.O. 12291. Although most DoD issuances listed in the agenda are of negligible public impact, their nature may be of public interest and, therefore, are published to provide notice of rulemaking and an opportunity for public participation in the internal DoD rulemaking process.

This agenda updates the report published on April 23, 1990, and includes regulations expected to be issued and under review over the next 12 months. The procurement-related agenda items included in this publication will also be used by the Office of Federal Procurement Policy to publish a "Procurement Regulatory Activity Report" as required by the Office of Federal Procurement Policy Act Amendments of 1988.

The next agenda is scheduled to be published in April 1991. In addition to this agenda, DoD components also publish rulemaking notices pertaining to their specific statutory administration requirements as required.

FOR FURTHER INFORMATION CONTACT: For information concerning the overall DoD regulatory improvement program and for general semiannual agenda information, contact Mr. William P. Pearce, telephone 703-746-0933, or write to Directorate for Information Operations and Reports, Washington Headquarters Services, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302.

For questions of a legal nature concerning the agenda and its statutory requirements or obligations, contact the Office of the General Counsel, DoD, Washington, DC 20301, or call 703-697-2714.

For general information on Office of the Secretary regulations, contact Mrs. Patricia H. Means, Directives Division, Directorate for Correspondence and Directives, Washington Headquarters Services; telephone 703-697-4111. For general information on the procurement-related agenda items, contact Mr. Owen L. Green III, telephone 703-697-7266, or write to the Defense Acquisition Regulatory System, Pentagon, Room 3D139, Washington, DC 20301-3062.

For general information on Department of the Army regulations, contact Mr. Kenneth L. Denton, telephone 703-325-6297, or write to Commander, U.S. Army Publications and Printing Command, ATTN: ASQZ-PGS, Room 1420, Hoffman I, Alexandria, Virginia 22331-0302.

For general information on Department of the Navy regulations, contact Ms. Alcinda P. Wenberg, telephone 703-692-5307, or write to Department of the Navy, Deputy Assistant Secretary of the Navy (Information Resources Management) (DASN (IRM)), 2211 Jefferson Davis Highway, CP5, Room 334, Arlington, Virginia 22202.

For general information on Department of the Air Force regulations, contact Ms. Patsy J. Conner, telephone 703-614-3527, or write to Department of the Air Force, SAF/AAIA, Pentagon, Washington, DC 20330-1000.

For specific agenda items, contact the appropriate individual indicated in each DoD component report.

SUPPLEMENTARY INFORMATION: This consolidated agenda is composed of the regulatory status reports, including procurement-related regulatory status reports from the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force. Included also in this agenda is the regulatory report from the U.S. Army Corps of Engineers, whose civil works functions fall under the reporting requirements of E.O. 12291. Their agenda will reflect these requirements with follow-on reporting actions taken as necessary.

DoD issuances range from DoD Directives (reflecting departmental policy) to implementing instructions and regulations (largely internal and used to implement directives). The OSD agenda section contains the primary directives under which DoD components promulgate their implementing regulations.

To ease identification and to clarify the differences among the variety of issuances reported, they are identified by their DoD internal numbering system, which denotes component level of authority and type of issuance, in addition to the required CFR number.

In addition, this agenda, although published under the reporting requirements of E.O. 12291, will continue to be the DoD single source reporting vehicle, which will identify issuances that are currently applicable under the various regulatory reform programs in progress. Therefore, when applicable, DoD components will identify those rules which come under the criteria of the:

a. Regulatory Flexibility Act;

b. Paperwork Reduction Act;

c. GATT International Trade Agreement; and

d. Office of Federal Procurement Policy Act Amendments of 1988.

These DoD issuances, which are directly applicable under these statutes, will be identified in the agenda and their action status indicated. Generally, the reports in this agenda will contain four sections: (1) Prerule stage; (2) proposed rule stage; (3) final rule stage; and (4) completed actions.

Although not a regulatory agency, the Department of Defense will continue to participate in regulatory initiatives designed to reduce the economic costs and unnecessary environmental burdens upon the public. Comments and recommendations are invited on the rules reported and should be addressed to the DoD component representatives identified in each section.

DOD

Although sensitive to the needs of the public and regulatory reform, the Department of Defense reserves the right to exercise the exemptions and flexibility permitted in its rulemaking process in order to proceed with its overall defense-oriented mission.

Note: The publishing of this agenda does not waive the applicability of the military affairs exemption in section 553 of title 5 and section 1 of E.O. 12291.

Dated: August 23, 1990.

D.O. Cooke,

Director, Administration and Management.

Office of the Secretary—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
552	Contractor ADP Software Costs (DAR Case 87-051)	0790-AC07
553	Exemptions From Cost or Pricing Data (DAR Case 89-064D)	0790-AC16
554	Product Quality Deficiency Reports (DAR Case 89-073)	0790-AC18
555	Trade Agreements Act (DAR Case 89-106)	0790-AC24
556	Revision to Liability Clause at 252.247-7110 (DAR Case 89-113)	0790-AC28
557	Subcontracting Plan Requirements (DAR Case 89-114D)	0790-AC30
558	Off Duty Post Secondary Education Services (DAR Case 89-317)	0790-AC44
559	Thresholds for Part 219 (DAR Case 89-409D)	0790-AC45
560	Adequate Price Competition in Dual Source Programs (DAR Case 90-013)	0790-AC66
561	Labor Standards-Application for Installation Service and Support (DAR Case 90-016)	0790-AC67
562	Special Test Equipment (DAR Case 90-505)	0790-AC68
563	Scrap Warranty (DAR Case 90-506)	0790-AC69
564	Work Requests, Maintenance, Overhaul and Modification Contracts (DAR Case 90-509)	0790-AC71
565	Postaward Orientation Conferences (DAR Case 90-511)	0790-AC72
566	Termination Negotiation Memorandum (DAR Case 90-513D)	0790-AC73
567	Quarterly Limitation on Payments (DAR Case 90-514D)	0790-AC74
568	Monitoring Reports as Deliverables (DAR Case 90-515)	0790-AC75
569	Contractor Public Voucher Process (DAR Case 90-519)	0790-AC76
570	Quantification of Technical Input (DAR Case 90-520)	0790-AC77
571	Review and Evaluate Contractor Proposals (DAR Case 90-521)	0790-AC78
572	Rewrite of the DOD FAR Supplement (DAR Case 90-743a)	0790-AC79

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
573	Commercial Activities Program Procedures (DoD Instruction 4100.33)	0790-AA45
574	Defense Industrial Personnel Security Clearance Review Program (DoD Directive 5220.6)	0790-AA84
575	Total Quality Management (DoD Directive 5000.51)	0790-AB33
576	Confidentiality of Medical Quality Assurance (QA) Records (DoD Directive 6040.37)	0790-AC06
577	Human Immunodeficiency Virus (HIV-1) (DoD Directive 6485.aa)	0790-AC42
578	Release of Acquisition Related Information (DoD Directive 5200.xx)	0790-AC62

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
579	Restrictions on Lobbying	0790-AC54
580	Federal Policy for the Protection of Human Subjects	0790-AC80
581	Technical Data, Sec. 808, 1988 Authorization Act (DAR Case 87-303)	0790-AB48
582	Drug-Free Workforce (DAR Case 88-063)	0790-AB58
583	False Representation-Small Business, PL 100-656, Sec 405 (DAR Case 88-331D)	0790-AB76
584	Data, Pricing Exhibits (DAR Case 88-120)	0790-AC09
585	Master Agreement for Repair and Alteration of Vessels (DAR Case 88-142)	0790-AC12
586	Complete Rewrite of DFAR 225 (DAR Case 89-052)	0790-AC15

DOD

Office of the Secretary—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
587	Domestic Source Polyacrylonitle (DAR Case 89-106)	0790-AC25
588	Competition in Awards to Colleges and Universities (DAR Case 89-301)	0790-AC32
589	Advisory and Assistance Services Test (DAR 89-306D)	0790-AC35
590	Credit for Indian Subcontracting (DAR Case 89-312D)	0790-AC39
591	Comprehensive Small Business Subcontracting Plans (DAR Case 89-314D)	0790-AC41
592	Acquisition of Commercial Items (DAR Case 89-316)	0790-AC43
593	Thresholds, Part 225 (DAR Case 89-412D)	0790-AC46
594	Flexible Progress Payments (DAR Case 90-007)	0790-AC85

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
595	Drug-Free Workplace (Grants)	0790-AC53
596	National Defense Science and Engineering Graduate Fellowships (DoD Instruction 3218.2)	0790-AC60
597	Management and Mobilization of Regular and Reserve Retired Military Members (DoD Directive 1352.1)	0790-AC61
598	DoD Newspapers and Civilian Enterprise Publications (DoD Instruction 5120.4)	0790-AC63
599	Commerce Patent Regulations, PL 98-620 (DAR Case 85-056D)	0790-AB38
600	Claims, Equitable Adjustment (DAR Case 87-128D)	0790-AB46
601	Competitive Threshold, PL 100-656, Sec 309(b)(A) (DAR Case 89-325D)	0790-AB74
602	Threshold, Price Reasonableness (DAR Case 89-400D)	0790-AB82
603	Small Disadvantaged Business; Historically Black Colleges and Universities - 5 Percent Goal - PL 100-180, Sec 806 (DAR Case 89-023A)	0790-AB94
604	Warranties (DAR Case 89-062)	0790-AC00
605	Rewrite of DFARS Part 237 (DAR Case 88-066D)	0790-AC06
606	Notification of Ownership Changes (DAR Case 89-117)	0790-AC10
607	Environmental Cost Principle (DAR Case 88-127)	0790-AC11
608	South Africa Trade (DAR Case 88-150)	0790-AC13
609	Suspension or Reduction of Payments (DAR Case 88-077)	0790-AC19
610	Warner Amendment Clarifications (DAR Case 89-063)	0790-AC20
611	Contract Reporting System (DAR Case 89-096)	0790-AC21
612	Quality Assurance Annex with Israel (DAR Case 89-100)	0790-AC22
613	Alternate Disputes Provisions-New Procedure (DAR Case 89-104)	0790-AC23
614	Definition of Contractor (DAR Case 89-107)	0790-AC25
615	Authority to Appoint Small and Disadvantaged Business Utilization (SADBU) Representatives (DAR Case 89-109)	0790-AC27
616	Pay As You Go Pension Plans (DAR Case 89-111)	0790-AC28
617	Preparing Synopses in the Commerce Business Daily (DAR Case 89-118)	0790-AC31
618	Laundry and Cleaning Services (DAR Case 89-303)	0790-AC33
619	Procuring Supplies and Services from Military Exchanges (DAR Case 89-304)	0790-AC34
620	Simplified Approval of Contracts (DAR Case 89-307)	0790-AC36
621	Delegating Approval Authority for Certain Contracts (DAR Case 89-308)	0790-AC37
622	Small and Disadvantaged Business Concerns, Extension of 5 Percent Goal (DAR Case 89-311D)	0790-AC38
623	Small Business Bond Waiver Authority (DAR Case 89-313D)	0790-AC40
624	Preference for Commercial Items (DAR Case 89-315)	0790-AC42
625	Thresholds, Part 227 (DAR Case 89-413D)	0790-AC47
626	Thresholds, Part 237 (DAR Case 89-421)	0790-AC48
627	Berry Amendment, PL 101-165, Sec 9009 (DAR Case 89-320)	0790-AC55
628	Supercomputer Restrictions, PL 101-165, Sec 9045 (DAR Case 89-322)	0790-AC58
629	Night Vision Tubes, PL 101-165, Sec 9069 (DAR Case 89-326)	0790-AC57
630	Multibeam Sonar Mapping Systems, PL 101-165, Sec 9073(DAR Case 89-327)	0790-AC59
631	Alaska-Hawaii Employment, PL 100-370, Sec 3(b)(1)(DAR Case 89-32 8)	0790-AC59

DOD

Department of the Army—Completed Actions

Sequence Number	Title	Regulation Identifier Number
632	The Army General Counsel's Honors Program	0702-AA00
633	Airfield Certification and Use of Army Airfields by Other Then U.S. Department of Defense Aircraft	0702-AA02
634	Regulations Affecting Military Reservations: Prohibited Activities at Fort Bragg, NC	0702-AA17
635	AR 27-20 Claims on Behalf of the United States	0702-AA19
636	AR 27-20 Claims Against the United States	0702-AA20
637	AR 27-40 Litigation	0702-AA21
638	AR 210-1 - Private Organizations on Department of the Army Installations	0702-AA22

U.S. Army Corps of Engineers—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
639	Regulatory Programs of the Corps of Engineers, Part 325, Appendix D—Endangered Species Counterpart Regulations	0710-AA17

U.S. Army Corps of Engineers—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
640	Nationwide Permit Program	0710-AA20
641	Part 325, Processing Department of the Army Permits	0710-AA23
642	Part 326, Enforcement; Class II Administrative Penalties	0710-AA25

U.S. Army Corps of Engineers—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
643	Shoreline Management Fees at Civil Works Projects	0710-AA27

U.S. Army Corps of Engineers—Completed Actions

Sequence Number	Title	Regulation Identifier Number
644	Regulatory Programs of the Corps of Engineers, Part 325, App. C, Historic Properties	0710-AA12
645	Processing of Department of the Army Permits: Procedures for the Protection of Historic Properties	0710-AA26

Department of the Navy—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
646	Procedures for Implementing the Procedural Provisions of the National Environmental Policy Act	0703-AA31
647	Availability of Department of the Navy Records and Publication of Department of the Navy Documents Affecting the Public	0703-AA33
648	Adjustments to Prices Under Shipbuilding Contracts	0703-AA34

DOD

Department of the Navy—Completed Actions

Sequence Number	Title	Regulation Identifier Number
649	Admiralty Claims Provisions	0703-AA32

Department of the Air Force—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
650	Public Affairs Policies and Procedures (AFR 190-1)	0701-AA18
651	Air Force Visual Information Systems (AFR 700-32)	0701-AA26
652	Air Force Privacy Act Program (AFR 12-35)	0701-AA30
653	Air Force Freedom of Information Act Program (AFR 12-30)	0701-AA31
654	Making Military Personnel, Employees, and Dependents Available to Civilian Authorities for Trial (AFR 111-11)	0701-AA32

Department of the Air Force—Completed Actions

Sequence Number	Title	Regulation Identifier Number
655	Schedule of Fees for Copying, Certifying, and Searching Records and Other Documentary Material (AFR 12-32)	0701-AA29

DEPARTMENT OF DEFENSE (DOD)

Prerule Stage

Office of the Secretary (OS)

552. CONTRACTOR ADP SOFTWARE COSTS (DAR CASE 87-061)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 231

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion by the Defense Logistics Agency to describe how to treat and evaluate contractors' ADP costs.

Timetable:

Action	Date	FR Cite
Case Opened	09/21/89	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC07

553. EXEMPTIONS FROM COST OR PRICING DATA (DAR CASE 89-064D)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 246

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion from the Office of the Secretary of Defense to ensure that contractors do not face possible loss of exemptions only because the amount of previous sales of the same type of items exceeds established regulatory thresholds.

Timetable:

Action	Date	FR Cite
Case Opened	06/20/89	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC16

554. PRODUCT QUALITY DEFICIENCY REPORTS (DAR CASE 89-073)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 246

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion from the Department of the Air Force to provide coverage needed to support the Department of Defense Product Quality Deficiencies Reports Program. This program tracks quality problems that are discovered in supplies which have been accepted and are in inventory.

Timetable:

Action	Date	FR Cite
Case Opened	07/07/89	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AC16

555. TRADE AGREEMENTS ACT (DAR CASE 89-106)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 225

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion by the Defense Logistics Agency to add a definition of Domestic End Product for purposes of the Trade Agreements Act.

Timetable:

Action	Date	FR Cite
Case Opened	10/04/89	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AC24

556. REVISION TO LIABILITY CLAUSE AT 252.247-7110 (DAR CASE 89-113)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 252

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion by the Department of the Army to increase contractor liability for loss and damage to domestic shipments moved under personal property Government Bills of Lading.

Timetable:

Action	Date	FR Cite
Case Opened	12/06/89	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AC29

557. SUBCONTRACTING PLAN REQUIREMENTS (DAR CASE 89-114D)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 219

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion by the Department of the Navy to allow offerors to include in their subcontracting plans a description of those efforts the contractor plans to take to provide technical assistance to Small and Disadvantaged Businesses.

Timetable:

Action	Date	FR Cite
Case Opened	12/06/89	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AC30

558. OFF DUTY POST SECONDARY EDUCATION SERVICES (DAR CASE 89-317)

Significance: Agency Priority

Legal Authority: PL 101-189, Sec 518

CFR Citation: 48 CFR 206

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to comply with the provisions of PL 101-189, Sec 518, which requires that the procurement of Post Secondary Services at overseas locations are adequate to ensure recipients have a choice of offerings.

Timetable:

Action	Date	FR Cite
Case Opened	12/06/89	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AC44

DOD—OS

Prerule Stage

560. THRESHOLDS FOR PART 219 (DAR CASE 90-009D)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 219

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to increase or eliminate certain thresholds in Part 219 as a result of a study on thresholds by Logistics Management Institute.

Timetable:

Action	Date	FR Cite
Case Opened	03/31/89	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC45

561. ◉ LABOR STANDARDS-APPLICATION FOR INSTALLATION SERVICE AND SUPPORT (DAR CASE 90-016)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 222

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion from the Office of the Secretary of Defense to clarify DOD guidance on labor standards application to installation service/support contracts.

Timetable:

Action	Date	FR Cite
Case Opened	07/05/90	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington DC 20301-3062, 703 697-7266

RIN: 0790-AC67

562. ◉ SPECIAL TEST EQUIPMENT (DAR CASE 90-506)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 245

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion from the Defense Contract Management Command to prescribe uniform screening procedures for standard components of special test equipment that qualifies as industrial plant equipment, other plant equipment and automated data processing equipment.

Timetable:

Action	Date	FR Cite
Case Opened	05/02/90	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington DC 20301-3062, 703 697-7266

RIN: 0790-AC66

563. ◉ SCRAP WARRANTY (DAR CASE 90-506)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 245

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion from the Defense Contract Management Command to insert instructions for the use of DD Forms 1639 and 1641.

Timetable:

Action	Date	FR Cite
Case Opened	05/02/90	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington DC 20301-3062, 703 697-7266

RIN: 0790-AC69

564. ◉ MAINTENANCE AND MODIFICATION OF EQUIPMENT (DAR CASE 90-508)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 245

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion from the Defense Contract Management Command to prescribe uniform screening procedures for standard components of special test equipment

Timetable:

Action	Date	FR Cite
Case Opened	05/02/90	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington DC 20301-3062, 703 697-7266

RIN: 0790-AC70

565. ◉ CONFIGURATION CONTROL

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 245

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion from the Defense Contract Management Command to prescribe uniform screening procedures for standard components of special test equipment

Timetable:

Action	Date	FR Cite
Case Opened	05/02/90	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington DC 20301-3062, 703 697-7266

RIN: 0790-AC71

566. ◉ ADEQUATE PRICE COMPETITION IN DUAL SOURCE PROGRAMS (DAR CASE 90-013)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 215

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion from the Office of the Secretary of Defense to develop new coverage to provide guidance for when adequate price competition exists under dual sourcing.

Timetable:

Action	Date	FR Cite
Case opened	07/05/90	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There

DOD—OS

Prerule Stage

564. ◎ WORK REQUESTS, MAINTENANCE, OVERHAUL AND MODIFICATION CONTRACTS (DAR CASE 90-509)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 243

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion from the Defense Contract Management Command to standardize procedures to issue work requests and authorize the contractor performance of work proposed on the work request.

Timetable:

Action	Date	FR Cite
Case Opened	05/02/90	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC71

565. ◎ POSTAWARD ORIENTATION CONFERENCES (DAR CASE 90-511)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 242

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion from the Defense Contract Management Command to standardize the method of documenting the initial review of a contract and the contracting officer's determination regarding the need for conducting a post- award conference.

Timetable:

Action	Date	FR Cite
Case Opened	05/02/90	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC72

566. ◎ TERMINATION NEGOTIATION MEMORANDUM (DAR CASE 90-513D)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 249

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion from the Defense Contract Management Command to make sure that the termination negotiation memorandum receives the same treatment as a price negotiation memorandum.

Timetable:

Action	Date	FR Cite
Case Opened	05/02/90	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC73

567. ◎ QUARTERLY LIMITATION ON PAYMENTS (DAR CASE 90-514D)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 216

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion from the Defense Contract Management Command to require contractors to calculate over/under payments where actual costs for individual items delivered are not available.

Timetable:

Action	Date	FR Cite
Case Opened	05/02/90	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC74

568. ◎ MONITORING REPORTS AS DELIVERABLES (DAR CASE 90-519)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 236

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion from the Defense Contract Management Command to mandate use of the DD 250 for all deliverable data items.

Timetable:

Action	Date	FR Cite
Case Opened	05/02/90	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC75

DOD—OS

Prerule Stage

569. ● CONTRACTOR PUBLIC VOUCHER PROCESS (DAR CASE 90-519)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 242

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion from the Defense Contract Management Command to use a systems approach to approve contractor public vouchers for reimbursement under cost type contracts whereby the auditor approves the accounting system on the first voucher and follow on vouchers are sent direct to the paying office.

Timetable:

Action	Date	FR Cite
Case Opened	06/27/90	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC78

570. ● QUANTIFICATION OF TECHNICAL INPUT (DAR CASE 90-520)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 215

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion from the Defense Acquisition Regulatory System that responsibility for monetary valuation of technical input be transferred from the auditor to the price analyst.

Timetable:

Action	Date	FR Cite
Case Opened	06/27/90	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC77

571. ● REVIEW AND EVALUATE CONTRACTOR PROPOSALS (DAR CASE 90-521)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 215

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion from the Defense Contract Management Command that the price analyst and not the administrative contracting officer discuss bidder/offeror /contractor pricing proposals directly with the procurement contracting officer.

Timetable:

Action	Date	FR Cite
Case Opened	06/27/90	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC76

572. ● REWRITE OF THE DOD FAR SUPPLEMENT (DAR CASE 90-743A)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 202; 48 CFR 203; 48 CFR 207; 48 CFR 219; 48 CFR 220; 48 CFR 224; 48 CFR 226; 48 CFR 229; 48 CFR 231; 48 CFR 233; 48 CFR 243; 48 CFR 248; 48 CFR 250; 48 CFR 251; 48 CFR 252

Legal Deadline: None

Abstract: The Office of the Secretary of Defense has suggested that the entire DOD FAR Supplement be re-written to eliminate duplication and redundancy. This case involves the rewrite of 15 various parts of the DOD FAR Supplement.

Timetable:

Action	Date	FR Cite
Case Opened	01/02/90	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC79

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

Proposed Rule Stage

573. COMMERCIAL ACTIVITIES PROGRAM PROCEDURES (DOD INSTRUCTION 4100.33)

Legal Authority: 5 USC 301; EO 12615; PL 93-400

CFR Citation: 32 CFR 169a

Legal Deadline: None

Abstract: This proposed rule establishes procedures and criteria for use by the Department of Defense (DoD) to determine whether DoD commercial activities should be performed by DoD personnel in-house or by contract with commercial sources.

Timetable:

Action	Date	FR Cite
NPRM	04/18/89	54 FR 15442
NPRM Comment Period End	07/17/89	54 FR 15442

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: D. Migliorico, Department of Defense, Office of the Secretary, 703 325-0537

RIN: 0790-AA48

574. DEFENSE INDUSTRIAL PERSONNEL SECURITY CLEARANCE REVIEW PROGRAM (DOD DIRECTIVE 5220.6)

Legal Authority: 5 USC 504; EO 10865

CFR Citation: 32 CFR 155

Legal Deadline: None

Abstract: This part is being revised to establish a standard for determining petitions for reimbursement for loss of earnings, incorporate the revised DoD Adjudication Policies for security clearance determinations under this rule, and revise procedures for cases not requiring a hearing, and procedures for considering issues raised on appeal.

Timetable:

Action	Date	FR Cite
NPRM	05/05/87	52 FR 16864
NPRM Comment Period End	06/05/87	52 FR 16864

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: J. Brown, Department of Defense, Office of the Secretary, 703 695-4599

RIN: 0790-AA84

575. TOTAL QUALITY MANAGEMENT (DOD DIRECTIVE 5000.51)

Legal Authority: EO 12637

CFR Citation: 32 CFR 281

Legal Deadline: None

Abstract: This proposed rule establishes policy and assigns responsibility for implementation of the Total Quality Management concept in the Department of Defense. The concept will be implemented both internally with the Department of Defense as well as in DoD acquisition strategies.

Timetable:

Action	Date	FR Cite
NPRM	07/19/89	54 FR 30227
NPRM Comment Period End	08/18/89	54 FR 30227

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: F. Doherty, Department of Defense, Office of the Secretary, 703 695-7915

RIN: 0790-AB33

576. CONFIDENTIALITY OF MEDICAL QUALITY ASSURANCE (QA) RECORDS (DOD DIRECTIVE 6040.37)

Legal Authority: 10 USC 1101; 5 USC 301

CFR Citation: 32 CFR 285a

Legal Deadline: None

Abstract: In 1987, Congress provided confidentiality for medical quality assurance documents in the DoD Authorization Act, recognizing that confidentiality is important to prevent public disclosure of facts and opinions that might cause harm to participants in the process of quality assurance activities. At the same time, allowance is made for disclosure of specified information when required for authorized quality monitoring, patient safety, or administrative functions. This proposed rule adheres closely to the specific provisions of the statute.

Timetable:

Action	Date	FR Cite
NPRM	12/18/89	54 FR 51706
NPRM Comment Period End	01/17/90	54 FR 51706

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: B. Ramsey, Department of Defense, Office of the Secretary, 703 695-6300

RIN: 0790-AC06

577. HUMAN IMMUNODEFICIENCY VIRUS (HIV-1) (DOD DIRECTIVE 6485.AA)

Legal Authority: 10 USC 113

CFR Citation: 32 CFR 56a

Legal Deadline: None

Abstract: This proposed rule establishes the policy promulgated by the August 8, 1988 Deputy Secretary of Defense memorandum on HIV-1/ AIDS. It denies eligibility for appointment or enlistment for military service to individuals with serologic evidence of HIV-1 infection; requires periodic screening of active duty and Reserve component military personnel for evidence of HIV-1 infection; refers active duty personnel with serologic evidence of HIV-1 infection for a medical evaluation of fitness for continued service in the same manner as personnel with other progressive illnesses; and denies eligibility for extended active duty (duty for a period of more than 30 days) to those Reserve component members with serologic evidence of HIV-1 infection.

Timetable:

Action	Date	FR Cite
NPRM	12/05/89	54 FR 50243
NPRM Comment Period End	01/04/90	54 FR 50243

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: M Peterson, Department of Defense, Office of the Secretary, 703 695-7116

RIN: 0790-AC49

DOD—OS

Proposed Rule Stage

576. ◆ RELEASE OF ACQUISITION RELATED INFORMATION (DOD DIRECTIVE 5230.XX)

Legal Authority: PL 101-189

CFR Citation: 32 CFR 286h

Legal Deadline: None

Abstract: This rule establishes the policy of the Department of Defense to make the maximum amount of acquisition-related information available to the public and to respond promptly to specific requests from the public.

Timetable:

Action	Date	FR Cite
NPRM	07/12/90	55 FR 28614
NPRM Comment Period End	08/13/90	55 FR 28614

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: S. Slavsky, Department of Defense, Office of the Secretary, 703 697-8335

RIN: 0790-AC82

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

Final Rule Stage

578. ◆ RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: PL 100-121; 31 USC 1352; 5 USC 301; 10 USC 113

CFR Citation: 32 CFR 219

Legal Deadline: None

Abstract: The Department of Defense (DoD) is adopting the following interim rule establishing new restrictions on lobbying and will proceed with internal agency coordination, the results of which will be reflected in the final common rule. It is the Department of Defense's objective to establish uniform practices within the Office of the Secretary of Defense, the Military Departments, and the Defense Agencies that would be consistent with those being established by other Executive Departments and Agencies in adopting this governmentwide rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6762
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: F. Sobieszczyk, Department of Defense, Office of the Secretary, Washington, DC 20301, 703 614-0265

RIN: 0790-AC34

580. ◆ FEDERAL POLICY FOR THE PROTECTION OF HUMAN SUBJECTS

Significance: Regulatory Program

Legal Authority: 5 USC 301; 41 USC 420v-1(b)

CFR Citation: 32 CFR 219

Legal Deadline: None

Abstract: The Department of Defense (DoD) is adopting the following proposed rule establishing procedures for the protection of human subjects in research. It is the Department of Defense's objective to establish uniform practices within the Office of the Secretary of Defense, the Military Departments, and the Defense Agencies that are consistent with those being established by other Executive Departments and Agencies in adopting this governmentwide common rule.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45661
NPRM Comment Period End	01/09/89	53 FR 45661
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: J. Catting, Department of Defense, Office of the Secretary, Washington, DC 20301, 703 697-8714

RIN: 0790-AC80

581. TECHNICAL DATA, SEC. 808, 1988 AUTHORIZATION ACT (DAR CASE 87-303)

Significance: Agency Priority

Legal Authority: PL 100-180, Sec 808

CFR Citation: 48 CFR 227; 48 CFR 252

Legal Deadline: Final, Statutory, April 2, 1988.

Abstract: Modify the DOD FAR Supplement to comply with the provisions of PL 100-180, Sec 808 which provides that DOD assure the right of the contractor or subcontractor to receive, from a third party, a fee or royalty for use of their technical data.

Timetable:

Action	Date	FR Cite
Case Opened	12/02/87	
Interim Final Rule	10/28/88	53 FR 43595
Final Action	12/31/90	
Final Action Effective	12/31/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AB48

582. DRUG-FREE WORKFORCE (DAR CASE 88-303)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 223

Legal Deadline: None

DOD—OS

Final Rule Stage

Abstract: Modify the DOD FAR Supplement to implement a requirement of the Secretary of Defense to provide for use of a clause concerning use of illegal drugs in those acquisitions involving access to classified information or where the contracting officer determines that such a clause is necessary in the interest of National Defense.

Timetable:

Action	Date	FR Cite
Case Opened	06/14/88	
Interim Final Rule	09/28/88	53 FR 37764
Final Action	12/31/90	
Final Action Effective	12/31/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB58

553. FALSE REPRESENTATION-SMALL BUSINESS, PL 100-656, SEC 405 (DAR CASE 88-331D)

Significance: Agency Priority

Legal Authority: PL 100-656, Sec 405

CFR Citation: 48 CFR 219; 48 CFR 252

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to comply with the provisions of PL 100-656, Sec 405, which establishes penalties on business entities that provide false representation as a small business or a small disadvantaged business concern.

Timetable:

Action	Date	FR Cite
Case Opened	02/02/89	
Interim Final Rule	05/03/90	55 FR 19070
Final Action	12/31/90	
Final Action Effective	12/31/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB76

554. DATA, PRICING EXHIBITS (DAR CASE 88-120)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 215

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion from the Department of the Air Force to clarify an inconsistency between 215.871(d) and 204.7105. When read together, these statements do not permit inclusion of the negotiated data price in the contract when the data is ordered as an exhibit on the DD Form 1423, Contract Data Requirements Lists.

Timetable:

Action	Date	FR Cite
Case Opened	09/14/88	
Final Action	12/31/90	
Final Action Effective	12/31/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AC09

555. MASTER AGREEMENT FOR REPAIR AND ALTERATION OF VESSELS (DAR CASE 88-142)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 201

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion from the Office of the Secretary of Defense to include a complete list of current clauses for repair and alteration of vessels. The present listing is not current.

Timetable:

Action	Date	FR Cite
Case Opened	11/22/88	
NPRM	11/06/89	54 FR 46663
NPRM Comment Period End	01/05/90	
Final Action	12/31/90	
Final Action Effective	12/31/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AC12

556. COMPLETE REWRITE OF DFAR 225 (DAR CASE 89-032)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 225

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion from the Office of the Secretary of Defense to do a complete rewrite of DFAR Part 225 to eliminate duplication and redundancy.

Timetable:

Action	Date	FR Cite
Case Opened	05/15/89	
Final Action	12/31/90	
Final Action Effective	12/31/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There

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Final Rule Stage

is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC15

597. DOMESTIC SOURCE POLYACOYLOSITE (DAR CASE 89-106)

Significance: Agency Priority

Legal Authority: PL 100-202, Sec 8065

CFR Citation: 48 CFR 208

Legal Deadline: None

Abstract: Modify the DoD FAR Supplement to implement a suggestion by the Office of the Secretary of Defense to assure that a minimum of 50 percent of DoD's acquisition of Pan Fibre is procured from domestic sources by 1992.

Timetable:

Action	Date	FR Cite
Case Opened	10/12/89	
Final Action	12/31/90	
Final Action Effective	12/31/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC28

598. COMPETITION IN AWARDS TO COLLEGES AND UNIVERSITIES (DAR CASE 89-301)

Significance: Agency Priority

Legal Authority: PL 101-189, Sec 252

CFR Citation: 48 CFR 206

Legal Deadline: Final, Statutory, September 30, 1989.

Abstract: Modify the DOD FAR Supplement to comply with the requirements of PL 101-189, Sec 252 which requires clarification of the requirement for competition in award of Research and Development contracts and construction contracts with Colleges and Universities.

Timetable:

Action	Date	FR Cite
Case Opened	11/20/89	
Final Action	12/31/90	
Final Action Effective	12/31/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC32

599. ADVISORY AND ASSISTANCE SERVICES TEST (DAR 89-306D)

Significance: Agency Priority

Legal Authority: PL 101-189, Sec 812

CFR Citation: 48 CFR 237

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to comply with the provisions of PL 101-189, Sec 812, which promotes a three-year test of master agreements with advisory and assistance contractors.

Timetable:

Action	Date	FR Cite
Case Opened	12/05/89	
Final Action	12/31/90	
Final Action Effective	12/31/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC35

590. CREDIT FOR INDIAN SUBCONTRACTING (DAR CASE 89-312D)

Significance: Agency Priority

Legal Authority: PL 101-189, Sec 832

CFR Citation: 48 CFR 219

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to comply with the provisions of PL 101-189, Sec 832, which permits subcontracts with American Indian firms to be counted toward the DOD subcontracting goals.

Timetable:

Action	Date	FR Cite
Case Opened	12/05/89	
Final Action	12/31/90	
Final Action Effective	12/31/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington DC 20301-3062, 703 697-7266

RIN: 0790-AC39

591. COMPREHENSIVE SMALL BUSINESS SUBCONTRACTING PLANS (DAR CASE 89-314D)

Significance: Agency Priority

Legal Authority: PL 101-189, Sec 834

CFR Citation: 48 CFR 219

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to comply with the provisions of PL 101-189, Sec 834 which directs a test to negotiate and administer one comprehensive small business subcontracting plan for each Agency.

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Timetable:

Action	Date	FR Cite
Case Opened	12/04/89	
Final Action	12/31/90	
Final Action Effective	12/31/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC41

592. ACQUISITION OF COMMERCIAL ITEMS (DAR CASE 89-316)

Significance: Agency Priority

Legal Authority: PL 101-189, Sec 824

CFR Citation: 48 CFR 214

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to comply with the requirements of PL 101-189, Sec 824 which requires the development of a simplified uniform contract for the acquisition of commercial items.

Timetable:

Action	Date	FR Cite
Case Opened	12/06/89	
NPRM	07/11/90	55 FR 28514
NPRM Comment Period End	09/27/90	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC43

593. THRESHOLDS, PART 225 (DAR CASE 89-412D)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 225

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to change and/or increase thresholds in Part 225 as a result of a study on thresholds by Logistics Management Institute.

Timetable:

Action	Date	FR Cite
Case Opened	03/31/89	
Final Action	12/31/90	
Final Action Effective	12/31/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC48

594. ● FLEXIBLE PROGRESS PAYMENTS (DAR CASE 90-307)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 232

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion from the Office of the Secretary of Defense to change flexible progress payments and the computer model.

Timetable:

Action	Date	FR Cite
Case opened	04/11/90	
NPRM	05/29/90	55 FR 21758
NPRM Comment Period End	06/28/90	
Final Action	12/21/90	
Final Action Effective	12/21/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington DC 20301-3062, 703 697-7266

RIN: 0790-AC65

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

Completed Actions

595. ● DRUG-FREE WORKPLACE (GRANTS)

Significance: Regulatory Program

Legal Authority: EO 12549; PL 100-690; 5 USC 301; 41 USC 301

CFR Citation: 32 CFR 280

Legal Deadline: None

Abstract: The Department of Defense (DoD) is adopting this rule to establish requirements for a drug-free workplace for DoD grantees. In adopting this rule, the Department of Defense is establishing uniform practices within the Office of the Secretary of Defense, military departments, and defense agencies that are consistent with those being established by other executive departments and agencies.

Timetable:

Action	Date	FR Cite
Final Action	05/25/90	55 FR 21697
Final Action Effective	07/24/90	55 FR 21681

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

DOD—OS

Completed Actions

Government Levels Affected: Local, State, Federal

Agency Contact: M. Herbst, Department of Defense, Office of the Secretary, 703 614-6205

RIN: 0790–AC53

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596. ◆ NATIONAL DEFENSE SCIENCE AND ENGINEERING GRADUATE FELLOWSHIPS (DOD INSTRUCTION 3216.2)

Legal Authority: 10 USC 2191

CFR Citation: 32 CFR 168a

Legal Deadline: None

Abstract: The Department of Defense (DoD) adopts this rule to govern the National Defense Science and Engineering Graduate (NDSEG) Fellowship program. The final rule provides for awards to U.S. citizens and nationals, in accordance with 10 U.S.C. 2191 which established the NDSEG fellowship program.

Timetable:

Action	Date	FR Cite
Final Action Effective	06/07/90	55 FR 23644
Final Action	07/23/90	55 FR 23644

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: M. Herbst, Department of Defense, Office of the Secretary, 703 614-6205

RIN: 0790–AC80

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597. ◆ MANAGEMENT AND MOBILIZATION OF REGULAR AND RESERVE RETIRED MILITARY MEMBERS (DOD DIRECTIVE 1352.1)

Legal Authority: 10 USC 672(a); 10 USC 675; 10 USC 688; 10 USC 973

CFR Citation: 32 CFR 64

Legal Deadline: None

Abstract: This part expands the scope of 32 CFR part 64 to include non-DoD organizations with defense related missions such as Federal Emergency Management Agency (FEMA), Selective Service System and other Federal organizations for utilization of military retirees during mobilization. It also expands DoD policies to use DoD military retirees to meet national emergencies in organizations outside the Department of Defense with defense-related missions and defines the guidelines for determining military retirees who are in key positions in their civilian employment and the procedures the employer must use in requesting they be exempt from mobilization.

Timetable:

Action	Date	FR Cite
Final Action Effective	03/02/90	55 FR 9319
Final Action	03/13/90	55 FR 9319

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: W. Spruell, Department of Defense, Office of the Secretary, 703 695-7397

RIN: 0790–AC81

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598. ◆ DOD NEWSPAPERS AND CIVILIAN ENTERPRISE PUBLICATIONS (DOD INSTRUCTION 5120.4)

Legal Authority: 10 USC 121; 10 USC 133

CFR Citation: 32 CFR 202; 32 CFR 297

Legal Deadline: None

Abstract: This part removes 32 CFR part 202; provides supplementary information on the background of DoD Civilian Enterprise (CE) newspapers; summarizes public comments received on the proposed rule published on November 3, 1989; presents DoD conclusions regarding the comments; and publishes the final rule.

Timetable:

Action	Date	FR Cite
Final Action	06/18/90	55 FR 24557
Final Action Effective	06/18/90	55 FR 24557

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: H. Baker, Department of Defense, Office of the Secretary, 703 274-4966

RIN: 0790–AC83

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599. COMMERCE PATENT REGULATIONS, PL 98-620 (DAR CASE 85-056D)

Significance: Agency Priority

Legal Authority: PL 98-620, Sec 501

CFR Citation: 48 CFR 227; 48 CFR 252

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement the provisions of PL 98-620, Sec 501, which provides that the contractor's system of records maintenance of Government Property is at least the same as its own.

Timetable:

Action	Date	FR Cite
Case Opened	03/15/87	
NPRM	03/22/89	54 FR 11764
NPRM Comment Period End	05/22/89	
Final Action DAC 84-14, Item XVIII	05/08/90	55 FR 19070
Final Action Effective	05/08/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AB38

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600. CLAIMS, EQUITABLE ADJUSTMENT (DAR CASE 87-128D)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 215; 48 CFR 252

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion from the Office of the Secretary of Defense to allow contracting officers to require contractors to separately account for changed work on construction contracts if changed work exceeds $100,000.

Timetable:

Action	Date	FR Cite
Case Opened	11/24/87	
NPRM	12/06/88	53 FR 49212
NPRM Comment Period End	01/05/89	53 FR 49212

DOD—OS

Completed Actions

Action	Date	FR Cite
Final Action DAC 88-14, Item XXII	05/08/90	55 FR 19070
Final Action Effective	05/08/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AB46

601. COMPETITIVE THRESHOLD, PL 100-656, SEC 303(B)(6)(A) (DAR CASE 88-325D)

Significance: Agency Priority

Legal Authority: PL 100-656, Sec 303

CFR Citation: 48 CFR 219

Legal Deadline: Final, Statutory, October 1, 1990.

Abstract: Modify the DOD FAR Supplement to comply with the provisions of PL 100-656, Sec 303, which establishes a requirement to compete 8(a) contracts at certain levels.

Timetable:

Action	Date	FR Cite
Case Opened	04/27/89	
NPRM	07/18/89	54 FR 30101
Final Action DAC 88-14, Item XII	05/08/90	55 FR 19070
Final Action Effective	05/08/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AB74

602. THRESHOLD, PRICE REASONABLENESS (DAR CASE 88-430D)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 213

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to change the threshold in DFARS 213.106 to 10% of the Small Purchase limitation as a result of a study on thresholds by Logistics Management Institute.

Timetable:

Action	Date	FR Cite
Case Opened	03/09/88	
NPRM	05/16/88	53 FR 17232
NPRM Comment Period End	06/15/88	
Final Action	12/29/89	54 FR 53612
Final Action Effective	12/29/89	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AB82

603. SMALL DISADVANTAGED BUSINESS; HISTORICALLY BLACK COLLEGES AND UNIVERSITIES - 5 PERCENT GOAL - PL 100-180, SEC 806 (DAR CASE 88-023A)

Significance: Agency Priority

Legal Authority: PL 100-180, Sec 806

CFR Citation: 48 CFR 219; 48 CFR 226; 48 CFR 252

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement the provisions of PL 100-180, Sec 806, which provides that DOD must show progress toward providing the opportunity for participation of Small Disadvantaged businesses, Historically Black Colleges and Universities and Minority Institutions in DOD acquisitions.

Timetable:

Action	Date	FR Cite
Case Opened	05/05/89	
NPRM	05/22/89	54 FR 22237
NPRM Comment Period End	07/24/89	
Final Action DAC 88-14, Item VII	05/08/90	55 FR 19070
Final Action Effective	05/08/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AB94

604. WARRANTIES (DAR CASE 88-082)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 246

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion from the Office of the Secretary of Defense to have warranty provisions specifically identify whether redesign is or is not an available remedy for correcting problems.

Timetable:

Action	Date	FR Cite
Case Opened	06/09/88	
NPRM	05/30/89	54 FR 27655
NPRM Comment Period End	08/31/89	
Final Action DAC 88-14, Item XX	05/08/90	55 FR 19070
Final Action Effective	05/08/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC00

935. REWRITE OF DFARS PART 237 (DAR CASE 89-060D)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 237

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion from the Office of the Secretary of Defense to completely rewrite Part 237 to eliminate duplication and redundancy.

Timetable:

Action	Date	FR Cite
Case Opened	05/18/89	
Withdrawn Case closed into DAR Case 90-743A.	06/02/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC08

936. NOTIFICATION OF OWNERSHIP CHANGES (DAR CASE 89-117)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 215

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion from the Office of the Secretary of Defense to develop coverage requiring contractors to notify the Government of planned and completed ownership changes and any cost increases which might result. It also assures that pre-ownership change net book values are preserved.

Timetable:

Action	Date	FR Cite
Case Opened	12/20/89	
Withdrawn Case closed as no additional coverage needed.	07/15/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC10

937. ENVIRONMENTAL COST PRINCIPLE (DAR CASE 88-127)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 223

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion from the Department of the Air Force to establish a cost principle to make pollution cleanup costs, resulting from noncompliance with Federal, State and local laws, unallowable.

Timetable:

Action	Date	FR Cite
Case Opened	09/23/88	
Withdrawn Case closed as no additional coverage needed.	07/15/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC11

608. SOUTH AFRICA TRADE (DAR CASE 88-150)

Legal Authority: PL 99-440, Sec 302

CFR Citation: 48 CFR 225

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement the provisions of PL 99-440, Sec 302 which prohibits trade and other transactions with South Africa.

Timetable:

Action	Date	FR Cite
Case Opened	12/20/89	
Withdrawn Case closed as no additional coverage needed.	07/15/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC13

609. SUSPENSION OR REDUCTION OF PAYMENTS (DAR CASE 89-077)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 232

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion from the Department of the Air Force to provide guidance on reducing progress payments when unliquidated progress payments exceed the fair market value of undelivered work.

DOD—OS

Completed Actions

Timetable:

Action	Date	FR Cite
Case Opened	07/11/89	
Withdrawn Case closed as no additional coverage needed.	07/15/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AC19

610. WARNER AMENDMENT CLARIFICATIONS (DAR CASE 89-063)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 237

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion from the Department of the Army to provide coverage to determine whether telecommunications that is considered ADP is subject to the Brooks Act and the Federal Information Resource Management Regulation (FIRMR) or if it is exempt from the Warner Amendment.

Timetable:

Action	Date	FR Cite
Case Opened	08/05/89	
Withdrawn Case closed, coverage not needed.	05/02/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AC20

611. CONTRACT REPORTING SYSTEM (DAR CASE 89-096)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 204

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion from the Office of the Secretary of Defense to make changes to the Federal Procurement Data System reporting requirements of DOD.

Timetable:

Action	Date	FR Cite
Case Opened	09/06/89	
Final Action DAC 88-14, Item III.	05/08/90	55 FR 19070
Final Action Effective	05/08/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AC21

612. QUALITY ASSURANCE ANNEX WITH ISRAEL (DAR CASE 89-100)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: None

Legal Deadline: None

Abstract: Modify Appendix T of the DOD FAR Supplement to implement a suggestion from the Office of the Secretary of Defense to include a Quality Assurance annex with Israel which permits Israel to perform certain quality assurance functions on DOD contracts with Israeli firms.

Timetable:

Action	Date	FR Cite
Case Opened	09/05/89	
Withdrawn Case closed. No additional coverage needed.	04/25/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AC22

613. ALTERNATE DISPUTES PROVISIONS-NEW PROCEDURE (DAR CASE 89-104)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 225

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion by the Office of the Secretary of Defense to allow for the use of Alternate Disputes procedures.

Timetable:

Action	Date	FR Cite
Case Opened	09/27/89	
Withdrawn Case closed as no additional coverage needed.	07/15/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System,

BEST COPY AVAILABLE

Room 3D139, Pentagon, Washington DC [illegible]

RIN: 0790–AC23

514. DEFINITION OF CONTRACTOR. (DAR CASE 89-107)

Legal Authority: 5 USC 301; 10 USC [illegible]

CFR Citation: 48 CFR 309

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion by the Defense Logistics Agency to add a definition of contractor to include people who may reasonably be expected to become agents or representatives of other contractors.

Timetable:

Action	Date	FR Cite
Case Opened	10/05/89	
Withdrawn Case closed as no additional coverage needed.	07/15/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC [illegible]

RIN: 0790–AC25

515. AUTHORITY TO APPOINT SMALL AND DISADVANTAGED BUSINESS UTILIZATION (SADBU) REPRESENTATIVES (DAR CASE 89-108)

Legal Authority: 5 USC 301; 10 USC [illegible]

CFR Citation: 48 CFR 219

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion by the Defense Communications Agency (DCA) to allow DCA to have the authority to appoint Small and Disadvantaged Business Utilization (SADBU) representatives.

Timetable:

Action	Date	FR Cite
Case Opened	11/15/89	
Withdrawn Case closed as no additional coverage needed.	07/15/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AC27

516. PAY AS YOU GO PENSION PLANS (DAR CASE 89-111)

Significance: Agency Priority

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 231

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion by the Department of the Army to provide clarification to DFARS 231.205 regarding the funding and the payment of pension costs when a Pay-As-You-Go method is used.

Timetable:

Action	Date	FR Cite
Case Opened	11/22/89	
Withdrawn Case closed as no additional coverage needed.	07/15/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AC28

517. PREPARING SYNOPSES IN THE COMMERCE BUSINESS DAILY (DAR CASE 89-116)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 205

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to implement a suggestion by the Office of the Secretary of Defense to simplify instructions on how to prepare synopses for publication in the Commerce Business Daily (CBD).

Timetable:

Action	Date	FR Cite
Case Opened	12/27/89	
Withdrawn Case closed as no additional coverage needed.	07/15/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AC31

518. LAUNDRY AND CLEANING SERVICES (DAR CASE 89-303)

Significance: Agency Priority

Legal Authority: PL 100-180, Sec 323

CFR Citation: 48 CFR 237

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to comply with the provisions of PL 100-180, Sec 323 which authorizes use of other than competitive procedures when contracting with Navy Exchanges for laundry and cleaning services.

Timetable:

Action	Date	FR Cite
Case Opened	12/19/89	
Withdrawn Case closed as no additional coverage needed.	05/02/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC33

519. PROCURING SUPPLIES AND SERVICES FROM MILITARY EXCHANGES (DAR CASE 89-304)

Significance: Agency Priority

Legal Authority: PL 100-180, Sec 324

CFR Citation: 48 CFR 237

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to comply with the requirements of PL 100-180, Sec 324, which authorizes use of other than competitive procedures when contracting overseas with any Military Exchange of the United States for supplies and services.

Timetable:

Action	Date	FR Cite
Case Opened	12/19/89	
Withdrawn Case closed as no additional coverage needed.	07/15/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC34

520. SIMPLIFIED APPROVAL OF CONTRACTS (DAR CASE 89-307)

Significance: Agency Priority

Legal Authority: PL 101-189, Sec 817

CFR Citation: 48 CFR 206

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to comply with the provisions of PL 101-189, Sec 817, which specifies a lower approval level for procurements using other than competitive procedures because of international agreements or treaties.

Timetable:

Action	Date	FR Cite
Case Opened	11/29/89	
Final Action DAC 88-14, Item VI.	05/08/90	55 FR 19070
Final Action Effective	05/08/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC30

521. DELEGATING APPROVAL AUTHORITY FOR CERTAIN CONTRACTS (DAR CASE 89-308)

Significance: Agency Priority

Legal Authority: PL 101-189, Sec 818

CFR Citation: 48 CFR 206

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to comply with the provisions of PL 101-189, Sec 818, which adds a new approval level for procurements between $10,000,000 and $50,000,000 using other than competitive procedures and to provide for delegation of Senior Procurement Executive Authority.

Timetable:

Action	Date	FR Cite
Case Opened	11/29/89	
Withdrawn Case closed as no additional coverage needed.	02/09/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC37

522. SMALL AND DISADVANTAGED BUSINESS CONCERNS, EXTENSION OF 5 PERCENT GOAL (DAR CASE 89-311D)

Significance: Agency Priority

Legal Authority: PL 101-189, Sec 831

CFR Citation: 48 CFR 219

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to comply with the provisions of PL 101-189, Sec 831, which extends for 3 years the Department of Defense objective of awarding a combined total of 5 percent of its total contract dollars during each of its fiscal years to Small and Disadvantaged Business concerns.

Timetable:

Action	Date	FR Cite
Case Opened	12/05/89	
Final Action DAC 88-14, Item VIII.	05/08/90	55 FR 19070
Final Action Effective	05/08/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

DOD—OS

Completed Actions

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC38

623. SMALL BUSINESS BOND WAIVER AUTHORITY (DAR CASE 89-319D)

Significance: Agency Priority

Legal Authority: PL 101-189, Sec 833

CFR Citation: 48 CFR 219

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to comply with the requirements of PL 101-189, Sec 833, which directs a test to waive bond requirements in certain construction contracts.

Timetable:

Action	Date	FR Cite
Case Opened	12/04/89	
Withdrawn Case closed as no additional coverage needed.	01/18/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC40

624. PREFERENCE FOR COMMERCIAL ITEMS (DAR CASE 89-315)

Significance: Agency Priority

Legal Authority: PL 101-189, Sec 824

CFR Citation: 48 CFR 210

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to comply with the requirements of PL 101-189, Sec 824, which requires that the Department of Defense clearly reflect a preference for use of commercial and other nondevelopmental items.

Timetable:

Action	Date	FR Cite
Case Opened	12/06/89	
Withdrawn Case closed as no additional coverage needed.	07/16/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-2062, 703 697-7266

RIN: 0790-AC42

625. THRESHOLDS, PART 227 (DAR CASE 89-413D)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 227

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to eliminate or increase certain thresholds in Part 227 as a result of a study on thresholds by Logistics Management Institute.

Timetable:

Action	Date	FR Cite
Case Opened	03/31/89	
Withdrawn Case closed as no additional coverage needed.	02/20/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-2062, 703 697-7266

RIN: 0790-AC47

626. THRESHOLDS, PART 237 (DAR CASE 89-421)

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 237

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to eliminate or increase certain thresholds in Part 237 as a result of a study on thresholds by Logistics Management Institute.

Timetable:

Action	Date	FR Cite
Case Opened	03/31/89	
Final Action DAC 88-14, Item XIX.	05/08/90	55 FR 19070
Final Action Effective	05/08/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790-AC48

627. ● BERRY AMENDMENT, PL 101-165, SEC 9009 (DAR CASE 89-320)

Significance: Agency Priority

Legal Authority: PL 101-165, Sec 9009

CFR Citation: 48 CFR 225

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to comply with the provisions of PL 101-165, Sec 9009, which states that DOD shall not buy certain items not produced in the United States.

Timetable:

Action	Date	FR Cite
Case Opened	01/18/90	
Final Action DAC 88-14, Item XVII	05/08/90	55 FR 19070
Final Action Effective	05/08/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AC55

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628. ● SUPERCOMPUTER RESTRICTIONS, PL 101-165, SEC 9045 (DAR CASE 89-322)

Significance: Agency Priority

Legal Authority: PL 101-165, Sec 9045

CFR Citation: 48 CFR 225

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to comply with the provisions of PL 101-165, Sec 9045, which prohibits the use of FY90 funds for the purchase of supercomputers not made in the United States.

Timetable:

Action	Date	FR Cite
Case opened	01/18/90	
Final Action DAC 88-14, Item XV	05/08/90	55 FR 19070
Final Action Effective	05/08/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington DC 20301-3062, 703 697-7266

RIN: 0790–AC56

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629. ● NIGHT VISION TUBES, PL 101-165, SEC 9069 (DAR CASE 89-326)

Significance: Agency Priority

Legal Authority: PL 101-165, Sec 9069

CFR Citation: 48 CFR 225

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to comply with the provisions of PL 101-165, Sec 9069, which prohibits use of FY90 funds for the purchase of second or third generation night vision intensifier tubes and devices.

Timetable:

Action	Date	FR Cite
Case Opened	01/18/90	
Final Action DAC 88-14, Item XIV	05/08/90	55 FR 19070

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AC57

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630. ● MULTIBEAM SONAR MAPPING SYSTEMS, PL 101-165, SEC 9073(DAR CASE 89-327)

Significance: Agency Priority

Legal Authority: PL 101-165, Sec 9073

CFR Citation: 48 CFR 225

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to comply with the provisions of PL 101-165, Sec 9073, which prohibits use of FY90 funds for the purchase of Multibeam Sonar Mapping Systems not made in the United States.

Timetable:

Action	Date	FR Cite
Case Opened	01/18/90	
Final Action DAC 88-14, Item V	05/08/90	55 FR 19070
Final Action Effective	05/08/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AC58

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631. ● ALASKA-HAWAII EMPLOYMENT, PL 100-370, SEC 3(B)(1)(DAR CASE 89-32 8)

Significance: Agency Priority

Legal Authority: PL 100-370, Sec 3(b)(1)

CFR Citation: 48 CFR 225

Legal Deadline: None

Abstract: Modify the DOD FAR Supplement to comply with the provisions of PL 100-370, Sec 3(b)(1) which states that residents of Alaska and Hawaii must be used to perform contracts in Alaska and Hawaii.

Timetable:

Action	Date	FR Cite
Case Opened	01/18/90	
Final Action DAC 88-14, Item XXV	05/08/90	55 FR 19070
Final Action Effective	05/08/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Owen Green, Procurement Analyst, Department of Defense, Office of the Secretary, Defense Acquisition Regulatory System, Room 3D139, Pentagon, Washington, DC 20301-3062, 703 697-7266

RIN: 0790–AC59

DEPARTMENT OF DEFENSE (DOD)
Department of the Army (DOA)

Completed Actions

632. THE ARMY GENERAL COUNSEL'S HONORS PROGRAM

Legal Authority: 10 USC 302; 10 USC 3065

CFR Citation: 32 CFR 585

Legal Deadline: None

Abstract: Army General Counsel's Honors Program. To recruit highly qualified attorneys to fill vacancies in the Army General Counsel's Office. The document explains the methods of application and the requirements and procedures for the appointment to that office.

Timetable:

Action	Date	FR Cite
Withdrawn - no further action is expected.	08/24/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Paperwork Reduction Act Impact - None.

International Trade Impact - None.

Agency Contact: John Pavlick, Department of Defense, Department of the Army, Office of the Army General Counsel, 703 695-6952

RIN: 0703-AA00

633. AIRFIELD CERTIFICATION AND USE OF ARMY AIRFIELDS BY OTHER THAN U.S. DEPARTMENT OF DEFENSE AIRCRAFT

Legal Authority: PL 85-726; PL 97-248; PL 91-258

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Prescribes responsibilities and procedures with regard to use of U.S. Army airfields by other than DoD.

Timetable:

Action	Date	FR Cite
Withdrawn - no further action is expected.	08/24/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Paperwork Reduction Act Impact - None.

International Trade Impact - None.

Agency Contact: Robert C. Cole, Department of Defense, Department of the Army, U.S. Army Air Traffic Control Activity, Aeronautical Service Office, 202 272-7784

RIN: 0702-AA02

634. REGULATIONS AFFECTING MILITARY RESERVATIONS: PROHIBITED ACTIVITIES AT FORT BRAGG, NC

Legal Authority: 10 USC 3012

CFR Citation: 32 CFR 552

Legal Deadline: None

Abstract: This regulation establishes the criteria for enforcement of certain State laws and installation rules pertaining to driving offenses and hunting and fishing privileges on the Fort Bragg installation. This regulation provides guidance on motor vehicle offenses and the requirements to obtain hunting and fishing privileges for anyone (military or civilian) employed on, visiting, or traveling through the above reservation.

Timetable:

Action	Date	FR Cite
Withdrawn - no further action is expected.	08/24/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John O. Roach, Army Liaison Officer with the Federal Register, Department of Defense, Department of the Army, HQDA, ADQZ-PGR, Alexandria, VA 22331-0302, 703 325-6297

RIN: 0702-AA17

635. AR 27-20 CLAIMS ON BEHALF OF THE UNITED STATES

Legal Authority: 10 USC 3012; 42 USC 2651 to 2653

CFR Citation: 32 CFR 537

Legal Deadline: None

Abstract: This is a change of the Army regulatory provisions controlling the processing and settlement of administrative claims filed in behalf of the Army. This change will inform third parties of the procedures controlling the processing and settlement of these administrative claims by the Army.

Timetable:

Action	Date	FR Cite
NPRM	10/27/89	54 FR 43914
NPRM Comment Period End	11/27/89	54 FR 43914
Withdrawn	03/27/90	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Kenneth L. Denton, Alternate Army Liaison Officer With the Federal Register, Department of Defense, Department of the Army, Commander, U.S. Army Publications and Printing Command, ATTN: ASQZ-PGR, Alexandria, VA 22331-0302, 703 325-6297

RIN: 0702-AA19

636. AR 27-20 CLAIMS AGAINST THE UNITED STATES

Legal Authority: 10 USC 939; 10 USC 2733; 10 USC 2734; 10 USC 2736; 10 USC 2737; 10 USC 3012; 10 USC 4801 to 4804; 10 USC 4806; 28 USC 1346; 28 USC 2401; 28 USC 2407; 28 USC 2671; 32 USC 715

CFR Citation: 32 CFR 536

Legal Deadline: None

Abstract: This is a change of the Army regulatory provisions controlling the processing and settlement of administrative claims filed against the Army. This change will inform third parties of the procedures currently controlling the processing and settlement of these administrative claims by the Army.

Timetable:

Action	Date	FR Cite
NPRM	10/27/89	54 FR 43892
NPRM Comment Period End	11/27/89	54 FR 43892
Withdrawn	03/27/90	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Kenneth L. Denton, Alternate Army Liaison Officer With the Federal Register, Department of Defense, Department of the Army, Commander, U.S. Army Publications and Printing Command, ATTN: ASQZ-PGR, Alexandria, VA 22331-0302, 703 325-6297

RIN: 0702-AA20

837. AR 27-40 LITIGATION

Legal Authority: 31 USC 71; 42 USC 2651 to 2653

CFR Citation: 32 CFR 516

Legal Deadline: None

Abstract: This is a total revision of 32 CFR Part 516 which will bring it in line with changes promulgated in Army Regulation 27-40, Litigation. This regulation prescribes policy and procedures for the representation of the Department of the Army and its personnel in civilian court proceedings; litigation under the Federal Claims Collection Act, 31 USC 71, the Federal Medical Care Recovery Act, 42 USC 2651 to 2653, and other authorities; prosecution of offenses committed on military installations; and the release of information and appearance of witnesses in criminal and civil court actions.

Timetable:

Action	Date	FR Cite
Final Action	03/20/90	55 FR 10350
Final Action Effective	04/19/90	55 FR 10350

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Agency Contact: Kenneth L. Denton, Alternate Army Liaison Officer with the Federal Register, Department of Defense, Department of the Army, Commander, U.S. Army Publications and Printing Command, ATTN: ASQZ-PGR, Alexandria, VA 22331-0302, 703 325-6297

RIN: 0702–AA21

838. ● AR 210-1 - PRIVATE ORGANIZATIONS ON DEPARTMENT OF THE ARMY INSTALLATIONS

Legal Authority: 10 USC 3102

CFR Citation: 32 CFR 556

Legal Deadline: None

Abstract: This is a revision to 32 CFR Part 556 dated 1 July 1988 and to Army Regulation 210-1, 15 July 1981 and Army Regulation 1-210, 15 January 1972. This revision provides policy and procedures for authorization and operation of private organizations on Army installations and sets policy for official participation by Department of the Army agencies, commands, and personnel in activities of private organizations operating on- and off-post.

Timetable:

Action	Date	FR Cite
NPRM	06/29/90	55 FR 27104
NPRM Comment Period End	07/29/90	55 FR 27104
Final Action	07/30/90	55 FR 32243
Final Action Effective	07/30/90	55 FR 32243

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Tracy Kennedy, Department of Defense, Department of the Army, U.S. Army Community and Family Support Center, ATTN: CFSC-AE-P, Alexandria, VA 22331-0507, 703 325-9370

RIN: 0702–AA22

DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE)

Prerule Stage

839. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS, PART 325, APPENDIX D—ENDANGERED SPECIES COUNTERPART REGULATIONS

Legal Authority: 33 USC 401; 33 USC 403; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 325, App D

Legal Deadline: None

Abstract: Procedures for the protection of endangered species in the regulatory program of the Corps of Engineers. Because of the increased emphasis being placed on endangered species by the Federal and State resource agencies, the Corps identified a need to provide more definitive guidance on implementing the Endangered Species Act (ESA) in its regulatory program. The Corps is now developing counterpart regulations with the Department of Interior. The regulations will basically bring together various guidance used in the past by both the Corps and DOI. The regulations will include guidance on how the ESA Amendments impact applicants for Federal permits.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: No schedule at this time.

Agency Contact: Zoll Steever, Chief, Technical Section, Department of Defense, U.S. Army Corps of Engineers, Washington, DC 20314-1000, ATTN: CECW-OR, 202 272-1783

RIN: 0710–AA17

DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE)

Proposed Rule Stage

840. NATIONWIDE PERMIT PROGRAM

Significance: Regulatory Program

Legal Authority: 33 USC 401; 33 USC 403; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 330

Legal Deadline: None

Abstract: The Corps intends to propose revisions to 33 CFR 330. The intent of the proposed revisions will be to simplify and clarify the nationwide permit program of the Corps. The nationwide permit program is designed to authorize projects that have minimal impacts with little or no paperwork or delay. Section 330 of the regulation has

DOD—COE — Proposed Rule Stage

become so complex that this goal is no longer being met.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	02/00/91	
Final Action	07/00/91	
Final Action Effective	08/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam Collinson, Chief, Regulations Section, Department of Defense, U.S. Army Corps of Engineers, Washington, DC 20314-1000, ATTN: CECW-OR, 202 272-8189

RIN: 0710-AA20

641. PART 325, PROCESSING DEPARTMENT OF THE ARMY PERMITS

Significance: Agency Priority

Legal Authority: 33 USC 401 et seq; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 325.1(f)

Legal Deadline: None

Abstract: This regulation will provide for an increase in the fees charged by the Corps of Engineers for Department of the Army permits issued pursuant to section 10 of the River and Harbor Act of 1899, section 404 of the Clean Water Act, and section 103 of the Marine Protection Research and Sanctuaries Act. This action is being taken after an evaluation of the current fee structure by the Department of Defense Inspector General determined that the fee amounts had not been changed for a significant time. The regulation change will also restructure the fees from "permit fees" to nonrefundable application fees.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	12/00/90	
Final Action	03/00/91	
Final Action Effective	04/00/91	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Public Compliance Cost: Initial Cost: $1,000,000; Yearly Recurring Cost: $1,000,000; Base Year for Dollar Estimates: 1989

Sectors Affected: All

Agency Contact: Jack T. Chowning, Chief, Program Section, Regulatory Branch, Department of Defense, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, NW., Washington, DC 20314-1000, 202 272-1781

RIN: 0710-AA23

642. PART 326, ENFORCEMENT; CLASS II ADMINISTRATIVE PENALTIES

Significance: Agency Priority

Legal Authority: 33 USC 1319(g)

CFR Citation: 33 CFR 326.7

Legal Deadline: None

Abstract: The regulation provides the procedures for assessing Class II administrative penalties for violations of the conditions and limitations contained in permits issued by the Corps of Engineers pursuant to section 404 of the Clean Water Act. Clean Water Act Class II administrative penalties may not exceed $10,000 per day, and may not exceed a maximum of $125,000.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	02/00/91	
Final Action	04/00/91	
Final Action Effective	05/00/91	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Public Compliance Cost: Initial Cost: $1,000,000; Yearly Recurring Cost: $3,000,000; Base Year for Dollar Estimates: 1989

Sectors Affected: All

Agency Contact: Jack T. Chowning, Chief, Program Section, Regulatory Branch, Department of Defense, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, NW., Washington, DC 20314-1000, 202 272-1781

RIN: 0710-AA25

DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE)

Final Rule Stage

643. SHORELINE MANAGEMENT FEES AT CIVIL WORKS PROJECTS

Legal Authority: 16 USC 460d

CFR Citation: 36 CFR 327

Legal Deadline: None

Abstract: The Corps intends to propose a revision to 36 CFR 327. The intent of the proposed revision is to supersede the Shoreline Management Fee Schedule set forth in the Lakeshore Management Regulation dated December 13, 1974. Shoreline management fees are charged to individuals receiving permits for minor private exclusive use privileges. The proposed revision will increase the cost of shoreline management permits to current and future permit holders. This action is necessary to enable the Federal Government to recover a greater portion of the actual cost of issuing shoreline management permits.

Timetable:

Action	Date	FR Cite
NPRM	08/10/90	55 FR 32644
NPRM Comment Period End	09/24/90	55 FR 32644
Final Action	02/00/91	
Final Action Effective	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George E. Tabb, Jr., Chief, Land Management Section, Department of Defense, U.S. Army Corps of Engineers, ATTN: CECW-ON, Washington, DC 20314-1000, 202 272-0347

RIN: 0710-AA27

DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE)

Completed Actions

644. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS, PART 325, APP. C, HISTORIC PROPERTIES

Legal Authority: 33 USC 401; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 325, App C

Legal Deadline: None

Abstract: Procedure for protection of historic properties and compliance with Sections 106 and 110(f) of the National Historic Preservation Act.

Timetable:

Action	Date	FR Cite
NPRM	05/04/84	49 FR 19036
NPRM Comment Period End	06/04/84	49 FR 19036
Final Action	06/29/90	55 FR 27000
Final Action Effective	07/30/90	55 FR 27000

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: Paperwork Reduction Act Impact - The paperwork, reports, studies, etc., required of government at all levels, business and citizens will be reduced by the revised procedures.

Small Business Impact - By streamlining the procedures for obtaining a Corps permit, the regulatory burden on small businesses will be reduced.

GATT Impact - None.

Agency Contact: Sam Collinson, Chief, Regulations Section, Department of Defense, U.S. Army Corps of Engineers, Washington, DC 20314-1000, ATTN: CECW-OR, 202 272-0199

RIN: 0710-AA12

645. ● PROCESSING OF DEPARTMENT OF THE ARMY PERMITS: PROCEDURES FOR THE PROTECTION OF HISTORIC PROPERTIES

Legal Authority: 16 USC 460

CFR Citation: 33 CFR 325

Legal Deadline: None

Abstract: This regulation establishes the procedures to be followed by the U.S. Army Corps of Engineers (Corps) in its regulatory program in order to comply with the National Historic Preservation Act (NHPA), as amended, and other laws dealing with historic properties. This regulation provides for full consideration of impacts upon historic properties.

Timetable:

Action	Date	FR Cite
Final Action	06/29/90	55 FR 27000
Final Action Effective	07/30/90	55 FR 27621

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Sam Collinson, Chief, Regulatory Branch, Department of Defense, U.S. Army Corps of Engineers, ATTN: Regulatory Branch, Washington, DC 20314-1000, 202 272-1782

RIN: 0710-AA26

DEPARTMENT OF DEFENSE (DOD)
Department of the Navy (NAVY)

Final Rule Stage

646. PROCEDURES FOR IMPLEMENTING THE PROCEDURAL PROVISIONS OF THE NATIONAL ENVIRONMENTAL POLICY ACT

Legal Authority: 5 USC 301; 42 USC 4321 to 4361; 40 CFR 1500 to 1508

CFR Citation: 32 CFR 775

Legal Deadline: None

Abstract: To supplement Department of Defense (DoD) regulations by providing policy and assigning responsibilities to the Navy and Marine Corps for implementing the Council on Environmental Quality (CEQ) regulations implementing procedural provisions of the National Environmental Policy Act (NEPA).

Timetable:

Action	Date	FR Cite
NPRM	09/05/89	54 FR 36818
NPRM Comment Period End	10/05/89	54 FR 36818
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas J. Peeling, Office of the Deputy Chief of Naval Operations (Logistics), Department of Defense, Department of the Navy, 200 Stovall St., Room 10N67, Alexandria, VA 22332-2300, 703 325-7344

RIN: 0703-AA31

647. ● AVAILABILITY OF DEPARTMENT OF THE NAVY RECORDS AND PUBLICATION OF DEPARTMENT OF THE NAVY DOCUMENTS AFFECTING THE PUBLIC

Legal Authority: 5 USC 552; 5 USC 301

CFR Citation: 32 CFR 701

Legal Deadline: None

Abstract: Amends 32 CFR Part 701, to comport with DOD Regulation 5400.7R on the time limit to administratively appeal an initial denial of a Freedom of Information Act request.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/05/90	55 FR 12638
Interim Final Rule Effective	04/05/90	55 FR 12638
Interim Final Rule Comment Period End	05/07/90	55 FR 12638
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gwen Aitken, Department of Defense, Department of the Navy, Office of the Chief of Naval Operations, OP-09B30, Room 5E521, Pentagon, Washington, DC 20350-2000, 703 697-1459

RIN: 0703-AA33

648. ● ADJUSTMENTS TO PRICES UNDER SHIPBUILDING CONTRACTS

Legal Authority: 10 USC 2405

CFR Citation: 48 CFR 52

Legal Deadline: None

DOD—NAVY

Final Rule Stage

Abstract: The proposed rule defines the terminology of 10 USC 2405 and promulgates a solicitation provision and contract clause on price adjustments to shipbuilding contracts.

Timetable:

Action	Date	FR Cite
NPRM	11/16/89	54 FR 47669
NPRM Comment Period End	02/15/90	55 FR 3808
NPRM	06/29/90	55 FR 26708
NPRM Public Comment Period End	08/27/90	55 FR 23541
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Richard A. Moye, Department of Defense, Department of the Navy, Office of the Assistant Secretary of the Navy (Research, Development and Acquisition), Washington, DC 20350-1000, 703 692-5395

RIN: 0703-AA04

DEPARTMENT OF DEFENSE (DOD)
Department of the Navy (NAVY)

Completed Actions

649. ADMIRALTY CLAIMS PROVISIONS

Legal Authority: 5 USC 301; 10 USC 5013; 10 USC 5148; 10 USC 7621 to 7623; 33 CFR 700.206; 32 CFR 700.1202

CFR Citation: 32 CFR 752

Legal Deadline: None

Abstract: To revise Department of the Navy's Admiralty Claims Regulations. Revision reflects changes by the Secretary of the Navy to the delegation of authority to compromise and settle admiralty claims and corrections of statutory citations and other matters and is intended to update and clarify these agency procedural rules for better understanding by the public.

Timetable:

Action	Date	FR Cite
Final Action Effective	03/23/90	
Final Action	04/02/90	55 FR 12173

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Capt. F.C. Turner, Department of Defense, Department of the Navy, Office of the Judge Advocate General, 200 Stovall Street, Alexandria, VA 22332-2400, 703 325-9744

RIN: 0703-AA32

DEPARTMENT OF DEFENSE (DOD)
Department of the Air Force (AF)

Proposed Rule Stage

650. PUBLIC AFFAIRS POLICIES AND PROCEDURES (AFR 190-1)

Legal Authority: 10 USC 8013

CFR Citation: 32 CFR 837

Legal Deadline: None

Abstract: Describes Air Force Public Affairs program and how public affairs resources are to be managed to effectively reach public affairs goals.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maj. Martens, Department of Defense, Department of the Air Force, HQ USAF (SAF/PAR), Washington, DC 20330, 703 697-6761

RIN: 0701-AA28

651. AIR FORCE VISUAL INFORMATION SYSTEMS (AFR 700-32)

Legal Authority: 10 USC 8013

CFR Citation: 32 CFR 611

Legal Deadline: None

Abstract: Establishes policy for the management of the Air Force visual information documentation program. Establishes policy on the release, dissemination and sale of Air Force visual information materials.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ray Debney, Department of Defense, Department of the Air Force, HQ USAF/SCV, Washington, DC 20330, 703 695-6810

RIN: 0701-AA28

652. AIR FORCE PRIVACY ACT PROGRAM (AFR 12-35)

Legal Authority: 5 USC 522a

CFR Citation: 32 CFR 806b

Legal Deadline: None

Abstract: Establishes Air Force policies and procedures for implementing Privacy Act requirements for collecting, safeguarding, maintaining, using, accessing, amending, and disseminating personal information kept by the Department of the Air Force in Privacy Act systems of records.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anne W. Turner, Air Force Access Programs Manager, Department of Defense, Department of

DOD—AF

Proposed Rule Stage

the Air Force, SAF/AAIA, Washington, DC 20330-1000, 703 697-3491

RIN: 0701–AA30

653. AIR FORCE FREEDOM OF INFORMATION ACT PROGRAM (AFR 12-30)

Legal Authority: 5 USC 552

CFR Citation: 32 CFR 806

Legal Deadline: None

Abstract: Establishes Air Force policies and procedures for implementing the Freedom of Information Act (FOIA) and explains how the public may get copies of Air Force records under the FOIA.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anne W. Turner, Air Force Access Programs Manager, Department of Defense, Department of the Air Force, SAF/AAIA, Washington, DC 20330-1000, 703 697-3491

RIN: 0701–AA31

654. ◆ MAKING MILITARY PERSONNEL, EMPLOYEES, AND DEPENDENTS AVAILABLE TO CIVILIAN AUTHORITIES FOR TRIAL (AFR 111-11)

Legal Authority: 10 USC 814; 10 USC 8013; PL 100-456 Sec 721(a)

CFR Citation: 32 CFR 884

Legal Deadline: None

Abstract: Sets forth authority, policy, and procedures for making Air Force military and civilian personnel and dependents available to U.S. civil authorities for trial or other specified court appearances.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Capt. Mittermeyer, Department of Defense, Department of the Air Force, HQ USAF/JAJM, Bldg. 5683, Bolling AFB, Washington, DC 20332-6128, 202 767-1538

RIN: 0701–AA32

DEPARTMENT OF DEFENSE (DOD)
Department of the Air Force (AF)

Completed Actions

655. SCHEDULE OF FEES FOR COPYING, CERTIFYING, AND SEARCHING RECORDS AND OTHER DOCUMENTARY MATERIAL (AFR 12-32)

Legal Authority: 31 USC 9701

CFR Citation: 32 CFR 813

Legal Deadline: None

Abstract: Provides a schedule of fees for services related to copying, certifying, and searching records and other documentary material requested by the public.

Timetable:

Action	Date	FR Cite
Final Action	05/21/90	55 FR 20787
Final Action Effective	06/20/90	55 FR 20787

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anne W. Turner, Air Force Access Programs Manager, Department of Defense, Department of the Air Force, SAF/AAIA, Washington, DC 20330-1000, 703 697-3491

RIN: 0701–AA29

[FR Doc. 90-21449 Filed 10-26-90; 8:45 am]

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federal register

Monday
October 29, 1990

Part VI

Department of Education

Semiannual Regulatory Agenda

DEPARTMENT OF EDUCATION (ED)

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Subtitles A and B

Unified Agenda of Federal Regulations

AGENCY: Office of the Secretary, Education.

ACTION: Publication of the semiannual agenda of Federal regulations.

SUMMARY: The Secretary of Education publishes a semiannual agenda of Federal regulations in accordance with guidance issued by the Office of Management and Budget (OMB) issued under the authority of section 6(b) of Executive Order 12291 (Federal Regulations). The purpose of the agenda is to encourage more effective public participation in the regulatory process by giving the public early information about pending regulatory activities.

FOR FURTHER INFORMATION CONTACT: Questions or comments related to specific regulations listed in this agenda should be directed to Kenneth C. Depew, Acting Director, Division of Regulations Management, Office of the General Counsel, Department of Education, Room 2131, FOB-6, 400 Maryland Avenue SW., Washington, DC 20202-2241; telephone: (202) 401-2887.

SUPPLEMENTARY INFORMATION: Executive Order 12291, dated February 17, 1981, and the Regulatory Flexibility Act, Pub. L. 96-354, enacted September 19, 1980, require the Department of Education to publish, in October and April of each year, (1) an agenda of regulations that the Department expects to issue and (2) currently effective regulations that are under review. The agenda includes both notices of proposed rulemaking (NPRMs) currently being drafted and pending final regulations.

Under the authority of Executive Order 12291, OMB has issued guidance prescribing the content and structure of the Unified Agenda of Federal Regulations. The Unified Agenda will be issued semiannually and will cover the succeeding 12 months from the date of publication.

For each set of regulations listed, the Agenda provides the title of the document, the type of document, a citation of any rulemaking or other action taken since publication of the most recent Agenda, and planned dates of future rulemaking. In addition, the Agenda provides the following information:

- An abstract, which includes a description of the problem to be addressed, any principal alternatives being considered, and potential costs and benefits of the action.
- An indication of whether the planned action is likely to have significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601(b)).
- A reference to where a reader can find the current regulations in the Code of Federal Regulations.
- A citation of legal authority.
- The name, address, and telephone number of the contact person at the Department from whom a reader can obtain additional information regarding the planned action.
- An indication if the action is priority and the criteria used in determining the priority status.

If the "Abstract" section of an entry refers readers to the preamble, it means that amendments to those particular regulations would be designed (1) to effect regulatory relief, including reducing paperwork and compliance burdens, improving cost effectiveness, and to the extent possible, vesting greater discretion in State and local agencies; and (2) if necessary, to clarify and simplify requirements governing that program.

The Department will review all regulations to be promulgated to ensure that they reflect the principles set forth in the joint statement issued by the President and the Nation's Governors developed during the course of the Education Summit held on September 27-28, 1989, in Charlottesville, Virginia. Particular attention will be given to increasing flexibility at the State and local levels in the use of Federal funds in return for greater accountability for increasing the levels of education and training under the Department's programs.

This publication in the **Federal Register** does not impose any binding obligation on the Department with regard to any specific item on the agenda. Regulatory action in addition to the items listed is not precluded. Dates of future regulatory action are subject to revision in subsequent agendas.

Dated: August 24, 1990.

Edward C. Stringer,

General Counsel.

Departmental Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
656	Disposal and Utilization of Surplus Real Property for Educational Purposes	1880-AA42
657	State-Administered Programs (Liquidation of Obligations)	1880-AA41

Departmental Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
658	Demands for Testimony or Documents in Legal Proceedings	1880-AA45
659	Uniform Administrative Requirements for Grants and Cooperative Agreements	1880-AA34

ED

Departmental Management—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
660	Education Department General Administrative Regulations—Amendments II	1880-AA24
661	Technical Amendments to Program Regulations	1880-AA33
662	New Restrictions on Lobbying	1880-AA48

Departmental Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
663	Nondiscrimination on the Basis of Handicap in Federally Conducted Programs	1880-AA36
664	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)	1880-AA39
665	Drug-Free Schools and Campuses	1880-AA46

Office for Civil Rights—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
666	Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Federal Financial Assistance	1870-AA06

Office for Civil Rights—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
667	Nondiscrimination on the Basis of Handicap in Federally Assisted Programs - Accessibility Standards	1870-AA09
668	Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance	1870-AA05

Office of Educational Research and Improvement—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
669	Educational Partnerships Program	1850-AA40
670	The Library Services and Construction Act - State-Administered Program	1850-AA39
671	Javits Gifted and Talented Students Education Programs	1850-AA38

Office of Elementary and Secondary Education—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
672	Drug-Free Schools and Communities Program	1810-AA55

ED

Office of Elementary and Secondary Education—Completed Actions

Sequence Number	Title	Regulation Identifier Number
673	Federal, State, and Local Partnership for Educational Improvement	1810-AA49
674	Drug Free Schools and Communities Programs - Discretionary Programs	1810-AA55

Office of Planning and Budget and Evaluation—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
675	Protection of Human Subjects in Research	1875-AA07

Office of Postsecondary Education—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
676	Student Assistance General Provisions—Miscellaneous Amendments, Selective Service Registration Requirements	1840-AB19
677	Student Assistance General Provisions—Immigration Status Confirmation	1840-AB30
678	Student Assistance General Provisions—Clock Hour/ Credit Hour Amendments	1840-AB39
679	Perkins Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs—(Miscellaneous Changes)	1840-AB22
680	Perkins Loan, College Work Study and Supplemental Educational Opportunity Grant Program—Amendatory Provisions	1840-AB31
681	Guaranteed Student Loan (GSL) Program, including the Stafford Loan, PLUS Supplemental Loans for Students and Consolidation Loan Programs	1840-AA96
682	Guaranteed Student Loan (GSL) Programs, including the Stafford Loan PLUS Supplemental Loans for Students, and Consolidation Loan Programs	1840-AB36

Office of Postsecondary Education—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
683	Student Assistance General Provisions—Emergency Action	1840-AB38
684	Student Assistance General Provisions and Institutional Eligibility—Secretary's Accountability Initiative	1840-AB18
685	Student Assistance General Provisions - Verification	1840-AB07
686	Guaranteed Student Loan (GSL) Programs, including the Stafford Loan PLUS Supplemental Loans for Students, and Consolidation Loan Programs—Default Reduction Initiative	1840-AB32
687	Pell Grant Program - Revision of Deadline for Submission of Reports	1840-AB34

Office of Postsecondary Education—Completed Actions

Sequence Number	Title	Regulation Identifier Number
688	Paul Douglas Teacher Scholarship Program and Guaranteed Student Loan and PLUS Programs—Targeted Teacher Deferments	1840-AB03

ED

Office of Special Education and Rehabilitative Services—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
689	The State Vocational Rehabilitation Services Program - Deregulation	1820-AA47
690	Rehabilitation Services Administration General Deregulation	1820-AA45
691	The State Supported Employment Services Program	1820-AA48
692	The State Independent Living Rehabilitation Services Program - Deregulation	1820-AA37
693	Centers for Independent Living - Standards and Evaluation Indicators	1820-AA91

Office of Special Education and Rehabilitative Services—Completed Actions

Sequence Number	Title	Regulation Identifier Number
694	Chapter 1 - State Operated or Supported Programs for Handicapped Children	1820-AA83
695	Technology Related Assistance for Individuals with Disabilities: Demonstration and Innovation Projects of National Significance	1820-AA87

Office of Vocational and Adult Education—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
696	Technology Education Demonstration Program	1830-AA07

Office of Intergovernmental and Interagency Affairs—Completed Actions

Sequence Number	Title	Regulation Identifier Number
697	Intergovernmental Review of Department of Education Programs and Activities—List of Programs	1860-AA00

Office of the General Counsel—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
698	Equal Access to Justice	1801-AA01

DEPARTMENT OF EDUCATION (ED)
Departmental Management (EDMAN)

Proposed Rule Stage

658. ● DISPOSAL AND UTILIZATION OF SURPLUS REAL PROPERTY FOR EDUCATIONAL PURPOSES

Legal Authority: 40 USC 484

CFR Citation: 34 CFR 012

Legal Deadline: None

Abstract: See Preamble

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	02/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David B. Hakola, Office of the Administrator for Management Services, Department of Education, 400 Maryland Avenue, SW., Room 1175 - FOB-6, Washington, DC 20202-4532, 202 401-0388

RIN: 1860-AA42

ED—EDMAN

Proposed Rule Stage

657. STATE-ADMINISTERED PROGRAMS (LIQUIDATION OF OBLIGATIONS)

Legal Authority: 20 USC 1221e-3(a)(1); 20 USC 3474

CFR Citation: 34 CFR 076

Legal Deadline: None

Abstract: These proposed regulations would provide flexibility to States in administering Federal grants by extending the time period for liquidation of certain kinds of obligations under State- administered programs of the Department.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	02/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mary Hughes, Grants and Contracts Service, Office of Management, Department of Education, 400 Maryland Avenue, SW., Room 3636, ROB-3, Washington, DC 20202, 202 708-5580

RIN: 1880–AA41

DEPARTMENT OF EDUCATION (ED)
Departmental Management (EDMAN)

Final Rule Stage

654. ● DEMANDS FOR TESTIMONY OR DOCUMENTS IN LEGAL PROCEEDINGS

Legal Authority: 5 USC 301; 5 USC 552; 20 USC 3474

CFR Citation: 34 CFR 008

Legal Deadline: None

Abstract: These regulations establish procedures for departmental response to subpoenas or other demands for departmental employees to testify in private litigations or other proceedings.

Timetable:

Action	Date	FR Cite
Final Action	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Wexler, Office of the General Counsel, Department of Education, 400 Maryland Avenue, SW., Room 4122, FOB-6, Washington, DC 20202-2243, 202 401-3000

RIN: 1880–AA45

653. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Legal Authority: 20 USC 1221e-3(a)(1)

CFR Citation: 34 CFR 074; 34 CFR 080

Legal Deadline: None

Abstract: These regulations remove Part 80 and revise Part 74 to establish certain government-wide administrative requirements for grants and cooperative agreements to State and local governments, institutions of higher education, hospitals, and nonprofit and commercial organizations. These regulations are based on an OMB proposal to combine OMB Circulars A-102 (Grants and Cooperative Agreements with State and Local Governments) and A-110 (Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations) into a single, unified grants management circular. The revised circular, for the first time, also applies these administrative requirements to commercial organizations that receive grants or cooperative agreements.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44716
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mary Hughes, Grants and Contracts Service, Office of Management, Department of Education, 400 Maryland Ave., SW., Room 3636, ROB-3, Washington, DC 20202, 202 708-5580

RIN: 1880–AA34

650. EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS—AMENDMENTS II

Legal Authority: 20 USC 1221e-3(a)(1)

CFR Citation: 34 CFR 074; 34 CFR 075; 34 CFR 076; 34 CFR 077; 34 CFR 237; 34 CFR 253; 34 CFR 356; 34 CFR 562; 34 CFR 630; 34 CFR 653; 34 CFR 762

Legal Deadline: None

Abstract: See Preamble. The Department is proposing miscellaneous amendments to update and improve the regulations in 34 CFR Parts 74, 75, 76, and 77 of the Education Department General Administrative Regulations (EDGAR).

Timetable:

Action	Date	FR Cite
NPRM	08/18/88	54 FR 31580
Final Action	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mary Hughes, Grants and Contracts Service, Office of Management, Department of Education, 400 Maryland Ave., SW (Rm. 3636, ROB-3), Washington, DC 20202, 202 708-5580

RIN: 1880–AA24

681. TECHNICAL AMENDMENTS TO PROGRAM REGULATIONS

Legal Authority: 20 USC 1221e-3(a)(1)

CFR Citation: 34 CFR 080

Legal Deadline: None

Abstract: On November 4, 1988, the Department published an NPRM proposing to establish certain governmentwide administrative requirements for grants and cooperative agreements to State and local governments, institutions of higher education, hospitals, and non-profit and commercial organizations. The regulations would appear in a revised 34 CFR Part 74. These amendments to program regulations specify the extent to which the revised Part 74 regulations apply to the programs of the Department. The regulations also specify statutorily required deviations to the revised Part 74 regulations.

ED—EDMAN

Final Rule Stage

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mary Hughes, Grants and Contracts Service, Office of Management, Department of Education, 400 Maryland Ave., SW., Room 3636, ROB-3, Washington, DC 20202, 202 708-5589

RIN: 1880-AA33

562. ● NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: 31 USC 1352

CFR Citation: 34 CFR 082

Legal Deadline: None

Abstract: These regulations implement provisions to prohibit recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Mary Hughes, Grants and Contracts Service, Department of Education, 400 Maryland Avenue, SW., ROB-3, Room 3636, Washington, DC 20202, 202 708-5589

RIN: 1880-AA48

DEPARTMENT OF EDUCATION (ED)
Departmental Management (EDMAN)

Completed Actions

563. NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY CONDUCTED PROGRAMS

CFR Citation: 34 CFR 105

Completed:

Reason	Date	FR Cite
Final Action	09/07/90	55 FR 37166
Final Action Effective	10/09/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Kilpatrick 202 401-3589

RIN: 1880-AA38

564. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Significance: Regulatory Program

CFR Citation: 34 CFR 085

Completed:

Reason	Date	FR Cite
Final Action	05/25/90	55 FR 21679
Final Action Effective	07/24/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Mary Jane Kane 202 708-5589

RIN: 1880-AA39

565. DRUG-FREE SCHOOLS AND CAMPUSES

CFR Citation: 34 CFR 086

Completed:

Reason	Date	FR Cite
Final Action	08/16/90	55 FR 33580
Final Action Effective	09/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William H. Wootea 202 401-8709

RIN: 1880-AA40

DEPARTMENT OF EDUCATION (ED)
Office for Civil Rights (OCR)

Proposed Rule Stage

566. NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Legal Authority: 20 USC 1681

CFR Citation: 34 CFR 106

Legal Deadline: None

Abstract: These proposed regulations would amend the fringe benefits provision of the regulations implementing Title IX of the Education Amendments of 1972. The regulations would require employers offering employees a fringe benefit plan to have both equal pay-in and equal pay-out provisions, regardless of the sex of the employee.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
Final Action	06/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael L. Williams, Assistant Secretary for Civil Rights, Department of Education, Office for Civil Rights, 400 Maryland Ave, SW., Rm 5000, Switzer Bldg., Washington, DC 20202, 202 732-1213

RIN: 1870-AA06

DEPARTMENT OF EDUCATION (ED)
Office for Civil Rights (OCR)

Final Rule Stage

667. NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED PROGRAMS - ACCESSIBILITY STANDARDS

Legal Authority: 29 USC 794; 20 USC 1405

CFR Citation: 34 CFR 104

Legal Deadline: None

Abstract: These amendments include a cross-reference to the Uniform Federal Accessibility Standards in federally assisted programs or activities.

Timetable:

Action	Date	FR Cite
NPRM	03/09/89	54 FR 9966
NPRM Comment Period End	05/08/89	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael L. Williams, Assistant Secretary for Civil Rights, Department of Education, Office for Civil Rights, 400 Maryland Ave., SW., Room 5000, Switzer Bldg., Washington, DC 20202, 202 732-1213

RIN: 1870-AA09

668. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Legal Authority: 42 USC 6101 et seq

CFR Citation: 34 CFR 110

Legal Deadline: None

Abstract: These agency-specific final regulations provide appropriate investigative, conciliation, and enforcement procedures consistent with the general Age Discrimination Act regulations issued by the Department of Health and Human Services.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael L. Williams, Assistant Secretary for Civil Rights, Department of Education, Office for Civil Rights, 400 Maryland Ave, SW., Room 5000, Switzer Bldg., Washington, DC 20202, 202 732-1213

RIN: 1870-AA05

DEPARTMENT OF EDUCATION (ED)
Office of Educational Research and Improvement (OERI)

Proposed Rule Stage

669. ● EDUCATIONAL PARTNERSHIPS PROGRAM

Legal Authority: 20 USC 5031; 20 USC 5032; 20 USC 5033; 20 USC 5034; 20 USC 5035; 20 USC 5036; 20 USC 5037; 20 USC 5038; 20 USC 5039

CFR Citation: 34 CFR 722

Legal Deadline: None

Abstract: These regulations would implement the Educational Partnerships Program as authorized in the Educational Partnerships Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
Final Action	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lois N. Weinberg, Programs for the Improvement of Practice, Department of Education, Office of Educational Research and Improvement, 555 New Jersey Avenue, NW., Room 510, Washington, DC 20208-5645, 202 357-6187

RIN: 1850-AA40

670. ● THE LIBRARY SERVICES AND CONSTRUCTION ACT - STATE-ADMINISTERED PROGRAM

Legal Authority: 20 USC 351 et seq

CFR Citation: 34 CFR 770

Legal Deadline: None

Abstract: These regulations would implement the Library Services and Construction Act Amendments of 1990.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	02/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Klassen, Director, Public Library Support Staff, Department of Education, Office of Educational Research and Improvement, 555 New Jersey Avenue, NW., Room 402L, Washington, DC 20208-5571, 202 357-6303

RIN: 1850-AA39

671. ● JAVITS GIFTED AND TALENTED STUDENTS EDUCATION PROGRAMS

Legal Authority: 20 USC 3061; 20 USC 3062; 20 USC 3063; 20 USC 3064; 20 USC 3065; 20 USC 3066; 20 USC 3067; 20 USC 3068

CFR Citation: 34 CFR 791

Legal Deadline: None

Abstract: These regulations would implement the Jacob K. Javits Gifted and Talented Students Education Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	12/00/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, State

Agency Contact: L. Ann Benjamin, Programs for the Improvement of Practice, Department of Education, Office of Educational Research and Improvement, 555 New Jersey Avenue, NW., Room 504, Washington, DC 20208-5643, 202 357-6187

RIN: 1850-AA38

DEPARTMENT OF EDUCATION (ED)
Office of Elementary and Secondary Education (OESE)

Final Rule Stage

572. DRUG-FREE SCHOOLS AND COMMUNITIES PROGRAM

Legal Authority: 20 USC 2316; 20 USC 3196; 20 USC 3211; 20 USC 3212

CFR Citation: 34 CFR 231; 34 CFR 232; 34 CFR 233; 34 CFR 234; 34 CFR 235; 34 CFR 236

Legal Deadline: None

Abstract: These regulations would implement certain provisions of the Drug-Free Schools and Communities Act Amendments of 1989.

Timetable:

Action	Date	FR Cite
NPRM	06/16/90	55 FR 33616
Final Action	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This document is combined with 1810-AA55.

Agency Contact: Allen King, Director, Drug-Free Schools and Communities Division, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Avenue, SW., Room 2135, Washington, DC 20202, 202 401-1599

RIN: 1810-AA58

DEPARTMENT OF EDUCATION (ED)
Office of Elementary and Secondary Education (OESE)

Completed Actions

573. FEDERAL, STATE, AND LOCAL PARTNERSHIP FOR EDUCATIONAL IMPROVEMENT

CFR Citation: 34 CFR 298; 34 CFR 76; 34 CFR 80

Completed:

Reason	Date	FR Cite
Final Action	04/16/90	55 FR 14610
Final Action Effective	06/14/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lee Wickline 202 401-1962

RIN: 1810-AA49

574. DRUG FREE SCHOOLS AND COMMUNITIES PROGRAMS - DISCRETIONARY PROGRAMS

CFR Citation: 34 CFR 232; 34 CFR 233

Completed:

Reason	Date	FR Cite
Withdrawn	08/15/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Allen King 202 401-1599

RIN: 1810-AA55

DEPARTMENT OF EDUCATION (ED)
Office of Planning and Budget and Evaluation (OPBE)

Final Rule Stage

575. PROTECTION OF HUMAN SUBJECTS IN RESEARCH

Legal Authority: 5 USC 301

CFR Citation: 34 CFR 097

Legal Deadline: None

Abstract: These regulations implement procedures to protect human research subjects and implement a recommendation from the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research. The regulations set forth a common Federal policy for the protection of human subjects accepted by the Office of Science and Technology Policy in the Executive Office of the President.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45661
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ed Glassman, Evaluation Systems Expert, Department of Education, Office of Planning and Budget and Evaluation, 400 Maryland Ave., SW., (Room 3127-FOB-6), Washington, DC 20202, 202 401-3132

RIN: 1875-AA07

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DEPARTMENT OF EDUCATION (ED)

Office of Postsecondary Education (OPE)

Proposed Rule Stage

676. STUDENT ASSISTANCE GENERAL PROVISIONS—MISCELLANEOUS AMENDMENTS, SELECTIVE SERVICE REGISTRATION REQUIREMENTS

Legal Authority: 20 USC 1085; 20 USC 1088; 20 USC 1091; 20 USC 1092; 20 USC 1094; 20 USC 1141

CFR Citation: 34 CFR 668

Legal Deadline: None

Abstract: These proposed regulations would amend the provisions related to selective service requirements, implement provisions of the Omnibus Budget Reconciliation Act of 1990, PL 101-239, and make other miscellaneous changes in the student assistance general provisions.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
Final Action	06/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carney M. McCullough, Chief, Policy Section, Pell Grant Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue, SW., Room 4318 - ROB-3, Washington, DC 20202, 202 708-7888

RIN: 1840-AB19

677. STUDENT ASSISTANCE GENERAL PROVISIONS—IMMIGRATION STATUS CONFIRMATION

Legal Authority: 20 USC 1091; 20 USC 1092; 20 USC 1094

CFR Citation: 34 CFR 668

Legal Deadline: None

Abstract: These proposed regulations would establish rules by which an educational institution must confirm the immigration status of certain non-citizen applicants for student financial assistance.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	
Final Action	10/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Claude E. Denton, Student Verification Branch, Division, Policy and Program Development, Department of Education, Office of Postsecondary Education, (Rm. 4613, ROB-3), 400 Maryland Avenue, SW., Washington, DC 20202, 202 708-4681

RIN: 1840-AB30

678. ● STUDENT ASSISTANCE GENERAL PROVISIONS—CLOCK HOUR/ CREDIT HOUR AMENDMENTS

Legal Authority: 20 USC 1082; 20 USC 1085; 20 USC 1088; 20 USC 1091; 20 USC 1094; 20 USC 1141

CFR Citation: 34 CFR 668

Legal Deadline: None

Abstract: These regulations would eliminate a serious abuse of the student financial aid programs by establishing a formula for converting actual clock hours of attendance into credit hours in under- graduate vocational programs that desire to use credit hour measurement of educational programs for purposes of the student financial assistance programs.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	02/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jeff Andrade, Pell Grant Branch, Office of Student Financial Assistance, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue, SW., Washington, DC 20202, 202 708-7888

RIN: 1840-AB39

679. PERKINS LOAN, COLLEGE WORK-STUDY, AND SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAMS—(MISCELLANEOUS CHANGES)

Legal Authority: 20 USC 1070b to 1070b-3; 20 USC 1087aa to 1087hh; 42 USC 2751 to 2756a

CFR Citation: 34 CFR 674; 34 CFR 675; 34 CFR 676

Legal Deadline: None

Abstract: These proposed regulations would further implement provisions of the Higher Education Amendments of 1986. The regulations would also establish procedures that would make the Supplemental Educational Opportunity Grant Program consistent with the Pell Grant Program with respect to collection of outstanding overpayments.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Harold F. McCullough, Chief, Policy Section, Campus & State Grant Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue, SW., Room 4618 - ROB-3, Washington, DC 20202, 202 708-4600

RIN: 1840-AB22

680. PERKINS LOAN, COLLEGE WORK STUDY AND SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM—AMENDATORY PROVISIONS

Legal Authority: 20 USC 1070b to 1070b-3; 20 USC 1087aa to 1087hh; 42 USC 2751 to 2756a

CFR Citation: 34 CFR 674; 34 CFR 675; 34 CFR 676

Legal Deadline: None

Abstract: These regulations are needed to make technical corrections to the campus based student financial assistance program regulations published on December 1, 1987.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
Final Action	06/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Harold F. McCullough, Chief, Policy Section, Campus and State Grant Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue, S.W. Room 4618, ROB-3, Washington, DC 20202, 202 708-4600

RIN: 1840-AB31

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Proposed Rule Stage

681. GUARANTEED STUDENT LOAN (GSL) PROGRAM, INCLUDING THE STAFFORD LOAN, PLUS SUPPLEMENTAL LOANS FOR STUDENTS AND CONSOLIDATION LOAN PROGRAMS

Legal Authority: 20 USC 1071 et seq

CFR Citation: 34 CFR 682

Legal Deadline: None

Abstract: These regulations would implement certain provisions of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (PL 99-498), and subsequent amendments, and policy changes.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	06/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Pamela Moran, Chief, Policy Section, Guaranteed Student Loan Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., SW., (Rm. 4310 ROB-3), Washington, DC 20202, 202 708-8242

RIN: 1840-AA96

682. GUARANTEED STUDENT LOAN (GSL) PROGRAMS, INCLUDING THE STAFFORD LOAN PLUS SUPPLEMENTAL LOANS FOR STUDENTS, AND CONSOLIDATION LOAN PROGRAMS

Legal Authority: 20 USC 1071 to 1087-2

CFR Citation: 34 CFR 682

Legal Deadline: None

Abstract: These regulations would implement certain provisions of the Higher Education Act of 1965, as amended by the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-239).

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	
Final Action	08/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pamela Moran, Chief, Policy Section, Guaranteed Student Loan Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue, SW., Washington, DC 20202, 202 708-8242

RIN: 1840-AB36

DEPARTMENT OF EDUCATION (ED)
Office of Postsecondary Education (OPE)

Final Rule Stage

683. ● STUDENT ASSISTANCE GENERAL PROVISIONS—EMERGENCY ACTION

Legal Authority: 20 USC 1141; 20 USC 1094

CFR Citation: 34 CFR 600; 34 CFR 668

Legal Deadline: None

Abstract: These regulations will implement emergency actions against educational institutions and adopt the court's interpretation of the Higher Education Act in Continental Training Services, Inc., d/b/a Superior Training Services v. Lauro Cavazos, Secretary of Education, et al. (7th Cir. 1990.)

Timetable:

Action	Date	FR Cite
NPRM; Cross Reference	06/07/90	55 FR 32186
Final Action	06/07/90	55 FR 32180
Final Action	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Frohlicher, Division of Eligibility and Certification, Department of Education, Office of Postsecondary Education, 400 Maryland Ave, SW., Washington, DC 20202-5323, 202 708-5794

RIN: 1840-AB38

684. STUDENT ASSISTANCE GENERAL PROVISIONS AND INSTITUTIONAL ELIGIBILITY—SECRETARY'S ACCOUNTABILITY INITIATIVE

Legal Authority: 20 USC 1085; 20 USC 1088; 20 USC 1091; 20 USC 1092; 20 USC 1094; 20 USC 1141

CFR Citation: 34 CFR 600; 34 CFR 668

Legal Deadline: None

Abstract: These regulations would achieve better accountability in the student financial aid programs. Proposed amendments to Section 668.12 were published in this proposed rule on March 17, 1989; and have been published as separate final regulations on 11/3/89, 54 FR 46536. Effective date of those regulations (Section 668. 12) was 12/23/89.

Timetable:

Action	Date	FR Cite
NPRM	03/17/89	54 FR 11364
NPRM Comment Period End	05/01/89	
Final Action	05/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John DeClaire, Pell Grant Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue, SW., Room 4318, ROB-3, Washington, DC 20202, 202 708-7888

RIN: 1840-AB18

685. STUDENT ASSISTANCE GENERAL PROVISIONS - VERIFICATION

Legal Authority: 20 USC 1085; 20 USC 1088; 20 USC 1091; 20 USC 1092; 20 USC 1094; 20 USC 1141

CFR Citation: 34 CFR 668

Legal Deadline: None

Abstract: These regulations implement certain provisions of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (PL 99-498), the Tax Reform Act of 1986, the Compact of Free Association,

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and Higher Education Technical Amendments of 1987.

Timetable:

Action	Date	FR Cite
NPRM	10/31/89	54 FR 45984
Final Action	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lorraine Kennedy, Student Verification Branch, Division of Policy and Program Development, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., SW., (Room 4613 - ROB-3), Washington, DC 20202, 202 708-4681

RIN: 1840-AD07

668. GUARANTEED STUDENT LOAN (GSL) PROGRAMS, INCLUDING THE STAFFORD LOAN PLUS SUPPLEMENTAL LOANS FOR STUDENTS, AND CONSOLIDATION LOAN PROGRAMS—DEFAULT REDUCTION INITIATIVE

Legal Authority: 20 USC 1071 to 1087-2

CFR Citation: 34 CFR 682

Legal Deadline: None

Abstract: These regulations establish several additional procedures that the Secretary would use to implement the Default Reduction Initiative.

Timetable:

Action	Date	FR Cite
NPRM	06/05/89	54 FR 24128
Final Action	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Pamela Moran, Chief, Policy Section, Guaranteed Student Loan Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., S.W., Room 4310, ROB-3, Washington, DC 20202, 202 708-8242

RIN: 1840-AB32

667. PELL GRANT PROGRAM - REVISION OF DEADLINE FOR SUBMISSION OF REPORTS

Legal Authority: 20 USC 1070a to 1070a-6

CFR Citation: 34 CFR 690

Legal Deadline: None

Abstract: These regulations would revise several terms in the current regulations and implement a statutory change resulting from the Consolidated Omnibus Budget Reconciliation Act of 1985 (PL 99-272).

Timetable:

Action	Date	FR Cite
NPRM	09/12/90	55 FR 37610
Final Action	12/10/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carney M. McCullough, Chief, Policy Section, Pell Grant Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Ave. S.W. Room 4318, ROB-3, Washington, DC 20202, 202 708-7888

RIN: 1840-AB34

DEPARTMENT OF EDUCATION (ED)

Office of Postsecondary Education (OPE)

Completed Actions

666. PAUL DOUGLAS TEACHER SCHOLARSHIP PROGRAM AND GUARANTEED STUDENT LOAN AND PLUS PROGRAMS—TARGETED TEACHER DEFERMENTS

CFR Citation: 34 CFR 653; 34 CFR 682

Completed:

Reason	Date	FR Cite
Final Action	06/27/90	55 FR 35002

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pamela Moran 202 708-8242

RIN: 1840-AB03

DEPARTMENT OF EDUCATION (ED)

Office of Special Education and Rehabilitative Services (OSERS)

Proposed Rule Stage

669. THE STATE VOCATIONAL REHABILITATION SERVICES PROGRAM - DEREGULATION

Legal Authority: 29 USC 701 to 731

CFR Citation: 34 CFR 361

Legal Deadline: None

Abstract: See Preamble

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	07/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Neil C. Carney, Commissioner, Rehabilitation Services Administration, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue, SW., Room 3028, Switzer Building, Washington, DC 20202-1550, 202 732-1282

RIN: 1820-AA47

690. REHABILITATION SERVICES ADMINISTRATION GENERAL DEREGULATION

Legal Authority: 20 USC 107 et seq; 29 USC 701 et seq

CFR Citation: 34 CFR 362; 34 CFR 366; 34 CFR 368; 34 CFR 371; 34 CFR 372; 34 CFR 374; 34 CFR 375; 34 CFR 378; 34 CFR 379; 34 CFR 385; 34 CFR 386; 34 CFR 387; 34 CFR 388; 34 CFR 389; 34 CFR 390

Legal Deadline: None

Abstract: See Preamble

ED—OSERS **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ADDITIONAL CFR CITATION: 34 CFR 395.

Agency Contact: Nell C. Carney, Commissioner, Rehabilitative Services Administration, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue, SW., Room 3028, Switzer Building, Washington, DC 20202, 202 732-1282

RIN: 1820–AA45

691. THE STATE SUPPORTED EMPLOYMENT SERVICES PROGRAM

Legal Authority: 29 USC 795j to 795q

CFR Citation: 34 CFR 363

Legal Deadline: None

Abstract: These regulations are needed to address grantee implementation problems resulting from non-statutory restrictions in current regulations.

Timetable:

Action	Date	FR Cite
ANPRM	02/13/90	55 FR 5132
ANPRM Comment Period End	04/16/90	
NPRM	11/00/90	
NPRM Comment Period End	01/00/91	
Final Action	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nell C. Carney, Commissioner, Rehabilitation Services Administration, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue, SW., Room 3028, Switzer Building, Washington, DC 20202-1550, 202 732-1282

RIN: 1820–AA66

692. THE STATE INDEPENDENT LIVING REHABILITATION SERVICES PROGRAM - DEREGULATION

Significance: Regulatory Program

Legal Authority: 29 USC 796 to 796d-1

CFR Citation: 34 CFR 365

Legal Deadline: None

Abstract: See Preamble

Timetable:

Action	Date	FR Cite
ANPRM	06/27/88	53 FR 24175
NPRM	12/00/90	
Final Action	06/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Nell C. Carney, Commissioner, Rehabilitation Services Administration, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue, SW., (Rm. 3028, Switzer Building), Washington, DC 20202, 202 732-1282

RIN: 1820–AA37

693. CENTERS FOR INDEPENDENT LIVING - STANDARDS AND EVALUATION INDICATORS

Legal Authority: 20 USC 796e

CFR Citation: 34 CFR 366

Legal Deadline: NPRM, Statutory, July 1, 1988.

Abstract: These proposed regulations would implement certain changes to the Rehabilitation Act of 1973 made by the Rehabilitation Act Amendments of 1988.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Nell C. Carney, Commissioner, Rehabilitation Services Administration, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue, SW., Room 3028 - Switzer Bldg., Washington, DC 20202-1550, 202 732-1282

RIN: 1820–AA81

DEPARTMENT OF EDUCATION (ED)

Office of Special Education and Rehabilitative Services (OSERS)

Completed Actions

694. CHAPTER 1 - STATE OPERATED OR SUPPORTED PROGRAMS FOR HANDICAPPED CHILDREN

CFR Citation: 34 CFR 302

Completed:

Reason	Date	FR Cite
Final Action	06/24/90	55 FR 34842

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rhonda Weiss 202 732-1278

RIN: 1820–AA83

695. TECHNOLOGY RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES: DEMONSTRATION AND INNOVATION PROJECTS OF NATIONAL SIGNIFICANCE

CFR Citation: 34 CFR 346

Completed:

Reason	Date	FR Cite
Final Action	08/13/90	55 FR 33068
Final Action Effective	09/27/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Betty Jo Berland 202 732-1139

RIN: 1820–AA87

DEPARTMENT OF EDUCATION (ED)
Office of Vocational and Adult Education (OVAE)

Final Rule Stage

894. TECHNOLOGY EDUCATION DEMONSTRATION PROGRAM

Legal Authority: 20 USC 5101; 20 USC 5102; 20 USC 5103; 20 USC 5104; 20 USC 5105; 20 USC 5106

CFR Citation: 34 CFR 445

Legal Deadline: None

Abstract: These regulations would implement certain provisions of the Omnibus Trade and Competitiveness Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	07/09/90	55 FR 28136
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Jones, Program Analyst, Department of Education, Office of Vocational and Adult Education, 400 Maryland Avenue, SW., Room 4531, Switzer Building, Washington, DC 20202, 202 732-2470

RIN: 1830–AA07

DEPARTMENT OF EDUCATION (ED)
Office of Intergovernmental and Interagency Affairs (EDSI)

Completed Actions

887. INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF EDUCATION PROGRAMS AND ACTIVITIES—LIST OF PROGRAMS

CFR Citation: 34 CFR 79

Completed:

Reason	Date	FR Cite
Final Action	05/25/90	55 FR 21712
Final Action Effective	07/19/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: James Roberts 202 401-3668

RIN: 1860–AA00

DEPARTMENT OF EDUCATION (ED)
Office of the General Counsel (EDOGC)

Proposed Rule Stage

896. EQUAL ACCESS TO JUSTICE

Legal Authority: 5 USC 504

CFR Citation: 34 CFR 21

Legal Deadline: None

Abstract: These regulations would amend the procedures for the award of fees and other expenses to applicants who prevail in adversary adjudications before the Department of Education.

The current regulations must be amended to reflect amendments to the Equal Access to Justice Act made by P.L. 99-80.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
Final Action	05/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jo-Ann Frey, General Attorney, Department of Education, Office of the General Counsel, 400 Maryland Ave., SW., Room 4122, Washington, DC 20202, 202 401-3600

RIN: 1801–AA01

[FR Doc. 90-21450 Filed 10-26-90; 8:45 am]
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federal register

Monday
October 29, 1990

Part VII

Department of Energy

Semiannual Regulatory Agenda

DEPARTMENT OF ENERGY (DOE)

DEPARTMENT OF ENERGY

48 CFR Chs. 2, 10, and X

48 CFR Ch. 9

Regulatory Agenda

AGENCY: Department of Energy.

ACTION: October 1990 regulatory agenda.

SUMMARY: In order to make government more responsive to the citizens of the United States and to assist in fulfilling the President's commitment to lessen regulatory burdens, the Department of Energy (DOE) is publishing this Regulatory Agenda of: (i) Rulemakings currently in progress and rulemakings which currently are expected to begin during the coming year; (ii) any existing rules which are being reviewed within DOE to determine whether modifications should be proposed based upon experience; and (iii) rulemakings and rule reviews which have been completed since publication of the last Regulatory Agenda in April 1990. This Regulatory Agenda also contains information on any rulemakings which are likely to have a significant economic impact on a substantial number of small entities, and it contains additional data on procurement-related actions.

FOR FURTHER INFORMATION CONTACT:

General: For further information on the Regulatory Agenda in general, please contact: Theodore ("Ted") Wilson, DOE, Room 8A-141, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9507.

Specific: For further information about any particular item on the Regulatory Agenda, please contact the individual listed under that item.

SUPPLEMENTARY INFORMATION:

Covered agencies publish regulatory agendas under Executive Order 12291 in April and October of each year. Under the Executive order, the Office of Management and Budget (OMB) sets standards and procedures for the preparation of these agendas. Regulatory agendas are important to efforts to reduce the burdens of existing and future regulations, to increase agency accountability for regulatory actions, to provide for Presidential oversight of the regulatory process, to minimize duplication and conflict of regulations, and to insure well-reasoned regulations. DOE has made considerable progress in these efforts.

Executive Order 12291 provides that the regulatory agenda may be incorporated with the "regulatory flexibility agenda" required under the Regulatory Flexibility Act, 5 U.S.C. 602 *et seq.* The regulatory flexibility agenda must cover any rule which the agency expects to propose or promulgate which is "likely to have a significant economic impact on a substantial number of small entities." Its information requirements are similar to those of the Executive order. The regulatory flexibility agenda required under 5 U.S.C. 602(a) is incorporated in today's notice.

The Office of Federal Procurement Policy Act Amendments of 1988, 41 U.S.C. 402, require publication twice a year of a "Procurement Regulatory Activity Report." As determined by OMB, agency information is now in the agenda for use by the Office of Federal Procurement Policy (OFPP) in producing these reports.

Entries appended to this notice reflect the status of activities as of approximately August 15, 1990. They are divided into categories first by subagency and then according to their stage of rulemaking action: Prerule, proposed rulemaking, final rulemaking, or completed action.

Appended entries contain the following information: (1) The organizational unit responsible for the regulation; (2) the Regulation Indentifier Number (RIN) assigned by OMB/OIRA; (3) title; (4) significance (that is, whether the regulation appears in the Regulatory Program, prepared annually under Executive Order 12498, and if it does not, whether it is nevertheless a DOE priority); (5) the name, title, address, and telephone number of a person who is knowledgeable about the regulation; (6) effects on small business (that is, whether the action is likely to have a significant economic impact on a substantial number of "small entities" as defined by the Regulatory Flexibility Act) and effects on Federal, State, and local governments; (7) CFR citation (that is, the portion of the Code of Federal Regulations that will be affected); (8) legal authority (that is, a citation to the section of the United States Code (USC), Public Law (PL), or Executive order (EO) that authorizes the regulatory action); (9) abstract (that is, a description of the problem the regulation will address, the regulatory approach under consideration, the alternatives being considered for addressing the problem, and the potential costs and benefits of the action); (10) legal deadline (that is, the statutory or judicial deadline, if any); and (11) timetable (that is, the dates and citations, if applicable, for all past stages and, generally, the date for at least the next stage of the rulemaking). The timetable for completed actions (that is, regulations completed or withdrawn and reviews completed since the preceding Regulatory Agenda) gives the completion date and the citation, if appropriate.

For each procurement-related regulatory action, additional information is provided in the Additional Information data element (Block A): (1) A statement that the action is procurement-related; (2) whether there is a statutory requirement for the action; and (3) whether there is a paperwork burden associated with the action.

Recent organizational changes have affected the designations of some of the individual entries. The Secretary has approved reorganization of the functions of the Assistant Secretary, Management and Administration (MA), and established three successor organizations: (1) Office of Procurement and Assistance Management (PR); (2) Office of Financial Management and Controller (CR); and (3) Office of Administration and Human Resource Management (AD). Of the three offices, PR is involved in the largest number of rulemakings. Of the MA rules carried forward from the prior Regulatory Agenda, PR is the primary office for all but one, which is being developed by CR.

Accordingly, effective with this Regulatory Agenda, the heading "Management and Administration" is changed to "Procurement and Assistance Management." Any AD and CR rules will be listed under "Departmental and Others," a general heading under which rules of several DOE components are carried.

A draft of this Regulatory Agenda has been transmitted to the Chief Counsel for Advocacy of the Small Business Administration for comment, if any, pursuant to 5 U.S.C. 602(b).

DOE

DOE's next Regulatory Agenda will be published in April 1991.

Issued in Washington, DC, on September 10, 1990.

Stephen A. Wakefield,

General Counsel.

Conservation and Renewable Energy—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
699	Energy Efficiency Standards for Water Heaters, Pool Heaters, Direct Heating Equipment, Mobile Home Furnaces, Kitchen Ranges & Ovens, Room Air Conditioners, Fluorescent Lamp Ballasts, (cont)	1904-AA28

Conservation and Renewable Energy—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
700	Energy Conservation Performance Standards for New Buildings; Subpart B - Voluntary Performance Standards for New Non-Federal Residential Buildings	1904-AA24
701	Equivalent Petroleum-Based Fuel Economy Calculation for Electric Vehicles	1904-AA49

Conservation and Renewable Energy—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
702	Federal Energy Management and Planning Programs; Methodology and Procedures for Life Cycle Costing Analyses	1904-AA06
703	Energy Conservation Performance Standards for New Buildings; Subpart A - Commercial and Multi-Family High Rise Residential Buildings	1904-AA08
704	Energy Efficiency Test Procedures for Water Heaters	1904-AA12
705	Energy Conservation Performance Standards for New Buildings; Subpart C - Mandatory Performance Standards for New Federal Residential Buildings	1904-AA27
706	Energy Conservation Standards for Water Heaters; Technical Amendments	1904-AA36
707	Energy-Efficiency Standards for Dishwashers, Clothes Washers and Clothes Dryers	1904-AA37
708	Test Procedures for Fluorescent Lamp Ballasts, Humidifiers, and Dehumidifiers	1904-AA39
709	Grants Appeals Procedures, SECP Weatherization Assistance, Grants for Schools and Hospitals and Buildings Owned by Units of Local Government, and the Energy Extension Service	1904-AA41

Defense Programs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
710	Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Significant Quantities of Special Nuclear Material; Substance Abuse Testing	1992-AA13
711	Personnel Assurance Program: Substance Abuse Program	1992-AA14

DOE

Defense Programs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
712	Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Significant Quantities of Special Nuclear Material; Q Access Authorization	1992-AA11

Departmental and Others—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
713	Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste; Amendments	1901-AA18
714	Electric Power System Permits and Reports; Applications; Administrative Procedures and Sanctions	1901-AA19
715	Compliance with the National Environmental Policy Act	1901-AA20
716	Collection of Claims Owed the United States	1901-AA21
717	Procedures for Implementing the Equal Access to Justice Act in Energy Board of Contract Appeals Proceedings	1901-AA22

Departmental and Others—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
718	Annotation of Land Records; Uranium Mill Tailing Remedial Action Program	1901-AA12
719	Model Federal Policy for Protection of Human Research Subjects	1901-AA13
720	Permits for Access to Restricted Data: Atomic Vapor Laser Isotope Separation (U-AVLIS) Uranium Enrichment	1901-AA23
721	Notice of Interpretation and Procedures Implementing Sections 116(c)(3) and (b)(4) (Payment-Equal-to-Taxes .PETT. Provisions) of the Nuclear Waste Policy Act of 1982, as Amended	1901-AA24

Departmental and Others—Completed Actions

Sequence Number	Title	Regulation Identifier Number
722	Part 605 Special Research Grants Program; Proposed Rule	1901-AA07

Office of Procurement and Assistance Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
723	Department of Energy Acquisition Regulation Revisions; Patent Policy	1991-AA23
724	Department of Energy Property Management Regulations: Management of Motor Equipment	1991-AA26
725	Department of Energy Acquisition Regulation: Miscellaneous Changes on Acquisition of Motor Equipment	1991-AA32
726	Subetance Abuse Program Relating to Contractor Employee	1991-AA39
727	Resolution of Disputes Between Subcontractors and DOE Management and Operating Contractors	1991-AA44
728	Department of Energy Acquisition Regulation: Internal Controls Systems	1991-AA50
729	Department of Energy Acquisition Regulation: Price-Anderson Act	1991-AA52
730	Department of Energy Acquisition Regulation: Environmental, Safety, and Health Requirements	1991-AA53
731	Department of Energy Acquisition Regulation; Miscellaneous Amendments - Updates	1991-AA59
732	Department of Energy Acquisition Regulation; Miscellaneous Amendments3	1991-AA60
733	Stevenson-Wydler Technology Transfer Program; DOE Management and Operating Contractor Laboratories	1991-AA63
734	Fixed Obligation Awards	1991-AA65
735	Publicizing Federal Support in Recipient Procurement Solicitations (Grants)	1991-AA66
736	Department of Energy Acquisition Regulation; Management and Operating Contractors and Facility Management Directives	1991-AA67
737	Debarment and Suspension	1991-AA69

DOE

Office of Procurement and Assistance Management—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
738	Department of Energy Acquisition Regulation Contractor Accountability	1991-AA72
739	DEAR: Major Fraud Act	1991-AA73
740	DEAR: Contractor Employee Protection Program	1991-AA75

Office of Procurement and Assistance Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
741	Uniform Administrative Requirements for Grants and Cooperative Agreements	1991-AA55
742	Department of Energy Acquisition Regulation; Offeror Representations and Certifications Procedures	1991-AA58
743	Restrictions on Lobbying (Nonprocurement)	1991-AA24
744	Criteria and Procedures for DOE Contractor Employee Protection Program	1991-AA68
745	DEAR: M & O Contractors	1991-AA76

Office of Procurement and Assistance Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
746	Research Opportunity Announcements	1991-AA42
747	DOE Contractor Alcohol-Free Workplace Program	1991-AA57
748	Collection of Claims Owed the United States	1991-AA62
749	Revisions to Fee Schedules; Contracts	1991-AA70
750	Governmentwide Requirements for Drug-Free Workplace (Grants)	1991-AA71

Office of General Counsel—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
751	Patent Waiver Regulation	1990-AA02
752	Foreign Gifts and Decorations	1990-AA04
753	Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Significant Quantities of Special Nuclear Material; Revision of Current Procedures	1990-AA13
754	Conduct of Employees; Cooperation with the Inspector General	1990-AA14
755	Payment of Travel Expenses of Persons Who Are Not Government Employees	1990-AA15
756	Procedures and Nuclear Safety Requirements for Assessment of Price-Anderson Penalties	1990-AA16

Office of General Counsel—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
757	Class Patent Waivers	1990-AA07
758	Indemnification of Department of Energy Officials and Employees	1990-AA11
759	Production or Disclosure of Material or Information and Provision of Agency Witnesses in Federal and State Proceedings	1990-AA12

DOE

Office of General Counsel—Completed Actions

Sequence Number	Title	Regulation Identifier Number
760	Amendments to Department of Energy Conduct of Employees Regulations	1990-AA00

DEPARTMENT OF ENERGY (DOE)
Conservation and Renewable Energy (CE)

Prerule Stage

696. ENERGY EFFICIENCY STANDARDS FOR WATER HEATERS, POOL HEATERS, DIRECT HEATING EQUIPMENT, MOBILE HOME FURNACES, KITCHEN RANGES & OVENS, ROOM AIR CONDITIONERS, FLUORESCENT LAMP BALLASTS, (CONT)

Significance: Regulatory Program

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, January 1, 1992.
EPCA requires DOE determinations on need to amend Federal appliance standards in a period from 7/1/89 to 1/1/94. The statute requires completion of a second reanalysis of all (cont)

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes initial energy-efficiency standard levels for most types of major appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended. These products are: refrigerators, refrigerator-freezers, and freezers; room air conditioners; central air conditioners and central air conditioning heat pumps; water heaters; pool heaters; direct heating equipment; furnaces; dishwashers; clothes washers; clothes dryers; kitchen ranges and ovens; and fluorescent lamp ballasts. Other appliances, including television sets, may be regulated by the Department. This rulemaking will review the statutory standards for water heaters; pool heaters; kitchen ranges and ovens; room air conditioners; direct heating equipment; mobile home furnaces; and fluorescent lamp ballasts to determine whether those levels need to be amended. In addition, television sets will be examined to determine whether conservation standards are justified.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/90	
ANPRM Comment Period End	12/00/90	
Final Action	01/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Additional Information: TITLE CONT: and Clothes Washers

LEGAL DEADLINE CONT: the extant standards in a period from 7/1/94 to 12/31/2006.

Agency Contact: Michael J. McCabe, Supervisory Mechanical Engineer, Department of Energy, Conservation and Renewable Energy, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-9127

RIN: 1904–AA38

DEPARTMENT OF ENERGY (DOE)
Conservation and Renewable Energy (CE)

Proposed Rule Stage

700. ENERGY CONSERVATION PERFORMANCE STANDARDS FOR NEW BUILDINGS; SUBPART B - VOLUNTARY PERFORMANCE STANDARDS FOR NEW NON-FEDERAL RESIDENTIAL BUILDINGS

Legal Authority: 42 USC 6831 et seq

CFR Citation: 10 CFR 435

Legal Deadline: Final, Statutory, October 1993.

Abstract: Title III of the Energy Conservation and Production Act, as amended, requires the development and promulgation of energy performance standards for new buildings. In order to comply with this requirement, DOE currently is developing Subpart B, interim voluntary standards for new non-Federal residential buildings. DOE is required to conduct demonstrations of interim standards and report its findings to Congress, prior to the development and promulgation of final standards.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	03/00/96	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: Multiple

Agency Contact: Jean J. Boulin, Project Managering Systems Division, Office of Codes and Standards, Department of Energy, Conservation and Renewable Energy, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-9127

RIN: 1904–AA34

DOE—CE

Proposed Rule Stage

701. EQUIVALENT PETROLEUM-BASED FUEL ECONOMY CALCULATION FOR ELECTRIC VEHICLES

Legal Authority: PL 96-185, Sec 18; PL 94-413, Sec 13(c); PL 94-163, Sec 503(a)(3)

CFR Citation: 10 CFR 474

Legal Deadline: None

Abstract: The final rule on the inclusion of electric vehicles in the Corporate Average Fuel Economy (CAFE) program was issued by DOE on April 15, 1981. It established a methodology for determining the equivalent petroleum-based fuel economy of electric vehicles so that they could be included in a manufacturer's overall CAFE program. This methodology was based on several factors including the energy efficiency of the vehicle, the efficiency of electricity generation and transmission, the fuels used to generate electricity, and the driving patterns of electric vehicles. At this time, DOE is proposing updating the factors in this methodology that are necessary for calculating the CAFE credits for electric vehicles.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	01/00/91	
Final Action	03/00/91	
Final Action Effective	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill Siegel, Program Manager, Electric and Hybrid Propulsion Division, Department of Energy, Conservation and Renewable Energy, CE-152, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-2198

RIN: 1904-AA40

DEPARTMENT OF ENERGY (DOE)

Conservation and Renewable Energy (CE)

Final Rule Stage

702. FEDERAL ENERGY MANAGEMENT AND PLANNING PROGRAMS; METHODOLOGY AND PROCEDURES FOR LIFE CYCLE COSTING ANALYSES

Legal Authority: 42 USC 8255; PL 95-619, Sec 545; PL 99-509, Sec 3301; EO 11912; EO 12003; PL 99-509; PL 100-615

CFR Citation: 10 CFR 436

Legal Deadline: None

Abstract: Under the National Energy Conservation Policy Act, as amended, DOE has promulgated regulations establishing a methodology for estimating and comparing the life cycle costs of Federal buildings and for determining life cycle cost effectiveness. The Energy Security Act required that the regulations provide for the use of marginal energy costs in the life cycle cost analyses. DOE sought legislative revisions to authorize use of average energy costs rather than marginal costs. Appropriate legislative relief came with the Omnibus Budget Reconciliation Act of 1986. The current rulemaking would update base year prices and energy cost escalation rates based on current average energy cost projections. It would also eliminate the need for Federal Register publication of future annual updates so long as there is no significant change in the method for making average energy cost projections. In addition, the Federal Energy Management Improvement Act of 1988 requires the Secretary of Energy to establish the discount rate for life cycle costing. The current rulemaking would include the methodology by which the discount rate will be established.

Timetable:

Action	Date	FR Cite
NPRM	01/25/90	55 FR 2580
NPRM Comment Period End	02/24/90	55 FR 2580
Final Action	10/31/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: K. Dean DeVine, Federal Energy Management Program, Department of Energy, Conservation and Renewable Energy, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-8784

RIN: 1904-AA06

703. ENERGY CONSERVATION PERFORMANCE STANDARDS FOR NEW BUILDINGS; SUBPART A - COMMERCIAL AND MULTI-FAMILY HIGH RISE RESIDENTIAL BUILDINGS

Legal Authority: 42 USC 6831 et seq

CFR Citation: 10 CFR 435

Legal Deadline: Final, Statutory, October 1983.

Abstract: Title III of the Energy Conservation and Production Act, as amended, requires the development and promulgation of energy performance standards for new buildings. In order to comply with this requirement, DOE has promulgated Subpart A interim standards for commercial buildings and multi-family high rise buildings. The standards are mandatory for the Federal sector and voluntary for all others. DOE is conducting demonstrations of interim standards and is required to report its findings to Congress, prior to the development and promulgation of final standards.

Timetable:

Action	Date	FR Cite
NPRM	05/06/87	52 FR 17051
NPRM Comment Period End	08/04/87	
Interim Final Rule	01/30/89	54 FR 4638
Interim Final Rule Effective Date	07/31/89	54 FR 4638
Final Action	06/00/94	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1989

Analysis: Economic Analysis 05/06/87 (52 FR 17051); Environmental Analysis 05/06/87 (52 FR 17051)

Agency Contact: Jean J. Boulin, Project Manager, Office of Codes and Standards, Department of Energy, Conservation and Renewable Energy.

DOE—CE

Final Rule Stage

1000 Independence Ave., SW., Washington, DC 20585, 202 586-9127

RIN: 1904-AA08

704. ENERGY EFFICIENCY TEST PROCEDURES FOR WATER HEATERS

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430.22

Legal Deadline: None

Abstract: Final test procedures for 13 types of appliances were established during 1978. The test procedures form the basis of manufacturers' representations on the Federal Trade Commission's EnergyGuide label. In February 1984, DOE proposed to establish test procedures for heat pump water heaters and to eliminate the need for the test procedure waiver granted to A.O. Smith for its water heater with a thermal compensatory dip tube. Based on the comments received pursuant to the February 8, 1984 NPRM, the Department prepared a new NPRM published March 13, 1987. This NPRM proposed a single test procedure to cover gas, oil and electric water heaters as well as heat pump water heaters, and extended the test procedures to cover instantaneous type water heaters. In addition to the A.O. Smith matter, the rulemaking would eliminate the need for the test procedure waivers granted Bock Corp., Ford Products and Lochinvar Corp. for their high mass oil-fired water heaters.

Timetable:

Action	Date	FR Cite
NPRM	02/08/84	49 FR 4878
NPRM Comment Period End	05/21/84	49 FR 4878
NPRM Test Procedures for Water Heaters	03/13/87	49 FR 7972
Final Action	10/00/90	
Final Action Effective	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Under a separate rulemaking (RIN: 1904-AA36), the Secretary will determine whether the test procedure amendment alters the measured water heater efficiency and, if so, will establish corrective technical amendments to the energy conservation standard.

Agency Contact: Michael J. McCabe, Supervisory Mechanical Engineer, Department of Energy, Conservation and Renewable Energy, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-9127

RIN: 1904-AA12

705. ENERGY CONSERVATION PERFORMANCE STANDARDS FOR NEW BUILDINGS; SUBPART C - MANDATORY PERFORMANCE STANDARDS FOR NEW FEDERAL RESIDENTIAL BUILDINGS

Legal Authority: 42 USC 6831 et seq

CFR Citation: 10 CFR 435

Legal Deadline: Final, Statutory, October 1983.

Abstract: Title III of the Energy Conservation and Production Act, as amended, requires the development and promulgation of energy performance standards for new buildings. In order to comply with this requirement, DOE has promulgated Subpart C, interim mandatory standards for new Federal residential buildings. DOE is conducting demonstrations of interim standards and is required to report its findings to Congress, prior to the development and promulgation of final standards.

Timetable:

Action	Date	FR Cite
NPRM	06/20/88	51 FR 29754
NPRM Comment Period End	01/16/87	
Interim Final Rule	08/25/88	53 FR 32536
Proposed Modification of Interim Final Rule	08/25/88	53 FR 32547
Interim Final Rule Effective	02/21/89	53 FR 32536
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1987

Analysis: Economic Analysis 08/20/88 (51 FR 29773); Environmental FONSI 08/20/88 (51 FR 29773)

Additional Information: On 08/25/88, the Department proposed to modify the interim final rule in three respects (53 FR 32547). To the computerized building design program (COMTSAFR) would be added: (1) credit for three mass-wall configurations; (2) new energy data on window glazings; and (3) a mathematical process for integrating innovative design options into the analysis.

Agency Contact: Joan J. Soulin, Project Manager, Office of Codes and Standards, Department of Energy, Conservation and Renewable Energy, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-9127

RIN: 1904-AA27

706. ENERGY CONSERVATION STANDARDS FOR WATER HEATERS; TECHNICAL AMENDMENTS

Legal Authority: 42 USC 6292

CFR Citation: 10 CFR 430.32

Legal Deadline: None

Abstract: This action would be a technical amendment, based on water heater test procedure changes in progress (see 1904-AA12), of the statutory standard for water heaters contained in the National Appliance Energy Conservation Act of 1987 (NAECA), as amended. This amendment could change the way the standard level is measured, but would not change the level of the minimum energy conservation standard itself. NAECA requires amendment of the applicable standard if the Secretary determines that an amended test procedure will alter the measured efficiency of the standard. This technical amendment of the standard is to be completed concurrently with the rulemaking with respect to the amended test procedure.

Timetable:

Action	Date	FR Cite
NPRM	01/17/90	54 FR 1690
NPRM Comment Period End	03/26/90	54 FR 1690
Final Action	10/00/90	
Final Action Effective	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Michael J. McCabe, Supervisory Mechanical Engineer, Department of Energy, Conservation and Renewable Energy, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-9127

RIN: 1904-AA30

DOE—CE

Final Rule Stage

707. ENERGY-EFFICIENCY STANDARDS FOR DISHWASHERS, CLOTHES WASHERS AND CLOTHES DRYERS

Significance: Regulatory Program

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Other, Statutory. EPCA requires DOE determinations on need to amend Federal appliance standards in a period from 7/1/89 to 1/1/94. The statute requires completion of a second reanalysis of all (cont)

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, extensively amends the Department's statutory authorities and responsibilities regarding energy efficiency standards for major household appliances. EPCA establishes initial energy-efficiency standard levels for most types of major appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended. These products are: refrigerators, refrigerator-freezers, and freezers; room air conditioners; central air conditioners and central air conditioning heat pumps; water heaters; pool heaters; direct heating equipment; furnaces; dishwashers; clothes washers; clothes dryers; kitchen ranges and ovens; and fluorescent lamp ballasts. Other appliances, including television sets, may be regulated by the Department essentially as provided for in prior law. This rulemaking will review the statutory standards for dishwashers, clothes washers and clothes dryers to determine whether those levels need to be amended.

Timetable:

Action	Date	FR Cite
ANPRM	05/18/88	53 FR 17712
ANPRM Comment Period End	07/18/88	53 FR 17712
NPRM	08/09/89	54 FR 32744
NPRM Comment Period End	10/10/89	54 FR 32744
Final Action	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Additional Information: LEGAL DEADLINE CONT: then-extant standards in a period from 7/1/94 to 12/31/2000. The NAECA requires a final determination on these three products by 01/01/90.

Comments on the Proposed Rule necessitate more extensive reanalysis than was expected. The Final Rule should be published in the Federal Register by 12/00/90.

Agency Contact: Michael J. McCabe, Supervisory Mechanical Engineer, Department of Energy, Conservation and Renewable Energy, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-9127

RIN: 1904–AA37

708. TEST PROCEDURES FOR FLUORESCENT LAMP BALLASTS, HUMIDIFIERS, AND DEHUMIDIFIERS

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430.22

Legal Deadline: None

Abstract: Establishment of test procedures for fluorescent lamp ballasts in accordance with National Appliance Energy Conservation Amendments of 1988 (Pub. L. 100-357) and deletion of test procedures for humidifiers and dehumidifiers.

Timetable:

Action	Date	FR Cite
NPRM	03/05/90	55 FR 7719
NPRM Comment Period End	05/21/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael J. McCabe, Supervisory Mechanical Engineer, Department of Energy, Conservation and Renewable Energy, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-9127

RIN: 1904–AA39

709. GRANTS APPEALS PROCEDURES, SECP WEATHERIZATION ASSISTANCE, GRANTS FOR SCHOOLS AND HOSPITALS AND BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT, AND THE ENERGY EXTENSION SERVICE

Legal Authority: 42 USC 6861, et seq; 42 USC 6321, et seq; 42 USC 6371, et seq; 42 USC 7001, et seq

CFR Citation: 10 CFR 420; 10 CFR 440; 10 CFR 455; 10 CFR 485

Legal Deadline: None

Abstract: In this rule, the Department of Energy establishes clear and consistent administrative review procedures focusing on pre-award denials of grants under the State Energy Conservation Program, the Weatherization Assistance Program for Low-Income Persons, the Grants Program for Schools and Hospitals and Buildings Owned by Units of Local Government and Public Care Institutions, and the Energy Extension Service Program. The amendments would also conform existing post-award administrative review procedures to generally applicable administrative procedures for the Department of Energy's financial assistance programs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/29/90	55 FR 3000
Final Action	10/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandra Mouja, Senior Policy Analyst, State Energy Programs Division, Department of Energy, Conservation and Renewable Energy, CE-522, Room 6A-081, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-8236

RIN: 1904–AA41

DEPARTMENT OF ENERGY (DOE)
Defense Programs (DP)

Proposed Rule Stage

710. ● CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO CLASSIFIED MATTER OR SIGNIFICANT QUANTITIES OF SPECIAL NUCLEAR MATERIAL; SUBSTANCE ABUSE TESTING

Significance: Agency Priority

Legal Authority: 42 USC 2284aa Atomic Energy Act of 1954, Sec. 11aa; 42 USC 2201 Atomic Energy Act of 1954, Sec. 161

CFR Citation: 10 CFR 710

Legal Deadline: None

Abstract: The DOE Personnel Security Assurance Program (PSAP), 10 CFR Part 710, was created in order to assure the reliability of individuals in PSAP positions, defined in section 710.50(a). This action would establish a provision for testing for alcohol use in cases of occurrence or reasonable suspicion. The alcohol testing provision would be applicable to individuals who are DOE employees or job applicants and other persons designated for access to Restricted Data, significant quantities of special nuclear material, or national security information. This action also would establish guidelines for DOE contractors for testing for possible use of illegal drugs and abuse of alcohol by their PSAP-cleared employees and applicants for PSAP positions. These guidelines will constitute a baseline PSAP substance abuse testing component. (With respect to drug testing, DOE employees already are subject to the Federal drug-free workplace program.)

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The rule will amend Subpart B of 10 CFR 710. The revision of 10 CFR 710 which is being amended is not yet published as a final rule. See 1990-AA11.

Agency Contact: Lynn Gebrowsky, Manager, Personnel Security Assurance Program, Department of Energy, Defense Programs, Office of Safeguards and Security, 1000 Independence Ave., SW., Washington, DC 20585, 301 353-3200

RIN: 1992-AA13

711. ● PERSONNEL ASSURANCE PROGRAM: SUBSTANCE ABUSE PROGRAM

Significance: Agency Priority

Legal Authority: 42 USC 2284aa Atomic Energy Act of 1954, Sec. 11aa

CFR Citation: 10 CFR 711

Legal Deadline: None

Abstract: This action is undertaken to enhance the reliability and safety of the Personnel Assurance Program (PAP) for contractor personnel in order to achieve a drug-free workplace.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This rulemaking is also pursuant to an HHS regulation at 53 FR 11970 (April 11, 1988).

Agency Contact: Theodore Dobry, Department of Energy, Defense Programs, DP-22.5, U.S. Department of Energy, Washington, DC 20545, 301 353-3540

RIN: 1992-AA14

DEPARTMENT OF ENERGY (DOE)
Defense Programs (DP)

Final Rule Stage

712. CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO CLASSIFIED MATTER OR SIGNIFICANT QUANTITIES OF SPECIAL NUCLEAR MATERIAL; Q ACCESS AUTHORIZATION

Significance: Agency Priority

Legal Authority: 42 USC 2284aa Atomic Energy Act of 1954, Sec 11aa; 42 USC 2201 Atomic Energy Act of 1954, Sec 161; 10 CFR 710

CFR Citation: 10 CFR 710

Legal Deadline: None

Abstract: The protection of certain of the Department's security interests, with the potential, if misused, of causing unacceptable damage to the national security, requires the implementation of a program designed to assure that individuals occupying positions affording access to certain material, facilities, and programs meet the highest standards of reliability. This action would establish a Q(R) access authorization for individuals applying for or currently holding a position identified as a Personnel Security Assurance Program (PSAP) position. The security clearance determination would, through a system of continuous evaluation, identify those individuals whose judgment may be impaired by physical and/or emotional disorders, the use of controlled substances, or the use of alcohol habitually to excess.

Timetable:

Action	Date	FR Cite
NPRM	02/02/88	54 FR 5370
NPRM Comment Period End	03/06/88	
Final Action	10/00/90	
Final Action Effective	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lynn Gebrowsky, Manager, Personnel Security Assurance Program, Department of Energy, Defense Programs, Office of Safeguards & Security, Washington, DC 20585, 301 353-3200

RIN: 1992-AA11

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP)

Proposed Rule Stage

713. STANDARD CONTRACT FOR DISPOSAL OF SPENT NUCLEAR FUEL AND/OR HIGH-LEVEL RADIOACTIVE WASTE; AMENDMENTS

Significance: Agency Priority

Legal Authority: 42 USC 10222

CFR Citation: 10 CFR 961 (Revision)

Legal Deadline: None

Abstract: On April 18, 1983, the Department of Energy (DOE) published a rule which established the Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste (standard disposal contract) to be used by the DOE in furnishing disposal services to the owners or generators of spent nuclear fuel and/or high-level radioactive waste (48 FR 16590). On March 17, 1989, the U.S. Court of Appeals for the District of Columbia (Consolidated Edison Co. et al. v. DOE, No. 88-1194) ruled that the ongoing 1.0 mill per kilowatt hour (1M/KWH) fee in DOE's standard disposal contract should be based on nuclear electricity actually sold rather than net generation of electricity as adopted in the amended final rule of September 17, 1987 (52 FR 35356). This notice publishes for comment amendments to Article I.13, Article VIII.A.1 and B.1, and Appendix G of the standard disposal contract to be consistent with the court's ruling. This amendment is expected to reduce revenues from the ongoing fee about seven percent.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Alan Brownstein, Utility Contracts Manager, Department of Energy, Office of Civilian Radioactive Waste Mgmt., 1000 Independence Ave., SW., Washington, DC 20585, 202 586-4673

RIN: 1901–AA18

714. ELECTRIC POWER SYSTEM PERMITS AND REPORTS; APPLICATIONS; ADMINISTRATIVE PROCEDURES AND SANCTIONS

Legal Authority: PL 95-91; PL 66-280; EO 12038

CFR Citation: 10 CFR 205

Legal Deadline: None

Abstract: These regulations will establish Procedural Regulations, clarify and update filing requirements, and confirm evaluation criteria for granting electricity export authorizations and issuing Presidential Permits for the construction of International Electric Transmission Lines.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ellen Russell, Fuels Conversion Analyst, (FE-52), Office of Coal and Electricity, Department of Energy, Room 3F-094, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-9624

RIN: 1901–AA19

715. COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

Significance: Agency Priority

Legal Authority: 42 USC 4321 et seq; EO 11991; EO 11514

CFR Citation: 40 CFR 1500 to 1508; 10 CFR 1021

Legal Deadline: None

Abstract: The proposed regulations will provide procedures for agency compliance with the National Environmental Policy Act (NEPA). The proposed regulations supplement the Council on Environmental Quality (CEQ) regulations, 40 CFR Parts 1500-1508, which apply to all Federal agencies. In accordance with 40 CFR 1507.3, DOE will consult with CEQ in developing the proposed regulations. The proposed regulations will be applicable to all organizational units of DOE except the Federal Energy Regulatory Commission.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carol M. Borgstrom, Director, Office of NEPA Project Assistance, Department of Energy, Office of NEPA Oversight, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-4600

RIN: 1901–AA20

716. COLLECTION OF CLAIMS OWED THE UNITED STATES

Legal Authority: 31 USC 3701 to 3719; PL 97-365; 31 USC 3720A; PL 98-369

CFR Citation: 10 CFR 1015

Legal Deadline: None

Abstract: The Department of Energy (DOE) Debt Collection Regulations (10 CFR 1015) are being updated to include provisions of the revised Office of Management and Budget Circular A-129 and to implement the Federal Tax Refund Offset Program. This update supports the objective of 10 CFR 1015, which establishes the overall regulations under which DOE collects claims owed to the United States including the implementation of the Federal Claims Collection Act (31 USC 3701-3719) as amended by the Debt Collection Act of 1982 (PL 97-365). DOE's Debt Collection Regulations also incorporate the Federal Claims Collection Standards (4 CFR 101-105) published jointly by the Department of Justice and the General Accounting Office. The preamble to the Federal Claims Collection Standards states that each Federal agency is required to develop its own implementing regulations based on and consistent with these standards. The Debt Collection Act specifies that each agency must prescribe regulations on certain aspects of the debt collection process. Furthermore, the Department of Treasury's Regulations (26 CFR 301.6402) which implement the Deficit Reduction Act of 1984 (31 USC 3720A) (cont)

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	
NPRM Comment Period End	05/00/91	
Final Action	11/00/91	
Final Action Effective	12/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: require agencies to promulgate regulations governing the referral of delinquent debts to the Internal Revenue Service for offset against the

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Proposed Rule Stage

income tax refunds of persons owing money to DOE (presently implemented under temporary regulations at 10 CFR 1018).

Agency Contact: Helen O. Sherman, Acting Director, Office of Financial Policy, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-4909

RIN: 1901–AA21

717. ● PROCEDURES FOR IMPLEMENTING THE EQUAL ACCESS TO JUSTICE ACT BY ENERGY BOARD OF CONTRACT APPEALS PROCEEDINGS

Legal Authority: 5 USC 504

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Procedures are necessary to implement the Equal Access to Justice Act for proceedings before the Energy Board of Contract Appeals

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Betty A. Hudson, Recorder, Board of Contract Appeals, Department of Energy, 4040 N. Fairfax Dr., Rm. 1006, Arlington, Va. 22203, 703 235-2700

RIN: 1901–AA22

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP)

Final Rule Stage

718. ANNOTATION OF LAND RECORDS; URANIUM MILL TAILING REMEDIAL ACTION PROGRAM

Significance: Agency Priority

Legal Authority: 42 USC 7901 Uranium Mill Tailings Radiation Control Act of 1978

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: PL 95-604 assigned the Department of Energy the authority to conduct remedial actions at 24 processing sites and associated vicinity properties. Section 104(d) states that the Department shall issue appropriate rules and regulations concerning annotation of land records where residual radioactive materials were located and when remedial action took place.

Timetable:

Action	Date	FR Cite
NPRM	07/14/89	54 FR 29732
NPRM Comment Period End	09/28/89	54 FR 29732
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Sally A. Mann, Director, Off-Site Remediation (EM-451), Office of Environmental Restoration, Department of Energy, Washington, DC 20545, 301 353-4426

RIN: 1901–AA12

719. MODEL FEDERAL POLICY FOR PROTECTION OF HUMAN RESEARCH SUBJECTS

Significance: Regulatory Program

Legal Authority: PL 95-622; PL 93-438, Sec 105A

CFR Citation: 10 CFR 745, (Revision)

Legal Deadline: None

Abstract: In response to the First Biennial Report of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, DOE along with all other affected Federal departments and agencies following the lead of DHHS will adopt and implement a uniform code of regulations for the protection of human subjects in Federal research projects. This will replace the prior regulations adopted by DOE in 1976 and make DOE requirements uniform with the DHHS policies.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45661
NPRM Comment Period End	01/09/89	53 FR 45661
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Susan L. Rose, Health Scientist, Department of Energy, Office of Energy Research, Human Health and Assessments Division(ER-73), Washington, DC 20545, 301 353-4731

RIN: 1901–AA13

720. ● PERMITS FOR ACCESS TO RESTRICTED DATA: ATOMIC VAPOR LASER ISOTOPE SEPARATION (U-AVLIS) URANIUM ENRICHMENT

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 725

Legal Deadline: None

Abstract: The rulemaking would update category C-24 access permits to include the U-AVLIS technology and provide for an applicant qualifying for a permit to pay $100,000 for an access permit authorizing access to Restricted Data in subcategory A or $200,000 for an access permit authorizing access to Restricted Data in subcategory B. The rule is related to Government initiation of an industrial participation program to encourage private sector participation in the Government's uranium enrichment enterprise.

Timetable:

Action	Date	FR Cite
NPRM	04/23/90	55 FR 15237
NPRM Comment Period End	06/22/90	55 FR 15238
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael McKenna, Staff Assistant, Department of Energy, 1000 Independence Ave., SW., Room

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Final Rule Stage

5A-157, Washington, DC 20585, 202 586-3097

RIN: 1901–AA23

721. ● NOTICE OF INTERPRETATION AND PROCEDURES IMPLEMENTING SECTIONS 116(C)(3) AND (B)(4) (PAYMENT-EQUAL-TO-TAXES ,PETT. PROVISIONS) OF THE NUCLEAR WASTE POLICY ACT OF 1982, AS AMENDED

Legal Authority: PL 97-425

CFR Citation: Not applicable

Legal Deadline: None

Abstract: The Department of Energy (DOE), Office of Civilian Radioactive Waste Management published for comment its proposed interpretation and procedures for certain of the payments- equal-to-taxes (PETT) provisions of the Nuclear Waste Policy Act of 1982, as amended (42 U.S.C. 10101 note)(The Act). The Act provides that DOE will make these payments to eligible States, units of local government, and Indian Tribes for activities related to siting, development, and operation of a high-level radioactive waste and spent-fuel repository, and any monitored retrievable storage facility. The jurisdictions are eligible for payments equivalent to the amount they would receive if authorized to tax the Federal site characterization activities at such site. Following its review of the comments received, DOE will publish a final notice setting forth DOE's interpretation of certain PETT provisions of the Act applicable during the current site characterization phase of the nuclear waste repository program, in addition to a general description of the procedures DOE anticipates utilizing to implement the PETT provisions.

Timetable:

Action	Date	FR Cite
NPRM	03/07/90	55 FR 8180
NPRM Comment Period End	05/07/90	55 FR 8180
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allen Benson, Office of External Relations, Civilian Radioactive Waste Management, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-4859

RIN: 1901–AA24

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP)

Completed Actions

722. PART 605 SPECIAL RESEARCH GRANTS PROGRAM; PROPOSED RULE

Legal Authority: 42 USC 2051; 42 USC 5817; 42 USC 5901; 42 USC 7254; 42 USC 7256; 31 USC 6301 et seq

CFR Citation: 10 CFR 605

Legal Deadline: None

Abstract: This action would revise administrative guidelines in order to clarify and streamline DOE-OER pre- and post-award policies and procedures.

Timetable:

Action	Date	FR Cite
NPRM	05/31/89	54 FR 23219
NPRM Comment Period End	06/30/89	
Final Action	03/19/90	55 FR 10035
Final Action Effective	03/19/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Zich, Director, Acquisition and Assistance, Management Division (ER-64), Department of Energy, Office of Energy Research, Washington, DC 20545, 301 353-5544

RIN: 1901–AA07

DEPARTMENT OF ENERGY (DOE)
Office of Procurement and Assistance Management (OPAM)

Proposed Rule Stage

723. DEPARTMENT OF ENERGY ACQUISITION REGULATION REVISIONS; PATENT POLICY

Legal Authority: 41 USC 401 et seq The Office of Federal Procurement Policy Act; 42 USC 7101 et seq The Department of Energy Organization Act; EO 12352 Procurement Reforms

CFR Citation: 48 CFR 927; 48 CFR 970

Legal Deadline: None

Abstract: The Department of Energy Acquisition Regulation, promulgated March 29, 1984, at 49 FR 11922, supplements and implements the Federal Acquisition Regulation. A more recent Federal Acquisition Circular has been issued to establish a FAR Part 27 concerning Patents. It will be necessary to revise Part 927 of the DEAR to supplement and implement the FAR and to explain how DOE patent policy will differ due to our statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
NPRM Comment Period End	02/00/91	
Final Action	06/00/91	
Final Action Effective	07/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert M. Webb, Procurement Analyst, Procurement and Assistance Management, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-8284

RIN: 1991–AA22

DOE—OPAM

Proposed Rule Stage

724. DEPARTMENT OF ENERGY PROPERTY MANAGEMENT REGULATIONS: MANAGEMENT OF MOTOR EQUIPMENT

Legal Authority: 42 USC 7254

CFR Citation: 41 CFR 109

Legal Deadline: None

Abstract: Updates the Property Management Regulations regarding management of motor equipment, including motor vehicles, aircraft, and watercraft.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	
NPRM Comment Period End	05/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Wilson, Supply Management Representative, Procurement and Assistance Management, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-8288

RIN: 1991-AA33

725. DEPARTMENT OF ENERGY ACQUISITION REGULATION: MISCELLANEOUS CHANGES ON ACQUISITION OF MOTOR EQUIPMENT

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 906; 48 CFR 970; 48 CFR 945

Legal Deadline: None

Abstract: To provide additional, and to revise current, policy guidance on the acquisition of personal property in the areas of motor equipment management including motor vehicles and aircraft.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	
NPRM Comment Period End	05/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert Wilson, Supply Management Representative, Procurement and Assistance Management, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-8288

RIN: 1991-AA32

726. SUBSTANCE ABUSE PROGRAM RELATING TO CONTRACTOR EMPLOYEE

Significance: Agency Priority

Legal Authority: 42 USC 2201b et seq; Atomic Energy Act and Energy Reorganization Act, as amended

CFR Citation: 10 CFR 707

Legal Deadline: None

Abstract: Will establish comprehensive substance abuse prevention policy and program at DOE-owned or -leased operations consistent with DOE responsibility to protect public health and safety and national security. Regulation will address alcohol and drug testing requirements, educational and training programs, drug counseling and rehabilitation, confidentiality and protection of privacy of employees. Costs incurred will affect cost reimbursement type contracts for managing, operating, constructing, and servicing DOE facilities and certain other contractors and subcontractors. Benefits will be in establishing reasonable level of consistency among contractor programs and resultant cost to the Government and in reducing risk of unacceptable damage to security, environment, health and safety of employees and the public.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Juanita E. Smith, Director, Employee Relations, Office of Industrial Relations, Department of Energy, Office of Procurement and Assistance Management, Procurement and Assistance Management, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-8253

RIN: 1991-AA39

727. RESOLUTION OF DISPUTES BETWEEN SUBCONTRACTORS AND DOE MANAGEMENT AND OPERATING CONTRACTORS

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: Establishes a system, by regulation, to allow subcontractors under DOE Management and Operating contracts access in certain circumstances to the Energy Board of Contract Appeals in resolution of disputes with the contractor. Also clarifies that DOE Contracting Officers lack authority to designate Management and Operating contractors as purchasing agents for DOE absent special authorization.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	02/00/91	
Final Action	05/00/91	
Final Action Effective	07/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert M. Webb, Procurement Analyst, Procurement and Assistance Management, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-8254

RIN: 1991-AA44

728. DEPARTMENT OF ENERGY ACQUISITION REGULATION: INTERNAL CONTROLS SYSTEMS

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 970

DOE—OPAM

Proposed Rule Stage

Legal Deadline: None

Abstract: This action would amend the Department of Energy Acquisition Regulation to require its Management and Operating Contractors to develop and maintain systems of internal controls to discourage waste, fraud and abuse.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Howard K. Mitchell, Procurement Analyst, Procurement and Assistance Management, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-8190

RIN: 1991–AA50

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729. DEPARTMENT OF ENERGY ACQUISITION REGULATION: PRICE-ANDERSON ACT

Legal Authority: 42 USC 2014

CFR Citation: 48 CFR 952; 48 CFR 970

Legal Deadline: None

Abstract: The purpose of this action is to amend the regulations which implement the Price-Anderson Act. Amendments are necessary to incorporate the revisions included in the Price-Anderson Amendments Act of 1988. These regulations deal only with those aspects of the Price-Anderson legislation incorporated in the agency's acquisition regulations, e.g., contract clauses providing nuclear hazards indemnity.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	
Final Action	02/00/91	
Final Action Effective	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert M. Webb, Procurement Analyst, Procurement and Assistance Management, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-8234

RIN: 1991–AA52

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730. DEPARTMENT OF ENERGY ACQUISITION REGULATION: ENVIRONMENTAL, SAFETY, AND HEALTH REQUIREMENTS

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 916; 48 CFR 970

Legal Deadline: None

Abstract: The Department of Energy is proposing to amend the Department of Energy Acquisition Regulation to clarify and emphasize environmental protection, safety, and health requirements for contractors.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: P. Dewes Weaver, Procurement Analyst, Procurement and Assistance Management, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-8230

RIN: 1991–AA53

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731. DEPARTMENT OF ENERGY ACQUISITION REGULATION; MISCELLANEOUS AMENDMENTS - UPDATES

Legal Authority: 42 USC 7254; 42 USC 486(c)

CFR Citation: 48 CFR 901; 48 CFR 904; 48 CFR 909; 48 CFR 915; 48 CFR 917; 48 CFR 922; 48 CFR 933; 48 CFR 942; 48 CFR 943; 48 CFR 952; 48 CFR 970; 48 CFR 971

Legal Deadline: None

Abstract: Miscellaneous Amendments - It is anticipated that these amendments will update references, remove outdated materials, correct editorial errors, add additional interagency agreement coverage, increase the level for approval of M&O contractor personnel compensation, increase the threshold for use of formal source evaluation board procedures and exempt acquisitions under section 8(a) of the Small Business Act from such procedures.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Richard B. Langston, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, Procurement and Assistance Management, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-8189

RIN: 1991–AA59

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732. DEPARTMENT OF ENERGY ACQUISITION REGULATION; MISCELLANEOUS AMENDMENTS

Legal Authority: 42 USC 7254; 42 USC 486(c)

CFR Citation: 48 CFR 901; 48 CFR 952; 48 CFR 970

Legal Deadline: None

Abstract: Miscellaneous Amendments - It is anticipated that these amendments will update the regulation at Part 901 (Federal Acquisition Regulatory System) to assure its conformity to the Federal Acquisition Regulation and to update Part 952 (Contract Clauses) and Part 970 (Management and Operating Contracts) to further refine the applicability of certain clauses to management and operating subcontracts.

BEST COPY AVAILABLE

DOE—OPAM

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	
NPRM Comment Period End	05/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Richard B. Langston, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, Procurement and Assistance Management, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-8189

RIN: 1991–AA60

733. STEVENSON-WYDLER TECHNOLOGY TRANSFER PROGRAM; DOE MANAGEMENT AND OPERATING CONTRACTOR LABORATORIES

Legal Authority: PL 101-189, Sec 3133

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: PL 101-189 amended the Stevenson-Wydler Technology Innovation Act to include DOE management and operating laboratories. DOE will need to amend DEAR 970 to standardize the implementation of this technology transfer program.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Howard K. Mitchell, Procurement Analyst, Procurement and Assistance Management, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-8189

RIN: 1991–AA59

734. FIXED OBLIGATION AWARDS

Legal Authority: 42 USC 7254; 42 USC 7256; 31 USC 6301 to 6308

CFR Citation: 10 CFR 600

Legal Deadline: None

Abstract: This regulation would permit simpler administration of uncomplicated or small-dollar financial assistance awards, which now are managed in a manner designed to address much larger awards.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Undetermined

Agency Contact: James J. Cavanagh, Director, Business and Financial Policy Division, Department of Energy, Office of Procurement and Assistance Management, Procurement and Assistance Management, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-8173

RIN: 1991–AA65

735. PUBLICIZING FEDERAL SUPPORT IN RECIPIENT PROCUREMENT SOLICITATIONS (GRANTS)

Legal Authority: PL 101-136, Sec 623; Treasury, Postal Service & Gen. Govt. Appropriations Act, 1990

CFR Citation: 10 CFR 600

Legal Deadline: None

Abstract: The regulation would provide guidance on implementation of section 623 of the Treasury, Postal Service and General Government Appropriations Act, 1990. Section 623 requires information in procurement solicitations of assistance recipients about the amount and percent of Federal funds involved in the procurement. The law applies to procurements in excess of $500,000.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Howard K. Mitchell, Procurement Analyst, Procurement and Assistance Management, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-8189

RIN: 1991–AA66

736. DEPARTMENT OF ENERGY ACQUISITION REGULATION; MANAGEMENT AND OPERATING CONTRACTORS AND FACILITY MANAGEMENT DIRECTIVES

Legal Authority: 42 USC 7254 et seq

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: The purpose of this action is to specify that DOE management and operating contractors will comply with applicable DOE directives when performing facility management duties.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Richard B. Langston, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, Procurement and Assistance Management, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-8189

RIN: 1991–AA67

737. DEBARMENT AND SUSPENSION

Legal Authority: EO 12689

CFR Citation: 10 CFR 1035; 10 CFR 1036

Legal Deadline: None

Abstract: This conforms procurement debarment procedures and nonprocurement debarment procedures to have reciprocal governmentwide effect.

DOE—OPAM

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Neil Sandberg, Procurement Analyst, Procurement and Assistance Management, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue, SW., Washington, DC 20585, 202 586-8674

RIN: 1991–AA69

736. DEPARTMENT OF ENERGY ACQUISITION REGULATION CONTRACTOR ACCOUNTABILITY

Legal Authority: 42 USC 2201, sec 644; 42 USC 7254, sec 205(c)

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: To combine 2 prior proposals. Action 1991-AA70 regarding fee schedules has been combined with this action to improve management and operating (M&O) contractor accountability. This revised rule is to modify the Department of Energy Acquisition Regulation (DEAR) relating to the allowability of costs and expenses incurred and to the structure and amount of award fee available under prospective contracts with profit-making management and operating (M&O) contractors.

Timetable:

Action	Date	FR Cite
NPRM (Original 1991-AA72)	01/26/90	55 FR 2796
NPRM	08/10/90	55 FR 32974
NPRM Comment Period End	10/10/90	55 FR 32974
Final Action	12/31/90	
Final Action Effective	12/31/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Stephen D. Mournighan, Procurement Analyst, Procurement and Assistance Management, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave., SE., Washington, DC 20585, 202 586-8182

RIN: 1991–AA72

739. ● DEAR: MAJOR FRAUD ACT

Legal Authority: 41 USC 2201; 42 USC 7254; PL 100-700 Major Fraud Act of 1988

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: To implement the Major Fraud Act of 1988 with regard to the allowability of a Management and Operating contractor's costs incurred in connection with a criminal, civil or administrative proceeding and to otherwise limit DOE reimbursements of such costs to 80% of the contractor's incurred costs.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: James J. Cavanagh, Director, Business and Financial Policy Division, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-8173

RIN: 1991–AA73

740. ● DEAR: CONTRACTOR EMPLOYEE PROTECTION PROGRAM

Legal Authority: 42 USC 2011 Atomic Energy Act

CFR Citation: 48 CFR 922; 48 CFR 952; 48 CFR 970

Legal Deadline: None

Abstract: Employees of contractors at DOE nuclear energy facilities should be able to provide information to DOE and the Congress concerning violations of law, health, and safety, or matters involving gross mismanagement, waste, fraud or abuse without fear of reprisal. The proposed regulation will establish a procedure for investigation, hearing, and review of allegations of reprisal for such disclosures.

Timetable:

Action	Date	FR Cite
NPRM	10/30/90	
Final Action	01/30/91	
Final Action Effective	03/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: P. Dewes Weaver, Procurement Analyst, PR-12, Procurement and Assistance Management, Department of Energy, Office of Procurement and Assistance Management, 1000 Indepdence Ave., SW., Washington, DC 20585, 202 586-8259

RIN: 1991–AA75

DEPARTMENT OF ENERGY (DOE)

Final Rule Stage

Office of Procurement and Assistance Management (OPAM)

741. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Legal Authority: 42 USC 7254; 42 USC 7101; 31 USC 6301 to 6308

CFR Citation: 10 CFR 600

Legal Deadline: None

Abstract: Regulation is part of governmentwide common rule making changes to A-110 and merging into the common rule growing out of A-102. A-110 is a Federal directive. Another alternative may be to separate A-110 from A-102 or to update and maintain Circular A-110. Under auspices of OMB, all agencies published NPRMs on 11/04/88.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44724
NPRM Comment Period End	01/03/89	53 FR 44716
Final Action	12/31/90	
Final Action Effective	12/31/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James J. Cavanagh, Director, Business and Financial Policy Division, Department of Energy, Office of Procurement and Assistance Management, Procurement and Assistance Management, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-8174

RIN: 1991–AA55

742. DEPARTMENT OF ENERGY ACQUISITION REGULATION; OFFEROR REPRESENTATIONS AND CERTIFICATIONS PROCEDURES

Legal Authority: 42 USC 7254 et seq

CFR Citation: 48 CFR 914; 48 CFR 915; 48 CFR 952

Legal Deadline: None

Abstract: The purpose of this action is to amend the Department of Energy Acquisition Regulation [DEAR] by revising current policies on the collection of offeror-representations and certifications.

Timetable:

Action	Date	FR Cite
NPRM	07/21/89	54 FR 30689
NPRM Comment Period End	09/21/89	54 FR 30689
Final Action	12/00/90	
Final Action Effective	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Edward Simpson, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, Procurement and Assistance Management, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-8246

RIN: 1991–AA58

743. RESTRICTIONS ON LOBBYING (NONPROCUREMENT)

Significance: Regulatory Program

Legal Authority: PL 101-121, Sec 319

CFR Citation: 10 CFR 1036

Legal Deadline: None

Abstract: The Department will join other Executive agencies in issuing a final common rule for the purpose of implementing new statutory prohibitions, disclosure requirements, and sanctions with regard to lobbying activities financed with appropriated funds.

Timetable:

Action	Date	FR Cite
OMB Interim Final Guidance	12/20/89	54 FR 52306
Interim Final Rule	02/26/90	55 FR 6736
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Howard K. Mitchell, Procurement Analyst, Procurement and Assistance Management, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-8190

RIN: 1991–AA64

744. CRITERIA AND PROCEDURES FOR DOE CONTRACTOR EMPLOYEE PROTECTION PROGRAM

Significance: Agency Priority

Legal Authority: 42 USC 2011, Atomic Energy Act

CFR Citation: 10 CFR 708

Legal Deadline: None

Abstract: Employees of contractors at DOE nuclear energy facilities should be able to provide information to DOE and the Congress concerning violations of law, health and safety, or matters involving gross mismanagement, waste, fraud or abuse without fear of reprisal. The proposed regulation will establish a procedure for investigation, hearing and review of allegations of reprisal for such disclosures. Contractors found to have discriminated against an employee for providing such information must provide relief to the complainant. Costs incurred will affect cost reimbursement type contracts for managing, operating, constructing and servicing DOE facilities. Benefits will be in protecting whistleblowers who provide valuable information about unsafe, illegal, or wasteful practices.

Timetable:

Action	Date	FR Cite
NPRM	03/13/90	55 FR 9326
NPRM Comment Period End	05/14/90	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Juanita E. Smith, Director, Employee Relations, Office of Industrial Relations, Department of Energy, Office of Procurement and Assistance Management, Procurement and Assistance Management, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-9033

RIN: 1991–AA66

745. ● DEAR: M & O CONTRACTORS

Significance: Agency Priority

Legal Authority: 42 USC 2201; 42 USC 7254

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: The regulation will clarify when DOE will allow reimbursement of its management and operating

DOE—OPAM

Final Rule Stage

contractors' imputed interest costs which relate to capital leases.

Timetable:

Action	Date	FR Cite
NPRM	07/23/90	55 FR 29663
NPRM Comment Period End	08/22/90	55 FR 29663
Final Action	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Action required to resolve recommendation VI B made in DOE-Inspector General Report Number IG/ER-VC90-02 issued 1-22-90.

Agency Contact: James J. Cavanagh, Director, Business and Financial Policy Division, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-8174

RIN: 1991-AA74

DEPARTMENT OF ENERGY (DOE)

Office of Procurement and Assistance Management (OPAM)

Completed Actions

746. RESEARCH OPPORTUNITY ANNOUNCEMENTS

Legal Authority: 42 USC 7254 et seq

CFR Citation: 48 CFR 935; 48 CFR 917

Legal Deadline: None

Abstract: The purpose of this action is to amend the Acquisition Regulations (DEAR) to implement policies and procedures concerning the use of broad agency announcements, a form of competitive solicitation, as allowed by FAR 35.016.

Timetable:

Action	Date	FR Cite
NPRM	07/14/89	54 FR 29757
NPRM Comment Period End	09/12/89	
Final Action	08/15/90	55 FR 33311
Final Action Effective	09/15/90	55 FR 33311

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Edward Simpson, Procurement Analyst, Procurement and Assistance Management, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-8246

RIN: 1991-AA42

747. DOE CONTRACTOR ALCOHOL-FREE WORKPLACE PROGRAM

Legal Authority: 42 USC 2011 et seq; Atomic Energy Act and Energy Reorganization Act, as amended

CFR Citation: 10 CFR 707

Legal Deadline: None

Abstract: Will establish comprehensive alcohol abuse prevention policy and program at DOE-owned or -leased operations consistent with DOE responsibility to protect public health and safety and national security. Regulation will address alcohol testing requirements, educational and training programs, counseling and rehabilitation, confidentiality and protection of privacy of employees. Costs incurred will affect cost reimbursement type contracts for managing, operating, construction, and servicing DOE facilities. Benefits will be in establishing a reasonable level of consistency among contractor programs and resultant cost to the Government and in reducing risk of unacceptable damage to security environment, health and safety of employees and the public.

Timetable:

Action	Date	FR Cite
Withdrawn This action combined with RIN 1991-AA30.	08/24/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Juanita E. Smith, Director, Division of Employee Relations, Office of Industrial Relations, Department of Energy, Office of Procurement and Assistance Management, Procurement and Assistance Management, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-8003

RIN: 1991-AA57

748. COLLECTION OF CLAIMS OWED THE UNITED STATES

Legal Authority: 31 USC 3701 to 3719; PL 97-365; 31 USC 3720A; PL 98-369

CFR Citation: 10 CFR 1015

Legal Deadline: None

Abstract: The Department of Energy (DOE) Debt Collection Regulations (10 CFR 1015) are being updated to include provisions of the revised Office of Management and Budget Circular A-129 and to implement the Federal Tax Refund Offset Program. This update supports the objective of 10 CFR 1015, which establishes the overall regulations under which DOE collects claims owed to the United States including the implementation of the Federal Claims Collection Act (31 USC 3701-3719) as amended by the Debt Collection Act of 1982 (PL 97-365). DOE's Debt Collection Regulations also incorporate the Federal Claims Collection Standards (4 CFR 101-105) published jointly by the Department of Justice and the General Accounting Office. The preamble to the Federal Claims Collection Standards states that each Federal agency is required to develop its own implementing regulations based on and consistent with these standards. The Debt Collection Act specifies that each agency must prescribe regulations on certain aspects of the debt collection process. Furthermore, the Department of Treasury's Regulations (26 CFR 301.6402) which implement the Deficit Reduction Act of 1984 (31 USC 3720A) (cont)

DOE—CPAM — Completed Actions

Timetable:

Action	Date	FR Cite
TRANSFER DEVELOPMENT TO: 1991-AA31		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: require agencies to promulgate regulations governing the referral of delinquent debts to the Internal Revenue Service for offset against the income tax refunds of persons owing money to DOE (presently implemented under temporary regulations at 10 CFR 1018). Prior to the October 1990 Agenda, this entry was designated 1991-AA62.

Agency Contact: Helen O. Sherman, Acting Director, Office of Financial Policy, Department of Energy, Office of Procurement and Assistance Management, MA-31, 1000 Independence Ave., SW., Washington, DC 20585, [illegible]

RIN: 1991–AA62

748. REVISIONS TO FEE SCHEDULES; CONTRACTS

Legal Authority: 42 USC 2201; 42 USC 7254

CFR Citation: 48 CFR 9

Legal Deadline: None

Abstract: This action is withdrawn as its content has been combined with action 1991-AA72 and both have been issued as a revised proposed rule at 55 FR 32874.

Timetable:

Action	Date	FR Cite
Withdrawn	08/10/90	55 FR 32974

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Charles A. Dan, Procurement Analyst, Procurement and Assistance Management, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-8247

RIN: 1991–AA70

750. GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Significance: Regulatory Program

Legal Authority: PL 100-690, sec 5151 to 5160

CFR Citation: 10 CFR 1050

Legal Deadline: None

Abstract: To comply with the intent of the statute and to implement the final common rule on drug-free workplace, DOE will need to add violation of the statute to its list of causes for debarment and suspension and to provide administrative guidance consistent with the requirements of the common rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	53 FR 4946
Final Action	05/25/90	55 FR 21681
Final Action Effective	07/24/90	55 FR 21681

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Howard K. Mitchell, Procurement Analyst, Procurement and Assistance Management, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-8190

RIN: 1991–AA71

DEPARTMENT OF ENERGY (DOE)
Office of General Counsel (OGC) — Proposed Rule Stage

751. PATENT WAIVER REGULATION

Legal Authority: 42 USC 2182; 42 USC 2457; PL 96-517

CFR Citation: 10 CFR 784

Legal Deadline: None

Abstract: The regulation provides procedures and standards for obtaining a waiver of the Government's rights in inventions made under DOE research and development contracts with entities that are not small businesses or nonprofit institutions, and terms and conditions of such waivers. Currently, DOE waiver policy is provided in DOE Procurement Regulations (41 CFR 9-9.109-6). The proposed regulation places DOE patent waiver policy in a separate regulation, and also provides updates, revisions and clarifications to waiver policy as contained in 41 CFR 9-9.109-6.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	02/00/91	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Richard E. Constant, Assistant General Counsel for Patents, Department of Energy, Office of General Counsel, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-2802

RIN: 1990–AA02

752. FOREIGN GIFTS AND DECORATIONS

Legal Authority: 5 USC 7342; 41 CFR 101-49.001-5

CFR Citation: 10 CFR 1060

Legal Deadline: None

Abstract: The regulations need to be amended to reflect the increase in the dollar amount of "minimal value." (Whether a gift is of minimal value is a factor as to whether the regulations apply.) The dollar amount of minimal value is determined by the General Services Administration, by GSA regulation. Accordingly, the DOE

regulations will reference the GSA regulation.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: MaryAnn Sheheb, Deputy Assistant General Counsel for General Law, Department of Energy, Office of General Counsel, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-1522

RIN: 1990–AA04

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753. CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO CLASSIFIED MATTER OR SIGNIFICANT QUANTITIES OF SPECIAL NUCLEAR MATERIAL; REVISION OF CURRENT PROCEDURES

Legal Authority: 42 USC 2161; 42 USC 2165; 42 USC 2201

CFR Citation: 10 CFR 710

Legal Deadline: None

Abstract: Revision and amendment of the current administrative procedure is necessary to streamline and shorten the process for resolving questions concerning the eligibility of individuals who are employed by or applicants for employment with DOE contractors, agents, and access permittees of the DOE, individuals who are DOE employees or applicants for DOE employment, and other persons designated by the Secretary of DOE for access to Restricted Data or significant quantities of special nuclear material, or for access to national security information.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William A. Crane, Deputy General Counsel for Legal Services, Department of Energy, Office of General Counsel, GC-40, Room 6A-197, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-5246

RIN: 1990–AA13

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754. CONDUCT OF EMPLOYEES; COOPERATION WITH THE INSPECTOR GENERAL

Legal Authority: 5 USC app 3, sec 7

CFR Citation: 10 CFR 1010.217

Legal Deadline: None

Abstract: On April 10, 1989, the Office of Inspector General within the Department of Energy was brought under the authority of the Inspector General Act of 1978. As a result, section 1010.217 needs to be revised so that it will contain provisions on protecting the identities of, and on prosecuting reprisals against, employees who give information to the Inspector General.

Timetable:

Action	Date	FR Cite
NPRM	07/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: MaryAnn Sheheb, Deputy Assistant General Counsel for General Law, Department of Energy, Office of General Counsel, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-1522

RIN: 1990–AA14

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755. PAYMENT OF TRAVEL EXPENSES OF PERSONS WHO ARE NOT GOVERNMENT EMPLOYEES

Legal Authority: 42 USC 7254

CFR Citation: 10 CFR 1000

Legal Deadline: None

Abstract: The regulation needs to be revised to reflect the delegation of authority from the Office of Personnel Management to pay travel expenses of certain job applicants in traveling to preemployment interviews required by the Department.

Timetable:

Action	Date	FR Cite
NPRM	09/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: MaryAnn Sheheb, Deputy Assistant General Counsel for General Law, Department of Energy, Office of General Counsel, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-1522

RIN: 1990–AA15

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756. PROCEDURES AND NUCLEAR SAFETY REQUIREMENTS FOR ASSESSMENT OF PRICE-ANDERSON PENALTIES

Significance: Regulatory Program

Legal Authority: PL 100-408; 42 USC 2273(c); 42 USC 2282a

CFR Citation: 10 CFR 820 to 826

Legal Deadline: None

Abstract: The Price-Anderson Act of 1988 contains provisions subjecting DOE contractors (and subcontractors and suppliers thereto) who are indemnified under the Price-Anderson Act, to penalties for violations of nuclear safety rules, regulations, or orders issued by the Department. The Secretary has authority to compromise, modify, or remit penalties and to prescribe regulations as necessary. The Secretary is required to determine by rule whether nonprofit educational institutions should receive automatic remission of civil penalties.

The penalty provisions of the Act were directed toward increasing DOE safety related control over contractors through financial penalties. These regulations implement the penalty provisions of the Act and will include, as an appendix, a General Statement of Enforcement Policy.

Timetable:

Action	Date	FR Cite
Notice of Inquiry	09/21/89	54 FR 38865
NPRM	12/00/90	
NPRM Comment Period End	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Susan K. Kunnick, Deputy Assistant General Counsel for Nuclear Affairs, Department of Energy, Office of General Counsel, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-6975

RIN: 1990–AA16

DEPARTMENT OF ENERGY (DOE)
Office of General Counsel (OGC)

Final Rule Stage

757. CLASS PATENT WAIVERS

Legal Authority: 42 USC 2182; 42 USC 2457

CFR Citation: 10 CFR 785

Legal Deadline: None

Abstract: The proposed regulation would provide for certain class waivers, serving to streamline and simplify procedures for DOE contractors to seek rights in inventions made under DOE research and development contracts.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44602
NPRM Comment Period End	01/03/89	53 FR 44602
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Richard Constant, Assistant General Counsel for Patents, Department of Energy, Office of General Counsel, 1000 Independence Ave., SW., Washington, DC 20585, 202 586-2802

RIN: 1990-AA07

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758. INDEMNIFICATION OF DEPARTMENT OF ENERGY OFFICIALS AND EMPLOYEES

Legal Authority: 42 USC 7131; 42 USC 7231; 42 USC 7254; 28 CFR 50.15 (a)(7)(iii)

CFR Citation: 10 CFR 1012

Legal Deadline: None

Abstract: The Department of Energy does not have a policy for indemnifying its employees who are sued personally and suffer an adverse judgment as a result of conduct taken within the scope of employment. Lawsuits against Federal employees in their personal capacity can constitute a major impediment to the effective conduct of the public's business, since employees faced with the potential of being held personally liable may be inhibited in discharging their duties. To deal with this problem, the Department proposes to establish a policy permitting, but not requiring, the indemnification of an employee who suffers an adverse verdict, judgment, or other monetary award when the actions giving rise to liability were within the scope of his employment and indemnification is in the interest of the Government. This policy would be modeled on a similar policy already adopted by the Department of Justice for its employees.

Timetable:

Action	Date	FR Cite
Final Action	05/00/91	
Final Action Effective	05/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This action is exempt from notice and comment.

Agency Contact: Jacob D. Vreeland, Trial Attorney, Department of Energy, Office of General Counsel, 1000 Independence Ave., SW., GC-22, Washington, DC 20585, 202 586-6769

RIN: 1990-AA11

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759. PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION AND PROVISION OF AGENCY WITNESSES IN FEDERAL AND STATE PROCEEDINGS

Legal Authority: 42 USC 7254; 5 USC 301; 28 CFR 1621

CFR Citation: 10 CFR 202

Legal Deadline: None

Abstract: The intent of this regulation is to establish an agency-wide procedure for processing and responding to subpoenas or requests for Department of Energy records or testimony by Department of Energy officers and employees. A regulation intended to fulfill this purpose currently exists. However, relocating its position in the Code of Federal Regulations and some minor language changes would clarify its applicability. In addition, efficient application of the regulation will be promoted by more closely modeling it on the comparable Department of Justice regulation, since the Department of Justice is usually responsible for representing the Department of Energy in such matters. The cost of this action is expected to be de minimis and could effect a savings, since clarification and recodification of the existing regulation may avoid needless litigation.

Timetable:

Action	Date	FR Cite
Final Action	05/00/91	
Final Action Effective	05/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This action is exempt from notice and comment.

Agency Contact: Jacob D. Vreeland, Trial Attorney, Department of Energy, Office of General Counsel, 1000 Independence Ave., SW. GC-22, Washington, DC 20585, 202 586-6769

RIN: 1990-AA12

DEPARTMENT OF ENERGY (DOE)
Office of General Counsel (OGC)

Completed Actions

703. AMENDMENTS TO DEPARTMENT OF ENERGY CONDUCT OF EMPLOYEES REGULATIONS

Legal Authority: 18 USC 201 to 209; 42 USC 7211 to 7218; EO 11222

CFR Citation: 10 CFR 1010

Legal Deadline: None

Abstract: The regulations need to be revised to reflect the provisions and requirements of the Ethics in Government Act. In addition, it is anticipated that certain sections of the regulations will be clarified and/or revised to reflect current Office of General Counsel policy and interpretations.

DOE—OGC

Completed Actions

Timetable:

Action	Date	FR Cite
Withdrawn pending publ. of Gov't-wide rules, Office of Gov't Ethics	08/24/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Appendix I of the Regulations, regarding employee financial disclosure requirements, was published as a Final Rule in April 1988.

Agency Contact: MaryAnn Sheheb, Deputy Assistant General Counsel for General Law, Department of Energy, Office of General Counsel, 1000 Independence Ave., SW., Washington, DC 20585, [illegible]

RIN: 1990-AA00

[FR Doc. 90-22502 Filed 10-26-90; 8:45 am]
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Monday
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Part VIII

Department of Health and Human Services

Semiannual Regulatory Agenda

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Ch. III

21 CFR Ch. I

42 CFR Chs. I-V

48 CFR Subtitle A, Chs. II, III, and XIII

Unified Agenda of Regulations

AGENCY: Office of the Secretary, HHS.

ACTION: Publication of unified agenda of regulations.

SUMMARY: The President's February 17, 1981, Executive Order (12291) and the Regulatory Flexibility Act of 1980 require the Department to publish an agenda of significant regulations being developed and an indication of those regulatory actions that are being analyzed for their effect on small businesses. The Department published its last agenda on April 23, 1990.

FOR FURTHER INFORMATION CONTACT: For further inquiries or comments related to specific regulations listed in the agenda, the public is encouraged to contact the appropriate responsible individual. Questions or comments on the overall agenda should be sent to: Mrs. Charlotte E. Lewis, Regulations Coordinator, Office of the Secretary, Department of Health and Human Services, 200 Independence Avenue SW., Washington, DC 20201; telephone: (202) 245-6824.

Robin H. Corle,

Executive Secretary to the Department.

Office of the Secretary—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
761	Revisions to "Quality of Care" Exclusion and Payment Denial Regulations	0991-AA61

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
762	Principles for Determining Costs and Cost Allocation Procedures Applicable to Grants, Contracts, and Other Agreements for Work Performed by Hospitals	0991-AA12
763	Civil Money Penalties and Intermediate Sanctions for HMOs and Competitive Medical Plans	0991-AA44
764	Prohibition on Use of Physician Incentive Plans	0991-AA45
765	PRO Rural Practitioners Amendments	0991-AA51
766	Civil Money Penalties for Violations Relating to Medical Supplemental Policies	0991-AA53
767	Block Grant Programs	0991-AA55
768	Standardization and Uniform Application of CMP Procedures	0991-AA57
769	Revisions to the PRO Sanctions Notification Process	0991-AA60
770	Administrative Improvements, Reporting Requirements and Other Technical Changes for State Medicaid Fraud Control Units	0991-AA62
771	Civil Money Penalties For Failure To Identify Medicare Secondary Payer Situations	0991-AA64
772	Civil Money Penalties For Physician Ownership of, and Referral To Certain Health Care Entities	0991-AA65
773	Additional Safe Harbor Provisions Under the OIG Anti-Kickback Statute	0991-AA66
774	Enforcement of Nondiscrimination on the Basis of Handicap in Federally Assisted Programs	0991-AA68

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
775	Nondiscrimination Requirements (Including on the Basis of Sex or Religion) Applicable to Block Grants and Standard Nondiscrimination Procedures Applicable to Certain Other Programs	0991-AA02
776	Equal Opportunity in Employment: Public Broadcasting, Public Radio and Public Telecommunications Entities Receiving Federal Funds from the Corporation for Public Broadcasting	0991-AA22
777	Audits of Non-governmental Grantees	0991-AA29
778	Civil Money Penalties and Exclusions for Assistants at Cataract Surgery	0991-AA37
779	Civil Money Penalties for Failure to Report Medical Malpractice Payments and for Breaching the Confidentiality of Information	0991-AA40
780	Amendments to OIG Exclusion and CMP Authorities Resulting from PL 100-93	0991-AA47
781	OIG Anti-Kickback Provisions	0991-AA49
782	Civil Money Penalties for Misuse of Departmental Symbols or Emblems	0991-AA54
783	Uniform Administrative Requirements for Grants and Cooperative Agreements	0991-AA56

HHS

Office of the Secretary—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
784	Enforcement of Nondiscrimination on the Basis of Handicap in Federally Assisted Programs	0991-AA63
785	Safe Harbors for Protecting Health Plans	0991-AA69
786	Governmentwide Guidance for New Restrictions on Lobbying; Interim Final Guidence	0991-AA70
787	Federal Policy for the Protection of Human Subjects	0991-AA71

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
788	Contract Audit Policy	0991-AA58
789	Drug-Free Workplace (Grants)	0991-AA67

Departmental Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
790	Implementation of the Equal Access to Justice Act in Agency Proceedings	0990-AA02

Office of Human Development Services—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
791	Foster Care, Adoption Assistance, and Child Welfare Services	0980-AA08
792	Head Start Appeals Process	0980-AA20
793	Head Start Recruitment Selection and Enrollment of Children	0980-AA27
794	Head Start: Grants Administration	0980-AA32
795	Adoption and Foster Care Information	0980-AA35
796	Requirements Applicable to Title IV-E Foster Care and Title IV-B Child Welfare Services	0980-AA44
797	Runaway and Homeless Youth Program	0980-AA45

Office of Human Development Services—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
798	Head Start Criteria for Selection of New Grantees	0980-AA17
799	Head Start Staff and Program Options Requirements	0980-AA18
800	Head Start Performance Standards for Services to Children with Disabilities	0980-AA21
801	Head Start Performance Standards for Infants, Toddlers, and Pregnant Women	0980-AA33
802	Social Services Block Grant Information Collection	0980-AA42

HHS

Office of Human Development Services—Completed Actions

Sequence Number	Title	Regulation Identifier Number
803	Child Abuse and Neglect: Technical Amendments	0960-AA40

Social Security Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
804	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Cardiovascular System	0960-AA99
805	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Respiratory System	0960-AB00
806	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Musculoskeletal System	0960-AB01
807	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Adjustments in SSI Benefits on Account of Retroactive Benefits Under Title II	0960-AB36
808	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Evaluation Guides for Determining Substantial Gainful Activity (SGA)	0960-AB73
809	Supplemental Security Income Program; Exclusions from Income and Resources of Indian Judgment Funds and Per Capita Distributions	0960-AB86
810	Old-Age, Survivors, and Disability Insurance Program; Evaluation Criteria for Immune System Disorders, Including HIV Infection (Acquired Immunodeficiency Syndrome (AIDS)/AIDS-Related Complex)	0960-AC06
811	Supplemental Security Income Program; Federal Administration of Optional State Supplementation	0960-AC13
812	Old-Age, Survivors, and Disability Insurance Program; Nonpayment of Benefits to Prisoners, Vocational Rehabilitation Exception	0960-AC16
813	Supplemental Security Income Program; Continuation of Benefits and Special Eligibility for Certain Severely Impaired Recipients Who Work	0960-AC22
814	Supplemental Security Income Program; Payment of Benefits Due Deceased Recipients	0960-AC26
815	Supplemental Security Income Program; Parent-to-Child Deeming	0960-AC38
816	Old-Age Survivors and Disability Insurance and Supplemental Security Income Programs; Determining Disability and Blindness; Fee Limitation Policy for Purchase of Laboratory Tests	0960-AC41
817	Supplemental Security Income Program; Proceeds of a Loan, Payment of Pro Rata Share of Household Operating Expenses	0960-AC42
818	Old-Age, Survivors, and Disability Insurance Program; Extension of Social Security Coverage to Certain Workers; Medicare Only Coverage of Certain State and Local Government Employees	0960-AC45
819	Supplemental Security Income Program; Continuation of Full Benefit Standard for Certain Persons Institutionalized	0960-AC55
820	Old-Age, Survivors, and Disability Insurance Program; Revision of Contributions for Support Rules	0960-AC57
821	Old-Age, Survivors and Disability Insurance and Supplemental Security Income Programs; Determination of Disability - Determining State Agency Substantial Failure	0960-AC60
822	Old-Age, Survivors and Disability Insurance and Supplemental Security Income Programs; Vocational Factors Regulations Restructuring and Clarification	0960-AC61
823	Supplemental Security Income Program; Resources and Exclusions; Definition of Resources	0960-AC66
824	Old-Age, Survivors, and Disability Insurance Program, and Organization and Procedures; Requirement of Social Security Number as a Condition for Receipt of Benefits	0960-AC67
825	Old-Age, Survivors, and Disability Insurance Program; Suspension of Benefits of Deported Nazis; Exemption from Social Security Taxation Because of Religious Beliefs	0960-AC68
826	Old-Age, Survivors, and Disability Insurance Program; Medical Criteria for Evaluating Mental Disorders for Adults	0960-AC74
827	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Interim Disability Benefits	0960-AC76
828	Supplemental Security Income Program; Redeterminations of Supplemental Security Income Eligibility	0960-AC77
829	Disclosure of Official Records and Information; Blood Donor Locator Service	0960-AC79
830	Old-Age, Survivors and Disability Insurance and Supplemental Security Income Programs; Medical Improvement Review Standard (MIRS)—Miscellaneous Changes	0960-AC81
831	Old-Age, Survivors and Disability Insurance Program; Full-Time Attendance by Elementary or Secondary School Student	0960-AC83
832	Old-Age, Survivors and Disability Insurance Program; Administrative Waiver of Disadvantageous Recomputations	0960-AC84
833	Old-Age, Survivors and Disability Insurance and Supplemental Security Income Programs; Representation of Claimants for Benefits Under Title II or Title XVI	0960-AC87
834	Old-Age, Survivors and Disability Insurance and Supplemental Security Income Programs; Standards Applicable in Determinations of Good Cause, Fault, and Good Faith	0960-AC88
835	Old-Age, Survivors and Disability Insurance Program; Elimination of Dependency Test Applicable to Certain Adopted Children	0960-AC90

HHS

Social Security Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
836	Old-Age, Survivors and Disability Insurance Program; Authority to Amend Wage Records After Expiration of Time Limitation	0960-AC91
837	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Appeals Council Notice Requirements	0960-AC93
838	Supplemental Security Income Program; Eligibility for SSI Benefits of Children of Armed Forces Personnel Residing Overseas	0960-AC95
839	Supplemental Security Income Program; Waiver of SSI Rule for Deeming to Children the Income and Resources of Their Parents for Certain Disabled Children	0960-AC96
840	Supplemental Security Income Program; Exclusion from Income of Domestic Commercial Transportation Tickets Received as Gifts in Determining SSI Income	0960-AC97
841	Supplemental Security Income Program; Reduction in Time When Income and Resources of Separated Couples Must Be Treated as Jointly Available for Purposes of SSI Eligibility & Benefits	0960-AC98
842	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Take Into Account Misinformation Provided to Applicants in Determining Date of Application	0960-AD05
843	Old-Age, Survivors, and Disability Insurance Programs; Earnings and Benefit Statements	0960-AD06
844	Supplemental Security Income Program; Augmented Benefits	0960-AD07
845	Old-Age, Survivors, and Disability Insurance Programs; Defining Past-Due Benefits	0960-AD08
846	Supplemental Security Income Program; Bank Accounts in the SSI Program	0960-AD10

Social Security Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
847	Supplemental Security Income Program; Suspensions, Terminations, and Advance Notice of Adverse Determinations	0960-AA22
848	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Program; Continued Payment of Benefits to Persons in Vocational Rehabilitation Programs	0960-AB05
849	Supplemental Security Income Program and Medicaid Assistance; What Is Not Income	0960-AB09
850	Old Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Standards for Consultative Examinations; Existing Medical Evidence	0960-AB32
851	Supplemental Security Income Program; How We Count Unearned Income—Funds Used to Pay Indebtedness	0960-AB29
852	Old Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Determinations of Disability-Compliance and Other Changes	0960-AB35
853	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs: Evaluation of Symptoms, Including Pain	0960-AB41
854	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Mental Disorders-Childhood	0960-AB06
855	Supplemental Security Income Program; Permanent Residence in the United States Under Color of Law - Additional Category	0960-AC26
856	Old-Age, Survivors, and Disability Insurance Programs and Organization and Procedures; Evidence Required for Duplicate Social Security Number Card	0960-AC32
857	Old-Age, Survivors, and Disability Insurance Programs and Organization and Procedures; Social Security Number Cards for Aliens	0960-AC34
858	Old-Age, Survivors, and Disability Insurance Program; Addition of Down Syndrome to the Listing of Impairments	0960-AC35
859	Old-Age Survivors and Disability Insurance and Supplemental Security Income Programs; Cancelled Consultative Examinations	0960-AC40
860	Old-Age, Survivors, and Disability Insurance Program; Applicability of Government Pension to Certain Federal Employees	0960-AC46
861	Supplemental Security Income Program; Modification of Interim Assistance Reimbursement Program	0960-AC51
862	Supplemental Security Income Program; Exclusion from Income of Payments Received For and Used to Pay Last Illness and Death	0960-AC52
863	Old-Age, Survivors, and Disability Insurance Program; Supplemental Earnings Reports	0960-AC58
864	Old-Age, Survivors and Disability Insurance and Supplemental Security Income Programs; Representation of Parties - Suspension and Disqualification of Representatives	0960-AC59
865	Old-Age, Survivors, and Disability Insurance Program; Spouse's Benefits—Substitution of Certificate of Election for Application to Establish Entitlement for Certain Widow's/Widower's Benefits	0960-AC72
866	Supplemental Security Income Program; Augmented Benefits	0960-AC82
867	Supplemental Security Income Program; Technical Changes to Subparts K and L	0960-AC94
868	Supplemental Security Income Program; Exclusion of Accrued Income with Respect to Purchase of Certain Burial Spaces for Purposes of SSI Eligibility	0960-AC99

Social Security Administration—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
869	Old-Age, Survivors, and Disability Ins. Progs.; Prohibition Against Termination of Cov. for American Citizens Working Abroad for Foreign Affiliate of Am. Employer & Ext of Demo Project	0960-AD01
870	Old-Age, Survivors, and Disability Insurance Program; Elimination of "Carryover" Reduction Due to Receipt of Widow(er)'s Benefits Before Age 62	0960-AD02
871	Old-Age, Survivors, and Disability Insurance Programs; Inclusion of Certain Deferred Compensation in Determination of Wage-Based Adjustments	0960-AD04
872	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Childhood Disability	0960-AD09

Social Security Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
873	Old Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Determining Disability and Blindness; Multiple Impairments	0960-AB39
874	Supplemental Security Income Program; Limitation on Recoupment Rate in Case of Overpayment	0960-AB40
875	Supplemental Security Income Program; Exclusion From Resources of Funds Set Aside for Burial and Burial Spaces	0960-AC48
876	Supplemental Security Income Program; Exclusion of Certain Housing Assistance Payments from Income and Resources	0960-AC65
877	Old-Age, Survivors, and Disability Insurance Program; Changes in the Annual Earnings Test	0960-AC69
878	Old-Age, Survivors, and Disability Insurance Program; Effect of Pensions from Noncovered Employment	0960-AC70
879	Old-Age, Survivors, and Disability Insurance Program; Rules Governing Social Security Coverage of Federal Employment	0960-AC71
880	Old-Age, Survivors, and Disability Insurance Program; Entitlement of a Surviving Divorced Spouse After Remarriage	0960-AC73
881	Supplemental Security Income Program; Treatment of Augmented Protected VA Benefits	0960-AC86
882	Old-Age, Survivors, and Disability Insurance Program; Continuation of Disability Benefits During Appeal	0960-AD00
883	Old-Age, Survivors, and Disability Insurance Programs; Extension of Expiration Date for Adult Mental Disorders	0960-AD03

Public Health Service—Office of Assistant Secretary for Health (OASH)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
884	Exempt Privacy Act System of Records Related to Inquiries and Investigations of Scientific Misconduct	0905-AD31

Public Health Service—Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
885	Waivers to Requirement That States Spend at Least a Certain Portion of State Block Grant Funds for New Mental Health Services and Programs	0905-AC99

Public Health Service—Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
886	Conditions for Waiver of Denial of Federal Benefits	0905-AD32

HHS

Public Health Service—Centers for Disease Control (CDC)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
887	Medical Examination of Aliens	0905-AD29

Public Health Service—Centers for Disease Control (CDC)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
888	NIOSH Revision of Tests and Requirements for Certification of Respiratory Protective Devices	0905-AB58
889	Subchapter J - National Vaccine Program, Part 110 Information and Education, Subpart A - Vaccine Information Materials	0905-AC53
890	Interstate Shipment of Biological Material that Contains or May Contain an Etiologic Agent	0905-AC56

Public Health Service—Food and Drug Administration (FDA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
891	Policies Concerning Uses of Sulfiting Agents	0905-AB52
892	Drug Exports	0905-AC44
893	Computer Products; Policy Guidance	0905-AC72

Public Health Service—Food and Drug Administration (FDA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
894	Current Good Manufacturing Practice for Finished Pharmaceuticals; Retrospective Review	0905-AA73
895	New Animal Drug Approval Process	0905-AA96
896	Proposed Rule to Implement the Orphan Drug Amendments to the Federal Food, Drug, and Cosmetic Act	0905-AB55
897	Look-Back Requirements for Blood Recipients Who Are at Increased Risk of HIV Infection	0905-AC30
898	Food Labeling Review	0905-AD06
899	Implementation of Title I of the Generic Animal Drug and Patent Term Restoration Act	0905-AD15
900	Patent Term Restoration for Animal Drugs	0905-AD16
901	Fees for Certification Services; Insulin and Color Additive Certification Programs	0905-AD34

Public Health Service—Food and Drug Administration (FDA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
902	Over-the-Counter (OTC) Drug Review	0905-AA06
903	Current Good Manufacturing Practice (CGMP) for Blood and Blood Components; Retrospective Review	0905-AA75
904	Requirements for Adverse Experience Reporting for Licensed Biological Products	0905-AB53
905	Abbreviated New Drug Application Regulations (Title I of the "Drug Price Competition and Patent Term Restoration Act of 1984")	0905-AB63
906	Food Labeling; Health Messages and Label Statements	0905-AB67
907	Food Labeling; Definitions of Cholesterol Free, Low Cholesterol, and Reduced Cholesterol	0905-AB68
908	Infant Formula Act	0905-AC45
909	Common or Usual Name for Diluted Fruit or Vegetable Juice Beverages Other than Diluted Orange Juice Beverages	0905-AC48
910	Protection of Human Subjects; Informed Consent; Standards for Institutional Review Boards for Clinical Investigations	0905-AC52
911	Lead from Ceramic Pitchers	0905-AC91

HHS

Public Health Service—Food and Drug Administration (FDA)—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
912	Proficiency Testing Requirements for Laboratories Testing Blood and Blood Components by the FDA-Required Tests for HBsAg and Anti-HIV	0905-AC92
913	Methadone in Maintenance Treatment of Narcotic Addicts; Joint FDA and NIDA Proposed Revision of Conditions of Use	0905-AC93
914	Expediting Approval for Drugs Intended to Treat Life-Threatening and Severely-Debilitating Illnesses	0905-AC94
915	Retention of Bioavailability and Bioequivalence Testing Samples	0905-AD17
916	Investigational New Drug, Antibiotic and Biological Drug Product Applications; Proposed Amendment to Sections on Clinical Hold and Termination	0905-AD19

Public Health Service—Food and Drug Administration (FDA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
917	Action Levels for Added Poisonous or Deleterious Substances in Food (Including Animal Feed)	0905-AC73
918	Prescription Drug Marketing Act of 1987; Implementation	0905-AC61

Public Health Service—Health Resources and Services Administration (HRSA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
919	Area Health Education Center Program	0905-AC87
920	Grants for Community Health Centers	0905-AC85
921	Grants for Migrant Health Services	0905-AC88
922	Health Education Assistance Loan (HEAL) Program: Performance Standards	0905-AC97
923	National Data Bank for Adverse Information on Health Care Practitioners and Providers (Section 5 Amendments)	0905-AC98
924	Grants for Educational Assistance to Individuals from Disadvantaged Backgrounds	0905-AD01
925	Health Education Assistance Loan (HEAL) Program: Postjudgment Collections	0905-AD11
926	National Data Bank for Adverse Information on Physicians, Dentists, Other Health Care Practitioners, and Health Care Entities (Title IV): Medical Malpractice Research Data	0905-AD12
927	Vaccine Injury Compensation: Calculation of Cost of Health Insurance	0905-AD25
928	Organ Procurement and Transplantation Network Rules	0905-AD26
929	Grants for Hospital Construction and Modernization; Federal Right of Recovery and Waiver of Recovery	0905-AD27
930	National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners: Confirmation of Effective Date and Technical Amendments	0905-AD33

Public Health Service—Health Resources and Services Administration (HRSA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
931	Health Education Assistance Loan (HEAL) Program: Implementation of Pub. L. 99-129 (Allied Health)	0905-AC28
932	Nursing Post-Baccalaureate Faculty Fellowships Program	0905-AC34
933	National Health Service Corps Loan Repayment Program; Grants For State Loan Repayment Programs and Special Repayment Program	0905-AC65
934	Designation of Mental Health Manpower Shortage Areas	0905-AC68
935	Health Education Assistance Loan (HEAL) Program: Bankruptcy Revisions	0905-AC75
936	Nursing Student Loan (NSL) Program: Cash Management	0905-AC76
937	Health Professions Student Loan (HPSL) Program: Cash Management	0905-AC78
938	Health Education Assistance Loan (HEAL) Program: Implementation of Public Law 100-607	0905-AD05
939	Nursing Student Loan (NSL) Program: Implementation of Public Law 100-607	0905-AD06
940	Health Professions Student Loan (HPSL) Program: Implementation of Public Law 100-607	0905-AD07

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Public Health Service—Health Resources and Services Administration (HRSA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
941	Grants for Faculty Training Projects in Geriatric Medicine and Dentistry	0905-AC71

Public Health Service—Indian Health Service (IHS)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
942	Indian Health Service Loan Repayment Program Regulations	0905-AC96
943	Indian Health Catastrophic Health Emergency Fund Program	0905-AC97
944	Revision of Indian Self-Determination Regulations	0905-AC98
945	Revision of Urban Health Regulations	0905-AD20
946	Review of the Determination of a Tribe's Resource Deficiency Level	0905-AD21

Public Health Service—Indian Health Service (IHS)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
947	Contract Health Services	0905-AD00
948	Expansion of Siletz Contract Health Service Delivery Area	0905-AD22

Public Health Service—National Institutes of Health (NIH)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
949	Changes in NIH Program Regulations Due to PL 99-158, PL 99-499, Title IX of PL 99-660 and PL 100-607	0905-AC02
950	National Institutes of Health Center Grants	0905-AC27
951	Special Volunteer Services at the National Institutes of Health	0905-AC95
952	National Institutes of Health AIDS Research Loan Repayment Program	0905-AD18
953	Intramural Research Training Awards	0905-AD26

Public Health Service—National Institutes of Health (NIH)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
954	National Library of Medicine Programs; Revision of General Rules for the National Library of Medicine and National Library of Medicine Grants	0905-AA65
955	National Institute of Environmental Health Sciences Hazardous Waste Worker Training	0905-AD14

Public Health Service—Agency for Health Care Policy and Research (AHCPR)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
956	Grants for Health Services Research, Evaluation, Demonstration, and Dissemination Projects	0905-AD30

Health Care Financing Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
957	Administrative Appeals Process for Provider Payment Disputes Including Amending Cost Reports & Reopening Intermediary Payment Determinations & Administrative Review Decisions (BPD-221-P)	0938-AA33
958	Payment for Clinical Diagnostic Laboratory Services (BPD-369-P)	0938-AB50
959	Hospice Services (MB-7-P)	0938-AC52
960	Revised Effective Date of Medicare/Medicaid Provider Agreement and Supplier Participation (HSQ-139-P)	0938-AC88
961	PRO Review of Surgical Procedures and Requirements for Second Opinions (HSQ-147-P)	0938-AC90
962	Payment for the Cost of Malpractice Insurance for Hospitals Excluded from the Prospective Payment System (BPD-437-N)	0938-AC97
963	Changes Concerning the Definition of Accrual Basis of Accounting (BPD-366-P)	0938-AD01
964	Optional Payment System for Low Medicare Volume Skilled Nursing Facilities (BPD-409-P)	0938-AD02
965	Medicaid Eligibility of Poverty Level Groups and Extended Coverage of Services (MB-13-P)	0938-AD17
966	Transfer of Resources for Less Than Fair Market Value (MB-10-P)	0938-AD18
967	Medicare Coverage of Outpatient Occupational Therapy Services, Vision Care and Services Furnished by Physician Assistants (BPD-425-P)	0938-AD32
968	Revisions to the Freedom of Information Regulations (OPA-1-P)	0938-AD60
969	Changes Concerning the Investment Income Offset Policy (BPD-461-P)	0938-AD72
970	Clarification of Durable Medical Equipment Coverage Under Medicare (BPD-468-P)	0938-AD77
971	Medicare Coverage of Home Health Services, Medicare Conditions of Participation and Home Health Aide Supervision and Discharge Planning (BPD-469-P)	0938-AD78
972	Appeal Rights and Procedures for Beneficiaries Enrolled in Prepaid Health Care Plans (BPD-479-P)	0938-AD79
973	Omnibus Nursing Home Reform Requirements (BPD-488-P)	0938-AD81
974	New Minimum Standards for Medicare Supplemental (Medigap) Policies (BPD-491-P)	0938-AD82
975	Payment for Clinical Psychologist Services and Clinical Social Worker Services (BPD-495-P)	0938-AD84
976	Fee Schedule for Certified Nurse-Midwife Services (BPD-496-P)	0938-AD85
977	Survey and Certification of Skilled Nursing Facilities and Nursing Facilities and Enforcement Procedures (HSQ-156-P)	0938-AD94
978	Clarification of "Without Fault" as it Applies to Physician Provider and Supplier Liability (BPO-76-P)	0938-AD95
979	Grace Period and Termination for Non-Payment of Supplementary Medical Insurance (Part B) Premiums for Insured Persons (BPO-78-P)	0938-AD97
980	Requirements for Coverage of Seat Lifts (BPD-607-P)	0938-AE05
981	Protection of Income and Resources for Community Spouse (MB-23-P)	0938-AE12
982	Physician Certification and Plan of Care Requirements and Inspection of Care Reviews (HSQ-178-P)	0938-AE17
983	HMOs: Group Specific Ratings (OPH-9-P)	0938-AE24
984	HMO Organizational Structure and Services (OPH—P)	0938-AE25
985	Clinical Laboratory Improvement Amendments of 1988; Fee Collection (HSQ-177-P)	0938-AE28
986	"Confined to the Home" Requirements for Home Health Services (BPD-626-P)	0938-AE34
987	Medicaid Management Information System (MMIS) Performance Review, Notification Procedures for Changes (MB-25-P)	0938-AE36
988	Medicaid Payment of Medicare Cost Sharing for Qualified Medicare Beneficiaries (MB-24-P)	0938-AE38
989	Survey Requirements and Alternative Sanctions for Home Health Agencies (HSQ-169-P)	0938-AE39
990	Hospital Standard for HIV Infectious Blood (BPD-633-P)	0938-AE40
991	Offset of Medicare Payments to Individuals to Collect Past Due Obligations Arising from Breach of Scholarship and Loan Contracts (BPO-88-P)	0938-AE45
992	Conditions of Coverage for Organ Procurement Organizations (BPD-646-P)	0938-AE48
993	Extended Medicaid Eligibility for Certain Individuals (MB-026-P)	0938-AE51
994	Payment for Epoetin (EPO) Furnished to ESRD Patients (BPD-652-P)	0938-AE52
995	Revisions of the Medicare Economic Index (BPD-655-P)	0938-AE54
996	Capital Payments Under the Inpatient Hospital Prospective Payment System (BPD-661-P)	0938-AE59
997	Enforcement of Laboratory Requirements (HSQ-179-P)	0938-AE60
998	Resident Assessment in Long Term Care Facilities (HSQ-180-P)	0938-AE61
999	HMO/CMP Disenrollment, Contract Terminations and Other Provisions (OPH-11-P)	0938-AE63
1000	Conforming Provisions for 1988 HMO Amendments (OPH-12-P)	0938-AE64
1001	Exclusion of Medicare Coverage of Corrective Eyeglasses for Aphakic Patients With Intraocular or Contact Lenses (BPD-286-PN)	0938-AE71
1002	Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) Services (MB-28-P)	0938-AE72
1003	Limit on Payment for Cost of an Intraocular Lens Furnished by a Hospital on an Outpatient Basis (BPD-649-P)	0938-AE76
1004	Geographic Designation for Home Health Agency Branch Offices (BPD-651-PN)	0938-AE77
1005	Schedule of Limits on Home Health Agency Costs Per Visit for Cost Reporting Periods Beginning on or After 7/1/91 (BPD-679-N)	0938-AE78
1006	Payment for Nursing and Allied Health Science Education (BPD-685-P)	0938-AE79
1007	Uniform Electronic Cost Reporting System for Hospitals (BPD-689-P)	0938-AE80
1008	Payment Change for Home Dialysis (BPD-690-P)	0938-AE81
1009	National Standardization of "Global Surgery" Policy (BPD-699-PN)	0938-AE85
1010	Cost Report Settlement Adjustment Factor for Skilled Nursing Facilities and Home Health Agencies (BPD-702-P)	0938-AE87

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Health Care Financing Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1011	Home Health Agency Wage Index (BPD-707-P)	0938-AE88
1012	Changes to the Inpatient Hospital Prospective Payment System and Fiscal Year 1992 Rates (BPD-711-P)	0938-AE90
1013	Fee Schedule for Physicians' Services (BPD-712-P)	0938-AE91
1014	Aggregation of Medicare Claims for Administrative Law Judge (ALJ) Hearings and Judicial Review (BPD-694-P)	0938-AE98
1015	Proposed Additions to and Deletions from the Current List of Covered Surgical Procedures for Ambulatory Surgical Centers (BPD-623-PN)	0938-AE95
1016	Fire Safety Standards for Hospitals, Long Term Care Facilities, and Intermediate Care Facilities for the Mentally Retarded (BPD-650)	0938-AE97
1017	Coverage of Screening Pap Smears (BPD-705-P)	0938-AE98
1018	Clinical Psychologist Services and Clinical Social Worker Services - Medicare (BPD-706-P)	0938-AE99
1019	Coverage of Nurse Practitioner Services in Nursing Facilities (BPD-708-P)	0938-AF00
1020	Allowing Certifications and Recertifications by Nurse Practitioners and Clinical Nurse Specialists for Certain Services (BPD-709-P)	0938-AF01
1021	Utilization and Quality Control Peer Review Organizations (PROs): Confidential Information (HSQ-190-P)	0938-AF03
1022	Revised Procedures for Paying Claims from Providers of Medicare Services (BPO-93-P)	0938-AF04
1023	Case Management (MB-27-P)	0938-AF07
1024	Coordination of Medicaid with Special Supplemental Food Program for Women, Infants and Children (MB-30-P)	0938-AF09
1025	Day Habilitation and Related Services (MB-37-P)	0938-AF10
1026	Medicaid Third Party Liability: Cost Effectiveness Waivers (MB-39-P)	0938-AF11
1027	Required Coverage of Nurse Practitioner Services - Medicaid (MB-41-P)	0938-AF12
1028	Medicaid for Two-Parent Families (MB-42-P)	0938-AF13
1029	Payment for Federally Qualified Health Center Services (MB-43-P)	0938-AF14
1030	Medicaid-Managed Care Issues (MB-44-P)	0938-AF15
1031	Restoring Criteria for the Determination of Cost Reimbursement to Medicare - Contracting Prepaid Health Plans (OPH-18-P)	0938-AF16
1032	Granting and Withdrawal of Deeming Authority to National Accreditation Organizations (HSQ-159-P)	0938-AF17
1033	Withdrawal of Coverage of Thermography	0938-AF18

Health Care Financing Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1034	Medicaid Eligibility and Coverage Requirements (MB-1-F)	0938-AA58
1035	Deduction of Incurred Medical Expenses (Spenddown) (MB-20-F)	0938-AB07
1036	Payment for the Services of Physicians Furnished in Teaching Settings and Other Providers (BPD-142-F)	0938-AB61
1037	Medicare/Medicaid Revaluation of Assets (BPD-311-F)	0938-AB64
1038	Effect of Appeals on Hospital-Specific Portion of the Prospective Payment Rate (BPD-366-F)	0938-AC40
1039	Home and Community-Based Services and Respiratory Care for Ventilator-Dependent Individuals (MB-8-F)	0938-AC55
1040	Participation in CHAMPUS and CHAMPVA, Hospital Admissions for Veterans, Discharge Rights Notice, and Hospital Responsibility for Emergency Care (BPD-393-F)	0938-AC58
1041	Medicaid Eligibility for Qualified Severely Impaired Individuals (MB-16-FC)	0938-AC82
1042	Denial of Payment for Substandard Quality Care, Review of Beneficiary Complaints (HSQ-132-F)	0938-AC84
1043	Changes Concerning Suspension of Medicare Payments, Interest Rates Charged on Overpayments and Underpayments, and Determinations of Allowable Interest Expense (BPD-429-FC)	0938-AC99
1044	Criteria and Procedures for Making Medical Services Coverage Decisions That Relate to Health Care Technology (BPD-432-F)	0938-AD07
1045	Revisions to Conditions of Participation for Hospitals and Conditions for Coverage of Services of Independent Laboratories and Suppliers of ESRD Services (BPD-421-F)	0938-AD11
1046	Requirements for Long Term Care Facilities (BPD-396-F)	0938-AD12
1047	Recognition of Accrediting Organizations for Home Health Agency Participation(BPD-413-FN)	0938-AD13
1048	Explanation of Rights and Other HMO/CMP Provisions (BPD-422-F)	0938-AD14
1049	Medicaid: Eligibility Groups, Coverage and Conditions of Eligibility; Legislative Changes Under OBRA '87, COBRA, and TEFRA (MB-014-F)	0938-AD16
1050	Payment for Services of Certified Registered Nurse Anesthetists (BPD-423-F)	0938-AD25
1051	Modification of Certain Requirements for Health Insuring Organizations (MB-12-F)	0938-AD31
1052	Prohibition on Unbundling of Hospital Outpatient Services (BPD-426-F)	0938-AD33
1053	State Share of Financial Participation (MB-22-F)	0938-AD36
1054	Changes to Peer Review Organization Regulations (HSQ-135-F)	0938-AD39
1055	Home Health Agencies: Conditions of Participation and Reduction in Recordkeeping Requirements (BPD-476-F)	0938-AD45

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Health Care Financing Administration—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1056	Schedule of Limits for Skilled Nursing Facility Inpatient Routine Service Costs for Reporting Periods Beginning On or After October 1, 1990 (BPD-484-IFNC)	0938-AD48
1057	Home and Community-Based Services for the Elderly (MB-019-IFC)	0938-AD55
1058	Fee Schedules for Radiologist Services (BPD-476-F)	0938-AD62
1059	Payment for Durable Medical Equipment and Orthotic and Prosthetic Devices (BPD-494-IFC)	0938-AD65
1060	Charges to Residents' Funds in Nursing Homes (BPD-477-F)	0938-AD66
1061	Prohibition of FFP for Educational and Vocational Training for Institutionalized Individuals (BPD-485-P)	0938-AD69
1062	Medicare Secondary Payer for Disabled Active Individuals (BPD-482-P)	0938-AD73
1063	Conforming Amendments Resulting from the Omnibus Budget Reconciliation Act of 1987 (BPD-484-FC)	0938-AD92
1064	Diagnosis Codes on Physician Bills (BPD-610-F)	0938-AE06
1065	Withdrawal of Coverage of Extracranial-Intracranial Arterial Bypass Surgery for the Treatment or Prevention of Stroke (BPD-622-FN)	0938-AE11
1066	HMO Qualification and Compliance Actions (OPH-5-N)	0938-AE26
1067	Payment Adjustments for Hospitals That Serve a Disproportionate Number of Low-Income Patients (MB-017-P)	0938-AE35
1068	Medicare, Medicaid and CLIA Programs: Regulations Implementing the Clinical Laboratory Improvement Amendments of 1988 (CLIA '88) (HSQ-176-P)	0938-AE47
1069	Preadmission Screening and Annual Resident Review (BPD-661-F)	0938-AE49
1070	Nurse Aide Training and Competency Evaluation Programs (BPD-662-F)	0938-AE50
1071	Granting and Withdrawal of Deeming Authority to Private Nonprofit Accreditation Organizations and State Licensure Agencies for Laboratories (HSQ-181-P)	0938-AE62
1072	Monthly Actuarial Rates and Supplementary Medical Insurance Premium Rate Beginning January 1, 1991 (OACT-36-N)	0938-AE67
1073	Inpatient Hospital Deductible for 1991 and Hospital and SNF Coinsurance Amounts for 1991 (OACT-36-N)	0938-AE68
1074	Physician Performance Standard Rate of Increase for Fiscal Year 1991 (BPD-680-NC)	0938-AE70
1075	Medicare Payment for Hospice Care (BPD-691-FC)	0938-AE82
1076	Medicare Economic Index Update BPD-695-N)	0938-AE83
1077	Eligibility for Premium Hospital Insurance; State Buy-In Agreements (BPD-668-FC)	0938-AE92
1078	Medicare Coverage of Prescription Drugs Used in Immunosuppressive Therapy (BPD-424-F)	0938-AE94
1079	Criteria for Medicare Coverage of Adult Liver Transplants (BPD-648-FN)	0938-AE95
1080	Changes to the Long-Term Care Facility Survey Process (HSQ-175-FC)	0938-AF02
1081	General Notice on Medicare Secondary Payment (BPO-94-GN)	0938-AF05
1082	Medicare Geographical Classification Review Board: Procedures and Guidelines (BPD-664-F)	0938-AF19

Health Care Financing Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1083	Waiver of Certain Membership Requirements for Certain HMOs and State Option for Disenrollment Restrictions for Certain HMOs Under Medicaid	0938-AB54
1084	Clarification of Policy on Adjusting the Hospital-Specific Portion of the Prospective Payment Rate (BPD-326-F)	0938-AB71
1085	Revision of Medicaid Eligibility Quality Control (MEQC) Program Requirements (MB-032-FC)	0938-AB85
1086	Review of Current Rules Affecting Laboratories Under Medicare, Medicaid and CLIA '67 Programs (HSQ-146-FC)	0938-AB96
1087	Medicare Coverage of Hepatitis B Vaccine for High and Intermediate Risk Individuals, Hemophilia Clotting and Certain X-Ray Services (BPD-327-F)	0938-AC07
1088	Payment for Physician Outpatient Maintenance Dialysis Services and Other Physician Services for ESRD Patients (BPD-361-F)	0938-AC57
1089	Eligibility of Aliens for Medicaid (MB-15-F)	0938-AD15
1090	Withdrawal of Coverage of Single Photon Absorptiometry and Radiographic Absorptiometry and Continued Noncoverage of Dual Photon Absorptiometry (BPD-446-FN)	0938-AD29
1091	Physician Liability on Non-Assigned Claims (BPD-458-F)	0938-AD34
1092	Application of the Comparable Services Limitation in Determining Reasonable Charges (BPD-658)	0938-AD50
1093	Protocol for the Reuse of Dialysis Bloodlines (BPD-473-F)	0938-AD52
1094	Uniform Relative Value Guide for Anesthesia Services Furnished by Physicians (BPD-480-F)	0938-AD63
1095	Ambulatory (Outpatient) Surgical & Medical Procedures, Pre- admission Review & Authorization & Pre-admission Diagnostic Testing & Same Day Surgery Under Medicaid (ME-21-P)	0938-AD70
1096	Payment for Outpatient Surgery at Eye Specialty Hospitals and Eye and Ear Specialty Hospitals (BPD-601-F)	0938-AD76
1097	Swing-Bed Program Changes (BPD-433-F)	0938-AD83
1098	Second Surgical Opinion Requirements for Medicaid Recipients (MB-006-F)	0938-AD86
1099	Criteria and Standards for Evaluating Intermediary and Carrier Performance (BPO-92-GNC)	0938-AE15
1100	MMIS System Performance Review Revisions (MB-34-FN)	0938-AE16

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Health Care Financing Administration—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
1101	Update of Ambulatory Surgical Center Payment Rates for July 1, 1990 (BPD-634)	0938-AE29
1102	Home Health Agencies: Definitions of "Intermittent" and "Part-time" Nursing Care and Home Health Aide Services (BPD-627-P)	0938-AE37
1103	Home and Community Based Services Waivers for Drug Dependent or AIDS Infected Children (MB-25-P)	0938-AE44
1104	Update of Ambulatory Surgical Center Payment Rates Effective July 1, 1990 (BPD-654-FNC)	0938-AE53
1105	Change in Payment for Home Dialysis (BPD-671-FC)	0938-AE55
1106	Changes to the Inpatient Hospital Prospective Payment System and Fiscal Year 1991 Rates (BPD-673-F)	0938-AE58
1107	Schedule of Limits on Home Health Agency Costs per Visit for Cost Reporting Periods Beginning on or After July 1, 1990	0938-AE57
1108	Schedule of Limits for Skilled Nursing Facility Inpatient Routine Service Costs for Reporting Periods Beginning on or After October 1, 1990	0938-AE59
1109	Cost Limits for Health Maintenance Organizations and Competitive Medical Plans (OHP-13-P)	0938-AE65
1110	Part A Premium for the Uninsured Aged for 1991 (OACT-34-N)	0938-AE66
1111	Health Maintenance Organizations and Competitive Medical Plans; Coordinated Open Enrollment	0938-AE69
1112	Mid-Year 1990 Legislative Changes to the Inpatient Hospital Prospective Payment System (BPD-672-FC)	0938-AE73
1113	Capital Payments Under the Inpatient Hospital Prospective Payment System (BPD-661-P)	0938-AE74
1114	Definition of Surgical Services (BPD-676-NC)	0938-AE76
1115	Model Fee Schedule for Physician Services (BPD-690-NC)	0938-AE86

Family Support Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1116	Aid to Families With Dependent Children Program; Extension of Medicaid Eligibility When Support Collections Result in Termination of AFDC Eligibility	0970-AA07
1117	Alien Verification Procedures for AFDC, State Administered Adult Assistance and Medicaid Programs; Notice of Proposed Rulemaking	0970-AA41
1118	Immediate Wage Withholding, Review and Modification of Orders, and Monthly Notice of Support Collections	0970-AA63
1119	Related AFDC Amendments under the Family Support Act of 1988	0970-AA69
1120	Disregards of Income and Resources	0970-AA70
1121	Amendments to the State Legalization Impact Assistance Grant (SLIAG) Regulation	0970-AA73
1122	Revisions to Audit Regulations as a Result of the Child Support Provisions of the Family Support Act of 1988	0970-AA74
1123	Fees for use of the Federal Parent Locator Service in Non-AFDC Cases	0970-AA78
1124	Amendments to the State Legalization Impact Assistance Grant (SLIAG) Regulation	0970-AA79
1125	Mandatory Automated Child Support Enforcement Systems	0970-AA80
1126	Implementation of Quality Control Provisions of the Omnibus Budget Reconciliation Act of 1989	0970-AA82
1127	Automobile Exclusion Limit	0970-AA83
1128	Emergency Assistance	0970-AA84
1129	Prohibition of Federal Funding of Guardian ad litem Fees	0970-AA89

Family Support Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1130	Aid to Families With Dependent Children Program; Implementation of the Deficit Reduction Act of 1984	0970-AA05
1131	Exclusion of Indian Trust Funds and Alaska Native Claims Settlement Act Distributions	0970-AA47
1132	Cooperation to Pursue Third Party Health Coverage	0970-AA48
1133	Targeting in the Income and Eligibility Verification System Data	0970-AA56
1134	Services to Post-AFDC and Medicaid only families	0970-AA61
1135	$50 Disregard, Paternity Establishment and Mandatory Guidelines	0970-AA64
1136	Aid To Families With Dependent Children - Job Opportunities and Basic Skills Training Program, Program Participant Employment Protection	0970-AA67
1137	Omnibus Budget Reconciliation Act of 1987	0970-AA76
1138	Computer Matching And Privacy Protection Act Provisions	0970-AA81

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Family Support Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1139	Distribution of Child Support Collections	0970-AA18
1140	Pre-eligibility Fraud Detection Measures	0970-AA58
1141	State Legalization Impact Assistance Grants (SLIAG); Due Date for State 1991 Applications	0970-AA85

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of the Secretary (OS)

Prerule Stage

781. REVISIONS TO "QUALITY OF CARE" EXCLUSION AND PAYMENT DENIAL REGULATIONS

Legal Authority: 42 USC 1320a-7(b)(6)(B); 42 USC 1320c-3(a)(2); 42 USC 1320c-5

CFR Citation: 42 CFR 1001; 42 CFR 1004; 42 CFR 466

Legal Deadline: None

Abstract: This rulemaking would revise and consolidate, where feasible, the principal regulations pertaining to "quality of care" exclusions from Medicare and other health care programs. Such exclusions may be based on the furnishing of excessive services, the failure to furnish care that meets professionally recognized standards of medical care, or the failure to properly document medical services. This rulemaking would attempt to make the various OIG regulations relating to such quality of care exclusions consistent with each other, consistent with HCFA's PRO payment denial regulations at 42 FR 466, and consistent with the case law that has been decided in the U.S. Courts of Appeals in recent years.

Timetable:

Action	Date	FR Cite
Begin Review	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OMP, 330 Independence Avenue, SW., Washington, DC 20201, 202 619-3270

RIN: 0991-AA61

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of the Secretary (OS)

Proposed Rule Stage

782. PRINCIPLES FOR DETERMINING COSTS AND COST ALLOCATION PROCEDURES APPLICABLE TO GRANTS, CONTRACTS, AND OTHER AGREEMENTS FOR WORK PERFORMED BY HOSPITALS

Legal Authority: 5 USC 301

CFR Citation: 45 CFR 74, Appendix E; 48 CFR 76

Legal Deadline: None

Abstract: This action will revise the Department's current cost principles for research and development activities under grants and contracts with hospitals to make them compatible with cost principles issued by OMB for State and local units of government, educational institutions and nonprofit organizations.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, State

Additional Information: The current OMB project to completely rewrite its Circular A-87, "Cost Principles for State and Local Governments" includes proposed revisions of the interest allowability provision. OMB is considering the possibility of adopting uniform provisions on interest in each of its Circulars on Cost Principles, A-87, A-21 for Educational Institutions and A-122 for Nonprofit Organizations. If this occurs, HHS will consider adopting the same provisions for interest costs incurred by hospitals under Federal research and training awards.

Agency Contact: Edward M. Tracy, Director, Division of Cost Determination Management, Department of Health and Human Services, Office of the Secretary, Office of Grant & Contract Financial Mgmt., Rm 513D, HHH Bldg. 200 Independence Ave. SW., Washington, DC 20201, 202 245-0451

RIN: 0991-AA12

783. CIVIL MONEY PENALTIES AND INTERMEDIATE SANCTIONS FOR HMOS AND COMPETITIVE MEDICAL PLANS

Legal Authority: PL 99-501, Sec 9312; PL 99-501, Sec 9434; PL 100-203, Sec 4014; PL 100-360, Sec 224; PL 100-360, Sec 411; PL 101-239, Sec 6411

CFR Citation: 42 CFR 1003; 42 CFR 417; 42 CFR 434

HHS—OS

Proposed Rule Stage

Legal Deadline: None

Abstract: This proposed rule would broaden the Secretary's authority to impose intermediate sanctions and civil money penalties against eligible organizations that substantially fail to provide Medicare or Medicaid enrollees with required medically necessary items and services, or that practice certain marketing, enrollment, reporting or claims payment abuses.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	
NPRM Comment Period End	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This joint OIG/HCFA proposed rule is being revised as a result of broadened CMP and sanction authorities contained in PL 100-203, in addition to technical amendments contained in PL 100-360 and PL 101-239.

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OMP, 330 Independence Avenue, SW., Washington, DC 20201, 202 619-3270

RIN: 0991–AA44

784. PROHIBITION ON USE OF PHYSICIAN INCENTIVE PLANS

Legal Authority: PL 99-501, Sec 9313

CFR Citation: 42 CFR 1001; 42 CFR 1003

Legal Deadline: None

Abstract: This proposed rule would prohibit a hospital from knowingly making incentive payments to a physician as an inducement to that physician to reduce or limit services provided to program beneficiaries who are under the direct care of that physician.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	
NPRM Comment Period End	06/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: The effective date for implementing regulations addressing physician incentive plans by risk-sharing HMOs and competitive medical plans has been delayed to 4/1/91 by P.L. 101-239, Sec 6207. This provision will be addressed through separate rulemaking at a later date.

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OMP, 330 Independence Avenue, SW., Washington, DC 20201, 202 619-3270

RIN: 0991–AA45

785. PRO RURAL PRACTITIONERS AMENDMENTS

Legal Authority: PL 100-203, Sec 4095

CFR Citation: 42 CFR 1004

Legal Deadline: None

Abstract: This proposed rule would permit a hearing before an Administrative Law Judge of a provider in a rural health manpower shortage area, or in a county with a population of less than 70,000 before a program exclusion of that provider took place.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	
NPRM Comment Period End	05/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OMP, 330 Independence Avenue, SW., Washington, DC 20201, 202 619-3270

RIN: 0991–AA51

786. CIVIL MONEY PENALTIES FOR VIOLATIONS RELATING TO MEDICAL SUPPLEMENTAL POLICIES

Legal Authority: PL 100-360, Sec 428(b)

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This proposed rule would establish CMPs against individuals or entities who knowingly and willfully use misleading and fraudulent practices in the advertisement, solicitation, offering for sale, or delivery of Medicare supplemental health insurance (Medigap) policies.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	
NPRM Comment Period End	05/00/91	

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: Pending legislative changes designed to revise civil money penalty amounts and to add new authorities into this area may delay promulgation of this proposed rulemaking.

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OMP, 330 Independence Avenue, SW., Washington, DC 20201, 202 619-3270

RIN: 0991–AA53

787. BLOCK GRANT PROGRAMS

Legal Authority: PL 100-485; PL 100-607; PL 100-690

CFR Citation: 45 CFR 96

Legal Deadline: None

Abstract: Recent legislation modified technical, administrative and reporting requirements for several of the Department's block grants. This notice would propose regulatory changes to reflect these statutory changes and to clarify certain other block grant regulatory provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/01/90	
NPRM Comment Period End	01/01/91	
Final Action	03/01/91	
Final Action Effective	05/01/91	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Robert C. Raymond, Director, Research Evaluation & Special, Analyses, Department of Health and Human Services, Office of the Secretary, 200 Independence

Avenue, SW., Washington, DC 20201, [illegible]

RIN: 0991–AA55

768. STANDARDIZATION AND UNIFORM APPLICATION OF CMP PROCEDURES

Legal Authority: PL 99-501, Sec 9320; PL 99-501, Sec 9331; PL 99-501, Sec 9332; PL 99-501, Sec 9338; PL 100-203, Sec 4045; PL 100-203, Sec 4049; PL 100-203, Sec 4051; PL 100-203, Sec 4062; PL 100-203, Sec 4084; PL 100-203, Sec 4086; PL 100-360, Sec 202

CFR Citation: 42 CFR 1001; 42 CFR 1002; 42 CFR 1003

Legal Deadline: None

Abstract: This rulemaking would standardize the procedures for imposing civil money penalties and related sanctions authorized by statutes incorporating provisions of section 1128A of the Social Security Act. In addition to standardizing OIG's existing CMP procedures, this rule would include provisions for CMPs and related exclusions for various Medicare Part B violations resulting from OBRA '86, OBRA '87 and PL 100-360, including (1) those who bill Medicare beneficiaries on a non-assigned basis for services of a certified nurse anesthetist or a physician assistant; (2) non-participating physicians billing for actual charges above permitted charges; and (3) certain instances of failure to provide appropriate diagnostic codes with a request for payment for an item or service provided by a physician.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OMP, 330 Independence Avenue, SW., Washington, DC 20201, 202 619-3270

RIN: 0991–AA57

769. REVISIONS TO THE PRO SANCTIONS NOTIFICATION PROCESS

Legal Authority: 42 USC 1320c-5(b)(2)

CFR Citation: 42 CFR 1004

Legal Deadline: None

Abstract: This rule would provide for an alternative to the method of public notice currently used by the OIG in informing the general public of its decision to sanction a practitioner or other person under section 1156 of the Social Security Act as a result of a PRO recommendation. The rule would allow each sanctioned physician or other provider an opportunity to elect to inform each of his or her patients of the sanction action rather than having the OIG provide notice to the general public by publishing a notice in a newspaper.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
NPRM Comment Period End	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OMP, 330 Independence Avenue, SW., Washington, DC 20201, 202 619-3270

RIN: 0991–AA60

770. ADMINISTRATIVE IMPROVEMENTS, REPORTING REQUIREMENTS AND OTHER TECHNICAL CHANGES FOR STATE MEDICAID FRAUD CONTROL UNITS

Legal Authority: 42 USC 1396b(a)(6); 42 USC 1396b(b)(3); 42 USC 1396b(q)

CFR Citation: 42 CFR 1002

Legal Deadline: None

Abstract: This proposed rule would amend the current regulations governing the operation and funding of Medicare Fraud Control Units by (1) clarifying the full-time employee rule; (2) providing staffing enhancements; (3) notifying units that the OIG may use performance indicators as one measure to evaluate units for recertification; (4) requiring units to refer cases to the OIG; (5) setting forth a 12-month consequence for denial of recertification; and (6) clarifying Federal Financial Participation for fraud detection activities.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	02/00/91	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Joel Jay Schaer, Regulations Officer, Office of the Inspector General, OMP, Department of Health and Human Services, Office of the Secretary, 330 Independence Avenue, SW., Washington, DC 20202, 202 619-3270

RIN: 0991–AA62

771. CIVIL MONEY PENALTIES FOR FAILURE TO IDENTIFY MEDICARE SECONDARY PAYER SITUATIONS

Legal Authority: PL 101-239, Sec 6202

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This rule would set forth a civil money penalty against any employer who willfully and repeatedly failed to provide a timely and accurate response regarding inquiries on what period an employee, or the employee's spouse, may be covered under a health plan and the nature of that coverage.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OMP, 330 Independence Avenue, SW., Washington, DC 20201, 202 619-3270

RIN: 0991–AA64

772. CIVIL MONEY PENALTIES FOR PHYSICIAN OWNERSHIP OF, AND REFERRAL TO CERTAIN HEALTH CARE ENTITIES

Significance: Agency Priority

Legal Authority: PL 101-239, Sec 6204

CFR Citation: 42 CFR 1003

Legal Deadline: Final, Statutory, October 1, 1990.

HHS—OS

Proposed Rule Stage

Abstract: This rule will establish new civil money penalty authorities regarding prohibited physician ownership and referral arrangements as set forth in Section 1877 of the Social Security Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	
NPRM Comment Period End	06/00/91	
Final Action	10/01/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Office of Inspector General, OMP, Department of Health and Human Services, Office of the Secretary, 330 Independence Avenue, SW., Washington, DC 20201, 202 619-3279

RIN: 0991–AA65

773. ADDITIONAL SAFE HARBOR PROVISIONS UNDER THE OIG ANTI-KICKBACK STATUTE

Legal Authority: PL 100-93, Sec 2; PL 100-93, Sec 14

CFR Citation: 42 CFR 1001

Legal Deadline: None

Abstract: This proposed rule is designed to set forth an expanded listing of safe harbor provisions as authorized under Section 14 of PL 100-93. This new listing of proposed safe harbors delineates additional payment and business practices under Medicare and state health care programs that would not be considered kickbacks for purposes of criminal prosecution or civil remedies.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This proposed rulemaking is being published in conjunction with the final regulations at RIN 0991-AA49.

Agency Contact: Joel Jay Schaer, Regulations Officer, Office of Inspector General, OMP, Department of Health and Human Services, Office of the Secretary, 330 Independence Avenue, SW., Washington, DC 20201, 202 472-3279

RIN: 0991–AA60

774. ® ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED PROGRAMS

Legal Authority: 29 USC 794

CFR Citation: 45 CFR 84

Legal Deadline: None

Abstract: Amends section to include a Methods of Administration Provision which will provide that all recipients of Federal Financial Assistance will administer their programs consistent with the Administration Provisions set out in this proposed amendment.

Timetable:

Action	Date	FR Cite
NPRM	12/01/90	
NPRM Comment Period End	01/10/91	
Final Action	11/20/91	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: James Hood, Acting Director, Policy & Special Projects Staff, Office for Civil Rights, Department of Health and Human Services, Office of the Secretary, Rm. 5034, Cohen Bldg., 330 Independence Ave., SW., Washington, DC 20202, 202 619-2672

RIN: 0991–AA68

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Office of the Secretary (OS)

Final Rule Stage

775. NONDISCRIMINATION REQUIREMENTS (INCLUDING ON THE BASIS OF SEX OR RELIGION) APPLICABLE TO BLOCK GRANTS AND STANDARD NONDISCRIMINATION PROCEDURES APPLICABLE TO CERTAIN OTHER PROGRAMS

Legal Authority: 42 USC 9906; 42 USC 300x-7; 42 USC 708; 42 USC 8625; 42 USC 9821; 42 USC 9849; 42 USC 1397; 42 USC 300w-7

CFR Citation: 45 CFR 92

Legal Deadline: None

Abstract: To implement the nondiscrimination requirements applicable to block grants authorized by the Omnibus Budget Reconciliation Act of 1981, P.L. 97-35.

Timetable:

Action	Date	FR Cite
NPRM	01/21/86	51 FR 2806
NPRM Comment Period End	03/24/86	51 FR 2806
Interim Final Rule	06/30/91	
Final Action	02/10/92	
Final Action Effective	02/10/92	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Additional Information: New CFR Subpart to be assigned.

Agency Contact: Marcella Haynes, Director, Policy & Special Projects Staff, Office for Civil Rights, Department of Health and Human Services, Office of the Secretary, 330 Independence Ave., SW., Rm. 5034, Cohen Bldg., Washington, DC 20201, 202 619-2672

RIN: 0991–AA02

776. EQUAL OPPORTUNITY IN EMPLOYMENT: PUBLIC BROADCASTING, PUBLIC RADIO AND PUBLIC TELECOMMUNICATIONS ENTITIES RECEIVING FEDERAL FUNDS FROM THE CORPORATION FOR PUBLIC BROADCASTING

Legal Authority: 47 USC 398

CFR Citation: 45 CFR 87.1-40

Legal Deadline: None

Abstract: Implements the Equal Opportunity in Employment Provisions

of the Public Telecommunications Financing Act of 1978, PUB. L. 95-567, 47 U.S.C. 398(b)(1). This provision requires that equal opportunity in employment be afforded to all persons and that no person shall be subjected to discrimination in employment on the grounds of race, color, religion, national origin, or sex by the Public Broadcasting Service, National Public Radio, and public telecommunications entities receiving Federal funds from the Corporation for Public Broadcasting.

Timetable:

Action	Date	FR Cite
ANPRM	03/13/79	44 FR 14582
NPRM	12/21/79	44 FR 76676
Interim Final Rule	04/05/91	
Final Action	08/10/91	
Final Action Effective	12/01/92	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Public Compliance Cost: Yearly Recurring Cost: $8,000

Agency Contact: Marcella Haynes, Director, Policy & Special Projects Staff, Office for Civil Rights, Department of Health and Human Services, Office of the Secretary, 330 Independence Ave., SW., Cohen Bldg., Washington, DC 20201, 202 619-3672

RIN: 0991–AA22

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777. AUDITS OF NON-GOVERNMENTAL GRANTEES

Significance: Agency Priority

Legal Authority: 5 USC 301

CFR Citation: 45 CFR 74.62

Legal Deadline: None

Abstract: This action will implement OMB Circular A-133 which was issued on March 8, 1990. The Circular provides governmentwide standards for non-Federal audits of colleges and universities and other nonprofit recipients of Federal grants and contracts and requires such audits for fiscal periods beginning on or after January 1, 1990. The Circular exempts hospitals not affiliated with institutions of higher education. The HHS implementation of the Circular will contain a definition of affiliation on which the public will be afforded an opportunity to provide comments. The Circular and these amendments replace the audit requirements currently contained in OMB Circular A-110.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/90	
Final Action	00/00/00	

Small Entities Affected: Organizations

Government Levels Affected: Local, State

Additional Information: It is uncertain at this time how this interim final rule will be finalized. For some time, OMB has had under consideration a revision of the A-102 Common Rule contained at 45 CFR Part 92 to apply it to the types of recipients covered by Circular A-133. When issued, that revision would likely contain the requirement that recipients comply with Circular A-133 and the HHS implementation of the Common Rule would revise 45 CFR Part 74 accordingly. IF OMB decides not to revised the Common Rule, Part 74 will be appropriately finalized but in a different manner. In either event the timing of the final action on this rule is dependent on the timing of OMB's action.

Agency Contact: Edward M. Tracy, Director, Division of Cost Determination Management, Department of Health and Human Services, Office of the Secretary, Room 513D, Hubert H. Humphrey Bldg., 200 Independence Ave., SW., Washington, DC 20201, 202 245-0451

RIN: 0991–AA29

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778. CIVIL MONEY PENALTIES AND EXCLUSIONS FOR ASSISTANTS AT CATARACT SURGERY

Legal Authority: PL 99-272, Sec 9307; PL 99-514, Sec 1895(b)(16)

CFR Citation: 42 CFR 1001; 42 CFR 1003

Legal Deadline: None

Abstract: These final regulations provide for the imposition of civil money penalties and exclusions against physicians billing the Medicare program or program beneficiaries for services of an assistant at surgery for cataract operations where prior approval has not been granted. This rule specifically responds to various comments raised as a result of the interim final, and makes a number of technical corrections to those final regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/10/87	52 FR 11649
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OMP, 330 Independence Avenue, SW., Washington, DC 20201, 202 619-3270

RIN: 0991–AA37

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779. CIVIL MONEY PENALTIES FOR FAILURE TO REPORT MEDICAL MALPRACTICE PAYMENTS AND FOR BREACHING THE CONFIDENTIALITY OF INFORMATION

Legal Authority: PL 99-660, Sec 421(c) and 427(b)

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This final rule establishes civil money penalties against any individual or entity that fails to report information on medical malpractice payments in accordance with the Health Care Quality Improvement Act of 1986, and against any individual who breaches the confidentiality of information reported to the data bank established to collect and disseminate required information in accordance with that Act.

Timetable:

Action	Date	FR Cite
NPRM	03/21/88	53 FR 9260
NPRM Comment Period End	05/20/88	
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OMP, 330 Independence Avenue, SW., Washington, DC 20201, 202 619-3270

RIN: 0991–AA40

HHS—OS

Final Rule Stage

780. AMENDMENTS TO OIG EXCLUSION AND CMP AUTHORITIES RESULTING FROM PL 100-93

Significance: Agency Priority

Legal Authority: PL 100-93; PL 100-360, Sec 411; PL 101-239, Sec 6411(d)

CFR Citation: 42 CFR 1001; 42 CFR 1002; 42 CFR 1003; 42 CFR 1004

Legal Deadline: None

Abstract: These regulations are designed to protect program beneficiaries from unfit health care practitioners, and otherwise to improve the anti-fraud provisions relating to Titles 5, 18, 19, and 20

Timetable:

Action	Date	FR Cite
NPRM	04/02/90	55 FR 12205
NPRM Comment Period End	06/01/90	55 FR 12205
Final Action	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Additional Information: Final regulations will incorporate the fraud and abuse technical amendments contained in PL 101-239, Section 6411(d). Those authorities (1) permit Medicare/Medicaid exclusions of providers who have lost the right to apply for or renew a license for reasons related to competence, performance or financial integrity; and (2) make clarifications with respect to emergency treatment furnished by excluded individuals and entities.

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OMP, 330 Independence Avenue, SW., Washington, DC 20201, 202 619-3270

RIN: 0991–AA47

781. OIG ANTI-KICKBACK PROVISIONS

Significance: Regulatory Program

Legal Authority: PL 100-93, Sec 2; PL 100-93, Sec 14

CFR Citation: 42 CFR 1001

Legal Deadline: Final, Statutory, August 18, 1989.

Abstract: This final rule will specify payment practices which, although potentially capable of inducing referrals of business under Medicare, are not to be considered kickbacks for purposes of criminal or civil remedies.

Timetable:

Action	Date	FR Cite
ANPRM	10/19/87	52 FR 38794
ANPRM Comment Period End	12/18/87	
NPRM	01/23/89	54 FR 3088
NPRM Comment Period End	03/24/89	
Final Action	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: A new proposed rule setting forth additional safe harbor provisions (RIN 0991-AA66) and an interim final rule establishing safe harbors for protecting certain health plans (RIN 0991-AA68) are being published in conjunction with this rulemaking.

Agency Contact: Joel Jay Schaer, Regulations Officer, Office of Inspector General, OMP, Department of Health and Human Services, Office of the Secretary, 330 Independence Avenue, SW., Washington, DC 20201, 202 619-3270

RIN: 0991–AA49

782. CIVIL MONEY PENALTIES FOR MISUSE OF DEPARTMENTAL SYMBOLS OR EMBLEMS

Significance: Agency Priority

Legal Authority: PL 100-360, Sec 428(a)

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This final rule would establish civil money penalties for the unauthorized use, in advertising or solicitation, of certain words letters, symbols or emblems associated with the Department or its programs in a manner that would convey an impression that an item or service was approved, endorsed or authorized by HHS.

Timetable:

Action	Date	FR Cite
NPRM	02/08/90	55 FR 3986
NPRM Comment Period End	03/23/90	55 FR 3986
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OMP, 330 Independence Avenue, SW., Washington, DC 20201, 202 619-3270

RIN: 0991–AA54

783. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Legal Authority: 5 USC 301

CFR Citation: 45 CFR 74; 45 CFR 92

Legal Deadline: None

Abstract: Fiscal and Administrative requirements governing grants and cooperative agreements to non-governmental recipients are presently codified in an HHS-specific regulation (45 CFR Part 74). This rule would move those requirements (with many changes and additions) to a new rule (45 CFR Part 92) that would be virtually identical to the rules of 26 other federal agencies. The same action would also create a mechanism for applying a new set of liberalized rules to research grants. Since all Federal agencies' grants and cooperative agreements would henceforth be subject to identical rules, there should be administrative benefits for multi-award recipients and better understanding of the terms and conditions of awards.

Timetable:

Action	Date	FR Cite
ANPRM	06/24/87	52 FR 23729
ANPRM Comment Period End	08/23/87	
NPRM	11/04/88	53 FR 44715
NPRM Comment Period End	01/03/89	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Beverly Cordova, Director, Division of Grants Management and Oversight, Department of Health and Human Services, Office of the Secretary, Rm 517D, HHH Bldg., 200 Independence

HHS—OS

Final Rule Stage

Avenue, SW., Washington, DC 20201, 202 245-0277

RIN: 0991–AA56

784. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED PROGRAMS

Legal Authority: 29 USC 794

CFR Citation: 45 CFR 84.23

Legal Deadline: None

Abstract: Substituting a reference to the Uniform Federal Access Standards (UFAS) for the reference to standards promulgated by the American National Standards Inc., a nongovernmental organization.

Timetable:

Action	Date	FR Cite
NPRM	03/06/89	54 FR 9365
NPRM Comment Period End	05/06/89	54 FR 9365
Final Action	03/00/91	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Additional Information: This amendment to the regulation is being managed by the Department of Justice because it involves 15 Departments and Agencies. The Department of Justice has submitted the text of the final rule and the Secretary of HHS has signed it. The Department of Justice will publish the Final Rule when all of the 15 Departments and Agencies have concurred.

Agency Contact: Marcella Haynes, Director, Policy & Special Projects Staff, Office for Civil Rights, Department of Health and Human Services, Office of the Secretary, 330 Independence Ave., SW., Room 5034, Cohen Bldg., Washington, DC 20201, 202 619-2672

RIN: 0991–AA63

785. ● SAFE HARBORS FOR PROTECTING HEALTH PLANS

Significance: Agency Priority

Legal Authority: PL 100-93, Sec. 2; PL 100-93, Sec. 14

CFR Citation: 42 CFR 1001

Legal Deadline: None

Abstract: This rule establishes safe harbor protection for certain health care Plans, such as health maintenance organizations and preferred provider organizations, that offer incentives to enrollees or that enter into negotiated price reduction agreements with contract health care providers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This rule is being published in conjunction with the final OIG safe harbor regulations (RIN 0991-AA49).

Agency Contact: Joel Jay Schaer, Regulations Officer, Office of the Inspector General, OMP, Department of Health and Human Services, Office of the Secretary, 330 Independence Avenue, SW., Washington, DC 20201, 202 619-3270

RIN: 0991–AA69

786. ● GOVERNMENTWIDE GUIDANCE FOR NEW RESTRICTIONS ON LOBBYING; INTERIM FINAL GUIDANCE

Significance: Regulatory Program

Legal Authority: 31 USC 1352

CFR Citation: 45 CFR 93

Legal Deadline: None

Abstract: This interim final rule is in response to section 319 of P.L. 101-121. Section 319 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive of Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. Section 319 also requires that each person who requests or receives a Federal contract, grant, cooperative agreement, loan or a Federal commitment to insure or guarantee a loan, must disclose lobbying activities.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Beverly Cordova, Director, Div. of Grants Management & Oversight, Department of Health and Human Services, Office of the Secretary, 200 Independence Avenue, SW., Washington, DC 20201, 202 245-0377

RIN: 0991–AA70

787. ● FEDERAL POLICY FOR THE PROTECTION OF HUMAN SUBJECTS

Significance: Regulatory Program

Legal Authority: 5 USC 301; 42 USC 289; 49 USC 300v-1(b)

CFR Citation: 45 CFR 46

Legal Deadline: None

Abstract: This final rule will modify current HHS regulations for the protection of human subjects at Title 45 CFR Part 46 to incorporate changes developed by the Interagency Human Subjects Coordinating Committee, Federal Coordinating Council on Science Engineering and Technology (FCCSET). The Committee drafted a common rule for Federal departments and agencies conducting or supporting research involving human subjects which was based on the HHS regulations. This effort was in response to a key recommendation of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research in the First Biennial Report in 1981.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45661
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Dr. Joan P. Porter, Special Assistant to the Director, Office of Protection from Research Risks, Department of Health and Human Services, Office of the Secretary, Bldg. 31, Room 5B59, Bethesda, Maryland 20892, SE., 301 496-7005

RIN: 0991–AA71

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of the Secretary (OS)

Completed Actions

788. CONTRACT AUDIT POLICY

CFR Citation: 45 CFR 95 (New)

Completed:

Reason	Date	FR Cite
Withdrawn Deferred indefinitely.	08/24/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer 202 619-3278

RIN: 0991-AA59

789. ◆ DRUG-FREE WORKPLACE (GRANTS)

Significance: Regulatory Program

Legal Authority: PL 100-690

CFR Citation: 45 CFR 76, Subpart E

Legal Deadline: None

Abstract: Implements PL 100-690's requirement that grantees certify they will maintain a drug-free workplace.

Timetable:

Action	Date	FR Cite
Final Action	05/25/90	55 FR 21681
Final Action Effective	07/24/90	55 FR 21681

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Beverly Cordova, Director, Division of Grants Management & Oversight, Department of Health and Human Services, Office of the Secretary, 517D Humphrey Bldg., 200 Independence Avenue, SW., Washington, DC 20201, 202 245-0877

RIN: 0991-AA57

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Departmental Management (HHSDM)

Final Rule Stage

790. IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN AGENCY PROCEEDINGS

Legal Authority: 5 USC 504(c)(1)

CFR Citation: 45 CFR 13

Legal Deadline: None

Abstract: The Equal Access to Justice Act requires agencies to pay attorney fees to parties prevailing against the Government in certain types of administrative proceedings. It requires each agency to issue rules implementing the Act as it applies to these proceedings. As originally enacted, the Act had a sunset clause. A recent statutory amendment eliminated the sunset provision and made other changes in the Act. The instant regulation would amend 45 CFR Part 13 (HHS's regulation implementing the Act) to eliminate the corresponding sunset provision and to make other changes conforming with the statutory changes.

Timetable:

Action	Date	FR Cite
Final Action Effective	10/01/84	
NPRM	06/19/87	52 FR 22311
NPRM Comment Period End	08/17/87	
Final Action	02/01/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandra H. Shapiro, Associate General Counsel, Business and Administrative Law Division, Department of Health and Human Services, Room 5362, HHS Cohen Building, 330 Independence Avenue, SW., Washington, DC 20201, 202 619-0150

RIN: 0990-AA02

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of Human Development Services (HDSO)

Proposed Rule Stage

791. FOSTER CARE, ADOPTION ASSISTANCE, AND CHILD WELFARE SERVICES

Significance: Regulatory Program

Legal Authority: 42 USC 627

CFR Citation: 45 CFR 1355; 45 CFR 1356; 45 CFR 1357

Legal Deadline: None

Abstract: This NPRM will propose criteria the Department will use to verify that a State has met statutory requirements and is eligible to receive additional funds under Section 427 of the Social Security Act. The proposed rule will contain the specific criteria by which State performance in meeting the requirements of Section 427 is determined, the percentage levels and other standards for case record compliance, and procedures for conducting compliance reviews.

Timetable:

Action	Date	FR Cite
NPRM	03/31/91	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Jeff Rosenberg, Special Assistant to the Commissioner, Admin. for Children, Youth, and Families, Department of Health and Human Services, Office of Human Development Services, P.O. Box 1182, Washington, DC 20013, 202 245-0618

RIN: 0960-AA08

792. HEAD START APPEALS PROCESS

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1303

Legal Deadline: None

Abstract: The NPRM will propose revisions to current procedures for appeals from Head Start grantees and delegate agencies to improve the

effectiveness and efficiency of the appeals process and reduce costs.

Timetable:

Action	Date	FR Cite
NPRM	12/31/90	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Clennie Murphy, Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Office of Human Development Services, Room 2050, P.O. Box 1182, Washington, DC 20013, 202 245-0589

RIN: 0980-AA30

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793. HEAD START RECRUITMENT SELECTION AND ENROLLMENT OF CHILDREN

Significance: Regulatory Program

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1305

Legal Deadline: None

Abstract: In this final rule, the Head Start Bureau will amend existing regulations governing recruitment, selection, and enrollment of children.

Timetable:

Action	Date	FR Cite
NPRM	07/23/90	55 FR 29970
NPRM Comment Period End	10/22/90	55 FR 29970
Final Action	09/30/91	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Clennie Murphy, Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Office of Human Development Services, Room 2050, P.O. Box 1182, Washington, DC 20013, 202 245-0589

RIN: 0980-AA27

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794. HEAD START: GRANTS ADMINISTRATION

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1301

Legal Deadline: None

Abstract: The Head Start Bureau will propose amendments to 45 CFR 1301.32 to provide additional clarification to Head Start programs in meeting the requirement that the costs of developing and administering a Head Start program not exceed 15 percent of total costs. The rule will also clarify that training and technical assistance funds awarded to a grantee are included in the total costs of the program and must be matched at the 20 percent match rate as required by statute.

Timetable:

Action	Date	FR Cite
NPRM	12/31/90	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Clennie Murphy, Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Office of Human Development Services, Room 2050, P.O. Box 1182, Washington, DC 20013, 202 245-0589

RIN: 0980-AA32

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795. ADOPTION AND FOSTER CARE INFORMATION

Significance: Regulatory Program

Legal Authority: 42 USC 679

CFR Citation: 45 CFR 1355; 45 CFR 1356; 45 CFR 1357

Legal Deadline: NPRM, Statutory, December 31, 1988.

Abstract: Section 479 of the Social Security Act requires the Secretary to publish regulations to collect data relating to foster care and adoption in the United States.

Timetable:

Action	Date	FR Cite
NPRM	09/27/90	55 FR 39540
NPRM Comment Period End	12/26/90	55 FR 39540
Final Action	09/00/91	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Joseph Mottola, Deputy Commissioner, Administration, for Children, Youth and Families, Department of Health and Human Services, Office of Human Development Services, P.O. Box 1182, Washington, DC 20013, 202 245-0579

RIN: 0980-AA35

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796. REQUIREMENTS APPLICABLE TO TITLE IV-E FOSTER CARE AND TITLE IV-B CHILD WELFARE SERVICES

Legal Authority: 42 USC 670 et seq; 42 USC 620 et seq

CFR Citation: 45 CFR 1356; 45 CFR 1357

Legal Deadline: None

Abstract: The Department plans to issue a Notice of Proposed Rulemaking in order to publish in regulation the following: (1) regulatory changes related to the judicial determination requirement for reasonable efforts to prevent removal and to reunify the foster child with his parents; (2) a limitation on the documentation used to verify title IV-E eligibility and State compliance with section 427 of the Social Security Act; and (3) a regulatory change from current policy regarding what constitutes a child's home/foster home for the purpose of title IV-E eligibility which will provide for equitable treatment of relative and non-relative foster care providers.

Timetable:

Action	Date	FR Cite
NPRM	03/31/91	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Joseph Mottola, Deputy Commissioner, Admin for Children, Youth and Families, Department of Health and Human Services, Office of Human Development Services, P.O. Box 1182, Washington, DC 20013, 202 245-0579

RIN: 0980-AA44

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797. RUNAWAY AND HOMELESS YOUTH PROGRAM

Legal Authority: 42 USC 5701 et seq

CFR Citation: 45 CFR 1351

Legal Deadline: None

Abstract: This NPRM will propose a revision of the existing definition of "temporary shelter" to increase the maximum number of days a runaway or homeless youth may receive continuous shelter from an entity receiving a Basic Center grant under Part A of the Runaway and Homeless Youth Act.

HHS—HDSO

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/31/90	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Carol Behrer, Associate Commissioner, Admin for Children, Youth and Families,

Department of Health and Human Services, Office of Human Development Services, P.O. Box 1182, Washington, DC 20013, 202 245-0182

RIN: 0980–AA45

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of Human Development Services (HDSO)

Final Rule Stage

798. HEAD START CRITERIA FOR SELECTION OF NEW GRANTEES

Significance: Regulatory Program

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1302

Legal Deadline: None

Abstract: The current rule applies primarily to the initial section of a grantee. The final rule will better accommodate a wider variety of competitive situations and add new criteria to address the selection of new grantees.

Timetable:

Action	Date	FR Cite
NPRM	09/22/89	54 FR 39018
NPRM Comment Period End	11/21/89	
Final Action	03/31/91	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Clennie Murphy, Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Office of Human Development Services, Room 2050, P.O. Box 1182, Washington, DC 20013, 202 245-0589

RIN: 0980–AA17

799. HEAD START STAFF AND PROGRAM OPTIONS REQUIREMENTS

Significance: Agency Priority

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1304; 45 CFR 1305

Legal Deadline: None

Abstract: The final rule will amend existing regulations related to program design to specify class size, hours of operation, and program options such as center-based and home-based Head Start services. The final rule will also include, in a new Part, the requirements for home-based Head Start services.

Timetable:

Action	Date	FR Cite
NPRM	12/06/88	53 FR 49565
NPRM Comment Period End	02/21/89	
Final Action	03/31/91	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Clennie Murphy, Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Office of Human Development Services, Room 2050, P.O. Box 1182, Washington, DC 20013, 202 245-0589

RIN: 0980–AA18

800. HEAD START PERFORMANCE STANDARDS FOR SERVICES TO CHILDREN WITH DISABILITIES

Significance: Agency Priority

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1308

Legal Deadline: None

Abstract: The final rule will establish a new part 1308 setting forth performance standards that must be used in providing Head Start services to children with disabilities.

Timetable:

Action	Date	FR Cite
NPRM	10/19/88	53 FR 41068
NPRM Comment Period End	01/19/89	53 FR 47235
Final Action	03/31/91	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Clennie Murphy, Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Office of Human Development Services, Room 2050, P.O. Box 1182, Washington, DC 20013, 202 245-0589

RIN: 0980–AA21

801. HEAD START PERFORMANCE STANDARDS FOR INFANTS, TODDLERS, AND PREGNANT WOMEN

Significance: Agency Priority

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1307

Legal Deadline: None

Abstract: The final rule will establish a new Part 1307 setting forth performance standards that must be used in providing Head Start services to infants, toddlers and pregnant women.

Timetable:

Action	Date	FR Cite
NPRM	06/19/90	55 FR 24899
NPRM Comment Period End	08/20/90	55 FR 24899
Final Action	09/30/91	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Clennie Murphy, Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Office of Human Development Services, Room 2050, P.O. Box 1182, Washington, DC 20013, 202 245-0589

RIN: 0980–AA33

802. SOCIAL SERVICES BLOCK GRANT INFORMATION COLLECTION

Legal Authority: 42 USC 1397 to 1397e

CFR Citation: 45 CFR 96

Legal Deadline: None

Abstract: The final rule will specify procedures and uniform definitions of services for use by States in preparing in their annual reports to the Secretary.

Timetable:

Action	Date	FR Cite
NPRM	04/05/90	55 FR 12978
NPRM Comment Period End	06/04/90	55 FR 12978
Final Action	03/31/91	

Small Entities Affected: None

HHS—HDSO — Final Rule Stage

Government Levels Affected: State
Agency Contact: Janet Hartnett, Deputy Director, Office of Policy, Planning and Legislation, Department of Health and Human Services, Office of Human Development Services, 200 Independence Avenue, SW., Room 312-F, Washington, DC 20201, 202 245-7627
RIN: 0980-AA42

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of Human Development Services (HDSO)

Completed Actions

803. CHILD ABUSE AND NEGLECT: TECHNICAL AMENDMENTS
CFR Citation: 45 CFR 1340

Completed:

Reason	Date	FR Cite
Final Action	07/02/90	55 FR 27638
Final Action Effective	08/06/90	55 FR 27638

Small Entities Affected: None
Government Levels Affected: State
Agency Contact: Josephine Reifsnyder 202 245-0586
RIN: 0980-AA40

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Social Security Administration (SSA)

Proposed Rule Stage

804. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; CARDIOVASCULAR SYSTEM
Significance: Regulatory Program
Legal Authority: 42 USC 1302; 42 USC 1383; 42 USC 405
CFR Citation: 20 CFR 404.1500ff Appendix 1
Legal Deadline: None

Abstract: Sections 4.00 and 104.00 of Appendix 1 of the Disability regulations [404.1501 through 404.1599] describe cardiovascular impairments considered severe enough to prevent an individual from doing any gainful activity or, in the case of a child under age 18, age-appropriate activities. Because of the advances in medical technologies and practice in this area we are revising the criteria in the Listing of Impairments to bring these sections up to date. The Supplemental Security Income program incorporates by reference and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	10/00/91	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1755
RIN: 0960-AA09

805. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; RESPIRATORY SYSTEM
Legal Authority: 42 USC 1302; 42 USC 1383; 42 USC 405
CFR Citation: 20 CFR 404.1500ff, Appendix 1
Legal Deadline: None

Abstract: Sections 3.00 and 103.00 of Appendix 1 to the Disability Regulations (404.1501 through 404.1599) describe those respiratory impairments which are considered severe enough to prevent a person from engaging in any gainful activity or, in the case of a child under age 18, age-appropriate activities. We are proposing revisions to require consideration of the nature and clinical manifestations of respiratory disorders and the limitations such disorders impose on the individual's ability to function. The Supplemental Security Income program incorporates by reference and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance programs.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: William J. Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1759
RIN: 0960-AB00

806. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; MUSCULOSKELETAL SYSTEM
Significance: Agency Priority
Legal Authority: 42 USC 1302; 42 USC 405; 42 USC 1383
CFR Citation: 20 CFR 404.1500ff, Appendix 1
Legal Deadline: None

Abstract: Sections 1.00 and 101.00 of Appendix 1 to the Disability Regulations (404.1501 through 404.1599) describe those musculoskeletal impairments which are considered severe enough to prevent a person from doing any gainful activity or, in the case of a child under age 18, age-appropriate activities. We are proposing comprehensive revisions to these sections to ensure that the medical evaluation criteria are up to date and consistent with the latest advances in medicine. The Supplemental Security Income program incorporates by reference and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance program.

HHS—SSA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1755

RIN: 0960–AB01

807. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; ADJUSTMENTS IN SSI BENEFITS ON ACCOUNT OF RETROACTIVE BENEFITS UNDER TITLE II

Legal Authority: 42 USC 405; 42 USC 1320a-6; 42 USC 1302; 42 USC 1383; PL 96-369, Sec 2615; 42 USC 1383b; 42 USC 1327

CFR Citation: 20 CFR 404.406b; 20 CFR 416.1123; 20 CFR 416.1402(m); 20 CFR 416.1123a; 20 CFR 404.902

Legal Deadline: None

Abstract: Sec. 2615 of Pub. L. 96-369 amended sec. 1127 of the Social Security Act to eliminate windfalls that permitted some people who were paid Old-Age, Survivors and Disability Insurance (OASDI) and Supplemental Security Income (SSI) benefits retroactively to receive more in total benefits for the same period than if they had been paid the benefits when regularly due. The two main changes are: (1) SSI benefits will be reduced where retroactive OASDI benefits have been paid before the SSI benefits. Under prior law, reductions could be made only in retroactive OASDI benefits and only when the retroactive SSI had been paid first. (2) OASDI or SSI benefits payable upon reinstatement following a period of suspension or termination will be reduced by the amount of SSI benefits that would not have been paid if the OASDI benefits had been paid when regularly due. We will amend our regulations to conform to the statutory changes. The program savings to SSA are estimated as $5 million a year.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 965-9471

RIN: 0960–AB38

808. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; EVALUATION GUIDES FOR DETERMINING SUBSTANTIAL GAINFUL ACTIVITY (SGA)

Significance: Agency Priority

Legal Authority: PL 98-460, Sec 10

CFR Citation: 20 CFR 404; 20 CFR 416

Legal Deadline: None

Abstract: These proposed changes will incorporate into regulations of the Social Security Administration a number of policies relating to the evaluation of a person's work activity that are now in Social Security Rulings published in 1983 and 1984.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane Heaton, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-9470

RIN: 0960–AB73

809. SUPPLEMENTAL SECURITY INCOME PROGRAM; EXCLUSIONS FROM INCOME AND RESOURCES OF INDIAN JUDGMENT FUNDS AND PER CAPITA DISTRIBUTIONS

Legal Authority: PL 97-458; PL 98-64; PL 100-241

CFR Citation: 20 CFR 416K Appendix; 20 CFR 416.1234; 20 CFR 416.1236

Legal Deadline: None

Abstract: The proposed regulation reflects the provisions of the following statutes: (1) Pub. L. 97-458, enacted January 12, 1983, which provides that Indian judgment funds held in trust or distributed per capita pursuant to a plan approved by Congress or the Secretary of the Interior are excluded from income and resources under the Supplemental Security Income program (2) Pub. L. 98-64, enacted August 2, 1983, which provides for the exclusion of all funds held in trust by the Secretary of the Interior for an Indian tribe and distributed per capita to a member of that tribe and (3) Pub. L. 100-241, enacted February 3, 1988, which provides for the exclusion from income and resources of certain items received by an individual Alaska native or descendent of an Alaska native from a native corporation. Some savings in program costs may result from these changes.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane Heaton, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-9470

RIN: 0960–AB60

810. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; EVALUATION CRITERIA FOR IMMUNE SYSTEM DISORDERS, INCLUDING HIV INFECTION (ACQUIRED IMMUNODEFICIENCY SYNDROME (AIDS)/AIDS-RELATED COMPLEX)

Significance: Regulatory Program

Legal Authority: 42 USC 405; 42 USC 1302

CFR Citation: 20 CFR 404P

Legal Deadline: None

Abstract: Sections 10.00 and 110.00 of Appendix 1 to the Disability Regulations (404.1501 through 404.1599) describe immune system disorders which are severe enough to prevent a person from doing any gainful activity or, in the case of a child under age 18, age-appropriate activities. We are proposing to add the criteria for evaluation of AIDS to these sections.

HHS—SSA — Proposed Rule Stage

The Supplemental Security Income program incorporates by reference and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance program. The budgetary impact is unknown at this time.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	
Final Action	12/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1769

RIN: 0960-AC08

811. SUPPLEMENTAL SECURITY INCOME PROGRAM; FEDERAL ADMINISTRATION OF OPTIONAL STATE SUPPLEMENTATION

Legal Authority: 42 USC 1382e; 42 USC 1302

CFR Citation: 20 CFR 416.2030(a)(2); 20 CFR 416.2040(b)

Legal Deadline: None

Abstract: 42 USC 1382e provides that at the option of a State with a federally administered optional supplementation program, the supplementation agreement between such State and the Secretary of HHS may be modified to allow Federal administration of optional supplementary payments to any individual in a medical facility where more than 50 percent of the individual's care is covered by the Medicaid program (Living Arrangements (LA) "D" recipients). The proposed regulation will reflect the amendment to the statute discussed above.

Timetable:

Action	Date	FR Cite
NPRM	09/11/90	55 FR 37332
NPRM Comment Period End	11/13/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Sectors Affected: None

Agency Contact: Duane Heston, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-8478

RIN: 0960-AC13

812. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; NONPAYMENT OF BENEFITS TO PRISONERS, VOCATIONAL REHABILITATION EXCEPTION

Significance: Agency Priority

Legal Authority: 42 USC 402(x)(1); 42 USC 405

CFR Citation: 20 CFR 404D

Legal Deadline: None

Abstract: Existing regulations at 20 CFR 404.468(d) provide a vocational rehabilitation exception to the nonpayment of benefits to prisoners provision described at 20 CFR 404.468(a). Under the exception, the nonpayment provision does not apply if a prisoner who is entitled to benefits on the basis of disability is actively and satisfactorily participating in a rehabilitation program which has been specifically approved for the individual by a court of law. In addition, the Secretary must determine that the program is expected to result in the individual being able to do substantial gainful activity upon release and within a reasonable time. No benefits will be paid to the prisoner for any month prior to the approval of the program. The proposed regulations would set out more definitive criteria for applying the exception and would define terms, such as "rehabilitation program," "court of law," and "reasonable time," for purposes of applying the exception.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane Heston, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-8478

RIN: 0960-AC16

813. SUPPLEMENTAL SECURITY INCOME PROGRAM; CONTINUATION OF BENEFITS AND SPECIAL ELIGIBILITY FOR CERTAIN SEVERELY IMPAIRED RECIPIENTS WHO WORK

Significance: Agency Priority

Legal Authority: PL 99-643, Sec 2; PL 99-643, Sec 4

CFR Citation: 20 CFR 416.260; 20 CFR 416.261; 20 CFR 416.262; 20 CFR 416.265; 20 CFR 416.268; 20 CFR 416.269; 20 CFR 416.1112; 20 CFR 416.1402; 20 CFR 416.1403

Legal Deadline: None

Abstract: These proposed regulations will implement statutory changes contained in sections 2 and 4 of PL 99-643. These provisions: (1) make section 1619 of the Social Security Act permanent; and (2) simplify the transitions among regular SSI status, special benefit status, and special Supplemental Security Income status for Medicaid purposes.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane Heston, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-8478

RIN: 0960-AC22

814. SUPPLEMENTAL SECURITY INCOME PROGRAM; PAYMENT OF BENEFITS DUE DECEASED RECIPIENTS

Legal Authority: 42 USC 1383(b)(1)(A)

CFR Citation: 20 CFR 416.340; 20 CFR 416.345; 20 CFR 416.538; 20 CFR 416.542; 20 CFR 416.543; 20 CFR 416.1457(c)(4)

Legal Deadline: None

Abstract: Section 8 of Pub. L. 99-643 provides that effective for benefits payable for months after May 1986, an underpayment shall be paid to any surviving spouse of a deceased SSI recipient whether or not the spouse was eligible for SSI, if such spouse was living in the same household with the recipient at the time of death, or within the 6 months immediately preceding the

month of death, or to the parent(s) of a deceased disabled or blind child who was an SSI recipient if the child was living with the parent(s) at the time of death or within the 6 months immediately preceding the month of death. These proposed regulations would also reflect a policy change that would continue the appeals process (versus automatic dismissal), at the Administrative Law Judge or Appeals Council level, for the survivors' entitlement to an underpayment if they meet certain conditions. The cost estimate for these provisions is estimated to be $2 million per year in program costs and less than $1 million and 30 workyears in administrative expenses.

Timetable:

Action	Date	FR Cite
NPRM	09/10/90	55 FR 37249
NPRM Comment Period End	11/09/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry Duder, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1765

RIN: 0960–AC28

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815. SUPPLEMENTAL SECURITY INCOME PROGRAM; PARENT-TO-CHILD DEEMING

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1382(a); 42 USC 1382c(f)

CFR Citation: 20 CFR 416.1165

Legal Deadline: None

Abstract: Under the current SSI rules, three different formulas are used to calculate the amount of income deemed to an eligible child from his or her ineligible parent(s) when they are living together. The formulas produce different results depending on the type of income (earned versus unearned) and the number of children in the household. This sometimes creates anomalies. The rule would resolve the anomalies by providing that one formula be used regardless of the type of parental income. The formula to be used is the formula now used when the parent(s) has both earned and unearned income.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	09/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-8512

RIN: 0960–AC38

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816. OLD-AGE SURVIVORS AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; DETERMINING DISABILITY AND BLINDNESS; FEE LIMITATION POLICY FOR PURCHASE OF LABORATORY TESTS

Legal Authority: 42 USC 1302; 42 USC 1383b

CFR Citation: 20 CFR 404.1624; 20 CFR 416.1024

Legal Deadline: None

Abstract: These proposed regulations would place a limitation on the rates of payment a State may pay for laboratory tests purchased by State agencies. Under these proposed regulations a State agency would be required to limit the amounts it pays for laboratory tests to the maximum payment level contained in the Health Care Financing Administration's (HCFA) National Limitation Amounts for Laboratory Fee Schedules. Currently the only payment requirement is that the rates of payment not exceed the highest rates paid by Federal or other agencies in the State for the same or similar types of services.

Timetable:

Action	Date	FR Cite
NPRM	08/00/91	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1759

RIN: 0960–AC41

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817. SUPPLEMENTAL SECURITY INCOME PROGRAM; PROCEEDS OF A LOAN, PAYMENT OF PRO RATA SHARE OF HOUSEHOLD OPERATING EXPENSES

Significance: Regulatory Program

Legal Authority: 42 USC 1302

CFR Citation: 20 CFR 416.1103; 20 CFR 416.1133

Legal Deadline: None

Abstract: It is our policy that money borrowed (a loan) is not income for SSI purposes and therefore has no effect on a person's SSI benefits. These proposed regulations will state that only cash transactions may be considered loans. These proposed regulations will also provide that the one-third reduction rule which applies when a person who lives in another's household and receives in-kind support and maintenance will not apply if the SSI recipient pays his or her pro rata share in cash and no later than the month under consideration. No additional costs or savings are anticipated since these proposed regulations will codify existing policy.

Timetable:

Action	Date	FR Cite
NPRM	08/20/90	55 FR 33922
NPRM Comment Period End	10/19/90	
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane Heaton, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-8479

RIN: 0960–AC42

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818. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; EXTENSION OF SOCIAL SECURITY COVERAGE TO CERTAIN WORKERS; MEDICARE ONLY COVERAGE OF CERTAIN STATE AND LOCAL GOVERNMENT EMPLOYEES

Legal Authority: PL 100-360, Sec 9001; PL 100-203, Sec 9002; PL 100-360, Sec 9003; PL 100-203, Sec 9004; PL 100-203, Sec 9005; PL 100-203, Sec 9022; PL 99-272, Sec 11326; PL 99-514, Sec 2605; PL 100-647, Sec 6017

CFR Citation: 20 CFR 404.429(c)(3); 20 CFR 404.1015; 20 CFR 404.1016b; 20 CFR

404.1019; 20 CFR 404.1020; 20 CFR 404.1021; 20 CFR 404.1055; 20 CFR 404.1058; 20 CFR 404.1087

Legal Deadline: None

Abstract: These regulations would reflect recently enacted statutory changes that extend social security coverage to work situations not previously covered. These newly covered work situations include: (1) Inactive duty training in the uniformed services; (2) Certain agricultural labor situations; and (3) Work for a spouse or parent. Additionally, the year for reporting corporate directors' income has been changed, and Medicare coverage is provided to many previously uncovered State and local government employees. Also, a recently enacted statutory provision (section 8017 of PL 100-647) further revised our coverage provisions relating to agricultural wages.

Timetable:

Action	Date	FR Cite
NPRM	09/12/90	55 FR 37468
NPRM Comment Period End	11/13/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Agency Contact: Lawrence V. Dudar, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1755

RIN: 0960-AC45

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818. SUPPLEMENTAL SECURITY INCOME PROGRAM; CONTINUATION OF FULL BENEFIT STANDARD FOR CERTAIN PERSONS INSTITUTIONALIZED

Significance: Agency Priority

Legal Authority: PL 100-203, Sec 9115; PL 99-643, Sec 3

CFR Citation: 20 CFR 416.211; 20 CFR 416.414; 20 CFR 416.1149; 20 CFR 416.1167; 20 CFR 416.1325; 20 CFR 416.2040; 20 CFR 410; 20 CFR 416.412; 20 CFR 416.940; 20 CFR 416.1147

Legal Deadline: None

Abstract: These amendments would require continued payment based on the full payment rate to certain persons eligible for SSI payments under Section 1619 or 1611 of the Act who enter certain medical or psychiatric institutions. Without these provisions, SSI benefits would be reduced or suspended.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lawrence V. Dudar, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1755

RIN: 0960-AC55

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820. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISION OF CONTRIBUTIONS FOR SUPPORT RULES

Significance: Agency Priority

Legal Authority: 42 USC 1302

CFR Citation: 20 CFR 404.366(a)

Legal Deadline: None

Abstract: This proposed rule would change one of the requirements for determining whether an insured person is contributing to the support of a child at a specific time. The requirements that contributions be made regularly and be large enough to meet an important part of a child's living expenses would be replaced by a requirement that consideration be given to the economic circumstances of both the insured person and the child and that recognition also be given to the child's needs. Because of the minimal number of persons who would be affected by these proposed changes any additional program costs would be negligible.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-6512

RIN: 0960-AC57

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821. OLD-AGE, SURVIVORS AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; DETERMINATION OF DISABILITY - DETERMINING STATE AGENCY SUBSTANTIAL FAILURE

Significance: Regulatory Program

Legal Authority: 42 USC 421; 42 USC 1302

CFR Citation: 20 CFR 404.1641; 20 CFR 404.1670; 20 CFR 404.1680; 20 CFR 404.1682; 20 CFR 404.1683; 20 CFR 416.1041; 20 CFR 416.1070; 20 CFR 416.1080; 20 CFR 416.1082; 20 CFR 416.1083

Legal Deadline: None

Abstract: The proposed rules contain procedures for determining when a State agency has substantially failed to make disability determinations in accordance with applicable Federal law. If it is determined that a State agency has substantially failed to make disability determinations in a manner consistent with Federal regulations or other written guidelines, the Social Security Administration, in accordance with section 221 of the Social Security Act (42 USC 421), must assume the responsibility for making the disability determinations. The costs or savings likely to result from implementation of these regulations are not predictable.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1755

RIN: 0960-AC60

822. OLD-AGE, SURVIVORS AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; VOCATIONAL FACTORS REGULATIONS RESTRUCTURING AND CLARIFICATION

Significance: Agency Priority

Legal Authority: 42 USC 405; 42 USC 421; 42 USC 423; 42 USC 1302; 42 USC 1382c; 42 USC 1383

CFR Citation: 20 CFR 404.1526; 20 CFR 404.1545; 20 CFR 404.1550 to 1567; 20 CFR 416.920; 20 CFR 416.945; 20 CFR 416.960 to 967

Legal Deadline: None

Abstract: Based upon adjudicative experience, we are proposing clarifications and a restructuring of the disability vocational evaluation regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William J. Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1758

RIN: 0960-AC61

823. SUPPLEMENTAL SECURITY INCOME PROGRAM; RESOURCES AND EXCLUSIONS; DEFINITION OF RESOURCES

Legal Authority: 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 416.1201

Legal Deadline: None

Abstract: This proposed change would exclude from the definition of resources, in the Supplemental Security Income program, for one calendar month following the month of receipt, certain cash payments made to an ineligible spouse or parent for providing medical or social services to the eligible individual. Current rules exclude such amounts paid to the eligible individual for one calendar month following the month of receipt. This proposal would broaden the exclusion to include similar payments made to certain other individuals whose income and resources are deemed available to the SSI recipient.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1755

RIN: 0960-AC66

824. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM, AND ORGANIZATION AND PROCEDURES; REQUIREMENT OF SOCIAL SECURITY NUMBER AS A CONDITION FOR RECEIPT OF BENEFITS

Legal Authority: 42 USC 405(c)(2)(E); PL 100-647, Sec 6039

CFR Citation: 20 CFR 404.469

Legal Deadline: None

Abstract: This regulation reflects a section of PL 100-647 which requires, as a condition for receipt of Social Security benefits, that a person must either furnish to the Social Security Administration his or her Social Security number or apply for a number.

Timetable:

Action	Date	FR Cite
NPRM	06/20/90	55 FR 33620
NPRM Comment Period End	10/19/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-8471

RIN: 0960-AC67

825. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; SUSPENSION OF BENEFITS OF DEPORTED NAZIS; EXEMPTION FROM SOCIAL SECURITY TAXATION BECAUSE OF RELIGIOUS BELIEFS

Legal Authority: PL 100-647, Sec 8004; PL 100-647, Sec 8007; 42 USC 402(n)(3); 42 USC 402(v); PL 101-239

CFR Citation: 20 CFR 404.464; 20 CFR 404.1012; 20 CFR 404.1039 (New)

Legal Deadline: None

Abstract: This regulation reflects the provisions of two sections in PL 100-647. The first provision requires the Social Security Administration to deny or terminate benefits if the beneficiary is deported (or ordered deported) because of certain actions performed while associated with the Nazi government of Germany or one of its allies. The second provision extends the current law treatment of self-employed workers who may claim an exemption from Social Security coverage if they are members of a religious faith that is opposed to participation in Social Security programs to their employees in cases where both the employee and the employer are members of a qualifying religious faith.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence V. Duda, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1765

RIN: 0960-AC68

826. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; MEDICAL CRITERIA FOR EVALUATING MENTAL DISORDERS FOR ADULTS

Significance: Agency Priority

Legal Authority: 42 USC 405; 42 USC 1382c

CFR Citation: 20 CFR 404P

Legal Deadline: None

Abstract: These proposed amendments revise the medical evaluation criteria for mental disorders for the Social

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Security and Supplemental Security Income disability programs. The proposed revisions will reflect advances in medical treatment and in methods of evaluating certain mental impairments and will provide up-to-date medical criteria for use in the evaluation of disability claims based on mental disorders.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William J. Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1759

RIN: 0960-AC74

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827. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; INTERIM DISABILITY BENEFITS

Legal Authority: 42 USC 423(h); 42 USC 1383(a); PL 100-647, Sec 8001

CFR Citation: 20 CFR 404; 20 CFR 416

Legal Deadline: None

Abstract: These regulations implement a section of PL 100-647 that authorizes interim benefit payments whenever an Administrative Law Judge (ALJ) decides that a claimant is entitled to benefits based on disability or blindness and the Secretary has not issued his final decision within 110 days after the date of the ALJ's determination.

Timetable:

Action	Date	FR Cite
NPRM	05/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry Dozier, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1765

RIN: 0960-AC76

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828. SUPPLEMENTAL SECURITY INCOME PROGRAM; REDETERMINATIONS OF SUPPLEMENTAL SECURITY INCOME ELIGIBILITY

Legal Authority: 42 USC 1302; 42 USC 1381a; 42 USC 1382; 42 USC 1382(c); 42 USC 1382h(a); 42 USC 1383

CFR Citation: 20 CFR 416.204

Legal Deadline: None

Abstract: We propose to amend our regulations on redeterminations of Supplementary Security Income eligibility. Our current policy does not include in the redetermination period the month of eligibility, the month of application, or the month of the last redetermination or eligibility update. The redeterminations omit these months and, as a result, we do not have an accounting of all living arrangements, income, and resources for the period of eligibility. We propose to change our policy to include in the redetermination period the month of eligibility, month of application, or month of eligibility update for the first redetermination and the month of the last redetermination for subsequent redeterminations. However, for redeterminations that have a period of review that extends beyond the rules of administrative finality, we propose to limit the verification of retroactive information on factors of eligibility to no more than what the rules of administrative finality allow.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dustee Heaton, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-8470

RIN: 0960-AC77

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829. DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION; BLOOD DONOR LOCATOR SERVICE

Significance: Regulatory Program

Legal Authority: PL 100-647, Sec 8006; 42 USC 405(c)(2)(D); 42 USC 1320b

CFR Citation: 20 CFR 401.205; 20 CFR 401.600

Legal Deadline: None

Abstract: We are issuing these rules to govern the Blood Donor Locator Service, which we will establish and conduct, as required by section 8006 of P.L. 100-647. Under these rules, we will furnish to participating States, at their request, the last known personal mailing address (residence or post office box) of blood donors whose blood donation shows that they are or may be infected with the human immunodeficiency virus which causes acquired immune deficiency syndrome, if the State or an authorized blood donation facility has been unable to locate the donors. If our records or those of the Internal Revenue Service contain an adequate personal mailing address for the donor, we will provide it to the State so that the State or the blood donation facility can inform the donor of the possible need for medical care and treatment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	12/00/90	

Small Entities Affected: Organizations

Government Levels Affected: State

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-8471

RIN: 0960-AC79

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830. OLD-AGE, SURVIVORS AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; MEDICAL IMPROVEMENT REVIEW STANDARD (MIRS)—MISCELLANEOUS CHANGES

Legal Authority: 42 USC 405; 42 USC 421; 42 USC 423; 42 USC 1302; 42 USC 1382c; 42 USC 1383

CFR Citation: 20 CFR 404.1579; 20 CFR 404.1594; 20 CFR 404.1596; 20 CFR 416.994

Legal Deadline: None

Abstract: These proposed regulations will make no policy changes but are needed to make a number of technical corrections to our existing regulations pertaining to how we decide whether disability continues or ends.

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Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William J. Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1759

RIN: 0960–AC61

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831. OLD-AGE, SURVIVORS AND DISABILITY INSURANCE PROGRAM; FULL-TIME ATTENDANCE BY ELEMENTARY OR SECONDARY SCHOOL STUDENT

Legal Authority: 42 USC 402(d)(7)(A)

CFR Citation: 20 CFR 404.367

Legal Deadline: None

Abstract: To be considered in "full-time" attendance under the existing regulations, an elementary or secondary student must be enrolled for at least 20 hours of scheduled school attendance per week. The proposed regulation would modify our policy so that a student who is enrolled for fewer than 20 hours per week may nevertheless be considered in full-time attendance if the student is enrolled for the number of hours per week that is considered by the school to be full time and is precluded by reasons beyond the individual's control from enrolling in a program involving at least 20 or more hours per week.

Timetable:

Action	Date	FR Cite
NPRM	09/06/90	55 FR 36656
NPRM Comment Period End	11/06/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-9471

RIN: 0960–AC83

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832. OLD-AGE, SURVIVORS AND DISABILITY INSURANCE PROGRAM; ADMINISTRATIVE WAIVER OF DISADVANTAGEOUS RECOMPUTATIONS

Legal Authority: 42 USC 415(f)(2)(A)

CFR Citation: 20 CFR 404.285; 20 CFR 404.287

Legal Deadline: None

Abstract: The Social Security Administration automatically recomputes the primary insurance amount of a beneficiary who has wages or self-employment income for a given year. Generally, recomputations are advantageous to workers and their families because benefits are increased. However, there are unusual situations where benefits are decreased as a result of a recomputation. Under current regulations, we process the recomputation and notify the beneficiary of the decrease in benefits, but will automatically withdraw the recomputation if the beneficiary so requests in writing. We propose to revise the regulations to waive administratively a disadvantageous recomputation and notify the beneficiary of that action and that he or she may nevertheless request that the recomputation be processed if he or she so desires.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-9471

RIN: 0960–AC84

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833. OLD-AGE, SURVIVORS AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; REPRESENTATION OF CLAIMANTS FOR BENEFITS UNDER TITLE II OR TITLE XVI

Significance: Regulatory Program

Legal Authority: PL 101-239, Sec 10307

CFR Citation: 20 CFR 404.1705; 20 CFR 416.1505

Legal Deadline: None

Abstract: These proposed regulations will provide that information regarding the options for obtaining an attorney and the availability of legal services organizations will be included with the notice sent to claimants who receive an adverse determination

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
Final Action	10/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phil Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1769

RIN: 0960–AC87

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834. OLD-AGE, SURVIVORS AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; STANDARDS APPLICABLE IN DETERMINATIONS OF GOOD CAUSE, FAULT, AND GOOD FAITH

Significance: Regulatory Program

Legal Authority: PL 101-239, Sec 10305

CFR Citation: 20 CFR 404; 20 CFR 416

Legal Deadline: None

Abstract: This proposed rule will reflect a section of PL 101-239 that requires that we take into account a claimant's physical, mental, educational or language limitations, including any lack of facility with the English language when we make certain determinations involving the claimant's good cause, fault or good faith in taking or not taking certain actions.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	
Final Action	12/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phil Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1769

RIN: 0960–AC88

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835. OLD-AGE, SURVIVORS AND DISABILITY INSURANCE PROGRAM; ELIMINATION OF DEPENDENCY TEST APPLICABLE TO CERTAIN ADOPTED CHILDREN

Significance: Regulatory Program

Legal Authority: PL 101-239, Sec 10301

CFR Citation: 20 CFR 404.362

Legal Deadline: None

Abstract: This proposed regulation will reflect a section of PL 101-239 that eliminates the special dependency tests for child's insurance benefits in the case of children who are adopted before age 18 by retired or disabled beneficiaries so that these children are treated the same as natural children. This change removes a financial disincentive to adoption and simplifies program administration.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
Final Action	09/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandy Bond, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1784

RIN: 0960-AC90

836. OLD-AGE, SURVIVORS AND DISABILITY INSURANCE PROGRAM; AUTHORITY TO AMEND WAGE RECORDS AFTER EXPIRATION OF TIME LIMITATION

Significance: Regulatory Program

Legal Authority: PL 101-239, Sec 10304; 42 USC 405; 42 USC 1302

CFR Citation: 20 CFR 404

Legal Deadline: None

Abstract: These proposed regulations reflect the Social Security Act, as amended by the Omnibus Budget Reconciliation Act of 1989, which permits correction of an earnings record after the 3-year, 3-month, 15-day statute of limitations to credit wages if an employer reported an amount of wages for an employee that is less than the correct amount.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	
Final Action	09/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-8471

RIN: 0960-AC91

837. ● OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; APPEALS COUNCIL NOTICE REQUIREMENTS

Legal Authority: 42 USC 401(g); 42 USC 405(a); 42 USC 405(b); 42 USC 405(d)to 405(h); 42 USC 421(d); 42 USC 1302; 42 USC 1383; 42 USC 1383b

CFR Citation: 20 CFR 404.973; 20 CFR 416.1473

Legal Deadline: None

Abstract: These proposed regulations amend the existing regulations to clarify the requirements that the Appeals Council (AC) notify the parties of its reasons for reviewing a case and the issues to be decided. The proposed regulations clarify the AC's current operating policies with regard to providing the notice required by the regulations and do not represent any change in policy. These regulations are intended to remove any ambiguities in the current regulations concerning the circumstances and the manner in which the AC provides notice to the parties.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phil Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1769

RIN: 0960-AC93

838. ● SUPPLEMENTAL SECURITY INCOME PROGRAM; ELIGIBILITY FOR SSI BENEFITS OF CHILDREN OF ARMED FORCES PERSONNEL RESIDING OVERSEAS

Legal Authority: 42 USC 1382c; 42 USC 1383

CFR Citation: 20 CFR 416.202; 20 CFR 416.215(new)

Legal Deadline: Other, Statutory, April 1, 1990.
Statutory Effective Date04/01/90

Abstract: These proposed regulations extend eligibility for SSI benefits to blind or disabled children who are United States (U.S.) citizens and who reside with a parent who is a member of the U.S. Armed Forces assigned to permanent duty ashore outside the U.S., the District of Columbia, Puerto Rico, and certain territories and possessions of the U.S., and who, during the month prior to the parent's assignment abroad, were eligible for SSI disability benefits. This provision will apply to benefits after March 1990.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry Lerner, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1762

RIN: 0960-AC95

839. ● SUPPLEMENTAL SECURITY INCOME PROGRAM; WAIVER OF SSI RULE FOR DEEMING TO CHILDREN THE INCOME AND RESOURCES OF THEIR PARENTS FOR CERTAIN DISABLED CHILDREN

Legal Authority: 42 USC 1382c(f)(2)

CFR Citation: 20 CFR 416.415; 20 CFR 416.1160; 20 CFR 416.1165; 20 CFR 416.1202

Legal Deadline: None

Abstract: These proposed regulations reflect the provisions of section 8010 of Pub. L. 101-239 which waive the SSI income and resource deeming rules (which deem the income and resources of a disabled child's parents to the child if the child is living at home) for

severely disabled children who were eligible for SSI benefits while in a medical institution and who qualify for Medicaid under a State home care plan authorized under title XIX when deeming parental income and resources would make the disable child ineligible for SSI benefits or eligible for a payment of less than $30. This was effective June 1, 1990.

Timetable:

Action	Date	FR Cite
NPRM	05/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-6512

RIN: 0960-AC96

840. ● SUPPLEMENTAL SECURITY INCOME PROGRAM; EXCLUSION FROM INCOME OF DOMESTIC COMMERCIAL TRANSPORTATION TICKETS RECEIVED AS GIFTS IN DETERMINING SSI INCOME

Legal Authority: 42 USC 1382a(b)

CFR Citation: 20 CFR 416.1124; 20 CFR 416.1161

Legal Deadline: None

Abstract: Gifts of certain commercial transportation tickets are excluded from income for SSI purposes, if they are used by the individual (or his or her spouse) and not converted to cash. These rules are effective as of March 1, 1990.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-0512

RIN: 0960-AC97

841. ● SUPPLEMENTAL SECURITY INCOME PROGRAM; REDUCTION IN TIME WHEN INCOME AND RESOURCES OF SEPARATED COUPLES MUST BE TREATED AS JOINTLY AVAILABLE FOR PURPOSES OF SSI ELIGIBILITY & BENEFITS

Legal Authority: 42 USC 1362c(b)

CFR Citation: 20 CFR 416.120(c)(14)

Legal Deadline: None

Abstract: This proposed regulation requires that a married couple be treated as separate individuals for purposes of SSI eligibility and benefit determination beginning with the month after the month they begin living apart. These rules will become effective October 1, 1990.

Timetable:

Action	Date	FR Cite
NPRM	05/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-0512

RIN: 0960-AC98

842. ● OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; TAKE INTO ACCOUNT MISINFORMATION PROVIDED TO APPLICANTS IN DETERMINING DATE OF APPLICATION

Legal Authority: 42 USC 402(j); 42 USC 1383(e); PL 101-239, Sec 10302

CFR Citation: 20 CFR 404.610; 20 CFR 404.630; 20 CFR 416.340; 20 CFR 416.345

Legal Deadline: None

Abstract: These proposed regulations require HHS to determine that an applicant for Social Security or SSI has applied for benefits (deemed filing date) when those individuals have been provided misinformation by an employee of SSA on the later of (1) the date the incorrect information was provided, or (2) the date the individual met all the requirements for entitlement. These proposed regulations apply to misinformation provided after 12/82 with respect to Social Security claims. With respect to SSI claims, the proposed regulations apply to misinformation furnished on or after the date of enactment of the Omnibus Budget Reconciliation Act of 1989 (OBRA), i.e., December 19, 1989, and to benefits for months after the date of enactment of OBRA.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry Lerner, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1762

RIN: 0960-AD05

843. ● OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAMS; EARNINGS AND BENEFIT STATEMENTS

Legal Authority: PL 101-239, Sec 10308

CFR Citation: 20 CFR 404

Legal Deadline: None

Abstract: This proposed regulation implements the requirement that HHS, beginning not later than 10/1/90, provide individuals aged 25 or older, who have a social security number and have wages or net self-employment income, with a social security account statement upon request of the individual. Starting September 30, 1995, statements would be automatically provided to all such individuals who attain age 60 (but are not yet receiving benefits) before October 1 of the previous year and for whom HHS can determine a current address. Starting in October 1992, statements would be automatically provided on a biennial basis to those under age 60 as well. (Retirement benefit estimates would not be required in the case of persons under age 50 although a general description of benefits available upon retirement would be required.)

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health

and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-8671

RIN: 0960-AD05

844. ● SUPPLEMENTAL SECURITY INCOME PROGRAM; AUGMENTED BENEFITS

Legal Authority: 42 USC 1382c; 42 USC 1383

CFR Citation: 20 CFR 416.1121; 20 CFR 416.1122

Legal Deadline: None

Abstract: These proposed regulations will state the Supplemental Security Income program policy on the treatment of benefits from other programs that have been augmented to provide for dependents. Our current regulations only provide policy regarding the treatment of the primary beneficiary's portion of an augmented VA benefit.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane Heaton, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1762

RIN: 0960-AD06

845. ● OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAMS; DEFINING PAST-DUE BENEFITS

Legal Authority: 42 USC 405(a); 42 USC 1302

CFR Citation: 20 CFR 404.1703

Legal Deadline: None

Abstract: This proposed regulation is to clarify in several respects the definition of past-due benefits contained in 20 CFR 404.1703.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry Lerner, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1762

RIN: 0960-AD07

846. ● SUPPLEMENTAL SECURITY INCOME PROGRAM; BANK ACCOUNTS IN THE SSI PROGRAM

Legal Authority: 42 USC 1383

CFR Citation: 20 CFR 416.1209(New)

Legal Deadline: None

Abstract: Title XVI of the Act and SSI regulations are silent on the issue of how funds held in bank accounts are attributed for resource purposes. This policy currently appears in the Program Operations Manual System (POMS); however, recent decisions by Administrative Law Judges, the Appeals Council, and the courts highlight the need for regulations which will codify the present policy in the CFR.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry Lerner, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1762

RIN: 0960-AD10

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Social Security Administration (SSA)

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847. SUPPLEMENTAL SECURITY INCOME PROGRAM; SUSPENSIONS, TERMINATIONS, AND ADVANCE NOTICE OF ADVERSE DETERMINATIONS

Legal Authority: 42 USC 1382; 42 USC 1382a; 42 USC 1382b; 42 USC 1382c; 42 USC 1382d; 42 USC 1383; PL 89-643, Sec 3; PL 89-643, Sec 4; PL 100-203, Sec 9112; PL 100-203, Sec 9113; PL 100-203, Sec 9115; PL 101-239, Sec 8009

CFR Citation: 20 CFR 416B; 20 CFR 416C; 20 CFR 416M

Legal Deadline: None

Abstract: This regulation reorganizes, revises, and clarifies the rules on withholding, reducing, suspending, and terminating an SSI beneficiary's SSI benefits. This regulation's purpose is to make these rules easier to read and understand. These rules also reflect the following statutory enactments: (1) section 3 of Pub. L. 89-643, (2) section 4 of Pub. L. 89-643, (3) section 9103 of Pub. L. 100-203, (4) section 9112 of Pub. L. 100-203, (5) section 9115 of Pub. L. 100-203, and (6) section 8009 of Pub. L. 101-239.

Timetable:

Action	Date	FR Cite
Notice of Decision to Develop Regs	06/19/79	44 FR 35241
NPRM	05/00/86	51 FR 17057
NPRM Comment Period End	07/07/86	
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence V. Dodar, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1765

RIN: 0960-AA22

848. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAM; CONTINUED PAYMENT OF BENEFITS TO PERSONS IN VOCATIONAL REHABILITATION PROGRAMS

Legal Authority: 42 USC 405; 42 USC 425; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.316; 20 CFR 404.337; 20 CFR 404.352; 20 CFR 404.902; 20 CFR 404.1586; 20 CFR 404.1596; 20 CFR 404.1597; 20 CFR 416.1321; 20 CFR 416.1338; 20 CFR 416.1331; 20 CFR 416.1402

Legal Deadline: None

Abstract: This change permits the continued payment of disability benefits to persons who medically recover while participating in a vocational rehabilitation (VR) program, without regard to whether the person was expected at the onset of the VR program to medically recover before the scheduled completion date of the program and without regard to whether the person has any residual functional limitation. These changes bring the regulations into conformity with certain recent court decisions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/14/88	53 FR 17616
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William J. Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1759

RIN: 0960-AB05

849. SUPPLEMENTAL SECURITY INCOME PROGRAM AND MEDICAID ASSISTANCE; WHAT IS NOT INCOME

Legal Authority: 42 USC 1382a

CFR Citation: 20 CFR 416.1103(a); 42 CFR 435.725(c); 42 CFR 435.726(c); 42 CFR 435.733(c); 42 CFR 435.735(c); 42 CFR 435.832(c); 42 CFR 436.832(c)

Legal Deadline: None

Abstract: The rule changes SSI policy to consider Department of Veterans Affairs payments resulting from unusual medical expenses not to be income for SSI purposes.

Timetable:

Action	Date	FR Cite
NPRM	08/24/88	53 FR 32252
NPRM Comment Period End	10/24/88	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bonnie Heaton, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1759

RIN: 0960-AB06

850. OLD AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; STANDARDS FOR CONSULTATIVE EXAMINATIONS; EXISTING MEDICAL EVIDENCE

Significance: Agency Priority

Legal Authority: PL 98-460, Sec 8; 42 USC 405; 42 USC 421; 42 USC 423; 42 USC 1302; 42 USC 1382c; 42 USC 1383

CFR Citation: 20 CFR 404.1512; 20 CFR 416.912; 20 CFR 404.1519; 20 CFR 416.919; 20 CFR 404.1562; 20 CFR 416.920; 20 CFR 404.1563; 20 CFR 416.980; 20 CFR 416.982; 20 CFR 404.1513; 20 CFR 416.913; 20 CFR 404.1520; 20 CFR 404.1545; 20 CFR 416.945; 20 CFR 404.1546; ...

Legal Deadline: None

Abstract: The regulations include standards for obtaining consultative examinations, the types of consultative examination referrals to be made, and monitoring procedures for consultative examinations and the referral process. The regulations also provide for evaluating all medical evidence of record and developing a 12-month medical history. References to "medical assessments" will be replaced by references to medical source statements as to what a person can still do despite his or her impairment(s). The regulations also set forth the standards to be used in evaluating the medical opinions of treating and other medical sources.

Timetable:

Action	Date	FR Cite
NPRM	04/20/87	52 FR 13014
NPRM Comment Period End	06/19/87	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1759

RIN: 0960-AB22

851. SUPPLEMENTAL SECURITY INCOME PROGRAM; HOW WE COUNT UNEARNED INCOME—FUNDS USED TO PAY INDEBTEDNESS

Legal Authority: 42 USC 1302; 42 USC 1382a

CFR Citation: 20 CFR 416.1123(b)

Legal Deadline: None

Abstract: The issue is whether amounts otherwise due an individual assigned to repay a legal obligation should continue to be included in income under the Supplemental Security Income (SSI) program. The regulation will clarify that we count such amounts as income. Because this clarification only will reflect current operating policy, no costs/savings are anticipated.

Timetable:

Action	Date	FR Cite
NPRM	05/15/87	52 FR 34813
NPRM Comment Period End	11/16/87	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irving Dennow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235, 301 965-1765

RIN: 0960-AB29

852. OLD AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; DETERMINATIONS OF DISABILITY-COMPLIANCE AND OTHER CHANGES

Significance: Regulatory Program

Legal Authority: 42 USC 405; 42 USC 421; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.1601; 20 CFR 416.1001; 20 CFR 404.1602; 20 CFR 404.1615; 20 CFR 404.1616; 20 CFR 404.1620; 20 CFR 416.1020; 20 CFR 404.1622; 20 CFR 416.1023; 20 CFR 404.1626; 20 CFR 416.1026; 20 CFR 404.1627; 20 CFR 416.1027; 20 CFR 404.1633; ...

Legal Deadline: None

Abstract: These regulations for administering the disability determination function make changes to improve the disability determination process by modifying our State agency

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monitoring and technical and management assistance procedures, administrative standards, and fiscal, audit, and appeals requirements. They also clarify when we will find that a State agency has substantially failed to make disability determinations consistent with the regulations and other written guidelines.

Timetable:

Action	Date	FR Cite
NPRM	04/25/86	51 FR 15638
NPRM Comment Period End	06/24/86	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1759

RIN: 0960-AB36

853. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; EVALUATION OF SYMPTOMS, INCLUDING PAIN

Significance: Regulatory Program

Legal Authority: 42 USC 405; 42 USC 423; 42 USC 1382c; 42 USC 1383; 42 USC 1302

CFR Citation: 20 CFR 404P; 20 CFR 416I

Legal Deadline: None

Abstract: These regulations expand the existing regulations pertaining to the evaluation of cases involving pain or other symptoms to provide a more detailed explanation of SSA's current policy for evaluating symptoms, including pain.

Timetable:

Action	Date	FR Cite
NPRM	08/14/85	53 FR 30516
NPRM Comment Period End	11/14/85	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235, 301 965-1759

RIN: 0960-AB41

854. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; MENTAL DISORDERS-CHILDHOOD

Significance: Regulatory Program

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404P

Legal Deadline: None

Abstract: Section 112.00 of Appendix 1, Subpart P, Regs. No. 4 describes the medical criteria that apply only to the evaluation of mental impairments of persons under age 18. We are proposing comprehensive revisions to that section to ensure that the medical criteria are up to date and consistent with the latest advances in medicine. The Supplemental Security Income program incorporates by reference and uses the same medical criteria.

Timetable:

Action	Date	FR Cite
NPRM	06/14/89	54 FR 33238
NPRM Comment Period End	10/13/89	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1759

RIN: 0960-AB96

855. SUPPLEMENTAL SECURITY INCOME PROGRAM; PERMANENT RESIDENCE IN THE UNITED STATES UNDER COLOR OF LAW - ADDITIONAL CATEGORY

Significance: Agency Priority

Legal Authority: 42 USC 1382c; PL 99-603

CFR Citation: 20 CFR 416.1618; 20 CFR 416.1615

Legal Deadline: None

Abstract: This regulation will add the specific categories of aliens legalized by P. L. 99-603 to be considered permanently residing in the United States under color of law or lawfully admitted for permanent residence in the United States.

Timetable:

Action	Date	FR Cite
NPRM	01/30/89	54 FR 4296
NPRM Comment Period End	03/31/89	
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-0512

RIN: 0960-AC26

856. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAMS AND ORGANIZATION AND PROCEDURES; EVIDENCE REQUIRED FOR DUPLICATE SOCIAL SECURITY NUMBER CARD

Legal Authority: 42 USC 405; 42 USC 1302

CFR Citation: 20 CFR 422B

Legal Deadline: None

Abstract: This interim final rule will allow the Social Security Administration to test procedures that will provide an exception to the current requirement that an applicant for a duplicate Social Security number card must submit corroborative evidence of identity. This will enable us to test procedures that would allow us to conduct much of our business in processing applications for duplicate Social Security number cards by telephone.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations,

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6401 Security Boulevard, Baltimore, MD 21235, 301 965-8471

RIN: 0960-AC32

857. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAMS AND ORGANIZATION AND PROCEDURES; SOCIAL SECURITY NUMBER CARDS FOR ALIENS

Legal Authority: 42 USC 405; 42 USC 1302

CFR Citation: 20 CFR 422B

Legal Deadline: None

Abstract: This regulation will reflect the rules on evidence needed for a Social Security number card. It will also reflect the role of the Immigration and Naturalization Service in obtaining applications for Social Security numbers from aliens who applied for temporary legal resident status. The regulation will also reflect the role of the States in obtaining applications for Social Security number cards from welfare claimants and recipients. The regulation is revenue neutral. Savings result from Agreements with several States that have been entered into under section 205(c)(2)(B)(iii) of the Social Security Act.

Timetable:

Action	Date	FR Cite
NPRM	09/30/88	53 FR 38302
NPRM Comment Period End	11/29/88	
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-8471

RIN: 0960-AC34

858. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; ADDITION OF DOWN SYNDROME TO THE LISTING OF IMPAIRMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 405

CFR Citation: 20 CFR 404P

Legal Deadline: None

Abstract: We are adding a specific listing for catastrophic congenital and acquired abnormalities or diseases, including Down Syndrome, to the multiple body systems, category of impairments, in Part B of the Listing of Impairments to provide for evaluation of these claims according to the impairment criteria for the major system affected. The Listing of Impairments describes, for each of the major body systems, a level of severity which is considered sufficient to find a person disabled or blind under the disability program. Part B contains additional medical criteria that apply only to the evaluation of impairments of persons under age 18.

Timetable:

Action	Date	FR Cite
NPRM	10/05/87	52 FR 37161
NPRM Comment Period End	12/04/87	
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1759

RIN: 0960-AC35

859. OLD-AGE SURVIVORS AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; CANCELLED CONSULTATIVE EXAMINATIONS

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.1624; 20 CFR 416.1024

Legal Deadline: None

Abstract: We are considering the development of a final rule to provide that we will no longer pay for consultative examinations when services are not rendered because the scheduled appointment was broken or otherwise not kept. Presently, the States decide whether to pay for these canceled examinations and such payments have already been abolished in 22 States. The total elimination of these payments will establish a uniform national policy.

Timetable:

Action	Date	FR Cite
NPRM	10/27/88	53 FR 29467
NPRM Comment Period End	12/00/88	
Final Action	05/00/92	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: William J. Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1759

RIN: 0960-AC60

860. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; APPLICABILITY OF GOVERNMENT PENSION TO CERTAIN FEDERAL EMPLOYEES

Legal Authority: 42 USC 402(a); 42 USC 402(c); 42 USC 402(e); 42 USC 402(f); 42 USC 402(g); PL 100-203, Sec 9007; PL 100-647, Sec 8014

CFR Citation: 20 CFR 404.408a

Legal Deadline: None

Abstract: We are proposing to revise our rules on reducing the Social Security spouse's benefits of a person who is also receiving a Government pension based on noncovered employment. The Omnibus Budget Reconciliation Act of 1987 (PL 100-203, sec 9007) requires that a Federal Government employee who elects to be covered under Social Security after December 31, 1987 must work for at least 60 months after that date in order to avoid the reduction after he or she becomes entitled to Social Security spouse's benefits. That requirement is extended to the foreign service pension system by the Technical and Miscellaneous Revenue Act of 1988 (PL 100-647), which also provides that under certain circumstances the reduction does not apply to any individual who retires before his or her coverage election becomes effective.

Timetable:

Action	Date	FR Cite
NPRM	12/12/89	54 FR 51036
NPRM Comment Period End	02/12/90	
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

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Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-8471

RIN: 0960-AC46

861. SUPPLEMENTAL SECURITY INCOME PROGRAM; MODIFICATION OF INTERIM ASSISTANCE REIMBURSEMENT PROGRAM

Legal Authority: 42 USC 1302; PL 100-203, Sec 9110

CFR Citation: 20 CFR 416.1901; 20 CFR 416.1902; 20 CFR 416.1908

Legal Deadline: None

Abstract: These proposed rules reflect sec. 9110 of Pub.L. 100-203. They extend Interim Assistance Reimbursement to cases in which assistance is provided by a State while an individual's Supplemental Security Income (SSI) payments are suspended or terminated and then subsequently reinstated. Current regulations provide for reimbursement to a State only for interim assistance payments made while an individual's initial application for SSI is pending. No additional program costs are anticipated since the amount reimbursed to the State is later deducted from the individual's SSI payments.

Timetable:

Action	Date	FR Cite
NPRM	02/05/90	55 FR 4436
NPRM Comment Period End	04/19/90	
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Dunne Heaton, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-8479

RIN: 0960-AC51

862. SUPPLEMENTAL SECURITY INCOME PROGRAM; EXCLUSION FROM INCOME OF PAYMENTS RECEIVED FOR AND USED TO PAY LAST ILLNESS AND DEATH

Legal Authority: PL 100-203, Sec 9120

CFR Citation: 20 CFR 416.1121; 20 CFR 416.1207

Legal Deadline: None

Abstract: The regulation reflects the provisions of section 9120 of Pub. L. 100-203 by providing that payments to an individual (including gifts and inheritances) occasioned by the death of another person are not considered income for Supplemental Security Income purposes to the extent that such payments are expended by such individual for purposes of the deceased person's last illness and burial. Also, the regulations propose a policy change to not consider the same payments as resources for one month following receipt. Any increased costs will be negligible.

Timetable:

Action	Date	FR Cite
NPRM	04/30/90	55 FR 17999
NPRM Comment Period End	06/29/90	
Final Action	05/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dunne Heaton, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-8479

RIN: 0960-AC52

863. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; SUPPLEMENTAL EARNINGS REPORTS

Legal Authority: 42 USC 403

CFR Citation: 20 CFR 404.455

Legal Deadline: None

Abstract: We have learned that certain old-age and survivors' insurance beneficiaries tend to underestimate or fail to report their work for the next year which results in overpayments. We are proposing an addition to the current regulation which will clarify that our interpretation of Section 203(h)(3) and (h)(4) of the Social Security Act permits SSA to request estimates of earnings for the next taxable year as well as the current taxable year. If a beneficiary does not furnish the requested future year's earnings estimate, we will use the estimate for the current year to determine whether to withhold benefits for the next year. We estimate savings of $3.5 million per year.

Timetable:

Action	Date	FR Cite
NPRM	02/21/90	55 FR 6010
NPRM Comment Period End	04/23/90	
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-8471

RIN: 0960-AC58

864. OLD-AGE, SURVIVORS AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; REPRESENTATION OF PARTIES - SUSPENSION AND DISQUALIFICATION OF REPRESENTATIVES

Legal Authority: 42 USC 405(a); 42 USC 406; 42 USC 1302; 42 USC 1383(d)

CFR Citation: 20 CFR 404.1745; 20 CFR 404.1750; 20 CFR 404.1760; 20 CFR 404.1765; 20 CFR 404.1770; 20 CFR 404.1790; 20 CFR 404.1799; 20 CFR 416.1545; 20 CFR 416.1550; 20 CFR 416.1560; 20 CFR 416.1565; 20 CFR 416.1570; 20 CFR 416.1590; 20 CFR 416.1599

Legal Deadline: None

Abstract: This proposal amends the regulations to provide that when it appears that a person who represents claimants in dealing with the Social Security Administration (SSA) has violated one of our rules, the SSA's Deputy Commissioner for Programs, or his or her designee, will initiate proceedings to suspend or disqualify the representative. Under the existing regulations the Office of Retirement and Survivors Insurance performed this function.

Timetable:

Action	Date	FR Cite
NPRM	02/01/90	55 FR 3410
NPRM Comment Period End	04/02/90	
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Philip Berge, Legal Assistant, Department of Health and

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Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 965-1759

RIN: 0960–AC59

865. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; SPOUSE'S BENEFITS—SUBSTITUTION OF CERTIFICATE OF ELECTION FOR APPLICATION TO ESTABLISH ENTITLEMENT FOR CERTAIN WIDOW'S/WIDOWER'S BENEFITS

Legal Authority: 42 USC 402(e); 42 USC 402(f); PL 100-647, Sec 8010

CFR Citation: 20 CFR 404.335; 20 CFR 404.336

Legal Deadline: None

Abstract: The regulation implements a section of PL 100-647 under which a certificate of election may be used in place of an application by a person eligible for widow's or widower's benefits where the widow or widower was not yet of retirement age, and was entitled to either retirement or disability benefits and to spouse's benefits in the month before the month of the insured's death.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phil Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1769

RIN: 0960–AC72

866. SUPPLEMENTAL SECURITY INCOME PROGRAM; AUGMENTED BENEFITS

Legal Authority: 42 USC 1382a

CFR Citation: 20 CFR 416.1123

Legal Deadline: None

Abstract: These proposed regulations describe the treatment of the dependent's portion of an augmented Department of Veteran's Affairs benefit as income to the dependent by the SSI program.

Timetable:

Action	Date	FR Cite
NPRM	05/16/90	55 FR 20612
NPRM Comment Period End	07/17/90	
Final Action	05/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane Heston, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-9476

RIN: 0960–AC82

867. ● SUPPLEMENTAL SECURITY INCOME PROGRAM; TECHNICAL CHANGES TO SUBPARTS K AND L

Legal Authority: PL 93-66, Sec 211; PL 96-369, Sec 2639; PL 101-239, Sec 10405

CFR Citation: 20 CFR 416.1124; 20 CFR 416.1142; 20 CFR 416.1150; 20 CFR 416.1236; 20 CFR 416.1237

Legal Deadline: None

Abstract: These regulations make technical changes to the Supplemental Security Income regulations that include a statutory change to a title of a public law, adding a statutory change redesignating the Veterans Administration as the Department of Veterans Affairs, adding a reference heading, updating the appendix to Subpart K, and updating lists of Statutory exclusions from resources. These technical changes update the regulations and improve referencing.

Timetable:

Action	Date	FR Cite
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane Heaton, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-9479

RIN: 0960–AC94

868. ● SUPPLEMENTAL SECURITY INCOME PROGRAM; EXCLUSION OF ACCRUED INCOME WITH RESPECT TO PURCHASE OF CERTAIN BURIAL SPACES FOR PURPOSES OF SSI ELIGIBILITY

Significance: Agency Priority

Legal Authority: PL 101-239, Sec 8013

CFR Citation: 20 CFR 416.1124; 20 CFR 416.1231

Legal Deadline: None

Abstract: These final regulations reflect a statutory provision that provides an SSI program exclusion from countable income of the interest accrued and left to accumulate on the value of an excluded burial space purchase agreement entered into by an individual or the individual's spouse; and excludes from resources the value of a burial space purchase agreement representing the purchase of a burial space and any interest accrued. These changes are effective April 1, 1990.

Timetable:

Action	Date	FR Cite
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane Heaton, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-9479

RIN: 0960–AC99

869. ● OLD-AGE, SURVIVORS, AND DISABILITY INS. PROGS.; PROHIBITION AGAINST TERMINATION OF COV. FOR AMERICAN CITIZENS WORKING ABROAD FOR FOREIGN AFFILIATE OF AM. EMPLOYER & EXT OF DEMO PROJECT

Legal Authority: PL 101-239, Sec 10201; PL 101-239, Sec 10103

CFR Citation: 20 CFR 404.10004; 20 CFR 404.1599

Legal Deadline: None

Abstract: These final rules revise a reference in our regulations to section 3121(1) of the Internal Revenue Code which governs Social Security coverage agreements entered into by American employers with respect to foreign affiliates. This regulation also extends

the authority to initiate work incentive demonstration projects and waive benefit requirements of the Social Security and Medicare programs for three additional years, through June 9, 1993.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry Lerner, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1762

RIN: 0960-AD01

870. ● OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; ELIMINATION OF "CARRYOVER" REDUCTION DUE TO RECEIPT OF WIDOW(ER)'S BENEFITS BEFORE AGE 62

Legal Authority: 42 USC 402; 42 USC 403; 42 USC 404(a); 42 USC 404(e); 42 USC 405(a); 42 USC 422(b); 42 USC 423(e); 42 USC 424; 42 USC 427; 42 USC 1302

CFR Citation: 20 CFR 404.611

Legal Deadline: None

Abstract: These proposed rules eliminate the carryover reduction applied to retirement or disability benefits received by widow(er)s who have collected widow(er)'s benefits before attaining age 62. These proposed rules apply to retirement benefits of individuals who attain age 62 on or after January 1, 1990, and to disability benefits of individuals who both attain age 62 and become disabled on or after January 1, 1990.

Timetable:

Action	Date	FR Cite
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phil Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1769

RIN: 0960-AD02

871. ● OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAMS; INCLUSION OF CERTAIN DEFERRED COMPENSATION IN DETERMINATION OF WAGE-BASED ADJUSTMENTS

Legal Authority: 42 USC 405(a); 42 USC 412; 42 USC 413; 42 USC 414; 42 USC 416; 42 USC 417; 42 USC 423; 42 USC 1302

CFR Citation: 20 CFR 404.143; 20 CFR 404.211; 20 CFR 404.272; 20 CFR 404.1048

Legal Deadline: None

Abstract: This final regulation requires that an estimate of deferred compensation for determining the taxable earnings base be included in average wages for 1988 and 1989, so that the 1990 taxable earnings base would reflect the inclusion of deferred compensation in average total wages. Actual deferred compensation amounts would be used beginning with the year 1990 wages. With respect to benefit computations and other program amounts, actual deferred compensation amounts would be included beginning with 1990 wages, and would be reflected in benefit computations and other program amounts beginning in 1993.

Timetable:

Action	Date	FR Cite
Final Action	05/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phyllis Green, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-6822

RIN: 0960-AD04

872. ● OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; CHILDHOOD DISABILITY

Legal Authority: 42 USC 1302; 42 USC 1382c; 42 USC 1382h; 42 USC 1383b

CFR Citation: 20 CFR 404.1513; 20 CFR 404.1525; 20 CFR 404.1526; 20 CFR 416.901; 20 CFR 416.902; 20 CFR 416.905; 20 CFR 416.908; 20 CFR 416.911; 20 CFR 416.912a; 20 CFR 416.913; 20 CFR 416.916; 20 CFR 416.920; 20 CFR 416.921; 20 CFR 416.923; 20 CFR 416.924; ...

Legal Deadline: None

Abstract: These interim rules modify the methods SSA uses to evaluate the impairments of disabled children under the Supplemental Security Income program. SSA is revising its regulations to provide a disability evaluation process for persons under the age of 18 comparable to that provided adults. These revisions reflect the United States Supreme Court's decision in Sullivan v. Zebley.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William J. Ziegler; Martin Sussman, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1759

RIN: 0960-AD09

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Social Security Administration (SSA)

Completed Actions

873. OLD AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; DETERMINING DISABILITY AND BLINDNESS; MULTIPLE IMPAIRMENTS

Significance: Agency Priority

CFR Citation: 20 CFR 404.1501; 20 CFR 404.1520; 20 CFR 404.1521; 20 CFR 404.1522; 20 CFR 404.1577; 20 CFR 416.901; 20 CFR 416.920; 20 CFR 416.921; 20 CFR 416.922; 20 CFR 404.1523; 20 CFR 416.923

Completed:

Reason	Date	FR Cite
Rule being combined with RIN 0960-AC61	06/24/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Ziegler 301 965-1759

RIN: 0960-AB39

874. SUPPLEMENTAL SECURITY INCOME PROGRAM; LIMITATION ON RECOUPMENT RATE IN CASE OF OVERPAYMENT

CFR Citation: 20 CFR 416E

Completed:

Reason	Date	FR Cite
Final Action	08/17/90	55 FR 33667

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry Dudar 301 965-1765

RIN: 0960-AB40

875. SUPPLEMENTAL SECURITY INCOME PROGRAM; EXCLUSION FROM RESOURCES OF FUNDS SET ASIDE FOR BURIAL AND BURIAL SPACES

CFR Citation: 20 CFR 416.1231

Completed:

Reason	Date	FR Cite
Final Action	07/11/90	55 FR 28373

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane Heaton 301 965-8479

RIN: 0960-AC48

876. SUPPLEMENTAL SECURITY INCOME PROGRAM; EXCLUSION OF CERTAIN HOUSING ASSISTANCE PAYMENTS FROM INCOME AND RESOURCES

CFR Citation: 20 CFR 416.1124; 20 CFR 416.1210; 20 CFR 416.1238; 20 CFR 416.1238; 20 CFR 416K

Completed:

Reason	Date	FR Cite
Final Action	07/11/90	55 FR 28377

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irving Darrow 301 965-1755

RIN: 0960-AC85

877. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; CHANGES IN THE ANNUAL EARNINGS TEST

CFR Citation: 20 CFR 404.430

Completed:

Reason	Date	FR Cite
Final Action	09/12/90	55 FR 37460

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phil Berge 301 965-1769

RIN: 0960-AC89

878. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; EFFECT OF PENSIONS FROM NONCOVERED EMPLOYMENT

CFR Citation: 20 CFR 404.213; 20 CFR 404.241

Completed:

Reason	Date	FR Cite
Final Action	05/24/90	55 FR 21380

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phil Berge 301 965-1769

RIN: 0960-AC70

879. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; RULES GOVERNING SOCIAL SECURITY COVERAGE OF FEDERAL EMPLOYMENT

CFR Citation: 20 CFR 404.1018

Completed:

Reason	Date	FR Cite
Final Action	06/19/90	55 FR 24960

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phil Berge 301 965-1769

RIN: 0960-AC71

880. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; ENTITLEMENT OF A SURVIVING DIVORCED SPOUSE AFTER REMARRIAGE

CFR Citation: 20 CFR 404.336(e)(4)

Completed:

Reason	Date	FR Cite
Final Action	06/21/90	55 FR 25299

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schamberger 301 965-8471

RIN: 0960-AC73

881. SUPPLEMENTAL SECURITY INCOME PROGRAM; TREATMENT OF AUGMENTED PROTECTED VA BENEFITS

Significance: Regulatory Program

CFR Citation: 20 CFR 416.1123

Completed:

Reason	Date	FR Cite
Merged with RIN 0960-AD07	08/24/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane Heaton 301 965-8479

RIN: 0960-AC26

882. ● OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; CONTINUATION OF DISABILITY BENEFITS DURING APPEAL

Significance: Regulatory Program

Legal Authority: PL 101-239, Sec 10101

CFR Citation: 20 CFR 404.1597a

Legal Deadline: None

Abstract: This regulation extends the option for medically ceased disability beneficiaries to elect the continuation of disability benefits during the appeal

HHS—SSA — Completed Actions

process for one year. The one year extension for a continuation of benefits applies to unfavorable decisions made on or after January 1, 1991, and allows payment of continued benefits through June 1991.

Timetable:

Action	Date	FR Cite
Final Action	09/31/90	55 FR 35578

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry Dudar, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1758

RIN: 0960–AD00

861. ● OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAMS; EXTENSION OF EXPIRATION DATE FOR ADULT MENTAL DISORDERS

Legal Authority: 42 USC 402; 42 USC 405; 42 USC 416; 42 USC 421; 42 USC 422; 42 USC 423; 42 USC 425; 42 USC 1302

CFR Citation: 20 CFR 404P(Appendix 1)

Legal Deadline: Other, Statutory, August 28, 1990.

Abstract: This regulation extends the sunset date on the Adult Listing package.

Timetable:

Action	Date	FR Cite
Final Action	08/28/90	55 FR 35266

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William J. Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 965-1759

RIN: 0960–AD03

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Proposed Rule Stage

Public Health Service (PHS)—Office of Assistant Secretary for Health (OASH)

864. ● EXEMPT PRIVACY ACT SYSTEM OF RECORDS RELATED TO INQUIRIES AND INVESTIGATIONS OF SCIENTIFIC MISCONDUCT

Legal Authority: 5 USC 552a; 5 USC 301

CFR Citation: 45 CFR 5b

Legal Deadline: None

Abstract: The Department of Health and Human Services proposes to exempt a new system of records, 09-37-0021, "Public Health Services Records Related to Inquiries and Investigations" from certain requirements of the Privacy Act. The purpose of this exemption is to protect records compiled in the course of an inquiry and/or investigation and to protect the identity of the confidential source of information. There are no known costs associated with the NPRM. The benefits will be that the investigative files will not be disclosed inappropriately and promises to withhold identities of individuals will be honored.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Lyle W. Bivens, Dir., Office of Scientific Integrity Review, Department of Health and Human Services, Public Health Service, 5515 Security Lane, Suite 640, Rockville, MD 20852, 301 443-5300

RIN: 0905–AD31

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Proposed Rule Stage

Public Health Service (PHS)—Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA)

866. WAIVERS TO REQUIREMENT THAT STATES SPEND AT LEAST A CERTAIN PORTION OF STATE BLOCK GRANT FUNDS FOR NEW MENTAL HEALTH SERVICES AND PROGRAMS

Significance: Regulatory Program

Legal Authority: PL 100-690

CFR Citation: 45 CFR 96

Legal Deadline: None

Abstract: Section 3027 of Public Law 100-690 amends Section 1916 of the PHS Act to require States to spend at least 55 percent of their mental health allotment under the Alcohol, Drug Abuse, and Mental Health Block Grant for FY 1991 for new mental health programs and services. The Secretary may grant a waiver to any State, under certain circumstances, including a State being in financial crises, and providing certain criteria are met by States prior to their requesting a waiver. Such a waiver would reduce the requirement to 35 percent in 1991 (increasing to 55 percent by 1994). This rule implements the statutory requirement that the Secretary promulgate standards for determinations of "financial crisis" and resolves such issues as: a) how to determine when a State is in a financial crisis; b) what information States must provide to assure that a waiver is needed to avoid disruption to existing and planned high priority services; c) how to determine the extent of relief to be granted for approved waivers; and d) imposing requirements that are cost effective.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	01/00/91	
Final Action	05/01/91	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Dale C. Hitchcock, Policy Coordinator, Division of Policy, Planning, and Evaluation, Department of Health and Human Services, Public Health Service, Rm. 12C-05, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857, 301 443-1910

RIN: 0905–AC99

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Public Health Service (PHS)—Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA)
Final Rule Stage

886. ● CONDITIONS FOR WAIVER OF DENIAL OF FEDERAL BENEFITS

Significance: Agency Priority.

Legal Authority: PL 100-690, Sec. 5301

CFR Citation: 45 CFR 76

Legal Deadline: None

Abstract: Amends title 45 of CFR to add a part 76 to provide definitions to assist Federal and State courts to implement section 5301 of PL 100-690, the Anti-Drug Abuse Act of 1988, 21 USC, section 853a, relating to the denial of Federal benefits to convicted drug traffickers and possessors.

Timetable:

Action	Date	FR Cite
NPRM	09/11/90	55 FR 37436
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Frank Sullivan, Associate Administrator for Policy, ADAMHA, Department of Health and Human Services, Public Health Service, 5600 Fishers Lane, Room 12C-05, Rockville, Md. 20857, 301 443-3121

RIN: 0905-AD82

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Public Health Service (PHS)—Centers for Disease Control (CDC)
Proposed Rule Stage

887. ● MEDICAL EXAMINATION OF ALIENS

Significance: Agency Priority

Legal Authority: 8 USC 1182; 8 USC 1220; 8 USC 1224; 8 USC 1225; 42 USC 249; 42 USC 252; PL 100-71

CFR Citation: 42 CFR 43

Legal Deadline: None

Abstract: This is a proposed revision in the regulations for the medical examination of aliens. The regulations were developed to provide for the physical and mental examination of aliens within the United States or in other countries as required by the Immigration and Nationality Act. This proposal would update the regulations in accordance with current epidemiologic concepts and medical diagnostic standards. Specifically, we propose that five sexually transmitted diseases (chancroid; gonorrhea; granuloma inguinale; lymphogranuloma venereum; and syphilis, infectious stage) and infectious leprosy no longer be classified as dangerous contagious diseases, and that these diseases no longer be considered grounds for exclusion of aliens to the United States. Additionally, we propose to change the term "tuberculosis (Active)" to "infectious tuberculosis." We do not propose to remove human immunodeficiency virus (HIV) infection from the list of dangerous contagious diseases at this time because doing so would require prior repeal of section 518 of Public Law 100-71, the Supplemental Appropriations Act of 1987.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	01/00/91	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Charles E. McCance, Director, Division of Quarantine, Department of Health and Human Services, Public Health Service, Centers for Disease Control, Mailstop E-03, Atlanta, GS 30333, 404 639-1456

RIN: 0905-AD29

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Public Health Service (PHS)—Centers for Disease Control (CDC)
Final Rule Stage

888. NIOSH REVISION OF TESTS AND REQUIREMENTS FOR CERTIFICATION OF RESPIRATORY PROTECTIVE DEVICES

Significance: Regulatory Program

Legal Authority: 30 USC 842(h); 30 USC 844; 30 USC 957

CFR Citation: 30 CFR 11; 42 CFR 84

Legal Deadline: None

Abstract: The proposed rule addresses three major problems of the current regulation by (1) substantially upgrading laboratory performance tests for certifying respirators; (2) adding quantitative face seal performance tests; and (3) replacing current certification tests that are design- or application-specific with tests that are performance-based. The first NPRM for revising 42 CFR Part 84 was published in the Federal Register on August 27, 1987 (52 FR 32402). In response to the many comments on the first proposal, NIOSH is in the process of developing a second NPRM.

Timetable:

Action	Date	FR Cite
NPRM	08/27/87	52 FR 32402
First Public Hearing	01/20/88	52 FR 37630
Second Public Hearing	01/27/88	52 FR 37630
NPRM Public Comment Period End	03/29/88	53 FR 5595
Action	Date	FR Cite
Final Action	12/00/90	
Second NPRM Published	01/00/91	
Second NPRM Comment Period End	04/00/91	
Final	09/00/91	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $14,000,000; Yearly Recurring Cost: $14,000,000; Base Year for Dollar Estimates: 1991

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

HHS—PHS—CDC — Final Rule Stage

Additional Information: Yearly recurring cost to public will drop from $14,000,000 to $6,400,000 in year six and all following years.

Agency Contact: Dr. Nelson A. Leidel, Senior Science Advisor, Office of the Director, NIOSH, Department of Health and Human Services, Public Health Service, Centers for Disease Control, 1600 Clifton Road, MS D37, Atlanta, GA 30333, 404 639-3277

RIN: 0905–AB58

889. SUBCHAPTER J - NATIONAL VACCINE PROGRAM, PART 110 INFORMATION AND EDUCATION, SUBPART A - VACCINE INFORMATION MATERIALS

Significance: Agency Priority

Legal Authority: 42 USC 300aa-26; PL 99-660, Sec 311(a)

CFR Citation: 42 CFR 110

Legal Deadline: Final, Statutory, December 22, 1988.

Abstract: This new regulation is required to implement the statutory requirements of Section 2126, Title XXI, Public Health Service Act as amended. The statute requires the Secretary to develop and disseminate vaccine information materials for distribution by health care providers. These materials will be published as an appendix of this regulation. The regulation describes the vaccine information materials and the health care providers' duties to disseminate a copy of the materials to any adult to whom the provider intends to administer vaccine and to the legal representative of any child to whom the provider intends to administer vaccine. The 90-day comment period was extended to 180 days. Public and internal comments are currently being processed.

Timetable:

Action	Date	FR Cite
NPRM	03/03/89	54 FR 9181
Public Hearing	04/17/89	54 FR 11547
NPRM Comment Period End	06/29/89	
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Walter A. Orenstein, M.D., Director, Division of Immunization, Center for Prevention Services, Department of Health and Human Services, Public Health Service, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333, 404 639-1868

RIN: 0905–AC83

890. INTERSTATE SHIPMENT OF BIOLOGICAL MATERIAL THAT CONTAINS OR MAY CONTAIN AN ETIOLOGIC AGENT

Significance: Agency Priority

Legal Authority: 42 USC 216; 42 USC 264; 42 USC 271

CFR Citation: 42 CFR 72

Legal Deadline: None

Abstract: The revised regulation will clarify the requirements for packaging and shipping material containing etiologic agents. Some users have had difficulty applying the current regulation, particularly with respect to the definition of material covered. The revised regulation is not expected to have a major impact on the cost of shipping these materials and is expected to result in increased conformance so that those handling such packages will have an even lower probability of exposure to potentially infectious material.

Timetable:

Action	Date	FR Cite
NPRM	03/02/90	55 FR 7678
NPRM Comment Period End	05/09/90	55 FR 7678
Final Action	08/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael P. Kiley, Ph.D., Chief, Biosafety Br., Off./Hlth. & Safety, Centers for Disease Control, Department of Health and Human Services, Public Health Service, 1600 Clifton Road, NE., Atlanta, GA 30333, 404 639-3883

RIN: 0905–AC89

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Prerule Stage

Public Health Service (PHS)—Food and Drug Administration (FDA)

891. POLICIES CONCERNING USES OF SULFITING AGENTS

Significance: Regulatory Program

Legal Authority: 21 USC 342 Federal Food, Drug, and Cosmetic Act; 21 USC 371(a) Federal Food, Drug, and Cosmetic Act; 21 USC 321(n) Federal Food, Drug, and Cosmetic Act; 21 USC 321(s) Federal Food, Drug, and Cosmetic Act; 21 USC 336 Federal Food, Drug, and Cosmetic Act; 21 USC 341 Federal Food, Drug, and Cosmetic Act; 21 USC 343 Federal Food, Drug, and Cosmetic Act; 21 USC 348 Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 182.3616; 21 CFR 182.3637; 21 CFR 182.3739; 21 CFR 182.3766; 21 CFR 182.3798; 21 CFR 182.3862; 21 CFR 100; 21 CFR 130.9

Legal Deadline: None

Abstract: Acceptable evidence and information exists to show that a subgroup of asthmatics is at moderate to severe risk for a severe reaction upon exposure to sulfites. The agency's primary tool for handling a situation where population subgroups may be at increased risk from a food ingredient that is safe for most people is to use labeling to inform those persons who need or want to avoid the ingredient. The agency issued a final rule, effective January 7, 1987, that requires that when a sulfiting agent is present in a finished food at 10 parts per million or greater, the sulfiting agent must be declared on the label. In addition, FDA issued a final rule, effective August 8, 1986, prohibiting the use of sulfiting agents on raw fruits and vegetables intended to be served or sold raw to consumers (e.g., in salad bars). On December 10, 1987, FDA announced its tentative conclusion that there is no longer a basis to find that the use of sulfiting agents on "fresh" potatoes served or sold unpackaged to consumers is GRAS. On December 19, 1988, FDA proposed to affirm, with specific

limitations, that certain other uses of sulfiting agents are GRAS. (cont)

Timetable:

Action	Date	FR Cite
Food Labeling; Declaration of Sulfiting Agents		
NPRM	04/03/85	50 FR 13306
Final Action	07/09/86	51 FR 25012
Effective Date	01/09/87	51 FR 25012
GRAS Status of the Use of Sulfiting Agents on Potatoes		
NPRM	12/10/87	52 FR 46866
Final Action	03/15/90	55 FR 9826
GRAS Status of Certain Other Food Uses of Sulfiting Agents, Etc.		
NPRM	12/19/86	53 FR 51065
Final Action	03/00/91	
GRAS Status of Sulfiting Agents on Frozen Potatoes		
ANPRM	12/00/90	
Revoking Use of Sulfiting Agents on Fruits & Vegetables, Etc.		
NPRM	08/14/85	50 FR 32836
Final Action	07/09/86	51 FR 25021
Final Action Effective	08/09/86	51 FR 25021
Sulfiting Agents in Standardized Foods; Labeling Requirements		
NPRM	12/19/86	53 FR 51062
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: On the same date, the agency also proposed to establish labeling requirements when sulfiting agents are used in standardized foods.

On March 15, 1990 (55 FR 9826), FDA issued a final rule prohibiting the use of sulfiting agents on "fresh" potatoes that are intended to be served or sold unpackaged and unlabeled to the consumer because this use is not generally recognized as safe (GRAS). On August 3, the United States District Court for the Middle District of Pennsylvania declared the rule to be "null and void" based on perceived procedural defects in the rulemaking proceeding. Thus, the rule is not now in effect. The Government appealed the district court's decision to the Third Circuit, and asked for a stay of the district court's decision during the appeal. The Government's request for a stay pending appeal was denied. On March 15, 1990 (55 FR 9834), the agency published a notice in the FEDERAL REGISTER requesting data and information concerning the use of sulfiting agents on frozen potato products the information will aid the agency in evaluating the GRAS status of this use of sulfiting agents.

Agency Contact: Robert L. Martin, Division of Food and Color Additives, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-334), 200 C Street, SW., Washington, DC 20204, 202 426-9463

RIN: 0905–AB52

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502. DRUG EXPORTS

Legal Authority: PL 99-660 Drug Export Amendments Act of 1986

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Drug Export Amendments Act of 1986 authorizes the export for commercial marketing abroad of veterinary and human drugs not approved for marketing in the United States. Under previous law, the export of new human and animal drugs for marketing was confined to drugs that were approved by FDA for domestic use. The law establishes three separate pathways for the export of unapproved products. Under each pathway, FDA approval is required before export is permitted. As a prerulemaking activity, FDA is developing guidance material for manufacturers instructing them as to what information must be submitted to the agency to obtain approval for the export of unapproved products. The guidance material will also identify FDA sources of information on agency practices and policies concerning the implementation of the Drug Export Amendments Act of 1986. The agency will then decide what, if any, regulations are necessary for the efficient implementation of the amendments, and establish timeframes for the development of those regulations.

Timetable:

Action	Date	FR Cite
Guidance Materials	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Steven H. Unger, Acting Chief, Drugs Regulations Branch, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-362), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8048

RIN: 0905–AC44

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503. COMPUTER PRODUCTS; POLICY GUIDANCE

Significance: Regulatory Program

Legal Authority: 21 USC 321(h)

CFR Citation: 21 CFR 800

Legal Deadline: None

Abstract: As a prerulemaking activity FDA is developing guidance for manufacturers respecting how FDA would apply existing statutory requirements to the regulation of computer products (i.e., both hardware and software) when such products meet the definition of a medical device under the act.

On September 25, 1987, FDA made available a draft policy guidance intended to clarify how FDA would apply existing statutory requirements to the regulation of such products to provide opportunity for public participation in this activity.

Upon analysis of the public comments on the complex issues pertaining to the regulation of computer products, the agency will decide whether any additional steps are necessary to clarify which computer products meet the definition of a medical device and what level of regulation, if any, is appropriate under the act.

Timetable:

Action	Date	FR Cite
Proposed Draft Guideline	09/25/87	52 FR 36164
Final Policy Guidance	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Charles B. Purdue, Office of Standards and Regulations, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-84), 5600 Fishers Lane, Rockville, MD 20857, 301 443-4874

RIN: 0905–AC72

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — **Proposed Rule Stage**
Public Health Service (PHS)—Food and Drug Administration (FDA)

894. CURRENT GOOD MANUFACTURING PRACTICE FOR FINISHED PHARMACEUTICALS; RETROSPECTIVE REVIEW

Legal Authority: 21 USC 351 Federal Food, Drug, and Cosmetic Act; 21 USC 352 Federal Food, Drug, and Cosmetic Act; 21 USC 360b Federal Food, Drug, and Cosmetic Act; 21 USC 371(a) Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 211

Legal Deadline: None

Abstract: As part of its retrospective review, FDA plans to determine the need for any changes in the current GMPs to eliminate unnecessary requirements and to allow flexibility without undermining protection of the public health.

Timetable:

Action	Date	FR Cite
NPRM	09/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert J. Meyer, Consumer Safety Officer, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-362), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8049

RIN: 0905–AA73

895. NEW ANIMAL DRUG APPROVAL PROCESS

Legal Authority: 21 USC 360b Federal, Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 514.1; 21 CFR 514.8

Legal Deadline: None

Abstract: Based upon an evaluation of an action issues report, the agency has concluded that it will recommend that the Secretary propose revision of the existing regulations in a manner consistent with the current procedural regulations for human drugs where appropriate. The New Animal Drug Application (NADA) revisions would articulate general requirements in regulations containing performance standards and would complement them through detailed guidelines on, among other matters, appropriate ways of meeting requirements for submission of chemistry, pharmacology, and statistical data that would better address the intricate scientific issues involved. A separate proposed rule would provide for reporting requirements for marketed animal drugs.

Timetable:

New Animal Drug Approval Process	
NPRM	04/00/91
Reporting Requirements for Marketed Animal Drugs	
NPRM	04/00/91

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Contact Dr. Bob G. Griffith for information concerning new animal drug approval process.

For information concerning reporting requirements for marketed animal drugs, contact Andrew J. Beaulieu, Director, Division of Surveillance, Center for Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-3044.

Agency Contact: Bob G. Griffith, DVM, Director, Division of Therapeutic Drugs for Non-Food Animals, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-110), 5600 Fishers Lane, Rockville, MD 20857, 301 443-1983

RIN: 0905–AA98

896. PROPOSED RULE TO IMPLEMENT THE ORPHAN DRUG AMENDMENTS TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

Significance: Regulatory Program

Legal Authority: PL 97-414 Orphan Drug Act; PL 100-290

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Orphan Drug Act is intended to provide incentives for drug companies to invest in the development of drugs for rare diseases or conditions. Certain incentives are necessary because "orphan drugs" are unlikely to be profitable. The agency is required to carry out provisions of the Orphan Drug Act, e.g., by designating a drug as an orphan drug, by providing protocol assistance, and by granting seven years of exclusive approval status. The proposed rule would establish procedures whereby drug sponsors can take advantage of the incentives to encourage development of orphan drugs. Several provisions of the Orphan Drug Act call for promulgation of regulations to provide the framework and guidance for implementing a program of incentives to drug sponsors and manufacturers.

Timetable:

Action	Date	FR Cite
Interim Guidelines	09/09/83	48 FR 40784
Revised Interim Guidelines	05/09/85	50 FR 19583
NPRM	10/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Emery J. Sturniolo, Assistant to the Director, Department of Health and Human Services, Food and Drug Administration, Office of Orphan Products Development (HF-35), 5600 Fishers Lane, Rockville, MD 20857, 301 443-4718

RIN: 0905–AB55

897. LOOK-BACK REQUIREMENTS FOR BLOOD RECIPIENTS WHO ARE AT INCREASED RISK OF HIV INFECTION

Legal Authority: 21 USC 351 to 360k; 21 USC 374; 42 USC 262 to 264

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The agency currently requires that all blood and blood components intended for the manufacture of any product be tested for antibody to human immunodeficiency virus (HIV). In instances when the blood of a donor is found to contain antibodies to HIV, some blood centers have initiated a program of voluntary "look-back" in which recipients of blood and blood components obtained from the donor's prior donations are traced and tested. A well-conducted look-back program can provide an effective mechanism for identifying, testing, and counseling transfusion recipients who are at increased risk of HIV infection--those who receive blood from a donor later found to be infected with HIV. The agency is considering a proposal to establish a mandatory look-back program. The proposal would require blood collection facilities to develop a procedure to notify consignees promptly whenever a blood donor who has

previously donated blood or source plasma is found to be positive for the antibody to HIV or exhibits the signs or symptoms of AIDS; and to keep appropriate records when such notification has been made. The purpose of the proposal is to ensure that either (cont)

Timetable:

Action	Date	FR Cite
NPRM	07/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: recipients are notified or that the physician of record determined that notification was inappropriate or impossible.

Agency Contact: Andrea Chamblee, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFB-130), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8188

RIN: 0905–AC90

896. FOOD LABELING REVIEW

Significance: Regulatory Program

Legal Authority: 15 USC 1453 Fair Packaging and Labeling Act; 15 USC 1454 Fair Packaging and Labeling Act; 15 USC 1455 Fair Packaging and Labeling Act; 21 USC 321 Federal Food, Drug, and Cosmetic Act; 21 USC 331 Federal Food, Drug, and Cosmetic Act; 21 USC 342 Federal Food, Drug, and Cosmetic Act; 21 USC 343 Federal Food, Drug, and Cosmetic Act; 21 USC 348 Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 101

Legal Deadline: None

Abstract: The agency issued an advance notice of proposed rulemaking on August 8, 1989, requesting public comment on possible changes in the labeling of food products regulated by FDA. The agency sought public comment on five areas: 1) whether to revise the requirements for nutrition labeling; 2) whether to change the nutrition label format on food packages; 3) whether to revise the requirements for ingredient labeling; (4) whether to formally define commonly used food descriptions and/or reconsider the use of standards of identity for foods; and (5) how to reasonably permit the use of messages on food labels that link food components to the prevention of disease. The agency also held four public hearings (see September 20, 1990; 54 FR 38808) to gather first-hand the views of consumers, industry, health professionals, and State and local government officials about labeling revisions. The agency issued three proposed regulations on July 19, 1990, that addressed nutrition labeling.

Timetable:

Action	Date	FR Cite
ANPRM	08/08/89	54 FR 32610
ANPRM Comment Period End	01/05/90	54 FR 38808
Nutrition Label Content	07/19/90	55 FR 29487
Revision of RDAs	07/19/90	55 FR 29476
Standardize Serving Size	07/19/90	55 FR 29517
Amendment of Standards of Identity; Declaration of Optional Ingredients	10/31/90	
Fat Descriptors	10/31/90	
Ingredient Labeling	12/31/90	
Adjectival Descriptors	02/00/91	
Nutrition Label Format	06/30/91	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: F. Edward Scarbrough, Deputy Director, Office of Nutrition and Food Sciences, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-201), 200 C Street, SW., Washington, DC 20204, 202 245-1561

RIN: 0905–AD06

899. IMPLEMENTATION OF TITLE I OF THE GENERIC ANIMAL DRUG AND PATENT TERM RESTORATION ACT

Significance: Regulatory Program

Legal Authority: 21 USC 360b

CFR Citation: 21 CFR 514

Legal Deadline: Final, Statutory, November 16, 1990.

Abstract: The agency proposes to amend its regulations to implement Title I of the Generic Animal Drug and Patent Term Restoration Act which established new standards for marketing approval of generic copies of animal drug products approved after 1962.

Timetable:

Action	Date	FR Cite
NPRM	05/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Lonnie W. Luther, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-128), 5600 Fishers Lane, Rockville, MD 20857, 301 443-4580

RIN: 0905–AD15

900. PATENT TERM RESTORATION FOR ANIMAL DRUGS

Significance: Regulatory Program

Legal Authority: 35 USC 156; 21 USC 360b; 21 USC 701

CFR Citation: 21 CFR 60

Legal Deadline: None

Abstract: This proposed rule would amend the agency's patent term restoration regulations to include animal drugs as products for which patent term restoration is available.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Nancy E. Pirt, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Office of Health Affairs (HFY-20), 5600 Fishers Lane, Rockville, MD 20857, 301 443-1382

RIN: 0905–AD16

901. ● FEES FOR CERTIFICATION SERVICES; INSULIN AND COLOR ADDITIVE CERTIFICATION PROGRAMS

Significance: Agency Priority

HHS—PHS—FDA — Proposed Rule Stage

Legal Authority: 21 USC 502; 21 USC 508; 21 USC 701; 21 USC 706

CFR Citation: 21 CFR 80.30; 21 CFR 428.55

Legal Deadline: None

Abstract: The Food and Drug Administration is considering a proposal to revise the regulations governing fees for the insulin and color additive certification programs to include the government's costs for the unfunded liability of the civil service retirement fund as a factor in calculating the fees needed to maintain the programs.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: David E. Petak, Chief, Accounting Branch, Office of Management and Operations, Department of Health and Human Services, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301 443-1788

RIN: 0905-AD34

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Final Rule Stage

Public Health Service (PHS)—Food and Drug Administration (FDA)

902. OVER-THE-COUNTER (OTC) DRUG REVIEW

Significance: Agency Priority

Legal Authority: 21 USC 321(p) Federal Food, Drug, and Cosmetic Act; 21 USC 351 Federal Food, Drug, and Cosmetic Act; 21 USC 353 Federal Food, Drug, and Cosmetic Act; 21 USC 355(e) Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 310; 21 CFR 330; 21 CFR 332; 21 CFR 334; 21 CFR 335; 21 CFR 336; 21 CFR 337; 21 CFR 338; 21 CFR 339; 21 CFR 340; 21 CFR 341; 21 CFR 342; 21 CFR 343; 21 CFR 344; 21 CFR 345; ...

Legal Deadline: None

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. NOTE: NPRM for "Antidotes, Toxic Ingestion Products" was combined with NPRM for "Emetic Products" and reproposed as "Poison Treatment Products." NPRM for "Astringent (Wet Dressings) Products" was included in the NPRM for "Skin Protectant Products." NPRM for "Diaper Rash Products" was included in NPRMs for "Antifungal," "Antimicrobial," "External Analgesic" and "Skin Protectant Products." NPRM for "Fever Blister/Cold Sore Products (External)" was included in NPRMs for "External Analgesic" and "Skin Protectant Products." NPRM for "Insect Bites and Stings (Relief) Products" was included in NPRMs for "External Analgesic" and "Skin Protectant Products." "Poison Ivy/Oak/Sumac Prevention" was included in NPRMs for "External Analgesic" and "Skin Protectant Products." NPRM for "Mercurial (Topical) Products" to be included in revised NPRM (cont)

Timetable:

Acne (Topical) Products
- ANPRM 03/23/82 (47 FR 12430)
- NPRM 01/15/85 (50 FR 2172)
- Final Action 02/00/91

Alcohol (Topical) Products (To be merged w/other rulemkg)
- ANPRM 05/21/82 (47 FR 22324)

Anorectal Products
- ANPRM 05/27/80 (45 FR 35576)
- NPRM 08/15/88 (53 FR 30756)
- Final Action 08/02/90 (55 FR 31776)

Antacid Drug Products
- ANPRM 04/05/73 (38 FR 8714)
- NPRM 11/12/73 (38 FR 31260)
- Final Action 05/04/74 (39 FR 8862)
- NPRM (Amendment) (Overindulgence) 03/00/91

Anthelmintic Products
- ANPRM 09/09/80 (45 FR 59541)
- NPRM 08/24/82 (47 FR 37082)
- Final Action 08/04/86 (51 FR 27756)

Antibiotic First Aid Products
- ANPRM 04/01/77 (42 FR 17642)
- NPRM 07/09/82 (47 FR 29886)
- Final Action 12/11/87 (52 FR 47312)
- NPRM (Amendment) 08/18/89 (54 FR 34188)
- Final Action 03/15/90 (55 FR 9721)
- NPRM (Amendment) 05/11/90 (55 FR 19868)
- NPRM (Amendment) 08/08/90 (55 FR 23450)
- Final Action (Amendment) 10/03/90 (55 FR 40578)
- Final Action (Amendment) 01/00/91

Anticaries Products
- ANPRM 03/28/80 (45 FR 20666)
- NPRM 09/30/85 (50 FR 39854)
- NPRM 06/15/88 (53 FR 22430)
- Final Action 00/00/00

Antidiarrheal Products
- ANPRM 03/21/75 (40 FR 12934)
- NPRM 04/30/86 (51 FR 16135)
- Final Action 00/00/00

Antidotes, Toxic Ingestion Prods (Now Poison Treatment Prods)
- ANPRM 01/05/82 (47 FR 444)

Antiemetic Products
- ANPRM 03/21/75 (40 FR 12934)
- NPRM 07/13/78 (43 FR 41084)
- Final Action 04/30/87 (52 FR 15866)

Antiflatulent Drug Products
- NPRM 11/12/73 (38 FR 31260)
- Final Action 05/04/74 (39 FR 16977)
- NPRM (Amendment) 01/23/88 (53 FR 2716)

Antifungal (Topical) Products
- ANPRM 03/23/82 (47 FR 12460)
- NPRM 12/12/89 (54 FR 51156)
- NPRM (Amendment) (Diaper Rash) 08/20/90 (55 FR 25546)

Antimicrobial Products
- ANPRM 09/13/74 (39 FR 33103)
- NPRM 01/06/78 (43 FR 1210)
- NPRM (Amendment) (Diaper Rash) 08/20/90 (55 FR 25546)

Antiperspirant Products
- ANPRM 10/10/75 (40 FR 46894)
- NPRM 08/20/82 (47 FR 36492)
- Final Action 00/00/00

Antiseptic First Aid
- ANPRM 09/13/74 (39 FR 33103)
- NPRM 01/06/78 (43 FR 1210)
- Revised NPRM 03/00/91

Antiseptic Products (Professional Use)
- ANPRM 09/13/74 (39 FR 33168)
- NPRM 01/06/78 (43 FR 1210)
- Revised NPRM 03/00/91

Aphrodisiac Products
- ANPRM 10/01/82 (47 FR 43572)
- NPRM 01/15/85 (50 FR 2468)
- Final Action 07/07/89 (54 FR 28790)

Astringent (Wet Dressings) Prod... (Merged w/other rulemkg)
- ANPRM 09/07/82 (47 FR 39436)

Benign Prostatic Hypertrophy Products
- ANPRM 10/01/82 (47 FR 43586)
- NPRM 02/20/87 (52 FR 5496)
- Final Action 02/27/90 (55 FR 6926)

HHS—PHS—FDA

Final Rule Stage

Boil Ointments
ANPRM 06/29/82 (47 FR 28306)
NPRM 01/26/86 (53 FR 2198)
Final Action 00/00/00

Camphorated Oil Drug Products
ANPRM 09/26/80 (45 FR 63869)
Final Action 09/21/82 (47 FR 41716)

Cholecystokinetic Products
ANPRM 02/12/80 (45 FR 9286)
NPRM 08/24/82 (47 FR 37068)
Final Action 08/10/83 (48 FR 27004)
NPRM (Amendment) 06/15/88 (53 FR 30795)
Final Action (Amendment) 02/28/89 (54 FR 8320)

Corn and Callus Remover Products
ANPRM 01/05/82 (47 FR 522)
NPRM 02/20/87 (52 FR 5412)
Final Action 08/14/90 (55 FR 33258)

Cough/Cold (Anticholinergic) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 07/09/82 (47 FR 30002)
Final Action 11/06/85 (50 FR 46582)

Cough/Cold (Antihistamine) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 01/15/85 (50 FR 2200)
NPRM (Amendment) 08/24/87 (52 FR 31892)
Final Action 03/00/91

Cough/Cold (Antitussive) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 10/19/83 (48 FR 48576)
Final Action 08/12/87 (52 FR 30042)
NPRM (Amendment) 07/06/89 (54 FR 28442)
NPRM (Amendment) 10/02/89 (54 FR 40412)
Final Action (Amendment) 07/06/90 (55 FR 27806)
Final Action (Amendment) 10/03/90 (55 FR 40351)

Cough/Cold (Bronchodilator) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 10/26/82 (47 FR 47520)
Final Action 10/02/86 (51 FR 35326)

Cough/Cold (Combination) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 06/12/86 (53 FR 30522)
Final Action 00/00/00

Cough/Cold (Expectorant) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 07/09/82 (47 FR 30002)
Final Action 02/28/89 (54 FR 8494)

Cough/Cold (Nasal Decongestant) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 01/15/85 (50 FR 2220)
Final Action 03/00/91

Dandruff, Seborrheic Dermatitis and Psoriasis Control Products
ANPRM 12/03/82 (47 FR 54646)
NPRM 07/30/86 (51 FR 27346)
Final Action 03/00/91

Daytime Sedatives
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 06/22/79 (44 FR 36378)

Diaper Rash Products (Merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39406)

Digestive Aid Products
ANPRM 01/05/82 (47 FR 454)
NPRM 01/29/86 (53 FR 2706)
Final Action 00/00/00

Emetic Products
ANPRM 03/21/75 (40 FR 12930)
NPRM 09/05/78 (43 FR 39544)

Exocrine Pancreatic Insufficiency Products
ANPRM 12/21/79 (44 FR 75666)
NPRM 11/06/85 (50 FR 46594)
Revised NPRM 02/00/91

External Analgesic Products
ANPRM 12/04/79 (44 FR 69768)
NPRM 02/06/83 (48 FR 5852)
NPRM (Amendment) (Dandruff) 07/30/86 (51 FR 27360)
NPRM (Amendment) (Anorectal) 08/25/88 (53 FR 32592)
NPRM (Amendment) (Poison Ivy) 10/03/89 (54 FR 40618)
NPRM (Amendment) (Fvr Blister/Ext) 01/31/90 (55 FR 3370)
NPRM (Amendment) (1% Hydrocortisone) 02/27/90 (55 FR 6932)
NPRM (Amendment) (Diaper Rash) 06/20/90 (55 FR 25234)
Final Action 00/00/00

Fever Blister Products (Internal)
ANPRM 01/05/82 (47 FR 502)
NPRM 06/17/85 (50 FR 25156)
Final Action 00/00/00

Fvr Blister/Cold Sore Prdts (Ext.) (To be merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39436)

Hair Grower and Hair Loss Prevention Products
ANPRM 11/07/80 (45 FR 73955)
NPRM 01/15/85 (50 FR 2190)
Final Action 07/07/89 (54 FR 28772)

Hormone (Topical) Products
ANPRM 01/05/82 (47 FR 430)
NPRM 10/02/89 (54 FR 40618)

Hypo/Hyperphosphatemia Products
ANPRM 12/09/80 (45 FR 81154)
NPRM 01/15/85 (50 FR 2160)
Final Action 05/11/90 (55 FR 19852)

Ingrown Toenail Relief Products
ANPRM 10/17/80 (45 FR 69126)
NPRM 09/03/82 (47 FR 39120)
Final Action 00/00/00

Insect Bite & Sting (Relief) Prdts (Merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39412)

Insect Repellent Drug Products (Internal)
ANPRM 01/05/82 (47 FR 424)
NPRM 06/10/83 (48 FR 26998)
Final Action 06/17/85 (50 FR 25170)

Internal Analgesic Products
ANPRM 07/08/77 (42 FR 35346)
NPRM 11/16/88 (53 FR 46204)

Internal Deodorant Products
ANPRM 01/05/82 (47 FR 512)
NPRM 06/17/85 (50 FR 25162)
Final Action 05/11/90 (55 FR 19862)

Laxative Products
ANPRM 03/21/75 (40 FR 12902)
NPRM 01/15/85 (50 FR 2124)
NPRM (Amendment) 10/01/86 (51 FR 35136)
Final Action 00/00/00

Leg Muscle Cramps (Nocturnal Relief) Products
ANPRM 10/01/82 (47 FR 43562)
NPRM 11/06/85 (50 FR 46588)
Final Action 00/00/00

Male Genital Desensitizer Products
ANPRM 09/07/82 (47 FR 39412)
NPRM 10/02/85 (50 FR 40280)
Final Action 00/00/00

Menstrual Products
ANPRM 12/07/82 (47 FR 55075)
NPRM 11/16/88 (53 FR 46194)

Mercurial (Topical) Products (To be merged w/other rulemkg)
ANPRM 01/05/82 (47 FR 436)

Nailbiting/Thumbsucking Deterrent Products
ANPRM 10/17/80 (45 FR 69122)
NPRM 09/03/82 (47 FR 39086)
Final Action 00/00/00

Nighttime Sleep Aid Products
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 02/14/89 (54 FR 6814)

Ophthalmic Products
ANPRM 05/06/80 (45 FR 30002)
NPRM 06/26/83 (48 FR 29786)
Final Action 03/04/88 (53 FR 7076)

Oral Discomfort (Relief) Products
ANPRM 05/25/82 (47 FR 22712)
NPRM 12/00/90

Oral Health Care Products
ANPRM 05/25/82 (47 FR 22760)
NPRM 01/27/86 (53 FR 2436)
NPRM (Amendment) (Antimicrobials) 00/00/00
Final Action 00/00/00

Oral Mucosal Injury Products (Merged w/Oral Health Care)
ANPRM 11/02/79 (44 FR 63270)
NPRM 07/26/83 (48 FR 33964)

Oral Wound Healing Products
ANPRM 11/02/79 (44 FR 63270)
NPRM 07/26/83 (48 FR 33964)
Final Action 07/18/86 (51 FR 26112)

Otic Products (Earwax)
NPRM 07/09/82 (47 FR 30012)
Final Action 08/08/86 (51 FR 28555)

Otic Products (Swimmers Ear)
NPRM 07/30/86 (51 FR 27366)
Final Action 00/00/00

Overindulgence Remedies
ANPRM 10/01/82 (47 FR 43540)
NPRM 03/00/91

Overindulgence Remedies/Prevention of Inebriation
ANPRM 10/01/82 (47 FR 43540)
Final Action 07/19/83 (48 FR 32872)

Pediculicide Products
ANPRM 06/29/82 (47 FR 28312)
NPRM 04/03/89 (54 FR 13460)

Poison Ivy/Oak/Sumac Prevention (Merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39412)

Poison Treatment Products
NPRM 01/15/85 (50 FR 2244)
Final Action 00/00/00

Skin Bleaching Products
ANPRM 11/03/78 (43 FR 51548)
NPRM 09/03/82 (47 FR 39108)
Final Action 03/00/91

Skin Protectant Products
ANPRM 09/04/79 (43 FR 39668)
NPRM 02/15/89 (49 FR 6321)
NPRM (Amendment) (Astringent)
04/03/89 (54 FR 13490)
NPRM (Amendment) (Poison Ivy)
10/03/89 (54 FR 40808)
NPRM (Amendment) (Fever Blister/Ext)
01/24/89 (55 FR 2302)
NPRM (Amendment) (Diaper Rash)
09/20/90 (55 FR 23894)
Final Action 08/00/92
Smoking Deterrent Products
ANPRM 01/05/82 (47 FR 490)
NPRM 07/03/85 (50 FR 27552)
Final Action 08/00/91
Status of Cosmetic Category 3 and 4 Ingredients
NPRM 05/15/90 (55 FR 20043)
Final Action 12/00/92
Stimulant Products
ANPRM 12/05/75 (40 FR 57892)
NPRM 05/18/78 (43 FR 23544)
Final Action 08/20/93 (53 FR 31760)
Stomach Acidifier Products
ANPRM 10/10/79 (44 FR 60318)
NPRM 04/15/85 (50 FR 21184)
Final Action 08/17/88 (53 FR 31270)
Sunscreen Products
ANPRM 09/25/78 (43 FR 39206)
NPRM 08/00/91
Sweet Spirits of Nitre
ANPRM 02/22/80 (45 FR 11548)
Final Action 05/27/80 (45 FR 42400)
Vaginal Contraceptive Products
ANPRM 12/12/80 (45 FR 82014)
NPRM 03/00/91
Vaginal Drug Products
ANPRM 10/12/88 (53 FR 40004)
NPRM 03/00/91
Vitamin/Mineral Products
ANPRM 09/18/79 (44 FR 54335)
Withdrawal 11/27/81 (46 FR 57914)
Wart Remover Products
ANPRM 10/03/80 (45 FR 65326)
NPRM 09/09/82 (47 FR 39702)
NPRM (Amendment) 05/27/87 (52 FR 9902)
Final Action 08/14/90 (55 FR 33046)
Weight Control Products
ANPRM 09/23/82 (47 FR 41988)
NPRM 03/00/91

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: for "Antimicrobial Products." NPRM for "Alcohol (Topical) Products" to be included is revised NPRM for "Antimicrobial Products." The NPRM for "Antimicrobial Products" is being revised because it is being updated and split into two sections: first aid products and health care products.

SMALL ENTITIES AFFECTED: The effects, if any, vary depending on the individual rulemaking. However, the agency anticipates that the rules would not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act.

Agency Contact: William E. Gilbertson, Director, Division of OTC Drug Evaluation, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-210), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8000

RIN: 0905-AA06

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903. CURRENT GOOD MANUFACTURING PRACTICE (CGMP) FOR BLOOD AND BLOOD COMPONENTS; RETROSPECTIVE REVIEW

Legal Authority: 21 USC 321 Federal Food, Drug, and Cosmetic Act; 21 USC 352 Federal Food, Drug, and Cosmetic Act; 21 USC 355 Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act; 42 USC 262 Public Health Service Act; 5 USC 553 Administrative Procedures Act; 5 USC 702 Administrative Procedures Act; 5 USC 703 Administrative Procedures Act; 5 USC 704 Administrative Procedures Act

CFR Citation: 21 CFR 606; 21 CFR 640

Legal Deadline: None

Abstract: FDA is responsible for issuing regulatory standards for blood and blood components to ensure the continued safety, purity, and potency of such products. Since 1975, CGMP regulations have been in effect that provide standards for facilities, personnel, and manufacturing procedures for blood and blood components. In accordance with the Regulatory Flexibility Act, FDA has conducted a retrospective review of its CGMP regulations for blood and blood components, to determine how the regulations may be revised to relieve regulatory burdens and increase flexibility without adversely affecting the public health. Part of the retrospective review of the CGMP will be completed through FDA's implementation of an efficacy review of blood and blood derivatives which responds to recommendations of a Committee of scientific experts—the Panel on Review of Blood and Blood Derivatives. To complete the remainder of the retrospective review program regarding the CGMP, FDA will issue a proposed rule to revise the CGMP regulations.

Timetable:

Blood & Blood Components; Retrospective Review
NPRM 10/00/91
Final Action 10/00/92
Blood & Blood Derivatives; Implementation of Efficacy Review
NPRM 12/24/85 (50 FR 52602)
Comment Period Ends 03/24/86 (50 FR 32602)
Final Action 07/00/91

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven F. Falter, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFB-130), 8800 Fishers Lane, Rockville, MD 20857, 301 295-8188

RIN: 0905-AA75

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904. REQUIREMENTS FOR ADVERSE EXPERIENCE REPORTING FOR LICENSED BIOLOGICAL PRODUCTS

Significance: Agency Priority

Legal Authority: 21 USC 351 Federal Food, Drug, and Cosmetic Act; 21 USC 352 Federal Food, Drug, and Cosmetic Act; 21 USC 355 Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act; 21 USC 374 Federal Food, Drug, and Cosmetic Act; 42 USC 262 Public Health Service Act

CFR Citation: 21 CFR 211; 21 CFR 310; 21 CFR 600

Legal Deadline: None

Abstract: This regulatory action is being taken to improve the safety of marketed drug products by a reporting scheme that will require serious adverse reactions associated with licensed biological products to be reported to the Food and Drug Administration (FDA).

The purpose of the regulatory action is to require prompt reporting to the agency of serious adverse experiences for all licensed biological products.

The regulatory action being considered by FDA would be consistent with the agency's requirements regarding adverse reactions reporting for approved new drugs under 21 CFR 314.80 (see February 22, 1985; 50 FR 7452). These biologic regulations would require that all "serious and unexpected" adverse experiences and any "significant increase in frequency"

of a serious expected event be reported to the agency within 15 working days. Known and nonserious adverse biological product experiences would be required to be reported to the agency at quarterly or annual intervals, depending on the length of marketing experience with the product. This information (cont)

Timetable:

Action	Date	FR Cite
NPRM	03/29/90	55 FR 11611
NPRM Comment Period End	05/29/90	55 FR 11611
Final Action	08/30/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: permits the agency to monitor effectively the safety of all licensed biological products.

Agency Contact: Jeanne Binkley, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFB-130), 8800 Fishers Lane, Rockville, MD 20857, 301 295-8188

RIN: 0905–AB53

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905. ABBREVIATED NEW DRUG APPLICATION REGULATIONS (TITLE I OF THE "DRUG PRICE COMPETITION AND PATENT TERM RESTORATION ACT OF 1984")

Significance: Agency Priority

Legal Authority: PL 98-417, (Title I)

CFR Citation: 21 CFR 10; 21 CFR 310; 21 CFR 314; 21 CFR 320

Legal Deadline: None

Abstract: Until the passage of Title I of the "Drug Price Competition and Patent Term Restoration Act of 1984," abbreviated new drug application (ANDA) procedures were only available for generic products equivalent to pioneer drugs approved before 1962. Title I opened up the ANDA policy to generic copies of products approved after 1962. On July 10, 1989 (54 FR 28872), FDA proposed regulations to implement Title I. The proposal provides for the submission of abbreviated new drug applications for generic versions of drug products first approved after 1962. These new provisions will benefit consumers by making generic drug products available more quickly.

The agency is reviewing the public comments submitted in response to the proposed rule and preparing a FEDERAL REGISTER document that will respond to these comments.

Timetable:

Action	Date	FR Cite
NPRM	07/10/89	54 FR 28872
NPRM Comment Period End	10/10/89	54 FR 28872
NPRM Extension of Comment Period	10/11/89	54 FR 41629
NPRM Public Comment Period End	01/09/90	54 FR 41629
NPRM Extension of Comment Period	01/16/90	55 FR 1471
NPRM Public Comment Period End	04/09/90	55 FR 1471
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Philip L. Chao, Regulatory Counsel, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-362), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8048

RIN: 0905–AB63

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906. FOOD LABELING; HEALTH MESSAGES AND LABEL STATEMENTS

Significance: Regulatory Program

Legal Authority: 15 USC 1453 Fair Packaging and Labeling Act; 15 USC 1454 Fair Packaging and Labeling Act; 15 USC 1455 Fair Packaging and Labeling Act; 21 USC 321 Federal Food, Drug, and Cosmetic Act; 21 USC 331 Federal Food, Drug, and Cosmetic Act; 21 USC 342 Federal Food, Drug, and Cosmetic Act; 21 USC 343 Federal Food, Drug, and Cosmetic Act; 21 USC 348 Federal Food, Drug, and Cosmetic Act; 21 USC 351 Federal Food, Drug, and Cosmetic Act; 21 USC 352 Federal Food, Drug, and Cosmetic Act; 21 USC 355 Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 101

Legal Deadline: None

Abstract: In the FEDERAL REGISTER of February 13, 1990, the Food and Drug Administration (FDA) reproposed to amend the food labeling regulations to provide for the use of health messages on food labeling. The purpose of this reproposal would be to establish procedures for permitting valid and reliable consumer information on food labels about the value that ingestion (or reduced ingestion) of a dietary component, as part of a total dietary pattern, may have in either lowering the risk, or forestalling the premature onset, of a particular chronic disease condition. In light of this reproposal, FDA withdrew the August 4, 1987 (52 FR 28843) proposal on health messages on food labels. FDA also outlined how it is likely to enforce its regulations that bear on health messages during the period that it is receiving and considering comments on the reproposal. The agency also provided information on the proposed functions and responsibilities of the Public Health Service Committee on Health Messages; on the agency's proposed plan to utilize health messages as a consumer education tool; (cont)

Timetable:

Action	Date	FR Cite
NPRM	08/04/87	52 FR 28843
NPRM - Comment Period End	11/02/87	52 FR 28843
NPRM - Extension of Comment Period	11/02/87	52 FR 42003
NPRM - Correction of Extension of Comment Period	11/16/87	52 FR 43772
NPRM - Extension of Comment Period End	01/04/88	52 FR 43772
NPRM - Reproposed Rule	02/13/90	55 FR 5176
NPRM - Comment Period End	04/16/90	55 FR 5176
Final Action	09/31/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: and on the agency's proposed plan to prepare a consumer guide to food labeling.

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HHS—PHS—FDA

Final Rule Stage

Agency Contact: V. P. Fratelli, Deputy Director, Division of Nutrition, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-260), 200 C Street, SW., Washington, DC 20204, 202 [illegible]

RIN: 0905–AB67

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907. FOOD LABELING: DEFINITIONS OF CHOLESTEROL FREE, LOW CHOLESTEROL, AND REDUCED CHOLESTEROL

Significance: Regulatory Program

Legal Authority: 21 USC 321(n) Federal Food, Drug, and Cosmetic Act; 21 USC 331 Federal Food, Drug, and Cosmetic Act; 21 USC 342 Federal Food, Drug, and Cosmetic Act; 21 USC 343 Federal Food, Drug, and Cosmetic Act; 21 USC 348 Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 101.9; 21 CFR 101.25

Legal Deadline: None

Abstract: In the FEDERAL REGISTER of November 25, 1988, the agency published a proposed rule that would provide a mechanism to allow relevant, truthful, and nonmisleading claims about cholesterol and fatty acid on product labeling for consumers. This proposed rule resulted from the medical and consumer interest in the association between dietary fat and cholesterol and the occurrence of coronary heart disease, the leading cause of death and disability in the United States today. The proposed rule would allow industry voluntarily to provide consumers with cholesterol and fatty acid information currently prohibited by regulations by permitting the use of meaningful descriptors of the cholesterol content of foods as established by regulation (e.g., "cholesterol free," "low cholesterol," and "reduced cholesterol"). Additionally, the proposal would allow the use of comparative claims (e.g., 50 percent less cholesterol than our original product), provided quantitative cholesterol content information is supplied.

Timetable:

Action	Date	FR Cite
NPRM	11/25/88	53 FR 47884
NPRM Extension of Comment Period	01/23/89	54 FR 2558
NPRM Comment Period End	03/27/89	54 FR 2558
Tentative Final Action	07/19/90	55 FR 29456
Final Action	12/31/90	
Final Action Effective	12/31/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Virginia L. Wilkening, Regulatory Affairs Staff, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-204), 200 C Street, SW., Washington, DC 20204, 202 245-3117

RIN: 0905–AB68

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908. INFANT FORMULA ACT

Significance: Regulatory Program

Legal Authority: 21 USC 371(a) Federal Food, Drug, and Cosmetic Act; PL 99-570 Infant Formula Act of 1986

CFR Citation: 21 CFR 7; 21 CFR 106

Legal Deadline: None

Abstract: The agency is preparing one proposal and one final rule which will implement the Infant Formula Act of 1986. The proposal will establish current good manufacturing practice regulations and strengthen the agency's existing quality control procedures for infant formulas. The final rule will establish infant formula microbiological testing, consumer complaints, and record retention requirements.

Timetable:

Action	Date	FR Cite
Infant Form Cons Comp, Micro Test & Recd Retention Req		
NPRM	01/26/89	54 FR 3783
NPRM Comment Period End	03/27/89	54 FR 3783
Final Action	03/00/91	
Infant Formula Current Good Practices; Qual Control Proc		
NPRM	05/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nicholas Duy, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-314), 200 C Street, SW., Washington, DC 20204, 202 245-3117

RIN: 0905–AC48

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909. COMMON OR USUAL NAME FOR DILUTED FRUIT OR VEGETABLE JUICE BEVERAGES OTHER THAN DILUTED ORANGE JUICE BEVERAGES

Significance: Agency Priority

Legal Authority: 21 USC 321(n) Federal Food, Drug and Cosmetic Act; 21 USC 343 Federal Food, Drug and Cosmetic Act; 21 USC 371(a) Federal Food, and Cosmetic Act

CFR Citation: 21 CFR 102.33

Legal Deadline: None

Abstract: In 1980, FDA published a regulation (21 CFR 102.33) to require the declaration of the percent of juice contained in all diluted juice beverages. This regulation was published to extend the percent juice declaration required for diluted orange juice beverages (21 CFR 102.32) to all other diluted juice beverages. These two regulations were developed to provide consumers with information as to the various amounts of juice in the diluted juice beverages offered for sale. The regulation regarding percentage juice declaration for diluted orange juice beverages had been in effect for several years and functioning well before the regulation addressing all other diluted juice beverages was published. With publication of 21 CFR 102.33, a controversy developed over the applicability of the regulation to diluted cranberry juice beverages. The controversy centered around the fact that cranberry juice is a high acid juice and is not normally consumed as a single strength juice. Due to this unresolved controversy, 21 CFR 102.33 has not been made effective. In the Federal Register of July 16, 1987 (52 FR 26690), the agency proposed to revoke the common or usual (cont)

Timetable:

Action	Date	FR Cite
NPRM - To Revoke Regulation	07/16/87	52 FR 26690
NPRM - Comment Period Ends	09/14/87	52 FR 26690

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HHS—PHS—FDA

Final Rule Stage

Action	Date	FR Cite
NPRM - Extension of Comment Period	09/25/87	52 FR 36046
NPRM - Extended Comment Period Ends	12/13/87	52 FR 36046
NPRM - Comment Period Reopened	01/22/88	53 FR 1795
NPRM - Reopened Comment Period Ends	01/27/88	53 FR 1795
Notice - Request for Comments; NFPA Petition	01/31/90	55 FR 3266
Notice - Comment Period Ends	04/02/90	55 FR 3266
Notice - Comment Period Reopened	06/04/90	55 FR 22845
Notice - Reopened Comment Period Ends	07/05/90	55 FR 22845
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: name regulation (21 CFR 102.33) for diluted fruit or vegetable juice beverages other than diluted orange juice beverages. The revocation of this regulation will allow voluntary percentage labeling of these diluted juice beverages at the discretion of the manufacturer and according to the demands of the marketplace. Diluted orange juice beverages would continue to be subject to the percentage labeling requirement that has been in effect for diluted orange juice beverages since 1973. This proposed action also withdraws the proposed rule published in the Federal Register of June 1, 1984 (49 FR 22831), which, among other things, exempted cranberry juice products from percentage ingredient labeling requirements. On January 31, 1990 (55 FR 3266), FDA requested comments on a petition received from the National Food Processors Association (NFPA) to initiate a new action to revise 21 CFR 102.33. The comment period closed on April 2, 1990. The comment period was reopened on June 4, 1990, and closed on July 5, 1990.

Agency Contact: Terry C. Troxell, Supervisory Consumer Safety Officer, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-312), 200 C Street, SW., Washington, DC 20204, 202 485-0220

RIN: 0905–AC48

910. PROTECTION OF HUMAN SUBJECTS; INFORMED CONSENT; STANDARDS FOR INSTITUTIONAL REVIEW BOARDS FOR CLINICAL INVESTIGATIONS

Significance: Regulatory Program

Legal Authority: 21 USC 346(a) Federal Food, Drug and Cosmetic Act; 21 USC 351 to 357 Federal Food, Drug and Cosmetic Act; 21 USC 360 Federal Food, Drug and Cosmetic Act; 21 USC 360c to 360f Federal Food, Drug and Cosmetic Act; 21 USC 360h to 360j Federal Food, Drug and Cosmetic Act; 21 USC 371(a) Federal Food, Drug and Cosmetic Act; 21 USC 376 Federal Food, Drug and Cosmetic Act; 21 USC 381 Federal Food, Drug and Cosmetic Act; 42 USC 216 Public Health Service Act; 42 USC 241 Public Health Service Act; 42 USC 262 Public Health Service Act; 42 USC 263b to 263n Public Health Service Act

CFR Citation: 21 CFR 50; 21 CFR 56

Legal Deadline: None

Abstract: In the Federal Register of June 3, 1988 (51 FR 20204), the Office of Science and Technology Policy (OSTP) issued for public comment a proposed Model Federal Policy for the Protection of Human Research Subjects. This Model Policy is to enhance uniformity in the implementation of a common core of regulations governing research with human subjects. FDA has concurred in the proposed Model Policy to the extent permitted by law. FDA has proposed (53 FR 45678) to amend its regulations to eliminate certain inconsistencies with the proposed Model Policy.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45678
NPRM Comment Period End	01/09/89	53 FR 45678
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Ann A. Graham, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Office of Health Affairs (HFY-20), 5600 Fishers Lane, Rockville, MD 20857, 301 443-1382

RIN: 0905–AC52

911. LEAD FROM CERAMIC PITCHERS

Significance: Agency Priority

Legal Authority: 21 USC 321; 21 USC 336; 21 USC 342(a); 21 USC 346; 21 USC 346a; 21 USC 348; 21 USC 371

CFR Citation: 21 CFR 109

Legal Deadline: None

Abstract: On June 1, 1989 (54 FR 23485), FDA proposed to establish a regulatory limit for ceramic food-service pitchers, excluding creamers, that would limit the leaching of lead from the glazes and decorations on the food-contact surface of these pitchers to no more than 0.1 microgram per milliliter (ug/mL) of test solution. FDA also proposed to provide that decorative ceramicware that appears to be suitable for food use will be deemed to be for food use unless it bears a conspicuous, permanent label statement molded or fired onto the ceramic piece that states that the piece is not for food use, or a hole is bored through the possible food-contact surface of the piece. FDA proposed this provision to ensure that decorative pieces are not confused with food-contact ceramicware. Finally, by means of the notice, FDA solicited comments and information on several other matters, including the need to decrease leachable lead from other ceramicware (flatware, cookware, and large and small hollowware other than pitchers) and appropriate measures for achieving any needed decrease.

Timetable:

Action	Date	FR Cite
NPRM	06/01/89	54 FR 23485
NPRM Comment Period End	07/31/89	54 FR 23485
Notice - Comment Period Reopened	09/01/89	54 FR 36324

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Final Rule Stage

Action	Date	FR Cite
Notice - Reopened Comment Period for Ceramic Pitchers Ends	11/30/89	54 FR 99324
Notice - Reopened Comment Period for Other Ceramic Foodware Ends	02/28/90	54 FR 38324
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Terry C. Troxell, Supervisory Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-312), 200 C Street, SW., Washington, DC 20204, 202 485-0220

RIN: 0905–AC91

912. PROFICIENCY TESTING REQUIREMENTS FOR LABORATORIES TESTING BLOOD AND BLOOD COMPONENTS BY THE FDA-REQUIRED TESTS FOR HBSAG AND ANTI-HIV

Significance: Regulatory Program

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360; 21 USC 371; 42 USC 262; 42 USC 264

CFR Citation: 21 CFR 606; 21 CFR 610

Legal Deadline: None

Abstract: The agency has proposed to amend the regulations concerning blood products to require that each establishment or laboratory, responsible for performing FDA-required tests for hepatitis B surface antigen (HBsAg) and evidence of human immunodeficiency virus (HIV), participate in an approved program to demonstrate proficiency in performing these tests. The proposal is part of an FDA program to provide increased assurance of the quality of laboratory performance.

Timetable:

Action	Date	FR Cite
NPRM	06/06/89	54 FR 24296
NPRM Comment Period End	07/06/89	54 FR 24296
Final Action	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: JoAnn Minor, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFB-130), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8188

RIN: 0905–AC92

913. METHADONE IN MAINTENANCE TREATMENT OF NARCOTIC ADDICTS; JOINT FDA AND NIDA PROPOSED REVISION OF CONDITIONS OF USE

Significance: Regulatory Program

Legal Authority: 21 USC 355; 21 USC 371(a); 21 USC 823(g); 42 USC 257a; 42 USC 290ee-3

CFR Citation: 21 CFR 291

Legal Deadline: None

Abstract: The Food and Drug Administration and the National Institute on Drug Abuse have proposed to revise the conditions for the use of methadone in the maintenance treatment of narcotic addicts. The proposal would allow programs to provide minimum service (interim) maintenance treatment to patients awaiting placement in comprehensive maintenance treatment and require programs to provide counseling on avoidance of human immunodeficiency virus (HIV) transmission. These requirements are being considered in response to the HIV epidemic and are intended to allow more narcotic addicts into treatment more quickly, thereby decreasing the incidence of intravenous drug abuse and the transmission of HIV. Comments on the proposal revealed a large number of differing opinions on both the desirability of adopting interim maintenance standards and on a number of related issues. Because it was necessary to improve the administrative record before making a decision regarding any final action based on the proposal, FDA and NIDA held a public hearing on February 28, 1990, to solicit additional information. After careful review of the administrative record, including information received (cont)

Timetable:

Action	Date	FR Cite
NPRM	03/02/89	54 FR 8973
NPRM Comment Period End	05/03/89	54 FR 13897
Notice - Public Hearing; February 28, 1990	12/04/89	54 FR 50226
Withdrawal of Proposed Rule	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: ABSTRACT CONT: at the public hearing, the agencies are considering whether to withdraw the proposed rule.

Agency Contact: Robert J. Meyer, Consumer Safety Officer, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-362), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8048

RIN: 0905–AC93

914. EXPEDITING APPROVAL FOR DRUGS INTENDED TO TREAT LIFE-THREATENING AND SEVERELY-DEBILITATING ILLNESSES

Significance: Regulatory Program

Legal Authority: 21 USC 351 to 357; 21 USC 371; 42 USC 262

CFR Citation: 21 CFR 312

Legal Deadline: None

Abstract: In the Federal Register of October 21, 1988 (53 FR 41561), FDA issued an interim rule effective upon date of publication, with opportunity for public comment, that set forth procedures designed to speed the availability of new therapies to desperately ill patients, while preserving appropriate guarantees for safety and effectiveness. These procedures are intended to facilitate the development, evaluation, and marketing of such products, especially where no satisfactory alternative therapies exist. These procedures reflect the recognition that physicians and patients are generally willing to accept greater risks or side effects from products that treat life-threatening and severely-debilitating illness. These procedures also reflect the recognition that the benefits of the drug need to be evaluated in light of the severity of the disease being treated. The procedures apply to life-threatening or severely-debilitating illnesses. The agency is

HHS—PHS—FDA

Final Rule Stage

reviewing the public comments submitted in response to the interim rule and preparing a Federal Register document that will respond to these comments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/21/88	53 FR 41561
Final Action	10/31/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Adele Seifried, Consumer Safety Officer, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-362), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8043

RIN: 0905–AC94

915. RETENTION OF BIOAVAILABILITY AND BIOEQUIVALENCE TESTING SAMPLES

Significance: Regulatory Program

Legal Authority: 21 USC 201; 21 USC 301; 21 USC 501; 21 USC 502; 21 USC 503; 21 USC 505; 21 USC 506; 21 USC 507; 21 USC 701

CFR Citation: 21 CFR 312; 21 CFR 314; 21 CFR 320

Legal Deadline: None

Abstract: The interim rule would require the retention for a specified period of reserve samples of the drug products used to conduct bioavailability or bioequivalence studies of drug products and, when specifically requested, to provide the reserve samples to FDA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/31/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marilyn L. Watson, Special Assistant to the Director, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-360), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8038

RIN: 0905–AD17

916. INVESTIGATIONAL NEW DRUG, ANTIBIOTIC AND BIOLOGICAL DRUG PRODUCT APPLICATIONS; PROPOSED AMENDMENT TO SECTIONS ON CLINICAL HOLD AND TERMINATION

Significance: Agency Priority

Legal Authority: 21 USC 201; 21 USC 301; 21 USC 501; 21 USC 502; 21 USC 503; 21 USC 505; 21 USC 506; 21 USC 507; 21 USC 701

CFR Citation: 21 CFR 312

Legal Deadline: None

Abstract: This proposed rule will amend the agency's regulations governing investigational new drug (IND) applications to include additional grounds for placing an investigation on "clinical hold" and for terminating an IND. Under the amendments, FDA may require a sponsor to cease distributing an experimental drug in an open, nonconcurrently controlled investigation if any of several specified conditions exist. These amendments will help to implement a proposed PHS policy on expanded availability of INDs through a parallel track mechanism for people with AIDS or HIV-related disease.

Timetable:

Action	Date	FR Cite
NPRM	05/21/90	55 FR 20802
NPRM Comment Period End	07/20/90	55 FR 20802
Final Action	05/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Philip L. Chao, Regulatory Counsel, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-362), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8048

RIN: 0905–AD19

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)—Food and Drug Administration (FDA)

Completed Actions

917. ACTION LEVELS FOR ADDED POISONOUS OR DELETERIOUS SUBSTANCES IN FOOD (INCLUDING ANIMAL FEED)

Significance: Agency Priority

CFR Citation: 21 CFR 109; 21 CFR 509

Completed:

Reason	Date	FR Cite
Final Action	05/21/90	55 FR 20782
Final Action Effective	06/20/90	55 FR 20782

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: John R. Wessel 301 443-1815

RIN: 0905–AC73

918. PRESCRIPTION DRUG MARKETING ACT OF 1987; IMPLEMENTATION

Significance: Agency Priority

CFR Citation: 21 CFR 399

Completed:

Reason	Date	FR Cite
Final Action	09/14/90	55 FR 38012
Final Action Effective	09/14/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Diane Goyette 301 295-8046

RIN: 0905–AC81

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Proposed Rule Stage

Public Health Service (PHS)—Health Resources and Services Administration (HRSA)

919. AREA HEALTH EDUCATION CENTER PROGRAM

Legal Authority: 42 USC 216; 42 USC 295g

CFR Citation: 42 CFR 57, Subpart MM

Legal Deadline: None

Abstract: This NPRM proposes to amend the existing regulations governing the Area Health Education Center Program, under section 781 of the Public Health Service Act, to incorporate amendments made by the Health Professions Training Assistance Act of 1985 (Pub. L. 99-129), and Title VI of Pub. L. 100-607, the Health Professions Reauthorization Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marilyn H. Gaston, M.D., Director, Division of Medicine, Bureau of Health Professions, Department of Health and Human Services, Health Resources and Services Administration, Room 4C-25, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-6190

RIN: 0905-AC87

920. GRANTS FOR COMMUNITY HEALTH CENTERS

Legal Authority: PL 100-380; PL 95-626; PL 99-280

CFR Citation: 42 CFR 51c

Legal Deadline: None

Abstract: This regulation will amend the existing regulations at 42 CFR 51c, Subpart A-E, to bring them into conformance with amendments to Section 330 of the Public Health Service Act which were enacted in 1986 and 1988. These include extension of the program authorization, addition of capital construction authority, and changes regarding program income and services. PL 99-280 requires that the Secretary consult with the Chief Executive Officer and local officials of a State in publishing Medically Underserved Population designation criteria and in designating or de-designating Medically Underserved Populations. The amendment also requires the Secretary to consult with State organizations representing a majority of Community Health Centers in the State.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rhoda Abrams, Associate Director for Policy, BHCDA, Department of Health and Human Services, Health Resources and Services Administration, 5600 Fishers Lane, Rockville, MD 20857, 301 443-2330

RIN: 0905-AC88

921. GRANTS FOR MIGRANT HEALTH SERVICES

Legal Authority: PL 100-380; PL 95-626

CFR Citation: 42 CFR 56

Legal Deadline: None

Abstract: This regulation will amend the existing regulations at 42 CFR 56, Subparts A-H, to bring them into conformance with amendments to section 329 of the PHS Act. They were enacted in 1986 and 1988. These include extension of the program authorization, addition of perinatal program authorization, addition of capital construction authority, and changes regarding program income and services.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rhoda Abrams, Associate Director for Policy, BHCDA, Department of Health and Human Services, Health Resources and Services Administration, 5600 Fishers Lane, Rockville, MD 20857, 301 443-2330

RIN: 0905-AC86

922. HEALTH EDUCATION ASSISTANCE LOAN (HEAL) PROGRAM: PERFORMANCE STANDARDS

Significance: Regulatory Program

Legal Authority: 42 USC 216; 42 USC 294 to 294l

CFR Citation: 42 CFR 60

Legal Deadline: None

Abstract: This proposed rule would amend existing regulations governing the HEAL program to establish performance standards against which school, lender, and holder default rates would be measured. These standards would provide schools, lenders, and holders a greater incentive to work to maintain low HEAL default rates and, thus, improve the long-term solvency of the Student Loan Insurance Fund.

Timetable:

Action	Date	FR Cite
NPRM	10/01/90	55 FR 40140
NPRM Comment Period End	12/01/90	
Final Action	07/31/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James W. Farrington, D.M.D., Deputy Director, Division of Student Assistance, BHPr, Department of Health and Human Services, Health Resources and Services Administration, 5600 Fishers Lane, Room 8-48, Parklawn Building, Rockville, MD 20857, 301 443-1173

RIN: 0905-AC87

923. NATIONAL DATA BANK FOR ADVERSE INFORMATION ON HEALTH CARE PRACTITIONERS AND PROVIDERS (SECTION 5 AMENDMENTS)

Significance: Regulatory Program

Legal Authority: 42 USC 11101 to 11152; 42 USC 1396r-2

CFR Citation: 45 CFR 60

Legal Deadline: None

Abstract: This proposed rule would amend existing regulations governing the National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners to implement section 5 of the Medicare and Medicaid Patient and Program Protection Act of 1987. This provision requires States to report to the Secretary of HHS certain adverse licensure actions taken against health care practitioners and health care entities.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	05/31/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel D. Cowell, M.D., Director, Division of Quality Assurance and Liability Management, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8-67, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-2300

RIN: 0905–AC88

924. GRANTS FOR EDUCATIONAL ASSISTANCE TO INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS

Legal Authority: 42 USC 216; 42 USC 295g-7

CFR Citation: 42 CFR 57, Subpart S

Legal Deadline: None

Abstract: This proposed rule would revise the existing regulations governing section 787 of the PHS Act, to implement amendments made by Title VI of Pub. L. 100-607, by adding: 1) a 10 percent amount of funds appropriated during any fiscal year be set aside funding set-aside obligation for community-based programs; 2) a requirement for certain schools, during a 3-year period, to increase their first-year enrollments of disadvantaged individuals by at least 20 percent over the base year of 1987; 3) a statutory priority in the award of grants, beginning in Fiscal Year 1992, to schools that attain specified increases in their enrollments of disadvantaged individuals; and 4) a change in the amount of grant funds obligated to institutions of higher education from 80 percent to 70 percent. It would also require that an individual complete at least the junior year of high school (or its equivalent) in order to receive education assistance.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	07/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Clay E. Simpson, Jr., Ph.D., Director, Division of Disadvantaged, Assistance, Bureau of Health Professions, Department of Health and Human Services, Public Health Service, Room 8A-09, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-2100

RIN: 0905–AD01

925. HEALTH EDUCATION ASSISTANCE LOAN (HEAL) PROGRAM: POST JUDGMENT COLLECTIONS

Legal Authority: 42 USC 216; 42 USC 294 to 294l

CFR Citation: 42 CFR 60

Legal Deadline: None

Abstract: In accordance with the statutory requirement in the Drug Abuse Treatment Technical Corrections Act of 1988, which amended section 733(h)(2) of the Public Health Service Act, this proposed rule would amend existing regulations governing the Health Education Assistance Loan (HEAL) program to specify post-judgment collection procedures which a lender or holder must follow prior to filing a default claim.

Timetable:

Action	Date	FR Cite
NPRM	06/31/90	55 FR 35887
NPRM Comment Period End	10/30/90	
Final Action	09/30/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Heningburg, Director, Division of Student Assistance, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8-48, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301 443-1173

RIN: 0905–AD11

926. NATIONAL DATA BANK FOR ADVERSE INFORMATION ON PHYSICIANS, DENTISTS, OTHER HEALTH CARE PRACTITIONERS, AND HEALTH CARE ENTITIES (TITLE IV): MEDICAL MALPRACTICE RESEARCH DATA

Legal Authority: 42 USC 11101 to 11152; 42 USC 1396r-2

CFR Citation: 45 CFR 60

Legal Deadline: None

Abstract: This proposed rule would amend existing regulations governing the National Practitioner Data Bank for Adverse Information on Physicians, Dentists, Other Health Care Practitioners, and Health Care Entities (Title IV, Part B, of the Health Care Quality Improvement Act of 1986). This NPRM proposes to expand the reporting requirements in 45 CFR 60.7(b), which specifies what information must be reported to the Data Bank regarding medical malpractice payments made on behalf of physicians, dentists and other licensed health care practitioners, to support needed research in the areas of medical liability and malpractice.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	07/31/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel D. Cowell, M.D., Director, Division of Quality Assurance and Liability Management, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8-67, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301 443-2300

RIN: 0905–AD12

927. ● VACCINE INJURY COMPENSATION: CALCULATION OF COST OF HEALTH INSURANCE

Legal Authority: 42 USC 216; 42 USC 300aa-15

CFR Citation: 42 CFR 100 (proposed)

Legal Deadline: None

Abstract: The National Vaccine Injury Compensation program, administered by the Secretary, and governed by Subtitle 2 of Title XXI of the Public Health Service Act, provides that a proceeding for compensation of a vaccine-related injury or death shall be initiated by service upon the Secretary and the filing of a petition with the United States Claims Court. It is the purpose of this proposed rule to set out the amount to be deducted from the award of compensation which would reflect the average cost of a health insurance policy.

Timetable:

Action	Date	FR Cite
NPRM	10/31/90	

Small Entities Affected: None

Government Levels Affected: None

HHS—PHS—HRSA

Proposed Rule Stage

Agency Contact: Cynthia McCormick, M.D., Administrator, Vaccine Injury Compensation Program, DQAIM, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Suite 700, Montrose Building, 6001 Montrose Road, Rockville, Maryland 20852, 301 443-6593

RIN: 0905–AD25

928. ● ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK RULES

Significance: Agency Priority

Legal Authority: 42 USC 1320b-8 Section 1138 of the Social Security Act; 42 USC 201 Section 372 of the Public Health Service Act

CFR Citation: 42 CFR 121

Legal Deadline: None

Abstract: Section 1138 of the Social Security Act requires Medicare and Medicaid participating hospitals that perform organ transplants to be members of and abide by the rules and requirements of the Organ Procurement and Transplantation Network (OPTN) as established by section 372 of the Public Health Service Act. Section 1138 also requires that for organ procurement costs attributable to payments to an Organ Procurement Organization (OPO) to be paid by Medicare or Medicaid, the OPO must be a member of and abide by the rules and requirements of the OPTN. No other entity (for example, a histocompatibility laboratory) is required to be a member of or abide by the rules of the OPTN under the provisions of the statute. It is the Department's position that no rule, requirement, policy, or other issuance of the OPTN will be considered to be a "rule or requirement" of the Network within the meaning of section 1138 unless the Secretary has formally approved that rule. The OPTN is currently in operation and these rules will impose no further cost or provide any benefit other than that which now exists.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judy Breslow, Director, Division of Organ Transplantation, Department of Health and Human Services, Public Health Service, Room 11A-22, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-7577

RIN: 0905–AD20

929. ● GRANTS FOR HOSPITAL CONSTRUCTION AND MODERNIZATION; FEDERAL RIGHT OF RECOVERY AND WAIVER OF RECOVERY

Legal Authority: 42 USC 291i; 42 USC 300s-1a

CFR Citation: 42 CFR 124.705

Legal Deadline: None

Abstract: The regulations at 42 CFR Part 1 Subpart H provide for recovery of funds by the United States when a health care facility that was constructed with the aid of a grant under Title VI or Title XVI of the Public Health Service Act is, within 20 years, sold or transferred to an entity that would not have been qualified to receive a grant. The regulations also provide for recovery where, within the same 20-year period, an assisted facility ceases to be a health care facility to which a grant could have been made. The regulations authorized the Secretary to waive the recovery rights of the United States if the Secretary determines that there is good cause for waiving such rights with respect to a facility. (Sec. 124.708.)

The Department proposes to amend this section to include, in determining good cause for a waiver, instances where a facility has been acquired from an agency of the United States. No cost will be incurred as a result of this regulation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	02/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Emily Haley, Acting Director, Office of Program Development, Bureau of Health Resources Development, Department of Health and Human Services, Public Health Service, Room 13A-22, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-5400

RIN: 0905–AD27

930. ● NATIONAL PRACTITIONER DATA BANK FOR ADVERSE INFORMATION ON PHYSICIANS AND OTHER HEALTH CARE PRACTITIONERS: CONFIRMATION OF EFFECTIVE DATE AND TECHNICAL AMENDMENTS

Legal Authority: 42 USC 11101-11152

CFR Citation: 45 CFR 60

Legal Deadline: None

Abstract: This final rule amends the existing regulations to the National Practitioner Data Bank (NPDB) governed by Title IV, Part B of the Health Care Quality Improvement Act of 1986, to reflect technical amendments regarding: 1) the effective date that the NPDB will be operational and the effective date of the implementing regulations, and 2) the approval number of the Office of Management and Budget for information collection requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/[illegible]/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel D. Cowell, M.D., Director, Division of Quality Assurance and Liability Management, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8-67, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301 443-3300

RIN: 0905–AD33

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Final Rule Stage

Public Health Service (PHS)—Health Resources and Services Administration (HRSA)

931. HEALTH EDUCATION ASSISTANCE LOAN (HEAL) PROGRAM: IMPLEMENTATION OF PUB. L. 99-129 (ALLIED HEALTH)

Legal Authority: 42 USC 216; 42 USC 294 to 294l

CFR Citation: 42 CFR 60

Legal Deadline: None

Abstract: This rule implements provisions of the Health Professions Training Assistance Act of 1985 (Pub. L. 99-129).

Timetable:

Action	Date	FR Cite
NPRM	11/07/88	53 FR 44913
NPRM Comment Period End	01/06/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Hamlyn, Director, Division of Student Assistance, Bureau of Health Professions, Department of Health and Human Services, Health Resources and Services Administration, Room 8-48, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-1173

RIN: 0915–AC28

932. NURSING POST-BACCALAUREATE FACULTY FELLOWSHIPS PROGRAM

Legal Authority: 42 USC 216; 42 USC 297

CFR Citation: 42 CFR 57, Subpart BB

Legal Deadline: None

Abstract: These regulations implement section 830 (b) of the Public Health Service Act relating to post-baccalaureate fellowships for faculty to conform with the Nurse Education Amendments of 1985 (Pub. L. 99-92).

Timetable:

Action	Date	FR Cite
NPRM	06/05/89	54 FR 24002
NPRM Comment Period End	08/04/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Denise H. Scolot, R.N., M.S., Acting Director, Division of Nursing, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 5C-26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-6193

RIN: 0915–AC34

933. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM; GRANTS FOR STATE LOAN REPAYMENT PROGRAMS AND SPECIAL REPAYMENT PROGRAM

Significance: Regulatory Program

Legal Authority: PL 100-177

CFR Citation: 42 CFR 62.21 to 62.30; 42 CFR 62.51 to 62.58; 42 CFR 62.71 to 62.78

Legal Deadline: Final, Statutory, May 28, 1988.

Abstract: The Public Health Service Amendments of 1987, PL 100-177 amends the Public Health Service Act adding a new section at 336B of the Act authorizing the Secretary to establish the NHSC Loan Repayment Program. PL 100-177 also amends the PHS Act by adding a new section 338H authorizing the Secretary to establish a program of matching grants to support state loan repayment programs similar to the Federal Loan Repayment Program. PL 100-177 also establishes a new program which is not part of the PHS Act which provides a time limited opportunity for persons in default of their scholarship obligation as of November 1, 1987 to repay these obligations through service or through a combination of service and monetary payment. The publication of the regulations beyond the statutory date will not have any impact on the funding or implementation of the programs affected by these regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/03/89	54 FR 13458
Comment Period Ends	06/02/89	54 FR 13458
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rhoda Abrams, Associate Director for Policy, BHCDA, Department of Health and Human Services, Public Health Service, 5600 Fishers Lane, Room 7A06, Rockville, MD 20857, 301 443-2300

RIN: 0915–AC65

934. DESIGNATION OF MENTAL HEALTH MANPOWER SHORTAGE AREAS

Legal Authority: 42 USC 216; 42 USC 254e

CFR Citation: 42 CFR 5

Legal Deadline: None

Abstract: This notice proposes an amendment to the existing regulations governing the Designation of Health Manpower Shortage Areas authorized by section 332 of the Public Health Service Act, which would replace the current criteria for designations of areas having shortages of psychiatrists with criteria for mental health manpower shortage areas to include not only psychiatrists but also other core mental health professionals (clinical psychologists, psychiatric social workers and psychiatric nurses) in a geographic area.

Timetable:

Action	Date	FR Cite
NPRM	08/08/89	54 FR 32460
NPRM Comment Period End	10/10/89	54 FR 32460
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rhoda Abrams, Associate Director for Policy, BHCDA, Department of Health and Human Services, Public Health Service, Room 7A06, Parklawn Building, Rockville, MD 20857, 301 443-2300

RIN: 0915–AC66

935. HEALTH EDUCATION ASSISTANCE LOAN (HEAL) PROGRAM: BANKRUPTCY REVISIONS

Legal Authority: 42 USC 216; 42 USC 294 to 294l

CFR Citation: 42 CFR 60

Legal Deadline: None

Abstract: This final rule amends the existing regulations governing the Health Education Assistance Loan (HEAL) Program, as authorized by sections 727-739 of the Public Health Service Act, to include revised procedures for handling HEAL bankruptcies.

HHS—PHS—HRSA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	03/29/90	55 FR 11620
NPRM Comment Period End	05/29/90	55 FR 11620
Final Action	01/31/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Hamlingburg, Director, Division of Student Assistance, Bureau of Health Professions, Department of Health and Human Services, Health Resources and Services Administration, Room 8-48, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301 443-1173

RIN: 0905–AC75

935. NURSING STUDENT LOAN (NSL) PROGRAM: CASH MANAGEMENT

Legal Authority: 42 USC 216; 42 USC 297a to 297h

CFR Citation: 42 CFR 57, Subpart D

Legal Deadline: None

Abstract: This final rule revises the existing regulations governing the Nursing Student Loan (NSL) Program to improve the cash management practices of schools participating in the program. The revisions address recommendations made by the General Accounting Office in its report on debts owed by health professionals, including nurses, and the Office of the Inspector General as a result of several major cash management audits. This rule also incorporates technical amendments to the existing regulations made by Title VII of Pub. L. 100-607, the Nursing Shortage Reduction and Education Extension Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	12/19/89	54 FR 51852
NPRM Comment Period End	02/16/90	
Final Action	06/21/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Shirley A. Zimmerman, Chief, Program Acctg. and Analysis Branch, Division of Student Assistance, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8-34, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301 443-1708

RIN: 0905–AC76

937. HEALTH PROFESSIONS STUDENT LOAN (HPSL) PROGRAM: CASH MANAGEMENT

Legal Authority: 42 USC 216; 42 USC 294m to 294q

CFR Citation: 42 CFR 57, Subpart C

Legal Deadline: None

Abstract: This final rule revises the existing regulations governing the Health Professions Student Loan program to improve the cash management practices of schools participating in the program. The revisions address recommendations made by the General Accounting Office in its report on debts owed by health professionals, and the Office of Inspector General as a result of several major cash management audits. This final rule also incorporates technical amendments to the existing regulations made by Title VI of Pub. L. 100-607, the Health Professions Reauthorization Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	12/19/89	54 FR 51858
NPRM Comment Period End	02/16/90	
Final Action	05/29/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Shirley A. Zimmerman, Chief, Program Acctg. and Analysis Branch, Division of Student Assistance, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8-34, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301 443-1708

RIN: 0905–AC78

938. HEALTH EDUCATION ASSISTANCE LOAN (HEAL) PROGRAM: IMPLEMENTATION OF PUBLIC LAW 100-607

Legal Authority: 42 USC 216; 42 USC 294 to 294l

CFR Citation: 42 CFR 60

Legal Deadline: None

Abstract: This final rule amends the existing regulations governing the Health Education Assistance Loan (HEAL) program under sections 727-739A of the Act to incorporate amendments to the program made by the Health Professions Reauthorization Act of 1988 (Title VI of Pub. L. 100-607).

Timetable:

Action	Date	FR Cite
Final Action	03/11/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stuart Weiss, Chief, Health Ed. Asst. Loan Branch, Bureau of Health Professions, Department of Health and Human Services, Public Health Service, Room 8-39, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-1540

RIN: 0905–AD05

939. NURSING STUDENT LOAN (NSL) PROGRAM: IMPLEMENTATION OF PUBLIC LAW 100-607

Legal Authority: 42 USC 216; 42 USC 297a to 297l

CFR Citation: 42 CFR 57, Subpart D

Legal Deadline: None

Abstract: This final rule amends the existing regulations governing the Nursing Student Loan (NSL) Program under sections 835-842 of the PHS Act to incorporate amendments to the program made by the Nursing Shortage Reduction and Education Extension Act of 1988 (Title VII of P.L. 100-607).

Timetable:

Action	Date	FR Cite
Final Action	12/17/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bruce Baggett, Chief, Student & Institutional Support Br., DSA, Bureau of Health Professions, Department of Health and Human Services, Public Health Service, Room 8-34, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-6776

RIN: 0905–AD06

940. HEALTH PROFESSIONS STUDENT LOAN (HPSL) PROGRAM: IMPLEMENTATION OF PUBLIC LAW 100-607

Legal Authority: 42 USC 216; 42 USC 294m to 294q

HHS—PHS—HRSA

Final Rule Stage

CFR Citation: 42 CFR 57, Subpart C

Legal Deadline: None

Abstract: This final rule amends the existing regulations governing the Health Professions Student Loan (HPSL) Program under sections 740-747 of the PHS Act to incorporate amendments to the program made by the Health Professions Reauthorization Act of 1988 (Title VI of Pub. L. 100-607).

Timetable:

Action	Date	FR Cite
Final Action	09/28/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bruce Baggett, Chief, Student & Institutional Support Br., DSA, Bureau of Health Professions, Department of Health and Human Services, Public Health Service, Room 8-34, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-4776

RIN: 0905–AD07

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)—Health Resources and Services Administration (HRSA)

Completed Actions

941. GRANTS FOR FACULTY TRAINING PROJECTS IN GERIATRIC MEDICINE AND DENTISTRY

CFR Citation: 42 CFR 57, (Subpart PP)

Completed:

Reason	Date	FR Cite
Final Action	09/12/90	55 FR 37478

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marilyn H. Gaston, M.D. 301 443-6190

RIN: 0905-AC71

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)—Indian Health Service (IHS)

Proposed Rule Stage

942. INDIAN HEALTH SERVICE LOAN REPAYMENT PROGRAM REGULATIONS

Legal Authority: PL 100-713

CFR Citation: 42 CFR 36

Legal Deadline: None

Abstract: Public Law 100-713, enacted November 23, 1988, authorized a program in which health professionals would have their health professions education loans repayed in amounts up to a maximum of $25,000 per year in exchange for service in an Indian health program. The Secretary is directed to implement some provisions by regulations, i.e., waiver provision.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Darrell Pratt, Chief, Manpower Support Branch, Indian Health Service, Department of Health and Human Services, Public Health Service, 12300 Twinbrook Parkway, Suite 100, Rockville, MD 20852, 301 443-4243

RIN: 0905–AC98

943. INDIAN HEALTH CATASTROPHIC HEALTH EMERGENCY FUND PROGRAM

Legal Authority: PL 100-713

CFR Citation: 42 CFR 36

Legal Deadline: None

Abstract: Public Law 100-713, enacted November 23, 1988, authorized a new program establishing a catastrophic health emergency fund. The Secretary is directed to establish the program by regulations consistent with provisions of the Law including a definition of a catastrophic disease.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	12/00/90	
Final Action	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard J. McCloskey, Dir., Div. of Legislation and Regulations, Indian Health Service, Department of Health and Human Services, Public Health Service, Rm. 8A23, Parklawn Bldg., 5600 Fishers Lave, Rockville, MD 20857, 301 443-1116

RIN: 0905–AC97

944. REVISION OF INDIAN SELF-DETERMINATION REGULATIONS

Significance: Regulatory Program

Legal Authority: 25 USC 450; PL 100-202; PL 100-446; PL 100-472; PL 100-581

CFR Citation: 42 CFR 36; 48 CFR 380.4; 48 CFR 352.270-4

Legal Deadline: NPRM, Statutory, May 5, 1989. Final, Statutory, August 5, 1989.

Abstract: Public Law 93-638 passed in 1975, requires the IHS to turn over administrative responsibility to tribes so requesting, using the mechanism of contracting. Public Law 93-638 also authorizes the IHS to make grants to tribe(s) for the planning, development, and/or operations of health programs. Public Law 100-472, enacted October 5, 1988, significantly expands the scope of programs covered beyond those administered by IHS. This Act further provided that all contracting requirements be contained in regulations promulgated in final within ten months of enactment. The Law provides for tribal consultation and participation in the development of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/01/91	
NPRM Comment Period End	03/01/91	
Final Action	09/01/91	

Small Entities Affected: None

HHS—PHS—IHS

Proposed Rule Stage

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

1. The Act (P.L. 100-472) provides that except for construction contracts, the Office of Federal Procurement Policy Act and Federal Acquisition Regulations shall not apply to self-determination contracts. Therefore, implementing regulations for the Indian Self-Determination Act amendments will include a subpart on construction contracts, which, unlike other self-determination awards will be made subject to certain procurement rules (e.g., FARS, HSARS, FSARS). 2. There is a statutory requirement to implement P.L. 93-638 regulations. 3. There is a paperwork burden associated with the action. It will be included with the overall clearance package.

Agency Contact: Richard J. McCloskey, Dir., Div., of Legislation and Regulations, Indian Health Service, Department of Health and Human Services, Public Health Service, Rm. 8A23, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857, 301 443-1116

RIN: 0905–AC98

945. REVISION OF URBAN HEALTH REGULATIONS

Legal Authority: PL 100-713

CFR Citation: 42 CFR 36

Legal Deadline: None

Abstract: P.L. 100-713, enacted November 23, 1988, requires the Secretary to prescribe by regulation, the criteria for selecting urban Indian organizations to enter into contracts.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard J. McCloskey, Dir., Div. of Legislation and Regulations, Indian Health Service, OPEL, Department of Health and Human Services, Public Health Service, Parklawn Building, Room 8A-23, 5600 Fishers Lane, Rockville, MD 20857, 301 443-1116

RIN: 0905–AD20

946. REVIEW OF THE DETERMINATION OF A TRIBE'S RESOURCE DEFICIENCY LEVEL

Legal Authority: PL 100-713

CFR Citation: 42 CFR 36

Legal Deadline: None

Abstract: P.L. 100-713, enacted November 23, 1988, requires the Secretary to establish, by regulation, procedures which would allow any Indian tribe to petition the Secretary for a review of any determination of the health resources deficiency level of such tribe.

Timetable:

Action	Date	FR Cite
NPRM	09/00/90	
NPRM Comment Period End	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard J. McCloskey, Dir., Div. of Legislation and Regulations, Indian Health Service, OPEL, Department of Health and Human Services, Public Health Service, Parklawn Building, Room 8A-23, 5600 Fishers Lane, Rockville, MD 20857, 301 443-1116

RIN: 0905–AD21

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Public Health Service (PHS)—Indian Health Service (IHS)

Completed Actions

947. CONTRACT HEALTH SERVICES

Significance: Agency Priority

CFR Citation: 42 CFR 36

Completed:

Reason	Date	FR Cite
Final Action	02/09/90	55 FR 4606

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard J. McCloskey 301 443-1116

RIN: 0905–AD00

948. EXPANSION OF SILETZ CONTRACT HEALTH SERVICE DELIVERY AREA

CFR Citation: 42 CFR 36

Completed:

Reason	Date	FR Cite
Withdrawn	05/14/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard J. McCloskey 301 443-1116

RIN: 0905–AD22

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)—National Institutes of Health (NIH)

Proposed Rule Stage

949. CHANGES IN NIH PROGRAM REGULATIONS DUE TO PL 99-158, PL 99-499, TITLE IX OF PL 99-660 AND PL 100-607

Legal Authority: 42 USC 281 et seq; 29 USC 655nt; 42 USC 9660; 42 USC 9660a; 42 USC 11201 et seq; 42 USC 300aaa et seq

CFR Citation: 42 CFR 4; 42 CFR 52 to 52h; 42 CFR 59a; 42 CFR 64; 42 CFR 66

Legal Deadline: None

Abstract: The regulations of the National Institutes of Health will be revised to show changed section numbers in the PHS Act and reflect program changes under the Health Research Extension Act of 1985 (P.L. 99-158), the Superfund Amendments and Reauthorization Act of 1986 (P.L. 99-499), the provisions of Title X of P.L. 99-660 concerning Alzheimer's Disease and Related Dementias Research, and the provisions of Section 201 of P.L. 100-607 concerning AIDS research.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Agency Contact: John J. Migliore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 9000 Rockville Pike, 31/3B07, Bethesda, MD 20892, 301 496-4606

RIN: 0905–AC02

950. NATIONAL INSTITUTES OF HEALTH CENTER GRANTS

Legal Authority: 42 USC 216; 42 USC 285a-3; 42 USC 285b-4; 42 USC 285c-5; 42 USC 285d-6; 42 USC 285e-2; 42 USC 285e-3; 42 USC 285m-3; 42 USC 300cc-16

CFR Citation: 42 CFR 52a

Legal Deadline: None

Abstract: The NIH Center Grants Regulations will be revised to incorporate changes necessitated by the Health Research Extension Act of 1985 (P.L. 99-158) and the Health Omnibus Programs Extension of 1988 (P.L. 100-607).

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Migliore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 9000 Rockville Pike, 31/3B07, Bethesda, MD 20892, 301 496-4606

RIN: 0905–AC27

951. SPECIAL VOLUNTEER SERVICES AT THE NATIONAL INSTITUTES OF HEALTH

Legal Authority: 42 USC 282(b)(10); 42 USC 284(b)(1)(k)

CFR Citation: 45 CFR 57A

Legal Deadline: None

Abstract: Sections 402 and 405 of the PHS Act authorize the Secretary, HHS, acting through the Director, NIH, and the Directors of NIH organizations with appropriate delegated authority to accept services of special volunteers provided without NIH compensation in support of NIH functions. These regulations would describe the process for accepting these volunteer services.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen C. Benowitz, Director, Division of Personnel Management, Department of Health and Human Services, Public Health Service, NIH, Bldg. 1, Rm. B1-60, 9000 Rockville Pike, Bethesda, MD 20892, 301 496-3582

RIN: 0905–AC95

952. NATIONAL INSTITUTES OF HEALTH AIDS RESEARCH LOAN REPAYMENT PROGRAM

Legal Authority: 42 USC 288-1

CFR Citation: 42 CFR 68

Legal Deadline: None

Abstract: 604 of the Health Omnibus Programs Extension of 1988, P.L. 100-607, creates a new grant program, under section 487A of the Public Health Service Act, by which health professionals can obtain Federally funded repayment of educational loans through conducting AIDS research at the NIH. These regulations would govern the award and administration of these newly created grants.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marc Horowitz, Director, NIH AIDS Research Loan Repayment Program, Department of Health and Human Services, Public Health Service, Office of AIDS Research, National Institutes of Health, 301 496-0357

RIN: 0905–AD18

953. ◆ INTRAMURAL RESEARCH TRAINING AWARDS

Legal Authority: 42 USC 284(b)(1)(c); 42 USC 287c-1; 42 USC 290aa

CFR Citation: 42 CFR 63

Legal Deadline: None

Abstract: Current Regulations at 42 CFR Part 63 covering National Institutes of Health and National Library of Medicine traineeships are antiquated and will be revoked. In their place, new regulations will be issued covering Intramural Research Training Awards at NIH and ADAMHA authorized under section 405(b)(1)(c) of the PHS Act.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Migliore, NIH Regulations Officer, Department of Health and Human Services, Public Health Service, National Institutes of Health, 9000 Rockville Pike, Bldg. 31, Rm. 3B11, Bethesda, MD 20892, 301 496-4606

RIN: 0905–AD28

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Final Rule Stage

Public Health Service (PHS)—National Institutes of Health (NIH)

954. NATIONAL LIBRARY OF MEDICINE PROGRAMS; REVISION OF GENERAL RULES FOR THE NATIONAL LIBRARY OF MEDICINE AND NATIONAL LIBRARY OF MEDICINE GRANTS

Legal Authority: 42 USC 216; 42 USC 234; 42 USC 286; 42 USC 286b-2; 42 USC 286b-3; 42 USC 286b-5; 42 USC 286b-6

CFR Citation: 42 CFR 4; 42 CFR 59a; 42 CFR 64

Legal Deadline: None

Abstract: The regulations are being substantially clarified and reduced in size by eliminating out of date or otherwise available information. The regulations at 42 CFR Part 4 pertain to the access of facilities and library collections. Those at 42 CFR Part 59a deal with NLM extramural programs. Part 59a is being amended to remove the requirement that photocopies of biomedical material be provided without charge to users.

Timetable:

Action	Date	FR Cite
NPRM	02/11/85	50 FR 05838
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth Carney, Executive Officer, Department of Health and Human Services, Public Health Service, National Library of Medicine, Bethesda, MD 20894, 301 496-6461

RIN: 0925–AA03

955. NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES HAZARDOUS WASTE WORKER TRAINING

Legal Authority: 42 USC 9660a

CFR Citation: 42 CFR 65

Legal Deadline: None

Abstract: Section 126(g) of the Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499, authorizes the National Institute of Environmental Health Sciences to administer a newly created program of grants for the training and education of workers who are, or may be, engaged in activities related to hazardous waste removal or containment or emergency response. These regulations will govern the award and administration of the newly created grants.

Timetable:

Action	Date	FR Cite
NPRM	08/15/89	54 FR 25479
NPRM Comment Period End	09/15/89	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This regulatory action was inadvertently excluded from previous publications of the Unified Agenda.

Agency Contact: Danny Dobbin, Program Administrator, Department of Health and Human Services, Public Health Service, Nat'l Inst. of Environmental Hlth. Sciences, P.O. Box 12233, Research Triangle Park, NC 27709, 919 541-0752

RIN: 0905–AD14

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Proposed Rule Stage

Public Health Service (PHS)—Agency for Health Care Policy and Research (AHCPR)

956. ● GRANTS FOR HEALTH SERVICES RESEARCH, EVALUATION, DEMONSTRATION, AND DISSEMINATION PROJECTS

Legal Authority: 42 USC 299c-1(e)

CFR Citation: 42 CFR 67

Legal Deadline: None

Abstract: This NPRM proposes to revise the regulations under 42 CFR Part 67 Subpart A governing grants for health services research made by the former National Center for Health Services Research and Health Care Technology Assessment (NCHSR). Public Law 101-239, enacted on December 19, 1989, established the Agency for Health Care Policy and Research, replacing the NCHSR, and provided the new agency with a much expanded role in health services research. The NPRM will incorporate applicable provisions of the new law.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda K. Demlo, Ph.D., Dir. Office of Program Development, OPRM, Agency for Health Care Policy and Research, Department of Health and Human Services, Public Health Service, Parklawn Building, Room 18A-30, 5600 Fishers Lane, Rockville, MD 20857, 301 443-8485

RIN: 0905–AD30

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Care Financing Administration (HCFA)

Proposed Rule Stage

957. ADMINISTRATIVE APPEALS PROCESS FOR PROVIDER PAYMENT DISPUTES INCLUDING AMENDING COST REPORTS & REOPENING INTERMEDIARY PAYMENT DETERMINATIONS & ADMINISTRATIVE REVIEW DECISIONS (BPD-221-P)

Legal Authority: 42 USC 1302; 42 USC 1395f(b); 42 USC 1395g; 42 USC 1395l(a); 42 USC 1395x(v); 42 USC 1395hh; 42 USC 1395rr; 42 USC 1395ww; 42 USC 1395xx; 42 USC 1395ii; 42 USC 1395oo

CFR Citation: 42 CFR 405.1833; 42 CFR 405.1885; 42 CFR 405.1887; 42 CFR 405.1803; 42 CFR 405.1811(a); 42 CFR 405.1813; 42 CFR 405.1837; 42 CFR 405.1841; 42 CFR 405.1863; 42 CFR 405.1877; 42 CFR 405.1889; 42 CFR 412.72(b); 42 CFR 413.24

Legal Deadline: None

Abstract: This proposal would clarify and establish rules governing the administrative appeals process for providing appeals of payment disputes including rules distinguishing between the amending of cost reports and the reopening of Medicare intermediary payment determinations and administrative review decisions. This proposal would provide guidance to intermediaries and the Provider Reimbursement Review Board concerning the circumstances under which those actions may be taken.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

TIMETABLE: Pending resolution of complex policy and operational issues.

Agency Contact: Paul Olenick, Director, Division of Medicare Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 408, EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4472

RIN: 0938-AA33

958. PAYMENT FOR CLINICAL DIAGNOSTIC LABORATORY SERVICES (BPD-309-P)

Legal Authority: 42 USC 1395l(a)(1)(D); 42 USC 1395l(a)(2)(D); 42 USC 1395l(b)(3); 42 USC 1395l(h); 42 USC 1395cc(a)(2)(A); 42 USC 1396b(i)(7); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405.501; 42 CFR 405.502; 42 CFR 405.505; 42 CFR 405.506; 42 CFR 405.511; 42 CFR 405.556; 42 CFR 405.1310; 42 CFR 413.170; 42 CFR 414.350 to 378; 42 CFR 424.55; 42 CFR 424.64; 42 CFR 431.54; 42 CFR 447.10; 42 CFR 447.300; 42 CFR 447.321

Legal Deadline: None

Abstract: These regulations will incorporate provisions of Public Laws 99-272, 99-509, 100-203, 100-647, and 101-239 regarding payment and "assignment" for diagnostic clinical laboratory tests, establishing in regulations the methods for implementing fee schedules. Those rules will set forth the methods by which the fee schedules would be updated and would allow certain adjustment for exceptions to the fee schedules.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bernard Patashnik, Division Director, Department of Health and Human Services, Health Care Financing Administration, Division of Medical Services Payment, Room 1-H-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4497

RIN: 0938-AB50

959. HOSPICE SERVICES (MB-7-P)

Legal Authority: 42 USC 1396d(a)(16); 42 USC 1396d(o); 42 USC 1396a(a)(13)(D); 42 USC 1396o(a)(2)(E); 42 USC 1302

CFR Citation: 42 CFR 418.32; 42 CFR 435.218; 42 CFR 435.231; 42 CFR 440.165; 42 CFR 447.53; 42 CFR 447.327; 42 CFR 447.381 to 384; 42 CFR 435.726; 42 CFR 435.735; 42 CFR 436.231

Legal Deadline: None

Abstract: This proposed regulation would implement section 9505 of PL 99-272 by establishing eligibility and coverage requirements, payment procedures and conditions of participation for optional Medicaid coverage of hospice care. It would also implement section 9435(b) of PL 99-509 regarding payment for hospice care for individuals residing in a nursing facility or intermediate care facility in a State that has not elected to cover hospice services.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Organizations

Government Levels Affected: State

Additional Information:

TIMETABLE: Under development.

Agency Contact: William Hickman, Acting Director, Div. of Payment & Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 200 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-3236

RIN: 0938-AC52

960. REVISED EFFECTIVE DATE OF MEDICARE/MEDICAID PROVIDER AGREEMENT AND SUPPLIER PARTICIPATION (HSQ-139-P)

Legal Authority: 42 USC 1302; 42 USC 1395cc; 42 USC 1395hh; 42 USC 1396i

CFR Citation: 42 CFR 440.10; 42 CFR 440.70; 42 CFR 442.13; 42 CFR 488.11; 42 CFR 489.13; 42 CFR 498.3

Legal Deadline: None

Abstract: This proposed rule would establish uniform rules for determining the effective date of participation for all Medicare and Medicaid providers and suppliers. It would also specify that those dissatisfied with a decision on their effective date of participation under Medicare are entitled to a Medicare reconsideration and hearing on the decisions.

Timetable:

Action	Date	FR Cite
NPRM	09/00/91	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: Alfreda Stanton, Program Analyst, Office of Survey and Certification, Department of Health and Human Services, Health Care Financing Administration, Room 2-D-2 Meadows East Bldg., 6300 Security Blvd., Baltimore, MD 21207, 301 966-6779

RIN: 0938-AC39

961. PRO REVIEW OF SURGICAL PROCEDURES AND REQUIREMENTS FOR SECOND OPINIONS (HSQ-147-P)

Legal Authority: 42 USC 1320c-13; 42 USC 1302; 42 USC 1395hh; 42 USC 1395yy

CFR Citation: 42 CFR 466.150 to 100; 42 CFR 473.12; 42 CFR 473.16; 42 CFR 473.40; 42 CFR 405.302

Legal Deadline: None

Abstract: This proposed rule would implement section 9401 of Pub.L. 99-272, which provides that, under Medicare, a physician must request from the Peer Review Organization (PRO) preadmission review for certain surgical procedures. Under section 9401, if the PRO determines that the procedure is not appropriate and medically necessary, the PRO will deny payment under Medicare. If the PRO cannot determine whether a surgical procedure is medically necessary and appropriate, the beneficiary would obtain an opinion from a second physician, or where the opinion of the second physician differs from the first physician, the beneficiary may obtain an opinion from a third physician. In addition, as required by section 4086(b) of Pub. L.100-203, if an assigned claim by a physician or supplier or any claim by a provider is denied because the services furnished are not reasonable and necessary or constitute custodial care and the physician, supplier or provider, but not the beneficiary, knew, or reasonably could be expected to know, that the services were not covered by Medicare, (cont)

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: the physician, supplier or provider would not be entitled to collect and retain payment from the beneficiary for those services.

Agency Contact: Richard Husk, Director, Office of Peer Review, Department of Health and Human Services, Health Care Financing Administration, Room 2-D-2 Meadows East Bldg., 6300 Security Blvd., Baltimore, MD 21207, 301 966-6650

RIN: 0938-AC90

962. PAYMENT FOR THE COST OF MALPRACTICE INSURANCE FOR HOSPITALS EXCLUDED FROM THE PROSPECTIVE PAYMENT SYSTEM (BPD-437-N)

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395x(v)(1)(A)

CFR Citation: 42 CFR 413.56

Legal Deadline: None

Abstract: Medicare's share of payment for the cost of a hospital's malpractice insurance is determined in part through the use of a scaling factor formula. In this notice, we are undertaking to develop a separate set of values for use in the scaling factor formula for hospitals excluded from the prospective payment system.

Timetable:

Action	Date	FR Cite
Notice	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information:

TIMETABLE: Pending development of new rulemaking to revise 42 CFR 413.

Agency Contact: Paul Trimble, Special Assistant, Office of Reimbursement Policy, Department of Health and Human Services, Health Care Financing Administration, 1-F-5 East Low Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 966-4564

RIN: 0938-AC97

963. CHANGES CONCERNING THE DEFINITION OF ACCRUAL BASIS OF ACCOUNTING (BPD-366-P)

Legal Authority: 42 USC 1395x(v)(1)(A); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 413.24

Legal Deadline: None

Abstract: This rule proposes to revise the Medicare regulations to clarify the definition of "accrual basis of accounting" to indicate that expenses must be incurred by a provider of health care services before Medicare will pay its share of those expenses. This change is intended to conform the regulations with the law and to promote economy and efficiency in the administration of the Medicare program.

Timetable:

Action	Date	FR Cite
NPRM	07/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, Room 1-F-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4513

RIN: 0938-AD01

964. OPTIONAL PAYMENT SYSTEM FOR LOW MEDICARE VOLUME SKILLED NURSING FACILITIES (BPD-409-P)

Significance: Regulatory Program

Legal Authority: 42 USC 1395yy(d); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 413.300; 42 CFR 413.302; 42 CFR 413.304; 42 CFR 413.306; 42 CFR 413.310; 42 CFR 413.312; 42 CFR 413.314; 42 CFR 413.316; 42 CFR 413.320; 42 CFR 413.321; 42 CFR 413.1; 42 CFR 413.24

Legal Deadline: None

Abstract: This rule proposes to establish optional prospective payment rates for routine services furnished by certain skilled nursing facilities. The prospective rate would be on a per diem basis and would include payment for the cost of furnishing general inpatient routine services and associated capital-related costs. Ancillary services will be paid on the basis of reasonable cost. This rule would propose instructions for determining eligibility for payment under this system, and the methodology for calculating the prospective payment rates. Freestanding SNFs electing to be paid under this prospective payment system may file a simplified cost report.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: William Geedar, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, Room 1-F-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4513

RIN: 0938-AD02

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965. MEDICAID ELIGIBILITY OF POVERTY LEVEL GROUPS AND EXTENDED COVERAGE OF SERVICES (MB-13-P)

Significance: Regulatory Program

Legal Authority: 42 USC 1396a(a)(10); 42 USC 1396a(l); 42 USC 1396a(f); 42 USC 1302; 42 USC 1396a(m); 42 USC 1396b(f); 42 USC 1396r-1; 42 USC 1396a(a)(47); 42 USC 1396a(e)(6); 42 USC 1396a(e)(7); 42 USC 1396a(a)(17)

CFR Citation: 42 CFR 431; 42 CFR 435; 42 CFR 436; 42 CFR 440; 42 CFR 447

Legal Deadline: None

Abstract: This proposed rule would amend the Medicaid regulations to incorporate changes relating to Medicaid eligibility groups and coverage of services made by the Medicare Catastrophic Coverage Act of 1988 (PL 100-360), the Omnibus Budget Reconciliation Acts of 1989, 1987, and 1986, (PL 101-239, PL 100-203 and PL 99-509), and the Homeless Eligibility Clarification Act of the Anti-Drug Abuse Act of 1986 (PL 99-570). This rule would add eligibility groups of pregnant women, infants and children, and aged and disabled individuals with incomes up to a specified percentage of the Federal poverty line; clarify eligibility of homeless individuals; and add provisions for the presumptive eligibility period for pregnant women who, based on preliminary information, appear to meet income requirements under Medicaid.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Marinos Svolos, Director, Division of Medicaid Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 300 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4451

RIN: 0938-AD17

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966. TRANSFER OF RESOURCES FOR LESS THAN FAIR MARKET VALUE (MB-10-P)

Legal Authority: 42 USC 1302; 42 USC 1396p(c)

CFR Citation: 42 CFR 435; 42 CFR 436

Legal Deadline: None

Abstract: These regulations would conform the Medicaid regulations to the new section 1917(c) of the Social Security Act, which was entirely revised by section 303(b) of the Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100-360) as amended by section 608(d)(16)(B) of the Family Support Act (Pub. L. 100-485) and section 6411(e)(1) of OBRA '89 (Pub. L. 101-239). Section 1917(c) now requires that State Medicaid agencies provide individuals who are receiving nursing facility services or receiving home and community based services with a period of ineligibility for Medicaid coverage of those services for up to 30 months if these individuals or their spouses made transfers of assets for less than fair market value during a prohibited period. The period of ineligibility applies if the individual or spouse made a transfer of assets for less than fair market value at any time during or after the 30 month period immediately before (1) the date the individual became institutionalized, if he or she was entitled to Medicaid on that date, the date he or she applied for Medicaid while (Cont)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: ABSTRACT CONT: institutionalized. Section 1917(c) also exempts certain specific transfers of assets from the period of ineligibility.

TIMETABLE: Pending resolution of complex policy issues.

Agency Contact: Marinos Svolos, Director, Division of Medicaid Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 300 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4451

RIN: 0938-AD18

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967. MEDICARE COVERAGE OF OUTPATIENT OCCUPATIONAL THERAPY SERVICES, VISION CARE AND SERVICES FURNISHED BY PHYSICIAN ASSISTANTS (BPD-425-P)

Legal Authority: 42 USC 1302; 42 USC 1395x(g); 42 USC 1395k(a)(2)(C); 42 USC 1395l(a); 42 USC 1395n(a)(2)(C); 42 USC 1395x(r); 42 USC 1395x(s)(2)(K); 42 USC 1395x(cc); 42 USC 1395hh; 42 USC 1395l(g); 42 USC 1395u(b)(12)

CFR Citation: 42 CFR 400.202; 42 CFR 410; 42 CFR 424; 42 CFR 486.1; 42 CFR 486; 42 CFR 489.2

Legal Deadline: None

Abstract: This proposed rule would implement sections 9337 and 9338 of PL 99-509 which provide Medicare coverage for outpatient occupational therapy services furnished by providers and independent practitioners, identical to the coverage for outpatient physical therapy, and for physician assistant services. It also would implement section 9338 of PL 99-509 which includes in the definition of "physician", a doctor of optometry with respect to all services the optometrist is authorized to provide by the State in which he or she provides them.It also would implement section 6133(a) of PL 101-239 which increased the payment limit for outpatient occupational therapy services provided by independent practitioners.

Timetable:

Action	Date	FR Cite
NPRM	07/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheridan Gladhill, Special Assistant, Office of Coverage & Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Rm. 401, EHR, 6325 Security Blvd., Baltimore, MD. 21207, 301 966-4865

RIN: 0938-AD32

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968. REVISIONS TO THE FREEDOM OF INFORMATION REGULATIONS (OPA-1-P)

Legal Authority: 42 USC 1306; 5 USC 552; 42 USC 1302; PL 99-570; EO 12600

CFR Citation: 42 CFR 401.101 to 401.104; 42 CFR 401.110 to 401.112; 42 CFR 401.120 to 401.125; 42 CFR 401.130 to 401.136; 42 CFR 401.140 to 401.145; 42 CFR 401.150 to 401.154

Legal Deadline: None

Abstract: This rule proposes changes to the regulations implementing the Freedom of Information Act. The regulations would be revised based on HCFA's experience with the FOIA in administering the Medicare and Medicaid programs. This proposed rule would also conform HCFA's FOIA regulations to regulations recently published by DHHS, as well as to guidance issued by the Office of Management and Budget and the Department of Justice to implement Presidential Executive Order 12600, and to the Freedom of Information Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	09/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Rosario Cirrincione, Chief, Freedom of Information Branch, Department of Health and Human Services, Health Care Financing Administration, Room 100 Professional Bldg., 6660 Security Blvd., Baltimore, MD 21207, 301 966-5351

RIN: 0938–AD80

969. CHANGES CONCERNING THE INVESTMENT INCOME OFFSET POLICY (BPD-481-P)

Legal Authority: 42 USC 1395x(v); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 413.153; 42 CFR 413.130

Legal Deadline: None

Abstract: This proposed rule would require that "necessary interest" be offset by investment income for purposes of Medicare reasonable cost reimbursement. Rather than offset interest expense by investment income, we are proposing to reduce (dollar for dollar) allowable debt principal related to patient care by the principal amount of investment funds generated from operations related to patient care and subsequently invested in nonpatient care activities or in another provider's patient care activities.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William J. Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, Room 1-F-5, ELR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4513

RIN: 0938–AD72

970. CLARIFICATION OF DURABLE MEDICAL EQUIPMENT COVERAGE UNDER MEDICARE (BPD-468-P)

Legal Authority: 42 USC 1395x(s)(6); 42 USC 1395hh; 42 USC 1302; 42 USC 1395x(n)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This regulation would codify longstanding policies that concern the coverage, limitations, and exclusions applicable to durable medical equipment (DME). It would describe how all items of DME must be ordered by a physician and explain the requirements necessary for an item to be considered durable.

Timetable:

Action	Date	FR Cite
NPRM	01/00/92	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David Higbee, Chief, Physician and Other Medical Services Branch, Department of Health and Human Services, Health Care Financing Administration, Room 437, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4636

RIN: 0938–AD77

971. MEDICARE COVERAGE OF HOME HEALTH SERVICES, MEDICARE CONDITIONS OF PARTICIPATION AND HOME HEALTH AIDE SUPERVISION AND DISCHARGE PLANNING (BPD-468-P)

Legal Authority: 42 USC 1302; 42 USC 1395x(m); 42 USC 1395hh; 42 USC 1395x(o)

CFR Citation: 42 CFR 405; 42 CFR 409; 42 CFR 418

Legal Deadline: None

Abstract: These proposed regulations would establish home health aide supervision and duty requirements applicable to all home health agencies (HHAs) and hospices that provide home health aide services under the Medicare program. In addition, these regulations would codify longstanding policies concerning the limitations and exclusions applicable to home health services covered under the Medicare program. The proposed rule would also clarify policies concerning exclusions for drugs and biological and prosthetic devices and institute discharge planning as a requirement for HHAs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Tom Hoyer, Director, Div. of Provider Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 418 EHR, 6325 Security Blvd., Baltimore Md. 21207, 301 966-4607

RIN: 0938–AD78

972. APPEAL RIGHTS AND PROCEDURES FOR BENEFICIARIES ENROLLED IN PREPAID HEALTH CARE PLANS (BPD-479-P)

Legal Authority: 42 USC 1395mm; 42 USC 1302; 42 USC 1395hh; 42 USC 1395l(a)(1)(A)

CFR Citation: 42 CFR 405; 42 CFR 417; 42 CFR 482

Legal Deadline: None

Abstract: This proposed rule would amend or establish regulations relating to appeal rights and procedures for Medicare beneficiaries who are enrolled in health maintenance

organizations (HMOs), competitive medical plans (CMPs), and health care prepayment plans (HCPPs). Specifically, the proposed rule would extend to HMO and CMP members the right to request review by a PRO of early hospital discharges; impose a 60-day limit for HMOS and CMPs to process requests by beneficiaries for reconsideration of decisions on denied services or claims; and require HCPPs to establish appeal procedures for enrollees who are Medicare beneficiaries. These changes are aimed at improving efficiency and at providing beneficiaries equitable appeal rights, regardless of their enrollment status.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information:

TIMETABLE: Pending resolution of complex policy issues.

Agency Contact: Joan Mahanes, Program Analyst, Div. of Provider Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, 4th Floor, EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 [illegible]

RIN: 0938–AD79

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973. OMNIBUS NURSING HOME REFORM REQUIREMENTS (BPD-489-P)

Significance: Agency Priority

Legal Authority: 42 USC 1395x; 42 USC 1395i-3; 42 USC 1396r; 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 483; 42 CFR 431; 42 CFR 440; 42 CFR 488; 42 CFR 418; 42 CFR 482

Legal Deadline: None

Abstract: This proposed rule would implement several provisions of the Omnibus Budget Reconciliation Act of 1987, other than those implemented through the final rule published on February 2 1989 governing long term care facility participation in the Medicare and Medicaid programs effective October 1, 1990, and State requirements for FFP. The provisions include Federal standards for evaluating State waivers of nursing facility nurse staffing requirements, use of physical restraints and psychopharmacologic drugs for nursing facility residents, notices of Medicaid rights to be given to persons admitted to nursing facilities, and other technical changes.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Samuel Kidder, Chief, Long Term Care Branch, Department of Health and Human Services, Health Care Financing Administration, Room 429, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 [illegible]

RIN: 0938–AD61

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974. NEW MINIMUM STANDARDS FOR MEDICARE SUPPLEMENTAL (MEDIGAP) POLICIES (BPD-491-P)

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395kk(a); 42 USC 1395ss

CFR Citation: 42 CFR 403.200; 42 CFR 403.206; 42 CFR 403.210; 42 CFR 403.215 to 403.217; 42 CFR 403.220; 42 CFR 403.222; 42 CFR 403.232; 42 CFR 403.230; 42 CFR 403.250 to 403.256

Legal Deadline: None

Abstract: These proposed regulations would add requirements for certification of Medicare supplemental (Medigap) policies under the Federal voluntary certification program or for approval under State regulatory programs that are deemed to have standards that are equal to or more stringent than those of the Federal program. The new standards would include: required submission of advertising to the State; reporting of actual loss ratio information under both the Federal and State programs; a uniform 30-day free-look standard; and procedural requirements for the direct claim transmittal of bills submitted for services furnished to Part B beneficiaries by participating physicians and suppliers from Medicare carriers to Medigap insurers. Insurers would be required to pay user fees for the transmittal of claims. The regulations also would require conformance with the most recent model standards adopted by the National Association of Insurance Commissioners.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information:

TIMETABLE: Congressional action anticipated.

Agency Contact: Thomas E. Hoyer, Director, Div. of Provider Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 413, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 [illegible]

RIN: 0938–AD62

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975. PAYMENT FOR CLINICAL PSYCHOLOGIST SERVICES AND CLINICAL SOCIAL WORKER SERVICES (BPD-486-P)

Legal Authority: 42 USC 1395x(s)(2)(M); 42 USC 1395x(aa)(1)(B); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405; 42 CFR 491; 42 CFR 410

Legal Deadline: None

Abstract: This proposed rule would implement section 6113 of PL 101-239, which provides for payment for clinical psychologist services and clinical social worker services. Payment would be based on a fee schedule and assignment-related basis.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Bernard Patashnik, Director, Division of Medical Services Payment, Department of Health and Human Services, Health Care Financing Administration, 1-H-5, ELR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 [illegible]

RIN: 0938–AD64

HHS—HCFA

Proposed Rule Stage

976. FEE SCHEDULE FOR CERTIFIED NURSE-MIDWIFE SERVICES (BPD-496-P)

Legal Authority: 42 USC 1395l(a)(1)(K); 42 USC 1395x(s)(2)(L); 42 USC 1395hh; 42 USC 1302; 42 USC 1395l(p); 42 USC 1395x(gg)

CFR Citation: 42 CFR 405; 42 CFR 410

Legal Deadline: None

Abstract: This proposed rule would provide for the establishment of a fee schedule for the services of certified nurse-midwives under the Medicare program. This proposal would implement section 4073 of PL 100-203 and would apply to Medicare services provided by certified nurse-midwives on or after July 1, 1988.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information:

TIMETABLE: Under development.

Agency Contact: Bernard Patashnik, Director, Division of Medical Services Payment, Department of Health and Human Services, Health Care Financing Administration, 1-H-5, ELR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4497

RIN: 0938–AD85

977. SURVEY AND CERTIFICATION OF SKILLED NURSING FACILITIES AND NURSING FACILITIES AND ENFORCEMENT PROCEDURES (HSQ-159-F)

Significance: Regulatory Program

Legal Authority: 42 USC 1395aa; 42 USC 1395i-3(g); PL 100-203, Sec 4202; 42 USC 1396r(g); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 488; 42 CFR 431; 42 CFR 442; 42 CFR 489

Legal Deadline: None

Abstract: This proposed rule would implement sections 4202 and 4212 of the Omnibus Budget Reconciliation Act of 1987 (PL 100-203) which govern the process used by HCFA to survey long-term care facilities, and certify that the facilities meet the conditions of participation for the Medicare and Medicaid programs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Wayne Smith, Director, Office of Survey and Certification, Department of Health and Human Services, Health Care Financing Administration, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-6763

RIN: 0938–AD94

978. CLARIFICATION OF "WITHOUT FAULT" AS IT APPLIES TO PHYSICIAN PROVIDER AND SUPPLIER LIABILITY (BPO-76-P)

Legal Authority: 42 USC 1395gg; 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405.350; 42 CFR 405.355; 42 CFR 405.358; 42 CFR 405.360

Legal Deadline: None

Abstract: This proposed rule would amend the Medicare regulations to clarify our interpretation of "without fault" as it applies to physician, provider, and supplier liability for overpayments. This definition would result in greater uniformity of determinations by carriers and intermediaries.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information:

TIMETABLE: Pending resolution of complex policy issues.

Agency Contact: Sara Guida, Director, Division of Overpayment Prevention, Department of Health and Human Services, Health Care Financing Administration, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-7463

RIN: 0938–AD95

979. GRACE PERIOD AND TERMINATION FOR NON-PAYMENT OF SUPPLEMENTARY MEDICAL INSURANCE (PART B) PREMIUMS FOR INSURED PERSONS (BPO-78-P)

Legal Authority: 42 USC 1395j; 42 USC 1395q; 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 408.6; 42 CFR 408.63; 42 CFR 408.47; 42 CFR 408.50; 42 CFR 408.1; 42 CFR 408.2; 42 CFR 408.6; 42 CFR 408.10

Legal Deadline: None

Abstract: Under current rules, individuals who do not pay their Part B premiums will have their coverage terminated after a grace period that allows several months lateness. The grace period for individuals eligible for monthly social security cash payments is different from that of uninsured individuals. This proposed rule would allow a uniform 3-month grace period to treat all individuals identically.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Boeschel, Program Analyst, Bureau of Program Operations, Department of Health and Human Services, Health Care Financing Administration, Room 233, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-5941

RIN: 0938–AD97

980. REQUIREMENTS FOR COVERAGE OF SEAT LIFTS (BPD-807-P)

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1395k; 42 USC 1395l; 42 USC 1395n; 42 USC 1395x(h); 42 USC 1395x(s); 42 USC 1395x(cc); 42 USC 1395hh; 42 USC 1395rr

CFR Citation: 42 CFR 410.38

Legal Deadline: None

Abstract: This proposed rule addresses coverage requirements for stand-alone seat lifts and for seat lifts incorporated into combination lift chairs.

HHS—HCFA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Higbee, Chief, Physician and Other Medical Services Branch, Department of Health and Human Services, Health Care Financing Administration, Room 437 EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4638

RIN: 0938–AE05

981. PROTECTION OF INCOME AND RESOURCES FOR COMMUNITY SPOUSE (MB-23-P)

Legal Authority: 42 USC 1302; 42 USC 1396r(5)

CFR Citation: 42 CFR 435.630; 42 CFR 435.632; 42 CFR 435.634; 42 CFR 435.636; 42 CFR 435.638; 42 CFR 435.640; 42 CFR 435.642; 42 CFR 435.644; 42 CFR 435.646; 42 CFR 435.648

Legal Deadline: None

Abstract: These proposed regulations would interpret section 303(a) of the Medicare Catastrophic Coverage Act of 1988, as amended by section 608(d)(16)(A) of the Family Support Act (PL 100-485) and section 6411(e)(3) of OBRA '89. Section 303(a) allocates incomes and resources between a spouse who is institutionalized and the spouse remaining in the community. It also provides special post-eligibility rules for institutionalized individuals who have spouses in the community. The revision would allow the community spouse to apply more income to meet living expenses.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Mariace Svolos, Director, Division of Medicaid Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 300, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4462

RIN: 0938–AE12

982. PHYSICIAN CERTIFICATION AND PLAN OF CARE REQUIREMENTS AND INSPECTION OF CARE REVIEWS (HSQ-176-P)

Legal Authority: 42 USC 1302; 42 USC 1396b(g); 42 USC 1396a(a)(30); 42 USC 1396a(a)(44)

CFR Citation: 42 CFR 400; 42 CFR 440; 42 CFR 441; 42 CFR 456; 42 CFR 483

Legal Deadline: None

Abstract: This proposed rule would make the requirements for physician certification and development of a plan of care general State plan requirements. States would no longer be required to make quarterly showings that they had determined compliance with those requirements or with utilization review. A quarterly demonstration to the Secretary of an effective program of medical review as demonstrated by a satisfactory utilization control program would be limited to Inspections of Care (IOCs) in participating ICFs/MR and mental hospitals. The IOC team would be required, as part of its review, to ensure compliance with State plan requirements regarding certifications, recertifications, plans of care, and utilization reviews. The team would also be required to ensure compliance with admission review requirements. This rule establishes review criteria specifically for ICFs/MR and mental hospitals that ensure essential client protections and focus on the provision of active treatment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Helene Frederking, Director, Division of Long Term Care Services, Department of Health and Human Services, Health Care Financing Administration, 2-D-2, ME, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-8057

RIN: 0938–AE17

983. HMOS: GROUP SPECIFIC RATINGS (OPH-6-P)

Legal Authority: 42 USC 300e(c); 42 USC 300e-1(6)(C)

CFR Citation: 42 CFR 417.104; 42 CFR 417.107

Legal Deadline: None

Abstract: This rule proposes to amend the regulations governing payment for basic health services under the community rating system in federally qualified HMOs by implementing certain changes made by the Health Maintenance Organization Amendments of 1988 (Pub.L.100-517). The changes broaden the definition of community rating, place some restrictions on the use of group specific ratings for small groups, and require HMOs using group specific rates to disclose the method and data used in calculating the rates of payment.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tina Cleland, Program Analyst, Office of Prepaid Health Care, Department of Health and Human Services, Health Care Financing Administration, 4406 Cohen Bldg., 330 Independence Avenue, SW., Washington, DC 20201, 202 619-1063

RIN: 0938–AE24

984. HMO ORGANIZATIONAL STRUCTURE AND SERVICES (OPH-F)

Legal Authority: 42 USC 300e(a); 42 USC 300e(b)(1); 42 USC 300e(b)(3)(A)

CFR Citation: 42 CFR 417.100; 42 CFR 417.101; 42 CFR 417.103; 42 CFR 417.104

Legal Deadline: None

Abstract: This proposed regulation would provide organizations which operate health maintenance organizations (HMOs) which are federally qualified under Title XIII of the Public Health Service Act with greater flexibility in operating other health benefit plans. It would also authorize, with certain limitations, qualified HMOs to offer out-of-plan physician services and require a reasonable deductible for those services.

Timetable:

Action	Date	FR Cite
NPRM	10/00/91	

Small Entities Affected: None

Government Levels Affected: None

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HHS—HCFA

Proposed Rule Stage

Agency Contact: Jean LeMaistre, Program Analyst, Office of Prepaid Health Care, Department of Health and Human Services, Health Care Financing Administration, Room 4426, Cohen Bldg., 330 Independence Avenue, SW., Washington, DC, 202 619-0562

RIN: 0938-AE25

966. CLINICAL LABORATORY IMPROVEMENT AMENDMENTS OF 1988; FEE COLLECTION (HSQ-177-P)

Significance: Regulatory Program

Legal Authority: 42 USC 263a

CFR Citation: 42 CFR 493.603 to 493.649

Legal Deadline: None

Abstract: This proposed rule would implement certain provisions of the Clinical Laboratory Improvement Amendments of 1988 by requiring all laboratories to pay fees for issuance of certificates and for determining compliance with requirements for laboratory testing. It would also establish the methodology used to determine fee amounts and establish certificate application procedures.

Timetable:

Action	Date	FR Cite
NPRM	09/05/90	55 FR 31758
NPRM Comment Period End	10/02/90	55 FR 31758
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information:

TIMETABLE: Pending receipt and analysis of public comments.

Agency Contact: Rhonda Whalen, Chief, Laboratory & Home Health Services Br., Department of Health and Human Services, Health Care Financing Administration, 2-D-2 Meadows East Building, 6325 Security Boulevard, Baltimore, MD 21207, 301 966-6661

RIN: 0938-AE29

968. "CONFINED TO THE HOME" REQUIREMENTS FOR HOME HEALTH SERVICES (BPD-626-P)

Legal Authority: 42 USC 1302; 42 USC 1395f(a); 42 USC 1395hh

CFR Citation: 42 CFR 409.42

Legal Deadline: None

Abstract: This proposed rule would clarify when a home health patient would be considered "confined to the home" in order to receive home health benefits.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Hoyer, Director, Division of Provider Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 413 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4497

RIN: 0938-AE34

967. MEDICAID MANAGEMENT INFORMATION SYSTEM (MMIS) PERFORMANCE REVIEW, NOTIFICATION PROCEDURES FOR CHANGES (MB-35-P)

Legal Authority: 42 USC 1302; 42 USC 1320b-7; 42 USC 1396a(a)(4); 42 USC 1396a(a)(25); 42 USC 1396a(a)(45); 42 USC 1396b(a)(3); 42 USC 1396b(d)(2); 42 USC 1396b(d)(5)

CFR Citation: 42 CFR 433.123

Legal Deadline: None

Abstract: This proposal would eliminate the requirement that HCFA publish in the Federal Register a proposed notice with opportunity for public comment and then a final notice for any changes in MMIS requirements, performance standards and other conditions for approval and reapproval. Instead we would use well established communication arrangements under which States provide input during the development of revisions, and we would issue revised manual instructions well in advance of implementation changes. This change will increase the efficiency of the administrative process by eliminating lengthy time frames associated with a formal notice and comment procedure thus allowing an expeditious means of developing and communicating changes.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Additional Information:

TIMETABLE: Under development.

Agency Contact: Richard Friedman, Director, Division of Payment Systems, Department of Health and Human Services, Health Care Financing Administration, Room 210-L, ELR, 6325 Security Blvd, Baltimore, MD 21207, 301 966-3282

RIN: 0938-AE36

969. MEDICAID PAYMENT OF MEDICARE COST SHARING FOR QUALIFIED MEDICARE BENEFICIARIES (MB-24-P)

Legal Authority: 42 USC 1396a(a)(10)(E); Clause VIII of the matter following 42 USC 1396a(a)(10)(E); 42 USC 1396a(e)(8); 42 USC 1396a(m)(4); 42 USC 1396a(n); 42 USC 1396b(f)(4); 42 USC 1396d(a); 42 USC 1396d(p); 42 USC 1302

CFR Citation: 42 CFR 431.625; 42 CFR 435; 42 CFR 436; 42 CFR 441.256; 42 CFR 447.800 to 447.820; 42 CFR 447.51; 42 CFR 447.53

Legal Deadline: None

Abstract: These rules would propose to require States to include in their State plans payment of Medicare cost-sharing for low income Medicare beneficiaries, Qualified Medicare Beneficiaries (QMB). The territories have the option to do the same. We would define cost-sharing, specify criteria for determining QMB status, propose requirements and options for payment amounts and limitations, and provide for Federal financial participation in State payments for Medicare cost-sharing on behalf of QMBs. The changes would implement provisions of the Medicare Catastrophic Coverage Act of 1988 as modified by the Family Support Act of 1988, the Technical and Miscellaneous Revenue Act of 1988 and the Omnibus Budget Reconciliation Act of 1989. These provisions went into effect January 1, 1989.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Marlene Svolos, Director Division of Medicaid Eligibility, Policy DHHS HCFA.

NHS—HCFA

Proposed Rule Stage

Department of Health and Human Services, Health Care Financing Administration, Room 300, EHR, 6325 security Blvd, Baltimore, MD 21207, 301 966-4451

RIN: 0938-AE38

988. SURVEY REQUIREMENTS AND ALTERNATIVE SANCTIONS FOR HOME HEALTH AGENCIES (HSQ-169-P)

Legal Authority: 42 USC 1302; 42 USC 1395w-2; 42 USC 1395bbb; 42 USC 1395hh

CFR Citation: 42 CFR 488; 42 CFR 489; 42 CFR 498

Legal Deadline: None

Abstract: These rules would establish requirements for periodic, unannounced surveys of home health agencies, and specify a number of sanctions that could be used, when a home health agency is out of compliance with Federal requirements, as an alternative to terminating its participation in the Medicare program.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Agency Contact: Debbie Kaplan, Chief, Survey & Certification Procedures, Branch, Department of Health and Human Services, Health Care Financing Administration, Room 2-D-2 Meadows East, 6300 Security Boulevard, Baltimore, MD 21207, 301 966-6771

RIN: 0938-AE39

989. HOSPITAL STANDARD FOR HIV INFECTIOUS BLOOD (BPD-633-P)

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395x(e)(9)

CFR Citation: 42 CFR 482

Legal Deadline: None

Abstract: This proposed rule would require hospitals or blood banks providing services to hospitals to notify either each recipient or each recipient's physician when potentially HIV infectious blood has been administered, and to offer each recipient counseling and testing.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Hoyer, Director, Division of Provider Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 413, EHR, 6325 Security Blvd, Baltimore, MD 21207, 301 966-5666

RIN: 0938-AE40

991. OFFSET OF MEDICARE PAYMENTS TO INDIVIDUALS TO COLLECT PAST DUE OBLIGATIONS ARISING FROM BREACH OF SCHOLARSHIP AND LOAN CONTRACTS (BPO-66-P)

Legal Authority: 42 USC 1302; 42 USC 1395ccc; 42 USC 1395hh

CFR Citation: 42 CFR 405.840

Legal Deadline: None

Abstract: This proposed rule sets forth the procedures to be followed for collection of past due amounts owed by individuals who breached contracts under certain scholarship and loan programs. The regulation would implement section 4052 of the Omnibus Budget Reconciliation Act of 1987.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Marvin Dunkleberger, Division of Overpayment Prevention, Performance Monitoring Branch, Department of Health and Human Services, Health Care Financing Administration, 6325 Security Blvd, Baltimore, MD 21207, 301 966-7515

RIN: 0938-AE45

992. CONDITIONS OF COVERAGE FOR ORGAN PROCUREMENT ORGANIZATIONS (BPD-646-P)

Legal Authority: 42 USC 1302; 42 USC 1320b-8; 42 USC 1395hh

CFR Citation: 42 CFR 485

Legal Deadline: None

Abstract: This proposed rule sets forth changes to the conditions of coverage for organ procurement organizations (OPOs). It deals with the definition of an OPO service area, expansion of the qualifications for the Board of Directors, OPO assistance to be provided to hospitals in establishing and implementing protocols governing organ procurement activity, establishing criteria for allocating organs, and organ testing for AIDS.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: John Powell, Program Analyst, Division of Medical Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, 4th Floor, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-6871

RIN: 0938-AE48

993. EXTENDED MEDICAID ELIGIBILITY FOR CERTAIN INDIVIDUALS (HSQ-026-P)

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1396r-6; 42 USC 1396r(b)

CFR Citation: 42 CFR 435; 42 CFR 436; 42 CFR 440; 42 CFR 447

Legal Deadline: None

Abstract: The proposed regulation would revise current regulations to reflect that participants in work supplement programs are deemed to be AFDC recipients under the State plan and make Medicaid eligibility mandatory for those individuals; to provide extended Medicaid benefits to certain families when they become ineligible for AFDC solely because of increased earnings from, or hours of, employment; and to revise certain conditions of eligibility that minor parents and pregnant minors must meet before receiving Medicaid benefits.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Richard Coyne, Chief, Medicaid Eligibility Policy Br.,

Department of Health and Human Services, Health Care Financing Administration, Room 301 EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4459

RIN: 0938–AE51

904. PAYMENT FOR EPOETIN (EPO) FURNISHED TO ESRD PATIENTS (BPD-662-P)

Legal Authority: 42 USC 1302; 42 USC 1395x(s); 42 USC 1395rr; 42 USC 1395hh; 42 USC 1395y(a)(1)(A)

CFR Citation: 42 CFR 410.50(c); 42 CFR 410.50(a); 42 CFR 413.170(c)(5)

Legal Deadline: None

Abstract: This rule proposes coverage criteria and payment methodology for the drug Epoetin Alfa (EPO). The FDA approved EPO on June 1, 1989. Medicare covers EPO for the treatment of anemia for patients with end-state renal disease (ESRD) or chronic renal failure who are not on dialysis. EPO stimulates the bone marrow to make new red blood cells and prevents the need for blood transfusions.

Timetable:

Action	Date	FR Cite
NPRM	05/00/91	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Bernadette Schumaker, Director, Division of Special Payment Programs, Department of Health and Human Services, Health Care Financing Administration, 1-A-5, ELR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4567

RIN: 0938–AE52

905. REVISIONS OF THE MEDICARE ECONOMIC INDEX (BPD-655-P)

Legal Authority: 42 USC 1395u(b)(3); 42 USC 1395o(b)(4); 42 USC 1302; 42 USC 1395hh; 42 USC 1395p(6); 42 USC 1395l; 42 USC 1395l(a); 42 USC 1395m(b); 42 USC 1395u(h); 42 USC 1395x(b); 42 USC 1395x(v); 42 USC 1395y(a)(14); 42 USC 1395cc(a); 42 USC 1395rr; 42 USC 1395ww; ...

CFR Citation: 42 CFR 405.504

Legal Deadline: None

Abstract: This proposed rule would revise the procedure used to calculate the Medicare Economic Index (MEI) in order to more accurately reflect year-to-year economic changes affecting the cost of providing physician services, thus insuring that Medicare payments for those services do not increase more than is justified. The proposed rule would also amend current regulations to specify dates of services to which the revised MEI would apply and to provide a procedure for further revisions of the MEI methodology.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: LEGAL AUTHORITY CONT: 42 USC 1395xx; 42 USC 1395zz

Agency Contact: Bernard Patashnik, Director, Division of Medical Services Payment, Department of Health and Human Services, Health Care Financing Administration, 1-H-5, ELR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4497

RIN: 0938–AE54

906. CAPITAL PAYMENTS UNDER THE INPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEM (BPD-661-P)

Significance: Regulatory Program

Legal Authority: 42 USC 1395hh; 42 USC 1395ww; 42 USC 1302

CFR Citation: 42 CFR 412.2(c); 42 CFR 412.1; 42 CFR 412.63; 42 CFR 412.65; 42 CFR 412.67(d); 42 CFR 412.68; 42 CFR 412.82; 42 CFR 412.84; 42 CFR 412.92; 42 CFR 412.106; 42 CFR 412.113(a); 42 CFR 412.116; 42 CFR 412.214; 42 CFR 413.5; 42 CFR 413.130 to 154; ...

Legal Deadline: None

Abstract: This regulation is intended to amend the Medicare regulations to incorporate capital costs into the inpatient hospital prospective payment system.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Wynn, Director, Division of Hospital Payment Policy, Department of Health and Human Services, Health Care Financing Administration, 1-H-1, ELR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4536

RIN: 0938–AE59

907. ENFORCEMENT OF LABORATORY REQUIREMENTS (HSQ-179-P)

Significance: Regulatory Program

Legal Authority: 42 USC 1395w-2; 42 USC 263a; 42 USC 1395hh

CFR Citation: 42 CFR 405; 42 CFR 405; 42 CFR 405

Legal Deadline: None

Abstract: These proposed rules would set forth the policies and procedures that HCFA follows in enforcing the requirements of PL 100-578, the Clinical Laboratories Improvement Amendments of 1988 (CLIA). In general, CLIA requirements are imposed on all laboratories that perform evaluation of human tissue. The rule also proposes modifications to the conditions under section 1846 of the Social Security Act that laboratories must meet to be approved for Medicare coverage of their services.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Rhonda Whalen, Chief, Laboratory and Home Health Services Branch, Department of Health and Human Services, Health Care Financing Administration, 2-D-2 ME, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-6931

RIN: 0938–AE60

908. RESIDENT ASSESSMENT IN LONG TERM CARE FACILITIES (HSQ-180-P)

Legal Authority: 42 USC 1395i-3; 42 USC 1396r; 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 483

Legal Deadline: Final, Statutory, January 1, 1989.

Abstract: Sections 1819(b)(3) and 1919(b)(3) of the Social Security Act, as amended by PL 100-203, require that in order for an institution to qualify to participate as a skilled nursing facility

in the Medicare program, and, before October 1, 1990, as a skilled nursing facility or as an intermediate care facility in the Medicaid program, and effective October 1, 1990, as a nursing facility in the Medicaid program, it must conduct a comprehensive, standardized assessment of each resident's capability to perform daily life functions. The assessment must also describe significant impairments in the resident's functional capacity and be based on a uniform minimum data set specified by the Secretary. Sections 1819(f)(6)(A) and 1919 (f)(6)(A) of the Act require the Secretary to specify a minimum data set of core elements and common definitions for use by nursing facilities in conducting the assessments. This proposed rule would specify this minimum data set and establish guidelines for using it.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Sue Nonemaker, Program Analyst, Division of Long Term Care, Department of Health and Human Services, Health Care Financing Administration, 2-D-2, ME, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-6825

RIN: 0938–AE61

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999. HMO/CMP DISENROLLMENT, CONTRACT TERMINATIONS AND OTHER PROVISIONS (OPH-11-P)

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395mm

CFR Citation: 42 CFR 417

Legal Deadline: None

Abstract: This proposed rule would permit HCFA to immediately terminate an HMO or CMP contract to protect Medicare enrollees; require that risk-based HMOs and CMPs place an identifier on their enrollees' Medicare cards showing risk HMO enrollment; provide certain coverage under supplemental insurance after non-renewal or termination of a Medicare HMO or CMP contract; and set forth conditions under which Medicare enrollees would be permitted to retroactively disenroll from risk contracting HMOs or CMPs.

Timetable:

Action	Date	FR Cite
NPRM	10/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Elisabeth Handley, Director, Office of Policy, Planning and Liaison, Department of Health and Human Services, Health Care Financing Administration, 4360 Cohen Building, 330 Independence Ave., SW., Washington, DC 20201, 202 619-1993

RIN: 0938–AE63

1000. CONFORMING PROVISIONS FOR 1988 HMO AMENDMENTS (OPH-12-P)

Legal Authority: 42 USC 300e(c); 42 USC 300e-1(i); 42 USC 300e-9

CFR Citation: 42 CFR 417

Legal Deadline: None

Abstract: This proposed rule would conform existing regulations to sections 5(b) and 7 of the Health Maintenance Organization (HMO) Amendments of 1988 (PL 100-517). It would prohibit employee contributions from financially discriminating against HMO enrollees and eliminate the requirement that one-third of a HMO's policymaking body be HMO enrollees.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Kosco, Policy, Planning and Liaison Staff, Office of Prepaid Health Care, Department of Health and Human Services, Health Care Financing Administration, Room 4420, Cohen Building, 330 Independence Ave., SW., Washington, DC 20201, 202 619-2078

RIN: 0938–AE64

1001. EXCLUSION OF MEDICARE COVERAGE OF CORRECTIVE EYEGLASSES FOR APHAKIC PATIENTS WITH INTRAOCULAR OR CONTACT LENSES (BPD-266-PN)

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1395x(s)(8); 42 USC 1395hh; 42 USC 1395y(a)(1)(A)

CFR Citation: None

Legal Deadline: None

Abstract: This notice proposes to revise Medicare operating guidelines on "prosthetic devices" to delete from the listing of covered services, corrective eyeglasses for aphakic patients with intraocular or contact lenses, and contact lenses used in lieu of eyeglasses in combination with intraocular lenses. Available evidence shows that corrective eyeglasses and lenses provide the same refractive benefit for aphakic individuals who have prosthetic intraocular lenses or contact lenses as they do for nonaphakic individuals for whom corrective eyeglasses are not covered under Medicare. We are proposing to provide a uniform Medicare policy concerning the exclusion of eyeglasses from coverage.

Timetable:

Action	Date	FR Cite
Proposed Notice	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Higbee, Chief, Medical Services Branch, Department of Health and Human Services, Health Care Financing Administration, Room 437, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4638

RIN: 0938–AE71

1002. EARLY AND PERIODIC SCREENING, DIAGNOSTIC, AND TREATMENT (EPSDT) SERVICES (BPD-28-P)

Significance: Regulatory Program

Legal Authority: 42 USC 1396a(a)(43); 42 USC 1396d(r); 42 USC 1302

CFR Citation: 42 CFR 441.50; 42 CFR 440.40

Legal Deadline: None

Abstract: Section 9400 of the Omnibus Budget Reconciliation Act of 1989 defines in new section 1905(r) of the Social Security Act the following EPSDT services: screening services, vision services, dental services and hearing services. It also extends EPSDT services to include such other necessary health care, diagnostic services, treatment, and other measures described in section 1905(a) of the Act to correct or ameliorate defects and illnesses and conditions discovered by

the screening services whether or not the services are covered under the State plan. Section 6403 also amended section 1902(a)(43) of the Act to require States to report to the Secretary certain information about EPSDT services provided under the plan during each fiscal year. This proposed rule would set forth requirements to implement these statutory provisions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: William Hickman, Director, Office of Medicaid Policy, Department of Health and Human Services, Health Care Financing Administration, Room 200, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-3236

RIN: 0938-AE72

1003. ● LIMIT ON PAYMENT FOR COST OF AN INTRAOCULAR LENS FURNISHED BY A HOSPITAL ON AN OUTPATIENT BASIS (BPD-649-P)

Legal Authority: 42 USC 1302; 42 USC 1395x(v)(1)

CFR Citation: 42 CFR 413.30; 42 CFR 413.118

Legal Deadline: None

Abstract: This proposed rule would set a limit on payment for the reasonable cost of an intraocular lens (IOL) inserted on an outpatient basis during or subsequent to cataract surgery at a hospital.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John Eppinger, Jr., Chief, Payment Policy Branch, Department of Health and Human Services, Health Care Financing Administration, Room 1-F-5, ELR, 6325 Security Blvd., Baltimore, Maryland 21207, 301 966-4519

RIN: 0938-AE76

1004. ● GEOGRAPHIC DESIGNATION FOR HOME HEALTH AGENCY BRANCH OFFICES (BPD-651-PN)

Legal Authority: 42 USC 1395x(v)(1)(A); 42 USC 1395x(v)(1)(L); 42 USC 1302

CFR Citation: None

Legal Deadline: None

Abstract: This proposed notice would clarify the way that cost limits are applied to home health agencies. It proposes that a branch office of a home health agency that is a situated in a geographic location that is different from the geographic location of the main office of the home health agency would be subject to the limits on allowable costs in effect for the geographic location in which the branch office is located.

Timetable:

Action	Date	FR Cite
Proposed Notice	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan Pash, Program Analyst, Office of Payment Policy, Department of Health and Human Services, Health Care Financing Administration, 1-F-5, ELR, 6325 Security Blvd., Baltimore, Maryland 21207, 301 966-4601

RIN: 0938-AE77

1005. ● SCHEDULE OF LIMITS ON HOME HEALTH AGENCY COSTS PER VISIT FOR COST REPORTING PERIODS BEGINNING ON OR AFTER 7/1/91 (BPD-679-N)

Legal Authority: 42 USC 1302; 42 USC 1395x(v)(1); 42 USC 1395hh

CFR Citation: 42 CFR 413.30

Legal Deadline: None

Abstract: This notice sets forth an updated schedule of limits on home health agency costs that may be paid under the Medicare program. This updated schedule will be applicable to cost reporting periods beginning on or after July 1, 1991.

Timetable:

Action	Date	FR Cite
NPRM	07/00/91	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Agency Contact: William Goeller, Director, Division of Payment and Reporting, Department of Health and Human Services, Health Care Financing Administration, 1-F-5, ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4513

RIN: 0938-AE78

1006. ● PAYMENT FOR NURSING AND ALLIED HEALTH SCIENCE EDUCATION (BPD-685-P)

Legal Authority: PL 101-239

CFR Citation: 42 CFR 413

Legal Deadline: NPRM, Statutory, July 1, 1990.
Section 6205(b)(2) of PL 101-239 required that a proposed rule be published before July 1, 1990 and that a final rule not be effective before 10/01/90.

Abstract: This proposed rule would set forth our policy for the payment of the costs of approved nursing and allied health science programs, an action directed by section 6205(b)(2) of PL 101-239. For the most part, the provisions set forth in this proposed rule restate or clarify our current policies governing these costs, which have been previously set forth in the provider reimbursement manual and other documents, but have never been included in the regulations. In addition, we are proposing to amend the list of approved programs and clarify payment rules for certified registered nurse anesthetist programs.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Wynn, Director, Division of Hospital Payment Policy, Department of Health and Human Services, Health Care Financing Administration, 1-H-1 ELR, 6325 Security Blvd., Baltimore, Maryland 21207, 301 966-4529

RIN: 0938-AE79

1007. ● UNIFORM ELECTRONIC COST REPORTING SYSTEM FOR HOSPITALS (BPD-688-P)

Legal Authority: 42 USC 1395ww(f); 42 USC 1302

CFR Citation: 42 CFR 413.20; 42 CFR 413.24; 42 CFR 413.40; 42 CFR 412.52

Legal Deadline: None

Abstract: This proposed rule would implement section 1886(f)(1)(B) of the Social Security Act, which requires the Secretary to place into effect a standardized electronic cost reporting format and allows the Secretary to waive the requirement where such implementation would result in a financial hardship for a hospital.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: William Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, Room 1-F-5, ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4513

RIN: 0938-AE80

1008. ● PAYMENT CHANGE FOR HOME DIALYSIS (BPD-690-P)

Legal Authority: 42 USC 1395rr; 42 USC 1302

CFR Citation: 42 CFR 405; 42 CFR 414

Legal Deadline: None

Abstract: This proposed rule would implement section 6203(b) of PL 101-239 which limits Medicare payment for home dialysis equipment, supplies, and support services, and sets forth other requirements for payment of suppliers of home dialysis supplies and equipment when the patient's self-care home dialysis is not under the direct supervision of a Medicare approved renal dialysis facility. We also would remove obsolete criteria and redesignate the section which sets forth regulations concerning payment for home dialysis.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bernadette Schumaker, Director, Div. of Dialysis & Transplant Payment Policy, Department of Health and Human Services, Health Care Financing Administration, 1-A-5, ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4593

RIN: 0938-AE81

1009. ● NATIONAL STANDARDIZATION OF "GLOBAL SURGERY" POLICY (BPD-698-PN)

Legal Authority: 42 USC 1395w-4

CFR Citation: None

Legal Deadline: None

Abstract: This proposed notice announces a national uniform "global surgery" policy to be used by all Medicare carriers. The notice proposes definitions for all of the components that would be considered part of the national global surgery policy. Establishing this policy is necessary for the implementation of section 6102 of the Omnibus Budget Reconciliation Act of 1989 that provides for payment of Medicare physician services under a resource-based relative value scale fee schedule beginning in 1992.

Timetable:

Action	Date	FR Cite
Proposed Notice	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Terrence Kay, Chief, Special Initiatives Branch, Division of Medical Services Payment, Department of Health and Human Services, Health Care Financing Administration, 1-H-5, ELR, 6325 Security Blvd., Baltimore, MD21207, 301 966-4464

RIN: 0938-AE85

1010. ● COST REPORT SETTLEMENT ADJUSTMENT FACTOR FOR SKILLED NURSING FACILITIES AND HOME HEALTH AGENCIES (BPD-702-P)

Legal Authority: PL 101-239, Sec 6024; 42 USC 1302

CFR Citation: 42 CFR 413.3(b)(2)

Legal Deadline: None

Abstract: Section 6024 of PL 101-239 requires the Secretary to update the skilled nursing facility (SNF) cost limits effective for cost reporting periods beginning on or after October 1, 1989 in accordance with regulations that require the use of cost reports submitted by SNFs for cost reporting periods beginning not earlier than October 1, 1985. Many of the cost reports that HCFA uses to update limits on SNFs' costs are "as submitted" and therefore not "settled." Since using only "settled" cost reports is not feasible, due to the lengthy time needed to receive and audit cost report data, HCFA will continue to use the most recent data available. HCFA is proposing that adjustment factors be applied uniformly to all "as submitted" cost reports, contained on the SNF data base and the home health agency data base to adjust for the overstatement of costs that occurs in those reports. This rule sets forth the proposed adjustment factors and the methodology used to complete the factors.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: William Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, 1-F-5, ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4513

RIN: 0938-AE87

1011. ● HOME HEALTH AGENCY WAGE INDEX (BPD-707-P)

Significance: Agency Priority

Legal Authority: 42 USC 1395x; 42 USC 1302

CFR Citation: 42 CFR 413.30

Legal Deadline: None

Abstract: This proposed rule would provide for use of the current HCFA hospital wage index in developing home health agency (HHA) cost limits for HHA cost reporting periods beginning on or after July 1, 1991

Timetable:

Action	Date	FR Cite
NPRM	05/00/91	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Agency Contact: William Goeller, Director, Division of Payment and

Reporting, Department of Health and Human Services, Health Care Financing Administration, 1-F-5, ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4513

RIN: 0938–AE86

1012. ● CHANGES TO THE INPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEM AND FISCAL YEAR 1992 RATES (BPD-711-P)

Significance: Regulatory Program

Legal Authority: 42 USC 1395ww; 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 412; 42 CFR 413

Legal Deadline: NPRM, Statutory, May 1991. Final, Statutory, September 1991.

Abstract: This proposed rule would make revisions to the inpatient hospital prospective payment system. It also would include changes in the methods, amounts and factors used to determine the prospective payment rates applicable to discharges occurring during FY 1992. In addition, we would set forth proposed rate-of-increase limits for hospitals and hospital units excluded from the prospective payment system.

Timetable:

Action	Date	FR Cite
NPRM	05/00/91	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Federal

Agency Contact: Barbara Wynn, Director, Division of Hospital Payment Policy, Department of Health and Human Services, Health Care Financing Administration, 1-H-1, ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4520

RIN: 0938–AE90

1013. ● FEE SCHEDULE FOR PHYSICIANS' SERVICES (BPD-712-P)

Legal Authority: 42 USC 1395w-4; 42 USC 1302

CFR Citation: 42 CFR 405

Legal Deadline: Final, Statutory, January 1, 1992.
Fee schedule must be in place beginning 01/01/92, in accordance with section 6102 of PL 101-239.

Abstract: This proposed rule would establish a fee schedule that would include national uniform relative values for all physicians' services. It would replace the current reasonable charge payment mechanism of actual, customary, and prevailing charges with a resource-based relative value scale (RBRVS) fee schedule beginning in 1992. This proposed rule would implement section 6102 of PL 101-239.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Terrence Kay, Chief, Special Initiatives Branch, Department of Health and Human Services, Health Care Financing Administration, 1-H-5, ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4494

RIN: 0938–AE91

1014. ● AGGREGATION OF MEDICARE CLAIMS FOR ADMINISTRATIVE LAW JUDGE (ALJ) HEARINGS AND JUDICIAL REVIEW (BPD-694-P)

Legal Authority: 42 USC 1395hh; 42 USC 1395ff(b)(2); 42 USC 1302

CFR Citation: 42 CFR 405.140; 42 CFR 405.820

Legal Deadline: None

Abstract: This proposed rule would implement section 9341 of the Omnibus Budget Reconciliation Act of 1986, which allows the aggregation of claims, in certain circumstances, to meet the threshold amount necessary to have a hearing before an administrative law judge.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Olenick, Director, Division of Medicare & Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4472

RIN: 0938–AE93

1015. ● PROPOSED ADDITIONS TO AND DELETIONS FROM THE CURRENT LIST OF COVERED SURGICAL PROCEDURES FOR AMBULATORY SURGICAL CENTERS (BPD-623-PN)

Legal Authority: 42 USC 1395l

CFR Citation: None

Legal Deadline: None

Abstract: This notice announces and solicits public comment on the proposed revised criteria for determining which procedures should be added to or deleted from the current list of surgical procedures for which facility services are covered when the procedures are performed in an ambulatory surgical center (ASC). It also announces and solicits public comment on the specific proposed additions to and deletions from the current ASC list, and the assignment of payment groups for each procedure. This notice would implement section 1833(i)(1) of the Social Security Act, as amended by section 9343 of the Omnibus Budget Reconciliation Act of 1986 (PL 99-509) that requires, in part, that the list of covered ASC procedures be reviewed and updated at least every 2 years. It also announces HCFA's intent to include an update of ASC payment group rates in the final notice containing the list of covered ASC procedures.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Anne Marie Hummel, Director, Division of Medical Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 488, EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4637

RIN: 0938–AE95

1016. ● FIRE SAFETY STANDARDS FOR HOSPITALS, LONG TERM CARE FACILITIES, AND INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED (BPD-880)

Legal Authority: 42 USC 1395x; 42 USC 1395d; 42 USC 1302

CFR Citation: 42 CFR 482.41(b)(1); 42 CFR 483.70(a); 42 CFR 483.470(j)(2)(i)(C)

Legal Deadline: None

Abstract: This rule amends the fire safety standards for hospitals, long term care facilities, and intermediate care facilities for the mentally retarded and would affect only those facilities. It would delete references to the 1967 and 1973 editions of the Life Safety Code of the National Fire Protection Association and require compliance with either the 1981 or 1985 editions depending on the date when the facility was first certified to participate in Medicare or Medicaid. This rule creates a uniform policy for all types of facilities that participate in the Medicare and Medicaid programs. The revision of the 1967 and 1973 editions of the Life Safety Code is intended to ensure that Medicare and Medicaid beneficiaries and recipients have the benefit of the most current fire protection standards.

Timetable:

Action	Date	FR Cite
NPRM	08/01/90	55 FR 31196
NPRM Comment Period End	10/01/90	55 FR 31196
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

TIMETABLE: Pending receipt and analysis of public comments.

Agency Contact: Samuel Kidder, Chief, Long Term Care Branch, Department of Health and Human Services, Health Care Financing Administration, Room 429, EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4629

RIN: 0938–AE97

1017. ● COVERAGE OF SCREENING PAP SMEARS (BPD-705-F)

Legal Authority: 42 USC 1395x(s)(14); 42 USC 1395x(nn); 42 USC 1302

CFR Citation: 42 CFR 410.10; 42 CFR 411.15

Legal Deadline: None

Abstract: This proposed regulation would implement section 6115 of OBRA 1989. Medicare Part B coverage is extended to include screening pap smears and related medically necessary services (including a physician's interpretation of the test results) provided to a woman for the early detection of cervical cancer.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Larson, Program Analyst, Office of Coverage and Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 463, EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4639

RIN: 0938–AE98

1018. ● CLINICAL PSYCHOLOGIST SERVICES AND CLINICAL SOCIAL WORKER SERVICES - MEDICARE (BPD-706-F)

Legal Authority: 42 USC 1395l(d)(1); 42 USC 1395x(s)(2); 42 USC 1395x(hh)(2); 42 USC 1395x(ii); 42 USC 1302

CFR Citation: 42 CFR 410

Legal Deadline: None

Abstract: Section 6113 of the Omnibus Budget Reconciliation Act of 1989 (OBRA '89) provides coverage for the services of clinical psychologists (CPs) and clinical social workers. It removed the community mental health center site of service restriction on CP services. It requires CPs to agree to consult with the patient's primary care or attending physician. Also, it eliminates the dollar limitation that previously applied to all mental health services. OBRA'89 defines the term "clinical social worker services" and places two exceptions on where such services can be performed. These exceptions include services provided to inpatients of hospitals and skilled nursing facilities that are Medicare participating. Additionally, clinical social worker services are no longer subject to the dollar limitation, although the 62.5 percent limitation still applies to all incurred expenses for mental health services.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Regina Wellons, Program Analyst, Office of Coverage & Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 464, EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-6733

RIN: 0938–AE99

1019. ● COVERAGE OF NURSE PRACTITIONER SERVICES IN NURSING FACILITIES (BPD-709-F)

Legal Authority: 42 USC 1395x(s)(2); 42 USC 1395u(b); 42 USC 1395x(aa); 42 USC 1302

CFR Citation: 42 CFR 410.10

Legal Deadline: None

Abstract: This proposed regulation would implement section 6114 of OBRA 1989 to extend Medicare Part B coverage to include the services performed by a nurse practitioner working in collaboration with a physician in a skilled nursing facility or in a nursing facility that meets the definition of section 1919(a) of the Social Security Act.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Larson, Program Analyst, Office of Coverage & Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 463, EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4639

RIN: 0938–AF00

1020. ● ALLOWING CERTIFICATIONS AND RECERTIFICATIONS BY NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS FOR CERTAIN SERVICES (BPD-708-F)

Legal Authority: 42 USC 1395f(a); 42 USC 1302

HHS—HCFA

Proposed Rule Stage

CFR Citation: 42 CFR 424

Legal Deadline: None

Abstract: This proposed regulation would implement section 6028 of OBRA 1989. It would allow nurse practitioners and clinical nurse specialists to certify and recertify certain services.

Timetable:

Action	Date	FR Cite
NPRM	08/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas Heyer, Director, Div. of Provider Services & Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 413, EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-6957

RIN: 0938-AF01

1021. ● UTILIZATION AND QUALITY CONTROL PEER REVIEW ORGANIZATIONS (PROS): CONFIDENTIAL INFORMATION (HSQ-190-F)

Legal Authority: 42 USC 1320c-8; 42 USC 1302

CFR Citation: 42 CFR 476

Legal Deadline: None

Abstract: This proposed rule would revise existing regulations to clarify which PRO information is considered confidential, to whom confidential information may be disclosed, and the conditions for disclosure.

Timetable:

Action	Date	FR Cite
NPRM	01/00/92	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Booth, Director, Division of Review Programs, Department of Health and Human Services, Health Care Financing Administration, Room 2-D-2, ME Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 966-6999

RIN: 0938-AF03

1022. ● REVISED PROCEDURES FOR PAYING CLAIMS FROM PROVIDERS OF MEDICARE SERVICES (BPO-93-P)

Legal Authority: 42 USC 1395g(a); 42 USC 1395n(a); 42 USC 1302

CFR Citation: 42 CFR 424

Legal Deadline: None

Abstract: This proposed rule would implement a uniform payment policy and procedures for paying providers of services under Medicare Parts A and B by allowing intermediaries and carriers to pay providers through direct deposits into providers' accounts if certain conditions are met. This would reduce the cost of administration, preparation, and control of hard copy checks, and at the same time provide payments to providers more readily.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Louis Palmieri, Budget Analyst, Division of Contractor Financial Management, Department of Health and Human Services, Health Care Financing Administration, Room 366, ME Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 966-7526

RIN: 0938-AF04

1023. ● CASE MANAGEMENT (MB-27-P)

Legal Authority: 42 USC 1396d; 42 USC 1396n; 42 USC 1302

CFR Citation: 42 CFR 431.50(c); 42 CFR 440.180; 42 CFR 440.250; 42 CFR 441.10; 42 CFR 441.18; 42 CFR 447.327

Legal Deadline: None

Abstract: This proposed rule would place in our regulations provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, the Omnibus Budget Reconciliation Act of 1986, the Tax Reform Act of 1986, the Technical Miscellaneous Revenue Act of 1988, and the Omnibus Budget Reconciliation Act of 1987 dealing with case management services. These regulations would provide for optimal Medicaid coverage of case management services furnished to specific groups of specific geographic areas or political subdivisions within a State.

Timetable:

Action	Date	FR Cite
NPRM	12/00/91	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Robert Wardell, Chief, Home & Community Based Waiver Branch, Department of Health and Human Services, Health Care Financing Administration, 4th Floor, EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-5659

RIN: 0938-AF07

1024. ● COORDINATION OF MEDICAID WITH SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN (MB-30-P)

Legal Authority: 42 USC 1396a(a)(11)(C); 42 USC 1396a(a)(53); 42 USC 1302

CFR Citation: 42 CFR 431.635

Legal Deadline: None

Abstract: This proposed rule would require State Medicaid agencies to coordinate the operation of the Medicaid program with the State's operation of the Special Supplemental Food Program for Women, Infants, and Children (WIC) under section 17 of the Child Nutrition Act of 1966. State Medicaid agencies also would be required to notify certain Medicaid recipients of WIC benefits and refer them to the local WIC agency. This rule would implement section 6406 of the Omnibus Budget Reconciliation Act of 1989, PL 101-239.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Marlene Svolos, Director, Division of Medicaid Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 500, EHR, 6325 Security Boulevard, Baltimore, MD 21207, 301 966-4451

RIN: 0938-AF09

1025. ● DAY HABILITATION AND RELATED SERVICES (MB-37-P)

Legal Authority: PL 101-239, Sec 6411(g)(1989)

CFR Citation: 42 CFR 440

Legal Deadline: None

Abstract: Section 6411(g) of the Omnibus Budget Reconciliation Act of 1989 prohibits disallowance on day habilitation services included in State plans which were approved on or before June 30, 1989. This prohibition will continue until clarifying regulations are promulgated. This proposed rule would specify the types of day habilitation and related services that a State may cover under paragraph (9) or (13) of section 1905(a) of the Social Security Act on behalf of persons with mental retardation or with related conditions.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information:

TIMETABLE: Pending resolution of complex policy issues.

Agency Contact: Linda Sizelove, Program Analyst, Medicaid Special Policy Issues Branch, Department of Health and Human Services, Health Care Financing Administration, 400, EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 [illegible]

RIN: 0938–AF10

1026. ● MEDICAID THIRD PARTY LIABILITY: COST EFFECTIVENESS WAIVERS (MB-38-P)

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(25)

CFR Citation: 42 CFR 433.138; 42 CFR 433.139

Legal Deadline: None

Abstract: This proposed rule would provide States with the opportunity to request waivers of certain third party liability requirements if the State has more cost effective methods than those required to be used under current regulations. These requirements relate to methods and procedures for determining liability of third parties to pay for services furnished under Medicaid and for paying claims. The waivers would apply to administration imposed requirements not statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/00/91	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Richard Friedman, Director, Division of Payments Systems, Department of Health and Human Services, Health Care Financing Administration, 273, EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 [illegible]

RIN: 0938–AF11

1027. ● REQUIRED COVERAGE OF NURSE PRACTITIONER SERVICES - MEDICAID (MB-41-P)

Legal Authority: 42 USC 1396d(a)(21); 42 USC 1302

CFR Citation: 42 CFR 440

Legal Deadline: None

Abstract: This proposed regulation would require Medicaid coverage of services provided by a certified pediatric nurse practitioner to the extent that these providers are authorized to practice under State laws. It would implement section 6405 of the Omnibus Budget Reconciliation Act of 1989 (PL 101-239) which became effective July 1, 1990.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information:

TIMETABLE: Pending resolution of complex policy issues.

Agency Contact: Linda Sizelove, Program Analyst, Medicaid Special Policy Issues Branch, Department of Health and Human Services, Health Care Financing Administration, 400, EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 [illegible]

RIN: 0938–AF12

1028. ● MEDICAID FOR TWO-PARENT FAMILIES (MB-43-P)

Significance: Regulatory Program

Legal Authority: 42 USC 1396a; 42 USC 1396d; 42 USC 1302

CFR Citation: 42 CFR 435; 42 CFR 436

Legal Deadline: None

Abstract: Section 401 of the Family Support Act of 1988 requires States to offer AFDC to needy two-parent families in which the principal earner is unemployed, beginning October 1, 1990 (October 1, 1992 in certain territories). This proposed rule would update eligibility regulations to address requirements for these additional individuals.

Timetable:

Action	Date	FR Cite
NPRM	09/00/91	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Marissa Svelos, Director, Division of Medicaid Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 300, EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 [illegible]

RIN: 0938–AF13

1029. ● PAYMENT FOR FEDERALLY QUALIFIED HEALTH CENTER SERVICES (MB-43-P)

Legal Authority: 42 USC 1396d(a)(2)(C); 42 USC 1396d(l)(2); 42 USC 1396a(a)(13)(E); 42 USC 1302

CFR Citation: 42 CFR 447.301

Legal Deadline: None

Abstract: This proposed rule would add Federally qualified Health Center services to the list of mandatory Medicaid services and require payments at 100 percent of reasonable costs. It implements section 6404 of the Omnibus Budget Reconciliation Act of 1989 (PL 101-239).

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Bernard Tralfer, Chief, Medicaid Payment Policy Branch, Department of Health and Human

Services, Health Care Financing Administration, 1-A-3, ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4576

RIN: 0938-AF14

1030. ● MEDICAID-MANAGED CARE ISSUES (MB-44-P)

Legal Authority: 42 USC 1396b(m)

CFR Citation: 42 CFR 434.21 to 44; 42 CFR 447.361; 42 CFR 447.362

Legal Deadline: None

Abstract: This proposed rule would require Medicaid participating hospitals to accept the Medicaid fee-for-service hospital rate as the maximum payment from HMOs. In addition, it would require certain Health Insuring Organizations to be subject to the regulations governing Prepaid Health Plans. Also, this proposed rule would prohibit the cost of extra State benefits from being considered when computing the rate at which Federal Financial Participation is made.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, State

Additional Information:

TIMETABLE: Pending resolution of complex policy issues.

Agency Contact: Roxanne Taylor, Acting Director, Medicaid Managed Care Office, Department of Health and Human Services, Health Care Financing Administration, Room 233, ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-6927

RIN: 0938-AF15

1031. ● RESTORING CRITERIA FOR THE DETERMINATION OF COST REIMBURSEMENT TO MEDICARE - CONTRACTING PREPAID HEALTH PLANS (OPH-18-F)

Legal Authority: 42 USC 1395mm(h); 42 USC 1395x(v)(1)(A); 42 USC 1302

CFR Citation: 42 CFR 417.532(a)(3)

Legal Deadline: None

Abstract: This proposed rule would revise the absolute payment limit that is to be applied to Prepaid Health Organizations' cost contracts under section 1876 of the Social Security Act. This proposed regulation would also set forth the revised criteria that HCFA will use in determining claimed costs that are reasonable and therefore reimbursable.

Timetable:

Action	Date	FR Cite
NPRM	05/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Tina Cleland, Program Analyst, Office of Prepaid Health Care, Department of Health and Human Services, Health Care Financing Administration, 4400 Cohen Bldg., 330 Independence Ave., SW., Washington, DC 20201, 202 619-1063

RIN: 0938-AF16

1032. ● GRANTING AND WITHDRAWAL OF DEEMING AUTHORITY TO NATIONAL ACCREDITATION ORGANIZATIONS (HSQ-159-F)

Significance: Agency Priority

Legal Authority: 5 USC 552; 5 USC 552a; 42 USC 1302; 42 USC 1395f; 42 USC 1395x; 42 USC 1395bb; 42 USC 1395cc; 42 USC 1395hh; 42 USC 1395qq; 42 USC 1395rr; 42 USC 1395tt

CFR Citation: 42 CFR 401.126b; 42 CFR 401.133; 42 CFR 488.9

Legal Deadline: None

Abstract: This proposed rule would expand the types of providers and suppliers of services that we may consider to meet conditions of participation or certification or conditions for coverage by virtue of their accreditation by a national accreditation program. This rule would also amend confidentiality and disclosure provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Irene Gibson, Director, Division of Program Operations, Department of Health and Human Services, Health Care Financing Administration, Room 2-D-2, ML, 6325 Security Blvd., Baltimore, MD 21207, 301 966-6768

RIN: 0938-AF17

1033. ● WITHDRAWAL OF COVERAGE OF THERMOGRAPHY

Legal Authority: 42 USC 1395x; 42 USC 1395y

CFR Citation: None

Legal Deadline: None

Abstract: This notice announces the Medicare program's proposal to withdraw Medicare coverage of thermography for all indications.

Timetable:

Action	Date	FR Cite
Proposed Notice	10/09/90	55 FR 41140
Public Comment Period End	12/10/90	55 FR 41140
Final Notice	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information:

TIMETABLE: Pending receipt and analysis of public comments.

Agency Contact: Sam DellaVecchia, Chief, Special Coverage Issues Branch, Department of Health and Human Services, Health Care Financing Administration, Room 445 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 965-5316

RIN: 0938-AF18

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Care Financing Administration (HCFA)

Final Rule Stage

1034. MEDICAID ELIGIBILITY AND COVERAGE REQUIREMENTS (MB-1-F)

Legal Authority: 42 USC 1396a(a)(10); 42 USC 1302; 42 USC 1396a(f); 42 USC 1396a(a)(17); 42 USC 1396b(f)(1); 42 USC 1396d(a)

CFR Citation: 42 CFR 435; 42 CFR 436

Legal Deadline: None

Abstract: This final rule amends the regulations for determining Medicaid eligibility. The amendments implement or conform the regulations to various statutes, including the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248), the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100-203), and the Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100-360). The amendments also make some administrative changes to clarify policy and enhance the efficient operation of the Medicaid program.

Timetable:

Action	Date	FR Cite
NPRM	09/26/89	54 FR 39421
NPRM Comment Period End	11/27/89	54 FR 39421
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: Local; State

Agency Contact: Marines Svolos, Director, Division of Medicaid Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 300 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4451

RIN: 0938-AA58

1035. DEDUCTION OF INCURRED MEDICAL EXPENSES (SPENDDOWN) (MB-20-F)

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(10); 42 USC 1396a(a)(17)

CFR Citation: 42 CFR 435.732; 42 CFR 435.831; 42 CFR 436.831

Legal Deadline: None

Abstract: These regulations will permit States to revise the process by which medical expenses are considered in determining Medicaid eligibility. This process applies when an individual's income level during a budget period would ordinarily preclude eligibility except that incurred medical expenses reduce income to the eligibility level.

Timetable:

Action	Date	FR Cite
NPRM	09/26/89	54 FR 39408
NPRM Comment Period End	11/27/89	54 FR 39408
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Marines Svolos, Director, Division of Medicaid Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 300 East High Rise Bldg., 6325 Security Boulevard, Baltimore, MD 21207, 301 966-4451

RIN: 0938-AB07

1036. PAYMENT FOR THE SERVICES OF PHYSICIANS FURNISHED IN TEACHING SETTINGS AND OTHER PROVIDERS (BPD-142-F)

Legal Authority: 42 USC 1395xx; 42 USC 1302; 42 USC 1395l(a)(2); 42 USC 1395hh; 42 USC 1395x(b); 42 USC 1395x(v)(1)(C); 42 USC 1395x(v)(1)(D); 42 USC 1395k(a)(2)(B)(i); 42 USC 1395u(b)(7)

CFR Citation: 42 CFR 405.465; 42 CFR 405.466; 42 CFR 405.480; 42 CFR 405.481; 42 CFR 405.482; 42 CFR 405.522; 42 CFR 405.523; 42 CFR 405.524; 42 CFR 405.525; 42 CFR 405.550; 42 CFR 405.551; 42 CFR 405.552; 42 CFR 405.553; 42 CFR 405.554; 42 CFR 405.555; ...

Legal Deadline: None

Abstract: These regulations will reflect provisions of section 948 of Pub. L. 98-499 and section 2307 of Pub. L. 98-369. This legislation deals with certain problems that have arisen in the Medicare program with respect to payment for physicians in the teaching setting. Specifically addressed by Congress is the problem of distinguishing between the services a physician furnishes to individual patients as a teaching physician and services furnished to the provider, as well as the method of payment for these services. These rules will set forth the conditions under which physicians in teaching settings will be paid on a reasonable cost basis or, alternatively, on a reasonable charge basis. It also describes the methods used to determine the customary charges for the services of those physicians. The rules will also clarify related physician payment issues.

Timetable:

Action	Date	FR Cite
NPRM	09/02/88	48 FR 39668
NPRM Comment Period End	11/01/88	
Final Action	12/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

TIMETABLE: Pending resolution of complex policy issues.

Agency Contact: Bernard Petrahnik, Director, Division of Medical Services Payment, Department of Health and Human Services, Health Care Financing Administration, Room 1-H-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4497

RIN: 0938-AB61

1037. MEDICARE/MEDICAID REVALUATION OF ASSETS (BPD-311-F)

Legal Authority: 42 USC 1395x(v)(1)(O); 42 USC 1396a(a)(13)(B); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 413.130; 42 CFR 413.134; 42 CFR 413.153; 42 CFR 447.250; 42 CFR 447.253; 42 CFR 447.272

Legal Deadline: None

Abstract: This final rule amends changes to the Medicare regulations as required by section 2314 of Pub. L. 98-369 and sections 9110 and 9509 of Pub. L. 99-272. This rule imposes new limitations on the valuation of assets acquired as the result of changes in ownership occurring on or after July 18, 1984. These changes will affect hospitals and skilled nursing facilities under the Medicare program and hospitals, skilled nursing facilities, intermediate care facilities, and intermediate care facilities for the mentally retarded under the Medicaid program.

Timetable:

Action	Date	FR Cite
NPRM	10/26/87	52 FR 39927
NPRM Comment Period End	12/28/87	52 FR 39927
Final Action	03/00/91	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: William J. Goelles, Director, Division of Payment and Reporting Policy, Department of Health

HHS—HCFA

Final Rule Stage

and Human Services, Health Care Financing Administration, Room 1-F-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4513

RIN: 0938–AB64

1038. EFFECT OF APPEALS ON HOSPITAL-SPECIFIC PORTION OF THE PROSPECTIVE PAYMENT RATE (BPD-369-F)

Significance: Agency Priority

Legal Authority: 42 USC 1395ww; 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 412.71; 42 CFR 412.72; 42 CFR 412.73; 42 CFR 412.76; 42 CFR 412.128

Legal Deadline: None

Abstract: This final rule amends and clarifies the prospective payment regulations governing administrative and judicial review of payment amounts in order to resolve confusion concerning interpretation of those regulations. In particular, the rule amends and clarifies the provisions pertaining to adjustment of the hospital-specific rate under the prospective payment system.

Timetable:

Action	Date	FR Cite
NPRM	06/13/88	53 FR 22026
NPRM Comment Period End	08/12/88	53 FR 22026
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Additional Information:

TIMETABLE: Rulemaking affected by Supreme Court decision.

Agency Contact: Barbara Wynn, Director, Division of Hospital Payment Policy, Department of Health and Human Services, Health Care Financing Administration, Room 1-H-1, ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4529

RIN: 0938–AC60

1039. HOME AND COMMUNITY-BASED SERVICES AND RESPIRATORY CARE FOR VENTILATOR-DEPENDENT INDIVIDUALS (BPD-8-F)

Legal Authority: 42 USC 1396n(c); 42 USC 1302

CFR Citation: 42 CFR 435.726; 42 CFR 435.735; 42 CFR 440.180; 42 CFR 441.301; 42 CFR 441.302; 42 CFR 441.303; 42 CFR 441.304; 42 CFR 441.305; 42 CFR 441.306; 42 CFR 441.307; 42 CFR 441.308; 42 CFR 441.310; 42 CFR 440.185; 42 CFR 440.250

Legal Deadline: None

Abstract: This rule revises the regulations for home and community based services as required by section 9502 of Pub.L. 99-272 and sections 9408 and 9411 of Pub.L. 99-509. Also, this rule provides for respiratory care services as medical assistance under the State plan, in accordance with section 9406 of Pub. L. 99-509.

Timetable:

Action	Date	FR Cite
NPRM	06/01/88	53 FR 19950
NPRM Comment Period End	07/31/88	53 FR 19950
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information:

TIMETABLE: Under development.

Agency Contact: William Hickman, Director, Office of Medical Policy, Department of Health and Human Services, Health Care Financing Administration, Room 200 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-5236

RIN: 0938–AC55

1040. PARTICIPATION IN CHAMPUS AND CHAMPVA, HOSPITAL ADMISSIONS FOR VETERANS, DISCHARGE RIGHTS NOTICE, AND HOSPITAL RESPONSIBILITY FOR EMERGENCY CARE (BPD-393-F)

Significance: Regulatory Program

Legal Authority: 42 USC 1395x; 42 USC 1395cc; 42 USC 1395dd; 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 405.1803; 42 CFR 489.20; 42 CFR 489.24; 42 CFR 489.25; 42 CFR 489.26; 42 CFR 489.27; 42 CFR 489.53

Legal Deadline: None

Abstract: This final rule will require Medicare participating hospitals with emergency departments to provide upon request medical examinations and treatments for individuals with emergency medical conditions and women in active labor. Further, a participating hospital that has specialized capabilities or facilities (such as burn, shock trauma, or neonatal intensive care units) must accept appropriate transfer if they have the capacity to treat the individual. Hospitals failing to meet those requirements may have their Medicare provider agreements terminated. In addition, the hospital and the responsible physician may each be subject to a civil money penalty for each such violation. Under section 9122 of Pub. L. 99-272, Medicare participating hospitals are required to accept CHAMPUS and CHAMPVA payment as payment in full for services provided to CHAMPUS and CHAMPVA beneficiaries. These regulations will also implement section 233 of Pub. L. 99-576, which requires Medicare hospitals to give patients a notice of their discharge rights.

Timetable:

Action	Date	FR Cite
NPRM	06/16/88	53 FR 22513
NPRM Comment Period End	08/15/88	53 FR 22513
Final Action	01/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas Hoyer, Director, Division of Provider Services and Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 413 EHR Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 966-4607

RIN: 0938–AC58

1041. MEDICAID ELIGIBILITY FOR QUALIFIED SEVERELY IMPAIRED INDIVIDUALS (MB-16-FC)

Legal Authority: 42 USC 1302; 42 USC 1396a(f); 42 USC 1396a(a)(10)(A)(i)(II); 42 USC 1396a(o); 42 USC 1396d(q)

CFR Citation: 42 CFR 435.120; 42 CFR 435.121; 42 CFR 435.725; 42 CFR 435.733

Legal Deadline: None

Abstract: This final rule amends the Medicaid regulations to provide for mandatory categorically needy eligibility for individuals who, although severely impaired, work and demonstrate ability to perform substantial gainful activity and who are considered to be Supplemental Security Income (SSI) beneficiaries by virtue of

Section 1619 of the Social Security Act. It also specifies how States electing the option under Section 1902(f) of the Social Security Act to provide Medicaid under criteria more restrictive than SSI, will treat the "1619" individuals. It also specifies how SSI payments made to certain institutionalized individuals are to be disregarded as income under Medicaid for up to two months. The amendments conform the regulations to provisions of the Omnibus Budget Reconciliation Act of 1986 and the Employment Opportunities for Disabled Americans Act.

Timetable:

Action	Date	FR Cite
NPRM	05/04/88	53 FR 15857
NPRM Comment Period End	07/05/88	53 FR 15857
Final Rule With Comment Period	06/17/90	55 FR 33700
Final Rule Comment Period End	10/16/90	55 FR 33700
Final Rule Effective Date	11/16/90	55 FR 33700
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information:

TIMETABLE: Pending receipt and analysis of public comments.

Agency Contact: Marinos Svolos, Director, Division of Medicaid Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 300 East High Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 966-4451

RIN: 0938–AC82

1042. DENIAL OF PAYMENT FOR SUBSTANDARD QUALITY CARE, REVIEW OF BENEFICIARY COMPLAINTS (HSQ-133-F)

Significance: Regulatory Program

Legal Authority: 42 USC 1320c-3(a); 42 USC 1395cc(a)(1)(K); 42 USC 1395u; 42 USC 1395pp(b); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 462.105; 42 CFR 466.70; 42 CFR 466.74; 42 CFR 466.83; 42 CFR 466.86; 42 CFR 466.93; 42 CFR 466.94; 42 CFR 466.96; 42 CFR 466.100; 42 CFR 466.106; 42 CFR 473.12; 42 CFR 473.14; 42 CFR 473.40; 42 CFR 476.132; 42 CFR 480.21; ...

Legal Deadline: None

Abstract: The purpose of this final rule is to implement section 9403 of Pub. L. 99-272, 9353(c) of Pub. L. 99-509, and section 4086(a) of Pub. L. 100-203. Under section 9403 of Pub. L. 272, Peer Review Organizations (PROs) are authorized to deny Medicare payment to a physician or hospital for services furnished that are of substandard quality. The PRO determinations to deny Medicare payment for these services will be made on the basis of criteria that are consistent with guidelines established by the Secretary. Under section 9353(c) of Pub. L. 99-509, PROs will conduct an appropriate review of all written complaints from beneficiaries or their representatives about the quality of services not meeting professionally recognized standards of health care. Under section 4086(a) of Pub. L. 100-203, beneficiaries are protected from liability for the cost of physician services where payment is denied because services were of substandard quality.

Timetable:

Action	Date	FR Cite
NPRM	01/10/89	54 FR 1956
NPRM Comment Period End	03/20/89	54 FR 1956
Final Action	02/00/91	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Patricia Booth, Director, Division of Review Programs, Department of Health and Human Services, Health Care Financing Administration, 2-D-2 Meadows East Bldg., 6300 Security Blvd., Baltimore, MD 21207, 301 966-6359

RIN: 0938–AC84

1043. CHANGES CONCERNING SUSPENSION OF MEDICARE PAYMENTS, INTEREST RATES CHARGED ON OVERPAYMENTS AND UNDERPAYMENTS, AND DETERMINATIONS OF ALLOWABLE INTEREST EXPENSE (BPD-429-FC)

Legal Authority: 42 USC 1320b-4; 42 USC 1395g; 42 USC 1395u; 42 USC 1395x(v)(1)(A); 42 USC 1395hh; 42 USC 1302; 42 USC 1395l

CFR Citation: 42 CFR 413.153; 42 CFR 405.379; 42 CFR 405.376; 42 CFR 413.5(c)(3); 42 CFR 405.371; 42 CFR 405.372; 42 CFR 405.373; 42 CFR 405.375

Legal Deadline: None

Abstract: This rule will change the Medicare regulations to provide for the following: (1) elimination of the requirement that in case of overpayments to health care providers, the contractor makes a determination that a suspension of payment is needed to protect the program against financial loss before the payment can be suspended; (2) elimination of the requirement that investment income of providers from gifts, grants, and endowments be offset against allowable interest expenses if that investment income is commingled with other funds; and (3) extension of the list of exceptions to the interest expense/investment income offset provision to include investment income from deferred compensation plans and self-insurance funds; and (4) permitting interest on overpayments and underpayments to be assessed at the higher of the private consumer rate or the current value of funds rate.

Timetable:

Action	Date	FR Cite
NPRM	08/22/88	53 FR 31888
NPRM Comment Period End	10/21/88	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Gaeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, 1-F-5 East Low Rise Building, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4513

RIN: 0938–AC99

1044. CRITERIA AND PROCEDURES FOR MAKING MEDICAL SERVICES COVERAGE DECISIONS THAT RELATE TO HEALTH CARE TECHNOLOGY (BPD-432-F)

Significance: Regulatory Program

Legal Authority: 42 USC 1395y; 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 400.200; 42 CFR 400.202; 42 CFR 405.201; 42 CFR 405.203; 42 CFR 405.205; 42 CFR 405.207; 42 CFR 405.209

Legal Deadline: None

Abstract: The rule will establish in regulations generally applicable standards and procedures for determinations as to whether and under what circumstances specific medical items and services should be paid for under Medicare. It establishes and explains the criteria relied upon for determining whether an item or service is "reasonable and necessary." The objective of the criteria and procedures set forth in this rule is to assure that Federal funds are expended only for medical services that are properly covered under the Medicare program.

Timetable:

Action	Date	FR Cite
NPRM	01/30/89	54 FR 4302
NPRM Comment Period End	03/31/89	54 FR 4302
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam DellaVecchia, Chief, Special Coverage Issues Branch, Department of Health and Human Services, Health Care Financing Administration, 445 East High Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 966-5316

RIN: 0938-AD07

1045. REVISIONS TO CONDITIONS OF PARTICIPATION FOR HOSPITALS AND CONDITIONS FOR COVERAGE OF SERVICES OF INDEPENDENT LABORATORIES AND SUPPLIERS OF ESRD SERVICES (BPD-421-F)

Significance: Regulatory Program

Legal Authority: 42 USC 1395x(e)(6)(B); PL 99-509, Sec 9338(d); 42 USC 1395x(aa); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405.1512; 42 CFR 482.21; 42 CFR 405.2135; 42 CFR 405.2137; 42 CFR 482.27; 42 CFR 482.43

Legal Deadline: None

Abstract: These revisions will require hospitals to provide a discharge planning process. They will conform our regulations to the requirements of Pub.L. 99-509.

Timetable:

Action	Date	FR Cite
NPRM	06/16/88	53 FR 22506
NPRM Comment Period End	08/15/88	53 FR 22506
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

TIMETABLE: Pending final action on RIN-0938-AE47.

Agency Contact: Robert Wren, Director, Office of Coverage & Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 401 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-5641

RIN: 0938-AD11

1046. REQUIREMENTS FOR LONG TERM CARE FACILITIES (BPD-396-F)

Significance: Regulatory Program

Legal Authority: 42 USC 1395x(j); 42 USC 1396a(a)(28); 42 USC 1396d(c); 42 USC 1302; 42 USC 1395hh; 42 USC 1395i-3; 42 USC 1396r

CFR Citation: 42 CFR 442.1; 42 CFR 442.30; 42 CFR 442.100; 42 CFR 442.101; 42 CFR 442.105; 42 CFR 442.300 to 442.346; 42 CFR 442.250 to 442.254; 42 CFR 483.1 to 483.75

Legal Deadline: None

Abstract: A sizable number of commenters offered their views on our final rule published February 2, 1989 (54 FR 5316). These rules would incorporate any changes made as a result of evaluating these comments. We also make several minor technical corrections to terminology and cross-references to existing regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/16/87	52 FR 38582
NPRM Comment Period End	01/14/88	52 FR 38582
Final Rule With Comment Period	02/02/89	54 FR 5316
Final Rule Comment Period End	05/03/89	54 FR 5316
Final Action	01/00/91	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State

Agency Contact: Samuel Kidder, Chief, Long Term Care Branch, Department of Health and Human Services, Health Care Financing Administration, Room 429, East High Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 966-4620

RIN: 0938-AD12

1047. RECOGNITION OF ACCREDITING ORGANIZATIONS FOR HOME HEALTH AGENCY PARTICIPATION(BPD-413-FN)

Legal Authority: 42 USC 1395bb(a); 42 USC 1395hh; 42 USC 1302

CFR Citation: Not applicable

Legal Deadline: None

Abstract: Under this final notice, hospital-based home health agencies accredited by the Joint Commission on Accreditation for Healthcare Organizations and home health agencies accredited by the National League for Nursing are "deemed" to meet the Medicare conditions of participation. Thus, these agencies will not ordinarily be subject to an inspection by State survey agencies to determine their compliance with Federal requirements. As a result of the home health agency's deemed status, a State also can choose to permit the agency to participate as a provider under the Medicaid program.

Timetable:

Action	Date	FR Cite
Proposed Notice	12/31/87	52 FR 49510
Public Comment Period End	02/29/88	52 FR 49510
Final Notice	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Additional Information:

TIMETABLE: Pending publication of RIN 0938-AE39.

Agency Contact: John Thomas, Program Analyst, Long Term Care Branch, Department of Health and Human Services, Health Care Financing Administration, 4th Floor, EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4623

RIN: 0938-AD13

1048. EXPLANATION OF RIGHTS AND OTHER HMO/CMP PROVISIONS (BPD-422-F)

Legal Authority: 42 USC 1395mm; 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 417.413; 42 CFR 417.428; 42 CFR 417.432; 42 CFR 417.436; 42 CFR 417.446; 42 CFR 417.448; 42 CFR 417.460; 42 CFR 417.840; 42 CFR 417.494; 42 CFR 417.444; 42 CFR 417.597

Legal Deadline: None

Abstract: This rule revises Medicare regulations to repeal the "two-for-one" rule for Medicare enrollees; require HMOs/CMPs to provide additional information to Medicare beneficiaries and annual notice of HMO/CMP enrollees' rights; add a provision to terminate a contract for noncompliance with the composition of enrollment standard requiring that no more than 50 percent of an organization's membership be comprised of Medicare or Medicaid enrollees; and authorize alternative sanctions when organizations fail to comply with the 50/50 rule or the terms of waivers or exceptions to that rule.

Timetable:

Action	Date	FR Cite
NPRM	07/22/88	53 FR 27718
NPRM Comment Period End	09/20/88	53 FR 27718
Final Action	03/00/91	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Joan Mahanes, Program Analyst, Div. of Provider Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, 4th Floor, EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4642

RIN: 0938-AD14

1049. MEDICAID: ELIGIBILITY GROUPS, COVERAGE AND CONDITIONS OF ELIGIBILITY; LEGISLATIVE CHANGES UNDER OBRA '87, COBRA, AND TEFRA (MB-014-F)

Legal Authority: 42 USC 1396a(a)(10); 42 USC 1302; 42 USC 1396d(a); 42 USC 1396k(a); 42 USC 1396a(a)(25)(B); 42 USC 1396a(e)(3)

CFR Citation: 42 CFR 435; 42 CFR 436

Legal Deadline: None

Abstract: These rules will amend the Medicaid regulations to incorporate numerous eligibility groups for Medicaid coverage: pregnant women; children in adoption and foster care; certain disabled widows and widowers; certain disabled children being cared for at home; and certain other qualified children. The rules will also provide for extended care for pregnant women after termination of pregnancy and add a condition of eligibility relating to third party liability. The amendments will conform the regulations to provisions of the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100-203), the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99-272), and the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248). States have been informed that these provisions of the statute are self-implementing. Manual instructions containing procedures for States to implement the requirements have been issued.

Timetable:

Action	Date	FR Cite
NPRM	02/23/89	54 FR 7798
NPRM Comment Period End	04/24/89	54 FR 7798
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: William Hickman, Director, Division of Medicaid Policy, Department of Health and Human Services, Health Care Financing Administration, Room 200, EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-3238

RIN: 0938-AD16

1050. PAYMENT FOR SERVICES OF CERTIFIED REGISTERED NURSE ANESTHETISTS (BPD-623-F)

Legal Authority: 42 USC 1395x(s)(ll); 42 USC 1395l(l); 42 USC 1395x(bb); 42 USC 1302

CFR Citation: 42 CFR 405.553; 42 CFR 405.502; 42 CFR 413.80

Legal Deadline: None

Abstract: Section 9320 of Pub. L. 99-509 provides for payment on a fee schedule basis for services of certified registered nurse anesthetists (CRNAs) furnished to Medicare beneficiaries on or after January 1, 1988. The payment amount will be equal to the least of 80 percent of a fee schedule established by the Secretary (and adjusted annually by the change in the Medicare economic index), 80 percent of the prevailing charge for an anesthesiologist; or 80 percent of the actual charge. CRNAs will be required to accept assignment for all Medicare services and civil monetary penalties could be imposed for violations of this requirement. Alternatively, the hospital or physician could bill for and receive payment for services of CRNAs where an employment relationship or contract so stipulates. The hospital or physician could not bill more for CRNA services than the amount the CRNA could bill directly.

Timetable:

Action	Date	FR Cite
NPRM	01/26/89	54 FR 3808
NPRM Comment Period End	03/27/89	54 FR 3808
Final Action	11/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bernard Fetsbulk, Director, Division of Medical Services Payment, Department of Health and Human Services, Health Care Financing Administration, Room 1-H-5 EHR, 6325 Security Blvd., Baltimore, Md. 21207, 301 966-4497

RIN: 0938-AD25

1051. MODIFICATION OF CERTAIN REQUIREMENTS FOR HEALTH INSURING ORGANIZATIONS (MB-12-F)

Legal Authority: 42 USC 1302; 42 USC 1396b(m)(2)(A); PL 99-272, Sec 9517(c); PL 99-514, Sec 1895(c)(4); PL 99-509, Sec 9435(e)

CFR Citation: 42 CFR 434.14; 42 CFR 434.20; 42 CFR 434.40; 42 CFR 434.42; 42 CFR 434.44; 42 CFR 434.2

Legal Deadline: None

Abstract: The final rule will describe the conditions under which a Health Insuring Organization (HIO) is subject to certain Medicaid Health Maintenance Organization (HMO) regulations. It requires that an HIO which becomes operational on or after January 1, 1986 and arranges for the delivery of services to recipients be subject to HMO requirements. The regulations specify that exemptions from certain HMO requirements are permitted for HIOs which began operations on or after January 1, 1986 if the HIOs obtained a waiver under section 1915(b) of the Social Security Act prior to that date, or if an HIO is

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otherwise identified in the law. The exemptions which are based on section 1985(b) waivers last only until the expiration of the waiver.

Timetable:

Action	Date	FR Cite
NPRM	09/25/88	53 FR 37405
NPRM Comment Period End	10/24/88	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roxanne Taylor, Director, Medicaid Managed Care Office, Department of Health and Human Services, Health Care Financing Administration, 2-L-1, ELR, 6325 Security Blvd., Baltimore, MD. 21207, 301 966-3292

RIN: 0938–AD31

1052. PROHIBITION ON UNBUNDLING OF HOSPITAL OUTPATIENT SERVICES (BPD-426-F)

Legal Authority: 42 USC 1395y(a)(14); 42 USC 1395cc(a)(1)(H); 42 USC 1395cc(g); 42 USC 1395x(w)(1); 42 USC 1395; 42 USC 1395hh

CFR Citation: 42 CFR 405; 42 CFR 410; 42 CFR 482; 42 CFR 1003

Legal Deadline: None

Abstract: This rule, issued jointly by HCFA and OIG, will prohibit Medicare payment for nonphysician services furnished to a hospital outpatient by a provider or supplier other than the hospital, unless the services are furnished under an arrangement with the hospital. The hospital will be obligated by its provider agreement to furnish the services directly or under an arrangement. These regulations also authorize OIG to impose a civil money penalty, not to exceed $2,000, against any individual who knowingly and willfully presents, or causes to be presented, a bill or request for payment for a hospital outpatient service under Part B of Medicare in violation of an arrangement. These regulations will implement sections 9343(c)(1), (c)(2), and (c)(3), of the Omnibus Budget Reconciliation Act of 1986 (PL 99-509).

Timetable:

Action	Date	FR Cite
NPRM	09/05/89	53 FR 29485
NPRM Comment Period End	10/04/89	53 FR 29485
Final Action	04/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas Hoyer, Director, Div. of Provider Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Rm. 413 EHR, 6325 Security Blvd., Baltimore, MD. 21207, 301 966-4497

RIN: 0938–AD33

1053. STATE SHARE OF FINANCIAL PARTICIPATION (MB-22-F)

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1396a; 42 USC 1396b

CFR Citation: 42 CFR 433

Legal Deadline: None

Abstract: This rule revises the current policy concerning State's use of donations and certain taxes in determining the State share of Federal financial participation in Medicaid.

Timetable:

Action	Date	FR Cite
NPRM	02/09/90	55 FR 4626
NPRM Comment Period End	04/10/90	55 FR 4626
Final Action	05/00/91	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Bernard Truffer, Chief, Medicaid Payment Policy Branch, Department of Health and Human Services, Health Care Financing Administration, Room 1-A-3, ELR, 6325 Security Blvd., Baltimore, MD. 21207, 301 966-4578

RIN: 0938–AD36

1054. CHANGES TO PEER REVIEW ORGANIZATION REGULATIONS (HSQ-135-F)

Legal Authority: 42 USC 1395y(a); 42 USC 1320(c); 42 USC 1395hh; 42 USC 1396a(a)(30); 42 USC 1395cc(a); 42 USC 1302

CFR Citation: 42 CFR 405.310; 42 CFR 431.630; 42 CFR 433.15; 42 CFR 434.53; 42 CFR 456.2; 42 CFR 456.650; 42 CFR 462.101; 42 CFR 462.102; 42 CFR 462.103; 42 CFR 462.107; 42 CFR 466.71; 42 CFR 466.78; 42 CFR 466.78; 42 CFR 466.83; 42 CFR 466.85; ...

Legal Deadline: None

Abstract: This rule sets forth several changes to the Medicare regulations governing Peer Review Organizations. Some of these changes are the result of the passage of the Consolidated Omnibus Budget Reconciliation Act of 1985 and the Omnibus Budget Reconciliation Act of 1986. Other changes are of a technical nature and are intended to clarify and correct existing regulations on the Peer Review Organization Program. The rule also sets forth the policy for reimbursement of costs incurred by hospitals for photocopying medical records needed by PROs during offsite reviews.

Timetable:

Action	Date	FR Cite
NPRM	05/16/88	53 FR 8654
NPRM Comment Period End	05/16/88	53 FR 8654
Final Action	05/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Richard Husk, Director, Office of Peer Review, Department of Health and Human Services, Health Care Financing Administration, Rm. 2-D-2 Meadows East Bldg., 6325 Security Blvd., Baltimore, MD. 21207, 301 966-6530

RIN: 0938–AD38

1055. HOME HEALTH AGENCIES: CONDITIONS OF PARTICIPATION AND REDACTION IN RECORDKEEPING REQUIREMENTS (BPD-476-F)

Legal Authority: 42 USC 1395; 42 USC 1395x; 42 USC 1395hh; 42 USC 1395bbb

CFR Citation: 42 CFR 484

Legal Deadline: Final, Statutory, October 1, 1988.
Minimum standards for home health aide training and competency evaluation programs must, pursuant to PL 100-203, section 4021(b), be established by October 1, 1988.

Abstract: These regulations specify requirements for home health agencies for: protecting and promoting patient rights; training and competency of home health aides; notifying State entities responsible for the licensing or certification of HHAs of changes in

ownership, managing employees, and managing organizations; including an individual's plan of care as part of the individual's clinical records; and operating and furnishing services in compliance with accepted professional standards and principles that apply to professionals furnishing home health services.

Timetable:

Action	Date	FR Cite
Final Rule With Comment Period	08/14/89	54 FR 33354
Comment Period End	10/13/89	54 FR 33354
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Hoyer, Director, Division of Provider Services and Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 413, EHR, 6325 Security Blvd, Baltimore, MD 21207, 301 966-4607

RIN: 0938-AD45

1056. SCHEDULE OF LIMITS FOR SKILLED NURSING FACILITY INPATIENT ROUTINE SERVICE COSTS FOR REPORTING PERIODS BEGINNING ON OR AFTER OCTOBER 1, 1989 (BPD-464-IFNC)

Significance: Agency Priority

Legal Authority: 42 USC 1395x(v)(1); 42 USC 1395yy; 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 413.30

Legal Deadline: None

Abstract: This notice will set forth a revised schedule of limits on skilled nursing facility inpatient routine service costs that are reimbursed under Medicare. We are updating the schedule of limits effective the first day of the month following 30 days after date of publication.

Timetable:

Action	Date	FR Cite
Final Notice with Comment	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, 1-F-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4512

RIN: 0938-AD48

1057. HOME AND COMMUNITY-BASED SERVICES FOR THE ELDERLY (BPD-019-IFC)

Legal Authority: 42 USC 1396n(d); 42 USC 1302

CFR Citation: 42 CFR 435.3; 42 CFR 435.217; 42 CFR 435.726; 42 CFR 435.735; 42 CFR 436.2; 42 CFR 436.217; 42 CFR 440.250; 42 CFR 441.10; 42 CFR 441.350 to 441.357; 42 CFR 441.360; 42 CFR 441.365; 42 CFR 400.203; 42 CFR 440.1; 42 CFR 440.101

Legal Deadline: Final, Statutory, October 1, 1989.

Abstract: This regulation will implement section 1915(d) of the Social Security Act, which allows a State to obtain a waiver of certain Medicaid requirements to permit Federal financial participation for home and community based services provided to individuals age 65 or older who are shown by an evaluation to be likely to require the level of care provided in a skilled nursing facility (SNF) or intermediate care facility (ICF), the cost for which could be paid by Medicaid. The statute allows for waivers of statewideness, comparability, and income deeming. Under the waiver provisions, the total amount expended by the State for home and community based services, SNF services, and ICF services for individuals over age 65 may not exceed a "projected amount", determined under the methodology provided in these regulations. For States electing this option the waiver would replace home and community based waivers available under section 1915(c) of the Act, for individuals in this age category.

Timetable:

Action	Date	FR Cite
Interim Final Rule with Comment Period	09/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: William Hickman, Director, Office of Medicaid Policy, Department of Health and Human Services, Health Care Financing Administration, Room 200 EHF, 6325 Security Blvd., Baltimore, MD 21207, 301 966-3226

RIN: 0938-AD55

1058. FEE SCHEDULES FOR RADIOLOGIST SERVICES (BPD-479-F)

Significance: Agency Priority

Legal Authority: 42 USC 1395l(a)(1)(J); 42 USC 1395m(b); 42 USC 1302; 42 USC 1395hh; PL 100-203, Sec 4040(b)

CFR Citation: 42 CFR 405.501; 42 CFR 405.520; 42 CFR 405.532; 42 CFR 405.533; 42 CFR 405.550; 42 CFR 405.551; 42 CFR 405.554; 42 CFR 405.555

Legal Deadline: NPRM, Statutory, August 1, 1988.

Abstract: Pursuant to provisions included in section 4040 of PL 100-203, these rules set forth a fee schedule for radiology services furnished by a board-certified or board eligible radiologist or by a physician whose charges for radiology services account for 50 percent or more of his or her total Medicare charges. These physicians will be paid at 80 percent of the lower of the actual charges or the appropriate fee schedule amount. The fee schedule amount for a nonparticipating physician is 95 percent of the amount applicable to a participating physician. In addition, a nonparticipating physician's charges to beneficiaries are capped. The fee schedule will result in overall payment to physicians for radiology of 3 percent less than would have occurred without a fee schedule. The fee schedule will be updated annually in accordance with the annual increase in the Medicare Economic Index.

Timetable:

Action	Date	FR Cite
Interim Rule with Comment Period	03/02/89	54 FR 8904
Effective date	04/01/89	
Comment Period End	05/01/89	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information:

TIMETABLE: Pending resolution of complex policy issues.

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Agency Contact: Bernard Pateshnik, Director, Division of Medical Services Payment, Department of Health and Human Services, Health Care Financing Administration, Room 1-H-5, ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4457

RIN: 0938-AD62

1059. PAYMENT FOR DURABLE MEDICAL EQUIPMENT AND ORTHOTIC AND PROSTHETIC DEVICES (BPD-484-IFC)

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395m(a); 42 USC 1395n(a); 42 USC 1395l(a); 42 USC 1395u(b); 42 USC 1395x(b); 42 USC 1395x(v); 42 USC 1395cc(a); 42 USC 1395rr; 42 USC 1395ww; 42 USC 1395 xx

CFR Citation: 42 CFR 405.501; 42 CFR 405.514; 42 CFR 414.200; 42 CFR 414.202; 42 CFR 414.210; 42 CFR 414.220; 42 CFR 414.222; 42 CFR 414.224; 42 CFR 414.226; 42 CFR 414.228; 42 CFR 414.230; 42 CFR 410.38; 42 CFR 410.38; 42 CFR 414.232

Legal Deadline: None

Abstract: This final rule with comment period implements section 4062 of PL 100-203. It establishes fee schedules and payment methodologies that govern payments for six categories of durable medical equipment and orthotic and prosthetic devices as required by section 4062 of PL 100-203. The new payment rates are to be effective for items provided on or after January 1, 1989.

Timetable:

Action	Date	FR Cite
Interim Final Rule with Comment Period	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bernard Pateshnik, Director, Division of Medical Services Payment, Department of Health and Human Services, Health Care Financing Administration, Room 1-H-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4457

RIN: 0938-AD65

1060. CHARGES TO RESIDENTS' FUNDS IN NURSING HOMES (BPD-477-F)

Legal Authority: 42 USC 1395i-3(f)(7); 42 USC 1395hh; 42 USC 1302; 42 USC 1396r(f)(7)

CFR Citation: 42 CFR 466; 42 CFR 442; 42 CFR 483

Legal Deadline: NPRM, Statutory, July 1, 1988. Final, Statutory, July 1, 1988.

Abstract: This final rule defines those costs which may be charged to the personal funds of Medicare and Medicaid patients in nursing facilities and the costs which are to be included in the payment amount for nursing facility services.

Timetable:

Action	Date	FR Cite
NPRM	03/20/90	55 FR 10256
NPRM Comment Period End	06/21/90	55 FR 10256
Final Action	09/00/91	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Samuel Kidder, Chief, Long Term Care Branch, Department of Health and Human Services, Health Care Financing Administration, 429 EHR Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 966-4629

RIN: 0938-AD66

1061. PROHIBITION OF FFP FOR EDUCATIONAL AND VOCATIONAL TRAINING FOR INSTITUTIONALIZED INDIVIDUALS (BPD-485-F)

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(17)(B); 42 USC 1396a(a)(25); 42 USC 1396b(c)

CFR Citation: 42 CFR 441

Legal Deadline: None

Abstract: This rule reflects a court decision precluding the Department from using a child's individualized education program rather than the nature of services provided, to determine whether or not services provided to residents of intermediate care facilities for the mentally retarded are reimbursable under Medicaid.

Timetable:

Action	Date	FR Cite
NPRM	02/21/90	55 FR 6015
NPRM Comment Period End	04/22/90	55 FR 6015
Final Action	07/00/91	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Samuel W. Kidder, Chief, Long Term Care Branch, Department of Health and Human Services, Health Care Financing Administration, 429 EHR, 6325 Security Boulevard, Baltimore, Maryland, 301 966-4620

RIN: 0938-AD69

1062. MEDICARE SECONDARY PAYER FOR DISABLED ACTIVE INDIVIDUALS (BPD-483-F)

Legal Authority: 42 USC 1302; 42 USC 1395y(b); 42 USC 1395hh

CFR Citation: 42 CFR 411

Legal Deadline: None

Abstract: This rule implements statutory limitations on Medicare payment for services furnished to disabled "active individuals" who are also covered under a large group health plan (LGHP) and prohibits discrimination by an LGHP against such individuals.

Timetable:

Action	Date	FR Cite
NPRM	03/06/90	55 FR 8491
NPRM Comment Period End	05/06/90	55 FR 8491
Final Action	05/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Herbert Pollack, Chief, Medicare Claims Payment Policy Branch, Department of Health and Human Services, Health Care Financing Administration, Room 418, EHR, 6325 Security Blvd., Baltimore, Maryland 21207, 301 966-4474

RIN: 0938-AD73

1063. CONFORMING AMENDMENTS RESULTING FROM THE OMNIBUS BUDGET RECONCILIATION ACT OF 1987 (BPD-484-FC)

Legal Authority: 42 USC 1395x(r); 42 USC 1395l; 42 USC 1395x(s); 42 USC 1395y; 42 USC 1395x(e); 42 USC 1395r;

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42 USC 426; 42 USC 1395d; 42 USC 1395n; 42 USC 1395s; 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 400; 42 CFR 405; 42 CFR 406; 42 CFR 408; 42 CFR 409; 42 CFR 410; 42 CFR 413; 42 CFR 416; 42 CFR 417; 42 CFR 424; 42 CFR 430; 42 CFR 431; 42 CFR 435; 42 CFR 436; 42 CFR 440; ...

Legal Deadline: None

Abstract: These regulations conform HCFA rules to certain self-executing provisions of the Omnibus Budget Reconciliation Act of 1987. They are needed to make HCFA rules consistent with current provisions of law and to ensure that users of the regulations are not confused by outdated provisions or unclear language. Under the Medicare program's rules changes are made affecting: services of podiatrists; outpatient psychiatric services; SMI premiums; partial hospitalization; and comprehensive outpatient rehabilitative facility services. Under the Medicaid program changes are made affecting: services of dentists; clinic services; and waivers of certain State plan requirements. In addition, we make other conforming and transitional amendments.

Timetable:

Action	Date	FR Cite
Final Rule with Comment Period	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Luisa V. Iglesias, Technical Assistant, Department of Health and Human Services, Health Care Financing Administration, Room 418H Hubert H. Humphrey Bldg., 200 Independence Avenue, SW., Washington, DC 20201, 202 245-0362

RIN: 0938-AD92

1064. DIAGNOSIS CODES ON PHYSICIAN BILLS (BPD-610-F)

Legal Authority: 42 USC 1395u(p); 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 424.3; 42 CFR 424.32; 42 CFR 424.34

Legal Deadline: None

Abstract: This rule requires each bill or request for payment for a service furnished by a physician under Medicare Part B must include appropriate diagnostic coding for the diagnosis on the nature of the illness or injury for which the Medicare beneficiary received care. This rule implements certain provisions of section 202(g) of PL 100-360.

Timetable:

Action	Date	FR Cite
NPRM	07/21/89	54 FR 30566
NPRM Comment Period End	09/19/89	54 FR 30566
Final Action	05/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pat Brooks, Director, Medical Coding Policy Staff, Department of Health and Human Services, Health Care Financing Administration, 1j2 ELR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-5918

RIN: 0938-AE08

1065. WITHDRAWAL OF COVERAGE OF EXTRACRANIAL-INTRACRANIAL ARTERIAL BYPASS SURGERY FOR THE TREATMENT OR PREVENTION OF STROKE (BPD-622-FN)

Legal Authority: 42 USC 1395y(a)(1); 42 USC 1302; 42 USC 1395hh

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This notice announces the withdrawal of Medicare coverage of extracranial-intracranial arterial bypass surgery when used to treat or prevent strokes.

Timetable:

Action	Date	FR Cite
Proposed Notice	04/10/90	55 FR 13321
Public Comment Period End	06/11/90	55 FR 13321
Final Notice	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam DellaVecchia, Chief, Special Coverage Issues Branch, Department of Health and Human Services, Health Care Financing Administration, Room 445 EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-5916

RIN: 0938-AE11

1066. HMO QUALIFICATION AND COMPLIANCE ACTIONS (OPN-6-F)

Legal Authority: 42 USC 300e-9; 42 USC 300e-11

CFR Citation: None

Legal Deadline: None

Abstract: This notice will list the Federal qualifications and compliance determinations in accordance with sections 1312(b)(1) of the Public Health Service Act.

Timetable:

Action	Date	FR Cite
Final Action	05/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Keese, Policy, Planning and Liaison Staff, Office of Prepaid Health Care, Department of Health and Human Services, Health Care Financing Administration, Room 4420, Cohen Bldg., 330 Independence Avenue, SW., Washington, DC 20201, 202 619-2078

RIN: 0938-AE26

1067. PAYMENT ADJUSTMENTS FOR HOSPITALS THAT SERVE A DISPROPORTIONATE NUMBER OF LOW-INCOME PATIENTS (HSQ-017-F)

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(13)(A); 42 USC 1396r-4

CFR Citation: 42 CFR 412; 42 CFR 440; 42 CFR 447

Legal Deadline: None

Abstract: This rule establishes the requirements and options for Medicaid payments to hospitals that serve a disproportionate number of low-income patients with special needs. The Medicaid agency will be required to make payment adjustments to these hospitals when such hospitals have met specified conditions. The rule also simplifies and clarifies the rules that apply to these hospitals under the Medicare program, some of which are incorporated by reference in the Medicaid rules.

Timetable:

Action	Date	FR Cite
NPRM	03/16/90	55 FR 10077
NPRM Comment Period End	05/15/90	55 FR 10077
Final Action	00/00/00	

Small Entities Affected: Businesses

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Government Levels Affected: State

Additional Information:

TIMETABLE: Pending analysis of public comments on proposed rule.

Agency Contact: Marinos Svolos, Director, Division of Medicaid Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 300, EHR, 6325 Security Boulevard, Baltimore, MD 21207, 301 966-4451

RIN: 0938-AE35

1068. MEDICARE, MEDICAID AND CLIA PROGRAMS: REGULATIONS IMPLEMENTING THE CLINICAL LABORATORY IMPROVEMENT AMENDMENTS OF 1988 (CLIA '88) (HSQ-170-F)

Significance: Regulatory Program

Legal Authority: 42 USC 263a

CFR Citation: 42 CFR 493

Legal Deadline: None

Abstract: Historically the Department has regulated laboratories by "location," rather than by types of tests they perform. Amendments to the Clinical Laboratories Improvements Act of 1988 changes this approach. The amendments require that the Department "regulate by test," using what is commonly referred to as the "complexity model." This final rule sets forth standards for all laboratories based on complexity and responds to public comments on the proposed standards.

Timetable:

Action	Date	FR Cite
NPRM	05/21/90	55 FR 20896
NPRM Comment Period End	09/21/90	55 FR 34299
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information:

TIMETABLE: Pending receipt and analysis of public comment.

Agency Contact: Wayne Smith, Director, Office of Survey and Certification, Department of Health and Human Services, Department of Health and Human Services, Health Care Financing Administration, 6325 Security Boulevard, 2-D-2 ME, Baltimore, Maryland 21207, 301 966-6783

RIN: 0938-AE47

1069. PREADMISSION SCREENING AND ANNUAL RESIDENT REVIEW (BPD-661-F)

Legal Authority: PL 100-203

CFR Citation: 42 CFR 483

Legal Deadline: None

Abstract: This final rule would implement two provisions of the Omnibus Budget Reconciliation Act of 1987 (OBRA '87), Pub. L. 100-203. The provisions include: (1) State requirements for preadmission screening and annual resident review of individuals with mental illness or mental retardation who are applicants to or residents of nursing facilities that are certified for Medicaid; and (2) appeals systems for persons who may be transferred or discharged from facilities or who wish to dispute a determination made in the preadmission screening and annual review process.

Timetable:

Action	Date	FR Cite
NPRM	03/23/90	55 FR 10951
NPRM Comment Period End	05/22/90	55 FR 10951
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Samuel Kidder, Chief, Long Term Care Branch, Department of Health and Human Services, Health Care Financing Administration, Room 429, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-6629

RIN: 0938-AE49

1070. NURSE AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS (BPD-662-F)

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1396-3; 42 USC 1396r

CFR Citation: 42 CFR 431; 42 CFR 483

Legal Deadline: NPRM, Statutory, March 19, 1990.

Abstract: This rule requires States to establish training and competency evaluation programs that meet Federal requirements for nurse aides employed by Medicare and Medicaid participating nursing facilities, and also have a nurse aide registry. The purpose of these provisions is to ensure that nurse aides have the education, practical knowledge, and skills needed to care for residents of nursing facilities.

Timetable:

Action	Date	FR Cite
NPRM	03/23/90	55 FR 10636
NPRM Comment Period End	05/22/90	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Samuel Kidder, Chief, Long Term Care Branch, Department of Health and Human Services, Health Care Financing Administration, Room 429, EHR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-6629

RIN: 0938-AE50

1071. GRANTING AND WITHDRAWAL OF DEEMING AUTHORITY TO PRIVATE NONPROFIT ACCREDITATION ORGANIZATIONS AND STATE LICENSURE AGENCIES FOR LABORATORIES (HSQ-181-F)

Significance: Regulatory Program

Legal Authority: 42 USC 263a

CFR Citation: 42 CFR 493

Legal Deadline: None

Abstract: On October 31, 1988, PL 100-578 amended section 353 of the Public Health Service Act. The amendments (the Clinical Laboratories Improvement Act of 1988), in section 353(e) of the Public Health Service Act, provided laboratories with the option of meeting Federal certification requirements through accreditations by an approved accrediting body. Laboratories in States that have standards equal to or more stringent than those of section 353 of the Public Health Service Act will also be exempt from Federal standards. A laboratory accredited under an approved laboratory accreditation program or licensed in an approved State licensure program will be deemed to meet Federal certification requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/18/90	55 FR 33936
Final Action	00/00/00	

HHS—HCFA

Final Rule Stage

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information:

TIMETABLE: Pending receipt and analysis of public comments.

Agency Contact: Irene Gibson, Director, Division of Program Operations, Department of Health and Human Services, Health Care Financing Administration, 2-D-2, ME, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-6758

RIN: 0938–AE62

1072. MONTHLY ACTUARIAL RATES AND SUPPLEMENTARY MEDICAL INSURANCE PREMIUM RATE BEGINNING JANUARY 1, 1991 (OACT-35-N)

Significance: Agency Priority

Legal Authority: 42 USC 1395r

CFR Citation: None

Legal Deadline: Other, Statutory, September 30, 1990.

Abstract: This notice announces the monthly actuarial rates for aged (aged 65 and over) and disabled (under 65) enrollees in the Medicare Supplementary Medical Insurance (SMI) program for the 12 months beginning January 1, 1991. It also announces the monthly SMI premium rate to be paid by all enrollees during the 12 months beginning January 1, 1991.

Timetable:

Action	Date	FR Cite
Notice	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carter Warfield, Director, Division of Supplementary Medical Insurance, Office of the Actuary, Department of Health and Human Services, Health Care Financing Administration, M1, 1705 Equitable Building, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-6366

RIN: 0938–AE67

1073. INPATIENT HOSPITAL DEDUCTIBLE FOR 1991 AND HOSPITAL AND SMI COINSURANCE AMOUNTS FOR 1991 (OACT-36-N)

Significance: Agency Priority

Legal Authority: 42 USC 1395e

CFR Citation: 42 CFR 409.82

Legal Deadline: Other, Statutory, September 15, 1990.

Abstract: This notice announces the inpatient hospital deductible for calendar year 1991 under Medicare's hospital insurance program. In addition, this notice announces both the hospital and skilled nursing coinsurance amounts for 1991. The Medicare statute specifies the formula that is used to determine these amounts.

Timetable:

Action	Date	FR Cite
Notice	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Salomon Mussey, Supervisory Actuary, Office of Medicare Cost Estimates, Department of Health and Human Services, Health Care Financing Administration, M1, 1705 Equitable Building, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-6366

RIN: 0938–AE56

1074. PHYSICIAN PERFORMANCE STANDARD RATE OF INCREASE FOR FISCAL YEAR 1991 (BPD-666-NC)

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1395w-4; 42 USC 1395hh

CFR Citation: None

Legal Deadline: None

Abstract: Section 6102 of PL 101-239 added section 1848 to the Social Security Act. Section 1848(f) requires the Secretary to recommend to the Congress acceptable performance standard rates of increase for expenditures and volume of physician services each fiscal year. This notice announces the performance rate of increase for FY 1991.

Timetable:

Action	Date	FR Cite
Final Notice with Comment Period	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bernard Pataschnik, Director, Division of Medical Services Payment, Department of Health and Human Services, Health Care Financing Administration, Room 1-H-6, ELR, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 966-4457

RIN: 0938–AE70

1075. ◆ MEDICARE PAYMENT FOR HOSPICE CARE (BPD-691-FC)

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395f(i)(1)

CFR Citation: 42 CFR 418

Legal Deadline: None

Abstract: This rule will conform Medicare regulations to the requirements of section 6005(a) of the Omnibus Budget Reconciliation Act of 1989, which provided a 20 percent increase in payment rates for the four types of covered hospice care, and to specify the method HCFA will use to update the national rates for future years. The preamble also announces a change in the basis that Medicare intermediaries will use to adjust the national rates to reflect local wage differentials.

Timetable:

Action	Date	FR Cite
Final Rule with Comment Period	02/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Randolph Richter, Program Analyst, Division of Special Payment Programs, Department of Health and Human Services, Health Care Financing Administration, 1-A-3, ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4556

RIN: 0938–AE82

1076. ◆ MEDICARE ECONOMIC INDEX UPDATE (BPD-695-N)

Legal Authority: 42 USC 1395u

CFR Citation: None

Legal Deadline: None

Abstract: This notice updates the Medicare Economic Index (MEI) which is used to calculate the prevailing charge levels that help to determine reasonable charges for certain physician services under the Medicare supplementary medical insurance (Part B) program.

HHS—HCFA

Final Rule Stage

Timetable:

Action	Date	FR Cite
Notice	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bernard Fatzebalk, Director, Division of Medical Services Payment, Department of Health and Human Services, Health Care Financing Administration, 1-H-5, ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4457

RIN: 0938-AE83

1077. ● ELIGIBILITY FOR PREMIUM HOSPITAL INSURANCE; STATE BUY-IN AGREEMENTS (BPD-668-FC)

Legal Authority: 42 USC 1302; 42 USC 1395i-2(a)

CFR Citation: 42 CFR 406; 42 CFR 407

Legal Deadline: None

Abstract: This regulation provides that disabled individuals may enroll in premium hospital insurance if they lose entitlement to social security disability benefits solely because their earnings exceed the limits imposed by the "gainful activity" rules, and as a result of that loss also lose entitlement to free hospital insurance that was based on entitlement to disability benefits. The regulation also updates and simplifies the rules on State buy-in for Medicare benefits for their Medicaid recipients and specifies two new groups for which States may buy-in: Qualified Medicare Beneficiaries, and Qualified Disabled and Working Individuals.

Timetable:

Action	Date	FR Cite
Final Rule with Comment Period	02/00/91	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Denis Garrison, Chief, Medicare Eligibility & Technical Issues Br., Department of Health and Human Services, Health Care Financing Administration, Room 414, EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-5943

RIN: 0938-AE92

1078. ● MEDICARE COVERAGE OF PRESCRIPTION DRUGS USED IN IMMUNOSUPPRESSIVE THERAPY (BPD-424-F)

Legal Authority: 42 USC 1395x(s)(2)(J); 42 USC 1302

CFR Citation: 42 CFR 410

Legal Deadline: None

Abstract: This final rule amends the regulations to reflect section 9335(c) of the Omnibus Budget Reconciliation Act of 1986 and section 4075 of the Omnibus Budget Reconciliation Act of 1987. These provisions provide Medicare coverage for prescription drugs used in immunosuppressive therapy furnished to an individual who receives an organ transplant for which Medicare payment is made for a period of one year after the transplant procedure.

Timetable:

Action	Date	FR Cite
NPRM	01/19/88	53 FR 1383
NPRM Comment Period End	03/21/88	53 FR 1383
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Higbee, Chief, Medical Services Branch, Department of Health and Human Services, Health Care Financing Administration, Room 479, EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4635

RIN: 0938-AE94

1079. ● CRITERIA FOR MEDICARE COVERAGE OF ADULT LIVER TRANSPLANTS (BPD-648-FN)

Legal Authority: 42 USC 1302; 42 USC 1395y(a)(1); 42 USC 1395hh

CFR Citation: None

Legal Deadline: None

Abstract: This final notice announces coverage of adult liver transplants based on a determination that liver transplants are a medically reasonable and necessary service when furnished to adult patients with certain conditions and by facilities that meet specific criteria, including patient selection criteria.

Timetable:

Action	Date	FR Cite
Proposed Notice	03/06/90	55 FR 8545
Public Comment Period End	05/07/90	55 FR 8545
Final Notice	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Villa Kilpe, M.D., Medical Officer, Office of Coverage & Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 401, EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-6365

RIN: 0938-AE98

1080. ● CHANGES TO THE LONG-TERM CARE FACILITY SURVEY PROCESS (HSQ-175-FC)

Legal Authority: PL 101-239, Sec 6901(a); 42 USC 1395i-3; 42 USC 1395aa(d); 42 USC 1396r; 42 USC 1302

CFR Citation: 42 CFR 442; 42 CFR 488

Legal Deadline: None

Abstract: This final rule with comment period amends the Medicare and Medicaid regulations by removing the long-term care survey forms, guidelines, and procedures used by State agencies when they evaluate a Medicare skilled nursing facility or a Medicaid nursing facility for compliance with Federal certification requirements. Effective October 1, 1990, the application of new Federal participation requirements for these facilities with an increased focus on actual or potential resident outcomes will make the survey forms and process in existing regulations outdated. Retention of the outdated items could cause confusion in connection with directions State survey agencies must follow in determining facility requirements for the new requirements that become effective October 1, 1990.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Irene Gibson, Deputy Director, Division of Program Operations, Department of Health and Human Services, Health Care Financing

Administration, 2-D-3, ME, 6325 Security Blvd., Baltimore, MD 21207, 301 966-6763

RIN: 0938-AF02

1061. ● GENERAL NOTICE ON MEDICARE SECONDARY PAYMENT (BPO-94-GN)

Legal Authority: 42 USC 1395y

CFR Citation: 42 CFR 411.25

Legal Deadline: None

Abstract: This general notice will establish procedures to be followed by insurers in reporting Medicare Secondary Payment information which is required by current regulation. This notice is necessary because the regulation does not specify the reporting procedures to be used.

Timetable:

Action	Date	FR Cite
General Notice	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marc Thomas, Director, Office of Operational Initiatives, Department of Health and Human Services, Health Care Financing Administration, Room 367, ME Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 966-7154

RIN: 0938-AF05

1062. ● MEDICARE GEOGRAPHICAL CLASSIFICATION REVIEW BOARD: PROCEDURES AND GUIDELINES (BPD-684-F)

Significance: Agency Priority

Legal Authority: 42 USC 1302; 42 USC 1395g(e); 42 USC 1395hh; 42 USC 1395ww

CFR Citation: 42 CFR 412

Legal Deadline: Final, Statutory, July 1, 1990.

Abstract: This interim final rule with comment period implements provisions of the Omnibus Budget Reconciliation Act of 1989 establishing the Medicare Geographical Classification Review Board (MGCRB) and sets forth criteria for the MGCRB to use in issuing its decisions concerning the geographical reclassification of hospitals for purposes of payment under the prospective payment system.

Timetable:

Action	Date	FR Cite
Interim Final with Comment Period	09/05/90	55 FR 36754
Comment Period End	11/06/90	55 FR 36754
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information:

TIMETABLE: Pending receipt and analysis of public comments.

Agency Contact: Barbara Wynn, Director, Division of Hospital Payment Policy, Department of Health and Human Services, Health Care Financing Administration, Room 1-H-1, EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4520

RIN: 0938-AP19

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Care Financing Administration (HCFA)

Completed Actions

1063. WAIVER OF CERTAIN MEMBERSHIP REQUIREMENTS FOR CERTAIN HMOS AND STATE OPTION FOR DISENROLLMENT RESTRICTIONS FOR CERTAIN HMOS UNDER MEDICAID

CFR Citation: 42 CFR 434.28; 42 CFR 434.27; 42 CFR 434.20; 42 CFR 435.212; 42 CFR 435.326

Completed:

Reason	Date	FR Cite
Final Action	06/12/90	55 FR 23736
Final Action Effective	07/12/90	55 FR 23736

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Roxanne Taylor 301 966-3362

RIN: 0938-AB54

1064. CLARIFICATION OF POLICY ON ADJUSTING THE HOSPITAL-SPECIFIC PORTION OF THE PROSPECTIVE PAYMENT RATE (BPD-326-F)

Significance: Agency Priority

CFR Citation: 42 CFR 412.72

Completed:

Reason	Date	FR Cite
Withdrawn due to Court Ruling	07/06/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edward Rose 301 966-4536

RIN: 0938-AB71

1065. REVISION OF MEDICAID ELIGIBILITY QUALITY CONTROL (MEQC) PROGRAM REQUIREMENTS (MB-032-FC)

Significance: Regulatory Program

CFR Citation: 42 CFR 431.800 to 431.806; 42 CFR 431.810 to 431.822; 42 CFR 431.830 to 431.836; 42 CFR 431.861 to 431.865

Completed:

Reason	Date	FR Cite
Final Action	05/31/90	55 FR 22142
Final Action Effective	07/01/90	55 FR 22142

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Kathy Rama 301 966-0029

RIN: 0938-AB65

1066. REVIEW OF CURRENT RULES AFFECTING LABORATORIES UNDER MEDICARE, MEDICAID AND CLIA '67 PROGRAMS (HSQ-146-FC)

Significance: Regulatory Program

CFR Citation: 42 CFR 405.1310 to 405.1317; 42 CFR 482.27; 42 CFR 74; 42 CFR 405.558; 42 CFR 405.2102; 42 CFR 405.2171; 42 CFR 416.49; 42 CFR 440.30; 42 CFR 483.460; 42 CFR 488.52

Completed:

Reason	Date	FR Cite
Final Action	03/14/90	55 FR 9538

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Wayne Smith 301 966-6763

RIN: 0938-AB08

1087. MEDICARE COVERAGE OF HEPATITIS B VACCINE FOR HIGH AND INTERMEDIATE RISK INDIVIDUALS, HEMOPHILIA CLOTTING AND CERTAIN X-RAY SERVICES (BPD-327-F)

CFR Citation: 42 CFR 405.310(a); 42 CFR 405.310(e); 42 CFR 405.310(k); 42 CFR 410.10; 42 CFR 410.20; 42 CFR 410.32; 42 CFR 410.63

Completed:

Reason	Date	FR Cite
Final Action	05/04/90	55 FR 22785
Final Action Effective	07/05/90	55 FR 22785

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Higlow 301 966-4638

RIN: 0938-AC87

1088. PAYMENT FOR PHYSICIAN OUTPATIENT MAINTENANCE DIALYSIS SERVICES AND OTHER PHYSICIAN SERVICES FOR ESRD PATIENTS (BPD-381-F)

CFR Citation: 42 CFR 405; 42 CFR 413; 42 CFR 414

Completed:

Reason	Date	FR Cite
Final Action	05/08/90	55 FR 23435
Final Action Effective	06/07/90	55 FR 23435

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Niemann 301 966-4560

RIN: 0938-AC87

1089. ELIGIBILITY OF ALIENS FOR MEDICAID (MB-15-F)

CFR Citation: 42 CFR 435.402; 42 CFR 436.402; 42 CFR 440.200; 42 CFR 440.250; 42 CFR 435.128; 42 CFR 436.408; 42 CFR 436.408; 42 CFR 436.22; 42 CFR 440.255; 42 CFR 435.130; 42 CFR 435.406; 42 CFR 435.408; 42 CFR 435.1; 42 CFR 435.3; 42 CFR 436.128; ...

Completed:

Reason	Date	FR Cite
Final Action	09/07/90	55 FR 36813
Final Action Effective	10/09/90	55 FR 36813

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Marinee T. Svolos 301 966-4451

RIN: 0938-AD15

1090. WITHDRAWAL OF COVERAGE OF SINGLE PHOTON ABSORPTIOMETRY AND RADIOGRAPHIC ABSORPTIOMETRY AND CONTINUED NONCOVERAGE OF DUAL PHOTON ABSORPTIOMETRY (BPD-446-FN)

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Withdrawn No further action expected on this RIN	07/06/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bess DellaVecchia 301 966-5316

RIN: 0938-AD28

1091. PHYSICIAN LIABILITY ON NON-ASSIGNED CLAIMS (BPD-468-F)

CFR Citation: 42 CFR 405.339

Completed:

Reason	Date	FR Cite
Final Action	06/18/90	55 FR 24561
Final Action Effective	07/16/90	55 FR 24561

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Wren 301 966-5648

RIN: 0938-AD34

1092. APPLICATION OF THE COMPARABLE SERVICES LIMITATION IN DETERMINING REASONABLE CHARGES (BPD-658)

CFR Citation: 42 CFR 405.506

Completed:

Reason	Date	FR Cite
Withdrawn Due to Statutory Change	10/10/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bernard Patashnik 301 966-4457

RIN: 0938-AD50

1093. PROTOCOL FOR THE REUSE OF DIALYSIS BLOODLINES (BPD-473-F)

CFR Citation: 42 CFR 405.2150(d)

Completed:

Reason	Date	FR Cite
Final Action	05/02/90	55 FR 18331
Final Action Effective	06/01/90	55 FR 18331

Small Entities Affected: Businesses, Governmental jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Rita McGrath 301 966-4635

RIN: 0938-AD52

1094. UNIFORM RELATIVE VALUE GUIDE FOR ANESTHESIA SERVICES FURNISHED BY PHYSICIANS (BPD-480-F)

CFR Citation: 42 CFR 405.553

Completed:

Reason	Date	FR Cite
Final Action	06/07/90	55 FR 32078
Final Action Effective	09/06/90	55 FR 32078

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bernard Patashnik 301 966-4457

RIN: 0938-AD63

1095. AMBULATORY (OUTPATIENT) SURGICAL & MEDICAL PROCEDURES, PRE- ADMISSION REVIEW & AUTHORIZATION & PRE-ADMISSION DIAGNOSTIC TESTING & SAME DAY SURGERY UNDER MEDICAID (MB-21-F)

Significance: Regulatory Program

CFR Citation: 42 CFR 456

Completed:

Reason	Date	FR Cite
Withdrawn	07/23/90	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: William Hickman 301 966-3236

RIN: 0938-AD70

1096. PAYMENT FOR OUTPATIENT SURGERY AT EYE SPECIALTY HOSPITALS AND EYE AND EAR SPECIALTY HOSPITALS (BPD-601-F)

CFR Citation: 42 CFR 413.118

Completed:

Reason	Date	FR Cite
Final Action	08/17/90	55 FR 33697
Final Action Effective	09/17/90	55 FR 33697

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Goeller 301 966-4513

RIN: 0938-AD76

1097. SWING-BED PROGRAM CHANGES (BPO-493-F)

CFR Citation: 42 CFR 413; 42 CFR 424; 42 CFR 482; 42 CFR 483

Completed:

Reason	Date	FR Cite
Withdrawn Interim final rule considered final action.	08/21/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Hoyer 301 966-4007

RIN: 0938-AD83

1098. SECOND SURGICAL OPINION REQUIREMENTS FOR MEDICAID RECIPIENTS (MB-008-F)

Significance: Agency Priority

CFR Citation: 42 CFR 456.700; 42 CFR 456.703; 42 CFR 456.706; 42 CFR 456.707; 42 CFR 456.709; 42 CFR 456.711; 42 CFR 456.713; 42 CFR 456.715; 42 CFR 456.721; 42 CFR 456.723; 42 CFR 456.729

Completed:

Reason	Date	FR Cite
Withdrawn HCFA will advocate States to adopt where cost effective.	07/23/90	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Ernestine Jones 301 966-4643

RIN: 0938-AD66

1099. CRITERIA AND STANDARDS FOR EVALUATING INTERMEDIARY AND CARRIER PERFORMANCE (BPO-92-GNC)

CFR Citation: 42 CFR 421.120; 42 CFR 421.122; 42 CFR 421.201; 42 CFR 421.203

Completed:

Reason	Date	FR Cite
Final Action	09/26/90	55 FR 39730
Final Action Effective	10/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stewart Stralmer 301 966-7459

RIN: 0938-AE15

1100. MMIS SYSTEM PERFORMANCE REVIEW REVISIONS (MB-34-FN)

CFR Citation: 42 CFR 433.112; 42 CFR 433.123

Completed:

Reason	Date	FR Cite
Final Action	09/05/90	55 FR 36319
Final Action Effective	10/04/90	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Richard Friedman 301 966-3292

RIN: 0938-AE16

1101. UPDATE OF AMBULATORY SURGICAL CENTER PAYMENT RATES FOR JULY 1, 1990 (BPD-634)

Significance: Agency Priority

CFR Citation: 42 CFR 416.130

Completed:

Reason	Date	FR Cite
Final Action	02/08/90	55 FR 4577
Final Action Effective	03/12/90	55 FR 4577

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles Booth 301 966-4457

RIN: 0938-AE29

1102. HOME HEALTH AGENCIES: DEFINITIONS OF "INTERMITTENT" AND "PART-TIME" NURSING CARE AND HOME HEALTH AIDE SERVICES (BPD-627-F)

CFR Citation: 42 CFR 409.41; 42 CFR 409.42

Completed:

Reason	Date	FR Cite
Statutory Authority Repealed	12/15/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas Hoyer 301 966-4007

RIN: 0938-AE37

1103. HOME AND COMMUNITY BASED SERVICES WAIVERS FOR DRUG DEPENDENT OR AIDS INFECTED CHILDREN (MB-38-F)

CFR Citation: 42 CFR 441

Completed:

Reason	Date	FR Cite
Withdrawn Able to implement via other authority.	09/13/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marinos Svolos 301 966-4451

RIN: 0938-AE44

1104. UPDATE OF AMBULATORY SURGICAL CENTER PAYMENT RATES EFFECTIVE JULY 1, 1990 (BPD-664-FNC)

Significance: Agency Priority

CFR Citation: 42 CFR 416.130

Completed:

Reason	Date	FR Cite
Final Action	07/05/90	55 FR 27680
Final Action Effective	07/01/90	55 FR 27680

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Bernard Petaluk 301 966-4497

RIN: 0938-AE33

1105. CHANGE IN PATIENT FOR HOME DIALYSIS (BPD-671-FC)

CFR Citation: 42 CFR 405.544

Completed:

Reason	Date	FR Cite
Merged with RIN 0938-AE31	08/24/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert N[illegible] 301 966-4560

RIN: 0938-AE55

1106. CHANGES TO THE INPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEM AND FISCAL YEAR 1991 RATES (BPD-673-F)

Significance: Regulatory Program

CFR Citation: 42 CFR 405; 42 CFR 412; 42 CFR 413

Completed:

Reason	Date	FR Cite
Final Action	08/04/90	55 FR 32060
Final Action Effective	10/01/90	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Agency Contact: Barbara Wynn 301 966-4529

RIN: 0938-AE53

1107. SCHEDULE OF LIMITS ON HOME HEALTH AGENCY COSTS PER VISIT FOR COST REPORTING PERIODS BEGINNING ON OR AFTER JULY 1, 1990

Significance: Agency Priority

CFR Citation: 42 CFR 413.30

Completed:

Reason	Date	FR Cite
Merged with RIN 0938-AE76	08/29/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Agency Contact: Bill Goeller 301 966-4513

RIN: 0938-AE57

1108. SCHEDULE OF LIMITS FOR SKILLED NURSING FACILITY INPATIENT ROUTINE SERVICE COSTS FOR REPORTING PERIODS BEGINNING ON OR AFTER OCTOBER 1, 1990

Significance: Agency Priority

CFR Citation: 42 CFR 413.30

Completed:

Reason	Date	FR Cite
Merged with RIN 0938-AD48	08/29/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill Goeller 301 966-4513

RIN: 0938-AE58

1109. COST LIMITS FOR HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS (OHP-13-P)

Significance: Regulatory Program

CFR Citation: 42 CFR 417.532

Completed:

Reason	Date	FR Cite
Merged with RIN 0938-AF16	08/09/90	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Elizabeth Handley 202 619-1862

RIN: 0938-AE05

1110. PART A PREMIUM FOR THE UNINSURED AGED FOR 1991 (OACT-34-N)

Significance: Agency Priority

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	10/12/90	55 FR 41603
Final Action Effective	01/01/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Solomon Mussey 301 966-6386

RIN: 0938-AE66

1111. HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS; COORDINATED OPEN ENROLLMENT

Significance: Agency Priority

CFR Citation: 42 CFR 417

Completed:

Reason	Date	FR Cite
Repealed by OBRA '89	12/19/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Anne Marie Hummel 301 966-4537

RIN: 0938-AE09

1112. MID-YEAR 1990 LEGISLATIVE CHANGES TO THE INPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEM (BPD-673-FC)

CFR Citation: 42 CFR 413

Completed:

Reason	Date	FR Cite
Final Action	04/20/90	55 FR 15150
Final Action Effective	04/01/90	55 FR 15150

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Barbara Wynn 301 966-4529

RIN: 0938-AE73

HHS—HCFA

Completed Actions

1113. CAPITAL PAYMENTS UNDER THE INPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEM (BPD-681-P)

CFR Citation: 42 CFR 412

Completed:

Reason	Date	FR Cite
Duplicate of RIN 0938-AE59	05/03/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Barbara Wynn 301 966-4529

RIN: 0938-AE74

1114. DEFINITION OF SURGICAL SERVICES (BPD-676-NC)

Significance: Agency Priority

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	05/03/90	55 FR 18068
Final Action Effective	05/04/90	55 FR 18068

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bernard Pateshnik 301 966-4497

RIN: 0938-AE75

1115. ● MODEL FEE SCHEDULE FOR PHYSICIAN SERVICES (BPD-666-NC)

Significance: Agency Priority

Legal Authority: PL 101-239, Sec 6102

CFR Citation: None

Legal Deadline: None

Abstract: This notice with comment period announces a model fee schedule for physician services. Section 6102(f)(11) of PL 101-239 requires the Secretary to develop a model fee schedule by September 1, 1990, using the methodology set forth in section 6102(a), and to submit it to Congress and make it available to the public.

Timetable:

Action	Date	FR Cite
Notice Published	09/04/90	55 FR 36178

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Terrence Kay, Chief, Special Initiatives Branch, Div. of Medical Services Payment, Department of Health and Human Services, Health Care Financing Administration, 1-H-5, ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 966-4464

RIN: 0938-AE88

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Family Support Administration (FSA)

Proposed Rule Stage

1116. AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM; EXTENSION OF MEDICAID ELIGIBILITY WHEN SUPPORT COLLECTIONS RESULT IN TERMINATION OF AFDC ELIGIBILITY

Legal Authority: 42 USC 606; 42 USC 1302; PL 98-378, Sec 20; PL 100-485, Sec 303(e)

CFR Citation: 45 CFR 233; 45 CFR 435; 45 CFR 436

Legal Deadline: None

Abstract: This NPRM rule, which implements section 20 of the Child Support Enforcement Amendments of 1984 (Pub. L. 98-378) specifies that in any case where the collection or increased collection of support under title IV-D of the Social Security Act contributes wholly or partly to a family's ineligibility for AFDC, the family is deemed, but only for the purpose of Medicaid eligibility, to be receiving AFDC for a period of four calendar months after the last month of AFDC eligibility. This applies only to families who receive AFDC in three of the six months immediately preceding the month of ineligibility. "Received" includes those individuals denied an AFDC payment solely because the payment amount is under $10, the recoupment of overpayment, or because the payment is determined to be zero as a result of rounding.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
Final Action	12/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Regan, Acting Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW., Washington, DC 20447, 202 252-5116

RIN: 0970-AA07

1117. ALIEN VERIFICATION PROCEDURES FOR AFDC, STATE ADMINISTERED ADULT ASSISTANCE AND MEDICAID PROGRAMS; NOTICE OF PROPOSED RULEMAKING

Significance: Agency Priority

Legal Authority: PL 99-603, Sec 121

CFR Citation: 45 CFR 233; 42 CFR 435; 45 CFR 205; 42 CFR 433; 42 CFR 436

Legal Deadline: NPRM, Statutory, October 1, 1987.

Abstract: Immigration Reform and Control Act imposes new procedures on the AFDC, Adult Assistance Programs and Medicaid to verify immigration status of aliens applying for benefits under these programs with the Immigration and Naturalization Service. Under the law, States must be reimbursed at 100% for costs of their implementation and operation to access the alien status verification system. This regulation will specify what costs incurred by States will be subject to 100% reimbursement.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
Final Action	12/00/91	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: INS must establish an alien verification system that can be accessed by States by October 1, 1987. States may claim 100% reimbursement for implementing and operating SAVE beginning October 1, 1987.

Agency Contact: Mark Regan, Acting Director, Division of Policy, Office of Family Assistance, Department of

HHS—FSA

Proposed Rule Stage

Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW., Washington, DC 20447, 202 252-5116

RIN: 0970-AA41

1116. IMMEDIATE WAGE WITHHOLDING, REVIEW AND MODIFICATION OF ORDERS, AND MONTHLY NOTICE OF SUPPORT COLLECTIONS

Significance: Regulatory Program

Legal Authority: 42 USC 654(5); 42 USC 666

CFR Citation: 45 CFR 302.54; 45 CFR 302.70; 45 CFR 303.4; 45 CFR 303.100

Legal Deadline: None

Abstract: This regulation implements certain provisions of the Family Support Act of 1988 (P.L. 100-485). It requires States: (1) by November 1990, to require immediate income withholding in all cases receiving services under title IV-D of the Social Security Act with new or modified orders unless there is an alternative arrangement; (2) to review support orders in IV-D cases by October 1993 at least every 36 months and modify the support orders in accordance with support guidelines, as appropriate; and (3) to send monthly as opposed to annual notices of the amount of support collected to AFDC families.

Timetable:

Action	Date	FR Cite
NPRM	05/15/90	55 FR 33414
NPRM Comment Period End	10/15/90	
Final Action	06/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Craig Hathaway, Policy Specialist, Office of Child Support Enforcement, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, SW., Washington, DC 20447, 202 252-5367

RIN: 0970-AA83

1118. RELATED AFDC AMENDMENTS UNDER THE FAMILY SUPPORT ACT OF 1988

Significance: Regulatory Program

Legal Authority: PL 100-485, Sec 401(a); PL 100-485, Sec 402; PL 100-485, Sec 403; PL 100-485, Sec 601; PL 100-485, Sec 604(a)(3)

CFR Citation: 45 CFR 201.1(g); 45 CFR 205.44(b); 45 CFR 205.44(c); 45 CFR 205.44(e); 45 CFR 232.2; 45 CFR 233.20(a)(3)(xiii); 45 CFR 233.20(a)(6)(xi); 45 CFR 233.100; 45 CFR 233.107

Legal Deadline: None

Abstract: Would make the following changes required by the Family Support Act: (1) Require all States to provide benefits for families with unemployed parents and provide at least 6 months of coverage; (2) Increase the standard work expense disregard to $90; (3) Increase the limit on the dependent care disregard to $175 ($200 for a child under 2); (4) Disregard earned income tax credit payments; (5) Allow States to require as a condition of eligibility that minor mothers who have never married live in a place of residence maintained by a parent, legal guardian or other adult-supervised living arrangement; (6) Add American Samoa to the jurisdictions authorized to develop and operate an AFDC program and (cont)

Timetable:

Action	Date	FR Cite
NPRM	08/22/90	55 FR 34294
NPRM Comment Period End	10/22/90	
Final Action	06/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: ABSTRACT CONT: include American Samoa within the Quality Control System and subject to the same error rate tolerances and sanctions that are applicable to other territorial jurisdictions; (7) Make States responsible for assuring that benefits and services under IV-A, IV-D, and IV-F are furnished in an integrated manner and reinforce the role and responsibility of the State in obtaining the cooperation of the applicant/recipient in the establishment of paternity and the enforcement of child support obligations.

Agency Contact: Mark Ragan, Acting Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW., Washington, DC 20447, 202 252-5116

RIN: 0970-AA89

1120. DISREGARDS OF INCOME AND RESOURCES

Significance: Regulatory Program

Legal Authority: PL 100-50; PL 100-707; PL 100-383

CFR Citation: 45 CFR 233.20(a)(4)

Legal Deadline: None

Abstract: Would add the following income and resource disregards to the regulations: (1) Disregard of Bona Fide Loans; (2) Disregard of Student Financial Assistance under title IV of the Higher Education Act or under Bureau of Indian Affairs Student Assistance Programs that is made available for attendance costs; (3) Disregard of Compensation to individuals of Japanese ancestry, and residents of the Aleutian and Pribilof Islands who were interned during World War II; (4) Disregard of Federal major disaster and emergency assistance under the Disaster Relief Act, as amended.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	
NPRM Comment Period End	05/00/91	
Final Action	12/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Mark Ragan, Acting Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW., Washington, DC 20447, 202 252-5116

RIN: 0970-AA70

1121. AMENDMENTS TO THE STATE LEGALIZATION IMPACT ASSISTANCE GRANT (SLIAG) REGULATION

Significance: Agency Priority

Legal Authority: 8 USC 1255a note; PL 100-525

CFR Citation: 45 CFR 402.2; 45 CFR 402.10; 45 CFR 402.11; 45 CFR 402.20; 45 CFR 402.21; 45 CFR 402.22; 45 CFR 402.24; 45 CFR 402.26; 45 CFR 402.33; 45

HHS—FSA

Proposed Rule Stage

CFR 402.40; 45 CFR 402.41; 45 CFR 402.51; 45 CFR 402, App A

Legal Deadline: None

Abstract: This rule proposes to implement technical amendments made to the Immigration Reform and Control Act of 1986 and make other administrative changes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
Final Action	09/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: David B. Smith, Director, Division of State Legalization Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, SW., Washington, DC 20447, 202 252-5571

RIN: 0970–AA73

1122. REVISIONS TO AUDIT REGULATIONS AS A RESULT OF THE CHILD SUPPORT PROVISIONS OF THE FAMILY SUPPORT ACT OF 1988

Significance: Regulatory Program

Legal Authority: 42 USC 603(h); 42 USC 604(d); 42 USC 652(a)(1); 42 USC 652(a)(4); 42 USC 1302

CFR Citation: 45 CFR 305

Legal Deadline: None

Abstract: This regulation revises existing audit procedures as a result of changes to program regulations to implement the child support provisions of the Family Support Act of 1988. These changes establish timeframes and standards for providing child support enforcement services, and require use of guidelines to establish support orders among other things. Audit regulations are being revised for consistency with new program requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	
Final Action	04/00/92	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Betsy Mathesen, Program Specialist, Office of Child Support Enforcement, FSA, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, SW., Washington, DC 20447, 202 252-5363

RIN: 0970–AA74

1123. FEES FOR USE OF THE FEDERAL PARENT LOCATOR SERVICE IN NON-AFDC CASES

Significance: Agency Priority

Legal Authority: 42 USC 653

CFR Citation: 45 CFR 303.70

Legal Deadline: None

Abstract: This regulation requires State IV-D agencies to charge individuals not receiving aid to families with dependent children (AFDC), Medicaid or title IV-E foster care services a fee for use of the Federal Parent Locator Service.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
Final Action	06/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Andrew Hagan, Program Specialist, Office of Child Support Enforcement, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, SW., Washington, DC 20447, 202 252-5375

RIN: 0970–AA78

1124. AMENDMENTS TO THE STATE LEGALIZATION IMPACT ASSISTANCE GRANT (SLIAG) REGULATION

Legal Authority: 8 USC 1255a note, as amended; Pub.L. 101-238; Pub.L. 101-166

CFR Citation: 45 CFR 402.1; 45 CFR 402.2; 45 CFR 402.10; 45 CFR 402.11; 45 CFR 402.12; 45 CFR 402.21; 45 CFR 402.22; 45 CFR 402.31; 45 CFR 402.32; 45 CFR 402.41; 45 CFR 402.43; 45 CFR 402.44; 45 CFR 402.45; 45 CFR 402.51

Legal Deadline: None

Abstract: This rule proposes to add allowable uses of funds pursuant to Pub.L. 101-238, and other minor changes pursuant to Pub.L. 101-166.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
Final Action	05/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: David B. Smith, Director, Division of State Legalization Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, SW., Washington, DC 20447, 202 252-5571

RIN: 0970–AA79

1125. MANDATORY AUTOMATED CHILD SUPPORT ENFORCEMENT SYSTEMS

Significance: Agency Priority

Legal Authority: 42 USC 654; 42 USC 652; 42 USC 655

CFR Citation: 45 CFR 307

Legal Deadline: None

Abstract: This regulation implements Section 123 of the Family Support Act of 1988 (P.L. 100-485) under which, by October 1, 1991, every State which does not have a statewide automated child support system in effect must submit an advance planning document to the Secretary of HHS. By October 1, 1995, every State must have an approved system in effect. On September 30, 1995, 90% Federal funding for automated systems is repealed.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	
Final Action	09/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Rosalie Ryan, Director, Division of State Child Support, Enforcement Systems, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, SW., Washington, DC 20447, 202 252-5312

RIN: 0970–AA80

1126. IMPLEMENTATION OF QUALITY CONTROL PROVISIONS OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1989

Significance: Regulatory Program

Legal Authority: PL 101-239

CFR Citation: 45 CFR 205.40; 45 CFR 205.41; 45 CFR 205.42; 45 CFR 205.43; 45 CFR 205.44

Legal Deadline: None
No legal deadline but new Quality Control system must be in operation by October 1, 1990.

Abstract: Will implement Quality Control provisions of PL 101-239 by specifying how the Quality Control process is to be carried out by the interested State agencies. This includes sample size and selection requirements; case review standards; disposition requirements; data input and reporting time deadlines; difference resolution process; payment error rate and disallowance computation; notification and appeal procedures and deadlines; and sundry pertinent issues.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
NPRM Comment Period End	03/00/91	
Final Action	09/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sean Hurley, Director, Division of Quality Control, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW., Washington, DC 20447, 202 252-5975

RIN: 0970-AA82

1127. AUTOMOBILE EXCLUSION LIMIT

Legal Authority: 42 USC 1302; PL 97-35 The Omnibus Budget Reconciliation Act of 1981

CFR Citation: 45 CFR 233.20(a)(3)(i)(B)(2)

Legal Deadline: None

Abstract: The Omnibus Budget Reconciliation Act of 1981 amends section 402(a)(7)(B) of the Social Security Act to provide that States must exclude from the resources of an AFDC applicant or recipient so much of that individual's ownership interest in one automobile as does not exceed such amount as the Secretary may prescribe. Implementing regulations at 45 CFR 233.20(a)(3)(i)(B)(2) established the limit at $1,500. The $1,500 limit is under review to determine an appropriate revision. An NPRM will be published with the proposed revised amount.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
NPRM Comment Period End	03/00/91	
Final Action	11/00/91	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Mark Ragan, Acting Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, SW., Washington, DC 20447, 202 252-5116

RIN: 0970-AA83

1128. EMERGENCY ASSISTANCE

Significance: Agency Priority

Legal Authority: 42 USC 11381; PL 100-628; PL 100-203

CFR Citation: 45 CFR 233.120

Legal Deadline: None

Abstract: This regulation will prohibit reimbursement under the Emergency Assistance Program for assistance for periods beyond 30 days in a 12-month period while:

--Continuing to allow use of emergency assistance funds to prevent evictions and utility cutoffs by paying past due rent and utility costs;

--Assisting homeless families to secure permanent housing by covering the first month's rent and security deposit.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	02/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Agency Contact: Mark Ragan, Acting Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW., Washington, DC 20447, 202 252-5116

RIN: 0970-AA84

1129. ● PROHIBITION OF FEDERAL FUNDING OF GUARDIAN AD LITEM FEES

Legal Authority: 42 USC 1302

CFR Citation: 45 CFR 304

Legal Deadline: None

Abstract: This regulation will clarify that Federal funding of guardian ad litem fees in child support cases is prohibited.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	
Final Action	06/00/92	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Michael Fitzgerald, Policy Specialist, Office of Child Support Enforcement, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, SW., Washington, DC 20447, 202 252-5365

RIN: 0970-AA88

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Family Support Administration (FSA)

Final Rule Stage

1130. AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM; IMPLEMENTATION OF THE DEFICIT REDUCTION ACT OF 1984

Significance: Agency Priority

Legal Authority: 42 USC 1302; PL 98-369 The Deficit Reduction Act of 1984; PL 99-514 The Tax Reform Act of 1986

CFR Citation: 45 CFR 233.36; 45 CFR 237.50; 45 CFR 238.18; 45 CFR 238.20; 45 CFR 238.50; 45 CFR 239.12; 45 CFR 239.14; 45 CFR 239.16; 45 CFR 239.24; 45 CFR 239.58; 45 CFR 239.82; 45 CFR 233.10; 45 CFR 233.90; 45 CFR 232.20; 45 CFR 233.35; ...

Legal Deadline: None

Abstract: The final regulations will clarify provisions first published in the Interim Final Rules implementing the Deficit Reduction Act of 1984 and as clarified by the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/10/84	49 FR 35586
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Mark Ragan, Acting Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW., Washington, DC 20447, 202 252-5116

RIN: 0970-AA00

1131. EXCLUSION OF INDIAN TRUST FUNDS AND ALASKA NATIVE CLAIMS SETTLEMENT ACT DISTRIBUTIONS

Significance: Regulatory Program

Legal Authority: PL 97-458, Sec 4; PL 98-64, Sec 2; PL 100-241, Sec 15

CFR Citation: 45 CFR 233.20(a)(4)(ii)(n); 45 CFR 233.20(a)(4)(ii)(o); 45 CFR 233.20(a)(4)(ii)(e); 45 CFR 233.20(a)(4)(ii)(k)

Legal Deadline: None

Abstract: Would update current regulations by adding statutory exclusions for certain per capita distributions of Indian judgment funds and other funds held in trust by the Department of Interior, and initial purchases made with such funds. Additionally, would exclude the following types of distributions received from a Native Corporation pursuant to the Alaska Native Claims Settlement Act: (1) Cash to the extent that it does not in the aggregate, exceed $2,000 per individual per annum; (2) Stocks; (3) A partnership interest; (4) Land or an interest in land; and (5) An interest in a settlement trust. Regulations would reflect the statutes; therefore, no alternatives are being considered. We estimate that the Federal share of the cost of the trust funds exclusions required under PL 97-458 and PL 98-64 would be $696,960 per year, the Federal share of the cost of the Alaska Native Claims Settlement Act exclusions required under PL 100-241 would be $1,878,108 per year. Therefore, the annual result would be a cost of $2,575,068.

Timetable:

Action	Date	FR Cite
NPRM	05/04/89	54 FR 19197
NPRM Comment Period End	07/03/89	
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Mark Ragan, Acting Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW., Washington, DC 20447, 202 252-5116

RIN: 0970-AA47

1132. COOPERATION TO PURSUE THIRD PARTY HEALTH COVERAGE

Significance: Regulatory Program

Legal Authority: PL 99-272, Sec 12304

CFR Citation: 45 CFR 232.13; 45 CFR 232.40; 45 CFR 232.41; 45 CFR 232.42; 45 CFR 232.44; 45 CFR 232.45; 45 CFR 232.47; 45 CFR 232.48; 45 CFR 232.49; 45 CFR 232.60; 45 CFR 234.70

Legal Deadline: None

Abstract: The proposed rules specify that as a condition of eligibility for AFDC, each applicant or recipient must cooperate with the State by identifying and providing information to assist the State in pursuing any third party who may be liable to pay for care and services available under the State's plan for medical assistance under title XIX, unless such individual has good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary.

Timetable:

Action	Date	FR Cite
NPRM	05/24/89	54 FR 22457
NPRM Comment Period End	08/23/89	
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Mark Ragan, Acting Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW., Washington, DC 20447, 202 252-5116

RIN: 0970-AA49

1133. TARGETING IN THE INCOME AND ELIGIBILITY VERIFICATION SYSTEM DATA

Significance: Agency Priority

Legal Authority: PL 99-509, Sec 9101 Omnibus Budget Reconciliation Act of 1986

CFR Citation: 45 CFR 205.56

Legal Deadline: None

Abstract: These rules make revisions to the regulations designed to incorporate changes made by Section 9101 of PL 99-509, which amended Section 1137 of the Social Security Act to allow States flexibility in targeting uses of data through the Income and Eligibility Verification System. States will not be required to verify and act on all data. This changes earlier regulations which required 100% verification and allows the States the option to target their uses to those identified in the State Plan as most likely to be productive. In addition these rules change the timeliness standard for completion of an action from 30 to 45 days.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/29/88	53 FR 52709
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: State, Federal

HHS—FSA

Final Rule Stage

Agency Contact: Mark Ragan, Acting Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, SW., Washington, DC 20447, 202 252-5118

RIN: 0970-AA58

1134. SERVICES TO POST-AFDC AND MEDICAID ONLY FAMILIES

Significance: Agency Priority

Legal Authority: 42 USC 654(4); 42 USC 654(5); 42 USC 657(c)

CFR Citation: 45 CFR 301.1; 45 CFR 302.31; 45 CFR 302.33; 45 CFR 302.70; 45 CFR 302.51; 45 CFR 303.72; 45 CFR 303.102; 45 CFR 304.20; 45 CFR 306.50; 45 CFR 306.51

Legal Deadline: None

Abstract: This regulation would implement section 9141 of P.L. 100-203, the Omnibus Budget Reconciliation Act of 1987 under which child support agencies are required to continue to provide IV-D services to persons no longer eligible for AFDC without requiring an application or payment of an application fee. It also implements section 9142 of P.L. 100-203 which requires child support agencies to provide IV-D services to all families with an absent parent who receive Medicaid and have assigned their rights to medical support to the State.

Timetable:

Action	Date	FR Cite
NPRM	05/23/89	54 FR 22325
NPRM Comment Period End	07/24/89	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Andrew Hagen, Program Specialist, Office of Child Support Enforcement, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, SW., Washington, DC 20447, 202 252-5375

RIN: 0970-AA61

1135. $50 DISREGARD, PATERNITY ESTABLISHMENT AND MANDATORY GUIDELINES

Significance: Agency Priority

Legal Authority: 42 USC 654(9); 42 USC 655(a)(1); 42 USC 657(b)(1); 42 USC 666(a)(5); 42 USC 667

CFR Citation: 45 CFR 302.50; 45 CFR 302.51; 45 CFR 302.53; 45 CFR 302.56; 45 CFR 302.70; 45 CFR 303.5; 45 CFR 303.7; 45 CFR 303.100; 45 CFR 304.20

Legal Deadline: None

Abstract: This regulation implements certain provisions of the Family Support Act of 1988 (P.L. 100-485). It requires States to use guidelines as a rebuttable presumption in setting support awards; clarifies that the $50 disregard is paid to the family if the support is paid on time; clarifies that State laws and procedures must provide for paternity establishment of any child for whom a paternity action was previously dismissed under a statute of limitations of less than 18 years; provides 90 percent federal funding of laboratory costs in establishing paternity; and requires genetic testing in contested paternity establishment cases upon request by any party.

Timetable:

Action	Date	FR Cite
NPRM	09/19/89	54 FR 37866
NPRM Comment Period End	11/19/89	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Craig Hathaway, Program Specialist, Office of Child Support Enforcement, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, SW., Washington, DC 20447, 202 252-5357

RIN: 0970-AA64

1136. AID TO FAMILIES WITH DEPENDENT CHILDREN - JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM, PROGRAM PARTICIPANT EMPLOYMENT PROTECTION

Significance: Regulatory Program

Legal Authority: 42 USC 684; 42 USC 1302; 42 USC 684(d)(1); 42 USC 684(d)(2)

CFR Citation: 45 CFR 251

Legal Deadline: NPRM, Statutory, April 13, 1989. Final, Statutory, October 13, 1989.

Abstract: The Family Support Act of 1988 (PL 100-485) establishes the JOBS program under title IV-A of the Social Security Act. Associated with the program are workers' issues, such as working conditions, tort claims protection, workers' compensation and displacement. The legislation, (PL 100-485) requires that necessary protections be provided for program participants.

Timetable:

Action	Date	FR Cite
NPRM	04/19/89	54 FR 15902
NPRM Comment Period End	06/19/89	54 FR 15902
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Mark Ragan, Acting Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW., Washington, DC 20447, 202 252-5118

RIN: 0970-AA67

1137. OMNIBUS BUDGET RECONCILIATION ACT OF 1987

Significance: Agency Priority

Legal Authority: PL 100-203

CFR Citation: 45 CFR 233.20(a)(3)(x); 45 CFR 233.53; 45 CFR 235.112

Legal Deadline: NPRM, Statutory, April 1, 1988.
The statutory effective date of the optional AFDC fraud control program is April 1, 1988.

Abstract: (1) Permanently extends the optional disregard of certain in-kind assistance in determining eligibility for and the amount of AFDC. (2) Authorizes States to establish an optional fraud control program. (3) Provides that a child whose support and maintenance costs are covered in the foster care of his or her minor parent may not be regarded as a member of an AFDC family.

Timetable:

Action	Date	FR Cite
NPRM	05/07/90	55 FR 18912
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

HHS—FSA

Final Rule Stage

Agency Contact: Mark Regan, Acting Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW., Washington, DC 20447, 202 252-5116

RIN: 0970–AA75

1138. COMPUTER MATCHING AND PRIVACY PROTECTION ACT PROVISIONS

Significance: Agency Priority

Legal Authority: PL 100-503

CFR Citation: 45 CFR 205.10; 45 CFR 205.55; 45 CFR 206.10

Legal Deadline: Other, Statutory, January 1, 1990.
The statutory effective date is 1/1/90 (extended by enactment of PL 101-56).

Abstract: Requires States to: (1) Independently verify information obtained in computer matching programs. (2) Provide an advance notice of thirty (30) days to an individual before imposing any adverse action or actions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Mark Regan, Acting Director, Division of Policy, Office of Family Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Plaza Promenade, SW., Washington, DC 20447, 202 252-5116

RIN: 0970–AA61

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Family Support Administration (FSA)

Completed Actions

1139. DISTRIBUTION OF CHILD SUPPORT COLLECTIONS

CFR Citation: 45 CFR 302.51; 45 CFR 302.52

Completed:

Reason	Date	FR Cite
Withdrawn	10/01/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Michael Fitzgerald 202 252-5365

RIN: 0970–AA18

1140. PRE-ELIGIBILITY FRAUD DETECTION MEASURES

Significance: Agency Priority

CFR Citation: 45 CFR 235.111

Completed:

Reason	Date	FR Cite
Final Action	05/04/90	55 FR 18727
Final Action Effective	10/01/89	55 FR 18727

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Mark Regan 202 252-5116

RIN: 0970–AA50

1141. ● STATE LEGALIZATION IMPACT ASSISTANCE GRANTS (SLIAG); DUE DATE FOR STATE 1991 APPLICATIONS

Legal Authority: 8 USC 12552

CFR Citation: 45 CFR 402

Legal Deadline: None

Abstract: This rule amends the regulation implementing the State Legalization Impact Assistance Grants (SLIAG), 45 CFR part 402. This action changes the date by which States' Fiscal Year 1991 SLIAG applications are due from July 15, 1990 to October 1, 1990 and the deadline by which States' Fiscal Year 1991 applications must be approvable by the Secretary from October 1, 1990 to December 15, 1990. This change gives States additional time to establish the actual amounts of costs reimbursable with SLIAG grant funds.

Timetable:

Action	Date	FR Cite
Final Action	06/27/90	55 FR 26206
Final Action Effective	06/27/90	55 FR 26206

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: David Smith, Director, Office of State Legalization, Impact Assistance, Department of Health and Human Services, Family Support Administration, 370 L'Enfant Promenade, SW., Washington, DC 20447, 202 252-4572

RIN: 0970–AA05

[FR Doc. 90-21451 Filed 10-26-90; 8:45 am]
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Monday
October 29, 1990

Part IX

Department of Housing and Urban Development

Semiannual Regulatory Agenda

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

34 CFR Subtitles A and B

[Docket No. N-90-3141; FR-2666]

Semiannual Agenda of Regulations

AGENCY: Department of Housing and Urban Development.

ACTION: Semiannual agenda, under Executive Order 12291 and the Regulatory Flexibility Act, of regulations expected to be issued and under review.

SUMMARY: In accordance with section 5 of Executive Order 12291, "Federal Regulation," the Department is publishing its agenda of proposed regulations already issued or expected to be issued and of currently effective rules that are under review. Also, under section 602 of the Regulatory Flexibility Act, the Department has prepared a regulatory flexibility agenda of regulations expected to be proposed or promulgated, which are likely to have a significant economic impact on a substantial number of small entities. As permitted by Executive Order 12291 and the Regulatory Flexibility Act, the two agendas are combined for publication.

FOR FURTHER INFORMATION CONTACT: Grady J. Norris, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Room 10276, 451 Seventh Street SW., Washington, DC 20410, (202) 708-3055. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Executive Order 12291, "Federal Regulation," issued on February 17, 1981 (46 FR 13193), requires each agency to publish semiannually an agenda of regulations that the agency has issued or expects to issue and of currently effective regulations that are under agency review.

The Regulatory Flexibility Act, 5 U.S.C. 601-612, requires each agency to publish semiannually a regulatory flexibility agenda of rules expected to be proposed or promulgated, which are likely to have a significant economic impact on a substantial number of "small entities," meaning small businesses, small organizations, or small governmental jurisdictions.

Executive Order 12291 and section 605 of the Regulatory Flexibility Act each permit incorporation of the agenda it requires with any other prescribed agenda. Accordingly, the agenda set out below combines the information required by the Executive Order and by the Regulatory Flexibility Act. In addition, the agenda contains certain information not required by either the Executive order or by the Act, which the Department considers useful, both better to inform the public and to enhance the Department's own inventory control over its body of regulations.

For purposes of Executive Order 12291, "regulation" or "rule" is defined as "an agency statement of general applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the procedure or practice requirements of an agency," subject to certain exceptions. The agenda published below concentrates upon regulatory material contained or expected to be contained in the Code of Federal Regulations (CFR) (or incorporated therein by reference) following publication in the Federal Register. As appropriate, however, issuances in the nature of general statements of policy may be published in the Federal Register but not for codification in the CFR.

The Department also is subject to certain requirements involving congressional review of rulemaking actions, including publication of an agenda. Section 7(o) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)) requires that the Secretary transmit to the congressional committees having jurisdictional oversight (the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Banking, Housing and Urban Affairs) a semiannual agenda of all rules or regulations which are under development or review by the Department. A rule appearing on the agenda cannot be published for comment before or during the first 15 calendar days after transmittal of the agenda. If, within that period, either committee notifies the Secretary that it intends to review any rule or regulation which appears on the agenda, the Secretary must submit to both committees a copy of the rule or regulation, in the form it is intended to be proposed, at least 15 calendar days before it is published for comment. The semiannual agenda published today is the agenda transmitted to the committees in compliance with the foregoing requirement.

The agenda items are divided first by program office. Within each program office, the agenda items are divided into four groups: (i) Prerulemaking actions, (ii) publication or other implementations of notices of proposed rulemaking, (iii) publications or other implementations of final rules, and (iv) completed actions. Within each grouping, rules are listed in chronological order by the part number of the CFR affected. Where a rule affects multiple parts of the CFR, the rule is listed by the first affected part number. Priority rules include all regulations designated for priority development by the Department.

Items listed in this agenda are from the following Offices within the Department: Office of the Secretary; Office of Housing; Office of Public and Indian Housing; Office of Community Planning and Development; Office of Fair Housing and Equal Opportunity; Government National Mortgage Association; and Office of Administration.

Dated: August 24, 1990.

Frank Keating,

General Counsel.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1142	00 CFR 000 Criteria for Determining Unutilized or Underutilized Federal Property as Suitable for Facilities to Assist the Homeless (S-6-88; FR-2620)	2501-AA87
1143	24 CFR 0003 Elimination of Obsolete Regulations (S-16-88; FR-2261)	2501-AA50
1144	24 CFR 17 Administrative Claims - Disallowed Costs Provisions (S-11-90; FR-2661)	2501-AA97

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Office of the Secretary—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1145	24 CFR 24 Prohibition on Disclosure: Civil Money Penalties for Prohibited Acts, FHA Operations (S-7-90; FR-2734) REFORM ACT	2501-AA90
1146	24 CFR 49 Eligibility of Aliens for Certain CDBG Programs and Other Programs (S-12-90; FR-2894)	2501-AA98
1147	24 CFR 50 Departmental Policies, Responsibilities, and Procedures for Protection and Enhancement of Environmental Quality (S-4-85; FR-2208)	2501-AA30
1148	24 CFR 56 Flood Insurance Requirements for Insurance, Loan, and Grant Programs (S-3-85; FR-2007)	2501-AA59
1149	24 CFR 81 Regulations Implementing the Authority of the Secretary of DHUD Over the Conduct of the Secondary Market Operations of the Federal Mortgage Assoc. (S-13-90; FR-2895)	2501-AA99
1150	24 CFR 82 Regulations Implementing the Authority of the Secretary of DHUD Over the Conduct of the Secondary Market Operations of the Federal Home Loan Mortgage Corporation (S-14-90; FR-2896)	2501-AB00
1151	24 CFR 570 Historically Black Colleges and Technical Assistance Special Purpose Grants (S-6-90; FR-2794)	2501-AA96

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1152	24 CFR 87 Prohibition on Use of Federal Funds for Lobbying; Requirements for Disclosure Statements (S-1-90; FR-2719)	2501-AA92
1153	24 CFR 86 Reforms to Department of Housing and Urban Development—Registration of Consultants (S-3-90; FR-2732) REFORM ACT	2501-AA93
1154	24 CFR 12 Reforms to Department of Housing and Urban Development—HUD Accountability (S-2-90; FR-2731) REFORM ACT	2501-AA84
1155	24 CFR 17, Subpart C Administrative Claim: Implementing Certain Provisions of the Debt Collection Act of 1982 (S-10-86; FR-1644)	2501-AA55
1156	24 CFR 18 Disallowance of Legal Fees; Litigation Controls for HUD Assistance Recipients (S-7-88; FR-2134)	2501-AA75
1157	24 CFR 46 Protection of Human Subjects in Research (S-6-83; FR-1607)	2501-AA15
1158	24 CFR 55 Procedure for Floodplain Management and the Protection of Wetlands; Implementation of Executive Orders 11988 and 11990 (S-7-84; FR-885)	2501-AA23
1159	24 CFR 58 Environmental Review Procedures for the CDBG, Homeless Assistance, Rental Rehab, and Housing Development Development Grant Programs (S-6-84; FR-1985)	2501-AA25
1160	24 CFR 90 Revisions to the Comprehensive Homeless Assistance Plans Regulations (S-4-90; FR-2706)	2501-AA85
1161	24 CFR 100 Accessibility Guidelines (S-6-89; FR-2665)	2501-AA86
1162	24 CFR 200 Restrictions on Housing Assistance to Ineligible Aliens (S-7-87; FR-2363 (formerly FR-1586))	2501-AA63
1163	24 CFR 200 Procedures for Obtaining Wage and Claim Information from State Wage Information Collection Agencies (S-10-88; FR-2586)	2501-AA60
1164	24 CFR 791 Review of Applications for Housing Assistance and Allocation of Housing Assistance Funds (S-10-84; FR-1896)	2501-AA68

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1165	24 CFR 000 Denial of Federal Benefits to Drug Traffickers and Possessors (S-2-89; FR-2612)	2501-AA81
1166	24 CFR 24 Debarment, Suspension and Limited Denial of Participation—All-Cash Sales Exception (S-4-87; FR-2356)	2501-AA60
1167	24 CFR 24 Implementation of the Drug-Free Workplace Act of 1988 (Common Rule)(S-11-88; FR-2586)	2501-AA78
1168	24 CFR 81.41 Secondary Market Operations of the Federal National Mortgage Association (FNMA) (S-3-81)	2501-AA10
1169	24 CFR 205 Mortgage Insurance for Land Development—Title X of the National Housing Act; Proposed Termination of Program (S-5-89; FR-2677)	2501-AA94
1170	24 CFR 213 Temporary Disqualification of Certain Newly Legalized Aliens from Certain HUD Programs (S-12-88; FR-2600)	2501-AA77
1171	24 CFR 813.106 Exclusions from Income for Students and Working Residents of Assisted Housing (S-9-88; FR-2691)	2501-AA89

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Office of Housing—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1172	24 CFR 200.926d(f) Changes to Minimum Property Standards—Water Supply Systems (H-25-90; FR-2855)	2502-AF04
1173	24 CFR 203 Regional Underwriting Procedures and Criteria (H-15-90; FR-2776)	2502-AE97
1174	24 CFR 203.43(c) Refinancing FHA-Insured Mortgages (H-16-90; FR-2777)	2502-AE98
1175	24 CFR 880.609(b) Section 8 Special Adjustments for Security Cost & Hazard Insurance (H-21-90; FR-2818)	2502-AF00

Office of Housing—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1176	00 CFR 000 Pre-Foreclosure Sale Option (H-12-89; FR-2662)	2502-AE72
1177	24 CFR 200 Changes to the Minimum Property Standards (H-40-88; FR-2599)	2502-AE64
1178	24 CFR 200 Mortgage Assumability and Release Requirements (H-28-90; FR-2867)	2502-AF07
1179	24 CFR 201 Higher Qualification Standards and Revised Underwriting and Loan Origination Requirements for Title I Lending (H-5-89; FR-2623)	2502-AE67
1180	24 CFR 200 Single Family Property Disposition Sales Procedure (H-14-89; FR-2683)	2502-AE75
1181	24 CFR 203 Amendment to Mutual Mortgage Insurance and Rehabilitation Loans for Rental Properties (H-3-90; FR-2713)	2502-AE84
1182	24 CFR 203 Retroactive Insurance Endorsement (H-17-90; FR-2780)	2502-AE91
1183	24 CFR 203 Housing Counseling Activities (H-9-90; FR-2753)	2502-AE82
1184	24 CFR 203 Single Family Servicing; Miscellaneous Amendments (H-23-90; FR-2853)	2502-AF02
1185	24 CFR 203.1-9 Revisions to Single Family Lenders—Eligibility Standards (H-24-90; FR-2854)	2502-AF03
1186	24 CFR 203 Sales Data Recordation, Certification (H-30-90; FR-2870)	2502-AF09
1187	24 CFR 207 Termination of Retirement Service Center Program (H-26-90; FR-2857)	2502-AF05
1188	24 CFR 207.4(f) Section 223(d) Operating Loss Loan Insurance (H-35-90; FR-2892)	2502-AF14
1189	24 CFR 210 Amendments to Participation Review Committee Procedures (H-2-90; FR-2708)	2502-AE63
1190	24 CFR 221 Amendments to Multifamily Mortgage Insurance Regs—Single Room Occupancy Facilities (SROs)—(H-13-90; FR-2774)	2502-AE95
1191	24 CFR 241 Section 241 Supplemental Loan Program for Multifamily Projects (H-7-90; FR-2743) REFORM ACT	2502-AE90
1192	24 CFR 241 Supplemental Loan Program for Multifamily Projects (H-34-90; FR-2891)	2502-AF13
1193	24 CFR 290 HUD-Owned and HUD-Held Multifamily Projects—Management and Disposition Including Provision of Section 8 Assistance for Projects at Foreclosure (H-3-86; FR-2158)	2502-AD43
1194	24 CFR 3282 Manufactured Home Procedural and Enforcement Regulations Interpretative Bulletins (H-31-87; FR-2380)	2502-AE10
1195	24 CFR 880 Administrative Instructions Covering Voluntary Terminations (Opt-Out) of Existing Section 8 Contracts and Expiring Loan Management Set-Aside (LMSA) Contracts (H-17-89; FR-2689)	2502-AE79
1196	24 CFR 880.204 Section 8 Housing Assistance Payments Program and New Construction (H-31-90; FR-2888)	2502-AF10
1197	24 CFR 882 Conforming Section 8 Existing Certificate Regulation to Housing Voucher Format (H-2-87; FR-2294)	2502-AD91
1198	24 CFR 882 Section 8 Certificate Program—Project-Based Assistance Reasonable Rents Limitation (H-27-90; FR-2858)	2502-AF06
1199	24 CFR 885 Anti-Drug Initiative for the Section 202 Program (H-19-89; FR-2703)	2502-AE96
1200	24 CFR 886.122 Miscellaneous Revisions of Part 886 (H-37-86; FR-2275)	2502-AD89
1201	24 CFR 887 Section 8 Housing Vouchers (H-32-90; FR-2869)	2502-AF11
1202	24 CFR 888 Annual Rent Adjustments for Section 8 Assisted Housing; Comparability Studies (H-22-90; FR-2822)	2502-AF01
1203	24 CFR 888.103(b) Section 8 Housing Assistance Program Payments Program—Fair Market Rents and Contract Rent Automatic Annual Adjustment (H-33-90; FR-2890)	2502-AF12
1204	24 CFR 888 Section 8 Housing Assistance Payments Program, Fair Market Rents and Contract Rent Automatic Adjustment Factors (H-36-90; FR-2893)	2502-AF15
1205	24 CFR 3280 Changes to the Manufactured Home Construction and Safety Standards from the CABO and MHCSS Committees; Departmental Staff and Others (H-4-89; FR-2622)	2502-AE68
1206	24 CFR 3282 Manufactured Home Procedural and Enforcement System (H-40-86; FR-2278)	2502-AD60
1207	24 CFR 3282 Manufactured Home Design Inspection System (H-41-86; FR-2279)	2502-AD61

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Office of Housing—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1208	24 CFR 245 Tenant Participation in Multifamily Projects (H-11-88; FR-2451) 1987 HCD Act	2502-AE35
1209	24 CFR 247 Section 8 Certificate Program Project-Based Assistance (New Construction) (H-30-88; FR-2502)	2502-AE56
1210	24 CFR 200.926d MPS for Housing; Water Supply Systems (H-31-88; FR-2255)	2502-AD84
1211	24 CFR 203.400 Deadline for Filing Single Family Supplemental Claims (H-26-88; FR-2487)	2502-AE51
1212	24 CFR 203 Removal of Codified Language for Inactive Temporary Mortgage Assistance Payments Program (H-18-90; FR-2791)	2502-AE90
1213	24 CFR 203.43i(a) Hawaiian Homelands—FHA Insurance for Rehabilitation Loans (H-29-90; FR-2869)	2502-AF06
1214	24 CFR 208 Computer Automation of Required Data for Certification and Recertifications Subsidy Billing Procedures for Certain Multifamily Subsidized Projects (H-2-88; FR-2421)	2502-AE26
1215	24 CFR 215 State Agency Amendments (H-70-84; FR-1997)	2502-AC73
1216	24 CFR 219 Flexible Subsidy Program: Capital Improvement Loans (H-34-88; FR-2541)	2502-AE25
1217	24 CFR 232 Refinancing Secretary-Held Mortgages covering Nursing Homes (H-11-90; FR-2752)	2502-AE34
1218	24 CFR 291 Single Family Property Disposition for the Homeless Initiative (H-20-89; FR-2704)	2502-AE80
1219	24 CFR 585 Management Rules and Comprehensive Housing and Community Development Amendments (H-34-83; FR-1761)	2502-AC03
1220	24 CFR 885.415 Loans for Housing for the Elderly or Handicapped Davis-Bacon Wage Rate (H-6-89; FR-2589)	2502-AE89
1221	24 CFR 888 Section 8 Rent Adjustment (H-8-90; FR2745) REFORM ACT	2502-AE81
1222	24 CFR 3282.307(b) Manufactured Home Safety Standards—Monitoring Inspection Fee (H-2-89; FR-2613)	2502-AE85
1223	24 CFR 3500 Real Estate Settlement Procedures Act—Controlled Business Provisions and Miscellaneous Amendments (H-45-84; FR-1942)	2502-AC09

Office of Housing—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1224	00 CFR 000 Provision of Drug-Free Housing (H-14-90; FR-2775)	2502-AE96
1225	24 CFR 200 Use of Material Bulletin 40C—Grademarking of Plywood (H-21-85; FR-2407)	2502-AD01
1226	24 CFR 200 Authorize Additional Types of Loans for Direct Endorsement Processing (H-4-88; FR-2433)	2502-AE48
1227	24 CFR 200 FHA Appraisal Standards and Coordination with GNMA (H-6-90; FR-2742) Reform Act	2502-AE89
1228	24 CFR 203 Criteria for Acceptability of Insured 10-Year Protection Plans (H-28-86; FR-2036)	2502-AD65
1229	24 CFR 203 Single Family Mortgage Insurance - Occupant and Investor Mortgagors (H-16-88; FR-2456) 1987 HCD Act	2502-AE40
1230	24 CFR 203 Action to Reduce Losses under FHA Single Family Mortgage Insurance Program (H-28-88; FR-2491)	2502-AE52
1231	24 CFR 203 Refinancing of FHA-Insured Adjustable Rate Mortgages (H-10-89; FR-2668)	2502-AE71
1232	24 CFR 207 Limitation on Prepayment of Mortgages on Multifamily Rental Housing (H-54-84; FR-1952)	2502-AC49
1233	24 CFR 50 Prepayment of Mortgages on Low- and Moderate-Income Housing (H-10-88; FR-2450) 1987 HCD Act	2502-AE34
1234	24 CFR 207 Amendments to Multifamily Mortgage Insurance Program Regulations—Retirement Service Centers (H-16-89; FR-2685)	2502-AE76
1235	24 CFR 251 Termination of the Multifamily Coinsurance Program (H-12-90; FR-2763)	2502-AE85
1236	24 CFR 882 Section 8 Certificate and Housing Voucher Program—Denial and Termination of Assistance for Drug-Related Activities (H-9-89; FR-2662)	2502-AE70
1237	24 CFR 0882 Reform of Section 8 Housing Assistance Payments Program—Moderate Rehabilitation (H-11-89; FR-2676) REFORM ACT	2502-AE82
1238	24 CFR 885 Loans for the Housing for the Elderly or Handicapped—Requirements for Awarding Construction Contracts (H-10-90; FR-2755)	2502-AE93

Office of Community Planning and Development—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1239	24 CFR 8 Architectural Barriers Act—Applicability to CDBG Activities (CPD-8-90; FR-2820)	2506-AB04
1240	24 CFR 570.488 Community Development Block Grants: State's Program (CPD-7-83; FR-1877)	2506-AA38
1241	24 CFR 570 Miscellaneous Amendments (CPD-5-90; FR-2772)	2506-AB01
1242	24 CFR 570 CDBG Grants to Indian Tribes (CPD-3-90; FR-2735) REFORM ACT	2506-AB02
1243	24 CFR 570.202 Correction of Health and Safety Violations in Rehabilitated Residential Properties Assisted with Community Development Block Grant Funds (CPD-10-90; FR-2874)	2506-AB06
1244	24 CFR 570 Community Development Block Grants—Relocation/ Disposition Amendments (CPD-12-90; FR-2876)	2506-AB08

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Office of Community Planning and Development—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1245	24 CFR 570.420 to 570.436 Community Development Block Grants: Small Cities Program (CPD-15-90; FR-2879)	2506-AB11
1246	24 CFR 0570 Community Development Block Grants; Entitlement Grant (CPD-17-90; FR-2881)	2506-AB13
1247	24 CFR 571 Community Development Block Grants for Indian Tribes and Alaskan Native Villages (CPD-16-90; FR-2880)	2506-AB12
1248	24 CFR 577 Supportive Housing Demonstration Program (CPD-14-90; FR-2878)	2506-AB10
1249	24 CFR 590 Urban Homesteading Projects RTC—HUD (CPD-7-90; FR-2806)	2506-AB05
1250	24 CFR 596 Revisions to HUD Enterprise Zone Regulations (CPD-7-89; FR-2882)	2506-AB00

Office of Community Planning and Development—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1251	00 CFR None HOPE for Homeownership through Nonprofit Organization: Notice of Fund Availability and Program Procedures (CPD-11-90; FR-2875)	2506-AB07
1252	00 CFR None Shelter Plus Care (CPD-13-90; FR-2877)	2506-AB09
1253	24 CFR 236 Uniform Relocation Act Amendments of 1987—Technical Amendments (CPD-3-89; FR2624)	2506-AA92
1254	24 CFR 511 Rental Rehabilitation Grant Program (CPD-4-90; FR-2771)	2506-AA99
1255	24 CFR 570 Miscellaneous Revisions of Part 570 - 1987 HCD Act (CPD-5-88; FR-2496)	2506-AA84
1256	24 CFR 570 Public Services CDBG (CPD-6-90; FR-2773)	2506-AB03

Office of Community Planning and Development—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1257	24 CFR 511 Residential Rental Rehabilitation Program (CPD-7-84; FR-1901)	2506-AA55
1258	24 CFR 0570.511 Community Development Block Grant Program: Escrow Accounts (CPD-2-86; FR-2164)	2506-AA06
1259	24 CFR 570 Conserving Neighborhoods by Prohibiting Displacement (CPD-3-88; FR-2474) 1987 HCD Act	2506-AA82
1260	24 CFR 570 Community Development Technical Assistance Program (CPD-1-89; FR-2616)	2506-AA90

Government National Mortgage Association—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1261	24 CFR 390.3 Revisions to GNMA Issuer Net Worth Requirements (N-1-90; FR-2908)	2503-AA07

Office of Fair Housing and Equal Opportunity—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1262	24 CFR 8.101 Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by HUD (FR-2163; FH&EO-2-85)	2529-AA26
1263	24 CFR 108 Compliance Procedures for Affirmative Fair Housing Marketing (AFHM) (FHEO-5-90; FR-2887)	2529-AA48
1264	24 CFR 125 Fair Housing Initiative Program: Program Description and Eligibility Criteria (FHEO-2-90; FR-2884)	2529-AA45
1265	24 CFR 125 Fair Housing Affirmative Administration of Programs relating to Housing and Urban Development (FHEO-3-90; FR-2885)	2529-AA46
1266	24 CFR 135.12 Employment Opportunities for Businesses and Lower Income Persons in Connection with Assisted Projects (FHEO-6-90; FR-2886)	2529-AA49
1267	24 CFR 200, Subpart M Subpart M—Affirmative Fair Housing Marketing (AFHM) (FHEO-4-90; FR-2888)	2529-AA47

HUD

Office of Fair Housing and Equal Opportunity—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1268	24 CFR 735 Conforming Amendments to HUD Rules to Comply with Sec. 504 of the Rehab Act and Other Authorities (FH&EO-3-88; FR-2531)	2529-AA38

Office of Fair Housing and Equal Opportunity—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1269	24 CFR 000 Nondiscrimination in Housing and Community Development Programs (FHEO-1-89; FR-2629)	2529-AA42

Office of Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1270	48 CFR 24 HUD Acquisition Regulation (ADM-2-88; FR-2473)	2535-AA15

Office of Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1271	24 CFR 29 OMB Cir. A-110, Uniform Administrative Requirements for Grants and Agreements with Universities, Hospitals and Other Nonprofit Organizations (ADM-1-87; FR-2376)	2535-AA15

Office of Public and Indian Housing—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1272	24 CFR 941 PHA's Establishment of Housing Development and Other Non-Profit Corporations (P-1-90; FR-2781)	2577-AA81
1273	24 CFR 941 Public Housing Development - Statutory & Discretionary Revisions (P-3-90; FR-2783)	2577-AA83

Office of Public and Indian Housing—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1274	00 CFR 000 Resident Management Corporation Homeownership Program (P-5-89; FR-2693) REFORM ACT	2577-AA80
1275	24 CFR 135 Section 3 Covered Projects: Consideration of Resident Management Organizations for Work Contracts (P-7-90; FR-2856)	2577-AA86
1276	24 CFR 901 Public Housing Management Assessment Program (PHMAP) (P-10-90; FR-2697)	2577-AA89
1277	24 CFR 812 Increase in Single Person Occupancy Limits (P-48-84; FR-2063)	2577-AA07
1278	24 CFR 0913 Public and Indian Housing; Ceiling Rents (P-2-89; FR-2529) 1987 HCD Act	2577-AA57
1279	24 CFR 941 Lead-Based Paint Poisoning Prevention Act—Stewart B. McKinney Homeless Assistance Amendments of 1988—Section 1088 (P-19-88; FR-2583)	2577-AA78
1280	24 CFR 941 Public Housing Development - Statutory Changes (P-2-90; FR-2782)	2577-AA82
1281	24 CFR 960 Public Housing - Tenant Leases and PHA Grievance Hearings (P-26-79; FR-1164)	2577-AA16
1282	24 CFR 960 Selection of Families from the Waiting List in Assisted Housing Program (P-4-89; FR-2663)	2577-AA79

HUD

Office of Public and Indian Housing—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1263	24 CFR 990.102 PFS Projected Operating Income Level - Vacancy Rule (P-4-90; FR-2764)	2577-AA84

Office of Public and Indian Housing—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1284	24 CFR 970 Replacement Housing for Public Housing Demolition and Disposition (P-5-88; FR-2463) 1987 HCD Act	2577-AA58
1285	24 CFR 203 Implementation of Percentage Limit Provisions Under Section 16 of the United Housing Act of 1937 (P-7-88; FR-2465) 1987 HCD Act	2577-AA60
1286	24 CFR 904 Turnkey III re: PHA Financing & Subordination (P-6-90; FR-2819)	2577-AA85
1287	24 CFR 904 Inapplicability of Public Housing to Indian Housing (P-9-90; FR-2871)	2577-AA88
1288	24 CFR 905 Indian Housing Program—Revised Program Regulations (P-2-86; FR-2206)	2577-AA32
1289	24 CFR 941 Public Housing Development—Technical Corrections (P-8-90; FR-2865)	2577-AA87
1290	24 CFR 965 PHA-Owned and Leased Project; Maintenance and Operation; Tenant Allowance for Utilities (P-8-88; FR-2290)	2577-AA40
1291	24 CFR 990 Performance Funding System Revisions (87 Act)—Formal Review Process Energy Conservation Savings, Audit Responsibilities (P-12-88; FR-2504)	2577-AA71

Office of Public and Indian Housing—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1282	24 CFR 0060 Determination of Wage Rates for Maintenance and Technical Employees of Public Housing Agencies and Indian Housing Authorities (P-10-88; FR-2211)	2577-AA68
1283	24 CFR 961 Public Housing Drug Elimination Pilot Program (P-20-88; FR-2592)	2577-AA76
1284	24 CFR 965.304 Individual Metering of Utilities of Existing PHA-Owned Projects (P-36-83; FR-1769)	2577-AA27
1285	24 CFR 969 PHA Obligations with respect to Residual Receipts in the Public Housing, Turnkey III, and Sec. 23 Programs; (P-2-87; FR2354; formerly H-27-87)	2577-AA49

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Proposed Rule Stage

Office of the Secretary (HUDSEC)

1142. CRITERIA FOR DETERMINING UNUTILIZED OR UNDERUTILIZED FEDERAL PROPERTY AS SUITABLE FOR FACILITIES TO ASSIST THE HOMELESS (S-8-89; FR-2520)

Legal Authority: 42 USC 11411

CFR Citation: 00 CFR 000

Legal Deadline: None

Abstract: This regulation would describe the criteria HUD uses to determine whether unutilized or underutilized Federal properties, described by other agencies in HUD-conducted surveys, are suitable for facilities to assist the homeless. This determination is the responsibility of HUD under the procedures in Section 501 of the McKinney Act for the identification and use of unutilized and underutilized Federal property for facilities to assist the homeless. The regulation will be incorporated in an interagency rule, which will include all procedures under Section 501 for HUD, HHS, and GSA.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: James Forsberg, Director, Special Needs Assistance Programs Staff, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-4300

RIN: 2501–AA87

1143. ELIMINATION OF OBSOLETE REGULATIONS (S-16-88; FR-2281)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 0003; 24 CFR 0043; 24 CFR 0052; 24 CFR 0130; 24 CFR 0200; 24 CFR 0203; 24 CFR 0205; 24 CFR 0207; 24 CFR 0209; 24 CFR 0210; 24 CFR 0211; 24 CFR 0213; 24 CFR 0215; 24 CFR 0220; 24 CFR 0221; ...

Legal Deadline: None

HUD—HUDSEC

Proposed Rule Stage

Abstract: This rule would remove portions of HUD regulations that are obsolete or duplicative.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Grady J. Norris, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Office of the General Counsel, 202 708-3055

RIN: 2501–AA50

1144. ● ADMINISTRATIVE CLAIMS - DISALLOWED COSTS PROVISIONS (S-11-90; FR-2981)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 17

Legal Deadline: None

Abstract: This proposed rule would make the repayment of disallowed costs, as determined under the Departmental Audits Management System, a threshold requirement to be met in all of HUD's Discretionary Assistance Programs.

As such, this rule would provide an additional important tool for the Department to collect moneys expended for ineligible purposes under HUD programs. This is particularly true with respect to State and Local Governments, which are not subject to administrative offset under the Federal Claims Collection Act.

There is no administrative or programmatic cost under the proposal. The potential for recovering disallowed costs, by establishing such a precondition for discretionary program assistance, lies in the millions of dollars.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Robert S. Kenison, Associate General Counsel, Assisted Hsg. & Community Dev., Department of Housing and Urban Development, Office of the General Counsel, 202 708-3212

RIN: 2501–AA97

1145. PROHIBITION ON DISCLOSURE: CIVIL MONEY PENALTIES FOR PROHIBITED ACTS, FHA OPERATIONS (S-7-90; FR-2734) REFORM ACT

Significance: Regulatory Program

Legal Authority: PL 101-235

CFR Citation: 24 CFR 24; 24 CFR 25; 24 CFR 26

Legal Deadline: None

Abstract: This rule would prohibit certain practices with respect to HUD programs and would impose civil penalties on violators. The rule would promote integrity in the conduct and use of HUD programs, and reduce losses to the insurance fund resulting from improper acts.

Timetable:

Action	Date	FR Cite
NPRM	09/10/90	55 FR 37290
NPRM Comment Period End	11/09/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John P. Kennedy, Associate General Counsel for Program Enforcement, Department of Housing and Urban Development, Office of the General Counsel, 202 708-2300

RIN: 2501–AA90

1146. ● ELIGIBILITY OF ALIENS FOR CERTAIN CDBG PROGRAMS AND OTHER PROGRAMS (S-12-90; FR-2894)

Legal Authority: 42 USC 5301-5320

CFR Citation: 24 CFR 49; 24 CFR 570

Legal Deadline: None

Abstract: A final rule published on July 12, 1988 by the Immigration and Naturalization Service (INS) in connection with legal amnesty for aliens prohibited them from receiving benefits under various programs of HUD and other agencies, including the CDBG Programs. HUD issued a conforming rule on May 2, 1990 (55 FR 18490). This rule would revise the coverage of these rules, in accordance with an agreement reached between HUD and the INS.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	02/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Local

Agency Contact: Don Patch, Director, Office of Block Grant Assistance, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-3587

RIN: 2501–AA98

1147. DEPARTMENTAL POLICIES, RESPONSIBILITIES, AND PROCEDURES FOR PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY (S-4-88; FR-2206)

Legal Authority: 42 USC 4321; PL 95-557

CFR Citation: 24 CFR 50

Legal Deadline: None

Abstract: This rule proposes revisions in the regulations governing HUD's consideration of environmental factors in decision-making under HUD programs other than the Community Development Block Grant, Emergency Shelter Grants, Urban Development Action Grant, Rental Rehabilitation, and Housing Development Grant Programs. The rule is intended to reduce regulatory burdens and procedural details based on experience under the existing regulations; reflect field office reorganization; and implement sec. 535 of the Housing Act of 1949, as amended.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Replaces RIN: 2506-AA10

Agency Contact: Walter Prybyla, Department of Housing and Urban Development, Office of Community Planning and Development, Office of Environment and Energy, 202 708-2210

RIN: 2501–AA20

HUD—HUDSEC

Proposed Rule Stage

1148. FLOOD INSURANCE REQUIREMENTS FOR INSURANCE, LOAN, AND GRANT PROGRAMS (S-3-88; FR-2007)

Legal Authority: 42 USC 4012(a); 42 USC 4100(a)

CFR Citation: 24 CFR 50; 24 CFR 207; 24 CFR 232; 24 CFR 234; 24 CFR 235; 24 CFR 241; 24 CFR 242; 24 CFR 244; 24 CFR 250; 24 CFR 511; 24 CFR 570; 24 CFR 804; 24 CFR 804; 24 CFR 905

Legal Deadline: None

Abstract: This rule would implement HUD's responsibilities under the Flood Disaster Protection Act of 1973. It would add a new Part 58 to specify HUD's responsibilities to require that flood insurance be obtained for eligible properties. This part would then be cross-referenced in the rules governing programs involving insurance, loans and grants. This rule would do the following: (1) authorize certain exemptions for the first time; (2) clarify the statutory limitation on the conduct of HUD programs; (3) describe implementation actions to be taken by the approving official and the affected property owner; and (4) correct or remove from Title 24 outdated or inadequate references pertaining to this statutory responsibility.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Replaced RIN: 2323-AC76

Agency Contact: Walter Prybyla, Deputy Director, Environmental Mgt. Div., Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-2819

RIN: 2501-AA89

1149. ● REGULATIONS IMPLEMENTING THE AUTHORITY OF THE SECRETARY OF DHUD OVER THE CONDUCT OF THE SECONDARY MARKET OPERATIONS OF THE FEDERAL MORTGAGE ASSOC. (S-13-90; FR-2995)

Significance: Agency Priority

Legal Authority: 12 USC 1723a(h)

CFR Citation: 24 CFR 81

Legal Deadline: None

Abstract: The proposed rules are needed to revise the present regulations, which are outdated and not relevant, in many instances, to present operations, and which need to be coordinated with the new regulations being prepared to implement the Secretary's oversight authority for the Federal Home Loan Mortgage Corporation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Walter Cassidy, Senior Tax Attorney, Office of Finance, OGC, Department of Housing and Urban Development, Office of the General Counsel, 202 708-1263

RIN: 2501-AA00

1150. ● REGULATIONS IMPLEMENTING THE AUTHORITY OF THE SECRETARY OF DHUD OVER THE CONDUCT OF THE SECONDARY MARKET OPERATIONS OF THE FEDERAL HOME LOAN MORTGAGE CORPORATION (S-14-90; FR-2996)

Significance: Agency Priority

Legal Authority: 12 USC 1452(b)

CFR Citation: 24 CFR 82

Legal Deadline: None

Abstract: The proposed new Part is required to implement the Secretary's new oversight responsibility set out in Section 731 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. Under this section the Secretary is given oversight responsibility for the Federal Home Loan Mortgage Corporation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Walter Cassidy, Senior Tax Attorney, Office of Finance, OGC, Department of Housing and Urban Development, Office of the General Counsel, 202 708-1263

RIN: 2501-AB00

1151. ● HISTORICALLY BLACK COLLEGES AND TECHNICAL ASSISTANCE SPECIAL PURPOSE GRANTS (S-6-90; FR-2794)

Significance: Agency Priority

Legal Authority: 42 USC 5307

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This proposed rule would implement certain provisions in section 105 of the Department of Housing and Urban Development Reform Act of 1989 affecting the Secretary's funds under the Community Development Block Grant Program. The rule would require FEDERAL REGISTER yearly publication of funds availability, would set out selection criteria, and would provide for special purpose grants to historically black colleges.

Timetable:

Action	Date	FR Cite
NPRM	08/08/90	55 FR 32356
NPRM Comment Period End	10/09/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elaine Dudley, Acting Director, Small and Disadvantaged Business Utilization, Department of Housing and Urban Development, Office of the Secretary, 202 708-1428

RIN: 2501-AA96

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Secretary (HUDSEC)

Final Rule Stage

1152. PROHIBITION ON USE OF FEDERAL FUNDS FOR LOBBYING; REQUIREMENTS FOR DISCLOSURE STATEMENTS (3-1-90; FR-2719)

Significance: Regulatory Program

Legal Authority: 31 USC 1352

CFR Citation: 24 CFR 87

Legal Deadline: None

Abstract: This is part of a government-wide common rule effort to implement section 319 of the Interior and Related Agencies Appropriations Act for FY 1990 (Pub. L. 101-121, approved October 23, 1989) which added a new section 1352 to Title 31 of the United States Code, entitled "Limitation on Use of Appropriated Funds to Influence certain Federal Contracting and Financial Transaction" (the Byrd Amendments).

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Interim Final Rule Effective Date	02/26/90	55 FR 6736
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Arnold J. Haiman, Acting Director, Office of Ethics, Department of Housing and Urban Development, Office of Administration, 202 708-3815

RIN: 2501-AA92

1153. REFORMS TO DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—REGISTRATION OF CONSULTANTS (3-2-90; FR-2732) REFORM ACT

Significance: Regulatory Program

Legal Authority: 42 USC 3537b

CFR Citation: 24 CFR 86

Legal Deadline: None

Abstract: This rule would require any person making an expenditure to influence a departmental decision with respect to the award of any financial assistance or management action that changes the terms and conditions or status of the financial assistance to keep records of, and in some cases report, such expenditures. It would also require each person receiving payment or consideration to influence a departmental decision to register with the Secretary. The rule would provide for civil money penalties.

Timetable:

Action	Date	FR Cite
NPRM	05/01/90	55 FR 22722
NPRM Comment Period End	07/31/90	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Arnold J. Haiman, Acting Director, Office of Ethics, Department of Housing and Urban Development, Office of Administration, 202 708-3815

RIN: 2501-AA93

1154. REPORTS TO DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—HUD ACCOUNTABILITY (3-2-90; FR-2731) REFORM ACT

Significance: Regulatory Program

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 12

Legal Deadline: None

Abstract: This rule would require the Secretary to publish in the FEDERAL REGISTER a notice of the availability of any assistance under any HUD program or discretionary fund. It also would require HUD to publish at least quarterly all of its funding decisions, and at least annually the "fair share" formula allocations under section 213(d)(1) of the Housing and Community Development Act of 1974. The rule also requires disclosure of certain information with respect to an application for assistance for a project submitted to HUD or to a State or unit of general local government by any applicant that has received, or can reasonably be expected to receive, assistance in excess of $200,000 (or a lower amount which may be set in this rule in any fiscal year).

Timetable:

Action	Date	FR Cite
NPRM	05/18/90	55 FR 25036
NPRM Comment Period End	08/20/90	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Arnold J. Haiman, Acting Director, Office of Ethics, Department of Housing and Urban Development, Office of Administration, 202 708-3815

RIN: 2501-AA94

1155. ADMINISTRATIVE CLAIM: IMPLEMENTING CERTAIN PROVISIONS OF THE DEBT COLLECTION ACT OF 1982 (3-19-90; FR-1644)

Legal Authority: 31 USC 3711; 31 USC 3717; 42 USC 3535(d)

CFR Citation: 24 CFR 17, Subpart C

Legal Deadline: None

Abstract: This rule would make final an interim rule published in 1984, implementing the administrative offset and salary offset provisions of the Debt Collection Act of 1982.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/14/84	49 FR 32346

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Previously listed as 2535-AA09. Includes: ADM-1-82.

Agency Contact: Samuel B. Rothman, Attorney Advisor, Office of Program Enforcement, Department of Housing and Urban Development, Office of the General Counsel, 202 708-4184

RIN: 2501-AA55

1156. DISALLOWANCE OF LEGAL FEES; LITIGATION CONTROLS FOR HUD ASSISTANCE RECIPIENTS (3-7-90; FR-2134)

Legal Authority: 42 USC 1437g

CFR Citation: 24 CFR 18

Legal Deadline: None

Abstract: This rule will declare HUD policy regarding PHA legal expenses for litigation against HUD and prescribe limited litigation reporting procedures for HUD assistance recipients.

HUD—HUDSEC

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/27/88	53 FR 43610
NPRM Comment Period End	12/27/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy Chisholm, Director, Office of Policy, Department of Housing and Urban Development, Office of the Secretary, 202 708-0713

RIN: 2501–AA75

1157. ● PROTECTION OF HUMAN SUBJECTS IN RESEARCH (S-6-83; FR-1907)

Significance: Regulatory Program

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 46

Legal Deadline: None

Abstract: In response to a Presidential Commission, an Interagency Task Force on the Protection of Human Subjects in Research has proposed that all Federal agencies adopt a common policy and uniform regulations for the protection of human subjects in research.

HUD has agreed to adopt the policy and to issue a regulation based on a model that has been promulgated by the Office of Science and Technology Policy.

Compliance costs for HUD's adoption of the model regulation will be minimal, because almost all research conducted by HUD falls within categories exempted from the requirements of the model regulation. The infrequent projects that may not be exempt (perhaps one every two years) have in the past been proposed by organizations already subject to the Department of Health and Human Services regulation, and thus would not have any incremental compliance costs for the organization, other than the actual project requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45661
Final Actor.	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Arthur S. Newburg, Senior Advisor for Research Management, Department of Housing and Urban Development, Policy Development and Research, 202 708-4290

RIN: 2501–AA15

1158. PROCEDURES FOR FLOODPLAIN MANAGEMENT AND THE PROTECTION OF WETLANDS; IMPLEMENTATION OF EXECUTIVE ORDERS 11988 AND 11990 (S-7-84; FR-985)

Legal Authority: EO 11988; EO 11990; 42 USC 3535(d)

CFR Citation: 24 CFR 55; 24 CFR 50; 24 CFR 58; 24 CFR 200

Legal Deadline: None

Abstract: This regulation sets forth the policy, procedure and responsibilities of the Department of Housing and Urban Development to implement and enforce Executive Order 11988, Floodplain Management, and Executive Order 11990, the Protection of Wetlands. This regulation replaces a general statement of Departmental policy (44 FR 47623; August 14, 1979) implementing these Executive Orders. In addition, this rule would revise HUD's Minimum Property Standards for One and Two Family Dwellings to accord with Executive Order 11988 and FEMA's regulations for its National Flood Insurance Program.

Timetable:

Action	Date	FR Cite
NPRM	01/04/90	55 FR 396
NPRM Comment Period End	03/05/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Richard H. Broun, Director, Office of Environment & Energy, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-2894

RIN: 2501–AA23

1159. ENVIRONMENTAL REVIEW PROCEDURES FOR THE CDBG, HOMELESS ASSISTANCE, RENTAL REHAB, AND HOUSING DEVELOPMENT DEVELOPMENT GRANT PROGRAMS (S-6-84; FR-1985)

Legal Authority: 42 USC 1437o(i); 42 USC 5304(f)

CFR Citation: 24 CFR 58

Legal Deadline: None

Abstract: This agenda item makes final two current interim rules. These rules provide policies and procedures by which assisted communities and participating States discharge Federal environmental review responsibilities. They also streamline and reduce environmental requirements. They include: (1) an expanded listing of block grant activities and projects exempt or categorically excluded from the NEPA requirements; (2) a definitive list of related statutes and authorities that must be observed by grant recipients for the release of block grant funds as required by HUD legislation; and (3) additional provisions needed to conform with and implement innovative measures included in the HUD Amendments of 1981, such as the State-administered block grant program for small cities and the assumption of the environmental oversight responsibilities by States; and (4) (cont)

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/07/84	49 FR 23610
Interim Final Rule Effective Date	07/31/84	49 FR 23610
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: provisions for extending and adopting the environmental procedures, including historic preservation requirements, to the programs established by title III of the Housing and Urban-Rural Recovery Act of 1983.

This item also provides for the extension of the rule to the new programs authorized by the Stewart B. McKinney Homeless Assistance Act - P.L. 100-77, as amended by P.L. 100-628.

Includes: RIN 2506-AA05 (CPD-21-61; FR-1027)

HUD—HUDSEC

Final Rule Stage

Agency Contact: Charles E. Thomsen, Department of Housing and Urban Development, Office of Community Planning and Development, Office of Environmental and Energy, Environmental Management Division, 202 708-2810

RIN: 2501–AA25

1160. REVISIONS TO THE COMPREHENSIVE HOMELESS ASSISTANCE PLANS REGULATIONS (S-4-90; FR-2705)

Significance: Regulatory Program

Legal Authority: Stewart B. McKinney Homeless Assistance Act

CFR Citation: 24 CFR 90

Legal Deadline: None

Abstract: The Department published a final rule on November 3, 1989 (54 FR 46566) for the CHAP program as required by the McKinney Act of 1988. This follow-up proposed rule would refine and expand the information required to be provided in the Comprehensive Homeless Assistance Plans, in an effort to eliminate homelessness.

Timetable:

Action	Date	FR Cite
NPRM	03/13/90	55 FR 9332
NPRM Comment Period End	04/12/90	55 FR 9332
Final Action	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James N. Forsberg, Coordinator, Special Needs Assistance Program, Department of Housing and Urban Development, Office of the Secretary, 202 708-4300

RIN: 2501–AA95

1161. ACCESSIBILITY GUIDELINES (S-8-89; FR-2565)

Significance: Regulatory Program

Legal Authority: 42 USC 3601; 42 USC 3604(f)(3)(C)

CFR Citation: 24 CFR 100

Legal Deadline: None

Abstract: In the final rule implementing the Fair Housing Amendments Act of 1988 (54 FR 3232, January 23, 1989), HUD announced its intention to publish "accessibility guidelines" to provide additional guidance to designers and developers of residential structures, and to the public, concerning the requirements of the amended Fair Housing Act as the Act relates to accessibility of dwellings for use by handicapped persons. These guidelines will be published for public comment and, thereafter, in final form, and will be adjunct to 24 CFR Part 100.

Timetable:

Action	Date	FR Cite
ANP Guidelines	06/02/89	54 FR 31868
NP Guidelines	06/15/90	55 FR 24370
Final Action	12/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Agency Contact: Margaret F. Milner, Deputy Director, Office of Elderly and Assisted Housing, Department of Housing and Urban Development, Office of Housing, 202 708-0720

RIN: 2501–AA85

1162. RESTRICTIONS ON HOUSING ASSISTANCE TO INELIGIBLE ALIENS (S-7-87; FR-2383 (FORMERLY FR-1563))

Significance: Regulatory Program

Legal Authority: 42 USC 1436a

CFR Citation: 24 CFR 200; 24 CFR 215; 24 CFR 235; 24 CFR 236; 24 CFR 247; 24 CFR 812; 24 CFR 880; 24 CFR 881; 24 CFR 882; 24 CFR 883; 24 CFR 884; 24 CFR 885; 24 CFR 886; 24 CFR 887; 24 CFR 912

Legal Deadline: None

Abstract: This rule will implement section 214 of the Housing and Community Development Act of 1980, as amended in 1981, 1986, and 1988. That Act prohibits the Secretary from providing financial assistance to substantially all illegal aliens as well as to most classes of aliens admitted for temporary purposes. The restriction applies to the Public and Indian Housing programs, the Section 8 Housing Assistance Payments programs, the Rent Supplement program, the Section 236 program, and the Section 235 homeownership assistance program.

This rule will replace the rule published on April 1, 1988, which was not made effective, but has been withdrawn. This new rule will provide that alien status must be verified with the Immigration and Naturalization Service by the entity responsible for tenant selection (or for approval of a Section 235 mortgage application).

Timetable:

Action	Date	FR Cite
NPRM	10/19/88	53 FR 41038
NPRM Comment Period End	12/19/88	53 FR 41038
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information:

ADDITIONAL CONTACT PERSON (Public and Indian Housing):

Edward Whipple, Director, Rental and Occupancy Branch, Office of Public Housing, (202) 708-0744

Agency Contact: James J. Tahash, Director, Program Planning Division, Office of Multifamily Housing Management, Department of Housing and Urban Development, Office of Housing, 202 708-3944

RIN: 2501–AA63

1163. PROCEDURES FOR OBTAINING WAGE AND CLAIM INFORMATION FROM STATE WAGE INFORMATION COLLECTION AGENCIES (S-10-88; FR-2586)

Legal Authority: 42 USC 3544; PL 100-628

CFR Citation: 24 CFR 200; 24 CFR 215; 24 CFR 235; 24 CFR 236; 24 CFR 247; 24 CFR 290; 24 CFR 700; 24 CFR 813; 24 CFR 880; 24 CFR 881; 24 CFR 882; 24 CFR 883; 24 CFR 884; 24 CFR 885; 24 CFR 886; ...

Legal Deadline: Other, Statutory, September 30, 1989.
Section 904 statutorily takes effect on September 30, 1989 (although there is an early implementation option in the statute).

Abstract: The regulation implementing section 904 of the McKinney Amendments would require applicants and participants in certain HUD programs to sign and submit consent forms permitting (1) HUD, the PHA or the owner responsible for determining eligibility for or level of benefits to verify employee income information with previous or current employers, and (2) HUD or the PHA to request wage

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and claim information from a State unemployment agency. Signing the consent form would be a condition of eligibility or continuing eligibility for the covered program. The rule would provide limitations on the collection, use, and dissemination of wage and claim information obtained from a State unemployment agency. Criminal and civil penalties are also specified.

Timetable:

Action	Date	FR Cite
NPRM	11/03/89	54 FR 46506
NPRM Comment Period End	01/02/90	
Final Action	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dennis A. Raschka, Director, Fraud Control Division, Department of Housing and Urban Development, Office of the Inspector General, 202 708-0996

RIN: 2501–AA80

1164. REVIEW OF APPLICATIONS FOR HOUSING ASSISTANCE AND ALLOCATION OF HOUSING ASSISTANCE FUNDS (S-10-84; FR-1696)

Significance: Regulatory Program

Legal Authority: 42 USC 1439

CFR Citation: 24 CFR 791

Legal Deadline: None

Abstract: The rule updates and revises HUD's regulations for the allocation of housing assistance funds to reflect statutory changes by the Housing and Urban-Rural Recovery Act of 1983 and the Department of Housing and Urban Development Reform Act of 1989. It contains an explicit description of the allocation formula, including the factors making up the allocation formula and consolidates local government submission requirements and HUD criteria for review of applications for housing. The rule tightens procedures and generally limits headquarters funding. The rule makes clear that HUD housing assistance programs are subject to formula allocations with funding competitions pursuant to published competitive selection criteria.

Timetable:

Action	Date	FR Cite
NPRM	06/11/90	55 FR 23670
NPRM Comment Period End	08/10/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: ADDITIONAL CONTACT PERSON:

Nancy Chisholm, Director, Office of Policy, Office of Public and Indian Housing, 202-708-0713

Agency Contact: James Tahash, Director, Planning and Procedures Division, Department of Housing and Urban Development, Office of Housing, 202 708-3944

RIN: 2501–AA88

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Secretary (HUDSEC)

Completed Actions

1165. DENIAL OF FEDERAL BENEFITS TO DRUG TRAFFICKERS AND POSSESSORS (S-2-89; FR-2812)

Significance: Regulatory Program

CFR Citation: 24 CFR 000

Completed:

Reason	Date	FR Cite
Withdrawn	07/25/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Edward Murphy 202 708-1796

RIN: 2501–AA61

1166. DEBARMENT, SUSPENSION AND LIMITED DENIAL OF PARTICIPATION—ALL-CASH SALES EXCEPTION (S-4-87; FR-2396)

CFR Citation: 24 CFR 24

Completed:

Reason	Date	FR Cite
Withdrawn - Merged with FR-1676 (Published 11/15/88 (53 FR 45903))	08/15/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Emmett N. Roden 202 708-3260

RIN: 2501–AA60

1167. IMPLEMENTATION OF THE DRUG-FREE WORKPLACE ACT OF 1988 (COMMON RULE)(S-11-88; FR-2508)

Significance: Regulatory Program

CFR Citation: 24 CFR 24

Completed:

Reason	Date	FR Cite
Final Action	05/25/90	55 FR 21678
Final Action Effective	07/24/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Marylea Byrd 202 708-3888

RIN: 2501–AA78

1168. SECONDARY MARKET OPERATIONS OF THE FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA) (S-3-81)

CFR Citation: 24 CFR 81.41; 24 CFR 81.45

Completed:

Reason	Date	FR Cite
Withdrawn	07/16/90	

Small Entities Affected: None

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Completed Actions

Government Levels Affected: Federal

Agency Contact: Richard Lasnar 202 708-3288

RIN: 2501–AA10

1169. MORTGAGE INSURANCE FOR LAND DEVELOPMENT—TITLE X OF THE NATIONAL HOUSING ACT; PROPOSED TERMINATION OF PROGRAM (S-5-89; FR-2677)

Significance: Agency Priority

CFR Citation: 24 CFR 205

Completed:

Reason	Date	FR Cite
Final Action	05/07/90	55 FR 1873
Final Action Effective	06/07/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edwin W. Baker 202 708-2720

RIN: 2501–AA84

1170. TEMPORARY DISQUALIFICATION OF CERTAIN NEWLY LEGALIZED ALIENS FROM CERTAIN HUD PROGRAMS (S-12-89; FR-2600)

Significance: Agency Priority

CFR Citation: 24 CFR 213; 24 CFR 221; 24 CFR 237; 24 CFR 511; 24 CFR 570; 24 CFR 49; 24 CFR 203; 24 CFR 207; 24 CFR 234

Completed:

Reason	Date	FR Cite
Final Action	05/02/90	55 FR 18490
Final Action Effective	06/01/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Dan Patch 202 708-2567

RIN: 2501–AA77

1171. EXCLUSIONS FROM INCOME FOR STUDENTS AND WORKING RESIDENTS OF ASSISTED HOUSING (S-6-89; FR-2691)

Significance: Agency Priority

CFR Citation: 24 CFR 813.106; 24 CFR 913.106; 24 CFR 215.21; 24 CFR 236.3

Completed:

Reason	Date	FR Cite
Withdrawn	08/24/90	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Thomas Sherman 202 708-0145

RIN: 2501–AA89

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Housing (OH)

Prerule Stage

1172. ● CHANGES TO MINIMUM PROPERTY STANDARDS—WATER SUPPLY SYSTEMS (H-25-90; FR-2855)

Legal Authority: 12 USC 1701-1715z-18

CFR Citation: 24 CFR 200.926d(f)

Legal Deadline: None

Abstract: This proposed rule would revise section 200.926d(f) by requiring HUD to rely on Environmental Protection Agency (EPA) approved local or State water quality standards instead of EPA standards.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/90	
ANPRM Comment Period End	01/00/91	
NPRM	04/00/91	
NPRM Comment Period End	07/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Donald Fairman, Manufactured Housing & Construction Standards Division, Department of Housing and Urban Development, Office of Housing, 202 708-6718

RIN: 2502–AF04

1173. REGIONAL UNDERWRITING PROCEDURES AND CRITERIA (H-15-90; FR-2776)

Significance: Agency Priority

Legal Authority: 12 USC 1709; 12 USC 1715b

CFR Citation: 24 CFR 203; 24 CFR 234; 24 CFR 200.163

Legal Deadline: None

Abstract: This rule would prescribe the procedures for establishing when the Secretary would use special underwriting standards in a specific market area because of the increased risk of loss or default due to economic conditions in that area. This rule would also set out the underwriting criteria that would be imposed.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Carter, Director, Single Family Development Division, Department of Housing and Urban Development, Office of Housing, 202 708-2700

RIN: 2503–AE07

1174. REFINANCING FHA-INSURED MORTGAGES (H-16-90; FR-2777)

Significance: Agency Priority

Legal Authority: 12 USC 1709; 12 USC 1715b; 12 USC 1715u

CFR Citation: 24 CFR 203.43(c); 24 CFR 234.43(c)

Legal Deadline: None

Abstract: This rule would revise current regulations to require that the monthly payment for principal and interest for a mortgage given to refinance a current insured mortgage must be reduced by a minimum amount prescribed by the Secretary. Existing regulations require only that the monthly payment for the refinance mortgage be reduced from what the amount of the payment was on the old mortgage. The purpose of this rule is to prevent lender abuse of the

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Prerule Stage

Department's streamlined refinance program.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Carter, Director, Single Family Development Division, Department of Housing and Urban Development, Office of Housing, 202 708-2700

RIN: 2502-AE98

1175. ● SECTION 8 SPECIAL ADJUSTMENTS FOR SECURITY COST & HAZARD INSURANCE (H-21-90; FR-2818)

Legal Authority: 42 USC 1437f

CFR Citation: 24 CFR 880.609(b); 24 CFR 881.609(b); 24 CFR 882.108(a)(2); 24 CFR 882.410(a)(2); 24 CFR 882.715(a)(2); 24 CFR 883.710(b); 24 CFR 884.109(c); 24 CFR 886.112(c); 24 CFR 886.312(c)

Legal Deadline: None

Abstract: Section 8(c)(2)(B) of the U.S. Housing Act of 1937 permits the Department to adjust contract rents covering section 8 assisted units to reflect increases in the costs of owning and maintaining these units which have resulted from substantial increases in real property taxes, utility rates, or "similar costs." This proposed rule would amend the regulations in 24 CFR Parts 880, 881, 882, 883, 884 and 886, which currently provide for rent adjustment for increases in real property taxes and utility rates, to make possible additional rent adjustments for increases in security expenses and hazards insurance under the "similar costs" language of section 8(c)(2)(B) of the Act. The Department has found that many owners of section 8 assisted units are facing substantial increases in hazard insurance and in costs, including capital expenditures, for providing, maintaining or improving security in the assisted units. The Department has determined that increases in the costs of security and hazard insurance are the types of costs for which rent adjustments were contemplated by the "similar costs" language of the statute.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James J. Tahash, Director, Planning & Procedures Division, Department of Housing and Urban Development, Office of Housing, 202 708-3944

RIN: 2502-AF00

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Housing (OH)

Proposed Rule Stage

1176. PRE-FORECLOSURE SALE OPTION (H-13-90; FR-2882)

Legal Authority: 12 USC 1710

CFR Citation: 00 CFR 000

Legal Deadline: None

Abstract: Section 1064 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 authorizes HUD to add pre-foreclosure sales to its roster of servicing options, as a means of saving the Department money and of assisting qualified mortgagors to avoid foreclosure of their FHA-insured mortgages. The Department is now able to pay a claim to a mortgagee to "bridge the gap" between the proceeds of a sale of the property to a third party buyer at current fair market value, and the original owner's indebtedness under the note. Until the Department received the authorization to pay these claims, such pre-foreclosure sales (or "short sales," as they are also known) were impracticable. At this time, a six to twelve month demonstration of pre-foreclosure sales is being prepared for five local HUD offices; subsequently, full implementing regulations will be issued to introduce the pre-foreclosure sale option throughout the Department.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph C. Bates, Director, Single Family Servicing Division, Department of Housing and Urban Development, Office of Housing, 202 708-1672

RIN: 2502-AE72

1177. CHANGES TO THE MINIMUM PROPERTY STANDARDS (H-40-88; FR-2509)

Significance: Regulatory Program

Legal Authority: 12 USC 1701 to 1715z-16

CFR Citation: 24 CFR 200

Legal Deadline: None

Abstract: This proposed rule would amend 24 CFR Part 200 by (1) referencing the latest editions of private sector standards presently in the MPS; (2) standardizing requirements to control termites and wood decay; (3) removing Federal agency standards for solar energy and thermal insulation standards and referencing a model energy code instead (4) revising the time for periodic changes to the MPS; and (5) making technical changes to Section 100-1.2 and 100-1.3 Housing for the Elderly and Requirements for Accessibility to Physically Handicapped People in HUD Handbook 4910.1.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Donald R. Fairman, Chief, Standards and Products Branch, Department of Housing and Urban Development, Office of Housing, 202 708-0718

RIN: 2502-AE84

1178. ● MORTGAGE ASSUMABILITY AND RELEASE REQUIREMENTS (H-29-90; FR-2967)

Legal Authority: 12 USC 1709; 12 USC 1715(b)

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Proposed Rule Stage

CFR Citation: 24 CFR 203; 24 CFR 203; 24 CFR 234

Legal Deadline: None

Abstract: This proposed rule would set forth policy not currently in regulations on the subjects of assumability of insured family mortgages and release of personal liability of selling mortgagors. The rule would cover most of the provisions of Section 203(r) of the National Housing Act, and other HUD/FHA policies on assumability and releases currently stated in administrative issuances other than regulations. The rule would include restrictions on assumption by noncreditworthy persons or investors mandated by the HUD Reform Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: John Coonts, Acting Director, Office of Insured Single Family Housing, Department of Housing and Urban Development, Office of Housing, 202 708-3046

RIN: 2502-AF07

1179. HIGHER QUALIFICATION STANDARDS AND REVISED UNDERWRITING AND LOAN ORIGINATION REQUIREMENTS FOR TITLE I LENDING (H-6-89; FR-2623)

Legal Authority: 12 USC 1703

CFR Citation: 24 CFR 201; 24 CFR 202

Legal Deadline: None

Abstract: This rule would amend the Title I regulations to: (1) encourage broader participation by qualified lending institutions through the use of loan correspondents, while eliminating any role for unregulated third parties such as loan brokers; (2) establish higher qualification standards for lenders and dealers; (3) set more objective criteria for lenders and loan correspondents to use in approving loans; (4) require greater oversight of dealers through more personal contact between lenders and borrowers and through site inspections of the dealer's work prior to disbursing the loan proceeds; (5) require more secure collateral for both property improvement and manufactured homes to reduce claim losses for the lenders and HUD. In addition, this rule would require that the lender give the borrower written notice of the actions HUD may take to recover the debt if a claim is paid, including the assessment of administrative costs for servicing the loan. The rule would also revise the present procedure for adjusting each lender's insurance reserve account.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert J. Coyle, Director, Title I Insurance Div., Department of Housing and Urban Development, Office of Housing, 202 708-2880

RIN: 2502-AE97

1180. SINGLE FAMILY PROPERTY DISPOSITION SALES PROCEDURE (H-14-89; FR-2663)

Significance: Regulatory Program

Legal Authority: Sec 204(g) of the National Housing Act

CFR Citation: 24 CFR 200; 24 CFR 203; 24 CFR 291

Legal Deadline: None

Abstract: This regulation will describe the policies and procedures applicable to the disposition of one-to-four family properties acquired as a result of the FHA mortgage insurance program. These policies and procedures are expected to enumerate the process for individuals, public agencies and organizations such as nonprofits to purchase and/or lease HUD properties.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
Final Action	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jacqueline B. Campbell, Director, Single Family Property Disposition Division, Department of Housing and Urban Development, Office of Housing, 202 708-0740

RIN: 2502-AE75

1181. AMENDMENT TO MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS FOR RENTAL PROPERTIES (H-3-89; FR-2713)

Legal Authority: Not yet determined

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: This proposed rule will amend 24 CFR 203.42. Upon its effective date, it will provide an exception to the Seven Unit Rule, in cases where a local government/entity is investing "substantial amount" of money/effort in rehabilitating neighborhoods.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Morris Carter, Director, Single Family Development Division, Department of Housing and Urban Development, Office of Housing, 202 708-2700

RIN: 2502-AE84

1182. RETROACTIVE INSURANCE ENDORSEMENT (H-17-90; FR-2780)

Legal Authority: 12 USC 1708; 12 USC 1715b

CFR Citation: 24 CFR 203; 24 CFR 234; 24 CFR 203.163

Legal Deadline: None

Abstract: This rule would not permit lenders to submit applications for insurance endorsement if the loan was closed more than one year prior to the date of submission for endorsement. The purpose of this rule is to encourage lenders to submit mortgages for insurance endorsement in a timely manner.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Morris Carter, Director, Single Family Development Division, Department of Housing and

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Urban Development, Office of Housing, 202 708-2700

RIN: 2502-AE91

1182. HOUSING COUNSELING ACTIVITIES (H-9-90; FR-2763)

Legal Authority: 12 USC 1715z

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: This new regulation will provide guidance for housing counseling activities by codifying existing HUD procedures providing for grants to housing counseling agencies under sec. 106 of the HUD Act of 1968.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	02/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Curtis D. Myron, Chief, Secretary-Held and Counseling Services Branch, Department of Housing and Urban Development, Office of Housing, 202 708-3084

RIN: 2502-AE92

1184. ● SINGLE FAMILY SERVICING; MISCELLANEOUS AMENDMENTS (H-23-90; FR-2853)

Legal Authority: Title II (National Housing Act)

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: This proposed rule would amend miscellaneous provisions of Part 203 regarding the servicing of insured mortgages on single family housing. Specifically, the rule would amend the regulations (1) to require mortgagees to begin foreclosure proceedings on mortgages in default within 6 months of default; (2) to require commencement of foreclosure on abandoned or vacant property within 6 months; (3) to permit HUD to deduct from any insurance benefits due the mortgagee, or otherwise charge the mortgagee, the estimated cost of repair plus 25% when property is conveyed in a damaged condition; and (4) other amendments regarding deficiency judgments and title defects.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	12/00/90	
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The proposed rule was a part of the SF-PD rule (FR-2683), and was separate from it at Housing's request.

Agency Contact: Joseph Bates, Acting Director, Single Family Servicing Division, Department of Housing and Urban Development, Office of Housing, 202 708-2676

RIN: 2502-AF02

1185. ● REVISIONS TO SINGLE FAMILY LENDERS—ELIGIBILITY STANDARDS (H-24-90; FR-2854)

Legal Authority: 12 USC 1709; 12 USC 1715(a); 42 USC 3535(d)

CFR Citation: 24 CFR 203.1-9; 24 CFR 200.164(h); 24 CFR 25

Legal Deadline: None

Abstract: This proposed rule would amend the regulations which set forth the requirements for approval of mortgagees to participate in the FHA mortgage insurance programs and to maintain their approval status. The proposed rule would establish new standards and requirements for mortgagee approval. The new standards would include an increase in the net worth requirements for both FHA approved mortgagees and loan correspondents. The purpose of the proposed rule is to ensure that only responsible and soundly capitalized mortgagees participate in the FHA programs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William M. Heyman, Director, Office of Lender Activities, Land Sales Regulation, Department of Housing and Urban Development, Office of Housing, 202 708-1824

RIN: 2502-AF03

1186. ● SALES DATA RECORDATION, CERTIFICATION (H-30-90; FR-2870)

Significance: Agency Priority

Legal Authority: 12 USC 1715(b)

CFR Citation: 24 CFR 203; 24 CFR 221; 24 CFR 234

Legal Deadline: None

Abstract: This proposed rule would require that for all single family FHA insured loans, HUD approved mortgagees include with their closing papers and request for endorsement, a certification that the recorded sales consideration was the actual sales price of the property.

The purpose of the rule is to assure that the actual consideration for each FHA sale is accurately reported to local government reporting systems so that appraisers searching the records for comparative sales transactions will have a more reliable source of information.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Coonts, Acting Director, Office of Insured Single Family Housing, Department of Housing and Urban Development, Office of Housing, 202 708-3046

RIN: 2502-AF09

1187. ● TERMINATION OF RETIREMENT SERVICE CENTER PROGRAM (H-26-90; FR-2857)

Legal Authority: 42 USC 1715b

CFR Citation: 24 CFR 207; 24 CFR 221; 24 CFR 232

Legal Deadline: None

Abstract: This rule proposes to terminate the Retirement Services Center Program (ReSC). The program was initiated administratively in 1983. It authorized the insurance of loans for the development of ReSC's under section 221 of the National Housing Act. An unacceptable default rate due to shallow demands and high projects operating expenses makes it desirable to terminate the program in order to protect the FHA insurance fund.

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Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Brown, Director, Office of Insured Multifamily Development, Department of Housing and Urban Development, Office of Housing, 202 708-3000

RIN: 2502–AF05

1188. ● SECTION 223(D) OPERATING LOSS LOAN INSURANCE (H-35-90; FR-2892)

Significance: Agency Priority

Legal Authority: Sec 427 of the HCD Act of 1987

CFR Citation: 24 CFR 207.4(f); 24 CFR 213.7(k); 24 CFR 220.507(e); 24 CFR 221.514(e); 24 CFR 231.7; 24 CFR 232.31a; 24 CFR 234.531; 24 CFR 242.95; 24 CFR 244.38

Legal Deadline: None

Abstract: Proposed rule will implement Section 427 of the HCD Act of 1987 expanding Section 223(d) Operating Loss Loan Insurance to cover operating losses (and other forms of cash contributions) for any consecutive 24-month period within the first 10 years after the date of completion of a HUD-insured multifamily housing project.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Linda Cheatham, Acting Director, Office of Insured, Multifamily Housing Development, Department of Housing and Urban Development, Office of Housing, 202 708-3000

RIN: 2503–AP14

1189. AMENDMENTS TO PARTICIPATION REVIEW COMMITTEE PROCEDURES (H-2-90; FR-2766)

Legal Authority: Not yet determined

CFR Citation: 24 CFR 210

Legal Deadline: None

Abstract: This proposed rule will modify the existing procedures governing the Form 2530 review process. The primary change involves expanding the ability of the Participation Review Committee to deny approval for principals who are experiencing financial default, assignments or foreclosure. The current procedures require that the Committee must obtain evidence that any defaults are attributable to mismanagement on the part of the principal. We are now proposing that the Committee have the ability to deny approval with or without such evidence. We are also proposing other changes to the procedures involving hearing rights and the types of principals which will require Form 2530 procedures.

Timetable:

Action	Date	FR Cite
NPRM	10/03/90	55 FR 40309
NPRM Comment Period End	12/03/90	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Willis Heyman, Director, Office of Lender Activities and Land Sales Registration, Department of Housing and Urban Development, Office of Housing, 202 708-1824

RIN: 2502–AE83

1190. AMENDMENTS TO MULTIFAMILY MORTGAGE INSURANCE REGS—SINGLE ROOM OCCUPANCY FACILITIES (SROS)—(H-13-90; FR-2774)

Legal Authority: Not yet determined

CFR Citation: 24 CFR 221

Legal Deadline: None

Abstract: Proposed rule will implement program to insure new construction or substantial rehabilitation of SRO projects to provide affordable housing opportunities. Units that are not self-contained will be eligible for insurance.

Timetable:

Action	Date	FR Cite
NPRM	08/27/90	55 FR 34900
NPRM Comment Period End	10/26/90	
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Linda D. Cheatham, Acting, Director, Office of Insured Multifamily Housing Development, Department of Housing and Urban Development, Office of Housing, 202 708-3000

RIN: 2502–AE85

1191. SECTION 241 SUPPLEMENTAL LOAN PROGRAM FOR MULTIFAMILY PROJECTS (H-7-90; FR-2742) REFORM ACT

Significance: Agency Priority

Legal Authority: 12 USC 1715b, 1715z-6; 42 USC 3535(d)

CFR Citation: 24 CFR 241

Legal Deadline: None

Abstract: Section 204(b) of the Department of HUD Reform Act of 1989 revises HUD's section 241 program of insured supplemental loans for multifamily projects by authorizing the Secretary, when underwriting these rehabilitation loans, to assume that any HUD rental assistance being provided to the project for purposes of reducing the debt service will be continued for the full term of the loan. This proposed rule is intended to implement this section.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Cheatham, Acting Director, Office of Insured Multifamily Development, Department of Housing and Urban Development, Office of Housing, 202 708-3000

RIN: 2502–AE90

1192. ● SUPPLEMENTAL LOAN PROGRAM FOR MULTIFAMILY PROJECTS (H-34-90; FR-2891)

Significance: Agency Priority

Legal Authority: 12 USC 1715b, 1715z-6

CFR Citation: 24 CFR 241

Legal Deadline: None

Abstract: Implement Section 203(c) of the Department of HUD Reform Act of 1989 which gives the Secretary the authority to assume that the rental

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assistance provided in accordance with a plan of action to preserve low income housing will be extended for the full term of the contract entered into under Section 255(c) of the Emergency Low Income Housing Preservation Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kerry J. Mulholland, Acting Director, Technical Support Div., Office of Insured Multifamily Development, Department of Housing and Urban Development, Office of Housing, 202 708-3855

RIN: 2502-AF13

1193. HUD-OWNED AND HUD-HELD MULTIFAMILY PROJECTS—MANAGEMENT AND DISPOSITION INCLUDING PROVISIONS OF SECTION 8 ASSISTANCE FOR PROJECTS AT FORECLOSURE (H-3-89; FR-2152)

Significance: Regulatory Program

Legal Authority: 42 USC 1437f; 12 USC 3709; 12 USC 3717; 12 USC 1713(k); 12 USC 1701z-11; 12 USC 1701z-12

CFR Citation: 24 CFR 290; 24 CFR 886; 24 CFR 57

Legal Deadline: None

Abstract: This proposed rule would amend HUD regulations to implement section 181 of the Housing and Community Development Act of 1987 and section 1010 of the Stewart B. McKinney Homeless Assistance Amendments of 1988. Section 181 expanded the scope of section 203 of the Housing and Community Development Amendments of 1978 to include projects that are subject to a HUD-held mortgage and are delinquent, under a workout agreement, or being foreclosed upon by HUD. HUD, when it is owner or mortgagee-in-possession, and the owner in other situations now covered by section 203 must, to the greatest extent possible, maintain all such occupied projects in decent, safe, and sanitary condition and maintain full occupancy and must also maintain all such projects for purposes of providing rental or cooperative housing for the longest feasible time. The statute directs HUD to provide not less than one of several specified forms of financial assistance to a purchaser other than HUD at foreclosure, or after sale by the Secretary. Section 1010 further amended section 203 to clarify which units in HUD-held unsubsidized projects (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: must be preserved for low and moderate income tenants and to provide procedures under which local governments and designated State agencies have a right of first refusal to purchase HUD-owned multifamily housing projects.

Agency Contact: Frank Malone, Director, Office of Preservation and Property Disposition, Department of Housing and Urban Development, Office of Housing, Office of Multifamily Housing Management, 202 708-3216

RIN: 2502-AD43

1194. MANUFACTURED HOME PROCEDURAL AND ENFORCEMENT REGULATIONS INTERPRETATIVE BULLETINS (H-31-87; FR-2390)

Legal Authority: 42 USC 5424

CFR Citation: 24 CFR 3282

Legal Deadline: None

Abstract: This proposed rule would amend the Manufactured Home Procedural and Enforcement Regulations in order to remove the issuance of some Interpretative Bulletins from the rulemaking process. The purpose of this procedural modification is to promote efficiency in issuing Interpretative Bulletins so that important guidance can be provided to the manufactured housing industry in a timely manner.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Donald R. Fairman, Chief, Standards & Products Branch, Department of Housing and Urban Development, Office of Housing, 202 708-6718

RIN: 2502-AE10

1195. ADMINISTRATIVE INSTRUCTIONS COVERING VOLUNTARY TERMINATIONS (OPT-OUT) OF EXISTING SECTION 8 CONTRACTS AND EXPIRING LOAN MANAGEMENT SET-ASIDE (LMSA) CONTRACTS (H-17-89; FR-2689)

Legal Authority: Sec 262 of the Housing & Community Development Act of 1987; Sec 250(a)(1) of the National Housing Act

CFR Citation: 24 CFR 880; 24 CFR 881; 24 CFR 883; 24 CFR 884; 24 CFR 885; 24 CFR 886

Legal Deadline: None

Abstract: Owners are required to give HUD and the tenants a one-year notice of an intent to opt out of a Section 8 contract where there are renewable terms remaining. A reason for opting-out must be given as well. Regarding expiring LMSA contracts, an owner is required to give HUD and the tenants a one-year notice before expiration of the contract.

Field Offices must offer to extend LMSA contracts for an additional two years, for contracts expiring prior to February 5, 1990. The Department will provide incentives to owners of projects who have submitted a notice of intent to voluntarily terminate their Section 8 contracts.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: James J. Tahash, Director, Planning & Procedures Division, Office of Multifamily Housing Management, Department of Housing and Urban Development, Office of Housing, 202 708-3944

RIN: 2502-AE79

1196. ◆ SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM AND NEW CONSTRUCTION (H-31-90; FR-2688)

Legal Authority: 42 USC 1437(f)

CFR Citation: 24 CFR 880.204; 24 CFR 881.204

Legal Deadline: None

Abstract: Grant authority to the Regional Administrators to exercise the prerogative to exceed the published FMR's by up to 120% provided a high cost authorization is not needed.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Keary J. Mulholland, Acting Director, Technical Support Division, Office of Insured Multifamily Housing, Department of Housing and Urban Development, Office of Housing, 202 708-7624

RIN: 2502–AF10

1197. CONFORMING SECTION 8 EXISTING CERTIFICATE REGULATION TO HOUSING VOUCHER FORMAT (H-2-87; FR-2294)

Significance: Regulatory Program

Legal Authority: 42 USC 1437f; PL 100-242, Sec 144; PL 100-242, Sec 145; PL 100-242, Sec 146; PL 100-242, Sec 147; PL 100-242, Sec 148; PL 100-242, Sec 149; PL 100-242, Sec 262

CFR Citation: 24 CFR 882

Legal Deadline: None

Abstract: This rule will revise the Section 8 Certificate Program regulations in Part 882 to conform them to the extent practicable to the closely-related Housing Voucher Program regulations in Part 887, to implement certain statutory amendments to the Program under the Housing and Community Development Act of 1987 and to propose certain revisions based on programmatic experience. It will also implement several recent statutory amendments affecting the Certificate and Housing Voucher Programs and those amendments affecting other Section 8 Programs with respect to contract rent adjustments.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: FR-2489 (RIN: 2502-AE44) and FR-2584 (RIN: 2502-AE63) have been merged into this item.

Agency Contact: Gerald Benoit, Director, Rental Assistance Division, Office of Elderly and Assisted Housing, Department of Housing and Urban Development, Office of Housing, 202 708-3887

RIN: 2502–AD91

1198. ◉ SECTION 8 CERTIFICATE PROGRAM—PROJECT-BASED ASSISTANCE REASONABLE RENTS LIMITATION (H-27-90; FR-2868)

Significance: Agency Priority

Legal Authority: 42 USC 1437a, 1437c & 1437f

CFR Citation: 24 CFR 882

Legal Deadline: None

Abstract: This rule will enable HUD to assess initial contract rents charged by an owner of assisted housing taking into account rents charged by owners of unassisted housing for comparable units where the owners are receiving other forms of assistance, e.g., tax credits by making this comparison,, HUD will be able to better assure that owners receiving section 8 rent assistance are not receiving windfall profits, i.e., amounts beyond that necessary to provide affordable housing.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence Goldberger, Director, Office of Elderly & Assisted Housing, Department of Housing and Urban Development, Office of Housing, 202 708-0720

RIN: 2502–AF06

1199. ANTI-DRUG INITIATIVE FOR THE SECTION 202 PROGRAM (H-19-89; FR-2703)

Legal Authority: 12 USC 1701q

CFR Citation: 24 CFR 885

Legal Deadline: None

Abstract: This proposed rule would strengthen the capacity of providers of section 202 housing to reject prospective tenants, or to evict current tenants for drug-related criminal activity.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
Final Action	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lawrence Goldberger, Director, Office of Elderly and Assisted Housing, Department of Housing and Urban Development, Office of Housing, 202 708-0720

RIN: 2502–AE66

1200. MISCELLANEOUS REVISIONS OF PART 886 (H-37-90; FR-2278)

Legal Authority: 42 USC 1437a; 42 USC 1437c; 42 USC 1437f

CFR Citation: 24 CFR 886.122

Legal Deadline: None

Abstract: This proposed rule would amend Subpart C of 886, which governs Section 8 housing assistance for projects being sold by HUD. The changes would include implementation of 1984 changes in Section 8 that permit higher initial contract rents after sale where such rents are needed to sell a project. The Department is applying this authority only to projects that are being upgraded at a cost of less than $1,000.00 per unit. Other miscellaneous changes with respect to work write-ups and certifications also are being proposed.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This proposal was originally included as part of FR-1950.

Agency Contact: James Tabash, Director, Program Planning Division, Department of Housing and Urban Development, Office of Housing, 202 708-3944

RIN: 2502–AD69

1201. ● SECTION 8 HOUSING VOUCHERS (H-33-90; FR-2690)

Legal Authority: 42 USC 1437a; 42 USC 1437c; 42 USC 1437f

CFR Citation: 24 CFR 887

Legal Deadline: None

Abstract: This rule will revise the Section 8 housing voucher regulations in Part 887 to implement certain statutory amendments to the program under the Housing and Community Development Act of 1987 and to propose certain revisions based on programmatic experience.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Gerald J. Benoit, Director, Rental Assistance Division, Office of Elderly & Assisted Housing, Department of Housing and Urban Development, Office of Housing, 202 708-0477

RIN: 2502-AF11

1202. ● ANNUAL RENT ADJUSTMENTS FOR SECTION 8 ASSISTED HOUSING; COMPARABILITY STUDIES (H-22-90; FR-2622)

Legal Authority: Not yet determined

CFR Citation: 24 CFR 888

Legal Deadline: None

Abstract: This rule would outline procedures and criteria for conducting comparability studies for section 8 projects where the Secretary has reason to believe that application of the Annual Adjustment Factors would result in material differences between assisted housing and similar unassisted housing.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: The portion of section 801 of the 1990 Reform Act requiring HUD to make retroactive housing assistance payments to owners whose rents were reduced or limited by comparability studies from 1980 to present is being implemented as a separate rule.

Agency Contact: James L. Logue, III, Deputy Assistant Secretary for Multifamily Housing, Department of Housing and Urban Development, Office of Housing, 202 708-2495

RIN: 2502-AF01

1203. ● SECTION 8 HOUSING ASSISTANCE PROGRAM PAYMENTS PROGRAM—FAIR MARKET RENTS AND CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT (H-33-90; FR-2690)

Significance: Agency Priority

Legal Authority: 42 USC 1437(f)

CFR Citation: 24 CFR 888.103(b); 24 CFR 887.103(d)

Legal Deadline: None

Abstract: In an effort to streamline the preparation of the annual revision to the Fair Market Rents (FMRs) for New Construction and Substantial Rehabilitation applicable to all market areas we are proposing to change Part 888. Although the FMRs for all market areas nation wide must be published annually in the FEDERAL REGISTER, each HUD Field Office will prepare market comparison surveys for 1/3 of the FMR market areas within its jurisdiction. The FMRs for the remaining 2/3 of all market areas that are not being prepared by a complete market comparison process will be estimated annually by using market update factors.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edward M. Winiarski, Chief Appraiser, Valuation Branch,Technical Support Division-Insured Multifamily Housing, Department of Housing and Urban Development, Office of Housing, 202 708-7624

RIN: 2502-AF12

1204. ● SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM, FAIR MARKET RENTS AND CONTRACT RENT AUTOMATIC ADJUSTMENT FACTORS (H-36-90; FR-2693)

Significance: Agency Priority

Legal Authority: 42 USC 1437(F)

CFR Citation: 24 CFR 888

Legal Deadline: None

Abstract: Section 8(6) of the United States Housing Act of 1937 requires the Secretary to establish Fair Market Rents (FMRs) periodically, but not less frequently than annually. This document announces final Fiscal Year 1989 FMRs for the Section 8 New Construction Program and the Section 8 Substantial Rehabilitation Program. These FMRs are based on the level of rents paid for recently completed or newly constructed dwelling units of modest design within each market area as determined by HUD Field Office Staff. They also reflect the Department's Cost Containment efforts in relation to housing assistance provided in the Section 8 New Construction and Substantial Rehabilitation Program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edward M. Winiarski, Chief Appraiser, Valuation Branch, Technical, Support Div.-Insured MF Hsg Development, Department of Housing and Urban Development, Office of Housing, 202 708-7624

RIN: 2502-AF15

1205. CHANGES TO THE MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS FROM THE CABO AND MHCSS COMMITTEES, DEPARTMENTAL STAFF AND OTHERS (H-4-89; FR-2622)

Legal Authority: 42 USC 5401

CFR Citation: 24 CFR 3280

Legal Deadline: None

Abstract: This proposed rule would update and amend various subparts of Part 3280 to reflect recommendations from industry, the Council of American

HUD—OH

Proposed Rule Stage

Building Officials Manufactured Home Committee, and the Department's staff. Referenced standards would also be updated to reflect the Manufactured Energy Conservation Standards in Section 580 of the 1987 HCD Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Donald R. Fairman, Chief, Standards & Products Branch, Department of Housing and Urban Development, Office of Housing, 202 708-6718

RIN: 2502–AE66

1204. MANUFACTURED HOME PROCEDURAL AND ENFORCEMENT SYSTEM (H-40-88; FR-2278)

Significance: Regulatory Program

Legal Authority: 42 USC 5403

CFR Citation: 24 CFR 3282

Legal Deadline: None

Abstract: This rule would propose revisions to HUD enforcement regulations at 24 CFR Part 3282 to improve the effectiveness of Production Inspection Primary Inspection Agencies (IPIAs).

Timetable:

Action	Date	FR Cite
ANPRM	05/08/87	52 FR 17411

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Bob Fuller, Acting Director, Manufactured Housing and Construction Standards Division, Department of Housing and Urban Development, Office of Housing, 202 708-2210

RIN: 2502–AD60

1207. MANUFACTURED HOME DESIGN INSPECTION SYSTEM (H-41-88; FR-2279)

Significance: Regulatory Program

Legal Authority: 42 USC 5403

CFR Citation: 24 CFR 3282

Legal Deadline: None

Abstract: This proposed rule will deregulate the current design inspection system on manufactured homes and substitute a procedure for manufacturer certification, among other revisions.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Bob Fuller, Acting Director, Manufactured Housing & Construction Standards Division, Department of Housing and Urban Development, Office of Housing, 202 708-2210

RIN: 2502–AD61

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Office of Housing (OH)

Final Rule Stage

1206. TENANT PARTICIPATION IN MULTIFAMILY PROJECTS (H-11-88; FR-2451) 1937 HCD ACT

Legal Authority: 12 USC 7152-1; PL 100-242, Sec 183

CFR Citation: 24 CFR 245; 24 CFR 219

Legal Deadline: None

Abstract: This rule provides for the applicability of the tenant participation requirements of section 202 of the HCDA of 1978 to section 202 elderly and handicapped projects. The rule also removes the Secretary's authority not to provide for tenant participation in certain owner actions and authorizes the application of the tenant participation requirements in the Secretary's proposal to sell a multifamily housing project.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: James J. Tahash, Director, Planning and Procedures Division, Department of Housing and Urban Development, Office of Housing, 202 708-3944

RIN: 2502–AE35

1208. SECTION 8 CERTIFICATE PROGRAM PROJECT-BASED ASSISTANCE (NEW CONSTRUCTION) (H-30-88; FR-2502)

Significance: Agency Priority

Legal Authority: 42 USC 1437f

CFR Citation: 24 CFR 247; 24 CFR 882; 24 CFR 888

Legal Deadline: None

Abstract: Section 148 of the Housing and Community Development Act of 1987 amended section 8(d)(2) of the United States Housing Act of 1937 to require the Department to permit a PHA to attach not more than 15 percent of the section 8 Existing Housing Program assistance to existing structures if the owner agrees to rehabilitate the structure other than with assistance under the 1937 Act. Section 1005 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 requires the Department to permit PHA's to attach assistance, within the same 15 percent limit, to newly constructed units. This rule would implement these provisions by revising Subpart G to 24 CFR Part 882 for project-based certification.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/04/89	54 FR 230
Interim Final Rule	03/12/90	55 FR 9252
Final Rule	07/12/90	55 FR 28907
Final Rule Effective Date	08/13/90	55 FR 28907
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Gerald J. Benoit, Director, Rental Assistance Division,

HUD—OH

Final Rule Stage

Office of Elderly & Assisted Housing, Department of Housing and Urban Development, Office of Housing, 202 708-0477

RIN: 2502–AE58

1210. ● MPS FOR HOUSING; WATER SUPPLY SYSTEMS (H-31-88; FR-2255)

Legal Authority: 12 USC 1735f

CFR Citation: 24 CFR 200.926d

Legal Deadline: None

Abstract: This final rule revises the regulation relating to the applicability of the chemical and bacteriological standards of local health authorities to HUD-insured one- and two-family dwellings. The rule provides that in the absence of local standards, those of the appropriate State agency apply. This revision simplifies the requirements for water supply systems while furthering the Department's policy of relying on acceptable State and local building codes.

Timetable:

Action	Date	FR Cite
NPRM	06/06/87	55 FR 21598
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Bonkoski, Housing Environmental Clearance Officer, Department of Housing and Urban Development, Office of Housing, 202 708-1793

RIN: 2502–AD64

1211. DEADLINE FOR FILING SINGLE FAMILY SUPPLEMENTAL CLAIMS (H-39-88; FR-2487)

Legal Authority: 12 USC 1710

CFR Citation: 24 CFR 203.400

Legal Deadline: None

Abstract: At present, there is no regulatory control over the time period during which mortgagees can submit applications for supplemental insurance benefits. The Department has instructed lenders to file these supplemental claims within one year of the date of the original insurance settlement. This information has so far been contained in the instructions for Single Family Application for Insurance Benefits, Form HUD-27011. This rule will formalize the requirement that lenders follow this one-year filing period for supplemental claims.

Timetable:

Action	Date	FR Cite
NPRM	05/25/90	55 FR 21620
NPRM Comment Period End	07/24/90	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Joseph C. Bates, Director, Single Family Servicing Division, Department of Housing and Urban Development, Office of Housing, 202 708-1672

RIN: 2502–AE51

1212. REMOVAL OF CODIFIED LANGUAGE FOR INACTIVE TEMPORARY MORTGAGE ASSISTANCE PAYMENTS PROGRAM (H-18-90; FR-2791)

Legal Authority: 12 USC 1715b

CFR Citation: 24 CFR 203; 24 CFR 204

Legal Deadline: None

Abstract: This final rule removes from the Code of Federal Regulations language concerning the Temporary Mortgage Assistance Payments (TMAP) program that has never been made effective. Since the Code now contains two sets of provisions pertaining to assistance to homeowners in default on FHA-insured mortgages that bear overlapping section numbers, this rule is needed to remove the TMAP provisions and to make technical changes in the provisions governing under section 230(b) of the National Housing Act. Among the technical changes is a requirement that a mortgagee inform a mortgagor of the possible right to assignment before it accepts a deed in lieu of foreclosure from the mortgagor.

Timetable:

Action	Date	FR Cite
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stephen Martin, Director, Office of Insured Single Family Housing, Department of Housing and Urban Development, Office of Housing, 202 708-3046

RIN: 2502–AE99

1213. ● HAWAIIAN HOMELANDS—FHA INSURANCE FOR REHABILITATION LOANS (H-29-90; FR-2693)

Legal Authority: 12 USC 1715z-12

CFR Citation: 24 CFR 203.43i(a)

Legal Deadline: None

Abstract: This rule will remove the regulatory restriction against insuring rehabilitation loans on Hawaiian Homelands properties. It amends section 203.43i(a) to omit the restriction against implementing loans under section 203.50.

Timetable:

Action	Date	FR Cite
Final Action	12/00/90	
Final Action Effective	01/00/91	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Morris Carter, Director, Single Family Development Division, Department of Housing and Urban Development, Office of Housing, 202 708-2700

RIN: 2502–AF08

1214. COMPUTER AUTOMATION OF REQUIRED DATA FOR CERTIFICATION AND RECERTIFICATIONS SUBSIDY BILLING PROCEDURES FOR CERTAIN MULTIFAMILY SUBSIDIZED PROJECTS (H-2-88; FR-2421)

Significance: Agency Priority

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 208

Legal Deadline: None

Abstract: This rule would require owners of certain multifamily subsidized projects to automate the information and transmission of HUD forms and worksheets for certification and recertification of compliance with HUD's tenant eligibility and rent procedures, and the computation of tenant rent/payment and the monthly subsidy billing forms, as applicable. This rule would apply to multifamily projects under the following program: section 236 rental assistance payments.

section 8 housing assistance payments, section 221(d)(5), below market interest rate housing for low and moderate income mortgage insurance, and section 101 rent supplements.

Timetable:

Action	Date	FR Cite
NPRM	06/06/88	53 FR 20649
NPRM Comment Period End	07/21/88	53 FR 20649

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: James J. Tahash, Director, Planning and Procedures Division, Department of Housing and Urban Development, Office of Housing, 202 708-3944

RIN: 2502–AE28

1215. STATE AGENCY AMENDMENTS (H-70-84; FR-1997)

Legal Authority: 12 USC 1715z-16(b); 12 USC 1715z-16(c)

CFR Citation: 24 CFR 215; 24 CFR 221; 24 CFR 236; 24 CFR 245

Legal Deadline: None

Abstract: This rule would make the Department's regulations on prohibited lease terms applicable to section 236 projects financed by state housing agencies.

Timetable:

Action	Date	FR Cite
NPRM	12/21/87	52 FR 48276
NPRM Comment Period End	02/19/88	52 FR 48276

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: James Tahash, Director, Program Planning Division, Department of Housing and Urban Development, Office of Housing, Office of Multifamily Housing Management, 202 708-3944

RIN: 2502–AC73

1216. FLEXIBLE SUBSIDY PROGRAM: CAPITAL IMPROVEMENT LOANS (H-34-88; FR-2541)

Legal Authority: 12 USC 1715z-1a

CFR Citation: 24 CFR 219

Legal Deadline: None

Abstract: This rule implements amendments made to section 201 of the Housing and Community Development Amendments of 1978 to broaden the categories of projects eligible for assistance under the Flexible Subsidy program and to create a program of loans for capital improvements to multifamily housing projects, under specified terms and conditions set out in the statute.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/07/89	54 FR 9706
Interim Final Rule Effective	03/07/89	54 FR 9706
Interim Final Rule Comment Period End	05/08/89	54 FR 9706
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James J. Tahash, Director, Planning and Procedures Division, Department of Housing and Urban Development, Office of Housing, 202 708-3944

RIN: 2502–AE55

1217. REFINANCING SECRETARY-HELD MORTGAGES COVERING NURSING HOMES (H-11-90; FR-2752)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 232; 24 CFR 252

Legal Deadline: None

Abstract: This is a technical rule removing an ambiguity in the current regulations by clarifying the Secretary of HUD's authority to refinance Secretary-held as well as currently insured (or coinsured) mortgages covering nursing homes or related facilities.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Matt Andree, Housing Program Specialist, Department of Housing and Urban Development, Office of Housing, 202 708-2566

RIN: 2502–AE94

1218. SINGLE FAMILY PROPERTY DISPOSITION FOR THE HOMELESS INITIATIVE (H-20-89; FR-2704)

Significance: Agency Priority

Legal Authority: 12 USC 1709

CFR Citation: 24 CFR 291; 24 CFR 577; 24 CFR 578

Legal Deadline: None

Abstract: This rule will make final the interim rule making available nationwide a much larger number of HUD-owned one- to four-family dwellings from the single family property disposition inventory for lease or sale to nonprofit and governmental agencies assisting homeless persons. (This rule will be published as part of the final Single Family Property Disposition rule (FR-2683 - RIN: 2502-AE75).

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/11/90	55 FR 1158
Final Action	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jacqueline B. Campbell, Director, Single Family Property Disposition Division, Department of Housing and Urban Development, Office of Housing, 202 708-0748

RIN: 2502–AE80

1219. MANAGEMENT RULES AND COMPREHENSIVE HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS (H-34-83; FR-1761)

Legal Authority: 12 USC 1701q; 42 USC 3535(d)

CFR Citation: 24 CFR 885

Legal Deadline: None

Abstract: This final rule will amend HUD's regulations governing projects that received direct loans under section 202 of the Housing Act of 1959 and housing assistance payments under section 8 of the United States Housing Act of 1937. The regulation adds regulatory provisions to govern section

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HUD—OH

Final Rule Stage

202/8 project operations and management; incorporates changes required by statutory requirements governing housing assistance payments contracts.

Timetable:

Action	Date	FR Cite
NPRM	12/06/87	52 FR 46614
NPRM Comment Period End	02/08/88	52 FR 46614
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: James J. Tahash, Director, Planning and Procedures Division, Department of Housing and Urban Development, Office of Housing, 202 708-3944

RIN: 2502-AC03

1220. LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED DAVIS-BACON WAGE RATE (H-8-88; FR-2589)

Legal Authority: 12 USC 1701(q)(c)(3)

CFR Citation: 24 CFR 885.415; 24 CFR 885.420; 24 CFR 885.422

Legal Deadline: None

Abstract: This rule will implement a statutory change in the 202 direct loan program contained in sec. 162(b)(3) of the HCD Act of 1987, providing that Davis-Bacon wages are not required whenever a 202 Project contains 12 or fewer family units. (Before the Amendment, Davis-Bacon was applied to all section 202/8 projects, without regard to project size.)

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard S. Allan, Acting Director, Labor Relations Staff, Department of Housing and Urban Development, Office of the Secretary, 202 708-0370

RIN: 2502-AE89

1221. SECTION 8 RENT ADJUSTMENT (H-6-88; FR2748) REFORM ACT

Significance: Regulatory Program

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 888

Legal Deadline: None

Abstract: This rule will implement portions of sec. 801 of the Department of HUD Reform Act of 1989, by providing the criteria under which HUD will make retroactive Housing Assistance Payments to owners of Sec. 8 projects for which the use of comparability studies as an independent limitation on annual rent adjustments, for period from October 1, 1979, to effective date of rule, resulted in the reduction of rents or the failure to increase rents to the entire amount permitted by the Annual Adjustment Factors. The rule also gives owners eligible for retroactive payments the opportunity to request a one-time determination of the contract rent upon which to base future rent adjustments.

Timetable:

Action	Date	FR Cite
NPRM	06/19/90	55 FR 25054
NPRM Comment Period End	08/20/90	
Final Action	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: James J. Tahash, Director, Planning and Procedures Division, Department of Housing and Urban Development, Office of Housing, 202 708-3944

RIN: 2502-AE81

1222. MANUFACTURED HOME SAFETY STANDARDS—MONITORING INSPECTION FEE (H-2-89; FR-2613)

Legal Authority: 42 USC 5419

CFR Citation: 24 CFR 3282.307(b)

Legal Deadline: None

Abstract: States with a large number of manufacturing facilities have incurred additional expenses in monitoring and inspecting those facilities. As the regulation is now written, the monitoring inspection fee paid by the manufacturers to the Secretary is distributed to the states based on the number of new manufacturer housing units whose first location after leaving the plant is on the premises of a distributor, dealer, or purchaser in that state. 24 CFR 3282.307(b) will be amended to provide a more equitable distribution of the inspection fee proceeds that will take into account the additional expenses incurred by the states in which manufacturing facilities are located.

Timetable:

Action	Date	FR Cite
NPRM	07/02/90	55 FR 27252
NPRM Comment Period End	08/31/90	
Final Action	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Stuart Margulies, Chief, State & Consumer Liaison Branch, Department of Housing and Urban Development, Office of Housing, 303 708-0534

RIN: 2502-AE85

1223. REAL ESTATE SETTLEMENT PROCEDURES ACT—CONTROLLED BUSINESS PROVISIONS AND MISCELLANEOUS AMENDMENTS (H-45-84; FR-1942)

Significance: Regulatory Program

Legal Authority: 12 USC 2601; 12 USC 2607; PL 98-181

CFR Citation: 24 CFR 3500

Legal Deadline: None

Abstract: The rule will implement statutory amendments established by Section 461 of the Housing and Urban Rural Recovery Act of 1983 (Pub. L. 98-181). The amendments address a problem identified as "controlled business" and the manner in which Section 8 of the Real Estate Settlement Procedures Act (12 USC 2607), the kickback prohibition of RESPA, is to be applied to such arrangements. No alternatives are being considered because of the statutory mandate. The rule will also contain miscellaneous changes to clarify and update the existing rule.

Timetable:

Action	Date	FR Cite
NPRM	05/16/88	53 FR 17424
NPRM Comment Period End	07/15/88	53 FR 17424

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Grant E. Mitchell, Senior Attorney, Department of Housing and Urban Development,

HUD—OH

Final Rule Stage

Office of the General Counsel, Office of Equal Opportunity and Admin. Law, 202 708-1530

RIN: 2502-AC09

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Housing (OH)

Completed Actions

1224. PROVISION OF DRUG-FREE HOUSING (H-14-90; FR-2775)

CFR Citation: 00 CFR 000

Completed:

Reason	Date	FR Cite
Withdrawn - Merged with FR-2818 (RIN 2502-AF00)	09/06/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James J. Tahash 202 708-3944

RIN: 2502-AE96

1225. USE OF MATERIAL BULLETIN 40C—GRADEMARKING OF PLYWOOD (H-21-85; FR-2407)

CFR Citation: 24 CFR 200

Completed:

Reason	Date	FR Cite
Final Action	09/20/90	55 FR 38784
Final Action Effective	03/20/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Donald R. Fairman 202 708-6718

RIN: 2502-AD01

1226. AUTHORIZE ADDITIONAL TYPES OF LOANS FOR DIRECT ENDORSEMENT PROCESSING (H-4-88; FR-2433)

Significance: Agency Priority

CFR Citation: 24 CFR 200; 24 CFR 203

Completed:

Reason	Date	FR Cite
Final Action	07/02/90	55 FR 27218
Final Action Effective	08/02/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen Martin 202 708-3046

RIN: 2502-AE48

1227. FHA APPRAISAL STANDARDS AND COORDINATION WITH GNMA (H-6-90; FR-2742) REFORM ACT

Significance: Agency Priority

CFR Citation: 24 CFR 200

Completed:

Reason	Date	FR Cite
Withdrawn - Changed to a Notice and published 6/21/90 (55 FR 25378)	06/06/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edwin I. Gardner, Acting 202 708-2004

RIN: 2502-AE99

1228. CRITERIA FOR ACCEPTABILITY OF INSURED 10-YEAR PROTECTION PLANS (H-28-86; FR-2036)

Significance: Agency Priority

CFR Citation: 24 CFR 203

Completed:

Reason	Date	FR Cite
Final Action	10/05/90	55 FR 41016
Final Action Effective	11/06/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stephen Martin 202 708-3046

RIN: 2502-AD65

1229. SINGLE FAMILY MORTGAGE INSURANCE - OCCUPANT AND INVESTOR MORTGAGORS (H-16-88; FR-2456) 1987 HCD ACT

CFR Citation: 24 CFR 203; 24 CFR 213; 24 CFR 221; 24 CFR 222; 24 CFR 226; 24 CFR 233; 24 CFR 234; 24 CFR 235

Completed:

Reason	Date	FR Cite
Final Action	05/24/90	55 FR 24900
Final Action Effective	09/24/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Morris Carter 202 708-2700

RIN: 2502-AE40

1230. ACTION TO REDUCE LOSSES UNDER FHA SINGLE FAMILY MORTGAGE INSURANCE PROGRAM (H-28-88; FR-2491)

CFR Citation: 24 CFR 203

Completed:

Reason	Date	FR Cite
Final Action	05/07/90	55 FR 18969
Final Action Effective	06/07/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen Martin 202 708-3046

RIN: 2502-AE52

1231. REFINANCING OF FHA-INSURED ADJUSTABLE RATE MORTGAGES (H-10-89; FR-2568)

CFR Citation: 24 CFR 203; 24 CFR 234

Completed:

Reason	Date	FR Cite
Final Action	09/14/90	55 FR 38032
Final Action Effective	10/15/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Morris Carter 202 708-2700

RIN: 2502-AE71

HUD—CH

Completed Actions

1232. LIMITATION ON PREPAYMENT OF MORTGAGES ON MULTIFAMILY RENTAL HOUSING (H-54-84; FR-1952)

Significance: Regulatory Program

CFR Citation: 24 CFR 207; 24 CFR 221; 24 CFR 236; 24 CFR 880; 24 CFR 245; 24 CFR 277; 24 CFR 219; 24 CFR 231; 24 CFR 241; 24 CFR 244

Completed:

Reason	Date	FR Cite
Withdrawn - Merged with FR-2450 (RIN 2502-AE34)	07/16/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Frank Malone 202 708-0310

RIN: 2502-AC49

1233. PREPAYMENT OF MORTGAGES ON LOW- AND MODERATE-INCOME HOUSING (H-10-88; FR-2450) 1987 HCD ACT

Significance: Regulatory Program

CFR Citation: 24 CFR 50; 24 CFR 221; 24 CFR 236; 24 CFR 241; 24 CFR 248; 24 CFR 880; 24 CFR 881; 24 CFR 883

Completed:

Reason	Date	FR Cite
Final Action	09/21/90	55 FR 38944
Final Action Effective	10/22/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Malone 202 708-0310

RIN: 2502-AE34

1234. AMENDMENTS TO MULTIFAMILY MORTGAGE INSURANCE PROGRAM REGULATIONS—RETIREMENT SERVICE CENTERS (H-16-88; FR-2685)

CFR Citation: 24 CFR 207; 24 CFR 221; 24 CFR 231

Completed:

Reason	Date	FR Cite
Withdrawn - Superseded by FR-2957 (RIN: 2502-)	07/19/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Linda D. Cheatham, Acting 202 708-3000

RIN: 2502-AE78

1235. TERMINATION OF THE MULTIFAMILY COINSURANCE PROGRAM (H-12-90; FR-2763)

Significance: Regulatory Program

CFR Citation: 24 CFR 251; 24 CFR 252; 24 CFR 255

Completed:

Reason	Date	FR Cite
Final Action	10/10/90	55 FR 41312
Final Action Effective	11/13/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Matthew C. Andres, Jr. 202 708-3558

RIN: 2502-AE85

1236. SECTION 8 CERTIFICATE AND HOUSING VOUCHER PROGRAM—DENIAL AND TERMINATION OF ASSISTANCE FOR DRUG-RELATED ACTIVITIES (H-9-90; FR-2662)

Significance: Regulatory Program

CFR Citation: 24 CFR 882; 24 CFR 887

Completed:

Reason	Date	FR Cite
Final Action	07/11/90	55 FR 28538
Final Action Effective	08/13/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lawrence Goldberger 202 708-0720

RIN: 2503-AE70

1237. REFORM OF SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—MODERATE REHABILITATION (H-11-89; FR-2676) REFORM ACT

Significance: Regulatory Program

CFR Citation: 24 CFR 0882

Completed:

Reason	Date	FR Cite
Withdrawn	07/24/90	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Agency Contact: Lawrence Goldberger 202 708-0720

RIN: 2502-AE82

1238. LOANS FOR THE HOUSING FOR THE ELDERLY OR HANDICAPPED—REQUIREMENTS FOR AWARDING CONSTRUCTION CONTRACTS (H-10-90; FR-2755)

CFR Citation: 24 CFR 885

Completed:

Reason	Date	FR Cite
Final Action	07/02/90	55 FR 27223
Final Action Effective	08/02/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Robert W. Wilkins 202 708-2700

RIN: 2502-AE93

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Office of Community Planning and Development (CPD)

Proposed Rule Stage

1239. ● ARCHITECTURAL BARRIERS ACT—APPLICABILITY TO CDBG ACTIVITIES (CPD-8-90; FR-2820)

Legal Authority: 42 USC 5301-5320; 42 USC 4151; 42 USC 4153

CFR Citation: 24 CFR 8; 24 CFR 570; 24 CFR 571

Legal Deadline: None

Abstract: This proposed rule would amend the regulations governing the CDBG grant program to require compliance with the structural accessibility standards promulgated under the Architectural Barriers Act of 1968. The CDBG program is currently subject to structural accessibility standards arising out of section 504 of the Rehabilitation Act of 1973, which prohibits discrimination based on handicap. The proposed rule would clarify that any housing or non-housing facility funded by the Department which is subject to both the Architectural Barriers Act and section 504 of accessibility standards of the former statute, in any case of conflict between the two standards. The applicability of the Architectural Barriers Act to the CDBG program would apply to both entitlement and nonentitlement grants. The purpose of the requirements of the Architectural Barriers Act to which the program is statutorily subject.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Undetermined

Agency Contact: Peter Kaplan, Director, Office of HUD Program Compliance, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 202 708-2904

RIN: 2506-AB04

1240. COMMUNITY DEVELOPMENT BLOCK GRANTS: STATE'S PROGRAM (CPD-7-83; FR-1677)

Significance: Regulatory Program

Legal Authority: 42 USC 5301; PL 98-181, Sec 104; PL 98-181, Sec 101

CFR Citation: 24 CFR 570.488

Legal Deadline: None

Abstract: This revision would implement amendments to the State administered CDBG program made in the Housing and Urban-Rural Recovery Act (Pub. L. 98-181) approved November 30, 1983, and the Housing and Community Development Act of 1987 (Pub. L. 100-242) approved February 5, 1988. The rule includes definitions of low and moderate income person levels, requirements for meeting the three national objectives, the 60% test for low and moderate income benefit, added local and state public participation, coverage of program income, performance reporting and record keeping, and consequences of States' dropping program administration after FY 85 as well as other program policy requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Richard J. Kennedy, Director, State and Small Cities Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-1322

RIN: 2506-AA38

1241. MISCELLANEOUS AMENDMENTS (CPD-8-90; FR-2772)

Legal Authority: 42 USC 5301

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: Miscellaneous revisions to CDBG rules for clarification, to include new certifications, to define income, to correct sanctions to reflect judicial decisions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James R. Broughman, Director, Entitlement Cities Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-1577

RIN: 2506-AB01

1242. CDBG GRANTS TO INDIAN TRIBES (CPD-3-90; FR-2736) REFORM ACT

Significance: Agency Priority

Legal Authority: Not yet determined

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: Section 702 of the Department of Housing and Urban Development Reform Act of 1989 moves the CDBG funding of Indian Tribes from the Secretary's Discretionary Fund to a set aside of up to one percent from amounts appropriated for the CDBG Entitlement of a competitive process for the distribution of funds for Tribes, and requires the Secretary to administrator grants to Indian Tribes through the Office of Indian and Alaska Native Programs. This rule would make the regulatory revisions necessary to implement sec. 702.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leroy P. Gonnella, Director, Secretary's Fund Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-3002

RIN: 2506-AB02

1243. ● CORRECTION OF HEALTH AND SAFETY VIOLATIONS IN REHABILITATED RESIDENTIAL PROPERTIES ASSISTED WITH COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS (CPD-10-90; FR-2374)

Legal Authority: PL 100-242, Sec 101

CFR Citation: 24 CFR 570.202

Legal Deadline: None

Abstract: A recent IG audit finding involving a sample of CDBG grantees revealed that general improvements were being undertaken in CDBG-assisted rehabilitation properties while leaving health and safety violations uncorrected. As a result of this finding, CDBG regulations need to be amended to incorporate a provision that would require the correction of all health and safety violations in CDBG-assisted rehabilitated properties before any general improvements to these

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properties can be undertaken. The proposed rule will also include an exception that will allow properties with uncorrected health and safety violations to still take part in rehabilitation programs that grantees have established to expressly address significant community housing needs, such as energy conservation through weatherization programs and improving the exterior appearance of deteriorating buildings through painting programs. Moreover, the proposed rule will make clear that grantees will still have the flexibility to continue to provide funding for the general improvement of properties that are free and clear of health and safety violations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Agency Contact: David Cohen, Director, Office of Urban Rehabilitation, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-2685

RIN: 2506–AB06

1244. ● COMMUNITY DEVELOPMENT BLOCK GRANTS—RELOCATION/ DISPOSITION AMENDMENTS (CPD-12-90; FR-2879)

Significance: Agency Priority

Legal Authority: 42 USC 5301 to 5320

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule proposes the following three changes to the Community Development Block Grant Programs (Entitlement, State and HUD-Administered Small Cities): (1) Expand section 104(d) coverage (one-for one-replacement of housing and relocation provisions) to demolition and conversion of housing that results from CDBG - assisted code enforcement; (2) Define the term "CDBG - assisted project" for purposes of implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the section 104(d) provisions; and (3) Require grantee/ recipient to justify the disposition of real property at less than market value if CDBG funds were used in the purchase.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: H. J. Huecker, Director, Relocation & Real Estate Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-0336

RIN: 2506–AB08

1245. ● COMMUNITY DEVELOPMENT BLOCK GRANTS: SMALL CITIES PROGRAM (CPD-15-90; FR-2879)

Legal Authority: 42 USC 5301

CFR Citation: 24 CFR 570.420 to 570.438

Legal Deadline: None

Abstract: This regulation, Subpart F of 24 CFR 570, governs grants which HUD makes to nonentitled units of general local government in states which have not elected to administer nonentitled CDBG funds. The states currently affected are New York and Hawaii. This regulation is proposed to incorporate changes from the 1983 and the 1987 amendments to the HCD Act of 1974. In addition, HUD proposes to make a few revisions to the selection criteria. This regulation was last revised in 1982.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard J. Kennedy, Director, State & Small Cities Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-1322

RIN: 2506–AB11

1246. ● COMMUNITY DEVELOPMENT BLOCK GRANTS; ENTITLEMENT GRANT (CPD-17-90; FR-2881)

Legal Authority: 42 USC 5301-20

CFR Citation: 24 CFR 0570

Legal Deadline: None

Abstract: HUD proposes to revise the current list of ineligible activities at 570.207(a) to include activities for gambling. This would affect the following CDBG programs: Entitlement, State CDBG, HUD Administered Small Cities Grants and the Indian program.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Richard J. Kennedy, Director, State and Small Cities Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-1322

RIN: 2506–AB13

1247. ● COMMUNITY DEVELOPMENT BLOCK GRANTS FOR INDIAN TRIBES AND ALASKAN NATIVE VILLAGES (CPD-16-90; FR-2880)

Legal Authority: 42 USC 5301

CFR Citation: 24 CFR 571

Legal Deadline: None

Abstract: Section 702 of the HUD Reform Act of 1989 moved the grant authority for CDBG funding to Indian Tribes from Section 107 to 106 of the Housing and Community Development Act. Paragraph (b) of Section 702 includes the following provision: "The Secretary shall provide for distribution of amounts under this paragraph pursuant to specific criteria for the selection of Indian tribes to receive such amounts. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment."

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard J. Kennedy, Director, State and Small Cities Division, Department of Housing and Urban Development, Office of

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Community Planning and Development, 202 708-1322

RIN: 2506–AB12

1245. ● SUPPORTIVE HOUSING DEMONSTRATION PROGRAM (CPD-14-90; FR-2878)

Legal Authority: 42 USC 11301 Stewart B. McKinney Homeless Assistance Act

CFR Citation: 24 CFR 577; 24 CFR 578

Legal Deadline: None

Abstract: Legislation being considered by the U.S. House of Representatives would amend various provisions of Title IV, Subtitle C of the McKinney Act affecting the Supportive Housing Demonstration Program (SHDP). Experience in administering the SHDP had led to the identification of various regulatory changes that should be made to improve the program. The combination of these two factors indicate that a substantial number of changes in the SHDP regulations may need to be made.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James N. Forsberg, Director, Office of Special Needs Assistance Programs, Department of Housing and Urban Development,

Office of Community Planning and Development, 202 708-4300

RIN: 2506–AB10

1249. ● URBAN HOMESTEADING PROJECTS RTC—HUD (CPD-7-90; FR-2908)

Significance: Agency Priority

Legal Authority: 12 USC 1706e

CFR Citation: 24 CFR 590

Legal Deadline: None

Abstract: This rule would expend the coverage of 24 CFR Part 590 to cover HUD reimbursement for properties owned by the Resolution Trust Corporation. Part 590 currently governs the transfer of properties with reimbursement from section 810 funds from FmHA, HUD and the VA to Local Urban Homesteading Agencies (LUHAs). Properties are transferred to LUHAs without payment for use in a HUD-approved local urban homesteading program, subject to later reimbursement by HUD to the appropriate agency in the agreed upon amount.

A new section 810(g)(3) was added by section 501 (e) of FIRREA authorizing reimbursement funds to the RTC.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Wiegard, Senior Attorney for CPD Program, Department of Housing and Urban Development, Office of the General Counsel, 202 708-6239

RIN: 2506–AB05

1250. REVISIONS TO HUD ENTERPRISE ZONE REGULATIONS (CPD-7-88; FR-2882)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 596

Legal Deadline: None

Abstract: Amendments to existing enterprise zone legislation are currently under legislative consideration. This proposed rule (which is dependent upon the adoption of pending legislation) would implement the new law insofar as it affected HUD's rule as selector of enterprise zones.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael T. Savage, Deputy Director, Office of Block Grant Assistance, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-3587

RIN: 2506–AB00

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Final Rule Stage

Office of Community Planning and Development (CPD)

1251. ● HOPE FOR HOMEOWNERSHIP THROUGH NONPROFIT ORGANIZATION: NOTICE OF FUND AVAILABILITY AND PROGRAM PROCEDURES (CPD-11-90; FR-2875)

Significance: Regulatory Program

Legal Authority: Not yet determined

CFR Citation: None

Legal Deadline: Other, Statutory, February 1991.
S.566 requires this rule to be issued within 120 days of date program funds are available for obligation.

Abstract: Interim rule implementing the HOPE for Homeownership through Nonprofit Organizations Program (Not yet enacted). Rule required by Section 436 of Title IV of the Proposed National Affordable Housing Act (S.566).

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/91	
Final Action	09/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David M. Cohen, Director, Office of Urban Rehabilitation, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-2035

RIN: 2506–AB07

1252. ● SHELTER PLUS CARE (CPD-13-90; FR-2877)

Legal Authority: 42 USC 11301 Stewart B. McKinney Homeless Assistance Act

CFR Citation: None

Legal Deadline: Other, Statutory, February 1991.

Abstract: Pending legislation in both the Senate and House would amend the

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McKinney Act to create a new program for the homeless called Shelter Plus Care. Both bills contain essentially identical language on program implementation. Both would require that, not later than 120 days after funds first become available for obligation, the Secretary shall issue a notice establishing requirements for the program. Both also require that the Secretary issue regulation based on the initial notice before the expiration of the 8-month period following the date of the notice.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: James N. Forsberg, Director, Office of Special Needs Assistance Programs, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-4300

RIN: 2506-AB09

1253. UNIFORM RELOCATION ACT AMENDMENTS OF 1987—TECHNICAL AMENDMENTS (CPD-3-88; FR2324)

Legal Authority: PL 100-17

CFR Citation: 24 CFR 236; 24 CFR 280; 24 CFR 510; 24 CFR 511; 24 CFR 570; 24 CFR 571; 24 CFR 575; 24 CFR 850; 24 CFR 860; 24 CFR 861; 24 CFR 862; 24 CFR 863; 24 CFR 864; 24 CFR 865; 24 CFR 905; ...

Legal Deadline: Final, Statutory, April 2, 1989.

The 1987 Amendments to the Uniform Act become effective April 2, 1989.

Abstract: The 1987 Amendments to the Uniform Relocation Act (P.L. 100-17) make numerous changes to the Uniform Act. Among the changes is the expansion of coverage to displacement resulting from rehabilitation, demolition or privately undertaken acquisition carried out for a federally assisted project or program. For HUD-assisted community development and housing programs, the expanded coverage will apply to displacements occurring on or after April 2, 1989. The amendments will contain the necessary conforming changes to HUD programs consistent with the final governmentwide rule implementing the 1987 Amendments to the Uniform Act. (See Federal Register (53 FR 4964) dated February 19, 1988.)

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Harold J. Huecker, Director, Relocation and Real Estate Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-0336

RIN: 2506-AA92

1254. RENTAL REHABILITATION GRANT PROGRAM (CPD-4-90; FR-2771)

Significance: Agency Priority

Legal Authority: 42 USC 1437o; 42 USC 3535(d); PL 98-181, Sec. 301; 42 USC 3535(d)

CFR Citation: 24 CFR 511

Legal Deadline: None

Abstract: The rule proposes to make the following changes to the Rental Rehabilitation Program (RRP): (1) For any project rehabilitated with rental rehabilitation grant (RRG) funds, completion of rehabilitation will occur within two years and 90 days from the date of commitment in the Cash and Management Information System; (2) A project previously assisted with RRG funds is ineligible to be funded again using RRP funds, except that a project may be amended for up to one year after completion and may be eligible for RRP funding if 10 years have gone by since completion; (3) Affirmative marketing procedures would apply to RRP projects containing 5 or more residential units which are vacant after rehabilitation or later become vacant; (4) If applicable, the potential grantee is to certify that its RRP is responsive to the priority needs for housing identified in its Housing Assistance Plan under 24 CFR 570.306; (5) The proposed rule establishes threshold factors and other factors for reallocating RRP funds; (6) The rule proposes to increase the minimum project cost from an average of at least $800 per dwelling unit per project for (cont)

Timetable:

Action	Date	FR Cite
NPRM	05/14/90	55 FR 20070
NPRM Comment Period End	07/13/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: ABSTRACT CONT: eligible project costs to an average of at least $1000 for such costs; and (7) The rule proposes to clarify the corrective and remedial actions section.

Agency Contact: Mary Kolesar, Director, Rehabilitation Management Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-3470

RIN: 2506-AA99

1255. MISCELLANEOUS REVISIONS OF PART 570 - 1987 HCD ACT (CPD-5-88; FR-2496)

Legal Authority: PL 100-242

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: The proposed rule would revise the Community Development Block Grant Program rules (24 CFR Part 570) for the entitlement and HUD-administered small cities programs, as necessary to implement certain changes in the Housing and Community Development Act of 1987 (Pub. L. 100-242, approved Feb. 5, 1988), and the Department of Housing and Urban Development - Independent Agencies Appropriations Act, 1989 (Pub. L. 100-404, approved Aug. 19, 1988). The requirements for States will be covered in the State proposed rules.

The proposed rule would address:

1. The new requirements for a citizens participation plan;

2. The circumstances under which a grant recipient may newly construct, or substantially reconstruct, housing where it is clear that such work is needed before the CDBG activity commences; (cont)

Timetable:

Action	Date	FR Cite
NPRM	03/28/90	55 FR 11556
NPRM Comment Period End	05/29/90	55 FR 11556

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Action	Date	FR Cite
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: ABSTRACT CONT:

3. The circumstances under which a grant recipient may provide a 9-1-1 emergency services communication system serving an area having less than 51 percent low- and moderate-income residents and still be considered to meet the national objective of benefitting low- and moderate-income persons; and

4. The authority to use CDBG funds to pay special assessments for certain low- and moderate-income property owners to recover local costs incurred in providing public improvements serving an area having less than 51 percent low- and moderate-income persons, under the national objective of benefitting such persons.

Agency Contact: Jim Broughman, Director, Entitlement Cities Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-1577

RIN: 2506–AA64

1256. PUBLIC SERVICES CDBG (CPD-6-90; FR-2773)

Legal Authority: 42 USC 5301

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: Interim regulation to permit CDBG entitlement grantees to include program income in calculating that amount of CDBG funds they may obligate for public services.

Minor modification to existing rule to increase grantee flexibility. Makes regulation more consistent with statute which permits grantees to retain program income so long as they use it in accordance with program requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Broadens Grantee Flexibility Imposes No New Burdens

Agency Contact: James R. Broughman, Director, Entitlement Cities Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 708-1577

RIN: 2506–AB00

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Community Planning and Development (CPD)

Completed Actions

1257. RESIDENTIAL RENTAL REHABILITATION PROGRAM (CPD-7-84; FR-1901)

CFR Citation: 24 CFR 511

Completed:

Reason	Date	FR Cite
Final Action	05/14/90	55 FR 20040
Final Action Effective	08/14/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Mary Kolesar 202 708-2470

RIN: 2506–AA55

1258. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM: ESCROW ACCOUNTS (CPD-2-86; FR-2164)

CFR Citation: 24 CFR 0570.511

Completed:

Reason	Date	FR Cite
Final Action	08/08/90	55 FR 32364
Final Action Effective	09/07/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Paul D. Webster 202 708-1671

RIN: 2506–AA66

1259. CONSERVING NEIGHBORHOODS BY PROHIBITING DISPLACEMENT (CPD-3-88; FR-2474) 1987 HCD ACT

Significance: Regulatory Program

CFR Citation: 24 CFR 570

Completed:

Reason	Date	FR Cite
Final Action	07/18/90	55 FR 29296
Final Action Effective	10/01/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Harold J. Huecker 202 708-0238

RIN: 2506–AA82

1260. COMMUNITY DEVELOPMENT TECHNICAL ASSISTANCE PROGRAM (CPD-1-89; FR-2616)

CFR Citation: 24 CFR 570

Completed:

Reason	Date	FR Cite
Withdrawn - Merged with FR-2794 (RIN: 2501-AA96)	08/08/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Maggie H. Taylor 202 708-2699

RIN: 2506–AA90

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Government National Mortgage Association (GNMA)

Proposed Rule Stage

1261. ● REVISIONS TO GNMA ISSUER NET WORTH REQUIREMENTS (N-1-90; FR-2906)

Significance: Agency Priority

Legal Authority: 12 USC 1721(g); 12 USC 1723a(a)

CFR Citation: 24 CFR 390.3

Legal Deadline: None

Abstract: This rule would revise GNMA's standards for issuer approval by amending current net worth requirements and implementing new liquidity requirements that would more accurately reflect an issuer's continuing ability to meet its obligations to investors in GNMA mortgage- backed securities.

Timetable:

Action	Date	FR Cite
NPRM	04/01/91	
NPRM Comment Period End	06/01/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Kimberly C. Neideffer, Executive Assistant to the President, Government National Mortgage Assoc., Department of Housing and Urban Development, Government National Mortgage Association, 202 708-3604

RIN: 2503–AA07

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)

Proposed Rule Stage

1262. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY HUD (FR-2142; FHEO-3-89)

Significance: Regulatory Program

Legal Authority: 29 USC 794

CFR Citation: 24 CFR 9.101; 24 CFR 9.102; 24 CFR 9.103; 24 CFR 9.110; 24 CFR 9.111; 24 CFR 9.130; 24 CFR 9.140; 24 CFR 9.149; 24 CFR 9.150; 24 CFR 9.151; 24 CFR 9.160; 24 CFR 9.170

Legal Deadline: None

Abstract: This proposed rule would implement section 504 of the Rehab Act of 1973 (as extended by the Rehab. Comprehensive Service and Developmental Disabilities Act of 1978) for HUD-conducted programs or activities. This proposed rule will be a companion rule to the Department's rule on nondiscrimination based on handicap in federally assisted programs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Eleanor Claggett, Office of HUD Program Compliance, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 202 708-0404

RIN: 2529–AA28

1263. ● COMPLIANCE PROCEDURES FOR AFFIRMATIVE FAIR HOUSING MARKETING (AFHM) (FHEO-5-90; FR-2867)

Legal Authority: EO 11063

CFR Citation: 24 CFR 108

Legal Deadline: None

Abstract: Changes to Part 108 will update reporting requirements for HUD Field Offices regarding the initial marketing activities for all HUD insured multifamily Assisted Housing projects subject to Part 200, Subpart M requirements for submission of an AFHM Plans and reports. Those requirements were revised October 1987.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mary T. George, Program Analyst, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 202 708-2287

RIN: 2529–AA48

1264. ● FAIR HOUSING INITIATIVE PROGRAM: PROGRAM DESCRIPTION AND ELIGIBILITY CRITERIA (FHEO-2-90; FR-2884)

Legal Authority: 42 USC 3616; 42 USC 3535(d)

CFR Citation: 24 CFR 125

Legal Deadline: None

Abstract: FHEO is taking steps to streamline procedures and target funds more cost-effectively in FY 1992, should the program be authorized to continue. FHEO proposes to introduce a "graduation" approach to funding of selected grantee based, on annual performance and project content. This would permit recipients and FHEO to realize cost efficiencies related to lower staff turnover among the affected agencies, and to minimize stop/start costs for projects that merit continuation without annual competition. Approximately one-third of funding available each fiscal year will be earmarked for this purpose. However, no project would receive continuous funding for more than three years without further competition. This change will require a regulatory change.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	
NPRM Comment Period End	05/00/91	

Small Entities Affected: Organizations

Government Levels Affected: Local, State

Agency Contact: Sue Ireland, FHIP Branch Chief, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 202 708-3214

RIN: 2529–AA45

HUD—FHEO

Proposed Rule Stage

1265. ● FAIR HOUSING AFFIRMATIVE ADMINISTRATION OF PROGRAMS RELATING TO HOUSING AND URBAN DEVELOPMENT (FHEO-3-90; FR-2885)

Legal Authority: EO 12259

CFR Citation: 24 CFR 125

Legal Deadline: None

Abstract: This regulation will provide guidelines for Executive agencies in determining which of their programs and activities relate to housing and urban development, and in analyzing their programs' impact on promoting fair housing. The rule will describe actions that can be taken to assure that programs and activities are administered in a manner affirmatively to further fair housing and will establish procedures for coordination and cooperation between the Secretary of HUD and other Executive agencies in their implementation and enforcement of their responsibilities under Executive Order 12259 and the Fair Housing Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sara Ireland, FHIP Branch Chief, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 202 708-0455

RIN: 2529-AA40

1264. ● EMPLOYMENT OPPORTUNITIES FOR BUSINESSES AND LOWER INCOME PERSONS IN CONNECTION WITH ASSISTED PROJECTS (FHEO-6-90; FR-2906)

Significance: Agency Priority

Legal Authority: 42 USC 1450; 42 USC 3301; 12 USC 1701u; 42 USC 3535(d)

CFR Citation: 24 CFR 135.12; 24 CFR 135.20; 24 CFR 135.40; 24 CFR 135.50; 24 CFR 135.75; 24 CFR 135.105; 24 CFR 135.115; 24 CFR 135.135

Legal Deadline: None

Abstract: The regulations at 24 CFR 135 have not been revised to reflect the changes that have occurred in the past several years in the Department's programs that are subject to Section 3 regulations. The updating of these regulations to enforce Section 3 of the HUD Act of 1968 is needed to conform with regulations from the Office of Housing and the Office of Community Planning and Development. The Section 3 regulations must also more closely address the Department's goals to improve the self-sufficiency of low income persons.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Harold Payne, Special Assistant, Fair Housing and Section 3 Compliance, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 202 708-1214

RIN: 2529-AA49

1257. ● SUBPART M—AFFIRMATIVE FAIR HOUSING MARKETING (AFHM) (FHEO-4-90; FR-2896)

Legal Authority: PL 100-430

CFR Citation: 24 CFR 200, Subpart M

Legal Deadline: None

Abstract: Changes to Part 200, Subpart M will include amendments arising out of the Fair Housing Amendments Act.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mary T. George, Program Analyst, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 202 708-2287

RIN: 2529-AA47

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)

Final Rule Stage

1256. CONFORMING AMENDMENTS TO HUD RULES TO COMPLY WITH SEC. 504 OF THE REHAB ACT AND OTHER AUTHORITIES (FHEO-3-88; FR-2531)

Legal Authority: 29 USC 794

CFR Citation: 24 CFR 735

Legal Deadline: None

Abstract: Conforming HUD rules to comply with Sec. 504 of the Rehabilitation Act and other authorities.

Timetable:

Action	Date	FR Cite
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry Pearl, Program Standards and Evaluation, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 202 708-0288

RIN: 2529-AA38

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)

Completed Actions

1269. NONDISCRIMINATION IN HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS (FHEO-1-90; FR-2628)

CFR Citation: 24 CFR 000

Completed:

Reason	Date	FR Cite
Withdrawn	07/26/90	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Eleanor G. Clagett 202 708-0754

RIN: 2529–AA42

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Administration (OA)

Proposed Rule Stage

1270. HUD ACQUISITION REGULATION (ADM-2-88; FR-2473)

Legal Authority: 42 USC 3535(d)

CFR Citation: 48 CFR 24

Legal Deadline: None

Abstract: The proposed rule will update the HUD Acquisition Regulation to conform to changes in the Federal Acquisition Regulation (FAR).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Edward L. Girovasi, Jr., Director, Policy and Evaluation Division, Office of Procurement and Contracts, Department of Housing and Urban Development, Office of Administration, 202 708-0294

RIN: 2535–AA16

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Administration (OA)

Final Rule Stage

1271. OMB CIR. A-110, UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH UNIVERSITIES, HOSPITALS AND OTHER NONPROFIT ORGANIZATIONS (ADM-1-87; FR-2376)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 20

Legal Deadline: None

Abstract: This rule is part of a governmentwide common rule to provide uniformity to the administrative requirements for grants and agreements with universities, hospitals and other nonprofit organizations.

Timetable:

Action	Date	FR Cite
NPRM	11/09/88	53 FR 44716
NPRM Comment Period End	01/09/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edward L. Girovasi, Jr., Director, Policy and Evaluation Division, Office of Procurement and Contracts, Department of Housing and Urban Development, Office of Administration, 202 708-0294

RIN: 2535–AA15

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Public and Indian Housing (PIH)

Prerule Stage

1272. PHA'S ESTABLISHMENT OF HOUSING DEVELOPMENT AND OTHER NON-PROFIT CORPORATIONS (P-1-90; FR-2781)

Legal Authority: 42 USC 1437

CFR Citation: 24 CFR 941

Legal Deadline: None

Abstract: New regulation to provide specific requirements for PHAs using their statutory authority to establish housing development corporations and other non-profit corporations, most of which are established pursuant to State incorporation laws for non-profit organizations. At the present, HUD has no specific regulation or requirements which address the establishment or operation of HDCs. Because of the wide range of activities in which HDCs participate and their differing corporate structures, HUD regulations are needed--particularly in the areas of identity of interest relationships, profits or excess revenues, project syndications, and PHA liability.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Local

Agency Contact: Nancy Chisholm, Director, Policy Staff, Office of Public and Indian Housing, Department of Housing and Urban Development,

HUD—PIH

Prerule Stage

Office of Public and Indian Housing, 202 708-0713

RIN: 2577-AA81

1273. PUBLIC HOUSING DEVELOPMENT - STATUTORY & DISCRETIONARY REVISIONS (P-3-90; FR-2753)

Legal Authority: 42 USC 1437c; 42 USC 1437d

CFR Citation: 24 CFR 941

Legal Deadline: None

Abstract: Amendments to existing regulation on development of public housing including: (1) total development cost guidelines and "cap"; (2) provisions on major reconstruction of obsolete projects; (3) limitation of Federalization of State or local projects to cases involving conversion to homeownership; (4) prohibition of new construction, unless it is less costly than acquisition or there is insufficient housing available for acquisition; (5) priority for large family units; (6) elimination of separate application procedures for central cities and other types of jurisdictions; and (7) incorporation of current statutory conditions for development.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Nancy Chisholm, Director, Policy Staff, Office of Public and Indian Housing, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-0713

RIN: 2577-AA83

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Public and Indian Housing (PIH)

Proposed Rule Stage

1274. RESIDENT MANAGEMENT CORPORATION HOMEOWNERSHIP PROGRAM (P-5-89; FR-2893) REFORM ACT

Significance: Regulatory Program

Legal Authority: Not yet determined

CFR Citation: 00 CFR 000

Legal Deadline: None

Abstract: This proposed rule would codify HUD's homeownership program authorized under section 21 of U.S. Housing Act of 1937. It would provide regulatory guidance to resident management corporation on the necessary steps to be taken to purchase, hold, and later sell to tenants, units in project to be maintained for individual homeownership.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy Chisholm, Director, Policy Staff, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-0713

RIN: 2577-AA80

1275. ● SECTION 3 COVERED PROJECTS: CONSIDERATION OF RESIDENT MANAGEMENT ORGANIZATIONS FOR WORK CONTRACTS (P-7-90; FR-2856)

Legal Authority: 12 USC 1701u; 42 USC 3535(d); 42 USC 1437(r)

CFR Citation: 24 CFR 135; 24 CFR 86

Legal Deadline: None

Abstract: This proposed rule would amend the regulations at 24 CFR Part 135 governing the award of work contracts on projects covered by section 3 of the Housing and Urban Development Act of 1968. (Section 3 projects) These regulations currently provide that to "the greatest extent feasible," contracts for work to be performed in connection with a section 3 project are awarded to business concerns located within the section 3 project area or business concerns owned in substantial part by persons residing in the section 3 covered area. The proposed amendment would provide that to the greatest extent feasible a section 3 work contract will be awarded to the resident management organization of the section 3 project for which work is being contracted. The purpose of this rule is to support the priority initiatives of the Department contained in section 3 of the Housing and Urban Development Act of 1968 which include enhancing the economic opportunities for public housing residents.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Undetermined

Agency Contact: Paul Fletcher, PIH, Special Assistant for Economic Development, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-4214

RIN: 2577-AA88

1276. ● PUBLIC HOUSING MANAGEMENT ASSESSMENT PROGRAM (PHMAP) (P-10-90; FR-2897)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 901

Legal Deadline: None

Abstract: The purpose of this proposed rule is to establish policies and procedures for the Department to identify public housing agency (PHA) management capabilities and deficiencies, and allow the field to practice accountability monitoring and risk management. PHMAP will allow the Department to (1) to make more effective use of available staff for monitoring overall public housing operations; (2) identify deficiencies in functional areas and to take corrective actions, such as providing additional training and issuing additional identified field advice and guidance; (3)

define the national picture in any given functional area; (4) establish a national data base for PHAs; and (5) provide incentives to high performing PHAs and encourage all PHAs to achieve high performer designation. PHAs can utilize this assessment to conduct internal audits of their operations and correct identified deficiencies. The results of PHA assessment can be utilized by the PHA Board, resident organizations and the community to better understand PHA operations.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy Chisholm, Director, Office of Policy, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-0713

RIN: 2577-AA39

1277. INCREASE IN SINGLE PERSON OCCUPANCY LIMITS (P-48-04; FR-2961)

Legal Authority: 42 USC 1437a

CFR Citation: 24 CFR 812; 24 CFR 912

Legal Deadline: None

Abstract: Implements Section 222 of the Housing and Urban-Rural Recovery Act of 1983 to permit the Secretary to increase from 15 percent to 30 percent the number of units that may be occupied by single persons and are within the jurisdiction of any public housing agency. In addition, this rule would revise the procedures for HUD's approval of single person occupancy for affected dwelling units.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: ADDITIONAL CONTACT PERSON: James J. Tahash; Director, Program Planning Division; Office of Multifamily Housing Management. (202) 708-4300.

Agency Contact: Edward Whipple, Chief, Occupancy Branch, Office of Public Housing, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-0744

RIN: 2577-AA07

1278. PUBLIC AND INDIAN HOUSING; CEILING RENTS (P-2-89; FR-2529) 1987 HCD ACT

Significance: Regulatory Program

Legal Authority: 42 USC 1437a; PL 100-242, Sec 102(a)

CFR Citation: 24 CFR 0913

Legal Deadline: None

Abstract: Rule to permit PHAs and IHAs to adopt, with HUD approval, rents for projects or dwelling units that would establish a cap, or ceiling on the income-based rent as currently calculated under 24 CFR 913.107, that are not more than the income-based rent and not less than the average monthly amount of debt service and operating expenses attributed to units by similar size in housing projects owned and operated by the PHA.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy Chisholm, Director, Office of Policy, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-0713

RIN: 2577-AA57

1279. LEAD-BASED PAINT POISONING PREVENTION ACT—STEWART B. MCKINNEY HOMELESS ASSISTANCE AMENDMENTS OF 1988—SECTION 1068 (P-19-88; FR-2563)

Significance: Regulatory Program

Legal Authority: 42 USC 4821; PL 100-628

CFR Citation: 24 CFR 941; 24 CFR 965; 24 CFR 968; 24 CFR 965; 24 CFR 35

Legal Deadline: None

Abstract: The rule will implement statutory amendments established by section 1068 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Pub. L. 100-628). The amendments make a number of changes to the Lead-Based Paint Poisoning Prevention Act, including to what extent abatement in public housing will be for lead in paint of .06 percent by weight of the dry paint film required; adding dust containing lead to the hazard to be abated; adding atomic absorption spectroscopy (AAS) as an acceptable method of testing for lead-based paint and dust containing lead, and deleting testing and abatement of lead-based paint during unit turnover.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Grant E. Mitchell, Senior Attorney, Department of Housing and Urban Development, Office of the General Counsel, 202 708-1550

RIN: 2577-AA78

1280. PUBLIC HOUSING DEVELOPMENT - STATUTORY CHANGES (P-2-90; FR-2782)

Legal Authority: 42 USC 1437

CFR Citation: 24 CFR 941

Legal Deadline: None

Abstract: Technical corrections to existing regulations on development of public housing. Update to conform to changes in statutes, Executive Orders and related regulations on following points: (1) insert reference to "grants" in definition of "Annual Contributions Contract"; (2) cross-reference to current intergovernmental review requirements; (3) cross-reference to current accessibility requirements; (4) conform relocation provision to current statutory requirements; and (5) incorporate statutory changes on proposal submission deadlines and reformulation. In addition, provide instructions on limited proposals for scattered-site housing, to make it clear that only pertinent items need be included.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

HUD—PIH

Proposed Rule Stage

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Nancy Chisholm, Director, Policy Staff, Office of Public and Indian Housing, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-0713

RIN: 2577–AA82

1261. PUBLIC HOUSING - TENANT LEASES AND PHA GRIEVANCE HEARINGS (P-26-73; FR-1164)

Significance: Agency Priority

Legal Authority: 42 USC 1437

CFR Citation: 24 CFR 960; 24 CFR 966

Legal Deadline: None

Abstract: Would amend the regulations to simplify the requirements for provisions included in the lease between a PHA and its tenants and the requirements for the grievance procedure.

Timetable:

Action	Date	FR Cite
NPRM	07/23/86	51 FR 26504
NPRM Comment Period End	09/22/86	51 FR 26504
Final Action	06/30/88	53 FR 33216
Final Rule Withdrawn	02/15/89	54 FR 6886
NPRM	01/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Edward Whipple, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-0744

RIN: 2577–AA18

1262. SELECTION OF FAMILIES FROM THE WAITING LIST IN ASSISTED HOUSING PROGRAM (P-4-88; FR-2863)

Legal Authority: 42 USC 1437(n)

CFR Citation: 24 CFR 960

Legal Deadline: None

Abstract: Section 1001(a)(3) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 amended section 16(c) of the U.S. Housing Act of 1937 to prohibit project owners from selecting families for residence in an order different from the order on the waiting list for the purpose of selecting relatively higher income families for residence. In addition, section 1001(b) of the 1988 Amendments amends section 6(c)(4)(A) of the 1937 Act to extend the prohibition to public housing agencies.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy Chisholm, Director, Office of Policy, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-0713

RIN: 2577–AA79

1263. PFS PROJECTED OPERATING INCOME LEVEL - VACANCY RULE (P-4-90; FR-2784)

Legal Authority: 42 USC 1437g

CFR Citation: 24 CFR 990.102; 24 CFR 990.109

Legal Deadline: None

Abstract: Proposed rule would provide incentives to Public Housing Agencies to increase occupancy levels by defining "units available for occupancy" more rigorously, by revising the way in which per-unit operating subsidy eligibility is calculated under the Performance Funding System, and by increasing from 97% to 98%. The presumed occupancy level upon which PFS calculation are based. Proposed rule will reduce operating subsidy expenditures for vacant units above the 2 percent vacancy threshold and for vacant units in several newly defined sub-categories of vacant units. This change is precipitated by policy recommendations in the OMB pass-back of the Department's 1991 budget submission. Under the proposal, some units removed for non-dwelling use in anti-drug and in economic self-sufficiency activities may continue to be eligible for full subsidy.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy Chisholm, Director, Policy Staff, Office of Public and Indian Housing, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-0713

RIN: 2577–AA84

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Office of Public and Indian Housing (PIH)

Final Rule Stage

1264. REPLACEMENT HOUSING FOR PUBLIC HOUSING DEMOLITION AND DISPOSITION (P-5-88; FR-2463) 1987 HCD ACT

Significance: Regulatory Program

Legal Authority: 42 USC 1437p; PL 100-242, Sec 121(a)-(d)

CFR Citation: 24 CFR 970

Legal Deadline: None

Abstract: This rule would establish procedures for the approval and funding of replacement housing for public housing units that have been demolished or disposed of. In addition, this rule would require that HUD may approve an application for demolition if the project is obsolete, making it unusable for housing purposes and if no reasonable program modifications are feasible to return the project to a useful life. The rule would also require HUD, in allocating assistance for public housing acquisition or development or for Section 8 moderate rehabilitation, to give consideration to housing that replaces demolished public housing units in accordance with an approved replacement plan. PHAs would be prohibited from taking any action to demolish or dispose of public housing projects without obtaining HUD's

HUD—PIH

Final Rule Stage

approval and satisfying pertinent statutory requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/17/88	53 FR 30984
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy Chisholm, Director, Office of Policy, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-0713

RIN: 2577-AA58

1266. IMPLEMENTATION OF PERCENTAGE LIMIT PROVISIONS UNDER SECTION 16 OF THE UNITED HOUSING ACT OF 1937 (P-7-88; FR-2462) 1987 HCD ACT

Significance: Agency Priority

Legal Authority: 42 USC 1437n

CFR Citation: 24 CFR 203; 24 CFR 213; 24 CFR 220; 24 CFR 221; 24 CFR 222; 24 CFR 232; 24 CFR 233; 24 CFR 234; 24 CFR 235

Legal Deadline: None

Abstract: This rule would establish admission procedures which set differing percentage limitations on admission of lower income families in separate assisted housing programs that when aggregated will achieve the overall 5 percent limitation on occupancy under public housing annual contribution contracts and section 8 housing assistance payments contracts.

Timetable:

Action	Date	FR Cite
NPRM	04/29/88	53 FR 15412
NPRM Comment Period End	05/31/88	53 FR 15412
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy Chisholm, Director, Office of Policy, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-0713

RIN: 2577-AA80

1268. ◉ TURNKEY III IVE: PHA FINANCING & SUBORDINATION (P-6-90; FR-2818)

Legal Authority: 42 USC 1437-1437s

CFR Citation: 24 CFR 904

Legal Deadline: None

Abstract: This rule adds a new subpart to the part governing the Turnkey III program. The purpose of the new Subpart E is to permit Public Housing Agencies (PHAs) (1) to provide financing to homebuyers to consummate purchase of their homes and (2) to permit subordination of the PHA's lien on the home to facilitate home improvement loans, when needed.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Nancy Chisholm, Director, Office of Policy, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-0713

RIN: 2577-AA85

1267. ◉ INAPPLICABILITY OF PUBLIC HOUSING TO INDIAN HOUSING (P-9-90; FR-2871)

Significance: Agency Pribrity

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 904; 24 CFR 912; 24 CFR 913; 24 CFR 965; 24 CFR 968; 24 CFR 969; 24 CFR 970; 24 CFR 990

Legal Deadline: None

Abstract: A rule has been published that covers all the requirements from rules in the 990 series of Title 24 of the CFR that apply to Indian Housing (55 FR 24722). This rule completes the separation of Indian Housing from Public Housing by amending all of the Public Housing rules that mention Indian Housing to correct the applicability provisions to reflect the existence of the new Part 905, which includes comparable provisions.

Timetable:

Action	Date	FR Cite
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dominic Nessi, Director, Office of Indian Housing, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-1015

RIN: 2577-AA88

1268. INDIAN HOUSING PROGRAM—REVISED PROGRAM REGULATIONS (P-2-86; FR-2206)

Significance: Regulatory Program

Legal Authority: 25 USC 450e(b); PL 100-358

CFR Citation: 24 CFR 905

Legal Deadline: None

Abstract: This rule will consolidate relevant provisions of regulations flowing from the U.S. Housing Act of 1937, as amended by the Indian Housing Act of 1988. It is the Department's intention that this consolidated Part 905, followed with a comprehensive Indian Housing Handbook, should be the controlling regulatory authority governing the development and operation of Indian housing projects.

Timetable:

Action	Date	FR Cite
NPRM	06/29/88	53 FR 24554
NPRM Comment Period End	09/27/88	53 FR 24554
Interim Final Rule	06/18/90	55 FR 24722
Interim Final Rule Comment Period	10/16/90	55 FR 31178
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: Local

Additional Information: Includes: P-91-82 (RIN: 2577-AA17)

Agency Contact: Dominic Nessi, Director, Office of Indian Housing, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-1015

RIN: 2577-AA32

1269. ◉ PUBLIC HOUSING DEVELOPMENT—TECHNICAL CORRECTIONS (P-8-90; FR-2565)

Legal Authority: 42 USC 1437c

CFR Citation: 24 CFR 941

Legal Deadline: None

HUD—PSH

Final Rule Stage

Abstract: This final rule would make technical corrections to 24 CFR Part 941 to reflect amendments made to (1) section 5 of the U.S. Housing Act of 1937 by the Housing and Community Development Act of 1987; and (2) Title VIII of the Civil Rights Act of 1968 by the Fair Housing Amendments Act of 1988. The final rule would also incorporate reference to Executive Order 12372 and 24 CFR Part 52 which set forth requirements for intergovernmental review.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	
Final Action Effective	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Jane Taliaferro, Public Housing Development Division, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-1938

RIN: 2577–AA87

1290. PHA-OWNED AND LEASED PROJECT; MAINTENANCE AND OPERATION; TENANT ALLOWANCE FOR UTILITIES (P-8-88; FR-2260)

Legal Authority: 42 USC 1437; 42 USC 1437a; 42 USC 1437d; 42 USC 1437g

CFR Citation: 24 CFR 965

Legal Deadline: None

Abstract: HUD's procedures for the establishment and administration by PHAs of allowances for utilities and surcharges for excess consumption are contained in Part 965, Subpart E. This rule amends Subpart E to clarify how utility consumption attributable to air conditioning and certain tenant supplied major equipment will be treated under the allowance and surcharge provisions.

Timetable:

Action	Date	FR Cite
NPRM	10/16/87	52 FR 38470
NPRM Comment Period End	12/04/87	52 FR 38470

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Charles Ashmore, Utility Specialist, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-1640

RIN: 2577–AA40

1291. PERFORMANCE FUNDING SYSTEM REVISIONS (87 ACT)—FORMAL REVIEW PROCESS ENERGY CONSERVATION SAVINGS, AUDIT RESPONSIBILITIES (P-12-88; FR-2504)

Significance: Regulatory Program

Legal Authority: 42 USC 1437g

CFR Citation: 24 CFR 990; 24 CFR 965

Legal Deadline: None

Abstract: This rule would implement section 118(a) and 118(d) of the Housing and Community Development Act of 1987. Section 118(a) requires HUD to amend the Performance Funding System, among other things, to provide for a formal review process for PHAs to obtain a change in allowable expense level to correct inequities in the original base year expense level, to correct for changes in operating circumstances and to reflect the level of economic distress of the locality. Section 118(d) also provides for sharing of savings between a PHA and HUD for energy conservation improvements, and for preservation of subsidy when several units are rehabilitated and combined into fewer units. In addition, the rule would specify what requirements an insurance company or other risk protection provider must satisfy in order for the coverage to comply with ACC insurance requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/19/89	54 FR 52000
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy Chisholm, Director, Office of Policy, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 708-0713

RIN: 2577–AA71

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Public and Indian Housing (PIH)

Completed Actions

1292. DETERMINATION OF WAGE RATES FOR MAINTENANCE AND TECHNICAL EMPLOYEES OF PUBLIC HOUSING AGENCIES AND INDIAN HOUSING AUTHORITIES (P-10-88; FR-2211)

CFR Citation: 24 CFR 0000

Completed:

Reason	Date	FR Cite
Withdrawn	08/20/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Richard S. Allan 202 708-0370

RIN: 2577–AA08

1293. PUBLIC HOUSING DRUG ELIMINATION PILOT PROGRAM (P-20-88; FR-2592)

Significance: Regulatory Program

CFR Citation: 24 CFR 961

Completed:

Reason	Date	FR Cite
Final Action	07/03/90	55 FR 27508
Final Action Effective	08/02/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: R. Wayne Hunter 202 708-0713

RIN: 2577–AA70

1294. INDIVIDUAL METERING OF UTILITIES OF EXISTING PHA-OWNED PROJECTS (P-36-83; FR-1709)

CFR Citation: 24 CFR 965.304; 24 CFR 965.310; 24 CFR 965.404; 24 CFR 965.408

Completed:

Reason	Date	FR Cite
Withdrawn	09/09/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Charles E. Ashmore 202 708-1640

RIN: 2577-AA27

1295. PHA OBLIGATIONS WITH RESPECT TO RESIDUAL RECEIPTS IN THE PUBLIC HOUSING, TURNKEY III, AND SEC. 23 PROGRAMS; (P-2-87; FR2354; FORMERLY H-27-87)

CFR Citation: 24 CFR 969

Completed:

Reason	Date	FR Cite
Withdrawn	08/06/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy Chisholm 202 708-0713

RIN: 2577-AA49

[FR Doc. 90-21452 Filed 10-26-90; 8:45 am]

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Monday
October 29, 1990

Federal Register

Part X

Department of the Interior

Semiannual Regulatory Agenda

DEPARTMENT OF THE INTERIOR (DOI)

DEPARTMENT OF THE INTERIOR

Office of the Secretary

25 CFR Ch. I

30 CFR Chs. II and VII

36 CFR Ch. I

43 CFR Subtitle A, Chs. I and II

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50 CFR Chs. I and IV

Semiannual Agenda of Rules Scheduled for Review or Development

AGENCY: Office of the Secretary, Interior.

ACTION: Semiannual agenda of rules scheduled for review or development.

SUMMARY: This notice provides the semiannual agenda of rules scheduled for review or development between October 1990 and April 1991. An agenda is required by the Regulatory Flexibility Act and Executive Order 12291.

ADDRESSES: Unless otherwise indicated, all agency contacts are located at the Department of the Interior, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: All comments and inquiries with regard to these rules should be directed to the appropriate agency contact. General comments relating to the agenda should be directed to the Division of Directives and Regulatory Management, Office of Management Improvement, Department of the Interior, at the address above or on (202) 208-6191.

SUPPLEMENTARY INFORMATION: With this publication, the Department satisfies the requirement of Executive Order 12291 that the Department publish in April and October of each year an agenda of rules that have been issued or are expected to be issued and currently effective rules that are scheduled for review.

Simultaneously, the Department meets the requirement of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that an agenda be published in April and October of each year identifying rules which will have significant economic effects on a substantial number of small entities; those rules which will have such effects are specifically identified in the agenda.

This agenda also identifies rules determined to be "significant" under Executive Order 12498 and which are included in this Department's 1990 regulatory program. A more comprehensive discussion of this program and the rules are contained in the Regulatory Program of the United States Government, which is published by the Office of Management and Budget.

Dated: August 29, 1990.

Charles E. Kay,

Deputy Assistant Secretary of the Interior.

Assistant Secretary for Policy, Management and Budget—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1296	Natural Resource Damage Assessments	1090-AA29

Assistant Secretary for Policy, Management and Budget—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1297	Department of the Interior Acquisition Regulation	1090-AA14
1298	Natural Resource Damage Assessments	1090-AA21
1299	Natural Resource Damage Assessments	1090-AA22
1300	Natural Resource Damage Assessments	1090-AA23
1301	Department of the Interior, Nonprocurement Debarment and Suspension Regulation	1090-AA24
1302	Department of the Interior Acquisition Regulation; Patent Rights under Government Contracts and Subcontracts for Experimental, Developmental or Research Work	1090-AA27

Assistant Secretary for Policy, Management and Budget—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1303	Department of the Interior, New Restrictions on Lobbying	1090-AA28

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Assistant Secretary for Policy, Management and Budget—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1304	Drug-Free Workplace (Grants)	1090-AA28

Office of the Solicitor—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1305	Trans-Alaska Pipeline Liability Fund	1092-AA06

Office of the Solicitor—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1306	Practices Before the Department	1092-AA00

Office for Equal Opportunity—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1307	Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Federal Financial Assistance	1091-AA02

Office for Equal Opportunity—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1308	Federally Assisted Programs or Activities of the Department of the Interior, Nondiscrimination on the Basis of Handicap	1091-AA03

Office of Hearings and Appeals—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1309	Special Rules Applicable to Surface Coal Mining Hearings and Appeals	1094-AA42

Office of Hearings and Appeals—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1310	Rules Applicable in Indian Affairs Hearings and Appeals	1094-AA38
1311	Rules Applicable in Indian Affairs Hearings and Appeals	1094-AA39

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Office of Hearings and Appeals—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1312	White Earth Reservation Land Settlement Act of 1985; Authority of Administrative Judges; Determinations of the Heirs of Persons Who Died Entitled to Compensation	1094-AA40

Office of Hearings and Appeals—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1313	Special Rules Applicable to Surface Coal Mining Hearings and Appeals	1094-AA37
1314	Rules Applicable in Indian Affairs Hearings and Appeals	1094-AA41

Office of Hearings and Appeals—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1315	Special Rules Applicable to Public Land Hearings and Appeals	1094-AA25

United States Fish and Wildlife Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1316	Captive Bred Wildlife	1018-AB10
1317	Importation, Exportation, and Transportation of Wildlife	1018-AB49

United States Fish and Wildlife Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1318	Public Entry and Use	1018-AA36
1319	Refuge-Specific Sport Fishing Regulations	1018-AA50
1320	Nontoxic Shot Regulations for Hunting Migratory Birds	1018-AA93
1321	Subsistence Take of Migratory Birds in Alaska	1018-AB03
1322	Implementation of Klamath River Basin Fishery Resources Restoration Act	1018-AB11
1323	Injurious Wildlife: Importation of Live or Dead Fish, Mollusks, and Crustaceans, or Their Eggs	1018-AB13
1324	Humane Transport of Wild Mammals and Birds Amendments	1018-AB22
1325	National Wildlife Refuges: Adding to Areas Open to Hunting and Fishing	1018-AB25
1326	Highly Traded Appendix II Species	1018-AB30
1327	Amendments to the Marine Mammal Protection Act	1018-AB34
1328	Endangered and Threatened Wildlife and Plants	1018-AB38
1329	Federal Migratory Bird Hunting and Conservation Stamp Licensing Procedures and Guidelines	1018-AB40
1330	Endangered and Threatened Wildlife and Plants; Steller's Sea Lion and Sacramento River Winter-Run Chinook Salmon	1018-AB41
1331	Migratory Bird Permits: Determination that Kansas Meet Federal Falconry Standards	1018-AB45
1332	Cabin Management Regulations on National Wildlife Refuges in Alaska	1018-AB46
1333	Endangered and Threatened Wildlife and Plants: Definition of Vertebrate Populations	1018-AB47
1334	Marine Mammals: Incidental Take During Specified Activities	1018-AB48
1335	Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)	1018-AB50
1336	Patuxent Wildlife Research Center: Sport Fishing	1018-AB51

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United States Fish and Wildlife Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1337	Marine Mammals: Native Exemptions	1018-AA20
1338	Migratory Bird Hunting	1018-AA24
1339	Refuge-Specific Hunting Regulations	1018-AA71
1340	Endangered and Threatened Wildlife and Plants	1018-AA85
1341	Subsistence Take of Migratory Birds	1018-AA92
1342	Endangered and Threatened Wildlife and Plants	1018-AA95
1343	Marine Mammals: Incidental Taking by Commercial Fishing Operations	1018-AA98
1344	Endangered and Threatened Wildlife and Plants	1018-AA96
1345	Endangered and Threatened Wildlife and Plants	1018-AB02
1346	Proposed Determination of Experimental Population Status for an Introduced Population of Colorado Squawfish	1018-AB09
1347	Endangered and Threatened Wildlife and Plants	1018-AB14
1348	Administrative Requirements, Federal Aid in Fish and Federal Aid in Wildlife Restoration Acts	1018-AB15
1349	Endangered and Threatened Wildlife and Plants	1018-AB16
1350	Endangered and Threatened Wildlife and Plants; Special Rules for Mammals	1018-AB19
1351	Endangered and Threatened Wildlife and Plants	1018-AB23
1352	Endangered and Threatened Wildlife and Plants; Designated Ports for Plants	1018-AB26
1353	Endangered and Threatened Wildlife and Plants: Revision of Special Regulations for the Grizzly Bear	1018-AB29
1354	Endangered and Threatened Wildlife and Plants	1018-AB31
1355	Endangered and Threatened Wildlife and Plants	1018-AB36
1356	Endangered and Threatened Wildlife and Plants; Special Rule Allowing Regulated Taking of the Utah Prairie Dog	1018-AB39
1357	Endangered and Threatened Wildlife and Plants	1018-AB42

United States Fish and Wildlife Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1358	Marine Mammals: Change Definition of U.S. Citizen	1018-AB18
1359	Endangered and Threatened Wildlife and Plants; Northern Spotted Owl	1018-AB32
1360	Injurious Wildlife: Brown Tree Snakes	1018-AB33
1361	Endangered and Threatened Wildlife and Plants	1018-AB35
1362	Temporary Subsistence Regulations for Public Lands in Alaska	1018-AB43

National Park Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1363	Apostle Islands National Lakeshore: Snowmobiling	1024-AB80
1364	Yellowstone National Park: Commercial Traffic on U.S. Highway 191 Within Yellowstone National Park	1024-AB82
1365	National Capital Region Parks	1024-AB91
1366	Solid Waste Disposal Sites in Units of the National Park System	1024-AB95

National Park Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1367	Archeological and Historic Preservation Act; Department of the Interior Regulations	1024-AA49
1368	Cape Lookout National Seashore: Off-Road Vehicles	1024-AA85
1369	Mammoth Cave NP: Fishing	1024-AA94
1370	Appalachian National Scenic Trail	1024-AB07
1371	Minerals Management - Nonfederal Oil and Gas	1024-AB30
1372	Cape Hatteras National Seashore: Off-Road Vehicle Regulations	1024-AB64
1373	Minerals Management: Nonfederal Minerals Other Than Oil and Gas	1024-AB75
1374	Sequoia and Kings Canyon National Parks: Fishing Regulations	1024-AB76

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National Park Service—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1375	Ozark National Scenic Riverways: Power Boat Operation	1024-AB85
1376	Voyageurs National Park: Snowmobiling	1024-AB86
1377	Recreation Fees	1024-AB87
1378	Voyageurs National Park: Designation of Aircraft Landing Areas	1024-AB88
1379	National Register of Historic Places	1024-AB89
1380	Land and Water Conservation Fund Program of Assistance to States; Post-Completion Compliance	1024-AB90
1381	National Capital Region Parks: Special Event Rules	1024-AB92
1382	National Capital Region Parks: Prohibition of Storage of Property in Lafayette Park	1024-AB93
1383	National Park Service Symbols: United States Park Police Insignia	1024-AB94

National Park Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1384	Big Cypress National Preserve: Indian Use and Occupancy	1024-AA07
1385	National Register of Historic Places	1024-AA44
1386	Determination of Eligibility for Inclusion in the National Register of Historic Places	1024-AA46
1387	Protection of Archaeological Resources; Uniform Regulations	1024-AA51
1388	NPS Units in Alaska: Closure Regulations	1024-AA71
1389	Fire Island National Seashore: Zoning	1024-AA80
1390	Fort Jefferson NM: Fishing; Boundary Adjustments	1024-AA96
1391	Everglades NP: Mining	1024-AB10
1392	Curation of Federally Owned and Administered Archeological Collections	1024-AB13
1393	Jean Lafitte NHP: Crawfishing Regulations	1024-AB33
1394	Cuyahoga Valley NRA: Off-Road Vehicles and Snowmobiles	1024-AB44
1395	Canyon De Chelly National Monument	1024-AB47
1396	Whiskeytown National Recreation Area Fishing Regulations	1024-AB61
1397	Bighorn Canyon National Recreation Area - Fishing Regulations	1024-AB63
1398	Management of Mineral Development Associated With Mining Claims	1024-AB74
1399	Alaska Region: Same-Day-Airborne Hunting Regulations	1024-AB91

National Park Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1400	Historic Preservation Certifications Pursuant to Section 48(g) and Section 170(h) of the Internal Revenue Code of 1986	1024-AB73

Bureau of Indian Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1401	Administration of the Higher Education Program	1076-AA10
1402	Grants to Tribally Controlled Community Colleges and Navajo Community College	1076-AA11
1403	Administration of the Indian Adult Education Programs	1076-AA15
1404	Leasing and Permitting	1076-AA29
1405	Roads of the Bureau of Indian Affairs	1076-AB05
1406	Leasing of Restricted Lands of Members of Five Civilized Tribes, Oklahoma, for Mining	1076-AB41
1407	Individual Indian Money Accounts	1076-AB91
1408	The Indian Police	1076-AB98
1409	Financial Assistance and Social Services Program	1076-AB99
1410	Financial Assistance and Social Services Program	1076-AC13
1411	Certificates of Degree of Indian Blood	1076-AC19

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Bureau of Indian Affairs—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1412	Revised Procedures for Implementation of the Indian Self-Determination and Education Assistance Act Amendments of 1988	1076-AC20
1413	Housing Improvement Program	1076-AC22
1414	Minimum Standards for and Application and Approval Procedures for BIA Early Childhood Development Programs	1076-AC25
1415	Bond Guaranty	1076-AC26
1416	Supplemental Surety Bond Guaranty	1076-AC27
1417	Leasing of Osage Reservation Lands for Mining for Minerals Other Than Oil and Gas	1076-AC28
1418	Lead and Zinc Mining Operations, Quapaw Agency	1076-AC30
1419	Safety and Health Inspection Program	1076-AC31
1420	Indian School Equalization Program	1076-AC33
1421	Tribal Reorganization Under a Federal Statute	1076-AC34
1422	Petitioning and Other Procedures for Tribes Reorganized Under Federal Statute and Other Organized Tribes	1076-AC35
1423	Leasing of Certain Lands on the Wind River Indian Reservation, Wyoming, for Oil and Gas Mining	1076-AC36
1424	Loans to Indians From Revolving Loan Fund	1076-AC38
1425	Loan Guaranty, Insurance and Interest Subsidy	1076-AC39
1426	Annuity and Other Per Capita Payments	1076-AC40
1427	Indian Business Development Program	1076-AC42
1428	Deposit and Expenditure of Individual Funds of Members of the Osage Tribe of Indians Who Do not Have Certificates of Competency	1076-AC45
1429	Procedures for Establishing the an American Group Exists as an Indian Tribe	1076-AC46
1430	Preparation of a Roll of Independent Seminole Indians of Florida	1076-AC48
1431	New School Construction Projects	1076-AC49
1432	Land Acquisition	1076-AC51
1433	Loan Guaranty, Insurance, and Interest Subsidy; Loans to Indians from Revolving Loan Fund	1076-AC52

Bureau of Indian Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1434	Law and Order on Indian Reservations	1076-AA01
1435	Navajo Grazing Regulations	1076-AA33
1436	Contracts for Prospecting and Mining on Indian Mineral Lands	1076-AA38
1437	Leasing of Allotted Lands for Mining	1076-AA39
1438	Indian Business Development Program	1076-AA55
1439	Oil and Gas Mineral Agreements	1076-AA62
1440	Attorney Fee Contracts With Indian Tribes; Payment of Tribal Attorney Fees With Federally Appropriated Funds	1076-AB57
1441	Preparation of a Roll of the Coquille Indian Tribe	1076-AC21
1442	Protection of Archaeological Resources	1076-AC23
1443	Indian Electric Power Utilities	1076-AC24
1444	Charges for Goods and Services Provided to Non-Federal Users	1076-AC29
1445	Law and Order on Indian Reservations	1076-AC43
1446	Buy Indian Act Procedures for Contracting	1076-AC50

Bureau of Indian Affairs—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1447	Administration of a Program of Employment Assistance for Adult Indians	1076-AA04
1448	Leasing of Osage Reservation Lands for Oil and Gas Mining	1076-AC09
1449	Preparation of Rolls of Indians	1076-AC11

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Minerals Management Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1450	Recoupments and Refunds of Excess Payments Under Federal Offshore Mineral Leases	1010-AB11
1451	Allowance for Extraordinary Costs and Thresholds for Transportation and Processing Allocations	1010-AB43
1452	Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Rules of Particular Application	1010-AB46

Minerals Management Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1453	Air Quality - Offshore California	1010-AA81
1454	Amendment of Valuation Benchmarks in Gas Regulations	1010-AB29
1455	Audit Procedures and Payor Requirements and Responsibilities During Audits	1010-AB44
1456	Responsibilities of Lessees, Payors and Assignees	1010-AB45
1457	Amendments to 30 CFR 250.67 - Hydrogen Sulfide	1010-AB50
1458	Oil, Gas and Sulfur Operations in the Outer Continental Shelf; Updating Documents Incorporated by Reference	1010-AB51
1459	Amendment to Rules Governing Installation of Shutdown Valves on Pipelines	1010-AB52
1460	Amendment to 30 CFR Subpart J (Sections 250.150 - 250.166)—Pipelines and Pipeline Rights-of-Way	1010-AB55
1461	Amendments to 30 CFR Part 251	1010-AB56
1462	Valuation of Gas Production Under Unitization or Communitization	1010-AB57
1463	Offsetting Royalty Underpayments and Overpayments Between Different Federal or Indian Leases (Cross-Lease Netting)	1010-AB58
1464	Valuation of Oil and Gas on Sliding and Step-Scale Leases (Public Lands Only)	1010-AB59

Minerals Management Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1465	Revision of Regulation Governing Effectiveness of Decisions and Orders Pending Appeal	1010-AB13
1466	Revision of Royalty Valuation Regulations Governing Gas Sales Under Percentage-of-Proceeds Contracts	1010-AB17
1467	Oil and Gas and Sulphur Operations in the Outer Continental Shelf (OCS), Subpart O, Training	1010-AB21
1468	Geothermal Resources Used to Generate Electricity, Product Valuation for Royalty Purposes	1010-AB22
1469	Oil and Gas and Sulphur Operations in the Outer Continental Shelf, Subpart P, Sulphur Operations	1010-AB23
1470	Limitation of the Director's Authority for Discretionary Release of Postlease Proprietary Data and Information	1010-AB30
1471	Clarification of Dates for Release to the Public of Certain Data and Information Submitted in Association With Drilling and Production Operations	1010-AB34
1472	Assessment for Failure to Submit Payment of Same Amount With Report or Bill or to Provide Adequate Information	1010-AB35
1473	Removal of Federal Funding Limitation from State and Indian Cooperative Agreements	1010-AB36
1474	Serving of Official Correspondence Issued by the Royalty Management Program	1010-AB37
1475	Amendment to the Regulations Concerning the Requirement for Submission of a Corporate Surety Bond to Indemnify the U.S. From Default by a Lessee on the Conditions and Terms of an OCS Lease	1010-AB39
1476	Regulations Governing Recoupment of Overpayments on Indian Leases	1010-AB40
1477	Amendments to Clarify 30 CFR Part 250	1010-AB41
1478	Extension of Time Period for Maintaining Records on Outer Continental Shelf Net Profit Share Oil and Gas Leases	1010-AB46
1479	Oil and Gas and Sulphur Operations on the Outer Continental Shelf; Amendment to Specify Documentation Requirements for Blowout Preventer Tests	1010-AB49
1480	Oil and Gas and Sulphur Operations in the Outer Continental Shelf:Reports and Investigations of Apparent Violations	1010-AB53
1481	Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Health and Safety Training Requirements	1010-AB54

Minerals Management Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1482	Amendments to 30 CFR 250.52 to Add Requirements Intended to Prevent Occurrence of Accidental Fires Caused by Falling Slag from Welding or Burning	1010-AB31

DOI

Minerals Management Service—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
1483	Revision of Regulations Governing Interest Rate Applicable to Late Payments and Underpayments	1010-AB32
1484	Amendment of Coal Valuation Regulations to Remove Exclusion of Taxes and Fees From Value of Federal Coal Production	1010-AB42
1485	Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Safety and Pollution-Prevention Equipment	1010-AB47

Office of Surface Mining Reclamation and Enforcement—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1486	Surface Coal Mining and Reclamation Operations; Two Acre Exemption Repeal	1029-AB16
1487	Federal Regulatory Programs; Permit Application Fees	1029-AB29
1488	Bond Release Certification	1029-AB30
1489	Individual Civil Penalties	1029-AB31
1490	Requirements for Coal Exploration	1029-AB32
1491	Cessation of Operations: Temporary Cessation	1029-AB33
1492	Standards for Review of Ownership, Control, and Violation Information	1029-AB34
1493	Permanent Regulatory Program: Multiple Seam Mining Mountaintop Removal	1029-AB35
1494	Permanent Regulatory Program: Best Technology Currently Available	1029-AB36
1495	Permanent Regulatory Program: Technical Standards for Backfilling and Grading	1029-AB37
1496	Permanent Regulatory Program: Procedures and Criteria for Approval or Disapproval of State Program Submissions; State Program Amendments	1029-AB38
1497	Permanent Regulatory Program; Performance Standards; Permanent and Temporary Impoundments	1029-AB39
1498	Service of Documents	1029-AB41
1499	Definition and Criteria for Valid Existing Rights	1029-AB42
1500	Applicability of the Prohibitions of the Surface Mining Act to the Surface Impacts of Underground Coal Mining	1029-AB43
1501	Subsidence Control in Federal Program States	1029-AB44
1502	Previously Mined Areas and Coal Preparation Plants - Remand	1029-AB45
1503	Obligation to Repair Subsidence-Caused Material Damage to Structures and Facilities	1029-AB46
1504	Wetlands Rule	1029-AB47
1505	Definition of Coal	1029-AB48

Office of Surface Mining Reclamation and Enforcement—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1506	Reclamation Technology Rule	1029-AA57
1507	Permanent Program Performance Standards; Highwall Policy	1029-AB10
1508	Assessment Conference Scheduling	1029-AB22
1509	Interim Program Revisions	1029-AB24

Office of Surface Mining Reclamation and Enforcement—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1510	Federal Lands Program	1029-AA76
1511	Federal Regulatory Programs; Permit Application Fees	1029-AB15
1512	Surface Coal Mining and Reclamation Permits; Requirements for Permits and Public Processing; Public Participation in Permit Processing and Review of Applications	1029-AB39

DOI

Bureau of Reclamation—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1513	Reclamation Acquisition Regulation System	1006-AA20
1514	Acreage Limitation Rules	1006-AA21

Bureau of Land Management—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1515	Onshore Oil and Gas Operations	1004-AB71
1516	Oil and Gas Leasing: Surface Use Rights	1004-AB85

Bureau of Land Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1517	Paleontology	1004-AA27
1518	Recreation: General	1004-AA35
1519	Unauthorized Use of Public Lands	1004-AA36
1520	Cultural Resource Management	1004-AA69
1521	Recreation and Public Purposes: Solid Waste Disposal	1004-AA73
1522	Exploration Activity; Oil and Gas Leasing; Geothermal Resource Leasing-General	1004-AA97
1523	Rights-of-Way Under the Mineral Leasing Act	1004-AA98
1524	Rights-of-Way, Principles and Procedures	1004-AB00
1525	Cadastral Survey	1004-AB07
1526	Indian Allotments	1004-AB10
1527	Geothermal Resource Operations	1004-AB18
1528	Minerals (Nonmineral Entries on Mineral Lands)	1004-AB20
1529	Onshore Oil and Gas Order No. 2 - Drilling Operations	1004-AB21
1530	Onshore Oil and Gas Operations; Special Provisions; Onshore Oil and Gas Order No. 5 - Measurement of Gas	1004-AB22
1531	Onshore Oil and Gas Operations; Special Provisions - Onshore Oil and Gas Order No. 3 - Site Security	1004-AB24
1532	Sales of Forest Products; General - Preparation for Sale	1004-AB34
1533	Mining Claims Under the General Mining Laws	1004-AB36
1534	Onshore Oil and Gas Order No. 8 - Well Workovers, Completions, Abandonments	1004-AB37
1535	Mining Claims Under the General Mining Law—Nature and Classes of Mining Claims Assessment Work	1004-AB43
1536	Coal Management—General	1004-AB44
1537	Onshore Oil and Gas Order No. 9 - Waste Prevention and Beneficial Use of Oil and Gas	1004-AB47
1538	Leases, Permits and Easements	1004-AB51
1539	Mining in Military Withdrawals	1004-AB52
1540	Special Laws and Rules; Restatement of Procedures for the Segregation and Opening of Public Lands; Amendment	1004-AB54
1541	Public Availability of Minerals Resources Information	1004-AB55
1542	Classifications	1004-AB57
1543	Village Selections	1004-AB58
1544	Cave Management	1004-AB59
1545	Oil and Gas Leasing	1004-AB65
1546	Law Enforcement—Criminal	1004-AB67
1547	Law Enforcement—Criminal	1004-AB68
1548	Management of Designated Wilderness Area	1004-AB69
1549	Availability of Public Records	1004-AB70
1550	Onshore Oil and Gas Operations; Special Provisions; Onshore Oil and Gas Order No 1 - Approval of Operations on Onshore Federal and Indian Oil and Gas Leases	1004-AB72
1551	Onshore Oil and Gas Unit Agreements—Unproven Areas	1004-AB73
1552	Drainage, Drilling, and Producing Obligations	1004-AB74
1553	Conveyance of Reserved Mineral Interests	1004-AB75
1554	Mineral Materials Disposal	1004-AB76
1555	Sales - Federal Land Policy and Management Act	1004-AB77
1556	Onshore Oil and Gas Unit Agreements: Unproven Areas	1004-AB78
1557	Contract Modification—Extension—Assignment	1004-AB79
1558	Onshore Oil and Gas Operations: Onshore Oil and Gas Order No. 4 - Measurement of Oil	1004-AB80

DOI

Bureau of Land Management—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1559	Onshore Oil and Gas Geophysical Exploration	1004-AB52
1560	Award of Contract	1004-AB63
1561	Protection, Management, and Control of Wild Free-Roaming Horses and Burros	1004-AB64
1562	Conveyance of Federally-Owned Mineral Interests	1004-AB66

Bureau of Land Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1563	Onshore Oil and Gas Order No. 7 - Disposal of Produced Water	1004-AA56
1564	Onshore Oil and Gas Order No. 6 - Hydrogen Sulfide Operations	1004-AA67
1565	Exchanges - General Procedures	1004-AB28
1566	Onshore Oil and Gas Operations - Cooperative Agreements, Delegations of Authority and Contracts for Oil and Gas Inspection and Enforcement	1004-AB32
1567	Conduct of Sales (Timber)	1004-AB35
1568	Law Enforcement—Criminal (Forest Products)	1004-AB45
1569	Contract Extension (Timber Sales)	1004-AB56
1570	Protection, Management, and Control of Wild Free-Roaming Horses and Burros	1004-AB61

Bureau of Land Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1571	Sales of Forest Products; Conduct of Sales	1004-AB39
1572	Sales of Forest Products; Award of Contract	1004-AB40
1573	Exploration Activity; Oil and Gas Leasing; Competitive Leases	1004-AB41
1574	Geothermal Resources Leasing	1004-AB53
1575	Protection Management and Control of Wild Free-Roaming Horses and Burros; Private Maintenance; Supporting Information and Certification for More Than Four Horses or Burros	1004-AB63
1576	Sales of Forest Products	1004-AB65

DEPARTMENT OF THE INTERIOR (DOI)

Prerule Stage

Assistant Secretary for Policy, Management and Budget (ASPMB)

1296. ● NATURAL RESOURCE DAMAGE ASSESSMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 9651(C)

CFR Citation: 43 CFR 11

Legal Deadline: None

Abstract: The Department is currently revising its CERCLA type B procedures based on a court ruling. Section 301(c)(3) of CERCLA requires that the regulations be reviewed and revised, as appropriate, on a biennial basis. The Department will begin a review of the type B rule once it is revised. The Department will ask trustees, other interested parties, and members of the public to draw upon their experience with the type B procedures and the general assessment process to advise the Department of areas where revisions to the process and the type B procedures may be desired. If these comments and suggestions show areas where revisions to the general process or to the type B procedures are needed, a notice of proposed rulemaking will be issued to revise the rule.

Timetable:

Action	Date	FR Cite
ANPRM	03/00/91	
ANPRM Comment Period End	05/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Jonathan P. Deason, Director, Office of Environmental Affairs, Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street,

DOI—ASPMB

Prerule Stage

NW., Room 2340, Washington, DC
[illegible]
RIN: 1090-AA29

DEPARTMENT OF THE INTERIOR (DOI)
Assistant Secretary for Policy, Management and Budget (ASPMB)

Proposed Rule Stage

1287. DEPARTMENT OF THE INTERIOR ACQUISITION REGULATION

Legal Authority: 5 USC 301; 5 USC 480(c)

CFR Citation: 48 CFR 1400

Legal Deadline: None

Abstract: This rule makes miscellaneous revisions to the Department of the Interior Acquisition Regulation.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Dean A. Titcomb, Chief, Acquisition and Assistance Division, Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street, NW., Washington, DC 20240, 202 208-3820

RIN: 1090-AA34

1288. NATURAL RESOURCE DAMAGE ASSESSMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 9651(c) CERCLA

CFR Citation: 43 CFR 11

Legal Deadline: None
42 USC 9651(c)(3) requires biennial review and revision as appropriate of the regulations.

Abstract: CERCLA allows natural resource trustees to bring a claim against a potentially responsible party for resources that have been injured by a release of a hazardous substance or, under certain circumstances, a discharge of oil. Section 301(c)(2)(A) calls for the promulgation of simplified assessment procedures. The Department has begun the development of a type A procedure for use in the Great Lakes environment. After a review of the natural resource damage assessment rule, the U.S. Circuit Court of Appeals for the District of Columbia remanded certain parts of that rule to the Department for revision. The court upheld the use of an interactive computer model, but stated that such a model should incorporate restoration or replacement costs and all reliably calculated lost use values in the damage calculations. The Department will revise its development of a type A procedure for Great Lakes environments to comply with the court's ruling.

Timetable:

Action	Date	FR Cite
ANPRM	09/22/89	54 FR 39016
ANPRM Comment Period End	10/23/89	54 FR 39016
NPRM	12/26/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Jonathan P. Deason, Director, Office of Environmental Affairs, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Room 2340, MIB, 1849 C Street, NW., Washington, DC 20240, 202 208-3301

RIN: 1090-AA21

1289. NATURAL RESOURCE DAMAGE ASSESSMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 9651(c) CERCLA

CFR Citation: 43 CFR 11

Legal Deadline: Other, Statutory.
42 USC 9651(c)(3) requires biennial review and revision, as appropriate, of the regulations.

Abstract: CERCLA allows natural resource trustees to bring a claim against a potentially responsible party for resources that have been injured by a release of a hazardous substance or, under certain circumstances, a discharge of oil. Section 301(c)(2)(B) calls for the promulgation of a set of alternative protocols for the testing, sampling, and determining compensation for natural resource damages, referred to as the type B procedures. Final rules for the assessment of damages were promulgated by the Department consistent with those requirements. In a review of those rules, the U.S. Circuit Court of Appeals for the District of Columbia held that restoration or replacement costs are the basic measure of natural resource damages under CERCLA, and all reliably calculated lost use values of injured natural resources should also be recoverable, with no required hierarchy of methodologies for conducting those valuations. The Department is beginning the revision of the rules to conform with the court ruling. The biennial review of the type B rule will await this revision.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Jonathan P. Deason, Director, Office of Environmental Affairs, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Room 2340, 1849 C Street, NW., Washington, DC 20240, 202 208-3301

RIN: 1090-AA22

DOI—ASPMB

Proposed Rule Stage

1300. NATURAL RESOURCE DAMAGE ASSESSMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 9651(c) CERCLA

CFR Citation: 43 CFR 11

Legal Deadline: None

Abstract: CERCLA allows natural resource trustees to bring a claim against a potentially responsible party for resources that have been injured by a release of a hazardous substance or, under certain circumstances, a discharge of oil. Section 301(c)(2)(A)) calls for the promulgation of simplified assessment procedures. The first type A procedure for coastal and marine environments uses a computer model known as the natural resource damage assessment model for coastal and marine environments (NRDAM/CME). The U.S. Circuit Court of Appeals for the District of Columbia upheld the use of an interactive computer model, but stated that such a model should incorporate restoration or replacement costs and all reliably calculated lost use values in the damage calculations. The Department will revise the type A procedure for coastal and marine environments to comply with the court's ruling and will incorporate changes in response to the first biennial review of the type A procedure at the same time.

Timetable:

Action	Date	FR Cite
ANPRM	09/22/89	54 FR 39015
ANPRM Comment Period End	10/23/89	54 FR 39015
NPRM	12/31/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Jonathan P. Deason, Director, Office of Environmental Affairs, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Room 2340, 1849 C St., NW., Washington, DC 20240, [redacted]

RIN: 1090-AA23

1301. DEPARTMENT OF THE INTERIOR, NONPROCUREMENT DEBARMENT AND SUSPENSION REGULATION

Legal Authority: EO 12549; 5 USC 301

CFR Citation: 43 CFR 12

Legal Deadline: None

Abstract: This action proposes a revision to the Department's regulation establishing a uniform system of nonprocurement debarment and suspension. This proposed rule would implement the requirements of paragraph (a)(1) of section 12.110, Coverage, of common final rule on Governmentwide Debarment and Suspension (Nonprocurement).

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Larry D. Cardwell, Director, Office of Acquisition and Property Management, Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street, NW., Washington, DC 20240, [redacted]

RIN: 1090-AA24

1302. DEPARTMENT OF THE INTERIOR ACQUISITION REGULATION; PATENT RIGHTS UNDER GOVERNMENT CONTRACTS AND SUBCONTRACTS FOR EXPERIMENTAL, DEVELOPMENTAL OR RESEARCH WORK

Legal Authority: 35 USC 18

CFR Citation: 48 CFR 1400; 48 CFR 1427; 48 CFR 1452

Legal Deadline: None

Abstract: PL 96-620 amended 35 USC 18 dealing with patent rights in inventions made with Federal funding. On June 12, 1989, Federal Acquisition Regulation implementation of PL 96-620 was issued through FAC 84-48. Patent rights under Government contracts are covered in FAR Subpart 27.3. FAR 27.304-5(b) requires agencies to establish and publish their respective appeals, administrative due process, and fact-finding procedures related to patent rights. The proposed DIAR coverage establishes Department of the Interior policy with regard to title rights, exception determinations, appeals, greater rights determinations, retention of rights by inventors, assignment of rights, exercise of march-in rights and licensing to third parties. It also identifies key Departmental points of contact in matters concerning patent rights. The proposed coverage supplements FAC 84-48 and amends sections 14227 and 1452, as parts of 48 CFR, Chapter 14.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Dean A. Titcomb, Chief, Acquisition and Assistance Division, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Office of Acquisition and Property, Management, Washington, DC 20240, [redacted]

RIN: 1090-AA27

DEPARTMENT OF THE INTERIOR (DOI)

Assistant Secretary for Policy, Management and Budget (ASPMB)

Final Rule Stage

1303. DEPARTMENT OF THE INTERIOR, NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: PL 101-121, Sec 319; 31 USC 1352; 5 USC 301

CFR Citation: 43 CFR 18

Legal Deadline: None

Abstract: This final rule will prohibit recipients of Federal contracts, grants and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal

DOI—ASPMB

Final Rule Stage

Government in connection with a specific contract, grant or loan.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/28/90	55 FR 6736
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Dean A. Titcomb, Chief, Acquisition and Assistance Division, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Office of Acquisition and Property Management, Washington, DC 20240, 202 208-3428

RIN: 1090-AA26

DEPARTMENT OF THE INTERIOR (DOI)
Assistant Secretary for Policy, Management and Budget (ASPMB)

Completed Actions

1304. ● DRUG-FREE WORKPLACE (GRANTS)

Significance: Regulatory Program

Legal Authority: EO 12549 Section 5151 to 5160 of the Drug-Free Workplace Act of 1988; 5 USC 301; PL 98-502

CFR Citation: 43 CFR 12

Legal Deadline: None

Abstract: This rule amends the interim final rule published on January 31, 1990, in response to public comment.

Timetable:

Action	Date	FR Cite
Final Action	05/25/90	55 FR 21681
Final Action Effective	07/25/90	55 FR 21681

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Larry D. Cardwell, Director, Office of Acquisition and Property Management, Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street, NW. (MS 5512-MIB), Washington, DC 20240, 202 208-5636

RIN: 1090-AA28

BILLING CODE 4310-RK-F

DEPARTMENT OF THE INTERIOR (DOI)
Office of the Solicitor (OSOL)

Proposed Rule Stage

1305. TRANS-ALASKA PIPELINE LIABILITY FUND

Legal Authority: 43 USC 1653(c); 33 USC 1321(p)(2) to (2)

CFR Citation: 43 CFR 29.3(b)(1)

Legal Deadline: None

Abstract: The amendment to 43 CFR 29.3(b)(1) would provide that at least one of the Secretary of the Interior's appointees to the TAPS Fund's Board of Trustees would be employed by the Department of the Interior. It would provide further that the appointee(s) would participate in activities of the Board of Trustees, but would not vote. The appointee(s) would not have a vote because of the possibility that a vote could be inconsistent with the interests of the United States. The amendment would recognize that the Secretary's Federal employee appointee(s) are required to represent the interests of the United States in their Board of Trustees activities. The Assistant Secretary-Policy, Budget and Administration, who is the current Federal employee member, has found himself in situations where the Board is voting on matters on which the United States has not developed a policy, and has abstained. There has also been at least one situation where the interests of the United States and the TAPS Fund were in opposition. The amendment therefore makes it clear that the interests of the United States are paramount for the Federal employee appointee(s) and that they will not have a vote.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	12/00/90	
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert H. Moll, Attorney-Advisor, Department of the Interior, Office of the Solicitor, 1849 C Street, NW., Washington, DC 20240, 202 208-5216

RIN: 1092-AA06

DEPARTMENT OF THE INTERIOR (DOI)
Office of the Solicitor (OSOL)

Completed Actions

1306. PRACTICES BEFORE THE DEPARTMENT

Legal Authority: 43 USC 1461

CFR Citation: 43 CFR 1

Legal Deadline: None

Abstract: This rule governs practice in administrative proceedings before the Department. It will be revised to update its provisions and assure that they are consistent with the Department's employee conduct regulations (43 CFR Part 20) and the Ethics in Government Act.

DOI—OSOL

Completed Actions

Timetable:

Action	Date	FR Cite
Withdrawn No further action to be taken at this time.	10/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Abate, Paralegal, Department of the Interior, Office of the Solicitor, 1849 C Street, NW., Washington, DC 20240, 202 208-5216

RIN: 1092–AA00

BILLING CODE 4310-11-F

DEPARTMENT OF THE INTERIOR (DOI)
Office for Equal Opportunity (OEO)

Proposed Rule Stage

1307. NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Legal Authority: PL 92-318 Title IX of the Education Amendment of 1972; PL 93-568; PL 94-482; 20 USC 1681 to 1686

CFR Citation: 43 CFR 17

Legal Deadline: None

Abstract: The Title IX regulation is intended to address the problem of discrimination on the basis of sex in any education program or activity receiving or benefiting from Federal financial assistance administered by the Department of the Interior (DOI).

No alternative for addressing problems of discrimination in DOI's education programs can be considered due to the fact that Title IX requires each Federal agency which extends Federal financial assistance to any educational program or activity, to issue rules and regulations implementing Title IX.

DOI's recipients are anticipated to incur expenses in two (2) areas: (1) Data collection and recordkeeping; (2) rectifying areas of noncompliance with Title IX. With respect to DOI, expenses will be incurred in three (3) areas: (1) Development and publication of the Title IX rule; (2) Provision of technical assistance; and (3) Accomplishing compliance reviews and enforcement activities.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Melvin C. Fowler, Supervisory Equal Opportunity Specialist, Department of the Interior, Office for Equal Opportunity, 1849 C Street, NW., Washington, DC 20240, 202 208-3455

RIN: 1091–AA02

DEPARTMENT OF THE INTERIOR (DOI)
Office for Equal Opportunity (OEO)

Completed Actions

1306. FEDERALLY ASSISTED PROGRAMS OR ACTIVITIES OF THE DEPARTMENT OF THE INTERIOR, NONDISCRIMINATION ON THE BASIS OF HANDICAP

Legal Authority: 29 USC 794, The Rehab. Act of 1973, Sec 504, as amended; EO 12250; 42 USC 4151 to 4157, The Architectural Barriers Act of 1968

CFR Citation: 43 CFR 17

Legal Deadline: None

Abstract: This rulemaking will amend the regulation issued by DOI at 43 CFR 17, Subpart B, for enforcement of section 504 of the Rehabilitation Act of 1973, as amended, in federally assisted programs or activities to include a cross-reference to the Uniform Federal Accessibility Standards (UFAS). The regulatory amendment is intended to encourage DOI's recipients to follow UFAS for new construction and alteration projects. No alternative exists to issuing this regulation. This amendment was found to be appropriate and necessary, and is being issued by DOI pursuant to directions received from the Civil Rights Division of the Department of Justice under the authority of Executive Order 12250. It has been determined that this rule is nonmajor and that it has no major cost effect. This amendment will promote governmentwide consistency and minimize public confusion by referencing new architectural standards that are presently in use by the Department of Justice and fourteen other Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	05/01/89	54 FR 18954
NPRM Comment Period End	06/30/89	54 FR 18954
Final Action	07/16/90	55 FR 28969
Final Action Effective	08/15/90	55 FR 28969

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Melvin C. Fowler, Supervisory Equal Opportunity Specialist, Department of the Interior, Office for Equal Opportunity, 1849 C Street, NW., Washington, DC 20240, 202 208-3455

RIN: 1091–AA03

BILLING CODE 4310-RE-T

DEPARTMENT OF THE INTERIOR (DOI)
Office of Hearings and Appeals (OHA)

Prerule Stage

1308. ● SPECIAL RULES APPLICABLE TO SURFACE COAL MINING HEARINGS AND APPEALS

Significance: Agency Priority

Legal Authority: 5 USC 301; 30 USC 1256; 30 USC 1260; 30 USC 1261; 30 USC 1264; 30 USC 1266; 30 USC 1271; 30 USC 1272; 30 USC 1276; 30 USC 1293

CFR Citations: 43 CFR 4.1307(c); 30 CFR 773.20(c)(3); 30 CFR 773.20(c)(4); 30 CFR 773.21(c)

Legal Deadline: None

Abstract: In accordance with the settlement agreement in Save Our Cumberland Mountains v. Lujan, OHA will propose rules (1) to amend the burden of proof set forth in 43 CFR 1307(c) in individual civil penalty proceedings, (2) to provide for hearings and a right to petition for review by the Interior Board of Land Appeals on determinations by the Office of Surface Mining (OSM), based on the Applicant Violator System, that a person is linked to a person currently in violation of the Surface Mining Control and Reclamation Act, and (3), to provide for hearings and a right to petition for review of OSM decisions to suspend or rescind improvidently issued permits under 30 CFR 773.20(c)(3) or (4).

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Will A. Irwin, Administrative Law Judge, Interior Board of Land Appeals, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3750

RIN: 1094–AA42

DEPARTMENT OF THE INTERIOR (DOI)
Office of Hearings and Appeals (OHA)

Proposed Rule Stage

1310. ● RULES APPLICABLE IN INDIAN AFFAIRS HEARINGS AND APPEALS

Legal Authority: PL 95-274; PL 97-459; 5 USC 301

CFR Citation: 43 CFR 4.300; 43 CFR 4.301; 43 CFR 4.302; 43 CFR 4.303; 43 CFR 4.304; 43 CFR 4.305; 43 CFR 4.306; 43 CFR 4.307; 43 CFR 4.308

Legal Deadline: None

Abstract: The agency proposes to amend its regulations in 43 CFR 4.300 through 4.308 relating to Tribal Purchase of Interests Under Special Statutes in order to provide standard procedures for implementation of two recent statutes expanding tribal purchase rights and escheat requirements, namely, Pub. L. 98-274, applicable to the Standing Rock Sioux Reservation in North and South Dakota, and Pub. L. 97-459, applicable to the Devils Lake Sioux Reservation of North Dakota. The Department's current regulations in 43 CFR 4.300 through 4.308 apply to the Yakima, Warm Springs and Nez Perce Reservations. The proposed amendments to these regulations will incorporate provisions necessary for consideration of cases arising under the two statutes cited above.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Parlen L. McKenna, Chief Administrative Law Judge, Hearings Division, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3800

RIN: 1094–AA38

1311. ● RULES APPLICABLE IN INDIAN AFFAIRS HEARINGS AND APPEALS

Legal Authority: 35 Stat. 855, as amended; 38 Stat. 586; 42 Stat. 1185, as amended; 56 Stat. 1021 to 1022; R.S. 463; R.S. 465; 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 372; 25 USC 373; 25 USC 373a; 25 USC 373b; 25 USC 374

CFR Citation: 43 CFR 4.207; 43 CFR 4.242; 43 CFR 4.274

Legal Deadline: None

Abstract: The agency proposes: (1) Amendment of 4.207 to permit acceptance of compromise settlements in probate of estates of Indians who died owning property in trust or restricted status when all parties are advised of all facts and are cognizant of effect of the compromise on their rights, and where no family member is coerced into the agreement. Such settlements are already provided for in disputed cases. (2) Amendment of 4.242 to require petitioner for reopening of an estate which has been closed more than 3 years to show due diligence in pursuing the claim. This will place in the regulation case law developed over the past 18 years. (3) Amendment of 4.274 by adding a new paragraph (c) for allowance of immediate payment of claims where appropriate for better conservation of assets of the estate, and a new paragraph (d) to permit partial distribution of an estate to provide funds for the maintenance of the family where the ultimate distribution is unlikely to be disputed.

Timetable:

Action	Date	FR Cite
NPRM	10/05/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Parlen L. McKenna, Chief Administrative Law Judge, Hearings Division, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3800

RIN: 1094–AA39

1312. ● WHITE EARTH RESERVATION LAND SETTLEMENT ACT OF 1985; AUTHORITY OF ADMINISTRATIVE JUDGES; DETERMINATIONS OF THE HEIRS OF PERSONS WHO DIED ENTITLED TO COMPENSATION

Legal Authority: PL 99-264; PL 100-153; PL 100-212; 25 USC 331 note; 5 USC 301

CFR Citation: 43 CFR 4.350 to 4.357

Legal Deadline: Final, Statutory, March 24, 1991.

DOI—OHA

Proposed Rule Stage

Abstract: The agency is proposing to add new regulations to 43 CFR Part 4 for determining, through intestate succession, the heirs of persons who died entitled to receive compensation pursuant to section 8(c) of the White Earth Reservation Land Settlement Act. The Act provides a method of resolving disputes concerning title to certain allotments of land on the White Earth Chippewa Indian Reservation in Minnesota. It defines circumstances by which title to an allotment may have been lost through a questionable tax forfeiture, sale, mortgage, or other taking or transfer during the applicable trust period. The Act directs the Secretary of the Interior to (1) identify the allotments or interests therein which were lost under such circumstances, (2) determine the individuals entitled to compensation for the loss of such allotments or interests therein, (3) ascertain the amount of compensation to which each such individual is entitled, and (4) pay them such amounts plus interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Howard Piepenbrink, Chief, Branch of Titles and Research, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington DC 20240, 202 208-3573

RIN: 1094–AA40

DEPARTMENT OF THE INTERIOR (DOI)
Office of Hearings and Appeals (OHA)

Final Rule Stage

1313. SPECIAL RULES APPLICABLE TO SURFACE COAL MINING HEARINGS AND APPEALS

Legal Authority: 30 USC 1256; 30 USC 1268; 30 USC 1261; 30 USC 1264; 30 USC 1268; 30 USC 1271; 30 USC 1272; 30 USC 1275; 30 USC 1293; 5 USC 301

CFR Citation: 43 CFR 4.1360 to 4.1369; 43 CFR 4.1370 to 4.1379; 43 CFR 4.1380 to 4.1388

Legal Deadline: None

Abstract: The procedures for administrative review of Office of Surface Mining Reclamation and Enforcement decisions on (1) applications for new permits, (2) applications for permit revisions, permit renewals, and the transfer, assignment, or sale of rights granted under permit, (3) permit revisions ordered by the Office, and (4) applications for coal exploration permits vary. The Office of Hearings and Appeals proposes to remove the rules containing procedures for administrative review for (2), (3), and (4) (43 CFR 4.1370-4.1379 and 4.1380-4.1388) and to revise the rules in 43 CFR 4.1360-4.1369 so they will include review of decisions presently provided for in 43 CFR 4.1370-4.1379 and 4.1380-4.1388. The Office also proposes to amend 43 CFR 4.1351 and 4.1391(b) to provide for notice of OSMRE's decisions by certified mail or by overnight delivery service rather than by publication in a local newspaper. The proposed amendments will unify administrative review procedures and make them more expedited.

Timetable:

Action	Date	FR Cite
NPRM	08/00/90	54 FR 8982
NPRM Comment Period End	09/28/90	54 FR 39706

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Will A. Irwin, Administrative Judge, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Blvd., Arlington, VA 22203, 703 235-3750

RIN: 1094–AA37

1314. ● RULES APPLICABLE IN INDIAN AFFAIRS HEARINGS AND APPEALS

Legal Authority: 36 Stat. 855, as amended; 38 Stat. 586; 42 Stat. 1185, as amended; 56 Stat. 1021 to 1022; R.S. 463; R.S. 465; 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 372; 25 USC 373; 25 USC 373a; 25 USC 373b; 25 USC 374

CFR Citation: 43 CFR 4.200; 43 CFR 4.205; 43 CFR 4.207; 43 CFR 4.210; 43 CFR 4.230; 43 CFR 4.270; 43 CFR 4.272; 43 CFR 4.273; 43 CFR 4.274; 43 CFR 4.302; 43 CFR 4.306

Legal Deadline: None

Abstract: By final rulemaking the agency amends certain of its rules in 43 CFR Part 4 by updating references and cross-references to section numbers and editions of the United States Code contained therein. The agency also amends section 4.230 by removing paragraph (d) thereof because it is generally repetitive of paragraph (c) of the regulation and therefore is considered unnecessary. These amendments will improve the accuracy and clarity of the regulations concerned, and do not alter any substantive legal rights.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Parlen L. McKenna, Chief Administrative Law Judge, Hearings Division, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3800

RIN: 1094–AA41

DEPARTMENT OF THE INTERIOR (DOI)
Office of Hearings and Appeals (OHA)

Completed Actions

1313. SPECIAL RULES APPLICABLE TO PUBLIC LAND HEARINGS AND APPEALS

Legal Authority: 43 USC 1201

CFR Citation: 43 CFR 4.401(c); 43 CFR 4.412

Legal Deadline: None

Abstract: Rulemaking is being proposed to amend the requirements for proof of service of documents to require that a party serving a document other than the notice of appeal certify that he sent the document to the adverse party by mail.

Timetable:

Action	Date	FR Cite
Withdrawn ; no further action to be taken at this time.	08/10/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hy Hunsaker, Attorney-Advisor, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3750

RIN: 1094–AA25

BILLING CODE 4310-79-T

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Prerule Stage

1316. CAPTIVE BRED WILDLIFE

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: This rule will be revised to relieve certain restrictions on the public that have been determined to be outmoded, burdensome and counterproductive.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marshall P. Jones, Jr., Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS - 432 Arlington Square, Washington, DC 20240, 703 358-2093

RIN: 1018–AB10

1317. IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

Legal Authority: 16 USC 3371 et seq; 16 USC 1532 et seq; 16 USC 1382; 16 USC 703 et seq

CFR Citation: 50 CFR 14

Legal Deadline: None

Abstract: The Service will amend 50 CFR 14 to permit the use of the U.S. Customs Service's Automated Commercial System (ACS) for the declaration and clearance of importations and exportation of wildlife.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerome B. Smith, Acting Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, MS 500 - Arlington Square, Washington, DC 20240, 703 358-1949

RIN: 1018–AB49

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Proposed Rule Stage

1318. PUBLIC ENTRY AND USE

Legal Authority: 16 USC 460k; 16 USC 668dd

CFR Citation: 50 CFR 25

Legal Deadline: None

Abstract: Regulations will be proposed which will simplify and reduce administrative costs related to the process by which special regulations relating to public access use and recreation are issued for units of the National Wildlife Refuge system. Special regulations will be used for public access use and recreation on individual national wildlife refuges.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	
Final Action	12/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Originally scheduled: April 1991.

Agency Contact: Robert Karges, Chief, Division of Refuges, Department of the Interior, United States Fish and Wildlife Service, MS - 670 Arlington Square, Washington, DC 20240, 703 358-1744

RIN: 1018–AA36

1319. REFUGE-SPECIFIC SPORT FISHING REGULATIONS

Legal Authority: 16 USC 460k; 16 USC 668dd

CFR Citation: 50 CFR 33

Legal Deadline: None

Abstract: The Service will review annually and prior to each fishing season may amend fishing regulations for specific national wildlife refuges.

Timetable:

Action	Date	FR Cite
NPRM	10/00/91	
Final Action	12/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Originally scheduled: October 1989

Agency Contact: Robert Karges, Chief, Division of Refuges, Department of the Interior, United States Fish and Wildlife Service, MS-670 Arlington Square, Washington, DC 20240, 703 358-1744

RIN: 1018-AA50

1320. NONTOXIC SHOT REGULATIONS FOR HUNTING MIGRATORY BIRDS

Significance: Regulatory Program

Legal Authority: 16 USC 701 to 718

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: This rulemaking is the culmination of a phased, 6-year coordinated effort by the States and the Federal Government to eliminate lead poisoning among certain migratory birds by discontinuing the use of lead shot in favor of steel shot for taking waterfowl, coots and certain other species during the open seasons. This nationwide conversion in 1991-92 results from an SEIS completed in mid-1986 that considered the alternatives, as well as the costs/benefits of the various actions.

Timetable:

Action	Date	FR Cite
NPRM Lead shot zones, 1990-91 hunting season	05/23/90	55 FR 15249
Final Action Lead shot zones, 1990-91 hunting season	08/16/90	55 FR 33628
NPRM	05/00/91	
Final Action	10/00/91	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Thomas Dwyer, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, MS - 634 Arlington Square, Washington, DC 20240, 703 358-1714

RIN: 1018-AA93

1321. SUBSISTENCE TAKE OF MIGRATORY BIRDS IN ALASKA

Significance: Agency Priority

Legal Authority: 16 USC 703

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: The Service will develop regulations that provide for subsistence harvest of migratory birds in Alaska. This action is being developed in cooperation with the State of Alaska, Alaskan Native organizations, and Canada.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: The Appeals Court recently ruled that the Migratory Bird Treaty does not permit subsistence hunting.

Agency Contact: David L. Olsen, Assistant Director - Refuges and Wildlife, Department of the Interior, United States Fish and Wildlife Service, MS - 3252 MIB, 1849 C Street, NW., Washington, DC 20240, 202 208-5333

RIN: 1018-AB03

1322. IMPLEMENTATION OF KLAMATH RIVER BASIN FISHERY RESOURCES RESTORATION ACT

Legal Authority: 16 USC 460ss

CFR Citation: 50 CFR 72

Legal Deadline: None

Abstract: This rule implements the Klamath River Basin Fishery Resources Restoration Act. These include establishment of qualifications for volunteers, establishment of standards for determining the value of in-kind contributions and real and personal property provided by non-Federal sources to implement the conservation area restoration program, and establishment of the basis for determining whether matching funds will be provided in a timely and appropriate manner.

Timetable:

Action	Date	FR Cite
ANPRM	03/25/87	52 FR 9550
ANPRM Comment Period End	05/11/87	
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary Edwards, Assistant Director - Fisheries, Department of the Interior, United States Fish and Wildlife Service, MS - 3245 MIB, 1849 C Street, NW., Washington, DC 20240, 202 208-6394

RIN: 1018-AB11

1323. INJURIOUS WILDLIFE: IMPORTATION OF LIVE OR DEAD FISH, MOLLUSKS, AND CRUSTACEANS, OR THEIR EGGS

Legal Authority: 18 USC 42

CFR Citation: 50 CFR 16

Legal Deadline: None

Abstract: Regulations regarding importation of fish or fish eggs of the fish family Salmonidae will be revised to reflect current scientific information.

Timetable:

Action	Date	FR Cite
ANPRM	08/17/89	54 FR 33947
NPRM	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph J. Webster, Chief, Division of Fish Hatcheries, Department of the Interior, United States Fish and Wildlife Service, MS - 820 Arlington Square, Washington, DC 20240, 703 358-1715

RIN: 1018-AB13

1324. HUMANE TRANSPORT OF WILD MAMMALS AND BIRDS AMENDMENTS

Legal Authority: PL 97-79 95 Stat. 073

CFR Citation: 50 CFR 14

Legal Deadline: None

Abstract: Section 9(d) of the Lacey Act Amendments of 1981 shifted the authority for prescribing requirements

for the humane and healthful transport of wild mammals and birds from the Secretary of the Treasury to the Secretary of the Interior. A final rule promulgating this authority in 50 CFR 14, was published on November 10, 1987 (52 FR 43274). The Service proposes to amend the regulations for the purpose of incorporating improvements and clarifications.

Timetable:

Action	Date	FR Cite
ANPRM	08/10/88	53 FR 30077
ANPRM Comment Period End	09/09/88	53 FR 30077
NPRM	10/00/90	
Final Action	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marshall P. Jones, Jr., Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS - 432 Arlington Square, Washington, DC 20240, 703 358-2093

RIN: 1018-AB22

1325. NATIONAL WILDLIFE REFUGES: ADDING TO AREAS OPEN TO HUNTING AND FISHING

Legal Authority: 5 USC 301; 16 USC 460k; 16 USC 664; 16 USC 668dd; 16 USC 715i

CFR Citation: 50 CFR 32; 50 CFR 33

Legal Deadline: None

Abstract: National Wildlife Refuges are generally closed to hunting or fishing until specifically opened by rulemaking.

Timetable:

Action	Date	FR Cite
NPRM Open 5 refuges to hunting and 3 to sport fishing	05/14/90	55 FR 19966
Final Action Open 5 refuges to hunting and 3 to sport fishing	09/06/90	55 FR 36847
NPRM	05/00/91	
Final Action	09/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Karges, Chief, Division of Refuges, Department of the Interior, United States Fish and Wildlife Service, MS - 670 Arlington Square, Washington, DC 20240, 703 358-1744

RIN: 1018-AB25

1326. HIGHLY TRADED APPENDIX II SPECIES

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates international trade in listed plants and animals. The Service, as management and scientific authorities, must make appropriate determinations concerning Appendix II listed species prior to granting export approval to these listed species. Notice in the Federal Register is required by United States law in the determination process.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marshall P. Jones, Jr., Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS - 430 Arlington Square, Washington, DC 20240, 703 358-2093

RIN: 1018-AB34

1327. AMENDMENTS TO THE MARINE MAMMAL PROTECTION ACT

Legal Authority: 16 USC 1361 to 1407

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Service proposes to amend regulations to reflect the 1988 amendments to the Marine Mammal Protection Act pertaining to permits.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

1328. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
Barneby ridge-cress		
NPRM	11/24/89	(54 FR 48781)
Final Action	09/28/90	(55 FR 39680)
Cacoidotes near tridentata		
NPRM	00/00/00	
Final Action	00/00/00	
Cahara shiner		
NPRM	03/19/90	(55 FR 10083)
Final Action	03/00/91	
Clanton's cave amphipod		
NPRM	00/00/00	
Final Action	00/00/00	
Crangonyx sp.		
NPRM	00/00/00	
Final Action	00/00/00	
Dusky seaside sparrow, delisting		
NPRM	00/00/00	
Final Action	00/00/00	
Florida saltmarsh vole		
NPRM	04/11/90	(55 FR 73576)
Final Action	00/00/00	
Genetian pinkroot		
NPRM	00/00/00	
Final Action	00/00/00	
Gwinlow snub nosed monkey		
NPRM	01/16/90	(55 FR 1456)
Final Action	09/27/90	(55 FR 39414)
Gulf sturgeon		
NPRM	05/02/90	(55 FR 18357)
Final Action	05/00/91	

DOI—FWS

Proposed Rule Stage

Leafy prairie clover
NPRM 03/27/90 (55 FR 11230)
Final Action 00/00/00
Little Aguja Creek pondweed
NPRM 03/15/90 (55 FR 9741)
Final Action 03/00/91
Lyrate bladder-pod
NPRM 04/25/90 (55 FR 17552)
Final Action 09/28/90 (55 FR 39864)
Prairie mole cricket
NPRM 00/00/00
Final Action 00/00/00
Sichuan snub nosed monkey
NPRM 01/16/90 (55 FR 1486)
Final Action 09/27/90 (55 FR 39414)
Terlingua Creek cat's-eye
NPRM 04/13/90 (55 FR 13919)
Final Action 04/00/91
Tonkin snub nosed monkey
NPRM 01/16/90 (55 FR 1486)
Final Action 09/27/90 (55 FR 39414)
Walker's manioc
NPRM 10/01/90 (55 FR 39969)
Final Action 10/00/91
Yunnan snub nosed monkey
NPRM 01/16/90 (55 FR 1486)
Final Action 09/27/90 (55 FR 39414)

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS - 400 Arlington Square, Washington, DC 20240, 703 358-2171

RIN: 1018–AB38

1329. FEDERAL MIGRATORY BIRD HUNTING AND CONSERVATION STAMP LICENSING PROCEDURES AND GUIDELINES

Legal Authority: 16 USC 718

CFR Citation: 50 CFR 91

Legal Deadline: None

Abstract: The Service intends to develop rules governing the licensing of the Federal Migratory Bird Hunting and Conservation Stamp design, commonly referred to as the Federal Duck Stamp, for reproduction on appropriate products manufactured and offered for sale by private enterprises and organizations.

Timetable:

Action	Date	FR Cite
ANPRM	07/27/90	55 FR 30727
ANPRM Comment Period End	08/27/90	55 FR 30727
NPRM	02/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Norma Opgrand, Chief, Federal Duck Stamp Program, Department of the Interior, United States Fish and Wildlife Service, MS - 2058 MIB, 1849 C Streets, NW., Washington, DC 20240, 202 208-4354

RIN: 1018–AB40

1330. ● ENDANGERED AND THREATENED WILDLIFE AND PLANTS; STELLAR'S SEA LION AND SACRAMENTO RIVER WINTER-RUN CHINOOK SALMON

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service adds the Stellar (northern) sea lion and the Sacramento River winter-run Chinook salmon to the List of Endangered and Threatened Wildlife for a period of 240 days. This measure is required by section 4(a)(2)(A) of the Endangered Species Act of 1973 in order to implement an emergency determination of threatened status by the National Marine Fisheries Service, which has jurisdiction of the Stellar sea lion and the Chinook salmon.

Timetable:

Action	Date	FR Cite
Final Action Emergency rule, Sacramento River winter-run Chinook salmon	04/06/90	55 FR 12831
Final Action Emergency rule, Stellar sea lion	04/10/90	55 FR 13488

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS - 400 Arlington Square, Washington, DC 20240, 703 358-2171

RIN: 1018–AB41

1331. ● MIGRATORY BIRD PERMITS: DETERMINATION THAT KANSAS MEET FEDERAL FALCONRY STANDARDS

Legal Authority: 16 USC 703 to 712

CFR Citation: 50 CFR 21

Legal Deadline: None

Abstract: The Service proposes to revise 50 CFR 21 to add Kansas to the list of States participating in the joint Federal/State falconry permit system. The Director has determined that the falconry laws of the State meet or exceed the minimum Federal standards for the use of certain migratory birds for falconry. The proposed rule would permit the practice of falconry in that State.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerome S. Smith, Acting Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, MS - 500 Arlington Square, Washington, DC 20240, 703 358-1949

RIN: 1018–AB45

1332. ● CABIN MANAGEMENT REGULATIONS ON NATIONAL WILDLIFE REFUGES IN ALASKA

Legal Authority: 16 USC 460k

CFR Citation: 50 CFR 36

Legal Deadline: None

Abstract: The Service proposes to revise and clarify regulations contained in 50 CFR 36.33.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Karges, Chief, Division of Refuge Management, Department of the Interior, United States Fish and Wildlife Service, MS - 670 Arlington Square, Washington, DC 20240, 703 358-1744

RIN: 1018–AB48

1338. ● ENDANGERED AND THREATENED WILDLIFE AND PLANTS: DEFINITION OF VERTEBRATE POPULATIONS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 424

Legal Deadline: None

Abstract: The Endangered Species Act of 1973 allows the Secretary of Interior or Commerce to determine "any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature" to be endangered or threatened. The agencies intend to provide guidelines as to what could be considered for listing, reclassification, or delisting under this Act with respect to vertebrate populations. Delineation of vertebrate populations will allow for protective measures under the Act to be applied or removed as needed for the conservation of the population.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS - 452 ARL SQ, 1849 C Street, NW., Washington, DC 20240, 703 358-2171

RIN: 1018–AD47

1234. ● MARINE MAMMALS: INCIDENTAL TAKE DURING SPECIFIED ACTIVITIES

Legal Authority: 16 USC 1371

CFR Citation: 50 CFR 18.27

Legal Deadline: None

Abstract: The Service has received a request from Shell Western E & P Inc., to issue regulations to allow the incidental take of small numbers of polar bears and walrus during oil and gas exploratory activities in Alaska State waters and on the Outer Continental Shelf during the open water season in the Chukchi Sea adjacent to the coast of Alaska over the next 5 years. The Secretary of the Interior is required by the Marine Mammal Protection Act to consider such requests, and to prescribe regulations setting forth permissible methods of taking that will have a negligible impact on the species, stock, and its habitat and on the availability of the species for subsistence uses.

Timetable:

Action	Date	FR Cite
ANPRM	08/10/90	55 FR 32651
ANPRM Comment Period End	09/24/90	55 FR 32651
NPRM	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John L. Bardwell, Acting Chief, Division of Fish and Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service, MS - 820 Arlington Square, Washington, DC 20240, 703 358-1718

RIN: 1018–AB48

1335. ● CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA (CITES)

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: The Service proposes to amend 50 CFR 23, Subparts A and B to consider the following proposals recommended by the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora: (1) Whether or not to reduce the paperwork burden for trade in certain hybrid plants. Such reduction would cause slight risks to wild plants, but a substantial reduction of administrative and public burdens. (2) Whether to require a fitness to travel checklist to reduce the high mortality/morbidity in the shipment of live animals. Processing such checklists would increase costs but would also increase awareness of live animals transport requirements/needs. (3) To allow innocent infractions of regulations to be cured by by issuance of permits retroactively. While such action would increase costs slightly, there would be slight reductions in the cost of processing violations and such action would encourage voluntary compliance.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Arthur Lazarowitz, Chief, Operations Branch, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS - 432 Arlington Square, Washington, DC 20240, 703 358-2093

RIN: 1018–AB50

1336. ● PATUXENT WILDLIFE RESEARCH CENTER: SPORT FISHING

Legal Authority: 16 USC 7151

CFR Citation: 50 CFR 60

Legal Deadline: None

Abstract: In keeping with the Department of the Interior's efforts to develop recreational and environmental education opportunities for the public, including persons with disabilities, Patuxent Wildlife Research Center proposes to open the lakes and ponds that are located in the designated public use area to the general public for the purpose of sport fishing.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John P. Stasko, Chief, Branch of Facility Management, Department of the Interior, United States Fish and Wildlife Service, Patuxent Wildlife Research Center, Laurel-Bowie Road, Laurel, MD 20708, 301 498-0542

RIN: 1018–AB51

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Final Rule Stage

1337. MARINE MAMMALS; NATIVE EXEMPTIONS

Legal Authority: 16 USC 1361 to 1407

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Service proposes to amend the regulations in 50 CFR 18 implementing the Marine Mammal Protection Act of 1972 (the Act), 16 USC 1361-1407. The proposed rule would prohibit the taking of sea otters by Alaskan Natives for use in creating and selling authentic Native articles of handicrafts and clothing under the Native Exemptions section of the Act, 16 USC 1371(b).

Timetable:

Action	Date	FR Cite
NPRM	11/14/88	53 FR 45788
NPRM Comment Period End	11/30/89	54 FR 23233

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: On February 15, 1989 (54 FR 6940), the Service extended the comment period on the proposed rule to April 13, 1989. On May 31, 1989 (54 FR 23233), the Service gave notice that the comment period was further extended through November 30, 1989, to allow time for public meetings to be conducted in selected coastal Alaska locations within the range of the sea otter, and at one location in California.

Agency Contact: John L. Bardwell, Acting Chief, Division of Fish and Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service, MS - 820 Arlington Square, Washington, DC 20240, 703 358-1718

RIN: 1018-AA20

1338. MIGRATORY BIRD HUNTING

Significance: Regulatory Program

Legal Authority: 16 USC 703 to 711

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: The Service annually publishes a series of documents establishing migratory bird hunting regulations for the current hunting season. This annual process consists of proposed frameworks providing outside limits for dates and hours of shooting, as well as bag and possession limits; final frameworks for hunting seasons from which States may select regulations; and final rules approving such State selections.

Timetable:

Action	Date	FR Cite
ANPRM 1990-91 hunting season proposals	03/14/90	55 FR 9618
NPRM Supplemental proposals, 1990-91 hunting season	06/06/90	55 FR 23178
NPRM 1990-91 hunting season proposals	07/10/90	55 FR 28352
NPRM 1990-91 seasons on Federal Indian reservations & ceded lands	08/08/90	55 FR 32348
NPRM Supplemental proposals, late seasons, 1990-91 hunting season	08/17/90	55 FR 33842
Final Action 1990-91 seasons on Federal Indian reservations & ceded lands	08/31/90	55 FR 35638
Final Action Supplemental proposals, late seasons, 1990-91 hunting season	09/21/90	55 FR 38886
Final Action; Correction 1990-91 seasons on Federal Indian reservations & ceded lands	10/03/90	55 FR 40382
ANPRM	03/00/91	
NPRM	06/00/91	
Final Action	09/00/91	

Small Entities Affected: Businesses

Government Levels Affected: State

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SMALL BUSINESSES: Small entities likely to be affected by these rules include some sporting goods stores, hardware stores, motels and hotels, restaurants, clothing stores, boat and marine equipment stores, marinas, gasoline stations, private hunting clubs, land owners' leasing hunting rights, and mail order houses selling hunting equipment and supplies. Originally scheduled: April 1985. E.O. 12291: These rules are major because of the economic values associated with migratory game bird hunting; however, the need to obtain and consider the latest population data for these migratory birds requires that the regulatory schedule be shortened. The regulatory impact analysis, as required by E.O. 12291, and the small entity flexibility analysis, as required by 5 U.S.C. 601 et seq., have been combined into one analysis as provided for by both authorities. Copies of the combined analysis will be available from the Agency Contact upon publication of the Notice of Intent in March 1985.

Agency Contact: Thomas Dwyer, Chief, Migratory Bird Management Office, Department of the Interior, United States Fish and Wildlife Service, MS - 634 Arlington Square, Washington, DC 20240, 703 358-1714

RIN: 1018-AA24

1339. REFUGE-SPECIFIC HUNTING REGULATIONS

Legal Authority: 16 USC 460k; 16 USC 668dd

CFR Citation: 50 CFR 32

Legal Deadline: None

Abstract: The Service will review annually and prior to each hunting season may amend hunting regulations for specific national wildlife refuges.

Timetable:

Action	Date	FR Cite
NPRM	07/24/90	55 FR 30014
NPRM Comment Period End	08/23/90	55 FR 30014
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Originally scheduled: April 1983.

Agency Contact: Robert Karges, Chief, Division of Refuge Management, Department of the Interior, United States Fish and Wildlife Service, MS - 670 Arlington Square, Washington, DC 20240, 703 358-1744

RIN: 1018-AA71

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DOI—FWS

Final Rule Stage

1340. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory.
In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed to list, reclassify, or delist certain species of wildlife and plants as endangered or threatened species. When prudent, critical habitat will also be identified.

Timetable:

Inyo brown towhee (critical habitat)
NPRM 09/03/87 (52 FR 25767)
Final Action 00/00/00
Inyo brown towhee (listing)
NPRM 11/23/84 (49 FR 46174)
Inyo brown towhee(listing)
Final Action 09/03/87 (52 FR 25717)

Small Entities Affected: None

Government Levels Affected: State

Additional Information: Originally scheduled: April 1985.

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS - 400 Arlington Square, Washington, DC 20240, 703 358-2171

RIN: 1018-AA85

1341. SUBSISTENCE TAKE OF MIGRATORY BIRDS

Significance: Agency Priority

Legal Authority: 16 USC 701 to 715

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: In 1979, the United States and Canada signed a protocol to amend the 1916 treaty concerning management of migratory birds. The protocol initiated efforts to recognize historical native subsistence of such birds. A rule will be developed to implement this international agreement.

Timetable:

Action	Date	FR Cite
ANPRM	02/10/83	48 FR 10101
NPRM	05/19/88	51 FR 18340
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: The protocol has been reviewed by Canadian officials and they wish to reopen negotiations. This will delay indefinitely final action on development of an international agreement.

Agency Contact: David L. Olson, Assistant Director - Refuges and Wildlife, Department of the Interior, United States Fish and Wildlife Service, MS - 3246 MIB, 1849 C Street, NW., Washington, DC 20240, 202 208-5333

RIN: 1018-AA92

1342. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory.
In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife and plants under the Endangered Species Act, and where prudent would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither and are based solely on the biological information available to the Department.

Timetable:

Least Bell's vireo critical habitat
Final Action 00/00/00
Least Bell's vireo listing
NPRM 05/03/85 (50 FR 18968)
Final Action 05/02/88 (51 FR 16474)

Small Entities Affected: None

Government Levels Affected: State

Additional Information: After reviewing the biological status of candidate and listed species, the Service promptly proceeds to propose rules to list, delist, or reclassify such species as appropriate. Generally, final action on the proposed rules must be taken within one year.

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS - 400 Arlington Square, Washington, DC 20240, 703 358-2171

RIN: 1018-AA85

1343. MARINE MAMMALS: INCIDENTAL TAKING BY COMMERCIAL FISHING OPERATIONS

Legal Authority: 16 USC 101(a)(4); 16 USC 109(h)

CFR Citation: 50 CFR 18.22; 50 CFR 18.24

Legal Deadline: None

Abstract: The Service will develop regulations to implement provisions contained in the 1981 and 1988 amendments to the Marine Mammal Protection Act that amend Section 109(h) of the Act to: (1) allow the taking of marine mammals by Federal, in addition to the State, or local, government officials under certain conditions; and (2) allow importation of marine mammals into the United States in order to render medical treatment that is not otherwise available.

Timetable:

Action	Date	FR Cite
NPRM	04/12/88	53 FR 12043
NPRM Comment Period End	07/26/88	53 FR 24330
Final Action	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: The proposed rulemaking published April 12, 1988 (53 FR 12043) addressed two issues: (1) the provisions of Section 101(a)(4) of the Marine Mammal Protection Act (Act), as amended in 1981 authorizing incidental take of non-depleted marine mammals during commercial fishing operations; and (2) the taking of marine mammals by Federal, State, or local government officials under certain conditions. The 1988 amendments to the Act created an interim 5-year incidental take exemption for the commercial fisheries, thus essentially negating the 1981 amendments to Sec. 101 of the Act. Development of regulations for commercial fisheries is not necessary, and will not be done at this time.

Agency Contact: John L. Hardwell, Acting Chief, Division of Fish and

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Final Rule Stage

Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service, MS - 820 Arlington Square, Washington, DC 20240, 703 358-1713

RIN: 1018–AA98

1344. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory.
In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife and plants under the Endangered Species Act, and where prudent would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM Notice of status review, Leopard, goral, serow in Nepal	05/14/85	50 FR 24917
Brueneus hot spring snail		
NPRM	08/21/85	(50 FR 33803)
Final Action	00/00/00	
Leopard, goral, serow in Nepal		
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS - 400 Arlington Square, Washington, DC 20240, 703 358-2171

RIN: 1018–AA98

1345. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory.
In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate certain species of fish, wildlife and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
Fish Creek Springs tui chub		
NPRM	03/10/86	(51 FR 8215)
Final Action	00/00/00	
Virgin River chub		
NPRM	06/24/88	(51 FR 22948)
Final Action	06/24/89	(54 FR 85306)

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS - 400 Arlington Square, Washington, DC 20240, 703 358-2171

RIN: 1018–AB02

1346. PROPOSED DETERMINATION OF EXPERIMENTAL POPULATION STATUS FOR AN INTRODUCED POPULATION OF COLORADO SQUAWFISH

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to introduce Colorado squawfish (Ptychocheilus lucius) into the lower Colorado River in Arizona and to determine the population to be "nonessential experimental" population according to Section 10(j) of the Endangered Species Act. The Service will propose a special rule to allow take in accordance with State law. In the past, Colorado squawfish were more widespread in the State of Arizona, occurring in several river drainages. This action is being taken in an effort to establish an additional population within the species' historic range.

Timetable:

Action	Date	FR Cite
NPRM	08/28/87	52 FR 32143
NPRM Comment Period End	10/26/87	52 FR 32143
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS - 400 Arlington Square, Washington DC 20240, 703 358-2171

RIN: 1018–AB09

1347. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory.
In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM Reopen comment period, Gila trout	06/26/90	54 FR 26911
Gila trout		
NPRM	10/06/87	(52 FR 37424)
Final Action	00/06/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United

DOI—FWS

Final Rule Stage

States Fish and Wildlife Service, MS - 400 Arlington Square, Washington, DC 20240, 703 358-2171

RIN: 1018–AB14

1346. ADMINISTRATIVE REQUIREMENTS, FEDERAL AID IN FISH AND FEDERAL AID IN WILDLIFE RESTORATION ACTS

Legal Authority: 16 USC 669 to 669i; 16 USC 777 to 777k

CFR Citation: 50 CFR 80

Legal Deadline: None

Abstract: The Service proposes to revise 50 CFR 80 to eliminate any requirements for grants and cooperative agreements to State and local units of Government (43 CFR 12) and to update programmatic requirements for the Federal Aid in Sport Fish and Federal Aid in Wildlife Restoration programs.

Timetable:

Action	Date	FR Cite
NPRM	04/06/90	55 FR 13166
NPRM Comment Period End	07/06/90	55 FR 13166
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Columbus Brown, Chief, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, MS - 322 Arlington Square, Washington, DC 20240, 703 358-2156

RIN: 1018–AB15

1349. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither and are based solely on the biological information available to the Department.

Timetable:

Autumn buttercup
NPRM 07/22/88 (53 FR 27724)
Final Action 00/00/00

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS - 400 Arlington Square, Washington, DC 20240, 703 358-2171

RIN: 1018–AB18

1350. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; SPECIAL RULES FOR MAMMALS

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.40

Legal Deadline: None

Abstract: This amendment brings the endangered species regulations into compliance with control procedures for African elephant ivory trade.

Timetable:

Action	Date	FR Cite
NPRM	05/05/89	54 FR 19416
NPRM Comment Period End	07/05/89	54 FR 19416
Final Action	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jerome B. Smith, Acting Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, MS - 520 Arlington Square, Washington, DC 20240, 703 358-1949

RIN: 1018–AB19

1351. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory.
In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Purple-spined hedgehog cactus
NPRM 01/19/89 (54 FR 2173)
Final Action 00/00/00

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS - 400 Arlington Square, Washington, DC 20240, 703 358-2171

RIN: 1018–AB23

1352. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATED PORTS FOR PLANTS

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 24; 7 CFR 300 to 399; 50 CFR 17.12; 50 CFR 23.23

Legal Deadline: None

Abstract: The Service proposes to amend regulations by adding an additional port to the list of those designated for listed plants.

Timetable:

Action	Date	FR Cite
ANPRM Comment Period End	10/06/89	54 FR 41295
NPRM	12/05/89	54 FR 41295

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marshall P. Jones, Jr., Chief, Office of Management Authority,

Department of the Interior, United States Fish and Wildlife Service, MS - 432 Arlington Square, Washington, DC 20240, 703 358-2093

RIN: 1018-AB25

1353. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; REVISION OF SPECIAL REGULATIONS FOR THE GRIZZLY BEAR

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to revise the special regulations for the threatened grizzly bear to allow supervised hunting of dangerous or incorrigible nuisance bears in a defined area encompassing the Idaho, Montana, and Wyoming portions of the Yellowstone ecosystem outside Yellowstone and Grand Teton National Parks.

Timetable:

Action	Date	FR Cite
NPRM	10/17/89	54 FR 42524
NPRM Comment Period End	12/16/89	54 FR 42524
Final Action	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS - 400 Arlington Square, Washington, DC 20240, 703 358-2171

RIN: 1018-AB29

1354. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM Delisting, Aleutian Canada goose	09/29/89	54 FR 40142
Final Action Delisting, Aleutian Canada goose	00/00/00	
Arkansas fatmucket		
NPRM 07/27/89 (54 FR 31212)		
Final Action 04/05/90 (55 FR 12787)		
Bakersfield cactus		
NPRM 07/27/89 (54 FR 31201)		
Final Action 07/19/90 (55 FR 29361)		
Bartram's hie		
NPRM 05/19/89 (54 FR 21636)		
Final Action 00/00/00		
California jewelflower		
NPRM 07/27/89 (54 FR 31201)		
Final Action 07/19/90 (55 FR 29361)		
California orcutt grass		
NPRM 00/00/00		
Final Action 00/00/00		
Cassia mirabilis		
NPRM 04/14/89 (54 FR 14976)		
Final Action 04/05/90 (55 FR 12788)		
Cobana negra		
NPRM 05/12/89 (54 FR 20616)		
Final Action 04/05/90 (55 FR 12780)		
Dwarf wedge mussel		
NPRM 04/17/89 (54 FR 15236)		
Final Action 00/00/00		
Fanshell mussel		
NPRM 10/02/89 (54 FR 40450)		
Final Action 06/21/90 (55 FR 25591)		
Hoover's wooly star		
NPRM 07/27/89 (54 FR 31201)		
Final Action 07/19/90 (55 FR 29361)		
Isodendrio Hoosiae St. John (Aupaka)		
NPRM 10/10/89 (54 FR 41470)		
Final Action 10/00/90		
Kern mallow		
Final Action 07/19/90 (55 FR 29361)		
NPRM 07/27/90 (54 FR 31201)		
Lower Keys rabbit		
NPRM 06/30/89 (54 FR 35905)		
Final Action 06/21/90 (55 FR 25588)		
Neosho madtom		
NPRM 05/19/89 (54 FR 21632)		
Final Action 05/22/90 (55 FR 21148)		
Northeastern beach tiger beetle		
NPRM 10/02/89 (54 FR 40458)		
Final Action 08/07/90 (55 FR 32088)		
Pallid sturgeon		
NPRM 06/30/89 (54 FR 35901)		
Final Action 09/06/90 (55 FR 36641)		
Palma de manaca		
NPRM 02/07/89 (54 FR 5968)		
Final Action 02/06/90 (55 FR 4157)		
Palo de Rosa		
NPRM 07/27/89 (54 FR 31216)		
Final Action 04/10/90 (55 FR 13466)		
Puritan tiger beetle		
NPRM 10/02/89 (54 FR 40458)		
Final Action 08/07/90 (55 FR 32088)		
Purple cat's paw pearly mussel		
NPRM 07/27/89 (54 FR 31209)		
Final Action 07/10/90 (55 FR 28208)		
Pygmy sculpin		
NPRM 02/07/89 (54 FR 5968)		
Final Action 09/25/89 (54 FR 39048)		
Roan Mountain bluet		
Final Action 04/05/90 (55 FR 12783)		
NPRM 07/05/90 (54 FR 30572)		
San Joaquin wooly-threads		
NPRM 07/27/89 (54 FR 31201)		
Final Action 07/19/90 (55 FR 29361)		
Spreading avens		
NPRM 07/21/89 (54 FR 30572)		
Final Action 04/05/90 (55 FR 12783)		
Squirrel chimney cave shrimp		
NPRM 06/30/89 (54 FR 35905)		
Final Action 06/21/90 (55 FR 25588)		
Virginia spiraea		
Final Action 06/15/90 (55 FR 24241)		
Virginia spiraea, reopen comment period		
NPRM 12/22/89 (54 FR 52534)		

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS - 400 Arlington Square, Washington, DC 20240, 703 358-2171

RIN: 1018-AB31

1355. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and, where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and

are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM Extension of comment period, White-necked crow	09/00/90	55 FR 38010
Brazilian sidenneck turtle		
NPRM	00/00/00	
Final Action	09/00/90	
Cat Island turtle		
NPRM	00/00/00	
Final Action	00/00/00	
Cheer pheasant		
NPRM	01/16/90 (55 FR 1488)	
Final Action	09/20/90 (55 FR 38858)	
Higo chumbo		
NPRM	10/19/89 (54 FR 42813)	
Final Action	08/00/90 (55 FR 32252)	
Inagua Island turtle		
NPRM	00/00/00	
Final Action	00/00/00	
Inflated heelsplitter		
NPRM	10/27/89 (54 FR 43665)	
Final Action	10/00/90	
Kral's water-plantain		
NPRM	10/19/89 (54 FR 42819)	
Final Action	04/16/90 (55 FR 13907)	
Madagascar red-eyed		
NPRM	01/16/90 (55 FR 1486)	
Final Action	09/20/90 (55 FR 38858)	
Manana Island ground lizard		
NPRM	00/00/00	
Final Action	00/00/00	
Manana Island snake		
NPRM	00/00/00	
Final Action	00/00/00	
Michigan monkey flower		
NPRM	10/02/89 (54 FR 40454)	
Final Action	06/21/90 (55 FR 25508)	
Norfolk Island parakeet		
NPRM	01/16/90 (55 FR 1486)	
Final Action	09/20/90 (55 FR 38858)	
Northern bald ibis		
NPRM	01/16/90 (55 FR 1486)	
Final Action	09/20/90 (55 FR 38858)	
Red-tailed parrot		
NPRM	01/16/90 (55 FR 1486)	
Final Action	09/20/90 (55 FR 38858)	
Remya kauaiensis		
NPRM	10/02/89 (54 FR 40447)	
Final Action	10/00/90	
Remya mauiensis		
NPRM	10/02/89 (54 FR 40447)	
Final Action	10/00/90	
Remya montgomeryi		
NPRM	10/02/89 (54 FR 40447)	
Final Action	10/00/90	
South American red-lined turtle		
NPRM	00/00/00	
Final Action	00/00/00	
White-necked crow		
Final Action	00/00/00	
White-winged guan		
NPRM	01/16/90 (55 FR 1486)	
Final Action	09/20/90 (55 FR 38858)	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS - 400 Arlington Square, Washington, DC 20240, 703 358-2171

RIN: 1018–AB38

1356. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; SPECIAL RULE ALLOWING REGULATED TAKING OF THE UTAH PRAIRIE DOG

Significance: Agency Priority

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Services proposes to amend the special regulation allowing a maximum of 5,000 nuisance Utah prairie dog (Cynomys parvidens) to be taken annually between June 1 and December 31 in parts of the Cedar and Parowan Valleys in Utah under permits issued by the Utah Division of Wildlife Resources. The amended regulation would expand the area of take to include all private land throughout the range of the Utah prairie dog. Also, the quarterly reporting requirement would be replaced by a requirement to make the State's records on permitted take available to the Service, on request.

Timetable:

Action	Date	FR Cite
NPRM	02/22/90	55 FR 6022
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS - 400 Arlington Square, Washington, DC 20240, 703 358-2171

RIN: 1018–AB39

1357. ● ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
Abutilon eremitopetalum		
NPRM	09/17/90 (55 FR 38236)	
Final Action	09/00/91	
Alsinoea springeneli		
NPRM	00/00/00	
Final Action	00/00/00	
Argali sheep		
NPRM	00/00/00	
Final Action	00/00/00	
Baker's sticky seed		
NPRM	06/06/90 (55 FR 23109)	
Final Action	06/00/91	
Banbury Springs limpet		
NPRM	00/00/00	
Final Action	00/00/00	
Bliss Rapids snail		
NPRM	00/00/00	
Final Action	00/00/00	
Burke's goldfields		
NPRM	06/06/90 (55 FR 23109)	
Final Action	06/00/91	
Cumberland pigtoe mussel		
NPRM	00/00/00	
Final Action	00/00/00	
Cyanea macrostegia var. gibsonii		
NPRM	09/17/90 (55 FR 38236)	
Final Action	09/00/91	
Cyanea superba		
NPRM	07/17/90 (55 FR 29077)	
Final Action	07/00/91	
Cyanea undulata		
NPRM	09/17/90 (55 FR 38242)	
Final Action	09/00/91	
Dubautia pauciflorula		
NPRM	09/17/90 (55 FR 38242)	
Final Action	09/00/91	
Felis concolor (mountain lion) in Florida		
NPRM	00/00/00	
Final Action	00/00/00	
Fringed campion		
NPRM	07/11/90 (55 FR 28577)	
Final Action	07/00/91	
Gabnia lanaiensis		
NPRM	09/17/90 (55 FR 38236)	
Final Action	09/00/91	
Golden checked warbler		
NPRM	06/06/90 (55 FR 23109)	
Final Action	06/00/91	
Hesperomannia lydgatei		
NPRM	09/17/90 (55 FR 38242)	
Final Action	09/00/91	

DOI—FWS

Final Rule Stage

Idaho springsnail
NPRM 00/00/00
Final Action 00/00/00
Ka'u silversword
NPRM 09/06/90 (55 FR 31660)
Final Action 06/00/91
Kamakahala
NPRM 09/17/90 (55 FR 38242)
Final Action 09/00/91
Knieskern's beaked-rush
NPRM 09/06/90 (55 FR 32271)
Final Action 06/00/91
Louisiana black bear
NPRM 06/21/90 (55 FR 25341)
Final Action 00/00/00
Ma'oli'oli
NPRM 06/03/90 (55 FR 31612)
Final Action 06/00/91
Na Pali Beach Hedyotis
NPRM 06/03/90 (55 FR 31612)
Final Action 06/00/91
Ouachita rock-pocketbook mussel
NPRM 07/23/90 (55 FR 29865)
Final Action 00/00/00
Phyllostegia glabra var. lanaiensis
NPRM 09/17/90 (55 FR 38236)
Final Action 09/00/91
Razorback sucker
NPRM 05/22/90 (55 FR 21154)
Final Action 05/00/91
Schoepfia arenaria
NPRM 09/17/90 (55 FR 38102)
Final Action 09/00/91
Schweinitz's sunflower
NPRM 07/02/90 (55 FR 27270)
Final Action 00/00/00
Sebastopol meadowfoam
NPRM 09/06/90 (55 FR 23109)
Final Action 09/00/91
Snake River physa snail
NPRM 00/00/00
Final Action 00/00/00
Socorro springsnail
NPRM 00/00/00
Final Action 00/00/00
Tetramolopium remyi
NPRM 09/17/90 (55 FR 38236)
Final Action 09/00/91
Texas trailing phlox
NPRM 05/29/90 (55 FR 21780)
Final Action 05/00/91
Tulotoma snail
NPRM 07/11/90 (55 FR 28673)
Final Action 07/00/91
Utah valvata snail
NPRM 00/00/00
Final Action 00/00/00
Viola helenae
NPRM 09/17/90 (55 FR 38242)
Final Action 09/00/91
Viola lanaiensis
NPRM 09/17/90 (55 FR 38236)
Final Action 09/00/91
Winged mapleleaf freshwater mussel
NPRM 09/06/90 (55 FR 31684)
Final Action 09/00/91
Yellow blotched map turtle
NPRM 07/11/90 (55 FR 28670)
Final Action 07/00/91

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-400 Arlington Square, Washington, DC 20240, 703 358-2171

RIN: 1018–AB42

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Completed Actions

1358. MARINE MAMMALS; CHANGE DEFINITION OF U.S. CITIZEN

Legal Authority: 16 USC 1371(a)(5)

CFR Citation: 50 CFR 18.27; 50 CFR 228

Legal Deadline: None

Abstract: Under existing regulations implementing the Marine Mammal Protection Act (MMPA), corporations organized under U.S. law but not controlled by individuals who are U.S. citizens, cannot be issued Letters of Authorization to undertake activities pursuant to any specific regulations authorizing an incidental take of marine mammals. This rule will amend the definition of U.S. citizen in the current regulations to allow corporations subject to U.S. jurisdiction to participate under the MMPA.

Timetable:

Action	Date	FR Cite
NPRM	09/17/89	54 FR 33949
Final Action	07/13/90	55 FR 28764

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: John L. Bardwell, Acting Chief, Division of Fish and Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service, MS - 820 Arlington Square, Washington, DC 20240, 703 358-1718

RIN: 1018–AB16

1359. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; NORTHERN SPOTTED OWL

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for 6 months) on a proposed listing no later than 6 months after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, the northern spotted owl, and if prudent, identify critical habitat. Such action will be taken upon determination that the species is endangered, threatened, or neither, and will be based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	06/23/89	54 FR 26666
NPRM Comment Period End	12/20/89	54 FR 26666
Final Action	06/26/90	55 FR 26114
Final Action Effective	07/23/90	55 FR 26114

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS - 400 Arlington Square, Washington, DC 20240, 703 358-2171

RIN: 1018–AB32

1360. INJURIOUS WILDLIFE; BROWN TREE SNAKES

Legal Authority: 18 USC 42

CFR Citation: 50 CFR 16

Legal Deadline: None

Abstract: Regulations will be developed proposing to add brown tree snakes (Boiga irregularis) to the list of injurious wildlife. The Lacey Act (18 USC 42) prohibits importation and introduction into the natural ecosystem of the

DOI—FWS

Completed Actions

United States any species which may pose a threat to agriculture, the health and welfare of human beings, and the welfare and survival of native wildlife species.

Timetable:

Action	Date	FR Cite
Final Action	04/25/90	55 FR 17439
Final Action Effective	05/25/90	55 FR 17439

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John L. Spinwell, Acting Chief, Division of Fish and Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service, MS - 820 Arlington Square, Washington, DC 20240, 703 358-1718

RIN: 1018-AB33

1361. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Significance: Agency Priority

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory.

In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Service proposes to list the desert tortoise (Gopherus agassizii) population north and west of the Colorado River as endangered. A fatal disease, currently referred to as Desert Tortoise Respiratory Disease Syndrome, has been identified and has caused significant declines to certain tortoise populations and threatens epidemic conditions to populations already stressed as a result of habitat degradation, predation, and other factors.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/08/89	54 FR 32326
NPRM	10/13/89	54 FR 42270
NPRM Comment Period End	01/11/90	54 FR 42270
Final Action	04/02/90	55 FR 12179
Final Action Effective	04/02/90	55 FR 12179

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The Service exercised its emergency authority to determine the Mojave population of the desert tortoise to be an endangered species pursuant to the Endangered Species Act of 1973, as amended. An emergency situation, in the form of a recently documented outbreak of a virulent desert tortoise upper respiratory disease syndrome (Respiratory Disease Syndrome), has been identified and has caused significant declines to certain tortoise subpopulations and threatens to become pandemic in subpopulations already stressed as a result degradation, predation, and other factors.

Agency Contact: Larry Shannon, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS - 400 Arlington Square, Washington, DC 20240, 703 358-2171

RIN: 1018-AB35

1362. ● TEMPORARY SUBSISTENCE REGULATIONS FOR PUBLIC LANDS IN ALASKA

Significance: Agency Priority

Legal Authority: 16 USC 3111 to 3126

CFR Citation: 50 CFR 100

Legal Deadline: None

Abstract: This rule provides temporary regulations implementing the subsistence priority for rural residents of Alaska under Title VIII of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA). The Alaska Supreme Court recently ruled that the laws used by the State of Alaska to provide the subsistence priority required by Title VIII violated the Alaska Constitution. The court's action placed the State out of compliance with Title VIII. Since the State has been unable to return to compliance with Title VIII, the Federal Government is required to take over the implementation of Title VIII on public lands.

Timetable:

Action	Date	FR Cite
ANPRM	04/13/90	55 FR 13922
NPRM	06/08/90	55 FR 23522
Final Action	06/29/90	55 FR 27114
Final Action Effective	07/01/90	55 FR 27114

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: David L. Olsen, Assistant Director -Refuges and Wildlife, Department of the Interior, United States Fish and Wildlife Service, MS - 3248, MIB, 1849 C Street, NW., Washington, DC 20240, 202 208-5333

RIN: 1018-AB43

BILLING CODE 4310-55-F

DEPARTMENT OF THE INTERIOR (DOI)

National Park Service (NPS)

Prerule Stage

1363. APOSTLE ISLANDS NATIONAL LAKESHORE: SNOWMOBILING

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.62

Legal Deadline: None

Abstract: This proposed rule designates routes and frozen water surfaces for use by snowmobiles at Apostle Islands National Lakeshore. The general regulations at 36 CFR 2.18 prohibit such use unless routes and water surfaces are specifically identified and promulgated as special regulations. The intended effect of this regulation is to remove that prohibition and allow the use of snowmobiles to conduct legislatively authorized fishing activities.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alfred J. Santa, Superintendent, Department of the

DOI—NPS

Prerule Stage

Interior, National Park Service, RT 1, Box 4, Bayfield, WI 54814, 715 779-3397

RIN: 1024–AB80

1364. YELLOWSTONE NATIONAL PARK: COMMERCIAL TRAFFIC ON U.S. HIGHWAY 191 WITHIN YELLOWSTONE NATIONAL PARK

Significance: Agency Priority

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.13

Legal Deadline: None

Abstract: The proposed regulation will exempt the section of U.S. 191 within Yellowstone National Park from the prohibition on the use of National Park Service roads by commercial vehicles when such use has in no way a connection with operation of the park; delete the special regulations establishing the speed limit on U.S. 191 within Yellowstone National Park; and restrict the amount and type of hazardous materials which may be transported on U.S. 191 within Yellowstone National Park. The special regulation establishing the present fee schedule for commercial traffic within Yellowstone will be eliminated and the Superintendent provided the discretion to establish and adjust fees for such use on an annual basis.

These actions will clearly define the management and regulation of commercial traffic on U.S. 191 through Yellowstone and assure a certain measure of protection against hazardous waste spills.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert D. Barbee, Superintendent, Department of the Interior, National Park Service, Yellowstone National Park, P.O. Box 168, Yellowstone National Park, WY 82190, 307 344-7381

RIN: 1024–AB82

1365. NATIONAL CAPITAL REGION PARKS

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 462(k); DC Code 8-137, 40-721

CFR Citation: 36 CFR 7.96

Legal Deadline: None

Abstract: Regulations governing special events and First Amendment demonstrations in the National Capital Region are being reviewed and updated in order to better manage these events with less impact on park resources. Regulations on sales, storage of property, leafletting, East Executive Park and structures in the parks are also being updated in order to protect park resources.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sandra A. Alley, Associate Regional Director, Public Affairs, Department of the Interior, National Park Service, 1100 Ohio Drive, SW., Washington, DC 20242, 202 485-9666

RIN: 1024–AB91

1366. ● SOLID WASTE DISPOSAL SITES IN UNITS OF THE NATIONAL PARK SYSTEM

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 16

Legal Deadline: None

Abstract: The National Park Service proposes to severely restrict the creation of any new solid waste management sites within the boundaries of any National Park unit. Sites in existence as of September 1, 1984, will be regulated to minimize the impacts upon the environment and the visitor experience.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Donahue, Program Specialist, Environmental Compliance Division, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 208-4274

RIN: 1024–AB05

DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS)

Proposed Rule Stage

1367. ARCHEOLOGICAL AND HISTORIC PRESERVATION ACT; DEPARTMENT OF THE INTERIOR REGULATIONS

Legal Authority: 16 USC 469; 16 USC 470; 16 USC 470aa

CFR Citation: 36 CFR 66

Legal Deadline: None

Abstract: This rule is part of the Department's proposed overall rulemaking with respect to the Archeological and Historic Preservation Act of 1974. This guidance will facilitate the Department's coordination of activities authorized under the Act, and its reporting to Congress on the scope and effectiveness of the program, as required by section 5(c) of the Act.

Timetable:

Action	Date	FR Cite
ANPRM	10/28/85	50 FR 45567
ANPRM Comment Period End	11/27/85	50 FR 45567
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Douglas Scovill, Acting Departmental Consulting Archeologist, Department of the Interior, National Park Service, P.O

DOI—NPS

Proposed Rule Stage

Box 37127, Washington, DC 20013-7127, 202 343-1876

RIN: 1024–AA49

1365. CAPE LOOKOUT NATIONAL SEASHORE: OFF-ROAD VEHICLES

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 7.58

Legal Deadline: None

Abstract: This proposed regulation pertains to Cape Lookout National Seashore and will establish criteria for the operation of vehicles in off-road situations consistent with existing NPS policy.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Sturgeon, Acting Chief, Ranger Activities Branch, Department of the Interior, National Park Service, 75 Spring Street, SW., Atlanta, GA 30303, 404 221-5816

RIN: 1024–AA69

1366. MAMMOTH CAVE NP: FISHING

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 7.36

Legal Deadline: None

Abstract: This proposed regulation pertains to Mammoth Cave National Park. The regulation will allow fishing to take place in accordance with applicable Kentucky State law.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Sturgeon, Acting Chief, Ranger Activities Branch, Department of the Interior, National Park Service, 75 Spring Street, SW., Atlanta, GA 30303, 404 221-5816

RIN: 1024–AA84

1370. APPALACHIAN NATIONAL SCENIC TRAIL

Legal Authority: 16 USC 3; 16 USC 1246(i)

CFR Citation: 36 CFR 7.100

Legal Deadline: None

Abstract: The Service proposes to review the levels of resource and visitor protection on the Appalachian Trail provided by the General Regulations in 36 CFR Parts 1 and 2 and to revise 36 CFR 7.100 accordingly.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David A. Ritchie, Project Manager, Department of the Interior, National Park Service, Appalachian Trail Project Office, Harpers Ferry Center, Harpers Ferry, WV 25425, 304 535-2366

RIN: 1024–AB07

1371. MINERALS MANAGEMENT - NONFEDERAL OIL AND GAS

Significance: Agency Priority

Legal Authority: 16 USC 1 et seq; 16 USC 410g; 16 USC 410r; 16 USC 459d-3; 16 USC 459h-3; 16 USC 698c; 16 USC 698i; 16 USC 460-2(i); 16 USC 450kk; 16 USC 230a; PL 100-301, Sec.8; PL 100-301, Sec 8; 31 USC 9701

CFR Citation: 36 CFR 9

Legal Deadline: Final, Statutory, January 29, 1989.
Section 8 of the Big Cypress National Preserve Addition Act directs the Secretary of the Interior to promulgate regulations governing nonfederal oil and gas development by 1/29/89.

Abstract: Several sections of 36 CFR Part 9, Subpart B contain ambiguous language which has caused confusion in interpreting the existing regulations. The NPS wants to make technical revisions to clarify requirements for both applicants and the Service. Also, the existing regulations exempt two classes of operators from compliance. Because of these exemptions, the regulations apply to only 35% of the existing operations resulting in avoidable impacts to park resources and visitor values from unregulated operations. Finally, the Service intends to propose revisions to the existing regulations to incorporate congressionally mandated requirements and timetables governing nonfederal oil and gas development in the Big Cypress National Preserve Addition. Examples of such revisions include: making the regulations applicable to all oil and gas operations within all units of the National Park System; updating terms for consistency with existing policies, practices, and laws; and removing the monetary ceiling and floor on bonds and security deposits so that bonds may be calculated and posted commensurate with reclamation costs.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Einar Olsen, Environmental Protection Specialist, Department of the Interior, National Park Service, P.O. Box 37127, Room 3223, 1100 L St., NW., Washington, DC 20013-7127, 202 343-4965

RIN: 1024–AB39

1372. CAPE HATTERAS NATIONAL SEASHORE: OFF-ROAD VEHICLE REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.58

Legal Deadline: None

Abstract: The Service proposes to designate by regulation routes available for off-road vehicle use at Cape Hatteras National Seashore, NC.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas Hartman, Superintendent, Cape Hatteras National Seashore, Department of the Interior, National Park Service, Route 1, Box 675, Manteo, NC 27954, 919 473-2111

RIN: 1024–AB54

1373. MINERALS MANAGEMENT: NONFEDERAL MINERALS OTHER THAN OIL AND GAS

Significance: Agency Priority

Legal Authority: 16 USC 1 et seq; 31 USC 9701; 5 USC 301

CFR Citation: 36 CFR 9

Legal Deadline: None

Abstract: Extensive nonfederal mineral rights exist within units of the National Park System. The Service presently regulates only nonfederal oil and gas activities occurring in those units. Mineral activities, other than those associated with nonfederal oil and gas, are occurring in approximately 13 units of the System. There are also 7 additional units in which nonfederal mineral development is currently proposed or has recently been proposed. The Service is charged by Congress to ensure that the development of nonfederal mineral rights within park boundaries is consistent with the purposes for which the units were established. The proposed regulation would establish procedures and standards governing nonfederal mineral development, other than nonfederal oil and gas, in a manner that protects affected park units.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
Determination of effects	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sharon Kliwinski, Environmental Protection Specialist, Land Resources Division, Department of the Interior, National Park Service, P.O. Box 37127, Room 3223, 1100 L Street, NW., Washington, DC 20013-7127, 202 343-4094

RIN: 1024–AB75

1374. SEQUOIA AND KINGS CANYON NATIONAL PARKS: FISHING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.8

Legal Deadline: None

Abstract: The proposed rulemaking would revise the Parks' fishing regulation. The changes would simplify existing fishing regulation, maintain the existing variety of recreational fishing opportunities, help restore the natural distribution and abundance of native species, help retard expansion of introduced species, and open most streams to fishing which are currently closed. Anglers would have to be able to identify fish they kept, and in some areas they would be required to use single barbless hooks.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Harold Werner, Fish and Wildlife Biologist, Department of the Interior, National Park Service, Sequoia and Kings Canyon National Parks, Three Rivers, CA 93271, 209 565-3341

RIN: 1024–AB78

1375. OZARK NATIONAL SCENIC RIVERWAYS: POWER BOAT OPERATION

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.63

Legal Deadline: None

Abstract: This proposed rulemaking will amend the current regulation by adding a section which will designate zones of motorboat operation and place horsepower limitations on motorboats. This addition is necessary in order to resolve user conflicts, protect the quality of the river and the recreational experiences, as well as address visitor safety concerns. The effects will be to increase safety, reduce conflicts, and provide maximum recreational benefits to all river users.

Timetable:

Action	Date	FR Cite
NPRM	09/00/91	
NPRM Comment Period End	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James A. Leach, Staff Park Ranger, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013, 202 208-4206

RIN: 1024–AB66

1376. VOYAGEURS NATIONAL PARK: SNOWMOBILING

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.36

Legal Deadline: None

Abstract: This proposed rule designates routes and frozen water surfaces for use by snowmobiles at Voyageurs National Park. The general regulation, 36 CFR 2.18(c), prohibits such use unless routes and water surfaces are specifically identified and promulgated as special regulations. The intended effect of this special regulation is to remove that prohibition for the routes and frozen water surfaces identified by this regulation.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James A. Leach, Staff Park Ranger, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013, 202 208-4206

RIN: 1024–AB68

1377. RECREATION FEES

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 71

Legal Deadline: None

Abstract: This revision is necessary to incorporate recent legislation effecting recreation fees in the National Park System.

Timetable:

Action	Date	FR Cite
NPRM	12/30/90	
Final Action	06/01/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James A. Leach, Staff Park Ranger, Department of the Interior, National Park Service, P.O. Box 37127,

DOI—NPS

Proposed Rule Stage

Washington, DC 20013-7127, 202 208-4206

RIN: 1024–AB87

1378. VOYAGEURS NATIONAL PARK: DESIGNATION OF AIRCRAFT LANDING AREAS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.33

Legal Deadline: None

Abstract: This proposed rule designates locations where the use of aircraft will be allowed and permitted. The general regulation, 36 CFR 2.17(a)(1), prohibits such use other than at locations designated pursuant to special regulations. The intended effect of this special regulation is to remove that prohibition at designated locations within Voyageurs National Park, allowing and permitting sea planes and ski-equipped planes on specified lake surfaces.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James A. Loach, Staff Park Ranger, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013, 202 208-4206

RIN: 1024–AB88

1379. NATIONAL REGISTER OF HISTORIC PLACES

Legal Authority: 16 USC 470 et seq

CFR Citation: 36 CFR 60

Legal Deadline: None

Abstract: This rule is being amended to revise: determinations of eligibility under the Abandoned Shipwreck Act; procedures for processing nominations from the former Trust Territories of the Pacific Islands; and procedures for appealing determinations of eligibility made by Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	11/01/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Carol D. Shull, Chief, National Register Branch, Interagency Resources Division, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013, 202 343-9536

RIN: 1024–AB89

1380. LAND AND WATER CONSERVATION FUND PROGRAM OF ASSISTANCE TO STATES; POST-COMPLETION COMPLIANCE

Legal Authority: PL 88-578

CFR Citation: 36 CFR 59

Legal Deadline: None

Abstract: This revision to 36 CFR Part 59 is to clarify that land acquired with Land and Water Conservation Fund assistance and later converted to other than public outdoor recreation may not be replaced with land currently owned by the project sponsor.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Sara L. Hall, Chief, Recreation Grants Division, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 343-3780

RIN: 1024–AB90

1381. ● NATIONAL CAPITAL REGION PARKS: SPECIAL EVENT RULES

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 460(q); 16 USC 462(k); DC Code 8-137; DC Code 40-721

CFR Citation: 36 CFR 7.96

Legal Deadline: None

Abstract: The National Park Service proposed rule and policy statement with request for comments relates to special events in the National Capital Region. A variety of special events, such as festivals and private rented events have occurred on park land for some time. These events have increased in number and size and have caused a strain on limited park resources and on the National Capital Region budget. The proposed rule would limit the number and size of festivals and private rented events, limit sales at such events, and require sponsors of the events to bear any unbudgeted costs of the National Park Service.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Stanton, Regional Director, National Capital Region, National Park Service, Department of the Interior, National Park Service, 1100 Ohio Drive SW., Washington, DC 20242, 202 619-7095

RIN: 1024–AB92

1382. ● NATIONAL CAPITAL REGION PARKS: PROHIBITION OF STORAGE OF PROPERTY IN LAFAYETTE PARK

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 460(q); 16 USC 462(k); DC Code 8-137; DC Code 40-721

CFR Citation: 36 CFR 7.96

Legal Deadline: None

Abstract: The National Park Service proposed rule and policy statement with request for comments relates to a prohibition of storage of property in Lafayette Park. An earlier rule of the Park Service which restricted the storage of property in the park was overruled in U.S. v. Picciotto, 875 F. 2d 345 (D.C. Cir. 1989) because the rule had not been published for notice and comment under the Administrative Procedure Act. This proposed rule will comply with the Administrative Procedure Act and attempts to meet the substantial Government interest in aesthetics and preservation of park resources by limiting the storage of property in Lafayette Park.

Timetable:

Action	Date	FR Cite
NPRM	10/04/90	55 FR 40579
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Stanton, Regional Director, National Capital Region, Department of the Interior, National Park Service, 1100 Ohio Drive SW., Washington, DC 20242, 202 619-7095

RIN: 1024–AB93

DOI—NPS

Proposed Rule Stage

1353. ◆ NATIONAL PARK SERVICE SYMBOLS: UNITED STATES PARK POLICE INSIGNIA

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 11

Legal Deadline: None

Abstract: The National Park Service proposed rule and request for comments relates to the United States Park Police insignia. It will recognize an official United States Park Police insignia, provide for its future protection and prevent the unauthorized use of the insignia.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Stanton, Regional Director, National Capital Region, Department of the Interior, National Park Service, 1100 Ohio Drive SW., Washington, DC 20242, 202 619-7095

RIN: 1024–AB84

DEPARTMENT OF THE INTERIOR (DOI)

National Park Service (NPS)

Final Rule Stage

1354. BIG CYPRESS NATIONAL PRESERVE: INDIAN USE AND OCCUPANCY

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.86

Legal Deadline: None

Abstract: This rule will define the statutory rights of the Miccosukee and Seminole Indians within Big Cypress National Preserve. Although a proposed rule was published in 1981, a revised proposed rulemaking will be developed.

Timetable:

Action	Date	FR Cite
NPRM	11/21/81	46 FR 57709
NPRM	05/10/88	53 FR 16561
NPRM Comment Period End	07/11/88	53 FR 16561
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Originally scheduled: January 1981.

Agency Contact: William Sturgeon, Acting Chief, Ranger Activities, Department of the Interior, National Park Service, Southeast Regional Office, 75 Spring Street, SW., Atlanta, GA 30303, 404 242-0216

RIN: 1024–AA07

1355. NATIONAL REGISTER OF HISTORIC PLACES

Legal Authority: 16 USC 470 et seq

CFR Citation: 36 CFR 60

Legal Deadline: None

Abstract: This rule is being amended to revise: appeals for listing nominations by persons or local governments in States without approved State historic preservation programs; procedures for nominations from State and Federal agencies; and procedures for making changes to listed properties and removals from the National Register, including appeals, and to incorporate 36 CFR Part 63.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/16/81	
NPRM	05/05/88	51 FR 28204
NPRM Comment Period End	10/06/88	51 FR 28204
Final Action	12/31/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Originally scheduled: January 1981.

Agency Contact: Carol Shull, Chief, National Register Branch, Interagency Resources Division, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 343-9536

RIN: 1024–AA44

1356. DETERMINATION OF ELIGIBILITY FOR INCLUSION IN THE NATIONAL REGISTER OF HISTORIC PLACES

Legal Authority: 16 USC 470 et seq

CFR Citation: 36 CFR 63

Legal Deadline: None

Abstract: This rule incorporates certain revisions responding to the National Historic Preservation Act Amendments of 1980. In addition to responding to the new law, these changes update and revise in other minor respects the procedures for determining the eligibility of properties for the National Register. This rule will be consolidated with 36 CFR Part 60. Proposed rule (36 CFR Part 1204) was published May 23, 1980 (45 FR 34309).

Timetable:

Action	Date	FR Cite
NPRM	05/05/88	51 FR 28216
NPRM Comment Period End	10/06/88	51 FR 28216
Final Action	12/31/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Originally scheduled: July 1979.

Agency Contact: Carol Shull, Chief, National Register Branch, Interagency Resources Division, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 343-9536

RIN: 1024–AA46

1357. PROTECTION OF ARCHAEOLOGICAL RESOURCES; UNIFORM REGULATIONS

Legal Authority: PL 100-555; PL 100-588

CFR Citation: 43 CFR 7; 36 CFR 296; 18 CFR 1312; 32 CFR 229

Legal Deadline: None

Abstract: Amendments to the Archaeological Resources Protection Act of 1979 (PL 96-95) made by Congress in 1988 require amendments to the uniform regulations. Some of the amendments require changes in existing regulatory language, and some amendments add new responsibilities which may require additional regulatory guidance. Alternatives being considered

DOI—NPS

Final Rule Stage

are based upon the extent to which existing agency cultural resources management manuals address the new statutory responsibilities.

Timetable:

Action	Date	FR Cite
NPRM	01/29/90	55 FR 2948
NPRM Comment Period End	02/28/90	55 FR 2948
Final Action	04/01/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Waldbauer, Archeologist, Department of the Interior, National Park Service, Archeological Assistance Division, P.O. Box 37127, Washington, DC 20013-7127, 202 343-4113

RIN: 1024–AA31

1368. NPS UNITS IN ALASKA: CLOSURE REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 13

Legal Deadline: None

Abstract: This rule will provide for the closure of certain areas within Denali National Park and Preserve, Glacier Bay National Park and Preserve, Gates of the Arctic National Park and Preserve and Katmai National Park and Preserve to snowmachines, motorboat and aircraft use.

Timetable:

Action	Date	FR Cite
NPRM	04/06/83	48 FR 14978
NPRM Comment Period End	06/06/83	48 FR 14978
Comment Period Extension Begin	06/06/83	48 FR 26310
Comment Period Extension End	08/08/83	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Originally scheduled April 1982.

Agency Contact: David S. Ames, Associate Regional Director, Department of the Interior, National Park Service, Alaska Regional Office, 2525 Gambell Street, Anchorage, AK 99503, 907 271-4264

RIN: 1024–AA71

1369. PINE ISLAND NATIONAL SEASHORE: ZONING

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 28

Legal Deadline: None

Abstract: This rule will be revised to add new definitions, to amend permitted and prohibited uses and to update zoning standards to reflect Seashore policy and local zoning ordinances.

Timetable:

Action	Date	FR Cite
NPRM	10/07/87	52 FR 37586
NPRM Comment Period End	11/06/87	52 FR 37586
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Larry Hevig, Department of the Interior, National Park Service, North Atlantic Regional Office, 15 State Street, Boston, MA 02109, 617 223-1638

RIN: 1024–AA89

1390. FORT JEFFERSON NM: FISHING; BOUNDARY ADJUSTMENTS

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 7.27

Legal Deadline: None

Abstract: This proposed regulation pertains to Fort Jefferson National Monument and will delete references to the taking of crayfish and conch. Information will be included to redefine the park boundary. These changes are necessary to reflect a closure of park waters to the removal of crayfish and conch and to update boundary changes mandated by congressional action in 1980 that enlarged the park area.

Timetable:

Action	Date	FR Cite
NPRM	08/05/86	51 FR 28110
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Sturgeon, Acting Chief, Ranger Activities Branch, Department of the Interior, National Park Service, 75 Spring Street, SW., Atlanta, GA 30303, 404 221-4916

RIN: 1024–AA96

1391. EVERGLADES NP: MINING

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.45(a)

Legal Deadline: None

Abstract: This deletion applies to Everglades National Park in Florida. Section 7.45(a) will be deleted because it is a duplication of the General Regulations 36 CFR, Sections 1.5, 1.7 and 2.1.

Timetable:

Action	Date	FR Cite
NPRM	08/05/86	51 FR 28108
NPRM Comment Period End	09/04/86	51 FR 28108
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FTS 242-4916.

Agency Contact: William Sturgeon, Regional Law Enforcement Specialist, Department of the Interior, National Park Service, Southeast Regional Office, 75 Spring Street, SW., Atlanta, GA 30303, 404 221-4916

RIN: 1024–AB10

1392. CURATION OF FEDERALLY OWNED AND ADMINISTERED ARCHEOLOGICAL COLLECTIONS

Legal Authority: 16 USC 470a; 16 USC 470dd

CFR Citation: 36 CFR 79

Legal Deadline: None

Abstract: This rule fulfills the Secretary of the Interior's responsibility to issue regulations on the disposition, exchange and curation of federally owned and administered prehistoric and historic archeological artifacts and associated records recovered under the Antiquities Act of 1906, the Reservoir Salvage Act of 1960 (as amended by the Archeological and Historic Preservation Act of 1974), Section 110 of the National Historic Preservation Act of 1966 (as amended) and the Archeological Resources Protection Act of 1979. The regulation will establish (a) minimum

standards for repositories that provide long-term curatorial services; (b) guidelines for Federal agencies for entering into contracts and agreements with repositories and other parties for the care and management of collections; (c) guidelines for access to, loan of and use of collections; and (d) guidelines for the exchange and ultimate disposition of collections.

Timetable:

Action	Date	FR Cite
ANPRM	10/11/85	50 FR 41527
ANPRM Comment Period End	11/12/85	50 FR 41527
NPRM	06/26/87	52 FR 32740
NPRM Comment Period End	10/27/87	52 FR 32740
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michelle C. Aubry, Archeological Program Specialist, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 343-1876

RIN: 1024–AB13

1393. JEAN LAFITTE NHP: CRAWFISHING REGULATIONS

Legal Authority: 16 USC 3; 16 USC 230d

CFR Citation: 36 CFR 7.37

Legal Deadline: None

Abstract: The proposed rulemaking pertains to Jean Lafitte National Historical Park located in Louisiana. The rulemaking will establish criteria for the harvesting of crawfish in the Barataria Unit and will establish a recreational and subsistence season. The policy is consistent with Public Law 95-625 and existing National Park Service and Department of the Interior policies.

Timetable:

Action	Date	FR Cite
NPRM	06/16/86	51 FR 29466
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James L. Isenogle, Superintendent, Jean Lafitte National Historical Park, Department of the Interior, National Park Service, 423 Canal Street, Rm. 208, New Orleans, LA 70130, 504 589-3882

RIN: 1024–AB33

1394. CUYAHOGA VALLEY NRA: OFF-ROAD VEHICLES AND SNOWMOBILES

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.17

Legal Deadline: None

Abstract: The Service proposes to designate routes for off-road vehicles and snowmobile use in compliance with Executive Order 11644, in an area west of Riverview Road bounded by I-80 and I-271.

Timetable:

Action	Date	FR Cite
NPRM	06/15/87	52 FR 22662
NPRM Comment Period End	07/15/87	52 FR 22662
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brian McHugh, Chief Park Ranger, Cuyahoga Valley NRA, Department of the Interior, National Park Service, 15610 Vaughn Road, Brecksville, OH 44141, 216 526-5256

RIN: 1024–AB44

1395. CANYON DE CHELLY NATIONAL MONUMENT

Significance: Regulatory Program

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.19

Legal Deadline: None

Abstract: This proposed rulemaking will establish criteria for the operation of horse rental facilities within Canyon De Chelly National Monument.

Timetable:

Action	Date	FR Cite
NPRM	05/27/87	52 FR 19735
NPRM Comment Period End	06/26/87	52 FR 19735
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ken Mabery, Park Ranger, Department of the Interior, National Park Service, Southwest Region, P.O. Box 728, Santa Fe, NM 87501, 505 988-6371

RIN: 1024–AB47

1396. WHISKEYTOWN NATIONAL RECREATION AREA FISHING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.61

Legal Deadline: None

Abstract: The Service is proposing to allow fishing at Whiskeytown National Recreation area in any manner authorized under applicable State law.

Timetable:

Action	Date	FR Cite
NPRM	02/06/88	53 FR 3758
NPRM Comment Period End	03/10/88	53 FR 3758
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ray Foust, Superintendent, Department of the Interior, National Park Service, PO Box 188, Whiskeytown, CA 96095, 916 241-6584

RIN: 1024–AB61

1397. BIGHORN CANYON NATIONAL RECREATION AREA - FISHING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.62

Legal Deadline: None

Abstract: The Service proposes to authorize fishing at Bighorn Canyon National Recreation area in any manner authorized under the applicable laws of Montana and Wyoming.

Timetable:

Action	Date	FR Cite
NPRM	10/10/86	51 FR 36409
NPRM Comment Period End	11/10/86	51 FR 36409
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Lake, Chief Park Ranger, Bighorn Canyon NRS, Department of the Interior, National

Park Service, PO Box 490, Ft. Smith, MT 59035, 406 666-2412

RIN: 1024–AB61

1398. MANAGEMENT OF MINERAL DEVELOPMENT ASSOCIATED WITH MINING CLAIMS

Significance: Agency Priority

Legal Authority: 16 USC 1901 et seq Mining in the Parks Act of 1976; 16 USC 1 et seq NPS Organic Act; 30 USC 21 et seq Mining Law of 1872

CFR Citation: 36 CFR 9

Legal Deadline: None

Abstract: The existing regulations at 36 CFR Part 9, Subpart A, promulgated in January of 1977, contain a provision regarding the use of water in connection with mining claims within National Park System units that creates a "catch 22" for miners seeking to use water in connection with their claims. In order to use water in a park, a miner must have perfected water right. However, to obtain a perfected water right, a miner must use water. Herein lies the "catch 22." The National Park Service (NPS) would like to rectify this dilemma through a rule change that would eliminate the perfected water right language while at the same time preserve the Service's ability to protect water quality and quantity.

Timetable:

Action	Date	FR Cite
NPRM	05/05/89	54 FR 19411
NPRM Comment Period End	07/05/89	54 FR 19411
Final Action	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carol McCoy, Chief, Policy and Regulations Section, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013, 202 343-4662

RIN: 1024–AB74

1399. ALASKA REGION: SAME-DAY-AIRBORNE HUNTING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 13.21

Legal Deadline: None

Abstract: The National Park Service is proposing rules what will prohibit the hunting of certain wildlife species in the National Preserve areas in Alaska on the same day in which a hunter is airborne. Hunting will continue to be allowed pursuant to State and Federal regulations. Access to those areas by aircraft for sport hunting and other purposes is also allowed. While the State of Alaska has a similar regulation in place, commonly referred to as the "same-day-airborne" regulation, recent changes to their regulation have allowed exceptions for some species in certain State of Alaska game management units including the National Preserve areas. This exception will allow "land-and-shoot" hunting of wolves in the National Preserves. The proposed National Park Service regulation will prohibit "land-and-shoot" hunting for big game including the following species: All species of Bears, Bison, Caribou, Elk, Mountain Goat, Moose, Musk Oxen, Dall Sheep, Wolf, Wolverine, Coyote, Arctic and Red Fox, and Lynx.

Timetable:

Action	Date	FR Cite
NPRM	06/00/90	54 FR 24852
NPRM Comment Period End	08/00/90	54 FR 24852
Final Action	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steve Shackelton, Law Enforcement Specialist, Department of the Interior, National Park Service, 2525 Gambell St., Rm. 107, Anchorage, AK 99503-2892, 907 257-2648

RIN: 1024–AB61

DEPARTMENT OF THE INTERIOR (DOI)

National Park Service (NPS)

Completed Actions

1400. HISTORIC PRESERVATION CERTIFICATIONS PURSUANT TO SECTION 48(G) AND SECTION 170(H) OF THE INTERNAL REVENUE CODE OF 1986

Legal Authority: 16 USC 470(a)(1)(A); 26 USC 48 (g); 26 USC 170(h)

CFR Citation: 36 CFR 67, [Revision]

Legal Deadline: None

Abstract: This proposed rule restates and makes amendments to the procedures by which owners desiring tax benefits for rehabilitation of historic buildings apply for certifications pursuant to Section 48(g) and Section 170(h) of the Internal Revenue Code of 1986. These tax laws require certifications from the Secretary of the Interior in order for taxpayers to receive tax benefits.

Timetable:

Action	Date	FR Cite
NPRM	05/23/88	53 FR 18202
NPRM Comment Period End	07/22/88	53 FR 18202
Final Action	02/28/90	55 FR 6784
Final Action Effective	03/29/90	55 FR 6784

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: H. Ward Jandl, Chief, Technical Preservation Services Branch, Department of the Interior, National Park Service, P O Box 37127, Washington, DC 20013-7127, 202 343-9568

RIN: 1024–AB73

BILLING CODE 4310-70-T

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Indian Affairs (BIA)

Proposed Rule Stage

1401. ADMINISTRATION OF THE HIGHER EDUCATION PROGRAM

Significance: Regulatory Program

Legal Authority: 25 USC 13; PL 87-85

CFR Citation: 25 CFR 40

Legal Deadline: None

Abstract: This rule will revise established policies and provide uniform procedures to govern the higher education program administered under the authority of 25 USC 13. This rule applies only to educational grants; Bureau educational loans are governed by 25 CFR Part 91. This part has been redesignated from 25 CFR Part 32.

Timetable:

Action	Date	FR Cite
NPRM	03/03/87	52 FR 6462
NPRM Comment Period End	05/04/87	52 FR 11503
Reproposal	11/00/90	
Final Action	08/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: Originally scheduled: January 1990. Reproposed 10/00/90

Agency Contact: Reginald Rodriquez, Acting Chief, Branch of Postsecondary Education, Department of the Interior, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, 202 208-4871

RIN: 1076-AA10

1402. GRANTS TO TRIBALLY CONTROLLED COMMUNITY COLLEGES AND NAVAJO COMMUNITY COLLEGE

Significance: Agency Priority

Legal Authority: 25 USC 1815; 25 USC 640

CFR Citation: 25 CFR 41. (Revision)

Legal Deadline: None

Abstract: The Secretary proposes to revise the current regulations which are used to govern the administration of grants to the Tribally Controlled Community Colleges. The revision is mandatory since the current regulations do not apply to the new requirements which were made under the Amendments Act. The revision will govern the new requirements which include: (1) Planning Grants; (2) Forward Funding; (3) Facility Construction; (4) Endowments; and (5) New Method of Counting Students.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Reginald Rodriquez, Acting Chief, Branch of Postsecondary Education, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240, 202 208-4871

RIN: 1076-AA11

1403. ADMINISTRATION OF THE INDIAN ADULT EDUCATION PROGRAMS

Significance: Agency Priority

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 48

Legal Deadline: None

Abstract: These proposed regulations are designed to provide standardized administrative procedures for administering and operating Indian adult education programs.

Timetable:

Action	Date	FR Cite
NPRM	12/30/87	52 FR 49172
NPRM Comment Period End	02/29/88	52 FR 49172
Reproposal	10/00/90	
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Reginald Rodriquez, Acting Chief, Branch of Postsecondary Education, Department of the Interior, Bureau of Indian Affairs, Office of Indian Education Programs, 1849 C Street, NW., Washington, DC 20240, 202 208-4871

RIN: 1076-AA15

1404. LEASING AND PERMITTING

Significance: Agency Priority

Legal Authority: 25 USC 395; 25 USC 402; 25 USC 403; 25 USC 466

CFR Citation: 25 CFR 162

Legal Deadline: None

Abstract: The Bureau proposes to reorganize Part 162 into subparts to facilitate the use of the regulations for easier reference and to incorporate requirements for grazing permits within the rule for Leasing and Permitting. The inclusion of the requirements for grazing permits in this part will result in the removal of 25 CFR Part 166, General Grazing Regulations, from the 25 CFR.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dave Pennington, Natural Resources Officer, Billings Area Office, Department of the Interior, Bureau of Indian Affairs, 316 North 26th Street, Billings, MT 59101, 406 657-6165

RIN: 1076-AA29

1405. ROADS OF THE BUREAU OF INDIAN AFFAIRS

Legal Authority: 25 USC 47; 25 USC 318a; 23 USC 202; 23 USC 204

CFR Citation: 25 CFR 170

Legal Deadline: None

Abstract: The Bureau of Indian Affairs is proposing revising 25 CFR Part 170 to reflect the current Bureau of Indian Affairs (BIA) and Federal Highway Administration (FHWA) policies for the road systems on Indian reservations, to assure funds are apportioned from the Highway Trust Fund (HTF) for construction projects on Indian reservations roads in accordance with the relative needs of the reservation, and to implement tribal self-determination.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Ball, Chief, Division of Transportation, Department of the Interior, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, 202 208-4359

RIN: 1076-AB05

1406. LEASING OF RESTRICTED LANDS OF MEMBERS OF FIVE CIVILIZED TRIBES, OKLAHOMA, FOR MINING

Legal Authority: Sec. 2, 35 Stat. 312; Sec. 18, 41 Stat. 426; Sec. 1, 45 Stat. 495; Sec. 1, 47 Stat. 777; 25 USC 356; Secs. 3, 11, 36 Stat. 313, 316; Sec. 8, 47 Stat. 779

CFR Citation: 25 CFR 213

Legal Deadline: None

Abstract: This rule is being revised to ensure consistency with existing law and to improve operating procedures. Issues to be addressed include authority to lease inherited restricted land, the processing of lease payments through the Minerals Management Service, and the approval process for division orders. There are no alternatives being considered and the potential cost is unknown.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kim Snyder, Acting Chief, Division of Energy and Mineral Resources, Department of the Interior, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, 202 208-3687

RIN: 1076–AB41

1407. INDIVIDUAL INDIAN MONEY ACCOUNTS

Significance: Regulatory Program

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 43 USC 1457

CFR Citation: 25 CFR 115

Legal Deadline: None

Abstract: The Individual Indian Money Account program involves funds held in trust status for individuals. Although the rule generally prohibits voluntary accounts, except in circumstances of substantial hardship, the Bureau currently maintains many such accounts in the program. The current regulations will be revised to include specific criteria which must be met by voluntary depositors and which determine cases of "substantial hardship" as required by the regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/15/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: George Gover, Office of Trust Funds Management, Department of the Interior, Bureau of Indian Affairs, P.O. Box 1067, Albuquerque, NM 87103, 505 474-3875

RIN: 1076–AB91

1408. THE INDIAN POLICE

Significance: Agency Priority

Legal Authority: 25 USC 2; 25 USC 9; 25 USC 13

CFR Citation: 25 CFR 11

Legal Deadline: None

Abstract: The Bureau of Indian Affairs is revising its regulations governing the Bureau's police operations to make them consistent with contemporary enforcement policies and procedures and changes in the Interior Department Manual and the BIA Manual.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	12/00/90	
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Lorentino, Acting Chief, Division of Law Enforcement Services, Department of the Interior, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, 202 208-5551

RIN: 1076–AB98

1409. FINANCIAL ASSISTANCE AND SOCIAL SERVICES PROGRAM

Significance: Regulatory Program

Legal Authority: 25 USC 13; PL 98-473

CFR Citation: 25 CFR 20

Legal Deadline: None

Abstract: The Bureau is amending existing Financial Assistance and Social Services Program regulations to further define the adult care services provided to Indian people. These proposed regulations define the extent of the program, establish eligibility requirements, and establish adult care services as a social services program separate and distinct from the general assistance program. The revision is needed to specifically define the Bureau's role in the provision of institutional and in-home care to Indian adults who are mentally or physically handicapped or otherwise disabled. The Bureau is also amending miscellaneous assistance provisions to conform with the congressional directive in Public Law 98-473. Miscellaneous assistance will be revised and defined as burial assistance. Emergency assistance previously provided under miscellaneous assistance was transferred to general assistance by revision of 25 CFR Part 20(c) on September 30, 1985.

Timetable:

Action	Date	FR Cite
Distribute draft rule to all Area Offices for review	04/30/89	
NPRM	10/00/90	
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Debra Maddox, Acting Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, 202 208-2721

RIN: 1076–AB99

1410. FINANCIAL ASSISTANCE AND SOCIAL SERVICES PROGRAM

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 20

Legal Deadline: None

Abstract: This rulemaking action is being taken to further re-define programmatic responsibilities of the General Assistance Program, specifically, tribal work experience programs and miscellaneous assistance.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	12/00/90	

DOI—BIA

Proposed Rule Stage

Action	Date	FR Cite
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Debra Maddox, Acting Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, 202 208-2721

RIN: 1076–AC18

1411. CERTIFICATES OF DEGREE OF INDIAN BLOOD

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 70

Legal Deadline: None

Abstract: This rulemaking action is to add a new Part 70 to govern the issuance of Certificates of Degree of Indian Blood (CDIB's). There has been a sharp increase in the number of requests for CDIB's over the past few years. More and more programs are requiring individuals to submit CDIB's to document possession of Indian blood. This rulemaking action is intended to clarify the circumstances under which the Bureau will issue CDIB's; the documents and records on which the Bureau will base the issuance of CDIB's; and the procedures that individuals will need to follow, including any documentation requirements, to obtain CDIB's.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	01/00/91	
Final Action	05/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kathleen L. Slover, Tribal Enrollment Specialist, Department of the Interior, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, 202 208-3762

RIN: 1076–AC19

1412. REVISED PROCEDURES FOR IMPLEMENTATION OF THE INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT AMENDMENTS OF 1988

Significance: Regulatory Program

Legal Authority: 93 Stat. 638; 100 Stat. 202; 100 Stat. 446; 100 Stat. 472; 100 Stat. 581

CFR Citation: 25 CFR 271; 25 CFR 272; 25 CFR 274; 25 CFR 275; 25 CFR 276; 25 CFR 277; 25 CFR 278

Legal Deadline: NPRM, Statutory, August 5, 1988. Final, Statutory, October 5, 1988.

Abstract: The primary purpose of the amendments to 93 USC 638 is to permit an orderly transition from Federal domination of pregrams for and services to Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services while maintaining the Federal Government's unique and continuing relationship with and responsibility to individual Indian tribes and to the Indian people as a whole. In addition to extensive consultation with the tribes and Native American groups, the Bureau of Indian Affairs is examining all of its planning administrative procedures from the perspective of maximizing tribal participation. Due to the broad scope of the review, an estimate of the potential cost and potential benefit is premature. The changes are one of process rather than increases or decreases in budget or program funding. The major potential cost is to the Federal Government in order to meet the insurance requirement of the law. The amount is undetermined to date.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
NPRM Comment Period End	03/00/91	
Final Action Effective	09/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Jim Thomas, Indian Self Determination Analyst, Department of the Interior, Bureau of Indian Affairs, Room 4641-MIB, 1849 C Street, NW., Washington, DC 20240, 202 208-5727

RIN: 1076–AC20

1413. HOUSING IMPROVEMENT PROGRAM

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 256

Legal Deadline: None

Abstract: Congressional direction contained in the FY 1984 Department of the Interior and Related Agencies Appropriation Conference Report directed the Bureau to develop a program which is more cost effective and better meets identified needs. In response to this directive, the Bureau developed a new system to achieve the results intended. The redirected Housing Improvement Program is being promulgated as proposed regulations in conformity with Section 552 and 553 of Title 5, United States Code, as required by the Indian Self-Determination and Education Assistance Act Amendments of 1988.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	12/00/90	
Final Action	02/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: A. Ronald Thomas, Acting Chief, Division of Housing, Department of the Interior, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, 202 208-6427

RIN: 1076–AC22

1414. MINIMUM STANDARDS FOR AND APPLICATION AND APPROVAL PROCEDURES FOR BIA EARLY CHILDHOOD DEVELOPMENT PROGRAMS

Significance: Regulatory Program

Legal Authority: 20 USC 2305; 25 USC 2003

CFR Citation: 25 CFR 85

Legal Deadline: None

Abstract: Publication of this proposed rule is necessary so that tribes, tribal organizations, and consortia of tribes who have combined memberships of

300 members or more may provide the necessary services to parents and children under six years old whose needs are not being met by existing programs. National studies show that for every dollar spent on early childhood development programs there is a return of six dollars. The benefits include increasing the literacy rate, the graduation rate, and the rate of enrollment in higher education. High quality early childhood programs can also decrease the rate of cognitive learning and emotional handicaps; teenage pregnancy; welfare dependency and the incidence of arrest and juvenile delinquency.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Mahojah, Chief, Branch of Elementary and Secondary Education, Department of the Interior, Bureau of Indian Affairs, 1849 C Street, NW., Washington, Dc 20240, 202 208-6194

RIN: 1076-AC25

1415. BOND GUARANTY

Significance: Regulatory Program

Legal Authority: 25 USC 1498

CFR Citation: 25 CFR 104

Legal Deadline: None

Abstract: The BIA has no existing rules to support program changes as specified in the 1988 amendments to the Indian Financing Act of 1974 (25 USC 1498). Requirements for eligibility and procedures for participating in these new programs must be announced to the public. To enable public participation in these programs the BIA must inform the public of provisions for new guaranty authority contained in the 1988 Amendments. The BIA is currently analyzing its financial programs and the requirements for eligibility and procedures for participating in these programs. New action dates may be initiated once the BIA's analysis has been completed. Accordingly, the next action is undetermined.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Richard K. Nephew, Chief, Division of Financial Assistance, Department of the Interior, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, 202 208-3657

RIN: 1076-AC26

1416. SUPPLEMENTAL SURETY BOND GUARANTY

Significance: Regulatory Program

Legal Authority: 25 USC 1498

CFR Citation: 25 CFR 105

Legal Deadline: None

Abstract: To enable full public participation in the new programs established by the 1988 amendments to the Indian Financing Act of 1974 (25 USC 1498), requirements for eligibility and procedures for participation in these programs must be announced. The supplemental surety bond guaranty program will enable Indian contractors who obtain surety bond guarantees from the Small Business Administration to obtain a supplemental guarantee to cover bids on and performance of contracts that could not be obtained without such guarantees. The BIA is currently analyzing its financial programs and the requirements for eligibility and procedures for participating in these programs. New action dates may be initiated once the BIA's analysis has been completed. Accordingly, the next action is undetermined.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard K. Nephew, Chief, Division of Financial Assistance, Department of the Interior, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, 202 208-3657

RIN: 1076-AC27

1417. LEASING OF OSAGE RESERVATION LANDS FOR MINING FOR MINERALS OTHER THAN OIL AND GAS

Legal Authority: 34 Stat. 543 Sec. 3; Act of June 28, 1906, Ch. 3572, Sec. 3; 34 Stat. 539; 34 Stat. 543

CFR Citation: 25 CFR 214

Legal Deadline: None

Abstract: The BIA is proposing to revise the regulations at 25 CFR 214 governing management of non-oil and gas minerals on Osage Reservation Lands in Oklahoma. The proposed revisions eliminate specific royalties for minerals not found within the Osage Mineral estate and give authority to the Osage Tribal Council, with the approval of the Superintendent of the Osage Agency, to to set applicable royalty rates. This revision also replaces outmoded methods of exchange with modern methods, and correctly designates those officials responsible for the management of non-oil and gas minerals within the Osage Mineral estate. The proposed revisions are intended to enhance the management ability of the Department over the production of these minerals, and to eliminate various inaccuracies in the current regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Skeemats, Superintendent, Department of the Interior, Bureau of Indian Affairs, Osage Agency, Pawhuska, OK 74056, 918 287-2481

RIN: 1076-AC28

1418. LEAD AND ZINC MINING OPERATIONS, QUAPAW AGENCY

Legal Authority: 41 Stat. 1225; 41 Stat. 1248; 50 Stat. 88

CFR Citation: 25 CFR 215

Legal Deadline: None

Abstract: BIA proposes to amend 25 CFR 215 to update the operations and procedures for leasing, discovery, testing, processing, developing, mining and processing lead and zinc minerals

on lands under the jurisdiction of the Bureau's Miami Agency in Ottawa County, Oklahoma. Current regulations governing such leases were developed over 30 years ago and no longer reflect current practices or standards in the mining industry. The proposed revisions will assist affected Indians with the efficient development of their lead and zinc deposits without waste, avoidable loss or damage to their natural resources, the environment, or other resources. The Bureau also proposes to retitle 25 CFR 215 as "Lead and Zinc Mining Operations and Leases, Miami Agency."

Timetable:

Action	Date	FR Cite
NPRM	10/30/90	
NPRM Comment Period End	11/30/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kim Snyder, Department of the Interior, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, 202 208-3807

RIN: 1076–AC30

1419. SAFETY AND HEALTH INSPECTION PROGRAM

Legal Authority: 25 USC 2, 9, 13; 5 USC 7902; 7 USC 135 et seq; 21 USC 301 et seq; 23 USC 208; 33 USC 467 et seq; PL 89-665; PL 91-598; PL 92-157; PL 92-574; PL 93-638; PL 94-163; PL 94-469; PL 94-560; PL 95-190

CFR Citation: 25 CFR 50

Legal Deadline: None

Abstract: This proposed rule establishes a new part containing requirements for determining whether plant conditions at Bureau-funded schools are an immediate hazard to health and safety. The Bureau is required to develop rules for a safety and health inspection program by PL 100-297, which states that schools may be closed or consolidated, or programs substantially curtailed, for plant conditions constituting an immediate hazard to health or safety only if a Bureau health and safety officer determines that such conditions exist. There will be no effect on the economy or cost or price effects, since this rule is administrative in nature and outlines the responsibilities of the Division of Safety Management for conducting safety and health inspections.

Timetable:

Action	Date	FR Cite
NPRM	10/30/90	
NPRM Comment Period End	11/30/90	
Final Action	12/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Jaynes, Department of the Interior, Bureau of Indian Affairs, Division of Safety Management, P.O. Box 2186, Albuquerque, NM 87103, 505 474-2363

RIN: 1076–AC31

1420. INDIAN SCHOOL EQUALIZATION PROGRAM

Significance: Regulatory Program

Legal Authority: 25 USC 2010

CFR Citation: 25 CFR 39

Legal Deadline: None

Abstract: The Bureau is revising 25 CFR 39 to satisfy the requirements of the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988 (PL 100-297), which requires development of standards and procedures for closing, consolidation, or substantial curtailment of Bureau schools. The Act requires the Secretary to establish a formula for costs associated with greater length of service by education officials and procurement without competitive bidding for goods and services worth up to $25,000. The Act also requires adjustment in the formula for students enrolled in the seventh and eighth grades, small schools, school board expenses, and gifted and talented students.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	01/00/91	
Final Action	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: George D. Scott, Education Specialist, Department of the Interior, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, 202 208-3582

RIN: 1076–AC33

1421. TRIBAL REORGANIZATION UNDER A FEDERAL STATUTE

Legal Authority: 5 USC 301; 25 USC 473a; 25 USC 476; 25 USC 477; 25 USC 503; PL 100-581

CFR Citation: 25 CFR 81

Legal Deadline: None

Abstract: These regulations establish uniform procedures for conducting Secretarial elections for voting on proposed constitutions when tribes wish to reorganize, adopt constitutional amendments, ratify and amend charters, or revoke existing constitutions. This proposed rule will revise the regulations to bring them into compliance with PL 100-581.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	
Final Action	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carol Bacon, Acting Chief, Division of Tribal Government Services, Department of the Interior, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, 202 208-7445

RIN: 1076–AC34

1422. PETITIONING AND OTHER PROCEDURES FOR TRIBES REORGANIZED UNDER FEDERAL STATUTE AND OTHER ORGANIZED TRIBES

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 473a; 25 USC 476; 25 USC 477; 25 USC 503

CFR Citation: 25 CFR 82

Legal Deadline: None

Abstract: The rules in 25 CFR 82 provide uniformity and order in formulation and submission of petitions requesting the Secretary to call elections to amend tribal constitutions, to issue charters and for other actions where constitutions provide for petitioning to effect actions by the Secretary or the commissioner. This

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rulemaking action will amend the regulations to allow the spokesman for the petitioners to make technical changes to petitions in consultation with the Bureau and to change the petition format.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	
Final Action	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carol Bacon, Acting Chief, Division of Tribal Government Services, Department of the Interior, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, 202 208-7615

RIN: 1076-AC35

1423. LEASING OF CERTAIN LANDS ON THE WIND RIVER INDIAN RESERVATION, WYOMING, FOR OIL AND GAS MINING

Legal Authority: 43 USC 361

CFR Citation: 25 CFR 227

Legal Deadline: None

Abstract: The regulations at 24 CFR 227 are being revised to reflect organizational changes in the Bureaus of Indian Affairs and Land Management. The principal changes update the references to the Bureau of Land Management official assigned various responsibilities by the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	
Final Action	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Larry Morsa, Area Realty Officer, Department of the Interior, Bureau of Indian Affairs, Division of Real Property Management, 316 North 26th Street, Billings, MT 59101, 406 657-6361

RIN: 1076-AC36

1424. LOANS TO INDIANS FROM REVOLVING LOAN FUND

Significance: Regulatory Program

Legal Authority: 25 USC 1469

CFR Citation: 25 CFR 101

Legal Deadline: None

Abstract: The Bureau will revise 25 CFR 101 to include the equity requirements and new default penalties imposed by the Office of Management and Budget. As a result of these changes, approximately 50 Indian businesses will receive loans. The revisions will not have more than $100 million effect on the economy.

Timetable:

Action	Date	FR Cite
NPRM	11/30/90	
NPRM Comment Period End	12/30/90	
Final Action	03/30/91	
Final Action Effective	04/30/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Nephew, Chief, Division of Financial Assistance, Department of the Interior, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, 202 208-3657

RIN: 1076-AC38

1425. LOAN GUARANTY, INSURANCE AND INTEREST SUBSIDY

Significance: Regulatory Program

Legal Authority: 25 USC 1480

CFR Citation: 25 CFR 103

Legal Deadline: None

Abstract: The Bureau will revise 25 CFR 103 to include the equity requirements imposed by the Office of Management and Budget for Federal loans and default penalties. As a result of these changes, approximately 50 Indian-owned businesses will receive loans. The revisions will not have more than $50 million effect on the economy.

Timetable:

Action	Date	FR Cite
NPRM	11/30/90	
NPRM Comment Period End	12/30/90	
Final Action	03/31/91	
Final Action Effective	04/30/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Nephew, Chief, Division of Financial Assistance, Department of the Interior, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, 202 208-3657

RIN: 1076-AC39

1426. ANNUITY AND OTHER PER CAPITA PAYMENTS

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 43 USC 1457

CFR Citation: 25 CFR 111

Legal Deadline: None

Abstract: This proposed rule describes standards by which per capita payments out of tribal trust revenue may be made by either the Secretary of the Interior or by tribal governments. This revision is a result of the repeal of laws which restricted distributions made by Federal officials designated by the Secretary. The former laws were repealed because most Indian tribes now have the capability to manage their own receipts and disbursements. There will be no increase in costs or prices for consumers, regions, or governments as a result of this revision.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	
Final Action Effective	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Davis, Research Specialist, Department of the Interior, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, 202 208-4475

RIN: 1076-AC40

1427. INDIAN BUSINESS DEVELOPMENT PROGRAM

Significance: Agency Priority

Legal Authority: 25 USC 1524

CFR Citation: 25 CFR 286

Legal Deadline: None

Abstract: This proposed revision is to revise section 286.17(b) of proposed rule 25 CFR 286, "Indian Business Development Program," which says that

a grant may be made only to an applicant who is able to obtain at least 60 percent of the necessary financing from other sources. The Bureau of Indian Affairs (BIA) has required applicants to provide at least 75 percent of necessary financing since appropriations for IBDP (Indian Business Development Program) were reauthorized in 1984. From 1983 to 1985 the BIA administered a similar business development grant program called Special Grants for Economic Development (25 CFR 278) under authority of the Snyder Act. The IBDP supplants that program. Part 273 required 75 percent of project costs from non-Federal sources. Since 1983, we have been requiring 75 percent matching funds and this revision is to reflect this requirement. Since this policy has been in practice there will be no significant change as far as potential cost or benefit due to this revision.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	11/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Woody Sneed, Financial Analyst, Department of the Interior, Bureau of Indian Affairs, MS-4060 MLB, 1849 C Street, NW., Washington, DC 20240, 202 208-3657

RIN: 1076–AC42

1428. ● DEPOSIT AND EXPENDITURE OF INDIVIDUAL FUNDS OF MEMBERS OF THE OSAGE TRIBE OF INDIANS WHO DO NOT HAVE CERTIFICATES OF COMPETENCY

Legal Authority: 5 USC 301

CFR Citation: 25 CFR 117

Legal Deadline: None

Abstract: The Bureau of Indian Affairs is publishing a proposed rule to amend the regulations governing the deposit and expenditure of individual funds belonging to persons of Osage blood who do not possess a certificate of competency. The regulations are being amended to correspond to current administrative and economic conditions. The promulgation of these amendments will improve the management of the restricted funds of such persons and estates of such deceased persons.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	01/00/91	
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Haney, Acting Field Solicitor, Department of the Interior, Bureau of Indian Affairs, Osage Agency, Grandview Agency, Tulsa, OK 74056, 918 287-2485

RIN: 1076–AC45

1429. ● PROCEDURES FOR ESTABLISHING THE AN AMERICAN GROUP EXISTS AS AN INDIAN TRIBE

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 83

Legal Deadline: None

Abstract: The proposed revisions will resolve problems with existing regulations published more than 10 years ago. They will clarify terms and definitions, interpret criteria, improve the appeals process, and respond to changing conditions. The revisions will be based on ten years experience with the regulations and will reflect comments received from the Congress, Indian groups and tribes, and other Federal agencies and national organizations.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	03/00/91	
Final Action	07/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Lynn Forcia, Chief, Branch of Acknowledgement and Research, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240, 202 208-3592

RIN: 1076–AC46

1430. ● PREPARATION OF A ROLL OF INDEPENDENT SEMINOLE INDIANS OF FLORIDA

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; PL 101-227

CFR Citation: 25 CFR 67

Legal Deadline: None

Abstract: The Bureau of Indian Affairs is proposing to add a new Part 67 to provide procedures to govern the preparation, certification, and approval of a descendancy roll of independent Seminole Indians of Florida. The Act of April 30, 1990, provides for the use and distribution of funds awarded the Seminole Indians in dockets 73, 151, and 73-A of the Indian Claims Commission. Section 7 directs the Secretary of the Interior to compile a roll of independent individuals of Seminole descent. The descendancy roll will be used as the basis for a per capita distribution of a portion of the Seminole judgement funds.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	
Final Action	03/00/91	
Final Action Effective	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kathleen L. Slover, Tribal Enrollment Specialist, Department of the Interior, Bureau of Indian Affairs, Room 4627, 1849 C Street NW., Washington, DC 20240, 202 208-3762

RIN: 1076–AC48

1431. ● NEW SCHOOL CONSTRUCTION PROJECTS

Legal Authority: 31 USC 9701; 25 USC 2; 25 USC 13; 25 USC 413

CFR Citation: 25 CFR 37

Legal Deadline: None

Abstract: The purpose of these regulations is to formalize procedures and the approval process for the acquisition of sites, construction, or renovation (including all necessary equipment) for schools for Indian children under funds authorized and appropriated under Federal statutes for new school construction application

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Proposed Rule Stage

evaluations and priority rankings. These appropriations include, but are not limited to, the following: facility structures that require new addition to an existing structure, new school facilities, dormitories, gymnasiums, cafeterias, libraries, and multi-purpose rooms.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	12/00/90	
Final Action	02/00/91	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local

Agency Contact: Jerry Schweigert, Chief, Division of Operation and Construction, Department of the Interior, Bureau of Indian Affairs, Room 3417 MIB, 1849 C Street NW., Washington, DC 20240, 202 208-3625

RIN: 1076–AC49

1432. ◆ LAND ACQUISITION

Significance: Agency Priority

Legal Authority: 25 USC 465; 25 USC 2202

CFR Citation: 25 CFR 151

Legal Deadline: None

Abstract: This proposed rule will provide stronger and more consistent guidelines for reviewing trust applications than the current case-by-case review, which uses general criteria. The Secretary of the Interior announced on July 19, 1990, a new policy for Indian Tribes acquiring in trust for gaming and non-gaming purposes lands contiguous to or outside the tribe's existing reservation boundaries. This proposed revision will add two new sets of criteria that will be used in evaluating tribal off-reservation acquisition for gaming and non-gaming purposes.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lee Maytubby, Chief, Branch of Technical Services, Division of Real Estate Services, Department of the Interior, Bureau of Indian Affairs, Room 4522 - MIB, 1849 C Street NW., Washington, DC 20240, 202 208-4861

RIN: 1076–AC51

1433. ◆ LOAN GUARANTY, INSURANCE, AND INTEREST SUBSIDY; LOANS TO INDIANS FROM REVOLVING LOAN FUND

Significance: Agency Priority

Legal Authority: 25 USC 1469; 25 USC 1498

CFR Citation: 25 CFR 101; 25 CFR 103

Legal Deadline: None

Abstract: Parts 101 and 103 are being revised to clarify that OMB Circulars A-70 and A-129 relating to Federal credit policy and managing Federal credit programs apply to BIA Indian loan programs and compliance is required. A new minimum equity requirement of 20 percent is required to receive a loan or loan guaranty. A new provision reflecting an amendment to the statute allows "any person" to purchase a guaranteed loan. Some wording has been changed to clarify the intent of the regulations.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Woody Sneed, Financial Analyst, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240, 202 208-6795

RIN: 1076–AC52

DEPARTMENT OF THE INTERIOR (DOI)

Bureau of Indian Affairs (BIA)

Final Rule Stage

1434. LAW AND ORDER ON INDIAN RESERVATIONS

Significance: Agency Priority

Legal Authority: 25 USC 2; 25 USC 9; 25 USC 13

CFR Citation: 25 CFR 11

Legal Deadline: None

Abstract: The present regulations contain a very incomplete criminal code that does not cover many areas of the law that are usually in the laws of the State where the reservation is located. The current regulations also contain very sketchy provisions on criminal and civil procedure. It is proposed to update the sections on criminal offenses, and essentially create new sections on criminal procedures, domestic relations, probate proceedings, appellate proceedings and juvenile proceedings. This will provide the Courts of Indian Offenses with more complete and up to date procedures and rules. Courts will have a six month period from the date of publication of the final rule to the effective date in which to revise their court codes. It is not anticipated that this revision will have any effect on the annual case load for these courts or require additional staffing. Therefore, the initiation of these rules should not result in additional costs.

Timetable:

Action	Date	FR Cite
NPRM	10/24/85	50 FR 43235
NPRM Comment Period End	01/31/86	51 FR 400
Code revisions by courts	04/01/89	
Final Action	11/00/90	
Final Action Effective	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Originally scheduled: January 1991.

Agency Contact: Hilda A. Manuel, Chief, Branch of Judicial Services,

DOI—BIA

Final Rule Stage

Department of the Interior, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, 202 208-4480

RIN: 1076–AA01

1435. NAVAJO GRAZING REGULATIONS

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 640d; 25 USC 640d-28

CFR Citation: 25 CFR 167

Legal Deadline: None

Abstract: This rule will be revised to clarify the Secretary's responsibilities over grazing control and range restoration activities in the area formerly known as the Joint Use Area under the July 9, 1960 amendments to the Navajo-Hopi Settlement Act, 25 USC 640d and 640d-28. The rule will form Subpart B of the Existing Navajo Grazing Regulations, which are redesignated as Subpart A of 25 CFR Part 167.

Timetable:

Action	Date	FR Cite
NPRM	03/05/87	52 FR 6822
NPRM Comment Period End	09/03/97	52 FR 6822
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: In May 1982, the District Court for the District of Arizona invalidated the regulation of 25 CFR 167 and ordered the Bureau to publish new regulations. The Bureau published interim regulations on Hopi partitioned lands on September 8, 1982. During the past year several meetings have been held with the Navajo Tribe to obtain concurrence to include Navajo partitioned land in the regulations. The Navajo Tribe expressed the desire for separate regulations and the Bureau has drafted a new regulation for Navajo Partitioned Land within the existing 25 CFR Part 167.

Agency Contact: Frank H. Khattat, Natural Resources Specialist, Department of the Interior, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, 202 208-3809

RIN: 1076–AA33

1436. CONTRACTS FOR PROSPECTING AND MINING ON INDIAN MINERAL LANDS

Significance: Agency Priority

Legal Authority: 25 USC 396; 25 USC 396d; 25 USC 415; 25 USC 476; 25 USC 477

CFR Citation: 25 CFR 211

Legal Deadline: None

Abstract: The regulations in this part govern contracts for the prospecting and mining of Indian-owned minerals, other than oil and gas. Revisions will be made which would combine rules for the review and approval of mineral development contracts on both tribal and allotted lands into one part. This part has been redesignated from 25 CFR Part 171.

Timetable:

Action	Date	FR Cite
NPRM	08/11/80	45 FR 53164
NPRM	07/12/83	48 FR 31978
NPRM	10/21/87	52 FR 39332
NPRM Public Comment Period End	12/21/87	52 FR 39332
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The rule was republished as a proposed rule on 10/21/87 (52 FR 39332) to allow for additional public comment.

Agency Contact: Kim Snyder, Acting Chief, Division of Energy and Mineral Resources, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240, 202 208-3807

RIN: 1076–AA38

1437. LEASING OF ALLOTTED LANDS FOR MINING

Significance: Agency Priority

Legal Authority: 25 USC 396; 35 Stat. 396

CFR Citation: 25 CFR 212

Legal Deadline: None

Abstract: As a result of the public comments on the proposed rules for 25 CFR Parts 211 and 225, it has been determined that this part will not be removed. Public response to the proposed rule contained reasonable and compelling arguments for retaining 25 CFR Part 212 and for restructuring the format of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/11/80	45 FR 53164
NPRM for Removal	10/21/87	52 FR 39332
NPRM Public Comment Period End	12/21/87	52 FR 39332
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The rule was republished for proposed removal with the proposed rulemaking actions for 25 CFR Parts 211 and 225 on 10/21/87 (52 FR 39332).

Agency Contact: Kim Snyder, Acting Chief, Division of Energy and Mineral Resources, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240, 202 208-3807

RIN: 1076–AA39

1438. INDIAN BUSINESS DEVELOPMENT PROGRAM

Significance: Regulatory Program

Legal Authority: 25 USC 1524 Indian Financing Act of 1974

CFR Citation: 25 CFR 286

Legal Deadline: None

Abstract: This rule will activate an old grant program that has been granted appropriation authority since FY 1986. The Indian Financing Act amendments of 1984 authorize grants up to $250,000 to tribes and up to $100,000 to individual Indians for economic enterprises.

Timetable:

Action	Date	FR Cite
NPRM	06/26/89	54 FR 26800
NPRM Comment Period End	07/26/89	54 FR 26800
Final Action	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Nephew, Actg. Chief, Div. of Financial Assistance, Department of the Interior, Bureau of Indian Affairs, Office of Trust and Economic Development, 1849 C

DOI—BIA

Final Rule Stage

Street NW., Washington, DC 20240, 202 208-3667

RIN: 1076–AA55

1435. OIL AND GAS MINERAL AGREEMENTS

Legal Authority: PL 97-382; 92 Stat. 947; 93 Stat. 783

CFR Citation: 25 CFR 225

Legal Deadline: None

Abstract: The Bureau proposes to publish regulations that will govern mineral agreements for the development of Indian owned oil and gas resources pursuant to the Indian Mineral Development Act of 1982, Public Law 97-382, which authorizes the tribes to enter into negotiated agreements rather than go through the previously required competitive advertising procedure.

Timetable:

Action	Date	FR Cite
NPRM	07/12/83	48 FR 31978
NPRM	10/21/87	52 FR 39332
NPRM Public Comment Period End	12/21/87	52 FR 39332
Final Action	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Originally scheduled: April 1983.

Agency Contact: Kim Snyder, Chief, Div. of Energy and Mineral Resources, Department of the Interior, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, 202 208-3667

RIN: 1076–AA52

1440. ATTORNEY FEE CONTRACTS WITH INDIAN TRIBES; PAYMENT OF TRIBAL ATTORNEY FEES WITH FEDERALLY APPROPRIATED FUNDS

Significance: Agency Priority

Legal Authority: 5 USC 301; 25 USC 476; 25 USC 13; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 89.40 to 89.46

Legal Deadline: None

Abstract: The Bureau of Indian Affairs proposes to revise the rule concerning the circumstances under which the Bureau of Indian Affairs, in the performance of the Federal Government's trust responsibility to Indian tribes, may, in its discretion, provide Departmental funds to an Indian tribe or other Indian organization for the payment of a private attorney's legal services. The proposed revisions would not change the underlying policy of the current rule which is to pay for private counsel to represent Indian tribes only in exceptional circumstances. The principal changes involve representation in child custody proceedings, services of tribal court personnel, and non-litigation services. The proposed revision would also provide that when trust resources are involved, tribes and individual Indian allottees are eligible to apply for and receive federally appropriated funds under 25 CFR 89.

Timetable:

Action	Date	FR Cite
NPRM	01/21/86	51 FR 2722
NPRM Comment Period End	03/24/86	51 FR 2722
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allen Quetone, Staff Assistant, Office of Trust and Economic Development, Department of the Interior, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, 202 208-5831

RIN: 1076–AB87

1441. PREPARATION OF A ROLL OF THE COQUILLE INDIAN TRIBE

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; PL 101-42

CFR Citation: 25 CFR 61

Legal Deadline: Other, Statutory, June 28, 1990.
The Act requires that the Roll be prepared by June 28, 1990. Therefore, the final rule must be published in advance of that date.

Abstract: The Bureau of Indian Affairs is proposing to amend part 61 to establish procedures to govern the preparation, certification, and approval of a roll of the Coquille Indian Tribe. The Coquille Restoration Act of June 28, 1989, Pub. L. 101-42, 103 Stat. 91, directs the Secretary of the Interior to prepare within one year a membership roll of the Coquille Indian Tribe. The roll will be used to identify persons who meet the statutory requirements for membership in the Coquille Indian Tribe.

Timetable:

Action	Date	FR Cite
NPRM	05/01/90	55 FR 18128
NPRM Comment Period End	05/31/90	
Final Action	10/00/90	
Final Action Effective	11/00/90	

Government Levels Affected: None

Agency Contact: Kathleen L. Slover, Tribal Enrollment Specialist, Department of the Interior, Bureau of Indian Affairs, Mail Stop 4627, 1849 C Street, NW., Washington, DC 20240, 202 208-3782

RIN: 1076–AC21

1442. PROTECTION OF ARCHAEOLOGICAL RESOURCES

Legal Authority: 16 USC 470aa to ll, Sec. 10

CFR Citation: 25 CFR 262

Legal Deadline: None

Abstract: The proposed rule will add a new part to Title 25 of the Code of Federal Regulations. The rule is in response to direction in the Archeological Protection Act of 1979. Key areas of the proposed rule will address the permit requirements specific to Indian Tribes and individuals, and the custody of archeological resources.

Timetable:

Action	Date	FR Cite
NPRM	01/25/90	55 FR 2580
NPRM Comment Period End	02/24/90	
Final Action	02/15/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Don Sutherland, Archeologist, Office of Environmental Quality, Department of the Interior, Bureau of Indian Affairs, Mail Stop 4544-MIB, 1849 C Street, NW., Washington, DC 20240, 202 208-4791

RIN: 1076–AC23

1443. INDIAN ELECTRIC POWER UTILITIES

Legal Authority: 5 USC 301

CFR Citation: 25 CFR 176; 25 CFR 176; 25 CFR 177

Legal Deadline: None

DOI—BIA

Final Rule Stage

Abstract: This proposed rule consolidates and revises former CFR parts 175, 176, and 177 to promote consistent and effective administration of utilities and to provide for public hearing and review of the rate setting process in a timely manner. Indian electric power utilities are required to maintain budgets that do not reflect deficiencies due to operating, maintenance, and replacement costs. The former rules normally require one to two years to implement rate adjustments, and the resulting delays have caused revenue shortages. The revised rules will enable power rate adjustments to be made in a timely manner by the Area Director after public notice, comment, and hearing period. The rule revision also allows for appeals to be heard by the Interior Board of Indian Appeals. Under the revised rule all rate adjustments are made after a public notice, comment, and hearing period. Rate adjustments are predominately the result of the cost of labor, materials, equipment, power, and services. Increases or decreases in the cost of electric service will affect all customers served by the utility.

Timetable:

Action	Date	FR Cite
NPRM	07/10/90	55 FR 28229
NPRM Comment Period End	09/10/90	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mort Dreamer, Department of the Interior, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, 202 208-5696

RIN: 1076–AC24

1444. CHARGES FOR GOODS AND SERVICES PROVIDED TO NON-FEDERAL USERS

Significance: Agency Priority

Legal Authority: 31 USC 9701 (b); 25 USC 2, 13, 413

CFR Citation: 25 CFR 143

Legal Deadline: None

Abstract: This interim rule will give the Bureau authority to bill and collect for services currently provided to non-Federal users. These rules must be promulgated before fees are charged by the Bureau for services and goods to non-Federal users under the Independent Offices Appropriations Act. Billing and collecting for the goods and services will not increase or decrease the current appropriated funding level. This rule is only to clarify the legality of the process that is already in effect. Since less than 90 locations will be affected, this rule will not have a significant effect on the national economy.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/10/90	55 FR 19820
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joe Christie, Department of the Interior, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, 202 208-5831

RIN: 1076–AC29

1445. ● LAW AND ORDER ON INDIAN RESERVATIONS

Significance: Agency Priority

Legal Authority: 5 USC 301; 25 USC 2

CFR Citation: 25 CFR 11

Legal Deadline: None

Abstract: As a result of the recent decision by the United States Supreme Court in Duro v. Reina, criminal jurisdiction over non-member Indians can no longer be exercised by Indian Tribes currently administering justice on their respective reservations. The decision has left an apparent void in the law and order program throughout Indian country and could have serious effect on the safety of reservation residents. There is an urgent and immediate need for judicial and law enforcement services on Indian reservations throughout the United States. The Bureau of Indian Affairs is therefore amending the regulations contained in 25 CFR 11 to authorize the establishment of Courts of Indian offenses on Indian reservations where law and order no longer can be effectively administered under tribal laws and by tribal law enforcement authorities. The cost involved has been estimated at $5 million for 1991.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/90	
Final Action	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hilda A Manuel, Chief, Division of Judicial Services, Department of the Interior, Bureau of Indian Affairs, Rm. 4627, 1800 C Street NW., Washington, DC 20240, 202 208-4469

RIN: 1076–AC43

1446. ● BUY INDIAN ACT PROCEDURES FOR CONTRACTING

Legal Authority: 48 USC 47

CFR Citation: 48 CFR 1480

Legal Deadline: None

Abstract: This rule will be codified as the new 48 CFR 1480, replacing 41 CFR Part 14H, and will establish policies and procedures concerning the Bureau of Indian Affairs' acquisition management system. This rule pertains to contracts (excluding building construction) entered into pursuant to the Act of June 25, 1910 (25 USC 47), which is usually referred to as the "Buy Indian Act."

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/91	

Buy Indian Act: Procedures for Contracting
NPRM 11/15/84 (49 FR 45187)
NPRM 06/20/88 (53 FR 24736)
NPRM Comment Period End 08/01/88 (53 FR 24736)

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kimberly A. Romine, Procurement Analyst, Department of the Interior, Bureau of Indian Affairs, Room 334-A, 1951 Constitution Ave. NW., Washington, DC 20240, 202 208-2825

RIN: 1076–AC50

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Indian Affairs (BIA)

Completed Actions

1447. ADMINISTRATION OF A PROGRAM OF EMPLOYMENT ASSISTANCE FOR ADULT INDIANS

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 28

Legal Deadline: None

Abstract: The purpose of the rule is to combine the rules described in 25 CFR Part 26, Employment Assistance for Adult Indians, and 25 CFR Part 27, Vocational Training for Adult Indians, into a new 25 CFR Part 28. The application and selection process, financial assistance, program services, and employment as the objective are common to both Parts 26 and 27. Another purpose is to establish uniform procedures for administration of the employment assistance for adult Indians program and include requirements to improve the administrative efficiency of the program.

Timetable:

Action	Date	FR Cite
Withdrawn Awaiting clarification of court decisions	07/16/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donna Pelcahka, Actg. Division Chief, Job Placement and Training, Department of the Interior, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, 202 208-2721

RIN: 1076-AA24

1448. LEASING OF OSAGE RESERVATION LANDS FOR OIL AND GAS MINING

Legal Authority: Sec 3, 34 Stat. 543; Sec 1, 45 Stat. 1478; Sec 2, 45 Stat. 1478; Sec 1, 45 Stat. 1479; Sec 2, 45 Stat. 1479

CFR Citation: 25 CFR 226

Legal Deadline: None

Abstract: The rules are being amended to strengthen the management of the Osage mineral estates and relieve the Osage oil lessees from basing the payment of royalties to the Osage Tribe on the offered or posted price of a major purchaser in the Kansas-Oklahoma area. These regulations will improve the management of the Osage mineral estate and will alleviate the economic hardship placed on the oil lessees.

Timetable:

Action	Date	FR Cite
NPRM	10/16/87	52 FR 38608
NPRM Comment Period End	11/16/87	52 FR 38608
Final Action	06/14/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kim Snyder, Acting Chief, Division of Energy and Mineral Resources, Department of the Interior, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, 202 208-3987

RIN: 1076-AC09

1449. PREPARATION OF ROLLS OF INDIANS

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; PL 100-139

CFR Citation: 25 CFR 61

Legal Deadline: Final, Statutory, October 28, 1988.
One year from date of enactment for completion of the tribal membership roll.

Abstract: This rulemaking action is being taken to amend the regulations contained in 25 CFR Part 61. Part 61 contains general enrollment procedures which can be made specifically applicable in the preparation of a particular roll by the Secretary by amending section 61.4 to include the qualifications for enrollment for that particular roll. Under the Cow Creek Band of Umpqua Tribe of Indians Distribution of Judgment Funds Act of 1987, the Secretary has been directed to prepare certain rolls of Cow Creek Indians to be used in the implementation of the Act. The proposed amendment is, therefore, to make the procedures contained in Part 61 applicable to the preparation of the Cow Creek rolls by adding in section 61.4 the qualifications for enrollment for each of the rolls to be prepared.

Timetable:

Action	Date	FR Cite
NPRM	06/03/88	53 FR 20335
NPRM Comment Period End	07/05/88	53 FR 20335
Revised Proposed Rule Published	10/31/89	54 FR 45743
Second Comment Period End	11/30/89	
Withdrawn	03/02/90	55 FR 7492

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathleen L. Slover, Tribal Enrollment Specialist, Department of the Interior, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, 202 208-3702

RIN: 1076-AC11

BILLING CODE 4310-02-T

DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Prerule Stage

1450. RECOUPMENTS AND REFUNDS OF EXCESS PAYMENTS UNDER FEDERAL OFFSHORE MINERAL LEASES

Significance: Regulatory Program

Legal Authority: 43 USC 1339

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: This rulemaking is needed to add new regulations covering recoupment and refunds of excess payments made under Federal offshore mineral leases which are subject to section 10 of the Outer Continental Shelf Lands Act of 1953 (OCSLA), 43 USC 1339. This rule would establish requirements and guidelines for crediting (recouping) excess payments of royalties, rentals, bonuses, or other amounts against a current or future payment obligation or refunding such excess payment to any person lawfully entitled to receive a refund or credit for

DOI—MMS

Prerule Stage

an overpayment made under an offshore lease. The new regulation is intended to lessen confusion on the part of payors, operators, and the Minerals Management Service.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 3910, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010–AB11

1451. ALLOWANCE FOR EXTRAORDINARY COSTS AND THRESHOLDS FOR TRANSPORTATION AND PROCESSING ALLOCATIONS

Significance: Regulatory Program

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: Sections 206.104, 206.157, 206.158, and 206.159 of Minerals Management Service's Oil and Gas Valuation regulations, which were effective March 1, 1988, allow deductions for transportation and processing costs, limited to "reasonable actual costs," with an MMS approval threshold(s). Paragraph 206.158(d)(2) authorizes an additional allowance if the lessee incurs extraordinary costs for processing gas production and can demonstrate that the costs are "extraordinary, unusual, or unconventional." Amendments are needed to MMS's regulations to establish the criteria that must be met before any extraordinary gas processing cost allowance would be granted and to revise the MMS approval thresholds for transportation and processing allowances, if needed, based on actual experience since the effective date of the regulations. Amendments may also be needed to establish criteria for any extraordinary cost allowances that may be granted for other minerals such as oil, coal, and geothermal.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures Branch, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 3910, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010–AB43

1452. OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF; RULES OF PARTICULAR APPLICATION

Legal Authority: 43 USC 1334(a)(8)

CFR Citation: 30 CFR 250.47

Legal Deadline: None

Abstract: Pursuant to the Outer Continental Shelf Lands Act (OCSLA), the Secretary of the Interior is required to regulate air emissions from OCS oil and gas operations when they significantly affect the air quality of a State. To this end, MMS is developing regulations (RIN 1010-AA61), which will establish general, more stringent air emissions standards for OCS operations off the coast of California. However, there are significant technical and climatic barriers to attainment of good air quality in the area. To develop more effective protection of each air basin in California, MMS proposes to develop a separate mitigation fee program (e.g., local offsets) for each basin to be administered locally, and governed by "rules of particular application" that would be developed through separate rulemakings subsequent to adoption of the general rule. Each rule of particular application would address the following aspects of the proposed mitigation programs: administration, setting of fees, responsibilities of various governmental entities, coordination with the State Implementation Plan, selection of projects to be funded, performance audits, and modification processes.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald D. Rhodes, Chief, Branch of Rules, Orders, and Standards, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, 703 787-1600

RIN: 1010–AB48

DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Proposed Rule Stage

1453. AIR QUALITY - OFFSHORE CALIFORNIA

Significance: Regulatory Program

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.47

Legal Deadline: None

Abstract: Amendments to the DOI Air Quality regulation for oil and gas operations will be proposed for Outer Continental Shelf areas adjacent to California. The changes would provide additional safeguards for those pollutants which could be critical to air quality in the region. The costs have been determined to have a net present value of approximately $25M to the regulated industry; the net benefits have not been quantified but would be a reduction in any effect of emissions from OCS operations on the ozone levels in adjacent onshore areas. This may be expected to yield cost reductions in health services and other related areas. The DOI conducted a conflict assessment to determine the likelihood of the interested and affected parties being able to reach an agreement on an air quality regulatory

program. However, the effort at a negotiated rulemaking was inconclusive. Consequently, DOI proposed a rule through the standard process. However, based on careful consideration of comments received, DOI has decided to reevaluate this proposal prior to reproposing this rule in the future.

Timetable:

Action	Date	FR Cite
ANPRM	01/07/85	50 FR 838
ANPRM Comment Period End	03/08/85	
Begin Conflict Assessment Phase of Negotiated Rulemaking Process	04/15/85	
Determine Potential for Negotiated Agreement	07/30/85	
Complete Determination of Effects of Rules	05/15/88	
Reach Agreement on a Negotiated Rule or Begin Development of Rule Through Standard Process	12/19/88	
NPRM	01/17/89	54 FR 1646
NPRM Comment Period End	02/16/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William S. Cook, Petroleum Engineer, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, 703 787-1619

RIN: 1010-AA51

1454. AMENDMENT OF VALUATION BENCHMARKS IN GAS REGULATIONS

Significance: Regulatory Program

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: The existing regulations provide for the valuation of unprocessed gas, residue gas, or any gas plant product which is not sold pursuant to an arm's-length contract to be determined in accordance with a benchmark method. In the final regulations, MMS adopted as the first benchmark the lessee's gross proceeds received under its non-arm's-length transaction if they were equivalent to the gross proceeds received under comparable arm's-length contracts for like-quality production in the same field or area. The criteria to be considered in defining comparable contracts were also outlined. However, since the adoption of the revised regulations, numerous questions have been raised as to the interpretation of the first benchmark. These questions have identified the need to further clarify MMS's intention in this regard.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 3910, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AB29

1455. AUDIT PROCEDURES AND PAYOR REQUIREMENTS AND RESPONSIBILITIES DURING AUDITS

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC, 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 217

Legal Deadline: None

Abstract: The Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA) requires that the Secretary of the Interior establish a comprehensive inspection and auditing system to provide the capability to accurately determine royalties, interest, fines, penalties, fees, deposits, and other payments owed on Federal or Indian oil and gas leases. This responsibility has been delegated to MMS. However, performance of the required audits may be delegated to States or Indian tribes pursuant to sections 202 and 205 of FOGRMA or to independent certified public accountants under contract. The FOGRMA also requires the promulgation of regulations to establish audit standards and procedures, payor requirements and responsibilities, and authorities and responsibilities which may be delegated by MMS to a State, Indian tribe, or an independent certified public accountant. The purpose of this rulemaking action is to establish the regulations required by FOGRMA.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures Branch, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 3910, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AB44

1456. RESPONSIBILITIES OF LESSEES, PAYORS AND ASSIGNEES

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 218

Legal Deadline: None

Abstract: Responsibilities of Minerals Management Service include the collection of royalties, bonuses, rentals, and related revenues from Federal and Indian mineral leases. These monies are, for the most part, collected from the current designated payor on the lease. However, if MMS is unable to collect from the current payor, it must pursue collections from a prior payor(s), the lessee, or an assignee of the lease. Existing regulations are unclear as to the responsibilities and liabilities of the parties involved. Therefore, MMS is proposing to amend its regulations to clarify payor, lessee, and assignee requirements and responsibilities.

DOI—MMS

Proposed Rule Stage

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures Branch, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 3910, Bldg. 85, Denver, CO 80225, 303 231-3422

RIN: 1010–AB45

1457. AMENDMENTS TO 30 CFR 250.67 - HYDROGEN SULFIDE

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.67

Legal Deadline: None

Abstract: The rules for Hydrogen Sulfide are being amended to revise the requirements for visual and audible warning systems, personnel protection, hydrogen sulfide (H2S) and sulphur dioxide (SO2) detection and monitoring, and the criteria for the activation of visual and audible warning systems. These amendments are necessary to be consistent with the new personnel exposure limits for H2S and SO2 established by the Occupational Safety and Health Administration. Amending the rule would reduce personnel exposure limits, thereby decreasing the risks associated with hazardous environments. The costs to lessees to implement these amendments are not expected to significantly increase over the costs of complying with the current program under 30 CFR 250.67.

Timetable:

Action	Date	FR Cite
NPRM	08/15/90	55 FR 33326
NPRM Comment Period End	10/15/90	55 FR 33326
Final Action	02/00/91	
Final Action Effective	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald D. Rhodes, Chief, Branch of Rules, Orders, and Standards, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, 703 787-1600

RIN: 1010–AB50

1458. ◆ OIL, GAS AND SULFUR OPERATIONS IN THE OUTER CONTINENTAL SHELF; UPDATING DOCUMENTS INCORPORATED BY REFERENCE

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.1; 30 CFR 250.53; 30 CFR 250.142

Legal Deadline: None

Abstract: This rule proposes to update two American Petroleum Institute (API) documents that are currently incorporated by reference in the regulations found at 30 CFR Part 250. The API Recommended Practice for Planning, Designing and Constructing Fixed Offshore Platforms (API RP 2A) would be updated to the 18th Edition, September 1989, and API Recommended Practice for Classification of Locations for Electrical Installations at Drilling Rigs and Production Facilities on Land and on Marine Fixed and Mobile Platforms (API RP 500 B) would be updated to the 3rd Edition, October 1987. The costs to lessees to meet the required practices due to these updated documents incorporated by reference are not expected to significantly increase over the costs of complying with the current documents incorporated by reference in 30 CFR Part 250.

Timetable:

Action	Date	FR Cite
NPRM	08/02/90	55 FR 31405
NPRM Comment Period End	10/01/90	
Final Action	03/00/91	
Final Action Effective	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald D. Rhodes, Chief, Branch of Rules, Orders, and Standards, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, 703 787-1600

RIN: 1010–AB51

1459. ◆ AMENDMENT TO RULES GOVERNING INSTALLATION OF SHUTDOWN VALVES ON PIPELINES

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250.154

Legal Deadline: None

Abstract: The development of this advance notice of proposed rulemaking resulted from the recommendation of a task force that examined many contributing causes to recent fatal accidents in the North Sea and the Gulf of Mexico. The task force identified areas where changes in regulations should be considered. This action considers changes in the placement of shutdown valves on pipelines as a means to isolate the pressurized hydrocarbons in the pipeline from potential danger that could result from a fire or other damage to the pipeline. An alternative action to improve safety would be to provide means of safely reducing pressure in the pipeline in the event of an emergency.

Timetable:

Action	Date	FR Cite
ANPRM	07/23/90	55 FR 29690
ANPRM Comment Period End	09/21/90	
NPRM	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gerald D. Rhodes, Chief, Branch of Rules, Orders, and Standards, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, 703 787-1600

RIN: 1010–AB52

1460. ◆ AMENDMENT TO 30 CFR SUBPART J (SECTIONS 250.150 - 250.165)—PIPELINES AND PIPELINE RIGHTS-OF-WAY

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: This rule would amend 30 CFR 250, Subpart J—Pipelines and Pipeline Rights-of-Way—to reflect Minerals Management Service's (MMS) assumption of regulatory responsibility for Outer Continental Shelf (OCS) pipeline segments that previously were subject to the jurisdiction of the

Department of Transportation's Research and Special Programs Administration (RSPA). Approval of a new Memorandum of Understanding between MMS and RSPA would extend MMS's exclusive jurisdiction over OCS pipelines to include all of the OCS seaward of the State submerged lands.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	01/00/91	
Final Action	04/00/91	
Final Action Effective	05/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gerald D. Rhodes, Chief, Branch of Rules, Orders, and Standards, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, 703 787-1600

RIN: 1010-AB55

1461. ● AMENDMENTS TO 30 CFR PART 251

Legal Authority: 43 USC 1331 et seq; 42 USC 4332 et seq

CFR Citation: 30 CFR 251

Legal Deadline: None

Abstract: This rule is revised to reflect the current requirements and practices and to conform with new or changed laws and regulations. It expands the requirements for filing notice to include all geological and geophysical research not conducted pursuant to a permit. It clarifies that these regulations are applicable only to oil, gas, and sulphur, as all other mineral resources on the Outer Continental Shelf are covered by 30 CFR Part 280. This rule will provide other pertinent information, such as current filing location addresses.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald D. Rhodes, Chief, Branch of Rules, Orders, and Standards, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, 703 787-1600

RIN: 1010-AB56

1462. ● VALUATION OF GAS PRODUCTION UNDER UNITIZATION OR COMMUNITIZATION

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 202

Legal Deadline: None

Abstract: The current gas valuation regulations provided that when the lessee of any gas lease committed to a Federally approved unitization or communitization agreement does not take the full share of production under the terms of the agreement, the entitled, but not taken, production is still subject to royalty payment and reporting requirements. This rulemaking would eliminate the requirement that the actual disposition of any part of production to which a lessee was entitled but did not take governs the valuation of that part. Under the rulemaking, the regulations would be amended to allow lessees to value their entitled, but not taken, production at prices based upon information that is accessible to the lessee. This rule will reduce the administrative burden for payors and MMS so that there is certainty in the determination of royalty values. The adoption of these rules would not affect the requirement in Indian leases and the current regulations for the performance of major portion analyses or dual accounting.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures Branch, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 3910, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AB57

1463. ● OFFSETTING ROYALTY UNDERPAYMENTS AND OVERPAYMENTS BETWEEN DIFFERENT FEDERAL OR INDIAN LEASES (CROSS-LEASE NETTING)

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 218; 30 CFR 220

Legal Deadline: None

Abstract: It is MMS's current practice to only allow the offsetting of underpayments and overpayments within an individual lease and not between leases unless both of the leases are included in the same unitization or communitization agreement. However, it may not be appropriate, in certain cases of obvious payor reporting errors, for MMS to assess late payment interest charges or deny a request for refund of an overpayment on a Federal offshore lease which is subject to the filing and reporting requirements of section 10 of the Outer Continental Shelf Lands Act, 43 USC 1339. This rulemaking would amend MMS regulations to allow payors to offset royalty underpayments on one lease against overpayments on a different lease (referred to as cross-lease netting) in certain cases where reporting errors do not result in harm to the royalty recipients. The rule specifies the conditions that must be met before MMS would allow cross-lease netting.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures Branch, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 3910, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AB58

1464. ● VALUATION OF OIL AND GAS ON SLIDING AND STEP-SCALE LEASES (PUBLIC LANDS ONLY)

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30

DOI—MMS

Proposed Rule Stage

USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: On January 19, 1990, the Interior Board of Land Appeals (IBLA) issued a decision involving the term "production" when determining the applicable royalty rate for a sliding-scale lease (see IBLA 88-11—Sun Exploration and Production Company). The central issue in the decision was whether: (I) Production would be defined as only that volume of oil upon which royalty was due; or (II) Production should be defined as the total production from the lease, including oil used on the lease for operational purposes. In its decision, IBLA ruled both methods were consistent with the Statute, but the Department could only apply its interpretation prospectively. This rulemaking would define production, in MMS regulations, as total lease production, including any production used on the lease or lost, for purposes of determining applicable royalty, where the royalty rate is to be based upon the average daily production per well for the month or upon the average production per day (applicable only to gas produced from sliding-scale leases).

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures Branch, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 3910, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AH59

DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Final Rule Stage

1465. REVISION OF REGULATION GOVERNING EFFECTIVENESS OF DECISIONS AND ORDERS PENDING APPEAL

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 30 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 243

Legal Deadline: None

Abstract: The MMS regulations at 30 CFR 243.2 address the effectiveness of its Royalty Management Program decisions and orders pending administrative appeal. At the time the rule was issued in 1984, it was MMS's interpretation that most decisions and orders would not be suspended pending appeal. However, in 1988, the Interior Board of Land Appeals (IBLA) determined that unless there were special circumstances, the Director, MMS, was required to stay effectiveness of decisions and orders pending appeal provided the appellant posted adequate surety (Marathon Oil Company, 90 IBLA 236 (1986)). In view of the IBLA decision, an amendment is needed to MMS regulations at 30 CFR 243.2 to reflect clearly that MMS decisions and orders are stayed pending administrative appeal, the types of sureties which would be acceptable to MMS, and related issues.

Timetable:

Action	Date	FR Cite
NPRM	02/23/90	55 FR 6401
NPRM Comment Period End	05/24/90	55 FR 12386
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 3910, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AB13

1466. REVISION OF ROYALTY VALUATION REGULATIONS GOVERNING GAS SALES UNDER PERCENTAGE-OF-PROCEEDS CONTRACTS

Significance: Regulatory Program

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 30 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: The Minerals Management Service (MMS) published final revised regulations governing the valuation of gas from Federal leases onshore and on the Outer Continental Shelf and from Indian Tribal and allotted leases in the Federal Register on January 15, 1988 (53 FR 1230). The proposed gas valuation provisions of section 206.153, in part, govern the determination of value in situations where the lessee's contract for the sale of gas prior to processing provides for the value to be determined based upon a percentage of the purchases proceeds resulting from processing the gas. However, the inclusion of these percentages-of-proceeds contracts under section 206.153 has created unreasonable burdens on lessees. Consequently, MMS is proposing to amend its regulations to provide for the valuation of gas under percentage-of-proceeds contracts to be under the unprocessed gas valuation standards of section 206.152, rather than section 206.153.

Timetable:

Action	Date	FR Cite
NPRM	12/15/88	53 FR 50422
NPRM Comment Period End	02/03/89	54 FR 1398

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 3910, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AB17

DOI—MMS

Final Rule Stage

1467. OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF (OCS), SUBPART O, TRAINING

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.210

Legal Deadline: None

Abstract: The rules at 30 CFR Part 250 which govern oil and gas and sulphur operations in the OCS will be revised to address in greater specificity training requirements for personnel engaged in oil, gas, and sulphur drilling, development, and production operations in the OCS. Training requirements were addressed in a proposed rule to consolidate into one document the rules governing oil and gas and sulphur operations in the OCS which was published on March 18, 1988 (51 FR 9316). The training provisions of that proposed rule have been revised, updated, and consolidated under a new Subpart O, Training. Other alternatives considered were not revising the regulations and revising only those regulations identified by industry. Promulgation of the regulation is not expected to result in costs significantly more than those incurred through the unregulated use of good commercial practices.

Timetable:

Action	Date	FR Cite
NPRM	08/01/89	54 FR 31768
NPRM Comment Period End	10/02/89	54 FR 31768
Final Action	10/00/90	
Final Action Effective	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald D. Rhodes, Chief, Rules, Orders, and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, 703 787-1600

RIN: 1010-AB21

1468. GEOTHERMAL RESOURCES USED TO GENERATE ELECTRICITY, PRODUCT VALUATION FOR ROYALTY PURPOSES

Significance: Regulatory Program

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: Existing regulations governing the valuation of geothermal resources provide insufficient guidance for the valuation of geothermal resources utilized to generate electricity in a lessee-owned power plant. Consequently, the Minerals Management Service has issued a report entitled "Valuation of Federal Geothermal Resources—Electrical Generation" which describes a "geothermal netback procedure" to value these "no sales" resources. An amendment is needed to the existing regulations to provide regulatory guidance after receipt and consideration of comments from the public to the existing geothermal netback procedure.

Timetable:

Action	Date	FR Cite
NPRM	01/05/89	54 FR 354
NPRM Comment Period End	04/17/89	54 FR 9066
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 3910, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AB22

1469. OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF, SUBPART P, SULPHUR OPERATIONS

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.250

Legal Deadline: None

Abstract: The rules at 30 CFR 250 which govern oil and gas and sulphur operations in the Outer Continental Shelf (OCS) will be revised to address sulphur exploration, development, and production operations with more specificity. Sulphur operations are currently addressed through rules applicable to oil, gas, and sulphur and through OCS Order No. 10, Sulphur Drilling Procedures, issued by the Gulf of Mexico OCS Region. Comments received as the result of the publication on March 18, 1988 (51 FR 9316), of a proposed rule to consolidate rules governing oil, gas, and sulphur operations in the OCS included recommendations for the development of regulations which treat sulphur operations in the OCS with greater specificity. Other alternatives considered were not revising the regulations. Promulgation of the regulation is not expected to result in costs significantly more than those incurred through the unregulated use of good commercial practices.

Timetable:

Action	Date	FR Cite
NPRM	08/31/89	54 FR 36244
NPRM Comment Period End	10/30/89	
Final Action	10/00/90	
Final Action Effective	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald D. Rhodes, Chief, Rules, Orders, and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, 703 787-1600

RIN: 1010-AB23

1470. LIMITATION OF THE DIRECTOR'S AUTHORITY FOR DISCRETIONARY RELEASE OF POSTLEASE PROPRIETARY DATA AND INFORMATION

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250.18

Legal Deadline: None

Abstract: Amendments to the regulations providing for the discretionary release of postlease proprietary data and information will be proposed. The amendments would limit the discretion of the MMS Director to release such data and information by defining more precisely the circumstances under which such releases may be authorized and to whom the data and information may be shown. The alternative to the proposed amendment is the case-by-case determination of whether to release such proprietary data and information based on the existing less specific discretionary authority of the Director.

DOI—MMS

Final Rule Stage

This alternative leaves some degree of uncertainty to the lessee concerning the circumstances under which releases will be authorized, and possible changes in policy.

Timetable:

Action	Date	FR Cite
NPRM	03/23/89	54 FR 11986
NPRM Comment Period End	04/24/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Mirabella, Senior Regulatory Policy Analyst, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, 703 787-1567

RIN: 1010-AB30

1471. CLARIFICATION OF DATES FOR RELEASE TO THE PUBLIC OF CERTAIN DATA AND INFORMATION SUBMITTED IN ASSOCIATION WITH DRILLING AND PRODUCTION OPERATIONS

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.18

Legal Deadline: None

Abstract: This proposed rule is intended to remove apparent inconsistency in current regulations concerning the release of data and information submitted to MMS on certain MMS forms. Section 250.18 specifies periods of time that certain geological and geophysical data will be protected from disclosure to the public when submitted on specific forms, but release dates for similar data and information on other forms are not mentioned in the regulations. The alternatives of providing guidance through an OCS Order and through a Notice to Lessees and Operators on a region-to-region basis does not ensure that information is uniformly available to the public. This rulemaking does not involve any significant additional costs. Its benefits are the removal of ambiguity in the current regulations and the availability of data and information to the public on a uniform basis in all OCS Regions.

Timetable:

Action	Date	FR Cite
NPRM	06/04/89	54 FR 32316
NPRM Comment Period End	10/03/89	54 FR 32316

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald D. Rhodes, Chief, Rules, Orders, and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, 703 787-1599

RIN: 1010-AB34

1472. ASSESSMENT FOR FAILURE TO SUBMIT PAYMENT OF SAME AMOUNT WITH REPORT OR BILL OR TO PROVIDE ADEQUATE INFORMATION

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 218

Legal Deadline: None

Abstract: The MMS Auditing and Financial System (AFS) matches and applies each payment received to its corresponding report or bill. If a payment cannot be automatically matched and applied by the AFS because of inadequate or erroneous information, it must be manually matched and applied by MMS personnel. The manual matching of payments to reports and bills results in MMS incurring substantial costs so that the AFS can operate properly to account for and distribute royalties. This situation also delays the payment application process and can result in delay in distribution of royalties and related information to States and Indian Tribes and allottees. To recover the costs, MMS is proposing to amend its regulations to add a new assessment amount not to exceed $250 per incident. The new assessment would encourage payors to submit their payment, when required, together with the applicable report or copy of the bill and for the same amount as the report or bill. The new assessment would also encourage payors to adequately identify payments to the report or bill to be paid.

Timetable:

Action	Date	FR Cite
NPRM	05/22/90	55 FR 10630
NPRM Comment Period End	09/21/90	55 FR 10630
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 3010, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AB35

1473. REMOVAL OF FEDERAL FUNDING LIMITATION FROM STATE AND INDIAN COOPERATIVE AGREEMENTS

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 228

Legal Deadline: None

Abstract: The regulations at 30 CFR 228, implementing section 202 of the Federal Oil and Gas Royalty Management Act of 1982, 30 USC 1719, provide that the Federal share of funding of certain cooperative agreement activities with any State or Indian Tribe will be limited to not more than 50 percent of the cost of eligible activities as established under the terms of the cooperative agreement. However, Congress recently passed "The Indian Self-Determination and Education Assistance Act Amendment of 1988," October 5, 1988, PL 100-472, which included amendments to PL 93-638 to require all Bureaus within the Department of the Interior to enter into PL 93-638 contracts with Indian Tribes. Consequently, the cooperative agreements that MMS may enter into in the future with Indian Tribes will be considered PL 93-638 self-determination contracts. Because PL 93-638 entitles an Indian Tribe to Federal reimbursement of 100 percent of the costs of an approved self- determination contract, MMS is proposing to amend its regulations to remove the 50-percent Federal funding limitation.

DOI—MMS

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	09/09/90	55 FR 32446
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 3910, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AB36

1474. SERVING OF OFFICIAL CORRESPONDENCE ISSUED BY THE ROYALTY MANAGEMENT PROGRAM

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 243

Legal Deadline: None

Abstract: The MMS does not currently have regulations which delineate how service of official correspondence, including orders, decisions, demands for payment and notices of noncompliance issued by its Royalty Management Program is effectuated. In the absence of MMS regulations, the Interior Board of Land Appeals (IBLA) (IBLA-87-349) reversed a decision by the Director, MMS that an appeal had not been timely filed and therefore would not be considered. A rule is required that would: 1) establish an "address of record" to which official correspondence will be sent, and 2) define the "date of service" whether the document was physically or constructively delivered. The date of service established in accordance with this rule also would be the beginning date of the 30-day period in 30 CFR Part 290 for the filing of an appeal relative to an order or decision.

Timetable:

Action	Date	FR Cite
NPRM	01/03/90	55 FR 158
NPRM Comment Period End	03/05/90	55 FR 158
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 3910, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AB37

1475. AMENDMENT TO THE REGULATIONS CONCERNING THE REQUIREMENT FOR SUBMISSION OF A CORPORATE SURETY BOND TO INDEMNIFY THE U.S. FROM DEFAULT BY A LESSEE ON THE CONDITIONS AND TERMS OF AN OCS LEASE

Legal Authority: 43 USC 1335

CFR Citation: 30 CFR 256

Legal Deadline: None

Abstract: This rulemaking would amend current regulations requiring lessee surety bonds. The monetary value of surety bonds designated in current regulations was established over a decade ago and is seriously inadequate to protect the government from loss due to lessee failure to meet the terms of the OCS lease for royalty payments, proper abandonment of wells, site cleanup, and ongoing lease operations. Bond requirements may be increased on a case-by-case basis, as an alternative to rule change. This might result in inconsistent requirements. The potential costs are whatever increase is incurred in obtaining a higher value bond. Benefits would be a reduced potential for government loss and a greater protection of the public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/24/90	55 FR 2368
NPRM Comment Period End	03/26/90	55 FR 2368
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald D. Rhodes, Chief, Rules, Orders, and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, 703 787-1600

RIN: 1010-AB38

1476. REGULATIONS GOVERNING RECOUPMENT OF OVERPAYMENTS ON INDIAN LEASES

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 218

Legal Deadline: None

Abstract: Because royalty payments are a major source of income to many Indian allottees, and the only source in some instances, it has been a longstanding Department of the Interior policy that overpayments made by lessees and other royalty payors to Indians cannot be recovered by refund. This policy was established to prevent an undue financial burden on Indian allottees who may have limited financial means to refund the overpayment. However, the adopted policy permits lessees and payors to recoup overpayments as a credit against future rental or royalty accruals due to Indian tribes or allottees. Lessees and operators were instructed to follow this recoupment policy in "Notice to Lessees and Operators of Indian Oil and Gas Leases No. 1A" (NTL-1A), issued by the Conservation Division of U.S. Geological Survey in 1977. The MMS published revised final oil and gas product valuation regulations at 30 CFR Part 206 on January 15, 1988 (53 FR 1184 and 53 FR 1230), effective March 1, 1988. Section 206.150(e)(2) of the revised regulations terminated NTL-1A. Although the Indian lease overpayment recoupment policy has been the same for many years, MMS believes that its (cont)

Timetable:

Action	Date	FR Cite
NPRM	01/31/90	55 FR 3232
NPRM Comment Period End	03/02/90	55 FR 3232
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: regulations should state the policy. Consequently, MMS proposes to add new sections at 30 CFR 218.53 (previously reserved) and 30 CFR 218.203 to codify the policy and procedure.

DOI—MMS

Final Rule Stage

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 3910, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AB40

1477. AMENDMENTS TO CLARIFY 30 CFR PART 250

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: This rule proposes to amend the regulations governing offshore oil and gas operations to correct a number of errors and minor inconsistencies contained in the comprehensive revision of those regulations promulgated in 1988. The MMS proposes to correct these typographical errors and inconsistencies by revising text of the related sections in 30 CFR Part 250. Most of these revisions are minor and involve the clarification of sections by modifying, removing, or adding a word or phrase; however, two substantive revisions concerning crane operations and drainage protection are included. The costs to lessees to implement these amendments are not expected to significantly increase over the costs of complying with the current program. This action is required to correct the errors referred to above; there are no alternatives.

Timetable:

Action	Date	FR Cite
NPRM	03/06/90	55 FR 8485
NPRM Comment Period End	05/07/90	55 FR 8485
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald D. Rhodes, Chief, Branch of Rules, Orders, and Standards, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, 703 787-1600

RIN: 1010-AB41

1478. EXTENSION OF TIME PERIOD FOR MAINTAINING RECORDS ON OUTER CONTINENTAL SHELF NET PROFIT SHARE OIL AND GAS LEASES

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 220

Legal Deadline: None

Abstract: There is a conflict in MMS regulations at 30 CFR 220.030 with the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA) as to the time period that an offshore net profit share (NPSL) lessee must maintain records and all other documentation pertaining to the NPSL capital account. Therefore, MMS is proposing to amend 30 CFR 250.030 to extend the time period to 6 years, from 36 months, consistent with the statutory requirement of FOGRMA. The MMS is also proposing to remove 30 CFR 220.033 which includes language that conflicts with the recordkeeping requirements of FOGRMA and MMS regulations at 30 CFR 212.50 and 212.51.

Timetable:

Action	Date	FR Cite
NPRM	06/07/90	55 FR 23248
NPRM Comment Period End	07/09/90	55 FR 23248
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures Branch, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 3910, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AB46

1479. OIL AND GAS AND SULPHUR OPERATIONS ON THE OUTER CONTINENTAL SHELF; AMENDMENT TO SPECIFY DOCUMENTATION REQUIREMENTS FOR BLOWOUT PREVENTER TESTS

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250.67; 30 CFR 250.60; 30 CFR 250.100

Legal Deadline: None

Abstract: This rule would modify the regulations governing drilling, well-completion, and well-workover operations under an oil and gas lease in the Outer Continental Shelf to identify with greater specificity the information that must be recorded by the lessee to describe testing of the lessee's blowout preventer (BOP) and auxiliary equipment and to add a provision allowing MMS to request information concerning pressure conditions during testing of BOP's and auxiliary equipment. The change is necessary to allow MMS personnel to verify the adequacy of lessee-conducted tests that are needed to assure that BOP's and auxiliary well-control equipment, if needed, will operate effectively. This change will enable MMS personnel to better assess the effectiveness of a BOP system during their review of the documentation of the method and procedures used by a lessee to conduct BOP tests and the results obtained.

Timetable:

Action	Date	FR Cite
NPRM	05/03/90	55 FR 18539
NPRM Comment Period End	07/02/90	
Final Action	10/00/90	
Final Action Effective	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald D. Rhodes, Chief, Branch of Rules, Orders, and Standards, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, 703 787-1600

RIN: 1010-AB49

1480. ● OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF-REPORTS AND INVESTIGATIONS OF APPARENT VIOLATIONS

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250.25

Legal Deadline: None

Abstract: This action would add a provision to the regulations governing oil, gas, and sulphur operations in the Outer Continental Shelf to clarify that any person observing an apparent violation of Minerals Management Service's (MMS) regulations can report the apparent violation, and that MMS will then investigate the allegation. The provision was a part of the regulations in effect prior to 1988 but was dropped when the offshore operating rules were revised in 1988. Although allegations of violations of MMS regulations are investigated under existing rules, incorporation of the new provision into

DOI—MMS — Final Rule Stage

Part 250 will assure that more people are aware that allegations of violations of MMS regulations will be investigated. The alternative of using other means to inform the public, such as use of a press release, would be a less effective means of assuring that the public was aware of this provision.

Timetable:

Action	Date	FR Cite
NPRM	06/18/90	55 FR 33639
NPRM Comment Period End	09/17/90	
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald D. Rhodes, Chief, Branch of Rules, Orders, and Standards, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, 703 787-1600

RIN: 1010-AB53

1481. ● OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF; HEALTH AND SAFETY TRAINING REQUIREMENTS

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.42; 30 CFR 250.43

Legal Deadline: None

Abstract: This rule amends the regulatory program of the Minerals Management Service (MMS). Specifically, the rule requires offshore operators to certify, within their oil spill contingency plans, that proposed response personnel have been trained in accordance with existing Federal health and safety regulations. This rule will clarify those criteria that MMS uses in reviewing and approving oil spill contingency plans. This rule also will ensure that any responses to oil spills emanating from Outer Continental Shelf operations will be conducted in accordance with existing Federal health and safety regulations.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	
Final Action Effective	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald D. Rhodes, Chief, Branch of Rules, Orders, and Standards, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, 703 787-1600

RIN: 1010-AB54

DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Completed Actions

1482. AMENDMENTS TO 30 CFR 250.52 TO ADD REQUIREMENTS INTENDED TO PREVENT OCCURRENCE OF ACCIDENTAL FIRES CAUSED BY FALLING SLAG FROM WELDING OR BURNING

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.52

Legal Deadline: None

Abstract: The Minerals Management Service proposed to amend 30 CFR 250.52 to add requirements designed to increase personnel safety and minimize property damage by avoiding or preventing the occurrence of accidental fires caused by hot slag from welding or burning activities falling into flammable material floating on the ocean surface beneath Outer Continental Shelf (OCS) facilities. The proposed amendment was prompted by the recommendations of an investigation of a January 6, 1984, accidental fire believed to have been caused by hot welding slag igniting a layer of hydrocarbons floating on the surface of the ocean water beneath an OCS facility. Three men died and nine were burned as a consequence of that fire. The alternative considered was to send lessees advisory notices alerting them of the potential danger of welding slag; however, the alternative was considered less effective because it lacked enforcement. The proposed amendment would not result in increases in cost to lessees or consumers.

Timetable:

Action	Date	FR Cite
Withdrawn Rulemaking action not required at this time.	05/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald D. Rhodes, Chief, Rules, Orders, and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, 703 787-1600

RIN: 1010-AB31

1483. REVISION OF REGULATIONS GOVERNING INTEREST RATE APPLICABLE TO LATE PAYMENTS AND UNDERPAYMENTS

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 218

Legal Deadline: None

Abstract: Existing regulations at 30 CFR 218.54, 218.55, and 218.102 govern the rate of interest to be charged on underpayments or late payments of royalty by lessees and other royalty payors, and the rate of interest to be paid on late disbursements of an Indian Tribe's or Allottee's royalty or a State's share of royalty revenues. These regulations reference section 6621 of the Internal Revenue Code of 1954 for the applicable interest rate in each situation. However, section 6621 was amended by the Tax Reform Act of 1986 to provide for a different interest rate for overpayments and for underpayments. A rule amendment is required to clarify an ambiguity in the existing regulations, created by the amendment to section 6621, as to which of two different rates would apply.

Timetable:

Action	Date	FR Cite
NPRM	04/11/89	54 FR 14384
NPRM Comment Period End	05/11/89	
Final Action	09/10/90	55 FR 37227

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Completed Actions

Action	Date	FR Cite
Final Action Effective	11/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 3910, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AB32

1484. AMENDMENT OF COAL VALUATION REGULATIONS TO REMOVE EXCLUSION OF TAXES AND FEES FROM VALUE OF FEDERAL COAL PRODUCTION

Significance: Regulatory Program

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: On January 13, 1989, MMS issued revised coal product valuation regulations in the Federal Register (54 FR 1492) establishing the value of coal production for royalty purposes from all Federal and Indian leases. The adopted regulations, effective March 1, 1989, resulted in considerable controversy on the part of States, Indians, and Congress relative to the exclusion of Federal Black Lung excise taxes, Abandoned Mine Land Fees, and State and local severance taxes from the value of coal production, for royalty computation purposes, on Federal leases. In view of the controversy, the Secretary of the Interior directed that a review and study of the issues be performed. As a result of that study, MMS is proposing to amend its coal regulations to remove the exclusion of the taxes and fees from the value of Federal coal production.

Timetable:

Action	Date	FR Cite
NPRM	02/13/90	55 FR 5024
NPRM Comment Period End	04/16/90	55 FR 5024
Final Action	08/30/90	55 FR 35427
Final Action Effective	10/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 3910, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AB42

1485. OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF; SAFETY AND POLLUTION-PREVENTION EQUIPMENT

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.1; 30 CFR 250.128

Legal Deadline: None

Abstract: The rules at 30 CFR 250.128 on the manufacture of safety and pollution-prevention equipment (i.e., surface and subsurface safety valves) are being amended to update the American Petroleum Institute (API) and American Society of Mechanical Engineers/American National Standards Institute (ASME/ANSI) quality assurance (QA) programs. The revision to the API QA program would update API Spec Q1 from the 1986 edition to the 1990 edition. The ASME/ANSI QA program would be updated to include Addendum D, issued in 1990. The Minerals Management Service has reviewed these documents and has determined that the revisions to the updated documents are minor and do not have a significant impact on the current documents incorporated by reference.

Timetable:

Action	Date	FR Cite
Final Action	09/13/90	55 FR 37709
Final Action Effective	10/15/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald D. Rhodes, Chief, Branch of Rules, Orders, and Standards, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070, 703 787-1600

RIN: 1010-AB47

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DEPARTMENT OF THE INTERIOR (DOI)

Office of Surface Mining Reclamation and Enforcement (OSMRE)

Proposed Rule Stage

1486. SURFACE COAL MINING AND RECLAMATION OPERATIONS; TWO ACRE EXEMPTION REPEAL

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 700.11; 30 CFR 870.11

Legal Deadline: None

Abstract: Section 528(2) of the Surface Mining Control and Reclamation Act of 1977, exempted from the requirements of the Act "the extraction of coal for commercial purposes where the surface mining operation affects two acres or less." On May 7, 1987, the President signed PL 100-34 which repealed the exemption. The rule action would remove the exemption provision from the regulations at 30 CFR 700 and 30 CFR 870.

Timetable:

Action	Date	FR Cite
Notice of Suspension: Two-Acre Exemption Repeal	06/04/87	52 FR 21228
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Arthur Abbs, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., Washington, DC 20240, 202 208-2851

RIN: 1029-AB16

DOI—OSMRE

Proposed Rule Stage

1487. FEDERAL REGULATORY PROGRAMS; PERMIT APPLICATION FEES

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 736; 30 CFR 740; 30 CFR 750

Legal Deadline: None

Abstract: In response to comments received concerning the rulemaking under RIN 1029-AB15, OSMRE will conduct a study of possible fees for permit revisions, renewals, and certain other permitting-related activities in the coming year and intends to propose further rulemaking where the results of that study indicate that such fees are justified and that fee collection would be administratively feasible.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Arthur Abbs, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., Washington, DC 20240, 202 208-2851

RIN: 1029-AB29

1488. BOND RELEASE CERTIFICATION

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 800.40

Legal Deadline: None

Abstract: OSM will propose a rule that will require that an operator requesting the release of performance bonds certify that reclamation has been completed in accordance with the approved reclamation plan.

Timetable:

Action	Date	FR Cite
NPRM	10/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Hosman, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240, 202 343-1427

RIN: 1029-AB30

1489. INDIVIDUAL CIVIL PENALTIES

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 724; 30 CFR 846

Legal Deadline: NPRM, Judicial. NPRM due 270 days from effective date of settlement agreement in "Save Our Cumberland Mountains, Inc., et al., and Manuel Lujan, Jr., Secretary, US Department of the Interior, et al."

Abstract: OSM will propose a rule to require that an individual civil penalty be proposed, and in accordance with existing regulations assessed against each officer, director, or agent of a corporate permittee, after the officer, director, or agent has been served with a notice of potential liability for an existing violation and has not demonstrated that he or she has taken all reasonable steps to bring about the abatement of the violation by the corporate permittee.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: George Stone, Regulatory Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240, 202 208-2866

RIN: 1029-AB31

1490. REQUIREMENTS FOR COAL EXPLORATION

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 772

Legal Deadline: None

Abstract: OSM is proposing to amend 30 CFR Part 772 to ensure that exploration permits will not be issued to applicants with unresolved violations of SMCRA and other applicable laws or who possess a history of violations of SMCRA indicating an intent not to comply with the Act's provisions.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Fred Block, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240, 202 208-2860

RIN: 1029-AB32

1491. CESSATION OF OPERATIONS: TEMPORARY CESSATION

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 816; 30 CFR 817

Legal Deadline: None

Abstract: This rule will clarify that a permittee must obtain approval from the regulatory authority before ceasing coal mining operations on a permit that results in the delay of contemporaneous reclamation on areas which are incidental to, or necessary to facilitate, continued mining of the remaining coal reserves. The rule will state that an application to temporarily cease mining operations may be approved if the regulatory authority finds that recoverable coal reserves remain, that the bond is adequate, and that based on pre-approval inspection, the site is in compliance with all applicable requirements, including contemporaneous reclamation, drainage control, and structure certifications. The rule will specify that temporary cessation may be approved for a period not to exceed one year, after which time the permittee may file for subsequent one year renewals.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Daniel E. Stocker, Inspection and Enforcement Program Specialist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution

Avenue, NW., Washington, DC 20240, 202 208-2566

RIN: 1029–AB33

1492. STANDARDS FOR REVIEW OF OWNERSHIP, CONTROL, AND VIOLATION INFORMATION

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 773; 30 CFR 774; 30 CFR 843

Legal Deadline: NPRM, Judicial. NPRM due 180 days from effective date of settlement agreed to in "Save Our Cumberland Mountains, Inc., et al., and Manuel Lujan, Jr., Secretary, US Department of the Interior, et al."

Abstract: The proposed rule will establish standards for review and rebuttal of presumptions regarding ownership and control relationships between permit applicants and violators as well as between permittees and violators. The rule will also specify requirements for verifying whether the ownership and control information specified on a permit application is complete, require use of OSM's applicant violator computer system and other available data by regulatory authorities when conducting violation reviews and establish procedures for regulatory authorities to use in determining the status of outstanding violations. The rule will prescribe sanctions in cases where a permit applicant intentionally fails to provide complete or accurate ownership and control information. The rule will also require regulatory authorities to conduct an annual verification of certain ownership and control information for all permittees. In addition, the rule will specify measures for OSM to take should a state regulatory authority fail to implement these new requirements. Regulations which may be modified include 30 CFR 773, 774, and 843.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: George M. Stone, Jr., Chief, Branch of Inspection and Enforcement, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240, 202 208-4555

RIN: 1029–AB34

1493. PERMANENT REGULATORY PROGRAM: MULTIPLE SEAM MINING MOUNTAINTOP REMOVAL

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 780; 30 CFR 785; 30 CFR 816; 30 CFR 817; 30 CFR 824

Legal Deadline: None

Abstract: The rule will address the problem of contemporaneous reclamation of multiple seam mining, mountaintop removal sites. In multiple seam mining, contemporaneous reclamation is often delayed because coal from the last permitted seam is not removed in a timely manner. Also, reclamation is not started in a timely manner on mountaintop removal operations. The rule will provide standards for contemporaneous reclamation at such sites.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Wiles, General Engineer, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1950 Constitution Avenue, NW., Washington, DC 20240, 202 208-1002

RIN: 1029–AB35

1494. PERMANENT REGULATORY PROGRAM: BEST TECHNOLOGY CURRENTLY AVAILABLE

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 816; 30 CFR 817

Legal Deadline: None

Abstract: The requirement that all runoff from mined areas must pass through a siltation structure was suspended in compliance with a court-ordered remand. The rule will remove or reinstate suspended requirements that relate to the best technology currently available or may consider other alternatives.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Douglas I. Growitz, Hydrologist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Research and Technical Standards Branch, 1951 Constitution Avenue, NW., Washington, DC 20240, 202 208-1587

RIN: 1029–AB36

1495. PERMANENT REGULATORY PROGRAM: TECHNICAL STANDARDS FOR BACKFILLING AND GRADING

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 780; 30 CFR 784; 30 CFR 816; 30 CFR 817

Legal Deadline: None

Abstract: Technical Standards will provide a more uniform approach to the methods of backfilling and grading and will provide for greater stability and eliminate the settlement at the top of backfilled highwalls. Regulatory guidance will provide for consistent state application and reduce uncertainty.

Timetable:

Action	Date	FR Cite
ANPRM	04/17/90	55 FR 1429
ANPRM Comment Period End	05/30/90	
NPRM	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dennis Hunter, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240, 202 343-1504

RIN: 1029–AB37

1496. PERMANENT REGULATORY PROGRAM: PROCEDURES AND CRITERIA FOR APPROVAL OR DISAPPROVAL OF STATE PROGRAM SUBMISSIONS; STATE PROGRAM AMENDMENTS

Legal Authority: 30 USC 1201 et seq

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DOI—OSMRE

Proposed Rule Stage

CFR Citation: 30 CFR 732.1

Legal Deadline: None

Abstract: The proposed rule would ensure that State programs for the regulation of surface coal mining and the surface effects of underground mining reflect Federal rule changes in a timely way following notice to the States of such Federal rule changes.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Bryson, Chief, Branch of State Programs, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240, 202 208-2851

RIN: 1029-AB38

1497. PERMANENT REGULATORY PROGRAM; PERFORMANCE STANDARDS; PERMANENT AND TEMPORARY IMPOUNDMENTS

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 816.46; 30 CFR 816.49; 30 CFR 817.46; 30 CFR 817.49

Legal Deadline: None

Abstract: The proposed rule would clarify the design precipitation requirements for impoundments that rely primarily on storage to control stormwater runoff. It would also add a hazard consideration top the criteria for determining which design precipitation event is applicable in each case for spillway design.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	
NPRM Comment Period End	08/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Sheffield, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240, 202 208-2850

RIN: 1029-AB40

1498. SERVICE OF DOCUMENTS

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 724; 30 CFR 843; 30 CFR 845; 30 CFR 846

Legal Deadline: None

Abstract: OSM intends to propose a rule revising the procedures governing the service of documents by allowing service by certified mail in those areas where the regulations do not already provide for such service. The proposed rule will also change certain terminology pertaining to the service of documents to make it consistent throughout the regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: John Trelease, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240, 202 208-2559

RIN: 1029-AB41

1499. ◉ DEFINITION AND CRITERIA FOR VALID EXISTING RIGHTS

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 761.5

Legal Deadline: None

Abstract: This rule will amend the portions of the permanent program which address the circumstances which constitute valid existing rights to mine coal in areas where Congress has otherwise prohibited mining under section 522(e) of the Surface Mining Control and Reclamation Act of 1977. This revision is in response to a court decision in round III of the litigation on OSM's permanent program regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
NPRM Comment Period End	03/00/91	
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Patrick W. Boyd, Policy Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Washington, DC 20240, 202 208-2564

RIN: 1029-AB42

1500. ◉ APPLICABILITY OF THE PROHIBITIONS OF THE SURFACE MINING ACT TO THE SURFACE IMPACTS OF UNDERGROUND COAL MINING

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 761.11(h)

Legal Deadline: None

Abstract: This rule will clarify the applicability of the prohibitions in section 522(e) of the Surface Mining Control and Reclamation Act to the surface impacts of underground coal mining. The rule will also address whether and to what extent subsidence caused by underground coal mining is prohibited in the protected areas.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
NPRM Comment Period End	03/00/91	
Final Action	12/00/91	
Final Action Effective	01/00/92	

Small Entities Affected: Undetermined

Government Levels Affected:

Agency Contact: Patrick W. Boyd, Policy Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Washington, DC 20240, 202 208-2564

RIN: 1029-AB43

1501. ◉ SUBSIDENCE CONTROL IN FEDERAL PROGRAM STATES

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 905; 30 CFR 910; 30 CFR 912; 30 CFR 921; 30 CFR 922; 30

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Proposed Rule Stage

CFR 933; 30 CFR 937; 30 CFR 939; 30 CFR 942; 30 CFR 947

Legal Deadline: None

Abstract: The proposed rule would provide guidance in Federal program States concerning repair or compensation for damage to structures caused by subsidence.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Nancy Proiman, Policy Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Washington, DC 20240, 202 208-2761

RIN: 1029–AB44

1502. ◉ PREVIOUSLY MINED AREAS AND COAL PREPARATION PLANTS - REMAND

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 701.5; 30 CFR 827.131(a)

Legal Deadline: None

Abstract: This rule will amend the definition of "previously mined area" at 30 CFR 701.5 and the requirements for coal preparation plants at 30 CFR 827.13 in response to a February 12, 1990, District Court decision.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Suzy Hudak, Policy Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Washington, DC 20240, 202 208-2700

RIN: 1029–AB45

1503. ◉ OBLIGATION TO REPAIR SUBSIDENCE-CAUSED MATERIAL DAMAGE TO STRUCTURES AND FACILITIES

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 784.20(g); 30 CFR 817.121(c)

Legal Deadline: None

Abstract: This rule will bring application information requirements and subsidence control performance standards into conformance with the February 12, 1990 decision of the District Court by striking the references to State law. The obligation of underground coal mine operators to repair damage to structures and facilities should not be limited by any provisions of State law.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Patrick W. Boyd, Policy Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Washington, DC 20240, 202 208-2564

RIN: 1029–AB46

1504. ◉ WETLANDS RULE

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 701; 30 CFR 816; 30 CFR 817

Legal Deadline: None

Abstract: This rule will add a definition of "wetland" and would establish standards for wetland success.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Van Weaver, Chief, Branch of Applied Technology, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Ten Parkway Center, Pittsburg, PA 15220, 412 937-2908

RIN: 1029–AB47

1505. ◉ DEFINITION OF COAL

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 700.5

Legal Deadline: None

Abstract: This rule will revise the definition of "coal" by deleting reference to coal classifications published by the American Society of Testing and Materials (ASTM) and substitute a generic definition that will not require revision when ASTM standards change.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kewal Kohli, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Ten Parkway Center, Pittsburg, PA 15220, 412 937-2175

RIN: 1029–AB48

DEPARTMENT OF THE INTERIOR (DOI)

Office of Surface Mining Reclamation and Enforcement (OSMRE)

Final Rule Stage

1506. RECLAMATION TECHNOLOGY RULE

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 816.101; 30 CFR 816.105; 30 CFR 816.101

Legal Deadline: None

Abstract: The regulation will address the sections that were remanded back to OSM by the action of the Court. The regulation will provide additional guidance to the surface coal mine operator in fulfilling the performance standards of the Act. Costs will not be increased because the regulations will amplify existing requirements.

DOI—OSMRE

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/31/88	53 FR 43970
NPRM Comment Period End	12/30/88	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Dennis Hunter, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240, 202 208-1804

RIN: 1029-AA57

1507. PERMANENT PROGRAM PERFORMANCE STANDARDS; HIGHWALL POLICY

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 845.15; 30 CFR 850.12

Legal Deadline: None

Abstract: The proposed regulation is in accordance with a court approved settlement agreement and would provide a method of calculating civil penalties when compliance with section 816.102(a) cannot be accomplished using best technology currently available or where compliance would result in significant harm to the environment and the operation does not qualify for an exemption to total highwall elimination in accordance with 30 CFR 816.102(k).

Timetable:

Action	Date	FR Cite
NPRM	10/29/87	52 FR 41666
NPRM Comment Period End	01/07/88	52 FR 41666
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Dennis Hunter, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240, 202 343-1584

RIN: 1029-AB10

1508. ASSESSMENT CONFERENCE SCHEDULING

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 723; 30 CFR 845

Legal Deadline: None

Abstract: The rule would eliminate some procedural inconsistencies remaining from previous 30 CFR 723 and 845 rulemakings. In particular, the rules would allow for a more efficient and practical time frame for scheduling assessment conferences. OSM is undertaking this action in response to suggestions from OSM personnel involved in administering the existing 30 CFR parts 723 and 845.

Timetable:

Action	Date	FR Cite
NPRM	04/04/90	55 FR 12624
NPRM Comment Period End	05/21/90	
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: John Trelease, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., Washington, DC 20240, 202 208-2550

RIN: 1029-AB22

1509. INTERIM PROGRAM REVISIONS

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 710; 30 CFR 715; 30 CFR 716; 30 CFR 717; 30 CFR 718; 30 CFR 720; 30 CFR 721; 30 CFR 722

Legal Deadline: None

Abstract: The rule would amend those portions of the OSMRE interim regulatory program regulations which are different from the permanent regulatory program. OSMRE is undertaking this action to provide equity and regulatory consistency between the programs.

Timetable:

Action	Date	FR Cite
NPRM	07/03/90	55 FR 27568
NPRM Comment Period End	09/04/90	
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Stephen M. Sheffield, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., Washington, DC 20240, 202 208-2954

RIN: 1029-AB24

DEPARTMENT OF THE INTERIOR (DOI)

Office of Surface Mining Reclamation and Enforcement (OSMRE)

Completed Actions

1510. FEDERAL LANDS PROGRAM

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq; 30 USC 181 et seq; PL 100-34

CFR Citation: 30 CFR 740

Legal Deadline: None

Abstract: Various language changes will be proposed in 30 CFR 740, 745, and 746 in response to a ruling by the District Court for the District of Columbia with respect to the applicability of the Federal lands program, and for technical accuracy and to clarify ambiguous language that has surfaced since publication of the rules in February 1983.

Timetable:

Action	Date	FR Cite
NPRM	05/31/89	54 FR 23388
NPRM Comment Period End	07/31/89	54 FR 23388
Final Action	03/13/90	55 FR 9400
Final Action Effective	04/12/90	

Small Entities Affected: None

DOI—OSMRE

Completed Actions

Government Levels Affected: State, Federal

Agency Contact: Fred Block, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., Washington, DC 20240, 202 208-2868

RIN: 1029–AA76

1511. FEDERAL REGULATORY PROGRAMS; PERMIT APPLICATION FEES

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 736; 30 CFR 740; 30 CFR 750

Legal Deadline: None

Abstract: The proposed rule would govern the collection by OSMRE of application fees for permits to conduct surface coal mining and reclamation operations, and for permits to conduct coal exploration, as well as fees for processing mining plans and for midterm review of surface coal mining and reclamation permits. Recipients of these services would be required to reimburse OSMRE for costs incurred in providing the services.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17568
NPRM Comment Period End	07/18/88	53 FR 17568
Final Action	07/19/90	55 FR 29536

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Adell Merchant, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., Washington, DC 20240, 202 208-2533

RIN: 1029–AB15

1512. SURFACE COAL MINING AND RECLAMATION PERMITS; REQUIREMENTS FOR PERMITS AND PUBLIC PROCESSING; PUBLIC PARTICIPATION IN PERMIT PROCESSING AND REVIEW OF APPLICATIONS

Legal Authority: 30 USC 1201 et seq; 16 USC 470 et seq

CFR Citation: 30 CFR 773.13; 30 CFR 773.15

Legal Deadline: None

Abstract: The proposed rule would clarify the responsibility of the regulatory authority to withhold information on the nature and location of archaeological resources when otherwise revealing that information would create a risk of harm, theft, or destruction to the resources.

Timetable:

Action	Date	FR Cite
Withdrawn - no further action will be taken	08/25/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Stephen M. Sheffield, Regulatory Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240, 202 208-2954

RIN: 1029–AB39

BILLING CODE 4310-05-F

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Reclamation (RB)

Prerule Stage

1513. ● RECLAMATION ACQUISITION REGULATION SYSTEM

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR 1400 Appendix A et seq

Legal Deadline: None

Abstract: This rule will establish the Reclamation Acquisition Regulation System containing rules implementing and supplementing the Federal Acquisition Regulation and the Department of the Interior Acquisition Regulation.

Timetable:

Action	Date	FR Cite
ANPRM	09/30/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Diana Cardon, Procurement Analyst, Policy Branch, Acquisition and Assistance Division, Department of the Interior, Bureau of Reclamation, P.O. Box 2500, Denver, CO 80225, 303 236-9758

RIN: 1006–AA20

1514. ● ACREAGE LIMITATION RULES

Legal Authority: 5 USC 552; PL 97-293 Reclamation Reform Act of 1982; PL 100-203

CFR Citation: 43 CFR 420

Legal Deadline: None

Abstract: Under existing regulations, a party affected by a determination from a Regional Director may appeal the determination to the Commissioner. Since the Regional Directors' determinations are often based on policies issued by the Commissioner, the potential exists for the Commissioner to become the final arbiter of his/her own decisions. In order to serve parties appealing Regional Director decisions, the current regulations will be revised to allow appellants that receive adverse Commissioner decisions to further elevate their appeals to the Office of Hearings and Appeals.

Timetable:

Action	Date	FR Cite
ANPRM	12/31/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alonzo D. Knapp, Chief, Lands Branch, Department of the Interior, Bureau of Reclamation, P.O.

DOI—BLM

Prerule Stage

Box 25007, Denver Federal Center, D-5610, Denver, CO 80225, 303 236-6563

RIN: 1004–AA21

BILLING CODE 4310-84-F

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Prerule Stage

1515. ONSHORE OIL AND GAS OPERATIONS

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359; 30 USC 301 to 306; 25 USC 396 to 396; 43 USC 1457; 40 USC 471 et seq; 42 USC 4321; 42 USC 6508; 30 USC 1701 et seq; 25 USC 2102

CFR Citation: 43 CFR 3163.1

Legal Deadline: None

Abstract: This rule amends the provision on remedies for acts of noncompliance to require mandatory assessment for all major violations, authorize automatic assessment for minor violations after notice to repeat offenders, and remove State Director authority to reduce automatic assessments.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sie Ling Chiang, Chief, Division of Fluid Mineral Lease and Reservoir Management, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-2127

RIN: 1004–AB71

1516. ◈ OIL AND GAS LEASING: SURFACE USE RIGHTS

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359; 43 USC 3101 et seq

CFR Citation: 43 CFR 3101.1-2

Legal Deadline: None

Abstract: This rule will clarify the extent to which BLM may prescribe measures on lease surface-use activities by specifying deadlines and distance requirements that may be imposed as conditions for approval of applications for to drill.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Hopkins, Mineral Leasing Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-2162

RIN: 1004–AB85

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Proposed Rule Stage

1517. PALEONTOLOGY

Legal Authority: 43 USC 1701 et seq

CFR Citation: 43 CFR 8270

Legal Deadline: None

Abstract: This rule will be revised to provide the procedures for the management of paleontological specimens located on the public lands.

Timetable:

Action	Date	FR Cite
NPRM	05/17/82	47 FR 35914
NPRM - Second	10/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Frank W. Snell, Chief, Division of Recreation, Cultural, and Wilderness Resources, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 208-6064

RIN: 1004–AA27

1518. RECREATIONS GENERAL

Legal Authority: 43 USC 1701 et seq; 43 USC 869; 43 USC 1181a; 43 USC 315; 43 USC 4321 et seq; 16 USC 460l to 461; 16 USC 1131; 16 USC 1271 to 1287; 16 USC 1241; 16 USC 670; 29 USC 794

CFR Citation: 43 CFR 8300

Legal Deadline: None

Abstract: This rule will be amended to revise the policy statement for recreation management of the public lands.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bob Schneider, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 208-3253

RIN: 1004–AA35

1519. UNAUTHORIZED USE OF PUBLIC LANDS

Legal Authority: 43 USC 1701 et seq

CFR Citation: 43 CFR 9230

Legal Deadline: None

Abstract: This rule will be amended to clarify those activities that are prohibited on the public lands, to provide managers with additional authority to resolve existing violations and to clarify the authority of the Secretary of the Interior in instances of mineral trespass.

DOI—BLM

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Walter I. Johnson, Jr., Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-8815

RIN: 1004–AA38

1520. CULTURAL RESOURCE MANAGEMENT

Legal Authority: 43 USC 1701 et seq; 16 USC 470 et seq; 42 USC 4321; 16 USC 432; 16 USC 470aa et seq; 42 USC 1996; 16 USC 433; 36 CFR 800.11

CFR Citation: 43 CFR 8100; 43 CFR 8110; 43 CFR 8111; 43 CFR 8140; 43 CFR 8141; 43 CFR 8142; 43 CFR 8143

Legal Deadline: None

Abstract: The rule will adapt a governmentwide compliance procedure to a Bureau-specific procedure, with substantial streamlining, reduction of outside consultation, quicker management decisions that are more rapidly carried out, public land users being allowed to proceed with land or resource use with less delay and cultural resources being protected as effectively as under the existing system of review.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John G. Douglas, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 208-6853

RIN: 1004–AA69

1521. RECREATION AND PUBLIC PURPOSES: SOLID WASTE DISPOSAL

Significance: Regulatory Program

Legal Authority: 43 USC 869 et seq; 43 USC 1701 et seq; 31 USC 9701

CFR Citation: 43 CFR 2740

Legal Deadline: None

Abstract: The Recreation and Public Purposes Amendment Act of 1988 (P.L. 100-648) enacted on November 10, 1988, amended the Recreation and Public Purposes Act of 1926. The regulations at 43 CFR 2740 need to be amended in order to add provisions of the new law that pertain to solid waste disposal.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Gary Rowe, Realty Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 208-4288

RIN: 1004–AA73

1522. EXPLORATION ACTIVITY; OIL AND GAS LEASING; GEOTHERMAL RESOURCE LEASING-GENERAL

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359; 16 USC 3101 et seq; 43 USC 1701 et seq

CFR Citation: 43 CFR 3100; 43 CFR 3200

Legal Deadline: None

Abstract: The rule will issue corrections and clarifications to published final rules of May 16, 1988 and June 17, 1988.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lois Mason, Chief, Division of Fluid Mineral Leasing, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-2189

RIN: 1004–AA97

1523. RIGHTS-OF-WAY UNDER THE MINERAL LEASING ACT

Legal Authority: 30 USC 185

CFR Citation: 43 CFR 2880

Legal Deadline: None

Abstract: This rule will be amended to provide for improved administration of rights-of-way under the Mineral Leasing Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Theodore Bingham, Chief, Branch of Rights-of-Way and Use Permits, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 208-4288

RIN: 1004–AA98

1524. RIGHTS-OF-WAY, PRINCIPLES AND PROCEDURES

Legal Authority: 43 USC 1748

CFR Citation: 43 CFR 2800

Legal Deadline: None

Abstract: This rule will be amended to provide for improved administration of rights-of-way under the Federal Land Policy and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Theodore Bingham, Chief, Branch of Rights-of-Way and Use Permits, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 208-4288

RIN: 1004–AB09

1525. CADASTRAL SURVEY

Legal Authority: 43 USC 1701 et seq; 43 USC 351; 43 USC 772; 43 USC 773

CFR Citation: 43 CFR 9180

Legal Deadline: None

Abstract: This rule would revise the existing regulations to remove obsolete and burdensome provisions and clarify and simplify the remaining provisions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: Undetermined

DOI—BLM

Proposed Rule Stage

Government Levels Affected: Undetermined

Agency Contact: Patrick Carroll, Land Surveyor, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-8798

RIN: 1004–AB07

1526. INDIAN ALLOTMENTS

Legal Authority: 25 USC 334

CFR Citation: 43 CFR 2530

Legal Deadline: None

Abstract: This rule would revise the existing regulations to remove obsolete and burdensome provisions and clarify and simplify the remaining provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Don Simpson, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 208-4200

RIN: 1004–AB10

1527. GEOTHERMAL RESOURCE OPERATIONS

Legal Authority: 30 USC 1001 to 1025

CFR Citation: 43 CFR 3200; 43 CFR 3300; 43 CFR 3270

Legal Deadline: None

Abstract: This rulemaking will revise provisions related to geothermal leasing and geothermal operations conducted on Federal lands. The changes are designed to remove burdensome and cumbersome provisions and simplify the regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Sie Ling Chiang, Chief, Division of Fluid Mineral Lease and Reservoir Management, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-2127

RIN: 1004–AB18

1528. MINERALS (NONMINERAL ENTRIES ON MINERAL LANDS)

Legal Authority: 30 USC 186; 30 USC 124

CFR Citation: 43 CFR 2093

Legal Deadline: None

Abstract: The amendments made by this rulemaking would eliminate portions of the existing regulations that refer to repealed authorities and make minor changes that reflect the merger of functions between the Bureau of Land Management and the Minerals Management Service.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary Rowe, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 208-4200

RIN: 1004–AB20

1529. ONSHORE OIL AND GAS ORDER NO. 2 - DRILLING OPERATIONS

Legal Authority: 30 USC 189; 30 USC 359; 30 USC 226; 25 USC 396; 25 USC 396(d)

CFR Citation: 43 CFR 3160

Legal Deadline: None

Abstract: This rule will amend Onshore Oil and Gas Order No. 2 by requiring new casing rather than used casing in all cases except certain circumstances prescribed by the authorized officer and changing the location of required centralizers.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Kent, Petroleum Engineer, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-2174

RIN: 1004–AB21

1530. ONSHORE OIL AND GAS OPERATIONS; SPECIAL PROVISIONS; ONSHORE OIL AND GAS ORDER NO. 5 - MEASUREMENT OF GAS

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359; 30 USC 301 to 306; 25 USC 396 to 399; 43 USC 1457; 40 USC 471 et seq; 42 USC 4321; 42 USC 6508; 30 USC 1701 et seq; 25 USC 2102

CFR Citation: 43 CFR 3164.1

Legal Deadline: None

Abstract: This rule will amend Onshore Oil and Gas Order No. 5 on Measurement of Gas to provide for approval by the jurisdictional Bureau of Land Management State Office of gas measurement by electronic flow computers, using an orifice, that calculate volume using equations specified by the American Gas Association Committee Report No. 3.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sie Ling Chiang, Chief, Division of Fluid Mineral Lease and Reservoir Management, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-2127

RIN: 1004–AB22

1531. ONSHORE OIL AND GAS OPERATIONS; SPECIAL PROVISIONS - ONSHORE OIL AND GAS ORDER NO. 3 - SITE SECURITY

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359; 30 USC 301 to 306; 25 USC 396 to 399; 43 USC 1457; 40 USC 471 et seq; 42 USC 4321; 42 USC 6508; 30 USC 1701 et seq; 25 USC 2102

CFR Citation: 43 CFR 3164.1

Legal Deadline: None

Abstract: This rule will amend Onshore Oil and Gas Order No. 3 - Site Security by specifying in the operators' self-inspection program three options for operators in exercising their responsibilities in the measurement, or the monitoring of the measurement by

the purchaser, of the oil or gas produced.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sie Ling Chiang, Chief, Division of Fluid Mineral Lease and Reservoir Management, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-2127

RIN: 1004–AB24

1532. SALES OF FOREST PRODUCTS; GENERAL - PREPARATION FOR SALE

Legal Authority: 16 USC 617

CFR Citation: 43 CFR 5400; 43 CFR 5420

Legal Deadline: None

Abstract: This rule will amend existing regulations that permit timber export and purchase volumes to "ratchet" upward at a questionable rate, leading to substitution, and will simplify the existing regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard W. Bird, Forester, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-8854

RIN: 1004–AB34

1533. MINING CLAIMS UNDER THE GENERAL MINING LAWS

Legal Authority: 30 USC 22; 43 USC 1201; 43 USC 1744; 43 USC 1734; 43 USC 1740

CFR Citation: 43 CFR 3809; 43 CFR 3833

Legal Deadline: None

Abstract: The rule would make amendments to the regulatory provisions dealing with the surface management of mining claims to incorporate changes recommended by a BLM task force that studied this area.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Reed Smith, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 208-4147

RIN: 1004–AB36

1534. ONSHORE OIL AND GAS ORDER NO. 8 - WELL WORKOVERS, COMPLETIONS, ABANDONMENTS

Legal Authority: 30 USC 189; 30 USC 359; 30 USC 398; 25 USC 396(d)

CFR Citation: 43 CFR 3160

Legal Deadline: None

Abstract: This order is being issued under the Oil and Gas Operations regulations as found in 43 CFR Part 3160. The order details the minimum standards of performance when conducting workover, completions, and abandonment of existing wells on Federal and Indian lands (except Osage Tribe). It also will contain enforcement actions that will result from the failure to meet the minimum standards.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sie Ling Chiang, Chief, Division of Fluid Mineral Lease and Reservoir Management, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-2127

RIN: 1004–AB37

1535. MINING CLAIMS UNDER THE GENERAL MINING LAW—NATURE AND CLASSES OF MINING CLAIMS ASSESSMENT WORK

Legal Authority: 43 USC 1732 to 1733; 30 USC 28-1; 30 USC 28-2; 30 USC 28; 30 USC 33; 43 USC 1782

CFR Citation: 43 CFR 3809; 43 CFR 3840; 43 CFR 3850

Legal Deadline: None

Abstract: This rulemaking will amend the existing regulations to include the criteria for the standard of discovery as applied to oil shale placer mining claims and provide clarification of what constitutes substantial compliance with assessment work requirements under the Mining Law.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	01/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Lucia Kuinen, Department of the Interior, Bureau of Land Management, 1849 C St., NW., Washington, DC 20240, 202 208-4147

RIN: 1004–AB43

1536. COAL MANAGEMENT—GENERAL

Significance: Regulatory Program

Legal Authority: 30 USC 201 et seq

CFR Citation: 43 CFR 3400

Legal Deadline: None

Abstract: This rule will revise the exploration and mining operations regulations, as well as other operations-related regulations, to streamline them and to have them reflect current policy and standard industry operating practices relating to Federal coal.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paul Politzer, Chief, Division of Solid Mineral Operations, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 208-5722

RIN: 1004–AB44

1537. ONSHORE OIL AND GAS ORDER NO. 9 - WASTE PREVENTION AND BENEFICIAL USE OF OIL AND GAS

Legal Authority: 30 USC 189; 30 USC 359; 30 USC 396; 25 USC 396(d)

DOI—BLM

Proposed Rule Stage

CFR Citation: 43 CFR 3104.1; 43 CFR 3162.4; 43 CFR 3162.5; 43 CFR 3162.7-1; 43 CFR 3162.7-2; 43 CFR 3162.7-3; 43 CFR 3165.3; 43 CFR 3165.4

Legal Deadline: None

Abstract: This order is being issued under the revised oil and gas operations regulations as found in 43 CFR 3160. This order details the requirements in order to prevent wastes and promote beneficial uses of oil and gas. This order also provides the enforcement actions that will result when violations of standards occur. It also replaces NTL-4A. This order is to be referenced in the table at 43 CFR 3164.1(b).

Timetable:

Action	Date	FR Cite
NPRM	11/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sio Ling Chiang, Chief, Fluid Mineral Lease and Reservoir Management, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-2127

RIN: 1004–AB47

1536. LEASES, PERMITS AND EASEMENTS

Legal Authority: 43 USC 1732; 43 USC 1740

CFR Citation: 43 CFR 2920

Legal Deadline: None

Abstract: This rule will amend the existing regulations to provide for improved administration of Leases, Permits and Easements under the Federal Land Policy and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Theodore Bingham, Chief, Branch of Rights-of-Way and Use Permits, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 208-4388

RIN: 1004–AB51

1538. MINING IN MILITARY WITHDRAWALS

Legal Authority: 100 Stat. 3457, sec. 12; 30 USC 22; 43 USC 1701 et seq

CFR Citation: 43 CFR 3828; 43 CFR 3811

Legal Deadline: None

Abstract: This proposed rule establishes guidelines for mining in certain military installations under the Mining Law of 1872, as amended, and for assuring the safe, uninterrupted, and unimpeded use of the lands for military purposes. The Military Lands Withdrawal Act of 1986 specifically provided for certain military lands previously withdrawn from mining to be considered for opening to the operation of the Mining Law of 1872, as amended, with certain special restrictions. Military Lands identified as suitable for mining through the Bureau of Land Management's planning system are proposed to be opened on the effective date of an opening order that will be published in the Federal Register.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Reginald E. Reid, Geologist, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 208-4147

RIN: 1004–AB52

1540. SPECIAL LAWS AND RULES; RESTATEMENT OF PROCEDURES FOR THE SEGREGATION AND OPENING OF PUBLIC LANDS; AMENDMENT

Legal Authority: 43 USC 1202; 43 USC 851 to 852; 43 USC 869 et seq; 43 USC 641 et seq; 43 USC 321 to 323; 43 USC 231; 25 USC 334; 26 Stat. 794; 25 USC 336; 16 USC 485; 72 Stat. 339 to 340; 43 USC 852 note; 16 USC 818; 43 USC 315f; 43 USC 1601 et seq

CFR Citation: 43 CFR 2090; 43 CFR 2091

Legal Deadline: None

Abstract: This rule will amend the existing regulations to clarify procedural aspects of specific actions covering the segregation of public lands as well as procedures under which those lands are opened to the public land and mineral laws.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: LEGAL AUTHORITY CONT: 43 USC 321; 43 USC 325; 43 USC 327 to 329

Agency Contact: Dennis Samuelson, Realty Specialist, Department of the Interior, Bureau of Land Management, 18th & C Street, NW., Washington, DC 20240, 202 208-6455

RIN: 1004–AB54

1541. PUBLIC AVAILABILITY OF MINERALS RESOURCES INFORMATION

Legal Authority: 5 USC 552

CFR Citation: 43 CFR 3000

Legal Deadline: None

Abstract: This rule will remove conflicts between existing mineral regulations relating to public availability of mineral resources information and the Freedom of Information Act. The rule will also remove discrepancies among the various mineral regulations regarding public release of information.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dorothy Chambers, Management Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-8853

RIN: 1004–AB55

1542. CLASSIFICATIONS

Legal Authority: 43 USC 315f; 43 USC 869; 43 USC 1701 et seq

CFR Citation: 43 CFR 2400

Legal Deadline: None

DOI—BLM

Proposed Rule Stage

Abstract: This rule will amend Part 2400 to include conformance with land-use planning and environmental analysis for establishing and terminating classifications.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jim Paugh, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 208-4200

RIN: 1004–AB57

1543. VILLAGE SELECTIONS

Legal Authority: 43 USC 1613

CFR Citation: 43 CFR 2651

Legal Deadline: None

Abstract: This rule would amend the existing regulations to allow underselected Alaska Native Village Corporations to select lands identified and made available by the Secretary enabling them to fulfill their statutory entitlement under the Alaska Native Claims Settlement Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Olivia Short, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 208-6511

RIN: 1004–AB58

1544. CAVE MANAGEMENT

Legal Authority: 16 USC 4301 et seq; 43 USC 1740

CFR Citation: 43 CFR 37

Legal Deadline: Final, Statutory, August 18, 1988.

Abstract: This rule will provide criteria to determine whether caves on Federal lands are significant and thereby to be given special attention in planning and other decisions affecting Federal lands.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Del Price, Outdoor Recreation Planner, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 208-3953

RIN: 1004–AB50

1545. OIL AND GAS LEASING

Legal Authority: 30 USC 181 et seq

CFR Citation: 43 CFR 3100; 43 CFR 3160

Legal Deadline: None

Abstract: This rule will change the responsible party for all oil and gas lease obligations from operator to lessee.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lois Mason, Chief, Division of Fluid Mineral Leasing, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-2199

RIN: 1004–AB65

1546. LAW ENFORCEMENT—CRIMINAL

Legal Authority: 102 Stat. 4571

CFR Citation: 43 CFR 9260

Legal Deadline: None

Abstract: This rule will amend the penalty provision in 43 CFR 9260 to provide for the penalty called for in the Arizona-Idaho Conservation Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local

Agency Contact: Annette Jamesson, Natural Resource Specialist, Department of the Interior, Bureau of Land Management, 3040 Main Interior, 1849 C Street, NW., Washington, DC 20240, 202 208-4399

RIN: 1004–AB67

1547. LAW ENFORCEMENT—CRIMINAL

Legal Authority: 43 USC 1701 et seq

CFR Citation: 43 CFR 9260

Legal Deadline: None

Abstract: This rule will prohibit individuals from harassing, threatening, giving false information to, or otherwise interfering with officers, volunteers, human resource program enrollees, or other personnel of or associated with the Bureau of Land Management.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Douglas J. Blankinship, Chief, Volunteer Programs, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 208-3921

RIN: 1004–AB68

1548. MANAGEMENT OF DESIGNATED WILDERNESS AREA

Legal Authority: 43 USC 1701 et seq; 16 USC 1131 et seq

CFR Citation: 43 CFR 8560

Legal Deadline: None

Abstract: This rule will amend the existing regulations to remove obsolete provisions, clarify and simplify the regulations, and add provisions on access to inholdings, rights-of-way, use of mechanized equipment by certain individuals, access by Native Americans.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hal Hallett, Department of the Interior, Bureau of

DOI—BLM

Proposed Rule Stage

Land Management, 1849 C Street, NW., Washington, DC 20240, 202 208-6864

RIN: 1004–AB69

1548. AVAILABILITY OF PUBLIC RECORDS

Legal Authority: 43 USC 1201; 43 USC 1460; 43 USC 1734; 43 USC 1737; 5 USC 552

CFR Citation: 43 CFR 1814

Legal Deadline: None

Abstract: This rule will esteblish specific procedures for public access to Bureau of Land Management records on all media, including paper, microform, computer, and audiovisual, in order to facilitate public access. It will also provide information on fees that may be required for providing records or services.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dorothy A. Chambers, Management Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-8853

RIN: 1004–AB70

1550. OFFSHORE OIL AND GAS OPERATIONS; SPECIAL PROVISIONS; OFFSHORE OIL AND GAS ORDER NO 1 - APPROVAL OF OPERATIONS ON OFFSHORE FEDERAL AND INDIAN OIL AND GAS LEASES

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359; 30 USC 301 to 306; 25 USC 396 to 396; 43 USC 1457; 40 USC 471 et seq; 42 USC 4321; 42 USC 6508; 30 USC 1701 et seq; 25 USC 2102

CFR Citation: 43 CFR 3164.1

Legal Deadline: None

Abstract: This rule will amend Order No. 1 to conform to the regulations in 43 CFR 3160 and for consistency with the Federal Onshore Oil and Gas Leasing Reform Act of 1987. The rule will specify the requirements for the approval of all proposed exploratory, development, and service wells, and for approval of certain subsequent operations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sie Ling Chiang, Chief, Division of Fluid Mineral Lease and Reservoir Management, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-2127

RIN: 1004–AB72

1551. ONSHORE OIL AND GAS UNIT AGREEMENTS—UNPROVEN AREAS

Legal Authority: 30 USC 181 et seq

CFR Citation: 43 CFR 3183.4; 43 CFR 3185.1

Legal Deadline: None

Abstract: This rule will clarify the effective date of approval of a unit agreement, and will provide for State Director review in cases of appeals by adversely affected parties.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Sie Ling Chiang, Chief, Division of Fluid Mineral Lease and Reservoir Management, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-2127

RIN: 1004–AB73

1552. DRAINAGE, DRILLING, AND PRODUCING OBLIGATIONS

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359; 30 USC 301 to 306; 25 USC 396 to 396; 43 USC 1457; 40 USC 471 et seq; 42 USC 4321; 42 USC 6508; 30 USC 1701 et seq; 43 USC 1701 et seq; 25 USC 2102; 16 USC 668dd to ee; 31 USC 483a

CFR Citation: 43 CFR 3100.2; 43 CFR 3100.2-1; 43 CFR 3100.2-2; 43 CFR 3162.2

Legal Deadline: None

Abstract: This rule will clarify the responsibilities of fluid mineral lessees for protecting Federal-leased fluid minerals from drainage by operations on nearby lands that would result in lower royalties for Federal or Indian lessors by specifying requirements before the obligation of lessees to protect from such drainage begins, by providing a profitability threshold for lessee responsibility, by allocating burden of proof of drainage, and by specifying the responsibilities of multiple lessees and assignees.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sherry Barnett, Petroleum Engineer, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-2145

RIN: 1004–AB74

1553. CONVEYANCE OF RESERVED MINERAL INTERESTS

Legal Authority: 43 USC 1719

CFR Citation: 43 CFR 3817

Legal Deadline: None

Abstract: This rule will provide for the conveyance of reserved mineral interests in cases where either there are no known mineral values in the land or the reservation of the mineral rights in the United States is interfering with or precluding appropriate non-mineral development of the land and such development is a more beneficial use of the land than mineral development.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patrick Sheehy, Mining Law Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 208-4147

RIN: 1004–AB75

1554. MINERAL MATERIALS DISPOSAL

Legal Authority: 30 USC 601 et seq

CFR Citation: 43 CFR 3600

Legal Deadline: None

DOI—BLM

Proposed Rule Stage

Abstract: This rule will improve the economies of scale of mineral materials production by providing for contracts with a longer term than the current 10 years, either a longer fixed term, or a term based on the duration of production tied to diligence requirements. It will also provide for contracts for concomitantly larger quantities of mineral materials, the quantity available at the contract site.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Durga Rimal, Geologist, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 208-4147

RIN: 1004–AB76

1555. ● SALES - FEDERAL LAND POLICY AND MANAGEMENT ACT

Legal Authority: 43 USC 1701; 43 USC 1713

CFR Citation: 43 CFR 2710

Legal Deadline: None

Abstract: This rule will amend 43 CFR Part 2710 to provide for improved administration of sales of public land under the Federal Land Policy and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jim Paugh, Natural Resource Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 208-4200

RIN: 1004–AB77

1556. ● ONSHORE OIL AND GAS UNIT AGREEMENTS: UNPROVEN AREAS

Legal Authority: 30 USC 181 et seq

CFR Citation: 43 CFR 3180

Legal Deadline: None

Abstract: The rule will condition Federal approval of a unit agreement on its containing a provision for payment to the Government of compensatory royalties for oil and gas drained from unleased Federal lands located within participating areas of the unit, in order to prevent loss through drainage through adjacent non-Federal wells without compensation to the Government.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sie Ling Chiang, Chief, Division of Fluid Mineral Lease and Reservoir Management, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-2133

RIN: 1004–AB78

1557. ● CONTRACT MODIFICATION—EXTENSION—ASSIGNMENT

Legal Authority: 43 USC 1181e; 30 USC 601 et seq

CFR Citation: 43 CFR 5470

Legal Deadline: None

Abstract: The rule will allow a timber sale purchaser additional time for cutting and removal without a reappraisal when the purchaser is prevented from operating during the normal operating season because of action by the United States.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Bird, Forester, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-8804

RIN: 1004–AB79

1558. ● ONSHORE OIL AND GAS OPERATIONS: ONSHORE OIL AND GAS ORDER NO. 4 - MEASUREMENT OF OIL

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359; 30 USC 301 to 306; 25 USC 471 et seq; 42 USC 4321; 42 USC 6508; 30 USC 1701 et seq; 25 USC 2102

CFR Citation: 43 CFR 3160

Legal Deadline: None

Abstract: This rule will amend Onshore Oil and Gas Order No. 4 on Measurement of Oil to provide clarification of requirements found in this Order for venting valve and hatch installation on storage tanks, and will make other minor editorial changes.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sie Ling Chiang, Chief, Division of Fluid Mineral Lease and Reservoir Management, Department of the Interior, Bureau of Land Management, 1849 C Street, Washington, DC 20240, 202 653-2133

RIN: 1004–AB80

1559. ● ONSHORE OIL AND GAS GEOPHYSICAL EXPLORATION

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359; 43 USC 1701 et seq

CFR Citation: 43 CFR 3150

Legal Deadline: None

Abstract: This rule will establish new procedures for permitting oil and gas geophysical exploration operations outside of Alaska.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Hopkins, Mineral Leasing Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-2162

RIN: 1004–AB82

DOI—BLM

Proposed Rule Stage

1600. ● AWARD OF CONTRACT

Legal Authority: 43 USC 1732c; 30 USC 601 et seq

CFR Citation: 43 CFR 5450

Legal Deadline: None

Abstract: This rule will require purchasers of timber with previous defaults on U.S. Forest Service timber sale contracts to establish their responsibility in the same manner required of purchasers with previous defaults on BLM timber sale contracts.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Bird, Forester, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-8864

RIN: 1004–AB83

1597. ● PROTECTION, MANAGEMENT, AND CONTROL OF WILD FREE-ROAMING HORSES AND BURROS

Legal Authority: 16 USC 1333 to 1340

CFR Citation: 43 CFR 4700

Legal Deadline: None

Abstract: This rule will clarify existing BLM policy on adoption fees (they are nonrefundable), and the status of foals born to wild horses and burros (a) after removal from the range but before being placed in private care through adoption and (b) after proper execution of a Private Maintenance and Care Agreement. The rule will also make necessary corrections in other portions of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John S. Boyles, Chief, Division of Wild Horses and Burros, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-8215

RIN: 1004–AB84

1582. ● CONVEYANCE OF FEDERALLY-OWNED MINERAL INTERESTS

Legal Authority: 43 USC 1719; 43 USC 1740

CFR Citation: 43 CFR 2720

Legal Deadline: None

Abstract: This rule will clarify terminology and required procedures for the conveyance of mineral interests owned by the United States where the surface is or will be in non-Federal ownership.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Amy Lueders, Economist, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 208-4723

RIN: 1004–AB88

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Final Rule Stage

1592. ONSHORE OIL AND GAS ORDER NO. 7 - DISPOSAL OF PRODUCED WATER

Legal Authority: 30 USC 189; 30 USC 359

CFR Citation: 43 CFR 3164.1(b); 43 CFR 3162.3; 43 CFR 3162.5

Legal Deadline: None

Abstract: This order is being issued under the revised oil and gas regulations as found in 43 CFR Part 3160. The order details the requirements for the handling, storing or disposing of water produced from oil or gas wells. It replaces NTL-2B. The order will also contain inspection standards. This order is referenced in the Table at 43 CFR 3164.1(b).

Timetable:

Action	Date	FR Cite
NPRM	01/19/90	55 FR 1837
NPRM Comment Period End	03/20/90	55 FR 1837
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sie Ling Chiang, Chief, Division of Fluid Mineral Lease and Reservoir Management, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-2127

RIN: 1004–AA66

1584. ONSHORE OIL AND GAS ORDER NO. 6 - HYDROGEN SULFIDE OPERATIONS

Significance: Regulatory Program

Legal Authority: 30 USC 189; 30 USC 359

CFR Citation: 43 CFR 3164.1(b); 43 CFR 3162.3; 43 CFR 3162.5

Legal Deadline: None

Abstract: This order is being issued under the revised oil and gas regulations as found in 43 CFR Part 3160. The order details the requirements for protecting workers and the public from hydrogen sulfide. It specifies documentation needed prior to operation and measures required during drilling and production. This order is referenced in the Table at 43 CFR 3164.1(b).

Timetable:

Action	Date	FR Cite
NPRM	10/15/84	49 FR 40354
NPRM Comment Period End	01/14/85	49 FR 48576
NPRM - Second	05/16/89	54 FR 21075

DOI—BLM

Final Rule Stage

Action	Date	FR Cite
Comment Period End	07/17/89	54 FR 21075
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sie Ling Chiang, Chief, Division of Fluid Mineral Lease and Reservoir Management, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-2127

RIN: 1004–AA67

1565. EXCHANGES - GENERAL PROCEDURES

Legal Authority: 43 USC 1715; 43 USC 1716; 43 USC 1732

CFR Citation: 43 CFR 2200

Legal Deadline: Final, Statutory, August 20, 1989.

Abstract: This rule will amend the existing regulations to provide procedures to facilitate and expedite the processing of land exchanges.

Timetable:

Action	Date	FR Cite
NPRM	08/18/89	54 FR 34380
NPRM Comment Period End	12/01/89	54 FR 43185
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Roger Taylor, Natural Resource Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 208-4290

RIN: 1004–AB28

1566. ONSHORE OIL AND GAS OPERATIONS - COOPERATIVE AGREEMENTS, DELEGATIONS OF AUTHORITY AND CONTRACTS FOR OIL AND GAS INSPECTION AND ENFORCEMENT

Legal Authority: 30 USC 1701; 30 USC 1732; 30 USC 1735; 30 USC 1751

CFR Citation: 43 CFR 3190

Legal Deadline: None

Abstract: This rule will provide the procedures for implementing the provisions of the Federal Oil and Gas Royalty Management Act authorizing delegations of authority to States in connection with oil and gas operations.

Timetable:

Action	Date	FR Cite
NPRM	11/28/88	53 FR 47904
NPRM Comment Period End	12/28/88	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Susan Pepperney, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-2171

RIN: 1004–AB32

1567. CONDUCT OF SALES (TIMBER)

Legal Authority: 43 USC 1181e; 30 USC 601 et seq

CFR Citation: 43 CFR 5440

Legal Deadline: None

Abstract: This rule would amend the existing regulations to define more precisely when someone may be debarred from participating in a timber sale and would provide notice and opportunity for a hearing to those who are subject to debarment.

Timetable:

Action	Date	FR Cite
NPRM	08/04/87	52 FR 28830
NPRM Comment Period End	10/05/87	52 FR 28830
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Bird, Forester, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-8864

RIN: 1004–AB35

1568. LAW ENFORCEMENT—CRIMINAL (FOREST PRODUCTS)

Legal Authority: 18 USC 1852; 18 USC 1853; 43 USC 1733

CFR Citation: 43 CFR 5400; 43 CFR 9230

Legal Deadline: None

Abstract: It is necessary to amend existing regulations concerning the unlawful removal of forest products from public lands. Existing regulations rely on State statutes in those States with statutes, but little support is provided if State statutes do not exist. This regulation would provide this support and improve overall management of the public lands.

Timetable:

Action	Date	FR Cite
NPRM	11/28/89	54 FR 48917
NPRM Comment Period End	01/29/90	54 FR 48917
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Bird, Forester, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-8864

RIN: 1004–AB48

1569. CONTRACT EXTENSION (TIMBER SALES)

Legal Authority: 43 USC 1181e; 30 USC 601 et seq

CFR Citation: 43 CFR 5473; 43 CFR 5474

Legal Deadline: None

Abstract: It is necessary to amend existing regulations concerning extension of time for cutting and removal on timber sale contracts. Shorter contract terms and increased seasonal restrictions on operations have caused a problem with the reappraisal requirement for contract extensions. This regulation would allow contract extensions without reappraisal under certain conditions.

Timetable:

Action	Date	FR Cite
NPRM	07/03/90	55 FR 27477
NPRM Comment Period End	09/04/90	
Final Action	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Bird, Forester, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-8864

RIN: 1004–AB56

DOI—BLM

Final Rule Stage

1576. PROTECTION, MANAGEMENT, AND CONTROL OF WILD FREE-ROAMING HORSES AND BURROS

Legal Authority: 16 USC 1331 to 1340

CFR Citation: 43 CFR 4700

Legal Deadline: None

Abstract: This rule will enhance the ability of the Secretary of the Interior to control the number of wild horses and burros on the public lands and protect the range from deterioration by avoiding lengthy delays of removals of excess animals pending rulings on appeals to the Interior Board of Land Appeals. The rule will also allow the Secretary to protect adopted wild horses and burros from abuse and neglect by authorizing full force and effect decisions to cancel Private Maintenance and Care Agreements when the condition of the animals warrants such action.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John S. Boyles, Chief, Division of Wild Horses and Burros, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 [illegible]

RIN: 1004-AB61

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Completed Actions

1571. SALES OF FOREST PRODUCTS; CONDUCT OF SALES

Legal Authority: 30 USC 601 et seq; 43 USC 1181a

CFR Citation: 43 CFR 5400

Legal Deadline: None

Abstract: This rule amended the existing regulations by specifying the conditions under which the provisions of this subpart are applicable to contracts that are not completed.

Timetable:

Action	Date	FR Cite
NPRM	07/28/89	54 FR 31347
NPRM Comment Period End	09/25/89	54 FR 31347
Final Action	04/27/90	55 FR 17254
Final Action Effective	05/29/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Bird, Forester, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-8864

RIN: 1004-AB39

1572. SALES OF FOREST PRODUCTS; AWARD OF CONTRACT

Legal Authority: 30 USC 601 et seq; 43 USC 1181a

CFR Citation: 43 CFR 5450; 43 CFR 5460

Legal Deadline: None

Abstract: This rule amended the existing regulations as they related to timber sale contract performance bonds and payment schedules to discourage speculative bidding.

Timetable:

Action	Date	FR Cite
NPRM	07/12/89	54 FR 29357
NPRM Comment Period End	09/11/89	54 FR 29357
Final Action	05/24/90	55 FR 19884
Final Action Effective	07/13/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Bird, Forester, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-8864

RIN: 1004-AB40

1573. EXPLORATION ACTIVITY; OIL AND GAS LEASING; COMPETITIVE LEASES

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359; 16 USC 3101 et seq; 43 USC 1701 et seq

CFR Citation: 43 CFR 3120; 43 CFR 3420

Legal Deadline: None

Abstract: The rulemaking will issue corrections and clarifications to published final rule of June 27, 1988.

Timetable:

Action	Date	FR Cite
Withdrawn Combined with RIN 1004-AA87.	07/23/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lois Mason, Chief, Division of Fluid Mineral Leasing, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-2089

RIN: 1004-AB01

1574. GEOTHERMAL RESOURCES LEASING

Legal Authority: 30 USC 1001 to 1027

CFR Citation: 43 CFR 3200

Legal Deadline: None

Abstract: The rule amended the existing regulations concerning definitions of terms, excepted areas, leasing terms, diligent exploration requirements, and review of operating agreements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/06/89	54 FR 13884
Final Action Effective	04/06/89	54 FR 13884
Final Action	06/28/90	55 FR 25842

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Douglas Knox, Chief, Branch of Compliance and Operations, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-2127

RIN: 1004-AB53

DOI—BLM

Completed Actions

1575. PROTECTION MANAGEMENT AND CONTROL OF WILD FREE-ROAMING HORSES AND BURROS; PRIVATE MAINTENANCE; SUPPORTING INFORMATION AND CERTIFICATION FOR MORE THAN FOUR HORSES OR BURROS

Legal Authority: 16 USC 1331 to 1340; 43 USC 1701 et seq; 16 USC 47; 43 USC 315

CFR Citation: 43 CFR 4700

Legal Deadline: None

Abstract: This rule will prohibit the use of a power of attorney to adopt or maintain more than four (4) wild horses or burros, in order to reduce the likelihood of substantial numbers of the animals being used for commercial purposes after the 1-year maintenance period has ended.

Timetable:

Action	Date	FR Cite
NPRM	02/06/90	55 FR 3989
NPRM Comment Period End	03/08/90	55 FR 3989
Final Action	09/25/90	55 FR 39151
Final Action Effective	11/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John S. Boyles, Chief, Division of Wild Horses and Burros, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-8215

RIN: 1004-AB83

1576. SALES OF FOREST PRODUCTS

Legal Authority: 43 USC 1181a et seq; 30 USC 601 et seq

CFR Citation: 43 CFR 5400

Legal Deadline: None

Abstract: This rule removed the requirement for semi-annual reports to Congress on negotiated timber sales of 250 M board feet or more made since the last report. The report is no longer required by law. This final rulemaking removed this and other obsolete administrative requirements.

Timetable:

Action	Date	FR Cite
Final Action	06/06/90	55 FR 22916
Final Action Effective	07/06/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Bird, Forester, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240, 202 653-8864

RIN: 1004-AB66

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Monday
October 29, 1990

Part XI

Department of Justice

Semiannual Regulatory Agenda

DEPARTMENT OF JUSTICE (DOJ)

DEPARTMENT OF JUSTICE

28 CFR Ch. I

21 CFR Ch. I

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48 CFR Ch. 28

Regulatory Agenda

AGENCY: Department of Justice.

ACTION: Regulatory agenda.

SUMMARY: The Department of Justice is publishing its October 1990 regulatory agenda pursuant to Executive Order 12291, "Federal Regulation," 3 CFR part 127 (1981 Compilation), the Regulatory Flexibility Act, 5 U.S.C.A. sections 601-612 (West 1984), and the Office of Management and Budget Memorandum for Regulatory Contacts at Executive Departments and Establishments (July 2, 1990).

FOR FURTHER INFORMATION CONTACT: Brian D. Miller, Office of Policy Development, Department of Justice, Room 4509, 10th and Constitution Avenue, NW., Washington, DC 20530 (202) 514-3123.

Dated: September 4, 1990.

Thomas M. Boyd,

Director, Office of Policy Development.

Civil Rights Division—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1577	Enforcement of Title III of the Americans With Disabilities Act	1190-AA19
1578	Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving Federal Financial Assistance	1190-AA20
1579	Nondiscrimination on the Basis of Disability in State and Local Government Services	1190-AA21

Civil Rights Division—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1580	Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance	1190-AA03

Drug Enforcement Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1581	Prescriptions for Controlled Substances, Requirements for Use of Automated Data Processing Systems	1117-AA03
1582	Prescriptions for Controlled Substances in Schedule II for Patients in Long Term Care Facilities and the Terminally Ill	1117-AA04
1583	Authority to Make Inspections	1117-AA05
1584	Transfer of Glutethimide from Schedule III to Schedule II	1117-AA06

General Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1585	Expedited Deportation Proceedings for Aliens Convicted of Aggravated Felonies	1103-AA22
1586	Debt Collection	1103-AA23

General Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1587	Determination for Access to National Security Information: Eligibility, Adjudication, and Appeal Procedures	1103-AA18

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General Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1588	Procedures for Collection of Past Due Legally Enforceable Debt Through Federal Tax Refund Offset	1103-AA16
1589	Representation and Appearances	1103-AA21

General Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1590	Aliens and Nationality, Asylum and Withholding of Deportation Proceedings	1103-AA19
1591	Justice Acquisition Regulations Title 48 Justice Acquisition Circular 90-1	1103-AA24

Immigration and Naturalization Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1592	Pilot Study of a Telephone Verification System for Employers to Verify the Immigration Status of Alien Employees	1115-AB57
1593	English Language/American History and Civics, Standardized Naturalization Test	1115-AB58

Immigration and Naturalization Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1594	Nonimmigrant Classes; Special Requirements for Admission; Extension and Maintenance of Status	1115-AA68
1595	Petition to Classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant	1115-AB12
1596	Prosecution for Escape From Service Custody	1115-AB15
1597	Conditions for Release From Custody and/or Bond and for Change of Venue	1115-AB16
1598	Nonimmigrant Classes	1115-AB26
1599	Nonimmigrant Classes	1115-AB31
1600	Petition to Classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant	1115-AB37
1601	Documentary Requirements; Nonimmigrants; Nonresident Alien Border Crossing Card	1115-AB39
1602	Nonimmigrant Classes; Special Requirement for Admission, Extension and Maintenance of Status, Control of Employment of Alien	1115-AB52
1603	Conditional Basis of Lawful Permanent Residence Status for Certain Alien Spouses and Sons and Daughters	1115-AB61
1604	Refugee Travel Documents	1115-AB62
1605	Field Officers; Powers and Duties; Subpoena	1115-AB63
1606	Change of Address Notification; Immigration Forms	1115-AB65
1607	Changes to Chapter 15 of the U.S.-Canada Free-Trade Agreement	1115-AB72
1608	Immigration User Fee for Persons Entering the United States from Contiguous Territory and Adjacent Islands	1115-AB78
1609	Petition to Classify as Immediate Relative of a United States Citizen or as a Preference Immigrant	1115-AB79
1610	Definition of Crewman	1115-AB80
1611	Certificate of Naturalization	1115-AB84
1612	Petitions for Prospective Immigrant Employees	1115-AB85
1613	Suspension or Disbarment	1115-AB87
1614	Progressive Clearance	1115-AB90
1615	Visa Waiver Pilot Program (Second Program)	1115-AB93
1616	Student Employment Authorization Procedures	1115-AB94
1617	Nonimmigrant Classes, School Approvals and Reporting Requirements	1115-AB97
1618	Waiver of Grounds of Exclusion for Certain Mental Conditions	1115-AC01
1619	Apprehension, Custody and Detention; Issuance of Service Detainers (Form I-247); Field Officers; Powers and Duties	1115-AC05
1620	Immigration and Nationality Petitions/Applications; Certification of Documents	1115-AC07

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Immigration and Naturalization Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1621	Nonimmigrant Classes; Temporary Employees	1115-AA25
1622	Powers and Duties of Service Officers; Availability of Service Records; Nonimmigrant Classes	1115-AA29
1623	Temporary Alien Workers Seeking Classification Under the Immigration and Nationality Act	1115-AA44
1624	Contracts with Transportation Lines	1115-AA88
1625	Proceedings to Determine Deportability of Aliens in the United States: Apprehension, Custody, Hearing and Appeal; Suspension of Deportation and Voluntary Departure	1115-AB19
1626	Applications, Petitions, and Other Documents—Evidence	1115-AB25
1627	Availability of Decisions and Interpretive Material Under the Freedom of Information Act	1115-AB36
1628	Waiver of Certain Types of Visas	1115-AB40
1629	Transit Without Visa	1115-AB45
1630	Subpoena Issuance Authority	1115-AB46
1631	Apprehension, Custody, and Detention: Clarification of Force and Effect of Service Detainers (Form I-247)	1115-AB48
1632	Employment Authorization for the Spouses and Dependent Children of an Exchange Alien	1115-AB50
1633	Statement of Organization; Ports of Entry for Aliens Arriving by Vessel or by Land Transportation, and by Aircraft	1115-AB53
1634	Powers and Duties of Service Officers; Availability of Service Records, Control of Employment of Aliens	1115-AB73
1635	Termination of Temporary Resident Status	1115-AB74
1636	Adjustment of Status; Nurses	1115-AB76
1637	IMS/EOIR Fee Review; I-512	1115-AB83
1638	Claims to Asylum or Withholding of Deportation Made by Aliens Fleeing Coercive Family Planning Policies	1115-AB86
1639	DSC and W/A Issuance Authority	1115-AB91
1640	Exam Visa Waiver Program	1115-AB92
1641	Applicant Processing for the Legalization Program	1115-AB96
1642	Rescission of Adjustment of Status	1115-AB98
1643	Powers and Duties of Service Officers; Regional Processing Facilities	1115-AB99
1644	Proceedings to Determine Deportability of Aliens in the United States: Apprehension, Custody, Hearing and Appeal	1115-AC00
1645	Aliens and Nationality; Exclusion of Aliens; Proceedings to Determine Deportability of Aliens in the United States; Apprehension, Custody, Hearing and Appeal	1115-AC03
1646	Posthumous U.S. Citizenship for Certain Aliens; Immigration and Nationality Forms; Display of Control Numbers; Fees	1115-AC06

Immigration and Naturalization Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1647	Asylum Procedures	1115-AA13
1648	State Employment Agencies	1115-AA50
1649	Certificates of Citizenship	1115-AA60
1650	Immigration and Nationality Fees; G-941	1115-AA66
1651	Replenishment Agricultural Workers Regulations	1115-AB05
1652	INS/EOIR Fee Review	1115-AB11
1653	Appeals, Precedents, Certifications, and Motions	1115-AB17
1654	Aliens and Nationality	1115-AB23
1655	Aliens and Nationality; Asylum and Withholding of Deportation Procedures	1115-AB27
1656	Nonimmigrant Classes; Special Requirements for Admission, Extension and Maintenance of Status, Control of Employment of Aliens	1115-AB30
1657	Judicial Recommendations Against Deportation; Controlled Substance Violations	1115-AB33
1658	Aliens in Immediate and Continuous Transit	1115-AB42
1659	Verification of Immigration Status of Aliens Applying for Benefits Under Certain Programs	1115-AB47
1660	Cooperative Agreement; Qualified Designated Entities (QDEs) in Good Standing Authorized To Conduct the Registration of Persons Abroad Seeking Replenishment Agricultural Worker (RAW) Status	1115-AB54
1661	Computer-Matching Agreements Between INS and State Agencies Using INS's Systematic Alien Verification for Entitlements (SAVE) Program	1115-AB58
1662	United States History/Government Questions and Answers for Adjustment of Status From Temporary Resident to Permanent Resident	1115-AB59
1663	Immigration and Naturalization Service User Fee Advisory Committee Meeting	1115-AB66
1664	Applicant Processing for the Legalization Program; Conforming Amendments	1115-AB67
1665	New Employment Authorization Document	1115-AB68
1666	Visa Waiver Pilot Program	1115-AB69
1667	Immigration User Fee	1115-AB71

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Immigration and Naturalization Service—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
1668	Nonimmigrant Classes; Special Requirements for Admission, Extension and Maintenance of Status; Control of Employment of Aliens	1115-AB91
1669	Inspection of Persons Applying for Admission	1115-AB92
1670	Residence; Physical Presence and Absence; Recognized American Institutes	1115-AB93
1671	Powers and Duties of Service Officers; Proceedings to Determine Deportability of Aliens in the United States; Apprehension, Custody, Hearing, and Appeal	1115-AB95
1672	Adjustment of Status Under Public Law 101-167	1115-AC02
1673	Immigration and Naturalization Service and the Executive Office for Immigration Review; Fee Review	1115-AC04
1674	Citizenship and Naturalization	1115-AC05

Legal Activities—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1675	Implementation of the Equal Access to Justice Act in Department of Justice Administrative Proceedings	1105-AA06

Legal Activities—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1676	Implementing Civil Penalties Under the Anti-Drug Abuse Act of 1988	1105-AA10
1677	New Restrictions on Lobbying	1105-AA12
1678	Federal Policy for the Protection of Human Subjects	1105-AA13
1679	U.S. Marshals Fees and Commissions	1105-AA14

Legal Activities—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1680	Establishment of User Fees	1105-AA11

Office of Justice Programs—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1681	Equal Employment Opportunity Program Guidelines	1121-AA10
1682	Nondiscrimination in OJP Federally Assisted Programs	1121-AA11

Office of Justice Programs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1683	Criminal Intelligence Systems Operating Policies	1121-AA12
1684	Criminal Justice Information Systems	1121-AA13

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Office of Justice Programs—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1565	Drug-Free Workplace (Grants)	1121-AA14

DEPARTMENT OF JUSTICE (DOJ)
Civil Rights Division (CRT)

Proposed Rule Stage

1577. ● ENFORCEMENT OF TITLE III OF THE AMERICANS WITH DISABILITIES ACT

Significance: Agency Priority

Legal Authority: PL 101-336, Sec 306

CFR Citation: 28 CFR 36

Legal Deadline: Final, Statutory, July 26, 1991.

Abstract: The rule implements the Attorney General's responsibilities under the requirement of title III of the Americans with Disabilities Act of 1990. Title III prohibits discrimination against any individual on the basis of disability in the enjoyment of goods, service, facilities, privileges, advantages, or accommodations of places of public accommodation. Public accommodations are defined as private entities whose operations affect commerce, and include, for example, place of lodging, establishments serving food and drink, place of entertainment, auditoriums, stores, service establishments (including doctors and lawyers offices), train stations, museums, zoos, places of education, and places of exercise or recreation.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
NPRM Comment Period End	03/00/91	
Final Action	07/26/91	
Final Action Effective	07/26/91	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Sectors Affected: Multiple

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Agency Contact: Daniel A. Searing, Attorney, Department of Justice, Civil Rights Division, Coordination and Review Section, Civil Rights Division, Washington, DC 20530, 202 307-2215

RIN: 1190-AA19

1578. ● NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Legal Authority: 20 USC 1681 to 1683; 20 USC 1685 to 1688 Title IX of the Education Amdts. of 1972

CFR Citation: 28 CFR 42 Supbart J

Legal Deadline: None

Abstract: This rule implements the requirements of title IX of the Education Amendments of 1972, as amended, which generally prohibits discrimination on the basis of sex in federally assisted education programs or activities, in education programs or activities assisted by the Department of Justice.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Sectors Affected: Multiple

Agency Contact: Doreen Dennis, Attorney, Department of Justice, Civil Rights Division, Coordination and Review Section, Civil Rights Division, Washington, DC 20530, 202 307-2219

RIN: 1190-AA20

1579. ● NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES

Significance: Agency Priority

Legal Authority: PL 101-336, Sec 204

CFR Citation: 28 CFR 35

Legal Deadline: Final, Statutory, July 26, 1991.

Abstract: The rule implements the Attorney General's responsibilities under the requirements of title II of the Americans with Disabilities Act of 1990. Title II prohibits discrimination against qualified individuals with disabilities in the services, programs, and activities offered by public entities. Public entities include State and local governments and any department, special purpose district, or other instrumentality of a State or local government.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
NPRM Comment Period End	03/00/91	
Final Action	07/26/91	
Final Action Effective	07/26/91	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Sectors Affected: Multiple

Agency Contact: Daniel A. Searing, Attorney, Department of Justice, Civil Rights Division, Coordination and Review Section, Civil Rights Division, Washington, DC 20530, 202 307-2215

RIN: 1190-AA21

DEPARTMENT OF JUSTICE (DOJ)
Civil Rights Division (CRT)

Final Rule Stage

1580. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Legal Authority: 42 USC 6103

CFR Citation: 28 CFR 42, Subpart I (New)

Legal Deadline: None

Abstract: This regulation will implement the Age Discrimination Act of 1975, as amended, in programs or activities assisted by the Department of Justice (DOJ). The statute, 42 USC 6103(a)(4), requires that Federal agencies providing Federal financial assistance promulgate implementing regulations consistent with the general regulations issued by the Secretary of Health and Human Services (HHS), and the statute provides that such agency regulations shall not be effective until approved by HHS. In 1980 the proposed rule was published for comment, modified, approved by the DOJ Office of Legal Counsel, and on November 10, 1980 a draft final rule was forwarded to HHS for approval. On July 13, 1984 HHS conditionally approved the draft regulation. On August 12, 1987 DOJ submitted to HHS a draft final regulation.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	06/18/80	45 FR 32710
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: William E. Wardlaw, Attorney, Coordination and Review Section, Department of Justice, Civil Rights Division, P.O. Box 66118, Washington, DC 20035-6118, 202 724-2217

RIN: 1190-AA03

DEPARTMENT OF JUSTICE (DOJ)
Drug Enforcement Administration (DEA)

Final Rule Stage

1581. PRESCRIPTIONS FOR CONTROLLED SUBSTANCES, REQUIREMENTS FOR USE OF AUTOMATED DATA PROCESSING SYSTEMS

Significance: Agency Priority

Legal Authority: 21 USC 821; 21 USC 829; 21 USC 871(b)

CFR Citation: 21 CFR 1306.21; 21 CFR 1306.22; 21 CFR 1306.26; 21 CFR 1306.31

Legal Deadline: None

Abstract: This rule will amend existing regulations concerning the maintenance and retrieval of controlled substance prescription information stored in automated data processing systems. The rule is intended to clarify and simplify existing requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/05/89	54 FR 36815
NPRM Comment Period End	11/24/89	54 FR 43436
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: G. Thomas Gitchel, Chief, State and Industry Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration, Washington, DC 20537, 202 307-7297

RIN: 1117-AA03

1582. PRESCRIPTIONS FOR CONTROLLED SUBSTANCES IN SCHEDULE II FOR PATIENTS IN LONG TERM CARE FACILITIES AND THE TERMINALLY ILL

Significance: Agency Priority

Legal Authority: 21 USC 821; 21 USC 829; 21 USC 871(b)

CFR Citation: 21 CFR 1306.02; 21 CFR 1306.05; 21 CFR 1306.11; 21 CFR 1306.13

Legal Deadline: None

Abstract: This rule will amend portions of the regulations relating to the issuing and filling of Schedule II prescriptions for patients in Long Term Care Facilities or to those that are terminally ill. It proposes to allow certain Schedule II prescriptions to be partially filled, and to allow a physician medication order sheet to be used as a prescription for patients in a Long Term Care Facility.

Timetable:

Action	Date	FR Cite
NPRM	03/16/89	54 FR 11006
NPRM Comment Period End	05/25/89	54 FR 17769
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: G. Thomas Gitchel, Chief, State and Industry Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration, Washington, DC 20537, 202 307-7297

RIN: 1117-AA04

1583. AUTHORITY TO MAKE INSPECTIONS

Significance: Agency Priority

Legal Authority: 21 USC 822(f); 21 USC 830(a)(2); 21 USC 871(b); 21 USC 880; 21 USC 958; 21 USC 958(f)

CFR Citation: 21 CFR 1316.02

Legal Deadline: None

Abstract: This rule will amend the regulations concerning administrative inspections to set forth DEA's authority to inspect persons required to keep records and file reports pursuant to the Chemical Diversion and Trafficking Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	10/04/89	54 FR 40866
NPRM Comment Period End	11/20/89	54 FR 40866
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: G. Thomas Gitchel, Chief, State and Industry Section, Office of Diversion Control, Department of Justice, Drug Enforcement

DOJ—DEA — Final Rule Stage

Administration, Washington, DC 20537, 202 307-7297

RIN: 1117–AA05

1684. ● TRANSFER OF GLUTETHIMIDE FROM SCHEDULE III TO SCHEDULE II

Significance: Agency Priority

Legal Authority: 21 USC 811; 21 USC 812; 21 USC 871(b)

CFR Citation: 21 CFR 1308.12; 21 CFR 1308.13

Legal Deadline: None

Abstract: Transfer glutethimide from Schedule III to Schedule II of the Controlled Substances Act. This action will impose the regulatory control mechanisms and criminal sanctions of Schedule II on the manufacture, distribution and possession of the substance, glutethimide.

Timetable:

Action	Date	FR Cite
NPRM	07/26/90	55 FR 30472
NPRM Comment Period End	09/24/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Howard McClain, Jr., Chief, Drug Control Section, Department of Justice, Drug Enforcement Administration, Washington, DC 20537, 202 307-7183

RIN: 1117–AA06

DEPARTMENT OF JUSTICE (DOJ)
General Administration (DOJADM)

Prerule Stage

1585. EXPEDITED DEPORTATION PROCEEDINGS FOR ALIENS CONVICTED OF AGGRAVATED FELONIES

Significance: Agency Priority

Legal Authority: 8 USC 1101(a)(43); 8 USC 1252(a)(1) to (2); 8 USC 1252a; 8 USC 1254(e)(1)(2); 8 USC 1251(a)(4)(B)

CFR Citation: 8 CFR 3.39; 8 CFR 3.40; 8 CFR 3.41; 8 CFR 3.42; 8 CFR 3.43; 8 CFR 3.44; 8 CFR 3.45; 8 CFR 3.46; 8 CFR 3.47

Legal Deadline: None

Abstract: The proposed regulation will establish procedures for implementing sections 101(a)(43); 242(a)(1) and (2); 242(k); 244(e)(1) and (2); and 241(a)(4)(B) of the Immigration and Nationality Act as amended by the Anti-Drug Abuse Act of 1988. Specifically, these regulations will add a new Subpart D to 8 CFR Part 3 which will provide expedited deportation proceedings for aliens convicted of crimes defined as aggravated felonies in section 101(a)(43) of the Act.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald S. Hurwitz, Counsel to the Director, Department of Justice, Suite 2400, 5107 Leesburg Pike, Falls Church, VA 22041, 703 756-6470

RIN: 1103–AA22

1586. DEBT COLLECTION

Significance: Agency Priority

Legal Authority: 5 USC 5514; 5 USC 3716

CFR Citation: 28 CFR 11

Legal Deadline: None

Abstract: This change provides the Department with procedures to collect debts by salary offset from current employees and from former Department employees who work for other Government agencies.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/90	
ANPRM Comment Period End	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James E. Williams, Director, Finance Staff, Justice Management Division, Department of Justice, 601 D Street, NW., Washington, DC 20530, 202 501-6964

RIN: 1103–AA23

DEPARTMENT OF JUSTICE (DOJ)
General Administration (DOJADM)

Proposed Rule Stage

1587. DETERMINATION FOR ACCESS TO NATIONAL SECURITY INFORMATION: ELIGIBILITY, ADJUDICATION, AND APPEAL PROCEDURES

Legal Authority: EO 12356; Information Security Oversight Office Directive No. 1

CFR Citation: 28 CFR 17

Legal Deadline: None

Abstract: To establish procedures for granting, denying, suspending, and revoking access to national security information originated by, or in the control of, the Department of Justice.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: D. Jerry Rubino, Director, Security and Emergency Planning Staff, Department of Justice, Justice Management Division, 10th & Constitution Avenue, NW., Washington, DC 20530, 202 514-2094

RIN: 1103–AA18

DEPARTMENT OF JUSTICE (DOJ)
General Administration (DOJADM)

Final Rule Stage

1566. PROCEDURES FOR COLLECTION OF PAST DUE LEGALLY ENFORCEABLE DEBT THROUGH FEDERAL TAX REFUND OFFSET

Legal Authority: 31 USC 3720A; 31 USC 3718; 26 USC 506; 26 USC 510

CFR Citation: 28 CFR 11

Legal Deadline: None

Abstract: The proposed rule will revise an interim final rule published on March 9, 1989, which established procedures for referring to the Department of Treasury debts for collection by offset against Federal Income Tax Refunds. Treasury's rules for offsets against tax refunds are limited to the period January 1, 1986, through January 10, 1994. The proposed rule will broaden the scope of coverage by including organizations and entities in addition to individual debtors, and by including debts that are past due and legally enforceable but not reduced to judgment in addition to debts that have been reduced to judgment.

Timetable:

Action	Date	FR Cite
NPRM	06/13/88	53 FR 22028
Interim Final Rule	03/09/89	54 FR 9879
Interim Final Rule Effective	03/09/89	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Imogene McCleary, Special Assistant to the Director, Department of Justice, Debt Collection Management, Justice Management Division, Room 1121, 10th & Const. Ave. NW., Washington, DC 20530, 202 514-5345

RIN: 1103-AA16

1568. REPRESENTATION AND APPEARANCES

Significance: Agency Priority

Legal Authority: 8 USC 1103; 8 USC 1362

CFR Citation: 8 CFR 292.1

Legal Deadline: None

Abstract: The revisions to 8 CFR 292.1 permit first- and second-year law students in clinical programs at accredited law schools to appear in immigration proceedings. Such appearance shall be at the discretion of the deciding official and under professional supervision. This expands the former regulation which authorized such appearances for third-year law students only. In addition, law graduates not yet admitted to the bar may continue to represent clients in immigration proceedings with certain new limitations. A law graduate may appear under supervision of a licensed attorney or accredited representative, and only within the context of pro bono representation. As with law students, a law graduate is permitted to appear at the discretion of the deciding official.

The purpose of these regulations is to expand the pool of competent, properly supervised representatives for individuals who might not otherwise obtain such representation.

Timetable:

Action	Date	FR Cite
NPRM	03/22/90	55 FR 10820
NPRM Comment Period End	04/23/90	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald S. Hurwitz, Counsel to the Director, Department of Justice, Suite 2400, 5107 Leesburg Pike, Falls Church, VA 22041, 703 756-6470

RIN: 1103-AA21

DEPARTMENT OF JUSTICE (DOJ)
General Administration (DOJADM)

Completed Actions

1560. ALIENS AND NATIONALITY, ASYLUM AND WITHHOLDING OF DEPORTATION PROCEEDINGS

Significance: Agency Priority

CFR Citation: 8 CFR 208.10

Completed:

Reason	Date	FR Cite
Withdrawn - no further action will be taken	08/15/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald S. Hurwitz 703 756-6470

RIN: 1103-AA19

1561. ● JUSTICE ACQUISITION REGULATIONS TITLE 48 JUSTICE ACQUISITION CIRCULAR 90-1

Legal Authority: 28 USC 510; 40 USC 486(c)

CFR Citation: 48 CFR 2804.9, (New); 48 CFR 2804.900, (New); 48 CFR 2804.901, (New); 48 CFR 2804.903, (New); 48 CFR 2804.903-70, (New); 48 CFR 2804.970, (New)

Legal Deadline: None

Abstract: 48 CFR 2804.9, 48 CFR 2804.900, 48 CFR 2804.901, 48 CFR 2804.903, and 48 CFR 2804.903-70. These rules add procedures which implement the reporting requirements of 26 USC 6050M for information reporting to the Internal Revenue Service.

48 CFR 2804.970. This rule implements the special reporting exceptions to the 26 USC 6050M reporting requirements. The special reporting exceptions to section 6050M were added for contracts relating to confidential law enforcement or foreign counterintelligence activities.

Timetable:

Action	Date	FR Cite
Final Action	04/16/90	55 FR 14093
Final Action Effective	04/16/90	55 FR 14068

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: W.L. Vann, Procurement Executive, Department of Justice, Justice Management Division.

DOJ—DOJADMI

Completed Actions

633 Indiana Avenue, NW., Room 542, Washington, DC 20530, 202 514-2068
RIN: 1103–AA24

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS)

Prerule Stage

1552. PILOT STUDY OF A TELEPHONE VERIFICATION SYSTEM FOR EMPLOYERS TO VERIFY THE IMMIGRATION STATUS OF ALIEN EMPLOYEES

Legal Authority: Section 274A(b) of the Immigration and Nationality Act

CFR Citation: None

Legal Deadline: None

Abstract: The INS presently is seeking a redelegation to the Attorney General of the President's authority under section 274A(d) of the INA so that INS can be permitted to conduct demonstration projects to evaluate the effectiveness and security of the employment verification system required by 8 CFR 274a.2 pursuant to section 274A(b) of the INA, and be able to recommend or implement such changes as are necessary to establish a more secure system.

Timetable:

Action	Date	FR Cite
Notice	06/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: INS Number 1230-89

Agency Contact: Neville W. Cramer, Deputy Assistant Commissioner, Employer and Labor Relations/SAVE Branch, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7025, Washington, DC 20536, 202 514-2317

RIN: 1115–AB57

1553. ● ENGLISH LANGUAGE/AMERICAN HISTORY AND CIVICS, STANDARDIZED NATURALIZATION TEST

Legal Authority: 8 USC 1101

CFR Citation: 8 CFR 312

Legal Deadline: None

Abstract: The purpose of this notice is to announce an Immigration and Naturalization Service (INS) plan to implement a standardized test for naturalization applicants, and request comments from entities who are capable and interested in implementing such tests for this effort.

Timetable:

Action	Date	FR Cite
Public Notice	07/13/90	55 FR 28836
Public Comments Due to INS	08/13/90	55 FR 28836
Educational Requirements for Naturalization Will Follow	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: INS Number 1275-90

Agency Contact: Thomas E. Cook, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 514-3948

RIN: 1115–AB88

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS)

Proposed Rule Stage

1554. NONIMMIGRANT CLASSES; SPECIAL REQUIREMENTS FOR ADMISSION; EXTENSION AND MAINTENANCE OF STATUS

Legal Authority: 8 USC 1101(a)(15)(B); 8 USC 1184

CFR Citation: 8 CFR 214.2(b)

Legal Deadline: None

Abstract: This notice announces the intent of the Immigration and Naturalization Service ("the Service") to set forth, in regulatory form, the special requirements for admission, extension and maintenance of status of nonimmigrant alien visitors for business and visitors for pleasure. Much of the Service's written policy relating to this subject is now contained in the Service's Operations Instructions at O.I. 214.2(b). Because it is more appropriate for interpretations and rules to be set forth in regulatory form, this information will become part of 8 CFR 214. In addition, the proposed rulemaking will clarify the criteria for according B-1 classification to members of certain occupations (such as participants in religious programs and members of foreign film crews). By issuing this advance notice, the Service is providing an opportunity to the public to submit comments and make suggestions at an earlier stage of the process. This will result in a proposed rule which is more comprehensive in its scope and more understandable to the public.

Timetable:

Action	Date	FR Cite
ANPRM	10/01/87	52 FR 36783
ANPRM Comment Period End	11/16/87	52 FR 36783
NPRM	10/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1025-89

Agency Contact: Michael L. Shaul, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street,

DOJ—INS

Proposed Rule Stage

NW., Washington, DC 20536, 202 514-2648

RIN: 1115–AA86

1585. PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

Legal Authority: 8 USC 1103; 8 USC 1154; 8 CFR 2

CFR Citation: 8 CFR 204.4(c)

Legal Deadline: None

Abstract: This regulation will impact Service administration and public awareness on issues concerning "Subsequent Petition by Same Petitioner for Same Beneficiary."

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1208-90

Agency Contact: Yolanda Sanchez-K., Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 514-5014

RIN: 1115–AB12

1586. PROSECUTION FOR ESCAPE FROM SERVICE CUSTODY

Legal Authority: PL 100-690

CFR Citation: 8 CFR 242

Legal Deadline: None

Abstract: The regulation will create implementing language for that section of the Anti-Drug Abuse Act of 1988 that makes escape, attempted escape, or assisting in an escape from Service custody a misdemeanor offense.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1213-89 (Cross reference with INS Number 1228-90)

Agency Contact: Carol Jenifer, Detention and Deportation Officer, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 514-2278

RIN: 1115–AB15

1587. CONDITIONS FOR RELEASE FROM CUSTODY AND/OR BOND AND FOR CHANGE OF VENUE

Legal Authority: 8 USC 1103; 8 USC 1362; 28 USC 509; 28 USC 510; 28 USC 1746; 5 USC 301; 8 USC 1182; 8 USC 1252; 8 USC 1254; 8 USC 1362; EO 12356; 100 Stat 3359; PL 99-145, Title I

CFR Citation: 8 CFR 3; 8 CFR 242

Legal Deadline: None

Abstract: This rule sets forth minimum conditions which an alien who has been placed in custody following the issuance of an order to show cause and a warrant of arrest must meet in order to be considered for release from custody and/or bond: It sets similar conditions which an alien in deportation proceedings must meet in order to obtain a change of venue.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1214-89

Agency Contact: Lolita Semidey, Attorney, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 514-2895

RIN: 1115–AB16

1588. NONIMMIGRANT CLASSES

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1186a; 8 USC 1187

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This regulation amends regulations relating to temporary treaty traders and investors under 101 (a)(15)(E) of the INA. It further expands and clarifies current regulations for greater public understanding.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1203-90

Agency Contact: Pearl Chang, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 514-3249

RIN: 1115–AB26

1589. NONIMMIGRANT CLASSES

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 CFR 2

CFR Citation: 8 CFR 214.2(k)

Legal Deadline: None

Abstract: This rule will impact Service Administration and public awareness concerning issues related to fiancees and fiances of United States citizens.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1204-90

Agency Contact: Yolanda Sanchez-K., Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 514-5014

RIN: 1115–AB31

1600. PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

Legal Authority: 8 USC 1103; 8 USC 1154; 8 CFR 2

CFR Citation: 8 CFR 204.2(c)(8); 8 CFR 204.1(a)(2)(iii)

Legal Deadline: None

Abstract: This regulation will impact Service Administration and public awareness concerning issues related to "Relationship by Adoption."

Timetable:

Action	Date	FR Cite
NPRM	05/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1236-90

Agency Contact: Yolanda Sanchez-K., Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 514-5914

RIN: 1115–AB57

1601. DOCUMENTARY REQUIREMENTS; NONIMMIGRANTS; NONRESIDENT ALIEN BORDER CROSSING CARD

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1223; 8 USC 1225; 8 USC 1226; 8 USC 1252; 8 USC 1301; 8 USC 1302; 8 USC 1303; 8 USC 1252; 8 USC 1258; ...

CFR Citation: 8 CFR 212; 8 CFR 235; 8 CFR 245; 8 CFR 264; 8 CFR 289

Legal Deadline: None

Abstract: Standardize procedures governing issuance of border crossing cards to aliens who are citizens and residents of Mexico. The rule also relates to issues and procedures for inspecting an alien who presents a border crossing card and the eligibility of an alien who entered the United States with a border crossing card to adjust status in the United States.

Timetable:

Action	Date	FR Cite
NPRM	08/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1235-90

Agency Contact: Donna Kay Barnes, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7123, Washington, DC 20536, 202 514-2725

RIN: 1115–AE58

1602. NONIMMIGRANT CLASSES; SPECIAL REQUIREMENT FOR ADMISSION, EXTENSION AND MAINTENANCE OF STATUS, CONTROL OF EMPLOYMENT OF ALIEN

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1186a

CFR Citation: 8 CFR 214.2; 8 CFR 274a.12

Legal Deadline: None

Abstract: Collaborative effort with INS, Department of State and Department of Defense on revising Service regulations relating to employment authorization for dependents of certain principal aliens in NATO status. The revision is to clarify the current regulations and bring them more into alignment with the A and G regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1234-89

Agency Contact: Jack Tabaka, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7122, Washington, DC 20536, 202 514-3240

RIN: 1115–AB52

1603. CONDITIONAL BASIS OF LAWFUL PERMANENT RESIDENCE STATUS FOR CERTAIN ALIEN SPOUSES AND SONS AND DAUGHTERS

Legal Authority: 66 Stat 163; 66 Stat 173; 66 Stat 179; 66 Stat 184; 66 Stat 217; 66 Stat 100; 100 Stat 3537; 8 USC 1101; 8 USC 1103; 8 USC 1154; 8 USC 1184; 8 USC 1186a

CFR Citation: 8 CFR 216.4(a)(2); 8 CFR 216.5; 8 CFR 204

Legal Deadline: None

Abstract: This regulation conforms with contemporary Service interpretation of the statute, as amended by the Immigration Marriage Fraud Amendments of 1986 (IMFA). This proposed rule will revise various procedures in 8 CFR 216. It also amends 8 CFR 204 which defines when an alien is in proceedings to agree with the Rules of Procedure for Immigration Judge Proceedings, 8 CFR 3.12. These regulations will assist in Service administration and will clarify procedures established during the three years of IMFA.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1239-90

Agency Contact: Yolanda Sanchez-K., Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7223, Washington, DC 20536, 202 514-5914

RIN: 1115–AB61

1604. REFUGEE TRAVEL DOCUMENTS

Legal Authority: 8 USC 1102; 8 USC 1103; 8 USC 1181; 8 USC 1182; 8 USC 1186a; 8 USC 1203; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1251

CFR Citation: 8 CFR 223; 8 CFR 223a

Legal Deadline: None

Abstract: In response to the Anti-Drug Act of 1988 which restricts issuance of United States passports to individuals charged with drug offenses, this regulation will prohibit the issuance of refugee travel documents to refugees who are charged with a drug-related offense.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1240-90

Agency Contact: Yolanda Sanchez-K., Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7223, Washington, DC 20536, 202 514-5914

RIN: 1115–AB62

1605. FIELD OFFICERS; POWERS AND DUTIES; SUBPOENA

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1225; 8 USC 1226; 8 USC 1251; 8 USC 1252; 8 USC 1357; 8 CFR 2

DOJ—INS

Proposed Rule Stage

CFR Citation: 8 CFR 287.4

Legal Deadline: None

Abstract: This rule amends regulations by permitting service of a subpoena to be made by an immigration officer except when the subpoena is issued by a special inquiry officer on behalf of a party other than the Immigration and Naturalization Service.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1242-90

Agency Contact: Ira L. Frank, Senior Special Agent, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 2207, Washington, DC 20536, 202 514-0747

RIN: 1115–AB63

1605. CHANGE OF ADDRESS NOTIFICATION; IMMIGRATION FORMS

Legal Authority: 8 USC 1103; 8 USC 1305; 8 CFR 2

CFR Citation: 8 CFR 265.1

Legal Deadline: None

Abstract: This rule will amend the current regulation by dictating that unless exempt by statute, all aliens including applicants for Legalization, Special Agricultural Workers and Replenishment Agricultural Workers must report new address and changes of address on Form AR-11.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1245-90

Agency Contact: Ira L. Frank, Senior Special Agent, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 2207, Washington, DC 20536, 202 514-0747

RIN: 1115–AB65

1607. CHANGES TO CHAPTER 15 OF THE U.S.-CANADA FREE-TRADE AGREEMENT

Legal Authority: PL 100-449

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This notice informs the public of proposed changes to Annex 1502.1 to Chapter 15 of the FTA. Public notification complies with the wishes of Congress that any changes or additions to Chapter 15 be announced publicly with time allowed for comment. The changes to Annex 1502.1 of the FTA will be incorporated into regulations.

Timetable:

Action	Date	FR Cite
ANPRM	02/26/90	55 FR 6694
ANPRM Comment Period End	04/27/90	55 FR 6694
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1258-90

Agency Contact: Edward H. Skarratt, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7122, Washington, DC 20536, 202 514-3048

RIN: 1115–AB72

1606. IMMIGRATION USER FEE FOR PERSONS ENTERING THE UNITED STATES FROM CONTIGUOUS TERRITORY AND ADJACENT ISLANDS

Legal Authority: 8 USC 1356

CFR Citation: 8 CFR 286

Legal Deadline: None

Abstract: This action would be issued subsequent to the passage of a bill amending section 286 to establish an immigration user fee for services for persons entering the United States from contiguous territory and adjacent islands.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1263-90

Agency Contact: Donna Kay Barnes, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7123, Washington, DC 20536, 202 514-3048

RIN: 1115–AB78

1608. PETITION TO CLASSIFY AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

Legal Authority: 8 USC 1103; 8 USC 1154; 8 CFR 2

CFR Citation: 8 CFR 204.5(b)

Legal Deadline: None

Abstract: This rule will provide procedures for filing a petition to classify an immigrant as an immediate relative of a U.S. citizen.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1270-90

Agency Contact: Yolanda Sanchez-K., Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7223, Washington, DC 20536, 202 514-3014

RIN: 1115–AB79

1610. DEFINITION OF CREWMAN

Legal Authority: 8 USC 1356

CFR Citation: 8 CFR 252.1

Legal Deadline: None

Abstract: This action would expand the definition of crewman to include supernumeraries and clearly delineate the tasks which crewmen may perform. Publication of this regulation is contingent upon passage of bill by Congress which redefines crewman.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

DOJ—INS

Proposed Rule Stage

Additional Information: INS Number 1305-90

Cross reference INS Number 1209-90

Rule pending outcome of HR 2236

Agency Contact: Donna Kay Barnes, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7123, Washington, DC 20536, 202 514-3288

RIN: 1115-AB89

1611. CERTIFICATE OF NATURALIZATION

Legal Authority: 8 USC 1449

CFR Citation: 8 CFR 338.11; 8 CFR 338.12

Legal Deadline: None

Abstract: This regulation removes the restriction that the court must maintain hard copy records and allows for maintenance of electronic records. In addition, INS will accept computer generated hard copy records which will streamline administrative court functions, improve service to petitioners, and benefit INS which must work with the court to effect naturalization hearings.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1287-90

Additional Contact: Tom Cook

Agency Contact: Raymond Jarocaski, Jr., Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7228, Washington, DC 20536, 202 514-3048

RIN: 1115-AB94

1612. PETITIONS FOR PROSPECTIVE IMMIGRANT EMPLOYEES

Legal Authority: 8 USC 1103; 8 USC 1154; 8 USC 1182

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This regulation provides for reorganization of regulatory material pertaining to third and sixth preference visa petitions with incorporation of precedential material and Service policy.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1256-90

Agency Contact: Edward H. Skarrett, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7122, Washington, DC 20540, 202 514-3946

RIN: 1115-AB85

1613. ● SUSPENSION OR DISBARMENT

Legal Authority: 8 USC 1103; 8 USC 1362; 8 CFR 2

CFR Citation: 8 CFR 292

Legal Deadline: None

Abstract: The proposed rule subjects attorneys and representatives to suspension or disbarment from practice before the Immigration and Naturalization Service (INS) if they are found to have violated the American Bar Association Model Rules of Professional Conduct. Moreover, it implements the goal of the Service to set high standards of conduct for attorneys and representatives in their dealings with the agency.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS Number 1291-90

Agency Contact: Ira Frank, Senior Special Agent, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 2237, Washington, DC 20536, 202 514-6747

RIN: 1115-AB87

1614. ● PROGRESSIVE CLEARANCE

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1221; 8 USC 1222; 8 USC 1229

CFR Citation: 8 CFR 231.1(c)

Legal Deadline: None

Abstract: Current regulations allow for the inspection of arriving passengers to be deferred at the request of the carrier to an onward port of debarkation. This may allow latitude in the reboarding of previously cleared passengers who arrived on a similarly designated flight, thus creating a commingling of international and domestic passengers. This regulation would more clearly define a progressive flight.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1303-90

Agency Contact: Richard Gottlieb, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7123, Washington, DC 20536, 202 514-2725

RIN: 1115-AB90

1615. ● VISA WAIVER PILOT PROGRAM (SECOND PROGRAM)

Legal Authority: Immigration and Nationality Act, Sec 217; 8 USC 1368

CFR Citation: 8 CFR 217

Legal Deadline: None

Abstract: It is anticipated that legislation will be passed to have a waiver program (similar to the Visa Waiver Pilot Program) when the present Visa Waiver Pilot Program terminates on September 30, 1991.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1300-90

Agency Contact: Y. Peggy Wang, Acting Deputy Assistant Commissioner, Inspections, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7123, Washington, DC 20536, 202 514-4033

RIN: 1115-AB93

1615. ● STUDENT EMPLOYMENT AUTHORIZATION PROCEDURES

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC [illegible]; 8 USC [illegible]; 8 USC 1187; 8 CFR 2

CFR Citation: 8 CFR 214; 8 CFR 274a

Legal Deadline: None

Abstract: The rule amends the student employment authorization procedures to conform with the implementing regulations of the Immigration Reform and Control Act of 1986. Form I-538, which is currently used by students to apply for employment authorization, will be replaced by Form I-765. Students seeking employment must apply to the Immigration and Naturalization Service for an Employment Authorization Document (EAD).

Timetable:

Action	Date	FR Cite
NPRM	07/13/90	55 FR 28767
NPRM Comment Period End	08/13/90	55 FR 28767
Correction to NPRM	08/20/90	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS Number 1261-90

Agency Contact: Paul Chang, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7122, Washington, DC 20536, 202 514-3048

RIN: 1115-AB84

1617. ● NONIMMIGRANT CLASSES, SCHOOL APPROVALS AND REPORTING REQUIREMENTS

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This rule revises regulations to conform with the redesign of the Student School Database. INS is redesigning the STSC to improve data accuracy and to reduce the paperwork load for school officials.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Additional Information: INS Number 1301-90

Agency Contact: Pearl B. Chang, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7122, Washington, DC 20536, 202 514-3048

RIN: 1115-AE67

1618. ● WAIVER OF GROUNDS OF EXCLUSION FOR CERTAIN MENTAL CONDITIONS

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1187; 8 USC [illegible]; 8 USC [illegible]; 8 USC 1225; 8 USC 1226

CFR Citation: 8 CFR 212.7(b)(5)(i)(A)(1)

Legal Deadline: None

Abstract: The rule will modify current regulations to allow for psychological testing when determining waivers for grounds of excludability regarding mental retardation.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1304-90

Agency Contact: Richard Gottlieb, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7128, Washington, DC 20536, 202 514-2725

RIN: 1115-AC01

1619. ● APPREHENSION, CUSTODY AND DETENTION; ISSUANCE OF SERVICE DETAINERS (FORM I-247); FIELD OFFICERS; POWERS AND DUTIES

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC [illegible]; 8 USC [illegible]; 8 USC [illegible]; 8 USC [illegible]; 8 USC 1254; 8 USC 1362; 8 CFR 2; 8 USC 1225; 8 USC [illegible]; 8 USC [illegible]

CFR Citation: 8 CFR 242; 8 CFR 287

Legal Deadline: None

Abstract: This rule removes the restriction prohibiting a Service officer from placing an Immigration Detainer—Notice of Action (Form I-247) against an alien who is an applicant or is eligible to apply for legalization or for Special Agricultural Worker (SAW) status, if amenable to exclusion or deportation from the United States.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS Number 1294-90

Agency Contact: Ira Frank, Senior Special Agent, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 2307, Washington, DC 20536, 202 514-3737

RIN: 1115-AC08

1620. ● IMMIGRATION AND NATIONALITY PETITIONS/APPLICATIONS; CERTIFICATION OF DOCUMENTS

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1304; 31 USC 9701; EO 12356; 47 FR 14874; 47 FR 15557; 3 CFR, 1982 Comp., p. 166; 8 CFR 2

CFR Citation: 8 CFR 103.2(b)(2)

Legal Deadline: None

Abstract: Action will propose to revise the requirement that all supporting documents submitted by individuals applying for immigration benefits be submitted accompanied by certified copies or that copies be certified by designated INS personnel at the time of receipt for retention with the petition(s) or application(s). Available statistics do not show a sufficiently significant number of rescission/revocation actions based on fraudulent claims to warrant continuing to require that all documents in support of a request for an immigration benefit be certified. The public will be less burdened with having to produce and pay for certified copies and will also have to spend less time standing in line at an INS office waiting for their documents to be read and matched for certification.

DOJ—INS

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1296-90

Agency Contact: Nina Conner, Information Management Specialist, Public Contact Section, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 5060, Washington, DC 20536, 202 514-5365

RIN: 1115–AC07

DEPARTMENT OF JUSTICE (DOJ)

Immigration and Naturalization Service (INS)

Final Rule Stage

1621. NONIMMIGRANT CLASSES; TEMPORARY EMPLOYEES

Significance: Regulatory Program

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1258

CFR Citation: 8 CFR 214.2(h)

Legal Deadline: None

Abstract: The Immigration Reform and Control Act of 1986 (IRCA) imposes sanctions against employers who hire aliens not authorized to work. Since many of the nation's agricultural employers have become dependent upon such workers to meet production and harvesting needs, Congress created the Special Agricultural Workers (SAW) Program and the Replenishment Agricultural Workers (RAW) Program to provide permanent resident status to certain agricultural workers. To clarify the process through which employers can employ nonimmigrant seasonal and temporary agricultural workers, Congress moved agricultural employment from H-2 classification into a separate H-2A class, and incorporated a labor certification process into the statute. This interim rule establishes special H-2A regulatory criteria. It supplements the Department of Labor's rules covering the temporary agricultural labor certification process. This rule amends Service regulations relating therefore to temporary alien workers seeking classification under section 101(a)(15)(H) of the Immigration and Nationality Act.

Timetable:

Action	Date	FR Cite
NPRM	05/08/86	51 FR 28576
NPRM Comment Period End	10/07/86	51 FR 28576
Interim Final Rule	06/01/87	52 FR 20554
Interim Rule Effective Date	06/01/87	52 FR 20554
Final Action	10/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1302-90 (Cross reference INS Number 1006-88)

Rule contingent upon Department of Labor final regulations

Agency Contact: Ed Skerrett, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 514-3014

RIN: 1115–AA25

1622. POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS; NONIMMIGRANT CLASSES

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1351; 8 USC 1454; 8 USC 1455

CFR Citation: 8 CFR 103.1(f)(1); 8 CFR 214.4

Legal Deadline: None

Abstract: This proposed rule would revise the procedures and authority to withdraw approval of a school to enroll foreign students.

Timetable:

Action	Date	FR Cite
NPRM	11/05/86	51 FR 40207
NPRM Comment Period End	01/05/87	51 FR 40207
Action at DOJ Awaiting Attorney General's Signature (5/19/90)	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number C-50

Agency Contact: Joanna London, Associate General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 514-2895

RIN: 1115–AA29

1623. ● TEMPORARY ALIEN WORKERS SEEKING CLASSIFICATION UNDER THE IMMIGRATION AND NATIONALITY ACT

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1186a

CFR Citation: 8 CFR 214

Legal Deadline: Final, Statutory, September 1, 1990.

Abstract: This rule implements the Immigration Nursing Relief Act of 1989 (INRA), Pub. L. 101-238, requirements as it relates to the Service's responsibilities for adjudicating petitions for H-1A classification, determining the eligibility of foreign nurses, and controlling their admission and period(s) of stay in the United States. This rule also contains technical amendments relating to requirements for other H nonimmigrant classifications. This rule will facilitate the hiring of alien nurses to reduce the critical shortage of nurses in the United States while protecting the rights of U.S. nurses.

Timetable:

Action	Date	FR Cite
Previous final rule dealing with temporary alien workers seeking classification under INA	01/26/90	55 FR 2606
INS rule Number 1269-90 effective	03/16/90	55 FR 10395
Related INS rule Number 1269-90 Adjustment of status; certain H-1 nonimmigrant nurses	03/21/90	55 FR 10395

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Final Rule Stage

Action	Date	FR Cite
Interim Final Rule	05/27/90	55 FR 21665
Interim Final Rule Effective	09/01/90	
Interim Final Rule Comment Period End	10/01/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS Number 1296-90 (Prior INS Number 1040-88)

Agency Contact: Elese T. Richardson, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7223, Washington, DC 20536, [illegible]

RIN: 1115-AA64

1624. CONTRACTS WITH TRANSPORTATION LINES

Legal Authority: 8 USC 1356

CFR Citation: 8 CFR 238.2(b); 8 CFR 238.3(b)

Legal Deadline: None

Abstract: This action would add or delete the names of airlines under those signatory to an agreement with the U.S. Government for the pre-flight inspection of passengers destined for the United States embarking from various designated foreign locations. In addition it would add or delete the names of transportation companies under those signatory to an agreement with the U.S. Government for the transporting of passengers in direct and continuous transit through the United States destined for a third country.

Timetable:

Action	Date	FR Cite
Final Action	01/17/90	55 FR 1678
Final Action Effective	01/17/90	55 FR 1678
At regular intervals updates to this listing will be made by the Immigration Service	10/31/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Numbers 1041-88; 1204-88; 1259-88

Agency Contact: Richard Gottlieb, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7125, Washington, DC 20536, 202 514-3228

RIN: 1115-AA88

1625. PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING AND APPEAL; SUSPENSION OF DEPORTATION AND VOLUNTARY DEPARTURE

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1251; 8 USC 1252; 8 USC 1254; 8 USC 1362; 8 CFR 2

CFR Citation: 8 CFR 212; 8 CFR 242; 8 CFR 244

Legal Deadline: None

Abstract: Amendments to procedural language describing the administrative procedures used by the Immigration and Naturalization Service in apprehension, custody, hearing, and appeal processes for aliens convicted of aggravated felonies. These changes are predicated upon the amendments to the Immigration and Nationality Act contained in the Anti-Drug Abuse Act of 1988 (Subtitle J-Provisions Relating to the Deportation of Aliens Who Commit Aggravated Felonies).

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/19/90	55 FR 24668
Interim Final Rule Comment Period End	07/19/90	55 FR 24668

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1209-88

Agency Contact: Ira L. Frank, Senior Special Agent, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, [illegible]

RIN: 1115-AB19

1626. APPLICATIONS, PETITIONS, AND OTHER DOCUMENTS—EVIDENCE

Legal Authority: 8 USC 1103

CFR Citation: 8 CFR 103.2(b)(2)

Legal Deadline: None

Abstract: This rule should resolve the issue of who certifies a copy of an original document.

Timetable:

Action	Date	FR Cite
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1203-89

Agency Contact: Raymond Jarecki, Jr., Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, [illegible]

RIN: 1115-AB25

1627. AVAILABILITY OF DECISIONS AND INTERPRETIVE MATERIAL UNDER THE FREEDOM OF INFORMATION ACT

Legal Authority: 5 USC 552(a); 8 USC 1101; 8 USC 1103; 8 USC 1252; 8 USC 1307; 8 USC 1302; 8 USC 1303; 8 USC 1304; 8 USC 1305; 8 USC 1351; 8 USC 1443; 8 USC 1454; 8 USC 1255; 28 USC 1746; 7 USC 2243

CFR Citation: 8 CFR 103.

Legal Deadline: None

Abstract: This rule proposes to eliminate the requirement to maintain a public reading room at each district office. Since public use has been minimal, INS proposes to maintain a reading room only at its Central Office in Washington, DC.

Timetable:

Action	Date	FR Cite
NPRM	01/21/89	54 FR 4820
NPRM Comment Period End	03/02/89	
Under Review by DOJ (11-21-89)	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: INS Number 1117-89

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Final Rule Stage

Agency Contact: Russell Powell, Chief, FOIA/PA Section, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 514-1722

RIN: 1115-AB36

1629. WAIVER OF CERTAIN TYPES OF VISAS

Legal Authority: 8 USC 1182; 8 USC 1103; 8 USC 1102; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 CFR 2

CFR Citation: 8 CFR 212.1

Legal Deadline: None

Abstract: This rule would enable INS inspectors to take action on nonimmigrant visa waivers at ports of entry with the presumed concurrence of the Department of State. It will save time for the DOS and INS and the traveling public.

Timetable:

Action	Date	FR Cite
Final Action	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1225-90

Agency Contact: Y. Peggy Wong, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7123, Washington, DC 20536, 202 514-8323

RIN: 1115-AB40

1625. TRANSIT WITHOUT VISA

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 CFR 2

CFR Citation: 8 CFR 212; 8 CFR 214; 8 CFR 238

Legal Deadline: None

Abstract: This rule will require that aliens being transported in immediate and continuous transit through the United States be in possession of the appropriate visa prior to application for admission. Further, the regulation will permit passenger arrivals in and departures from a single port of entry.

Timetable:

Action	Date	FR Cite
NPRM	01/05/90	55 FR 438
NPRM Comment Period End	02/05/90	55 FR 438
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1232-89

Agency Contact: Richard Gottlieb, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7123, Washington, DC 20536, 202 514-2725

RIN: 1115-AB45

1630. SUBPOENA ISSUANCE AUTHORITY

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1225; 8 USC 1226; 8 USC 1251; 8 USC 1252; 8 USC 1357

CFR Citation: 8 CFR 287

Legal Deadline: None

Abstract: This rule amends section 287.4(a)(1) and section 287.4(c) of Title 8 of the Code of Federal Regulations by adding the Assistant Chief Patrol Agent officer position to the lists of those Immigration officers who may issue and designate service of subpoenas under this section.

Timetable:

Action	Date	FR Cite
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1120-90

Agency Contact: William L. Bonnette, Jr., Deputy Chief, Border Patrol, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7232, Washington, DC 20536, 202 514-3078

RIN: 1115-AB46

1631. APPREHENSION, CUSTODY, AND DETENTION; CLARIFICATION OF FORCE AND EFFECT OF SERVICE DETAINERS (FORM I-247)

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1180a; 8 USC 1251; 8 USC 1252; 8 USC 1254; 8 USC 1362; 8 CFR 2

CFR Citation: 8 CFR 242.2

Legal Deadline: None

Abstract: This rule will clarify the force and effect of Service detainers and make clear that a Service detainer has no effect upon the alien or correctional institution until the alien has been released from the custody of the correctional institution.

Timetable:

Action	Date	FR Cite
NPRM	07/11/89	54 FR 29050
NPRM Comment Period End	08/10/89	54 FR 29050
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1219-89

Agency Contact: Ira L. Frank, Senior Special Agent, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7240, Washington, DC 20536, 202 514-8747

RIN: 1115-AB48

1632. EMPLOYMENT AUTHORIZATION FOR THE SPOUSE AND DEPENDENT CHILDREN OF AN EXCHANGE ALIEN

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: The rule will amend INS regulations relating to employment authorization for dependents of an exchange alien in J-1 visa classification. Amends existing regulations to require the use of the standard application form for employment authorization, Form I-765, by J-2 dependents.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1290-90

Agency Contact: Pearl B. Chang, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street,

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NW., Room 7122, Washington, DC 20536, 202 514-3048

RIN: 1115–AB50

1633. STATEMENT OF ORGANIZATION; PORTS OF ENTRY FOR ALIENS ARRIVING BY VESSEL OR BY LAND TRANSPORTATION, AND BY AIRCRAFT

Legal Authority: Section 103 of the Immigration and Nationality Act; 8 USC 1103

CFR Citation: 8 CFR 100

Legal Deadline: None

Abstract: Designates/redesignates Class A and B ports of entry for inspection of arriving aliens. The rule relates to agency management.

Timetable:

Action	Date	FR Cite
Final Action	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1238-89

Agency Contact: Richard Gottlieb, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7123, Washington, DC 20536, 202 514-2728

RIN: 1115–AB53

1634. POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS, CONTROL OF EMPLOYMENT OF ALIENS

Legal Authority: 5 USC 552(a); 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1303; 8 USC 1304; 8 USC 1305; 8 USC 1324a; 8 USC 1455; 31 USC 9701; EO 12356

CFR Citation: 8 CFR 103; 8 CFR 274a

Legal Deadline: None

Abstract: These provisions make it unlawful for a person or entity to knowingly hire, recruit or refer for a fee for employment in the United States, aliens that are not authorized to work in the United States. This rule provides technical as well as substantive amendments to parts 103 and 274a of title 8 of the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/25/90	55 FR 25928
Interim Final Rule Effective	06/25/90	55 FR 25928
Interim Final Rule Comment Period End	07/25/90	55 FR 25928
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1259-90

INS Number 1211-89, RIN 1115-AB23, has been consolidated into this rule.

Agency Contact: Michael J. Creppy, Acting Deputy General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7048, Washington, DC 20536, 202 514-2895

RIN: 1115–AB73

1635. TERMINATION OF TEMPORARY RESIDENT STATUS

Legal Authority: 8 USC 1103; 8 USC 1160; 8 CFR 2

CFR Citation: 8 CFR 210.2(e); 8 CFR 210.3(d); 8 CFR 210.4(d)

Legal Deadline: None

Abstract: This rule amends regulations concerning termination of temporary resident status granted to an alien as a Special Agricultural Worker. This rule will ensure that affected aliens are notified of the grounds alleged for termination of status and are given an opportunity to appeal any adverse decision.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/05/90	55 FR 12829
Interim Final Rule Effective	04/05/90	55 FR 12829
Interim Final Rule Comment Period End	06/07/90	55 FR 12829
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1250-90

Agency Contact: Janet Charney, Deputy Assistant Commissioner, Special Agricultural Worker Program, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 5230, Washington, DC 20536, 202 514-3161

RIN: 1115–AB74

1636. ADJUSTMENT OF STATUS; NURSES

Legal Authority: PL 101-238

CFR Citation: 8 CFR 245

Legal Deadline: NPRM, Statutory, March 18, 1990.
In accordance with PL 101-238 regulations must be promulgated 90 days after enactment of amendment or no later than March 18, 1990.

Abstract: This regulation implements sections of Public Law 101-238 by providing for adjustment of status, without regard to numerical limitations, for certain H-1 nurses.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	03/16/90	55 FR 10306
Interim Final Rule	03/21/90	55 FR 10306
Interim Final Rule Comment Period End	04/16/90	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1239-90

Agency Contact: Joseph D. Cuddihy, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7228, Washington, DC 20536, 202 514-3614

RIN: 1115–AB78

1637. INS/EOIR FEE REVIEW; I-912

Legal Authority: 5 USC 552(a); 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1301; 8 USC 1302; 8 USC 1303; 8 USC 1304; 8 USC 1305; 8 USC 1351; 8 USC 1443; 8 USC 1454; 8 USC 1455; 28 USC 1746; EO 12356; ...

CFR Citation: 8 CFR 103.7

Legal Deadline: None

Abstract: This rule proposes to amend the existing fee schedule of the Immigration and Naturalization Service and the Executive Office for

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Immigration Review (EOIR). These changes are necessary to place the financial burden of providing special services and benefits which do not accrue to the public at large on the recipients of these special services and benefits. Charges have been adjusted to more nearly reflect the current recovery cost of providing these special services and benefits, taking into account public policy and other pertinent facts.

Timetable:

Action	Date	FR Cite
NPRM	04/05/89	55 FR 12806
NPRM Comment Period End	05/07/90	55 FR 12806
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number H-90/1255-90

Agency Contact: Charles S. Thomason, Jr., Systems Accountant, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 5060, Washington, DC 20536, 202 514-4765

RIN: 1115-AB83

1638. CLAIMS TO ASYLUM OR WITHHOLDING OF DEPORTATION MADE BY ALIENS FLEEING COERCIVE FAMILY PLANNING POLICIES

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1158; 8 USC 1252; 8 USC 1223; 8 USC 1253; 8 USC 1283

CFR Citation: 8 CFR 208

Legal Deadline: None

Abstract: This rule amends 8 CFR 208 by providing that a claim to asylum or withholding of deportation may be based on persecution or a fear of persecution due to enforcement of any foreign nation's coercive population control policies of forced abortions or sterilization. These humanitarian provisions are necessary in order to provide protection for foreign nationals seeking asylum or withholding of deportation as a result of such policies. The changes will conform with the President's foreign policy and will provide guidance for adjudication of asylum and withholding of deportation claims.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/29/90	55 FR 2803
Interim Final Rule Effective	01/29/90	55 FR 2803
Interim Comment Period End	02/28/90	55 FR 2803
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

DOJ Order Number 1391-90

INS Number J-90

Agency Contact: Patricia A. Cole, Assistant General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7048, Washington, DC 20536, 202 514-2895

RIN: 1115-AB86

1639. ◆ OSC AND W/A ISSUANCE AUTHORITY

Legal Authority: 66 Stat 173; 66 Stat 206; 66 Stat 214; 66 Stat 235; 100 Stat 3537; 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1251; 8 USC 1252; 8 USC 1254; 8 USC 1362

CFR Citation: 8 CFR 242

Legal Deadline: None

Abstract: The rule will amend 8 CFR 242 to include the titles of Acting Chief Patrol Agent and Patrol Agent in Charge to the listing of officers who may issue orders to show cause and warrants of arrest.

Timetable:

Action	Date	FR Cite
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1290-90

Agency Contact: William L. Bennette, Jr., Acting Chief, Border Patrol, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 514-2973

RIN: 1115-AB81

1640. ◆ GUAM VISA WAIVER PROGRAM

Legal Authority: 8 USC 1182

CFR Citation: 8 CFR 212.1(e)

Legal Deadline: None

Abstract: This regulation adds the Republic of Korea to the Guam Visa Waiver Program, enabling its citizens to visit Guam for up to fifteen (15) days without first obtaining nonimmigrant visitor visas.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	
Final Action Effective	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS Number 1280-90

Agency Contact: Y. Peggy Wong, Acting Deputy Assistant Commissioner, Inspections, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7123, Washington, DC 20536, 202 514-4833

RIN: 1115-AB92

1641. ◆ APPLICANT PROCESSING FOR THE LEGALIZATION PROGRAM

Legal Authority: 8 USC 1103; 8 USC 1201; 8 USC 1201a; 8 USC 1301; 8 USC 1302; 8 USC 1303; 8 USC 1304; 8 USC 1305; 66 Stat 173; 66 Stat 191; 66 Stat 223; 66 Stat 224; 66 Stat 225; 77 Stat 641

CFR Citation: 8 CFR 210

Legal Deadline: None

Abstract: This rule will require those aliens adjusting from temporary resident status to permanent resident status pursuant to section 210(a)(2) of the INA, to submit the Form I-90 to the Director of the Service Center having jurisdiction over their place of residence.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS Number 1295-90

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Agency Contact: Janet Charney, Deputy Assistant Commissioner, Legalization, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 514-0100

RIN: 1115–AB96

1642. ● RESCISSION OF ADJUSTMENT OF STATUS

Legal Authority: 8 USC 1103; 8 USC 1254; 8 USC 1255; 8 USC 1256; 8 USC 1259; 66 Stat 173; 66 Stat 214; 66 Stat 217; 66 Stat 219

CFR Citation: 8 CFR 240

Legal Deadline: None

Abstract: This rule amends part 246 to grant authority to rescind adjustment of status from temporary to permanent residence to Directors of Service Centers and makes editorial changes necessitated by the passage of time and use of current Service terminology. This change operationally complements part 245a, which allows Directors of Service Centers to adjust to permanent resident status aliens who were granted temporary resident status pursuant to the Immigration Reform and Control Act of 1986.

Timetable:

Action	Date	FR Cite
Final Action	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS Number 1283-90

Agency Contact: Janet M. Charney, Deputy Assistant Commissioner, Legalization, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 5250, Washington, DC 20536, 202 514-0107

RIN: 1115–AB98

1643. ● POWERS AND DUTIES OF SERVICE OFFICERS; REGIONAL PROCESSING FACILITIES

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1304; 31 USC 9701; EO 12356; 47 FR 14874; 47 FR 15557; 3 CFR 1982 Comp., p. 166; 8 CFR 2

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: This rule amends 8 CFR 103 by placing the Service Center Directors under the direction of the Assistant Commissioner, Adjudications, and eliminates reference to Regional Processing Facility Directors and their authorities. These changes are needed to ensure uniform adjudication procedures and the administrative consolidation of the Regional Processing Facility under the authority of Service Center Directors. The consolidation of these functions under the direction of the Assistant Commissioner, Adjudications, ensures uniformity in adjudications and program management.

Timetable:

Action	Date	FR Cite
Final Action	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS Number 1284-90

Agency Contact: Jaime R. Cabanilla, Senior Immigration Examiner, Adjudications Divison, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 514-3240

RIN: 1115–AB99

1644. ● PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING AND APPEAL

Legal Authority: 8 USC 1101; 8 USC 1182; 8 USC 1186a; 8 USC 1251; 8 USC 1252; 8 USC 1254; 8 USC 1362; 8 CFR 2

CFR Citation: 8 CFR 242

Legal Deadline: None

Abstract: This rule implements changes to the Immigration and Nationality Act as amended by the Anti-Drug Abuse Act of 1988, Public Law 100-690. The rule establishes the procedures for deporting an alien serving a sentence for the conviction of an aggravated felony upon the request of the chief prosecutor or judge in whose jurisdiction the conviction occurred.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: INS Number 1287-90

Agency Contact: Ira L. Frank, Senior Special Agent, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 2207, Washington, DC 20536, 202 514-0747

RIN: 1115–AC00

1645. ● ALIENS AND NATIONALITY; EXCLUSION OF ALIENS; PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES; APPREHENSION, CUSTODY, HEARING AND APPEAL

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1183; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252

CFR Citation: 8 CFR 235; 8 CFR 242

Legal Deadline: None

Abstract: This rule provides for the use of word processing equipment by Service Officers in preparing the notice to applicant detained for hearing by an immigration judge, the order to show cause, and the warrant of arrest.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1285-90

Agency Contact: Lolita Semidey, Attorney, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7048, Washington, DC 20536, 202 514-1288

RIN: 1115–AC03

1646. ● POSTHUMOUS U.S. CITIZENSHIP FOR CERTAIN ALIENS; IMMIGRATION AND NATIONALITY FORMS; DISPLAY OF CONTROL NUMBERS; FEES

Legal Authority: 5 USC 522; 5 USC 522a; 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1302; 31 USC 9701; EO 12356; 47 FR 14874; 47 FR 15557; 3 CFR, 1982 Comp., p. 166; 8 CFR 2; 8 USC 1440 and note 1443

DOJ—INS

Final Rule Stage

CFR Citation: 8 CFR 308; 8 CFR 208; 8 CFR 223a; 8 CFR 499

Legal Deadline: Other, Statutory, March 5, 1990.
Application period to request posthumous citizenship ends two (2) years from 3/5/90 for service members who died before enactment; for those who die after enactment the application (Cont in A)

Abstract: The regulations will provide the procedure by which an alien or noncitizen national who served honorably on active duty with the U.S. Armed Forces during specified periods of military hostilities and who died as a result of injury or disease incurred in or aggravated by that service may be declared a citizen at the time of death.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1292-90

LEGAL DEADLINE DESCRIPTION CONT: period ends two (2) years from the date of death.

Interim Final Rule will allow for 30-day comment period.

Agency Contact: Barbara Matos, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7223, Washington, DC 20536, 202 514-3048

RIN: 1115-AC06

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS)

Completed Actions

1643. ASYLUM PROCEDURES

Significance: Regulatory Program

CFR Citation: 8 CFR 208; 8 CFR 236.3; 8 CFR 242.17(c); 8 CFR 243.3; 8 CFR 252.1(f); 8 CFR 3

Completed:

Reason	Date	FR Cite
Final Action - this RIN was merged with RIN 1115-AB27	07/27/89	55 FR 30674
Final Action Effective	10/01/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ralph B. Thomas 202 514-3228

RIN: 1115-AA13

1648. STATE EMPLOYMENT AGENCIES

Significance: Agency Priority

CFR Citation: 8 CFR 274a.6; 8 CFR 109

Completed:

Reason	Date	FR Cite
Interim Final Rule	11/09/87	52 FR 43099

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Michael J. Creppy 202 514-3295

RIN: 1115-AA30

1649. CERTIFICATES OF CITIZENSHIP

Legal Authority: 66 Stat 173; 66 Stat 238; 66 Stat 254; 66 Stat 264, as amended; 8 USC 1103; 8 USC 1408(c); 8 USC 1443; 8 USC 1444; 8 USC 1448; 8 USC 1452; 8 USC 1455; 8 CFR 2

CFR Citation: 8 CFR 341

Legal Deadline: None

Abstract: This rule provides citizenship certificate eligibility information that was inadvertently deleted from a portion of 8 CFR 341.7.

Timetable:

Action	Date	FR Cite
Final Action - corrects omission in INS Number 1048-88, 53 FR 22603	07/31/90	55 FR 31037
Final Action Effective	07/31/90	55 FR 31037

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Number 1276-90

Agency Contact: Thomas Cook, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7223, Washington, DC 20536, 202 514-3048

RIN: 1115-AA60

1650. IMMIGRATION AND NATIONALITY FORMS; G-641

CFR Citation: 8 CFR 103.7; 8 CFR 103.21; 8 CFR 299.1; 8 CFR 499.1

Completed:

Reason	Date	FR Cite
Final Action	04/05/90	55 FR 12828
Final Action Effective	05/05/90	55 FR 12828

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Nina Cramer 202 514-3965

RIN: 1115-AA66

1651. REPLENISHMENT AGRICULTURAL WORKERS REGULATIONS

Significance: Regulatory Program

CFR Citation: 8 CFR 210a

Completed:

Reason	Date	FR Cite
Final Action	05/21/90	55 FR 20971
Correction to Final Rule - 06/07/90; 55 FR 23345		
Final Action Effective	05/21/90	55 FR 20971

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Janet M. Charney 202 514-8195

RIN: 1115-AB05

1652. INS/EOIR FEE REVIEW

Significance: Agency Priority

CFR Citation: 8 CFR 103.7

DOJ—INS

Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	07/19/89	55 FR 29342
Final Action Effective	11/22/89	55 FR 29342

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Charles S. Thomason, Jr. 202 514-4705

RIN: 1115–AB11

1652. APPEALS, PRECEDENTS, CERTIFICATIONS, AND MOTIONS

CFR Citation: 8 CFR 103.1; 8 CFR 103.3; 8 CFR 103.4; 8 CFR 103.5

Completed:

Reason	Date	FR Cite
Final Action	05/21/90	55 FR 20767
Final Action Effective	06/20/90	55 FR 20767

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Simmons 202 376-2984

RIN: 1115–AB17

1654. ALIENS AND NATIONALITY

CFR Citation: 8 CFR 274a

Completed:

Reason	Date	FR Cite
Consolidated into RIN 1115-AB79	06/24/90	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Michael J. Creppy 202 514-2895

RIN: 1115–AB23

1655. ALIENS AND NATIONALITY; ASYLUM AND WITHHOLDING OF DEPORTATION PROCEDURES

Significance: Regulatory Program

CFR Citation: 8 CFR 208; 8 CFR 3; 8 CFR 236; 8 CFR 242; 8 CFR 253

Completed:

Reason	Date	FR Cite
Final Action	07/27/89	55 FR 30674
Final Action Effective	10/01/90	55 FR 30674

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Gerald S. Hurwitz 703 [illegible]

RIN: 1115–AB27

1656. NONIMMIGRANT CLASSES; SPECIAL REQUIREMENTS FOR ADMISSION, EXTENSION AND MAINTENANCE OF STATUS, CONTROL OF EMPLOYMENT OF ALIENS

CFR Citation: 8 CFR 214; 8 CFR 274a

Completed:

Reason	Date	FR Cite
Final Action	02/16/90	55 FR 5572
Final Action Effective	02/16/90	55 FR 5572

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Tabaka 202 514-3946

RIN: 1115–AB30

1657. JUDICIAL RECOMMENDATIONS AGAINST DEPORTATION; CONTROLLED SUBSTANCE VIOLATIONS

CFR Citation: 8 CFR 241

Completed:

Reason	Date	FR Cite
Final Action	03/27/90	55 FR 11150
Final Action Effective	04/26/90	55 FR 11151

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ira Frank 202 514-6747

RIN: 1115–AB33

1658. ALIENS IN IMMEDIATE AND CONTINUOUS TRANSIT

CFR Citation: 8 CFR 238.3; 8 CFR 212.1(f)

Completed:

Reason	Date	FR Cite
Withdrawn by program office	06/24/90	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Federal

Agency Contact: Richard Gottlieb 202 514-2725

RIN: 1115–AB42

1659. VERIFICATION OF IMMIGRATION STATUS OF ALIENS APPLYING FOR BENEFITS UNDER CERTAIN PROGRAMS

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn	06/24/90	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Federal

Agency Contact: Neville N. Cramer 202 514-2917

RIN: 1115–AB47

1660. COOPERATIVE AGREEMENT; QUALIFIED DESIGNATED ENTITIES (QDES) IN GOOD STANDING AUTHORIZED TO CONDUCT THE REGISTRATION OF PERSONS ABROAD SEEKING REPLENISHMENT AGRICULTURAL WORKER (RAW) STATUS

CFR Citation: 8 CFR 210a

Completed:

Reason	Date	FR Cite
Withdrawn by program office and OMB	06/24/90	

Small Entities Affected: Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: E. B. Duarte, Jr. 202 514-4123

RIN: 1115–AB54

1661. COMPUTER-MATCHING AGREEMENTS BETWEEN INS AND STATE AGENCIES USING INS'S SYSTEMATIC ALIEN VERIFICATION FOR ENTITLEMENTS (SAVE) PROGRAM

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn	06/24/90	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Neville W. Cramer 202 514-2917

RIN: 1115–AB58

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DOJ—INS

Completed Actions

1662. UNITED STATES HISTORY/GOVERNMENT QUESTIONS AND ANSWERS FOR ADJUSTMENT OF STATUS FROM TEMPORARY RESIDENT TO PERMANENT RESIDENT

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn	08/24/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Terrance M. O'Reilly 202 514-3196

RIN: 1115–AB59

1663. IMMIGRATION AND NATURALIZATION SERVICE USER FEE ADVISORY COMMITTEE MEETING

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn	08/24/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harvey Adler 202 514-2895

RIN: 1115–AB66

1664. APPLICANT PROCESSING FOR THE LEGALIZATION PROGRAMS; CONFORMING AMENDMENTS

CFR Citation: 8 CFR 324

Completed:

Reason	Date	FR Cite
Final Action	05/16/90	55 FR 20251
Final Action Effective	05/16/90	55 FR 20251

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Terrance M. O'Reilly 202 514-3196

RIN: 1115–AB67

1665. NEW EMPLOYMENT AUTHORIZATION DOCUMENT

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn by program office	08/24/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathryn E. Sheehan 202 514-3471

RIN: 1115–AB68

1666. VISA WAIVER PILOT PROGRAM

CFR Citation: 8 CFR 217

Completed:

Reason	Date	FR Cite
Withdrawn at agency request	08/14/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Y. Peggy Wong 202 514-4653

RIN: 1115–AB69

1667. IMMIGRATION USER FEE

CFR Citation: 8 CFR 286

Completed:

Reason	Date	FR Cite
Final Action	05/07/90	55 FR 18860
Final Action Effective	06/12/90	55 FR 18860

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles S. Thomason, Jr. 202 514-4765

RIN: 1115–AB71

1668. NONIMMIGRANT CLASSES; SPECIAL REQUIREMENTS FOR ADMISSION, EXTENSION AND MAINTENANCE OF STATUS; CONTROL OF EMPLOYMENT OF ALIENS

CFR Citation: 8 CFR 214; 8 CFR 274a

Completed:

Reason	Date	FR Cite
Final Action - this RIN was merged with RIN 1115-AB20 (INS No. 1125-90)	02/16/90	55 FR 5572
Final Action Effective	02/16/90	55 FR 5572

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Tabaka 202 514-3048

RIN: 1115–AB81

1669. INSPECTION OF PERSONS APPLYING FOR ADMISSION

CFR Citation: None

Completed:

Reason	Date	FR Cite
Notice	04/17/90	55 FR 14234

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cindy N. Lechner 202 514-5014

RIN: 1115–AB82

1670. ● RESIDENCE; PHYSICAL PRESENCE AND ABSENCE; RECOGNIZED AMERICAN INSTITUTES

Legal Authority: 8 USC 1103; 8 USC 1443; 8 CFR 2

CFR Citation: 8 CFR 316a

Legal Deadline: None

Abstract: This rule adds Iowa State University, the Solar Energy Research Institute (SERI) and the University of Alabama to the list of recognized American institutes conducting research abroad, in accordance with section 316(b) and 319(b) of the Immigration and Nationality Act, as amended. This rule will allow alien employees and alien spouses of U.S. citizen employees of Iowa State University, the Solar Energy Research Institute and the University of Alabama, if these employees are active in scientific research on behalf of their respective institutions, to be eligible for constructive residence for naturalization pursuant to the special residence requirements of section 316(b) and 319(b), respectively.

Timetable:

Action	Date	FR Cite
Final Action	07/31/90	55 FR 31036
Final Action Effective	07/31/90	55 FR 31036

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: INS Number 1276-90

Agency Contact: Raymond R. Jaroneski, Jr., Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 514-3048

RIN: 1115–AB89

1671. ● POWERS AND DUTIES OF SERVICE OFFICERS; PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES; APPREHENSION, CUSTODY, HEARING, AND APPEAL

Legal Authority: 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1304; 31 USC 9701; EO 12356; 47 FR 14874; 47 FR 15557; 3 CFR, 1982 Comp., p. 166; 8 CFR 2; 8 USC 1182; 8 USC 1225; 8 USC 1226; 8 USC 1357; ...

CFR Citation: 8 CFR 103; 8 CFR 242; 8 CFR 287

Legal Deadline: None

Abstract: This rule grants authority to issue orders to show cause, and subpoenas, and to permit aliens to depart voluntarily from the United States, to Directors of Service Centers, and to Assistant District Directors for Examinations. The change will provide for more expeditious processing of alien requests for relief from deportation under Part 242.

Timetable:

Action	Date	FR Cite
Final Action	04/05/90	55 FR 12827
Final Action Effective	04/05/90	55 FR 12827

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS Number 1272-90

Agency Contact: Janet M. Charney, Deputy Assistant Commissioner, Legalization Programs, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 5250, Washington, DC 20536, 202 514-5107

RIN: 1115–AB93

1672. ● ADJUSTMENT OF STATUS UNDER PUBLIC LAW 101-167

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 USC 1257; 8 CFR 2

CFR Citation: 8 CFR 245

Legal Deadline: None

Abstract: The rule provides for adjustment of status to lawful permanent resident of certain parolees from the Soviet Union, Vietnam, Laos, and Cambodia. It ensures that these individuals, paroled into the United States between August 15, 1988, and September 30, 1990, the sunset date of Public Law 101-167, will have the opportunity to apply for immigrant status.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	06/19/90	55 FR 24669
Interim Final Rule	06/19/90	55 FR 24669
Interim Final Rule Comment Period End	07/19/90	55 FR 24669

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS Number 1277-90

Agency Contact: Joseph D. Cuddihy, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 7228, Washington, DC 20536, 202 514-5014

RIN: 1115–AC02

1673. ● IMMIGRATION AND NATURALIZATION SERVICE AND THE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; FEE REVIEW

Legal Authority: 31 USC 9701

CFR Citation: 8 CFR 103; 8 CFR 245

Legal Deadline: None

Abstract: This document addresses two comments that were inadvertently omitted from a final rule which was published at 54 FR 47343 on November 14, 1989.

Timetable:

Action	Date	FR Cite
Final Action	05/16/90	55 FR 20281

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS Number 1273-90 (Cross reference to INS Number F-88; AG Order 1375-89)

Agency Contact: Charles S. Thomason, Systems Accountant, Resource Management Branch, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 514-4705

RIN: 1115–AC04

1674. ● CITIZENSHIP AND NATURALIZATION

Legal Authority: 8 USC 1103; 8 USC 1443; 8 USC 1445; 8 USC 1449; 8 CFR 2

CFR Citation: 8 CFR 334

Legal Deadline: None

Abstract: This rule amends 8 CFR 334.13 by removing the reference to the fee amount of $25. This fee amount is already included in 8 CFR 103.7(b)(3) and reflects the proper amount of $80. This change is necessary to ensure that all fee amounts are listed in one section of 8 CFR.

Timetable:

Action	Date	FR Cite
Final Action	07/31/90	55 FR 31037
Final Action Effective	07/31/90	55 FR 31037

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS Number 1276-90

Agency Contact: Raymond R. Jaroneski, Jr., Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, 202 514-3048

RIN: 1115–AC08

DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Proposed Rule Stage

1675. IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN DEPARTMENT OF JUSTICE ADMINISTRATIVE PROCEEDINGS

Legal Authority: 5 USC 504 Equal Access to Justice Act

CFR Citation: 28 CFR 24, (Revision)

Legal Deadline: None

Abstract: The Equal Access to Justice Act was reauthorized on August 5, 1985. Various new amendments have been adopted which require revision of the procedures for applications for attorneys fees, eligible parties, and proceedings covered.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	02/00/91	
Final Action	05/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: Multiple

Analysis: Regulatory Impact Analysis

Agency Contact: John J. Wilson, Associate General Counsel, Department of Justice, 633 Indiana Ave., NW., Room 1246E, Washington, DC 20531, 202 307-0790

RIN: 1105-AA05

DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Final Rule Stage

1676. IMPLEMENTING CIVIL PENALTIES UNDER THE ANTI-DRUG ABUSE ACT OF 1988

Significance: Agency Priority

Legal Authority: 28 USC 509; 28 USC 510; 21 USC 844(a)

CFR Citation: 28 CFR 76

Legal Deadline: None

Abstract: Section 6486 of the Anti-Drug Abuse Act of 1988, Pub. L. 100-690, (hereinafter the Act) 21 U.S.C. 844(a), provides for civil penalties for the possession of small amounts of certain controlled substances. In order to implement this provision, this proposed rule sets forth the procedures to be followed in all matters brought before Administrative Law Judges when a complaint is filed seeking a civil penalty from a respondent who has violated this provision of the Act. The proposed rule will also provide notice to respondents and, where appropriate, their counsel, as to the rules of procedure that will be followed by Administrative Law Judges and United States Attorneys when their respective cases are heard.

Timetable:

Action	Date	FR Cite
NPRM	12/13/89	54 FR 51206
NPRM Comment Period End	01/12/90	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Charles Sorenson, Trial Attorney, Civil Division, Department of Justice, Room 3531, 10th and Constitution Ave., NW., Washington, DC 20530, 202 514-4020

RIN: 1105-AA10

1677. ● NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: PL 101-121, Sec 319; 31 USC 1352; 42 USC 3711 et seq; 42 USC 5601 et seq; 18 USC 4042; 42 USC 10601; 18 USC 4351 to 4353

CFR Citation: 28 CFR 69

Legal Deadline: None

Abstract: This interim final rule is in response to section 319 of PL 101-121. Section 319 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. Section 319 also requires that each person who requests or receives a Federal contract, grant, cooperative agreement, loan or a Federal commitment to insure or guarantee a loan, must disclose lobbying activities.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6751
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Cynthia Schwimer, Manager, Financial Services Branch, Financial Grants Mgt. Admin. Div. (OC), Department of Justice, 633 Indiana Avenue, NW., Room 942, Washington, DC 20745, 202 307-3186

RIN: 1105-AA12

1678. ● FEDERAL POLICY FOR THE PROTECTION OF HUMAN SUBJECTS

Significance: Regulatory Program

Legal Authority: 5 USC 301; 42 USC 289; 49 USC 300v-1(h)

CFR Citation: 28 CFR 46

Legal Deadline: None

Abstract: This final rule will add new Department of Justice regulations for the protection of human subjects at 28 CFR Part 46 to incorporate changes developed by the Interagency Human Subjects Coordinating Committee, Federal Coordinating Council on Science Engineering and Technology (FCCSET). The Committee drafted a common rule for Federal departments and agencies conducting or supporting research involving human subjects which was based on HHS regulations. This effort was in response to a key recommendation of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research in the First Biennial Report in 1981.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45661
NPRM Comment Period End	01/09/89	
Final Action	00/00/00	

DOJ—LA

Final Rule Stage

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Brian D. Miller, Office of Policy Development, Department of Justice, Room 4256, 10th & Constitution Avenue, NW., Washington, DC 20530, 202 514-3643

RIN: 1105–AA13

1679. ◆ U.S. MARSHALS FEES AND COMMISSIONS

Legal Authority: 28 USC 1921(b), as amended

CFR Citation: 28 CFR 0.114

Legal Deadline: None

Abstract: 28 USC 1921 requires the Attorney General to promulgate regulations establishing the U.S. Marshals fees reflecting the actual costs of serving and executing Federal court process as well as a minimum and maximum amount for U.S. Marshals commissions for conducting Federal court sales.

Timetable:

Action	Date	FR Cite
NPRM	05/01/90	55 FR 18120
NPRM Comment Period End	05/31/90	
Final Action	11/00/90	
Final Action Effective	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Edward Meyer, Chief, Finance Division, Department of Justice, 600 Army-Navy Drive, Arlington, VA 22202-4210, 202 307-0328

RIN: 1105–AA14

DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Completed Actions

1680. ESTABLISHMENT OF USER FEES

Significance: Agency Priority

CFR Citation: 28 CFR 0

Completed:

Reason	Date	FR Cite
Final Action - Final Rule effective on publication	06/09/90	55 FR 32403
Final Action Effective	06/09/90	55 FR 32403

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ernest M. Beck 202 272-6300

RIN: 1105–AA11

DEPARTMENT OF JUSTICE (DOJ)
Office of Justice Programs (OJP)

Prerule Stage

1681. EQUAL EMPLOYMENT OPPORTUNITY PROGRAM GUIDELINES

Legal Authority: 42 USC 3789d(c); 42 USC 5674; 42 USC 10504(b); 42 USC 10604(e)

CFR Citation: 28 CFR 42.301

Legal Deadline: None

Abstract: To change departmental nomenclature to comply with nomenclature changes in the Anti-Drug Abuse Act of 1988 and eliminate references to title VI of the Civil Rights Act of 1964 which are not specifically applicable.

Timetable:

Action	Date	FR Cite
End Review	11/00/90	
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Winifred A. Dunton, Director, Office for Civil Rights, Department of Justice, Office of Justice Programs, 633 Indiana Avenue, NW., Room 600B, Washington, DC 20531, 202 307-0690

RIN: 1121–AA10

1682. NONDISCRIMINATION IN OJP FEDERALLY ASSISTED PROGRAMS

Legal Authority: 42 USC 3789d(c); 42 USC 5674; 42 USC 10604(e); 42 USC 10504(b)

CFR Citation: 28 CFR 42.201

Legal Deadline: None

Abstract: To change Departmental nomenclature to comply with nomenclature changes in the Anti-Drug Abuse Act of 1988 and eliminate references to Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1977 which are not specifically applicable.

Timetable:

Action	Date	FR Cite
End Review	11/00/90	
Final Action	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Winifred A. Dunton, Director, Office for Civil Rights, Department of Justice, Office of Justice Programs, 633 Indiana Avenue, NW., Room 600B, Washington, DC 20531, 202 307-0690

RIN: 1121–AA11

DEPARTMENT OF JUSTICE (DOJ)
Office of Justice Programs (OJP)

Proposed Rule Stage

1553. CRIMINAL INTELLIGENCE SYSTEMS OPERATING POLICIES

Legal Authority: 42 USC 3789b(c)

CFR Citation: 28 CFR 23

Legal Deadline: None

Abstract: To change Office and Bureau nomenclature to comply with changes resulting from the Anti-Drug Abuse Act of 1988, Pub. L. 100-690, and to clarify policy issues relating to time periods for validation of intelligence information.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	02/00/91	
Final Action	05/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Public Compliance Cost: Initial Cost: $0

Agency Contact: John J. Wilson, Associate General Counsel, Department of Justice, Office of Justice Programs, 633 Indiana Ave., NW., Room 1246E, Washington, DC 20531, 202 307-0790

RIN: 1121–AA12

1554. CRIMINAL JUSTICE INFORMATION SYSTEMS

Legal Authority: 42 USC 3789g

CFR Citation: 28 CFR 20

Legal Deadline: None

Abstract: To change Office and Bureau nomenclature to comply with changes resulting from the Anti-Drug Abuse Act of 1988, Pub. L. 100-690, and to delete obsolete terminology.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	02/00/91	
Final Action	05/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: John J. Wilson, Associate General Counsel, Department of Justice, Office of Justice Programs, 633 Indiana Avenue, NW., Room 1246E, Washington, DC 20531, 202 307-0790

RIN: 1121–AA13

DEPARTMENT OF JUSTICE (DOJ)
Office of Justice Programs (OJP)

Completed Actions

1555. ● DRUG-FREE WORKPLACE (GRANTS)

Significance: Regulatory Program

Legal Authority: PL 100-690; 41 USC 701 et seq

CFR Citation: 28 CFR 67

Legal Deadline: None

Abstract: This governmentwide common rule requires that all grantees receiving Federal grants from any Federal agency certify to that agency that they will maintain a drug-free workplace, or, in the case of a grantee who is an individual, certify to the agency that his or her conduct of grant activity will be drug-free.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 4947
Final Action	05/29/90	55 FR 21696
Final Action Effective	07/24/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Cynthia Schwimmer, Manager, Financial Services Branch, Financial Grants Mgt. Admin. Div. (OC), Department of Justice, Office of Justice Programs, 633 Indiana Avenue, NW., Room 942, Washington, DC 20745, 202 307-3188

RIN: 1121–AA14

[FR Doc. 90-22586 Filed 10-26-90; 8:45 am]
BILLING CODE 4410-01-T

federal register

Monday
October 29, 1990

Part XII

Department of Labor

Semiannual Regulatory Agenda

DEPARTMENT OF LABOR (DOL)

DEPARTMENT OF LABOR

Office of the Secretary

20 CFR Chs. I, IV, V, VI, and VII

29 CFR Subtitle A and Chs. II, IV, V, XVII, and XXV

30 CFR Ch. I

41 CFR Ch. 60

48 CFR Ch. 29

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Labor.

ACTION: Semiannual agenda of regulations selected for review or development.

SUMMARY: This document sets forth the Department's semiannual agenda of regulations, which has been selected for review or development during the coming 1-year period. The agenda complies with the requirements of both Executive Order 12291 and the Regulatory Flexibility Act.

DATES: The agenda includes all regulations which are expected to be under review or development between October 1990 and October 1991.

FOR FURTHER INFORMATION CONTACT: Roland G. Droitsch, Deputy Assistant Secretary for Policy, Office of the Assistant Secretary for Policy, Department of Labor, 200 Constitution Avenue NW., Room S-2312, Washington, DC 20210; (202) 523-9058.

Note: Information pertaining to a specific regulation can be obtained from the agency contact listed for that particular regulation.

SUPPLEMENTARY INFORMATION: Executive Order 12291 and the Regulatory Flexibility Act require the semiannual publication in the **Federal Register** of an agenda of regulations.

Executive Order 12291 became effective February 17, 1981, and in substance, requires the Department of Labor to publish an agenda listing all the regulations it expects to have under active consideration for promulgation, proposal, or review during the coming 1-year period. It also requires the Department to conduct a Regulatory Impact Analysis for all "major" regulations being developed.

The Regulatory Flexibility Act became effective on January 1, 1981. It applies only to regulations for which a notice of proposed rulemaking was issued on or after January 1, 1981, and requires the Department of Labor to publish an agenda listing all the regulations it expects to propose or promulgate that are likely to have a "significant economic impact on a substantial number of small entities" (5 U.S.C. 602). For any regulation that will have this impact, the Department must conduct a Regulatory Flexibility Analysis to gauge the economic consequences of the rule and to analyze the availability of more flexible approaches for lightening the rule's regulatory burden on "small entities."

If a proposed regulation will not have a "significant economic impact on a substantial number of small entities," the Department of Labor must publish a certification to that effect at the time of the general notice of proposed rulemaking or at the time of the publication of the final rule. That certification must be accompanied by a succinct statement explaining the reasons for the agency's determinations.

As permitted by law, the Department of Labor is combining this publication of its agendas under the Regulatory Flexibility Act and Executive Order 12291.

The regulatory reform process, of which the Unified Agenda is a part, continues to be an extremely valuable aid in the development of better regulations by the Department. We believe that our regulatory reform program has resulted in improved regulatory management, more clearly written regulations, and significantly less burdensome regulations.

Further improvement is certainly needed, and we are constantly seeking new and innovative approaches in pursuit of this goal. All interested members of the public are invited and encouraged to let departmental officials know how our regulatory reform process can be further improved and, of course, to participate in and comment on the review or development of the regulations listed on the agenda.

The Department of Labor's next semiannual agenda, under Executive Order 12291 and the Regulatory Flexibility Act, will be published in April 1991.

Elizabeth Dole,
Secretary of Labor.

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1668	Safety and Health Standards for Federal Supply Contracts (Walsh-Healey Standards)	1290-AA09

Employment Standards Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1667	Government Contractors: Contractor Participation in Training Programs Pursuant to the Job Training Partnership Act (JTPA) (29 USC 1781)	1215-AA56

DOL

Employment Standards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1688	Government Contractors: Nondiscrimination and Affirmative Action Obligations (ESA/OFCCP)	1215-AA01
1689	Nondiscrimination and Affirmative Action Obligations for Disabled Veterans, Veterans of Vietnam Era, and Handicapped Workers (ESA/OFCCP)	1215-AA02
1690	Child Labor Regulations, Orders and Statements of Interpretation (ESA/W-H)	1215-AA09
1691	Defining and Delimiting the Terms "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity" (ESA/W-H)	1215-AA14
1692	Employment of Homeworkers in Certain Industries	1215-AA36
1693	Civil Penalties for Violations of the Fair Labor Standards Act Minimum Wage and Overtime Compensation Provisions	1215-AA53
1694	Records to be Kept by Employers; Overtime Compensation	1215-AA54
1695	Minimum Wage Determinations	1215-AA58
1696	Claims for Compensation Under the Federal Employee's Compensation Act; Addition to Schedule of Compensation (Part 10)	1215-AA60

Employment Standards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1697	Claims for Medical Benefits under the Federal Employees' Compensation Act, Part 10	1215-AA13
1698	General Regulations Under the Walsh-Healey Public Contracts Act	1215-AA33
1699	Enforcement of Contractual Obligations for Temporary Alien Agricultural Workers Admitted Under Section 216 of the Immigration and Nationality Act	1215-AA43
1700	Employee Polygraph Protection Act of 1988	1215-AA49
1701	Training Wage Provisions of the Fair Labor Standards Amendments of 1989	1215-AA52
1702	Enforcement of Contractual Obligations Between Health Care Facilities Authorized to Utilize Temporary Nonimmigrant Alien Nurses	1215-AA55
1703	Fair Labor Standards Amendments of 1989 as Applied to Puerto Rico	1215-AA57
1704	Employment of Learners	1215-AA59

Employment Standards Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1705	Claims Subchapter A - Longshore and Harbor Workers' Compensation Act and Related Statutes and Subchapter B - Federal Coal Mine Health and Safety Act, as Amended	1215-AA51

Employment and Training Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1706	Services to Migrant and Seasonal Farmworkers, Job Service Complaint System, Monitoring and Enforcement	1205-AA37
1707	Use of Funds Transferred to the States Under Section 903(c) of the Social Security Act (Reed Act)	1205-AA43

Employment and Training Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1708	Airline Deregulation: Employee Benefit Program	1205-AA07
1709	Advances Under Title XII, SSA, and Tax Credit Under FUTA	1205-AA65
1710	Labor Certification Process for the Permanent Employment of Aliens in the United States	1205-AA66

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Employment and Training Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1711	Federal-State Unemployment Compensation Program; Confidentiality and Disclosure of State Records	1205-AA74
1712	Labor Standards for the Registration of Apprenticeship Programs (Revision)	1205-AA77
1713	The Job Training Partnership Act Amendments of 1990	1205-AA81
1714	Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States: Various Amendments to 20 CFR Part 655	1205-AA82

Employment and Training Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1715	Senior Community Service Employment Program	1205-AA29
1716	Disaster Unemployment Assistance Program (DUA)	1205-AA50
1717	Administrative Procedure, Federal State Unemployment Compensation Program	1205-AA69
1718	Trade Adjustment Assistance for Workers	1205-AA72
1719	Title V of the Job Training Partnership Act Jobs for Employable Dependent Individuals Incentive (JEDI) Bonus Program	1205-AA75
1720	Job Opportunities and Basic Skills Training Program (JOBS)	1205-AA76
1721	Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States: "Fifty Percent Rule" Component of Regulations	1205-AA83
1722	Attestation Process for Health Care Facilities Seeking to Employ Nonimmigrant Nurses	1205-AA84

Employment and Training Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1723	Job Corps Program Under Title IV-B of the Job Training Partnership Act	1205-AA54

Pension and Welfare Benefits Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1724	Summary Annual Report	1210-AA36

Pension and Welfare Benefits Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1725	Individual Benefits Reporting and Recordkeeping for Multiemployer Plans	1210-AA02
1726	Individual Benefits Reporting and Recordkeeping for Single Employer Plans	1210-AA03
1727	Participant Directed Individual Account Plans	1210-AA06
1728	Qualified Domestic Relations Orders Under the Retirement Equity Act	1210-AA19
1729	"Top Hat" Plans	1210-AA21
1730	Time and Manner of Notice Requirement Under ERISA Section 101(d)	1210-AA38

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Pension and Welfare Benefits Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1731	Adequate Consideration	1210-AA15
1732	Proposed Regulation Exempting Certain Broker-Dealers and Investment Advisers From Bonding Requirements	1210-AA25
1733	Civil Penalties Under ERISA Section 502(l)	1210-AA37

Pension and Welfare Benefits Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1734	Procedures for Filing and Processing Applications for Exemption from the Prohibited Transaction Provisions of ERISA, the Internal Revenue Code, and FERSA	1210-AA26

Bureau of Labor Management Relations and Cooperative Programs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1735	Termination of Benefits Under Title II of the Redwood National Park Expansion Act of 1978	1214-AA04

Office of Labor Management Standards—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1736	Labor Organizations Which May File Simplified Annual Reports	1294-AA05

Mine Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1737	Confined Spaces	1219-AA54
1738	Training for Mining Construction Workers and Independent Contractors	1219-AA68

Mine Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1739	Hoisting and Transportation of Persons and Materials	1219-AA12
1740	Notification, Investigation, Reports and Records of Accidents Injuries, Illnesses, Employment, and Coal Production in Mines	1219-AA23
1741	Civil Penalties for Violations of the Federal Mine Safety and Health Act of 1977	1219-AA44
1742	Hazard Communication	1219-AA47
1743	Noise Standard	1219-AA53
1744	Newly Employed Experienced Miner and Supervisor Training	1219-AA55
1745	Approval of Electric Cables and Splice Kits	1219-AA57
1746	Approval of Intrinsically Safe Battery-Powered Devices	1219-AA59
1747	Approval of Explosion-proof Enclosures	1219-AA60
1748	Approval of Electric Motor Assemblies	1219-AA61

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Mine Safety and Health Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1749	Approval Requirements for Detonators	1219-AA64
1750	Requirements for Approval of Flame-Resistant Conveyor Belts	1219-AA65
1751	Water, Sediment or Slurry Impoundments	1219-AA69
1752	Waterlines in Belt Conveyor Entries	1219-AA70
1753	Boiler and Pressure Vessel Inspections	1219-AA71
1754	Carbon Monoxide Monitor Approval	1219-AA72
1755	Firefighting and Escape and Evacuation Program	1219-AA73

Mine Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1756	Underground Coal Mine Electrical Standards	1219-AA10
1757	Underground Coal Mine Ventilation	1219-AA11
1758	Review of Metal and Nonmetal Electrical Standards	1219-AA14
1759	Explosives and Blasting in Underground Coal Mines	1219-AA16
1760	Review of Metal and Nonmetal Explosives Standards	1219-AA17
1761	Diesel-Powered Equipment for Underground Coal Mines	1219-AA27
1762	Metal and Nonmetal Radiation Standards	1219-AA28
1763	Approval Criteria for Respiratory Protective Devices	1219-AA30
1764	Rules of Practice for Petitions for Modification of Mandatory Safety Standards	1219-AA45
1765	Air Quality Standards	1219-AA48
1766	Refuse Pile and Impoundment Inspection Records	1219-AA49
1767	Blasting Units for Metal and Nonmetal Mines with Methane	1219-AA66
1768	Information Collection Requirements for Mine Rescue Equipment Test and Inspection; SCSR Inspection Records; Records of Fire Drills; and First Aid Training for Supervisory Employees	1219-AA87

Mine Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1768	Pattern of Violations	1219-AA04
1770	Safety Standards for Berms and Guardrails at Metal and Nonmetal Mines	1219-AA56
1721	Safety Standards for Roof, Face and Rib Support	1219-AA58

Office of the Assistant Secretary for Administration and Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1722	Nondiscrimination in Programs and Activities Receiving Federal Financial Assistance from the Department of Labor	1291-AA02

Office of the Assistant Secretary for Administration and Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1723	Administrative Grants and Cooperative Agreements to Government and Nonprofit Institutions	1291-AA15
1724	New Restrictions on Lobbying	1291-AA18

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Office of the Assistant Secretary for Administration and Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1775	DOL Adoption of Common Rule Implementing Drug-Free Workplace - Nonprocurement	1291-AA17

Occupational Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1776	PEL Update	1218-AB32

Occupational Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1777	Respiratory Protection	1218-AA05
1778	Safety and Health Regulations for Longshoring (Part 1918)	1218-AA56
1779	Steel Erection (Part 1926)	1218-AA65
1780	Welding, Cutting and Brazing (Part 1910)	1218-AA72
1781	Formaldehyde	1218-AA82
1782	1,3-Butadiene	1218-AA83
1783	Glycol Ethers: 2-Methoxyethanol, 2-Ethoxyethanol and Their Acetates	1218-AA84
1784	Methylene Chloride	1218-AA85
1785	Medical Surveillance Programs for Employees	1218-AB00
1786	Exposure Assessment Programs for Employees Exposed to Hazardous Chemicals	1218-AB01
1787	Hazardous Materials (Part 1910)	1218-AB20
1788	Shipyard Employment: Phase II (Part 1915)	1218-AB22
1789	Recording and Reporting Occupational Injuries and Illnesses	1218-AB24
1790	PEL Update Proposal for Construction, Maritime and Agriculture	1218-AB26
1791	Vehicle Safety	1218-AB28
1792	Control of Hazardous Energy (Lockout/Tagout)—Construction (Part 1926)	1218-AB30
1793	Fire Brigades	1218-AB31
1794	Powered Industrial Truck Operator Training	1218-AB33

Occupational Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1795	Concrete and Masonry Construction (Part 1926)	1218-AA20
1796	Asbestos, Tremolite, Anthophyllite and Actinolite	1218-AA26
1797	Methods of Compliance	1218-AA28
1798	Fall Protection (Part 1926)	1218-AA37
1799	Scaffolds (Part 1926)	1218-AA40
1800	Fall Protection Systems (Personal Protective Equipment) (Part 1910)	1218-AA49
1801	Confined Space (Part 1910)	1218-AA51
1802	Logging Operations (Part 1910)	1218-AA52
1803	Stairways and Ladders (Part 1926)	1218-AA57
1804	4,4'-Methylenedianiline	1218-AA58
1805	Electric Power Generation, Transmission and Distribution (Part 1910)	1218-AA59
1806	Fall Protection in Shipyards (Part 1915)	1218-AA66
1807	Scaffolds in Shipyards (Part 1915)	1218-AA68
1808	Access and Egress in Shipyards (Part 1915)	1218-AA70
1809	Face, Head, Eye and Foot Protection (Personal Protective Equipment) (Part 1910)	1218-AA71
1810	Welding, Cutting and Heating in Shipyards (Part 1915)	1218-AA73
1811	Personal Protective Equipment in Shipyards (Part 1915)	1218-AA74
1812	Explosive and Other Dangerous Atmospheres (Part 1915)	1218-AA91

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Occupational Safety and Health Administration—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1813	Hazard Communication	1218-AB02
1814	Walking and Working Surfaces (Part 1910)	1218-AB04
1815	Bloodborne Pathogens	1218-AB15
1816	Cadmium	1218-AB16
1817	Asbestos (Remand)	1218-AB25
1818	Accreditation of Training Programs for Hazardous Waste Operations (Part 1910)	1218-AB27

Occupational Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1819	Carcinogen Policy	1218-AA01
1820	Ethylene Dibromide (EDB)	1218-AA06
1821	Electrical Safety-Related Work Practices (Part 1910)	1218-AA32
1822	Oil and Gas Well Drilling and Servicing (Part 1910)	1218-AA34
1823	Benzene Exposure in Barge/Tanker Cleaning and Repair	1218-AA47
1824	Pulp, Paper and Paperboard Mills (Part 1910)	1218-AA61
1825	Manual Lifting (Parts 1910, 1915, 1917, 1918, 1919, 1926 and 1928)	1218-AA85
1826	Gear Certification (Part 1919)	1218-AA87
1827	Formaldehyde (Remand)	1218-AB29

Office of the Assistant Secretary for Veterans' Employment & Training—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1828	Veterans' Programs and Services Administered by the Office of the Assistant Secretary for Veterans' Employment and Training	1293-AA03

DEPARTMENT OF LABOR (DOL)
Office of the Secretary (OS)

Completed Actions

1694. SAFETY AND HEALTH STANDARDS FOR FEDERAL SUPPLY CONTRACTS (WALSH-HEALEY STANDARDS)

Legal Authority: 41 USC 35 et seq Walsh-Healey Act; 41 USC 351 et seq Service Contract Act; 29 USC 651 et seq Occupational Safety and Health Act; 30 USC 801 et seq Mine Safety and Health Act; 5 USC 553 Administrative Procedure Act; 20 USC 951 et seq

CFR Citation: 41 CFR 50 to 204; 29 CFR 1910 to 1919; 29 CFR 1924; 29 CFR 1925; 30 CFR 1 to 199

Legal Deadline: None

Abstract: Part 50-204 of 41 CFR contains safety and health standards for Federal supply contracts under the Walsh-Healey Act. These standards, which also apply to Federal contracts for services under the Service Contract Act, were adopted in 1969, and were last revised in 1971. Many of the standards in Part 50-204 are duplicative of standards found in other Department of Labor regulations, primarily those issued under the Occupational Safety and Health Act (OSHA) in 29 CFR Parts 1910-1919, and the Mine Safety and Health Act (MSHA) in 30 CFR. In addition, other OSHA and MSHA standards have been revised and updated considerably since 1971, and these changes are not reflected in Part 50-204. Because employers covered by the Walsh-Healey and Service Contracts Acts are also covered by OSHA and MSHA, and thus are already required to comply with the OSHA and MSHA standards, as applicable, the Department of Labor is considering whether or not the Walsh-Healey standards should be revised by deleting redundant provisions and by substituting appropriate references (cont)

Timetable:

Action	Date	FR Cite
Withdrawn	06/26/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ABSTRACT CONT: to the corresponding OSHA and MSHA standards. This would clarify

DOL—OS

Completed Actions

that the safety and health standards applied to employers under Federal supply and service contracts are the same standards which apply to them under OSHA and MSHA, and that revisions or updates of OSHA and MSHA standards also apply under the Walsh-Healey and Service Contract Acts.

Agency Contact: Cynthia Attwood, Associate Solicitor, Department of Labor, Office of the Secretary, 200 Constitution Avenue, NW., Room 4004, FP Building, Washington, DC 20210, 202 523-7723

RIN: 1290-AA09

DEPARTMENT OF LABOR (DOL)

Employment Standards Administration (ESA)

Prerule Stage

1667. GOVERNMENT CONTRACTORS: CONTRACTOR PARTICIPATION IN TRAINING PROGRAMS PURSUANT TO THE JOB TRAINING PARTNERSHIP ACT (JTPA) (29 USC 1781)

Significance: Regulatory Program

Legal Authority: 29 USC 1781

CFR Citation: 41 CFR 60-1; 41 CFR 60-2

Legal Deadline: Final, Statutory, October 1, 1983.

Abstract: Section 481 of the Job Training Partnership Act of 1982 (JTPA) requires OFCCP to issue regulations which will specify the degree to which contractors' participation in JTPA approved training programs will satisfy their affirmative action obligations under Executive Order 11246, as amended. Among the issues to be determined are: (1) the extent to which a contractor's participation in an approved training program satisfies its affirmative action obligations; (2) the contents of an abbreviated affirmative action program; (3) methods for determining compliance; and (4) recordkeeping and reporting requirements.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/91	
NPRM	07/00/91	
Final Action	12/00/91	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State

Additional Information: Issuance of a proposal has been delayed while the Department explores and evaluates the most effective ways to implement the JTPA consistent with OFCCP's nondiscrimination and affirmative action requirements. (Previously part of RIN 1215-AA01)

Agency Contact: Annie A. Blackwell, Director, Division of Policy, Planning and Review, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW., Room C3325, FP Building, Washington, DC 20210, 202 523-9475

RIN: 1215-AA50

DEPARTMENT OF LABOR (DOL)

Employment Standards Administration (ESA)

Proposed Rule Stage

1668. GOVERNMENT CONTRACTORS: NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS (ESA/OFCCP)

Significance: Regulatory Program

Legal Authority: EO 11246, as amended; 38 USC 2012; 29 USC 793; 29 USC 1781

CFR Citation: 41 CFR 60-1; 41 CFR 60-2; 41 CFR 60-4; 41 CFR 60-20; 41 CFR 60-30; 41 CFR 60-50; 41 CFR 60-60; 41 CFR 60-250; 41 CFR 60-741

Legal Deadline: None

Abstract: These regulations cover nondiscrimination and affirmative action obligations of Federal contractors under Executive Order 11246, as amended; the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 2012), as amended; and Section 503 of the Rehabilitation Act of 1973, as amended. The NPRM published 08/25/81 and supplemented on 04/23/82 extended the effective date of a final rule published 12/30/80 and proposed amendments to that rule. OFCCP's review of regulatory options continues.

Timetable:

Action	Date	FR Cite
ANPRM	07/14/81	46 FR 36213
Supplement to ANPRM	08/21/81	46 FR 42400
Previous NPRM & Suspend Eff Date	08/25/81	46 FR 42968
NPRM	04/23/82	47 FR 17770
NPRM	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State

Agency Contact: Annie A. Blackwell, Director, Division of Policy, Planning and Review, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Ave., NW., Rm C3325, FP Bldg., Washington, DC 20210, 202 523-9475

RIN: 1215-AA01

1669. NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS FOR DISABLED VETERANS, VETERANS OF VIETNAM ERA, AND HANDICAPPED WORKERS (ESA/OFCCP)

Significance: Agency Priority

Legal Authority: 29 USC 793; 38 USC 2012

CFR Citation: 41 CFR 60-1; 41 CFR 60-250; 41 CFR 60-741

Legal Deadline: None

Abstract: This proposal would, among other things, incorporate 1978 and 1980 statutory amendments to definitions applicable to Section 503 of the Rehabilitation Act and to the Veterans' programs. However, since 1981 there have been additional amendments to the Rehabilitation Act and to the

Vietnam Era Veterans' Readjustment Assistance Act affecting definitions applicable under the respective programs. All such statutorily required changes to the definitions would be incorporated into the proposed regulatory action contemplated under RIN - 1215-AA01.

Timetable:

Action	Date	FR Cite
NPRM	12/20/80	45 FR 85205
NPRM Comment Period End	03/02/81	45 FR 85205
NPRM Second	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Annie A. Blackwell, Director, Division of Policy, Planning and Review, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Ave., NW., Rm C3325, FP Bldg., Washington, DC 20210, 202 523-9475

RIN: 1215-AA02

1269. CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION (ESA/W-H)

Significance: Regulatory Program

Legal Authority: 29 USC 203

CFR Citation: 29 CFR 570

Legal Deadline: None

Abstract: Section 3(l) of the Fair Labor Standards Act requires the Secretary of Labor to issue regulations with respect to minors between 14 and 16 years of age ensuring that the periods and conditions of their employment do not interfere with their schooling, health, or well-being. The Secretary also is directed to designate occupations that may be particularly hazardous for minors 16 and 17 years of age. Child Labor Regulation No. 3 sets forth the permissible industries and occupations in which 14 and 15 year olds may be employed. In addition, this regulation specifies the number of hours in a day and in a week, and time periods within a day that such minors may be employed. The nonagricultural hazardous occupations orders which prohibit the employment of minors in such occupations are also contained in 29 CFR 570. Changes in technology and job content over the years require a review of the regulations to ensure the safety and health of such minors and at the same time avoid unnecessary restrictions on their employment opportunities. The Department has established a Child (cont)

Timetable:

Action	Date	FR Cite
Notice Published—Decision to Establish Child Labor Advisory Committee	07/21/87	52 FR 27476
Notice Published—Announcing Meetings on October 19-20, 1988	09/27/88	53 FR 37660
Notice Published Announcing Meetings on May 10-11, 1989	04/06/89	54 FR 13959
NPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: Labor Advisory Committee to advise the Secretary on the effective administration of the child labor provisions of the FLSA. The recommendations of the committee will be given careful consideration in the review of these regulations. The committee convened on March 9-10, 1988, at which time subcommittees were established to review Hazardous Order (HO) No. 2 (Motor Vehicle Operations), HO No. 10 (Slaughtering and Meat Packing), and Child Labor Regulation No. 3. Since that time, two additional subcommittees were established to review HO No. 11 (Bakery Machines) and HO No. 12 (Paper Products Machines). The full committee met on May 11, 1989 to receive reports and make recommendations. The Committee's charter was renewed until August 5, 1991, to enable it to continue its study of the regulations (54 FR 35540). Revisions to HOs No. 2, No. 10, and No. 12 have been prepared and will be published shortly. In addition, an intradepartmental task force on child labor (ESA, OSHA, SOL and others) has been established to review child labor issues.

Agency Contact: Samuel D. Walker, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW., Rm S3502, FP Bldg., Washington, DC 20210, 202 523-8305

RIN: 1215-AA09

1691. DEFINING AND DELIMITING THE TERMS "ANY EMPLOYEE EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL CAPACITY" (ESA/W-H)

Significance: Regulatory Program

Legal Authority: 29 USC 213(a)(1)

CFR Citation: 29 CFR 541

Legal Deadline: None

Abstract: These regulations set forth the criteria used in the determination of the application of the Fair Labor Standards Act exemption for "executive," "administrative," "professional" and "outside sales employees" from the minimum wage and overtime requirements of the Act. The existing regulation was targeted for review by the President's Task Force on Regulatory Relief. A final rule increasing the salary test criteria was published on 01/13/81 (46 FR 3010) and was scheduled to become effective on 02/13/81. On 02/12/81 (46 FR 11972) an indefinite stay of the final rule was published. On 03/27/81 (46 FR 18998) a proposal to suspend the final rule indefinitely was published with comments due by 04/28/81. As a result of numerous comments and petitions received from industry groups regarding the duties and responsibilities tests as set forth in the regulations, as well as recent case law developments, the Department concluded that a more comprehensive review of these regulations was needed and decided to reopen the comment period and broaden the scope of the review to include all aspects of the regulations. An ANPRM was published on 11/19/85 and its comment period was (cont)

Timetable:

Action	Date	FR Cite
Indefinite Stay of Final Rule	02/12/81	46 FR 11972
Proposal to Suspend Rule Indefinitely	03/27/81	46 FR 18998
Comments Due on Suspension Proposal	04/28/81	46 FR 18998
ANPRM	11/19/85	50 FR 47696

DOL—ESA

Proposed Rule Stage

Action	Date	FR Cite
Extension of ANPRM Comment Period from 01/21/86 to 03/22/86	01/17/86	51 FR 2525
ANPRM Comment Period End	03/22/86	51 FR 2525

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: ABSTRACT CONT: subsequently extended to 03/22/86.

Agency Contact: Samuel D. Walker, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, Rm S3502, FP Bldg, 200 Constitution Ave., NW., Washington, DC 20210, 202 523-8305

RIN: 1215-AA14

1682. EMPLOYMENT OF HOMEWORKERS IN CERTAIN INDUSTRIES

Significance: Regulatory Program

Legal Authority: 29 USC 211

CFR Citation: 29 CFR 530

Legal Deadline: None

Abstract: This regulation sets forth restrictions on industrial homework and governs the issuance of certificates authorizing the employment of homeworkers in certain industries, pursuant to Section 11(d) of the Fair Labor Standards Act (FLSA). As originally issued, these regulations restricted the employment of industrial homework in seven industries: knitted outerwear; women's apparel; jewelry; buttons and buckles; gloves and mittens; handkerchiefs; and embroideries. The ban was removed on homework in the knitted outerwear industry by the Department on 11/9/81, following extensive hearings and public comment. This action was subsequently upheld by the District Court for the District of Columbia. However, on appeal the ban was reimposed 2/29/84 by the U.S. Court of Appeals for the District of Columbia Circuit. On 3/27/84 the Department published a proposed rule rescinding the ban on homework in the knitted outerwear industry only. In addition to soliciting comments on the proposed rescission, the Department sought comments on various alternatives to such action (49 FR 11786). On 11/5/84, a final rule was published lifting the ban on homework for (cont)

Timetable:

Action	Date	FR Cite
NPRM	06/21/88	51 FR 30036
NPRM Comment Period End	12/04/88	51 FR 37228
NPRM Second	03/30/88	53 FR 10342
NPRM Second - Comment Period End	05/13/88	53 FR 15063
Final Rule	11/10/88	53 FR 45706
ANPRM	12/30/88	53 FR 53344
ANPRM Comment Period End	05/05/89	54 FR 11006

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: employers in the knitted outerwear industry who obtain a certificate from the Department. Based on analysis of the results of its enforcement experience under the new certification procedure, and review of comments from a Notice of Proposed Rulemaking published on August 21, 1986 (51 FR 30036), a proposal was published on March 30, 1988 (53 FR 10342) which included enforcement mechanisms to enhance compliance among employers of homeworkers. The comment period was later extended to May 13, 1988 (53 FR 15063). The proposal also excluded the women's apparel industry and stated that this industry would be the subject of separate rulemaking. A final rule was published November 10, 1988 (53 FR 45706). An ANPRM concerning women's apparel homework was published December 30, 1988 (53 FR 53344). Public hearings on this issue were held in seven cities during March and April 1989. The public comment period on the ANPRM closed on May 5, 1989. (54 FR 11006) The Department is considering whether it would be appropriate to modify the existing regulations in the women's apparel industry.

Agency Contact: Samuel D. Walker, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW., Rm S3502, FPBldg., Washington, DC 20210, 202 523-8305

RIN: 1215-AA30

1683. CIVIL PENALTIES FOR VIOLATIONS OF THE FAIR LABOR STANDARDS ACT MINIMUM WAGE AND OVERTIME COMPENSATION PROVISIONS

Significance: Regulatory Program

Legal Authority: PL 101-157; 29 USC 216(e)

CFR Citation: 29 CFR 578; 29 CFR 579; 29 CFR 580

Legal Deadline: None

Abstract: The Fair Labor Standards Amendments of 1989 were enacted on November 17, 1989. Section 9 of the 1989 amendments amends Section 16(e) of the Fair Labor Standards Act (FLSA) to provide that employers who willfully or repeatedly violate the FLSA minimum wage (Section 6) or overtime compensation (Section 7) provisions shall also become subject to a civil penalty of up to $1,000 per violation. New civil penalty regulations are planned to address these provisions which will be incorporated into the existing procedural regulations (29 CFR 580) applicable to the assessment of civil penalties for child labor violations.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Samuel D. Walker, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW., Room S3502, FP Building, Washington, DC 20210, 202 523-8305

RIN: 1215-AA53

1684. RECORDS TO BE KEPT BY EMPLOYERS; OVERTIME COMPENSATION

Significance: Regulatory Program

Legal Authority: PL 101-157; 29 USC 207(q)

CFR Citation: 29 CFR 516; 29 CFR 778

DOL—ESA

Proposed Rule Stage

Legal Deadline: None

Abstract: The 1989 Amendments to the Fair Labor Standards Act (FLSA) contain a provision which allows employers to employ workers for not more than 10 hours in a work week in excess of the 40-hour maximum standard without payment of overtime compensation, if during such period(s) the employees receive remedial education that: (1) is provided to employees who lack high school diplomas or educational attainment at the eighth grade level; (2) is designed to provide reading and other basic skills at an eighth grade level or below; and (3) does not include job-specific training. Minor revisions to existing regulations on overtime compensation and recordkeeping will be made to conform with this provision of the law. ESA will issue a notice of proposed rulemaking to correspond with the statutory changes in overtime compensation. Final regulations will be issued following review of the public comments received.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Samuel D. Walker, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW., Room S3502, FP Building, Washington, DC 20210, 202 523-8305

RIN: 1215-AA54

1695. ● MINIMUM WAGE DETERMINATIONS

Significance: Agency Priority

Legal Authority: 41 USC 35; 41 USC 38; 41 USC 40; 41 USC 43a

CFR Citation: 41 CFR 50 to 202

Legal Deadline: None

Abstract: The Walsh-Healey Public Contracts Act (PCA) requires payment of minimum wages on Federal and District of Columbia contracts over $10,000 for manufacturing or furnishing materials, supplies, articles, or equipment. Wage determinations historically issued under PCA have required payment of not less than the minimum wage prescribed by the Fair Labor Standards Act of 1938 as amended (FLSA). The Fair Labor Standards Amendments of 1989 (Public Law 101-157) increased the minimum wage rate required to be paid under the FLSA. The Department is proposing to increase the minimum wage required to be paid under the PCA to correspond to the FLSA minimum wage rate requirements contained in the 1989 FLSA Amendments.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Samuel D. Walker, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW., Room S3502, FP Building, Washington, DC 20210, 202 523-8305

RIN: 1215-AA58

1696. ● CLAIMS FOR COMPENSATION UNDER THE FEDERAL EMPLOYEE'S COMPENSATION ACT; ADDITION TO SCHEDULE OF COMPENSATION (PART 10)

Legal Authority: 5 USC 8107

CFR Citation: 20 CFR 10.304

Legal Deadline: None

Abstract: The male reproductive organs were added to the compensation schedule by regulation pursuant to the authority granted to the Secretary. This change was made in 1975. The proposed rule would add the female reproductive organs to the schedule.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	
NPRM Comment Period End	05/00/91	
Final Action	10/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas M. Markey, Director for Federal Employees' Compensation, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW., Room S3229, FP Building, Washington, DC 20210, 202 523-7552

RIN: 1215-AA60

DEPARTMENT OF LABOR (DOL)

Employment Standards Administration (ESA)

Final Rule Stage

1697. CLAIMS FOR MEDICAL BENEFITS UNDER THE FEDERAL EMPLOYEES' COMPENSATION ACT, PART 10

Significance: Agency Priority

Legal Authority: 5 USC 8101 et seq

CFR Citation: 20 CFR 10.411

Legal Deadline: None

Abstract: The Office of Workers' Compensation Programs (OWCP) in 1966 implemented a fee schedule for charges made under the Federal Employees' Compensation Act (FECA) by physicians. The fee schedule specifically excluded hospitals, nursing homes and pharmacies from coverage. In the intervening years, it has been shown that some hospitals are performing many of the same services as those which, when performed by physicians are covered by the fee schedule. The result is that different amounts may be paid for exactly the same service. OWCP proposed to end this inequity by extending to hospitals the fee schedule for those services which are similar to those provided by physicians.

Timetable:

Action	Date	FR Cite
NPRM	05/16/90	55 FR 20276
Final Action	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas M. Markey, Director, Office of Federal Employees' Compensation, Department of Labor,

DOL—ESA

Final Rule Stage

Employment Standards Administration, 200 Constitution Avenue, NW., Room S3229, FP Building, Washington, DC 20210, 202 523-7552

RIN: 1215-AA13

1698. GENERAL REGULATIONS UNDER THE WALSH-HEALEY PUBLIC CONTRACTS ACT

Significance: Agency Priority

Legal Authority: 41 USC 38; 41 USC 40

CFR Citation: 41 CFR 50-201.101(a)

Legal Deadline: None

Abstract: This proposed rule would amend the Walsh-Healey Public Contracts Act regulations to provide an alternative regular dealer definition applicable to information systems integration businesses which bid on contracts to furnish the government fully operational information processing ("ADP") systems. The alternative definition would relieve potential contractors in this industry from having to physically maintain inventories from which sales are made, a custom that is inconsistent with this industry's practices. A proposed rule was published on June 22, 1989 inviting public review and comment. Two comments were received during the comment period which ended July 24, 1989 (54 FR 2612). In addition, in November 1989, the Subcommittee on Legislation and National Security of the Committee on Government Operations, U.S. House of Representatives, held a series of hearings on the Federal Government's purchase of ADP equipment which included a review of some procurements awarded to systems integrators. Based on information from these hearings, it was decided to reopen the comment period (cont)

Timetable:

Action	Date	FR Cite
NPRM	06/22/89	54 FR 2612
NPRM Comment Period End	07/24/89	54 FR 2612

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: ABSTRACT CONT: to ensure that interested parties have sufficient opportunity to submit comments, and to ensure that the Department has sufficient information in deciding what further rulemaking activity is appropriate.

Agency Contact: John R. Fraser, Deputy Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW., Room S3502, FP Building, Washington, DC 20210, 202 523-8305

RIN: 1215-AA33

1699. ENFORCEMENT OF CONTRACTUAL OBLIGATIONS FOR TEMPORARY ALIEN AGRICULTURAL WORKERS ADMITTED UNDER SECTION 216 OF THE IMMIGRATION AND NATIONALITY ACT

Significance: Regulatory Program

Legal Authority: PL 99-603

CFR Citation: 29 CFR 501

Legal Deadline: Final, Statutory, June 1, 1987.

Abstract: The Immigration Reform and Control Act of 1986 contains certain labor standards requirements for foreign agricultural workers employed under the H-2A foreign agricultural worker program, as well as for U.S. workers hired by employers who utilize foreign agricultural workers. The standards relate to pay, working conditions, housing, transportation and recruitment. The Employment Standards Administration issued an interim final rule on June 1, 1987 (53 FR 20524) that incorporates the labor standards issued by the Employment and Training Administration and sets forth procedures for enforcement of these labor standards.

Timetable:

Action	Date	FR Cite
NPRM	05/05/87	52 FR 16795
NPRM Comment Period End	05/19/87	52 FR 16795
Interim Final Rule	06/01/87	52 FR 20524

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Samuel D. Walker, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW., Rm S3502, FPBldg., Washington, DC 20210, 202 523-8305

RIN: 1215-AA43

1700. EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988

Significance: Regulatory Program

Legal Authority: PL 100-347, Employee Polygraph Protection Act of 1988; 29 USC 2001 to 2009

CFR Citation: 29 CFR 801 (New)

Legal Deadline: Final, Statutory, September 25, 1988.

Abstract: The Employee Polygraph Protection Act of 1988 (EPPA) was enacted June 27, 1988 and took effect December 27, 1988. EPPA prohibits most private employers from administering lie detector tests to employees or prospective employees but permits the use of polygraph tests, subject to certain safeguards, under specific circumstances. The Secretary of Labor is authorized to issue rules and regulations to implement EPPA and to enforce it, including authority to conduct investigations, assess civil money penalties for violations, and bring suit in U.S. District Courts to enjoin violations of the Act. An interim final rule was published October 21, 1988 (53 FR 41494), requesting comments by February 27, 1989. The interim final rule became effective on December 27, 1988.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/21/88	53 FR 41494
Final Action	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Samuel D. Walker, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW., Rm S3502, FP Bldg., Washington, DC 20210, 202 523-8305

RIN: 1215-AA42

1701. TRAINING WAGE PROVISIONS OF THE FAIR LABOR STANDARDS AMENDMENTS OF 1989

Significance: Regulatory Program

DOL—ESA

Final Rule Stage

Legal Authority: PL 101-157; 29 USC 201 et seq

CFR Citation: 29 CFR 517

Legal Deadline: None

Abstract: The Fair Labor Standards Amendments of 1989 were enacted on November 17, 1989. Among other provisions, the amendments provide that employers may pay employees under the age of 20, under certain conditions, a wage rate of at least 85 percent of the minimum wage, but not less that $3.35 per hour, for a period up to 90 days. An employee who has been paid at the training wage for 90 days can be employed by any other employer at the training wage an additional 90 days, but only if that employer provides on-the-job training in accordance with regulations required to be issued by the Department of Labor. The training wage provisions took effect April 1, 1990 and expire March 31, 1993. The statute provides that the Secretary of Labor shall issue regulations containing criteria for what qualifies as on-the-job training, and for defining what constitutes the requisite proof of previous periods of employment with other employers that is required to be provided by employees. Employers may rely on such proof of prior employment in good (cont)

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/01/90	55 FR 7450
Interim Final Rule Effective Date	04/01/90	55 FR 7450
Interim Final Rule Comment Period End	04/30/90	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: faith as a valid defense against a finding of violations. Interim final regulations were issued to correspond with the statutory implementation of the training wage provisions while allowing for receipt of public comments. ESA plans to issue final regulations following review of the public comments received.

Agency Contact: Samuel D. Walker, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW., Room S3502, FP Building, Washington, DC 20210, 202 523-8305

RIN: 1215-AA52

1702. ENFORCEMENT OF CONTRACTUAL OBLIGATIONS BETWEEN HEALTH CARE FACILITIES AUTHORIZED TO UTILIZE TEMPORARY NONIMMIGRANT ALIEN NURSES

Significance: Regulatory Program

Legal Authority: PL 101-238; 8 USC 1182(m)

CFR Citation: 29 CFR 504

Legal Deadline: Final, Statutory, August 1, 1990.

Abstract: The Immigration Nursing Relief Act of 1989, PL 101-238, amends Section 212 of the Immigration and Nationality Act to add a new subsection (m) governing the admission to the United States of nonimmigrant nurses during a 5-year period. The law requires employers (health care facilities) interested in hiring temporary alien nurses in the future to file an attestation with the Department of Labor, which must include certain assurances as to the need for and effect of the alien's employment, wage rates to be paid, steps being taken to recruit and retain non-alien nurses, that no strike or lockout exists in a labor dispute, and that certain notifications and posting of notices have occurred. The Department is also required to establish a system for investigating and resolving complaints that the employer is not carrying out these attestations, and is authorized to impose administrative remedies, including civil monetary penalties, as deemed appropriate. The Employment and Training Administration of the Department, in consultation with (cont)

Timetable:

Action	Date	FR Cite
NPRM	07/06/90	55 FR 27992
NPRM Comment Period End	08/06/90	55 FR 30720
Interim Final Rule	10/00/90	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: the Department of Health and Human Services, is developing regulations governing the attestation process for health care facilities seeking to employ nonimmigrant nurses. The Employment Standards Administration will administer the enforcement provisions in the legislation by implementing regulations that incorporate the labor standards/attestations issued by ETA and set forth procedures for enforcement of these labor standards. Proposed rules were published on 7/6/90.

Agency Contact: Samuel D. Walker, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW., Room S3502, FP Building, Washington, DC 20210, 202 523-8305

RIN: 1215-AA55

1703. FAIR LABOR STANDARDS AMENDMENTS OF 1989 AS APPLIED TO PUERTO RICO

Significance: Regulatory Program

Legal Authority: PL 101-157; 29 USC 206(c)

CFR Citation: 29 CFR 510

Legal Deadline: None

Abstract: The Fair Labor Standards Amendments of 1989 were enacted on November 17, 1989. Among other provisions, the amendments provide that the increases in the Fair Labor Standards Act minimum wage applicable to the United States mainland will be phased in by industry for workers in Puerto Rico, with all employees becoming subject to the full mainland minimum wage level by April 1, 1996. Interim Final Rules were published on 03/30/90.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/30/90	55 FR 12114
Interim Final Rule Effective Date	04/01/90	55 FR 12114

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

DOL—ESA

Final Rule Stage

Agency Contact: Samuel D. Walker, Acting Administrator, Wage and Hour Administration, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW., Room S3502, FP Building, Washington, DC 20210, 202 523-8305

RIN: 1215-AA57

1704. ● EMPLOYMENT OF LEARNERS

Significance: Agency Priority

Legal Authority: 29 USC 214

CFR Citation: 29 CFR 522

Legal Deadline: None

Abstract: The Fair Labor Standards Act (FLSA) permits the employment of certain inexperienced workers (learners) at wage rates below the statutory minimum under certificates issued by the Department of Labor. Amendments to the FLSA were enacted in 1989 (Public Law 101-157) which increased the statutory minimum wage rate to $3.80 an hour effective April 1, 1990, and to $4.25 an hour effective April 1, 1991. It is necessary to increase the wage rates contained in the regulations which govern the employment of learners at less than the minimum wage rate to reflect the increases in that statutory minimum wage rate.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Samuel D. Walker, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW., Room S3502, FP Building, Washington, DC 20002, 202 523-8305

RIN: 1215-AA59

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Completed Actions

1705. CLAIMS SUBCHAPTER A - LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT AND RELATED STATUTES AND SUBCHAPTER B - FEDERAL COAL MINE HEALTH AND SAFETY ACT, AS AMENDED

Legal Authority: 33 USC 901; 30 USC 901

CFR Citation: 20 CFR 701; 20 CFR 702; 20 CFR 703; 20 CFR 704; 20 CFR 718; 20 CFR 722; 20 CFR 725; 20 CFR 726; 20 CFR 727

Legal Deadline: None

Abstract: The Department of Labor has changed the title of its district office heads in its Division of Longshore and Harborworkers' Compensation and Division of Coal Mine Workers' Compensation. They were previously known as Deputy Commissioners and are now called District Directors. This change is made for administrative uniformity among all office managers within the three Office of Workers' Compensation Programs divisions and has no effect on the authority of the office heads in their capacity as managers or as informal adjudicators. A Final Rule was published on 07/12/90 (55 FR 28604).

Timetable:

Action	Date	FR Cite
Final Action	07/12/90	55 FR 28604
Final Action Effective	07/12/90	55 FR 28604

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Shelby Hallmark, Deputy Director, Office of Workers' Compensation Programs, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW., Room S3524, FP Building, Washington, DC 20210, 202 523-7552

RIN: 1215-AA51

DEPARTMENT OF LABOR (DOL)
Employment and Training Administration (ETA)

Prerule Stage

1706. SERVICES TO MIGRANT AND SEASONAL FARMWORKERS, JOB SERVICE COMPLAINT SYSTEM, MONITORING AND ENFORCEMENT

Legal Authority: 29 USC 49(k)

CFR Citation: 20 CFR 653; 20 CFR 658; 20 CFR 651

Legal Deadline: None

Abstract: ETA is reviewing services to migrant and seasonal farmworkers under the Wagner-Peyser Act as a result of amendments to Wagner-Peyser under Title V of the Job Training Partnership Act. It is anticipated that an ANPRM will be published and subsequent rulemaking may result.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Gilbert Apodaca, National Monitor Advocate, Department of Labor, Employment and Training Administration, 200 Constitution Ave., NW., Rm N4456, FPBldg., Washington, DC 20210, 202 535-0163

RIN: 1205-AA37

1707. USE OF FUNDS TRANSFERRED TO THE STATES UNDER SECTION 903(C) OF THE SOCIAL SECURITY ACT (REED ACT)

Legal Authority: 26 USC 3304; 42 USC 1302; 42 USC 503; 42 USC 1103

CFR Citation: 20 CFR 601; 20 CFR 651; 20 CFR 652; 20 CFR 658; 41 CFR 29 to 70

Legal Deadline: None

Abstract: This regulation sets out Reed Act requirements for States It covers:

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DOL—ETA

Prerule Stage

restoration of Reed Act funds used to pay unemployment benefits; appropriation by the States and use of funds for administration; and disposition, reduced usage, and replacement of Reed Act-financed property. The regulation implements P.L. 97-248 and updates existing material issued as manuals. Alternatives being considered include: (1) Issuing a regulation, another type of directive, or nothing; (2) Limiting the scope of the regulation to areas involving compliance with Federal law or not limiting scope; and (3) which rules, if any, should be issued regarding the calculation of Reed Act balances, restorations of Reed Act funds, program income, and sales, other dispositions, and reduced usage of property acquired with Reed Act funds. Issuing a regulation will benefit grantees by reducing their uncertainty as to the applicable rules. No significant additional costs will result.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/90	
ANPRM Comment Period End	12/00/90	
NPRM	03/00/91	
NPRM Comment Period End	04/00/91	

Small Entities Affected: None

Government Levels Affected: State, Federal

Public Compliance Cost: Initial Cost: $5,000; Yearly Recurring Cost: $5,000; Base Year for Dollar Estimates: 1984

Sectors Affected: 94 Administration of Human Resource Programs

Agency Contact: Dan Burkitt, Financial Management Specialist, Division of Fiscal Policy, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW., Room C5317, FP Bldg., Washington, DC 20210, 202 535-8782

RIN: 1205–AA43

DEPARTMENT OF LABOR (DOL)

Employment and Training Administration (ETA)

Proposed Rule Stage

1708. AIRLINE DEREGULATION; EMPLOYEE BENEFIT PROGRAM

Significance: Regulatory Program

Legal Authority: 49 USC 1552

CFR Citation: 20 CFR 618

Legal Deadline: None

Abstract: These regulations are being developed to implement the benefit provisions contained in Sec. 43 of the Airline Deregulation Act of 1978. The Act requires the Secretary of Labor to specify the percentage of prior salary which an "eligible protected employee" would receive as a benefit payment under the Act. An eligible protected employee is a person who has had at least 4 years of employment with a certificated air carrier as of October 24, 1978 and who loses his or her job during the ten years following such date in a bankruptcy or major employment contraction if and only if the Department of Transportation determines that the principal causes of such job loss was deregulation. On May 17, 1984 the U.S. District Court for the District of Columbia held that Section 43 of the Airline Deregulation Act was unconstitutional. On July 18, 1985, the U.S. Court of Appeals decided that the employee protection provisions of Section 43 were severable from the legislative veto provisions. The U.S. Supreme Court ruled on March 25, 1987 that the legislative veto provisions were unconstitutional but the first right-to-hire provisions were constitutional, therefore, rulemaking can proceed on the (cont)

Timetable:

Action	Date	FR Cite
NPRM	07/00/91	
NPRM Comment Period End	09/00/91	
Final Action	05/00/92	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: ABSTRACT CONT: monetary benefit aspects of the employee protection provisions.

Agency Contact: Sandra T. King, Chief, Division of Program Development and Implementation, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW., Rm C4514, FP Bldg., Washington, DC 20210, 202 535-0309

RIN: 1205–AA07

1709. ADVANCES UNDER TITLE XII, SSA, AND TAX CREDIT UNDER FUTA

Significance: Regulatory Program

Legal Authority: 42 USC 1321; 42 USC 1322

CFR Citation: 20 CFR 606

Legal Deadline: None

Abstract: Since 1981, Congress has enacted major changes in the Federal Unemployment Tax Act (FUTA) and Social Security Act (SSA) with respect to advances to States for the payment of unemployment insurance and the repayment of such advances and interest thereon. Promulgation of comprehensive regulations is being undertaken in two phases. The proposed rule will replace instructions contained in several Unemployment Insurance Program Letters approved under OMB No. 1205-0192 expiring October 31, 1990. This action represents the second phase, governing States receiving and voluntarily repaying advances to their unemployment funds and paying interest in such advances. The final rule for the first phase, governing relief from automatic repayment and interest charges, was published in the Federal Register on September 26, 1988 (RIN 1205-AA14).

Timetable:

Action	Date	FR Cite
NPRM	12/00/91	
NPRM Comment Period End	01/00/92	
Final Action	12/00/92	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Sandra T. King, Chief, Division of Program Development and Implementation, Department of Labor, Employment and Training Administration, 200 Constitution

Avenue, NW., Room C4514, FP Building, Washington, DC 20210, 202 535-0369

RIN: 1205–AA05

1710. LABOR CERTIFICATION PROCESS FOR THE PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES

Legal Authority: 8 USC 1182(a)(14)

CFR Citation: 20 CFR 656

Legal Deadline: None

Abstract: Before the Department of State (DOS) and the Immigration and Naturalization Service (INS) may issue visas and admit certain immigrant aliens to work permanently in the United States, the Secretary of Labor pursuant to Section 212(a)(14) of the Immigration and Naturalization Act (INA) must certify to the Secretary of State and to the Attorney General that: (a) There are not sufficient United States workers who are able, willing, qualified and available at the time of the application for a visa and admission into the United States and at the place where the alien is to perform work; and (b) The employment of the alien will not adversely affect the wages and working conditions of similarly employed U.S. workers (8 USC 1182(a)(14)). The Department of Labor (DOL) has promulgated regulations at 20 CFR Part 656 pursuant to and to implement section 212(a)(14) of the INA (8 USC 1182(a)(14)). These regulations set forth the fact finding process designed to support the granting or denial of a permanent labor certification. Experience in (cont)

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	04/00/91	
Final Action	07/00/91	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: ABSTRACT CONT: administering the regulations to the certification of immigrant aliens for permanent employment in the United States indicates that a number of changes should be made to these regulations to make labor certification process more efficient and clarify ambiguities in the present regulations.

Agency Contact: Thomas M. Bruening, Chief, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW., Room N4456, FPBldg., Washington, DC 20210, 202 535-0163

RIN: 1205–AA66

1711. FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM; CONFIDENTIALITY AND DISCLOSURE OF STATE RECORDS

Significance: Regulatory Program

Legal Authority: 42 USC 503

CFR Citation: 20 CFR 603

Legal Deadline: None

Abstract: The Employment and Training Administration proposes to make rules regarding the disclosure of unemployment insurance wage and claim information by State agencies.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	
NPRM Comment Period End	04/00/91	
Final Action	12/00/92	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Virginia Chupp, Unemployment Insurance Program Specialist, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW., Room C4512, FPBldg., Washington, DC 20210, 202 535-0260

RIN: 1205–AA74

1712. LABOR STANDARDS FOR THE REGISTRATION OF APPRENTICESHIP PROGRAMS (REVISION)

Significance: Regulatory Program

Legal Authority: 29 USC 50 The National Apprenticeship Act; 40 USC 276; 5 USC 3301

CFR Citation: 29 CFR 29 (Revision)

Legal Deadline: None

Abstract: ETA has undertaken a review of the Apprenticeship system to determine the role of apprenticeship in meeting America's future needs for a skilled work force. The Apprenticeship 2000 review, through research, review of existing materials and related programs, is considering alternative ways to strengthen and expand apprenticeship and related training programs. Existing regulations governing apprenticeship programs may be revised to: 1) improve the existing programs ability to produce skilled workers to meet demands in the industries where it is now prevalent; and 2) expand the apprenticeship concept of training to fill the needs for skilled workers in additional industries.

Timetable:

Action	Date	FR Cite
NPRM	06/24/90	55 FR 34868
NPRM Comment Period End	10/23/90	55 FR 34868
Final Action	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James D. Van Erden, Administrator, Office of Work-Based Learning, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW., Room N4649, FPBldg., Washington, DC 20210, 202 535-0540

RIN: 1205–AA77

1713. THE JOB TRAINING PARTNERSHIP ACT AMENDMENTS OF 1990

Significance: Regulatory Program

Legal Authority: Not Yet Determined

CFR Citation: 20 CFR 626; 20 CFR 627; 20 CFR 628; 20 CFR 629; 20 CFR 630

Legal Deadline: None

Abstract: The legislation is intended to implement the anticipated amendments to the Job Training Partnership Act.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	
NPRM Comment Period End	03/00/91	
Final Action	06/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Hugh Davies, Chief, Division of Program Development and Implementation, Department of Labor, Employment and Training Administration, 200 Constitution

DOL—ETA

Proposed Rule Stage

Avenue, NW., Rm N4703, FP Building, Washington, DC 20210, [illegible]

RIN: 1205–AA81

1714. LABOR CERTIFICATION PROCESS FOR THE TEMPORARY EMPLOYMENT OF ALIENS IN AGRICULTURE IN THE UNITED STATES: VARIOUS AMENDMENTS TO 20 CFR PART 655

Significance: Regulatory Program

Legal Authority: Section 301 of IRCA

CFR Citation: 20 CFR 655

Legal Deadline: None

Abstract: Interim final H-2A regulations were published by DOL on June 1, 1987 comments received from the public and DOL operating experience have convinced DOL that amendments to the program's regulations are needed before final regulations should be published.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	
NPRM Comment Period End	04/00/91	
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas M. Bruening, Chief, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW., Rm N4456, FP Building, Washington, DC 20210, 202 535-0163

RIN: 1205–AA82

DEPARTMENT OF LABOR (DOL)

Employment and Training Administration (ETA)

Final Rule Stage

1715. SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

Significance: Regulatory Program

Legal Authority: 42 USC 301 Older Americans Act of 1965

CFR Citation: 20 CFR 674

Legal Deadline: Final, Statutory, May 5, 1988.

PL 98-459, Section 205(c)

Abstract: The final regulations will include revisions to incorporate legislative amendments to the Older Americans Act which were made in 1984 and 1987. The revised rule also will incorporate administrative and programmatic adjustments which will make the program consistent with other Departmental rules and policies.

Timetable:

Action	Date	FR Cite
NPRM	07/19/85	50 FR 29606
NPRM Comment Period End	09/27/85	50 FR 34725
Extension of Comment Period to 11/19/85	09/27/85	50 FR 34725
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Willard F. Solomon, Chief, Division of Older Worker Programs, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW., Rm N4641, FPBldg., Washington, DC 20210, 202 535-0804

RIN: 1205–AA29

1716. DISASTER UNEMPLOYMENT ASSISTANCE PROGRAM (DUA)

Significance: Regulatory Program

Legal Authority: PL 100-207

CFR Citation: 20 CFR 625 (Revision)

Legal Deadline: Final, Statutory, May 21, 1989.

Abstract: Public Law 100-107 made substantial changes in the DUA programs. DUA will now be paid for up to 26 weeks after a major disaster is declared instead of up to 52 weeks. DUA will no longer be payable when an individual is eligible for State unemployment compensation or waiting period credit. An individual will now have up to 90 days to file an appeal of denial of a DUA claim and a Federal official must make a decision in 90 days.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/05/90	55 FR 550
Final Action	05/00/91	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: In addition to updating the current regulations for law changes, the anticipated changes will provide for more efficient operation of the problem.

Agency Contact: Sandra T. King, Chief, Division of Program Development and Implementation, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW., Room C4514, FP Bldg., Washington, DC 20210, 202 535-0369

RIN: 1205–AA50

1717. ADMINISTRATIVE PROCEDURE, FEDERAL STATE UNEMPLOYMENT COMPENSATION PROGRAM

Significance: Agency Priority

Legal Authority: Not Yet Determined

CFR Citation: 20 CFR 601; 29 CFR 96; 29 CFR 97; 29 CFR 98

Legal Deadline: None

Abstract: This proposed rule would replace outdated administrative regulations for the unemployment insurance (UI) program grants to States with reference to more current common administrative requirements for State governments codified elsewhere by the Department of Labor (DOL). Because of certain unique needs of the UI program, this action would also cover UI program exceptions to these requirements and clarifications of Employment and Training Administration (ETA) policy in applying requirements to State grantees. As a result, the proposed rule is expected to aid States in understanding and complying with the requirements.

DOL—ETA

Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/00/91	
Final Action	05/00/91	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The regulations proposed to be amended were last amended in 1977 and 1981, and since that time DOL has implemented changes in requirements for State governments which now need to be reflected in UI program regulations.

Agency Contact: Mary Ann Wyrsch, Director, Unemployment Insurance Service, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW., Rm N4231, FP Bldg., Washington, DC 20210, 202 523-7931

RIN: 1205–AA69

1716. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS

Significance: Regulatory Program

Legal Authority: PL 100-418, The Omnibus Trade and Competitiveness Act of 1988; Part 3 – Trade Adjustment Assistance, of Subtitle D of Title I

CFR Citation: 20 CFR 617

Legal Deadline: None

Abstract: These regulations implement the Amendments to the trade adjustment assistance provisions of the Trade Act of 1974 in Pub. L. 100-418 by expanding the eligibility for TAA to workers in the oil and natural gas industry engaged in exploration and drilling; requiring a written notice to workers believed to be covered by a certification issued by the Department and the publication of a notice of certification in a newspaper of general circulation; making participation in training a condition for receiving trade readjustment allowances; authorizing the waiver of training for a worker when training is not feasible or appropriate; authorizing the payment of TRA to a worker during breaks in training that do not exceed 14 days; basing TAA benefits on the workers most recent separation rather than first qualifying separation as previously applied; extending the authorization of the TAA program to September 30, 1993; and, making other changes.

Timetable:

Action	Date	FR Cite
NPRM	11/30/88	53 FR 48474
NPRM Comment Period End	12/30/88	53 FR 48474
Final Action	12/00/90	
Final Action Effective	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marvin Fooks, Director, Office of Trade Adjustment Assistance, Department of Labor, Employment and Training Administration, 601 D Street, NW., Room 6434, PH Bldg., Washington, DC 20213, 202 376-6646

RIN: 1205–AA72

1718. TITLE V OF THE JOB TRAINING PARTNERSHIP ACT JOBS FOR EMPLOYABLE DEPENDENT INDIVIDUALS INCENTIVE (JEDI) BONUS PROGRAM

Significance: Regulatory Program

Legal Authority: Not Yet Determined

CFR Citation: 20 CFR 671

Legal Deadline: NPRM, Statutory, February 7, 1989. Final, Statutory, June 30, 1989.
The proposed regulations are to be published by February 7, 1989 and the final regulations in June 1989 as mandated by Section 510 (e) of Title V.

Abstract: These regulations will implement the above legislation as mandated by Section 510(e) of Title V as amended.

Timetable:

Action	Date	FR Cite
NPRM	12/07/89	54 FR 50584
NPRM Comment Period End	02/05/90	54 FR 50584
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hugh Davies, Chief, Division of Program Development and Interpretation, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW., Room N4469, FPBldg., Washington, DC 20210, 202 535-0577

RIN: 1205–AA75

1720. JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM (JOBS)

Significance: Regulatory Program

Legal Authority: Family Support Act of 1988; PL 100-485

CFR Citation: 45 CFR 201 Subpart A

Legal Deadline: NPRM, Statutory, April 13, 1989. Final, Statutory, October 13, 1989.
The proposed regulations are to be published by April 13, 1989 and the final regulations in September 1989.

Abstract: The regulations will implement the above legislation enactment of the Family Support Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	04/19/89	54 FR 15902
NPRM Comment Period End	06/19/89	54 FR 15902
Final Action	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Agency Contact: Hugh Davies, Chief, Division of Program Development and Interpretation, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW., Room N4469, FP Building, Washington, DC 20210, 202 535-0689

RIN: 1205–AA76

1721. LABOR CERTIFICATION PROCESS FOR THE TEMPORARY EMPLOYMENT OF ALIENS IN AGRICULTURE IN THE UNITED STATES: "FIFTY PERCENT RULE" COMPONENT OF REGULATIONS

Significance: Regulatory Program

Legal Authority: Section 301 IRCA

CFR Citation: 20 CFR 655

Legal Deadline: Final, Statutory, June 1, 1990. Other, Statutory, March 1, 1990.

Abstract: The statute requires DOL to examine the effectiveness of the rule and to promulgate regulations to be effective June 1, 1990 determining whether the rule should be continued beyond that rule.

DOL—ETA

Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/19/90	55 FR 29356
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas M. Bruening, Chief, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW., Rm N4456, FP Building, Washington, DC 20210, 202 523-8163

RIN: 1205–AA03

1722. ATTESTATION PROCESS FOR HEALTH CARE FACILITIES SEEKING TO EMPLOY NONIMMIGRANT NURSES

Significance: Regulatory Program

Legal Authority: Section 212 of Immigration and Nationality Act

CFR Citation: Not yet determined

Legal Deadline: Final, Statutory, August 1, 1990.

Abstract: This regulation will amend Section 212 of the Immigration and Nationality Act by adding a new subsection governing the admission to the United States of nonimmigrant nurses during a five year period.

Timetable:

Action	Date	FR Cite
NPRM	07/06/90	55 FR 27992
NPRM Comment Period End	08/06/90	55 FR 30720
Interim Final Rule	10/00/90	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas M. Bruening, Chief, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW., Rm N4456, FP Building, Washington, DC 20210, 202 523-8163

RIN: 1205–AA04

DEPARTMENT OF LABOR (DOL)

Employment and Training Administration (ETA)

Completed Actions

1723. JOB CORPS PROGRAM UNDER TITLE IV-B OF THE JOB TRAINING PARTNERSHIP ACT

Legal Authority: 29 USC 1579

CFR Citation: 20 CFR 684

Legal Deadline: None

Abstract: The regulations will revise and streamline the existing rules for the Job Corps program. These changes will not create new cost nor materially change the existing program. The new rules will be in compliance with Title IV-B of the Job Training Partnership Act.

Timetable:

Action	Date	FR Cite
NPRM	05/04/89	54 FR 19316
NPRM Comment Period End	06/05/89	54 FR 19316
Final Action	04/06/90	55 FR 12992
Final Action Effective	07/01/90	55 FR 12992

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Peter E. Rell, Director, Office of Job Corps, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW., Rm N4508, FPBldg., Washington, DC 20210, 202 535-0580

RIN: 1205–AA54

DEPARTMENT OF LABOR (DOL)

Pension and Welfare Benefits Administration (PWBA)

Prerule Stage

1724. SUMMARY ANNUAL REPORT

Significance: Regulatory Program

Legal Authority: 29 USC 1024

CFR Citation: 29 CFR 2520

Legal Deadline: None

Abstract: This rule would revise current requirements with respect to the Summary Annual Report (SAR) to eliminate unnecessary paperwork, improve the effectiveness of its contents, and include important information not currently required to be part of the SAR.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The Pension and Welfare Benefits Administration (PWBA) is holding this regulation in abeyance pending completion of the PWBA's comprehensive review of legislative options related to the reporting and disclosure requirements under ERISA.

Agency Contact: Robert J. Doyle, Director of Regulations and Interpretations, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW., Room N4669, FP Building, Washington, DC 20210, 202 523-7461

RIN: 1210–AA36

DEPARTMENT OF LABOR (DOL)
Pension and Welfare Benefits Administration (PWBA)

Proposed Rule Stage

1725. INDIVIDUAL BENEFITS REPORTING AND RECORDKEEPING FOR MULTIEMPLOYER PLANS

Significance: Regulatory Program

Legal Authority: 29 USC 1023; 29 USC 1059; 29 USC 1135

CFR Citation: 29 CFR 2520; 29 CFR 2530

Legal Deadline: None

Abstract: The rule would govern: (1) reports that must be furnished to participants and beneficiaries in multiemployer pension plans, regarding the benefits to which they are entitled, or may become entitled, at retirement; and (2) records that must be maintained to provide the information necessary to prepare these reports. This rule was first proposed on 02/09/79 (44 FR 8294) jointly with the single employer plan benefit reporting regulations.

Timetable:

Action	Date	FR Cite
NPRM Previous	02/09/79	44 FR 8294
NPRM Previous	08/08/80	45 FR 52824
Notice of Public Hearing on Previous	11/12/80	45 FR 74727
NPRM	09/00/91	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert J. Doyle, Director of Regulations and Interpretations, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Ave., NW., Rm N5669, FPBldg., Washington, DC 20210, 202 523-7901

RIN: 1210-AA02

1726. INDIVIDUAL BENEFITS REPORTING AND RECORDKEEPING FOR SINGLE EMPLOYER PLANS

Significance: Regulatory Program

Legal Authority: 29 USC 1023; 29 USC 1059; 29 USC 1135

CFR Citation: 29 CFR 2520; 29 CFR 2530

Legal Deadline: None

Abstract: The rule would govern: (1) reports that must be furnished to participants and beneficiaries in single employer pension plans, regarding the benefits to which they are entitled, or may become entitled, at retirement; and (2) records that must be maintained to provide the information necessary to prepare these reports. This rule was first proposed on 02/09/79 (44 FR 8294) jointly with the multiemployer plan benefit reporting regulation.

Timetable:

Action	Date	FR Cite
NPRM Previous	02/09/79	44 FR 8294
NPRM Previous	08/01/80	45 FR 51231
Notice of Public Hearing on Previous	11/12/80	45 FR 74726
NPRM	09/00/91	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert J. Doyle, Director of Regulations and Interpretations, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Ave., NW., Rm N5669, FPBldg., Washington, DC 20210, 202 523-7901

RIN: 1210-AA03

1727. PARTICIPANT DIRECTED INDIVIDUAL ACCOUNT PLANS

Significance: Regulatory Program

Legal Authority: 29 USC 1104(c); 29 USC 1135

CFR Citation: 29 CFR 2550

Legal Deadline: None

Abstract: The regulation would describe the kinds of participant directed individual account plans referred to in Section 404(c) of ERISA, the circumstances under which a participant or beneficiary will be considered to have exercised control over his individual account, and the consequences under section 404(c) of such an exercise of control.

Timetable:

Action	Date	FR Cite
NPRM	09/03/87	52 FR 33606
NPRM Comment Period End	11/02/87	
NPRM - Second	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel Maguire, Staff Attorney, Plan Benefits Security Division, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Ave., NW., Rm N5671, FPBldg., Washington, DC 20210, 202 523-9513

RIN: 1210-AA06

1728. QUALIFIED DOMESTIC RELATIONS ORDERS UNDER THE RETIREMENT EQUITY ACT

Legal Authority: 29 USC 1056(d)(3)(L); 29 USC 1135

CFR Citation: 29 CFR 2530

Legal Deadline: None

Abstract: This regulation would clarify the application of the qualified domestic relations order provisions of Section 206(d)(3) of ERISA added by the Retirement Equity Act of 1984.

Timetable:

Action	Date	FR Cite
NPRM	09/00/09	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Susan Rees, Staff Attorney, Plan Benefits Security Division, Department of Labor, Office of the Secretary, 200 Constitution Ave., NW., Rm N4611, FPBldg., Washington, DC 20210, 202 523-8161

RIN: 1210-AA19

1729. "TOP HAT" PLANS

Significance: Regulatory Program

Legal Authority: 29 USC 1135

CFR Citation: 29 CFR 2510

Legal Deadline: None

Abstract: This regulation would provide guidance as to what constitutes an unfunded employee benefit plan maintained primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees ("top hat" plans) for purposes of Title I of ERISA.

Timetable:

Action	Date	FR Cite
NPRM	04/00/92	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert J. Doyle, Director of Regulations and Interpretations, Department of Labor, Pension and Welfare Benefits

DOL—PWBA

Proposed Rule Stage

Administration, 200 Constitution Avenue, NW., Rm N5669, FP Building, Washington, DC 20210, 202 523-7461

RIN: 1210-AA21

1730. TIME AND MANNER OF NOTICE REQUIREMENT UNDER ERISA SECTION 101(D)

Significance: Regulatory Program

Legal Authority: 29 USC 1021

CFR Citation: 29 CFR 2520.101

Legal Deadline: None

Abstract: Section 101(d) provides that when an employer maintaining a plan other than a multiemployer plan fails to make a required installment or other payment required to meet minimum funding standards under section 302 to a plan before the 60th day following the due date, the employer shall notify each participant and beneficiary of such failure. Section 101(d) also provides that the notice shall be made at such time and in such manner as the Secretary shall provide. Because OBRA 1989 added section 502(c)(3) of ERISA to permit the imposition of substantial penalties upon employers who fail to give the notice required by section 101(d), there will be an increased need for regulatory guidance by the Secretary as to the time and manner in which notice under 101(d) must be provided.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert J. Doyle, Director of Regulations and Interpretations, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW., Room N5669, FP Building, Washington, DC 20210, 202 523-7461

RIN: 1210-AA38

DEPARTMENT OF LABOR (DOL)

Pension and Welfare Benefits Administration (PWBA)

Final Rule Stage

1731. ADEQUATE CONSIDERATION

Significance: Regulatory Program

Legal Authority: 29 USC 1002(3)(18); 29 USC 1135

CFR Citation: 29 CFR 2510

Legal Deadline: None

Abstract: This regulation would provide guidance as to what constitutes adequate consideration under Section 3(18) of ERISA for securities for which there is no generally recognized market.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17632
NPRM Comment Period End	07/16/88	
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel Maguire, Staff Attorney, Plan Benefits Security Division, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW., Rm N4611, FP Building, Washington, DC 20210, 202 523-8666

RIN: 1210-AA15

1732. PROPOSED REGULATION EXEMPTING CERTAIN BROKER-DEALERS AND INVESTMENT ADVISERS FROM BONDING REQUIREMENTS

Significance: Agency Priority

Legal Authority: 29 USC 1135; 29 USC 1112

CFR Citation: 29 CFR 2580

Legal Deadline: None

Abstract: The proposed regulation is intended to provide an exemption from the bonding requirements of Section 412 (a) of ERISA for certain broker dealers and investment advisers who handle plan assets if the proposed regulation's alternative bonding requirements are met. If adopted, the regulation would permit broker-dealer and their investment adviser affiliates to substitute the fidelity bond required by the self-regulatory organizations of which they are members, subject to a minimum level of coverage, for the bond otherwise required by Section 412 of ERISA.

Timetable:

Action	Date	FR Cite
NPRM	06/19/87	52 FR 31039
NPRM Comment Period End	05/18/88	53 FR 11686
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert J. Doyle, Director of Regulations and Interpretations, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW., Rm N5669 FP Building, Washington, DC 20210, 202 523-7461

RIN: 1210-AA25

1733. CIVIL PENALTIES UNDER ERISA SECTION 502(L)

Significance: Regulatory Program

Legal Authority: 29 USC 1132

CFR Citation: 29 CFR 2570.80, Procedural; 29 CFR 2560.502(l)-1, Substantive

Legal Deadline: None

Abstract: Section 502(l) requires the Secretary of Labor to assess a civil penalty against a fiduciary who breaches or commits a violation of part 4 of Title I of ERISA, or any other person who knowingly participates in such breach or violation by any other person. In order to implement this statutory provision, the Department of Labor intends to promulgate two regulations. The first regulation is an interim rule setting for the procedures for the assessment of penalties under ERISA section 502(l) and for petitioning the Secretary to exercise his or her discretion to waive or reduce the mandated assessment. The second regulation is a proposed rule that defines the following pivotal terms contained in section 502(l): "applicable

DOL—PWBA

Final Rule Stage

record amount", "breach of fiduciary responsibility or violation", and "settlement agreement" or "court order."

Timetable:

Action	Date	FR Cite
NPRM	06/20/90	55 FR 25284
Interim Final Rule	06/20/90	55 FR 25284
NPRM Comment Period End	08/20/90	55 FR 25284
Final Action	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Vicki Shtein-Dunn, Staff Attorney, Plan Benefits Security Division, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW., Room N4611, FP Building, Washington, DC 20210, 202 523-8508

RIN: 1210-AA37

DEPARTMENT OF LABOR (DOL)

Pension and Welfare Benefits Administration (PWBA)

Completed Actions

1734. PROCEDURES FOR FILING AND PROCESSING APPLICATIONS FOR EXEMPTION FROM THE PROHIBITED TRANSACTION PROVISIONS OF ERISA, THE INTERNAL REVENUE CODE, AND FERSA

Significance: Regulatory Program

Legal Authority: 29 USC 1108; 29 USC 1135; 5 USC 8477 (C)(3)

CFR Citation: 29 CFR 2570

Legal Deadline: Final, Statutory, December 31, 1988.
FERSA only

Abstract: This regulation describes the procedures for filing and processing applications for exemptions from the prohibited transaction provisions of ERISA of 1974 and IRC and FERSA of 1986. The proposed regulation updates the description of the Department's procedures to reflect changes in the Department of Labor's exemption authority and to clarify the procedures by providing a more detailed description of the prohibited transaction exemption process.

Timetable:

Action	Date	FR Cite
NPRM	06/28/88	53 FR 24422
NPRM Comment Period End	08/29/88	
Interim Final Rule	12/29/88	53 FR 52888
Final Action	08/10/90	55 FR 32836
Final Action Effective	09/10/90	55 FR 32836

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ivan Strasfeld, Director of Exemption Determinations, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW., Rm N5648, FP Building, Washington, DC 20210, 202 523-8971

RIN: 1210-AA28

DEPARTMENT OF LABOR (DOL)

Bureau of Labor Management Relations and Cooperative Programs (LMRCP)

Proposed Rule Stage

1735. ● TERMINATION OF BENEFITS UNDER TITLE II OF THE REDWOOD NATIONAL PARK EXPANSION ACT OF 1978

Legal Authority: PL 95-250 Section 202

CFR Citation: 29 CFR 92

Legal Deadline: None

Abstract: Public Law 95-250, the Redwood National Park Expansion Act of 1978 (the Act) created employee protection benefits commonly known as the "Redwood Employee Protection Program" (the Program). Eligible employees could obtain such benefits upon application to an appropriate State agency. The Bureau of Labor-Management Relations and Cooperative Programs (the Agency) administers the Program in cooperation with State agencies. The Act does not provide a date certain for the expiration of the time period for application for benefits or appeals of previous benefit decisions, nor did the enabling regulations contain such a date. The Agency is issuing final regulations based on its interpretation of the statute with regard to the termination of the Program. This Agency has concluded that Congress intended for benefits eligibility to expire on September 30, 1989. Consequently, the agency is giving notice that the Program is terminated and that individual claims for benefits and/or appeals of benefits will not be accepted by State or Federal offices. This is a final step in terminating the Bureau's responsibility under this program.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Kelley Andrews, Director, Office of Statutory Programs, Department of Labor, Bureau of Labor Management Relations and Cooperative Programs, 200 Constitution Avenue, NW., Room S2203, FP Building, Washington, DC 20210, 202 523-8045

RIN: 1214-AA04

DEPARTMENT OF LABOR (DOL)
Office of Labor Management Standards (OLMS)

Completed Actions

1734. LABOR ORGANIZATIONS WHICH MAY FILE SIMPLIFIED ANNUAL REPORTS

Legal Authority: 29 USC 431; 29 USC 438

CFR Citation: 29 CFR 403.6(a)

Legal Deadline: None

Abstract: This proposed regulation would allow labor organizations with less than $200,000 total annual receipts to file the annual financial report required by the Labor-Management Reporting and Disclosure Act of 1959, as amended on the simplified Form LM-3 rather than the more detailed Form LM-2. The present regulations provide that only labor organizations with less than $100,000 total annual receipts may file the Form LM-3.

Timetable:

Action	Date	FR Cite
Withdrawn	07/09/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kay H. Oshel, Chief, Division of Interpretations and Standards, Department of Labor, Office of Labor Management Standards, 200 Constitution Avenue, NW., Room N5613, FP Building, Washington, DC 20210, 202 523-7373

RIN: 1294-AA05

DEPARTMENT OF LABOR (DOL)
Mine Safety and Health Administration (MSHA)

Prerule Stage

1737. CONFINED SPACES

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 70; 30 CFR 71; 30 CFR 75

Legal Deadline: None

Abstract: This rulemaking would develop a performance-oriented standard to address the hazards of working in confined spaces. Many of these confined spaces work areas are not unique to mines and the hazards are identical to these confined space hazards that exist in general industry for which OSHA is preparing a proposed standard.

Timetable:

Action	Date	FR Cite
ANPRM	02/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Room 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA54

1738. TRAINING FOR MINING CONSTRUCTION WORKERS AND INDEPENDENT CONTRACTORS

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 48

Legal Deadline: None

Abstract: Construction workers and independent contractors are often present on the mine property as a result of contractual agreements with the mine operator. Because of hazards inherent to their work or caused by association with mining activities, these workers need appropriate training to avoid accidents and injuries. MSHA is reviewing reports of mine construction and independent contractor fatalities and injuries. This review will help the Agency determine what training requirements are needed for these workers. The Federal Mine Safety and Health Act requires the Secretary to promulgate standards for training mine construction workers.

The regulation will affect persons performing construction work on mine property including shaft and slope sinking. Because construction workers and independent contractors generally work at multiple mine sites and have other similarities in training needs it is anticipated that independent contractor training will be addressed in a new Subpart C of 30 CFR Part 48.

Timetable:

Action	Date	FR Cite
ANPRM	03/00/91	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Patricia Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Room 631, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA66

DEPARTMENT OF LABOR (DOL)
Mine Safety and Health Administration (MSHA)

Proposed Rule Stage

1735. HOISTING AND TRANSPORTATION OF PERSONS AND MATERIALS

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75

Legal Deadline: None

Abstract: Transporting persons and material has traditionally been the second leading cause of fatal accidents in underground coal mines. The Agency, however, has very few mandatory standards addressing haulage hazards. The hoisting and transportation standards need to be updated to reflect advances in technology.

Timetable:

Action	Date	FR Cite
NPRM	05/00/91	

Small Entities Affected: Businesses

Government Levels Affected: Local

Agency Contact: Patricia Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA12

1740. NOTIFICATION, INVESTIGATION, REPORTS AND RECORDS OF ACCIDENTS INJURIES, ILLNESSES, EMPLOYMENT, AND COAL PRODUCTION IN MINES

Significance: Regulatory Program

Legal Authority: 30 USC 957; 30 USC 813(d)

CFR Citation: 30 CFR 50

Legal Deadline: NPRM, Statutory. This regulatory requirement is a Federal statutory provision. It implements Sections 103(d)(h) and (j) of the Mine Act.

Abstract: In response to concerns raised by members of Congress and the mining community about the nature and accuracy of existing reporting obligations, MSHA is reviewing its requirements for reports of accidents, injuries and illnesses in coal and metal and nonmetal mines. The Agency is focusing on several aspects of the reporting requirements including the definitions and solicits suggestions from the public in this effort.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/85	
Task Force Report Completed	03/03/86	
ANPRM	11/14/88	53 FR 45878
Extension of Comment Period until 02/17/89	12/29/88	53 FR 52727
ANPRM Comment Period End	01/13/89	
NPRM	12/00/90	
Final Action	12/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Rm 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA33

1741. CIVIL PENALTIES FOR VIOLATIONS OF THE FEDERAL MINE SAFETY AND HEALTH ACT OF 1977

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 100

Legal Deadline: None

Abstract: Under sections 105(c) and 110 of the Federal Mine Safety and Health Act of 1977, MSHA is required to assess a civil penalty for all violations of the Act and mandatory safety and health standards. In May 1982, MSHA issued revised civil penalty regulations that included a provision for assessment of $20.00 single penalty for non-significant-and-substantial (non-S&S) violations that are timely abated. In November 1989, the United States Court of Appeals for the District of Columbia ordered MSHA to revise its civil penalty regulations and take immediate interim steps to correct the assessment system. The Court retained jurisdiction of the case to consider the issues after its remand. Pursuant to the Courts order, MSHA (1) temporarily revised its assessment policies to instruct is field personnel to review non-S&S violations involving high negligence and an excessive history of the same type of violation for possible special assessment under 30 CFR 100.5; and (2) temporarily suspended the sentence in 30 CFR 100.3(c) which excludes timely paid single penalty assessments from an operator's history of violations for regular assessment (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: ABSTRACT CONT: purposes. MSHA intends to develop a civil penalty proposal in order to formulate a permanent regulatory action in compliance with the court's order and to revise its civil penalty assessments.

Agency Contact: Patricia Silvey, Director, Office of Standards, Variances and Regulations, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA44

1742. HAZARD COMMUNICATION

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR Not yet determined

Legal Deadline: None

Abstract: The primary purpose of this action is to provide miners with the means to receive necessary information on the hazards of chemicals to which they are exposed and the action necessary to protect their safety and health. In preparation of a proposed rule, MSHA has reviewed OSHA's hazard communication standard and information collected by NIOSH. MSHA anticipates pursuing a performance-oriented approach that will allow employees the flexibility to develop appropriate individual programs tailored to their particular workplace conditions.

Timetable:

Action	Date	FR Cite
ANPRM	03/30/88	53 FR 10257
ANPRM Comment Period End	07/21/88	
NPRM	10/00/90	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Room 631, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219–AA47

1743. NOISE STANDARD

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 70; 30 CFR 71; 30 CFR 75

Legal Deadline: None

Abstract: The problem of hearing impairment among miners has become

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Proposed Rule Stage

of increasing concern to MSHA. Many miners are consistently exposed to noise levels that are near maximum levels currently permitted by MSHA. As a result, miners may be suffering hearing impairments, notwithstanding existing MSHA noise standards. MSHA intends to use comments and information submitted in response to the December 1989 ANPRM to develop a proposed rule which would establish similar noise standards to apply to coal mining and metal/nonmetal mining.

Timetable:

Action	Date	FR Cite
ANPRM	12/04/89	54 FR 50209
ANPRM Extended Comment Period Close	02/21/90	55 FR 6011
ANPRM Comment Period End	03/05/90	54 FR 50209
NPRM	12/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Room 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA53

1744. NEWLY EMPLOYED EXPERIENCED MINER AND SUPERVISOR TRAINING

Significance: Regulatory Program

Legal Authority: 30 USC 811; 30 USC 825

CFR Citation: 30 CFR 48.3(b); 30 CFR 48.22(b); 30 CFR 48.6; 30 CFR 48.28

Legal Deadline: None

Abstract: MSHA is proposing to amend the definition of "experienced miner" to mean a miner who has had one year of mining experience and, for new miners hired after October 12, 1978, has completed new miner training. MSHA is proposing to strengthen the training requirements for experienced miners by adding course requirements. Also, MSHA is proposing to delete the supervisory personnel exemption from the training requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Room 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA55

1745. APPROVAL OF ELECTRIC CABLES AND SPLICE KITS

Significance: Agency Priority

Legal Authority: 30 USC 957; 30 USC 811

CFR Citation: 30 CFR 18; 30 CFR 7

Legal Deadline: None

Abstract: MSHA proposes to revise existing 30 CFR Part 18 specifications and test requirements for the approval of electric cables and incorporate a new requirement for the approval of cable splice kits as a subpart to 30 CFR Part 7. Under Part 7, testing would be done by the applicant or a third party, subject to agency requirements and approval. MSHA's review will update the existing approval criteria, establish minimum standards for the material used to repair cables, and allow the introduction of new technology, where appropriate.

Timetable:

Action	Date	FR Cite
NPRM	10/01/90	55 FR 40624
NPRM Comment Period End	11/30/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA57

1746. APPROVAL OF INTRINSICALLY SAFE BATTERY-POWERED DEVICES

Significance: Agency Priority

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 18; 30 CFR 7

Legal Deadline: None

Abstract: MSHA proposes to revise existing Part 18 specifications and test requirements for the approval of intrinsically safe battery-powered devices as a subpart to 30 CFR part 7. Under part 7, testing would be done by the applicant or a third party, subject to agency requirements and approval. MSHA's review will update the existing approval criteria and allow the introduction of new technology, where appropriate.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA59

1747. APPROVAL OF EXPLOSION-PROOF ENCLOSURES

Significance: Agency Priority

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 18; 30 CFR 7

Legal Deadline: None

Abstract: MSHA proposes to revise existing 30 CFR Part 18 specifications and test requirements for the approval of explosion-proof enclosures as a subpart to 30 CFR part 7, testing would be done by the applicant or a third party, subject to agency requirements and approval. MSHA's review will update the existing approval criteria and allow the introduction of new technology, where appropriate.

Timetable:

Action	Date	FR Cite
NPRM	08/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard,

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RIN: 1219-AA69

1748. APPROVAL OF ELECTRIC MOTOR ASSEMBLIES

Significance: Agency Priority

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 18; 30 CFR 7

Legal Deadline: None

Abstract: MSHA proposes to add a new subpart 7 and revise existing 30 CFR Part 18 specifications and test requirements for the approval of electric motor assemblies. Under Part 7, testing would be done by the applicant or a third party, subject to agency requirements and approval. MSHA's review will update the existing approval criteria and allow the introduction of new technology, where appropriate.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA61

1749. APPROVAL REQUIREMENTS FOR DETONATORS

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 15

Legal Deadline: None

Abstract: This standard would establish requirements for the MSHA testing, evaluation and approval of electric detonators for use in underground coal mines and certain metal and nonmetal gassy mines. At the present time there are no industry-wide standards to establish minimum performance requirements for detonators. Regulations governing the technical characteristics and performance of detonators would ensure compatibility for safe use with approved blasting units and approved explosives as required by underground coal mine standards. Some imported detonators that have entered the market during the past few years require an initiating current that exceeds the tested capacity of MSHA approved blasting units making them incompatible with approved blasting units. Other detonators tested by the Bureau of Mines showed reduced no-fire current levels which present a greater sensitivity to stray electrical current and could result in premature detonation.

Timetable:

Action	Date	FR Cite
ANPRM	12/04/89	54 FR 50212
Extended Comment Period Until 3/16/90	01/22/90	55 FR 2212
NPRM	09/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Room 631, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA64

1750. REQUIREMENTS FOR APPROVAL OF FLAME-RESISTANT CONVEYOR BELTS

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 14; 30 CFR 18; 30 CFR 75

Legal Deadline: None

Abstract: Conveyor belts are one of the leading causes of fires in underground coal mines. These mines often use many miles of conveyor belts. The remote location of the belts can allow fires to start and spread to the coal before they are detected. MSHA has developed a new more stringent test to evaluate the flame- resistance of conveyor belts. Belts passing the revised test would be resistant to ignition and to flame propagation. This proposal would revise the current approval regulations and require compliance with the test.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Room 631, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA65

1751. WATER, SEDIMENT OR SLURRY IMPOUNDMENTS

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 57; 30 CFR 56

Legal Deadline: None

Abstract: In the January 25, 1988 Report of Progress to Implement Federal Guidelines for Dam Safety made by MSHA to the Federal Emergency Management Agency, MSHA's inventory of dams associated with metal/nonmetal mining operations showed a total of 550 dams. Thirty-six of these dams were given a high hazard classification based primarily on the U.S. Corps of Engineers classification system. Thirty-three were classified moderate hazards. A high hazard classification indicates there is a potential for loss of life or property damage downstream due to the floodwater released as a result of dam failure, or upstream of the dam from the effects of rise slides.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Patricia Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA68

1752. WATERLINES IN BELT CONVEYOR ENTRIES

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.1100-2(b)

Legal Deadline: None

Abstract: Current regulations require waterlines be installed along all belt

conveyors with nozzles installed at least every 300 feet. Potential firefighting problems exist, however, when air used to ventilate belt conveyor entries moves in an outby direction. Waterlines that are installed in belt entries where air is moving outby would be exposed to the fire outby the area where water is needed. Heat from the fire could melt or otherwise damage the waterline, necessitating the installation of a separate waterline around the fire delaying the firefighting effort. The National Fire Protection Association (NFPA) in its current committee proposal states that the operator can install waterlines in any entry and recommends that the water flowing through the lines be in the same direction as the ventilating air current. MSHA proposes to revise the current regulations pertaining to waterlines for underground belt conveyors to require installation similar to that proposed by the NFPA.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA70

1753. BOILER AND PRESSURE VESSEL INSPECTIONS

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57

Legal Deadline: None

Abstract: The existing standard requires that compressed-air receiver and other unfired pressure vessels be inspected by inspectors holding a valid National Board Commission issued by the National Board of Boiler and Pressure Vessel Inspectors. The standard also incorporates by reference the National Board Inspection Code, a manual for Boiler and Pressure Vessel Inspectors, 1979 and requires that the records of these inspections be kept in accordance with the National Board Inspection Code. The Agency intends to review this standard to determine whether qualified individuals other than those Board certified can be allowed to perform these inspections without reducing miners' safety, whether the incorporations of the Code by reference is appropriate, and what is the appropriate format for the results of the inspections.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA71

1754. CARBON MONOXIDE MONITOR APPROVAL

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 12

Legal Deadline: None

Abstract: The use of carbon monoxide monitoring systems in underground coal mines can be effective in monitoring mine atmospheres to detect fires in the early stages of development. If mine operators are dependent on these systems for early fire detection, minimum performance criteria are necessary to ensure proper performance. The Agency intends to propose approval requirements for these systems for use in underground coal mines.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA72

1755. ● FIREFIGHTING AND ESCAPE AND EVACUATION PROGRAM

Significance: Agency Priority

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.1101 to 23

Legal Deadline: None

Abstract: Currently 30 CFR 75.1101-23 requires each operator of an underground coal mine to adopt a program for mine evacuation in the event of an emergency, such as fire or explosion. However, the existing standard does not directly address heat sensing and carbon monoxide detection systems and the actions to be taken when such systems activate an alarm. In addition, regular review and update of firefighting and evacuation plans is not required by the existing standard. This rulemaking would result in additional criteria and procedures to address these issues.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA73

DEPARTMENT OF LABOR (DOL)
Mine Safety and Health Administration (MSHA)

Final Rule Stage

1758. UNDERGROUND COAL MINE ELECTRICAL STANDARDS

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.500; 30 CFR 75.600; 30 CFR 75.700; 30 CFR 75.800; 30 CFR 75.900; 30 CFR 75.1000

Legal Deadline: None

Abstract: MSHA's proposal substantially reorganized, clarified, and updated existing electrical standards for underground coal mines. General incorporations by reference of the National Electric Code would be eliminated and replaced with specific standards applicable to underground coal mining operations. The proposal addresses a wide range of hazards related to the use of electric-powered equipment. In developing the proposal MSHA analyzed: (1) accident and injury data to determine the causes and rate of accidents involving electricity and the need to revise standards to prevent future accidents; (2) variances granted to determine whether alternative methods of compliance could be included in the standards; (3) nationally recognized consensus standards, including the National Electrical Code, for applicability to underground coal mines; (4) litigation cases related to the Agency's enforcement efforts to determine where clarified standards could improve compliances, and (5) public comments submitted on the Agency's 1986 ANPRM on underground electrical standards.

Timetable:

Action	Date	FR Cite
Begin Review	07/09/82	47 FR 30025
ANPRM	05/23/86	51 FR 19009
Comment Period Extended to 8/15/86	07/03/86	51 FR 24367
ANPRM Comment Period End	07/22/86	51 FR 19009
NPRM	12/04/89	54 FR 50062
Comment Period Extended to 6/10/90	02/20/90	55 FR 5858
NPRM Comment Period End	03/09/90	54 FR 50062
Comment Period Extended to 9/14/90	07/09/90	55 FR 28062
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA10

1757. UNDERGROUND COAL MINE VENTILATION

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.300

Legal Deadline: None

Abstract: The Agency published a proposed rule concerning ventilation in underground mines which included provisions for the introduction of new technology for systematic monitoring of explosive methane gas, as well as gases that may indicate a mine fire. Other important issues include ventilation of worked-out areas; timeframes for tests for methane. In August 1988, MSHA issued a report on belt conveyor entry ventilation and requested comments on the findings of the report as they related to the ventilation proposal. The existing escapeway standards contained in 30 CFR Part 75.1704 are incorporated into the proposal.

Timetable:

Action	Date	FR Cite
Begin Review	07/09/82	47 FR 30025
ANPRM	11/19/85	50 FR 47702
Extension of ANPRM Comment Period to 4/4/86	02/14/86	51 FR 5546
ANPRM Comment Period End	02/18/86	
NPRM	01/27/88	53 FR 2382
NPRM Comment Period End	06/19/88	53 FR 28449
Belt Entry Report Comment Period Ended 2/9/90	08/25/89	54 FR 48117

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Public hearings were held during June 1988.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA11

1759. REVIEW OF METAL AND NONMETAL ELECTRICAL STANDARDS

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56.12030; 30 CFR 57.12000

Legal Deadline: None

Abstract: The electrical standards are part of the overall review of regulations dealing with metal and nonmetal mines and mills. MSHA's proposal would eliminate general incorporations by reference of the National Electric Code and replace them with standards specifically applicable to metal and nonmetal mining and mills. The proposal substantially clarifies and updates the existing standards and includes technological advances in mine electrical systems.

Timetable:

Action	Date	FR Cite
Begin Review	08/25/89	46 FR 18267
ANPRM	05/23/83	48 FR 22885
ANPRM Comment Period End	07/19/83	
NPRM	12/04/89	54 FR 50158
Comment Period Extended to 6/15/90	02/09/90	55 FR 4824
NPRM Comment Period End	03/09/90	54 FR 50158
Comment Period Extended to 7/27/90	05/31/90	55 FR 22036
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Rm 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA14

1760. EXPLOSIVES AND BLASTING IN UNDERGROUND COAL MINES

Legal Authority: 30 USC 811

DOL—MSHA

Final Rule Stage

CFR Citation: 30 CFR 75.1909

Legal Deadline: None

Abstract: On November 15, 1988, the Mine Safety and Health Administration (MSHA) published a final rule (53 FR 45708) to revise its safety standards for explosives and blasting in underground coal mines. Prior to the effective date, MSHA stayed 30 CFR 75.1325(b) which restricts blasting to only one face in a working place to allow further review of single versus multiple face blasting. MSHA's proposed rule would allow multiface blasting under limited conditions; recognize an alternative method of giving experience for blasting certification; and clarify a provision concerning precautions to be taken with electrical equipment in blasting areas.

Timetable:

Action	Date	FR Cite
Stay of Final Rule Provision	01/13/89	54 FR 1360
NPRM	12/06/89	54 FR 50714
Extended Comment Period to 3/19/90	01/22/90	55 FR 2304
NPRM Comment Period End	02/19/90	54 FR 50714
Final Action	11/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Final date is based on court decision. A public hearing was held May 30, 1990 in Lexington, Kentucky. (55 FR 18737)

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA13

1704. REVIEW OF METAL AND NONMETAL EXPLOSIVES STANDARDS

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56.6000; 30 CFR 57.6000

Legal Deadline: None

Abstract: The explosives standards are part of the overall review of regulations dealing with metal and nonmetal mines and mills. These standards would be clarified and modified as appropriate to insure safety of miners, and updated, consistent with technological advances such as gaseous initiation systems, miniaturized detonating cord systems and the use of bulk mixing of explosives materials. Hearings were held in April 1989.

Timetable:

Action	Date	FR Cite
Begin Review	03/25/80	45 FR 19267
ANPRM	06/20/84	49 FR 33067
Extension of ANPRM Comment Period to 11/16/84	09/25/84	49 FR 37640
ANPRM Comment Period End	10/19/84	
NPRM	11/10/88	53 FR 45487
Extension of NPRM Comment Period to 02/10/89	12/05/88	53 FR 48934
NPRM Comment Period End	01/09/89	
Final Action	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Public Hearings were held in April 1989

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA17

1761. DIESEL-POWERED EQUIPMENT FOR UNDERGROUND COAL MINES

Significance: Regulatory Program

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 30 CFR 7; 30 CFR 70; 30 CFR 75

Legal Deadline: None

Abstract: MSHA has an established mining equipment approval program which includes evaluation criteria and corresponding safety standards requiring the use and maintenance of approved equipment. However, existing approval regulations do not generally apply to the diesel-powered equipment now being used in coal mines. In July 1988 an Advisory Committee convened by the Secretary of Labor made recommendations to the Secretary concerning standards for the use of diesel-powered equipment in underground coal mines. Based on those recommendations, MSHA has published a proposed rule that addresses the approval of components and standards for its use, including monitoring requirements for certain diesel emissions. The Advisory Committee also recommended that an approval program be established for equipment safety features beyond the basic engine and power package. These features could include such components as the fuel system, exhaust gas dilution system, electrical system, braking system and fire suppression system. With the proposal, MSHA published an ANPRM requesting comment on what approach should be taken on the recommendations.

Timetable:

Action	Date	FR Cite
Establishment of Advisory Committee	10/09/87	52 FR 37361
Notice of Appointment of Committee Members and Notice of First Meeting	01/05/88	53 FR 00169
Committee Delivered Recommendations	07/27/88	
ANPRM	10/04/89	54 FR 40950
NPRM	10/04/89	54 FR 40960
Extended Comment Period - ANPRM Until 2/2/90	12/26/89	54 FR 53328
Extended Comment Period - NPRM Until 7/6/90	12/26/89	54 FR 53328
ANPRM Comment Period End	01/02/90	54 FR 40950
NPRM Comment Period End	01/02/90	54 FR 40950
Proposal 1 - Hearings	01/00/91	
Proposal 2 - (Total Machine Approval) NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

DOL—MSHA

Final Rule Stage

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA27

1762. METAL AND NONMETAL RADIATION STANDARDS

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 57.5037 to 57.5047

Legal Deadline: None

Abstract: MSHA is reviewing its radiation standards for underground metal and nonmetal mines and has identified certain issues with respect to regulatory action. The Agency published a proposal in December 1986 revising its existing ionizing radiation standards. Public hearings were held in August 1987. Extensive testimony was presented during the public hearings. The rulemaking also takes into account the receipt of the NIOSH criteria document in October 1987 and recently promulgated EPA regulations concerning underground emissions of radionuclides.

Timetable:

Action	Date	FR Cite
ANPRM	11/19/85	50 FR 47700
ANPRM Comment Period End	02/18/86	
NPRM	12/19/86	51 FR 45678
NPRM Comment Period End	02/16/87	51 FR 45678
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Rm 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA26

1763. APPROVAL CRITERIA FOR RESPIRATORY PROTECTIVE DEVICES

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 11

Legal Deadline: None

Abstract: Under the 1977 Mine Act, MSHA and the National Institute for Occupational Safety and Health (NIOSH) jointly approve respirators for use in hazardous atmospheres. New technology has been developed which would not be allowed by the existing regulations. NIOSH will have the lead role in approval of respirators. MSHA will be involved with the devices which are uniquely adapted or required for mining. A proposed rule was published in August 1987. However, further rulemaking is contingent upon NIOSH's timetables.

Timetable:

Action	Date	FR Cite
NPRM	08/27/87	52 FR 32312
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Completion of MSHA's final rule is contingent upon NIOSH's completion of parallel rulemaking.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va 22203, 703 235-1910

RIN: 1219-AA30

1764. RULES OF PRACTICE FOR PETITIONS FOR MODIFICATION OF MANDATORY SAFETY STANDARDS

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 44

Legal Deadline: None

Abstract: On July 10, 1987, the United States Court of Appeals for the District of Columbia invalidated the Agency's existing interim relief regulation based in part, on procedural defects, holding that it was contrary to Congressional intent. (Int. Union v. MSHA, 823 F. 2d 606 (D.C. Cir. 1987)). MSHA subsequently issued a proposal addressing the Court's ruling and adding timeframes for consideration of petitions at all stages of review. Public hearings were held in November 1988.

Timetable:

Action	Date	FR Cite
NPRM	05/05/89	54 FR 19482
Extension of Comment Period Until 08/07/89	06/28/89	54 FR 123
NPRM Comment Period End	07/05/89	
Extended Comment Period Closed 12/22/89	12/08/89	54 FR 50730
Final Action	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Room 631, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA45

1765. AIR QUALITY STANDARDS

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 55; 30 CFR 56; 30 CFR 70; 30 CFR 71; 30 CFR 75; 30 CFR 90

Legal Deadline: None

Abstract: MSHA's proposed rule incorporates permissible exposure limits which are applicable to the hazards encountered in metal and nonmetal mines and coal mines. The proposal solicits comments on updating permissible exposure limits and methods of controlling such limits. Permissible exposure limits and standards for use of respiratory protective equipment would replace outdated incorporations by reference. The proposal would also update asbestos standards. Other issues being considered are: requirements for exposure monitoring; precautions for handling restricted-use chemicals; notification to workers of overexposure; miner access to exposure monitoring records; medical surveillance and transfer of miners required to use respirators and miners using certain carcinogens.

DOL—MSHA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	08/29/89	54 FR 35760
Comment Period Extended to 3/2/90	10/13/89	54 FR 42028
NPRM Comment Period End	11/27/89	54 FR 35760
Comment Period Extended to 3/2/90; 6/1/90; 8/24/90	01/25/90	55 FR 2536
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This regulation combines 1219-AA21, 1219-AA41, and 1219-AA46. The first of three hearings were held June 4 and 5 in Denver, Colorado and June 7 and 8 in Pittsburgh, Pennsylvania. The second set of hearings will be held in October 1990 in San Francisco, CA and Washington, DC.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA48

1706. REFUSE PILE AND IMPOUNDMENT INSPECTION RECORDS

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.215

Legal Deadline: None

Abstract: This rulemaking would address whether recordkeeping burdens could be reduced in 30 CFR Part 77 standards which address refuse piles and impoundments structures. In addition the proposal would address inspection and abandonment procedures for impoundment structures.

Timetable:

Action	Date	FR Cite
NPRM	04/02/90	55 FR 12204
NPRM Comment Period End	05/02/90	55 FR 12204
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA66

1707. BLASTING UNITS FOR METAL AND NONMETAL MINES WITH METHANE

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 57

Legal Deadline: None

Abstract: The proposal would revise existing Part 57, Subpart T safety standards for methane in metal and nonmetal mines for explosive materials and blasting units by deleting the reference to 30 CFR Part 25 in Section 57.22306(g)(1). The standard would then reference blasting units approved by MSHA.

Timetable:

Action	Date	FR Cite
NPRM	08/15/90	55 FR 24526
NPRM Comment Period-End	09/21/90	55 FR 24526
Final Action	08/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA49

1708. INFORMATION COLLECTION REQUIREMENTS FOR MINE RESCUE EQUIPMENT TEST AND INSPECTION; SCSR INSPECTION RECORDS; RECORDS OF FIRE DRILLS; AND FIRST AID TRAINING FOR SUPERVISORY EMPLOYEES

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 49; 30 CFR 75.1101 to 23; 30 CFR 75.1713-3; 30 CFR 75.1714-3; 30 CFR 77.1703

Legal Deadline: None

Abstract: These proposed rules would reduce the information collection burden imposed by MSHA on mine operators or other affected parties by revising reporting and recordkeeping requirements. In most cases, paperwork requirements would be replaced with certification provisions. This rulemaking would examine whether recordkeeping burdens could be reduced in 30 CFR 49.6(b) which requires records of monthly inspections and tests of mine operators and equipment operators and one year; in 30 CFR 75.1713-3 which requires records of quarterly inspections and tests of self-contained self-rescue devices; in 30 CFR 75.1101-23(c)(1) which requires records of the participation of coal miners in quarterly fire drills and in 30 CFR 75.1713-3 and 77.1703 which concern first-aid training courses for selected supervisory employees.

Timetable:

Action	Date	FR Cite
NPRM	11/20/89	54 FR 48062
NPRM Comment Period End	01/25/90	54 FR 48062
Final Action	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA67

DEPARTMENT OF LABOR (DOL)
Mine Safety and Health Administration (MSHA)

Completed Actions

1769. PATTERN OF VIOLATIONS

Significance: Regulatory Program

Legal Authority: 30 USC 814(e); 30 USC 957

CFR Citation: 30 CFR 104

Legal Deadline: None

Abstract: This rulemaking would implement section 104(e) of the Federal Mine Safety and Health Act of 1977 which addresses mines with a pattern of repeated, significant and substantial violations. The final rule will include both appropriate criteria and a meaningful procedure for identifying operators who are potential pattern violators. The costs of the regulations would primarily bear upon individual mine operators receiving pattern notices. Any costs that the mine operator would incur to comply with other Federal standards would be attributed to those standards. The primary benefit of the pattern of violators provisions would accrue to workers at mines where the mine operator has shown a disregard for their safety and health by allowing the same work hazards to repeatedly occur without addressing the underlying problems. Hearings were held in November 1988.

Timetable:

Action	Date	FR Cite
ANPRM	02/08/85	50 FR 5470
Withdrawal of 1980 NPRM	02/08/85	50 FR 5470
Extension of Comment Period to 5/10/85	04/05/85	50 FR 13617
ANPRM Comment Period End	04/09/85	50 FR 5470
NPRM	06/30/89	54 FR 23156
Extension of Comment Period to 08/31/89	08/20/89	54 FR 117
NPRM Comment Period End	07/31/89	
NPRM Comment Period Closed 12/22/89	12/08/89	54 FR 50730
Final Action	07/31/90	55 FR 31128
Final Action Effective	10/01/90	55 FR 31128

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA04

1770. SAFETY STANDARDS FOR BERMS AND GUARDRAILS AT METAL AND NONMETAL MINES

Significance: Agency Priority

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57

Legal Deadline: None

Abstract: On August 25, 1988 the Mine Safety and Health Administration (MSHA) amended its standard addressing the use of berms and guardrails on elevated roadways at metal and nonmetal mines. However, MSHA stayed the provision which allows an alternative to the use of berms or guardrails on elevated roadways for infrequently traveled roadways used by service or maintenance vehicles. MSHA's proposed rule addressed safety requirements necessary for such limited use roadways when berms or guardrails are not used.

Timetable:

Action	Date	FR Cite
NPRM	05/23/89	54 FR 35152
NPRM Comment Period End	10/23/89	
Final Action	09/07/90	55 FR 37216
Final Action Effective	10/26/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA50

1771. SAFETY STANDARDS FOR ROOF, FACE AND RIB SUPPORT

Significance: Agency Priority

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.200(a)

Legal Deadline: None

Abstract: On January 27, 1988 (53 FR 2354), MSHA published final rules revising its safety standards for roof, face, and rib support in underground coal mines. The final rule will address whether section 75.200(a) of these standards should exempt anthracite mines from entry width and roadway support requirements when conventional roof support is used. The requirement remains in effect, however, for bituminous coal mines.

Timetable:

Action	Date	FR Cite
NPRM	07/20/89	54 FR 30510
NPRM Comment Period End	09/18/89	
Final Action	04/16/90	55 FR 14228
Final Action Effective	05/16/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, BT#3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA58

DEPARTMENT OF LABOR (DOL) — **Proposed Rule Stage**

Office of the Assistant Secretary for Administration and Management (OASAM)

1772. NONDISCRIMINATION IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM THE DEPARTMENT OF LABOR

Significance: Regulatory Program

Legal Authority: 15 USC 3151; 20 USC 1681 to 1683; 20 USC 1685; 20 USC 1688; 29 USC 794; 29 USC 1561; 29 USC 1574; 29 USC 1577; 29 USC 1578; 42 USC 6101 to 6107; 42 USC 2000d to 2000d-4

CFR Citation: 29 CFR 31

Legal Deadline: Final, Statutory, September 12, 1978.
Regulations to implement the ADA were required as of 09/12/79 and to implement JTPA as of 10/01/83. The regulation must be coordinated with DOJ pursuant to Executive Order 12250. (cost)

Abstract: DOL's existing regulations implementing Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973, as amended would be amended and revised as a single comprehensive civil rights regulation covering all DOL statutory authority relating to nondiscrimination in Federally assisted programs.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Public Compliance Cost: Initial Cost: $0

Sectors Affected: None

Additional Information: LEGAL DEADLINE CONT: with EEOC pursuant to E.O. 12067, and with the Office of Management and Budget pursuant to E.O. 12291, prior to publication as an NPRM.

Agency Contact: Annabelle T. Lockhart, Director, Directorate of Civil Rights, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Ave., NW., Rm N4123, FPBldg., Washington, DC 20210, 202 523-6827

RIN: 1291-AA02

DEPARTMENT OF LABOR (DOL) — **Final Rule Stage**

Office of the Assistant Secretary for Administration and Management (OASAM)

1773. ADMINISTRATIVE GRANTS AND COOPERATIVE AGREEMENTS TO GOVERNMENT AND NONPROFIT INSTITUTIONS

Significance: Agency Priority

Legal Authority: OMB Circular A-110

CFR Citation: 29 CFR 97

Legal Deadline: None

Abstract: On March 11, 1988 a common final rule was published which implemented OMB Circular A-102, Administrative Requirements for Grants and Cooperative Agreements with State and Local governments. OMB and DHHS have prepared a proposed common rule and revised Circular A-110 to conform the grants management requirements for non-governmental grantees with government grants. The common rule already published on governmental grantees will be amended to incorporate non-governmental grants.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44710
NPRM Comment Period End	01/03/89	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Melvin Goldberg, Director, Office of Procurement and Grant Policy, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue, NW., Rm S1522, FP Bldg., Washington, DC 20210, 202 523-6174

RIN: 1291-AA15

1774. ◆ NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: PL 101-121 Section 319 [31 USC 1352]; 5 USC 301 Reorganization Plan No. 6 of 1950

CFR Citation: 29 CFR 93

Legal Deadline: None

Abstract: This rule is in response to Section 319 of Public Law 101-121. Section 319 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. Section 319 also requires that each person who requests or receives a Federal contract, grant, cooperative agreement, loan, or a Federal commitment to insure or guarantee a loan, must disclose lobbying.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Adam W. Hare, Procurement Analyst, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue, NW., Room S1522, FP Building, Washington, DC 20210, 202 523-6174

RIN: 1291-AA18

DEPARTMENT OF LABOR (DOL)
Office of the Assistant Secretary for Administration and Management (OASAM)
Completed Actions

1775. DOL ADOPTION OF COMMON RULE IMPLEMENTING DRUG-FREE WORKPLACE - NONPROCUREMENT

Significance: Regulatory Program

Legal Authority: EO 12564; Section 5151-5160 of the Drug-Free Work Place Act of 1988; PL 100-690 Title V, Subtitle D; 5 USC 552 to 556

CFR Citation: 29 CFR 98

Legal Deadline: Final, Statutory, April 30, 1989.
The President signed the Drug Act into law on November 18, 1988. The act requires final rules within 90 days and effective date within 120 days.

Abstract: This final action is the DOL adoption of common rules that implement the Drug-Free Work Place Act of 1988. The new regulations will be housed in the DOL regulations at 29 CFR Part 98, Suspension and Debarment - Nonprocurement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 4946
Interim Final Rule Effective	03/16/89	54 FR 4947
Final Action	05/25/90	55 FR 21681
Final Action Effective	07/24/90	55 FR 21681

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Melvin Goldberg, Director, Office of Procurement and Grant Policy, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue, NW., Room S1522, FP Building, Washington, DC 20210, 202 523-6178

RIN: 1291-AA17

DEPARTMENT OF LABOR (DOL)
Occupational Safety and Health Administration (OSHA)
Prerule Stage

1776. ● PEL UPDATE

Significance: Regulatory Program

Legal Authority: Not Yet Determined

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The 1989 Air Contaminants rulemaking, in which OSHA simultaneously regulated exposure limits for nearly 400 substances based on the recommendations of expert organizations, was a fast and effective way of protecting workers in general industry. While substance-specific standards may be appropriate for some substances, they have traditionally been resource-consuming rulemakings both in terms of the Federal time and dollars spent on individual substances and in terms of the litigation efforts expended by the public and the government. Using existing resources, OSHA can regulate more chemicals and provide protection for more workers by revising the Z Table at regular intervals to establish permissible exposure limits (PELs), and by using substance-specific standards only in those cases where complex issues or the nature of the risk necessitate additional protection. OSHA plans to establish a program to revise the Z Table on a regular basis.

Timetable:

Action	Date	FR Cite
Completion of Options Paper	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Room N3718, FP Building, Washington, DC 20210, 202 523-7075

RIN: 1218-AB32

DEPARTMENT OF LABOR (DOL)
Occupational Safety and Health Administration (OSHA)
Proposed Rule Stage

1777. RESPIRATORY PROTECTION

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.134; 29 CFR 1915.152; 29 CFR 1926.152; 29 CFR 1926.103

Legal Deadline: None

Abstract: The present respiratory protection standards have been in place for more than 20 years and do not take into consideration the current state-of-the-art for respiratory protection. In addition, the general industry standard for respirators contains redundancies and includes several advisory provisions which should be eliminated or changed. OSHA has reviewed the current standards and intends to propose revisions.

Timetable:

Action	Date	FR Cite
ANPRM	05/14/82	47 FR 20609
ANPRM Comment Period End	09/10/82	
Public Comment Period on Preproposal Draft Ends	11/29/85	
NPRM	11/00/90	
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW., Rm N3718,

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FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AA30

1777. SAFETY AND HEALTH REGULATIONS FOR LONGSHORING (PART 1918)

Significance: Regulatory Program

Legal Authority: 29 USC 655 Occupational Safety and Health Act of 1970; 33 USC 941 Longshore and Harborworkers Compensation Act

CFR Citation: 29 CFR 1918.10; 29 CFR 1918, (Revision)

Legal Deadline: None

Abstract: The purpose of this regulatory action would be to update and revise a standard first issued in 1960. The current language in many instances addresses the hazards of cargo handling involving methods long since abandoned, and fails to address the serious hazards of newer methods. Because much of the current standard is out of date, there are problems with compliance. These revised requirements will provide both employers and employees with a blueprint for effective and safe workpractices in the cargo handling industry. No alternative other than revision is contemplated. The annual cost of the revision is expected to be minimal – less than five million dollars.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	
Final Action	02/00/92	

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: 44 Water Transportation

Agency Contact: Roger A. Clark, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Rm N3605 FP Building, Washington, DC 20210, 202 523-8061

RIN: 1218-AA58

1778. STEEL ERECTION (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 653; 40 USC 333

CFR Citation: 29 CFR 1926.750, (Revision); 29 CFR 1926.751, (Revision); 29 CFR 1926.752, (Revision)

Legal Deadline: None

Abstract: This action will consolidate, clarify, and revise the existing provisions governing steel erection assembly, flooring, bolting, riveting, fitting-up, plumbing-up, and fall protection. When completed, the revised fall protection requirements may be relocated and be incorporated into Subpart M (of Part 1926) which is the general fall protection standard.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Roger A. Clark, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Rm N3605, FP Building, Washington, DC 20210, 202 523-8061

RIN: 1218-AA65

1780. WELDING, CUTTING AND BRAZING (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.251; 29 CFR 1910.252; 29 CFR 1910.253; 29 CFR 1910.254

Legal Deadline: None

Abstract: OSHA proposes to revise and update its existing Subpart Q covering welding, cutting and brazing operations, and to develop performance-oriented standards designed to reduce the number of deaths and injuries due to unsafe equipment and unsafe operations. There has been no substantial revision to Subpart Q since its adoption in 1971. A complete and comprehensive revision is needed at this time to bring the standard into line with the current state-of-the art and updated consensus standards.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: Roger A. Clark, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW., Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA72

1781. FORMALDEHYDE

Significance: Regulatory Program

Legal Authority: 29 USC 655 et seq

CFR Citation: 29 CFR 1910.1048

Legal Deadline: None

Abstract: The present occupational health standard for formaldehyde was published on December 4, 1987 (52 FR 46168). In this standard, the Occupational Safety and Health Administration (OSHA) required hazard warning labels to be placed on containers of all products composed of greater than 0.1 percent formaldehyde or capable of releasing formaldehyde into the air under any normal condition of use at concentrations reaching or exceeding 0.1 ppm. Material safety data sheets, prepared in accordance with paragraph (g) of the Hazard Communication Standard (29 CFR 1910.1200), were also required. On December 2, 1987, the Formaldehyde Institute filed an Application for Administrative Stay of the Formaldehyde Standard's cancer labeling requirement. On November 8, 1988, OSHA requested comments on whether to grant a petition for administrative stay of these provisions and whether to institute additional rulemaking. Based primarily on the comments received, OSHA stayed the provision at 29 CFR 1910.1048 (m)(1)(i) through (m)(4)(ii) for a period of (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: nine months, commencing December 13, 1988 (53 FR 50196). On June 13, 1990 (55 FR 24070), OSHA extended the administrative stay until August 13, 1990, to consider further developments in the hazard

communication rulemaking in determining what regulatory action to propose on formaldehyde. Based on public comment and the rulemaking record, OSHA will promulgate revised hazard communication provisions for formaldehyde.

Agency Contact: Charles E. Adkins, Director, Health Standards Program, Occupational Safety and Health Admin., Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Room N3718, FP Building, Washington, DC 20210, 202 523-7075

RIN: 1218–AA82

1782. 1,3-BUTADIENE

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1000, (Table Z-1)

Legal Deadline: None

Abstract: On October 10, 1985, EPA referred 1,3-butadiene (BD) to OSHA for possible regulatory action under section 9(a) of the Toxic Substance Control Act. On April 11, 1986, OSHA responded to the EPA referral indicating that the Agency has preliminarily concluded that BD poses risk to the occupationally exposed population at the current OSHA permissible exposure limit and that the risk can be reduced or prevented through the promulgation of a revised standard. On October 1, 1988 (51 FR 35003), OSHA published an ANPRM initiating regulatory action within the meaning of section 9(a) of TSCA. Comments were submitted to OSHA by December 30, 1988.Based on the comments received in response to the ANPRM OSHA developed a proposal which was published on August 10, 1990.

Timetable:

Action	Date	FR Cite
EPA Referral	10/10/85	50 FR 41389
Request for Comments	12/27/85	50 FR 52662
Response to EPA Referral	04/11/86	51 FR 12528
ANPRM	10/01/88	51 FR 35003
ANPRM Comment Period End	12/30/88	
NPRM	08/10/90	55 FR 32736
NPRM Comment Period End	10/12/90	55 FR 32736
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AA83

1783. GLYCOL ETHERS: 2-METHOXYETHANOL, 2-ETHOXYETHANOL AND THEIR ACETATES

Significance: Regulatory Program

Legal Authority: 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910.1000

Legal Deadline: None

Abstract: On May 20, 1986, the Environmental Protection Agency (EPA) issued a report to OSHA, under Section 9(a) of the Toxic Substances Control Act, stating that EPA has reasonable basis to conclude that the risk of injury to worker health from exposure to four glycol ethers during their manufacture, processing and use is unreasonable, and that this risk may be prevented or reduced to a significant extent by OSHA regulatory action. EPA gave OSHA 180 days in which to respond to its report. OSHA published its response on December 11, 1986, stating that OSHA had preliminarily concluded that occupational exposures to the subject glycol ethers at the current OSHA permissible exposure limits may present significant risks to the health of workers. OSHA published an Advance Notice of Proposed rulemaking (ANPRM) on April 2, 1987. (52 FR 10586). OSHA will use the information received in response to the ANPRM, as well as other information and analysis, to prepare a proposed standard.

Timetable:

Action	Date	FR Cite
ANPRM	04/02/87	52 FR 10586
ANPRM Comment Period End	07/31/87	
NPRM	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW., Rm N3718,

RIN: 1218–AA84

1784. METHYLENE CHLORIDE

Significance: Regulatory Program

Legal Authority: 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910.1000

Legal Deadline: None

Abstract: In July 1985, OSHA was petitioned by the United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) to issue a hazard alert; issue an emergency temporary standard; and to begin work on a new permanent standard for methylene chloride (DCM). This request was based on information obtained from the Environmental Protection Agency and the National Toxicology Program indicating that DCM is an animal carcinogen and may have the potential to cause cancer in humans. In November 1985, OSHA notified the UAW that its petition had been granted, in part, and denied, in part. Specifically, OSHA issued a set of guidelines for controlling occupational exposure to DCM and OSHA denied that portion of the petition requesting the issuance of an emergency temporary standard. OSHA published an Advance Notice of Proposed Rulemaking on November 24, 1986 (51 FR 42257).

Timetable:

Action	Date	FR Cite
ANPRM	11/24/86	51 FR 42257
ANPRM Comment Period End	02/23/87	51 FR 42257
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW., Rm N3718,

FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AA88

1705. MEDICAL SURVEILLANCE PROGRAMS FOR EMPLOYEES

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: On January 19, 1989, OSHA modified (54 FR 2332) the Z table permissible exposure limits of 29 CFR 1910.1000 in response to current scientific data. Section 6(b) of the Act requires where appropriate, provision for medical surveillance in each 6(b) rulemaking for a harmful substance. A generic standard for medical surveillance would satisfy the requirements of the Act thus enabling the Agency to deal directly with the narrower issues of the revision of the tables. OSHA published an Advance Notice of Proposed Rulemaking on September 27, 1988, (53 FR 37505) to acquire additional information. OSHA also intends to review its compliance experience with medical surveillance provisions and seek experienced medical opinion in the form of a symposium or other public discussion. In addition, OSHA initiated a survey in 1990 to collect information regarding the prevalence and effectiveness of current medical surveillance programs.

Timetable:

Action	Date	FR Cite
ANPRM	09/27/88	53 FR 37505
ANPRM Comment Period End	12/27/88	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AB00

1706. EXPOSURE ASSESSMENT PROGRAMS FOR EMPLOYEES EXPOSED TO HAZARDOUS CHEMICALS

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: On January 19, 1989, OSHA modified (54 FR 2332) the Z table permissible exposure limits of 29 CFR 1910.1000 (General Industry) in response to current scientific data. Section 6(b)(7) of the Act requires provisions for exposure monitoring for each substance undergoing 6(b) rulemaking. A generic standard for exposure monitoring would satisfy the monitoring requirement of the Act thus enabling the Agency to deal directly with the narrower issues of the revision of the Z tables. OSHA published an Advance Notice of Proposed Rulemaking on September 27, 1988, (53 FR 37591). OSHA intends to review its compliance experience with exposure monitoring provisions and seek expert opinion to determine the appropriateness of generic exposure monitoring provisions. In addition, OSHA initiated a survey in 1990 to collect information regarding the prevalence and effectiveness of current exposure assessment programs.

Timetable:

Action	Date	FR Cite
ANPRM	09/27/88	53 FR 37591
ANPRM Comment Period End	12/27/88	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AB01

1707. HAZARDOUS MATERIALS (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910, (Subpart H)

Legal Deadline: None

Abstract: Standards in 29 CFR Part 1910, Subpart H, which address the storage, handling and use of hazardous materials, such as compressed gases, acetylene, hydrogen, oxygen, liquified petroleum gases, and flammable and combustible liquids, will be revised. This regulatory action will provide a new approach to the revision of Subpart H and will occur in three phases in an expanded timeframe. The three phases will be (1) Process Hazards Management, (2) Flammable and Compressed Gases, and, (3) Hazardous Liquids. The first phase of the proposed action is intended to better protect employees from unexpected releases of significant quantities of dangerous substances. The remaining phases are intended to simplify, clarify and consolidate standards on hazardous materials and assist employers and employees in general industry to better understand and better focus on the hazards inherent in the use, handling, and storage of such materials.

Timetable:

Action	Date	FR Cite
ANPRM	01/23/81	46 FR 7622
ANPRM Comment Period End	02/01/82	46 FR 29106
NPRM	07/17/90	55 FR 29150
NPRM Comment Period End	10/15/90	55 FR 29150
Final Action	07/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This action merges two previous actions, "Hazardous Materials-- Flammable and Compressed Gases (Part 1910)" and "Hazardous Materials--Flammable and Combustible Liquids (Part 1910)" and will also include the process hazards management of highly hazardous chemicals.

Agency Contact: Roger A. Clark, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Rm N3605, FP Building, Washington, DC 20210, 202 523-8061

RIN: 1218-AB20

DOL—OSHA

Proposed Rule Stage

1748. SHIPYARD EMPLOYMENT: PHASE II (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.1 et seq; 29 CFR 1915.31 et seq; 29 CFR 1915.91 et seq; 29 CFR 1915.111 et seq; 29 CFR 1915.131 et seq; 29 CFR 1915.161 et seq; 29 CFR 1915.171 et seq; 29 CFR 1915.181; 29 CFR 1910.13; 29 CFR 1910.14; 29 CFR 1910.15; 29 CFR 1910.95; 29 CFR 1910.96; 29 CFR 1910.97; 29 CFR 1910.141; ...

Legal Deadline: None

Abstract: This regulatory action will complete the consolidation and updating of Parts 1915 and 1910 by providing shipyard employees with coverage under one comprehensive OSHA standard. This revision effort will involve the promulgation of 20 maritime subparts. Its completion will be done in stages and will relieve shipyard owners from the burden of having comply with two sets of rules that are complex, prescriptive, confusing and, in some cases, conflicting. OSHA has established an Advisory Committee to assist the Agency is reviewing and revising these subparts. Experts from government, industry, unions and the states are working with OSHA on this project. A previously identified project, Surface Preparation and Preservation (RIN: 1218-AA96), will be included in this project.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roger A. Clark, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AB22

1749. RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

Significance: Regulatory Program

Legal Authority: Occupational Safety and Health Act, Section 8(c)(2) and 24(a)

CFR Citation: 29 CFR 1904.1 to .22

Legal Deadline: None

Abstract: The Occupational Safety and Health Act and 29 CFR 1904 require covered employers to record all work-related fatalities, illnesses and certain injuries; to report work-related fatality, and multiple hospitalization accidents; and report summary data if selected to participate in the BLS annual survey. Concerns about the reliability and utility of the data currently available have been raised by Congress, BLS, OSHA, NIOSH, the National Academy of Sciences, the GAO and representatives of business and labor. This regulatory requirement is a Federal statutory provision. It implements Sections 8(c)(2) and 24(a) of the OSH Act. For those States that operate their own safety and health plan under the States that operate their own safety and health plan under the OSHA, 29 CFR 1952.4 prescribes that they adopt recordkeeping and reporting regulations which are substantially identical to 29 CFR 1904. Thus, Federal regulation provides a comprehensive framework consistent with the statutory purposes. BLS and OSHA have tested several data collection vehicles and procedures and are revising the recordkeeping guidelines to improve the usefulness of the survey outputs.

Timetable:

Action	Date	FR Cite
NPRM	07/00/91	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: Frank Frodyma, Deputy Director, Directorate of Policy, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Room N3641, FP Building, Washington, DC 20210, 202 523-8021

RIN: 1218–AB24

1750. PEL UPDATE PROPOSAL FOR CONSTRUCTION, MARITIME AND AGRICULTURE

Significance: Regulatory Program

Legal Authority: Not Yet Determined

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The permissible exposure limits (PELS) promulgated by OSHA in 1971 do not reflect current knowledge of the health effects of many toxic substances. OSHA published a proposal on June 7, 1988 (53 FR 20960) to amend and expand the PELs for general industry. On January 19, 1989 OSHA set new PELs for the toxic substances originally covered in 1971 and covered new substances in a single rulemaking that applied to general industry. OSHA now plans to update the old PELs for construction, maritime, and possible agricultural sectors not covered by the general industry proceeding. The PELs for these sectors are outdated: the construction industry (29 CFR 1926) references the 1970 ACGIH TLVs; the maritime industry cites three different references—29 CFR 1918 (longshoring), "dangerous gaseous contaminants not immediately dangerous to life" and "heavy concentrations of dusts." In addition, in the agricultural section, OSHA will consider the fact that chemicals and pesticides are currently regulated by EPA. As a result of this rulemaking, OSHA expects that a unified table of PELs for toxic substances will be adopted for all industries.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Room N3718, FP Building, Washington, DC 20210, 202 523-7075

RIN: 1218–AB26

1751. VEHICLE SAFETY

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.140; 29 CFR 1915.99; 29 CFR 1917.44; 29 CFR 1918.73; 29 CFR 1928.601; 29 CFR 1928.602; 29 CFR 1928.58

Legal Deadline: None

DOL—OSHA

Proposed Rule Stage

Abstract: OSHA currently has no general regulation requiring that employers train their employees in the safe operation of motor vehicles on the job, including the required use of seat belts, although motor vehicle crashes are the single largest cause of occupational fatalities. On-the-job motor vehicle crashes, in both on-road and off-road vehicles, caused over 20 percent of traumatic work-related fatalities in 1987. In the manufacturing sector, which is the primary target of most OSHA regulations, more workers are killed by motor vehicles than by fixed machinery. The hazards faced by workers operating automobiles and trucks, both on public highways and at private facilities, could be greatly reduced by requiring employers to train their employees in safe driving techniques, including the required use of seat belts. OSHA plans to proceed with a single NPRM that would regulate all employers covered by the OSH Act. The approach will be to develop a generic, performance-oriented standard. Various state regulations (cont)

Timetable:

Action	Date	FR Cite
NPRM	07/12/90	55 FR 28728
NPRM Comment Period End	11/09/90	55 FR 28728
Final Action	11/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: ABSTRACT CONT: governing the use of seat belts, and related studies will be considered in this proposal. OSHA expects that the regulation could prevent as many as 800 fatalities each year.

Agency Contact: Roger A. Clark, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Room N3605, FP Building, Washington, DC 20210, 202 523-8061

RIN: 1218–AB36

1792. CONTROL OF HAZARDOUS ENERGY (LOCKOUT/TAGOUT)—CONSTRUCTION (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 653(b)

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: Hazards at construction sites resulting from the absence of effective lockout/tagout procedures to control hazardous energy appear to be caused by several factors, all associated with the nature of the construction industry. These factors basically relate to such considerations as the types of machines and equipment found in construction; the makeup of the industry in which employment is relatively "short term," lasting only as long as the length of the current project; the presence of multiple employers having different employer/employee relationships and the temporary nature of the "in-the-field" maintenance activity. The Occupational Safety and Health Administration (OSHA) expects the proposal to address lockout-related hazards in those construction work-site areas in which the available data indicate these hazards to be significant. Regulatory options involve developing a comprehensive standard covering all potentially hazardous energy sources. OSHA will consider the use of the construction advisory committee to assist in the development of this standard.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Roger A. Clark, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Room N3605, FP Building, Washington, DC 20210, 202 523-8061

RIN: 1218–AB30

1793. ● FIRE BRIGADES

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.156

Legal Deadline: None

Abstract: Fighting fires as members of fire brigades presents a significant risk of harm to employees. Fire fighting continues to be one of the Nation's most hazardous occupations. To mitigate these risks OSHA promulgated a standard for fire brigades in 1910. However, this standard is now over 100 years old and does not reflect current advances in technology and safety, particularly with respect to personal protective equipment. Also, the current standard does not address wildland firefighting or crash-rescue firefighting. OSHA intends to revise and update the fire brigade standard to reflect current advances in technology and safety, and to address both wildland firefighting and crash-rescue firefighting.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Roger A. Clark, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Room N3605, FP Building, Washington, DC 20210, 202 523-8061

RIN: 1218–AB31

1794. ● POWERED INDUSTRIAL TRUCK OPERATOR TRAINING

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.178

Legal Deadline: None

Abstract: Nationally, fatalities due to unsafe operation of industrial vehicles and equipment account for approximately 12 percent of the private sector fatalities. This is the second leading cause of fatalities in the private sector, behind only highway vehicle fatalities. The present standard has proven to be ineffective in reducing the number of accidents involving powered industrial trucks. OSHA intends to revise the present standard to increase its effectiveness by requiring, in performance language, initial and refresher training as necessary. The frequency of the refresher training will be based upon the ability of the vehicle operator to retain the knowledge, skills and abilities to perform the job safely. OSHA will also give guidance as to what information the instruction should include. There will also be other amendments to the standard to increase its effectiveness.

DOL—OSHA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Roger A. Clark, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Room N3606, FP Building, Washington, DC 20210, 202 [illegible]

RIN: 1218-AE03

DEPARTMENT OF LABOR (DOL)

Occupational Safety and Health Administration (OSHA)

Final Rule Stage

1794. CONCRETE AND MASONRY CONSTRUCTION (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.700; 29 CFR 1926.701; 29 CFR 1926.702; 29 CFR 1926.703; 29 CFR 1926.704; 29 CFR 1926.705; 29 CFR 1926.706

Legal Deadline: None

Abstract: A final rule for concrete and masonry construction was published in the Federal Register on June 16, 1988. However, the record was reopened to allow information and evidence obtained from the investigation of a recent major accident to be included in the record pertaining to lift-slab operations. Revised lift-slab rules were then proposed (September 15, 1988).

Timetable:

Action	Date	FR Cite
ANPRM	02/09/82	47 FR 5910
ANPRM Comment Period End	04/10/82	
NPRM	09/16/85	50 FR 37543
NPRM Comment Period End	11/15/85	50 FR 37543
Public Hearing Scheduled	04/08/86	51 FR 11945
Public Hearing Rescheduled and Held June 17-18, 1986	05/09/86	51 FR 17203
Final Action (Except Lift-Slab)	06/16/88	53 FR 22612
Final Action Effective Date (Except Lift-Slab)	08/15/88	53 FR 22612
NPRM -- Reproposal of Lift-Slab Rules	09/15/88	53 FR 35972
NPRM Public Comment Period End -- Reproposal of Lift-Slab Rules	11/14/88	
Final Action on Lift-Slab Rules	09/00/90	
Final Action	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: 29 CFR 1926, Subpart Q currently entitled: "Concrete, Concrete Forms, and Shoring".

Agency Contact: Roger A. Clark, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Rm N3605, FP Building, Washington, DC 20210, 202 523-8061

RIN: 1218-AA20

1795. ASBESTOS, TREMOLITE, ANTHOPHYLLITE AND ACTINOLITE

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910.1001; 29 CFR 1926.58

Legal Deadline: None

Abstract: On June 20, 1986, OSHA issued revised standards governing occupational exposure to asbestos, tremolite, anthophyllite, and actinolite in general industry and in the construction industry. These standards replaced OSHA's previous asbestos standard promulgated in 1972. Since the issuance of the revised standards, OSHA has received letters and petitions, from both rulemaking participants and nonparticipants, that contain additional comments, assertions and information that the rulemaking record may not fully reflect. These letters and petitions concern the appropriateness of regulating nonasbestiform tremolite, anthophyllite and actinolite as presenting the same health risk as asbestos. OSHA has granted a temporary stay of the effective dates of the current standards as they apply to nonasbestiform varieties of tremolite, anthophyllite and actinolite. This action was taken, in part, to enable the Agency to review letters and memoranda from the National Institute for Occupational Safety and Health as well as submissions by the R.T. Vanderbilt Company and various other (cont)

Timetable:

Action	Date	FR Cite
Notice of Partial Admin. Stay	10/17/86	51 FR 37092
Extension of Partial Admin. Stay	04/30/87	52 FR 16722
Extension of Partial Admin. Stay	07/20/88	53 FR 27345
NPRM	02/12/90	55 FR 4938
NPRM Comment Period End	04/09/90	55 FR 4938
Final Action	02/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ABSTRACT CONT: trade associations concerning the appropriateness of regulating nonasbestiform tremolite, anthophyllite and actinolite in the revised standards. In addition, the temporary stay was imposed to allow sufficient time for OSHA to reopen the rulemaking record and conduct supplemental proceedings on the issue of whether, and how, to regulate occupational exposure to the nonasbestiform varieties of tremolite, anthophyllite and actinolite. On February 12, 1990 (55 FR 4938), OSHA published a proposal to gather additional information and data to determine whether and how to regulate the nonasbestiform varieties. Hearings were held May 8-14, 1990, and the comment period closed on June 28, 1990. The temporary stay will remain in effect until OSHA completes the evaluation of the comments and reaches a final decision.

DOL—OSHA — Final Rule Stage

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AA26

1787. METHODS OF COMPLIANCE

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1000(e); 29 CFR 1910.134(a)(1)

Legal Deadline: None

Abstract: OSHA's policy concerning the use of engineering controls and respirators was targeted for review by the President's Task Force on Regulatory Relief in 1981. Current OSHA regulations require that employers implement feasible engineering controls to maintain air contaminant concentrations in the workplace at or below the prescribed permissible exposure limits. The use of respirators is permitted only in those cases where engineering controls are not feasible, not yet installed, or not adequate. This policy has been criticized as being inflexible, not cost-effective, and often unnecessary for employee health protection. OSHA believes that any changes to the policy for use of engineering controls must be closely coordinated with revisions in the respiratory protection regulations (29 CFR 1910.134). This rulemaking does not address the assessment and reduction of any absolute existing risks, but rather addresses the possible change in risk abatement associated with the use of respirators instead of engineering controls. OSHA published a proposal on June 8, 1988 (54 FR 23881). Hearings were held on May 30-31, 1989, and continued on July 9-10, 1989.

Timetable:

Action	Date	FR Cite
ANPRM	02/22/83	48 FR 7472
ANPRM Comment Period End	06/22/83	
NPRM	08/05/88	54 FR 23881
NPRM Comment Period End	10/03/88	
Final Action	05/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Rm N3718, FPBldg, 200 Constitution Ave., NW., Washington, DC 20210, 202 523-7075

RIN: 1218-AA28

1788. FALL PROTECTION (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.104; 29 CFR 1926.105; 29 CFR 1926.300; 29 CFR 1926.501; 29 CFR 1926.502; 29 CFR 1926.107(b); 29 CFR 1926.250(b)(2); 29 CFR 1926.651(i); 29 CFR 1926.951(b)(4)(i); 29 CFR 1926.107(c); 29 CFR 1926.107(f); 29 CFR 1926.651(w)

Legal Deadline: None

Abstract: The existing standard has been proposed for revision because it is poorly formatted, contains unnecessary and restrictive provisions, and does not properly address the fall protection needs of certain areas and operations. The proposal raises several significant issues including (1) when fall protection systems must be installed, (2) whether work surface inspections are necessary to insure adequate structural integrity before commencing work, and (3) whether body belt systems or body harness systems are appropriate for use as fall protection. (Subpart M revised)

Timetable:

Action	Date	FR Cite
NPRM	11/25/88	51 FR 42680
NPRM Comment Period End	09/14/87	52 FR 20616
Final Action	09/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This agenda entry is part of Regulatory Program RIN 1218-AB05; Elevated Surfaces (Part 1926).

Agency Contact: Roger A. Clark, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Rm N3605, FPBldg, 200 Constitution Ave., NW., Washington, DC 20210, 202 523-8061

RIN: 1218-AA37

1789. SCAFFOLDS (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.451; 29 CFR 1926.452; 29 CFR 1910.28; 29 CFR 1910.29; 29 CFR 1926.752(i)

Legal Deadline: None

Abstract: The existing standard has been proposed for revision because it is poorly formatted, contains unnecessary and restrictive provisions, and omits necessary specific coverage for certain types of scaffolds. The proposal raises several significant issues including: (1) the use of crossbraces as guardrails, (2) the use of fall protection during scaffold erection and dismantling operations, and (3) the role of engineers in scaffold design. (Subpart L, revised)

Timetable:

Action	Date	FR Cite
NPRM	11/25/88	51 FR 42680
NPRM Comment Period End	09/14/87	52 FR 20616
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This agenda entry is part of Regulatory Program RIN 1218-AB05; Elevated Surfaces (Part 1926).

Agency Contact: Roger A. Clark, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Room N3605, FP Building, Washington, DC 20210, 202 523-8061

RIN: 1218-AA40

1790. FALL PROTECTION SYSTEMS (PERSONAL PROTECTIVE EQUIPMENT) (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910. (Subpart I)

Legal Deadline: None

Abstract: Existing standards do not contain criteria for personal fall protection systems. Consequently, requirements containing criteria for

personal fall protection systems would be added to 29 CFR Part 1910; Subpart I, Personal Protection Equipment, to enhance employee protection from injury and death due to falls to different elevations.

Timetable:

Action	Date	FR Cite
NPRM	04/10/90	55 FR 13423
NPRM Comment Period End	06/22/90	55 FR 13423
Hearing	09/11/90	55 FR 28224
Final Action	09/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: 1218-AA48 will be issued concurrently with 1218-AB04.

Agency Contact: Roger A. Clark, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Rm N3605, FP Building, Washington, DC 20210, 202 523-8061

RIN: 1218-AA48

1891. CONFINED SPACE (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.140

Legal Deadline: None

Abstract: Entry into confined spaces has been responsible for many employee deaths and injuries. However, current standards do not specifically address the hazards associated with entry into confined spaces. Therefore, OSHA is proposing certain criteria and precautions which are necessary to minimize the hazards associated with employees entering confined spaces.

Timetable:

Action	Date	FR Cite
NPRM	06/05/89	54 FR 24080
NPRM Comment Period End	10/04/89	54 FR 30557
Final Action	02/00/92	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Impact Analysis

Agency Contact: Roger A. Clark, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Rm N3605, FP Building, Washington, DC 20210, 202 523-8061

RIN: 1218-AA51

1892. LOGGING OPERATIONS (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.266, (Revision)

Legal Deadline: None

Abstract: Logging is a very hazardous industry. It has an incidence rate nearly twice that of manufacturing, and reflecting the seriousness of the injuries incurred, a lost workday rate nearly four times as high. The purpose of the standard will be to protect workers from the ever-present hazards of chain saw operation, falling objects (trees, branches), rolling or sliding logs, falls from trees, and materials handling accidents. At present there is no OSHA standard specifically applicable to logging in general. There is a standard, 29 CFR 1910.266, applicable only to pulpwood logging; however, pulpwood logging is estimated to account for less than half of the logging activity in the United States. Development of a national OSHA standard addressing all types of logging will provide coverage for those loggers not now protected. The new regulation will provide coverage where there is no approved state regulation and will set a minimum safety level for those states that chose to develop a state regulation.

Timetable:

Action	Date	FR Cite
NPRM	05/02/89	54 FR 18798
NPRM Comment Period End	07/31/89	
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: 24 Lumber and Wood Products, Except Furniture

Agency Contact: Roger A. Clark, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Rm N3605, FP Building, Washington, DC 20210, 202 523-8061

RIN: 1218-AA52

1893. STAIRWAYS AND LADDERS (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.450; 29 CFR 1926.452; 29 CFR 1926.501; 29 CFR 1926.502; 29 CFR 1926.1052; 29 CFR 1926.1051

Legal Deadline: None

Abstract: The existing standard has been proposed for revision because it contains references to non-government voluntary regulations by topic. The proposal raises several significant issues including: (1) what is the appropriate height limit where the use of ladders as a means of access should be required, and (2) what are appropriate field tests for determining ladder strength. (New Subpart X)

Timetable:

Action	Date	FR Cite
NPRM	11/25/86	51 FR 42960
NPRM Comment Period End	09/14/87	52 FR 29816
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Additional Information: This new Subpart X is a revision of the ladder and stairway portions of existing Subparts L (ladders and scaffolds) and M (Floor and Wall Openings and Stairways). The remaining portions of Subparts L and M are being revised as Subparts L (Scaffolds) and M (Fall Protection). (RIN 1218-AA37 - Fall Protection; RIN 1218-AA40 - Scaffolds.) This agenda entry is part of Regulatory Program RIN 1218-AB06; Elevated Surfaces (Part 1926).

Agency Contact: Roger A. Clark, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Rm N3605, FP Bldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA37

1894. 4,4'-METHYLENEDIANILINE

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910

DOL—OSHA

Final Rule Stage

Legal Deadline: None

Abstract: 4,4'-Methylenedianiline (MDA) is a chemical used primarily to manufacture methylenediphenyl diisocyanate, which is used to make polyurethane foams and elastomers. Recent scientific data indicate that MDA is a carcinogen in animals and a potential carcinogen in humans. In 1983, OSHA and the Environmental Protection Agency participated in a joint effort to publish an advance notice of proposed rulemaking to solicit information on MDA production and use, estimates of environmental and occupational exposure, and studies of its toxic and carcinogenic effects. EPA evaluated the data received in response to the advance notice and concluded that the chemical presents an unreasonable risk of injury to the health of exposed workers. Under the provisions of section 9(a) of the Toxic Substances Control Act, EPA referred MDA to OSHA for action. OSHA responded to the EPA referral on 2/28/86. OSHA established a mediated rulemaking advisory committee composed of interested parties from labor, industry and government to assist the agency in developing a proposed standard. The Committee completed its work in June 1987 (cont)

Timetable:

Action	Date	FR Cite
ANPRM	06/20/83	48 FR 42926
ANPRM Comment Period End	11/23/83	48 FR 42836
Publication of Committee Recommendation	07/16/87	52 FR 26778
NPRM	05/12/89	54 FR 20572
NPRM Comment Period End	05/16/89	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: and forwarded its recommendations to the Agency. OSHA published the Committee's recommendations on July 16, 1987, and published a proposed standard for MDA on May 12, 1989. Hearings were conducted on March 20-21, 1990. The comment period for the first set of post hearing comments closed on May 8, 1990. The second closing date was May 23, 1990.

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW., Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AA58

1905. ELECTRIC POWER GENERATION, TRANSMISSION AND DISTRIBUTION (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.137; 29 CFR 1910.269

Legal Deadline: None

Abstract: A major area of coverage not addressed in the current OSHA electrical standards for general industry (29 CFR 1910) involves the maintenance and operation practices associated with electrical transmission and distribution lines, substations and generating stations. It is intended that the proposed standard fill this void by establishing minimum requirements for electrical safety work practices for qualified employees working on or near installations whose purpose is the generation and distribution of electricity.The proposal also revises the standards for electrical protective equipment, which is used routinely for electrical power work.

Timetable:

Action	Date	FR Cite
NPRM	01/31/89	54 FR 4974
NPRM Comment Period End	06/01/89	
Final Action	12/00/91	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: Roger A. Clark, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Rm N3605, FP Building, Washington, DC 20210, 202 523-8061

RIN: 1218-AA59

1906. FALL PROTECTION IN SHIPYARDS (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.201; 29 CFR 1915.202; 29 CFR 1915.203; 29 CFR 1915.73; 29 CFR 1915.74; 29 CFR 1915.75; 29 CFR 1915.77

Legal Deadline: None

Abstract: This regulatory action will revise the existing shipyard standard covering fall protection and will consolidate all related and applicable 29 CFR 1910 provisions into 29 CFR 1915. The revision will develop, in part, performance-oriented standards, address current gaps in coverage, address new technology and eliminate outmoded and redundant provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48166
NPRM Comment Period End	02/27/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Applicable Part 1910 provisions under consideration: 29 CFR 1910.21-1910.23.

Agency Contact: Roger A. Clark, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Room N3605, FP Building, Washington, DC 20210, 202 523-8061

RIN: 1218-AA66

1907. SCAFFOLDS IN SHIPYARDS (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.71; 29 CFR 1910.28; 29 CFR 1910.29

Legal Deadline: None

Abstract: This regulatory action will revise the existing shipyard standards covering scaffolds and will consolidate all related and applicable 29 CFR 1910 provisions into 29 CFR 1915. The revision will develop, in part, performance-oriented standards, address current gaps in coverage, address new technology, and eliminate outmoded and redundant provisions.

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Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48162
NPRM Comment Period End	02/27/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Applicable Part 1910 provisions under consideration: 29 CFR 1910.28 - .29.

Agency Contact: Roger A. Clark, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Rm N3605, FP Building, Washington, DC 20210, 202 523-8061

RIN: 1218-AA68

1808. ACCESS AND EGRESS IN SHIPYARDS (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.72; 29 CFR 1915.74; 29 CFR 1915.75; 29 CFR 1915.76

Legal Deadline: None

Abstract: This regulatory action will revise the existing shipyard standards covering access and egress and will consolidate all related and applicable 29 CFR 1910 provisions into 29 CFR 1915. The revision will develop, in part, performance-oriented standards, address current gaps in coverage, address new technology, and eliminate outmoded and redundant provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48130
NPRM Comment Period End	02/27/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Applicable Part 1910 provisions under consideration: 29 CFR 1910.24-1910.27; 29 CFR 1910.36-1910.37.

Agency Contact: Roger A. Clark, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Rm N3605, FP Building, Washington, DC 20210, 202 523-8061

RIN: 1218-AA70

1809. FACE, HEAD, EYE AND FOOT PROTECTION (PERSONAL PROTECTIVE EQUIPMENT) (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: Existing standards for eye, face, head, and foot protection reference outdated national consensus standards which have been updated and improved. Consequently, criteria for personal protective equipment for eye, face, head, and foot would be revised to reflect improved developments in these types of equipment. This would allow the use of better personal protective equipment and would result in improved employee protection from eye, face, head, and foot hazards.

Timetable:

Action	Date	FR Cite
NPRM	08/18/89	54 FR 33832
NPRM Comment Period End	10/16/89	
Final Action	08/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Roger A. Clark, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Rm N3605 FP Building, Washington, DC 20210, 202 523-8061

RIN: 1218-AA71

1810. WELDING, CUTTING AND HEATING IN SHIPYARDS (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.51; 29 CFR 1915.52; 29 CFR 1915.53; 29 CFR 1915.54; 29 CFR 1915.55; 29 CFR 1915.56; 29 CFR 1915.57

Legal Deadline: None

Abstract: This regulatory action will revise the existing shipyard standard covering welding, cutting, and heating. The revision will develop, in part, a performance-oriented standard, address current gaps in coverage, recognize new technology, and eliminate outmoded or redundant provisions. In addition, it will consolidate 29 CFR 1915 standards and applicable 29 CFR 1910 standards into one set of provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48111
NPRM Comment Period End	02/27/89	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Applicable Part 1910 provisions under consideration: 29 CFR 1910.251-1910.252.

Agency Contact: Roger A. Clark, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Rm N3605, FP Building, Washington, DC 20210, 202 523-8061

RIN: 1218-AA73

1811. PERSONAL PROTECTIVE EQUIPMENT IN SHIPYARDS (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.151; 29 CFR 1915.152; 29 CFR 1915.153; 29 CFR 1915.154

Legal Deadline: None

Abstract: This regulatory action will revise the existing shipyard standard covering personal protective equipment. The revision will develop, in part, a performance-oriented standard, address current gaps in coverage, recognize new technology, and eliminate outmoded or redundant provisions. It will consolidate 29 CFR 1915 standards and applicable 29 CFR 1910 standards into one set of provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48150
NPRM Comment Period End	02/27/89	

Next Action Undetermined

Small Entities Affected: None

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Government Levels Affected: None

Additional Information: Applicable Part 1910 provisions under consideration: 29 CFR 1910.132-1910.137.

Agency Contact: Roger A. Clark, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW., Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA74

1812. EXPLOSIVE AND OTHER DANGEROUS ATMOSPHERES (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.11; 29 CFR 1915.12; 29 CFR 1915.13; 29 CFR 1915.14; 29 CFR 1915.15; 29 CFR 1915.16

Legal Deadline: None

Abstract: This regulatory action will revise the existing shipyard standard covering explosive and other dangerous atmospheres. This revision will develop, in part, a performance-oriented standard, address any gaps in coverage, recognize new technology, and eliminate outmoded or redundant standards.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48092
NPRM Comment Period End	02/27/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Federal

Sectors Affected: 373 Ship and Boat Building and Repairing

Agency Contact: Roger A. Clark, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Rm N3605, FP Building, Washington, DC 20210, 202 523-8061

RIN: 1218-AA97

1813. HAZARD COMMUNICATION

Significance: Regulatory Program

Legal Authority: 29 USC 653; 29 USC 655; 29 USC 657; 33 USC 941; 40 USC 333; 5 USC 553

CFR Citation: 29 CFR 1910.1200; 29 CFR 1915.99; 29 CFR 1917.28; 29 CFR 1918.90; 29 CFR 1928.59; 29 CFR 1928.21

Legal Deadline: None

Abstract: OSHA promulgated a final rule on August 24, 1987, that extended the protections of its Hazard Communication Standard (HCS) from the manufacturing sector to all other workplaces where employees are exposed to hazardous chemicals. The HCS requires covered employers to establish hazard communication programs for their employees, including labels on containers, material safety data sheets, and training programs. On August 8, 1988, OSHA published a NPRM to modify the final rule, and provide an opportunity for public comment. Public comments have been received, hearings have been held, and OSHA will prepare a final rule based on the public record for this standard, including the record developed in earlier rulemakings. OSHA published a request for information (RFI) on May 17, 1990, (55 FR 20580) to improve the quality and representation of the information provided on the MSDS's and labels and to consider a standardize format. OSHA will determine if the rule should be reopened after the comments and other relevant information are analyzed. The comment period for the RFI expired on August 15, 1990.

Timetable:

Action	Date	FR Cite
ANPRM	11/27/85	50 FR 48794
ANPRM Comment Period End	02/25/86	
NPRM	06/06/88	53 FR 20822
NPRM Comment Period End	10/28/88	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AB02

1814. WALKING AND WORKING SURFACES (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.21; 29 CFR 1910.22; 29 CFR 1910.23; 29 CFR 1910.24; 29 CFR 1910.25; 29 CFR 1910.26; 29 CFR 1910.27; 29 CFR 1910.28; 29 CFR 1910.29; 29 CFR 1910.30; 29 CFR 1910.31; 29 CFR 1910.32

Legal Deadline: None

Abstract: Existing standards for walking and working surfaces need to be revised because they are out of date and restrict technological innovation. The proposed revision is performance-oriented and permits flexibility for compliance.

Timetable:

Action	Date	FR Cite
NPRM	04/10/90	55 FR 13360
NPRM Comment Period End	06/22/90	55 FR 13360
Hearing	09/11/90	55 FR 28224
Final Action	09/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: 1218-AB04 will be issued concurrently with 1218-AA48.

Agency Contact: Roger A. Clark, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AB04

1815. BLOODBORNE PATHOGENS

Significance: Regulatory Program

Legal Authority: 29 USC 655 et seq

CFR Citation: 29 CFR Not yet determined

Legal Deadline: None

Abstract: Many health-care workers are exposed to blood and body fluids from patients who have active bloodborne infections or are carriers of these infections. Such exposure presents a potential risk of disease for the health-care worker. One such disease, Hepatitis B, has been shown to

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present a substantially increased risk for health-care workers. Hepatitis B is a serious disease that may require hospitalization and, in a small percentage of cases, is fatal. Another bloodborne disease, Acquired Immune Deficiency Syndrome (AIDS) is also of great concern to health-care workers. Only a very small number of infections, however, have been documented to have resulted from occupational exposure to the virus that causes AIDS. About half of the nation's 6 million health-care workers are at increased risk from exposure to bloodborne infectious diseases. (cont)

Timetable:

Action	Date	FR Cite
ANPRM	11/27/87	52 FR 45438
ANPRM Comment Period End	01/26/88	52 FR 45438
NPRM	05/30/89	54 FR 23042
Final Action	05/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: Some examples of health-care workers at highest risk are emergency room workers, dialysis unit workers, operating room personnel, intensive care unit workers, and blood bank employees. The Occupational Safety and Health Administration (OSHA) has no standard specifically regulating occupational exposure to bloodborne infectious diseases. In 1983, the Agency issued guidelines for reducing the occupational risk of Hepatitis B infection (OSHA Instruction CPL 2-2.36). These guidelines are voluntary, however. In September 1988, OSHA was petitioned by the American Federation of State, County and Municipal Employees and other unions for the issuance of an emergency temporary standard to protect workers from occupational exposure to bloodborne infectious diseases, such as hepatitis B and AIDS. On May 30, 1989, OSHA published its proposal in the Federal Register (54 FR 23042). The proposal generated over 2900 comments and hearings were held in Washington, DC, Chicago, New York City, Miami, Florida, and San Francisco. OSHA will review the comments and the testimony presented at the hearings to determine the scope and provisions of a final rule.

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Rm N3718, FPBldg., Washington, Dc 20210, 202 523-7075

RIN: 1218–AB15

1218. CADMIUM

Significance: Regulatory Program

Legal Authority: 29 USC 655 et seq

CFR Citation: 29 CFR 1910, (Table Z-2)

Legal Deadline: None

Abstract: On June 18, 1986, the International Chemical Workers Union and the Public Citizen Health Research Group petitioned OSHA to issue an emergency temporary standard reducing the permissible exposure limit for cadmium to one microgram of cadmium per cubic meter of air. On June 25, 1987 the union and HRG filed a petition with the Court of Appeals requesting the Court to order OSHA to promulgate an ETS. In its July 1, 1987, response to the petitioners, OSHA stated that issuance of an emergency standard was not warranted, but that exposure to cadmium at levels permitted under the current standard represented a significant risk to worker health which would be addressed through section 6(b) rulemaking procedures. On September 28, 1988, OSHA published guidelines fot controlling exposure to cadmium and recommended reduced exposure levels significantly below the permissible exposure limit. OSHA published a proposal on February 6, 1990 (55 FR 4052), and conducted hearings on June 5, 1990, in Washington, DC and on July 17, 1990, in Denver, CO.

Timetable:

Action	Date	FR Cite
Response to Petitioners	07/01/87	
NPRM	02/06/90	55 FR 4052
NPRM Comment Period End	04/27/90	
Final Action	09/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AB16

1217. ASBESTOS (REMAND)

Significance: Regulatory Program

Legal Authority: 29 USC 655 et seq

CFR Citation: 29 CFR 1910.1001; 29 CFR 1926.58

Legal Deadline: None

Abstract: On June 20, 1986, OSHA published revised standards governing occupational exposure to asbestos, tremolite, anthophyllite and actinolite in general industry and construction. In these standards, OSHA reduced the 8-hour time weighted average (TWA) permissible exposure limit (PEL) to 0.2 f/oc, and established other protective provisions. This standard was legally challenged, and as a result, the Court of Appeals for the District of Columbia upheld the standard except that the court held that OSHA must reconsider several of the standard's provisions to determine if more protective regulatory provisions are available to reduce risk. One of the issues to be reconsidered was the need for a short-term limit for occupational exposure to asbestos in response to the Court's directive. This limit was established as 1 f/cc averaged over a 30-minute sampling period and a legal notification of this amendment was published on September 14, 1988, at 53 FR 35610. (cont)

Timetable:

Action	Date	FR Cite
Asbestos Remand - Category I Issues	12/20/89	54 FR 52024
Asbestos Remand - Category II Effective Date 5/7/90	02/05/90	55 FR 3724
Asbestos Remand - Category II Issues	02/05/90	55 FR 3724
Asbestos Remand - Category III	07/20/90	55 FR 29712
Hearing	10/23/90	55 FR 29712
Hearing	11/09/90	55 FR 40676
Final Action	07/00/91	

Small Entities Affected: None

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Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: On December 20, 1989 (54 FR 52024) OSHA responded to the first three remand issues. OSHA deleted the ban on spraying asbestos containing materials; amended the regulatory text to clarify when construction employers must resume periodic monitoring; and explained why OSHA is not amending the regulatory text to clarify the limited exemption for "small-scale, short-duration operations" in the construction industry standard. OSHA published a notice of its resolution of Category II remand issues on February 5, 1990, and a notice of proposed rulemaking for Category III on July 20, 1990 (55 FR 29712).

On October 4, 1990 (55 FR 40676), OSHA announced the reopening of the rulemaking record on non-asbestiform tremolite, anthophyllite, and actinolite to allow for the submission of comments and analyses on a recent document submitted to the agency by the American Thoracic Society (ATS).

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Room N3718, FP Building, Washington, DC 20210, 202 523-7075

RIN: 1218-AB25

1518. ACCREDITATION OF TRAINING PROGRAMS FOR HAZARDOUS WASTE OPERATIONS (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655; 29 USC 657; 5 USC 552(a); 5 USC 533

CFR Citation: 29 CFR 1910.121. (Subpart H)

Legal Deadline: None

Abstract: Public Law 99-499 requires the Secretary of Labor to promulgate a final standard for Hazardous Waste Operations and Emergency Response. The final standard was issued on March 6, 1989. Section 126 of Public Law 99-499 was amended by Congress on December 22, 1987 to require the Secretary of Labor to include in the final rule a training course certification program at least as comprehensive as the EPA's model program for asbestos abatement in public buildings. This proposed revision would add criteria and requirements for training course certification of training for workers involved in hazardous waste operations.

Timetable:

Action	Date	FR Cite
NPRM	01/26/90	55 FR 2776
NPRM Comment Period End	04/26/90	55 FR 2776
Final Action	11/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Agency Contact: Roger A. Clark, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Room N3605, FPBuilding, Washington, DC 20210, 202 523-8061

RIN: 1218-AB27

DEPARTMENT OF LABOR (DOL)

Occupational Safety and Health Administration (OSHA)

Completed Actions

1518. CARCINOGEN POLICY

Legal Authority: 29 USC 653; 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1990

Legal Deadline: None

Abstract: The Carcinogen Policy describes the criteria and procedures OSHA will use to identify, classify, and then regulate carcinogens. The Policy also establishes a process for screening chemicals and for setting priorities for potential rulemaking activities. The Carcinogen Policy explicitly recognizes that periodic revisions are necessary in order to incorporate the latest scientific advances and techniques into the regulatory process. Hence, it is time for OSHA to review and modernize the carcinogen policy. The original standard was issued in 1980 before the Supreme Court "benzene" decision on significant risk. Thereafter, a final rule deleting provisions of the Carcinogen Policy that were inconsistent with the benzene decision was published on 1/19/81 (46 FR 4866). A proposal was published on 1/23/81 (46 FR 7402) to permit alternatives to the risk analysis section of the carcinogen policy to be addressed. The proposal was withdrawn on 3/27/81 (46 FR 19000). An advance notice of proposed rulemaking was published on 1/5/82 (47 FR 187) with comments due by 4/5/82. That document (cont)

Timetable:

Action	Date	FR Cite
ANPRM	01/05/82	47 FR 187
End of Comment Period on Stay	02/19/82	
ANPRM Comment Period End	04/05/82	
Stay Published	01/04/83	48 FR 241
Withdrawn	06/20/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ABSTRACT CONT: also proposed to stay the publication of the candidate and priority lists. The final stay was published on 1/4/83 (48 FR 241). As part of its evaluation of the policy, OSHA is reviewing the public comments received in response to the document published by the Office of Science and Technology Policy entitled "Chemical Carcinogens, Review of the Science and its Associated Principles, May 1984" and is reviewing the later version of that document which was published March 14, 1985.

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW., Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AA01

1520. ETHYLENE DIBROMIDE (EDB)

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1044

Legal Deadline: None

Abstract: Recent scientific studies have reported that ethylene dibromide causes cancer when administered orally, by inhalation and by skin

application in laboratory animals. In addition, other studies have shown the chemical to be a mutagen, teratogen and testicular toxin in experimental animals. On the basis of these reports, OSHA has determined that its current permissible exposure limit of 20 ppm does not provide exposed workers adequate protection against cancer and other adverse health effects. A proposed standard for ethylene dibromide was published 10/07/83 (48 FR 45956). Public hearings were held in February 1984. OSHA is currently in the process of decisionmaking on the provisions to be included in the final standard.

Timetable:

Action	Date	FR Cite
ANPRM	12/16/81	46 FR 61671
ANPRM Comment Period End	05/31/82	
NPRM	10/07/83	48 FR 45956
NPRM Comment Period End	11/21/83	48 FR 45956
Public Hearing Held	02/09/84	
Withdrawn	09/20/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW., Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218–AA06

1821. ELECTRICAL SAFETY-RELATED WORK PRACTICES (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.331; 29 CFR 1910.332; 29 CFR 1910.333; 29 CFR 1910.334; 29 CFR 1910.335; 29 CFR 1910.399; 29 CFR 1910.26(c)(3)(iii); 29 CFR 1910.67(b)(4); 29 CFR 1910.68(b)(4); 29 CFR 1910.68(c)(5)(iv)(c); 29 CFR 1910.94(a)(2)(iii); 29 CFR 1910.103(b)(3)(iii)(e); 29 CFR 1910.106(h)(7)(iii)(a); 29 CFR 1910.110, (Table H-28); 29 CFR 1910.178(c)(2); ...

Legal Deadline: None

Abstract: OSHA has completed action on the second part (Subpart S of Part 1910) of the review of the electrical standard and has established a performance-oriented standard for electrical safety-related work practices to complement the existing electrical installation standards. The standard includes requirements for work performed on or near exposed energized and deenergized parts of electrical equipment and includes requirements for both the safe use of the electrical equipment as well as the use of personal protection devices.

Timetable:

Action	Date	FR Cite
NPRM	11/30/87	52 FR 45530
NPRM Comment Period End	02/29/88	52 FR 45530
Final Action	08/06/90	55 FR 31984
Final Action Effective	12/04/90	55 FR 31984

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: All

Agency Contact: Roger A. Clark, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Rm N3605, FP Building, Washington, DC 20210, 202 523-8061

RIN: 1218–AA32

1822. OIL AND GAS WELL DRILLING AND SERVICING (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.270

Legal Deadline: None

Abstract: Employees in oil and gas well drilling and servicing are exposed to a variety of safety hazards which are not specifically covered by present OSHA safety standards. It has proved difficult to apply the existing general industry standards to control the unique nature of this industry. OSHA is considering a standard which will address the unique problems of oil and gas well drilling and servicing. OSHA is reevaluating its proposed rule based on the public record and intends to reissue a proposed rule as the next action. Currently, OSHA is reviewing recent fatality and injury data trends to evaluate the priority of this project.

Timetable:

Action	Date	FR Cite
NPRM	12/28/83	48 FR 57202
NPRM Comment Period End	06/04/84	49 FR 8913
Public Hearing Held 07/24/84 thru 08/10/84	08/10/84	49 FR 8913
Withdrawn	10/01/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Roger A. Clark, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Rm N3605, FP Building, Washington, DC 20210, 202 523-8061

RIN: 1218–AA34

1823. BENZENE EXPOSURE IN BARGE/TANKER CLEANING AND REPAIR

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1000, (Table Z-2); 29 CFR 1910.1028

Legal Deadline: None

Abstract: OSHA has amended its standard for occupational exposure to benzene by reducing the permissible exposure limit from 10 parts benzene per million parts of air (10 ppm) to an eight-hour time-weighted average of 1 ppm and by adding appropriate industrial hygiene and medical surveillance provisions necessary for the protection of employee health. This action is based on OSHA's determination that the amendments are needed to reduce the risk of leukemia and other adverse health effects associated with occupational exposure to benzene. OSHA published its final amendment to the standard on September 11, 1987. Due to technical problems associated with the completion of a detailed study of feasibility in barge and tanker cleaning and repair operations, however, OSHA exempted these operations from certain provisions of the standard. OSHA intends to issue a proposal to amend the benzene standard which will address the factors specific to the barge and tanker cleaning and repair industry.

DOL—OSHA

Completed Actions

Timetable:

Action	Date	FR Cite
NPRM	10/10/85	50 FR 60612
Notice Changing Public Hearing	01/28/86	51 FR 3474
NPRM Comment Period End	02/14/86	50 FR 50512
Public Hearings	03/11/86	50 FR 50512
Final Action	08/11/87	52 FR 34460
Final Action Effective	12/10/87	
Withdrawn	09/20/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW., Rm N3718, FPBldg., Washington, DC 20210, 202 523-7078

RIN: 1218–AA47

1824. PULP, PAPER AND PAPERBOARD MILLS (PART 1910)

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.261 (Revision)

Legal Deadline: None

Abstract: This regulatory action will revise the existing standards covering mills whose pulp, paper, and paperboard are manufactured and converted. The revision will develop performance oriented standards that address current gaps in coverage, the use of new technology, the elimination of outmoded or redundant provisions, and the use of appropriate OSHA general industry standards.

Timetable:

Action	Date	FR Cite
Withdrawn	10/01/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: 26 Paper and Allied Products

Additional Information: The Agency has determined that no further action be taken due to a priority reassignment of resources leading to the completion of a general standard having a direct affect on the pulp, paper and paperboard mills standard.

Agency Contact: Roger A. Clark, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Rm N3605, FP Building, Washington, DC 20210, 202 523-8061

RIN: 1218–AA61

1825. MANUAL LIFTING (PARTS 1910, 1915, 1917, 1918, 1919, 1928 AND 1928)

Legal Authority: 29 USC 655(b)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Nation's number one injury problem is back injuries. These injuries account for one of five compensation claims and one of four dollars expended for compensation. The purpose of the proposed request for comments and information is to enable OSHA to determine a course of action--possibly either rulemaking or informal guidance-aimed at reducing the number of back-related injuries which result from improper manual lifting. The request will identify a number of approaches to improving manual lifting, and invite public comments and suggestions. Specific engineering and administrative controls should reduce the pain, suffering, and lost time of the workforce as well as reduce the associated economic costs.

Timetable:

Action	Date	FR Cite
Request for Information on Manual Lifting-Related Injuries	10/02/86	51 FR 35241
Reopening of Comment Period and Expansion of Scope	04/17/87	52 FR 12569
Withdrawn	10/01/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: All

Additional Information: The Agency has determined that it will establish an interagency work group within the Department to seek more information in the area of manual lifting. Rulemaking is, therefore, not scheduled to begin immediately.

Agency Contact: Roger A. Clark, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Rm N3605, FP Building, Washington, DC 20210, 202 523-8061

RIN: 1218–AA95

1826. GEAR CERTIFICATION (PART 1919)

Legal Authority: 29 USC 655; 29 USC 941

CFR Citation: 29 CFR 1919, (Revision)

Legal Deadline: None

Abstract: In its May 7, 1987, Federal Register notice the Agency requested information to assist in the possible revision of 29 CFR Part 1919. Part 1919, entitled "Gear Certification," implements requirements located in each of OSHA's maritime standards which cover work carried out within the Federal maritime jurisdiction. Changes in the design and composition of cargo handling gear which have evolved since these rules were last amended (1960) provided questions as to the efficacy of the current rules. Additionally, the Agency sought comments that would suggest ways in which the administrative function of the accreditation program could be improved. Comment period ended: August 5, 1987.

Timetable:

Action	Date	FR Cite
Request for Information	05/07/87	52 FR 17302
Comment Period Closed	08/05/87	
Withdrawn	10/01/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: 37 Transportation Equipment; 44 Water Transportation

Agency Contact: Roger A. Clark, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Rm N3605, FP Building, Washington, DC 20210, 202 523-8061

RIN: 1218–AA97

1827. FORMALDEHYDE (REMAND)

Significance: Regulatory Program

Legal Authority: 29 USC 655 et seq

CFR Citation: 29 CFR 1910.1048

Legal Deadline: None

DOL—OSHA

Completed Actions

Abstract: On December 4, 1987, the Occupational Safety and Health Administration (OSHA) published a revised standard for occupational exposure to formaldehyde, 29 CFR 1910.1048. This standard contained permissible exposure limits of 1 part formaldehyde per million parts of air (ppm) as an 8-hour time-weighted average (TWA) and 2 ppm as a 15-minute short-term exposure limit (STEL), along with ancillary provisions. Several interested parties petitioned the courts to review this standard, and on June 9, 1988, the United States Court of Appeals for the District of Columbia Circuit issued a decision. The Court remanded the standard back to the Agency for reconsideration of two issues: the assessment of the risk of cancer at 1 ppm, and the failure of the Agency to require medical removal protection (MRP). (cont)

Timetable:

Action	Date	FR Cite
Integrated into RIN 1218-AA82	09/07/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: OSHA is conducting a reanalysis of the cancer risk assessment for formaldehyde. The Agency is also examining the feasibility of various risk management options, including MRP, as well as a reduction of the PEL, if necessary. Based on the results of this reanalysis and the rulemaking record, OSHA will possibly amend the formaldehyde standard.

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Room N3718, FP Bldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AB39

DEPARTMENT OF LABOR (DOL)

Office of the Assistant Secretary for Veterans' Employment & Training (ASVET)

Proposed Rule Stage

1828. VETERANS' PROGRAMS AND SERVICES ADMINISTERED BY THE OFFICE OF THE ASSISTANT SECRETARY FOR VETERANS' EMPLOYMENT AND TRAINING

Significance: Regulatory Program

Legal Authority: 38 USC Chapter 41; PL 100-323

CFR Citation: 20 CFR Chapter IX

Legal Deadline: None

Abstract: To revise new Chapter IX of Title 20, CFR, titled Office of the Assistant Secretary for Veterans' Employment and Training, to fully describe the authority and responsibilities for provision of services to veterans through administration of programs and activities carried out through the Veterans' Employment and Training Service (VETS). Revisions are to bring regulations into conformity with 38 U.S.C. Chapter 41,42, and 43, as amended by P.L. 100-323. Previous rulemaking will establish the new 20 CFR Chapter IX, Parts 1000-1099, which are hereby revised. According to PL 100-323, several major provisions must be added to the regulations as follows: a) expand responsibilities of Assistant Secretary for Veterans' Employment and Training; (b) establish position of Regional Administrator for Veterans' Employment and Training; (c) expand duties of Disabled Veterans' Outreach Program Specialists; (d) establish assignment formula and duties for local Veterans; employment Representatives; (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	01/00/91	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: ABSTRACT CONT: (e) expand list of data items to be collected and reported to Congress annually; (f) establish permanent National Veterans' Training Institute; (g) expand membership of Secretary's Committee on Veterans' Employment; (h) set requirements for greater coordination with JTPA and OPM. Requires solution since statute requires Department of Labor to monitor and/or administer affected programs.

Agency Contact: Hary P. Puente-Duany, Director, Office of Veterans' Employment, Reemployment and Training, Department of Labor, Office of the Assistant Secretary for Veterans' Employment & Training, 200 Constitution Avenue, NW., Room S1316, FP Building, Washington, DC 20210, 202 523-9116

RIN: 1225-AA03

[FR Doc. 90-21454 Filed 10-26-90; 8:45 am]

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Part XIII

Department of State

Semiannual Regulatory Agenda

DEPARTMENT OF STATE (STATE)

DEPARTMENT OF STATE

22 CFR Ch. I

[Public Notice 1268]

Unified Agenda of Federal Regulations

AGENCY: Department of State.

ACTION: Semiannual publication of regulatory agenda.

SUMMARY: As required by Executive Order 12291 and the Regulatory Flexibility Act of 1980 (Pub. L. 96-354), the October 1990 agenda of regulations of the Department of State is set forth below. This agenda was prepared under the guidelines of OMB's memorandum of July 2, 1990. The purpose of the agenda is to provide information to the public on the Department's regulatory plans.

FOR FURTHER INFORMATION CONTACT: Dennis J. Gallagher, Acting Assistant Legal Adviser for Management, Department of State, Room 4427A, 2201 C Street NW., Washington, DC 20520; telephone (202) 647-2350.

Dated: September 14, 1990.

Ivan Selin,

Under Secretary for Management.

DEPARTMENT OF STATE (STATE)

Prerule Stage

1629. BANKING SERVICES - PROCEDURES FOR RESTRICTING

Legal Authority: 22 USC 4301 et seq

CFR Citation: 22 CFR 152

Legal Deadline: None

Abstract: The rule will set out the procedures that the Department of State will follow whenever the banking services of particular foreign missions are restricted pursuant to the Foreign Missions Act, 22 USC 4301 et seq.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Harry Porter, Acting Director, Office of Foreign Missions, Department of State, Room 2105, 2201 C Street, NW., Washington, DC 20520-7307, 202 647-3416

RIN: 1400-AA07

1630. ESTABLISHMENT OF REGISTRY IN STATE DEPARTMENT FOR INFORMATION ABOUT EXECUTION OF INTERNATIONAL WILLS

Legal Authority: See Additional Information.

CFR Citation: 22 CFR 92.61(b)(3)

Legal Deadline: None

Abstract: By resolution of the international diplomatic conference that adopted the final text of the Convention, there was a recommendation that States establish an internal system to permit the optional registration of information to facilitate the discovery of international wills. The President transmitted the Convention to the Senate on July 2, 1986, with the recommendation that the Senate give its advice and consent to U.S. ratification of the Convention, and information about the intention to establish the Registry in the Department of State (Senate Treaty Doc. 99-29).

Timetable:

Action	Date	FR Cite
Hearing of Senate Foreign Relations Committee on the Convention	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: U.S. ratification of 1973 Convention providing a uniform law on the form of an international will would provide the basis for establishing the Registry.

Agency Contact: Carmen A. DiPlacido, Director, Office of Citizens Consular Services, Department of State, Bureau of Consular Affairs, Washington, DC 20520-4818, 202 647-3666

RIN: 1400-AA09

1631. FISHERMEN'S PROTECTIVE ACT PROCEDURES UNDER SECTION 7

Legal Authority: 22 USC 1977

CFR Citation: 22 CFR 33 (Revision)

Legal Deadline: None

Abstract: This regulation clarifies procedures for the administration of the Fishermen's Guaranty Fund and claims evaluation, under Section 7 of the Fishermen's Protective Act, 22 USC 1971 et seq.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Stetson Tinkham, Program Administrator, Department of State, Office of Fisheries Affairs, OES/OFA, Room 5806, Washington, DC 20520-7818, 202 647-2009

RIN: 1400-AA10

1632. INTERNATIONAL TRAFFIC IN ARMS REGULATIONS (ITAR)

Legal Authority: 22 USC 2778

CFR Citation: 22 CFR 120 to 130

Legal Deadline: None

Abstract: The ITAR were first published in their current form in 1955 and have been periodically amended to reflect statutory enactments and to implement foreign policy. The last substantial revision occurred in December 1984. The State Department office which administers the ITAR, the Office of Defense Trade Controls (until recently, the Office of Munitions Control), is continually seeking ways to improve its export control function through clarification and amendment of the ITAR, as necessary. Along these lines, the Department has expanded and plans to expand further the types of transactions which are exempt from its licensing requirements and plans to elaborate its policy for designating items on the U.S. Munitions List. In addition, certain regulatory amendments are currently necessary to implement the Anti-Terrorism and Arms

STATE

Prerule Stage

Export Amendments Act of 1989 (PL 101-222). Most of these changes will first be subject to public comment.

Timetable:

Action	Date	FR Cite
Published Administrative Changes to the International Traffic in Arms Regulations	10/17/89	54 FR 42496
New License Exemptions Under ITAR	06/26/90	53 FR 25081
Continue Proposed Revisions	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Levy or Michael Dixon, Deputy Directors, Office of Defense Trade Controls, Department of State, PM/DTC, Room 200, Department of State Annex 6, Washington, DC 20522-0602, 703 875-6650

RIN: 1400-AA23

1653. ADMINISTRATIVE PRACTICE AND PROCEDURE, CLASSIFIED INFORMATION, FREEDOM OF INFORMATION, PRIVACY

Significance: Agency Priority

Legal Authority: 5 USC 552; 5 USC 552a; 5 USC 551 et seq; 5 USC app 201; EO 12356; EO 12600

CFR Citation: 22 CFR 171

Legal Deadline: None

Abstract: These rules implement the Freedom of Information Act, the Privacy Act, and other information access provisions, and set forth the practices and procedures governing the availability of information and records to the public. The practices and procedures affect: The making of requests, the review of classified and other information in response to such requests; access and denial of access to the requested information; the right to administratively appeal a denial of access; the right to request amendment of personal information; the assessment and waiver of fees in connection with the foregoing; and access to and use of financial disclosure reports.

Timetable:

Action	Date	FR Cite
NPRM	09/26/88	53 FR 32628
NPRM Comment Period End	09/26/88	53 FR 32628
Continue Proposed Revisions	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Margaret Grafeld, Chief, Privacy, Plans and Appeals Division, Department of State, DS/IM/FPC/PPA, Room 1512, Washington, DC 20520-1230, 202 647-6639

RIN: 1400-AA30

DEPARTMENT OF STATE (STATE)

Proposed Rule Stage

1634. ● AMENDMENT TO DEPARTMENT OF STATE ACQUISITION REGULATION (DOSAR CASE 89-011)

Legal Authority: 22 USC 2658

CFR Citation: 48 CFR 601 to 670, (Revision)

Legal Deadline: None

Abstract: This action will amend the DOSAR to prescribe regulations implementing various acquisition-related statutory authorities at the Department of State.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: James Tychoski, Chief, Domestic Policy and Compliance Division, Department of State, A/OPE, Room 202, SA-6, Washington, DC 20522-0602, 703 875-7948

RIN: 1400-AA31

DEPARTMENT OF STATE (STATE)

Final Rule Stage

1635. DEPARTMENT OF STATE ACQUISITION REGULATION (DOSAR)

Legal Authority: 5 USC 301; 22 USC 2658; 40 USC 486(c)

CFR Citation: 48 CFR 601 to 670

Legal Deadline: None

Abstract: DOSAR interim rules (see 53 FR 26153, July 11, 1988) have been consolidated into eight cases and identified to the Office of Federal Procurement Policy, OMB, under OMB Regulatory Identification Numbers 89-001 through 89-008. The Civilian Agency Acquisition Council (CAAC) has determined that the coverage is not appropriate for inclusion into the Federal Acquisition Regulation (FAR). DOSAR final rule action on these items will occur during this regulatory period.

Timetable:

Action	Date	FR Cite
NPRM	05/26/87	52 FR 19990
NPRM Comment Period End	06/29/87	52 FR 19990
Interim Final Rule	07/11/88	53 FR 26153
Civilian Agency Acquisition Council Review Completed	09/07/90	
Final Action	10/00/90	
Final Action Effective	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

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Final Rule Stage

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: James Tychoski, Chief, Domestic Policy and Compliance Division, Department of State, Room 202, SA-6, Washington, DC 20522-0602, 703 875-7048

RIN: 1400-AA16

1836. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Legal Authority: 22 USC 2658

CFR Citation: 22 CFR 135

Legal Deadline: None

Abstract: This regulation established uniform administrative requirements for grants and cooperative agreements to State and local governments. The regulation is being changed to include institutions of higher education, hospitals, and other nonprofit organizations. This effort represents a merging of OMB circulars A-102 and A-110, and is being promulgated by 27 Federal agencies under the common rulemaking procedures. As a result of public comment, OMB has placed this rule on hold.

Timetable:

Action	Date	FR Cite
ANPRM	06/18/84	49 FR 24958
Notice of Proposed Forms	05/29/87	52 FR 20178
NPRM	06/09/87	52 FR 21820
Begin Review	06/24/87	52 FR 23722
Notice Public Comment Period End	07/29/87	52 FR 20178
NPRM Comment Period End	09/10/87	52 FR 21820
Final Rule	03/11/88	53 FR 8034
NPRM	11/04/88	53 FR 44716
NPRM Public Comment Period End	01/03/89	53 FR 44716

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: James Tychoski, Chief, Domestic Policy and Compliance Division, Department of State, Room 202, SA-6, Washington, DC 20522-0602, 703 875-7048

RIN: 1400-AA28

1837. AMENDMENT TO DEPARTMENT OF STATE ACQUISITION REGULATION (DOSAR CASE 89-016)

Legal Authority: 5 USC 301; 22 USC 2658; 40 USC 486(c); 22 USC 4343

CFR Citation: 48 CFR 625

Legal Deadline: Final, Statutory, June 20, 1989.
Interim final rule at 22 CFR Part 136 made effective on June 20, 1988, the effective date of that section of the statute (PL 100-204).

Abstract: This action will amend the DOSAR to prescribe regulations covering disposition of personal property abroad by certain U.S. Government contractors. The regulation implements a general regulation at 22 CFR Part 136 (see 53 FR 23118, June 20, 1988) which was promulgated pursuant to section 186 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989. The DOSAR coverage will be issued as an interim final rule pending adoption on a governmentwide basis, as the statute covers all contractors that enjoy immunities or tax privileges in a foreign country because of their contractual relationship to the U.S. Government. The purpose of the statute is to ensure that contractors do not profit from transactions with persons not entitled to exemptions from import restrictions, duties, or taxes.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: Multiple

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: James Tychoski, Chief, Domestic Policy and Compliance Division, Department of State, Room 202, SA-6, Washington, DC 20522-0602, 703 875-7048

RIN: 1400-AA27

1838. NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: 31 USC 1352; 22 USC 2658

CFR Citation: 22 CFR 138 (New)

Legal Deadline: None

Abstract: This interim final rule establishes a uniform regulation for nonprocurement Federal transactions among 29 Federal agencies. The regulation adopts and implements guidance published by the Office of Management and Budget (see 54 FR 52306, December 20, 1989), pursuant to section 319 of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990. Section 319 added section 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," to Title 31, United States Code.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
OMB Government-wide Guidance (Notice)	06/15/90	55 FR 24540
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: James Tychoski, Chief, Domestic Policy and Compliance Division, Department of State, A/OPE, Room 202, SA-6, Washington, DC 20522-0602, 703 875-7048

RIN: 1400-AA29

DEPARTMENT OF STATE (STATE)

Completed Actions

1838. REGULATIONS IMPLEMENTING THE PROGRAM FRAUD CIVIL REMEDIES ACT

CFR Citation: 22 CFR 35

Completed:

Reason	Date	FR Cite
Final Action	06/06/90	55 FR 23424
Final Action Effective	06/06/90	55 FR 23424

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jean Baily 202 647-4446

RIN: 1400–AA13

1840. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Significance: Regulatory Program

CFR Citation: 22 CFR 137

Completed:

Reason	Date	FR Cite
Final Action	05/25/90	55 FR 21691
Final Action Effective	07/24/90	55 FR 21691

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: John J. Conroy 703 875-7867

RIN: 1400–AA21

[FR Doc. 90-25319 Filed 10-26-90; 8:45 am]

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Part XIV

Department of Transportation

Semiannual Regulatory Agenda

DEPARTMENT OF TRANSPORTATION (DOT)

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

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[OST Docket No. 59; Notice 90-25]

Department Regulations Agenda; Semiannual Summary

AGENCY: Office of the Secretary, DOT.

ACTION: Department regulations agenda.

SUMMARY: The regulations agenda is a semiannual summary of all current and projected rulemakings, reviews of existing regulations, and completed actions of the Department. The agenda provides the public with information about the Department of Transportation's regulatory activity. It is expected that this information will enable the public to be more aware of and allow it to more effectively participate in the Department's regulatory activity.

ADDRESSES: The mailing address for the initiating offices of the Department which appear in the agenda is 400 7th Street SW., Washington, DC 20590; except for the Federal Aviation Administration, which is located at 800 Independence Avenue SW., Washington, DC 20591, and the U.S. Coast Guard, which is located at 2100 2nd Street SW., Washington, DC 20593.

FOR FURTHER INFORMATION CONTACT:

General

For further information on the agenda in general, contact: Neil R. Eisner, Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 7th Street SW., Washington, DC 20590, (202) 366-4723.

Specific

For further information about any particular item on the agenda, contact the individual listed in the column headed "Agency Contact" for that item.

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Agenda

SUPPLEMENTARY INFORMATION:

Background

Improvement of Government regulations is a prime goal of the Bush Administration. There should be no more regulations than necessary, and those that are issued should be simpler, more comprehensible, and less burdensome. Regulations should not be issued without appropriate involvement of the public; once issued, they should be periodically reviewed and revised, as needed, to assure that they continue to meet the needs for which they originally were designed.

To help the Department of Transportation (Department) achieve these goals and in accordance with Executive Order 12291 "Federal Regulation" (46 FR 13193; February 19, 1981) and the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), the Department prepares a semiannual regulations agenda for publication in the Federal Register. The agenda summarizes all current and projected rulemaking, reviews of existing regulations, and completed actions of the Department. These are matters on which action has begun or is projected during the succeeding 12 months or such longer period as may be anticipated or for which action has been completed since the last agenda.

The agendas are based on reports submitted by the initiating offices in January and July each year. After these reports are consolidated for and reviewed by the Department Regulations Council, the Department's regulations agenda is prepared and published in the Federal Register. The Department's last agenda was published in the Federal Register on April 23, 1990 (55 FR 16420). The next one is scheduled for publication in the Federal Register in April 1991.

Regulatory Flexibility Act

In 1980, Congress passed the Regulatory Flexibility Act (RFA), Pub. L. 96-354, which requires the designation of those regulations for which a Regulatory Flexibility Analysis will be prepared; i.e., those regulations that would have a significant economic impact on a substantial number of small entities. A Regulatory Flexibility Analysis is required for a rulemaking which, in the heading "Small Entities Affected," indicates an effect on small businesses, governmental jurisdictions, or organizations. If a Regulatory Flexibility Analysis will be prepared for a particular rulemaking, that fact also will be noted under the heading "Analysis."

The RFA also requires that, each year, the Department publish a list of those regulations that have a significant economic impact on a substantial number of small entities and are to be reviewed under the Act during the succeeding 12 months. The agenda includes those regulations to be reviewed under the RFA or those for which review has been concluded since the last agenda. However, it should be noted that, after a preliminary assessment of the regulations listed for RFA review, it may be found that the regulations, in fact, do not have a significant economic impact on a substantial number of small entities, and a full RFA review will be unnecessary.

Regulatory Impact Analysis

A preliminary and final Regulatory Impact Analysis is required for each proposed and final regulation, respectively, that

(1) Is likely to result in:

(a) An annual effect on the economy of $100 million or more;

(b) a major effect on the general economy in terms of costs, consumer prices, or production;

(c) a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions;

(d) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets; or

(2) the Secretary or head of the initiating office has determined requires such an analysis.

Definitions

The agenda covers all rules and regulations of the Department, including those that establish conditions for financial assistance. The following definitions are provided for ease in understanding the information in this document.

(1) *Initiating office* means an operating administration or other organizational element within the Department, the head of which is authorized by law or delegation to issue regulations or to formulate regulations for issuance by the Secretary.

(2) *Significant regulation* means a regulation that is not an emergency regulation and that, in the judgment of the head of the initiating office or the Secretary or the Deputy Secretary,

(a) Is a major regulation;

(b) concerns a matter on which there is substantial public interest or controversy;

(c) has a major impact on another operating administration or other parts of the Department or other Federal agency;

(d) has a substantial effect on State and local governments;

(e) has a substantial impact on a major transportation safety problem;

(f) initiates a substantial regulatory program or change in policy;

(g) is substantially different from international requirements or standards; or

(h) otherwise involves important Department policy.

(3) *Major regulation* means a significant regulation for which a Regulatory Impact Analysis is required to be prepared.

(4) *Emergency regulation* means (a) a regulation that, in the judgment of the head of the initiating office, circumstances require to be issued without notice and opportunity for public comment or made effective in less than 30 days after publication in the Federal Register or (b) is governed by short-term statutory or judicial deadlines.

(5) *Nonsignificant regulation* means a regulation that, in the judgment of the head of the initiating office, is neither a significant nor an emergency regulation.

Explanation of Information on the Agenda

The format for this agenda is required by Office of Management and Budget Bulletin No. 90-16 (July 2, 1990).

First, the agenda is divided by initiating offices. Then, in accordance with the OMB Bulletin, for each initiating office, the agenda is divided into four categories: (1) Prerule stage, (2) proposed rule stage, (3) final rule stage, and (4) completed actions. For each entry, the agenda provides the following information: (1) The "significance" of the action (i.e., whether it is significant because it is on the Regulatory Program or because of agency priority or whether it is nonsignificant or routine and frequent); (2) a short descriptive title; (3) the legal basis for the action being taken or the regulation being reviewed; (4) the related regulatory citation in the Code of Federal Regulations; (5) an indication of any legal deadline and, if so, for what type of action (e.g., NPRM, final rule); (6) an abstract of the review or the proposed or final regulation; (7) a timetable, including the earliest expected date for a decision, on whether to issue the proposed or final regulation or complete the review and determine the corrective action to be taken. (The action taken can be revocation or revision of the regulation, or it can be a determination that no regulatory action is necessary because the regulation is found to be achieving its goals and the goals and objectives of Executive Order 12291 and the Department's Regulatory Policies and Procedures.); (8) an indication as to whether the rulemaking will affect small entities and/or levels of government and which categories of small entities or governments will be impacted; (9) if there is information that does not fit in the other categories, it will be included under a separate heading entitled, "Additional Information"; (10) a listing, where determined, of any analyses an initiating office will prepare or has prepared for the rulemaking document; e.g., a Regulatory Impact Analysis or Evaluation, an Environmental Impact Statement (EIS), a Regulatory Flexibility Analysis, or an Urban Impact Analysis. (It should be noted that, even though a Regulatory Impact Analysis is not required for some items on the agenda, the Department requires an economic analysis for all of its regulations. This economic analysis is contained in the Regulatory Evaluation, if a Regulatory Impact Analysis is not prepared.); (11) an agency contact office or official who can provide further information, including advice on how to obtain documents referenced in the agenda; and (12) a Regulation Identifier Number (RIN) assigned to identify an individual rulemaking in the agenda and facilitate tracing further action on the issue in the Federal Register which may occur between agenda publications. (Departmental rulemaking documents published in the Federal Register now contain RIN numbers.)

For nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements (such as the Federal Aviation Administration's Airspace Rules), to keep those requirements operationally current, only the general category of the regulations, the identity of a contact office or official, and an indication of the expected number of regulations are included; individual regulations are not listed.

If a regulatory docket number has already been established, it may be provided under the "Additional Information" heading. If a member of the public desires further information regarding a particular proposal or regulation, reference should be made to this docket number.

In the "Timetable" column, abbreviations are used to indicate the particular documents being considered for issuance by that date. ANPRM stands for Advance Notice of Proposed Rulemaking, SNPRM for Supplemental Notice of Proposed Rulemaking, NPRM for Notice of Proposed Rulemaking, and FR for Final Rule. Listing a future date in this column is not an indication that a proposed or a final rule will be issued on that date; it is the earliest date on which a decision is expected to be made

on whether to issue the document listed. Submittal of any proposed or final rule to the Office of Management and Budget for review under Executive Order 12291 must follow such a decision. For major rules, this review could take 60 days or more. If any document is issued, publication in the Federal Register would follow within a few days. In addition, these dates are based on current schedules. Information received subsequent to the issuance of this agenda could result in a decision not to take regulatory action or in changes to proposed publication dates. For example, the need for further evaluation could result in a later publication date; evidence of a greater need for the regulation could result in an earlier publication date.

Finally, a dot (●) preceding an entry indicates that the entry appears in the agenda for the first time.

Mailing Lists for Regulatory Documents

To assist the public in obtaining regulatory documents issued within the Department of Transportation, an Appendix A has been included in this document. The appendix contains instructions on how to be placed on mailing lists for or to obtain copies of specific regulatory documents, including the Department's semiannual regulations agenda issued by the operating administrations of the Department and the Office of the Secretary. There is no charge for this service; however, because of the costs involved, the number of copies of a document forwarded to an individual requestor may be limited. Persons already on mailing lists for particular documents within the Department will remain on those lists and should not reapply.

By following the instructions specified in the appendix, a person can be placed on a mailing list for future copies of the Department's regulations agenda, which will be updated and published in the Federal Register every year during April and October. By using the agenda, individuals can determine which Notice or Advance Notice of Proposed Rulemaking, to be issued by elements of the Department, is of interest to them. Then, using the instructions in the appendix, such persons also can be placed on a mailing list to ensure that, after the document of interest is issued, a copy will be mailed to them for their review and comment. In this way, individuals will be relieved of the burden of having to review the Federal Register, perhaps on a daily basis. The Department expects that this process will ensure that those people placed on mailing lists will receive early notice so that their views on the document can be adequately prepared and presented within the established comment period.

General Rulemaking Contact Persons

To assist persons desiring to obtain general information concerning the rulemaking process within the Department's operating administrations, an Appendix B has been added to the agenda. This appendix sets forth the addresses and the telephone numbers of the persons who can respond quickly to requests for general rulemaking information. Please note, however, that questions related to particular rulemaking actions should still be referred to the contact person listed with the particular rulemaking on the agenda.

Public Rulemaking Dockets

To facilitate the inspection of docket files and the submission of comments by the public, an Appendix C sets forth the addresses and working hours for the Rules Docket for each operating administration.

Request for Comments

Agenda

Our agenda is intended primarily for the use of the public. Since its inception, we have made modifications and refinements that we believe provide the public with more helpful information, as well as make the agenda easier to use. We would also like you, the public, to make suggestions or comments on how the agenda could be further improved. For example, do you find the information presented in an easily understandable manner? Do you find it easy to follow a regulation's development from agenda to agenda? Do you find that the format for setting out the information enables you to use the agenda easily? Do you find that the presentation of the information in the agenda is clearly explained in the preamble to the agenda? Your responses to these questions or any other comments or suggestions you may have should be sent to Neil R. Eisner, whose address appears above.

Reviews

In an effort to comply further with the spirit of Executive Order 12291 and the Regulatory Flexibility Act, we are also seeking suggestions on existing regulations that should be included in our review of existing regulations; that is, which existing regulations issued by an operating administration of the Department or the Office of the Secretary do you believe need to be reviewed to determine whether they should be revised or revoked? The Department is particularly interested in obtaining information on requirements that have a "significant economic impact on small entities" and, therefore, must be reviewed under the Regulatory Flexibility Act. If you have any suggested regulations, please send them, along with your explanation of why they should be reviewed, to the concerned operating administration or the Office of the Secretary at the appropriate address noted in the "Addresses" paragraph above.

In accordance with the Regulatory Flexibility Act, comments are specifically invited on regulations that are targeted for review under the RFA. Those comments should be addressed to the "contact" person of the operating administration involved at the appropriate address noted in the "Addresses" paragraph above.

Purpose

The Department is publishing this regulations agenda in the Federal Register to share with interested members of the public the Department's preliminary expectations regarding its future regulatory actions. This should enable the public to be more aware of the Department's regulatory activity. Knowledge of the nature and scope of this activity, as well as the specific proposals and reviews being considered, should result in more effective public participation in the Department's regulatory activity. For example, awareness of the dates when notices may be issued seeking public comment should allow appropriate planning and more efficient use of the comment period. By providing the expected date for a decision on whether to issue a final rule, the Department expects that more appropriate planning by those concerned with the regulation will also be possible. This publication in the Federal Register does not impose any binding obligation on the Department or any of the offices within the Department with regard to any specific item on the agenda. Regulatory action, in addition to the items listed, is not precluded. If further information is desired on any of

the items listed in the agenda, the public is encouraged to contact the individual listed for the particular item. Additional information concerning the agenda in general or the Department's Regulatory Policies and Procedures may be obtained from Neil R. Eisner, whose address and telephone number appear above.

Issued in Washington, DC, on August 24, 1990.

Samuel K. Skinner,

Secretary of Transportation.

Appendix A - Instructions for Obtaining Copies of Regulatory Documents

Some Administrations within the Department differ in procedures or as to inclusion on a mailing list. For the offices listed below, persons desiring to obtain a copy of a specific regulatory document to be issued that is listed in this agenda should communicate, either by telephone or by letter, with the contact person listed with the regulation at the following addresses:

United States Coast Guard (USCG)

(Name of contact person), United States Coast Guard, 2100 Second Street SW., Washington, DC 20593.

Federal Highway Administration (FHWA)

(Name of contact person), Federal Highway Administration, 400 7th Street SW., Washington, DC 20590.

Federal Railroad Administration (FRA)

(Name of contact person), Federal Railroad Administration, 400 7th Street SW., Washington, DC 20590.

National Highway Traffic Safety Administration (NHTSA)

(Name of contact person), National Highway Traffic Safety Administration, 400 7th Street SW., Washington, DC 20590.

Urban Mass Transportation Administration (UMTA)

(Name of contact person), Urban Mass Transportation Administration, 400 7th Street SW., Washington, DC 20590.

Saint Lawrence Seaway Development Corporation (SLSDC)

(Name of contact person), Saint Lawrence Seaway Development Corporation, 400 7th Street SW., Room 5424, Washington, DC 20590.

Research and Special Programs Administration (RSPA)

(Name of contact person) Research and Special Programs Administration, 400 7th Street SW., Washington, DC 20590.

Maritime Administration (MARAD)

James Saari, Secretary, Maritime Administration, 400 7th Street Street SW., Room 7300B, Washington, DC 20590, (202) 366-5746.

Federal Aviation Administration (FAA)

The FAA has a mailing list system for Notices and Advance Notices of Proposed Rulemaking (NPRMs and ANPRMs). Persons interested in obtaining future copies of all of those documents to be issued by the FAA or only of those concerning certain parts of the Federal Aviation Regulations should request a copy of Advisory Circular No. 11-2, which describes the application procedure, by calling 202-267-3479 or by writing to: Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-200, 800 Independence Avenue SW., Washington, DC 20591.

Office of the Secretary (OST)

Persons desiring to receive future copies of the Department's regulations agenda should submit their request to: Assistant General Counsel for Regulation and Enforcement, C-50, Office of the General Counsel, Department of Transportation, Washington, DC 20590, (202) 366-4723.

Persons who have an interest in specific regulatory documents to be issued by the Office of the Secretary should forward requests for copies of those documents to the same address. These requests should fully identify the document desired.

Appendix B - General Rulemaking Contact Persons

The following is a list of persons who can be contacted within the Department for general information concerning the rulemaking process within the various operating administrations.

USCG - Bruce Novak, Marine Safety Council, USCG Headquarters Building, Room 3600, 2100 Second Street SW., Washington, DC 20593; telephone: (202) 267-1477.

FAA - John H. Cassady, Office of Chief Counsel, Regulations and Enforcement Division, 800 Independence Ave. SW., Room 915A, Washington, DC 20591; telephone: (202) 267-3073.

FHWA - Michael J. Laska, Office of the Chief Counsel, 400 7th Street SW., Room 4223, Washington, DC 20590; telephone: (202) 366-1383.

FRA - Larry Wagner, Office of Chief Counsel, 400 7th Street SW., Room 8201, Washington, DC 20590; telephone: (202) 366-0626.

NHTSA - Steve Kratzke, Office of Chief Counsel, 400 7th Street SW., Room 5219, Washington, DC 20590; telephone: (202) 366-2992.

UMTA - Susan Schruth, Office of Chief Counsel, 400 7th Street SW., Room 9316, Washington, DC 20590; telephone: (202) 366-4011.

SLSDC - Marc Owen, General Counsel's Office, 400 7th Street SW., Room 5424, Washington, DC 20590; telephone: (202) 366-0101.

RSPA - Mary Crouter, Office of Chief Counsel, 400 7th Street SW., Room 8405, Washington, DC 20590; telephone: (202) 366-4397.

MARAD - James Saari, Secretary, Maritime Administration, 400 7th Street SW., Room 7300B, Washington, DC 20590; telephone: (202) 366-5746.

OST - Neil Eisner, Office of Regulation and Enforcement, 400 7th Street SW., Room 10424, Washington, DC 20590; telephone: (202) 366-4723.

Appendix C - Public Rulemaking Dockets

The following is a list of Rule Docket locations for the various operating administrations where the public may review regulatory dockets and hand-deliver comments on advance notices and notices of proposed rulemaking:

USCG - Marine Safety Council, 2100 2nd Street SW., Room 3600, Washington, DC 20593. Working Hours: 7:30-4:00 (Monday-Friday).

FAA - Rules Docket, Office of Chief Counsel, Regulations and Enforcement Division, 800 Independence Ave. SW., Room 915G, Washington, DC 20591. Working Hours: 8:30-5:00.

FHWA - Docket Room, 400 7th Street SW., Room 4232, Washington, DC 20590. Working Hours: 8:30-3:30.

FRA - Docket Clerk, 400 7th Street SW., Room 8201, Washington, DC 20590. Working Hours: 8:30-5:00.

NHTSA - Docket Room, 400 7th Street SW., Room 5109, Washington, DC 20590. Working Hours: 8:00-4:00.

DOT

UMTA - Docket Clerk, 400 7th Street SW., Room 9316, Washington, DC 20590. Working Hours: 8:30-5:00.

RLSDC - 400 7th Street SW., Room 5424, Washington, DC 20590. Working Hours: 8:15-4:45.

RSPA - Docket Branch, 400 7th Street SW., Room 842, Washington, DC 20590. Working Hours: 8:30-5:00.

MARAD - Docket Clerk, 400 7th Street SW., Room 7300, Washington, DC 20590. Working Hours: 9:00-5:00.

OST - Docket Clerk, 400 7th Street SW., Room 4107, Washington, DC 20590. Working Hours: 9:00-5:30.

Office of the Secretary—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1841	+ Proposed Policy on Peak Period Pricing of Airport Landing Fees	2105-AB83
1842	Direct Flights	2105-AA73
1843	Price Advertising	2105-AB25
1844	Transportation Acquisition Regulations; Rewrite	2105-AB75

+ Designates significant regulation.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1845	+ Commercial Space Transportation: Financial Responsibility Requirements for Licensed Launch Activities	2105-AA26
1846	+ Minority Business Enterprise Program (Financial Assistance Programs)	2105-AA04
1847	+ Antidrug Programs for Department of Transportation Contractors	2105-AB40
1848	+ Computer Reservation Systems (CRS) Rules: Review	2105-AB47
1849	+ Anti-Alcohol Program for the Transportation Industry	2105-AB52
1850	+ Nondiscrimination on the Basis of Handicap in Air Travel (Air Carrier Access Act)	2105-AB80
1851	Testimony of Employees of the Department and Production of Records in Legal Proceedings	2105-AB56
1852	Implementation of Amendments to the Equal Access to Justice Act	2105-AB73

+ Designates significant regulation.

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1853	+ New Restrictions on Lobbying	2105-AB57
1854	+ Federal Policy for the Protection of Human Subjects	2105-AB74
1855	+ Nondiscrimination on the Basis of Handicap (Directly Conducted Programs)	2105-AA29
1856	+ Liberalization of Air-Carrier Charter Rules	2105-AA41
1857	+ Statement of Enforcement Policy on Rebating	2105-AB39
1858	+ Price Advertising	2105-AB50
1859	+ Nondiscrimination on the Basis of Handicap in Federally Assisted Mass Transit Programs	2105-AB53
1860	+ Smoking Aboard Aircraft	2105-AB58
1861	+ Participation by Disadvantaged Business Enterprises in Airport Concessions	2105-AB70
1862	Nondiscrimination on the Basis of Age in DOT Financial Assistance Programs	2105-AA09
1863	Airline Time and Mileage Guides	2105-AA38
1864	Direct Air Carrier Responsibility for Returning Stranded Charter Passengers	2105-AA40
1865	Air Travelers: Age Discrimination	2105-AA45
1866	Policy Statement on Airline Preemption	2105-AA46
1867	Diversion of Flights Within a Metropolitan Area	2105-AA78
1868	Simplified Aviation Exemption Procedures	2105-AA82
1869	Baggage Liability Notices in International Air Transportation	2105-AA84
1870	Simplified Airline Counter-Sign Notices	2105-AA88
1871	Uniform Administrative Requirements for Grants and Cooperative Agreements	2105-AB48
1872	Transportation Acquisition Regulations	2105-AB54
1873	Nondiscrimination on the Basis of Handicap in Air Travel (Air Carrier Access Act)	2105-AB81
1874	Nondiscrimination on the Basis of Handicap in Federally Assisted Programs	2105-AB82
1875	Coast Guard Whistleblowers	2105-AB66
1876	Centralization of Formal Hearing Dockets (OST)	2105-AB69

DOT

Office of the Secretary—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1877	Procedures for Transportation Workplace Drug-Testing Programs	2105-AB71
1878	Essential Air Transportation to the Freely Associated States	2105-AB72

+ Designates significant regulation.

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1879	+ Drug-Free Workplace (Grants)	2105-AB64
1880	Kansas Time Zone Proceeding	2105-AB53
1881	Coast Guard Board for Correction of Military Records; Procedural Regulations	2105-AB59
1882	Staff Assignments and Review of Action Under Assignments	2105-AB57

+ Designates significant regulation.

U.S. Coast Guard—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1883	Controlling the Marine Asbestos Hazard (88-103)	2115-AD16

U.S. Coast Guard—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1884	+ Revisions of the Regulations on Outer Continental Shelf Activities (84-096)	2115-AB74
1885	+ Subdivision and Damage Stability of Dry Cargo Vessels (CGD 87-094)	2115-AC87
1886	+ Great Lakes Pilotage Rates, (89-104)	2115-AD47
1887	Fixed Fire-Extinguishing Systems on Uninspected Vessels (74-284)	2115-AA06
1888	Hybrid Personal Flotation Devices; Establishment of Approval Requirements (78-174)	2115-AA29
1889	Outer Continental Shelf Facilities: Aids to Navigation (82-054)	2115-AA82
1890	Safety Standards for New Self-Propelled Vessels Carrying Bulk Liquefied Gases (82-056)	2115-AA85
1891	Fire Protection Regulations to Incorporate SOLAS 1974 (83-026)	2115-AB36
1892	Reassessment of Coast Guard Marine Engineering Regulations—Incorporation of SOLAS 74 Amendments (83-043)	2115-AB41
1893	Mobile Offshore Drilling Unit Regulations Revision (83-071a)	2115-AB66
1894	Safety Rules for Ships Carrying Hazardous Liquids (84-065)	2115-AB82
1895	Certification of Seamen (84-066)	2115-AC02
1896	Gulf Inland Waterway Regulated Navigation Area (85-096)	2115-AC09
1897	Revisions to the Electrical Engineering Regulations (85-063)	2115-AC20
1898	Updating Approval Requirements for Breathing Apparatus (86-036)	2115-AC30
1899	Cargo Lists and Tables Update (CGD 88-100 and 88-100a)	2115-AC35
1900	Load Lines (86-013)	2115-AC37
1901	Revision to Inflatable Liferaft Approval: SOLAS 74/83 (85-205)	2115-AC51
1902	Posting Requirements on Inspected Vessels (87-031)	2115-AC88
1903	Regattas and Marine Parades (CGD 87-087)	2115-AC94
1904	Marine Transport of Bulk Solid Hazardous Materials (87-069)	2115-AD02
1905	Private Electronic Aids to Maritime Navigation (88-011)	2115-AD04
1906	Incorporation and Adoption of Industry Standards (88-032)	2115-AD05
1907	Requirements for Marine Terminals Transferring Bulk Liquefied Hazardous Gases (88-049)	2115-AD06
1908	Written Warnings By Coast Guard Law Enforcement Officials (88-074)	2115-AD13
1909	Access Documents to Waterfront Facilities (88-097)	2115-AD14
1910	Advance Notice of Arrival; Warsaw Pact Nationals (88-104)	2115-AD17
1911	Regulated Navigation Areas; Brownsville Ship Channel (8-89-01)	2115-AD21
1912	User Fees for Vessel Documentation (89-007)	2115-AD22

DOT

U.S. Coast Guard—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1912	Stability Regulations—General Revision of Subchapter S (89-036)	2115-AD94
1914	Vessel Identification System (89-050)	2115-AD95
1915	Chesapeake Bay Traffic Separation Scheme (89-038)	2115-AD40
1916	Definition of Channel 67 Radio Boundaries (89-068)	2115-AD44
1917	Federal Pilotage Requirements for Washington and Oregon (90-043)	2115-AD62
1918	Deepwater Port Radar Beacons(90-016)	2115-AD63
1919	Stability and Subdivision Regulations (89-035)	2115-AD54
1920	National Vessel Traffic Service (VTS) Regulations (90-020)	2115-AD68
1921	Recording of Instruments—Vessel Documentation (89-006(a))	2115-AD90

+ Designates significant regulation.

U.S. Coast Guard—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1922	+ Offshore Supply Vessel Regulations (82-004)	2115-AA77
1923	+ Traffic Separation Schemes and Shipping Safety Fairways off the Coast of California (83-032)	2115-AB29
1924	+ Licensing of Pilots—Manning of Vessels (84-060)	2115-AB67
1925	+ Lifesaving Equipment—Implementation of 1983 Amendments to SOLAS 1974 (84-069)	2115-AB72
1926	+ Licensing of Officers and Operators for Mobile Offshore Drilling Units (81-59a)	2115-AB81
1927	+ Special Cargo Requirements for Benzene (88-040)	2115-AD09
1928	+ Implementation of the Commercial Fishing-Industry Vessel Safety Act (88-079)	2115-AD12
1929	+ Random Chemical Testing Programs for Commercial Vessel Personnel (90-014)	2115-AD69
1930	Tankerman Requirements and Qualifications for Persons-in-Charge of Dangerous Liquid and Liquefied Gas Transfer Operations (70-116)	2115-AA03
1931	Dealer and First-Purchaser List (77-115)	2115-AA16
1932	Safety/Security Zone Regulations	2115-AA97
1933	Anchorage Area Regulations	2115-AA98
1934	Personal Flotation Device Components (84-068)	2115-AB70
1935	Training in the Use of Automatic Radar Plotting Aids (ARPA) (85-059)	2115-AB99
1936	Oil Pollution Prevention, MARPOL Annex I (85-026)	2115-AC11
1937	Performance Standards and Approval Procedures for Inflatable Life Jackets (76-174b)	2115-AC15
1938	Intervals for Internal Examination and Hydrostatic Testing of Pressure Vessel Type Cargo Tanks (85-061)	2115-AC18
1939	Small Passenger Vessel Inspection and Certification (CGD 85-080)	2115-AC22
1940	Uninspected Vessel Emergency Position Indicating Radio Beacons (EPIRBs) (87-016)	2115-AC89
1941	Delegation of Authority to Area Commanders When Functioning as Maritime Defense Zone Commanders (CGD 87-065)	2115-AC88
1942	Anchorage Regulations (88-079)	2115-AC96
1943	Documentation of Vessels—Controlling Interest (88-031)	2115-AC99
1944	Implementation of the Shore Protection Act of 1988 (89-014)	2115-AD83
1945	Recording of Instruments—Vessel Documentation (89-006)	2115-AD30
1946	Stability Design and Operational Regulations (89-037)	2115-AD33
1947	Waiver of Crewmember Citizenship Requirements (89-061)	2115-AD38
1948	Prevention of Pollution From Ships (89-002a)	2115-AD40
1949	Regulated Navigation Area: Ohio River at Louisville, KY (2-89-04)	2115-AD45
1950	Replacement of References to SOLAS 60 With SOLAS 74 (90-009)	2115-AD48
1951	Distinctive Identification Light (90-032)	2115-AD58

+ Designates significant regulation.

U.S. Coast Guard—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1952	+ Hazardous Materials Pollution Prevention: Bulk Liquids (86-034)	2115-AC29
1953	+ Marine Vapor Control Systems (86-102)	2115-AC65
1954	+ User Fees for Coast Guard Services (84-026)	2115-AB73
1955	+ Programs for Chemical Drug and Alcohol Testing of Commercial Vessel Personnel (86-067)	2115-AC45

DOT

U.S. Coast Guard—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
1955	+ User Fees: Small Passenger and Sailing School Vessels (CGD 87-020)	2115-AC74
1957	+ Prevention of Pollution by Plastics, Annex V of MARPOL(89-002)	2115-AD39
1958	+ Alternative for Licensing Commercial Fishing Industry Vessel Operators (88-096)	2115-AD46
1959	Launching Devices for Inflatable Life Rafts (79-165)	2115-AA45
1960	Personal Flotation Devices (81-023)	2115-AA58
1961	General Bridge Permit Regulations (81-057)	2115-AA81
1962	Pollution-Prevention Regulations for Tankers: General Revisions of 33 CFR 157 (82-030)	2115-AA89
1963	Marine Portable Tanks (84-043)	2115-AB89
1964	Guidelines on Navigation Bridge Visibility (85-099)	2115-AC42
1965	Alternative Provisions for Reinspections of Offshore Supply Vessels in Foreign Ports (CGD 82-004a)	2115-AC86
1966	Cargo Gear Inspection and Testing (87-089)	2115-AD03
1967	Port Access Routes: Approaches to Chesapeake Bay (88-041)	2115-AD09
1968	Automatic Auxiliary Boilers (88-057)	2115-AD11
1969	Great Lakes Pilotage Regulations (88-111)	2115-AD19
1970	Documentation of Vessels-Hailing Port (89-026)	2115-AD22
1971	Vessel Traffic Service New York, Mandatory Participation (89-062)	2115-AD29
1972	Removal of Computer Programs From List of Services (89-085)	2115-AD41
1973	Offshore Oil Pollution Compensation Fund Barrel Fee Levy (90-005)	2115-AD49
1974	Fees Charged for Services Performed by the Coast Guard (89-085)	2115-AD50
1975	Collision Avoidance Regulations Demarcation Lines (89-088)	2115-AD55
1976	LORAN-C Mid-Continent Expansion Project: Antenna Positions (90-031)	2115-AD57

+ Designates significant regulation.

Federal Aviation Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1977	+ Installation of Crashworthy Fuselage Fuel Tanks and Fuel Lines	2120-AC87
1978	+ Sole Radio Navigation System; Minimum Standards for Certification	2120-AC28
1979	Review of Part 135, Air Taxi Operators and Commercial Operators	2120-AB28
1980	Location of Marks on Fixed-Wing Aircraft and Airships	2120-AC09
1981	North Atlantic Minimums/Minimum Navigational Performance Standards	2120-AD53

+ Designates significant regulation.

Federal Aviation Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1982	+ Civil Supersonic Aircraft Noise Type Certification Standards and Operating Rules	2120-AC22
1983	+ Fatigue Evaluation of Structure	2120-AD42
1984	+ Fatigue Test Requirements for Aging Aircraft	2120-AD43
1985	+ Revision of Part 108, Airplane Operator Security	2120-AD45
1986	+ Revision of Part 107, Airport Security	2120-AD46
1987	+ Revision of Medical Standards and Certification Procedures	2120-AA70
1988	+ Proposed Revision of Noise Certification of Turbojet and Large Transport Category Aircraft	2120-AD88
1989	+ Repair Station and Repairmen Certification Rules	2120-AC38
1990	+ Improved Access to Type III Emergency Exits	2120-AC46
1991	+ Parts 121 and 135—Training, Checking, Certification, and Qualifications Requirements	2120-AC79
1992	+ United States Control Area	2120-AC88
1993	+ Revision of Aviation Maintenance Technician School Rules	2120-AD09
1994	+ Airworthiness Standards; Occupant Protection Standards for Commuter Category Airplanes	2120-AD27
1995	+ Airworthiness Standards; Emergency Exit Provisions for Normal, Utility, Acrobatic, and Commuter Category Airplanes	2120-AD33
1996	+ Carbon Dioxide Concentration	2120-AD47
1997	+ Flight Attendant Rest Requirements	2120-AD53
1998	+ Submission to Drug Tests	2120-AD56
1999	+ Proposed Amendment to Part 135 - Air Taxi Operators and Commercial Operators	2120-AD65

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Federal Aviation Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2000	+ Anti-Drug Program; Consolidated Amendments	2120-AD67
2001	+ Establishment and Discontinuance Criteria for LORAN-C Nonprecision Approach Procedures	2120-AD68
2002	+ Transponder-On Requirements	2120-AD69
2003	+ Flight Recorders and Cockpit Voice Recorders	2120-AD82
2004	Review of Part 47, Aircraft Registration, and Part 48, Recording of Aircraft Titles and Security Documents	2120-AC17
2005	Objects Affecting Navigable Airspace	2120-AA09
2006	Fuel System Fire Protection	2120-AA49
2007	Aircraft Simulator Use in Airman Training and Certification	2120-AA83
2008	Composite Propellers	2120-AB05
2009	Standards for Approval of a Reduced V1 Methodology for Takeoff on Wet and Contaminated Runways	2120-AB17
2010	Engine Fuel and Induction Systems	2120-AB76
2011	Non-Federal Air Traffic Control Towers	2120-AC59
2012	Rotorcraft Crash Resistant Fuel Systems	2120-AC68
2013	Air Traffic Control Clearance Acknowledgement	2120-AC91
2014	Proposed Establishment of the Houston Hobby Terminal Control Area	2120-AD04
2015	Small Airplane Airworthiness Review Program Notice No. 4	2120-AD20
2016	Maintenance Recording Requirements	2120-AD25
2017	Improved Flammability Standards for Materials Used in the Interiors of Transport Category Airplane Cabins	2120-AD28
2018	Small Airplane Airworthiness Review Program Notice No. 3	2120-AD30
2019	Designated Engineering Organization Authorization Procedures	2120-AD31
2020	Requirements for Aircraft Protection in High Energy Radiated Electromagnetic Fields	2120-AD32
2021	Depressurization Evaluation of Structures	2120-AD35
2022	Bird Strike Damage Assessment	2120-AD39
2023	1-G Stall Speed as a Basis for Compliance With Part 25	2120-AD40
2024	91-Knot Stall Speed; Stall Speeds for Single-Engine Airplanes	2120-AD46
2025	Distance Remaining Markers and Friction Measurement Program	2120-AD51
2026	Visual Flight Rules Operations	2120-AD53
2027	Temporary Flight Restrictions	2120-AD55
2028	Parachute Equipment and Packing Requirements	2120-AD57
2029	Noise Requirements for Primary Category Aircraft	2120-AD58
2030	Proposed Alteration of the St. Louis Terminal Control Area; Missouri	2120-AD61
2031	Reporting Requirements: Transferee Holders and Licensees	2120-AD64
2032	Exemption Process	2120-AD66
2033	Exclusion of Nonelectric Gliders and Balloons from the Mode S Requirements	2120-AD70
2034	Approval of Terminal Control Area Operations	2120-AD71
2035	Miscellaneous Amendments to Part 77, Objects Affecting Navigable Airspace	2120-AD72
2036	Protective Breathing Equipment; All Cargo	2120-AD74
2037	Temporary Restriction of Instrument Approaches and Certain Visual Flight Rules Operations in High-Pressure Weather Conditions	2120-AD75
2038	Protective Breathing Equipment; Fire Drills	2120-AD76
2039	Class D Compartments Improved Fire Safety Standards	2120-AD77
2040	Production Certificate Modernization	2120-AD78
2041	Powered-Lift Engine Type Certification Requirements and Definitions	2120-AD79
2042	New Contingency Ratings	2120-AD80
2043	Export Airworthiness Approvals; Oral Applications	2120-AD81
2044	Part 101 Review Program	2120-AD84
2045	Harlingen (TX) Airport Radar Service Area	2120-AD85

+ Designates significant regulation.

Federal Aviation Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2046	+ Pilot, Flight Instructor, and Pilot School Certification Rules	2120-AB12
2047	+ Primary Category Aircraft	2120-AB53
2048	+ Improved Survival Equipment for Inadvertent Water Landings	2120-AC72
2049	+ Retrofit of Improved Seats in Air Carrier Transport Category Airplanes	2120-AC84
2050	+ Use of X-Ray Systems	2120-AD13
2051	+ Drug Enforcement Assistance	2120-AD16
2052	+ Airplane Cabin Fire Protection	2120-AB22

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Federal Aviation Administration—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2053	+ Elimination of Airport Delays	2120-AB42
2054	+ Miscellaneous Operational Amendments	2120-AB45
2055	+ Airspace Reclassification	2120-AB95
2056	+ Passenger-Carrying and Cargo Air Operations for Compensation or Hire	2120-AC09
2057	+ Flight Attendant Requirements	2120-AC32
2058	+ Type and Number of Passenger Emergency Exits Required in Transport Category Airplanes	2120-AC43
2059	+ Minimum Equipment List (MEL) Requirements	2120-AC55
2060	+ Establishment and Discontinuance Criteria for Airport Traffic Control Tower Facilities	2120-AC56
2061	+ Emergency Locator Transmitters	2120-AD10
2062	+ Ground Proximity Warning Systems	2120-AD29
2063	+ Suspension of Certain Aircraft Operations from the Transponder with Automatic Pressure Altitude Reporting Capability Requirement	2120-AD62
2064	+ High Density Traffic Airports: Allocation of International Slots at Chicago O'Hare	2120-AD60
2065	Miscellaneous Amendments	2120-AA50
2066	Airworthiness Standards; Crash Resistant Fuel Systems	2120-AA57
2067	Airworthiness Standards: Aircraft Engines, Electrical and Electronic Engine Control Systems	2120-AB06
2068	Standards for Approval for High Altitude Operation of Subsonic Transport Airplanes	2120-AB18
2069	Airworthiness Standards; Transport Category Rotorcraft Performance	2120-AB36
2070	Low-Fuel-Quantity Alerting System	2120-AB48
2071	Amend Section 43.17 to Allow for Maintenance of U.S. Aeronautical Products in Canada in Compliance with the U.S.-Canadian Bilateral Airworthiness Agreement	2120-AB89
2072	Airworthiness Standards; New Rotorcraft 30-Second/2-Minute One-Engine-Inoperative Power Ratings	2120-AB90
2073	Airworthiness Standards; Turboshaft Engine Rotor Burst Protection	2120-AB91
2074	Small Airplane Airworthiness Review Program Notice No. 5	2120-AC14
2075	Small Airplane Airworthiness Review Program Notice 2	2120-AC15
2076	Miscellaneous Changes to Emergency Evacuation Demonstration Procedures, Exit Handle Illumination, and PA Handsets	2120-AC45
2077	Airworthiness Standards; Shoulder Harnesses in Normal and Transport Category Rotorcraft	2120-AC67
2078	Electrical and Electronic Systems Lightning Protection	2120-AC81
2079	Landing Gear Aural Warning	2120-AC82
2080	Ketchikan International: Special Airport Traffic Rule	2120-AC90
2081	Proposed Establishment of the Washington Tri-Area TCA and Revocation of the Washington, DC, TCA and Airport Radar Service Areas at Baltimore-Washington and Dulles Airports	2120-AD01
2082	Airport Certification and Operations; Clarification of Various Provisions	2120-AD10
2083	Airworthiness Standards: Aircraft Engines; Proposal for New One-Engine-Inoperative Ratings, Definitions, and Type Certification Standards	2120-AD21
2084	Airplane Engine Cowling Retention	2120-AD34
2085	Vibration, Buffet and Aeroelastic Stability Requirements for Transport Category Airplanes	2120-AD36
2086	Use of Inert Gas for Tire Inflation in Lieu of Air	2120-AD37
2087	Design Standards for Airplane Jacking and Tie-Down Provisions	2120-AD38
2088	Centralization of Formal Hearing Dockets (FAA)	2120-AD63
2089	Alteration of the Chicago Terminal Control Area; Illinois	2120-AD73
2090	Part 95 Instrument Flight Rules	2120-AA63
2091	Airworthiness Directives	2120-AA64
2092	Standard Instrument Approach Procedures	2120-AA65
2093	Airspace Actions	2120-AA66

+ Designates significant regulation.

Federal Aviation Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2094	+ Fuel Venting and Exhaust-Emission Requirements for Turbine-Engine Powered Airplanes	2120-AC62
2095	+ Special Federal Aviation Regulation; Advanced Qualification Program	2120-AC95
2096	+ Pilots Convicted of Alcohol- or Drug-Related Motor Vehicle Offenses or Subject to State Motor Vehicle Administrative Procedures	2120-AC57
2097	+ Indemnification of Publishers of Aeronautical Charts and Maps	2120-AC73
2098	+ Rules of Practice for FAA Civil Penalty Actions	2120-AC74
2099	+ Navigational Equipment Requirement in a Terminal Control Area, Visual Flight Rules Operations	2120-AD15
2100	+ Airborne Low-Altitude Windshear Equipment Requirements	2120-AD18

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Federal Aviation Administration—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
2101	+ TCAS II Implementation Schedule	2120-AD23
2102	Transport Category Airplane Airworthiness Standards	2120-AA47
2103	Construction, Alteration, Activation, and Deactivation of Airports	2120-AB74
2104	Rotorcraft Regulatory Changes Based on European Joint Airworthiness Requirements Proposal	2120-AC27
2105	Improved Structural Requirements for Pressurized Cabins and Compartments in Transport Category Airplanes	2120-AC44
2106	Flight Plan Filing Requirements; National Airspace Review Recommendation	2120-AC58
2107	Realignment of Restricted Areas in the Eglin AFB Area	2120-AC63
2108	Airworthiness Standards; Commuter Category Airplanes	2120-AC77
2109	Airport Radar Service Area (ARSA) Communication Requirement	2120-AC89
2110	Establishment of the Tampa Terminal Control Area and Revocation of the Tampa International Airport, Airport Radar Service Area; Florida	2120-AD07
2111	Participation by Disadvantaged Business Enterprises in Department of Transportation Programs	2120-AD41
2112	Temporary Prohibited Areas; 1990 Goodwill Games in the State of Washington	2120-AD54
2113	Removal of Transponder with Automatic Altitude Reporting Capability (Mode C Transponder) Requirement for Operations in the Vicinity of Hector International Airport, Fargo, North Dakota	2120-AD62

+ Designates significant regulation.

Federal Highway Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2114	+ Qualification of Drivers; Epilepsy, Hearing, and Vision	2125-AC62
2115	Truck Size and Weight; Dromedary Buses Carrying Explosives	2125-AC61
2116	Qualification of Drivers; Medical Examination Form	2125-AC63
2117	Manual on Uniform Traffic Control Devices	2125-AA37

+ Designates significant regulation.

Federal Highway Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2118	+ Federal Motor Carrier Safety Regulations; General; Commercial Motor Vehicle Definition	2125-AC27
2119	+ Federal Motor Carrier Safety Regulations; General; Motor Vehicle Marking	2125-AC28
2120	Construction Contract Equal Opportunity Compliance Procedures	2125-AB15
2121	Qualification of Drivers; Diabetes	2125-AB91
2122	Compatibility of State Safety Requirements Affecting Interstate Commercial Motor Vehicles	2125-AC11
2123	Acquisition of Real Property for Rights-of-Way	2125-AC17
2124	Design Standards for Highways; AASHTO Publication; Geometric Design of Highways and Streets	2125-AC22
2125	Truck Length and Width-Exclusive Devices	2125-AC30
2126	Notification and Reporting of Accidents; Property Damage	2125-AC48
2127	State Compliance with CDL Program Requirements	2125-AC53
2128	Commercial Driver Instruction Permits	2125-AC54
2129	Certification of Size and Weight Enforcement	2125-AC60
2130	Reimbursement for Railroad Work and Railroad-Highway Insurance Protection	2125-AC04

+ Designates significant regulation.

Federal Highway Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2131	+ Private Carriage of Passengers	2125-AB62
2132	+ Commercial Driver's License Standards; Biometric Identifier	2125-AC24
2133	+ Environmental Impact and Related Procedures; Constructive Use	2125-AC16

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Federal Highway Administration—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2134	Contract Procedures	2125-AA16
2135	Administration of Engineering and Design Related Service Contracts	2125-AB30
2136	Public Availability of Information; Freedom of Information Act Regulations; Technical Amendments	2125-AC20
2137	Inspection, Repair and Maintenance; Brake Inspection	2125-AC25
2138	Parts and Accessories for Safe Operation; Emergency Warning Devices	2125-AC28
2139	Design Standards for Highways; Interstate System	2125-AC34
2140	Rules of Practice for Motor Carrier Safety and Hazardous Materials Proceedings; Penalties for Failure to Comply With Notices and Orders Issued Under the Authority of 49 USC 521(b)	2125-AC36
2141	Uniform System for Handicapped Parking	2125-AC39
2142	Qualification of Drivers: Written Examinations	2125-AC42
2143	Qualification of Drivers; Tow-Truck Operators	2125-AC43
2144	Qualification of Drivers; Medical Examination	2125-AC44
2145	Inspection, Repair and Maintenance; Periodic Inspections	2125-AC47
2146	Parts and Accessories Necessary for Safe Operation; Front Wheel Brakes on Mexican Commercial Motor Vehicles	2125-AC49
2147	Controlled Substances Testing	2125-AC50
2148	Truck Size and Weight; Beverage Semitrailers	2125-AC57
2149	Centralization of Formal Hearing Dockets (FHWA)	2125-AC59

+ Designates significant regulation.

Federal Highway Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2150	+ Truck Size and Weight; Reasonable Access	2125-AB70
2151	+ Air Quality Procedures for Use in Federal-Aid Highway and Federally Funded Transit Programs	2125-AB10
2152	General Materials Requirements	2125-AA19
2153	Federal-Aid Programs Approval and Project Authorization	2125-AB18
2154	Minimum Levels of Financial Responsibility for Motor Carriers; Self-Insurance	2125-AB65
2155	Federal Motor Carrier Safety Regulations; Paperwork Burdens	2125-AC04
2156	Construction Engineering Costs	2125-AC09
2157	Design Standards for Highways; Reference Material; Roadside Design Guide	2125-AC32
2158	Truck Size and Weight; Saddlemount Combinations	2125-AC38
2159	Truck Size and Weight; National Network; Technical Amendments	2125-AC55
2160	Highway Planning and Research Program Administration	2125-AC56
2161	Commercial Driver Testing and Licensing Standards; Driving Record Prerequisites for Waiver and Skills Test	2125-AC58

+ Designates significant regulation.

National Highway Traffic Safety Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2162	+ Vehicle Based Roadway Illumination Performance Requirement	2127-AD69
2163	+ Rollover	2127-AC64
2164	+ Standard 108; ID and Clearance Lamps on Wide Vehicles	2127-AC76
2165	+ Door-Mounted Passive Belt Systems and Motorized Passive Belt Restraint Systems	2127-AD42
2166	+ Alcohol Fuels	2127-AD47
2167	+ Compressed Natural Gas (CNG) and Propane	2127-AD48
2168	+ Wheelchair Lifts	2127-AD50
2169	+ Wheelchair Securement Devices	2127-AD51
2170	Review: Lamps, Reflective Devices, and Associated Equipment	2127-AB76
2171	Review: Glass-Plastic Windshields	2127-AD29
2172	Standard 301; Fuel-System Integrity	2127-AB43
2173	Supplemental FMVSS No. 208 Injury Criteria - Facial Lacerations, Neck Injury, Knee Shear, Tibia and Ankle Injuries	2127-AC12
2174	Brake Lining	2127-AC66
2175	Federal Motor Vehicle Theft Prevention Standard	2127-AC82
2176	Standard 105; Hydraulic Brake	2127-AC84
2177	Standard 105; Hydraulic Brake Systems—Brake Failure Indicator Lamps	2127-AD03

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National Highway Traffic Safety Administration—Prerule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2178	Tire Labeling, FMVSS 109, 110, 117, 119, 120; Parts 569, 575, 575	2127-AD29
2179	Truck Voltage for Exterior Lighting	2127-AD40
2180	Warning Triangles	2127-AD41
2181	Harmonization of Seat-Belt Assembly Anchorages	2127-AD43
2182	Flammability Performance Requirements	2127-AD49
2183	Exemption from Average Fuel Economy Standards	2127-AD57
2184	Exemption from Average Fuel Economy Standards	2127-AD58
2185	Exemption from Average Fuel Economy Standards	2127-AD61
2186	Exemption from Average Fuel Economy Standards	2127-AD63
2187	Exemption from Average Fuel Economy Standards	2127-AD64
2188	Exemption from Average Fuel Economy Standards	2127-AD65
2189	Exemption from Average Fuel Economy Standards	2127-AD66
2190	Light Truck Fuel Economy Standards	2127-AD67
2191	Brake Hoses and Fluids	2127-AD70
2192	Warning Label for Child Restraints	2127-AD71
2193	Testing and Labeling of Child Restraints	2127-AD72
2194	Create A New Category, AS-15B - Tempered Glass-Plastic	2127-AD75

+ Designates significant regulation.

National Highway Traffic Safety Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2195	+ Commercial Vehicle Conspicuity	2127-AA12
2196	+ Cars and Light Trucks: Padding A-Pillars, Side Rail, etc	2127-AB85
2197	+ Heavy Duty Vehicle Brake Systems (Formerly Truck and Trailer Brake Systems)	2127-AA00
2198	+ Proposed New Standard 136; Passenger-Car Brake System	2127-AA13
2199	+ Truck Rear Underride Protection	2127-AA43
2200	+ Standard 302; Flammability of Interior Materials - School Buses	2127-AA44
2201	+ Standard 205; Glazing Materials, Film Transmittance	2127-AC65
2202	+ Standard 217; Bus Window Retention and Release - Upgrade for School Buses	2127-AC68
2203	+ Standard 301; Fuel-System Integrity—Upgrade for Buses	2127-AC69
2204	+ Standard 111; Rearview Mirrors - School Buses	2127-AD24
2205	+ Side Impact Protection: Anthropomorphic Alternate Test Dummy (BIOSID)	2127-AD73
2206	+ Side Impact Protection: Anthropomorphic Alternate Test Dummy (EUROSID)	2127-AD74
2207	Rearview Mirror Systems	2127-AA21
2208	Part 571.3 - Definitions - Seating Reference Point/Motor Vehicle Driver's Eye Range	2127-AA48
2209	Procedures for Considering Environmental Impacts	2127-AB79
2210	Standard 221; School Bus Body Joint Strength	2127-AC19
2211	Bumper Standard - Test Procedures	2127-AC30
2212	Standard 208; Occupant Crash Protection, Emergency Locking Retractors	2127-AC57
2213	Standard 301; Fuel System Integrity, Fuel Spillage	2127-AC62
2214	Comprehensive Review of Visibility Topics	2127-AC89
2215	Standard 121; Air-Brake Systems, Supplemental Connector	2127-AC60
2216	Standard 213; Child Restraint Systems - Newborn and Very Small Children	2127-AC87
2217	Pedestrian Head-Protection Standard	2127-AC90
2218	Standard 106; Brake Hoses - Assembly Labeling	2127-AD04
2219	Standard 121; Air Brake Systems Stopping-Distance Performance	2127-AD07
2220	Standard 207; Seating Systems - Performance	2127-AD08
2221	Standard 110, Tire Selection and Rims; and 120, Tire Selection and Rims for Other Than Passenger Cars - Size Labelling	2127-AD23
2222	Standard 209; Seat Belt Assembly - Windowshade Type	2127-AD25
2223	Insurer Reporting Requirements; List of Insurers Required to File Reports in October 1990	2127-AD31
2224	Procedures for Selecting Lines to be Covered by the Theft Prevention Standard	2127-AD32
2225	Automatic Brake Adjusters for Heavy Duty Vehicles	2127-AD34
2226	Definition of "Seat Belt Anchorage"	2127-AD44
2227	Child Restraint Warning Labels	2127-AD45
2228	Child Safety Seat Registration	2127-AD46
2229	Preliminary Passenger Motor Vehicle Theft Data for 1989	2127-AD52
2230	Rulemaking to Delete "Due Care" Provisions from the Occupant Crash Protection Standard	2127-AD64

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National Highway Traffic Safety Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2231	State Highway Safety Programs	2127-AD55
2232	Uniform Tire Quality Grading Standards	2127-AD66
2233	Static Test Requirements of Safety Belt Webbing for Dynamically Tested Safety Belts	2127-AD76

+ Designates significant regulation.

National Highway Traffic Safety Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2234	+ Crashworthiness Ratings	2127-AA03
2235	+ Anthropomorphic Test Dummies: Side-Impact Thorax Protection	2127-AA46
2236	+ Uniform Tire Quality Grading Standards - Treadwear Amendments	2127-AB21
2237	+ Lighting Simplification—Potential Amendments on Long-Term Issues; Standard 108	2127-AB87
2238	+ Pedestrian Protection	2127-AA45
2239	+ Vehicle Classification	2127-AA57
2240	+ Side-Impact Protection—Light Trucks, Vans, and Multipurpose Passenger Vehicles	2127-AC43
2241	+ Standard 208; Occupant Crash Protection - Upgrade	2127-AD10
2242	+ Standard 216; Roof Crush Resistance - Light Trucks, Vans, and Multipurpose Passenger Vehicles	2127-AD13
2243	+ Stop-Signal Arms on New School Buses; New Standard	2127-AD16
2244	+ Procedures for Participating in and Receiving Data from the National Driver Register Problem Driver Pointer System	2127-AD26
2245	+ Center High-Mounted Stoplamps for Light Trucks	2127-AD35
2246	+ Light Truck Average Fuel Economy Standards for Model Years 1993 and 1994	2127-AD58
2247	Air-Brake Systems, Parking and Emergency Brakes - Trailers	2127-AA27
2248	Anthropomorphic Test Dummies: 6-Year-Old	2127-AC09
2249	Anthropomorphic Test Dummies: 9-Month-Old	2127-AC10
2250	Standard 208; Occupant Crash Protection - Chest Injury Criteria and Mandatory Use of the Part 572(E) Dummy in the Standard Compliance Testing	2127-AC13
2251	Standard 205; Glazing Materials Ball Drop Test	2127-AC14
2252	Standard 205; Glazing Materials - Create a New Category, AS-15	2127-AC36
2253	Standard 118; Power-Operated Window Systems, Sunroofs	2127-AC52
2254	Standard 106; Brake Hoses: Permanently Attached End Fittings	2127-AC55
2255	Parking Brake Requirements	2127-AC73
2256	Standard 102; Transmission Shift-Lever Sequence, Starter Interlock, and Transmission Braking Effect - Shift Position/Pattern	2127-AC75
2257	Standard 108; Optically Combined Lamps: New Definition	2127-AC77
2258	Standard 121; Air-Brake Systems, Expandable and Drop Frame Container Chassis	2127-AC81
2259	Standard 201; Occupant Protection in Interior Impact	2127-AC84
2260	Standard 116; Motor Vehicle Brake Fluids - Color Requirements	2127-AD05
2261	Standard 207; Seating Systems - Test Procedure	2127-AD09
2262	Standard 208; Occupant Crash Protection - Dynamically Tested Seat Belts	2127-AD11
2263	Standard 108; Lamps, Reflective Devices and Associated Equipment - Humidity Test	2127-AD18
2264	Standard 109; New Pneumatic Tires and Part 575.104, Uniform Tire Quality Grading Standards - CT Tires	2127-AD21
2265	Air-Brake Systems; Pneumatic Timing Requirements	2127-AD27
2266	Bead Unseating Test Fixture	2127-AD28
2267	Automatic Safety-Belt Warning Systems	2127-AD38
2268	"Lock" Child Safety Systems	2127-AD39
2269	Final Listing of High Theft Lines for 1992 Model Year Year—technical Amendment to Final Rule	2127-AD53
2270	Exemption from Average Fuel Economy Standards	2127-AD62

+ Designates significant regulation.

National Highway Traffic Safety Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2271	+ Standard 102; Transmission Shift-Lever Sequence, Starter Interlock, and Transmission Braking-Effect Slippage	2127-AC74
2272	+ Rear Seat Lap/Shoulder Belts	2127-AD37

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National Highway Traffic Safety Administration—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
2270	Review: Impact Protection for the Driver from the Steering Control System	2127-AB78
2274	Review: Roof Crush Resistance and Door Locks and Door Retention Components	2127-AC20
2275	Seat-Belt Assembly Anchorages - Harmonize and Upgrade	2127-AB85
2276	Anthropomorphic Test Dummies Representing Children 3-Year-Old	2127-AB84
2277	New Non-Pneumatic Tires for Passenger Cars, Tire Selection, and Rims - Temporary Use of Non-Pneumatic Spare Tires	2127-AC18
2278	Gear Lock	2127-AC24
2279	Bumper Standard - Damage Criteria	2127-AC29
2280	Part 544, Motor Vehicle Theft Prevention; Reporting Requirements for Motor Vehicle Rental and Leasing Companies	2127-AC32
2281	Standard 301; Fuel System Integrity, Testing Performance	2127-AC58
2282	Standard 108; Proposed Use of 9007 Bulbs for Headlamps	2127-AC59
2283	Standard 108; Lamps, Reflective Devices, and Associated Equipment; Upgrade References	2127-AC65
2284	Establish a Standard for Safe Entry and Exit Requirements for Commercial Vehicles	2127-AC82
2285	Standard 208; Occupant Crash Protection - Broaden Test Procedures for Heavy Trucks	2127-AC86
2286	Driving Range Determination for Dual-Fuel Passenger Cars	2127-AD02
2287	Standard 121; Air Brake Systems Timing Requirements	2127-AD06
2288	Standard 108; Lamps, Reflective Devices and Associated Equipment - Petitions for Reconsideration, Reform	2127-AD17
2289	Standard 109; New Pneumatic Tires - Labelling Requirements	2127-AD22
2290	Final Listing of High Theft Lines for Model Year 1991	2127-AD33
2291	Exemption from Average Fuel Economy Standards	2127-AD59
2292	Exemption from Average Fuel Economy Standards	2127-AD60
2293	Centralization of Formal Hearing Dockets (NHTSA)	2127-AD77

+ Designates significant regulation.

Federal Railroad Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2294	+ Special Safety Inquiry; Railroad Reporting Requirements	2130-AA56

+ Designates significant regulation.

Federal Railroad Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2295	+ Rail-Highway Grade Crossing Safety	2130-AA45
2296	+ Railroad Operating Practices; Procedures for Bridge-Worker Safety	2130-AA48
2297	+ Train Operation Event Recorders	2130-AA53
2298	+ Railroad Accident Reporting	2130-AA58

+ Designates significant regulation.

Federal Railroad Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2299	+ Locomotive Operator; Qualification Standards	2130-AA51
2300	Centralization of Formal Hearing Dockets (FRA)	2130-AA59

+ Designates significant regulation.

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Federal Railroad Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2301	+ Alcohol/Drug Regulations; Miscellaneous Technical Amendments and Corrections; Extension of Compliance Date for Revised Specimen Collection Procedure	2130-AA42
2302	+ Railroad Accident/Incident Reports Classification and Notification of Right to Submit Employee Supplements	2130-AA44

+ Designates significant regulation.

Urban Mass Transportation Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2303	Uniform System of Accounts and Records and Reporting System	2132-AA28

Urban Mass Transportation Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2304	+ Major Capital Investment Projects	2132-AA34
2305	+ Bus Testing	2132-AA30
2306	+ "Buy America" Requirements of the Surface Transportation and Uniform Relocation Assistance Act of 1987	2132-AA35
2307	Capital Leases	2132-AA29
2308	Pre-Award and Post-Delivery Audits of Rolling-Stock Purchases	2132-AA26

+ Designates significant regulation.

Urban Mass Transportation Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2309	+ Air Quality Procedures for Use in Federal-Aid Highway and Federally Funded Transit Programs	2132-AA19
2310	Implementation of Section 19 of the Urban Mass Transportation Act of 1964 as Amended—Nondiscrimination	2132-AA01

+ Designates significant regulation.

Research and Special Programs Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2311	+ Registration of Shippers and Carriers of Hazardous Materials	2137-AB43
2312	Review of Commuter Air Traffic and Market Data Reporting	2137-AB18
2313	Specifications for Tank Car Tanks	2137-AB09
2314	Modernizing the Passenger Origin-Destination Survey	2137-AB02
2315	Excess Flow Valves in Service Lines	2137-AB07

+ Designates significant regulation.

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Research and Special Programs Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2316	+ Hydrostatic Testing of Certain Hazardous Liquid Pipelines	2137-AB46
2317	+ Gas Gathering Line Definition	2137-AB15
2318	+ Hazardous Materials in Intrastate Commerce	2137-AB37
2319	+ Qualification of Pipeline Personnel	2137-AB38
2320	+ Highway Routing Standards for Certain Types and Quantities of Hazardous Materials	2137-AB42
2321	+ Maps and Records of Pipeline Location and Characteristics; Notification of State Agencies; Pipe Inventory	2137-AB48
2322	Carriage of Hazardous Materials by Motor Vehicle	2137-AA07
2323	Transportation of Hazardous Materials; Miscellaneous Amendments	2137-AA44
2324	Specification 8W and 8WA Welded Steel Cylinders	2137-AA63
2325	Consolidation of Specifications for High-Pressure Seamless Cylinders and Rewrite of 49 CFR 173.34	2137-AA92
2326	Airline Revenue/Nonrevenue, First Class/Business Class/Coach Passengers: Revised Definitions	2137-AB00
2327	Detection and Repair of Cracks, Pits, Corrosion, Lining Flaws, Thermal Detection Flaws, and Other Defects of Tank Car Tanks	2137-AB40
2328	DOT 3AL Aluminum Cylinders; Safety Problems	2137-AB51
2329	Gas Pipelines Operating Above 72 Percent of Specified Minimum Yield Strength	2137-AB53
2330	Revision of Operating Requirements for Rail Carriage	2137-AB55
2331	Retest Requirements for DOT 8 and 8AL Cylinders	2137-AB61
2332	Transportation of Hydrogen Sulfide by Pipeline	2137-AB63
2333	Leakage Surveys	2137-AB64
2334	Passage of Internal Inspection Devices	2137-AB71
2335	Prohibited Placarding and Placard Visibility	2137-AB75
2336	Transportation of a Hazardous Liquid at 20 Percent or Less of Specific Minimum Yield Strength	2137-AB86
2337	Amendments to the DOT Airline On-Time Disclosure Rule	2137-AB94
2338	Drug Testing: Standardized Data Collection	2137-AB95
2339	Burial of Offshore Pipelines	2137-AB96

+ Designates significant regulation.

Research and Special Programs Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2340	+ Performance-Oriented Packaging Standards	2137-AA01
2341	+ Training for Hazardous Materials Transportation	2137-AB26
2342	+ Confidentiality of Domestic Nonstop Segment Data and Onflight Market Information Filed in the T-100 System by U.S. Air Carriers	2137-AB01
2343	+ Operation and Maintenance Procedures for Pipelines	2137-AB44
2344	+ Excavation Damage Prevention Programs for Gas and Hazardous Liquid Pipelines	2137-AB47
2345	Use of Interested Inspectors for Cylinder Inspections	2137-AA08
2346	Transportation of Explosives by Vessel and Miscellaneous Amendments	2137-AA10
2347	Odorization of LP Gas	2137-AA25
2348	Quantity Limitations Aboard Aircraft	2137-AA85
2349	Enforcement of Motor Carrier Financial Responsibility Requirements	2137-AB35
2350	Gas Detection and Monitoring in Compressor Station Buildings	2137-AB49
2351	Determining the Extent of Corrosion on Exposed Gas Pipelines	2137-AB50
2352	Etiologic Agents; Proposal to Remove the 50 Milliliter Exception	2137-AB56
2353	Revision of RSPA Form 41 Report for Changes in GAAP-FAS 95 Statement of Cash Flows, Inventory Requirements, and Group Revenue Reporting Levels	2137-AB57
2354	Elevated Temperature Materials	2137-AB58
2355	Transportation Regulations; Compatibility with the International Atomic Energy Agency	2137-AB60
2356	Transportation of Carbon Dioxide by Pipeline	2137-AB72
2357	Amendment of an Operator's Plans or Procedures	2137-AB77
2358	Revisions to Hazardous Materials Model Regulations	2137-AB87
2359	Supplemental Proposals Concerning the Transportation of Hazardous Materials in Tank Car Tanks and Rail Cars	2137-AB88
2360	Performance-Oriented Packaging Standards; Additional Proposals for Flammable Solids, Oxidizers, and Organic Peroxides	2137-AB90
2361	Centralization of Formal Hearing Dockets (RSPA)	2137-AB91
2362	Air Bag Inflators and Air Bag Modules for Passive Restraint Systems; Conversion of Individual Exemptions into Regulations of General Applicability	2137-AB98

+ Designates significant regulation.

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Research and Special Programs Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2363	+ Requirements for Cargo Tanks; Revisions, Response to Petitions for Reconsideration	2137-AA42
2364	+ Proposals for Pipeline Safety	2137-AB27
2365	Emergency Response Communication Standards; Corrections in Response to Petition for Reconsideration; Extension of Effective Date	
2366	Conforming Gas and Liquid Pipeline Welding Standards: Final Phase	2137-AA06
2367	Transportation of Radioactive Materials	2137-AB48
2368	Pressure Regulators Subject to Inspection and Testing	2137-AB59
2369	Grant Regulations: State Adoption of One-Call Damage Prevention Programs	2137-AB66
2370	Updating References to ASTM Specification D2513	2137-AB68
2371	Transmission Lines Supplying Large-Volume Customers	2137-AB79
2372	Heat Fusion Joints in Plastic Pipelines	2137-AB80
2373	Atmospheric Corrosion	2137-AB81
2374	Design and Construction of Welded Breakout Tanks	2137-AB82
2375	Split Service Lines	2137-AB85
2376	Pressure Testing Plastic Pipe	2137-AB84
		2137-AB86

+ Designates significant regulation.

Maritime Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2377	+ Procedures Governing the Evaluation of Bids for the Carriage of Preferred Cargoes on Subsidized Vessels	2133-AA77

+ Designates significant regulation.

Maritime Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2378	+ Cargo Preference—U.S.-Flag Vessels; Prompt Payment Requirements for Federal Program Participants Responsible for Payment of Ocean Freight Amounts to U.S.-Flag Vessel Operators	2133-AA82
2379	Federal Income Tax Aspects of the Capital Construction Fund	2133-AA78

+ Designates significant regulation.

Maritime Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2380	+ Regulated Transactions Involving Documented Vessels and Other Maritime Interests	2133-AA79
2381	War Risk Insurance: Foreign-Flag Vessel Types, Application Procedures and Fees	2133-AA83
2382	Centralization of Formal Hearing Dockets (MARAD)	2133-AA84

+ Designates significant regulation.

Maritime Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2383	+ Participation by Vessels Built With Construction-Differential Subsidy in the Carriage of Oil from Alaska in the Domestic Trade	2133-AA62

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Maritime Administration—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
2384	Requirements for Conducting Vessel Subsidy Condition Surveys and for Accomplishing Subsidized Vessel Maintenance and Repairs	2133-AA84
2385	Capital Construction Fund	2133-AA85

+ Designates significant regulation.

DEPARTMENT OF TRANSPORTATION (DOT)

Prerule Stage

Office of the Secretary (OST)

1841. ● + PROPOSED POLICY ON PEAK PERIOD PRICING OF AIRPORT LANDING FEES

Significance: Regulatory Program

Legal Authority: 49 USC 1301 et seq

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: The Department is considering whether to propose to establish a set of guidelines to encourage the voluntary development of peak and off-peak pricing systems for airport landing fees at congested U.S. airports. The guidelines would provide economic incentives to promote more efficient use of existing airport facilities, which would reduce congestion and delays. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Additional Information: Additional contact: Martha Langelan, 366-5404

Agency Contact: Gwyneth Radloff, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 366-9305

RIN: 2105-AB63

1842. DIRECT FLIGHTS

Significance: Nonsignificant

Legal Authority: 49 USC 1381

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: Donald L. Pevsner petitioned the CAB to institute a rulemaking proceeding to ban use of the term "direct flight" because it is deceptive, and to declare use of the term to be a prima facie violation of section 411 of the Federal Aviation Act of 1958. The Department is now considering what action to take in response to the petition.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The petition is filed in Docket 41217.

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2220

RIN: 2105-AA73

1843. PRICE ADVERTISING

Significance: Nonsignificant

Legal Authority: 49 USC 1371; 49 USC 1381

CFR Citation: 14 CFR 380.30(e); 14 CFR 399.84

Legal Deadline: None

Abstract: The DOT rules cited above state that any price stated for air transportation, a tour or a tour component must be the entire price for that transportation, tour or component. In this petition, Mr. Donald Pevsner complains that some tour operators advertise prices which do not include additional features which must be purchased and which cost extra. He asks that the rules be amended to state that such additional features may only be priced separately if they may be purchased separately, i.e., if they are optional rather than mandatory.

Timetable:

Action	Date	FR Cite
Petition for Rulemaking (Dkt 43147)	05/22/85	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2220

RIN: 2105-AB25

1844. ● TRANSPORTATION ACQUISITION REGULATIONS; REWRITE

Significance: Nonsignificant

Legal Authority: 40 USC 486C

CFR Citation: 48 CFR Ch 12

Legal Deadline: None

Abstract: The Department is contemplating a possible rewrite of 48 CFR Chapter 12 with a view toward revision in light of recent changes in the Federal Acquisition Regulations.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

DOT—OST

Prerule Stage

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Because of this expanded project, the entry under RIN 2105-AB54, which proposed only limited revision, will be withdrawn.

Agency Contact: Diane Coad, Chief, Acquisition Policy, Office of Acquisition and Grant Management, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, [illegible]

RIN: 2105–AB78

DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

Proposed Rule Stage

1845. + COMMERCIAL SPACE TRANSPORTATION: FINANCIAL RESPONSIBILITY REQUIREMENTS FOR LICENSED LAUNCH ACTIVITIES

Significance: Regulatory Program

Legal Authority: PL 98-575; PL 100-656, Sec 15(c) to 16 Commercial Space Launch Act

CFR Citation: None

Legal Deadline: None

Abstract: Persons authorized to conduct commercial launch activities by a license issued by the Office of Commercial Space Transportation (OCST) are required to obtain insurance or demonstrate financial responsibility, in amounts and on terms prescribed by OCST, to protect against third-party or government property damage claims resulting from the licensed activities. Licensees and other launch participants are also required to enter into reciprocal waivers of claims arising out of licensed activities. In addition, persons engaged in commercial launch operations must provide proof of financial responsibility, or offer other assurances, adequate to protect the government when its property or personnel are involved in such operations. This rulemaking codifies the procedures by which OCST sets appropriate levels and terms of insurance and financial responsibility required to be carried by persons subject to its authority. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	06/07/85	50 FR 19260
ANPRM Comment Period End	07/08/85	50 FR 19260
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 10/00/90

Agency Contact: Elaine David, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, [illegible]

RIN: 2105–AA26

1846. + MINORITY BUSINESS ENTERPRISE PROGRAM (FINANCIAL ASSISTANCE PROGRAMS)

Significance: Agency Priority

Legal Authority: 42 USC 2000d Civil Rights Act of 1964, Title VI; 49 USC 1730; 45 USC 906; 49 USC 1615; PL 97-424, Sec 105(f); PL 100-17, Sec 106(c)

CFR Citation: 49 CFR 23

Legal Deadline: None

Abstract: The Department is reviewing its regulation establishing a minority business enterprise (MBE) program in its financial assistance programs (49 CFR Part 23). This regulation has been controversial, is of interest to most DOT grant recipients and contractors, and affects the operations of all DOT financial assistance programs. Section 106(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) extended and modified the program as applied to FHWA and UMTA; similar legislation applied the same requirements to the FAA. The Department issued a final rule to make the STURAA changes in October 1987; a similar rule for FAA programs was published in May 1988. The Department intends subsequently to issue an NPRM that would propose further changes in the regulation.

Timetable:

Action	Date	FR Cite
Final Action	03/31/80	45 FR 21172
NPRM Interim Amdt. to Final Rule, Pending Revision of Entire Rule	03/12/81	46 FR 16252
Final Action for Interim Amendment	04/27/81	46 FR 23457
Interim Final Rule	10/21/87	52 FR 39225
NPRM	11/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 10/21/87 (52 FR 39225)

Agency Contact: Robert C. Ashby, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, [illegible]

RIN: 2105–AA04

1847. + ANTIDRUG PROGRAMS FOR DEPARTMENT OF TRANSPORTATION CONTRACTORS

Significance: Agency Priority

Legal Authority: 49 USC [illegible]; 49 USC 40(c)

CFR Citation: 48 CFR 1252.7001; 48 CFR 1252.228-70; 48 CFR 34; 49 CFR 1.301

Legal Deadline: None

Abstract: Consistent with DOT antidrug initiatives for DOT employees and employees of regulated industries, DOT is considering requiring its contractors to establish antidrug programs (including drug testing and employee assistance programs) for employees performing sensitive safety or security functions under DOT contracts. This

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rulemaking is significant because of substantial public interest and departmental policy.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Room 10424, Washington, DC 20590, 202 366-9306

RIN: 2105–AB40

1848. + COMPUTER RESERVATION SYSTEM (CRS) RULES: REVIEW

Significance: Agency Priority

Legal Authority: 49 USC 1381

CFR Citation: 14 CFR 255

Legal Deadline: Other, Statutory, December 31, 1992.
By their terms, the rules will expire 12/31/90 unless extended.

Abstract: This rulemaking has been initiated to determine the need to continue or modify existing regulations governing computer reservations systems (CRSs) and to obtain comments on issues raised in various petitions. This rulemaking is significant because of substantial public and industry interest.

Timetable:

Action	Date	FR Cite
ANPRM	08/21/89	54 FR 35070
ANPRM Comment Period End	11/20/89	
NPRM	10/00/90	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Additional Information: Under the existing rules, the Department must conduct a review within 5 years after their effective date. Unless extended on the basis of that review, the rules terminate on December 31, 1992. The purpose of this proceeding is to determine if the existing rules should be extended and, perhaps, revised.

Agency Contact: Thomas Ray, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4731

RIN: 2105–AB47

1849. + ANTI-ALCOHOL PROGRAM FOR THE TRANSPORTATION INDUSTRY

Significance: Agency Priority

Legal Authority: 49 USC 1657

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The DOT is considering whether additional regulations concerning the use of alcohol by sensitive safety- and security-related personnel in industries regulated by its operating administrations are necessary and, if so, what the scope and focus of any new regulations should be. This proceeding is being conducted to ensure that the Department and its modal administrations have the necessary regulatory tools to respond to the hazards of alcohol use and abuse in transportation, and is considered significant because of important departmental policy.

Timetable:

Action	Date	FR Cite
ANPRM	11/02/89	54 FR 46326
ANPRM Comment Period End	01/31/90	
ANPRM Comment Period Extended to 03/09/90	02/20/90	55 FR 5856
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 12/00/90

Agency Contact: Gwyneth Radloff, Attorney, Office of Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 366-9305

RIN: 2105–AB52

1850. + NONDISCRIMINATION ON THE BASIS OF HANDICAP IN AIR TRAVEL (AIR CARRIER ACCESS ACT)

Significance: Agency Priority

Legal Authority: 49 USC 1374(a); 49 USC 1374(c)

CFR Citation: 14 CFR 382

Legal Deadline: None

Abstract: An ANPRM requested comments on lifts and other boarding equipment for use in regional and commuter aircraft and air taxis; and accessible lavatories for narrowbody and smaller aircraft. It also sought comments on additional accommodations for hearing-impaired persons. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	03/06/90	55 FR 8078
ANPRM	06/06/90	55 FR 23450
Comment Period Extended to 07/20/90		
ANPRM Comment Period End	07/05/90	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ADDITIONAL CONTACT: Ira Laster, (202) 366-4658. The telephone number for TDD is (202) 755-7687.

Agency Contact: Donald Trilling, Office of Policy and International Affairs, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4299

RIN: 2105–AB60

1851. TESTIMONY OF EMPLOYEES OF THE DEPARTMENT AND PRODUCTION OF RECORDS IN LEGAL PROCEEDINGS

Significance: Nonsignificant

Legal Authority: 5 USC 301; 45 USC 41; 49 USC 322; 49 USC 1657

CFR Citation: 49 CFR 9

Legal Deadline: None

Abstract: The Department of Transportation is proposing amendments to the regulations to

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establish procedural requirements that private litigants must meet before the Department would produce documents or make an employee available to testify in a private legal or administrative proceeding. The proposed requirements are necessary because Department attorneys and employees currently spend a considerable amount of time responding to litigants' requests for documents or testimony, often repeatedly on the same matter. This rule would ensure the more efficient use of DOT ability to respond to such requests.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gwyneth Radloff, Attorney, Office of the General Counsel, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 366-9305

RIN: 2105–AB56

1852. ◆ IMPLEMENTATION OF AMENDMENTS TO THE EQUAL ACCESS TO JUSTICE ACT

Significance: Nonsignificant

Legal Authority: 5 USC 504

CFR Citation: 49 CFR 6; 48 CFR 6301; 14 CFR 14

Legal Deadline: None

Abstract: This action would incorporate the latest amendments to the Equal Access to Justice Act (EAJA or "Act"), 5 USC 504, into OST's EAJA regulations, 49 CFR 6. The EAJA provides for the award of attorneys' fees and other expenses to eligible individuals and entities who prevail over the Government in administrative proceedings, unless the position of the Government was substantially justified. The latest amendment made certain technical and substantive amendments to the EAJA, as well as made the Act, as so amended, permanent. This rulemaking is undertaken at the Department's initiative in response to the statutory changes in the EAJA.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 366-9305

RIN: 2105–AB73

DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

Final Rule Stage

1853. + NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: 49 USC 322(a); 31 USC 1352

CFR Citation: 49 CFR 20

Legal Deadline: Final, Statutory, March 22, 1990.
The Conference Committee report notes that Federal agencies shall expeditiously promulgate regulations.

Abstract: This regulation will implement the provisions of a new section 1352 to title 31, United States Code, that prohibits the use of appropriated funds to influence certain Federal contracting and financial transactions. Organizations that use their own funds to pay for lobbying activities are required to disclose such activity. The rule will be issued as a common rule based on guidance issued by the Office of Management and Budget on December 20, 1989, 54 FR 52306.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Comment Period End	04/27/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 12/00/90

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Robert G. Taylor, Chief, Grants and Systems Management Division, Department of Transportation, Office of the Secretary, Office of Acquisition and Grant Management, Rm. 9401, M-62, Washington, DC 20590, 202 366-4269

RIN: 2105–AB67

1854. ◆ + FEDERAL POLICY FOR THE PROTECTION OF HUMAN SUBJECTS

Significance: Regulatory Program

Legal Authority: 5 USC 301; 42 USC 300v-1-(b)

CFR Citation: 49 CFR 11 (New)

Legal Deadline: None

Abstract: This rulemaking would implement a common Federal policy for the protection of human subjects of research conducted, supported, or regulated by specific Government departments and agencies. This action is being coordinated by an ad hoc committee under the auspices of the Federal Coordinating Counsel for Science, Engineering, and Technology. It is a significant rulemaking involving other U.S. Government departments and agencies.

Timetable:

Action	Date	FR Cite
NPRM	11/10/89	54 FR 46861
NPRM Comment Period End	01/09/90	
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

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Additional Information: The DOT portion of the NPRM begins at 55 FR 45671. An additional contact is Dr. Joan P. Porter of the National Institutes of Health, telephone (301) 496-7805.

Agency Contact: Dr. William T. Shepherd, Office of Aviation Medicine, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591, 202 724-6562

RIN: 2105-AB74

1855. + NONDISCRIMINATION ON THE BASIS OF HANDICAP (DIRECTLY CONDUCTED PROGRAMS)

Significance: Agency Priority

Legal Authority: 29 USC 794

CFR Citation: 49 CFR 28

Legal Deadline: None

Abstract: This regulation would implement the 1978 amendments to section 504 of the Rehabilitation Act of 1973 which made its prohibition of discrimination on the ground of handicap applicable to the directly conducted programs of Federal agencies as well as to their financial assistance programs. The rule would apply to DOT facilities, personnel practices, and regulatory programs. It would be based on a model rule developed by the Department of Justice. This rulemaking is significant because of substantial public interest and because it affects programs of all DOT Modes.

Timetable:

Action	Date	FR Cite
NPRM	02/08/90	55 FR 4633
NPRM Correction	02/13/90	55 FR 5042
NPRM Comment Period End	04/16/90	
Comment Period Reopened to 05/11/90	04/16/90	55 FR 14439
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 02/08/90 (55 FR 4633)

Agency Contact: Robert Ashby, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 366-9305

RIN: 2105-AA29

1856. + LIBERALIZATION OF AIR-CARRIER CHARTER RULES

Significance: Agency Priority

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1372; 49 USC 1381; 49 USC 1385

CFR Citation: 14 CFR 207; 14 CFR 208; 14 CFR 212; 14 CFR 298; 14 CFR 380

Legal Deadline: None

Abstract: The CAB proposed new charter rules for direct and indirect air carriers. The proposed rules retain the financial protections of existing rules for direct air carriers while eliminating rules restricting the types of groups (such as "affinity" or "single-entity") to whom charters may be sold. The proposal would also retain a security instrument and depository system for indirect air carriers, along with contract rules for public protection. The proposal also highlights depository bank and travel agent responsibilities in handling passenger funds. The proposal replaces one made earlier. DOT is considering what action should be taken. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	02/19/82	47 FR 7443
NPRM Comment Period End	04/20/82	
SNPRM Comment Period End 06/13/83	04/12/83	48 FR 15639

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/19/82 (47 FR 7443)

Additional Information: Docket 40338. Original NPRM was EDR-439/SPDR 88; SNPRM of 04/12/83 was EDR-458/SPDR-88.

Agency Contact: Desta McDowell, Chief, Regulatory Analysis Division, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2375

RIN: 2105-AA41

1857. + STATEMENT OF ENFORCEMENT POLICY ON REBATING

Significance: Agency Priority

Legal Authority: 5 USC 601; 49 USC 1301 to 1305; 49 USC 1305; 49 USC 1324(a); 49 USC 1371 to 1376; 49 USC 1381 to 1382; 49 USC 1384; 49 USC 1389; 49 USC 1461; 49 USC 1481 to 1482; 49 USC 1502; 49 USC 1504

CFR Citation: 14 CFR 399.80; 14 CFR 399.85

Legal Deadline: None

Abstract: The Department is proposing to provide formal notice to the public of its enforcement policy concerning the rebating of international air fares by adopting that policy as a Policy Statement in the regulations. No change in the substance of that policy is intended. The Department also proposes to revoke an existing Policy Statement on the advertising of rebates that is contrary to DOT's current enforcement policy. The proposal responds to a request for such action by the American Society of Travel Agents. The proposed regulation is significant because it involves important departmental policies and substantial industry interest.

Timetable:

Action	Date	FR Cite
NPRM	10/21/88	53 FR 41353
NPRM Comment Period End	12/20/88	
Extension of Comment Period to 02/21/89	02/03/89	54 FR 5497
Correction to Comment Period Document	02/10/89	54 FR 6475

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/21/88 (53 FR 41353)

Agency Contact: Betsy Wolf, Trial Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 366-9342

RIN: 2105-AB30

1858. + PRICE ADVERTISING

Significance: Agency Priority

Legal Authority: 49 USC 1371; 49 USC 1381

CFR Citation: 14 CFR 200; 14 CFR 399

Legal Deadline: None

DOT—OST

Final Rule Stage

Abstract: The Department is proposing to amend its rule and policy statement with respect to air transportation price advertising. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	07/26/89	54 FR 31662
Comment Period Extended to 9/25/89	08/23/89	54 FR 35005
NPRM Comment Period End	09/25/89	
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/26/89 (54 FR 31662)

Agency Contact: Gwyneth Radloff, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 366-9305

RIN: 2105-AB50

1559. + NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED MASS TRANSIT PROGRAMS

Significance: Agency Priority

Legal Authority: 29 USC 794; 49 USC 1612; PL 101-336 Americans With Disabilities Act

CFR Citation: 49 CFR 27

Legal Deadline: NPRM, Judicial, March 22, 1990. Final, Judicial, September 21, 1990.
A judicial schedule for the proposed and final rules in this rulemaking was established by the Federal District Court on remand from the Court of Appeals for the Third Circuit.

Abstract: This rulemaking is necessitated by an en banc ruling of the U.S. Court of Appeals for the Third Circuit in ADAPT v. Skinner. The court directed DOT to revise its existing rule on this subject consistent with its opinion that provisions of the present rule were inconsistent with the Department's statutory authority. This rulemaking incorporates an existing rulemaking concerning nondiscrimination on the basis of handicap in Federally assisted commuter rail programs. (RIN 2105-AB23). This rulemaking is significant because of substantial public interest and Federalism implications. With the passage of the Americans With Disabilities Act (ADA), this project also encompasses implementation of that statute. As expanded, the project includes a final rule on bus accessibility, a second final rule to delete the cost cap from the present final rule and impose interim paratransit requirements, and an NPRM concerning paratransit, undue financial burden, rail service, fixed facility, and other requirements of the ADA.

Timetable:

Action	Date	FR Cite
NPRM	03/26/90	55 FR 11120
NPRM Correction	05/08/90	55 FR 18944
NPRM Comment Period End	05/25/90	
Final Action Bus Accessibility	10/04/90	55 FR 40764
Final Action Cost Cap, etc.	10/04/90	55 FR 40782
NPRM	01/00/91	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 10/04/90 (55 FR 40764)

Agency Contact: Robert C. Ashby, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 366-9306

RIN: 2105-AB53

1560. + SMOKING ABOARD AIRCRAFT

Significance: Agency Priority

Legal Authority: 49 USC 1324; 49 USC 1374; 49 USC 1377; 49 USC 1356; PL 101-164

CFR Citation: 14 CFR 252

Legal Deadline: None
Although there is no judicial or statutory deadline for the Department's implementation, the statutory ban was effective 02/25/90.

Abstract: This interim final rule amends the rules governing smoking aboard aircraft to incorporate a recent statutory ban on smoking aboard most U.S. flight segments. The statutory ban applies to both U. S. and foreign air carriers. This rulemaking proposed to clarify the current rule and make other minor changes. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/13/90	55 FR 4964
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/13/90 (55 FR 4961)

Additional Information: The interim final rule was effective 02/25/90; comments were due by 04/16/90.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 366-9306

RIN: 2105-AB56

1561. ● + PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN AIRPORT CONCESSIONS

Significance: Agency Priority

Legal Authority: PL 100-223

CFR Citation: 49 CFR 23

Legal Deadline: None

Abstract: This action proposed requirements for the participation of disadvantaged business enterprises (DBE) in airport concessions. It also proposed to amend the existing DBE regulation needed to implement a provision of the Airport and Airway Improvement Act of 1982, as amended in 1987, and is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/30/90	55 FR 11964
NPRM Correction	04/23/90	55 FR 17285
NPRM Comment Period End	05/29/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/30/90 (55 FR 11964)

Additional Information: The NPRM published 03/30/90 inadvertently used RIN 2105-AA03; the correct RIN for this action is 2105-AB70.

Agency Contact: Irene H. Mields, General Legal Services Division, Office of Chief Counsel, Department of

DOT—OST

Final Rule Stage

Transportation, Office of the Secretary, 800 Independence Ave., SW., Washington, DC 20591, 202 267-3472

RIN: 2105–AE70

1982. NONDISCRIMINATION ON THE BASIS OF AGE IN DOT FINANCIAL ASSISTANCE PROGRAMS

Significance: Nonsignificant

Legal Authority: PL 94-135

CFR Citation: 29 CFR 1691

Legal Deadline: None

Abstract: The NPRM proposed to prohibit age discrimination by recipients of DOT financial assistance programs. However, it has been concluded that exceptions to the statute would result in no substantive coverage of DOT programs. Moreover, the paperwork requirements for recipients, without substantive coverage, would have been counterproductive. The NPRM will be withdrawn. The Department will consider, in light of any changes in DOT programs, whether resultant substantive coverage would then warrant a new rulemaking proceeding.

Timetable:

Action	Date	FR Cite
NPRM	10/22/79	44 FR 60946
NPRM Comment Period End	01/21/80	
To Be Withdrawn	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/22/79 (44 FR 60946)

Agency Contact: Joseph Austin, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 366-9362

RIN: 2105–AA09

1983. AIRLINE TIME AND MILEAGE GUIDES

Significance: Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1381; 49 USC 1385; 49 USC 1481; 49 USC 1482

CFR Citation: 14 CFR 221

Legal Deadline: None

Abstract: The DOT currently prohibits fares or rates based upon units of time. This proposal would remove these restrictions. The comment period on the NPRM closed on December 13, 1982. In view of the elapsed time, DOT issued a SNPRM to determine whether there is additional information that should be considered before the Department issues a final rule.

Timetable:

Action	Date	FR Cite
NPRM	10/27/82	47 FR 47599
NPRM Comment Period End	12/13/82	
SNPRM Comment Period End 12/12/89	10/13/89	54 FR 41969
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 10/13/89 (54 FR 41969)

Additional Information: EDR 448, Docket 41034. Formerly entitled: Tariffs; Removal of Requirements for Statements of Fares or Rates Based upon Units of Distance or Time.

Agency Contact: Thomas Moore, Chief, Tariffs Division, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2414

RIN: 2105–AA39

1984. DIRECT AIR CARRIER RESPONSIBILITY FOR RETURNING STRANDED CHARTER PASSENGERS

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1371

CFR Citation: 14 CFR 207; 14 CFR 208

Legal Deadline: None

Abstract: This rule would make direct air carriers responsible for returning charter passengers stranded by strikes or other interruptions of their services by eliminating the force majeure clause from charter contracts. However, the Department is considering a comprehensive proposal (RIN 2105-AA41 in this agenda) to revise and simplify air charter rules. The Department's final action in this proceeding will be consistent with the comprehensive review of the charter rule.

Timetable:

Action	Date	FR Cite
NPRM	07/11/80	45 FR 46812
NPRM Comment Period End	09/25/80	
Reply Comment Period End	10/10/80	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: EDR 405, Docket 37169.

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2220

RIN: 2105–AA40

1985. AIR TRAVELERS: AGE DISCRIMINATION

Significance: Nonsignificant

Legal Authority: 42 USC 6102

CFR Citation: 14 CFR 378, (Proposed)

Legal Deadline: None

Abstract: This rule will prohibit discrimination against air travelers on the basis of age and implement the Age Discrimination Act of 1975. A final rule was adopted by the CAB on April 10, 1980, and was forwarded to the Secretary of HHS for approval, as required by the Age Discrimination Act. The rule was approved by HHS on July 13, 1984, with changes.

Timetable:

Action	Date	FR Cite
NPRM	09/26/79	44 FR 55389
Final Action Adopted by the Board	04/10/80	
HHS Approved Final Rule with Changes	07/13/84	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SPDR-74, Docket 36639.

Agency Contact: Robert Ashby, Department of Transportation, Office of

DOT—OST

Final Rule Stage

the Secretary, 400 Seventh Street, SW., Washington, DC 20590, [illegible]

RIN: 2105–AA45

1666. POLICY STATEMENT ON AIRLINE PREEMPTION

Significance: Nonsignificant

Legal Authority: 49 USC 1305

CFR Citation: 14 CFR 200

Legal Deadline: None

Abstract: This action would adopt as final an interim Policy Statement on preemption issued by the Civil Aeronautics Board in 1978. It discusses the policy of the Department with respect to three areas in which State law has been preempted by the Airline Deregulation Act of 1978: regulation of commuter air carriers and air taxis, the rights of airport proprietors, and general State authority as it directly or indirectly affects air transportation competition.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/15/79	44 FR 9948
Request for Comments on Interim Rule (PSDR-56, Docket 34684)	02/15/79	44 FR 9968
Comment Period End	04/16/79	

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Additional Information: PS-83, Docket 34684.

Agency Contact: Lawrence Myers, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, [illegible]

RIN: 2105–AA40

1667. DIVERSION OF FLIGHTS WITHIN A METROPOLITAN AREA

Significance: Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1305; 49 USC 1324; 49 USC 1371; 49 USC 1375; 49 USC 1377 to 1379; 49 USC 1381; 49 USC 1382; 49 USC 1386; 49 USC 1461; 49 USC 1481; 49 USC 1482; 49 USC 1502; 49 USC 1504

CFR Citation: 14 CFR 302; 14 CFR 399

Legal Deadline: None

Abstract: The CAB proposed to amend its rules requiring notice of contract terms for domestic travel to require that actual notice be given passengers of terms absolving carriers from any responsibility to transport a passenger to the destination named on the ticket, or to reimburse the passenger for expenses in reaching the airport noted on the ticket when a flight is diverted to another airport in the same metropolitan area. Alternatively, the Board proposed to declare it to be an unfair and deceptive practice to divert a passenger without arranging and paying for alternate transportation to the destination airport named on the passenger's ticket. The Board considered a final rule but did not decide what action to take. DOT is now considering what action to take.

Timetable:

Action	Date	FR Cite
NPRM	09/23/83	48 FR 43343
NPRM Comment Period End	11/07/83	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: ADDITIONAL LEGAL AUTHORITIES: PL 98-354; 5 USC 601. Docket 41133, EDR 468/PSDR-81.

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, [illegible]

RIN: 2105–AA78

1668. SIMPLIFIED AVIATION EXEMPTION PROCEDURES

Significance: Nonsignificant

Legal Authority: 49 USC 1371; 49 USC 1372; 49 USC 1389

CFR Citation: 14 CFR 302; 14 CFR 399; 14 CFR 399

Legal Deadline: None

Abstract: A Civil Aeronautics Board rulemaking proposed to revise and simplify the requirements and procedures for applying for exemptions under Section 416(b) of the Federal Aviation Act. This action has become unnecessary since the Department included most of its provisions in its rule transferring the CAB's rules to DOT. Therefore, the NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	10/05/84	49 FR 39697
NPRM Comment Period End	12/04/84	
To Be Withdrawn	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PDR-88/ODR-27/PSDR-88.

Agency Contact: Gwyneth Radloff, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, [illegible]

RIN: 2105–AA82

1669. BAGGAGE LIABILITY NOTICES IN INTERNATIONAL AIR TRANSPORTATION

Significance: Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1371; 49 USC 1372; 49 USC 1373; 49 USC 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481; 49 USC 1482

CFR Citation: 14 CFR 221

Legal Deadline: None

Abstract: In response to a petition by Mr. Howard Boros, the CAB proposed to amend the baggage liability notices provided to passengers in foreign air travel. The NPRM proposed to eliminate the disclaimer of liability for fragile and perishable items because that notice is false and misleading.

Timetable:

Action	Date	FR Cite
NPRM	12/18/84	49 FR 49111
NPRM Comment Period End	03/19/85	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Docket 41662; EDR-477.

Agency Contact: Timothy Kelly, Transportation Industry Analyst, Department of Transportation, Office of

DOT—OST

Final Rule Stage

the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2220

RIN: 2105–AA84

1870. SIMPLIFIED AIRLINE COUNTER-SIGN NOTICES

Significance: Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481; 49 USC 1482

CFR Citation: 14 CFR 221; 14 CFR 250; 14 CFR 253

Legal Deadline: None

Abstract: The American Association of Airport Executives, the Airport Operators Council International and the Air Transport Association of America petitioned the CAB to simplify its counter-sign requirements. Presently, airlines are required to display four different consumer protection notices on their ticket counters. The petitioners alleged that the current notices are hard to read and, therefore, do not provide much notice to passengers. They proposed replacing the four notices with one simplified counter sign. The CAB adopted an NPRM that proposed a number of alternatives, such as a long and/or short notice, where the notices would be required to be posted and whether a smoking notice should be included. DOT is now considering what action to take in response to the notice and comments filed.

Timetable:

Action	Date	FR Cite
NPRM	08/01/84	49 FR 30742
NPRM Comment Period End	09/17/84	
Reply Comment Period End	10/02/84	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation

Additional Information: Docket 41971; EDR-474

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2220

RIN: 2105–AA83

1871. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 322(a)

CFR Citation: 49 CFR 18

Legal Deadline: None

Abstract: This rule is being revised to add nongovernmental grantees and to make minor revisions to the current common rule that applies to grants and cooperative agreements to State and local governments. Due to existing statutes and the desire to reduce Federal red tape, DOT does not comply with some sections of the common rule and is proposing deviations from the additional provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44716
NPRM Comment Period End	01/03/89	

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Evaluation 11/04/88 (53 FR 44716)

Additional Information: The Federal agencies published the final common rule on 03/11/88 (53 FR 21816). The Department's proposed amendments to the final rule begin on page 44791 of the November 4, 1988 issue of the Federal Register.

Agency Contact: Robert G. Taylor, Chief, Grants and Systems Management Division, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4289

RIN: 2105–AB46

1872. TRANSPORTATION ACQUISITION REGULATIONS

Significance: Nonsignificant

Legal Authority: 40 USC 486C

CFR Citation: 48 CFR Ch 12

Legal Deadline: None

Abstract: This rule proposed changes to the Department's Acquisition regulations (TAR). However, in the light of comments received, and the fact that the proposal has been overtaken by subsequent events, it will be withdrawn. Instead, the Department is contemplating possible rewrite of Chapter 12. See RIN 2105-AB75, in the Prerule section of this Agenda.

Timetable:

Action	Date	FR Cite
NPRM	12/15/89	54 FR 51426
NPRM Comment Period End	02/13/90	
To Be Withdrawn	10/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 12/15/89 (54 FR 51426)

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Lawrence E. Sawler, Procurement Analyst, Office of Acquisition and Grant Management, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4267

RIN: 2105–AB54

1873. NONDISCRIMINATION ON THE BASIS OF HANDICAP IN AIR TRAVEL (AIR CARRIER ACCESS ACT)

Significance: Nonsignificant

Legal Authority: 49 USC 1374(a); 49 USC 1374(c)

CFR Citation: 14 CFR 382

Legal Deadline: None

Abstract: An SNPRM proposed three additions to Part 382 to implement the Air Carrier Access Act of 1986. The additions concern standards for boarding chairs; airport terminal transportation systems; and substitute service for persons denied the opportunity to fly because of inaccessible small aircraft.

Timetable:

Action	Date	FR Cite
SNPRM: Final Rule Amendments: Comment Period End	03/05/90	55 FR 8076
06/04/90		

DOT—OST

Final Rule Stage

Action	Date	FR Cite
Comment Period Extended to 07/20/90	06/05/90	55 FR 23480
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/06/90 (55 FR 8076)

Additional Information: The telephone number for TDD is (202) 755-7687; a taped copy of the SNPRM is available on request.

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 366-9305

RIN: 2105–AB61

1874. NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED PROGRAMS

Significance: Nonsignificant

Legal Authority: 29 USC 794

CFR Citation: 49 CFR 27

Legal Deadline: None

Abstract: This action would amend portions of the rule implementing Section 504 of the Rehabilitation Act of 1973 concerning federally assisted airport facilities to comport with 14 CFR 382, implementing the Air Carrier Access Act of 1986. The proposed rule would also apply the Section 504 rule to air carriers receiving Federal financial assistance under the essential air service program.

Timetable:

Action	Date	FR Cite
NPRM	03/06/90	55 FR 8061
NPRM Comment Period End	06/04/90	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/06/90 (55 FR 8061)

Additional Information: The telephone number for TDD is (202) 755-7687; a taped copy of the NPRM is available on request.

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 366-9305

RIN: 2105–AB62

1875. ● COAST GUARD WHISTLEBLOWERS

Significance: Nonsignificant

Legal Authority: 10 USC 1094; PL 100-456; PL 101-223

CFR Citation: 33 CFR 53

Legal Deadline: Other, Statutory. PL 100-456 requires issuance of this rule.

Abstract: This NPRM proposed to implement the whistleblower protection provisions contained in PL 100-456. The rule would apply to the United States Coast Guard, the Board for Correction of Military Records, and the Department of Transportation's Inspector General. It would establish procedures to ensure that members of the United States Coast Guard are protected from reprisals for making, or preparing to make, lawful communications to a Member of Congress or an Inspector General. In addition, the rule would specifically require the reporting and investigation of reprisal allegations, and provide for remedies when reprisal is found, including disciplinary action against any person taking reprisal and the correction of military records when appropriate.

Timetable:

Action	Date	FR Cite
NPRM	06/26/90	55 FR 25963
NPRM Comment Period End	08/27/90	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/26/90 (55 FR 25963)

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 366-9305

RIN: 2105–AB66

1876. ● CENTRALIZATION OF FORMAL HEARING DOCKETS (OST)

Significance: Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1323 to 1324; 49 USC 1371 to 1374; 49 USC 1376; 49 USC 1382; 49 USC 1471; 49 USC 1481 to 1482; 49 USC 1486; 49 USC 4321; 38 USC 5402

CFR Citation: 14 CFR 302

Legal Deadline: None

Abstract: This final rule provides that all evidence and documents in formal hearing cases adjudicated within the Office of the Secretary (OST), and all of the Department of Transportation's modal administrations, except the Coast Guard and the Urban Mass Transportation Administration (UMTA), will be filed and maintained in the OST Office of Documentary Services. The change is being made in order to streamline operations and to consolidate the documents used in formal hearing cases.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 366-9305

RIN: 2105–AB69

1877. ● PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG-TESTING PROGRAMS

Significance: Nonsignificant

Legal Authority: 49 USC 101; 49 USC 102; 49 USC 301; 49 USC 302; 49 USC 322

CFR Citation: 49 CFR 40

Legal Deadline: None

Abstract: This notice proposed to amend the recent final rule concerning drug-testing procedures for programs required in six transportation industries (54 FR 49854, 12/01/89). The proposed amendment would provide that negative test results may be sent to the employer directly, or to a designated employer representative, or to a medical review officer. The amendment may affect all negative results or, alternatively, only those negative results from pre-employment testing.

DOT—OST

Final Rule Stage

The Department may decide not to amend the current rule after analyzing the comments received.

Timetable:

Action	Date	FR Cite
NPRM	07/13/90	55 FR 28782
NPRM Comment Period End	08/13/90	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/13/90 (55 FR 28782)

Agency Contact: Robert C. Ashby, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 366-9305

RIN: 2105–AB71

1678. ● ESSENTIAL AIR TRANSPORTATION TO THE FREELY ASSOCIATED STATES

Significance: Nonsignificant

Legal Authority: PL 101-219

CFR Citation: 49 CFR 272

Legal Deadline: None

Abstract: This amendment changes the termination date for this regulation to reflect recent legislation extending the program.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	
Final Action Effective	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert I. Ross, Attorney, Office of General Counsel, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 366-9154

RIN: 2105–AB72

DEPARTMENT OF TRANSPORTATION (DOT)

Office of the Secretary (OST)

Completed Actions

1676. ● + DRUG-FREE WORKPLACE (GRANTS)

Significance: Regulatory Program

Legal Authority: PL 100-690

CFR Citation: 49 CFR 29

Legal Deadline: None

Abstract: This final rule implements the statutory requirements of the Drug-Free Workplace Act of 1988. It directs that grantees take steps to provide a drug-free workplace in accordance with that Act. The final action amends an interim final rule published 01/31/89 (54 FR 4946). This rulemaking was significant because it involved governmentwide implementation of a congressional mandate.

Timetable:

Action	Date	FR Cite
Final Action	05/25/90	55 FR 21681
Final Action Effective	07/24/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

For the governmentwide final rule published by the Office of Management and Budget, see 55 FR 21681, May 25, 1990; for the Department's agency-specific provisions, see 55 FR 21705.

Agency Contact: Robert C. Ashby, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 366-9305

RIN: 2105–AB64

1680. KANSAS TIME ZONE PROCEEDING

Significance: Nonsignificant

Legal Authority: 15 USC 260 to 267

CFR Citation: 49 CFR 71

Legal Deadline: None

Abstract: At the request of the Kearny County Board of Commissioners, the Department relocated the boundary between mountain and central time in the State of Kansas in order to place the entire county in the central time zone. The change was found to serve the convenience of commerce, and the effective date and time coincide with the change from daylight saving time to standard time.

Timetable:

Action	Date	FR Cite
NPRM	11/21/89	54 FR 48117
NPRM Comment Period End	01/22/90	
Final Action	07/30/90	55 FR 30910
Final Action Effective	10/28/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/30/90 (55 FR 30910)

Agency Contact: Jeanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 366-9305

RIN: 2105–AB55

1681. COAST GUARD BOARD FOR CORRECTION OF MILITARY RECORDS; PROCEDURAL REGULATIONS

Significance: Nonsignificant

Legal Authority: 10 USC 1552; 49 USC 1655(b); PL 101-225

CFR Citation: 33 CFR 52

Legal Deadline: Final, Statutory, June 13, 1990.

Abstract: This action amended the regulations concerning the Board for Correction of Military Records of the Coast Guard in accordance with section 212 of the Coast Guard Authorization Act of 1989. The amendments also made changes that streamline the Board's procedures.

Timetable:

Action	Date	FR Cite
NPRM	04/30/90	55 FR 18001
NPRM Comment Period End	05/30/90	
Final Action	07/31/90	55 FR 31043
Final Action Effective	08/30/90	

Small Entities Affected: None

DOT—OST

Completed Actions

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/31/90 (55 FR 31043)

Agency Contact: Robert H. Joost, Chairman, Board for Correction of Military Records, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, [illegible]

RIN: 2105–AB59

1682. ● STAFF ASSIGNMENTS AND REVIEW OF ACTION UNDER ASSIGNMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1371 to 1373; 49 USC 1377; 49 USC 1386

CFR Citation: 14 CFR 385

Legal Deadline: None

Abstract: Part 385 was revised in order to (1) make permanent certain temporary assignments of functions and delegations of authority; (2) reflect new assignments of authority to staff and changes in assignments to staff necessitated by functional reorganizations; (3) make technical corrections and eliminate obsolete terms. The revisions facilitate efficient administration of DOT's air-carrier economic regulatory functions but do not alter the functions themselves, and will have no effect on air carriers or the public.

Timetable:

Action	Date	FR Cite
Final Action	05/17/90	55 FR 20446
Final Action Effective	06/18/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/17/90 (55 FR 20446)

Agency Contact: Carol A. Woods, Transportation Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, [illegible]

RIN: 2105–AB07

DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG)

Prerule Stage

1663. CONTROLLING THE MARINE ASBESTOS HAZARD (84-103)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a); 43 USC 1333

CFR Citation: 46 CFR Subchapter V

Legal Deadline: None

Abstract: Asbestos has been identified as a carcinogen for which there are no safe limits of exposure. This regulatory project would limit the hazards posed by asbestos to marine industry personnel aboard Coast Guard inspected vessels, mobile offshore drilling units, Outer Continental Shelf platforms, and deepwater ports.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LCDR M. VanHaverbeke, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-1181

RIN: 2115–AD16

DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG)

Proposed Rule Stage

1664. + REVISIONS OF THE REGULATIONS ON OUTER CONTINENTAL SHELF ACTIVITIES (84-096)

Significance: Regulatory Program

Legal Authority: 43 USC 1331

CFR Citation: 33 CFR 140; 33 CFR 141; 33 CFR 142; 33 CFR 143; 33 CFR 144; 33 CFR 145; 33 CFR 146; 33 CFR 147

Legal Deadline: None

Abstract: This project would revise regulations on the outer continental shelf activities. It is considered significant because of the need for extensive interagency cooperation.

Timetable:

Action	Date	FR Cite
ANPRM	03/07/85	50 FR 9290
Extension of Comment Period to 09/03/85	05/16/85	50 FR 20446
ANPRM Comment Period End	09/05/85	50 FR 9290
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 11/00/90

Additional Information: CGD 84-096(a)(RIN AC40) Self-Inspection of Fixed OCS Facilities split from CGD 84-096 and completed in 53 FR 18977. CGD 84-096(b)(RIN AC41) titled Offshore Evacuation Procedures separated from CGD 84-096 and completed in 54 FR 2156n.

Agency Contact: Mr. J. Magill, Project Manager, G-MVI-4, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, [illegible]

RIN: 2115–AB74

1665. + SUBDIVISION AND DAMAGE STABILITY OF DRY CARGO VESSELS (CGD 87-064)

Significance: Agency Priority

Legal Authority: 46 USC 3301

CFR Citation: 46 CFR 174

DOT—USCG

Proposed Rule Stage

Legal Deadline: None

Abstract: This proposal would require dry cargo vessels to meet a minimum standard of subdivision and stability. This rulemaking is significant because of international implications.

Timetable:

Action	Date	FR Cite
ANPRM	04/05/88	53 FR 11440
ANPRM Comment Period End	01/03/89	
Reopen ANPRM Comment Period	11/06/89	54 FR 46631
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 11/00/90

Agency Contact: Lt. R. Gilbert, Project Manager, MTH-3, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-2988

RIN: 2115-AC87

1685. ◆ GREAT LAKES PILOTAGE RATES, (88-104)

Significance: Agency Priority

Legal Authority: 46 USC 8105; 46 USC 8502; 46 USC 8504

CFR Citation: 46 CFR 401

Legal Deadline: None

Abstract: This proposal would amend the Great Lakes Pilotage Regulations by increasing the basic pilotage rates from between 27 to 34 percent. These proposed changes are in order to increase the revenue received by the pilot organizations so that they may meet their operating costs. This rulemaking is considered significant because it is of substantial public interest and controversial, and has international implications.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Agency Contact: Mr. J. Rattka, Project Manager, G-MVP, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-0217

RIN: 2115-AD47

1687. FIXED FIRE-EXTINGUISHING SYSTEMS ON UNINSPECTED VESSELS (74-284)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 4104; 46 USC 4105; 46 USC 4302; 46 USC 108

CFR Citation: 46 CFR 162.029

Legal Deadline: None

Abstract: This action would establish standards for Halon 1301 and other fixed fire extinguishing systems as optional systems for compliance with existing regulations. SNPRM will address new comments received requesting that industry specifications be used and incorporated by reference.

Timetable:

Action	Date	FR Cite
NPRM	04/19/82	47 FR 16648
NPRM Comment Period End	06/03/82	
SNPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/19/82 (47 FR 16648)

Additional Information: Docket No. CGD 74-284.

Agency Contact: Mr. K. Wahle, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-1444

RIN: 2115-AA08

1688. HYBRID PERSONAL FLOTATION DEVICES: ESTABLISHMENT OF APPROVAL REQUIREMENTS (78-174)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3703; 46 USC 4104; 46 USC 4302

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: This project would establish performance standards for hybrid PFDs and procedures for granting product approval to these devices.

Timetable:

Action	Date	FR Cite
ANPRM	03/15/79	44 FR 15633
NPRM	05/29/85	50 FR 21982
NPRM Comment Period End	07/15/85	
Interim Final Rule	08/22/85	50 FR 33923
SNPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/22/85 (50 FR 33923)

Additional Information: A related project is listed in this agenda. That project is CGD 78-174b (RIN 2115-AC16), Carriage and Operational Requirements for Inflatable Life Jackets. The Coast Guard is evaluating the comments received on the interim final rule.

Agency Contact: Ms. S. Wehr, Project Manager, G-MVI-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-1444

RIN: 2115-AA29

1689. OUTER CONTINENTAL SHELF FACILITIES: AIDS TO NAVIGATION (82-054)

Significance: Nonsignificant

Legal Authority: 14 USC 2; 14 USC 83; 14 USC 85; 14 USC 92; 14 USC 633

CFR Citation: 33 CFR 67

Legal Deadline: None

Abstract: This item will modify existing requirements to allow for the following: central approval of aids to navigation lighting equipment, conformance to International Association of Lighthouse Authorities marking recommendations for offshore structures, and realistic light-intensity requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/90

Additional Information: Formerly entitled Aids to Navigation on Outer Continental Shelf.

DOT—USCG

Proposed Rule Stage

Agency Contact: Mr. C. B. Mosher, Project Manager, NSR-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-1073

RIN: 2115–AA92

1690. SAFETY STANDARDS FOR NEW SELF-PROPELLED VESSELS CARRYING BULK LIQUEFIED GASES (82-058)

Significance: Nonsignificant

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 154

Legal Deadline: None

Abstract: This proposal would update standards for ships carrying bulk liquefied gases by adopting Amendments 1 through 4 of the International Maritime Organization Code for the construction and equipment of ships carrying gases in bulk.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/00/90

Agency Contact: Mrs. D. Anderson, Project Manager, MTH-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-1217

RIN: 2115–AA95

1691. FIRE PROTECTION REGULATIONS TO INCORPORATE SOLAS 1974 (83-026)

Significance: Nonsignificant

Legal Authority: 46 USC 3301; 46 USC 3305; 46 USC 3306; 46 USC 3503; 46 USC 3703

CFR Citation: 46 CFR 32; 46 CFR 72; 46 CFR 92; 46 CFR 190; 46 CFR 193; 46 CFR 30; 46 CFR 31; 46 CFR 34; 46 CFR 35; 46 CFR 70; 46 CFR 76; 46 CFR 77; 46 CFR 78; 46 CFR 90; 46 CFR 95; ...

Legal Deadline: None

Abstract: The purpose of this proposal is to bring into agreement the international requirements of SOLAS 1974 (Safety of Life at Sea) and its amendments and Coast Guard regulations.

Timetable:

Action	Date	FR Cite
ANPRM	10/01/84	49 FR 39572
ANPRM Comment Period End	11/30/84	
NPRM	11/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 11/00/90

Additional Information: Formerly titled Reassessment of Coast Guard Fire Protection Regulations to Incorporate SOLAS 1974.

Agency Contact: Ms. M. Murtagh, Project Manager, MTH-4, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-2997

RIN: 2115–AB36

1692. REASSESSMENT OF COAST GUARD MARINE ENGINEERING REGULATIONS—INCORPORATION OF SOLAS 74 AMENDMENTS (83-043)

Significance: Nonsignificant

Legal Authority: 46 USC 3301; 46 USC 3305; 46 USC 3306; 46 USC 3307

CFR Citation: 46 CFR Subchapter F

Legal Deadline: None

Abstract: This project would effect a general reassessment of Subchapter F and incorporation of international requirements of Sept. 1984.

Timetable:

Action	Date	FR Cite
NPRM	09/28/90	55 FR 39636
NPRM Comment Period End	12/27/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/28/90 (55 FR 39636)

Agency Contact: LCDR P. Richardson, Project Manager, MTH-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-6628

RIN: 2115–AB41

1693. MOBILE OFFSHORE DRILLING UNIT REGULATIONS REVISION (83-071A)

Significance: Nonsignificant

Legal Authority: 46 USC 66; 46 USC 2104; 46 USC 2300; 46 USC 3306; 46 USC 3308; 46 USC 3311; 46 USC 3312; 46 USC 3316

CFR Citation: 46 CFR 56; 46 CFR 58; 46 CFR 107; 46 CFR 108; 46 CFR 109; 46 CFR 111; 46 CFR 174

Legal Deadline: None

Abstract: This project would revise the regulations in subchapter I-A to clarify them, bring them up to date, delete some unnecessary requirements, and incorporate the recommendations developed from major casualties.

Timetable:

Action	Date	FR Cite
ANPRM	01/25/85	50 FR 11741
Extension of Comment Period	05/16/85	50 FR 20401
ANPRM Comment Period End	09/23/85	
NPRM	01/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 01/00/91

Additional Information: The Maritime Safety Committee (MSC) of the International Maritime organization adopted a revised action on the Mobile Offshore Drilling Code in March 1989. Final draft of the NPRM herein will be based on this code.

Agency Contact: LCDR McCauley, Project Manager, G-MVI-4, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-2997

RIN: 2115–AB08

1694. SAFETY RULES FOR SHIPS CARRYING HAZARDOUS LIQUIDS (84-005)

Significance: Nonsignificant

Legal Authority: 46 USC 3703; 49 USC 1803

CFR Citation: 46 CFR 153

Legal Deadline: None

DOT—USCG

Proposed Rule Stage

Abstract: This project would amend 46 CFR Part 153 to incorporate changes to the International Maritime Organization code for the construction and equipment of ships carrying dangerous chemicals in bulk.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/90

Agency Contact: Mr. M. Pavarounakis, Project Manager, MTH-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, [illegible]

RIN: 2115–AE02

1895. CERTIFICATION OF SEAMEN (84-068)

Significance: Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 7301; 46 USC 3306; 46 USC 8105

CFR Citation: 46 CFR 12; 46 CFR 15; 46 CFR 1.46

Legal Deadline: None

Abstract: This rulemaking would simplify and restructure the entire part. Among the changes contemplated are the addition of several new endorsements to seamen's documents and new ratings. An ANPRM was issued to gather necessary additional information.

Timetable:

Action	Date	FR Cite
ANPRM	03/04/85	50 FR 4875
Comment Period Extended to 08/01/85	06/03/85	50 FR 23318
ANPRM Comment Period End	08/01/85	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation

Agency Contact: LCDR M. Wilson, Project Manager, G-MVP-4, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-2229

RIN: 2115–AC02

1896. GULF INLAND WATERWAY REGULATED NAVIGATION AREA (85-096)

Significance: Nonsignificant

Legal Authority: 33 USC 1221

CFR Citation: 33 CFR 162

Legal Deadline: None

Abstract: Contemplated action would revise and update the inland waterways navigation regulations for the Gulf Intracoastal Waterway from St. Marks, FL, to the Rio Grande River. Certain frequently granted exemptions regarding length and width of tows would be incorporated into the regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 01/00/91

Additional Information: Formerly titled: Exemptions to Gulf Inland Waterway Regulations.

Agency Contact: Mr. R. Robertson, Project Manager, NSR-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-[illegible]

RIN: 2115–AC03

1897. REVISIONS TO THE ELECTRICAL ENGINEERING REGULATIONS (85-063)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 2113; 46 USC 3301; 46 USC 3306; 46 USC 3318; 46 USC 3703; 46 USC 4104

CFR Citation: 46 CFR 110; 46 CFR 111; 46 CFR 112; 46 CFR 113

Legal Deadline: None

Abstract: This rulemaking would generally update and revise 46 CFR Subchapter J to address changes in technology, include international conventions (Amendments to SOLAS '74), clarify requirements, and reflect experience gained as a result of vessel reflaggings.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/90

Agency Contact: Mr. Thomas Nolan, Project Manager, G-MTH-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-[illegible]

RIN: 2115–AC20

1898. UPDATING APPROVAL REQUIREMENTS FOR BREATHING APPARATUS (86-036)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160; 46 CFR 35 to 20

Legal Deadline: None

Abstract: Proposal would update the approval specifications for breathing apparatus for merchant vessels by citing present certification agencies and test schedules. It is also proposed to revise the tank vessel regulations for the carriage of approved pressure-demand type self-contained breathing apparatus.

Timetable:

Action	Date	FR Cite
NPRM	07/30/90	55 FR 30935
NPRM Comment Period End	10/29/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/30/90 (55 FR 30935)

Agency Contact: LCDR M. G. VanHaverbeke, Project Manager, G-MVI-2, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW., Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC30

1899. CARGO LISTS AND TABLES UPDATE (CGD 88-100 AND 88-100A)

Significance: Nonsignificant

DOT—USCG

Proposed Rule Stage

Legal Authority: 46 USC 3703; 46 USC 1804

CFR Citation: 46 CFR 1.46(b); 46 CFR 1.46(t); 46 CFR 1.46(u); 46 CFR 30; 46 CFR 150; 46 CFR 151; 46 CFR 153; 46 CFR 154

Legal Deadline: None

Abstract: The Coast Guard periodically issues rules listing additional cargoes which may be carried on tank vessels. Since this action is recurrent, the Coast Guard has established a continuing docket for this type of action. Notices for this rule are anticipated in Jan./Feb. of each year.

Timetable:

Action	Date	FR Cite
Final Rule Bulk Hazardous Materials	04/24/90	55 FR 17275
Final Rule Noxious Liquid Substances	04/24/90	55 FR 17288
NPRM: Bulk Gases	09/06/90	55 FR 36570
NPRM Comment Period End	10/09/90	
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/06/90 (55 FR 36570)

Additional Information: Former regulation title: Noxious Liquid Substances Lists (CGD 88-100a; Bulk Hazardous Materials (CGD 88-100)(53 FR 49018). The RIN AC35 is used for both entries in the Federal Register.

Agency Contact: Dr. M. Parnarouskis/Mr. Payne, Chemical Engineer, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW., Washington, DC 20593-0001, 202 267-1577

RIN: 2115–AC35

1900. LOAD LINES (88-013)

Significance: Nonsignificant

Legal Authority: 46 USC 5115

CFR Citation: 46 CFR 41 to 46

Legal Deadline: None

Abstract: This proposal will revise 46 CFR Parts 42 and 44 through 46 and add Parts 41, 45, 47 and 48 (Subchapter E) to correct errors, replace previous omissions, incorporate new policies which have not been published and implement provisions of the new Load Line Law enacted on 21 Oct 86 and now in effect.

Timetable:

Action	Date	FR Cite
Notice	12/29/86	51 FR 46972
NPRM	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 11/00/90

Agency Contact: Mr. P. Cojeen, Naval Architect, MTH-3, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW., Washington, DC 20593-0001, 202 267-2988

RIN: 2115–AC37

1901. REVISION TO INFLATABLE LIFERAFT APPROVAL: SOLAS 74/83 (85-205)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: This project would establish approval requirements for inflatable liferafts meeting the 1983 Amendments to the 1974 Safety of Life at Sea Convention.

Timetable:

Action	Date	FR Cite
ANPRM RIN AA50	06/29/81	46 FR 33341
NPRM RIN AA50	01/11/85	50 FR 7556
Comment Period Extended to 10/14/85 RIN AA50	07/05/85	50 FR 27629
Comment Period Extended to 01/10/86 RIN AA50	09/09/85	50 FR 36839
ANPRM RIN AA57	05/14/86	51 FR 20117
Public Meeting RIN AA57	12/22/86	51 FR 45763
NPRM	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/00/91

Additional Information: Two related projects have been consolidated into this one: Inflatable Liferaft Stability (CGD 80-113) RIN AA50, and Servicing Inflatable Lifesafts (CGD 81-010) RIN AA57.

Agency Contact: Mr. Kurt Heinz, Project Manager, MVI-3, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC51

1902. POSTING REQUIREMENTS ON INSPECTED VESSELS (87-031)

Significance: Nonsignificant

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 31; 46 CFR 71; 46 CFR 91; 46 CFR 167; 46 CFR 176; 46 CFR 199

Legal Deadline: None

Abstract: Various laws, international agreements, and Coast Guard regulations require the posting of specific certificates, licenses, plans, operating instructions, and warnings onboard vessels. Some of these contain essential operational data which must be accessible at all times; others are primarily informational. This rulemaking project will seek to reduce posting requirements for nonessential operational data to reduce the burden on the public. Alternatives such as having items readily available rather than being posted are being considered.

Timetable:

Action	Date	FR Cite
ANPRM	04/24/87	52 FR 31786
ANPRM Comment Period End	11/24/87	52 FR 31789
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/00/90

Additional Information: As a result of the ANPRM, a new project was created to remove regulations requiring merchant vessels to post Form 811. A final rule was published under Docket Number 87-031a (RIN 2115-AC91) on 22 July 1988 (53 FR 27686).

Agency Contact: LCDR M. B. Kerr, Project Manager, MVI-2, Department of Transportation, U.S. Coast Guard, 2100

DOT—USCG

Proposed Rule Stage

Second Street, SW., Washington, DC [illegible]

RIN: 2115–AC88

1903. REGATTAS AND MARINE PARADES (CGD 87-087)

Significance: Nonsignificant

Legal Authority: 33 USC 1233

CFR Citation: 33 CFR 100.15

Legal Deadline: None

Abstract: This proposal would amend current regatta and marine parade regulations to increase the lead time requirement for submitting regatta permit applications. The rulemaking will allow the Coast Guard adequate time to review regatta permit applications, conduct appropriate coordination, and provide necessary public notice relating to regattas and marine events. In view of comments received, an SNPRM will be issued.

Timetable:

Action	Date	FR Cite
NPRM	02/04/88	53 FR 3221
NPRM Comment Period End	04/04/88	53 FR 3221
SNPRM	10/00/90	

Small Entities Affected: Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Evaluation 02/04/88 (53 FR 3221)

Agency Contact: Mr. Carlton Perry, Project Manager, NAB-5, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC [illegible]

RIN: 2115–AC84

1904. MARINE TRANSPORT OF BULK SOLID HAZARDOUS MATERIALS (87-060)

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1808

CFR Citation: 46 CFR 148

Legal Deadline: None

Abstract: This proposal would incorporate into 46 CFR 148 the requirements for shipping certain frequently carried hazardous bulk solids. Putting these requirements into regulation would eliminate paperwork for both the Coast Guard and the shipping industry. This proposal would also incorporate requirements found in the International Maritime Organization's Code of Safe Practice For Solid Bulk Cargoes.

Timetable:

Action	Date	FR Cite
ANPRM	04/26/89	54 FR 18306
ANPRM Comment Period End	05/27/89	
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/90

Agency Contact: Mrs. D. Anderson, Project Manager, MTH-1, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-1217

RIN: 2115–AD02

1905. PRIVATE ELECTRONIC AIDS TO MARITIME NAVIGATION (88-011)

Significance: Nonsignificant

Legal Authority: 14 USC 85

CFR Citation: 33 CFR 66; 33 CFR 164

Legal Deadline: None

Abstract: This proposal would amend the regulations on private aids to navigation by removing a restriction precluding the Coast Guard from permitting certain private electronic aids to navigation. The rulemaking might also amend regulations pertaining to vessels required to carry an electronic position-fixing device.

Timetable:

Action	Date	FR Cite
ANPRM	07/22/88	53 FR 27706
ANPRM Comment Period End	12/02/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: After reviewing the comments received on the ANPRM, the Coast Guard is considering changing the scope of the original project.

Agency Contact: LCDR K. Hay, Project Manager, NRN-2, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-0296

RIN: 2115–AD04

1906. INCORPORATION AND ADOPTION OF INDUSTRY STANDARDS (88-032)

Significance: Nonsignificant

Legal Authority: 33 USC 1321j; 46 USC 3306; 46 USC 3703

CFR Citation: 33 CFR 127; 33 CFR 154; 46 CFR 25; 46 CFR 30; 46 CFR 32; 46 CFR 34; 46 CFR 38; 46 CFR 54; 46 CFR 56; 46 CFR 58; 46 CFR 64; 46 CFR 71; 46 CFR 76; 46 CFR 91; 46 CFR 92; ...

Legal Deadline: None

Abstract: This rulemaking would consist of a review of 33 CFR and 46 CFR and incorporate American Society of Testing and Materials (ASTM) standards or adopt the ASME Code as appropriate in place of the regulations. The regulations for these items currently in Subchapter Q would be deleted.

Timetable:

Action	Date	FR Cite
NPRM	08/17/90	55 FR 33824
NPRM Comment Period End	10/01/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/17/90 (55 FR 33824)

Additional Information: The rulemaking on fire detection and alarm systems (RIN 2115-AC13) has been consolidated into this project.

CFR CITATION CONT: 46 CFR 95; 46 CFR 98; 46 CFR 105; 46 CFR 108; 46 CFR 150; 46 CFR 151; 46 CFR 153; 46 CFR 154; 46 CFR 169; 46 CFR 170; 46 CFR 174; 46 CFR 182; 46 CFR 189; 46 CFR 190; 46 CFR 193.

Agency Contact: Mr. S. Irvin, Project Manager, MTH-2, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-2206

RIN: 2115–AD05

1907. REQUIREMENTS FOR MARINE TERMINALS TRANSFERRING BULK LIQUEFIED HAZARDOUS GASES (88-049)

Significance: Nonsignificant

DOT—USCG

Proposed Rule Stage

Legal Authority: 33 USC 1221

CFR Citation: 33 CFR 126; 33 CFR 127

Legal Deadline: None

Abstract: This project would develop requirements for marine terminals transferring bulk liquefied hazardous gases (petroleum and chemical) and establish comparable levels of safety and contingency measures for these commodities as are now required for liquefied natural gas (LNG).

Timetable:

Action	Date	FR Cite
ANPRM	09/28/88	53 FR 37792
ANPRM Comment Period End	11/28/88	
NPRM	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/00/90

Agency Contact: Mr. G. W. Chappell, Project Manager, MPS-3, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-0491

RIN: 2115–AD06

1908. WRITTEN WARNINGS BY COAST GUARD LAW ENFORCEMENT OFFICIALS (88-074)

Significance: Nonsignificant

Legal Authority: 14 USC 633

CFR Citation: 33 CFR 1

Legal Deadline: None

Abstract: This proposal would clarify which Coast Guard Officials may issue written warnings for violations of statutes and regulations.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LT T. Beistle, Project Manager, LMI, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-0974

RIN: 2115–AD13

1909. ACCESS DOCUMENTS TO WATERFRONT FACILITIES (88-097)

Significance: Nonsignificant

Legal Authority: EO 10277

CFR Citation: 33 CFR 125

Legal Deadline: None

Abstract: This proposal would reemphasize the Port Security Card as an access control document rather than a personal identification document.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Further action on this proposal is suspended pending evaluation of test results from a field test of prototype card equipment.

Agency Contact: LCDR Neill, Project Manager, MPS-2, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-0475

RIN: 2115–AD14

1910. ADVANCE NOTICE OF ARRIVAL; WARSAW PACT NATIONALS (88-104)

Significance: Nonsignificant

Legal Authority: 33 USC 1221

CFR Citation: 33 CFR 160

Legal Deadline: None

Abstract: This regulation would require advance notice to the Captain of The Port (COTP) of the presence on board certain entering vessels of any Warsaw Pact national or Non-Entrant National crew member. Such notice would enable the COTP to take appropriate measures for the removal or restriction of the crew member(s) as necessary for the protection of the United States.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/90

Agency Contact: LT J. McDowell, Project Manager, MPS-3, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-0491

RIN: 2115–AD17

1911. REGULATED NAVIGATION AREAS; BROWNSVILLE SHIP CHANNEL (8-89-01)

Significance: Nonsignificant

Legal Authority: 33 USC 1225; 33 USC 1231; 50 USC 191

CFR Citation: 33 CFR 165

Legal Deadline: None

Abstract: In recent years the port of Brownsville, Texas, has experienced several casualties involving vessels to be scrapped. This proposal would limit the possibility of future casualties by requiring advance notice of arrival and inspection for watertight integrity and the presence of hazardous gas.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/00/90

Agency Contact: Lt. Garner, Project Manager, Department of Transportation, U.S. Coast Guard, U.S.C.G. Marine Safety Office, P.O. Box 1621, Corpus Christi, TX 78403-1621, 512 888-3182

RIN: 2115–AD21

1912. USER FEES FOR VESSEL DOCUMENTATION (88-007)

Significance: Nonsignificant

Legal Authority: 31 USC 9701

CFR Citation: 46 CFR 67

Legal Deadline: None

Abstract: This project proposes establishing user fees for documenting commercial vessels. In addition, it proposes revising existing fees for documentation of recreational vessels to reflect the actual cost of services provided.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Businesses, Organizations

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Government Levels Affected: Federal

Analysis: Regulatory Evaluation 11/00/90

Agency Contact: LCDR [illegible], Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-6766

RIN: 2115–AD29

1913. STABILITY REGULATIONS—GENERAL REVISION OF SUBCHAPTER S (90-038)

Significance: Nonsignificant

Legal Authority: 46 USC 1333; 46 USC 3306; 46 USC 3703; 46 USC 5115

CFR Citation: 46 CFR 170 to 174

Legal Deadline: None

Abstract: This project proposes general editorial changes to the stability regulations to correct errors and clarify meaning. No substantive revisions are anticipated.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/90

Agency Contact: Lt. Brown, Project Manager, MTH-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-2988

RIN: 2115–AD34

1914. VESSEL IDENTIFICATION SYSTEM (90-050)

Significance: Nonsignificant

Legal Authority: 46 USC 12501

CFR Citation: 46 CFR 67

Legal Deadline: None

Abstract: Public Law 100-710 requires the Secretary of Transportation to establish a vessel identification system. This proposal would implement the provisions of the Act including an annual fee of $1.00 per vessel to pay for administrative costs.

Timetable:

Action	Date	FR Cite
ANPRM	09/15/89	54 FR 38358
ANPRM Comment Period End	12/14/89	
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 12/00/90

Agency Contact: Mr. C. Perry, Project Manager, NAB-5, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-6979

RIN: 2115–AD35

1915. CHESAPEAKE BAY TRAFFIC SEPARATION SCHEME (90-039)

Significance: Nonsignificant

Legal Authority: 33 USC 1223(c)

CFR Citation: 33 CFR 161

Legal Deadline: None

Abstract: The Coast Guard conducted a study for the need for port access routes for the approaches to Chesapeake Bay, VA. (Notice of study results published July 13, 1989, 54 FR 29627). The study concluded that the southern approach part of the traffic separation scheme should be reconfigured to incorporate a proposed deep-water route for inbound and outbound vessel traffic. This proposal would implement that recommendation.

Timetable:

Action	Date	FR Cite
NPRM	09/06/90	55 FR 36666
NPRM Comment Period End	11/06/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/06/90 (55 FR 36666)

Agency Contact: Ms. M. Heyg, Project Manager, NSR-3, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-6415

RIN: 2115–AD43

1916. DEFINITION OF CHANNEL 67 RADIO BOUNDARIES (90-056)

Significance: Nonsignificant

Legal Authority: 33 USC 1201; 33 USC 1208

CFR Citation: 33 CFR 26

Legal Deadline: None

Abstract: The purpose of this proposal is to define in 33 CFR the demarcation line between where channel 13 is used as the designated bridge-to-bridge radiotelephone frequency, and where channel 67 is used.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/00/91

Agency Contact: Mr. F. Parker, Project Manager, NSR-3, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-6358

RIN: 2115–AD44

1917. ● FEDERAL PILOTAGE REQUIREMENTS FOR WASHINGTON AND OREGON (90-043)

Significance: Nonsignificant

Legal Authority: 46 USC 8503

CFR Citation: 46 CFR 15

Legal Deadline: None

Abstract: The States of Washington and Oregon do not require vessels engaged in foreign commerce to take a State pilot when they are traversing U.S. navigable waters. This regulatory action would establish a Federal pilot requirement for foreign trade vessels transiting certain waters in these two States.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation 01/00/91

Agency Contact: Mr. J. Hartke, Project Manager, G-MVP, Department of

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DOT—USCG

Proposed Rule Stage

Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-6217

RIN: 2115–AD52

1918. ● DEEPWATER PORT RADAR BEACONS(90-016)

Significance: Nonsignificant

Legal Authority: 33 USC 1504

CFR Citation: 33 CFR 149

Legal Deadline: None

Abstract: This project would change the equipment requirement for radar beacons on deepwater parts to conform to more modern technology.

Timetable:

Action	Date	FR Cite
NPRM	09/19/90	55 FR 38562
NPRM Comment Period End	11/20/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/19/90 (55 FR 38562)

Agency Contact: Mr. Chappell, Project Manager, G-MPS-3, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-0491

RIN: 2115–AD53

1919. ● STABILITY AND SUBDIVISION REGULATIONS (89-035)

Significance: Nonsignificant

Legal Authority: 5 USC 1333; 46 USC 3306; 46 USC 3703

CFR Citation: 46 CFR 170 to 174

Legal Deadline: None

Abstract: This proposal would generally update the subdivision and stability regulations by eliminating inconsistencies within the subchapter and incorporating new Coast Guard policies.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Agency Contact: Lt. T. Skuby, Project Manager, G-MTH-3, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-2988

RIN: 2115–AD54

1920. ● NATIONAL VESSEL TRAFFIC SERVICE (VTS) REGULATIONS (90-020)

Significance: Nonsignificant

Legal Authority: 33 USC 1221

CFR Citation: 33 CFR 161

Legal Deadline: None

Abstract: This proposal would draw all the Vessel Traffic Service Regulations into one place in the CFR. It also would require all vessels subject to the "Bridge-to-Bridge Radiotelephone Act" operating in any U.S. port or harbor to comply with reporting procedures upon entry and while navigating in the VTS area.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/00/91

Agency Contact: Mr. B. Riley, Project Manager, G-NSP, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-0412

RIN: 2115–AD50

1921. ● RECORDING OF INSTRUMENTS—VESSEL DOCUMENTATION (89-009(A))

Significance: Nonsignificant

Legal Authority: 46 USC 313

CFR Citation: 46 CFR 67

Legal Deadline: None

Abstract: This project would allow easier compliance with the requirements for recordation of instruments, including a cover sheet for marine mortgages.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/00/91

Additional Information: See RIN 2115-AD30 for the first phase of this project, which is in the final action section of this Agenda.

Agency Contact: Mr. T. Willis, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-1492

RIN: 2115–AD60

DEPARTMENT OF TRANSPORTATION (DOT)

U.S. Coast Guard (USCG)

Final Rule Stage

1922. + OFFSHORE SUPPLY VESSEL REGULATIONS (82-004)

Significance: Regulatory Program

Legal Authority: 46 USC 3301; 46 USC 3305; 46 USC 3306

CFR Citation: 46 CFR 125 to 136; 46 CFR 174; 46 CFR 170

Legal Deadline: None

Abstract: These regulations would consolidate existing Offshore Safety Vessel standards and policy into a single subchapter and make specific revisions to accommodate the unique characteristics and methods of operation and the service in which the vessels are engaged. Rules specifically applicable to liftboats would be included. Because of public interest in certain aspects of this proposal, it has been classified as significant.

Timetable:

Action	Date	FR Cite
ANPRM	02/14/83	48 FR 6636
Comment Period Extended to 09/12/83	06/09/83	48 FR 26631

DOT—USCG

Final Rule Stage

Action	Date	FR Cite
ANPRM Comment Period End	06/14/83	48 FR 6636
ANPRM of Consolidated RIN AC83	04/16/87	52 FR 12439
NPRM	05/09/89	54 FR 20006
Comment Period Extended to 12/05/89	08/31/89	54 FR 36040
NPRM Comment Period End	09/05/89	
Final Action	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/09/89 (54 FR 20006)

Additional Information: Coast Guard Docket 88-074 (RIN 2115-AC83) titled Regulations for Self-Elevating Offshore Service and Support Vessels was combined with this project. Public Hearing was held in New Orleans 09/13/89 in response to House Subcommittee request.

Agency Contact: LCDR M. Rosecrans, Project Manager, MTH-4, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-2997

RIN: 2115–AA77

1922. + TRAFFIC SEPARATION SCHEMES AND SHIPPING SAFETY FAIRWAYS OFF THE COAST OF CALIFORNIA (88-032)

Significance: Regulatory Program

Legal Authority: 33 USC 1223; 33 USC 1224

CFR Citation: 33 CFR 166; 33 CFR 167

Legal Deadline: None

Abstract: The Coast Guard has conducted the Port Access Route Study mandated by the Ports and Waterways Safety Act. As a result of the study, the Coast Guard has determined that potential conflicts between oil drilling and shipping require creation of a fairway system off the coast of California from the vicinity of San Francisco to Los Angeles/Long Beach and changes to the San Francisco and Santa Barbara channel traffic-separation schemes. No structures would be permitted in the fairway. This project is considered significant because of public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/27/89	54 FR 18258
Correction Notice	05/10/89	54 FR 20235
Announcement of Public Hearings	06/01/89	54 FR 23463
NPRM Comment Period End	07/26/89	
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: Federal, Federal

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 04/27/89 (54 FR 18258); Environmental Assessment 04/27/89 (54 FR 18258)

Additional Information: Results of the Port Access Study for California were published in the Federal Register on June 24, 1982 (47 FR 27430) and on October 14, 1982 (47 FR 46043), and on December 5, 1985 (50 FR 49861). This rulemaking involves coordination with the Minerals Management Service of the Department of the Interior. This project was formerly titled California Offshore Routing System.

Agency Contact: Ms. M. Hegy, Project Manager, G-NSR-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-0415

RIN: 2115–AB29

1924. + LICENSING OF PILOTS—MANNING OF VESSELS (84-060)

Significance: Agency Priority

Legal Authority: 46 USC 2104; 46 USC 3306; 46 USC 7101; 46 USC 7109; 46 USC 7112; 46 USC 8101; 46 USC 8502

CFR Citation: 46 CFR 15.812; 46 CFR 10.700

Legal Deadline: None

Abstract: This proposal would: (1) delineate when certain inspected vessels are required to be under the direction and control of a pilot, (2) describe first class pilotage areas where local pilotage expertise is warranted, (3) allow licensed individuals to serve as pilot in areas not identified as first class pilotage areas on vessels that they are otherwise qualified to control, and (4) permit individuals with 5 years experience on towing vessel combinations of at least 5,000 gross tons while acting under the authority of a license as master, mate, or operator of uninspected towing vessels, with a minimum of 2 of the 5 years having been on towing vessels combinations of at least 10,000 gross tons, to obtain without a written examination, an endorsement as first class pilot, restricted to tug and barge combinations only, for those routes over which they have made the required number of round trips. This action is considered significant because of public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/24/85	50 FR 26117
NPRM Comment Period End	12/23/85	
SNPRM Supplemental	06/06/88	53 FR 20654
SNPRM Notice of Public Hearing	08/11/89	54 FR 33045

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/27/85 (50 FR 26117)

Additional Information: This proposal has been split from a previously published action identified by the same title with Coast Guard Docket number 77-064 and RIN 2115-AA04, completed in 50 FR 26106. The Coast Guard has initiated a comprehensive study of pilotage issues and has requested public comment in 54 FR 31136. Future action will depend on analysis of the study.

Agency Contact: Mr. J. Hartke, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-6217

RIN: 2115–AB87

1925. + LIFESAVING EQUIPMENT—IMPLEMENTATION OF 1983 AMENDMENTS TO SOLAS 1974 (84-069)

Significance: Agency Priority

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 199; 46 CFR 31; 46 CFR 33; 46 CFR 35; 46 CFR 71; 46 CFR 75; 46 CFR 76; 46 CFR 91; 46 CFR 94; 46 CFR 97; 46 CFR 107; 46 CFR 108; 46 CFR 109; 46 CFR 154; 46 CFR 160; ...

Legal Deadline: None

DOT—USCG

Final Rule Stage

Abstract: This project would implement the provisions of the 1983 amendments to SOLAS 1974 (Safety of Life at Sea) which came into force in July of 1986. It would also reorganize the lifesaving equipment regulations in order to simplify, clarify, and reduce redundancy. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	12/31/84	49 FR 50745
ANPRM Comment Period End	03/01/85	
NPRM	04/21/89	54 FR 16196
NPRM Comment Period End	06/21/89	
Comment Period Reopened to 01/03/90	10/05/89	54 FR 41124
Public Hearing in Seattle 10/17/89	10/05/89	54 FR 41124
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/21/89 (54 FR 16196)

Additional Information: CFR CITATION CONT: 46 CFR 30; 46 CFR 90; 46 CFR 112; 46 CFR 113; 46 CFR 167; 46 CFR 188; 46 CFR 192; 46 CFR 196; 46 CFR 199

Agency Contact: Mr. R. Merkle, Project Manager, G-MVI-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AB72

1926. + LICENSING OF OFFICERS AND OPERATORS FOR MOBILE OFFSHORE DRILLING UNITS (91-SBA)

Significance: Agency Priority

Legal Authority: 46 USC 2103; 46 USC 3703; 46 USC 6105

CFR Citation: 46 CFR 10; 46 CFR 15

Legal Deadline: None

Abstract: This project makes provision for the licensing of officers on mobile offshore drilling units and establishes manning standards for these vessels. This action is considered significant because of substantial public interest. Based on comments received, two SNPRMs were issued and the interim final rule revised.

Timetable:

Action	Date	FR Cite
NPRM	06/06/83	48 FR 30020
SNPRM	10/24/85	50 FR 43316
Interim Final Rule	10/16/87	52 FR 39665
Suspended Effective Date of Interim Final Rule	02/29/89	54 FR 8334
SNPRM	05/17/89	54 FR 21248
Comment Period Closed	06/15/89	
Extension of Comment Period to 7/31/89	06/20/89	54 FR 25661
Interim Final Rule	04/18/90	55 FR 14792
Final Action	11/00/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/18/90 (55 FR 14792)

Additional Information: This project was split from Coast Guard docket 87-059, Licensing of Maritime Personnel, which has been published as a final rule under RIN 2115-AA84 (54 FR 125). The interim final rule effective date was suspended because the comments received indicated substantive revisions to the rule were necessary. The refined interim final rule of 04/18/90 withdrew the notice suspending the effective date and invited public comment through 06/18/90.

Agency Contact: LCDR Jenkins, Project Manager, G-MVP-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-6225

RIN: 2115–AB91

1927. + SPECIAL CARGO REQUIREMENTS FOR BENZENE (88-048)

Significance: Agency Priority

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 151; 46 CFR 153

Legal Deadline: None

Abstract: This proposal would update the special cargo requirements for benzene. This would include the lowering of permissible exposure limits, addition of requirements for personal protective equipment, measurement of employee exposures, training, and medical surveillance. This rulemaking is significant because of the safety implications.

Timetable:

Action	Date	FR Cite
NPRM	01/29/90	55 FR 2698
NPRM Comment Period End	04/30/90	
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/29/90 (55 FR 2698)

Agency Contact: Dr. M. Parmanandin, Project Manager, MTH-1, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-1577

RIN: 2115–AD08

1928. + IMPLEMENTATION OF THE COMMERCIAL FISHING INDUSTRY VESSEL SAFETY ACT (89-079)

Significance: Agency Priority

Legal Authority: 46 USC 4502; 46 USC 4506; 46 USC 6104(c); 46 USC 10603(b)

CFR Citation: 46 CFR 25; 46 CFR 28; 46 CFR 29

Legal Deadline: None

Abstract: The Commercial Fishing Industry Act of 1988 requires the Secretary of Transportation to prescribe regulations for certain safety equipment and vessel operating procedures. Subjects to be addressed by the rulemaking include: navigation, radio, firefighting, and lifesaving equipment, as well as fuel, ventilation, and electrical systems. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM of Consolidated RIN AC34	07/06/87	52 FR 25692
ANPRM Correction of Consolidated RIN AC34	08/19/87	52 FR 29936
ANPRM	12/28/89	53 FR 52936
ANPRM Comment Period End	02/27/90	53 FR 52736
ANPRM Extension of Comment Period	03/02/90	54 FR 8765
NPRM	04/19/90	55 FR 14809

DOT—USCG

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	08/20/90	
Notice of Intent to Publish SNPRM	08/31/90	55 FR 35894
Final Action	09/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 04/19/90 (55 FR 14924)

Additional Information: Coast Guard docket 88-024 titled Uninspected Fish-Processing Vessels (RIN AC34) has been incorporated into this project.

Agency Contact: Mr. N. Lemley, Project Manager, MTH, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC [illegible]

RIN: 2115–AD11

1929. ● + RANDOM CHEMICAL TESTING PROGRAMS FOR COMMERCIAL VESSEL PERSONNEL (88-014)

Significance: Agency Priority

Legal Authority: 46 USC 2103; 46 USC 3306; 46 USC 7101; 46 USC 7301; 46 USC 7701

CFR Citation: 46 CFR 16

Legal Deadline: None

Abstract: On November 21, 1988, the Coast Guard issued a final rule requiring random drug testing. On December 18, 1989 the District Court enjoined the Coast Guard from implementing random testing. The judge invited the Coast Guard to promulgate new random drug testing regulations applicable only to crew members whose duties have a clear and direct nexus to the safety concerns of the Government. This proposal would establish random testing requirements for crew members serving in positions which affect the safe operation of a vessel. It is considered significant because of substantial public interest, controversy surrounding random testing, and litigation.

Timetable:

Action	Date	FR Cite
NPRM	07/27/90	55 FR 30686
NPRM: Correction	08/01/90	55 FR 31297
NPRM Comment Period End	09/10/90	
Final Action	12/00/90	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/27/90 (55 FR 30686)

Agency Contact: Capt G. Barton, Project Manager, G-MMI, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, [illegible]

RIN: 2115–AD59

1930. TANKERMAN REQUIREMENTS AND QUALIFICATIONS FOR PERSONS-IN-CHARGE OF DANGEROUS LIQUID AND LIQUEFIED GAS TRANSFER OPERATIONS (79-116)

Significance: Nonsignificant

Legal Authority: 46 USC 3703; 46 USC 7317; 46 USC 8703; 46 USC 9101; 46 USC 9102

CFR Citation: 33 CFR 155; 46 CFR 12; 46 CFR 13; 46 CFR 30; 46 CFR 31; 46 CFR 35; 46 CFR 76; 46 CFR 90; 46 CFR 98; 46 CFR 105; 46 CFR 151; 46 CFR 153; 46 CFR 154; 46 CFR 97; 46 CFR 15

Legal Deadline: None

Abstract: Rulemaking would redefine and establish more stringent qualifying criteria for individuals engaged in transporting and transferring various categories of oil and dangerous liquid cargoes. The Port and Tanker Safety Act of 1978 mandated the establishment of personnel qualification and manning standards for tank vessels. In addition, the International Convention on the Standards for Training, Certification, and Watchkeeping for Seafarers 1978 (STCW), has entered into effect and establishes international standards for tank vessel personnel qualifications. In view of the length of time since publication of the NPRM, a supplemental NPRM was issued.

Timetable:

Action	Date	FR Cite
NPRM	12/18/80	45 FR 83268
NPRM Comment Period End	03/18/81	
SNPRM Comment Period End 01/16/90	10/17/89	54 FR 42624
Interim Final Rule	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/18/80 (45 FR 83268)

Additional Information: Former title: Qualifications of the Person in Charge of Oil Transfer Operations: Tankerman Requirements (79-116). Public meetings were held during January and February of 1981. Docket 79-116a (RIN 2115-AD18) has been included in this project and will no longer be listed as a separate regulatory agenda item.

Agency Contact: Mr. J. Cratty, Project Manager, G-MVP-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593, [illegible]

RIN: 2115–AA03

1931. DEALER AND FIRST-PURCHASER LIST (77-115)

Significance: Nonsignificant

Legal Authority: 46 USC 4310

CFR Citation: 33 CFR 179.01 to 179.19

Legal Deadline: None

Abstract: This rulemaking would require marine dealers to furnish boat and engine manufacturers with serial numbers of new boats and engines sold and the names and addresses of retail first purchasers of those products. Manufacturers would use the information to locate purchasers of boats and engines recalled for defects which create a substantial risk of personal injury to the public and for failures to comply with applicable regulations. Currently many manufacturers cannot obtain sufficient first-purchaser information and their attempts to notify during recalls are inadequate.

Timetable:

Action	Date	FR Cite
NPRM	12/29/80	45 FR 85475
SNPRM	05/29/87	52 FR 20115
Comment Period Extended	12/17/87	52 FR 47950

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

DOT—USCG

Final Rule Stage

Analysis: Regulatory Evaluation 12/16/87 (52 FR 47950)

Additional Information: As a result of a substantial number of negative comments on the SNPRM and a substantially larger estimated annual burden on the public, the Coast Guard is looking for other ways to accomplish the objectives of the regulatory project. The next action will consist of a third SNPRM or initiation of a new regulatory project. The former title of this project was Defect Notification and First-Purchaser Information.

Agency Contact: Mr. Collins, Project Manager, NAB-6, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-0982

RIN: 2115-AA16

1932. SAFETY/SECURITY ZONE REGULATIONS

Significance: Nonsignificant

Legal Authority: 33 USC 1233; 33 USC 1225

CFR Citation: 33 CFR 100; 33 CFR 165

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected to continue through 10/00/91: 360.

Timetable:

Action	Date	FR Cite
Total Actions Expected to End	10/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ms. M. Hegy, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-0415

RIN: 2115-AA87

1933. ANCHORAGE AREA REGULATIONS

Significance: Nonsignificant

Legal Authority: 33 USC 471; 33 USC 2030; 33 USC 2035; 33 USC 2071

CFR Citation: 33 CFR 110

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected to continue through 10/00/91: (8).

Timetable:

Action	Date	FR Cite
Total Actions Expected to End	10/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mr. M. Hegy, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-0415

RIN: 2115-AA98

1934. PERSONAL FLOTATION DEVICE COMPONENTS (84-066)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a); 46 USC 4104; 46 USC 4302

CFR Citation: 46 CFR 164; 46 CFR 160

Legal Deadline: None

Abstract: This project would add state-of-the-art synthetic materials as standard components, add performance requirements for nonstandard components, and upgrade out-dated requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/13/89	54 FR 47234
NPRM Comment Period End	01/12/90	54 FR 47234
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/13/89 (54 FR 47234)

Agency Contact: Mr. Rajiv Khandpur, Project Manager, MVT-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-1444

RIN: 2115-AE70

1935. TRAINING IN THE USE OF AUTOMATIC RADAR PLOTTING AIDS (ARPA) (85-032)

Significance: Nonsignificant

Legal Authority: 33 USC 1222; 46 USC 3703

CFR Citation: 33 CFR 164; 46 CFR 10

Legal Deadline: None

Abstract: Current regulations require installation of ARPA on certain ships to improve vessel and waterway safety. Training in the use of this equipment is necessary to ensure its proper application and maximum benefit. A very small percentage of licensed personnel (those manning vessels of 10,000 GT or larger) would be required to complete an ARPA training course. The course is expected to cost about $400.00 per student.

Timetable:

Action	Date	FR Cite
ANPRM	10/24/85	50 FR 43258
ANPRM Comment Period End	12/23/85	
NPRM	09/07/89	55 FR 8150
NPRM Comment Period End	09/05/90	
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/07/89 (55 FR 8150)

Agency Contact: Mr. F. Flynn, Project Manager, G-MVP-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-6276

RIN: 2115-AB36

1936. OIL POLLUTION PREVENTION, MARPOL ANNEX I (85-039)

Significance: Nonsignificant

Legal Authority: 33 USC 1321; 33 USC 1903; 33 USC 1908

CFR Citation: 33 CFR 155; 33 CFR 157

Legal Deadline: None

Abstract: This rulemaking would implement various provisions of the International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocol of 1978 Relating Thereto (MARPOL 73/78). These proposed changes are largely editorial.

DOT—USCG

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	02/07/86	51 FR 4768
NPRM Comment Period End	03/24/86	
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/07/86 (51 FR 4768)

Additional Information: Formerly entitled MARPOL Pollution Prevention Regulations.

Agency Contact: CDR David Pascoe, Project Manager, G-MER-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC [illegible], 202 267-0421

RIN: 2115-AC11

1937. PERFORMANCE STANDARDS AND APPROVAL PROCEDURES FOR INFLATABLE LIFE JACKETS (78-174B)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3703; 46 USC 4104; 46 USC 4302

CFR Citation: 46 CFR 25; 46 CFR 26; 46 CFR 30; 46 CFR 33; 46 CFR 35; 46 CFR 70; 46 CFR 75; 46 CFR 76; 46 CFR 90; 46 CFR 94; 46 CFR 97; 46 CFR 106; 46 CFR 109; 46 CFR 160; 46 CFR 167; ...

Legal Deadline: None

Abstract: The interim final rule established approval and operating requirements for inflatable life jackets. Their use would be optional. The rule was effective 01/04/90; comments were due 01/19/90.

Timetable:

Action	Date	FR Cite
NPRM	05/29/85	50 FR 21678
NPRM Comment Period End	07/15/85	
Interim Final Rule	12/05/89	54 FR 50316
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/05/89 (54 FR 50316)

Additional Information: This project, and a companion, Recreational Hybrid PFD's (78-174a), split from the rule titled Hybrid PFD's; Establishment of Approval Requirements (78-174) (RIN: 2115-AA29), which was published as an interim final rule (50 FR 33923). The former title of the rulemaking herein was Carriage and Operational Requirements for Inflatable Life Jackets (CGD 78-174b).

Agency Contact: Ms. Wehr, Project Manager, G-MVI-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-1444

RIN: 2115-AC16

1938. INTERVALS FOR INTERNAL EXAMINATION AND HYDROSTATIC TESTING OF PRESSURE VESSEL TYPE CARGO TANKS (85-061)

Significance: Nonsignificant

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 38; 46 CFR 151; 46 CFR 54; 46 CFR 98

Legal Deadline: None

Abstract: An Interim Final Rule was published to amend the regulations on internal inspection and hydrostatic test intervals for pressure vessel cargo tanks on barges that transport liquefied gaseous cargoes and grade A flammable liquids. The portion of the interim final rule dealing with examination intervals for chlorine tanks was open for comment until March 12, 1990.

Timetable:

Action	Date	FR Cite
ANPRM	12/03/85	50 FR 49536
ANPRM Comment Period End	03/03/86	
NPRM	09/08/87	52 FR 33841
NPRM Comment Period End	03/07/88	52 FR 45665
Interim Final Rule	12/11/89	54 FR 50958
Interim Final Rule; Correction	01/08/90	55 FR 696
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/11/89 (54 FR 50958)

Additional Information: The interim final rule was effective 01/10/90; the comment period closed 03/12/90.

Agency Contact: LCDR Bennett, Project Manager, G-MVI-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-1181

RIN: 2115-AC18

1939. SMALL PASSENGER VESSEL INSPECTION AND CERTIFICATION (CGD 85-080)

Significance: Nonsignificant

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 175 to 185; 46 CFR 170; 46 CFR 171; 46 CFR 173

Legal Deadline: None

Abstract: This rulemaking would revise Subchapters "S" and "T" to reflect statutory changes, incorporate new technology, and improve safety requirements. Among the changes contemplated would be a change in inspection intervals, drydocking intervals, lifesaving equipment requirements, and fire protection requirements.

Timetable:

Action	Date	FR Cite
NPRM	01/30/89	54 FR 4412
Comment Period Extended and Notice of Hearings	04/26/89	54 FR 17997
Notice of Public Hearing Change	05/25/89	54 FR 22608
NPRM Comment Period End	05/30/89	
Notice of Intent to Issue SNPRM	09/18/89	54 FR 38410
Second SNPRM	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/30/89 (54 FR 4412)

Additional Information: On April 26, 1989, the Coast Guard published notice of six public hearings and extended the comment period to July 31, 1989.

Agency Contact: LCDR W. Cummins, Project Manager, G-MVI-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-1181

RIN: 2115-AC22

1940. UNINSPECTED VESSEL EMERGENCY POSITION INDICATING RADIO BEACONS (EPIRBS) (87-016)

Significance: Nonsignificant

DOT—USCG

Final Rule Stage

Legal Authority: 46 USC 4102

CFR Citation: 46 CFR 25; 46 CFR 28

Legal Deadline: None

Abstract: As a result of the passage of Public Law 100-540, EPIRBs will be required on each manned uninspected vessel operating on the high seas or beyond three miles from the coast line of the Great Lakes. On August 17, 1988 the Coast Guard published a rule to require EPIRBs on certain fishing vessels. This action would extend the requirements of the August 17th rule as required by PL 100-540.

Timetable:

Action	Date	FR Cite
NPRM	04/19/90	55 FR 14922
NPRM Comment Period End	06/18/90	
Final Action	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/19/90 (55 FR 14922)

Additional Information: Although this action would extend the requirements of the August 17 rule for most of this class of vessels, in a separate action the Coast Guard suspended the effective date for owners of small vessels so as to avoid the cost of a Category 1 EPIRB while alternatives are considered for them (04/19/90, 55 FR 14920).

Agency Contact: LCDR Deno, Project Manager, MVI-3, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW., Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC69

1941. DELEGATION OF AUTHORITY TO AREA COMMANDERS WHEN FUNCTIONING AS MARITIME DEFENSE ZONE COMMANDERS (CGD 87-065)

Significance: Nonsignificant

Legal Authority: 50 USC 191; 33 USC 1231

CFR Citation: 33 CFR 6

Legal Deadline: None

Abstract: Following the 1988 reorganization of the Coast Guard, Area Commanders do not have authority to establish security zones, control vessels, or perform other necessary actions. This rule would delegate that authority to the Area Commanders. Since this proposal deals with agency procedure, it will be issued as a rule with no notice of proposed rulemaking.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Further action on this project is suspended pending signature of amended Executive Order No. 10637, which allows this delegation authority.

Agency Contact: LT J. McDowell, Project Manager, MPS-3, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW., Washington, DC 20593-0001, 202 267-0489

RIN: 2115–AC88

1942. ANCHORAGE REGULATIONS (88-079)

Significance: Nonsignificant

Legal Authority: 33 USC 471; 33 USC 2030; 33 USC 2035

CFR Citation: 33 CFR 165; 33 CFR 110

Legal Deadline: None

Abstract: This proposal would update the anchorage regulations by removing nonregulatory, obsolete or duplicative language; by standardizing the anchorage description format; by publishing subparts A and B as two parts: Part 110--Special Anchorage Areas and Part 111--Anchorage Grounds.

Timetable:

Action	Date	FR Cite
NPRM	03/11/88	53 FR 7949
NPRM Comment Period End	05/11/88	
SNPRM Expanding Revisions - Comments by 02/03/89	12/05/88	53 FR 48935
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/11/88 (53 FR 7949)

Agency Contact: Ms. M. Hagy, Project Manager, NSR-3, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-0415

RIN: 2115–AC36

1943. DOCUMENTATION OF VESSELS—CONTROLLING INTEREST (88-031)

Significance: Nonsignificant

Legal Authority: PL 100-239

CFR Citation: 46 CFR 67

Legal Deadline: None

Abstract: The Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 requires that for any United States-built vessel to be eligible for a fishery license the controlling interest in any corporation which owns the vessel must be owned by individuals who are citizens of the United States. This project would implement the provisions of the Act. Based on comments received, the scope of this project has been expanded to include a complete revision of 46 CFR 67.03 which explains citizenship requirements for vessel documentation and an SNPRM was issued.

Timetable:

Action	Date	FR Cite
NPRM	10/20/88	53 FR 41211
NPRM Comment Period End	11/21/88	
SNPRM	10/13/89	54 FR 41992
Correction of SNPRM	10/30/89	54 FR 44008
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/20/88 (53 FR 41211)

Agency Contact: LCDR Bruce, Project Manager, MVI-6, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-1492

RIN: 2115–AC89

1944. IMPLEMENTATION OF THE SHORE PROTECTION ACT OF 1988 (89-014)

Significance: Nonsignificant

Legal Authority: 33 USC 2602

CFR Citation: 33 CFR 151

Legal Deadline: Final, Statutory, June 15, 1990.

DOT—USCG

Final Rule Stage

See discussion in the Abstract.

Abstract: The Shore Protection Act of 1988 (33 USC 2601 et seq.) prohibits vessels from transporting municipal and commercial waste unless they have a permit and display a number. The Act requires the permit and number 240 days after enactment. This interim rule implements these provisions of the Act and requests comments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/24/89	54 FR 22546
Correction to Interim Final Rule	06/05/89	54 FR 24076

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/24/89 (54 FR 22546)

Additional Information: Further action on this proposal is awaiting legislative action which will eliminate certain problems with the existing legislation.

Agency Contact: LT J. McDowell, Project Manager, MPS-3, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-0981

RIN: 2115–AD23

1945. RECORDING OF INSTRUMENTS—VESSEL DOCUMENTATION (88-008)

Significance: Nonsignificant

Legal Authority: 46 USC 313

CFR Citation: 46 CFR 67

Legal Deadline: None
PL 100-710 has staggered requirements, several are effective in January 1989 while others are effective in January, 1990.

Abstract: The objective of this project is to bring existing regulations into conformity with law. PL 100-710 requires certain changes to existing regulations, such as eliminating requirements to present the vessel document for endorsement of mortgages. These changes are unequivocal and were effective on January 1, 1989. In addition, this proposal would implement requirements of the law which became effective in 1990. The interim final rule will minimize transitional uncertainty while permitting opportunity for comment.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/12/89	54 FR 41835
Interim Final Rule Comments Due 12/11/89	10/12/89	54 FR 41835
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/12/89 (54 FR 41835)

Additional Information: RIN 2115-AD32, Documentation of Vessels-Hailing Port, has been consolidated into this rulemaking.

Agency Contact: Mr. T. Willis, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-1492

RIN: 2115–AD30

1946. STABILITY DESIGN AND OPERATIONAL REGULATIONS (89-037)

Significance: Nonsignificant

Legal Authority: 46 USC 1333(d); 46 USC 3306; 46 USC 3703; 46 USC 5115; 50 USC 198

CFR Citation: 46 CFR 171; 46 CFR 32; 46 CFR 35; 46 CFR 78; 46 CFR 97; 46 CFR 105; 46 CFR 109; 46 CFR 167; 46 CFR 169; 46 CFR 170; 46 CFR 185; 46 CFR 196

Legal Deadline: Final, Statutory, April 29, 1990.

Abstract: This project proposes adding to the stability and operating regulations for all inspected U.S. flag vessels the requirements of recently adopted amendments to the Safety of Life at Sea (SOLAS) Convention of 1974. The amendments came into force on April 29, 1990. The amendments involve stability after damage, draft indicators, stability information, and the closing of cargo doors before going to sea.

Timetable:

Action	Date	FR Cite
NPRM	02/13/90	55 FR 5120
NPRM Comment Period End	04/16/90	
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/13/90 (55 FR 5120)

Additional Information: This project was formerly titled Incorporation of New SOLAS Amendments on Stability.

Agency Contact: Ms. P. Carrigan, Project Manager, MTH-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-2988

RIN: 2115–AD33

1947. WAIVER OF CREWMEMBER CITIZENSHIP REQUIREMENTS (89-061)

Significance: Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 3703; 46 USC 8105

CFR Citation: 46 CFR 15

Legal Deadline: None

Abstract: This interim final rule established a general waiver from crew member citizenship requirements (except for Master) with respect to offshore supply vessels from a foreign port and mobile offshore drilling units operating beyond the U.S. outer continental shelf.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/12/90	55 FR 1210
Interim Final Rule Effective 02/12/90	01/12/90	55 FR 1210
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/12/90 (55 FR 1210)

Additional Information: Comments to the interim final rule were due 06/30/90.

Agency Contact: Mr. C. Young, Project Manager, G-MVP, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-6229

RIN: 2115–AD30

DOT—USCG

Final Rule Stage

1945. PREVENTION OF POLLUTION FROM SHIPS (88-002A)

Significance: Nonsignificant

Legal Authority: 33 USC 1321(j)(1)(C); 33 USC 1903(b)

CFR Citation: 33 CFR 151; 46 CFR 25

Legal Deadline: None

Abstract: This proposal would require all manned, oceangoing, U.S. ships of 79 feet or more in length which are engaged in commerce to keep records of garbage discharges. In addition, all manned oceangoing U.S. ships 40 feet or more in length which are equipped with galleys and berths would be required to maintain waste management plans. .

Timetable:

Action	Date	FR Cite
NPRM	09/06/89	54 FR 37064
NPRM Comment Period End	11/06/89	
Interim Final Rule	05/02/90	55 FR 18578
Interim Final Rule Comment Deadline 08/16/90	05/02/90	55 FR 18578
Effective Date: Suspension in Part	07/26/90	55 FR 30455
Final Action	09/00/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/02/90 (55 FR 18578)

Additional Information: This proposal was derived from Coast Guard proposal 88-002 titled Prevention of Pollution by Plastics, Annex V of MARPOL (RIN 2115-AC89). Although related, these two rulemakings are of different scope. This project is not significant and is being listed separately from RIN 2115-AC89 to avoid confusion. The interim final rule was effective 07/31/90, but was subsequently suspended indefinitely for ships operating on the Great Lakes, manned fixed platforms, and manned floating platforms not in transit.

Agency Contact: LCDR C. Crampton, Project Manager, MPS-3, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-6491

RIN: 2115–AD40

1949. REGULATED NAVIGATION AREA: OHIO RIVER AT LOUISVILLE, KY (2-89-04)

Significance: Nonsignificant

Legal Authority: 33 USC 1225; 33 USC 1231; 50 USC 191

CFR Citation: 33 CFR 162; 33 CFR 165

Legal Deadline: None

Abstract: The purpose of this regulation is to restrict the operation of recreational boats in the vicinity of the Louisville, KY wharf. The intent is to clarify the existing regulation to preclude the entrance of recreational boaters not intending to transit the lock.

Timetable:

Action	Date	FR Cite
NPRM	08/09/89	54 FR 32661
NPRM Comment Period End	09/25/89	
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/09/89 (54 FR 32661)

Agency Contact: LTJG M. Stalker, Project Manager, District 2, Department of Transportation, U.S. Coast Guard, 600 Martin Luther King Jr. Place, Louisville, KY 40202-2230, 502 582-5194

RIN: 2115–AD45

1950. ● REPLACEMENT OF REFERENCES TO SOLAS 60 WITH SOLAS 74 (90-008)

Significance: Nonsignificant

Legal Authority: EO 12234

CFR Citation: 46 CFR 2 to 298

Legal Deadline: None

Abstract: This proposal would ensure that all references to SOLAS in Coast Guard regulations are up to date to reflect the convention of 1974.

Timetable:

Action	Date	FR Cite
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/00/91

Agency Contact: LCDR Steve Johnson, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-2997

RIN: 2115–AD48

1951. ● DISTINCTIVE IDENTIFICATION LIGHT (90-032)

Significance: Nonsignificant

Legal Authority: 14 USC 633

CFR Citation: 33 CFR 80

Legal Deadline: None

Abstract: This proposal would create a distinctive identification light for vessels engaged in public safety activities.

Timetable:

Action	Date	FR Cite
NPRM	07/18/90	55 FR 29229
NPRM Comment Period End	09/17/90	
Final Action	05/00/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/18/90 (55 FR 29229)

Agency Contact: Mr. Robertson, Project Manager, G-NSR-3, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-0486

RIN: 2115–AD53

DEPARTMENT OF TRANSPORTATION (DOT)

U.S. Coast Guard (USCG)

Completed Actions

1952. + HAZARDOUS MATERIALS POLLUTION PREVENTION: BULK LIQUIDS (86-034)

Significance: Regulatory Program

Legal Authority: 33 USC 1321

CFR Citation: 33 CFR 126; 33 CFR 154; 33 CFR 155; 33 CFR 156

Legal Deadline: None

Abstract: This action amended the oil pollution prevention regulations in 33 CFR Parts 154-156 so as to apply to

DOT—USCG

Completed Actions

vessels and onshore and offshore facilities transferring hazardous substances. Although previously not categorized as significant, further analysis determined this rulemaking to be significant because of safety and environmental considerations.

Timetable:

Action	Date	FR Cite
NPRM	05/15/89	53 FR 22118
NPRM Comment Period End	09/12/89	
SNPRM	06/09/89	54 FR 24715
Final Action	08/04/89	55 FR 36248
Final Action Effective	10/04/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Environmental Evaluation 05/15/89 (53 FR 22118); Regulatory Evaluation 08/04/90 (55 FR 36248)

Additional Information: Former title: Hazardous Substances Pollution Prevention.

Agency Contact: Mr. G. W. Cheppell, Project Manager, G-MPS-3, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW., Washington, DC 20593-0001, 202 267-6921

RIN: 2115–AC29

1953. + MARINE VAPOR CONTROL SYSTEMS (89-102)

Significance: Regulatory Program

Legal Authority: 33 USC 1231; 33 USC 1321(j)(1)(C); 46 USC 3715; 46 USC 3306; 46 USC 3703

CFR Citation: 33 CFR 154; 33 CFR 155; 33 CFR 156; 46 CFR 32; 46 CFR 35; 46 CFR 39

Legal Deadline: None

Abstract: This action set new standards for the safe design, installation, and operation of marine vapor control systems. These systems are being required in several States to reduce emissions from tank vessels which carry oil and chemicals in bulk. This action established minimum safety standards, but does not require installation or use of vapor control systems. This action was significant because of substantial public interest and safety implications.

Timetable:

Action	Date	FR Cite
NPRM	10/06/89	54 FR 41366
Meeting Notice	11/02/89	54 FR 46317
NPRM Comment Period End	11/20/89	54 FR 41366
Comment Period Extended to 01/02/90	11/20/89	54 FR 49097
Final Action	05/21/90	55 FR 25396
Final Action Effective	07/20/90	55 FR 25396
Final Action Correction	09/25/90	55 FR 39270

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 05/21/90 (55 FR 25396)

Additional Information: RIN 2115-AD15 duplicates this entry and has therefore been terminated.

Agency Contact: LCDR R. Fitch, Project Manager, MTH-1, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-1217

RIN: 2115–AC85

1954. + USER FEES FOR COAST GUARD SERVICES (84-026)

Significance: Agency Priority

Legal Authority: 31 USC 9701

CFR Citation: 33 CFR 27; 33 CFR 66; 33 CFR 74; 33 CFR 100

Legal Deadline: None

Abstract: The whole subject of user fees is under review. Pending user fee legislation would establish fees for services covered by this rulemaking and would allow establishment of other fees that are now prohibited by existing law. Although previously considered of significance, this action was withdrawn because the pending legislation may dramatically change the scope of the rulemaking.

Timetable:

Action	Date	FR Cite
Withdrawn	01/30/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Mr. C. Perry, Project Manager, NAB-5, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-6979

RIN: 2115–AB73

1955. ● + PROGRAMS FOR CHEMICAL DRUG AND ALCOHOL TESTING OF COMMERCIAL VESSEL PERSONNEL (86-067)

Significance: Agency Priority

Legal Authority: 46 USC 2103; 46 USC 3306; 46 USC 7101; 46 USC 7301; 46 USC 7701

CFR Citation: 46 CFR 16

Legal Deadline: None

Abstract: On November 21, 1988, the Coast Guard, along with other agencies of the Department of Transportation, adopted regulations requiring pre-employment, post-accident, reasonable cause and random drug testing. Since adopting those regulations, it has been necessary to delay implementation for foreign persons and to reduce an unnecessary pre-employment testing burden on employers in cases where individuals are changing jobs.

Timetable:

Action	Date	FR Cite
Final Rule Suspension of Implementation Date	12/26/89	54 FR 52943
Final Rule Delay of Implementation Date	12/27/89	54 FR 53286
Final Rule Pre-Employment Testing (Part C)	01/08/90	55 FR 634
Final Action	10/02/90	55 FR 40178

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/02/90 (55 FR 40178)

Additional Information: The rule published on 06/08/90 (55 FR 634) was "part C" of a multipart project. "Part D" revised the pre-employment testing requirements for marine employers having more than 50 employees. This change is intended to relieve them of an unintended economic burden. For that reason, this entry has been reclassified as significant.

Agency Contact: LCDR Murphy, Project Manager, MMI, Department of Transportation, U.S. Coast Guard, 2100

Second St., SW., Washington, DC 20593-0001, 202 267-2215

RIN: 2115–AC45

1956. + USER FEES; SMALL PASSENGER AND SAILING SCHOOL VESSELS (CGD 87-020)

Significance: Agency Priority

Legal Authority: PL 99-509

CFR Citation: 46 CFR 169; 46 CFR 175

Legal Deadline: None

Abstract: Pending legislation would change the fees the Coast Guard can charge for certain services and the services for which fees can be charged. The Coast Guard will not issue rules which may be changed by that legislation.

Timetable:

Action	Date	FR Cite
Action Terminated	04/11/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: This proposal was terminated as inappropriate at this time. Legislative proposal DOT 101-3 is addressing the issue of user fees and may result in rulemaking at a later date.

Agency Contact: Mr. M. Fell, Project Manager, G-MP-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-1493

RIN: 2115–AC74

1957. + PREVENTION OF POLLUTION BY PLASTICS, ANNEX V OF MARPOL(88-002)

Significance: Agency Priority

Legal Authority: PL 100-220

CFR Citation: 33 CFR 151; 33 CFR 158

Legal Deadline: None

Abstract: This action implements Annex V of the International Convention for the Prevention of Pollution by Ships, 1973. The Act to Prevent Pollution from Ships, as amended by Title II of PL 100-220, requires the Secretary to administer and enforce the annex. The Act would reduce the incidence of discharges of plastics, including synthetic fishing nets and other ship-generated garbage, into the oceans. This rulemaking was significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	05/24/88	53 FR 23884
ANPRM Comment Period End	07/25/88	
NPRM	10/27/88	53 FR 43622
Notice of Public Hearing	10/27/88	53 FR 43622
Correction to NPRM	11/04/88	53 FR 44617
NPRM Comment Period End	11/28/88	
Interim Final Rule	04/28/89	54 FR 18384
Final Action	09/04/90	55 FR 35986
Final Action; Correction	10/01/90	55 FR 29957

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Environmental Evaluation 04/28/89 (54 FR 18384); Regulatory Evaluation 09/04/90 (55 FR 35986)

Additional Information: Comments on the Interim Final Rule were due by 12/31/89. For a related, although not significant, rulemaking see RIN 2115-AD40.

Agency Contact: LCDR C. Crampton, Project Manager, MPS-3, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-0491

RIN: 2115–AC89

1958. + ALTERNATIVE FOR LICENSING COMMERCIAL FISHING INDUSTRY VESSEL OPERATORS (88-098)

Significance: Agency Priority

Legal Authority: PL 100-424

CFR Citation: 46 CFR 10

Legal Deadline: None

Abstract: Public Law 100-424, The Commercial Fishing Industry Vessel Safety Act, requires the Coast Guard to submit to Congress a plan for licensing operators of documented fishing, fish processing, and fish tender vessels. The 12/89 Notice informed the public of this requirement and solicited comments. Public meetings were announced by the July 90 Notice. This completes this entry. Should a future rulemaking result, it will be published in the Agenda. This action was considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Notice Request for Comments	12/19/89	54 FR 51984
Final Action	07/02/90	55 FR 27324

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LCDR Bruce Pickard, Project Manager, MVP-3, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-6219

RIN: 2115–AD46

1959. LAUNCHING DEVICES FOR INFLATABLE LIFE RAFTS (79-166)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 3305

CFR Citation: 46 CFR 160; 46 CFR 163

Legal Deadline: None

Abstract: The issues involved in this rulemaking are being examined by the International Maritime Organization. The Coast Guard will not impose new rules for the United States which will not be in harmony with international standards. For this reason, this action was withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	02/13/86	50 FR 5377
NPRM Comment Period End	05/13/86	
Withdrawn	05/01/90	55 FR 18142

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/13/86 (51 FR 5377)

Agency Contact: Mr. Kurt Heinz, Project Manager, MVI-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AA45

1960. PERSONAL FLOTATION DEVICES (81-023)

Significance: Nonsignificant

Legal Authority: 46 USC 1454; 46 USC 1400

CFR Citation: 33 CFR 175; 33 CFR 181

DOT—USCG

Completed Actions

Legal Deadline: None

Abstract: This action revised and updated requirements for personal flotation device (PFD) pamphlets. It incorporated by reference the PFD pamphlet design and packaging requirements in Underwriters Laboratories Standard for Marine Buoyant Devices (UL 1123) and removed an obsolete exemption from PFD carriage requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/12/82	47 FR 15606
NPRM Comment Period End	06/11/82	
SNPRM	11/20/89	54 FR 47995
Final Action	08/06/90	55 FR 32032
Final Rule; Correction	08/10/90	55 FR 32733
Final Rule; Correction	09/11/90	55 FR 37403
Final Action Effective	02/04/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/06/90 (55 FR 32032)

Additional Information: Docket No. CGD 81-023.

Agency Contact: Mr. C. Perry, Project Manager, NAB-5, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-6979

RIN: 2115–AA58

1961. GENERAL BRIDGE PERMIT REGULATIONS (81-057)

Significance: Nonsignificant

Legal Authority: 33 USC 401

CFR Citation: 33 CFR 115

Legal Deadline: None

Abstract: This proposal was withdrawn after comments received on the NPRM indicated that the regulation would not achieve the intended results.

Timetable:

Action	Date	FR Cite
NPRM	09/23/82	47 FR 41988
NPRM Supplemental	04/24/86	51 FR 15503
Withdrawn	03/05/90	55 FR 7745

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 04/24/86 (51 FR 15503)

Agency Contact: Ms. B. Gallahan, Chief, Bridge Permits Branch, NBR-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-6368

RIN: 2115–AA61

1962. POLLUTION-PREVENTION REGULATIONS FOR TANKERS: GENERAL REVISIONS OF 33 CFR 157 (82-030)

Significance: Nonsignificant

Legal Authority: 43 USC 3306; 46 USC 2104; 46 USC 3703

CFR Citation: 33 CFR 157

Legal Deadline: None

Abstract: This project was to amend pollution regulations to clarify them, correct minor errors, and incorporate policy decisions and international interpretations. However, as a result of events, new tanker pollution-prevention requirements in recent legislation have made further action on this project unnecessary and it was terminated.

Timetable:

Action	Date	FR Cite
Action Terminated	08/07/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mr. S. Shapiro, Project Manager, MVI-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-1181

RIN: 2115–AA88

1963. MARINE PORTABLE TANKS (84-043)

Significance: Nonsignificant

Legal Authority: 49 USC 1801 to 1812

CFR Citation: 46 CFR 64; 46 CFR 98.30; 46 CFR 98.33; 46 CFR 98.35

Legal Deadline: None

Abstract: This final rule discontinued the Coast Guard specifications for Marine Portable Tanks. In their place, the Coast Guard will recognize tanks approved by the Department of Transportation, Research and Special Programs Administration as Intermodal Tanks.

Timetable:

Action	Date	FR Cite
NPRM	09/11/89	54 FR 37482
NPRM Comment Period End	12/11/89	
Final Action	09/11/90	55 FR 37406
Final Action Effective	10/01/90	
Final Action; Correction	10/04/90	55 FR 40755

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/11/90 (55 FR 37406)

Agency Contact: Mr. F. Thompson, Project Manager, MTH-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-1577

RIN: 2115–AB69

1964. GUIDELINES ON NAVIGATION BRIDGE VISIBILITY (85-099)

Significance: Nonsignificant

Legal Authority: 46 USC 369; 46 USC 391a

CFR Citation: 33 CFR 164; 46 CFR 32; 46 CFR 72; 46 CFR 91; 46 CFR 92; 46 CFR 108; 46 CFR 157; 46 CFR 190

Legal Deadline: None

Abstract: Limited visibility from the navigation bridge of vessels has been identified as a factor in vessel casualties and near-misses. This action established standards of vessel design and operation to ensure that visibility from the navigation bridge is adequate to provide for safe navigation and operation.

Timetable:

Action	Date	FR Cite
NPRM	03/24/89	54 FR 12241
NPRM Comment Period End	07/24/89	
Final Action	08/08/90	55 FR 32244
Final Action Effective	09/07/90	
Final Action; Correction	10/02/90	55 FR 40260

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/08/90 (55 FR 32244)

Additional Information: Formerly entitled Navigation Bridge Visibility.

DOT—USCG

Completed Actions

Agency Contact: Lt(jg) S. Godfrey, Project Manager, NSR-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-0352

RIN: 2115–AC42

1965. ALTERNATIVE PROVISIONS FOR REINSPECTIONS OF OFFSHORE SUPPLY VESSELS IN FOREIGN PORTS (CGD 82-004A)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3301

CFR Citation: 46 CFR 91

Legal Deadline: None

Abstract: The Coast Guard amended the regulations concerning the reinspection of offshore supply vessels (OSVs) in foreign ports. Previously OSVs holding two-year certificates of inspection were reinspected between the 10th and 14th month of the certificate's period. In recent years, more OSVs have been based overseas in remote locations. Vessel owners must reimburse the Coast Guard for inspector travel and per diem costs in connection with foreign inspections. This action established an alternative to the traditional Coast Guard mid-period reinspection. The benefits are flexibility and financial savings to the OSV industry and more effective use of Coast Guard resources.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17477
NPRM Comment Period End	08/15/88	
Final Action	01/25/90	55 FR 2522
Final Action Effective	02/26/90	55 FR 2522

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/25/90 (55 FR 2522)

Agency Contact: LCDR Bennett, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-1181

RIN: 2115–AC86

1966. CARGO GEAR INSPECTION AND TESTING (87-060)

Significance: Nonsignificant

Legal Authority: 46 USC 170; 46 USC 363; 46 USC 367

CFR Citation: 46 CFR 31; 46 CFR 71; 46 CFR 91

Legal Deadline: None

Abstract: This project changes the quadrennial cargo gear inspection and testing interval to five years. Improvements in material have been recognized worldwide and other nations have gone to a five-year interval.

Timetable:

Action	Date	FR Cite
NPRM	02/06/89	54 FR 5842
NPRM Comment Period End	04/07/89	
Final Action	05/25/90	55 FR 21548
Final Action Effective	06/25/90	55 FR 21548

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/25/90 (55 FR 21548)

Agency Contact: LCDR S. Jehnsen, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-2997

RIN: 2115–AD03

1967. PORT ACCESS ROUTES: APPROACHES TO CHESAPEAKE BAY (88-041)

Significance: Nonsignificant

Legal Authority: 33 USC 1223

CFR Citation: 33 CFR 167

Legal Deadline: None

Abstract: The Coast Guard has conducted a port access route study to determine the need for vessel routing measures in the approaches to Chesapeake Bay, VA. As a result of the study a new or modified traffic separation scheme may be adopted at a later date.

Timetable:

Action	Date	FR Cite
Final Action Publication of Study Results.	07/13/89	54 FR 29627

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Coast Guard is proposing such a Traffic Separation Scheme under RIN 2115-AD43.

Agency Contact: Ms. M. Hagy, Project Manager, NSR-3, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW., Washington, DC 20593-0001, 202 267-0415

RIN: 2115–AD09

1968. AUTOMATIC AUXILIARY BOILERS (88-057)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3703

CFR Citation: 46 CFR 63; 46 CFR 52; 46 CFR 61

Legal Deadline: None

Abstract: This action clarified the scope and applicability of Part 63, increased safety by preventing an increase in the air flow to a boiler's furnace immediately after an emergency trip, and substituted a consensus standard for existing requirements where an equivalent level of safety is provided. The time required for design approvals was reduced by eliminating several administrative and plan review procedures. The end result should be an overall reduction in costs without compromising safety.

Timetable:

Action	Date	FR Cite
NPRM	11/13/89	54 FR 47228
NPRM Comment Period End	02/12/90	
Final Action	06/15/90	55 FR 24234
Final Action Effective	07/16/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/15/90 (55 FR 24234)

Agency Contact: Mr. R. Crenwelge, Project Manager, MTH-2, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW., Washington, DC 20593-0001, 202 267-2206

RIN: 2115–AD11

1969. GREAT LAKES PILOTAGE REGULATIONS (88-111)

Significance: Nonsignificant

DOT—USCG

Completed Actions

Legal Authority: 46 USC 6101; 46 USC 7701; 46 USC 8105; 46 USC 9303; 46 USC 9304

CFR Citation: 46 CFR 401; 46 CFR 403

Legal Deadline: None

Abstract: In December of 1988 the Department of Transportation completed a study of the Great Lakes Pilotage System. The Secretary approved the study and its recommendations for improving the system. This action implemented those recommendations by requiring an annual audit, amending the rate schedule, establishing general guidelines for ratemaking, and publishing other general requirements.

Timetable:

Action	Date	FR Cite
NPRM	03/22/89	54 FR 11930
NPRM Comment Period End	05/22/89	
Final Action	04/25/90	55 FR 17580
Final Rule; Correction	05/08/90	55 FR 19145
Final Action Effective	05/25/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/25/90 (55 FR 17580)

Agency Contact: Mr. J. Hartke, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW., Washington, DC 20593-0001, 202 267-6217

RIN: 2115–AD10

1970. DOCUMENTATION OF VESSELS-HAILING PORT (89-028)

Significance: Nonsignificant

Legal Authority: 46 USC 12502

CFR Citation: 46 CFR 67

Legal Deadline: None

Abstract: Current regulations limit permissible hailing ports to the home port. Public response to these regulations shows that they are too restrictive. As a result, the Coast Guard is proposing to change the regulations to permit the designation of virtually any recognized place name in the United States as a hailing port. This action has been consolidated into RIN 2115-AD30 and will no longer appear as a separate item in the Agenda.

Timetable:

Action	Date	FR Cite
Final Action Consolidated Into RIN 2115-AD30	07/18/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LCDR Bruce, Project Manager, MVI-6, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, 202 267-1492

RIN: 2115–AD32

1971. VESSEL TRAFFIC SERVICE NEW YORK, MANDATORY PARTICIPATION (89-062)

Significance: Nonsignificant

Legal Authority: 33 USC 1221

CFR Citation: 33 CFR 161

Legal Deadline: None

Abstract: This final rule requires all vessels subject to the Bridge-to-Bridge Radiotelephone Act within the Vessel Traffic Service (VTS) New York geographic area to comply with reporting procedures upon entry and while navigating in the VTS area. The proposal is necessary because of the amount of dangerous and hazardous cargoes transiting the busy New York Harbor area.

Timetable:

Action	Date	FR Cite
NPRM	02/02/90	55 FR 3704
NPRM Comment Period End	03/19/90	
Final Action	08/27/90	55 FR 34908
Final Action Correction	09/19/90	55 FR 38545
Final Action Effective	12/01/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/02/90 (55 FR 3704)

Agency Contact: Mr. B. Riley, Project Manager, NSP, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW., Washington, DC 20593-0001, 202 267-0412

RIN: 2115–AD39

1972. REMOVAL OF COMPUTER PROGRAMS FROM LIST OF SERVICES (89-065)

Significance: Nonsignificant

Legal Authority: 14 USC 632

CFR Citation: 33 CFR 1

Legal Deadline: None

Abstract: This proposal amended a listing of services offered by the Coast Guard by removing all computer programs. These programs were obsolete and no longer reflected the services offered.

Timetable:

Action	Date	FR Cite
Final Action	06/13/90	55 FR 23930

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mr. J. Spencer, Division Chief, MTH-3, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-2988

RIN: 2115–AD41

1973. ● OFFSHORE OIL POLLUTION COMPENSATION FUND BARREL FEE LEVY (90-005)

Significance: Nonsignificant

Legal Authority: 43 USC 1811 to 1824

CFR Citation: 33 CFR 135

Legal Deadline: None

Abstract: As mandated by recent legislative changes, the Coast Guard is levying a $.03 fee on each barrel of oil produced on the Outer Continental Shelf. This action will permit the Internal Revenue Service to resume collections of the barrel fee from the owners of Outer Continental Shelf crude oil until the Offshore Oil Pollution Compensation Fund balance reaches its new statutory maintenance level of $200,000,000.

Timetable:

Action	Date	FR Cite
Final Action	04/24/90	55 FR 17267
Final Action Effective	08/01/90	55 FR 17267

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/24/90 (55 FR 17267)

DOT—USCG

Completed Actions

Agency Contact: Mr. F. Martin Jr., Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-6535

RIN: 2115–AD49

1974. ● FEES CHARGED FOR SERVICES PERFORMED BY THE COAST GUARD (89-065)

Significance: Nonsignificant

Legal Authority: 5 USC 632; 5 USC 633

CFR Citation: 33 CFR 1

Legal Deadline: None

Abstract: The Coast Guard removed regulations concerning fees charged for landings of aircraft at Coast Guard Air Station, Elizabeth City, NC.

Timetable:

Action	Date	FR Cite
Final Action	06/13/90	55 FR 23930
Final Action Effective	06/13/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/13/90 (55 FR 23930)

Agency Contact: Lt. B. Branham, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-2988

RIN: 2115–AD50

1975. ● COLLISION AVOIDANCE REGULATIONS DEMARCATION LINES (89-066)

Significance: Nonsignificant

Legal Authority: 14 USC 633

CFR Citation: 33 CFR 80

Legal Deadline: None

Abstract: This action clearly defined the demarcation line between the inland and international rules of the road. It was necessary to avoid confusion in the use of passing and meeting signals.

Timetable:

Action	Date	FR Cite
NPRM	01/25/90	55 FR 2539
NPRM Comment Period End	03/12/90	
Final Action	08/06/90	55 FR 31830
Final Rule; Correction	08/16/90	55 FR 33576
Final Action Effective	09/05/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/06/90 (55 FR 31830)

Agency Contact: Mr. Palmer, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-0406

RIN: 2115–AD55

1976. ● LORAN-C MID-CONTINENT EXPANSION PROJECT: ANTENNA POSITIONS (90-031)

Significance: Nonsignificant

Legal Authority: 14 USC 81

CFR Citation: 33 CFR 62

Legal Deadline: None

Abstract: This action published the transmitter antenna position survey data for the LORAN-C antennas.

Timetable:

Action	Date	FR Cite
Final Action Survey Published	05/16/90	55 FR 20361

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cdr G. Gunther, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, 202 267-6286

RIN: 2115–AD57

DEPARTMENT OF TRANSPORTATION (DOT)

Prerule Stage

Federal Aviation Administration (FAA)

1977. + INSTALLATION OF CRASHWORTHY FUSELAGE FUEL TANKS AND FUEL LINES

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449; PL 100-591

CFR Citation: 14 CFR 25

Legal Deadline: NPRM, Statutory, February 3, 1989.
Public Law 100-591, Aviation Safety Research Act of 1988.

Abstract: This preliminary action is to determine the feasibility of installing, in all air carrier aircraft, crashworthy fuselage fuel tanks and fuselage fuel lines which are rupture resistant and which disconnect and seal in the event of an accident. This notice solicits public participation in identifying and selecting a regulatory course of action by inviting interested persons to submit specific comments and arguments concerning this proposed regulatory action. This rulemaking is considered significant because of a statutory requirement. In view of comments received, a second ANPRM will be issued.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/89	54 FR 18624
ANPRM Comment Period End	10/30/89	
Second ANPRM	04/14/92	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Project No. ANM-89-005R.

Agency Contact: James Walker, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2116

RIN: 2120–AC87

1978. + SOLE RADIO NAVIGATION SYSTEM; MINIMUM STANDARDS FOR CERTIFICATION

Significance: Agency Priority

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352; 49 USC 1353; 49 USC 1354; 49 USC 1355; 49 USC 1401; 49 USC 1421; 49

DOT—FAA

Prerule Stage

USC 1422; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; ...

CFR Citation: 14 CFR 91

Legal Deadline: Final, Statutory, September 30, 1988. Airway Safety and Capacity Expansion Act of 1987 (PL 100-223).3

Abstract: This notice proposed to establish minimum standards under which a radio navigation system may be certified as the sole radio navigation system required in an aircraft conducting Instrument Flight Rules en route and terminal area operations, including nonprecision approach, in controlled airspace in the United States. This notice was developed in response to the Airport and Airway Safety and Capacity Expansion Act of 1987. This rulemaking is considered significant because of a congressional mandate. In view of comments received, a second ANPRM will be issued.

Timetable:

Action	Date	FR Cite
ANPRM	01/22/88	55 FR 2258
ANPRM Comment Period End	05/22/90	
Second ANPRM	09/15/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Project No. AFS-89-215-R. This project was formerly entitled Sole Means Radio Navigation System.

Agency Contact: Robert R. Grimes, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-3722.

RIN: 2120-AD26

1978. REVIEW OF PART 135, AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1355(a); 49 USC 1421 to 1431; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 135

Legal Deadline: None

Abstract: This part governs: (1) air taxi operations conducted under Part 298; (2) transportation of mail by aircraft conducted under a postal service contract; and (3) carriage of persons or property for compensation or hire as a commercial operator in specified aircraft.

This part is being reviewed to comply with the Regulatory Flexibility Act.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Agency Contact: Marvin L. Olson, Manager, Systems & Policy Analysis Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-3296

RIN: 2120-AB28

1980. LOCATION OF MARKS ON FIXED-WING AIRCRAFT AND AIRSHIPS

Significance: Nonsignificant

Legal Authority: 49 USC 1348; 49 USC 1354; 49 USC 1401; 49 USC 1402; 49 USC 1421; 49 USC 1423; 49 USC 1522; 49 USC 106(g)

CFR Citation: 14 CFR 45

Legal Deadline: None

Abstract: This action would propose to amend the regulations for the location of nationality and registration marks on fixed-wing aircraft and airships. This action would modify the requirements for the location of marks on fixed-wing aircraft and airships with configurations that are not addressed by the existing regulations. These amendments are needed because existing rules cannot be applied to unconventional aircraft and airship configurations and they would allow for alternative locations for nationality and registration markings.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No. AVS-86-132P.

Agency Contact: Earl Seabrooks, Aircraft Manufacturing Division, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8549

RIN: 2120-AC99

1981. NORTH ATLANTIC MINIMUMS/MINIMUM NAVIGATIONAL PERFORMANCE STANDARDS

Significance: Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 2121 to 2125; 49 USC 106(g); EO 11514

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This notice proposed to amend Part 91 of the Federal Aviation Regulations to require that U.S. general aviation aircraft follow minimum navigational performance standards while flying over the North Atlantic and to require that U.S. flight crews utilize proper procedures to enable the flight to adhere to assigned routes within the stringent requirements of the minimum navigational performance standards.

Timetable:

Action	Date	FR Cite
ANPRM	09/05/90	55 FR 36592
ANPRM Comment Period End	01/03/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/05/90 (55 FR 36592)

Additional Information: Project Number AXR-89-175R.

Agency Contact: William Cook, General Aviation and Commercial Division, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8150

RIN: 2120-AD59

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Proposed Rule Stage

1942. + CIVIL SUPERSONIC AIRCRAFT NOISE TYPE CERTIFICATION STANDARDS AND OPERATING RULES

Significance: Regulatory Program

Legal Authority: 49 USC 1344; 49 USC 1348; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 1431(b); 49 USC 1651(b)(2); 49 USC 2121 to 2125; 49 USC 106(g)

CFR Citation: 14 CFR 36; 14 CFR 91

Legal Deadline: None

Abstract: This notice proposes revisions to the aircraft type certification standards and operating rules to require that future supersonic aircraft meet noise limits consistent with those required for future subsonic aircraft. These revisions would aid the development of next-generation supersonic aircraft by establishing a noise impact goal that is consistent with noise limits for conventional (subsonic) aircraft. The FAA believes that these revisions are necessary to guide developers of supersonic aircraft and to assure consistent and equitable noise type certification standards and operating rules for both subsonic and supersonic aircraft. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	10/30/86	51 FR 39663
ANPRM Comment Period End	02/27/87	
Comment Period Reopened Until 07/01/87	03/12/87	52 FR 7618
NPRM	05/30/90	55 FR 22020
NPRM Comment Period End	11/26/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/30/90 (55 FR 22020)

Additional Information: Docket 25109. Formerly entitled SST Stage 3 Compliance. Project No. AEE-86-012R.

Agency Contact: Richard N. Tedrick, Policy and Regulatory Division, Office of Environment, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591, 202 267-3568

RIN: 2120-AC22

1963. + FATIQUE EVALUATION OF STRUCTURE

Significance: Regulatory Program

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This notice would propose to revise the fatigue requirements for damage-tolerant structures on transport category airplanes to require full-scale fatigue testing and to require that the thresholds for inspections be based on crack growth from initial flaws in the structure. These proposed changes are based on the service history of airplanes evaluated to the current damage tolerance requirements and are intended to ensure that, should serious fatigue damage occur within the operational life of the airplane, the remaining structure can withstand reasonable loads without failure until the damage is detected. This rulemaking is considered significant because of its safety implications and substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/28/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/28/90

Additional Information: Project Number ANM-88-013R.

Agency Contact: Iven Connally, Northwest Mountain Region, Department of Transportation, Federal Aviation Administration, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 451-2118

RIN: 2120-AD42

1964. + FATIGUE TEST REQUIREMENTS FOR AGING AIRCRAFT

Significance: Regulatory Program

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This notice would require full-scale fatigue testing on the current fleet of aging transport airplanes to two times their design service. If adopted, this rulemaking would apply to all turbine-powered transport category airplanes certified in any category. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/21/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/21/91

Additional Information: Project Number ANM-90-004R.

Agency Contact: Iven Connally, Northwest Mountain Region, Department of Transportation, Federal Aviation Administration, 17900 Pacific Highway, South, C-68966, Seattle, Washington 98168, 206 431-2118

RIN: 2120-AD43

1965. + REVISION OF PART 108, AIRPLANE OPERATOR SECURITY

Significance: Regulatory Program

Legal Authority: 49 USC 1354; 49 USC 1356; 49 USC 1357; 49 USC 1421; 49 USC 1424; 49 USC 1511; 49 USC 106(g)

CFR Citation: 14 CFR 108

Legal Deadline: None

Abstract: This notice would propose to amend Part 108 of the Federal Aviation Regulations to incorporate new requirements in response to worldwide terrorist activity. This rulemaking is considered significant because of its safety implications and substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	09/28/91	

Small Entities Affected: None

Government Levels Affected: None

DOT—FAA

Proposed Rule Stage

Analysis: Regulatory Evaluation 09/25/91

Additional Information: Project Number AVS-87-107R.

Agency Contact: David Smith, Office of Civil Aviation Security, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-3486

RIN: 2120-AD45

1986. + REVISION OF PART 107, AIRPORT SECURITY

Significance: Regulatory Program

Legal Authority: 49 USC 1354; 49 USC 1356; 49 USC 1357; 49 USC 1358; 49 USC 1421; 49 USC 106(g)

CFR Citation: 14 CFR 107

Legal Deadline: None

Abstract: This notice would propose to amend Part 107 of the Federal Aviation Regulations to incorporate new requirements in response to the worldwide terrorist activity. This rulemaking is considered significant because of its safety implications and substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/25/91

Additional Information: Project Number AVS-87-106R.

Agency Contact: Robert Cammaroto, Office of Civil Aviation Security, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-7723

RIN: 2120-AD46

1987. + REVISION OF MEDICAL STANDARDS AND CERTIFICATION PROCEDURES

Significance: Agency Priority

Legal Authority: 49 USC 1354; 49 USC 1355; 49 USC 1421; 49 USC 1422; 49 USC 1427

CFR Citation: 14 CFR 67

Legal Deadline: None

Abstract: This notice would revise the medical standards and the medical certification procedures of the Federal Aviation Regulations. This action follows the completion of a comprehensive review of the medical standards which was announced in previous notices. If adopted, these revised standards for airman medical certification and associated administrative procedures will better provide for safety in the aviation system and reflect current medical knowledge, practice, and terminology. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Additional Information: The FAA contracted with the American Medical Association (AMA) on August 29, 1983, to develop a comprehensive report which was used by the FAA as part of its evaluation of Part 67 standards. AMA completed a professional review of the medical standards for civil airmen. The FAA announced the availability of the AMA report in the Federal Register on May 23, 1986 (51 FR 19040). RIN 2120-AE13 has been combined into this review.

Project No. AVS-82-268R.

Agency Contact: Dennis P. McEachen, Special Projects Officer, Office of Aviation Medicine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-3428

RIN: 2120-AA70

1988. + PROPOSED REVISION OF NOISE CERTIFICATION OF TURBOJET AND LARGE TRANSPORT CATEGORY AIRCRAFT

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1421(a); 49 USC 1423; 49 USC 1431(b); 49 USC 1427; EO 11514

CFR Citation: 14 CFR 36; 14 CFR 91

Legal Deadline: None

Abstract: Contemplated action would revise certification and operational requirements for aircraft effective the date of the NPRM. On that date the current two-stage noise requirements would be replaced with a simpler single standard corresponding to the current Stage 3. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No. AEE-84-100R.

Agency Contact: Lecia E. Mailett, Deputy Director, Office of Environment, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-3576

RIN: 2120-AB83

1989. + REPAIR STATION AND REPAIRMEN CERTIFICATION RULES

Significance: Agency Priority

Legal Authority: 49 USC 1354; 49 USC 1355; 49 USC 1421; 49 USC 1427

CFR Citation: 14 CFR 43; 14 CFR 65; 14 CFR 145

Legal Deadline: None

Abstract: Current repair station rules were developed during the infancy of the aviation industry. Very few changes were made to those rules since they were adopted in 1952. This rulemaking project proposes to review foreign repair-station requirements and update the rules to reflect the current international and domestic environment and needs. The FAA has held four public meetings to solicit information and views to review the existing regulations and to explore alternatives in revising the rules of this part. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Notice of Public Meetings	07/24/90	54 FR 30668
Notice Correction	08/08/90	54 FR 32563
NPRM	07/00/91	

DOT—FAA

Proposed Rule Stage

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/08/91

Additional Information: Project No. AVS-87-045R. This project was formerly entitled Review and Revision of Repair Station Requirements.

Agency Contact: Leo Weston, Aircraft Maintenance Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591, 202 267-8283

RIN: 2120–AC38

1990. + IMPROVED ACCESS TO TYPE III EMERGENCY EXITS

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355 to 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25; 14 CFR 121

Legal Deadline: None

Abstract: This notice will propose to amend the Federal Aviation Regulations to require improved access to Type III emergency exits in transport category airplanes. This proposal is the result of tests which were conducted at the FAA's Civil Aeromedical Institute and is intended to improve the ability of occupants to evacuate an airplane under emergency conditions. It will be applicable to air carriers, air taxi operators, and commercial operators of transport category airplanes, as well as the manufacturers of such airplanes. This rulemaking is considered significant because it involves an important cabin-safety issue.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Additional Information: Formerly entitled Improved Access to Type III and Type IV Emergency Exits. Project No. ANM-86-007R.

Agency Contact: Frank Tiangsing, Aerospace Engineer, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, 206 431-2121

RIN: 2120–AC46

1991. + PARTS 121 AND 135—TRAINING, CHECKING, CERTIFICATION, AND QUALIFICATIONS REQUIREMENTS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1422; 49 USC 1427; 49 USC 106(g)

CFR Citation: 14 CFR 61; 14 CFR 63; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would revise and upgrade the Parts 121 and 135 training, checking, certification, and qualification requirements, including cockpit resource management. In addition, commuter air carriers conducting Part 135 commuter operations in airplanes that require two pilots would be required to meet the proposed upgraded Part 121 requirements. This action is in response to recommendations of the joint Government/Industry Task Force on Flight Crew Performance and is significant because of its safety implications.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Additional Information: Project No. AXR-86-301R.

Agency Contact: David Catey, Project Development Branch, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-3759

RIN: 2120–AC79

1992. + UNITED STATES CONTROL AREA

Significance: Agency Priority

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; 49 USC 106(g); EO 10854

CFR Citation: 14 CFR 71; 14 CFR 11.69

Legal Deadline: None

Abstract: This action would propose to enhance flight safety and to simplify the flight rules associated with flights conducted under visual flight rules by requiring all visual flight rules operations above a common altitude (1,200 feet above ground level) to be conducted with the same distance from clouds and visibility minimums. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Regulatory Project No. ATO-209-87-SR.

Agency Contact: Wayne Pierce, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8783

RIN: 2120–AC38

1993. + REVISION OF AVIATION MAINTENANCE TECHNICIAN SCHOOL RULES

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1427

CFR Citation: 14 CFR 147

Legal Deadline: None

Abstract: This notice proposes to update the regulations for certificating aviation maintenance technician schools to accommodate the increasing demand for maintenance technicians with higher levels of skill and knowledge. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	09/11/90	55 FR 37416
NPRM Comment Period End	12/11/90	

Small Entities Affected: None

Government Levels Affected: None

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DOT—FAA

Proposed Rule Stage

Analysis: Regulatory Evaluation 09/11/90 (55 FR 37416)

Additional Information: Project No. AVS-87-190R.

Agency Contact: Leslie K. Vipond, General Aviation and Commercial Branch, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-3209

RIN: 2120-AD09

1984. + AIRWORTHINESS STANDARDS; OCCUPANT PROTECTION STANDARDS FOR COMMUTER CATEGORY AIRPLANES

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This rulemaking action would upgrade the occupant seat restraint systems in commuter category airplanes. It is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/22/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 10/22/90

Additional Information: Project No. ACE-87-014-R. This project was formerly entitled Improved Seat Safety Standards for Commuter Category Airplanes.

Agency Contact: Earse L. Tankesley, Manager, Standards Office, Aircraft Certification Division, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106, 816 374-5688

RIN: 2120-AD27

1985. + AIRWORTHINESS STANDARDS; EMERGENCY EXIT PROVISIONS FOR NORMAL, UTILITY, ACROBATIC, AND COMMUTER CATEGORY AIRPLANES

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This notice proposed to amend emergency egress requirements of the airworthiness standards for normal, utility, acrobatic, and commuter category airplanes. These proposed rules are necessary to improve the compatibility of the requirements for emergency exit provisions of commuter category airplanes with the corresponding requirements for similar sized transport category airplanes. These proposals provide alternative emergency exit requirements, applicable to commuter category airplanes, when additional bin safety features are included in the airplane design, and include specific requirements for flight crew emergency exits, emergency exit ditching provisions, and the size requirement of the passenger entry door for commuter category airplanes. This rulemaking is considered significant because it involves a cabin-safety issue.

Timetable:

Action	Date	FR Cite
NPRM	08/30/90	55 FR 35544
NPRM; Correction	10/04/90	55 FR 40755
NPRM Comment Period End	02/26/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/30/90 (55 FR 35544)

Additional Information: Project No. ACE-88-001R. This project was formerly entitled Exit Requirements for Part 23 Airplanes.

Agency Contact: Ervin E. Dvorak, Standards Office, Small Airplane Directorate, Department of Transportation, Federal Aviation Administration, 610 East 12th Street, Kansas City, MO 64106, 816 926-5688

RIN: 2120-AD33

1986. + CARBON DIOXIDE CONCENTRATION

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This rulemaking has been established in order to review Part 25 of the Federal Aviation Regulations to determine if the current allowable concentration of carbon dioxide in the airplane cabin and flight deck is appropriate in light of standards established for air quality in buildings occupied by the general public and with workplace exposure limits adopted by other regulatory agencies. This rulemaking is considered significant because of the safety implications.

Timetable:

Action	Date	FR Cite
NPRM	12/10/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/10/90

Additional Information: Project Number ANM-87-017R.

Agency Contact: Gary D. Lunn, Regulations Branch, Northwest Mountain Region, Department of Transportation, Federal Aviation Administration, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2118

RIN: 2120-AD47

1987. + FLIGHT ATTENDANT REST REQUIREMENTS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355(a); 49 USC 1421 to 1431; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 135

Legal Deadline: None

Abstract: This notice would propose to establish flight attendant duty and rest requirements. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/26/90	

Small Entities Affected: None

Government Levels Affected: None

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DOT—FAA

Proposed Rule Stage

Analysis: Regulatory Evaluation 10/26/90

Additional Information: Project Number AXR-90-114R.

Agency Contact: Larry Youngblut, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-3756

RIN: 2120–AD50

1998. + SUBMISSION TO DRUG TESTS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This notice would propose to require aircraft crewmembers to submit to tests that show the presence of drugs or drug metabolites when requested by law enforcement officers investigating a violation of State or local law. The proposed amendments are necessary to aid in the enforcement of existing Federal regulations that prohibit individuals from acting, or attempting to act, as crewmembers while using any drug that affects their faculties in any way contrary to safety. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	11/19/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/19/90

Additional Information: Project Number AXR-90-082R.

Agency Contact: Noreen Hannigan, Office of Rulemaking, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-7825

RIN: 2120–AD60

1999. ● + PROPOSED AMENDMENT TO PART 135 - AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355 to 1357; 49 USC 1401; 49 USC 1421; 49 USC 1422; 49 USC 1427; 49 USC 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would propose to modify the FAA's anti-drug rule as it applies to operators who are not required to hold Part 121 or Part 135 certificates. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Additional Information: Project Number AAM-90-307R.

Agency Contact: Julie Murdoch, Drug Abatement Branch, Office of Aviation Medicine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8220

RIN: 2120–AD65

2000. ● + ANTI-DRUG PROGRAM; CONSOLIDATED AMENDMENTS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421; 49 USC 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This notice would propose revisions to certain provisions of the FAA's anti-drug rule in order to clarify the responsibilities of the employer and the medical review officer under the rule. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/12/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number AAM-90-305R.

Agency Contact: Julie Murdoch, Drug Abatement Branch, Office of Aviation Medicine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8220

RIN: 2120–AD67

2001. ● + ESTABLISHMENT AND DISCONTINUANCE CRITERIA FOR LORAN-C NONPRECISION APPROACH PROCEDURES

Significance: Agency Priority

Legal Authority: 49 USC 1343; 49 USC 1348; 49 USC 1348; 49 USC 1354(a); 49 USC 1355; 49 USC 1401; 49 USC 1421; 49 USC 1422 to 1430; 49 USC 1472(c); 49 USC 1502; 49 USC 1522; 49 USC 106(g)

CFR Citation: 14 CFR 170

Legal Deadline: None

Abstract: This proposed rule would prescribe benefit-cost-based criteria for establishment and discontinuance of LORAN-C nonprecision approach procedures at airports. It would consider traffic density, passengers served, and aircraft operating efficiencies along with the cost of establishing and maintaining an approach. The criteria will provide a guide for FAA management to assure the cost-effective placement of LORAN-C approaches. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/29/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/29/91

Additional Information: Project Number APO-90-340R.

Agency Contact: Norman Ekval, Office of Aviation Policy and Plans, Department of Transportation, Federal

DOT—FAA

Proposed Rule Stage

Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-3262

RIN: 2120–AD66

2002. ● + TRANSPONDER-ON REQUIREMENTS

Significance: Agency Priority

Legal Authority: 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352; 49 USC 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g)

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: The notice would revise the Federal Aviation Regulations to allow operation of an aircraft with the transponder off under certain conditions. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Additional Information: Project Number ATP-90-361R.

Agency Contact: William Davis, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8783

RIN: 2120–AD69

2003. ● + FLIGHT RECORDERS AND COCKPIT VOICE RECORDERS

Significance: Agency Priority

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 81 Stat 1180; Convention on Int'l Civil Aviation, Articles 12, 29, 31 et al.

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: The FAA proposes to amend its regulations so that Part 91 operators may continue flights or ferry certain aircraft in the event that the flight recorder and/or cockpit voice recorder is inoperable. This change will provide Part 91 operators the same relief currently provided to holders of air carrier or commercial operator certificates when they are operating under Part 91. Additionally, this change would allow Part 91 operators to operate for up to 10 days with an inoperative FR or CVR. These proposed amendments are intended to prevent Part 91 operations from being forced out of service unnecessarily. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Agency Contact: Thomas Glista or Edna French, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591, 202 267-8150

RIN: 2120–AD82

2004. ● REVIEW OF PART 47, AIRCRAFT REGISTRATION, AND PART 49, RECORDING OF AIRCRAFT TITLES AND SECURITY DOCUMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1354; 49 USC 1401; 49 USC 1403; 49 USC 1405; 49 USC 1406; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 47; 14 CFR 49

Legal Deadline: None

Abstract: This notice would propose to update Parts 47 and 49 of the Federal Aviation Regulations to reflect changes in the law, legal interpretations, other recent rulemaking actions, and the FAA's current aircraft registry practices. The intent of these proposed changes is to articulate, modernize, and simplify the existing regulations rather than alter established procedures.

Timetable:

Action	Date	FR Cite
NPRM	04/25/91	

Small Entities Affected: None.

Government Levels Affected: None

Additional Information: Project Number AVN-89-201R.

Agency Contact: Agnes Jones, Aviation Standards National Field Office, Department of Transportation, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur, Oklahoma City, Oklahoma 73125, 405 686-7357

RIN: 2120–AC17

2005. OBJECTS AFFECTING NAVIGABLE AIRSPACE

Significance: Nonsignificant

Legal Authority: 49 USC 1348; 49 USC 1354; 49 USC 1421 to 1430; 49 USC 1501, 49 USC 106(g)

CFR Citation: 14 CFR 77

Legal Deadline: None

Abstract: This notice proposed amendments to the standards, aeronautical studies, scope, and notice provisions concerning objects affecting navigable airspace. The notice consisted primarily of changes required by recent legislation or recommended by a government/industry task group of the National Airspace Review Advisory Committee. This notice also introduced language to cover electromagnetic interference phenomenon that could create a hazard to air navigation.

Timetable:

Action	Date	FR Cite
Notice of Review	06/19/78	43 FR 26322
Review Conference	12/08/80	
National Airspace Review Begins	07/09/84	
NPRM	08/03/90	55 FR 31722
NPRM; Correction	08/13/90	55 FR 32999
NPRM; Correction	08/16/90	55 FR 33577
NPRM; Correction	08/28/90	55 FR 35152
NPRM; Correction	09/10/90	55 FR 37287
NPRM Comment Period End	12/31/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 08/03/90 (55 FR 31722)

Additional Information: Regulatory Project ATO-200-85-15R.

DOT—FAA

Proposed Rule Stage

Agency Contact: William C. Davis, Manager, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9783

RIN: 2120–AA09

2006. FUEL SYSTEM FIRE PROTECTION

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 106(g)

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would amend Sec. 25.975 to require fuel tank vent protection during ground fires and Sec. 25.1189 to require design practices which maximize the probability of engine fuel supply shut-off in a potential fire situation.

Timetable:

Action	Date	FR Cite
ANPRM	09/28/84	49 FR 38078
ANPRM Comment Period End	01/25/85	
NPRM	05/01/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/01/91

Additional Information: Docket 24251. Formerly entitled Implementation of SAFER Propulsion System Recommendations. Project No. ANM-82-050R.

Agency Contact: James M. Walker, Department of Transportation, Federal Aviation Administration, NorthWest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, 206 431-2116

RIN: 2120–AA49

2007. AIRCRAFT SIMULATOR USE IN AIRMAN TRAINING AND CERTIFICATION

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1424 Federal Aviation Act of 1958, Sec. 604

CFR Citation: 14 CFR 61; 14 CFR 135

Legal Deadline: None

Abstract: This notice will propose to amend Part 61 to permit additional use of and establish approval criteria for aircraft simulators and training devices for airman training and certification by amending various sections of Part 61 and appendices including additional appendices for rotorcraft and helicopters and by adding a new appendix for advanced simulation criteria. Additionally, this notice will propose to permit additional usage of aircraft simulators and training devices for the pilot-in-command proficiency requirements of Part 61 for airmen operating large or multiengine turbojet-powered aircraft.

Timetable:

Action	Date	FR Cite
NPRM	12/03/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/03/90

Additional Information: Project No. AVS-83-105R.

Agency Contact: Brian Calendine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8150

RIN: 2120–AA83

2008. COMPOSITE PROPELLERS

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 35

Legal Deadline: None

Abstract: This action would revise Part 35 Fatigue Limit Test (Propellers) to add requirement for composite propellers to include environmental effects in fatigue evaluation, bird impact, and lightning protection.

Timetable:

Action	Date	FR Cite
NPRM	03/04/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/04/91

Additional Information: Formerly titled Fatigue Evaluation, Bird Impact, and Lightning Protection for Propellers of Composite Construction. Project No. ANE-83-002R.

Agency Contact: M. Beckman, Aerospace Engineer, Department of Transportation, Federal Aviation Administration, ANE-110, FAA NE Region, 12 New England Executive Park, Burlington, MA 01803, 617 273-7079

RIN: 2120–AB05

2009. STANDARDS FOR APPROVAL OF A REDUCED V1 METHODOLOGY FOR TAKEOFF ON WET AND CONTAMINATED RUNWAYS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a) to 1357; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action proposes amendments to Parts 25, 121, and 135 of the Federal Aviation Regulations (FAR) to add new standards for transport category airplanes which would provide for approval of a reduced takeoff decision speed (V1) methodology for takeoff on wet and contaminated runways. In view of comments received, a second NPRM will be issued.

Timetable:

Action	Date	FR Cite
NPRM	11/30/87	52 FR 45578
NPRM Comment Period End	03/30/88	
Second NPRM	06/12/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/30/87 (52 FR 45578)

DOT—FAA

Proposed Rule Stage

Additional Information: Docket 25471. Project No. ANM-83-000R.

Agency Contact: Bill Boxwell, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, 206 431-2111

RIN: 2120-AB17

2010. ENGINE FUEL AND INDUCTION SYSTEMS

Significance: Nonsignificant

Legal Authority: 49 USC 1354; 49 USC 1421; 49 USC 1423

CFR Citation: 14 CFR 33

Legal Deadline: None

Abstract: Advance notice proposed the addition of a new paragraph, FAR Section 33.35(f), to incorporate requirements for the fuel mixture to go to full-rich if a disconnect occurs in the mixture linkage. NPRM would require both the fuel-air mixture control device and throttle control device to move automatically to an acceptable position for continued safe operation in the event that the control linkage of these levers becomes disconnected.

Timetable:

Action	Date	FR Cite
ANPRM	02/28/86	51 FR 7224
ANPRM Comment Period End	04/29/86	
NPRM	01/22/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/22/91

Additional Information: Project No. ANE-85-08SR.

Agency Contact: George Mulcahy, Aerospace Engineer, Department of Transportation, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, MA 01803, 617 273-7077

RIN: 2120-AB78

2011. NON-FEDERAL AIR TRAFFIC CONTROL TOWERS

Significance: Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 42 USC 4321; 49 USC 106(g)

CFR Citation: 14 CFR 91; 14 CFR 105

Legal Deadline: None

Abstract: The adoption of this recommendation would allow review, study, and proposal of changes to Parts 91 and 105 of the regulations. This proposal would define the responsibilities of non-Federal air traffic control towers as to compliance with FAA air traffic control towers. This proposal would have an effect on local and State governments.

Timetable:

Action	Date	FR Cite
NPRM	01/22/91	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 01/22/91

Additional Information: Regulatory Project No. ATO-200-87-14R.

Agency Contact: Robert Laser, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8761

RIN: 2120-AC59

2012. ROTORCRAFT CRASH RESISTANT FUEL SYSTEMS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This project proposes to implement requirements in Parts 27 and 29 for crash-resistant fuel systems to reduce injuries or fatalities resulting from ignition of flammable fluids following an otherwise survivable crash of a rotorcraft.

Timetable:

Action	Date	FR Cite
NPRM	10/05/90	55 FR 41000
NPRM Comment Period End	04/03/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/05/90 (55 FR 41000)

Additional Information: Formerly entitled Fuel System Crashworthiness. Project No. ASW-85-00R.

Agency Contact: Mike Mathias, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0111, 817 624-5118

RIN: 2120-AC66

2013. © AIR TRAFFIC CONTROL CLEARANCE ACKNOWLEDGEMENT

Significance: Nonsignificant

Legal Authority: 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352; 49 USC 1355; 49 USC 1401; 49 USC 1421; 49 USC 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1522; 49 USC 2121 to 2125

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This rulemaking would require pilots to read back all clearances dealing with holding short, taking off, crossing, and proceeding onto a runway.

Timetable:

Action	Date	FR Cite
NPRM	04/11/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/11/91

Additional Information: Project Number ATO-88-017R.

Agency Contact: Robert Laser, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8783

RIN: 2120-AC91

2014. PROPOSED ESTABLISHMENT OF THE HOUSTON HOBBY TERMINAL CONTROL AREA

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a); 49 USC 1345(a); 49 USC 1510; EO 10854; 49 USC 106(g)

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action is intended to increase the capability of the air traffic control (ATC) system to separate all aircraft in the terminal airspace surrounding this airport. It is based on data indicating that a high percentage of near midair collisions reported to the FAA in terminal areas involved visual flight rules aircraft that are not required to be under the control of ATC. The objective of this proposal is to substantially increase safety while accommodating the legitimate concerns of airspace users.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lewis W. Still, Air Traffic Operations Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8228

RIN: 2120-AD04

2015. SMALL AIRPLANE AIRWORTHINESS REVIEW PROGRAM NOTICE NO. 4

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action proposes changes to the airframe and flight airworthiness standards for normal, utility, acrobatic, and commuter category airplanes that are based on a number of recommendations discussed at the Small Airplane Airworthiness Review Conference held on October 22-26, 1984. This action arises from the recognition that updated safety standards are needed for an acceptable level of safety in the design requirements for small airplanes used in both private and commercial operations. This action will include design requirements applicable to advancements in technology being incorporated in current designs and will reduce the regulatory burden in showing compliance with some requirements while maintaining an acceptable level of safety.

Timetable:

Action	Date	FR Cite
NPRM	06/28/90	55 FR 26534
NPRM correction	08/24/90	55 FR 34787
NPRM Comment Period End	10/25/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/28/90 (55 FR 26534)

Additional Information: Project No. ACE-84-012R.

Agency Contact: Bobby Sexton, Standards Office, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 610 East 12th Street, Kansas City, Missouri 64106, 816 426-5688

RIN: 2120-AD20

2016. MAINTENANCE RECORDING REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1421 to 1430; 49 USC 1502

CFR Citation: 14 CFR 91; 14 CFR 121

Legal Deadline: None

Abstract: This rulemaking action would clearly define the recordkeeping requirements related to airworthiness directives and life-limited parts. This rulemaking would also specifically identify and describe the types of records which would be acceptable to the FAA and the required retention period for these records.

Timetable:

Action	Date	FR Cite
NPRM	12/10/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/10/90

Additional Information: Project No. AXR-89-181-R.

Agency Contact: George H. Johnson, Project Development Branch, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-3729

RIN: 2120-AD25

2017. IMPROVED FLAMMABILITY STANDARDS FOR MATERIALS USED IN THE INTERIORS OF TRANSPORT CATEGORY AIRPLANE CABINS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 1472; 49 USC 106(g)

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This notice proposed to clarify the recently adopted standards concerning the flammability of components used in the cabins of certain transport category airplanes. These clarifications would be applicable to air carriers, air taxi operators and commercial operators, as well as manufacturers of such airplanes.

Timetable:

Action	Date	FR Cite
NPRM	04/12/90	55 FR 13886
NPRM Comment Period End	10/08/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/12/90 (55 FR 13886)

Additional Information: Project No. ANM-88-024R.

Agency Contact: Gary Killion, Manager, Regulations Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2112

RIN: 2120-AD28

2018. SMALL AIRPLANE AIRWORTHINESS REVIEW PROGRAM NOTICE NO. 5

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action proposes changes to the powerplant and equipment airworthiness standards for normal, utility, acrobatic, and commuter category airplanes that are based on certain proposals and recommendations discussed at the Small Airplane Airworthiness Review Conference held in St. Louis, Missouri, on October 22-25, 1984. These proposals arise from the recognition, by both government and industry, that updated safety standards are needed to maintain an acceptable level of safety in the design requirements for small airplanes that are used in both private and commercial operations. These proposals, if adopted, will include design requirements applicable to advancements in technology being incorporated in current designs and reduce the regulatory burden in showing compliance with some requirements while maintaining an acceptable level of safety.

Timetable:

Action	Date	FR Cite
NPRM	10/03/90	55 FR 40599
NPRM Comment Period End	04/01/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/03/90 (55 FR 40599)

Additional Information: Project No. ACE-84-11R.

Agency Contact: Earsa L. Tankesley, Manager, Standards Office, Department of Transportation, Federal Aviation Administration, 601 E. 12th Street, Kansas City, MO 64106, 816 426-6939

RIN: 2120-AD30

2019. DESIGNATED ENGINEERING ORGANIZATION AUTHORIZATION PROCEDURES

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 1651; 49 USC 1657; 49 USC 106(g)

CFR Citation: 14 CFR 21; 14 CFR 121; 14 CFR 135; 14 CFR 145

Legal Deadline: None

Abstract: This action would amend the Federal Aviation Regulations by combining and amending the Delegation Option Authorization Procedures, the Designated Alteration Station Authorization Procedures, and the Development of Major Repair Data into a revised Subpart J of Part 21 entitled "Designated Engineering Organization Authorization Procedures (DEO).

This action would: (1) broaden existing delegation of aircraft certification and approval functions to organizations in the United States; (2) extend these functions to domestic organizations which possess the necessary technical and managerial qualifications specified in revised Subpart J of Part 21; (3) improve the standardization and reduce the long-term cost of FAA certification and approval functions; and (4) result in DEO conducted programs that are equivalent in safety and compliance to standard FAA conducted programs.

Timetable:

Action	Date	FR Cite
NPRM	05/09/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/09/91

Additional Information: Project No. AVS-85-249R.

Agency Contact: George Marania, Aircraft Engineering Division, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8580

RIN: 2120-AD31

2020. REQUIREMENTS FOR AIRCRAFT PROTECTION IN HIGH ENERGY RADIATED ELECTROMAGNETIC FIELDS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 23; 14 CFR 25; 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This action would amend the Federal Aviation Regulations by adding a new requirement for the protection of electrical and electronic systems in high energy radiated electromagnetic fields.

Timetable:

Action	Date	FR Cite
NPRM	12/10/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/10/90

Additional Information: Project No. AVS-89-160R.

Agency Contact: Abbas Rizvi, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8564

RIN: 2120-AD32

2021. DEPRESSURIZATION EVALUATION OF STRUCTURES

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1422; 49 USC 1427; 49 USC 106(g)

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would develop a retroactive requirement for transport category airplanes that would require that normally unpressurized areas and compartments be able to withstand the effects of the required depressurization failure conditions that have been applied to the pressurized compartments.

Timetable:

Action	Date	FR Cite
NPRM	11/09/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/09/90

Additional Information: Project No. ANM-88-006R.

Agency Contact: Jim Haynes, Department of Transportation, Federal Aviation Administration, 17900 Pacific

Highway South, C-68966, Seattle, Washington 98168, 206 431-2112

RIN: 2120-AD35

2022. BIRD STRIKE DAMAGE ASSESSMENT

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the Federal Aviation Regulations by upgrading the standards for protecting transport category airplanes from bird impact damage by requiring that airplanes be designed such that: (1) only minor damage would result from impact with a 4-pound bird and (2) the airplane would be capable of continued safe flight and landing after impact with an 8-pound bird. These standards are needed because of possible vulnerability of new technology flight controls, flight instruments, and flight structures to bird strike damage. These proposed changes are based on research and service experience and are intended to improve survivability of the airplane by providing better protection of critical structures and systems.

Timetable:

Action	Date	FR Cite
NPRM	12/28/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/28/90

Additional Information: Project No. ANM-87-007R.

Agency Contact: Ivon Connolly, Northwest Mountain Region, Department of Transportation, Federal Aviation Administration, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2118

RIN: 2120-AD32

2023. 1-G STALL SPEED AS A BASIS FOR COMPLIANCE WITH PART 25

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 25; 14 CFR 36

Legal Deadline: None

Abstract: The low speed stalling features of some transport category airplanes are not characterized by the nose-down pitching that has traditionally identified the stall. As a result, the stall speed can be demonstrated to an artificially low level by continuing to decrease speed to the point that the airplane load factor is substantially less than one. The maximum usable power level may vary considerably with flight conditions. To correct this problem, this action would propose the use of a 1-*G* stall speed in all areas of Parts 25 and 36.

Timetable:

Action	Date	FR Cite
NPRM	11/15/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/15/90

Additional Information: Project No. ANM-88-041R.

Agency Contact: James Haynes, Northwest Mountain Region, Department of Transportation, Federal Aviation Administration, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2118

RIN: 2120-AD40

2024. 61-KNOT STALL SPEED; STALL SPEEDS FOR SINGLE-ENGINE AIRPLANES

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This notice would propose changes to the airworthiness standards which would relieve the 61-knot stall speed requirement applicable to single-engine airplanes.

Timetable:

Action	Date	FR Cite
NPRM	05/07/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/07/91

Additional Information: Project Number ACE-93-006R.

Agency Contact: Earon Tankesley, Manager, Standards Office, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106, 816 426-6930

RIN: 2120-AD48

2025. DISTANCE REMAINING MARKERS AND FRICTION MEASUREMENT PROGRAM

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1432; 49 USC 106(g)

CFR Citation: 14 CFR 139

Legal Deadline: None

Abstract: This notice would propose to amend the Federal Aviation Regulations to include a requirement for distance remaining markers on certain runways and a requirement for a friction measurement program at airports with certain activity levels.

Timetable:

Action	Date	FR Cite
NPRM	08/22/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/22/91

Additional Information: Project Number AAS-88-192R.

Agency Contact: Edward Rancourt, Office of Airport Safety and Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8723

RIN: 2120-AD51

2026. VISUAL FLIGHT RULES OPERATIONS

Significance: Nonsignificant

DOT—FAA

Proposed Rule Stage

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; 49 USC 106(g); EO 10854

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This notice would propose to eliminate the navigational equipment requirement for any aircraft conducting operations in a terminal control area under visual flight rules.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number ATO-90-029R.

Agency Contact: Robert Lesser, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9251

RIN: 2120-AD63

2027. TEMPORARY FLIGHT RESTRICTIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1302; 49 USC 1344; 49 USC 1348; 49 USC 1351 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g); EO 11514

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This notice would propose to revise the criteria governing aircraft operations within a temporary flight restriction area by establishing minimum aircraft distances which pilots will have to maintain from surface rescue/search activities.

Timetable:

Action	Date	FR Cite
NPRM	02/07/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/07/91

Additional Information: Project Number ATO-87-009R.

Agency Contact: Robert Lesser, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9251

RIN: 2120-AD55

2028. PARACHUTE EQUIPMENT AND PACKING REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1348; 49 USC 1354; 49 USC 1421; 49 USC 106(g)

CFR Citation: 14 CFR 105

Legal Deadline: None

Abstract: This action would propose to amend Part 105 of the Federal Aviation Regulations to permit general use of approved dual harness and parachute packs.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number AVS-88-102R.

Agency Contact: Melvin Cooper, Office of Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-3768

RIN: 2120-AD57

2029. NOISE REQUIREMENTS FOR PRIMARY CATEGORY AIRCRAFT

Significance: Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g); EO 11514

CFR Citation: 14 CFR 21; 14 CFR 36; 14 CFR 43; 14 CFR 91; 14 CFR 141; 14 CFR 147

Legal Deadline: None

Abstract: This action would propose to clarify the noise requirements applicable to primary category helicopters.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number AXR-90-111R.

Agency Contact: Anthony Moore, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9585

RIN: 2120-AD58

2030. ● PROPOSED ALTERATION OF THE ST. LOUIS TERMINAL CONTROL AREA; MISSOURI

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; 49 USC 106(g); EO 10854

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This notice proposes to alter the St. Louis, Missouri, Terminal Control Area (TCA). This proposal would maintain the altitude of the upper limits of the TCA at 8,000 feet mean sea level and redefine several existing subareas that would improve air traffic procedures and simplify visual flight rules operations outside the TCA airspace.

Timetable:

Action	Date	FR Cite
NPRM	09/13/90	55 FR 37834
NPRM Comment Period End	11/13/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/13/90 (55 FR 37834)

Additional Information: Project Number ATO-90-196T.

Agency Contact: Lewis W. Still, Air Traffic Operations Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9250

RIN: 2120-AD61

2031. ● REPORTING REQUIREMENTS: TRANSFEREE HOLDERS AND LICENSEES

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1348(a); 49 USC 1352; 49 USC 1354(a); 49 USC 1355; 49 USC 1421 to 1431; 49 USC 1502; 49 USC 106(g); EO 11514

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: This notice would require holders and licensees of a type certificate to report a failure, malfunction, or defect in a product, part, or article manufactured under that type certificate by its transferor.

Timetable:

Action	Date	FR Cite
NPRM	10/10/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number AIR-90-185R.

Agency Contact: Lyle Davis, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8338

RIN: 2120–AD04

2032. ● EXEMPTION PROCESS

Significance: Nonsignificant

Legal Authority: 49 USC 1341(a); 49 USC 1343(d); 49 USC 1348; 49 USC 1354(a); 49 USC 1401 to 1405; 49 USC 1421 to 1431; 49 USC 1481; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 11

Legal Deadline: None

Abstract: This proposed notice would revise the Federal Aviation Regulations to provide for the granting of relief from the literal compliance with certain rules provided the applicant justifies this relief and that the FAA finds that the provisions not complied with are compensated for by factors that have an equivalent level of safety or that there will be no adverse effect on safety.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number AXR-90-06SR.

Agency Contact: Linda Williams, Office of Rulemaking, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9685

RIN: 2120–AD66

2033. ● EXCLUSION OF NONELECTRIC GLIDERS AND BALLOONS FROM THE MODE S REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352; 49 USC 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g)

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This proposed rule would exclude gliders and balloons from the Mode S requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/05/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/05/91

Additional Information: Project Number ATP-90-34SP.

Agency Contact: William Davis, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8783

RIN: 2120–AD70

2034. ● APPROVAL OF TERMINAL CONTROL AREA OPERATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; 49 USC 106(g); EO 10854

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This proposed rule would eliminate the first-come, first-served rule in terminal control areas.

Timetable:

Action	Date	FR Cite
NPRM	05/30/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/30/91

Additional Information: Project Number ATP-90-34SR.

Agency Contact: William Davis, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8783

RIN: 2120–AD71

2035. ● MISCELLANEOUS AMENDMENTS TO PART 77, OBJECTS AFFECTING NAVIGABLE AIRSPACE

Significance: Nonsignificant

Legal Authority: 49 USC 1304; 49 USC 1348; 49 USC 1354; 49 USC 1431; 49 USC 1501; 49 USC 106(g)

CFR Citation: 14 CFR 77

Legal Deadline: None

Abstract: This notice would propose to revise Part 77 of the Federal Aviation Regulation. The following areas will be considered: (1) notice requirements for landfills and dumps near airports; (2) effects of proposed construction on private-use airports used by public health and welfare agency aircraft; and (3) requirements for instrument flight rules involving heliport/vertiport surfaces.

Timetable:

Action	Date	FR Cite
NPRM	07/22/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/22/91

Additional Information: Project Number ATP-90-25SR.

Agency Contact: Richard Kaplan, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence

DOT—FAA — Proposed Rule Stage

Avenue, SW., Washington, DC 20591, 202 267-9667

RIN: 2120–AD72

2036. ● PROTECTIVE BREATHING EQUIPMENT; ALL CARGO

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This notice would propose to delete the requirement that protective breathing equipment units be installed for Class E cargo compartments.

Timetable:

Action	Date	FR Cite
NPRM	01/14/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number AFS-90-334E.

Agency Contact: Gary Davis, Air Transportation Division, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-3747

RIN: 2120–AD74

2037. ● TEMPORARY RESTRICTION OF INSTRUMENT APPROACHES AND CERTAIN VISUAL FLIGHT RULES OPERATIONS IN HIGH-PRESSURE WEATHER CONDITIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1300; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g); EO 11514

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This notice would propose to revise Part 91 of the Federal Aviation Regulations to authorize the issuance of temporary flight restrictions to prohibit certain operations when accurate altitude information is not available.

Timetable:

Action	Date	FR Cite
NPRM	04/11/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/11/91

Additional Information: Project Number AFS-90-183R.

Agency Contact: Larry Youngblut, Air Transportation Division, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-3755

RIN: 2120–AD75

2038. ● PROTECTIVE BREATHING EQUIPMENT; FIRE DRILLS

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This notice would propose a fire drill training requirement that would require that a flight attendant/crewmember be fully trained in the use of protective breathing equipment.

Timetable:

Action	Date	FR Cite
NPRM	02/25/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/25/91

Additional Information: Project Number AFS-90-325R.

Agency Contact: Gary Davis, Air Transportation Division, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-3747

RIN: 2120–AD76

2039. ● CLASS D COMPARTMENTS IMPROVED FIRE SAFETY STANDARDS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This notice would propose to upgrade the fire safety standards for cargo or baggage compartments in certain passenger-carrying transport category airplanes by establishing a maximum size for Class A compartments and by eliminating Class D compartments altogether. Compartments that could no longer be classed as Class A or Class D would have to meet the standards for Class C or Class E compartments as applicable. Certain transport category airplanes used in air carrier, air taxi, or commercial service also would have to meet these upgraded standards.

Timetable:

Action	Date	FR Cite
NPRM	01/11/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/11/91

Additional Information: Project Number ANM-88-020R.

Agency Contact: Gary Killion, Manager, Regulations Branch, Transport Airplane Directorate, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region Headquarters, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2112

RIN: 2120–AD77

2040. ● PRODUCTION CERTIFICATE MODERNIZATION

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1348(c); 49 USC 1352; 49 USC 1354(a); 49 USC 1355; 49 USC 1421 to 1431; 49 USC 1502; 49 USC 106(g); EO 11514

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: This notice would propose to standardize the production quality control systems requirements in Part 21 of the Federal Aviation Regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/18/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/18/91

Additional Information: Project Number AIR-89-04SR.

Agency Contact: Andy Lown, Production Certification Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9549

RIN: 2120-AD78

2041. ● POWERED-LIFT ENGINE TYPE CERTIFICATION REQUIREMENTS AND DEFINITIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 106(g)

CFR Citation: 14 CFR 33

Legal Deadline: None

Abstract: This notice would propose to amend the airworthiness standards to accommodate the type certification of powered-lift aircraft engine designs.

Timetable:

Action	Date	FR Cite
NPRM	07/09/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/09/91

Additional Information: Project Number ANE-89-001R.

Agency Contact: Donald Perrault, Engine and Propeller Standards Staff, Aircraft Certification Division, Department of Transportation, Federal Aviation Administration, New England Region Headquarters, 12 New England Executive Park, Burlington, Massachusetts 01803, 617 275-7081

RIN: 2120-AD79

2042. ● NEW CONTINGENCY RATINGS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 106(g)

CFR Citation: 14 CFR 33

Legal Deadline: None

Abstract: This notice would amend the airworthiness standards to define and incorporate type certification requirements for one-engine-inoperative ratings for fixed-wing gas turbine engines.

Timetable:

Action	Date	FR Cite
NPRM	10/14/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/14/91

Additional Information: Project Number ANE-89-002R.

Agency Contact: Donald Perrault, Engine and Propeller Standards Staff, Aircraft Certification Division, Department of Transportation, Federal Aviation Administration, New England Region Headquarters, 12 New England Executive Park, Burlington, Massachusetts 01803, 617 275-7081

RIN: 2120-AD80

2043. ● EXPORT AIRWORTHINESS APPROVALS; ORAL APPLICATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1348(c); 49 USC 1352; 49 USC 1354(a); 49 USC 1355; 49 USC 1421 to 1431; 49 USC 106(g); EO 11514

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: This proposed rule would allow manufacturers of Class II products to make oral rather than written applications for issuance of export airworthiness approvals.

Timetable:

Action	Date	FR Cite
NPRM	05/23/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/23/91

Additional Information: Project Number AIR-89-30SR.

Agency Contact: Melanie Miller, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9361

RIN: 2120-AD61

2044. ● PART 101 REVIEW PROGRAM

Significance: Nonsignificant

Legal Authority: 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352; 49 USC 1355; 49 USC 1401; 49 USC 1421; 49 USC 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g)

CFR Citation: 14 CFR 91; 14 CFR 101

Legal Deadline: None

Abstract: This review program is intended to provide full public participation in matters concerning FAA's evaluation of the operation of moored balloons, kites, unmanned rockets, and unmanned free balloons.

Timetable:

Action	Date	FR Cite
NPRM	04/25/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/25/91

Additional Information: Project Number ATO-84-020R.

Agency Contact: Wayne Pierce, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8783

RIN: 2120-AD84

2045. ● HARLINGEN (TX) AIRPORT RADAR SERVICE AREA

Significance: Nonsignificant

DOT—FAA — Proposed Rule Stage

Legal Authority: 49 USC 1348(c); 49 USC 1354(a); 49 USC 1510; EO 10854; 49 USC 106(g)

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action would establish an Airport Radar Service Area (ARSA) at Rio Grande International Airport, a public airport whose operating control tower is served by a Level III Radar Approach Facility. Establishment of this ARSA would require that pilots maintain two-way radio communication with Air Traffic Control while in the ARSA.

Timetable:

Action	Date	FR Cite
NPRM	08/08/90	55 FR 32064
NPRM Comment Period End	10/02/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 08/08/90 (55 FR 32064)

Agency Contact: Lewis W. Still, Obstruction Evaluation Branch (ATP-240), Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591, 202 267-8258

RIN: 2120-AD85

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Final Rule Stage

2046. + PILOT, FLIGHT INSTRUCTOR, AND PILOT SCHOOL CERTIFICATION RULES

Significance: Regulatory Program

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1422; 49 USC 1427; 49 USC 106(g)

CFR Citation: 14 CFR 61; 14 CFR 141

Legal Deadline: None

Abstract: This action would amend the Federal Aviation Regulations governing pilot initial and recurrent training and the operations of FAA certificated pilot schools. This rulemaking action is the result of concerns identified by the National Transportation Safety Board and the public and issues raised in petitions for exemption from the the regulations. This action would update standards of pilot performance and respond to technological advances in pilot training since the current rules were issued. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Notice of Public Hearings	05/27/88	53 FR 24178
Comment Period Extended	08/05/88	53 FR 29582
Comment Period Extended	11/25/88	53 FR 48972
NPRM	05/26/89	54 FR 22852
NPRM Comment Period End	09/24/89	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/26/89 (54 FR 22852)

Additional Information: RIN 2120-AB14 has been combined into this review.

This project was formerly titled Review of Part 61, 141, 143, Pilot, Pilot School, and Ground Instructor Rules.

Project No. AVS-88-244R.

Agency Contact: John D. Lynch, General Aviation and Commercial Division, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8150

RIN: 2120-AB12

2047. + PRIMARY CATEGORY AIRCRAFT

Significance: Regulatory Program

Legal Authority: 49 USC 1344; 49 USC 1348(c); 49 USC 1352; 49 USC 1354(a); 49 USC 1355; 49 USC 1421 to 1431; 49 USC 1502; 49 USC 1651(b)(2); 42 USC 1857(f); 42 USC 4321 et seq; EO 11514; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 21; 14 CFR 36; 14 CFR 43; 14 CFR 91; 14 CFR 141; 14 CFR 147

Legal Deadline: None

Abstract: This action proposes to establish a new category of aircraft for type, production, and airworthiness certification. These aircraft will be designed for pleasure and personal use, and classified as a primary category aircraft. In addition, the NPRM proposed simplified type, production, and airworthiness certification procedures, special maintenance criteria, and associated changes to pilot requirements for this category of aircraft. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/07/88	54 FR 9738
NPRM Comment Period End	09/07/88	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/07/88 (54 FR 9738)

Additional Information: Formerly entitled Primary Category Aircraft; Powered Ultralight; Falsification of Applications, Reports, or Records.

Project No. AVS-83-133E.

Agency Contact: Lyle Davis, Aircraft Engineering Division, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8553

RIN: 2120-AB53

2048. + IMPROVED SURVIVAL EQUIPMENT FOR INADVERTENT WATER LANDINGS

Significance: Regulatory Program

Legal Authority: 49 USC 106(g); 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1374(d); 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1472; 49 USC 1486; 49 USC 1502

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: NPRM, Statutory, June 28, 1988.

DOT—FAA

Final Rule Stage

PL 100-223, Section 303, Airport and Airway Safety and Capacity Enhancement Act of 1987.

Abstract: This action proposes new requirements for water survival equipment carried aboard airplanes and rotorcraft. The requirements would apply, after specified dates, to U.S.-certificate holders that conduct common-carriage operations with airplanes and rotorcraft. This proposal is in response to the Airport and Airway Safety and Capacity Enhancement Act of 1987 (PL 100-223) and relates to safety recommendations by the National Transportation Safety Board. The proposed requirements are intended to increase the likelihood of aircraft passengers surviving a crash landing in water and, thus, this rulemaking is significant because of the safety implications.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	53 FR 24890
NPRM Comment Period End	11/28/88	
Final Action	11/13/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/30/88 (53 FR 24890)

Additional Information: Project No. AVS-85-285R.

Agency Contact: John Petrakis, Department of Transportation, Federal Aviation Administration, Office of Air Worthiness, 800 Independence Ave., SW., Washington, DC 20591, 202 267-9574

RIN: 2120-AC72

2049. + RETROFIT OF IMPROVED SEATS IN AIR CARRIER TRANSPORT CATEGORY AIRPLANES

Significance: Regulatory Program

Legal Authority: 49 USC 1354(a); 49 USC 1355 to 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: NPRM, Statutory, April 28, 1988.
PL 100-223 Sec 303

Abstract: The FAA proposes to require that all seats of transport category airplanes used in air carrier operations and transport category airplanes used in scheduled intrastate service comply with improved crashworthiness standards. The Airport and Airways Safety and Capacity Expansion Act of 1987 directs the Secretary of Transportation to initiate a rulemaking proceeding to consider requiring all seats onboard all air carrier aircraft to meet improved crashworthiness standards based upon the best available testing standards. The intended effect of this action is to increase passenger protection and survivability in survivable impact accidents. This rulemaking is considered significant because of its safety implications and statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17650
NPRM Comment Period End	10/14/88	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/17/88 (53 FR 17650)

Additional Information: Docket 25611. Project No. AVS-88-136R.

Agency Contact: Arthur Hayes, Aircraft Engineering Division, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9557

RIN: 2120-AC84

2050. + USE OF X-RAY SYSTEMS

Significance: Regulatory Program

Legal Authority: 49 USC 1354; 49 USC 1356; 49 USC 1357; 49 USC 1421; 49 USC 1424; 49 USC 1511; 49 USC 106(g)

CFR Citation: 14 CFR 108; 14 CFR 129

Legal Deadline: None

Abstract: This notice proposed to amend the airplane operator security regulations by removing the exception to meeting the current x-ray imaging standard for x-ray screening systems in use prior to July 22, 1985. Each United States air carrier conducting screening under a mandatory security program would be required to use x-ray systems for carry-on and checked articles that meet the x-ray imaging standard required under its approved security program. Likewise, each foreign air carrier that lands or takes off in the United States would be required to use x-ray screening systems for carry-on and checked articles in the United States that meet the x-ray imaging standard under its accepted security program. This action is needed due to the increased sophistication of terrorist acts. The intended effect is to increase the safety of passengers and crewmembers aboard aircraft by providing an upgraded aid at airport screening points to prevent the carriage of explosives, incendiaries, or deadly or dangerous weapons. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/22/90	55 FR 25606
NPRM Comment Period End	08/20/90	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 06/22/90 (55 FR 25606)

Additional Information: Project No. AXR-89-197R. This project was formerly entitled Phaseout of X-Ray Equipment for Carry-on Baggage.

Agency Contact: Lynne Osmus, Civil Aviation Security Division, Office of Civil Aviation Security, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8058

RIN: 2120-AD13

2051. + DRUG ENFORCEMENT ASSISTANCE

Significance: Regulatory Program

Legal Authority: 49 USC 1354(a); 49 USC 1354(c); 49 USC 1374(d); 49 USC 1401; 49 USC 1402; 49 USC 1403; 49 USC 1404; 49 USC 1405; 49 USC 1406; 49 USC 1421; 49 USC 1422; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1426; ...

CFR Citation: 14 CFR 13; 14 CFR 47

Legal Deadline: Final, Statutory, September 18, 1989.
FAA Drug Enforcement Assistance Act of 1988.

Abstract: This notice proposed to revise certain requirements concerning

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registration of aircraft, certification of pilots, and penalties associated with registration and certification violations. This notice also announced new procedures for processing major repair and alteration forms which pertain to fuel system modifications. Actions announced in this notice respond to the FAA Drug Enforcement Assistance Act. The proposed requirements and adopted procedures are intended to assist law enforcement agencies in their efforts to stop drug trafficking in general aviation aircraft. This rulemaking is significant because of congressional and public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/12/90	55 FR 9270
NPRM Comment Period End	05/11/90	
Comment Period Extended To 07/11/90	05/16/90	55 FR 20384

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/12/90 (55 FR 9270)

Additional Information: Project No. ACS-89-03SR.

Agency Contact: Kenneth Lesterstein, Office of Civil Aviation Security, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9554

RIN: 2120-AD16

2052. + AIRPLANE CABIN-FIRE PROTECTION

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421 to 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This notice proposes amendments to the FAR which would provide for improved cabin fire protection for transport category airplanes by requiring: (1) each lavatory to be equipped with a smoke detector system which provides warning to the cockpit or to the passenger cabin crew; (2) each lavatory trash receptacle to be equipped with a fire extinguisher which discharges automatically upon the occurrence of a fire within the receptacle; (3) the number of hand fire extinguishers in the cabins of airplanes with passenger seating capacities greater than 200 to be increased; (4) a specified number of the hand fire extinguishers in the cabin to contain Halon 1211 or equivalent as the extinguishing agent. These safety protections are currently required for operation of airplanes used in air carrier service, but not for the full range of transport category airplanes such as those used for executive transportation. This notice also proposes to require each transport category (cont)

Timetable:

Action	Date	FR Cite
NPRM	01/12/89	54 FR 1292
NPRM Comment Period End	07/10/89	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 01/12/89 (54 FR 1292)

Additional Information: ABSTRACT CONT: airplane manufactured after a specified date to incorporate these improvements. These proposals are needed to respond to investigations of inflight fires and an inspection survey of the U.S. air carrier fleet, and are needed to increase protection against possible inflight fires. This rulemaking is significant because of substantial public interest.

Project No. ANM-89-027R.

Agency Contact: Gary L. Killion, Manager, Regulations Branch, Aircraft Certification Division, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, 206 431-2112

RIN: 2120-AB22

2053. + ELIMINATION OF AIRPORT DELAYS

Significance: Agency Priority

Legal Authority: 49 USC 1302; 49 USC 1303; 49 USC 1348; 49 USC 1354(a); 49 USC 1421(a); 49 USC 1424; 49 USC 2402; 49 USC 2424; 49 USC 106(g)

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This proposed rule is designed to alleviate increased delays throughout the air traffic system and is considered significant because of its involvement with important Department of Transportation policies.

Timetable:

Action	Date	FR Cite
NPRM	06/20/84	49 FR 33082
NPRM Comment Period End	09/04/84	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 06/20/84 (49 FR 33082)

Additional Information: Docket No. 24206.

Agency Contact: David L. Bennett, Manager, Airspace and Air Traffic Law Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-3277

RIN: 2120-AB42

2054. + MISCELLANEOUS OPERATIONAL AMENDMENTS

Significance: Agency Priority

Legal Authority: 49 USC 1301; 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g); ...

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This notice proposed to amend several sections of the Federal Aviation Regulations. Several proposals would provide the FAA with the means to enforce certain safety regulations. Others would make current operator practices regulatory requirements. Several proposals would establish regulations on child restraint systems, safety belts aboard airships, and flight crewmember use of shoulder harnesses aboard aircraft. Two of the proposals would clarify the regulations concerning fire extinguishers and protective breathing equipment, and one obsolete section of the regulations and several obsolete references to particular dates would be removed. This action would

reduce the number of passenger violations and enhance safety aboard aircraft. This rulemaking is considered significant because of substantial public interest and safety implications.

Timetable:

Action	Date	FR Cite
NPRM	03/01/90	55 FR 7414
NPRM Comment Period End	05/30/90	
Final Action	05/28/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/01/90 (55 FR 7414)

Additional Information: Project No. AVS-84-191R.

Agency Contact: Larry Youngblut, Air Transportation Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591, 202 267-3755

RIN: 2120-AB45

2055. + AIRSPACE RECLASSIFICATION

Significance: Agency Priority

Legal Authority: 49 USC 1347; 49 USC 1348; 49 USC 1354(a); 49 USC 1357; 49 USC 1372; 49 USC 1421 to 1430; 49 USC 1432; 49 USC 1442; 49 USC 1443; 49 USC 1472; 49 USC 1510; 49 USC 1522; 49 USC 1652(e); 49 USC 1655; 49 USC 106(g); ...

CFR Citation: 14 CFR 1; 14 CFR 11; 14 CFR 65; 14 CFR 71; 14 CFR 75; 14 CFR 91; 14 CFR 93; 14 CFR 101; 14 CFR 103; 14 CFR 105; 14 CFR 121; 14 CFR 127; 14 CFR 137; 14 CFR 171

Legal Deadline: None

Abstract: This notice proposes to adopt certain recommendations of the National Airspace Review concerning changes to regulations and procedures dealing with airspace classification. These changes are intended to: (1) simplify airspace designations; (2) achieve international commonality of airspace designations; (3) increase standardization of equipment requirements for operations in the various classifications of airspace; and (4) associate appropriate pilot certification requirements, visual flight rules visibility and distance from clouds rules, and air traffic services offered in each proposed class of airspace. This proposal represents the combination of three separate advance proposals issued in 1966 concerning airspace assignment and related air traffic operating rules. The FAA believes the simplified airspace classification proposed in this action will reduce existing airspace complexity and thereby enhance safety. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	02/05/85	50 FR 5046
ANPRM Comment Period End	06/06/85	50 FR 5046
NPRM	10/18/89	54 FR 42916
NPRM Comment Period End	04/18/90	
Final Action	08/05/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/18/89 (54 FR 42916)

Additional Information: Docket No. 24456.

Regulatory Project ATO-200-84-7R.

RIN 2120-AC57, RIN 2120-AB02, National Airspace Review; Terminal Airspace Task Group Recommendations, and RIN 2120-AB88, Controlled Airspace Designations in International Airspace, have been incorporated into this action.

Agency Contact: Wayne Pierce, Air Traffic Control Specialist, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8783

RIN: 2120-AB05

2056. + PASSENGER-CARRYING AND CARGO AIR OPERATIONS FOR COMPENSATION OR HIRE

Significance: Agency Priority

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1345; 49 USC 1352 to 1357; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g); ...

CFR Citation: 14 CFR 119; 14 CFR 121; 14 CFR 125; 14 CFR 127; 14 CFR 135

Legal Deadline: None

Abstract: This action proposes to amend the Federal Aviation Regulations to update, clarify, and consolidate into one part, new Part 119, the certification and operations specifications requirements for persons who conduct passenger-carrying or cargo-carrying air operations for compensation or hire. Significant changes include defining what must be included in operations specifications; defining "scheduled" and "domestic" operations; increasing the lead-time period for application for a certificate; defining a "wet lease" operation; including in the regulations criteria to determine who has operational control of an operation; and standardizing the requirements and qualifications for management personnel. This action is needed to establish permanent minimum safety standards following the "sunset" of the Civil Aeronautics Board on December 31, 1984, and the enactment of the Airline Deregulation Act of 1978. This action would also replace SFAR 36, as amended, which has provided interim certification and operations specifications regulation. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/12/88	53 FR 39852
NPRM Comment Period End	01/10/89	
Comment Period Reopened To 05/17/90	04/17/90	55 FR 14404
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/12/88 (53 FR 39852)

Additional Information: Project No. AVS-84-190R.

Agency Contact: Michael J. Coffey, Air Transportation Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591, 202 267-3759

RIN: 2120-AC06

2057. + FLIGHT ATTENDANT REQUIREMENTS

Significance: Agency Priority

DOT—FAA — Final Rule Stage

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421; 49 USC 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: The current regulations need to be revised to account for the changed operational practices stemming from airline economic deregulation. This proposal would clarify or change the number of flight attendants required when passengers are on board an airplane, including at stops. This proposal includes two new requirements: (1) a revision of the reduced number of flight attendants which, under certain conditions, a carrier is permitted to have on board a passenger-carrying airplane during stops; and (2) a requirement for a demonstration of competency by the other authorized persons who may be permitted to be substituted for required flight attendants when passengers are on board the airplane during stops. This proposal would change the current rule by clarifying and specifying the training required to be completed by these other authorized persons. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/14/89	54 FR 15134
NPRM Comment Period End	07/13/89	
Final Action	01/09/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/14/89 (54 FR 15134)

Additional Information: Project No. AVS-86-077R.

Agency Contact: David L. Casey, Air Transportation Division, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8086

RIN: 2120-AC32

2058. + TYPE AND NUMBER OF PASSENGER EMERGENCY EXITS REQUIRED IN TRANSPORT CATEGORY AIRPLANES

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This notice proposed to revise the current requirements for passenger emergency exits and to adopt two new exit types into the regulations. These proposals are intended to provide more consistent standards with respect to passenger seating allowed for each exit type, and the type and number of exits required for passenger seating configurations. This notice proposed to reduce the maximum inflation time of an escape slide to reflect the current state of the art. These proposals resulted from the Public Technical Conference on Emergency Evacuation of Transport Airplanes held in Seattle, Washington, on September 3-6, 1985. This rulemaking is considered significant because it involves an important cabin-safety issue.

Timetable:

Action	Date	FR Cite
NPRM	02/22/90	55 FR 6344
NPRM Comment Period End	08/21/90	
Final Action	09/13/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/22/90 (55 FR 6344)

Additional Information: Project No. ANM-87-006R.

Agency Contact: Franklin Tiangsing, Regulations Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South C-68966, Seattle, WA 98168, 206 431-2121

RIN: 2120-AC43

2059. + MINIMUM EQUIPMENT LIST (MEL) REQUIREMENTS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421; 49 USC 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This notice proposed to amend Part 125 and Part 135 requirements for the use of a Minimum Equipment List (MEL). It also proposed to amend the Part 121 requirements for the use of a MEL to make them consistent with the amended Part 125 and Part 135 MEL requirements. Finally, it provides for the development and use of MELs for single-engine aircraft operated under Part 135. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/23/89	54 FR 3320
NPRM Comment Period End	03/24/89	
Reopened Comment Period to 4/26/89	03/27/89	54 FR 12553
Final Action	10/10/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 01/23/89 (54 FR 3320)

Additional Information: Project No. AVS-87-271R.

Agency Contact: Marlene G. Livack, Air Transportation Division, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-3753

RIN: 2120-AC86

2060. + ESTABLISHMENT AND DISCONTINUANCE CRITERIA FOR AIRPORT TRAFFIC CONTROL TOWER FACILITIES

Significance: Agency Priority

Legal Authority: 49 USC 1343; 49 USC 1346; 49 USC 1348; 49 USC 1354(a); 49 USC 1355; 49 USC 1401; 49 USC 1421; 49 USC 1422 to 1430; 49 USC 1472(c); 49 USC 1502; 49 USC 1522; 49 USC 106(g)

CFR Citation: 14 CFR 170

DOT—FAA

Final Rule Stage

Legal Deadline: Final, Statutory, December 31, 1988.

Abstract: This rulemaking would prescribe benefit-cost based criteria for establishment and discontinuance of visual flight rule (VFR) airport traffic control tower facilities. It considers traffic density (number of aircraft operations without consideration of aircraft size), passengers served, and aircraft operating efficiencies along with the cost of establishing and maintaining or decommissioning a tower. The FAA utilizes these criteria to assess benefits and costs associated with establishing or decommissioning an airport traffic control tower at an airport as a part of its mission to maximize safety and efficiency throughout the airport and airway system consistent with available resources. This regulation, if promulgated, would implement the requirements of recent legislation requiring the publication of criteria for navigational aids and airport traffic control towers as a Federal regulation. This rulemaking is significant because of statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/25/89	54 FR 22606
NPRM Comment Period End	07/09/89	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/25/89 (54 FR 22606)

Additional Information: Project No. APO-88-012R.

Agency Contact: Ward Keech, Office of Aviation Policy and Plans, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-3312

RIN: 2120-AC96

2061. + EMERGENCY LOCATOR TRANSMITTERS

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 1471; 49 USC 1485; 49 USC 1502; 49 USC 1522; 49 USC 106(g)

CFR Citation: 14 CFR 25; 14 CFR 29; 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This notice proposed to require installation of an improved emergency locator transmitter (ELT) that meets the requirements of a revised Technical Standards Order (TSO) on U.S.-registered airplanes and to terminate approval to use ELTs authorized under the original TSO issued for this equipment. The new equipment would be required for future installations. This proposal is prompted by unsatisfactory performance experienced with ELTs that are manufactured under the original TSO and relates to safety recommendations by the National Transportation Safety Board and the search-and-rescue community. Although most of the unsatisfactory field experience has been with automatic ELTs, the FAA is also proposing improved standards for survival ELTs. This proposal would save lives by increasing the number of survivors rescued after aircraft accidents. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/02/90	55 FR 12316
NPRM Comment Period End	07/31/90	
Final Action	09/30/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 04/02/90 (55 FR 12316)

Additional Information: Project No. AVS-85-348R.

Agency Contact: Phil Akers, Aircraft Engineering Division, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8371

RIN: 2120-AD19

2062. + GROUND PROXIMITY WARNING SYSTEMS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421 to 1431; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 135

Legal Deadline: None

Abstract: This notice proposed to revise the operating rules for air taxi and commercial operators by requiring that all turbine-powered (rather than just turbojet) airplanes with ten or more seats be equipped with an approved ground proximity warning system. The proposed changes are needed because studies have shown that several controlled-flight-into-terrain accidents involving turbo-propeller powered airplanes might have been avoided had the airplanes been equipped with a ground proximity warning system. This proposed rule is intended to reduce the risk of airplanes being flown into terrain with no apparent awareness by the crews that they are approaching the ground. This rulemaking is considered significant because of important safety implications.

Timetable:

Action	Date	FR Cite
NPRM	04/24/90	55 FR 17358
NPRM Comment Period End	07/23/90	
Final Action	09/23/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 04/24/90 (55 FR 17358)

Additional Information: Project No. AVS-88-283R.

Agency Contact: Phillip Akers, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8371

RIN: 2120-AD23

2063. + SUSPENSION OF CERTAIN AIRCRAFT OPERATIONS FROM THE TRANSPONDER WITH AUTOMATIC PRESSURE ALTITUDE REPORTING CAPABILITY REQUIREMENT

Significance: Agency Priority

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522;

DOT—FAA

Final Rule Stage

49 USC 2121 to 2125; 49 USC 106(g); EO 11514

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This notice proposed to suspend, until December 30, 1993, certain provisions of the regulations which require the installation and use of automatic altitude reporting (Mode C) transponders. This proposed rule would provide access to specified outlying general aviation airports within 30 miles of a terminal control area primary airport (Mode C veil) for aircraft without a Mode C transponder. The FAA believes that the operation of an aircraft without a Mode C transponder can be permitted provided that the operation is conducted in areas not currently within air traffic control radar coverage and not predominantly used by aircraft required to install and use traffic alert and collision avoidance systems equipment. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/25/90	55 FR 21722
NPRM Comment Period End	07/24/90	
Final Action	02/22/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 05/25/90 (55 FR 21722)

Additional Information: Project Number ATO-90-0052.

Agency Contact: Richard K. Kagulire, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9783

RIN: 2120-AD52

2064. ⊕ + HIGH DENSITY TRAFFIC AIRPORTS: ALLOCATION OF INTERNATIONAL SLOTS AT CHICAGO O'HARE

Significance: Agency Priority

Legal Authority: 49 USC app 1302 - 1303; 49 USC app 1348; 49 USC app 1354(a); 49 USC app 1421(a); 49 USC app 1428

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This action proposed to amend the regulations relating to allocation of air carrier and commuter-operator slots to limit availability of seasonal international slots at O'Hare Airport for carriers with 100 or more slots. It would require each large slot-holder to accommodate international operations from its own slot base or from unallocated slots, rather than from domestic slots of other carriers. This action is considered significant because of substantial public and industry interest.

Timetable:

Action	Date	FR Cite
NPRM	03/09/90	55 FR 9090
NPRM Comment Period End	04/09/90	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/09/90 (55 FR 9090)

Agency Contact: David L. Bennett, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591, 202 267-3461

RIN: 2120-AD63

2065. MISCELLANEOUS AMENDMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1352 Federal Aviation Act of 1958, Sec. 311; 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355(a) Federal Aviation Act of 1958, Sec. 314(a); 49 USC 1421 to 1430 Fed Aviation Act of 1958, Secs. 601 to 610; 49 USC 1502 Federal Aviation Act of 1958, Sec. 1102

CFR Citation: 14 CFR 21; 14 CFR 65; 14 CFR 107; 14 CFR 121; 14 CFR 135; 14 CFR 145

Legal Deadline: None

Abstract: This action would amend various sections of the regulations. Some of the amendments are clarifying or editorial in nature or correct improper or obsolete references. Others relax certain existing requirements. Others allow issuance of special flight permits for an additional purpose, relax a requirement for passenger information signs, and eliminate the bulk erasure device on cockpit voice recorders. This action is in response to numerous complaints, suggestions, and petitions for exemption concerning several regulatory requirements received from users of the National Airspace System. These users state that these sections contain obsolete references and vague, complex, and inadequate language and that, in some instances, the cost of compliance is not justified by the benefits derived.

Timetable:

Action	Date	FR Cite
NPRM	10/03/83	48 FR 45214
NPRM Comment Period End	12/02/83	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/03/83 (48 FR 45214)

Additional Information: Docket No. 23781. Project No. AVS-81-12SR.

Agency Contact: Joan Gasciano, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9683

RIN: 2120-AA50

2066. AIRWORTHINESS STANDARDS; CRASH RESISTANT FUEL SYSTEMS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action proposed changes to the airworthiness standards to improve the crash resistance of fuel systems on normal, utility, acrobatic, and commuter category airplanes. The FAA has determined that improved crash resistance of these fuel systems is necessary to prevent deaths and injuries due to fire in survivable crashes. The proposed design changes would limit fuel spillage near ignition sources and would provide additional time for the survivors to evacuate the airplane.

DOT—FAA

Final Rule Stage

Timetable:

Action	Date	FR Cite
ANPRM	09/05/85	50 FR 8648
ANPRM Comment Period End	07/03/85	
NPRM	02/28/90	55 FR 7280
NPRM Comment Period End	05/28/90	
Final Action	09/16/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/28/90 (55 FR 7280)

Additional Information: Formerly titled Amend Part 23 to Include Requirements for Crash-Resistant Fuel Systems. Project No. ACE-82-005R.

Agency Contact: Norman Vetter, Standards Office, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 601 E. 12th Street, Kansas City, MO 64106, 816 426-5688

RIN: 2120-AA57

2067. AIRWORTHINESS STANDARDS: AIRCRAFT ENGINES, ELECTRICAL AND ELECTRONIC ENGINE CONTROL SYSTEMS

Significance: Nonsignificant

Legal Authority: 49 USC 1354; 49 USC 1421; 49 USC 1423

CFR Citation: 14 CFR 33

Legal Deadline: None

Abstract: This action would establish requirements for the certification of electrical and electronic engine control systems. These control systems range from simple power or thrust trimming devices with full hydromechanical backup to full authority digital electronic controls with no mechanical backup. Although these types of control systems have been certificated under existing regulations, those regulations do not address specific requirements related to electrical and electronic engine controls such as engine supplied power and data, lightning protection, high energy radio frequency protection, and software verification/validation.

Timetable:

Action	Date	FR Cite
NPRM	02/14/85	50 FR 6186
NPRM Comment Period End	07/29/85	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/14/85 (50 FR 6186)

Additional Information: Project No. ANE-83-001R.

Agency Contact: Cosimo J. Bosco, Aerospace Engineer, Department of Transportation, Federal Aviation Administration, ANE-110, FAA NE Region, 12 New England Executive Park, Burlington, MA 01803, 617 270-2402

RIN: 2120-AB03

2068. STANDARDS FOR APPROVAL FOR HIGH ALTITUDE OPERATION OF SUBSONIC TRANSPORT AIRPLANES

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This notice proposes an amendment to the Federal Aviation Regulations to specify airplane and equipment airworthiness standards for subsonic transport airplanes to be operated up to an altitude of 51,000 feet. This proposal is prompted by an increase in the number of applications received to raise the maximum certificated operating altitude for transport category airplanes. This action is intended to ensure an acceptable level of safety for airplanes operated at high altitudes.

Timetable:

Action	Date	FR Cite
NPRM	11/22/89	54 FR 48538
NPRM Comment Period End	05/21/90	
Final Action	07/15/91	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Analysis: Regulatory Evaluation 11/22/89 (54 FR 48538)

Additional Information: Project No. ANM-83-022R.

Agency Contact: Gary Lium, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, 206 431-2218

RIN: 2120-AB18

2069. AIRWORTHINESS STANDARDS; TRANSPORT CATEGORY ROTORCRAFT PERFORMANCE

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 29

Legal Deadline: None

Abstract: This notice proposes to revise the performance requirements for transport category rotorcraft. The proposed changes are needed to define more clearly the factors for determining takeoff distances for transport category rotorcraft and to add several other relevant standards. If adopted, these changes would provide for an improved level of safety achievable because of recent technological advances in turboshaft engine design and associated rotorcraft design.

Timetable:

Action	Date	FR Cite
ANPRM	10/17/85	50 FR 42126
ANPRM Comment Period End	05/06/86	
NPRM	01/08/90	55 FR 696
NPRM Comment Period End	07/09/90	
Final Action	09/20/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/08/90 (55 FR 696)

Additional Information: Project No. ASW-83-006R.

Agency Contact: Jim S. Honaker, Regulations Group, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0111, 817 624-5169

RIN: 2120-AB38

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DOT—FAA

Final Rule Stage

2070. LOW-FUEL-QUANTITY ALERTING SYSTEM

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1422; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action contemplates possible revision to FAR 25.1305 to include a requirement to install a means to alert the flightcrew of potentially unsafe low fuel.

Timetable:

Action	Date	FR Cite
NPRM	05/12/87	52 FR 17690
NPRM Comment Period End	09/08/87	
Final Action	05/01/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/12/87 (52 FR 17690)

Additional Information: Docket No. 25211. Project No. ANM-86-030L.

Agency Contact: Neil Schalekamp, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2135

RIN: 2120-AB46

2071. AMEND SECTION 43.17 TO ALLOW FOR MAINTENANCE OF U.S. AERONAUTICAL PRODUCTS IN CANADA IN COMPLIANCE WITH THE U.S.-CANADIAN BILATERAL AIRWORTHINESS AGREEMENT

Significance: Nonsignificant

Legal Authority: 49 USC 1354; 49 USC 1421; 49 USC 1422; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 106(g)

CFR Citation: 14 CFR 43

Legal Deadline: None

Abstract: This notice proposes to amend the regulations to provide for the acceptance of maintenance, preventive maintenance, and alterations accomplished on U.S. civil aeronautical products and components in Canada. This proposal is prompted by the airworthiness maintenance provisions contained in the U.S.-Canadian Bilateral Airworthiness Agreement and the Schedule of Implementation Procedures between the United States and Canada. The proposed amendment would provide for acceptance by the FAA of maintenance, preventive maintenance, and alterations performed on aircraft, engines, propellers, appliances, materials, parts, and other components which are transported from the United States to Canada and which are for installation on U.S.-registered aircraft.

Timetable:

Action	Date	FR Cite
NPRM	06/06/89	54 FR 24304
NPRM Comment Period End	08/07/89	
Final Action	01/10/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/06/89 (54 FR 24304)

Additional Information: Project No. AVS-83-25SR.

Agency Contact: Lee Weston, Aircraft Maintenance Division, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591, 202 267-8363

RIN: 2120-AB89

2072. AIRWORTHINESS STANDARDS; NEW ROTORCRAFT 30-SECOND/2-MINUTE ONE-ENGINE-INOPERATIVE POWER RATINGS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1523; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This notice responds to a petition for rulemaking from Aerospace Industries Association of America, Inc., and proposes to amend the Federal Aviation Regulations to incorporate new one-engine-inoperative (OEI) power ratings for multiengine, turbine-powered rotorcraft. If adopted, this proposal would enhance rotorcraft safety after an engine failure or precautionary shutdown by providing OEI power, when required, with the assurance that the drive system would maintain its structural integrity and allow continued safe flight while operating at the new OEI power ratings with the operable engine(s).

Timetable:

Action	Date	FR Cite
NPRM	09/22/89	54 FR 39086
Notice of Public Hearing	10/13/89	54 FR 41986
NPRM Comment Period End	03/27/90	
Final Action	02/28/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 09/22/89 (54 FR 39086)

Additional Information: Formerly entitled New Rotorcraft Emergency Power Ratings.

Project No. ASW-85-46P.

Agency Contact: Ray Twa, Rotorcraft Standards Staff, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0111, 817 624-5158

RIN: 2120-AB90

2073. AIRWORTHINESS STANDARDS; TURBOSHAFT ENGINE ROTOR BURST PROTECTION

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 29

Legal Deadline: None

Abstract: This notice proposes to amend the Federal Aviation Regulations to minimize the failure hazards of high speed powerplant rotor systems used in turboshaft engines in newly designed transport category rotorcraft. Engine rotor failures have occurred resulting in the release of high energy rotor fragments or other engine component fragments. These fragments have impacted and damaged critical rotorcraft structures, systems, controls, and adjacent engines, as well as caused serious or fatal injuries to passengers and crewmembers. This proposal, if adopted, is intended to eliminate these hazards.

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DOT—FAA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/17/89	54 FR 42716
Comment Period Extended to 10/16/90	03/06/90	55 FR 8474
NPRM Comment Period End	04/16/90	
Final Action	12/10/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/17/89 (54 FR 42716)

Additional Information: Former title Turbine Burst Protection for Transport Category Helicopters. Project No. ASW-84-002.

Agency Contact: Mike Mathias, Regulations Group, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0111, 817 624-5128

RIN: 2120-AD91

2074. SMALL AIRPLANE AIRWORTHINESS REVIEW PROGRAM NOTICE NO. 5

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 23; 14 CFR 91; 14 CFR 135

Legal Deadline: None

Abstract: This notice is one of a series of notices that proposes to adopt new and amended airworthiness standards for small airplanes. It also proposes to amend the flight instrument requirements in the general operating rules and the operating rules for air taxi and commercial operators. This particular notice proposes amended design requirements for complex systems critical for safety in small airplanes and amended requirements for locating certain instruments, including new technology electronic display indicators. It proposes to add a new airworthiness standard for electronic display instruments. It also includes related changes to the general and air taxi operating rules to allow a third attitude indicator in lieu of a rate-of-turn indicator.

Timetable:

Action	Date	FR Cite
NPRM	03/06/89	54 FR 9338
NPRM Comment Period End	07/05/89	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/06/89 (54 FR 9338)

Additional Information: Formerly entitled Part 23 Airworthiness Review Notice 5 (Equipment, Systems, and Installation).

Project No. ACE-88-006R.

Agency Contact: Bobby Sexton, Standards Office, Aircraft Certification Division, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106, 816 374-6932

RIN: 2120-AC14

2075. SMALL AIRPLANE AIRWORTHINESS REVIEW PROGRAM NOTICE 2

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 1; 14 CFR 23

Legal Deadline: None

Abstract: This notice is one of a series of notices that proposes to adopt new and amended airworthiness standards for small airplanes which are based on certain proposals discussed at the Small Airplane Airworthiness Review Conference held on October 22-26, 1984, in St. Louis, Missouri. These new and amended airworthiness standards result in the need for new definitions to be added to the regulations, and this notice also proposes the addition of those definitions. The proposals in this notice reflect advancements in technology being incorporated in current designs, permit type certification of spin resistant airplanes, and reduce the regulatory burden in showing compliance with some of the requirements while maintaining the standards governing the design and type certification of small airplanes as may be required in the interest of safety.

Timetable:

Action	Date	FR Cite
NPRM	03/06/89	54 FR 9276
NPRM Comment Period End	07/05/89	
Final Action	11/12/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/06/89 (54 FR 9276)

Additional Information: Formerly entitled Part 23 Airworthiness Review, Notice 2.

Project No. ACE-84-010R.

Agency Contact: Erwin E. Dvorak, Standards Office, Aircraft Certification Division, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106, 816 426-5688

RIN: 2120-AC15

2076. MISCELLANEOUS CHANGES TO EMERGENCY EVACUATION DEMONSTRATION PROCEDURES, EXIT HANDLE ILLUMINATION, AND PA HANDSETS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355 to 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25; 14 CFR 121

Legal Deadline: None

Abstract: This notice proposed to modify the procedures for conducting an emergency evacuation demonstration by requiring that the flight crew take no active role in the demonstration and by changing the age/sex distribution requirement for demonstration participants. This notice also proposed to standardize the illumination requirements for the handles of the various types of passenger emergency exits. In addition, it is proposed to add a requirement for a "push to talk" switch to the public address system. These proposals are intended to enhance the provisions of transport category airplanes for egress of occupants during emergency conditions.

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Timetable:

Action	Date	FR Cite
NPRM	08/28/89	54 FR 37414
NPRM Comment Period End	01/26/90	
Final Action	02/04/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/28/89 (54 FR 37414)

Additional Information: Project No. ANM-87-010R.

Agency Contact: Frank Tiangsing, Regulations Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, 206 431-2121

RIN: 2120-AC45

2077. AIRWORTHINESS STANDARDS; SHOULDER HARNESSES IN NORMAL AND TRANSPORT CATEGORY ROTORCRAFT

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 21; 14 CFR 27; 14 CFR 29; 14 CFR 91

Legal Deadline: None

Abstract: This notice proposes to amend the regulations to require installation of shoulder harnesses at all seats of rotorcraft manufactured after 1 year after publication in the Federal Register of any final rule resulting from this notice. This notice responds to a safety recommendation from the National Transportation Safety Board and would enhance protection of occupants in rotorcraft. Similar rules have been adopted for certain small airplanes.

Timetable:

Action	Date	FR Cite
NPRM	12/08/88	54 FR 50688
NPRM Comment Period End	06/06/90	
Final Action	05/24/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 12/08/89 (54 FR 50688)

Additional Information: Formerly entitled Shoulder Harnesses for Each Seat in Parts 27 and 29 Rotorcraft. Project No. ASW-86-018R.

Agency Contact: James Major, Rotorcraft Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, PO Box 1689, Fort Worth, TX 79193-0111, 817 624-5117

RIN: 2120-AC87

2078. ELECTRICAL AND ELECTRONIC SYSTEMS LIGHTNING PROTECTION

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This notice proposes to amend the Federal Aviation Regulations to add a new standard for transport category airplanes which would provide lightning protection requirements for installed electrical and electronic systems. This proposal is the result of increasing concern for the vulnerability of these systems to the indirect effects of lightning. It seeks to promulgate specific lightning protection requirements for electrical systems which perform essential or critical functions.

Timetable:

Action	Date	FR Cite
NPRM	05/30/89	54 FR 23164
NPRM Comment Period End	09/27/89	
Final Action	01/31/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/30/89 (54 FR 23164)

Additional Information: Project No. ANM-86-014R.

Agency Contact: Gene Vandermolen, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2157

RIN: 2120-AC81

2079. LANDING GEAR AURAL WARNING

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 125

Legal Deadline: None

Abstract: This notice proposes to amend the airworthiness standards for transport category airplane landing gear aural warning systems and the operating rules for using transport category airplanes to update the present requirements. This proposal is prompted by reports of nuisance or inappropriate aural warnings which have occurred in modern transport airplanes which adhere strictly to the present regulations. It is intended to align the regulations with existing design practices thereby removing the regulatory burden associated with making an equivalent level of safety finding or exemption for those systems that do not meet the existing requirements. This proposal will not affect existing certificated airplanes.

Timetable:

Action	Date	FR Cite
NPRM	08/17/89	54 FR 34116
NPRM Comment Period End	02/13/90	
Final Action	04/05/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/17/89 (54 FR 34116)

Additional Information: Project No. ANM-86-006R.

Agency Contact: Gene Vandermolen, Flight Test and Systems Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2114

RIN: 2120-AC82

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Final Rule Stage

2080. KETCHIKAN INTERNATIONAL: SPECIAL AIRPORT TRAFFIC RULE

Significance: Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1303; 49 USC 1348; 49 USC 1354(a); 49 USC 1421(a); 49 USC 1424; 49 USC 2402; 49 USC 2424; 49 USC 106(g)

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This notice proposed to amend the special air traffic rule at Ketchikan, AK, by establishing rule applicability in all portions of the Ketchikan Control Zone. The rule currently excludes certain portions of the airspace below 600 feet mean sea level. This notice would also clarify the original intent of the rule by specifying that pilots must maintain a constant listening watch on the traffic advisory frequency while operating in the control zone.

Timetable:

Action	Date	FR Cite
NPRM	04/25/90	55 FR 17584
NPRM Comment Period End	05/29/90	
Final Action	03/04/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/25/90 (55 FR 17584)

Additional Information: Regulatory Project Number: ATO-200-88-6R.

Agency Contact: Wayne Pierce, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8783

RIN: 2120–AC90

2081. PROPOSED ESTABLISHMENT OF THE WASHINGTON TRI-AREA TCA AND REVOCATION OF THE WASHINGTON, DC, TCA AND AIRPORT RADAR SERVICE AREAS AT BALTIMORE-WASHINGTON AND DULLES AIRPORTS

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; EO 10854; 49 USC 106(g)

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This notice proposed to establish a Terminal Control Area (TCA) in the greater Baltimore/Washington, DC, area. Because the TCA would serve airports located in three different areas (Washington, DC, Maryland, and Virginia) the TCA would be established as the Washington TRI-Area TCA. The TCA would encompass four major airports: Andrews Air Force Base, Baltimore-Washington International, Dulles International, and Washington National. The TCA would consist of airspace from the surface or higher within a 20-mile radius of each airport up to and including 10,000 feet above mean sea level. This action is intended to increase the capability of the air traffic control system to separate all aircraft in the terminal airspace around these airports and to substantially increase safety while accommodating the legitimate concerns of airspace users.

Timetable:

Action	Date	FR Cite
NPRM	01/16/90	55 FR 1544
NPRM Comment Period End	03/16/90	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/16/90 (55 FR 1544)

Additional Information: Formerly entitled Proposed Establishment of the Dulles Terminal Control Area; Virginia.

RIN 2120-AD06, Proposed Establishment of the Baltimore, Maryland, Terminal Control Area, has been incorporated into this project.

Agency Contact: Jesse Bogan, Air Traffic Operations Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9253

RIN: 2120–AD01

2082. AIRPORT CERTIFICATION AND OPERATIONS; CLARIFICATION OF VARIOUS PROVISIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1432; 49 USC 106(g)

CFR Citation: 14 CFR 139

Legal Deadline: None

Abstract: This notice proposed changes to the certification and operation regulations of land airports serving air carriers. These actions regarding certification requirements and the control of ground vehicles on an airport are necessary for consistency with existing operating regulations and to address concerns that the current language appears to place undue responsibility and liability on certificate holders. The proposed changes are intended to permit use of uncertificated airports, by air carriers in unscheduled service, in certain situations and clarify responsibility for compliance with airport rules for the operation of ground vehicles by individual tenants, contractors, and employees.

Timetable:

Action	Date	FR Cite
NPRM	10/18/89	54 FR 42912
NPRM Comment Period End	12/18/89	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/18/89 (54 FR 42912)

Additional Information: Project No. AAS-88-365P.

Agency Contact: Edward Rancourt, Airport Safety and Operations Division, Office of Airport Safety and Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8723

RIN: 2120–AD10

2083. AIRWORTHINESS STANDARDS: AIRCRAFT ENGINES; PROPOSAL FOR NEW ONE-ENGINE-INOPERATIVE RATINGS, DEFINITIONS, AND TYPE CERTIFICATION STANDARDS

Significance: Nonsignificant

Legal Authority: 49 USC 1347; 49 USC 1348; 49 USC 1354(a); 49 USC 1357(d)(2); 49 USC 1372; 49 USC 1421 to 1430; 49 USC 1432; 49 USC 1442; 49 USC 1443; 49 USC 1472; 49 USC 1510; 49 USC 1522; 49 USC 1652(e); 49 USC 1655(c); 49 USC 106(g)

CFR Citation: 14 CFR 1; 14 CFR 33

Legal Deadline: None

Abstract: The Aerospace Industries Association of America, Inc., petitioned the FAA to provide new one-engine-

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inoperative ratings for rotorcraft engines and their application to rotorcraft. This notice responds to that petition and proposes to define and establish type certification standards for new one-engine-inoperative ratings for rotorcraft engines.

Timetable:

Action	Date	FR Cite
NPRM	09/22/89	54 FR 39060
Notice of Public Hearing	10/13/89	54 FR 41966
NPRM Comment Period End	03/27/90	
Final Action	02/28/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/22/89 (54 FR 39060)

Additional Information: Project No. ANE-88-001R.

Agency Contact: Donald F. Perrault, Engine and Propeller Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, 617 273-7081

RIN: 2120-AD21

2284. AIRPLANE ENGINE COWLING RETENTION

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This notice proposes to amend the airworthiness standards for transport category airplanes to require improved cowling retention devices. A review of a number of inflight incidents where engine cowlings were lost revealed that the largest single cause of such losses was improper latching of the cowlings. If adopted, this proposal would provide additional design standards to detect improperly latched cowlings and ensure the integrity of the latching system.

Timetable:

Action	Date	FR Cite
NPRM	09/19/89	54 FR 38610
NPRM Comment Period End	03/19/90	
Final Action	03/29/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/19/89 (54 FR 38610)

Additional Information: Project No. ANM-87-004R.

Agency Contact: Mike Pasion, Airframe and Propulsion Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2116

RIN: 2120-AD34

2285. VIBRATION, BUFFET AND AEROELASTIC STABILITY REQUIREMENTS FOR TRANSPORT CATEGORY AIRPLANES

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This notice proposes to revise the airworthiness standards for transport category airplanes concerning flutter, divergence, vibration, and buffet. It would clarify the requirement to consider flutter and divergence when treating certain damage and failure conditions required by other sections of the Federal Aviation Regulations. It would revise the required safety margins by slightly reducing the safety margin concerning airplane speed for normal configurations and providing a minimum safety margin concerning airplane speed for damage and failure configurations. These changes are intended to provide consistency with other sections of the Federal Aviation Regulations, to relieve a design burden which is now unnecessary as a result of advances in technology, and to improve certain safety margins as a result of the evolution in the design of transport airplanes.

Timetable:

Action	Date	FR Cite
NPRM	09/12/89	54 FR 37768
NPRM Comment Period End	03/12/90	
Final Action	04/29/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/12/89 (54 FR 37768)

Additional Information: Project No. ANM-88-024R.

Agency Contact: James Haynes, Airframe and Propulsion Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2113

RIN: 2120-AD36

2286. USE OF INERT GAS FOR TIRE INFLATION IN LIEU OF AIR

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This notice proposed to require that an inert gas, such as nitrogen, be used in lieu of air, for inflation of tires on certain transport category airplanes. This action is prompted by at least three cases in which the oxygen in air-filled tires combined with volatile gases, given off by a severely overheated tire, and exploded upon reaching autoignition temperature. The use of an inert gas for tire inflation will eliminate the possibility of a tire explosion.

Timetable:

Action	Date	FR Cite
NPRM	03/05/90	55 FR 7876
NPRM Correction	03/21/90	55 FR 10467
NPRM Comment Period End	09/03/90	
Final Action	09/10/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/05/90 (55 FR 7876)

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Additional Information: Project No. ANM-87-027R.

Agency Contact: Gary D. Liam, Regulations Branch, Northwest Mountain Region, Department of Transportation, Federal Aviation Administration, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2116

RIN: 2120–AD37

2087. DESIGN STANDARDS FOR AIRPLANE JACKING AND TIE-DOWN PROVISIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This notice proposed new design standards for airplane jacking and tie-down provisions for transport category airplanes. This proposal is needed to provide manufacturers of transport category airplanes with design standards for jacking conditions and is intended to provide protection of the airplane primary structure during wind gust conditions, during jacking operations, and while tied down.

Timetable:

Action	Date	FR Cite
NPRM	02/09/90	55 FR 4790
NPRM Comment Period End	06/08/90	
Final Action	06/25/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/09/90 (55 FR 4790)

Additional Information: Project No. ANM-84-006R. This project was formerly entitled Airplane Jacking Loads.

Agency Contact: Iven Connally, Airframe and Propulsion Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2120

RIN: 2120–AD38

2088. ● CENTRALIZATION OF FORMAL HEARING DOCKETS (FAA)

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1354(c); 49 USC 1374(d); 49 USC 1401 to 1402; 49 USC 1421 to 1428; 49 USC 1471; 49 USC 1475; 49 USC 1481; 49 USC 1482(a) to 1482(c); 49 USC 1484 to 1489; 49 USC App 1655(c); 49 USC 106(g); 49 USC 1806 to 1810; 49 USC 2218 to 2219; 49 USC 2201

CFR Citation: 14 CFR 13

Legal Deadline: None

Abstract: This final rule provides that documents and evidence in formal hearing cases adjudicated within the Federal Aviation Administration (FAA) will be filed and maintained in the Office of the Secretary's (OST) Office of Documentary Services. The change is being made in order to streamline operations and to consolidate the documents used in formal hearing cases.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Additional Information: Legal Authority Continued: 18 USC 6002; 18 USC 6004; 49 CFR 1.47.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Federal Aviation Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-9306

RIN: 2120–AD83

2089. ● ALTERATION OF THE CHICAGO TERMINAL CONTROL AREA; ILLINOIS

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; 49 USC 106(g); EO 10854

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This notice proposed to alter the Chicago, Illinois, Terminal Control Area (TCA). This proposal would raise the upper limits of the TCA to 10,000 feet mean sea level to enable air traffic control to provide terminal air traffic control service to arriving and departing turbojet aircraft in a TCA environment throughout transition to and from the en route structure. Additionally, this proposal would extend the lateral limits of the TCA to 25 nautical miles to the south in order to provide an area wherein air traffic control can enhance air traffic control service to Chicago Midway Airport. This proposal redefines several existing subareas, which would enhance air traffic procedures, and releases present TCA airspace not required for use by air traffic control.

Timetable:

Action	Date	FR Cite
NPRM	04/06/90	55 FR 13032
NPRM Comment Period End	06/05/90	
NPRM Correction	06/06/90	55 FR 23507
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/06/90 (55 FR 13032)

Additional Information: Project Number ATO-90-025T.

Agency Contact: Jesse B. Bogan, Jr., Air Traffic Operations Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8233

RIN: 2120–AD73

2090. PART 95 INSTRUMENT FLIGHT RULES

Significance: Routine and Frequent

Legal Authority: 49 USC 1348 F.A. Act of 1958, Sec. 307; 49 USC 1510 F.A. Act of 1958, Sec. 1110

CFR Citation: 14 CFR 95

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected—2500. 10/00/90 - 10/00/91.

Timetable:

Action	Date	FR Cite
Final Action	10/00/91	

Small Entities Affected: None

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Government Levels Affected: None

Agency Contact: Don Funai, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8277

RIN: 2120–AA63

2091. AIRWORTHINESS DIRECTIVES

Significance: Routine and Frequent

Legal Authority: 49 USC 1354(a) F.A. Act, Sec. 313(a); 49 USC 1421 F.A. Act, Sec. 601; 49 USC 1423 F.A. Act, Sec. 603; 49 USC 1431(b) F.A. Act, Sec. 611(b)

CFR Citation: 14 CFR 39

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently in order to correct known or expected safety problems on type certificated products. Total actions expected–300. 10/00/90 - 10/00/91.

Timetable:

Action	Date	FR Cite
Final Action	10/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Jack McGrath, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9536

RIN: 2120–AA64

2092. STANDARD INSTRUMENT APPROACH PROCEDURES

Significance: Routine and Frequent

Legal Authority: 49 USC 1348 F.A. Act, Sec. 307; 49 USC 1354(a) F.A. Act, Sec. 313(a); 49 USC 1421 F.A. Act, Sec. 601; 49 USC 1510 F.A. Act, Sec. 1110

CFR Citation: 14 CFR 97

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected–2800. 10/00/90 - 10/00/91.

Timetable:

Action	Date	FR Cite
Final Action	10/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Don Funai, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8277

RIN: 2120–AA65

2093. AIRSPACE ACTIONS

Significance: Routine and Frequent

Legal Authority: 49 USC 1348(a) F.A. Act, Sec. 307(a); 49 USC 1354(a) F.A. Act, Sec. 313(a)

CFR Citation: 14 CFR 71; 14 CFR 73; 14 CFR 75

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected–240.

Timetable:

Action	Date	FR Cite
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Huff, Manager, Airspace Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-3075

RIN: 2120–AA66

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Completed Actions

2094. + FUEL VENTING AND EXHAUST-EMISSION REQUIREMENTS FOR TURBINE-ENGINE POWERED AIRPLANES

Significance: Regulatory Program

Legal Authority: 49 USC 1341(a); 49 USC 106(g); 49 USC 1343(d); 49 USC 1348; 49 USC 1354(a); 49 USC 1401 to 1405; 49 USC 1421 to 1431; 49 USC 1481; 49 USC 1502

CFR Citation: 14 CFR 11; 14 CFR 21; 14 CFR 23; 14 CFR 25; 14 CFR 45; 14 CFR 91

Legal Deadline: None

Abstract: This action codified as new part 34 all of the applicable aircraft engine fuel venting and exhaust emission requirements of Special Federal Aviation Regulation (SFAR) 27-5, and the test procedures specified under regulations implementing the Clean Air Act. It also inserted into other affected parts the requirements to comply with new part 34. This rulemaking was considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/23/88	53 FR 18520
NPRM Comment Period End	06/22/88	
Final Action	08/10/90	55 FR 32856
Final Action; Correction	08/28/90	55 FR 35139
Final Action; Correction	09/10/90	55 FR 37287
Final Action Effective	09/10/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/10/90 (55 FR 32856)

Additional Information: Project No. AEE-89-217R.

Agency Contact: Harvey H. Van Wyen, Manager, Research and Engineering Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-3536

RIN: 2120–AC82

2095. + SPECIAL FEDERAL AVIATION REGULATION; ADVANCED QUALIFICATION PROGRAM

Significance: Regulatory Program

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1422; 49 USC 1427; 49 USC 106(g) Revised PL 97-339, January 12, 1983

CFR Citation: 14 CFR 61; 14 CFR 63; 14 CFR 65; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This Special Federal Aviation Regulation (SFAR) established a voluntary alternative method for meeting the training, evaluation, certification, and qualification requirements for flight crewmembers, flight attendants, aircraft dispatchers, instructors, evaluators, and other operations personnel subject to the training requirements of 14 CFR Part 121 and Part 135. The FAA has developed this alternative method in response to recommendations made by a task force composed of representatives from the Government, airlines, aircrew professional organizations, and airline industry organizations. The SFAR is designed to improve aircrew performance and allows certificate holders that are subject to the training requirements of Part 121 and Part 135 to develop innovative training programs that incorporate the most recent advances in training methods and techniques. This rulemaking was significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	02/22/89	54 FR 7670
NPRM Comment Period End	04/24/89	
Final Action	10/02/90	55 FR 40262

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 02/22/89 (54 FR 7670)

Additional Information: Project No. AVS-88-281R.

Agency Contact: David L. Casey, Manager, Project Development Branch, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8094

RIN: 2120-AC35

2066. + PILOTS CONVICTED OF ALCOHOL- OR DRUG-RELATED MOTOR VEHICLE OFFENSES OR SUBJECT TO STATE MOTOR VEHICLE ADMINISTRATIVE PROCEDURES

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1422; 49 USC 1427; 49 USC 106(g)

CFR Citation: 14 CFR 61; 14 CFR 67

Legal Deadline: None

Abstract: This action set forth rules under which two or more alcohol- or drug-related motor vehicle convictions or related State administrative actions would be grounds for certificate action against a pilot. It also adopted rules under which a pilot's medical certificate would expire, requiring that the pilot apply for a new medical certificate, after an alcohol- or drug-related motor vehicle action. The final rules would require pilots to report alcohol- or drug-related motor vehicle actions to the FAA and added an express consent provision to facilitate FAA access to information reported to the National Driver Register. This rulemaking was a significant FAA initiative based on the Department of Transportation/Inspector General Report of February 17, 1987, entitled "Report on Audit of Airmen Medical Certification Program."

Timetable:

Action	Date	FR Cite
NPRM	05/18/89	54 FR 21590
NPRM Comment Period End	07/17/89	
Final Action	09/01/90	55 FR 31300
Final Action Effective	11/29/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/01/90 (55 FR 31300)

Additional Information: Formerly entitled Pilots Convicted of Driving While Intoxicated (DWI)/Under Influence (DUI). Project No. AVS-87-115R.

Agency Contact: Judie Craine, Office of Rulemaking, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9681

RIN: 2120-AC51

2067. + INDEMNIFICATION OF PUBLISHERS OF AERONAUTICAL CHARTS AND MAPS

Significance: Agency Priority

Legal Authority: 5 USC 301; 28 USC 2672; 28 USC 2675; 49 USC 1354; 49 USC 1519; 49 USC 106(g)

CFR Citation: 49 CFR 15

Legal Deadline: None

Abstract: This final rule established procedures to indemnify a publisher of aeronautical charts or maps if the publisher is liable for tort damages as a result of defective or deficient flight procedures or airways promulgated by the FAA and accurately depicted by the publisher on a chart or map. This rulemaking was considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	08/18/88	53 FR 31606
NPRM Comment Period End	10/03/88	
Final Action	05/03/90	55 FR 18704
Final Action Effective	06/04/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/03/90 (55 FR 18704)

Additional Information: This action was in response to an amendment of 49 USC 1519, which added a new Section 1113 to the Federal Aviation Act of 1958, as amended.

Agency Contact: James S. Dillman, Assistant Chief Counsel, Litigation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-3661

RIN: 2120-AC73

2068. + RULES OF PRACTICE FOR FAA CIVIL PENALTY ACTIONS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1374(d); 49 USC 1401 to 1408; 49 USC 1421 to 1428; 49 USC 1471; 49 USC 1475; 49 USC 1481 to 1482; 49 USC 1484 to 1489; 49 USC 1523

CFR Citation: 14 CFR 13; 14 CFR 14

Legal Deadline: None

Abstract: This final rule adopts changes to the rules of practice in FAA civil

penalty actions not exceeding $50,000 for a violation of the Federal Aviation Act of 1958, or of any rule, regulation, or order issued thereunder, and in actions regardless of amount for a violation of the Hazardous Materials Transportation Act, or any rule, regulation, or order issued thereunder. This rulemaking was considered significant because of substantial congressional, industry, and public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/09/90	55 FR 7660
NPRM Comment Period End	09/30/90	
Effective Date Suspended Until Further Notice	04/20/90	55 FR 15110
Second NPRM; Comment Period End 06/21/90	04/20/90	55 FR 15134
Correction	05/04/90	55 FR 18600
Final Action	07/03/90	55 FR 27548
Final Rule; Correction	07/18/90	55 FR 29293
Final Rule; Correction	07/30/90	55 FR 31027
Final Rule; Amendment to Clarify	08/01/90	55 FR 31175
Final Action Effective	08/02/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/03/90 (55 FR 27548)

Additional Information: A final rule subsequently remanded by the court was published in the Federal Register September 7, 1988 (53 FR 34943); FAA disposition of comments received was issued March 22, 1989 (54 FR 11914). A public meeting was announced for March 12, 1990, in Washington, DC (55 FR 7660, 03/08/90).

Agency Contact: Denise Daniels Ross, Special Assistant to the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591, 202 267-3773

RIN: 2120-AC74

2099. + NAVIGATIONAL EQUIPMENT REQUIREMENT IN A TERMINAL CONTROL AREA, VISUAL FLIGHT RULES OPERATIONS

Significance: Agency Priority

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1354; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g)

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This final rule removed the navigational equipment requirement for aircraft operations conducted under visual flight rules in a terminal control area. It was considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/20/89	54 FR 26752
NPRM Comment Period End	07/20/89	
Final Action	06/18/90	55 FR 24822

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/18/90 (55 FR 24822)

Additional Information: Project Number ATO-89-011R. Amendment to section 91.90(c) was effective 07/18/90; amendment to section 91.131 was effective 06/18/90.

Agency Contact: A. Wayne Pierce, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8783

RIN: 2120-AD15

2100. + AIRBORNE LOW-ALTITUDE WINDSHEAR EQUIPMENT REQUIREMENTS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This final rule amended the airborne low-altitude windshear equipment rule to: (1) remove the requirement that windshear flight guidance equipment be installed on older airplanes; (2) amend the provision allowing for an extended compliance period based on an approved airplane retrofit schedule; and (3) provide for acceptance of alternative airplane equipment in the form of an approved airborne windshear detection and avoidance system (predictive systems). This final rule allows certificate holders to install windshear equipment in coordination with the installation of traffic alert and collision avoidance system equipment. The coordination will reduce the prospect that carriers will have to divert critical maintenance resources from other safety programs. This rulemaking was considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	08/18/89	54 FR 34394
NPRM Comment Period End	09/18/89	
Final Action	04/09/90	55 FR 13236
Final Action Effective	05/09/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 04/09/90 (55 FR 13236)

Additional Information: Project Number AXR-89-248P.

Agency Contact: Gary Davis, Project Development Branch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8066

RIN: 2120-AD18

2101. + TCAS II IMPLEMENTATION SCHEDULE

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 129

Legal Deadline: None

Abstract: This final rule revised the schedule for installing Traffic Alert and Collision Avoidance Systems (TCAS II)

on airplanes with more than 30 passenger seats. The TCAS II system will provide a collision avoidance capability that operates independently of the ground-based air traffic control system and in areas where there is no air traffic control coverage. Congress recently passed legislation permitting an extension of the schedule. This action implements the legislation, reduces the prospect that carriers will divert critical maintenance and modification resources away from other safety programs to meet the TCAS II schedule, and allows the FAA to evaluate the operation of TCAS II in the total air traffic control environment. This rulemaking was significant because of substantial congressional and public interest.

Timetable:

Action	Date	FR Cite
Notice of Public Meeting	07/10/89	54 FR 28978
Final Action	04/09/90	55 FR 13242
Final Action Effective	05/09/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/09/90 (55 FR 13242)

Additional Information: Project Number AXR-89-280R. Project was formerly entitled TCAS II and Windshear Implementation Schedules.

Agency Contact: Frank Rock, Aircraft Engineering Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8337

RIN: 2120–AD23

2102. TRANSPORT CATEGORY AIRPLANE AIRWORTHINESS STANDARDS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action amended the airworthiness standards contained in Part 25 applicable to transport category airplanes to: (1) relieve the regulatory burden wherever possible, (2) ensure the airworthiness standards are practicable for the light transport airplanes common to regional air carrier operation, and (3) update Part 25 for clarity and accuracy.

Timetable:

Action	Date	FR Cite
NPRM	12/03/84	49 FR 47356
NPRM Comment Period End	04/04/85	
Final Action	07/20/90	55 FR 29758
Final Action Effective	08/20/90	
Final Action; Correction	09/12/90	55 FR 37607

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Analysis: Regulatory Evaluation 07/20/90 (55 FR 29758)

Additional Information: Docket No. 24344. Project No. ANM-82-001R.

Agency Contact: Gary Killion, Department of Transportation, Federal Aviation Administration, NorthWest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, 206 431-2112

RIN: 2120–AA47

2103. CONSTRUCTION, ALTERATION, ACTIVATION, AND DEACTIVATION OF AIRPORTS

Significance: Nonsignificant

Legal Authority: 49 USC 1350; 49 USC 1354(a); 49 USC 1355

CFR Citation: 14 CFR 157

Legal Deadline: None

Abstract: This action amended the FAR Notice of Construction, Alteration, Activation, and Deactivation of Airports, in response to a recommendation of a National Airspace Review (NAR) task group and an FAA-initiated review of this regulation. The FAA believes that the proposed changes will enhance the safety and efficiency of the use of airspace and the safety of persons and property on the surface.

Timetable:

Action	Date	FR Cite
NPRM	10/04/88	53 FR 39082
NPRM Comment Period End	01/03/89	
Final Action	08/27/90	55 FR 34994
Final Action Effective	02/27/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 10/04/88 (53 FR 39082)

Additional Information: Regulatory Project ATO-200-88-13R.

Agency Contact: Wayne Pierce, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8783

RIN: 2120–AB74

2104. ROTORCRAFT REGULATORY CHANGES BASED ON EUROPEAN JOINT AIRWORTHINESS REQUIREMENTS PROPOSAL

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This action amended the type certification requirements for both normal and transport category rotorcraft. The changes revise airworthiness standards for systems, propulsion, and airframes and introduce safety improvements, clarify existing regulations, and standardize terminology. The changes are based on some of the proposals that were submitted to the FAA by the European Joint Airworthiness Requirements 29 group. These amendments are intended to encourage the European community's acceptance of the Federal Aviation Regulations' rotorcraft type certification requirements and to obviate the development of a new and different European standard. These amendments will achieve increased commonality of airworthiness standards among the respective countries.

Timetable:

Action	Date	FR Cite
NPRM	04/25/90	54 FR 17936
NPRM Comment Period End	10/23/90	

DOT—FAA

Completed Actions

Action	Date	FR Cite
Final Action	09/21/90	55 FR 38964
Final Action; Correction	10/10/90	55 FR 41309
Final Action Effective	10/22/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 06/25/89 (54 FR 17936)

Additional Information: Former title Rotorcraft Certification Requirements; Coordination with European Airworthiness Authorities Steering Committee (AASC). Project No. ASW-89-017R.

Agency Contact: R. T. Weaver, Regulations Group, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0111, 817 [illegible]

RIN: 2120-AC37

2105. IMPROVED STRUCTURAL REQUIREMENTS FOR PRESSURIZED CABINS AND COMPARTMENTS IN TRANSPORT CATEGORY AIRPLANES

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This final rule upgrades the airworthiness requirements for pressurized compartments on transport category airplanes by (1) amending the criteria for evaluation of the secondary effects caused by openings in the pressure vessel, and (2) extending the area of consideration to include openings anywhere in any pressurized compartment. There are no changes to the sizes of the openings that must be considered. This final rule is the result of recent service experience and is intended to make the pressurized compartment load requirements less design-dependent and more objective. It requires evaluation of openings in any pressurized compartment and examination of the effects of differential pressure loads on any critical structure inside or outside the pressurized compartment.

Timetable:

Action	Date	FR Cite
NPRM	03/10/88	53 FR 8742
Correction to NPRM	05/19/88	53 FR 18022
NPRM Comment Period End	07/19/88	
Final Action	04/10/90	55 FR 13474
Final Action Effective	05/10/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/10/90 (55 FR 13474)

Additional Information: Project No. ANM-88-005R.

Agency Contact: James Haynes, Policy and Procedures Branch, Transport Standards Staff, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South C-68966, Seattle, WA 98168, 206 431-2113

RIN: 2120-AC44

2106. FLIGHT PLAN FILING REQUIREMENTS; NATIONAL AIRSPACE REVIEW RECOMMENDATION

Significance: Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1354; 49 USC 1348; 49 USC 1352 to 1356; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 42 USC 4321 et seq; EO 11514; ...

CFR Citation: 14 CFR 91.83

Legal Deadline: None

Abstract: This action was to propose to review flight-plan filing requirements and revise according to National Airspace Review Recommendations 2-3.1.4, 2-3.1.5, 2-3.1.6, 2-3.1.7, and 2-3.1.8, i.e., to establish lower ceiling and visibility criteria for rotorcraft so as to reduce the frequency of required IFR alternate airport filings; to allow fixed-wing aircraft to file IFR alternate airports that meet the same criteria as rotorcraft; to require pilots to indicate, in their flight plans, when their aircraft is equipped with special equipment.

Timetable:

Action	Date	FR Cite
Action Terminated	09/09/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: LEGAL AUTHORITY CONT: 49 USC 106(g), (Revised Pub L. 97-449, January 12, 1983)

Regulatory Project No: ATO-200-85-12R. RIN 2120-AC41 was consolidated into this proceeding. This project is being removed from the Agenda until the FAA's Regulatory Review Board, which establishes priorities and sets timetables for rulemaking projects, designates this project as an agency top priority and establishes a timetable for a rulemaking action. When a timetable has been established, this project will be returned to the Agenda.

Agency Contact: Wayne Pierce, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8783

RIN: 2120-AC56

2107. REALIGNMENT OF RESTRICTED AREAS IN THE EGLIN AFB AREA

Significance: Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1303; 49 USC 1348; 49 USC 1348(a); EO 10854; 49 USC 106(g); 49 USC 1354(a); 49 USC 1421(a); 49 USC 1423; 49 USC 1510; 49 USC 1522; 49 USC 2402; 49 USC 2424

CFR Citation: 14 CFR 73; 14 CFR 93

Legal Deadline: None

Abstract: This revision would realign restricted areas in the Eglin AFB area to increase the availability of airspace for civil users. In addition, certain portions of the realigned restricted areas would be available, when not active under Section 93.81, Special Air Traffic Rule Airspace. This project is being removed from the Agenda until the FAA's Regulatory Review Board, which establishes priorities and sets timetables for rulemaking actions, designates this project as an agency top priority and establishes a timetable for a rulemaking action. When a timetable has been established, this project will be returned to the Agenda.

Timetable:

Action	Date	FR Cite
Action Terminated	09/09/90	

Small Entities Affected: None

DOT—FAA

Completed Actions

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/08/88 (53 FR 517)

Additional Information: Regulatory Project No. ATO-200-87-11P An NPRM inadvertently attributed to this entry (01/08/88, 53 FR 517) was in reality a routine airspace action under RIN 2120-AA66 and was therefore deleted from this timetable.

Agency Contact: Paul Gallant/Wayne Pierce, Air Traffic Control Specialists, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8253

RIN: 2120-AC83

2106. AIRWORTHINESS STANDARDS; COMMUTER CATEGORY AIRPLANES

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action responded to comments received on the final rule regarding small airplane commuter category airworthiness requirements recently adopted by the FAA. The final rule, which adopted the airworthiness requirements, invited public comments. This action informed the public of the FAA's response to all comments received and amended certain commuter airplane requirements.

Timetable:

Action	Date	FR Cite
Final Action	05/02/90	55 FR 18570

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No. ACE-88-003R. This action was formerly titled Commuter Category--Response to Final Rule Comments.

Agency Contact: Joseph H. Saltkoff, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 826 426-3988

RIN: 2120-AC77

2108. AIRPORT RADAR SERVICE AREA (ARSA) COMMUNICATION REQUIREMENT

Significance: Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g)

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This final rule clarifies the regulation dealing with the two-way radio communication requirement for operations in an Airport Radar Service Area (ARSA). Pilots will be able to identify which air traffic control facilities they are required to contact for entry into an ARSA. This final rule will ensure that the correct air traffic control facility is aware of all aircraft operating in an ARSA and will tend to reduce the potential for traffic conflicts.

Timetable:

Action	Date	FR Cite
Final Action	04/26/90	55 FR 17736
Final Action Effective	05/29/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/26/90 (55 FR 17736)

Additional Information: Project No. ATO-200-88-18R. Amendments to section 91.88 were effective 05/29/90; amendments to 91.130 were effective 06/18/90.

Agency Contact: James H. Stevenson, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9783

RIN: 2120-AC89

2110. ESTABLISHMENT OF THE TAMPA TERMINAL CONTROL AREA AND REVOCATION OF THE TAMPA INTERNATIONAL AIRPORT, AIRPORT RADAR SERVICE AREA; FLORIDA

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; EO 10854; 49 USC 106(g)

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This final rule establishes a Terminal Control Area (TCA) at Tampa, FL. The TCA will consist of airspace from the surface or higher within a 25-nautical-mile radius of Tampa International Airport up to and including 10,000 feet above mean sea level. This action will increase the capability of the air traffic control system to separate aircraft in the terminal airspace around Tampa International Airport. Tampa International Airport is currently served by an Airport Radar Service Area which is rescinded concurrent with the establishment of this TCA.

Timetable:

Action	Date	FR Cite
NPRM	10/17/89	54 FR 42384
NPRM Comment Period End	12/15/89	
Correction to NPRM	12/19/89	54 FR 51986
Final Action	05/08/90	55 FR 19228
Correction to Final Rule	05/29/90	55 FR 21626
Correction to Final Rule	06/07/90	55 FR 22191
Final Action Effective	09/20/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/08/90 (55 FR 19228)

Additional Information: This project was formerly entitled Proposed Establishment of the Tampa, Florida, Terminal Control Area.

Agency Contact: Lewis W. Still, Air Traffic Operations Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9339

RIN: 2120-AD07

2111. PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION PROGRAMS

Significance: Nonsignificant

Legal Authority: PL 100-223

CFR Citation: 49 CFR 23

Legal Deadline: None

Abstract: This action would have proposed to implement Section 511(a)(17) of the Airport and Airway

DOT—FAA

Completed Actions

Improvement Act of 1982, as amended in 1987, by adding a requirement for the participation of disadvantaged business enterprises in airport concessions. It also would have amended the Department's existing disadvantaged business enterprises regulation, 49 CFR Part 23, by adding a Subpart F. This entry is being removed from the FAA's portion of the Regulatory Agenda because it is duplicative of a rulemaking action being undertaken by the Office of the Secretary of the Department of Transportation. See RIN 2105-AB70.

Timetable:

Action	Date	FR Cite
Action Terminated: Duplicate of RIN 2105-AB70	08/25/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irene H. Mields, General Legal Services Division, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-3473

RIN: 2120-AD41

2112. TEMPORARY PROHIBITED AREAS; 1990 GOODWILL GAMES IN THE STATE OF WASHINGTON

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; 49 USC 1522; 49 USC 106(g); EO 10854

CFR Citation: 14 CFR 73

Legal Deadline: None

Abstract: This final rule established, for the period July 11, 1990, through August 6, 1990, temporary prohibited areas overlying competition sites and other locations during the 1990 Goodwill Games in the State of Washington. The FAA, based on the recommendations of the Department of Defense and the Goodwill Games Law Enforcement Joint Operations Committee, believed these prohibited areas were necessary: (1) for the security and protection of participating athletes, dignitaries, and other persons attending the Goodwill Games; (2) to minimize the possibility of interference with sporting activities, participants, and spectators; (3) for the protection of security and law enforcement aircraft operating within these areas; and (4) to prevent an unsafe congestion of sightseeing and other aircraft over those locations.

Timetable:

Action	Date	FR Cite
NPRM	02/22/90	55 FR 6340
NPRM Comment Period End	03/26/90	
Final Action	05/14/90	55 FR 20100
Final Rule; Correction	07/10/90	55 FR 28188
Final Action Effective	07/11/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/14/90 (55 FR 20100)

Additional Information: Project Number ATO-90-112R. This project was formerly entitled 1990 Goodwill Games Temporary Flight Restrictions.

Agency Contact: Richard Kagehiro, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-8783

RIN: 2120-AD54

2113. ● REMOVAL OF TRANSPONDER WITH AUTOMATIC ALTITUDE REPORTING CAPABILITY (MODE C TRANSPONDER) REQUIREMENT FOR OPERATIONS IN THE VICINITY OF HECTOR INTERNATIONAL AIRPORT, FARGO, NORTH DAKOTA

Significance: Nonsignificant

Legal Authority: 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g); EO 11524

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This final rule removed the Mode C transponder requirement for operations in the vicinity of Hector International Airport, Fargo, North Dakota.

Timetable:

Action	Date	FR Cite
Final Action	07/23/90	55 FR 29966

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/23/90 (55 FR 29966)

Additional Information: Project Number ATO-90-184R.

Agency Contact: James H. Steenson, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, 202 267-9246

RIN: 2120-AD62

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Prerule Stage

2114. ● + QUALIFICATION OF DRIVERS; EPILEPSY, HEARING, AND VISION

Significance: Agency Priority

Legal Authority: 49 USC 2505; 49 USC 3102

CFR Citation: 49 CFR 391

Legal Deadline: None

Abstract: This rulemaking action is considering revisions to current driver qualification requirements by allowing certain persons who have epilepsy, hearing, or vision problems to operate commercial motor vehicles in interstate commerce provided certain medical conditions are met. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/91	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Tom Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh

DOT—FHWA

Prerule Stage

Street, SW., Washington, DC 20590, 202 366-2981

RIN: 2125–AC62

2116. ● TRUCK SIZE AND WEIGHT; DROMEDARY BOXES CARRYING EXPLOSIVES

Significance: Nonsignificant

Legal Authority: 23 USC 127; 23 USC 315; 49 USC app 2311 to 2313; 49 USC app 2316

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: This rulemaking responds to a petition filed by the North American Transportation Consultants (NATC) on behalf of explosive carriers seeking an amendment to the FHWA dromedary box regulations contained in 23 CFR 658. The NATC is requesting that truck tractors equipped with dromedary boxes designed for the transportation of class A or B explosives, when empty or carrying such explosives, be subject to Federal rather than State length limits when in combination with semitrailers operating on the National Network. Explosive carriers often transport certain portions of their cargo in a dromedary box in compliance with Federal hazardous materials regulations. Under the existing regulation, truck tractors equipped with dromedary boxes, decks, or plates may operate on the National Network with semitrailer lengths authorized under the Surface Transportation Assistance Act of 1982 (STAA) only if the dromedary equipment was installed on the trailer by December 1, 1982.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Max Pieper, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4020

RIN: 2125–AC61

2118. ● QUALIFICATION OF DRIVERS; MEDICAL EXAMINATION FORM

Significance: Nonsignificant

Legal Authority: 49 USC 2505; 49 USC 3102

CFR Citation: 49 CFR 391

Legal Deadline: None

Abstract: This rulemaking action will consider revisions to the requirements contained in 49 CFR 391.43. The FHWA is reviewing the medical examination form in order to determine if revisions are needed so that a more comprehensive medical examination can be performed by the examining physician.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/91	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Tom Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2981

RIN: 2125–AC63

2117. MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES

Significance: Routine and Frequent

Legal Authority: 23 USC 109(b); 23 USC 109(d); 23 USC 402(a)

CFR Citation: 23 CFR 655

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected—2. 12/00/90.

Timetable:

Action	Date	FR Cite
Total Actions Expected to End	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Reg. Evaluation (Minimal Impact) 12/00/90

Agency Contact: P. Russell, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2194

RIN: 2125–AA37

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Proposed Rule Stage

2118. + FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL; COMMERCIAL MOTOR VEHICLE DEFINITION

Significance: Agency Priority

Legal Authority: 49 USC 2391 to 2404; 49 USC app 2505; 49 USC 3102

CFR Citation: 49 CFR 350; 49 CFR 390

Legal Deadline: None

Abstract: The FHWA is addressing the issue of the gross vehicle weight rating (GVWR) criterion used to define a "commercial motor vehicle" subject to the Federal Motor Carrier Safety Regulations (FMCSR's). The FHWA is specifically seeking public comment on the enforcement and regulatory capability regarding the rating. This rulemaking is considered significant because of its potential impact on the motor carrier industry.

Timetable:

Action	Date	FR Cite
ANPRM	02/17/89	54 FR 7224
ANPRM Comment Period Extended to 06/19/89	04/03/89	54 FR 13391
ANPRM Comment Period End	04/19/89	54 FR 7224
ANPRM Comment Period Extended to 11/03/89	06/15/89	54 FR 25484
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 10/00/90

DOT—FHWA

Proposed Rule Stage

Agency Contact: Mr. Thomas F. Koslowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2981

RIN: 2125–AC27

2119. + FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL; MOTOR VEHICLE MARKING

Significance: Agency Priority

Legal Authority: 49 USC 3102; 49 USC app 2502; 49 USC app 2505

CFR Citation: 49 CFR 390

Legal Deadline: None

Abstract: This rulemaking document proposes revisions to the current requirements contained in 49 CFR 390.21 concerning the marking of motor vehicles. Three areas are being considered for possible revision: (1) the applicability of the marking requirements to all commercial motor vehicles operated in interstate commerce, (2) postcard type registration of motor carriers, and (3) the treatment of rental vehicles. The third area of concern is being considered in response to a request for interpretation filed by the Truck Rental and Leasing Association (TRALA). This rulemaking is considered significant because of the public interest in commercial motor-carrier safety.

Timetable:

Action	Date	FR Cite
ANPRM	07/17/89	54 FR 29912
ANPRM Comment Period End	09/15/89	
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 12/00/90

Additional Information: The action previously identified by RIN 2125-AC20 and entitled: "Federal Motor Carrier Safety Regulations: General; Rental Vehicle Leasing" has been merged into this rulemaking action.

Agency Contact: Thomas P. Koslowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2981

RIN: 2125–AC28

2120. CONSTRUCTION CONTRACT EQUAL OPPORTUNITY COMPLIANCE PROCEDURES

Significance: Nonsignificant

Legal Authority: 23 USC 101; 23 USC 112; 23 USC 117; 23 USC 140; 23 USC 315

CFR Citation: 23 CFR 230; 23 CFR 640; 23 CFR 642

Legal Deadline: None

Abstract: This proposed rulemaking would revise the FHWA regulation on construction contract equal opportunity compliance procedures in order to clarify changes in policy and overall program implementation. Additionally, the proposal has been written with the consideration that the FHWA no longer has equal employment opportunity (EEO) contract compliance responsibilities under Executive Order (E.O.) 11246, but clearly has the responsibility to ensure that federally assisted highway contractors are providing equal opportunity under 23 U.S.C. 140. The proposed regulation should provide greater uniformity in the equal opportunity contract compliance program and should provide greater flexibility in overall program administration.

Timetable:

Action	Date	FR Cite
NPRM	11/22/82	47 FR 52470
NPRM Comment Period End	12/22/82	47 FR 52470
SNPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 11/22/82 (47 FR 52470)

Additional Information: A supplemental NPRM will be issued in order to propose updated revisions. The supplemental NPRM will address all procedures and provisions contained in 23 CFR 230. Therefore, the related entry (RIN 2125-AB27) has been consolidated into this proceeding.

Agency Contact: Glenn Reed, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-1567

RIN: 2125–AB15

2121. QUALIFICATION OF DRIVERS; DIABETES

Significance: Nonsignificant

Legal Authority: 49 USC 3102; 49 USC app 2505; 23 USC 315

CFR Citation: 49 CFR 391.41(b)(3)

Legal Deadline: None

Abstract: This rulemaking action responds to a petition filed by the American Diabetes Association (ADA) and others. The current diabetic rule prohibits insulin-using diabetics from driving in interstate or foreign commerce. The ADA has petitioned to change the regulation to provide for exemptions. The purpose of this action is to consider the proposed exemption program. An NPRM requested comments on the development of medical evaluation procedures and risk assessment procedures for insulin dependent diabetics.

Timetable:

Action	Date	FR Cite
ANPRM	11/25/87	52 FR 45204
ANPRM	12/28/87	53 FR 45204
Comment Period End		
ANPRM	01/04/88	53 FR 42
Comment Period Extended to 02/01/88		
NPRM	10/05/90	55 FR 41028
NPRM Comment Period End	12/04/90	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 10/05/90 (55 FR 41028)

Agency Contact: Thomas P. Koslowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2981

RIN: 2125–AB91

2122. COMPATIBILITY OF STATE SAFETY REQUIREMENTS AFFECTING INTERSTATE COMMERCIAL MOTOR VEHICLES

Significance: Nonsignificant

DOT—FHWA

Proposed Rule Stage

Legal Authority: 49 USC app 2507; 49 USC app 2508

CFR Citation: 49 CFR 355

Legal Deadline: None

Abstract: Sections 207-209 of the Motor Carrier Safety Act of 1984 establish a process whereby any State law or regulation pertaining to commercial motor vehicle safety in interstate commerce will be reviewed and analyzed by the Commercial Motor Vehicle Safety Regulatory Review Panel (Safety Panel). The Safety Panel is to determine if such law or regulation has the same effect as, is less stringent than, or is additional to or more stringent than the Federal Motor Carrier Safety Regulations. The proposed regulations would provide guidelines for a continuous regulatory review of State laws and regulations; would establish deadlines for a State to achieve compatibility with the Federal Motor Carrier Safety Regulations; and would establish procedures for the Federal Highway Administrator to determine whether or not a State law or regulation may be in effect and enforced with respect to interstate commercial motor vehicle safety.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 10/00/90

Additional Information: Former Title: Review and Preemption of State Motor-Carrier Safety Regulations.

Agency Contact: Bill Blount, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2204

RIN: 2125–AC11

2123. ACQUISITION OF REAL PROPERTY FOR RIGHTS-OF-WAY

Significance: Nonsignificant

Legal Authority: 23 USC 315; PL 100-17, Sec 128; PL 100-17, Sec 146

CFR Citation: 23 CFR 172; 23 CFR 710; 23 CFR 712; 23 CFR 713; 23 CFR 720; 23 CFR 740

Legal Deadline: None

Abstract: The Federal Highway Administration (FHWA) is proposing to revise and consolidate several right-of-way regulations to improve the organization of the subject matter and update the content. This action will also implement sections 126 and 146 (airspace and donations) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 01/00/91

Additional Information: Two related rulemaking actions are: (1) a proposed rule entitled "Right-of-Way" which appeared in a prior Agenda under RIN 2125-AB58 and (2) a proposed rule entitled "Property Management; Disposals and Airspace" which appeared in a prior Agenda under RIN 2125-AB60. Those entries have been consolidated into this rulemaking.

Agency Contact: Douglas Wubbels, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2919

RIN: 2125–AC17

2124. DESIGN STANDARDS FOR HIGHWAYS; AASHTO PUBLICATION; GEOMETRIC DESIGN OF HIGHWAYS AND STREETS

Significance: Nonsignificant

Legal Authority: 23 USC 109; 23 USC 315; 23 USC 402

CFR Citation: 23 CFR 625

Legal Deadline: None

Abstract: The American Association of State Highway Transportation Officials (AASHTO) is revising and updating the publication entitled "Policy on Geometric Design of Highways and Streets, AASHTO 1984." It is anticipated that this action will, after receipt of public comments on the proposed action, designate, in whole or in part, the revised AASHTO publication as being acceptable to the FHWA for application in the geometric design of highways and remove the out-of-date version from the acceptable list.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Reg. Evaluation (Minimal Impact) 04/00/91

Additional Information: The initial appearance of this entry in the agenda (4/89) made reference to another AASHTO publication entitled "A Policy on Design--Interstate System." This publication is being addressed in a separate rulemaking action under RIN 2125-AC34 entitled "Design Standards for Highways; Interstate System" and is located under the final action section.

Agency Contact: Seppo I. Sillan, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-1337

RIN: 2125–AC22

2125. TRUCK LENGTH AND WIDTH EXCLUSIVE DEVICES

Significance: Nonsignificant

Legal Authority: 23 USC 315; PL 97-424, Sec 411; PL 97-424, Sec 416

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: The FHWA is requesting public comment on how, under Section 411(h) and 416(b) of the Surface Transportation Act of 1982 (STAA) (Pub. L. 97-424, 96 Stat. 2097), the Secretary may determine which safety or efficiency-enhancing devices are to be excluded when measuring the length and width of vehicles for compliance with federally mandated dimensions. The present system of employing rulemaking proceedings is too time-consuming and cumbersome to meet the needs of industry and is needlessly burdensome for FHWA. Therefore, a new approach will be proposed.

Timetable:

Action	Date	FR Cite
ANPRM	12/26/89	54 FR 52951
ANPRM Comment Period Extended to 06/01/90	03/21/90	55 FR 10468

DOT—FHWA

Proposed Rule Stage

Action	Date	FR Cite
ANPRM	03/23/90	
Comment Period End		
ANPRM Docket Reopened; Comment Period Extended to 08/21/90	08/22/90	55 FR 29872
NPRM	02/00/91	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 02/00/91

Agency Contact: Mr. Marc Fisher, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4020

RIN: 2125-AC30

2126. NOTIFICATION AND REPORTING OF ACCIDENTS; PROPERTY DAMAGE

Significance: Nonsignificant

Legal Authority: 49 USC app 2505; 49 USC 3102

CFR Citation: 49 CFR 394

Legal Deadline: None

Abstract: The FHWA is proposing to amend the definition of "reportable accident" for motor carriers operating in interstate commerce by changing the criterion for reporting accidents resulting in only property damage under Part 394 of the Federal Motor Safety Regulations (FMCSRs). The current dollar value assessment would be replaced with a towaway criterion. "Towaway" is defined as "one or more vehicles incurring disabling damage as a result of the accident and transported away from the scene by a tow-truck or another vehicle." Integral to this definition is the term disabling damage. This amendment would not affect the requirement to report accidents involving injury or death. This action is being taken in an effort to standardize and simplify State and motor-carrier industry accident-reporting procedures by removing the uncertainty of estimating a dollar value amount. The FHWA is also soliciting comments on two other potential changes: (1) revising the Federal definition of a reporting accident to be consistent with the American National Standard Institute (ANSI) D-16 definition (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Reg. Evaluation (Minimal Impact) 10/00/90

Additional Information: ABSTRACT CONT: of a motor vehicle traffic accident and (2) removing the instructions for the Motor Carrier Forms 50-T and 50-B from Part 394.20 of the FMCSRs.

Agency Contact: Mr. William H. Blount, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2981

RIN: 2125-AC43

2127. STATE COMPLIANCE WITH CDL PROGRAM REQUIREMENTS

Significance: Nonsignificant

Legal Authority: PL 99-570; 49 USC 3102; 49 USC app 2505

CFR Citation: 49 CFR 383

Legal Deadline: None

Abstract: Section 12009 of the Commercial Motor Vehicle Safety Act of 1986 establishes 21 requirements under the Commercial Driver's License (CDL) program which States must meet before October 1, 1993 to avoid losing a portion of their Federal-aid highway funds. This regulation will delineate the criteria and standards which the FHWA will use in determining whether a State is substantially in compliance with the 21 requirements. In addition, the rule will include a procedure governing initial and subsequent reviews of State compliance with these requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimum Impact) 04/00/91

Agency Contact: Ms. Neil E. Moyer, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4009

RIN: 2125-AC53

2128. COMMERCIAL DRIVER INSTRUCTION PERMITS

Significance: Nonsignificant

Legal Authority: PL 99-570; 49 USC 3102; 49 USC app 2505

CFR Citation: 49 CFR 383

Legal Deadline: None

Abstract: To reconcile the training needs of the motor carrier industry with the requirements of the commercial driver's license (CDL) program and the Commercial Motor Vehicle Safety Act of 1986, the FHWA is proposing additional minimum Federal standards for State-issued learner's permits that allow drivers to be trained in the operation of commercial motor vehicles (CMVs). Among the alternatives under consideration: Applicants for Commercial Driver Instruction Permits (CDIPs) might need to possess drivers' licenses and undergo record checks analogous to those now required for CDLs; CDIP transactions might be entered in the Commercial Driver's License Information System (CDLIS); and CDIP holders might be explicitly subject to the same disqualifications as CDL holders. Since driver training is nationwide in scope, the FHWA is proposing options that would allow a State to issue a CDIP to a driver trainee, or a 90-day CDL to a trained driver, without regard to his/her State of domicile.

Timetable:

Action	Date	FR Cite
NPRM	06/22/90	55 FR 34478
NPRM Comment Period End	10/22/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Ms. Neil E. Moyer, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4009

RIN: 2125-AC54

2129. ● CERTIFICATION OF SIZE AND WEIGHT ENFORCEMENT

Significance: Nonsignificant

DOT—FHWA — Proposed Rule Stage

Legal Authority: 23 USC 127; 23 USC 141; 23 USC 315

CFR Citation: 23 CFR 657

Legal Deadline: None

Abstract: This rulemaking action proposes to amend existing regulations contained in 23 CFR 657 by changing the requirements for State enforcement plans and certifications as well as the FHWA evaluation of State operations under the enforcement plans. The revised requirements will rely on available truck weight data and enforcement records. The revisions will result in evaluations and certifications being based more closely on the approved plans.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 12/00/90

Agency Contact: Dennis Miller, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4226

RIN: 2125-AC60

2130. ● REIMBURSEMENT FOR RAILROAD WORK AND RAILROAD-HIGHWAY INSURANCE PROTECTION

Significance: Nonsignificant

Legal Authority: 23 USC 101(e); 23 USC 114(a); 23 USC 115(b); 23 USC 120; 23 USC 121; 23 USC 122; 23 USC 315; 23 USC 405

CFR Citation: 23 CFR 140; 23 CFR 646

Legal Deadline: None

Abstract: This rulemaking proposes to add an optional method of determining eligibility of reimbursable self-insurance costs and raise the reimbursable limits for railroad protective insurance. This proposal is being made to ease the administrative burden of determining appropriate self-insurance rates. The propose! will allow an alternative of a pre-established fixed rate to cover both worker compensation insurance and public liability and property damage insurance.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation (Min. Impact) 10/00/90

Agency Contact: Mr. Jerry L. Poston, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0458

RIN: 2125-AC84

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Final Rule Stage

2131. + PRIVATE CARRIAGE OF PASSENGERS

Significance: Regulatory Program

Legal Authority: 49 USC 104; 49 USC 3102; 49 USC app 2503; 49 USC app 2505

CFR Citation: 49 CFR 383; 49 CFR 390 to 393; 49 CFR 395; 49 CFR 396

Legal Deadline: None

Abstract: The FHWA is proposing revisions to the requirements for private motor carriers of passengers and the drivers of private motor vehicles of passengers. The proposed revisions would require private motor carriers of passengers and drivers of private motor vehicles of passengers to operate under the Federal Motor Carrier Safety Regulations (FMCSR). However, the paperwork burden of these requirements will be minimized and several parts of the FMCSR will not apply to either private motor carriers of passengers or to drivers of such vehicles. This rulemaking is significant in that it is controversial, involving bringing new carriers under the regulatory scheme

Timetable:

Action	Date	FR Cite
ANPRM	01/23/85	50 FR 2998
ANPRM Comment Period End	03/11/85	50 FR 2998
NPRM	02/17/89	54 FR 7362
NPRM Comment Period End	06/19/89	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 02/17/89 (54 FR 7362)

Additional Information: This action was formerly entitled Minimum Requirements for Private Motor Carriers of Passengers and Drivers of Private Motor Vehicles of Passengers.

Agency Contact: Susan Petty, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2998

RIN: 2125-AB62

2132. + COMMERCIAL DRIVER'S LICENSE STANDARDS; BIOMETRIC IDENTIFIER

Significance: Regulatory Program

Legal Authority: PL 100-202, Sec 9105

CFR Citation: 49 CFR 383

Legal Deadline: None

Abstract: This action was initiated to improve identification systems for truck and bus drivers as identified by the Congress in the Truck and Bus Regulatory Reform Act of 1988. Alternatives that were considered included retinal eye scans and advanced fingerprint technologies. After (1) further review (2) a careful analysis of public comments submitted to the ANPRM and (3) a review of demonstration project results, the FHWA has determined that current technology has not progressed to the point where an identification system could be established nationwide in a cost-effective manner and still provide the benefits for which a system was intended. Therefore, the ANPRM will be withdrawn. This rulemaking was considered significant because of substantial public interest.

DOT—FHWA

Final Rule Stage

Timetable:

Action	Date	FR Cite
ANPRM	06/15/89	54 FR 25675
ANPRM Comment Period End	07/14/89	54 FR 25675
To Be Withdrawn	10/00/90	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Jill L. Hochman, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4991

RIN: 2125-AC24

2133. + ENVIRONMENTAL IMPACT AND RELATED PROCEDURES; CONSTRUCTIVE USE

Significance: Agency Priority

Legal Authority: 23 USC 315; 49 USC 303

CFR Citation: 23 CFR 771

Legal Deadline: None

Abstract: The need for rulemaking in this area has been caused by recent court decisions. The courts have delayed or halted several important Federal-aid highway projects on the grounds that the proximate effects or impacts from a given highway would constructively use land from a park or historic site. In each instance the FHWA had determined that there existed no constructive use. This determination was based on an analysis of proximity impacts and whether the impacts would substantially impair the functions or values which qualified the property for protection under Section 4(f) of the DOT Act. The FHWA has been operating under an informal policy directive on constructive use since 11/12/85. This rulemaking action would formalize existing policy on constructive use, and future court decisions would address the regulation rather than be based on ad hoc interpretations of specific project facts. This action is considered significant because of substantial public interest in environmental matters.

Timetable:

Action	Date	FR Cite
NPRM	02/22/89	55 FR 3999
NPRM Comment Period End	04/03/90	
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Reg. Evaluation (Minimal Impact) 02/02/90 (55 FR 3999)

Agency Contact: Harter M. Rupert, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4063

RIN: 2125-AC18

2134. CONTRACT PROCEDURES

Significance: Nonsignificant

Legal Authority: 23 USC 112; 23 USC 113; 23 USC 114; 23 USC 117; 23 USC 128

CFR Citation: 23 CFR 635

Legal Deadline: None

Abstract: The Contract Procedures regulation (23 CFR 635) basically prescribes the policy and procedures relating to Federal-aid highway projects, from the time of project authorization to the final acceptance by FHWA. This regulation was last updated in 1974. This rulemaking action will update and restructure the existing regulation for clarity and consistency in keeping with program delivery.

Timetable:

Action	Date	FR Cite
NPRM	08/10/78	43 FR 36845
NPRM Comment Period End	10/17/78	
SNPRM	05/03/90	55 FR 22812
Comment Period End	06/03/90	
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 06/04/90 (55 FR 22812)

Agency Contact: Steve Gaj, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-1559

RIN: 2125-AA18

2135. ADMINISTRATION OF ENGINEERING AND DESIGN RELATED SERVICE CONTRACTS

Significance: Nonsignificant

Legal Authority: 23 USC 315; 23 USC 104(f); 23 USC 114(a); 23 USC 307(c); 23 USC 402; 23 USC 112(b); 23 USC 302

CFR Citation: 23 CFR 172

Legal Deadline: None

Abstract: This rulemaking action addresses the administration of contracts (23 CFR 172) and is being revised to implement the provisions of Section 111(B) of the Surface Transportation Assistance Act of 1987 (STURAA). The 1987 STURAA requires the procurement of engineering and design services to be qualifications-based or to follow a formal procurement procedure that is required by State statute or is subsequently established by State law.

Timetable:

Action	Date	FR Cite
NPRM	03/05/90	55 FR 7736
NPRM Comment Period End	05/04/90	
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Reg. Evaluation (Minimal Impact) 03/05/90 (55 FR 7736)

Additional Information: This rulemaking was formerly entitled "Administration of Contracts."

Agency Contact: Si Silence, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4628

RIN: 2125-AB36

2136. PUBLIC AVAILABILITY OF INFORMATION; FREEDOM OF INFORMATION ACT REGULATIONS; TECHNICAL AMENDMENTS

Significance: Nonsignificant

Legal Authority: 5 USC 552; 31 USC 9701; 49 USC 322

CFR Citation: 49 CFR 7

Legal Deadline: None

Abstract: This action amends Appendix D of the final rule published on 8/21/88 at 53 FR 30285 regarding implementation of the Freedom of

DOT—FHWA

Final Rule Stage

Information Act by FHWA. The technical amendments are necessary in order to correct a typographical error, to remove unnecessary explanatory language, to add a paragraph on determinations to disclose records and grant or deny requests for fee waivers or reductions, and to conform paragraph designations.

Timetable:

Action	Date	FR Cite
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Reg. Evaluation (Minimal Impact) 11/00/90

Agency Contact: Mr. John H. Schnackenberg, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0534

RIN: 2125-AC20

2137. INSPECTION, REPAIR AND MAINTENANCE; BRAKE INSPECTION

Significance: Nonsignificant

Legal Authority: PL 100-690, Sec 9110

CFR Citation: 49 CFR 393

Legal Deadline: Final, Statutory, December 31, 1990.

Abstract: The FHWA is requesting public comment concerning the development and implementation of Federal standards or methods to ensure that brakes and brake systems of commercial motor vehicles are properly maintained and inspected. This action is required by Section 9110 of the Truck and Bus Safety and Regulatory Reform Act of 1988 (Pub. L. 100-690, 102 Stat. 4181).

Timetable:

Action	Date	FR Cite
ANPRM	02/03/89	54 FR 5519
ANPRM Comment Period End	04/04/89	
NPRM	07/25/90	55 FR 30254
NPRM Comment Period End	09/24/90	
Final Action	12/31/90	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 07/25/89 (55 FR 30254)

Agency Contact: Ms. Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2961

RIN: 2125-AC25

2138. PARTS AND ACCESSORIES FOR SAFE OPERATION; EMERGENCY WARNING DEVICES

Significance: Nonsignificant

Legal Authority: PL 100-690, Sec 9108; 49 USC 3102; 49 USC app 2505

CFR Citation: 49 CFR 393; 49 CFR 392

Legal Deadline: Final, Statutory, October 31, 1989.
Final action must be taken by 10/31/89.

Abstract: The FHWA is requesting comments on several issues relating to the appropriate use of emergency warning devices for commercial motor vehicles in response to Section 9108 of the Truck and Bus Safety and Regulatory Reform Act of 1988 (Pub. L. 100-690, 102 Stat. 4181). Issues include the use of fuses as an alternative or supplement to bidirectional emergency reflective triangles, as well as all aspects of emergency warning devices, including the type allowed and exemptions and/or condition for use. On 11/9/89, a notice of termination of rulemaking was published at 54 FR 47092 regarding the use of fuses as an alternative or supplement to bidirectional reflective triangles. Based on available information and public comments, it was determined that no enhancement of motor carrier or highway safety would be served by revising current regulations. The remaining issues will be addressed in a forthcoming final rule.

Timetable:

Action	Date	FR Cite
ANPRM	02/03/89	54 FR 5516
ANPRM Comment Period End	03/20/89	
Action Terminated Re: Sec. 9108 of P.L.100-690	11/09/89	54 FR 47092
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 02/03/89 (54 FR 5516)

Agency Contact: Ms. Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2961

RIN: 2125-AC29

2139. DESIGN STANDARDS FOR HIGHWAYS; INTERSTATE SYSTEM

Significance: Nonsignificant

Legal Authority: 23 USC 109; 23 USC 315; 23 USC 402

CFR Citation: 23 CFR 625

Legal Deadline: None

Abstract: The Federal Highway Administration (FHWA) requested comments on a proposed amendment to the design standards which apply to interstate highway construction and reconstruction projects eligible to receive funding under the Federal-aid highway program. A revised publication approved by the American Association of State Highway and Transportation Officials (AASHTO) entitled "A Policy on Design Standards—Interstate System, AASHTO 1990" would be substituted for the previous version of these standards last revised June 20, 1987. If the Federal Highway Administration (FHWA) adopts the 1990 document, the new AASHTO publication would constitute the FHWA's policy on geometric design for all federally assisted construction and reconstruction projects on the interstate highway system.

Timetable:

Action	Date	FR Cite
NPRM	07/18/89	54 FR 30065
NPRM Comment Period End	09/18/89	
NPRM Comment Period Extended to 11/18/89	09/18/89	54 FR 38367
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 07/18/89 (54 FR 30065)

Agency Contact: Mr. Seppo I. Silkes, Department of Transportation, Federal Highway Administration, 400 Seventh

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DOT—FHWA

Final Rule Stage

Street, SW., Washington, DC 20590, 202 366-1357

RIN: 2125-AC34

2140. RULES OF PRACTICE FOR MOTOR CARRIER SAFETY AND HAZARDOUS MATERIALS PROCEEDINGS; PENALTIES FOR FAILURE TO COMPLY WITH NOTICES AND ORDERS ISSUED UNDER THE AUTHORITY OF 49 USC 521(B)

Significance: Nonsignificant

Legal Authority: 49 USC 2701 et seq; 49 USC 2501 et seq; 49 USC 104(c)(2); 49 USC 501 et seq; 49 USC 3101 et seq; 49 USC 1801 et seq

CFR Citation: 49 CFR 386

Legal Deadline: None

Abstract: This rulemaking action is intended to implement section 213(b) of the Motor Carrier Safety Act of 1984 by adding a penalty schedule to 49 CFR Part 386 applicable to failure to comply with notices and orders issued under the authority of section 521(b) of Title 49, United States Code. These penalties would apply in addition to other civil forfeiture assessments for violations of the Federal Motor Carrier Safety Regulations (FMCSR) charged in a Notice of Claim or Notice of Investigation.

Timetable:

Action	Date	FR Cite
NPRM	03/27/90	55 FR 11224
NPRM Comment Period End	05/29/90	55 FR 11224
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 03/27/90 (55 FR 11224)

Agency Contact: Mr. Paul L. Brennan, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0324

RIN: 2125-AC36

2141. UNIFORM SYSTEM FOR HANDICAPPED PARKING

Significance: Nonsignificant

Legal Authority: PL 100-641, Sec 3; PL 100-17, Sec 202; PL 98-78, Sec 221; 23 USC 315

CFR Citation: 23 CFR 655

Legal Deadline: None

Abstract: The FHWA and NHTSA established an advisory committee to develop a report which included a recommended rulemaking proposal concerning a uniform system for handicapped parking. The committee developed its recommendation using a negotiation process. The committee is comprised of persons who represent the interests affected by handicapped parking regulations. The NPRM addressed: the use of the International Symbol of Access on handicapped plates and placards; fees for plates and placards; and the recognition of out-of-State handicapped plates and placards. It is intended that the problems facing the handicapped traveler would be greatly reduced.

Timetable:

Action	Date	FR Cite
Notice of Intent to Form Advisory Committee for Reg. Negotiation	06/12/89	54 FR 24908
Establishment of Advisory Committee for Reg. Negotiation	10/03/89	54 FR 40770
Notice of Public Meetings	10/31/89	54 FR 45884
Notice of Public Meetings	11/30/89	54 FR 49387
Public Meetings Correction	12/12/89	54 FR 51101
NPRM	03/23/90	55 FR 10988
NPRM Comment Period End	05/02/90	
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 03/23/90 (55 FR 10988)

Additional Information: The contact person in NHTSA is Mr. E. William Fox, who can be reached at 202 366-1834.

Agency Contact: Mr. Vincent J. Nowakowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2748

RIN: 2125-AC39

2142. QUALIFICATION OF DRIVERS: WRITTEN EXAMINATIONS

Significance: Nonsignificant

Legal Authority: 49 USC app 2503, 2505; 49 USC 3102; 49 USC 4104

CFR Citation: 49 CFR 391

Legal Deadline: None

Abstract: Due to amendments to the Federal Motor Carrier Safety Regulations (FMCSRs) which have occurred in the past few years, certain information and terminology currently found in the written examinations for drivers is no longer correct. Consequently, the FHWA is amending the written examination, which is given to driver applicants by motor carriers subject to the jurisdiction of the FHWA, to correct the examination's information and terminology. While the revisions are nonsubstantive in nature, they will improve the usefulness of the written examination.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 10/00/90

Agency Contact: Tom Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2981

RIN: 2125-AC42

2143. QUALIFICATION OF DRIVERS; TOW-TRUCK OPERATORS

Significance: Nonsignificant

Legal Authority: 49 USC 3102; 49 USC app 2505

CFR Citation: 49 CFR 395

Legal Deadline: None

Abstract: The FHWA is proposing to amend Part 395, Hours of Service of Drivers, of the Federal Motor Carrier Safety Regulations (FMCSR's) to include an exemption for tow-truck operators responding to an emergency situation at the request of a law enforcement or emergency response official. This action is being taken in response to a petition submitted by the Towing and Recovery Association of America, Inc., (TRAA) which requested

relief from the hours of service requirements of Part 395 for tow-truck operators responding to the emergency situation. This amendment would provide needed flexibility to tow-truck operators responding to highway emergencies. This rule would also arrange the definitions in Section 395.2 alphabetically; add the definition "on call"; and consolidate the exceptions and exemptions in Section 395.8 of the FMCSR's.

Timetable:

Action	Date	FR Cite
Notice Requesting Comments on Petition	08/11/88	53 FR 30369
NPRM	07/06/90	55 FR 27844
NPRM Comment Period End	08/20/90	
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Reg. Evaluation (Minimal Impact) 07/06/90 (55 FR 27844)

Agency Contact: Mr. Thomas P. Koslowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2981

RIN: 2125-AC43

2144. QUALIFICATION OF DRIVERS; MEDICAL EXAMINATION

Significance: Nonsignificant

Legal Authority: 49 USC 3102; 49 USC 3104; 49 USC app 2503; 49 USC app 2505

CFR Citation: 49 CFR 390; 49 CFR 391

Legal Deadline: None

Abstract: This rulemaking action will amend Section 391.49 of the Federal Motor Carrier Safety Regulations (FMCSR's) to permit certain licensed health care professionals to perform physical examinations of commercial motor vehicle drivers. The FHWA is addressing this issue in response to the numerous requests received from motor carriers, medical facilities, physicians, physician assistants (PA's), and nurse practitioners (NP's) to allow PA's and NP's to perform physical examinations under the supervision of licensed doctors of medicine or osteopathy. This action would permit drivers to have their physical examinations performed at more convenient times and locations and perhaps at a lower cost. This action would require health care professionals, who perform the physical examination, to become more knowledgeable of the FMCSR's requirements. The certification and determination that a driver is physically qualified in accordance with the requirements of 49 CFR 391 would remain with the licensed doctor of medicine or osteopathy.

Timetable:

Action	Date	FR Cite
NPRM	04/12/90	55 FR 13812
NPRM Comment Period End	06/11/90	55 FR 13812
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 04/12/90 (55 FR 13812)

Agency Contact: Mr. Thomas P. Koslowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2981

RIN: 2125-AC44

2145. INSPECTION, REPAIR AND MAINTENANCE; PERIODIC INSPECTIONS

Significance: Nonsignificant

Legal Authority: 49 USC app 2505; 49 USC 3102

CFR Citation: 49 CFR 396

Legal Deadline: None

Abstract: This document amends 49 CFR Part 396, Inspection, Repair and Maintenance, of the Federal Motor Carrier Safety Regulations (FMCSR's). The Federal Highway Administration (FHWA) delayed the compliance date to July 1, 1990, when motor carriers are required to implement the periodic inspection requirements contained in the final rule, Inspection, Repair and Maintenance, published on December 7, 1988, (53 FR 49402). On December 12, 1989, the FHWA clarified that provisions of the final rule were to be complied with by December 7, 1990 (53 FR 49396) except as provided for in Part 393. This document also included recent interpretations, made minor technical amendments to clarify the rule and eliminated certain items from the inspection report. These interpretations were made in response to many requests the FHWA has received to clarify the intent of the final rule. The elimination of some of the items that were to be included in the inspection report was made to simplify the recordkeeping requirements. The final rule (delay in compliance date) became effective (cont)

Timetable:

Action	Date	FR Cite
Notice Request for Comments	02/16/89	54 FR 11020
Final Rule Delay in Compliance Date	12/08/89	54 FR 50722
Notice: State Inspection Programs	12/05/89	54 FR 50726
Petition: Comments Invited Through 07/02/90	05/02/90	55 FR 18366
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 12/07/88 (53 FR 49402)

Additional Information: ABSTRACT CONT: on 12/7/88. The compliance date for the inspection requirements was 07/01/90. Due to the complexity of the procedures contained in the final rule, FHWA will conduct an on-going review of the procedures to determine if further revisions are warranted.

Agency Contact: Mr. Robert Ragan, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2981

RIN: 2125-AC47

2146. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; FRONT WHEEL BRAKES ON MEXICAN COMMERCIAL MOTOR VEHICLES

Significance: Nonsignificant

Legal Authority: 49 USC app 2505; 49 USC 3102

CFR Citation: 49 CFR 393

Legal Deadline: None

Abstract: By an Interim Final Rule published on 11/24/88, the FHWA amended 49 CFR Part 393, Parts and Accessories Necessary for Safe

DOT—FHWA

Final Rule Stage

Operation, of the Federal Motor Carrier Safety Regulations (FMCSR's). The amendment allows Mexican motor carriers operating commercial motor vehicles in border commercial zones time to comply with the requirement that every commercial motor vehicle be equipped with brakes acting on all wheels. This action will facilitate the flow of trade and traffic between the two countries without interruption. The FHWA also removed the exception (Paragraph (b)) from 393.1 which deferred application of Part 393 to certain Mexican commercial motor vehicles until November 18, 1989. In this Interim Final Rule the FHWA requested comments on all issues addressed. The FHWA will further review the issue along with public comments before deciding whether further action is necessary.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/24/89	54 FR 48616
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 11/24/89 (54 FR 48616)

Additional Information: This rulemaking action originally appeared under RIN 2125-AC21. In order to clarify the many actions being taken in this area, the subject of this rulemaking action was assigned a separate RIN number.

Agency Contact: Mr. Neill L. Thomas, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2988

RIN: 2125-AC49

2147. CONTROLLED SUBSTANCES TESTING

Significance: Nonsignificant

Legal Authority: 23 USC 315; 49 USC 3102; 49 USC 504; 49 USC app 2505

CFR Citation: 49 CFR 391

Legal Deadline: None

Abstract: On November 21, 1988, the FHWA issued a final rule (53 FR 47134) requiring motor carriers to have an anti-drug program. This program includes testing drivers who operate commercial motor vehicles (CMV's) in interstate commerce for drug use. The final rule set forth the classes of controlled substances, the types of tests to be conducted, and through reference to 49 CFR 40, Procedures for Transportation Workplace Drug Testing Programs, procedures for testing and reporting of the test results. On November 6, 1989, the FHWA published a notice (54 FR 46616) that stated the FHWA policy regarding implementation of certain provisions of the anti-drug program in view of a preliminary injunction issued on January 6, 1989, enjoining the FHWA from implementing random and certain mandatory post-accident testing of commercial motor vehicle (CMV) drivers. The notice also clarified the types of testing that must be implemented by December 21, 1989. Implementation of the random and certain mandatory post-accident testing provisions of the 11/21/88 final rule will be deferred until further notice.

Timetable:

Action	Date	FR Cite
Final Rule	11/21/88	53 FR 47134
Corrections to Final Rule	09/27/89	54 FR 39548
Final Rule Deferred Implementation	11/06/89	54 FR 46616
Final Rule Deferred Compliance for Foreign Carriers	12/27/89	54 FR 53294
Interim Final Rule	02/01/90	55 FR 3546

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 11/21/88 (53 FR 47134)

Additional Information: The rulemaking actions published on the subject of Controlled Substances Testing and listed under Supplemental Timetable were published under RIN # 2125-AA79. The initial Final Rule published on 11/21/88 was considered major under EO 12291. It has been determined that the regulatory actions issued 11/06/89 and 02/01/90 regarding the drug testing program were only clarifying the initial rule. Therefore, they were considered nonmajor and nonsignificant. A final rule published on 12/27/89 at 54 FR 53294 deferred the compliance date to 1/2/92 for carriers domiciled in a foreign country.

Agency Contact: Mr. Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2982

RIN: 2125-AC50

2148. ● TRUCK SIZE AND WEIGHT; BEVERAGE SEMITRAILERS

Significance: Nonsignificant

Legal Authority: 23 USC 127; 23 USC 315; 49 USC app 2311-2313; 49 USC app 2316

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: This rulemaking proposes to designate as specialized equipment van-type, drop-frame beverage semitrailers whose length, when equipped with an upper coupler plate that extends in front of the semitrailer, exceeds 28 feet, as illustrated in the appendix to the preamble. The resulting configuration would be subject to certain limitations in that the kingpin may not be mounted more than 28 feet from the rear of the semitrailer, exclusive of rear-mounted devices not measured in determining semitrailer length, and the upper coupler may not extend beyond the semitrailer's swing radius (measured from the center line of the kingpin to the front corner of the semitrailer). The rule would prevent States from imposing an overall length limit on such vehicles operating in semitrailer or double-trailer combinations and would guarantee tractor-semitrailer combinations of such vehicles the same access to points of loading and unloading as "pup" semitrailers in 23 CFR 658.19(a).

Timetable:

Action	Date	FR Cite
NPRM	06/25/90	55 FR 25850
NPRM Comment Period End	07/25/90	55 FR 25850
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 06/25/90 (55 FR 25850)

Agency Contact: Kathy Busby, Department of Transportation, Federal Highway Administration, 400 Seventh

DOT—FHWA

Final Rule Stage

Street, SW., Washington, DC 20590, 202 366-2976

RIN: 2125–AC57

2149. ● CENTRALIZATION OF FORMAL HEARING DOCKETS (FHWA)

Significance: Nonsignificant

Legal Authority: 49 USC 104(c)(2); 49 USC 501; 49 USC 1801; 49 USC 2501; 49 USC 2701; 49 USC 3101; 49 USC 10927

CFR Citation: 49 CFR 386

Legal Deadline: None

Abstract: This final rule provides that documents and evidence in formal hearing cases adjudicated within the Federal Highway Administration (FHWA) will be filed and maintained in the OST Documentary Services Division. The change is being made in order to streamline operations and to consolidate the documents used in formal hearing cases.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0366

RIN: 2125–AC59

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Completed Actions

2150. + TRUCK SIZE AND WEIGHT; REASONABLE ACCESS

Significance: Regulatory Program

Legal Authority: 49 USC 2311(d); 23 USC 315

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: The FHWA had requested information and comments on the existing FHWA regulation governing reasonable access by commercial vehicles with lengths and widths authorized by the Surface Transportation Assistance Act of 1982 (STAA) as amended. A Supplemental NPRM was published requesting public comment on a report released by the Transportation Research Board (TRB) concerning issues relating to reasonable access. This rulemaking is considered significant because of substantial public interest. The amendments define "terminal" and establish minimum access requirements to and from the National Network in all States for STAA-defined vehicles.

Timetable:

Action	Date	FR Cite
ANPRM	01/05/87	52 FR 296
ANPRM Comment Period End	05/05/87	52 FR 296
NPRM	12/30/88	53 FR 53006
NPRM Comment Period End	05/01/89	54 FR 53006
NPRM Comment Period Extended to 09/01/89	05/04/89	54 FR 19196
Supplemental NPRM Comments Due 12/01/89	10/06/89	54 FR 41278
Final Action	06/01/90	55 FR 22758
Final Action Effective	06/01/90	55 FR 22758

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 06/01/90 (55 FR 22758)

Additional Information: Additional agency contact: John F. Grimm (202) 366-4039.

Agency Contact: Kevin E. Heanue, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2961

RIN: 2125–AB70

2151. + AIR QUALITY PROCEDURES FOR USE IN FEDERAL-AID HIGHWAY AND FEDERALLY FUNDED TRANSIT PROGRAMS

Significance: Agency Priority

Legal Authority: 23 USC 109(h); 23 USC 109(j); 23 USC 315; 42 USC 4332; 42 USC 7401; 42 USC 7506

CFR Citation: 23 CFR 770

Legal Deadline: None

Abstract: The 1988 NPRM proposed to consolidate and update existing requirements for highway and transit projects. The proposal consisted of two parts. The first updated the process for determining which projects can be exempt from highway sanctions in accordance with the Clean Air Act (CAA). The second part would have updated the process for assuring that transportation plans, programs, and projects conform to an air quality implementation plan, and that the transportation control measures are given priority. Due to revisions to the CAA currently under consideration by Congress, any amendments to existing regulations would differ substantially from the proposal published in 1988. Therefore, the FHWA decided to withdraw the 1988 NPRM.

Timetable:

Action	Date	FR Cite
NPRM	09/09/88	53 FR 35178
NPRM Comment Period End	11/08/88	53 FR 35178
Action Withdrawn	06/22/90	55 FR 34283

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation 09/09/88 (53 FR 35178)

Agency Contact: James M. Shrouds, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4836

RIN: 2125–AD10

DOT—FHWA

Completed Actions

1152. GENERAL MATERIALS REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 23 USC 112; 23 USC 113; 23 USC 114; 23 USC 117; 23 USC 128

CFR Citation: 23 CFR 635D

Legal Deadline: None

Abstract: A supplemental NPRM would have amended the General Materials Requirements regulation by prescribing policies and procedures for product and material selection and use on Federal-aid highway projects. These requirements were being revised to accommodate several policy changes and clarifications issued by Washington Headquarters to the field during the past several years. Upon further review, the FHWA has determined to withdraw the 1981 NPRM. Currently, innovative contracting practices, including product and material selection, are being tested under a special experimental project in conjunction with the Transportation Research Board (TRB). It would be premature to issue an NPRM before the project concludes.

Timetable:

Action	Date	FR Cite
NPRM	01/29/81	46 FR 9642
NPRM Comment Period End	03/30/81	
Withdrawn	09/05/90	55 FR 36289

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: William Weseman, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0982

RIN: 2125–AA19

2153. FEDERAL-AID PROGRAMS APPROVAL AND PROJECT AUTHORIZATION

Significance: Nonsignificant

Legal Authority: 23 USC 105; 23 USC 109; 23 USC 116; 23 USC 134; 23 USC 315; PL 100-17, Sec 117(e)

CFR Citation: 23 CFR 630

Legal Deadline: None

Abstract: The 1984 ANPRM addressed FHWA's programming and authorization policies and projects under the Federal-aid program. One provision would have implemented section 117(e) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Pub. L. 100-17). Since the ANPRM was issued, the Federal-aid highway program has undergone statutory and policy changes. Any further rulemaking in this area would have to be based on more current information and public comment. Therefore, the 1984 ANPRM was withdrawn.

Timetable:

Action	Date	FR Cite
ANPRM	06/03/84	49 FR 31079
ANPRM Comment Period End	10/01/84	
Withdrawn	07/02/90	55 FR 27250

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: James M. Overton, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0459

RIN: 2125–AB18

2154. MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS; SELF-INSURANCE

Significance: Nonsignificant

Legal Authority: 49 USC 10927 Note

CFR Citation: 49 CFR 387

Legal Deadline: None

Abstract: The FHWA determined that the issues associated with its authority to permit motor carriers to self-insure needed to be examined. Upon further review, the FHWA has determined that no further action is necessary in this area. Therefore, the June 18, 1986, ANPRM was withdrawn. Along with the withdrawal of the 1986 ANPRM, a final rule was issued which made permanent an interim final rule under RIN 2125-AB67. That rule permitted on an interim basis certain for-hire motor carriers of property to satisfy FHWA's financial responsibility requirements by providing evidence that they have received approval from the ICC to self-insure and have maintained a "satisfactory" safety rating assigned by the FHWA. See 51 FR 22080, 06/18/86.

Timetable:

Action	Date	FR Cite
ANPRM	06/18/86	51 FR 22066
ANPRM Comment Period End	07/18/86	51 FR 22066
ANPRM Withdrawn	10/04/90	55 FR 40691
Interim Rule Finalized	10/04/90	55 FR 40663

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2981

RIN: 2125–AB95

2155. FEDERAL MOTOR CARRIER SAFETY REGULATIONS; PAPERWORK BURDENS

Significance: Nonsignificant

Legal Authority: 49 USC 3102; 49 USC app 2503

CFR Citation: 49 CFR 350 to 399

Legal Deadline: None

Abstract: The 1989 ANPRM requested comments on ways to reduce paperwork burdens imposed on motor carriers subject to the requirements of the Federal Motor Carrier Safety Regulations (FMCSRs) (49 CFR 350-399). Due to the general nature of the ANPRM, data and recommendations were received addressing all parts of the FMCSRs. The information received will be addressed in individual rulemakings addressing each part of 49 CFR. Therefore, the general ANPRM was withdrawn.

Timetable:

Action	Date	FR Cite
ANPRM	04/17/89	54 FR 15232
ANPRM Comment Period End	07/17/89	54 FR 15232
Action Withdrawn	09/14/90	55 FR 37906

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Susan Petty, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2998

RIN: 2125–AC04

2156. CONSTRUCTION ENGINEERING COSTS

Significance: Nonsignificant

Legal Authority: 23 USC 101(e); 23 USC 114(a); 23 USC 115(b); 23 USC 120 to 122; 23 USC 315; PL 95-599, Sec 115(c); PL 100-17, Sec 114

CFR Citation: 23 CFR 140

Legal Deadline: None

Abstract: This rulemaking implemented provisions mandated by section 114 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA). Section 114 revised 23 USC 121(d) by eliminating the 10-percent limitation on construction engineering (CE) costs and increasing the limitation to 15 percent of actual costs of construction excluding costs of right-of-way, preliminary engineering, and CE.

Timetable:

Action	Date	FR Cite
NPRM	06/25/89	54 FR 35354
NPRM Comment Period End	10/24/89	
Final Action	09/04/90	55 FR 35903

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/04/90 (55 FR 35903)

Agency Contact: Max I. Inman, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2853

RIN: 2125–AC09

2157. DESIGN STANDARDS FOR HIGHWAYS; REFERENCE MATERIAL; ROADSIDE DESIGN GUIDE

Significance: Nonsignificant

Legal Authority: 23 USC 109; 23 USC 315; 23 USC 402

CFR Citation: 23 CFR 625

Legal Deadline: None

Abstract: This final rule adopts the 1989 "Roadside Design Guide" published by the American Association of State Highway and Transportation Officials for use as a guide or reference on Federal-aid highway projects. It is intended that this document be used by each State highway agency, in cooperation with the appropriate FHWA field office, to develop a roadside safety design policy for application within its State.

Timetable:

Action	Date	FR Cite
Notice; Initiation of Rulemaking	01/12/87	52 FR 1200
Notice; Rulemaking Status	02/09/88	53 FR 3757
NPRM	07/17/89	54 FR 29910
NPRM Comment Period End	10/25/89	
Final Action	06/25/90	55 FR 25828
Final Action Effective	07/25/90	55 FR 25828

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Reg. Evaluation (Minimal Impact) 06/25/90 (55 FR 25828)

Agency Contact: Mr. Richard D. Powers, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-1320

RIN: 2125–AC32

2158. TRUCK SIZE AND WEIGHT; SADDLEMOUNT COMBINATIONS

Significance: Nonsignificant

Legal Authority: 23 USC 127; 49 USC app 2311 to 2313; 49 USC app 2316; 23 USC 315

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: In response to a petition from the National Automobile Transporters Association (NATA) and its member companies dated 9/7/88, the FHWA amended 23 CFR 658.5 and 658.13 to regulate the overall length of driveaway saddlemount combinations and driveaway saddlemount and fullmount combinations. The changes increase the overall-length limit from 65 to 75 feet and clarify that both saddlemount and saddlemount with fullmount automobile transporters are specialized equipment.

Timetable:

Action	Date	FR Cite
NPRM	09/08/89	54 FR 37344
NPRM Comment Period End	12/07/89	54 FR 37344
Final Action	09/09/90	55 FR 32306
Final Action Effective	09/10/90	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 08/09/90 (55 FR 32306)

Agency Contact: Mr. Max Fieger, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4329

RIN: 2125–AC30

2159. TRUCK SIZE AND WEIGHT; NATIONAL NETWORK; TECHNICAL AMENDMENTS

Significance: Nonsignificant

Legal Authority: 23 USC 127; 49 USC 2311; 49 USC 2313; 49 USC app 2316; 23 USC 315

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: This action technically amends Appendix A of 23 CFR 658 to correct, clarify, and simplify the description of routes federally designated as available to commercial motor vehicles authorized by the Surface Transportation Assistance Act of 1982 (PL 97-424, 96 Stat. 2097).

Timetable:

Action	Date	FR Cite
Final Action	04/30/90	55 FR 17952
Final Action Effective	04/30/90	55 FR 17952
Final Action; Correction	05/08/90	55 FR 19145

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 04/30/90 (55 FR 17952)

Additional Information: Additional agency contact: Philip W. Blow, (202) 366-4030

Agency Contact: Mr. Richard A. Torbik, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0233

RIN: 2125–AC55

2160. HIGHWAY PLANNING AND RESEARCH PROGRAM ADMINISTRATION

Significance: Nonsignificant

DOT—FHWA — Completed Actions

Legal Authority: 23 USC 104(f); 23 USC 315; 23 USC 120; 23 USC 157; 23 USC 307; 23 USC 315

CFR Citation: 23 CFR 420; 49 CFR 1.48(b); 49 CFR 18

Legal Deadline: None

Abstract: This action revised the regulation prescribing policies and procedures related to program planning and research projects undertaken with Federal-aid highway planning and research funds.

Timetable:

Action	Date	FR Cite
Final Action	08/29/90	55 FR 35400

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/29/90 (55 FR 35400)

Agency Contact: Dean Sneine, Chief, Planning Operations Branch, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-9227

RIN: 2125–AC56

2161. ● COMMERCIAL DRIVER TESTING AND LICENSING STANDARDS; DRIVING RECORD PREREQUISITES FOR WAIVER AND SKILLS TEST

Significance: Nonsignificant

Legal Authority: 49 USC 3102; 49 USC app 2502

CFR Citation: 49 CFR 383

Legal Deadline: None

Abstract: This technical amendment corrects two of the driving record requirements which a State must impose on commercial driver's license (CDL) applicant before waiving the driving skills test. First, an applicant must certify that, during the two-year period immediately prior to applying for a CDL, he/she has not had more than one conviction for a serious traffic violation committed in any type of motor vehicle. Second, for the same period, the applicant must certify that he/she has not had any conviction for an accident-related violation of State or local traffic laws, and has no record of an accident in which he/she was at fault. All other driving record prerequisites to the substitute for driving skills tests in 49 CFR 383.77 remain without correction.

Timetable:

Action	Date	FR Cite
Final Action	06/22/90	55 FR 25605
Final Action Effective	06/22/90	55 FR 25605

Small Entities Affected: None

Government Levels Affected: State

Analysis: Reg. Evaluation (Minimal Impact) 06/22/90 (55 FR 25605)

Agency Contact: Neil Moyer, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-5844

RIN: 2125–AC58

DEPARTMENT OF TRANSPORTATION (DOT)

Prerule Stage

National Highway Traffic Safety Administration (NHTSA)

2162. ● + VEHICLE BASED ROADWAY ILLUMINATION PERFORMANCE REQUIREMENT

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: This effort is being undertaken to provide a performance requirement for roadway illumination that is based on the driver's needs for safe nighttime driving. It will require that the vehicle provide proper, safe illumination. This is in contrast to the present performance that is required of each headlamp under Federal Motor Vehicle Safety Standard No. 108, Lamps, Reflective Devices and Associated Equipment. The intent is to move away from a design-restrictive requirement to a performance-based requirement. Further, the requirement would be developed to assure acceptability as a revised standard. This rulemaking is considered significant because of its safety implications.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6242

RIN: 2127–AD69

2163. + ROLLOVER

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.216

Legal Deadline: None

Abstract: Consumers Union petitioned for rulemaking to develop a new standard to protect against unreasonable risk of rollover. The petition was granted on September 1, 1988. This action is considered significant because of substantial public interest and safety factors involved.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6242

RIN: 2127–AC84

2164. + STANDARD 108; ID AND CLEARANCE LAMPS ON WIDE VEHICLES

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1497

DOT—NHTSA

Proposed Stage

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: A rulemaking action is being considered which would amend the provisions for location of identification and clearance lamps on vehicles that are more than 80 inches wide. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6842

RIN: 2127-AC78

2165. ● + DOOR-MOUNTED PASSIVE BELT SYSTEMS AND MOTORIZED PASSIVE BELT RESTRAINT SYSTEMS

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: The agency has received petitions from Morris & Ward Engineers to investigate safety issues associated with the use of door- mounted passive belt systems and motorized passive belt restraint systems. These systems are presently being utilized to meet the performance requirements of Standard No. 208. These and other systems will be evaluated as part of the agency evaluation plan on Standard 208 which was published in the Federal Register, 01/17/90 (55 FR 1586). These petitions for rulemaking have been granted. This rulemaking is considered significant due to substantial public interest.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6842

RIN: 2127-AD42

2166. ● + ALCOHOL FUELS

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.301

Legal Deadline: None

Abstract: Standard No. 301, Fuel System Integrity, has as its purpose the reduction of deaths and injuries occurring from fires that result from fuel spillage during and after motor vehicle crashes. Although vehicles using methanol or ethanol are covered under this standard, there are certain properties of these fuels which are different than those of gasoline or diesel fuel, and are not addressed under this standard. The purpose of this notice is to solicit comments to help NHTSA determine whether specific rulemaking is needed relative to the fuel system integrity of vehicles using methanol or ethanol as a motor fuel. NHTSA wishes to have any necessary safety standards in place to support the safe introduction and operation of alternative fuel vehicles, and not impede the development and advancement of such vehicles and associated technology. This action is significant due to substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary Woodford, General Engineer, Special Projects Staff, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4924

RIN: 2127-AD47

2167. ● + COMPRESSED NATURAL GAS (CNG) AND PROPANE

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.301

Legal Deadline: None

Abstract: Standard No. 301, Fuel System Integrity, has as its purpose the reduction of deaths and injuries occurring from fires that result from fuel spillage during and after motor vehicle crashes. However, CNG and propane, when used as motor fuels, are not covered under the current requirements of this standard. NHTSA desires that any safety performance standard which may be established for the fuel system integrity of vehicles using CNG or propane as a motor fuel be in harmony with the activities and regulatory authority of others to the extent possible. This notice announces a public meeting to obtain comments on the potential establishment of safety performance standards for vehicles powered by CNG or propane, as well as serving as an Advance Notice of Proposed Rulemaking (ANPRM) for that purpose. The purpose of this ANPRM is to explore approaches that might be used if the agency were to establish a safety performance standard for the fuel system integrity of vehicles using CNG or propane as a motor fuel. The cost and benefits are unknown at this time. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Subsequent action dependent on information gathered.

Agency Contact: Gary Woodford, General Engineer, Special Projects Staff, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4924

RIN: 2127-AD48

2168. ● + WHEELCHAIR LIFTS

Significance: Agency Priority

DOT—NHTSA

Prerule Stage

Legal Authority: PL 101-336 Americans With Disabilities Act

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: This action would establish new requirements for wheelchair lifts used on motor vehicles. This is significant due to substantial public interest in the transportation of the handicapped.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6842

RIN: 2127-AD50

2169. ● + WHEELCHAIR SECUREMENT DEVICES

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407; PL 101-336 Americans With Disabilities Act

CFR Citation: 49 CFR 571.222

Legal Deadline: None

Abstract: This action would establish requirements for wheelchair tie-downs in schoolbuses in response to a petition for rulemaking from Lyle Stephens and Debra Simms. Petition has been granted. The project is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Rulemaking Petition Granted	03/01/90	55 FR 7346

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: A Notice announced availability of a research report on the state-of-the-art in wheelchair securement and occupant restraints on schoolbuses and requested comments (05/30/90, 55 FR 21891).

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6842

RIN: 2127-AD51

2170. REVIEW: LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: Standard 108 requires passenger cars sold after October 1, 1965, to be equipped with center high-mounted stop lamps (CHMSLs). NHTSA undertook a staff evaluation of the safety effectiveness, benefits, and cost of CHMSLs. A preliminary report was published in March 1987 and a final report in August 1989. Comments were requested, which will be considered before the review ends.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/85	
Preliminary Evaluation Report Published	03/20/87	52 FR 9609
Interim Evaluation Report Published	08/04/89	54 FR 32153
Interim Evaluation Report Comments Reviewed and Docketed	02/21/90	
End Review	06/01/92	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The evaluation report indicated that cars equipped with center high-mounted stop lamps were 17 percent less likely to be struck in the rear while braking than cars without the lamps.

Agency Contact: Frank G. Ephraim, Director, Office of Standards Evaluation, Department of Transportation, National Highway Traffic Safety Administration, NPP-10, 400 Seventh Street, SW., Washington, DC 20590, 202 366-1574

RIN: 2127-AB76

2171. REVIEW: GLASS-PLASTIC WINDSHIELDS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.205

Legal Deadline: None

Abstract: This review involves analysis of the costs, benefits, and operational performance of glass-plastic windshields regulated by Federal Motor Vehicle Safety Standard No. 205. This program was selected because of public interest and potential benefits.

Timetable:

Action	Date	FR Cite
Begin Review	08/01/89	
End Review	05/01/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Ephraim, Director, Office of Standards Evaluation, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-1574

RIN: 2127-AD29

2172. STANDARD 301; FUEL-SYSTEM INTEGRITY

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.301

Legal Deadline: None

Abstract: This standard, which is applicable to passenger cars, light trucks, and school buses, specifies requirements for the integrity of motor vehicle fuel systems. The purpose of the standard is to reduce deaths and injuries caused by fires which result from fuel spillage after motor vehicle crashes. This evaluation follows up and expands on a prior study on passenger cars which showed that, while the

regulation was effective in preventing deaths and injuries, the incidence of crash fires appeared to be increasing. This evaluation will also provide the initial assessment of the regulation as it applies to light trucks.

Timetable:

Action	Date	FR Cite
End Review	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Ephraim, Director, Office of Program Evaluation, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-1574

RIN: 2127–AB43

2173. SUPPLEMENTAL FMVSS NO. 208 INJURY CRITERIA - FACIAL LACERATIONS, NECK INJURY, KNEE SHEAR, TIBIA AND ANKLE INJURIES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: The intention to apply in Federal Motor Vehicle Safety Standard No. 208 rulemaking additional injury criteria in order to prevent facial lacerations, neck injury, knee shear, tibia, and ankle trauma was announced in Notice 39 Docket 74-14 (50 FR 14602, April 12, 1985). The final rule (Notice 40) stated that the agency will issue another Notice on the additional information about the potential effects of adopting these criteria. Alternatives and potential costs were addressed in Notice 39.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6842

RIN: 2127–AC12

2174. BRAKE LINING

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: Petitions from R. Grabowsky and American Trucking Association (ATA) requesting initiation of rulemaking concerning brake linings (all vehicles and aftermarket). Mr. Grabowsky petitioned relative to stability, friction level, fade, wear, and identification of linings. ATA petitioned relative to friction level and identification of linings for heavy vehicles only. Petitions concerned both performance levels and test procedures, and were granted.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6842

RIN: 2127–AC66

2175. FEDERAL MOTOR VEHICLE THEFT PREVENTION STANDARD

Significance: Nonsignificant

Legal Authority: 15 USC 2001; 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 541

Legal Deadline: Other, Statutory, October 24, 1990.
The Motor Vehicle Information and Cost Savings Act (P.L. 98-547) requires a Report to Congress five years after promulgation of the Federal Motor Vehicle Theft Prevention Standard.

Abstract: This standard, which applies to passenger cars, requires identifying numbers or symbols to be placed on major parts of high theft passenger motor vehicles. A comprehensive evaluation will be performed to determine the effectiveness of the regulation in reducing the incidence of motor vehicle thefts and to estimate the costs of manufacturing and applying the identifying information. The evaluation of the regulation is required by the Motor Vehicle Information and Cost Savings Act and calls for a Report to Congress five years after promulgation of the standard.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/85	
End Review	10/24/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Ephraim, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-1574

RIN: 2127–AC32

2176. STANDARD 105; HYDRAULIC BRAKE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: This standard regulates the performance of antilock brake systems for passenger cars and other vehicles with hydraulic brakes. The purpose of antilock brakes is to enhance the driver's control of the vehicle during emergency braking. Antilock brakes are currently available on some passenger cars. The standard, at this time, does not require them for all cars. The regulation was selected for review because of public interest in the costs and benefits of antilock brakes.

Timetable:

Action	Date	FR Cite
Begin Review	01/01/90	
End Review	06/30/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Ephraim, Department of Transportation, National Highway Traffic Safety Administration,

DOT—NHTSA

Prerule Stage

400 Seventh Street, SW., Washington, DC 20590, 202 366-1574

RIN: 2127-AC94

2177. STANDARD 105; HYDRAULIC BRAKE SYSTEMS—BRAKE FAILURE INDICATOR LAMPS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: Federal Motor Vehicle Safety Standard No. 105 requires vehicles to have a brake failure indicator lamp which illuminates upon a failure within the brake system. This failure may be the result of a gross loss of pressure (Par. S5.3.1(a)) or a drop in the level of brake fluid in any master cylinder reservoir compartment to less than a specified safe level (S5.3.1(b)). The standard does not specify which mode of failure must be specified. This mode selection is left to the choice of the manufacturers. A petition from Mr. Sinclair Buckstaff, Transamerica Consultant Engineers (Buckstaff) requests that a loss of pressure indicator be made mandatory with a fluid level loss indicator to be optional (preferably mandatory) also, along with the pressure failure indicator. Buckstaff maintains a master cylinder internal failure can occur wherein no failure indication would ever occur if only a fluid level loss indicator were installed on the vehicle. The petition is under consideration.

Timetable:

Action	Date	FR Cite
Request for Comments	09/12/90	55 FR 37497
Notice Correction	10/10/90	55 FR 41309
Comment Period End	10/25/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127-AD03

2178. TIRE LABELING, FMVSS 109, 110, 117, 119, 120; PARTS 569, 574, 575

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 569; 49 CFR 571.109; 49 CFR 571.110; 49 CFR 571.117; 49 CFR 571.120; 49 CFR 574; 49 CFR 575

Legal Deadline: None

Abstract: This review concerns the usefulness of various tire labels and information to consumers, tire sellers, repairers, and retreaders.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/89	
End Review	06/01/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Ephraim, Director, Office of Standards Evaluation, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-1574

RIN: 2127-AD28

2179. ● TRUCK VOLTAGE FOR EXTERIOR LIGHTING

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: An investigation is being conducted to see if the voltage to exterior truck body lights is adequate to produce the required illumination from the side marker, identification tail and brake lights as required in Standard 108, Lamps, Reflective Devices, and Associated Equipment. The present requirement tests at the voltage at which light flux is measured rather than at the voltage which actually occurs on vehicles; which is often less. A decision on rulemaking will be made after a research report is received.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127-AD40

2180. ● WARNING TRIANGLES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.125

Legal Deadline: None

Abstract: Mercedes petitioned the agency to amend Standard No. 125, Warning Triangles, to allow the use of warning triangles designed to meet the performance requirements of the Economic Commission of Europe (ECE) Regulation Number 27.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127-AD41

2181. ● HARMONIZATION OF SEAT-BELT ASSEMBLY ANCHORAGES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.210

Legal Deadline: None

Abstract: Petitions for reconsideration have been received in response to a recent Final Rule (04/30/90, 55 FR 17970) to amend Standard No. 210, Seat Belt Assembly Anchorages. Issues include location of the upper anchorages, redundant anchorages for trucks, minimum lap belt angle, requirements for attachment testing, technical corrections, and clarification

DOT—NHTSA

Prerule Stage

of terms. The petitions are under consideration.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AD43

2182. ● FLAMMABILITY PERFORMANCE REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.302

Legal Deadline: None

Abstract: Horkey and Associates, Inc. has petitioned for rulemaking to amend Standard No. 302, Flammability of Interior Materials. The petitioner recommends increasing the scope of coverage and upgrading the flammability performance requirements.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AD49

2183. ● EXEMPTION FROM AVERAGE FUEL ECONOMY STANDARDS

Significance: Nonsignificant

Legal Authority: 15 USC 2002

CFR Citation: 49 CFR 525

Legal Deadline: None

Abstract: The agency has received a petition from Prototype Automotive Services, Inc. for exemption from the generally applicable average fuel economy standards for Model Year 1989. The petition is under consideration.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Orron E. Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0846

RIN: 2127–AD57

2184. ● EXEMPTION FROM AVERAGE FUEL ECONOMY STANDARDS

Significance: Nonsignificant

Legal Authority: 15 USC 2002

CFR Citation: 49 CFR 525

Legal Deadline: None

Abstract: Dutcher Motors, Inc. has petitioned for exemption from the generally applicable average fuel economy standards for Model Years 1989 and 1991-92, respectively; the company requested that a lower alternative standard be established for it for each of these years. The petition is under consideration.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Orron E. Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0846

RIN: 2127–AD58

2185. ● EXEMPTION FROM AVERAGE FUEL ECONOMY STANDARDS

Significance: Nonsignificant

Legal Authority: 15 USC 2002

CFR Citation: 49 CFR 525

Legal Deadline: None

Abstract: The agency has received a petition from ASC, Inc., for exemption from the generally applicable average fuel economy standards for Model Years 1989 and 1990. The petition is under consideration.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Orron E. Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0846

RIN: 2127–AD61

2186. ● EXEMPTION FROM AVERAGE FUEL ECONOMY STANDARDS

Significance: Nonsignificant

Legal Authority: 15 USC 2002

CFR Citation: 49 CFR 525

Legal Deadline: None

Abstract: The agency has received a petition from Shelby for exemption from the generally applicable average fuel economy standards for Model Years 1987 through 1989. The petition is under consideration.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Orron E. Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration,

DOT—NHTSA

Prerule Stage

400 Seventh Street, SW., Washington, DC 20590, 202 366-0846

RIN: 2127–AD63

2187. ● EXEMPTION FROM AVERAGE FUEL ECONOMY STANDARDS

Significance: Nonsignificant

Legal Authority: 15 USC 2002

CFR Citation: 49 CFR 525

Legal Deadline: None

Abstract: The agency has received a petition from Maserati for exemption from the generally applicable average fuel economy standard for Model Year 1992 and for a lower alternative standard to be established. The petition is under consideration.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Orron E. Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0846

RIN: 2127–AD64

2188. ● EXEMPTION FROM AVERAGE FUEL ECONOMY STANDARDS

Significance: Nonsignificant

Legal Authority: 15 USC 2002

CFR Citation: 49 CFR 525

Legal Deadline: None

Abstract: The agency has received a petition from Maserati for exemption from the generally applicable average fuel economy standards for Model Years 1988, 1987, and 1989 through 1991, and for a lower alternative standard to be established for each Model Year. The petition is under consideration.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Orron E. Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0846

RIN: 2127–AD65

2189. ● EXEMPTION FROM AVERAGE FUEL ECONOMY STANDARDS

Significance: Nonsignificant

Legal Authority: 15 USC 2002

CFR Citation: 49 CFR 525

Legal Deadline: None

Abstract: The agency has received a petition from Ferrari for exemption from the generally applicable fuel economy standards for Model Years 1989 through 1991. The petition is under consideration.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Orron E. Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0846

RIN: 2127–AD66

2190. ● LIGHT TRUCK FUEL ECONOMY STANDARDS

Significance: Nonsignificant

Legal Authority: 49 USC 1657; 15 USC 2002

CFR Citation: 49 CFR 533

Legal Deadline: None

Abstract: General Motors has petitioned for reconsideration of the light truck fuel economy average for Model Year 1992 to combine 4-wheel - drive and 2-wheeldrive as one. The petition is under consideration.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Orron E. Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0846

RIN: 2127–AD67

2191. ● BRAKE HOSES AND FLUIDS

Significance: Nonsignificant

Legal Authority: 15 USC 1401; 15 USC 1403; 15 USC 1407; 15 USC 1892

CFR Citation: 49 CFR 571.106; 49 CFR 571.116

Legal Deadline: None

Abstract: The agency has granted a petition from the United States Army Tank Automotive Command (ATAC), to amend Federal Motor Vehicle Safety Standard No. 106, Brake Hoses, and Federal Motor Vehicle Safety Standard No. 116, Brake Fluids. ATAC requested that Standard No. 106 be amended to require brake hose compatibility with a fluid that includes DOT 5 characteristics and that Standard No. 116 be amended to require compatibility of DOT 3, DOT 4, and DOT 5 brake fluids with elastomeric seals and cups internal to hydraulic brake system master and wheel cylinders. The agency believes that the changes suggested by ATAC warrant further consideration.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AD70

2192. ● WARNING LABEL FOR CHILD RESTRAINTS

Significance: Nonsignificant

DOT—NHTSA

Prerule Stage

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: The agency has received a petition from Karen Legath to amend Federal Motor Vehicle Safety Standard No. 213, Child Restraint Systems, by issuing a new section S5.6.1.7 - Toddler Seats - requiring a special warning on the package of toddler safety seats. The warning would state that these seats must be evaluated for utilization in minivans that are without headrests or shoulder restraints. The petition is under consideration.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Williams A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AD71

2193. ● TESTING AND LABELING OF CHILD RESTRAINTS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: The agency has received a petition from Donald Friedman to amend Federal Motor Vehicle Safety Standard No. 213, Child Restraint System, by issuing revisions consisting of: (1) adding a newborn infant dummy; (2) measuring child dummy head and chest accelerations; (3) requiring 35 mph dynamic tests with 15 mph seat-to-vehicle-interior contact speed; (4) labeling restraints with maximum acceleration values; and (5) devising use and misuse tests and requiring labeling results. The petition is under consideration.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Williams A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AD72

2194. ● CREATE A NEW CATEGORY, AS-15B - TEMPERED GLASS-PLASTIC

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.205

Legal Deadline: None

Abstract: This action proposes a new item of glazing, Item 15B, Tempered Glass-Plastic, to Federal Motor Vehicle Safety Standard No. 205, Glazing Materials. Item 15B could be used in any vehicle location other than the windshield. In a previous action, RIN 2127-AC38, the agency proposed three other items of glazing. Commenters urged the agency to also allow this additional glazing material. This action will provide a supplemental notice for public comment on this new item.

Timetable:

Action	Date	FR Cite
NPRM	10/11/89	54 FR 41632
NPRM Comment Period End	11/27/89	54 FR 41632
SNPRM	10/00/90	
Final Action	11/00/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Additional Information: The NPRM of 10/11/89 was for RIN 2127-AC38 and is inserted here as background since it discussed the basis for not including the tempered version in that other rulemaking.

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AD75

DEPARTMENT OF TRANSPORTATION (DOT)

National Highway Traffic Safety Administration (NHTSA)

Proposed Rule Stage

2195. + COMMERCIAL VEHICLE CONSPICUITY

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: Proposed actions would improve the conspicuity of commercial vehicles by establishing in FMVSS 108 performance requirements for the total lighting and marking system of commercial vehicles (excluding headlights). This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	05/27/80	45 FR 35405
ANPRM Comment Period End	08/25/80	45 FR 35405
Request for Comments; Comment Period End 11/09/87	09/18/87	52 FR 35345
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 12/00/90

Additional Information: Docket No. 80-9.

Research underway.

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety

DOT—NHTSA

Proposed Rule Stage

Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC [illegible]

RIN: 2127–AA12

2196. + CARS AND LIGHT TRUCKS: PADDED A-PILLARS, SIDE RAIL, ETC

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.201; 49 CFR 571.205; 49 CFR 571.208; 49 CFR 571.214

Legal Deadline: None

Abstract: Contemplated action proposes amending Standard No. 201 to include head/neck protection and to mitigate ejection through side windows and doors. This is considered significant because of the safety implications involved.

Timetable:

Action	Date	FR Cite
ANPRM	[illegible]	53 FR 31712
ANPRM Comment Period End	10/15/88	
NPRM	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/00/91

Additional Information: This entry was formerly titled: Side-Impact Protection, Head/Neck Protection, and Occupant Ejection Mitigation.

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, [illegible]

RIN: 2127–AB85

2197. + HEAVY DUTY VEHICLE BRAKE SYSTEMS (FORMERLY TRUCK AND TRAILER BRAKE SYSTEMS)

Significance: Agency Priority

Legal Authority: 15 USC 1392 National Traffic & Motor Vehicle Safety Act of 1966; 15 USC 1407 National Traffic & Motor Vehicle Safety Act of 1966

CFR Citation: 49 CFR 571.121; 49 CFR 571.105

Legal Deadline: None

Abstract: Proposed action would establish a new brake standard for all trucks, buses, and trailers with a Gross Vehicle Weight Rating (GVWR) over 10,000 pounds. This standard would replace Standard No. 121, Air Brake Systems, and that portion of Standard No. 105, Hydraulic Brake Systems, that applies to vehicles with a GVWR over 10,000 pounds. It would also establish new requirements for heavy trailers having other than air-actuated brakes. In developing the standard, the agency will consider compatibility with international regulations. Research programs in support of this new standard and possible future upgradings of the standard will investigate such long-term advanced braking system concepts as antilock systems, automatic brake adjustors, load-sensing proportioning valves, air driers, and retarders for heavy trucks, buses, and trailers. This rule is considered significant because of the level of public and congressional interest. It is necessary to prevent and reduce the severity of accidents involving heavy vehicles by providing increased accident avoidance capability.

Timetable:

Action	Date	FR Cite
ANPRM	02/15/79	44 FR 9763
ANPRM	02/00/80	45 FR 13155
NPRM	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Additional Information: Docket No. 79-03. ANPRM, Notice 1; Second ANPRM, Notice 3.

Research underway.

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, [illegible]

RIN: 2127–AA00

2198. + PROPOSED NEW STANDARD 135; PASSENGER-CAR BRAKE SYSTEM

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.105; 49 CFR 571.135

Legal Deadline: None

Abstract: Action proposes a New Standard No. 135, "Passenger Car Brake System," which would replace Standard No. 105, "Hydraulic Brake System," as it applies to that vehicle type. New Standard would differ from the existing one primarily in that it contains a revised and shortened test procedure based on a draft harmonized international procedure developed by the United Nations Economic Commission for Europe (ECE). This rulemaking is significant because of substantial public interest; in light of comments received, a second SNPRM will be issued.

Timetable:

Action	Date	FR Cite
NPRM	05/10/85	50 FR 19744
Correction to NPRM for RIN AC83	06/20/85	50 FR 25612
NPRM Comment Period Extended to 01/13/86	09/17/85	50 FR 37702
NPRM Comment Period End	10/07/85	50 FR 19744
SNPRM; Comment Period End 10/13/87	01/14/87	52 FR 1474
Second SNPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 05/10/85 (50 FR 19744)

Additional Information: Docket No. 85-06. RIN AC83, Passenger-Car Brake Systems has been consolidated into this rulemaking.

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, [illegible]

RIN: 2127–AA13

2199. + TRUCK REAR UNDERRIDE PROTECTION

Significance: Agency Priority

DOT—NHTSA

Proposed Rule Stage

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: This project would require protective devices to reduce vehicle penetration under the rear ends of heavy trucks and trailers (without resulting in overly severe forces being transmitted to restrained and unrestrained occupants in vehicles that crash into the devices). In view of comments received, an SNPRM will be issued. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/08/81	46 FR 2136
NPRM Comment Period End	04/08/81	46 FR 2136
SNPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 12/00/90

Additional Information: Docket No. 1-11. NPRM, Notice 8.

Research underway.

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6942

RIN: 2127–AA43

2200. + STANDARD 302; FLAMMABILITY OF INTERIOR MATERIALS - SCHOOL BUSES

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.302

Legal Deadline: None

Abstract: Advance Notice of Proposed Rulemaking requested comments regarding possible upgrade of Standard 302 to reduce the risk of fire to school bus occupants. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	11/04/88	53 FR 44827
ANPRM Comment Period End	01/03/89	53 FR 44827
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 12/00/90

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6942

RIN: 2127–AA44

2201. + STANDARD 205; GLAZING MATERIALS, FILM TRANSMITTANCE

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.205

Legal Deadline: None

Abstract: A rulemaking petition was granted which requested an amendment be made to the standard which would allow the applications of a film with 35 percent transmittance to the windows of motor vehicles. This project is considered significant because of the substantial public interest expected to be generated.

Timetable:

Action	Date	FR Cite
ANPRM	07/20/89	54 FR 30427
Petition for Rulemaking Granted	07/20/89	54 FR 30427
ANPRM Comment Period End	09/18/89	54 FR 30427
NPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6942

RIN: 2127–AC26

2202. + STANDARD 217; BUS WINDOW RETENTION AND RELEASE - UPGRADE FOR SCHOOL BUSES

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.217

Legal Deadline: None

Abstract: This Advance Notice of Proposed Rulemaking requested comments regarding possible upgrade of the standard to increase the minimum number of emergency exits on school buses. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	11/04/88	53 FR 44823
ANPRM Comment Period End	01/03/89	53 FR 44823
NPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6942

RIN: 2127–AC68

2203. + STANDARD 301; FUEL-SYSTEM INTEGRITY—UPGRADE FOR BUSES

Significance: Agency Priority

Legal Authority: 15 USC 1407; 15 USC 1410

CFR Citation: 49 CFR 571.301

Legal Deadline: None

Abstract: NHTSA is contemplating amending the standard to include buses over 10,000 pounds gross vehicle weight rating (GVWR) (such as intercity and transit buses) and to upgrade the standard's current requirements for all buses (including school buses) to which the standard already applies. The current standard applies to passenger

DOT—NHTSA

Proposed Rule Stage

cars, multipurpose passenger vehicles, trucks, and buses that have a GVWR of 10,000 pounds or less. This action is considered significant because of the safety implications involved.

Timetable:

Action	Date	FR Cite
ANPRM	03/30/89	54 FR 13062
ANPRM Comment Period End	05/30/89	54 FR 13062

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127-AC89

2204. + STANDARD 111; REARVIEW MIRRORS - SCHOOL BUSES

Significance: Agency Priority

Legal Authority: 15 USC 1407

CFR Citation: 49 CFR 571.111

Legal Deadline: None

Abstract: This action is designed to help prevent school buses from running over children by improving mirrors and other items. This will probably necessitate more mirrors on the school buses, resulting in added cost for this additional equipment. Some drivers will need additional training. This is significant because of substantial public interest and possible Federalism implications.

Timetable:

Action	Date	FR Cite
ANPRM	12/27/89	54 FR 53127
ANPRM Comment Period End	02/12/90	54 FR 53127
NPRM	10/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 10/00/90

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127-AD24

2205. ● + SIDE IMPACT PROTECTION: ANTHROPOMORPHIC ALTERNATE TEST DUMMY (BIOSID)

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: The agency is contemplating action that would allow BIOSID to become an alternate regulatory test device in the evaluation of side protection in passenger cars. This is considered significant due to substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
NPRM Comment Period End	02/00/91	
Final Action	11/00/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/00/91

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC, 202 366-0842

RIN: 2127-AD73

2206. ● + SIDE IMPACT PROTECTION: ANTHROPOMORPHIC ALTERNATE TEST DUMMY (EUROSID)

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: The agency is contemplating action that would allow the EUROSID to become an alternate regulatory test device in the evaluation of side impact protection in passenger cars. This is considered significant due to substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/00/91	
NPRM Comment Period End	08/00/91	
Final Action	08/00/92	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/00/91

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127-AD74

2207. REARVIEW MIRROR SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.111

Legal Deadline: None

Abstract: Proposal would amend FMVSS No. 111 to improve mirror systems for light and heavy trucks, buses, and multipurpose passenger vehicles.

Timetable:

Action	Date	FR Cite
NPRM	11/06/78	43 FR 51657
NPRM Comment Period End	03/06/79	43 FR 51657

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. 71-3a. NPRM, Notice 4. Two other rulemakings involving rearview mirror systems have been consolidated herein: RINS 2127-AA23 and 2127-AA60.

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127-AA21

DOT—NHTSA

Proposed Rule Stage

2208. PART 571.3 - DEFINITIONS - SEATING REFERENCE POINT/MOTOR VEHICLE DRIVER'S EYE RANGE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: This project would update the definition of Seating Reference Point.

Timetable:

Action	Date	FR Cite
ANPRM	03/08/82	47 FR 9865
NPRM	06/05/86	51 FR 20536
NPRM Comment Period End	08/04/86	51 FR 20536
SNPRM	09/13/90	55 FR 37719
SNPRM Comment Period End	11/13/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/13/90 (55 FR 37719)

Additional Information: Docket No. 82-05.

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127-AA46

2209. PROCEDURES FOR CONSIDERING ENVIRONMENTAL IMPACTS

Significance: Nonsignificant

Legal Authority: 42 USC 4321 et seq (National Environmental Policy Act-NEPA)

CFR Citation: 49 CFR 520

Legal Deadline: None

Abstract: NHTSA's regulation will be reviewed and reissued, as necessary, where it conflicts with or is duplicative of the regulations of Council on Environmental Quality (CEQ), 40 CFR Parts 1500-1508, and with DOT Order 5610.1C, each of which implements the National Environmental Policy Act (NEPA), 42 USC 4321, et seq.

Timetable:

Action	Date	FR Cite
NPRM	11/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathleen C. DeMeter, Ass't Chief Counsel for General Law, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-1834

RIN: 2127-AB79

2210. STANDARD 221; SCHOOL BUS BODY JOINT STRENGTH

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.221

Legal Deadline: None

Abstract: ANPRM requested comments on three items, all related to FMVSS No. 221 School Bus Body Joint Strength. These are: (a) possible new standard requiring minimum floor strength for large school buses over 10,000 lbs. GVWR, (b) revision of exemption provision for maintenance access panels, and (c) revision of test procedures of FMVSS No. 221.

Timetable:

Action	Date	FR Cite
ANPRM	06/15/87	52 FR 22314
ANPRM Comment Period End	08/03/87	52 FR 22314
Comment Period Extended to 10/15/87	08/12/87	52 FR 29873
NPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 10/00/90

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127-AC19

2211. BUMPER STANDARD - TEST PROCEDURES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 581

Legal Deadline: None

Abstract: Subaru of America has petitioned to modify the test conditions for bumper compliance testing so that vehicles with variable height suspension would be tested at the normal, unraised height position. This action will consider the arguments set forth in the granted petition and take appropriate further action.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Additional Information: Final action on this petition is awaiting disposition of a petition on vehicle classification, RIN 2127-AA57.

Agency Contact: Orron K. Kee, Chief, Motor Vehicle Requirements Divison, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127-AC30

2212. STANDARD 208; OCCUPANT CRASH PROTECTION, EMERGENCY LOCKING RETRACTORS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: Federal Motor Vehicle Safety Standard No. 208 requires safety belt systems in the front outboard seating positions of passenger cars to adjust automatically by means of emergency locking retractors. Horkey and Associates petitioned the agency to prohibit the use of emergency locking retractors as it is alleged they do not provide adequate protection against occupant rebound in rear impacts. The petition, and a related one from

DOT—NHTSA

Proposed Rule Stage

Environmental Research and Safety Technologists of Flagstaff, Arizona, were granted.

Timetable:

Action	Date	FR Cite
ANPRM	10/04/89	54 FR 40996
ANPRM Comment Period End	12/04/89	54 FR 40996

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: See a related rulemaking action involving these petitioners under RIN 2127-AD06.

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6642

RIN: 2127-AC57

2213. STANDARD 301; FUEL SYSTEM INTEGRITY, FUEL SPILLAGE

Significance: Nonsignificant

Legal Authority: 15 USC 1407; 15 USC 1410

CFR Citation: 49 CFR 552; 49 CFR 571

Legal Deadline: None

Abstract: Federal Motor Vehicle Safety Standard (FMVSS) No. 301 specifies requirements for the integrity of motor vehicle fuel systems so that fires that result from fuel spillage during and after motor vehicle crashes may be reduced. This standard applies to passenger cars and school buses, and to multipurpose passenger vehicles, trucks, and buses that have a gross vehicle weight rating of 10,000 pounds or less. The California Highway Patrol (CHP) petitioned the agency to specify requirements in FMVSS No. 301 to reduce fuel spills from the fuel tank or fuel lines on heavy trucks and truck tractors over 10,000 pounds. The fuel spills, according to the CHP, are due to damage caused by road debris. On May 2, 1988, the agency published a grant of petition for rulemaking in the Federal Register for the CHP petition. However, the agency is granting the petition pending the results of its forthcoming investigation of fuel-tank fires in over-the-road trucks, on which research is presently underway.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6642

RIN: 2127-AC62

2214. COMPREHENSIVE REVIEW OF VISIBILITY TOPICS

Significance: Nonsignificant

Legal Authority: 15 USC 1407

CFR Citation: 49 CFR 571.111; 49 CFR 571.219

Legal Deadline: None

Abstract: As a result of requests for interpretation for head-up displays and other devices which affect driver visibility through vehicle windows, the agency is conducting a comprehensive review of visibility research. The ANPRM requested comments on possible future actions.

Timetable:

Action	Date	FR Cite
ANPRM	12/11/89	54 FR 50783
ANPRM Comment Period End	01/25/90	54 FR 50783
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/90

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6642

RIN: 2127-AC69

2215. STANDARD 121; AIR-BRAKE SYSTEMS, SUPPLEMENTAL CONNECTOR

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: Wabco has petitioned the agency to amend the standard to allow the use of a supplemental electrical connector instead of the stop lamp circuit to power the antilock brake system on air-braked trailers. The petitioner believes the use of a supplemental connector would provide better performance and protection against system malfunctions.

Timetable:

Action	Date	FR Cite
Petition Granted by Letter	03/17/88	
Request for Comments	10/12/88	53 FR 39751
NPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6642

RIN: 2127-AC80

2216. STANDARD 213; CHILD RESTRAINT SYSTEMS - NEWBORN AND VERY SMALL CHILDREN

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: This action responds to a petition to amend the standard to provide specific requirements for restraints to be used by newborn and very small children. The petition for rulemaking was granted.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

DOT—NHTSA

Proposed Rule Stage

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AC87

2217. PEDESTRIAN HEAD-PROTECTION STANDARD

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: This proposal would reduce adult and child pedestrian head injuries through modification of the vehicle hood structure.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AC90

2218. STANDARD 106; BRAKE HOSES - ASSEMBLY LABELING

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.106

Legal Deadline: None

Abstract: Federal Motor Vehicle Safety Standard No. 106 requires hoses, end fittings, and hose assemblies, except under limited circumstances, to be marked in a manner providing source identification for the hose, fitting, or assembly. Paragraphs S12 and S13 provide two exceptions. Paragraph S12 exempts "assemblies" from individual labeling of the "components." The "assembly" must still be labeled as specified in the appropriate paragraphs S5.2, S7.2, and S9.2. Paragraph S13 exempts hoses, fittings, and assemblies, if each or all are installed in a vehicle to which the standard applies (i.e., new vehicles, factory assemblies) from the individual requirements for labeling these components or assemblies. Rulemaking is to be initiated to clarify these requirements as they apply to the labeling of components or assemblies which use "reusable" fittings. A conflict may exist as to whether these materials with "reusable" components are considered to be "assemblies."

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AD04

2219. STANDARD 121; AIR BRAKE SYSTEMS STOPPING-DISTANCE PERFORMANCE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: Accidents involving heavy trucks have a disproportionate (higher) fatality rate than all other motor vehicles. This rulemaking proposes to reinstate stopping distance performance requirements in Standard 121 so as to help improve heavy vehicle braking performance and hence reduce the number of accidents involving these vehicles. Although a court decision found that Standard 121, as it then existed, was unenforceable, additional accident data and technical review have persuaded NHTSA that the court's requirements can now be met.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AD07

2220. STANDARD 207; SEATING SYSTEMS - PERFORMANCE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.207

Legal Deadline: None

Abstract: Environmental Research and Safety Technologists of Flagstaff, AZ, petitioned the agency to reexamine the general performance requirements of the Standard. The ANPRM requested comments.

Timetable:

Action	Date	FR Cite
ANPRM	10/04/89	54 FR 40696
ANPRM Comment Period End	12/04/89	54 FR 40696

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Petitions for rulemaking were granted 07/24/89. See a related rulemaking action involving these petitioners under RIN 2127-AC57.

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AD08

2221. STANDARD 110, TIRE SELECTION AND RIMS; AND 120, TIRE SELECTION AND RIMS FOR OTHER THAN PASSENGER CARS - SIZE LABELLING

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

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DOT—NHTSA

Proposed Rule Stage

CFR Citation: 49 CFR 571.110; 49 CFR 571.120

Legal Deadline: None

Abstract: Rubber Manufacturers Association petitioned for rulemaking to amend FMVSS Nos. 110 and 120 to require size labelling of all new highway vehicle wheels, whether for original equipment or for the replacement market. Petition was granted.

Timetable:

Action	Date	FR Cite
NPRM	08/13/90	55 FR 32929
NPRM Comment Period End	10/12/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/13/90 (55 FR 32929)

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6642

RIN: 2127-AD23

2222. STANDARD 209; SEAT BELT ASSEMBLY - WINDOWSHADE TYPE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.209

Legal Deadline: None

Abstract: The agency has received a petition from the Goodson Engineering, Inc., to amend FMVSS 209 to prohibit windowshade-type shoulder belt retractors. The petition for rulemaking was granted.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 10/00/90

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6642

RIN: 2127-AD25

2223. INSURER REPORTING REQUIREMENTS; LIST OF INSURERS REQUIRED TO FILE REPORTS IN OCTOBER 1990

Significance: Nonsignificant

Legal Authority: 15 USC 2021; 15 USC 2022; 15 USC 2023; 15 USC 2024; 15 USC 2025; 15 USC 2026

CFR Citation: 49 CFR 544

Legal Deadline: None

Abstract: This notice lists the subject insurers, including rental and leasing companies, required to file annual reports with this agency on motor vehicle theft, unless exempt from filing such reports. The listing of insurance companies in this notice is derived from data provided by A. M. Best, the Automotive Fleet Fact Book, and Business Travel News Survey, whose data are based on reports submitted voluntarily by the insurance industry and rental and leasing industry. Those insurance companies and rental and leasing companies included on the final rule listing would be required to file reports for the 1989 calendar year not later than October 25, 1990. Any insurance company or rental and leasing company not on the final list is not required to file a report for the 1989 calendar year.

Timetable:

Action	Date	FR Cite
NPRM	10/10/90	55 FR 41241
NPRM Comment Period End	10/22/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/10/90 (55 FR 41241)

Agency Contact: Barbara Gray, Chief, Motor Vehicle Theft Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4808

RIN: 2127-AD31

2224. PROCEDURES FOR SELECTING LINES TO BE COVERED BY THE THEFT PREVENTION STANDARD

Significance: Nonsignificant

Legal Authority: 15 USC 2021; 15 USC 2022; 15 USC 2023; 15 USC 2024; 15 USC 2025; 15 USC 2026

CFR Citation: 49 CFR 542

Legal Deadline: None

Abstract: This proposed amendment to 49 CFR 542 will require manufacturers to provide the agency with any information necessary to select the likely high-theft carlines to be covered by the Theft Prevention Standard. Presently, the manufacturers are not required to provide the agency with this information and, thus, new manufacturers submit information within the specified time frame established under Section 603 of the Cost Savings Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Gray, Chief, Motor Vehicle Theft Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4808

RIN: 2127-AD32

2225. AUTOMATIC BRAKE ADJUSTERS FOR HEAVY DUTY VEHICLES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: Proposed action would require automatic brake adjusters and brake adjustment indicators on all trucks, buses, MPVs and trailers over 10,000 pounds GVWR. On-road vehicle inspections and accident data indicate that brakes out of adjustment is a safety problem which adjusters and indicators--in conjunction with on-road inspections--should alleviate.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

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Proposed Rule Stage

Analysis: Regulatory Evaluation 10/00/90

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6942

RIN: 2127–AD34

2226. ● DEFINITION OF "SEAT BELT ANCHORAGE"

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.210

Legal Deadline: None

Abstract: This action proposes to amend Standard No. 210, Seat Belt Assembly Anchorages, to clarify the definition of "Seat Belt Anchorage." This rulemaking is intended to clarify the scope of this standard as it applies to seat-mounted safety belts and other non-floor-mounted safety belts.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6942

RIN: 2127–AD44

2227. ● CHILD RESTRAINT WARNING LABELS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: The Center for Auto Safety was granted a petition for rulemaking to amend FMVSS 213. Child Seating Systems, to delete Section S5.5.2(i), which allows the use of warning labels to notify consumers of adjustment positions which should not be used in an automobile. The Center contended this action would prevent child-seat manufacturers from resorting to using warning labels to permit adjustments to dangerous positions as long as the seat has a label warning consumers not to do so.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/00/90

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6942

RIN: 2127–AD45

2228. ● CHILD SAFETY SEAT REGISTRATION

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: The Center for Auto Safety has petitioned for rulemaking to amend FMVSS No. 213, Child Seating Systems, to require manufacturers of child restraints to maintain the names and addresses of owners of child safety seats. The purpose of this registration is to enable manufacturers to directly contact owners of seats in case of recall. The petition was been granted.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6942

RIN: 2127–AD45

2229. ● PRELIMINARY PASSENGER MOTOR VEHICLE THEFT DATA FOR 1989

Significance: Nonsignificant

Legal Authority: 15 USC 2023

CFR Citation: 49 CFR 541; 49 CFR 1.50

Legal Deadline: None

Abstract: The agency will seek public comment regarding data on passenger motor vehicle thefts that occurred in 1989. These data were based on information provided to NHTSA by the National Crime Information Center of the Federal Bureau of Investigation.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Gray, Chief, Motor Vehicle Theft Group, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4900

RIN: 2127–AD52

2230. ● RULEMAKING TO DELETE "DUE CARE" PROVISIONS FROM THE OCCUPANT CRASH PROTECTION STANDARD

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: In 1966, NHTSA added a provision to Standard No. 208, Occupant Crash Protection, allowing vehicles that fail one or more of the injury criteria in the standard to still be considered as complying with the standard if the manufacturer could show it had exercised "due care" in the design and construction of the vehicle. The Motor Vehicle Safety Act requires all safety standards to be expressed in "objective terms." Further, the courts have held that compliance with safety

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standards must be determined by objective measurements and without recourse to any subjective determinations. The inherently subjective nature of a "due care" determination precludes the use of that concept as an aspect of compliance with the safety standards. Therefore, the "due care" provisions would be proposed to be deleted from the crash protection standard.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	07/00/91	
Final Action Effective	07/00/92	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Agency Contact: Stephen Kratzke, Deputy Assistant Chief Counsel for Rulemaking, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2992

RIN: 2127–AD64

2231. ● STATE HIGHWAY SAFETY PROGRAMS

Significance: Nonsignificant

Legal Authority: 23 USC 401

CFR Citation: 23 CFR 1200; 23 CFR 1204; 23 CFR 1205

Legal Deadline: None

Abstract: This notice proposes the establishment of uniform procedures governing approval, implementation, and management of State highway safety programs. It would implement the Department of Transportation rule (49 CFR Part 18) concerning the administration of grants with State and local governments, as it applies to highway safety programs, update and codify existing procedures and delete obsolete provisions. This action would combine or reference, in one source, the major requirements which apply to State highway safety programs. This proposed rule would not establish any new administrative requirements. The proposed action would combine or reference, in Title 23, Chapter II of the Code of Federal Regulations, the major requirements which apply to State highway safety programs. While a significant goal of this proposed action is to achieve uniformity in the procedural implementation of the Section 402 program, it does not impose procedures which vary significantly from those currently followed by the States and Federal Regional Offices.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Evaluation 10/00/90

Agency Contact: Brian McLaughlin, Regional Coordinator, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2121

RIN: 2127–AD55

2232. ● UNIFORM TIRE QUALITY GRADING STANDARDS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407; 15 USC 1421; 15 USC 1423

CFR Citation: 49 CFR 575

Legal Deadline: None

Abstract: This action would require front-wheel-drive passenger cars and light trucks to submit to Uniform Tire Quality Grading Standards (UTQGS) testing.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	01/00/91	
Final Action	09/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/00/90

Agency Contact: Orron E. Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0846

RIN: 2127–AD68

2233. ● STATIC TEST REQUIREMENTS OF SAFETY BELT WEBBING FOR DYNAMICALLY TESTED SAFETY BELTS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: Federal Motor Vehicle Safety Standard No. 208, Occupant Crash Protection, permits dynamically tested safety belts, including automatic safety belts, to be exempt from certain static strength requirements for belt webbing in Standard No. 209, Seat Belt Assembly. The agency is reexamining the basic issues underlying these exemptions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AD78

DEPARTMENT OF TRANSPORTATION (DOT)
National Highway Traffic Safety Administration (NHTSA)

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2234. + CRASHWORTHINESS RATINGS

Significance: Regulatory Program

Legal Authority: 15 USC 1401; 15 USC 1941

CFR Citation: 49 CFR 5

Legal Deadline: None

Abstract: This action would require manufacturers to disseminate crashworthiness performance information concerning their cars to the public, to provide consumers with comparative information on the crashworthiness performance of new car models. This rulemaking is considered significant because of the impact on manufacturers, the interest shown by consumers, and the potential significant effects on the automotive marketplace.

Timetable:

Action	Date	FR Cite
NPRM	01/22/81	46 FR 7025
Comment Period Extended to 10/22/81	04/02/81	46 FR 19947
NPRM Comment Period End	04/22/81	46 FR 7025

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Draft Regulatory Evaluation 01/22/81 (46 FR 7025)

Additional Information: Docket No. 79-17. NPRM, Notice 1.

Agency Contact: Stanley Scheiner, Director, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-1740

RIN: 2127–AA03

2235. + ANTHROPOMORPHIC TEST DUMMIES; SIDE-IMPACT THORAX PROTECTION

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: Contemplated action would provide performance criteria for the adult surrogate dummies which would be required in dynamic testing of vehicles if Standard 214, Side Door Strength, is upgraded. This action is considered significant because of the safety implications.

Timetable:

Action	Date	FR Cite
NPRM	01/27/88	53 FR 2254
NPRM RIN 2127-AB86	01/27/88	53 FR 2239
NPRM Correction RIN 2127-AA48	03/17/88	53 FR 8783
NPRM Correction RIN 2127-AB86	03/17/88	53 FR 8782
NPRM Comment Period End	10/24/88	53 FR 2254
Final Action	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Analysis: Preliminary Regulatory Evaluation 01/27/88 (53 FR 2254)

Additional Information: A related issue, side-impact thorax protection (RIN AB86) has been consolidated into this proceeding.

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AA42

2236. + UNIFORM TIRE QUALITY GRADING STANDARDS - TREADWEAR AMENDMENTS

Significance: Regulatory Program

Legal Authority: 15 USC 1423

CFR Citation: 49 CFR 575

Legal Deadline: None

Abstract: Contemplated action would amend treadwear grading procedures of the Uniform Tire Quality Grading Standards to assure greater reliability of grading information for consumers. Test procedures would be amended to reduce variability. This regulation is significant because it involves important departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	01/19/89	54 FR 2167
NPRM Comment Period End	03/20/89	54 FR 2167
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Preliminary Regulatory Evaluation 01/19/89 (54 FR 2167)

Agency Contact: Orron Kee, Chief, Motor Vehicle Requirements Div., Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0846

RIN: 2127–AB21

2237. + LIGHTING SIMPLIFICATION—POTENTIAL AMENDMENTS ON LONG-TERM ISSUES; STANDARD 108

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: NHTSA proposes a comprehensive review of headlighting requirements of FMVSS No. 108 which may be simplified, while being consistent with motor-vehicle safety. The agency has concentrated its efforts into five principal areas. This action addresses the first of these, which is the feasibility of a standard directed toward onboard original-equipment headlighting performance rather than toward performance of individual aftermarket headlamps in a laboratory environment. This action is considered significant because of safety implications. Based on comments received, a second NPRM was issued.

Timetable:

Action	Date	FR Cite
ANPRM	10/22/85	50 FR 42735
ANPRM Comment Period End	03/06/86	51 FR 1542
NPRM	10/29/87	52 FR 40038
NPRM Comment Period End	03/28/88	
SNPRM; Second	05/09/89	54 FR 20048
Correction to Second SNPRM	05/19/89	54 FR 21727
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Preliminary Regulatory Evaluation 12/29/87 (52 FR 48038)

Additional Information: Docket No. 85-15, Notice 1.

Docket No. 85-15, Notice 2.

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Federal Register Notice (51 FR 1542) extended comments period from a closing date of Jan. 21, 1986 to March 6, 1986.

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6842

RIN: 2127-AB87

2238. + PEDESTRIAN PROTECTION

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: This proposal would reduce adult and child pedestrian injuries through modification of the vehicle frontal structure. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/22/91	46 FR 7015
NPRM Comment Period End	05/22/91	46 FR 7015
Final Action	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 12/00/90

Additional Information: Docket No. 78-19. NPRM, Notice 1.

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6842

RIN: 2127-AA45

2239. + VEHICLE CLASSIFICATION

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407; 15 USC 2001

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the advance notice invited comment on possible amendments to the regulation with respect to the manner in which light trucks, vans, multipurpose vehicles, and certain other vehicles are classified. The October 17, 1988 Notice of Proposed Rulemaking proposed two alternative vehicle classification approaches for those vehicles now categorized as light trucks, multipurpose passenger vehicles, and passenger cars. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	10/28/87	52 FR 41475
ANPRM Comment Period End	12/28/87	52 FR 41475
ANPRM Comment Period Extended to 01/25/88	01/07/88	53 FR 426
NPRM	10/17/88	53 FR 40463
NPRM Comment Period End	01/17/89	53 FR 40463
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/17/88 (53 FR 40463)

Agency Contact: Deborah Parker, Special Project Staff, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4931

RIN: 2127-AA57

2240. + SIDE-IMPACT PROTECTION—LIGHT TRUCKS, VANS, AND MULTIPURPOSE PASSENGER VEHICLES

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 1.50; 49 CFR 571.214

Legal Deadline: None

Abstract: NHTSA has proposed the requirements for light trucks, vans, and multipurpose passenger vehicles intended to reduce the risk of fatalities and injuries in side impacts and other crashes where the side protection of the vehicle is a relevant factor. The contemplated requirements would be part of the agency's efforts to address the serious problem of side impacts. This rulemaking is considered significant because of the public safety implications.

Timetable:

Action	Date	FR Cite
ANPRM	06/19/88	53 FR 31716
Comment Period Extension Denied	09/27/88	53 FR 37615
Comment Period Extension Denied	10/17/88	53 FR 40462
ANPRM Comment Period End	10/19/88	53 FR 31716
NPRM	12/22/89	54 FR 52826
NPRM Comment Period End	02/20/90	54 FR 52826
Comment Period Extended to 03/22/90	02/23/90	55 FR 6407
Final Action	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis; Regulatory Evaluation 12/22/89 (54 FR 52826)

Additional Information: A related action proposing requirements for passenger cars (RIN 2127-AB86) was consolidated into RIN 2127-AA48 which is now in the final stage of rulemaking.

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, NRM-10, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6842

RIN: 2127-AC43

2241. + STANDARD 208; OCCUPANT CRASH PROTECTION - UPGRADE

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: This action would require automatic occupant crash protection in light trucks, vans, and multipurpose passenger vehicles. This action is significant because of substantial public interest.

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Timetable:

Action	Date	FR Cite
NPRM	01/09/90	55 FR 747
NPRM Comment Period End	03/12/90	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/09/90 (55 FR 747)

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-5842

RIN: 2127–AD10

2242. + STANDARD 216; ROOF CRUSH RESISTANCE - LIGHT TRUCKS, VANS, AND MULTIPURPOSE PASSENGER VEHICLES

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 1.50; 49 CFR 571.216

Legal Deadline: None

Abstract: The NPRM proposed to extend the roof crush resistance requirements of the standard to cover light trucks, vans, and multipurpose vehicles (MPVs). This rulemaking is intended to reduce the risk of fatalities and injuries in rollover accidents and other crashes where the roof crush resistance of the vehicle is a relevant factor. It is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	11/02/89	54 FR 46275
NPRM Comment Period End	01/02/90	54 FR 46275
Comment Period Extension Denied	01/05/90	55 FR 446
Final Action	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 11/02/89 (54 FR 46275)

Agency Contact: Deborah Parker, Special Projects, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4851

RIN: 2127–AD13

2243. + STOP-SIGNAL ARMS ON NEW SCHOOL BUSES; NEW STANDARD

Significance: Agency Priority

Legal Authority: 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: Many injuries occur to school-age children when drivers of other vehicles do not see the children or the school bus as the children are approaching or leaving a school bus. An average of 13 fatalities per year were reported resulting from pedestrians being struck by vehicles other than the school bus as they are approaching or leaving the school bus. The objective of this proposed project is to develop a new motor vehicle safety standard that will require installation of stop-signal arms on all new school buses as recommended in the National Research Council's report "Improving School Bus Safety." Stop-signal arms are stop signs with flashing red lights that extend from the left side of the school bus when it stops to load or unload students. This will probably necessitate additional equipment and possibly more training for some drivers. This action is significant because of substantial public interest, and possible Federalism implications.

Timetable:

Action	Date	FR Cite
NPRM	02/02/90	55 FR 3618
NPRM Comment Period End	03/19/90	
Final Action	12/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 02/02/90 (55 FR 3618)

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-5842

RIN: 2127–AD19

2244. + PROCEDURES FOR PARTICIPATING IN AND RECEIVING DATA FROM THE NATIONAL DRIVER REGISTER PROBLEM DRIVER POINTER SYSTEM

Significance: Agency Priority

Legal Authority: 23 USC 401

CFR Citation: 23 CFR 1325

Legal Deadline: None

Abstract: This regulation will implement an improved National Driver Register (NDR), the purpose of which is to assist chief driver licensing officials of participating States in exchanging information regarding the motor vehicle driving records of individuals. The objective is to prevent the issuance of driver's licenses to individuals whose licenses to operate a motor vehicle have been withdrawn or denied, especially those convicted of drunk driving. By participating in the NDR, State Driver licensing officials may better identify problem drivers and deny them access to the nation's highways, thus making them safer. Annual cost to the Government will be between $5 and $7 million. This action is considered significant because of the impact on transportation safety.

Timetable:

Action	Date	FR Cite
NPRM	04/04/90	55 FR 12509
NPRM Comment Period End	05/21/90	
NPRM: Comment Period Reopened to 10/01/90	07/02/90	55 FR 27251

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/04/90 (55 FR 12509)

Agency Contact: Clayton E. Hatch, Chief, Driver Register Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4800

RIN: 2127–AD20

DOT—NHTSA

Final Rule Stage

2245. + CENTER HIGH-MOUNTED STOPLAMPS FOR LIGHT TRUCKS

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: It has been determined that center high-mounted stoplamps on passenger cars help prevent rear end crashes. This rulemaking action will extend the present requirement to include light vehicles other than passenger cars. It is considered significant because of substantial public interest and safety implications.

Timetable:

Action	Date	FR Cite
NPRM	05/31/90	55 FR 22039
NPRM Comment Period End	07/30/90	55 FR 22039
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/31/90 (55 FR 22039)

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AD35

2246. ◆ + LIGHT TRUCK AVERAGE FUEL ECONOMY STANDARDS FOR MODEL YEARS 1993 AND 1994

Significance: Agency Priority

Legal Authority: 49 USC 1657; 15 USC 2002

CFR Citation: 49 CFR 533

Legal Deadline: Final, Statutory, March 31, 1991.
Light truck fuel economy standards are required to be set at least 18 months prior to the beginning of the Model Year.

Abstract: In accordance with the mandatory requirements of Section 503(b) Motor Vehicle Information and Cost Savings Act, this rulemaking will establish light truck average fuel economy standards for Model Years 1993 and 1994. This action is considered significant because of the impact on manufacturers, the interest shown by consumers, and the potential significant effects on the automotive marketplace.

Timetable:

Action	Date	FR Cite
NPRM	02/02/90	55 FR 3606
NPRM Comment Period End	03/05/90	55 FR 3606
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Additional Information: The February 2, 1990, notice proposed the establishment of average fuel economy standards for light trucks manufactured in Model Years 1992 through 1994. However, Model Year 1992 was issued separately under RIN 2127-AC51, and was a completed action 04/04/90, 55 FR 12487.

Agency Contact: Orron E. Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0846

RIN: 2127–AD50

2247. AIR-BRAKE SYSTEMS, PARKING AND EMERGENCY BRAKES - TRAILERS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: This project would revise the requirements in Standard No. 121 for parking and emergency-brake functions for trailers. In view of comments received, an SNPRM was issued.

Timetable:

Action	Date	FR Cite
NPRM	07/23/81	46 FR 37952
NPRM Comment Period End	08/24/81	46 FR 37952
SNPRM; Comment Period End 04/09/90	02/08/90	55 FR 4453
SNPRM Comment Period Extended to 06/07/90	04/11/90	55 FR 13575
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/08/90 (55 FR 4453)

Additional Information: Docket No. 79-03. NPRM, Notice 5.

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AA27

2248. ANTHROPOMORPHIC TEST DUMMIES: 6-YEAR-OLD

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: This action would add the specifications covering the 6-year-old-child test dummy to Part 572 to allow its use in evaluation of child restraints designated for older children.

Timetable:

Action	Date	FR Cite
NPRM	04/06/89	54 FR 13901
NPRM Comment Period End	10/03/89	54 FR 13901
Final Action	05/00/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/06/89 (54 FR 13901)

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AC09

DOT—NHTSA

Final Rule Stage

2249. ANTHROPOMORPHIC TEST DUMMIES: 9-MONTH-OLD

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: Contemplated action would add the specification covering the 9-month-old-child test dummy to Part 572 to allow its use in evaluation of restraints designated for infants and small toddlers.

Timetable:

Action	Date	FR Cite
NPRM	12/21/89	54 FR 52425
NPRM Comment Period Correction	01/11/90	55 FR 1139
NPRM Comment Period End	06/19/90	54 FR 52425
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/21/89 (54 FR 52425)

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AC10

2250. STANDARD 208; OCCUPANT CRASH PROTECTION - CHEST INJURY CRITERIA AND MANDATORY USE OF THE PART 572(E) DUMMY IN THE STANDARD COMPLIANCE TESTING

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: Petitions for reconsideration of the final rule issued 07/25/86 (51 FR 26688) have raised the question of whether the Part 572(E) dummy's chest deflection limit of 2 in. is appropriate for belt restraints. The rulemaking will address the petitioners' issues. The intention is to upgrade the chest-deflection injury criteria for unrestrained occupants when vehicles are tested for the Standard compliance with the Hybrid III Dummy. More recent data have raised concerns about equivalence of the Hybrid II and III test dummies in unrestrained conditions; these concerns warranted an interim final rule mandating use of only the Hybrid II test dummy until further research is completed in September, 1993.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/26/90	55 FR 39280
Interim Final Rule Comment Period End	11/13/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/26/90 (55 FR 39280)

Additional Information: Former title: Mandatory Use of the Part 572(E) Dummy in FMVSS 208 Compliance Testing.

RIN 2127-AC34, involving chest injury criteria, has been consolidated herein.

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AC13

2251. STANDARD 205; GLAZING MATERIALS BALL DROP TEST

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.205

Legal Deadline: None

Abstract: Based on a petition, this action proposed to amend FMV Safety Standard No. 205, Glazing Materials, to revise the ball drop test No. 26 to allow clamping of glass-plastic samples.

Timetable:

Action	Date	FR Cite
NPRM	10/11/89	54 FR 41636
NPRM Comment Period End	11/27/89	54 FR 41636
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/11/89 (54 FR 41636)

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AC14

2252. STANDARD 205; GLAZING MATERIALS - CREATE A NEW CATEGORY, AS-15

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.205

Legal Deadline: None

Abstract: The Taliq Corporation of Sunnyvale, CA, petitioned the agency to create a new category of glass-plastic glazing, AS-15. This proposed glazing would consist of a layer of tempered glass and a layer of plastic with the tempered glass layer on the outside surface when installed in the vehicle. This glazing would be permitted only in vehicle locations not requisite for driving visibility. The petition was granted and the NPRM proposed to expand upon the request.

Timetable:

Action	Date	FR Cite
NPRM	10/11/89	54 FR 41632
NPRM Comment Period End	11/27/89	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/11/89 (54 FR 41632)

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AC36

2253. STANDARD 118; POWER-OPERATED WINDOW SYSTEMS, SUNROOFS

Significance: Nonsignificant

DOT—NHTSA

Final Rule Stage

Legal Authority: 15 USC 1392; 15 USC 1400

CFR Citation: 49 CFR 571.118

Legal Deadline: None

Abstract: This action would amend Standard No. 118 to extend the standard's requirements to power-operated sunroofs and either permit external non-key locking systems to operate windows and sunroofs or prohibit all external operating systems.

Timetable:

Action	Date	FR Cite
NPRM	04/06/90	55 FR 12871
NPRM Comment Period End	05/21/90	55 FR 12871
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/06/90 (55 FR 12871)

Additional Information: This project has been separated from RIN 2127-AC25, entitled Power-Operated Window Systems, which was a completed action 6/24/88 (53 FR 23708). The NPRM of 04/06/90 inadvertently showed RIN AC25 instead of RIN AC52.

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6346

RIN: 2127-AC52

2254. STANDARD 106; BRAKE HOSES; PERMANENTLY ATTACHED END FITTINGS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.106

Legal Deadline: None

Abstract: Volvo-White Truck Corporation petitioned to amend Federal Motor Vehicle Safety Standard No. 106 to change the definition of permanently attached end fitting to include fittings that are attached by permanent methods other than crimping or swaging. The petition was granted. This Notice of Proposed Rulemaking clarifies that Table III of the standard applies to rubber brake hoses only. This clarification verifies that thermoplastic hoses which are not manufactured to the specific dimensional sizes of Table III are not covered by the Table III specifications.

Timetable:

Action	Date	FR Cite
NPRM	06/15/90	55 FR 24278
NPRM correction	06/22/90	55 FR 25774
NPRM Comment Period End	07/30/90	55 FR 24278
Final Action	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/15/90 (55 FR 24278)

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6346

RIN: 2127-AC55

2255. PARKING BRAKE REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: The agency received two petitions for reconsideration to the amendment to FMVSS No. 121, Air Brake Systems, to clarify the standard's parking brake requirements in a final rule published in the Federal Register (53 FR 7921) on March 11, 1988. The agency granted these petitions from Navistar International Corporation and Volvo GM Heavy Truck Corporation on February 2, 1990. The agency proposes further revisions in Standard No. 121's parking brake requirements and new requirements concerning release performance and accumulation of actuation energy for parking brakes..

Timetable:

Action	Date	FR Cite
NPRM	02/08/90	55 FR 4447
NPRM Comment Period End	04/09/90	55 FR 4447
Final Rule; Delay of Effective Date to 09/07/91	08/15/90	55 FR 33318
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/08/90 (55 FR 4447)

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6346

RIN: 2127-AC73

2256. STANDARD 102; TRANSMISSION SHIFT-LEVER SEQUENCE, STARTER INTERLOCK, AND TRANSMISSION BRAKING EFFECT - SHIFT POSITION/PATTERN

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.102

Legal Deadline: None

Abstract: This proposed rulemaking would amend the provisions for indication of the shift position or shift pattern for transmissions that do not have a "PARK" position.

Timetable:

Action	Date	FR Cite
NPRM	01/12/90	55 FR 1228
NPRM Comment Period End	02/26/90	
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/12/90 (55 FR 1228)

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6346

RIN: 2127-AC75

2257. STANDARD 108; OPTICALLY COMBINED LAMPS; NEW DEFINITION

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

DOT—NHTSA

Final Rule Stage

Abstract: In response to a petition, an amendment was proposed, to introduce a new definition for the term "optically combined" concerning lamps.

Timetable:

Action	Date	FR Cite
NPRM	12/05/89	54 FR 50254
NPRM Comment Period End	01/19/90	54 FR 50254
Comment Period Extended to 02/19/90	01/31/90	55 FR 3242
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/05/89 (54 FR 50254)

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, [redacted]

RIN: 2127–AC77

2258. STANDARD 121; AIR-BRAKE SYSTEMS, EXPANDABLE AND DROP FRAME CONTAINER CHASSIS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: The Truck Trailer Manufacturers Association has petitioned the agency to amend the standard to remove extendable and drop frame container chassis from the partial exclusions applying to heavy hauler trailers. The petitioner believes that the reasons for excluding heavy hauler trailers from certain requirements of the standard do not apply in the case of container chassis. The NPRM proposed to amend the standard accordingly.

Timetable:

Action	Date	FR Cite
NPRM	12/01/89	54 FR 49781
NPRM Comment Period End	01/30/90	54 FR 49781
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/01/89 (54 FR 49781)

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, [redacted]

RIN: 2127–AC51

2259. STANDARD 201; OCCUPANT PROTECTION IN INTERIOR IMPACT

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.201

Legal Deadline: None

Abstract: This action responds to a petition by Chrysler to exempt from the head-impact requirements of the standard those vehicles equipped with a passenger-side airbag complying with Standard No. 208. The petition for rulemaking was granted.

Timetable:

Action	Date	FR Cite
Request for Comments	08/10/89	54 FR 32830
NPRM	07/18/90	55 FR 29236
NPRM Comment Period End	09/04/90	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/18/90 (55 FR 29236)

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, [redacted]

RIN: 2127–AC84

2260. STANDARD 116; MOTOR VEHICLE BRAKE FLUIDS - COLOR REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.116

Legal Deadline: None

Abstract: Federal Motor Vehicle Safety Standard No. 106 requires that brake fluids classified as type DOT-5 be colored purple. Mr. Frank Haynes, Bendix-France (Haynes) and others have petitioned for rulemaking concerning the requirements as to color coding, pH value, and chemical stability for DOT-5 nonsilicone brake fluids. Petitioners requested these new types be differentiated from the silicone fluids. Petitions for rulemaking were granted by letter 08/01/89.

Timetable:

Action	Date	FR Cite
NPRM	03/02/90	55 FR 7510
NPRM Comment Period End	04/16/90	
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/02/90 (55 FR 7510)

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, [redacted]

RIN: 2127–AD05

2261. STANDARD 207; SEATING SYSTEMS - TEST PROCEDURE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.207

Legal Deadline: None

Abstract: The agency is considering whether to adopt a test procedure more appropriate to pedestal seats, and has proposed using a procedure that more closely represents the load distribution actually experienced by pedestal seats in real-world crashes.

Timetable:

Action	Date	FR Cite
NPRM	08/14/90	55 FR 33141
NPRM Comment Period End	09/28/90	
Final Action	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

DOT—NHTSA

Final Rule Stage

Analysis: Regulatory Evaluation (08/24/90 (55 FR 34448))

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6346

RIN: 2127-AD09

2262. STANDARD 208; OCCUPANT CRASH PROTECTION - DYNAMICALLY TESTED SEAT BELTS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.208; 49 CFR 571.209

Legal Deadline: None

Abstract: This action responds to petitions by Volkswagen and Ford Motor Company to exempt certain dynamically tested safety belts from elongation and other requirements for Federal Motor Vehicle Safety Standard No. 209, Seat Belt Assembly. The petitions for rulemaking were granted by letter.

Timetable:

Action	Date	FR Cite
NPRM	01/18/89	55 FR 1981
NPRM Comment Period End	03/05/90	
Final Action	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6346

RIN: 2127-AD11

2263. STANDARD 108; LAMPS, REFLECTIVE DEVICES AND ASSOCIATED EQUIPMENT - HUMIDITY TEST

Significance: Nonsignificant

Legal Authority: 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency received petitions from Hella, Bosch, and Koito for clarification of the humidity test procedures. Petitions were granted.

Timetable:

Action	Date	FR Cite
NPRM	11/27/89	54 FR 48776
NPRM Comment Period End	01/11/90	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/27/89 (54 FR 48776)

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6346

RIN: 2127-AD15

2264. STANDARD 109; NEW PNEUMATIC TIRES AND PART 575.104, UNIFORM TIRE QUALITY GRADING STANDARDS - CT TIRES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1402; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.109; 49 CFR 575.104

Legal Deadline: None

Abstract: General Tire, Inc., Continental AG, Germany, and Daimler-Benz AG, Germany, petitioned for rulemaking to amend FMVSS No. 109 and Part 575.104 to allow the use of CT tires (tires which use an inverted flange rim). The petition was granted. The NPRM proposed to amend the standard but also invited comments.

Timetable:

Action	Date	FR Cite
NPRM	02/14/90	55 FR 5237
NPRM Comment Period End	04/16/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/14/90 (55 FR 5237)

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6346

RIN: 2127-AD21

2265. AIR-BRAKE SYSTEMS; PNEUMATIC TIMING REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: This action proposes to require for towing vehicles that actuation at the interface between towing vehicles and trailers must be at least as fast as actuation at the towing vehicle brake chambers. It also proposed requirements for towing trailers to ensure that the relay booster valves used on these trailers do not upset brake balance between vehicles in a combination.

Timetable:

Action	Date	FR Cite
NPRM	05/03/89	54 FR 19012
NPRM Comment Period End	07/03/89	
Comment Period Extended to 10/03/89	07/21/89	54 FR 30571
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/03/89 (54 FR 19012)

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6346

RIN: 2127-AD27

2266. BEAD UNSEATING TEST FIXTURE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.109

Legal Deadline: None

Abstract: Petition from Rubber Manufacturers Association (RMA) for a change in the dimensions of the bead unseating test fixture to accommodate

DOT—NHTSA

Final Rule Stage

17- and 18-inch T-type tires was granted. This is a technical amendment.

Timetable:

Action	Date	FR Cite
NPRM	06/15/90	55 FR 24280
NPRM: Correction	07/02/90	55 FR 27330
NPRM Comment Period End	07/30/90	55 FR 24280
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/15/90 (55 FR 24280)

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6642

RIN: 2127–AD30

2257. ● AUTOMATIC SAFETY-BELT WARNING SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: An amendment to Standard No. 208, "Occupant Crash Protection" is being proposed that would give manufacturers the option of using automatic safety-belt warning systems in passenger cars equipped with manual belts. This is in response to a petition received from General Motors.

Timetable:

Action	Date	FR Cite
NPRM	06/28/90	55 FR 26471
NPRM Comment Period End	08/13/90	
Final Action	06/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/28/90 (55 FR 26471)

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6642

RIN: 2127–AD36

2266. ● "LOCK" CHILD SAFETY SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: An amendment to Standard No. 208, "Occupancy Crash Protection" is being proposed to ensure that it is possible to "lock" child safety systems in the seats of passenger cars using lap/shoulder belts.

Timetable:

Action	Date	FR Cite
NPRM	07/30/90	55 FR 30937
NPRM Comment Period End	09/13/90	
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/30/90 (55 FR 30937)

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-6642

RIN: 2127–AD39

2269. ● FINAL LISTING OF HIGH THEFT LINES FOR 1992 MODEL YEAR YEAR—TECHNICAL AMENDMENT TO FINAL RULE

Significance: Nonsignificant

Legal Authority: 15 USC 2021; 15 USC 2024; 15 USC 2025

CFR Citation: 49 CFR 541; 49 CFR 1.50

Legal Deadline: None

Abstract: The purpose of this notice is to (1) report the results of this agency's actions for determining which car lines are subject to the marking requirements of the motor vehicle theft prevention standard for the 1992 model year and (2) publish a list of those carlines.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Barbara Gray, Chief, Motor Vehicle Theft Group, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4808

RIN: 2127–AD53

2270. ● EXEMPTION FROM AVERAGE FUEL ECONOMY STANDARDS

Significance: Nonsignificant

Legal Authority: 15 USC 2002

CFR Citation: 49 CFR 525

Legal Deadline: None

Abstract: The agency has received a petition from Ferrari for exemption from the generally applicable average fuel economy standards for Model Years 1986 and 1988 and for a lower alternative standard to be established for each Model Year. This action proposed to grant the requested exemption and establish an alternative standard for Model Years 1986 and 1988 for Ferrari.

Timetable:

Action	Date	FR Cite
NPRM	12/10/86	51 FR 44492
NPRM Comment Period End	01/26/87	51 FR 44492
Final Action	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/10/86 (51 FR 44492)

Agency Contact: Orron K. Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0846

RIN: 2127–AD62

DEPARTMENT OF TRANSPORTATION (DOT)
National Highway Traffic Safety Administration (NHTSA)

Completed Actions

2271. + STANDARD 102; TRANSMISSION SHIFT-LEVER SEQUENCE, STARTER INTERLOCK, AND TRANSMISSION BRAKING-EFFECT SLIPPAGE

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.102

Legal Deadline: None

Abstract: A petition was received requesting that an amendment be made which would require that automatic transmissions be designed so they do not slip out of the "park" position. Although the issue would assume significance had the petition been granted, because of safety implications, the petition was denied. Petitioner failed to demonstrate how his proposed remedy would cure the problem of driver failure to properly place the vehicle in PARK. Nor is the extent of the alleged safety problem great enough to warrant Federal intervention.

Timetable:

Action	Date	FR Cite
Final Action Petition Denied	05/21/90	55 FR 25340

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, [illegible]

RIN: 2127–AC74

2272. + REAR SEAT LAP/SHOULDER BELTS

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: This action responded to petitions for reconsideration of the final rule requiring rear seat lap/shoulder belts in convertible cars, light trucks and multipurpose passenger vehicles, and small buses (54 FR 46257, 11/02/89). Several amendments were made to the final rule, e.g., limitations on lap/shoulder belt retractor requirements, leadtime for compliance with certain requirements, etc. This action was considered significant because of substantial public and industry interest.

Timetable:

Action	Date	FR Cite
Final Action	07/30/90	55 FR 30914

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/30/90 (55 FR 30914)

Additional Information: A majority of the petitions for reconsideration concerned the newly added section S7.1.1.5 in FMVSS No 208, Occupant Crash Protection, that requires some means to "lock" lap/shoulder belts for use with child restraint systems. For "lock" child safety systems, see RIN 2127-AD39. Amendments to S7.1.3 and S7.1.5 are effective 09/01/91. Other amendments are effective 01/28/91.

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AD37

2273. REVIEW: IMPACT PROTECTION FOR THE DRIVER FROM THE STEERING CONTROL SYSTEM

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.203

Legal Deadline: None

Abstract: This review involved detailed quantitative analysis of factors limiting the performance of energy-absorbing steering assemblies in cars and an evaluation of the assemblies' fatality and injury reduction in light trucks. The findings made and comments received may be examined in the docket.

Timetable:

Action	Date	FR Cite
Begin Review	06/01/86	
End Review	10/03/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank G. Ephraim, Director, Office of Standards Evaluation, Department of Transportation, National Highway Traffic Safety Administration, NNP-10, 400 Seventh Street, SW., Washington, DC 20590, 202 366-1574

RIN: 2127–AB78

2274. REVIEW: ROOF CRUSH RESISTANCE AND DOOR LOCKS AND DOOR RETENTION COMPONENTS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.206; 49 CFR 571.216

Legal Deadline: None

Abstract: This program was selected for review because of costs. The evaluation studied the effect of roof crush strength and door lock improvements on the crashworthiness of passenger cars in rollover crashes. Comments received and the evaluation report may be examined in the docket.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/87	
Evaluation Report Availability; Request for Comments	11/30/89	54 FR 49368
Review completed	10/03/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Title was amended to add door locks and door retention components.

Agency Contact: Frank Ephraim, Director, Office of Standards Evaluation, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-1574

RIN: 2127–AC20

2275. SEAT-BELT-ASSEMBLY ANCHORAGES - HARMONIZE AND UPGRADE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.210

Legal Deadline: None

Abstract: This action amends Standard No. 210 to harmonize the strength of the

anchorage test with the United Nations Economic Commission for Europe (ECE) Regulation No. 14 and to upgrade other requirements and clarify language.

Timetable:

Action	Date	FR Cite
NPRM	02/03/87	52 FR 3293
NPRM Comment Period End	04/06/87	52 FR 3293
Final Action	04/30/90	55 FR 17970
Final Rule; Technical Amendment	06/15/90	55 FR 24240
Final Action Effective	09/01/92	55 FR 17970

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/30/90 (55 FR 17970)

Additional Information: Amendments are effective 09/01/92, except S4.1.3, which was effective 04/30/90. Petitions for reconsideration of this final rule are being evaluated under RIN 2127-AD43.

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AA95

2276. ANTHROPOMORPHIC TEST DUMMIES REPRESENTING CHILDREN: 3-YEAR-OLD

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: This action updated the specifications of Part 572 covering the three-year-old child dummy to allow optional use of new accelerometers and a new head design.

Timetable:

Action	Date	FR Cite
NPRM	07/11/89	54 FR 29071
NPRM Comment Period End	11/06/89	54 FR 29071
Final Action	07/25/90	55 FR 30465
Final Action Effective	08/27/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/26/90 (55 FR 30465)

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AB94

2277. NEW NON-PNEUMATIC TIRES FOR PASSENGER CARS, TIRE SELECTION, AND RIMS - TEMPORARY USE OF NON-PNEUMATIC SPARE TIRES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.110; 49 CFR 571.129

Legal Deadline: None

Abstract: This action amended Standard No. 110, Tire Selection and Rims - Passenger Cars, to allow temporary use of non-pneumatic spare tires and established performance requirements for them in a new Federal Motor Vehicle Safety Standard No. 129, Non-Pneumatic Tires for Passenger Cars.

Timetable:

Action	Date	FR Cite
Request for Comments; Comment Period Ends 12/22/87	09/22/87	52 FR 35740
NPRM	04/07/89	54 FR 14109
NPRM Comment Period End	06/06/89	54 FR 14109
Final Action	07/20/90	55 FR 29581
Final Action Effective	08/20/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/20/90 (55 FR 29581)

Additional Information: Former title: Non-Pneumatic Tires for Passenger Cars.

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AC18

2278. GEAR LOCK

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.114

Legal Deadline: None

Abstract: This amendment is intended to reduce the potential for accidents caused by shifting the transmission lever on parked vehicles with automatic transmissions. The amendment requires that an automatic transmission vehicle with a "park" position must have a keylocking system that prevents removal of the key unless the transmission is locked in "park" as the direct result of removing the key. This is in response to a petition for rulemaking relating to an inadvertent knock-out-of-gear accident resulting in a fatality.

Timetable:

Action	Date	FR Cite
NPRM	04/05/88	53 FR 11105
Comment Period Extended to 07/05/88	05/18/88	53 FR 17732
NPRM Comment Period End	05/20/88	
Final Action	05/30/90	55 FR 21868
Final Action Effective	09/01/92	55 FR 21868

Small Entities Affected: None

Government Levels Affected: None

Analysis: Prelim. Regulatory Evaluation 05/30/90 (55 FR 21868)

Additional Information: Petitions for reconsideration of the final rule were due by 08/29/90.

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AC24

2279. BUMPER STANDARD - DAMAGE CRITERIA

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 581; 49 CFR 582

Legal Deadline: None

Abstract: Consumers Union petitioned to restore the bumper-damage criteria to the 1982 protection level of 5mph or, if this is not possible, to require automobile dealers to provide repair cost and insurance premium information related to the bumper systems on the passenger cars that they sell. However, the public and consumers obtain the maximum feasible reduction in costs with the current bumper standard. As to the alternative request, no consistent positive correlation was found between damage induced in laboratory bumper tests and insurance accident repair costs, and premium rates are not influenced greatly by vehicle damage susceptibility.

Timetable:

Action	Date	FR Cite
Final Action Petition Denied.	05/15/90	55 FR 24264

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Orron Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0846

RIN: 2127–AC29

2280. PART 544, MOTOR VEHICLE THEFT PREVENTION; REPORTING REQUIREMENTS FOR MOTOR VEHICLE RENTAL AND LEASING COMPANIES

Significance: Nonsignificant

Legal Authority: 15 USC 2032

CFR Citation: 49 CFR 544

Legal Deadline: Final, Statutory, October 25, 1988.
Rental and leasing companies who are self-insured are required to report to the agency October 25th of each year.

Abstract: This action requires theft reports only from rental and leasing companies with combined fleets of 50,000 or more vehicles. This will result in only the largest rental and leasing companies being required to file theft reports, instead of the approximately 4,000 companies currently required to do so. NHTSA determined that reports from the largest rental and leasing companies will provide the agency with the representative sampling of the theft experience of rental and leasing companies, while reducing an unnecessary burden on smaller such companies.

Timetable:

Action	Date	FR Cite
NPRM	02/03/89	54 FR 5519
NPRM Comment Period End	03/20/89	
Final Action	06/22/90	55 FR 25606
Final Action Effective	07/23/90	55 FR 25606

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/22/90 (55 FR 25606)

Additional Information: This action amended the final rule published 01/02/87 (52 FR 59).

Agency Contact: Barbara Gray, Chief, Motor Vehicle Theft Group, NRM-20, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4808

RIN: 2127–AC32

2281. STANDARD 301; FUEL SYSTEM INTEGRITY, TESTING PERFORMANCE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.301

Legal Deadline: None

Abstract: Federal Motor Vehicle Safety Standard No. 301 specifies requirements for the integrity and security of vehicle's entire fuel system, including the fuel tank, fuel pump, lines and connections in front and rear, or lateral barrier impact tests; also fuel loss must not exceed one ounce per minute in a static rollover test following these barrier crash tests as well as not exceeding these limits after and incidental to the crash tests. Thomas Feahney petitioned the agency to amend the Standard to include simple functional testing to assure performance equivalent to fuel systems made of high density polyethylene. After considering comments to the ANPRM and conducting further research and analysis, NHTSA determined there was not sufficient evidence of a safety need to warrant further rulemaking, and this action was withdrawn.

Timetable:

Action	Date	FR Cite
ANPRM	03/06/89	54 FR 9855
ANPRM Comment Period End	05/06/89	
Action Withdrawn	10/03/90	55 FR 40404

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AC58

2282. STANDARD 108; PROPOSED USE OF 9007 BULBS FOR HEADLAMPS

Significance: Nonsignificant

Legal Authority: 15 USC 1407

CFR Citation: 49 CFR 552; 49 CFR 571.108

Legal Deadline: None

Abstract: Ford petitioned to allow Federal Motor Vehicle Safety Standard No. 108 to be amended to permit a new replaceable bulb design for headlamps and replacement use, designated HB5. The final rule adopted the new design.

Timetable:

Action	Date	FR Cite
NPRM	05/25/89	54 FR 27399
NPRM Comment Period End	08/14/89	54 FR 27399
Final Action	04/09/90	55 FR 13138
Final Action Effective	05/09/90	55 FR 13138
Final Action Technical Amendments	05/22/90	55 FR 21039

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/09/90 (55 FR 13138)

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400

Seventh Street, SW., Washington, DC 20590, 202 366-5842

RIN: 2127-AC59

2283. STANDARD 108; LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT; UPGRADE REFERENCES

Significance: Nonsignificant

Legal Authority: 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: A petition from Truck Safety Equipment Institute (TSEI) primarily requested NHTSA to update references in Federal Motor Vehicle Safety Standard No. 108 to latest version of Society of Automotive Engineers (SAE) standards for stoplamps and turn signal lamps. This amendment incorporates by reference the current SAE standards.

Timetable:

Action	Date	FR Cite
NPRM	09/09/88	53 FR 35097
NPRM Comment Period End	10/24/88	53 FR 35097
Final Action	05/15/90	55 FR 20158
Final Action Effective	12/01/90	55 FR 20158

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/15/90 (55 FR 20158)

Additional Information: Overall effective date of the rule is 12/01/90. Requirements for stoplamps and turn-signal lamps with a larger minimum luminous lens area on certain vehicles is effective 12/01/91. On 05/29/90 (55 FR 21819), the Federal Highway Administration published a notice to the effect that it will continue to adopt the appropriate section of the Federal Motor Vehicle Safety Standard into the Federal Motor Carrier Safety Regulations. The final action of 05/15/90 inadvertently used RIN AC65 instead of RIN AC88.

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-5842

RIN: 2127-AC88

2284. ESTABLISH A STANDARD FOR SAFE ENTRY AND EXIT REQUIREMENTS FOR COMMERCIAL VEHICLES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: The International Brotherhood of Teamsters has petitioned the agency to commence rulemaking to establish safe entry and exit requirements for commercial vehicles. NHTSA determined that issuance and implementation of a safety standard for entry and exit under the National Traffic and Motor Vehicle Safety Act would significantly improve safety. Manufacturers already use Federal regulations and other guidelines in design and manufacture of these vehicles.

Timetable:

Action	Date	FR Cite
Petition Granted	07/03/80	45 FR 45338
Request for Comments; Comment Period End 10/12/89	08/28/89	54 FR 35515
Action Terminated	09/20/90	55 FR 38705

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC, 202 366-5842

RIN: 2127-AC82

2285. STANDARD 208; OCCUPANT CRASH PROTECTION - BROADEN TEST PROCEDURES FOR HEAVY TRUCKS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: This final rule expands the special performance requirements for belt systems equipped with automatic locking retractors (ALRs) to encompass the working of the entire safety-belt system instead of focusing on the retractor mechanism alone. This is in response to two petitions for reconsideration of the final rule for heavy trucks (07/06/88, 53 FR 25937).

Timetable:

Action	Date	FR Cite
NPRM	07/11/89	54 FR 29060
NPRM Comment Period End	09/25/89	54 FR 29060
Final Action	05/07/90	55 FR 18869
Final Action Effective	09/01/90	55 FR 18869

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/07/90 (55 FR 18869)

Additional Information: Another petition for reconsideration was requesting a change to this same rule to require retractors only on front outboard seats. This petition was from the Recreational Vehicle Industry Association. The petition was granted (RIN 2127-AB71) with a Final Rule (July 11, 1990, 54 FR 29041).

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-5842

RIN: 2127-AC86

2286. DRIVING RANGE DETERMINATION FOR DUAL-FUEL PASSENGER CARS

Significance: Nonsignificant

Legal Authority: 15 USC 2013

CFR Citation: None

Legal Deadline: Final, Statutory, April 14, 1990.
Eighteen months after enactment of the Alternative Motor Fuels Act of 1988 (P.L. 100-494).

Abstract: This final rule establishes the minimum driving range for two groups of dual energy passenger automobiles: those operating on alcohol and either gasoline or diesel fuel, and for those operating on natural gas and either gasoline or diesel fuel.

DOT—NHTSA

Completed Actions

Timetable:

Action	Date	FR Cite
Request for Comments by 07/17/89	06/15/89	54 FR 25539
NPRM	02/16/90	55 FR 5833
NPRM Comment Period End	03/19/90	
Final Action	04/26/90	55 FR 17611
Final Action Effective	05/29/90	55 FR 17611

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/26/90 (55 FR 17611)

Agency Contact: Orron Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0846

RIN: 2127–AD02

2287. STANDARD 121; AIR BRAKE SYSTEMS TIMING REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: Petitions for reconsideration were received from Volvo GM Hedvk Truck Corporation and Navistar International Transportation Corporation in response to a final rule implementing timing requirements for parking-brake application and holding (03/11/88, 53 FR 7931). As this entry is a duplicate of RIN 2127-AC73, it was deleted from the Agenda.

Timetable:

Action	Date	FR Cite
Withdrawn - duplicate of RIN 2127-AC73.	05/21/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AD06

2288. STANDARD 108; LAMPS, REFLECTIVE DEVICES AND ASSOCIATED EQUIPMENT - PETITIONS FOR RECONSIDERATION, REFORM

Significance: Nonsignificant

Legal Authority: 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency received petitions for reconsideration of the final rule for near-term headlighting reform (54 FR 20066, May 9, 1989 - RIN 2127-AC53) from Chrysler, Ford, General Motors, Koito, Motor Vehicle Manufacturers Association, and Volkswagen. These amendments to the Final Rule responded to these petitions.

Timetable:

Action	Date	FR Cite
Final Action	02/06/90	55 FR 4424
Final Action Effective	03/12/90	55 FR 4424
Final Action Technical Amendments	05/22/90	55 FR 21038

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/06/90 (55 FR 4424)

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AD17

2289. STANDARD 106; NEW PNEUMATIC TIRES - LABELLING REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.109

Legal Deadline: None

Abstract: This rulemaking implements the petition from the European Tyre and Rim Technical Organization (ETRTO) requesting amendment to the standard pertaining to the tire labelling requirements.

Timetable:

Action	Date	FR Cite
NPRM	02/08/90	55 FR 4445
NPRM Comment Period End	03/12/90	
Final Action	10/10/90	55 FR 41190
Final Action Effective	11/09/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/10/90 (55 FR 41190)

Agency Contact: William A. Boehly, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0842

RIN: 2127–AD22

2290. FINAL LISTING OF HIGH THEFT LINES FOR MODEL YEAR 1991

Significance: Nonsignificant

Legal Authority: 15 USC 2021; 15 USC 2022; 15 USC 2023; 15 USC 2024; 15 USC 2025; 15 USC 2026

CFR Citation: 49 CFR 541

Legal Deadline: None

Abstract: The purpose of this notice is to report the results of this agency's actions for determining which carlines are subject to the marking requirements of the motor vehicle theft prevention standard for the model year 1991 and publish a list of those carlines. The agency has previously published a list of the carlines that were selected as high-theft carlines for prior model years, beginning with the 1987 model year. The list in this notice includes all of the carlines in the previous lines, as well as the new lines that were introduced for the 1991 model year and that have been selected as likely high-theft lines. This notice is revised yearly (each model year).

Timetable:

Action	Date	FR Cite
Final Action	09/11/90	55 FR 37326

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Gray, Chief, Motor Vehicle Theft Group, Department

DOT—NHTSA

Completed Actions

of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4806

RIN: 2127–AD33

2291. ● EXEMPTION FROM AVERAGE FUEL ECONOMY STANDARDS

Significance: Nonsignificant

Legal Authority: 15 USC 2002

CFR Citation: 49 CFR 525

Legal Deadline: None

Abstract: Rolls-Royce Motors petitioned for exemption from the generally applicable average fuel economy standards for Model Years 1992 through 1994. Final action granted the requested exemption and established alternative standards for Model Years 1992 through 1994 for Rolls-Royce.

Timetable:

Action	Date	FR Cite
NPRM	05/25/90	55 FR 21626
NPRM Comment Period End	06/25/90	55 FR 21626
Final Action	09/11/90	55 FR 37325

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/11/90 (55 FR 37325)

Agency Contact: Orron E. Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0846

RIN: 2127–AD59

2292. ● EXEMPTION FROM AVERAGE FUEL ECONOMY STANDARDS

Significance: Nonsignificant

Legal Authority: 15 USC 2002

CFR Citation: 49 CFR 525

Legal Deadline: None

Abstract: Dutcher Motors, Inc., petitioned for exemption from the generally applicable average fuel economy standard for Model Years 1986 through 1988 passenger automobiles, and for a lower alternative standard to be established for the company for each of these years. This action exempted Dutcher for Model Years 1986-1988 and set alternative standards.

Timetable:

Action	Date	FR Cite
NPRM	04/18/90	55 FR 14439
NPRM Comment Period End	05/18/90	55 FR 14439
Final Action	08/21/90	55 FR 34017

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/21/90 (55 FR 34017)

Agency Contact: Orron E. Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0846

RIN: 2127–AD60

2293. ● CENTRALIZATION OF FORMAL HEARING DOCKETS (NHTSA)

Significance: Nonsignificant

Legal Authority: 15 USC 2002

CFR Citation: 49 CFR 511

Legal Deadline: None

Abstract: This final rule provided that documents and evidence in formal hearing cases adjudicated within the National Highway Traffic Safety Administration (NHTSA) are to be filed and maintained in the OST Documentary Services Division. The change was made in order to streamline operations and to consolidate the documents used in formal hearing cases.

Timetable:

Action	Date	FR Cite
Final Action	05/03/88	53 FR 15782

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Although this NHTSA action was completed earlier, it is included in this Agenda as a matter of record, since other transportation modal offices are presently following suit.

Agency Contact: Eileen Leahy, Office of Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-5263

RIN: 2127–AD77

DEPARTMENT OF TRANSPORTATION (DOT)

Prerule Stage

Federal Railroad Administration (FRA)

2294. + SPECIAL SAFETY INQUIRY; RAILROAD REPORTING REQUIREMENTS

Significance: Agency Priority

Legal Authority: 45 USC 431

CFR Citation: None

Legal Deadline: None

Abstract: This special inquiry will examine current railroad safety reporting requirements to determine whether the reporting process results in accurate and significant data. Methods of improving this process will be explored. This rulemaking is considered significant because of its safety implications.

Timetable:

Action	Date	FR Cite
Notice of Hearing	03/14/90	55 FR 9532

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 11/03/89 (54 FR 46497)

Additional Information: A Notice of Special Safety Inquiry appeared in the Federal Register 11/03/89 (54 FR 46497). However, it was subsequently postponed (55 FR 792) in order to be rescheduled to take place concurrently with a related hearing in the separate rulemaking on accident reporting

DOT—FRA

Prerule Stage

requirements (RIN 2130-AA56). The rescheduled hearing took place in Washington, DC on 05/18/90.

Agency Contact: Billie Stultz, Trial Attorney, Office of Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0635

RIN: 2130-AA56

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Proposed Rule Stage

2296. + RAIL-HIGHWAY GRADE CROSSING SAFETY

Significance: Agency Priority

Legal Authority: 45 USC 431; 45 USC 437; PL 100-432

CFR Citation: None

Legal Deadline: Final, Statutory, June 23, 1989.

Abstract: If necessary, rules on the inspection and maintenance of train-activated railroad-highway grade-crossing devices must be issued. An ANPRM announced public hearings and requested comments from the public to assist in evaluating future possible action to enhance public safety at these grade crossings. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	11/23/88	53 FR 47554
Comment Period Extended to 01/17/89	01/03/89	54 FR 49
ANPRM Comment Period End	01/04/89	
Comment Period Extended to 02/01/89	01/30/89	54 FR 4320
NPRM	09/20/90	55 FR 38707
NPRM Comment Period End	11/23/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/20/90 (55 FR 38707)

Additional Information: A public hearing, announced in the ANPRM, was held in Washington, DC, in December 1988.

This item was formerly recorded under RIN 2130-AA37, which has been removed from the Agenda.

Agency Contact: Philip Olekszyk, Deputy Associate Administrator for Safety, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0897

RIN: 2130-AA45

2298. + RAILROAD OPERATING PRACTICES; PROCEDURES FOR BRIDGE-WORKER SAFETY

Significance: Agency Priority

Legal Authority: PL 100-342, Rail Safety Improvement Act of 1988

CFR Citation: Not yet determined

Legal Deadline: Final, Statutory, June 22, 1989.

Abstract: A recently enacted statute requires FRA to issue necessary rules to protect workers performing tasks on bridges. FRA is studying the casualty data, the appropriate types of protection, and the respective roles of FRA and OSHA. This proceeding is considered significant because of Departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/00/91

Agency Contact: Edward R. English, Chief, Maintenance Programs Division, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0186

RIN: 2130-AA48

2297. + TRAIN OPERATION EVENT RECORDERS

Significance: Agency Priority

Legal Authority: PL 100-342, Rail Safety Improvement Act of 1988

CFR Citation: Not yet determined

Legal Deadline: Final, Statutory, December 22, 1989.

Abstract: FRA is required to issue necessary rules to provide for the recording of events relating to train operations and to ensure that devices recording those events are tamper-resistant. Aspects of the issue being explored include: determining the state of the art for such devices; the recordable events appropriate for accident investigation purposes; standards for "tamper resistance"; and regulatory structure. This project is considered significant because of Departmental policy.

Timetable:

Action	Date	FR Cite
ANPRM	11/22/89	53 FR 47557
Public Hearing Held 01/10/89	11/23/89	53 FR 47557
ANPRM Comment Period End	03/13/89	
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Agency Contact: Edward R. English, Chief, Maintenance Program Division, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-0178

RIN: 2130-AA53

2298. + RAILROAD ACCIDENT REPORTING

Significance: Agency Priority

Legal Authority: 45 USC 431

CFR Citation: 49 CFR 225

Legal Deadline: None

Abstract: FRA is soliciting comments and suggestions from the public regarding methods of improving FRA's injury and accident reporting system. This rulemaking is considered significant because of its safety implications.

DOT—FRA — **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
ANPRM	03/14/90	55 FR 9430
Hearing Notice	03/14/90	55 FR 9532
ANPRM Comment Period End	05/25/90	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/14/90 (55 FR 9430)

Additional Information: Public hearing was held in Washington, DC on 05/17/90.

Agency Contact: Billie Stultz, Office of Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-9635

RIN: 2130-AA58

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Final Rule Stage

2296. + LOCOMOTIVE OPERATOR; QUALIFICATION STANDARDS

Significance: Agency Priority

Legal Authority: PL 100-342, Rail Safety Improvement Act of 1988

CFR Citation: Not yet determined

Legal Deadline: Final, Statutory, June 22, 1989.

Abstract: FRA is required to adopt qualification standards for locomotive operators. Major elements that could be included in such standards involve initial training, retraining, performance monitoring, testing and retesting, and general fitness criteria. Issues being explored include the structure of the program to resolve questions of whether a Federal license program or a railroad licensing program meeting Federal criteria will best achieve the statutory intent. This rulemaking is significant because of Departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	12/11/89	54 FR 50890
Comment Period Extended to 05/04/90	01/24/90	55 FR 2295
NPRM Comment Period End	03/01/90	
Public Hearing Schedule	04/02/90	55 FR 12236
NPRM Comment Period Extended to 06/04/90	04/27/90	55 FR 17771
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/11/89 (54 FR 50890)

Agency Contact: Lawrence I. Wagner, Trial Attorney, Office of Chief Counsel, Department of Transportation, Federal Railroad Administration; 400 Seventh Street, SW., Washington, DC 20590, 202 366-0628

RIN: 2130-AA51

2300. ● CENTRALIZATION OF FORMAL HEARING DOCKETS (FRA)

Significance: Nonsignificant

Legal Authority: 45 USC 6; 45 USC 10; 45 USC 13; 45 USC 34; 45 USC 43; 45 USC 64a; 45 USC 431; 45 USC 437 to 439; 49 USC 103(c); 49 USC App 26(h); 49 USC 1655(c); PL 100-342

CFR Citation: 49 CFR 209; 49 CFR 1.49 et seq

Legal Deadline: None

Abstract: This final rule provides that documents and evidence in formal hearing cases adjudicated within the Federal Railroad Administration (FRA) will be filed and maintained in the OST Office of Documentary Services. The change is being made in order to streamline operations and to consolidate the documents used in formal hearing cases.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Agency Contact: Jeanne Peiso, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 366-9306

RIN: 2130-AA59

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Completed Actions

2301. ● + ALCOHOL/DRUG REGULATIONS; MISCELLANEOUS TECHNICAL AMENDMENTS AND CORRECTIONS; EXTENSION OF COMPLIANCE DATE FOR REVISED SPECIMEN COLLECTION PROCEDURE

Significance: Agency Priority

Legal Authority: PL 100-342 Rail Safety Improvement Act of 1988

CFR Citation: 49 CFR 217; 49 CFR 219

Legal Deadline: None

Abstract: This rule makes technical amendments and corrections to regulations concerning the control of alcohol and drug use in railroad operations. The rule postpones the requirement for compliance with revised post-accident testing specimen collection procedures, announces a new name and mailing address for the designated post-accident testing laboratory, and clarifies the regulatory text. This rulemaking was significant because of substantial public interest.

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DOT—FRA

Completed Actions

Timetable:

Action	Date	FR Cite
Final Action	09/04/90	55 FR 22791
Final Action Effective	09/04/90	55 FR 22791

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/04/90 (55 FR 22791)

Agency Contact: Grady Cothen, Special Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-9767

RIN: 2130-AA43

2302. + RAILROAD ACCIDENT/INCIDENT REPORTS CLASSIFICATION AND NOTIFICATION OF RIGHT TO SUBMIT EMPLOYEE SUPPLEMENTS

Significance: Agency Priority

Legal Authority: PL 100-342 Rail Safety Improvement Act of 1988

CFR Citation: 49 CFR 225

Legal Deadline: None

Abstract: This project addressed possible problems of bias and inaccuracy in FRA's railroad data base. Although FRA investigates about 400 accidents a year and receives unsolicited information on a few more accidents, FRA's sole source of information on the great majority of railroad accidents is the railroad company itself. The final rule requires that the railroad provide written notification to any employee whom the railroad alleges to have caused a certain type of accident, informing the employee of the relevant allegations and of his or her right to file an accident statement with FRA. The rule also established the format and filing procedures for such statements. This action was considered significant because of departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	12/01/88	53 FR 48560
Public Hearing Notice	12/01/88	53 FR 48560
NPRM Comment Period End	01/27/89	
Final Action	09/13/90	55 FR 37818
Final Rule; Correction	09/27/90	55 FR 39538
Final Action Effective	12/01/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/13/90 (55 FR 37818)

Additional Information: Former title: Railroad Accident/Incident Reports Classification and Investigations Permitting Employee Supplements.

Agency Contact: Edward R. English, Acting, Director, Office of Safety Enforcement, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-9252

RIN: 2130-AA44

DEPARTMENT OF TRANSPORTATION (DOT)

Urban Mass Transportation Administration (UMTA)

Prerule Stage

2303. ● UNIFORM SYSTEM OF ACCOUNTS AND RECORDS AND REPORTING SYSTEM

Significance: Nonsignificant

Legal Authority: 49 USC 1611

CFR Citation: 49 CFR 630

Legal Deadline: None

Abstract: UMTA is reviewing its Uniform System of Accounts and Records and Reporting System. Specifically, the agency is evaluating the objectives of the Section 15 program, the usefulness of the data currently being collected, as well as the strengths and weaknesses of the program.

Timetable:

Action	Date	FR Cite
ANPRM	08/13/90	55 FR 33078
ANPRM Comment Period End	11/13/90	
NPRM	11/00/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/00/91

Agency Contact: Susan Brown, Office of Capital and Formula Assistance, Department of Transportation, Urban Mass Transportation Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-1645

RIN: 2132-AA36

DEPARTMENT OF TRANSPORTATION (DOT)

Urban Mass Transportation Administration (UMTA)

Final Rule Stage

2304. + MAJOR CAPITAL INVESTMENT PROJECTS

Significance: Regulatory Program

Legal Authority: 49 USC 1602(i); 23 USC 103(e); 23 USC 142; PL 100-17, Sec 303

CFR Citation: 49 CFR 611

Legal Deadline: None

Abstract: This regulation would implement section 303 of the Surface Transportation and Uniform Relocation Assistance Act of 1987. It would define the procedures applicants must follow in developing fixed guideway projects. It also would set forth the means by which the agency will evaluate cost-effectiveness, the results of alternatives analysis, and the degree of local financial commitment as required by

DOT—UMTA

Final Rule Stage

law. This regulation is significant because it involves important departmental policy. However, a provision of the Department of Transportation and Related Agencies Appropriations Act, 1990 (Pub. L. 101-164) prohibits the use of any funds made available by this Act to "implement or enforce" the proposed rule. Therefore, UMTA is awaiting clarification of how to proceed in view of the imposed restrictions.

Timetable:

Action	Date	FR Cite
NPRM	04/25/89	54 FR 17878
NPRM Comment Period End	06/26/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/25/89 (54 FR 17878)

Agency Contact: Don Emerson, Department of Transportation, Urban Mass Transportation Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4020

RIN: 2132-AA34

2305. + BUS TESTING

Significance: Agency Priority

Legal Authority: 49 USC 1608(h)

CFR Citation: 49 CFR 665

Legal Deadline: None

Abstract: This regulation implements a statutory provision that requires any new bus model purchased after September 30, 1988, to be tested at a facility established by the Secretary in Altoona, Pa. This regulation is significant because of the large amount of public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/25/89	54 FR 22716
NPRM Comment Period End	07/24/89	
Interim Final Rule	08/23/89	54 FR 35158
Interim Final Rule; Comment Period Reopened	11/30/89	54 FR 35158
Interim Final Rule: Second	10/09/90	55 FR 41174
Final Action	08/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 08/23/89 (54 FR 35158)

Additional Information: Section 12(h) of the UMT Act, as amended, defines a "new bus model" as a "bus model which has not been used in mass-transportation service in the United States before the date of production of such model, or a bus model which has been used in such service but which is being produced with a major change in configuration or components.

Agency Contact: Daniel Duff, Assistant Chief Counsel for Legislation and Regulations, Department of Transportation, Urban Mass Transportation Administration, Office of Chief Counsel, Room 9316, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4011

RIN: 2132-AA30

2306. + "BUY AMERICA" REQUIREMENTS OF THE SURFACE TRANSPORTATION AND UNIFORM RELOCATION ASSISTANCE ACT OF 1987

Significance: Agency Priority

Legal Authority: PL 100-17, Sec 337

CFR Citation: 49 CFR 661

Legal Deadline: None

Abstract: This rulemaking will amend UMTA's "Buy America" requirements to implement new statutory provisions and reflect UMTA's experience with implementing the existing regulation. It is considered significant because of substantial public interest and federalism implications.

Timetable:

Action	Date	FR Cite
NPRM	06/29/88	53 FR 32994
Comment Period Extended to 11/14/88	10/27/88	53 FR 43457
NPRM Comment Period End	10/28/88	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Evaluation 06/29/88 (53 FR 32994)

Additional Information: Section 337 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 amended the "Buy America" provisions of section 165 of the Surface Transportation Assistance Act of 1982.

Agency Contact: Rita Daguillard, Department of Transportation, Urban Mass Transportation Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-1936

RIN: 2132-AA35

2307. CAPITAL LEASES

Significance: Nonsignificant

Legal Authority: 49 USC 1607a(j)

CFR Citation: 49 CFR 639

Legal Deadline: NPRM, Statutory, June 1, 1987. Final, Statutory, November 28, 1987.

Abstract: This regulation would implement a statutory provision requiring UMTA to prescribe policies and procedures governing the eligibility for capital assistance under section 9 of the UMT Act, as amended, for leases of equipment and facilities where leasing is more cost-effective than purchase or construction.

Timetable:

Action	Date	FR Cite
NPRM	05/20/88	53 FR 18222
NPRM Comment Period End	07/19/88	53 FR 18222
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Preliminary Regulatory Evaluation 05/20/88 (53 FR 18222)

Agency Contact: Daniel Duff, Assistant Chief Counsel for Legislation and Regulations, Department of Transportation, Urban Mass Transportation Administration, Office of Chief Counsel, 400 Seventh Street, SW., Room 9316, Washington, DC 20590, 202 366-4011

RIN: 2132-AA28

2308. PRE-AWARD AND POST-DELIVERY AUDITS OF ROLLING-STOCK PURCHASES

Significance: Nonsignificant

Legal Authority: 49 USC 1608(j)

CFR Citation: 49 CFR 663

Legal Deadline: None

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Abstract: This regulation would implement a statutory provision that requires an independent pre-award and post-delivery audit of the purchase of transit rolling stock with UMTA assistance to assure compliance with Federal motor-vehicle safety standards, Buy America requirements, and adherence to bid specification requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/18/88	53 FR 40850
NPRM Comment Period End	12/19/88	
Final Action	10/00/90	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 10/18/88 (53 FR 40850)

Additional Information: Formerly titled Rolling Stock Purchase Audits

Agency Contact: Daniel Duff, Assistant Chief Counsel for Legislation and Regulations, Department of Transportation, Urban Mass Transportation Administration, Office of Chief Counsel, 400 Seventh Street, SW., Room 9316, Washington, DC 20590, 202 366-4011

RIN: 2132-AA29

DEPARTMENT OF TRANSPORTATION (DOT)
Urban Mass Transportation Administration (UMTA)

Completed Actions

2309. + AIR QUALITY PROCEDURES FOR USE IN FEDERAL-AID HIGHWAY AND FEDERALLY FUNDED TRANSIT PROGRAMS

Significance: Agency Priority

Legal Authority: 23 USC 109(h); 23 USC 109(j); 23 USC 315; 42 USC 4332; 42 USC 7401; 42 USC 7506

CFR Citation: 23 CFR 770; 49 CFR 623

Legal Deadline: None

Abstract: This regulation was to consolidate and amend existing air quality requirements for transportation projects into a single amended air quality regulation. The amended regulation was intended to streamline and simplify (1) the process of determining which highway projects are exempt from the Federal assistance limitations of section 176(a) of the Clean Air Act (CAA), and (2) the conformity and priority procedures contained in 23 CFR Part 770. However, the NPRM was withdrawn because bills passed by Congress propose to significantly alter the conformity and highway sanction provisions of the CAA.

Timetable:

Action	Date	FR Cite
NPRM	09/09/88	53 FR 35178
NPRM Comment Period End	11/08/88	
Action Withdrawn	06/22/90	55 FR 34283

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 09/09/88 (53 FR 35178)

Additional Information: ADDITIONAL AGENCY CONTACT: James N. Shrouds, (202) 366-4836 of FHWA.

Agency Contact: A. Abbe Marner, Department of Transportation, Urban Mass Transportation Administration, Office of Grants Management, 400 Seventh Street, SW., Room 9315, Washington, DC 20590, 202 366-0866

RIN: 2132-AA19

2310. IMPLEMENTATION OF SECTION 19 OF THE URBAN MASS TRANSPORTATION ACT OF 1964 AS AMENDED—NONDISCRIMINATION

Significance: Nonsignificant

Legal Authority: 49 USC 1615

CFR Citation: 49 CFR 641

Legal Deadline: None

Abstract: This project was to unify the Urban Mass Transportation Administration's civil rights requirements. UMTA has determined this action is unnecessary at this time. Any future action would be in a new rulemaking. Further, factors for determining this proceeding was potentially significant did not materialize.

Timetable:

Action	Date	FR Cite
Action Terminated	10/03/90	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Additional Information: Section 19 was added to the UMT Act in November 1978 by the Surface Transportation Assistance Act of 1978.

Agency Contact: Akira Sano, Associate Director for Civil Rights Policy, Department of Transportation, Urban Mass Transportation Administration, Office of Technical Assistance, 400 Seventh Street, SW., Room 7412, Washington, DC 20590, 202 366-4018

RIN: 2132-AA01

DEPARTMENT OF TRANSPORTATION (DOT)

Research and Special Programs Administration (RSPA)

Prerule Stage

2311. + REGISTRATION OF SHIPPERS AND CARRIERS OF HAZARDOUS MATERIALS

Significance: Regulatory Program

Legal Authority: 49 USC 1804

CFR Citation: 49 CFR 171; 49 CFR 173; 49 CFR 177

Legal Deadline: None

Abstract: DOT lacks comprehensive data on the number, volume, and other statistics characterizing the transportation of hazardous materials in commerce. Comments will be requested on the burdens and benefits associated with various alternatives that could be used to obtain such information. The registration of carriers and shippers is one such alternative. This rulemaking is significant because of the public interest and safety implications.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Further action pending reauthorization of the Hazardous Materials Transportation Act.

Agency Contact: J. Nalevanko/H. Engrum, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4484

RIN: 2137–AB43

2312. REVIEW OF COMMUTER AIR TRAFFIC AND MARKET DATA REPORTING

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1374; 49 USC 1386

CFR Citation: 14 CFR 298

Legal Deadline: None

Abstract: Currently commuter air carriers providing scheduled passenger service file two quarterly traffic schedules. One schedule summarizes nine traffic elements while the other schedule provides the origination and destination for each carrier's on-line passengers. The Department has installed a new traffic and market data system for certificated and foreign air carriers called the T-100 system. This system could be used for commuter air carriers, providing the Department with one automated traffic and market data system for all carriers. This system would be less burdensome for the commuter air carriers and be more efficient for the user.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Jack Calloway, Chief, Regulations Division, Department of Transportation, Research and Special Programs Administration, DAI-1 Room 4125, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4383

RIN: 2137–AB18

2313. ● SPECIFICATIONS FOR TANK CAR TANKS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: This rulemaking solicits comments on the costs and safety benefits that would be derived should the Hazardous Materials Regulations be amended to improve the level of safety of tank car tanks.

Timetable:

Action	Date	FR Cite
ANPRM	05/15/90	55 FR 20242
ANPRM Comment Period End	08/21/90	
SANPRM	08/29/90	55 FR 35327
SANPRM Comment Period End	01/04/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket HM-175A

Agency Contact: E. Edmonson, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4488

RIN: 2137–AB69

2314. ● MODERNIZING THE PASSENGER ORIGIN-DESTINATION SURVEY

Significance: Nonsignificant

Legal Authority: 49 USC 1377; 49 USC 1441

CFR Citation: 14 CFR 241

Legal Deadline: None

Abstract: Historically, the source document for the Passenger Origin-Destination Survey was the auditor's coupon of the ticket. Until recently, these coupons provided all the information that was needed for the Survey. In the last few years, the carriers have begun using trip passes in conjunction with the tickets, thereby eliminating some of the data that is required to be reported in the Survey. Other innovations used by the industry, such as funnel flights and code-sharing, have impacted the Survey and obscured some of the data that is required to be reported, such as change of planes and junction points. This notice of proposed rulemaking will explore whether there are alternative sources for the data and modernize the collection system to keep pace with the industry.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Calloway, Chief, Regulations Division, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4383

RIN: 2137–AB92

2315. ● EXCESS FLOW VALVES IN SERVICE LINES

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: Service line breaks due to excavation damage and other causes continue to be a threat to public safety, despite the precautions being taken through one-call damage prevention programs and line surveys for corrosion or leaks. This rulemaking concerns the

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use of excess flow valves to stop the flow of gas to a service line in the event of a line break. Information would be sought on the feasibility of requiring the installation of such valves on new and renewed service lines in view of their cost, reliability, and effectiveness.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: J. Willock, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4571

RIN: 2137–AB87

DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA)

Proposed Rule Stage

2316. + HYDROSTATIC TESTING OF CERTAIN HAZARDOUS LIQUID PIPELINES

Significance: Regulatory Program

Legal Authority: 49 USC 2002

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: Recent accidents involving petroleum pipelines demonstrate the potential for catastrophic losses if a large spill occurs in a populated area. Studies have shown that accidents attributable to latent material or construction defects can be prevented by restricting operation to not more than 80 percent of a prior test or operating pressure. In this regard, significant results have been achieved by imposing such an operating restriction on pipelines that carry highly volatile liquids. This rule would extend this existing safety standard to all hazardous liquid pipelines that are subject to Part 195. This rulemaking is significant because of substantial public interest in the safety implications.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation 10/00/90

Additional Information: Formerly entitled: Pressure Testing Existing Hazardous Liquid Pipelines. The integrity testing proposal in "Proposals for Pipeline Safety," RIN 2137-AB27, has been consolidated, in part, in this rulemaking.

Agency Contact: A. Gamett, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2036

RIN: 2137–AB46

2317. + GAS GATHERING LINE DEFINITION

Significance: Agency Priority

Legal Authority: 49 USC 1672; 49 USC 1804

CFR Citation: 49 CFR 192.3

Legal Deadline: None

Abstract: The existing definition of "gathering line" would be clearly defined to eliminate confusion in distinguishing these pipelines from transmission lines in rural areas. The costs should be minimal since the definition will conform to prevailing practices in government and industry. Action is significant because the definition is the subject of litigation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation 10/00/90

Agency Contact: C. De Leon, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2929

RIN: 2137–AB15

2318. + HAZARDOUS MATERIALS IN INTRASTATE COMMERCE

Significance: Agency Priority

Legal Authority: 49 USC 1802 to 1808.

CFR Citation: 49 CFR 171 to 179

Legal Deadline: None

Abstract: ANPRM invited comments on the need for, and possible consequences of, DOT extending the application of its Hazardous Materials Regulations to all intrastate transportation of hazardous materials in commerce. This rulemaking is significant because of substantial public interest and possible federalism implications.

Timetable:

Action	Date	FR Cite
ANPRM	06/29/87	52 FR 24195
Comment Period Extended to 11/26/87	09/21/87	52 FR 35464
ANPRM Comment Period End	09/28/87	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: Docket No. HM-200. Further action pending reauthorization of the Hazardous Materials Transportation Act.

Agency Contact: John Gale, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4488

RIN: 2137–AB37

2319. + QUALIFICATION OF PIPELINE PERSONNEL

Significance: Agency Priority

Legal Authority: 49 USC 1672; 49 USC 2002

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

DOT—RSPA

Proposed Rule Stage

Abstract: Training and qualification standards would be proposed for personnel involved in the operation and maintenance of gas and hazardous liquid pipelines. Special consideration would be given to operators of small gas systems to alleviate the burden of compliance. This rulemaking is considered significant because of substantial State and congressional interest.

Timetable:

Action	Date	FR Cite
ANPRM	03/23/87	52 FR 9169
ANPRM Comment Period End	05/07/87	52 FR 9169
NPRM	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation 11/00/90

Additional Information: Docket No. PS-94. Formerly entitled: Pipeline Operator Qualifications. The proposals regarding certification of personnel and emergency response in "Proposals for Pipeline Safety," RIN 2137-AB27, have been consolidated into this rulemaking.

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2656

RIN: 2137–AB38

2320. + HIGHWAY ROUTING STANDARDS FOR CERTAIN TYPES AND QUANTITIES OF HAZARDOUS MATERIALS

Significance: Agency Priority

Legal Authority: 49 USC 1804; 49 USC 1805

CFR Citation: 49 CFR 173.177; 49 CFR 397

Legal Deadline: None

Abstract: Currently, except for certain radioactive materials, DOT has not promulgated uniform, national standards for the highway routing of hazardous materials. The proposal would establish such standards and provide guidance to States and localities to minimize the promulgation of State and local routing requirements that are inconsistent with the Hazardous Materials Transportation Act. This rulemaking is significant because of the safety implications and possible federalism implications.

Timetable:

Action	Date	FR Cite
ANPRM	04/07/88	53 FR 11618
ANPRM	10/05/88	53 FR 39114
Comment Period Extended to 12/13/88		
ANPRM Comment Period End	10/11/88	
NPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Evaluation 10/00/90

Additional Information: Docket No. HM-203. Public hearings were held on June 14, 1988, in Sacramento, California, and on September 15, 1988, in Washington, DC.

Agency Contact: J. Nalevanko/B. Romo, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4434

RIN: 2137–AB42

2321. + MAPS AND RECORDS OF PIPELINE LOCATION AND CHARACTERISTICS; NOTIFICATION OF STATE AGENCIES; PIPE INVENTORY

Significance: Agency Priority

Legal Authority: 49 USC 1672; 49 USC 2002

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: Final, Statutory, November 1, 1990.

Abstract: Maintenance of appropriate information about pipelines is essential for emergency response, compliance with safety standards, and other purposes. As part of a continuing policy to adopt similar requirements for gas and hazardous liquid pipelines where appropriate for safety, this action proposes to equalize as far as possible the requirements that gas and liquid operators keep maps and records to show the location and other characteristics of pipelines. Operators would also be required to keep an inventory of pipe and annually report mileage and other facts. In addition, operators would be required to provide certain information to State agencies upon request. This is a significant action because of congressional and State concerns about the need for appropriate public officials to have pipeline information.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation 10/00/90

Additional Information: RIN 2137-AB62, "Annual Report for Hazardous Liquid Pipelines," has been consolidated into this rulemaking. The proposals regarding information for local authorities, pipeline inventory, and condition reports in "Proposals for Pipeline Safety," RIN 2137-AB27, have been consolidated into this rulemaking.

Agency Contact: L.M. Furrow, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4559

RIN: 2137–AB48

2322. CARRIAGE OF HAZARDOUS MATERIALS BY MOTOR VEHICLE

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 171; 49 CFR 173; 49 CFR 177

Legal Deadline: None

Abstract: This action proposes simplification and recodification of existing operating procedures for transportation of hazardous materials by motor vehicle as prescribed in Part 177.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 12/00/90

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Additional Information: Project 261-78

This project was formerly entitled: Revision of Operating Procedures for Motor Vehicles.

Agency Contact: R. Gunaway (RSPA)/W.E. Byrd (FHWA), Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4488

RIN: 2137-AA07

2323. TRANSPORTATION OF HAZARDOUS MATERIALS; MISCELLANEOUS AMENDMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 171 to 178

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. NPRM approximately every four months, with FR targeted approximately two months thereafter.

Timetable:

Action	Date	FR Cite
Periodic Update	03/19/85	50 FR 11048
Periodic Update	04/20/87	52 FR 13034
Periodic Update - NPRM	09/19/88	53 FR 36410
Periodic Update	09/20/89	54 FR 38790
Correction to Update	11/20/89	54 FR 47988
Final rule; Response to Petitions for Reconsideration	07/05/90	55 FR 27840
Periodic Update	10/01/90	55 FR 39977
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Additional Information: Docket No. HM-168W.

Agency Contact: M. Morris, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4488

RIN: 2137-AA44

2324. SPECIFICATION 8W AND 8WA WELDED STEEL CYLINDERS

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1808

CFR Citation: 49 CFR 171; 49 CFR 173; 49 CFR 178

Legal Deadline: None

Abstract: This action would eliminate existing specifications 8 and 8AL and provide a consolidated specification for the manufacture of acetylene cylinders.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Additional Information: Docket No. HM-23.

Agency Contact: M. Morris, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4488

RIN: 2137-AA63

2325. CONSOLIDATION OF SPECIFICATIONS FOR HIGH-PRESSURE SEAMLESS CYLINDERS AND REWRITE OF 49 CFR 173.34

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 172; 49 CFR 173

Legal Deadline: None

Abstract: The Department will propose revision of requalification requirements for cylinders and proposed consolidation and revision of the specifications for high-pressure seamless cylinders. (Project No. 305-83).

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Formerly entitled Review: Consolidation of Specifications for High-Pressure Seamless Cylinders.

Agency Contact: Charles H. Hochman, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4545

RIN: 2137-AA92

2326. AIRLINE REVENUE/NONREVENUE, FIRST CLASS/BUSINESS CLASS/COACH PASSENGERS: REVISED DEFINITIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1373

CFR Citation: 14 CFR 241

Legal Deadline: None

Abstract: The present definition of revenue and nonrevenue passengers for aviation reporting purposes is stated in terms of the exemptions for free and reduced-rate transportation in section 403(b) of the Federal Aviation Act of 1958. These definitions have become outmoded in the process of air-fare deregulation. In addition, first class and coach passengers are defined in terms of the type of fare paid with premium or standard fares being the benchmark for first class. With deregulation and the proliferation of new air fares in the marketplace, such as business class, these definitions may also be outmoded. The DOT is considering several options for revising these definitions.

Timetable:

Action	Date	FR Cite
NPRM	01/31/91	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 01/31/91

Agency Contact: Jack Calloway, Chief, Regulations Division, Department of Transportation, Research and Special Programs Administration, Office of Aviation Information Management, DAI-1/Room 4125, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4383

RIN: 2137-AB00

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Proposed Rule Stage

2327. DETECTION AND REPAIR OF CRACKS, PITS, CORROSION, LINING FLAWS, THERMAL DETECTION FLAWS, AND OTHER DEFECTS OF TANK CAR TANKS

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1805; 49 USC 1808

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: This rule would require tank-car owners and repair facilities to inspect for cracks and other defects after certain tank-car repairs to assure that no defects exist. The proposal would include those issues which are the subject of several petitions filed in response to Docket HM-201B, "Shippers—Use of Tank-Car Tanks with Localized Thin Spots," RIN 2137-AB39.

Timetable:

Action	Date	FR Cite
ANPRM	12/08/87	52 FR 46510
ANPRM Comment Period End	02/11/88	52 FR 46510
ANPRM Comment Period Extended to 05/13/88	02/18/88	53 FR 4962

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: M. Morris/P. Olekszyk(FRA), Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4426

RIN: 2137–AB40

2328. DOT 3AL ALUMINUM CYLINDERS; SAFETY PROBLEMS

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1805; 49 USC 1808; 49 USC 1808

CFR Citation: 49 CFR 178

Legal Deadline: None

Abstract: Certain DOT 3AL cylinders made of aluminum alloy 6351 were discovered developing cracks during service and occasionally leaks developed resulting in loss of contents. This ANPRM was to alert and inform all persons possessing these cylinders of the problems, identify those cylinders at risk, and suggest steps to minimize risks. The ANPRM requested comments concerning ways to resolve the problems.

Timetable:

Action	Date	FR Cite
ANPRM	07/10/87	52 FR 26027
ANPRM Comment Period End	09/10/87	52 FR 26027

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Additional Information: Docket No. HM-176A

Agency Contact: C. Hochman, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4488

RIN: 2137–AB51

2329. GAS PIPELINES OPERATING ABOVE 72 PERCENT OF SPECIFIED MINIMUM YIELD STRENGTH

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: This proposal would eliminate or qualify the "grandfather clause" of the natural gas pipeline safety regulations that permits operation of an existing rural or offshore gas pipeline found to be in satisfactory condition at the highest actual operating pressure to which the segment was subjected during the five years preceding July 1, 1970, or, in the case of an offshore gathering line, July 1, 1976.

Timetable:

Action	Date	FR Cite
ANPRM	12/11/89	54 FR 50780
Correction to ANPRM	12/18/89	54 FR 51816
ANPRM Comment Period End	03/12/90	54 FR 50780

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: Formerly entitled: Operation of Existing Rural and Offshore Gas Pipelines at Stress Levels Higher Than Permitted for New Pipelines.

Agency Contact: L. Furrow, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-1649

RIN: 2137–AB53

2330. REVISION OF OPERATING REQUIREMENTS FOR RAIL CARRIAGE

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 171; 49 CFR 174

Legal Deadline: None

Abstract: The purpose of the rulemaking is to update and rewrite the regulations contained in 49 CFR Parts 171 and 174 which govern the transportation of hazardous materials by rail.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: "Fumigation," RIN 2137-AB41, has been consolidated into this rulemaking.

Agency Contact: D. Billings, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4462

RIN: 2137–AB55

2331. RETEST REQUIREMENTS FOR DOT 8 AND 8AL CYLINDERS

Significance: Nonsignificant

Legal Authority: 49 USC 1802 to 1804; 49 USC 1808

CFR Citation: 49 CFR 171.7

Legal Deadline: None

Abstract: This rulemaking proposes to incorporate by reference the Compressed Gas Association's (CGA) Pamphlet C-13 entitled "Guidelines for Periodic Visual Inspection and

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Requalification of Acetylene Cylinders," 1985 edition. This pamphlet would set forth the guidelines for the testing and requalification of DOT cylinders used for transporting acetylene.

Timetable:

Action	Date	FR Cite
NPRM	06/14/90	55 FR 24210
NPRM Comment Period End	10/09/90	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 06/14/90 (55 FR 24210)

Additional Information: Docket HM-23.

Agency Contact: M. Morris, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4555

RIN: 2137–AB61

2332. TRANSPORTATION OF HYDROGEN SULFIDE BY PIPELINE

Significance: Nonsignificant

Legal Authority: 49 USC 1672; 49 USC 1804

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: In a few reported instances, excessive amounts of hydrogen sulfide were introduced into natural gas pipelines. High concentrations of hydrogen sulfide are very detrimental to steel pipelines and extremely toxic. This action examines the need to establish a maximum allowable concentration and other control measures.

Timetable:

Action	Date	FR Cite
ANPRM	08/07/89	54 FR 24361
ANPRM Comment Period End	09/05/89	54 FR 24361
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 10/00/90

Additional Information: Docket No. PS-105

Agency Contact: C. De Leon, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-1918

RIN: 2137–AB63

2333. LEAKAGE SURVEYS

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: Many gas distribution operators look for signs of dying vegetation as a leak survey technique. This technique is not as effective as other available methods, and leaks have occurred in areas found safe by vegetation surveys. This action would require the use of alternative methods to meet the leak survey requirements, where appropriate, and clarify that leakage surveys must be conducted at least at 3-year minimum intervals on cathodically unprotected pipelines that are not electrically surveyed for corrosion.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 10/00/90

Agency Contact: L.M. Furrow, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4559

RIN: 2137–AB64

2334. PASSAGE OF INTERNAL INSPECTION DEVICES

Significance: Nonsignificant

Legal Authority: PL 100-561, Sec 108; PL 100-561, Sec 207

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: This rulemaking would establish minimum Federal safety standards requiring that new and replacement gas transmission and hazardous liquid pipelines be designed to accommodate the passage of internal inspection devices. This rulemaking is mandated by P.L. 100-561.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 12/00/90

Additional Information: The integrity testing proposal in "Proposals for Pipeline Safety," RIN 2137-AB27, is consolidated, in part, in this rulemaking.

Agency Contact: L. Furrow, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2392

RIN: 2137–AB71

2335. PROHIBITED PLACARDING AND PLACARD VISIBILITY

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 172

Legal Deadline: None

Abstract: This rulemaking proposes to amend section 172.502 to clarify that use of slogans on displays similar to placards is prohibited, and will request comments on methods to increase visibility of placards, especially in emergency situations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 12/00/90

Additional Information: Project 89-1

Agency Contact: R. Gasaway/D. Billings, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4488

RIN: 2137–AB75

2336. TRANSPORTATION OF A HAZARDOUS LIQUID AT 20 PERCENT OR LESS OF SPECIFIC MINIMUM YIELD STRENGTH

Significance: Nonsignificant

Legal Authority: 49 USC 2002

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: The Federal pipeline safety standards governing hazardous liquid pipelines do not apply to pipelines operated at 20 percent or less of the specified minimum yield strength of the pipe. When the standards were issued in 1969, these pipelines were thought not to pose an unreasonable risk to public safety because of their low operating stress levels. Since then, however, a number of accidents have been reported on low stress level pipelines, particularly involving harm to the environment. This rulemaking action would assess the need to extend the Federal safety standards to cover these low stress level pipelines (except gathering lines), and, if warranted, apply the standards to those pipelines.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 10/00/90

Additional Information: The Secretary of Transportation's Safety Review Task Force and the National Association of Pipeline Safety Representatives have separately recommended this action.

Agency Contact: G. J. Wolf, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, [illegible]

RIN: 2137–AB80

2337. ● AMENDMENTS TO THE DOT AIRLINE ON-TIME DISCLOSURE RULE

Significance: Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1374; 49 USC 1377; 49 USC 1381; 5 USC 553(e)

CFR Citation: 14 CFR 234; 14 CFR 302.38

Legal Deadline: None

Abstract: This proposed action would amend the reporting requirements of 14 CFR Part 234 to require specialized reporting of flights delayed or cancelled due to aircraft mechanical problems. Data on such flights would be reported to the Department but would not be made available for public disclosure. In addition, the proposed rule would clarify the definition of mechanical delays and cancellations, for Part 234 reporting purposes. These amendments will be proposed in response to the findings and recommendations of a recent Inspector General's audit of the on-time disclosure data, and in response to various industry comments on the DOT disclosure rule.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/00/91

Agency Contact: Jack Calloway, Chief, Regulations Division, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, [illegible]

RIN: 2137–AB94

2338. ● DRUG TESTING: STANDARDIZED DATA COLLECTION

Significance: Nonsignificant

Legal Authority: 49 USC 1672; 49 USC 1804; 49 USC 2002

CFR Citation: 49 CFR 199

Legal Deadline: None

Abstract: A minimum level of standardized data regarding pipeline anti-drug programs is needed to conduct analyses of program effectiveness. This action proposes that pipeline operators keep and maintain standardized data in a uniform format to enable the Department and State agencies to track implementation, compliance, and enforcement, and to provide for future policy formulation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: L.M. Furrow, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, [illegible]

RIN: 2137–AB95

2339. ● BURIAL OF OFFSHORE PIPELINES

Significance: Nonsignificant

Legal Authority: 49 USC 1672; 49 USC 1804; 49 USC 2002

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: Pipelines buried offshore have been involved in accidents with fishing and other vessels. A factor contributing to the accidents is the shallow depths at which the pipelines are buried. To help resolve this problem, this rulemaking will propose that operators remove abandoned lines in water less than 22 feet deep, bury pipelines at least 4 feet deep in water up to 22 feet deep and at least 3 feet in water between 22 and 200 feet deep, and monitor the depth of buried pipelines in water less than 22 feet deep.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: C. De Leon, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, [illegible]

RIN: 2137–AB96

DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA)

Final Rule Stage

2340. + PERFORMANCE-ORIENTED PACKAGING STANDARDS

Significance: Regulatory Program

Legal Authority: 49 USC 1800; 49 USC 1804; 49 USC 1808

CFR Citation: 49 CFR 171; 49 CFR 172; 49 CFR 173; 49 CFR 178; 49 CFR 179

Legal Deadline: None

Abstract: This action will develop performance-oriented packaging standards and hazardous material classification based on the United Nations Committee of Experts on the Transport of Dangerous Goods. Rulemaking also includes former nonsignificant rulemakings entitled "Consolidation of Specifications and Establishment of Performance Standards for Specification Bags" (Docket No. HM-153), "Specifications for and use of Specification 17 Steel Drums" (Docket No. HM-182), and "Organic Peroxide Requirements" (Project 186-72). The rulemaking is significant because a large number of specifications for packaging in the hazardous Materials Regulations would be affected by this project. To a large extent the complexity and mass of the present Hazardous Materials Regulations are due to the detailed specification-type packaging standards contained in these regulations. To replace these with standards based on the U.N. system would both simplify the present regulations and facilitate international trade. This rulemaking is significant because of substantial public interest and safety implications.

Timetable:

Action	Date	FR Cite
ANPRM for RIN AA05	05/07/81	46 FR 25492
ANPRM for RIN AA11	05/05/81	46 FR 31254
ANPRM	04/15/82	47 FR 16266
ANPRM Comment Period End 10/01/82	04/15/82	47 FR 16268
Correction Document and Notice of Meeting	06/17/82	47 FR 26172
Extension of Comment Period to 01/13/83	09/16/82	47 FR 40616
NPRM	05/05/87	52 FR 16482
SNPRM	09/06/87	52 FR 33906
Comment Period Extended to 02/26/88		
NPRM Comment Period End	11/02/87	
Revised NPRM	11/06/87	52 FR 42772
SNPRM	04/14/88	53 FR 12442
Comment Period Extended to 05/25/88		
Supplemental NPRM and Extension of Comment Period to 07/9/89	11/14/88	53 FR 45868
SNPRM Comment Period End 10/24/89	07/26/89	54 FR 31158
SNPRM Comment Period Reopened to 01/30/90	11/24/89	54 FR 48656
NPRM on Requirements for Explosives Comment Period End 07/16/90	05/02/90	55 FR 18438
Correction to NPRM issued 5/2/90	06/15/90	55 FR 24350

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 05/05/87 (52 FR 16482)

Additional Information: Docket No. HM-181. A decision on whether to proceed with a final rule will be made following review and evaluation of comments to the docket. RINs 2137-AA11, AA05, and AA93 have been consolidated into this rulemaking.

Agency Contact: E. Mazzullo, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4488

RIN: 2137-AA01

2341. + TRAINING FOR HAZARDOUS MATERIALS TRANSPORTATION

Significance: Regulatory Program

Legal Authority: 49 USC 1804

CFR Citation: 49 CFR 172; 49 CFR 174; 49 CFR 175; 49 CFR 176; 49 CFR 177

Legal Deadline: None

Abstract: This action will propose to establish detailed training requirements for persons involved with the transportation of hazardous materials. Establishing more detailed training requirements should diminish the number of hazardous materials transportation incidents which can be attributed to human error. At this time, the potential cost of establishing this program is unknown. This rulemaking is significant because of public interest and safety implications.

Timetable:

Action	Date	FR Cite
NPRM	07/26/89	54 FR 31144
NPRM Comment Period End	11/24/89	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/26/89 (54 FR 31144)

Additional Information: Docket No. HM-126F. Public hearings were held on 10/3/89 in Salt Lake City, Utah, and on 10/11/89 in Washington, DC.

Agency Contact: R. Gasaway, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4485

RIN: 2137-AB28

2342. + CONFIDENTIALITY OF DOMESTIC NONSTOP SEGMENT DATA AND ONFLIGHT MARKET INFORMATION FILED IN THE T-100 SYSTEM BY U.S. AIR CARRIERS

Significance: Agency Priority

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1377; 49 USC 1387

CFR Citation: 14 CFR 241

Legal Deadline: None

Abstract: The Department issued a final rule on the T-100 Reporting System on November 16, 1988 (53 FR 46284). The nonstop segment data and onflight market information reported by the U.S. and foreign air carriers in this system was granted confidentiality for a three-year period. American Airlines filed a petition for rulemaking challenging the

three-year period (Docket 46101). The Department found that the three-year period for international nonstop segment data and on-flight market information was appropriate, but would review the confidentiality period for domestic data (54 FR 31810, August 2, 1989). On January 16, 1990, Alaska Airlines filed a petition for rulemaking, challenging the three-year period as it pertains to U.S. carriers' international data (Docket 46710). This rulemaking proposes to release domestic data immediately after editing and continues the three-year confidentiality period for international data. This rulemaking is considered significant because of substantial public and industry interest.

Timetable:

Action	Date	FR Cite
NPRM	06/21/90	55 FR 25318
NPRM Comment Period End	07/23/90	
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 06/21/90 (55 FR 25318)

Agency Contact: Jack Calloway, Chief, Regulations Division, Department of Transportation, Research and Special Programs Administration, DAI-1/Room 4125, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4383

RIN: 2137–AB01

2343. + OPERATION AND MAINTENANCE PROCEDURES FOR PIPELINES

Significance: Agency Priority

Legal Authority: 49 USC 1672; 49 USC 1804; 49 USC 2002

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: Adequate procedures for pipeline operation and maintenance, backed up by personnel training, have proven effective in minimizing the potential for accidents. Gas operators are required to have such procedures, but the existing requirements lack the clarity and specificity needed to assure a uniform, broad-based level of safety for all pipelines. Therefore, this proposal would clarify the existing requirements, make them more comprehensive, and, where appropriate, similar to the more detailed requirements applicable to the operation and maintenance of hazardous liquid pipelines. Also, a few additions and clarifying changes would be made to the hazardous liquid pipeline requirements. This is a significant action because of the need for adequate procedures to provide a basis for training and qualifying operator personnel. A related rulemaking to provide procedures requiring operators to amend operation and maintenance plans, and make operators subject to enforcement sanctions for failure to maintain plans, is entitled Amendment of an Operator's Plans or Procedures (RIN 2137-AE77).

Timetable:

Action	Date	FR Cite
NPRM	11/06/89	54 FR 46685
NPRM Comment Period End	02/05/90	54 FR 46685
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/06/89 (54 FR 46685)

Additional Information: Formerly entitled: Operation and Maintenance Procedures for Gas Pipelines. Docket No. PS-113.

Agency Contact: J. Willock, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4571

RIN: 2137–AB44

2344. + EXCAVATION DAMAGE PREVENTION PROGRAMS FOR GAS AND HAZARDOUS LIQUID PIPELINES

Significance: Agency Priority

Legal Authority: 49 USC 1672(a); 49 USC 2002(c)

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: Each year a large percentage of gas and hazardous liquid pipeline accidents are caused by excavation damage. Based on existing rules intended to reduce damage to gas pipelines in populated areas, this action would require hazardous liquid pipeline operators to provide damage prevention programs and gas operators would have to expand their programs to cover rural areas. This is a significant action because of the widespread interest in the use of "one-call" programs to prevent damage to buried pipelines.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	53 FR 24747
NPRM Comment Period End	08/29/88	53 FR 24747
Final Action	05/00/91	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation 06/30/88 (53 FR 24747)

Additional Information: Docket No. PS-101. Formerly entitled: Natural Gas and Hazardous Liquid Pipeline Damage Prevention Program. The one-call system proposal in "Proposals for Pipeline Safety," RIN 2137-AB27, has been consolidated, in part, in this rulemaking.

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2698

RIN: 2137–AB47

2345. USE OF INTERESTED INSPECTORS FOR CYLINDER INSPECTIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 178

Legal Deadline: None

Abstract: This rulemaking would end the permitting of "interested" inspectors to perform inspections and testing of domestically manufactured low-pressure gas cylinders. It will be withdrawn until further evaluation of the proposal is undertaken.

Timetable:

Action	Date	FR Cite
NPRM	03/17/76	41 FR 1179
To be Withdrawn	10/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Docket No. HM-74A

Agency Contact: H. Mitchell, Department of Transportation, Research and Special Programs Administration,

DOT—RSPA

Final Rule Stage

400 Seventh Street, SW., Washington, DC 20590, 202 366-4925

RIN: 2137–AA08

2340. © TRANSPORTATION OF EXPLOSIVES BY VESSEL AND MISCELLANEOUS AMENDMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 107; 49 CFR 171; 49 CFR 176; 46 CFR 146

Legal Deadline: None

Abstract: This rulemaking proposes to amend existing requirements of the Hazardous Materials Regulations pertaining to the handling, stowage, and transport of explosives by vessel. This rulemaking also proposes to revise regulations applicable to the carriage of military explosives by vessel, currently found in 46 CFR Part 146, and consolidate them with the regulations applicable to transportation of commercial explosives by vessel. As part of the rulemaking, 46 CFR Part 146 would be revoked.

Timetable:

Action	Date	FR Cite
NPRM	05/21/90	55 FR 20882
NPRM to Revoke 46 CFR 146	05/21/90	55 FR 20896
NPRM Comment Period End	07/16/90	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/21/90 (55 FR 20882)

Additional Information: Docket HM-206, 206A

Agency Contact: C. Strumbum/F. Thompson (CG), Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4925

RIN: 2137–AA10

2347. CODIFICATION OF LP GAS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 172

Legal Deadline: None

Abstract: NPRM solicited comments on the benefit of requiring LP gas to be odorized. Odorization would enhance its identification during transportation in commerce. Comments to the NPRM indicated that further study should be made before proceeding to a final rule.

Timetable:

Action	Date	FR Cite
NPRM	09/27/84	49 FR 38164

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/27/84 (49 FR 38164)

Additional Information: Docket No. HM-128E.

Agency Contact: H. Engrum, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4488

RIN: 2137–AA25

2348. QUANTITY LIMITATIONS ABOARD AIRCRAFT

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1807; 49 USC 1808

CFR Citation: 49 CFR 175

Legal Deadline: None

Abstract: This action proposes removal of the fifty-pound limit on the quantity that may be stowed in an inaccessible cargo location on passenger-carrying aircraft.

Timetable:

Action	Date	FR Cite
ANPRM	04/03/84	49 FR 13717
ANPRM Comment Period End	09/03/84	49 FR 13717
NPRM	02/13/85	50 FR 6013
NPRM Comment Period End	05/30/85	50 FR 6013

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 02/13/85 (50 FR 6013)

Additional Information:

This project was formerly entitled: Limitation Aboard Aircraft. Further action is awaiting completion of an FAA project.

Agency Contact: Ann Boylan, Transportation Reg. Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4488

RIN: 2137–AA35

2349. ENFORCEMENT OF MOTOR CARRIER FIRANCIAL RESPONSIBILITY REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1805; 49 USC 1806 to 1808; 49 USC 1655; 49 USC 1655(e); 49 USC 10927

CFR Citation: 49 CFR 171; 49 CFR 173; 49 CFR 387

Legal Deadline: None

Abstract: This notice solicited comments on the merits of a petition for rulemaking from the National Tank Truck Carriers proposing to amend the Hazardous Materials Regulations to require shippers of hazardous materials by highway, in cargo tanks, to obtain documentary proof that the motor carrier possesses the minimum level of financial responsibility required by 49 CFR Part 387.

Timetable:

Action	Date	FR Cite
ANPRM	05/20/87	52 FR 19116
ANPRM Comment Period End	08/18/87	
To be Withdrawn	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Docket No. HM-199. Comments received on this docket generally oppose imposition of the requirements as proposed in the petition. Initial evaluation of the merits of the comments indicate that safety would not be significantly enhanced by the proposed requirements of the petition.

Agency Contact: J. Nakrzanke/R. Gasseway, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4484

RIN: 2137–AE35

DOT—RSPA

Final Rule Stage

2350. GAS DETECTION AND MONITORING IN COMPRESSOR STATION BUILDINGS

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: Leaking gas accumulating inside an inadequately ventilated compressor station building is a serious safety problem that has caused recent deaths and injuries. This rulemaking action proposes additional regulations to require installation of gas detection and alarm systems.

Timetable:

Action	Date	FR Cite
ANPRM	04/04/88	53 FR 10906
ANPRM Comment Period End	06/03/88	52 FR 10906
NPRM	07/27/90	55 FR 30724
NPRM Comment Period End	09/25/90	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/27/90 (55 FR 30724)

Additional Information: Docket No. PS-100

Agency Contact: L.M. Furrow, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4559

RIN: 2137–AB49

2351. DETERMINING THE EXTENT OF CORROSION ON EXPOSED GAS PIPELINES

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: Corrosion is a major cause of gas and hazardous liquid pipeline accidents. A safety standard applicable to liquid pipelines requires operators to examine exposed pipe for evidence of external corrosion and, if harmful corrosion is found, to investigate further to determine the extent of the corrosion. As part of a continuing policy to adopt similar requirements for gas and liquid pipelines where appropriate for safety, this action proposes that exposed gas pipelines with evidence of harmful corrosion be investigated to determine the extent of the corrosion.

Timetable:

Action	Date	FR Cite
NPRM	06/27/89	54 FR 27041
NPRM Comment Period End	09/25/89	54 FR 27041
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/27/89 (54 FR 27041)

Additional Information: National Transportation Safety Board Recommendation P-87-3 provides a basis for this action. Docket No. PS-107

Agency Contact: G.J. Wolf, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4559

RIN: 2137–AB50

2352. ETIOLOGIC AGENTS; PROPOSAL TO REMOVE THE 50 MILLILITER EXCEPTION

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 172; 49 CFR 173

Legal Deadline: None

Abstract: This rulemaking proposes to revise the definition of an etiologic agent, and remove the 50-milliliter-per-package exemption for such agents.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45525
NPRM Comment Period End	01/18/89	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/10/88 (53 FR 45525)

Additional Information: Docket HM-142A

Agency Contact: Ann Boylan, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4559

RIN: 2137–AB56

2353. REVISION OF RSPA FORM 41 REPORT FOR CHANGES IN GAAP-FAS 95 STATEMENT OF CASH FLOWS, INVENTORY REQUIREMENTS, AND GROUP REVENUE REPORTING LEVELS

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1377

CFR Citation: 14 CFR 241

Legal Deadline: None

Abstract: The accounting system that underpins the Form 41 Report is based on Generally Accepted Accounting Principles (GAAP) established by the Financial Accounting Standards Board. This board recently amended GAAP reporting disclosure standards by adding a Statement of Cash Flows. The Form 41 Report currently has a Statement of Financial Position. This rule proposes to amend the Form 41 reporting requirements by replacing the Statement of Financial Position with a Statement of Cash Flows, to add airframe serial numbers to the inventory reporting requirements so that age of aircraft can be determined, to increase the revenue levels for grouping carriers for reporting purposes, and to permit the use of telefacsimile for transmitting reports.

Timetable:

Action	Date	FR Cite
NPRM	04/17/90	55 FR 14296
NPRM Comment Period End	06/18/90	
Final Action	11/30/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/17/90 (55 FR 14296)

Agency Contact: Jack Calloway, Chief, Regulations Division, Department of Transportation, Research and Special Programs Administration, DAI-1, Room 4125, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4383

RIN: 2137–AB57

2354. ELEVATED TEMPERATURE MATERIALS

Significance: Nonsignificant

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Final Rule Stage

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 171; 49 CFR 172; 49 CFR 173

Legal Deadline: None

Abstract: This rulemaking addresses regulation of hazardous materials offered for transportation at elevated temperatures.

Timetable:

Action	Date	FR Cite
NPRM	09/21/89	54 FR 38930
Comment Period Extended to 2/20/90	11/15/89	54 FR 47539
NPRM Comment Period End	11/20/89	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/21/89 (54 FR 38930)

Additional Information: Docket No. HM-169A

Agency Contact: R. Rasse, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4625

RIN: 2137–AB80

2355. TRANSPORTATION REGULATIONS; COMPATIBILITY WITH THE INTERNATIONAL ATOMIC ENERGY AGENCY

Significance: Nonsignificant

Legal Authority: 49 USC 1804; 49 USC 1805; 49 USC 1808

CFR Citation: 49 CFR 171 to 178

Legal Deadline: None

Abstract: This rulemaking would align the Hazardous Materials Regulations (HMR) with the International Atomic Energy Agency (IAEA) Regulations for the Safe Transport of Radioactive Materials, Safety Series No. 6. This action is necessary to implement practices and procedures that will improve safety in the transportation of radioactive materials and to facilitate international commerce.

Timetable:

Action	Date	FR Cite
Request for Comments	11/21/88	53 FR 46973
Comment Period End	12/23/88	
NPRM	11/14/89	54 FR 47454
NPRM Comment Period Extended to 05/11/90	02/09/90	55 FR 4445
NPRM Comment Period End	02/09/90	
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 11/14/89 (54 FR 47454)

Additional Information: Docket HM-169A

Agency Contact: M. Wangler, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4545

RIN: 2137–AB89

2356. TRANSPORTATION OF CARBON DIOXIDE BY PIPELINE

Significance: Nonsignificant

Legal Authority: PL 100-561, Sec 211

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: This action would amend the existing safety standards for hazardous liquid pipelines to include new standards necessary for the safe transportation of carbon dioxide by pipeline. This action is mandated by P.L. 100-561.

Timetable:

Action	Date	FR Cite
NPRM	10/12/89	54 FR 41912
NPRM Comment Period End	12/11/89	54 FR 41912
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/12/89 (54 FR 41912)

Additional Information: The carbon dioxide proposal in "Proposals for Pipeline Safety," RIN 2137-AB27, is consolidated in this rulemaking.

Agency Contact: C. De Leon, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-1649

RIN: 2137–AB72

2357. AMENDMENT OF AN OPERATOR'S PLANS OR PROCEDURES

Significance: Nonsignificant

Legal Authority: 49 USC 1671 et seq; 49 USC 1681 et seq; 49 USC 2001 et seq

CFR Citation: 49 CFR 190; 49 CFR 193; 49 CFR 195

Legal Deadline: None

Abstract: This was previously part of RIN 2137-AB44. The rule would specify criteria for requiring pipeline operators to amend their plans and procedures.

Timetable:

Action	Date	FR Cite
NPRM	11/06/89	54 FR 46684
NPRM Comment Period End	12/05/89	54 FR 46684
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/06/89 (54 FR 46684)

Agency Contact: Cesar DeLeon, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-1649

RIN: 2137–AB77

2358. ® REVISIONS TO HAZARDOUS MATERIALS MODAL REGULATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 174; 49 CFR 175; 49 CFR 177

Legal Deadline: None

Abstract: This rulemaking proposes revisions to the carrier requirements in 49 CFR Parts 174, 175, and 177 of the Hazardous Materials Regulations to align the current rail, air, and highway requirements with those being addressed in Docket HM-181, Performance-Oriented Packaging Standards, RIN 2137-AA06.

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Timetable:

Action	Date	FR Cite
NPRM	05/02/90	55 FR 18548
NPRM Comment Period End	07/16/90	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/02/90 (55 FR 18548)

Additional Information: Docket HM-181B

Agency Contact: R. Reme/R. Gasseway, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4488

RIN: 2137-AE67

2359. ● SUPPLEMENTAL PROPOSALS CONCERNING THE TRANSPORTATION OF HAZARDOUS MATERIALS IN TANK CAR TANKS AND RAIL CARS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 172; 49 CFR 173; 49 CFR 179

Legal Deadline: None

Abstract: This rulemaking provides supplemental proposals to those in Docket HM-181, Performance-Oriented Packaging Standards (RIN 2137-AA01), addressing the transportation of hazardous materials in tank car tanks and rail cars.

Timetable:

Action	Date	FR Cite
NPRM	05/23/90	55 FR 21342
NPRM Comment Period End	07/16/90	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/23/90 (55 FR 21342)

Additional Information: Docket HM-181C

Agency Contact: A. Boylan, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4488

RIN: 2137-AE80

2360. ● PERFORMANCE-ORIENTED PACKAGING STANDARDS; ADDITIONAL PROPOSALS FOR FLAMMABLE SOLIDS, OXIDIZERS, AND ORGANIC PEROXIDES

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 171; 49 CFR 172; 49 CFR 173; 49 CFR 178

Legal Deadline: None

Abstract: This rulemaking proposes to amend the Hazardous Materials Regulations, with regard to the hazard classification, packaging, and hazard communication requirements applicable to flammable solids, oxidizers, and organic peroxides. The proposals supplement proposals in Docket HM-181, Performance Oriented Packaging Standards (RIN 2137-AA01), and are based upon United Nations Recommendations concerning Class 4 and 5 hazardous materials.

Timetable:

Action	Date	FR Cite
NPRM	06/28/90	55 FR 26574
NPRM Comment Period End	08/20/90	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/28/90 (55 FR 26574)

Additional Information: Docket HM-181D

Agency Contact: A. Boylan, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4488

RIN: 2137-AE80

2361. ● CENTRALIZATION OF FORMAL HEARING DOCKETS (RSPA)

Significance: Nonsignificant

Legal Authority: 49 USC app 1421(c); 49 USC app 1802; 49 USC app 1808; 49 USC app 1808 to 1811; 49 USC 1653(d); 49 USC 1655

CFR Citation: 49 CFR 107; 49 CFR 1.45; 49 CFR 1.53

Legal Deadline: None

Abstract: This final rule provides that documents and evidence in formal hearing cases adjudicated within the Research and Special Programs Administration (RSPA) will be filed and maintained in the OST Office of Documentary Services. The change is being made in order to streamline operations and to consolidate the documents used in formal hearing cases.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-9306

RIN: 2137-AE81

2362. ● AIR BAG INFLATORS AND AIR BAG MODULES FOR PASSIVE RESTRAINT SYSTEMS; CONVERSION OF INDIVIDUAL EXEMPTIONS INTO REGULATIONS OF GENERAL APPLICABILITY

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 172; 49 CFR 173

Legal Deadline: None

Abstract: This rulemaking proposes to amend the Hazardous Materials Regulations (HMR) governing the transportation of air bag inflators and air bag modules, which are vehicular components in certain passive restraint systems. This proposal, based on a petition for rulemaking filed by the Motor Vehicle Manufacturers Association of the United States, would provide for the transportation of these components under provisions of the HMR rather than under the exemption program.

Timetable:

Action	Date	FR Cite
NPRM	02/26/90	55 FR 6730
NPRM Comment Period End	04/12/90	

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Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/20/90 (55 FR 6730)

Additional Information: Docket HM-189H

Agency Contact: C. Schultz, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4545

RIN: 2137–AB06

DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA)

Completed Actions

2363. • REQUIREMENTS FOR CARG[illegible]NKS; REVISIONS, RESPONSE TO PETITIONS FOR RECONSIDERATION

Significance: Agency Priority

Legal Authority: 49 USC 1802; 49 USC 1803; 49 USC 1804; 49 USC 1805; 49 USC 1808; 49 USC 1808; 49 USC 1811

CFR Citation: 49 CFR 107; 49 CFR 171; 49 CFR 172; 49 CFR 173; 49 CFR 178; 49 CFR 177; 49 CFR 178; 49 CFR 180

Legal Deadline: None

Abstract: This action responds to petitions for reconsideration received to final rule published June 12, 1989 (54 FR 24982), and delays effective date to December 31, 1990. Final rule established new standards pertaining to the manufacture, qualification, maintenance, and use of cargo tank motor vehicles. Amendment published May 22, 1990 (55 FR 21035) addressed compliance dates for provisions contained in final rule and responded to certain issues raised in petitions. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Revised effective date and responded to some petitions for reconsideration	05/22/90	55 FR 21035
Final Action	09/07/90	55 FR 37026
Final Action Effective	12/31/90	55 FR 37026

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/12/88 (50 FR 24982)

Agency Contact: J. O'Steen, Department of Transportation, Research and Special Programs Administration, 400 7th Street, SW., Washington, DC 20590, 202 366-4545

RIN: 2137–AA42

2364. + PROPOSALS FOR PIPELINE SAFETY

Significance: Agency Priority

Legal Authority: 49 USC 1672; 49 USC 1804; 49 USC 2002

CFR Citation: 49 CFR 191; 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: Many of the proposals put forth in the ANPRM are being handled in a manner consistent with the Pipeline Safety Reauthorization Act of 1988 and have been consolidated into other rulemakings. Some proposals are the subject of technical studies now in progress. The remaining proposals are withdrawn from further consideration, because RSPA has determined rulemaking action is not warranted.

Timetable:

Action	Date	FR Cite
ANPRM	02/11/87	52 FR 4361
ANPRM Comment Period End	03/30/87	52 FR 4361
Withdrawn Notice Explaining Disposition of the 18 Safety Proposals	06/08/90	55 FR 23514

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Additional Information: Docket No. PS-93. The following proposals in the ANPRM were consolidated into other rulemakings: Information for Local Authorities, Pipeline Inventory, and Condition Report -- RIN 2137-AB48; Integrity Testing -- RIN 2137-AB46 and RIN 2137-AB71; Carbon Dioxide Pipelines -- RIN 2137-AB72; One-Call System -- RIN 2137-AB47 and RIN 2137-AB66; Certification of Personnel and Emergency Response -- RIN 2137-AB38.

Agency Contact: L. Furrow, Office of Pipeline Safety, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4560

RIN: 2137–AB27

2365. • EMERGENCY RESPONSE COMMUNICATION STANDARDS; CORRECTIONS IN RESPONSE TO PETITION FOR RECONSIDERATION; EXTENSION OF EFFECTIVE DATE

Significance: Nonsignificant

Legal Authority: 49 USC 1802 to 1805; 49 USC 1808

CFR Citation: 49 CFR 171; 49 CFR 172; 49 CFR 173; 49 CFR 175; 49 CFR 176

Legal Deadline: None

Abstract: This correction makes certain revisions to the final rules under Docket HM-126C which amended 49 CFR 171-180 to include new requirements for additional emergency response information on shipping papers and packages, and maintenance of emergency response information on transportation vehicles. The revisions contained in this document do not adversely impact the transportation industry and, in fact, provide regulatory relief.

RSPA is (1) revising the exception for including technical names for hazardous wastes to clarify that it applies only to hazardous wastes correctly described as "Hazardous waste, liquid or solid n.o.s"; (2) providing for limited application of the 24-hour emergency response telephone number for hazardous materials transported only during certain business hours; (3) providing an exception to the requirements for emergency response information when hazardous materials, shipped by vessels originate and terminate outside of the

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U.S., and only transit U.S. ports (i.e., not operating on a public highway).

Timetable:

Action	Date	FR Cite
Final Action	06/17/90	55 FR 33707
Final Action Effective	12/31/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/17/90 (55 FR 33707)

Agency Contact: Helen L. Engrum, Regulation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Room 8100, Washington, DC 20590, 202 366-4555

RIN: 2137–AA66

2366. CONFORMING GAS AND LIQUID PIPELINE WELDING STANDARDS: FINAL PHASE

Significance: Nonsignificant

Legal Authority: 49 USC 1672; 49 USC 2002

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: As part of a continuing policy to adopt similar requirements for gas and hazardous liquid pipelines where appropriate for safety, this action would be the last of a series of rulemakings undertaken to conform the gas and liquid pipeline welding standards.

Timetable:

Action	Date	FR Cite
Action Terminated	06/29/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: This project has been terminated for purposes of this regulatory agenda because no activity is scheduled on the project for the next 12 months. The project remains on an agency waiting list and may be returned to the published agenda in the future as active projects are completed.

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2698

RIN: 2137–AB45

2367. TRANSPORTATION OF RADIOACTIVE MATERIALS

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1805

CFR Citation: 49 CFR 177

Legal Deadline: None

Abstract: The final rule requires motor carriers of highway route controlled quantities (HRCQ) of radioactive materials to transport those materials directly from pickup points to preferred routes and directly from preferred routes to delivery points using shortest distance criterion.

Timetable:

Action	Date	FR Cite
NPRM	09/29/89	54 FR 40272
Correction to NPRM	10/12/89	54 FR 41902
NPRM Comment Period End	12/29/89	
Final Action	05/08/90	55 FR 19210
Final Action Effective	10/01/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/08/90 (55 FR 19210)

Additional Information: Docket No. HM-164C

Agency Contact: R. Gassaway, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4488

RIN: 2137–AB59

2368. PRESSURE REGULATORS SUBJECT TO INSPECTION AND TESTING

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192.739

Legal Deadline: None

Abstract: This rulemaking would clarify which pressure regulators are subject to rules for inspection and testing of pressure regulating stations.

Timetable:

Action	Date	FR Cite
Action Terminated	06/29/90	

Small Entities Affected: Businesses, Governmental jurisdictions

Government Levels Affected: Local, State

Additional Information: This project has been terminated for purposes of this regulatory agenda because no activity is scheduled on the project for the next 12 months. The project remains on an agency waiting list and may be returned to the published agenda in the future as active projects are completed.

Agency Contact: L.M. Furrow, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4559

RIN: 2137–AB65

2369. GRANT REGULATIONS: STATE ADOPTION OF ONE-CALL DAMAGE PREVENTION PROGRAMS

Significance: Nonsignificant

Legal Authority: PL 100-561, Sec 303

CFR Citation: Not yet determined

Legal Deadline: Final, Statutory, May 1, 1990.

Abstract: This rulemaking sets forth grant regulations regarding State pipeline damage prevention programs that include one-call notification systems in areas containing underground gas or hazardous liquid pipeline facilities. The programs are intended for adoption by States with agencies participating in the Federal/State pipeline safety grant-in-aid program. Adoption would be a consideration in determining reimbursement of State pipeline safety costs. Although originally classified as significant, upon further consideration it was determined that this action does not warrant higher level review.

Timetable:

Action	Date	FR Cite
NPRM	07/11/90	55 FR 28419
NPRM Comment Period End	09/10/90	
Final Action	09/29/90	55 FR 39668

Small Entities Affected: None

Government Levels Affected: None

DOT—RSPA

Completed Actions

Analysis: Regulatory Evaluation 09/23/88 [53 FR 36883]

Additional Information: This action is mandated by Pub. L. 100-561.The one-call system proposal in "Proposals for Pipeline Safety," RIN 2137-AB27, was consolidated, in part, in this rulemaking.

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2698

RIN: 2137-AB65

2370. UPDATING REFERENCES TO ASTM SPECIFICATION D2513

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: The incorporation by reference of various provisions of the 1987 edition of the American Society for Testing and Materials (ASTM) Specification D2513, "Standard Specification for Thermoplastic Gas Pressure Piping Systems," would be revised to reference instead the 1988 edition, which is the latest published edition.

Timetable:

Action	Date	FR Cite
Action Terminated	06/29/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This project has been terminated for purposes of this regulatory agenda because no activity is scheduled on the project for the next 12 months. The project remains on an agency waiting list and may be returned to the published agenda in the future as active projects are completed.

Agency Contact: L.M. Furrow, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2392

RIN: 2137-AB79

2371. TRANSMISSION LINES SUPPLYING LARGE-VOLUME CUSTOMERS

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192.3

Legal Deadline: None

Abstract: The definition of "transmission line" would be revised to clarify its application to pipelines connected to interstate transmission facilities that supply gas to large-volume customers.

Timetable:

Action	Date	FR Cite
Action Terminated	06/29/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This project has been terminated for purposes of this regulatory agenda because no activity is scheduled on the project for the next 12 months. The project remains on an agency waiting list and may be returned to the published agenda in the future as active projects are completed.

Agency Contact: L.M. Furrow, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2392

RIN: 2137-AB80

2372. HEAT FUSION JOINTS IN PLASTIC PIPELINES

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192.281(c)

Legal Deadline: None

Abstract: The heat fusion joining requirements for plastic pipe would be revised to include safety performance language covering all types of heat fusion joints, including saddle fusion joints.

Timetable:

Action	Date	FR Cite
Action Terminated	06/29/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This project has been terminated for purposes of this regulatory agenda because no activity is scheduled on the project for the next 12 months. The project remains on an agency waiting list and may be returned to the published agenda in the future as active projects are completed.

Agency Contact: L.M. Furrow, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2392

RIN: 2137-AB81

2373. ATMOSPHERIC CORROSION

Significance: Nonsignificant

Legal Authority: 49 USC 2002

CFR Citation: 49 CFR 195.416(h)

Legal Deadline: None

Abstract: The atmospheric corrosion control requirements for hazardous liquid pipelines would be modified to exclude lines for which the operator can demonstrate that a corrosive atmosphere does not exist.

Timetable:

Action	Date	FR Cite
Action Terminated	06/29/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This project has been terminated for purposes of this regulatory agenda because no activity is scheduled on the project for the next 12 months. The project remains on an agency waiting list and may be returned to the published agenda in the future as active projects are completed.

Agency Contact: L.M. Furrow, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2392

RIN: 2137-AB82

2374. DESIGN AND CONSTRUCTION OF WELDED BREAKOUT TANKS

Significance: Nonsignificant

Legal Authority: 49 USC 2002

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: This rulemaking proposes to incorporate by reference the American Petroleum Institute Standard 650 as the safety standard for the design and construction of welded breakout tanks.

DOT—RSPA

Completed Actions

Timetable:

Action	Date	FR Cite
Action Terminated	05/29/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This project has been terminated for purposes of this regulatory agenda because no activity is scheduled on the project for the next 12 months. This project remains on an agency waiting list and may be returned to the published agenda in the future as active projects are completed.

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2036

RIN: 2137–AB63

2375. SPLIT SERVICE LINES

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192.3

Legal Deadline: None

Abstract: The definition of "service line" would be revised to classify as a service line a pipeline connected to a main that branches into two lines that supply gas to two single-family dwellings.

Timetable:

Action	Date	FR Cite
Action Terminated	05/29/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This project has been terminated for purposes of this regulatory agenda because no activity is scheduled on the project for the next 12 months. The project remains on an agency waiting list and may be returned to the published agenda in the future as active projects are completed.

Agency Contact: L.M. Furrow, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2392

RIN: 2137–AB64

2376. PRESSURE TESTING PLASTIC PIPE

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192.513(d)

Legal Deadline: None

Abstract: This action would permit thermoplastic pipe to be field pressure tested at temperatures above 100 degrees Fahrenheit under certain conditions.

Timetable:

Action	Date	FR Cite
Action Terminated	05/29/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This project has been terminated for purposes of this regulatory agenda because no activity is scheduled on the project for the next 12 months. The project remains on an agency waiting list and may be returned to the published agenda in the future as active projects are completed.

Agency Contact: L.M. Furrow, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2392

RIN: 2137–AB65

DEPARTMENT OF TRANSPORTATION (DOT)

Maritime Administration (MarAd)

Prerule Stage

2377. + PROCEDURES GOVERNING THE EVALUATION OF BIDS FOR THE CARRIAGE OF PREFERRED CARGOES ON SUBSIDIZED VESSELS

Significance: Agency Priority

Legal Authority: 46 USC app 1114(b)

CFR Citation: 46 CFR 381.8

Legal Deadline: None

Abstract: This action would have solicited public comment to assist in evaluating requests received from an operator and another Department that MARAD expand the scope of its procedures concerning evaluation of bids for the carriage of preference cargoes to apply to all types of preference cargo, specifically including civilian purchased preference and military cargoes. Existing procedures apply only to bulk cargoes. While considered significant, this contemplated action is temporarily suspended because maritime procurement procedures are undergoing a comprehensive review.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Arthur S. Sferra, Director, Office of Ship Operating Assistance, Department of Transportation, Maritime Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2323

RIN: 2133–AA77

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DEPARTMENT OF TRANSPORTATION (DOT)
Maritime Administration (MarAd)

Proposed Rule Stage

2378. ● + CARGO PREFERENCE—U.S.-FLAG VESSELS; PROMPT PAYMENT REQUIREMENTS FOR FEDERAL PROGRAM PARTICIPANTS RESPONSIBLE FOR PAYMENT OF OCEAN FREIGHT AMOUNTS TO U.S.-FLAG VESSEL OPERATORS

Significance: Agency Priority

Legal Authority: 46 USC app 1114(b); 46 USC app 1241(b)

CFR Citation: 46 CFR 381

Legal Deadline: None

Abstract: This rule would amend MARAD's cargo preference regulations by making certain requirements on other agencies who administer programs that provide assistance to other countries through the export of agricultural commodities. These requirements would provide that any agency that gives this assistance, financed in whole or in part with Federal funds, would amend its procedures and program documentation to include safeguards for recipient countries to make prompt payment of ocean freight charges to U.S.-flag carriers. This action is considered significant because the subject is of substantial public interest and controversial.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight; 442 Deep Sea Domestic Transportation of Freight; 443 Freight Transportation on the Great Lakes-St. Lawrence Seaway

Analysis: Regulatory Evaluation 10/00/90

Agency Contact: S. Thomas Romeo, Chief, Division of National Cargo, Department of Transportation, Maritime Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-4610

RIN: 2133–AA82

2379. FEDERAL INCOME TAX ASPECTS OF THE CAPITAL CONSTRUCTION FUND

Significance: Nonsignificant

Legal Authority: 46 USC app 1114(b); 46 USC app 1177

CFR Citation: 46 CFR 391

Legal Deadline: None

Abstract: The Maritime Administration and Department of the Treasury are jointly proposing to amend the regulations for determining the tax liability of participants in a Capital Construction Fund (CCF) to give effect to amendments in the Tax Reform Act of 1986 (PL 99-514). This rulemaking is a companion to RIN 2133-AA65, which finalized changes in regulations for administering the CCF, consistent with PL 99-514.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight; 449 Services Incidental to Water Transportation; 443 Freight Transportation on the Great Lakes-St. Lawrence Seaway

Analysis: Regulatory Evaluation 12/00/90

Agency Contact: Jean E. McKeever, Chief, Division of Capital Assets, Department of Transportation, Maritime Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-1905

RIN: 2133–AA78

DEPARTMENT OF TRANSPORTATION (DOT)
Maritime Administration (MarAd)

Final Rule Stage

2380. + REGULATED TRANSACTIONS INVOLVING DOCUMENTED VESSELS AND OTHER MARITIME INTERESTS

Significance: Agency Priority

Legal Authority: 46 USC app 705; 46 USC app 802; 46 USC app 803; 46 USC app 808; 46 USC app 835; 46 USC app 839; 46 USC app 841a; 46 USC app 1195; 46 USC app 1114(b); PL 100-710

CFR Citation: 46 CFR 221

Legal Deadline: None

Abstract: These interim final regulations amend MARAD's regulations regarding transfers of interests in U.S. documented vessels and approval of vessel mortgagees and trustees pursuant to P.L.100- 710. Publication of an interim final rule permitted implementation of the new law without a hiatus and minimized transitional uncertainty among the corporate and financial communities that are affected. This rulemaking is considered significant because of substantial public interest. In view of comments received to the interim final rule, a new NPRM was published.

Timetable:

Action	Date	FR Cite
ANPRM; RIN 2133-AA73; Comment Period End 01/03/89	11/02/88	53 FR 44206
Interim Final Rule	02/02/89	54 FR 5382
Correction to Interim Final Rule	02/27/89	54 FR 8195
NPRM; RIN 2133-AA73 Comment Period End 04/24/89	03/10/89	54 FR 10169
SNPRM Comment Period End 06/12/90	04/13/90	55 FR 14040
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight; 442 Deep Sea Domestic Transportation of Freight; 443 Freight Transportation on the Great Lakes-St. Lawrence Seaway; 971 National Security; 972 International Affairs

DOT—MarAd

Final Rule Stage

Analysis: Regulatory Evaluation 02/02/89 (54 FR 5362)

Additional Information: The interim final rule was effective 02/02/89; the comment period ended 04/03/89. RIN 2133-AA73 was merged with this rule on 06/29/89.

Agency Contact: Robert J. Patton, Jr., Deputy Chief Counsel, Department of Transportation, Maritime Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-5711

RIN: 2133–AA70

2381. ◉ WAR RISK INSURANCE: FOREIGN-FLAG VESSEL TYPES, APPLICATION PROCEDURES AND FEES

Significance: Nonsignificant

Legal Authority: 46 USC app 1281 to 1293

CFR Citation: 46 CFR 308

Legal Deadline: None

Abstract: This rule would expand eligible foreign-flag vessel types, make the American War Risk Agency responsible for processing foreign-flag interim binder applications, and correct outdated references.

Timetable:

Action	Date	FR Cite
NPRM	06/06/90	55 FR 23103
NPRM; Correction	06/15/90	55 FR 24275
NPRM Comment Period End	08/06/90	55 FR 23103
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight; 442 Deep Sea Domestic Transportation of Freight

Analysis: Regulatory Evaluation 06/06/90 (55 FR 23103)

Agency Contact: Edmond J Fitzgerald, Director, Office of Trade Analysis and Insurance, Department of Transportation, Maritime Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2400

RIN: 2133–AA83

2382. ◉ CENTRALIZATION OF FORMAL HEARING DOCKETS (MARAD)

Significance: Nonsignificant

Legal Authority: 46 USC 1114

CFR Citation: 46 CFR 201

Legal Deadline: None

Abstract: This final rule provides that documents and evidence in formal hearing cases adjudicated within the Maritime Administration (MARAD) will be filed and maintained in the OST Office of Documentary Services. The change is being made in order to streamline operations and to consolidate the documents used in formal hearing cases.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/90

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 366-9306

RIN: 2133–AA84

DEPARTMENT OF TRANSPORTATION (DOT)

Maritime Administration (MarAd)

Completed Actions

2383. + PARTICIPATION BY VESSELS BUILT WITH CONSTRUCTION-DIFFERENTIAL SUBSIDY IN THE CARRIAGE OF OIL FROM ALASKA IN THE DOMESTIC TRADE

Significance: Agency Priority

Legal Authority: 46 USC app 1114(b); 46 USC app 1156

CFR Citation: 46 CFR 250

Legal Deadline: None

Abstract: This action would have established conditions for MARAD approval of tanker vessels over 100,000 dwt built with CDS, for participation in the carriage of Alaskan oil from Alaska to the Panama Canal. It was terminated because there is no longer a need for MARAD to grant waivers to allow temporary operation in the Alaskan oil trade. It was originally considered significant because of the substantial public interest anticipated.

Timetable:

Action	Date	FR Cite
Action Terminated	09/21/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frances Olsen, Chief, Division of Trade Studies, Department of Transportation, Maritime Administration, 400 Seventh Street, SW., Room 8117, Washington, DC 20590, 202 366-2262

RIN: 2133–AA62

2384. REQUIREMENTS FOR CONDUCTING VESSEL SUBSIDY CONDITION SURVEYS AND FOR ACCOMPLISHING SUBSIDIZED VESSEL MAINTENANCE AND REPAIRS

Significance: Nonsignificant

Legal Authority: 46 USC app 1114(b); 46 USC app 1173

CFR Citation: 46 CFR 272

Legal Deadline: None

Abstract: This regulation amended and clarified current MARAD procedures for the administration of maintenance and repair subsidy and the requirement for condition surveys.

Timetable:

Action	Date	FR Cite
NPRM	06/28/89	54 FR 35509
NPRM Comment Period End	10/27/89	
Final Action	06/27/90	55 FR 34916
Final Action Effective	09/26/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight

DOT—MarAd

Completed Actions

Analysis: Regulatory Evaluation 08/27/90 (55 FR 34918)

Agency Contact: Joseph Seelinger, Division of Ship Maintenance and Repair, Department of Transportation, Maritime Administration, DOT/MARAD, 400 Seventh Street, SW., Washington, DC 20590, 202 366-2521

RIN: 2133–AA64

2366. CAPITAL CONSTRUCTION FUND

Significance: Nonsignificant

Legal Authority: 46 USC app 1114(b); 46 USC app 1177; PL 99-514

CFR Citation: 46 CFR 390.391

Legal Deadline: None

Abstract: The Maritime Administration is amending its regulations concerning the Capital Construction Fund (CCF) to give effect to amendments in the Tax Reform Act of 1986 (P.L. 99-514) relative to the operation of a CCF. This rulemaking amended the regulations at 46 CFR Part 390 governing the administration of a CCF to reflect changes made by PL 99-514. Other regulations are being developed jointly with the Department of the Treasury (IRS) to implement provisions of PL 99-514 relating to Federal Income Tax Aspects of the Capital Construction Fund (46 CFR 391). See RIN 2133-AA78.

Timetable:

Action	Date	FR Cite
NPRM	10/31/88	53 FR 43907
Correction to NPRM Preamble	11/14/88	53 FR 45783
Correction to NPRM	11/21/88	53 FR 46899
Comment Period Extended to 01/03/89	12/12/88	53 FR 49695
NPRM Comment Period End	12/15/88	53 FR 43907
Final Action	08/27/90	55 FR 34924
Final Action Effective	09/26/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight; 449 Services Incidental to Water Transportation; 443 Freight Transportation on the Great Lakes-St. Lawrence Seaway

Analysis: Regulatory Evaluation 08/27/90 (55 FR 34924)

Agency Contact: Jean E. McKeever, Chief, Div. of Capital Assets Management, Department of Transportation, Maritime Administration, 400 Seventh Street, SW., Washington, DC 20590, 202 366-1905

RIN: 2133–AA65

[FR Doc. 90-21455 Filed 10-26-90; 8:45 am]

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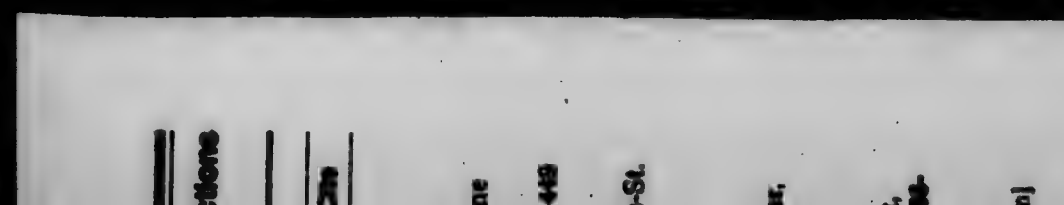

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Monday
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Part XV

Department of the Treasury

Semiannual Regulatory Agenda

DEPARTMENT OF THE TREASURY (TREAS)

DEPARTMENT OF THE TREASURY (TREAS)
Departmental Offices (DO)

DEPARTMENT OF THE TREASURY

31 CFR Subtitle A, Chs. I and II

Semiannual Agenda

AGENCY: Departmental Offices, Treasury.

ACTION: Semiannual agenda.

SUMMARY: This notice is given pursuant to the requirements of the "Regulatory Flexibility Act" (Pub. L. 96-354, September 19, 1980) and Executive Order 12291, "Federal Regulation" (February 17, 1981), which require the publication of a semiannual agenda of regulations. The semiannual agenda of the Department of the Treasury conforms to the Unified Agenda format developed by the Regulatory Information Service Center (RISC).

FOR FURTHER INFORMATION CONTACT: For additional information about a specific departmental offices' regulation, contact the "agency contact" listed in the specific regulatory action. For general information concerning the agenda, contact Richard S. Carro, Associate General Counsel, Room 1422, 1500 Pennsylvania Avenue NW., Washington, DC 20220, (202) 566-2558, not a toll-free call.

Dated: August 29, 1990.

R. Blair Downing,

Executive Secretary.

Departmental Offices—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2386	31 CFR 10 Due Diligence Standards With Respect to Persons Practicing Before the Internal Revenue Service	1505-AA17
2387	31 CFR 103 Money Laundering Through International Payments	1505-AA37
2388	31 CFR 103 Mandatory Aggregation of Currency Transactions for Certain Financial Institutions and Mandatory Magnetic Media Reporting of Currency Transaction Reports	1505-AA41

Departmental Offices—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2389	31 CFR 103 Proposed Amendments to the Bank Secrecy Act Regulations Regarding Reporting and Recordkeeping Requirements by Casinos	
2390	31 CFR 17 Enforcement of Nondiscrimination on the Basis of Handicap in Treasury Programs	1505-AA10
2391	31 CFR 21 Restrictions on Lobbying	1505-AA34
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TREAS—DO

Departmental Offices—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2392	31 CFR 103 Proposed Amendment to the Bank Secrecy Act Regulations Relating to Identification Required to Purchase Bank Checks, Cashier's Checks, Traveler's Checks and Money Orders	1505-AA32
2393	17 CFR 401 Implementing Regulations for the Government Securities Act of 1986	1505-AA39
2394	31 CFR 19 Drug-Free Workplace (Grants)	1505-AA40

DEPARTMENT OF THE TREASURY (TREAS)

Departmental Offices (DO)

Proposed Rule Stage

2386. DUE DILIGENCE STANDARDS WITH RESPECT TO PERSONS PRACTICING BEFORE THE INTERNAL REVENUE SERVICE

Legal Authority: 5 USC 301; 31 USC 330; 31 USC 321

CFR Citation: 31 CFR 10

Legal Deadline: None

Abstract: The proposed regulation would modify the current regulations governing practice before the Internal Revenue Service by clarifying the requirements relating to due diligence standards imposed on tax practitioners.

Timetable:

Action	Date	FR Cite
NPRM	08/14/86	51 FR 29113
Extend Public Comment Period to 11/13/86	08/27/86	51 FR 30510
NPRM Comment Period End	10/14/86	51 FR 29113
Extend Public Comment Period to 02/13/87	11/06/86	51 FR 40340

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leslie S. Shapiro, Director of Practice, Department of the Treasury, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 535-8767

RIN: 1505-AA17

2387. MONEY LAUNDERING THROUGH INTERNATIONAL PAYMENTS

Legal Authority: 31 USC 5314; 31 USC 5318

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: The Department of the Treasury expects to issue a notice of proposed rulemaking under the Bank Secrecy Act to address the problem of money laundering through international payments, especially wire transfers of funds. This advance notice of proposed rulemaking requests comments on a number of regulatory options.

TREAS—DO

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
ANPRM	10/31/89	54 FR 45769
ANPRM Comment Period End	01/02/90	54 FR 45770
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Linda Noonan, Senior Counsel for Financial Enforcement, Department of the Treasury, Room 2000, Washington, DC 20220, 202 566-8041

RIN: 1505–AA37

2388. ● MANDATORY AGGREGATION OF CURRENCY TRANSACTIONS FOR CERTAIN FINANCIAL INSTITUTIONS AND MANDATORY MAGNETIC MEDIA REPORTING OF CURRENCY TRANSACTION REPORTS

Legal Authority: 12 USC 1929b; 12 USC 1951 to 1959; 31 USC 5311 to 5326

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This regulation would require that banks with deposits of over $100 million maintain systems to aggregate currency transactions that, at a minimum, are conducted by or on behalf of account holders at the bank and that affect an account during a business day; and require currency dealers and exchanges (including check cashers) and transmitters of funds, regardless of asset size, to maintain systems and procedures to aggregate currency transactions that are conducted by or on behalf of customers at the financial institution during a business day. The regulation also would require financial institutions that file more than 1,000 Currency Transaction Reports a year to file by use of magnetic media.

Timetable:

Action	Date	FR Cite
NPRM	09/06/90	55 FR 36863
NPRM Comment Period End	12/05/90	55 FR 36863

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Amy G. Rudnick, Director, Office of Financial Enforcement, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Room 4320, Washington, DC 20220, 202 566-8022

RIN: 1505–AA41

DEPARTMENT OF THE TREASURY (TREAS)
Departmental Offices (DO)

Final Rule Stage

2389. PROPOSED AMENDMENTS TO THE BANK SECRECY ACT REGULATIONS REGARDING REPORTING AND RECORDKEEPING REQUIREMENTS BY CASINOS

Legal Authority: 31 USC 5311 to 5322; 12 USC 1829b; 12 USC 1951 to 1959

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: The proposed regulations contain 16 amendments to the Bank Secrecy Act regulations that are designed to respond to substantial noncompliance with the current regulations by casinos.

Timetable:

Action	Date	FR Cite
NPRM	06/16/88	53 FR 31370
NPRM Comment Period End	10/17/88	53 FR 31370
Comment Period Extension to 11/14/88	10/26/88	53 FR 43736
Comment Period Extension to 12/14/88	12/01/88	53 FR 48551
Final Action	12/00/90	
Final Action Effective	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Amy Rudnick, Director, Office of Financial Enforcement, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Room 4320, Washington, DC 20220, 202 566-8022

RIN: 1505–AA10

2390. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN TREASURY PROGRAMS

Legal Authority: 29 USC 794

CFR Citation: 31 CFR 17

Legal Deadline: None

Abstract: This proposed regulation provides for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap, as it applies to programs or activities conducted by the Department of the Treasury.

Timetable:

Action	Date	FR Cite
NPRM	06/06/89	54 FR 24203
NPRM Comment Period End	08/07/89	54 FR 24203
Final Action	12/00/90	
Final Action Effective	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charlene J. Robinson, Director, Human Resources Directorate, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, 202 566-5256

RIN: 1505–AA34

2391. RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: 31 USC 321; 31 USC 1352

CFR Citation: 31 CFR 21

Legal Deadline: None

Abstract: This document constitutes the Department of the Treasury's participation in a common rulemaking to prohibit certain recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative branches of the Federal Government in connection with a specific contract, grant or loan.

TREAS—DO **Final Rule Stage**

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Interim Final Rule Effective Date	02/26/90	55 FR 6736
Interim Final Rule Comment Period End	04/27/90	55 FR 6736
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Cathy Thomas, Office of Management Programs Directorate, Department of the Treasury, Room 2217, Washington, DC 20220, 202 343-0348

RIN: 1505–AA35

DEPARTMENT OF THE TREASURY (TREAS)
Departmental Offices (DO)
Completed Actions

2382. PROPOSED AMENDMENT TO THE BANK SECRECY ACT REGULATIONS RELATING TO IDENTIFICATION REQUIRED TO PURCHASE BANK CHECKS, CASHIER'S CHECKS, TRAVELER'S CHECKS AND MONEY ORDERS

Legal Authority: 12 USC 1929b; 12 USC 1951 to 1959; 31 USC 5311 to 5324; PL 100-690, Sec 6185(b)

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This advance notice solicits public comments on the implementation of section 6185(b) of the Anti-Drug Abuse Act of 1988, which requires the issuance of regulations prescribing what identification shall be provided by purchasers of cashier's checks, traveler's checks, money orders and bank checks.

Timetable:

Action	Date	FR Cite
ANPRM	12/23/88	53 FR 51846
Extension of Comment Period to 02/15/89	01/19/89	54 FR 02138
ANPRM Comment Period End	01/22/89	
NPRM	08/22/89	54 FR 34791
NPRM Comment Period End	10/23/89	54 FR 34791
Final Action	05/15/90	55 FR 20139
Final Action Effective	08/13/90	55 FR 20139

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathleen A. Scott, Attorney-Advisor, Department of the Treasury, Room 4320, Washington, DC 20220, 202 566-5947

RIN: 1505–AA32

2383. IMPLEMENTING REGULATIONS FOR THE GOVERNMENT SECURITIES ACT OF 1986

Legal Authority: 15 USC 78o-5

CFR Citation: 17 CFR 401

Legal Deadline: None

Abstract: This document proposes to exempt from registration or notice, pursuant to section 15C(a)(1) of the Government Securities Act of 1986, foreign government securities brokers and dealers engaged in certain activities involving U.S. investors and the government securities market.

Timetable:

Action	Date	FR Cite
NPRM	03/05/90	55 FR 7733
NPRM Comment Period End	05/04/90	55 FR 7734
Final Action	07/03/90	55 FR 27461
Final Action Effective	08/02/90	55 FR 27461

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ken Papaj, Director, Government Securities Regulations Staff, Department of the Treasury, 999 E Street, NW., Room 209, Washington, DC 20239-0001, 202 376-6432

RIN: 1505–AA39

2384. ● DRUG-FREE WORKPLACE (GRANTS)

Significance: Regulatory Program

Legal Authority: EO 12549; 41 USC 701; 31 USC 32

CFR Citation: 31 CFR 19

Legal Deadline: None

Abstract: This document constitutes the Department of the Treasury's participation in a common rulemaking to implement the Drug-Free Workplace Act of 1988, which requires that persons receiving Federal grants certify that they will maintain a drug-free workplace.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 04946
Final Action	05/25/90	55 FR 21681
Final Action Effective	07/24/90	55 FR 21681

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Charles Schaefer, Departmental Competition Advocate, Department of the Treasury, Room 6101, Treasury Annex, Washington, DC 20220, 202 566-8215

RIN: 1505–AA40

[FR Doc. 90-25304 Filed 10-26-90; 8:45 am]
BILLING CODE 4810-25-F

DEPARTMENT OF THE TREASURY (TREAS)
Financial Management Service (FMS)

Fiscal Service

31 CFR Ch. II

Semiannual Agenda

AGENCY: Financial Management Service, Treasury.

ACTION: Semiannual agenda.

SUMMARY: This notice is given pursuant to the requirements of the "Regulatory Flexibility Act" (Pub. L. 96-354, September 19, 1980) and Executive Order 12291 (Federal Regulation, February 17, 1981), which require publication of a semiannual agenda of regulations under development or review.

FOR FURTHER INFORMATION CONTACT: For additional information about a specific regulation contained in this agenda, contact the "agency contact" listed in the specific regulatory action.

SUPPLEMENTARY INFORMATION: The proposed regulations are not considered to be major regulations within the meaning of E.O. 12291 and will not have a significant impact on small entities within the meaning of the Regulatory Flexibility Act.

Dated: September 13, 1990.

W. E. Douglas,

Commissioner.

Financial Management Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2395	31 CFR 225, (Revision) Acceptance of Bonds, Notes, or Other Obligations Issued or Guaranteed by the United States as Security in Lieu of Surety or Sureties on Penal Bonds	1510-AA13
2396	31 CFR 210 Federal Payments Made Through Financial Institutions by the Automated Clearing House Method	1510-AA16

DEPARTMENT OF THE TREASURY (TREAS)
Financial Management Service (FMS)

Completed Actions

2395. ACCEPTANCE OF BONDS, NOTES, OR OTHER OBLIGATIONS ISSUED OR GUARANTEED BY THE UNITED STATES AS SECURITY IN LIEU OF SURETY OR SURETIES ON PENAL BONDS

Significance: Agency Priority

Legal Authority: 31 USC 9303

CFR Citation: 31 CFR 225, (Revision)

Legal Deadline: None

Abstract: The revision will address changes to definitions in the areas of acceptable securities.

Timetable:

Action	Date	FR Cite
Withdrawn	08/30/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Terry Beyer, Manager, Surety Bond Branch, Department of the Treasury, Financial Management Service, 401 14th Street, SW., Room 250, Washington, DC, 20227, 202 287-3015

RIN: 1510-AA13

2396. FEDERAL PAYMENTS MADE THROUGH FINANCIAL INSTITUTIONS BY THE AUTOMATED CLEARING HOUSE METHOD

Significance: Agency Priority

Legal Authority: 5 USC 5525; 12 USC 391; 31 USC 321

CFR Citation: 31 CFR 210

Legal Deadline: None

Abstract: With the increased use and greater capability of the Automated Clearing House (ACH) method for making Government payments, the Financial Management Service (FMS) plans to electronically move more remittance information with Government payments. An addenda record will accompany the payment and will serve as an electronic check stub. FMS proposes to require that financial institutions, as part of posting payments to payees' accounts, also post the remittance information contained in the addenda record. Financial institutions can notify payees by printing the message on the bank statements or by issuing separate notices. The information contained in the addenda record is of key importance to a payee and a financial institution by fulfilling a customer need and providing the information to its customer. The proposed Federal Register Notice of Intent is aimed at eliciting reaction, such as cost, capacity, and potential problems, from the financial industry on required passage of consumer and corporate addendum information.

Timetable:

Action	Date	FR Cite
Withdrawn	08/30/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Charles F. Schwan, III, Director, Payments Management Division, Department of the Treasury, Financial Management Service, Financial Management Service, 401 14th Street, SW., Washington, DC 20227, 202 287-0510

RIN: 1510-AA16

[FR Doc. 90-22508 Filed 10-26-90; 8:45 am]

BILLING CODE 4810-35-T

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Bureau of Alcohol, Tobacco and Firearms

27 CFR Ch. I

[Notice No. 706]

Unified Agenda of Federal Regulations

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: General notice; Unified Agenda of Federal Regulations of regulatory projects under development, consideration, and review.

SUMMARY: Pursuant to section 5 of Executive Order 12291 entitled, "Federal Regulation," ATF is publishing an agenda of proposed regulations that are expected to be issued and of proposed regulations that have been issued and an agenda of existing regulations that are being reviewed under the terms of the Executive order within the next 6 months. The latter agenda also lists regulatory projects identified for review pursuant to the ATF Regulatory Reform Program. Pursuant to section 610 of the Regulatory Flexibility Act (Pub. L. 96-354; 5 U.S.C. 610), ATF is also indicating whether a regulatory project is likely to have a significant economic impact upon a substantial number of small entities.

This general notice is designed to give the public adequate notice of the regulatory activities being contemplated by ATF.

The agenda is based on information available at the present time. The next Unified Agenda of Federal Regulations will be published in the Federal Register of April 1991.

FOR FURTHER INFORMATION CONTACT: For information about any particular regulatory project, contact the person listed in the subheading "Agency Contact" for the regulatory project.

For general information about this general notice, contact Di-Anne Fletcher, Revenue Programs Division, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue NW., Washington, DC 20226, (202) 566-7602.

Issuance

By direction of the Secretary of the Treasury, this general notice reads as set forth below.

Signed: August 17, 1990.

Stephen E. Higgins,

Director.

Bureau of Alcohol, Tobacco and Firearms—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2397	27 CFR 4 Recodification of 27 CFR Part 4	1512-AA17
2398	27 CFR 4 Wine Labeling Regulation Issues	1512-AA31
2399	27 CFR 250 Recodification of 27 CFR Part 250 as 27 CFR Part 26	1512-AA69
2400	27 CFR 27 Recodification of 27 CFR Part 251 as 27 CFR Part 27	1512-AA72
2401	27 CFR 285 27 CFR Part 285, Manufacture of Cigarette Papers and Tubes	1512-AA33

Bureau of Alcohol, Tobacco and Firearms—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2402	27 CFR 9 American Viticultural Areas	1512-AA07
2403	27 CFR 5.22 Standard of Identity for Vodka	1512-AA10
2404	27 CFR 197 Nonbeverage Drawback	1512-AA20
2405	27 CFR 4 Labeling and Advertising of Wine, Distilled Spirits and Malt Beverages; Use of the Word "Light (Lite)"	1512-AA46
2406	27 CFR 4 Winegrape Varietal Designations	1512-AA67
2407	27 CFR 4.35 Winemaking Terminology	1512-AA70
2408	27 CFR 4.32 Labeling and Advertising of Wine, Distilled Spirits, and Malt Beverages; Disclosure of FD & C Yellow No. 6	1512-AA76
2409	27 CFR 270.11 Manufacturer's Identification on Tobacco Products Packages	1512-AA39

Bureau of Alcohol, Tobacco and Firearms—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2410	27 CFR 19.11 Implementation of the "Wine Impact Bill"	1512-AA68
2411	27 CFR 240.160 to 240.400 Recodification of Wine Regulations (Subparts A to O)	1512-AA42
2412	27 CFR 240 Materials and Processes for the Production and Treatment of Wine	1512-AA51
2413	27 CFR 4.24 Non-Generic Designations of Grape Wine Having Geographical Significance	1512-AA71

TREAS—BATF

Bureau of Alcohol, Tobacco and Firearms—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
2414	27 CFR 55 Explosives Storage Regulations	1512-AA85
2415	27 CFR 179 NFA Collector's Items (Machine Guns, Destructive Devices and Certain Other Firearms)	1512-AA84

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Proposed Rule Stage

ALCOHOL

2387. RECODIFICATION OF 27 CFR PART 4

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4

Legal Deadline: None

Abstract: To revise the wine labeling and advertising regulations; where applicable, to incorporate production regulations; and due to statutory amendments requested, may result in a legislative submission.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Additional Agency Contact: Ed Reisman

Agency Contact: James Hunt, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington DC 20226, 202 566-7626

RIN: 1512-AA17

2398. WINE LABELING REGULATION ISSUES

Significance: Agency Priority

Legal Authority: 27 USC 205(e); 27 USC 205(f)

CFR Citation: 27 CFR 4

Legal Deadline: None

Abstract: Wine labeling issues addressed: 1. Transported grapes to retain viticultural area designation 2. Certain wines allowed "other than standard" on label 3. Harvest date for fruit, berry and agricultural wines 4. Another use of the term "Estate Bottled" 5. Harvest terms for wine labeling.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Hunt, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington DC 20226, 202 566-7626

RIN: 1512-AA31

2399. RECODIFICATION OF 27 CFR PART 250 AS 27 CFR PART 26

Significance: Agency Priority

Legal Authority: 26 USC 7651 to 7652; PL 85-859; 26 USC 5314; 26 USC 7805

CFR Citation: 27 CFR 250

Legal Deadline: None

Abstract: As part of the recodification of Part 250, we plan to simplify, consolidate and or eliminate as many sections of regulations as possible placing particular emphasis on reducing the number of recordkeeping requirements, forms, and customs responsibilities. Wherever possible, we plan to utilize a proprietor's commercial records in lieu of requiring the proprietor to submit public use forms. These changes to Part 250 should considerably reduce the burden hours on industry.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Langford, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington DC 20226, 202 566-7531

RIN: 1512-AA69

2400. RECODIFICATION OF 27 CFR PART 251 AS 27 CFR PART 27

Significance: Agency Priority

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 27; 27 CFR 251

Legal Deadline: None

Abstract: To update and clarify regulations relating to the Importation of Distilled Spirits, Wine, and Beer and to incorporate related ATF Rulings into the regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ed Reisman, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington DC 20226, 202 566-7531

RIN: 1512-AA72

TREAS—BATF — Proposed Rule Stage

TOBACCO PRODUCTS

2401. 27 CFR PART 285, MANUFACTURE OF CIGARETTE PAPERS AND TUBES

Significance: Agency Priority

Legal Authority: 26 USC 7805 (68A Stat 917)

CFR Citation: 27 CFR 285

Legal Deadline: None

Abstract: To reduce or eliminate administrative and recordkeeping burdens under 27 CFR Part 285.

Timetable:

Action	Date	FR Cite
ANPRM	09/01/84	
ANPRM Comment Period End	10/02/84	
NPRM	05/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Mary Wood, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington DC 20226, [illegible]

RIN: 1512–AA33

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Final Rule Stage

ALCOHOL

2402. AMERICAN VITICULTURAL AREAS

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 9

Legal Deadline: None

Abstract: Establishes grape-growing regions as American viticultural areas for purposes of labeling and advertising of wine.

Timetable:

Mt. Harlen, CA (contact David Brokaw)
- NPRM 06/05/90 (55 FR 22925)
- NPRM Comment Period End 07/17/90
- Final Action 11/00/90

Rogue Valley, OR (contact Robert White)
- NPRM 07/05/90 (55 FR 27654)
- NPRM Comment Period End 08/20/90
- Final Action 02/00/91

San Ysidro District, CA (contact Mari Dundas)
- NPRM 07/05/90 (55 FR 27652)
- NPRM Comment Period End 08/20/90
- Final Action 12/00/90

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: See supplemental timetable, American Viticultural Areas, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington DC 20226, [illegible]

RIN: 1512–AA07

2403. ◆ STANDARD OF IDENTITY FOR VODKA

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 5.22

Legal Deadline: None

Abstract: Considers clarifying the standard of identity for vodka by revoking Revenue Ruling 56-66 which permits the use of small quantities of sugar or citric acid in vodka; or would propose a new class and type of vodka which contains trace amounts of sugar or citric acid.

Timetable:

Action	Date	FR Cite
ANPRM	01/11/82	47 FR 1148
ANPRM Comment Period End	07/11/82	
NPRM	02/19/86	51 FR 6009
NPRM Comment Period End	05/20/86	
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Brokaw, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Bureau of Alcohol Tobacco and Firearms, 1200 Pennsylvania Ave, NW Wash DC 20226, 2025567626, [illegible]

RIN: 1512–AA10

2404. NONBEVERAGE DRAWBACK

Significance: Agency Priority

Legal Authority: 26 USC 5131 et seq

CFR Citation: 27 CFR 197

Legal Deadline: None

Abstract: To update, clarify, simplify, and recodify the regulations relating to drawback of tax on distilled spirits used in the manufacture of non-beverage products.

Timetable:

Action	Date	FR Cite
NPRM	07/20/87	52 FR [illegible]
NPRM Comment Period End	10/29/87	
Final Action	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SMALL ENTITIES CONTINUED: This regulation affects approximately 900 small entities.

Agency Contact: Steve Simon, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington DC 20226, [illegible]

RIN: 1512–AA20

2405. LABELING AND ADVERTISING OF WINE, DISTILLED SPIRITS AND MALT BEVERAGES; USE OF THE WORD "LIGHT (LITE)"

Significance: Agency Priority

Legal Authority: 27 USC 205(e); 27 USC 205(f)

CFR Citation: 27 CFR 4; 27 CFR 5; 27 CFR 7

Legal Deadline: None

Abstract: "Light (Lite)" was addressed to a limited extent in Notice No. 562 (46 FR 63530). However, subsequent to its publication ATF was petitioned by the Center for Science in the Public Interest (CSPI), requesting mandatory caloric labeling on all alcohol beverages, as well as the establishment of upper limits on calories in products labeled as "light (lite)." Comments were requested on CSPI's petition as well as other

TREAS—BATF

Final Rule Stage

issues involving use of the term "light [lite]."

Timetable:

Action	Date	FR Cite
NPRM	06/12/86	51 FR 28606
NPRM Comment Period End	11/10/86	
NPRM Comment Period Reopened	11/14/86	51 FR 41355
NPRM Reopened Comment Period End	12/31/86	
NPRM	06/17/88	53 FR 22678
NPRM Comment Period End	08/15/88	
NPRM Comment Period Extended	08/18/88	53 FR 30848
NPRM Extended Comment Period End	11/15/88	
Final Action	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Ficaretta, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington DC 20226, 202 566-7626

RIN: 1512-AA48

2406. WINEGRAPE VARIETAL DESIGNATIONS

Significance: Agency Priority

Legal Authority: 27 USC 205(e)

CFR Citation: 27 CFR 4

Legal Deadline: None

Abstract: This proposal would establish standardized lists of winegrape varietal names which may be used on domestic wine labels. In addition we are proposing a method by which new names may be added to the list. These standardized lists will assure more accurate and truthful identification of the wine.

Timetable:

Action	Date	FR Cite
NPRM	02/04/86	51 FR 4392
NPRM Comment Period End	04/07/86	
NPRM Comment Period Extended	04/08/86	51 FR 11944
NPRM Extended Comment Period End	07/07/86	
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lynn Gittes, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington DC 20226, 202 566-3157

RIN: 1512-AA67

2407. WINEMAKING TERMINOLOGY

Significance: Agency Priority

Legal Authority: 27 USC 205(e)

CFR Citation: 27 CFR 4.35

Legal Deadline: None

Abstract: ATF is proposing to define words denoting winemaking operations for use on wine labels in conjunction with the name and address of the bottler. This project partially fulfills the requirements of the court order in Wawrkiewicz v. Department of the Treasury, 480 F. Supp. 739 (D.D.C. 1979), aff'd. in part, rev'd in part, 670 F.2d 296.

Timetable:

Action	Date	FR Cite
NPRM	05/20/86	51 FR 19361
NPRM Comment Period End	09/26/86	
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Brokaw, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington DC 20226, 202 566-7626

RIN: 1512-AA70

2408. LABELING AND ADVERTISING OF WINE, DISTILLED SPIRITS, AND MALT BEVERAGES; DISCLOSURE OF FD & C YELLOW NO. 6

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4.32; 27 CFR 5.32; 27 CFR 7.22

Legal Deadline: None

Abstract: ATF is proposing to amend the regulations by requiring the mandatory disclosure of FD & C Yellow No. 6 on labels of alcoholic beverages, because of evidence indicating the possibility of allergic-type reactions to the color additive. As in the case of FD & C Yellow No. 5, which also requires label disclosure under existing regulations FD & C Yellow No. 6 is used infrequently in the production of alcoholic beverages being limited to mostly cocktails, liqueurs, and other specialty products.

Timetable:

Action	Date	FR Cite
NPRM	09/04/87	52 FR 33603
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Ficaretta, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20226, 202 566-7626

RIN: 1512-AA76

TOBACCO PRODUCTS

2409. MANUFACTURER'S IDENTIFICATION ON TOBACCO PRODUCTS PACKAGES

Significance: Agency Priority

Legal Authority: 26 USC 5723

CFR Citation: 27 CFR 270.11; 27 CFR 270.212; 27 CFR 275.163; 27 CFR 275.170; 27 CFR 275.172; 27 CFR 275.174; 27 CFR 290.11; 27 CFR 290.181; 27 CFR 290.185; 27 CFR 290.241 to 290.267; 27 CFR 295.42

Legal Deadline: None

Abstract: To liberalize requirements relating to manufacturer identification on tobacco products packages and to make other miscellaneous changes.

Timetable:

Action	Date	FR Cite
NPRM	01/12/87	52 FR 1207
NPRM Comment Period End	03/13/87	
Final Action	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

TREAS—BATF

Final Rule Stage

Agency Contact: Cliff Mullen, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington DC 20226, [illegible]

RIN: 1512-AA26

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Completed Actions

2410. IMPLEMENTATION OF THE "WINE IMPACT BILL"

Significance: Agency Priority

Legal Authority: 26 USC 5010

CFR Citation: 27 CFR 19.11; 27 CFR 19.37 to 19.40; 27 CFR 19.42; 27 CFR 19.346; 27 CFR 19.372; 27 CFR 19.402; 27 CFR 19.506; 27 CFR 19.566; 27 CFR 19.661; 27 CFR 19.748; 27 CFR 19.763; 27 CFR 19.764; 27 CFR 19.778 to 19.780; 27 CFR 170.661 to 170.691; 27 CFR 197.105; ...

Legal Deadline: None

Abstract: Restores the tax system which existed for distilled spirits products containing wine or alcoholic flavoring materials prior to the enactment of the Distilled Spirits Tax Revision Act of 1979; also permits spirits bottled for industrial purposes to be transferred in bond between distilled spirits plants.

Timetable:

Action	Date	FR Cite
NPRM	03/27/87	52 FR 9873
NPRM Comment Period End	06/25/87	
Final Action	04/30/90	55 FR 18056
Final Action Effective	06/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Langford, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington DC 20226, 202 566-7531

RIN: 1512-AA06

2411. RECODIFICATION OF WINE REGULATIONS (SUBPARTS A TO O)

Significance: Agency Priority

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 240.180 to 240.400

Legal Deadline: None

Abstract: To update, simplify, and clarify regulations relating to wine; and to incorporate ATF rulings into the Regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/07/86	51 FR 8098
NPRM Comment Period End	07/07/86	
NPRM Comment Period Extended	07/08/86	51 FR 24719
NPRM Extended Comment Period End	12/31/86	
Final Action	06/19/90	55 FR 24974
Final Action Effective	07/19/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Hunt, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington DC 20226, 202 566-7626

RIN: 1512-AA42

2412. MATERIALS AND PROCESSES FOR THE PRODUCTION AND TREATMENT OF WINE

Significance: Agency Priority

Legal Authority: 26 USC 5382

CFR Citation: 27 CFR 240

Legal Deadline: None

Abstract: Updates, clarifies, and simplifies the regulations relating to the production and treatment of wine.

Timetable:

Action	Date	FR Cite
NPRM	09/24/84	49 FR 37527
NPRM Comment Period Extended	01/22/85	50 FR 2532
NPRM Comment Period End	01/23/85	
NPRM Extended Comment Period End	03/01/85	
Final Action	06/19/90	55 FR 24974
Final Action Effective	12/17/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This was formerly part of RIN 1512-AA12 Materials and Processes for the Production and Treatment of Wine.

Agency Contact: Robert White, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington DC 20226, 202 566-7626

RIN: 1512-AA51

2413. NON-GENERIC DESIGNATIONS OF GRAPE WINE HAVING GEOGRAPHICAL SIGNIFICANCE

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4.24

Legal Deadline: None

Abstract: This proposal expands the list of names officially recognized under 27 CFR Part 4, as being non-generic for the purposes of labeling and advertising of wine. This proposal is the result of petitions from numerous foreign countries for ATF recognition of non-generic wine designations which, in their view, denote distinctive national products. This proposal is also an outgrowth of one of the commitments made by the United States, in the Exchange of Letters of July 26, 1983, with the Commission of the European Communities, to work within the regulatory framework of 27 CFR Part 4, to prevent erosion of non-generic designations of geographic significance. For practical reasons it is being proposed that only "examples" of non-generic designations be listed in Part 4 while a complete list of all non-generic designations be listed in a new Part 12.

TREAS—BATF

Completed Actions

Timetable:

Action	Date	FR Cite
NPRM	04/12/88	53 FR 12024
NPRM Comment Period End	07/11/88	
NPRM Comment Period Extended	07/13/88	53 FR 26448
NPRM Extended Comment Period End	10/11/88	
Final Action	04/30/90	55 FR 17960
Final Action Effective	05/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gale Galeand, International Liaison Officer, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington DC 20226, 202 786-3011

RIN: 1512-AA71

3414. EXPLOSIVES STORAGE REGULATIONS

Significance: Agency Priority

Legal Authority: 18 USC 841 to 848

CFR Citation: 27 CFR 55

Legal Deadline: None

Abstract: There is a need to provide information to Emergency Response Personnel (ERP) concerning over-the-road vehicles and other facilities storing blasting agents. Recently ERP were killed while fighting a fire involving stored blasting agents. Placards which are required by the Department of Transportation during the transportation of blasting agents will be required on all facilities.

Timetable:

Action	Date	FR Cite
NPRM	09/01/89	54 FR 36325
NPRM Comment Period End	10/31/89	
Final Action	05/30/90	55 FR 21862
Final Action Effective	06/29/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dan Crowley, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington DC 20226, 202 786-3629

RIN: 1512-AA85

2415. NFA COLLECTOR'S ITEMS (MACHINE GUNS, DESTRUCTIVE DEVICES AND CERTAIN OTHER FIREARMS)

Significance: Agency Priority

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 179

Legal Deadline: None

Abstract: Proposal to establish an age of 50 years before a National Firearms Act firearm can be considered a collector's item and removed from the provisions of the Act. The industry now has no guidance because the "date of manufacture" in the regulations is indeterminate.

Timetable:

Action	Date	FR Cite
NPRM	06/01/89	54 FR 23490
NPRM Comment Period End	07/31/89	
Withdrawn	05/04/90	55 FR 18736

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: J. Barry Fields, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington DC 20226, 202 786-3931

RIN: 1512-AA84

[FR Doc. 90-22505 Filed 10-26-90; 8:45 am]

BILLING CODE 4810-31-T

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Comptroller of the Currency

12 CFR Ch. I

Semiannual Agenda of Regulatory Actions

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Semiannual agenda of regulations.

SUMMARY: As required by the Regulatory Flexibility Act and Executive Order 12291, the Office of the Comptroller of the Currency (Office) has prepared this semiannual agenda of its rules and regulations currently under review and scheduled for review. Regulatory actions taken since the publication of the Office's previous semiannual agenda on April 23, 1990 (55 FR 16592) are also included. It is expected that this semiannual agenda will enable the public to be more aware of and allow it to more effectively participate in the Office's regulatory activity.

ADDRESS: The mailing address for all contacts: Office of the Comptroller of the Currency, 490 L'Enfant Plaza East SW., Washington, DC 20219.

FOR FURTHER INFORMATION CONTACT: For general information about this semiannual agenda, contact Nancy Lowther, Financial Analyst, Legislative and Regulatory Analysis Division, (202) 447-1177.

For additional information about a particular item on this semiannual agenda, contact the individual identified as the contact person.

SUPPLEMENTARY INFORMATION: The Office has determined that none of the rulemakings discussed in this semiannual agenda require a regulatory flexibility analysis; all entries have been determined not to have a "significant impact on a substantial number of small entities" and, therefore, are not subject to the provisions of the Act. Additionally, none of the rules is a major rule as defined by Executive Order 12291. Executive Order 12291 defines a "major rule" as one likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) a major increase in costs or prices for consumers; individual industries;

TREAS—OCC

Federal, State, or local government agencies; or geographic regions; or

(3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Dated: August 28, 1990.

Dean S. Marriott,

Senior Deputy Comptroller for Bank Supervision Operations.

Comptroller of the Currency—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2416	12 CFR 3 Minimum Capital Ratios; Capital Treatment of Intangible Assets	1557-AA94
2417	12 CFR 9 Fiduciary Powers of National Banks and Collective Investment Funds	1557-AB00

Comptroller of the Currency—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2418	12 CFR 4.19 Production of Documents and Testimony in Litigation Where the Comptroller or the Office is Not a Party	1557-AA57
2419	12 CFR 11, (New Subsection) Securities Exchange Act Disclosure Rules	1557-AA58
2420	12 CFR 16 Securities Offering Disclosure Rules	1557-AA65
2421	12 CFR 12 Recordkeeping and Confirmation Requirements for Securities Transactions	1557-AA75
2422	12 CFR 7.7490 Messenger Service	1557-AA85
2423	12 CFR 21.2(c) Extensions of Credit to National Bank Insiders	1557-AA89
2424	12 CFR 3 Recourse Arrangements	1557-AA91
2425	12 CFR 3 Minimum Capital Ratios; Risk-Based Capital Guidelines	1557-AA96
2426	12 CFR 16 On-Premises Securities Sales Activities	1557-AB02
2427	12 CFR 26 Management Official Interlocks	1557-AB03

Comptroller of the Currency—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2428	12 CFR 5 Rules, Policies, and Procedures for Corporate Activities	1557-AA00
2429	12 CFR 9 Fiduciary Powers of National Banks and Collective Investment Funds	1557-AA04
2430	12 CFR 32.2(d) Lending Limit	1557-AA32
2431	12 CFR 9 Fiduciary Powers of National Banks and Collective Investment Funds	1557-AA56
2432	12 CFR 4 Description of Office, Procedures, Public Information; Supervision of Bank Operations	1557-AA67
2433	12 CFR 32 Lending Limit	1557-AA72
2434	12 CFR 4 Description of Office, Procedures, Public Information	1557-AA77
2435	12 CFR 7.3400 Leasing of Personal Property	1557-AA80
2436	12 CFR 12.7 Recordkeeping and Confirmation Requirements for Securities Transactions	1557-AA84
2437	12 CFR 5.61 Rules, Policies, and Procedures for Corporate Activities; Payment of Dividends	1557-AA86
2438	12 CFR 21 Minimum Security Devices and Procedures, Reports of Crimes and Suspected Crimes and Bank Secrecy Compliance	1557-AA88
2439	12 CFR 4 Minorities and Women Contractors Acquisition Outreach Program	1557-AA82
2440	12 CFR 5.51 Rules, Policies, and Procedures for Corporate Activities: Changes in Directors and Senior Executive Officers	1557-AA97
2441	12 CFR 25 Community Reinvestment Act Regulations	1557-AA98
2442	12 CFR 8 Assessment of Fees; National Banks; District of Columbia Banks	1557-AA99

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Comptroller of the Currency—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2443	12 CFR 5.33 Merger, Consolidation, Purchase and Assumption	1557-AA71
2444	12 CFR 3 Minimum Capital Ratios; Issuance of Directives	1557-AA87
2445	12 CFR 7.4450 (New) Unanimous Written Consent by Directors	1557-AA90
2446	12 CFR 7.4025 (New) Shareholder Action by Unanimous Written Consent	1557-AA93
2447	12 CFR 34 Real Estate Lending and Appraisals	1557-AA95
2448	12 CFR 11 Securities Exchange Act Disclosure Rules; Technical Amendments	1557-AB04

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Prerule Stage

2416. MINIMUM CAPITAL RATIOS; CAPITAL TREATMENT OF INTANGIBLE ASSETS

Legal Authority: 12 USC 93a

CFR Citation: 12 CFR 3

Legal Deadline: None

Abstract: This advance notice of proposed rulemaking will solicit public comment on the treatment of mortgage servicing rights held by national banks for the purpose of determining capital adequacy. The OCC requests comments on all aspects of this issue. Suggested topics include, but are not limited to: capital limits, recourse, valuation, revocation of mortgage servicing rights, mortgage servicing standards, and treatment of other intangible assets (especially core deposit intangibles). The effect on small entities will be considered in the development of any rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ADDITIONAL AGENCY CONTACTS: Jennifer C. Kelly, National Bank Examiner, Office of the Chief National Bank Examiner, (202) 447-1184; Mark Winer, Associate Director, Economic and Policy Analysis Division, (202) 447-1926; C. Stewart Goldin, Senior International Economic Advisor, Multinational and Regional Bank Analysis Division, (202) 447-1747; or Richard Cleva, Senior Attorney, Legal Advisory Services Division, (202) 447-1883, 490 L'Enfant Plaza East, SW, Washington, DC 20219.

Agency Contact: Ronald Shimabukuro, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1880

RIN: 1557–AA94

2417. FIDUCIARY POWERS OF NATIONAL BANKS AND COLLECTIVE INVESTMENT FUNDS

Legal Authority: 12 USC 93a

CFR Citation: 12 CFR 9

Legal Deadline: None

Abstract: The OCC is proposing to amend 12 CFR 9 to address the conflicts of interest created when a national bank is the trustee to an issue of debt securities and enters into additional banking relationships with the issue or issuer, including, but not limited to, the following: securities underwriter, letter of credit enhancer, originator of loans to collateralize the debt securities, or a commercial credit provider. Such multiple roles may serve to reduce the quality of disinterested services provided to both issuers and investors and further expose the bank and the depositors to significant liabilities if investors or issuers suffer losses as a result of a bank trustee's failure to act in their best interests. To the extent possible, the OCC would like to ensure that national banks do not assume conflicting roles which may become unmanageable if the security goes into default. Although the opportunity for national banks to serve in more than one capacity with respect to a debt security issue is not new, there appears to be an increased interest by national banks to undertake multiple roles. The effect on small entities will be considered in the (cont)

Timetable:

Action	Date	FR Cite
ANPRM	12/00/90	
ANPRM Comment Period End	02/00/91	
NPRM	06/00/91	
NPRM Comment Period End	08/00/91	
Final Action	02/00/92	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: development of this rulemaking.

ADDITIONAL AGENCY CONTACT: Dean E. Miller, Senior Advisor for Fiduciary Responsibilities, (202) 447-1731, 490 L'Enfant Plaza East, SW., Washington, DC 20219.

Agency Contact: Rosemary Ponder, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Securities & Corporate Practices Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1954

RIN: 1557–AB00

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Proposed Rule Stage

2416. PRODUCTION OF DOCUMENTS AND TESTIMONY IN LITIGATION WHERE THE COMPTROLLER OR THE OFFICE IS NOT A PARTY

Legal Authority: 5 USC 301; 12 USC 481; 5 USC 552(b)(6); 18 USC 641; 18 USC 1905; 18 USC 1906

CFR Citation: 12 CFR 4.19; 12 CFR 4.18(c); 12 CFR 7.6025(c); 12 CFR 4.18(a); 12 CFR 4.18(b); 12 CFR 4.18(b); 12 CFR 4.13 to 4.17a

Legal Deadline: None

Abstract: This rule governs the release by the OCC of confidential documents and testimony for use in litigation in which the OCC is not a party. The OCC is considering changing the rule to spell out the exact requirements for a request for such release, and the situations under which release might by authorized. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Lester N. Scall, Senior Trial Attorney, Department of the Treasury, Comptroller of the Currency, Litigation Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1880

RIN: 1557–AA57

2418. SECURITIES EXCHANGE ACT DISCLOSURE RULES

Legal Authority: 15 USC 78

CFR Citation: 12 CFR 11, (New Subsection)

Legal Deadline: None

Abstract: The proposed rule would require that more detailed and meaningful information be provided to shareholders and the OCC concerning banks' loan portfolios, including loans to borrowers in foreign countries experiencing liquidity problems, other sources of income and exposure to risks. This will assist shareholders in evaluating proposals for mergers, consolidations, acquisitions and similar matters and will assist the OCC in administering and enforcing the Securities Exchange Act of 1934 as it applies to national banks. The OCC considered not proposing the additional amendments or proposing them as a general guide rather than a rule. However, the OCC determined it was appropriate to propose the additional requirements as amendments to Part 11 because the OCC believes the proposed requirements will help to clarify the types of disclosures which the OCC, shareholders and the public would consider material in analyzing various Exchange Act filings and statements. The proposed rule will also include amendments to update Part 11 to conform with recent amendments by the Securities and Exchange Commission to its Securities Exchange Act Disclosure Rules. The (cont)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: effect on small entities will be considered in the development of this rulemaking.

Agency Contact: Michael C. Dugas, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Securities & Corporate Practices Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1854

RIN: 1557–AA58

2420. SECURITIES OFFERING DISCLOSURE RULES

Legal Authority: 12 USC 1818; 12 USC 93a

CFR Citation: 12 CFR 16

Legal Deadline: None

Abstract: This regulation contains the OCC's disclosure requirements for securities offerings by national banks. The OCC is considering revisions which would clarify the coverage of the rule, specify the OCC's enforcement authority in connection with the rule, liberalize nonpublic offering requirements, provide for more meaningful disclosure requirements in public offerings, revise financial information requirements to be more consistent with 12 CFR 11, and where practicable, incorporate by reference provisions of 12 CFR 11. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	03/00/91	
Final Action	09/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Michael C. Dugas, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Securities & Corporate Practices Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1854

RIN: 1557–AA55

2421. RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR SECURITIES TRANSACTIONS

Legal Authority: 12 USC 24; 12 USC 92a

CFR Citation: 12 CFR 12

Legal Deadline: None

Abstract: This rulemaking will clarify securities and trust rules within the regulation, and will incorporate applicable portions of the Government Securities Act of 1986. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: John Kerr, National Bank Examiner, Department of the Treasury, Comptroller of the Currency, Compliance Policy, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-[illegible]

RIN: 1557–AA75

2422. MESSENGER SERVICE

Legal Authority: 12 USC 93a

CFR Citation: 12 CFR 7.7420

Legal Deadline: None

Abstract: This rulemaking is intended to update 12 CFR 7.7420 regarding national bank messenger services in order to more fully address the impact of recent court decisions. The effect on small entities will be considered in the development of this rulemaking.

TREAS—OCC

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	
NPRM Comment Period End	04/00/91	
Final Action	08/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Jerome L. Edelstein, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1882

RIN: 1557-AA86

2423. EXTENSIONS OF CREDIT TO NATIONAL BANK INSIDERS

Legal Authority: 12 USC 93a; 12 USC 375a[4]

CFR Citation: 12 CFR 21.2(c)

Legal Deadline: None

Abstract: This rulemaking will clarify that capital and surplus limitations imposed on insider lending can be calculated as of the date a loan is made. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	01/00/91	
Final Action	05/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Tony Dinh, Attorney, Legal Advisory Services Division, Department of the Treasury, Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1882

RIN: 1557-AA89

2424. RECOURSE ARRANGEMENTS

Legal Authority: 12 USC 93a; 12 USC 84; 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 3; 12 CFR 32; 12 CFR 325; 12 CFR 225

Legal Deadline: None

Abstract: In response to comments to be received as a result of the Federal Financial Institutions Examination Council's solicitation for public comment on recourse arrangements, (55 FR 26766, June 29, 1990), OCC expects to issue a notice of proposed rulemaking on the appropriate capital and lending limit treatment of these arrangements. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Laura Plaze, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1882

RIN: 1557-AA91

2425. MINIMUM CAPITAL RATIOS; RISK-BASED CAPITAL GUIDELINES

Legal Authority: 12 USC 93a; 12 USC 161; 12 USC 1818; 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 3

Legal Deadline: None

Abstract: This proposed regulation would make various technical and conforming amendments to the risk-based capital guidelines applicable to national banks. These amendments would make a variety of changes to clarify the provisions relating to (1) the definition of central government, (2) the unused portion of commitments, (3) the calculation of the amount of the allowance for loan and lease losses included in Tier 2 capital, (4) the calculation of the limitation on subordinated debt and intermediate term preferred stock in Tier 2 capital, (5) the redemption of capital instruments, (6) the authority of the OCC to permit supervisory goodwill as capital, (7) the 25% limitation on qualifying intangibles, (8) local currency claims guaranteed by non-OECD central governments, (9) claims on non-OECD central banks, (10) assets sold with recourse, and (11) the definition of credit card lines. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACTS: Jennifer C. Kelly, National Bank Examiner, Office of the Chief National Bank Examiner, (202) 447-1164; Mark Winer, Associate Director, Economic and Policy Analysis Division, (202) 447-1924; or C. Stewart Goddin, Senior International Economic Advisor, Multinational and Regional Bank Analysis, (202) 447-1883, 490 L'Enfant Plaza East, SW, Washington, DC 20219.

Agency Contact: Ronald Shimabukuro, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Serivces Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1883

RIN: 1557-AA96

2426. ● ON-PREMISES SECURITIES SALES ACTIVITIES

Legal Authority: 12 USC 93a; 12 USC 1818

CFR Citation: 12 CFR 16

Legal Deadline: None

Abstract: This proposed regulation will control the sale by national banks of their own and their affiliate's securities on the bank's public premises in order to avoid possible customer confusion and minimize the potential for fraud concerning the uninsured nature of the investments. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	02/00/91	
Final Action	06/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: William Debnke, Assistant Director, Department of the Treasury, Comptroller of the Currency, Securities & Corporate Practices

TREAS—OCC — Proposed Rule Stage

Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1954

RIN: 1557–AB02

2427. ● MANAGEMENT OFFICIAL INTERLOCKS

Legal Authority: 12 USC 93a

CFR Citation: 12 CFR 26

Legal Deadline: None

Abstract: The proposed revisions to the existing regulation will implement recent changes to The Depository Institution Management Interlock Act. The OCC will be working with the other Federal bank regulatory agencies to develop uniform implementing regulations. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	
NPRM. Comment Period End	04/00/91	
Final Action	08/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Kevin Bailey, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1880

RIN: 1557–AB03

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Final Rule Stage

2428. RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES

Significance: Agency Priority

Legal Authority: 12 USC 93a

CFR Citation: 12 CFR 5

Legal Deadline: None

Abstract: The OCC is engaged in a continuing review of its rules, policies and procedures governing corporate activities. The OCC proposes to outline the responsibility of the applicants for accurate and complete filings; to centralize the OCC's distribution of forms; to clarify procedures for changes in bank control; and to make several miscellaneous technical amendments. These proposals are expected to benefit the OCC by assisting the OCC in fulfilling its responsibility for maintaining the safety and soundness of national banks and the national banking system, and to improve OCC efficiency. The effect on small entities will be considered in the development of each rulemaking.

Timetable:

Action	Date	FR Cite
Applicants' Responsibility	00/00/00	
Change in Bank Control	00/00/00	
Forms Distribution	00/00/00	
Technical Amendments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheila Ogilvie, National Bank Examiner/Senior Licensing Policy and Systems Analyst, Department of the Treasury, Comptroller of the Currency, Bank Organization & Structure Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1184

RIN: 1557–AA00

2429. FIDUCIARY POWERS OF NATIONAL BANKS AND COLLECTIVE INVESTMENT FUNDS

Legal Authority: 12 USC 93a; 12 USC 92a; 12 USC 481

CFR Citation: 12 CFR 9

Legal Deadline: None

Abstract: The OCC is proposing to amend its regulations governing the exercise of fiduciary powers by national banks. The intent of these amendments is twofold: First, the proposed rule is intended to codify recent court decisions regarding collective Individual Retirement Account ("IRA") funds; and second, the proposed rule is intended to liberalize and make less burdensome the requirements of 12 CFR 9.18, regarding the management of collective investment funds by institutions exercising fiduciary powers, in a manner which would preserve appropriate protection for trusts and persons with interests therein. In addition to the codification of recent court decisions that authorize national banks to establish collective IRA funds which are registered with the Securities and Exchange Commission under the Investment Company Act of 1940, the proposal also would authorize the establishment of such registered collective funds whose assets consist of Keogh accounts or any other retirement accounts authorized under sections 401 and 408 of the Internal Revenue Code (26 USC 401 and 408). The proposed rule would also eliminate certain Federal regulatory provisions which (cont)

Timetable:

Action	Date	FR Cite
ANPRM	06/25/82	47 FR 27693
ANPRM Comment Period End	09/23/82	47 FR 27693
NPRM	07/06/90	55 FR 24681
NPRM Comment Period End	07/06/90	55 FR 24681
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: presently (1) Limit the participation in certain collective investment funds, (2) limit the investment by the institution administering such funds, (3) prohibit the charging to a fund of costs and expense incurred by its managing institutions, and (4) prohibit the advertising by institutions managing certain types of funds. The proposal would also broaden the authorization for closed-end funds, streamline the approval process for new types of funds, clarify the authorization for investment by funds in variable-amount notes, and clarify the status of certain tax-exempt funds. The effect on small entities will be considered in the development of this rulemaking.

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Final Rule Stage

ADDITIONAL AGENCY CONTACT: Dean E. Miller, Senior Advisor for Fiduciary Responsibilities, (202) 447-1731, 490 L'Enfant Plaza East, SW, Washington, DC 20219.

Agency Contact: Donald N. Lamson, Assistant Director, Department of the Treasury, Comptroller of the Currency, Securities & Corporate Practices Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1854

RIN: 1557–AA04

2430. LENDING LIMIT

Legal Authority: 12 USC 84(b)(1); 12 USC 84(d)(1); 12 USC 93a

CFR Citation: 12 CFR 32.2(d)

Legal Deadline: None

Abstract: This rulemaking will revise the definition of a "contractual commitment to advance funds" in response to comments received on the Temporary Rule on National Bank Lending Limits, at 53 FR 23752 (June 24, 1988). Comments were generally in favor of the temporary rule, but expressed concern about its impact on banks which had not experienced a decline in capital. This revision addresses those concerns through amendment of the definition of a "contractual commitment to advance funds." This action will return to banks some flexibility in monitoring their lending limits and outstanding loan commitments. This regulation will not have a significant economic impact on a substantial number of small entities.

Timetable:

Action	Date	FR Cite
NPRM	07/16/89	54 FR 30054
NPRM Comment Period End	09/15/89	54 FR 30054
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: William C. Kerr, National Bank Examiner, Office of the Chief National Bank Examiner, (202) 447-1164, 490 L'Enfant Plaza East, SW., Washington, DC 20219.

Agency Contact: Deborah Katz, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1893

RIN: 1557–AA32

2431. FIDUCIARY POWERS OF NATIONAL BANKS AND COLLECTIVE INVESTMENT FUNDS

Legal Authority: 12 USC 92a

CFR Citation: 12 CFR 9

Legal Deadline: None

Abstract: The OCC proposes to amend this regulation to clarify the requirements concerning national bank fiduciary investment of uninvested or undistributed cash in fiduciary accounts. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	06/27/90	55 FR 26210
NPRM Comment Period End	08/27/90	55 FR 26210
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Horace G. Sneed, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1893

RIN: 1557–AA06

2432. DESCRIPTION OF OFFICE, PROCEDURES, PUBLIC INFORMATION; SUPERVISION OF BANK OPERATIONS

Legal Authority: 12 USC 93a; 12 USC 164; 12 USC 1861 to 1867; 5 USC 552

CFR Citation: 12 CFR 4

Legal Deadline: None

Abstract: This regulation amends the existing description of supervision of bank operations by the Office of the Comptroller of the Currency. This regulation will not have a significant economic impact on a substantial number of small entities.

Timetable:

Action	Date	FR Cite
NPRM	08/06/90	55 FR 31840
NPRM Comment Period End	09/05/90	55 FR 31840
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James F. E. Gillespie, Jr., Assistant Director, Department of the Treasury, Comptroller of the Currency, Litigation Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1893

RIN: 1557–AA67

2433. LENDING LIMIT

Legal Authority: 12 USC 84; 12 USC 93a

CFR Citation: 12 CFR 32; 12 CFR 7

Legal Deadline: None

Abstract: The OCC is considering a revision to the lending limit regulation. The revision will amend definitions, restructure and simplify the loan combination rules, and place an aggregate cap on loans to foreign governments. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	10/24/89	54 FR 43398
NPRM Comment Period End	01/22/90	54 FR 43398
Final Action	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: William C. Kerr, National Bank Examiner, Office of the Chief National Bank Examiner, (202) 447-1164, 490 L'Enfant Plaza East, SW., Washington, DC 20219.

Agency Contact: Deborah Katz, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1893

RIN: 1557–AA72

2434. DESCRIPTION OF OFFICE, PROCEDURES, PUBLIC INFORMATION

Legal Authority: 5 USC 552; EO 12600

CFR Citation: 12 CFR 4

Legal Deadline: None

Abstract: This regulation implements recent amendments to the Freedom of Information Act (FOIA). The amendments concern Exemption 7 of the FOIA (relating to law enforcement

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records) and the provisions of the FOIA concerning fees and fee waivers. In addition, the regulation implements Executive Order 12600, which deals with predisclosure notification procedures for confidential commercial information. This regulation also makes technical changes to the OCC's existing FOIA regulation. This regulation, and the OCC's FOIA regulations in general, affect public disclosure of information by the OCC. This regulation will not have a significant economic impact on a substantial number of small entities.

Timetable:

Action	Date	FR Cite
NPRM	08/10/89	54 FR 32820
NPRM Comment Period End	10/10/89	54 FR 32820
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Dean DeBuck, Freedom of Information Officer, (202) 447-1800, 490 L'Enfant Plaza East, SW., Washington, DC 20219.

Agency Contact: Ronald Shimabukuro, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1863

RIN: 1557–AA77

2435. LEASING OF PERSONAL PROPERTY

Legal Authority: 12 USC 93a; 12 USC 24(7); 12 USC 24(10)

CFR Citation: 12 CFR 7.3400

Legal Deadline: None

Abstract: The regulation will interpret new statutory lease financing authority provided to national banks by Section 108 of the Competitive Equality Banking Act of 1987 (CEBA), codified at 12 USC 24(10). In addition to addressing national bank lease financing transactions entered under CEBA, the regulation incorporates Interpretive Ruling 7.3400, which addresses national bank lease financing authority previously interpreted as existing under 12 USC 24(7), as the functional equivalent of a loan. This regulation will not have a significant economic impact on a substantial number of small entities.

Timetable:

Action	Date	FR Cite
NPRM	12/27/89	54 FR 53071
NPRM Comment Period End	02/26/90	54 FR 53071
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert J. Roth, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1863

RIN: 1557–AA80

2436. RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR SECURITIES TRANSACTIONS

Legal Authority: 12 USC 24; 12 USC 92a

CFR Citation: 12 CFR 12.7

Legal Deadline: None

Abstract: This rulemaking would broaden an exemption from requirements that banks maintain certain records and establish certain written policies and procedures. Under the proposal, the current exemption for banks with an average of less than 200 securities transactions per year is expanded to 1,000 transactions per year. The purpose of broadening the exemption from 200 transactions per year to 1,000 transactions per year is to reduce the regulatory burden on banks of all sizes that engage in a low number of securities transactions per year. Small entities are the primary beneficiaries of this burden-reducing amendment.

Timetable:

Action	Date	FR Cite
NPRM	08/09/89	54 FR 32653
NPRM Comment Period End	10/10/89	54 FR 32653
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Kerr, National Bank Examiner, Department of the Treasury, Comptroller of the Currency, Compliance Policy, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-0828

RIN: 1557–AA84

2437. RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES; PAYMENT OF DIVIDENDS

Legal Authority: 12 USC 93a

CFR Citation: 12 CFR 5.61; 12 CFR 5.62; 12 CFR 7.6100; 12 CFR 7.6125

Legal Deadline: None

Abstract: This regulation amends two interpretive rulings in 12 CFR 7 and promulgates them as regulations in 12 CFR 5. The amendments are needed to revise and clarify certain OCC interpretations of statutes that govern the payment of dividends by national banks (12 USC 56 and 60). The intended effect is to make the calculation of the restrictions on the payment of dividends by national banks consistent with generally accepted accounting principles (GAAP). This final rule will not have a significant economic impact on a substantial number of small entities.

Timetable:

Action	Date	FR Cite
NPRM	08/16/89	54 FR 33711
NPRM Comment Period End	10/16/89	54 FR 33711
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ronald Shimabukuro, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1863

RIN: 1557–AA86

2438. MINIMUM SECURITY DEVICES AND PROCEDURES, REPORTS OF CRIMES AND SUSPECTED CRIMES AND BANK SECRECY COMPLIANCE

Legal Authority: 12 USC 93a; 12 USC 1818; 12 USC 1881 to 1884; 31 USC 5311 et seq; PL 101-73 FIRREA

CFR Citation: 12 CFR 21

Legal Deadline: None

Abstract: The OCC, in conjunction with the other depository institution regulatory agencies, has reviewed 12 CFR 21 and has determined that portions of the regulation should be revised to reflect changes in the technology of bank security devices, and to implement changes required by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989

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("FIRREA"). The revisions to Part 21 will serve the dual purpose of incorporating the amendments made to the Bank Protection Act of 1968 by FIRREA and providing depository institutions with the flexibility to avoid the problems of technical obsolescence that have occurred with the existing regulation. This regulation will not have a significant economic impact on a substantial number of small entities.

Timetable:

Action	Date	FR Cite
NPRM	04/18/90	55 FR 14424
NPRM Comment Period End	06/18/90	55 FR 14424
Final Action Effective	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Frank R. Carbone, National Bank Examiner, Office of the Chief National Bank Examiner, (202) 447-1184, 490 L'Enfant Plaza East, SW., Washington, DC 20219.

Agency Contact: Robert J. Roth, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1880

RIN: 1557-AA88

2439. MINORITIES AND WOMEN CONTRACTORS ACQUISITION OUTREACH PROGRAM

Legal Authority: 12 USC 93a; PL 101-73, 103 Stat 183, 529 (1989)

CFR Citation: 12 CFR 4

Legal Deadline: Final, Statutory, February 6, 1990.

Abstract: The regulation is being promulgated as mandated by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, PL 101-73, 103 Stat 183, 529. The regulation will include rules for a procurement outreach program that will further ensure the utilization of qualified minorities and women, and entities owned by these individuals, to the greatest extent possible, in OCC contract action. This regulation will not have a significant economic impact on a substantial number of small entities.

Timetable:

Action	Date	FR Cite
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Richard A. Miller, Associate Director for Acquisitions, Administrative Services Division, (202) 447-1813, 490 L'Enfant Plaza East, SW, Washington, DC 20219.

Agency Contact: Richard H. Bleke, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1862

RIN: 1557-AA82

2440. RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES: CHANGES IN DIRECTORS AND SENIOR EXECUTIVE OFFICERS

Legal Authority: 12 USC 93a; PL 101-73 FIRREA; 12 USC 1831i

CFR Citation: 12 CFR 5.51

Legal Deadline: None

Abstract: This temporary rule amending 12 CFR 5 implements Section 914 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) by adding a new section 5.51. The new section requires certain national banks to file a notice with the OCC prior to adding or replacing a member of the board of directors, and prior to employing or changing the responsibilities of an individual to a position as senior executive officer. The OCC may disapprove any proposed board member or senior executive officer whose service is not considered to be in the best interests of the depositors of the national bank or the public. The regulation will not have a significant economic impact on a substantial number of small entities.

Timetable:

Action	Date	FR Cite
NPRM	03/05/90	55 FR 7882
NPRM Comment Period End	05/04/90	55 FR 7882
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACTS: Frank R. Carbone, National Bank Examiner, Supervision Policy/Research Division, (202) 447-1184; Kathleen O'Brien, National Bank Examiner, Bank Organization and Structure Division, (202) 447-1184; or Thuy Dinh, Attorney, Legal Advisory Services Division, (202) 447-1862, 490 L'Enfant Plaza East, SW, Washington, DC 20219.

Agency Contact: Thuy Dinh, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1862

RIN: 1557-AA97

2441. COMMUNITY REINVESTMENT ACT REGULATIONS

Legal Authority: 12 USC 93a; PL 101-73 FIRREA; PL 95-128, 91 Stat 1147; 12 USC 2901 et seq; 12 USC 21; 12 USC 22; 12 USC 26; 12 USC 27; 12 USC 30; 12 USC 36; 12 USC 161; 12 USC 215; 12 USC 215a; 12 USC 481; 12 USC 1814; ...

CFR Citation: 12 CFR 25

Legal Deadline: Final, Statutory, July 1, 1990.

Abstract: This rulemaking addresses the disclosure and composition of the written evaluation required under the new section 807 of the Community Reinvestment Act of 1977. This provision requires each Federal depository institution regulatory agency to prepare a written evaluation of the institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods. The mandated written evaluation will contain findings and conclusions pertaining to compliance with existing assessment factors which implement the statute. Additionally, the written evaluation will contain an overall rating judging the institution's CRA performance. These ratings are required to be disclosed to the public on and after July 1, 1990. This regulation will not have a significant economic impact on a substantial number of small entities.

Timetable:

Action	Date	FR Cite
NPRM	08/28/90	55 FR 29824
NPRM Comment Period End	09/27/90	55 FR 29824
Final Action	11/00/90	
Final Action Effective	01/00/91	

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Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Dennis R. Deischer, National Bank Examiner, Consumer Activities Division, (202) 287-4265, 490 L'Enfant Plaza East, SW., Washington, DC 20219.

Agency Contact: Robert J. Roth, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1883

RIN: 1557–AA98

2442. ASSESSMENT OF FEES; NATIONAL BANKS; DISTRICT OF COLUMBIA BANKS

Legal Authority: 12 USC 93a; 12 USC 481; 12 USC 482

CFR Citation: 12 CFR 8; 12 CFR 5; 12 CFR 11; 12 CFR 16

Legal Deadline: None

Abstract: This proposed rulemaking will provide notice and an opportunity to comment on an across-the-board assessment increase for all banks regulated by the OCC, and certain changes in the OCC's fees. The fee changes are designed to recover the OCC's costs in connection with selected corporate activities and other functions. The proposed rulemaking will also advise the public of the results and recommendations of the Comprehensive Revenue Study and will seek comments and raise questions for public response regarding these recommendations. Publication of the final rule is expected by December 3, 1990, because 12 CFR 8.8 provides that a "Notice of Comptroller of the Currency Fees" shall be published no later than the first business day in December of each year for all fees that will be charged during the upcoming year. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	07/06/90	55 FR 27964
NPRM Comment Period End	09/04/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACTS: Janice A. Booker, Director, Customer and Industry Affairs Division, (202) 287-4160; or Roy Madsen, Associate Director, Financial Management Division, 202 447-0906, 490 L'Enfant Plaza East, SW., Washington, DC 20219.

Agency Contact: Ferne Fishman Rubin, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1883

RIN: 1557–AA99

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Completed Actions

2443. MERGER, CONSOLIDATION, PURCHASE AND ASSUMPTION

Legal Authority: 12 USC 93a; 12 USC 161; 12 USC 214a; 12 USC 215; 12 USC 215a; 12 USC 1828(c)

CFR Citation: 12 CFR 5.33; 12 CFR 11.590

Legal Deadline: None

Abstract: The OCC proposes to amend 12 CFR 5.33 to set forth the OCC's merger proxy statement filing requirements for banks that do not have a class of equity securities registered under the Securities Exchange Act of 1934 ("Exchange Act"), and to specify the disclosure that is required of such banks for various types of merger transactions. This action is expected to assist bank merger applicants in preparing their merger proxy materials, which are subject to OCC review and clearance pursuant to the OCC's merger procedures. The effect on small entities will be considered in development of this rulemaking.

Timetable:

Action	Date	FR Cite
Incorporated into 1557-AA99	07/06/90	55 FR 27964

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: James A. Wright, Attorney, Department of the Treasury, Comptroller of the Currency, Securities & Corporate Practices Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1954

RIN: 1557–AA71

2444. MINIMUM CAPITAL RATIOS; ISSUANCE OF DIRECTIVES

Legal Authority: 12 USC 93a; 12 USC 161; 12 USC 1818; 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 3

Legal Deadline: None

Abstract: The OCC is amending its capital regulation in 12 CFR 3. Primarily, this amendment would (1) make the definition of capital in 12 CFR 3.2 and in the OCC's recently published risk-based capital guidelines consistent and (2) change the minimum capital ratio in 12 CFR 3.6. This amendment will limit the amount of leverage a national bank can undertake. The intended effect of this amendment is to ensure the continued safety and soundness of the national banking system. This regulation will not have a significant economic impact on a substantial number of small entities.

Timetable:

Action	Date	FR Cite
NPRM	11/03/89	54 FR 46364
NPRM Comment Period End	01/02/90	54 FR 46394
Final Action	09/21/90	55 FR 38797
Final Action Effective	12/31/90	55 FR 38797

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACTS: Jennifer C. Kelly, National Bank Examiner, Office of the Chief National Bank Examiner, (202) 447-1164; or Mark Winer, Associate Director, Economic and Policy Analysis Division, (202) 447-1924, 490 L'Enfant Plaza East, SW., Washington, DC, 20219.

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Agency Contact: Robert J. Roth, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1893

RIN: 1557–AA87

2446. UNANIMOUS WRITTEN CONSENT BY DIRECTORS

Legal Authority: 12 USC 93a

CFR Citation: 12 CFR 7.4029 (New)

Legal Deadline: None

Abstract: This rulemaking will establish a method for action by the board of directors of a national bank through unanimous written consent. The procedure would facilitate board action on matters requiring board attention which arise between regularly scheduled board meetings. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
Withdrawn Interpretive Letter dated 08/02/90 to be published.	08/02/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael Martens, Attorney, Securities & Corporate Practices Division, Department of the Treasury, Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1884

RIN: 1557–AA90

2448. SHAREHOLDER ACTION BY UNANIMOUS WRITTEN CONSENT

Legal Authority: 12 USC 93a

CFR Citation: 12 CFR 7.4025 (New)

Legal Deadline: None

Abstract: This rulemaking will establish a method for action by national bank shareholders through unanimous written consent. The procedure would be available whenever a shareholders' meeting is not required by law, thus saving national banks the legal and regulatory burden of holding a shareholders' meeting. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
Withdrawn Interpretive Letter dated 08/02/90 to be published.	08/02/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael Martens, Attorney, Securities & Corporate Practices Division, Department of the Treasury, Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1884

RIN: 1557–AA93

2447. REAL ESTATE LENDING AND APPRAISALS

Legal Authority: 12 USC 93a; 12 USC 371; 12 USC 1701j-3; P.L. 101-73, 103 Stat 183, 511 (1989)

CFR Citation: 12 CFR 34

Legal Deadline: NPRM, Statutory, February 9, 1990. Final, Statutory, August 9, 1990.

Abstract: The proposed regulation is being promulgated as mandated by Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("Title XI"), P.L. 101-73, 103 Stat. 183, 511. Title XI was enacted to address abuses in the appraisal industry contributing to losses by depository institutions and is designed to protect Federal financial and public policy interests in real estate-related financial transactions by requiring appraisals to be performed in accordance with uniform standards by individuals whose competency has been demonstrated. The regulation implements the minimum appraisal standards required by Title XI and requires compliance with additional appraisal standards as permitted under the statute. The OCC anticipates that this proposal may increase, to some degree, costs of appraisals for borrowers and national banks. However, these increased costs should be more than offset by savings realized from decreased losses attributable to having better information about the value of real estate in federally related transactions. This regulation will not have a significant economic impact on a substantial number of small entities.

Timetable:

Action	Date	FR Cite
NPRM	02/16/90	55 FR 05808
NPRM Comment Period End	04/17/90	55 FR 05808
Final Action	08/24/90	55 FR 34694
Final Action Effective	08/24/90	55 FR 34694

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

ADDITIONAL AGENCY CONTACT: Tommy R. Tucker, National Bank Examiner, Office of the Chief National Bank Examiner, (202) 447-1184, 490 L'Enfant Plaza East, SW., Washington, DC 20219.

Agency Contact: Horace G. Sneed, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1881

RIN: 1557–AA95

2449. ● SECURITIES EXCHANGE ACT DISCLOSURE RULES; TECHNICAL AMENDMENTS

Legal Authority: 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78p; 15 USC 78w

CFR Citation: 12 CFR 11

Legal Deadline: None

Abstract: This rulemaking consists of technical amendments involving minor adjustments or additions to the language of certain sections to conform them to longstanding OCC disclosure requirements regarding directors, executive officers, principal security holders, their families and their related interests. This regulation will not have a significant economic impact on a substantial number of small entities.

Timetable:

Action	Date	FR Cite
Final Action	05/22/90	55 FR 21009
Final Action Effective	05/22/90	55 FR 21009

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael C. Dugas, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Securities & Corporate Practices

Division, 490 L'Enfant Plaza East, SW., Washington, DC 20219, 202 447-1954

RIN: 1557–AB04

[FR Doc. 90-22596 Filed 10-26-90; 8:45 am]

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DEPARTMENT OF THE TREASURY (TREAS)

United States Customs Service (CUSTOMS)

Customs Service

Semiannual Agenda

AGENCY: U.S. Customs Service, Treasury.

ACTION: Semiannual agenda.

SUMMARY: In response to Public Law 96-354, the "Regulatory Flexibility Act," and Executive Order 12291, "Federal Regulation," Customs is publishing for public information a list of regulations either under development or under review.

FOR FURTHER INFORMATION CONTACT: For additional information about a specific regulation contained in this agenda, contact the "agency contact" listed in the specific regulatory action.

SUPPLEMENTARY INFORMATION: The projects listed below are not considered to be "major" regulations within the meaning of E.O. 12291 and will not have a significant economic impact on small entities within the meaning of the Regulatory Flexibility Act.

General statutory authority for the development or review of regulations relating to Customs matters is found in section 301, title 5, United States Code (5 U.S.C. 301), and in sections 66 and 1624, title 19, United States Code (19 U.S.C. 66, 1624). When appropriate, additional, specific statutory authority is indicated as the legal authority for the project.

Dated: August 17, 1990.

Samuel H. Banks,

Assistant Commissioner, Office of Commercial Operations.

United States Customs Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2449	19 CFR 19 Customs Warehouses; Duty-Free Stores	1515-AA22
2450	19 CFR 134 Country of Origin Marking	1515-AA59
2451	19 CFR 10 United States-Israel Free Trade	1515-AA84
2452	19 CFR 111 Broker Compliance	1515-AA85
2453	19 CFR 12.80 Vehicle Safety, Bumper and Anti-Theft Compliance	1515-AA89
2454	19 CFR 111.14 Contracting Out of Investigations	1515-AA90
2455	19 CFR 171 Delegation of Additional Authority to Customs Field Officers in 1592 Proceedings	1515-AA91
2456	19 CFR 122 International, Landing Rights and User Fee Airports	1515-AA95
2457	19 CFR 122 Airport Security Area Bond Waiver	1515-AA97
2458	19 CFR 132 Quota Processing	1515-AA98
2459	19 CFR 122 Aircraft Arriving From Puerto Rico and U.S. Virgin Islands	1515-AA99
2460	19 CFR 177 Authorized Agent—Definition	1515-AB01
2461	19 CFR 141 Assignment of Customs Bankruptcy Priority to Brokers/Sureties	1515-AB05
2462	19 CFR 10 Marking Assembled Articles	1515-AB07
2463	19 CFR 142 Line Release	1515-AB06

United States Customs Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2464	19 CFR 4 Customs User Fees	1515-AA50
2465	19 CFR 4 Harbor Maintenance Fee	1515-AA57
2466	19 CFR 4 Conforming Customs Regulations to Harmonized System of Tariff Classification	1515-AA61
2467	19 CFR 162 Highest Degree of Care and Diligence to Prevent Unmanifested Narcotics and Marijuana	1515-AA67
2468	19 CFR 12 Import Sanctions Against the Toshiba Machine Company and The Kongsberg Trading Company	1515-AA74
2469	19 CFR 10 United States-Canada Free Trade Agreement	1515-AA75
2470	19 CFR 122 Air Carrier Smuggling Prevention Program	1515-AA76
2471	19 CFR 111 Electronic Entry Filing	1515-AA79
2472	19 CFR 4 Electronic Release Notification	1515-AA80
2473	19 CFR 133 Enforcement of Protection of Semiconductor Chip Products; Patent Surveys	1515-AA81

TREAS—CUSTOMS

United States Customs Service—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2474	19 CFR 161 Informers Compensation	1515-AA82
2475	19 CFR 134.43 Country of Origin Marking of Native American-Style Arts and Crafts	1515-AA83
2476	19 CFR 24 Donated Cargo Exemption from Harbor Maintenance Fee	1515-AA87
2477	19 CFR 133 Removal of Customs Regulation on Gray Market Goods	1515-AA92
2478	19 CFR 103 Dissemination of Manifest Data Tapes	1515-AA94
2479	19 CFR 141 Permit Use of Blanket Release Orders	1515-AA96
2480	19 CFR 103 Testimony or the Production of Documents in Court	1515-AB02
2481	19 CFR 192 Exportation of Used Self-Propelled Vehicles	1515-AB03
2482	19 CFR 10 Voluntary Restraint Arrangements—Steel	1515-AB04
2483	19 CFR 19 Transfer of Certain Bonded Warehouse Responsibilities to Bureau of Alcohol, Tobacco and Firearms	1515-AB06

United States Customs Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2484	19 CFR 122 Overflight Exemptions for Private Aircraft; Fingerprinting Requirements	1515-AA89
2485	19 CFR 12 Definition of Switchblade Knives	1515-AA86
2486	19 CFR 142 Requirement of Name and Address of Manufacturer/Shipper To Be on Invoice at Time of Entry	1515-AA88
2487	19 CFR 134 Seizure of Merchandise Under Section 1595a(c) for Repetitive Non-Compliance With Marking Laws	1515-AA93
2488	19 CFR 12 Import Restrictions on Archaeological Materials From Peru	1515-AB00

DEPARTMENT OF THE TREASURY (TREAS)

United States Customs Service (CUSTOMS)

Proposed Rule Stage

2448. CUSTOMS WAREHOUSES; DUTY-FREE STORES

Legal Authority: 19 USC 1556; 19 USC 1555; 19 USC 1623

CFR Citation: 19 CFR 19; 19 CFR 144

Legal Deadline: None

Abstract: Consideration of various actions in regard to administration of duty-free stores. Actions range from abolition of stores to their designation as class of bonded warehouse and/or increased regulation. Actions necessary due to need for increased efficiency of store administration by Customs and to address enforcement problems related to stores. Public comment requested on actions under consideration, as well as store operations in general. Work Plan 89-1 approved.

Timetable:

Action	Date	FR Cite
ANPRM	07/21/83	48 FR 33318
ANPRM Comment Period End	09/19/83	
Notice of Status	07/07/86	51 FR 24835
Congressional - Action PL 100-418	08/23/88	
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John R. Holl, Operation Officer, Department of the Treasury, United States Customs Service, Room 4414, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-5354

RIN: 1515-AA22

2450. COUNTRY OF ORIGIN MARKING

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1304; 19 USC 1624

CFR Citation: 19 CFR 134

Legal Deadline: None

Abstract: Amendment to the Customs Regulations relating to the requirement that every imported article of foreign origin, or its container, shall be legibly and conspicuously marked to indicate to an ultimate purchaser in the United States, the English name of the country of origin of the article. Proposal would require that whenever the full or abbreviated name of a country or place other than the country of origin, or a symbol readily associated with a country or place other than the country of origin appears anywhere on a foreign article or its container, then the actual country of origin of the article must be marked on the article or its container in close proximity to each reference to the country or place not the country of origin, or a hang tag or sticker affixed to a highly conspicuous portion of the article.

Timetable:

Action	Date	FR Cite
NPRM in Treasury Review	02/22/89	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lorrie Rodbart, Attorney, Department of the Treasury,

United States Customs Service, Room 2212, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-5765

RIN: 1515–AA59

2451. UNITED STATES-ISRAEL FREE TRADE

Legal Authority: 99 Stat 82; 19 USC 2112

CFR Citation: 19 CFR 10

Legal Deadline: None

Abstract: Amends Customs Regulations to include for public information the legal and existing administrative rules under which the United States-Israel Free Trade Area is presently being conducted. Under this program, products of Israel are entitled to free or reduced rates.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maritza Castro, Operations Officer, Department of the Treasury, United States Customs Service, Room 1311, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-7099

RIN: 1515–AA54

2452. BROKER COMPLIANCE

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1624; 19 USC 1641

CFR Citation: 19 CFR 111

Legal Deadline: None

Abstract: Amendment of Customs Regulations to permit more effective management of the broker community's legal requirements and to allow Customs to deal with operational problems dealing with brokers and to facilitate processing license applications and the review of penalty recommendations forwarded by District Directors.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ray Janiszewski, Chief, Broker Compliance and Evaluation Branch, Department of the Treasury, United States Customs Service, Room 1422, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-8246

RIN: 1515–AA55

2453. VEHICLE SAFETY, BUMPER AND ANTI-THEFT COMPLIANCE

Legal Authority: 15 USC 1392; 15 USC 1407; 15 USC 1912; 15 USC 2022; 19 USC 1315

CFR Citation: 19 CFR 12.80

Legal Deadline: None

Abstract: Amends Customs regulations to update them with respect to new safety standard compliance requirements, bumper standard requirements, and anti-theft standard requirements of the National Highway Traffic Safety Administration, Department of Transportation. The main requirement is that imported vehicles be labeled to show compliance.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Paterson, Operations Officer, Department of the Treasury, United States Customs Service, Room 1311, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-8651

RIN: 1515–AA69

2454. CONTRACTING OUT OF INVESTIGATIONS

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1624; 19 USC 1641; 19 USC 1551; 19 USC 1565; 19 USC 1623

CFR Citation: 19 CFR 111.14; 19 CFR 112

Legal Deadline: None

Abstract: Amends Customs regulations to permit the contracting out of investigations which Customs is required to perform.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Algozini, Project Officer, Department of the Treasury, United States Customs Service, Room 5420, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 535-6194

RIN: 1515–AA90

2455. DELEGATION OF ADDITIONAL AUTHORITY TO CUSTOMS FIELD OFFICERS IN 1592 PROCEEDINGS

Legal Authority: 19 USC 1592; 19 USC 66; 19 USC 1623; 19 USC 1624; 19 USC 1618

CFR Citation: 19 CFR 171; 19 CFR 172

Legal Deadline: None

Abstract: Proposal to delegate additional authority to Customs field officers to make decisions on petitions and supplemental petitions in section 1592 proceedings.

Timetable:

Action	Date	FR Cite
NPRM	08/08/90	55 FR 32285
NPRM Comment Period End	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandra L. Gethers, Attorney, Department of the Treasury, United States Customs Service, Room 2114, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-8317

RIN: 1515–AA91

2456. INTERNATIONAL LANDING RIGHTS AND USER FEE AIRPORTS

Legal Authority: 5 USC 301; 19 USC 58b; 19 USC 66; 19 USC 1433; 19 USC 1436; 19 USC 1459; 19 USC 1590; 19 USC 1624; 19 USC 1644; 49 USC 1509

CFR Citation: 19 CFR 122

Legal Deadline: None

Abstract: Amends Customs regulations to clarify standards for permission to land at landing rights airports and for termination of user fee airport status, to update the list of user fee airports, and to improve the arrangement of the regulations regarding classes of airports.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

TREAS—CUSTOMS

Proposed Rule Stage

Government Levels Affected: None

Agency Contact: Joseph O'Gorman, Inspector, Department of the Treasury, United States Customs Service, Room 4126, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-8157

RIN: 1515–AA85

2457. AIRPORT SECURITY AREA BOND WAIVER

Legal Authority: 5 USC 301; 19 USC 58b; 19 USC 66; 19 USC 1433; 19 USC 1436; 19 USC 1590; 19 USC 1624; 19 USC 1644; 49 USC app 1509

CFR Citation: 19 CFR 122

Legal Deadline: None

Abstract: Proposal to allow waiver of airport security area bond by District Directors for airport authorities.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Carr, Inspector, Department of the Treasury, United States Customs Service, Room 4146, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-2148

RIN: 1515–AA97

2458. QUOTA PROCESSING

Legal Authority: 19 USC 1624; 19 USC 1202; 19 USC 66; 19 USC 1623

CFR Citation: 19 CFR 132; 19 CFR 141; 19 CFR 142

Legal Deadline: None

Abstract: Proposal to permit certain filers using the automated broker interface who pay duties and taxes through the statement processing program using the ACH electronic payment mechanism to receive a date and time of presentation for quota merchandise consistent with the date and time of arrival of the carrier on which the quota class merchandise was carried even if the Customs office is not open at that time.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Mays, Operations Officer, Department of the Treasury, United States Customs Service, ICC Building, Room 2379, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-8562

RIN: 1515–AA98

2459. AIRCRAFT ARRIVING FROM PUERTO RICO AND U.S. VIRGIN ISLANDS

Legal Authority: 5 USC 301; 19 USC 58b; 19 USC 66; 19 USC 1433; 19 USC 1436; 19 USC 1459; 19 USC 1590; 19 USC 1624; 19 USC 1644; 49 USC app 1509

CFR Citation: 19 CFR 122

Legal Deadline: None

Abstract: Rule to require aircraft arriving from Puerto Rico or U.S. Virgin Islands to comply with landing requirements for private aircraft arriving from areas south of the United States.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Bamford, Enforcement Aviation Operations Officer, Department of the Treasury, United States Customs Service, Room 5303, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 535-9310

RIN: 1515–AA99

2460. ● AUTHORIZED AGENT—DEFINITION

Legal Authority: 19 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1624

CFR Citation: 19 CFR 177

Legal Deadline: None

Abstract: Amends Customs regulations to clarify who may request a ruling and who may communicate with Customs regarding a pending ruling. Proposal limits the definition of authorized agent.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harvey B. Fox, Director, Office of Regulations and Rulings, Department of the Treasury, United States Customs Service, Room 2146, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-2507

RIN: 1515–AB01

2461. ● ASSIGNMENT OF CUSTOMS BANKRUPTCY PRIORITY TO BROKERS/SURETIES

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1484; 19 USC 1624; 11 USC 507

CFR Citation: 19 CFR 141

Legal Deadline: None

Abstract: Amend regulations to assign Custom's priority status in bankruptcy under 11 USC 507(7)(f) to brokers acting as importer of record or sureties who assume liability for duties on behalf of an importer which subsequently files a petition in bankruptcy.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Lehman, Attorney, Department of the Treasury, United States Customs Service, Room 3305, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-5476

RIN: 1515–AB05

2462. ● MARKING ASSEMBLED ARTICLES

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1304; 19 USC 1624

CFR Citation: 19 CFR 10

Legal Deadline: None

Abstract: Amends Customs regulations to remove Section 10.22 under which articles must be marked with country of assembly when reported under Item 9802.00.80 of Harmonized Tariff Schedule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lorrie Rodbart, Attorney-Advisor, Department of the Treasury, United States Customs Service, Room 2137, 1301 Constitution

TREAS—CUSTOMS

Proposed Rule Stage

Avenue, NW., Washington, DC 20229, 202 566-5765

RIN: 1515–AB07

2463. ● LINE RELEASE

Legal Authority: 19 USC 66; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1624

CFR Citation: 19 CFR 142

Legal Deadline: None

Abstract: Amends Customs regulations to incorporate automated line release system as the method of entering merchandise into U.S.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Nolle, ACS Officer, Department of the Treasury, United States Customs Service, Room 2341, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-7667

RIN: 1515–AB00

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Final Rule Stage

2464. CUSTOMS USER FEES

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1624; 31 USC 9701; PL 99-272

CFR Citation: 19 CFR 4; 19 CFR 6; 19 CFR 24; 19 CFR 111; 19 CFR 123; 19 CFR 145

Legal Deadline: Final, Statutory, July 7, 1988.

Abstract: Amends Customs Regulations to provide for payment of specific fees to Customs for the processing of persons, aircraft, vehicles and merchandise arriving in the United States as well as for the payment of an annual fee by Customs brokers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/11/88	51 FR 21152
Final Rule Pending Internal Decision	05/01/88	
Final Action	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Denise Crawford, Operations Officer, Department of the Treasury, United States Customs Service, Room 4133, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-9233

RIN: 1515–AA50

2465. HARBOR MAINTENANCE FEE

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 81a to 81u; 19 USC 623; 19 USC 1202; 19 USC 1624; 31 USC 9701; PL 99-272; PL 99-509; PL 99-662

CFR Citation: 19 CFR 4; 19 CFR 24; 19 CFR 146; 19 CFR 178

Legal Deadline: Final, Statutory, April 1, 1987.

Abstract: Amendments to the Customs Regulations to implement provisions of the Water Resources Development Act of 1986 which authorizes Customs to assess a harbor maintenance fee of 0.04 percent (.0004) on the value of commercial cargo loaded on or unloaded from a commercial vessel at a port unless specifically exempted from the fee. Proceeds of the fee are deposited in a trust fund for the U.S. Army Corps of Engineers to use for the improvement and maintenance of U.S. ports and harbors.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/30/87	52 FR 10196
Interim Final Rule Public Comment Period End	06/26/87	
Comments Being Analyzed	02/06/88	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Patricia Barbera, Department of the Treasury, United States Customs Service, Room 4118, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-8361

RIN: 1515–AA57

2466. CONFORMING CUSTOMS REGULATIONS TO HARMONIZED SYSTEM OF TARIFF CLASSIFICATION

Significance: Agency Priority

Legal Authority: 5 USC 310; 19 USC 66; 19 USC 1624; 19 USC 1202; 19 USC 1448; 19 USC 1484; 19 USC 1557; 19 USC 1559; 19 USC 81a to 81u; 19 USC 1751; 19 USC 1401a; 19 USC 1500; 19 USC 1313; 5 USC 552; 31 USC 483a; ...

CFR Citation: 19 CFR 4; 19 CFR 7; 19 CFR 10; 19 CFR 11; 19 CFR 12; 19 CFR 18; 19 CFR 19; 19 CFR 24; 19 CFR 54; 19 CFR 101; 19 CFR 103; 19 CFR 111; 19 CFR 113; 19 CFR 114; 19 CFR 122; ...

Legal Deadline: Final, Statutory, January 1, 1989.

Abstract: Amends the Customs Regulations by removing all references to the Tariff Schedule of the United States and inserting in their stead the appropriate Harmonized Tariff Schedule of the United States reference.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/23/88	53 FR 51244
Comment Period End	02/07/90	54 FR 47348
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Black, Attorney, Department of the Treasury, United States Customs Service, Room 2146, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-8530

RIN: 1515–AA61

2467. HIGHEST DEGREE OF CARE AND DILIGENCE TO PREVENT UNMANIFESTED NARCOTICS AND MARIJUANA

Significance: Agency Priority

Legal Authority: 19 USC 1584; 19 USC 1594; 19 USC 1595a; 21 USC 960; 21 USC 961; PL 99-570

CFR Citation: 19 CFR 162

TREAS—CUSTOMS

Final Rule Stage

Legal Deadline: Final, Statutory, February 17, 1988.
Required by 19 USC 1584 Note

Abstract: Amendment to the Customs Regulations relating to the liability of common carriers to penalties, seizure and forfeiture for unmanifested narcotic drugs or marijuana. The proposed changes would add to the regulations the statutory standard for the highest degree of care and diligence on the part of common carriers in preventing unmanifested drugs and marijuana. It also sets forth specific duties and procedures by which the standard is defined and against which compliance with the standard can be determined. These duties and procedures include such security measures as background investigations of employees, access restrictions to cargo areas, use of lighting in storage areas, and similar measures.

Timetable:

Action	Date	FR Cite
NPRM	01/31/89	54 FR 4835
NPRM Comment Period End	04/03/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harriet D. Bleak, Attorney, Department of the Treasury, United States Customs Service, Room 2131, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-8317

RIN: 1515–AA07

2468. IMPORT SANCTIONS AGAINST THE TOSHIBA MACHINE COMPANY AND THE KONGSBERG TRADING COMPANY

Significance: Agency Priority

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202 [General Note 6, HTSUS]; PL 100-418

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Legislatively mandated import sanctions imposed on Toshiba Machine Company and Kongsberg Trading Company products for a three-year period.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 4783
Interim Final Rule Effective	01/31/89	
Comment Period End	04/03/89	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Interim Rule implements Executive Order 12661; issued December 28, 1988. Final Rule will be issued after analysis of comments.

Agency Contact: William Rosoff, Chief, Entry Rulings Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue, NW., Room 2301, Washington, DC 20229, 202 566-5856

RIN: 1515–AA74

2469. UNITED STATES-CANADA FREE TRADE AGREEMENT

Significance: Regulatory Program

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1623; 19 USC 1624; 19 USC 58; 19 USC 1496

CFR Citation: 19 CFR 10; 19 CFR 24; 19 CFR 148

Legal Deadline: Final, Statutory, January 1, 1989.

Abstract: Amends the Customs Regulations to implement the duty preferences of the United States-Canada Free Trade Agreement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/29/88	53 FR 51762
Comment Period End	02/27/89	
Comment Period Extended	03/29/89	54 FR 10322
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Valentine, Attorney, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue, NW., Room 2307, Washington, DC 20229, 202 566-8181

RIN: 1515–AA75

2470. AIR CARRIER SMUGGLING PREVENTION PROGRAM

Significance: Regulatory Program

Legal Authority: 5 USC 301; 19 USC 58b; 19 USC 66; 19 USC 1433; 19 USC 1436; 19 USC 1459; 19 USC 1590; 19 USC 1624; 19 USC 1644; 49 USC app 1509; 19 USC 1584 note

CFR Citation: 19 CFR 122

Legal Deadline: None

Abstract: Amends Customs Regulations to establish an Air Carrier Smuggling prevention program. Congressionally mandated effort to increase carrier participation in anti-drug effort by providing incentives to program participants.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/17/89	54 FR 47761
Comment Period End	01/16/90	54 FR 47761
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ron Griffith, Inspector, Department of the Treasury, United States Customs Service, Room 4132, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-2149

RIN: 1515–AA76

2471. ELECTRONIC ENTRY FILING

Significance: Agency Priority

Legal Authority: 19 USC 66; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1624

CFR Citation: 19 CFR 111; 19 CFR 113; 19 CFR 143

Legal Deadline: None

Abstract: Amend Customs Regulations to provide that immediate delivery and entry summary information could be filed electronically with Customs through the Automated Broker Interface module of Customs Automated Commercial System.

Timetable:

Action	Date	FR Cite
NPRM	01/25/90	55 FR 2526
Extension of Comment Period	03/29/90	55 FR 11611
NPRM Comment Period End	04/25/90	55 FR 11611

TREAS—CUSTOMS

Final Rule Stage

Action	Date	FR Cite
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Nolle, ACS Officer, Department of the Treasury, United States Customs Service, Room 2341, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-7967

RIN: 1515–AA79

2472. ELECTRONIC RELEASE NOTIFICATION

Legal Authority: 19 USC 66; 19 USC 1624; 46 USC 2; 46 USC 3

CFR Citation: 19 CFR 4

Legal Deadline: None

Abstract: Amends Customs Regulations to provide that Customs may notify parties of the release of their cargo by posting in each Customs district at the start of each business day a computer-generated list of shipments which have been authorized for release from Customs custody.

Timetable:

Action	Date	FR Cite
NPRM	08/15/88	53 FR 30606
NPRM Comment Period End	10/14/88	
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Carr, Inspector, Department of the Treasury, United States Customs Service, Room 4141, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-8151

RIN: 1515–AA80

2473. ENFORCEMENT OF PROTECTION OF SEMICONDUCTOR CHIP PRODUCTS; PATENT SURVEYS

Legal Authority: 17 USC 901 to 914; 19 USC 66; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 133; 19 CFR 12; 19 CFR 24

Legal Deadline: None

Abstract: This document proposes to amend the Customs Regulations to enable persons seeking protection from infringing semiconductor chip products (mask works) to obtain the assistance of Customs in preventing pirated chips from being imported into the United States. This would give rise to a process of Customs recordation of mask works similar to that for copyrights.

Timetable:

Action	Date	FR Cite
NPRM	10/04/89	54 FR 40662
NPRM Comment Period End	03/26/90	55 FR 2266
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John F. Atwood, Director, Intellectual Property Rights Task Force, Department of the Treasury, United States Customs Service, Room 4117, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-6933

RIN: 1515–AA81

2474. INFORMERS COMPENSATION

Legal Authority: 19 USC 66; 19 USC 1624; 19 USC 1646a

CFR Citation: 19 CFR 161

Legal Deadline: None

Abstract: Amends Customs Regulations relating to awards of compensation given to informants whose actions result in recoveries of any Customs duties withheld, or any fine penalty or forfeiture incurred for a violation of the Customs or navigation laws, by increasing the maximum award from $50,000 to $250,000.

Timetable:

Action	Date	FR Cite
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harriett D. Blank, Attorney, Department of the Treasury, United States Customs Service, Room 2129, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-8317

RIN: 1515–AA82

2475. COUNTRY OF ORIGIN MARKING OF NATIVE AMERICAN-STYLE ARTS AND CRAFTS

Legal Authority: PL 100-46, Sec 1907(c)

CFR Citation: 19 CFR 134.43

Legal Deadline: None

Abstract: Amends regulations to require more permanent methods of marking for Native American-style arts and crafts.

Timetable:

Action	Date	FR Cite
NPRM	09/31/89	54 FR 39039
NPRM Comment Period End	03/20/90	55 FR 1837
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lorrie Redbart, Attorney-Advisor, Department of the Treasury, United States Customs Service, Room 2137, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-5765

RIN: 1515–AA83

2476. DONATED CARGO EXEMPTION FROM HARBOR MAINTENANCE FEE

Legal Authority: 5 USC 301; 19 USC 58a; 19 USC 66; 19 USC 1202; 19 USC 1624; 31 USC 9701; 19 USC 58b; 19 USC 58c

CFR Citation: 19 CFR 24

Legal Deadline: None

Abstract: Amends interim Customs Regulations relating to harbor maintenance fees. The interim regulations established a shipping fee for transporting cargo on specified U.S. waterways. The Act was amended to include an exemption for nonprofit organizations or cooperatives which own or finance cargo determined by Customs to be intended for use in humanitarian or development assistance overseas. This amendment sets forth the applicability and terms of this exemption.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Barbera, Operations Officer, User Fee Task Force, Department of the Treasury, United States Customs Service, Room 4112, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-8994

RIN: 1515–AA87

TREAS—CUSTOMS

Final Rule Stage

2477. REMOVAL OF CUSTOMS REGULATION ON GRAY MARKET GOODS

Significance: Agency Priority

Legal Authority: 17 USC 101; 17 USC 501; 17 USC 602; 19 USC 66; 19 USC 1624; 31 USC 9701; 15 USC 1124; 19 USC 1526

CFR Citation: 19 CFR 133

Legal Deadline: None

Abstract: Amendment would extend Customs protection to U.S. owners where a recorded trademark or trade name was applied to articles of foreign manufacture under authorization of U.S. owner.

Timetable:

Action	Date	FR Cite
NPRM	12/12/89	54 FR 51035
NPRM Comment Period End	02/12/90	54 FR 51035
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Atwood, Attorney, Department of the Treasury, United States Customs Service, Room 4117, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-8785

RIN: 1515-AA92

2478. DISSEMINATION OF MANIFEST DATA TAPES

Legal Authority: 5 USC 301; 5 USC 552; 19 USC 66; 19 USC 1624; 31 USC 9701

CFR Citation: 19 CFR 103

Legal Deadline: None

Abstract: Rule to specify Customs policy for providing manifest data tapes to the public.

Timetable:

Action	Date	FR Cite
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Debbie Flickinger, Resource Management Specialist, Department of the Treasury, United States Customs Service, Room 7212, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-5286

RIN: 1515-AA94

2479. PERMIT USE OF BLANKET RELEASE ORDERS

Significance: Agency Priority

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1484; 19 USC 1624; 19 USC 1467

CFR Citation: 19 CFR 141

Legal Deadline: None

Abstract: Amend Customs Regulations to permit use of blanket release orders by carriers.

Timetable:

Action	Date	FR Cite
NPRM	04/03/90	55 FR 12385
NPRM Comment Period End	06/04/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Carr, Project Coordinator, Department of the Treasury, United States Customs Service, Room 4134, 1300 Constitution Avenue, NW., Washington, DC 20229, 202 566-5354

RIN: 1515-AA96

2480. ● TESTIMONY OR THE PRODUCTION OF DOCUMENTS IN COURT

Legal Authority: 5 USC 552; 19 USC 66; 19 USC 1624; 31 USC 9201

CFR Citation: 19 CFR 103

Legal Deadline: None

Abstract: Amend Customs Regulations to require subpoenaing parties to advise Customs of the nature of the case and testimony to be elicited.

Timetable:

Action	Date	FR Cite
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leo H. Krumm, Attorney, Department of the Treasury, United States Customs Service, Room 2119, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-8661

RIN: 1515-AB02

2481. ● EXPORTATION OF USED SELF-PROPELLED VEHICLES

Legal Authority: 19 USC 66; 19 USC 1624; 19 USC 1627a; 19 USC 1646a

CFR Citation: 19 CFR 192

Legal Deadline: None

Abstract: Amends Customs regulations by removing the 3-day advance presentation requirement for used self-propelled vehicles exported at land border points and by requiring instead, presentation to Customs only on the day of actual exportation. Action intended to avoid storage and related problems at land border points under present 3-day requirement.

Timetable:

Action	Date	FR Cite
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John P. Jones, Customs Inspector, Department of the Treasury, United States Customs Service, Room 6215, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-9464

RIN: 1515-AB03

2482. ● VOLUNTARY RESTRAINT ARRANGEMENTS—STEEL

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1623; 19 USC 1624; 19 USC 2253 note

CFR Citation: 19 CFR 10

Legal Deadline: None

Abstract: Amends Customs regulations to set forth entry requirements applicable to imported steel products subject to voluntary restraint arrangements between the U.S. and certain steel-exporting countries. Action mandated by the Steel Import Stabilization Act, as amended by the Steel Trade Liberalization Program Implementation Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Crowe, Operations Officer, Department of the

TREAS—CUSTOMS

Final Rule Stage

Treasury, United States Customs Service, Room 1313, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-8362

RIN: 1515–AE04

2483. ● TRANSFER OF CERTAIN BONDED WAREHOUSE RESPONSIBILITIES TO BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

Legal Authority: 19 USC 66; 19 USC 1623; 19 USC 1624; 19 USC 1555

CFR Citation: 19 CFR 19; 19 CFR 172

Legal Deadline: None

Abstract: Amends Customs regulations to transfer responsibility to Bureau of Alcohol, Tobacco and Firearms for supervision and control of alcohol-only bonded warehouses, including certain enforcement alcohol-only bonded warehouses, including certain enforcement actions relating thereto.

Timetable:

Action	Date	FR Cite
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jon Hall, Project Officer, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue, NW., Room 4402, Washington, DC 20229, 202 566-8151

RIN: 1515–AE06

DEPARTMENT OF THE TREASURY (TREAS)

United States Customs Service (CUSTOMS)

Completed Actions

2484. OVERFLIGHT EXEMPTIONS FOR PRIVATE AIRCRAFT; FINGERPRINTING REQUIREMENTS

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1624; 19 USC 1509

CFR Citation: 19 CFR 122

Legal Deadline: None

Abstract: Amendment to Customs Regulations to provide fingerprint requirement as part of the application process for all usual and anticipated pilots and crew members seeking overflight exemptions for flights that do not involve air ambulance operations or the non-emergency transport of persons seeking medical treatment in the U.S. Amendment will allow Customs to conduct more thorough background investigations on applicants and thus provide better control over air traffic arriving from the direction of countries that are major sources of illegal drugs.

Timetable:

Action	Date	FR Cite
NPRM	01/24/89	54 FR 3400
NPRM Comment Period End	03/27/89	
Withdrawn	05/02/90	55 FR 18352

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Glenn Ross, Inspector, Department of the Treasury, United States Customs Service, Room 4413, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-5607

RIN: 1515–AA69

2485. DEFINITION OF SWITCHBLADE KNIVES

Significance: Agency Priority

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1625; 15 USC 1241

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Amends Customs regulations to clarify scope of prohibited knives and also to include a new congressionally mandated type of knife within prohibition.

Timetable:

Action	Date	FR Cite
NPRM	09/18/89	54 FR 34186
NPRM Comment Period End	12/17/89	54 FR 43628
Final Action	07/19/90	55 FR 29181
Final Action Effective	08/09/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Samuel Chandler, Attorney, Department of the Treasury, United States Customs Service, Room 2104, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-5765

RIN: 1515–AA68

2486. REQUIREMENT OF NAME AND ADDRESS OF MANUFACTURER/SHIPPER TO BE ON INVOICE AT TIME OF ENTRY

Significance: Agency Priority

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1484; 19 USC 1624

CFR Citation: 19 CFR 142

Legal Deadline: None

Abstract: Amends regulations to require the manufacturer or shipper name and address be placed on the invoice presented at the time of entry. This information is needed to enable Customs Automated Commercial System cargo processing module to operate as designed. Currently this data is not required to be supplied to Customs.

Timetable:

Action	Date	FR Cite
NPRM	11/13/89	54 FR 47229
NPRM Comment Period End	12/13/89	
Final Action	04/03/90	55 FR 12342
Final Action Effective	05/03/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Pat Flynn, Inspector, Department of the Treasury, United States Customs Service, Room 3135, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-5354

RIN: 1515–AA88

2487. SEIZURE OF MERCHANDISE UNDER SECTION 1595A(C) FOR REPETITIVE NON-COMPLIANCE WITH MARKING LAWS

Significance: Agency Priority

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1304; 19 USC 1595a(c); 19 USC 1624

CFR Citation: 19 CFR 134

Legal Deadline: None

TREAS—CUSTOMS

Completed Actions

Abstract: Amends Customs Regulations to permit seizure of merchandise in instances where like merchandise has been attempted to be imported and been found to be in violation of the marking laws and the importer was notified of the violation and warned that repeat violations could result in seizures.

Timetable:

Action	Date	FR Cite
Project Closed	03/14/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Piazzi, Attorney, Department of the Treasury, United States Customs Service, Room 2116, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-8317

RIN: 1515-AA93

2498. IMPORT RESTRICTIONS ON ARCHAEOLOGICAL MATERIALS FROM PERU

Significance: Agency Priority

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1624; 19 USC 2612

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Amends Customs Regulations to impose import restrictions on archaeological artifacts from Peru. Action mandated pursuant to the Convention of Cultural Property Implementation Act and a determination of the Director, USIA, that such restrictions are necessary.

Timetable:

Action	Date	FR Cite
Final Action	05/07/90	55 FR 19029
Final Action Effective	05/07/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam Orandle, Attorney, Department of the Treasury, United States Customs Service, Room 2104, 1301 Constitution Avenue, NW., Washington, DC 20229, 202 566-5765

RIN: 1515-AB00

[FR Doc. 90-22567 Filed 10-26-90; 8:45 am]

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DEPARTMENT OF THE TREASURY (TREAS)

Internal Revenue Service (IRS)

Internal Revenue Service

26 CFR Ch. I

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Semiannual agenda of regulations.

SUMMARY: This semiannual agenda lists the regulations that the Internal Revenue Service will be developing from October 1, 1990, through September 30, 1991. Determinations with respect to the agenda were made as of July 31, 1990. The purpose of this semiannual agenda is to give the public adequate notice of regulatory activities of the Internal Revenue Service.

FOR FURTHER INFORMATION CONTACT: Robert Boyer, (202) 566-3935 (not a toll-free call), Regulations Unit, Assistant Chief Counsel (Corporate), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224. Attention: CC:CORP:T:R.

SUPPLEMENTARY INFORMATION:

General

Section 5 of Executive Order 12291 and section 602 of the Regulatory Flexibility Act both require that a semiannual agenda of regulations under development and review be published in the Federal Register. The next semiannual agenda of the Internal Revenue Service will be published in the Federal Register in April of 1991.

Description

This semiannual agenda of regulations lists all projects within the Internal Revenue Service (I.R.S.) as of July 31, 1990, for the development of regulations to appear in the Code of Federal Regulations. This agenda lists existing regulations under development by the Offices of the Assistant Chief Counsel (Corporate), Assistant Chief Counsel (Financial Institutions and Products), Assistant Chief Counsel (Income Tax and Accounting), Assistant Chief Counsel (Passthroughs & Special Industries), Assistant Chief Counsel (Employee Benefits and Exempt Organizations), Assistant Chief Counsel (Criminal Tax), Assistant Chief Counsel (General Litigation), and Associate Chief Counsel (International), of the Office of Chief Counsel, I.R.S. The following information is provided for each regulation project: The title, priority status; its effect, if any, on small business; the part of the Code of Federal Regulations affected; the legal authority for issuing the regulation; a brief description of the problem to be addressed in the regulation; and a timetable of action taken and to be taken. Under Additional Information, there is provided the control number of the project within the Chief Counsel's office and the names and telephone numbers of the drafting and reviewing attorneys.

By direction of the Secretary of the Treasury.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

Internal Revenue Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2499	28 USC 0024 A Detailing of the Minimum Living Area Which Must Constitute a Bedroom for Purposes of Determining the Gross Rent Limitation Applicable to Rent-Restricted Units	1545-AO52

TREAS—IRS

Internal Revenue Service—Prerule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2480	26 USC 0042 A Detailing of the Suitability of a Unit for Occupancy for Purposes of Determining Whether a Unit May Be Treated as a Low-Income Unit	1545-AC63
2481	26 USC 0130 Income Tax—Part 1 Personal Injury Liability Assignments	1545-AF39
2482	26 USC 0135 Exclusion From Gross Income for Income From U.S. Savings Bonds Used To Pay Tuition and Fees	1545-AM68
2483	26 USC 0148 Recovery of Overpayments of Arbitrage Rebate	1545-AC15
2484	26 USC 0148(i) Allocation Rules for Bond Proceeds	1545-AC44
2485	26 USC 0274 Income Tax—To Add Provisions Relating to Foreign Conventions (as Amended by Section 4 of Public Law 96-606)	1545-AB94
2486	26 USC 0337(d) Application of General Utilities Repeal Regulatory Authority to RICs and REITs	1545-AL85
2487	26 USC 0338 Application of Installment Method to Deemed Sale of Assets	1545-AM84
2488	26 USC 0368 Corporate Reorganization Amendments - Bankruptcy Tax Act of 1980	1545-AK28
2489	26 USC 0384 Limitation on Use of Preacquisition Losses to Offset Built-in Gains	1545-AM48
2500	26 USC 0446 Blocked Income	1545-AL86
2501	26 USC 0482 Section 482 Regulations	1545-AL85
2502	26 USC 0482 Section 482 Cost Sharing Regulations	1545-AM09
2503	26 USC 0834 Interest Deduction under Section 834(c)(5)	1545-AL07
2504	26 USC 0846 Temporary Income Tax Regulations—Discounting of Unpaid Losses of Property and Casualty Insurance Companies	1545-AI95
2505	26 USC 0847 Special Estimated Tax Payments	1545-AN33
2506	26 USC 0861 Income Tax - Interest and Dividends of 80-20 Companies	1545-AJ58
2507	26 USC 0882 Computation of Interest Expense Deduction	1545-AL84
2508	26 USC 0897(c)(3) FIRPTA Cleanup	1545-AJ72
2509	26 USC 0904 Resourcing Income to Prevent Avoidance of Foreign Tax Credit Limitation Rules Relating to Foreign Losses	1545-AM67
2510	26 USC 0905 Suspension of Requirement to File a Receipt for Foreign Taxes Paid on a Return for Foreign Taxes Accrued	1545-AM43
2511	26 USC 0932 Source Rules within the Virgin Islands	1545-AL40
2512	26 USC 0952 Subpart F - Use of Deficits	1545-AJ71
2513	26 USC 0987 Computation of a Branch's Taxable Income Taxation of Exchange Gain or Loss on Branch Remittances	1545-AM42
2514	26 USC 1248 Income Tax—Gain from Sale or Exchange of Stock in Foreign Corporations	1545-AC31
2515	26 USC 1441 Revised Withholding Tax Regulation to Modify "As soon as Practical" Requirements	1545-AL18
2516	26 USC 1502 Consolidated Alternative Minimum Tax	1545-AS73
2517	26 USC 4261 Aviation Tax Exemption for Certain Helicopters	1545-AC82
2518	26 USC 6011 Electronic Filing of Tax Returns	1545-AL01
2519	26 USC 6012(a) Return Filing Requirements for Insurance Companies	1545-AN22
2520	26 USC 6331 Levy and Distraint	1545-AB70
2521	26 USC 6332 Surrender of Property Subject to Levy	1545-AN45
2522	26 USC 6334 Property Exempt From Levy	1545-AS48
2523	26 USC 6335 Sale of Seized Property	1545-AN47
2524	26 USC 6343 Authority To Release Levy and Return Property	1545-AM49
2525	26 USC 6502 Collection After Assessment	1545-AM71
2526	26 USC 6655(j) Determining Large Corporation Status for Consolidated Return Groups Paying Estimated Tax	1545-AM75
2527	26 USC 6673 Award and Collection of Sanctions, Penalties, and Costs Awarded to the U.S. by a Court Other than the Tax Court	1545-AC83
2528	26 USC 6700 Penalty for Promoting Abusive Tax Shelters	1545-AE39
2529	26 USC 6701 Penalty for Aiding and Abetting in the Understatement of Tax Liability	1545-AF01
2530	26 USC 7518 Treatment of Lease Payments as Qualified Withdrawals From a Capital Construction Fund Established Under Sec. 607(a) of the Merchant Marine Act of 1936	1545-AI00

Internal Revenue Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2531	26 USC 0001 Income Tax—Deduction for Bus Operating Authorities and Freight	1545-AJ19
2532	26 USC 0025(c) Mortgage Credit Certificates and Targeted Areas	1545-AC85
2533	26 USC 0041 Definition of Qualified Research and Computation of Research Credit Under Section 41 of the Code, After 1986 Act and 1989 Act	1545-AC84
2534	26 USC 0055 Income Tax—Alternative Minimum Tax	1545-AE89
2535	26 USC 0055 Minimum Tax Credit and Other Miscellaneous Rules Relating to the Alternative Minimum Tax	1545-AJ88

Internal Revenue Service—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2536	26 USC 0056 Income Tax—Inventory Adjustment for the Alternative Minimum Tax	1545-AL02
2537	26 USC 0057 Income Tax-Minimum Tax; Item of Tax Preference for Intangible Drilling Costs Incurred in Drilling Oil, Gas or Geothermal Wells	1545-AA34
2538	26 USC 0061 Amendment to the Regulations Under Section 61 to Conform the Treatment of Bond Premium Income to the Constant Yield Method	1545-AL92
2539	26 USC 0072 Loans Treated as Distributions	1545-AE41
2540	26 USC 0072 Ten Percent Additional Tax on Early Distribution From Qualified Plans	1545-AN16
2541	26 USC 0079 Removing Gender Distinction From Mortality Tables	1545-AK50
2542	26 USC 0079 Section 79 Table I Update	1545-AN54
2543	26 USC 0083 Study of Application of Section 302 and Section 1.83(d)	1545-AN55
2544	26 USC 0103 To Provide Regulations Under Section 147 (f)—Relating to Limitation on Maturity of Private Activity Bonds	1545-AE69
2545	26 USC 0103 Regulations Relating to Federally Guaranteed Bonds	1545-AG84
2546	26 USC 0103 Definition of "Reissuance" Under Section 103	1545-AI65
2547	26 USC 0103A To Revise Definition of Areas of Chronic Economic Distress for Purposes of Mortgage Subsidy Bonds	1545-AG88
2548	26 USC 0108 Income Tax—Discharge of Indebtedness	1545-AA67
2549	26 USC 0117 Exclusion of Qualified Scholarships and Fellowships from Gross Income	1545-AJ67
2550	26 USC 0117(d) Qualified Tuition Reductions	1545-AI13
2551	26 USC 0119(d) Income Tax—Tax Treatment of Faculty Housing	1545-AJ21
2552	26 USC 0129 Dependent Care Assistance	1545-AN17
2553	26 USC 0141 Definition of "Private Activity Bond", "Qualified Bond"	1545-AM01
2554	26 USC 0142 Tax-Exempt Bonds for Residential Rental Projects	1545-AJ06
2555	26 USC 0145 Qualified 501 (c) (3) Bonds	1545-AJ39
2556	26 USC 0146 State Volume Cap for Tax-Exempt Bonds	1545-AJ37
2557	26 USC 0149 Advance Refundings	1545-AL91
2558	26 USC 0162 Income Tax—To Provide Better Definitions in the Area of Political Advertising & Grassroots Lobbying	1545-AA79
2559	26 USC 0162 Deductions with Respect to Noncash Fringe Benefits	1545-AM40
2560	26 USC 0162(g) Definition of Related Violation	1545-AK83
2561	26 USC 0163 Qualified Residence Interest	1545-AL67
2562	26 USC 0163 Prohibition on Foreign Targeting Obligations Backed by United States Government Securities	1545-AM19
2563	26 USC 0163 Earnings Stripping Payments	1545-AO24
2564	26 USC 0167 Normalization Requirements for Public Utility Property: Inconsistent Procedures and Adjustments	1545-AM60
2565	26 USC 0168 Income Tax—Normalization Requirement for Public Utility Property	1545-AA88
2566	26 USC 0168 Modification of ACRS	1545-AJ38
2567	26 USC 0168(d) Applicable Conventions Under the Accelerated Cost Recovery System	1545-AN81
2568	26 USC 0168(i)(4) General Asset Accounts Under the Accelerated Cost Recovery System	1545-AN82
2569	26 USC 0179 Election to Expense Certain Depreciable Assets	1545-AL74
2570	26 USC 0183 Election to Postpone Determination with Respect to the Presumption That an Activity is Engaged in for Profit	1545-AG27
2571	26 USC 0195 Income Tax—To Add Provisions Relating to Start-Up Expenditures	1545-AB02
2572	26 USC 0216 Distributions by Cooperative Housing Association	1545-AO91
2573	26 USC 0245 Deduction for Dividends Received from Certain Foreign Corporations	1545-AL94
2574	26 USC 0246A Income Tax—Debt-Financed Portfolio Stock	1545-AH39
2575	26 USC 0263A(f) Notice of Proposed Rulemaking—Capitalization of Interest Expense	1545-AK01
2576	26 USC 0269B Rules for Treatment of Foreign Corporation Whose Stock Is Stapled to the Stock of a Domestic Corporation	1545-AN20
2577	26 USC 0280A Income Tax—Deductions for Expenses Attributable to Business Use of Homes, Rental of Vacation Homes	1545-AB09
2578	26 USC 0302 Certain Attribution Rules and Certain Corporate Reorganizations	1545-AF13
2579	26 USC 0306 Amend Regulations on Section 306 Stock and Earnings and Profits in Light of Commissioner v. Clark	1545-AO35
2580	26 USC 0336 Certain Stock Sales and Distributions Treated as Asset Transfers	1545-AK29
2581	26 USC 0338 Mandatory Application of MADSP Formula for Determination of Deemed Sale Price for Old Target's Assets	1545-AK25
2582	26 USC 0338 Treatment of an Affiliated Group of Corporations as a Selling Consolidated Group for Purposes of Elective Recognition Under Section 338 (h) (10)	1545-AK31
2583	26 USC 0338 Gain or Loss Ignored by Target Corporation Upon Its Deemed Sale of Affected Target Stop	1545-AN85
2584	26 USC 0338 Amendment of Section 1.338-5T Regulations	1545-AO73
2585	26 USC 0358 Income Tax—Triangular Reorganizations, Basis and Other Consequences	1545-AB21
2586	26 USC 0361(a)(3) Fringe Benefit Sourcing Under Section 861	1545-AO72
2587	26 USC 0367 Section 361 Outbound Transfers of Property to Foreign Corporations	1545-AM07
2588	26 USC 0382 Computation of Section 382 Limitation	1545-AK27
2589	26 USC 0382 Section 382 Limitation on Groups Filing Consolidated Returns	1545-AL36
2590	26 USC 0382 Corporate Contractions Under Section 382	1545-AO21

TREAS—IRS

Internal Revenue Service—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2591	26 USC 0382 Reorganizations in Bankruptcy; Stock-for-Debt Exchanges; Use of Parent Corporation Stock; Triangular "G" Reorganizations	1545-AO30
2592	26 USC 0382 Amendments of Section 1.382-2T(r)(4)(x) To Except Additional Options From the Option Attribution Rules of Section 1.382-2T(h)(4)(i)	1545-AO54
2593	26 USC 0401 Nondiscrimination Requirements for Qualified Plans; Application of the Average Benefit Percentage Test to ESOPs	1545-AO56
2594	26 USC 0401(k) Additional Guidance on Cash or Deferred Arrangements	1545-AN98
2595	26 USC 0403 Nondiscrimination and other Rules Applicable to Section 403(b) Annuities	1545-AI90
2596	26 USC 0404 Income Tax—Employee Stock Ownership Plan Loan Payments	1545-AD77
2597	26 USC 0409 Income Tax—Requirements for Tax Credit Employee Stock Ownership Plans, Employee Plan Credit, and Defined Contribution Plan Voting Rights	1545-AD82
2598	26 USC 0409 Income Tax—Part 1; Estate Tax—Part 20, Employee Stock Ownership Plan Rules Affected by TRA 1986	1545-AI87
2599	26 USC 0410(b) Special Rules in Merger and Acquisition	1545-AM94
2600	26 USC 0412 Revising the Drafting of the Full Funding Limitation for Purposes of the Minimum Funding Requirement for Pension Plans	1545-AL53
2601	26 USC 0414(r) Definition of Line of Business	1545-AL23
2602	26 USC 0419 Treatment of Funded Welfare Benefit Plans	1545-AG14
2603	26 USC 0422A Incentive Stock Options	1545-AN26
2604	26 USC 0442 Inc. Tax—Part 1—Amendment of Section 1.442-1 to Provide Simplified Procedures for Changes of Annual Accounting Period by Certain Exempt Organizations	1545-AI68
2605	26 USC 0446 Timing, Character and Source of Income With Respect to Notional Principal Contracts	1545-AN15
2606	26 USC 0448 Untimely Compliance with Section 448	1545-AO65
2607	26 USC 0453 Income Tax—Gain or Loss on the Disposition of an Installment Obligation	1545-AB41
2608	26 USC 0453 Income Tax—Installment Sales Between Related Parties	1545-AB45
2609	26 USC 0453 Income Tax—Installment Sales Revision Act of 1980, Regulations Relating to Wrap-Around Mortgages	1545-AB48
2610	26 USC 0453 Income Tax Regulations—Part 1—Special Rules Relating to Installment Obligations That Are Readily Tradable or Payable on Demand	1545-AG37
2611	26 USC 0457 Income Tax—Deferred Compensation Plans of State and Local Governments and Tax-Exempt Organizations	1545-AI89
2612	26 USC 0465 Extension of the At-Risk Rules	1545-AF86
2613	26 USC 0465 Aggregation of Certain Activities for Purposes of the At-Risk Rules	1545-AJ02
2614	26 USC 0465 Application of At-Risk Limitations to the Holding of Real Property	1545-AK06
2615	26 USC 0467 Temporary Income Tax Regulations-Deferred Payments for Use of Property or Services	1545-AG81
2616	26 USC 0468A Disposition of an Interest in a Nuclear Power Plant	1545-AN06
2617	26 USC 0469(l)(4) Passive Activity Loss and Credit Limitations—Technical Amendments	1545-AO61
2618	26 USC 0474 Simplified Dollar-value LIFO Method for Certain Small Businesses	1545-AK84
2619	26 USC 0514 Income Tax—Unrelated Trade or Business Income	1545-AE00
2620	26 USC 0514(c)(9)(E) Taxation of Certain Qualified Exempt Organizations on Income from Debt-Financed Property Owned Through a Partnership	1545-AO75
2621	26 USC 0585 Bad Debt Reserves of Financial Institutions	1545-AJ31
2622	26 USC 0593 Bad Debt Reserve Recapture for Thrift Institutions	1545-AO69
2623	26 USC 0595 Treatment of Foreclosed Property by Certain Creditors	1545-AF00
2624	26 USC 0597 Tax Consequences of Federal Financial Assistance Provided in Connection with Taxable Asset Acquisitions of Troubled Financial Institutions	1545-AN71
2625	26 USC 0612 Income Tax—Restoration of Depletion Deductions on Bonus and Advanced Royalties in Certain Cases	1545-AB69
2626	26 USC 0643 Property Distributed in Kind and Treatment of Multiple Trusts (Sec: 81 and 82 of The Tax Reform Act of 1984)	1545-AI06
2627	26 USC 0643 Clarification of Section 1.643 (a) (3) Relating to the Inclusion of Capital Gain in Distributable Net Income	1545-AI31
2628	26 USC 0667 Accumulation Trusts	1545-AM78
2629	26 USC 0671 Revision of Reporting Requirements for Grantor Trusts	1545-AN77
2630	26 USC 0672 Income Taxation of Trusts and Estates	1545-AJ20
2631	26 USC 0679 Foreign Grantor Trusts	1545-AO75
2632	26 USC 0704(c) Allocations of Income Gain, Loss, and Deduction with Respect to Property Contributed to a Partnership	1545-AG96
2633	26 USC 0706 Income Tax—Items Allocated to Portion of Year Partner Held Interest	1545-AB81
2634	26 USC 0707 Income Tax—Treatment of Payments to Partners Not Acting in Their Capacity as Partners	1545-AG83
2635	26 USC 0707 Amendment of Income Tax Regulations with Respect to Treatment of Disguised Sales by Partners	1545-AH22
2636	26 USC 0724 Contributions to a Partnership of Unrealized Receivables, Inventory Items or Capital Loss Property	1545-AG85
2637	26 USC 0842 Taxation of Foreign Insurance Companies Doing Business in the United States Including the Explication of the Minimum Net Investment Income Calculation	1545-AN31

TREAS—IRS

Internal Revenue Service—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2838	26 USC 6048(b) Foreign Insurance Companies	1545-AL82
2839	26 USC 6048 Income Tax Regulations—Discounting of Unpaid Losses of Property and Casualty Insurance Companies	1545-AJ51
2840	26 USC 6049A Income Tax—Essential Issues Relating to Real Estate Mortgage Investment Conduits	1545-AJ35
2841	26 USC 6049 Transportation Income Source Rules	1545-AJ58
2842	26 USC 6049 Proposed Income Tax Regulations Under the Tax Reform Act of 1986 —Source of Income Rules for Income Derived from Space and Ocean Activities Including Telecommunications	1545-AJ84
2843	26 USC 6864 Tiered Partnership Rules	1545-AC26
2844	26 USC 6864(c)(8) Treatment of Deferred Payments and Appreciation Arising Out of Business Conducted Within the United States	1545-AM53
2845	26 USC 6865 Source Rules for Personal Property Sales	1545-AJ83
2846	26 USC 6871 Employment Taxes—Application of Repeal of 30 Percent Withholding by Tax Reform Act of 1984	1545-AM30
2847	26 USC 6872(b) Income Tax—Reciprocal Exemptions for Certain Transportation Income	1545-AJ57
2848	26 USC 6897 Income Tax—Partnership Rules Regarding Taxation of Foreign Investment in United States Real Property Interests	1545-AL77
2849	26 USC 6902 Deemed Paid Credit under Sections 902 and 960 Determined on Accumulated Basis	1545-AL96
2850	26 USC 6902 Conforming Taxable Years of CFCs and FPHCs: 1989 Change	1545-AC92
2851	26 USC 6904(c) Carryback and Carryforward of Foreign Tax Credits	1545-AM18
2852	26 USC 6904(d) Separate Application of Section 904 With Respect to Certain Categories of Income	1545-AM54
2853	26 USC 6904(f) Clarification of Treatment of Separate Limitation Losses	1545-AM11
2854	26 USC 6931 Exclusion of Possession Source Income from Gross Income of Certain Individuals and Treatment of Corporations Organized in Guam, Samoa or CNMI	1545-AJ60
2855	26 USC 6932 Coordination of U.S. and Virgin Islands Taxes	1545-AJ55
2856	26 USC 6932(b) Regulations Under Section 932(b)	1545-AM69
2857	26 USC 6936(h) Amendment of Section 936(h) with Respect to Election of Product	1545-AK77
2858	26 USC 6952(c) Insurance Income	1545-AJ70
2859	26 USC 6953(d) Foreign Insurance Company - Domestic Election	1545-AC25
2860	26 USC 6955 Subpart F Shipping Amendments	1545-AM46
2861	26 USC 6964 Effect of Acquisitive Reorganizations on Earnings and Profits Pools	1545-AC71
2862	26 USC 6969 Determination of Foreign Taxes and Foreign Corporation's Earnings and Profits	1545-AN37
2863	26 USC 6982 Disc Regulation Modification	1545-AC76
2864	26 USC 6990 DISC Regulations	1545-AM05
2865	26 USC 1059 Sourcing of Pass-Through Payments and Fees Paid in International Short Sales of Stock	1545-AN04
2866	26 USC 1059 Income Tax—Notice of Proposed Rulemaking - Amendment of Regulations Relating to Basis Reductions for Non-Taxed Portion of Extraordinary Dividends to Reflect TRA 1984	1545-AH41
2867	26 USC 1092 Income Tax—Tax Straddles	1545-AC21
2868	26 USC 1248 Gains from Certain Sales or Exchanges in Certain Foreign Corporations	1545-AL89
2869	26 USC 1253 Income Tax—To Clarify Tax Treatment of Transfers of Franchises, Trademarks, & Trade Names	1545-AC34
2870	26 USC 1254 Income Tax—Gain from Disposition of Interest in Oil, Gas, Geothermal or Other Mineral Properties by S Corporations and Their Shareholders	1545-AM98
2871	26 USC 1256(e) Hedging Exception to Mark-to-Market Rules for Section 1256 Contracts, Deferral of Certain Straddle Losses, and Wash-Sale and Short-Sale Principles Applicable to Certain Straddle Transactions	1545-AI69
2872	26 USC 1256(e) Hedging Exception to Mark-to-Market Rules for Section 1256 Contracts, Deferral of Certain Straddle Losses, and Wash-Sale and Short-Sale Principles Applicable to Certain Straddle Transactions	1545-AI72
2873	26 USC 1276 Disposition Gain Representing Accrued Market Discount Treated as Ordinary Income; Deferral of Interest Deduction Allocable to Accrued Market Discount	1545-AH82
2874	26 USC 1286 Income Tax—Treatment of Stripped Bonds and Stripped Coupon	1545-AH75
2875	26 USC 1291 Treatment of Shareholders of Passive Foreign Investment Companies	1545-AC06
2876	26 USC 1295 QEF Shareholder Election	1545-AM41
2877	26 USC 1361 Income Tax—Treatment of Obligations Which Purport to Represent Debt as a Second Class of Stock	1545-AC37
2878	26 USC 1366 Income Tax—Pass-Thru of S Corporation Items to Shareholders	1545-AE05
2879	26 USC 1367 Income Tax—Rules Relating to Adjustment to Basis of Stock of Shareholders of S Corporation and to Determination of Basis of Property Distribution by Corporation	1545-AE86
2880	26 USC 1371 Income Tax—Application of Subchapter C Rules to S Corporations	1545-AE90
2881	26 USC 1374 Cross-Reference—Application of Section 1374 Built-in Gains Tax C Corporations Electing S Corporation Status	1545-AK89
2882	26 USC 1377 Income Tax—Definitions and Special Rules Pertaining to S Corporation	1545-AE94
2883	26 USC 1441 General Revision of Section 1441 Regulations	1545-AC27
2884	26 USC 1446 Withholding Tax on Payments from Partnerships to Foreign Partners	1545-AL50
2885	26 USC 1497 Revision of Regulations Under Sections 1491, 1492, and 1494	1545-AM39
2886	26 USC 1492 Nontaxable Transfers under Section 1491	1545-AL98
2887	26 USC 1502 Income Tax—Application of Section 465 At Risk Limitations to Members that Join in Filing Consolidated Returns	1545-AC55

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2689	26 USC 1502 Consolidated Returns	1545-AL44
2690	26 USC 1502 Revision of Section 1.1502-33	1545-AL60
2691	26 USC 1502 Amendment of Consolidated Return Regulations to Address Treatment of Organizations Whose Tax Exempt Status was Repealed by the 1986 Act	1545-AM49
2692	26 USC 1502 Payment of Refunds to Certain Fiduciaries of Insolvent Members of Affiliated Groups	1545-AM74
2693	26 USC 1504 Income Tax—Includibility in an Affiliated Group of Subsidiaries Formed to Comply with Foreign Laws	1545-AC58
2694	26 USC 1504 Income Tax—Amendment of Regulations Under Section 1504 (a) of the Code, as Amended by Section 60 of the Tax Reform Act of 1984, Defining "Affiliated Group"	1545-AH09
2695	26 USC 2001 Estate and Gift Taxes, Income Taxes-Unified Credit in Lieu of Exemptions, Unified Rate Schedule for Estate and Gift Taxes Situs of Foreign Partnerships for Estate Taxation	1545-AC60
2696	26 USC 2032 Estate Tax—Valuation of Certain Farm, etc. Real Property	1545-AC62
2697	26 USC 2036 Estate Tax—Inclusion of Estate Freezes	1545-AM59
2698	26 USC 2055 Reformation of Charitable Transfers; Definition of Guaranteed Annuity and Lead Unitrust Interest	1545-AC31
2699	26 USC 2056 Alien Spouse Marital Deduction	1545-AM65
2700	26 USC 2603 Estate Tax—Generation-Skipping Transfer Tax	1545-AL75
2701	26 USC 3121 Amendment of the Employment Tax Regulations Under Code Section 3121 to Conform to Section 321 of the Social Security Amendments of 1983	1545-AF91
2702	26 USC 3306 Treatment of Certain Deferred Compensation and Salary Reduction Arrangements	1545-AF97
2703	26 USC 3406 To Provide Regulations Relating to Backup Withholding Under Section 3406	1545-AE20
2704	26 USC 4081 Excise Tax—Collection of Excise Tax Imposed on the Sale or Removal of Gasoline	1545-AJ09
2705	26 USC 4081 Modification of the Gasohol Regulations to Increase the Tolerance Allowed to the 10 Percent Alcohol Mixture and to Clarify the Later Blending Rules	1545-AM68
2706	26 USC 4091 Excise Tax on Diesel Fuel	1545-AL43
2707	26 USC 4101 Gasoline Excise Tax Bond Requirements	1545-AM32
2708	26 USC 4181 Revision of Section 48.4181-1(a)(2) of the Manufacturers and Retailers Excise Tax Regulations Relating to the Tax on Firearm Parts and Accessories	1545-AL72
2709	26 USC 4471 A Tax of $3.00 a Passenger is Imposed on Each Covered Voyage by a Commercial Vessel. This Tax is Paid by the Person Providing the Covered Voyage	1545-AO41
2710	26 USC 4611 Income Tax, Excise Tax, and Environmental Tax—Imposition of Taxes on Petroleum, Certain Chemicals, and Corporations and Additional Excise Taxes on Certain Fuels	1545-AJ23
2711	26 USC 4671 Tax on Certain Imported Substances	1545-AL73
2712	26 USC 4681 Tax on Ozone Depleting Chemicals	1545-AO08
2713	26 USC 4940 Income Tax—Excise Tax—Procedure and Administration—Various Private Foundation Provisions	1545-AG18
2714	26 USC 4980 Excise Tax—Part 54, Reversion of Qualified Plan Assets to Employer	1545-AI82
2715	26 USC 6033 Amendment of Section 1.6033-2 (g) (5) Relating to Returns by an Integrated Auxiliary of a Church	1545-AI52
2716	26 USC 6039E Information Regarding Resident Status	1545-AJ29
2717	26 USC 6041 To Amend the Regulations to Require that Substitute Information Reporting Statements Furnished to Payees be Identical to Official Form 1099	1545-AO38
2718	26 USC 6045 Broker Reporting of Option Transactions	1545-AO40
2719	26 USC 6046A Income Tax Regulations Relating to Returns as to Interests in Foreign Partnerships	1545-AK75
2720	26 USC 6047 Employment Tax—Reporting of Plan Distributions and Withholding from Pensions, Annuities, and other Deferred Income	1545-AL54
2721	26 usc 6049 Income Tax—To Require Issuers of Certificates of Deposit to Furnish Issue Price to Brokers	1545-AK36
2722	26 USC 6051 IRC Section 6051	1545-AN57
2723	26 USC 6103 Disclosure of Return Information to the Bureau of the Census	1545-AC81
2724	26 USC 6159 Agreements for Payment for Tax Liability in Installments	1545-AM68
2725	26 USC 6166 Estate Tax—Procedure and Administration—Deferral and Installment Payment of Estate Tax	1545-AD23
2726	26 USC 6244 Determination of the Tax Treatment of Subchapter S Items at the Corporate Level	1545-AE96
2727	26 USC 6302 Railroad Unemployment Repayment Tax	1545-AN40
2728	26 USC 6302(c) Revision of Procedural Rules Relating to Excise Taxes Reported on Form 720	1545-AO97
2729	26 USC 6302(e) Acceleration of Deposit Requirements for Airline Ticket Tax	1545-AO47
2730	26 USC 6311 Procedure and Administration Regulations—Payment of Taxes by Check or Money Order and Liability of Financial Institutions for Unpaid Taxes	1545-AI24
2731	26 USC 6323 Notice of Lien on Personal Property	1545-AM64
2732	26 USC 6325 Procedure and Administration—Release of Liens, Notice Before Levy, Property Exempt from Levy Redemption of Levied Real Property and Amount of Damages in Case of Wrongful Levy	1545-AE82
2733	26 USC 6332 Effect of Honoring a Levy	1545-AM72
2734	26 USC 6337 Requirement for Guaranteed Remittance to Redeem Property	1545-AN44
2735	26 USC 6416 Gasoline Excise Tax Definitions, Notification of Registration Requirements, and Section 6416 Procedures	1545-AL69
2736	26 USC 6611(b)(1) Erroneous Allowance of Interest on Overpayments Credited Against Certain Underpayments	1545-AO79
2737	26 USC 6621 Differential Interest Rates and Expanded Crediting of Overpayments Against Underpayments	1545-AK08

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2739	26 USC 6662 Accuracy Related Penalties	1545-AD58
2740	26 USC 6695 Use of Facsimile Signatures by Income Tax Return Preparers of Forms 1041, U.S. Fiduciary Income Tax Returns	1545-AL49
2741	26 USC 6721 Uniform Penalties for Failures to Comply with Certain Information Reporting Requirements	1545-AO95
2742	26 USC 6851 Certificates of Compliance with Income Tax Laws by Departing Aliens	1545-AN97
2743	26 USC 6867 Income Tax—Presumption of Jeopardy in the Case of Illegal Activity Cash	1545-AE30
2744	26 USC 7409 Political Activity Injunction	1545-AO77
2745	26 USC 7425 Forfeiture of Land Sales Contract With Respect to Discharge of Federal Tax Lien	1545-AK24
2746	26 USC 7425 Redemptions of Real Property Under IRC 7425 - Excess Expenses	1545-AL20
2747	26 USC 7426 Wrongful Levy Actions Involving Government Agencies	1545-AO60
2748	26 USC 7429 Review of Jeopardy Levy and Assessment Procedures	1545-AM88
2749	26 USC 7432 Civil Cause of Action For Failure to Release a Lien Under I.R.C. 6325	1545-AM63
2750	26 USC 7433 Civil Causes of Action for Unauthorized Collection Action	1545-AM85
2751	26 USC 7520 Estate and Gift Tax Valuation Tables	1545-AM81
2752	26 USC 7609 Procedure and Administration - Suspension of Statutes of Limitations in Absence of Third-Party Recordkeeper Response to Summons	1545-AK72
2753	26 USC 7609 Extension of Statute of Limitations in John Doe Summons Disputes	1545-AM87
2754	26 USC 7654 Cover Over of Income Taxes	1545-AL18
2755	26 USC 7702 Definition of Life Insurance Contract	1545-AL08
2756	26 USC 7704 Certain Publicly Traded Partnerships Treated as Corporations	1545-AL57
2757	26 USC 7704 Certain Publicly Traded Partnerships Treated as Corporations—Transition Provisions	1545-AO50
2758	26 USC 7806 50 Percent Excise Tax on Any Gain Realized by Person Who Receives "Greenmail"	1545-AN41
2759	42 USC 0664 Proposed Amendments to the Procedure and Administration Regulations Under the Child Support Enforcement Amendments of 1984 Relating to the Reduction of Tax Overpayments by Amounts Etc	1545-AH99

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2760	26 USC 0025 To Provide Regulations Relating to Mortgage Credit Certificates	1545-AH06
2761	26 USC 0025 Income Tax—Information Reporting for Mortgage Credit Certificates	1545-AI29
2762	26 USC 0025(c) Mortgage Credit Certificates in Targeted Areas	1545-AN83
2763	26 USC 0042 Low-Income Housing Credit Allocation Rules and Information Reporting Requirements	1545-AJ55
2764	26 USC 0042 Low Income Housing Credit Recapture Rule	1545-AL12
2765	26 USC 0042 Application of section 183 to section 42; state grants and below market state loans	1545-AO90
2766	26 USC 0042 10-Year Waiver Regulations under Section 42 IRC	1545-AO94
2767	26 USC 0048 Income Tax—Special Rules Added by Sec 223(c) of Crude Oil Windfall Profit Tax Act 1980; Relating to Reduction of Credit Where Property is Financed by Subsidized, Etc	1545-AA26
2768	26 USC 0048(q) Amendment of Income Tax Regulations Under Sections 47, 48 and 196 Relating to Basis Adjustment to Reflect Investment Tax Credit	1545-AF08
2769	26 USC 0056 Book Income Adjustment	1545-AK25
2770	26 USC 0056 Income Tax—Inventory Adjustment for the Alternative Minimum Tax	1545-AL02
2771	26 USC 0056(g) Adjusted Current Earnings	1545-AN24
2772	26 USC 0058 Tax Benefit Rule for Corporate Add-On Minimum Tax under the Internal Revenue Code of 1954	1545-AK20
2773	26 USC 0058(h) Application of Section 58(h) of the 1954 Code to Situations Involving NOL Carrybacks	1545-AO56
2774	26 USC 0061 Income Tax-Nonqualified Salary Reduction Agreements	1545-AJ35
2775	26 USC 0061 To Clarify That The Income Consequences of the Discharge of Indebtedness Are The Same For Both Recourse And Nonrecourse Indebtedness	1545-AO80
2776	26 USC 0062 Section 702 of the Family Support Act of 1988	1545-AO06
2777	26 USC 0067 2-Percent Floor on Miscellaneous Itemized Deductions	1545-AJ49
2778	26 USC 0071 Treatment of Transfer of Property between Spouses, Tax Treatment of Alimony and Separate Maintenance Payments, and Dependency Exemption in the Case of Child of Divorced Parents	1545-AI49
2779	26 USC 0079 Proposed Uniform Premium Table	1545-AN51
2780	26 USC 0089 Nondiscrimination Rules for Non-Pension Employee Benefit Plans	1545-AI78
2781	26 USC 0103 Income Tax—Exemption for Industrial Development Bonds for Water Facilities	1545-AA49
2782	26 USC 0103 Income Tax—To Define the Term "Principal User of a Facility"	1545-AA56
2783	26 USC 0103 Income Tax—Mortgage Subsidy Bonds	1545-AA63
2784	26 USC 0103 To Provide Regulations Requiring Certain Debt Obligations to be Issued in Registered Form	1545-AE18

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2785	26 USC 0103 To Provide Regulations Under Section 103(k) and (l)—Relating to Public Approval and Information Reporting Requirements for Private Activity Bonds	1545-AE24
2786	26 USC 0103 Regulations Relating to $40 Million Small Issue Limit on Tax-Exempt Bonds Per Taxpayer	1545-AH19
2787	26 USC 0103(k) To Provide Regulations Relating to the Tax Exemption of Obligations to Finance Mixed-Use Residential Rental Property	1545-AH68
2788	26 USC 0103(c) Clarification Regarding the Conclusiveness of the Certification Under Section 1.103-13(d)(2) of the Income Tax Regulations	1545-AH88
2789	26 USC 0116 Partial Exclusion of Dividends and Interest Received by Individuals	1545-AM72
2790	26 USC 0125 Income Tax—Tax Treatment of Cafeteria Plans	1545-AD69
2791	26 USC 0126 Income Tax-Exclusion from Income of Certain Cost-Sharing Payments Under Government Programs	1545-AA78
2792	26 USC 0131 Income Tax—Part I Exclusion from Gross Income for Certain Foster Care Payments	1545-AF52
2793	26 USC 0148 Arbitrage Restrictions on Tax-Exempt Bonds	1545-AJ87
2794	26 USC 0148 Yield Adjustment Payment Rules for Qualified Student Loan Bonds	1545-AO19
2795	26 USC 0148 Clarifying When Proceeds of an Obligation Described in Section 103(a) Allocated to Reimburse Previously Paid Expenditures are Deemed Spent for Purposes of Section 148 of the Code	1545-AO87
2796	26 USC 0148(a) Subsequent Intentional Acts to Earn Arbitrage and the Reasonable Expectations Test for Arbitrage Bonds	1545-AH89
2797	26 USC 0148(f) 2-Year Arbitrage Rebate Exception	1545-AO83
2798	26 USC 0149 Information Reporting for Tax-Exempt Bonds	1545-AJ83
2799	26 USC 0162(k) Continuation Coverage Requirements of Group Health Plans	1545-AH89
2800	26 USC 0163 Income Tax Regulations—Limitations on Deductions for Nonbusiness Interest	1545-AK17
2801	26 USC 0163 Registration Requirements with Respect to Certain Debt Obligations	1545-AH22
2802	26 USC 0165 Income Tax Regulations—Tax Straddles Relating to Section 108 of the Tax Reform Act of 1984	1545-AD57
2803	26 USC 0168 Income Tax—Accelerated Cost Recovery System	1545-AA67
2804	26 USC 0168 Tax-Exempt Entity Leasing	1545-AH78
2805	26 USC 0170 Deductions in Excess of $5000 Claimed for Charitable Contributions of Certain Property	1545-AL09
2806	26 USC 0174 Definition of Research and Experimental Expenditures Under Section 174 of the Code	1545-AM02
2807	26 USC 0216 Provisions Relating to Cooperative Housing Corporations	1545-AJ86
2808	26 USC 0219 Individual Retirement Plans and Simplified Employee Pensions	1545-AD59
2809	26 USC 0219 Individual Retirement Plans, Simplified Employee Pensions, and Qualified Voluntary Employee Contributions	1545-AD58
2810	26 USC 0263A Capitalization and Inclusion in Inventory Costs of Certain Expenses	1545-AK05
2811	26 USC 0263A(f) Temporary Regulation—Capitalization of Interest Expense Relating to Production of Property	1545-AK08
2812	26 USC 0267 Losses, Expenses, and Interest in Transactions Between Related Taxpayers	1545-AN19
2813	26 USC 0267(a)(3) Deductions of Amounts Owed to Related Foreign Persons Under Sections 267(a)(3) and 163(e)(3)	1545-AN68
2814	26 USC 0267(a)(3) Deductions of Amounts Owed to Related Foreign Persons Under Sections 267(a)(3) and 163(e)(3)	1545-AN84
2815	26 USC 0269 Income Tax—Personal Service Corporations	1545-AF11
2816	26 USC 0269 Application of Section 269 to Ownership Changes Described in Section 382 (L) (5) When There is No Continuity of Business Enterprise	1545-AD29
2817	26 USC 0274 Employee Achievement Awards	1545-AN76
2818	26 USC 0274(d) Income Tax—Substantiation Requirements with Respect to Listed Property and Substantiation Requirements Relating to the Taxation of Fringe Benefits	1545-AJ49
2819	26 USC 0280F Limitation of Deductions on Passenger Automobiles and Other Listed Property	1545-AN05
2820	26 USC 0280F Automobile Inclusion Amounts for Calendar Years After 1988	1545-AN99
2821	26 USC 0280G Golden Parachute Payments	1545-AH49
2822	26 USC 0304 Affiliated Groups	1545-AL41
2823	26 USC 0336 Certain Stock Sales and Distributions Treated as Asset Transfers	1545-AK30
2824	26 USC 0337 Recognition of Gain or Loss on Liquidating Sales and Distributions of Property	1545-AJ91
2825	26 USC 0337(d) Application of General Utilities Repeal Regulatory Authority to Certain Distributions under Section 355	1545-AM34
2826	26 USC 0337(d) Scope of General Utilities Repeal	1545-AN21
2827	26 USC 0338 Deemed Purchase Price When Certain Stock Purchases are Treated as Asset Acquisitions	1545-AF29
2828	26 USC 0338 Income Tax—Elections Under Section 338, as Added by Section 224 of the Tax Equity and Fiscal Responsibility Act of 1982 as Amended by the Technical Corrections Act of 1982	1545-AF38
2829	26 USC 0338 Regulations Under Section 338 (h) (10) as Added to the Code by Section 306 of the Technical Corrections Act of 1982, Relating to Special Elective Recognition of Gain or Loss	1545-AF83
2830	26 USC 0338 Questions and Answers Relating to Miscellaneous Matters Under Section 338	1545-AH98
2831	26 USC 0338 Statements of Election and Due Dates	1545-AK58
2832	26 USC 0338 Mandatory Application of MADSP Formula for Determination of Deemed Sale Price for Old Target's Assets	1545-AJ97
2833	26 USC 0338 Treatment of an Affiliated Group of Corporations as a Selling Consolidated Group for Purposes of Elective Recognition Under Section 338(h)(10)	1545-AK32

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2834	26 USC 0338 Multiple Taxation	
2835	26 USC 0367 Amendment of the Income Tax Regulations Under Section 367 of the Code (Transfers to Foreign Corporations) to Reflect Section 131 of the Tax Reform Act of 1984 (P.L. 98-369)	1545-AN86
2836	26 USC 0367(b) Income Tax—Part 1—Temporary-Whether Earnings and Profits Should be Allocated to an Acquiring CFC from an Acquired CFC Following a Non-Recognition Transaction	1545-AK74
2837	26 USC 0367(e) Certain Corporate Distributions to Foreign Corporations	1545-AI32
2838	26 USC 0368 Income Tax—Exchange Funds	1545-AL35
2839	26 USC 0382 Income Tax—Ownership Change	1545-AB31
2840	26 USC 0382 Computation of Section 382 Limitation	1545-AJ00
2841	26 USC 0382 Allocation of a Loss Corporation's Income or Loss for the Taxable Year that Includes the Change Date Between the Periods Ending With and After the Change Date	1545-AK87
2842	26 USC 0382 Amendment of Sec. 1.382-2T(h)(4)(x) to Grant the IRS Authority to Designate in the Internal Revenue Bulletin Additional Options to Be Excepted From Attribution Rules of Sec. 1.382-2T(h)(4)(i)	1545-AL58
2843	26 USC 0382 Option Attribution; Immediately Before and After Rule	1545-AN76
2844	26 USC 0382(k)(7) Foreign Corporate First Tier Entities	1545-AO11
2845	26 USC 0383 Special Limitations on Certain Credit and Loss Carryovers	1545-AN61
2846	26 USC 0401 Income Tax—Refund of Mistaken Contributions	1545-AK28
2847	26 USC 0401 Income Tax—Required Distributions from Qualified Plans and Individual Retirement Accounts and Partial Rollovers of Individual Retirement Accounts	1545-AD68
2848	26 USC 0401 Miscellaneous Regulations for Qualified Plans	1545-AE95
2849	26 USC 0401(a)(26) Income Tax—Part 1—Additional Participation Requirements	1545-AO62
2850	26 USC 0401(a)(4) Nondiscrimination Requirements for Qualified Plans	1545-AK46
2851	26 USC 0401(k) Cash or Deferred Arrangements (Tax Reform Act of 1986)	1545-AM95
2852	26 USC 0401(l) Income Tax—Part 1—Application of Nondiscrimination Rules to Integrated Plans	1545-AI79
2853	26 USC 0401(m) Nondiscrimination Requirements for Employer Matching Contributions and Employee Contributions	1545-AI06
2854	26 USC 0404A Income Tax—Deduction for Certain Foreign Deferred Compensation Plans	1545-AI90
2855	26 USC 0408 Annual Information Reports by Trustees and Issuers of Individual Retirement Plans	1545-AD81
2856	26 USC 0410(b) Coverage Rules	1545-AF83
2857	26 USC 0411 Income Tax—Part 1—Benefit Accrual Beyond Normal Retirement Age	1545-AK41
2858	26 USC 0411 Income Tax—Part 1—Minimum Vesting Standards	1545-AI85
2859	26 USC 0414 Income Tax—Employees of an Affiliated Service Group	1545-AI88
2860	26 USC 0414 Income Tax Regulations—Affiliated Service Groups and Employee Leasing	1545-AD90
2861	26 USC 0414 Definition of "Highly Compensated Employee" and "Compensation"	1545-AE91
2862	26 USC 0414 Definition of Compensation	1545-AI91
2863	26 USC 0441 Taxable Years of Certain Entities	1545-AO66
2864	26 USC 0444 Election of Taxable Year Other Than Required Year By Partnerships, S Corporations and Personal Service Corporations	1545-AK63
2865	26 USC 0448 Limitation of the Use of the Cash Method of Accounting	1545-AL66
2866	26 USC 0448 Nonaccrual-Experience Method of Accounting—Clarification of Amounts Determined to be Uncollectible	1545-AJ52
2867	26 USC 0448 Untimely Compliance With Section 448	1545-AM33
2868	26 USC 0451 Accounting for Long-Term Contracts; Corporations Filing Consolidated Returns With a Contractor	1545-AN01
2869	26 USC 0451(d) Elective Deferral of Federal Payments Received as a Result of Destruction or Damage to Crops Caused by Natural Disaster	1545-AI19
2870	26 USC 0453 Income Tax—General Rules for Installment Sales	1545-AO49
2871	26 USC 0453 Income Tax—Installment Reporting—Asset Sales and Liquidation	1545-AB42
2872	26 USC 0453 Income Tax—Installment Obligations Received in Transactions in Which Gain or Loss is Generally Not Recognized	1545-AB43
2873	26 USC 0453 Transitional Rule Relating to Certain Installment Sales by Manufacturers to Dealers	1545-AB44
2874	26 USC 0453A Special Rules for Nondealers	1545-AL55
2875	26 USC 0453C Certain Indebtedness Treated as Payments on Installment Obligations	1545-AN19
2876	26 USC 0458 Income Tax—Exclusion from Gross Income with Respect to Magazines, Paperbacks, and Record Returns After Close of Taxable Year	1545-AM37
2877	26 USC 0460 Accounting for Long-term Contracts	1545-AB48
2878	26 USC 0461(h) Income Tax Regulations—The Economic Performance Requirement	1545-AJ28
2879	26 USC 0464 Income Tax—Limitation on Deductions in Case of Farming Syndicates	1545-AH32
2880	26 USC 0465 Income Tax—Determination of Amounts at Risk with Respect to Certain Activities	1545-AB51
2881	26 USC 0465 Aggregation of Certain Activities for Purposes of the At-Risk Rules	1545-AB52
2882	26 USC 0465 Regulations will Provide Guidance on What Constitutes an Interest Other Than That of a Creditor	1545-AI41
2883	26 USC 0468A Nuclear Decommissioning Reserve Funds	1545-AO32
2884	26 USC 0468B Taxation of Settlement Funds	1545-AO42
2885	26 USC 0469 Limitations on Passive Activity Losses and Credits	1545-AO99
2886	26 USC 0469 Limitations on Passive Activity Losses and Credits—Miscellaneous Issues	1545-AB26
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2887	26 USC 0469 Allocation of Interest Expense Among Expenditures	1545-AM69
2888	26 USC 0469 Application of Passive Activity Loss and Credit Limitations to Trusts, Estates, and Their Beneficiaries	1545-AM62
2889	26 USC 0469 Limitations on Passive Activity Losses and Credits - Miscellaneous	1545-AO62
2890	26 USC 0469 Passive Activity Loss and Credit Limitations—Technical Amendments	1545-AO36
2891	26 USC 0469 Allocation of Interest Expense Among Expenditures	1545-AO69
2892	26 USC 0469(j) Limitations on Passive Activity Losses and Credits—Former Passive Activities	1545-AN66
2893	26 USC 0469(i) Limitations on Passive Activity Losses and Credits—$25,000 Offset for Rental Real Estate Activities	1545-AN65
2894	26 USC 0469(k) Application of Passive Activity Loss and Credit Limitations to Interests in Publicly Traded Partnerships	1545-AN62
2895	26 USC 0469(l) Limitations on Passive Activity Losses and Credits—Definition of Activity	1545-AM68
2896	26 USC 0469(j) Limitations on Passive Activity Losses and Credits-Self Charged Items	1545-AM64
2897	26 USC 0469(l)(4) Special Rules for Allocation of Interest Expense Among Expenditures in the Case of Passthrough Entities	1545-AM70
2898	26 USC 0472 Income Tax—Three-Year Averaging for Increases in Inventory Value when Electing LIFO Method of Accounting	1545-AD55
2899	26 USC 0474 Simplified Dollar Value LIFO Method for Certain Small Businesses	1545-AN09
2900	26 USC 0501 Income Tax—Rules Clarifying the Regulations with Respect to the Computation of "Gross Income" of an Electric Cooperative	1545-AD89
2901	26 USC 0593 Income Tax—Limitation on Additions to Bank Loss Reserves	1545-AD66
2902	26 USC 0597 Tax Consequences of Federal Financial Assistance Provided in Connection with Taxable Asset Acquisitions of Troubled Financial Institutions	1545-AN70
2903	26 USC 0613 The Excludability of Oil and Gas Bonus or Advance Royalty Payments for Purposes of the Bonus Exclusion Rule Under Section 1.613-2(c)(5) of the Income Tax Regulations	1545-AO66
2904	26 USC 0613A Income Tax—Supplementary Rules on Limitations on Percentage Depletion for Oil & Gas	1545-AB73
2905	26 USC 0613A Transfers by Individuals to Corporation Under Section 613A (c)(10)	1545-AB74
2906	26 USC 0706(b) Taxable Years of Certain Partnerships	1545-AJ47
2907	26 USC 0708 Partnership Termination Distributions	1545-AO39
2908	26 USC 0752 Partner's Share of Partnership Liabilities	1545-AH26
2909	26 USC 0809 Imputed Earnings Rate for Mutual Life Insurance Companies	1545-AO83
2910	26 USC 0832 Treatment of Salvage Recoverable Under Section 832	1545-AO17
2911	26 USC 0842 The Definition of Modified Endowment Contract and the Proper Treatment of Loans and Other Distributions From Such Contracts	1545-AN49
2912	26 USC 0851 Treatment of Designated Hedges by RICs	1545-AB82
2913	26 USC 0852(b) Treatment of Certain Losses Attributable to Periods After October 31 of a Taxable Year of a Regulated Investment Company	1545-AB85
2914	26 USC 0860F Real Estate Mortgage Investment Conduits (REMICs); Reporting Requirements	1545-AH92
2915	26 USC 0861 California Franchise Tax and Section 1.861-8 Allocation	1545-AB58
2916	26 USC 0863 Special Rules for Determining Source	1545-AN24
2917	26 USC 0863(a) Allocation of Gross Income Attributable to Interest Rate Swaps under Section 863 (a)	1545-AL85
2918	26 USC 0864 Allocation and Apportionment of Interest Expense and Certain Other Expenses	1545-AB80
2919	26 USC 0864(e) Treatment of Related Person Factoring Income; Certain Investments in United States Property; and Stock Redemptions Through Related Corporations	1545-AH85
2920	26 USC 0864(e) Transition Rules for Allocation and Apportionment of Interest Expense and Rules Concerning the Treatment of Financial Arrangements That Alter Effective Interest Expense	1545-AN10
2921	26 USC 0871 Employment Taxes—Application of Repeal of 30 Percent Withholding by Tax Reform Act of 1984	1545-AM59
2922	26 USC 0882 Untimely Filing by Foreign Corporations	1545-AJ74
2923	26 USC 0884 Branch Profits Tax (General Rule and Definitions) and 2nd Level Withholding Taxes	1545-AJ72
2924	26 USC 0892 Income of Foreign Governments and International Organizations	1545-AL89
2925	26 USC 0897 Income Tax—Partnership Rules Regarding Taxation of Foreign Investment in U.S. Real Property Interests	1545-AB69
2926	26 USC 0897 Notice of Proposed Rulemaking—Nonrecognition of Corporate Distributions and Reorganizations Under the Foreign Investment in Real Property Tax Act	1545-AK79
2927	26 USC 0901 Amendment of Section 1.901-2(e)(3)	1545-AJ99
2928	26 USC 0905 Income Tax—Taxpayer's Obligation to File a Notice of Redetermination of Foreign Tax and Civil Penalties for Failure to File	1545-AD09
2929	26 USC 0907 Amendment of Regulations Under Section 907 of the Internal Revenue Code of 1954 to Conform Them to Section 211 of the Tax Equity and Fiscal Responsibility Act of 1982	1545-AE24
2930	26 USC 0924 FSC Transfer Pricing Rules, Distributions, Dividends Received, Deduction and Other Special Rules for FSC	1545-AH18
2931	26 USC 0936 Income Tax—Definition of Qualified Possession Source Investment Income for Purposes of Puerto Rico & Possession Tax Credit	1545-AC19
2932	26 USC 0936(d)(4) CBI Investments of Section 936 Funds	1545-AM91
2933	26 USC 0954 Current Taxation of Foreign Oil Related Income of Controlled Foreign Corporations	1545-AE38

Internal Revenue Service—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2934	26 USC 0954 Subpart F Definitions	1545-AM15
2935	26 USC 0986 Earnings and Profits of Controlled Foreign Corporations	1545-AM90
2936	26 USC 0987 Profit and Loss Transition Rules	1545-AM13
2937	26 USC 0988 Taxation of Exchange Gain or Loss on Foreign Currency Denominated Transactions	1545-AN28
2938	26 USC 0989 Change in Functional Currency and Definition of Weighted Averaged Exchange Rate	1545-AN53
2939	26 USC 0989(c) Transition Rule for Qualified Business Units Using a Net Worth Method of Accounting for Taxable Years Beginning Before January 1, 1987	1545-AL29
2940	26 USC 0995 Proposed Income Tax Regulations Under the Tax Reform Act of 1984 Relating to Interest Charge DISCs	1545-AG71
2941	26 USC 1031 Regulations Relating to Inapplicability of Section 1031 to Exchanges of Partnership Interests and the Limitation on Deferred Exchanges	1545-AH43
2942	26 USC 1031 Additional Rules for Exchanges of Personal Property and for Exchanges of Multiple Properties	1545-AN38
2943	26 USC 1058 Income Tax—Transfers of Securities Under Certain Agreements	1545-AC20
2944	26 USC 1060 Income Tax—Special Allocation Rules for Certain Asset Acquisitions	1545-AJ06
2945	26 USC 1092 Character of Gains and Losses in Case of Straddles Where at Least One Position is Ordinary and at Least One Position is Capital	1545-AM57
2946	26 USC 1092(b) Income Tax Regulations Under the Tax Reform Act of 1984 Relating to Mixed Straddles	1545-AH59
2947	26 USC 1092(b) Income Tax Regulations Under the Economic Recovery Tax Act of 1981 and the Tax Reform Act of 1984, Relating to Straddles	1545-AH60
2948	26 USC 1254 Income Tax—Gain from Disposition of Interest in Oil or Gas Property	1545-AC35
2949	26 USC 1275 Regulations Under Section 1271 Through 1275 Relating to Tax Treatment of Debt Instruments Having Original Issue Discount	1545-AH46
2950	26 USC 1275(d) The Treatment of Price Level Adjustment Mortgages Under the Original Issue Discount Provisions of the Code	1545-AC03
2951	26 USC 1291(d)(2) Passive Foreign Investment Companies	1545-AI33
2952	26 USC 1361 Income Tax—Definition of S Corporation	1545-AE86
2953	26 USC 1362 Amendment of Income Tax Regulations Under Code Sections 1362 and 1363 Relating to the Election, Revocation, and Termination of an S Corporation	1545-AE26
2954	26 USC 1374 Temporary Regulation—Application of Section 1374 Built-in Gain Tax to C Corporation's Electing S Corporation Status	1545-AK91
2955	26 USC 1441 Withholding on Items of Income Covered by an Income Tax Convention	1545-AH96
2956	26 USC 1441 Withholding of Tax on Non-Resident Aliens	1545-AN75
2957	26 USC 1445 Withholding Rules on Distributions Attributable to Dispositions of U.S. Real Property Interest by Publicly Traded Partnerships, Trusts and REITS	1545-AM50
2958	26 USC 1446 Temporary Regulation on Withholding Tax on Payments from Partnerships to Foreign Partners	1545-AL32
2959	26 USC 1502 Income Tax—Credit & Deductions etc., for Consolidated Returns	1545-AC48
2960	26 USC 1502 Cross-Reference—Consolidated Return Investment Adjustments with Respect to an Acquired Subsidiary's Built-in Gains or Losses	1545-AK94
2961	26 USC 1502 Consolidated Return Regulations; Adjustment on Disposition of Stock of Subsidiary	1545-AL59
2962	26 USC 1502 Adjustments Reflecting a Restructuring of a Consolidated Group	1545-AL62
2963	26 USC 1502 Amendment of Consolidated Return Regulations Regarding Deferral of Gain or Loss on Complete Liquidations	1545-AL63
2964	26 USC 1502 Amendment of Consolidated Return Regulations to Address Treatment of Certain Organizations Whose Tax-Exempt Status was Revoked by the 1986 Act	1545-AL64
2965	26 USC 1502 Consolidated Investment Credit Recapture	1545-AM35
2966	26 USC 1502 Treatment of Dividend Distributions After the Sale of a Subsidiary	1545-AN12
2967	26 USC 1502 Transactions Between Members Involving Common Nontaxable Exchanges	1545-AN25
2968	26 USC 1502 Consolidated Return Regulations—Modification of Restoration Rules Relating to Deferred Gain Property Sold Outside the Group in Installment Sale	1545-AD44
2969	26 USC 1503(d) Dual Resident Companies-Limitation on Consolidated Losses	1545-AM16
2970	26 USC 1504 Cross-Reference—Alaska Native Corporations; Requirements for Affiliation in Order To File a Consolidated Return	1545-AK88
2971	26 USC 2036 Estate & Gift Taxes—Inclusion of Stock in Estate Where Decedent Retained Voting Rights	1545-AC83
2972	26 USC 2056 Estate and Gift Taxes—Increase in Limitations on Marital Deductions	1545-AC87
2973	26 USC 2511 Timeliness of a Disclaimer of Interest in Property Created Prior to Jan. 1, 1977	1545-AN27
2974	26 USC 2663(b) Estate Tax—Generation Skipping Transfer Tax	1545-AJ11
2975	26 USC 2663 Amend Section 26.2662-1(c) of the temporary regulations to increase the amount for which the executor is liable	1545-AC89
2976	26 USC 3121 Employment Tax—To Require Withholding of Social Security and Railroad Retirement Tax from Certain Payments of Sick Pay	1545-AC77
2977	26 USC 3406 Information Reporting and Backup Withholding	1545-AL99
2978	26 USC 3406 Clarifying Amendments to Section 35a.3406-1 Regarding Backup Withholding Due to an Incorrect TIN	1545-AM51

TREAS—IRS

Internal Revenue Service—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2979	26 USC 3508 Treatment of Real Estate Agents and Direct Sellers as Nonemployees for Employment Tax Purposes—Reporting Requirements with Respect to Direct Sellers	1545-AE82
2980	26 USC 4051 Taxability of Converter Dollies	1545-AL71
2981	26 USC 4052 Excise Tax - Excise Tax on Heavy Trucks, Truck Trailers and Semitrailers, and Tractors	1545-AI51
2982	26 USC 4081 Modification of the Gasahol Regulations to Increase the Tolerance Allowed to the 10 Percent Alcohol Mixture and to Clarify the Later Blending Rules	1545-AO59
2983	26 USC 4471 Temporary Regulations Regarding Tax on Transportation by Water	1545-AO87
2984	26 USC 4681 Tax on Ozone Depleting Chemicals	1545-AO07
2985	26 USC 4911 Income Tax—Lobbying by Public Charities and Private Foundations	1545-AE02
2986	26 USC 4977 Excise Tax—Election to Aggregate Lines of Business for Purposes of Certain Fringe Benefit Exclusions	1545-AI83
2987	26 USC 4980A Excise Tax—Excess Distributions from Qualified Retirement Plans	1545-AI81
2988	26 USC 4992 Excise Tax—Issues Arising Where Multiple Parties Share in Production, Including Unitizations, Partnerships, Trusts and Estates	1545-AC84
2989	26 USC 4996 Excise Tax—Definition of Property Under the Crude Oil Windfall Profit Tax Act 1980	1545-AD06
2990	26 USC 6011 Excise Tax—Part 54—Procedure and Administration—Part 301 —Filing of Returns for Payment of Pension Excise Tax on Reversions of Qualified Plan Assets	1545-AI83
2991	26 USC 6031 Income Tax-Amendments to Requirements for Return of Partnership Income	1545-AE40
2992	26 USC 6038A Information with Respect to Certain Foreign-Owned Corporations	1545-AO09
2993	26 USC 6043 Reporting Requirements Concerning Changes in Corporate Control or Capital Structure Under Section 6043(c), I.R.C., as amended by Section 7208(b) of the Revenue Reconciliation Act of 1989	1545-AO45
2994	26 USC 6045 Information Returns of Broker Transactions	1545-AG02
2995	26 USC 6045 Information Returns on Sales Through COD Accounts	1545-AG52
2996	26 USC 6045 Information Reporting on Real Estate Transactions	1545-AJ25
2997	26 USC 6045 Income Tax—Information Reporting on Real Estate Transactions	1545-AL06
2998	26 USC 6049 To Clarify the Obligation of Brokers to Report Original Issue Discount on Form 1099	1545-AM80
2999	26 USC 6050H Information Reporting of Points on Mortgage Loans	1545-AO57
3000	26 USC 6050I Amend Aggregation Rules for Filing Requirement	1545-AN42
3001	26 USC 6050J Final Regulations Relating to Reports of Foreclosures and Abandonments of Security Under the Tax Reform Act of 1984	1545-AG46
3002	26 USC 6081 Notice of Proposed Rulemaking - Automatic Extension of Time to File Partnership Return of Income and Trust Income Tax Return	1545-AL38
3003	26 USC 6081 Extension of Time to File for Taxpayers Traveling Outside the United States	1545-AM06
3004	26 USC 6111 Proposed Regulations Under Sections 6111 and 6709, Relating to Tax Shelter Registration	1545-AG45
3005	26 USC 6221 Application of Unified Partnership Audit Provisions of TEFRA to REMICs	1545-AN76
3006	26 USC 6222 Miscellaneous Rules Relating to Consolidated Administrative and Judicial Proceedings to Determine the Tax Treatment of Partnership Items	1545-AE51
3007	26 USC 6241 Small S Corporation Exception and Definition of Subchapter S Item	1545-AJ99
3008	26 USC 6244 Definition of Tax Matters Person for an S Corporation	1545-AO34
3009	26 USC 6302 Acceleration of Deposit Requirements	1545-AO86
3010	26 USC 6302(c) Revision of Procedural Rules Relating to Excise Taxes Reported on Form 720	1545-AO96
3011	26 USC 6326 Administrative Appeal of the Erroneous Filing of Notice of Tax Lien	1545-AN07
3012	26 USC 6402 Proposed Regulations Under the Spending Reduction Act of 1984, Relating to Reduction of Tax Overpayments by the Amount of Past-Due Legally Enforceable Debt Owed to Federal Agency	1545-AG95
3013	26 USC 6402 Procedure and Administrative—Reduction of Tax Overpayments by Amount of Past Due Legally Enforceable Debt Owed to Federal Agency	1545-AK12
3014	26 USC 6402 Procedure and Administrations—Reduction of Tax Overpayments by Amount of Past Due Legally Enforceable Debt Owed to Federal Agency	1545-AL66
3015	26 USC 6404(e) Procedure and Administration - Abatement of Interest	1545-AK71
3016	26 USC 6501 Procedure and Administration Regulations—Extension of the Period for Assessment of Tax in Certain Circumstances	1545-AI23
3017	26 USC 6611 Procedure and Administration Regulations—Modifications of Interest Payments for Certain Periods	1545-AF10
3018	26 USC 6621 Procedure and Administration Regulations - Increased Rate of Interest on Substantial Underpayments Attributable to Certain Tax Motivated Transactions	1545-AG75
3019	26 USC 6651(f) Fraudulent Failure to File Tax Return; Imposition of Fraud Penalty	1545-AO64
3020	26 USC 6655 To Provide Regulations Relating to Accelerated Payment of Estimated Taxes by Corporations	1545-AE37
3021	26 USC 6656 Failure to Make a Deposit of Taxes	1545-AO67
3022	26 USC 6694 Understatement of Taxpayer's Liability by Income Tax Return Preparer	1545-AO62
3023	26 USC 6723 Penalty for Failure to Include Correct Information on Information Returns and Payee Statements	1545-AJ29
3024	26 USC 6851 Certificates of Compliance with Income Tax Laws by Departing Aliens	1545-AN96
3025	26 USC 7103(b) Procedure and Administration—Property Seized by the Internal Revenue Service Under the Money Laundering Control Act of 1986	1545-AL04
3026	26 USC 7216 Amendment of Regulations to Permit Disclosure of Tax Return Information Between Franchisees Who Jointly Operate a Tax Service	1545-AH91

TREAS—IRS

Internal Revenue Service—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3027	26 USC 7430 Recovery of Administrative Costs	1545-AN02
3028	26 USC 7502 Procedure and Administration—Amendment of Regulations Relating to the Timely Mailing of Returns, Taxes and Deposits	1545-AD42
3029	26 USC 7605(a) Procedures Involving Taxpayer Interviews (Time and Place of Examination)	1545-AO64
3030	26 USC 7624 Procedure and Administration Regulations—Reimbursement for State and Local Law Enforcement Agencies	1545-AN00
3031	26 USC 7701(a)(40) Indian Tribal Governments Treated as States for Certain Purposes	1545-AF77
3032	26 USC 7701(b) Amendment of Procedure and Administration Regulations Under Section 7701(b) (Definition of Resident Aliens) to Reflect Section 136 of the Tax Reform Act of 1984 (P.L. 98-369)	1545-AH13
3033	26 USC 7702 Reasonable Mortality Charges	1545-AO12
3034	26 USC 7704 Certain Publicly Traded Partnerships Treated as Corporations—Transition Provisions	1545-AN92
3035	26 USC 7704 When a Principal Activity of a Partnership is the Buying and Selling of Commodities	1545-AO39
3036	26 USC 7805 Effective Dates and Other Questions Arising Under Employee Benefit Provisions of the Tax Reform Act of 1984	1545-AI21
3037	26 USC 7805 50 Percent Excise Tax on Any Gain Realized by a Person Who Receives "Greenmail"	1545-AL47
3038	26 USC 7805 The Time and Manner of Making Certain Elections Under the Technical and Miscellaneous Revenue Act of 1988	1545-AN03
3039	26 USC 7805 Technical Amendments to Section 602.101(c)	1545-AO88
3040	26 USC 7811 Taxpayer Assistance Orders	1545-AN14
3041	26 USC 7872 Regulations on Income Tax Under the Tax Reform Act of 1984, Relating to Below-Market Loans	1545-AH72
3042	26 USC 9100 Expanding Relief under Section 301.9100-1 of Regulations to all other Subtitles except A,T, & F by Amending the Regulation	1545-AO85

Internal Revenue Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3043	26 USC 0040 Alcohol Fuel Credit; Definition of Mixture	1545-AN72
3044	26 USC 0042 Clarification of Determination of Bad Debt Experience under Nonaccrual-experience Method of Accounting	1545-AK92
3045	26 USC 0042 Low-Income Housing Credit for Federally-Assisted Buildings acquired during 10-year period	1545-AL05
3046	26 USC 0163 Registration Requirements with Respect to Certain Debt Obligations	1545-AM23
3047	26 USC 0163 Registration Requirements with Respect to Certain Debt Obligations	1545-AN60
3048	26 USC 0280F Automobiles Inclusion Amounts for Calendar Years After 1988	1545-AO04
3049	26 USC 0337 Recognition of Gain or Loss on Liquidating Sales and Distributions of Property	1545-AK90
3050	26 USC 0338 Foreign Personal Holding Companies and Section 338	1545-AO26
3051	26 USC 0367(b) Foreign Liquidations and Reorganizations (NPRM)	1545-AJ76
3052	26 USC 0367(b) Certain Exchanges Described in More Than One Code Section	1545-AN58
3053	26 USC 0367(b) Certain Exchanges Described in More Than One Code Provision	1545-AN59
3054	26 USC 0414 Definition of Compensation	1545-AO70
3055	26 USC 0451(d) Elective Deferral of Federal Payments Received as a Result of Destruction or Damage to Crops Caused by Natural Disaster	1545-AO48
3056	26 USC 0461(h) Temporary Income Tax Regulations—The Economic Performance Requirement	1545-AH33
3057	26 USC 0469 Limitations on Passive Activity Losses and Credits—Miscellaneous	1545-AO01
3058	26 USC 0752 Amendments to Proposed Regulations Under Sections 752 and 704(b) Issued 12/29/88	1545-AN30
3059	26 USC 0832 Treatment of Salvage Recoverable Under Section 832	1545-AO16
3060	26 USC 0863 Special Rules for Determining Source	1545-AN95
3061	26 USC 0865 Temporary Regulations for Source Rules for Personal Property Sales	1545-AL78
3062	26 USC 0904(f) 904(f) Transition Rules	1545-AL17
3063	26 USC 0953 Section 953 - Insurance Income	1545-AN89
3064	26 USC 0987 Computation of a Branch's Taxable Income; Taxation of Exchange Gain or Loss on Branch Remittances	1545-AN32
3065	26 USC 0988 Exchange of Futures for Physicals	1545-AO74
3066	26 USC 1248 Gains from Certain Sales or Exchanges in Certain Foreign Corporations	1545-AL08
3067	26 USC 1248 Section 1248 Sales and Earnings and Profits	1545-AM42
3068	26 USC 1291 Treatment of Certain Shareholders of Passive Foreign Investment Companies	1545-AO63
3069	26 USC 1502 Investment Adjustments Under the Consolidated Return Regulations	1545-AC47
3070	26 USC 1502 Investment Adjustments Under the Consolidated Return Regulations	1545-AI58
3071	26 USC 1502 Temporary Regulations—Consolidated Return Investment Adjustments With Respect to an Acquired Subsidiary's Built-in Gains or Losses	1545-AK95

TREAS—IRS

Internal Revenue Service—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
3072	26 USC 1502 Modification of Consolidated Regulations Concerning Restoration of Deferred Gain to Add an Interest Charge on Deferred Gain Property Sold Outside of Group on Installment Basis	1545-AO43
3073	26 USC 3405(d)(13) Withholding on Certain Deferred Payments Outside the United States	1545-AL31
3074	26 USC 4041 Election to Have Certain Diesel Fuel Taxes Imposed on Sales to Retailers	1545-AJ18
3075	26 USC 6031 Nominee Reporting of Partnership Information	1545-AJ89
3076	26 USC 6038A Information with Respect to Certain Foreign-Owned Corporations	1545-AO10
3077	26 USC 6039D Procedure on Certain Fringe Benefits Plans	1545-AI22
3078	26 USC 6043 Reporting Requirements Concerning Changes in Corporate Control or Capital Structure Under Section 6043(c), I.R.C., as amended by by Section 7208(b) of the Revenue Reconciliation Act of 1989	1545-AO45
3079	26 USC 6045 Information Reporting on Real Estate Transactions	1545-AM38
3080	26 USC 6050I Amend Aggregation Rules for Filing Requirement	1545-AO00
3081	26 USC 6103 Income Tax-Disclosure of Return Information to Officers and Employees of the Department of Commerce for Certain Statistical Purposes and Related Activities	1545-AM02
3082	26 USC 6114 Treasury-Based Return Positions; Failure to Disclose Treaty-Based Return Position	1545-AM87
3083	26 USC 6114 Revisions to Final Regulations under Section 6114	1545-AO58
3084	26 USC 6404(f) Abatement of Any Penalty or Addition to Tax Attributable to Erroneous Written Advice by the Internal Revenue Service	1545-AN04
3085	26 USC 7605 Procedures Involving Taxpayer Interviews (Time and Place of Examination)	1545-AM89

DEPARTMENT OF THE TREASURY (TREAS)

Prerule Stage

Internal Revenue Service (IRS)

2489. ● A DETAILING OF THE MINIMUM LIVING AREA WHICH MUST CONSTITUTE A BEDROOM FOR PURPOSES OF DETERMINING THE GROSS RENT LIMITATION APPLICABLE TO RENT-RESTRICTED UNITS

Legal Authority: 26 USC 42 (g)(2)(C) Internal Revenue Code of 1986

CFR Citation: 26 CFR 42

Legal Deadline: None

Abstract: The temporary regulations discuss the minimum living area of a bedroom used for determining the gross rent limitation applicable to rent-restricted units under section 42 (g)(2)(c) for purposes of the low-income housing credit.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: PS-010-90

Drafting Attorney: Deane Burke (202) 377-6349.

Reviewing Attorney: James F. Ranson (202) 377-6349.

Treasury Attorney: Andrew Dubroff (202) 566-5453.

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RIN: 1545–AO52

2490. ● A DETAILING OF THE SUITABILITY OF A UNIT FOR OCCUPANCY FOR PURPOSES OF DETERMINING WHETHER A UNIT MAY BE TREATED AS A LOW-INCOME UNIT

Legal Authority: 26 USC 42(i)(3)(B)(ii) Internal Revenue Code of 1986

CFR Citation: 26 CFR 42

Legal Deadline: None

Abstract: The temporary regulations discuss the standards used for determining that a low-income unit satisfies the suitability for occupancy required under section 42 (i)(3)(B)(ii) to continue qualifying as a low-income unit for purposes of the low-income housing credit.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: PS-011-90

Drafting attorney: Deane Burke (202) 377-6349.

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RIN: 1545–AO53

2491. INCOME TAX—PART 1 PERSONAL INJURY LIABILITY ASSIGNMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 130 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

TREAS—IRS

Prerule Stage

Legal Deadline: None

Abstract: This regulation project will provide rules on the exclusion from gross income for amounts received for agreeing to the assignment of a liability to make periodic payments as damages on account of personal injury or sickness.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-62-86.

Drafting attorney: Rochelle Pickard (202) 566-3937.

Reviewing attorney: Cynthia Clark (202) 566-6362.

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RIN: 1545-AF29

2492. EXCLUSION FROM GROSS INCOME FOR INCOME FROM U.S. SAVINGS BONDS USED TO PAY TUITION AND FEES

Significance: Regulatory Program

Legal Authority: 26 USC 135 Internal Revenue Code Of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance to taxpayers concerning the exclusion from income of interest on United States Savings Bonds used to pay higher education tuition and fees.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-013-89

Drafting Attorney: Celia Gabryeh (202) 566-6330.

Reviewing Attorney: Vincent Cardella (202) 566-6425.

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RIN: 1545-AN18

2493. RECOVERY OF OVERPAYMENTS OF ARBITRAGE REBATE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 148 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Under section 148 of the 1986 Code, arbitrage rebate payments are not refundable. However, provision should be made for recovery of overpayments of rebate if the issuer establishes to the satisfaction of the Commissioner that: (1) the issuer paid an amount in excess of the determined rebatable arbitrage, (2) The excess was paid in error, and (3) recovery of the overpayment at the date first requested would not result in rebatable arbitrage as of such date.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-067-89

Drafting Attorney: Suzanne Reynolds (202) 566-4310.

Reviewing Attorney: Michael Montemurro (202) 566-4085.

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RIN: 1545-AC15

2494. ALLOCATION RULES FOR BOND PROCEEDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 148(i) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules for allocating proceeds of an issue to investments and expenditures for purposes of the Arbitrage rebate regulations. The rules will accommodate customary governmental accounting practices to the extent possible.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-066-89

Drafting Attorney: William Cejudo (202) 566-3283.

Reviewing Attorney: Michael Montemurro (202) 566-4085.

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RIN: 1545-AO14

2495. INCOME TAX—TO ADD PROVISIONS RELATING TO FOREIGN CONVENTIONS (AS AMENDED BY SECTION 4 OF PUBLIC LAW 96-609)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 274 (h) Internal Revenue Code of 1986; PL 96-606, Sec 4; PL 97-424, Sec 543; PL 98-67, Sec 222

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules to assist taxpayers in determining whether it is as reasonable to hold a convention, seminar, or similar meeting outside North America as within it, and thus whether expenses relating to attendance at the convention are deductible.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-114-81.

Tax Law Specialist : Benjamin P. Foster (202) 343-0328.

Reviewing attorney: John M. Fischer (202) 566-3151.

Treasury attorney: Judd Kelley (202) 566-3527.

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RIN: 1545-AB04

2496. APPLICATION OF GENERAL UTILITIES REPEAL REGULATORY AUTHORITY TO RICS AND REITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 337(d) Internal Revenue Code 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulations project is one of several dealing with the implementation of the repeal of the General Utilities doctrine by section 631 of the Tax Reform Act of 1986. This project deals with the regulations necessary to ensure the repeal is implemented with respect to RICs and REITs.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-15-88

Drafting attorney: Robert M. Casey (202) 566-3551.

Reviewing attorney: William Alexander (202) 566-3544.

Treasury attorney: Judge Kelley (202) 566-2175.

Agency Contact: Robert M. Casey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3551

RIN: 1545-AL65

2497. APPLICATION OF INSTALLMENT METHOD TO DEEMED SALE OF ASSETS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.338(h)(10)

Legal Deadline: None

Abstract: The regulations will provide guidance for utilization of the installment method of reporting in a qualified stock purchase to which section 338(h)(10) applies.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-88-88

Drafting attorney: Robert M. Casey (202) 566-3551.

Reviewing attorney: Christopher F. Kane (202) 566-3551.

Treasury attorney: Judd Kelley (202) 566-2175.

Agency Contact: Robert Casey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3551

RIN: 1545-AM84

2498. CORPORATE REORGANIZATION AMENDMENTS - BANKRUPTCY TAX ACT OF 1980

Legal Authority: 26 USC 354 Internal Revenue Code of 1986; 26 USC 355 Internal Revenue Code of 1986; 26 USC 357 Internal Revenue Code of 1986; 26 USC 358 Internal Revenue Code of 1986; 26 USC 361 Internal Revenue Code of 1986; 26 USC 362 Internal Revenue Code of 1986; 26 USC 366 Internal Revenue Code of 1986; 26 USC 381 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance with respect to amendments to the Internal Revenue Code by the Bankruptcy Tax Act of 1980, dealing with bankruptcy and other insolvency reorganizations.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-74-87.

Drafting attorney: Robert M. Casey (202) 566-3551.

Reviewing attorney: Christopher Kane (202) 566-3433.

Agency Contact: Robert M. Casey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3551

RIN: 1545-AK33

2499. LIMITATION ON USE OF PREACQUISITION LOSSES TO OFFSET BUILT-IN GAINS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 384 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations are intended to provide guidance concerning the application of section 384 of the Internal Revenue Code. This section limits a corporation's ability to offset gains that accrued prior to a merger or acquisition against pre-acquisition losses of a second corporation.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-90-88

Drafting Attorney: Robert M. Casey (202) 566-3551.

Reviewing Attorney: William Alexander (202) 566-3544.

Agency Contact: Robert M. Casey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3551

RIN: 1545-AM43

2500. BLOCKED INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Computation of income subject to currency or exchange restrictions.

TREAS—IRS

Prerule Stage

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-369-88

Drafting attorney: Christopher S. Warnock (202) 566-6795.

Reviewing attorney: Robert A. Katcher (202) 566-6795.

Treasury attorney: Peter Barnes (202) 566-3812.

Agency Contact: Christopher S. Warnock, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6795

RIN: 1545-AL85

2501. SECTION 482 REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 482 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To revise section 482 regulations per section 482 white paper.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-401-88

Drafting attorney: Richard M. Elliott (202) 287-4851.

Reviewing attorney: Ken Wood (202) 287-4851.

Treasury attorney: Rom Watson (202) 566-6066.

Agency Contact: Richard M. Elliott, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, SW., Washington, DC 20024, 202 287-4851

RIN: 1545-AL85

2502. SECTION 482 COST SHARING REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 482 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Transfer of intangibles between affiliates; intercompany pricing issues.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-372-88

Drafting attorney: Lisa L. Grogan (202) 287-4851.

Reviewing attorney: Ken Wood (202) 287-4851.

Treasury attorney: Rom Watson (202) 566-6066.

Agency Contact: Lisa L. Grogan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, SW., Washington, DC 20024, 202 287-4851

RIN: 1545-AM00

2503. INTEREST DEDUCTION UNDER SECTION 834(C)(5)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations clarify that in order to be deductible under section 834(c)(5), interest must relate to investment income.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-110-87

Drafting attorney: William Blagg (202) 566-3294.

Reviewing attorney: Steve Hooe (202) 566-3294.

Agency Contact: William L. Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3294

RIN: 1545-AL07

2504. TEMPORARY INCOME TAX REGULATIONS—DISCOUNTING OF UNPAID LOSSES OF PROPERTY AND CASUALTY INSURANCE COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 846 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules relating to the discounting of unpaid losses by property and casualty insurance companies. It is anticipated that the regulations will provide guidance with respect to the treatment of salvage and subrogation and the use of company's loss payment pattern.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-138-88.

Drafting attorney: Bill Blagg (202) 566-3294.

Reviewing attorney: Steve Hooe (202) 566-3459.

Treasury attorney: Jeanne Hoenicke (202) 566-5453.

Agency Contact: Bill Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3294

RIN: 1545-AI96

2505. SPECIAL ESTIMATED TAX PAYMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 847 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provide rules for payment of special Estimated Taxes in an amount equal to the Tax Benefit of the special deduction allowed by section 847.

TREAS—IRS

Prerule Stage

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-022-89

Drafting Attorney: William Blagg (202) 566-3294.

Reviewing Attorney: Steve Hooe (202) 566-3459.

Treasury Attorney: Jeanne Hoenicke (202) 566-2027.

Agency Contact: William L. Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 566-3294

RIN: 1545–AN33

2506. INCOME TAX - INTEREST AND DIVIDENDS OF 80-20 COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 861 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would provide rules with respect to the sourcing of dividends and interest paid by so-called "80-20" companies, that is, companies with 80% or more foreign source income.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-950-86

Drafting attorney: Sim S. Seo (202) 566-6845.

Reviewing attorney: Phyllis Marcus (202) 566-6045.

Treasury attorney: Mary Bennett (202) 566-5992.

Agency Contact: Sim S. Seo, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6845

RIN: 1545–AJ58

2507. COMPUTATION OF INTEREST EXPENSE DEDUCTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 882 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will revise the rules for the computation of the interest expense deduction of a foreign corporation.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-309-88

Drafting attorney: Charles T. Plambeck (202) 566-6284.

Reviewing attorney: Robert A. Katcher (202) 566-6795.

Treasury attorney: Chisoon Lee (202) 566-4979.

Agency Contact: Charles T. Plambeck, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC, 202 566-6284

RIN: 1545–AL84

2508. FIRPTA CLEANUP

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 897 Internal Revenue Code of 1986; 26 USC 1445 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Reporting requirements for 5 percent shareholders; equity kickers; establish securities market definition; other related issues.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-785-87

Drafting attorney: James Sams (202) 566-6845.

Reviewing attorney: Robert Culbertson (202) 377-9453.

Treasury attorney: Marila Risinger (202) 566-5791.

Agency Contact: James Sams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6845

RIN: 1545–AJ72

2509. RESOURCING INCOME TO PREVENT AVOIDANCE OF FOREIGN TAX CREDIT LIMITATION RULES RELATING TO FOREIGN LOSSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 904 Internal Revenue Code of 1986; 26 USC 1504 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The purpose of the regulation is to require a taxpayer to resource the income of any member of an affiliated group of corporations, or, alternatively to modify the consolidated return regulations, to the extent necessary in order to prevent avoidance of the purposes of the foreign tax credit rules.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-6-90

Drafting Attorney: Kenneth D. Allison (202) 566-6442.

Reviewing Attorney: Charles P. Besecky (202) 566-6442.

Treasury Attorney: Peter Barnes (202) 566-5815.

Agency Contact: Kenneth D. Allison, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, 202 566-6442

RIN: 1545–AN87

TREAS—IRS

Prerule Stage

2510. SUSPENSION OF REQUIREMENT TO FILE A RECEIPT FOR FOREIGN TAXES PAID ON A RETURN FOR FOREIGN TAXES ACCRUED

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 905 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will address the suspension of the requirement to file a receipt for foreign taxes paid or a return for foreign taxes accrued.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-357-88

Drafting Attorney: Jeffrey L. Vinnik (202) 377-9059.

Reviewing Attorney: Thomas D. Fuller (202) 377-9059.

Treasury Attorney: Unassigned.

Agency Contact: Jeffrey L. Vinnik, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-9059

RIN: 1545-AM43

2511. SOURCE RULES WITHIN THE VIRGIN ISLANDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide sourcing rules for the determination as to whether income is derived from sources within the Virgin Islands or the U.S. or is effectively connected with the conduct of a trade or business within the Virgin Islands or the U.S. To the extent possible, the rules will be similar to those set forth in IRC sections 861-865.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-613-87

Drafting attorney: John J. Brady (202) 287-4851.

Reviewing attorney: George M. Sellinger (202) 287-4851.

Treasury attorney: Peter Barnes (202) 566-5815.

Agency Contact: John J. Brady, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W. Room 3319, Washington, DC 20024, 202 287-4851

RIN: 1545-AL40

2512. SUBPART F - USE OF DEFICITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 952 Internal Revenue Code of 1986; 26 USC 954 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules for determining the extent to which current year deficits in unrelated income categories or prior year deficits may reduce the amount included in the gross income of any U.S. shareholder under section 951(a)(1)(A)(i) for taxable years after 1986.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-954-86

Drafting attorney: Valerie A. Mark (202) 566-6645.

Reviewing attorney: Phyllis E. Marcus (202) 566-6645.

Treasury attorney: Peter Barnes (202) 566-5815.

Agency Contact: Valerie A. Mark, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6645

RIN: 1545-AJ71

2513. COMPUTATION OF A BRANCH'S TAXABLE INCOME TAXATION OF EXCHANGE GAIN OR LOSS ON BRANCH REMITTANCES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Branch rules on how to translate branch income. Taxation of exchange gain or loss on branch remittances.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-965-86

Drafting attorney: Carol E. Murphy (202) 566-6284.

Reviewing attorney: Robert Katcher (202) 566-6795.

Treasury attorney: Chisoon Lee (202) 566-6275.

Agency Contact: Carol E. Murphy, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6284

RIN: 1545-AM12

2514. INCOME TAX—GAIN FROM SALE OR EXCHANGE OF STOCK IN FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1248 Internal Revenue Code of 1986; 26 USC 751 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would amend existing regulations with respect to the section 1248 amount attributable to stock of lower tier subsidiaries and stock in less developed country corporations. The regulations would also provide rules for determining the section 1248 amount due to certain dispositions on which gain is not recognized. The regulations would also expand the foreign tax credit available with respect to the section 1248 amount attributable to third-tier subsidiaries.

TREAS—IRS

Prerule Stage

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-42-88

Drafting attorney: Karen S. Holden (202) 566-6442.

Reviewing attorney: Benedetta Kissel (202) 566-6442.

Treasury attorney: Marlin Risinger (202) 566-5791.

Agency Contact: Karen S. Holden, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6442

RIN: 1545-AC31

2515. REVISED WITHHOLDING TAX REGULATION TO MODIFY "AS SOON AS PRACTICAL" REQUIREMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1441 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will modify a requirement of Treas. Reg. section 1.1441-6(c) regarding the time for filing of Form 1001. Section 1.1441-6(a) provides that the withholding rate shall be reduced as may be provided by a treaty with any country. To secure a reduced treaty withholding rate, subsection (c) of the regulation requires the recipient of the income to file Form 1001 (ownership, exemptions, or reduced rate certificate) with the withholding agent. The regulation further provides that each such Form 1001 filed with any withholding agent shall be filed "as soon as practicable". The "as soon as practicable" requirement will be changed to a narrower and more objective time period.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-865-87

Drafting attorney: Eric P. Turner (202) 377-9493.

Reviewing attorney: Bernard T. Bress (202) 566-3452.

Treasury attorney: Peter Barnes (202) 566-5815.

Agency Contact: Eric P. Turner, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-9493

RIN: 1545-AL19

2516. CONSOLIDATED ALTERNATIVE MINIMUM TAX

Legal Authority: 26 USC 1502 Internal Revenue Code of 1986; 26 USC 53 Internal Revenue Code of 1986; 26 USC 55 Internal Revenue Code of 1986; 26 USC 56 Internal Revenue Code of 1986; 26 USC 57 Internal Revenue Code of 1986; 26 USC 58 Internal Revenue Code of 1986; 26 USC 59 Internal Revenue Code of 1986; 26 USC 59A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.55; 26 CFR 1.1502

Legal Deadline: None

Abstract: This regulation will provide corporate taxpayers joining in the filing of a consolidated federal income return with guidance necessary to calculate their alternative minimum tax liability.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: IA-037-88

Drafting attorney: Nicholas G. Bogos (202) 566-6320.

Reviewing attorney: Stephen Toomey (202) 566-4104.

Treasury attorney: Roy Strowd (202) 566-6502.

Agency Contact: Nicholas G. Bogos, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6320

RIN: 1545-AN73

2517. ● AVIATION TAX EXEMPTION FOR CERTAIN HELICOPTERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4041 Internal Revenue Code of 1986; 26 USC 4261 Internal Revenue Code of 1986; 26 USC 4091 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48; 26 CFR 49

Legal Deadline: None

Abstract: The regulations will provide rules relating to the exemption from the fuel taxes and transportation taxes for helicopters used in forestry, oil and gas exploration, and emergency medical transportation.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Organizations

Government Levels Affected: None

Additional Information: PS-032-90

Drafting attorney: Frank Boland (202) 566-4475.

Reviewing attorney: Richard Kocak (202) 566-3494.

Agency Contact: Frank Boland, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4475

RIN: 1545-AO92

2518. ELECTRONIC FILING OF TAX RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6011 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance and standards to taxpayers governing the electronic filing of individual income tax returns.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-21-87

TREAS—IRS

Prerule Stage

Drafting attorney: Celia Gabrysh (202) 566-3328.

Reviewing attorney: Vincent Cardella (202) 566-4325.

Agency Contact: Celia A. Gabrysh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3328

RIN: 1545-AL01

2512. RETURN FILING REQUIREMENTS FOR INSURANCE COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6012 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6012-2(c)

Legal Deadline: None

Abstract: Regulations will outline requirements for the filing of income tax returns by insurance companies.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-33-89

Drafting attorney: William Blagg (202) 566-3294.

Reviewing attorney: Steve Hooe (202) 566-3458.

Treasury attorney: Jeanne Hosnicka (202) 566-3297.

Agency Contact: William Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3294

RIN: 1545-AM23

2520. LEVY AND DISTRAINT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6331 Internal Revenue Code of 1986; 26 USC 6332 Internal Revenue Code of 1986; 26 USC 6334 Internal Revenue Code of 1986; 26 USC 6335 Internal Revenue Code of 1986; 26 USC 6343 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6331-1; 26 CFR 301.6336-2

Legal Deadline: None

Abstract: Section 6331 of the Internal Revenue Code was amended by section 6238 of the Technical and Miscellaneous Revenue Act of 1988 to preclude certain levies. The Treasury regulations promulgated under Code section 6331 must be changed to conform to the new statutory language.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: GL-709-88

Drafting attorney: Michael R. Asmer (202) 566-4825.

Reviewing attorney: Robert Miller (202) 566-3117.

Agency Contact: Michael R. Asmer, Assistant to Assistant Chief Counsel (GL), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4825

RIN: 1545-AM70

2521. SURRENDER OF PROPERTY SUBJECT TO LEVY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6332 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6332-1

Legal Deadline: None

Abstract: Section 6332 of the Internal Revenue Code of 1986 was amended by section 6238 of the Technical and Miscellaneous Revenue Act of 1988 to require banks to hold levied upon accounts for twenty-one days after a levy is served. The Treasury regulations promulgated under this code section must be changed to conform to the new statutory language.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-172-89

Drafting Attorney: Anne Rosselot (202) 535-9078.

Reviewing Attorney: Robert Miller (202) 566-3117.

Agency Contact: Anne Rosselot, Docket Attorney (General Litigation), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 535-9078

RIN: 1545-AM45

2522. PROPERTY EXEMPT FROM LEVY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6334 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6334-1; 26 CFR 301.6334-2; 26 CFR 301.6334-3; 26 CFR 301.6334-4; 26 CFR 301.6334-5; 26 CFR 301.6334-6; 26 CFR 301.6334-7

Legal Deadline: None

Abstract: Section 6334 of the Internal Revenue Code of 1986 was amended by section 6236 of the Technical and Miscellaneous Revenue Act of 1988 to increase certain exemptions from levy, and to exempt a taxpayer's principal residence from levy in most instances. The Treasury regulations promulgated under this section must be changed to conform to the new statutory language.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-172-89

Drafting Attorney: Robert Miller (202) 566-3117.

Reviewing Attorney: Robert Miller (202) 566-3117.

Agency Contact: Robert Miller, Docket Attorney (General Litigation), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 566-3117

RIN: 1545-AN46

2523. SALE OF SEIZED PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6335 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6335-1

Legal Deadline: None

TREAS—IRS

Prerule Stage

Abstract: Section 6335 of the Internal Revenue Code of 1986 was amended by section 6236 of the Technical and Miscellaneous Revenue Act of 1988 to allow the owner of property seized by the Internal Revenue Service to request that the property be sold within sixty days, or any longer period specified by the owner. The Treasury regulations promulgated under this section must be changed to reflect this new statutory provision.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-174-89

Drafting Attorney: Robert Miller (202) 566-3117.

Reviewing Attorney: Robert Miller (202) 566-3117.

Agency Contact: Robert Miller, Docket Attorney (General Litigation), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 566-3117

RIN: 1545–AN47

2524. AUTHORITY TO RELEASE LEVY AND RETURN PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6343 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6343-1

Legal Deadline: None

Abstract: Section 6343 of the Internal Revenue Code of 1986 was amended by section 6236 of the Technical and Miscellaneous Revenue Act of 1988 to provide new procedures for the release of levies and return of property. The Treasury regulations promulgated under this section must be changed to reflect the new statutory language.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-175-89

Drafting Attorney: Anne Rosselot (202) 535-9678.

Reviewing Attorney: Robert Miller (202) 566-3771.

Agency Contact: Anne Rosselot, Docket Attorney (General Litigation), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 535-9678

RIN: 1545–AN48

2525. COLLECTION AFTER ASSESSMENT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6502-1

Legal Deadline: None

Abstract: Section 6502 of the Internal Revenue Code of 1986 was amended by section 1015(u) of the Technical and Miscellaneous Revenue Act of 1988, to provide that the statute of limitations on administrative collection is extended if a timely suit to collect is commenced and, furthermore, that the statute is extended until any judgment obtained becomes unenforceable. Treasury Regulation 301.6502-1 must be changed to conform to this new statutory provision.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: GL-721-88

Drafting attorney: Anne P. Rosselot (202) 535-9678.

Reviewing attorney: Robert Miller (202) 566-3117.

Agency Contact: Anne Rosselot, Docket Attorney (General Litigation Div.), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 535-9678

RIN: 1545–AM71

2526. DETERMINING LARGE CORPORATION STATUS FOR CONSOLIDATED RETURN GROUPS PAYING ESTIMATED TAX

Legal Authority: 26 USC 6655(i) Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.1502-5

Legal Deadline: None

Abstract: Section 6655(d)(2) of the IRC of 1986 requires large corporations to make estimated tax payments based on 90 percent of their current year's tax. Section 6655(g)(2) defines a large corporation as one who itself (or a predecessor corporation) had taxable income of $1,000,000 or more in any of the three previous taxable years. The regulation will address difficulties in applying the definition to an affiliated group of corporations filing a consolidated return.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-97-88

Drafting attorney: Brendan P. O'Hara (202) 566-2455.

Reviewing attorney: Virginia S. Voorhees (202) 566-2454.

Treasury attorney: Marc Levy (202) 566-4902.

Agency Contact: Brendan O'Hara, Attorney/Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3455

RIN: 1545–AM75

2527. ◆ AWARD AND COLLECTION OF SANCTIONS, PENALTIES, AND COSTS AWARDED TO THE U.S. BY A COURT OTHER THAN THE TAX COURT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations provide that awards to the United States are to be assessed and collected in the same manner as taxes.

TREAS—IRS

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Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-267-90

Drafting Attorney: Stuart Spielman (202) 566-3289

Reviewing Attorney: Rudi Fleuert (202) 566-3289.

Agency Contact: Stuart Spielman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constition Avenuen, NW., Washington, DC 20224, 202 566-3289

RIN: 1545-AO68

1525. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS

Legal Authority: 26 USC 7806 Internal Revenue Code of 1986; 26 USC 6700 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations would provide rules and definitions relating to the penalty for promoting abusive tax shelters.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-273-82.

Drafting tax law specialist: Gail M. Winkler (202) 566-4442.

Reviewing attorney: Norlyn D. Miller, Jr. (202) 566-3273.

Agency Contact: Gail M. Winkler, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4442

RIN: 1545-AN01

2528. PENALTY FOR AIDING AND ABETTING IN THE UNDERSTATEMENT OF TAX LIABILITY

Legal Authority: 26 USC 7806 Internal Revenue Code of 1986; 26 USC 6701 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Proposal will provide rules with respect to the penalty imposed on a person who aids and abets in the understatement of a third party's tax liability. The proposal also provides the standards which will subject one to the penalty.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-274-82.

Drafting attorney: Vincent G. Surabian (202) 566-6590.

Reviewing attorney: Norlyn D. Miller (202) 566-3273.

Agency Contact: Vincent G. Surabian, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6590

RIN: 1545-AN01

2530. TREATMENT OF LEASE PAYMENTS AS QUALIFIED WITHDRAWALS FROM A CAPITAL CONSTRUCTION FUND ESTABLISHED UNDER SEC. 607(A) OF THE MERCHANT MARINE ACT OF 1936

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The regulation is intended to permit shipping operators who have established capital construction funds under the Merchant Marine Act of 1936 as amended, to make "qualified withdrawals" from the funds to lease vessels, in addition to the present practice of purchasing vessels. There are no practical alternatives other than purchasing or leasing vessels. The potential costs of leasing are the same as purchasing; no more money than is deposited into a capital construction fund can be used. The owner of a fund can decide whether leasing or purchasing is cheaper. The benefit (purpose) is to permit shipping industry acquisition practices to be consistent with a long-term trend toward vessel acquisition through lease rather than purchase.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: RS-030-89

Drafting tax law specialist: William Gordon (202) 377-9249.

Reviewing attorney: Richard Keys (202) 377-9249.

Agency Contact: William Gordon, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-9249

RIN: 1545-AN90

DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Proposed Rule Stage

2531. INCOME TAX—DEDUCTION FOR BUS OPERATING AUTHORITIES AND FREIGHT

Legal Authority: 26 USC 1 et seq Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules allowing taxpayers an ordinary deduction ratably over a 60-month period for the adjusted basis of bus operating authorities and freight forwarders held or acquired on certain specified dates.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-110-86

Drafting attorney: Christopher Wilson (202) 377-8349.

Reviewing attorney: James Ranson (202) 566-4944.

Treasury attorney: Bryan Collins (202) 566-8277.

Agency Contact: Christopher J. Wilson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 377-8349

RIN: 1545–AJ18

2532. MORTGAGE CREDIT CERTIFICATES AND TARGETED AREAS

Legal Authority: 26 USC 25 (c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The percentage of mortgage originations required by section 1.25-4T(g) (8%) was predicted of the 1:5 trade in rule contained in former section 25(c) of the Code to accommodate the new 1:4 rate contained in section 25(c). We are amending sections 1.25-4T(g).

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-068-89

Drafting Attorney: Jack Malgeri (202) 566-4545.

Reviewing Attorney: Michael Montemurro (202) 566-4545.

Agency Contact: Jack Malgeri, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3747

RIN: 1545–AO05

2533. ● DEFINITION OF QUALIFIED RESEARCH AND COMPUTATION OF RESEARCH CREDIT UNDER SECTION 41 OF THE CODE, AFTER 1986 ACT AND 1989 ACT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 101-239, Section 7110

CFR Citation: 26 CFR 602; 26 CFR 1

Legal Deadline: None

Abstract: The purpose of the regulation is to provide clarification on the computation of the research credit, under section 41 of the Internal Revenue Code of 1986, for taxable years beginning after December 31, 1989.

Timetable:

Action	Date	FR Cite
NPRM	05/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-016-90

Drafting attorney: David S. Hudson (202) 566-4821.

Reviewing attorney: Walter Woo (202) 535-9545.

Treasury attorney: Evelyn Brody (202) 566-5453.

Agency Contact: David Hudson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4821

RIN: 1545–AO51

2534. INCOME TAX—ALTERNATIVE MINIMUM TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 55 Internal Revenue Code of 1986; 26 USC 57 Internal Revenue Code of 1986; 26 USC 58 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Regulations will provide rules for the computation of the alternative minimum tax and the computation of the credits that may be used to reduce that tax, as well as rules for determining the amount of tax preference for excluded dividends and interest, mining exploration and development costs, and circulation, research and experimental expenditures. The Regulations will also provide rules relating to the optional 10 year write off of certain tax preferences.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-235-82.

Drafting attorney: Stephen J. Toomey (202) 566-3862.

Reviewing attorney: William Jackson (202) 566-3802.

Treasury attorneys: Ellen Aprill (202) 566-5453 and

Robert Scarborough (202) 566-4979.

Agency Contact: Stephen J. Toomey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3862

RIN: 1545–AE80

2535. MINIMUM TAX CREDIT AND OTHER MISCELLANEOUS RULES RELATING TO THE ALTERNATIVE MINIMUM TAX

Significance: Regulatory Program

Legal Authority: 26 USC 55 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will address issues relating to the Alternative Minimum Tax for individuals and Corporations. Changes to the applicable law were made by the Tax Reform Act of 1986 and the Technical and Miscellaneous Revenue Act of 1988. The regulations will provide individual

and corporate taxpayers with the guidance necessary to determine their alternative minimum tax and their minimum tax credit.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-3-87

Drafting attorney: Stephen J. Toomey (202) 566-3363.

Reviewing attorney: William Jackson (202) 566-3802.

Treasury attorneys: Ellen Aprill (202) 566-6453 and Robert Scarborough (202) 566-4979.

Agency Contact: Stephen T. Toomey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3363

RIN: 1545-AJ88

2536. INCOME TAX—INVENTORY ADJUSTMENT FOR THE ALTERNATIVE MINIMUM TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 56 (a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides guidance with respect to inventory adjustments for the alternative minimum tax.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-85-87

Drafting Attorney: Edward C. Schwartz (202) 566-3861.

Reviewing Attorney: William Jackson (202) 566-3802.

Treasury Attorney: John Parcell (202) 566-2784.

Agency Contact: Edward C. Schwartz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3861

RIN: 1545-AL02

2537. INCOME TAX-MINIMUM TAX; ITEM OF TAX PREFERENCE FOR INTANGIBLE DRILLING COSTS INCURRED IN DRILLING OIL, GAS OR GEOTHERMAL WELLS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 57 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will explain the application and determination of the tax preference item for intangible drilling costs which was added by the Tax Reform Act of 1976. The regulations will provide rules for determining a taxpayer's net income from oil and gas properties, rules for determining if a well is nonproductive and rules for determining the proper preference tax if a well proves to be nonproductive after the close of a taxable year for which a tax return has already been filed.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-209-78.

Drafting Attorney: Edward C. Schwartz (202) 566-3861.

Reviewing Attorney: Stephen J. Toomey (202) 566-4104.

Agency Contact: Edward C. Schwartz, Attorney Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3861

RIN: 1545-AA24

2538. AMENDMENT TO THE REGULATIONS UNDER SECTION 61 TO CONFORM THE TREATMENT OF BOND PREMIUM INCOME TO THE CONSTANT YIELD METHOD

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide a method for determining how to include bond premium into income. The method is the constant yield method.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-70-88

Drafting attorney: Robert B. Williams (202) 566-4336.

Reviewing attorney: Alice Bennett (202) 566-3287.

Agency Contact: Robert B. Williams, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 566-4336

RIN: 1545-AL92

2539. LOANS TREATED AS DISTRIBUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 72 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance on the application of rules for determining the income tax treatment to be accorded loans to participants or beneficiaries from qualified employer plans. The loan rules are provided in section 72(p) of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-106-82.

Drafting attorney: Elizabeth Purcell (202) 566-3251.

Reviewing attorney: Michael Thrasher (202) 566-3576.

Agency Contact: Elizabeth A. Purcell, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3251

RIN: 1545-AE41

2540. TEN PERCENT ADDITIONAL TAX ON EARLY DISTRIBUTION FROM QUALIFIED PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 72 Internal Revenue Code of 1986

CFR Citation: 26 CFR 72

Legal Deadline: None

Abstract: Guidance concerning the application of the tax to early distributions and an explanation of the exceptions, such as substantially equal periodic payments.

Timetable:

Action	Date	FR Cite
NPRM	12/31/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: EE-060-89

Drafting Attorney: Janet Lloyd (202) 566-6747.

Reviewing Attorney: Jerry Holmes (202) 566-6747.

Agency Contact: Janet Lloyd, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6747

RIN: 1545-AN16

2541. REMOVING GENDER DISTINCTION FROM MORTALITY TABLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 79 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations will gender-neutralize the mortality table used under section 79 to determine the value of group-term life insurance's permanent benefits provided to employees.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-111-88

Drafting attorney: Betty Clary (202) 566-4465.

Reviewing attorney: James Brokaw (202) 566-3496.

Agency Contact: Betty Clary, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4465

RIN: 1545-AK50

2542. SECTION 79 TABLE I UPDATE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 79 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulation will update the table used to determine the cost amount of group-term life insurance to be included in gross income.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: EE-82-89

Drafting attorney: Betty Clary (202) 566-4465.

Reviewing attorney: James Brokaw (202) 566-3496.

Agency Contact: Betty Clary, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4465

RIN: 1545-AN54

2543. STUDY OF APPLICATION OF SECTION 302 AND SECTION 1.83(D)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 83 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.83-6

Legal Deadline: None

Abstract: Regulation section 1.83-6(d) will be revised to distinguish between a section 302 transaction and a 1032 transaction. Also, a special rule will be added for transfers of stock from a parent corporation to employees of a subsidiary.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-61-88

Drafting Attorney: Charles Delice (202) 566-4734.

Agency Contact: Charles T. Delice, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4734

RIN: 1545-AN55

2544. TO PROVIDE REGULATIONS UNDER SECTION 147 (G)—RELATING TO LIMITATION ON MATURITY OF PRIVATE ACTIVITY BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 103 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Rules will provide guidance with respect to computation of weighted average economic life and weighted average maturity. Rules limit the average length of the maturity of all private activity bonds (including qualified 501 (c) (3) bonds), other than mortgage revenue bonds and student loan bonds.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-232-82.

Drafting attorney: L. Michael Wachtel (202) 566-4336.

Reviewing attorney: Alice Bennett (202) 566-3287.

Agency Contact: L. Michael Wachtel, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4336

RIN: 1545-AE99

TREAS—IRS

Proposed Rule Stage

2545. REGULATIONS RELATING TO FEDERALLY GUARANTEED BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 149 (b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations would provide guidance regarding the provisions enacted by the Tax Reform Act of 1986 which denies Federal income tax exemption for bonds issued by State or local governmental units if payments of principal or interest with respect to such bonds are directly or indirectly guaranteed by the Federal Government.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-156-84.

Drafting attorney: Jack Malgeri (202) 566-4545.

Reviewing attorney: Michael J. Montemurro (202) 566-4545.

Office of Tax Legislative Counsel reviewing attorney: David Walton (202) 566-2175.

Agency Contact: Jack Malgeri, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4545

RIN: 1545-AG84

2546. DEFINITION OF "REISSUANCE" UNDER SECTION 103

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed regulations would provide guidance regarding whether changes in the terms of an outstanding obligation result in that obligation being treated as retired and reissued as a new obligation. Guidance on the definition of issuance appeared as Notice 88-130, 1988-52, IRB 12. The rules contained in the Notice will be incorporated in the regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: FI-29-88.

Drafting attorney: David White (202) 566-4545.

Agency Contact: David White, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4545

RIN: 1545-AI65

2547. TO REVISE DEFINITION OF AREAS OF CHRONIC ECONOMIC DISTRESS FOR PURPOSES OF MORTGAGE SUBSIDY BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 143 Internal Revenue Code of 1986; 26 USC 103A Internal Revenue Code of 1954

CFR Citation: 26 CFR 1.103A-2

Legal Deadline: None

Abstract: The regulations will clarify the rules under section 103A relating to designations of areas of chronic economic distress. The regulations would provide objective tests to be used in analyzing requests for such designations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: FI-307-84.

Drafting attorney: Allan Seller (202) 566-3332.

Reviewing attorney: Michael J. Montemurro (202) 566-4545.

Treasury attorney: Gregory Jenner (202) 566-5911.

Agency Contact: Allan Seller, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3332

RIN: 1545-AG88

2548. INCOME TAX—DISCHARGE OF INDEBTEDNESS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 108 Internal Revenue Code of 1986; 26 USC 1017 Internal Revenue Code of 1986; PL 96-589, Sec 2 Bankruptcy Tax Act 1980

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This proposal would provide rules relating to certain income from the discharge of indebtedness, including rules relating to the election to reduce the basis of assets in lieu of recognizing income.

Timetable:

Action	Date	FR Cite
NPRM	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-91-81.

Drafting Attorney: Warren Joseph (202) 566-4430.

Reviewing Attorney: Sharon Hall (202) 566-4430.

Agency Contact: Warren Joseph, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4430

RIN: 1545-AA67

2549. EXCLUSION OF QUALIFIED SCHOLARSHIPS AND FELLOWSHIPS FROM GROSS INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 117 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will provide rules relating to the exclusion of certain amounts received as a qualified scholarship. Regulations will also provide rules relating to withholding from certain payments and return of information requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/09/88	53 FR 111
NPRM Comment Period End	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-5-87

Drafting Attorney: Michael Schmit (202) 566-3820.

Reviewing Attorney: William Jackson (202) 566-4104.

Treasury Attorney: Kathleen Ferrell (202) 566-5911.

Agency Contact: Michael Schmit, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution, NW., Washington, DC 20224, 202 566-3828

RIN: 1545-AJ87

2550. QUALIFIED TUITION REDUCTIONS

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 117 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations contain rules explaining when qualified tuition reductions provided for education below the graduate level to an employee of an educational organization or to a person treated as an employee will be excluded from the employee's gross income. The proposed regulations include rules relating to tuition reductions which discriminate in favor of officers, owners or highly compensated employees and so are includible in income. The proposed regulations also provide rules relating to the treatment of tuition reductions in the case of graduate student teaching and research assistants.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-35-85.

Drafting Attorney: Michael Schmit (202) 566-3828.

Reviewing Attorney: William Jackson (202) 566-4104.

Treasury Attorney: Jeanne Hoenicke (202) 566-5911.

Agency Contact: Michael Schmit, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3828

RIN: 1545-AI13

2551. INCOME TAX—TAX TREATMENT OF FACULTY HOUSING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 119 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules relating to the definition of a "qualified appraisal." In addition, the regulations will set forth the time and manner in which the appraisal shall be reviewed and updated.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

EE-74-88.

Drafting attorney: Richard Pavel (202) 566-3505.

Reviewing attorney: Jerry Holmes (202) 566-4747.

Treasury attorney: Marjorie Roberts (202) 566-2565.

Agency Contact: Richard Pavel, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3505

RIN: 1545-AJ21

2552. DEPENDENT CARE ASSISTANCE

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 129 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance to employers and their employees concerning qualified dependent care assistance programs. Under 26 USC 129, an employee may exclude up to $5,000 from gross income for dependent care.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-090-88

Drafting Attorney: Monica Rosenbaum (202) 566-3505.

Reviewing Attorney: James L. Brokaw (202) 566-3426.

Agency Contact: Monica Rosenbaum, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3505

RIN: 1545-AN17

2553. DEFINITION OF "PRIVATE ACTIVITY BOND", "QUALIFIED BOND"

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 141 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides a definition of the term "private activity bond".

Timetable:

Action	Date	FR Cite
NPRM	06/00/92	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-72-90

Drafting attorney: Dave Selig (202) 566-4545.

Agency Contact: Dave Selig, Attorney/Advisor, Department of the Treasury, Internal Revenue Service, 111 Constitution Ave. NW., Washington, DC 20224, 202 566-4545

RIN: 1545-AM01

2554. TAX-EXEMPT BONDS FOR RESIDENTIAL RENTAL PROJECTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 142 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

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TREAS—IRS

Proposed Rule Stage

Abstract: This project will provide regulations relating to tax-exempt bonds issued to provide qualified residential rental projects.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-089-88

Drafting attorney: Michael Wachtel (202) 566-4338.

Reviewing attorney: Alice Bennett (202) 566-3287.

Agency Contact: Michael Wachtel, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4338

RIN: 1545-AJ68

2555. QUALIFIED 501 (C) (3) BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 145 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules for qualified 501 (c) (3) bonds.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-94-88.

Drafting attorney: Dave White (202) 566-4545.

Treasury attorney: David Walton (202) 566-2175.

Agency Contact: David E. White, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 566-4545

RIN: 1545-AJ98

2556. STATE VOLUME CAP FOR TAX-EXEMPT BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 146 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would provide state volume cap rules for tax-exempt bonds.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-85-86

Drafting attorney: David Selig (202) 566-4545.

Agency Contact: David Selig, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 566-4545

RIN: 1545-AJ37

2557. ADVANCE REFUNDINGS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 149 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide rules regarding advance refundings of certain private activity bonds and certain other bonds.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: FI-50-88

Drafting attorney: Jack Malgeri (202) 566-3947.

Reviewing attorney: Michael Montemurro (202) 566-4065.

Treasury attorney: David Walton (202) 566-2175.

Agency Contact: Jack Malgeri, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 566-3947

RIN: 1545-AL01

2558. INCOME TAX—TO PROVIDE BETTER DEFINITIONS IN THE AREA OF POLITICAL ADVERTISING & GRASSROOTS LOBBYING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 162 Internal Revenue Code of 1986; 26 USC 4945 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would provide better definitions in the area of political advertising and grassroots lobbying.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-198-77.

Drafting attorney: Karin G. Gross (202) 566-4430.

Reviewing attorney: Karin G. Gross (202) 566-4430.

Office of Tax Legislative Counsel reviewing attorney: Ellen Aprill (202) 566-5453.

Agency Contact: Karin G. Gross, Assistant Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4430

RIN: 1545-AA79

2559. DEDUCTIONS WITH RESPECT TO NONCASH FRINGE BENEFITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 162 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.162-25

Legal Deadline: None

Abstract: The project is to produce proposed rules relating to an alternative way for employers to take deductions with respect to noncash fringe benefits.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-89-88

Drafting Attorney: Joel Rutstein (202) 566-4430.

Reviewing Attorney: Paul Kane (202) 566-4430.

Agency Contact: Joel Rutstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4430

RIN: 1545-AM40

2560. DEFINITION OF RELATED VIOLATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations would amend the definition of "related violations" under section 162(g) of the Internal Revenue Code of 1986 in order to update such definition in light of subsequent events.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-27-87

Drafting Attorney: Joel Rutstein (202) 566-4430.

Reviewing Attorney: Michael Finley (202) 566-4430.

Agency Contact: Joel S. Rutstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4430

RIN: 1545-AK83

2561. QUALIFIED RESIDENCE INTEREST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance regarding the definition of qualified residence interest, including the definition of acquisition debt and guidance regarding the computation of the limitation.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-27-86

Drafting Attorney: Sharon L. Hall (202) 566-4430.

Reviewing Attorney: John Fischer (202) 566-6131.

Treasury Attorney: Adam Handler (202) 566-2175.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, Washington, DC 20224, 202 566-4430

RIN: 1545-AL67

2562. PROHIBITION ON FOREIGN TARGETING OBLIGATIONS BACKED BY UNITED STATES GOVERNMENT SECURITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 163 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Notice of proposed rulemaking providing that obligations backed by United States government securities may not be foreign targeted.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-113-88

Drafting attorney: Carl M. Cooper (202) 566-6795.

Reviewing attorney: Robert A. Katcher (202) 566-6795.

Treasury attorney: Marlin Risinger (202) 566-4070.

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6795

RIN: 1545-AM19

2563. EARNINGS STRIPPING PAYMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation addresses the deductibility of interest under section 163 being limited when paid by a corporation to related persons not subject to U.S. tax.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-870-89

Drafting attorney: Jacob Feldman (202) 566-6545.

Reviewing attorney: Robert A. Katcher (202) 566-6795.

Treasury attorney: Unassigned.

Agency Contact: Jacob Feldman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6545

RIN: 1545-AO24

2564. NORMALIZATION REQUIREMENTS FOR PUBLIC UTILITY PROPERTY: INCONSISTENT PROCEDURES AND ADJUSTMENTS

Legal Authority: 26 USC 168 (f)(9)(B)(iii) Internal Revenue Code of 1986

CFR Citation: 26 CFR 167; 26 CFR 168

Legal Deadline: None

Abstract: Regulation will provide guidance as to the proper application of the normalization requirements for public utilities filing consolidated income tax returns. Regulation will prescribe the extent to which adjustments and procedures that reduce a utility's ratemaking tax expense to reflect the tax losses of nonregulated affiliated companies will be treated as inconsistent with the normalization rules.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-167-88

Drafting attorney: Martin Scheffler (202) 566-3553.

Reviewing attorney: Noel Sheehan (202) 566-3292.

Treasury attorney: Robert Scarborough (202) 566-6277.

Agency Contact: Martin Scheffler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3553

RIN: 1545-AM80

2565. INCOME TAX—NORMALIZATION REQUIREMENT FOR PUBLIC UTILITY PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 168(e)(3) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to public utilities relating to the transitional rules for the public utility normalization requirements of ACRS under section 168 (e) (3). Prior to ACRS some public utilities did not have to normalize in order to use accelerated depreciation. Under the transitional rule these utilities are given until January 1, 1993 to meet the normalization requirements of section 168 (e) (3).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-244-81.

Drafting attorney: Peter Friedman (202) 566-6511.

Reviewing attorney: Noel Sheehan (202) 566-6219.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Robert Scarborough (202) 566-2228.

Agency Contact: Peter Friedman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6511

RIN: 1545-AA88

2566. MODIFICATION OF ACRS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 168 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would provide rules concerning the accelerated cost recovery system for property generally placed in service after December 31, 1986.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-86-86.

Drafting attorney: Robert Pitzer (202) 566-3292.

Reviewing attorney: Claire Toth (202) 566-3553.

Treasury attorney: Barkadale Penick (202) 566-5453.

Agency Contact: Robert Pitzer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 566-3292

RIN: 1545-AJ38

2567. APPLICABLE CONVENTIONS UNDER THE ACCELERATED COST RECOVERY SYSTEM

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 168 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would provide rules relating to the Mid-Quarter convention under the Accelerated Cost Recovery System. The regulation would apply to property generally placed in service after December 31, 1986.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-054-89

Drafting Attorney: Richard Blumenreich (202) 566-3292.

Reviewing Attorney: Claire Toth (202) 566-3553.

Treasury Attorney: Barkadale Penick (202) 566-5453.

Agency Contact: Richard Blumenreich, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3292

RIN: 1545-AN81

2568. GENERAL ASSET ACCOUNTS UNDER THE ACCELERATED COST RECOVERY SYSTEM

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 168 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would provide rules relating to the treatment of General Asset Accounts under the Accelerated Cost Recovery System. The regulation would apply to property generally placed in service after December 31, 1986.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-055-89

Drafting Attorney: Robert Robbins (202) 566-3292.

Reviewing Attorney: Claire Toth (202) 566-3553.

Treasury Attorney: Barkadale Penick (202) 566-5453.

Agency Contact: Robert Robbins, Attorney, Department of the Treasury, Internal Revenue Service, 1111

Constitution Avenue, NW., Washington, DC 20224, 202 566-3292

RIN: 1545-AN62

2569. ELECTION TO EXPENSE CERTAIN DEPRECIABLE ASSETS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 179 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules rules relating to the changes made to section 179 by the Tax Reform Act of 1986. This includes changes to the dollar limitation and recapture provision as well as the new trade or business income limitation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-52-88

Drafting attorney: Richard Blumenreich (202) 566-3292.

Reviewing attorney: Harold Burghart (202) 566-3292.

Treasury attorney: Barksdale Penick (202) 566-5453.

Agency Contact: Richard Blumenreich, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3292

RIN: 1545-AL76

2570. ELECTION TO POSTPONE DETERMINATION WITH RESPECT TO THE PRESUMPTION THAT AN ACTIVITY IS ENGAGED IN FOR PROFIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 183(e)(3) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules relating to the election to postpone the determination whether the section 183 (d) presumption applies until the activity has been conducted for five (or seven) years. The regulations will specify who can make the election and the time and manner of making the election.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-73-84.

Drafting attorney: Bernard Englander (202) 566-4440.

Reviewing attorney: Mark Ely (202) 566-3637.

Agency Contact: Bernard Englander, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 566-4440

RIN: 1545-AG27

2571. INCOME TAX—TO ADD PROVISIONS RELATING TO START-UP EXPENDITURES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 195 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to taxpayers electing to amortize start-up expenditures relating to the creation or acquisition of an active trade or business.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-36-81.

Drafting attorney: Paul F. Handleman (202) 377-6349.

Reviewing attorney: James Ranson (202) 377-6349.

Agency Contact: Paul F. Handleman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 377-6349

RIN: 1545-AB02

2572. ® DISTRIBUTIONS BY COOPERATIVE HOUSING ASSOCIATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 216 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide exceptions to the general rule of section 216 (e) under which no gain or loss shall be recognized on the distribution by a cooperative housing association of a dwelling unit to a stockholder in such corporation if the exchange qualifies for nonrecognition under section 1034 (f).

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-047-90

Drafting attorney: Lisa Shuman (202) 566-4840.

Reviewing attorney: Walter Woo (202) 535-0545.

Agency Contact: Lisa Shuman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4831

RIN: 1545-AC91

2573. DEDUCTION FOR DIVIDENDS RECEIVED FROM CERTAIN FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 245 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 245

Legal Deadline: None

Abstract: Draft regulations under section 245 of the Code, incorporating changes made by the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Non

Government Levels Affected: None

Additional Information: INTL-963-86

TREAS—IRS

Proposed Rule Stage

Drafting attorney: James Insley (202) 566-6442.

Reviewing attorney: Charles Saverude (202) 377-9433.

Treasury attorney: Marlin Risinger (202) 566-4979.

Agency Contact: James Insley, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6442

RIN: 1545–AL94

2574. INCOME TAX—DEBT-FINANCED PORTFOLIO STOCK

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 246A Internal Revenue Code of 1986; 26 USC 7701 (f) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Amendment of the regulations to interpret the rule contained in section 246A of the Internal Revenue Code of 1954 relating to the dividends received deduction where portfolio stock is debt financed.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-361-84.

Drafting attorney: Forest Boone (202) 566-3361.

Reviewing attorney: Vincent Cardella (202) 566-4425

Agency Contact: Forest Boone, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3361

RIN: 1545–AH30

2575. NOTICE OF PROPOSED RULEMAKING—CAPITALIZATION OF INTEREST EXPENSE

Significance: Regulatory Program

Legal Authority: 26 USC 263A (f) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance concerning the capitalization of certain interest expenses and the allocation interest to property subject to the capitalization rules.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-121-86.

Drafting attorney: Carol Conjura (202) 535-0363.

Reviewing attorney: Thomas Luxner (202) 566-4495.

Treasury attorney: Roy Strowd (202) 566-4902.

Agency Contact: Carol Conjura, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 535-0363

RIN: 1545–AK01

2576. RULES FOR TREATMENT OF FOREIGN CORPORATION WHOSE STOCK IS STAPLED TO THE STOCK OF A DOMESTIC CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 269B Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide a general rule that where a U.S. owned foreign corporation and a U.S. owned domestic corporation are stapled entities, the foreign corporation will be treated as a domestic corporation and that the deemed conversion will be treated as a reorganization under section 368(a)(1)(F) of the Code. The regulations will also provide exceptions to this general rule.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-237-89

Drafting attorney: Patricia C. Bray (202) 566-6645.

Reviewing attorney: David I. Bower (202) 566-6645.

Treasury attorney: Marlin Risinger (202) 566-4979.

Agency Contact: Patricia C. Bray, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6645

RIN: 1545–AN20

2577. INCOME TAX—DEDUCTIONS FOR EXPENSES ATTRIBUTABLE TO BUSINESS USE OF HOMES, RENTAL OF VACATION HOMES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 280A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules for determining the deductibility of expenses incurred in connection with the business use, or rental to others, of a dwelling unit. The regulations provide rules for determining when the taxpayer uses a dwelling unit for personal use or when use by another person of the unit is treated as personal use of the unit by the taxpayer.

Timetable:

Action	Date	FR Cite
NPRM	07/21/89	48 FR 33326
NPRM Comment Period End	09/21/89	
Hearing	10/04/89	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-261-76.

Drafting Attorney: Joel S. Rutstein (202) 566-4430.

Reviewing Attorney: Michael Finley (202) 566-4430.

Agency Contact: Joel S. Rutstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4430

RIN: 1545–AB09

TREAS—IRS

Proposed Rule Stage

2578. CERTAIN ATTRIBUTION RULES AND CERTAIN CORPORATE REORGANIZATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 302(c)(2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would interpret the definitions and special rule for waiver of family attribution by entities contained in section 302 (c) (2) of the Internal Revenue Code of 1954, which relates to the tax treatment of certain redemptions of corporate stock.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-189-82.

Drafting attorney: Keith G. Medleau (202) 566-3551.

Reviewing attorney: Christopher F. Kane (202) 566-3456.

Agency Contact: Keith G. Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3551

RIN: 1545-AF13

2579. AMEND REGULATIONS ON SECTION 306 STOCK AND EARNINGS AND PROFITS IN LIGHT OF COMMISSIONER V. CLARK

Legal Authority: 26 USC 356(a)(2) Internal Revenue Code of 1986; 26 USC 381 Internal Revenue Code of 1986; 26 USC 306 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.381(c)(2)-1(a)(1); 26 CFR 1.306-3(d)

Legal Deadline: None

Abstract: In Commissioner v. Clark, the Supreme Court held that for purposes of section 356(a)(2), the boot distribution is treated as a distribution by the transferee in a hypothetical redemption of the shares of the transferee stock that the transferor shareholders would have received it they had accepted stock in lieu of boot. The regulations under section 381 and 306 will be amended to reflect the post-exchange analysis of CLARK.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-061-89

Drafting attorney: Robert Kesler (202) 566-6271.

Reviewing attorney: Maura Sullivan (202) 566-6212.

Agency Contact: Robert Kesler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6271

RIN: 1545-AO35

2580. CERTAIN STOCK SALES AND DISTRIBUTIONS TREATED AS ASSET TRANSFERS

Legal Authority: 26 USC 336 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance for making an election under section 336 (e), and the consequences which result from making such an election.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-52-87

Drafting attorney: Jean Whalen (202) 566-3422.

Reviewing attorney: Maura Sullivan (202) 566-4173.

Treasury attorney: J. Judge Kelley (202) 567-2175.

Agency Contact: Jean Whalen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3422

RIN: 1545-AK29

2581. MANDATORY APPLICATION OF MADSP FORMULA FOR DETERMINATION OF DEEMED SALE PRICE FOR OLD TARGET'S ASSETS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will require the use of the MADSP formula in a qualified stock purchase to which Section 338(h)(10) applies.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-75-87.

Drafting attorney: Keith G. Medleau (202) 566-3551.

Reviewing attorney: Christopher F. Kane (202) 566-3551.

Treasury attorney: Judd Kelley (202) 566-2175.

Agency Contact: Keith G. Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3551

RIN: 1545-AK25

2582. TREATMENT OF AN AFFILIATED GROUP OF CORPORATIONS AS A SELLING CONSOLIDATED GROUP FOR PURPOSES OF ELECTIVE RECOGNITION UNDER SECTION 338 (H) (10)

Legal Authority: 26 USC 338 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide the guidance for making elections under section 338 (h) (10) when the selling group is an affiliated group of corporations which does not file a consolidated Federal income tax return, and the consequences of making such an election.

TREAS—IRS

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-50-87

Drafting attorney: Keith Medleau (202) 566-3551.

Reviewing attorney: Christopher F. Kane (202) 566-3551.

Treasury attorney: Judd Kelley (202) 505-2175.

Agency Contact: Keith Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3551

RIN: 1545–AK31

2583. GAIN OR LOSS IGNORED BY TARGET CORPORATION UPON ITS DEEMED SALE OF AFFECTED TARGET STOP

Legal Authority: 26 USC 338 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The purpose of the regulation is to provide rules to alleviate the multiple taxation consequences of a section 338(g) election when a purchasing corporation acquires the stock of a target corporation in a qualified stock purchase and the target's assets include the stock of an 80-percent owned target affiliate.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-656-89

Drafting Attorney: Kenneth D. Allison (202) 566-6442.

Reviewing Attorney: Benedetta A. Kissel (202) 566-6442.

Treasury Attorney: Marlin Risinger (202) 566-6979.

Agency Contact: Kenneth D. Allison, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, 202 566-6442

RIN: 1545–AN85

2584. ● AMENDMENT OF SECTION 1.338-5T REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will address problems that have surfaced in the section 1.338-5T regulations since their publication, issues raised by the repeal of the General Utilities doctrine, as well as issues presented by the passage of section 338(h)(16) in 1986.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: INTL-177-90

Drafting attorney: Karen S. Holden (202) 566-6442.

Reviewing attorney: Charles Besecky (202) 566-6442.

Treasury attorney: Unassigned.

Agency Contact: Karen S. Holden, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6442

RIN: 1545–AO73

2585. INCOME TAX—TRIANGULAR REORGANIZATIONS, BASIS AND OTHER CONSEQUENCES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 368 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules relating to basis of stock of a corporation acquiring property in exchange for stock of a corporation in control of the acquiring corporation.

Timetable:

Action	Date	FR Cite
NPRM	01/02/91	46 FR 112

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-993-71.

Drafting attorney: Robert M. Casey (202) 566-3551.

Reviewing attorney: Christopher Kane (202) 566-3551.

Treasury Attorney: Andrew Dubroff (202) 566-5453.

Agency Contact: Robert M. Casey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3551

RIN: 1545–AB21

2586. ● FRINGE BENEFIT SOURCING UNDER SECTION 861

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 861 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will address the clarification that an allocation of income of an individual for the performance of services both within and without the United States is appropriately made only on the time basis.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-076-90

Drafting Attorney: James K. Sams (202) 566-6645.

Reviewing Attorney: Thomas P. Fuller (202) 377-9059.

Treasury Attorney: Unassigned.

Agency Contact: James K. Sams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6645

RIN: 1545–AO72

TREAS—IRS

Proposed Rule Stage

2587. SECTION 361 OUTBOUND TRANSFERS OF PROPERTY TO FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The income tax regulations under section 367 will be amended to reflect the changes made to that section by the Tax Reform Act of 1984. Section 367 now provides generally that a foreign corporation will not be considered to be a corporation, for purposes of certain nonrecognition provisions of the Code, upon the transfer of property to such corporation by a U.S. person. The statute provides certain exceptions to that rule, exemptions to those exceptions, and special rules applicable to certain specified transfers. The regulations will provide guidance concerning the applicability of the general rule and its exceptions and special rules, including guidance concerning transfers of assets for use in the active conduct of a trade or business, stock transfers, transfers of intangible assets, and transfers of branch operations that have operated at a loss.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-089-89

Drafting attorney: Elizabeth U. Karzon (202) 566-6442.

Reviewing attorney: Charles Saverude (202) 377-9493.

Treasury attorney: Marlin Risinger (202) 566-4979.

Agency Contact: Elizabeth U. Karzon, Attorney-Adviser, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6442

RIN: 1545-AM97

2588. COMPUTATION OF SECTION 382 LIMITATION

Legal Authority: 26 USC 382 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would explain the manner and method of computing the section 382 limitation under circumstances when there are successive ownership changes, capital contributions, mergers and liquidations, and in instances when one corporation controls another corporation.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-87-87

Drafting attorney: Keith E. Stanley (202) 566-3367.

Reviewing attorney: Charles M. Whedbee (202) 566-3280.

Treasury attorney: Andrew Dubroff (202) 566-5453.

Agency Contact: Keith E. Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3367

RIN: 1545-AK27

2589. SECTION 382 LIMITATION ON GROUPS FILING CONSOLIDATED RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This NPRM provides rules for applying section 382 to consolidated groups.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-132-87

Drafting attorney: David P. Madden (202) 566-3205.

Reviewing attorney: Charles Whedbee (202) 566-3280.

Treasury attorney: Andrew Dubroff (202) 566-5453.

Agency Contact: David Madden, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3205

RIN: 1545-AL36

2590. CORPORATE CONTRACTIONS UNDER SECTION 382

Significance: Agency Priority

Legal Authority: 26 USC 382 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Temporary regulations will be issued which will identify certain acquisition indebtedness as a corporate contraction for purposes of section 382(e)(2).

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-035-89

Drafting attorney: David Madden (202) 566-3205.

Reviewing attorney: Charles Whedbee (202) 566-3280.

Treasury attorney: Thomas Wessel (202) 566-8277.

Agency Contact: David Madden, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3205

RIN: 1545-AO21

2591. REORGANIZATIONS IN BANKRUPTCY; STOCK-FOR-DEBT EXCHANGES; USE OF PARENT CORPORATION STOCK; TRIANGULAR "G" REORGANIZATIONS

Legal Authority: 26 USC 108 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

TREAS—IRS

Proposed Rule Stage

Legal Deadline: None

Abstract: The regulation will provide rules for members of an affiliated group of corporations filing consolidated returns which are reorganized in bankruptcy. The issuance of parent corporation stock in cancellation of subsidiary corporation indebtedness will come within the common law stock-for-debt exception to cancellation of indebtedness income (as limited by Section 108 (e) (8) and Section 108 (e) (10) without resort to a recapitalization analysis (whether deemed or actual). When creditors of more than one bankrupt member of the group receive parent corporation stock, the stock received by all the creditors may be aggregated for purposes of determining whether each ownership change meets the requirements of Section 382 (l) (5). Collateral consolidated return and reorganization issues will be considered.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: CO-078-89

Drafting attorney: Victor Penico (202) 566-3615.

Reviewing attorney: Nelson Crouch (202) 566-3255.

Agency Contact: Victor Penico, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3615

RIN: 1545–AO50

2592. ● AMENDMENTS OF SECTION 1.382-2T(H)(4)(X) TO EXCEPT ADDITIONAL OPTIONS FROM THE OPTION ATTRIBUTION RULES OF SECTION 1.382-2T(H)(4)(I)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The primary purpose of this project is to amend the temporary regulations under section 382 of the Internal Revenue Code to provide additional options to be excepted from the attribution rules of section 1.382-2T(h)(4)(i).

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-18-90

Drafting attorney: Keith E. Stanley (202) 566-3618.

Reviewing attorney: Charles M. Whedbee (202) 566-3280.

Treasury attorney: Andrew Dubroff (202) 566-5453.

Agency Contact: Keith Stanley, Senior Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3618

RIN: 1545–AO54

2593. ● NONDISCRIMINATION REQUIREMENTS FOR QUALIFIED PLANS; APPLICATION OF THE AVERAGE BENEFIT PERCENTAGE TEST TO ESOPS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401(a)(4) Internal Revenue Code of 1986; 26 USC 410(b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations amend certain provisions of the proposed section 401(a)(4) regulations that were published on May 14, 1990, and certain provisions of the proposed section 410(b) regulations that were published on May 18, 1989, to clarify the restructuring rules for nondiscrimination testing; to clarify certain safe harbors in the proposed regulations; to provide that ESOPs are to be aggregated with other qualified plans for purposes of the average benefit percentage test; and to clarify certain provisions in the proposed regulations regarding disaggregating plans for purposes of those regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local

Additional Information: EE-49-90

Drafting attorney: Rebecca Wilson/David Munroe (202) 535-3818.

Reviewing attorney: Mary Oppenheimer (202) 535-3818.

Treasury attorney: Richard Shea (202) 535-6965.

Agency Contact: David Munroe, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 535-3818

RIN: 1545–AO56

2594. ADDITIONAL GUIDANCE ON CASH OR DEFERRED ARRANGEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401(k) Internal Revenue Code of 1986; 26 USC 401(m) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract:

The regulations will amend existing regulations to provide additional guidance on several issues.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-085-89

Drafting Attorney: Richard M. Lent (202) 566-3050.

Reviewing Attorney: Richard Wickersham (202) 566-4621.

Agency Contact: Richard Lent, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC, 202 566-3050

RIN: 1545–AN68

TREAS—IRS

Proposed Rule Stage

2595. NONDISCRIMINATION AND OTHER RULES APPLICABLE TO SECTION 403(B) ANNUITIES

Legal Authority: 26 USC 403(b)(12) Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance regarding the nondiscrimination and other rules applicable to tax-sheltered section 403(b) annuities.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-163-88

Drafting attorney: Richard M. Lent (202) 566-3050.

Reviewing Attorney: Nancy Marks (202) 343-8954.

Treasury Attorney: Kurt Lawson (202) 566-5453.

Agency Contact: Richard M. Lent, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3050

RIN: 1545-AI90

2596. INCOME TAX—EMPLOYEE STOCK OWNERSHIP PLAN LOAN PAYMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 404(a)(9) Internal Revenue Code of 1986; 26 USC 415(c)(6) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance relating to the deduction limitations when employer contributions to an employee stock ownership plan are used to repay the principal and interest of an exempt loan that was made to the employee stock ownership plan.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-152-81.

Drafting attorney: Michael Gompertz (202) 566-4530.

Reviewing attorney: Michael A. Thrasher (202) 566-3576.

Agency Contact: Michael Gompertz, Technical Assistant, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4530

RIN: 1545-AD77

2597. INCOME TAX—REQUIREMENTS FOR TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLANS, EMPLOYEE PLAN CREDIT, AND DEFINED CONTRIBUTION PLAN VOTING RIGHTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 409 Internal Revenue Code of 1986; 26 USC 48 Internal Revenue Code of 1986; 26 USC 401 Internal Revenue Code of 1986; 26 USC 6699 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide rules for electing the employee plan credit under section 48 of the Internal Revenue Code, establishing a tax credit employee stock ownership plan under section 409 of the Internal Revenue Code and providing voting rights to participants of certain defined contribution plans under section 401(a)(22) of the Internal Revenue Code. Further, the regulations provide guidance for determining the applicability of and calculating the assessable penalties relating to tax credit employee stock ownership plans under section 6699 of the Internal Revenue Code. The regulations reorganize and modify the current regulations which are based on section 301(d), (e), and (f) of the Tax Reduction Act of 1975, and provide a single set of rules that would apply to tax credit employee stock ownership plans established under the provisions of the Tax Reduction Act of 1975 and the 1978 Revenue Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-49-80.

Drafting attorney: John T. Ricotta (202) 566-4747.

Reviewing attorney: Michael A. Thrasher (202) 566-3576.

Agency Contact: John T. Ricotta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4747

RIN: 1545-AD62

2598. INCOME TAX—PART 1; ESTATE TAX—PART 20, EMPLOYEE STOCK OWNERSHIP PLAN RULES AFFECTED BY TRA 1986

Legal Authority: 26 USC 409 Internal Revenue Code of 1986; 26 USC 401(a)(28) Internal Revenue Code of 1986; 26 USC 401(a)(23) Internal Revenue Code of 1986; 26 USC 133 Internal Revenue Code of 1986; 26 USC 404(k) Internal Revenue Code of 1986; 26 USC 2057 Internal Revenue Code of 1986; 26 USC 1042 Internal Revenue Code of 1986; 26 USC 2210 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 20

Legal Deadline: None

Abstract: The proposed regulations would set forth requirements for the tax qualification of ESOPs and for various ESOP tax incentives.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-184-88

Drafting attorney: John Ricotta (202) 566-4747.

Reviewing attorney: Michael Thrasher (202) 566-3576.

Agency Contact: John Ricotta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4747

RIN: 1545-AI87

TREAS—IRS

Proposed Rule Stage

2599. SPECIAL RULES IN MERGER AND ACQUISITION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 410(b) Internal Revenue Code of 1986; 26 USC 401(a)(4) Internal Revenue Code of 1986; 26 USC 401(a)(26) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations are intended to provide special rules for employee plans in mergers and acquisitions.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-108-88

Drafting attorney: Richard M. Lent (202) 566-3060.

Reviewing attorney: Richard Wickersham (202) 566-4521.

Agency Contact: Richard Lent, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3060

RIN: 1545-AM94

2600. REVISING THE DRAFTING OF THE FULL FUNDING LIMITATION FOR PURPOSES OF THE MINIMUM FUNDING REQUIREMENT FOR PENSION PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 412(c)(7) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: NPRM, Statutory, August 5, 1988.

Abstract: This project will interpret the new full funding limitation on deductible contributions to pension plans.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-62-88

Drafting attorney: Linda Marshall (202) 566-3050.

Reviewing attorney: Rhonda Migdail (202) 566-4741.

Treasury attorney: Thomas Terry (202) 566-2318.

Agency Contact: Linda Marshall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3050

RIN: 1545-AL53

2601. DEFINITION OF LINE OF BUSINESS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 414 (r) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: NPRM, Statutory, February 1, 1988.

Abstract: Internal Revenue Code section 414 (r) defines line of business for purposes of applying the coverage requirements under section 410 (b) and the benefits test under section 129(d)(8).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-144-87

Drafting attorney: Thomas G. Schendt (202) 566-4741.

Reviewing attorney: Rhonda Migdail (202) 566-4741.

Treasury attorney: Richard Shea (202) 566-4902.

Agency Contact: Thomas G. Schendt, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6835

RIN: 1545-AL23

2602. TREATMENT OF FUNDED WELFARE BENEFIT PLANS

Legal Authority: 26 USC 419 Internal Revenue Code of 1986; 26 USC 419A Internal Revenue Code of 1986; 26 USC 1239 (d) Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance concerning the treatment of contributions made by an employer to a welfare benefit plan.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-66-84.

Drafting attorney: Michael J. Roach (202) 566-4741.

Reviewing attorney: Mark Schwimmer (202) 566-4741.

Treasury attorney: Kurt Lawson (202) 566-2175.

Agency Contact: Michael J. Roach, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4741

RIN: 1545-AG14

2603. INCENTIVE STOCK OPTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 422A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.422A-1; 26 CFR 1.422A-2

Legal Deadline: None

Abstract: Outstanding proposed regulations will be revised to reflect changes to section 422A made by the Tax Reform Act of 1986, PL 99-514. The revised regulations will be reissued in proposed form.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-110-88

Drafting Attorney: Charles Delice (202) 566-4734.

Agency Contact: Charles Delice, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4734

RIN: 1545-AN26

TREAS—IRS

Proposed Rule Stage

2604. INC. TAX—PART 1—AMENDMENT OF SECTION 1.442-1 TO PROVIDE SIMPLIFIED PROCEDURES FOR CHANGES OF ANNUAL ACCOUNTING PERIOD BY CERTAIN EXEMPT ORGANIZATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 442 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Revenue Procedure 85-58 provides change of accounting period approval procedures for exempt organizations. It substantially simplifies the former procedures in Revenue Procedure 76-9. The regulations under section 1.442-1 will be amended to reflect Revenue Procedure 85-58.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-06-88.

Drafting attorney: Paul Accettura (202) 566-3496.

Reviewing attorney: Paul G. Accettura (202) 566-3496.

Agency Contact: Paul Accettura, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3496

RIN: 1545-AI68

2605. TIMING, CHARACTER AND SOURCE OF INCOME WITH RESPECT TO NOTIONAL PRINCIPAL CONTRACTS

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations address the timing and nature of income and deductions from notional principal contracts, which encompasses interest rate swaps, interest rate caps, and interest rate floors.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Interim Final Rule	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-018-89

Drafting Attorney: Karl Walli (202) 566-3516.

Reviewing Attorney: Phoebe Mix (202) 566-3351.

Treasury Attorney: Robert Scarborough (202) 566-8277.

Agency Contact: Karl Walli, Attorney Adviser, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 566-3516

RIN: 1545-AN15

2606. ● UNTIMELY COMPLIANCE WITH SECTION 448

Significance: Agency Priority

Legal Authority: 26 USC 448 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.448-1T

Legal Deadline: None

Abstract: Proposal would provide guidance to taxpayers that failed to comply with the effective date provision of Section 448 and the regulations thereunder.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-52-89

Drafting attorney: James A. Orefice (202) 566-3637.

Reviewing attorney: Cynthia L. Clark (202) 566-6302.

Treasury attorney: Roy Strowd (202) 566-4002.

Agency Contact: Jim Orefice, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3637

RIN: 1545-AC65

2607. INCOME TAX—GAIN OR LOSS ON THE DISPOSITION OF AN INSTALLMENT OBLIGATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453B Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for reporting gain or loss upon the disposition of an installment obligation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-109-81.

Drafting attorney: James A. Orefice (202) 566-3637.

Reviewing attorney: Richard E. Ennis (202) 566-3637.

Agency Contact: James A. Orefice, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3637

RIN: 1545-AB41

2608. INCOME TAX—INSTALLMENT SALES BETWEEN RELATED PARTIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for reporting installment sales between related parties.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-2-87.

Drafting attorney: Arthur E. Davis III (202) 377-9581.

Reviewing attorney: George F. Wright (202) 377-9583.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111

TREAS—IRS

Proposed Rule Stage

Constitution Ave., NW., Washington, DC 20224, 202 377-9661

RIN: 1545–AB45

2609. INCOME TAX—INSTALLMENT SALES REVISION ACT OF 1980, REGULATIONS RELATING TO WRAP-AROUND MORTGAGES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide regulations for reporting sales of property under a wrap-around mortgage arrangement.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-147-82.

Drafting attorney: Kathryn Nunzio (202) 343-2380.

Agency Contact: Kathryn Nunzio, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 343-2380

RIN: 1545–AB45

2610. INCOME TAX REGULATIONS—PART 1—SPECIAL RULES RELATING TO INSTALLMENT OBLIGATIONS THAT ARE READILY TRADABLE OR PAYABLE ON DEMAND

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to installment obligations that are readily tradable or payable on demand.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-54-84.

Drafting attorney: Kathryn Nunzio (202) 343-2380.

Reviewing attorney: George Wright (202) 377-9587.

Agency Contact: Kathryn Nunzio, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 343-2380

RIN: 1545–AG37

2611. INCOME TAX—DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 457 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Internal Revenue Code section 457 provides an exclusion from gross income, in the case of a participant in an eligible deferred compensation plan, for any amounts deferred under the plan and any income attributable to the amounts attributable to the amounts so deferred.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-166-86

Drafting attorney: Brant Goldwyn (202) 566-3060.

Reviewing attorney: A. Thomas Brisendine (202) 566-3060.

Agency Contact: Brant Goldwyn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3060

RIN: 1545–AI89

2612. EXTENSION OF THE AT-RISK RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 465 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to taxpayers with respect to the extension of the at-risk rules to all activities other than the holding of real property. The regulations would also provide guidance with respect to the exception to the at-risk rules for closely-held corporations actively engaged in equipment leasing, and the recapture provision.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-192-78.

Drafting attorney: Charles Alton (202) 377-9660.

Reviewing attorney: William P. O'Shea (202) 566-3244.

Treasury attorney: John H. Parcell (202) 535-6965.

Agency Contact: Charles Alton, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 377-9660

RIN: 1545–AF86

2613. AGGREGATION OF CERTAIN ACTIVITIES FOR PURPOSES OF THE AT-RISK RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 465 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Regulation will provide rules for aggregating certain activities for purposes of applying the at-risk rules under section 465. In general, the at-risk rules limit the amount of loss deductible in a taxable year with respect to an activity to the amount the taxpayer is at risk in the activity.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-138-85.

Drafting Attorney: Charles Alton (202) 377-9660.

Reviewing Attorney: Frances D. Schafer (202) 566-3629.

Treasury Attorney: John H. Parcell (202) 566-2784.

Agency Contact: Charles Altee, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 377-9660

RIN: 1545-AI03

2614. APPLICATION OF AT-RISK LIMITATIONS TO THE HOLDING OF REAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 465 Internal Revenue Code of 1986; 26 USC 752 Internal Revenue Code of 1986; 26 USC 46 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will explain the application of the at risk limitations to the activity of holding real property and the exception for qualified nonrecourse financing.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-124-88.

Drafting attorney: John Kramer (202) 377-9660.

Reviewing attorney: Francis D. Schafer (202) 566-3629.

Treasury attorney: John H. Parcell (202) 566-2784.

Agency Contact: John Kramer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-9660

RIN: 1545-AK08

2615. TEMPORARY INCOME TAX REGULATIONS-DEFERRED PAYMENTS FOR USE OF PROPERTY OR SERVICES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 467 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1T

Legal Deadline: None

Abstract: The regulations will provide rules to the accrual of rents for the use of tangible property (and interest on rent that accrues but is not paid) under a section 467 rental agreement. A section 467 rental agreement will be defined. Certain tax avoidance transactions will be defined. Rules will be provided for the recapture of prior understated inclusions. Comparable rules for services will be provided.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-292-84.

Drafting attorney: Sharon L. Hall (202) 566-4430

Treasury attorney: John Parcell (202) 566-2784.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4430

RIN: 1545-AG81

2616. DISPOSITION OF AN INTEREST IN A NUCLEAR POWER PLANT

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.468A-6, (New); 26 CFR 1.468A-1(b), (Revision); 26 CFR 1.468A-3, (Revision); 26 CFR 1.468A-8(b), (Revision); 26 CFR 1.468A-5(a)

Legal Deadline: None

Abstract: Final regulations relating to Nuclear Decommissioning Funds did not include provisions for treatment upon disposition of an interest in a nuclear power plant. The proposed regulations will provide guidance to determine the tax consequences of such disposition on a Nuclear Decommissioning Fund and on taxpayers that establish such funds. In addition, the proposed regulations will make a number of needed changes and clarifications to the existing regulations that will aid in the administration and processing of requests for schedules of ruling amounts.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 491 Electric Services; 493 Combination Electric and Gas, and Other Utility Services

Additional Information: PS-094-89

Drafting Attorney: Peter C. Friedman (202) 566-3553.

Reviewing Attorney: Noel Sheehan (202) 566-3292.

Treasury Attorney: Kathleen Ferrell (202) 567-2175.

Agency Contact: Peter C. Friedman, Senior Attorney Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3553

RIN: 1545-AN06

2617. ● PASSIVE ACTIVITY LOSS AND CREDIT LIMITATIONS—TECHNICAL AMENDMENTS

Legal Authority: 26 USC 469(l) Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.469-0T to 11T

Legal Deadline: None

Abstract: The regulation will clarify a number of technical issues that arise under the temporary and proposed passive loss regulations under section 469 of the Code.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-071-89

Drafting Attorney: Dexter Johnson (202) 377-9660.

Reviewing Attorney: Margaret M. O'Connor (202) 377-9660.

Treasury Attorney: John Parcell (202) 566-2764.

Agency Contact: Dexter Johnson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6751

RIN: 1545-AC61

TREAS—IRS

Proposed Rule Stage

2618. SIMPLIFIED DOLLAR-VALUE LIFO METHOD FOR CERTAIN SMALL BUSINESSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 474 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to certain small businesses that are eligible to elect a simplified dollar-value LIFO method of inventory valuation. This method requires the use of published government indexes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-31-87

Drafting attorney: Richard O. Davis (202) 343-2283.

Reviewing attorney: Eric Fleet (202) 566-3287.

Treasury accountant-advisor: Marc Levy (202) 535-9868.

Agency Contact: Richard O. Davis, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 343-2283

RIN: 1545-AK64

2619. INCOME TAX—UNRELATED TRADE OR BUSINESS INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 512 (a) Internal Revenue Code of 1986; 26 USC 514 (c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will address the issue of what constitutes real property acquired by a qualified trust. The guidance provided on this issue will determine the scope of the exception under 26 USC 514(c)(9) for such acquisitions from the term acquisition indebtedness. Under 26 USC 514, the existence of such indebtedness on income producing property gives rise to unrelated debt-financed taxable income. The regulation will also address the issue of the proper allocation method to determine fixed indirect expenses connected with the unrelated trade or business use of an exempt organization's property.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-27-81.

Drafting attorney: Monice Rosenbaum (202) 566-3505.

Reviewing attorney: James L. Brokaw (202) 566-3496.

Agency Contact: Monice Rosenbaum, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3505

RIN: 1545-AE00

2620. ● TAXATION OF CERTAIN QUALIFIED EXEMPT ORGANIZATIONS ON INCOME FROM DEBT-FINANCED PROPERTY OWNED THROUGH A PARTNERSHIP

Significance: Agency Priority

Legal Authority: 26 USC 514(c)(9) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules governing the application of section 514(c)(9)(E) of the IRC to certain partnerships in which one or more (but not all) of the partners are qualified tax-exempt organizations within the meaning of 514(c)(9)(C).

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-056-90

Drafting attorney: Christopher Kehoe (202) 377-9665.

Reviewing attorney: William P. O'Shea (202) 566-3244.

Treasury attorney: Evelyn Brody (202) 566-5453.

Agency Contact: Christopher Kehoe, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-9665

RIN: 1545-AO78

2621. BAD DEBT RESERVES OF FINANCIAL INSTITUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 585 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document will provide proposed regulations that relate to the repeal of the bad debt reserve for large banks.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information:

FI-81-86.

Drafting attorney: Bernita L. Thigpen (202) 566-3829.

Reviewing attorney: Sharon Galm (202) 566-3326.

Agency Contact: Bernita L. Thigpen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 566-3829

RIN: 1545-AJ31

2622. ● BAD DEBT RESERVE RECAPTURE FOR THRIFT INSTITUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 593 Internal Revenue Code of 1986; 26 USC 446 Internal Revenue Code of 1986; 26 USC 481 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation addresses the recapture of bad debt reserves of thrift institutions that either fail the 60% asset test or convert their charter to that of a commercial bank.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-042-90

Drafting attorney: Bernita Thigpen (202) 566-3829.

Reviewing attorney: Sharon Galm (202) 566-3328.

Treasury attorney: Greg Marich (202) 566-4175.

Agency Contact: Bernita Thigpen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3829

RIN: 1545–AO69

2623. TREATMENT OF FORECLOSED PROPERTY BY CERTAIN CREDITORS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 595 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed regulation would amend the existing regulations relating to the treatment of amounts realized and expended with respect to property securing loans which have been foreclosed on by certain banks.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-083-82.

Drafting attorney: James W. C. Canup (202) 566-3287.

Reviewing attorney: Alice M. Bennett (202) 566-3287.

Agency Contact: James W. C. Canup, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3287

RIN: 1545–AF00

2624. TAX CONSEQUENCES OF FEDERAL FINANCIAL ASSISTANCE PROVIDED IN CONNECTION WITH TAXABLE ASSET ACQUISITIONS OF TROUBLED FINANCIAL INSTITUTIONS

Legal Authority: 26 USC 597 Internal Revenue Code of 1986, as amended

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: Purpose of regulation is to implement changes to Section 597 by FIRREA. The FDIC needs this guidance to facilitate the reorganization of failed S&L's.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: FI-046-89

Drafting attorney: Bernita Thigpen (202) 566-3829.

Reviewing attorney: Steven Glickstein (202) 566-3346.

Treasury attorney: Kathleen Ferrell (202) 566-2175.

Agency Contact: Bernita Thigpen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3829

RIN: 1545–AN71

2625. INCOME TAX—RESTORATION OF DEPLETION DEDUCTIONS ON BONUS AND ADVANCED ROYALTIES IN CERTAIN CASES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 612 Internal Revenue Code of 1986; 26 USC 613 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules relating to the restoration of depletion deductions on bonuses and advanced royalties and the deferment of the exclusion of advanced royalties from gross income from the property.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-148-71.

Drafting attorney: H. Grace Kim (202) 566-4819.

Reviewing attorney: Walter Woo (202) 535-0545.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Barksdale Penick (202) 566-5453.

Agency Contact: H. Grace Kim, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4819

RIN: 1545–AB09

2626. PROPERTY DISTRIBUTED IN KIND AND TREATMENT OF MULTIPLE TRUSTS (SEC. 61 AND 62 OF THE TAX REFORM ACT OF 1984)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 643 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the tax consequences when property is distributed in kind from a trust or estate, including rules specifying what gain is recognized upon distribution, who recognizes such gain, and what the basis of the distributed property is in the hands of the distributee. The regulations also explain election rules available to the distributing trust or estate. The regulations also explain rules under which certain multiple trusts will be treated as a single trust.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-34-85.

Drafting attorney: Carol E. Schultze (202) 566-3625.

Reviewing attorney: Thomas J. Hines (202) 566-6613.

Agency Contact: Carol E. Schultze, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3625

RIN: 1545–AI06

2527. CLARIFICATION OF SECTION 1.643 (A) (3) RELATING TO THE INCLUSION OF CAPITAL GAIN IN DISTRIBUTABLE NET INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 643(a)(3) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulation will revise rules specifying when capital gains will be included in distributable net income.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-146-85.

Drafting Attorney: Bernard Harvey (202) 535-9759.

Reviewing Attorney: Arthur H. Ernst (202) 566-3158.

Treasury Attorney: William M. Paul (202) 566-3425.

Agency Contact: Bernard Harvey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 535-9759

RIN: 1545-AI31

2528. ACCUMULATION TRUSTS

Legal Authority: 26 USC 667 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.667(a); 26 CFR 1.641; 26 CFR 1.643; 26 CFR 1.652; 26 CFR 1.661; 26 CFR 1.666; 26 CFR 1.668

Legal Deadline: None

Abstract: The Tax Reform Act of 1986 provides for a new method of computing the tax on distributions of income accumulated by a trust in prior years. The new method, in effect, determines the tax attributable to an accumulation distribution by averaging the distribution over the number of years during which the income was earned by the trust. This is accomplished by including, for purposes of tentative computations, a fraction of the income received from the trust in the beneficiaries' income for 3 of the 5 preceding years. Those 3 years are determined by taking from the 5 preceding years the year with the highest taxable income and the year with the lowest. The fraction of the income included in each of the 3 years is based upon the number of years during which the income is accumulated by the trust. The average yearly additional tax determined by recomputing the tax for the 3 years is then multiplied by the number of years during which the distribution was accumulated. The resulting tax so computed may be offset by a credit for any taxes previously paid by the trust with respect to the accumulated income. (cont)

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-184-76

Drafting attorney: James F. Hogan (202) 566-3502.

Reviewing attorney: Tom Hines (202) 566-6813.

Treasury attorney: Bob Weaver (202) 535-6959.

ABSTRACT CONT: Any remaining tax liability is then due and payable in the same year as the tax on the beneficiary's other income in the year of the distribution.

Agency Contact: James F. Hogan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3502

RIN: 1545-AM78

2529. REVISION OF REPORTING REQUIREMENTS FOR GRANTOR TRUSTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 671 Internal Revenue Code of 1986; 26 USC 6012 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.671-4, (Revision); 26 CFR 1.6012-3; 26 CFR 1.6049-4; 26 CFR 1.6042-2; 26 CFR 5f.6045-1

Legal Deadline: None

Abstract: Grantor trusts would file 1099's or nothing at all with the Service, and provide a statement of earnings deductions and credits to each grantor. This will enable the Service to match the reported income from grantor trusts with the grantor's tax return. Different procedures will be required for trusts with single grantors as opposed to multiple grantors. Corporation grantors will be included. Other considerations will be whether backup withholdings rules apply and whether there is a legal basis for requiring a payor to report income directly to the grantor rather than the trust.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-49-89

Drafting attorney: Mary Jane Kossar (202) 566-3453.

Reviewing attorney: Norlyn Miller (202) 566-3273.

Agency Contact: Mary Jane Kossar, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3453

RIN: 1545-AN77

2530. INCOME TAXATION OF TRUSTS AND ESTATES

Legal Authority: 26 USC 645 Internal Revenue Code of 1986; 26 USC 672 Internal Revenue Code of 1986; 26 USC 673 Internal Revenue Code of 1986; 26 USC 6654 (k) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules regarding taxable years of trusts and estates, taxation of grantor trusts, and payment of estimated tax by trusts.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-169-86.

Drafting attorney: Bernard Harvey (202) 535-9759.

Reviewing attorney: Arthur H. Ernst (202) 566-3158.

Treasury attorney: William M. Paul (202) 566-5455.

Agency Contact: Bernard Harvey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 535-9759

RIN: 1545–AJ20

2631. ● FOREIGN GRANTOR TRUSTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 679 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance to taxpayers concerning the income tax treatment of transfers by U.S. persons to foreign trusts having U.S. beneficiaries. The amendments will conform to changes made by section 1013 of the Tax Reform Act of 1976.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-243-89

Drafting attorney: Christine E. Arquit (202) 566-6442.

Reviewing attorney: Benedetta A. Kissel (202) 566-6442.

Treasury attorney: Peter Byrne (202) 566-4979.

Agency Contact: Christine E. Arquit, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6442

RIN: 1545–AO75

2632. ALLOCATIONS OF INCOME GAIN, LOSS, AND DEDUCTION WITH RESPECT TO PROPERTY CONTRIBUTED TO A PARTNERSHIP

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: The regulations will provide rules and examples relating to the requirement to allocate income, gain, loss, and deduction so as to take into account the variation between the basis of the property and its fair market value at the time of contribution.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: PS-164-84.

Drafting Attorney: David Edquist (202) 343-8459.

Reviewing attorney: John B. Bromell (202) 566-4320.

Treasury attorney: Greg Marich (202) 566-2175.

Agency Contact: David Edquist, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3553

RIN: 1545–AG98

2633. INCOME TAX—ITEMS ALLOCATED TO PORTION OF YEAR PARTNER HELD INTEREST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 706 (d) Internal Revenue Code of 1986; 26 USC 704 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide the methods to be used for allocating partnership items to partners whenever a partner's interest varies during the partnership taxable year.

Timetable:

Action	Date	FR Cite
NPRM	12/00/92	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-255-76.

Drafting Attorney: Ann Veninga (202) 377-9047.

Reviewing Attorney: Claire E. Toth (202) 566-3830.

Treasury Attorney: Greg Marich (202)566-2927.

Agency Contact: Ann Veninga, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 377-9047

RIN: 1545–AB81

2634. INCOME TAX—TREATMENT OF PAYMENTS TO PARTNERS NOT ACTING IN THEIR CAPACITY AS PARTNERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 707 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide guidance to taxpayers relating to the treatment of certain allocations and distributions to partners for services and transfers of property where the partner is not acting in his capacity as a partner.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-234-84.

Drafting attorney: David R. Haglund (202) 343-8459.

Reviewing attorney: John B. Bromell (202) 566-4320.

Treasury attorney: Greg Marich (202) 566-2175.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 343-8459

RIN: 1545–AG83

2635. AMENDMENT OF INCOME TAX REGULATIONS WITH RESPECT TO TREATMENT OF DISGUISED SALES BY PARTNERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 707 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules for determining when

partnership transactions are to be treated as disguised sales.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-183-84.

Drafting Attorney: Susan T. Edlavitch (202) 343-8459.

Reviewing Attorney: David R. Haglund (202) 343-8453.

Treasury Attorney: Greg Marich (202) 566-4979.

Agency Contact: Susan T. Edlavitch, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 343-8459

RIN: 1545-AH22

2636. CONTRIBUTIONS TO A PARTNERSHIP OF UNREALIZED RECEIVABLES, INVENTORY ITEMS OR CAPITAL LOSS PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 724 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules for determining the character of gain or loss upon the disposition by a partnership of unrealized receivables, inventory items or capital loss property contributed to the partnership by a partner.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-222-84.

Drafting attorney: Noah S. Baer (202) 566-3822.

Reviewing attorney: Thomas S. Hines (202) 566-6813.

Agency Contact: Noah S. Baer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3822

RIN: 1545-AG85

2637. TAXATION OF FOREIGN INSURANCE COMPANIES DOING BUSINESS IN THE UNITED STATES INCLUDING THE EXPLICATION OF THE MINIMUM NET INVESTMENT INCOME CALCULATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 842 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.842, (New); Not yet determined

Legal Deadline: None

Abstract: The regulation will describe the proper rules applicable to the taxation of Foreign Insurance Companies doing business in the United States. In particular, the regulation will address the computation of an Insurance Company's minimum effectively connected net investment Income. Also the procedures by which an Insurance Company may elect to use its worldwide current investment yields will be discussed.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-020-89

Drafting Attorney: Fred Campbell-Mohn and Phil Garlett (202) 566-3288.

Reviewing Attorney: Steve Hooe (202) 566-3294.

Treasury Attorney: Jeanne Hoenicke (202) 566-2927.

Agency Contact: Frederick S. Campbell-Mohn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 566-3142

RIN: 1545-AN31

2638. FOREIGN INSURANCE COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 842 Internal Revenue Code of 1986; 26 USC 864(c)(4) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulation will prescribe rules for determining income effectively connected with the conduct of an insurance business in the United States.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-024-88

Drafting attorney: Mary D. Gillmarten (202) 566-6284.

Reviewing attorney: Christine Halphen (202) 377-9493.

Treasury attorney: Peter Barnes (202) 566-5815.

Agency Contact: Mary D. Gillmarten, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6284

RIN: 1545-AL82

2639. INCOME TAX REGULATIONS—DISCOUNTING OF UNPAID LOSSES OF PROPERTY AND CASUALTY INSURANCE COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 846 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules relating to the discounting of unpaid losses of property and casualty insurance companies. It is anticipated that the regulations will provide guidance with respect to the treatment of salvage and subrogation and the use of a company's loss payment pattern.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-139-86.

Drafting Attorney: Bill Blagg (202) 566-3294.

Reviewing Attorney: Steve Hooe (202) 566-3459.

Treasury Attorney: Jeanne Hosnicke (202) 566-2927.

Agency Contact: Bill Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3294

RIN: 1545-AJ51

2640. INCOME TAX—ESSENTIAL ISSUES RELATING TO REAL ESTATE MORTGAGE INVESTMENT CONDUITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 860E Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will provide guidance on real estate mortgage investment conduits, a new entity established to clarify the tax treatment of investment in real estate mortgages and mortgage backed securities.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-88-86.

Drafting attorney: Laura Ann M. Lauritzen (202) 566-3458.

Reviewing attorney: Tom Lydon (202) 566-3827.

Treasury attorney: Adam Handler (202) 566-2175.

Agency Contact: Laura Ann M. Lauritzen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 566-3458

RIN: 1545-AJ35

2641. TRANSPORTATION INCOME SOURCE RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 863 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the source of income attributable to transportation which begins or ends in the United States.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-947-86

Drafting attorney: Patricia A. Bray (202) 566-6545.

Reviewing attorney: David I. Bower (202) 566-6545.

Treasury attorney: Chisoon Lee (202) 566-6275.

Agency Contact: Patricia A. Bray, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6545

RIN: 1545-AJ66

2642. PROPOSED INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1986—SOURCE OF INCOME RULES FOR INCOME DERIVED FROM SPACE AND OCEAN ACTIVITIES INCLUDING TELECOMMUNICATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 863(d) Internal Revenue Code of 1986; 26 USC 863(e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance relating to determining the source of income derived from space, and certain ocean activities (excluding mining within the continental shelf.) The regulation will also provide guidance on determining the source of income derived from international telecommunications activities.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-949-86

Drafting attorney: Carol E. Murphy (202) 566-6384.

Reviewing attorney: Robert A. Ketcher (202) 566-6795.

Treasury attorney: David Crowe (202) 566-6275.

Agency Contact: Carol E. Murphy, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6384

RIN: 1545-AJ84

2643. TIERED PARTNERSHIP RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1990

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will address whether a foreign partner in a tiered partnership arrangement is engaged in a trade or business in the U.S. by virtue of membership in that tiered partnership where the second tier partnership meets the requirements of being in U.S. trade or business. The alternatives are 1) to conclude the foreign partner is engaged in U.S. trade or business because any member of the tiered partnership arrangements is; and 2) to conclude the foreign partner is not engaged in a U.S. trade of business where the first tier partnership is not so engaged. Other considerations include the meaning of "principal place of business" and whether an entity may have more than one, and attribution rules applicable to the entities. A problem with the second alternative is that it arguably gives priority to form over substance, however, there are several methods by which the first alternative could be avoided and their appears to be no policy reason to prefer one form of doing business over another. Furthermore, no additional tax would be collected by following alternative 1.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-063-90

Drafting attorney: Mary D. Gillmarten (202) 566-6294.

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TREAS—IRS

Proposed Rule Stage

Reviewing attorney: Robert A. Katcher (202) 566-6795.

Treasury attorney: Unassigned.

Agency Contact: Mary D. Gillmarten, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6284

RIN: 1545-AO20

2644. TREATMENT OF DEFERRED PAYMENTS AND APPRECIATION ARISING OUT OF BUSINESS CONDUCTED WITHIN THE UNITED STATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance on the treatment of certain deferred payments and property transactions in sourcing effectively connected income.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-062-88

Drafting attorney: Christine K. Schlaman (202) 566-3452.

Reviewing attorney: Charles C. Saverude (202) 377-9493.

Treasury attorney: Unassigned.

Agency Contact: Christine K. Schlaman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3452

RIN: 1545-AM53

2645. SOURCE RULES FOR PERSONAL PROPERTY SALES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 865 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules for determining the source of income from sales of personal property. The regulation will set forth rules for sales by U.S. residents and non-residents and specify special rules for depreciable personal property, intangibles, sales connected with an office or other fixed place of business, and sales of a foreign affiliate by a U.S. corporation.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-946-86

Drafting attorney: Carol P. Tello (202) 377-9059.

Reviewing attorney: Robert E. Culbertson (202) 377-9493.

Treasury attorney: Mary Bennett (202) 566-5992.

Agency Contact: Carol P. Tello, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 377-9059

RIN: 1545-AJ83

2646. EMPLOYMENT TAXES—APPLICATION OF REPEAL OF 30 PERCENT WITHHOLDING BY TAX REFORM ACT OF 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 871 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 35a

Legal Deadline: None

Abstract: Notice of proposed rulemaking by cross-reference to temporary regulations providing rules enforcing the exclusion from portfolio interest treatment of interest received by certain related parties.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-920-87

Drafting attorney: Carl M. Cooper (202) 566-6795.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Treasury attorney: Peter Daub (202) 566-2964.

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6795

RIN: 1545-AM30

2647. INCOME TAX—RECIPROCAL EXEMPTIONS FOR CERTAIN TRANSPORTATION INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 883 Internal Revenue Code of 1986; 26 USC 872 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would provide rules with respect to whether a foreign country will be considered to grant a reciprocal Aircraft/Shipping exemption to U.S. corporations for purposes of section 883 of the Code, or to U.S. citizens for purposes of section 872 of the Code.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-948-86

Drafting attorney: Patricia A. Bray (202) 566-6845.

Reviewing attorney: David I. Bower (202) 566-6845.

Treasury attorney: Chisoon Lee (202) 566-6275.

Agency Contact: Patricia A. Bray, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6845

RIN: 1545-AJ57

2648. INCOME TAX—PARTNERSHIP RULES REGARDING TAXATION OF FOREIGN INVESTMENT IN UNITED STATES REAL PROPERTY INTERESTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 897(g)

Internal Revenue Code of 1986; 26 USC 897(e)(2) Internal Revenue Code of 1986; 26 USC 1445(e)(5) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To provide rules for foreign partners disposing of an interest in a partnership holding United States real property interests, to determine the amount of gain or loss from such disposition for purposes of section 897(a).

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-364-86

Drafting attorney: James Sams (202) 566-6645.

Reviewing attorney: Charles Besecky (202) 566-6442.

Treasury attorney: Marlin Risinger (202) 566-5791.

Agency Contact: James Sams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6645

RIN: 1545-AL77

2649. DEEMED PAID CREDIT UNDER SECTIONS 902 AND 960 DETERMINED ON ACCUMULATED BASIS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 902(c)(7) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will modify the existing regulations to reflect changes in the computation of the indirect credit under the 1986 Act. The regulations will incorporate a pooling mechanism (rather than year-by-year) and will also reflect the separate basket computations under section 904(d).

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-933-86

Drafting attorney: Caren S. Shein (202) 566-3452.

Reviewing attorney: Carol Doran Klein (202) 566-3452.

Treasury attorney: Peter Barnes (202) 566-5815.

Agency Contact: Caren S. Shein, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3452

RIN: 1545-AL98

2650. CONFORMING TAXABLE YEARS OF CFCS AND FPHCS: 1989 CHANGE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 898 Internal Revenue Code of 1986; 26 USC 902 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides guidance to taxpayers concerning new section 898 of the Internal Revenue Code, added to the Code by the Omnibus Budget Reconciliation Act of 1989. Section 898 requires the taxable years of certain specified foreign corporations to conform to the taxable years of their majority U.S. shareholders.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-848-89

Drafting attorney: David R. Cooper (202) 566-6645.

Reviewing attorney: David I. Bower (202) 566-6645.

Treasury attorney: Peter Barnes (202) 566-5815.

Agency Contact: David R. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6645

RIN: 1545-AO22

2651. CARRYBACK AND CARRYFORWARD OF FOREIGN TAX CREDITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules regarding the carryback and carryforward of excess foreign tax credits under the provisions of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-945-86

Drafting attorney: Bobby Burns (202) 377-9059.

Reviewing attorney: Carol Doran Klein (202) 566-3452.

Treasury attorney: Peter Daub (202) 566-2004.

Agency Contact: Bobby Burns, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 377-9059

RIN: 1545-AM18

2652. SEPARATE APPLICATION OF SECTION 904 WITH RESPECT TO CERTAIN CATEGORIES OF INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will address the impact of the Technical Corrections and Miscellaneous Revenue Act of 1988 on section 904(d), the foreign tax credit limitation.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-790-88

TREAS—IRS

Proposed Rule Stage

Drafting attorney: Caren S. Shein (202) 566-3452.

Reviewing attorney: Carol Doran Klein (202) 566-3452.

Treasury attorney: Chisoon Lee (202) 566-8275 and Peter Barnes (202) 566-5615.

Agency Contact: Caren S. Shein, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3452

RIN: 1545-AM54

2643. CLARIFICATION OF TREATMENT OF SEPARATE LIMITATION LOSSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Section 1203 of the Tax Reform Act of 1986 amends section 904 (f) by adding paragraph (5) at the end thereof which requires that foreign source losses with respect to any income category first offset a taxpayer's other foreign source income before such losses offset the taxpayer's U.S. source income. The regulation will provide rules for the allocation of foreign source losses.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-338-89

Drafting attorney: Willard W. Yates (202) 566-3452.

Reviewing attorney: Carol Doran Klein (202) 566-3452.

Treasury attorney: Peter Barnes (202) 566-5615.

Agency Contact: Willard W. Yates, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3452

RIN: 1545-AM11

2654. EXCLUSION OF POSSESSION SOURCE INCOME FROM GROSS INCOME OF CERTAIN INDIVIDUALS AND TREATMENT OF CORPORATIONS ORGANIZED IN GUAM, SAMOA OR CNMI

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 876 Internal Revenue Code of 1986; 26 USC 931 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Tax Reform Act of 1986 eliminates the requirement that there be a mirrored system of taxation in Guam and the CNMI, and coordinates the tax system of these possessions and of American Samoa with the U.S. tax system. Guam the CNMI and American Samoa are granted full authority over their own local income tax systems, with respect to income of bona fide residents sourced within or effectively connected with the conduct of a trade or business within any of these possessions. This grant of authority is effective, however, only if and so long as an implementing agreement is in effect between the possession at issue and the United States which provides for elimination of double taxation, prevention of evasion or avoidance of U.S. tax exchange of information and other administrative matters. Regulations are needed to clarify who qualifies as a bona fide resident and to determine sourcing rules.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-968-86

Drafting attorney: Lilo A. Hester (202) 287-4851.

Reviewing attorney: George Sellinger (202) 287-4851.

Treasury attorney: Rom Watson (202) 343-0247.

Agency Contact: Lilo A. Hester, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, SW., Room 3319, Washington, DC 20024, 202 287-4851

RIN: 1545-AJ80

2655. COORDINATION OF U.S. AND VIRGIN ISLANDS TAXES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Prior to the Tax Reform Act of 1986, inhabitants of the Virgin Islands satisfied their U.S. tax liability by filing a return with the Virgin Islands. The Tax Reform Act of 1986 repealed the inhabitant rule to correct an erroneous interpretation of its operation in connection with the Virgin Islands mirror code. Section 1274 of the Tax Reform Act of 1986 clarifies the filing obligations of individuals in the Virgin Islands. Bona fide residents of the Virgin Islands are required to file only one return with the Virgin Islands in which they report worldwide income and identify the sources of income from the Virgin Islands will be required to file two identical tax returns one with the US and one with the Virgin Islands and pay a pro rata amount of tax to each. Regulations are needed to clarify who qualifies as a bona fide resident. It is anticipated that the regulations will provide a facts and circumstances test for determining bona fide resident status. It is unknown what the operational costs will be.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-968-86

Drafting attorney: Grace Perez-Navarro (202) 287-4851.

Reviewing attorney: George M. Sellinger (202) 287-4851.

Treasury attorney: Rom Watson (202) 343-0247.

Agency Contact: Grace Perez-Navarro, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, SW., Room 3319, Washington, DC 20024, 202 287-4851

RIN: 1545-AJ55

2656. REGULATIONS UNDER SECTION 932(B)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will address United States residents earning income in the Virgin Islands and the United States.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-008-89

Drafting Attorney: John Brady (202) 287-4851.

Reviewing Attorney: George Sellinger (202) 287-4851.

Treasury Attorney: Unassigned.

Agency Contact: John Brady, Attorney-Adviser, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, SW., Washington, DC 20024, 202 287-4851

RIN: 1545–AM89

2657. AMENDMENT OF SECTION 936(H) WITH RESPECT TO ELECTION OF PRODUCT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 936 (h) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would require that once a product election was made it could not be amended for the taxable year of the election.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-450-87

Drafting attorney: Jacob Feldman (202) 566-6845.

Reviewing attorney: David Bower (202) 566-6845.

Treasury attorney: Mary Bennett (202) 566-5992.

Agency Contact: Jacob Feldman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6845

RIN: 1545–AK77

2658. INSURANCE INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 953 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation defines related person insurance income; and sets forth rules regarding the amount of related person insurance income to be included in gross income. In addition, the regulation defines insurance income under section 953(a), prescribes rules of allocation and apportionment of deductions, and prescribes rules for the interaction of subchapter L and subchapter N.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-939-86

Drafting attorney: David R. Cooper (202) 566-6845.

Reviewing attorney: Jacob Feldman (202) 566-6845.

Treasury attorney: Peter Barnes (202) 566-5815

Agency Contact: David R. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6845

RIN: 1545–AJ70

2659. FOREIGN INSURANCE COMPANY - DOMESTIC ELECTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 953(d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide substantive and procedural rules regarding the election under section 953(d) to treat certain controlled foreign corporations engaged in the insurance business as domestic corporations.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-765-89

Drafting attorney: Valerie A. Mark (202) 566-6645.

Reviewing attorney: David I. Bower (202) 566-6645.

Treasury attorney: Peter Barnes (202) 566-5815.

Agency Contact: Valerie A. Mark, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6845

RIN: 1545–AO25

2660. SUBPART F SHIPPING AMENDMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will address statutory changes under the Tax Reform Act of 1986, with respect to foreign base company shipping income and amounts invested in and withdrawn from foreign base company shipping operations.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-554-88

Drafting attorney: Valerie A. Mark (202) 566-6645.

Reviewing attorney: Jack Feldman (202) 566-6845.

Treasury attorney: Unassigned.

TREAS—IRS

Proposed Rule Stage

Agency Contact: Valerie A. Mark, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6345

RIN: 1545-AM40

2661. ● EFFECT OF ACQUISITIVE REORGANIZATIONS ON EARNINGS AND PROFITS POOLS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 984 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would address the effect of acquisitive reorganizations on earnings and profits pools as required by the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INTL-310-90

Drafting Attorney: Richard L. Chewning (202) 566-3452.

Reviewing Attorney: Robert A. Katcher (202) 566-6795.

Treasury Attorney: Unassigned.

Agency Contact: Richard L. Chewning, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3452

RIN: 1545-AO71

2662. DETERMINATION OF FOREIGN TAXES AND FOREIGN CORPORATION'S EARNINGS AND PROFITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 986 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules for translating foreign earnings and profits and taxes into dollars, as well as timing and computation rules relating to the taxation of exchange gain or loss on previously taxed income that is distributed through a chain of controlled foreign corporations.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-107-89

Drafting attorney: Mary D. Gillmarten (202) 566-6284.

Reviewing attorney: Robert Katcher (202) 566-6795.

Treasury attorney: Tom Watson (202) 343-0247.

Agency Contact: Mary D. Gillmarten, Attorney Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6284

RIN: 1545-AN37

2663. ● DISC REGULATION MODIFICATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 992 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will remove or amend sections 1.992-1(d)(1) and 1.992-1(a)(6) of the regulations to remove "paid in" capital and separate bank account requirements pursuant to the Durbin Paper Stock Company case.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-304-90

Drafting attorney: Thomas L. Ralph (202) 377-9059.

Reviewing attorney: Thomas Fuller (202) 377-9059.

Treasury attorney: Unassigned.

Agency Contact: Thomas L. Ralph, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-9059

RIN: 1545-AO76

2664. DISC REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Conforming DISC regulations to FSC regulations.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-114-88

Drafting attorney: John B. Schlafly (202) 566-3452.

Reviewing attorney: Richard L. Chewning (202) 566-3452.

Treasury attorney: Mark Beams (202) 566-6275.

Agency Contact: John B. Schlafly, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3452

RIN: 1545-AM05

2665. SOURCING OF PASS-THROUGH PAYMENTS AND FEES PAID IN INTERNATIONAL SHORT SALES OF STOCK

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: When securities are sold short and payments in lieu of dividends or interest are paid by a U.S. person to a foreigner or vice versa, no rules exist to determine the source of such payments. These regulations will provide such rules. The payments will either be sourced by reference to the residence of the payor or residence of the recipient. Taxpayers now are likely using whatever rule avoids taxation; these regulations will at least provide some revenue to the FISC.

TREAS—IRS

Proposed Rule Stage

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-106-89

Drafting attorney: Teresa B. Hughes (202) 566-6795.

Reviewing attorney: Robert Katcher (202) 566-6795.

Treasury attorney: Unassigned.

Agency Contact: Teresa B. Hughes, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6795

RIN: 1545-AN34

2666. INCOME TAX—NOTICE OF PROPOSED RULEMAKING - AMENDMENT OF REGULATIONS RELATING TO BASIS REDUCTIONS FOR NON-TAXED PORTION OF EXTRAORDINARY DIVIDENDS TO REFLECT TRA 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1059 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Amendment of the regulations to interpret the rule contained in section 1059 of the Internal Revenue Code of 1986 relating to the non-taxed portion of extraordinary dividends. The regulations will explain what dividends are extraordinary, the operations of the required basis reduction, the application of the holding period rule in section 246 (c), etc.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-260-84.

Drafting attorney: Lesa Byrnes (202) 566-6212.

Reviewing attorney: Maura Sullivan (202) 566-4173.

Treasury attorney: Don Rocap (202) 566-6270.

Agency Contact: Lesa Byrnes, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6212

RIN: 1545-AH41

2667. INCOME TAX—TAX STRADDLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1092 Internal Revenue Code of 1986; 26 USC 6653 Internal Revenue Code of 1986; 26 USC 263 (g) Internal Revenue Code of 1986; 26 USC 1256 Internal Revenue Code of 1986; 26 USC 1212 Internal Revenue Code of 1986; 26 USC 1236 Internal Revenue Code of 1986; 26 USC 1234A Internal Revenue Code of 1986; 26 USC 1232 Internal Revenue Code of 1986; 26 USC 1221 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide the rules under Title 5 of the Economic Recovery Tax Act of 1981 for tax straddles. These regulations will affect the tax treatment of regulated futures contracts, forward contracts, and positions in commodities.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-167-81.

Drafting attorney: James W. C. Canup (202) 566-3287.

Reviewing attorney: Unassigned

Treasury attorney: Kathleen Ferrell (202) 566-2928.

Agency Contact: James W. C. Canup, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3287

RIN: 1545-AC21

2668. GAINS FROM CERTAIN SALES OR EXCHANGES IN CERTAIN FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Temporary regulations that amend the regulations under section 1248 to partially suspend the application of section 1248(e) and to limit the application of section 1248(f) to those situations in which gain is not required.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-039-87

Drafting attorney: Karen S. Holden (202) 566-6442.

Reviewing attorney: Charles Saverude (202) 377-9493.

Treasury attorney: Marlin Risinger (202) 566-5791.

Agency Contact: Karen S. Holden, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6442

RIN: 1545-AL89

2669. INCOME TAX—TO CLARIFY TAX TREATMENT OF TRANSFERS OF FRANCHISES, TRADEMARKS, & TRADE NAMES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1253 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would clarify the tax treatment of the transfer of a franchise trademark, or trade name under section 1253 of the Internal Revenue Code of 1954. It would also provide guidance regarding how to allocate the basis among the portions of the sale proceeds which are treated as arising from the sale of a capital asset and other portions which are ordinary income.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-183-81.

Drafting attorney: John M. Coulter, Jr. [202] 566-3328.

Reviewing attorney: John M. Coulter, Jr. [202] 566-3328.

Agency Contact: John M. Coulter, Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3328

RIN: 1545-AC34

2670. INCOME TAX—GAIN FROM DISPOSITION OF INTEREST IN OIL, GAS, GEOTHERMAL OR OTHER MINERAL PROPERTIES BY S CORPORATIONS AND THEIR SHAREHOLDERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1254 Internal Revenue Code of 1986; 26 USC 751 Internal Revenue Code of 1986; PL 94-455, Sec 205 Tax Reform Act of 1976; PL 94-455, Sec 1901 Tax Reform Act of 1976; PL 95-618, Sec 402 Energy Tax Act of 1978

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will determine the tax treatment by S corporations and their shareholders from the disposition of certain oil, gas, geothermal, or other mineral properties. Gain subject to recapture under section 1254 will be accorded ordinary income treatment. The regulations also will determine the tax treatment of sales of shares of stock in an S corporation that holds oil, gas, geothermal, or other mineral properties.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-7-88

Drafting attorney: Richard Blumenreich (202) 566-3292.

Reviewing attorney: Charles Ramsey (202) 566-3553.

Treasury attorney: Barksdale Penick (202) 566-5453.

Agency Contact: Richard Blumenreich, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3292

RIN: 1545-AM96

2671. HEDGING EXCEPTION TO MARK-TO-MARKET RULES FOR SECTION 1256 CONTRACTS, DEFERRAL OF CERTAIN STRADDLE LOSSES, AND WASH-SALE AND SHORT-SALE PRINCIPLES APPLICABLE TO CERTAIN STRADDLE TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1256 (e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the hedging transaction exception for section 1256 contracts and straddles.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-11-86.

Drafting attorney: Robert B. Williams (202) 566-4336.

Reviewing attorney: Alice M. Bennett (202) 566-3287.

Agency Contact: Robert B. Williams, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4336

RIN: 1545-AI59

2672. HEDGING EXCEPTION TO MARK-TO-MARKET RULES FOR SECTION 1256 CONTRACTS, DEFERRAL OF CERTAIN STRADDLE LOSSES, AND WASH-SALE AND SHORT-SALE PRINCIPLES APPLICABLE TO CERTAIN STRADDLE TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1256 (e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the hedging transaction exception for section 1256 contracts and straddles.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: FI-10-86.

Drafting attorney: Robert B. Williams (202) 566-4336.

Reviewing attorney: Alice M. Bennett (202) 566-3287.

Agency Contact: Robert B. Williams, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4336

RIN: 1545-AI72

2673. DISPOSITION GAIN REPRESENTING ACCRUED MARKET DISCOUNT TREATED AS ORDINARY INCOME; DEFERRAL OF INTEREST DEDUCTION ALLOCABLE TO ACCRUED MARKET DISCOUNT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1276 Internal Revenue Code of 1986; 26 USC 1278 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the treatment of gain realized on the disposition of any Market Discount Bond as ordinary income. These regulations will also prescribe the extent to which a deduction for interest allocable to accrued market discount is deferred.

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Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-31-85.

Drafting attorney: Carol A. Schwartz (202) 566-3297.

Reviewing attorney: Thomas J. Lyden (202) 566-3297.

Treasury attorney: Robert Scarborough (202) 566-2928.

Agency Contact: Carol A. Schwartz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC20224, 202 566-3297

RIN: 1545–AH82

2674. INCOME TAX—TREATMENT OF STRIPPED BONDS AND STRIPPED COUPON

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1286 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the tax treatment of stripped bonds and stripped coupons purchased after July 1, 1982. In particular, guidance will be given as to the proper method for allocation of basis and purchase price.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-19-85.

Drafting attorney: Mark S. Smith (202) 566-3829.

Reviewing attorney: Sharon Galm (202) 566-3328.

Agency Contact: Mark S. Smith, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3829

RIN: 1545–AH75

2675. TREATMENT OF SHAREHOLDERS OF PASSIVE FOREIGN INVESTMENT COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1291 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation relates to the treatment of shareholders of passive foreign investment companies.

Timetable:

Action	Date	FR Cite
NPRM	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-656-87

Drafting attorney: Gayle Novig (202) 377-9059.

Reviewing attorney: Tom Fuller (202) 377-9059.

Treasury attorney: Mary Bennett (202) 566-5992.

Agency Contact: Gayle Novig, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 377-9059

RIN: 1545–AC06

2676. QEF SHAREHOLDER ELECTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1295 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will address QEF shareholder election as it applies to section 1295.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-670-86

Drafting Attorney: Joseph S. Henderson (202) 377-9059.

Reviewing Attorney: Thomas D. Fuller (202) 377-9059.

Treasury Attorney: Unassigned.

Agency Contact: Joseph S. Henderson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-9059

RIN: 1545–AM41

2677. INCOME TAX—TREATMENT OF OBLIGATIONS WHICH PURPORT TO REPRESENT DEBT AS A SECOND CLASS OF STOCK

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1361 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to shareholders and debt instrument holders who must comply with the law relating to subchapter S corporations. The regulations will provide rules relating to whether or not a subchapter S corporation has more than one class of stock.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-4-73.

Drafting attorney: David R. Haglund (202) 343-8459.

Reviewing attorney: Dianna Miosi (202) 566-4070.

Treasury attorney: Kathleen Ferrell (202) 566-3911.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 343-8459

RIN: 1545–AC37

2678. INCOME TAX—PASS-THRU OF S CORPORATION ITEMS TO SHAREHOLDERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1366 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules relating to the tax

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treatment of income and loes items passed through to the shareholders.

Timetable:

Action	Date	FR Cite
NPRM	12/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-261-82.

Drafting Attorney: Christine Ellison (202) 377-9260.

Reviewing Attorney: William O'Shea (202) 566-3244.

Agency Contact: Christine Ellison, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 377-9260

RIN: 1545-AE85

2678. INCOME TAX—RULES RELATING TO ADJUSTMENT TO BASIS OF STOCK OF SHAREHOLDERS OF S CORPORATION AND TO DETERMINATION OF BASIS OF PROPERTY DISTRIBUTION BY CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1367 Internal Revenue Code of 1986; 26 USC 1368 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations would provide rules for adjusting the basis of stock of a shareholder in an S corporation and rules for determining the treatment of property distributions by an S corporation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-394-82.

Drafting Attorney: Judith C. Winkler (202) 377-9555.

Reviewing Attorney: Walter H. Woo (202) 535-9545.

Agency Contact: Judith C. Winkler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 377-9555

RIN: 1545-AE83

2680. INCOME TAX—APPLICATION OF SUBCHAPTER C RULES TO S CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1371 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposal would amend the regulations under section 1371 to changes made by the subchapter S Revision Act of 1982 relating to the application of subchapter C rules to S corporations and other technical amendments under sections 2, 5, and 6 of the Act. The regulation would provide the public with guidance to comply with the Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-265-82.

Drafting Attorney: Judith C. Winkler (202) 377-9666.

Reviewing Attorney: Frances Schafer (202) 566-3629.

Treasury Attorney: Kathleen Ferrell (202) 566-2175.

Agency Contact: Judith C. Winkler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 377-9555

RIN: 1545-AE90

2681. CROSS-REFERENCE—APPLICATION OF SECTION 1374 BUILT-IN GAINS TAX C CORPORATIONS ELECTING S CORPORATION STATUS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1374 Internal Revenue Code of 1986; 26 USC 337 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal will provide rules relating to the section 1374 built-in gains tax to C corporations electing S corporation status.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-60-87

Drafting attorney: Mark S. Jennings (202) 566-2455.

Reviewing attorney: Nelson F. Crouch (202) 566-3223.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-2455

RIN: 1545-AK93

2682. INCOME TAX—DEFINITIONS AND SPECIAL RULES PERTAINING TO S CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1377 Internal Revenue Code of 1986; 26 USC 1379 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations would define and interpret special rules contained in Sections 1377 and 1379 of the Internal Revenue Code of 1986, thereby giving guidance to the public on how the Internal Revenue Service intends to interpret those sections.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-268-82.

Drafting Attorney: Daniel McCabe (202) 343-8558.

Reviewing Attorney: Thomas Hines (202) 566-6843.

Treasury Attorney: Jim Miller (202) 566-8277.

Agency Contact: Daniel McCabe, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 343-8558

RIN: 1545-AE94

2683. GENERAL REVISION OF SECTION 1441 REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: General revision of section 1441 withholding regulations to accommodate changes to the tax law since these rules were issued.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: INTL-062-90

Drafting attorney: Eric P. Turner (202) 377-9493.

Reviewing attorney: Thomas D. Fuller (202) 377-9059.

Treasury attorney: Unassigned.

Agency Contact: Eric P. Turner, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-9493

RIN: 1545-AO27

2684. WITHHOLDING TAX ON PAYMENTS FROM PARTNERSHIPS TO FOREIGN PARTNERS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1446 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation explains when withholding is required under section 1446, how and when the amounts withheld are to be reported and paid over to the Internal Revenue Service, and when the taxpayer is to credit the tax withheld against its U.S. income tax liability or apply for a refund. The notice will be published simultaneously with, and will cross-reference to, temporary regulations dealing with these matters (INTL-938-86). No significant policy issues are involved. Section 1446 was substantially amended by the Technical and Miscellaneous Revenue Act of 1988.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-980-86

Drafting attorney: Thomas L. Ralph (202) 377-9059.

Reviewing attorney: Thomas D. Fuller (202) 377-9059.

Treasury attorney: David Crowe (202) 566-5791.

Agency Contact: Thomas L. Ralph, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-9059

RIN: 1545-AL30

2685. REVISION OF REGULATIONS UNDER SECTIONS 1491, 1492, AND 1494

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1491 Internal Revenue Code of 1986; 26 USC 1492 Internal Revenue Code of 1986; 26 USC 1494 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The purpose of these regulations is to provide guidance to taxpayers regarding both the types of outbound property transfers that are subject to the tax imposed by section 1491 and the types of outbound property transfers that are exempt from the tax by reasons of section 1492.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: INTL-102-89

Drafting attorney: Elizabeth Karzon (202) 566-6442.

Reviewing attorney: Charles Besecky (202) 566-6442.

Treasury attorney: Unassigned.

Agency Contact: Elizabeth U. Karzon, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6442

RIN: 1545-AN39

2686. NONTAXABLE TRANSFERS UNDER SECTION 1491

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1491 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The purpose of the regulation is to exempt transfers of property to foreign partnerships from the excise tax imposed by section 1491, on the condition that gain attributable to the property at the time of transfer is taxed to the transferor when subsequently disposed of by the foreign transferee partnership. The regulations will set forth the necessary conditions and exceptions to the exemption.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-380-88

Drafting attorney: Elizabeth Karzon (202) 566-6442.

Reviewing attorney: Charles Besecky (202) 566-6442.

Treasury attorney: Marlin Risinger (202) 566-4979.

Agency Contact: Elizabeth Karzon, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6442

RIN: 1545-AL66

2687. INCOME TAX—APPLICATION OF SECTION 465 AT RISK LIMITATIONS TO MEMBERS THAT JOIN IN FILING CONSOLIDATED RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986; 26 USC 465 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

TREAS—IRS

Proposed Rule Stage

Legal Deadline: None

Abstract: Provision would amend the consolidated returns regulations to provide rules applying the at-risk limitations of section 465 of the Internal Revenue Code of 1954 to affiliated groups filing consolidated returns, thereby giving the public needed guidance as to how these rules apply to such groups.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-75-79.

Drafting attorney: Richard E. Coss (202) 566-6212.

Reviewing attorney: Peter G. Lynard (202) 566-6358.

Treasury attorney: Bryan Collins (202) 566-2175.

Agency Contact: Richard E. Coss, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6212

RIN: 1545–AC55

2688. CLARIFYING DELETION OF REQUIREMENT OF SECTION 1.1502-47(D)(12) (C) THAT IN APPLYING THE TACKING RULE, PROFIT LIFE ACTIVITIES NOT BE SEPARATED FROM LOSS LIFE ACTIVITIES

Legal Authority: 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.1502

Legal Deadline: None

Abstract: Section 1.1502-47(d)(12)(C) restricted the separation of profitable life activities from loss life activities to prevent the gaming that otherwise could occur under the "bottom-line" consolidation rule mandated by section 818(f) as in existence prior to the Enactment of the Tax Reform Act of 1984 (TRA 1984), Public Law 98-369. As a result of the new method of taxing life insurance companies enacted in the TRA 1984, the bottom-line consolidation abuse potential is eliminated, thus eliminating the need for section 1.1502-47(d)(12)(C). Removing this provision will remove an unnecessary restraint on transactions, and a potential device to voluntarily deconsolidate.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-157-86

Drafting Attorney: William Barry (202) 566-3354.

Reviewing Attorney: Edward Cohen (202) 566-3484.

Treasury Attorney: Don Rocap (202) 566-8378.

Agency Contact: William F. Barry, Attorney, Department of the Treasury, Internal Revenue Service, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington DC 20224, 202 566-3354

RIN: 1545–AI98

2689. CONSOLIDATED RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides revisions of consolidated return regulations under sections 1.1502-14 and 1.1502-31.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-4-88

Drafting attorney: Sharon Horn (202) 566-4324.

Reviewing attorney: John Broadbent (202) 566-3877.

Agency Contact: Sharon Horn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4324

RIN: 1545–AL44

2690. REVISION OF SECTION 1.1502-33

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide new rules for determining earnings and profits of each member of the consolidated group.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-68-88

Drafting attorney: David Kessler (202) 566-3226.

Reviewing attorney: John Broadbent (202) 566-4324.

Treasury attorney: Andrew Dubroff (202) 566-5453.

Agency Contact: David Kessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3226

RIN: 1545–AL60

2691. AMENDMENT OF CONSOLIDATED RETURN REGULATIONS TO ADDRESS TREATMENT OF ORGANIZATIONS WHOSE TAX EXEMPT STATUS WAS REPEALED BY THE 1986 ACT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986; 26 USC 833 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will specify the consolidated return ramifications of the revocation of the tax-exempt status of certain organizations by section 1012 of the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-020-89

Drafting Attorney: Jean M. Whalen (202) 566-3422.

Reviewing Attorney: Edward S. Cohen (202) 566-3484.

Treasury Attorney: J. Judge Kelley (202) 566-2175.

Agency Contact: Jean Whalen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3422

RIN: 1545-AM49

2692. PAYMENT OF REFUNDS TO CERTAIN FIDUCIARIES OF INSOLVENT MEMBERS OF AFFILIATED GROUPS

Legal Authority: 26 USC 1502 Internal Revenue Code of 1986; 26 USC 6402 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1502; 26 CFR 6402

Legal Deadline: None

Abstract: The regulations will address in what instances a refund can be paid to the court appointed fiduciary of an insolvent corporation which is a member of an affiliated group of corporations filing a consolidated return when to the extent, that the Secretary determines the refund is attributable to losses or credits of the insolvent corporation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-98-88

Drafting attorney: Rose Williams (202) 566-3354.

Reviewing attorney: Lewis Brickates (202) 566-3877.

Agency Contact: Rose Williams, Attorney-Advisor, Department of the Treasury Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3354

RIN: 1545-AM74

2693. INCOME TAX—INCLUDIBILITY IN AN AFFILIATED GROUP OF SUBSIDIARIES FORMED TO COMPLY WITH FOREIGN LAWS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1504 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 1.1504(d)

Legal Deadline: None

Abstract: The regulations would provide rules relating to an election to treat a foreign subsidiary of a United States corporation as a domestic corporation if the subsidiary is formed in a contiguous country to comply with foreign law.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-338-88

Drafting attorney: Kenneth Allison (202) 566-6442.

Reviewing attorney: Benedetta Kissel (202) 566-6442.

Treasury attorney: Unassigned.

Agency Contact: Kenneth Allison, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6442

RIN: 1545-AC58

2694. INCOME TAX—AMENDMENT OF REGULATIONS UNDER SECTION 1504 (A) OF THE CODE, AS AMENDED BY SECTION 60 OF THE TAX REFORM ACT OF 1984, DEFINING "AFFILIATED GROUP"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1504 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules defining "affiliated group" for purposes of subtitle A of the Code.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-152-84.

Drafting attorney: Kenneth Cohen (202) 566-3877.

Reviewing attorney: Edward Cohen (202) 566-3484.

Treasury Attorney: J. Judge Kelley (202) 566-6529.

Agency Contact: Kenneth Cohen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3877

RIN: 1545-AH09

2695. ESTATE AND GIFT TAXES, INCOME TAXES-UNIFIED CREDIT IN LIEU OF EXEMPTIONS, UNIFIED RATE SCHEDULE FOR ESTATE AND GIFT TAXES SITUS OF FOREIGN PARTNERSHIPS FOR ESTATE TAXATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2001 Internal Revenue Code of 1986; 26 USC 2010 Internal Revenue Code of 1986; 26 USC 2011 Internal Revenue Code of 1986; 26 USC 2012(a) Internal Revenue Code of 1986; 26 USC 2012(c) Internal Revenue Code of 1986; 26 USC 2013(b) Internal Revenue Code of 1986; 26 USC 2013(e)(1) Internal Revenue Code of 1986; 26 USC 2014(b)(2) Internal Revenue Code of 1986; 26 USC 2035 Internal Revenue Code of 1986; 26 USC 2038(a) Internal Revenue Code of 1986; 26 USC 2044 Internal Revenue Code of 1986; 26 USC 2052 Internal Revenue Code of 1986; 26 USC 2104 Internal Revenue Code of 1986; 26 USC 2106 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20; 26 CFR 25; 26 CFR 1

Legal Deadline: None

Abstract: The unified rate schedule for estate and gift taxes and unified credit in lieu of exemptions will be implemented by the regulation. The regulations also relate to the estate tax consequences of transfers made within three years of death. The regulations also provide rules relating to charitable remainder trusts.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

TREAS—IRS

Proposed Rule Stage

Government Levels Affected: None

Additional Information: PS-212-76.

Drafting attorney: Deborah S. Ryan (202) 535-9511.

Reviewing attorney: Lee A. Dunn (202) 566-4626.

Agency Contact: Deborah S. Ryan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington DC 20224, 202 535-9511

RIN: 1545-AC60

2686. ESTATE TAX—VALUATION OF CERTAIN FARM, ETC. REAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2032A Internal Revenue Code of 1986; 26 USC 2013 (f) Internal Revenue Code of 1986; 26 USC 1016 (c) Internal Revenue Code of 1986; 26 USC 1040 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20; 26 CFR 1

Legal Deadline: None

Abstract: Special use valuation of certain farm and closely held business real property is available to qualifying estates. The regulation will contain definitions and rules relating to the various requirements which an estate must satisfy and will provide rules governing the imposition and payment of the "additional estate tax" should a qualified heir fail to meet the post-death requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-209-81.

Drafting attorney: Fred E. Grundeman (202) 535-9512.

Reviewing attorney: Lee Dunn (202) 566-4626.

Treasury Attorney: Robert Weaver (202) 535-9564.

Agency Contact: Fred E. Grundeman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 535-9512

RIN: 1545-AC82

2687. ESTATE TAX—INCLUSION OF ESTATE FREEZES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2036 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20

Legal Deadline: None

Abstract: Through the use of various transactions taxpayers have been able to "freeze" the value of an enterprise by "transferring" a major portion of the enterprise while retaining managerial rights. Section 2036 (c) requires that an estate include the value of "frozen" enterprises where the transferor in effect transfers future appreciation while retaining present income or managerial rights.

Timetable:

Action	Date	FR Cite
NPRM	12/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-101-88

Drafting attorney: Fred E. Grundeman (202) 535-9512.

Reviewing attorney: Lee Dunn (202) 566-4626.

Treasury attorney: Robert Weaver (202) 535-9564.

Agency Contact: Fred Grundeman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 535-9512

RIN: 1545-AM59

2688. REFORMATION OF CHARITABLE TRANSFERS; DEFINITION OF GUARANTEED ANNUITY AND LEAD UNITRUST INTEREST

Legal Authority: 26 USC 2055 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20.2055

Legal Deadline: None

Abstract: This project will address a number of issues including the following: (1) defining commencement under the 90-day rule; (2) defining what is a reformable interest; (3) reforming a nonremainder interest; and (4) reforming a remainder interest in a trust.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-070-89

Drafting attorney: Laura Howell (202) 566-9312.

Reviewing attorney: George Masnik (202) 566-4788.

Treasury attorney: Bob Weaver (202) 535-9564.

Agency Contact: Laura Howell, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 535-9509

RIN: 1545-AO31

2689. ALIEN SPOUSE MARITAL DEDUCTION

Legal Authority: 26 USC 2056 Internal Revenue Code of 1986; 26 USC 2056A Internal Revenue Code of 1986; 26 USC 2523 Internal Revenue Code of 1986; 26 USC 2106 Internal Revenue Code of 1986; 26 USC 6324 Internal Revenue Code of1986; 26 USC 2503 Internal Revenue Code of 1986; 26 USC 2001 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20; 26 CFR 25

Legal Deadline: None

Abstract: These regulations will clarify the estate and gift tax treatment of transfers of property where the surviving spouse or donee spouse is not a United States citizen. The regulations will prescribe how certain transfers to a qualified domestic trust for the benefit of an alien spouse will qualify for the estate tax marital deduction. The regulations will also describe the manner on which an estate tax is imposed in the case of any principal distribution from a qualified domestic trust before the death of the surviving spouse and upon the value of the property remaining in the trust upon the surviving spouse's death.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

TREAS—IRS

Proposed Rule Stage

Government Levels Affected: Undetermined

Additional Information: PS-102-88

Drafting attorney: Susan Hurwitz (202) 343-8554.

Reviewing attorney: George Masnik (202) 566-4788.

Agency Contact: Susan Hurwitz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 343-8554

RIN: 1545-AM85

2700. ESTATE TAX—GENERATION-SKIPPING TRANSFER TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2663 Internal Revenue Code of 1986

CFR Citation: 26 CFR 26

Legal Deadline: None

Abstract: The regulations will provide rules relating to certain definitions, the allocation of the transferor's GST exemption, and the determination of inclusion ratio.The project will also consider amendments made in 1989 by sections 7811(j)(2) and (4) of P.L. 101-239 to code sections 2642(b)(1) and (3) and 2654(a)(1).

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-73-88

Drafting attorney: John B. Franklin (202) 535-9540.

Reviewing attorney: Fred Grundeman (202) 535-9512.

Treasury attorney: Robert Weaver (202) 535-8964.

Agency Contact: John B. Franklin, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 535-8548

RIN: 1545-AL75

2701. AMENDMENT OF THE EMPLOYMENT TAX REGULATIONS UNDER CODE SECTION 3121 TO CONFORM TO SECTION 321 OF THE SOCIAL SECURITY AMENDMENTS OF 1983

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3121 Internal Revenue Code of 1986

CFR Citation: 26 CFR 36

Legal Deadline: None

Abstract: The regulation would provide guidance to taxpayers with respect to agreements entered into under section 3121 of the Internal Revenue Code of 1954 as that Section was amended by section 321 of the Social Security Amendments of 1983.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-38-88.

Drafting attorney: Patricia McDermott (202) 566-4747.

Reviewing attorney: Jerry Holmes (202) 566-4747.

Agency Contact: Patricia McDermott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4747

RIN: 1545-AF91

2702. TREATMENT OF CERTAIN DEFERRED COMPENSATION AND SALARY REDUCTION ARRANGEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6302 (c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: Proposal would provide rules concerning the treatment of certain deferred compensation and salary reduction arrangements under section 3121 (v) and section 3306 (r) of the Internal Revenue Code of 1954, thereby giving needed guidance to the public on how the Internal Revenue Service intends to interpret those sections of the Code.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-142-87.

Drafting attorney: Gregory J. Stull (202) 566-4747.

Reviewing attorney: Jerry Holmes (202) 566-4747.

Agency Contact: Gregory J. Stull, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4747

RIN: 1545-AP97

2703. TO PROVIDE REGULATIONS RELATING TO BACKUP WITHHOLDING UNDER SECTION 3406

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3406 Internal Revenue Code of 1986

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: The regulations will provide that a tax equal to 20 percent of any reportable payment is required to be withheld if certain conditions exist. With respect to reportable interest or dividends, backup withholding applies if (1) no number is provided in the manner required, (2) the Service notifies the payor that the payee's taxpayer identification number is not correct, (3) the payee is subject to backup withholding due to a notified payee underreporting, and (4) the payee fails to certify when required that he or she is not subject to backup withholding due to notified payee underreporting. With respect to other reportable payments (such as rents, royalties, nonemployee compensation, broker transactions, or barter exchanges), backup withholding applies if (1) no taxpayer identification number is provided, or (2) the Service notifies the payor that the payee's taxpayer identification number is not correct.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

TREAS—IRS

Proposed Rule Stage

Additional Information: IA-224-82.

Drafting attorney: Renay France (202) 566-3827.

Reviewing attorney: John M. Coulter, Jr. [202] 566-3828.

Treasury attorney: Larry Garrett (202) 566-4902.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3827

RIN: 1545-AE36

2704. EXCISE TAX—COLLECTION OF EXCISE TAX IMPOSED ON THE SALE OR REMOVAL OF GASOLINE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4061 Internal Revenue Code of 1986; 26 USC 4062 Internal Revenue Code of 1986; 26 USC 4101 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: The regulations will provide rules relating to excise tax imposed on the sale or removal of gasoline. The regulations will also provide procedural requirements for any required registration and bonding, and obtaining applicable refunds or credits relating to the excise tax.

Timetable:

Action	Date	FR Cite
NPRM	11/18/87	52 FR 44141
Hearing	01/05/88	
NPRM - withdrew one paragraph of 11/18/87 NPRM	09/27/88	53 FR 37850
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

PS-115-88.

Drafting attorney: Frank Boland (202) 566-4475.

Reviewing attorney: Dick Kocak (202) 566-4077.

Treasury attorney: Larry Garrett (202) 535-9566.

Agency Contact: Frank Boland, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4475

RIN: 1545-AJ09

2705. MODIFICATION OF THE GASAHOL REGULATIONS TO INCREASE THE TOLERANCE ALLOWED TO THE 10 PERCENT ALCOHOL MIXTURE AND TO CLARIFY THE LATER BLENDING RULES

Legal Authority: 26 USC 4081 Internal Revenue Code of 1986; 26 USC 4041 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: The regulations will modify the tolerance allowed for the alcohol to gasoline ratio in gasahol and will clarify the later blending rules with regard to incidental dilution of gasahol at retail outlets.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-093-88

Drafting attorney: Edward Madden (202) 566-4077.

Reviewing attorney: Jeffrey Nelson (202) 566-4077.

Treasury attorney: Lawrence Garrett (202) 535-9566.

Agency Contact: Edward Madden, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4077

RIN: 1545-AM06

2706. EXCISE TAX ON DIESEL FUEL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4091 to 4093 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: This regulation provides guidance on the collection of diesel fuel excise tax under the Revenue Act of 1987

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-3-88

Drafting attorney: Frank Boland (202) 566-4475.

Reviewing attorney: Dick Kocak (202) 566-2567.

Treasury attorney: Ray Strowd (202) 566-4902.

Agency Contact: Frank Boland, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4475

RIN: 1545-AL43

2707. GASOLINE EXCISE TAX BOND REQUIREMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4101 Internal Revenue Code of 1986; 26 USC 4081 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: These regulations will provide rules relating to the bond requirement under section 4101 as it pertains to gasoline excise tax.

Timetable:

Action	Date	FR Cite
NPRM	09/27/88	53 FR 37590
NPRM	12/01/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-77-88

Drafting attorney: Ruth Hoffman (202) 566-4475.

Reviewing attorney: Dick Kocak (202) 566-3434.

Treasury attorney: Robert Scarborough (202) 566-2928.

Agency Contact: Ruth Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Consitution Ave., NW., Washington, DC 20224, 202 566-4475

RIN: 1545-AM32

2706. REVISION OF SECTION 48.4181-1(A)(2) OF THE MANUFACTURERS AND RETAILERS EXCISE TAX REGULATIONS RELATING TO THE TAX ON FIREARM PARTS AND ACCESSORIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: The regulation will clarify the meaning of the terms "complete firearm" and "parts or accessories of firearms".

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-69-88

Drafting Tax Law Specialist: Donald Fidlow (202) 566-3904.

Reviewing Attorney: Richard Kocak (202) 566-3434.

Agency Contact: Donald Fidlow, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3904

RIN: 1545-AL72

2709. A TAX OF $3.00 A PASSENGER IS IMPOSED ON EACH COVERED VOYAGE BY A COMMERCIAL VESSEL. THIS TAX IS PAID BY THE PERSON PROVIDING THE COVERED VOYAGE

Legal Authority: 26 USC 4471 Internal Revenue Code of 1986; 26 USC 4472 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: These regulations will provide rules for the application of the tax on transportation of persons by water.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-003-90

Drafting attorney: Edward R. Madden (202) 535-9758.

Reviewing attorney: Jeffrey M. Nelson (202) 566-4077.

Treasury attorney: Robert Weaver (202) 535-9564.

Agency Contact: Edward Madden, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4077

RIN: 1545-AO41

2710. INCOME TAX, EXCISE TAX, AND ENVIRONMENTAL TAX—IMPOSITION OF TAXES ON PETROLEUM, CERTAIN CHEMICALS, AND CORPORATIONS AND ADDITIONAL EXCISE TAXES ON CERTAIN FUELS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 59A Internal Revenue Code of 1986; 26 USC 4041 Internal Revenue Code of 1986; 26 USC 4042 Internal Revenue Code of 1986; 26 USC 4091 Internal Revenue Code of 1986; 26 USC 4092 Internal Revenue Code of 1986; 26 USC 4093 Internal Revenue Code of 1986; 26 USC 6421 Internal Revenue Code of 1986; 26 USC 6427 Internal Revenue Code of 1986; 26 USC 4081 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 48; 26 CFR 52

Legal Deadline: None

Abstract: The regulations will provide rules for the computation of the environmental taxes on petroleum, certain chemicals, and additional excise taxes on certain fuels. The regulations will also provide rules for the computation of the environmental tax imposed on the modified alternative minimum taxable income of corporations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-158-86.

Drafting attorney: Ruth Hoffman (202) 566-4475.

Reviewing attorney: Jeff Nelson (202) 566-4077.

Treasury attorney: Evelyn Brody (202) 566-5453.

Agency Contact: Ruth Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4475

RIN: 1545-AJ23

2711. TAX ON CERTAIN IMPORTED SUBSTANCES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4671 Internal Revenue Code of 1986

CFR Citation: 26 CFR 52

Legal Deadline: None

Abstract: The regulations will provide rules for the computation of the environmental tax on certain imported chemical substances.

Timetable:

Action	Date	FR Cite
NPRM	10/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-71-88

Drafting attorney: Ruth Hoffman (202) 566-4475.

Reviewing attorney: Jeff Nelson (202) 566-4077.

Treasury attorney: Evelyn Brody (202) 566-5453.

Agency Contact: Ruth Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4475

RIN: 1545-AL73

2712. TAX ON OZONE DEPLETING CHEMICALS

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4681 Internal Revenue Code of 1986

CFR Citation: 26 CFR 52

Legal Deadline: None

Abstract: Notice of proposed rulemaking cross-references to temporary regulations to tax on ozone-depleting chemicals.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

TREAS—IRS

Proposed Rule Stage

Additional Information: PS-73-89

Drafting attorney: Ruth Hoffman (202) 566-4475.

Reviewing attorney: Jeffrey Nelson (202) 566-6077.

Treasury attorney: John Parcell (202) 566-3764.

Agency Contact: Ruth Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4475

RIN: 1545-AC06

2713. INCOME TAX—EXCISE TAX—PROCEDURE AND ADMINISTRATION—VARIOUS PRIVATE FOUNDATION PROVISIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4940 Internal Revenue Code of 1986; 26 USC 6041 Internal Revenue Code of 1986; 26 USC 6042 Internal Revenue Code of 1986; 26 USC 6043 Internal Revenue Code of 1986; 26 USC 6045 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 53

Legal Deadline: None

Abstract: These regulations will amend existing rules to reflect changes made by the Tax Reform Act of 1984 relating to the excise taxes on private foundations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-78-84.

Drafting attorney: J.P. Walsh Skelly (202) 566-3505.

Reviewing attorney: James L. Brokaw (202) 566-3426.

Agency Contact: J.P. Walsh Skelly, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3505

RIN: 1545-AG18

2714. EXCISE TAX—PART 54, REVERSION OF QUALIFIED PLAN ASSETS TO EMPLOYER

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4980 Internal Revenue Code of 1986; PL 99-514, Sec 1132

CFR Citation: 26 CFR 54

Legal Deadline: None

Abstract: The regulations would provide guidance regarding the excise tax on reversions of qualified plan assets imposed by section 4980 of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-165-86

Tax Law Specialist Vernon Carter (202) 566-3539.

Reviewing attorney: James L. Brokaw (202) 566-3426.

Agency Contact: Vernon S. Carter, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3539

RIN: 1545-AI82

2715. AMENDMENT OF SECTION 1.6033-2 (G) (5) RELATING TO RETURNS BY AN INTEGRATED AUXILIARY OF A CHURCH

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 91-172, Sec 101 (d) (1) Tax Reform Act of 1969

CFR Citation: 26 CFR 1.6033-2(g)

Legal Deadline: None

Abstract: These regulations will revise the definition of integrated auxiliary of a church in Section 1.6033-2 (g) (5) of the Treasury Regulations to be consistent with Rev. Proc. 86-23, 1986-1 CB 564.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-41-86.

Drafting attorney: Terri Harris (202) 566-3496.

Reviewing attorney: Paul Accettura (202) 566-3490.

Agency Contact: Terri Harris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3496

RIN: 1545-AI52

2716. INFORMATION REGARDING RESIDENT STATUS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6039E Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulation will prescribe the information to be gathered by the State Department and Immigration and Naturalization Service on Passport and Green card applicants and the penalties to be imposed on such applicants if they do not supply the information.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-978-86

Drafting attorney: Ricardo A. Cadenas (202) 287-4851.

Reviewing attorney: George Sellinger (202) 287-4851.

Treasury attorney: P. Ann Fisher (202) 566-4979.

Agency Contact: Ricardo A. Cadenas, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, SW., Room 3319, Washington, DC 20024, 202 287-4851

RIN: 1545-AJ93

2717. ● TO AMEND THE REGULATIONS TO REQUIRE THAT SUBSTITUTE INFORMATION REPORTING STATEMENTS FURNISHED TO PAYEES BE IDENTICAL TO OFFICIAL FORM 1099

Significance: Agency Priority

Legal Authority: 26 USC 406(i) Internal Revenue Code of 1986; 26 USC 6041 Internal Revenue Code of 1986; 26 USC 6041A Internal Revenue Code of 1986; 26 USC 6042 Internal Revenue Code of 1986; 26 USC 6044 Internal Revenue Code of 1986; 26 USC 6045 Internal Revenue Code of 1986; 26 USC 6047 Internal Revenue Code of 1986; 26 USC

TREAS—IRS

Proposed Rule Stage

6049 Internal Revenue Code of 1986; 26 USC 6050H Internal Revenue Code of 1986; 26 USC 6050N Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.408-5; 26 CFR 1.6041A-1; 26 CFR 1.6042-4; 26 CFR 1.6042-5; 26 CFR 1.6044-5; 26 CFR 1.6044-6; 26 CFR 1.6045-1; 26 CFR 1.6045-2; 26 CFR 1.6045-3T; 26 CFR 1.6049-6; 26 CFR 1.6049-7T

Legal Deadline: None

Abstract: Currently, the information reporting requirements in the Internal Revenue Code and the Income Tax Regulations allow substitute 1099 forms to be furnished to recipients in most instances. The requirements for the substitute forms vary, some allowing "substantially similar" forms or "reasonable facsimiles" while some sections actually require copies of official Forms 1099. In order to standardize the manner in which information is provided to recipients, this project will amend the regulations to require that substitute information reporting statements furnished to payees be identical to official Forms 1099.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-061-90

Drafting attorney: Phyllis Haney (202) 566-4440.

Reviewing attorney: John M. Coulter, Jr. (202) 566-3928/ Vincent L. Flannery (202) 535-6461.

Agency Contact: Phyllis Haney, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4440

RIN: 1545-AO96

2718. BROKER REPORTING OF OPTION TRANSACTIONS

Legal Authority: 26 USC 6045 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6045-1(m)

Legal Deadline: None

Abstract: The proposed regulation will establish standards for brokers to report options transactions to the Service.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: FI-004-90

Drafting attorney: Jonathan Silver (202) 566-3297.

Reviewing attorney: Phoebe Mix (202) 566-3331.

Agency Contact: Jonathan Silver, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3297

RIN: 1545-AO40

2719. INCOME TAX REGULATIONS RELATING TO RETURNS AS TO INTERESTS IN FOREIGN PARTNERSHIPS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6046A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would give guidance for determining which United States persons who acquire, dispose of or change their interests in foreign partnerships must report their activities. Additionally, guidance would be given as to how, when and where such persons must report and what information they must supply.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-879-86

Drafting attorney: James Insley (202) 566-6442.

Reviewing attorney: Charles Besecky (202) 566-6442.

Treasury attorney: Mark Beams (202) 566-6992.

Agency Contact: James Insley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6442

RIN: 1545-AK75

2720. EMPLOYMENT TAX—REPORTING OF PLAN DISTRIBUTIONS AND WITHHOLDING FROM PENSIONS, ANNUITIES, AND OTHER DEFERRED INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6047 Internal Revenue Code of 1986; 26 USC 3405 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: Legislative changes require that increased numbers of retirees and plan participants must make complex calculations of the taxable amount of distributions they receive from qualified plans. The regulations will require the payor of a qualified plan distribution (or the plan administrator) to calculate the taxable amount and to report it on the appropriate information return. Proposed regulations would also clarify and amend the temporary regulations relating to withholding from pensions, annuities, and other deferred income.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-29-88

Drafting attorney: Marjorie Hoffman (202) 566-4747.

This project now includes EE-115-82 (RIN 1545-AE98) which was merged into it.

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4747

RIN: 1545-AL54

2721. INCOME TAX—TO REQUIRE ISSUERS OF CERTIFICATES OF DEPOSIT TO FURNISH ISSUE PRICE TO BROKERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

TREAS—IRS

Proposed Rule Stage

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed regulations would amend existing regulations to require issuers to furnish the issue price to brokers.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-63-87

Drafting attorney: Laura Ann M. Lauritzen (202) 566-3450.

Reviewing attorney: Tom Lyden (202) 566-3337.

Treasury attorney: Susan Himes (202) 566-6527.

Agency Contact: Laura Ann M. Lauritzen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, D. C. 20224, 202 566-3458

RIN: 1545-AK36

2722. IRC SECTION 6051

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6051 Internal Revenue Code of 1986

CFR Citation: 26 CFR 6051

Legal Deadline: None

Abstract: Project will modify existing regulations to require employers who terminate their business or otherwise cease operations to file Forms W-2 and W-3 within 30 calendar days after termination.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-083-89

Drafting Attorney: Janet Lloyd (202) 566-4747.

Reviewing Attorney: Jerry Holmes (202) 566-4747.

Agency Contact: Janet Lloyd, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4747

RIN: 1545-AN57

2723. ● DISCLOSURE OF RETURN INFORMATION TO THE BUREAU OF THE CENSUS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6103(j) Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Proposed regulation would authorize the disclosure of additional items of return information to the Bureau of the Census for use in certain statistical programs.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-034-90

Drafting Attorney: Paul Winkler (202) 566-4430.

Reviewing Attorney: Karin Gross (202) 566-4430.

Agency Contact: Paul Winkler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4430

RIN: 1545-AO61

2724. AGREEMENTS FOR PAYMENT FOR TAX LIABILITY IN INSTALLMENTS

Legal Authority: 26 USC 6159 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6159

Legal Deadline: None

Abstract: Prior law did not address the authority of the Internal Revenue Service to enter into installment payment agreements with taxpayers. New code section 6159, as added by the Technical and Miscellaneous Revenue Act of 1988, authorizes such agreements and specifies the circumstances under which the Service may modify or terminate such an agreement and when the Service must provide prior notice of a determination to modify or terminate an agreement. New regulations implementing section 6159 will be drafted in order to provide taxpayers and the Service specific guidance on the requirements and responsibilities imposed by this provision.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-708-88

Drafting attorney: Michael R. Arner (202) 566-4405.

Reviewing attorney: Robert Miller (202) 566-3117.

Agency Contact: Michael R. Arner, Assistant to Assistant Chief Counsel (GL), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4405

RIN: 1545-AM66

2725. ESTATE TAX—PROCEDURE AND ADMINISTRATION—DEFERRAL AND INSTALLMENT PAYMENT OF ESTATE TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6166 Internal Revenue Code of 1986; 26 USC 6161 Internal Revenue Code of 1986; 26 USC 6151 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20; 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance to executors wishing to extend the time for payment of estate tax where the estate contains an interest in a closely held business. The regulations will provide rules in determining what qualifies as an interest in a closely held business. In addition, the regulations will explain when the installment privileges allowed by section 6166 will be terminated.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-210-76.

Drafting attorney: Donald W. Kanuk (202) 566-3862.

Reviewing attorney: Vincent G. Cardella (202) 566-4425.

Agency Contact: Donald W. Kanuk, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3852

RIN: 1545-AD23

2726. DETERMINATION OF THE TAX TREATMENT OF SUBCHAPTER S ITEMS AT THE CORPORATE LEVEL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6242 Internal Revenue Code of 1986; 26 USC 6243 Internal Revenue Code of 1986; 26 USC 6244 Internal Revenue Code of 1986; 26 USC 6233 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301; 26 CFR 51

Legal Deadline: None

Abstract: Proposed regulations would provide new rules for determining the tax treatment of any subchapter S item at the corporate level. Regulations would provide rules similar to rules for determining the tax treatment of partnership items.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-269-82.

Drafting Attorney: William J. Gregg (202) 377-9470.

Reviewing Attorney: Dianna K. Miosi (202) 566-4070.

Treasury Attorney: Greg Marich (202) 566-2175.

Agency Contact: William J. Gregg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 377-9470

RIN: 1545-AE96

2727. RAILROAD UNEMPLOYMENT REPAYMENT TAX

Legal Authority: 26 USC 6302 Internal Revenue Code of 1986

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: The new regulations will restore the authority of the Service to require quarterly payments of the Railroad Unemployment Repayment Tax. The authority was inadvertently eliminated under section 7106 of TAMRA.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-079-89

Drafting Attorney: Thomas Wolf (202) 566-3505.

Reviewing Attorney: Phil Corn (202) 566-3505.

Agency Contact: Thomas Wolf, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3505

RIN: 1545-AN40

2728. ● REVISION OF PROCEDURAL RULES RELATING TO EXCISE TAXES REPORTED ON FORM 720

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6302(c) Internal Revenue Code of 1986; 26 USC 6011(a) Internal Revenue Code of 1986; 26 USC 6071(a) Internal Revenue Code of 1986; 26 USC 6091 Internal Revenue Code of 1986; 26 USC 6109(a) Internal Revenue Code of 1986; 26 USC 6101 Internal Revenue Code of 1986

CFR Citation: 26 CFR 40

Legal Deadline: None

Abstract: Temporary regulations will set forth revised rules for filing returns, paying tax, and making deposits relating to taxes reportable on Form 720.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: PS-065-90

Drafting attorney: Ruth Hoffman (202) 566-4475.

Reviewing attorney: Edward Madden (202) 535-9758.

Agency Contact: Ruth Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4475

RIN: 1545-AO07

2729. ACCELERATION OF DEPOSIT REQUIREMENTS FOR AIRLINE TICKET TAX

Legal Authority: 26 USC 6302(e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 40

Legal Deadline: None

Abstract: Amending regulation to conform to an amendment to section 6302(e) of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-009-90

Drafting attorney: Gerald Grasman (202) 566-3451.

Reviewing attorney: Edward Madden (202) 535-9758.

Agency Contact: Gerald Grasman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3451

RIN: 1545-AO47

2730. PROCEDURE AND ADMINISTRATION REGULATIONS—PAYMENT OF TAXES BY CHECK OR MONEY ORDER AND LIABILITY OF FINANCIAL INSTITUTIONS FOR UNPAID TAXES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6311 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will describe the circumstances under which taxpayers may pay taxes by check, money order or other guaranteed draft and the circumstances under which financial institutions on which such instruments are drawn may be liable for unpaid taxes.

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Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-549-87.

Drafting attorney: Anne P. Rosselot (202) 535-9678.

Reviewing attorney: Robert Miller (202) 566-3117.

Agency Contact: Anne P. Rosselot, Docket Attorney (General Litigation), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 535-9678

RIN: 1545-AI24

1731. NOTICE OF LIEN ON PERSONAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6323 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6323 (f)(1)(ii).(Revision); 26 CFR 1.6323 (f)(5)

Legal Deadline: None

Abstract: The purpose of these regulations is to solve the problem that arose in the case of United States v. Air Florida, Inc. 56 B.R. 732 (S.D. Fla. 1985). The regulations will provide that if a state has adopted a Federal law establishing a place for the filing of liens under a national filing system, the state is not considered to have a second office for filing of the notice of lien. The regulations will also provide that the filing of a notice of Federal tax lien is governed solely by the Internal Revenue Code and is not subject to any other Federal law establishing a national filing system.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-718-86

Drafting attorney: Anne P. Rosselot (202) 535-9678.

Reviewing attorney: Robert Miller (202) 566-3117.

Agency Contact: Anne P. Rosselot, Docket Attorney (General Litigation), Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 535-9678

RIN: 1545-AM64

2732. PROCEDURE AND ADMINISTRATION—RELEASE OF LIENS, NOTICE BEFORE LEVY, PROPERTY EXEMPT FROM LEVY REDEMPTION OF LEVIED REAL PROPERTY AND AMOUNT OF DAMAGES IN CASE OF WRONGFUL LEVY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6325 Internal Revenue Code of 1986; 26 USC 6331 Internal Revenue Code of 1986; 26 USC 6334 Internal Revenue Code of 1986; 26 USC 6337 Internal Revenue Code of 1986; 26 USC 7426 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulation will provide guidance in obtaining the issuance of a certificate of release of a notice of Federal tax lien. The regulation will revise existing regulations relating to the size of the exemption from levy available for certain property. The proposed regulation also increases the length of post-sale redemption period currently specified in the regulations. The proposed regulations provide rules for service employees administering the Code for providing notice of intention to levy upon the property of a delinquent taxpayer. The proposed regulations increase the amount of damages allowed where property has been levied wrongfully.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-547-87.

Drafting attorney: Kevin B. Connelly (202) 535-9682.

Reviewing attorney: Robert A. Miller (202) 566-3117.

Agency Contact: Kevin B. Connelly, Senior Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 535-9682

RIN: 1545-AE82

2733. EFFECT OF HONORING A LEVY

Legal Authority: 26 USC 6332 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6332-1(c)

Legal Deadline: None

Abstract: Section 1.6332-1(c) currently provides that any person in possession of or obligated with respect to property or rights to property subject to levy and upon which levy has been made who surrenders the property or rights to property, or discharges the obligation to the district director is discharged from any obligation or liability to the delinquent taxpayer. Section 1015(t) of Technical and Miscellaneous Revenue Act of 1988 amends Section 6332 of the Internal Revenue Code to provide that a person who honors a levy is protected from any obligation or liability to any other person as well as the delinquent taxpayer. This should cause a reduction in the number of interpleader actions filed because of concerns over liability to third parties.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: GL-720-88

Drafting attorney: Anne P. Rosselot (202) 535-9678.

Reviewing attorney: Robert Miller (202) 566-3117.

Agency Contact: Anne P. Rosselot, Docket Attorney (General Litigation), Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 535-9678

RIN: 1545-AM72

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2734. REQUIREMENT FOR GUARANTEED REMITTANCE TO REDEEM PROPERTY

Legal Authority: 26 USC 6337 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6337

Legal Deadline: None

Abstract: To resolve any uncertainty as to how payments to redeem real property sold by the Internal Revenue Service after levy must be made. The present regulations do not state the form in which the redemption price is to be paid. Thus, controversy exists as to whether personal checks or other non-guaranteed forms of payment would be sufficient to constitute tender.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-425-80

Drafting attorney: Kevin Connelly (202) 535-9682.

Reviewing attorney: Robert A. Miller (202) 566-3117.

Agency Contact: Kevin Connelly, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 535-9682

RIN: 1545–AN44

2735. GASOLINE EXCISE TAX DEFINITIONS, NOTIFICATION OF REGISTRATION REQUIREMENTS, AND SECTION 6416 PROCEDURES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4061 Internal Revenue Code of 1986; 26 USC 6416 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: These regulations will provide rules relating to the gasoline excise tax definition of trader, notification of registration verification procedures required for tax-free or reduced rate of transfers of gasoline, and additional requirements under section 6416 claims.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-11-88

Drafting attorney: Ruth Hoffman (202) 566-4475.

Reviewing attorney: Dick Kocak (202) 566-3434.

Treasury attorney: Robert Scarborough (202) 566-2926.

Agency Contact: Ruth Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4475

RIN: 1545–AL89

2736. ● ERRONEOUS ALLOWANCE OF INTEREST ON OVERPAYMENTS CREDITED AGAINST CERTAIN UNDERPAYMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Under section 6611(b)(1), if an overpayment is credited against an underpayment, interest on the overpayment runs from the date of the overpayment until the due date of the amount against which the credit is taken. Section 301.6611-1(h)(2)(v) of the regulations provides that in the case of a credit against assessed interest, the due date is the assessment of such interest. Section 301.6611-1(h)(2)(vi) of the regulations provides that in the case of a credit against an amount assessed as an additional amount, addition to the tax or assessable penalty, the due date is the date of assessment. A literal application of these regulations' provisions may give a taxpayer interest where none should be paid. The proposed regulations correct this problem by changing the due dates of interest and certain additions to the tax.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-055-90

Drafting attorney: Forest Boone (202) 566-3861.

Reviewing attorney: Norlyn Miller (202) 566-3273.

Agency Contact: Forest Boone, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3861

RIN: 1545–AO79

2737. DIFFERENTIAL INTEREST RATES AND EXPANDED CREDITING OF OVERPAYMENTS AGAINST UNDERPAYMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6621 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301; 26 CFR 602

Legal Deadline: None

Abstract: The regulations will explain the computation of interest on underpayments and overpayments of tax, including the extent to which underpayments and overpayments will be offset in computing interest.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-123-88

Drafting attorney: Forest Boone (202) 566-3861.

Reviewing attorney: Vincent Cardella (202) 566-4425.

Agency Contact: Forest Boone, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3861

RIN: 1545–AK06

2738. PROCEDURE & ADMINISTRATION—ADDITION TO TAX IN THE CASE OF VALUATION OVERSTATEMENTS AND UNDERSTATEMENTS, AND INCREASE IN THE NEGLIGENCE PENALTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6659 Internal Revenue Code of 1986; 26 USC 6653 Internal Revenue Code of 1986; 26

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USC 6689 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301; 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules and definitions with respect to the addition to tax in the case of valuation overstatements and understatements, including rules for computing the portion of an underpayment that is attributable to a valuation overstatement or understatement. The regulations would also provide rules with respect to the increase in the negligence and fraud penalties.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-272-81.

Drafting tax law specialist: Gail M. Winkler (202) 566-4442.

Reviewing attorney: Norlyn D. Miller (202) 566-3273.

Agency Contact: Gail M. Winkler, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4442

RIN: 1545-AD39

2739. ACCURACY RELATED PENALTIES

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6662 Internal Revenue Code of 1986; 26 USC 6664 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301; 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules and definitions relating to the accuracy-related penalties for negligence or disregard of rules or regulations, any substantial understatement of income tax, and any substantial valuated overstatement under Chapter 1, including rules for computing the penalties and for waivers of the penalties.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-015-90

Drafting Tax Law Specialist: Gail M. Winkler (202) 566-4442.

Reviewing Attorney: Norlyn D. Miller, Jr. (202) 566-3273.

Treasury Attorney: Adam Handler (202) 566-2175.

Agency Contact: Gail Winkler, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4442

RIN: 1545-AO58

2740. USE OF FACSIMILE SIGNATURES BY INCOME TAX RETURN PREPARERS OF FORMS 1041, U.S. FIDUCIARY INCOME TAX RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6695 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6695-1 (b)

Legal Deadline: None

Abstract: Section 1.6695-1 (b) currently requires that, with one exception, income tax return preparers must manually sign returns or claims for refund signed by them. The exception does allow preparers of returns and refund claims for nonresident aliens to use facsimile signatures under certain circumstances. Section 645 (a) of the Internal Revenue Code, added by section 1403 (a) of the Tax Reform Act of 1986, requires trusts, with certain limited exceptions, to use a calendar taxable year. The calendar year requirement means that, instead of being able to spread their duty to sign trust returns over the entire course of a year, preparers must now sign all trust returns before April 15 in order to present them to clients for timely filing. To alleviate this hardship, we are examining the advisability of permitting income tax return preparers of Forms 1041, U.S. Fiduciary Income Tax Returns, to use facsimile signatures and under what conditions such use would be permitted and appropriate.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

GL-238-86

Drafting attorney: Kevin Connelly (202) 535-9682.

Reviewing attorney: Robert A. Miller (202) 566-3117.

Agency Contact: Kevin Connelly, Senior Attorney (Tax), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 535-9682

RIN: 1545-AL49

2741. ◉ UNIFORM PENALTIES FOR FAILURES TO COMPLY WITH CERTAIN INFORMATION REPORTING REQUIREMENTS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6721 Internal Revenue Code of 1986

CFR Citation: 26 CFR 6721; 26 CFR 6722; 26 CFR 6723; 26 CFR 6724

Legal Deadline: None

Abstract: The regulations provide guidance to persons required to file information returns of changes made by the Revenue Reconciliation Act of 1989 to the penalties for the failure to file information returns on or before the required filing date, and for failure to report correct information on those returns.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: IA-035-90

Drafting attorney: Renay France (202) 566-3842.

Reviewing attorney: John Coulter (202) 566-3928.

Agency Contact: Ronay Feance, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3942

RIN: 1545–AO85

2742. CERTIFICATES OF COMPLIANCE WITH INCOME TAX LAWS BY DEPARTING ALIENS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6851(d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will exempt certain alien students, industrial trainees, and exchange visitors from the requirement of obtaining a certificate of compliance with U.S. income tax laws before departing the U.S. This action is necessary because of changes to the applicable tax laws made by the Technical Amendments and Miscellaneous Revenue Act of 1988.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-816-89

Drafting attorney: Thomas L. Ralph (202) 377-9059.

Reviewing attorney: Thomas F. Fuller (202) 377-9059.

Treasury attorney: Unassigned.

Agency Contact: Thomas L. Ralph, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-9059

RIN: 1545–AN97

2743. INCOME TAX—PRESUMPTION OF JEOPARDY IN THE CASE OF ILLEGAL ACTIVITY CASH

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6867 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6867

Legal Deadline: None

Abstract: The regulations would provide guidance for applying the presumptions that an amount of cash in excess of ten thousand dollars without an acknowledged owner (1) represents gross income to a single individual, (2) is taxable at the highest rate of tax specified in section 1, and (3) that collection of the tax is in jeopardy for the purposes of sections 6851 and 6861.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-548-87.

Drafting attorney: Anne Rosselot (202) 566-9678.

Reviewing attorney: Robert A. Miller (202) 566-3117.

Agency Contact: Anne Rosselot, Docket Attorney (General Litigation), Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 535-9678

RIN: 1545–AE30

2744. ● POLITICAL ACTIVITY INJUNCTION

Legal Authority: 26 USC 7409 Internal Revenue Code of 1986 as amended; 26 USC 6852 Internal Revenue Code of 1986 as amended

CFR Citation: 26 CFR 1.6852; 26 CFR 53.6852; 26 CFR 56.6852; 26 CFR 301.6852; 26 CFR 301.7409

Legal Deadline: None

Abstract: The regulation will provide the procedures necessary to enjoin and/or make termination assessments in the case of a flagrant political expenditure by a section 501(c)(3) organization.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-48-90

Drafting Attorney: Cynthia Morton (202) 566-4465.

Reviewing Attorney: Paul Accettura (202) 566-3505.

Agency Contact: Cynthia Morton, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4465

RIN: 1545–AO77

2745. FORFEITURE OF LAND SALES CONTRACT WITH RESPECT TO DISCHARGE OF FEDERAL TAX LIEN

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulation will address the issue of when a land sales contract is considered to be forfeited for Federal tax purposes. It may be necessary, in so doing, to provide a definition or other guidelines as to what constitutes a land sales contract for purposes of this provision.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-550-87

Drafting attorney: Kevin Connelly (202) 535-9682.

Reviewing attorney: Robert A. Miller (202) 566-3117.

Agency Contact: Kevin Connelly, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 535-9682

RIN: 1545–AK24

2746. REDEMPTIONS OF REAL PROPERTY UNDER IRC 7425 - EXCESS EXPENSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7425 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Section 301.7425-4(b)(3)(ii), which deals with excess expenses incurred by a purchaser of property after a foreclosure sale and before redemption, provides that the Service may request a written itemized statement from the purchaser regarding

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excess expenses. If the purchaser does not respond within 15 days, it shall be presumed that no excess expenses are payable. However, even after the 15-day period expires, a payment for excess expenses shall be made after the redemption within a reasonable time following the verification by the district director of a written itemized statement submitted by the purchaser. There is no specific time frame set for the purchaser to submit his claim after the redemption and after the expiration of the 15-day period. We are examining the feasibility of establishing a 30-day time limit within which a final claim for excess expenses must be submitted by the purchaser after the sale of the property. This will eliminate claims for reimbursement of expenses that may be submitted after redemption and sale of the property, where the liens were fully satisfied and released, and all surplus funds returned to the taxpayer.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-520-87

Drafting attorney: Barton J. Uze (202) 535-8002.

Reviewing attorney: Robert A. Miller (202) 566-3117.

Agency Contact: Barton J. Uzel, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 535-8002

RIN: 1545-AL20

2747. ● WRONGFUL LEVY ACTIONS INVOLVING GOVERNMENT AGENCIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7426 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The existing language of the regulations under IRC section 7426 is ambiguous and confusing. It has been used in at least one court case as support for the proposition that whenever the Service attempts to seize property of a delinquent taxpayer that is in the custody of a Government agency, regardless of the form of the seizure (i.e. service of a Notice of Levy or of a Request for Setoff), such a seizure is always a setoff, and any third party injured by such a seizure has no cause of action under IRC section 7426. This is not the Service's position. The regulations should be clarified to rectify this misinterpretation.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: GL-0351-90

Drafting attorney: Anne P. Rosselot (202) 535-9678.

Reviewing attorney: Robert A. Miller (202) 566-3117.

Agency Contact: Anne Rosselot, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 535-9678

RIN: 1545-AO80

2748. REVIEW OF JEOPARDY LEVY AND ASSESSMENT PROCEDURES

Legal Authority: 26 USC 7429 Internal Revenue Code of 1986 PL 100-647, Sec 6237; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.7429

Legal Deadline: None

Abstract: Section 7429 currently provides for administrative and judicial review of jeopardy assessments, but these review procedures do not apply to jeopardy levies. The Technical and Miscellaneous Revenue Act of 1988, PL 100-647, Sec. 6237, extends the review procedures of Section 7429 to the review of jeopardy levies and provides concurrent jurisdiction to the Tax Court with Federal District courts with respect to actions challenging a jeopardy assessment or jeopardy levy, provided a Tax Court petition is filed prior to the making of the assessment or levy. We are examining whether any regulations need to be promulgated under the statutory amendment. In particular, we are examining whether any procedural guidelines for the filing of actions in the Tax Court are needed by means of regulations, or whether revision to Tax Court rules is more appropriate. We are also examining whether the revised review procedures contain any ambiguity for which clarification by way of regulation would be helpful.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: GL-710-88

Drafting attorney: Joseph Clark (202) 566-4574.

Reviewing attorney: Robert Miller (202) 566-3117.

Agency Contact: Joseph Clark, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4574

RIN: 1545-AM88

2749. CIVIL CAUSE OF ACTION FOR FAILURE TO RELEASE A LIEN UNDER I.R.C. 6325

Legal Authority: PL 100-647, Sec 6240; 26 USC 7805

CFR Citation: 26 CFR 301.7432 determined

Legal Deadline: None

Abstract: The new section 7432 grants taxpayers the right to bring a cause of action for damages in Federal District court if any officer or employee of the Internal Revenue Service knowingly or negligently fails to release a lien under section 6325 on property of the taxpayer. Damages will not be awarded for failure to release a lien unless the court determines that the taxpayer has exhausted all administrative remedies within the Internal Revenue Service. The Secretary must provide by regulations a reasonable procedure for the taxpayer to notify the Service of a failure to release a lien on property of the taxpayer. Currently, we are considering regulations that will provide procedures for a taxpayer to notify the Service of a failure to release a lien and procedures for administrative exhaustion of remedies.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-706-88

Drafting attorney: Kevin B. Connelly (202) 535-9682.

Reviewing attorney: Robert A. Miller (202) 566-3117.

Agency Contact: Kevin B. Connelly, Senior Attorney (Tax), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 535-9682

RIN: 1545-AM03

2750. CIVIL CAUSES OF ACTION FOR UNAUTHORIZED COLLECTION ACTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 100-647, Sec 6241; 26 USC 7433

CFR Citation: 26 CFR 301.7433a

Legal Deadline: None

Abstract: PL 100-647, Sec 6241, adds a new section 7433 to the Internal Revenue Code. This provision allows taxpayers to sue the Internal Revenue Service to recover economic damages if a Service employee, in connection with the collection of a tax, recklessly or intentionally disregards any provision of the Code or regulations. The new implementing regulation will establish administrative remedies for taxpayers to meet the statutory requirement that administrative remedies be exhausted prior to a court award of damages. The regulation will also outline what steps taxpayers should take to satisfy the statutory requirement that they mitigate their damages.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-707-88

Drafting attorney: Kevin Connelly (202) 535-9682.

Reviewing attorney: Robert Miller (202) 566-3117.

Agency Contact: Kevin Connelly, Senior Attorney (Tax), Department of the Treasury, Internal Revenue Service, 1111 ConstitutionAvenue, NW., Washington, DC 20224, 202 535-9682

RIN: 1545-AM65

2751. ESTATE AND GIFT TAX VALUATION TABLES

Legal Authority: 26 USC 7520 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.7520; 26 CFR 1.642, (Revision); 26 CFR 1.664, (Revision); 26 CFR 20.2031, (Revision); 26 CFR 25.2512, (Revision)

Legal Deadline: None

Abstract: Section 7520 of the Internal Revenue Code, as added by section 5031 of the Technical and Miscellaneous Revenue Act of 1988, requires that the value of any annuity, any interest for life or a term of years, and any remainder or reversionary interest be determined under valuation tables, revised periodically and the applicable Federal interest rate for the month of the valuation of the interest. The regulations will address the use of the tables, which will be published separately, and will contain rules for making an election where charitable transfers are involved. It will also include rules for rounding the applicable interest rates. In addition, the regulations will modify the current regulations for gift, estate, and charitable transfers of annuity trusts, and unitrusts and pooled income funds.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-100-88

Drafting attorney: William L. Blodgett (202) 566-3388.

Reviewing attorney: Lee Dunn (202) 566-4626.

Treasury attorney: Unknown

Agency Contact: William L. Blodgett, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3388

RIN: 1545-AM81

2752. PROCEDURE AND ADMINISTRATION - SUSPENSION OF STATUTES OF LIMITATIONS IN ABSENCE OF THIRD-PARTY RECORDKEEPER RESPONSE TO SUMMONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance to taxpayers with regard to the changes made to section 7609 by the Tax Reform Act of 1986. Under those changes, statutes of limitations are suspended in certain cases in which a summons is served to a third-party recordkeeper and in which there is no resolution of the third- party recordkeeper's response to the summons.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-521-87

Drafting attorney: Mitchel S. Hyman (202) 535-9682.

Reviewing attorney: Robert A. Miller (202) 566-3117.

Agency Contact: Mitchel S. Hyman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 535-9682

RIN: 1545-AK72

2753. EXTENSION OF STATUTE OF LIMITATIONS IN JOHN DOE SUMMONS DISPUTES

Legal Authority: 26 USC 7609 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.7609

Legal Deadline: None

Abstract: Under prior law the statute of limitations was suspended under IRC section 7609(e)(2) only where summonses were served on third-party recordkeepers as defined in IRC section 7609(a)(3). Section 7609(e)(2) was

amended by the Technical and Miscellaneous Revenue Act of 1988 so that the suspension applies to all John Doe summonses, whether or not the summoned party is a third-party recordkeeper as defined in IRC section 7609(a)(3). The new regulations will make minor changes to 26 CFR 301.7609 to conform with the 1988 Amendments.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-723-88

Drafting attorney: Mitchel Hyman (202) 535-0062.

Reviewing attorney: Robert Miller (202) 566-3117.

Agency Contact: Mitchel S. Hyman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 535-0062

RIN: 1545-AM67

2754. COVER OVER OF INCOME TAXES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7654 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations relate to section 7654 of the Internal Revenue Code of 1986 which generally provides that net income tax collections from individuals described in sections 931 or 932(c), plus earned income of federal personnel while bona fide residents of specified possessions, must be covered into the Treasury of the Treasury of the specified possession of which such individuals are bona fide residents.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-971-86

Drafting attorney: John J. Brady (202) 287-4851.

Reviewing attorney: George M. Sellinger (202) 287-4851.

Treasury attorney: Peter Barnes (202) 566-5815.

Agency Contact: John J. Brady, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, SW., Room 3319, Washington, DC 20024, 202 287-4851

RIN: 1545-AL18

2755. DEFINITION OF LIFE INSURANCE CONTRACT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7702 Internal Revenue Code of 1986

CFR Citation: None

Legal Deadline: None

Abstract: The regulation will provide rules to define a life insurance contract.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-107-87

Drafting Attorney: Donald J. Drees, Jr. (202) 566-3740.

Reviewing Attorney: Stephen D. Hooe (202) 566-3458.

Treasury Attorney: Jeanne Hoenicke (202) 566-5453.

Agency Contact: Donald J. Drees, Jr., Senior Technician Reviewer, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3740

RIN: 1545-AL08

2756. CERTAIN PUBLICLY TRADED PARTNERSHIPS TREATED AS CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301; 26 CFR 1.704-1T

Legal Deadline: None

Abstract: The regulations provide rules relating to the classification of publicly traded partnerships.

Timetable:

Action	Date	FR Cite
NPRM	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-13-88

Drafting Attorney: Ann Veninga (202) 377-9661.

Reviewing Attorney: William P. O'Shea (202) 566-3244.

Treasury Attorney: Barksdale Penick (202) 566-5453.

Agency Contact: Ann Veninga, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-9661

RIN: 1545-AL57

2757. ® CERTAIN PUBLICLY TRADED PARTNERSHIPS TREATED AS CORPORATIONS—TRANSITION PROVISIONS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.7704-2T; 26 CFR 301.7704-2T

Legal Deadline: None

Abstract: This regulation defines the phrases "Existing Partnership" and "Substantial New Line of Business" in the transition rule applicable to section 7704 of the Internal Revenue Code 1986.

Timetable:

Action	Date	FR Cite
NPRM	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-056-89

Drafting attorney: Ann Veninga (202) 377-9660.

Reviewing attorney: William P. O'Shea (202) 566-3244.

Treasury attorney: S. Barksdale Penick (202) 566-5453.

Agency Contact: Ann Veninga, Attorney, Department of the Treasury, Internal Revenue Service, 1111

TREAS—IRS

Proposed Rule Stage

Constition Avenue, NW., Washington, DC 20224, 202 377-9630

RIN: 1545–AO50

2758. 50 PERCENT EXCISE TAX ON ANY GAIN REALIZED BY PERSON WHO RECEIVES "GREENMAIL"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 5881 Internal Revenue Code of 1986; 26 USC 6001 Internal Revenue Code of 1986; 26 USC 6011 Internal Revenue Code of 1986; 26 USC 6061 Internal Revenue Code of 1986; 26 USC 6071 Internal Revenue Code of 1986; 26 USC 6091 Internal Revenue Code of 1986; 26 USC 6161 Internal Revenue Code of 1986

CFR Citation: 26 CFR 155, (New); 26 CFR 602

Legal Deadline: None

Abstract: Proposed regulations relating to the manner and method of reporting and paying the nondeductible 50% Excise Tax imposed with respect to the receipt of "Greenmail".

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-021-89

Drafting Attorney: Warren Joseph (202) 566-4430.

Reviewing Attorney: Karin G. Gross (202) 566-3289.

Treasury Attorney: J. Judge Kelley (202) 566-6527.

Agency Contact: Warren Joseph, Attorney Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 566-4430

RIN: 1545–AN41

2759. PROPOSED AMENDMENTS TO THE PROCEDURE AND ADMINISTRATION REGULATIONS UNDER THE CHILD SUPPORT ENFORCEMENT AMENDMENTS OF 1984 RELATING TO THE REDUCTION OF TAX OVERPAYMENTS BY AMOUNTS ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 42 USC 664Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: These proposed regulations provide rules relating to the reduction of a taxpayer's overpayment of tax (i.e tax refund) by the amount of any past due support which a State has agreed to collect under section 454 (6) of the Social Security Act. The regulations explain the steps a State must take to have a tax overpayment reduced by an amount of past-due support.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-05-85.

Drafting attorney: Wesley J. Mac Adam (202) 566-3682.

Reviewing attorney: Stephen J. Toomey (202) 566-4104.

Agency Contact: Wesley J. MacAdam, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3682

RIN: 1545–AH99

DEPARTMENT OF THE TREASURY (TREAS)

Internal Revenue Service (IRS)

Final Rule Stage

2760. TO PROVIDE REGULATIONS RELATING TO MORTGAGE CREDIT CERTIFICATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 25 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.25-1 to 1.25-6T; 26 CFR 1.6709-1

Legal Deadline: None

Abstract: The regulations will provide guidance on the issuance of mortgage credit certificates rules. Guidance will be provided with respect to the various eligibility requirements that mortgagors must satisfy as well as the various program requirements that issuers must satisfy.

Timetable:

Action	Date	FR Cite
NPRM	05/08/85	50 FR 19383
NPRM Comment Period End	07/08/85	50 FR 19383
Hearing	08/14/85	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: FI-245-84.

Drafting attorney: Harold N. Diamond (202) 566-3340.

Reviewing attorney: Michael J. Montemurro (202) 566-4065.

Agency Contact: Harold N. Diamond, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3340

RIN: 1545–AH08

2761. INCOME TAX—INFORMATION REPORTING FOR MORTGAGE CREDIT CERTIFICATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 25 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to issuers of mortgage credit certificates relating to the information to be collected with respect to each recipient of a mortgage credit certificate. The regulations will also provide guidance regarding the time

and manner of filing this information with the Internal Revenue Service.

Timetable:

Action	Date	FR Cite
NPRM	08/02/85	50 FR 35572
NPRM Comment Period End	11/04/85	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Additional Information: FI-114-85.

Drafting attorney: Harold N. Diamond [redacted] 566-3290.

Reviewing attorney: Michael J. Montemurro [202] 566-4085.

Agency Contact: Harold N. Diamond, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC [redacted] [redacted] 566-3290

RIN: 1545-AI39

2762. MORTGAGE CREDIT CERTIFICATES IN TARGETED AREAS

Legal Authority: 26 USC 25(c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The percentage of mortgage originations required by section 1.25-4T(g)(8%) was predicated on the 1:5 trade in rate contained in former section 25(c) of the Code. To accommodate the new 1:4 rate contained in section 25(c), we are amending section 1.25-4T(g).

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-068-89

Drafting Attorney: Jack Malgeri (202) 566-3347.

Reviewing Attorney: Michael Montemurro (202) 566-4085.

Agency Contact: Jack Malgeri, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3347

RIN: 1545-AI93

2763. LOW-INCOME HOUSING CREDIT ALLOCATION RULES AND INFORMATION REPORTING REQUIREMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 42 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide low-income housing credit allocation and reporting rules.

Timetable:

Action	Date	FR Cite
NPRM	06/22/87	52 FR 23471
NPRM Comment Period End	08/21/87	52 FR 23471
Hearing	11/00/87	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-83-86

Drafting attorney: Donna Young (202) 377-8349.

Reviewing attorney: James Ranson (202) 566-4944.

Treasury attorney: Heidi Abel (202) 566-2175.

Agency Contact: Donna Young, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 377-8349

RIN: 1545-AJ35

2764. LOW INCOME HOUSING CREDIT RECAPTURE RULE

Legal Authority: 26 USC 38 Internal Revenue Code of 1986; 26 USC 42 Internal Revenue Code of 1986; 26 USC 167 Internal Revenue Code of 1986; 26 USC 168 Internal Revenue Code of 1986; 26 USC 142(d) Internal Revenue Code of 1986; 26 USC 179 Internal Revenue Code of 1986; 26 USC 267(b) Internal Revenue Code of 1986; 26 USC 1274(d)(1) Internal Revenue Code of 1986; 26 USC 6621 Internal Revenue Code of 1986; 26 USC 6622 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide guidance with respect to the recapture requirements of section 42(j)for the low-income housing credit. In addition, these regulations will clarify the types of housing that will qualify for the credit.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-108-87

Drafting attorney: Christopher J. Wilson (202) 377-8349.

Reviewing attorney: James Ranson (202) 377-8350.

Treasury attorney: Andrew Dubroff (202) 535-8966.

Agency Contact: Christopher J. Wilson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 377-8349

RIN: 1545-AI12

2765. ● APPLICATION OF SECTION 183 TO SECTION 42; STATE GRANTS AND BELOW MARKET STATE LOANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 42 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The temporary regulations discuss the application of the not-for-profit restrictions under section 183, and how state grants and below market state loans affect the eligible basis of projects otherwise qualifying for the low-income housing credit under section 42.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-044-90

TREAS—IRS

Final Rule Stage

Drafting attorney: Paul F. Handleman (202) 377-6349.

Reviewing attorney: James F. Ranson (202) 377-6349.

Agency Contact: Paul Handleman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-6349

RIN: 1545–AO90

2766. ● 10-YEAR WAIVER REGULATIONS UNDER SECTION 42 IRC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 42 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides rules on certain buildings acquired during a 10-year period.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-025-90

Drafting attorney: Susan Reaman (202) 377-6349.

Reviewing attorney: James Ranson (202) 377-6349.

Agency Contact: Susan Reaman, Assistant Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-6349

RIN: 1545–AO94

2767. INCOME TAX—SPECIAL RULES ADDED BY SEC 223(C) OF CRUDE OIL WINDFALL PROFIT TAX ACT 1980, RELATING TO REDUCTION OF CREDIT WHERE PROPERTY IS FINANCED BY SUBSIDIZED, ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 48 (l) Internal Revenue Code of 1986; PL 96-223, Sec 223 (c)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide that subsidized energy financing and proceeds of exempt industrial development bonds used to finance a facility reduce the qualified investment in the energy property contained in that facility for purposes of determining the amount of the energy tax credit.

Timetable:

Action	Date	FR Cite
NPRM	01/26/82	47 FR 03559
NPRM Comment Period End	03/20/82	47 FR 03559
Hearing	06/03/82	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-178-80.

Drafting attorney: Winston H. Douglas (202) 566-3553.

Reviewing attorney: Charles B. Ramsey (202) 566-3553.

Agency Contact: Winston H. Douglas, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3553

RIN: 1545–AA28

2768. AMENDMENT OF INCOME TAX REGULATIONS UNDER SECTIONS 47, 48 AND 196 RELATING TO BASIS ADJUSTMENT TO REFLECT INVESTMENT TAX CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 47 Internal Revenue Code of 1986; 26 USC 48 Internal Revenue Code of 1986; 26 USC 196 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations would provide rules concerning a basis adjustment in the case of the investment tax credit.

Timetable:

Action	Date	FR Cite
NPRM	09/21/87	52 FR 35438
NPRM Comment Period End	11/20/87	52 FR 35438
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-183-82.

Drafting attorney: Patrick T. McGroarty (202) 377-6349.

Reviewing attorney: James Ranson (202) 377-6349.

Agency Contact: Patrick T. McGroarty, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 377-6349

RIN: 1545–AF06

2769. BOOK INCOME ADJUSTMENT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 56 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules for computing the Alternative Minimum Tax Book Income Adjustment.

Timetable:

Action	Date	FR Cite
NPRM	04/28/88	53 FR 15234

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-55-87

Drafting attorney: Nicholas G. Bogos (202) 566-6320.

Reviewing attorney: Steve Toomey (202) 566-4104.

Treasury attorney: Roy Strowd (202) 535-4902.

Agency Contact: Nicholas G. Bogos, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6320

RIN: 1545–AK23

2770. INCOME TAX—INVENTORY ADJUSTMENT FOR THE ALTERNATIVE MINIMUM TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 56 (a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides guidance with respect to inventory adjustment for the alternative minimum tax.

TREAS—IRS

Final Rule Stage

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-84-87

Drafting Attorney: Edward C. Schwartz (202) 566-3861.

Reviewing Attorney: William Jackson (202) 566-3822.

Treasury Attorney: John Parcell (202) 566-2784.

Agency Contact: Edward C. Schwartz, Attorney Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3861

RIN: 1545-AI03

2771. ADJUSTED CURRENT EARNINGS

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 56 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.56

Legal Deadline: None

Abstract: Determination of adjusted current earnings of corporations.

Timetable:

Action	Date	FR Cite
NPRM	05/03/90	55 FR 18628
NPRM Comment Period End	08/01/90	55 FR 18628
Final Action	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-039-89

Drafting attorney : Nicholas G. Bogos (202) 566-3520.

Reviewing attorney: Steve Toomey (202) 566-4104.

Treasury attorney: Roy Strowd (202) 566-6902.

Agency Contact: Nicholas G. Bogos, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3328

RIN: 1545-AN24

2772. TAX BENEFIT RULE FOR CORPORATE ADD-ON MINIMUM TAX UNDER THE INTERNAL REVENUE CODE OF 1954

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 58 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide rules for taking into account credit carryovers in applying the minimum tax benefit rule for corporations.

Timetable:

Action	Date	FR Cite
NPRM	05/05/89	54 FR 19409
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-58-87

Drafting attorney: Forest R. Boone (202) 566-3861.

Reviewing attorney: Vincent Cardella (202) 566-4425.

Treasury attorneys: Ellen Aprill (202) 566-5453 and Robert Scarborough (202) 566-4079.

Agency Contact: Forest R. Boone, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3861

RIN: 1545-AK20

2773. APPLICATION OF SECTION 58(H) OF THE 1954 CODE TO SITUATIONS INVOLVING NOL CARRYBACKS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 58(h) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: This regulation will give guidance on how to apply the special 58(h) tax benefit rule when a taxpayer receives no tax benefit from items of tax preference because of net operating losses.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-060-89

Drafting attorney: Forest Boone (202) 566-3861.

Reviewing attorney: Bill Galanko (202) 566-4104.

Treasury attorney: Robert Scarborough (202) 566-2928.

Agency Contact: Forest Boone, Tax Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3861

RIN: 1545-AO98

2774. ◆ INCOME TAX-NONQUALIFIED SALARY REDUCTION AGREEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 61 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would provide guidance regarding the tax treatment of nonqualified deferred compensation arrangements established by tax exempt charitable organizations such as non-profit hospitals for their employees.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-33-90

Drafting attorney: John A. Tolleris (202) 566-3060.

Reviewing attorney: A. Thomas Brisendine (202) 566-3060.

Treasury attorney: Unassigned

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3060

RIN: 1545-AA35

TREAS—IRS

Final Rule Stage

2775. ● TO CLARIFY THAT THE INCOME CONSEQUENCES OF THE DISCHARGE OF INDEBTEDNESS ARE THE SAME FOR BOTH RECOURSE AND NONRECOURSE INDEBTEDNESS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 61 Internal Revenue Code of 1986

CFR Citation: 26 CFR 61

Legal Deadline: None

Abstract: The regulations will clarify that the income tax consequences of the discharge of an indebtedness are the same whether the indebtedness is recourse or nonrecourse.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-046-90

Drafting Attorney: Alan R. Peregoy (202) 566-4430.

Reviewing Attorney: Paul L. Kane (202) 566-4430.

Agency Contact: Alan Peregoy, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, 202 566-6436

RIN: 1545-AO60

2776. SECTION 702 OF THE FAMILY SUPPORT ACT OF 1988

Legal Authority: 26 USC 62(c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.62

Legal Deadline: None

Abstract: The regulations provide guidance regarding the taxation of and reporting and withholding on payments with respect to employee business expenses under a reimbursement or other expense allowance arrangement.

Timetable:

Action	Date	FR Cite
NPRM	12/12/89	54 FR 51038
NPRM Comment Period End	02/12/90	54 FR 51038
HEARING	06/11/90	55 FR 17758
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: EE-006-89

Drafting attorney: Richard Pavel (202) 566-3503.

Reviewing attorney: Jerry Holmes (202) 566-4747.

Treasury attorney: Judd Kelley (202) 566-8527.

Agency Contact: Richard Pavel, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3503

RIN: 1545-AO06

2777. 2-PERCENT FLOOR ON MISCELLANEOUS ITEMIZED DEDUCTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 67 (c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance regarding the miscellaneous itemized deductions that are subject to the 2-percent floor and provide expense allocation rules for regulated investment companies and REMICs.

Timetable:

Action	Date	FR Cite
NPRM	03/28/88	53 FR 9951
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-97-86.

Drafting attorney: Beverly A. Baughman (202) 566-3980.

Reviewing attorney: George B. Baker (202) 566-9292.

Treasury attorney: J. Judge Kelley (202) 566-8527.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3980

RIN: 1545-AJ49

2778. TREATMENT OF TRANSFER OF PROPERTY BETWEEN SPOUSES, TAX TREATMENT OF ALIMONY AND SEPARATE MAINTENANCE PAYMENTS, AND DEPENDENCY EXEMPTION IN THE CASE OF CHILD OF DIVORCED PARENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 71 Internal Revenue Code of 1986; 26 USC 215 Internal Revenue Code of 1986; 26 USC 1041 Internal Revenue Code of 1986; 26 USC 152 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance to assist taxpayers in determining whether alimony and separate maintenance payments are deductible from income by the payor and includible in income by the payee, whether property transferred between spouses or between spouses incident to divorce has a carryover basis and whether the custodial or noncustodial parent is entitled to the dependency exemption.

Timetable:

Action	Date	FR Cite
NPRM	08/31/84	49 FR 34628
NPRM Comment Period End	10/29/84	49 FR 34628
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-153-84.

Drafting Attorney: Edward C. Schwartz (202) 566-3551.

Reviewing Attorney: Stephen J. Toomey (202) 566-3553.

Agency Contact: Edward C. Schwartz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3551

RIN: 1545-AI49

2779. PROPOSED UNIFORM PREMIUM TABLE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 79 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

TREAS—IRS

Final Rule Stage

Abstract: The regulation extends the Table for determining the cost of group term life insurance to include ages over 64.

Timetable:

Action	Date	FR Cite
NPRM	11/20/88	54 FR 47995
NPRM Comment Period End	01/20/90	54 FR 47995
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-081-89

Drafting attorney: Betty Clary (202) 566-4455.

Reviewing attorney: James Brokaw (202) 566-3426.

Cross-Reference to EE-89-88.

Agency Contact: Betty Clary, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4455

RIN: 1545-AN51

2760. NONDISCRIMINATION RULES FOR NON-PENSION EMPLOYEE BENEFIT PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 89 Internal Revenue Code of 1986; 26 USC 125 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide the following: an explanation of the eligibility, benefits and alternative tests contained in section 89; an explanation as to which plans are subject to section 89 requirements; and, rules concerning how the requirements will be applied in actual operation. Also, these regulations will provide additional guidance for cafeteria plans under section 125.

Timetable:

Action	Date	FR Cite
NPRM	03/07/89	54 FR 9460
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: EE-174-86

Drafting attorney: Munroe/Zech (202) 566-3251.

Reviewing attorney: Nancy Marks (202) 343-0954.

Agency Contact: David Munroe/Felix Zech, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3251

RIN: 1545-AI78

2761. INCOME TAX—EXEMPTION FOR INDUSTRIAL DEVELOPMENT BONDS FOR WATER FACILITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 142 (e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would provide guidance to determine the rules under which facilities for furnishing water to members of the general public can be financed with tax-exempt industrial development bonds under section 142 (e) of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
NPRM	06/22/84	49 FR 33283
NPRM Comment Period End	10/22/84	49 FR 33283
Hearing	01/30/85	49 FR 45449

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-190-78.

Drafting attorney: Hervey H. Kornegay (202) 566-3458.

Reviewing attorney: Alice Bennett (202) 566-3287.

Office of Tax Legislative Counsel reviewing attorney: Elliot Stern (202) 566-2926.

Agency Contact: Hervey H. Kornegay, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3458

RIN: 1545-AA49

2762. INCOME TAX—TO DEFINE THE TERM "PRINCIPAL USER OF A FACILITY"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 144 (a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would define the meaning of the term "principal user of a facility" for purposes of applying the limitation set by the Internal Revenue Code upon the permissible size of a small issue of tax-exempt industrial development bonds, as diminished by certain other capital expenditures. This regulation would help identify other facilities the capital expenditures from which must be taken into account in determining whether that issue exceeds the small issue limitation.

Timetable:

Action	Date	FR Cite
NPRM	02/21/86	51 FR 6274
NPRM Comment Period End	04/22/86	51 FR 6274
Hearing	06/04/86	51 FR 6273

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-59-74.

Drafting attorney: Dave White (202) 566-4545.

Treasury attorney: David Walton (202) 566-2175.

Agency Contact: David E. White, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4545

RIN: 1545-AA58

2763. INCOME TAX—MORTGAGE SUBSIDY BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 103 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules which interpret the provisions of section 103A, relating to Mortgage Subsidy Bonds. Mortgage Subsidy Bonds are any obligations a

significant portion of the proceeds of which are used to provide financing for owner-occupied residences.

Timetable:

Action	Date	FR Cite
NPRM - Previous	07/01/81	46 FR 34946
Hearing	11/05/81	
NPRM	11/10/81	46 FR 55513
NPRM Comment Period End	01/09/82	46 FR 55513

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-10-81.

Drafting attorney: Suzanne Reynolds (202) 566-4310.

Reviewing attorney: Michael Montemurro (202) 566-4055.

Agency Contact: Suzanne Reynolds, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4310

RIN: 1545-AA83

2784. TO PROVIDE REGULATIONS REQUIRING CERTAIN DEBT OBLIGATIONS TO BE ISSUED IN REGISTERED FORM

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 149 (a) Internal Revenue Code of 1986; 26 USC 163 (f) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The rules will provide that certain debt obligations issued after December 31, 1982, must be in registered form. The rules will provide examples of certain obligations that are not subject to the registration requirements. The sanctions for not issuing an obligation in registered form are the denial of an interest deduction, loss of capital gains treatment, loss of an earnings and profits adjustment, and loss of tax-exempt interest status.

Timetable:

Action	Date	FR Cite
NPRM	11/15/82	47 FR 51414
NPRM Comment Period End	01/14/83	47 FR 51414
Hearing	01/25/83	47 FR 51414
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: FI-255-82.

Drafting attorney: Dianne O. Umberger (202) 566-4336.

Reviewing attorney: Alice Bennett (202) 566-3287.

Treasury attorney: Elliot Stern (202) 566-2928.

Agency Contact: Dianne O. Umberger, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4336

RIN: 1545-AE16

2785. TO PROVIDE REGULATIONS UNDER SECTION 103(K) AND (L)—RELATING TO PUBLIC APPROVAL AND INFORMATION REPORTING REQUIREMENTS FOR PRIVATE ACTIVITY BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 103 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposal will clarify the information reporting requirements with respect to private activity bonds. Industrial development bonds must be publicly approved—failure to fulfill this requirement results in loss of tax exemption for the interest on these bonds. Issuers of student loan bonds, charitable use bonds and industrial development bonds are required to supply certain information to the Internal Revenue Service. Failure to comply with this requirement will result in the loss of tax exemption for the bond's interest.

Timetable:

Action	Date	FR Cite
NPRM	05/11/83	48 FR 21166
NPRM Comment Period End	07/11/83	48 FR 21166

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-222-83.

Drafting attorney: Eric E. Boody (202) 566-4336.

Reviewing attorney: Alice M. Bennett (202) 566-3287.

Agency Contact: Eric E. Boody, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4336

RIN: 1545-AE24

2786. REGULATIONS RELATING TO $40 MILLION SMALL ISSUE LIMIT ON TAX-EXEMPT BONDS PER TAXPAYER

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 144(a)(10) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations would provide guidance regarding the provision enacted by the Tax Reform Act of 1984 which generally denies Federal income tax exemption for a small issue of development bonds if any of its beneficiaries receives the benefits of more than $40 million of prior outstanding industrial development bonds allocated to itself, including its allocated portion of the small issue in question. These regulations would also provide guidance regarding how the proceeds of an issue of industrial development bonds are to be allocated among its beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	02/21/86	51 FR 6270
NPRM Comment Period End	04/22/86	51 FR 6270
Hearing	06/04/86	51 FR 6270

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-157-84.

Drafting attorney: Dave White (202) 566-4545.

Treasury attorney: David Walton (202) 566-2178.

TREAS—IRS

Final Rule Stage

Agency Contact: David E. White, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4545

RIN: 1545–AH19

2787. TO PROVIDE REGULATIONS RELATING TO THE TAX EXEMPTION OF OBLIGATIONS TO FINANCE MIXED-USE RESIDENTIAL RENTAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.103-8

Legal Deadline: None

Abstract: The regulations will clarify the rule relating to obligations to provide residential rented property. The regulations will make clear that a residential rental project can consist in part of non-residential rental property.

Timetable:

Action	Date	FR Cite
NPRM	10/07/85	50 FR 46303
NPRM Comment Period End	01/06/86	
Hearing	02/10/86	51 FR 1392

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-269-84.

Drafting attorney: L. Michael Wachtel (202) 566-4336.

Reviewing attorney: Alice Bennett (202) 566-3287.

Agency Contact: L. Michael Wachtel, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4538

RIN: 1545–AH68

2788. CLARIFICATION REGARDING THE CONCLUSIVENESS OF THE CERTIFICATION UNDER SECTION 1.103-13(A)(2) OF THE INCOME TAX REGULATIONS

Legal Authority: 26 USC 103 (c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1.103-13

Legal Deadline: None

Abstract: This regulation clarifies the extent to which a certification is conclusive as to the reasonable expectations of the issuer under section 1.103-13 (a) (2) of the Income Tax Regulations, when the issuer either certifies in bad faith or takes subsequent and deliberate actions to produce arbitrage.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-031-89

Drafting attorney: Jack Malgeri (202) 566-3347.

Reviewing attorney: Michael Montemurro (202) 566-4085.

Agency Contact: Jack Malgeri, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3347

RIN: 1545–AN08

2789. PARTIAL EXCLUSION OF DIVIDENDS AND INTEREST RECEIVED BY INDIVIDUALS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 116 Internal Revenue Code of 1986 PL 98-223, Sec 404

CFR Citation: 26 CFR 116

Legal Deadline: None

Abstract: This regulations project is necessary to conform the regulations relating to section 116 of the Internal Revenue Code of 1986 to amendments to section 404 made by the Crude Oil Windfall Profit Tax Act of 1980, P.L. 96-223. This regulation will provide guidance to individuals who administer section 116 and taxpayers who are subject to and must comply with these sections of the code. Section 116 relates to the partial exclusion of dividends and interest received by individuals.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-83-80

Drafting attorney: Donald W. Kanuk (202) 566-3862.

Reviewing attorney: Stephen J. Toomey (202) 566-4404.

Agency Contact: Donald W. Kanuk, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3862

RIN: 1545–AM73

2790. INCOME TAX—TAX TREATMENT OF CAFETERIA PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 125 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations establish rules for the tax treatment of cafeteria plans meeting certain nondiscrimination standards. A cafeteria plan permits participating employees to select the particular fringe benefits desired from a package of employer-provided benefits which include statutory nontaxable benefits and cash.

Timetable:

Action	Date	FR Cite
NPRM	12/31/84	49 FR 50733
NPRM Comment Period End	01/30/85	
Hearing	03/11/85	
NPRM	03/07/89	54 FR 9500
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-16-79.

Drafting attorney: Harry Beker (202) 566-3251.

Reviewing attorney: Michael A. Thrasher (202) 566-3576.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Paul Strella (202) 566-8277.

Agency Contact: Harry Beker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3251

RIN: 1545–AD63

TREAS—IRS

Final Rule Stage

2791. INCOME TAX-EXCLUSION FROM INCOME OF CERTAIN COST-SHARING PAYMENTS UNDER GOVERNMENT PROGRAMS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 126 Internal Revenue Code of 1986; 26 USC 1255 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules on the exclusion from income of certain cost sharing payments and on the amount recaptured when the property improved with government payments is sold within a certain specified period of time.

Timetable:

Action	Date	FR Cite
NPRM	05/21/81	46 FR 27723
NPRM Comment Period End	07/20/81	46 FR 27723
Hearing	12/01/81	46 FR 50606
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-222-78.

Drafting attorney: Brenda M. Stewart (202) 566-4919.

Reviewing attorney: Walter H. Woo (202) 535-9545.

Agency Contact: Brenda M. Stewart, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4919

RIN: 1545–AA73

2792. INCOME TAX—PART I EXCLUSION FROM GROSS INCOME FOR CERTAIN FOSTER CARE PAYMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 131 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation project will explain what foster child care payments may be excluded from the gross income of a foster parent.

Timetable:

Action	Date	FR Cite
NPRM	02/01/85	50 FR 4702
NPRM Comment Period End	04/02/85	50 FR 4702
Hearing	06/25/85	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-83-83.

Drafting attorney: Victoria J. Driscoll (202) 566-3637.

Reviewing attorney: John Coulter (202) 566-3928.

Agency Contact: Victoria J. Driscoll, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3637

RIN: 1545–AF52

2793. ARBITRAGE RESTRICTIONS ON TAX-EXEMPT BONDS

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 148 Internal Revenue Code of 1986; 26 USC 149 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations relate to arbitrage restrictions on tax-exempt bonds.

Timetable:

Action	Date	FR Cite
NPRM	05/15/89	54 FR 20661
NPRM Comment Period End	11/15/89	54 FR 37947
Public Hearing	12/13/89	54 FR 37947

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-91-86

Drafting attorney: George F. Del Duca (202) 566-4545.

Reviewing attorney: Michael Montemurro (202) 566-4065.

Treasury attorney: Gregory F. Jenner (202) 566-5911.

Agency Contact: George Del Duca, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4545

RIN: 1545–AJ67

2794. YIELD ADJUSTMENT PAYMENT RULES FOR QUALIFIED STUDENT LOAN BONDS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 148 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.148-10T

Legal Deadline: None

Abstract: Procedures and methodology for computing and making yield adjustment payments to the United States with respect to arbitrage earned on qualified student loan bonds.

Timetable:

Action	Date	FR Cite
NPRM	01/25/90	55 FR 2534
NPRM Comment Period End	03/26/90	55 FR 2534
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: FI-075-89

Treasury attorney: David A. Walton (202) 566-2175.

Agency Contact: David Walton, Attorney, Department of the Treasury, Internal Revenue Service, Tax Legislative Counsel, 1500 Pennsylvania Ave., NW., Washington, DC 20220, 202 566-2175

RIN: 1545–AO19

2795. CLARIFYING WHEN PROCEEDS OF AN OBLIGATION DESCRIBED IN SECTION 103(A) ALLOCATED TO REIMBURSE PREVIOUSLY PAID EXPENDITURES ARE DEEMED SPENT FOR PURPOSES OF SECTION 148 OF THE CODE

Significance: Agency Priority

Legal Authority: 26 USC 148 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Addresses the issue of whether proceeds of a a tax exempt bond used to reimburse an expenditure previously made by the bond issue will be deemed to be spent and thereby no

longer subject to arbitrage and rebate requirements.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Additional Information: FI-059-89

Drafting attorney: Will Cejudo (202) 566-3253.

Agency Contact: Will Cejudo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3253

RIN: 1545-AC37

2796. SUBSEQUENT INTENTIONAL ACTS TO EARN ARBITRAGE AND THE REASONABLE EXPECTATIONS TEST FOR ARBITRAGE BONDS

Legal Authority: 26 USC 148 (a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.103-13

Legal Deadline: None

Abstract: The proposed regulations provide that if subsequent intentional acts are taken after the date of issue to earn arbitrage, the reasonable expectations test does not prevent a bond from being declared an arbitrage bond.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-046-89

Drafting attorney: Jack Malgeri (202) 566-3347.

Reviewing attorney: Mike Montemurro (202) 566-4065.

Agency Contact: Jack Malgeri, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3347

RIN: 1545-AN69

2797. 2-YEAR ARBITRAGE REBATE EXCEPTION

Significance: Agency Priority

Legal Authority: 26 USC 148(f)(4)(B)(i) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations provide guidance concerning the two-year exception from arbitrage rebate continued in Section 148(f)(4)(B)(i) of the Code.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-001-90

Drafting attorney: Jack Malgeri (202) 566-4545.

Reviewing attorney: Michael Montemurro (202) 566-4545.

Agency Contact: Jack Malgeri, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4545

RIN: 1545-AO33

2798. INFORMATION REPORTING FOR TAX-EXEMPT BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 149 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would provide information reporting rules for tax-exempt bonds.

Timetable:

Action	Date	FR Cite
NPRM	03/11/87	52 FR 7408
NPRM Comment Period End	05/11/87	52 FR 7408
Hearing	06/26/87	
Final Action	11/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: FI-146-86

Drafting Attorney: Eric E. Boody (202) 566-4396.

Reviewing Attorney: Alice Bennett (202) 566-3287.

Agency Contact: Eric E. Boody, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4396

RIN: 1545-AJ63

2799. CONTINUATION COVERAGE REQUIREMENTS OF GROUP HEALTH PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 106(b) Internal Revenue Code of 1986; 26 USC 162(i)(2) Internal Revenue Code of 1986; 26 USC 162(k) Internal Revenue Code of 1986; 26 USC 4980B Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 54

Legal Deadline: None

Abstract: These regulations will provide guidance relating to the requirement that a group health plan provide continuation coverage to individuals who would otherwise lose coverage as a result of certain events.

Timetable:

Action	Date	FR Cite
NPRM	06/15/87	52 FR 22716
NPRM Comment Period End	08/14/87	52 FR 22716
Hearing	11/04/87	
Final Action	12/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-145-86

Drafting attorney: Michael Misner (202) 566-4741.

Review attorney: Mark Schwimmer (202) 566-4741.

Treasury attorney: Kurt Lawson (202) 566-2175.

Agency Contact: Michael Misner, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4741

RIN: 1545-AI93

TREAS—IRS

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2800. INCOME TAX REGULATIONS—LIMITATIONS ON DEDUCTIONS FOR NONBUSINESS INTEREST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 163 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance relating to the disallowance of a deduction for personal interest, including guidance regarding the definitions of qualified residence, qualified residence interest and qualified indebtedness.

Timetable:

Action	Date	FR Cite
NPRM	12/22/87	52 FR 48452

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-137-86

Drafting Attorney: Sharon L. Hall (202) 566-4430.

Reviewing Attorney: John Fischer (202) 566-6131.

Treasury Attorney: Adam Handler (202) 566-2175.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4430

RIN: 1545-AK17

2801. REGISTRATION REQUIREMENTS WITH RESPECT TO CERTAIN DEBT OBLIGATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 163 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Rules regarding deductibility of interest on pass-through certificates when certificates are held by nominees.

Timetable:

Action	Date	FR Cite
NPRM	05/19/88	53 FR 17960
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: INTL-405-87

Drafting attorney: Carl M. Cooper (202) 566-6795.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Treasury attorney: Peter Daub (202) 566-2964.

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6795

RIN: 1545-AM22

2802. INCOME TAX REGULATIONS—TAX STRADDLES RELATING TO SECTION 108 OF THE TAX REFORM ACT OF 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 165 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules under section 108 of the Tax Reform Act of 1984 and section 1808 (d) of the Tax Reform Act of 1986, relating to the treatment of certain losses on straddles entered into before the effective date of the Economic Recovery Tax Act of 1981.

Timetable:

Action	Date	FR Cite
NPRM	08/23/84	49 FR 33458
NPRM Comment Period End	10/22/84	49 FR 33458
Hearing	11/29/84	
Final Action	12/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-147-84.

Drafting attorney: Karl T. Walli (202) 566-3297.

Reviewing attorney: Steven R. Glickstein (202) 566-3297.

Treasury attorney: Kathleen Ferrell (202) 566-2175.

Agency Contact: Karl T. Walli, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3297

RIN: 1545-AG57

2803. INCOME TAX—ACCELERATED COST RECOVERY SYSTEM

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 168 Internal Revenue Code of 1954; 26 USC 179 Internal Revenue Code of 1954; 26 USC 1245 Internal Revenue Code of 1954; 26 USC 453 Internal Revenue Code of 1954; 26 USC 167 Internal Revenue Code of 1954; 26 USC 1250 Internal Revenue Code of 1954; 26 USC 57(a)(12) Internal Revenue Code of 1954; 26 USC 312(k) Internal Revenue Code of 1954; 26 USC 172(b) Internal Revenue Code of 1954; 26 USC 812(b) Internal Revenue Code of 1954; 26 USC 46(b) Internal Revenue Code of 1954; 26 USC 53(c) Internal Revenue Code of 1954; 26 USC 381(c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To provide regulations under section 168 and accompanying provisions clarifying the operation of the accelerated cost recovery scheme. This cost recovery system generally applies to property placed in service after December 31, 1980. Generally, section 168 applies to "recovery property" which is defined as tangible property of a character subject to the allowance for depreciation which is used in a trade or business, or held for the production of income.

Timetable:

Action	Date	FR Cite
NPRM	02/16/84	49 FR 5940
NPRM Comment Period End	05/16/84	49 FR 5940
Hearing held	05/21/84	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-185-81.

Drafting attorney: Robert Pitzer (202) 566-3292.

Reviewing attorney: Claire Toth (202) 566-3553.

Treasury attorney: Barksdale Penick (202) 566-5453.

Agency Contact: Robert Pitzer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3292

RIN: 1545-AA87

2804. TAX-EXEMPT ENTITY LEASING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 168 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide rules concerning tax-exempt entity leasing and service contracts.

Timetable:

Action	Date	FR Cite
NPRM	07/02/85	50 FR 27297
NPRM Comment Period End	09/09/85	50 FR 27297
Hearing	11/25/85	

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: IA-31-85.

Drafting attorney: Edward C. Schwartz (202) 566-3681.

Reviewing attorney: Stephen J. Toomey (202) 566-4104.

Treasury attorney: Adam Handler (202) 535-0994.

Agency Contact: Edward C. Schwartz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3681

RIN: 1545-AH78

2805. DEDUCTIONS IN EXCESS OF $5000 CLAIMED FOR CHARITABLE CONTRIBUTIONS OF CERTAIN PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 170(a)(1) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide substantiation requirements with which a donor must comply in order to take a deduction for a charitable contribution of certain property.

Timetable:

Action	Date	FR Cite
NPRM	05/05/88	53 FR 16156
Hearing	09/23/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-83-87

Drafting attorney: Stuart Spielman (202) 566-3960.

Reviewing attorney: Rudi Planert (202) 566-9293.

Treasury attorney: Evelyn Brody (202) 566-5453.

Agency Contact: Stuart Spielman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3960

RIN: 1545-AL09

2806. DEFINITION OF RESEARCH AND EXPERIMENTAL EXPENDITURES UNDER SECTION 174 OF THE CODE

Legal Authority: 26 USC 7805(a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.174-2; 26 CFR 1.41

Legal Deadline: None

Abstract: The regulations clarify the definition of "research and experimental expenditures" under section 174 of the Internal Revenue Code. The regulations also clarify the definition of "research and experimental expenditures" for purposes of section 41 of the Code, because section 41 relies on the definition of that item in section 174.

Timetable:

Action	Date	FR Cite
NPRM	05/17/89	54 FR 21224
NPRM Comment Period End	07/17/89	
Public Hearing	12/05/90	54 FR 37947
Final Action	01/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: PS-002-89

Drafting attorney: David Hudson (202) 566-4821.

Reviewing attorney: Walter Woo (202) 535-9545.

Treasury attorney: Evelyn Brody (202) 535-8959.

Agency Contact: David Hudson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4821

RIN: 1545-AM92

2807. PROVISIONS RELATING TO COOPERATIVE HOUSING CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 216 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide rules for determining a tenant-stockholder's proportionate share of taxes or interest in the case where the cooperative housing corporation has made the election provided in section 216 (b) (3) (B) of the Code. These regulations also provide rules for determining whether a deduction claimed by a tenant-stockholder should be disallowed as more proper allocable to the corporation's capital account.

Timetable:

Action	Date	FR Cite
NPRM	05/27/88	53 FR 19312
Final Action	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-102-86.

Drafting attorney: Lisa Shuman (202) 566-4821.

Reviewing attorney: Walter H. Woo (202) 535-9545.

Agency Contact: Lisa Shuman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4821

RIN: 1545-Aj96

2808. INDIVIDUAL RETIREMENT PLANS AND SIMPLIFIED EMPLOYEE PENSIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 62 Internal Revenue Code of 1986; 26 USC 219 Internal Revenue Code of 1986; 26 USC 220 Internal Revenue Code of 1986; 26 USC 404 (h) Internal Revenue Code of 1986; 26 USC 408 Internal Revenue Code of 1986; 26 USC 409 Internal Revenue Code of 1986; 26 USC 2503 Internal Revenue Code of 1986; 26 USC 3121 Internal Revenue Code of 1986; 26

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USC 3306 Internal Revenue Code of 1986; 26 USC 4973 Internal Revenue Code of 1986; 26 USC 4974 Internal Revenue Code of 1986; 26 USC 6693 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 25; 26 CFR 31; 26 CFR 54; 26 CFR 301

Legal Deadline: None

Abstract: The regulations set forth rules for sponsors of and participants in individual retirement plans, spousal individual retirement plans, and simplified employee pensions.

Timetable:

Action	Date	FR Cite
NPRM	07/14/81	46 FR 36196
NPRM Comment Period End	09/14/81	46 FR 36196
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-7-78.

Drafting attorney: William D. Gibbs (202) 566-3050.

Reviewing attorney: A. Thomas Brisendine (202) 566-3050.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Paul Strella (202) 566-8277.

Agency Contact: William D. Gibbs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3050

RIN: 1545-AD59

2809. INDIVIDUAL RETIREMENT PLANS, SIMPLIFIED EMPLOYEE PENSIONS, AND QUALIFIED VOLUNTARY EMPLOYEE CONTRIBUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 219 Internal Revenue Code of 1986; 26 USC 408 Internal Revenue Code of 1986; 26 USC 409 Internal Revenue Code of 1986; 26 USC 415 Internal Revenue Code of 1986; 26 USC 2039 Internal Revenue Code of 1986; 26 USC 2517 Internal Revenue Code of 1986; 26 USC 6652 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 20; 26 CFR 25; 26 CFR 301

Legal Deadline: None

Abstract: These regulations set forth rules for individual retirement plans, simplified employee pensions, and qualified voluntary employee contributions after amendment of the Internal Revenue Code of 1954 by the Economic Recovery Tax Act of 1981.

Timetable:

Action	Date	FR Cite
NPRM	01/23/84	49 FR 2794
NPRM Comment Period End	03/23/84	49 FR 2794
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-140-81.

Drafting attorney: William D. Gibbs (202) 566-3050.

Reviewing attorney: A. Thomas Brisendine (202) 566-3050.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Paul Strella (202) 566-8277.

Agency Contact: William D. Gibbs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3050

RIN: 1545-AD66

2810. CAPITALIZATION AND INCLUSION IN INVENTORY COSTS OF CERTAIN EXPENSES

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 263A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules relating to the costs incurred in the production and acquisition of property for resale in a trade or business or activity conducted for profit.

Timetable:

Action	Date	FR Cite
NPRM	03/30/87	52 FR 10118
NPRM Comment Period End	05/29/87	
Hearing	12/07/87	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-168-86.

Drafting attorney: Ellen McElroy (202) 566-3751.

Reviewing attorney: Tom Luxner (202) 566-4495.

Treasury attorney: Roy Strowd (202) 535-0369.

Agency Contact: Ellen McElroy, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3751

RIN: 1545-AD05

2811. TEMPORARY REGULATION—CAPITALIZATION OF INTEREST EXPENSE RELATING TO PRODUCTION OF PROPERTY

Significance: Regulatory Program

Legal Authority: 26 USC 263A(f) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance concerning the capitalization of certain interest expenses and the allocation of interest to property subject to the capitalization rules.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-120-86.

Drafting attorney: Carol Conjura (202) 535-0363.

Reviewing attorney: Tom Luxner (202) 566-4495.

Treasury attorney: Roy Strowd (202) 566-4002.

Agency Contact: Carol Conjura, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 535-0363

RIN: 1545-AJ03

2812. LOSSES, EXPENSES, AND INTEREST IN TRANSACTIONS BETWEEN RELATED TAXPAYERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 0267 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

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CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The primary purpose of this project is to provide final regulations under section 267 of the Internal Revenue Code concerning the deferral and restoration of loss on the intercompany sale of property from one member of a controlled group of corporations to another member.

Timetable:

Action	Date	FR Cite
NPRM	11/30/84	49 FR 47048
NPRM Comment Period End	01/29/85	49 FR 47048

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-023-89

Drafting Attorney: Keith E. Stanley (202) 566-3618.

Reviewing Attorney: Nelson R. Crouch (202) 566-3255.

Treasury attorney: Judge Kelley (202) 566-8527.

Agency Contact: Keith E. Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 566-3367

RIN: 1545-AN10

2813. DEDUCTIONS OF AMOUNTS OWED TO RELATED FOREIGN PERSONS UNDER SECTIONS 267(A)(3) AND 163(E)(3)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 267(a)(3) Internal Revenue Code of 1986; 26 USC 163(e)(3) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To provide rules for the deduction of amounts owed to a related foreign person.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-625-89

Drafting attorney: James K. Sams (202) 566-6845.

Reviewing attorney: Christine Halphen (202) 377-9493.

Treasury attorney: Unassigned.

Agency Contact: James K. Sams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6845

RIN: 1545-AN83

2814. DEDUCTIONS OF AMOUNTS OWED TO RELATED FOREIGN PERSONS UNDER SECTIONS 267(A)(3) AND 163(E)(3)

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 267(a)(3) Internal Revenue Code of 1986; 26 USC 163(e)(3) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To provide rules for the deduction of amounts owed to a related foreign person.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-626-89

Drafting attorney: James K. Sams (202) 566-6845.

Reviewing attorney: Christine Halphen (202) 377-9493.

Treasury attorney: Unassigned.

Agency Contact: James K. Sams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6845

RIN: 1545-AN84

2815. INCOME TAX—PERSONAL SERVICE CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 269A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal will provide rules for determining when the Internal Revenue Service may reallocate income or tax benefits between a personal service corporation and its employee-owners.

Timetable:

Action	Date	FR Cite
NPRM	03/31/83	48 FR 13438
NPRM Comment Period End	05/31/83	48 FR 13438
Hearing	07/19/83	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: CO-188-82.

Drafting attorney: Brendan O'Hara (202) 566-2455.

Reviewing attorney: Nelson Crouch (202) 566-3651.

Agency Contact: Brendan O'Hara, Attorney/Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-2455

RIN: 1545-AF11

2816. APPLICATION OF SECTION 269 TO OWNERSHIP CHANGES DESCRIBED IN SECTION 382 (L) (5) WHEN THERE IS NO CONTINUITY OF BUSINESS ENTERPRISE

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 269 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will make clear that Section 269 continue to apply to acquisitions of control which are specifically addressed by Section 382 (as amended by the Tax Reform Act of 1986). Creditors who receive stock of a debtor corporation in satisfaction of indebtedness will not be treated as owning the stock of the corporation for purposes of Section 269 before the time of the stock-for-debt exchange. The Section 382 (c) continuity of business enterprise requirement will not apply to ownership changes excepted from the application of Section 382 (a) by Section 382 (l) (5).

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: CO-077-89

Drafting attorney: Victor Penico (202) 566-3618.

Reviewing attorney: Nelson Crouch (202) 566-3255.

Treasury attorney: Tom Wessel (202) 566-6277.

Agency Contact: Victor Penico, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3618

RIN: 1545-AO29

2817. EMPLOYEE ACHIEVEMENT AWARDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 274 Internal Revenue Code of 1986; 26 USC 74 Internal Revenue Code of 1986; 26 USC 102 Internal Revenue Code of 1986

CFR Citation: 26 CFR 274; 26 CFR 74; 26 CFR 102

Legal Deadline: None

Abstract: Final regulations concerning employee achievement awards. Specific guidance concerning the phrase "tangible personal property."

Timetable:

Action	Date	FR Cite
NPRM	01/09/89	54 FR 627
Public Hearing on Prop. Regs.	06/02/89	54 FR 18117
Final Action	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-004-89

Drafting Attorney: Janet Lloyd (202) 566-4747.

Reviewing Attorney: Jerry Holmes (202) 566-4747.

Treasury Attorney: J. Judge Kelley (202) 566-6527.

Agency Contact: Janet Lloyd, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4747

RIN: 1545-AN58

2818. INCOME TAX—SUBSTANTIATION REQUIREMENTS WITH RESPECT TO LISTED PROPERTY AND SUBSTANTIATION REQUIREMENTS RELATING TO THE TAXATION OF FRINGE BENEFITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will set forth the requirements to substantiate any deduction or credit for certain business-related expenses with adequate records or sufficient evidence corroborating a taxpayer's own statement.

Timetable:

Action	Date	FR Cite
NPRM	11/06/85	50 FR 46006
NPRM Comment Period End	01/06/86	50 FR 46006
Hearing	03/04/86	51 FR 02606

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-140-86.

Drafting Attorney: Joel Rutstein (202) 566-4430.

Reviewing Attorney: Michael Finley (202) 566-4430.

Agency Contact: Joel Rutstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 566-4430

RIN: 1545-AJ40

2819. LIMITATION OF DEDUCTIONS ON PASSENGER AUTOMOBILES AND OTHER LISTED PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 280F Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will clarify the rules limiting the Investment Tax Credit (if any) and Cost Recovery deductions allowable with respect to passenger automobiles and certain other "listed property".

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: PS-015-89

Senior Tax Law Specialist: John E. Moffat (202) 566-3553.

Reviewing Attorney: Claire E. Toth (202) 566-3553.

Treasury Attorney: John H. Parcell (202) 566-2784.

Agency Contact: John E. Moffat, Senior Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 566-3553

RIN: 1545-AN05

2820. AUTOMOBILE INCLUSION AMOUNTS FOR CALENDAR YEARS AFTER 1988

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 280F Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide the authority to accomplish adjustments in the table used to determine the amount included in the income of a lessee of a passenger automobile. The tax law applicable to automobiles placed in service after 1986, requires annual adjustments in the table to reflect automobile price inflation.

Timetable:

Action	Date	FR Cite
NPRM	04/12/90	55 FR 13908
NPRM Comment Period End	06/11/90	55 FR 13908

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: PS-53-89

Senior tax law specialist: John E. Moffat (202) 566-3553.

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Reviewing attorney: Claire E. Toth (202) 566-3353.

Treasury attorney: John H. Parcell (202) 566-2784.

Agency Contact: John E. Moffat, Senior Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3353

RIN: 1545-AN80

3821. ◆ GOLDEN PARACHUTE PAYMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 280G Internal Revenue Code of 1986

CFR Citation: 26 CFR 280G

Legal Deadline: None

Abstract: These regulations will provide rules relating to restrictions on golden parachute payments. The regulations will provide guidance to taxpayers, who must comply with section 280G, by delineating the circumstances under which payments may be considered excess parachute payments.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-30-90

Drafting attorney: Robert Misner (202) 566-6752.

Reviewing attorney: Unassigned

Treasury attorney: Thomas Terry (202) 566-2118.

Agency Contact: Robert Misner, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6752

RIN: 1545-AH49

3822. AFFILIATED GROUPS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 304 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides proper adjustments to stock bases and earnings and profits of members of an affiliated group in section 304 (a) transfers of intragroup stock.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-2-88

Drafting attorney: John N. Geracimos (202) 566-3341.

Reviewing attorney: Don A. Leatherman (202) 566-2454.

Agency Contact: John N. Geracimos, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3341

RIN: 1545-AL41

3823. CERTAIN STOCK SALES AND DISTRIBUTIONS TREATED AS ASSET TRANSFERS

Legal Authority: 26 USC 336 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance for making an election under section 336 (e) and the consequences which result from making such an election.

Timetable:

Action	Date	FR Cite
Temporary Regulation	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-51-87

Drafting attorney: Jean Whalen (202) 566-3422.

Reviewing attorney: Maura Sullivan (202) 566-4173.

Treasury attorney: J. Judge Kelley (202) 566-2175.

Agency Contact: Jean Whalen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3422

RIN: 1545-AK20

3824. RECOGNITION OF GAIN OR LOSS ON LIQUIDATING SALES AND DISTRIBUTIONS OF PROPERTY

Significance: Regulatory Program

Legal Authority: 26 USC 336 Internal Revenue Code of 1986; 26 USC 337 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Tax Reform Act of 1986 (the "Act") repealed the last vestiges of the General Utilities doctrine ("GU repeal"), thereby requiring corporations to recognize gain in most cases upon the distribution of appreciated property to their shareholders. The Act granted the Secretary authority to promulgate regulations necessary to carry out the purposes of the Act. This project addresses issues related to the operating rules of sections 311, 331, 334, 336, and 337. Additional areas related to GU repeal, such as the scope of the repeal, will be addressed in a specific project.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: CO-117-86.

Drafting Attorney: John N. Geracimos (202) 566-3341.

Reviewing Attorney: Don A. Leatherman (202) 566-2454.

Treasury Attorney: Gregory J. Marich (202) 566-2175.

Agency Contact: John W. Geracimos, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3341

RIN: 1545-AJ01

3825. APPLICATION OF GENERAL UTILITIES REPEAL REGULATORY AUTHORITY TO CERTAIN DISTRIBUTIONS UNDER SECTION 355

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 337(d) Internal Revenue Code of 1986; 26 USC 355 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

TREAS—IRS

Final Rule Stage

Legal Deadline: None

Abstract: The regulations are intended to cause the recognition of net gain by the distributing corporation ("parent") upon the distribution of the stock and securities of a controlled corporation ("subsidiary") in a transaction to which section 355 applies when the distribution is part of a transaction that is made with a gain avoidance purpose and within two years of the distribution a person acquires control of the parent or the subsidiary.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-78-88

Drafting attorney: Robert Casey (202) 566-3551.

Reviewing attorney: Christopher F. Kane (202) 566-3551.

Treasury attorney: Gregory Marich (202) 566-2175.

Agency Contact: Robert Casey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3551

RIN: 1545–AM34

2826. SCOPE OF GENERAL UTILITIES REPEAL

Legal Authority: 26 USC 337(d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Tax Reform Act of 1986 (the "Act") repealed the last vestiges of the General Utilities doctrine ("GU repeal"), thereby requiring corporations to recognize gain in most cases upon the distribution of appreciated property to their shareholders. The Act granted the Secretary authority to promulgate regulations necessary to carry out the purposes of the Act. It has been determined that GU repeal can be circumvented in certain circumstances, including, downstream mergers, conversion into tax exempt entities, and cross ownership. This project will seek to identify these areas and promulgate regulations to assure corporate level gain recognition as required by the Act.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: CO-014-89

Drafting attorney: John Geracimos (202) 566-3341.

Reviewing attorney: Don Leatherman (202) 566-2454.

Agency Contact: John Geracimos, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3341

RIN: 1545–AN21

2827. DEEMED PURCHASE PRICE WHEN CERTAIN STOCK PURCHASES ARE TREATED AS ASSET ACQUISITIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal will prescribe rules for computing the basis of stock purchased in certain stock acquisitions and for allocating this basis among the assets of the corporation whose stock was thus acquired.

Timetable:

Action	Date	FR Cite
NPRM	07/01/86	51 FR 23790
NPRM Comment Period End	09/02/86	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-191-82.

Drafting attorney: Keith Medleau (202) 566-3551.

Reviewing attorney: Christopher F. Kane (202) 566-3551.

Office of Tax Legislative Counsel reviewing attorney: Judd Kelley (202) 566-2175.

Agency Contact: Keith Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3551

RIN: 1545–AF29

2828. INCOME TAX—ELECTIONS UNDER SECTION 338, AS ADDED BY SECTION 224 OF THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982 AS AMENDED BY THE TECHNICAL CORRECTIONS ACT OF 1982

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986; PL 97-248, Sec 224; PL 97-448, Sec 306

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide rules for making elections under section 338, which permits certain stock purchases to be treated as asset acquisitions.

Timetable:

Action	Date	FR Cite
NPRM	09/06/84	49 FR 35144
NPRM Comment Period End	11/05/84	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-26-83.

Drafting attorney: Keith Medleau (202) 566-3551.

Reviewing attorney: Christopher F. Kane (202) 566-3551.

Treasury attorney: J. Judge Kelley (202) 566-2175.

Agency Contact: Keith Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3551

RIN: 1545–AF38

2829. REGULATIONS UNDER SECTION 338 (H) (10) AS ADDED TO THE CODE BY SECTION 306 OF THE TECHNICAL CORRECTIONS ACT OF 1982, RELATING TO SPECIAL ELECTIVE RECOGNITION OF GAIN OR LOSS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

TREAS—IRS

Final Rule Stage

Legal Deadline: None

Abstract: Proposal would interpret the rules of section 338 (h) (10) under which a special election can be made so that target recognizes gain or loss on the deemed sale of its assets. The proposal is necessary so that affected taxpayers can make election under the provision.

Timetable:

Action	Date	FR Cite
NPRM	01/09/86	51 FR 763
NPRM Comment Period End	03/10/86	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-218-83.

Drafting attorney: Keith Medleau (202) 566-3551.

Reviewing attorney: Christopher F. Kane (202) 566-3430.

Office of Tax Legislative Counsel reviewing attorney: Judd Kelley (202)-566-2175.

Agency Contact: Keith Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3551

RIN: 1545-AF93

2830. QUESTIONS AND ANSWERS RELATING TO MISCELLANEOUS MATTERS UNDER SECTION 338

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide guidance on a broad range of issues under section 338.

Timetable:

Action	Date	FR Cite
NPRM	05/24/85	50 FR 16430

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-33-85.

Drafting attorney: Keith Medleau (202) 566-3551.

Reviewing attorney: Christopher F. Kane (202) 3551.

Treasury attorney: J. Judge Kelley (202) 566-2175.

Agency Contact: Keith Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3551

RIN: 1545-AH89

2831. STATEMENTS OF ELECTION AND DUE DATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations provide guidance to taxpayers who make express elections under section 338 pursuant to the extended July 15, 1986, filing deadline where the statute of limitations in the target's taxable year which includes the acquisition date has expired prior to July 15, 1986, or will expire shortly thereafter.

Timetable:

Action	Date	FR Cite
NPRM	05/16/86	51 FR 17969
NPRM Comment Period End	07/15/86	51 FR 17969

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-8-86.

Drafting attorney: Keith Medleau (202) 566-3551.

Reviewing attorney: Christopher F. Kane (202) 566-3551.

Treasury attorney: J. Judge Kelley (202) 566-6527.

Agency Contact: Keith Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 566-3551

RIN: 1545-AI53

2832. MANDATORY APPLICATION OF MADSP FORMULA FOR DETERMINATION OF DEEMED SALE PRICE FOR OLD TARGET'S ASSETS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will require the use of the MADSP formula in a qualified stock purchase to which section 338(h)(10) applies.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-78-88

Drafting attorney: Keith G. Medleau (202) 566-3551.

Reviewing attorney: Christopher F. Kane (202) 566-3551.

Treasury attorney: Judd Kelley (202) 566-2175.

Agency Contact: Keith G. Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3551

RIN: 1545-AJ07

2833. TREATMENT OF AN AFFILIATED GROUP OF CORPORATIONS AS A SELLING CONSOLIDATED GROUP FOR PURPOSES OF ELECTIVE RECOGNITION UNDER SECTION 338(h)(10)

Legal Authority: 26 USC 338 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide the guidance for making elections under section 338(h)(10) when the selling group is an affiliated group of corporations which does not file a consolidated Federal income tax return, and the consequences of making such an election.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-69-87

Drafting attorney: Keith Medleau (202) 566-3551.

TREAS—IRS

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Reviewing attorney: Christopher F. Kane (202) 566-3551.

Treasury attorney: Judge Kelley (202) 566-2175.

Agency Contact: Keith Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3551

RIN: 1545-AK32

2834. MULTIPLE TAXATION

Significance: Agency Priority

Legal Authority: 26 USC 338 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules on the determination of the amount of gain or loss recognized by a target corporation upon its deemed sale under section 338(a) of the stock of certain affiliates of the target corporation.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-051-89

Drafting attorney: Keith Medleau (202) 566-3551.

Reviewing attorney: Glenn R. Carrington (202) 566-3430.

Treasury attorney: Judd Kelley (202) 566-2175.

Agency Contact: Keith Medleau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3551

RIN: 1545-AN86

2835. AMENDMENT OF THE INCOME TAX REGULATIONS UNDER SECTION 367 OF THE CODE (TRANSFERS TO FOREIGN CORPORATIONS) TO REFLECT SECTION 131 OF THE TAX REFORM ACT OF 1984 (P.L. 98-369)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Income Tax Regulations under section 367 will be amended to reflect the changes made to that section by the Tax Reform Act of 1984. Section 367 now provides generally that a foreign corporation will not be considered to be a corporation, for purposes of certain nonrecognition provisions of the Code, upon the transfer of property to such corporation by a U.S. person. The statute provides certain exceptions to that rule, exemptions to those exceptions, and special rules applicable to certain specified transfers. The regulations will provide guidance concerning the applicability of the general rule and its exceptions and special rules, including guidance concerning transfers of assets for use in the active conduct of a trade or business, stock transfers, transfers of intangible assets, and transfers of branch operations that have operated at a loss.

Timetable:

Action	Date	FR Cite
NPRM	05/16/86	51 FR 17990
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-610-86

Drafting attorney: Elizabeth U. Karzon (202) 566-6442.

Reviewing attorney: Charles Saverude (202) 377-9493.

Treasury attorney: Marlin Risinger (202) 566-4979.

Agency Contact: Elizabeth U. Karzon, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6442

RIN: 1545-AK74

2836. INCOME TAX—PART 1—TEMPORARY-WHETHER EARNINGS AND PROFITS SHOULD BE ALLOCATED TO AN ACQUIRING CFC FROM AN ACQUIRED CFC FOLLOWING A NON-RECOGNITION TRANSACTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367 (b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Should earnings and profits be allocated to an acquiring CFC from an acquired CFC following a transaction which qualified for non-recognition treatment.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INTL-178-86

Drafting attorney: Bruce Davis (202) 566-9050.

Reviewing attorney: Bernard Bress (202) 566-3452.

Treasury attorney: Marlin Risinger (202) 566-4979.

Agency Contact: Bruce Davis, Special Assistant, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Room 4109, Washington, DC 20224, 202 566-9060

RIN: 1545-AI32

2837. CERTAIN CORPORATE DISTRIBUTIONS TO FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367 (e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal deals with whether gain should be recognized under section 367 (e) (1) and (2) on the distributor of stock, securities or other property.

Timetable:

Action	Date	FR Cite
NPRM	01/16/90	55 FR 1472
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-704-87

Drafting attorney: Charles P. Besecky (202) 566-6442,

Reviewing attorney: Charles C. Saverude (202) 377-9493.

Treasury attorney: Marlin Risinger (202) 566-5791.

Agency Contact: Charles P. Besecky, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6412

RIN: 1545-AL35

2838. INCOME TAX—EXCHANGE FUNDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 368(a)(2)(F) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules relating to reorganizations of undiversified investment companies.

Timetable:

Action	Date	FR Cite
NPRM	01/07/81	46 FR 1744
NPRM Comment Period End	03/08/81	46 FR 1744

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-135-78.

Drafting attorney: Robert M. Casey (202) 566-3551.

Reviewing attorney: Christopher F. Kane (202) 566-3551.

Agency Contact: Robert M. Casey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3551

RIN: 1545-AB21

2839. INCOME TAX—OWNERSHIP CHANGE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance on what constitutes "ownership change" under section 382 of the Internal Revenue Code of 1986 (generally, an "ownership change" is a shift in loss corporation stock ownership (after which the corporation's net operating loss carryovers are limited)).

Timetable:

Action	Date	FR Cite
NPRM	08/11/87	52 FR 29704
NPRM Comment Period End	10/13/87	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-106-86.

Drafting Attorney: Keith E. Stanley (202) 566-3367.

Reviewing Attorney: Charles M. Whedbee (202) 566-3290.

Treasury Attorney: Andrew Dubroff (202) 566-5453.

Agency Contact: Keith Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3367

RIN: 1545-AJ00

2840. COMPUTATION OF SECTION 382 LIMITATION

Legal Authority: 26 USC 382 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would explain the manner and method of computing the section 382 limitation under circumstances when there are successive ownership changes, capital contributions, mergers and liquidations, and in instances when one corporation controls another corporation.

Timetable:

Action	Date	FR Cite
Temporary Regulation	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information:

CO-66-87.

Drafting attorney: Keith E. Stanley (202) 566-3357.

Reviewing attorney: Charles M. Whedbee (202) 566-3290.

Treasury attorney: Andrew Dubroff (202) 566-5453.

Agency Contact: Keith E. Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3367

RIN: 1545-AK87

2841. ALLOCATION OF A LOSS CORPORATION'S INCOME OR LOSS FOR THE TAXABLE YEAR THAT INCLUDES THE CHANGE DATE BETWEEN THE PERIODS ENDING WITH AND AFTER THE CHANGE DATE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Except as provided in regulations, sections 382(b)(3)(A) and (d)(1) of the Internal Revenue Code of 1986 provide for a ratable allocation of income or net operating loss, respectively, for the taxable year that includes the change date. Notice 87-79, 1987-2 C.B. 387, states that regulations will, in certain cases, provide taxpayers with an election to allocate income and loss between the periods ending with and after the change date on the basis of a closing of their books as of the change date (rather than on the basis of a ratable allocation). The purpose of this regulations project is to implement the above mentioned portion of Notice 87-79 and to provide guidance in certain related areas.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-49-88

Drafting attorney: Roberta Mann (202) 566-3250.

Treasury attorney: Terril Hyde (202) 566-3277.

Agency Contact: Roberta Mann, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3250

RIN: 1545-AL58

TREAS—IRS

Final Rule Stage

2842. AMENDMENT OF SEC. 1.382-2T(H)(4)(X) TO GRANT THE IRS AUTHORITY TO DESIGNATE IN THE INTERNAL REVENUE BULLETIN ADDITIONAL OPTIONS TO BE EXCEPTED FROM ATTRIBUTION RULES OF SEC. 1.382-2T(H)(4)(I)

Legal Authority: 26 USC 382 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The purpose of this project is to amend the temporary regulations under section 382 of the Internal Revenue Code to grant the Internal Revenue Service the authority to designate in the Internal Revenue Bulletin additional options to be excepted from the attribution rules of section 1.382-2T(h)(4)(i).

Timetable:

Action	Date	FR Cite
NPRM	12/27/89	54 FR 52955
NPRM Comment Period End	02/26/90	54 FR 52955
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-010-89

Drafting attorney: Keith Stanley (202) 566-3367.

Reviewing attorney: Charles M. Whedbee (202) 566-3280.

Treasury attorney: Andrew Dubroff (202) 566-5453.

Agency Contact: Keith Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3367

RIN: 1545-AN76

2843. OPTION ATTRIBUTION; IMMEDIATELY BEFORE AND AFTER RULE

Legal Authority: 26 USC 382 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Clarification of the operation of the option attribution rule with respect to options outstanding immediately before and after an ownership change.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-062-89

Drafting attorney: David Madden (202) 566-3205.

Reviewing attorney: Charles Whedbee (202) 566-3280.

Treasury attorney: Thomas Wessel (202) 566-6277.

Agency Contact: David Madden, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3205

RIN: 1545-AO11

2844. FOREIGN CORPORATE FIRST TIER ENTITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.382-2T(k)(6)

Legal Deadline: None

Abstract: The temporary regulations under section 382 of the Code require loss corporations to identify their five percent shareholders and any five percent shareholders of the loss corporation's corporate shareholders. Foreign corporations do not always have the ability to identify their five percent shareholders. This project will consider whether the attribution, aggregation, and segregation rules under section 382 should be modified when applied to foreign corporate shareholders of a loss corporation, and whether the Service should substitute a more convenient inquiry for foreign corporate shareholders than the current five percent shareholder identification.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: CO-034-89

Drafting attorney: Robert M. Casey (202) 566-3551.

Reviewing attorney: William D. Alexander (202) 566-3544.

Agency Contact: Robert Casey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3551

RIN: 1545-AN61

2845. SPECIAL LIMITATIONS ON CERTAIN CREDIT AND LOSS CARRYOVERS

Legal Authority: 26 USC 383 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: NPRM, Statutory, September 21, 1992. NPRM, Judicial, September 21, 1992.

Abstract: The regulations would specify the manner and method on applying the special limitations on certain credit and loss carryovers under section 383.

Timetable:

Action	Date	FR Cite
NPRM	09/20/89	54 FR 38695
NPRM Comment Period End	11/20/89	54 FR 38695
Final Action	12/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-66-87

Drafting attorney: Lori Jones (202) 566-6212.

Reviewing attorney: Charles M. Whedbee (202) 566-3280.

Treasury attorney: Thomas Wessel (202) 566-6979.

Agency Contact: Lori Jones, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6212

RIN: 1545-AK20

2846. INCOME TAX—REFUND OF MISTAKEN CONTRIBUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401(a)(2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations describe those circumstances under which an employer contribution or withdrawal

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liability payment to a multiemployer pension plan may be refunded due to a mistake of law or fact.

Timetable:

Action	Date	FR Cite
NPRM	03/11/83	48 FR 10374
NPRM Comment Period End	05/10/83	48 FR 10374
Final Action	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-133-80.

Drafting attorney: John T. Ricotta (202) 566-4767.

Reviewing attorney: Michael A. Thrasher (202) 566-3578.

Agency Contact: John T. Ricotta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4767

RIN: 1545-AD66

2847. INCOME TAX—REQUIRED DISTRIBUTIONS FROM QUALIFIED PLANS AND INDIVIDUAL RETIREMENT ACCOUNTS AND PARTIAL ROLLOVERS OF INDIVIDUAL RETIREMENT ACCOUNTS

Legal Authority: 26 USC 408(a)(6) Internal Revenue Code of 1986; 26 USC 401(a)(9) Internal Revenue Code of 1986; 26 USC 408(b)(3) Internal Revenue Code of 1986; 26 USC 408(d)(3)(C) Internal Revenue Code of 1986; 26 USC 219(d)(4) Internal Revenue Code of 1986; 26 USC 403(b)(10) Internal Revenue Code of 1986; 26 USC 4974 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will revise the Income Tax Regulations to incorporate the changes made in the law by the Tax Equity and Fiscal Responsibility Act of 1982 and the Tax Reform Act of 1984, and Income Tax Reform Act of 1986 concerning the required distributions from qualified plans, individual retirement accounts and 403(b) annuities and custodial accounts.

Timetable:

Action	Date	FR Cite
NPRM	07/27/87	52 FR 28070
HEARING	12/04/87	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-113-82.

Drafting attorney: Marjorie Hoffman (202) 566-4747.

Reviewing attorney: Jerry Holmes (202) 566-4747.

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4747

RIN: 1545-AE95

2848. ● MISCELLANEOUS REGULATIONS FOR QUALIFIED PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401(a)(17) Internal Revenue Code of 1986; 26 USC 401(k) Internal Revenue Code of 1986; 26 USC 401(l) Internal Revenue Code of 1986; 26 USC 401(m) Internal Revenue Code of 1986; 26 USC 410(b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide guidance about the $200,000 compensation limitation under section 401(a)(17). This document also contains amendments to the proposed regulations under section 401(k), 401(m), 401(l), and 410(b) of the Code to provide further guidance.

Timetable:

Action	Date	FR Cite
NPRM	05/14/90	55 FR 19947
NPRM Comment Period End	07/13/90	55 FR 19947
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: EE-22-90

Drafting attorney: Rebecca Wilson/David Munroe (202) 535-3818.

Reviewing attorney: Mary Oppenheimer (202) 535-3818.

Agency Contact: David Munroe, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 535-3818

RIN: 1545-AO62

2849. INCOME TAX—PART 1—ADDITIONAL PARTICIPATION REQUIREMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401(a)(26) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: NPRM, Statutory, February 1, 1988.
02/01/88 Deadline for final regulations

Abstract: The regulations set forth rules relating to minimum participation requirements.

Timetable:

Action	Date	FR Cite
NPRM	02/14/89	54 FR 6710
NPRM Comment Period End	04/17/89	54 FR 6710
Hearing	10/30/89	54 FR 32453
NPRM Prior NPRM Withdrawn	05/14/90	55 FR 19935
Hearing	09/26/90	55 FR 19946
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-44-87

Drafting attorney: Michael Lloyd (202) 343-8954.

Reviewing attorney: Nancy Marks (202) 343-8954.

Agency Contact: Michael Lloyd, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 343-8954

RIN: 1545-AK46

2850. NONDISCRIMINATION REQUIREMENTS FOR QUALIFIED PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401(a)(4) Internal Revenue Code of 1986; 26 USC 410(b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation is intended to provide guidance concerning the application of sections 401(a)(4) and 410(b) of Internal Revenue Code. These

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sections require tax-qualified pension plans to meet certain nondiscrimination requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/14/90	55 FR 19997
NPRM Comment Period End	07/13/90	55 FR 19997
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-61-88

Drafting attorney: Rebecca Wilson (202) 343-8954.

Reviewing attorneys: Nancy Marks (202) 343-8054.

Agency Contact: Rebecca S. Wilson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 343-8854

RIN: 1545-AM95

2851. CASH OR DEFERRED ARRANGEMENTS (TAX REFORM ACT OF 1986)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401(k) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.401(k)

Legal Deadline: NPRM, Statutory, January 31, 1988.

Abstract: These regulations will provide rules relating to cash or deferred arrangements brought about because of the amendment of section 401(k) by the Tax Reform Act of 1986 and subsequent amendments thereto.

Timetable:

Action	Date	FR Cite
NPRM	06/08/88	53 FR 29719
NPRM Comment Period End	10/07/88	53 FR 29719
Hearing	01/27/89	54 FR 4045
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-175-86

Drafting attorney: Catherine L. Fernandez (202) 566-3050.

Reviewing attorney: Richard Lent (202) 566-3050.

Treasury attorney: Kurt Lawson (202) 566-2175.

Agency Contact: Catherine L. Fernandez, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3050

RIN: 1545-AI79

2852. INCOME TAX—PART 1—APPLICATION OF NONDISCRIMINATION RULES TO INTEGRATED PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401(l) Internal Revenue Code of 1986; 26 USC 401(a)(5) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: NPRM, Statutory, February 1, 1988. Final regulations are required to be issued by February 1, 1988.

Abstract: The regulations would provide rules with regard to the application of the nondiscrimination rules to integrated plans.

Timetable:

Action	Date	FR Cite
NPRM	11/15/88	53 FR 45917
NPRM Comment Period End	01/17/89	53 FR 45917
Public Hearing	06/29/89	54 FR 12925
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-150-86

Drafting attorney: Patricia McDermott (202) 566-4747.

Agency Contact: Patricia McDermott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4747

RIN: 1545-AI86

2853. NONDISCRIMINATION REQUIREMENTS FOR EMPLOYER MATCHING CONTRIBUTIONS AND EMPLOYEE CONTRIBUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401 (m) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.401(m)

Legal Deadline: NPRM, Statutory, January 31, 1988.

Abstract: These regulations will provide rules relating to nondiscrimination requirements for employer matching contributions and employee contributions. The regulations will also provide rules on computing the excise tax on excess contributions made under a cash or deferred arrangement and on excess aggregate contributions.

Timetable:

Action	Date	FR Cite
NPRM	06/08/88	53 FR 29719
NPRM Comment Period End	10/07/88	53 FR 29719
Hearing	01/27/89	54 FR 4045
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-160-86

Drafting attorney: Catherine L. Fernandez (202) 566-3050.

Reviewing attorney: Richard Lent (202) 566-3050.

Treasury attorney: Kurt Lawson (202) 566-2175.

Agency Contact: Catherine L. Fernandez, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3050

RIN: 1545-AI80

2854. INCOME TAX—DEDUCTION FOR CERTAIN FOREIGN DEFERRED COMPENSATION PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 404A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance relating to the limitations on deductions and adjustments to earnings and profits (or accumulated profits) with respect to certain foreign deferred compensation plans.

Timetable:

Action	Date	FR Cite
NPRM	04/08/85	50 FR 13821
NPRM Comment Period End	06/07/85	50 FR 13821
Hearing	09/20/85	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-14-81.

TREAS—IRS

Final Rule Stage

Drafting attorney: Elisabeth A. Purcell (202) 566-3251.

Reviewing attorney: Michael A. Thrasher (202) 566-3378.

Agency Contact: Elisabeth A. Purcell, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3251

RIN: 1545-AD61

2853. ANNUAL INFORMATION REPORTS BY TRUSTEES AND ISSUERS OF INDIVIDUAL RETIREMENT PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 408 Internal Revenue Code of 1986; PL 98-369, Sec 147

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: On June 28, 1983, the Internal Revenue Service issued news release IR-83-88 requiring new information reporting by trustees of individual retirement accounts and issuers of individual retirement annuities (including accounts and annuities that are simplified employee pensions). Form 5498, Individual Retirement Arrangement Information, was prescribed in the news release as the information return to be used for this purpose. This regulation project will amend the regulations under section 408 to conform them to the reporting requirements announced in the news release. In addition, section 147 of the Tax Reform Act of 1984 amended section 408 (i) of the Code to require that contributions be identified as to the taxable year to which they apply. This amendment will be included in this regulation.

Timetable:

Action	Date	FR Cite
NPRM	11/16/84	49 FR 45450
NPRM Comment Period End	01/15/85	49 FR 45450
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-65-83.

Drafting attorney: William Gibbs (202) 566-3050.

Reviewing attorney: A. Thomas Brisendine (202) 566-3050.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Paul Strella (202) 566-8277.

Agency Contact: William D. Gibbs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3060

RIN: 1545-AF83

2856. COVERAGE RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 410(b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: NPRM, Statutory, February 1, 1988.

Abstract: Rules relating to minimum coverage requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/19/89	54 FR 21437
NPRM Comment Period End	07/17/89	54 FR 21437
Hearing	11/29/89	54 FR 34790
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-173-88

Drafting attorney: Rebecca Wilson (202) 343-8954.

Reviewing attorney: Nancy J.Marks (202)343-8954.

Agency Contact: Rebecca Wilson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 343-8954

RIN: 1545-AK41

2857. INCOME TAX—PART 1—BENEFIT ACCRUAL BEYOND NORMAL RETIREMENT AGE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 411(b)(1)(H) Internal Revenue Code of 1986; 26 USC 411(b)(2) Internal Revenue Code of 1986; 26 USC 410(a)(2) Internal Revenue Code of 1986; 26 USC 411(a)(8)(B) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: Final, Statutory, February 1, 1988.
Final regulations are required to be issued by February 1, 1988.

Abstract: The regulations would provide rules with regard to benefit accruals after attainment of normal retirement age and maximum age conditions on participating in certain type of plans.

Timetable:

Action	Date	FR Cite
NPRM	04/11/88	53 FR 11876
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-184-86

Drafting attorney: Stephen H. Sherman (202) 566-3251.

Agency Contact: Stephen H. Sherman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3251

RIN: 1545-AI85

2858. INCOME TAX—PART 1—MINIMUM VESTING STANDARDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 410 Internal Revenue Code of 1986; PL 99-514, Sec 1113 Tax Reform Act of 1986; PL 99-514, Sec 1141 Tax Reform Act of 1986; 26 USC 411 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: Final, Statutory, February 1, 1988.
Deadline set by Section 1141 of PL 99-514 "Tax Reform Act of 1986."

Abstract: These regulations will amend existing rules to reflect changes made by section 1113 of the Tax Reform Act of 1986, relating to minimum vesting standards and participation standards.

Timetable:

Action	Date	FR Cite
NPRM	01/06/88	53 FR 261
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-167-86

Drafting attorney: T. Wolf (202) 566-3539.

Reviewing attorney: James Brokaw (202) 566-3496.

Cross-Reference to EE-73-87

TREAS—IRS

Final Rule Stage

Agency Contact: T. Wolf, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3539

RIN: 1545-AI66

2859. INCOME TAX—EMPLOYEES OF AN AFFILIATED SERVICE GROUP

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 414 (m) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules with regard to the aggregation of employees of certain organizations for purposes of certain pension requirements.

Timetable:

Action	Date	FR Cite
NPRM	02/26/83	48 FR 8293
NPRM Comment Period End	04/29/83	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-3-81.

Drafting attorney: Patricia McDermott (202) 566-4747.

Agency Contact: Patricia McDermott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4747

RIN: 1545-AD90

2860. INCOME TAX REGULATIONS—AFFILIATED SERVICE GROUPS AND EMPLOYEE LEASING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 414(n) Internal Revenue Code of 1986; 26 USC 414(m)(5) Internal Revenue Code of 1986; 26 USC 414(o) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules regarding the treatment of certain leased employees. In addition, the regulations will provide guidance regarding the aggregation of certain management companies as affiliated service groups.

Timetable:

Action	Date	FR Cite
NPRM	06/27/87	52 FR 32502
NPRM Comment Period End	10/26/87	
Hearing	12/02/87	52 FR 45835
Hearing	02/25/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-111-82.

Drafting attorney: Patricia McDermott (202) 566-4747.

Agency Contact: Patricia McDermott/Rhonda Migdail, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4747

RIN: 1545-AE91

2861. DEFINITION OF "HIGHLY COMPENSATED EMPLOYEE" AND "COMPENSATION"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 99-514, Sec 1114 Tax Reform Act of 1986; PL 99-514, Sec 1115 Tax Reform Act of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide rules relating to the definitions of "highly compensated", and "compensation", contained in subsections 414(q) and (s) of the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	02/19/88	53 FR 4999
Hearing	12/04/89	54 FR 30797
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-129-86

Drafting attorney: Marjorie Hoffman (202) 566-4747.

Reviewing attorney: Nancy J. Marks (202) 566-4621

Cross Reference to EE-74-87.

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4747

RIN: 1545-AI91

2862. ● DEFINITION OF COMPENSATION

Legal Authority: 26 USC 414(s) Internal Revenue Code of 1986; 26 USC 415(c)(3) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide rules relating to the definitions of compensation under sections 414(s) and 415(c)(3) of the Internal Revenue Code. These are the definitions used to apply the nondiscrimination provisions applicable to qualified plans and apply the limits on benefits and contribution in section 415.

Timetable:

Action	Date	FR Cite
NPRM	05/14/90	55 FR 19945
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-122-86

Drafting attorney: Marjorie Hoffman (202) 566-4747.

Reviewing attorney: Nancy J. Marks (202) 566-4621.

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4747

RIN: 1545-AO66

2863. TAXABLE YEARS OF CERTAIN ENTITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 441 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to S corporations, personal service corporations and partnerships, that must conform their taxable years, in general, to the taxable year of their owners.

TREAS—IRS

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/23/87	52 FR 48546
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-45-87

Drafting attorney: Arthur E. Davis III (202) 377-9581.

Reviewing attorney: Cynthia Clark (202) 566-9302.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-9581

RIN: 1545-AK62

2864. ELECTION OF TAXABLE YEAR OTHER THAN REQUIRED YEAR BY PARTNERSHIPS, S CORPORATIONS AND PERSONAL SERVICE CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 444 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides guidance with respect to elections of taxable years other than the required taxable year by partnerships, S corporations and personal service corporations.

Timetable:

Action	Date	FR Cite
NPRM	05/27/88	53 FR 19715
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-53-88

Drafting attorney: Arthur Davis (202) 377-9581.

Reviewing attorney: Cynthia Clark (202) 566-9302.

Agency Contact: Arthur Davis, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, Washington, DC 20224, 202 377-9581

RIN: 1545-AL68

2865. LIMITATION OF THE USE OF THE CASH METHOD OF ACCOUNTING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 448 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to certain C Corporations, partnerships with a corporate partner and tax shelters prohibited from using the cash method of accounting.

Timetable:

Action	Date	FR Cite
NPRM	06/16/87	52 FR 22796
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-122-86.

Drafting attorney: James A. Orefice (202) 566-3637.

Reviewing attorney: Mark Ely (202) 566-3637.

Treasury attorney: Marc Levy (202) 566-4902.

Agency Contact: James A. Orefice, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3637

RIN: 1545-AJ52

2866. NONACCRUAL-EXPERIENCE METHOD OF ACCOUNTING—CLARIFICATION OF AMOUNTS DETERMINED TO BE UNCOLLECTIBLE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 448(d)(5) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation project will clarify amounts determined to be uncollectible with respect to the nonaccrual-experience method of accounting under section 448 (d) (5).

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-79-88

Drafting attorney: James A. Orefice (202) 566-3637.

Reviewing attorney: Mark Ely (202) 566-3637.

Treasury attorney: Roy Strowd (202) 566-5902.

Agency Contact: James A. Orefice, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3637

RIN: 1545-AM33

2867. UNTIMELY COMPLIANCE WITH SECTION 448

Significance: Agency Priority

Legal Authority: 26 USC 448 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.448-1T

Legal Deadline: None

Abstract: Proposal would provide guidance to taxpayers that failed to comply with the effective date provision of Section 448 and the regulations thereunder.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-53-89

Drafting attorney: James A. Orefice (202) 566-3637.

Reviewing attorney: Cynthia L. Clark (202) 566-9302.

Treasury attorney: Roy Strowd (202) 566-4902.

Agency Contact: Jim Orefice, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3637

RIN: 1545-AN91

2868. ACCOUNTING FOR LONG-TERM CONTRACTS; CORPORATIONS FILING CONSOLIDATED RETURNS WITH A CONTRACTOR

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

TREAS—IRS

Final Rule Stage

Legal Deadline: None

Abstract: The regulation provides rules for the manufacturer of components and subassemblies reasonably expected to be incorporated in the subject matter of an extended period long-term contract in the case of members of a consolidated group.

Timetable:

Action	Date	FR Cite
NPRM	01/06/86	51 FR 3
NPRM Comment Period End	03/07/86	51 FR 3
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-121-85.

Drafting attorney: Carol Conjura (202) 535-9363.

Reviewing attorney: John M. Fischer (202) 566-6131.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Robert Scarborough (202) 566-6277.

Agency Contact: Carol Conjura, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 535-9363

RIN: 1545-AH19

2869. ● ELECTIVE DEFERRAL OF FEDERAL PAYMENTS RECEIVED AS A RESULT OF DESTRUCTION OR DAMAGE TO CROPS CAUSED BY NATURAL DISASTER

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.451-6

Legal Deadline: None

Abstract: This regulation will prescribe the conditions under which insurance proceeds received as a result of destruction or damage to crops (including federal disaster payments) will qualify for the deferral election provided in section 451(d).

Timetable:

Action	Date	FR Cite
NPRM	03/01/90	55 FR 7343
NPRM Comment Period End	04/30/90	55 FR 7343
Final Action	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-012-90

Drafting attorney: Val Strehlow (202) 377-9586.

Reviewing attorney: Doug Fahey (202) 566-4442.

Treasury attorney: Roy Strowd (202) 535-9959.

Agency Contact: Val Strehlow, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-9586

RIN: 1545-AO49

2870. INCOME TAX—GENERAL RULES FOR INSTALLMENT SALES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Treasury decision will provide general rules and rules for reporting contingent installment obligations.

Timetable:

Action	Date	FR Cite
NPRM	02/04/81	46 FR 10749
NPRM Comment Period End	04/06/81	46 FR 10749
Hearing	10/01/81	46 FR 40774
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-173-80.

Drafting attorney: Kathryn Nunzio (202) 343-2380.

Reviewing attorney: George Wright (202) 566-9583.

Treasury attorney: Marc Levy (202) 566-4902.

Agency Contact: George Wright, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 377-9583

RIN: 1545-AB42

2871. INCOME TAX—INSTALLMENT REPORTING—ASSET SALES AND LIQUIDATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for reporting gain in respect of installment obligations received as liquidating distributions from corporations under a plan of complete liquidation. Additionally includes rules regarding the allocation of consideration received in a multiple asset sale if a disposition of any one of the properties would qualify for installment sale treatment.

Timetable:

Action	Date	FR Cite
NPRM	01/13/84	49 FR 1742
NPRM Comment Period End	03/16/84	49 FR 1742
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-184-83.

Drafting attorney: Kathryn Nunzio (202) 343-2380.

Reviewing attorney: Doug Fahey (202) 566-4442.

Agency Contact: Kathryn Nunzio, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 343-2380

RIN: 1545-AB43

2872. INCOME TAX—INSTALLMENT OBLIGATIONS RECEIVED IN TRANSACTIONS IN WHICH GAIN OR LOSS IS GENERALLY NOT RECOGNIZED

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for reporting installment obligations that are received as boot in certain exchanges in which gain is not generally recognized.

TREAS—IRS

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	05/03/84	49 FR 18886

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-186-80.

Drafting Attorney: D. Lindsay Russell (202) 343-8281.

Reviewing Attorney: John M. Fischer (202) 566-3121.

Agency Contact: D. Lindsay Russell, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 343-8281

RIN: 1545-AB44

2873. TRANSITIONAL RULE RELATING TO CERTAIN INSTALLMENT SALES BY MANUFACTURERS TO DEALERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide guidance with respect to an exception from the general rules applicable to installment sales.

Timetable:

Action	Date	FR Cite
NPRM	07/12/88	53 FR 26279
NPRM Comment Period End	09/12/88	53 FR 26279

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-61-88

Drafting attorney: Phyllis Haney (202) 566-4440.

Reviewing attorney: Cynthia L. Clark (202) 566-3302.

Treasury attorney: Roy Strowd (202) 566-4902.

Agency Contact: Phyllis Haney, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4440

RIN: 1545-AL55

2874. SPECIAL RULES FOR NONDEALERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will provide rules relating to the pledging rules and special interest charge of section 453A.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-025-89

Drafting Attorney: James A. Orefice (202) 566-3637.

Reviewing Attorney: Cynthia L. Clark (202) 566-3302.

Treasury Attorney: Roy Strowd (202) 566-4902.

Agency Contact: James Orefice, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 566-3637

RIN: 1545-AN13

2875. CERTAIN INDEBTEDNESS TREATED AS PAYMENTS ON INSTALLMENT OBLIGATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453C Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules for treating certain indebtedness as payment on installment obligations.

Timetable:

Action	Date	FR Cite
NPRM	09/09/88	53 FR 34778
NPRM Comment Period End	11/07/88	53 FR 34778

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-82-88

Drafting attorney: Phyllis Haney (202) 566-4440.

Reviewing attorney: Cynthia Clark (202) 566-3302.

Treasury attorney: Roy Strowd (202) 566-4902.

Agency Contact: Phyllis Haney, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4440

RIN: 1545-AM37

2876. INCOME TAX—EXCLUSION FROM GROSS INCOME WITH RESPECT TO MAGAZINES, PAPERBACKS, AND RECORD RETURNS AFTER CLOSE OF TAXABLE YEAR

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 458 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules on the exclusion from gross income of income attributable to the sale of magazines, paperbacks, or records that are returned.

Timetable:

Action	Date	FR Cite
NPRM	08/31/84	49 FR 34520

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-195-78.

Drafting Attorney: Edward C. Schwartz (202) 566-3861.

Reviewing Attorney: Vincent Cardella (202) 566-4425.

Agency Contact: Edward C. Schwartz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3861

RIN: 1545-AB48

2877. ACCOUNTING FOR LONG-TERM CONTRACTS

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 460 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

TREAS—IRS

Final Rule Stage

Abstract: The regulations will provide rules relating to accounting for costs incurred in the performance of long-term contracts.

Timetable:

Action	Date	FR Cite
NPRM	06/12/90	55 FR 23755
Hearing	08/24/90	55 FR 23776
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-130-86

Drafting attorney: Carol Conjura (202) 535-9383.

Reviewing attorney: Thomas Luxner (202) 566-4495.

Treasury attorney: Robert Scarborough (202) 566-8277.

Agency Contact: Carol Conjura, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224; 202 535-9563

RIN: 1545–AJ28

2878. INCOME TAX REGULATIONS—THE ECONOMIC PERFORMANCE REQUIREMENT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 461 (h) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide guidance relating to when economic performance occurs with respect to a liability and how the recurring item exception applies.

Timetable:

Action	Date	FR Cite
NPRM	06/07/90	55 FR 23235
Final Action	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-258-84.

Drafting attorney: Bill Blagg (202) 566-3294.

Reviewing attorney: Cynthia Clark (202) 566-6302.

Treasury attorney: Kathleen Ferrell (202) 566-5453.

Agency Contact: Bill Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3294

RIN: 1545–AH32

2879. INCOME TAX—LIMITATION ON DEDUCTIONS IN CASE OF FARMING SYNDICATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 464 Internal Revenue Code of 1986; 26 USC 276 (b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide that enterprises which qualify as farming syndicates must deduct expenses for feed, seed fertilizer, et cetera, only when used or consumed and to capitalize certain cost of poultry. Furthermore, farming syndicates are to capitalize certain expenses of groves, orchards and vineyards to the extent such expenses are incurred before the grove, orchard or vineyard becomes productive.

Timetable:

Action	Date	FR Cite
NPRM	11/15/83	48 FR 51936
NPRM Comment Period End	01/16/84	48 FR 51936
Hearing	03/08/84	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-144-76.

Drafting attorney: Raymond Bailey (202) 566-4440.

Reviewing attorney: Bernard Englander (202) 566-4440.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Robert Scarborough (202) 566-2928.

Agency Contact: Raymond Bailey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4440

RIN: 1545–AB51

2880. INCOME TAX—DETERMINATION OF AMOUNTS AT RISK WITH RESPECT TO CERTAIN ACTIVITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 465 Internal Revenue Code of 1986; PL 94-455, Sec 204 Tax Reform Act of 1976

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to taxpayers for purposes of determining the amount the taxpayer is at risk in certain activities. This guidance is necessary because a taxpayer's deductions are limited to the amount the taxpayer is at risk in the activity. This at risk limit applies to most activities except the holding of real property and certain equipment leasing by closely-held corporations.

Timetable:

Action	Date	FR Cite
NPRM	06/05/79	44 FR 32235
NPRM Comment Period End	08/06/79	44 FR 32235
Hearing	09/27/79	44 FR 49701
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-168-76.

Drafting attorney: Charles Alton (202) 377-9660.

Reviewing attorney: William P. O'Shea (202) 566-3244.

Treasury attorney: John H. Parcell (202) 535-0905.

Agency Contact: Charles Alton, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 377-9660

RIN: 1545–AB52

2881. AGGREGATION OF CERTAIN ACTIVITIES FOR PURPOSES OF THE AT-RISK RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 465 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This temporary regulation will provide rules for aggregating certain activities for purposes of applying the at-risk rules under section 465. In general, the at-risk rules limit the amount of loss deductible in a taxable year with respect to an activity to the amount the taxpayer is at risk in the activity.

TREAS—IRS

Final Rule Stage

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-155-85.

Drafting Attorney: Charles Alton (202) 377-9460.

Reviewing Attorney: Frances D. Schafer (202) 566-3629.

Treasury Attorney: John H. Parcell (202) 566-3764.

Agency Contact: Charles Alton, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 377-9460

RIN: 1545–AH41

2883. REGULATIONS WILL PROVIDE GUIDANCE ON WHAT CONSTITUTES AN INTEREST OTHER THAN THAT OF A CREDITOR

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 465 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance on what constitutes an interest other than that of a creditor.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-063-89

Drafting attorney: Charles Alton (202) 377-9460.

Reviewing attorney: William O'Shea (202) 566-3344.

Treasury attorney: John Parcell (202) 535-0956.

Agency Contact: Charles Alton, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W, Washington, DC 20224, 202 377-9460

RIN: 1545–AO32

2883. NUCLEAR DECOMMISSIONING RESERVE FUNDS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.468A-5(a)

Legal Deadline: None

Abstract: The proposed regulation will amend parts of the regulations under section 468A of the Code to resolve an apparent inconsistency in such regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/26/90	55 FR 26460
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-007-90

Drafting attorney: Peter C. Friedman (202) 566-3553.

Reviewing attorney: Charles B. Ramsey (202) 566-3553.

Treasury attorney: Kathleen Ferrell (202) 566-2175.

Agency Contact: Peter C. Friedman, Senior Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3553

RIN: 1545–AO42

2884. ● TAXATION OF SETTLEMENT FUNDS

Significance: Agency Priority

Legal Authority: 26 USC 468B Internal Revenue Code of 1986

CFR Citation: None

Legal Deadline: None

Abstract: Under prior law, if a liability required payment to another person and arose out of tort, the obligor was permitted a deduction only as payments were made to such person. See IRC Section 401(h)(2)(c). The obligor was not permitted to accrue a deduction when it made payment to a settlement fund; rather, it was permitted to accrue a deduction only as payments were made from the settlement fund to the person to which the liability is owed. IRC Section 468B clarifies that under certain limited circumstances a payment to a settlement fund in respect of tort liability is deductible by the obligor. The provision applies only to published payments made to a designated settlement fund. The regulations will address the requirements for a qualified payment of a disputed settlement fund. The regulations will also address the taxation of a designated settlement fund. Under prior law, income earned on amounts deposited in settlement funds were not subject to tax until distribution to the claimants. See Rev. Rul. 71-119, 1979-1 C.B. 103; (cont)

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: ABSTRACT CONT:Rev. Rul. 70-567, 1970-2 C.B. 133. IRC 468B provides for the correct taxation of income earned by settlement funds, escrows, or similar funds. The proposed regulations will address the taxation of settlement funds that are not designated settlement funds.

Drafting attorney: Robert A. Testoff (202) 566-4440.

Reviewing attorney: Cynthia L. Clark (202) 566-6302.

Treasury attorney: Unassigned.

IA-054-90

Agency Contact: Robert Testoff, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4440

RIN: 1545–AO99

2885. LIMITATIONS ON PASSIVE ACTIVITY LOSSES AND CREDITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 469 (l) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.469-0T; 26 CFR 1.469-1T; 26 CFR 1.469-2T; 26 CFR 1.469-3T; 26 CFR 1.469-5T; 26 CFR 1.469-11T

Legal Deadline: None

Abstract: The proposed regulations address essential issues in connection with passive activity losses and credits.

TREAS—IRS

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	02/25/88	53 FR 5733
Hearing	06/28/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-14-85

Drafting attorney: Dexter A. Johnson (202) 566-4751.

Reviewing attorney: Margaret M. O'Connor (202) 566-4751.

Treasury attorney: John H. Parcell(202) 535-0665.

Agency Contact: Dexter A. Johnson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 566-4751

RIN: 1545-AB26

2686. LIMITATIONS ON PASSIVE ACTIVITY LOSSES AND CREDITS—MISCELLANEOUS ISSUES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 469 (l) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.469-0T; 26 CFR 1.469-6T; 26 CFR 1.469-7T; 26 CFR 1.469-8T; 26 CFR 1.469-9T; 26 CFR 1.469-10T

Legal Deadline: None

Abstract: The proposed regulations address miscellaneous issues in connection with passive activity losses and credits.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: PS-063-88

Drafting Attorney: Dexter Johnson (202) 566-4751.

Reviewing Attorney: Margaret M. O'Connor (202) 566-4751.

Treasury Attorney: John H. Parcell (202) 566-6965.

Agency Contact: Dexter Johnson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4751

RIN: 1545-AM56

2687. ALLOCATION OF INTEREST EXPENSE AMONG EXPENDITURES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 469 (l)(4) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.163-8T

Legal Deadline: None

Abstract: The regulations will provide final rules for allocating interest expense for purposes of applying the passive loss, investment interest and personal interest limitations.

Timetable:

Action	Date	FR Cite
NPRM	07/02/87	52 FR 25036
NPRM Comment Period End	08/31/87	52 FR 25036
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-010-87

Drafting attorney: Robert N. Deitz (202) 566-3142.

Treasury attorney: Adam Handler (202) 535-0964.

Agency Contact: Robert N. Deitz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3142

RIN: 1545-AM83

2688. APPLICATION OF PASSIVE ACTIVITY LOSS AND CREDIT LIMITATIONS TO TRUSTS, ESTATES, AND THEIR BENEFICIARIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 0469(a)(2)(A) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.469-8T

Legal Deadline: None

Abstract: This regulation will describe how the passive loss limitations affect trusts and estates.

Timetable:

Action	Date	FR Cite
Temporary Regulation	07/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-089-89

Drafting attorney: Margaret O'Connor (202) 377-9682.

Reviewing Attorney: Frances D. Schafer (202) 566-3620.

Treasury Attorney: John Parcell (202) 566-2784.

Agency Contact: Margaret O'Connor, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6218

RIN: 1545-AN62

2689. LIMITATIONS ON PASSIVE ACTIVITY LOSSES AND CREDITS - MISCELLANEOUS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 469(l) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.469-2T

Legal Deadline: None

Abstract: Regulation excludes certain casualty and theft losses from passive activity deductions and otherwise amends existing regulations.

Timetable:

Action	Date	FR Cite
NPRM	02/28/90	55 FR 7008

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-065-89

Drafting attorney: Christine Ellison (202) 377-9685.

Reviewing attorney: Margaret O'Connor (202) 377-9680.

Treasury attorney: John Parcell (202) 566-2784.

Agency Contact: Christine Ellison, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4751

RIN: 1545-AO02

2690. PASSIVE ACTIVITY LOSS AND CREDIT LIMITATIONS—TECHNICAL AMENDMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 469(l) Internal Revenue Code of 1986

TREAS—IRS

Final Rule Stage

CFR Citation: 20 CFR 1.469

Legal Deadline: None

Abstract: Regulation will amend certain rules in existing regulations and possibly provide a safe harbor for moderate-income taxpayers.

Timetable:

Action	Date	FR Cite
Temporary Regulation	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-071-89

Drafting attorney: Dexter A. Johnson (202) 566-4751.

Reviewing attorney: Margaret M. O'Connor (202) 566-4751.

Treasury attorney: John Parcell (202) 566-2784.

Agency Contact: Dexter A. Johnson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4751

RIN: 1545-AO93

2891. ◆ ALLOCATION OF INTEREST EXPENSE AMONG EXPENDITURES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 469(l)(4) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.163-8

Legal Deadline: None

Abstract: The regulations will set forth rules pursuant to which interest expense will be allocated among (1) trade or business interest (which is deductible), (2) investment interest (which is deductible subject to the limitations of section 163(d), (3) passive activity interest (which is deductible subject to the limitations of section 469), and (4) personal interest (which, pursuant to section 163(h), is not deductible. Finalizing temporary regulations used in T.D. 8145 (7/1/87).

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-043-90

Drafting attorney: Val Strehlow (202) 377-9588.

Reviewing attorney: George Wright (202) 377-9583.

Treasury attorney: Adam Handler (202) 566-2175.

Agency Contact: Val Strehlow, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-9588

RIN: 1545-AO93

2892. LIMITATIONS ON PASSIVE ACTIVITY LOSSES AND CREDITS—FORMER PASSIVE ACTIVITIES

Legal Authority: 26 USC 469 (f) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.469-1T(k)

Legal Deadline: None

Abstract: The regulations will provide rules concerning the treatment of former passive activities and changes in the status of certain corporations.

Timetable:

Action	Date	FR Cite
Temporary Regulation	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-37-89

Drafting attorney: Andrea Tucker (202) 377-9555.

Reviewing attorney: Margaret O'Connor (202) 377-9560.

Treasury attorney: John Parcell (202) 566-2784.

Agency Contact: Andrea Tucker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-9555

RIN: 1545-AN66

2893. LIMITATIONS ON PASSIVE ACTIVITY LOSSES AND CREDITS—$25,000 OFFSET FOR RENTAL REAL ESTATE ACTIVITIES

Legal Authority: 26 USC 0469(l) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.469-9T

Legal Deadline: None

Abstract: The regulation will address the offset of up to $25,000 from passive activity loss and passive credit limitations where the taxpayer is a natural person that actively participates in rental real estate activities and meets certain adjusted gross income requirements.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-040-89

Drafting Attorney: Christine Ellison (202) 377-9665.

Reviewing Attorney: Margaret O'Connor (202) 377-9660.

Treasury Attorney: John Parcell (202) 566-2784.

Agency Contact: Christine Ellison, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-9665

RIN: 1545-AN65

2894. APPLICATION OF PASSIVE ACTIVITY LOSS AND CREDIT LIMITATIONS TO INTERESTS IN PUBLICLY TRADED PARTNERSHIPS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 0469(l) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.469-10T

Legal Deadline: None

Abstract: This regulation will describe how the passive loss and credit limitations affect publicly traded partnerships and their partners.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-036-89

Drafting attorney: Ann Veninga (202) 377-9661.

Reviewing attorney: Margaret O'Connor (202) 377-9665.

Treasury attorney: John Parcell (202) 566-2784.

TREAS—IRS

Final Rule Stage

Agency Contact: Ann Veninga, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-9951

RIN: 1545–AN63

2995. LIMITATIONS ON PASSIVE ACTIVITY LOSSES AND CREDITS—DEFINITION OF ACTIVITY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 469(l) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.469-0T; 26 CFR 1.469-1T; 26 CFR 1.469-2T; 26 CFR 1.469-3T; 26 CFR 1.469-4T; 26 CFR 1.469-5T; 26 CFR 1.469-11T; 26 CFR 602.101

Legal Deadline: None

Abstract: Pursuant to the grant of authority in section 469(l), the regulations define "activity".

Timetable:

Action	Date	FR Cite
NPRM	05/12/89	54 FR 20606
NPRM Comment Period End	08/31/89	54 FR 20606
Public Hearing	11/28/89	54 FR 3254
Final Action	05/00/92	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-001-89

Drafting attorney: Dexter A. Johnson (202) 566-4751.

Reviewing attorney: Margaret M. O'Connor (202) 566-4751.

Treasury attorney: John H. Parcell (202) 535-8065.

Agency Contact: Dexter A. Johnson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4751

RIN: 1545–AM88

2996. LIMITATIONS ON PASSIVE ACTIVITY LOSSES AND CREDITS-SELF CHARGED ITEMS

Legal Authority: 26 USC 0469 (l) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.469-7T

Legal Deadline: None

Abstract: The regulation will address the treatment of self-charged items of income and expense in connection with transactions between passthrough entities and owners of interests in those entities.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: PS-039-89

Drafting attorney: Dexter Johnson (202) 377-9960.

Reviewing attorney: Margaret M. O'Connor (202) 566-4751.

Treasury attorney: John Parcell (202) 566-2784.

Agency Contact: Dexter Johnson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-9960

RIN: 1545–AN64

2997. SPECIAL RULES FOR ALLOCATION OF INTEREST EXPENSE AMONG EXPENDITURES IN THE CASE OF PASSTHROUGH ENTITIES

Legal Authority: 26 USC 469(l) Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.163-8T

Legal Deadline: None

Abstract: The regulation will address the treatment of interest expense on (1) debt allocated to distributions by passthrough entities; (2) repayment of passthrough entity debt; (3) debt allocated to expenditures for interests in passthrough entities; and (4) allocation of debt to loans between passthrough entities and interest holders.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-109-87

Drafting attorney: Dexter Johnson (2 2) 377-9960.

Reviewing attorney: Margaret M. O'Connor (202) 566-4751.

Treasury attorney: Adam A. Handler (202) 535-8004.

Agency Contact: Dexter Johnson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4781

RIN: 1545–AM79

2998. INCOME TAX—THREE-YEAR AVERAGING FOR INCREASES IN INVENTORY VALUE WHEN ELECTING LIFO METHOD OF ACCOUNTING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 472 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide for three-year averaging for increases in inventory value when electing the LIFO method of accounting.

Timetable:

Action	Date	FR Cite
NPRM	04/11/83	48 FR 6134
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-254-81.

Drafting attorney: Richard O. Davis (202) 343-2383.

Reviewing attorney: Eric Ploet (202) 566-3261

Agency Contact: Richard O. Davis, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 343-2383

RIN: 1545–AB55

2999. SIMPLIFIED DOLLAR VALUE LIFO METHOD FOR CERTAIN SMALL BUSINESSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 474 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The temporary regulations would provide guidance to certain small businesses that are eligible to elect a simplified dollar-value LIFO method of inventory valuation. This method requires the use of published government indexes.

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Final Rule Stage

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-36-87

Drafting attorney: Richard O. Davis (202) 343-2383.

Reviewing attorney: Eric Fleet (202) 566-3361.

Treasury accountant advisor : Marc Levy (202) 535-0060.

Agency Contact: Richard O. Davis, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 343-2383

RIN: 1545-AN09

2900. INCOME TAX—RULES CLARIFYING THE REGULATIONS WITH RESPECT TO THE COMPUTATION OF "GROSS INCOME" OF AN ELECTRIC COOPERATIVE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 501(c)(12) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide that electric cooperatives would take into account costs of goods sold when determining income under the 85 percent member-income test.

Timetable:

Action	Date	FR Cite
NPRM	01/10/84	49 FR 1244
NPRM Comment Period End	03/12/84	49 FR 1244
Hearing held 5/31/84	05/28/84	49 FR 1186
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-17-81.

Drafting attorney: Elizabeth A. Purcell (202) 566-3251.

Reviewing attorney: Richard J. Wickenheiser (202) 566-6221.

Agency Contact: Elizabeth A. Purcell, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3251

RIN: 1545-AD09

2901. INCOME TAX—LIMITATION ON ADDITIONS TO BANK LOSS RESERVES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 585 Internal Revenue Code of 1986; PL 97-34, Sec 273

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would impose a requirement of a minimum addition to bad debt reserves of mutual savings banks in order to conform the treatment of these institutions to financial institutions described in section 585.

Timetable:

Action	Date	FR Cite
NPRM	12/19/83	48 FR 56083
NPRM Comment Period End	02/17/84	48 FR 56083

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: FI-152-79.

Drafting attorney: Eric E. Boody (202) 566-4336.

Reviewing attorney: Alice Bennett (202) 566-3287.

Agency Contact: Eric E. Boody, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4336

RIN: 1545-AB66

2902. TAX CONSEQUENCES OF FEDERAL FINANCIAL ASSISTANCE PROVIDED IN CONNECTION WITH TAXABLE ASSET ACQUISITIONS OF TROUBLED FINANCIAL INSTITUTIONS

Legal Authority: 26 USC 597 Internal Revenue Code of 1986, as amended

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: Purpose of regulation is to implement changes to Section 597 by FIRREA. The FDIC needs this guidance to facilitate the reorganization of failed S&L's.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: FI-045-89

Drafting attorney: Bernita Thigpen (202) 566-3829.

Reviewing attorney: Steven Glickstein (202) 566-3346.

Treasury attorney: Kathleen Ferrell (202) 566-2175.

Agency Contact: Bernita Thigpen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3829

RIN: 1545-AN70

2903. ● THE EXCLUDABILITY OF OIL AND GAS BONUS OR ADVANCE ROYALTY PAYMENTS FOR PURPOSES OF THE BONUS EXCLUSION RULE UNDER SECTION 1.613-2(C)(5) OF THE INCOME TAX REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 613 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide rules on whether oil and gas bonuses or advanced royalties should be excluded by the payor for purposes of the bonus exclusion rule.

Timetable:

Action	Date	FR Cite
Final Action	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-14-90

Drafting attorney: Jonathan P. Hadfield (202) 535-9095.

Reviewing attorney: Joseph Makurath 9202) 535-9090.

Agency Contact: Jack Hadfield, Tax Law Specialist, Department of the Treasury, Internal Revenue Service,

TREAS—IRS

Final Rule Stage

1111 Constitution Avenue, NW., Washington, DC 20224, 202 535-0555

RIN: 1545-AO55

2904. INCOME TAX—SUPPLEMENTARY RULES ON LIMITATIONS ON PERCENTAGE DEPLETION FOR OIL & GAS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 613 (a) Internal Revenue Code of 1986; 26 USC 703 (a) Internal Revenue Code of 1986; 26 USC 705 (a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would clarify the circumstances under which percentage depletion will be available in the case of oil and gas wells.

Timetable:

Action	Date	FR Cite
NPRM	05/13/77	42 FR 24279
Hearing	08/31/78	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-105-75.

Drafting attorney: H. Grace Kim (202) 566-4819.

Reviewing attorney: Walter Woo (202) 535-0545.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Barksdale Penick (202) 566-5453.

Agency Contact: H. Grace Kim, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4819

RIN: 1545-AB73

2905. TRANSFERS BY INDIVIDUALS TO CORPORATION UNDER SECTION 613A (C)(10)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 613A(c)(10) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would provide guidance to taxpayers using the section 613A(c)(10) exception to the transfer rules under section 613A(c)(9). In general section 613A(c)(9) disallows percentage depletion to the transferee of proven oil or gas property. Section 613A(c)(10) relates to the transfer of qualified property by an individual to a qualified transferee corporation solely in exchange for stock.

Timetable:

Action	Date	FR Cite
NPRM	10/03/84	49 FR 39076
NPRM Comment Period End	12/03/84	49 FR 39076
Hearing	03/15/85	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-35-81.

Drafting attorney: H. Grace Kim (202) 566-4819.

Reviewing attorney: Walter H. Woo (202) 535-0545.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Barksdale Penick (202) 566-5453.

Agency Contact: H. Grace Kim, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4819

RIN: 1545-AB74

2906. TAXABLE YEARS OF CERTAIN PARTNERSHIPS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 706 (b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules for determining the appropriate taxable year for certain partnerships.

Timetable:

Action	Date	FR Cite
NPRM	12/29/87	52 FR 49030
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-101-88.

Drafting attorney: Beverly A. Baughman (202) 566-3980.

Reviewing attorney: Rudi Pianert (202) 566-9293.

Treasury attorney: Barksdale Penick (202) 566-5453.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3980

RIN: 1545-AJ47

2907. PARTNERSHIP TERMINATION DISTRIBUTIONS

Significance: Agency Priority

Legal Authority: 26 USC 706 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.706-1

Legal Deadline: None

Abstract: In order to prevent the shifting of the tax consequences between partners with respect to pre-contribution gain or loss Congress amended section 704(c) of the Code in the Tax Reform Act of 1984 and again in the Revenue Reconciliation Act of 1989. Treasury believes that in order to fully implement the Congressional intent, the regulations under section 706(b)(1)(B) of the Code need to be amended to insure that the pre-contribution gain or loss is properly accounted for when a partnership liquidates and is reformed. Accordingly, it has been proposed that the regulations under section 706(b)(1)(B) be amended to insure that the pre-contribution gain or loss will be preserved in the liquidation reformation process.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-024-90

Drafting attorney: Steve Coleman (202) 566-3935.

Reviewing attorney: J. Thomas Hines (202) 566-6813.

Treasury attorney: Greg Marich (202) 566-6277.

Agency Contact: Steve Coleman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3935

RIN: 1545-AO20

2908. PARTNER'S SHARE OF PARTNERSHIP LIABILITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 98-369, Sec 79 Tax Reform Act of 1984

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations revise the Income Tax Regulations under section 752 of the Internal Revenue Code of 1954 to conform such regulations to changes in the law with respect to a partner's share of partnership liabilities.

Timetable:

Action	Date	FR Cite
NPRM	12/30/88	53 FR 53174
NPRM Comment Period End	03/30/89	53 FR 53174
Amended Notice of Proposed Rulemaking	11/21/89	54 FR 48117
Extension of comment period NPRM to 01/19/90	11/21/89	54 FR 48117
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-229-84.

Drafting attorney: Mary A. Munday (202) 377-9470.

Reviewing attorney: Dianna Miosi (202) 566-6070.

Treasury attorney: Greg Marich (202) 566-2175.

Agency Contact: Mary A. Munday, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 377-9470

RIN: 1545-AH28

2909. IMPUTED EARNINGS RATE FOR MUTUAL LIFE INSURANCE COMPANIES

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 809 (d) Internal Revenue Code of 1986; 26 USC 809 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance to mutual life insurance companies regarding the computation of the imputed earnings rate.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-159-84.

Drafting attorney: Katherine A. Hossofsky (202) 566-3458.

Reviewing attorney: Steve Hooe (202) 566-3294.

Agency Contact: Katherine A. Hossofsky, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3458

RIN: 1545-AG83

2910. TREATMENT OF SALVAGE RECOVERABLE UNDER SECTION 832

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 832 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.832

Legal Deadline: None

Abstract: Regulations postpone the effective date of rules relating to the treatment of salvage and reinsurance in the computation of the losses incurred deductions of section 832(b)(5).

Timetable:

Action	Date	FR Cite
NPRM	03/14/90	55 FR 9464

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-078-89

Drafting attorney: William Blagg (202) 566-3294.

Reviewing attorney: Stephen Hooe (202) 566-3294.

Treasury attorney: Jeanne Hoenicke (202) 566-5453.

Agency Contact: Bill Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3294

RIN: 1545-AO17

2911. THE DEFINITION OF MODIFIED ENDOWMENT CONTRACT AND THE PROPER TREATMENT OF LOANS AND OTHER DISTRIBUTIONS FROM SUCH CONTRACTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7702A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.7702A; Not yet determined

Legal Deadline: None

Abstract: The regulation will provide guidance regarding the proper computation of the 7-pay premium. In addition, the regulation will elaborate on the rules for treatment of materially changed contracts. The regulations will also describe any adjustments to the 7-pay premiums due to small contracts or expenses solely attributable to the collection of premiums more frequently than annually. The regulations will also develop the effective date provisions.

Timetable:

Action	Date	FR Cite
Temporary Regulation	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-011-89

Drafting attorney: Barry Landau (202) 566-3458.

Reviewing attorney: Steve Hooe (202) 566-3459.

Treasury attorney: Jeanne Hoenicke (202) 566-2927.

Agency Contact: Barry Landau, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3458

RIN: 1545-AN49

2912. TREATMENT OF DESIGNATED HEDGES BY RICS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 851 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide rules concerning the treatment of designated hedges by regulated investment companies.

TREAS—IRS

Final Rule Stage

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-002-86

Drafting attorney: Susan E. Overlander (202) 566-3458.

Reviewing attorney: Steven R. Glickstein (202) 566-3287.

Treasury attorney: J. Judge Kelley (202) 566-2175.

Agency Contact: Susan E. Overlander, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3458

RIN: 1545-AM82

2913. TREATMENT OF CERTAIN LOSSES ATTRIBUTABLE TO PERIODS AFTER OCTOBER 31 OF A TAXABLE YEAR OF A REGULATED INVESTMENT COMPANY

Legal Authority: 26 USC 852(b)(3) Internal Revenue Code of 1986; 26 USC 852(b)(8) Internal Revenue Code of 1986; 26 USC 852(c) Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: The regulations would provide rules relating to certain losses attributable to periods after October 31 of a taxable year of a regulated investment company for purposes of determining taxable income, earnings and profits, and the amount which may be designated as capital gain dividends for a taxable year.

Timetable:

Action	Date	FR Cite
NPRM	01/31/90	55 FR 3231
NPRM Comment Period End	04/02/90	55 FR 3231
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-105-88

Drafting attorney: Lauren G. Shaw (202) 566-3828.

Reviewing attorney: William E. Coppersmith (202) 566-3335.

Treasury attorney: J. Judge Kelley (202) 566-2175.

Agency Contact: Lauren G. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3828

RIN: 1545-AM55

2914. REAL ESTATE MORTGAGE INVESTMENT CONDUITS (REMICS); REPORTING REQUIREMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6006 Internal Revenue Code of 1986; 26 USC 1275(c) Internal Revenue Code of 1986; 26 USC 6049(d)(7)(D)Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance on how to elect REMIC status, and the reporting requirements on REMICs and brokers or middlemen holding as nominees for the actual owner.

Timetable:

Action	Date	FR Cite
NPRM	09/07/89	54 FR 37125
Hearing	03/14/90	55 FR 1215
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-27-89

Drafting Attorney: James W. Canup (202) 566-3287.

Reviewing Attorney: Laura Ann M. Lauritzen (202) 566-3287.

Treasury Attorney: Adam Handler (202) 566-2175.5.

Agency Contact: James W. Canup, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 566-3458

RIN: 1545-AN52

2915. CALIFORNIA FRANCHISE TAX AND SECTION 1.861-8 ALLOCATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 861 Internal Revenue Code of 1986; 26 USC 862 Internal Revenue Code of 1986; 26 USC 863 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Clarification of allocation of deduction for state income and franchise taxes. Provides guidance in situations not addressed by current examples in regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/12/89	53 FR 49960
Hearing	05/16/90	54 FR 12200
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-112-88

Drafting attorney: David F. Chan (202) 377-9059.

Reviewing attorney: Thomas Puller (202) 377-9258.

Treasury attorney: Peter Barnes (202) 566-5815.

Agency Contact: David F. Chan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 377-9059

RIN: 1545-AM08

2916. SPECIAL RULES FOR DETERMINING SOURCE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 863 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulation provides the general rule for determining the source of scholarships and fellowship grants as defined under section 117. The source of such payments is determined by the residence of the payor. A special rule is provided for payments made by a U.S. payor to a nonresident alien studying abroad. In such circumstances, the source is considered to be foreign source.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/91	

Small Entities Affected: Governmental Jurisdictions, Organizations

TREAS--IRS

Final Rule Stage

Government Levels Affected: Local, State, Federal

Additional Information: INTL-797-89

Drafting Attorney: Carol P. Tello (202) 377-9569.

Reviewing Attorney: Thomas D. Fuller (202) 377-9282.

Treasury Attorney: Peter Barnes (202) 566-5815.

Agency Contact: Carol P. Tello, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-9569

RIN: 1545-AN94

2917. ALLOCATION OF GROSS INCOME ATTRIBUTABLE TO INTEREST RATE SWAPS UNDER SECTION 863 (A)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 863 (a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project provides source rules for income and expense attributable to interest rate swap agreements. Interest rate swap agreements are basically agreements used to hedge agreement interest rate fluctuation.

Timetable:

Action	Date	FR Cite
NPRM	08/01/88	54 FR 31703
NPRM Comment Period End	10/02/89	54 FR 31703
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-773-87

Drafting attorney: Charles T. Plambeck (202) 566-6284.

Reviewing attorney: Bob Katcher (202) 566-6795.

Treasury attorney: Peter Beub (202) 566-5871.

Agency Contact: Charles T. Plambeck, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6284

RIN: 1545-AL35

2918. ALLOCATION AND APPORTIONMENT OF INTEREST EXPENSE AND CERTAIN OTHER EXPENSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 864 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Notice of proposed rulemaking by cross-reference to temporary regulations providing rules for affiliated group allocation and apportionment of expenses other than interest that are not traceable to specific income producing activities or property of corporations.

Timetable:

Action	Date	FR Cite
NPRM	09/14/88	53 FR 35525
Hearing	02/21/89	54 FR 3084
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-952-86

Drafting attorney: David F. Bergkuist (202) 566-6442.

Reviewing attorney: Charles Saverude (202) 377-9493.

Treasury attorney: P. Ann Fisher (202) 566-4979.

Agency Contact: David F. Bergquist, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6442

RIN: 1545-AM20

2919. TREATMENT OF RELATED PERSON FACTORING INCOME; CERTAIN INVESTMENTS IN UNITED STATES PROPERTY; AND STOCK REDEMPTIONS THROUGH RELATED CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 864 (d) Internal Revenue Code of 1986; 26 USC 956 Internal Revenue Code of 1986; 26 USC 304 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986; 26 USC 864 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These rules will relate to the treatment of income derived by foreign corporations from factoring the receivables of related persons, rules relating to certain investments in U.S. property and stock redemptions through related corporations.

Timetable:

Action	Date	FR Cite
NPRM	06/14/88	53 FR 22186
NPRM Comment Period End	08/15/88	53 FR 22186
Hearing	02/09/89	53 FR 49595
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-49-86.

Drafting attorney: Phyllis E. Marcus (202) 566-6645.

Reviewing attorney: Phyllis E. Marcus (202) 566-6645.

Treasury attorney: Peter Barnes (202) 566-5815.

Agency Contact: Phyllis E. Marcus, Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6645

RIN: 1545-AH05

2920. TRANSITION RULES FOR ALLOCATION AND APPORTIONMENT OF INTEREST EXPENSE AND RULES CONCERNING THE TREATMENT OF FINANCIAL ARRANGEMENTS THAT ALTER EFFECTIVE INTEREST EXPENSE

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 864(e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The interest allocation transition rules are a complex set of provisions featuring a three part phase-in scheme. Particular statutory provisions are eligible for extended relief from the generally applicable phase-in rule. The interest equivalent portion of the regulations deals with the impact of financial products on the total amount of interest expense that is subject to allocation.

Timetable:

Action	Date	FR Cite
NPRM	08/02/89	54 FR 31858
Final Action	12/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-304-89

Drafting attorney: Christine E. Arquit (202) 566-6442.

Reviewing attorney: Charles Saverude (202) 377-9483.

Treasury attorney: P. Ann Fisher (202) 566-4979.

Agency Contact: Christine E. Arquit, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6442

RIN: 1545-AN10

2921. EMPLOYMENT TAXES—APPLICATION OF REPEAL OF 30 PERCENT WITHHOLDING BY TAX REFORM ACT OF 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 871 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 35a

Legal Deadline: None

Abstract: Temporary regulations providing rules enforcing the exclusion from portfolio interest of interest received by certain related parties.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-921-87

Drafting attorney: Carl M. Cooper (202) 566-6795.

Reviewing attorney: Robert A. Katcher (202) 566-6795.

Treasury attorney: Marlin Risinger (202) 566-4979.

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitutuion Ave., NW., Washington, DC 20224, 202 566-6795

RIN: 1545-AM29

2922. UNTIMELY FILING BY FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules regarding deductibility of expenses by a foreign corporation that does not file a timely tax return.

Timetable:

Action	Date	FR Cite
NPRM	07/31/89	54 FR 31545
Final Action	12/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INTL-177-88

Drafting attorney: Richard Chewning (202) 566-3452.

Reviewing attorney: Bernard Bress (202) 566-3452.

Treasury attorney: Peter Barnes (202) 566-5615.

Agency Contact: Richard Chewning, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3452

RIN: 1545-AJ74

2923. BRANCH PROFITS TAX (GENERAL RULE AND DEFINITIONS) AND 2ND LEVEL WITHHOLDING TAXES

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 884 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance on the calculation of the branch profits tax. The regulations will provide rules for the treatment of interest allocable to effectively connected income.

Timetable:

Action	Date	FR Cite
NPRM	09/02/88	53 FR 34120
Hearing	01/17/89	53 FR 49208
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-634-88

Drafting attorney: Richard M. Elliott (202) 566-4853.

Reviewing attorney: Benedetta A. Kissel (202) 566-6442.

Treasury attorney: Ann Fisher (202) 566-4979.

Agency Contact: Richard M. Elliott, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 377-4853

RIN: 1545-AJ73

2924. INCOME OF FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 892 (c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Notice of Proposed Rulemaking by Cross-reference to temporary regulations regarding the taxation of income of foreign governments and international organizations.

Timetable:

Action	Date	FR Cite
NPRM	06/27/88	53 FR 24100
NPRM Comment Period End	08/26/88	53 FR 24100
Final Action	12/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-295-88

Drafting attorney: David A. Juster (202) 566-3452.

Reviewing attorney: Bernard T. Bress (202) 566-3452.

Treasury attorney: Ron Watson (202) 343-0247.

Agency Contact: David A. Juster, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3452

RIN: 1545-AL03

TREAS—IRS

Final Rule Stage

2925. INCOME TAX—PARTNERSHIP RULES REGARDING TAXATION OF FOREIGN INVESTMENT IN U.S. REAL PROPERTY INTERESTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 897(e)(2) Internal Revenue Code of 1986; 26 USC 897(g) Internal Revenue Code of 1986; 26 USC 1445(e)(5) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would provide rules for foreign partners to compute gain or loss on the sale or disposition of United States real property interests upon the sale of a partnership interest or a distribution in liquidation of a partnership interest.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-48-86

Drafting attorney: James Sams (202) 566-6845.

Reviewing attorney: Charles Besecky (202) 566-3319.

Treasury attorney: Marlin Risinger (202) 566-5791.

Agency Contact: James Sams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6845

RIN: 1545-AB08

2926. NOTICE OF PROPOSED RULEMAKING—NONRECOGNITION OF CORPORATE DISTRIBUTIONS AND REORGANIZATIONS UNDER THE FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 897 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules concerning the effect of certain distributions including dividends, redemptions, distributions pursuant to reorganizations, and liquidations on corporations and their shareholders under the Foreign Investment in Real Property Tax Act. Proposal would also provide rules for determining the extent to which nonrecognition would apply to certain transfers of real property interests and the extent to which certain reorganizations will be treated as sales of property at fair market value.

Timetable:

Action	Date	FR Cite
NPRM	05/05/88	53 FR 16233
Hearing	03/01/89	54 FR 1189
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-491-87

Drafting attorney: Leslie A. Cracraft (202) 566-6442.

Reviewing attorney: Charles C. Saverude (202) 377-9493.

Treasury attorney: Marlin Risinger (202) 566-5791.

Agency Contact: Leslie A. Cracraft, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6442

RIN: 1545-AK79

2927. AMENDMENT OF SECTION 1.901-2(E)(3)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 901(i) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules to implement 1986 Tax Act amendment to Section 901 concerning certain tax subsidiaries used by foreign governments. Proposal will deny foreign tax credit to the extent that there is a subsidy.

Timetable:

Action	Date	FR Cite
NPRM	11/15/88	53 FR 45942
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-942-86

Drafting attorney: Carol E. Murphy (202) 566-6284.

Reviewing attorney: Charles C. Saverude (202) 377-9493.

Treasury attorney: Peter Byrne (202) 566-4979.

Agency Contact: Carol E. Murphy, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6284

RIN: 1545-AJ90

2928. INCOME TAX—TAXPAYER'S OBLIGATION TO FILE A NOTICE OF REDETERMINATION OF FOREIGN TAX AND CIVIL PENALTIES FOR FAILURE TO FILE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 905 (c) Internal Revenue Code of 1986; 26 USC 6689 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 301; 26 CFR 602

Legal Deadline: None

Abstract: The regulations will establish procedures for taxpayers by which they must notify the Service of a change in foreign tax liability for a taxable year for which they claimed the foreign tax credit. The regulations provide special rules for redetermining the taxpayer's United States tax liability when the dollar value of the foreign currency fluctuates between the time for which the foreign tax credit is originally claimed and the time for which the foreign tax credit is redetermined. In addition, the regulations set forth deadlines for compliance with the notification requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/23/88	53 FR 23659
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-61-88

Drafting attorney: Eli J. Dicker (202) 566-3452.

Reviewing attorney: Carol Doran Klein (202) 566-3452.

Treasury attorney: David Crowe (202) 566-4791.

TREAS—IRS

Final Rule Stage

Agency Contact: Eli J. Dicker, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3452

RIN: 1545–AC09

2929. AMENDMENT OF REGULATIONS UNDER SECTION 907 OF THE INTERNAL REVENUE CODE OF 1954 TO CONFORM THEM TO SECTION 211 OF THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 907 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would amend the regulations under section 907 of the Internal Revenue Code of 1954, relating to the foreign tax credit for taxes on oil and gas income, to conform them to section 211 of the Tax Equity and Fiscal Responsibility Act of 1982.

Timetable:

Action	Date	FR Cite
NPRM	01/23/89	54 FR 3083
NPRM Comment Period End	04/24/89	54 FR 3083
Final Action	12/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INTL-152-86.

Drafting attorney: Richard Chewning (202) 566-3452.

Reviewing attorney: Charles C. Saverude (202) 566-6845.

Treasury attorney: Peter Barnes (202) 566-6275.

Agency Contact: Richard Chewning, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3452

RIN: 1545–AE34

2930. FSC TRANSFER PRICING RULES, DISTRIBUTIONS, DIVIDENDS RECEIVED, DEDUCTION AND OTHER SPECIAL RULES FOR FSC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 925(b)(1) Internal Revenue Code of 1986; 26 USC 925(b)(2) Internal Revenue Code of 1986; 26 USC 927(d)(2)(B) Internal Revenue Code of 1986; 26 USC 927(e)(1) to 927(e)(2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for Application of the FSC Transfer Pricing Rules, Distributions, Dividends Received Deductions and Other Special FSC provisions.

Timetable:

Action	Date	FR Cite
NPRM	03/03/87	52 FR 6467
NPRM Comment Period End	05/02/87	52 FR 6467
Hearing	01/19/88	
Final Action	12/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INTL-153-86.

Drafting attorney: Richard Chewning (202) 566-3452.

Reviewing attorney: Carol Doran Klein (202) 566-3452.

Treasury attorney: Rom Watson (202) 343-0247.

Agency Contact: Richard Chewning, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3452

RIN: 1545–AI16

2931. INCOME TAX—DEFINITION OF QUALIFIED POSSESSION SOURCE INVESTMENT INCOME FOR PURPOSES OF PUERTO RICO & POSSESSION TAX CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 936(d)(2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide rules with respect to what constitutes qualified possession source investment income for purposes of the Puerto Rico and possession tax credit.

Timetable:

Action	Date	FR Cite
NPRM	01/21/86	51 FR 2726
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-44-90

Drafting attorney: W. Edward Williams (202) 287-4851.

Reviewing attorney: Christine Halphen (202) 377-9493.

Treasury attorney: Mary Bennett (202) 566-5815.

Agency Contact: W. Edward Williams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, SW., Washington, DC 20024, 202 287-4851

RIN: 1545–AC10

2932. CBI INVESTMENTS OF SECTION 936 FUNDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 936(d)(4) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Will define investments made in qualified Caribbean Basin countries that gives rise to interests or dividends available for the section 936 credit.

Timetable:

Action	Date	FR Cite
NPRM	09/22/89	54 FR 39001
NPRM Comment Period End	11/21/89	54 FR 39001
Hearing	03/19/90	55 FR 4953
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-068-89

Drafting attorney: W. Edward Williams (202) 287-4851.

Reviewing attorney: Christine Halphen (202) 377-9493.

Treasury attorney: Chiscon Lee (202) 343-0247.

Agency Contact: W. Edward Williams, Attorney-Adviser, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, SW., Washington, DC 20024, 202 287-4851

RIN: 1545–AM91

2933. CURRENT TAXATION OF FOREIGN OIL RELATED INCOME OF CONTROLLED FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 954 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would define and interpret when foreign oil related income will be subject to current taxation under section 954 of the Internal Revenue Code of 1954. Changes to the applicable law were made by section 212 of the Tax Equity and Fiscal Responsibility Act of 1982.

Timetable:

Action	Date	FR Cite
NPRM	08/27/87	52 FR 32308
NPRM Comment Period End	10/26/87	52 FR 32308
Final Action	12/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INTL-57-88.

Drafting attorney: Richard Chewning (202) 566-3452.

Reviewing attorney: Charles C. Saverude (202) 377-9433.

Treasury attorney: Peter Barnes (202) 566-5275.

Agency Contact: Richard Chewning, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3452

RIN: 1545-AE36

2934. SUBPART F DEFINITIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 954 Internal Revenue Code of 1986; 26 USC 957 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Definition of FPHC income. Particular issues include income equivalent to interest of property which does not give rise to income.

Timetable:

Action	Date	FR Cite
NPRM	07/21/88	53 FR 27532
Hearing	02/09/89	53 FR 49685
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-367-88

Drafting attorney: Phyllis E. Marcus (202) 566-6645.

Reviewing attorney: Phyllis E. Marcus (202) 566-6645.

Treasury attorneys: Peter Barnes (202) 566-5815 and Chisoon Lee (202) 566-8275.

Agency Contact: Phyllis E. Marcus, Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6645

RIN: 1545-AM15

2935. EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will develop procedures for foreign corporations or U.S. shareholders to make tax elections in computing functional currency earnings and profits under the 1986 Code.

Timetable:

Action	Date	FR Cite
NPRM	01/25/90	55 FR 2535
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-007-89

Drafting attorney: Carol E. Murphy (202) 566-6284.

Reviewing attorney: Robert A. Katcher (202) 566-6795.

Treasury attorney: Unassigned.

Agency Contact: Carol E. Murphy, Attorney-Adviser, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6284

RIN: 1545-AM90

2936. PROFIT AND LOSS TRANSITION RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 987 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project provides transition rules for those foreign branches of United States entities who used a profit and loss method of accounting prior to the enactment of the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	08/25/88	53 FR 32405
Final Action	12/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-393-88

Drafting attorney: Carol E. Murphy (202) 566-6284.

Reviewing attorney: Robert Katcher (202) 566-6795.

Treasury attorney: Chisoon Lee (202) 566-8275.

Agency Contact: Carol E. Murphy, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6284

RIN: 1545-AM13

2937. TAXATION OF EXCHANGE GAIN OR LOSS ON FOREIGN CURRENCY DENOMINATED TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 986 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project provides rules regarding the determination of gain or loss realized on section 988 transactions. Rules regarding the source and character of such gain or loss are also provided. The project also contains a definitional section which defines section 988 transactions, among other terms.

Timetable:

Action	Date	FR Cite
NPRM	09/21/89	54 FR 38874
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-465-89

Drafting attorney: Jeffrey Dorfman (202) 377-9059.

Reviewing attorney: Robert Katcher (202) 566-6284.

Treasury attorney: David Crowe (202) 566-5791.

Agency Contact: Jeffrey Dorfman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-9059

RIN: 1545–AN28

2934. CHANGE IN FUNCTIONAL CURRENCY AND DEFINITION OF WEIGHTED AVERAGED EXCHANGE RATE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 985 Internal Revenue Code of 1986; 26 USC 989 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project sets forth the adjustments that are necessary on a change in functional currency and the definition of weighted average exchange rate.

Timetable:

Action	Date	FR Cite
NPRM	09/20/89	54 FR 38694
NPRM Comment Period End	11/20/89	54 FR 38694
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-472-89

Drafting attorney: Carol E. Murphy (202) 566-6284.

Reviewing attorney: Robert Katcher (202) 566-6795.

Treasury attorney: Chisoon Lee (202) 566-6275.

Agency Contact: Carol E. Murphy, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6284

RIN: 1545–AN53

2935. TRANSITION RULE FOR QUALIFIED BUSINESS UNITS USING A NET WORTH METHOD OF ACCOUNTING FOR TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1987

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 989 (c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project provides transition rules for those foreign branches of United States entities who used a net worth method of accounting prior to the enactment of the Tax Reform Act of 1986. Under the Act, foreign branches must now account for their operations under the profit and loss method as set forth in section 987 of the Code.

Timetable:

Action	Date	FR Cite
NPRM	06/06/88	53 FR 20651
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-964-86

Drafting attorney: Carol E. Murphy (202) 566-6284.

Reviewing attorney: Robert Katcher (202) 566-6795.

Treasury attorney: Chisoon Lee (202) 566-6275.

Agency Contact: Carol E. Murphy, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6284

RIN: 1545–AL29

2940. PROPOSED INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1984 RELATING TO INTEREST CHARGE DISCS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 995 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Regulations will provide guidance relating to the Interest Charge imposed on DISC shareholders for taxable years ending after 1984. The regulations will explain how the Deemed Distribution is computed and how the Interest Charge is computed.

Timetable:

Action	Date	FR Cite
NPRM	02/02/87	52 FR 3256
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-043-86.

Drafting attorney: David Bergkuist (202) 566-6442.

Reviewing attorney: Jacob Feldman (202) 566-6845.

Treasury attorney: Unassigned.

Agency Contact: David Bergkuist, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6442

RIN: 1545–AG71

2941. REGULATIONS RELATING TO INAPPLICABILITY OF SECTION 1031 TO EXCHANGES OF PARTNERSHIP INTERESTS AND THE LIMITATION ON DEFERRED EXCHANGES

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance with respect to changes made to section 1031 by the Tax Reform Act of 1984 including the inapplicability of section 1031 to partnership interests and the limitation on the period during which like kind exchanges may be made.

Timetable:

Action	Date	FR Cite
NPRM	05/16/90	55 FR 20278
NPRM Comment Period End	07/27/90	20 FR 278
Hearing	09/05/90	55 FR 20280

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-237-84.

Drafting attorney: D. Lindsay Russell (202) 343-2381.

TREAS—IRS

Final Rule Stage

Reviewing attorney: John M. Fischer (202) 566-6131.

Treasury attorney: Adam Handler (202) 566-2175.

Agency Contact: D. Lindsey Russell, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 343-2261

RIN: 1545-AH43

2942. ADDITIONAL RULES FOR EXCHANGES OF PERSONAL PROPERTY AND FOR EXCHANGES OF MULTIPLE PROPERTIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1031 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation concerns the determination of like-kind property in single asset exchanges of personal property, exchanges of multiple assets, and exchanges of businesses. These regulations are intended to correct and clarify the current regulations under section 1031 of the code.

Timetable:

Action	Date	FR Cite
NPRM	04/26/90	55 FR 17635
Correction Notice	05/31/90	55 FR 22036
NPRM Comment Period End	07/25/90	55 FR 17635
Hearing	09/06/90	55 FR 20289
Final Action	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-012-89

Drafting Attorney: Arthur E. Davis III (202) 377-9581.

Reviewing Attorney: John Fischer (202) 566-6131.

Treasury Attorney: Adam Handler (202) 566-2175.

Agency Contact: Arthur E. Davis III, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 377-9581

RIN: 1545-AN36

2943. INCOME TAX—TRANSFERS OF SECURITIES UNDER CERTAIN AGREEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1058 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide that so long as the provisions of section 1058 and these regulations are met, the lender will neither recognize gain or loss on the transfer of securities nor upon the return of identical securities.

Timetable:

Action	Date	FR Cite
NPRM	07/26/83	48 FR 33912
NPRM Comment Period End	09/26/83	48 FR 33912
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-182-76.

Drafting attorney: Mark Smith (202) 566-3829.

Reviewing attorney: Al Kraft (202) 566-3297.

Agency Contact: Mark Smith, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3829

RIN: 1545-AC20

2944. INCOME TAX—SPECIAL ALLOCATION RULES FOR CERTAIN ASSET ACQUISITIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1060 Internal Revenue Code of 1986; 26 USC 755 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986; 26 USC 167 Internal Revenue Code of 1986; 26 USC 1031 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will explain and illustrate the application of the residual method of allocation to the purchase price in certain asset acquisitions. It will also provide certain informational reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/18/88	53 FR 27053
NPRM Comment Period End	11/15/88	53 FR 32699
Final Action	09/01/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-119-88.

Drafting attorney: Judith C. Winkler (202) 377-9665.

Reviewing attorney: Charles Wheelbee (202) 566-3280.

Treasury attorney: Kathleen Ferrell (202) 566-2175.

Agency Contact: Judith C. Winkler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-9665

RIN: 1545-AJ06

2945. CHARACTER OF GAINS AND LOSSES IN CASE OF STRADDLES WHERE AT LEAST ONE POSITION IS ORDINARY AND AT LEAST ONE POSITION IS CAPITAL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1092 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance with respect to the timing and character of gains and losses in case of straddles where at least one position is ordinary and at least one position is capital.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-108-88

Drafting attorney: Robert B. Williams (202) 566-4336.

Reviewing attorney: Alice Bennett (202) 566-3287.

Agency Contact: Robert B. Williams, Attorney, Department of the Treasury, Internal Revenue Service, 1111

Constitution Avenue, NW., Washington, DC 20224, [illegible]

RIN: 1545–AM57

2945. INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1984 RELATING TO MIXED STRADDLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1092(b)(1) Internal Revenue Code of 1986; 26 USC 1092(b)(2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to mixed straddles. The regulations will explain the application of the straddle-by-straddle identification rules of mixed straddles and the establishment of mixed straddle accounts.

Timetable:

Action	Date	FR Cite
NPRM	01/24/85	50 FR 3351
NPRM Comment Period End	03/25/85	50 FR 3351
Hearing	05/02/85	
Final Action	08/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-239-84.

Drafting attorney: Robert B. Williams (202) 4396.

Reviewing attorney: Alice Bennett (202) 566-3287.

Treasury attorney: Kathleen Ferrell (202) 566-2175.

Agency Contact: Robert B. Williams, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, [illegible]

RIN: 1545–AH59

2947. INCOME TAX REGULATIONS UNDER THE ECONOMIC RECOVERY TAX ACT OF 1981 AND THE TAX REFORM ACT OF 1984, RELATING TO STRADDLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1092 (b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to tax straddles. The regulations will explain the general loss deferral rule under section 1092, and the application of rules similar to section 1091 and 1233 to straddles.

Timetable:

Action	Date	FR Cite
NPRM	01/24/85	50 FR 3352
NPRM Comment Period End	03/25/85	50 FR 3352
Hearing	05/02/85	
Final Action	12/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-237-84.

Drafting attorney: Karl T. Walli (202) 566-3297.

Reviewing attorney: Steven R. Glickstein (202) 566-3297.

Treasury attorney: Kathleen Ferrell (202) 566-2175.

Agency Contact: Karl T. Walli, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, [illegible]

RIN: 1545–AH60

2948. INCOME TAX—GAIN FROM DISPOSITION OF INTEREST IN OIL OR GAS PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1254 Internal Revenue Code of 1986; 26 USC 751 Internal Revenue Code of 1986; PL 94-455, Sec 205 Tax Reform Act of 1976; PL 94-455, Sec 1901 Tax Reform Act of 1976; PL 95-618, Sec 402 Energy Tax Act of 1978

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will determine the tax treatment of gain from the disposition of certain oil, gas, or geothermal property to determine how much of the gain from the disposition is subject to recapture under section 1254 and accorded ordinary income treatment. The regulations also will define intangible drilling and development costs, disposition, and oil, gas and geothermal property for purposes of section 1254.

Timetable:

Action	Date	FR Cite
NPRM	08/11/80	45 FR 39512
NPRM Comment Period End	08/11/80	45 FR 39512
Hearing	09/09/80	
Final Action	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-276-78.

Drafting attorney: Richard Blumenreich (202) 566-3292.

Reviewing attorney: Charles Ramsey (202) 566-3553.

Treasury attorney: Barksdale Pemick (202) 566-6453.

Agency Contact: Richard Blumenreich, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, [illegible]

RIN: 1545–AC35

2949. REGULATIONS UNDER SECTION 1271 THROUGH 1275 RELATING TO TAX TREATMENT OF DEBT INSTRUMENTS HAVING ORIGINAL ISSUE DISCOUNT

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1275 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations would provide guidance as to computation of amount to be included in income by holders and amount to be deducted by issuers of certain bonds issued after July 1, 1982. With respect to these bonds, original issue discount is computed under a constant yield method. Guidance is also provided as to the computation of original issue discount in special circumstances where the bond contains a variable interest rate, where put and call options are present, where there are contingent payments, and in other circumstances.

Timetable:

Action	Date	FR Cite
NPRM	05/09/86	51 FR 12022
Hearing	11/17/86	51 FR 24162
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-186-84.

Drafting attorney: William E. Blanchard (202) 566-3825.

Reviewing attorney: Andrew Kittler (202) 566-4414.

Treasury attorney: Robert Scarborough (202) 566-2825.

Agency Contact: William E. Blanchard, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3825

RIN: 1545-AH40

2950. THE TREATMENT OF PRICE LEVEL ADJUSTMENT MORTGAGES UNDER THE ORIGINAL ISSUE DISCOUNT PROVISIONS OF THE CODE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1275(d) Internal Revenue Code of 1986; 26 USC 163(h) Internal Revenue Code of 1986; 26 USC 6050H Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide rules concerning the treatment of a price level adjusted mortgage under the provisions of the Code concerning original issue discount and qualified residence interest. The regulations also clarify the meaning of the term "interest" for purposes of information reporting for mortgage interest.

Timetable:

Action	Date	FR Cite
NPRM	01/09/90	55 FR 739
NPRM Comment Period End	04/09/90	55 FR 739
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-054-89

Drafting attorney: William E. Blanchard (202) 566-3825.

Reviewing attorney: Daniel P. Breen (202) 566-3394.

Treasury attorney: Robert Scarborough (202) 566-2825.

Agency Contact: William E. Blanchard, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3825

RIN: 1545-AO03

2951. PASSIVE FOREIGN INVESTMENT COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1294 Internal Revenue Code of 1986; 26 USC 1297(b)(1) Internal Revenue Code of 1986; 26 USC 1291(d)(2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provide guidance to passive foreign investment companies and their shareholders that are United States about the time, manner and other requirements for making certain elections.

Timetable:

Action	Date	FR Cite
NPRM	03/02/88	53 FR 6781
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-941-86

Drafting attorney: Gayle Novig (202) 377-9059.

Reviewing attorney: Tom Fuller (202) 377-9059.

Treasury attorney: Mary Bennett (202) 566-5992.

Agency Contact: Gayle Novig, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-9059

RIN: 1545-AI33

2952. INCOME TAX—DEFINITION OF S CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1361 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would address the following matters: (1) the number of permitted shareholders of a small business corporation, (2) the types of trusts that are permitted to be shareholders of a small business corporation, (3) whether shares are permitted to be owned as a split interest and (4) the rules relating to corporations that are ineligible to be an S corporation.

Timetable:

Action	Date	FR Cite
NPRM	10/07/87	51 FR 35659
NPRM Comment Period End	12/08/87	
Final Action	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-262-82.

Drafting Attorney: Noah S. Baer (202) 566-3822.

Reviewing Attorney: Thomas Hines (202) 566-6813.

Treasury Attorney: Robert Weaver (202) 535-0964.

Agency Contact: Noah S. Baer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3822

RIN: 1545-AE86

2953. AMENDMENT OF INCOME TAX REGULATIONS UNDER CODE SECTIONS 1362 AND 1363 RELATING TO THE ELECTION, REVOCATION, AND TERMINATION OF AN S CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1362 Internal Revenue Code of 1986; 26 USC 1363 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidelines for electing, revoking and terminating S corporation status.

Timetable:

Action	Date	FR Cite
NPRM	12/27/88	53 FR 52190
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-220-82.

Drafting Attorney: Andrea Tucker (202) 377-9665.

Reviewing Attorney: Richard Smith (202) 566-6016.

Treasury Attorney: Jim Miller (202) 566-8277.

Agency Contact: Andrea Tucker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 377-9565

RIN: 1545-AE26

2954. TEMPORARY REGULATION—APPLICATION OF SECTION 1374 BUILT-IN GAIN TAX TO C CORPORATION'S ELECTING S CORPORATION STATUS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1374 Internal Revenue Code of 1986; 26 USC 337 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will provide ruling relating to the section 1374 built-in gains tax to C corporations electing S corporation status.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-006-87

Drafting attorney: Mark S. Jennings (202) 566-2455.

Reviewing attorney: Nelson F. Crouch (202) 566-3223.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3455

RIN: 1545-AK91

2955. WITHHOLDING ON ITEMS OF INCOME COVERED BY AN INCOME TAX CONVENTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: These regulations relate to the withholding on certain items of income subject to a reduced rate of, or exemption from, U.S. tax under an income tax convention to which the United States is a party. These regulations would amend the existing regulations to provide a certification requirement for obtaining reduced rates of, or exemption from, U.S. withholding tax on payments of fixed or determinable annual or periodical income and certain other income.

Timetable:

Action	Date	FR Cite
NPRM	09/10/84	49 FR 35511
NPRM Comment Period End	11/09/84	49 FR 35511
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-178-86

Drafting attorney: Lilo A. Hester (202) 287-4851.

Reviewing attorney: George M. Sellinger (202) 287-4851.

Treasury attorney: Ann Fisher (202) 566-4979.

Agency Contact: Lila A. Hester, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, SW., Suite 3319, Washington, DC 20024, 202 287-4851

RIN: 1545-AH38

2956. WITHHOLDING OF TAX ON NON-RESIDENT ALIENS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1441 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.1441

Legal Deadline: None

Abstract: Section 864 (c) (8) of the Code, added in 1986, had the unintended effect of allowing nonresident alien individuals to elect out of all withholding on pension payments from qualified plans. The regulation corrects this inadvertent loophole and requires withholding on such payments.

Timetable:

Action	Date	FR Cite
NPRM	02/05/90	55 FR 3750
Final Action	12/00/91	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: INTL-960-89

Drafting attorney: Carol P. Tello (202) 377-9059.

Reviewing attorney: Thomas D. Fuller (202) 377-9059.

Treasury attorney: Peter Barnes (202) 566-5815.

Agency Contact: Carol P. Tello, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-9559

RIN: 1545-AN75

2957. WITHHOLDING RULES ON DISTRIBUTIONS ATTRIBUTABLE TO DISPOSITIONS OF U.S. REAL PROPERTY INTEREST BY PUBLICLY TRADED PARTNERSHIPS, TRUSTS AND REITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1445 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will address withholding upon proceeds of disposition of U.S. property real interests by publicly traded partnerships, publicly traded trusts and real estate investment trusts.

Timetable:

Action	Date	FR Cite
NPRM	12/24/86	51 FR 46666
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-179-86

Drafting attorney: John Dean (202) 377-9483.

Reviewing attorney: Christine Halphen (202) 566-6645.

Treasury attorney: Chisoon Lee (202) 566-4079.

Agency Contact: John Dean, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-9483

RIN: 1545-AM50

2958. TEMPORARY REGULATION ON WITHHOLDING TAX ON PAYMENTS FROM PARTNERSHIPS TO FOREIGN PARTNERS

Significance: Agency Priority

TREAS—IRS

Final Rule Stage

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1446 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation explains under what circumstances withholding is required under section 1446. It also explains the timing of withholding and how to pay over the withheld amounts to the Internal Revenue Service. Section 1446 was substantially amended by the Technical and Miscellaneous Revenue Act of 1988.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-635-88

Drafting attorney: Thomas L. Ralph (202) 377-9059.

Reviewing attorney: Thomas D. Fuller (202) 377-9059.

Treasury attorney: David Growe (202) 566-5791.

Agency Contact: Thomas L. Ralph, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-9059

RIN: 1545-AL32

2958. INCOME TAX—CREDIT & DEDUCTIONS ETC., FOR CONSOLIDATED RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provision would amend the consolidated returns regulations to clarify, among other things, the rules relating to net operating loss carrybacks of a member of an affiliated group filing consolidated returns to a year in which the member was not in existence, thereby giving the public needed guidance on what the rule is in that situation.

Timetable:

Action	Date	FR Cite
NPRM	07/31/84	49 FR 30526
NPRM Comment Period End	10/01/84	
Hearing	12/10/84	49 FR 47870
Final Action	09/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-97-79.

Drafting attorney: Roy Hirschhorn (202) 566-3231.

Reviewing attorney: John Broadbent (202) 566-3877.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Andrew Dubroff (202) 566-3453.

Agency Contact: Roy A. Hirschhorn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3231

RIN: 1545-AC48

2960. CROSS-REFERENCE—CONSOLIDATED RETURN INVESTMENT ADJUSTMENTS WITH RESPECT TO AN ACQUIRED SUBSIDIARY'S BUILT-IN GAINS OR LOSSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986; 26 USC 337 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal will prevent the consolidated return investment adjustments from reflecting the recognized built-in gains or losses of assets acquired in certain corporation acquisitions.

Timetable:

Action	Date	FR Cite
NPRM	09/14/90	55 FR 9463
NPRM Comment Period End	09/12/90	55 FR 13209
Hearing	09/26/90	55 FR 9464
Final Action	09/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-78-87

Drafting attorney: Mark S. Jennings (202) 566-2455.

Reviewing attorney: John Broadbent (202) 343-0555.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-2455

RIN: 1545-AK94

2961. CONSOLIDATED RETURN REGULATIONS; ADJUSTMENT ON DISPOSITION OF STOCK OF SUBSIDIARY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will finalize temporary regulation 1.1502-32T concerning basis reduction accounts that are created when a subsidiary is deconsolidated but members of the affiliated group retain some stock in the deconsolidated subsidiary.

Timetable:

Action	Date	FR Cite
NPRM	03/14/88	53 FR 8773
NPRM Comment Period End	05/16/88	53 FR 8773

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-28-88

Drafting attorney: Kenneth Cohen (202) 566-4324.

Reviewing attorney: John Broadbent (202) 566-4324.

Agency Contact: Kenneth Cohen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4324

RIN: 1545-AL59

2962. ADJUSTMENTS REFLECTING A RESTRUCTURING OF A CONSOLIDATED GROUP

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides rules for determining the basis and the

earnings and profits of members of a consolidated group following certain changes in the structure of the group where the group remains in existence. This regulation also provides for alternative agents of the group if the common parent ceases to be the common parent.

Timetable:

Action	Date	FR Cite
NPRM	09/06/88	53 FR 34779
Public Hearing Discussing the Issues Discussed in the NPRM	09/18/89	54 FR 28683
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-66-88

Drafting attorney: Sharon Horn (202) 566-4324.

Reviewing attorney: John Broadbent (202) 566-4324.

Treasury attorney: Andrew Dubroff (202) 566-5453.

Agency Contact: Sharon Horn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4524

RIN: 1545–AL62

2963. AMENDMENT OF CONSOLIDATED RETURN REGULATIONS REGARDING DEFERRAL OF GAIN OR LOSS ON COMPLETE LIQUIDATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance relating to the treatment of gain recognized upon complete liquidations of corporations in a consolidated group.

Timetable:

Action	Date	FR Cite
NPRM	04/18/88	53 FR 12705
NPRM Comment Period End	06/17/88	53 FR 12705

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-67-88

Drafting attorney: Roy Hirschhorn (202) 566-3231.

Reviewing attorney: John Broadbent (202) 566-4324.

Treasury attorney: Andrew Dubroff (202) 566-5453.

Agency Contact: Roy Hirschhorn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3231

RIN: 1545–AL63

2964. AMENDMENT OF CONSOLIDATED RETURN REGULATIONS TO ADDRESS TREATMENT OF CERTAIN ORGANIZATIONS WHOSE TAX-EXEMPT STATUS WAS REVOKED BY THE 1986 ACT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986; 26 USC 833 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will specify the consolidated return ramifications of the revocation of the Tax-Exempt status of certain organizations by section 1012 of the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-67-88

Drafting attorney: Jean M. Whalen (202) 566-3422.

Reviewing attorney: Edward S. Cohen (202) 566-3404.

Treasury attorney: J. Judge Kelley (202) 566-2175.

Agency Contact: Jean M. Whalen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3422

RIN: 1545–AL64

2965. CONSOLIDATED INVESTMENT CREDIT RECAPTURE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.1502-3(f)(2)

Legal Deadline: None

Abstract: Provision would amend section 1.1502-3 of the regulations when dealing with the transfer of section 38 property between members of an affiliated group. Currently section 1.1502-3(f)(2) provides that a transfer of section 38 property between members is not a "disposition" within the meaning of section 47 of the Code. The area of concern has been sales of section 38 property outside the group immediately after the transfer. The amendment to section 1.1502-3(f)(2) would incorporate the holding in Rev. Rul. 62-20, 1962-1 C.B. 6 which would require recapture.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-80-88

Drafting attorney: Roy Hirschhorn (202) 566-3231.

Reviewing attorney: John Broadbent (202) 566-3877.

Treasury attorney: Andrew Dubroff (202) 566-5453.

Agency Contact: Roy A. Hirschhorn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3231

RIN: 1545–AM35

2966. TREATMENT OF DIVIDEND DISTRIBUTIONS AFTER THE SALE OF A SUBSIDIARY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.1502-32 (T)

Legal Deadline: None

Abstract: When a subsidiary declares a dividend while a member of a consolidated group, but pays the dividend after disaffiliation from the consolidated group, the basis of the subsidiary's stock is not reduced by the

amount of the dividend. The problem is caused by a difference in timing of the two events (declaration of dividend and payment of dividend) and its effect on earnings and profits and basis. This regulation will alleviate the problem by providing that basis of the subsidiary's stock will be reduced when the subsidiary declares a dividend.

Timetable:

Action	Date	FR Cite
NPRM	03/16/89	54 FR 11067
Hearing	05/16/89	54 FR 20663

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-005-89

Drafting Attorney: Kenneth Cohen (202) 566-4324.

Reviewing Attorney: John Broadbent (202) 566-3484.

Treasury Attorney: J. Judge Kelley (202) 566-8529.

Agency Contact: Kenneth Cohen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 566-4324

RIN: 1545-AN12

2967. TRANSACTIONS BETWEEN MEMBERS INVOLVING COMMON NONTAXABLE EXCHANGES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.1502-13

Legal Deadline: None

Abstract: Section 1.1502-13 of the Income Tax Regulations provides the general rule that the term intercompany transaction means a transaction during a consolidated return year between corporations which are members of the same group. Section 1.1502-13 (f) provides as a general rule that deferred gain attributable to a selling member will be triggered when the asset leaves the group. The regulation, in effect, does not deal with a situation where a selling member exchanges property subject to Section 1.1502-13 rules in a nontaxable exchange to an outside party. Moreover, the current regulations do not adequately cover tax free transactions between members. This proposed regulation will provide rules for certain common nontaxable exchanges within the affiliated group.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: CO-028-89

Drafting attorney: Roy Hirschhorn (202) 566-3231.

Reviewing attorney: John Broadbent (202) 566-3877.

Treasury attorney: Andrew Dubroff (202) 566-8277.

Agency Contact: Roy Hirschhorn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3231

RIN: 1545-AN25

2968. CONSOLIDATED RETURN REGULATIONS—MODIFICATION OF RESTORATION RULES RELATING TO DEFERRED GAIN PROPERTY SOLD OUTSIDE THE GROUP IN INSTALLMENT SALE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.453A; 26 CFR 1.1502

Legal Deadline: None

Abstract: The regulations provide rules concerning the creation and restoration of deferred gain or loss. The purpose of the the regulations is to conform the original intent of the deferral mechanism by assuring that intercompany transfers generally do not affect the overall federal income tax consequences of the group.

Timetable:

Action	Date	FR Cite
NPRM	03/14/90	55 FR 9462
NPRM Comment Period End	05/14/90	55 FR 9462
Hearing	07/09/90	55 FR 9461

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-008-90

Drafting attorney: Roy Hirschhorn (202) 566-3231.

Reviewing attorney: Edward Cohen (202) 566-3484.

Treasury attorney: Judge Kelley (202) 566-8277.

Agency Contact: Roy Hirschhorn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3231

RIN: 1545-AO44

2969. DUAL RESIDENT COMPANIES-LIMITATION ON CONSOLIDATED LOSSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1503 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: If a United States corporation is subject to a foreign country's tax on worldwide income, or on a residence basis as opposed to a source basis, any taxable loss it incurs cannot reduce the taxable income of any other member of a United States affiliated group for any other taxable year. Where a corporation is subject to foreign tax on a residence basis, then for United States tax purposes, its loss will be of available to offset.

Timetable:

Action	Date	FR Cite
NPRM	09/06/90	54 FR 37346
NPRM Comment Period End	11/07/90	54 FR 37346
Hearing	03/02/90	55 FR 310
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-399-88

Drafting attorney: Sim S. Seo (202) 566-6845.

Reviewing attorney: David Bower (202) 566-6045.

Treasury attorney: Rom Watson (202) 343-0247.

Agency Contact: Sim S. Seo, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6845

RIN: 1545-AM16

TREAS—IRS

Final Rule Stage

2970. CROSS-REFERENCE—ALASKA NATIVE CORPORATIONS; REQUIREMENTS FOR AFFILIATION IN ORDER TO FILE A CONSOLIDATED RETURN

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1504 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal will provide rules relating to the affiliated requirements of Alaska Native Corporations with certain other corporations in order to file a consolidated return.

Timetable:

Action	Date	FR Cite
NPRM	03/16/87	52 FR 8471
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-23-87

Drafting attorney: Mark S. Jennings (202) 566-2455.

Reviewing attorney: Don Leatherman (202) 566-2454.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-2455

RIN: 1545-AK88

2971. ESTATE & GIFT TAXES—INCLUSION OF STOCK IN ESTATE WHERE DECEDENT RETAINED VOTING RIGHTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2036 (a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 20

Legal Deadline: None

Abstract: These regulations will provide the extent to which the retention of voting rights by a transferor of stock will require that the value of that stock be included in the transferor's gross estate.

Timetable:

Action	Date	FR Cite
NPRM	09/03/63	48 FR 35143
NPRM Comment Period End	11/03/63	48 FR 35143
Final Action	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-181-76.

Drafting attorney: Fred E. Grundeman (202) 535-9512.

Reviewing attorney: Lee Dunn (202) 566-6626.

Treasury Attorney: Robert Weaver (202) 535-0004.

Agency Contact: Fred E. Grundeman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 535-9512

RIN: 1545-AC63

2972. ESTATE AND GIFT TAXES—INCREASE IN LIMITATIONS ON MARITAL DEDUCTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2012 Internal Revenue Code of 1986; 26 USC 2014 Internal Revenue Code of 1986; 26 USC 2056 Internal Revenue Code of 1986; 26 USC 2056 Internal Revenue Code of 1986; 26 USC 2207A Internal Revenue Code of 1986; 26 USC 2519 Internal Revenue Code of 1986; 26 USC 2523 Internal Revenue Code of 1986; 26 USC 6019 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20; 26 CFR 25

Legal Deadline: None

Abstract: These regulations will clarify the estate and gift tax treatment of transfers of property between spouses. They will provide how an executor may elect to treat certain property as qualified terminable interest property, in which case the imposition of transfer taxes will be delayed until the latter of (1) the surviving spouse's disposition of an interest in the property or (2) the surviving spouse's death.

Timetable:

Action	Date	FR Cite
NPRM	05/21/84	49 FR 21350
NPRM Comment Period End	07/20/84	49 FR 21350
Final Action	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-211-76.

Drafting Attorney: Susan Hurwitz (202) 343-8554.

Reviewing Attorney: George Masnik (202) 566-4788.

Treasury Attorney: Robert Weaver (202) 535-0030.

Agency Contact: Susan Hurwitz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 343-8554

RIN: 1545-AC67

2973. TIMELINESS OF A DISCLAIMER OF INTEREST IN PROPERTY CREATED PRIOR TO JAN. 1, 1977

Legal Authority: 26 USC 2514 Internal Revenue Code of 1986; 26 USC 2518 Internal Revenue Code of 1986; 26 USC 2046 Internal Revenue Code of 1986

CFR Citation: 26 CFR 25.2514-3(c); 26 CFR 20.2514-3(d); 26 CFR 20.2056(d); 26 CFR 20.2046-1; 26 CFR 25.2518-1; 26 CFR 25.2518-2

Legal Deadline: None

Abstract: The existing regulation includes the term "taxable transfers", but does not adequately explain that this term includes certain transfers that are not necessarily subject to tax.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: PS-30-89

Drafting attorney: George Masnik (202) 566-4785.

Reviewing attorney: Lee Dunn (202) 566-4629.

Treasury attorney: Robert Weaver (202) 535-0004.

Agency Contact: George Masnik, Assistant to Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4788

RIN: 1545-AN27

2974. ESTATE TAX—GENERATION SKIPPING TRANSFER TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2653 Internal Revenue Code of 1986; 26 USC 2662 Internal Revenue Code of 1986; 26

TREAS—IRS

Final Rule Stage

USC 2663 Internal Revenue Code of 1986

CFR Citation: 26 CFR 26; 26 CFR 26a

Legal Deadline: None

Abstract: The regulations will provide rules relating to the effective date provisions, return requirements, definitions, and certain special rules for the tax on generation skipping transfers.

Timetable:

Action	Date	FR Cite
NPRM	03/15/88	53 FR 8459
Final Action	07/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-128-88.

Drafting attorney: John B. Franklin (202) 535-0540.

Reviewing attorney: Fred E. Grundeman (202) 535-9512.

Treasury attorney: Robert Weaver (202) 535-0064.

Agency Contact: John B. Franklin, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 535-0540

RIN: 1545-AJ11

2975. ◆ AMEND SECTION 26.2663-1(C) OF THE TEMPORARY REGULATIONS TO INCREASE THE AMOUNT FOR WHICH THE EXECUTOR IS LIABLE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2663 Internal Revenue Code of 1986; 26 USC 2661 Internal Revenue Code of 1986

CFR Citation: 26 CFR 26

Legal Deadline: None

Abstract: The regulations will provide rules with respect to liability for the generation-skipping transfer tax when a direct skip occurs at death with respect to property held in a trust arrangement.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-082-90

Drafting Attorney: John Franklin (202) 535-0540.

Reviewing Attorney: George Masnik (202) 566-4788.

Treasury Attorney: Robert Weaver (202) 535-0064.

Agency Contact: John Franklin, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 535-0540

RIN: 1545-AO80

2976. EMPLOYMENT TAX—TO REQUIRE WITHHOLDING OF SOCIAL SECURITY AND RAILROAD RETIREMENT TAX FROM CERTAIN PAYMENTS OF SICK PAY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3121 Internal Revenue Code of 1986; 26 USC 3231 Internal Revenue Code of 1986; PL 97-123, Sec 3

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: The regulations will provide guidance to third parties paying sick pay which is subject to social security or railroad retirement tax, employees receiving the sick pay, and employers of the employees.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/82	
NPRM	07/06/82	47 FR 29266
NPRM Comment Period End	09/06/82	
Final Action	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-23-82.

Drafting attorney: Renay France (202) 566-3627.

Reviewing attorney: Neal J. Sheldon (202) 566-3783.

Treasury attorney: Paul Strella (202) 566-6277.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3627

RIN: 1545-AC77

2977. INFORMATION REPORTING AND BACKUP WITHHOLDING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 31; 26 CFR 35a

Legal Deadline: None

Abstract: This regulation relates to the requirement that certain payments must be reported to the Internal Revenue Service and that in certain instances 20% of a reportable payment must be deducted and withheld under section 3406 of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	02/29/88	53 FR 05991
Hearing	06/15/89	54 FR 11236
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-052-86

Drafting attorney: Teresa B. Hughes (202) 566-6795.

Reviewing attorney: Charles Saverude (202) 377-9493.

Treasury attorney: Marlin Risinger (202) 566-5791.

Agency Contact: Teresa B. Hughes, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6795

RIN: 1545-AL99

2978. CLARIFYING AMENDMENTS TO SECTION 35A.3406-1 REGARDING BACKUP WITHHOLDING DUE TO AN INCORRECT TIN

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3406 Internal Revenue Code of 1986

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: This regulation clarifies certain requirements under section 35a.3406-1 regarding backup withholding due to an incorrect TIN.

Timetable:

Action	Date	FR Cite
NPRM	04/11/89	54 FR 11364
Final Action	11/00/90	

TREAS—IRS

Final Rule Stage

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: IA-104-86

Drafting Attorney: Renay France (202) 566-3627.

Reviewing Attorney: John Coulter (202) 566-3626.

Treasury Attorney: Larry Garrett (202) 535-0966.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3627

RIN: 1545-AM51

2978. TREATMENT OF REAL ESTATE AGENTS AND DIRECT SELLERS AS NONEMPLOYEES FOR EMPLOYMENT TAX PURPOSES—REPORTING REQUIREMENTS WITH RESPECT TO DIRECT SELLERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3508 Internal Revenue Code of 1986; 26 USC 3509 Internal Revenue Code of 1986; 26 USC 6041A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 31

Legal Deadline: None

Abstract: The proposed regulations would provide rules for the treatment of real estate agents and direct sellers as independent contractors for employment tax purposes. The proposed rules would also provide guidance for the reporting requirements of sales to direct sellers. The proposed rules would also provide guidance for computing certain employer liability for employment taxes.

Timetable:

Action	Date	FR Cite
NPRM	01/07/86	51 FR 619
NPRM Comment Period End	03/10/86	51 FR 619
Hearing	06/18/86	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-37-86.

Drafting attorney: Alfred Kelley (202) 566-4747.

Reviewing attorney: Jerry Holmes (202) 566-4747.

Agency Contact: Alfred Kelley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4747

RIN: 1545-AE62

2980. TAXABILITY OF CONVERTER DOLLIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 145.4051

Legal Deadline: None

Abstract: The regulation will address whether converter dollies for truck semitrailers are subject to tax under section 4051 of the Code.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-50-88

Drafting attorney: Tyrone J. Montague (202) 343-8558.

Reviewing attorney: Richard Kocak (202) 566-3398.

Agency Contact: Tyrone J. Montague, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 343-8558

RIN: 1545-AL71

2981. EXCISE TAX - EXCISE TAX ON HEAVY TRUCKS, TRUCK TRAILERS AND SEMITRAILERS, AND TRACTORS

Legal Authority: 26 USC 4052 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: These regulations will clarify the definition of first retail sale.

Timetable:

Action	Date	FR Cite
NPRM	05/12/88	53 FR 16982
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-57-88.

Drafting attorney: Edward Madden (202) 566-4077.

Reviewing attorney: Michael Owens (202) 566-4077.

Treasury attorney: Evelyn Brody (202) 566-4002.

Agency Contact: Edward Madden, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4077

RIN: 1545-AI51

2982. ● MODIFICATION OF THE GASAHOL REGULATIONS TO INCREASE THE TOLERANCE ALLOWED TO THE 10 PERCENT ALCOHOL MIXTURE AND TO CLARIFY THE LATER BLENDING RULES

Legal Authority: 26 USC 4081 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: The regulations will modify the tolerance allowed for the alcohol to gasoline ratio in gasahol and will clarify the later blending rules with regard to incidental dilution of gasahol at retail outlets.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-060-88

Drafting attorney: Edward Madden (202) 566-4077.

Reviewing attorney: Jeffrey Nelson (202) 566-4077.

Treasury attorney: Lawrence Garrett (202) 535-0966.

Agency Contact: Edward Madden, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4077

RIN: 1545-AO69

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TREAS—IRS

Final Rule Stage

2963. ● TEMPORARY REGULATIONS REGARDING TAX ON TRANSPORTATION BY WATER

Significance: Agency Priority

Legal Authority: 26 USC 4471 Internal Revenue Code of 1986; 26 USC 4472 Internal Revenue Code of 1986; 26 USC 6011 Internal Revenue Code of 1986; 26 USC 6071 Internal Revenue Code of 1986; 26 USC 6091 Internal Revenue Code of 1986; 26 USC 6109 Internal Revenue Code of 1986; 26 USC 6151 Internal Revenue Code of 1986; 26 USC 6302 Internal Revenue Code of 1986

CFR Citation: 26 CFR 155

Legal Deadline: None

Abstract: These regulations will provide temporary rules for the application of the tax on transportation by water.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-003-90

Drafting attorney: Edward Madden (202) 566-4077.

Reviewing attorney: Jeffrey Nelson (202) 566-4077.

Treasury attorney: Robert Weaver (202) 566-6964.

Agency Contact: Edward Madden, Senior Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4077

RIN: 1545-AO67

2964. TAX ON OZONE DEPLETING CHEMICALS

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4681 Internal Revenue Code of 1986

CFR Citation: 26 CFR 52

Legal Deadline: None

Abstract: Temporary regulations will set forth rules relating to tax on ozone-depleting chemicals.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: PS-73-89

Drafting attorney: Ruth Hoffman (202) 566-4475.

Reviewing attorney: Jeffrey Nelson (202) 566-4077.

Treasury attorney: John Parcell (202) 566-2784.

Agency Contact: Ruth Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4475

RIN: 1545-AO07

2965. INCOME TAX—LOBBYING BY PUBLIC CHARITIES AND PRIVATE FOUNDATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 501 (h) Internal Revenue Code of 1986; 26 USC 504 Internal Revenue Code of 1986; 26 USC 4911 Internal Revenue Code of 1986; 26 USC 170 (f) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 53; 26 CFR 56

Legal Deadline: None

Abstract: The regulations will provide rules applicable to tax exempt organizations described in section 501(c)(3) that elect to have the provisions of section 501(h) and 4911 apply to their lobbying expenditures, and will also apply to lobbying expenditures by private foundations.

Timetable:

Action	Date	FR Cite
NPRM	12/23/88	53 FR 51826
NPRM Comment Period End	03/03/89	53 FR 51826
Hearing	04/03/89	53 FR 51826
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-154-78.

Drafting attorney: Jerome P. Walsh Skelly (202) 566-3505.

Reviewing attorney: Paul G. Accettura (202) 566-3505.

Agency Contact: Jerome P. Walsh Skelly, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3505

RIN: 1545-AE02

2966. EXCISE TAX—ELECTION TO AGGREGATE LINES OF BUSINESS FOR PURPOSES OF CERTAIN FRINGE BENEFIT EXCLUSIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4977 Internal Revenue Code of 1986

CFR Citation: 26 CFR 54

Legal Deadline: None

Abstract: Regulations will provide guidance in the manner of making an election under section 4977. The regulations will also provide rules concerning the requirements for making a section 4977 election.

Timetable:

Action	Date	FR Cite
NPRM	01/07/86	50 FR 636
NPRM Comment Period End	03/09/86	50 FR 636
Hearing See additional information	04/16/86	50 FR 7072
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-139-87

Drafting attorney: Richard Pavel (202) 566-3503.

Reviewing attorney: Jerry Holmes (202) 566-4747.

Treasury attorney: Judd Kelley (202) 566-6527.

Proposed and temporary regulations under section 4977 were published together with other fringe benefits regulations (LR-216-84) and the subject of public hearings. Additional section 4977 regulations will be provided exclusively in this project.

Agency Contact: Richard Pavel, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3502

RIN: 1545-AI63

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TREAS—IRS

Final Rule Stage

2987. EXCISE TAX—EXCESS DISTRIBUTIONS FROM QUALIFIED RETIREMENT PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4981A Internal Revenue Code of 1986; 26 USC 4980A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules for determining the amount of the excise tax on excess distributions from qualified retirement plans.

Timetable:

Action	Date	FR Cite
NPRM	12/10/87	52 FR 46782
NPRM Comment Period End	02/08/88	52 FR 46782
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-162-86

Drafting attorney: Richard Pavel (202) 566-3503.

Reviewing attorney: Jerry Holmes/Richard Wickersham (202) 566-4747/(202) 566-4621.

Treasury attorney: Paul Strella (202) 566-6656.

Agency Contact: Richard Pavel, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3503

RIN: 1545-AI61

2988. EXCISE TAX—ISSUES ARISING WHERE MULTIPLE PARTIES SHARE IN PRODUCTION, INCLUDING UNITIZATIONS, PARTNERSHIPS, TRUSTS AND ESTATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4986 to 4996 Internal Revenue Code of 1986

CFR Citation: 26 CFR 51

Legal Deadline: None

Abstract: These regulations would provide rules relating to production from a unitized property of imputed stripper well crude oil, imputed heavy crude oil, and imputed newly discovered crude oil for purposes of the windfall profit tax. The regulations would provide rules for determining the amount of imputed oil and rules for allocating the imputed oil among the producers of the unitized property.

Timetable:

Action	Date	FR Cite
NPRM	09/30/86	51 FR 34693
NPRM Comment Period End	12/01/86	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-225-81.

Drafting attorney: H. Grace Kim (202) 566-4819.

Reviewing attorney: Walter Woo (202) 535-9545.

Treasury attorney: Barksdale Penick (202) 566-5453.

Withdrawal notice in signature package.

Agency Contact: H. Grace Kim, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4819

RIN: 1545-AC94

2989. EXCISE TAX—DEFINITION OF PROPERTY UNDER THE CRUDE OIL WINDFALL PROFIT TAX ACT 1980

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4996 Internal Revenue Code of 1986

CFR Citation: 26 CFR 51

Legal Deadline: None

Abstract: These proposed regulations would provide rules relating to the definition of "property" for purposes of the crude oil windfall profit tax. These regulations are important because the rate of tax depends, in part, on the characteristics of the property from which the crude oil is produced.

Timetable:

Action	Date	FR Cite
NPRM	09/25/86	51 FR 34095
NPRM Comment Period End	11/24/86	51 FR 34095
Hearing	02/25/87	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-34-82.

Drafting attorney: H. Grace Kim (202) 566-4819.

Reviewing attorney: Walter Woo (202) 535-9545.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Barksdale Penick (202) 566-5453.

Withdrawal notice in signature package

Agency Contact: H. Grace Kim, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4819

RIN: 1545-AD08

2990. EXCISE TAX—PART 54—PROCEDURE AND ADMINISTRATION—PART 301—FILING OF RETURNS FOR PAYMENT OF PENSION EXCISE TAX ON REVERSIONS OF QUALIFIED PLAN ASSETS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4980 Internal Revenue Code of 1986

CFR Citation: 26 CFR 54; 26 CFR 602

Legal Deadline: None

Abstract: The regulations would provide guidance regarding the payment of the excise tax by employers receiving reversions of qualified plan assets imposed by section 4980 of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
NPRM	04/02/87	52 FR 10583
NPRM Comment Period End	06/01/87	52 FR 10583
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-151-86

Drafting Tax Law Specialist: Vernon Carter (202) 566-3539.

Reviewing Attorney: James L. Brokaw (202) 566-3496.

Agency Contact: Vernon Carter, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3539

RIN: 1545-AI03

TREAS—IRS

Final Rule Stage

2991. INCOME TAX-AMENDMENTS TO REQUIREMENTS FOR RETURN OF PARTNERSHIP INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6031 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidelines for determining when and what information a partnership must provide to its partners. The regulations also provide guidelines for determining what foreign partnerships must file information returns.

Timetable:

Action	Date	FR Cite
NPRM	01/23/86	51 FR 3075
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-196-82.

Drafting attorney: Renay France (202) 566-3627.

Reviewing attorney: Robert A. Harkovsky (202) 566-3851.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3627

RIN: 1545–AE40

2992. INFORMATION WITH RESPECT TO CERTAIN FOREIGN-OWNED CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6038A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules for U.S. corporations or U.S. branches that are 25-percent foreign owned as to what records are to be maintained, where these records are to be maintained and how to designate, in the case of a "related party", an agent. The regulations will also provide rules for the imposition of penalties for failure to comply with section 6038A and exemptions for reasonable cause from the imposition of the penalties.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: INTL-868-89

Drafting Attorney: Carol P. Tello (202) 377-9059.

Reviewing Attorney: Thomas D. Fuller (202) 377-9059.

Treasury Attorney: Ron Watson (202) 343-0247.

Agency Contact: Carol P. Tello, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, 202 377-9059

RIN: 1545–AO09

2993. REPORTING REQUIREMENTS CONCERNING CHANGES IN CORPORATE CONTROL OR CAPITAL STRUCTURE UNDER SECTION 6043(C), I.R.C., AS AMENDED BY SECTION 7208(B) OF THE REVENUE RECONCILIATION ACT OF 1989

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6043(c) Internal Revenue Code of 1986; 26 USC 6652(l) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: The purpose of the project is to implement the reporting requirements under section 6043(c) to provide the Internal Revenue Service information needed in order to more effectively examine the tax consequences of certain transactions in which control of a corporation is acquired or in which the capital structure of a corporation is changed, including in particular certain transactions that might be characterized as "leveraged buy-outs."

Timetable:

Action	Date	FR Cite
NPRM	07/05/90	55 FR 27648
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-005-90

Drafting attorney: Keith Stanley (202) 566-3619.

Reviewing attorney: Howard Stalman (202) 566-3618.

Treasury attorney: Judge Kelley (202) 566-8527.

Agency Contact: Keith Stanley, Senior Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3618

RIN: 1545–AO46

2994. INFORMATION RETURNS OF BROKER TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6045 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations in this project clarify the definition of the term "commodity" for purposes of broker reporting. Rules are provided for determining whether personal property (including gold and silver) is a commodity. Generally, the term "commodity" is defined as personal property that is deliverable in satisfaction of a regulated futures contract, certain specified personal property that the secretary determines is to be treated as a commodity or any form or quality of or any interest in such personal property. The term "commodity" does not include a security, regulated futures contract, forward contract, or a form of tangible personal property if the gross proceeds from its sale exceed by more than 15 percent its value as a commodity. The rules proposed include alternative methods (the "exact" and "approximate" methods) of tangible personal property valuation.

Timetable:

Action	Date	FR Cite
NPRM	01/05/84	49 FR 648
NPRM Comment Period End	03/05/84	49 FR 648
Hearing	03/28/84	49 FR 645
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-201-83.

Drafting attorney: Arthur E. Davis III (202) 377-9581.

Reviewing attorney: David L. Crawford (202) 377-9560.

TREAS—IRS

Final Rule Stage

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 377-9561

RIN: 1545–AC02

2986. INFORMATION RETURNS ON SALES THROUGH COD ACCOUNTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6045 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide a special rule for broker reporting with respect to transactions made through a cash on delivery account (COD). In addition, these regulations make technical corrections to the list of recipients exempted from coverage under the reporting requirement, and expand the class of brokers which qualify for the multiple broker rule.

Timetable:

Action	Date	FR Cite
NPRM	05/29/84	49 FR 22343
NPRM Comment Period End	07/30/84	49 FR 22343
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-62-84.

Drafting attorney: Arthur E. Davis III (202) 377-9561.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 377-9561

RIN: 1545–AC62

2996. INFORMATION REPORTING ON REAL ESTATE TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6045 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation proposed to adopt as final rules relating to the reporting of real estate transactions.

Timetable:

Action	Date	FR Cite
NPRM	04/03/87	52 FR 10774
Hearing	07/22/87	52 FR 23906
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-95-86.

Drafting attorney: Arthur E. Davis III (202) 377-9561.

Reviewing attorney: John M. Fischer (202) 566-6131.

Treasury attorney: Judge Kelley (202) 566-2175.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 377-9561

RIN: 1545–AJ25

2997. INCOME TAX—INFORMATION REPORTING ON REAL ESTATE TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6045 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would provide additional rules relating to the reporting of real estate transactions.

Timetable:

Action	Date	FR Cite
NPRM	04/18/90	55 FR 14429
NPRM Comment Period End	06/18/90	55 FR 14429
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-130-87

Drafting attorney: Arthur E. Davis III (202) 377-9561.

Reviewing attorney: David L. Crawford (202) 377-9590.

Treasury attorney: Judge Kelley (202) 566-8527.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 377-9561

RIN: 1545–AL05

2998. TO CLARIFY THE OBLIGATION OF BROKERS TO REPORT ORIGINAL ISSUE DISCOUNT ON FORM 1099

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6049 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: The regulation explains the revised reporting requirements for original issue discount on debt instruments held by brokers and other middlemen as nominees to make it clear that a broker or middleman has an unqualified obligation to report original issue discount on certain debt instruments held as a nominee.

Timetable:

Action	Date	FR Cite
NPRM	12/17/86	51 FR 45131
NPRM Comment Period End	02/17/87	51 FR 45131

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-144-86

Drafting attorney: Carol Nachman (202) 566-3287.

Reviewing attorney: Thomas Lyden (202) 566-3287.

Agency Contact: Carol Nachman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3287

RIN: 1545–AM80

2999. @ INFORMATION REPORTING OF POINTS ON MORTGAGE LOANS

Significance: Agency Priority

Legal Authority: 26 USC 6050H Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6050H-1(e)(i)

Legal Deadline: NPRM, Statutory, December 31, 1990.
P.L. 101-239 OBRA 1989, 7646 requires the reporting of points received after 12/31/90; however, the reporting will first occur in 1991.

Abstract: Amend regulations to require the information reporting of the points received on the mortgage.

TREAS—IRS

Final Rule Stage

Timetable:

Action	Date	FR Cite
Temporary Regulation	11/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: IA-817-90

Drafting Attorney: Philip Scott (202) 566-3828.

Reviewing Attorney: Vincent Cardella (202) 566-6428.

Agency Contact: Philip Scott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3828

RIN: 1545-AO57

3000. AMEND AGGREGATION RULES FOR FILING REQUIREMENT

Legal Authority: 26 USC 6050I Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6050I-1(b)(1)

Legal Deadline: None

Abstract: An amendment to the regulation is necessary as the result of a policy decision to revise Form 8300.

Timetable:

Action	Date	FR Cite
NPRM	07/06/90	55 FR 28061
NPRM Comment Period End	09/07/90	55 FR 28061

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: IA-041-89

Drafting attorney: Philip Scott (202) 566-3828.

Reviewing attorney: Vincent Cardella (202) 566-6425.

Agency Contact: Philip Scott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3828

RIN: 1545-AN42

3001. FINAL REGULATIONS RELATING TO REPORTS OF FORECLOSURES AND ABANDONMENTS OF SECURITY UNDER THE TAX REFORM ACT OF 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6050J Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations proposed rules relating to information reporting of foreclosures, abandonments, and other acquisitions of property securing indebtedness, including the persons and property subject to the reporting requirement and the information required to be reported, and when a person has reason to know that property has been abandoned.

Timetable:

Action	Date	FR Cite
NPRM	06/31/84	49 FR 34518
NPRM Comment Period End	10/31/84	49 FR 34518
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-181-84.

Drafting attorney: Arthur E. Davis III (202) 377-9561.

Reviewing attorney: John M. Fischer (202) 566-6131.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 377-9561

RIN: 1545-AG48

3002. NOTICE OF PROPOSED RULEMAKING - AUTOMATIC EXTENSION OF TIME TO FILE PARTNERSHIP RETURN OF INCOME AND TRUST INCOME TAX RETURN

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Automatic Extension of Time to File Partnership Return of Income and Trust Income Tax Return.

Timetable:

Action	Date	FR Cite
NPRM	04/05/88	53 FR 11103
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: LR-29-88

Drafting attorney: James A. Orefice (202) 566-3837.

Reviewing attorney: Cynthia L. Clark (202) 566-6302.

Treasury attorney: Greg Marich (202) 566-5453.

Agency Contact: James A. Orefice, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3837

RIN: 1545-AL38

3003. EXTENSION OF TIME TO FILE FOR TAXPAYERS TRAVELING OUTSIDE THE UNITED STATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: Notice by cross-reference to temporary regulations under section 6081 of the Code relating to extension of time to file income tax returns.

Timetable:

Action	Date	FR Cite
NPRM	02/23/89	54 FR 7783
Final Action	12/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-461-87

Drafting attorney: Caren S. Shein (202) 566-3452.

Reviewing attorney: Carol Doran Klein (202) 566-3452.

Treasury attorney: Mark Beams (202) 566-8275.

Agency Contact: Caren S. Shein, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3452

RIN: 1545-AM06

TREAS—IRS

Final Rule Stage

3004. PROPOSED REGULATIONS UNDER SECTIONS 6111 AND 6708, RELATING TO TAX SHELTER REGISTRATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6111 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This project will provide rules explaining what investments are tax shelters that must be registered with the Internal Revenue Service. The project will also provide rules relating to the persons required to register tax shelters and to the furnishing of tax shelter registration numbers to investors in tax shelters.

Timetable:

Action	Date	FR Cite
NPRM	06/15/84	49 FR 32726
NPRM Comment Period End	10/15/84	49 FR 32726
Hearing held	01/17/85	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-142-84.

Drafting attorney: Richard O. Davis (202) 343-2383.

Reviewing attorney: Tom Luxner (202) 566-4495.

Agency Contact: Richard O. Davis, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 343-2383

RIN: 1545–AG45

3005. APPLICATION OF UNIFIED PARTNERSHIP AUDIT PROVISIONS OF TEFRA TO REMICS

Legal Authority: 26 USC 860G(c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6221; 26 CFR 301.6222; 26 CFR 301.6223; 26 CFR 301.6224; 26 CFR 301.6225; 26 CFR 301.6226; 26 CFR 301.6227; 26 CFR 301.6228; 26 CFR 301.6229; 26 CFR 301.6230; 26 CFR 301.6231; 26 CFR 301.6232; 26 CFR 301.6233; 26 CFR 1.860P; 26 CFR 1.860F-4T

Legal Deadline: None

Abstract: Public Law 99-514, Title VI, section 671(a) (October 22, 1986, 100 Stat. 2309) added sections 860A-860G of the Internal Revenue Code of 1986. These sections set forth the Federal income tax treatment of REMICs and of investors in REMICs, and provide that REMICs will generally be treated as partnerships. This project will apply the partnership audit provisions of sections 6221 through 6233 of the Internal Revenue Code (added by Public Law 97-248, Tax Equity and Fiscal Responsibility Act of 1982) to REMICs.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-048-89

Drafting attorney: William Galanis (202) 377-9470.

Reviewing attorney: Dianna Miosi (202) 566-4070.

Agency Contact: William Galanis, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-9470

RIN: 1545–AN76

3006. MISCELLANEOUS RULES RELATING TO CONSOLIDATED ADMINISTRATIVE AND JUDICIAL PROCEEDINGS TO DETERMINE THE TAX TREATMENT OF PARTNERSHIP ITEMS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6222 Internal Revenue Code of 1986; 26 USC 6223 Internal Revenue Code of 1986; 26 USC 6224 Internal Revenue Code of 1986; 26 USC 6227 Internal Revenue Code of 1986; 26 USC 6230 Internal Revenue Code of 1986; 26 USC 6231 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The proposed regulations would set forth miscellaneous procedural rules for consolidated administrative and judicial proceedings to determine the tax treatment of partnership items. The regulations would provide guidance for various elections under these new procedures and for filing requests for an administrative adjustment

Timetable:

Action	Date	FR Cite
NPRM	04/18/88	53 FR 12231
NPRM Comment Period End	06/17/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-208-82.

Drafting attorney: William Galanis (202) 377-9470.

Reviewing attorney: Dianna Miosi (202) 566-4070.

Treasury attorney: Greg Marich (202) 566-2927.

Agency Contact: William Galanis, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 377-9470

RIN: 1545–AE51

3007. SMALL S CORPORATION EXCEPTION AND DEFINITION OF SUBCHAPTER S ITEM

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6241 Internal Revenue Code of 1986; 26 USC 6245 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301; 26 CFR 602; 26 CFR 51

Legal Deadline: None

Abstract: These regulations will provide a small S corporation exception to the unified corporate audit procedures of subchapter D of chapter 63 of the Internal Revenue Code. These regulations also will define subchapter S items for purposes of the income tax and windfall profit tax.

Timetable:

Action	Date	FR Cite
NPRM	01/30/87	52 FR 3027
NPRM Comment Period End	03/31/87	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-74-86.

Drafting Attorney: William J. Gregg (202) 377-9470.

Reviewing Attorney: Dianna K. Miosi (202) 566-4070

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Treasury Attorney: Greg Marich (202) 566-2175.

Agency Contact: William J. Gregg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-8470

RIN: 1545-AJ99

3008. DEFINITION OF TAX MATTERS PERSON FOR AN S CORPORATION

Legal Authority: 26 USC 6244 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulation will provide rules as to who can be designated as the Tax Matters Person for an S Corporation.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-072-89

Drafting attorney: William J. Gregg (202) 377-8470.

Reviewing attorney: Dianna K. Miosi (202) 566-6070.

Treasury attorney: Barksdale Penick (202) 566-6453.

Agency Contact: William J. Gregg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-8470

RIN: 1545-AC34

3009. ◆ ACCELERATION OF DEPOSIT REQUIREMENTS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6302 Internal Revenue Code of 1986

CFR Citation: 26 CFR 31.6302

Legal Deadline: None

Abstract: Proposal will provide guidance to the public regarding the interplay between the new one-day-deposit acceleration provision of section 6302 (g) of the Internal Revenue Code and the existing "Eighth-Months" deposit rule in section 31.6302 of the regulations. The entire current deposit format will be revisited in the process, including changing the time for deposits, the dollar threshold for requiring a deposit, and the so-called 95 percent "Safe-Haven" rule.

Timetable:

Action	Date	FR Cite
Temporary Regulation	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-028-90

Drafting Attorney: Vincent Surabian (202) 566-4980.

Reviewing Attorney: Norlyn Miller (202) 566-3273.

Treasury Attorney: Kurt Lawson (202) 566-2175.

Agency Contact: Vincent Swabian, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4980

RIN: 1545-AC66

3010. ◆ REVISION OF PROCEDURAL RULES RELATING TO EXCISE TAXES REPORTED ON FORM 720

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6302(c) Internal Revenue Code of 1986; 26 USC 6011(a) Internal Revenue Code of 1986; 26 USC 6071(a) Internal Revenue Code of 1986; 26 USC 6091 Internal Revenue Code of 1986; 26 USC 6109(a) Internal Revenue Code of 1986; 26 USC 6101 Internal Revenue Code of 1986

CFR Citation: 26 CFR 40

Legal Deadline: None

Abstract: Temporary regulations will set forth revised rules for filing returns, paying tax, and making deposits relating to taxes reportable on Form 720.

Timetable:

Action	Date	FR Cite
Temporary Regulation	01/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: PS-065-90

Drafting attorney: Ruth Hoffman (202) 566-4475.

Reviewing attorney: Edward Madden (202) 535-9758.

Agency Contact: Ruth Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4475

RIN: 1545-AO90

3011. ADMINISTRATIVE APPEAL OF THE ERRONEOUS FILING OF NOTICE OF TAX LIEN

Legal Authority: 26 USC 6326 Internal Revenue Code of 1986 PL 100-647, sec. 6238

CFR Citation: 26 CFR 301.6326

Legal Deadline: None

Abstract: Section 6238 establishes a new section 6326 of the Internal Revenue Code. New section 6326 (a) provides that the Secretary shall prescribe regulations that provide for the Administrative Appeal of the filing of Notice of Federal Tax Lien. Section 6326 (b) provides that if the Secretary determines that the service has erroneously filed a Notice of Federal Tax Lien, the Secretary must expeditiously, and to the extent practicable within fourteen days after such determination, issues a certificate that must include a statement that the filing was erroneous. The regulations, will address what issues are appealable under section 6326, to when an appeal should be made, and the procedures for appeal.

Timetable:

Action	Date	FR Cite
NPRM	05/00/89	54 FR 19578
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-161-89

Drafting Attorney: Kevin B. Connelly (202) 535-9682.

Reviewing Attorney: Robert A. Miller (202) 566-3117.

Agency Contact: Kevin Connelly, Senior Attorney, Department of the Treasury, Internal Revenue Service,

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1111 Constitution Avenue NW., Washington, DC 20224, 202 535-8562

RIN: 1545-AN07

3012. PROPOSED REGULATIONS UNDER THE SPENDING REDUCTION ACT OF 1984, RELATING TO REDUCTION OF TAX OVERPAYMENTS BY THE AMOUNT OF PAST-DUE LEGALLY ENFORCEABLE DEBT OWED TO FEDERAL AGENCY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 31 USC 3720A

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: These proposed regulations will provide rules relating to the reduction of a taxpayer's overpayment of tax (i.e., tax refund) by the amount of any past-due legally enforceable debt owed to a federal agency by the taxpayer. The regulations explain which debts qualify for offset, and the steps a federal agency must make to refer a debt to the Internal Revenue Service.

Timetable:

Action	Date	FR Cite
NPRM	09/30/85	50 FR 39713
Temporary Regulation	11/30/85	
Temporary Regulation	05/13/87	52 FR 17949
NPRM	01/06/89	54 FR 428
Temporary Regulation	01/06/89	54 FR 400
NPRM Comment Period End	03/07/89	54 FR 428

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-291-84.

Drafting Attorney: Sharon L. Hall (202) 566-4430.

Reviewing Attorney:

Treasury Attorney: Barksdale Penick (202) 566-6264.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4430

RIN: 1545-AG95

3013. PROCEDURE AND ADMINISTRATIVE—REDUCTION OF TAX OVERPAYMENTS BY AMOUNT OF PAST DUE LEGALLY ENFORCEABLE DEBT OWED TO FEDERAL AGENCY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 31 USC 3720A Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: These regulations will amend proposed regulations published September 30, 1985 relating to the reduction of a taxpayer's overpayment of tax by the amount of past-due legally enforceable debt owed to a federal agency by the taxpayer.

Timetable:

Action	Date	FR Cite
NPRM	05/13/87	52 FR 17949

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-72-86

Drafting attorney: Sharon L. Hall (202) 566-4430.

Treasury attorney: Barksdale Penick (202) 566-6264.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4430

RIN: 1545-AK12

3014. PROCEDURE AND ADMINISTRATIONS—REDUCTION OF TAX OVERPAYMENTS BY AMOUNT OF PAST DUE LEGALLY ENFORCEABLE DEBT OWED TO FEDERAL AGENCY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 31 USC 3720AInternal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: These regulations will amend regulations published September 30, 1985. The regulations will provide a new effective date for those regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/06/89	54 FR 428
NPRM Comment Period End	03/07/89	54 FR 428

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-61-88

Drafting attorney: Sharon L. Hall (202) 566-4430.

Treasury attorney: Barksdale Penick (202) 535-6004.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, Washington, DC 20224, 202 566-4430

RIN: 1545-AL66

3015. PROCEDURE AND ADMINISTRATION - ABATEMENT OF INTEREST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance on the definition of ministerial act.

Timetable:

Action	Date	FR Cite
NPRM	06/13/87	52 FR 30177

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-36-87

Drafting tax law specialist: John J. McGeevy (202) 566-6302.

Reviewing attorney: Cynthia Clark (202) 566-6302.

Agency Contact: John J. McGeevy, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6302

RIN: 1545-AK71

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3016. PROCEDURE AND ADMINISTRATION REGULATIONS—EXTENSION OF THE PERIOD FOR ASSESSMENT OF TAX IN CERTAIN CIRCUMSTANCES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6501 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will describe circumstances under which the normal three-year period for the assessment and collection of tax may be extended.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-162-85.

Drafting tax law specialist: John J. McGreevy (202) 566-6302.

Reviewing attorney: John M. Coulter, Jr. (202) 566-3828.

Agency Contact: John J. McGreevy, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6302

RIN: 1545–AI23

3017. PROCEDURE AND ADMINISTRATION REGULATIONS—MODIFICATIONS OF INTEREST PAYMENTS FOR CERTAIN PERIODS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6611 Internal Revenue Code of 1986; 26 USC 6601 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulation would provide rules for determining the period during which interest accrues on an underpayment or an overpayment of tax as provided in sections 6601 and 6611 of the Internal Revenue Code of 1954. The period would be determined, in part, by the dates the return and the claim for refund are filed and by whether they were filed in a way that they can be processed.

Timetable:

Action	Date	FR Cite
NPRM	10/09/84	49 FR 39566
NPRM Comment Period End	12/10/84	
Final Action	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-280-82.

Drafting tax law specialist: Gail M. Winkler (202) 566-4442.

Reviewing attorney: Norlyn Miller (202) 566-3273.

Agency Contact: Gail M. Winkler, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4442

RIN: 1545–AF10

3018. PROCEDURE AND ADMINISTRATION REGULATIONS - INCREASED RATE OF INTEREST ON SUBSTANTIAL UNDERPAYMENTS ATTRIBUTABLE TO CERTAIN TAX MOTIVATED TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6621 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations provide guidance to taxpayers subject to the increased rate of interest on substantial underpayments attributable to certain tax motivated transactions. The regulations define tax motivated transaction and accounting methods that may result in a substantial distortion of income. The regulations also provide rules for determining the amount of a tax motivated underpayment and the accrual of interest at the increased rate.

Timetable:

Action	Date	FR Cite
NPRM	12/28/84	49 FR 50406
NPRM Comment Period End	02/26/85	49 FR 50406
Final Action	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-180-84.

Drafting attorney: Benay France (202) 566-3627.

Reviewing attorney: Robert A. Berkovsky (202) 566-3851.

Agency Contact: Benay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3627

RIN: 1545–AG75

3019. ● FRAUDULENT FAILURE TO FILE TAX RETURN; IMPOSITION OF FRAUD PENALTY

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6651-5; 26 CFR 1.6653-1

Legal Deadline: None

Abstract: Provide guidance to taxpayers on the fraud penalty and fraudulent failure to file penalty as amended by the Revenue Reconciliation Act of 1989.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-036-90

Drafting Attorney: Barbara Walker (202) 566-3453.

Reviewing Attorney: Rudolf Planert (202) 566-9293

Agency Contact: Barbara Walker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3453

RIN: 1545–AO84

3020. TO PROVIDE REGULATIONS RELATING TO ACCELERATED PAYMENT OF ESTIMATED TAXES BY CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6655 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Rules will provide for acceleration of estimated payments by corporations, new seasonal income exception, and clarify the annualization rules. The amount of estimated tax

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payments required for all corporations is increased from 80 to 90 percent of current year's tax liability.

Timetable:

Action	Date	FR Cite
NPRM	02/28/84	49 FR 11196
Hearing	06/26/84	
Final Action	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-228-82.

Drafting attorney: Renay France (202) 566-3627.

Reviewing attorney: John Coulter (202) 566-3928.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3627

RIN: 1545-AE37

3021. ● FAILURE TO MAKE A DEPOSIT OF TAXES

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6656 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.6656

Legal Deadline: None

Abstract: Proposal will provide rules for application of the four-tiered failure-to-deposit penalty imposed by section 6656 of the Internal Revenue Code. The proposal will also deal with the manner in which a taxpayer's account will be credited for deposits being made in light of the time-sensitive nature of the penalty.

Timetable:

Action	Date	FR Cite
Temporary Regulation	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-027-90

Drafting attorney: Vincent Surabian (202) 566-6580.

Reviewing attorney: Norlyn Miller (202) 566-3273.

Treasury attorney: Kurt Lawson (202) 566-2175.

Agency Contact: Vincent Surabian, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6580

RIN: 1545-AO67

3022. ● UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6694-1; 26 CFR 1.6694-2

Legal Deadline: None

Abstract: To provide new guidance in light of the OBRA 1989 changes. OBRA 1989 changed the standard of conduct subject to the penalty from an understatement due to negligence or intentional disregard of rules and regulations to an understatement due to a position for which there was no realistic possibility of being sustained on its merits.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-038-90

Drafting Attorney: Lisa Byun (202) 566-6407.

Reviewing Attorney: George Baker (202) 566-6282.

Agency Contact: Lisa Byun, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6407

RIN: 1545-AO82

3023. PENALTY FOR FAILURE TO INCLUDE CORRECT INFORMATION ON INFORMATION RETURNS AND PAYEE STATEMENTS

Legal Authority: 26 USC 6723 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations provide guidance on the penalty for failing to provide correct information on information returns and payee statements

Timetable:

Action	Date	FR Cite
NPRM	09/10/87	52 FR 34309
Final Action	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-162-86.

Drafting attorney: Renay France (202) 566-3627.

Reviewing attorney: John Coulter (202) 566-3928.

Treasury attorney: Adam Handler (202) 566-2175.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3627

RIN: 1545-AJ29

3024. CERTIFICATES OF COMPLIANCE WITH INCOME TAX LAWS BY DEPARTING ALIENS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6851(d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will exempt certain alien students, industrial trainees, and exchange visitors from the requirement of obtaining a certificate of compliance with US income tax laws before departing the U.S. This action is necessary because of changes to the applicable tax law made by the Technical Amendments and Miscellaneous Revenue Act of 1988.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-736-89

Drafting attorney: Thomas L. Ralph (202) 377-9059.

Reviewing attorney: Thomas D. Fuller (202) 377-9059.

Treasury attorney: Unassigned.

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Agency Contact: Theresa L. Ralph, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, 202 377-9660

RIN: 1545-AN26

3025. PROCEDURE AND ADMINISTRATION—PROPERTY SEIZED BY THE INTERNAL REVENUE SERVICE UNDER THE MONEY LAUNDERING CONTROL ACT OF 1986

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7103 (b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 405

Legal Deadline: None

Abstract: This regulation provides guidance with respect to property seized by the Internal Revenue Service under the Money Laundering Control Act of 1986.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: GL-005-90

Drafting attorney: Richard Delmar (202) 343-0922.

Agency Contact: Richard Delmar, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 343-0922

RIN: 1545-AL01

3026. AMENDMENT OF REGULATIONS TO PERMIT DISCLOSURE OF TAX RETURN INFORMATION BETWEEN FRANCHISEES WHO JOINTLY OPERATE A TAX SERVICE

Legal Authority: 26 USC 7216 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.7216-2

Legal Deadline: None

Abstract: Proposal would allow disclosure of tax return information by tax return preparers for the purpose of monitoring quality of return preparation.

Timetable:

Action	Date	FR Cite
NPRM	11/19/85	50 FR 47563
NPRM Comment Period End	12/19/85	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-3-85.

Drafting attorney: Lisa Byun (202) 566-6407.

Reviewing attorney: Norlyn Miller (202) 566-3273.

Agency Contact: Lisa Byun, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6407

RIN: 1545-AH91

3027. RECOVERY OF ADMINISTRATIVE COSTS

Legal Authority: 26 USC 7430 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.7430

Legal Deadline: None

Abstract: Section 6239 of the Technical and Miscellaneous Revenue Act expands section 7430 of the Internal Revenue Code to allow the recovery of administrative costs incurred after the earlier of the date of the receipt by the taxpayer of the notice of decision of the IRS Office of Appeals or the date of the notice of deficiency, if the taxpayer prevails against a position of the U.S. that is not substantially justified. The regulations will define essential terms in the statute and develop procedures to administer the statute.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: IA-3-89

Drafting attorney: Mark Ely (202) 343-2300.

Reviewing attorney: John Fischer (202) 566-6131/Bill Jackson (202) 566-3802.

Agency Contact: Mark H. Ely, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 343-2320

RIN: 1545-AN02

3028. PROCEDURE AND ADMINISTRATION—AMENDMENT OF REGULATIONS RELATING TO THE TIMELY MAILING OF RETURNS, TAXES AND DEPOSITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations would amend existing regulations, relating to the timely mailing of documents, to provide for the timely mailing of returns, taxes and deposits.

Timetable:

Action	Date	FR Cite
NPRM	12/11/79	44 FR 71430
NPRM Comment Period End	02/11/80	44 FR 71430
Final Action	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-406-71

Drafting attorney: Renay France (202) 566-3627.

Reviewing attorney: Neal E. Sheldon (202) 566-3788.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: unassigned.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3627

RIN: 1545-AD42

3029. ● PROCEDURES INVOLVING TAXPAYER INTERVIEWS (TIME AND PLACE OF EXAMINATION)

Legal Authority: 26 USC 7605 Internal Revenue Code of 1986; PL 100-647

CFR Citation: 26 CFR 301.7605-1 (a)

Legal Deadline: None

Abstract: The temporary regulations which are cross-referenced in this notice of proposed rulemaking provide guidance as to what is reasonable under the circumstances in the case-by-

case determination as to the time and place of examination. The regulations balance the convenience of the taxpayer with the requirements of sound and efficient tax administration. The regulations provide that it is generally not reasonable for the IRS to require a taxpayer to attend an examination at an IRS office other than the office located closest to the taxpayer's home in that district. They also provide that it is generally not reasonable for the IRS to audit a taxpayer at his or her place of business if the business is so small that so doing will eventually require the taxpayer to close the business.

Timetable:

Action	Date	FR Cite
NPRM	04/03/90	55 FR 12388
NPRM Comment Period End	05/18/90	55 FR 12388
Final Action	06/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: GL-705-88

Drafting attorney: Nancy O. Ryan (202) 535-9678.

Reviewing attorney: Robert Miller (202) 566-3117.

Agency Contact: Nancy Ryan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 535-9678

RIN: 1545-AO64

3030. PROCEDURE AND ADMINISTRATION REGULATIONS—REIMBURSEMENT FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7624 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulation would provide rules relating to reimbursement to state and local law enforcement agencies for expenses incurred for information furnished to IRS that substantially contributed to recovery of taxes on illegal drug related activities.

Timetable:

Action	Date	FR Cite
NPRM	05/16/89	54 FR 21073
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information: IA-6-89

Drafting tax law specialist: Gail M. Winkler (202) 566-4442.

Reviewing attorney: Norlyn D. Miller (202) 566-3273.

Agency Contact: Gail M. Winkler, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4442

RIN: 1545-AN00

3031. INDIAN TRIBAL GOVERNMENTS TREATED AS STATES FOR CERTAIN PURPOSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7701 Internal Revenue Code of 1986; 26 USC 7871 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations would provide guidance to certain Indian tribal governments as to their treatment as States under designated sections of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
NPRM	05/07/84	49 FR 19329
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-221-83.

Drafting attorney: Lauren G. Shaw (202) 566-3828.

Reviewing attorney: William Coppersmith (202) 566-3336.

Agency Contact: Lauren G. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3828

RIN: 1545-AP77

3032. AMENDMENT OF PROCEDURE AND ADMINISTRATION REGULATIONS UNDER SECTION 7701(B) (DEFINITION OF RESIDENT ALIENS) TO REFLECT SECTION 138 OF THE TAX REFORM ACT OF 1984 (P.L. 98-369)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7701 (b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 31; 26 CFR 301

Legal Deadline: None

Abstract: These regulations provide rules for determining whether an alien individual is a resident or a nonresident alien of the United States.

Timetable:

Action	Date	FR Cite
NPRM	09/10/87	52 FR 34230
NPRM Comment Period End	11/10/87	52 FR 34230
Hearing	06/15/88	53 FR 4868
Final Action	12/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-55-86

Drafting attorney: David A Juster (202) 566-3452.

Reviewing attorney: Carol Doran Klein (202) 566-3452.

Treasury attorney: P. Ann Fisher (202) 566-4979.

Agency Contact: David A. Juster, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3452

RIN: 1545-AH13

3033. REASONABLE MORTALITY CHARGES

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7702 Internal Revenue Code of 1986

CFR Citation: None

Legal Deadline: NPRM, Statutory, December 31, 1990.

Abstract: Provide rules relating to the required use of reasonable mortality charges in determining whether a contract qualifies as a life insurance contract for purposes of the code.

TREAS—IRS

Final Rule Stage

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-033-89

Drafting Attorney: Donald J. Drees, Jr. (202) 566-3760.

Reviewing Attorney: Steve Hoos (202) 566-3458.

Treasury Attorney: Jeanne Hoenicke (202) 566-3463.

Agency Contact: Donald J. Drees, Jr., Senior Technician Reviewer, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3760

RIN: 1545-AO12

3034. CERTAIN PUBLICLY TRADED PARTNERSHIPS TREATED AS CORPORATIONS—TRANSITION PROVISIONS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.7704-2T; 26 CFR 301.7704-2T

Legal Deadline: None

Abstract: This regulation defines the phrases "Existing Partnership" and "Substantial New line of Business" in the transition rule applicable to section 7704 of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-033-89

Drafting Attorney: Ann Veninga (202) 377-9461.

Reviewing Attorney: William P. O'Shea (202) 566-3244.

Treasury Attorney: B. Barksdale Penick (202) 566-6453.

Agency Contact: Ann Veninga, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-9461

RIN: 1545-AN92

3035. WHEN A PRINCIPAL ACTIVITY OF A PARTNERSHIP IS THE BUYING AND SELLING OF COMMODITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.7704(c)(3); 26 CFR 301.7704(c)(3)

Legal Deadline: None

Abstract: This regulation will explain when buying and selling commodities constitutes "a principal activity" of a partnership within the meaning of 26 USC 7704(c)(3).

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-002-90

Drafting attorney: Ann Veninga (202) 566-9561.

Reviewing attorney: William P. O'Shea (202) 566-3244.

Treasury attorney: Barksdale Penick (202) 566-6453.

Agency Contact: Ann Veninga, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-9461

RIN: 1545-AO39

3036. EFFECTIVE DATES AND OTHER QUESTIONS ARISING UNDER EMPLOYEE BENEFIT PROVISIONS OF THE TAX REFORM ACT OF 1984

Legal Authority: PL 98-369, Sec 511 to 561

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide proposed rules relating to effective dates and other questions arising under the employee benefit provisions of the Tax Reform Act of 1984.

Timetable:

Action	Date	FR Cite
NPRM	02/04/86	51 FR 4391
Hearing	06/20/86	51 FR 15916
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-98-85.

Drafting attorney: John T. Ricotta (202) 566-4747.

Reviewing attorney: Michael A. Thrasher (202) 566-3576.

Agency Contact: John T. Ricotta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4747

RIN: 1545-AI21

3037. 50 PERCENT EXCISE TAX ON ANY GAIN REALIZED BY A PERSON WHO RECEIVES "GREENMAIL"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 5681 Internal Revenue Code of 1986; 26 USC 6001 Internal Revenue Code of 1986; 26 USC 6011 Internal Revenue Code of 1986; 26 USC 6061 Internal Revenue Code of 1986; 26 USC 6071 Internal Revenue Code of 1986; 26 USC 6091 Internal Revenue Code of 1986; 26 USC 6161 Internal Revenue Code of 1986

CFR Citation: 26 CFR 155. (New); 26 CFR 602

Legal Deadline: None

Abstract: Temporary regulations relating to the manner and method of reporting and paying the nondeductible 50 percent Excise Tax imposed with respect to the receipt of "Greenmail".

Timetable:

Action	Date	FR Cite
Temporary Regulation	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-7-88

Drafting attorney: Warren Joseph (202) 566-6430.

Reviewing attorney: Karin G. Gross (202) 566-3289.

Treasury attorney: J. Judge Kelley (202) 566-8527.

Agency Contact: Warren Joseph, Attorney-Advisor, Department of the Treasury, Internal Revenue Service,

1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4430

RIN: 1545-AL47

3038. THE TIME AND MANNER OF MAKING CERTAIN ELECTIONS UNDER THE TECHNICAL AND MISCELLANEOUS REVENUE ACT OF 1988

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 5h.6

Legal Deadline: None

Abstract: This document contains regulations relating to the time and manner of making certain elections under the Technical and Miscellaneous Revenue Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	09/22/89	54 FR 39002
NPRM Comment Period End	11/21/89	54 FR 39002

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: IA-9-89

Drafting attorney: Grace Matuszeski (202) 566-4430.

Reviewing attorney: John Fischer (202) 566-8131.

Agency Contact: Grace Matuszeski, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4430

RIN: 1545-AN03

3039. ● TECHNICAL AMENDMENTS TO SECTION 602.101(C)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 602.101(c)

Legal Deadline: None

Abstract: The technical amendments update, correct, add, etc., OMB numbers to Display Table in Section 602.101(c).

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-50-60

Drafting tax law specialist: Dale D. Goode (202) 566-3486.

Reviewer: Dale D. Goode (202) 566-3486.

Agency Contact: Dale D. Goode, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3486

RIN: 1545-AO65

3040. TAXPAYER ASSISTANCE ORDERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986 PL 100-647, Sec. 6230

CFR Citation: 26 CFR 301.7811

Legal Deadline: Final, Statutory, February 8, 1992.
Temporary regulation published as TD 8246 effective February 8, 1989, must be published as final regulations within three years.

Abstract: PL 100-647, section 7811, adds new section 7811 to the Internal Revenue Code. This section provides that upon application filed by a taxpayer with the Ombudsman's office, the Ombudsman may issue a taxpayer assistance order (TAO) upon a determination that a taxpayer is or is about to suffer a significant hardship as the result of how the internal revenue laws are being administered by the service. The temporary regulations discuss the form, manner and time for filing an application for assistance, the terms of a TAO, and the supervision of applicable periods of limitation.

Timetable:

Action	Date	FR Cite
NPRM	03/22/89	54 FR 11744

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-075-89

Drafting Attorney: Joseph W. Clark (202) 566-4574.

Reviewing Attorney: Robert Miller (202) 566-3117.

Agency Contact: Joseph W. Clark, Technical Assistant to ACC, (General Litigation), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 566-4574

RIN: 1545-AN14

3041. REGULATIONS ON INCOME TAX UNDER THE TAX REFORM ACT OF 1984, RELATING TO BELOW-MARKET LOANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7872 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide guidance to taxpayers who enter into certain below-market interest rate loan transactions. The regulations explain what type of transactions are treated as loans and what type of loans are subject to the provisions of section 7872. If the loan is subject to section 7872, the below-market loan will be recharacterized as an arm's length market-interest rate loan coupled with a payment by the lender to the borrower in an amount generally equal to the amount of imputed interest. The regulations provide rules for determining the amount and the character of the imputed transfers.

Timetable:

Action	Date	FR Cite
NPRM	08/20/85	50 FR 33569
NPRM Comment Period End	10/20/85	50 FR 33569
Hearing	01/09/86	50 FR 46460

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-165-84.

Drafting attorney: David B. Silber (202) 566-3432.

Reviewing attorney: William Coppersmith (202) 566-3456.

Agency Contact: David B. Silber, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3432

RIN: 1545-AH72

TREAS—IRS

Final Rule Stage

3042. ● EXPANDING RELIEF UNDER SECTION 301.9100-1 OF REGULATIONS TO ALL OTHER SUBTITLES EXCEPT A,T, & F BY AMENDING THE REGULATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301.9100-1

Legal Deadline: None

Abstract: Currently, relief is available only for elections set by regulations under subtitle A of the Internal Revenue Code. This project expands relief to all other subtitles except: E, G, H, and I.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-028-90

Drafting Attorney: Barbara Walker (202) 566-3453.

Reviewing Attorney: Rudolf Planert (202) 566-6283.

Agency Contact: Barbara Walker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3453

RIN: 1545-AO85

DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Completed Actions

3043. ALCOHOL FUEL CREDIT; DEFINITION OF MIXTURE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.40-1

Legal Deadline: None

Abstract: This regulation explains mixtures for which credit is available.

Timetable:

Action	Date	FR Cite
Final Action Effective	10/01/90	55 FR 8946
NPRM	11/24/89	54 FR 48639
NPRM Comment Period End	12/25/89	54 FR 48639
Public Hearing	01/09/90	54 FR 48639
Final Action T.D. 8291	03/09/90	55 FR 8946

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-047-89

Drafting attorney: Frank K. Boland (202) 566-6675.

Reviewing attorney: Dick Kocak (202) 566-3434.

Treasury attorney: Robert Scarborough (202) 566-3828.

Agency Contact: Frank Boland, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6675

RIN: 1545-AN72

3044. CLARIFICATION OF DETERMINATION OF BAD DEBT EXPERIENCE UNDER NONACCRUAL-EXPERIENCE METHOD OF ACCOUNTING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 446 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This NPRM cross-references to temporary regulations clarifying the determination of bad debt experience under the nonaccrual-experience method of accounting under IRC section 448(d)(5).

Timetable:

Action	Date	FR Cite
NPRM	04/15/88	53 FR 12534
Hearing	12/01/88	
Closed without regulations	07/31/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: IA-28-88

Drafting attorney: James A. Orefice (202) 566-3637

Reviewing attorney: Mark Ely (202) 566-3637.

Treasury attorney: Marc Levy (202) 566-4002.

Agency Contact: James A. Orefice, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3637

RIN: 1545-AK92

3045. LOW-INCOME HOUSING CREDIT FOR FEDERALLY-ASSISTED BUILDINGS ACQUIRED DURING 10-YEAR PERIOD

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 42 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides rules for Federally-assisted buildings acquired during a 10-year period.

Timetable:

Action	Date	FR Cite
NPRM	11/03/87	52 FR 42098
NPRM Comment Period End	01/04/88	52 FR 42098
Hearing	03/17/88	53 FR 2905
Final Action T.D. 8302	05/23/90	55 FR 21187

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-82-87

Drafting attorney: Susan Beaman (202) 377-8349.

Reviewing attorney: James Ranson (202) 377-8349.

Treasury attorney: Andrew Dubroff (202) 535-8656.

Agency Contact: Susan Beaman, Assistant Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-8349

RIN: 1545-AL05

3046. REGISTRATION REQUIREMENTS WITH RESPECT TO CERTAIN DEBT OBLIGATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 163 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Publication of section 1.163-5T inadvertently deleted 12/19/88, dealing with deductibility of interest on pass-through certificates.

Timetable:

Action	Date	FR Cite
NPRM	05/19/88	53 FR 17959
Closed Without Regulations	01/31/89	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-060-88

Drafting attorney: Carl M. Cooper (202) 566-6795.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Treasury attorney: Peter Daub (202) 566-2064.

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6795

RIN: 1545–AM23

3047. REGISTRATION REQUIREMENTS WITH RESPECT TO CERTAIN DEBT OBLIGATIONS

Legal Authority: 26 USC 163 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Section 163 of the Code provides that debt obligations issued in bearer form by U.S. persons must be issued under arrangements reasonably designed to ensure their sale to non-U.S. persons. These regulations specify the procedures that constitute arrangements reasonably designed. Those procedures include covenants, confirmations and certifications.

Timetable:

Action	Date	FR Cite
NPRM	05/24/89	54 FR 35200
NPRM Comment Period End	10/10/89	54 FR 34200
Final Action T.D. 8300	05/10/90	55 FR 19622

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: INTL-536-89

Drafting Attorney: Carl M. Cooper (202) 566-6795.

Reviewing Attorney: Robert A. Katcher (202) 566-6795.

Treasury Attorney: Marlin Risinger (202) 566-4979.

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6795

RIN: 1545–AN60

3048. AUTOMOBILES INCLUSION AMOUNTS FOR CALENDAR YEARS AFTER 1988

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 280F Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide the authority to accomplish adjustments in the table used to determine the amount included in the income of a lessee of a passenger automobile. The tax law applicable to automobiles placed in service after 1980 requires annual adjustments in the table to reflect automobile price inflation.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/87	55 FR 13769
Final Action T.D. 8296	04/12/90	55 FR 13769

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: PS-53-88

Senior Tax Law Specialist: John E. Moffat (202) 566-3553.

Reviewing attorney: Charles B. Ramsey (202) 566-3553.

Treasury attorney: John H. Parcell (202) 566-2784.

Agency Contact: John Moffat, Senior Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3553

RIN: 1545–AO04

3049. RECOGNITION OF GAIN OR LOSS ON LIQUIDATING SALES AND DISTRIBUTIONS OF PROPERTY

Legal Authority: 26 USC 336 Internal Revenue Code of 1986; 26 USC 337 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Tax Reform Act of 1986 (the "Act") repealed the last vestiges of the General Utilities doctrine ("GU repeal"), thereby requiring corporations to recognize gain in most cases upon the distribution of appreciated property to their shareholders. The Act granted the Secretary authority to promulgate regulations necessary to carry out the purposes of the Act. It has been determined that GU repeal can be circumvented in certain circumstances, including, Downstream Mergers, conversion into Tax Exempt Entities, and Cross Ownership. This project will seek to identify these areas and promulgate regulations to assure corporate level gain recognition as required by the Act.

Timetable:

Action	Date	FR Cite
Closed without regulations Merged into CO-014-90.	07/10/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-79-87

Drafting attorney: John N. Gerasimos (202) 566-3341.

Reviewing attorney: Don A. Leatherman (202) 566-3454.

Treasury Attorney: Gregory J. Marich (202) 566-2175.

Agency Contact: John N. Gerasimos, Attorney, Department of the Treasury, Internal Revenue Service, Internal Revenue Service, 1111 Constitution

Avenue, NW., Washington DC 20224, [illegible]

RIN: 1545–AE93

3050. FOREIGN PERSONAL HOLDING COMPANIES AND SECTION 338

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: When a foreign personal holding company (which is not also a controlled foreign corporation) is acquired and an election under section 338(g) is made, it is not clear whether the buyer or seller is required to include the foreign personal holding company income on the deemed sale of the corporation's assets. The regulation will require the seller of a foreign personal holding company include any foreign personal holding company income arising from the deemed sale.

Timetable:

Action	Date	FR Cite
Closed without regulations	05/09/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-887-89

Drafting attorney: Karen S. Holden (202) [illegible]

Reviewing attorney: Benedetta A. Kissel (202) 566-6442.

Treasury attorney: Unassigned.

Agency Contact: Karen S. Holden, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6442

RIN: 1545–AG28

3051. FOREIGN LIQUIDATIONS AND REORGANIZATIONS (SPIN-OFF)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367(b)(2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 7

Legal Deadline: None

Abstract: Proposal would provide guidance concerning requirements relating to certain exchanges involving a foreign corporation.

Timetable:

Action	Date	FR Cite
NPRM	03/06/89	54 FR 9236
NPRM Comment Period End	05/05/89	54 FR 9236
Closed without regulations	07/30/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INTL-668-86

Drafting attorney: Bruce Davis (202) 566-9050.

Reviewing attorney: Bernard Bress (202) 566-3452.

Treasury attorney: Marlin Risinger (202) 566-5791.

Agency Contact: Bruce Davis, Special Assistant, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-9050

RIN: 1545–AJ78

3052. CERTAIN EXCHANGES DESCRIBED IN MORE THAN ONE CODE SECTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367(b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Change regulations to conform treatment under the section 367(b) regulations of the transfer of controlled foreign corporation stock.

Timetable:

Action	Date	FR Cite
Closed without regulations	07/30/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INTL-357-89

Drafting attorney: Bruce Davis (202) 566-9050.

Reviewing attorney: Bernard Bress (202) 566-3452.

Treasury attorney: Marlin Risinger (202) 566-5791.

Agency Contact: Bruce Davis, Special Assistant, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-9050

RIN: 1545–AN58

3053. CERTAIN EXCHANGES DESCRIBED IN MORE THAN ONE CODE PROVISION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367(b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Change regulations to conform treatment under the section 367(b) regulations of the transfer of controlled foreign corporation stock.

Timetable:

Action	Date	FR Cite
Closed without regulations	07/30/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INTL-358-89

Drafting attorney: Bruce Davis (202) 566-9050.

Reviewing attorney: Bernard Bress (202) 566-3452.

Treasury attorney: Marlin Risinger (202) 566-5791.

Agency Contact: Bruce Davis, Special Assistant, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-9050

RIN: 1545–AN59

3054. ● DEFINITION OF COMPENSATION

Legal Authority: 26 USC 414(s) Internal Revenue Code of 1986; 26 USC 415(c)(3) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide rules relating to the definitions of compensation under sections 414(s) and 415(c)(3) of the Internal Revenue Code. These are the definitions used to apply the nondiscrimination provisions applicable to qualified plans and apply the limits on benefits and contributions in section 415.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8301	05/14/90	55 FR 19875

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-129-86

Drafting attorney: Marjorie Hoffman (202) 566-4747.

Reviewing attorney: Nancy J. Marks (202) 566-6821.

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4747

RIN: 1545-AO70

3055. ● ELECTIVE DEFERRAL OF FEDERAL PAYMENTS RECEIVED AS A RESULT OF DESTRUCTION OR DAMAGE TO CROPS CAUSED BY NATURAL DISASTER

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.451-6

Legal Deadline: None

Abstract: This regulation prescribes the conditions under which insurance proceeds received as a result of destruction or damage to crops (including federal disaster payments) will qualify for the deferral election provided in section 451(d).

Timetable:

Action	Date	FR Cite
Final Action T.D. 8289	03/01/90	55 FR 7316

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-013-90

Drafting attorney: Val Strehlow (202) 377-9560.

Reviewing attorney: Doug Fahey (202) 566-4442.

Treasury attorney: Roy Strowd (202) 535-6959.

Agency Contact: Val Strehlow, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-9560

RIN: 1545-AO48

3056. TEMPORARY INCOME TAX REGULATIONS—THE ECONOMIC PERFORMANCE REQUIREMENT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 461 (h) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide guidance relating to when economic performance occurs with respect to a liability and how the recurring item exception applies.

Timetable:

Action	Date	FR Cite
Closed without regulations	04/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-257-84.

Drafting attorney: Bill Blagg (202) 566-3294.

Reviewing attorney: Cynthia Clark (202) 566-6302.

Agency Contact: Bill Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3294

RIN: 1545-AH33

3057. LIMITATIONS ON PASSIVE ACTIVITY LOSSES AND CREDITS—MISCELLANEOUS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 469(l) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.469-2T

Legal Deadline: None

Abstract: Regulation excludes certain casualty and theft losses from passive activity deductions and otherwise amends existing regulations.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8290	02/26/90	55 FR 6960

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-066-89

Drafting attorney: Christine Ellison (202) 566-4751.

Reviewing attorney: Margaret O'Connor (202) 377-9585.

Treasury attorney: John Parcell (202) 566-2784.

Agency Contact: Christine Ellison, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-4751

RIN: 1545-AO01

3058. AMENDMENTS TO PROPOSED REGULATIONS UNDER SECTIONS 752 AND 704(B) ISSUED 12/29/88

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 98-369, Sec 79 Tax Reform Act of 1984

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These amendments make certain clarifying and corrective changes to the proposed regulations issued 12/29/88 (RIN 1545-AH26) relating to the treatment of partnership liabilities and the allocation of deductions attributable to nonrecourse debt.

Timetable:

Action	Date	FR Cite
NPRM	11/21/89	54 FR 48116
NPRM Comment Period End	01/19/90	54 FR 48116
Project closed by memorandum. Incorporated into PS-229-84 (RIN:1545-AH26)	02/16/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-019-89

Drafting attorney: Mary A. Munday (202) 377-9470

Reviewing attorney: Dianna Miosi (202) 566-4070

Treasury attorney: Greg Marich (202) 566-5453

Agency Contact: Mary A. Munday, Attorney, Department of the Treasury, Internal Revenue Service, 1111

Constitution Ave., NW., Washington, D. C. 20224, [illegible]

RIN: 1545–AN30

3060. TREATMENT OF SALVAGE RECOVERABLE UNDER SECTION 832

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 832 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.832

Legal Deadline: None

Abstract: Regulations postpone the effective date of rules relating to the treatment of salvage and reinsurance in the computation of the losses incurred deduction of section 832(b)(5).

Timetable:

Action	Date	FR Cite
Final Action T.D. 8293	03/14/90	55 FR 9424

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-076-89

Drafting attorney: William Blagg (202) [illegible]

Reviewing attorney: Stephen Hoos (202) [illegible]

Treasury attorney: Jeanne Hoenicke (202) 566-5453.

Agency Contact: Bill Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3294

RIN: 1545–AC16

3059. SPECIAL RULES FOR DETERMINING SOURCE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6903 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations provides the general rule for determining the source of scholarships and fellowship grants as defined under section 117. The source of such payments is determined by the residence of the payor. A special rule is provided for payments made by a U.S. payor to a nonresident alien studying abroad. In such circumstances, the source of the payments is foreign

Timetable:

Action	Date	FR Cite
Closed without regulations	07/30/90	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: INTL-600-89

Drafting Attorney: Carol P. Tello (202) 377-9059.

Reviewing Attorney: Thomas D. Fuller (202) 377-9059.

Treasury Attorney: Peter Barnes (202) 566-5815.

Agency Contact: Carol P. Tello, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, 202 377-9059

RIN: 1545–AN95

3061. TEMPORARY REGULATIONS FOR SOURCE RULES FOR PERSONAL PROPERTY SALES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 865 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide temporary rules for determining the source of income from sales of personal property until final regulations may be promulgated.

Timetable:

Action	Date	FR Cite
Closed without regulations	07/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-356-88

Drafting attorney: Carol P. Tello (202) 377-9059.

Reviewing attorney: Robert E. Culbertson (202) 377-9394.

Treasury attorney: Mary Bennett (202) 566-5992.

Agency Contact: Carol P. Tello, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitutuion Ave. NW., Washington, DC 20224, [illegible]

RIN: 1545–AL76

3062. 904(F) TRANSITION RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 99-514, Sec 1203

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Section 1203 of the Tax Reform Act of 1986 amends section 904 (f) by adding paragraph (5) at the end thereof which requires that foreign source losses with respect to any income category first offset the taxpayer's other foreign source income subject to a separate limitation for the taxable year on a proportionate basis before such losses offset the taxpayer's U.S. source income. Accordingly, the regulation will provide rules for the allocation of foreign source losses incurred in taxable years beginning before the effective date of the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	05/17/[illegible]	53 FR 17472
Interim Final Rule	07/08/[illegible]	53 FR 17473
Final Action T.D. 8306	08/02/90	55 FR 31360

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-932-86

Drafting attorney: Willard W. Yates (202) 566-3452.

Reviewing attorney: Carol Doran-Klein (202) 566-3452.

Treasury attorney: Peter Barnes (202) 566-5815.

Agency Contact: Willard W. Yates, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, 202 566-3452

RIN: 1545–AL17

3063. SECTION 953 - INSURANCE INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 953 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

TREAS—IRS

Completed Actions

Abstract: The regulations define related person insurance income; and sets forth rules regarding the amount of related person insurance income to be included in gross income. In addition, the regulation defines insurance income under section 953(a), prescribes rules of allocation and apportionment of deductions, and prescribes rules for the interaction of subchapter L and subchapter N.

Timetable:

Action	Date	FR Cite
Closed Without Regulations	02/05/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-590-89

Drafting Attorney: David R. Cooper (202) 566-6645.

Reviewing Attorney: Jacob Feldman (202) 566-6545.

Treasury Attorney: Peter Barnes (202) 566-5815.

Agency Contact: David R. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6645

RIN: 1545–AN89

3064. COMPUTATION OF A BRANCH'S TAXABLE INCOME; TAXATION OF EXCHANGE GAIN OR LOSS ON BRANCH REMITTANCES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Branch rules on how to translate branch income.

Timetable:

Action	Date	FR Cite
Closed without regulations	07/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-378-88

Drafting attorney: Carol E. Murphy (202) 566-6264.

Reviewing attorney: Bob Katcher (202) 566-6795.

Treasury attorney: Chisoon Lee (202) 566-6275.

Agency Contact: Carol E. Murphy, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6264

RIN: 1545–AN32

3065. ● EXCHANGE OF FUTURES FOR PHYSICALS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 988 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulation will address issues raised by exchanges of futures contracts for commodities.

Timetable:

Action	Date	FR Cite
Closed without regulations	07/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-064-90

Drafting attorney: Joseph S. Henderson (202) 566-6307.

Reviewing attorney: Jeffrey Dorfman (202) 377-9059.

Treasury attorney: Unassigned.

Agency Contact: Joseph S. Henderson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6307

RIN: 1545–AO74

3066. GAINS FROM CERTAIN SALES OR EXCHANGES IN CERTAIN FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Cross-reference notice of proposed rulemaking to amend regulations under section 1248 to partially suspend the application of section 1248(e) and to limit the application of section 1248(f) to those situations in which gain is not recognized.

Timetable:

Action	Date	FR Cite
Closed without regulations	07/30/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-910-87

Drafting attorney: Karen S. Holden (202) 566-6442.

Reviewing attorney: Charles Saverude (202) 377-9493.

Treasury attorney: Marlin Risinger (202) 566-5791.

Agency Contact: Karen S. Holden, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-6442

RIN: 1545–AL68

3067. SECTION 1248 SALES AND EARNINGS AND PROFITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1248 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will close a loophole in the section 1248 regulations, which currently allow a taxpayer to "bunch" income earned over several years into a single taxable year.

Timetable:

Action	Date	FR Cite
Closed without regulations	05/03/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-658-87

Drafting Attorney: Thomas D. Fuller (202) 377-9059.

Reviewing Attorney: Thomas D. Fuller (202) 377-9059.

Treasury Attorney: Unassigned.

Agency Contact: Thomas D. Fuller, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-9059

RIN: 1545–AM42

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TREAS—IRS

Completed Actions

3068. ● TREATMENT OF CERTAIN SHAREHOLDERS OF PASSIVE FOREIGN INVESTMENT COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1291 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation addresses the Federal income tax consequences to shareholders of passive foreign investment companies that are nonqualified funds upon receipt of distributions and dispositions of the stock of the passive foreign investment companies, including transfers in nonrecognition transactions.

Timetable:

Action	Date	FR Cite
Closed without regulations	07/30/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-476-89

Drafting attorney: Gayle E. Novig (202) 377-9559.

Reviewing attorney: Thomas Fuller (202) 377-9058.

Treasury attorney: P. Ann Fisher (202) 566-6679.

Agency Contact: Gayle Novig, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 377-9559

RIN: 1545-AO83

3069. INVESTMENT ADJUSTMENTS UNDER THE CONSOLIDATED RETURN REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provision would revise the method of adjusting the basis of stock under section 1.1502-32.

Timetable:

Action	Date	FR Cite
Closed without regulations	06/19/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-222-81.

Drafting attorney: David Kessler (202) 566-3220.

Reviewing attorney: John Broadbent (202) 566-4324.

Agency Contact: David Kessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3220

RIN: 1545-AC47

3070. INVESTMENT ADJUSTMENTS UNDER THE CONSOLIDATED RETURN REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provision would revise the method of adjusting the basis of stock under section 1.1502-32.

Timetable:

Action	Date	FR Cite
Closed without regulations	06/19/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-15-86.

Drafting attorney: David Kessler (202) 566-3220.

Reviewing attorney: John Broadbent (202) 566-4324.

Agency Contact: David Kessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3220

RIN: 1545-AI58

3071. TEMPORARY REGULATIONS—CONSOLIDATED RETURN INVESTMENT ADJUSTMENTS WITH RESPECT TO AN ACQUIRED SUBSIDIARY'S BUILT-IN GAINS OR LOSSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986; 26 USC 337 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will prevent the consolidated return investment adjustments from reflecting the recognized built-in gains or losses of assets acquired in certain corporate acquisitions.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8294	03/14/90	55 FR 9426

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-4-87

Drafting attorney: Mark S. Jennings (202) 566-2455.

Reviewing attorney: John Broadbent (202) 343-0555.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-2455

RIN: 1545-AK95

3072. MODIFICATION OF CONSOLIDATED REGULATIONS CONCERNING RESTORATION OF DEFERRED GAIN TO ADD AN INTEREST CHARGE ON DEFERRED GAIN PROPERTY SOLD OUTSIDE OF GROUP ON INSTALLMENT BASIS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.453A; 26 CFR 1.1502

Legal Deadline: None

Abstract: The regulations provide rules concerning the creation and restoration of deferred gain or loss. The purpose of the regulations is to conform the original intent of the deferral mechanism by assuring that intercompany transfer generally do not affect the overall federal income tax consequences to the group.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8295	03/14/90	55 FR 9420

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-008-90

Drafting attorney: Roy Hirschhorn (202) 566-3231.

Reviewing attorney: Edward Cohen (202) 566-3484.

Treasury attorney: Judge Kelley (202) 566-8277.

Agency Contact: Roy Hirschhorn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3251

RIN: 1545-AO43

3073. WITHHOLDING ON CERTAIN DEFERRED PAYMENTS OUTSIDE THE UNITED STATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3405(d)(13) Internal Revenue Code of 1986

CFR Citation: 26 CFR 35

Legal Deadline: None

Abstract: The regulation will provide questions and answers dealing with circumstances under which an election for no withholding on employer deferred compensation plan payments may not be made.

Timetable:

Action	Date	FR Cite
Closed without regulations	05/17/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-956-86.

Drafting attorney: Christopher S. Warnock (202) 566-6795.

Reviewing attorney: Robert A. Katcher (202) 566-6795.

Treasury attorney: P. Ann Fisher (202) 566-4079.

Agency Contact: Christopher S. Warnock, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20024, 202 566-6795

RIN: 1545-AL31

3074. ELECTION TO HAVE CERTAIN DIESEL FUEL TAXES IMPOSED ON SALES TO RETAILERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4041 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: The regulations will provide guidance to assist diesel fuel retailers in making an election to have the diesel fuel excise tax collected by the wholesaler at the time the liquid is sold to the retailer.

Timetable:

Action	Date	FR Cite
NPRM	03/01/88	53 FR 6524
NPRM Comment Period End	05/02/88	53 FR 6524
Final Action T.D. 8303	06/06/90	55 FR 23076

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-114-88

Drafting attorney: Frank Boland (202) 566-4475.

Reviewing attorney: Dick Kocak (202) 566-4077.

Treasury attorney: Evelyn Brody (202) 566-6453.

Agency Contact: Frank Boland, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-4475

RIN: 1545-AJ13

3075. NOMINEE REPORTING OF PARTNERSHIP INFORMATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6031 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to nominee reporting of partnership interest which such nominee holds for another person. The regulations will provide the information that the nominee is required to provide and will also provide the manner in which this information is to be reported to the partnership.

Timetable:

Action	Date	FR Cite
NPRM	09/07/88	53 FR 34545
NPRM Comment Period End	11/07/88	
Closed without regulations	06/22/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-155-86.

Drafting attorney: Vincent G. Surabian (202) 566-6680.

Reviewing attorney: Norlyn Miller (202) 566-3273.

Office of Tax Legislative Counsel Reviewing attorney: Greg Marich (202) 566-4979.

Agency Contact: Vincent G. Surabian, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6680

RIN: 1545-AJ98

3076. INFORMATION WITH RESPECT TO CERTAIN FOREIGN-OWNED CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6038A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules for U.S. corporations or U.S. branches that are 25-percent foreign owned as to what records are to be maintained, where these records are to be maintained and how to designate, in the case of a "related party", an agent. The regulations will also provide rules for the imposition of penalties for failure to comply with section 6038A and exemptions for reasonable cause from the imposition of the penalties.

Timetable:

Action	Date	FR Cite
Closed without regulations	07/30/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: INTL-669-89

Drafting Attorney: Carol P. Tello (202) 377-9059.

Reviewing Attorney: Thomas D. Fuller (202) 377-9050.

Treasury Attorney: Rom Watson (202) 343-0247.

Agency Contact: Carol P. Tello, Attorney-Advisor, Department of the Treasury, Internal Revenue Service,

1111 Constitution Avenue, NW., Washington, DC, 202 377-9239

RIN: 1545-AO10

3077. PROCEDURE ON CERTAIN FRINGE BENEFITS PLANS

Legal Authority: 26 USC 6033D Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance concerning a return required by specified fringe benefit plans.

Timetable:

Action	Date	FR Cite
Closed without regulations	05/29/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-117-84.

Drafting attorney: Sylvia F. Hunt (202) 566-3351.

Reviewing attorney: Harry Beker (202) 566-3251.

Treasury attorney: Richard Shea (202) 566-5902.

Agency Contact: Sylvia F. Hunt, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 566-3351

RIN: 1545-AI21

3078. REPORTING REQUIREMENTS CONCERNING CHANGES IN CORPORATE CONTROL OR CAPITAL STRUCTURE UNDER SECTION 6043(C), I.R.C., AS AMENDED BY BY SECTION 7208(B) OF THE REVENUE RECONCILIATION ACT OF 1989

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6043(c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: The purpose of the project is to implement the reporting requirements under section 6043(c) to provide the Internal Revenue Service information needed in order to more effectively examine the tax consequences of certain transactions in which control of a corporation is acquired or in which the capital structure of a corporation is changed, including in particular certain transactions that might be characterized as "leveraged buy-outs."

Timetable:

Action	Date	FR Cite
Temporary regulation project (1545-AO45) closed; Project will be NPRM (AO46) only.	05/03/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-005-90

Drafting attorney: Keith Stanley (202) 566-3618.

Reviewing attorney: Howard Staiman (202) 566-3618.

Treasury attorney: Judge Kelley (202) 566-8527.

Agency Contact: Keith Stanley, Senior Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3618

RIN: 1545-AO45

3079. INFORMATION REPORTING ON REAL ESTATE TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6045 Internal Revenue Code of 1986

CFR Citation: 26 CFR 7805; 26 CFR 6045

Legal Deadline: None

Abstract: This regulation would provide additional rules relating to the reporting of real estate transactions.

Timetable:

Action	Date	FR Cite
Closed without regulations	04/18/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: IA-94-88

Drafting Attorney: Arthur E. Davis III (202) 377-9561.

Reviewing Attorney: David L. Crawford (202) 377-9590.

Treasury Attorney: J. Judge Kelley (202) 566-8527.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, 202 377-9561

RIN: 1545-AM38

3080. AMEND AGGREGATION RULES FOR FILING REQUIREMENT

Significance: Agency Priority

Legal Authority: 26 USC 6050I Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.6050I-1(b)(1); 26 CFR 7805

Legal Deadline: None

Abstract: An amendment of the regulation is necessary as the result of a policy decision to revise Form 8300.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8304	07/09/90	55 FR 28021

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: IA-041-89

Drafting Attorney: Philip Scott (202) 566-3825.

Reviewing Attorney: Vincent Cardella (202) 566-4426.

Agency Contact: Philip Scott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-3825

RIN: 1545-AO00

3081. INCOME TAX-DISCLOSURE OF RETURN INFORMATION TO OFFICERS AND EMPLOYEES OF THE DEPARTMENT OF COMMERCE FOR CERTAIN STATISTICAL PURPOSES AND RELATED ACTIVITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6103 (j) Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Proposed regulation would disclose to the Bureau of the Census additional tax return information needed to help them determine whether an individual who itemizes is over 65.

Timetable:

Action	Date	FR Cite
NPRM	12/14/89	53 FR 50243
Final Action T.D. 8295	03/28/90	55 FR 11367

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-42-88

Drafting attorney: Paul Winkler (202) 566-4430.

Reviewing attorney: Karin G. Gross (202) 566-4430.

Agency Contact: Paul W. Winkler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224, 202 566-4430

RIN: 1545–AM02

3082. TREASURY-BASED RETURN POSITIONS; FAILURE TO DISCLOSE TREATY-BASED RETURN POSITION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6114 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Notice of proposed rulemaking to regulations that will provide guidance to taxpayers concerning compliance with the treaty-based return position disclosure requirements of section 6114 which was added to the code by TAMRA.

Timetable:

Action	Date	FR Cite
NPRM	09/11/89	54 FR 37478
NPRM Comment Period End	11/13/89	54 FR 37478
Final Action T.D. 8292	03/14/90	55 FR 9436

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-361-89

Drafting attorney: David Bergkuist (202) 566-6442.

Reviewing attorney: Charles Saverude (202) 377-9493.

Treasury attorney: Peter Barnes (202) 566-5815.

Agency Contact: David Bergkuist, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6142

RIN: 1545–AM07

3083. ● REVISIONS TO FINAL REGULATIONS UNDER SECTION 6114

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6114 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Final regulations to amend previously issued final regulations under section 6114. These regulations are necessary to provide additional guidance needed to implement section 6114 by clarifying previously issued language and by reducing or eliminating reports in certain circumstances.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8305	07/12/90	55 FR 28606

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-292-90

Drafting attorney: David Bergkuist (202) 566-6442.

Reviewing attorney: Charles Saverude (202) 377-9493.

Treasury attorney: Peter Barnes (202) 566-5992.

Agency Contact: David Bergkuist, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 566-6142

RIN: 1545–AO68

3084. ABATEMENT OF ANY PENALTY OR ADDITION TO TAX ATTRIBUTABLE TO ERRONEOUS WRITTEN ADVICE BY THE INTERNAL REVENUE SERVICE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986 PL 100-647 sec 6229; 26 USC 6404 (f) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: Other, Statutory, May 10, 1989.

Abstract: Regulations relating to the abatement of a portion of any penalty or addition to tax attributable to erroneous written advice furnished to a taxpayer by the I.R.S.

Timetable:

Action	Date	FR Cite
NPRM	05/16/89	54 FR 21072
NPRM Comment Period End	07/17/89	54 FR 21073
Final Action T.D. 8299	04/17/90	55 FR 14244

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-024-88

Drafting Attorney: Stephen J. Toomey (202) 566-3803.

Reviewing Attorney: William Jackson (202) 566-3602.

Treasury Attorney: Barksdale Penick (202) 566-5453.

Agency Contact: Stephen J. Toomey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202 566-3803

RIN: 1545–AN04

3085. PROCEDURES INVOLVING TAXPAYER INTERVIEWS (TIME AND PLACE OF EXAMINATION)

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 100-647, Sec 6228 Taxpayer Bill of Rights 102 Stat. 3342

CFR Citation: 26 CFR 301.7605-1(a). (Revision)

Legal Deadline: NPRM, Statutory, November 10, 1989. Final, Statutory, November 10, 1992.

Abstract: Section 7605(a) of the Internal Revenue Code, 26 USC 7605(a), and section 301.7605-1(a) of the regulations currently provide the time and place of an examination shall be fixed by an officer or employee of the Internal Revenue Service and shall be reasonable under the circumstances. No regulations have been promulgated elaborating on this provision. The Taxpayer Bill of Rights requires the publication within one year of regulations enumerating standards for determining whether the selection of a time and place for interviewing a taxpayer is reasonable. These regulations are to provide that if it is generally not reasonable for the IRS to require a taxpayer to attend an

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Completed Actions

examination at an IRS office within the assigned district other than the office located closest to the taxpayer's home. They will also provide it is generally not reasonable for the IRS to audit a taxpayer at his or her place of business if the business is so small that doing so will essentially require the taxpayer to close his business.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8297	04/03/90	55 FR 12344

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: GL-705-88

Drafting attorney: Nancy O. Ryan (202) 535-9678.

Reviewing attorney: Robert Miller (202) 566-3117.

Agency Contact: Nancy O. Ryan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202 535-9678

RIN: 1545-AM69

[FR Doc. 90-22599 Filed 10-26-90; 8:45 am]

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DEPARTMENT OF THE TREASURY (TREAS)
Office of Thrift Supervision (OTS)

Office of Thrift Supervision

12 CFR Ch. V

[No. 90-1464]

Agenda of Federal Regulations

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Publication of agenda items.

SUMMARY: The Office of Thrift Supervision (Office) is hereby publishing items for the October Unified Agenda of Federal Regulations.

A number of the agenda items refer to statutory requirements imposed by FIRREA. These items refer to the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), Pub. L. No. 101-73, 103 Stat. 183, signed into law on August 9, 1989, which restructured the regulation of the thrift industry.

ADDRESSES: Information Services Division, Office of Communications, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552.

FOR FURTHER INFORMATION CONTACT: See persons listed below for specific agenda items.

Dated: August 3, 1990.

By the Office of Thrift Supervision.

Timothy Ryan,

Director.

Office of Thrift Supervision—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3086	12 CFR 567 Marginal Capital Calculation	1550-AA12

Office of Thrift Supervision—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3087	12 CFR 567 Required Capital Levels for Savings Associations; Regulatory Intervention	1550-AA02
3088	12 CFR 500 et seq Mutual Savings and Loan Holding Companies	1550-AA03

Office of Thrift Supervision—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3089	12 CFR 567 Regulatory Capital Requirements for Savings Associations	1550-AA01
3090	12 CFR 563 Bonds for Directors, Officers, Employees, and Agents; Form and Amount of Bonds	1550-AA05
3091	12 CFR 563g Sales of Securities at Savings Association Offices	1550-AA09
3092	12 CFR 563 Minimum Security Devices	1550-AA25
3093	12 CFR 563 Transactions With Affiliates and Subsidiaries	1550-AA26
3094	12 CFR 563e Community Reinvestment Act	1550-AA28

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Office of Thrift Supervision—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3095	12 CFR 516 Drug-Free Workplace Requirements	1550-AA04
3096	12 CFR 502 Assessments and Fees	1550-AA07
3097	12 CFR 500 Miscellaneous Conforming and Technical Amendments	1550-AA13
3098	12 CFR 563 Capital Distributions by Savings Associations	1550-AA14
3099	12 CFR 502 Assessments	1550-AA16
3100	12 CFR 564 Appraisals	1550-AA24
3101	12 CFR 545 Loans to One Borrower Limitations	1550-AA27
3102	12 CFR 545.132 Release of Customer Financial Records by Federal Associations	1550-AA29

DEPARTMENT OF THE TREASURY (TREAS) — **Prerule Stage**
Office of Thrift Supervision (OTS)

3086. MARGINAL CAPITAL CALCULATION

Significance: Agency Priority

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a

CFR Citations: 12 CFR 567

Legal Deadline: None

Abstract:

The Office has taken under consideration the adoption of a proposed rule to amend its current risk-based capital standard to provide an optional method for calculation of certain mortgage related risk-weighted assets.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Fishman, Senior Project Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, 202 906-5672

RIN: 1550-AA12

DEPARTMENT OF THE TREASURY (TREAS) — **Proposed Rule Stage**
Office of Thrift Supervision (OTS)

3087. REQUIRED CAPITAL LEVELS FOR SAVINGS ASSOCIATIONS; REGULATORY INTERVENTION

Significance: Regulatory Program

Legal Authority: 12 USC 1464

CFR Citation: 12 CFR 567

Legal Deadline: None

Abstract: The Office is addressing whether to amend the minimum regulatory capital regulations for savings associations to add specific language defining a particular level of capital as an "unsafe and unsound condition to transact business including having substantially insufficient capital" for the purpose of activating the Office's statutory authority to appoint a conservator or receiver. The advance notice of proposed rulemaking set the floor capital requirements at a level of 1.5 percent of total assets, to be held in the form of core equity capital. The Office is currently developing a notice of proposed rulemaking in this area which would also define "insolvency".

Timetable:

Action	Date	FR Cite
ANPRM	01/10/89	54 FR 826
ANPRM Comment Period End	02/09/89	54 FR 826

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Formerly reported under FHLBB RIN 3069-AA75

Agency Contact: Deborah Dakin, Regulatory Counsel, Regulations and Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, 202 906-6445

RIN: 1550-AA02

3088. MUTUAL SAVINGS AND LOAN HOLDING COMPANIES

Significance: Agency Priority

Legal Authority: 12 USC 1467a

CFR Citation: 12 CFR 500 et seq

Legal Deadline: None

Abstract: The Office is reviewing issues to be addressed through the implementation of the mutual holding company provisions of the Home Owners' Loan Act. The provisions permit any savings association to reorganize to form a holding company by chartering an interim savings association whose stock is wholly-owned by the mutual association and transferring substantially all of the

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mutual association's assets and liabilities (including all insured liabilities) to the interim savings association.

Timetable:

Action	Date	FR Cite
ANPRM	10/21/88	53 FR 41343
ANPRM Comment Period End	12/05/88	53 FR 44436

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Formerly reported under FHLBB RIN 3068-AA77

Agency Contact: Jeff Miner, Senior Counsel for Issues Analysis, Corporate and Securities Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, 202 906-7546

RIN: 1550-AA03

DEPARTMENT OF THE TREASURY (TREAS)
Office of Thrift Supervision (OTS)

Final Rule Stage

3088. REGULATORY CAPITAL REQUIREMENTS FOR SAVINGS ASSOCIATIONS

Significance: Agency Priority

Legal Authority: 12 USC 1464

CFR Citation: 12 CFR 567

Legal Deadline: None

Abstract:

The Office adopted an interim rule amending its regulations concerning minimum capital requirements for all savings associations as required by FIRREA. One purpose of the rule is to ensure that savings associations engaging in higher risk activities are adequately capitalized. The rule includes requirements for minimum levels of tangible, core, and total capital.

In connection with this rule, the Bank Board as predecessor to the Office proposed a description of methodologies to be used in calculating the interest-rate risk component of the rule in the form of an advance supplemental notice of proposed rulemaking. The Office is currently formulating a notice of proposed rulemaking in this area.

Timetable:

Action	Date	FR Cite
NPRM	12/23/88	53 FR 51800
Advance Supplemental NPRM Interest-Rate-Risk	07/03/89	54 FR 27685
NPRM Comment Period End	09/22/89	54 FR 37944
Interim Final Rule	11/08/89	54 FR 46845

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Formerly reported under FHLBB RIN 3068-AA73

Agency Contact: Robert Fishman, Senior Project Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, 202 906-5672

RIN: 1550-AA01

3090. BONDS FOR DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS; FORM AND AMOUNT OF BONDS

Significance: Agency Priority

Legal Authority: 12 USC 1462 et seq; 12 USC 3806

CFR Citation: 12 CFR 563

Legal Deadline: None

Abstract: The Bank Board, as predecessor to the Office, adopted amendments to 12 CFR 563.19 which modified the schedule for calculating the permissible deductible for fidelity bonds and sought comment on whether additional, more substantive revisions to the fidelity bond regulations for all savings associations are necessary.

The Office has since adopted a notice of proposed rulemaking which would substitute required coverage under Standard Form No. 22 with coverage under Standard Form No. 24. The proposal is intended to address the disparity between such requirements for savings associations and those for commercial banks.

Timetable:

Action	Date	FR Cite
ANPRM	06/13/89	54 FR 25127
ANPRM Comment Period End	07/13/89	54 FR 25127
NPRM	09/25/90	55 FR 39168
NPRM Comment Period End	10/25/90	55 FR 39168

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Formerly reported under FHLBB RIN 3068-AA92

Agency Contact: William W. Templeton, Staff Attorney, Corporate and Securities Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, 202 906-7354

RIN: 1550-AA05

3091. SALES OF SECURITIES AT SAVINGS ASSOCIATION OFFICES

Significance: Agency Priority

Legal Authority: 12 USC 1462a; 12 USC 1463; 12 USC 1464; 15 USC 78c(b); 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78p; 15 USC 78w

CFR Citation: 12 CFR 563g

Legal Deadline: None

Abstract: The Office has issued a notice of proposed rulemaking concerning the sale of securities at the offices of a savings association. The proposal would prohibit the sale of any debt securities of a savings association or its affiliates on the premises of the savings association which are generally accessible to the public for the purpose of accepting deposits. Sales of equity securities would be subject to the same conditions as are present in the existing rule.

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Timetable:

Action	Date	FR Cite
NPRM	05/03/90	55 FR 18610
NPRM Comment Period End	06/04/90	55 FR 18610

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paul D. Glenn, Senior Counsel, Corporate and Securities Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, 202 906-6203

RIN: 1550–AA09

3092. ● MINIMUM SECURITY DEVICES

Significance: Agency Priority

Legal Authority: 12 USC 1881 to 1884

CFR Citation: 12 CFR 568

Legal Deadline: None

Abstract: The Office has proposed revisions to its regulations concerning minimum security devices and procedures in light of changes in the technology of security devices and to implement changes made by FIRREA. The proposed revisions incorporate amendments to the Bank Protection Act of 1968 made by FIRREA and would give savings associations the flexibility to avoid the technical obsolescence that occurred under the existing regulation.

Timetable:

Action	Date	FR Cite
NPRM	03/20/90	55 FR 10247
NPRM Comment Period End	05/21/90	55 FR 10247

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry A. Clark, Senior Trust Specialist, Compliance Programs, Department of the Treasury, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, 202 906-6452

RIN: 1550–AA26

3093. ● TRANSACTIONS WITH AFFILIATES AND SUBSIDIARIES

Significance: Agency Priority

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1828; 12 USC 3806; 42 USC 4106

CFR Citation: 12 CFR 563

Legal Deadline: None

Abstract: The Office is proposing to amend its regulations relating to transactions between savings associations and/or their subsidiaries and affiliates to clarify the applicability to thrifts of the limitations and prohibitions specified in sections 23A and 23B of the Federal Reserve Act, clarify the additional limitations imposed upon savings association transactions with affiliates pursuant to section 11 of the Home Owners' Loan Act, and implement other restrictions in connection with the application of sections 23A and 23B to transactions between savings associations and/or their subsidiaries and their affiliates, pursuant to section 11(a)(4) of the Home Owners' Loan Act.

Timetable:

Action	Date	FR Cite
NPRM	03/27/90	55 FR 11311
NPRM Comment Period End	05/29/90	55 FR 11311

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kevin L. Petrasic, Asst. Chief Counsel for Corp. Transactions, Corporate and Securities Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, 202 906-6452

RIN: 1550–AA26

3094. ● COMMUNITY REINVESTMENT ACT

Significance: Agency Priority

Legal Authority: 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 2901 et seq

CFR Citation: 12 CFR 563e

Legal Deadline: Other, Statutory, July 1, 1990.
Statute mandates that disclosures permitted under the regulation be made beginning July 1, 1990, making it necessary to have the regulation in place by that date.

Abstract: The Office of Thrift Supervision, the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (the "agencies") have issued a joint temporary rule with request for comment in order to implement changes in the Community Reinvestment Act ("CRA") contained in title XII of FIRREA. The revisions put in place requirements for institutions supervised by the agencies with regard to the public availability of the public section of the CRA Performance Evaluations and CRA ratings of the institutions as prepared by the agencies.

Timetable:

Action	Date	FR Cite
Temporary Rule	06/28/90	55 FR 26824
Final Action	12/31/90	
Final Action Effective	01/31/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jerauld C. Kluckman, Director, Compliance Programs, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, 202 906-6825

RIN: 1550–AA28

DEPARTMENT OF THE TREASURY (TREAS)
Office of Thrift Supervision (OTS)

Completed Actions

3095. DRUG-FREE WORKPLACE REQUIREMENTS

Significance: Agency Priority

Legal Authority: 12 USC 1437(a)

CFR Citation: 12 CFR 516; 12 CFR 516.305; 12 CFR 516.320

Legal Deadline: Final, Statutory, February 18, 1989.

Abstract: As predecessor to the Office, the Bank Board implemented the Drug-Free Workplace Act of 1988 (Pub. L.100-690, Title V, Subtitle D). The Act requires contractors and grantees of Federal agencies to certify that they will provide drug-free workplaces. This agenda item has become part of the Treasury Department's agency-wide agenda item under RIN 1505-AA40.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 4946
MERGED WITH RIN 1505-AA40	10/09/89	

Small Entities Affected: Organizations

Government Levels Affected: None

Additional Information: Formerly reported under FHLBB RIN 3068-AA85

Agency Contact: Caroline Morris, Attorney, General Law Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, 202 906-6431

RIN: 1550–AA04

3096. ASSESSMENTS AND FEES

Significance: Agency Priority

Legal Authority: 12 USC 1467

CFR Citation: 12 CFR 502

Legal Deadline: None

Abstract: The Office has adopted an interim final regulation allowing it to assess fees from savings associations in order to cover the cost of examinations and otherwise fund expenses until a permanent mechanism can be established. Such rule is no longer necessary as it was superseded by the final assessments rule under RIN 1550-AA16.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/29/89	54 FR 39863
Replaced and Rescinded by Final Rule Under RIN 1550-AA16	09/23/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Deborah Dakin, Regulatory Counsel, Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, 202 906-6445

RIN: 1550–AA07

3097. MISCELLANEOUS CONFORMING AND TECHNICAL AMENDMENTS

Significance: Agency Priority

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 2901 et seq; 12 USC 1735f-1; 12 USC 3201 et seq; 12 USC 3806; 15 USC 78c; 15 USC 78l to 78n; 15 USC 78w; 42 USC 4106

CFR Citation: 12 CFR 500; 12 CFR 543; 12 CFR 544; 12 CFR 545; 12 CFR 546; 12 CFR 550; 12 CFR 552; 12 CFR 563; 12 CFR 563b; 12 CFR 563f; 12 CFR 567; 12 CFR 574; 12 CFR 584

Legal Deadline: None

Abstract: The Office has adopted a final rule to standardize most filing procedures for applications requiring action by the Office in Washington, the Office's Washington staff, or by a District Office. These revisions are intended to enable the Office to monitor the status of applications filed for review in Washington more efficiently and to expedite application processing in general.

Timetable:

Action	Date	FR Cite
Final Action	04/11/90	55 FR 13507
Final Action Effective	06/11/90	55 FR 13507

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Cindy Hausch, Financial Analyst, Corporate Activities, Department of the Treasury, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, 202 906-7488

RIN: 1550–AA13

3098. CAPITAL DISTRIBUTIONS BY SAVINGS ASSOCIATIONS

Significance: Agency Priority

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1828; 12 USC 3806; 15 USC 78c; 15 USC 78l to 78n; 15 USC 78w; 42 USC 4106

CFR Citation: 12 CFR 563; 12 CFR 563b

Legal Deadline: None

Abstract: The Office has finalized a proposal to implement a uniform regulatory approach to capital distributions such as dividends, stock repurchases, and cash-out mergers using a tiered approach tied to whether a savings association meets its capital requirements. Those meeting such requirements are given greater flexibility to engage in capital distributing activities.

Timetable:

Action	Date	FR Cite
NPRM	08/17/89	54 FR 33926
NPRM Comment Period End	10/16/89	54 FR 33926
Final Action	07/02/90	55 FR 27185
Final Action Effective	08/01/90	55 FR 27185

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John Connolly, Assistant Chief Counsel for Capital Markets, Department of the Treasury, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, 202 906-6465

RIN: 1550–AA14

3099. ASSESSMENTS

Significance: Agency Priority

Legal Authority: 12 USC 1462a; 12 USC 1463; 12 USC 1467; 12 USC 1467a; 12 USC 1464; 15 USC 78c(b); 15 USC 78l to 78n; 12 USC 78w; 12 USC 78d-1

CFR Citation: 12 CFR 502; 12 CFR 563d

Legal Deadline: None

Abstract: The Office has adopted a final rule permitting it to assess fees to cover the costs of supervision and examinations of institutions under its jurisdiction. The rule sets forth the rates of such fees and how the Office will determine appropriate examination and application fees. This method of funding replaces and rescinds the interim funding mechanism currently in place, which is listed under RIN 1550-AA07.

Timetable:

Action	Date	FR Cite
NPRM	02/22/90	55 FR 6274
NPRM Comment Period End	03/26/90	55 FR 6274
Final Action	08/23/90	55 FR 34519
Final Action Effective	09/23/90	55 FR 34519

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Deborah Dakin, Regulatory Counsel, Regulations and Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, 202 906-6445

RIN: 1550–AA16

3100. APPRAISALS

Significance: Agency Priority

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1828

CFR Citation: 12 CFR 564

Legal Deadline: Final, Statutory, August 9, 1990.

Abstract: The Office has adopted a final rule which implements title XI of FIRREA. It affords protection for federal financial and public policy interests in real estate related transactions by requiring real estate appraisals used in connection with federally related transactions to be in writing, in accordance with uniform standards, by appraisers whose competency has been proven and whose professional conduct is effectively supervised. The rule applies to all federally related transactions entered into by the Office and by Federal savings associations, state-chartered savings associations, savings and loan holding companies, and their subsidiaries.

Timetable:

Action	Date	FR Cite
NPRM	02/15/90	55 FR 5464
NPRM Comment Period End	04/16/90	55 FR 5464
Final Action	08/23/90	55 FR 34532
Final Action Effective	08/23/90	55 FR 34532

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ellen Sazzman, Staff Attorney, Regulations and Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, 202 906-7133

RIN: 1550–AA24

3101. ● LOANS TO ONE BORROWER LIMITATIONS

Significance: Agency Priority

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1828; 12 USC 3806; 42 USC 4106

CFR Citation: 12 CFR 545; 12 CFR 563

Legal Deadline: None

Abstract: The Office has adopted an interim final rule with request for comment and a final rule concerning loans to one borrower limitations. FIRREA states that section 5200 of the Revised Statutes now applies to savings associations in the same manner and to the same extent as it applies to national banks. It also provides Special Rules which (i) authorize loans for any purpose not to exceed $500,000; and (ii) specify different limits for loans to develop domestic residential housing units and loans to finance the sale of real property acquired in satisfaction of debts previously contracted for in good faith. These new limitations have been implemented through the interim final rule. The final rule restates the provisions of the interim final rule and adds a transition measure to permit a more orderly implementation of the new lending limits.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/27/90	55 FR 11294
Final Action	07/10/90	55 FR 28144
Final Action Effective	07/10/90	55 FR 28144

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas Maxwell, Staff Attorney, Regulations and Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, 202 906-6648

RIN: 1550–AA27

3102. ● RELEASE OF CUSTOMER FINANCIAL RECORDS BY FEDERAL ASSOCIATIONS

Significance: Agency Priority

Legal Authority: 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1828

CFR Citation: 12 CFR 545.132

Legal Deadline: None

Abstract: The Office has withdrawn its final regulation governing the release of customer financial records by Federal associations. In conjunction with this withdrawal, the Office intends to propose a new regulation to address the same issue. The final rule which has been withdrawn was adopted effective December 15, 1989. 54 FR 33859 (Aug. 17, 1989). (RIN 3068-AA86 from October 1989 Agenda). The Office determined that withdrawal of the regulation was necessary due to the significant changes in the thrift industry made by FIRREA.

Timetable:

Action	Date	FR Cite
Final Action	08/24/90	55 FR 34698
Final Action Effective	08/24/90	55 FR 34698

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ben F. Dixon, Policy Analyst, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, 202 906-5746

RIN: 1550–AA29

[FR Doc. 90-22600 Filed 10-26-90; 8:45 am]

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federal register

Monday
October 29, 1990

Part XVI

Department of Veterans Affairs

Semiannual Regulatory Agenda

DEPARTMENT OF VETERANS AFFAIRS (VA)

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Ch. I

Agenda of Federal Regulations

AGENCY: Department of Veterans Affairs.

ACTION: Publication of agenda of regulations.

SUMMARY: This agenda announces the regulations that the Department of Veterans Affairs will have under review, development, or revision during the 12-month period from October 1990 to October 1991. The purpose in publishing the Department's regulatory development activities is to allow all interested persons the opportunity to participate in the rulemaking process.

ADDRESSES: Interested persons are invited to comment on the regulations listed in the agenda by contacting the individual Department contact listed for each regulation or by writing to: Director, Records Management Service (723), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Patricia Tatum, (202) 233-3770.

SUPPLEMENTARY INFORMATION: Executive Order 12291, "Federal Regulation," and the Regulatory Flexibility Act (Pub. L. 96-354) require that executive agencies publish in the **Federal Register** in April and October of each year an agenda of regulations under development and review.

The Department of Veterans Affairs has no regulations considered major under the terms of Executive Order 12291; however, all of this Department's proposed rules and current rules under review, except those considered to be internal Department policy management or routine regulations, have been listed in accordance with section 5(a) of the Executive order.

This agenda incorporates those categories of information required pursuant to 5 U.S.C. 602(a) and 610(c) of the Regulatory Flexibility Act.

This agenda has been prepared in accordance with OMB Memorandum dated July 2, 1990.

Dated: August 20, 1990.
By direction of the Secretary.

Edward G. Lewis,

Assistant Secretary for Information Resources Management.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3103	Limitations on Payments vs. Reimbursement of the Costs of Emergency Hospital Care and Medical Services Not Previously Authorized	2900-AA85
3104	Medical Care for Veterans Receiving Vocational Training Under 38 U.S.C. Chapter 15; Outpatient Care for Research Purposes	2900-AB60
3105	Quality Assurance Confidentiality of Mandatory HSRO-SIR Functions	2900-AE39
3106	Aid to States for Care of Veterans in State Homes	2900-AE87
3107	Schedule for Rating Disabilities—The Gynecological System	2900-AE72
3108	Standards for Program Evaluation	2900-AE30

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3109	Disposition of Veteran's Personal Funds and Effects on Facility upon Death, or Discharge, or Unauthorized Absence, and of Funds and Effects Found on Facility	2900-AB61
3110	Transportation of Claimants and Beneficiaries	2900-AC70
3111	Increasing the Domiciliary Income Limitation	2900-AD48
3112	Confidential Quality Assurance Program Records and Documents	2900-AD73
3113	Reporting Health Care Professionals to Licensing and Monitoring Entities	2900-AE27
3114	Confidentiality of Certain Medical Records	2900-AE28
3115	CHAMPVA	2900-AE54
3116	Determination of Attributable Income Issuance of Prosthetic Devices on an Outpatient Basis	2900-AE86
3117	Employee Fiduciaries	2900-AB50
3118	1. Veterans Services Officer (VSO) to Select and Appoint or Recommend for Appointment the Person or Legal Entity to Receive Benefits in a Fiduciary Capacity 2. Direct Payment	2900-AB75
3119	1. Payment to the Wife or Husband of an Incompetent Veteran 2. Legal Custodian	2900-AB76
3120	Veterans Education; Federal Equal Opportunity Laws	2900-AC52
3121	Compliance with Civil Rights Provisions	2900-AC72
3122	Loans to Purchase Manufactured Homes	2900-AC85
3123	Qualification Requirements for Department of Veterans Affairs Fee Appraisers	2900-AD32
3124	Loan Guaranty: Approval and Withdrawal of Automatic Processing Privileges	2900-AD33
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Sequence Number	Title	Regulation Identifier Number
3127	Reservists Education; Veterans' Benefits and Services Act of 1988 and the Montgomery GI Bill	2900-AD88
3128	Veterans Education; The Veterans Benefits and Programs Improvement Act and Montgomery GI Bill	2900-AD83
3129	Reservists Education; The Veterans Benefits and Programs Improvement Act and Montgomery GI Bill	2900-AD89
3130	Exclusions from Income	2900-AD97
3131	Claims Based on Exposure to Herbicides Containing Dioxin	2900-AE09
3132	Schedule for Rating Disabilities; Genitourinary System Disabilities	2900-AE11
3133	Loan Guaranty: Servicing Requirements for VA Guaranteed Loans	2900-AE19
3134	Loan Guaranty: Title Evidence Requirements and Occupancy Requirements for Conveyance of Properties to VA	2900-AE20
3135	Schedule for Rating Disabilities; the Cardiovascular System	2900-AE40
3136	Schedule for Rating Disabilities; The Endocrine System	2900-AE41
3137	Reservists Education; PL 101-237 and the Montgomery GI Bill—Selected Reserve	2900-AE43
3138	Veterans Education; PL 101-237 and the Montgomery GI Bill—Active Duty	2900-AE44
3139	Veterans Education; PL 101-237 and VEAP	2900-AE45
3140	Veterans Education; PL 101-237 and Noncontributory Education Programs	2900-AE46
3141	Reservists Education; Procedural Due Process, Montgomery GI Bill —Selected Reserve	2900-AE49
3142	Increase in Subsistence Allowance	2900-AE55
3143	Statutory Changes Affecting the Vocational Rehabilitation Program	2900-AE56
3144	Vocational Training Programs for Certain Pensioners	2900-AE57
3145	Lender Participation Fees	2900-AE58
3146	Indemnification of Default	2900-AE59
3147	Acceptance of Partial Payments	2900-AE60
3148	Settlement Interest	2900-AE79
3149	Veterans Education; Increase in Rates Payable in the Educational Assistance Test Program (EATP)	2900-AE80
3150	Dependents Education; Timely Submission of Descriptions of Mitigating Circumstances	2900-AE81
3151	Veterans Education; Timely Submission of Descriptions of Mitigating Circumstances	2900-AE82
3152	Reservists Education; Timely Submission of Descriptions of Mitigating Circumstances	2900-AE83
3153	Veterans Education; Nonduplication of Benefits	2900-AE84
3154	Election of Subsistence Allowance at the Chapter 34 Rate	2900-AE85
3155	Clothing Allowance and Marriage Requirements	2900-AE86
3156	Appeals Regulations; Rules of Practice	2900-AE78
3157	Group Memorial Monuments	2900-AE13
3158	Nondiscrimination on the Basis of Sex Under Federally Assisted Education Programs and Activities	2900-AB51
3159	Committees on Waivers and Compromises	2900-AE61
3160	Authorize the Department of Veterans Affairs to Restrict its Employees from Testifying in Private Litigation	2900-AE76
3161	Revocation of Delegation to Issue Subpoenas Pursuant to 38 USC 3311 and Specify Permissible Methods of Service	2900-AE77
3162	Disclosure of Claimant Records in Connection With Judicial Proceedings Generally	2900-AE73

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3163	Contract Medical Care	2900-AC31
3164	Grants to States for Construction or Acquisition of State Home Facilities	2900-AD16
3165	Federal Policy for the Protection of Human Subjects	2900-AE29
3166	1. Apportionment of Benefits to Dependents; 2. Payment of Cost of Veteran's Maintenance in Institution; 3. Recommendation for Payment	2900-AC10
3167	Suspension of Individual Employees of Manufactured Home Dealers	2900-AD83
3168	Loan Guaranty; Credit Underwriting Standards and Procedures for Processing VA Guaranteed Loans; Specially Adapted Housing	2900-AC90
3169	Veterans Education; Payments During Breaks in Enrollment	2900-AD59
3170	Basic Eligibility Determinations: Education	2900-AD60
3171	Authority of Fiduciaries to Conduct Insurance Transactions	2900-AD74
3172	Use of For-Profit Agencies	2900-AE60
3173	Veterans Education; State Approving Agencies and the Montgomery GI Bill-Selected Reserve	2900-AE61
3174	Reservists Education; Implementation of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1988	2900-AE10
3175	New and Material Evidence	2900-AE22
3176	VA Assistance in Developing Claims	2900-AE23
3177	Failure to Report for VA Examination	2900-AE24
3178	Mitigating Circumstances	2900-AE26

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Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3179	Burial Benefits	2900-AE33
3180	Finality of Decisions	2900-AE42
3181	Veterans Education; Procedural Due Process and the Montgomery GI Bill—Active Duty	2900-AE50
3182	Veterans Education; Procedural Due Process, Educational Assistance Test Program	2900-AE51
3183	Permanent Program of Independent Living Services and Assistance	2900-AE54
3184	Claims Based on Service in Vietnam	2900-AE68
3185	Veteran Education: Implementation of the Department of Defense Authorization Act for Fiscal Years 1990 and 1991	2900-AE69
3186	Department of Veterans Affairs Acquisition Regulation—Consulting Service	2900-AC86
3187	Acquisition Regulation: Construction Contracting Procedures	2900-AC87
3188	Acquisition Regulation: Contractor Qualifications	2900-AE16
3189	Acquisition Regulation: Sealed Bidding	2900-AE17
3190	VA Official Seal and Distinguished Flag	2900-AE34
3191	Appeals Regulations: Rules of Practice	2900-AE02
3192	Nondiscrimination on the Basis of Handicap in Federally Assisted Programs and Activities	2900-AB87
3193	Operation of Child Care Centers at VA Facilities	2900-AD48
3194	Delegation to Settle and Pay Claims for Not More Than $40,000 Made by an Employee of the Department of Veterans Affairs for Damage or Loss of Personal Property Incident to Service	2900-AE75
3195	Release of VA Lists of Names and Addresses and Penalty Procedures for Unauthorized Use	2900-AC83
3196	Predisclosure of Confidential Commercial Information	2900-AD09
3197	New Restrictions on Lobbying	2900-AE74

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3198	Expanded Eligibility for 30-40 Percent Service-Connected Veterans	2900-AD41
3199	Nondiscrimination Against Alcohol and Drug Abusers and Persons Infected with HIV	2900-AD49
3200	Confidentiality of Tort Claim Peer Review	2900-AE06
3201	Health Professional Scholarship Program - Associated Degree in Nursing	2900-AE37
3202	Outpatient Care for Research Purposes	2900-AE62
3203	Procedural Due Process	2900-AC54
3204	Extension of Time Limit for Claims	2900-AC81
3205	Training Outside the United States	2900-AC73
3206	Loan Guaranty: Processing Assumptions of VA Guaranteed Home Loans Under 38 U.S.C. 1814	2900-AD30
3207	Loan Guaranty: Lenders Appraisal Processing Program	2900-AD31
3208	Determination of Service-Connection for Impaired Hearing	2900-AD54
3209	Extension of Vocational Programs for Seriously Disabled Veterans	2900-AD76
3210	Extension of Eligibility Because of the Disabling Effects of Chronic Alcoholism	2900-AD77
3211	Veterans and Dependents Education; The Veterans' Benefits and Programs Improvement Act	2900-AD84
3212	Veterans Education; The Veterans' Benefits and Programs Improvement Act of 1988 and VEAP	2900-AD85
3213	Implementation of Pub. L. 100-198 Concerning Changes in Amount of Entitlement, Calculation of Guaranty Amount, Occupancy Requirements, and Requirements for Refinancing Loans	2900-AD91
3214	Loan Guaranty: Maintenance of Loan Records, Elimination of Reference to HUD MPS (Minimum Property Standards HUD Handbook 4900.1)	2900-AD92
3215	Loan Guaranty: Preforeclosure Waiver or Compromise of Debts	2900-AD94
3216	Independent Medical Opinions	2900-AD96
3217	Definition of Marginal Employment in Consideration of Total Evaluations Based on Individual Unemployability	2900-AD99
3218	Veterans Education: Implementation of the Veteran Benefits Improvement and Health Care Authorization Act of 1986 and new GI Bill Continuation Act of 1987	2900-AE03
3219	Veterans Education; Disabling Effects of Chronic Alcoholism	2900-AE05
3220	Veterans Education; Increase in Rates Payable in the Educational Assistance Test Program (EATP)	2900-AE08
3221	Claims Based on Exposure to Herbicides Containing Dioxin	2900-AE12
3222	Loan Guaranty: Discrimination on the Basis of Handicap or Family Status	2900-AE21
3223	Veterans Education; Qualifying for the Montgomery GI Bill Through Service in the Selected Reserve	2900-AE31
3224	Reservists Education; DOD Authorization Act; Montgomery GI Bill—Selected Reserve	2900-AE47
3225	Veterans Education; DOD Authorization Act and the Montgomery GI Bill—Active Duty	2900-AE48
3226	Leaves of Absence	2900-AE53
3227	Accountability for Authorization and Payment of Training and Rehabilitation Services	2900-AE67
3228	VA Acquisition Regulation: Loan Guaranty Program	2900-AE70
3229	VA Acquisition Regulation: Contract Modifications	2900-AE71

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Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
3230	Appeals Regulations and Rules of Practice; Request for Change in Representation for Personal Hearing, or Submission (cont)	2900-AD14
3231	Recognition of Organizations, Representatives, Agents, and Attorneys	2900-AE15
3232	Information Law Delegations of Authority to General Counsel and Deputy General Counsel	2900-AE95
3233	Drug-Free Workplace (Grants)	2900-AE96

DEPARTMENT OF VETERANS AFFAIRS (VA)

Prerule Stage

VETERANS HEALTH SERVICES AND RESEARCH ADMINISTRATION

3103. LIMITATIONS ON PAYMENTS VS. REIMBURSEMENT OF THE COSTS OF EMERGENCY HOSPITAL CARE AND MEDICAL SERVICES NOT PREVIOUSLY AUTHORIZED

Significance: Regulatory Program

Legal Authority: PL 101-237, Sec 202

CFR Citation: 38 CFR 17.80(a)

Legal Deadline: None

Abstract: Editorial corrections to conform with language of the law.

Timetable:

Action	Date	FR Cite
To Be Withdrawn	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Tryhus, Chief, Policies and Procedures Division, Medical Administration Service (161B2), Department of Veterans Affairs, Veterans Health Svcs. & Research Admin., 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2143

RIN: 2900-AA85

3104. MEDICAL CARE FOR VETERANS RECEIVING VOCATIONAL TRAINING UNDER 38 U.S.C. CHAPTER 15; OUTPATIENT CARE FOR RESEARCH PURPOSES

Significance: Regulatory Program

Legal Authority: PL 101-237, Sec 202

CFR Citation: 38 CFR 17.56(a)

Legal Deadline: None

Abstract: Editorial correction to conform with the language of the law.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Tryhus, Chief, Policies and Procedures Division, Medical Administration Service (161B2), Department of Veterans Affairs, Veterans Health Svcs. & Research Admin., 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2143

RIN: 2900-AB60

3105. QUALITY ASSURANCE CONFIDENTIALITY OF MANDATORY HSRO-SIR FUNCTIONS

Legal Authority: 38 USC 3305; 38 USC 4151

CFR Citation: 38 CFR 17.500; 38 CFR 17.504; 38 CFR 17.505; 38 CFR 17.506; 38 CFR 17.507; 38 CFR 17.514; 38 CFR 17.515; 38 CFR 17.516; 38 CFR 17.517; 38 CFR 17.519; 38 CFR 17.523; 38 CFR 17.527; 38 CFR 17.534

Legal Deadline: None

Abstract: 38 USC 3305 prohibits VA from designating any Quality Assurance (QA) program activity, for the purpose of confidentiality, unless such activity has been specified in regulation. These regulations, as amended, govern VA's QA program activities, and records and documents which are made confidential and privileged. VA is proposing reorganization of mandatory HSRO-SIR functions, streamline programmatic QA requirements for medical facilities, elimination of HSRO-SERP and establishment of a VACO external review section, refinement of general regulations designating and describing confidential records and documents, and clarifying outdated language.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis

Agency Contact: Ron Goldman, Acting Chief, Systems Review Staff (15A), Department of Veterans Affairs, Veterans Health Svcs. & Research Admin., 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3115

RIN: 2900-AE39

3106. ● AID TO STATES FOR CARE OF VETERANS IN STATE HOMES

Legal Authority: 38 USC 643

CFR Citation: 38 CFR 17.165(c)

Legal Deadline: None

Abstract: New State homes have lost Federal aid payments due to the existing regulatory restriction that payment of Federal aid cannot begin prior to notification of recognition of a State home. There are delays from the inspection of a new State home to the final notification. This is inevitable due to the time required to prepare the recognition letter, assemble background data and route through various VA offices for concurrences. The proposed amendment would delete this restriction and allow VA to provide per diem payments to States after the

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recognition inspection has been completed instead of the date of notification of recognition.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/91	
NPRM	11/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Brent Baker, Chief, State Home Construction Grants, Ofc of Geriatrics and Extended Care (145B), Department of Veterans Affairs, Veterans Health Svcs. & Research Admin., 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3879

RIN: 2900-AE87

VETERANS BENEFITS ADMINISTRATION

3107. © SCHEDULE FOR RATING DISABILITIES—THE GYNECOLOGICAL SYSTEM

Legal Authority: 38 USC 355

CFR Citation: 38 CFR 4.116; 38 CFR 4.116(a)

Legal Deadline: None

Abstract: These amendments will contain additions, deletions and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the gynecological system.

Timetable:

Action	Date	FR Cite
ANPRM	08/20/90	55 FR 33924
ANPRM Comment Period End	10/19/90	55 FR 33924

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phyllis Barber, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 233 202-3005

RIN: 2900-AE72

PROGRAM COORDINATION AND EVALUATION

3108. STANDARDS FOR PROGRAM EVALUATION

Legal Authority: 38 USC 210(c); 38 USC 219

CFR Citation: 38 CFR 1.16

Legal Deadline: None

Abstract: Due to the realignment of the program evaluation function and the reduction of resources dedicated to that function, the conduct of program evaluations will be reevaluated and alternatives explored which will better meet the needs of the VA in assessing the effectiveness of its programs. Regulations will be proposed to implement these changes.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sylvia Chavez Long, Deputy Assistant Secretary for Program Coordination and Evaluation (076), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-5212

RIN: 2900-AE30

DEPARTMENT OF VETERANS AFFAIRS (VA) — Proposed Rule Stage

VETERANS HEALTH SERVICES AND RESEARCH ADMINISTRATION

3109. DISPOSITION OF VETERAN'S PERSONAL FUNDS AND EFFECTS ON FACILITY UPON DEATH, OR DISCHARGE, OR UNAUTHORIZED ABSENCE, AND OF FUNDS AND EFFECTS FOUND ON FACILITY

Legal Authority: 38 USC 210(c)

CFR Citation: 38 CFR 12.0 to 12.24

Legal Deadline: None

Abstract: Section 208 of Public Law 94-581 provides that unclaimed property or funds and effects left by a dependent or survivor of a veteran receiving medical care at a Department of Veterans Affairs facility as a CHAMPVA beneficiary will be disposed of in the same or similar manner as such property left by a veteran. Also, estates of dependents or survivors of a veteran who dies intestate and without legal heirs while a patient in any Department of Veterans Affairs facility or any hospital, while being furnished care or treatment therein by VA will escheat to the U.S. Government. Some of these regulations have not been updated since 1948, therefore, editorial changes will be made which will not affect policy.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Tryhus, Chief, Policies and Procedures Division, Medical Administration Service (161B2), Department of Veterans Affairs, Veterans Health Svcs. & Research Admin., 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3501

RIN: 2900-AB61

3110. TRANSPORTATION OF CLAIMANTS AND BENEFICIARIES

Legal Authority: PL 100-322

CFR Citation: 38 CFR 17.100

Legal Deadline: None

Abstract: These proposed regulations will implement Section 108 of Pub. L. 100-322 which provides that the Secretary of the Department of Veterans Affairs shall make payments for travel during the fiscal year for examination, treatment or care for which the person is eligible or in connection with vocational rehabilitation provided pursuant to Chapter 31 of Title 38, United States Code.

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Timetable:

Action	Date	FR Cite
NPRM	10/31/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul C. Tryhus, Chief, Policies and Procedures Division, Medical Administration Service (161B2), Department of Veterans Affairs, Veterans Health Svcs. & Research Admin., 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2594

RIN: 2900–AC70

3111. INCREASING THE DOMICILIARY INCOME LIMITATION

Legal Authority: PL 100-322

CFR Citation: 38 CFR 17.47; 38 CFR 17.48

Legal Deadline: None

Abstract: The proposed regulations implement Section 102 of Pub. L. 100-322 which provides that domiciliary care may be provided to veterans whose incomes do not exceed the maximum applicable rate of pension for a veteran in need of regular aid and attendance.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Tryhus, Chief, Policies and Procedures Division, Medical Administration Service (161B2), Department of Veterans Affairs, Veterans Health Svcs. & Research Admin., 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2594

RIN: 2900–AD46

3112. CONFIDENTIAL QUALITY ASSURANCE PROGRAM RECORDS AND DOCUMENTS

Legal Authority: 38 USC 3305; 38 USC 4151

CFR Citation: 38 CFR 17.500; 38 CFR 17.506; 38 CFR 17.507(a)(4); 38 CFR 17.508; 38 CFR 17.509; 38 CFR 17.515; 38 CFR 17.516; 38 CFR 17.519

Legal Deadline: None

Abstract: 38 USC 3305 prohibits VA from designating any Quality Assurance (QA) program activity, for the purpose of confidentiality, unless such activity has been specified in regulation. Final regulations implementing 38 USC 3305 were made effective October 22, 1982. Those regulations govern VA's QA program activities and records and documents which are made confidential and privileged. Proposed rules amending 38 CFR 17.500-17.534 were issued in the Federal Register on October 27, 1988, and the public comment period ended November 28, 1988. One commenter suggested a change to those regulations that could not be accepted by VA without public comment. Therefore, VA is proposing to reorganize the description of the continuous monitoring functions, streamline programmatic QA requirements for the medical facilities and update requirements according to new standards.

Timetable:

Action	Date	FR Cite
To Be Withdrawn	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ron Goldman, Acting Chief, System Review Staff (15A), Department of Veterans Affairs, Veterans Health Svcs. & Research Admin., 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3115

RIN: 2900–AD73

3113. REPORTING HEALTH CARE PROFESSIONALS TO LICENSING AND MONITORING ENTITIES

Legal Authority: PL 100-322

CFR Citation: 38 CFR 17

Legal Deadline: None

Abstract: This regulation will specify the requirements for reporting licensed health care professionals to licensing and monitoring entities. It will also state the criteria to be used in determining who should be reported to licensing and monitoring entities.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Agatha J. Francis, Health Science Officer (19), Office of the Medical Inspector, Department of Veterans Affairs, Veterans Health Svcs & Research Admin., 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-5417

RIN: 2900–AE27

3114. CONFIDENTIALITY OF CERTAIN MEDICAL RECORDS

Legal Authority: 38 USC 4132

CFR Citation: 38 CFR 1.460-1.499

Legal Deadline: None

Abstract: These regulations address the confidentiality of VA records pertaining to drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus (HIV), and sickle cell anemia treatment, rehabilitation, education, training, evaluation and research information.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Tryhus, Chief, Policies and Procedures Division, Medical Administration Service (161B2), Department of Veterans Affairs, Veterans Health Svcs. & Research Admin., 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2594

RIN: 2900–AE28

3115. ● CHAMPVA

Legal Authority: 38 USC 613

CFR Citation: 38 CFR 17.54 to 17.54f

Legal Deadline: None

Abstract: The Civilian Health and Medical Program of VA (CHAMPVA) provides dependents and survivors of certain veterans with a medical benefits program similar in scope to DoD's Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) through which VA would help pay for certain medical services and supplies obtained from civilian sources for persons not otherwise eligible for medical care under CHAMPUS.

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Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul C. Tryhus, Chief, Policies and Procedures Division, Medical Administration Service (161B2), Department of Veterans Affairs, Veterans Health Svcs. & Research Admin., 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2594

RIN: 2900-AE94

3116. ● DETERMINATION OF ATTRIBUTABLE INCOME ISSUANCE OF PROSTHETIC DEVICES ON AN OUTPATIENT BASIS

Legal Authority: 38 USC 622(f)(1); 38 USC 612

CFR Citation: 38 CFR 17.48(d)(4); 38 CFR 17.115(a)

Legal Deadline: None

Abstract: The existing means test regulations require VA's Veterans Health Services and Research Administration (VHS&RA) to determine income for means test purposes in the same manner as income is determined for VA pension purposes. VHS&RA is proposing to change its income determination methodology to one that is similar to the method used for VA pension. This change would allow VHS&RA to simulate VA's Veterans Benefits Administration's (VBA's) income determination without having to hire additional staff. The change is a more liberal interpretation of the existing rules for income determination. In addition, during a technical revision to the prosthetic regulations, they were inadvertently substantively changed by deleting authority to provide prosthetic appliances to certain veterans. This error will be corrected.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
Final Action	07/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Tryhus, Chief, Policies and Procedures Division, Medical Administration Service (161B2), Department of Veterans Affairs, Veterans Health Svcs. & Research Admin., 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2594

RIN: 2900-AE96

VETERANS BENEFITS ADMINISTRATION

3117. EMPLOYEE FIDUCIARIES

Legal Authority: 38 USC 210

CFR Citation: 38 CFR 0.735-21

Legal Deadline: None

Abstract: The existing regulation falls under the general rules of conduct for employees. The intended change will bar most employees from becoming fiduciaries for beneficiaries of Department of Veterans Affairs benefits and establish an exemption to the bar under a limited number of circumstances such as when the employee is a close relative.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William B. Saliski, Jr., Program Analyst (273), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-5291

RIN: 2900-AB50

3118. 1. VETERANS SERVICES OFFICER (VSO) TO SELECT AND APPOINT OR RECOMMEND FOR APPOINTMENT THE PERSON OR LEGAL ENTITY TO RECEIVE BENEFITS IN A FIDUCIARY CAPACITY 2. DIRECT PAYMENT

Legal Authority: 38 USC 3202(a)

CFR Citation: 38 CFR 13.55; 38 CFR 13.56

Legal Deadline: None

Abstract: 38 CFR 13.55 authorizes the VSO to select and appoint a fiduciary and defines the types of payees authorized to receive payments in fiduciary cases. The intended change updates the authority language to more closely reflect changes to 38 USC 3202; removes gender specific terminology and reference to mental illness; and, further clarifies the types of payees available for selection. 38 CFR 13.56 defines classes of beneficiaries who may be paid directly. The intended change clarifies the conditions for direct payment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William B. Saliski, Jr., Program Analyst (273), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-5291

RIN: 2900-AB75

3119. 1. PAYMENT TO THE WIFE OR HUSBAND OF AN INCOMPETENT VETERAN 2. LEGAL CUSTODIAN

Legal Authority: 38 USC 3202

CFR Citation: 38 CFR 13.57; 38 CFR 13.58

Legal Deadline: None

Abstract: 38 CFR 13.57 specifies types of Department of Veterans Affairs benefits that may be paid to spouse payee. The intended change broadens the class of payments to include Department of Veterans Affairs insurance. 38 CFR 13.58 explains in part duties expected of a legal custodian. The intended change will clarify the custodian's authority to purchase a burial agreement for the incompetent beneficiary.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William B. Saliski, Jr., Program Analyst (273), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-5291

RIN: 2900-AB76

3120. VETERANS EDUCATION; FEDERAL EQUAL OPPORTUNITY LAWS

Legal Authority: 42 USC 2000d; 20 USC 1681; 29 USC 794; 42 USC 6101

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CFR Citation: 38 CFR 21.4300; 38 CFR 21.4301; 38 CFR 21.4302; 38 CFR 21.4304; 38 CFR 21.4305; 38 CFR 21.4306; 38 CFR 21.4307; 38 CFR 21.4135

Legal Deadline: None

Abstract: The Department of Veterans Affairs is proposing to rescind several regulations. These regulations concern the implementation of Title VI, Civil Rights Act of 1964 in the education programs which VA administers. The regulations either conflict with or repeat unnecessarily other regulations which deal with the implementation of that Act. Rescinding these regulations will eliminate any confusion in the public's perception of the way VA is implementing this Act.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3082

RIN: 2900-AC52

3121. COMPLIANCE WITH CIVIL RIGHTS PROVISIONS

Legal Authority: 38 USC 1515

CFR Citation: 38 CFR 21.324

Legal Deadline: None

Abstract: Compliance with civil rights provisions requires that payment of benefits to veterans be terminated upon a finding that a veteran is attending a facility which has been found in noncompliance with applicable provisions of Part 18, Nondiscrimination in Federally Assisted Programs of the Department of Veterans Affairs. We propose to amend 38 CFR 21.324 to reflect this new requirement.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Merde Triestman, Rehabilitation Consultant (281), Vocational Rehabilitation Service, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-6426

RIN: 2900-AC72

3122. LOANS TO PURCHASE MANUFACTURED HOMES

Legal Authority: 38 USC 210(c); 38 USC 1803(c)(1); 38 USC 1812(g)

CFR Citation: 38 CFR 36.4202; 38 CFR 36.4204; 38 CFR 36.4222; 38 CFR 36.4232; 38 CFR 36.4293

Legal Deadline: None

Abstract: A number of regulatory changes will be proposed for the VA manufactured home loan program. VA would conform to HUD's practices on certifications, invoicing and volume rebates. Lenders would be permitted to file claims upon receipt of the VA's resale price and thereafter retain the profit or loss which results from subsequent sale of the home. Broader insurance coverage would be required to cover missing items at repossession. Actual freight costs would be allowed in the invoice, and the amounts and items which could be included in the loan would be revised.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith A. Caden, Assistant Director for Loan Policy (264), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3042

RIN: 2900-AC65

3123. QUALIFICATION REQUIREMENTS FOR DEPARTMENT OF VETERANS AFFAIRS FEE APPRAISERS

Legal Authority: 38 USC 210(c); 38 USC 1831; PL 100-198

CFR Citation: 38 CFR 36.4339

Legal Deadline: None

Abstract: Pub. L. 100-198 requires that certain standards for being designated as a fee appraiser be published in regulatory form. The standards are to include the successful completion of a written test, submission of a sample appraisal, certification of an appropriate number of years of experience as an appraiser, and submission of recommendations from other appraisers. In the past, such requirements have been published in administrative issues other than regulations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert C. Greaves, Assistant Director for Construction and Valuation (282), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3691

RIN: 2900-AD32

3124. LOAN GUARANTY: APPROVAL AND WITHDRAWAL OF AUTOMATIC PROCESSING PRIVILEGES

Legal Authority: 38 USC 210(c); 38 USC 1802(d)

CFR Citation: 38 CFR 36.4300; 38 CFR 36.4300

Legal Deadline: None

Abstract: The Department of Veterans Affairs may grant lenders the authority to process loans on the automatic basis if they meet requirements set by VA. Currently these requirements are published in administrative issues with release to program participants. The proposed regulations will place the requirements in regulatory form to ensure proper notice. The requirements will include minimums for such items as working capital, experience of the firm and/or principal officers and its underwriters. These regulations will apply to lenders such as mortgage bankers who are not already under supervision by State or Federal entities. These regulations will also prescribe standards and procedures for withdrawal of the automatic processing authority.

Timetable:

Action	Date	FR Cite
NPRM	08/17/90	55 FR 33724
NPRM Comment Period End	09/17/90	55 FR 33724

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VA

Proposed Rule Stage

Action	Date	FR Cite
NPRM Comment Period Extended	10/17/90	55 FR 37716
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith A. Caden, Assistant Director for Loan Policy (264), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3042

RIN: 2900-AD33

3125. ALLOWABLE FEES AND CHARGES FOR DEPARTMENT OF VETERANS AFFAIRS GUARANTEED LOANS

Legal Authority: 38 USC 210(c); 38 USC 1803(c)

CFR Citation: 38 CFR 36.4312; 38 CFR 36.4354

Legal Deadline: None

Abstract: Regulations allow the veteran obtaining a Department of Veterans Affairs guaranteed loan to pay the lender making the loan a one percent origination fee to cover the processing of the loan. Any other discount points required by the lender are to be paid by someone other than the veteran except in those cases where it is specifically allowed, such as refinancing loans. This regulation would clarify the instances in which a veteran may or may not pay discount points. This regulation change would also clarify that discount points may not be paid by the veteran (except when specifically allowed) to anyone, including the lender, seller or other concerned party.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith A. Caden, Assistant Director for Loan Policy (264), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3042

RIN: 2900-AD34

3126. FULL DISCLOSURE OF BENEFICIARY'S INCOME AND ASSETS

Legal Authority: PL 99-576, Sec 505; 38 USC 3202(b)

CFR Citation: 38 CFR 13.58(b)(2)(iii); 38 CFR 13.59(a); 38 CFR 13.100(a)(1); 38 CFR 13.102(b); 38 CFR 13.104(a)

Legal Deadline: None

Abstract: Federally appointed fiduciaries are not required, except under very specific circumstances, to divulge non-VA income and assets belonging to the incompetent beneficiary. It is difficult to assess whether the fiduciary is using the beneficiary's VA assets appropriately unless placed in the context of total income and assets available. The purpose of these changes is to lessen the potential for fraud, waste and abuse. 38 CFR 13.58(b)(2) and 13.59(a) detail the responsibilities of legal custodians and court-appointed guardians respectively. They would be amended to require the reporting of non-VA assets. 38 CFR 13.100(a)(1) defines the authority of the Veterans Services Officer to supervise fiduciaries. The intended change would permit the Veterans Services Officer to request non-VA financial information from fiduciaries. 38 CFR 13.102(b) and 13.104(b) define the accountability of legal custodians and court-appointed guardians respectively. The intended change requires disclosure of non-VA financial information.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William B. Saliski, Jr., Program Analyst (273), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3291

RIN: 2900-AD35

3127. RESERVISTS EDUCATION; VETERANS' BENEFITS AND SERVICES ACT OF 1988 AND THE MONTGOMERY GI BILL

Legal Authority: 10 USC 2136(b); 38 USC 1788

CFR Citation: 38 CFR 21.7070; 38 CFR 21.7072

Legal Deadline: None

Abstract: The Veterans Benefits and Services Act of 1988 contains a provision which changes the method of measuring laboratory sessions for the purpose of paying educational benefits. The definition of standard class session is also changed. This proposal will bring the pertinent regulation governing the Montgomery GI Bill into agreement with the law.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900-AD68

3128. ● VETERANS EDUCATION; THE VETERANS BENEFITS AND PROGRAMS IMPROVEMENT ACT AND MONTGOMERY GI BILL

Legal Authority: PL 100-689

CFR Citation: 38 CFR 21.7020; 38 CFR 21.7042; 38 CFR 21.7044; 38 CFR 21.7050; 38 CFR 21.7051; 38 CFR 21.7072; 38 CFR 21.7073; 38 CFR 21.7076; 38 CFR 21.7110; 38 CFR 21.7122; 38 CFR 21.7136; 38 CFR 21.7137; 38 CFR 21.7138; 38 CFR 21.7140; 38 CFR 21.7141; ...

Legal Deadline: None

Abstract: The Veterans' Benefits and Programs Improvement Act of 1988 contains several provisions which affect the Montgomery GI Bill Active Duty. These include liberalizing the eligibility requirements for this program, providing a death benefit in this program, permitting cooperative training in this program, permitting refresher, remedial and deficiency training in this program, providing tutorial assistance to veterans and servicemembers in this program, and liberalizing the standards for determining extensions to a veteran's basic period of eligibility. This proposal will acquaint the public with the way in which VA will administer these provisions of law.

VA — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900-AD83

3129. RESERVISTS EDUCATION; THE VETERANS BENEFITS AND PROGRAMS IMPROVEMENT ACT AND MONTGOMERY GI BILL

Legal Authority: 38 USC 105; 38 USC 2131 to 2133; 38 USC 2135

CFR Citation: 38 CFR 21.7530; 38 CFR 21.7540; 38 CFR 21.7550; 38 CFR 21.7551; 38 CFR 21.7635; 38 CFR 21.7636; 38 CFR 21.7639; 38 CFR 21.7670

Legal Deadline: None

Abstract: The Veterans' Benefits and Programs Improvement Act of 1988 contains several provisions which affect the Montgomery GI Bill-Selective Reserve. These include paying benefits for less than half-time training in certain instances; liberalizing the eligibility criteria; and liberalizing the provisions for extending a reservist's period of eligibility. This proposal will acquaint the public with the way in which the Department of Veterans Affairs will administer most of the new provisions of the law.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900-AD89

3130. EXCLUSIONS FROM INCOME

Legal Authority: PL 100-456; PL 100-687; PL 101-301

CFR Citation: 38 CFR 3.272

Legal Deadline: None

Abstract: This amendment excludes from countable income, for purposes of needs-based benefits, reimbursements for casualty losses and funds received from the Agent Orange litigation settlement.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bob Manchester, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3005

RIN: 2900-AD97

3131. CLAIMS BASED ON EXPOSURE TO HERBICIDES CONTAINING DIOXIN

Significance: Regulatory Program

Legal Authority: PL 98-542; 38 USC 210(c)

CFR Citation: 38 CFR 3.311a

Legal Deadline: None

Abstract: This regulation will implement the court decision in Nehmer, et al., vs. United States Veterans Administration, et al., C.A. No. C-86-6160 TEH, U.S.D.C., N.D. Cal., May 3, 1989.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Drumbos, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3005

RIN: 2900-AE09

3132. SCHEDULE FOR RATING DISABILITIES; GENITOURINARY SYSTEM DISABILITIES

Legal Authority: 38 USC 355

CFR Citation: 38 CFR 4.115; 38 CFR 4.115a

Legal Deadline: None

Abstract: These amendments will contain additions, deletions and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the genitourinary system.

Timetable:

Action	Date	FR Cite
ANPRM	09/21/89	54 FR 34531
ANPRM Comment Period End	10/20/89	54 FR 34531
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Drumbos, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3005

RIN: 2900-AE11

3133. LOAN GUARANTY: SERVICING REQUIREMENTS FOR VA GUARANTEED LOANS

Legal Authority: 38 USC 210(c); 38 USC 1803(c)(1); 38 USC 1812(g)

CFR Citation: 38 CFR 36.4200 et seq; 38 CFR 36.4300 et seq

Legal Deadline: None

Abstract: Presently, VA has no standards for loan holders to follow in servicing VA guaranteed home loans. It is proposed to develop appropriate standards for holders to follow in servicing VA loans. This would ensure that defaults would be prevented whenever possible and that liquidations are conducted as efficiently as possible.

Timetable:

Action	Date	FR Cite
NPRM	10/04/90	55 FR 40662
NPRM Comment Period End	11/05/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leonard A. Levy, Assistant Director for Loan Management (261), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue,

VA

Proposed Rule Stage

NW., Washington, DC 20420, 202 233-3005

RIN: 2900-AE19

3134. LOAN GUARANTY: TITLE EVIDENCE REQUIREMENTS AND OCCUPANCY REQUIREMENTS FOR CONVEYANCE OF PROPERTIES TO VA

Legal Authority: 38 USC 210(c); 38 USC 1803(c)(1); 38 USC 1820

CFR Citation: 38 CFR 36.4320

Legal Deadline: None

Abstract: Present regulations give loan holders a choice of various forms of title evidence when conveying a property to the Secretary of Veterans Affairs. The regulations will be amended to authorize the Secretary to specify the title documentation necessary for conveyance of properties to the Secretary and establish a date by which such title evidence must be received. The amendment will also provide that the property must be vacant when conveyed to VA unless occupied by someone properly in possession by virtue of a redemption period or as otherwise directed by the Secretary.

Timetable:

Action	Date	FR Cite
NPRM	08/06/90	55 FR 31847
NPRM Comment Period End	09/05/90	55 FR 31847
NPRM Comment Period Extended	10/05/90	55 FR 35326
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leonard A. Levy, Assistant Director for Loan Management (261), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3022

RIN: 2900-AE20

3135. SCHEDULE FOR RATING DISABILITIES; THE CARDIOVASCULAR SYSTEM

Legal Authority: 38 USC 355

CFR Citation: 38 CFR 4.104

Legal Deadline: None

Abstract: These amendments will contain additions, deletions and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the cardiovascular system.

Timetable:

Action	Date	FR Cite
ANPRM	02/26/90	55 FR 6658
ANPRM Comment Period End	04/27/90	55 FR 6658

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phyllis Barber, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3005

RIN: 2900-AE40

3136. SCHEDULE FOR RATING DISABILITIES; THE ENDOCRINE SYSTEM

Legal Authority: 38 USC 355

CFR Citation: 38 CFR 4.119

Legal Deadline: None

Abstract: These amendments will contain additions, deletions and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the endocrine system.

Timetable:

Action	Date	FR Cite
ANPRM	02/26/90	55 FR 6658
ANPRM Comment Period End	04/27/90	55 FR 6658

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bob Manchester, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3005

RIN: 2900-AE41

3137. RESERVISTS EDUCATION; PL 101-237 AND THE MONTGOMERY GI BILL--SELECTED RESERVE

Legal Authority: PL 101-189; PL 101-237

CFR Citation: 38 CFR 21.7520; 38 CFR 21.7540; 38 CFR 21.7576; 38 CFR 21.7612; 38 CFR 21.7620; 38 CFR 21.7622; 38 CFR 21.7624; 38 CFR 21.7631; 38 CFR 21.7635; 38 CFR 21.7636; 38 CFR 21.7639; 38 CFR 21.7640; 38 CFR 21.7642; 38 CFR 21.7645; 38 CFR 21.7653; ...

Legal Deadline: None

Abstract: The Department of Defense Authorization Act for Fiscal Years 1990 and 1991 greatly expands the types of training permitted under the Montgomery GI Bill--Selected Reserve. The Veterans Education and Employment Amendments of 1989 also add a new type of training, flight training, to this program. Furthermore, the Amendments also allow participants to receive a work-study allowance. The regulations which govern the Montgomery GI Bill--Selected Reserve must be amended to implement these new provisions of law.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: RIN 2900-AE47 has been merged with this RIN.

Agency Contact: June C. Schaeffer, Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900-AE43

3138. VETERANS EDUCATION; PL 101-237 AND THE MONTGOMERY GI BILL--ACTIVE DUTY

Legal Authority: PL 101-237

CFR Citation: 38 CFR 21.7020; 38 CFR 21.7042; 38 CFR 21.7050; 38 CFR 21.7076; 38 CFR 21.7120; 38 CFR 21.7135; 38 CFR 21.7139; 38 CFR 21.7140; 38 CFR 21.7142; 38 CFR 21.7145; 38 CFR 21.7153; 38 CFR 21.7154; 38 CFR 21.7156; 38 CFR 21.7172; 38 CFR 21.7220; ...

Legal Deadline: None

Abstract: The Veterans Education and Employment Amendments of 1989

contain many sections which affect the Montgomery GI Bill - Active Duty. For example, flight training is included as a permissible type of training and there are extensive revisions to the work-study program. Regulations are needed to implement these new provisions of law.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900-AE44

3139. VETERANS EDUCATION; PL 101-237 AND VEAP

Legal Authority: PL 101-237

CFR Citation: 38 CFR 21.5021; 38 CFR 21.5022; 38 CFR 21.5041; 38 CFR 21.5138; 38 CFR 21.5145

Legal Deadline: None

Abstract: The Veterans Education and Employment Amendments of 1989 contain sections which affect the Post-Vietnam Veterans Educational Assistance Program. The regulations governing this program have to be amended to implement the law.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900-AE45

3140. VETERANS EDUCATION; PL 101-237 AND NONCONTRIBUTORY EDUCATION PROGRAMS

Legal Authority: PL 101-237

CFR Citation: 38 CFR 21.3022; 38 CFR 21.3045; 38 CFR 21.3046; 38 CFR 21.3145; 38 CFR 21.3333; 38 CFR 21.4030; 38 CFR 21.4022; 38 CFR 21.4135; 38 CFR 21.4136; 38 CFR 21.4137; 38 CFR 21.4200; 38 CFR 21.4201; 38 CFR 21.4203; 38 CFR 21.4205; 38 CFR 21.4263; ...

Legal Deadline: None

Abstract: The Veterans Education and Employment Amendments of 1989 contain provisions that affect the noncontributory education programs VA administers. For example, the rates of Dependents' Educational Assistance are raised. There is a massive revision of the work-study program, etc. The appropriate regulations must be amended to implement this law.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900-AE46

3141. RESERVISTS EDUCATION; PROCEDURAL DUE PROCESS, MONTGOMERY GI BILL —SELECTED RESERVE

Legal Authority: 38 USC 3001; 38 USC 3013

CFR Citation: 38 CFR 21.7532

Legal Deadline: None

Abstract: VA has been reviewing regulations for the purpose of improving due process procedures. This proposal will provide that in certain instances if VA does not furnish claimants or beneficiaries under the Montgomery GI Bill - Selected Reserve with notice of the time limits within which they are required to act, those time limits do not apply until notice is provided.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900-AE49

3142. INCREASE IN SUBSISTENCE ALLOWANCE

Legal Authority: PL 101-237, Sec 402

CFR Citation: 38 CFR 21.260

Legal Deadline: None

Abstract: The Veterans' Benefits Amendments of 1989 increase the monthly subsistence allowance paid to veterans participating in the vocational rehabilitation program by 7.5 percent. The proposed regulation implements this statutory change.

Timetable:

Action	Date	FR Cite
NPRM	09/24/90	55 FR 39014
NPRM Comment Period End	10/24/90	55 FR 39014
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant (281), Vocational Rehabilitation Service, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-8436

RIN: 2900-AE55

3143. STATUTORY CHANGES AFFECTING THE VOCATIONAL REHABILITATION PROGRAM

Legal Authority: PL 101-237, Sec 405

CFR Citation: 38 CFR 21.272

Legal Deadline: None

Abstract: The Veterans' Benefits Amendments of 1989 eliminate requirements for reducing payment of subsistence allowance to veterans in non-college degree programs when the veteran is absent for more than 30 days during a 12-month period. In addition, the provisions for work-study allowance are amended to allow the Secretary of Veterans Affairs to base payment on the higher of the Federal minimum wage or the State minimum wage, enable veterans pursuing trainin

on a three-quarter or greater rate to participate in the program, and make certain other changes.

Timetable:

Action	Date	FR Cite
NPRM	08/24/90	55 FR 35013
NPRM Comment Period End	10/24/90	55 FR 35013
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: RIN 2900-AE53 has been merged with this RIN.

Agency Contact: Morris Triestman, Rehabilitation Consultant (281), Vocational Rehabilitation Service, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-6696

RIN: 2900-AE56

3144. VOCATIONAL TRAINING PROGRAMS FOR CERTAIN PENSIONERS

Legal Authority: PL 101-237, Sec 114

CFR Citation: 38 CFR 21.6060; 38 CFR 21.6420

Legal Deadline: None

Abstract: The Veterans' Benefits Amendments of 1989 change the age group of veterans receiving pension awards who must be furnished a vocational evaluation by VA from "under 50" to "under 45." In addition, the permanent and total disability evaluation of a veteran receiving pension may not be terminated because of the veteran's employment unless employment is maintained for 12 consecutive months. The proposed regulatory amendments implement these statutory changes.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant (281), Vocational Rehabilitation Service, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-6696

RIN: 2900-AE57

3145. LENDER PARTICIPATION FEES

Legal Authority: 31 USC 9701(b); 38 USC 210(c); 38 USC 1803(c)

CFR Citation: 38 CFR 36.4200; 38 CFR 36.4300

Legal Deadline: None

Abstract: The Loan Guaranty regulations are being amended to authorize the collection of lender participation fees. The fees will be collected from lenders participating in the automatic processing program for VA guaranteed loans. The fees will be used to defray, in part, the expenses incurred by VA in overseeing the activities of lenders. It is proposed to collect application and annual fees.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith A. Caden, Assistant Director for Loan Policy (264), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3042

RIN: 2900-AE58

3146. INDEMNIFICATION OF DEFAULT

Legal Authority: 38 USC 210(c); 38 USC 1803; PL 101-237

CFR Citation: 38 CFR 36.4300

Legal Deadline: None

Abstract: These regulations will set out the requirements of Public Law 101-237, the Veterans Home Loan Indemnity and Restructuring Act of 1988, with regard to changes in establishing a veteran's liability to the Government in the event of foreclosure of a VA guaranteed loan. In the past, veterans were liable if their VA loan foreclosed. Under Public Law 101-237, liability will only be established in the event of fraud, misrepresentation or bad faith.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leonard A. Levy, Assistant Director for Loan Management (261), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3668

RIN: 2900-AE59

3147. ACCEPTANCE OF PARTIAL PAYMENTS

Legal Authority: 38 USC 210(c); 38 USC 1832; PL 101-237

CFR Citation: 38 CFR 36.4200; 36 CFR 36.4300

Legal Deadline: None

Abstract: Public Law 101-237, the Veterans Home Loan Indemnity and Restructuring Act of 1988, amended 38 USC 1832(a) to require holders of VA guaranteed loans that are in default to notify VA if they refuse a partial payment of the amount owed when submitted by the veteran borrower. Notification may include a statement as to the circumstances of the default and the reason for the holder's refusal.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leonard A. Levy, Assistant Director for Loan Management (261), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3668

RIN: 2900-AE60

3148. ● SETTLEMENT INTEREST

Legal Authority: 38 USC 763; 37 USC 728

CFR Citation: 38 CFR 6.71; 38 CFR 8.83

Legal Deadline: None

Abstract: Public Law 100-687 gave the Secretary the authority to pay settlement interest on the proceeds of participating National Service Life Insurance, Veterans Special Life Insurance, Veterans Reopened Insurance and United States Government Life Insurance policies.

Regulations are being amended to reflect these changes.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gregory C. Hosmer, Insurance Specialist/Attorney (290B), Department of Veterans Affairs, Veterans Benefits Administration, P.O. Box 8079, Philadelphia, PA 19101, 215 951-5718

RIN: 2900–AE79

3149. ● VETERANS EDUCATION; INCREASE IN RATES PAYABLE IN THE EDUCATIONAL ASSISTANCE TEST PROGRAM (EATP)

Legal Authority: 10 USC 2143; 10 USC 2144

CFR Citation: 38 CFR 21.5820; 38 CFR 21.5822

Legal Deadline: None

Abstract: The law provides that rates of subsistence allowance and educational assistance payable under the Educational Assistance Test Program shall be adjusted annually based upon the average cost of attendance at public institutions of higher education in the 12-month period since the rates were last adjusted. After consultation with the Department of Education, the Department of Defense has concluded that these rates should be increased by six percent for the 1989-90 school year. These regulations dealing with these rates will be adjusted accordingly.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AE80

3150. ● DEPENDENTS EDUCATION; TIMELY SUBMISSION OF DESCRIPTIONS OF MITIGATING CIRCUMSTANCES

Legal Authority: 38 USC 1780

CFR Citation: 38 CFR 21.4137

Legal Deadline: None

Abstract: When an individual who is receiving dependents' educational assistance withdraws from a course, he or she must submit a description of the mitigating circumstances surrounding the withdrawal to VA. Recently, confusion has arisen as to how long he or she has to do this. This proposal will eliminate this confusion.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AE81

3151. ● VETERANS EDUCATION; TIMELY SUBMISSION OF DESCRIPTIONS OF MITIGATING CIRCUMSTANCES

Legal Authority: 38 USC 1434; 38 USC 1780

CFR Citation: 38 CFR 21.7032

Legal Deadline: None

Abstract: When an individual who is receiving educational assistance under the Montgomery GI Bill-Active Duty withdraws from a course, he or she must submit to VA a description of the mitigating circumstances surrounding the withdrawal. Recently, confusion has arisen as to how long he or she has to do this. This proposal will eliminate this confusion.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AE82

3152. ● RESERVISTS EDUCATION; TIMELY SUBMISSION OF DESCRIPTIONS OF MITIGATING CIRCUMSTANCES

Legal Authority: 10 USC 2136; 38 USC 1780

CFR Citation: 38 CFR 21.7532

Legal Deadline: None

Abstract: When an individual who is receiving educational assistance under the Montgomery GI Bill - Selected Reserve withdraws from a course, he or she must submit to VA a description of the mitigating circumstances surrounding the withdrawal. Recently, confusion has arisen as to how long he or she has to do this. This proposal will eliminate this confusion.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900–AE83

3153. ● VETERANS EDUCATION; NONDUPLICATION OF BENEFITS

Legal Authority: 38 USC 1434; 38 USC 1781

CFR Citation: 38 CFR 21.7142

Legal Deadline: None

Abstract: The law prohibits the payment of educational assistance to a person who would otherwise be eligible for benefits under the Montgomery GI Bill when he or she is on active duty with the Armed Forces and the Armed Forces are paying for the courses in which he or she is enrolled. This regulation is intended to implement this provision of law. However, users of the regulation have complained that the regulation appears to contradict the

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law. This proposal will eliminate this unintended appearance.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jane C. Schaeffer, Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, [illegible]

RIN: 2900-AE84

3154. ● ELECTION OF SUBSISTENCE ALLOWANCE AT THE CHAPTER 34 RATE

Legal Authority: 38 USC 1661(e)

CFR Citation: 38 CFR 21.21; 38 CFR 21.22; 38 CFR 21.78; 38 CFR 21.148; 38 CFR 21.254; 38 CFR 21.256; 38 CFR 21.260; 38 CFR 21.264; 38 CFR 21.266; 38 CFR 21.272; 38 CFR 21.276; 38 CFR 21.320; 38 CFR 21.330; 38 CFR 21.334; 38 CFR 21.340; ...

Legal Deadline: None

Abstract: This proposed change would eliminate provisions under which a service-disabled veteran in the vocational rehabilitation program could elect payment of subsistence allowance at the chapter 34 educational assistance rate. VA may not pay an allowance at the chapter 34 educational assistance rate for training taken after December 31, 1989. VA rules implementing this provision of law also bars the election of subsistence allowance at the chapter 34 educational assistance rate after that date. The intended effect of this change is to update VA regulations by removing all provisions for election of subsistence allowance at the chapter 34 rate or payment at that rate.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant (281), Vocational Rehabilitation Service, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-8888

RIN: 2900-AE85

3155. ● CLOTHING ALLOWANCE AND MARRIAGE REQUIREMENTS

Legal Authority: 38 USC 362; 38 USC 418

CFR Citation: 38 CFR 3.54; 38 CFR 3.810

Legal Deadline: None

Abstract: These changes implement provisions of Pub. L. 101-237 which liberalized eligibility requirements for entitlement to receive a clothing allowance due to a service-connected disability and the length of time a surviving spouse must have been married to a veteran in order to receive certain survivor benefits.

Timetable:

Action	Date	FR Cite
NPRM	09/19/90	55 FR 38564
NPRM Comment Period End	10/19/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phyllis Barber, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3005

RIN: 2900-AE88

BOARD OF VETERANS APPEALS

3156. ● APPEALS REGULATIONS; RULES OF PRACTICE

Legal Authority: 38 USC 210; 38 USC 211(a); 38 USC 212; 38 USC 212(a); 38 USC 3403 to 3405; 38 USC 4002 to 4005; 38 USC 4009(c)

CFR Citation: 38 CFR 19.3 (Revision); 38 CFR 19.10; 38 CFR 19.15 (Revision; 38 CFR 19.39; 38 CFR 20.3; 38 CFR 20.101 (Revision); 38 CFR 20.102 (Revision); 38 CFR 20.201 (Revision); 38 CFR 20.605 (Revision); 38 CFR 20.609 (Revision); 38 CFR 20.903 (Revision); 38 CFR 20.1000; 38 CFR 20.1001; 38 CFR 20.1002; 38 CFR 20.1100 (Revision); ...

Legal Deadline: None

Abstract: The Board of Veterans Appeals will be further revising a recent restructuring of its Appeals Regulations and Rules of Practice (54 FR 34334) in order to address questions which have arisen since that restructuring was proposed. No other alternatives are available. These additional revisions will not entail any costs to the public or to the government other than the costs normally associated with drafting, agency review, and publication.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: These proposed regulations were previously a part of RIN 2900-AE02.

Agency Contact: Clay Witt, Special Assistant for Legal Affairs (01C3), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2978

RIN: 2900-AE70

NATIONAL CEMETERY SYSTEM

3157. GROUP MEMORIAL MONUMENTS

Legal Authority: 38 USC 210; 38 USC 906; 38 USC 1003

CFR Citation: 38 CFR 1.631; 38 CFR 1.632; 38 CFR 1.633

Legal Deadline: None

Abstract: VA provides grave monuments for veterans and eligible descendants and operates under authority of 38 U.S.C. 906 and 1000-1007. Under 38 U.S.C. 1003(b), VA may erect memorials in national cemeteries to individuals or groups of individuals whose remains have never been recovered or identified. Regulations have been published regarding provision of headstones or markers for individuals, but not for groups of individuals whose remains have not been recovered or identified. VA is proposing to provide memorials for such groups on the same basis as for individuals, or if requested, by a Federal agency or department acting on behalf of the next of kin.

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Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: M'Lis McLandon, Chief, Communications Staff, Office of Exec. Communications and Admin. (40D1), Department of Veterans Affairs, National Cemetery System, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3668

RIN: 2900-AE13

OFFICE OF EQUAL OPPORTUNITY

3158. NONDISCRIMINATION ON THE BASIS OF SEX UNDER FEDERALLY ASSISTED EDUCATION PROGRAMS AND ACTIVITIES

Significance: Regulatory Program

Legal Authority: 20 USC 1681 et seq; 38 USC 210(a); EO 12250; EO 12067

CFR Citation: 38 CFR 18

Legal Deadline: None

Abstract: To establish standards and procedures for enforcing Title IX of the Education Amendments of 1972 in educational programs and activities receiving Federal financial assistance from VA. Title IX prohibits discrimination on the basis of sex. There are no alternatives to the issuance of the regulations. Participants, potential participants and the public in general will benefit from Federally assisted programs provided free from prohibited discrimination based on sex.

This originally appeared as a proposed rule in the Federal Register of April 25, 1979 (44 FR 24320). Because of the extended time frame due to internal agency consultation with the Department of Justice, the Department is planning to repropose these regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ellis Jones, Associate Director, Affirmative Employment Service (06A1), Department of Veterans Affairs, Office of Equal Opportunity, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3887

RIN: 2900-AE51

OFFICE OF FINANCIAL MANAGEMENT

3159. COMMITTEES ON WAIVERS AND COMPROMISES

Legal Authority: 38 USC 3102(c)

CFR Citation: 38 CFR 1.963; 38 CFR 1.964; 38 CFR 1.965; 38 CFR 1.969

Legal Deadline: None

Abstract: Public Law 101-237 (December 18, 1989) amended 38 USC 3102(c) by removing "material fault" and "lack of good faith" as absolute bars to waiver of collection of VA benefit debts and home loan program debts, and replacing them with "bad faith." As a result, we must revise our regulation to comply with this legislative change. The regulation for consideration of a final waiver decision must also be revised to comply with a recent General Counsel precedent opinion.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Mulhern, Special Assistant (047F5), Department of Veterans Affairs, Office of Finance and Planning, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3455

RIN: 2900-AE61

OFFICE OF THE GENERAL COUNSEL

3160. ● AUTHORIZE THE DEPARTMENT OF VETERANS AFFAIRS TO RESTRICT ITS EMPLOYEES FROM TESTIFYING IN PRIVATE LITIGATION

Legal Authority: 5 USC 301; 38 USC 21(c)(1)

CFR Citation: 38 CFR 14.506(New)

Legal Deadline: None

Abstract: Agencies are authorized to restrict the testimony of their employees in private litigation. The Department of Veterans Affairs also needs to conserve Government resources in the same manner as other agencies which have regulations to restrict their employees from testifying in private litigation. This regulation would provide for this authority and would further the Department's mission of assisting all veterans by conserving personnel resources for official duties and controlling utilization of Government personnel for testimony in purely private controversies.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Audley Hendricks, Assistant General Counsel (023), Department of Veterans Affairs, Office of the General Counsel, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3671

RIN: 2900-AE76

3161. ● REVOCATION OF DELEGATION TO ISSUE SUBPOENAS PURSUANT TO 38 USC 3311 AND SPECIFY PERMISSIBLE METHODS OF SERVICE

Legal Authority: 38 USC 210(c)

CFR Citation: 38 CFR 2.1

Legal Deadline: None

Abstract: Cases have held that the head of an agency may not lawfully delegate to, or expand the authority to subpoena documents of, the Offices of Inspector General established under the Inspector General Act. (The VA Inspector General was established under that Act.) Thus, the delegation of subpoena authority under 38 CFR 2.1 does not comport with law and should be changed. Current regulations do not specify the method of service. This amendment would rescind this delegation and incorporate into 38 CFR 2.1 information on methods of service of administrative subpoenas, as other agencies do on exercising subpoena power. It would provide needed guidance to VA officials and the public on proper service of subpoenas.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

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Government Levels Affected: None

Agency Contact: Audley Hendricks, Assistant General Counsel (023), Department of Veterans Affairs, Office of the General Counsel, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3071

RIN: 2900-AE77

OFFICE OF INFORMATION RESOURCES PLANS AND POLICIES

3152. ● DISCLOSURE OF CLAIMANT RECORDS IN CONNECTION WITH JUDICIAL PROCEEDINGS GENERALLY

Legal Authority: 38 USC 3301(b); 38 USC 1630; 38 USC 4132

CFR Citation: 38 CFR 1.511

Legal Deadline: None

Abstract: The text of this regulation is being amended to conform to recent court decisions affecting records disclosures in connection with judicial proceedings. The language of the proposed amendment will enable VA to properly provide records required by the judicial process in accordance with the terms of such process. The proposed amendment also provides guidance regarding records established and protected under 38 USC 4132 and updates the existing regulation to conform with current VA terminology.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marjorie Leandri, Records Management Service (723), Department of Veterans Affairs, Office of Information Resources Policies, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2456

RIN: 2900-AE73

DEPARTMENT OF VETERANS AFFAIRS (VA) — Final Rule Stage

VETERANS HEALTH SERVICES AND RESEARCH ADMINISTRATION

3163. CONTRACT MEDICAL CARE

Significance: Regulatory Program

Legal Authority: PL 99-576

CFR Citation: 38 CFR 17.50b; 38 CFR 17.57

Legal Deadline: None

Abstract: The Department of Veterans Affairs and the Department of Health and Human Services will be proposing to amend applicable regulations to permit VA to pay for authorized or private hospital care in amounts based on the rates allowed by Medicare under the prospective payment system. This step will help ensure that payments made by VA are consistent with those made by the largest Federal health care program for similar services in the community.

Timetable:

Action	Date	FR Cite
NPRM	11/25/88	53 FR 47726
NPRM Comment Period End	12/27/88	53 FR 47726
NPRM Further Comments	11/30/89	54 FR 49314
NPRM Comment Period End	01/02/90	54 FR 49314
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Tryhus, Chief, Policies and Procedures Division, Medical Administration Service (161B2), Department of Veterans Affairs, Veterans Health Svcs. & Research Admin., 810 Vermont Avenue NW., Washington, DC 20420, 202 233-2504

RIN: 2900-AC31

3164. GRANTS TO STATES FOR CONSTRUCTION OR ACQUISITION OF STATE HOME FACILITIES

Legal Authority: 38 USC 5031 to 5037; PL 100-322

CFR Citation: 38 CFR 17.170 to 17.177

Legal Deadline: None

Abstract: Pub. L. 100-322 changed the date of the priority list for applications from July 1 to August 15. The Secretary is provided authority to conditionally award construction grants. If a state does not complete requirements within 90 days after conditional approval, funds will be deobligated. These proposed regulations will implement that change. Construction standards in 38 CFR 17.177 are being totally reformatted, revised and updated. The veteran population in 38 CFR 17.171 Appendix A is being updated to reflect the current information. Additionally, provisions are being established to handle large grant requests where one project may exceed the annual appropriation. Requests for projects exceeding one-half the annual appropriation will receive lower priority on the list and may be partially funded if funds are available, the project ranks high enough on the priority list for Federal funds, and the State accepts a smaller grant.

Timetable:

Action	Date	FR Cite
NPRM	05/11/90	55 FR 19753
NPRM Comment Period End	06/11/90	55 FR 19753

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Brent Baker, Chief, State Home Construction Grants, Ofc of Geriatrics and Extended Care (145B), Department of Veterans Affairs, Veterans Health Svcs. & Research Admin., 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3679

RIN: 2900-AD16

3165. FEDERAL POLICY FOR THE PROTECTION OF HUMAN SUBJECTS

Significance: Regulatory Program

Legal Authority: 5 USC 301; 38 USC 210(c)(1); 38 USC 4131; 38 USC 4184; 42 USC 300v-1(b)

CFR Citation: 38 CFR 16

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Legal Deadline: None

Abstract: This amendment establishes policy regarding all research involving human subjects conducted, supported or otherwise subject to regulation by any Federal department or agency.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45681
NPRM Comment Period End	01/09/89	53 FR 45676
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Ted Lerai, Staff Assistant to the ACMD for Research and Development (142), Department of Veterans Affairs, Veterans Health Svcs. & Research Admin., 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2518

RIN: 2900-AE29

VETERANS BENEFITS ADMINISTRATION

3166. 1. APPORTIONMENT OF BENEFITS TO DEPENDENTS 2. PAYMENT OF COST OF VETERAN'S MAINTENANCE IN INSTITUTION 3. RECOMMENDATION FOR PAYMENT

Legal Authority: 38 USC 210; 38 USC 3202; 38 USC 3203; PL 98-543, Sec 402

CFR Citation: 38 CFR 13.70; 38 CFR 13.71; 38 CFR 13.74

Legal Deadline: None

Abstract: 38 CFR 13.70 defines the conditions under which the Veterans Services Officer may recommend an apportionment of benefits to dependents. The proposed amendment will clarify these conditions. The amendment will also remove a reference to mental illness as the sole criteria for a rating of incompetency.

38 CFR 13.71 is to be amended to make clear that the signing of an institutional award agreement does not waive an institution's right to claim payments under 38 USC 641. This action is the result of an unpublished General Counsel opinion.

38 CFR 13.74 is based on the provisions of 38 USC Sec. 3203(b) (1)(A); however, where the law refers to more than one type of institutional care, the regulation refers only to instances of hospitalization. This would seem to preclude application of the regulation when veterans are in State run nursing homes or other institutions operated by the United States or a political subdivision. The Department of Veterans Affairs, therefore, proposes to correct this defect by substituting the terms "institution" and "institutionalization" where appropriate.

Timetable:

Action	Date	FR Cite
NPRM	01/05/87	52 FR 380
NPRM Comment Period End	02/05/87	52 FR 380
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: William B. Seliski, Jr., Program Analyst (273), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-5291

RIN: 2900-AC10

3167. SUSPENSION OF INDIVIDUAL EMPLOYEES OF MANUFACTURED HOME DEALERS

Legal Authority: 38 USC 210(c); 38 USC 1803(c)(1); 38 USC 1812(g)

CFR Citation: 38 CFR 36.4235

Legal Deadline: None

Abstract: Present regulations authorize the Secretary to refuse to guarantee loans to purchase manufactured homes from dealers determined by the Secretary to have engaged in contracts of sale or methods or practices which are unfair or prejudicial to veteran purchasers. It is proposed to amend this regulation to also authorize suspension of individual employees of manufactured home dealers who engage in unfair or prejudicial practices.

Timetable:

Action	Date	FR Cite
NPRM	10/19/88	53 FR 40742
NPRM Comment Period End	11/17/88	53 FR 40742
To Be Withdrawn	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith A. Caden, Assistant Director for Loan Policy (284), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3042

RIN: 2900-AC23

3168. LOAN GUARANTY; CREDIT UNDERWRITING STANDARDS AND PROCEDURES FOR PROCESSING VA GUARANTEED LOANS; SPECIALLY ADAPTED HOUSING

Legal Authority: 38 USC 210(c); 38 USC 1803(c)(1); 38 USC 1812(g); PL 99-576

CFR Citation: 38 CFR 4200 et seq; 38 CFR 4300 et seq; 38 CFR 4400 et seq

Legal Deadline: None

Abstract: Regulations will be amended to implement the requirements of Public Law 99-576. The new law adds a new specially adapted housing grant purpose and requires that Department of Veterans Affairs home loan credit standards be in regulatory form.

Timetable:

Action	Date	FR Cite
NPRM	02/12/90	55 FR 4869
NPRM Comment Period End	03/14/90	55 FR 4869
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith A. Caden, Assistant Director for Loan Policy (284), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3042

RIN: 2900-AC30

3169. VETERANS EDUCATION; PAYMENTS DURING BREAKS IN ENROLLMENT

Legal Authority: 38 USC 1434; 38 USC 1780(a)

CFR Citation: 38 CFR 21.4203; 38 CFR 21.4205; 38 CFR 21.7139; 38 CFR 21.7140

Legal Deadline: None

Abstract: VA may make payments of educational assistance allowance to veterans and eligible persons under the various GI Bills during breaks within a certified period of enrollment when the break results from a school closing based upon an order of the President or

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due to an emergency situation. The Directors of Regional Offices have been delegated the authority to determine when these payments should be made. In the interest of administrative efficiency VA is considering permitting other VA employees to make these determinations during some school closings.

Timetable:

Action	Date	FR Cite
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900-AD69

3170. BASIC ELIGIBILITY DETERMINATIONS: EDUCATION

Legal Authority: 38 USC 1411(a); 38 USC 1412(b); 38 USC 1602; 38 USC 1663(a)

CFR Citation: 38 CFR 3.315

Legal Deadline: None

Abstract: VA has a regulation which provides authority and guidelines for making service-connected discharge determinations needed to determine eligibility for VA benefits. On November 18, 1988, VA proposed an amended regulation to determine when this determination must be made for a veteran who has applied for benefits under the Montgomery GI Bill-Active Duty. Subsequently, legislation was enacted which requires this determination for some reservists under the Montgomery GI Bill-Selected Reserve. VA will combine the two requirements and publish the regulation for further comment.

Timetable:

Action	Date	FR Cite
NPRM	10/03/89	54 FR 40884
NPRM Comment Period End	11/02/89	54 FR 40885
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900-AD60

3171. AUTHORITY OF FIDUCIARIES TO CONDUCT INSURANCE TRANSACTIONS

Legal Authority: 38 USC 706; 38 USC 744

CFR Citation: 38 CFR 8.211; 38 CFR 8.119

Legal Deadline: None

Abstract: Under current procedures, State appointed fiduciaries may perform insurance transactions, e.g., apply for coverage or reinstate a policy, on behalf of incapacitated veterans. The ability of a fiduciary to perform a particular transaction is dependent on the authority granted to the fiduciary by State law. Such authority varies from State to State. Because of this, before any insurance transaction can be completed it must first be determined whether the fiduciary is authorized by State law to conduct the particular transaction. This entails referring the matter to a District Counsel for review. This process is time consuming and delays rendering service to our policyholders. In order to alleviate this problem and to establish a consistent approach regarding the powers of State-appointed fiduciaries, as well as federally appointed fiduciaries as they pertain to government life insurance transactions only, we are proposing regulations which will clarify and enunciate such powers.

Timetable:

Action	Date	FR Cite
NPRM	08/16/90	55 FR 33140
NPRM Comment Period End	09/15/90	55 FR 33140
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gregory C. Hosmer, Insurance Specialist/Attorney (290B), Department of Veterans Affairs, Veterans Benefits Administration, P.O. Box 8079, Philadelphia, PA 19101, 215 951-5710

RIN: 2900-AD74

3172. USE OF FOR-PROFIT AGENCIES

Legal Authority: PL 100-689, Sec 202

CFR Citation: 38 CFR 21.160; 38 CFR 21.162; 38 CFR 21.294; 38 CFR 21.252

Legal Deadline: None

Abstract: The Veterans' Benefits Programs and Improvement Act of 1988 contains provisions which allow VA to utilize for-profit agencies to provide independent living services and employment services under certain conditions. The pertinent regulations must be revised to implement these statutory provisions.

Timetable:

Action	Date	FR Cite
NPRM	04/24/90	55 FR 17281
NPRM Comment Period End	05/24/90	55 FR 17281
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant (281), Vocational Rehabilitation Service, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-6196

RIN: 2900-AD00

3173. VETERANS EDUCATION; STATE APPROVING AGENCIES AND THE MONTGOMERY GI BILL-SELECTED RESERVE

Legal Authority: 10 USC 2136; 38 USC 1774A

CFR Citation: 38 CFR 21.7700

Legal Deadline: None

Abstract: The Veterans' Employment, Training and Counseling Amendments of 1988 contain several provisions which affect the Department of Veterans Affairs relationships with the state approving agencies. This amendment will state that in administering Chapter 106, Title 10, United States Code, the Department of Veterans Affairs will apply the provisions of that new section in the same manner that it will be applied in the administration of 38 U.S.C. Chapters 34 and 36.

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Timetable:

Action	Date	FR Cite
NPRM	09/25/89	54 FR 39207
NPRM Comment Period End	10/25/89	54 FR 39207
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3082

RIN: 2900-AD61

3174. RESERVISTS EDUCATION; IMPLEMENTATION OF THE VETERANS' BENEFITS IMPROVEMENT AND HEALTH-CARE AUTHORIZATION ACT OF 1986

Legal Authority: PL 99-576; PL 100-689

CFR Citation: 38 CFR 21.7540; 38 CFR 21.7600; 38 CFR 21.7603; 38 CFR 21.7642; 38 CFR 21.7670; 38 CFR 21.7672; 38 CFR 21.7673

Legal Deadline: None

Abstract: The Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 contains several provisions which affect the provision of educational assistance to members of the Selected Reserve. The most important provisions include a change in the way in which VA must measure certain courses which do not lead to a standard college degree; a requirement that certain reservists be counseled before choosing a program of education; and a change concerning nonduplication of Federal programs. The appropriate regulations must be amended accordingly. The Veterans' Benefits and Program Improvement Act of 1988 contains some related provisions which also require amendments to VA regulations. These amendments will be proposed at the same time. Unrelated amendments will be proposed separately.

Timetable:

Action	Date	FR Cite
NPRM	11/17/89	54 FR 47785
NPRM Comment Period End	12/18/89	54 FR 47785
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3082

RIN: 2900-AE10

3175. NEW AND MATERIAL EVIDENCE

Legal Authority: 38 USC 210(c)

CFR Citation: 38 CFR 3.156

Legal Deadline: None

Abstract: This amendment establishes a regulatory definition for the term "new and material evidence."

Timetable:

Action	Date	FR Cite
NPRM	05/08/90	55 FR 19088
NPRM Comment Period End	06/07/90	
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald England, Chief, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3005

RIN: 2900-AE22

3176. VA ASSISTANCE IN DEVELOPING CLAIMS

Legal Authority: 38 USC 3007

CFR Citation: 38 CFR 3.159

Legal Deadline: None

Abstract: This amendment defines VA's responsibility to assist claimants in developing the facts pertinent to their claims.

Timetable:

Action	Date	FR Cite
NPRM	08/01/90	55 FR 31192
NPRM Comment Period End	08/31/90	55 FR 31192
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald England, Chief, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3005

RIN: 2900-AE23

3177. FAILURE TO REPORT FOR VA EXAMINATION

Legal Authority: 38 USC 210(c)

CFR Citation: 38 CFR 3.326; 38 CFR 3.327; 38 CFR 3.329; 38 CFR 3.655

Legal Deadline: None

Abstract: These amendments clarify the requirement that individuals must report for VA examinations and require VA to issue advance notice before taking adverse action because of failure to report.

Timetable:

Action	Date	FR Cite
NPRM	02/07/90	55 FR 4199
NPRM Comment Period End	03/09/90	55 FR 4199
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Drembus, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefit Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3005

RIN: 2900-AE24

3178. MITIGATING CIRCUMSTANCES

Legal Authority: PL 100-689, Sec 121

CFR Citation: 38 CFR 21.324

Legal Deadline: None

Abstract: The Veteran's Benefits and Program Improvement Act of 1988 provides that mitigating circumstances exist the first time a veteran withdraws from a course or courses which do not exceed six semester hours or the equivalent for which the veteran has been paid. Under prior provisions the determination of mitigating circumstances would have been made on a case-by-case basis. In addition, mitigating circumstances exist when a veteran's program must be interrupted or terminated because of problems in obtaining or arranging for child care.

VA — Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	05/03/89	54 FR 19041
NPRM Comment Period End	06/04/89	55 FR 19041
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant (28), Vocational Rehabilitation Service, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-6696

RIN: 2900-AE26

3178. BURIAL BENEFITS

Legal Authority: 38 USC 906; 38 USC 907; 38 USC 908

CFR Citation: 38 CFR 3.1601(a); 38 CFR 3.1612(g)

Legal Deadline: None

Abstract: This amendment removes existing time limits for filing claims for service-connected burial allowance, reimbursement for the cost of transporting a veteran's remains to a national cemetery, and monetary allowance in lieu of a government-furnished headstone or marker.

Timetable:

Action	Date	FR Cite
NPRM	06/05/90	55 FR 22932
NPRM Comment Period End	07/05/90	55 FR 22932
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald England, Chief, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3005

RIN: 2900-AE39

3180. FINALITY OF DECISIONS

Legal Authority: 38 USC 210(c)

CFR Citation: 38 CFR 3.104(a); 38 CFR 3.105(a)

Legal Deadline: None

Abstract: These amendments specify the point at which a VA decision becomes final and binding.

Timetable:

Action	Date	FR Cite
NPRM	07/19/90	55 FR 29234
NPRM Comment Period End	08/00/90	55 FR 29234
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phyllis Barber, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3005

RIN: 2900-AE42

3181. VETERANS EDUCATION; PROCEDURAL DUE PROCESS AND THE MONTGOMERY GI BILL—ACTIVE DUTY

Legal Authority: 38 USC 3001; 38 USC 3013

CFR Citation: 38 CFR 21.7032; 38 CFR 21.7131; 38 CFR 21.7139

Legal Deadline: None

Abstract: VA has been reviewing regulations for the purpose of improving due process procedures. This proposal will provide that in certain instances if VA does not furnish claimants or beneficiaries under the Montgomery GI Bill - Active Duty with notice of the time limits within which they are required to act, those time limits do not apply until notice is provided.

Timetable:

Action	Date	FR Cite
NPRM	05/00/90	55 FR 18642
NPRM Comment Period End	06/00/90	55 FR 18642
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900-AE50

3182. VETERANS EDUCATION; PROCEDURAL DUE PROCESS, EDUCATIONAL ASSISTANCE TEST PROGRAM

Legal Authority: 38 USC 3003; 38 USC 3013

CFR Citation: 38 CFR 21.5732

Legal Deadline: None

Abstract: VA has been reviewing regulations for the purpose of improving due process procedures. This proposal will provide that in certain instances if VA does not furnish a claimant or beneficiary with notice of the time limits within which they are required to act in order to perfect a claim under the Educational Assistance Test Program, those time limits do not apply until notice is provided.

Timetable:

Action	Date	FR Cite
NPRM	08/01/90	55 FR 31193
NPRM Comment Period End	09/31/90	55 FR 31193
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900-AE51

3183. PERMANENT PROGRAM OF INDEPENDENT LIVING SERVICES AND ASSISTANCE

Legal Authority: PL 101-237, Sec 404

CFR Citation: 38 CFR 21.162

Legal Deadline: None

Abstract: The law eliminates the prior termination date of the program of independent living services and assistance. The elimination of the termination date makes the provision of programs of independent living services a permanent part of the vocational rehabilitation program. The proposed regulation implements this legislative change.

VA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	07/06/90	55 FR 27836
NPRM Comment Period End	08/06/90	55 FR 27836
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman, Rehabilitation Consultant (281), Vocational Rehabilitation Service, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-6498

RIN: 2900-AE54

3164. ● CLAIMS BASED ON SERVICE IN VIETNAM

Legal Authority: 38 USC 210(c); 38 USC 355

CFR Citation: 38 CFR 3.313; 38 CFR 4.117

Legal Deadline: None

Abstract: To establish criteria for considering claims for service connection for non-Hodgkin's lymphoma by veterans who service in Vietnam during the Vietnam Era.

Timetable:

Action	Date	FR Cite
NPRM	06/21/90	55 FR 25339
NPRM Comment Period End	07/23/90	55 FR 25339
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Don England, Chief, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3005

RIN: 2900-AE88

3165. ● VETERAN EDUCATION: IMPLEMENTATION OF THE DEPARTMENT OF DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1990 AND 1991

Legal Authority: PL 101-189

CFR Citation: 38 CFR 21.7136; 38 CFR 21.7137

Legal Deadline: None

Abstract: The Department of Defense Authorization Act for Fiscal Years 1990 and 1991 increases the "Kicker" available to servicemembers eligible for the Montgomery GI Bill--Active Duty. The regulations governing payments of benefits under this program must be amended accordingly.

Timetable:

Action	Date	FR Cite
NPRM	07/06/90	55 FR 27836
NPRM Comment Period End	08/06/90	55 FR 27836
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Education Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2092

RIN: 2900-AE69

OFFICE OF ACQUISITION AND MATERIEL MANAGEMENT

3166. DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION—CONSULTING SERVICE

Legal Authority: 38 USC 210; 40 USC 486c

CFR Citation: 48 CFR 837

Legal Deadline: None

Abstract: This Department of Veterans Affairs regulation provides coverage regarding contracting aspects of OMB Circular A-120 consulting services.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris A. Figg, Director, Acquisition Management Svc. (93), Department of Veterans Affairs, Ofc of Acquisition and Materiel Mgmt, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3664

RIN: 2900-AC80

3167. ACQUISITION REGULATION: CONSTRUCTION CONTRACTING PROCEDURES

Legal Authority: 38 USC 210; 40 USC 486c

CFR Citation: 48 CFR 836; 48 CFR 852

Legal Deadline: None

Abstract: This Department of Veterans Affairs regulation will update and clarify construction contracting procedures and clauses.

Timetable:

Action	Date	FR Cite
NPRM	01/21/88	53 FR 1630
NPRM Comment Period End	02/22/88	53 FR 1630
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Barbara E. Dennig, Chief, Acquisition Policy Staff (93), Department of Veterans Affairs, Ofc of Acquisition and Materiel Mgmt, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3334

RIN: 2900-AC87

3168. ACQUISITION REGULATION: CONTRACTOR QUALIFICATIONS

Legal Authority: 38 USC 210; 38 USC 462(c)

CFR Citation: 48 CFR 809

Legal Deadline: None

Abstract: This amendment makes administrative changes regarding the VA procedures for making debarment and suspension decisions.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

VA — Final Rule Stage

Agency Contact: Barbara Dennig, Chief, Acquisition Policy Staff (93), Department of Veterans Affairs, Ofc of Acquisition and Materiel Mgmt, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2334

RIN: 2900-AE10

3188. ACQUISITION REGULATION: SEALED BIDDING

Legal Authority: 38 USC 210; 40 USC 486(c)

CFR Citation: 48 CFR 814

Legal Deadline: None

Abstract: This amendment will delete duplicative coverage from the VA Acquisition Regulation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Mildred C. Shields, Procurement Analyst (93), Department of Veterans Affairs, Ofc of Acquisition and Materiel Mgmt, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3554

RIN: 2900-AE17

OFFICE OF ADMINISTRATION

3189. VA OFFICIAL SEAL AND DISTINGUISHED FLAG

Legal Authority: PL 100-527; 38 USC 501

CFR Citation: 38 CFR 1.9

Legal Deadline: None

Abstract: This regulation will prescribe VA policy regarding the use and display of the official VA seal and distinguished flag. The benefit of this action will be to create a uniform identity for the Department.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Priscilla B. Carey, Director, Office of Administration (03), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2969

RIN: 2900-AE34

BOARD OF VETERANS APPEALS

3191. APPEALS REGULATIONS: RULES OF PRACTICE

Legal Authority: 5 USC 552; 5 USC 552a; 5 USC 6103; 38 USC 111; 38 USC 210; 38 USC 211a; 38 USC 212(a); 38 USC 3007 to 3008; 38 USC 3301 to 3302(b); 38 USC 3311; 38 USC 3401 to 3406; 38 USC 4001 to 4010

CFR Citation: 38 CFR 14; 38 CFR 19; 38 CFR 20

Legal Deadline: None

Abstract: The provisions of Pub. L. 100-687 establish judicial review of Board of Veterans Appeals decisions, provide for greater involvement of private attorneys-at-law in the appeals process at the Department level, and make other changes affecting appeals. The Appeals Regulations and Rules of Practice are revised to accommodate these changes and to generally update these regulatory provisions.

Timetable:

Action	Date	FR Cite
NPRM	06/16/89	54 FR 34334
NPRM Comment Period End	09/16/89	54 FR 34334
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Clay Witt, Special Assistant for Legal Affairs (01C3), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-2978

RIN: 2900-AE02

OFFICE OF EQUAL OPPORTUNITY

3192. NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES

Legal Authority: 29 USC 794

CFR Citation: 38 CFR 18.423(c); 38 CFR 18.401 to 18.461, App A

Legal Deadline: None

Abstract: To incorporate a reference to the Uniform Federal Accessibility Standards (UFAS) and update the list of Federal financial assistance programs administered by VA. The existing regulations require that new construction and alteration of facilities be made in an accessible manner. The regulations provide that new construction or alteration of facilities in conformance with the American National Standard Specifications for Making Building and Facilities Accessible to, and Usable by, the Physically Handicapped (ANSI A117.1-1961 (R 1971)) shall constitute compliance with the accessibility requirements for new construction and alteration of facilities. The proposed revision will replace the current standard with the UFAS, published under the Architectural Barriers Act of 1968. Because some facilities subject to the accessibility requirements of section 504 of the Rehabilitation Act of 1973 are also subject to the accessibility requirements of the Architectural Barriers Act, this proposal would eliminate any potential conflict between standards enforced under the two statutes.

Timetable:

Action	Date	FR Cite
NPRM	03/08/89	54 FR 9971
NPRM Comment Period End	05/08/89	54 FR 9998
Interim Final Rule	09/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ellis Jones, Associate Director, Affirmative Employment Service (06A1), Department of Veterans Affairs, Office of Equal Opportunity, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3887

RIN: 2900-AB87

OFFICE OF THE ASSISTANT SECRETARY FOR ACQUISITION AND FACILITIES

3193. OPERATION OF CHILD CARE CENTERS AT VA FACILITIES

Legal Authority: 38 USC 4109

VA

Final Rule Stage

CFR Citation: 38 CFR 17.162

Legal Deadline: None

Abstract: Section 4209 of Title 38 authorizes the Veterans Canteen Service to operate child care centers at VA facilities. The centers will be established based on the demand for care and to the extent that such operation is practical and in the best interest of VA. The centers will be available for the children of VA employees and, to the extent space is available, the children of other Federal and Department of Veterans Affairs affiliated employees. Also, these centers should provide an incentive for personnel recruitment. The regulations will prescribe the requirements and standards for the operation of VA child care centers.

Timetable:

Action	Date	FR Cite
NPRM	12/27/89	54 FR 53078
NPRM Comment Period End	01/26/90	54 FR 53078
Final Action	02/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marcelle Habibion, Director, Ofc of Child Care (VCS8), Veterans Canteen Service, Department of Veterans Affairs, Ofc of Asst Secy for Acquis. & Facilities, 810 Vermont Avenue, NW., Washington, DC 20420, 202 376-8164

RIN: 2900–AD48

OFFICE OF THE GENERAL COUNSEL

3194. ● DELEGATION TO SETTLE AND PAY CLAIMS FOR NOT MORE THAN $40,000 MADE BY AN EMPLOYEE OF THE DEPARTMENT OF VETERANS AFFAIRS FOR DAMAGE OR LOSS OF PERSONAL PROPERTY INCIDENT TO SERVICE

Legal Authority: 31 USC 3721(b)

CFR Citation: 38 CFR 2.6(e)(5); 38 CFR 2.75; 38 CFR 14.604

Legal Deadline: None

Abstract: This regulation would implement a statutory change increasing from $25,000 to $40,000 the maximum amount that the Government may pay to settle and pay claims for loss or damage incident to service. This increase is reasonable to keep pace with inflation and is consistent with prior adjustments based on inflation.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Audley Hendricks, Assistant General Counsel (023), Department of Veterans Affairs, Office of the General Counsel, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3671

RIN: 2900–AE75

OFFICE OF INFORMATION RESOURCES PLANS AND POLICIES

3195. RELEASE OF VA LISTS OF NAMES AND ADDRESSES AND PENALTY PROCEDURES FOR UNAUTHORIZED USE

Legal Authority: 38 USC 3301(f)

CFR Citation: 38 CFR 1.519

Legal Deadline: None

Abstract: VA is amending the existing regulations concerning VA lists of names and addresses and is also proposing administrative procedures to use when these lists are used for purposes not authorized by law. This action results from the need to amend the regulations to reflect current procedures, organizational changes, and concern expressed by veterans and some service organizations regarding unsolicited mail. The proposed regulatory amendments will allow VA to enforce its statutory duty to protect the privacy of information concerning veterans and their dependents, establish procedures to suspend recipients who misuse VA name and address lists of veterans/dependents, and give advance notice to recipients of what constitutes an authorized/unauthorized use of veterans/dependents names and address lists, thereby protecting the due process rights of any recipient before penalties are enforced.

Timetable:

Action	Date	FR Cite
NPRM	03/19/87	52 FR 8624
NPRM Comment Period End	04/20/87	52 FR 8624
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Epps, Records Management Service (723), Department of Veterans Affairs, Office of Information Resources Policies, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-8037

RIN: 2900–AC63

3196. PREDISCLOSURE OF CONFIDENTIAL COMMERCIAL INFORMATION

Legal Authority: 5 USC 552(b)(4); EO 12600

CFR Citation: 38 CFR 1.554

Legal Deadline: None

Abstract: Executive Order 12600, Predisclosure Notification Procedures for Confidential Commercial Information, establishes certain mandatory and uniform procedures for handling Freedom of Information Act (FOIA) requests for records which may contain confidential commercial information, protected by FOIA exemption (5 U.S.C. 552(b)(4)). The Executive Order requires the notification and designation procedures be established in VA regulations. Accordingly, the revision to 38 CFR 1.554 will comply with the requirements of the Executive Order.

Timetable:

Action	Date	FR Cite
NPRM	11/15/88	53 FR 45944
NPRM Comment Period End	12/15/88	53 FR 45944
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marjorie Leandri, Records Management Service (723), Department of Veterans Affairs, Office of Information Resources Policies, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-5450

RIN: 2900–AD09

3197. ● NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: 31 USC 1352

CFR Citation: 38 CFR 45

Legal Deadline: None

VA — Final Rule Stage

Abstract: This regulation implements Section 319 of Public Law 101-121. Section 319 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal government in connection with a specific contract, grant or loan. Section 319 also requires that each person who requests or receives a Federal contract, grant, cooperative agreement, loan, or a Federal commitment to insure or guaranty a loan, must disclose lobbying.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6752
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: B. Michael Berger, Director, Records Management Service (723), Department of Veterans Affairs, Office of Information Resources Policies, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3616

RIN: 2900-AE74

DEPARTMENT OF VETERANS AFFAIRS (VA) — Completed Actions

1186. EXPANDED ELIGIBILITY FOR 30-40 PERCENT SERVICE-CONNECTED VETERANS

CFR Citation: 38 CFR 17.80

Completed:

Reason	Date	FR Cite
Final Action	06/15/90	55 FR 20150
Final Action Effective	08/13/90	55 FR 20150

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Tryhus 202 233-2284

RIN: 2900-AD41

3199. NONDISCRIMINATION AGAINST ALCOHOL AND DRUG ABUSERS AND PERSONS INFECTED WITH HIV

CFR Citation: 38 CFR 17.48(k)

Completed:

Reason	Date	FR Cite
Final Action	09/24/90	55 FR 38993
Final Action Effective	10/24/90	55 FR 38993

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Tryhus 202 233-2584

RIN: 2900-AD69

3200. CONFIDENTIALITY OF TORT CLAIM PEER REVIEW

CFR Citation: 38 CFR 17.501 to 17.534

Completed:

Reason	Date	FR Cite
Final Action	04/11/90	55 FR 13531
Final Action Effective	05/11/90	55 FR 13531

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Agatha Francis 202 233-5418

RIN: 2900-AE06

3201. HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM - ASSOCIATED DEGREE IN NURSING

Significance: Regulatory Program

CFR Citation: 38 CFR 17.600

Completed:

Reason	Date	FR Cite
Final Action	10/02/90	55 FR 40169
Final Action Effective	09/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charlotte F. Beason, Ed.D. 202 233-3568

RIN: 2900-AE37

3202. OUTPATIENT CARE FOR RESEARCH PURPOSES

Significance: Regulatory Program

CFR Citation: 38 CFR 17.50(c)

Completed:

Reason	Date	FR Cite
Merged with RIN 2900-AB60	10/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Tryhus 202 233-2143

RIN: 2900-AE62

3203. PROCEDURAL DUE PROCESS

CFR Citation: 38 CFR 3.103; 38 CFR 3.105; 38 CFR 3.109; 38 CFR 3.110; 38 CFR 3.114

Completed:

Reason	Date	FR Cite
Final Action	04/11/90	55 FR 13522
Final Action Effective	05/11/90	55 FR 13523

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald England 202 233-3005

RIN: 2900-AC54

3204. EXTENSION OF TIME LIMIT FOR CLAIMS

CFR Citation: 38 CFR 21.32

Completed:

Reason	Date	FR Cite
Final Action	04/06/90	55 FR 12820
Final Action Effective	05/07/90	55 FR 12820

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman 202 233-6486

RIN: 2900-AC61

3205. TRAINING OUTSIDE THE UNITED STATES

CFR Citation: 38 CFR 21.190

Completed:

Reason	Date	FR Cite
Final Action	07/06/90	55 FR 27821
Final Action Effective	07/06/90	55 FR 27821

Small Entities Affected: None

VA

Completed Actions

Government Levels Affected: None

Agency Contact: Morris Triestman 202 233-6436

RIN: 2900-AC73

3206. LOAN GUARANTY: PROCESSING ASSUMPTIONS OF VA GUARANTEED HOME LOANS UNDER 38 U.S.C. 1814

CFR Citation: 38 CFR 36.4300; 38 CFR 36.4200

Completed:

Reason	Date	FR Cite
Final Action	09/12/90	55 FR 37468
Final Action Effective	10/12/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leonard A. Levy 202 233-3696

RIN: 2900-AD30

3207. LOAN GUARANTY: LENDERS APPRAISAL PROCESSING PROGRAM

CFR Citation: 38 CFR 36.4300

Completed:

Reason	Date	FR Cite
Final Action	05/22/90	55 FR 21015
Final Action Effective	06/22/90	55 FR 23730

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert C. Greaves 202 233-3691

RIN: 2900-AD31

3208. DETERMINATION OF SERVICE-CONNECTION FOR IMPAIRED HEARING

CFR Citation: 38 CFR 3.385

Completed:

Reason	Date	FR Cite
Final Action	04/03/90	55 FR 12348
Final Action Effective	05/03/90	55 FR 12348

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Drembus 202 233-3005

RIN: 2900-AD64

3209. EXTENSION OF VOCATIONAL PROGRAMS FOR SERIOUSLY DISABLED VETERANS

CFR Citation: 38 CFR 21.6001; 38 CFR 21.6005; 38 CFR 21.6015; 38 CFR 21.6021; 38 CFR 21.6040; 38 CFR 21.6042; 38 CFR 21.6050; 38 CFR 21.6054; 38 CFR 21.6059

Completed:

Reason	Date	FR Cite
Final Action	04/24/90	55 FR 17270
Final Action Effective	11/18/88	55 FR 17270

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman 202 233-6436

RIN: 2900-AD76

3210. EXTENSION OF ELIGIBILITY BECAUSE OF THE DISABLING EFFECTS OF CHRONIC ALCOHOLISM

CFR Citation: 38 CFR 21.42

Completed:

Reason	Date	FR Cite
Final Action	10/02/90	55 FR 40170
Final Action Effective	11/18/88	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman 202 233-6436

RIN: 2900-AD77

3211. VETERANS AND DEPENDENTS EDUCATION; THE VETERANS' BENEFITS AND PROGRAMS IMPROVEMENT ACT

CFR Citation: 38 CFR 21.1045; 38 CFR 21.3045; 38 CFR 21.4136; 38 CFR 21.4137; 38 CFR 21.4200; 38 CFR 21.4201; 38 CFR 21.4236; 38 CFR 21.4237; 38 CFR 21.4252

Completed:

Reason	Date	FR Cite
Final Action	07/09/90	55 FR 28023

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer 202 233-2662

RIN: 2900-AD84

3212. VETERANS EDUCATION; THE VETERANS' BENEFITS AND PROGRAMS IMPROVEMENT ACT OF 1988 AND VEAP

CFR Citation: 38 CFR 21.5021; 38 CFR 21.5042; 38 CFR 21.5072; 38 CFR 21.5130; 38 CFR 21.5132; 38 CFR 21.5136; 38 CFR 21.5139; 38 CFR 21.5230; 38 CFR 21.5250; 38 CFR 21.5270; 38 CFR 21.5295

Completed:

Reason	Date	FR Cite
Final Action	08/03/90	55 FR 31580
Final Action Effective	11/18/88	55 FR 31580

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer 202 233-2662

RIN: 2900-AD85

3213. IMPLEMENTATION OF PUB. L. 100-198 CONCERNING CHANGES IN AMOUNT OF ENTITLEMENT, CALCULATION OF GUARANTY AMOUNT, OCCUPANCY REQUIREMENTS, AND REQUIREMENTS FOR REFINANCING LOANS

CFR Citation: 38 CFR 36.4302; 38 CFR 36.4303; 38 CFR 36.4306; 38 CFR 36.4306a; 38 CFR 36.4502; 38 CFR 36.4504

Completed:

Reason	Date	FR Cite
Final Action	10/04/90	55 FR 40654
Final Action Effective	11/05/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith A. Caden 202 233-3042

RIN: 2900-AD91

3214. LOAN GUARANTY: MAINTENANCE OF LOAN RECORDS, ELIMINATION OF REFERENCE TO HUD MPS (MINIMUM PROPERTY STANDARDS-HUD HANDBOOK 4900.1)

CFR Citation: 38 CFR 36.4215; 38 CFR 36.4230; 38 CFR 36.4360(a)

Completed:

Reason	Date	FR Cite
Final Action	08/27/90	55 FR 34912
Final Action Effective	09/26/90	

VA — Completed Actions

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith A. Caden 202 233-3042

RIN: 2900-AD02

3215. LOAN GUARANTY: FORECLOSURE WAIVER OR COMPROMISE OF DEBTS

CFR Citation: 38 CFR 36.4323(e)

Completed:

Reason	Date	FR Cite
Final Action	08/02/90	55 FR 31385
Final Action Effective	09/04/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leonard A. Levy 202 233-3668

RIN: 2900-AD04

3216. INDEPENDENT MEDICAL OPINIONS

CFR Citation: 38 CFR 3.328

Completed:

Reason	Date	FR Cite
Final Action	05/03/90	55 FR 18807
Final Action Effective	06/04/90	55 FR 18801

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald England 202 233-3005

RIN: 2900-AD06

3217. DEFINITION OF MARGINAL EMPLOYMENT IN CONSIDERATION OF TOTAL EVALUATIONS BASED ON INDIVIDUAL UNEMPLOYABILITY

CFR Citation: 38 CFR 4.16

Completed:

Reason	Date	FR Cite
Final Action	08/03/90	55 FR 31579
Final Action Effective	09/04/90	55 FR 31579

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Drembus 202 233-3005

RIN: 2900-AD09

3218. VETERANS EDUCATION: IMPLEMENTATION OF THE VETERAN BENEFITS IMPROVEMENT AND HEALTH CARE AUTHORIZATION ACT OF 1986 AND NEW GI BILL CONTINUATION ACT OF 1987

CFR Citation: 38 CFR 21.7000; 38 CFR 21.7020; 38 CFR 21.7040; 38 CFR 21.7042; 38 CFR 21.7044; 38 CFR 21.7050; 38 CFR 21.7070; 38 CFR 21.7100; 38 CFR 21.7103; 38 CFR 21.7112; 38 CFR 21.7122; 38 CFR 21.7131; 38 CFR 21.7135-7138

Completed:

Reason	Date	FR Cite
Final Action	07/11/90	55 FR 28382
Final Action Effective	10/28/86	55 FR 28382

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer 202 233-2092

RIN: 2900-AE03

3219. VETERANS EDUCATION; DISABLING EFFECTS OF CHRONIC ALCOHOLISM

CFR Citation: 38 CFR 3.301; 38 CFR 3.302; 38 CFR 21.1043

Completed:

Reason	Date	FR Cite
Final Action	04/11/90	55 FR 13529
Final Action Effective	11/18/88	55 FR 13529

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer 202 233-2092

RIN: 2900-AE05

3220. VETERANS EDUCATION; INCREASE IN RATES PAYABLE IN THE EDUCATIONAL ASSISTANCE TEST PROGRAM (EATP)

CFR Citation: 38 CFR 21.5820; 38 CFR 21.5822

Completed:

Reason	Date	FR Cite
Final Action	09/01/90	55 FR 31160
Final Action Effective	10/01/88	55 FR 31160

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer 202 233-2092

RIN: 2900-AE08

3221. CLAIMS BASED ON EXPOSURE TO HERBICIDES CONTAINING DIOXIN

CFR Citation: 38 CFR 3.311a

Completed:

Reason	Date	FR Cite
RIN Changed to Regulatory Program RIN 2900-AE09	07/23/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Drembus 202 233-3005

RIN: 2900-AE12

3222. LOAN GUARANTY: DISCRIMINATION ON THE BASIS OF HANDICAP OR FAMILY STATUS

CFR Citation: 38 CFR 36.4253; 38 CFR 36.4350

Completed:

Reason	Date	FR Cite
Final Action	06/26/90	55 FR 25975
Final Action Effective	07/26/90	55 FR 25975

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith A. Caden 202 233-3042

RIN: 2900-AE21

3223. VETERANS EDUCATION; QUALIFYING FOR THE MONTGOMERY GI BILL THROUGH SERVICE IN THE SELECTED RESERVE

CFR Citation: 38 CFR 21.7042

Completed:

Reason	Date	FR Cite
Final Action	05/03/90	55 FR 18803
Final Action Effective	12/19/89	55 FR 18803

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer 202 233-2092

RIN: 2900-AE31

VA

Completed Actions

3224. RESERVISTS EDUCATION; DOD AUTHORIZATION ACT, MONTGOMERY GI BILL—SELECTED RESERVE

CFR Citation: 38 CFR 21

Completed:

Reason	Date	FR Cite
Merged with RIN 2900-AE43.	08/24/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer 202 233-2092

RIN: 2900–AE47

3225. VETERANS EDUCATION; DOD AUTHORIZATION ACT AND THE MONTGOMERY GI BILL—ACTIVE DUTY

CFR Citation: 38 CFR 21.7136; 38 CFR 21.7137

Completed:

Reason	Date	FR Cite
Merged with RIN 2900-AE69.	08/24/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer 202 233-2092

RIN: 2900–AE48

3226. LEAVES OF ABSENCE

CFR Citation: 38 CFR 21.342; 38 CFR 21.344

Completed:

Reason	Date	FR Cite
Merged with RIN 2900-AE56.	08/24/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morris Triestman 202 233-6496

RIN: 2900–AE53

3227. ● ACCOUNTABILITY FOR AUTHORIZATION AND PAYMENT OF TRAINING AND REHABILITATION SERVICES

Legal Authority: 38 USC 1515(a)(4)

CFR Citation: 38 CFR 21.258; 38 CFR 21.430

Legal Deadline: None

Abstract: These rules establish a simpler and more flexible system under which the expenditure of funds for training and rehabilitation services is subject to review as the amount needed to pay for tuition, fees and other costs increases. Under the revised procedures, most of the specific monetary limits used for determining the necessary level of administrative review are no longer specified in the regulation. These regulatory amendments will enable VA to move more rapidly to change review limits administratively as increases in the cost of living forces changes in program costs.

Timetable:

Action	Date	FR Cite
Final Action	06/26/90	55 FR 25974
Final Action Effective	06/26/90	55 FR 25974

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Morris Triestman, Rehabilitation Consultant (226), Vocational Rehabilitation and Education Svc., Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-6496

RIN: 2900–AE67

3228. ● VA ACQUISITION REGULATION: LOAN GUARANTY PROGRAM

Legal Authority: 38 USC 210; 40 USC 486(c)

CFR Citation: 48 CFR 871

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is changing the VA Acquisition Regulation (VAAR) to increase the dollar threshold for repair of homes under VA custody and to provide a means for waving the threshold.

Timetable:

Action	Date	FR Cite
Final Action Effective	06/13/90	55 FR 31599
Final Action	08/03/90	55 FR 31599

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara E. Dennig, Chief, Acquisition Policy Staff (93P), Department of Veterans Affairs, Ofc of Acquisition and Materiel Management, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3334

RIN: 2900–AE70

3229. ● VA ACQUISITION REGULATION: CONTRACT MODIFICATIONS

Legal Authority: 38 USC 210; 40 USC 486(c)

CFR Citation: 48 CFR 801

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is changing the VA Acquisition Regulation (VAAR) to raise the dollar level for Office of Facilities contract modifications that require legal review.

Timetable:

Action	Date	FR Cite
Final Action Effective	03/26/90	55 FR 31391
Final Action	06/02/90	55 FR 31391

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara E. Dennig, Chief, Acquisition Policy Staff (93P), Department of Veterans Affairs, Ofc of Acquisition and Materiel Management, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3334

RIN: 2900–AE71

3230. APPEALS REGULATIONS AND RULES OF PRACTICE; REQUEST FOR CHANGE IN REPRESENTATION FOR PERSONAL HEARING, OR SUBMISSION (CONT)

CFR Citation: 38 CFR 19.174

Completed:

Reason	Date	FR Cite
Final Action	05/15/90	55 FR 20144
Final Action Effective	06/14/90	55 FR 20144

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Clay Wilt 202 233-2978

RIN: 2900–AD14

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VA — Completed Actions

3231. RECOGNITION OF ORGANIZATIONS, REPRESENTATIVES, AGENTS, AND ATTORNEYS

CFR Citation: 38 CFR 14.629

Completed:

Reason	Date	FR Cite
Final Action	09/17/90	55 FR 38068
Final Action Effective	10/17/90	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: Richard J. Hipolit 202 233-3429

RIN: 2900-AE15

3232. ● INFORMATION LAW DELEGATIONS OF AUTHORITY TO GENERAL COUNSEL AND DEPUTY GENERAL COUNSEL

Legal Authority: 38 USC 210; 38 USC 3301; 38 USC 3305; 38 USC 212; 5 USC 552; 5 USC 552(e)

CFR Citation: 38 CFR 1.529(b) and 1.527(c); 38 CFR 1.557(a) and 1.557(b); 38 CFR 1.577(d); 38 CFR 1.580(a) and 1.580(b); 38 CFR 2.6(e)(12); 38 CFR 17.511

Legal Deadline: None

Abstract: The Department of Veterans Affairs is amending its information law regulations to delegate authority to the General Counsel and the Deputy General Counsel to make final Departmental decisions on appeals under 5 USC 552 (The Freedom of Information Act), 5 USC 552a (The Privacy Act of 1974), 38 USC 3301, and 38 USC 3305. This new delegation of authority should allow the Department to be more responsive to the public.

Timetable:

Action	Date	FR Cite
Final Action	05/25/90	55 FR 21545
Final Action Effective	05/25/90	55 FR 21545

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marjorie Leandri, Records Management Service (723), Department of Veterans Affairs, Office of Information Resources Policies, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-8454

RIN: 2900-AE05

3233. ● DRUG-FREE WORKPLACE (GRANTS)

Significance: Regulatory Program

Legal Authority: PL 100-690 Title V, Subtitle D; 41 USC 701 et seq

CFR Citation: 38 CFR 44

Legal Deadline: None

Abstract: The Drug-Free Workplace Act of 1988 requires contractors and grantees of Federal agencies to certify that they will provide drug-free workplaces; or, in the case of a grantee who is an individual, certify to the agency that his or her conduct of the grant will be drug-free. Making the required certification is a precondition for receiving a contract or grant from a Federal agency. This rule implements the law written by the Department of Veterans Affairs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 4946
Final Action	05/25/90	55 FR 21700
Final Action Effective	07/24/90	55 FR 21681

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: R. Michael Berger, Director, Records Management Service (723), Department of Veterans Affairs, Office of Information Resources Policies, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3016

RIN: 2900-AE30

[FR Doc. 90-21458 Filed 10-26-90; 8:45 am]
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Part XVII

ACTION

Semiannual Regulatory Agenda

ACTION (ACTION)

ACTION

45 CFR CH. XII

Executive Order 12291, Federal Regulation, Semiannual Agenda of Regulations

AGENCY: ACTION.

ACTION: Publication of semiannual agenda.

SUMMARY: This agenda announces the regulations that ACTION will have under development, revision, or review during the next year. The purpose for publishing this agenda is to give notice of any regulatory activity by the Agency in order to provide the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: The public is encouraged to contact the Agency official listed for the particular agenda item. For other information concerning ACTION regulations or this semiannual agenda, contact Frank B. Stilwell, III, General Counsel, ACTION, 1100 Vermont Avenue NW., Washington, DC 20525, (202) 634-9333.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12291 "Federal Regulation" and the Regulatory Flexibility Act (5 U.S.C. 601), Executive agencies are required to publish in the Federal Register semiannual regulatory agendas in April and October of each year.

ACTION has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public, and that the regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory analysis is required under 5 U.S.C. 602.

Dated: August 24, 1990.

Jane A. Kenny,

Director.

ACTION (ACTION)

Prerule Stage

3234. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL ASSISTANCE FROM ACTION

Legal Authority: 42 USC 6101; 42 USC 5042(13); 42 USC 5060

CFR Citation: 45 CFR 1221

Legal Deadline: None

Abstract: In accordance with 42 USC 6101 and 42 USC 6901, ACTION will promulgate regulations implementing provisions of the Age Discrimination Act of 1975, as amended, and Section 417 of the Domestic Volunteer Service Act of 1973, as amended, which prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy B. Voss, Director, Equal Opportunity Staff, ACTION, 1100 Vermont Avenue, NW., Washington, DC 20525, 202 634-9512

RIN: 3001-AA10

3235. ● USE OF LOCALLY GENERATED CONTRIBUTIONS

Significance: Agency Priority

Legal Authority: 42 USC 5024; 42 USC 5042(13); 42 USC 5060

CFR Citation: 45 CFR 1235

Legal Deadline: None

Abstract: Regulation implements section 224 of the Domestic Volunteer Service Act of 1973, as amended.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Seal, Executive Officer, ACTION, 1100 Vermont Avenue, NW., Room 10101, Washington, DC 20525, 202 634-9380

RIN: 3001-AA19

3236. ● VOLUNTEER DISCRIMINATION COMPLAINT PROCEDURE

Significance: Agency Priority

Legal Authority: 42 USC 5042(13); 42 USC 5060

CFR Citation: 45 CFR 1225

Legal Deadline: None

Abstract: In accordance with section 417 of the Domestic Volunteer Service Act of 1973, as amended, ACTION will update its regulations regarding volunteer discrimination complaint procedures.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy B. Voss, Director, Equal Opportunity Staff, ACTION, 1100 Vermont Avenue, NW., Washington, DC 20525, 202 634-9512

RIN: 3001-AA20

ACTION (ACTION)

Final Rule Stage

3237. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Legal Authority: 42 USC 2000(d)(1); 42 USC 5057; 42 USC 5060

CFR Citation: 45 CFR 1203

Legal Deadline: None

Abstract: In accordance with 42 USC 2000(d)(1), ACTION will update regulations implementing provisions of Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color and national origin in federally assisted programs.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy B. Voss, Director, Equal Opportunity Staff, ACTION, 1100 Vermont Avenue, NW., Washington, DC 20525, 202 634-9312

RIN: 3001–AA06

3238. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN ACTION PROGRAMS

Legal Authority: 29 USC 794; 42 USC 5057; 42 USC 5060

CFR Citation: None

Legal Deadline: None

Abstract: In accordance with section 504 of the Rehabilitation Act of 1973, as amended (29 USC 794), ACTION will promulgate implementing regulations which prohibit discrimination on the basis of handicap in federally conducted programs and activities. ACTION regulations prohibiting discrimination on the basis of handicap in federally assisted programs are contained in 45 CFR 1232.

Timetable:

Action	Date	FR Cite
NPRM	09/18/89	54 FR 38401
NPRM Comment Period End	11/17/89	
Interim Final Rule	10/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Nancy B. Voss, Director, Equal Opportunity Staff, ACTION, 1100 Vermont Avenue, NW., Washington, DC 20525, 202 634-9312

RIN: 3001–AA07

3239. NONDISCRIMINATION ON THE BASIS OF SEX IN FEDERALLY ASSISTED EDUCATIONAL PROGRAMS

Legal Authority: PL 92-318

CFR Citation: 45 CFR 1231

Legal Deadline: None

Abstract: In accordance with PL 92-318, ACTION will promulgate regulations implementing provisions of Title IX of the Education Amendments of 1972, as amended, which prohibit discrimination based on sex in federally assisted programs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entities Affected: Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Nancy B. Voss, Director, Equal Opportunity Staff, ACTION, 1100 Vermont Avenue, NW., Washington, DC 20525, 202 634-9312

RIN: 3001–AA17

3240. NEW RESTRICTIONS ON LOBBYING FINAL COMMON RULES

Significance: Regulatory Program

Legal Authority: 31 USC 1352; PL 101-121, Sec 319; 42 USC 5042(13); 42 USC 5060

CFR Citation: 45 CFR 1230

Legal Deadline: None

Abstract: In accordance with PL 101-121, ACTION will promulgate final regulations to implement provisions prohibiting recipients of Federal contracts and grants from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government. The regulations also require disclosure of lobbying using nonappropriated funds.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Margaret M. McHale, Chief, Procurement and Grants Division, ACTION, 1100 Vermont Avenue, NW., Room 2101, Washington, DC 20525, 202 634-9158

RIN: 3001–AA18

ACTION (ACTION)

Completed Actions

3241. INSPECTION AND COPYING OF RECORDS: RULES FOR COMPLIANCE WITH PUBLIC INFORMATION ACT

CFR Citation: 45 CFR 1215

Completed:

Reason	Date	FR Cite
Final Action	05/15/90	45 FR 1215
Final Action Effective	06/14/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Janet Smith 202 634-9245

RIN: 3001–AA09

3242. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

CFR Citation: 45 CFR 1203

Completed:

Reason	Date	FR Cite
Withdrawn Duplicates purpose of RIN 3001-AA06	06/01/90	

ACTION

Completed Actions

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Nancy B. Voss 202 634-6812

RIN: 3001-AA15

2543. DRUG-FREE WORKPLACE FINAL COMMON RULES

Significance: Regulatory Program

CFR Citation: 45 CFR 1229

Completed:

Reason	Date	FR Cite
Final Action	05/29/90	55 FR 21681
Final Action Effective	07/24/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Margaret M. McHale 202 634-6150

RIN: 3001-AA16

[FR Doc. 90-21457 Filed 10-26-90; 8:45 am

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Monday
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Part XVIII

Advisory Council on Historic Preservation

Semiannual Regulatory Agenda

ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP)

ADVISORY COUNCIL ON HISTORIC PRESERVATION

36 CFR Ch. VIII

Unified Agenda of Federal Regulations

AGENCY: Advisory Council on Historic Preservation (ACHP).

ACTION: Publication of agenda.

SUMMARY: The following ACHP regulation is scheduled for development from October 1990 through September 1991. It is submitted herein for publication in the Unified Agenda of Federal Regulations, E.O. 12291.

FOR FURTHER INFORMATION CONTACT: See person listed below for specific agenda information.

Advisory Council on Historic Preservation.

Robert D. Bush,

Executive Director.

ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP) — Proposed Rule Stage

2344. FREEDOM OF INFORMATION ACT REGULATIONS

Legal Authority: 16 USC 470 Nat. Historic Preservation Act of 1966, as amended

CFR Citation: 36 CFR 810.5

Legal Deadline: None

Abstract: The regulation will increase the fees charged to requesters of information to better reflect the cost to the Government of locating and copying the documents requested. Copying charges would be increased from $0.10 to $0.13 per page; fees for searches by professional staff from $2.00 to $4.65 per quarter hour; and fees for searches by clerical staff from $1.00 to $2.30 per quarter hour. The regulation would thus impose a "user's fee" to users of the Government FOIA system which is more consistent with other agencies' fees.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	
NPRM Comment Period End	03/00/91	
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Sectors Affected: None

Agency Contact: Katherine Barns Soffer, Associate General Counsel, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW., #809, Washington, DC 20004, 202 786-0583

RIN: 3010-AA03

[FR Doc. 90-21458 Filed 10-26-90; 8:45 am]

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Part XIX

Agency for International Development

Semiannual Regulatory Agenda

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID)

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Ch. II

Federal Regulations; Regulatory Agenda Semiannual Summary

AGENCY: Agency for International Development, IDCA.

ACTION: AID regulations agenda.

SUMMARY: The Agency for International Development (AID) is publishing this agenda as required by section 5(a) of Executive Order 12291 "Federal Regulation" (46 FR 13193, February 19, 1981) and by the Regulatory Flexibility Act (Pub. L. 96-354, September 30, 1980). This agenda reports the status of those regulations currently under review and gives AID's plan for the issuance of proposed regulations during the next 12 months. It is expected that the information provided in this agenda will enable the public to be more aware of and to participate more effectively in AID's rulemaking process.

FOR FURTHER INFORMATION CONTACT:

General: For further information on the agenda or the review list in general, contact: Mr. John H. Eign, Office of Information Resources Management, Agency for International Development, Washington, DC 20523, telephone (703) 875-1608.

Specific: For further information about any particular item on the agenda, contact the individual listed as the contact for that item.

SUPPLEMENTARY INFORMATION:

Regulatory Flexibility Act (RFA)

AID does not have any rulemaking activity that falls within the requirements of RFA and does not anticipate any during the next reporting period.

Dated: August 15, 1990.

Michael Doyle,

Assistant to the Administrator for Management Services.

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID)

Proposed Rule Stage

3246. REGULATION FOR IMPLEMENTATION OF PRIVACY ACT OF 1974

Legal Authority: 5 USC 552a; 5 USC 553; 22 USC 2381

CFR Citation: 22 CFR 215

Legal Deadline: None

Abstract: The regulation is being reviewed for update. Two new systems of records are being studied for incorporation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James L. Harper, Director, Office of Public Inquiries, Agency for International Development, Bureau for External Affairs, Washington, DC 20523, 202 647-4220

RIN: 0412-AA03

3248. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Legal Authority: 22 USC 2381

CFR Citation: 22 CFR 226

Legal Deadline: None

Abstract: Regulation will implement governmentwide administrative rules applicable to assistance agreements from AID to U.S. non-governmental organizations.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44718
NPRM Comment Period End	01/03/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathleen O'Hara, Chief, Policy Branch, Agency for International Development, Planning Policy and Evaluation, Bureau for Management Services, Washington, DC 20523, 703 875-1534

RIN: 0412-AA13

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID)

Final Rule Stage

3247. DONATION OF AGRICULTURAL COMMODITIES/PRODUCTS TO ASSIST NEEDY PERSONS OVERSEAS (416 PROGRAM)

Legal Authority: 7 USC 1431; PL 97-253, Sec 110

CFR Citation: 22 CFR 210, (New)

Legal Deadline: None

Abstract: This regulation sets forth provisions of the Agency for International Development (AID), acting as an agent for the USDA/Commodity Credit Corporation (CCC), to carry out part of the responsibilities for selecting, approving, administering and implementing the section 416 program of the Agricultural Act of 1949, as amended. This program will assist needy persons overseas and reduce surplus stocks of dairy and wheat products in CCC inventory. The donation of commodities under this new authority will be coordinated with, but not replace, assistance provided under the Agricultural Trade Development and Assistance Act of 1954, as amended, PL 83-480. The Agency is not considering any alternatives for addressing the problem. There are some minor costs in administering the regulation. The potential benefits will go to needy persons overseas.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/24/84	49 FR 22024

AID — Final Rule Stage

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jessie C. Vogler, Program Officer, Agency for International Development, Office of Food for Peace, Bureau for Food for Peace and Voluntary Assistance, Washington, DC 20523, 703 875-4706

RIN: 0412-AA05

3248. AGENCY FOR INTERNATIONAL DEVELOPMENT ACQUISITION REGULATION

Significance: Agency Priority

Legal Authority: 22 USC 2381; PL 101-167, Sec.579

CFR Citation: 48 CFR 705; 48 CFR 706; 48 CFR 728; 48 CFR 752

Legal Deadline: Final, Statutory, May 20, 1990. Other, Statutory, February 19, 1990.
Other deadline is for an interim regulation.

Abstract: The regulation is being amended to implement the provisions in the FY 90 Foreign Assistance Appropriations Act concerning contracting with Disadvantaged Enterprises.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/06/90	55 FR 8469
Final Action	10/00/90	
Final Action Effective	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen O'Hara, Chief, Procurement Policy Branch, Agency for International Development, Planning Policy and Evaluation Staff, Bureau for Management Services, Washington, DC 20523, 703 875-1534

RIN: 0412-AA15

3249. NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: 31 USC 1352; 22 USC 2381

CFR Citation: 22 CFR 227

Legal Deadline: None

Abstract: The regulation is being issued to implement new restrictions prohibiting recipients of Federal grants from using appropriated funds for lobbying the Executive or Legislative branches of the Federal Government in connection with a specific grant.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Interim Final Rule Comment Period End	04/27/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Kathleen O'Hara, Chief, Policy Branch, Agency for International Development, Planning Policy and Evaluation Staff, Bureau for Management Services, Washington, DC 20523, 703 875-1534

RIN: 0412-AA16

3250. © FEDERAL POLICY FOR THE PROTECTION OF HUMAN SUBJECTS

Significance: Regulatory Program

Legal Authority: 5 USC 301; 42 USC 289; 49 USC 300v-1(b)

CFR Citation: 22 CFR 209

Legal Deadline: None

Abstract: This final rule will modify current regulations for the protection of human subjects at Title 22 CFR Part 209 to incorporate changes developed by the Interagency Human Subjects Coordinating Committee, Federal Coordinating Council on Science Engineering and Technology (FCCSET). The Committee drafted a common rule for Federal departments and agencies conducting or supporting research involving human subjects which was based on the HHS regulations. This effort was in response to a key recommendation of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research in the First Biennial Report in 1981.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45661
NPRM Comment Period End	01/09/89	
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Dr. James Shelton, Medical Officer, Office of Population Research Division, AID, Agency for International Development, Room 820 SA-18, Washington, DC 20523-1818, 703 875-4703

RIN: 0412-AA17

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID) — Completed Actions

3251. TRANSFER OF FOOD COMMODITIES FOR USE IN DISASTER RELIEF AND ECONOMIC DEVELOPMENT AND OTHER ASSISTANCE

Legal Authority: 7 USC 1706; 7 USC 1721 to 1723; 7 USC 1691

CFR Citation: 22 CFR 211

Legal Deadline: None

Abstract: This regulation prescribes the terms and conditions governing the transfer of agricultural commodities to foreign governments, U.S. voluntary agencies, or intergovernmental organizations. The regulation is being reviewed to assess its current procedures and requirements with an intent to improve its effectiveness and efficiency. There will be internal administrative and operational costs. There are potential benefits to aid-receiving countries.

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Completed Actions

Timetable:

Action	Date	FR Cite
Final Action	05/11/90	55 FR 23635
Final Action Effective	05/11/90	55 FR 23635

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jessie C. Vaglar, Program Officer, Agency for International Development, Office of Food for Peace, Bureau for Food for Peace and Voluntary Assistance, Washington, DC 20523, 703 875-4762

RIN: 0412-AA05

3252. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Significance: Regulatory Program

Legal Authority: 22 USC 2381; 41 USC 701 et seq

CFR Citation: 22 CFR 208

Legal Deadline: None

Abstract: Drug-free workplace requirements applicable to grantees need to be published as a final rule incorporating public comments as appropriate.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 4947
Final Action	05/25/90	55 FR 21681
Final Action Effective	07/24/90	55 FR 21681

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Kathleen O'Hara, Chief, Procurement Policy Branch, Agency for International Development, Planning Policy and Evaluation Staff, Bureau for Management Services, Washington, DC 20523, 703 875-1534

RIN: 0412-AA14

[FR Doc. 90-21459 Filed 10-26-90; 8:45 am]

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federal register

Monday
October 29, 1990

Part XX

Architectural and Transportation Barriers Compliance Board

Semiannual Regulatory Agenda

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB)

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Ch. XI

Unified Agenda of Federal Regulations

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Submission of unified agenda of federal regulations.

SUMMARY: The Architectural and Transportation Barriers Compliance Board submits the following agenda of proposed regulatory activities which may be conducted by the agency during the next 12 months. This regulatory agenda may be revised and/or refined by the agency during the coming months as a result of action taken by the Board. In addition to any regulatory actions, the Board may also consider issuing advisory standards and/or policy statements as part of its statutory responsibilities. When appropriate, these standards and policies will also be published in the Federal Register.

ADDRESSES: U.S. Architectural and Transportation Barriers Compliance Board, 1111 18th Street NW., Suite 501, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: For information concerning Board regulations and proposed actions, contact Mr. James J. Raggio, General Counsel, (202) 653-7834 (voice or TDD).

Lawrence W. Roffee,

Executive Director, Architectural and Transportation Barriers Compliance Board.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB)

Proposed Rule Stage

3253. ◆ MINIMUM GUIDELINES AND REQUIREMENTS FOR ACCESSIBLE DESIGN

Significance: Agency Priority

Legal Authority: 42 USC 12101 et seq; Americans With Disabilities Act; PL 101-336, Sec 405

CFR Citations: 36 CFR 1190

Legal Deadline: Final, Statutory, April 26, 1991.

Abstract: To supplement the Minimum Guidelines and Requirements for Accessible Design for purposes of Titles Two and Three of the American With Disabilities Act to ensure that buildings, facilities, rail passenger cars and vehicles are accessible in terms of architecture and design, transportation and communication to individuals with disabilities.

Timetable:

Action	Date	FR Cite
ANPRM	08/00/90	
ANPRM Comment Period End	09/00/90	
NPRM	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: James Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1111 18th Street, NW., Suite 501, Washington, DC 20036-3894, 202 653-7834

RIN: 3014-AA09

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB)

Final Rule Stage

3254. 36 CFR PART 1152 - EMPLOYEE RESPONSIBILITIES AND CONDUCT

Legal Authority: 5 CFR 735

CFR Citations: 36 CFR 1152

Legal Deadline: None

Abstract: This final rule amends the current regulations concerning the Statements of Employment and Financial Interests, including but not limited to, which employees are required to submit statements, the procedures and responsibilities for reviewing the statements, the forms utilized and such other areas as necessary to implement appropriate procedures for compliance with the requirements for financial disclosure based on the current authorities and responsibilities of the agency. This rulemaking will have no financial impact.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Elizabeth A. Stewart, Senior Attorney, Architectural and Transportation Barriers Compliance Board, 1111 18th Street, NW., Suite 501, Washington, DC 20036, 202 653-7834

RIN: 3014-AA05

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB)

Completed Actions

3255. 36 CFR PART 1150 - PRACTICE AND PROCEDURES FOR COMPLIANCE HEARINGS

Significance: Agency Priority

Legal Authority: Section 502 Rehabilitation Act of 1973, PL 93-112, as amended; 29 USC 792, 87 Stat. 391

CFR Citation: 36 CFR 1150

Legal Deadline: None

Abstract: The proposed rule would amend current procedures for the processing and resolution of complaints filed with the agency as well as the procedures for administrative hearings conducted in accordance with Section 502 of the Rehabilitation Act of 1973, Pub. L. 92-112 as amended (29 USC 792). The potential financial impact is undetermined at this time.

Timetable:

Action	Date	FR Cite
Withdrawn	08/17/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1111 18th Street, NW., Suite 501, Washington, DC 20036, 202 653-7834

RIN: 3014-AA06

3256. 36 CFR PART 1155 - STATEMENT OF ORGANIZATION AND PROCEDURES

Significance: Agency Priority

Legal Authority: Section 502, Rehabilitation Act of 1973, PL 93-112, as amended; 29 USC 792, 87 Stat. 301

CFR Citation: 36 CFR 1155

Legal Deadline: None

Abstract: This final rule amends current Board procedures to provide for a system of notational voting and such other internal procedures as are necessary for the functioning of the agency.

Timetable:

Action	Date	FR Cite
Internal Procedures	08/07/89	54 FR 32337
Final Action Effective	01/23/90	
Final Action	04/05/90	55 FR 12636

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elizabeth A. Stewart, Senior Attorney, Architectural and Transportation Barriers Compliance Board, 1111 18th Street, NW., Suite 501, Washington, DC 20036, 202 653-7834

RIN: 3014-AA06

[FR Doc. 90-21480 Filed 10-26-90; 8:45 am]
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Part XXI

Commission on Civil Rights

Semiannual Regulatory Agenda

COMMISSION ON CIVIL RIGHTS (CCR)

COMMISSION ON CIVIL RIGHTS

45 CFR Ch. VII

Semiannual Agenda of Regulations

AGENCY: U.S. Commission on Civil Rights.

ACTION: Publication of semiannual agenda.

SUMMARY: This agenda announces the regulations the U.S. Commission on Civil Rights will have under development during the 6-month period from October 1, 1990, through March 31, 1991. The purpose for publishing this agenda is to give notice of any regulatory activity by the Commission in order to allow the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: For further information on any items in the agenda, contact: Emma Monroig, Solicitor, U.S. Commission on Civil Rights, Room 604, 1121 Vermont Avenue NW., Washington, DC 20425, (202) 376-8375.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12291 "Federal Regulation" and the Regulatory Flexibility Act (5 U.S.C. 605), executive agencies are required to publish in the Federal Register semiannual regulatory agendas in April and October of each year.

The regulations being considered by the Commission are not "major" rules within the meaning of E.O. 12291, and no Regulatory Impact Analysis is required. The Commission has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public; nor will the regulations have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Analysis is required.

Emma Monroig,

Solicitor.

COMMISSION ON CIVIL RIGHTS (CCR) — Proposed Rule Stage

3287. COMMISSION ON CIVIL RIGHTS—UPDATE AND REVISION

Legal Authority: 42 USC 1975 to 1975f; 5 USC 552(a); 5 USC 552(b)

CFR Citation: 45 CFR 701; 45 CFR 702; 45 CFR 703; 45 CFR 705

Legal Deadline: None

Abstract: The regulation updates and revises most of the Commission's current regulations, specifically 45 CFR 701, 702, 703, and 705. 45 CFR 701 identifies the organization and functions of the Commission. 45 CFR 702 specifies the rules on hearings, reports and meetings of the Commission. 45 CFR 703 identifies the operations and functions of the Commission's State advisory committees. 45 CFR 705 states the Commission's obligations under the Privacy Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Emma Monroig, Solicitor, Commission on Civil Rights, 1121 Vermont Avenue, NW., Suite 606, Washington, DC 20425, 202 376-8375

RIN: 3035–AA02

COMMISSION ON CIVIL RIGHTS (CCR) — Final Rule Stage

3288. IMPLEMENTATION OF FREEDOM OF INFORMATION REFORM ACT

Significance: Agency Priority

Legal Authority: 42 USC 1975 to 1975f; 5 USC 552

CFR Citation: 45 CFR 704 (Revision)

Legal Deadline: Final, Statutory, April 18, 1987.

Abstract: The regulation implements the 1986 statutory amendments to the Freedom of Information Act (FOIA) (5 USC 552). The revised provisions modify the terms of exemption 7 and also establish new procedures regarding the charging and waiving of fees pursuant to a FOIA request.

Timetable:

Action	Date	FR Cite
NPRM	02/03/89	54 FR 5804
NPRM Comment Period End	03/06/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Emma Monroig, Solicitor, Commission on Civil Rights, 1121 Vermont Avenue, NW., Suite 606, Washington, DC 20425, 202 376-8375

RIN: 3035–AA00

[FR Doc. 90-22801 Filed 10-26-90; 8:45am]

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Monday
October 29, 1990

Part XXII

Environmental Protection Agency

Semiannual Regulatory Agenda

ENVIRONMENTAL PROTECTION AGENCY (EPA)

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[FRL-3823-1]

Regulatory Agenda

AGENCY: Environmental Protection Agency [EPA].

ACTION: Notice.

SUMMARY: EPA revises and issues the Regulatory Agenda semiannually. The agenda appears in the Federal Register each April and October and is intended to keep interested parties informed of the progress of EPA regulations. It provides specific information on the status of regulations that are under development, revision, and review at the Agency.

ADDRESSES: If you want to be on the mailing list for future agendas, please call or write to Bridgette Dent, Regulation Development Branch, EPA, PM-223, Washington, DC 20460, (202) 382-7225.

If you have suggestions for improving this publication or need general information about the agenda, please write or call to Mary Henigin, Regulation Development Branch, EPA, PM-223, Washington, DC 20460, (202) 382-7225.

FOR FURTHER INFORMATION CONTACT: For specific information on any item in the agenda, contact the person listed with each entry.

SUPPLEMENTARY INFORMATION:

The agenda provides the title, an abstract, legal authority, CFR reference, any analysis EPA is preparing, contact person, and schedule for completing the action for each regulation under review. The following statutes are covered in the agenda:

Asbestos Hazard Emergency Response Act (AHERA)
Atomic Energy Act (AEA)
Clean Air Act (CAA)
Clean Water Act (CWA)
Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)
Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)
Federal Food, Drug, and Cosmetics Act (FFDCA)
Hazardous and Solid Waste Amendments (HSWA)
Marine Protection, Research, and Sanctuaries Act (MPRSA)
Resource Conservation and Recovery Act (RCRA)
Safe Drinking Water Act (SDWA)
Superfund Amendments and Reauthorization Act (SARA)
Toxic Substances Control Act (TSCA)
Water Quality Act of 1987 (WQA)
General - Other Acts (including grant and procurement regulations that cut across several program areas)

It also indicates the "review authority," which may be different from the regulation's statutory authority. EPA reviews regulations under various mandates, and some reviews satisfy more than one of these mandates. The principal mandates are:

Executive Order 12498 is intended to outline the Administration's annual Regulatory Program. It defines priority activities that Federal departments and agencies will work on during the upcoming year. Its purpose is to minimize duplication and conflict among regulatory activities and enhance public understanding of the Administration's regulatory objectives.

Executive Order 12291 establishes the general policy that Federal departments and agencies should review their regulations to ensure that the costs of the regulations are justified by their benefits. The Office of Management and Budget (OMB) reviews agency rules to assess their compliance with the Executive order's goals of maximizing net social benefits.

The Regulatory Flexibility Act (RFA) requires that Federal departments and agencies review existing regulations that have a significant economic impact on a substantial number of small entities, including small businesses, small organizations, and small governments, at least once every 10 years. EPA invites public comment regarding RFA issues on the list of regulations EPA is reviewing. Reviews EPA has targeted under the RFA are identified under "Analysis." The agenda identifies the types of entities affected under "Small Entities Affected." The "Government Levels Affected" (i.e., State, local, or Federal) is also indicated.

When the Agency completes reviews of regulations with a significant impact on small entities, the agenda indicates whether to revise, rescind, or leave the regulation unchanged. This announcement complies with the RFA and EPA's July 18, 1981, plan (46 FR 36830) for reviewing regulations under the Act.

The *Paperwork Reduction Act* (PRA) requires Federal departments and agencies to review their information collection activities to assure that they need and will use the information and manage it efficiently. They must also ensure that the information to be collected is of high quality, appropriate for its intended use, and does not already exist at some other Federal agency. In addition, the PRA requires agencies to review the cost of collecting the information so that it will be held to a minimum for both the respondent and the agencies. Congress gave oversight authority to OMB. EPA must have OMB approval before it either collects information or requires that information be collected.

Organization of the Agenda

The agenda is organized by statute and ordered numerically within each statutory area. Entries within each statute are divided into four categories: (1) Prerule, (2) proposed rule, (3) final rule, and (4) completed actions (i.e., regulations that EPA is deleting from the agenda because the Agency has completed, withdrawn, or postponed them indefinitely). Detailed information on each of these categories is presented below.

I. Prerulemakings

Prerulemaking actions include activities intended to determine whether or not to initiate rulemaking. These activities include anything that influences or leads to rulemaking, such as advance notices of proposed rulemaking, significant studies or analyses of the possible need for regulatory action, requests for public comment on the need for regulatory action, or important pre-regulatory policy proposals.

This section also includes review of existing EPA regulations. The purpose of such reviews is to determine whether the Agency should revise, rescind, or leave the existing rule unchanged. If EPA decides to revise or rescind an existing regulation, that action will appear in the next agenda in the proposed rule section along with a timetable for completing the revision or rescission.

II. Proposed and Final Rules

EPA

This section includes all "significant" EPA regulations. Some are priority regulations under development that are subject to Executive Order 12498 or that the Agency has designated for priority development or revision. These regulations are also subject to certain provisions of E.O. 12291, RFA, and PRA. EPA generally lists regulations in this category of the agenda once they are within a year of proposal or promulgation. Very important regulations under development will usually appear even if the scheduled publication dates are more than a year away. However, the listings exclude (a) specialized categories of actions (i.e., EPA approvals of State plans and other actions that do not apply nationally); and (b) routine actions (i.e., pesticide tolerances and minor amendments to existing rules).

III. Completed Actions

These are actions that appeared in the previous agenda, which EPA is deleting because they are completed or are no longer under consideration for rulemaking. Information on these regulations is less detailed than for those that are still under consideration.

Dated: August 24, 1990.

Richard D. Morgenstern,

Acting Assistant Administrator, Office of Policy Planning and Evaluation.

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3259	SAR No. 2692. Tolerances and Exemptions from Tolerances for Pesticide Chemicals in or On Raw Agricultural Commodities or Processed Foods	2070-AC18
3260	SAR No. 2664. Regulation of Pesticidal Transgenic Plants (Revision)	2070-AC92
3261	SAR No. 2351. Restricted Use Classification for Groundwater Contaminating Pesticides	2070-AB69
3262	SAR No. 2337. Sale of Restricted Use Pesticides to Noncertified Persons	2070-AB48
3263	SAR No. 2445. Regulations on Certification of Pesticide Applicators (Revision)	2070-AE75
3264	SAR No. 2406. Pesticide Applicator Certification Fees for EPA Administered Programs	2070-AB76
3265	SAR No. 2445. Amendments to Experimental Use Permit Rule for Certain Microbial Pesticides (Revision)	2070-AE77
3266	SAR No. 2336. Reporting Requirements for Risk/Benefits Information (Revision)	2070-AB80
3267	SAR No. 2720. Policy or Procedures for Notification to the Agency of Stored Pesticides with Canceled or Suspended Registration	2070-AC26
3268	SAR No. 2724. Pesticide Data Requirements: Methods for Safe Storage and Disposal	2070-AC11
3269	SAR No. 2725. FIFRA Books and Records of Pesticide Production and Distribution (Revision)	2070-AC07
3270	SAR No. 2667. Pesticide Data Requirements (Revision)	2070-AC12
3271	SAR No. 2669. Storage, Disposal, Transportation, and Recall of Pesticides: Procedures and Standards	2070-AB85
3272	SAR No. 2639. Child-Resistant Packaging Regulations (Revision)	2070-AB86

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3273	SAR No. 2444. Regulations Concerning Pesticide Residues in Food: Procedural Regulations	2070-AE76
3274	SAR No. 2269. Labeling Requirements for Pesticides and Devices (Revision)	2070-AB46
3275	SAR No. 2554. Interpretative Rule - Advertising Claims Made for Registered Pesticide Products	2070-AB88
3276	SAR No. 2735. Revision of Statement of Policy on FIFRA Section 17, Pesticides and Devices Intended for Export	2070-AC09
3277	SAR No. 1640. Worker Protection Standards (Revision)	2070-AA40

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3278	SAR No. 2567. Registration Data Requirements for Pesticide Product Performance and Companion Pesticide Assessment Guidelines (Revision)	2070-AB62

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Toxic Substances Control Act (TSCA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3279	SAR No. 2848. Regulatory Investigation under the Toxic Substances Control Act (TSCA) to Reduce Lead (Pb) Consumption and Use	2070-AC21

Toxic Substances Control Act (TSCA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3280	SAR No. 2600. Policy Statement Implementing the Prior Informed Consent Procedures for the Export/Import of Industrial Chemicals	2070-AC22
3281	SAR No. 2555. Toxic Chemical "Peak Release" Reporting Rule (Revision)	2070-AB86
3282	SAR No. 2425. Responses to Petitions Received to Add to or Delete Chemicals from the List of Toxic Chemicals Under Section 313 of SARA	2070-AC00
3283	SAR No. 2743. Section 313 Sunset Review Amendments	2070-AC15
3284	Decisions on Test Rules: Proposed Rules	2070-AB07
3285	SAR No. 2245 and SAR No. 2657. Negotiated Consent/Procedural Test Rule (Revision)	2070-AB30
3286	SAR No. 2563. SARA Section 110 Chemicals Generic Test Rule	2070-AB79
3287	SAR No. 1923. Follow-up Rules on Existing Chemicals	2070-AA58
3288	SAR No. 2247. Generic Significant New Use Rule (SNUR) for Acrylate Compounds	2070-AB56
3289	Rulemaking Concerning Certain Microbial Products ("Biotechnology")	2070-AB61
3290	SAR No. 2561. Proposal to Exempt Certain Microorganisms from PMN Requirements Under TSCA 5(h)(4)	2070-AB89
3291	SAR No. 2760. Premanufacture Notification (PMN) Rule Amendments	2070-AC14
3292	SAR No. 2146. Regulatory Investigation of Formaldehyde	2070-AB14
3293	SAR No. 2150. Polychlorinated Biphenyls (PCBs): Applications for Exemptions from the Ban on Manufacturing, Processing, and Distribution	2070-AB20
3294	SAR No. 2284. Regulatory Investigation of Chlorinated Solvents	2070-AB41
3295	SAR No. 2580. Procedures and Criteria for Termination of Polychlorinated Biphenyls (PCBs) Disposal Permits	2070-AB81
3296	SAR No. 2654. Scrap Metal Recycling Regulatory Controls	2070-AC01
3297	SAR No. 2779. Use of Acrylamide and N-Methylolacrylamide (NMA) for Grouting	2070-AC17
3298	SAR No. 2844. Dioxin/Furan Contaminated Bleached Pulp and Papermill Sludge Land Application	2070-AC23
3299	SAR No. 2129. Amendment to the TSCA Section 8(a) Comprehensive Assessment Information Rule (CAIR)	2070-AC19

Toxic Substances Control Act (TSCA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3300	Decision on Test Rules: Final Rules	2070-AB94
3301	SAR No. 1975. Follow-up Rules on Non-5(e) New Chemicals Substances	2070-AA59
3302	Chemical Specific Significant New Use Rules (SNURs) to Extend Provisions of Section 5(e) Orders	2070-AB27
3303	SAR No. 2750. Polychlorinated Biphenyls (PCBs): Wet Weight/Dry Weight Clarification	2070-AC16
3304	SAR No. 2626. Regulation of Paints Containing Mercury-Based Biocides	2070-AC25
3305	SAR No. 2704. Partial Updating of the TSCA Inventory Data Base	2070-AC10
3306	SAR No. 2178. Section 8 (a) Preliminary Assessment Information Rules	2070-AB06
3307	SAR No. 1139. Section 8(d) Health and Safety Data Reporting Rules	2070-AB11

Toxic Substances Control Act (TSCA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3308	SAR No. 2657. Amendments to Test Rules and Consent Agreements	2070-AB87

EPA

Clean Water Act (CWA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3309	SAR No. 2804. Plan to Review and Promulgate Effluent Guidelines and Standards	2040-AA20
3310	SAR No. 2820. Shore Protection Act, Section 4103(b) Regulations	2040-AB85

Clean Water Act (CWA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3311	SAR No. 2825. Federal NPDES Fees in States Where EPA Administers the NPDES Program	2040-AB88
3312	SAR No. 2497. Water Quality Standards for Toxic Pollutants	2040-AB66
3313	SAR No. 1649. Effluent Guidelines and Standards for Offshore Subcategory of the Oil and Gas Extraction Category	2040-AA12
3314	SAR No. 1427. Effluent Guidelines and Standards for the Pharmaceutical Manufacturing Category	2040-AA19
3315	SAR No. 2478. Effluent Guidelines and Standards for the Pesticide Chemicals Category	2040-AB32
3316	SAR No. 2712. Effluent Guidelines and Standards for Pulp, Paper, and Paperboard Category	2040-AB53
3317	SAR No. 2745. Effluent Guidelines and Standards for the Organic Chemicals, Plastics and Synthetic Fibers (OCPSF) Category	2040-AB65
3318	SAR No. 2746. Effluent Guidelines and Standards for the Copper Forming Category	2040-AB71
3319	SAR No. 2747. Effluent Guidelines and Standards for the Coastal Subcategory of the Oil and Gas Extraction Category	2040-AB72
3320	SAR No. 2805. Effluent Guidelines and Standards for the Waste Treatment Category	2040-AB75
3321	SAR No. 2806. Effluent Guidelines and Standards for the Machinery Manufacturing and Rebuilding Company	2040-AB79
3322	SAR No. 2749. National Pollution Discharge Elimination System and Sludge Management State Program Regulations for Indian Tribes	2040-AB70
3323	SAR No. 2587. Revisions to Regulations for Modification of Secondary Treatment Requirements for Municipal Discharge into Marine Waters	2040-AB28
3324	SAR No. 2493. NPDES Regulatory Revisions	2040-AB36
3325	SAR No. 2501. NPDES Permit Application Standard Form A and Short Form A (Revision)	2040-AB39
3326	SAR No. 2196. Denial or Restriction of Disposal Sites (Revision)	2040-AB80
3327	SAR No. 2804. Clean Water Act Section 404 Program Definition	2040-AB74
3328	SAR No. 2737. Revisions to Ocean Dumping Regulations for Dredged Material	2040-AB62
3329	SAR No. 2736. Reorganization and Corrections to List of Ocean Dumping Sites	2040-AB63

Clean Water Act (CWA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3330	SAR No. 2585. Comprehensive Construction Grant Regulation Revision	2040-AB25
3331	SAR No. 2475. Water Quality Standards—Revision for Indian Tribes	2040-AB38
3332	SAR No. 2744. State Revolving Fund Program Implementation Regulations	2040-AB64
3333	SAR No. 2748. Section 303(d) List of State Waters	2040-AB68
3334	SAR No. 2200. NPDES Regulations: Stormwater Application Requirements (Revision)	2040-AA79
3335	SAR No. 2682. Treatment of Indian Tribes as States Under Section 404 of the Clean Water Act	2040-AB69
3336	SAR No. 2162. Sewage Sludge Use and Disposal Regulation	2040-AA74
3337	SAR No. 2515. Citizen Suit Notice Regulation Under the CWA	2040-AB60
3338	SAR No. 2222. De-Designation of Ocean Dumping Sites	2040-AB61

Clean Water Act (CWA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3339	SAR No. 2583. Effluent Guidelines and Standards for the Non-Ferrous Metals Manufacturing Category (Phase II)	2040-AB51
3340	SAR No. 2452. Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act	2040-AB58

EPA

Clean Water Act (CWA)—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
3341	SAR No. 2342. EPA Administered Programs: NPDES; General Pretreatment Regulations for Existing and New Sources: Proposals to Implement the Domestic Sewage Study	2040-AA09

Atomic Energy Act (AEA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3342	SAR No. 2690. Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes	2060-AC30
3343	SAR No. 1727. Environmental Protection Standards for Low-Level Radioactive Waste	2060-AA04
3344	SAR No. 2073. Residual Radioactivity	2060-AB31

Atomic Energy Act (AEA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3345	SAR No. 1162. Transuranium Elements	2060-AA01
3346	SAR No. 1166. Groundwater Protection Standards for Inactive Uranium Tailing Sites	2060-AC03

Safe Drinking Water Act (SDWA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3347	SAR No. 2281. National Primary Drinking Water Regulation: Radionuclides	2040-AA94
3348	SAR No. 2340. National Primary Drinking Water Regulations: Disinfection, Disinfectants and Disinfection By-Products (Revision)	2040-AA97
3349	SAR No. 2807. National Primary Drinking Water Regulations: Arsenic	2040-AB75
3350	SAR No. 2803. Drinking Water Laboratory Certification Regulations	2040-AB80
3351	SAR No. 2772. National Primary Drinking Water Regulations: Contaminants from First Drinking Water Priority List (Phase VI)	2040-AB82
3352	SAR No. 2782. (Note: This action was split from SAR No. 2781). Revision of VOC Analytical Methods Under the SDWA	2040-AB87
3353	SAR No. 2765. Osage Mineral Reserve Underground Injection Control Program (Revision)	2040-AB76
3354	SAR No. 2784. Construction Requirements for Class II (Oil and Gas Related Wells) Under Part C of the SDWA	2040-AB77
3355	SAR No. 2778. Management of Class V Injection Wells Under Part C of the Safe Drinking Water Act	2040-AB83

Safe Drinking Water Act (SDWA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3356	SAR No. 2440. Indian Rule for the Wellhead Protection Program and Sole Source Aquifer Demonstration Program	2040-AB16
3357	SAR No. 2426. Revisions to the Safe Drinking Water Act's Underground Injection Control Regulations	2040-AB27
3358	SAR No. 1755. National Primary Drinking Water Regulations: Synthetic Organic Chemicals and Inorganic Chemicals, Monitoring for Unregulated Contaminants (Phase II, 36 Contaminants)	2040-AA55
3359	SAR No. 2630. National Primary Drinking Water Regulations: Inorganic and Organic Compounds (Phase V/24 Contaminants)	2040-AB11
3360	SAR No. 2610. National Primary Drinking Water Regulations: Lead and Copper	2040-AB51
3361	SAR No. 2785. Drinking Water Priority List of Additional Substances Which May Require Regulation Under the Safe Drinking Water Act	2040-AB81

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Safe Drinking Water Act (SDWA)—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3362	SAR No. 2781 Revision of E. Coli Analytical Methods Under the SDWA	2040-AB84
3363	SAR No. 2361. Public Water System Supervision Program, Administrative Enforcement Implementation Procedures	2040-AB87
3364	SAR No. 2717. State-Administered UIC Programs; Incorporation by Reference Update	2040-AB90

Noise Control Act (NCA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3365	SAR No. 2046. Withdrawal of Products from the Agency's Reports Identifying Major Noise Sources and Withdrawal of Proposed Rules	2060-AB24

Resource Conservation and Recovery Act (RCRA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3366	SAR No. 2572. Determination on Wastes from Combustion of Coal by Electric Utility Power Plants	2060-AC40

Resource Conservation and Recovery Act (RCRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3367	SAR No. 2534. Oil Pollution Prevention Regulation	2050-AC82
3368	SAR No. 2332. Mandatory Inspections of Hazardous Waste Management Facilities	2050-AB59
3369	SAR No. 2826. New and Revised Testing Methods Approved for RCRA Subtitle C Hazardous Waste Testing Manual SW-846, Third Edition, Update II	2050-AD06
3370	SAR No. 2799. Degradable Plastic Ring Carrier Regulation	2050-AD09
3371	SAR No. 2524. No-Migration Variance for Prohibited Hazardous Waste Land Disposal	2050-AC44
3372	SAR No. 2780. Causes for Permit Modifications to Hazardous Waste Management Facilities	2050-AD05
3373	SAR No. 2494. Municipal Waste Combustor Ash Management	2050-AC84
3374	SAR No. 2434. Management of Used Oil	2050-AC17
3375	SAR No. 2462. Identification and Listing of Hazardous Wastes - De Minimis Exemption Levels	2050-AC25
3376	SAR No. 2951. Determination on Solid Waste from Selected Metallic Ore Processing Operations	2050-AC41
3377	SAR No. 2535. Exclusions for Waste Generated On-Board Ships (Revision)	2050-AC81
3378	SAR No. 2716. Identification and Listing of Hazardous Wastes from Chlorotoluene Production	2050-AC94
3379	SAR No. 2227. Identification and Listing of Hazardous Wastes from Coke By-Product Industries	2050-AC95
3380	SAR No. 2857. Amendments to Biennial Reporting Requirements	2050-AD10
3381	SAR No. 2303. Location Standards for Hazardous Waste Facilities	2050-AB42
3382	SAR No. 2091. Landfill, Surface Impoundment, and Waste Pile Closures for Hazardous Waste Management Facilities	2050-AB81
3383	SAR No. 2461. Land Disposal Restrictions for Soil and Debris Containing Hazardous Wastes	2050-AC00
3384	SAR No. 2439. Permitting Experimental Facilities Conducting Hazardous Waste Research	2050-AC04
3385	SAR No. 2503. Corrective Action for Releases to Ground Water from Regulated Hazardous Waste Units	2050-AC29
3386	SAR No. 2647. RCRA Subtitle C Financial Test Criteria (Revision)	2050-AC71
3387	SAR No. 2664. Definition of Hazardous Waste Tank, Surface Impoundment and Waste Pile (Revision)	2050-AC72
3388	SAR No. 2575. Hazardous Waste Sump Requirements in Response to Rulemaking Petition (Revision)	2050-AC79
3389	SAR No. 2435. Hazardous Waste Management System: Ground water Monitoring Constituents (Phase II) and Methods	2050-AC05
3390	SAR No. 2158. Compliance Monitoring and Enforcement Requirements for State Hazardous Waste Management Programs	2050-AB01
3391	SAR No. 2927. Treatment of Indian Tribes as States (for RCRA Subtitle C Program Authorization)	2050-AD07
3392	SAR No. 2366. Mining Waste Management Under RCRA Subtitle D	2050-AB77
3393	SAR No. 2761. Financial Test for Local Governments that Own/Operate Municipal Solid Waste Landfills	2050-AD04
3394	SAR No. 2821. Materials Source Separation for Municipal Waste Landfills (MSWLFs)	2050-AD08

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Resource Conservation and Recovery Act (RCRA)—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3395	SAR No. 2751. Municipal Solid Waste Landfills; State Program Determination of Adequacy	2050-AD03
3396	SAR No. 2485. Underground Storage Tanks Containing Hazardous Substances - Financial Responsibility Requirements	2050-AC15

Resource Conservation and Recovery Act (RCRA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3397	SAR No. 2617. Underground Storage Tanks Containing Petroleum - Financial Responsibility Requirements: Extension of 10/26/90 Compliance Deadline	2050-AD14
3398	SAR No. 2653. Medical Waste Demonstration Tracking Program	2050-AC74
3399	SAR No. 2228. Identification and Listing of Hazardous Wastes - Petroleum Refinery Primary Treatment Sludge	2050-AB70
3400	SAR No. 2174. Identification and Listing of Hazardous Wastes - Wood Preserving and Surface Protection Waste	2050-AC43
3401	SAR No. 2575. RCRA Definition of Solid Waste (Revision)	2050-AC66
3402	SAR No. 2224. Solid Waste Disposal Facility Criteria	2050-AB21
3403	SAR No. 2507. Test Methods for Evaluating Solid Waste (Manual SW846 Third Edition) Incorporation by Reference and Mandatory Good Laboratory Practices—Update 1	2050-AC32
3404	SAR No. 2622. Hazardous Waste Management System, Amendment to Subpart C Rulemaking Petitions: Use of Groundwater Data in Delisting Decisions	2050-AC65
3405	SAR No. 2207. Disposal of Containerized Liquids in Hazardous Waste Landfills	2050-AA94
3406	SAR No. 2076. Burning of Hazardous Waste in Boilers and Industrial Furnaces	2050-AA72
3407	SAR No. 2080. Liners and Leak Detection for Hazardous Waste Land Disposal Units	2050-AA76
3408	SAR No. 2277. Amendments to Ground-Water Monitoring at Hazardous Waste Facilities	2050-AB20
3409	SAR No. 2366. Double Liner and Leachate Collection Systems for Hazardous Waste Land Disposal Units	2050-AB76
3410	SAR No. 2260. Corrective Action for Solid Waste Management Units (SWMUs) at Hazardous Waste Management Facilities	2050-AB80
3411	SAR No. 2453. Emission Controls for Hazardous Waste Incinerators	2050-AB90
3412	SAR No. 2570. Modification of the Definition of Wastewater Treatment Unit	2050-AC56
3413	SAR No. 2642. Underground Storage Tanks Containing Petroleum - Financial Responsibility Requirements: Financial Test for Self Insurance for Local Government Entities	2050-AC67
3414	SAR No. 2741. Technical Amendment to Final Underground Storage Tank Rules for Overfill Prevention	2050-AC97
3415	SAR No. 2602. Procedures for Issuance of and Administrative Hearings on RCRA Section 9003(h) Corrective Action Orders Regarding Underground Storage Tanks	2050-AD12

Resource Conservation and Recovery Act (RCRA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3416	SAR No. 2616. Underground Storage Tanks Containing Petroleum - Financial Responsibility Requirements: Extension of the 4/26/90 Compliance Deadline	2050-AD13
3417	SAR No. 2482. Identification and Listing of Hazardous Wastes - De Minimis Exemption Levels	2050-AC90
3418	SAR No. 1954. Identification and Listing of Hazardous Wastes: Dimethyl Hydrazine	2050-AC91
3419	SAR No. 2523. Land Disposal Restrictions for the Third Third of Scheduled Wastes	2050-AC73

Clean Air Act (CAA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3420	SAR No. 2640. Guidance for Risk-Based Alternative Emission	2060-AC85
3421	SAR No. 2762. NAAQS: Carbon Monoxide (Review)	2060-AA63
3422	SAR No. 1004. NAAQS: Nitrogen Dioxide (Review)	2060-AC06
3423	NSPS: Asphalt Processing and Asphalt Roofing Manufacturing Plants (Review)	2060-AC21

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Clean Air Act (CAA)—Prerule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3424	SAR No. 2839. Development of a List of Source Categories for Hazardous Air Pollutants Subject to Section 112 of the Clean Air Act	2060-AC87
3425	SAR No. 2819. Regulations Governing Exemptions from Standards for Hazardous Air Pollutants Due to Early, Voluntary Emission Reduction	2060-AC89
3426	SAR No. 2814. Statement of Policy Regarding Petitions under Section 112 of Title III of the Clean Air Act Amendments of 1990	2060-AC91
3427	SAR No. 2727. Emissions Control System Defect Warranty Regulations	2060-AC77

Clean Air Act (CAA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3428	SAR No. 2854. Volatility Regulations for Gasoline and Alcohol Blends Sold in Texas in Calendar Year 1991	2060-AC00
3429	SAR No. 2901. Nonconformance Penalties or 1994 Model Year Emission Standards for Heavy-Duty Vehicles and Engines	2060-AC96
3430	SAR No. 2830. Revision of Gasoline Volatility Enforcement Procedures	2060-AC97
3431	SAR No. 2726. Alternative Fuel Corporate Average Fuel Economy Labeling Requirements	2060-AC76
3432	SAR No. 2793. Protection of Stratospheric Ozone (Recycling)	2060-AC90
3433	SAR No. 2795. Protection of Stratospheric Ozone (Phase-Out)	2060-AC94
3434	SAR No. 1919. NAAQS: Lead (Review)	2060-AA95
3435	SAR No. 1920. NAAQS: Ozone (Review)	2060-AA96
3436	SAR No. 2577. NAAQS: Fine Particulate Matter	2060-AC22
3437	SAR No. 2606. New Source Review Requirements—CMA Exhibit B	2060-AC54
3438	SAR No. 2792. Approval and Promulgation of Implementation Plans: Revision of the Visibility FIP for Arizona	2060-AC62
3439	SAR No. 2535. NSPS: Municipal Landfills	2060-AC42
3440	SAR No. 2719. NSPS: Medical Waste Incineration	2060-AC02
3441	SAR No. 1686. NESHAP: Coke Oven Emissions from Coke Oven Charging, Door Leaks, and Topside Leaks on Wet-Coal-Charged Batteries	2060-AA48
3442	SAR No. 1714. NESHAP: Asbestos—Comprehensive Revisions	2060-AB51
3443	SAR No. 2366. NESHAP: Chromium—Industrial Cooling Towers	2060-AC12
3444	SAR No. 2841. NESHAP: Chromium—Electroplating	2060-AC14
3445	SAR No. 2363. NESHAP: Hazardous Organics	2060-AC19
3446	SAR No. 2360. NESHAP: Perchloroethylene Dry Cleaning	2060-AC27
3447	SAR No. 2484. NESHAP: Ethylene Oxide from Commercial Sterilization	2060-AC28
3448	SAR No. 1695. NESHAP: Organic Solvent Degreasing	2060-AC91
3449	SAR No. 2557. Guideline on Air Quality Models (Revision)	2060-AC43
3450	SAR No. 2704. On-Board Vehicle Based Diagnostic System Requirement	2060-AC60
3451	SAR No. 2267. Emission Standards for Light-Duty Trucks (Revision)	2060-AB65
3452	SAR No. 2768. Revisions to Regulations for Gas Guzzler Tax	2060-AC75
3453	Emissions Standards for New Motor Vehicles and Motor Vehicle Engines Fueled with Compressed Natural Gas or Liquified Petroleum Gas	2060-AC79
3454	SAR No. 2665. Amendments to Motor Vehicle Imports Regulations Pertaining to Canadian Vehicles	2060-AC58
3455	SAR No. 2589. Revisions to the Stack Height Regulation	2060-AC03
3456	SAR No. 2837. Alternative Test Procedure for the Voluntary Aftermarket Part Certification Program	2060-AC50
3457	SAR No. 2365. Fuel and Fuel Additives: Health and Emissions Effects Testing	2060-AC10
3458	SAR No. 2529. General Requirements for Determination of Gasoline Metal Content	2060-AC82
3459	SAR No. 2804. Fuel and Fuel Additives: Enforcement of Section 211(f)(4) Waivers	2060-AC53
3460	SAR No. 2726. Revisions to Regulations on Registration of Fuel and Fuel Additives	2060-AC74
3461	SAR No. 2769. Control of Air Toxics from Motor Vehicles	2060-AC75
3462	SAR No. 2890. Radon User Fees	2060-AC86
3463	SAR No. 2240. Treatment, Storage, and Disposal Facility Area Source Air Emissions - RCRA Standards	2060-AB64
3464	SAR No. 2857. Individual Constituents Standards - Phase III of RCRA Air Emission Standards	2060-AC80

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Clean Air Act (CAA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3465	SAR No. 2949. Reorganization of 40 CFR Part 86, Subpart A	2060-AC94
3466	SAR No. 2650. Revision of 40 CFR Part 80 to Delete Outdated Sections	2060-AC95
3467	SAR No. 0949. State Implementation Plans: Attainment Status Designations	2060-AC56
3468	SAR No. 1002. NAAQS: Sulfur Oxides (Review)	2060-AA61
3469	SAR No. 1691. NSPS: Polymer and Resin Manufacture	2060-AA37
3470	SAR No. 2044. NSPS: Automobile and Light-Duty Truck Coating Operations (Revision)	2060-AB22
3471	SAR No. 2083. NSPS: Fossil Fuel-Fired Steam Generators (Revision)	2060-AB29
3472	SAR No. 1931. NSPS: SOCMI Reactor Processes	2060-AB55
3473	SAR No. 2559. State Implementation Plans: Policy on Post-1987 Ozone and Carbon Monoxide Plan Revisions for Areas Not Attaining the National Ambient Air Quality Standards	2060-AB96
3474	SAR No. 2424. NSPS: Municipal Waste Combustors	2060-AC26
3475	SAR No. 2265. NSPS: Calciners and Dryers	2060-AC87
3476	SAR No. 2543. Rural Fugitive Dust Policy for PM10	2060-AC44
3477	SAR No. 2660. NESHAP for Asbestos (Compliance Revisions)	2060-AC57
3478	SAR No. 2491. PSD Increments for PM10	2060-AC33
3479	SAR No. 2364. Motor Vehicle Test Procedures for Evaporative Hydrocarbons (Revision)	2060-AC64
3480	SAR No. 2564. Decision on Air Pollution Regulatory Strategies for the Gasoline Marketing Industry	2060-AC04
3481	SAR No. 2660. Interim Cold Ambient Air Temperature Carbon Monoxide Emission Standards	2060-AC59
3482	SAR No. 2431. Nonconformance Penalties for 1991 Through 1993 Model Year Emission Standards for Heavy-Duty Vehicles and Engines	2060-AC39
3483	SAR No. 2636. Motor Vehicle Emissions Performance Warranty Short Tests	2060-AC51

Clean Air Act (CAA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3484	SAR No. 2638. Fuel Volatility Control for 1989 and Beyond	2060-AC92
3485	SAR No. 2782. NAAQS: Carbon Monoxide (Review)	2060-AC07
3486	SAR No. 2426. Federal Promulgation of State Implementation Plan to Protect Visibility	2060-AB82
3487	SAR No. 1618. NSPS: SOCMI Air Oxidation Process	2060-AA30
3488	SAR No. 1733. NSPS: SOCMI Distillation Operations	2060-AA35
3489	SAR No. 2239. NSPS: Small Boilers	2060-AB05
3490	SAR No. 2719. NSPS: Medical Waste Incineration	2060-AC69
3491	SAR No. 1669. NESHAP: Cadmium	2060-AB92
3492	SAR No. 2319. Control of Excess Evaporative Emissions/Fuel Volatility	2060-AB89
3493	SAR No. 1315. Trading and Banking of Heavy-Duty Engine NOx and PM Emission Credits	2060-AC05
3494	SAR No. 2366. Diesel Fuel Quality Standards	2060-AC00

Superfund (CERCLA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3495	SAR No. 2758. Addition of Chemicals to the List of Extremely Hazardous Substances Based on Their Physical Properties	2050-AD02

Superfund (CERCLA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3496	SAR No. 2668. Reportable Quantity Adjustments for Petroleum Refinery Primary Treatment Sludges	2050-AD15
3497	SAR No. 2458. Reportable Quantities of Lead, Lead Compounds, and Lead-Containing Hazardous Waste Streams	2050-AD16
3498	SAR No. 2702. Comprehensive Environmental Response Compensation and Liability Act (CERCLA) Cost Recovery	2050-AC98
3499	SAR No. 2650. National Contingency Plan-Subpart K: A Roadmap to the NCP for Federal Facilities	2050-AC76

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Superfund (CERCLA)—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3500	SAR No. 2855. Procedures for Reimbursement Petitions Under Section 106(b) of CERCLA	2050-AD11
3501	SAR No. 2496. Administrative Hearing Procedure for Superfund Claims	2050-AC26
3502	SAR No. 2847. Mandatory Pollution Prevention Reporting in Toxic Release Inventory (TRI)	2070-AC24

Superfund (CERCLA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3503	SAR No. 2336. Designation of Extremely Hazardous Substances as CERCLA Hazardous Substances	2050-AB82
3504	SAR No. 2429. Reportable Quantities (RQs) for Substances on the Extremely Hazardous Substances List	2050-AC14
3505	SAR No. 2394. Reporting Exemptions for Federally Permitted Releases of Hazardous Substances	2050-AB82
3506	SAR No. 2539. Procedures for Planning and Implementing Off-Site Response Actions	2050-AC36
3507	SAR No. 2566. Hazard Ranking System for Uncontrolled Hazardous Substance Releases	2050-AB73
3508	National Priorities List (NPL) for Uncontrolled Hazardous Waste Sites - Update 10	2050-AD91
3509	SAR No. 2584. Response Claims Procedures for the Hazardous Substances Superfund	2050-AA89
3510	SAR No. 2401. Technical Assistance Grants to Groups of Individuals at Superfund Sites	2050-AC10
3511	SAR No. 2409. Reimbursement of Local Governments for Emergency Response to Hazardous Substance Releases	2050-AC11
3512	SAR No. 2512. Administrative Hearing Procedures for Class II Penalties Under CERCLA and Emergency Planning and Community Right-to-Know Act	2050-AC39
3513	SAR No. 2615. Prior Notice of Citizen Suits Under CERCLA and the Emergency Planning and Community Right-to-Know Act	2050-AC70

Superfund (CERCLA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3514	SAR No. 2411. Reporting Continuous Releases of Hazardous Substances	2050-AA46
3515	SAR No. 2666. National Priorities List for Uncontrolled Hazardous Waste Sites Update 9	2050-AC99
3516	SAR No. 2464. Reporting Hazardous Substances Activity When Transferring Federal Real Property	2050-AC00
3517	SAR No. 2644. Emergency and Hazardous Chemical Inventory Forms and Community Right-to-Know Reporting Requirements; Implementation of Reporting Requirements for Indian Lands	2050-AB88

Superfund (CERCLA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3518	Federal Policy for the Protection of Human Subjects	2080-AA04

General—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3519	SAR No. 0952. Evaluation Procedure for Award of Fixed Price Contracts for Commercial Supplies and Services	2030-AA09
3520	SAR No. 2582. Amendments to Part 22 Consolidated Procedural Rules	2030-AA13
3521	SAR No. 2652. EPCRA Inspection Authority and Procedures	2020-AA15
3522	SAR No. 2166. Confidentiality Regulations: Special Rules Governing Certain Information Under FIFRA (Revision)	2020-AA99
3523	SAR No. 2780. Advisory and Assistance Services	2030-AA21

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General—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3524	SAR No. 2769. Duplication of Work	2030-AA23

General—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3525	SAR No. 0951. Contractor Compliance with Information Resources Management Directives	2030-AA10
3526	SAR No. 2683. Payment of Fee on Term Form Contracts	2030-AA15
3527	SAR No. 2740. Data Rights	2030-AA16
3528	SAR No. 2218. Nondiscrimination on the Basis of Age in Programs Receiving Financial Assistance From the EPA (Revision)	2090-AA09
3529	SAR No. 2536. Procedures and Requirements Implementing the National Environmental Policy Act for the EPA's Research and Development Program and for Public and Other Federal Agency Involvement	2020-AA16
3530	New Restrictions on Lobbying	2030-AA24
3531	SAR No. 2791. Instructions for Preparation of Cost or Pricing Proposals	2030-AA20

General—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3532	Drug-Free Workplace (Grants)	2090-AA10
3533	SAR No. 0950. Miscellaneous Delegations from the Contracting Authority	2030-AA11
3534	SAR No. 0949. Implementation of Federal Acquisition Regulation Coverage on Ratification of Unauthorized Commitments	2030-AA12
3535	SAR No. 2738. Claiming Billing Information as Confidential Information	2030-AA17
3536	SAR No. 2739. Billing Requirements for EPA Contractors	2030-AA18
3537	SAR No. 2536. Procedures and Requirements Implementing the National Environmental Policy Act for the EPA's Research and Development Program and for Public and Other Federal Agency Involvement	2030-AA14
3538	SAR No. 2790. Monthly Progress Reports and Invoices	2030-AA19
3539	SAR No. 2476. Cooperative Agreements and Superfund State Contracts for Superfund Response Actions	2030-AA22

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Proposed Rule Stage

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

3258. TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES OR PROCESSED FOODS

Significance: Regulatory Program

Legal Authority: 21 USC 346(a)/FFDCA 408; 21 USC 348/FFDCA 409

CFR Citation: 40 CFR 177 to 180; 40 CFR 185 to 186

Legal Deadline: None

Abstract: This rule will set the criteria, interpretations, and categorizations the Agency will follow in establishing tolerances and food additive regulations under Sections 408 and 409 of FFDCA (USC 348) for pesticides and residues in or on raw agricultural commodities (RAC's) or processed foods. These regulations will restate, update, and/or clarify practices that have been developed over many years, some of which have never been codified.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Federal

Additional Information: SAR No. 2602.

FTS:8-557-7700.

Agency Contact: Rosalind Gross, Environmental Protection Agency, Pesticides and Toxic Substances, (H-

7505C), Washington, DC 20460, 703 557-7700

RIN: 2070-AC18

3200. REGULATION OF PESTICIDAL TRANSGENIC PLANTS (REVISION)

Significance: Regulatory Program

Legal Authority: 7 USC 136/FIFRA 2; 7 USC 136a/FIFRA 3; 7 USC 136w/FIFRA 25; 7 USC 136c/FIFRA 5

CFR Citation: 40 CFR 152.20

Legal Deadline: None

Abstract: EPA will consider the need for an amendment to clarify that pesticides produced by or within transgenic plants are considered biological pest control agents and, therefore, may not be exempt from the provisions of FIFRA (the existing section 152.20 exempts from FIFRA regulation all plants that may be used as biological pest control agents). Instead, chemical pesticides produced by transgenic plants may receive regulatory oversight similar to that which is already in place for more traditional pesticide products that are produced and applied by conventional means. This regulation and its development will be coordinated with USDA/APHIS and other agencies, as appropriate.

Timetable:

Action	Date	FR Cite
NPRM or Policy Statement	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAR No. 2594.

FTS:8-557-7635.

Agency Contact: Bernice Slutsky, Environmental Protection Agency, Pesticides and Toxic Substances, (H-7507C), Washington, DC 20460, 703 557-7635

RIN: 2070-AC02

3201. RESTRICTED USE CLASSIFICATION FOR GROUNDWATER CONTAMINATING PESTICIDES

Significance: Regulatory Program

Legal Authority: 7 USC 136a/FIFRA 3; 7 USC 136d/FIFRA 6; 7 USC 136w/FIFRA 25

CFR Citation: 40 CFR 152.170

Legal Deadline: None

Abstract: This rule will provide a mechanism for identifying pesticides which may pose an unreasonable risk because of the potential to leach into groundwater. The Agency will propose criteria for identifying pesticides as candidates for classification for restricted use. Restricted use pesticides generally may be applied only by state certified applicators.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2551.

FTS:8-308-8003.

Agency Contact: David Alexander, Environmental Protection Agency, Pesticides and Toxic Substances, (H-7506C), Washington, DC 20460, 703 308-8003

RIN: 2070-AB80

3202. SALE OF RESTRICTED USE PESTICIDES TO NONCERTIFIED PERSONS

Legal Authority: 7 USC 136b/FIFRA 4; 7 USC 136j/FIFRA 12; 7 USC 136w/FIFRA 25; 7 USC 136i/FIFRA 11

CFR Citation: 40 CFR 171.12

Legal Deadline: None

Abstract: This action is intended to develop regulations to allow the sale of restricted use pesticides to persons who are not certified under special circumstances as set forth by Congress in 1978. Regulatory development will be coordinated with the review of State plans under FIFRA Section 11 to determine both need and compatibility with State authorities and programs.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Additional Information: SAR No. 2557

FTS:8-557-7372.

Agency Contact: Robert Bielarski, Environmental Protection Agency Pesticides and Toxic Substances, (H-7506C), Washington, DC 20460, 703 557-7372

RIN: 2070-AB48

3203. REGULATIONS ON CERTIFICATION OF PESTICIDE APPLICATORS (REVISION)

Legal Authority: 7 USC 136i/FIFRA 11; 7 USC 136w/FIFRA 25

CFR Citation: 40 CFR 171

Legal Deadline: None

Abstract: This action is intended to revise existing regulations on certification of pesticide applicators. The current standards and requirement need to be updated to clarify definitions and to reflect changes in technology and current needs in State programs.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Organizations

Government Levels Affected: State

Additional Information: SAR No. 2448.

FTS:8-557-7372.

Agency Contact: John McDonald, Environmental Protection Agency, Pesticides and Toxic Substances, (H-7506C), Washington, DC 20460, 703 557-7372

RIN: 2070-AB75

3204. PESTICIDE APPLICATOR CERTIFICATION FEES FOR EPA ADMINISTERED PROGRAMS

Legal Authority: 31 USC 9701/FIFRA 11

CFR Citation: 40 CFR 171

Legal Deadline: None

Abstract: This rule is intended to implement a program for assessing fees for certification and training of commercial and private applicators who apply restricted use pesticides. Fees will be collected in States with Federally-administered pesticide certification and training programs, and will cover the costs of administering such programs.

EPA—FIFRA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAR No. 2408.

FTS:8-557-7272.

Agency Contact: John McDonald, Environmental Protection Agency, Pesticides and Toxic Substances, (H-7506C), Washington, DC 20460, 703 557-7272

RIN: 2070-AB76

3265. AMENDMENTS TO EXPERIMENTAL USE PERMIT RULE FOR CERTAIN MICROBIAL PESTICIDES (REVISION)

Significance: Regulatory Program

Legal Authority: 7 USC 136c /FIFRA 5; 7 USC 136a/FIFRA 3

CFR Citation: 40 CFR 172

Legal Deadline: None

Abstract: EPA proposes to amend its experimental use permit regulations for pesticides to clarify the circumstances under which an experimental use permit is presumed not to be required and the basis for that presumption. EPA also proposes to require notification before initiation of small-scale testing of certain genetically modified microbial pesticides. Each notification will be reviewed by the Agency, and a determination made as to whether an experimental use permit will be required. This notification scheme would implement provisions of the Agency's policy statement of June 26, 1986 (51 FR 23303), with some modifications, and is intended to provide sufficient oversight of the early testing of certain microbial pesticides.

Timetable:

Action	Date	FR Cite
Notice	02/15/89	54 FR 7026
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2445.

FTS:8-557-7635.

Agency Contact: Fred Betz, Environmental Protection Agency, Pesticides and Toxic Substances, (H-7507C), Washington, DC 20460, 703 557-7635

RIN: 2070-AB77

3266. REPORTING REQUIREMENTS FOR RISK/BENEFITS INFORMATION (REVISION)

Legal Authority: 7 USC 136d/FIFRA 6

CFR Citation: 40 CFR 153

Legal Deadline: None

Abstract: FIFRA Section 6(a)(2) requires that registrants report to EPA additional factual information regarding unreasonable adverse effects of their products. In September 1985, EPA revised its 1979 section 6(a)(2) enforcement policy by publishing a notice which expanded upon the types of factual information which must be reported and established uniform timeframes for compliance. In response to comments received on this notice, the Agency is reissuing it as a proposal to clarify the types of information which registrants must report to EPA.

Timetable:

Codified Interpretive Rule	
Final Action	09/20/85 (50 FR 38115)
Enforcement Policy	
Final Action	07/12/79 (44 FR 40716)
Interpretive Rule	
Final Action	08/23/78 (43 FR 37611)
NPRM	12/00/90

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAR No. 2338.

FTS:8-557-0585.

Agency Contact: David Alexander, Environmental Protection Agency, Pesticides and Toxic Substances, (H-7506C), Washington, DC 20460, 703 557-0585

RIN: 2070-AB50

3267. POLICY ON PROCEDURES FOR NOTIFICATION TO THE AGENCY OF STORED PESTICIDES WITH CANCELLED OR SUSPENDED REGISTRATION

Legal Authority: 7 USC 136 / FIFRA 6

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This policy will clarify the requirements of section 6(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The policy will provide procedures for certain persons who possess cancelled or suspended pesticides to notify the EPA and State and local officials of (1) such possessions; (2) the quantity possessed; and (3) the place the pesticide is stored.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAR No. 2720.

FTS:8-382-7825.

Agency Contact: Dan Helfgott, Environmental Protection Agency, Pesticides and Toxic Substances, (EN-342), Washington, DC 20460, 382 382-7825

RIN: 2070-AC08

3268. PESTICIDE DATA REQUIREMENTS: METHODS FOR SAFE STORAGE AND DISPOSAL

Significance: Regulatory Program

Legal Authority: 7 USC 136/FIFRA 3, FIFRA 6, FIFRA 19

CFR Citation: 40 CFR 158; 40 CFR 165

Legal Deadline: None

Abstract: EPA is authorized to issue regulations to specify the types and minimum amounts of data the Agency requires to support the registration or continued registration of a pesticide, and for other purposes. This rule may specify the necessary information and data EPA would require regarding methods for the safe storage and disposal of pesticides. The data requirements table and supporting information would become a part of existing 40 CFR 158.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2724.

FTS:8-557-5734.

EPA—FIFRA

Proposed Rule Stage

Agency Contact: Robert Holst, Environmental Protection Agency, Pesticides and Toxic Substances, (H-7507C), Washington, DC 20460, 703 557-5734

RIN: 2070-AC11

3269. FIFRA BOOKS AND RECORDS OF PESTICIDE PRODUCTION AND DISTRIBUTION (REVISION)

Legal Authority: 7 USC 136f/FIFRA Section 8

CFR Citation: 40 CFR 169

Legal Deadline: None

Abstract: This action may change the recordkeeping requirements for registrants and applicants under FIFRA Section 8. It will also examine recordkeeping affected by the 1988 amendments to FIFRA and amend 40 CFR 169, as necessary.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2725.

FTS:8-475-7786.

Agency Contact: Steve Howie, Environmental Protection Agency, Pesticides and Toxic Substances, (EN-342), Washington, DC 20460, 202 475-7786

RIN: 2070-AC07

3270. PESTICIDE DATA REQUIREMENTS (REVISION)

Significance: Regulatory Program

Legal Authority: 7 USC 13/FIFRA 3, 4, and 5

CFR Citation: 40 CFR 158

Legal Deadline: None

Abstract: This amendment will update the existing current data requirements (40 CFR 158) for evaluating the registrability of pesticide products. Reasons for the revisions include recent health and environmental concerns (e.g., groundwater contamination, worker exposure and neurotoxicity) and advancements in testing technology. The revisions may clarify data requirements to reflect current practice, and changes to make 40 CFR 158 consistent with FIFRA 88. Also, comparative product performance data requirements for use in risk/benefit analysis and in preparation of regulatory options used in making risk/benefit decisions will be incorporated into 40 CFR 158.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2607.

FTS:8-557-7695.

Agency Contact: Amy Rispin, Environmental Protection Agency, Pesticides and Toxic Substances, (H-7507C), Washington, DC 20460, 703 557-7695

RIN: 2070-AC12

3271. STORAGE, DISPOSAL, TRANSPORTATION, AND RECALL OF PESTICIDES: PROCEDURES AND STANDARDS

Significance: Regulatory Program

Legal Authority: 7 USC 136q/FIFRA 19

CFR Citation: 40 CFR 165

Legal Deadline: Other, Statutory, December 24, 1991.
Final Container Standards

Abstract: The 1988 amendments to FIFRA significantly expand EPA authority to regulate the storage, transportation, and disposal of pesticides. The Agency may exercise this authority through labeling provisions, procedures for recall of canceled products, and other regulations for storage, transport, and disposal of pesticide residues. EPA is required to conduct a study on pesticide container design, and submit a Report to Congress by 12/24/90. Container design and residue removal regulations must be issued by 12/24/91.

Timetable:

Action	Date	FR Cite
NPRM (Recall, Storage, Disposal, Indemnification of Suspended/Cancelled Pesticides)	11/00/90	
NPRM (Container Design, Residue Removal Storage, Disposal and Transportation of Pesticides)	12/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2609.

FTS:8-557-7695.

Agency Contact: Paul F. Schuda, Environmental Protection Agency, Pesticides and Toxic Substances, (H-7507C), Washington, DC 20460, 703 557-7695

RIN: 2070-AB95

3272. CHILD-RESISTANT PACKAGING REGULATIONS (REVISION)

Legal Authority: 7 USC 136/FIFRA 25

CFR Citation: 40 CFR 157; 16 CFR 1700.15; 16 CFR 1700.20

Legal Deadline: None
EPA regulations should be concurrent with CPSC.

Abstract: These regulations will revise current Child Resistant Packaging regulations (CRP) to be consistent with 6 CRP protocol testing revisions the CPSC is proposing in its regulations. Also, these regulations will discuss the implementation of these changes in terms of pesticide registrations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2630.

FTS:8-557-7700.

Agency Contact: Rosalind L. Cross, Environmental Protection Agency, Pesticides and Toxic Substances, (H-7505C), Washington, DC 20460, 703 557-7700

RIN: 2070-AB98

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Final Rule Stage

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

3273. REGULATIONS CONCERNING PESTICIDE RESIDUES IN FOOD: PROCEDURAL REGULATIONS

Significance: Regulatory Program

Legal Authority: 21 USC 346a/FFDCA 408; 21 USC 348/FFDCA 409

CFR Citation: 40 CFR 177 to 180

Legal Deadline: None

Abstract: This regulation will set forth procedures through which food additive tolerances, required by Section 409 of the Federal Food, Drug and Cosmetic Act (FFDCA), may be established, modified or revoked. The proposal also covers procedural rules governing the filing of objections, requests for hearings and hearing procedures under FFDCA Sections 408 and 409. In a second rulemaking which will overlap with this one, the Agency plans to develop a unified regulation that will deal with the substantive interpretations and criteria for establishing or amending a tolerance or food additive regulation (see separate entry in this Agenda).

Timetable:

Action	Date	FR Cite
NPRM	10/19/88	53 FR 41126
FFDCA Section 408/409 Procedural Rules Final Action	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2444.

FTS:8-557-7700.

Agency Contact: Rosalind L. Gross, Environmental Protection Agency, Pesticides and Toxic Substances, (H-7505C), Washington, DC 20460, 703 557-7700

RIN: 2070-AB78

3274. LABELING REQUIREMENTS FOR PESTICIDES AND DEVICES (REVISION)

Legal Authority: 7 USC 136a-136w

CFR Citation: 40 CFR 156; 40 CFR 167

Legal Deadline: None

Abstract: This regulation will revise and expand the labeling requirements for pesticide products and devices. The revisions will provide for pesticide producers a comprehensive description of pesticide labeling requirements, and will result in better quality pesticide labeling for users.

Timetable:

Action	Date	FR Cite
NPRM	09/25/84	49 FR 37959
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2289.

FTS:8-557-0944.

Agency Contact: Jean Frane, Environmental Protection Agency, Pesticides and Toxic Substances, (H-7506C), Washington, DC 20460, 703 557-0944

RIN: 2070-AB46

3275. INTERPRETATIVE RULE - ADVERTISING CLAIMS MADE FOR REGISTERED PESTICIDE PRODUCTS

Legal Authority: 7 USC 136j /FIFRA 12

CFR Citation: 40 CFR 153

Legal Deadline: None

Abstract: This rule interprets FIFRA section 12(a)(1)(B) which provides for the regulation of claims made when advertising registered pesticide products. The rule will establish standards for acceptable advertising claims with respect to claims made about the safety and efficacy of the product.

Timetable:

Action	Date	FR Cite
Codified Interpretative Rule Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2554.

FTS:8-557-7442.

Agency Contact: Jean Jenkins, Environmental Protection Agency, Pesticides and Toxic Substances, (H-7505C), Washington, DC 20460, 703 557-7442

RIN: 2070-AB88

3276. REVISION OF STATEMENT OF POLICY ON FIFRA SECTION 17, PESTICIDES AND DEVICES INTENDED FOR EXPORT

Legal Authority: 7 USC 136 / FIFRA 17

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This action will revise the Statement of Policy regarding the export of unregistered pesticides to identify the requirements which must be met for the export of unregistered pesticides and to spell out procedures which EPA will follow to notify foreign governments. Changes will be incorporated to improve recognition and response to potential violations of FIFRA 17.

Timetable:

Action	Date	FR Cite
Proposed Policy Statement	02/12/90	55 FR 4967
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2735.

FTS:8-475-7825.

Agency Contact: Phyllis Flaherty, Environmental Protection Agency, Pesticides and Toxic Substances, (EN-342), 202 475-7825

RIN: 2070-AC09

3277. WORKER PROTECTION STANDARDS (REVISION)

Significance: Regulatory Program

Legal Authority: 7 USC 136/FIFRA 3; 7 USC 136j/FIFRA 26; 7 USC 136w(a)/FIFRA 25

CFR Citation: 40 CFR 156; 40 CFR 170

Legal Deadline: None

Abstract: The Worker Protection Standards for agricultural pesticides will be revised to reflect new and developing requirements for the registration, reregistration and use of pesticides. The current standards need to be revised in order to increase the scope of coverage, update the provisions, clarify definitions and responsibilities, and improve implementation, compliance, and enforcement.

Timetable:

Action	Date	FR Cite
ANPRM	08/15/84	49 FR 32805
NPRM	07/00/88	53 FR 25870
Final Action	12/00/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Federal

EPA—FIFRA

Final Rule Stage

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 1640.

FTS:8-557-7666.

Agency Contact: Patricia Breslin, Environmental Protection Agency, Pesticides and Toxic Substances, (H-7506C), Washington, DC 20460, 703 557-7666

RIN: 2070-AA40

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Completed Actions

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

3278. REGISTRATION DATA REQUIREMENTS FOR PESTICIDE PRODUCT PERFORMANCE AND COMPANION PESTICIDE ASSESSMENT GUIDELINES (REVISION)

CFR Citation: 40 CFR 158.640

Completed:

Reason	Date	FR Cite
Withdrawn	07/27/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bernard A. Schneider 703 557-2310

RIN: 2070-AB82

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Prerule Stage

Toxic Substances Control Act (TSCA)

3279. ● REGULATORY INVESTIGATION UNDER THE TOXIC SUBSTANCES CONTROL ACT (TSCA) TO REDUCE LEAD (PB) CONSUMPTION AND USE

Significance: Regulatory Program

Legal Authority: 15 USC 2604/TSCA 5; 15 USC 2605/TSCA 6

CFR Citation: 40 CFR 721; 40 CFR 750

Legal Deadline: None

Abstract: This action initiates a regulatory investigation under TSCA sections 5 and 6 to determine the most cost-beneficial way to reduce human exposure to lead (Pb). The investigation will consist of the following: (1) examination of the potential sources of human exposure to lead throughout the life cycle and determination of unreasonable risks; (a) publication of an ANPRM requesting information and announcing our regulatory intentions, which could possibly include a TSCA section 6(a) rule for mandatory battery recycling, (b) a TSCA section 6(a) rule to restrict or phase-out high exposure Pb uses, and (c) a TSCA section 5(a)(2) significant new use rule (SNUR) for Pb to prevent hazardous new uses of Pb. The initiative may reduce risks from exposure to Pb via regulatory economic incentives designed to promote pollution prevention by using less hazardous substitutes and recycling whenever possible.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Undetermined

Additional Information: SAR No. 2942.

FTS:8-382-3828.

Agency Contact: Jeaice Johnson, Environmental Protection Agency, Pesticides and Toxic Substances, Washington, DC 20460, (TS-794), 202 382-3828

RIN: 2070-AC21

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Proposed Rule Stage

Toxic Substances Control Act (TSCA)

3280. ● POLICY STATEMENT IMPLEMENTING THE PRIOR INFORMED CONSENT PROCEDURES FOR THE EXPORT/IMPORT OF INDUSTRIAL CHEMICALS

Legal Authority: London Guidelines for the Exchange; of Information on Chemicals in; International Trade

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The EPA intends to publish a proposed policy statement implementing the Prior Informed Consent (PIC) procedure for industrial chemicals. The principle of PIC was accepted by the United National Environment Programme(UNEP) as an amendment to the London Guidelines for the Exchange of Information on Chemicals in International Trade. The US is a member of UNEP and a signatory to the Guidelines. Hence, EPA is preparing this policy statement to further comply with the London Guidelines, specifically the provisions of the PIC procedure.

The goal of the Guidelines is to enhance the safe management of chemicals in all countries through the exchange of scientific, technical, economic, and legal information on chemicals in international trade. The policy statement will provide the current proposed list of industrial chemicals banned or severely restricted in the US which will include chemicals subject to regulatory action taken by agencies other than EPA. OTS believes this policy statement will establish a mechanism for info exchange which will advance the protection of human health and the global environment.

Timetable:

Action	Date	FR Cite
NPRM	05/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2800.

FTS:8-382-3187.

Agency Contact: Lisa Feath, Environmental Protection Agency, Pesticides and Toxic Substances, Washington, DC 20460, (TS-778), 202-382-3817

RIN: 2070-AC22

2281. TOXIC CHEMICAL "PEAK RELEASE" REPORTING RULE (REVISION)

Legal Authority: 42 USC 11013/SARA (EPCRA) 313

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: This action proposes to add a "peak release" reporting element to the Toxic Chemical Release Inventory Reporting Form. Current reporting of releases is of annual releases to all environmental media. The proposal addresses the issue of obtaining more specific indication on the highest single release in order to better assess acute risks to health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2555.

FTS:8-382-3667.

Agency Contact: Susan Hazen, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-779), Washington, DC 20460, 202 382-3667

RIN: 2070-AB86

2282. RESPONSES TO PETITIONS RECEIVED TO ADD TO OR DELETE CHEMICALS FROM THE LIST OF TOXIC CHEMICALS UNDER SECTION 313 OF SARA

Legal Authority: 42 USC 11013/SARA (EPCRA) 313

CFR Citation: 40 CFR 372

Legal Deadline: Other, Statutory. For each of these petitions the Agency must either initiate rulemaking or provide an explanation for the denial in the FEDERAL REGISTER within 180 days.

Abstract: These actions grant or deny petitions received to add or delete chemicals from the list of toxic chemicals under Section 313 of the Superfund Amendments and Reauthorization Act (SARA) (also known as the Emergency Planning and Community Right to Know Act, EPCRA). The actions cover individual chemicals or groups of chemicals for which petitions have been received.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAR No. 2425.

FTS:8-382-3667.

Agency Contact: Susan Hazen, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-779), Washington, DC 20460, 202 382-3667

RIN: 2070-AC00

2283. SECTION 313 SUNSET REVIEW AMENDMENTS

Legal Authority: 42 USC 11013/SARA (EPCRA) 313

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: The final rule implementing EPCRA Section 313 allowed releases of toxic chemicals less than 1000 pounds to be reported in ranges. Also, the reporting form included an optional reporting section on waste minimization activities. Both of these sections will "sunset" after the 1989 reporting year unless the Agency takes action to retain them. These proposed amendments will address these reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAR No. 2743.

FTS:8-382-3667.

Agency Contact: Susan Hazen, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-779), Washington, DC 20460, 202 382-3667

RIN: 2070-AC15

2284. DECISIONS ON TEST RULES: PROPOSED RULES

Legal Authority: 15 USC 2603 / TSCA 4

CFR Citation: 40 CFR 799

Legal Deadline: Other, Statutory. 12-month statutory deadline for ITC-designated chemicals

Abstract: The following table lists chemicals for which EPA will initiate rulemaking to require testing, obtain testing through negotiated consent orders, or publish a notice which provides the reasons for not doing so. The list includes chemicals which have been designated for priority testing consideration by the Interagency Testing Committee as well as those chemicals (i.e., recommended and non-designated chemicals) for which the 12-month statutory requirement does not apply. The list also includes chemicals or categories of chemicals which have been identified for testing consideration by other EPA program offices and through EPA review processes.

Timetable:

Aryl Phosphates (ITC List 2)
- ANPRM 12/29/83 (48 FR 57452)
- NPRM 06/00/91

Brominated Flame Retardants
- NPRM 11/00/90

Ethoxylated Quaternary Ammonium Compounds
- NPRM 12/00/90

Glycidols (ITC List 3)
- ANPRM 12/30/83 (48 FR 57562)
- NPRM 00/00/00

Imidazolium Quaternary Ammonium Compounds
- NPRM 12/00/90

Isocyanates
- NPRM 07/00/92

4-Vinylcyclohexene
- NPRM/Consent Order 01/00/91

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

FTS:8-475-8130.

Agency Contact: Gary Timm, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-

EPA—TSCA

Proposed Rule Stage

778), Washington, DC 20460, 202 475-8130

RIN: 2070-AB07

3285. NEGOTIATED CONSENT/PROCEDURAL TEST RULE (REVISION)

Legal Authority: 15 USC 2603/TSCA 4

CFR Citation: 40 CFR 790

Legal Deadline: None

Abstract:

This action will amend the testing consent order process to increase its efficiency. The consent order process was adopted by the Agency in June 1986. Based on experience to date, the Agency needs to make changes in the process to reduce the resources required for consent order negotiation. This rule would propose appropriate procedural changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/17/85	50 FR 20652
Interim Final Rule	06/30/86	51 FR 23706
Interim Final Rule (Technical Modification)	09/01/89	54 FR 36311
NPRM	04/00/91	
Final Action	06/00/92	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2245 and SAR No. 2657.

FTS:8-475-8130.

Agency Contact: Gary Timm, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20460, 202 475-8130

RIN: 2070-AB30

3286. SARA SECTION 110 CHEMICALS GENERIC TEST RULE

Significance: Regulatory Program

Legal Authority: 15 USC 2603/TSCA 4

CFR Citation: 40 CFR 790

Legal Deadline: None

Abstract: The regulation will set forth the policies and procedures for using the TSCA Section 4 testing authority to obtain toxicity and chemical fate testing to fill certain data needs identified in toxicity profiles of chemicals prepared pursuant to Section 110 of the Superfund Amendments and Reauthorization Act (SARA).

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2563.

FTS:8-475-8130.

Agency Contact: Gary Timm, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20460, 202 475-8130

RIN: 2070-AB79

3287. FOLLOW-UP RULES ON EXISTING CHEMICALS

Legal Authority: 15 USC 2604 / TSCA 5; 15 USC 2607 / TSCA 8

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA has instituted a program to monitor the commercial development of existing chemicals of concern and/or to gather information to support risk assessments on such chemicals. As these chemicals are identified, EPA will initiate rulemakings under the Toxic Substances Control Act (TSCA) sections 5 and/or 8 to require reporting by the manufacturers, importers and/or processors of these chemicals. Individual proposed or final rules will be published on at least the chemicals listed below.

Timetable:

Action	Date	FR Cite
NPRM:(Amine Containing Metalworking Fluids with Potassium or Sodium Nitrites)	10/00/90	
(Aromatic Ether Diamines)		
NPRM: 05/30/90 (55 FR 21877)		
Final Action: 01/00/91		
(Certain CFC Substitutes)		
NPRM: 02/21/90 (55 FR 6012)		
(Erionite Fiber)		
NPRM: 01/00/91		
Final Action: 00/00/00		
(2,4-Pentanedione)		
NPRM: 09/27/89 (54 FR 39548)		
Final Action: 12/00/90		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 1823.

FTS:8-382-3496.

Agency Contact: Frank Kover, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20460, 202 382-3496

RIN: 2070-AA58

3288. GENERIC SIGNIFICANT NEW USE RULE (SNUR) FOR ACRYLATE COMPOUNDS

Legal Authority: 15 USC 2604/TSCA 5

CFR Citation: 40 CFR 721

Legal Deadline: None

Abstract: The generic acrylate significant new use rule may require any person who proposes to manufacture, import, or process an acrylate/methacrylate subject to the category definition contained within the proposed rule to notify EPA at least 90 days in advance of the initiation of manufacture or processing for a significant new use. The significant new use rule will apply to a subset of acrylates and methacrylates added to the inventory after the effective date of the rule. It will no longer be necessary to issue routine 5(e) orders or chemical specific SNURs for those acrylates covered by the rule.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAR No. 2247.

FTS:8-382-3557.

Agency Contact: James Alwood, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3557

RIN: 2070-AB56

3289. RULEMAKING CONCERNING CERTAIN MICROBIAL PRODUCTS ("BIOTECHNOLOGY")

Significance: Regulatory Program

Legal Authority: 15 USC 2604 /TSCA 5; 15 USC 2607 /TSCA 8

EPA—TSCA

Proposed Rule Stage

CFR Citation: 40 CFR 704; 40 CFR 720; 40 CFR 721

Legal Deadline: None

Abstract: Under the authority of the Toxic Substances Control Act (TSCA), the Agency is proposing two separate regulatory actions for manufacturers, importers, and processors of certain microbial products of biotechnology. Under section 5 of TSCA, the Agency is proposing to amend its definition of "small quantities solely for research and development" contained in the Premanufacture Notification (PMN) Rule, thereby requiring persons to submit notices prior to testing new microorganisms in the environment. This amendment will establish a special notification mechanism for experimental releases of microorganisms. EPA also is proposing significant new use notification requirements under section 5(a)(2), which would ensure that EPA will receive for review, notices of large scale releases of microorganisms developed for significant new uses. The primary objective of these actions is to ensure uses of microorganisms in the environment do not affect human health and the environment in unforeseen and possibly harmful ways.

Timetable:

Action	Date	FR Cite
Notice	02/15/89	54 FR 7027
NPRM	01/30/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information:

SAR No. 2325 (SNUR for Certain Biotech Products); SAR No. 2326 (PMN for Certain Biotech Products).

FTS:8-382-3868.

Agency Contact: Ron Evans, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3868

RIN: 2070-AB81

3290. PROPOSAL TO EXEMPT CERTAIN MICROORGANISMS FROM PMN REQUIREMENTS UNDER TSCA 5(H)(4)

Significance: Regulatory Program

Legal Authority: 15 USC 1504/TSCA 5

CFR Citation: 40 CFR 723

Legal Deadline: None

Abstract: Under the authority of the Toxic Substances Control Act (TSCA), the Agency will propose to exempt from review certain categories of new microorganisms used in specified contained systems. To meet the requirements under section 5(h)(4) of TSCA, it must be shown that the substances may not present unreasonable risks. EPA is considering public comment received and other evidence concerning use of microorganisms in closed systems and other controlled environments to determine whether certain specific categories satisfy the requirements of section 5(h)(4) of TSCA.

Timetable:

Action	Date	FR Cite
NPRM	01/30/91	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Additional Information: SAR No. 2561.

FTS:8-382-3856.

Agency Contact: Ron Evans, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3856

RIN: 2070-AB89

3291. PREMANUFACTURE NOTIFICATION (PMN) RULE AMENDMENTS

Legal Authority: 15 USC 2604, 2607, 2613/TSCA 5

CFR Citation: 40 CFR 720 to 723

Legal Deadline: None

Abstract: This action will amend the PMN rules (40 CFR 720 to 723) under Section 5 of the Toxic Substances Control Act (TSCA) to conform to current policy needs. These changes are necessary to increase efficiency and incorporate proposed program improvements. They are expected to reduce the administrative burdens/cost of the New Chemicals Program and the overall number of Section 5 submissions while maintaining an effective and environmentally sound program. The New Chemicals Program has identified "low-risk" categories that meet certain established criteria and can be screened out of the full PMN review process at an early date based on low health/environmental concern or low exposure scenarios. The New Chemicals Program would like to reduce the burden to PMN submitters and maximize its efficiency and resources by modifying the rule to reduce reporting requirements for low risk categories. This would enable the Agency to reduce the number of Section 5 submissions to allow the New Chemicals Program to concentrate its resources on PMNs with potential health or environmental concerns and at the same time ensure an environmentally sound program.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2780.

FTS:8-382-3725.

Agency Contact: Lawrence Culleen, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3725

RIN: 2070-AC14

3292. REGULATORY INVESTIGATION OF FORMALDEHYDE

Significance: Regulatory Program

Legal Authority: 15 USC 2605 / TSCA 6; 15 USC 2608 / TSCA 9

CFR Citation: 40 CFR 765

Legal Deadline: None

Abstract: As described in the FEDERAL REGISTER on May 23, 1984, the Agency has been investigating regulatory options for reducing the exposure to formaldehyde of: (1) residents exposed to formaldehyde emissions from wood products used in the construction of manufactured homes; (2) similarly exposed residents of conventional homes; (3) apparel manufacture employees exposed to formaldehyde released from treated fabrics. When OSHA proposed a revised workplace standard in

December 1985 that applies to all occupational exposure, EPA terminated its investigation with respect to apparel manufacturing employees. Investigation of risks from exposure to formaldehyde emissions from wood products is being conducted in consultation with HUD and CPSC. This investigation may lead to the initiation of various control alternatives, including section 9 referral to other agencies and/or section 6 regulations.

Timetable:

Action	Date	FR Cite
ANPRM	05/23/84	49 FR 21870
Section 9(d) and Notice of Termination for Apparel Workers	03/19/86	51 FR 9469
Section 9 Report, NPRM, or Statement of No Unreasonable Risk Regarding Wood Products	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2149.

FTS:8-382-2134.

Agency Contact: George Semeniuk, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-2134

RIN: 2070–AB14

3293. POLYCHLORINATED BIPHENYLS (PCBS): APPLICATIONS FOR EXEMPTIONS FROM THE BAN ON MANUFACTURING, PROCESSING, AND DISTRIBUTION

Legal Authority: 5 USC 5/TSCA 6(e)(3)(B)

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: Section 6(e)(3)(B) of the Toxic Substances Control Act (TSCA) provides that the Administrator may grant, by rule, exemptions from the prohibitions on the manufacture, processing, and distribution in commerce of PCBs upon findings (1) that granting the exemption will not pose an unreasonable risk of injury to health or the environment, and (2) that good faith efforts have been made to develop a PCB substitute which does not pose an unreasonable risk of injury to health or the environment.

Timetable:

Action	Date	FR Cite
NPRM	08/24/88	53 FR 32326
Final Action	05/22/90	55 FR 21029
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2150.

FTS:8-382-3972.

Agency Contact: Janice Canterbury, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-798), Washington, DC 20460, 202 382-3972

RIN: 2070–AB20

3294. REGULATORY INVESTIGATION OF CHLORINATED SOLVENTS

Significance: Regulatory Program

Legal Authority: 15 USC 2605/TSCA 6; 15 USC 2603/TSCA 9

CFR Citation: 40 CFR 754

Legal Deadline: None

Abstract: EPA, in consultation with the Consumer Product Safety Commission, Occupational Safety and Health Administration, and Food and Drug Administration, is developing a comprehensive and integrated strategy for a regulatory investigation of methylene chloride and five other chlorinated solvents. In some cases, these chlorinated solvents are competitive and can be easily substituted for each other in a number of uses. The integrated effort is being conducted to reach general agreement on the risks associated with the solvents and to avoid ineffective risk management actions that may occur due to solvent switching or pollutant transfer among media which could be caused by piecemeal regulation. Data are being gathered for six solvents (methylene chloride, perchloroethylene, trichloroethylene, methyl chloroform, carbon tetrachloride, and CFC-113 which is now being phased out due to its ozone depletion characteristics) and their potential substitutes. Work on two exposure categories has been completed and actions have been initiated under other statutes (Clean Air Act or Occupational Safety and Health Act). This regulatory (cont)

Timetable:

Action	Date	FR Cite
ANPRM	10/17/85	50 FR 42037
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2264.

FTS:8-245-4028.

ABSTRACT CONT: investigation is currently focused on three remaining categories: paint stripping, aerosols, and dry cleaning exposures from dry-cleaned clothes in the home. The investigation will determine whether coordinated regulatory controls are needed to control any unreasonable risks from solvents used in these three applications.

Agency Contact: David Albright, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 245-4028

RIN: 2070–AB41

3295. PROCEDURES AND CRITERIA FOR TERMINATION OF POLYCHLORINATED BIPHENYLS (PCBS) DISPOSAL PERMITS

Legal Authority: 15 USC 2605/TSCA 6; 5 USC 556 et seq

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: Under section 6(e) of the Toxic Substances Control Act (TSCA), the Agency is considering establishing uniform procedures and criteria for the revocation and suspension of TSCA PCB disposal permits. The regulation would establish uniform revocation procedures and criteria and thereby ensure consistency in permit revocation proceedings.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

EPA—TSCA

Proposed Rule Stage

Analysis: Regulatory Flexibility Analysis

Additional Information: SAR No. 2580.

FTS:8-382-3788.

Agency Contact: Lorraine Perry, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-798), Washington, DC 20460, 202 382-3788

RIN: 2070-AB87

3296. SCRAP METAL RECYCLING REGULATORY CONTROLS

Significance: Regulatory Program

Legal Authority: 15 USC 2605/TSCA 6

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: Processing, distribution in commerce, and disposal activities by the scrap metal recycling industry are resulting in some releases of PCBs (and other hazardous substances such as lead) at levels exceeding current regulatory action levels. The problem may affect all media (air, land, and water) and workers. Regulatory options under consideration focus on the mandate of both the Resource Conservation and Recovery Act (RCRA) and the Toxic Substances Control Act (TSCA). Options include 1) mechanisms to provide relief to the shredding industry such as authorizing PCB-related activities that do not present an unreasonable risk, and 2) the feasibility of using TSCA to render output of shredding non-hazardous under RCRA.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAR No. 2854.

FTS:8-382-3788.

ANALYSIS: Undetermined

Agency Contact: Lorraine Perry, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-798), Washington, DC 20460, 202 382-3788

RIN: 2070-AC01

3297. USE OF ACRYLAMIDE AND N-METHYLOLACRYLAMIDE (NMA) FOR GROUTING

Significance: Regulatory Program

Legal Authority: 15 USC 2605/TSCA 6

CFR Citation: 40 CFR Not Yet Determined

Legal Deadline: None

Abstract: EPA is examining the use of Acrylamide and N-Methylolacrylamide for grouting and the neurotoxic and possible carcinogenic risks to workers. Significant dermal and inhalation exposures to grouters may occur even while using personal protective equipment. This investigation may lead to initiation of regulatory controls to reduce unreasonable risks. EPA is consulting with other appropriate Federal agencies, including the Occupational Safety and Health Administration.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Local

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2779.

FTS:8-382-3777.

Agency Contact: Doreen Cantor, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3777

RIN: 2070-AC17

3298. ● DIOXIN/FURAN CONTAMINATED BLEACHED PULP AND PAPERMILL SLUDGE LAND APPLICATION

Significance: Regulatory Program

Legal Authority: 15 USC 2605/TSCA 6

CFR Citation: 40 CFR Not Yet Determined

Legal Deadline: NPRM, Judicial, April 30, 1991.
Deadline is a requirement of a Consent Decree between the EPA, the Environmental Defense Fund, and the National Wildlife Federation, signed on July 27, 1988.

Abstract: The objective of this project is to reduce the unreasonable risks posed by dioxins and furans in bleached wood pulp and paper mill industrial sludge. In response to a July 1988 Consent Decree with the Environmental Defense Fund and the National Wildlife Federation, EPA announced on April 30, 1990 its schedule for a proposed rule under the Toxic Substances Control Act (TSCA), addressing the practice of industrial sludge land application (including mine reclamation and distribution/marketing). The Consent Decree requires that this rule must be proposed by April 30, 1991.

Timetable:

Action	Date	FR Cite
NPRM	04/30/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: SAR No. 2844.

FTS:8-382-3885.

Agency Contact: Julia Lyddon, Environmental Protection Agency, Pesticides and Toxic Substances, Washington, DC 20460, (TS-794), 202 382-3885

RIN: 2070-AC23

3299. AMENDMENT TO THE TSCA SECTION 8(A) COMPREHENSIVE ASSESSMENT INFORMATION RULE (CAIR)

Legal Authority: 15 USC 2607(a)/TSCA 8(a)

CFR Citation: 40 CFR 704 (Revision)

Legal Deadline: None

Abstract: This proposed rule will amend certain aspects of the CAIR. The CAIR is a model rule designed to gather production, use, and exposure information from chemical manufacturers, importers, and processors of listed chemical substances and mixtures. In response to public comments, EPA is considering revision of the CAIR to: establish exemptions for small and "de minimis" volumes; refine trade name reporting requirements; reduce certain advance substantiation requirements for Confidential Business Information (CBI) claims; and define processing activities using processor subclasses.

EPA—TSCA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2129.

FTS:8-382-3438.

Agency Contact: Frank Kover, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20460, 202 382-3438

RIN: 2070-AC19

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Toxic Substances Control Act (TSCA)

Final Rule Stage

3300. DECISION ON TEST RULES: FINAL RULES

Legal Authority: 15 USC 2603 /TSCA 4

CFR Citation: 40 CFR 799

Legal Deadline: None

Abstract: The following table lists chemicals for which EPA has issued proposed test rules and will take final action under the Toxic Substances Control Act (TSCA) section 4. The Agency defines final action as a promulgation of a test rule, issuance of a consent order, withdrawal of a proposed test rule or a decision not to test. (See also Decision on Test Rules: Proposed Rules under RIN: 2070-AB07).

Timetable:

Action	Date	FR Cite
Final Action/Consent Order Sodium Cyanide	07/00/91	
Cyclohexane (ITC List 16) (SAR 5391)		
NPRM 05/20/87 (52 FR 19096)		
Final Action 00/00/00		
Hexamethylene Diisocyanate (ITC List 22) (SAR 5453)		
NPRM 05/17/89 (54 FR 21240)		
Final Action 10/00/91		
Mesityl Oxide		
NPRM 07/03/90 (55 FR 30699)		
Final Action 12/00/91		
N-Methylpyrrolidone (SAR 2757)		
NPRM 03/28/90 (55 FR 11398)		
Final Action 05/00/91		
Office of Drinking Water		
NPRM 05/24/90 (55 FR 21393)		
Final Action 07/00/91		
2,6 Di-tert-butylphenol (ITC List (SAR 5394)		
NPRM 08/25/87 (52 FR 23862)		
2,6 Di-tert-butylphenol (ITC List (SAR 5394)4)		
Final Action 00/00/00		

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

See SAR number listed next to each action.

FTS:8-475-8130.

Agency Contact: Gary Timm, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20460, 202 475-8130

RIN: 2070-AB94

3301. FOLLOW-UP RULES ON NON-5(E) NEW CHEMICALS SUBSTANCES

Legal Authority: 15 USC 2604/TSCA 5; 15 USC 2607/TSCA 8

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA has instituted a program to follow the commercial development of selected new chemicals that have completed premanufacture notice review. EPA will issue rules on new chemicals of concern as they are identified to require follow-up reporting under TSCA Section 5 or 8, by the manufacturers and processors of the chemicals. Under the Expedited Follow-up Rule which became effective on October 10, 1989, EPA will publish a batch SNUR 6-12 times a year. EPA will identify Non-5(e) new chemical substances as candidates for regulation in the batch SNURs.

Timetable:

Alkyl, Sulfonic Acid, Ammonium Salt (84-1056)	
NPRM: 06/11/86 (51 FR 21199)	
FINAL ACTION: 00/00/00	
Azo-2,4-Diamino5-5Methoxybenzene Derivatives (84-1054)	
NPRM: Dinitrophenyl 10/25/84 (49 FR 42960)	
Dinitrophenyl Azo-2,4-Diamino-5-Methoxybenzene Derivatives	
FINAL ACTION: 00/00/00	
Diphenyl-2,4,6-Trimethylbenzol Phosphine Oxide (87-586)	
NPRM: 02/02/88 (53 FR 2657)	
FINAL ACTION: 00/00/00	
1-Decanimine-N-Decyl-N-Methyl-N-Oxide (88-586)	
NPRM 12/08/87 (52 FR 46496)	
Final Action 00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 1999.

FTS:8-382-2278.

Agency Contact: Joseph Boyd, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-2278

RIN: 2070-AA59

3302. CHEMICAL SPECIFIC SIGNIFICANT NEW USE RULES (SNURS) TO EXTEND PROVISIONS OF SECTION 5(E) ORDERS

Legal Authority: 15 USC 2604/TSCA 5

CFR Citation: 40 CFR 721

Legal Deadline: None

Abstract: When the Agency determines that uncontrolled manufacture, import, processing, distribution, use or disposal of a premanufacture notification notice (PMN) substance may present an unreasonable risk, it may issue a section 5(e) consent order to limit these activities. However, such orders apply only to the PMN submitter. Once the new substance is entered on the Toxic Substances Control Act (TSCA) chemical inventory, others can manufacture, import or process the substance without controls. Therefore, EPA extends the controls to apply to others by designating manufacture, import or processing of the substances for uses without the specified controls as significant new uses. Using the Expedited Follow-Up Rule (EFUR) which became effective on October 10, 1989, EPA published three groups of EFUR SNURs: 6 on 4/24/90 (55 FR 17376); 42 on 6/26/90 (55 FR 26092) and (55 FR 26102); and 30 on 7/2/90 (55 FR 27257). Further publications are planned for August, September and October, 1990 which will cover 127 more new substances.

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Timetable:

(84-274) (see additional information for title)
NPRM 08/26/85 (50 FR 34505)
Final Action 07/02/90 (55 FR 27257)
(85-704) (see additional information for title)
NPRM 06/23/86 (51 FR 22831)
Final Action 01/00/91
Alkyl Glycoether Acrylic Acid Derivative (84-27)
NPRM 12/24/84 (49 FR 49868)
Final Action 10/00/90
Alkyl Glycoether Acrylic Acid Derivative (847)
NPRM 07/02/90 (55 FR 27257)
Brominated Aryl Alkyl Ether, Ethylated Amine
NPRM (83-906/908/909/910) 09/26/84 (49 FR 38003)
Final Action 01/00/91
Certain Acrylate and Methacrylate Chemicals
NPRM (84-176/180/181/182/183/184) 03/27/85 (50 FR 12046)
Final Action 01/00/91
Certain Acrylate Chemicals (84-341/344)
NPRM 04/04/86 (51 FR 11501)
Final Action 01/00/91
Methylammonium n-Methyldithiocarbamate (84-1042)
NPRM 03/24/86 (51 FR 10027)
Final Action 01/00/91
N,N,N,N-Tetrakis (substituted) (84-7)
NPRM (84-7) 01/13/86 (51 FR 1396)
Final Action 01/00/91
Polyol Polyacrylate (85-718)
NPRM 03/00/91
Substituted Benzene, Halogenated (84-868/704)
NPRM 03/19/86 (51 FR 9221)
Final Action 03/00/91
Substituted Bromothiophene (85-709)
NPRM 09/26/84 (49 FR 38310)
Final Action 01/00/91
Substituted Methylpyridine (83-237)
NPRM 02/06/84 (49 FR 4390)
Final Action 11/00/90
Substituted Tetrafluoro Alkanes (84-185/186/187)
NPRM 03/21/85 (50 FR 11384)
Final Action 03/00/91

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

FTS:8-382-2278.

(85-703) Poly 2-hydroelectric melamine, polymers with 5-isocyana to 1-isocyanatomethyl-1,3,3-trimethylcyclohexane 2-hydroxyethyl acrylate-blocked

(84-274) Poly(oxy-1,4-butanediyl)-alpha-(1-oxo-2-propenyl) -omega-((1-oxo-2-propenyl)-oxy)

Agency Contact: Joseph Boyd, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-2278

RIN: 2070–AB27

3303. POLYCHLORINATED BIPHENYLS (PCBS): WET WEIGHT/DRY WEIGHT CLARIFICATION

Legal Authority: 15 USC 2605/TSCA 6(e); 5 USC 556/et seq

CFR Citation: 40 CFR 761.1(b)

Legal Deadline: None

Abstract: Under Section 6(e) of TSCA, the Agency is proposing to reinstate the phrase "on a dry weight basis" to 40 CFR 761.1(b). This phrase was inadvertently omitted from the PCB final rule that was published in the FEDERAL REGISTER on July 10, 1984 (49 FR 28172).

Timetable:

Action	Date	FR Cite
NPRM	04/00/90	55 FR 12866
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2750.

FTS:8-382-3961.

Agency Contact: David Hannemann, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-798), Washington, DC 20460, 202 382-3961

RIN: 2070–AC16

3304. ● REGULATION OF PAINTS CONTAINING MERCURY-BASED BIOCIDES

Legal Authority: 15 USC 2605/TSCA 6

CFR Citation: 40 CFR Not Yet Determined

Legal Deadline: None

Abstract: The Agency is currently investigating possible options to reduce risks associated with the use of mercury biocides in paint and coating products. The Office of Pesticide Programs (OPP) has recently announced that negotiations with registrants of the mercury biocides have lead to the voluntary cancellation (as of June 29, 1990) of the registration governing use of such biocides in interior paints. Exterior paints containing mercury must be labeled "for exterior use only" The Office of Toxic Substances (OTS) is considering regulation requiring that paint produced prior to June 29, 1990 be labeled. EPA is also considering whether to require hazard labeling for imported paints containing mercury.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2828.

FTS:8-382-3771.

Agency Contact: Mary Jane Born, Environmental Protection Agency, Pesticides and Toxic Substances, Washington, DC 20460, 202 382-3771

RIN: 2070–AC25

3305. PARTIAL UPDATING OF THE TSCA INVENTORY DATA BASE

Legal Authority: 15 USC 2607(a)/TSCA 8(a)

CFR Citation: 40 CFR 710, Subpart B

Legal Deadline: None

Abstract: A technical amendment to clarify the TSCA Inventory Data Base was promulgated in May 1986 in order to obtain recent production volume and plant site data for certain chemical substances on the inventory. The rule requires reporting every four years. EPA is making some technical amendments to the rule in order to facilitate compliance and to make the rule consistent with other OPTS and EPA reporting activities.

Timetable:

Technical Amendment
Final Action 10/00/90

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2704.

FTS:8-382-3538.

Agency Contact: Donald Sadowsky, Environmental Protection Agency, Pesticides and Toxic Substances, Washington, DC 20460, (TS-793), 202 382-3538

RIN: 2070–AC10

EPA—TSCA

Final Rule Stage

3304. SECTION 8 (A) PRELIMINARY ASSESSMENT INFORMATION RULES

Legal Authority: 15 USC 2607a / TSCA 8(a)

CFR Citation: 40 CFR 712

Legal Deadline: None

Abstract: These rules add chemicals to the list of chemicals and designated mixtures subject to the requirements of the Toxic Substances Control Act Section 8(a) Preliminary Assessment Information Rule (40 CFR Part 712). These chemicals have been identified by the Office of Toxic Substances, other EPA offices, and other federal agencies, as well as recommended for testing consideration by the Interagency Testing Committee. Manufacturers and importers are required to submit exposure-related data (EPA Form No. 7710-35) on the chemicals. These data will be used to monitor the levels of production, import and/or processing of these substances and the avenues of human and environmental exposure to these substances. It will also support risk assessment and test rule decisions.

Timetable:

28th ITC List Chemicals	
FINAL ACTION: 06/05/90 (55 FR 23060)	
27th ITC List Chemicals	
FINAL ACTION: 10/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2178.

FTS:8-382-3436.

Agency Contact: Frank Kover, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20460, 202 382-3436

RIN: 2070-AB06

3307. SECTION 8(D) HEALTH AND SAFETY DATA REPORTING RULES

Legal Authority: 15 USC 2607(d)/TSCA 8(d)

CFR Citation: 40 CFR 716

Legal Deadline: None

Abstract: These rules add chemicals to the list of chemicals and mixtures subject to the requirements of the Toxic Substances Control Act Section 8(d) Health and Safety Data Reporting Rule. These chemicals have been identified by the Office of Toxic Substances, other EPA offices, and other federal agencies, as well as recommended for testing consideration by the Interagency Testing Committee. Manufacturers, importers, and processors of substances listed under Section 8(d) at 40 CFR 716.120 must submit unpublished health and safety data on those substances.

Timetable:

28th ITC List Chemicals	
FINAL ACTION: 06/05/90 (55 FR 23060)	
27th ITC List Chemicals	
FINAL ACTION: 10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 1139.

FTS:8-382-3436.

Agency Contact: Frank Kover, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20460, 202 382-3436

RIN: 2070-AB11

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Completed Actions

Toxic Substances Control Act (TSCA)

3306. AMENDMENTS TO TEST RULES AND CONSENT AGREEMENTS

CFR Citation: 40 CFR 790

Completed:

Reason	Date	FR Cite
Withdrawn	08/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Timm 202 475-8159

RIN: 2070-AB97

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Prerule Stage

Clean Water Act (CWA)

3308. PLAN TO REVIEW AND PROMULGATE EFFLUENT GUIDELINES AND STANDARDS

Significance: Regulatory Program

Legal Authority: 33 USC 1314(m)/CWA 304(m)

CFR Citation: None

Legal Deadline: Final, Statutory, January 1, 1992.
Statutory deadline for EPA to issue biennial notice.

Abstract: In accordance with Section 304(m) of the Clean Water Act, EPA published a biennial plan in the Federal Register for the promulgation of new effluent limitations guidelines and standards and the review and revision of existing guidelines and standards for categories of sources discharging toxic and non-conventional pollutants. Section 304(m) establishes a planning process that sets the Agency's agenda for future effluent guidelines and standards rulemaking. The first notice was published in the Federal Register on January 2, 1990; it describes EPA's commitments to prepare new or revised guidelines covering nine industry categories and to conduct pre-regulatory studies for eleven other industries. Subsequent 304(m) notices will identify additional categories for promulgation of new guidelines and revision of existing guidelines.

Timetable:

Action	Date	FR Cite
Notice	01/02/90	55 FR 80
Notice	01/00/92	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2304.

FTS:8-382-7120.

Agency Contact: Eric Strassler, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7120

RIN: 2040-AA90

EPA—CWA

Prerule Stage

3310. ● SHORE PROTECTION ACT, SECTION 4103(B) REGULATIONS

Legal Authority: 33 USC 2601/Shore Protection Act of 1988 (PL 100-688),; Section 4103(b)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Administrator, in consultation with the Secretary of Transportation, is considering regulations: (1)requiring that waste sources, receiving facilities, and vessels provide the means and facilities to assure that the waste will not be deposited into coastal waters during loading, offloading, and transport; (2) requiring as appropriate, the submission and adoption by each responsible party of an operation and maintenance manual identifying procedures to be used to prevent, report, and clean up deposit of municipal or commercial waste into coastal waters including recordkeeping requirements; and (3) if the Administrator determines that tracking systems are required to assure adequate enforcement of laws preventing the deposit of municipal or commercial waste into coastal waters, requiring installation of the appropriate systems within eighteen months after the Administrator makes that determination. Potential cost per vessel, if installation of tracking systems is required, will be a minimum of $3500. Benefits resulting from regulation will be reduction of municipal and commercial waste (cont)

Timetable:

Action	Date	FR Cite
ANPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAR No. 2820.

FTS:8-475-0448.

ABSTRACT CONT: deposited into coastal waters and more effective enforcement programs to prevent such deposition.

Agency Contact: Rosanna Ciupek, Environmental Protection Agency, Water, (WH-556F), Washington, DC 20460, 202 475-8448

RIN: 2040-AB85

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Proposed Rule Stage

Clean Water Act (CWA)

3311. ● FEDERAL NPDES FEES IN STATES WHERE EPA ADMINISTERS THE NPDES PROGRAM

Legal Authority: 31 USC 9701

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This regulation will allow EPA to charge fees for the cost associated with issuing Federal NPDES permits in States in which EPA is the permitting authority. These fees will be charged to industries and major POTWs receiving NPDES permits for discharging into waters of the US.

Timetable:

Action	Date	FR Cite
NPRM	05/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2825.

FTS:8-382-5982.

Agency Contact: Judith Hecht, Environmental Protection Agency, Water, (WH-556), Washington, DC 20460, 202 382-5982

RIN: 2040-AB86

3312. WATER QUALITY STANDARDS FOR TOXIC POLLUTANTS

Significance: Regulatory Program

Legal Authority: 33 USC 1313(c) /CWA 303(c)

CFR Citation: 40 CFR 131

Legal Deadline: None

Abstract: This action may establish on a national basis, numeric water quality criteria for toxic pollutants that will become part of the water quality standards of states that have failed to comply with Section 303(c)(2)(B) of the CWA, thus, bringing those standards into compliance with the CWA, as amended.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: SAR No. 2497.

FTS:8-475-7315.

Agency Contact: David K. Sabock, Environmental Protection Agency, Water, (WH-585), Washington, DC 20460, 202 475-7315

RIN: 2040-AB50

3313. EFFLUENT GUIDELINES AND STANDARDS FOR OFFSHORE SUBCATEGORY OF THE OIL AND GAS EXTRACTION CATEGORY

Significance: Regulatory Program

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 435, Subpart A

Legal Deadline: Final, Judicial, June 1992.

Abstract: The Agency will repropose Best Available Control Technology (BAT) and Best Conventional Pollutant Technology Control (BCT) effluent guidelines, and New Source Performance Standards (NSPS) for offshore oil and gas extraction point source category. The offshore subcategory includes facilities located seaward of the inner boundary of the territorial seas (see 40 CFR 435.10).

Timetable:

Action	Date	FR Cite
NPRM	08/26/85	50 FR 34592
Notice	11/13/85	50 FR 46784
Notice	12/31/85	50 FR 53348
Notice	10/21/88	53 FR 41356
Notice Extension of Comment Period	12/05/88	53 FR 48947
NPRM	11/00/90	
Final Action	06/00/92	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 1048.

EPA—CWA

Proposed Rule Stage

FTS:8-382-7124.

LEGAL DEADLINE DESCRIPTION CONT: BAT, BCT, and NSPS guidelines.

Agency Contact: Marvin Rubin, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7124

RIN: 2040–AA12

3314. EFFLUENT GUIDELINES AND STANDARDS FOR THE PHARMACEUTICAL MANUFACTURING CATEGORY

Significance: Regulatory Program

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 439

Legal Deadline: None

Abstract: The Agency will review and revise as appropriate the effluent limitations guidelines and standards for the pharmaceuticals industry. A major part of the review will consider revisions to the regulations to include limitations on toxic and non-conventional volatile organic pollutants. The existing proposal covering New Source Performance Standards (NSPS) for conventional pollutants will also be reevaluated.

Timetable:

Action	Date	FR Cite
NPRM	12/00/92	
Final Action	07/00/94	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: SAR No. 1427.

FTS:8-382-7162.

Agency Contact: Frank Hund, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7162

RIN: 2040–AA13

3315. EFFLUENT GUIDELINES AND STANDARDS FOR THE PESTICIDE CHEMICALS CATEGORY

Significance: Regulatory Program

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 455

Legal Deadline: Final, Statutory, December 31, 1988.
Date contained in Water Quality Act of 1987

Abstract: On October 4, 1985 the EPA promulgated a final regulation establishing Best Available Control Technology (BAT) effluent limitations, New Source Performance Standards (NSPS), Pretreatment Standards for Existing Sources (PSES), and Pretreatment Standards for New Sources (PSNS) for the pesticide industry under the Clean Water Act. On July 25, 1988, the final regulation was remanded to the EPA by the Eleventh Circuit Court of Appeals in response to a joint motion filed by the Agency and other parties to litigation challenging the regulation. EPA removed the BAT effluent limitations, NSPS, PSNS, and PSES from the Code of Federal Regulations at the direction of the court and informed the public that the regulation is no longer effective (December 15, 1988; 51 FR 44911). The Best Practicable Control Technology (BPT) limitations published on April 25, 1978 and September 29, 1978, are still effective. The Agency intends to establish new effluent limitation guidelines and standards for the pesticide manufacturers and formulators/packagers. The Agency has established separate rulemaking schedules for the (cont)

Timetable:

Formulators/Packagers		
NPRM	06/00/93	
Final Action	11/00/94	
Manufacturers		
NPRM	04/00/91	
Final Action	08/00/92	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2473.

FTS:8-382-7158.

ABSTRACT CONT: pesticide manufacturers and for pesticides formulator/packagers because of significant differences between these two subcategories.

Agency Contact: Thomas Fielding, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7158

RIN: 2040–AB32

3316. EFFLUENT GUIDELINES AND STANDARDS FOR PULP, PAPER, AND PAPERBOARD CATEGORY

Significance: Regulatory Program

Legal Authority: 33 USC 1311 /CWA 301; 33 USC 1314 /CWA 304; 33 USC 1316 /CWA 306; 33 USC 1317 /CWA 307; 33 USC 1361 /CWA 501

CFR Citation: 40 CFR 430

Legal Deadline: NPRM, Judicial, 00/00/00.
Judicial deadline (dioxin/furan regulations only): Extension of consent decree deadline being negotiated.

Abstract: EPA will review the existing Best Practicable Technology (BPT) and Best Conventional Pollutant Technology Control (BCT) effluent limitations for all 600 mills in the pulp, paper, and paperboard industry, as well as Best Available Control Technology (BAT), New Source Performance Standards (NSPS), Pretreatment Standards for Existing Sources (PSES), and Pretreatment Standards for New Sources (PSNS) for the 104 mills which bleach chemical pulps. The Agency will determine whether the existing limitations should be revised and whether to regulate dioxins, furans, and other compounds (e.g., chlorinated organic compounds) for the 104 mills.

Timetable:

Action	Date	FR Cite
NPRM	07/00/93	
Final Action	06/00/95	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2712.

FTS:8-382-7165.

Agency Contact: George Heath, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7165

RIN: 2040–AB53

EPA—CWA

Proposed Rule Stage

3317. EFFLUENT GUIDELINES AND STANDARDS FOR THE ORGANIC CHEMICALS, PLASTICS AND SYNTHETIC FIBERS (OCPSF) CATEGORY

Significance: Regulatory Program

Legal Authority: 33 USC 1311 /CWA 301

CFR Citation: 40 CFR 414

Legal Deadline: None

Abstract: On October 10, 1989, the US Court of Appeals for the Fifth Circuit remanded a portion of the organic chemicals, plastics, synthetic fibers regulation that was originally promulgated on November 5, 1987 (54 FR 42522). The revocation notice that implemented the provisions of the remand was published on June 29, 1990 (55 FR 26691). The Agency has initiated technical and economic studies to provide the basis for reproposing and repromulgating appropriate limitations in 1991.

In the interim, EPA will propose amendments to 40 CFR 414 to implement the provisions of settlement agreements negotiated with petitioners during litigation of the OCPSF regulation. The proposed amendments would allow regulatory authorities to establish cyanide limitations and standards based on best professional judgment for elevated levels of non-amenable cyanide that result from the unavoidable complexing of cyanide at the process source of cyanide-bearing waste (cont)

Timetable:

Action	Date	FR Cite
Notice Revocation (1 Pollutant)	06/29/89	54 FR 27351
Notice Revocation (19 Pollutants)	06/29/90	55 FR 26691
NPRM Settlement Agreement Items	11/00/90	
Final Action Settlement Agreement Items	08/00/91	
NPRM Remand Issues	11/00/91	
Final Action Remand Issues	05/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2745.

FTS:8-382-7190.

ABSTRACT CONT: streams. Another amendment proposes to allow regulatory authorities to establish metals limitations and standards to accommodate low background levels of metals in non- "metal-bearing waste streams" that result from corrosion of construction materials or from contamination of raw materials. EPA is also proposing to amend Appendices A and B to Part 414 to correct listing errors. The last amendment specifies the method for determining BOD5 and TSS effluent limitations for direct discharge plants with manufacture processes in more than one subcategory.

Agency Contact: Elwood Forsht, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7190

RIN: 2040-AB65

3318. EFFLUENT GUIDELINES AND STANDARDS FOR THE COPPER FORMING CATEGORY

Legal Authority: 33 USC 1251 et seq/CWA 301, 304, 306, 307, 308 and 501

CFR Citation: 40 CFR 468

Legal Deadline: None

Abstract: In accordance with a settlement agreement dated March 5, 1986 (51 FR 7571), the Agency modified the Copper Forming regulation (40 CFR Part 468) issued on August 15, 1983 (48 FR 36957) to exclude the forming of beryllium copper alloys (copper that is alloyed to contain 0.1 percent or more beryllium) and to create a new subcategory in the regulation reserved for effluent guidelines and standards covering beryllium copper alloys. This regulation establishes the effluent guidelines and standards for that new subcategory.

Timetable:

Action	Date	FR Cite
Final Action	08/16/83	48 FR 36957
Notice	03/06/86	51 FR 7571
NPRM	05/00/91	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2746.

FTS:8-382-7164.

Agency Contact: Matthew Jarrett, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7164

RIN: 2040-AB71

3319. EFFLUENT GUIDELINES AND STANDARDS FOR THE COASTAL SUBCATEGORY OF THE OIL AND GAS EXTRACTION CATEGORY

Significance: Regulatory Program

Legal Authority: 33 USC 1314/CWA 304; 33 USC 1316/CWA 306; 33 USC 1317/CWA 307; 33 USC 1361/CWA 501; 33 USC 1311/CWA 301

CFR Citation: 40 CFR 435.40, Subpart D

Legal Deadline: None

Abstract: EPA will propose effluent limitation guidelines based on Best Available Control Technology (BAT), Best Conventional Pollutant Control Technology (BCT), and New Source Performance Standards (NSPS) for coastal oil and gas extraction facilities. This regulation will apply to the facilities involved in exploration, development and production operations.

Timetable:

Action	Date	FR Cite
Notice	11/06/89	54 FR 46419
NPRM	01/00/94	
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAR No. 2747.

FTS:8-382-7124.

Agency Contact: Marvin Rubin, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7124

RIN: 2040-AB72

3320. EFFLUENT GUIDELINES AND STANDARDS FOR THE WASTE TREATMENT CATEGORY

Significance: Regulatory Program

Legal Authority: 33 USC 1311/CWA 301; 33 USC 1314/CWA 304; 33 USC

EPA—CWA

Proposed Rule Stage

1316/CWA 306; 33 USC 1317/CWA 307; 33 USC 1361/CWA 501

CFR Citation: 40 CFR Subchapter N

Legal Deadline: None

Abstract: The Waste Treatment Category consists of three groups of facilities: a. Centralized Waste Treaters (CWT) that generally treat aqueous and liquid hazardous and non-hazardous waste; b. hazardous waste incinerators with wet scrubbers; and c. municipal and hazardous waste landfills with leachate collection. The Agency is developing regulations for Waste Treatment facilities in two phases. The Phase I regulation will cover CWT facilities facilities that generally treat aqueous and liquid hazardous and non-hazardous waste. Although the Agency has not yet scheduled a Phase II regulation which would regulate hazardous waste incinerators and landfill leachate discharges, it plans on collecting screening information in conjunction with the Phase I technical study.

Timetable:

Action	Date	FR Cite
Phase I: NPRM	02/00/94	
Phase I: Final Action	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2805.

FTS:8-382-7141.

Agency Contact: Debra DiCianna, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7141

RIN: 2040–AB78

3321. EFFLUENT GUIDELINES AND STANDARDS FOR THE MACHINERY MANUFACTURING AND REBUILDING COMPANY

Significance: Regulatory Program

Legal Authority: 33 USC 1311/CWA 301; 33 USC 1314/CWA 304; 33 USC 1316/CWA 306; 33 USC 1317/CWA 307; 33 USC 1361/CWA 501

CFR Citation: 40 CFR Subchapter N

Legal Deadline: None

Abstract: EPA will propose effluent limitation guidelines for metal machinery and equipment, including manufacture, assembly, rebuilding, repair and maintenance. This category will cover seven major industrial groups: Aircraft, Aerospace, Hardware (including Machine Tools, Screw Machines, Metal Forging and Stamping, Metal Springs, Heating Equipment, Fabricated Structural Metal) Ordnance, Stationary Industrial Equipment (including Electrical Equipment), Mobile Industrial Equipment and Electronic Equipment (including Communication Equipment).

Timetable:

Action	Date	FR Cite
NPRM	11/00/93	
Final Action	07/00/95	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2806.

FTS:8-382-7126.

Agency Contact: Ernst P. Hall, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7126

RIN: 2040–AB79

3322. NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM AND SLUDGE MANAGEMENT STATE PROGRAM REGULATIONS FOR INDIAN TRIBES

Significance: Regulatory Program

Legal Authority: 33 USC 1342; 33 USC 1345; 33 USC 1377

CFR Citation: 40 CFR 122; 40 CFR 123; 40 CFR 124; 40 CFR 501

Legal Deadline: Final, Statutory, August 4, 1988.

Abstract: This rule, pursuant to CWA Section 518, will establish the requirements and procedures by which an Indian tribe may be treated as a State and be approved to administer the NPDES and/or sludge management program for the purpose of CWA Sections 402 and 405.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	07/00/91	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2742.

FTS:8-382-2806.

Agency Contact: Wendy Miller, Environmental Protection Agency, Water, (EN-336), Washington, DC 20460, 202 382-2806

RIN: 2040–AB70

3323. REVISIONS TO REGULATIONS FOR MODIFICATION OF SECONDARY TREATMENT REQUIREMENTS FOR MUNICIPAL DISCHARGE INTO MARINE WATERS

Legal Authority: 33 USC 1311(h)/CWA 301(h)

CFR Citation: 40 CFR 125

Legal Deadline: None

Abstract: The revisions to the regulations primarily are intended to respond to statutory changes made to sec. 301(h) of the Clean Water Act (33 USC 1311(h)), which governs secondary treatment waivers for municipal discharges into marine waters. The statutory changes to be addressed include, among other things, new requirements for minimum treatment levels and additional requirements for pretreatment programs for certain waiver applicants. In addition, the Agency is considering revising the regulations to address more specifically procedures and requirements for the renewal of secondary treatment waivers. The revised regulations will affect only the limited number of municipal treatment plants which met the 1982 statutory deadline for applying for a secondary treatment waiver.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
Final Action	12/00/91	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Additional Information: SAR No. 2587.

EPA—CWA

Proposed Rule Stage

FTS:8-475-7134.

Agency Contact: Virginia Fox-Norse, Environmental Protection Agency, Water, (WH-556F), Washington, DC 20460, 202 475-7130

RIN: 2040-AB29

3324. NPDES REGULATORY REVISIONS

Legal Authority: 33 USC 1342 /CWA 402

CFR Citation: 40 CFR 122; 40 CFR 123; 40 CFR 124; 40 CFR 125; 40 CFR 403; 40 CFR 434

Legal Deadline: None

Abstract: This action will revise the NPDES and other regulations pursuant to requirements contained in the 1987 Water Quality Act. In addition, several other changes will be made to clarify existing requirements and policies. These revisions will not encompass requirements mandated by Section 406 (sewage sludge) of the 1987 Water Quality Act.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2493.

FTS:8-475-9535.

This action may affect small entities subject to NPDES permits or pretreatment requirements due to statutory or programmatic changes.

Agency Contact: Gary Hadiburgh, Environmental Protection Agency, Water, (EN-336), Washington, DC 20460, 202 475-9530

RIN: 2040-AB26

3325. NPDES PERMIT APPLICATION STANDARD FORM A AND SHORT FORM A (REVISION)

Legal Authority: 33 USC 1342 /CWA 402

CFR Citation: 40 CFR 122.21(j)

Legal Deadline: None

Abstract: This action will revise the current NPDES Permit Application Standard Form A (municipal) and Short Form A (municipal) to reflect amendments to the Clean Water Act and changes in program requirements and emphasis. The new application forms will replace the old versions and enable permit writers to obtain more pertinent information regarding expected discharges and the environmental impact of proposed operations.

Timetable:

Action	Date	FR Cite
NPRM (Municipal Forms)	11/00/90	
Final Action	09/00/91	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2501.

FTS:8-475-9523.

Agency Contact: Mary Ann Episcopo, Environmental Protection Agency, Water, (EN-336), Washington, DC 20460, 202 475-9523

RIN: 2040-AB30

3326. DENIAL OR RESTRICTION OF DISPOSAL SITES (REVISION)

Significance: Regulatory Program

Legal Authority: 33 USC 1344 /CWA 404(c)

CFR Citation: 40 CFR 231

Legal Deadline: None

Abstract: This action will revise EPA's existing 404(c) regulations, in effect since October 9, 1979. It will amend the procedures to be used when EPA is considering the use of Section 404(c) of the CWA to prevent the discharge of dredged or fill material into a defined area of the waters of the United States. Section 404(c) gives the Administrator authority to prohibit or withdraw the specification of a site as a disposal site or to deny or restrict use of a disposal site. The revisions will reflect our experiences to date under Section 404(c), and more clearly address use of 404(c) in advance of a specific proposed discharge.

Timetable:

Action	Date	FR Cite
NPRM	01/00/92	
Final Action	01/00/93	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2196.

FTS:8-475-7799.

Agency Contact: Suzanne E. Schwartz, Environmental Protection Agency, Water, (A-104F), Washington, DC 20460, 202 475-7799

RIN: 2040-AB20

3327. CLEAN WATER ACT SECTION 404 PROGRAM DEFINITION

Significance: Agency Priority

Legal Authority: 33 USC 1344/CWA 404

CFR Citation: 40 CFR 232.2(q)

Legal Deadline: None

Abstract: This action would revise the definition of "waters of the U.S." by adding four examples to those currently contained under that definition. The intent of this action is to clarify aspects of the current definition which define waters, "the use, degradation or destruction of which would or could affect interstate or foreign commerce," as waters of the U.S. We are not proposing to address any aspects of the definition of "waters of the U.S. in this rulemaking other than those relating to these four examples.

Timetable:

Action	Date	FR Cite
NPRM	07/00/91	
Final Action	10/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2804.

FTS:8-475-7799.

Agency Contact: Greg Peck, Environmental Protection Agency, Water, (A-104), Washington, DC 20460, 202 475-7799

RIN: 2040-AB74

3328. REVISIONS TO OCEAN DUMPING REGULATIONS FOR DREDGED MATERIAL

Significance: Regulatory Program

Legal Authority: 33 USC 1401 et seq /MPRSA

CFR Citation: 40 CFR 225; 40 CFR 227; 40 CFR 228

Legal Deadline: None

EPA—CWA

Proposed Rule Stage

Abstract: This rulemaking would revise the regulations applicable to the ocean dumping of dredged material. Issuance of these regulations is necessary to respond to the decision in National Wildlife Federation vs. Costle, 629 F. 2d. 118 (DC Circuit 1980) and to incorporate program experience. The revisions will make necessary technical changes and will improve the clarity of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	
Final Action	03/00/92	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2737. FTS:8-475-7177.

This action was split from RIN 2040-AA76

Agency Contact: John Lishman, Environmental Protection Agency, Water, (WH-556F), Washington, DC 20460, 202 475-7177

RIN: 2040-AB62

3328. REORGANIZATION AND CORRECTIONS TO LIST OF OCEAN DUMPING SITES

Significance: Regulatory Program

Legal Authority: 33 USC 1401 et seq /MPRSA

CFR Citation: 40 CFR 228.12

Legal Deadline: None

Abstract: This action is necessary to correct technical errors in the list of ocean dumping sites and to better organize the format in which ocean dumping sites are listed in the Code of Regulations. The revision would correct misprints and other technical errors, and organize the list of sites by EPA region and type of material.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
Final Action	05/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2738. FTS:8-475-7177.

This action was split from RIN 2040-AA78.

Agency Contact: John Lishman, Environmental Protection Agency, Water, (WH-556F), Washington, DC 20460, 202 475-7177

RIN: 2040-AB63

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Clean Water Act (CWA)

Final Rule Stage

3330. COMPREHENSIVE CONSTRUCTION GRANT REGULATION REVISION

Significance: Regulatory Program

Legal Authority: 33 USC 1281 / CWA 201; CWA 518

CFR Citation: 40 CFR 35

Legal Deadline: Final, Statutory, August 4, 1988.

Abstract: This regulation will amend existing regulations to implement the Water Quality Act of 1987. That Act amended the construction grants program, and authorized EPA to treat qualifying Indian tribes as states for purposes of administering the construction grants program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/27/90	55 FR 27092
Interim Final Rule Comment Period End	10/01/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2585. FTS:8-382-2267.

Agency Contact: Geoffrey Cooper, Environmental Protection Agency, Water, (WH-546), Washington, DC 20460, 202 382-2267

RIN: 2040-AB25

3331. WATER QUALITY STANDARDS—REVISION FOR INDIAN TRIBES

Significance: Regulatory Program

Legal Authority: 33 USC 1251 /CWA 518

CFR Citation: 40 CFR 131

Legal Deadline: Final, Statutory, August 4, 1988.

Abstract: These rules establish the procedures by which an Indian tribe can qualify for treatment as a state for the purposes of CWA sections 303 and 401. The revised water quality standards regulation also establishes a mechanism to resolve unreasonable consequences arising from Indian Tribes and States adopting differing water quality standards for common bodies of water.

Timetable:

Action	Date	FR Cite
NPRM	09/22/89	54 FR 39098
Final Action	12/00/90	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2475. FTS:8-475-7315.

Agency Contact: David Sabock, Environmental Protection Agency, Water, (WH-585), Washington, DC 20460, 202 475-7315

RIN: 2040-AB36

3332. STATE REVOLVING FUND PROGRAM IMPLEMENTATION REGULATIONS

Legal Authority: 33 USC 1285(m); 33 USC 1361(a); 33 USC 1381 to 1389

CFR Citation: 40 CFR 35

Legal Deadline: None

Abstract: This interim rule implements the State water pollution control revolving fund capitalization grant program. The program, under which EPA awards grants to States to capitalize funds that will provide assistance for water pollution control purposes, was established in the Water Quality Act of 1987 as a new title VI to the Clean Water Act.

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Timetable:

Action	Date	FR Cite
Interim Final Rule	03/19/90	55 FR 10176
Interim Final Rule Comment Period End	05/18/90	55 FR 10176

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2744.

FTS:8-382-2257.

Agency Contact: Geoffrey Cooper, Environmental Protection Agency, Water, (WH-546), Washington, DC 20460, 202 382-2257

RIN: 2040-AD84

3333. SECTION 303(D) LIST OF STATE WATERS

Legal Authority: 33 USC 1251 et seq /CWA 303(d); 33 USC 1251 et seq /CWA 305(b)

CFR Citation: 40 CFR 130

Legal Deadline: None

Abstract: EPA published a Federal Register notice on July 24, 1989 to re-open and extend the public comment period on a proposal to require a biennial submission of lists of waters under sections 303(d) and 305(b) of the Clean Water Act (CWA). On 1/12/88, in conjunction with the regulation to implement Section 304(l) of the CWA, EPA proposed to require that the States submit as part of 305(b) reports, the lists of waters required by 303(d) of the CWA. However, after reviewing public comments, EPA decided not to include this particular requirement in the final regulation for 304(l), which was published in the Federal Register on 6/2/89 (54 FR 23868). Instead, EPA decided to solicit additional comments on the proposal and consider promulgating these listing requirements at a later date, if appropriate. The proposed amendments require States to submit to EPA every two years the list of water quality-limited waters required under 303(d) of the CWA. The reporting vehicle for the list would be the States Biennial Water Quality Reports required by CWA 305(b). (cont)

Timetable:

Action	Date	FR Cite
NPRM	01/12/89	54 FR 1300
Notice To Reopen Public Comment Period	07/24/89	54 FR 30765
Second NPRM Comment Period End	09/25/89	54 FR 30765
Final Action	06/00/91	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2748.

FTS:8-382-7056.

ABSTRACT CONT: EPA is also proposing certain data requirements and review and approval criteria for the States and EPA to use to develop and review the 303(d) lists of waters.

Agency Contact: King Boynton, Environmental Protection Agency, Water, (WH-553), Washington, DC 20460, 202 382-7056

RIN: 2040-AB88

3334. NPDES REGULATIONS: STORMWATER APPLICATION REQUIREMENTS (REVISION)

Significance: Regulatory Program

Legal Authority: 33 USC 1342 /CWA 402

CFR Citation: 40 CFR 122

Legal Deadline: Final, Statutory, February 4, 1989. Final, Judicial, October 31, 1990.

Abstract: These revisions to the NPDES permit program application requirements for stormwater discharges will reflect the 1987 amendments to the Clean Water Act and will address the deadline for application submission as a result of the rescinded September 1984 stormwater regulations.

Timetable:

Action	Date	FR Cite
Final Action - Deadline Extension	02/12/88	53 FR 4157
NPRM	12/07/88	53 FR 49416
Final Action	10/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Additional Information: SAR No. 2200.

FTS:8-475-9518.

Agency Contact: Tom Seaton, Environmental Protection Agency, Water, (EN-336), Washington, DC 20460, 202 475-9518

RIN: 2040-AA79

3335. TREATMENT OF INDIAN TRIBES AS STATES UNDER SECTION 404 OF THE CLEAN WATER ACT

Significance: Regulatory Program

Legal Authority: 33 USC 1251 et seq

CFR Citation: 40 CFR 230; 40 CFR 233

Legal Deadline: Final, Statutory, August 4, 1988.

Abstract: This proposed rule would a) establish requirements for determining eligibility of Indian Tribes to be treated as States for purposes of Section 404 of the CWA and if found eligible, and b) allow for assumption of the dredge and fill permit program.

Timetable:

Action	Date	FR Cite
NPRM	11/29/89	54 FR 49180
Final Action	12/00/90	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2682.

FTS:8-382-5043.

Agency Contact: Lori Williams, Environmental Protection Agency, Water, (A-104F), Washington, DC 20460, 202 382-5043

RIN: 2040-AB69

3336. SEWAGE SLUDGE USE AND DISPOSAL REGULATION

Significance: Regulatory Program

Legal Authority: 33 USC 1345 / CWA 405

CFR Citation: 40 CFR 503

Legal Deadline: NPRM, Statutory, November 30, 1988. Final, Statutory, August 31, 1987.

Abstract: The Agency will promulgate standards and management practices for the use and disposal of sewage sludge as required by Section 405 of the

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Final Rule Stage

Clean Water Act, as amended. The use and disposal methods regulated in this rulemaking are: land application, distribution and marketing, incineration, landfilling and surface disposal. Inorganic and organic pollutants are being regulated for the various use and disposal practices.

Timetable:

Action	Date	FR Cite
NPRM	02/06/89	54 FR 5746
Notice of Availability of Data From National Sewage Sludge Survey	11/00/90	
Final Action	01/00/92	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2162.

FTS:8-475-7301.

Agency Contact: William Diamond, Environmental Protection Agency, Water, (WH-585), Washington, DC 20460, 202 475-7301

RIN: 2040-AA74

3337. CITIZEN SUIT NOTICE REGULATION UNDER THE CWA

Legal Authority: 33 USC 1365 /CWA 505

CFR Citation: 40 CFR 135

Legal Deadline: None

Abstract: This regulation will specify on whom the copies of CWA citizen suit complaints and consent decrees should be served, the manner of service, and the addresses of such persons. This rule will amend existing 40 CFR 135.

Timetable:

Action	Date	FR Cite
NPRM	06/30/89	54 FR 36020
Final Action	12/00/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: SAR No. 2515.

FTS:8-382-2949.

Agency Contact: David Dralich, Environmental Protection Agency, Water, Office of Enforcement (LE-134W), Washington, DC 20460, 202 382-2949

RIN: 2040-AB50

3338. DE-DESIGNATION OF OCEAN DUMPING SITES

Significance: Regulatory Program

Legal Authority: 33 USC 1401 et seq /MPRSA

CFR Citation: 40 CFR 228.12

Legal Deadline: None

Abstract: The Agency is taking action to de-designate certain ocean dumping sites. This action will take the form of two rulemaking actions: (1) to remove from the list of ocean dumping sites as published in the Code of Federal Regulations sites whose designations have expired or which were terminated by previous rulemaking and (2) to de-designate ocean dumping sites which are no longer needed. None of the sites affected are being used. This action is necessary to assure that the list of ocean dumping sites accurately reflects earlier rulemaking and also to assure that unnecessary sites are removed from the list.

Timetable:

Action	Date	FR Cite
NPRM	02/02/90	55 FR 3903
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2222.

FTS:8-475-7177.

This action was split from RIN 2040-AA76.

Agency Contact: John Lishman, Environmental Protection Agency, Water, (WH-556F), Washington, DC 20460, 202 475-7177

RIN: 2040-AB61

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Completed Actions

Clean Water Act (CWA)

3339. EFFLUENT GUIDELINES AND STANDARDS FOR THE NON-FERROUS METALS MANUFACTURING CATEGORY (PHASE II)

CFR Citation: 40 CFR 421

Completed:

Reason	Date	FR Cite
Final Action	08/03/90	55 FR 31692

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Ernst P. Hall 202 382-7126

RIN: 2040-AB31

3340. GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS UNDER THE CLEAN WATER ACT

CFR Citation: 40 CFR 136

Completed:

Reason	Date	FR Cite
Final Action	08/15/90	55 FR 33434

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James J. Lichtenberg 513 569-7396

RIN: 2040-AB58

3341. EPA ADMINISTERED PROGRAMS: NPDES; GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES: PROPOSALS TO IMPLEMENT THE DOMESTIC SEWAGE STUDY

Significance: Regulatory Program

CFR Citation: 40 CFR 403

Completed:

Reason	Date	FR Cite
Final Action	07/24/90	55 FR 30082

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

EPA—CWA

Completed Actions

Agency Contact: Marilyn Goode 202 475-8328

RIN: 2040-AA39

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Proposed Rule Stage

Atomic Energy Act (AEA)

3342. ENVIRONMENTAL STANDARDS FOR THE MANAGEMENT AND DISPOSAL OF SPENT NUCLEAR FUEL, HIGH-LEVEL AND TRANSURANIC RADIOACTIVE WASTES

Legal Authority: 42 USC 2201/AEA 161

CFR Citation: 40 CFR 191

Legal Deadline: None

Abstract: On August 15, 1985, the Agency promulgated generally applicable environmental standards for the management and disposal of spent nuclear fuel, high-level and transuranic radioactive wastes. These standards applied to management and disposal of such materials generated by activities under the jurisdiction of the Department of Energy or regulated by the Nuclear Regulatory Commission. They established limits for the release of radioactive materials to the environment. Subsequent to promulgation of this rule, several petitions for review were filed and consolidated in the U.S. Court of Appeals for the First Circuit. On September 23, 1987 the Court vacated and remanded Subpart B of the Standards to the Agency for revision consistent with its ruling.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
Final Action	06/00/92	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2580.

FTS:8-475-9633.

Agency Contact: Ray Clark, Environmental Protection Agency, Air and Radiation, (ANR-460), Washington, DC 20460, 202 475-9633

RIN: 2060-AC30

3343. ENVIRONMENTAL PROTECTION STANDARDS FOR LOW-LEVEL RADIOACTIVE WASTE

Significance: Regulatory Program

Legal Authority: 42 USC 2201 /AEA 274; 15 USC 2625 /TSCA 6(a)(6)

CFR Citation: 40 CFR 193; 40 CFR 764

Legal Deadline: None

Abstract: Under 40 CFR 193, the Agency is considering whether to set generally applicable standards for the management and disposal of low-level radioactive wastes under the purview of the Atomic Energy Act, as amended. The Agency is considering criteria for declaring certain wastes as below regulatory concern as part of this activity. Under 40 CFR 764, the Agency is also considering whether to regulate the disposal of certain naturally occuring and accelerator-produced radioactive wastes.

Timetable:

Action	Date	FR Cite
ANPRM	08/31/83	48 FR 39563
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Additional Information: SAR No. 1727.

FTS:8-475-9633.

Agency Contact: James M. Gruhlke, Environmental Protection Agency, Air and Radiation, (ANR-460), Washington, DC 20460, 202 475-9633

RIN: 2060-AA04

3344. RESIDUAL RADIOACTIVITY

Significance: Regulatory Program

Legal Authority: 42 USC 2201/AEA 161; 42 USC 2021/AEA 272

CFR Citation: 40 CFR 194

Legal Deadline: None

Abstract: The Agency is determining what standards and/or guidance is needed to control radiation exposure levels to the public from residual radioactivity after cleanup of sites and facilities where radionuclides were used and where unrestricted use will be allowed. This action may also control radiation exposure levels to the general public from materials contaminated with radionuclides which will be recycled into general commerce.

Timetable:

Action	Date	FR Cite
ANPRM	06/18/86	51 FR 22264
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2073.

FTS:8-47-9630.

Agency Contact: Anthony B. Wolbarst, Environmental Protection Agency, Air and Radiation, (ANR-460), Washington, DC 20460, 202 475-9630

RIN: 2060-AB31

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Final Rule Stage

Atomic Energy Act (AEA)

3345. TRANSURANIUM ELEMENTS

Legal Authority: 42 USC 2021(h) /AEA 274(b) /Reorganization Plan No. 3 of 1970

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This action provides interim recommendations to Federal agencies to establish dose rate limits for people exposed to transuranium elements in the general environment.

EPA—AEA — Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	11/30/77	42 FR 60956
Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 1162.

FTS:8-475-9620.

Agency Contact: Allan Richardson, Environmental Protection Agency, Air and Radiation, (ANR-460), Washington, DC 20460, 202 475-9620

RIN: 2060-AA01

3346. GROUNDWATER PROTECTION STANDARDS FOR INACTIVE URANIUM TAILING SITES

Significance: Regulatory Program

Legal Authority: 42 USC 2022(a) /AEA 275(a)

CFR Citation: 40 CFR 192

Legal Deadline: None

Abstract: The Tenth Circuit Court of Appeals has remanded the ground water standards at 40 CFR 192.20(a)(2) and (3). The new standards will replace these remanded standards.

Timetable:

Action	Date	FR Cite
NPRM	09/24/87	52 FR 36000
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 1166.

FTS:8-475-9620.

Agency Contact: Kurt Feldmann, Environmental Protection Agency, Air and Radiation, (ANR-460), Washington, DC 20460, 202 475-9620

RIN: 2060-AC03

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Proposed Rule Stage

Safe Drinking Water Act (SDWA)

3347. NATIONAL PRIMARY DRINKING WATER REGULATION: RADIONUCLIDES

Significance: Regulatory Program

Legal Authority: 42 USC 300 /SDWA 1412

CFR Citation: 40 CFR 141

Legal Deadline: Final, Statutory, June 19, 1989. NPRM, Judicial, January 25, 1991. Final, Judicial.
Final Judicial: 22 months after proposal. NPRM judicial date is for Administrator's signature.

Abstract: EPA will propose Maximum Contaminant Levels Goals (MCLGs) and Primary Drinking Water Standards for radionuclides in drinking water. These radionuclides include radium, uranium, radon, total alpha, and beta particle and photon emitters.

Timetable:

Action	Date	FR Cite
ANPRM	10/05/83	48 FR 45502
ANPRM	09/30/86	51 FR 34836
NPRM	02/00/91	
Final Action	12/00/92	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2281.

FTS:8-475-8049.

Agency Contact: Gregory Helms, Environmental Protection Agency, Water, (WH-550), Washington, DC 20460, 202 475-8049

RIN: 2040-AA94

3348. NATIONAL PRIMARY DRINKING WATER REGULATIONS: DISINFECTION, DISINFECTANTS AND DISINFECTION BY-PRODUCTS (REVISION)

Significance: Regulatory Program

Legal Authority: 42 USC 300 /SDWA 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: Final, Statutory, June 19, 1989.
This deadline applies only to the disinfection requirements.

Abstract: EPA will propose that all public water systems using groundwater use disinfection treatment processes; variance criteria will be developed. The Agency will propose MCLGs and MCLs or treatment technique requirements for disinfectants and disinfection by-products as part of Phase VI.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2340.

FTS:8-382-7379.

NOTE: Dates are subject to change. Bull Run Coalition issued a notice of intent to file suit; a complaint is anticipated. Suit would apply to disinfectants and disinfection by-products.

Agency Contact: Stig Regli, Environmental Protection Agency, Water, (WH-550D), Washington, DC 20460, 202 382-7379

RIN: 2040-AA97

3349. NATIONAL PRIMARY DRINKING WATER REGULATIONS: ARSENIC

Legal Authority: 42 USC 300/SDWA 1412

CFR Citation: 40 CFR 141

Legal Deadline: Final, Statutory, June 19, 1989.

Abstract: This rule will set an MCLG and revised NPDWR for arsenic in drinking water, pursuant to the SDWA amendments of 1986. The SDWA requires EPA to promulgate national primary drinking water regulations for 83 specific contaminants of which arsenic is one. The SDWA directs EPA to promulgate MCLGs at a level at which, in the Administrator's judgment, "no known or anticipated adverse effects on the health of persons occur

and which allows for an adequate margin of safety." MCLs are the federally enforceable standards and are set as close to the MCLGs as is feasible, taking costs into consideration.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2807.

FTS:8-475-7274.

The schedule for this regulation has been the subject of litigation and a consent order on the arsenic schedule has now been approved by the court.

Agency Contact: Maria Gomez-Taylor, Environmental Protection Agency, Water, (WH-550D), Washington, DC [illegible], 202 475-7274

RIN: 2040-AD75

3350. DRINKING WATER LABORATORY CERTIFICATION REGULATIONS

Legal Authority: 42 USC 300/SDWA 1401, 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: None

Abstract: EPA will propose and promulgate national regulations for certification of laboratories which analyze compliance samples under the SDWA. These regulations will establish the "National Quality Assurance Program for Lab Certification," described in 40 CFR 142(b)(2)-(3).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAR No. 2803.

FTS:8-382-3022.

Agency Contact: Baldev Bathija, Environmental Protection Agency, Water, (WH-550D), Washington, DC 20460, 202 382-3022

RIN: 2040-AB89

3351. NATIONAL PRIMARY DRINKING WATER REGULATIONS: CONTAMINANTS FROM FIRST DRINKING WATER PRIORITY LIST (PHASE VI)

Significance: Regulatory Program

Legal Authority: 42 USC 300/SDWA 1412

CFR Citation: 40 CFR 141

Legal Deadline: NPRM, Statutory, January 1, 1990. Final, Statutory, January 1, 1991.

Abstract: This rule will set MCLGs and NPDWRs for 25 contaminants from the first Drinking Water Priority List, as required by the SDWA of 1986. The SDWA requires regulation of at least 25 contaminants every three years starting in 1991. The SDWA directs EPA to promulgate MCLGs at a level at which, in the Administrator's judgment, "no known or anticipated adverse effects on the health of persons occur and which allows for an adequate margin of safety." MCLs are the federally enforceable standards and are set as close to the MCLGs as is feasible, taking costs into consideration.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2772.

FTS:8-475-9566.

NOTE: Dates are subject to change. Bull Run Coalition issued a notice of intent to file suit; a complaint is anticipated.

Agency Contact: David Huber, Environmental Protection Agency, Water, (WH-550D), Washington, DC 20460, 202 475-9566

RIN: 2040-AB82

3352. ● REVISION OF VOC ANALYTICAL METHODS UNDER THE SDWA

Legal Authority: 42 USC 300/SDWA 1412; 42 USC 300(b)/SDWA 1401

CFR Citation: 40 CFR 141

Legal Deadline: None

Abstract: This action will replace September 1986 versions of EPA methods 502.1, 502.2, 503.1, 504, 524.1 and 524.2 for monitoring of eight regulated (section 1412) VOCs and for 51 unregulated (section 1445) VOCs with December 1988 version of the same methods. Also, this action will allow the use of the same updated methods 502.1, 502.2, 503.1, 524.1, and 542.2 for compliance monitoring of trihalomethanes (THMs) in drinking water under section 141.30.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
Final Action	07/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2782. (Note: This action was split from SAR No. 2781).

FTS:8-382-3022.

Agency Contact: Baldev Bathija, Environmental Protection Agency, Water, (WH-550D), Washington, DC 20460, 202 382-3022

RIN: 2040-AB87

3353. OSAGE MINERAL RESERVE UNDERGROUND INJECTION CONTROL PROGRAM (REVISION)

Legal Authority: 42 USC 300f/SDWA 1421 to 1425

CFR Citation: 40 CFR 147

Legal Deadline: None

Abstract: The Safe Drinking Water Act (SDWA) requires EPA to develop regulations for the protection of underground sources of drinking water from contamination by injection wells. EPA is proposing amendments to its Underground Injection Control (UIC) program regulations for the Osage Mineral in Oklahoma (40 CFR 147 Subpart GGG) to allow the Regional Administrator flexibility to waive certain technical requirements for temporary abandoned wells and to designate a portion of the Happy

EPA—SDWA **Proposed Rule Stage**

Hollow and Z-Sand aquifers in Western Osage County, Oklahoma as exempted aquifers. The proposed changes will provide the Regional Administrator with the same flexibility that presently exists in the generic Federal regulations (40 CFR 144.28(c)(2)(iv) and 144.52(a)(6)) to waive certain technical requirements applicable to active injection wells upon a demonstration by the owner or operator that the well will not endanger underground sources of drinking water during the period of temporary abandonment.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
Final Action	09/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: 131 Crude Petroleum and Natural Gas; 132 Natural Gas Liquids; 138 Oil and Gas Field Services

Additional Information: SAR No. 2765.

FTS:8-382-5558.

Agency Contact: Donald M. Olson, Environmental Protection Agency, Water, (WH-550E), Washington, DC 20460, 202 382-5558

RIN: 2040–AB76

3354. CONSTRUCTION REQUIREMENTS FOR CLASS II (OIL AND GAS RELATED WELLS) UNDER PART C OF THE SDWA

Legal Authority: 42 USC 300f/SDWA 1421 to 1425

CFR Citation: 40 CFR 144; 40 CFR 146

Legal Deadline: None

Abstract: Part C of the SDWA directs EPA to develop regulations for the protection of underground sources of drinking water from contamination by injection wells. The greatest number of injection wells are Class II (oil and gas related) wells operated by the petroleum industry for disposal of produced brines and enhanced recovery projects. EPA is considering proposing standards for all newly constructed or converted (from production operations) Class II injection wells. These standards may establish new or incremental performance criteria to ensure protection of underground sources of drinking water (USDWs).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Sectors Affected: 131 Crude Petroleum and Natural Gas; 132 Natural Gas Liquids; 138 Oil and Gas Field Services

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2784.

FTS:8-382-5586.

Agency Contact: Jeffrey Smith, Environmental Protection Agency, Water, (WH-550E), Washington, DC 20460, 202 382-5586

RIN: 2040–AB77

3355. MANAGEMENT OF CLASS V INJECTION WELLS UNDER PART C OF THE SAFE DRINKING WATER ACT

Legal Authority: 42 USC 300f/SDWA 1421 to 1425

CFR Citation: 40 CFR 144; 40 CFR 145; 40 CFR 146

Legal Deadline: None

Abstract: The SDWA requires EPA to develop regulations for the protection of underground sources of drinking water from contamination by injection wells. Previously promulgated regulations specified minimum standards and technical requirements for Class I-IV wells. Class V wells, such as certain septic systems and a variety of drainage wells, are the subject of this action. EPA intends to establish a regulatory framework for the management of these wells that will protect against contamination of groundwater while recognizing the difficulties of this diverse well class. Development of any regulatory program will focus on providing maximum flexibility to state, sub-state, and local entities. EPA will characterize risks associated with various Class V injection wells since data are unavailable for risk assessments on an individual subcategory basis.

Timetable:

Action	Date	FR Cite
NPRM	09/00/91	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2778.

FTS:8-382-5532.

Agency Contact: George H. Hoessel, Environmental Protection Agency, Water, (WH-550E), Washington, DC 20460, 202 382-5532

RIN: 2040–AB83

ENVIRONMENTAL PROTECTION AGENCY (EPA) **Final Rule Stage**

Safe Drinking Water Act (SDWA)

3356. INDIAN RULE FOR THE WELLHEAD PROTECTION PROGRAM AND SOLE SOURCE AQUIFER DEMONSTRATION PROGRAM

Significance: Regulatory Program

Legal Authority: 42 USC 300j-11/SDWA 1451

CFR Citation: 40 CFR 35

Legal Deadline: Final, Statutory, December 19, 1987.

Abstract: The Safe Drinking Water Act Amendments of 1986 authorize the EPA Administrator to treat Indian tribes as States, where appropriate. The Indian rule for the Wellhead Protection and Sole Source Aquifer Demonstration Programs will allow eligible Indian tribes to apply for and receive grants under these two programs, in the same manner as States.

Timetable:

Action	Date	FR Cite
NPRM	12/09/87	52 FR 46712
Final Action	09/00/91	

Small Entities Affected: None

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Final Rule Stage

Government Levels Affected: Local, Federal

Additional Information: SAR No. 2440.

FTS:8-382-7077.

Agency Contact: Marian Mlay, Environmental Protection Agency, Water, (WH-550G), Washington, DC 20460, 202 382-7077

RIN: 2040–AB18

3357. REVISIONS TO THE SAFE DRINKING WATER ACT'S UNDERGROUND INJECTION CONTROL REGULATIONS

Legal Authority: 42 USC 300j-4 /SDWA 1445; 42 USC 300h-1 /SDWA 1421

CFR Citation: 40 CFR 144; 40 CFR 146

Legal Deadline: None

Abstract: These amendments to the UIC Program clarify the intent of the regulations covering authorization-by-rule requirements at 40 CFR Part 144, Subpart C. These new provisions will clarify how existing injection wells become authorized by rule and when injection is prohibited for failure to comply with authorization- by-rule requirements. EPA has proposed amendments to the noncompliance and program reporting requirements at 40 CFR 144.8; to the mechanical integrity requirements at 40 CFR 144.28(f) and 144.51(p). Finally, a new regulation will codify SDWA 1445(a)(1) as it applies to the UIC program.

Timetable:

Action	Date	FR Cite
NPRM	08/28/90	55 FR 26464
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAR No. 2428.

FTS:8-382-5520.

Agency Contact: Francoise Brasier, Environmental Protection Agency, Water, (WH-550E), Washington, DC 20460, 202 382-5520

RIN: 2040–AB27

3358. NATIONAL PRIMARY DRINKING WATER REGULATIONS: SYNTHETIC ORGANIC CHEMICALS AND INORGANIC CHEMICALS, MONITORING FOR UNREGULATED CONTAMINANTS (PHASE II, 38 CONTAMINANTS)

Significance: Regulatory Program

Legal Authority: 42 USC 300 / SDWA 1412

CFR Citation: 40 CFR 141; 40 CFR 142; 40 CFR 143

Legal Deadline: NPRM, Judicial, April 30, 1989. Final, Judicial, December 31, 1990.

Abstract: EPA is promulgating maximum contaminant level goals (MCLGs) and National Primary Drinking Water Regulations (NPDWRs) for 38 synthetic organic chemicals and inorganic chemicals. The NPDWRs consist of maximum contaminant levels (MCLs), as well as monitoring, reporting, and public notification requirements for these contaminants. This action specifies the best available technology (BAT) upon which the MCLs are based and BAT for the purposes of issuing variances and exemptions to public water systems. In addition to the NPDWRs for the synthetic organic chemicals and inorganic chemicals, the notice requires monitoring for other synthetic organic chemicals which are not currently regulated by NPDWRs.

Timetable:

Action	Date	FR Cite
ANPRM	10/05/83	48 FR 45502
NPRM (MCLGs)	11/13/85	50 FR 46936
NPRM (MCLGs and MCLs)	05/22/89	54 FR 22062
Final Action (MCLGs and MCLs)	01/00/91	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 1755.

FTS:8-382-5555.

Agency Contact: Al Havinga, Environmental Protection Agency, Water, (WH-550), Washington, DC 20460, 202 382-5555

RIN: 2040–AA55

3359. NATIONAL PRIMARY DRINKING WATER REGULATIONS: INORGANIC AND ORGANIC COMPOUNDS (PHASE V/24 CONTAMINANTS)

Significance: Regulatory Program

Legal Authority: 42 USC 300 /SDWA 1412

CFR Citation: 40 CFR 141; 40 CFR 142; 40 CFR 143

Legal Deadline: Final, Statutory, June 19, 1989. NPRM, Judicial, June 29, 1990. Final, Judicial, February 29, 1992. February 29, 1992 Judicial Deadline is for the Administrator's Signature

Abstract: This rule will set MCLGs and NPDWRs for 24 inorganic and organic chemicals specified in the SDWA.

Timetable:

Action	Date	FR Cite
ANPRM	10/05/83	48 FR 45502
ANPRM Comment Period End	11/13/85	50 FR 16936
NPRM	07/25/90	55 FR 30370
Final Action	03/00/92	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2630.

FTS:8-472-7274.

Agency Contact: Maria Gomez-Taylor, Environmental Protection Agency, Water, (WH-550D), Washington, DC 20460, 202 475-7274

RIN: 2040–AB11

3360. NATIONAL PRIMARY DRINKING WATER REGULATIONS: LEAD AND COPPER

Significance: Regulatory Program

Legal Authority: 42 USC 300 /SDWA 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: Final, Statutory, June 19, 1989. Final, Judicial, December 14, 1990.

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Final Rule Stage

December 14, 1990 Judicial Deadline is for the Administrator's Signature.

Abstract: This rule will set MCLGs and national primary drinking water regulations for lead and copper.

Timetable:

Action	Date	FR Cite
ANPRM	10/05/83	48 FR 45502
NPRM MCLG	11/13/85	50 FR 46936
NPRM MCLGs/MCLs & Treatment Technique	08/18/88	53 FR 31516
Final Action	12/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2610.

FTS:8-382-5450.

Agency Contact: Jeff Cohen, Environmental Protection Agency, Water, (WH-550A), Washington, DC 20460, 202 382-5450

RIN: 2040–AB51

3361. DRINKING WATER PRIORITY LIST OF ADDITIONAL SUBSTANCES WHICH MAY REQUIRE REGULATION UNDER THE SAFE DRINKING WATER ACT

Legal Authority: 42 USC 300/SDWA 1412

CFR Citation: 40 CFR Not applicable

Legal Deadline: Other, Statutory, January 1, 1991.

Abstract: The purpose of this action is to develop a list of additional substances which may require regulation under the Safe Drinking Water Act (SDWA). This action is intended to meet the SDWA requirement of publishing a list of contaminants on a triennial basis. Substances on this list become candidates for future national primary drinking water regulations. The initial list was published in January 1988. The next version of the list is required to be published by January 1, 1991.

Timetable:

Action	Date	FR Cite
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2785.

FTS:8-382-3022.

Agency Contact: Jitrenda Saxena, Environmental Protection Agency, Water, (WH-550D), Washington, DC 20460, 202 382-3022

RIN: 2040–AB61

3362. REVISION OF E. COLI ANALYTICAL METHODS UNDER THE SDWA

Legal Authority: 42 USC 300/SDWA 1412; 42 USC 300(b)/SDWA 1401

CFR Citation: 40 CFR 141

Legal Deadline: None

Abstract: EPA will approve analytical methods for detection of Escherichia coli (E. coli) for determining compliance with the maximum contaminant level (MCL) in section 141.63(b). Also, this action will modify the procedure described in section 141.21(f)(5) for transferring total coliform positive colonies on membrane filters to EC medium to determine whether fecal coliforms are present.

Timetable:

Action	Date	FR Cite
NPRM (E. coli)	06/01/90	55 FR 22752
Final Action (E. coli)	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2781 (E. coli)

FTS:8-382-3022.

(Note: This action was split from SAR No. 2782)

Agency Contact: Paul Berger, Environmental Protection Agency, Water, (WH-550D), Washington, DC 20460, 202 382-3022

RIN: 2040–AB84

3363. PUBLIC WATER SYSTEM SUPERVISION PROGRAM, ADMINISTRATIVE ENFORCEMENT IMPLEMENTATION PROCEDURES

Legal Authority: 42 USC 300 / SDWA 1414

CFR Citation: 40 CFR 22; 40 CFR 142

Legal Deadline: None

Abstract: EPA plans to promulgate regulations establishing procedures for administrative compliance orders under Section 1414(g) of the Safe Drinking Water Act. Section 1414(g) orders may not take effect without notice and opportunity for public hearing and opportunity for primacy states to confer with EPA. The Agency will also amend 40 CFR Part 22 to include PWSS penalty assessments.

Timetable:

Action	Date	FR Cite
NPRM	07/12/89	54 FR 29515
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2381.

FTS:8-382-5558.

Agency Contact: Craig Damron, Environmental Protection Agency, Water, (WH-550), Washington, DC 20460, 202 382-5558

RIN: 2040–AB07

3364. STATE-ADMINISTERED UIC PROGRAMS; INCORPORATION BY REFERENCE UPDATE

Legal Authority: 42 USC 300 /SDWA 1451

CFR Citation: 40 CFR 147

Legal Deadline: None

Abstract: The Safe Drinking Water Act requires EPA to promulgate regulations specifying minimum requirements for State Underground Injection control programs to prevent injections through wells which may endanger drinking water sources. The individual State-administered programs (primacy) are codified in 40 CFR 147 and that Part incorporates by reference and makes applicable requirements from the appropriate State regulations. The incorporation by reference material has not been updated since 1984. Any Federal enforcement action in a primacy State will be based on the codified Part 147 material no matter

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what is actually in place at the time. Thus, for any enforcement action to be effective, the State statutes which are incorporated by reference must be up-to-date. Without this action, any Federal enforcement action could be ineffective. There is no impact on the economy, costs, or prices, and no public health or intermedia issues, or adverse consequences on the public. The only alternative given the present codification (cont)

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: SAR No. 2717.

FTS:8-382-5548.

ABSTRACT CONT: scheme is to amend the Part 147 incorporation by reference material to incorporate the most recent State statutes and regulations.

Agency Contact: Dan Chadwick, Environmental Protection Agency, Water, (WH-550E), Washington, DC 20460, 202 382-5548

RIN: 2040-AB80

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Noise Control Act (NCA) — **Final Rule Stage**

3361. WITHDRAWAL OF PRODUCTS FROM THE AGENCY'S REPORTS IDENTIFYING MAJOR NOISE SOURCES AND WITHDRAWAL OF PROPOSED RULES

Legal Authority: 42 USC 4904(b)(1) / NCA 5(b)(1); 42 USC 4905(a)(1)/ NCA 6(a)(1)

CFR Citation: None

Legal Deadline: None

Abstract: This action withdraws certain products from the Agency's report identifying major noise sources issued under authority of Section 5(b)(1) of the Noise Control Act of 1972. These products are: Truck Transport Refrigeration Units, Power Lawn Mowers, Pavement Breakers, Rock Drills, Wheel and Crawler Tractors and Buses. This action also withdraws proposed noise regulations for Wheel and Crawler Tractors, and Buses, issued under the authority of Section 6(a)(1) of the Act.

Timetable:

Action	Date	FR Cite
NPRM	12/01/82	47 FR 54106
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2046.

FTS:8-382-4996.

No CFR parts pertain. This action withdraws proposals which were not codified.

Agency Contact: K.E. Feith, Environmental Protection Agency, Air and Radiation, (ANR-443), Washington, DC 20460, 202 382-4996

RIN: 2060-AB24

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Resource Conservation and Recovery Act (RCRA) — **Prerule Stage**

3366. DETERMINATION ON WASTES FROM COMBUSTION OF COAL BY ELECTRIC UTILITY POWER PLANTS

Significance: Regulatory Program

Legal Authority: 42 USC 6921 /RCRA 3001; 42 USC 6982 /RCRA 8002

CFR Citation: 40 CFR Not yet determined

Legal Deadline: Other, Statutory, September 1988, Regulatory Determination

Abstract: EPA conducted a study of fly ash waste, bottom ash waste, slag waste, flue gas emission control waste and other wastes generated by the combustion of coal by electric utility power plants. The study was in response to Section 8002(n) of RCRA and culminated in a Report to Congress on March 8, 1988. EPA must determine within six months after submitting the report, holding public hearings, and allowing for public comment whether to regulate any of these wastes under Subtitle C of RCRA.

Timetable:

Action	Date	FR Cite
Notice Regulatory Determination	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAR No. 2572.

FTS:8-382-3608.

Agency Contact: Dan Deskins, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-323), Washington, DC20460, 202 382-3608

RIN: 2050-AC40

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Resource Conservation and Recovery Act (RCRA) — **Proposed Rule Stage**

3367. OIL POLLUTION PREVENTION REGULATION

Significance: Agency Priority

Legal Authority: 33 USC 1321 /CWA 311(j)(1)(c)

CFR Citation: 40 CFR 112

Legal Deadline: None

Abstract: Following a major oil spill with substantial environmental impacts

(i.e., Ashland Oil in Floreffe, PA in January, 1988) an interagency task force reviewed the adequacy of regulations concerning the prevention and control of oil spills. The task force recommended an upgrade to the Oil Pollution Prevention Regulation and an inventory of the regulated community. A two-phased regulatory approach is being pursued. In Phase I, the existing regulation will be clarified to indicate that widely accepted industry practices that are currently treated as recommended practices henceforth may be considered as required practices. The Phase II regulatory effort may address other recommended modifications, such as contingency planning.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
Final Action	12/00/91	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2634.

FTS:8-382-4130.

Agency Contact: John M. Cunningham, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-210), Washington, DC 20460, 202 382-4130

RIN: 2050-AC62

3368. MANDATORY INSPECTIONS OF HAZARDOUS WASTE MANAGEMENT FACILITIES

Legal Authority: 42 USC 6927(e) /RCRA 3007(e)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This action establishes requirements for mandatory inspections of treatment, storage, and disposal facilities for hazardous waste. The regulation establishes the manner, frequency, recordkeeping, and reporting of the inspections.

Timetable:

Action	Date	FR Cite
NPRM	10/00/92	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2332.

FTS:8-475-9849.

Agency Contact: Peter Siebach, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-520), Washington, DC 20460, 202 475-9849

RIN: 2050-AB59

3369. ● NEW AND REVISED TESTING METHODS APPROVED FOR RCRA SUBTITLE C HAZARDOUS WASTE TESTING MANUAL SW-846, THIRD EDITION, UPDATE II

Legal Authority: 42 USC 6912; 42 USC 6921; 42 USC 6924; 42 USC 6925; 42 USC 6926

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 264; 40 CFR 265; 40 CFR 268; 40 CFR 270

Legal Deadline: None

Abstract: This regulatory action will revise certain testing methods and add other new testing methods that are approved or required under Subtitle C of RCRA. These new and revised methods are found in Update II to the Third Edition of "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA publication SW-846. The revision to the manual is necessary to provide improved and more complete analytical methods for RCRA-relating testing.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
Final Action	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAR No. 2826.

FTS:8-382-4761.

Agency Contact: Charles Bellera, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-331), Washington, DC 20460, 202 382-4761

RIN: 2050-AD06

3370. ● DEGRADABLE PLASTIC RING CARRIER REGULATION

Legal Authority: PL 100-556/Sections 101-103

CFR Citation: 40 CFR 234

Legal Deadline: Final, Statutory, October 28, 1990.

Abstract: Plastic ring carriers have been found in the marine environment and fish and other wildlife have become entangled in them. Ring carriers were identified as an article of concern in the marine environment in EPA's February 1990 report to Congress on plastics. Congress has determined that degradable carriers should reduce the incidence of entanglement and has directed EPA to develop regulations that ring carriers be made of degradable material unless EPA finds that degradable rings pose more risk than non-degradable rings. EPA will specify timeframe and testing methods. Nearly half of the States currently require degradable rings. Nearly all rings manufactured in the US are currently degradable.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
Final Action	10/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAR No. 2799.

FTS:8-382-5049.

Agency Contact: Susan Mooney, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-301), Washington, DC 20460, 202 382-5049

RIN: 2050-AD09

3371. NO-MIGRATION VARIANCE FOR PROHIBITED HAZARDOUS WASTE LAND DISPOSAL

Significance: Regulatory Program

Legal Authority: 42 USC 6905 /RCRA 1006; 42 USC 6912(a) /RCRA 2002(a); 42 USC 6921 /RCRA 3001; 42 USC 6924 /RCRA 3004

CFR Citation: 40 CFR 268

Legal Deadline: None

Abstract: The Agency is considering a regulation that further specifies the process for operators to apply for and receive variances that would allow the land disposal of untreated hazardous wastes that have been prohibited from land disposal under 40 CFR 268. The variance would be available for land disposal units that demonstrate that

there will be no migration of hazardous constituents from the unit for as long as the waste remains hazardous.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAR No. 2524.

FTS:8-382-4675.

Accompanying draft guidance manual will be made available concurrent with publication of proposal. Guidance will assist facility owners and operators in characterizing environmental media of concern and environmental pathways along which constituent migration may occur.

Agency Contact: Dave Reeves, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-321), Washington, DC 20460, 202 382-4675

RIN: 2050-AC44

3372. CAUSES FOR PERMIT MODIFICATIONS TO HAZARDOUS WASTE MANAGEMENT FACILITIES

Legal Authority: 42 USC 6906/RCRA 1006; 42 USC 6912/RCRA 2002; 42 USC 6924/RCRA 3004; 42 USC 6925/RCRA 3005; 42 USC 6927/RCRA 3007; 42 USC 6974

CFR Citation: 40 CFR 270.41

Legal Deadline: None

Abstract: This amendment may allow EPA to modify a permit to correct an inadvertent omission of an applicable requirement under RCRA which is in effect prior to the data of permit issuance. The permit correction would follow the modification procedures in 40 CFR 124. Citizens would be able to request such a correction using existing procedures in 40 CFR 124.5.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
Final Action	12/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2780.

FTS:8-475-7245.

Agency Contact: Wayne Roepe, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-341), Washington, DC 20460, 202 382-7245

RIN: 2050-AD05

3373. MUNICIPAL WASTE COMBUSTOR ASH MANAGEMENT

Significance: Regulatory Program

Legal Authority: 42 USC 6907 /RCRA 1008; 42 USC 6944 /RCRA 4004; 42 USC 6949 /RCRA 4010

CFR Citation: 40 CFR Not yet determined

Legal Deadline: None

Abstract: Based on preliminary data, EPA has determined a need to develop a management scheme for handling and disposing of municipal waste combustor ash. The 101st Congress is considering several legislative initiatives which would regulate all ash from municipal waste combustors (MWC) under Subtitle D of RCRA and require EPA to develop management standards for the treatment, transportation, storage, disposal, and recycling/reuse of MWC ash. Once such legislation is enacted, EPA will publish its schedule for the proposal and final promulgation of ash regulations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2484.

FTS:8-382-4480.

Agency Contact: Doreen Sterling, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-301), 202 382-4480

RIN: 2050-AC24

3374. MANAGEMENT OF USED OIL

Significance: Regulatory Program

Legal Authority: 42 USC 6921/RCRA 3001; 42 USC 6925/RCRA 3005; 42 USC 6930/RCRA 3010; 42 USC 6935/RCRA 3014

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 266; 40 CFR 270; 40 CFR 271

Legal Deadline: NPRM, Statutory, November 8, 1985. Final, Statutory, November 8, 1986.

Abstract: EPA's decision not to list recycled oil as hazardous waste (51 FR 41900, 11/19/86) was remanded by the U.S. Court of Appeals (D.C. Circuit) on 10/7/88. EPA is reexamining its options for listing and management of used oil. EPA is collecting additional information on the potential toxicity of used oil to be made available for public comment. The Agency also projects issuing a new proposal for management standards in 1991.

Timetable:

Action	Date	FR Cite
NPRM	11/29/85	50 FR 49212
FINAL (Listing Decision for Recycled Used Oil)	11/19/86	51 FR 41900
NPRM (Listing Decision)	10/00/90	
Final Action (Management Standards)	06/00/91	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2434.

FTS:8-382-4770.

Docket No. 3014

Agency Contact: Denise Wright, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-333), Washington, DC 20460, 202 382-4770

RIN: 2050-AC17

3375. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES - DE MINIMIS EXEMPTION LEVELS

Significance: Regulatory Program

Legal Authority: 42 USC 6921/ 3001 ; 42 USC 6905; 42 USC 6912(a); 42 USC 6922

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 264; 40 CFR 265; 40 CFR 270; 40 CFR 271; 40 CFR 302

Legal Deadline: None

Abstract: This action exempts from RCRA Subtitle C regulation any currently listed wastes that are not hazardous because the hazardous constituents are present at levels lower than the concentration levels established by this rule.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2482.

FTS:8-382-4770.

Entries combined, formerly titled "Concentration-Based Relisting of Wastes From Chlorinated Aliphatics" and "Concentration-Based Relisting of Wastes From Explosives, Inorganic Chemicals, and Iron and Steel Industries."

Agency Contact: William Collins, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-332), Washington, DC 20460, 202 382-4770

RIN: 2050–AC25

3376. DETERMINATION ON SOLID WASTE FROM SELECTED METALLIC ORE PROCESSING OPERATIONS

Significance: Regulatory Program

Legal Authority: 42 USC 6921 /RCRA 3001; 42 USC 6982 /RCRA 8002

CFR Citation: 40 CFR 261

Legal Deadline: Other, Statutory, January 31, 1991. NPRM, Judicial. Final, Judicial.

Abstract: EPA has completed development of a list of "high-volume", "low-hazard" ore processing wastes for study under Section 8002(p) of RCRA, in response to an opinion of the U.S. Court of Appeals for the DC Circuit (EDF v. EPA, 852 F.2d 1316 (DC Cir. 1988) and has further completed a Section 8002 study and an accompanying Report to Congress addressing those processing wastes excluded from Subtitle C regulation by the "Bevill Amendment" 3001(b)(3)(A) RCRA. RCRA Section 3001(b)(3) requires the Agency, after public hearing and public comment, to determine within six months of submitting the report, whether to regulate any of these wastes under RCRA Subtitle C.

Timetable:

Action	Date	FR Cite
"High Volume, Low Hazard" Criteria		
NPRM	10/20/88	(53 FR 41288)
NPRM	04/17/89	(54 FR 15316)
Final Action	09/01/89	(54 FR 36592)
Application of Final Criteria		
NPRM	09/25/89	(54 FR 39298)
Final Action	01/23/90	(55 FR 2322)
Regulatory Determination		
Notice of Availability-Rpt to Cong	06/07/90	(55 FR 32135)
Notice of Determination	01/00/91	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAR No. 2651.

FTS:8-382-3608.

Agency Contact: Dan Derkics, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-323), Washington, DC 20460, 202 382-3608

RIN: 2050–AC41

3377. EXCLUSIONS FOR WASTE GENERATED ON-BOARD SHIPS (REVISION)

Legal Authority: 42 USC 6921/RCRA 3001; 42 USC 6922/RCRA 3002; 42 USC 6905/RCRA 1008; 42 USC 6912(a)/RCRA 2002(a)

CFR Citation: 40 CFR 261.4(c)

Legal Deadline: None

Abstract: EPA is considering a rule which would broaden an existing exemption in 40 CFR 261.4(c), currently limited to product or raw material vessels, to all vessels. The result of this change would be a consistent regulation for all vessel operators, both product and non-product. In all cases, hazardous wastes generated on-board ships would not be subject to the RCRA regulations for storage, manifesting, etc., until the waste is removed from the ship. The discharge of any wastes while underway is governed by regulations issued under the provision of the Clean Water Act, Rivers and Harbors Act, Refuse Act, CERCLA/SARA, and others.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAR No. 2635.

FTS:8-475-8551.

Agency Contact: Michele Anders, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-332), Washington, DC 20460, 202 475-8551

RIN: 2050–AC01

3378. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES FROM CHLOROTOLUENE PRODUCTION

Legal Authority: 40 USC 6905; 42 USC 6912(a); 42 USC 6922

CFR Citation: 40 CFR 261; 40 CFR 271; 40 CFR 302

Legal Deadline: Final, Statutory, February 8, 1988.
RCRA Section 3001(e) requires EPA to make a determination whether or not to list certain chlorinated aromatic wastes as hazardous wastes within 15 months of the passage of HSWA.

Abstract: The hazardous waste listing regulations may be amended to add new waste codes from the production of certain chlorinated aromatic waste and to designate these wastes as hazardous substances under CERCLA.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2718.

FTS:8-382-4770.

Agency Contact: Dr. Ambika Bathija, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-333), Washington, DC 20460, 202 382-4770

RIN: 2050–AC94

3379. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES FROM COKE BY-PRODUCT INDUSTRIES

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6922

CFR Citation: 40 CFR 261; 40 CFR 271; 40 CFR 302

Legal Deadline: Final, Statutory, February 8, 1988.

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EPA—RCRA

Proposed Rule Stage

RCRA Section 3001(e) requires EPA to make a determination whether or not to list coke by-product wastes within 15 months of the passage of HSWA.

Abstract: The hazardous waste listing regulations may be amended by adding eight new waste codes from the coke by-products industry. These wastes will be designated as hazardous substances under CERCLA.

Timetable:

Action	Date	FR Cite
NPRM	10/00/00	
Final Action	11/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2227.

FTS:8-382-4770.

Agency Contact: Ron Josephson, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-333), Washington, DC 20460, 202 382-4770

RIN: 2050-AC85

3380. 8 AMENDMENTS TO BIENNIAL REPORTING REQUIREMENTS

Legal Authority: RCRA 3002(a)(c)

CFR Citation: 40 CFR 262.41; 40 CFR 264.75; 40 CFR 271.10

Legal Deadline: None

Abstract: This amendment may require States to modify their hazardous waste reporting system to collect additional data elements from their large quantity generators and treatment, storage, and disposal (TSDs) facilities. Currently, States are required to collect only minimal data from generators on quantities and types of waste generated and how such waste are managed at TSDs. Such data are not sufficient for EPA to understand in any level of detail the demographics of hazardous waste generation and management in this country, and whether our regulations are having a desired effect. These minimal data requirements were established in 1985 with the codification of parts 40 CFR 262.41 (generators) and 40 CFR 264.75 and 40 CFR 265.75 [TSDs].

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAR No. 2857.

FTS:8-382-4697.

Agency Contact: Jim O'Leary, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-310), Washington, DC 20460, 202 382-4697

RIN: 2050-AD10

3381. LOCATION STANDARDS FOR HAZARDOUS WASTE FACILITIES

Significance: Regulatory Program

Legal Authority: 42 USC 6912/RCRA 2002; 42 USC 6924(o)(7)/RCRA 3004(o)(7)

CFR Citation: 40 CFR 260; 40 CFR 264; 40 CFR 265; 40 CFR 270

Legal Deadline: None

Abstract: Section 3004(o)(7) authorizes EPA to promulgate standards for the location of new and existing hazardous waste treatment, storage, and disposal facilities. EPA will amend existing floodplain and seismic zone standards promulgated in 1981, and will develop new standards that address a broader continuum of locations.

EPA is considering a rule which would use a twofold approach. The standards would first emphasize incentives to encourage siting of new facilities in environmentally-preferable settings. Incentives may include amending current financial assurance requirements for facilities in some settings or improving public access to a facility's location information. Second, EPA may expand existing standards for units in sensitive locations. Sensitive locations in addition to those addressed in 1981 may include wetlands, karst terraines, unstable areas and high resource-value groundwaters.

EPA's goal is to ensure that new facilities site in the most suitable locations and that existing ones adopt operating practices which minimize catastrophic waste releases. (cont)

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
Final Action	04/00/93	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2303.

FTS:8-475-7370.

ABSTRACT CONT: Ultimately, location standards will reduce both future cleanups at active RCRA facilities and the number of future Superfund sites, and will ensure long-term public health and environmental protection.

Agency Contact: Felicia Wright, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-321), Washington, DC 20460, 202 475-7370

RIN: 2050-AB42

3382. LANDFILL, SURFACE IMPOUNDMENT, AND WASTE PILE CLOSURES FOR HAZARDOUS WASTE MANAGEMENT FACILITIES

Significance: Regulatory Program

Legal Authority: 42 USC 6924 /RCRA 3004

CFR Citation: 40 CFR 264; 40 CFR 265; 40 CFR 270

Legal Deadline: None

Abstract: These regulations will provide alternate closure options for EPA and authorized states to establish closure and post-closure requirements on a site-specific basis. The regulations address waste and site characteristics, potential pathways of hazardous constituent migration, and health effects. These rules allow for cover systems to be designed base on unique site and waste characteristics. EPA originally proposed this rule on March 19, 1987 (52 FR 8712); the Agency will repropose the rule.

Timetable:

Action	Date	FR Cite
NPRM	03/19/87	52 FR 8712
NPRM (Reproposal)	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

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Government Levels Affected: State, Federal

Additional Information: SAR No. 2391.

FTS:8-475-8860.

Agency Contact: Les Otte, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-321), Washington, DC 20460, 202 475-8860

RIN: 2050-AB81

3383. LAND DISPOSAL RESTRICTIONS FOR SOIL AND DEBRIS CONTAINING HAZARDOUS WASTES

Significance: Regulatory Program

Legal Authority: 42 USC 6924 /RCRA 3004

CFR Citation: 40 CFR 268

Legal Deadline: None

Abstract: The Agency is investigating the need to set separate treatment standards for soil and debris containing hazardous wastes. By statute, these wastes are subject to the Land Disposal Restrictions. If necessary, the Agency will further subcategorize the waste streams to provide separate treatment standards applicable to such wastes.

Timetable:

Action	Date	FR Cite
NPRM	09/00/91	
Final Action	09/00/92	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2461.

FTS:8-475-7702.

Agency Contact: Jerry Vorbach, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-322), Washington, DC 20460, 202 475-7762

RIN: 2050-AC03

3384. PERMITTING EXPERIMENTAL FACILITIES CONDUCTING HAZARDOUS WASTE RESEARCH

Legal Authority: 42 USC 6924 / RCRA 3004; 42 USC 6925 / RCRA 3005

CFR Citation: 40 CFR 264; 40 CFR 270

Legal Deadline: None

Abstract: This proposal will establish special permitting procedures for experimental facilities conducting research and development on the storage, treatment, or disposal of hazardous waste. The regulations may allow experimental facilities considerable flexibility in operating according to an approved research plan, without requiring frequent permit modifications as details of the research changed.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2439.

FTS:8-382-4606.

Agency Contact: Barbara Foster, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-341), Washington, 20460, 202 382-4606

RIN: 2050-AC04

3385. CORRECTIVE ACTION FOR RELEASES TO GROUND WATER FROM REGULATED HAZARDOUS WASTE UNITS

Significance: Regulatory Program

Legal Authority: 42 USC 6924 /RCRA 3004

CFR Citation: 40 CFR 264; 40 CFR 270

Legal Deadline: None

Abstract: These regulations will amend the technical and procedural requirements for conducting corrective action to clean up significant releases to ground water from regulated hazardous waste units at operating, closed, or closing RCRA facilities. The regulations will be used to amend the structure of the program and the requirements for implementing remedial action, remedy selection and corrective measures.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2503.

FTS:8-382-4885.

Agency Contact: Vernon Myers, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-321), Washington, DC 20460, 202 382-4885

RIN: 2050-AC28

3386. RCRA SUBTITLE C FINANCIAL TEST CRITERIA (REVISION)

Legal Authority: 42 USC 6905/RCRA 1008; 42 USC 6912(a)/RCRA 2002(a); 42 USC 6924/RCRA 3004; 42 USC 6925/RCRA 3005

CFR Citation: 40 CFR 264; 40 CFR 265

Legal Deadline: None

Abstract: This amendment will revise financial test criteria that must be satisfied by TSDF owners and operators employing the test to demonstrate RCRA financial responsibility requirements. The anticipated revisions will adjust test criteria so as to increase availability of this assurance mechanism to financially viable and stable firms and increase sensitivity to bankruptcy prediction.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2647.

FTS:8-382-6259.

Agency Contact: Ed Coe, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-341), Washington, DC 20460, 202 382-6259

RIN: 2050-AC71

3387. DEFINITION OF HAZARDOUS WASTE TANK, SURFACE IMPOUNDMENT AND WASTE PILE (REVISION)

Significance: Regulatory Program

Legal Authority: 42 USC 6924/RCRA3004

CFR Citation: 40 CFR 260

Legal Deadline: None

Abstract: The Agency is receiving information on an increasing number of situations where it is difficult to determine whether specific types of hazardous waste management units

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meet the definition of a tank, waste pile or surface impoundment. EPA intends to clarify the difference between these units by revising the definitions for these units in 40 CFR260.1. In particular, EPA expects to address the use of liners for primary containment as well as other issues relating to the use of "earthen" and "nonearthen" materials.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2004.

FTS:8-475-9814.

Agency Contact: William Kline, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-321), Washington, DC 20460, 202 475-9814

RIN: 2050-AC72

3388. HAZARDOUS WASTE SUMP REQUIREMENTS IN RESPONSE TO RULEMAKING PETITION (REVISION)

Legal Authority: 42 USC 6905; 42 USC 6912; 42 USC 6921; 42 USC 6974; 42 USC 6934; 42 USC 6925

CFR Citation: 40 CFR 260; 40 CFR 264; 40 CFR 265

Legal Deadline: None

Abstract: This regulation will address a petition for rulemaking submitted by the Boeing Company, requesting that EPA amend several hazardous waste tank system requirements as applied to certain existing sumps. A sump is a type of tank. The petition focuses on those existing sumps that are situated inside of buildings and constructed as an integral part of the building's floor or foundation. The petitioner argues that because of differences in design, construction, and use, these sumps should be regulated independently of other hazardous waste storage/treatment tank systems.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2675.

FTS:8-475-9614.

Agency Contact: William J. Kline, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-321), Washington, DC 20460, 202 475-9814

RIN: 2050-AC79

3389. HAZARDOUS WASTE MANAGEMENT SYSTEM: GROUND WATER MONITORING CONSTITUENTS (PHASE II) AND METHODS

Significance: Regulatory Program

Legal Authority: 42 USC 3251/RCRA 3004 and 3005

CFR Citation: 40 CFR 264; 40 CFR 270

Legal Deadline: None

Abstract: The Appendix IX of 40 CFR Part 264 is a list of hazardous constituents presently referenced in 40 CFR Part 264 for use in ground water monitoring. This proposed amendment would make minor revisions to Appendix IX and create a new list for the first part (Detection Monitoring) of the ground water monitoring program. This proposal would also include a more detailed discussion of the appropriate monitoring techniques than currently exists in the regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2435.

FTS:8-475-7240.

Agency Contact: James Brown, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-321), Washington DC 20460, 202 475-7240

RIN: 2050-AC05

3390. COMPLIANCE MONITORING AND ENFORCEMENT REQUIREMENTS FOR STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

Legal Authority: 42 USC 6926 / RCRA 3006

CFR Citation: 40 CFR 271.15; 40 CFR 271.16

Legal Deadline: None

Abstract: Regulations governing State Authorization requirements for compliance monitoring and enforcement actions may be revised to reflect the Hazardous and Solid Waste Amendments of 1984. EPA will consider other changes such as requirement for states to have administrative penalty authority.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: SAR No. 2158.

FTS:8-475-8729.

Agency Contact: Nancy Parkinson, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-520), Washington, DC 20460, 202 475-8729

RIN: 2050-AB01

3391. ● TREATMENT OF INDIAN TRIBES AS STATES (FOR RCRA SUBTITLE C PROGRAM AUTHORIZATION)

Legal Authority: 42 USC 6926(b)/3006(b)

CFR Citation: 40 CFR 271 (Revision)

Legal Deadline: None

Abstract: The Agency has decided to treat Indian Tribes as States for purposes of the Subtitle C program. This regulation will establish the definition of an Indian Tribe and the criteria an Indian Tribe must meet in order to be treated as a State for authorization purposes. Since the Agency also decided that Indian Tribes may be authorized for partial programs (States are not allowed partial State programs under RCRA authorization), the regulation will address this program difference. The regulation will also address Indian capability, including criminal enforcement capability. This regulation fulfills EPA's stated 1984 Indian Policy by ensuring the close involvement of tribal governments in making decisions and managing environmental programs affecting reservation lands.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAR No. 2827.

FTS:8-382-2210.

Agency Contact: Karen Morley, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-342), Washington, DC 20460, 202 382-2210

RIN: 2050–AD07

3392. MINING WASTE MANAGEMENT UNDER RCRA SUBTITLE D

Significance: Regulatory Program

Legal Authority: 42 USC 6941 to 6949 /RCRA 4001-4009

CFR Citation: 40 CFR Not yet determined

Legal Deadline: None

Abstract: Based on the first mining waste Report to Congress submitted 12/31/85, comments on the report, and other available information, EPA has determined that regulation of wastes from the extraction and beneficiation of ores and minerals under Subtitle C of the Resource Conservation and Recovery Act (RCRA) is not warranted at this time (51 FR 24496). Instead, EPA plans to develop a program for mining waste under Subtitle D of RCRA, working with the States to determine the specific nature of their current mining waste activities and their future plans to administer such programs. EPA will propose a set of criteria for the proper disposal of mining wastes under RCRA Subtitle D authority. EPA will also work with other Federal agencies (e.g., DOI, USGS) to avoid duplication in regulatory efforts.

Timetable:

Action	Date	FR Cite
NPRM	09/00/91	
Final Action	01/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Additional Information: SAR No. 2389.

FTS:8-475-7242.

Agency Contact: Stephen Hoffman, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-323), Washington, DC 20460, 202 475-7242

RIN: 2050–AB77

3393. FINANCIAL TEST FOR LOCAL GOVERNMENTS THAT OWN/OPERATE MUNICIPAL SOLID WASTE LANDFILLS

Legal Authority: 42 USC 6941 to 6949/RCRA 4001 to 4009

CFR Citation: 40 CFR 258

Legal Deadline: None

Abstract: This rule would allow financially strong local governments that own/operate municipal solid waste landfills the option of using a financial test to demonstrate financial assurance for costs associated with closure, post-closure, and corrective action of known releases.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
Final Action	12/00/91	

Small Entities Affected: None

Government Levels Affected: Local

Additional Information: SAR No. 2761.

FTS:8-382-6250.

Agency Contact: Ed Coe, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-341), Washington, DC 20460, 202 382-6250

RIN: 2050–AD04

3394. ● MATERIALS SOURCE SEPARATION FOR MUNICIPAL WASTE LANDFILLS (MSWLFS)

Legal Authority: RCRA 4004(a); RCRA 4001; RCRA 4003(a); RCRA 4010(c)

CFR Citation: 40 CFR 256; 40 CFR 257; 40 CFR 258

Legal Deadline: None

Abstract: In response to the shortage of waste landfill capacity, EPA issued in 1989 a strategy for improving the nation's management of municipal solid waste (MSW). As part of this strategy, EPA set a national goal of 25% source reduction and recycling by 1992.

In 1989, EPA proposed air standards for new and existing municipal waste combustors (MWC) that included a 25% mandatory material separation provision. EPA is considering whether to publish a source separation proposal appropriate for MSWLFs. This proposal is in keeping with the general statutory objectives of Subtitle D of RCRA.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAR No. 2821.

FTS:8-382-4469.

Agency Contact: Doreen Sterling, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-301), Washington, DC 20460, 202 382-4469

RIN: 2050–AD08

3395. MUNICIPAL SOLID WASTE LANDFILLS; STATE PROGRAM DETERMINATION OF ADEQUACY

Legal Authority: 42 USC 6945/RCRA 4005

CFR Citation: 40 CFR 239

Legal Deadline: None

Abstract: Regulations will describe procedures EPA will use to make determinations of adequacy for State Solid Waste permitting programs, as required by Section 4005 of the Solid Waste Disposal Act, as amended (RCRA). This state adequacy determination regulation is critical to the successful implementation of the Revised Criteria. Section 4005(c)(1)(B) requires States to adopt and implement a permit program, or other system of prior approval, within 18 months after the promulgation of revised criteria under Section 4004(a), as required by Section 4010(c). Section 4005(c)(1)(C) requires the Administrator to determine whether each State has developed an "adequate permit program" under this paragraph.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: SAR No. 2751.

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FTS:8-382-7920

Agency Contact: Timothy Jones, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-331), Washington, DC 20460, 202 382-7920

RIN: 2050–AD03

3396. UNDERGROUND STORAGE TANKS CONTAINING HAZARDOUS SUBSTANCES - FINANCIAL RESPONSIBILITY REQUIREMENTS

Legal Authority: 42 USC 6991 /RCRA 9003

CFR Citation: 40 CFR 280

Legal Deadline: Final, Statutory, August 8, 1988.

Abstract: This regulation will establish, under Subtitle I of RCRA (as amended by SARA), requirements for demonstrating financial responsibility for taking corrective action and compensating third parties for bodily injury and property damage caused by releases from underground storage tanks (USTs) containing hazardous substances. An ANPRM was published to help gather data (e.g., frequency of releases from such USTs, costs of corrective action and third-party damages, and the regulated community's financial condition and use of financial assurance mechanisms) needed for the development of a proposed rule.

Timetable:

Action	Date	FR Cite
ANPRM	02/19/88	53 FR 3818
NPRM	09/00/91	
Final Action	09/00/92	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAR No. 2465.

FTS:8-382-7903.

Agency Contact: Sammy K. Ng, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-410), Washington, DC 20460, 202 382-7903

RIN: 2050–AC15

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Resource Conservation and Recovery Act (RCRA)

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3397. ● UNDERGROUND STORAGE TANKS CONTAINING PETROLEUM - FINANCIAL RESPONSIBILITY REQUIREMENTS: EXTENSION OF 10/26/88 COMPLIANCE DEADLINE

Legal Authority: 42 USC 6921/42 USC 6921/42 USC 6991

CFR Citation: 40 CFR 280; 40 CFR 281

Legal Deadline: None

Abstract: This rule will extend the October 26, 1990, financial responsibility compliance date for one year. Based on an on-going review of financial assurance markets, EPA is concerned that financial assurance mechanisms are not becoming available rapidly enough to meet the needs of tank owners that have to comply by October 26, 1990. Therefore, EPA has decided to modify this compliance date.

Timetable:

Action	Date	FR Cite
NPRM	07/06/90	55 FR 27837
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2817.

FTS:8-382-7903.

Agency Contact: Sammy Ng, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-410), Washington, DC 20460, 202 382-7903

RIN: 2050–AD14

3398. MEDICAL WASTE DEMONSTRATION TRACKING PROGRAM

Significance: Regulatory Program

Legal Authority: 42 USC 6992/Medical Waste Tracking Act

CFR Citation: 40 CFR 259

Legal Deadline: Other, Statutory, May 30, 1989.
The legal deadline prescribed is for an interim final rule by May 1989.

Abstract: Because of the numerous incidents of public exposure to improperly disposed medical waste Congress passed the Medical Waste Tracking Act of 1988. The Act requires EPA to develop a two-year demonstration tracking program for medical waste. The demonstration program sets forth segregation, packaging, labeling, tracking, transportation, and recordkeeping requirements of medical waste generated in the covered States, and lists the wastes to be covered by the program. The emphasis of the tracking program is to assure the generator that the waste is delivered to a proper disposal facility. States participating in the program include New York, New Jersey, Connecticut (effective 6/22/89), Rhode Island, and Puerto Rico (effective 7/24/89).

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/24/89	54 FR 12326
Technical Correction	07/02/90	55 FR 27226
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2653.

FTS:8-475-8551.

Agency Contact: Michaelle Wilson, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-332), Washington, DC 20460, 202 475-8551

RIN: 2050–AC74

3399. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES - PETROLEUM REFINERY PRIMARY TREATMENT SLUDGE

Significance: Regulatory Program

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 9602

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 263; 40 CFR 264; 40

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CFR 265; 40 CFR 266; 40 CFR 270; 40 CFR 271; 40 CFR 302

Legal Deadline: Other, Statutory, February 8, 1988.
Statutory deadline to determine whether to list "refining wastes" no later than February 8, 1988.

Abstract: This action announces EPA's decision whether or not to list these wastes as hazardous under RCRA. If the wastes are listed as hazardous, they will be subject to requirements contained in 40 CFR Parts 262-266 and Parts 268, 270, 271, and 124.

Timetable:

Action	Date	FR Cite
NPRM	11/20/80	45 FR 74893
Notice	02/11/85	50 FR 5637
Notice	04/13/88	53 FR 12162
Final Action	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2236.

FTS:8-382-4770

For Further Information Contact: RCRA/Superfund Hotline (800-424-9346); in Washington, DC (382-3000)

Agency Contact: John Austin, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-333), Washington, DC 20460, 202 382-4770

RIN: 2050-AB70

3400. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES - WOOD PRESERVING AND SURFACE PROTECTION WASTE

Significance: Regulatory Program

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 9602

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 263; 40 CFR 264; 40 CFR 265; 40 CFR 266; 40 CFR 270; 40 CFR 271; 40 CFR 302

Legal Deadline: Final, Statutory, May 8, 1985. Final, Judicial, June 30, 1990. Best efforts to promulgate by 06/30/90.

Abstract: This action announces EPA's decision whether or not to list these wastes as hazardous under RCRA. Once listed as hazardous, these wastes will be subject to those requirements contained in 40 CFR Parts 262-266 and Parts 268, 270, 271 and 124.

Timetable:

Action	Date	FR Cite
NPRM	12/30/88	53 FR 53282
Final Action	11/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2174.

FTS:8-382-4770.

Agency Contact: Ed Abrams, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-333), Washington, DC 20460, 202 382-4770

RIN: 2050-AC43

3401. RCRA DEFINITION OF SOLID WASTE (REVISION)

Legal Authority: 42 USC 6905 /RCRA 1006; 42 USC 6912 /RCRA 2002; 42 USC 6921 /RCRA 3001; 42 USC 6922 /RCRA 3002

CFR Citation: 40 CFR 261

Legal Deadline: None

Abstract: This regulation will provide: (1) the Agency's interpretation of court opinions concerning the Agency's authority in regulating certain recycled hazardous secondary materials and (2) amendments to the rules required by the courts' opinions.

Timetable:

Action	Date	FR Cite
NPRM	01/06/88	53 FR 519
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: SAR No. 2575.

FTS:8-475-8551.

Agency Contact: Mitch Kidwell, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-332), Washington, DC 20460, 202 475-8551

RIN: 2050-AC68

3402. SOLID WASTE DISPOSAL FACILITY CRITERIA

Significance: Regulatory Program

Legal Authority: 42 USC 6907(a)(3)/RCRA 1008(a)(3); 42 USC 6944(a)/RCRA 4004(a); 42 USC 6949(a) to (c)/RCRA 4010(a) to (c); 33 USC 1345(d)/CWA 405(d); 33 USC 1345(e)/CWA 405(e)

CFR Citation: 40 CFR 257; 40 CFR 258

Legal Deadline: Final, Statutory, March 31, 1988.

Abstract: The Hazardous and Solid Waste Amendments of 1984 (HSWA) require that EPA, by March 31, 1988, revise the Subtitle D criteria for facilities that may receive hazardous household wastes or hazardous wastes from small quantity generators. In response to this statutory mandate, EPA is revising the Subtitle D criteria for municipal landfills. The statute requires that, at a minimum these criteria include groundwater monitoring requirements, location standards, and corrective action requirements as appropriate.

Timetable:

Action	Date	FR Cite
NPRM	08/30/88	53 FR 33314
NPRM Comment Period End	11/30/88	53 FR 41210
Final Action	10/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2224.

FTS:8-382-4667.

Agency Contact: Allen Gerwein, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-301), Washington, DC20460, 202 382-4667

RIN: 2050-AB21

3403. TEST METHODS FOR EVALUATING SOLID WASTE (MANUAL SW846 THIRD EDITION) INCORPORATION BY REFERENCE AND MANDATORY GOOD LABORATORY PRACTICES—UPDATE 1

Legal Authority: 42 USC 6912 /RCRA 2002

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 264; 40 CFR 265; 40 CFR 266; 40 CFR 270

Legal Deadline: None

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Abstract: This action proposes to update testing methods in the RCRA testing regulations to: a) permit persons to use the latest (3rd) edition of Test Methods for Evaluating Solid Waste (SW-846); and b) require that all testing conducted in support of the RCRA regulatory program follow minimum good laboratory practices and quality control/quality assurance procedures.

Timetable:

Action	Date	FR Cite
NPRM	01/23/89	54 FR 3212
NPRM (Supplemental)	02/08/90	55 FR 4440
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2207.

FTS:8-382-4761.

Agency Contact: Charles Sellers, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-331), Washington, DC 20460, 202 382-4761

RIN: 2050-AC32

3404. HAZARDOUS WASTE MANAGEMENT SYSTEM, AMENDMENT TO SUBPART C RULEMAKING PETITIONS: USE OF GROUNDWATER DATA IN DELISTING DECISIONS

Legal Authority: 42 USC 6903 /RCRA 1004; 42 USC 6921 /RCRA 3001

CFR Citation: 40 CFR 260.22

Legal Deadline: None

Abstract: This amendment as proposed will generally require those who submit delisting petitions for hazardous wastes to provide groundwater monitoring data as part of their petition. The amended regulations will clarify the Agency's existing authority to consider the impact of a petitioned waste on groundwater and deny a petition based on groundwater contamination. EPA is seeking this amendment to clarify its authority to request and consider such data in delisting decisions.

Timetable:

Action	Date	FR Cite
NPRM	10/12/89	54 FR 41830
Final Action	06/00/91	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Additional Information: SAR No. 2622.

FTS:8-382-2224.

Agency Contact: Robert Kayser, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-343), Washington, DC 20460, 202 382-2224

RIN: 2050-AC65

3405. DISPOSAL OF CONTAINERIZED LIQUIDS IN HAZARDOUS WASTE LANDFILLS

Significance: Regulatory Program

Legal Authority: 42 USC 6924(c) / RCRA 3004(c)

CFR Citation: 40 CFR 260; 40 CFR 264; 40 CFR 265; 40 CFR 271

Legal Deadline: Final, Statutory, February 8, 1986.

Abstract: The Agency has proposed these regulations under the Hazardous and Solid Waste Amendment of 1984. As proposed, the regulation will 1) minimize the placement of containers holding liquid hazardous waste and free liquids in hazardous waste landfills, 2) minimize the presence of free liquids in containers holding hazardous waste to be disposed of in landfills and 3) prohibit the use of absorbents that biodegrade or release liquids when compressed.

Timetable:

Action	Date	FR Cite
NPRM	12/24/86	51 FR 46824
Notice of Availability of Supplemental Information	06/24/87	52 FR 23695
Final Action	07/00/94	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Additional Information: SAR No. 2207.

FTS:8-475-8560.

Agency Contact: Lee Otte, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-321), Washington, DC 20460, 202 475-8560

RIN: 2050-AA34

3406. BURNING OF HAZARDOUS WASTE IN BOILERS AND INDUSTRIAL FURNACES

Significance: Regulatory Program

Legal Authority: 42 USC 6924 / RCRA 3004; 42 USC 6925/RCRA 3005

CFR Citation: 40 CFR 266

Legal Deadline: None

Abstract: Burning of hazardous waste in boilers and industrial furnaces for the purpose of heat recovery or material recovery is currently exempt from regulation under RCRA. The Hazardous and Solid Waste Amendments of 1984 require the Agency to develop technical standards for the burning of hazardous waste fuels. This regulation will establish standards for controlling emissions of organic compounds, metals, and hydrogen chloride from boilers and industrial furnaces that burn hazardous waste for any purpose, including energy recovery, material recovery, or destruction. It also considers questions on status of residues from Bevill devices burning non-Bevill hazardous wastes.

Timetable:

Action	Date	FR Cite
NPRM	05/06/87	52 FR 16982
NPRM (Supplemental)	10/26/89	54 FR 43718
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2078.

FTS-8-382-7921.

Agency Contact: Dwight Hlustick, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-322), Washington, DC 20460, 202 382-7921

RIN: 2050-AA72

3407. LINERS AND LEAK DETECTION FOR HAZARDOUS WASTE LAND DISPOSAL UNITS

Significance: Regulatory Program

Legal Authority: 42 USC 6924 / RCRA 3004(o); 42 USC 6925 / RCRA 3005

CFR Citation: 40 CFR 264; 40 CFR 265; 40 CFR 260; 40 CFR 270; 40 CFR 271

Legal Deadline: NPRM, Statutory, May 8, 1987.

Abstract: EPA has proposed these regulations under the authority of section 3004(a) and 3004(o)(4) of the Resource Conservation and Recovery Act. The regulations, as proposed, would require: 1) new landfills, surface impoundments, waste piles, and land treatment units for the treatment, storage, or disposal of hazardous wastes to utilize an approved leak detection system; 2) double liners and leachate collection systems for waste piles, and certain landfills and surface impoundments; and 3) development of a construction quality assurance program for certain landfills and surface impoundments, as well as final covers at land treatment units. EPA originally proposed this rule on May 29, 1987 (52 FR 20218); the Agency may repropose the double liner sections of the rule.

Timetable:

Action	Date	FR Cite
NPRM	05/29/87	52 FR 20218
Final Action	09/00/92	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAR No. 2080.

FTS-8-382-4654.

Agency Contact: Les Otte, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-321), Washington, DC 20460, 202 382-4654

RIN: 2050–AA76

3408. AMENDMENTS TO GROUND-WATER MONITORING AT HAZARDOUS WASTE FACILITIES

Significance: Regulatory Program

Legal Authority: 42 USC 6924 to 6927/RCRA 3004 to 3007

CFR Citation: 40 CFR 260; 40 CFR 264; 40 CFR 270

Legal Deadline: None

Abstract: This action will change the Subpart F ground-water monitoring regulations. The following is a summary of the major proposed changes: - require use of site-specific data and modeling predictions on containment fate and transport for groundwater monitoring variances; - allow flexibility in well installation requirements when existing physical obstacles present installation at the point of compliance; - clarify the definition of waste management area and provide flexibility in determining the appropriate monitoring or response programs for individual areas; - allow flexibility in schedules for submittal of the information upon approval by the Regional Administrator (RA); clarify the RA's authority to require monitoring of any flow pathway in the uppermost aquifer and unsaturated zone; - clarify the RA's authority to designate supplemental monitoring (cont)

Timetable:

Action	Date	FR Cite
NPRM	07/26/88	53 FR 28160
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2277.

FTS:8-382-4654.

ABSTRACT CONT: wells when justified by complicated monitoring situations; and allow a return to detection or compliance monitoring as appropriate; - add quality assurance and quality control requirements for groundwater monitoring devices and methods.

Agency Contact: Neal Durant, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-321), Washington, DC 20460, 202 382-4654

RIN: 2050–AB20

3409. DOUBLE LINER AND LEACHATE COLLECTION SYSTEMS FOR HAZARDOUS WASTE LAND DISPOSAL UNITS

Significance: Regulatory Program

Legal Authority: 42 USC 6924(o)/RCRA 3004o)

CFR Citation: 40 CFR 264; 40 CFR 265; 40 CFR 260; 40 CFR 270; 40 CFR 144

Legal Deadline: Final, Statutory, November 1990.

Abstract: This rule establishes minimum technology requirements (e.g., double liners and leachate collection systems) for new hazardous waste landfills and surface impoundments, as well as lateral expansions and replacements to existing landfills and surface impoundments. This rule will establish standards for these systems enabling unit owners and operators to design and construct systems that will protect human health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	03/26/86	51 FR 10706
Notice of Availability of Information	04/17/87	52 FR 12566
Final Action	09/00/92	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAR No. 2366.

FTS:8-475-8350.

Agency Contact: Les Otte, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-321), Washington, DC 20460, 202 475-8569

RIN: 2050–AB76

3410. CORRECTIVE ACTION FOR SOLID WASTE MANAGEMENT UNITS (SWMUS) AT HAZARDOUS WASTE MANAGEMENT FACILITIES

Significance: Regulatory Program

Legal Authority: 42 USC 6924 / RCRA 3004(u), 3004(v)

CFR Citation: 40 CFR 264; 40 CFR 270

Legal Deadline: None

Abstract: These regulations set forth the technical and procedural requirements for conducting corrective action to clean up significant releases to air, surface water, ground water and soil at solid waste management units (SWMUs) at operating, closed, or closing RCRA facilities. The regulations will be used to define the structure of the program, and the requirements for implementing remedial action, remedy selection and corrective measures. Currently, the permitting agencies must make case-by-case decisions on action.

Timetable:

Action	Date	FR Cite
NPRM	07/24/90	55 FR 30798
Final Action	01/00/93	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

EPA—RCRA

Final Rule Stage

Additional Information: SAR No. 2390.

FTS:8-382-4497.

Agency Contact: David Fegan, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-341), Washington, DC 20460, 202 382-4497

RIN: 2050-AB80

3411. EMISSION CONTROLS FOR HAZARDOUS WASTE INCINERATORS

Significance: Regulatory Program

Legal Authority: 42 USC 6924 / RCRA 3004; 42 USC 6925/RCRA 3005

CFR Citations: 40 CFR 264

Legal Deadline: None

Abstract: EPA intends to amend the incinerator standards of Subpart O of Part 264 by proposing additional controls on emissions of metals and residual organic compounds.

Timetable:

Action	Date	FR Cite
NPRM	04/27/90	55 FR 17662
Final Action	09/00/91	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2453.

FTS:8-382-7924.

Agency Contact: Shiva Garg, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-322), Washington DC 20460, 202 382-7924

RIN: 2050-AB90

3412. MODIFICATION OF THE DEFINITION OF WASTEWATER TREATMENT UNIT

Legal Authority: 42 USC 6924 /RCRA 3004

CFR Citation: 40 CFR 260; 40 CFR 270

Legal Deadline: None

Abstract: Currently, wastewater treatment units and elementary neutralization units are exempt from the requirements in 40 CFR Parts 264, and 265 (see 45 FR 76074, November 17, 1980). As proposed, this rule would amend the regulations to explain more clearly that thermal treatment units, except sludge dryers, are not exempt from regulation under the "wastewater treatment unit exclusion." It was never EPA's intention that thermal treatment units be exempt from regulation. Rather, specific regulations have been developed for these devices.

Timetable:

Action	Date	FR Cite
NPRM	07/16/90	55 FR 29230
Final Action	01/00/91	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Additional Information: SAR No. 2570.

FTS:8-475-8614.

Agency Contact: William Kline, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-322), Washington, DC 20460, 202 475-8614

RIN: 2050-AC66

3413. UNDERGROUND STORAGE TANKS CONTAINING PETROLEUM - FINANCIAL RESPONSIBILITY REQUIREMENTS: FINANCIAL TEST FOR SELF INSURANCE FOR LOCAL GOVERNMENT ENTITIES

Significance: Regulatory Program

Legal Authority: 42 USC 6991(b) /RCRA 9003

CFR Citation: 20 CFR 280

Legal Deadline: None

Abstract: These regulations will establish a simple financial test that local governments can use for the purpose of self insuring for taking corrective action and compensating third parties for bodily injury and property damage as required by the Financial Responsibility Requirements promulgated in September 1988.

Timetable:

Action	Date	FR Cite
NPRM	06/18/90	55 FR 24692
Final Action	07/00/91	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local

Additional Information: SAR No. 2642.

FTS:8-382-7903.

Agency Contact: Sammy K. Ng, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-410), Washington, DC 20460, 202 382-7903

RIN: 2050-AC67

3414. TECHNICAL AMENDMENT TO FINAL UNDERGROUND STORAGE TANK RULES FOR OVERFILL PREVENTION

Legal Authority: 42 USC 6991(b)/RCRA 9003(b)

CFR Citation: 40 CFR 280.20(c)

Legal Deadline: None

Abstract: This action as proposed adds a provision to the overfill prevention equipment requirements that provides a performance standard alternative to the two design choices already in the final Underground Storage Tanks (UST) regulations. This clarifies EPA's interpretation of the "other alternatives allowed" provision in the final UST regulations. The added flexibility of meeting a performance standard will more clearly enable UST system owners and operators to use overfill prevention equipment in a manner that is more flexible as long as it is protective of human health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	04/27/90	55 FR 17763
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2741.

FTS:8-382-7815.

Agency Contact: David O'Brien, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-410), Washington, DC 20460, 202 382-7815

RIN: 2050-AC97

3415. ● PROCEDURES FOR ISSUANCE OF AND ADMINISTRATIVE HEARINGS ON RCRA SECTION 9003(H) CORRECTIVE ACTION ORDERS REGARDING UNDERGROUND STORAGE TANKS

Legal Authority: 42 USC 6991/RCRA 9003

CFR Citation: 40 CFR 24

Legal Deadline: None

Abstract: This proposed rule will define the administrative procedures for the

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issuance of and hearings of RCRA Section 9003(h) corrective action orders regarding underground storage tanks. The rule would extend the applicability of existing administrative procedures for similar corrective action orders under Section 3008(h) of RCRA. The rule is a minor one. The rule would only affect the issuance of federal corrective action orders since states are governed by their own administrative procedures.

Timetable:

Action	Date	FR Cite
NPRM	08/15/90	55 FR 33430
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2802.

FTS:8-382-7529.

Agency Contact: Helga Butler, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-410), Washington, DC 20460, 202 382-7529

RIN: 2050–AD12

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Resource Conservation and Recovery Act (RCRA)

Completed Actions

3416. ● UNDERGROUND STORAGE TANKS CONTAINING PETROLEUM - FINANCIAL RESPONSIBILITY REQUIREMENTS: EXTENSION OF THE 4/26/90 COMPLIANCE DEADLINE

Legal Authority: 42 USC 6921/42 USC 6921/42 USC 6991

CFR Citation: 40 CFR 280; 40 CFR 281

Legal Deadline: None

Abstract: This rule extends the April 26, 1990, financial responsibility compliance date for one year. Based on an on-going review of financial assurance markets, EPA was concerned that financial assurance mechanisms were not becoming available rapidly enough to meet the needs of tank owners that must comply by April 26, 1990. Therefore, EPA has decided to modify this compliance date.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/02/90	55 FR 18568

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2816.

FTS:8-382-7903.

Agency Contact: Sammy Ng, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-410), Washington, DC 20460, 202 382-7903

RIN: 2050–AD13

3417. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES - DE MINIMIS EXEMPTION LEVELS

Significance: Regulatory Program

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 264; 40 CFR 265; 40 CFR 270; 40 CFR 271; 40 CFR 302

Completed:

Reason	Date	FR Cite
RIN Changed to Regulatory Program RIN 2050-AC25	07/23/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Collins 382 382-4770

RIN: 2050–AC30

3418. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES: DIMETHYL HYDRAZINE

CFR Citation: 40 CFR 261; 40 CFR 302

Completed:

Reason	Date	FR Cite
Final Action	05/02/90	55 FR 18496

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Petruska 202 475-8321

RIN: 2050–AC91

3419. LAND DISPOSAL RESTRICTIONS FOR THE THIRD THIRD OF SCHEDULED WASTES

CFR Citation: 40 CFR 268

Completed:

Reason	Date	FR Cite
Final Action	06/01/90	55 FR 22520

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Agency Contact: Richard Kinch 202 382-7917

RIN: 2050–AC73

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Clean Air Act (CAA)

Prerule Stage

3420. ● GUIDANCE FOR RISK-BASED ALTERNATIVE EMISSION

Legal Authority: CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: A regulation is being developed to address an anticipated requirement in amendments to the Clean Air Act that EPA provide guidance to sources of hazardous air pollutants on the evaluation of requests for risk-based alternative emission limitations. A schedule will be prepared when final Clean Air Act amendments are enacted.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

EPA—CAA

Prerule Stage

Additional Information: SAR No. 2840.

FTS:8-629-5352.

Agency Contact: John Vandenburg, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5352

RIN: 2060-AC86

3421. NAAQS: CARBON MONOXIDE (REVIEW)

Significance: Regulatory Program

Legal Authority: 42 USC 7408 / CAA 108; 42 USC 7409 / CAA 109

CFR Citation: 40 CFR 50.8

Legal Deadline: Final, Statutory. Review by December 31, 1980 and at 5-year intervals thereafter.

Abstract: EPA is reviewing the health and welfare information that has become available since the last review of the CO NAAQS was completed in September 1985. The Agency will revise the standard if needed to protect the public health and welfare.

Timetable:

Action	Date	FR Cite
Clean Air Scientific Advisory Comm. Review Draft of Criteria Document	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2762.

FTS:8-629-5638.

Agency Contact: Bruce C. Jordan, Environmental Protection Agency, Air and Radiation, (MD-12), Research Triangle Park, NC 27711, 919 541-5638

RIN: 2060-AA62

3422. NAAQS: NITROGEN DIOXIDE (REVIEW)

Significance: Regulatory Program

Legal Authority: 42 USC 7408 / CAA 108; 42 USC 7409 / CAA 109

CFR Citation: 40 CFR 50.11

Legal Deadline: Final, Statutory. Reviews by December 31, 1980 and at 5-year intervals thereafter.

Abstract: EPA is reviewing the health and welfare information that has become available since the last review of the NO2 NAAQS was completed in June 1985. The Agency will revise the standard if needed to protect the public health and welfare.

Timetable:

Action	Date	FR Cite
Complete Review of Criteria Document and Staff Paper	06/00/92	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 1004.

FTS:8-629-5656.

Agency Contact: Bruce C. Jordan, Environmental Protection Agency, Air and Radiation, (MD-12), Research Triangle Park, N.C. 27711, 919 541-5656

RIN: 2060-AC06

3423. NSPS: ASPHALT PROCESSING AND ASPHALT ROOFING MANUFACTURING PLANTS (REVIEW)

Legal Authority: 42 USC 7411/CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: EPA is reviewing this NSPS to determine whether revisions are warranted. The review will assess performance and costs of asphalt processing and asphalt roofing manufacturing plant control systems as well as the experience of the industry and control agencies in implementing the standard. The review has been extended to allow for the gathering of additional test data. EPA will announce the results of its review in the Federal Register.

Timetable:

Action	Date	FR Cite
Begin Review	06/00/86	
End Review	12/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: REVIEW BEGAN: 8/86

SAR No. 2430.

FTS:8-629-5425.

Agency Contact: Kenneth Durkee, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5425

RIN: 2060-AC21

3424. ● DEVELOPMENT OF A LIST OF SOURCE CATEGORIES FOR HAZARDOUS AIR POLLUTANTS SUBJECT TO SECTION 112 OF THE CLEAN AIR ACT

Legal Authority: CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: This regulation is to address an anticipated requirement that the EPA publish a list of source categories of hazardous air pollutants (Section 112(c) of the Clean Air Act Amendments). A schedule and any issues associated with work will be defined when final Clean Air Act Amendments are enacted.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAR No. 2839.

FTS:8-629-5352.

Agency Contact: John Vandenburg, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5352

RIN: 2060-AC87

3425. ● REGULATIONS GOVERNING EXEMPTIONS FROM STANDARDS FOR HAZARDOUS AIR POLLUTANTS DUE TO EARLY, VOLUNTARY EMISSION REDUCTION

Legal Authority: CAA 112

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: A regulation is being developed to address an anticipated requirement in amendments to the Clean Air Act to allow exemptions from Section 112 standards for qualifying voluntary reductions of hazardous air pollutants. The regulation would specify the necessary components of an

EPA—CAA — Prerule Stage

exemption request and will give guidelines for the evaluation of exemption requests. A schedule will be prepared when final Clean Air Act amendments are enacted.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2819.

FTS:8-629-5421.

Agency Contact: David Beck, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5421

RIN: 2060–AC89

3426. ● STATEMENT OF POLICY REGARDING PETITIONS UNDER SECTION 112 OF TITLE III OF THE CLEAN AIR ACT AMENDMENTS OF 1990

Legal Authority: CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: A regulation is being developed to address an anticipated requirement in amendments to the Clean Air Act that EPA provide a petition process for the addition of chemicals to or deletion of chemicals from the list of 191 hazardous air pollutants. This regulation would describe the data criteria that must be met in submitting a petition. A schedule will be developed when the final Clean Air Act amendments are enacted.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2814.

FTS:8-629-5346.

Agency Contact: Beth Hassett-Sipple, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5346

RIN: 2060–AC91

3427. EMISSIONS CONTROL SYSTEM DEFECT WARRANTY REGULATIONS

Legal Authority: 42 USC 7541/CAA 202; 42 USC 7542/CAA 202; 42 USC 7601(a)/CAA 301; 42 USC 7422

CFR Citation: 40 CFR 85

Legal Deadline: None

Abstract: The purpose of this action is to establish regulations under Section 207(a) of the Clean Air Act in order to provide specific guidance to motor vehicle manufacturers, the aftermarket parts industry, and vehicle owners as to the scope of coverage available under the Section 207(a) defect warranty. A list of parts covered would appear in the regulations. The first step in this action will be publication of an advance notice of proposed rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2727.

FTS:8-382-2640.

Agency Contact: Gwendolyn Feltis, Environmental Protection Agency, Air and Radiation, (EN-397F), Washington, DC 20460, 202 382-2640

RIN: 2060–AC77

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Proposed Rule Stage

Clean Air Act (CAA)

3428. ● VOLATILITY REGULATIONS FOR GASOLINE AND ALCOHOL BLENDS SOLD IN TEXAS IN CALENDAR YEAR 1991

Legal Authority: 42 USC 7414; 42 USC 7545; 42 USC 7601

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: This action will address a petition from the Texas Oil Manufacturers Association (TOMA) to revise the gasoline volatility standards applicable to the State of Texas in calendar year 1991. The TOMA petition requests that the current regulation, which contains two sets of standards for Texas (one for East Texas and another for West Texas), be revised to require one set of standards for the entire State.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2854.

FTS:8-382-2667.

Agency Contact: Al Mannato, Environmental Protection Agency, Air and Radiation, (EN-397F), Washington, DC 20460, 202 382-2667

RIN: 2060–AC93

3429. ● NONCONFORMANCE PENALTIES OR 1994 MODEL YEAR EMISSION STANDARDS FOR HEAVY-DUTY VEHICLES AND ENGINES

Legal Authority: 42 USC 7524

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: This action will address the availability of nonconformance penalties (NCPs) and specific upper limits and penalty rates for 1994 and later emission standards for heavy-duty vehicles (HDVs) and engines (HDEs). The availability of NCPs will allow a manufacturer of HDVs or HDEs, whose vehicles or engines fail to conform to certain applicable emission standards but which do not exceed a designated upper limit, to be issued a certificate of conformity upon payment of a monetary penalty.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: None

EPA—CAA

Proposed Rule Stage

Government Levels Affected: None

Additional Information: SAR No. 2831.

FTS:8-382-2685.

Agency Contact: Ann Bailey, Environmental Protection Agency, Air and Radiation, (ANR-445), Washington, DC 20460, 202 382-2685

RIN: 2060-AC38

3430. ● REVISION OF GASOLINE VOLATILITY ENFORCEMENT PROCEDURES

Legal Authority: 42 USC 7414; 42 USC 7545; 42 USC 7601

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: This regulation will address aspects of the volatility regulations pertaining to presumptively liable parties, the use of fuels for research, and other special projects, and test methods for determining volatility.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2830.

FTS:8-382-2635.

Agency Contact: James Caldwell, Environmental Protection Agency, Air and Radiation, (EN-387F), Washington, DC 20460, 202 382-2635

RIN: 2060-AC37

3431. ALTERNATIVE FUEL CORPORATE AVERAGE FUEL ECONOMY LABELING REQUIREMENTS

Legal Authority: PL 100-494; 15 USC 2013

CFR Citation: 40 CFR 600

Legal Deadline: None

Abstract: This action would implement specific actions expected to be taken by Congress with respect to the alternative fuel vehicles in the Corporate Average Fuel Economy (CAFE) program. This includes revising the current CAFE regulations to incorporate CAFE credits and labeling requirements and establishing fuel economy test update procedures and calculations for alternative fuel vehicles. vehicles.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2728.

FTS:8-376-8331.

Agency Contact: Kenneth Zerafa, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-8331

RIN: 2060-AC78

3432. PROTECTION OF STRATOSPHERIC OZONE (RECYCLING)

Significance: Regulatory Program

Legal Authority: 42 USC 7457(b)

CFR Citation: 40 CFR 82

Legal Deadline: None

Abstract: The Agency is considering whether to begin rulemaking on a national recycling program targeted at key sectors of the chlorofluorocarbon and halon using industries. A recycling program could prevent earlier retirement or costly retrofit capital equipment. Uniform national standards would facilitate a large scale recycling effort by industry.

Timetable:

Action	Date	FR Cite
ANPRM	05/01/90	55 FR 18256
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2793.

FTS:8-475-7497.

Agency Contact: David Lee, Environmental Protection Agency, Air and Radiation, (ANR-445), Washington, DC 20460, 202 475-7497

RIN: 2060-AC80

3433. PROTECTION OF STRATOSPHERIC OZONE (PHASE-OUT)

Significance: Regulatory Program

Legal Authority: 42 USC 7457(b)

CFR Citation: 40 CFR 82

Legal Deadline: NPRM, Judicial, November 15, 1990. Final, Judicial, August 15, 1991.

Abstract: Recent scientific evidence indicates the risks of ozone depletion may be greater than expected. In response, the international community has completed negotiations in London in June, 1990 strengthening the Montreal Protocol to further restrict or phase-out substances that deplete ozone. EPA estimates that the cumulative cost to completely phase-out CFCs and halons by the year 2000 is approximately $2.7 billion. In addition, EPA has entered into a consent decree to promulgate regulations to protect the stratospheric ozone layer taking into consideration the protocol changes agreed to in London.

Timetable:

Action	Date	FR Cite
NPRM	11/15/90	
Final Action	08/15/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2795.

FTS:8-475-7497.

Agency Contact: David Lee, Environmental Protection Agency, Air and Radiation, (ANR-445), Washington, DC 20460, 202 475-7497

RIN: 2060-AC84

3434. NAAQS: LEAD (REVIEW)

Significance: Regulatory Program

Legal Authority: 42 USC 7408 / CAA 108; 42 USC 7409 / CAA 109

CFR Citation: 40 CFR 50.12

Legal Deadline: Final, Statutory. Reviews due by December 31, 1980 and at 5-year intervals.

Abstract: EPA is reassessing the health and welfare information that has become available since the promulgation of the standard. The Agency has prepared a staff paper which has been reviewed and approved by the Clean Air Act Scientific Advisory Committee (CASAC).

EPA—CAA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
CASAC Closure	01/11/90	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 1918.

FTS: 8-629-5656.

Docket No. A-83-22.

CASAC Closure Completed: 01/11/90

Agency Contact: Bruce Jordan, Environmental Protection Agency, Air and Radiation, (MD-12), Research Triangle Park, NC 27711, 919 541-5656

RIN: 2060–AA95

3435. NAAQS: OZONE (REVIEW)

Significance: Regulatory Program

Legal Authority: 42 USC 7408 / CAA 108; 42 USC 7409 / CAA 109

CFR Citation: 40 CFR 50.9

Legal Deadline: Final, Statutory. Reviews due by December 31, 1980 and at 5-year intervals thereafter.

Abstract: EPA is reassessing health and welfare information which has become available since the last revision of the standard. In May 1989 EPA received closure on the scientific and technical adequacy of the ozone staff paper. In order to retain a unified regulatory review package in light of the emerging data base on health and welfare effects associated with longer-term averaging times, EPA is continuing the standard review until such information is published and a decision made on the appropriate standards choice. The major issue is whether the new information will indicate that new standards with longer-term averaging times are required to protect public health and welfare or whether adequate protection is afforded by the current form and averaging time of the standard.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 1920.

FTS: 8-629-5656.

Agency Contact: Bruce Jordan, Environmental Protection Agency, Air and Radiation, (MD-12), Research Triangle Park, NC 27711, 919 541-5656

RIN: 2060–AA96

3436. NAAQS: FINE PARTICULATE MATTER

Significance: Regulatory Program

Legal Authority: 42 USC 7408 /CAA 108; 42 USC 7409 /CAA 109

CFR Citation: 40 CFR 50.7

Legal Deadline: None

Abstract: On July 1, 1987, EPA issued an ANPRM soliciting public comment on the development of a new secondary (welfare-based) NAAQS for fine particles (those particles less than 2.5 micrometers in aerodynamic diameter). This action represents a continuation of the review process for the secondary standards for particulate matter discussed by the Agency on March 20, 1984 (49 FR 10408). The principal welfare effect to be addressed by such a standard is impairment of visibility. Once a decision on whether and how to proceed is reached, a schedule for further action will be developed.

Timetable:

Action	Date	FR Cite
ANPRM	07/01/87	52 FR 24670
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2577.

FTS:8-629-5656

Agency Contact: Bruce C. Jordan, Environmental Protection Agency, Air and Radiation, (MD-12), Research Triangle Park, NC 27711, 919 541-5656

RIN: 2060–AC32

3437. NEW SOURCE REVIEW REQUIREMENTS—CMA EXHIBIT B

Legal Authority: 42 USC 7410 /CAA 110

CFR Citation: 40 CFR 51; 40 CFR 52

Legal Deadline: None

Abstract: This action would revise EPA's new source requirements for new major stationary sources in PSD and nonattainment areas. EPA is taking this action to implement a settlement agreement with Chemical Manufacturer's Association (CMA) and other parties who challenged the regulation amendments promulgated on August 7, 1980. This action covers the issues in Exhibit B of the agreement.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2608.

FTS:8-629-5592.

Agency Contact: Gary McCutchen, Environmental Protection Agency, Air and Radiation, (MD-15), Research Triangle Park, NC, 27711, 919 541-5592

RIN: 2060–AC54

3438. APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS: REVISION OF THE VISIBILITY FIP FOR ARIZONA

Significance: Regulatory Program

Legal Authority: 42 USC 7410/CAA 110; 42 USC 7491/CAA 169(a)

CFR Citation: 40 CFR 52

Legal Deadline: NPRM, Judicial, February 1, 1991. Final, Judicial, October 16, 1991.
Final rule must be signed by the Administrator no later than six months following the close of the public comment period.

Abstract: EPA will conduct rulemaking on whether to require emission limits representing best available retrofit technology for the Navajo Generating Station to remedy winter impairment in the Grand Canyon National Park. EPA's authority to promulgate a federal implementation plan arises from Arizona's default on its obligation to submit state implementation plan revisions implementing EPA's 1980 visibility regulations under section 169(a). EPA is under court order to issue rulemaking notices by dates certain pursuant to a consent decree in a citizen suit.

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Timetable:

Action	Date	FR Cite
NPRM	02/01/91	
Final Action	10/15/91	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2792.

FTS:8-547-0870.

Agency Contact: Denise Scott, Environmental Protection Agency, Air and Radiation, (MD-15), Research Triangle Park, NC 27711, 919 541-0870

RIN: 2060-AC82

3439. NSPS: MUNICIPAL LANDFILLS

Significance: Agency Priority

Legal Authority: 42 USC 7411/CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: The purpose of this action is to develop a proposal for regulating emissions from new and modified municipal landfills under Section 111(b). Pollutants to be regulated would include one or more designated pollutants (pollutants not regulated under Section 108-110 or 112 of the Act) thus invoking Section 111(d). Section 111(d) would require States to develop emission standards for existing landfills based on EPA guidelines.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	01/00/92	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2535.

FTS:8-629-5626.

Agency Contact: Alice Chow, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5626

RIN: 2060-AC41

3440. NSPS: MEDICAL WASTE INCINERATION

Significance: Regulatory Program

Legal Authority: 42 USC 7411/CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: The incineration of medical waste is being investigated for control under Section 111. Add-on controls and operator training requirements are being investigated.

Timetable:

Action	Date	FR Cite
NPRM	03/00/92	
Final Action	09/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2719.

FTS:8-629-5425.

Agency Contact: Kay Durbee, Environmental Protection Agency, Air and Radiation, (MD13), Research Triangle Park, NC 27711, 919 541-5425

RIN: 2060-AC82

3441. NESHAP: COKE OVEN EMISSIONS FROM COKE OVEN CHARGING, DOOR LEAKS, AND TOPSIDE LEAKS ON WET-COAL-CHARGED BATTERIES

Significance: Regulatory Program

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: NPRM, Statutory, March 1985.

Abstract: This regulation would control coke oven emissions, which have been listed hazardous under section 112. It would require improved maintenance and operation to limit visible emissions from wet-coal-charged coke oven batteries. The standards may apply to charging and leaks from doors, lids, or offtakes for all existing or new sources.

Timetable:

Action	Date	FR Cite
NPRM	04/23/87	52 FR 13598
NPRM (Supplemental)	12/30/88	53 FR 53014
NPRM : (Revised)	10/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 1886.

Docket No. A-79-15.

FTS:8-629-5568.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5568

RIN: 2060-AA48

3442. NESHAP: ASBESTOS—COMPREHENSIVE REVISIONS

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61, Subpart M

Legal Deadline: None

Abstract: The Agency is considering revising the asbestos NESHAP to reduce further risks to public health. The Agency is also considering another provision on an accelerated schedule that would address compliance, recordkeeping, and monitoring provisions only. See asbestos revision (compliance provision).

Timetable:

Action	Date	FR Cite
NPRM	09/00/91	
Final Action	12/00/92	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 1714.

FTS:8-629-5625.

Agency Contact: Sima Roy, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5263

RIN: 2060-AB51

3443. NESHAP: CHROMIUM—INDUSTRIAL COOLING TOWERS

Significance: Regulatory Program

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: EPA issued a notice of intent to list total chromium or hexavalent chromium under Section 112 (50 FR 24137). EPA is further assessing the public health risks of chromium compounds. Preliminary assessment performed by EPA has identified industrial process cooling towers as a

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source category for which the proposal of national emission standards may be warranted. If EPA decides, based on these investigations, that emissions standards are warranted, chromium or hexavalent chromium will be listed under Section 112 and EPA will propose standards.

Timetable:

Action	Date	FR Cite
NPRM	03/00/92	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2366.

FTS:8-629-5602.

Agency Contact: Al Vervaert, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5602

RIN: 2060-AC12

3444. NESHAP: CHROMIUM—ELECTROPLATING

Significance: Regulatory Program

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: EPA issued a notice of intent to list chromium or hexavalent chromium under Section 112 (50 FR 24317). EPA is further assessing the public health risks of chromium compounds. A preliminary assessment performed by EPA has identified chromium electroplating as a source category which emits significant quantities of chromium to the atmosphere and for which the proposal of national emission standards may be warranted. If EPA decides, based on these investigations, that emission standards are warranted, chromium or hexavalent chromium will be listed under Section 112, and standards will be proposed.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	
Final Action	07/00/92	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2041.

FTS:8-629-5602.

Agency Contact: Al Vervaert, Environmental Protection Agency, Air and Radiation, (MD-13), 919 541-5602

RIN: 2060-AC14

3445. NESHAP: HAZARDOUS ORGANICS

Significance: Regulatory Program

Legal Authority: 42 USC 7412/CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: This regulation would control emissions of hazardous organic chemicals for synthetic organic chemical manufacturing plants. The regulation will address emissions from storage tanks, process vents, equipment leaks, and wastewater treatment.

Timetable:

Action	Date	FR Cite
NPRM	08/00/91	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2363.

FTS:8-629-5608.

Agency Contact: Bob Rosenstael, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5608

RIN: 2060-AC19

3446. NESHAP: PERCHLOROETHYLENE DRY CLEANING

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: NESHAP regulations are being developed which may apply to industrial, commercial, and coin-operated dry cleaning machines and could also address auxiliary equipment and work practices.

Timetable:

Action	Date	FR Cite
NOTICE —Intent to List	12/26/85	50 FR 52880
NPRM	04/00/91	
Action	Date	FR Cite
Final Action	04/00/92	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2380.

FTS:8-629-5608.

Agency Contact: Robert E. Rosenstael, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5608

RIN: 2060-AC27

3447. NESHAP: ETHYLENE OXIDE FROM COMMERCIAL STERILIZATION

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: This standard would control ethylene oxide emissions from sterilization chambers (other than hospital sterilizers). The emission reduction being considered would require add-on controls for sterilizers.

Timetable:

Action	Date	FR Cite
NPRM	07/00/91	
Final Action	07/00/92	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2404.

FTS:8-629-5608.

Agency Contact: Robert E. Rosenstael, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5608

RIN: 2060-AC28

3448. NESHAP: ORGANIC SOLVENT DEGREASING

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: An NSPS was proposed for this source category in 1980. Subsequently, in 1987, the Agency solicited public participation in information gathering in preparation for a decision on whether to regulate this source category under the NESHAP

program, the NSPS program or both. NESHAP regulations are being developed which would apply to organic solvent cleaners (degreasers) and would control emissions of perchloroethylene, methylene chloride, 1,1,1-trichloroethane, and trichloroethylene from new and existing sources. The emissions reduction techniques that would be combinations of add-on controls, hardware and improved operating practices.

Timetable:

Action	Date	FR Cite
Notice: (Solicitation of Public Participation)	09/17/87	52 FR 29548
NPRM	02/00/92	
Final Action	02/00/93	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 1695.

FTS:8-629-5608.

Agency Contact: Robert E. Roosaasel, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5608

RIN: 2060–AC31

3449. GUIDELINE ON AIR QUALITY MODELS (REVISION)

Legal Authority: 42 USC 2475(e)/CAA 165(e); 42 USC 7601(a)/CAA 301(a); 42 USC 7620/CAA 320

CFR Citation: 40 CFR 51.24(l); 40 CFR 52.21(m)

Legal Deadline: None

Abstract: In response to Section 320 of the Clean Air Act, EPA held the Fourth Conference on Air Quality Modeling in October 1988. Based on input provided to the Agency at or closely following this Conference, additional revisions to EPA's Guideline on Air Quality Models have been defined and a NPRM is being developed.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
Final Action	06/00/92	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2557.

FTS:8-629-5561.

Agency Contact: Joseph Tikvart, Environmental Protection Agency, Air and Radiation, (MD-14), Research Triangle Park, NC 27711, 919 541-5561

RIN: 2060–AC43

3450. ON-BOARD VEHICLE BASED DIAGNOSTIC SYSTEM REQUIREMENT

Legal Authority: 42 USC 7521 /CAA 201; 42 USC 7525 /CAA 206; 42 USC 7526 /CAA 207

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: EPA will evaluate the imposition of requirements for passenger cars and light trucks for on-board vehicle diagnostic systems capable of detecting operational malfunctions within the emissions control system. Emission system failures often go undetected or are misdiagnosed resulting in excess emissions of carbon monoxide, hydrocarbons, and oxides of nitrogen. On-board diagnostic systems, which are required in the California vehicle emissions program beginning with the 1988 model year, have the potential for improving air quality through the early detection and proper repair of emission system failures. This regulatory effort will be structured to complement existing and future State and local inspection and maintenance programs.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2704.

FTS:8-374-8214.

Agency Contact: John German, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4214

RIN: 2060–AC65

3451. EMISSION STANDARDS FOR LIGHT-DUTY TRUCKS (REVISION)

Significance: Regulatory Program

Legal Authority: 42 USC 7521 / CAA 202

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: Through this action, EPA will propose more stringent hydro- carbon and CO emission standards for light-duty trucks based upon the belief that very cost-effective hydrocarbon control is available from these vehicles. The proposed standards would be set at levels which could be met by applying currently available passenger car control technology to light trucks. The Agency is currently awaiting CAA changes, as light-duty truck standards are likely to be affected.

Timetable:

Action	Date	FR Cite
ANPRM	09/00/90	51 FR 32032
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAR No. 2287.

FTS:8-374-8498.

Agency Contact: John Anderson, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-8496

RIN: 2060–AB85

3452. REVISIONS TO REGULATIONS FOR GAS GUZZLER TAX

Legal Authority: PL 94-163/89 Stat. 871; PL 95-619/92 Stat. 3206; 42 USC 7521/CAA 202

CFR Citation: 40 CFR 86; 40 CFR 600; 26 CFR 138

Legal Deadline: None

Abstract: This action will revise provisions of the regulations pertaining to how a manufacturer describes the fuel efficiency of its product line and how that relates to determination of tax liability. The original regulations have been in effect since 1980, and certain deficiencies which could lead to tax avoidance may be inconsistent with congressional intent.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2766.

FTS:8-374-8310.

Agency Contact: Cliff Tyree, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4319

RIN: 2060–AC76

3453. EMISSIONS STANDARDS FOR NEW MOTOR VEHICLES AND MOTOR VEHICLE ENGINES FUELED WITH COMPRESSED NATURAL GAS OR LIQUIFIED PETROLEUM GAS

Legal Authority: 42 USC 7521/CAA 202

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: This action will implement exhaust emissions standards and test procedures for all classes of motor vehicles and motor vehicle engines fueled with compressed natural gas or liquified petroleum gas. These standards will be equivalent in stringency to standards currently in place for gasoline-, diesel-, and methanol-fueled vehicles and engines.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

SAR No. 2763.

FTS:8-374-8498.

Agency Contact: John Anderson, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4498

RIN: 2060–AC79

3454. AMENDMENTS TO MOTOR VEHICLE IMPORTS REGULATIONS PERTAINING TO CANADIAN VEHICLES

Significance: Agency Priority

Legal Authority: 42 USC 7522 /CAA 203; 42 USC 7525 /CAA 208; 42 USC 7541/CAA 207; 42 USC 7542/CAA 208; 42 USC 7601/CAA 301

CFR Citation: 40 CFR 85

Legal Deadline: None

Abstract: This action will consider amendments to the regulations in 40 CFR Part 85, Subpart P as they pertain to importers of vehicles which are originally sold in Canada and which are identical to their U.S. certified counterparts. This action is in response to a petition for review of the imports regulations filed on November 24, 1987. A public meeting was held on this action on February 14, 1990. Based on comments received at the workshop and further analysis, EPA is developing a proposed rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2665.

FTS:8-382-2542.

Agency Contact: Randall Chaffins, Environmental Protection Agency, Air and Radiation, (EN-340F), Washington, DC 20460, 202 382-2542

RIN: 2060–AC58

3455. REVISIONS TO THE STACK HEIGHT REGULATION

Legal Authority: 42 USC 7423/CAA 123

CFR Citation: 40 CFR 51.100

Legal Deadline: None

Abstract: Under the Clean Air Act, emission limitations for sources are generally determined on the basis of local, ground-level concentrations of pollutants. In the absence of laws and/or regulations prohibiting such action, a source could lower the local ground-level ambient pollutant concentrations not only by reducing the amount of pollutants it emits into the air, but also by raising the physical height of its stack or using other dispersion techniques. Section 123, which was added to the CAA by the 1977 Amendments, restricts the manner in which techniques for dispersion of pollutants from a source may be considered in setting emission limitations. The EPA promulgated the current stack height regulation on July 8, 1985. On January 22, 1988, the U.S. Court of Appeals for the D.C. Circuit upheld EPA's regulation except for three provisions which were remanded to the Agency for proceedings consistent with the court's opinion. The purpose of this action is to revise the stack height regulation in accordance with the January 22, 1988 court decision. (cont)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: SAR No. 2580.

FTS:8-541-5255.

ABSTRACT CONT: The court remanded two grandfathering provisions which allow dispersion credit, including credit for certain stack height increases. The decision also remanded the allowance of dispersion credit for sources with originally designed and constructed merged stacks. The court concluded that exclusion of these groups of sources from the regulation's restrictions was not adequately supported. The EPA is analyzing the court decision to determine whether further support should be offered for the current provisions or whether the regulations should be revised to limit or delete these exclusionary provisions.

Agency Contact: Doug Grano, Environmental Protection Agency, Air and Radiation, (MD-15), Research Triangle Park, NC 27711, 919 541-5255

RIN: 2060–AC60

3456. ALTERNATIVE TEST PROCEDURE FOR THE VOLUNTARY AFTERMARKET PART CERTIFICATION PROGRAM

Legal Authority: 42 USC 7541(b)/CAA 207(b)

CFR Citation: 40 CFR 85

Legal Deadline: None

Abstract: This action would consider an alternative testing procedure to be used in the voluntary aftermarket part certification program for certifying aftermarket parts. Currently only the full Federal Test Procedure and Emission Critical Parameters for Specified Parts are acceptable test procedures for this program. On December 14, 1989 (54 FR 51306), a Federal Register notice was published to announce that the public comment period was extended to January 10, 1990. Based on the public comments received and further analysis; EPA is developing a supplemental notice of proposed rulemaking.

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Timetable:

Action	Date	FR Cite
NPRM	06/06/89	54 FR 32998
NPRM : (Supplemental)	02/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: SAR No. 2637.

FTS:8-374-4316.

Agency Contact: Michael Sabourin, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4316

RIN: 2060–AC50

3457. FUEL AND FUEL ADDITIVES: HEALTH AND EMISSIONS EFFECTS TESTING

Legal Authority: 42 USC 7545(e) / CAA 211(e)

CFR Citation: 40 CFR 79; 40 CFR 80

Legal Deadline: Final, Statutory, August 7, 1978.

Abstract: The CAA requires that testing protocols be developed to address at a minimum, the possible carcinogenic, mutagenic, and teratogenic effects of fuels and fuel additives as well as that reasonable and necessary information be obtained on their effect on welfare and emission control devices. This action would implement protocols for such testing, which would have to be performed prior to fuel additive registration. Fuels and additives already registered or for sale would also have to undergo testing, as provided for by the CAA.

Timetable:

Action	Date	FR Cite
ANPRM	06/01/90	55 FR 22218
NPRM	01/00/92	
Final Action	06/00/93	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2565.

FTS:8-374-8408.

Agency Contact: Glenn Passavant, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-8408

RIN: 2060–AC10

3458. GENERAL REQUIREMENTS FOR DETERMINATION OF GASOLINE METAL CONTENT

Legal Authority: 42 USC 7545 /CAA 211; 42 USC 7601 /CAA 301

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: This action will add a new method(s) to a previously promulgated set of testing procedures for the determination of lead (and perhaps other metals) content in gasoline. Such action would provide flexibility to both government and private laboratories in analyzing gasoline samples. EPA published an advance notice of proposed rulemaking on December 4, 1989; the public comment period was extended to June 2, 1990.

Timetable:

Action	Date	FR Cite
ANPRM	12/04/89	54 FR 49999
NPRM	09/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2629.

FTS:8-475-8841.

Agency Contact: David Kortum, Environmental Protection Agency, Air and Radiation, (EN-397F), Washington, DC 20460, 202 475-8841

RIN: 2060–AC52

3459. FUEL AND FUEL ADDITIVES: ENFORCEMENT OF SECTION 211(F)(4) WAIVERS

Legal Authority: 42 USC 7545 /CAA 211; 42 USC 7601 /CAA 301

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: The purpose of this action is to establish regulations under sections 211(c) and 211(f) of the CAA for the enforcement of prohibitions against certain fuel and fuel additives not complying with CAA requirements. The regulations will also formalize the procedures for reviewing applications from manufacturers of fuel and fuel additives for waivers of the provisions of paragraphs (1), (2), and (3) of section 211(f), which the Agency may grant pursuant to section 211(f)(4).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2604.

FTS:8-475-8841.

Agency Contact: David Kortum, Environmental Protection Agency, Air and Radiation, (EN-397F), Washington, DC 20460, 202 475-8841

RIN: 2060–AC53

3460. REVISIONS TO REGULATIONS ON REGISTRATION OF FUEL AND FUEL ADDITIVES

Legal Authority: 42 USC 7545/CAA 211

CFR Citation: 40 CFR 79

Legal Deadline: None

Abstract: This action would revise the current program governing the registration of fuel and fuel additives. The revisions would update the regulations to cover imported fuels and additives, and certain exclusions, and include new classes of fuels, such as alternative motor fuels.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2728.

FTS:8-382-2635.

Agency Contact: Jim Caldwell, Environmental Protection Agency, Air and Radiation, (EN-397F), Washington, DC 20460, 202 382-2635

RIN: 2060–AC74

3461. CONTROL OF AIR TOXICS FROM MOTOR VEHICLES

Legal Authority: 42 USC 7545/CAA 211; 42 USC 7521/CAA 202

CFR Citation: 40 CFR 80; 40 CFR 86

Legal Deadline: None

Abstract: This action would implement regulations to control air toxics from motor vehicles. Two possible approaches will be evaluated. One approach is to consider vehicle-based controls to reduce air toxics from

vehicles. The other approach is to consider the control of toxics by regulating the composition of motor fuels. Congress is considering action to deal with similar concerns as part of the Clean Air Act amendments.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2769.

FTS:8-374-8287.

Agency Contact: Chris Brunner, Environmental Protection Agency, Air and Radiation, 565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4267

RIN: 2060-AC75

3462. RADON USER FEES

Legal Authority: 15 USC 2665 Sec. 305 Indoor Radon Abatement Act

CFR Citation: None

Legal Deadline: None

Abstract: Section 305 of the Indoor Radon Abatement Act authorizes the imposition of fees for certain voluntary proficiency and training programs. The fees will be deposited into a special account with amounts in the account to be appropriated for administering and establishing these programs. Fees will be charged for the National Radon Measurement Proficiency (RMP) Program, field and classroom training, and the National Radon Contractor Proficiency Program (RCPP) exam.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Additional Information: SAR No. 2690.

FTS:8-475-8617.

Agency Contact: Jamie Burnett, Environmental Protection Agency, Air and Radiation, (ANR-464), Washington, DC 20460, 202 475-8617

RIN: 2060-AC06

3463. TREATMENT, STORAGE, AND DISPOSAL FACILITY AREA SOURCE AIR EMISSIONS - RCRA STANDARDS

Significance: Regulatory Program

Legal Authority: 42 USC 6924/RCRA 3004, 3007

CFR Citation: 40 CFR 264 Subpart X; 40 CFR 264 Subpart AA; 40 CFR 264 Subpart BB; 40 CFR 264 Subpart CC; 40 CFR 265 Subpart I; 40 CFR 265 Subpart J; 40 CFR 265 Subpart AA; 40 CFR 265 Subpart BB; 40 CFR 265 Subpart CC

Legal Deadline: None

Abstract: The purpose of this action is to investigate the health impact of non-combustion source air emissions from hazardous waste treatment, storage, and disposal facilities and to develop standards for monitoring and control as needed. Area sources include surface impoundments, landfills, waste piles, land treatment operations and waste water treatment facilities. Pollutants to be considered by such standards would include volatile organic compounds, particulate matter, specific toxic substances, or a combination of these. The mandate for standards development under RCRA is to protect human health and the environment. The Agency has adopted a three-phase approach, with Phase I concerning organic emission leaks and vents, Phase II concerns hazardous waste storage tanks and impoundments, and Phase III deals with residual risks from particular hazardous organic constituents. Phase I and II actions are covered in this item; for Phase III actions, see separate item entitled "Individual Constituent Standards: Phase III of RCRA Air Emission Standards".

Timetable:

Phase I Leaks and Vents
NPRM 02/05/87 (52 FR 3748)
Final Action 06/21/90 (55 FR 25454)
Phase II Tanks and Impoundments
NPRM 10/00/90
Final Action 10/00/91

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAR No. 2240.

FTS:8-629-5535.

Agency Contact: W. Fred Dimmick, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5535

RIN: 2060-AB94

3464. ◆ INDIVIDUAL CONSTITUENTS STANDARDS - PHASE III OF RCRA AIR EMISSION STANDARDS

Significance: Regulatory Program

Legal Authority: 42 USC/RCRA 3004 and 3007

CFR Citation: 40 CFR Subparts I to N

Legal Deadline: None

Abstract: Under RCRA, the Agency is required to promulgate standards for monitoring and control of air emissions from hazardous waste treatment, storage, and disposal facilities (TSDF), as necessary to protect human health and environment. Phase I and II of the TSDF project limit organic air emissions as a class at TSDF that are subject to regulation under Subtitle of RCRA. Phase I and Phase II actions are covered under a separate item in this Agenda entitled "Treatment, Storage, and Disposal Facility Area Source Air Emissions — RCRA Standards". The residual risk values following Phases I and II are higher than the historical RCRA range. The Phase III project will use new data on TSDF to perform site-specific modeling of high risk facilities. Possible outcomes include the following (1) Additional RCRA 3004(n) standards for particular hazardous organic constituents, (2) a guidance document for RCRA permit writers, or (3) no additional action.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAR No. 2657.

FTS:8-629-0854.

Agency Contact: Robert Lucas, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-0884

RIN: 2060-AC90

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ENVIRONMENTAL PROTECTION AGENCY (EPA)
Clean Air Act (CAA)

Final Rule Stage

3465. ● REORGANIZATION OF 40 CFR PART 86, SUBPART A

Legal Authority: 42 USC 7521; 42 USC 7522; 42 USC 7524; 42 USC 7525; 42 USC 7541; 42 USC 7542; 42 USC 7549; 42 USC 7550; 42 USC 7601

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: This action will reorganize Subpart A of 40 CFR Part 86 to be consistent with the other subparts of Part 86. This action will not amend Subpart A in any substantive way; the stringency of standards, test procedures, and recordkeeping burden will remain unchanged. Due to the minor nature of this action, a direct final rule is planned.

Timetable:

Action	Date	FR Cite
Direct Final	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAIL No. 2849.

FTS:8-374-8244.

Agency Contact: Jim McCargar, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4244

RIN: 2060-AC04

3466. ● REVISION OF 40 CFR PART 80 TO DELETE OUTDATED SECTIONS

Legal Authority: 42 USC 7414; 42 USC 7545; 42 USC 7601

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: This action will modify 40 CFR Part 80 to delete outdated sections applicable to gasoline retailers and wholesale purchase- consumers which require certain of these parties to offer for sale at least one grade of unleaded gasoline. Since unleaded gasolines of various grades are now widely available at virtually every retailer, this requirement is no longer necessary. This action will also correct a typographical error in the current regulation. Due to the nature of this action, a direct final rule is planned.

Timetable:

Action	Date	FR Cite
Direct Final	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2850.

FTS:8-382-2660.

Agency Contact: Marilyn McCall, Environmental Protection Agency, Air and Radiation, (EN-327F), Washington, DC 20460, 202 382-2660

RIN: 2060-AC95

3467. STATE IMPLEMENTATION PLANS: ATTAINMENT STATUS DESIGNATIONS

Significance: Agency Priority

Legal Authority: PL 100-202

CFR Citation: 40 CFR 81

Legal Deadline: NPRM, Statutory, August 31, 1988.

Abstract: On June 6, 1988 (53 FR 20722), the EPA, as directed by the Mitchell-Conte Amendment of December 22, 1987 (contained in the continuing resolution of 1987, Pub. L. 100-202), proposed to designate as nonattainment under the CAA those areas throughout the nation that have not attained the NAAQS for either ozone or carbon monoxide (CO). Because this action would be superseded by provisions of pending CAA amendment, this project is currently on hold.

Timetable:

Action	Date	FR Cite
NPRM	06/06/88	53 FR 20722
NPRM Comment Period End	08/05/88	53 FR 20722
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 0940.

FTS:8-629-5517.

Docket No. A-88-17

Pub. L. 100-202

Agency Contact: Brock Nicholson, Environmental Protection Agency, Air and Radiation, (MD-15), Research Triangle Park, NC 27711, 919 541-5517

RIN: 2060-AC58

3468. NAAQS: SULFUR OXIDES (REVIEW)

Significance: Regulatory Program

Legal Authority: 42 USC 7409 /CAA 109

CFR Citation: 40 CFR 50.4; 40 CFR 50.5

Legal Deadline: Final, Statutory. Reviews due by December 31, 1980 and at 5-year intervals thereafter.

Abstract: EPA has reviewed the scientific criteria used as a basis for establishing ambient air quality standards for sulfur oxides. The Agency will revise the standards if and as appropriate to protect public health and welfare. On April 26, 1988, EPA announced its proposed decision not to revise the current standards. The notice also solicited comment on the alternative of adding a new 1-hour standard and certain other revisions.

Timetable:

Action	Date	FR Cite
ANPRM	10/02/79	44 FR 56730
NPRM	04/26/88	53 FR 14926
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 1002.

Docket No. A-84-25.

FTS:8-629-5656.

Agency Contact: Bruce Jordan, Environmental Protection Agency, Air and Radiation, (MD-12), Research Triangle Park, NC 27711, 919 541-5656

RIN: 2060-AA61

3469. NSPS: POLYMER AND RESIN MANUFACTURE

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: Final, Statutory, September 1982.

Abstract: Upon promulgation, this rule will control volatile organic compound (VOC) emissions in exhaust streams from polymerization processes in the manufacture of organic polymers and resins.

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	52 FR 36879
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

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EPA—CAA

Final Rule Stage

Additional Information: SAR No. 1691.

Docket No. A-82-19.

FTS:8-629-5625.

Agency Contact: Fred Dimmick, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5625

RIN: 2060–AA37

3470. NSPS: AUTOMOBILE AND LIGHT-DUTY TRUCK COATING OPERATIONS (REVISION)

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: EPA has proposed to revise the NSPS for automobile and light-duty truck coating operations which was promulgated in December 1980 to reflect additional operational data of the best demonstrated prime coat system. This proposal does not reflect a change in the basis of the prime coat standard, but a better understanding of the performance of the prime coat system upon which the standard was originally based.

Timetable:

Action	Date	FR Cite
NPRM	07/29/82	47 FR 32743
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2044.

FTS:8-629-5625.

Agency Contact: Fred Dimmick, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5625

RIN: 2060–AB22

3471. NSPS: FOSSIL FUEL-FIRED STEAM GENERATORS (REVISION)

Legal Authority: 42 USC 7411 / CAA 111; 42 USC 7601(a)

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: EPA has proposed revisions to the existing NSPS for large fossil-fuel-fired steam generators which would establish sulfur dioxide compliance, emission monitoring, and reporting requirements on a 30-day rolling average basis.

Timetable:

Action	Date	FR Cite
NPRM	10/21/83	48 FR 48660
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2083.

FTS:8-629-5251.

Agency Contact: Fred Porter, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5251

RIN: 2060–AB29

3472. NSPS: SOCMI REACTOR PROCESSES

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: The scope of the Synthetic Organic Chemical Manufacturing Industry (SOCMI) reactor processes includes all reactor processes (other than air oxidation reactor processes) used to manufacture 173 synthetic organic chemicals. These large-volume chemicals account for about 90 percent of the total domestic chemical production from the SOCMI.

Timetable:

Action	Date	FR Cite
NPRM	06/29/90	55 FR 26953
Final Action	09/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 1931.

FTS:8-629-5568.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5568

RIN: 2060–AB55

3473. STATE IMPLEMENTATION PLANS: POLICY ON POST-1987 OZONE AND CARBON MONOXIDE PLAN REVISIONS FOR AREAS NOT ATTAINING THE NATIONAL AMBIENT AIR QUALITY STANDARDS

Significance: Regulatory Program

Legal Authority: 42 USC 7401 et seq/CAA

CFR Citation: 40 CFR Not applicable

Legal Deadline: None

Abstract: The EPA is developing a program to deal with the many areas in the country that did not attain the national ambient air quality standards (NAAQS) for ozone and carbon monoxide (CO) by December 31, 1987, the latest date for attainment expressly identified in the Clean Air Act. This notice describes EPA's views about how EPA should interpret the Act so as to bring those areas into attainment. Because this program would be greatly affected or superseded by pending CAA amendments, this project is currently on hold.

Timetable:

Action	Date	FR Cite
NPRM	11/24/87	52 FR 45044
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2559.

FTS:8-629-5517.

Docket No. A-87-18

Agency Contact: Brock Nicholson, Environmental Protection Agency, Air and Radiation, (MD-15), Research Triangle Park, NC 27711, 919 541-5517

RIN: 2060–AB96

3474. NSPS: MUNICIPAL WASTE COMBUSTORS

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: NPRM, Judicial, November 30, 1989. Final, Judicial, December 31, 1990.

Abstract: The EPA has completed a preliminary assessment of air emissions from municipal waste combustors (MWC). Based on this assessment, EPA has concluded that MWC emissions may reasonably be anticipated to

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contribute to the endangerment of public health and welfare. As a result, EPA issued a notice in the Federal Register (52 FR 25399) that announces its intent to regulate emissions from new and modified MWC under Section 111(b). Pollutants to be regulated will include one or more designated pollutants (pollutants not regulated under Sections 108-110 or 112) thus invoking Section 111(d) which will require States to develop additional emissions standards for existing MWC based on EPA guidelines.

Emission standards for new municipal waste combustors (MWC) and emission guidelines for existing MWC's were proposed on December 20, 1989 (54 FR 52251) limiting emissions of MWC organics (dioxin/furan), MWC metals (particulate matter), and MWC acid gases (sulfur dioxide/nitrogen chloride). The standards and guidelines also proposed various MWC operating and MVC operator training (cont)

Timetable:

Action	Date	FR Cite
ANPRM	07/07/87	52 FR 25399
ANPRM Comment Period End	10/05/87	52 FR 37335
NPRM	12/20/89	54 FR 52251
Final Action	12/00/90	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2424.

FTS:8-629-5261.

ABSTRACT CONT: requirements, as well as material separation provisions limiting new and existing MWC's to firing "processed waste". Processed waste is defined as municipal waste which has been reduced in weight by 25% through removal of some of the following materials: glass, metal, paper, plastic, and yard waste. The public comment period on the proposed standards and guidelines closed on March 1, 1990.

Agency Contact: Fred Porter, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 2771, 919 541-5351

RIN: 2060-AC26

3475. NSPS: CALCINERS AND DRYERS

Significance: Regulatory Program

Legal Authority: 42 USC 741/CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: An NSPS was proposed in April, 1980 to regulate particulate matter emissions from calciners and dryers in mineral processing industries. This action will promulgate this regulation.

Timetable:

Action	Date	FR Cite
NPRM	04/20/86	51 FR 15436
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2285.

Docket No. OAQPS 82-39

FTS:8-629-5568.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, U.S. EPA, Research Triangle Park, NC 27711, 919 541-5568

RIN: 2060-AC07

3476. RURAL FUGITIVE DUST POLICY FOR PM10

Significance: Regulatory Program

Legal Authority: 42 USC 7401 /et. seq CAA

CFR Citation: 40 CFR 50; 40 CFR 52

Legal Deadline: None

Abstract: Since 1977, EPA has allowed States with rural fugitive dust areas (RFDAs) to discount fugitive dust in developing and enforcing a State Implementation Plan (SIP) for attainment and maintenance of the NAAQS for particulate matter (PM). On July 1, 1987, EPA promulgated revisions to its particulate matter National Ambient Air Quality Standards (NAAQS), 52 FR 24634. In this notice, EPA also solicited comments on alternatives for SIP requirements for RFDAs and on the adequacy of the definitions which are used in identifying RFDAs, and the importance of protecting annual versus 24-hour NAAQS (52 FR 24716). The EPA will issue its decision after considering public comments on the alternatives. The EPA will continue its existing fugitive policy and apply it to implementation of the revised particulate standard until a decision is made.

Timetable:

Action	Date	FR Cite
NPRM	07/01/87	52 FR 24716
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2547

FTS:8-629-5634.

Agency Contact: Robin M. Dunkins, Environmental Protection Agency, Air and Radiation, (MD-15), Research Triangle Park, NC 27711, 919 541-5365

RIN: 2060-AC44

3477. NESHAP FOR ASBESTOS (COMPLIANCE REVISIONS)

Legal Authority: 42 USC 7412 /CAA 112

CFR Citation: 40 CFR 61, Subpart M

Legal Deadline: None

Abstract: The Agency is considering revisions to the Asbestos NESHAP to enhance enforcement and promote compliance with the standards. The revision would require monitoring and proper operation and maintenance of air pollution control devices used by asbestos milling, manufacturing, and fabricating sources. It also would require additional clarifications to work practice and would add additional recordkeeping provisions for demolition and renovation operations, including asbestos waste disposal.

Timetable:

Action	Date	FR Cite
NPRM	01/10/89	54 FR 912
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2560.

FTS:8-629-5263.

This action was split from the asbestos comprehensive revision (RIN 2060-AB51) so that the revised compliance revisions could be adopted on an accelerated schedule. The compliance provisions involve none of the legal

issues that have delayed the risk reduction action (see "benzene reconsideration" and "asbestos revision, risk reduction").

Agency Contact: Sims Roy, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5263

RIN: 2060-AC57

3478. PSD INCREMENTS FOR PM10

Significance: Regulatory Program

Legal Authority: 42 USC 7476/CAA 166

CFR Citation: 40 CFR 52.21; 40 CFR 51.166

Legal Deadline: Final, Statutory, July 1, 1989.

Abstract: The purpose of this action is to promulgate prevention of significant deterioration "increments" for the new indicator for particulate matter, PM10. The existing PSD program has particulate matter increments based on the original TSP indicator. On July 1, 1987, the EPA promulgated a PM10 NAAQS to replace the original TSP-based particulate matter NAAQS. Therefore, EPA is preparing to revise the PSD program by promulgating PM10 increments in accordance with Section 166 of the Clean Air Act. The EPA has entered into a consent decree with the Oregon National Resources Council and other plaintiffs, which settled a lawsuit brought by these plaintiffs, regarding the promulgation of PM-10 PSD regulations. For the consent decree, EPA agreed to promulgate such regulations by June 30, 1991 if the President by that date has not signed legislation amending the Clean Air Act that contains provisions relating to PM-10. If such legislation is signed by that date, EPA agreed to promulgate the regulations within two years of enactment.

Timetable:

Action	Date	FR Cite
NPRM	10/05/89	54 FR 41218
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2491.

FTS:8-629-5593.

Docket No A-88-19

Agency Contact: Daniel DeRouck, Environmental Protection Agency, Air and Radiation, (MD-15), Research Triangle Park, NC 27711, 919 541-5588

RIN: 2060-AC33

3479. MOTOR VEHICLE TEST PROCEDURES FOR EVAPORATIVE HYDROCARBONS (REVISION)

Significance: Agency Priority

Legal Authority: 42 USC 7521 /CAA 201; 42 USC 7525 /CAA 206

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: In conjunction with testing in support of EPA's regulatory effort to control motor vehicle vapor emissions, EPA determined that significant evaporative hydrocarbon emissions can occur when a motor vehicle is running. Such emissions are defined by EPA as "running losses." Testing has shown that running losses can be particularly high on hot summer days which are also conducive to ozone formation. Through this action, EPA will evaluate revisions to the motor vehicle test procedures for evaporative hydrocarbons in order to reduce running losses. EPA published a notice of proposed rulemaking on January 19, 1990; the public comment period was extended to June 5, 1990.

Timetable:

Action	Date	FR Cite
NPRM	01/19/90	55 FR 1914
Final Action	06/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2384.

FTS:8-374-8332.

This action is a result of the motor vehicle refueling emissions control regulatory action. Previously part of RIN:2060-AC04

Agency Contact: Tad Wysor, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4332

RIN: 2060-AC04

3480. DECISION ON AIR POLLUTION REGULATORY STRATEGIES FOR THE GASOLINE MARKETING INDUSTRY

Significance: Regulatory Program

Legal Authority: 42 USC 7521 / CAA 202; 42 USC 7525 / CAA 206

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: Evaporative hydrocarbons emitted during vehicle refueling contribute to the failure of many urban areas to attain the National Ambient Air Quality Standard for ozone. The Bush Administration's recently proposed Clean Air Act amendments would delete section 202(a)(6) and substitute a requirement for Stage II controls. Congress is considering statutory provisions regarding onboard refueling controls and Stage II as part of the Clean Air Act Amendments.

Timetable:

Action	Date	FR Cite
NPRM	06/19/87	52 FR 31162
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2384.

FTS:8-374-8270.

Agency Contact: Phil Carlson, Environmental Protection Agency, Air and Radiation, Environmental Protection Agency, 2565 Plymouth Rd., Ann Arbor, MI 48105, 313 668-4270

RIN: 2060-AC04

3481. INTERIM COLD AMBIENT AIR TEMPERATURE CARBON MONOXIDE EMISSION STANDARDS

Significance: Agency Priority

Legal Authority: 42 USC 7521 /CAA 202

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: EPA's current carbon monoxide (CO) emission standards are applicable to the 68 degree to 86 degree fahrenheit temperature range of the current Federal Test Procedure. Since CO emissions are higher at colder ambient temperatures, and since CO ambient air quality problems occur primarily under ambient temperature conditions less than 68 degrees farenheit, EPA is considering the adoption of CO emission standards applicable to 20 degrees fahrenheit.

EPA—CAA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	09/17/90	55 FR 38250
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2660.

FTS:8-374-8214.

Agency Contact: John German, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-8214

RIN: 2060–AC59

3482. NONCONFORMANCE PENALTIES FOR 1991 THROUGH 1993 MODEL YEAR EMISSION STANDARDS FOR HEAVY-DUTY VEHICLES AND ENGINES

Legal Authority: 42 USC 7524 /CAA 206

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: This action will address the availability of nonconformance penalties (NCPs) and specific upper limits and penalty rates for 1991 through 1993 model year emission standards for heavy-duty vehicles and engines. The availability of NCPs will allow a manufacturer, whose vehicles or engines fail to conform with certain applicable emission standards, but which do not exceed a designated upper limit, to be issued a certificate of conformity upon payment of a monetary penalty. This rule is the third phase of NCP rulemaking. The first, published August 30, 1985, established generic aspects of NCPs. The second, published December 31, 1985, addressed NCPs applicable to 1987 through 1990 model years. The notice of proposed rulemaking was published on April 25, 1990 and the public comment period closed on May 25, 1990.

Timetable:

Action	Date	FR Cite
NPRM	04/25/90	55 FR 17532
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2431.

FTS:8-382-7695.

Agency Contact: Scott Rauenzahn, Environmental Protection Agency, Air and Radiation, (EN-340-F), Washington, DC 20460, 202 382-7695

RIN: 2060–AC39

3483. MOTOR VEHICLE EMISSIONS PERFORMANCE WARRANTY SHORT TESTS

Legal Authority: 42 USC 7541 /CAA 207

CFR Citation: 40 CFR 85

Legal Deadline: None

Abstract: This action will consider allowing alternative dynamometer specifications for an existing loaded-mode short test approved for use in State and local inspection/maintenance programs in conjunction with the federal emissions performance warranty regulations. The alternative specifications the Agency is considering would allow lower loading, perhaps varying by engine size. Such a change could improve overall test effectiveness for identifying excess in-use emissions and correlation with the Federal Test Procedure. A Federal Register notice was published on December 11, 1989 (54 FR 0776) to announce that the comment period was extended to January 10, 1990.

Timetable:

Action	Date	FR Cite
NPRM	12/23/88	53 FR 51955
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2638.

FTS:8-374-8471.

Agency Contact: Jane Armstrong, Environmental Protection Agency, Air and Radiation, Emission Control Technology Division, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-8471

RIN: 2060–AC51

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Completed Actions

Clean Air Act (CAA)

3484. ◆ FUEL VOLATILITY CONTROL FOR 1989 AND BEYOND

Legal Authority: 42 USC 7414; 42 USC 7545; 42 USC 7601

CFR Citation: 40 CFR 8

Legal Deadline: None

Abstract: This action addressed minor technical changes to sampling procedures and test procedures used in the federal volatility program. A direct final rule was published on June 25, 1990 (55 FR 23658).

Timetable:

Action	Date	FR Cite
Final Action	06/25/90	52 FR 23658

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2838.

FTS:8-382-2835.

Agency Contact: James Caldwell, Environmental Protection Agency, Air and Radiation, (EN-397F), Washington, DC 20460, 202 382-2835

RIN: 2060–AC92

3485. NAAQS: CARBON MONOXIDE (REVIEW)

Significance: Regulatory Program

CFR Citation: 40 CFR 50.8

Completed:

Reason	Date	FR Cite
RIN Changed to Regulatory Program RIN 2060-AA63	07/23/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Bruce C. Jordan 919 541-5556

RIN: 2060–AC07

3486. FEDERAL PROMULGATION OF STATE IMPLEMENTATION PLAN TO PROTECT VISIBILITY

Significance: Regulatory Program

CFR Citation: 40 CFR 52

Completed:

Reason	Date	FR Cite
Final Action	06/13/90	55 FR 24060

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Denise W. Scott 919 541-0870

RIN: 2060-AB82

3487. NSPS: SOCMI AIR OXIDATION PROCESS

CFR Citation: 40 CFR 60, Subpart III

Completed:

Reason	Date	FR Cite
Final Action	06/29/90	55 FR 26912

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Doug Bell 919 541-5568

RIN: 2060-AA30

3488. NSPS: SOCMI DISTILLATION OPERATIONS

CFR Citation: 40 CFR 60

Completed:

Reason	Date	FR Cite
Final Action	06/29/90	55 FR 26931

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Doug Bell 919 541-5568

RIN: 2060-AA35

3489. NSPS: SMALL BOILERS

CFR Citation: 40 CFR 60

Completed:

Reason	Date	FR Cite
Final Action	09/12/90	55 FR 37675

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Fred Porter 919 541-5551

RIN: 2060-AB95

3490. NSPS: MEDICAL WASTE INCINERATION

Significance: Regulatory Program

CFR Citation: 40 CFR 60

Completed:

Reason	Date	FR Cite
RIN Changed to Regulatory Program RIN 2060-AC62	07/23/90	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Agency Contact: Ken Durkee 919 541-5425

RIN: 2060-AC69

3491. NESHAP: CADMIUM

Significance: Regulatory Program

CFR Citation: 40 CFR 61

Completed:

Reason	Date	FR Cite
Withdrawn	07/31/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Al Vervaert 919 541-5602

RIN: 2060-AB02

3492. CONTROL OF EXCESS EVAPORATIVE EMISSIONS/FUEL VOLATILITY

Significance: Regulatory Program

CFR Citation: 40 CFR 80; 40 CFR 600; 40 CFR 86

Completed:

Reason	Date	FR Cite
Final Action (Additional Control)	06/11/90	55 FR 23658

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Tad Wysor 313 668-4332

RIN: 2060-AB89

3493. TRADING AND BANKING OF HEAVY-DUTY ENGINE NOX AND PM EMISSION CREDITS

Significance: Regulatory Program

CFR Citation: 40 CFR 86

Completed:

Reason	Date	FR Cite
Final Action	07/26/90	55 FR 30584

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gloria Peesevent 313 668-4486

RIN: 2060-AC05

3494. DIESEL FUEL QUALITY STANDARDS

Significance: Regulatory Program

CFR Citation: 40 CFR 79; 40 CFR 80

Completed:

Reason	Date	FR Cite
Final Action	08/21/90	55 FR 34120

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: John Anderson 313 668-4486

RIN: 2060-AC00

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Superfund (CERCLA)

Prerule Stage

3495. ADDITION OF CHEMICALS TO THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES BASED ON THEIR PHYSICAL PROPERTIES

Legal Authority: 42 USC 11002 to 11004

CFR Citation: 40 CFR 355, Appendix A and B

Legal Deadline: None

Abstract: EPA published an Advance Notice of Proposed Rulemaking which is intended to alert the public to the Agency's thinking on the addition of new chemicals to the List of Extremely Hazardous Substances based on their physical properties. The Agency has been evaluating criteria for physical properties such as explosivity and flammability.

Timetable:

Action	Date	FR Cite
ANPRM	08/27/90	55 FR 35012
ANPRM Comment Period End	10/29/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAR No. 2758.

FTS:8-382-7912.

Agency Contact: Kathleen Bishop, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-120), Washington, DC 20460, 202 382-7912

RIN: 2050-AD02

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Superfund (CERCLA)

Proposed Rule Stage

3496. ● REPORTABLE QUANTITY ADJUSTMENTS FOR PETROLEUM REFINERY PRIMARY TREATMENT SLUDGES

Legal Authority: 42 USC 9602/42USC 9603/42 USC 9604/33 USC 1321/33 USC 1361

CFR Citation: 40 CFR 302; 40 CFR 302.4; 40 CFR 261.31

Legal Deadline: None

Abstract: The Agency is proposing to adjust the reportable quantities (RQs) for waste streams FO37 and FO38 (sludges from petroleum refinery separation processes) under CERCLA, as amended. In a final rule published in the same Federal Register, EPA designates waste streams FO37 and FO38 as hazardous under CERCLA and assigns each of them a statutory RQ of one pound. In this proposed rule, the Agency is exercising its authority under section 102(a) of CERCLA by proposing to adjust the statutory RQs for waste streams FO37 and FO38 to one pound.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2868.

FTS:8-475-7369.

Agency Contact: Ivette Vega, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-210), Washington, DC 20460, 202 475-7369

RIN: 2050-AD15

3497. ● REPORTABLE QUANTITIES OF LEAD, LEAD COMPOUNDS, AND LEAD-CONTAINING HAZARDOUS WASTE STREAMS

Legal Authority: 42 USC 9602/CERCLA Section 102

CFR Citation: 40 CFR 302; 40 CFR 355; 40 CFR 117

Legal Deadline: Final, Statutory, April 30, 1988.

Abstract: EPA is considering proposing a rule to adjust the reportable quantities of lead metal, lead compounds, and lead-containing hazardous waste streams.

Timetable:

Action	Date	FR Cite
NPRM	07/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2459.

FTS:8-382-5850.

Agency Contact: Gerain Perry, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-210), Washington, DC 20460, 202 382-5859

RIN: 2050-AD16

3498. COMPREHENSIVE ENVIRONMENTAL RESPONSE COMPENSATION AND LIABILITY ACT (CERCLA) COST RECOVERY

Significance: Agency Priority

Legal Authority: 42 USC 9615/CERCLA 115

CFR Citation: 40 CFR 2; 40 CFR 300; 40 CFR 306

Legal Deadline: None

Abstract: Under CERCLA, potentially responsible parties defined under Section 107(a) are liable for the cost of cleanup of superfund sites. It is Agency policy to pursue those potentially responsible parties in court for costs expended if a cleanup settlement is not reached. Rulemaking will present the Agency's views on how to identify the specific recoverable costs, the documentation supporting EPA's cost recovery efforts. Rulemaking can be used to present the Agency's views on how to identify the specific recoverable costs, the documentation sufficient to prove EPA's case, and the documents that will be available to PRPs. The cost recovery regulation is designed to make the process more efficient and less burdensome from litigation point of view. The regulation will address issues such as: direct costs, indirect costs, recovery of interest, and oversight costs.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
Final Action	07/00/91	

Small Entities Affected: None

EPA—CERCLA

Proposed Rule Stage

Government Levels Affected: None

Additional Information: SAR No. 2702.

FTS:8-475-7281.

Agency Contact: Frank Bros, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-510), Washington, DC 20460, 202 475-7281

RIN: 2050–AC98

3499. NATIONAL CONTINGENCY PLAN-SUBPART K: A ROADMAP TO THE NCP FOR FEDERAL FACILITIES

Legal Authority: 42 USC 9605/CERCLA 105; 42 USC 9620/CERCLA 120

CFR Citation: 40 CFR 300

Legal Deadline: None

Abstract: Subpart K of the NCP, entitled "Federal Facilities," is a roadmap to the entire NCP for Federal facilities, and it consolidates in one subpart of the NCP references to the requirements in the other subparts that Federal agencies must follow when conducting CERCLA response actions where the release is on, or where the sole source of the release is from, their facility. It also codifies certain other provisions of Section 120 of CERCLA relating to federal facilities.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
Final Action	12/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2850.

FTS:8-382-4015.

Agency Contact: Rick Colbert, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-510), Washington, DC 20460, 202 382-4015

RIN: 2050–AC76

3500. ● PROCEDURES FOR REIMBURSEMENT PETITIONS UNDER SECTION 106(B) OF CERCLA

Legal Authority: 42 USC 9606(b)/CERCLA 106(b)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: EPA is considering proposing a rule to set out a uniform process of review of petitions for reimbursement of the costs filed by parties who have been ordered to clean up Superfund sites.

A uniform process would expedite EPA consideration of these petitions and would save the Agency time and resources in litigation, if a court finds that the Agency's procedures would take the place of a de novo review.

Timetable:

Action	Date	FR Cite
NPRM	05/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2855.

FTS:8-382-2034.

Agency Contact: Fred Zimmerman, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-510), Washington, DC 20460, 202 382-2034

RIN: 2050–AD11

3501. ADMINISTRATIVE HEARING PROCEDURE FOR SUPERFUND CLAIMS

Legal Authority: 42 USC 9612(b) /CERCLA 112(b)

CFR Citation: 40 CFR 305

Legal Deadline: None

Abstract: Section 112(b)(2) of CERCLA as amended, provides that a person who has made a claim against the Superfund and is dissatisfied with the award by EPA may request an administrative hearing. Such hearings shall be before an administrative law judge. The purpose of this rule would be to establish procedures for conducting administrative hearings. The procedures of this rule would replace the Arbitration procedures, formerly codified at 40 CFR Part 306, revoked as a result of the amendments to section 112.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2858.

FTS:8-382-5734.

Agency Contact: Hugo Paul Fleischman, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-220), Washington, DC 20460, 202 382-5734

RIN: 2050–AC26

3502. ● MANDATORY POLLUTION PREVENTION REPORTING IN TOXIC RELEASE INVENTORY (TRI)

Legal Authority: 42 USC 11013

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: This proposed regulation would expand and make mandatory, reporting of waste minimization/pollution prevention actions in connection with TRI reports. The reports would identify the quantity of reduction, the type of source of the reduction, and the reasons for the reduction. These reports would be used by the Agency and others to identify significant advances in pollution prevention occurring in the manufacturing sector. Alternative data collection under consideration include facility-wide reporting for individual chemicals; reporting for individual pollution prevention projects (on a sub-facility level); and coordinating TRI and biennial reports under the Resource Conservation and Recovery Act (RCRA).

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Additional Information: SAR No. 2847.

FTS:8-382-3667.

Agency Contact: Susan Hazen, Environmental Protection Agency, Pesticides and Toxic Substances, Washington, DC 20460, (TS-779), 202 382-3667

RIN: 2070–AC24

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Superfund (CERCLA)

Final Rule Stage

3503. DESIGNATION OF EXTREMELY HAZARDOUS SUBSTANCES AS CERCLA HAZARDOUS SUBSTANCES

Significance: Regulatory Program

Legal Authority: 42 USC 9602 /CERCLA 102

CFR Citation: 40 CFR 302

Legal Deadline: None

Abstract: This rule will designate 232 non-CERCLA extremely hazardous substances (EHS), as defined in Section 302 of SARA Title III, as hazardous substances pursuant to Section 102 of CERCLA. Currently, only releases of those EHSs that are also CERCLA hazardous substances are required to be reported to the National Response Center under CERCLA Section 103. Upon designation, potential confusion concerning the different SARA Title III and CERCLA requirements will be reduced by ensuring consistent procedures for reporting releases of all EHSs.

Timetable:

Action	Date	FR Cite
NPRM	01/23/89	54 FR 3388
Final Action	05/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAR No. 2336.

For Further Information Contact: RCRA/Superfund Hotline (800-424-9346); in Washington, DC (202-382-3000)

Agency Contact: Gerain H. Perry, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-210), Washington, DC 20460, 202 382-5859

RIN: 2050-AB82

3504. REPORTABLE QUANTITIES (RQS) FOR SUBSTANCES ON THE EXTREMELY HAZARDOUS SUBSTANCES LIST

Significance: Regulatory Program

Legal Authority: 42 USC 11002 / SARA 302; 42 USC 9602 /CERCLA 102

CFR Citation: 40 CFR 302

Legal Deadline: None

Abstract: This action will adjust the reportable quantities (RQs) for 232 substances on the Extremely Hazardous Substances List, which EPA has proposed for designation as CERCLA hazardous substances. These RQ adjustments will reduce unnecessary reporting of releases to local, State, and Federal officials.

Timetable:

Action	Date	FR Cite
NPRM	08/30/89	54 FR 35988
Final Action	05/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2429.

For Further Information Contact: RCRA/Superfund Hotline 800-424-9346; in the Washington, DC 202-382-3000.

Agency Contact: Gerain H. Perry, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-210), Washington, DC 20460, 202 382-5859

RIN: 2050-AC14

3505. REPORTING EXEMPTIONS FOR FEDERALLY PERMITTED RELEASES OF HAZARDOUS SUBSTANCES

Significance: Regulatory Program

Legal Authority: 42 USC 9602 /CERCLA 102

CFR Citation: 40 CFR 117; 40 CFR 302; 40 CFR 355

Legal Deadline: None

Abstract: This regulation will clarify the definition of "federally permitted release" in Section 101(10) of CERCLA. Federally permitted releases of hazardous substances are exempt from reporting under Section 103 of CERCLA and from liability.

Timetable:

Action	Date	FR Cite
NPRM	07/10/89	53 FR 27268
Supplemental Notice	07/11/89	54 FR 29305
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2394.

For Further Information Contact: RCRA/Superfund 800-424-9346; in Washington, DC 202-382-3000.

Agency Contact: Hubert Watters, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-210), 202 382-2463

RIN: 2050-AB82

3506. PROCEDURES FOR PLANNING AND IMPLEMENTING OFF-SITE RESPONSE ACTIONS

Significance: Regulatory Program

Legal Authority: 42 USC 9604(c)/CERCLA 104(c); 42 USC 9621(d)(3)/CERCLA 121(d)(3); 33 USC 1321(c)(2)/CWA 311(c)(2); 42 USC 9605 /CERCLA 105

CFR Citation: 40 CFR 300.440

Legal Deadline: None

Abstract: This rule will interpret and codify (1) the requirements of Section 121(d)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) and (2) the revised off-site policy directive (November 13, 1987). Section 121(d)(3) and the directive describe procedures that must be observed when a response action funded under CERCLA or using a CERCLA authority involves off-site transfer of CERCLA wastes. CERCLA Sec. 121(d)(3) specifies that wastes from removal or remedial actions under CERCLA: 1) only be transferred to facilities that are in compliance with Sections 3004 and 3005 of the Resource Conservation and Recovery Act (RCRA), other applicable Federal laws and State laws, and 2) only be transferred to units at hazardous waste land disposal facilities that are not leaking and where releases from other (non-receiving) units at the facility are under a corrective action program. The rule prescribes procedures whereby affected facilities may ask EPA for review of the off-site acceptability determinations.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48218
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis

Additional Information: SAR No. 2538.

FTS:8-475-9328.

Agency Contact: Nancy Browne, Environmental Protection Agency, Solid Waste and Emergency Response, RCRA Enforcement Division (OS-520), 401 M

St., SW., Washington, DC 20460, 202 475-9328

RIN: 2050–AC35

3507. HAZARD RANKING SYSTEM FOR UNCONTROLLED HAZARDOUS SUBSTANCE RELEASES

Significance: Regulatory Program

Legal Authority: 42 USC 9605(a)(8)(A) /CERCLA 105(a)(8)(A); 42 USC 9605(c) /CERCLA 105(c); 42 USC 9618 /CERCLA 118; 42 USC 9625 /CERCLA 125

CFR Citation: 40 CFR 300

Legal Deadline: Final, Statutory, April 17, 1988.

Abstract: This rule revises the Hazard Ranking System (HRS), which is Appendix A of the National Contingency Plan. The HRS is a system for determining the relative risk among releases of hazardous substances. The HRS is the primary mechanism for establishing the National Priorities List under CERCLA. CERCLA, as amended by the Superfund Amendments and Reauthorization Act (SARA) of 1986, requires that HRS be amended to assure, to the maximum extent feasible, that it accurately assesses relative risk to public health and the environment. SARA specifically requires that the HRS take into consideration a number of factors including effects on the human food chain as well as potential air contamination. The HRS must also appropriately assess human health risks associated with contamination of surface waters used for drinking or recreation.

Timetable:

Action	Date	FR Cite
ANPRM	04/09/87	52 FR 11513
NPRM	12/23/88	53 FR 51962
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAR No. 2566.

FTS:8-382-3600.

Agency Contact: Steve Caldwell and Agnes Ortiz, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-230), Washington, DC 20460, 202 382-3000

RIN: 2050–AB73

3508. NATIONAL PRIORITIES LIST (NPL) FOR UNCONTROLLED HAZARDOUS WASTE SITES - UPDATE 10

Significance: Regulatory Program

Legal Authority: 42 USC 9605(a)(8)(B) /CERCLA 105(a)(8)(B); 42 USC 9620(d)(2) /CERCLA 120(d)(2)

CFR Citation: 40 CFR 300.66

Legal Deadline: None

Abstract: This action revises the National Priorities List (NPL) for uncontrolled hazardous waste sites in the National Contingency Plan (NCP). CERCLA requires that the Agency revise the NPL at least annually. Periodic revisions will allow EPA to include sites on the NPL with known or threatened hazardous substances releases and to delete sites that have been cleaned up. EPA uses the Hazard Ranking System (HRS) to evaluate the sites.

Timetable:

Action	Date	FR Cite
NPRM	10/26/89	54 FR 43776
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information:

FTS:8-382-3000.

Agency Contact: Martha Otto, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-230), Washington, DC 20460, 202 382-8941

RIN: 2050–AD01

3509. RESPONSE CLAIMS PROCEDURES FOR THE HAZARDOUS SUBSTANCES SUPERFUND

Legal Authority: 42 USC 9612 / CERCLA 112

CFR Citation: 40 CFR 307

Legal Deadline: None

Abstract: This rule will prescribe the forms and procedures for persons other than governments to recover response costs incurred in carrying out the National Contingency Plan from the Hazardous Substance Superfund.

Timetable:

Action	Date	FR Cite
NPRM	09/13/89	54 FR 37882
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2004.

FTS:8-382-4645.

Agency Contact: William O. Ross, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-220), Washington, DC 20460, 202 382-4645

RIN: 2050–AA90

3510. TECHNICAL ASSISTANCE GRANTS TO GROUPS OF INDIVIDUALS AT SUPERFUND SITES

Legal Authority: 42 USC 9617 /SARA 117

CFR Citation: 40 CFR 300

Legal Deadline: None

Abstract: Superfund Amendments and Reauthorization Act 1986 requires that EPA develop grant regulations for technical assistance for citizen groups. Under Section 117(e) groups of individuals may apply for the technical assistance grants only at NPL sites. The grants are limited to $50,000 per site and require matching funds. This limit may be waived.

Timetable:

Action	Date	FR Cite
ANPRM	06/10/87	52 FR 22244
Interim Final Rule	03/24/88	53 FR 9736
Revised Interim Final Rule	12/01/89	54 FR 49946
Final Action	09/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2401.

FTS:8-382-2443.

Agency Contact: Murray Newton, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-220), Washington, DC 20460, 202 382-2443

RIN: 2050–AC10

EPA—CERCLA

Final Rule Stage

3511. REIMBURSEMENT OF LOCAL GOVERNMENTS FOR EMERGENCY RESPONSE TO HAZARDOUS SUBSTANCE RELEASES

Legal Authority: 42 USC 9623 / SARA 123; 42 USC 9611(c)(11)

CFR Citation: 40 CFR 310

Legal Deadline: Final, Statutory, October 17, 1987.

Abstract: This provision authorizes reimbursement of local governments for costs incurred in providing temporary emergency measures in response to releases of hazardous substances. Reimbursement is limited to $25,000 per incident and is not intended to supplant local funds normally provided for response.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/21/87	52 FR 39388
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: Local

Additional Information: SAR No. 2409.

FTS:8-382-3182.

Agency Contact: Local Gov't Reimbursement Coordinator, Environmental Protection Agency, Solid Waste and Emergency Response, (OS-210), Washington, DC 20460, 202 382-3182

RIN: 2050-AC11

3512. ADMINISTRATIVE HEARING PROCEDURES FOR CLASS II PENALTIES UNDER CERCLA AND EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT

Legal Authority: 42 USC 9609/11045

CFR Citation: 40 CFR 22

Legal Deadline: None

Abstract: This rule will govern the conduct of administrative hearings for all penalties to be assessed under CERCLA Section 109 and SARA Section 325. The rule provides the procedures for these penalty assessments. The action is expected to have a negligible economic impact on consumers, industries, or governmental agencies, but will provide the benefit of uniform procedures for assessing penalties.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/16/89	54 FR 21174
Final Action	08/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2512.

FTS:8-382-3110.

Agency Contact: Sandra Connors, Environmental Protection Agency, Office of Enforcement, (LE-134S), Washington, DC 20460, 202 382-3110

RIN: 2050-AC39

3513. PRIOR NOTICE OF CITIZEN SUITS UNDER CERCLA AND THE EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT

Legal Authority: 42 USC 9659/EPCRA 326; 42 USC 11046/CERCLA 310

CFR Citation: 40 CFR 310; 40 CFR 326

Legal Deadline: None

Abstract: These regulations are promulgated under EPCRA Section 326 and Section 310 of CERCLA. They govern the notice required to be given 60 days prior to the filing of a citizen suit.

Timetable:

Action	Date	FR Cite
NPRM	01/26/89	54 FR 3918
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: SAR No. 2615.

FTS:8-382-3860.

Agency Contact: Patricia Sims, Environmental Protection Agency, Office of Enforcement, (LE-134S), Washington, DC 20460, 202 382-3860

RIN: 2050-AC70

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Superfund (CERCLA)

Completed Actions

3514. REPORTING CONTINUOUS RELEASES OF HAZARDOUS SUBSTANCES

Significance: Regulatory Program

CFR Citation: 40 CFR 302; 40 CFR 355

Completed:

Reason	Date	FR Cite
Final Action	07/24/90	55 FR 30168

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hubert Watters 202 382-3403

RIN: 2050-AA46

3515. NATIONAL PRIORITIES LIST FOR UNCONTROLLED HAZARDOUS WASTE SITES UPDATE 9

CFR Citation: 40 CFR 300.66; 40 CFR 322

Completed:

Reason	Date	FR Cite
Final Action	08/30/90	55 FR 35502

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Martha Otto 202 382-3041

RIN: 2050-AC39

3516. REPORTING HAZARDOUS SUBSTANCES ACTIVITY WHEN TRANSFERRING FEDERAL REAL PROPERTY

CFR Citation: 40 CFR 373

Completed:

Reason	Date	FR Cite
Final Action	04/16/90	55 FR 14208

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Deborah Lebow 202 475-8235

RIN: 2050-AC00

EPA—CERCLA

Completed Actions

3517. EMERGENCY AND HAZARDOUS CHEMICAL INVENTORY FORMS AND COMMUNITY RIGHT-TO-KNOW REPORTING REQUIREMENTS; IMPLEMENTATION OF REPORTING REQUIREMENTS FOR INDIAN LANDS

Significance: Regulatory Program

CFR Citation: 40 CFR 350; 40 CFR 355; 40 CFR 370; 40 CFR 372

Completed:

Reason	Date	FR Cite
Final Action	07/26/90	55 FR 30832

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Kathleen Jones 202 475-8553

RIN: 2050-AB88

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Superfund (CERCLA)

Final Rule Stage

3518. ● FEDERAL POLICY FOR THE PROTECTION OF HUMAN SUBJECTS

Significance: Regulatory Program

Legal Authority: 5 USC 301; 42 USC 300v-1(b)

CFR Citation: 40 CFR 26

Legal Deadline: None

Abstract: This is a common Federal policy (model policy) for the protection of human subjects of research conducted, supported, or regulated by all Federal departments and agencies. The purpose of this regulation is to ensure the adequacy and uniformity of the rules, policies, guidelines, and regulations of all Federal departments and agencies regarding the protection of human subjects of biomedical or behavioral research which such departments and agencies conduct or support. Such uniformity will eliminate unnecessary regulation and promote increased understanding and ease of compliance by institutions that conduct federally supported or regulated research involving human subjects. This model Federal policy is based on Subpart A of the regulations of HHS for the protection of human research subjects (45 CFR Part 46).

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45661
NPRM Comment Period End	01/09/89	
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Ken Sexton, Director, Office of Health Research, Environmental Protection Agency, Office of Research and Development, 401 M Street, SW. (RD-683), Washington, DC 20460, 202 382-5930

RIN: 2080-AA04

ENVIRONMENTAL PROTECTION AGENCY (EPA)

General

Proposed Rule Stage

3519. EVALUATION PROCEDURE FOR AWARD OF FIXED PRICE CONTRACTS FOR COMMERCIAL SUPPLIES AND SERVICES

Legal Authority: EPAAR

CFR Citation: 48 CFR 1515; 48 CFR 1552

Legal Deadline: None

Abstract: The rule will result in the addition of an evaluation procedure to EPA Aquisition Regulation for making award of certain fixed price contracts for commercial supplies or services the procedure will provide for award to the lowest price offeror whose technical proposal meets the minimum needs of the government.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

SAR No. 0052.

FTS:8-245-3940.

Agency Contact: Gil Florence, Environmental Protection Agency, Administration and Resource Management, (PM-214F), Washington, DC 20460, 202 245-3940

RIN: 2030-AA09

3520. AMENDMENTS TO PART 22 CONSOLIDATED PROCEDURAL RULES

Legal Authority: 7 USC 1361(a); 15 USC 2615(a); 33 USC 1415(a); 42 USC 7545; 42 USC 7601; 42 USC 6928

CFR Citation: 40 CFR 22

Legal Deadline: None

Abstract: The Agency is proposing amendments to the Consolidated Rules of Practice under 40 CFR Part 22. These amendments will include technical amendments correcting the address to which penalty payments are sent, lengthening the period to file an appeal, and modifying the specified procedures for service of process. The Agency will also propose more substantive amendments regarding handling Confidential Business Information, default judgments, and burden of proof on penalty assessments. In addition, Part 22 will need to be amended to implement the 1990 CAA amendments, which will permit civil penalties to be assessed in administrative enforcement hearings.

EPA—GENERAL

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	05/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2662.

FTS:8-475-8781.

Agency Contact: Larry Blackwood, Environmental Protection Agency, Office of Enforcement, (LE-133), Washington, DC 20460, 202 475-8781

RIN: 2020–AA13

3521. EPCRA INSPECTION AUTHORITY AND PROCEDURES

Legal Authority: 15 USC 11048

CFR Citation: 40 CFR 375

Legal Deadline: None

Abstract: This regulation sets out EPA's authority to inspect under the Emergency Planning and Community Right-to-Know Act (EPCRA). It will also set out EPA's guidelines for conducting these inspections.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2852.

FTS:8-475-8020.

Agency Contact: Vincent Giordano, Environmental Protection Agency, Office of Enforcement, (LE-134P), Washington, DC 20460, 202 475-8020

RIN: 2020–AA15

3522. CONFIDENTIALITY REGULATIONS: SPECIAL RULES GOVERNING CERTAIN INFORMATION UNDER FIFRA (REVISION)

Legal Authority: 5 USC 552/Freedom of Information Act ; 7 USC 136h/FIFRA 10

CFR Citation: 40 CFR 2.307

Legal Deadline: None

Abstract: This action would make changes in EPA's procedures for handling business information under FIFRA to reflect amendments to Section 10 of the Act. It would also clarify existing regulations on the treatment of confidential business information under FIFRA.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	
Final Action	09/00/92	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAR No. 2195.

FTS:8-382-4550.

Agency Contact: Rafael Deleon, Environmental Protection Agency, Office of Enforcement, (LE-132G), Washington, DC 20460, 202 382-4550

RIN: 2020–AA06

3523. ADVISORY AND ASSISTANCE SERVICES

Legal Authority: PL 98-377/Section 302

CFR Citation: 48 CFR 1537

Legal Deadline: None

Abstract: This proposed rule will amend EPAAR to ensure consistency with OMB Circular A-120 requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

SAR No. 2788.

FTS:8-382-5019.

Agency Contact: Marilyn Torpey, Environmental Protection Agency, Administration and Resource Management, (PM-214F), Washington, DC 20460, 202 245-3941

RIN: 2030–AA21

3524. DUPLICATION OF WORK

Legal Authority: PL 98-377/Section 302

CFR Citation: 48 CFR 1512; 48 CFR 1516; 48 CFR 1552

Legal Deadline: None

Abstract: The proposed rule will require contractors to certify that work ordered by the Agency does not duplicate or is not similar to work previously performed or currently being performed for the Agency. The verification requirements will be in addition to those prescribed by the DFPP policy letter on conflicts of interest.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

SAR No. 2789.

FTS:8-382-5028.

Agency Contact: Ed Chambers, Environmental Protection Agency, Administration and Resource Management, (PM-214F), Washington, DC 20460, 202 382-5028

RIN: 2030–AA23

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Final Rule Stage

General

3525. CONTRACTOR COMPLIANCE WITH INFORMATION RESOURCES MANAGEMENT DIRECTIVES

Legal Authority: EPAAR

CFR Citation: 48 CFR 1510; 48 CFR 1552

Legal Deadline: None

Abstract: This rule will require contractor compliance with Agency directives for contracts involving information resources management. Examples of such contracts include the acquisition or modification of a computer program, data communications, and ADP or word processor equipment or services.

Timetable:

Action	Date	FR Cite
NPRM	04/26/90	55 FR 17732
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

SAR No. 0951.

FTS:8-382-5028.

P.L. 98-577, Sec. 302

Agency Contact: Edward Chambers, Environmental Protection Agency, Administration and Resource Management, (PM-214F), Washington, DC 20460, 202 382-5028

RIN: 2030–AA10

3526. PAYMENT OF FEE ON TERM FORM CONTRACTS

Legal Authority: 40 USC 486(a)

CFR Citation: 48 CFR 1516; 48 CFR 1552

Legal Deadline: None

Abstract: The final rule will address the payment of fees on cost-reimbursable term form contracts. The rule will recommend a change to the current procedure of making provisional payments of fee as a percentage of cost incurred to a method based on the number of direct hours performed in relation to the total level of effort in the contract.

Timetable:

Action	Date	FR Cite
NPRM	12/29/89	54 FR 53659
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

SAR No. 2663.

FTS:8-382-5019.

PL 98-577 Section 302

Agency Contact: Joe Nezargat, Environmental Protection Agency, Administration and Resource Management, (PM-214F), Washington, DC 20460, 202 382-5019

RIN: 2030–AA15

3527. DATA RIGHTS

Legal Authority: PL 98-377,Sec 302

CFR Citation: 48 CFR 1527; 48 CFR 1552

Legal Deadline: None

Abstract: The proposed rule will delete coverage in EPA Aquisition Regulation on data rights that duplicates FAR coverage. EPAAR coverage was issued to insert clauses that FAR did not include at that time. FAR has since included appropriate coverage.

Timetable:

Action	Date	FR Cite
NPRM	05/21/90	55 FR 20909
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

SAR No. 2740.

FTS:8-245-3941.

Agency Contact: Marilyn Terpey, Environmental Protection Agency, Administration and Resource Management, (PM-214F), Washington, DC 20460, 202 245-3941

RIN: 2030–AA16

3528. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS RECEIVING FINANCIAL ASSISTANCE FROM THE EPA (REVISION)

Legal Authority: 42 USC 6101 /Age Discrimination Act of 1979

CFR Citation: 40 CFR 7

Legal Deadline: None

Abstract: This action is necessary to add age as a basis for nondiscrimination to EPA's Federally-Assisted Nondiscrimination Regulation.

Timetable:

Action	Date	FR Cite
NPRM	01/09/81	46 FR 2306
Final Action	10/00/92	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAR No. 2218.

FTS:8-382-4567.

Agency Contact: Harold Maxey, Environmental Protection Agency, Office of the Administrator, Office of Civil Rights, (A-105), Washington, DC 20460, 202 382-4567

RIN: 2090–AA09

3529. PROCEDURES AND REQUIREMENTS IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT FOR THE EPA'S RESEARCH AND DEVELOPMENT PROGRAM AND FOR PUBLIC AND OTHER FEDERAL AGENCY INVOLVEMENT

Legal Authority: 42 USC 4321

CFR Citation: 40 CFR 6.700

Legal Deadline: None

Abstract: This action amends EPA's National Environmental Policy Act (NEPA) regulation in 40 CFR Part 6, Subpart G which addresses the environmental review procedures for research and development projects undertaken by EPA's Office of Research and Development (ORD). The purpose of this rulemaking is to develop procedures for categorically excluding classes of ORD actions having no significant impact on the environment, from the requirement to prepare an environmental assessment (EA) or an environmental impact statement (EIS). The rulemaking also clarifies the criteria under which EPA would be required to prepare an EIS. This rulemaking will enable EPA to focus its

EPA—GENERAL

Final Rule Stage

resources on assessing research and development projects which have the potential to significantly affect the environment. The revisions are consistent with the Council on Environmental Quality's NEPA regulation in 40 CFR Parts 1500-1508. (cont)

Timetable:

Action	Date	FR Cite
NPRM	05/04/90	55 FR 18638
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAR No. 2538.

FTS:8-382-5805.

ABSTRACT CONT: This action also revises 40 CFR Part 6, Subpart D which addresses NEPA review procedures for public and other agency involvement. The proposed rulemaking would eliminate the current Agency requirement for public notice of EPA's categorical exclusion determinations, except for the Construction Grants projects. This revision would make the regulation consistent with CEQ and other federal agency NEPA regulations.

Agency Contact: Judith Troast, Environmental Protection Agency, Office of Enforcement, (A-104), Washington, DC 20460, 202 382-5805

RIN: 2030-AA16

3530. ● NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: PL 101-121; 33 USC 1251 et seq; 42 USC 7401 et seq; 42 USC 6901 et seq; 42 USC 300f et seq; 7 USC 136 et seq; 15 USC 2601 et seq; 42 USC 9601 et seq; 20 USC 4011 et seq; 33 USC 1401 et seq

CFR Citation: 40 CFR 34

Legal Deadline: None

Abstract: This is a common rule designed to implement the Anti-Lobbying Act passed October 23, 1989. The common rule prohibits the use of Federal funds for lobbying by grantees and applicants.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Additional Information:

FTS:8-245-4078.

Agency Contact: Richard Mitchell, Environmental Protection Agency, Administration and Resource Management, (PM-216F), Washington, DC 20460, 202 245-4078

RIN: 2030-AA24

3531. INSTRUCTIONS FOR PREPARATION OF COST OR PRICING PROPOSALS

Legal Authority: PL 96-377/Section 302

CFR Citation: 48 CFR 1515; 48 CFR 1552

Legal Deadline: None

Abstract: This proposed rule will request additional information from offerors to allow EPA to more quickly and accurately evaluate cost or pricing proposals submitted in response to solicitations and will require that cost or pricing information be submitted on computer disks as well as hard copy.

Timetable:

Action	Date	FR Cite
NPRM	02/20/90	55 FR 5948
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

SAR No. 2791.

FTS:8-382-5019.

Agency Contact: Joe Nemargut, Environmental Protection Agency, Administration and Resource Management, (PM-214F), Washington, DC 20460, 202 382-5019

RIN: 2030-AA20

ENVIRONMENTAL PROTECTION AGENCY (EPA)

General

Completed Actions

1532. ● DRUG-FREE WORKPLACE (GRANTS)

Significance: Regulatory Program

Legal Authority: 41 USC 701 et seq/Drug-Free Workplace Act of 1988

CFR Citation: 40 CFR 32

Legal Deadline: None

Abstract: This regulation implements statutory requirements that recipients of Federal grants maintain Drug-Free Workplaces and certify that they will do so. Individuals receiving Federal grants must certify that their conduct of grant activity will be drug-free.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 4946
Final Action	05/25/90	55 FR 21700

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information:

FTS:8-245-4077.

Agency Contact: Corinne Allison, Environmental Protection Agency, Office of the Administrator, (PM-216F), Washington, DC 20460, 202 245-4077

RIN: 2090-AA10

3533. MISCELLANEOUS DELEGATIONS FROM THE CONTRACTING AUTHORITY

CFR Citation: 48 CFR 1501; 48 CFR 1503; 48 CFR 1506; 48 CFR 1514; 48 CFR 1515; 48 CFR 1516; 48 CFR 1517; 48 CFR 1522; 48 CFR 1530; 48 CFR 1531; 48 CFR 1532; 48 CFR 1536; 48 CFR 1545

EPA—GENERAL

Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	06/18/90	55 FR 24578

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Julie Taitt 202 245-3038

RIN: 2030–AA11

3534. IMPLEMENTATION OF FEDERAL ACQUISITION REGULATION COVERAGE ON RATIFICATION OF UNAUTHORIZED COMMITMENTS

CFR Citation: 48 CFR 1501.6

Completed:

Reason	Date	FR Cite
Final Action	05/02/90	55 FR 18340

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Schaeffer 202 382-5932

RIN: 2030–AA12

3535. CLAIMING BILLING INFORMATION AS CONFIDENTIAL INFORMATION

CFR Citation: 48 CFR 1524; 48 CFR 1552

Completed:

Reason	Date	FR Cite
Withdrawn	07/19/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joe Nemargut 202 382-5919

RIN: 2030–AA17

3536. BILLING REQUIREMENTS FOR EPA CONTRACTORS

CFR Citation: 48 CFR 1532; 48 CFR 1552

Completed:

Reason	Date	FR Cite
Final Action	09/21/90	55 FR 38606

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joe Nemargut 202 382-5919

RIN: 2030–AA18

3537. PROCEDURES AND REQUIREMENTS IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT FOR THE EPA'S RESEARCH AND DEVELOPMENT PROGRAM AND FOR PUBLIC AND OTHER FEDERAL AGENCY INVOLVEMENT

CFR Citation: 40 CFR 6.700

Completed:

Reason	Date	FR Cite
TRANSFER DEVELOPMENT TO: 2020-AA16	07/24/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith Troast 202 382-7865

RIN: 2030–AA14

3538. MONTHLY PROGRESS REPORTS AND INVOICES

CFR Citation: 48 CFR 1510; 48 CFR 1532; 48 CFR 1552

Completed:

Reason	Date	FR Cite
Final Action	09/26/90	55 FR 39521

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Schaeffer 202 382-5932

RIN: 2030–AA19

3539. COOPERATIVE AGREEMENTS AND SUPERFUND STATE CONTRACTS FOR SUPERFUND RESPONSE ACTIONS

CFR Citation: 40 CFR 35, Subpart O

Completed:

Reason	Date	FR Cite
Final Action	08/06/90	55 FR 22994

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Richard Johnson 202 382-5296

RIN: 2030–AA22

[FR Doc. 90-21461 Filed 10-26-90; 8:45 am]

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Part XXIII

Equal Employment Opportunity Commission

Semiannual Regulatory Agenda

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Ch. XIV

Semiannual Regulatory Agenda

AGENCY: Equal Employment Opportunity Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Equal Employment Opportunity Commission is publishing its Semiannual Regulatory Agenda pursuant to Executive Order No. 12291, 3 CFR section 127 (1981 Compilation) and the Regulatory Flexibility Act, 5 U.S.C. chapter 6. The agenda contains all regulations which are scheduled for review or development during the next 12 months.

FOR FURTHER INFORMATION CONTACT: Irene L. Hill, Assistant Legal Counsel for Coordination, Office of the Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507; telephone (202) 663-4669.

SUPPLEMENTARY INFORMATION: The Commission identified thirteen current and projected rulemakings for inclusion in the agenda. Five are new projected rulemakings. Three have been published as ANPRMs. Two have been published as NPRMs. Four are currently under development or review by Commission staff.

Signed in Washington, DC, this 24th day of August 1990.

For the Commission.

Evan J. Kemp, Jr.

Chairman

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3540	Uniform Guidelines on Employee Selection Procedures	3046-AA00
3541	Procedures for Administrative Exemptions under Section 9 of the Age Discrimination in Employment Act	3046-AA22
3542	Early Retirement Plans	3046-AA36
3543	Possible Revisions to Interpretations Relating to Benefits Under Employee Benefit Plans	3046-AA37
3544	Procedures for Handling Complaints of Employment Discrimination on the Basis of Disability Filed under the Americans With Disabilities Act and the Rehabilitation Act of 1973	3046-AA41
3545	Procedures for Handling Complaints of Employment Discrimination on the Basis of Disability Filed Under the Americans With Disabilities Act and the Rehabilitation Act of 1973	3046-AA42
3546	Procedural Regulations Implementing the Americans With Disabilities Act	3046-AA43
3547	Americans With Disabilities Act; Record Keeping and Reporting Regulations	3046-AA44

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3548	Equal Employment Opportunity in the Federal Government; Individual and Class EEO Complaints Processing	3046-AA11
3549	Uniform Guidelines on Employee Selection Procedures	3046-AA24
3550	Regulations To Implement Title I of the Americans With Disabilities Act	3046-AA40

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3551	Coordination of Federal Equal Employment Opportunity Programs	3046-AA10
3552	Pension Accruals and Contributions Under ADEA	3046-AA31

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — Prerule Stage

3540. UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES

Significance: Agency Priority

Legal Authority: 42 USC 2000e et seq Title VII of the Civil Rights Act of 1964

CFR Citation: 29 CFR 1607

Legal Deadline: None

Abstract: UGESP Recordkeeping Provisions. On March 15, 1983, the Commission voted to review those portions of the recordkeeping provisions of the Guidelines which

EEOC

Prerule Stage

relate to the maintenance of data necessary to determine adverse impact. Pursuant to that vote, the Commission published in the Federal Register a notice seeking public comment in general and on several specific questions about UGESP recordkeeping. 48 Fed. Reg. 34766 (Aug. 1, 1983). Approximately 45 comments were received. The Commission is currently reviewing the comments and is considering further action. On June 12, 1984, the Commission voted to prepare an NPRM concerning certain UGESP recordkeeping requirements. Prior to publication for comment, co-signatories to UGESP will engage in discussion of recommended changes and other affected agencies will be consulted under EO 12067.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is included in the Regulatory Program of the United States under the overall RIN 3046-AA24.

Agency Contact: Nicholas Inzeo, Assistant Legal Counsel, Legal Services, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 663-4669

RIN: 3046–AA00

3541. PROCEDURES FOR ADMINISTRATIVE EXEMPTIONS UNDER SECTION 9 OF THE AGE DISCRIMINATION IN EMPLOYMENT ACT

Legal Authority: 29 USC 628 Age Discrimination in Employment Act

CFR Citation: 29 CFR 1627.15

Legal Deadline: None

Abstract: The purpose of the proposed amendment to 29 CFR 1627.15 is to give those covered by the ADEA more specific information about what they should do if they wish to seek an exemption from any or all of the ADEA's prohibitions. The advantage is that the establishment of a specific procedure will facilitate the processing of exemption requests.

Timetable:

Action	Date	FR Cite
Submission of Staff Recommendations to Commission	03/13/84	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Joseph N. Cleary, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 663-4669

RIN: 3046–AA22

3542. EARLY RETIREMENT PLANS

Significance: Regulatory Program

Legal Authority: 29 USC 628

CFR Citation: 29 CFR Not yet determined

Legal Deadline: None

Abstract: The ADEA prohibits discrimination on the basis of age with respect to an employee's compensation, terms, conditions, or privileges of employment. In light of recent amendments to the ADEA and several cases dealing with early retirement, questions have arisen regarding the legality of early retirement plans in general and of specific plans. Since the use of early retirement has expanded greatly in recent years, the Commission deems it appropriate to consider the issuance of regulatory guidance in the area. The ANPRM seeks comment on issues such as voluntariness, plan structuring and eligibility to participate. The Commission is reassessing this project in light of the Supreme Court's decision in Public Employees Retirement System of Ohio v. Betts, 109 S. Ct. 2854 (1989).

Timetable:

Action	Date	FR Cite
ANPRM	07/15/88	53 FR 26789
ANPRM Comment Period End	10/13/88	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph N. Cleary, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 663-4669

RIN: 3046–AA36

3543. POSSIBLE REVISIONS TO INTERPRETATIONS RELATING TO BENEFITS UNDER EMPLOYEE BENEFIT PLANS

Legal Authority: 29 USC 628

CFR Citation: 29 CFR 1625.10

Legal Deadline: None

Abstract: The current interpretive regulations at 29 CFR 1625.10 were framed in 1979. Since that time the ADEA has been amended in a manner that necessitates considering revisions to the regulations, for example, the addition of sec. 4(g) to the Act and the lifting of the age 70 cap. Accordingly, the Commission requested public comment to determine whether revisions are necessary and, if so, the nature and scope of any such revision. The continuing viability of this project will be assessed in light of the Supreme Court's decision in Public Employees Retirement System of Ohio v. Betts, 109 S. Ct. 2854 (1989).

Timetable:

Action	Date	FR Cite
ANPRM	07/15/88	53 FR 26788
ANPRM Comment Period End	10/13/88	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph N. Cleary, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 663-4669

RIN: 3046–AA37

3544. PROCEDURES FOR HANDLING COMPLAINTS OF EMPLOYMENT DISCRIMINATION ON THE BASIS OF DISABILITY FILED UNDER THE AMERICANS WITH DISABILITIES ACT AND THE REHABILITATION ACT OF 1973

Legal Authority: 42 USC 12101 et seq; PL 101-336 The American with Disabilities Act (ADA)

CFR Citation: Not yet determined

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EEOC

Prerule Stage

Legal Deadline: None

Abstract: Section 107(b) of the ADA requires that agencies with enforcement authority for actions which allege employment discrimination under the ADA and section 503 of the Rehabilitation Act of 1973 must develop procedures that ensure that administrative complaints filed under the ADA or the Rehabilitation Act are processed in a manner which avoids duplication of effort and prevents the imposition of inconsistent or conflicting standard by the EEOC and the Department of Labor.

These regulations will contain procedures and standards to ensure that complaints are processed in an effective manner, and that consistent standards are applied to the same requirements imposed by both statutes.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Elizabeth M. Thornton, Associate Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507, 202 663-4669

RIN: 3046-AA41

3545. ● PROCEDURES FOR HANDLING COMPLAINTS OF EMPLOYMENT DISCRIMINATION ON THE BASIS OF DISABILITY FILED UNDER THE AMERICANS WITH DISABILITIES ACT AND THE REHABILITATION ACT OF 1973

Legal Authority: 42 USC 12101 et seq; PL 101-336 The Americans With Disabilities Act (ADA)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Section 107(b) of the ADA requires that agencies with enforcement authority for actions which allege employment discrimination under the ADA and section 504 of the Rehabilitation Act of 1973 must develop procedures that ensure that administrative complaints filed under the ADA or the Rehabilitation Act are processed in a manner which avoids duplication of effort and prevents the imposition of inconsistent or conflicting standards by EEOC and the Department of Justice.

These regulations will contain procedures and standards to ensure that complaints are processed in an effective manner, and that consistent standards are applied to the same requirements imposed by both statutes.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Elizabeth M. Thornton, Associate Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507, 202 663-4669

RIN: 3046-AA42

3546. ● PROCEDURAL REGULATIONS IMPLEMENTING THE AMERICANS WITH DISABILITIES ACT

Legal Authority: 42 USC 1201 et seq; PL 101-336, The Americans with Disabilities Act of 1990

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Americans With Disabilities Act (ADA) incorporates sections 705, 706, 707, 709 and 710 of Title VII of the Civil Rights Act of 1964 into the ADA. These regulations will establish procedures for processing complaints under the ADA that follow existing procedures under Title VII of the Civil Rights Act of 1964.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nicholas M. Inzeo, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507, 202 663-4670

RIN: 3046-AA43

3547. ● AMERICANS WITH DISABILITIES ACT; RECORD KEEPING AND REPORTING REGULATIONS

Legal Authority: 42 USC 12101 et seq; PL 101-336, Sec 06 The Americans with Disabilities Act (ADA)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The regulation will establish record keeping and reporting requirements implementing the ADA.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nicholas M. Inzeo, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507, 202 663-4670

RIN: 3046-AA44

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

Proposed Rule Stage

3548. EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL GOVERNMENT; INDIVIDUAL AND CLASS EEO COMPLAINTS PROCESSING

Significance: Agency Priority

Legal Authority: 42 USC 2000e-16 Title VII of the Civil Rights Act; 29 USC 701 Rehabilitation Act of 1973, as amended; 29 USC 621 et seq Age Discrimination in Employment Act

CFR Citation: 29 CFR 1614, (Proposed)

Legal Deadline: None

Abstract: Comprehensive revision of regulations for processing individual and class EEO complaints in the Federal sector. Public comments are undergoing evaluation.

Timetable:

Action	Date	FR Cite
Commission Vote to Approve NPRM for Circulation to OMB	05/22/89	
Issuance Sent to OMB for Review	05/24/89	
NPRM	10/31/89	54 FR 45747
NPRM Comment Period End	01/01/90	
Evaluation of Public Comments Ongoing	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nicholas Inzeo, Assistant Legal Counsel, Legal Services, Equal Employment Opportunity Commission, Office of Legal Counsel, 202 663-4669

RIN: 3046-AA11

3549. UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES

Significance: Regulatory Program

Legal Authority: 42 USC 2000e et seq Title VII of the Civil Rights Act of 1964

CFR Citation: 29 CFR 1607

Legal Deadline: None

Abstract: On March 15, 1983, the Commission voted to review the recordkeeping portions of the Guidelines. During that review process, several questions arose which pertained to the substantive, non-recordkeeping provisions of the Guidelines. Consequently, the Commission decided to review the substantive portions of the Guidelines. The major substantive areas under review are: 1) the purpose of the Guidelines and whether there is still a need for the Guidelines; 2) the theory of adverse impact and the method of determining when such impact is significant; and 3) how to establish test validity. When the review is completed, the Commission will decide whether any regulatory revisions are needed.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/84	
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This action resulted from splitting previous entry RIN 3046-AA00, Uniform Guidelines on Employee Selection Procedures.

It is included in the Regulatory Program of the United States under overall RIN 3046-AA25.

Agency Contact: Philip Lyons, Special Assistant to the Chairman, Office of the Chairman, Equal Employment Opportunity Commission, 202 663-4681

RIN: 3046-AA24

3550. ● REGULATIONS TO IMPLEMENT TITLE I OF THE AMERICANS WITH DISABILITIES ACT

Significance: Regulatory Program

Legal Authority: 42 USC 12101 et seq; PL 101-336 The Americans With Disabilities Act of 1990

CFR Citation: 29 CFR 1630

Legal Deadline: Final, Statutory, July 26, 1991.

Abstract: The Americans With Disabilities Act requires the EEOC to promulgate final regulations within one year of the date of enactment.

These regulations shall provide guidance on key terms and standards under Title I of the Act. Guidance on terms such as "individual with a disability", "qualified individual with a disability", "reasonable accommodation", and "undue hardships" will be included in this regulation.

Timetable:

Action	Date	FR Cite
ANPRM	08/01/90	55 FR 29 92
ANPRM Comment Period End	08/31/90	
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Irene H. Hill, Assistant Legal Counsel, Coordination Division, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507, 202 663-4669

RIN: 3046-AA40

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

Final Rule Stage

3551. COORDINATION OF FEDERAL EQUAL EMPLOYMENT OPPORTUNITY PROGRAMS

Legal Authority: EO 12067 Sec 1-303; EO 12067 Sec 1-304

CFR Citation: 29 CFR 1690

Legal Deadline: None

Abstract: These amendments to 29 CFR 1690 will implement an agreement reached by EEOC and the Department of Justice with the Office of Management and Budget which clarified the sequence to be followed when agencies are required to seek prepublication clearance of equal employment opportunity rules from EEOC under EO 12067, DOJ under EO 12250, and from OMB under EO 12291 and the Paperwork Reduction Act. In

EEOC

Final Rule Stage

addition to clearance by the EEOC under EO 12067, equal employment opportunity rules issued under Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, as amended, or any other provision of Federal statutory law which prohibits discrimination under any program or activity receiving Federal financial assistance, require clearance from DOJ under EO 12250.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Elizabeth M. Thornton, Associate Legal Counsel, Coordination and Guidance Services, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 663-4669

RIN: 3046-AA10

3552. PENSION ACCRUALS AND CONTRIBUTIONS UNDER ADEA

Significance: Agency Priority

Legal Authority: 29 USC 628 The Age Discrimination in Employment Act of 1967; PL 99-509, Sec 9204

CFR Citation: 29 CFR 1625.10

Legal Deadline: Final, Statutory, February 1, 1988.
Rule will be completed when the Department of the Treasury completes its regulatory review.

Abstract: Regulations, as may be necessary, to carry out congressional enactments regarding pension accruals and contributions under ADEA.

Timetable:

Action	Date	FR Cite
NPRM	11/27/87	52 FR 45360
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph N. Cleary, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 663-4669

RIN: 3046-AA31

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federal register

Monday
October 29, 1990

Part XXIV

Federal Emergency Management Agency

Semiannual Regulatory Agenda

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Ch. I

Semiannual Agenda

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Semiannual agenda.

SUMMARY: Pursuant to section 5 of Executive Order 12291 "Federal Regulation" the Federal Emergency Management Agency is publishing its semiannual agenda for FEMA. The agenda lists regulations that will be under development or review during the period October 1, 1990, to September 30, 1991.

ADDRESSES: Rules Docket Clerk, Office of General Counsel, Room 840, 500 C Street, SW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: For general information, contact Susan Kantor Bank, Office of General Counsel, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3543. For additional information about a specific regulation, contact the person listed as the contact point in the agenda.

SUPPLEMENTARY INFORMATION: Executive Order 12291 "Federal Regulation" directs each Executive agency to adopt procedures to improve existing and future regulations. Publication of an agenda of significant regulations is called for at least semiannually in order to give the public adequate notice of agency rulemaking activities; also publication of a regulatory flexibility agenda concerning rules likely to have a significant impact on a substantial number of small entities must be published in accordance with 5 U.S.C. 601 *et seq.*

In fulfillment of requirements imposed by the Executive order and 5 U.S.C. 601 *et seq.*, this agenda describes current and projected regulations and regulations which will be under review during the period April 1, 1991, to March 31, 1992. This agenda also contains information on regulations on which action was completed since the last FEMA semiannual agenda published April 23, 1990, at 55 FR 16902.

Public comment on the agenda, including that by State and local governments, is invited and should be submitted to the Rules Docket Clerk.

The agenda is not limited to major or significant rules and contains as much information as possible concerning all FEMA regulations to be published in the next 12 months except for routine flood elevation determinations, listing of eligible communities under the National Flood Insurance Program, listing of suspended communities and similar designations, and organizational and management matters.

Dated: August 29, 1990.

George W. Watson,

Acting General Counsel.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3553	Notice - Flood Insurance Rating System Changes	3067-AA98
3554	Comprehensive Cooperative Agreement (CCA) Policies, Procedures, and Associated Programs	3067-AB16

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3555	Nondiscrimination in Federally Assisted Programs	3067-AA00
3556	Review and Approval of State and Local Emergency Response Plans	3067-AA76
3557	Radiological Emergency Planning and Preparedness	3067-AA77
3558	National Flood Insurance Program Changes for Structures on Land Subject to Imminent Collapse or Subsidence	3067-AB42
3559	Temporary Housing Assistance	3067-AB43
3560	Use of Civil Defense Personnel, Materials, and Facilities for Natural Disaster Purposes	3067-AB48
3561	Individual and Family Grant Programs	3067-AB54
3562	National Security Emergency Exercise Program	3067-AB57
3563	Machine Tool Trigger Order Program Guidance	3067-AB63
3564	Conduct at the National Emergency Training Center	3067-AB65
3565	National Flood Insurance Program Changes	3067-AB66
3566	Federal Crime Insurance Program Rate Increase	3067-AB67

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Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3567	Emergency Health and Medical Occupations	3067-AA38
3568	National Security Policy Guidance Governing the Scientific and Engineering Workforce	3067-AA43
3569	Civil Defense: State and Local Emergency Management Assistance (EMA) Program	3067-AB14
3570	Federal Emergency Management Agency Acquisition Regulations	3067-AB40
3571	Disaster Assistance, Hazard Mitigation Grant Program	3067-AB41
3572	Disaster Assistance; Hazard Mitigation Planning	3067-AB45
3573	Protection of Essential Resources and Facilities	3067-AB46
3574	Radiological Emergency Program: User Fees	3067-AB49
3575	National Defense Executive Reserve Guidance	3067-AB51
3576	Individual Assistance Programs Other Than the Individual and Family Grant Program	3067-AB52
3577	Federal Crime Insurance Program Increase	3067-AB53
3578	National Flood Insurance Program Addendum (Optional) to Appendix A to Part 62—FEMA Federal Insurance Administration—for Financial Assistance Subsidy Arrangement	3067-AB60
3579	Conditional Letter of Map Correction Fee Changes	3067-AB61
3580	New Restrictions on Lobbying	3067-AB64

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3581	Individual and Family Grant Program Changes	3067-AA84
3582	Flood Insurance Rating System Changes	3067-AA96
3583	Nondiscrimination in Federally Assisted Programs on the Basis of Age	3067-AB16
3584	Predesignation of Nonindustrial Facilities for National Security Emergency Use	3067-AB47
3585	National Flood Insurance Program: Deductible Provisions	3067-AB50
3586	Great Lakes Planning Assistance	3067-AB55
3587	Drug-Free Workplace (Grants)	3067-AB58

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Prerule Stage

3553. ● NOTICE - FLOOD INSURANCE RATING SYSTEM CHANGES

Legal Authority: 42 USC 4001 et seq; EO 12127

CFR Citation: None

Legal Deadline: None

Abstract: FIA has amended its National Flood Insurance Program premium rating system to recognize circumstances within local communities that mitigate or exacerbate the flooding risk, such as the inaction of a community in addressing flood problems or the performance of a community that goes beyond minimum NFIP floodplain management requirements. To assist FIA in improving this new Community Rating System, FIA has asked for input from interested parties regarding recommendations on floodplain management standards for special hazard areas, on credits to address the preservation of wetlands and natural floodplain functions, on other community activities that commenters believe should be eligible for credit, and on procedural and operational matters.

Timetable:

Action	Date	FR Cite
ANPRM	07/10/90	55 FR 28291
ANPRM Comment Period End	10/09/90	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Additional Information: ADDITIONAL AGENCY CONTACT: James Ross MacKay, Senior Policy Officer, Federal Insurance Administration, 202 646-2717.

Agency Contact: Francis V. Reilly, Deputy Administrator, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-2700

RIN: 3067-AA96

3554. COMPREHENSIVE COOPERATIVE AGREEMENT (CCA) POLICIES, PROCEDURES, AND ASSOCIATED PROGRAMS

Legal Authority: 50 USC 2286; 50 USC 2251; 42 USC 5121; 42 USC 5151; 42 USC 7701; 42 USC 4001; PL 95-224; PL 96-295; PL 99-499; PL 93-288; PL 95-124; PL 90-488; PL 93-234; PL 90-577; EO 12148

CFR Citation: 44 CFR 305; 44 CFR 302; 44 CFR 360; 44 CFR 301; 5 CFR 900

FEMA

Prerule Stage

Legal Deadline: None

Abstract: The comprehensive aspect of the CCA process itself was not created by legislation or even by regulation; Presidential emphasis on grants consolidation and FEMA policy on integrating programs created the CCA. The cooperative agreement aspect of the CCA process is based on PL 95-224, the Federal Grant and Cooperative Agreement Act of 1977. Cooperative agreements are used when stimulating a public purpose (the multiple programs delivered in each CCA are aimed at stimulating public purposes, primarily civil defense). The Federal Civil Defense Act of 1950, as amended, authorizes the major portion of CCA programs and assistance dollars, and is therefore the major legislative authority underpinning the CCA process. Various Civil Preparedness Guides, primarily CPG 1-38 and CPG 1-3 address the CCA process and associated programs. However, a regulation would provide complete notice to States and interested parties and complete the policy and procedural requirements identified by the Office of General Counsel. Specific quantitative estimates cannot be cited.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/90	
ANPRM Comment Period End	01/00/91	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Nancy J. Holt, Program Analyst, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-3505

RIN: 3067-AB18

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

Proposed Rule Stage

3555. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Legal Authority: 42 USC 2000d-1; 29 USC 794; 20 USC 1682; 42 USC 6103; 42 USC 5151; Reorganization Plan No. 3 of 1978; EO 12127; EO 12148

CFR Citation: 44 CFR 7

Legal Deadline: None

Abstract: This rule effectuates for FEMA the nondiscrimination requirements of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, and Section 311 of the Disaster Relief Act of 1974. A draft regulation is undergoing interagency review. The notice of proposed rulemaking will be issued as soon as interagency clearances are obtained.

Timetable:

Action	Date	FR Cite
NPRM	10/00/91	
NPRM Comment Period End	12/00/91	
Final Action	11/00/92	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Katherine H. Shannon, Director, Office of Personnel & Equal Opportunity, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-3662

RIN: 3067-AA09

3556. REVIEW AND APPROVAL OF STATE AND LOCAL EMERGENCY RESPONSE PLANS

Legal Authority: 50 USC app 225g; EO 12148

CFR Citation: 44 CFR 350

Legal Deadline: None

Abstract: Updates existing regulation governing policies and procedures for review and approval of State and local emergency plans and preparedness for the offsite effects of a radiological emergency which might occur at a commercial nuclear power plant.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Vern Wingert, Chief, Program Development Branch, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-2872

RIN: 3067-AA76

3557. RADIOLOGICAL EMERGENCY PLANNING AND PREPAREDNESS

Legal Authority: EO 12148; EO 12241

CFR Citation: 44 CFR 351

Legal Deadline: None

Abstract: Updates regulations which set out Federal Agency roles and assigns tasks regarding Federal assistance to States and local governments in their radiological emergency planning and preparedness activities connected with radiological accidents at commercial nuclear power plants.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Vern Wingert, Chief, Program Development Branch, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-2872

RIN: 3067-AA77

3558. NATIONAL FLOOD INSURANCE PROGRAM CHANGES FOR STRUCTURES ON LAND SUBJECT TO IMMINENT COLLAPSE OR SUBSIDENCE

Legal Authority: 42 USC 4002 et seq; EO 12127

CFR Citation: 44 CFR 59; 44 CFR 60; 44 CFR 61; 44 CFR 62

Legal Deadline: None

Abstract: Section 544 of the Housing and Community Development Act of 1987 provided a new benefit to National Flood Insurance Program policyholders:

Payment for demolition or relocation of an insured structure if it is located "along the shore of a lake or other body of water and is certified by appropriate State or loca' land use authority to be subject to imminent collapse or subsidence as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels." FEMA published interim regulations on this subject on September 23 and November 2, 1988, and commissioned an investigation through the National Academy of Sciences to provide a basis for further regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	01/00/91	
Final Action	04/00/91	
Final Action Effective	10/01/91	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Donald L. Collins, Assistant Administrator, IPATS, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-3419

RIN: 3067-AB42

3559. TEMPORARY HOUSING ASSISTANCE

Legal Authority: 42 USC 5174

CFR Citation: 44 CFR 206.101

Legal Deadline: None

Abstract: Revisions to the method of providing assistance being considered would require revision to those sections of the regulations covering the types of assistance available, particularly the home repairs and rental assistance. Another change is the removal of the provision for State governments to administer the program. Other changes may be proposed as a result of reviews currently being performed. The comments received as a result of this proposed rule, along with those received as a result of the publication of the interim rule (54 FR 11610) will be considered, and a consolidated final rule will be prepared.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	01/00/91	
Final Action	06/00/91	
Final Action Effective	06/00/91	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: F. Scott Martin, Emergency Management Officer, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-3659

RIN: 3067-AB43

3560. USE OF CIVIL DEFENSE PERSONNEL, MATERIALS, AND FACILITIES FOR NATURAL DISASTER PURPOSES

Legal Authority: 50 USC app 2253

CFR Citation: 44 CFR 312.5

Legal Deadline: None

Abstract: This rule amends the use of civil defense personnel in time of natural disasters. This amendment extends the requirement that State officials contact FEMA Regional Directors in order to extend use of fully federally funded staff on disaster duty after 15 days to matching programs.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Local, State

Agency Contact: Thomas Gilboy, EMA Program Manager, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-3567

RIN: 3067-AB48

3561. INDIVIDUAL AND FAMILY GRANT PROGRAMS

Legal Authority: 42 USC 5178

CFR Citation: 44 CFR 206.131 (Subpart E of Part 206)

Legal Deadline: None

Abstract: Proposed revisions to the IFG program regulations include the following: eligibility guidelines, State responsibilities, flood insurance a. l floodplain management requirem nts, and fiscal procedures.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	01/00/91	
Final Action	06/00/91	
Final Action Effective	07/00/91	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: Interim rules to implement the Stafford Act were published on March 21, 1989. Comments received as a result of that publication will be considered along with comments received as a result of this proposed rule, and both will be incorporated into a final rule.

Agency Contact: Agnes C. Mravcak, Emergency Management Officer, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-3660

RIN: 3067-AB54

3562. NATIONAL SECURITY EMERGENCY EXERCISE PROGRAM

Legal Authority: 50 USC 404; 50 USC app 2061 et seq; 50 USC app 2251 et seq; EO 12656; EO 12148; EO 10480

CFR Citation: 44 CFR 338

Legal Deadline: None

Abstract: Provides policy and procedural guidance for the National Security Emergency Exercise Program that is to be supported by the heads of all appropriate Federal departments and agencies in accordance with section 104(e) of EO 12656.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	01/00/91	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Donald F. Benedict, Chief, Exercises Branch, Office of Readiness, Federal Emergency

FEMA — Proposed Rule Stage

Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-3516

RIN: 3067-AB57

3563. ● MACHINE TOOL TRIGGER DWELL PROGRAM GUIDANCE

Legal Authority: 50 USC app 2061 et seq; EO 10480; EO 12656

CFR Citation: 44 CFR 340

Legal Deadline: None

Abstract: Provides guidance on use of DPA authorities to reduce lead time for acquiring machine tools by defense contractors and therefore reduce production for needed military items.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Richard Marilley, Senior Policy Officer, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-3003

RIN: 3067-AB63

3564. ● CONDUCT AT THE NATIONAL EMERGENCY TRAINING CENTER

Legal Authority: EO 12148; EO 12127; PL 93-498

CFR Citation: 44 CFR 15

Legal Deadline: None

Abstract: To set forth the National Emergency Training Center (NETC) policy and procedure relating to the NETC grounds and buildings and to the conduct of all persons entering, while on, and leaving the NETC, and actions to be taken for violation of these rules and regulations.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Local, State, Federal

Agency Contact: Ronald P. Face, Jr., Assistant Director, Federal Emergency Management Agency, National Emergency Training Center, 16825 S. Seton Avenue, Emmitsburg, MD 21727, 301 447-1223

RIN: 3067-AB65

3565. ● NATIONAL FLOOD INSURANCE PROGRAM CHANGES

Legal Authority: 42 USC 4002 et seq; EO 12127

CFR Citation: 44 CFR 59; 44 CFR 61; 44 CFR 62; 44 CFR 65; 44 CFR 72

Legal Deadline: None

Abstract: Possible changes in the National Flood Insurance Program regulations include provisions on accreditation of coastal structures; provisions on levee disaccreditation; provisions on letters of map amendment based on fill; provisions requiring a fee for certain map revisions; a new definition of elevated building; and various changes in the standard flood insurance policy, including new policy forms for insuring condominiums.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
NPRM Comment Period End	03/00/91	
Final Action	08/00/91	
Final Action Effective	10/00/91	

Small Entities Affected: Non

Government Levels Affected: None

Agency Contact: Donald L. Collins, Assistant Administrator, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-3419

RIN: 3067-AB66

3566. ● FEDERAL CRIME INSURANCE PROGRAM RATE INCREASE

Legal Authority: 12 USC 1749bbb et seq; EO 12127

CFR Citation: 44 CFR 83

Legal Deadline: None

Abstract: Increases the Federal Crime Insurance Program premium rates for commercial risks.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	
NPRM Comment Period End	06/00/91	
Final Action	07/00/91	
Final Action Effective	09/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kimber A. Wald, Chief, Urban Property Operations, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-3449

RIN: 3067-AB67

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Final Rule Stage

3567. EMERGENCY HEALTH AND MEDICAL OCCUPATIONS

Legal Authority: 50 USC 404; 50 USC app 2061 et seq; 50 USC app 2251 et seq; EO 12656

CFR Citation: 44 CFR 325

Legal Deadline: None

Abstract: Identifies those medical occupations and skills for which there will be a critical need in time of a national security emergency.

Timetable:

Action	Date	FR Cite
NPRM	07/21/89	54 FR 30565
NPRM Comment Period End	09/20/89	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Richard Marilley, Senior Policy Officer, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-3003

RIN: 3067-AA38

FEMA

Final Rule Stage

3568. NATIONAL SECURITY POLICY GUIDANCE GOVERNING THE SCIENTIFIC AND ENGINEERING WORKFORCE

Legal Authority: 50 USC 404; 50 USC app 2061 et seq; EO 12656

CFR Citation: 44 CFR 324

Legal Deadline: None

Abstract: Provides policy guidance for Federal departments and agencies governing the availability and utilization of scientific and engineering workforce to meet Federal Government needs during a national security emergency.

Timetable:

Action	Date	FR Cite
NPRM	07/21/89	54 FR 30565
NPRM Comment Period End	09/19/89	
Final Action	11/00/90	
Final Action Effective	11/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Richard Marilley, Senior Policy Officer, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-3003

RIN: 3067-AA43

3569. CIVIL DEFENSE: STATE AND LOCAL EMERGENCY MANAGEMENT ASSISTANCE (EMA) PROGRAM

Legal Authority: 50 USC app 2253; Reorganization Plan No. 3 of 1978; EO 12148

CFR Citation: 44 CFR 302, (Revision)

Legal Deadline: None

Abstract: Changes within existing regulation to delete one allocation formula factor. The EMA Program currently has a 4 factor formula. The 5% factor and the 10% factor are so very similar in impact that for the sake of simplification they are to be combined. The formula will thus have only 3 factors. The concern of recipients is that no State will receive less funding than in the previous fiscal year to maintain staff strength. This will be ensured because the regulation change requires restoring any State to its prior year's level in any year when the funding is sufficient.

Timetable:

Action	Date	FR Cite
NPRM	06/26/87	52 FR 32140
NPRM Comment Period End	10/26/87	52 FR 32140
Final Action	10/00/90	
Final Action Effective	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Tom Gilboy, EMA Program Manager, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-3567

RIN: 3067-AB14

3570. FEDERAL EMERGENCY MANAGEMENT AGENCY ACQUISITION REGULATIONS

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 44

Legal Deadline: None

Abstract: The parts of the FEMAAR affected by this revision relate to unsolicited proposals, formal source selection, handicapped discrimination, protests to the agency, and rights to technical data and computer software. These sections have been revised to set forth internal procedures or to conform to revisions to the Federal Acquisition Regulation (FAR).

Timetable:

Action	Date	FR Cite
Begin Review	03/01/89	
Interim Final Rule	07/10/90	55 FR 28206
Final Action	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Christine A. Makris, Chief, Policy & Evaluation Division, Office of Acquisition Management, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-3743

RIN: 3067-AB40

3571. DISASTER ASSISTANCE, HAZARD MITIGATION GRANT PROGRAM

Significance: Agency Priority

Legal Authority: 42 USC 5121 et seq; 33 USC 426p Note; PL 100-707

CFR Citation: 44 CFR 206

Legal Deadline: Final, Statutory, May 23, 1989.

Abstract: This interim rule implements section 404 of the Robert T. Stafford Relief and Emergency Assistance Act (PL 93-288, as amended). The document provides requirements and establishes general procedures for administration of the Hazard Mitigation Grant Program. Based on comments received during a 60-day period while the rule is effective, a final rule will also be published.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/22/89	54 FR 22172
Final Action	10/00/90	
Final Action Effective	11/00/90	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Patricia Stahlschmidt, Mitigation Assistance Program Specialist, Disaster Assistance Programs, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-3678

RIN: 3067-AB41

3572. DISASTER ASSISTANCE; HAZARD MITIGATION PLANNING

Significance: Agency Priority

Legal Authority: 42 USC 5121 et seq; PL 100-707

CFR Citation: 44 CFR 206.100

Legal Deadline: None

Abstract: This proposed rule addresses hazard mitigation planning requirements of the Robert T. Stafford Disaster Relief and Emergency Assistance Planning requirements with the section 404 Hazard Mitigation Grant Program and other hazard mitigation programs.

FEMA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	09/14/89	54 FR 37852
NPRM Comment Period End	11/13/89	
Final Action	10/00/90	
Final Action Effective	11/00/90	

Small Entities Affected: Governmental jurisdictions

Government Levels Affected: State

Agency Contact: Patricia Stahlschmidt, Mitigation Assistance Program Specialist, Disaster Assistance Programs, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-3678

RIN: 3067-AB45

3573. PROTECTION OF ESSENTIAL RESOURCES AND FACILITIES

Legal Authority: 50 USC 404; 50 USC app 2281 et seq; EO 12656

CFR Citation: 44 CFR 335

Legal Deadline: None

Abstract: Provides policy and guidance for Federal departments and agencies on how to carry out their responsibilities for national assets protection under section 204 of Executive Order 12656.

Timetable:

Action	Date	FR Cite
NPRM	09/07/89	54 FR 22250
NPRM Comment Period End	10/06/89	
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: James S. Gilbertson, Senior Planning Officer, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-3547

RIN: 3067-AB46

3574. RADIOLOGICAL EMERGENCY PROGRAM: USER FEES

Legal Authority: 31 USC 9701; EO 11987; EO 12148

CFR Citation: 44 CFR 353

Legal Deadline: None

Abstract: The proposed regulation sets out fees charged for site specific radiological emergency planning and preparedness rendered by the Federal Emergency Management Agency.

Timetable:

Action	Date	FR Cite
NPRM	09/11/89	54 FR 27390
Final Action	10/00/90	
Final Action Effective	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Vera Wingert, Chief, Program Development Branch, Technological Hazards Division, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20427, 202 646-3878

RIN: 3067-AB49

3575. NATIONAL DEFENSE EXECUTIVE RESERVE GUIDANCE

Legal Authority: 50 USC 404; 50 USC app 2061 et seq; EO 12656

CFR Citation: 44 CFR 337

Legal Deadline: None

Abstract: Provides guidance and procedures for those Federal departments and agencies delegated authority under Executive Order 11179 to sponsor reserve units under National Defense Executive Reserve Program.

Timetable:

Action	Date	FR Cite
NPRM	02/15/90	55 FR 5476
NPRM Comment Period End	04/16/90	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Linda Matticks, Program Analyst, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-2783

RIN: 3067-AB51

3576. INDIVIDUAL ASSISTANCE PROGRAMS OTHER THAN THE INDIVIDUAL AND FAMILY GRANT PROGRAM

Significance: Agency Priority

Legal Authority: PL 93-288, as amended by PL 100-707; 42 USC 5121 et seq

CFR Citation: 44 CFR 206.141; 44 CFR 206.151; 44 CFR 206.161; 44 CFR 206.164; 44 CFR 206.171; 44 CFR 206.181; 44 CFR 206.191

Legal Deadline: None

Abstract: Subpart F covers the following programs, which will be revised in a final rule to accommodate passage of the Robert T. Stafford Disaster Relief and Emergency Assistance Act: disaster unemployment assistance, food commodities, disaster legal services, crisis counseling assistance and training, use of gifts and bequests for disaster assistance purposes, and duplication of benefits.

Timetable:

Action	Date	FR Cite
Interim Final Rule.	03/21/89	54 FR 11610
Final Action	06/00/91	
Final Action Effective	07/00/91	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Agnes Mravcak, Emergency Management Officer, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-3650

RIN: 3067-AB52

3577. FEDERAL CRIME INSURANCE PROGRAM INCREASE

Legal Authority: 12 USC 1749bbb et seq; EO 12127

CFR Citation: 44 CFR 83

Legal Deadline: None

Abstract: A Federal Crime Insurance premium rate increase and some classification revisions are planned.

Timetable:

Action	Date	FR Cite
NPRM	07/24/90	55 FR 3008
NPRM Comment Period End	09/24/90	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kimber A. Wald, Chief, Urban Property Operations, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-3449

RIN: 3067-AB53

FEMA — Final Rule Stage

3578. ● NATIONAL FLOOD INSURANCE PROGRAM ADDENDUM (OPTIONAL) TO APPENDIX A TO PART 62—FEMA FEDERAL INSURANCE ADMINISTRATION—FOR FINANCIAL ASSISTANCE SUBSIDY ARRANGEMENT

Legal Authority: 42 USC 4002 et seq; EO 12127

CFR Citation: 44 CFR 62

Legal Deadline: None

Abstract: Establishes a voluntary addendum to the National Flood Insurance Program write-your-own arrangement regarding the amount of commission allowance that can be withheld during the arrangement year and regarding the loss adjustment fee schedule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/10/90	55 FR 32627
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald L. Collins, Assistant Administrator, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 [illegible]

RIN: 3067–AB60

3579. ● CONDITIONAL LETTER OF MAP CORRECTION FEE CHANGES

Legal Authority: 42 USC 4002 et seq; EO 12127

CFR Citation: 44 CFR 72

Legal Deadline: None

Abstract: Increases fees for review of proposed projects to determine if they would qualify for national flood insurance program map revisions upon their completion.

Timetable:

Action	Date	FR Cite
NPRM	07/19/90	55 FR 29389
NPRM Comment Period End	08/20/90	
Final Action	10/00/90	
Final Action Effective	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles A. Lindsey, Chief, Technical Operations Division, Federal Emergency Management Agency, 500 C Streets, SW., Washington, DC 20472, 202 [illegible]

RIN: 3067–AB61

3580. ● NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: 31 USC 1352

CFR Citation: 44 CFR 18

Legal Deadline: None

Abstract: FEMA, along with other Government agencies, is issuing this common rule which, generally, prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying in connection with a specific contract, grant, or loan.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Arthur E. Carry, Chief, Policy Division, Office of the Comptroller, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 [illegible]

RIN: 3067–AB64

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Completed Actions

3581. INDIVIDUAL AND FAMILY GRANT PROGRAM CHANGES

CFR Citation: 44 CFR 206

Completed:

Reason	Date	FR Cite
Withdrawn No further action planned	07/29/90	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Donna M. Dannels 202 646-3662

RIN: 3067–AA64

3582. FLOOD INSURANCE RATING SYSTEM CHANGES

Significance: Regulatory Program

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	07/10/90	55 FR 28291
Final Action Effective	10/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Francis V. Reilly 202 646-2782

RIN: 3067–AA98

3583. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS ON THE BASIS OF AGE

CFR Citation: 44 CFR 7, Subpart E

Completed:

Reason	Date	FR Cite
Final Action	06/06/90	55 FR 23078
Final Action Effective	06/06/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Alan Clive 202 646-3657

RIN: 3067–AB10

3584. PREDESIGNATION OF NONINDUSTRIAL FACILITIES FOR NATIONAL SECURITY EMERGENCY USE

CFR Citation: 44 CFR 336

FEMA

Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	07/26/90	55 FR 30457
Final Action Effective	09/27/90	55 FR 30457

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: James S. Gilbertson 202 646-3547

RIN: 3067–AB47

3585. NATIONAL FLOOD INSURANCE PROGRAM: DEDUCTIBLE PROVISIONS

CFR Citation: 44 CFR 61

Completed:

Reason	Date	FR Cite
Withdrawn	07/29/90	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Donald L. Collins 202 646-3419

RIN: 3067–AB50

3586. GREAT LAKES PLANNING ASSISTANCE

Significance: Agency Priority

CFR Citation: 44 CFR 207

Completed:

Reason	Date	FR Cite
Final Action	03/01/90	55 FR 7328
Final Action Effective	04/01/90	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Karen Heibrecht 202 646-3358

RIN: 3067–AB56

3587. ● DRUG-FREE WORKPLACE (GRANTS)

Significance: Regulatory Program

Legal Authority: EO 12549; 41 USC 701 et seq

CFR Citation: 44 CFR 17

Legal Deadline: None

Abstract: FEMA, along with other Government agencies, is issuing this common rule which, generally, requires that all grantees receiving grants from any Federal agency certify to that agency that they maintain a drug-free workplace in accordance with the Drug-Free Workplace Act of 1988.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 4947
Final Action	05/25/90	55 FR 21702
Final Action Effective	07/24/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Arthur E. Curry, Chief, Policy Division, Office of the Comptroller, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202 646-3718

RIN: 3067–AB58

[FR Doc. 90-21463 Filed 10-26-90; 8:45 am]

BILLING CODE 6718-01-T

federal register

Monday
October 29, 1990

Part XXV

Federal Mediation and Conciliation Service

Semiannual Regulatory Agenda

FEDERAL MEDIATION AND CONCILIATION SERVICE (FMCS)

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR CH. XII

Unified Agenda of Federal Regulations

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Semiannual agenda required by the Regulatory Flexibility Act of 1980.

SUMMARY: The Federal Mediation and Conciliation Service is redrafting one regulation subject to the Regulatory Flexibility Act during the 6-month period from October 1990 to April 1991. That regulation is Arbitration Policy and Practice.

FOR FURTHER INFORMATION CONTACT: Ted M. Chaskelson, General Counsel, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20427, (202) 653-5305.

Dated: August 23, 1990.

Brian Flores,

Deputy Director.

FEDERAL MEDIATION AND CONCILIATION SERVICE (FMCS) — Final Rule Stage

3046. REVIEW OF EXISTING ARBITRATION REGULATION

Significance: Agency Priority

Legal Authority: 29 USC 172; 5 USC 582; 29 USC 173

CFR Citation: 29 CFR 1404

Legal Deadline: None

Abstract: The Federal Mediation and Conciliation Service is in the process of redrafting its existing Arbitration Services regulation at 29 CFR 1404. The Service has completed its initial draft and is presently analyzing comments received. A final rule will be published soon.

Timetable:

Action	Date	FR Cite
NPRM	04/20/88	53 FR 12962
NPRM Comment Period End	06/30/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ted M. Chaskelson, General Counsel, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20427, 202 653-5305

RIN: 3076–AA01

FEDERAL MEDIATION AND CONCILIATION SERVICE (FMCS) — Completed Actions

356 ⊕ GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Significance: Regulatory Program

Legal Authority: EO 12549; PL 100-690 Title V, Subtitle D; Sec 5151-5160, Drug-Free Workplace Act of 1988; 41 USC 701 et seq; PL 95-524, Oct. 27, 1978; 29 USC 175a

CFR Citation: 29 CFR 1471

Legal Deadline: None

Abstract: To implement the statutory requirements that grantees provide a drug-free workplace.

Timetable:

Action	Date	FR Cite
Final Action	05/25/90	55 FR 21696
Final Action Effective	05/25/90	55 FR 21696

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Lee A. Buddendeck, Grants Specialist, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20427, 202 653-5320

RIN: 3076–AA02

[FR Doc. 90-21464 Filed 10-26-90; 8:45 am]

BILLING CODE 6732-01-T

federal register

Monday
October 29, 1990

Part XXVI

General Services Administration

Semiannual Regulatory Agenda

GENERAL SERVICES ADMINISTRATION (GSA)

GENERAL SERVICES ADMINISTRATION

41 CFR Chs. 1, 101, 105, 201, 301, 302, 303, and 304

48 CFR Ch. 5

Unified Agenda of Federal Regulations

AGENCY: General Services Administration.

ACTION: Semiannual agenda.

SUMMARY: This agenda announces the proposed regulatory actions that GSA plans for the next 12 months and those actions that were completed since April 1990. This agenda was developed under the guidelines in OMB memorandum, dated July 2, 1990. GSA's purpose in publishing this agenda is to allow interested persons an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: Rodney P. Lantier, Chief, Directives and Correspondence Management Branch, (202) 501-0666.

SUPPLEMENTARY INFORMATION: None of the regulations listed are considered major under Executive Order 12291, Federal Regulation.

Dated: August 28, 1990.

Richard G. Austin,

Administrator of General Services.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3590	Provisions and Clauses (Design-Build Service Contracts) (GSAR 5-303)	3090-AE02
3591	Equitable Adjustments Clause (GSAR 5-206)	3090-AE05
3592	Operating Cost and Tax Adjustment Clauses for Leases (GSAR 5-292)	3090-AE06
3593	Nondiscrimination on the Basis of Race, Color, National Origin, and, Where Applicable, Sex	3090-AC49
3594	Governmentwide Real Property Asset Management	3090-AD43

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3595	Multiple Award Schedule Program (GSAR 5-36A)	3090-AC61
3596	General Services Administration Acquisition Regulation (GSAR), NIB/NISH Purchasing Procedures (GSAR Case No. 5-64/190)	3090-AD92
3597	Submission of Rated on-Board Bills of Lading for Ocean Shipments	3090-AD89

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3598	General Services Administration Acquisition Regulation, Price Adjustment Clause (GSAR Notice No. 5-129)	3090-AD91
3599	General Services Administration Acquisition Regulation (GSAR), EPA Clause for Federal Supply Service, (GSAR Case No. 5-285)	3090-AD94
3600	Delegating Contracting Authority (GSAR 5-297)	3090-AE01
3601	Procurement Integrity (GSAR 5-278)	3090-AE03
3602	Implement FAC-84-46 and Miscellaneous Amendments (GSAR 5-227)	3090-AE04
3603	Implement Federal Acquisition Regulation FACs 84-56 and 84-58 (GSAR 5-300)	3090-AE07
3604	Contracting Authority Delegation; Purchases Not Exceeding $500 and Telephone Service Requests (Acquisition Circular AC-90-1) (GSAR 5-297)	3090-AE08
3605	Implementation of Public Law 99-506 (GSAR 5-269)	3090-AE09
3606	Trade agreements Act—Tools Commodity Center (GSAR 5-304)	3090-AE10
3607	Sanctions (Toshiba/Kongsberg) and Labor Standards Provisions	3090-AE11
3608	Indefinite-Delivery Contracts (GSAR 5-301)	3090-AE14
3609	Hazardous Material Data, Inspection of Supplies (GSAR 5-255)	3090-AE16
3610	New Restrictions on Lobbying	3090-AE25
3611	Enforcement of Nondiscrimination on the Basis of Handicap in Federally Conducted Programs	3090-AC48
3612	Appraisal of Federal Surplus Real Property	3090-AD96
3613	Donation of Abandoned and Forfeited Personal Property	3090-AA24
3614	Utilization, Donation, Sale, Abandonment or Destruction of Hazardous Materials	3090-AA42
3615	Federal Travel Regulation (FTR) Amendment (Unassigned) Worldwide Lodgings-plus Per Diem Systems	3090-AD52
3616	Submission of Transportation Vouchers	3090-AD54

GSA

Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3617	Federal Travel Regulation (FTR) Amendment (Unassigned), "Last Move Home" for Senior Executive Service (SES) Career Appointees upon Separation from Federal Service for Retirement	3090-AD76
3618	Federal Travel Regulation (FTR) Amendment (Unassigned), Mileage Allowance	3090-AD87
3619	Federal Travel Regulation (FTR) Amendment (Unassigned), Relocation Income Tax Allowance	3090-AD89
3620	Federal Travel Regulation (FTR) Amendment (Unassigned), Travel and Transportation Expense Payment System; Automated-Teller Machine (ATM) Services	3090-AE16
3621	Federal Travel Regulation (FTR) Amendment (Unassigned), Acceptance of Payment from a non-Federal Source for Travel Expenses	3090-AE19
3622	Federal Travel Regulation (FTR) Amendment (Unassigned), Separate Relocation Benefits for Two Employees who Marry Each Other Overseas; Expansion of Mobile Home Allowance	3090-AE20
3623	Federal Travel Regulation (FTR) Amendment (Unassigned), Increase in Maximum Dollar Limitations for Residence Transaction Expenses	3090-AE21
3624	Federal Travel Regulation (FTR) Amendment (Unassigned), Maximum Per Diem Rates	3090-AE22
3625	FPMR Temp. Reg. G-(Unassigned), Use of Carrier Contractor for Express Small Package Transportation	3090-AE23
3626	Federal Travel Regulation (FTR) Amendment (Unassigned), Relocation Income Tax Allowance	3090-AE24
3627	FIRMR Improvement Project	3090-AD04
3628	Update Regulations Regarding FTS 2000 Usage (FIRMR Interim Rule 1)	3090-AD20
3629	Implement Legislation to Accommodate the Hearing Impaired	3090-AD36
3630	Revisions of FIRMR Policies to Simplify the Procurement Process	3090-AD38
3631	Federal Property Management Regulations; Quality Workplace Environment	3090-AC74
3632	Federal Property Management Regulation Part 101-17, Assignment and Utilization of Space	3090-AD42

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3633	General Services Administration Acquisition Regulation (GSAR) Bonds, APD 2800.12A, CHGE 3	3090-AD67
3634	Buy American Act—Trade Agreements Act Balance of Payments Program and Miscellaneous Revisions to GSA Forms, CHGE 10, GSAR 5-305	3090-AD95
3635	General Services Administration Acquisition Regulation ADP 2800 12A, CHGE 6 - Revision of Appraisal Requirements Related to Acquisitions of Leasehold Interests in Real Prop	3090-AD98
3636	Drug-Free Workplace (Grants)	3090-AE00
3637	Anti-Lobbying, CHGE 8 (GSAR 5-293)	3090-AE12
3638	Miscellaneous Amendments, CHGE 7 (GSAR 5-295)	3090-AE13
3639	Implement FAC 84-51, a Portion of FAC 84-56 and Miscellaneous Revisions to GSA Forms, CHGE 5, (GSAR 5-283)	3090-AE15
3640	Comprehensive Acquisition Plan and Miscellaneous Revisions to GSA Forms, CHGE 9 (GSAR 5-299)	3090-AE17
3641	Standard Forms for Reporting Unneeded Federal Real Property	3090-AD97
3642	Negotiated Disposal of Personal Property	3090-AD29
3643	Submission of Paid Freight Bills/Invoices, CBL's, GTR's Passenger Coupons, and Supporting Documentation Covering Transportation Services Under Cost-Reimbursement Contracts	3090-AD85
3644	Federal Travel Regulation (FTR) Amendment 9, Travel Management Program	3090-AD47
3645	FPMR Temp. Reg. A-34, Supp. 1 Limiting Travel Advances to Manage Cash More Effectively	3090-AD48
3646	Federal Travel Regulation (FTR) Amendment 8, Agency Payments for Employee Travel and Relocation; Reporting Requirements	3090-AD53
3647	Federal Travel Regulation (FTR) Temp. Reg. 1, Use of Travel Agents and Travel Management Centers (TMC's) by Federal Executive Agencies	3090-AD83
3648	FPMR Temp. Reg. A-32, Supp. 2, First Duty Station Allowances for Relocated Presidential Transition Team Personnel Subsequently Appointed to Government Service	3090-AD85
3649	FPMR Temp. Reg. A-34, Supp. 2, Limiting Travel Advances to Manage Cash More Effectively	3090-AD86
3650	Establishment of Policies and Procedures for Federal Agencies' Management of Electronic Recordkeeping, Project 96.83A	3090-AC54
3651	Implementation of Title VIII, Paperwork Reduction Reauthorization Act of 1986, P.L. 99-500 Regarding Automatic Data Processing Equipment	3090-AD02

GENERAL SERVICES ADMINISTRATION (GSA)

Prerule Stage

OFFICE OF ACQUISITION POLICY

3590. ● PROVISIONS AND CLAUSES (DESIGN-BUILD SERVICE CONTRACTS) (GSAR 5-303)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 510; 48 CFR 516; 48 CFR 525; 48 CFR 536; 48 CFR 543; 48 CFR 548; 48 CFR 549; 48 CFR 552

Legal Deadline: None

Abstract: This proposed change to the General Services Administration Acquisition Regulation would revise the prescription for use of several provisions and clauses, revise the text of other provisions and clauses, and now clauses as well as a matrix in order to provide for the use of design-build service contracts.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/90	
Final Action	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: All

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of Acquisition Policy, 18th & F Streets, NW., Washington, DC 20405, 202 501-3822

RIN: 3090-AE02

3591. ● EQUITABLE ADJUSTMENTS CLAUSE (GSAR 5-306)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 515; 48 CFR 543; 48 CFR 552

Legal Deadline: None

Abstract: This proposed change to the General Services Administration Acquisition Regulation would amend the title and text of the Equitable Adjustments clause at 552.243-71 prescribed for use in construction contracts and add a new clause to supplement the FAR "changes" clause. The new clause would also be used in construction contracts. Additionally, the proposed change would provide instructions to contractors for completing the SF-1411 for submission in connection with construction contracts.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/90	
Final Action	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: All

Analysis: Regulatory Flexibility Analysis

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of Acquisition Policy, 18th & F Streets, NW., Washington, DC 20405, 202 501-3822

RIN: 3090-AE05

3592. ● OPERATING COST AND TAX ADJUSTMENT CLAUSES FOR LEASES (GSAR 5-292)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 552

Legal Deadline: None

Abstract: This proposed change to the General Services Administration Acquisition Regulation would revise the prescription for use of the clause at 552.270-23, Operating Costs, and the clause at 552.270-24, Tax Adjustments, in acquisitions for leasehold interests in real property. The change would also revise the text of the Tax Adjustments clause at 552.270-24, the Late Submissions, Modifications, and Withdrawals of Offers provision at 552.270-3 and the Historic preference provision at 552.270-4. The Matrix for acquisition of leasehold interests in real property would also be updated.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/90	
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of Acquisition Policy, 18th & F Streets, NW., Washington, DC 20405, 202 501-3822

RIN: 3090-AE06

OFFICE OF ADMINISTRATION

3593. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, AND, WHERE APPLICABLE, SEX

Legal Authority: 40 USC 476; 42 USC 2000d-1; 20 USC 1681

CFR Citation: 41 CFR 101-8.2

Legal Deadline: None

Abstract: The General Services Administration proposes this regulation to implement all of the above cited Federal laws. These statutes prohibit discrimination, in whole or in part, so that no person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program activity receiving Federal assistance from the General Services Administration. In addition, the objectives of the regulation are to streamline certain administrative procedural requirements by consolidating prohibitions of discrimination into one regulation and to make requirements clear and convenient for applicants and recipients to comply with, as well as making the regulation manageable for GSA to administer.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas E. Henderson, EEO Specialist, General Services Administration, 18th and F Streets, NW., Washington, DC 20405, 202 501-1566

RIN: 3090-AC49

GSA

Prerule Stage

PUBLIC BUILDINGS SERVICE

3594. GOVERNMENTWIDE REAL PROPERTY ASSET MANAGEMENT

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 16; 41 CFR 17; 41 CFR 47

Legal Deadline: None

Abstract: This regulation is being issued for the purpose of requiring Executive agencies to institute policies and procedures to preserve and protect Federal real property assets. This regulation will not produce a major impact on the economy, and its potential benefits outweigh potential costs.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: James M. Cayce, Director, Governmentwide Policy Division, General Services Administration, Ofice of Governmentwide Real Property Relations (PGG), Washington, DC 20405, 202 566-0237

RIN: 3090-AD43

GENERAL SERVICES ADMINISTRATION (GSA)

Proposed Rule Stage

OFFICE OF ACQUISITION POLICY

3595. MULTIPLE AWARD SCHEDULE PROGRAM (GSAR 5-38A)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 515; 48 CFR 538; 48 CFR 552

Legal Deadline: None

Abstract: The General Services Administration Acquisition Regulation will be amended to revise Section 515.804-3 to add instructions on claiming and granting exemptions to the requirement for submission on cost or pricing data in the multiple award schedule (MAS) contracting process; to add Section 515.804-70 to provide the format of the discount schedule and marketing data sheets to be used in MAS solicitations; to add Part 538 to provide procedures on the GSA schedule contracting process; and to add Section 552.238-70 to provide text of the price reductions clause to be used in certain MAS solicitations and contracts.

Timetable:

Action	Date	FR Cite
NPRM	06/12/86	51 FR 31344

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of Acquisition Policy, 18th & F Streets, NW., Washington, DC 20405, 202 501-3822

RIN: 3090-AC61

3596. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION (GSAR), NIB/NISH PURCHASING PROCEDURES (GSAR CASE NO. 5-84/190)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 500

Legal Deadline: None

Abstract: This proposed change to the GSAR will establish uniform procedures within GSA for purchasing from the National Industries for the Blind (NIB) or the National Industries for the Severely Handicapped (NISH) workshops. The proposed change also will establish a pricing for commodities and services which have an annual value of less than $50,000.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of Acquisition Policy, 18th & F Streets, NW., Washington, DC 20405, 202 501-3822

RIN: 3090-AD92

FEDERAL SUPPLY SERVICE

3597. SUBMISSION OF RATED ON-BOARD BILLS OF LADING FOR OCEAN SHIPMENTS

Legal Authority: 31 USC 3726; 40 USC 486(c)

CFR Citation: 41 CFR 101-41

Legal Deadline: None

Abstract: This rule proposes to amend the Federal Property Management Regulations by requiring carriers/forwarders to submit a copy of the rated on-board vessel ocean bill of lading when billing for an ocean shipment to be paid by the U.S. Government.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Sandfort, Chief, Regulations, Procedures, and Policy Branch, General Services Administration, 18th & F Streets, NW., Washington, DC 20405, 202 501-4563

RIN: 3090-AD89

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GENERAL SERVICES ADMINISTRATION (GSA)

Final Rule Stage

OFFICE OF ACQUISITION POLICY

3090. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION, PRICE ADJUSTMENT CLAUSE (GSAR NOTICE NO. 5-128)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 522; 48 CFR 552

Legal Deadline: None

Abstract: This notice invites comments on a proposed change to the GSAR that would revise section 522.1000 to prescribe a price adjustment clause for use in building service contracts that do not exceed $100,000, and section 552.222-43 to provide a price adjustment clause for building service contracts not exceeding $100,000 which may be used as an alternative to the FAR clause at 52.222-43, Fair Labor Standards Act and Service Contract Act– Price Adjustment (Multiple Year and Option Contracts).

Timetable:

Action	Date	FR Cite
NPRM	01/05/90	55 FR 445
NPRM Comment Period End	02/05/90	55 FR 445
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of Acquisition Policy, 18th & F Streets, NW., Washington, DC 20405, 202 501-3822

RIN: 3090-AD91

3598. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION (GSAR), EPA CLAUSE FOR FEDERAL SUPPLY SERVICE, (GSAR CASE NO. 5-235)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 516; 48 CFR 517; 48 CFR 552

Legal Deadline: None

Abstract: This proposed change to the GSAR would add a paragraph to section 516.203-4 to prescribe Economic Price adjustment clauses based on the Producer Price Indexes (PPI) for stock and special order program contracts; and section 517.208 to prescribe an Evaluation of Options provision for stock and special order program contracts that include options to extend the term of the contract and to provide for economic price adjustments based on the PPI, add section 552.216-72 to provide the text of the Economic Price Adjustment–Stock and Special Order Program Contracts clause and alternates; and add section 552.217-70 to provide the text of the Evaluation of Options provision.

Timetable:

Action	Date	FR Cite
NPRM	07/10/90	55 FR 28246
NPRM Comment Period End	08/09/90	55 FR 28246
Final Action	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of Acquisiton Policy, 18th & F Streets, NW., Washington, DC 20405, 202 501-3822

RIN: 3090-AD94

3600. ● DELEGATING CONTRACTING AUTHORITY (GSAR 5-237)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 501; 48 CFR 520

Legal Deadline: None

Abstract: This proposed change to the General Services Administration Acquisition Regulation will incorporate the substance of Acquisition Circular AC-90-1, which temporarily revised the regulation to revise the requirements for delegating contracting authority related to purchases that do not exceed $500 and to the issuance of requests for telephone services. The change also revises the portion of the regulation which deals with the contracting officer warrant program to address the requirements for GSA to provide contracting support in domestic or national security emergencies. Miscellaneous changes also will be made in part 519 of the regulation dealing with small business programs.

Timetable:

Action	Date	FR Cite
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of Acquisition Policy, 18th & F Streets, NW., Washington, DC 20405, 202 501-3822

RIN: 3090-AE01

3601. ● PROCUREMENT INTEGRITY (GSAR 5-278)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 503; 48 CFR 552; 48 CFR 553

Legal Deadline: None

Abstract: This proposed change to the General Services Administration Acquisition Regulation would revise the regulation to implement and supplement Subpart 3.1 of the FAR which implements the procurement integrity section 27 of the Office of Federal Procurement Policy Act.

Timetable:

Action	Date	FR Cite
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of Acquisition Policy, 18th & F Streets, NW., Washington, DC 20405, 202 501-3822

RIN: 3090-AE03

3602. ● IMPLEMENT FAC-84-48 AND MISCELLANEOUS AMENDMENTS (GSAR 5-227)

Legal Authority: 40 USC 486(c)

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CFR Citation: 48 CFR 519

Legal Deadline: None

Abstract: This proposed change to the General Services Administration Acquisition Regulation will implement the Federal Acquisition Regulation, as amended by FAC 84-48, by establishing agency procedures for review of contracting officers decisions not to set aside procurements over $25,000 for small business and for the processing by Cos of recommendations from the Director of Small and Disadvantaged Business Utilization for setting aside procurements for the 8(a) program.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of Acquisition Policy, 18th & F Streets, NW., Washington, DC 20405, 202 501-3822

RIN: 3090-AE04

3603. ● IMPLEMENT FEDERAL ACQUISITION REGULATION FACS 84-55 AND 84-58 (GSAR 5-300)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 501; 48 CFR 502; 48 CFR 506; 48 CFR 513; 48 CFR 515; 48 CFR 553

Legal Deadline: None

Abstract: This proposed change to the General Services Administration Acquisition Regulation would revise the regulation to conform to the Federal Acquisition Regulation as amended by FAC 84-56 and 84-58. Miscellaneous other changes would be made as a result of suggestions from various GSA contracting activities.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of Acquisition Policy, 18th & F Streets, NW., Washington, DC 20405, 202 501-3822

RIN: 3090-AE07

3604. ● CONTRACTING AUTHORITY DELEGATION; PURCHASES NOT EXCEEDING $500 AND TELEPHONE SERVICE REQUESTS (ACQUISITION CIRCULAR AC-90-1) (GSAR 5-297)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 501

Legal Deadline: None

Abstract: The General Services Administration Acquisition Regulation is temporarily amended by revising section 501.602-1, 501-603-3 and 501-603-70 to revise the requirements for delegating contracting authority related to purchases that do not exceed $500 and to the issuance of telephone service requests.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/01/90	55 FR 13277
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of Acquisition Policy, 18th & F Streets, NW., Washington, DC 20405, 202 501-3822

RIN: 3090-AE08

3605. ● IMPLEMENTATION OF PUBLIC LAW 99-506 (GSAR 5-269)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 538

Legal Deadline: None

Abstract: This proposed change to the General Services Administration Acquisition Regulation would establish policy and procedures implementing the requirement in Public L. 99-506 that procurement of electronic equipment is accomplished in a manner designed to ensure accessibility for the handicapped.

Timetable:

Action	Date	FR Cite
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of Acquisition Policy, 18th & F Streets, NW., Washington, DC 20405, 202 501-3822

RIN: 3090-AE09

3606. ● TRADE AGREEMENTS ACT—TOOLS COMMODITY CENTER (GSAR 5-304)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 525

Legal Deadline: None

Abstract: This proposed change to the General Services Administration Acquisition Regulation would recognize the FSS International, Tools, and Appliances Commodity Center and clarify the exclusion in FAR 25.406 that applies only to purchases of items in Groups 51 and 52 made by the Tools Commodity Center Procurement Division and not to all purchases made by the International, Tools, and Appliances Commodity Center.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of Acquisition Policy, 18th & F Streets, NW., Washington, DC 20405, 202 501-3822

RIN: 3090-AE10

3607. ● SANCTIONS (TOSHIBA/KONGSBERG) AND LABOR STANDARDS PROVISIONS

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 501; 48 CFR 509; 48 CFR 522; 48 CFR 525

Legal Deadline: None

Abstract: This proposed change to the General Services Administration Acquisition Regulation would add coverage pertaining to sanctions (Toshiba/Kongsberg) for violations of export controls and to implement the statutes and labor standards provisions applicable to contracts subject to the Service Contract Act of 1965, as amended by Federal Acquisition Regulation FAC 84-48.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of Acquisition Policy, 18th & F Streets, NW., Washington, DC 20405, 202 501-3822

RIN: 3090-AE11

3608. ● INDEFINITE-DELIVERY CONTRACTS (GSAR 5-301)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 516; 48 CFR 552

Legal Deadline: None

Abstract: This proposed rule would add section 516.506 to prescribe the Placement of Orders clause with two alternates for use by the Federal Supply Service in its Stock and Special Order Program and its Schedule Program; and add a paragraph to 552.216 to provide the text for the Placement of Orders clause and two alternates identifying the activity or activities authorized to place delivery orders under the resulting contract and the procedures for issuing orders by Electronic Data Interchange, if mutually agreeable to the contracting agency and the contractor.

Timetable:

Action	Date	FR Cite
NPRM	06/20/90	55 FR 25141
NPRM Comment Period End	07/20/90	55 FR 25141
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Majorie Ashby, Management Analyst, General Services Administration, Office of Acquisition Policy, 18th & F Streets, NW., Washington, DC 20405, 202 501-3822

RIN: 3090-AE14

3609. ● HAZARDOUS MATERIAL DATA, INSPECTION OF SUPPLIES (GSAR 5-296)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 523; 48 CFR 546; 48 CFR 552

Legal Deadline: None

Abstract: This proposed change to the General Services Administration Acquisition Regulation would add the clause at 552.223-72, Nonconforming Hazardous Substances, for use in solicitations and contracts where contractors will be required to submit hazardous material data. The clauses at 552.242-70, Status Report of Orders and Shipments; 552.246-17, Warranty of Supplies of a Noncomplex Nature; 552.246-70, Source Inspection by Quality Approved Manufacturer; and 552.246-72, Source Inspection by Government would be revised to reflect miscellaneous changes requested by the Federal Supply Service.

Timetable:

Action	Date	FR Cite
NPRM	07/06/90	55 FR 27839
NPRM Comment Period End	09/06/90	55 FR 27840
Final Action	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of Acquisition Policy, 18th & F Streets, NW., Washington, DC 20405, 202 501-3822

RIN: 3090-AE16

3610. ● NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: 31 USC 1352; PL 101-121, Sec 319; 40 USC 486(c)

CFR Citation: 41 CFR 105-69

Legal Deadline: None

Abstract: This interim final rule is in response to section 319 of Public Law 101-121. Section 319 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, grant, or loan. Section 319 also requires that each person who requests or receives a Federal contract, grant, cooperative agreement, loan, or a Federal commitment to insure or guarantee a loan, must disclose lobbying.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6753
Interim Final Rule Effective	02/26/90	55 FR 6753
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Sectors Affected: All

Analysis: Regulatory Flexibility Analysis

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Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, 18th & F Streets, NW., Washington, DC 20405, 202 501-3822

RIN: 3090-AE25

OFFICE OF ADMINISTRATION

3611. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY CONDUCTED PROGRAMS

Legal Authority: PL 95-602, Sec 119

CFR Citation: 41 CFR 105-8

Legal Deadline: None

Abstract: The General Services Administration proposes this regulation to implement the above cited law. This statute prohibits discrimination on the basis of handicap as it applies to any programs or activities conducted by GSA.

Timetable:

Action	Date	FR Cite
NPRM	03/22/89	34 FR 11750
NPRM Comment Period End	07/20/89	
Final Action	00/00/00	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Federal

Additional Information: All comments to the regulation (proposed rule) have been reconciled. This regulation was forwarded to the Department of Justice (DOJ) for approval as final rule on May 9, 1990.

Agency Contact: Thomas E. Henderson, Equal Employment Specialist (CTC), General Services Administration, 18th and F Streets, NW., Washington, DC 20405, 202 501-1368

RIN: 3090-AC48

FEDERAL PROPERTY RESOURCES SERVICE

3612. APPRAISAL OF FEDERAL SURPLUS REAL PROPERTY

Legal Authority: 40 USC 488(c)

CFR Citation: 41 CFR 101-47.303-4

Legal Deadline: None

Abstract: The General Services Administration is amending its regulations concerning circumstances where an appraisal of the fair market value of Federal surplus real property need not be obtained prior to disposal of the property.

Timetable:

Action	Date	FR Cite
Final Action	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Marjorie L. Lomax, Director, Policy and Planning Division (DRP), General Services Administration, 18th & F Streets, NW., Washington, DC 20405, 202 535-7062

RIN: 3090-AD90

FEDERAL SUPPLY SERVICE

3613. DONATION OF ABANDONED AND FORFEITED PERSONAL PROPERTY

Legal Authority: 28 USC 5688(a)

CFR Citation: 41 CFR 101-48.2

Legal Deadline: None

Abstract: This rule would emphasize that all forfeited distilled spirits, wine, or malt beverages donated to eleemosynary institutions are to be used only by their inpatients for medicinal purposes. Allegations of misuse of these donated spirits have created a need for this regulation.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stanley M. Duda, Director, General Services Administration, Property Management Division (FBP), Washington, DC 20406, 703 557-1260

RIN: 3090-AA24

3614. UTILIZATION, DONATION, SALE, ABANDONMENT OR DESTRUCTION OF HAZARDOUS MATERIALS

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-42 to 101-48; 41 CFR 101-48; 41 CFR 101-49

Legal Deadline: None

Abstract: Revisions and additions to existing rules are proposed to establish a separate regulatory section concerning the utilization, donation, sale, abandonment or destruction of hazardous materials.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: Proposals are to be circulated among Federal agencies on an information basis before rulemaking consideration.

Agency Contact: Stanley M. Duda, Director, General Services Administration, Property Management Division (FBP), Washington, DC 20406, 703 557-1260

RIN: 3090-AA62

3615. FEDERAL TRAVEL REGULATION (FTR) AMENDMENT (UNASSIGNED) WORLDWIDE LODGINGS-PLUS PER DIEM SYSTEMS

Legal Authority: 5 USC 5701 to 5709; EO 11609, July 22, 1971 (36 FR 13747); 5 USC 5721 to 5734; 29 USC 905(a)

CFR Citation: 41 CFR 301-1; 41 CFR 301-3; 41 CFR 301-7; 41 CFR 301-8; 41 CFR 301-11; 41 CFR 301-12; 41 CFR 301-14; 41 CFR 301 Appendixes A and B; 41 CFR 302-1; 41 CFR 302-2; 41 CFR 302-5; 41 CFR 302-6

Legal Deadline: None

Abstract: This amendment establishes a worldwide lodging-plus per diem computation method based on the actual cost of lodging not to exceed a maximum daily amount plus a fixed allowance for meals and incidental expenses. Implementation of this amendment will reduce agency

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payments for reimbursement of subsistence expenses of Federal civilian employees on official travel outside the continental United States (CONSUS) by approximately $36 million. Significant savings in administrative costs are likely to result from extending the lodging-plus system worldwide.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry Tucker, Regulations Branch, General Services Administration, Travel Management Division, Regulations Branch (FBTR), Washington, DC 20406, 703 557-1253

RIN: 3090–AD52

3616. SUBMISSION OF TRANSPORTATION VOUCHERS

Legal Authority: 31 USC 3726; 40 USC 486(c)

CFR Citation: 41 CFR 101-41

Legal Deadline: None

Abstract: This regulation is being amended to eliminate agency submissions of travel vouchers containing reimbursable transportation charges purchased with contractor-issued charge cards.

Timetable:

Action	Date	FR Cite
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Sandfort, Chief, Regulations, Procedures, & Review Branch, General Services Administration, 18th & F Streets, NW., Washington, DC 20405, 202 501-4563

RIN: 3090–AD54

3617. FEDERAL TRAVEL REGULATION (FTR) AMENDMENT (UNASSIGNED), "LAST MOVE HOME" FOR SENIOR EXECUTIVE SERVICE (SES) CAREER APPOINTEES UPON SEPARATION FROM FEDERAL SERVICE FOR RETIREMENT

Significance: Agency Priority

Legal Authority: 5 USC 5721 to 5734; 20 USC 905(a); EO 11609, July 22, 1971 (36 FR 13747)

CFR Citation: 41 CFR 302-1

Legal Deadline: None

Abstract: This amendment implements legislation authorizing limited relocation allowances for a "last move home" under certain specified conditions for eligible Senior Executive Service (SES) career appointees to the place where they will reside upon separation for retirement. The estimated economic impact for all Executive agencies is $1.6 million annually.

Timetable:

Action	Date	FR Cite
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry A. Tucker, Chief, Regulations Branch, General Services Administration, Travel Management Division, Regulations Branch (FBTR), Washington, DC 20406, 703 557-1253

RIN: 3090–AD76

3618. FEDERAL TRAVEL REGULATION (FTR) AMENDMENT (UNASSIGNED), MILEAGE ALLOWANCE

Legal Authority: EO 11609, July 22, 1971 (36 FR 13747)

CFR Citation: 41 CFR 301-4

Legal Deadline: None

Abstract: This amendment increases the mileage reimbursement rate from 24 cents to 25 cents for advantageous use of a privately owned automobile on official business. The economic impact of this amendment has not been determined to date.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry A. Tucker, Chief, Regulations Branch, General Services Administration, Travel Management Division, Regulations Branch (FBTR), Washington, DC 20406, 703 557-1253

RIN: 3090–AD87

3619. FEDERAL TRAVEL REGULATION (FTR) AMENDMENT (UNASSIGNED), RELOCATION INCOME TAX ALLOWANCE

Legal Authority: 5 USC 5721 to 5734; 20 USC 905(a); EO 11609, July 22, 1971 (36 FR 13747); EO 12466, February 27, 1984 (49 FR 7349)

CFR Citation: 41 CFR 302-11

Legal Deadline: None

Abstract: This amendment implements a new formula and procedures to be used in calculating relocation income tax (RIT) allowance payments for employees who transfer to States that do not allow State income tax deductions for relocation expenses.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/87	
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry A. Tucker, Chief, Regulations Branch, General Services Administration, Travel Management Division, Regulations Branch (FBTR), Washington, DC 20406, 703 557-1253

RIN: 3090–AD88

3620. ● FEDERAL TRAVEL REGULATION (FTR) AMENDMENT (UNASSIGNED), TRAVEL AND TRANSPORTATION EXPENSE PAYMENT SYSTEM; AUTOMATED-TELLER MACHINE (ATM) SERVICES

Legal Authority: 5 USC 5701 to 5709; 40 USC 486(c); EO 11609, July 22, 1971 (36 FR 13747)

CFR Citation: 41 CFR 301-1; 41 CFR 301-9; 41 CFR 301-10; 41 CFR 301-11; 41 CFR 301-15

Legal Deadline: None

Abstract: This amendment provides for the use of automated-teller-machine (ATM) services by authorized Federal employees traveling on official business. An enhancement to the contractor-issued charge card program allows cash withdrawals from ATM's by individual cardholders who are specifically authorized by their agencies to use ATM services. This rule implements the ATM services enhancement, thus offering agencies another method for providing travel

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advances to Federal employees on official business. To participate in the program agencies must perform a cost benefit analysis, determine whether the program will be advantageous, and develop program controls. The use of ATM services may reduce the number and amount of outstanding travel advances as well as the administrative expense associated with providing cash advances.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	
Final Action Effective	10/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry A. Tucker, Chief, Regulations Branch, General Services Administration, Travel Management Division, Regulations Branch (FBTR), Washington, DC 20406, 703 557-1253

RIN: 3090-AE18

3621. ● FEDERAL TRAVEL REGULATION (FTR) AMENDMENT (UNASSIGNED), ACCEPTANCE OF PAYMENT FROM A NON-FEDERAL SOURCE FOR TRAVEL EXPENSES

Legal Authority: 5 USC 5701 to 5709; EO 11609, July 22, 1971 (36 FR 13747); 31 USC 1353; 5 USC 4111(b)

CFR Citation: 41 CFR 301-1; 41 CFR 304

Legal Deadline: None

Abstract: This interim rule will request for comments further implements legislation governing the acceptance of travel, subsistence, and related expenses from non-Federal sources. It cancels a previous interim rule (54 FR 53321) which provided temporary policy direction on the subject pending development of this expanded rule. The economic impact of this amendment has not been determined to date.

Timetable:

Action	Date	FR Cite
Final Action	12/00/90	
Final Action Effective	12/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry A. Tucker, Chief, Regulations Branch, General Services Administration, Travel Management Division, Regulations Branch (FBTR), Washington, DC 20406, 703 557-1253

RIN: 3090-AE19

3622. ● FEDERAL TRAVEL REGULATION (FTR) AMENDMENT (UNASSIGNED), SEPARATE RELOCATION BENEFITS FOR TWO EMPLOYEES WHO MARRY EACH OTHER OVERSEAS; EXPANSION OF MOBILE HOME ALLOWANCE

Legal Authority: 5 USC 5721 to 5734; 20 USC 905(a); EO 11609, July 22, 1971 (36 FR 13747)

CFR Citation: 41 CFR 302-1; 41 CFR 302-3; 41 CFR 302-7

Legal Deadline: None

Abstract: This amendment authorizes separate entitlements in connection with certain relocation allowances in situations where two employees, who transferred overseas under separate service agreements, subsequently marry each other and transfer at the same time to a new official station or return to the United States for separation. It also expands the mobile home allowance to include a boat when it is used as a permanent residence at the new official station, and to include, as a reimbursable transportation expense, the necessary costs associated with relocating a mobile home before and after movement. The economic impact of this amendment has not been determined to date.

Timetable:

Action	Date	FR Cite
Final Action	12/00/90	
Final Action Effective	12/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry A. Tucker, Chief, Regulations Branch, General Services Administration, Travel Management Division, Regulations Branch (FBTR), Washington, DC 20406, 703 557-1253

RIN: 3090-AE20

3623. ● FEDERAL TRAVEL REGULATION (FTR) AMENDMENT (UNASSIGNED), INCREASE IN MAXIMUM DOLLAR LIMITATIONS FOR RESIDENCE TRANSACTION EXPENSES

Legal Authority: 5 USC 5721 to 5734; 20 USC 905(a); EO 11609, July 22, 1971 (36 FR 13747)

CFR Citation: 41 CFR 302-6

Legal Deadline: None

Abstract: This amendment increases the maximum dollar limitations on reimbursement for allowable real estate sale and purchase expenses incident to change of official station. The economic impact of this amendment has not been determined to date.

Timetable:

Action	Date	FR Cite
Final Action Effective	10/01/90	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry A. Tucker, Chief, Regulations Branch, General Services Administration, Travel Management Division, Regulations Branch (FBTR), Washington, DC 20406, 703 557-1253

RIN: 3090-AE21

3624. ● FEDERAL TRAVEL REGULATION (FTR) AMENDMENT (UNASSIGNED), MAXIMUM PER DIEM RATES

Legal Authority: 5 USC 5702; 5 USC 5707; EO 11609, July 22, 1971 (36 FR 13747)

CFR Citation: 41 CFR 301-7

Legal Deadline: None

Abstract: Pursuant to the 1990 meal and lodging costs survey, Appendix A at the end of 41 CFR Chapter 301 is revised to reflect changes in the listing formerly published in 55 FR 1946 et seq., January 19, 1990. The economic impact of this amendment has not been determined to date.

Timetable:

Action	Date	FR Cite
Final Action	12/00/90	
Final Action Effective	01/01/91	

Small Entities Affected: None

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Government Levels Affected: Federal

Agency Contact: Larry A.Tucker, Chief, Regulations Branch, General Services Administration, Travel Management Division, Regulations Branch (FBTR), Washington, DC 20406, 703 557-1253

RIN: 3090-AE22

3625. © FPMR TEMP. REG. G- (UNASSIGNED), USE OF CARRIER CONTRACTOR FOR EXPRESS SMALL PACKAGE TRANSPORTATION

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-40

Legal Deadline: None

Abstract: This temporary regulation implements the provisions of the new small package contract effective October 1, 1990. The economic impact of this regulation has not been determined to date.

Timetable:

Action	Date	FR Cite
Final Action Effective	10/01/90	
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Boyce Stelmar, Chief, Freight Management Branch, General Services Administration, Transportation Management Division, Freight Management Branch (FBXF), Washington, DC 20406, 703 557-7278

RIN: 3090-AE33

3626. © FEDERAL TRAVEL REGULATION (FTR) AMENDMENT (UNASSIGNED), RELOCATION INCOME TAX ALLOWANCE

Legal Authority: 5 USC 5721 to 5734; 20 USC 905(a); EO 11609, July 22, 1971 (36 FR 13747); EO 12466, February 27, 1984 (49 FR 7349)

CFR Citation: 41 CFR 302-11

Legal Deadline: None

Abstract: This final rule implements the Federal and State tax tables to be used in conjunction with Part 302-11 of the FTR for Calculating 1991 relocation income tax (RIT) allowance payments.

Timetable:

Action	Date	FR Cite
Final Action	12/00/90	
Final Action Effective	01/01/91	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry A. Tucker, Chief, Regulations Branch, General Services Administration, Travel Mangement Division, Regulations Branch (FBTR), Washington, DC 20406, 703 557-1253

RIN: 3090-AE24

INFORMATION RESOURCES MANAGEMENT SERVICE

3627. FIRMR IMPROVEMENT PROJECT

Significance: Regulatory Program

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201

Legal Deadline: None

Abstract: In response to recommendations by users of the FIRMR to revise the regulation to make it more readable and useful, GSA plans to restructure the FIRMR. This restructuring will include: the separation of policies and procedures, the separation of contracting from management and use provisions, the reorganization of FIRMR contracting provisions for consistency with the Federal Acquisition Regulation, and the reorganization of the FIRMR's management and use provisions into a life cycle format. As the final draft of each subchapter is completed, GSA requests public comment on the subchapter through a notice of proposed rulemaking. Subchapter D, which deals with acquisition, was completed first. An advanced notice of proposed rulemaking describing the project was published in the Federal Register in January 1988. A notice of proposed rulemaking for Subchapter D was published in the Federal Register in February 1989 and a notice of proposed rulemaking for Subchapter C which deals with management and use of Federal information processing resources and a notice for subchapters A and B was published in the Federal Register on February 6, 1990.

Timetable:

Action	Date	FR Cite
ANPRM	01/11/88	53 FR 620
ANPRM Comment Period End	03/11/88	53 FR 620
NPRM	02/06/89	54 FR 5904
NPRM Comment Period End	04/06/89	54 FR 5904
NPRM	10/12/89	54 FR 41850
NPRM Public Comment Period End	12/11/89	
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret Truntich, Chief, Regulation Branch, General Services Administration, IRMS/KMPR, Washington, DC 20405, 202 501-3194

RIN: 3090-AD04

3628. UPDATE REGULATIONS REGARDING FTS 2000 USAGE (FIRMR INTERIM RULE 1)

Significance: Agency Priority

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201-41

Legal Deadline: None

Abstract: FIRMR Interim Rule 1, regarding the mandatory use of the FTS 2000 network, was published on July 29, 1988, to meet the requirements of the Conference Report for PL 100-202. PL 101-136 was subsequently enacted on November 3, 1989, to include more specific provisions regarding use of FTS 2000. This proposed rule will update Interim Rule 1 to incorporate the provisions of PL 101-136 or any succeeding legislation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/29/88	53 FR 28638
Final Action	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Federa

Additional Information: This is a procurement-related action for which there is a statutory requirement. There

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is no paperwork burden associated with this action.

Agency Contact: William R. Loy, Procurement Analyst, General Services Administration, Regulations Branch (KMPR), 18th & F Streets, NW., Washington, DC 20405, 202 501-3194

RIN: 3090-AD20

3620. IMPLEMENT LEGISLATION TO ACCOMMODATE THE HEARING IMPAIRED

Significance: Regulatory Program

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201-1; 41 CFR 201-1; 41 CFR 201-6; 41 CFR 201-38

Legal Deadline: NPRM, Statutory. Final, Statutory, October 24, 1989.

Abstract: The Telecommunications Accessibility Enhancement Act of 1988 (PUB.L.100-542) directed GSA to prescribe regulations that make the Federal Telecommunications System fully accessible to hearing and speech impaired individuals. In coordination with other agencies and organizations, GSA is developing an interim rule that will specify requirements for Federal agencies in providing telecommunications access to hearing and speech impaired individuals who are either employees or clients of the agencies. A FIRMR Bulletin will also be issued to describe the types of telecommunication devices for the deaf (TDD's) and related services currently available.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/90	54 FR 42302

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Margaret Truntich, Chief, Regulation Branch, General Services Administration, Regulations Branch (KMPR), Information Resources Management Service, Washington, DC 20405, 202 501-3194

RIN: 3090-AD36

3630. REVISIONS OF FIRMR POLICIES TO SIMPLIFY THE PROCUREMENT PROCESS

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201

Legal Deadline: None

Abstract: This regulation revises a number of FIRMR management and acquisition policies, primarily to remove unnecessary detail and redundancy, provide consistency with the Federal Acquisition Regulation and clarify confusing provisions in the FIRMR.

Timetable:

Action	Date	FR Cite
NPRM	02/06/89	54 FR 5904
NPRM Comment Period End	03/24/89	
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: William Loy/Margaret Truntich, Procurement Analyst/Chief, Regulations Branch, General Services Administration, Regulations Branch (KMPR), 18th & F Streets, NW., Washington, DC 20405, 202 501-3194

RIN: 3090-AD38

PUBLIC BUILDINGS SERVICE

3631. FEDERAL PROPERTY MANAGEMENT REGULATIONS; QUALITY WORKPLACE ENVIRONMENT

Legal Authority: EO 12411

CFR Citation: 41 CFR 101-3

Legal Deadline: None

Abstract: This regulation will be reviewed and updated in light of the governmentwide space reduction and utilization improvement initiatives mandated in Executive Order 12411--Government Work Space Management Reform--and FPMR Temporary Regulation D-73-- Quality Workplace Environment.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Robert E. Ward, Director, Real Estate, General Services Administration, Office of Real Property Development (PQ), Public Buildings Service, Washington, DC 20405, 202 566-1025

RIN: 3090-AC74

3632. FEDERAL PROPERTY MANAGEMENT REGULATION PART 101-17, ASSIGNMENT AND UTILIZATION OF SPACE

Significance: Agency Priority

Legal Authority: 40 USC 481; 40 USC 601; 7 USC 1924; 40 USC 490; 40 USC 531; 42 USC 3601; 42 USC 4321; 42 USC 4201; EO 12072; EO 12411; EO 12512; PL 100-678

CFR Citation: 41 CFR 101-17

Legal Deadline: None

Abstract: A new and comprehensive permanent FPMR 101-17, Assignment and Utilization of Space, will improve the space delivery process for Federal agencies by making it more efficient, more timely, and better able to deliver quality space that supports agency mission needs. The new FPMR will implement a new space assignment process that emphasizes client service; issue a new comprehensive move policy that clarifies roles and responsibilities; revise the GSA location policy to be more responsive to agency mission needs; revise the standard alterations, which agencies receive upon an initial move, to recognize modern office needs; and revise the space classification definitions to eliminate ambiguity. These changes will result in a more efficient space delivery process that will improve the overall efficiency of government operations. The assignment and utilization of Federal space has been governed by a series of four temporary regulations since 1983. The current FPMR Temporary Regulation D-73 is outdated and is not comprehensive in its coverage of the process for acquisition and assignment of Federal space. The new permanent FPMR will correct these problems.

Timetable:

Action	Date	FR Cite
NPRM	12/05/89	54 FR 50251
NPRM Comment Period End	01/04/90	
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 651 Real Estate Operators (except Developers) and

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Lessor; 871 Engineering, Architectural, and Surveying Services

Agency Contact: Hal Kogan, Chief, Assignment and Utilization Policy Branch General Services Administration, (PQRP), Washington, DC 20405, 202 566-0609

RIN: 3090-AD42

GENERAL SERVICES ADMINISTRATION (GSA) — Completed Actions

3633. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION (GSAR) BOND'S, APD 2800.12A, CHGE 3

CFR Citation: 48 CFR 528; 48 CFR 552; 48 CFR 553

Completed:

Reason	Date	FR Cite
Final Action	02/14/90	55 FR 5222
Final Action Effective	02/26/90	55 FR 5222

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Marjorie Ashby 202 501-3822

RIN: 3090-AD87

3634. BUY AMERICAN ACT—TRADE AGREEMENTS ACT BALANCE OF PAYMENTS PROGRAM AND MISCELLANEOUS REVISIONS TO GSA FORMS, CHGE 10, GSAR 5-306

CFR Citation: 48 CFR 525; 48 CFR 553

Completed:

Reason	Date	FR Cite
Final Action	08/10/90	55 FR 32835
Final Action Effective	08/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marjorie Ashby 202 501-3822

RIN: 3090-AD65

3635. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION ADP 2800 12A, CHGE 8 - REVISION OF APPRAISAL REQUIREMENTS RELATED TO ACQUISITIONS OF LEASEHOLD INTERESTS IN REAL PROP

CFR Citation: 48 CFR 570

Completed:

Reason	Date	FR Cite
Final Action	03/29/90	55 FR 11587
Final Action Effective	04/13/90	55 FR 11587

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marjorie Ashby 202 501-3822

RIN: 3090-AD89

3636. ● DRUG-FREE WORKPLACE (GRANTS)

Significance: Regulatory Program

Legal Authority: EO 12549; 41 USC 701; 41 USC 496(c)

CFR Citation: 41 CFR 105-68

Legal Deadline: None

Abstract: The Drug-Free Workplace Act of 1988 requires that all grantees receiving grants from any Federal agency certify to that agency that they will maintain a drug-free workplace, or in the case of a grantee who is an individual, certify to the agency that his or her conduct of grant activity will be for the purpose of or implementing the statutory requirements. It directs that grantees take steps to provide a drug free workplace in accordance with the Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 4946
Final Action	05/25/90	55 FR 21701
Final Action Effective	07/24/90	55 FR 21701

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Sectors Affected: All

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Jacqueline Higgins, Management Assistant, General Services Administration, Office of Acquisition Policy, 18th & F Streets, NW., Washington, DC 20405, 202 501-3822

RIN: 3090-AE00

3637. ● ANTI-LOBBYING, CHGE 6 (GSAR 5-293)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 503

Legal Deadline: None

Abstract: This change to the General Services Administration Acquisition Regulation added subpart 503.8 to establish time frames for submission of disclosure forms and to designate the office responsible for preparing the report to Congress in accordance with Federal Acquisition Regulation section 3.804(b); and to provide agency procedures for processing suspected violations of 31 U.S.C. 1352, Limitation on the Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions.

Timetable:

Action	Date	FR Cite
Final Action Effective	07/06/90	55 FR 29580
Final Action	07/20/90	55 FR 29580

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of Acquisition Policy, 18th & F Streets, NW., Washington, DC 20405, 202 501-3822

RIN: 3090-AE12

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Completed Actions

3638. ● MISCELLANEOUS AMENDMENTS, CHGE 7 (GSAR 5-295)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 513; 48 CFR 514; 48 CFR 515; 48 CFR 553

Legal Deadline: None

Abstract: The General Services Administration Acquisition Regulation was amended to provide for the use of the Standard Form 1447, Solicitation/Contract; to permit contracting activities to authorize the submission of facsimile bids or proposals; and to permit contracting activities to authorize the submission of annual representations and certifications.

Timetable:

Action	Date	FR Cite
Final Action	05/17/90	55 FR 20457
Final Action Effective	05/25/90	55 FR 20457

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of Acquisition Policy, 18th & F Streets, NW., Washington, DC 20405, 202 501-3822

RIN: 3090-AE13

3639. ● IMPLEMENT FAC 84-51, A PORTION OF FAC 84-56 AND MISCELLANEOUS REVISIONS TO GSA FORMS, CHGE 5, (GSAR 5-293)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 504; 48 CFR 545; 48 CFR 552; 48 CFR 553

Legal Deadline: None

Abstract: The General Services Administration Acquisition Regulation was amended to add section 504.203 to provide taxpayer identification number information procedures with respect to leases of real property and schedule contracts; added section 545.302-1 to provide for the issuance of determinations and findings with respect to a contractor's inability to obtain facilities; revised section 552.209-74 to delete language no longer needed; and revised section 552.219-1 to add a notice regarding misrepresenting a firm's status as a small business concern. The latest editions of GSA Forms 3408, 3410, 3502, 3503, and 3504 also are illustrated in this change to the regulation.

Timetable:

Action	Date	FR Cite
Final Action	03/09/90	55 FR 8953
Final Action Effective	03/09/90	55 FR 8953

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of Acquisition Policy, 18th & F Streets, NW., Washington, DC 20405, 202 501-3822

RIN: 3090-AE15

3640. ● COMPREHENSIVE ACQUISITION PLAN AND MISCELLANEOUS REVISIONS TO GSA FORMS, CHGE 9 (GSAR 5-299)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 507

Legal Deadline: None

Abstract: This change to the General Services Administration Acquisition Regulation revised sections 507.102, 507.104 and 507.105 to update references to the GSA Order on Comprehensive Acquisition Planning which has been revised and to revise the regulation to conform to the requirements of the revised GSA order; and sections 553-370-3506 and 553-370-3507 were revised to illustrate the the latest editions of GSA Form 3506, Construction Contract Clauses, and GSA Form 3507, Supply Contract Clauses.

Timetable:

Action	Date	FR Cite
Final Action	07/12/90	55 FR 28530
Final Action Effective	07/12/90	55 FR 28530

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of Acquisition Policy, 18th & F Streets, NW., Washington, DC 20405, 202 501-3822

RIN: 3090-AE17

3641. STANDARD FORMS FOR REPORTING UNNEEDED FEDERAL REAL PROPERTY

CFR Citation: 41 CFR 101-47.4900

Completed:

Reason	Date	FR Cite
Withdrawn	08/21/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Marjorie L. Lomax 202 535-7852

RIN: 3090-AD27

3642. NEGOTIATED DISPOSAL OF PERSONAL PROPERTY

CFR Citation: 41 CFR 101-44; 41 CFR 101-45; 41 CFR 101-46

Completed:

Reason	Date	FR Cite
Final Action	04/26/90	55 FR 17609
Final Action Effective	04/26/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Stanley M. Duda 703 557-1240

RIN: 3090-AD29

3643. SUBMISSION OF PAID FREIGHT BILLS/INVOICES, CSLIB, GTR'S PASSENGER COUPONS, AND SUPPORTING DOCUMENTATION COVERING TRANSPORTATION SERVICES UNDER COST-REIMBURSEMENT CONTRACTS

CFR Citation: 41 CFR 101-41

Completed:

Reason	Date	FR Cite
Final Action	08/10/90	55 FR 32626
Final Action Effective	04/20/90	55 FR 32626

GSA

Completed Actions

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Sandfort 202 501-4283

RIN: 3090-AD35

3644. FEDERAL TRAVEL REGULATION (FTR) AMENDMENT 9, TRAVEL MANAGEMENT PROGRAM

CFR Citation: 41 CFR 301-2; 41 CFR 301-3; 41 CFR 301-10; 41 CFR 301-15; 41 CFR 302-1

Completed:

Reason	Date	FR Cite
Final Action	03/23/90	55 FR 10709
Final Action Effective	03/23/90	55 FR 10709

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry Tucker 703 557-1253

RIN: 3090-AD47

3645. FPMR TEMP. REG. A-34, SUPP. 1 LIMITING TRAVEL ADVANCES TO MANAGE CASH MORE EFFECTIVELY

CFR Citation: 41 CFR 101-7

Completed:

Reason	Date	FR Cite
Final Action	03/22/90	55 FR 10709
Final Action Effective	03/22/90	55 FR 10709

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry Tucker 703 557-1253

RIN: 3090-AD48

3646. FEDERAL TRAVEL REGULATION (FTR) AMENDMENT 8, AGENCY PAYMENTS FOR EMPLOYEE TRAVEL AND RELOCATION; REPORTING REQUIREMENTS

CFR Citation: 41 CFR 301-16

Completed:

Reason	Date	FR Cite
Final Action	03/01/90	55 FR 7327
Final Action Effective	03/01/90	55 FR 7327

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Susan May 703 557-1253

RIN: 3090-AD53

3647. FEDERAL TRAVEL REGULATION (FTR) TEMP. REG. 1, USE OF TRAVEL AGENTS AND TRAVEL MANAGEMENT CENTERS (TMC'S) BY FEDERAL EXECUTIVE AGENCIES

CFR Citation: 41 CFR 301; 41 CFR 302; 41 CFR 303; 41 CFR 304

Completed:

Reason	Date	FR Cite
Final Action	02/05/90	55 FR 3740
Final Action Effective	01/01/90	55 FR 3740

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry A. Tucker 703 557-1253

RIN: 3090-AD63

3648. FPMR TEMP. REG. A-32, SUPP. 2, FIRST DUTY STATION ALLOWANCES FOR RELOCATED PRESIDENTIAL TRANSITION TEAM PERSONNEL SUBSEQUENTLY APPOINTED TO GOVERNMENT SERVICE

CFR Citation: 41 CFR 101-7

Completed:

Reason	Date	FR Cite
Final Action	03/26/90	55 FR 11018
Final Action Effective	03/26/90	55 FR 11018

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry A. Tucker 703 557-1253

RIN: 3090-AD65

3649. FPMR TEMP. REG. A-34, SUPP. 2, LIMITING TRAVEL ADVANCES TO MANAGE CASH MORE EFFECTIVELY

CFR Citation: 41 CFR 101-7

Completed:

Reason	Date	FR Cite
Final Action	03/26/90	55 FR 11018
Final Action Effective	03/26/90	55 FR 11018

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry A. Tucker 703 557-1253

RIN: 3090-AD66

3650. ESTABLISHMENT OF POLICIES AND PROCEDURES FOR FEDERAL AGENCIES' MANAGEMENT OF ELECTRONIC RECORDKEEPING, PROJECT 86.83A

CFR Citation: 41 CFR 201-22; 41 CFR 201-45

Completed:

Reason	Date	FR Cite
Final Action	05/08/90	55 FR 19221
Final Action Effective	06/07/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: R. Stewart Randall 202 501-3194

RIN: 3090-AC54

3651. IMPLEMENTATION OF TITLE VIII, PAPERWORK REDUCTION REAUTHORIZATION ACT OF 1986, P.L. 99-500 REGARDING AUTOMATIC DATA PROCESSING EQUIPMENT

Significance: Regulatory Program

CFR Citation: 41 CFR 201-1; 41 CFR 201-2; 41 CFR 201-23; 41 CFR 201-24

Completed:

Reason	Date	FR Cite
Final Action	07/27/90	55 FR 30702
Final Action Effective	10/01/90	55 FR 34719

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: William Loy/Margaret Trumbich 202 501-3194

RIN: 3090-AD03

[FR Doc. 90-21465 Filed 10-26-90; 8:45 am]

BILLING CODE 6820-24-T

federal register

Monday
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Part XXVII

Institute of Museum Services

Semiannual Regulatory Agenda

INSTITUTE OF MUSEUM SERVICES (IMS)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum Services

45 CFR Ch. XI, Subchapter E

Semiannual Agenda of Regulations

AGENCY: Institute of Museum Services.

ACTION: Publication of the semiannual agenda.

SUMMARY: Pursuant to Executive Order 12291 and the Regulatory Flexibility Act (5 U.S.C. 605), the Institute of Museum Services publishes this regulatory agenda describing agency regulations under development or review.

FOR FURTHER INFORMATION CONTACT: Ms. Mamie Bittner, Congressional Liaison and Public Information Officer, IMS, 1100 Pennsylvania Avenue NW., Washington, DC 20506, or call (202) 786-0536.

Daphne Wood Murray,

Director, Institute of Museum Services.

INSTITUTE OF MUSEUM SERVICES (IMS) — Proposed Rule Stage

3552. ● AMENDMENTS TO GRANT REGULATIONS

Significance: Agency Priority

Legal Authority: 20 USC 961 to 968

CFR Citation: 45 CFR 1180

Legal Deadline: None

Abstract: To reflect changes in basic law or changes recommended by the National Museum Services Board or program experience (for example: setting a maximum for conservation grants).

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mamie Bittner, Public Information Officer, Institute of Museum Services, 1100 Pennsylvania Avenue, NW., Room 510, Washington, DC 20506, 202 786-0536

RIN: 3137–AA01

INSTITUTE OF MUSEUM SERVICES (IMS) — Completed Actions

3553. ● DRUG-FREE WORKPLACE (GRANTS)

Significance: Regulatory Program

Legal Authority: PL 100-690; 41 USC 701 et seq

CFR Citation: 45 CFR 1185

Legal Deadline: None

Abstract: IMS is participating in the promulgation of governmentwide drug-free workplace rule to require grant recipients to certify compliance with drug-free workplace regulations.

Timetable:

Action	Date	FR Cite
Final Action	05/24/90	55 FR 21704
Final Action Effective	07/24/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Mamie Bittner, Public Information Officer, Institute of Museum Services, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202 786-0536

RIN: 3137–AA00

[FR Doc. 90-22602 Filed 10-26-90; 8:45 am]

BILLING CODE 7036-01-T

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Monday
October 29, 1990

Part XXVIII

Merit Systems Protection Board

Semiannual Regulatory Agenda

MERIT SYSTEMS PROTECTION BOARD (MSPB)

MERIT SYSTEMS PROTECTION BOARD

5 CFR Ch. II

Regulatory Agenda

AGENCY: Merit Systems Protection Board.

ACTION: Semiannual agenda of regulations.

SUMMARY: The Merit Systems Protection Board (MSPB) has completed action on all previously proposed regulations and has none scheduled for review or development from October 1990 through September 1991.

FOR FURTHER INFORMATION CONTACT: Paul D. Mahoney, Director, Office of Management Analysis, (202) 653-8892.

Dated: August 9, 1990.

Merit Systems Protection Board.

Daniel R. Levinson,

Chairman.

MERIT SYSTEMS PROTECTION BOARD (MSPB)

Completed Actions

3054. PART 1208—PRACTICES AND PROCEDURES FOR APPEALS AND STAY REQUESTS OF PERSONNEL ACTIONS ALLEGEDLY BASED ON WHISTLEBLOWING

Significance: Agency Priority

CFR Citation: 5 CFR 1208.1 to 1209.12

Completed:

Reason	Date	FR Cite
Final Action	07/12/90	55 FR 28591
Final Action Effective	07/12/90	55 FR 28591

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Mark Kelleher 202 653-8892

RIN: 3124–AA19

[FR Doc. 90-21406 Filed 10-26-90; 8:45 am]

BILLING CODE 7400-01-T

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Part XXIX

National Aeronautics and Space Administration

Semiannual Regulatory Agenda

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Ch. V

Regulatory Agenda

AGENCY: National Aeronautics and Space Administration (NASA).

SUMMARY: NASA's regulatory agenda describes those regulations being considered for development or amendment by NASA, the need and legal basis for the actions being considered, the name and telephone number of a knowledgeable official, whether a regulatory analysis is required, and the status of regulations previously reported.

ADDRESSES: Director, Management Operations Office (Code NA), Office of Management, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Margaret M. Herring, (202) 453-2022.

SUPPLEMENTARY INFORMATION: OMB guidelines dated July 2, 1990 "October 1990 Unified Agenda of Federal Regulations," Executive Order 12291 "Federal Regulation," and NASA Management Instruction 1410.10 "Federal Register: Delegation of Authority and Requirements for Publication of NASA Documents," require a regulatory agenda of those regulations under development and a review be published in the Federal Register each April and October.

Dated: August 22, 1990.

John W. Gaff,

Director, Management Operations Office

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3655	Uniform Administrative Requirements for Grants and Cooperative Agreements	2700-AA95

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3656	General Provisions Regarding Flight of Reimbursable Payloads Aboard the Space Shuttle	2700-AA14
3657	Space Transportation System; Mementos Aboard Space Shuttle Flights	2700-AA16
3658	Personnel Security Adjudication and Procedures	2700-AA31
3659	Space Transportation System; Reimbursement for Shuttle Services Provided to Non-U.S. Government Users; Reimbursement for Shuttle Services Provided to Civil U.S. Government Users and (cont)	2700-AA45
3660	Delegation of Authority of Certain Civil Rights Functions to the Department of Health, Education, and Welfare	2700-AA47
3661	Extraterrestrial Exposure	2700-AA53
3662	Policy Concerning Data Obtained from Space Science Flight Investigations	2700-AA54
3663	Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Assistance by NASA	2700-AA69
3664	Limited Arrest Authority and Use of Force by NASA Security Force Personnel	2700-AA80
3665	NASA Grant and Cooperative Agreement Handbook Instruction 84-6	2700-AA98

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3666	Space Transportation System; Reimbursement for Spacelab Services	2700-AA01
3667	Tracking and Data Relay Satellite System (TDRSS); Use and Reimbursement Policy for Non-U.S. Government Users	2700-AA29
3668	Nondiscrimination in Federally-Assisted Programs of NASA	2700-AA50
3669	Enforcement of Nondiscrimination on the Basis of Handicap in Federally Assisted Programs	2700-AA51
3670	Duty-Free Entry of Space Articles	2700-AA62
3671	Policy On The Protection Of Human Subjects	2700-AA76
3672	NASA FAR Supplement Directive (NFSD) 89-5	2700-AA94
3673	Space Transportation System Personnel Reliability Program	2700-AA99
3674	Cross-Waiver of Liability	2700-AB00
3675	Streamlined Source Selection	2700-AB03
3676	Space Transportation System; Astronaut Candidate Recruitment and Selection Program	2700-AB05
3677	New Restrictions on Lobbying	2700-AB06
3678	NASA FAR SUPPLEMENT DIRECTIVE (NFSD) 89-7	2700-AB08
3679	NASA FAR SUPPLEMENT DIRECTIVE (NFSD) 89-8	2700-AB09
3680	NASA FAR SUPPLEMENT DIRECTIVE 89-9	2700-AB10

NASA

Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3681	NASA FAR Supplement Directive (NFSD) 89-6	2700-AB11
3682	Indemnification	2700-AB12

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3683	Space Transportation System; Insurance and Indemnification of NASA Space Vehicle Users	2700-AA00
3684	Drug-Free Workplace (Grants)	2700-AA81
3685	NASA FAR Supplement Directive (NFSD) 89-4	2700-AA93
3686	Quality and Productivity Improvement	2700-AB04
3687	Demands for Information or Testimony Served on Agency Employees; Procedures	2700-AB13

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Prerule Stage

3655. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Legal Authority: PL 97-258; 31 USC 6301 et seq

CFR Citation: 14 CFR 1270

Legal Deadline: None

Abstract: Common rule for grants administration replacing NASA implementation of OMB Circular A-110.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 214
Begin Review	10/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: W. A. Greene, Regulations Development Branch, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-8823

RIN: 2700-AA05

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Proposed Rule Stage

3656. GENERAL PROVISIONS REGARDING FLIGHT OF REIMBURSABLE PAYLOADS ABOARD THE SPACE SHUTTLE

Legal Authority: 42 USC 2473

CFR Citation: 14 CFR 1214.1

Legal Deadline: None

Abstract: Sets forth the general provisions regarding flight of reimbursable payloads aboard the NASA Space Shuttle. Incorporates pricing principles for the Second Phase of STS operations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: RIN 2700-AA13 merged with RIN 2700-AA14.

Agency Contact: Robert L. Tucker, Office of Space Flight, Code MC, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2347

RIN: 2700-AA14

3657. SPACE TRANSPORTATION SYSTEM; MEMENTOS ABOARD SPACE SHUTTLE FLIGHTS

Legal Authority: 42 USC 2473

CFR Citation: 14 CFR 1214.6

Legal Deadline: None

Abstract: Clarifies policy on carrying mementos aboard Space Shuttle flights and use of both official flight kits and personal preference kits.

Timetable:

Action	Date	FR Cite
NPRM	10/00/91	

Small Entities Affected: None

Government Levels Affected: None

NASA

Proposed Rule Stage

Agency Contact: Wanda J. Dockery, Office of Space Flight, Code MC, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-1823

RIN: 2700-AA18

3668. PERSONNEL SECURITY ADJUDICATION AND PROCEDURES

Legal Authority: 42 USC 2451 et seq; 5 USC 552 A; 5 USC 5596; EO 10450; EO 12356; 5 USC 7312; 5 USC 7531 TO 7533

CFR Citation: 14 CFR 1203 Subpart J

Legal Deadline: None

Abstract: 14 CFR Part 1203 is amended by adding this new Subpart J, "Emergency Personnel Security Adjudication and Procedures." This proposed rule sets forth NASA's personnel security adjudication policy and procedures. The intended effect of this proposed rule is to inform individuals of the procedures within NASA with respect to those individuals whose employment with NASA may not be clearly consistent with the interests of national security.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerome Verba, NASA Security Office, Code NIS, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2448

RIN: 2700-AA31

3669. SPACE TRANSPORTATION SYSTEM; REIMBURSEMENT FOR SHUTTLE SERVICES PROVIDED TO NON-U.S. GOVERNMENT USERS; REIMBURSEMENT FOR SHUTTLE SERVICES PROVIDED TO CIVIL U.S. GOVERNMENT USERS AND (CONT)

Legal Authority: PL 85-568, Sec 203; 42 USC 2473; PL 97-324, Sec 201(b); 47 USC 721(b)

CFR Citation: 14 CFR 1214.1; 14 CFR 1214.3

Legal Deadline: None

Abstract: This revision will incorporate provisions for scheduled shared-flight retrieval service and for equitable charging for use of the downweight capability of the shuttle.

Timetable:

Action	Date	FR Cite
NPRM	10/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: TITLE CONT: Foreign Users Who Have Made Substantial Investment in the STS Program

Agency Contact: Robert L. Tucker, Office of Space Flight, Code MC, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2347

RIN: 2700-AA45

3660. DELEGATION OF AUTHORITY OF CERTAIN CIVIL RIGHTS FUNCTIONS TO THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Legal Authority: 42 USC 2473(b)(1); 42 USC 2473(b)(3); 42 USC 2473(b)(5); 42 USC 2473(b)(6); 42 USC 2473(b)(14)

CFR Citation: 14 CFR 1204.508

Legal Deadline: None

Abstract: Amends existing NASA regulation to reflect changes in the Federal sector and to include new civil rights laws enacted since the original regulation was published.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lewis S. Warren, Office of Equal Opportunity Programs, Code E, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2163

RIN: 2700-AA47

3661. EXTRATERRESTRIAL EXPOSURE

Legal Authority: 42 USC 2455; 42 USC 2456; 42 USC 2473; 10 USC 799

CFR Citation: 14 CFR 1211

Legal Deadline: None

Abstract: Revision updates the existing regulation to conform to current agency practices.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephan W. Fogleman, Office of Space Science and Applications, Code SB, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-1530

RIN: 2700-AA53

3662. POLICY CONCERNING DATA OBTAINED FROM SPACE SCIENCE FLIGHT INVESTIGATIONS

Legal Authority: 42 USC 2454

CFR Citation: 14 CFR 1206.1

Legal Deadline: None

Abstract: Amends regulation to reflect current agency practices.

Timetable:

Action	Date	FR Cite
NPRM	07/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joe Bredekamp, Office of Space Science and Applications, Code SC, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-1565

RIN: 2700-AA54

3663. NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM ASSISTANCE BY NASA

Legal Authority: 20 USC 1681 et seq

CFR Citation: 14 CFR 1253

Legal Deadline: None

Abstract: This regulation proposes to establish for NASA a set of rules prohibiting sex discrimination in educational programs or activities receiving financial assistance from NASA. Under authority provided by the Education Amendments of 1974, this regulation seeks to ensure that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied benefit of, or otherwise be subject to discrimination under any program or activity receiving

NASA — **Proposed Rule Stage**

Federal financial assistance from NASA.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lewis S. Watson, Office of Equal Opportunity Programs, Code E, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2183

RIN: 2700-AA89

3684. LIMITED ARREST AUTHORITY AND USE OF FORCE BY NASA SECURITY FORCE PERSONNEL

Legal Authority: 42 USC 2456(e); 42 USC 2456(f); EO 12356

CFR Citation: 14 CFR 1203.b

Legal Deadline: None

Abstract: NASA proposes to implement 42 USC 2456(e), (f), and EO 12356 by establishing centralized control over the exercise of arrest authority at NASA Headquarters and ensuring that NASA Security Force personnel at NASA installations exercise such arrest authority, including the use of force to effect such an arrest in a manner consistent with both NASA's security objectives and recognized legal standards.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Erwin V. Minter, NASA Security Office, Code NIS, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2363

RIN: 2700-AA80

3685. NASA GRANT AND COOPERATIVE AGREEMENT HANDBOOK INSTRUCTION 84-6

Legal Authority: PL 97-258; 31 USC 6301 et seq

CFR Citation: 14 CFR 1260

Legal Deadline: None

Abstract: Miscellaneous changes to Grant and Cooperative Agreement Handbook, including revisions NASA implementation of OMB Circular A-110.

Timetable:

Action	Date	FR Cite
NPRM	10/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: W. A. Greene, Regulations Development Branch, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-8923

RIN: 2700-AA96

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — **Final Rule Stage**

3668. SPACE TRANSPORTATION SYSTEM; REIMBURSEMENT FOR SPACELAB SERVICES

Legal Authority: 42 USC 2473

CFR Citation: 14 CFR 1214.8

Legal Deadline: None

Abstract: Describes the policy for Spacelab services provided by NASA to users during the Second Phase of STS operations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/30/85	50 FR 30807
Final Action	10/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert L. Tucker, Office of Space Flight, Code MC, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2947

RIN: 2700-AA01

3687. TRACKING AND DATA RELAY SATELLITE SYSTEM (TDRSS); USE AND REIMBURSEMENT POLICY FOR NON-U.S. GOVERNMENT USERS

Legal Authority: PL 85-568 Sec 203; 42 USC 2473

CFR Citation: 14 CFR 1215

Legal Deadline: None

Abstract: Annual revision of Appendix A to reflect each Calendar Year rate change for TDRSS services.

Timetable:

Action	Date	FR Cite
Final Action for CY 1991 Rate Change	05/18/90	55 FR 20692
Final Action for CY 1992 Rate Change	07/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eugene Ferrick, Office of Space Operations, Code O, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2880

RIN: 2700-AA29

3688. NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF NASA

Legal Authority: 42 USC 2000e et seq; 29 USC 701 et seq; 42 USC 6101 et seq; EO 12250

CFR Citation: 14 CFR 1250

Legal Deadline: None

Abstract: NASA is revising 14 CFR Part 1250, "Nondiscrimination in Federally-Assisted Programs of NASA," to reflect changes in the NASA organization and processes through which this regulation is implemented. The purpose of this Part is to effectuate the provisions of Title VI of the Civil Rights Act of 1964, as amended.

Timetable:

Action	Date	FR Cite
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

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NASA

Final Rule Stage

Agency Contact: Lewis S. Warren, Office of Equal Opportunity Programs, Code E, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2168

RIN: 2700–AA50

3669. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED PROGRAMS

Legal Authority: 29 USC 794

CFR Citation: 14 CFR 1251

Legal Deadline: None

Abstract: This proposed rule amends existing section 504 regulations for federally assisted programs or activities require that new construction be designed and built to be accessible and that alterations of facilities be made in an accessible manner.

Timetable:

Action	Date	FR Cite
NPRM	03/08/89	54 FR 9968
Final Action	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lynda Sampson, Handicapped and Aged Employment Program, Manager, Code EI, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2177

RIN: 2700–AA51

3670. DUTY-FREE ENTRY OF SPACE ARTICLES

Legal Authority: PL 98-573 Sec 124; PL 97-446 Sec 116 and Sec 150; 19 USC 1202 note

CFR Citation: 14 CFR 1214.15

Legal Deadline: None

Abstract: Amending 14 CFR Subpart 1214.15 to reflect the changes on the duty-free entry of communication satellites imposed by PL 98-573.

Timetable:

Action	Date	FR Cite
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pierre M. Hartman, Office of General Counsel, Code GK, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2434

RIN: 2700–AA62

3671. POLICY ON THE PROTECTION OF HUMAN SUBJECTS

Significance: Regulatory Program

Legal Authority: 42 USC 2451

CFR Citation: 14 CFR 1230

Legal Deadline: None

Abstract: NASA will be one of a few Federal agencies to adopt a Model Federal Policy for the Protection of Human Subjects which was prepared by the Office of Science and Technology Policy. This NPRM will implement a Model Federal Policy for the Protection of Human subjects of research conducted, supported or regulated by NASA.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45668
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Dr. Arnauld E. Nicogossian, Life Sciences Division, Code SB, Office of Space Science and Applications, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-1536

RIN: 2700–AA76

3672. NASA FAR SUPPLEMENT DIRECTIVE (NFSD) 89-5

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 18

Legal Deadline: None

Abstract: Miscellaneous quarterly intra-agency changes to the NASA FAR Supplement, exclusive of actions requiring public review and comment or imposing paperwork burdens which were not previously published as proposed rules or notices in the Federal Register.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: W. A. Greene, Regulations Development Branch, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-8823

RIN: 2700–AA94

3673. SPACE TRANSPORTATION SYSTEM PERSONNEL RELIABILITY PROGRAM

Legal Authority: 42 USC 2473; 47 USC 721(b)

CFR Citation: 14 CFR 1214.5

Legal Deadline: None

Abstract: NASA is amending 14 CFR Part 1214 by revising Subpart 1214.5. This rule establishes a program designed to ensure that personnel assigned to mission-critical positions in connection with the Space Transportation System and other critical space systems, including but not limited to the Space Station, designated Expendable Launch Vehicles, and designated payloads, meet established screening requirements.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jerry F. Moore, Office of Safety, Reliability, Maintainability and Quality Assurance, National Aeronautics and Space Administration, Code QS, NASA Headquarters, Washington, DC 20546, 202 453-1155

RIN: 2700–AA90

3674. CROSS-WAIVER OF LIABILITY

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 14 CFR 1266

Legal Deadline: None

NASA

Final Rule Stage

Abstract: This rule proposes to implement regulatory cross-waivers of liability for NASA Space Transportation System (STS) agreements, NASA Shuttle Launch services agreements, and NASA Expendable Launch Vehicle (ELV) agreements entered into in the future.

Timetable:

Action	Date	FR Cite
NPRM	04/13/90	55 FR 13912
Final Action	10/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June W. Edwards, Assistant General Counsel, National Aeronautics and Space Administration, NASA Headquarters, Code G, Washington, DC 20546, 202 453-2455

RIN: 2700–AB00

3675. STREAMLINED SOURCE SELECTION

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 1870

Legal Deadline: None

Abstract: Techniques for improving the timeliness for evaluating proposals by the Source Evaluation Board Method.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/91	
Final Action	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: W. A. Greene, Chief, Regulations Development Branch, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-8823

RIN: 2700–AB03

3676. ● SPACE TRANSPORTATION SYSTEM; ASTRONAUT CANDIDATE RECRUITMENT AND SELECTION PROGRAM

Significance: Agency Priority

Legal Authority: 42 USC 2473; 47 USC 721(b)

CFR Citation: 14 CFR 1214 Subpart 1214.11

Legal Deadline: None

Abstract: NASA is currently revising this regulation concerning the Astronaut Candidate Recruitment and Selection Program to include selection requirements for Space Station Freedom Station Operator and Station Scientist Astronaut candidates.

Timetable:

Action	Date	FR Cite
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard W. Nygren, Acting Director/Operations Utilization, Code MO, National Aeronautics and Space Administration, NASA Headquarters, 600 Independence Avenue, SW., Washington, DC 20546, 202 453-2562

RIN: 2700–AB05

3677. ● NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: 31 USC 1352; PL 101-121, Sec 319; 31 USC 9301; PL 97-258

CFR Citation: 12 CFR 1271

Legal Deadline: None

Abstract: This interim rule is in response to section 319 of Public Law 101-121. Section 319 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the executive and legislative branches of the Federal Government in connection with a specific contract, grant, or loan. Section 319 also requires that each person who requests or receives a Federal contract, grant, cooperative agreement, loan, or a Federal commitment to insure or guarantee a loan, must disclose lobbying.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6745
Interim Final Rule Effective	02/26/90	55 FR 6746
Final Action	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, State

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: W.A. Greene, Regulations Development Branch, Code HP, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-8823

RIN: 2700–AB08

3678. ● NASA FAR SUPPLEMENT DIRECTIVE (NFSD) 89-7

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 18

Legal Deadline: None

Abstract: Miscellaneous quarterly intra-agency changes to the NASA FAR Supplement, exclusive of actions requiring public review and comment or imposing paperwork burdens which were not previously published as proposed rules or notices in the Federal Register.

Timetable:

Action	Date	FR Cite
Final Action	03/31/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: W. A. Greene, Chief, Regulations Development Branch, National Aeronautics and Space Administration, NASA Headquarters, 4th & Maryland Ave. SW., Washington, DC 20546, 202 453-8823

RIN: 2700–AB06

3679. ● NASA FAR SUPPLEMENT DIRECTIVE (NFSD) 89-8

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 18

Legal Deadline: None

NASA

Final Rule Stage

Abstract: Miscellaneous quarterly intra-agency changes to the NASA FAR Supplement, exclusive of actions requiring public review and comment or imposing paperwork burdens which were not previously published as proposed rules or notices in the Federal Register.

Timetable:

Action	Date	FR Cite
Final Action	09/30/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: W. A. Greene, Chief, Regulations Branch, National Aeronautics and Space Administration, NASA Headquarters, 4th & Maryland Ave., SW., Washington, DC 20546, 202 453-8823

RIN: 2700-AB09

3680. ● NASA FAR SUPPLEMENT DIRECTIVE 89-8

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 18

Legal Deadline: None

Abstract: Miscellaneous quarterly intra-agency changes to the NASA FAR Supplement, exclusive of actions requiring public review and comment or imposing paperwork burdens which were not previously published as proposed rules or notices in the Federal Register

Timetable:

Action	Date	FR Cite
Final Action	09/30/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: W. A. Greene, Chief, Regulations Development Branch, National Aeronautics and Space Administration, NASA Headquarters, 4th & Maryland Ave., S. W., Washington, DC 20546, 202 453-8823

RIN: 2700-AB10

3681. ● NASA FAR SUPPLEMENT DIRECTIVE (NFSD) 89-6

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 18

Legal Deadline: None

Abstract: Miscellaneous quarterly intra-agency changes to the NASA FAR Supplement, exclusive of actions requiring public review and comment or imposing paperwork burdens which were not previously published as proposed rules or notices in the Federal Register.

Timetable:

Action	Date	FR Cite
Final Action	12/31/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: W. A. Greene, Chief, Regulations Development Branch, National Aeronautics and Space Administration, NASA Headquarters, 4th & Maryland Ave., S. W., Washington, DC 20546, 202 453-8823

RIN: 2700-AB11

3682. ● INDEMNIFICATION

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 18

Legal Deadline: None

Abstract: This regulation will bring procurement matters into line with Agency regulations proposed as 14 CFR 1266--Cross Waiver of Liability--55 FR No. 72, page 13912 (April 13, 1990) and improve the process flow of contractor requests.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: W. A. Greene, Chief, Regulations Development Branch, National Aeronautics and Space Administration, NASA Headquarters, 4th & Maryland Ave., SW., Washington, DC 20546, 202 453-8823

RIN: 2700-AB12

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

Completed Actions

3683. SPACE TRANSPORTATION SYSTEM; INSURANCE AND INDEMNIFICATION OF NASA SPACE VEHICLE USERS

CFR Citation: 14 CFR 1214.13

Completed:

Reason	Date	FR Cite
Withdrawn - no further action anticipated	08/21/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June W. Edwards 202 453-2432

RIN: 2700-AA00

3684. ● DRUG-FREE WORKPLACE (GRANTS)

Significance: Regulatory Program

Legal Authority: 41 USC 701

CFR Citation: 14 CFR 1265

NASA

Completed Actions

Legal Deadline: None

Abstract: This governmentwide rule is for the purpose of implementing the statutory requirements of the Drug-Free Workplace Act of 1988. It directs that grantees take steps to provide a drug-free workplace in accordance with the Act.

Timetable:

Action	Date	FR Cite
Final Action	05/25/90	55 FR 21682
Final Action Effective	07/24/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: David K. Beck, National Aeronautics and Space Administration, NASA Headquarters, 4th & Maryland Ave., SW., Washington, DC 20546, 202 453-2250

RIN: 2700-AA61

3685. NASA FAR SUPPLEMENT DIRECTIVE (NFSD) 89-4

CFR Citation: 48 CFR 18

Completed:

Reason	Date	FR Cite
No further action anticipated	06/30/90	55 FR 27066

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: W. A. Greene 202 453-2923

RIN: 2700-AA93

3686. QUALITY AND PRODUCTIVITY IMPROVEMENT

CFR Citation: 48 CFR 1846

Completed:

Reason	Date	FR Cite
Final Action	06/30/90	55 FR 27068
Final Action Effective	06/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: W. A. Greene 202 453-2923

RIN: 2700-AB04

3687. ⊕ DEMANDS FOR INFORMATION OR TESTIMONY SERVED ON AGENCY EMPLOYEES; PROCEDURES

Legal Authority: 5 USC 301, 42 USC 2473(c)(1)

CFR Citation: 14 CFR 1263

Legal Deadline: None

Abstract: This rule establishes procedures regarding demands for the disclosure of official information or records, and/or the testimony of present or former employees, of the National Aeronautics and Space Administration (NASA), in response to subpoenas duces tecum and subpoenas ad testificandum or other demands of a court or other authority in federal or state proceedings.

Timetable:

Action	Date	FR Cite
Final Action	07/11/90	55 FR 28370

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Edward A. Frankle, General Counsel, National Aeronautics and Space Administration, NASA Headquarters, 4th & Maryland Ave., SW., Washington, DC 20546, 202 453-2430

RIN: 2700-AB13

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Part XXX

National Archives and Records Administration

Semiannual Regulatory Agenda

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Ch. XII

Unified Agenda of Federal Regulations

AGENCY: National Archives and Records Administration.

ACTION: Semiannual agenda.

SUMMARY: This agenda announces the proposed regulatory actions that the National Archives and Records Administration (NARA) plans for the next 12 months and those actions that have been completed since April 1990. This agenda was developed under the guidelines in OMB's Memorandum for Regulatory Contacts at Executive Departments and Establishments, dated July 2, 1990. NARA's purpose in publishing this agenda is to allow interested persons an opportunity to have more comprehensive documentation of NARA's regulatory plans and to provide a systematic means of monitoring regulatory activity in NARA. None of the regulations listed in the agenda are considered major under Executive Order 12291, "Federal Regulation."

FOR FURTHER INFORMATION CONTACT: John A. Constance, Director, Policy and Program Analysis Division, (202) 501-5110.

Dated: August 24, 1990.

Don W. Wilson,

Archivist of the United States.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3688	NARA Exhibition Loan Standards	3095-AA37

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3689	Transfer of Records to Federal Records Centers	3095-AA04
3690	Research Room Procedures	3095-AA19
3691	Restrictions on Access to Archival Records	3095-AA21
3692	Uniform Administrative Requirements for Grants and Cooperative Agreements	3095-AA23
3693	NARA Fee Schedule	3095-AA33
3694	Agency Program Evaluations	3095-AA48
3695	Demonstrations at the National Archives Building	3095-AA50

NARA

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3696	Photographing and Filming the Exterior and Interior of the National Archives Building and Other NARA Facilities in the Washington, DC, Area	3095-AA06
3697	Micrographics Records Management	3095-AA22
3698	Electronic Records Management	3095-AA29
3699	National Historical Publications and Records Commission Grant Program Procedures	3095-AA42
3700	Governmentwide Requirements for Drug-Free Workplace (Grants)	3095-AA44
3701	Creation and Maintenance of Records; Adequate and Proper Documentation	3095-AA45
3702	Disposition of Federal Records	3095-AA46
3703	Temporary Exhibition of Privately Owned Material in the National Archives Building	3095-AA47

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) — Prerule Stage

3688. ● NARA EXHIBITION LOAN STANDARDS

Legal Authority: 44 USC 2104a; 44 USC 2109

CFR Citation: 36 CFR 1284

Legal Deadline: None

Abstract: To make the permanently valuable records of the U.S. Government more widely available, NARA may lend for exhibition purposes original records (in sufficiently good condition to withstand the rigors of travel and exhibition) to qualified institutions that will provide care for the borrowed items in accordance with NARA's minimum loan requirements and any additional requirements that are deemed appropriate for particular records. NARA's loan requirements are necessary to ensure that the exhibition of records from its holdings does not conflict with its responsibility for the preservation of those records. This regulation will make NARA minimum loan requirements for security, environmental conditions, lighting, handling, and advance notice more conveniently available to potential borrowers. Since loan requests are reviewed in accordance with established administrative procedures and are subject to existing requirements, no additional costs will be involved.

Timetable:

Action	Date	FR Cite
ANPRM	02/00/91	
ANPRM Comment Period End	03/00/91	
Final Action	06/00/91	
Final Action Effective	06/00/91	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Linda N. Brown, Assistant Archivist, Office of Public Programs, National Archives and Records Administration, Washington, DC 20408, 202 501-5339

RIN: 3095–AA37

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) — Proposed Rule Stage

3689. TRANSFER OF RECORDS TO FEDERAL RECORDS CENTERS

Legal Authority: 44 USC 2907

CFR Citation: 36 CFR 1228.152

Legal Deadline: None

Abstract: This rule will revise two aspects of transmitting records to Federal records centers. One aspect is to require agencies to attach box lists to the Standard Form 135, Records Transmittal and Receipt, when transmitting permanently scheduled and unscheduled records to Federal records centers. Many agencies already maintain such detailed listings for their own use in retrieving stored documents. This information will assist NARA in ensuring the identification and preservation of permanent records. The second change will restrict the transfer of permanent microfilm records to two records centers, the Washington National Records Center and the National Personnel Records Center. This action is necessary to ensure proper storage of potential archival records.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	
Final Action	12/00/90	
Final Actior. Effective	12/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Alan J. Kreamer, Director, Field Operations Division, National Archives and Records

NARA

Proposed Rule Stage

Administration, Washington DC 20408, 202 [illegible]

RIN: 3095–AA01

3690. RESEARCH ROOM PROCEDURES

Legal Authority: 44 USC 2104(a); 44 USC 2101 to 2110

CFR Citation: 36 CFR 1253.4; 36 CFR 1253.6; 36 CFR 1253.7; 36 CFR 1254

Legal Deadline: None

Abstract: This rule will clarify the rules governing the use and reproduction of records in NARA research rooms and update the hours of use of NARA facilities.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Trudy H. Peterson, Assistant Archivist, Office of National Archives, National Archives and Records Administration, Washington, DC 20408, 202 501-5395

RIN: 3095–AA19

3691. RESTRICTIONS ON ACCESS TO ARCHIVAL RECORDS

Legal Authority: 44 USC 2108(a); 44 USC 2104(a)

CFR Citation: 36 CFR 1256.40

Legal Deadline: None

Abstract: This rule will amend specific agency restrictions on the use of certain accessioned archival records. The restrictions will be in conformity with the Freedom of Information Act.

Timetable:

Action	Date	FR Cite
NPRM	05/00/91	
NPRM Comment Period End	06/00/91	
Final Action	09/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Trudy H. Peterson, Assistant Archivist, Office of National Archives, National Archives and Records Administration, Washington, DC 20408, 202 501-5395

RIN: 3095–AA21

3692. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Legal Authority: 44 USC 2104; 44 USC 2504

CFR Citation: 36 CFR 1207

Legal Deadline: None

Abstract: This action proposes a common rule updating and replacing agencies' implementation of OMB Circular A-110 with a single, government-wide common rule establishing consistency and uniformity among Federal agencies in the administration of grants and cooperative agreements to institutions of higher education, hospitals, other nonprofit organizations, and commercial or for-profit entities. This result is achieved by amending the common rule issued by the agencies on March 11, 1988, to similarly update and replace implementation of OMB Circular A-102. The provisions of the common rule are largely drawn from the existing departmental rules issued by the several agencies which in the past developed a single, comprehensive rule implementing the circulars. This proposed common rule contains fiscal and administrative requirements applicable to grantees.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44716
NPRM Comment Period End	01/03/89	53 FR 44716

Next Action Undetermined

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: John A. Constance, Director, Policy and Program Analysis Division, National Archives and Records Administration, Washington, DC 20408, 202 501-5116

RIN: 3095–AA23

3693. NARA FEE SCHEDULE

Legal Authority: 44 USC 2104(a); 44 USC 2116(c)

CFR Citation: 36 CFR 1258

Legal Deadline: None

Abstract: NARA will revise fees charged for reproduction of records created by other Federal agencies and transferred to the custody of the Archives of the United States, donated historical materials and records filed with the Office of the Federal Register. The fees will be changed to reflect the current costs of providing the reproduction services.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John A. Constance, Director, Policy and Program Analysis Division, National Archives and Records Administration, Washington, DC 20408, 202 501-5116

RIN: 3095–AA33

3694. AGENCY PROGRAM EVALUATIONS

Legal Authority: 44 USC 2906

CFR Citation: 36 CFR 1220.50; 36 CFR 1220.52; 36 CFR 1220.54; 36 CFR 1220.56

Legal Deadline: None

Abstract: This change is intended to update the regulations regarding NARA's inspections of agency records management programs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	01/00/91	
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Mary Ann Wallace, Director, Agency Services Division (NIA), National Archives and Records Administration, Washington, DC 20408, 202 501-6030

RIN: 3095–AA48

3695. DEMONSTRATIONS AT THE NATIONAL ARCHIVES BUILDING

Legal Authority: 44 USC 2104(a)

CFR Citation: 36 CFR 1280.30

NARA — Proposed Rule Stage

Legal Deadline: None

Abstract: This regulation sets forth the conditions under which individuals and groups may use property around the National Archives Building for demonstrations or similar activity. The rule is being promulgated to enhance the safety of persons who use the National Archives Building, including researchers, exhibit visitors, and Government employees; and to prevent disruption both to the conduct of official business and to the timely provision of NARA services to the general public.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John A. Constance, Director, Policy and Program Analysis Division, National Archives and Records Administration, Washington, DC 20408, 202 501-5110

RIN: 3095–AA50

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) — Completed Actions

3696. PHOTOGRAPHING AND FILMING THE EXTERIOR AND INTERIOR OF THE NATIONAL ARCHIVES BUILDING AND OTHER NARA FACILITIES IN THE WASHINGTON, DC, AREA

CFR Citation: 36 CFR 1280

Completed:

Reason	Date	FR Cite
Final Action	07/20/90	55 FR 29576
Final Action Effective	07/20/90	55 FR 29576

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jill Brett 202 501-5535

RIN: 3095–AA06

3697. MICROGRAPHICS RECORDS MANAGEMENT

CFR Citation: 36 CFR 1230

Completed:

Reason	Date	FR Cite
Final Action	07/02/90	55 FR 27434
Final Action Effective	07/01/90	55 FR 27434

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John A. Constance 202 501-5110

RIN: 3095–AA22

3698. ELECTRONIC RECORDS MANAGEMENT

CFR Citation: 36 CFR 1234

Completed:

Reason	Date	FR Cite
Final Action	05/08/90	55 FR 19216
Final Action Effective	06/07/90	55 FR 19216

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Mary Ann Wallace 202 501-6000

RIN: 3095–AA29

3699. NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION GRANT PROGRAM PROCEDURES

CFR Citation: 36 CFR 1206

Completed:

Reason	Date	FR Cite
Final Action	05/25/90	55 FR 21541
Final Action Effective	05/25/90	55 FR 21541

Small Entities Affected: Organizations

Government Levels Affected: Local, State

Agency Contact: Richard A. Jacobs 202 501-5600

RIN: 3095–AA43

3700. GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Significance: Regulatory Program

CFR Citation: 36 CFR 1209

Completed:

Reason	Date	FR Cite
Final Action	05/25/90	55 FR 21679
Final Action Effective	07/24/90	55 FR 21679

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: John A. Constance 202 501-5110

RIN: 3095–AA44

3701. CREATION AND MAINTENANCE OF RECORDS; ADEQUATE AND PROPER DOCUMENTATION

CFR Citation: 36 CFR 1222; 36 CFR 1224

Completed:

Reason	Date	FR Cite
Final Action	07/02/90	55 FR 27422
Final Action Effective	07/01/90	55 FR 27422

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Mary Ann Wallace 202 501-6000

RIN: 3095–AA45

3702. DISPOSITION OF FEDERAL RECORDS

CFR Citation: 36 CFR 1220; 36 CFR 1228

NARA

Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	07/02/90	55 FR 27426
Final Action Effective	07/01/90	55 FR 27426

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Joan Keating 202 501-5510

RIN: 3095-AA46

3703. TEMPORARY EXHIBITION OF PRIVATELY OWNED MATERIAL IN THE NATIONAL ARCHIVES BUILDING

CFR Citation: 36 CFR 1284

Completed:

Reason	Date	FR Cite
Final Action	06/21/90	55 FR 25307
Final Action Effective	06/21/90	55 FR 25307

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda N. Brown 202 501-5200

RIN: 3095-AA47

[FR Doc. 90-21468 Filed 10-26-90; 8:45 am]

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Part XXXI

National Endowment for the Arts

Semiannual Regulatory Agenda

NATIONAL ENDOWMENT FOR THE ARTS (NEA)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

45 CFR Ch. XI

Semiannual Agenda of Regulations

AGENCY: National Endowment for the Arts.

ACTION: Publication of the semiannual agenda.

SUMMARY: Pursuant to Executive Order 12291 and the Regulatory Flexibility Act (5 U.S.C. 605), the National Endowment for the Arts publishes this regulatory agenda describing agency regulations under development or review.

FOR FURTHER INFORMATION CONTACT: Ms. Julianne R. Davis, General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, or call (202) 682-5418.

Cynthia Rand,

Deputy Chairman for Management.

National Endowment for the Arts.

NATIONAL ENDOWMENT FOR THE ARTS (NEA)

Proposed Rule Stage

3704. COLLECTION OF CLAIMS

Significance: Agency Priority

Legal Authority: PL 97-365; 31 USC 3711; 31 USC 3716 to 3718; 5 USC 5514; 5 USC 552a

CFR Citation: 45 CFR 1150

Legal Deadline: None

Abstract: The proposed rule amends the National Endowment for the Arts regulation for collecting debts. Principally, the amendments implement the Debt Collection Act of 1982 (PL 97-365), which amended the Federal Claims Collection Act of 1966 (31 USC 3711, 3716-3718) to authorize among other things, charging of interest penalties and administrative costs, and the use of administrative offset, private collection agencies and credit agencies by the Government. The amendments also implement governmentwide regulations issued by the Department of Justice and the General Accounting Office (49 FR 8889) and Office of Personnel Management (49 FR 27470).

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
NPRM Comment Period End	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Julie Davis, General Counsel, National Endowment for the Arts, Office of the General Counsel, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202 682-5418

RIN: 3135-AA01

3705. NONDISCRIMINATION ON THE BASIS OF AGE

Significance: Agency Priority

Legal Authority: 42 USC 6101 et seq

CFR Citation: 45 CFR 1154

Legal Deadline: None

Abstract: This rule prohibits discrimination on the basis of age in programs and activities receiving assistance from the National Endowment for the Arts. These regulations are proposed pursuant to the requirements of the Age Discrimination Act and consistent with the general governmentwide regulations issued by the Department of Health and Human Services.

Timetable:

Action	Date	FR Cite
NPRM	10/02/79	44 FR 56725
NPRM Comment Period End	11/15/79	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Julie Davis, General Counsel, National Endowment for the Arts, Office of the General Counsel, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202 682-5418

RIN: 3135-AA03

3706. CLAIMS COLLECTION: SALARY OFFSET

Legal Authority: 5 USC 5514; EO 11809 (redesignated EO 12107); 5 CFR 550, Subpart K

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This regulation provides procedures for the collection by administrative offset of a Federal employee's salary without his/her consent to satisfy certain debts owed to the Federal Government. The regulation outlines certain procedural protections that must be accorded to an employee prior to commencing offset.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
NPRM Comment Period End	03/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Julie Davis, General Counsel, Administrative Services Division, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202 682-5418

RIN: 3135-AA04

NATIONAL ENDOWMENT FOR THE ARTS (NEA)

Final Rule Stage

3707. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Significance: Agency Priority

Legal Authority: Budget and Accounting Act of 1921, as amended; Budget and Accounting Procedures Act of 1950, as amended; Reorganization Plan No. 2 of 1970; EO 11541; 31 USC 6301 to 6308; Pres. Memo. for Heads of Exec. Depts & Agencies (Mar. 12, 1987)

CFR Citation: 45 CFR 1157

Legal Deadline: None

Abstract: This action proposes a common rule to be published by various agencies establishing consistency and uniformity in the administration of grants and cooperative agreements to State, local, and federally recognized Indian tribal governments, as well as institutions of higher education, hospitals, and other nonprofit organizations, and commercial or for-profit entities.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44718
NPRM Comment Period End	01/03/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Julie Davis, General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202 682-5418

RIN: 3135–AA06

3705. ● NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: 31 USC 1352; PL 101-121, Sec 319; 20 USC 959

CFR Citation: 45 CFR 1158

Legal Deadline: None

Abstract: This rule is for the purpose of implementing section 319 of the Interior and Related Agencies Appropriation Act for Fiscal Year 1990, which establishes certain prohibitions and disclosure requirements with respect to lobbying.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Julianne R. Davis, General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202 682-5418

RIN: 3135–AA07

NATIONAL ENDOWMENT FOR THE ARTS (NEA)

Completed Actions

3709. GOVERNMENT REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Significance: Regulatory Program

CFR Citation: 45 CFR 1154

Completed:

Reason	Date	FR Cite
Final Action	05/25/90	55 FR 21661
Final Action Effective	07/24/90	55 FR 21661

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Julie Davis 202 682-5418

RIN: 3135–AA05

[FR Doc. 90-21469 Filed 10-26-90; 8:45 am]
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Part XXXII

National Endowment for the Humanities

Semiannual Regulatory Agenda

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

45 CFR Ch. XI

Unified Agenda of Regulations

AGENCY: National Endowment for the Humanities.

ACTION: Publication of the unified agenda of regulations.

SUMMARY: Pursuant to the Regulatory Flexibility Act, Pub. L. 96-354, and Executive Order 12291, "Federal Regulation," dated February 17, 1981, the National Endowment for the Humanities is required to publish, in April and October of each year, an agenda of proposed regulations that the Endowment has issued or expects to issue and current rules that are under agency review.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen J. McCleary, Deputy General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue NW., Washington, DC 20506, (202) 786-0322.

Lynne V. Cheney,
Chairman.

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH) — Proposed Rule Stage

3710. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES

Legal Authority: 42 USC 2000(d) to 2000(d)(4)

CFR Citation: 45 CFR 1110; 45 CFR 1173

Legal Deadline: None

Abstract: This proposed regulation implements Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in federally assisted programs and activities, with respect to programs and activities receiving Federal financial assistance from the National Endowment for the Humanities.

Programs and activities receiving Federal financial assistance from the National Endowment for the Humanities are currently covered by a regulation implementing Title VI that was issued by the National Foundation on the Arts and the Humanities in 1973 (45 CFR 1110). The proposed rule will remove NEH programs from the coverage of the earlier rule and replace it with a new part applicable only to NEH-assisted programs and activities. Programs and activities assisted by the National Endowment for the Arts remain covered under the existing regulation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Carol Gordon-Berry, EEO Officer, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Room 419, Washington, DC 20506, 202 786-0410

RIN: 3136-AA11

3711. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Legal Authority: Budget and Accounting Procedures Act of 1950, as amended; Reorganization Plan No. 2 of 1970; EO 11541; 31 USC 6301 to 6308; Pres. Memo. for Heads of Exec. Depts & Agencies (March 12, 1987)

CFR Citation: 45 CFR 1174

Legal Deadline: None

Abstract: This action proposes a common rule to be published by various agencies establishing consistency and uniformity in the administration of grants and cooperative agreements to State, local, and federally recognized Indian tribal governments, as well as institutions of higher education, hospitals, and other nonprofit organizations, and commercial or for-profit entities.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44718
NPRM Comment Period End	01/03/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Stephen J. McCleary, Deputy General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Room 530, Washington, DC 20506, 202 786-0322

RIN: 3136-AA13

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH) — Final Rule Stage

3712. IMPLEMENTATION OF TITLE IX OF THE EDUCATION ACT AMENDMENTS OF 1972

Legal Authority: 20 USC 1681

CFR Citation: 41 CFR 1171

Legal Deadline: None

Abstract: The proposed regulation implements Title IX of the Education Act Amendments of 1972, which prohibit discrimination or denial of benefits on basis of sex under any educational program or activity receiving Federal financial assistance.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carol Gordon-Berry, EEO Officer, National Endowment for

NEH

Final Rule Stage

the Humanities, 1100 Pennsylvania Avenue, NW., Room 419, Washington, DC 20506, 202 786-0419

RIN: 3136-AA14

3713. ● GOVERNMENT GUIDANCE FOR RESTRICTIONS ON INFLUENCING ACTIVITIES

Significance: Regulatory Program

Legal Authority: PL 101-121, Sec 319

CFR Citation: 45 CFR 1158

Legal Deadline: None

Abstract: Section 319 generally prohibits recipients of Federal contracts, grants and loans from using appropriation funds for influencing the Executive or Legislative Branches.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Stephen J. McCleary, Deputy General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue NW., Room 530, Washington, DC 20506, 202 786-0322

RIN: 3136-AA15

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH)

Completed Actions

3714. GOVERNMENT REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Significance: Regulatory Program

CFR Citation: 45 CFR 1169

Completed:

Reason	Date	FR Cite
Final Action	05/25/90	55 FR 21703
Final Action Effective	07/24/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Rex O. Arney 202 786-0322

RIN: 3136-AA12

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Part XXXIII

National Science Foundation

Semiannual Regulatory Agenda

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NATIONAL SCIENCE FOUNDATION (NSF)

NATIONAL SCIENCE FOUNDATION

45 CFR Ch. VI

Federal Regulation; Semiannual Regulations Agenda

AGENCY: National Science Foundation.

ACTION: Publication of semiannual regulations agenda.

SUMMARY: The National Science Foundation (NSF) publishes its semiannual agenda of regulations under development or review as required by Executive Order 12291, "Federal Regulation" (46 FR 13193, February 17, 1981). This agenda has been prepared in accordance with OMB regulations (41 U.S.C. 402).

FOR FURTHER INFORMATION CONTACT: For additional information regarding any particular regulatory action contained in the agenda, contact the individual identified as the contact person in the agenda. Comments or inquiries of a general nature about the agenda should be directed to Sukari S. Smith, Office of the General Counsel, National Science Foundation, Washington, DC 20550, (202) 357-9435.

Dated: August 23, 1990.

Sukari S. Smith,

Regulatory Contact.

NATIONAL SCIENCE FOUNDATION (NSF)

Proposed Rule Stage

3715. MEASURES TO CONTROL DISCHARGE AND DISPOSAL OF HARMFUL POLLUTANTS IN ANTARCTICA; POLLUTION CONTROL PERMITTING REQUIREMENTS

Significance: Agency Priority

Legal Authority: 42 USC sec 1970; 16 USC sec 2405; 16 USC sec 2407; 16 USC sec 2408; 16 USC sec 2409; 16 USC sec 2411

CFR Citation: 45 CFR 671

Legal Deadline: None

Abstract: This action will amend NSF's regulations by adding a new Part 671 (45 CFR 671), entitled "Measures to Control Discharge and Disposal of Harmful Pollutants in Antarctica; Pollution Control Permitting Requirements." The Antarctic Conservation Act of 1978 requires NSF to issue regulations designating any substance that, if introduced into Antarctica, may create hazards to human health, harm living resources or marine life, damage amenities, or interfere with other legitimate uses of Antarctica. The Act also requires NSF to establish regulations and permitting procedures that prevent or control the discharge of such pollutants from any source within Antarctica.

Timetable:

Action	Date	FR Cite
ANPRM	04/20/90	55 FR 14980
Public Hearing	06/18/90	
NPRM	03/00/91	
Final Action	07/00/91	
Final Action Effective	07/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Lawrence Rudolph, Deputy General Counsel, National Science Foundation, 1800 G Street, NW., Room 501, Washington, DC 20550, 202 357-9435

RIN: 3145–AA15

NATIONAL SCIENCE FOUNDATION (NSF)

Final Rule Stage

3718. PATENTS

Legal Authority: 42 USC 1870(a) The Natl. Sci. Found. Act of 1950, as amended; 35 USC 200 et seq The Bayh-Dole Act, as amended

CFR Citation: 45 CFR 650

Legal Deadline: None

Abstract: The Bayh-Dole Act (35 USC 200 et seq) was amended by Title V of PL 98-620 (98 Stat. 3384, 3388). The Department of Commerce has prepared a governmentwide implementing regulation. The Foundation's Patents regulation (45 CFR 650) conforms to it. Because the revision to the NSF patents regulation will merely echo a governmentwide regulation on which the public will have had an opportunity to comment, the Foundation expects that the revision will be published as a final rule. No additional costs will be imposed on the public as a result of the revision.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The notable changes to be made in the revision of the NSF patents regulation will be: elimination of restrictions on the licensing of NSF-supported inventions by nonprofit organizations, including universities; modification of the criteria and procedures for determining that "exceptional circumstances" warrant restricting a grantee's right to retain principal patent rights to its employees' NSF-supported inventions; and elimination of the Foundation's authority to waive the governmen license and "march-in" rights in awards not subject to the Bayh-Dole Act. All these changes are required by amendments to the Bayh-Dole Act.

Agency Contact: John Chester, Intellectual Property Attorney, Office of the General Counsel, National Science Foundation, 1800 G Street, NW., Room 501, Washington, DC 20550, 202 357-9435

RIN: 3145–AA07

3717. ENVIRONMENTAL IMPACTS ABROAD AND RELATED PROCEDURES

Significance: Agency Priority

NSF

Final Rule Stage

Legal Authority: 42 USC sec 1870; EO 12114; 16 USC sec 2405; 16 USC sec 2411

CFR Citation: 45 CFR 641

Legal Deadline: None

Abstract: This action will amend NSF's regulations by adding a new Part 641 (45 CFR 641), entitled "Environmental Impacts Abroad and Related Procedures." Executive Order 12114 directs every Federal agency to publish appropriate procedures for evaluating the environmental impacts of major Federal actions outside the United States, specifically "actions significantly affecting the environment of the global commons outside the jurisdiction of any nation (e.g., the oceans or Antarctica)." These regulations will set forth the procedures for assessing environmental impacts abroad, and determining the appropriate environmental review document to be used while making decisions concerning such major Federal actions.

Timetable:

Action	Date	FR Cite
NPRM	07/10/90	55 FR 28236
Final Action	12/00/90	
Final Action Effective	12/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Lawrence Rudolph, Deputy General Counsel, National Science Foundation, 1800 G Street, NW., Room 501, Washington, DC 20550, 202 357-9435

RIN: 3145-AA14

3716. ● NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: 31 USC 1352; PL 100-121, Sec 319

CFR Citation: 45 CFR 604

Legal Deadline: None

Abstract: Section 1352 of title 31 of the United States Code, enacted on October 23, 1989, imposes limitations on the use of appropriated funds to influence certain Federal contracting and financial transactions. National Science Foundation regulations implementing that statute will follow the governmentwide model now being developed.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Mary Ann Moulton, Grant & Contract Specialist, National Science Foundation, 1800 G Street, NW., Room 1140, Washington, DC 20550, 202 357-7880

RIN: 3145-AA17

3719. ● FEDERAL POLICY FOR THE PROTECTION OF HUMAN SUBJECTS

Significance: Regulatory Program

Legal Authority: 42 USC 1870(a)

CFR Citation: 45 CFR 690

Legal Deadline: None

Abstract: This final rule will add NSF regulations for the protection of human subjects at Title 45 CFR Part 690 to incorporate changes developed by the Interagency Human Subjects Coordinating Committee, Federal Coordinating Council on Science Engineering and Technology (FCCSET). The Committee drafted a common rule for Federal departments and agencies conducting or supporting research involving human subjects which was based on the HHS regulations. This effort was in response to a key recommendation of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research in the First Biennial Report in 1981.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45661
NPRM Comment Period End	01/09/89	
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: John Chester, Assistant General Counsel, Office of the General Counsel, National Science Foundation, 1800 G Street, NW., Room 501, Washington, DC 20550, 202 357-9435

RIN: 3145-AA18

NATIONAL SCIENCE FOUNDATION (NSF)

Completed Actions

3720. ● DRUG-FREE WORKPLACE (GRANTS)

Significance: Regulatory Program

Legal Authority: PL 100-690, Title V, Subtitle D

CFR Citation: 45 CFR 604

Legal Deadline: None

Abstract: The Drug-Free Workplace Act of 1988 (codified as sections 701-707 of title 41 of the United States Code) requires Federal contractors and grantees to maintain a drug-free workplace. National Science Foundation regulations implementing that statute will follow the governmentwide model now being developed.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 4947
Final Action	05/25/90	55 FR 21681
Final Action Effective	07/24/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Mary Ann Moulton, Grant & Contract Specialist, National Science Foundation, 1800 G Street,

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Completed Actions

NW., Room 1140, Washington, DC
[redacted]

RIN: 3145-AA16
[FR Doc. 90-21470 Filed 10-26-90; 8:45 am]
[redacted]

Monday
October 29, 1990

federal register

Part XXXIV

Office of Government Ethics

Semiannual Regulatory Agenda

OFFICE OF GOVERNMENT ETHICS (OGE)

OFFICE OF GOVERNMENT ETHICS

5 CFR Ch. XVI

Semiannual Regulatory Agenda; October 1990

AGENCY: Office of Government Ethics.

ACTION: Semiannual agenda of substantive regulations.

SUMMARY: The following Office of Government Ethics (OGE) substantive regulations are scheduled for development or review during the period from October 1, 1990, through September 30, 1991. This agenda fulfills OGE's responsibility to publish a semiannual regulatory agenda under Executive Order 12291, "Federal Regulation," and has been prepared in accordance with guidance received from the Office of Management and Budget. None of the OGE regulations in this October 1990 agenda will have a significant economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. ch. 6. In addition, none of the listed OGE regulatory actions are major rules under E.O. 12291 nor procurement-related. Furthermore, the organizational and procedural rules of OGE are not listed herein (See section 1(a)(3) of E.O. 12291.).

This publication in the **Federal Register** does not impose a a binding obligation on the Office of Government Ethics with respect to any particular item on its agenda. The dates shown for the future steps of each action are estimates and not commitments to act by the date shown. Moreover, other substantive OGE regulatory actions, in addition to the entries listed, are not precluded.

FOR FURTHER INFORMATION CONTACT: William E. Gressman, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917, telephone (202/FTS) 523-5757, FAX (202/FTS) 523-6325.

Approved: September 13, 1990.

Stephen D. Potts,

Director, Office of Government Ethics.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3721	Standards of Ethical Conduct for Employees of the Executive Branch	3209-AA04
3722	Regulation Concerning Post-Government Employment Conflict of Interest for the Executive Branch	3209-AA08
3723	Executive Agency Ethics Training Programs	3209-AA07
3724	Interpretation of 18 U.S.C. 209, the Constraint Against Private Supplementation of Salaries of Government Officials and Employees	3209-AA12
3725	Interests Exempt From the Coverage of the Restrictions of 18 U.S.C. 208(a)	3209-AA09
3726	Guidance on Issuance of Ad Hoc Waivers Pursuant to 18 U.S.C. 208(b)(1) and 208(b)(3)	3209-AA10
3727	Interpretation of 18 U.S.C. 208, Acts Affecting a Personal Financial Interest	3209-AA11

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3728	Executive Branch Regulation Governing Reports of Honoraria Donated to Charities	3209-AA13
3729	Regulation Governing Executive Branch Confidential Financial Disclosure Reports	3209-AA01
3730	Public Financial Disclosure and Qualified Trusts for Executive Branch Employees	3209-AA00
3731	Public Financial Disclosure, Conflicts of Interest, and Certificates of Divestiture for Executive Branch Officials	3209-AA06

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3732	Post Employment Conflict of Interest: Supplemental 1990 Designation of Certain Executive Branch Senior Employee Positions and Separate Agencies	3209-AA03
3733	Corrective Action and Reporting Requirements Relating to Executive Agency Ethics Programs: Implementation of the OGE Reauthorization Act of 1988	3209-AA02

OFFICE OF GOVERNMENT ETHICS (OGE)

Proposed Rule Stage

3721. STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXECUTIVE BRANCH

Significance: Agency Priority

Legal Authority: 5 USC 7351; 5 USC 7353; 5 USC app III; 5 USC app IV; EO 12674

CFR Citation: 5 CFR 2635 (New & Revision); 5 CFR 735.101 to 735.306 (Revision)

Legal Deadline: None

Abstract: Proposed new regulation implementing certain provisions of recent Executive Order 12674 on Principles of Ethical Conduct and the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended by Pub. L. 101-280, to supersede executive branch employee conduct and gifts rules of current 5 CFR Part 735, Subparts A, B and C, and the interim gifts rule at current 5 CFR 2635.101.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
NPRM Comment Period End	03/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Leslie L. Wilcox, Staff Attorney, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917, 202 523-5757

RIN: 3209-AA04

3722. REGULATION CONCERNING POST-GOVERNMENT EMPLOYMENT CONFLICT OF INTEREST FOR THE EXECUTIVE BRANCH

Significance: Agency Priority

Legal Authority: 5 USC app III; 5 USC app IV; 18 USC 207

CFR Citation: 5 CFR 2637 (Revision)

Legal Deadline: None

Abstract: Revision of interpretive regulation to provide guidance to the executive branch on the future version of the post-government employment conflict of interest statute, 18 U.S.C. 207, which will become effective January 1, 1991, pursuant to title I of the Ethics Reform Act of 1989, as amended by Pub. L. 101-280. The revised regulation will include procedures for waivers by the Office of Government Ethics of certain senior official constraints based on executive agency hardship, as well as separate agency designations.

Timetable:

Action	Date	FR Cite
NPRM	05/00/91	
NPRM Comment Period End	07/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Julia S. Loring, Staff Attorney, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917, 202 523-5757

RIN: 3209-AA08

3723. EXECUTIVE AGENCY ETHICS TRAINING PROGRAMS

Significance: Agency Priority

Legal Authority: 5 USC app III; 5 USC app IV; EO 12674

CFR Citation: 5 CFR 2638.301 to 2638.304 (New)

Legal Deadline: None

Abstract: Regulation specifying the responsibilities of executive branch agencies and their designated agency ethics officials to develop orientation and annual ethics training courses and to distribute appropriate guidance materials to their employees under sections 301 (b) and (c) of E.O. 12674.

Timetable:

Action	Date	FR Cite
NPRM	09/18/90	55 FR 38335
NPRM Comment Period End	11/17/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stuart D. Gilman, Chief, Education and Liaison Division, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917, 202 523-5757

RIN: 3209-AA07

3724. INTERPRETATION OF 18 U.S.C. 209, THE CONSTRAINT AGAINST PRIVATE SUPPLEMENTATION OF SALARIES OF GOVERNMENT OFFICIALS AND EMPLOYEES

Significance: Agency Priority

Legal Authority: 5 USC app IV; EO 12674

CFR Citation: 5 CFR 2639 (New)

Legal Deadline: None

Abstract: Proposed regulation interpreting section 209 of Title 18, U.S.C., prohibiting the supplementation of the Government salary of executive branch officers and employees.

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	
NPRM Comment Period End	08/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jane S. Ley, Deputy General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917, 202 523-5757

RIN: 3209-AA12

3725. INTERESTS EXEMPT FROM THE COVERAGE OF THE RESTRICTIONS OF 18 U.S.C. 208(A)

Significance: Agency Priority

Legal Authority: 18 USC 208; 5 USC app IV; EO 12674

CFR Citation: 5 CFR 2640 (New)

Legal Deadline: None

Abstract: Proposed regulation will list and describe interests which are considered to be too remote or too inconsequential to affect the integrity of the services of executive branch officers or employees, in accordance with 18 U.S.C. 208(b)(2). Such interests will be exempt from the restrictions of 18 U.S.C. 208(a), generally requiring disqualification.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	01/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jane S. Ley, Deputy General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917, 202 523-5757

RIN: 3209-AA09

OGE

Proposed Rule Stage

3726. GUIDANCE ON ISSUANCE OF AD HOC WAIVERS PURSUANT TO 18 U.S.C. 208(B)(1) AND 208(B)(3)

Significance: Agency Priority

Legal Authority: 18 USC 208; 5 USC app IV; EO 12674

CFR Citation: 5 CFR 2640 (New)

Legal Deadline: None

Abstract: Proposed regulation will provide guidance to executive branch agencies as to the kinds of interests that are not so substantial as to be deemed likely to affect the integrity of the services the Government may expect from an employee and which therefore may be waived from the general rule of disqualification pursuant to 18 U.S.C. 208(b)(1). Guidance will also be provided concerning the issuance of waivers to special Government employee advisory committee members pursuant to 18 U.S.C. 208(b)(3).

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
NPRM Comment Period End	03/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jane S. Ley, Deputy General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917, 202 523-5757

RIN: 3209-AA10

3727. INTERPRETATION OF 18 U.S.C. 208, ACTS AFFECTING A PERSONAL FINANCIAL INTEREST

Significance: Agency Priority

Legal Authority: 5 USC app IV; EO 12674

CFR Citation: 5 CFR 2640 (New)

Legal Deadline: None

Abstract: Proposed regulation interpreting section 208(a) of Title 18, U.S.C., which prohibits officers or employees of the executive branch from officially participating personally and substantially in a particular matter in which there is a personal financial interest or a financial interest of a related person or organization (absent a waiver under 18 U.S.C. 208(b)).

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	
NPRM Comment Period End	06/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jane S. Ley, Deputy General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917, 202 523-5757

RIN: 3209-AA11

OFFICE OF GOVERNMENT ETHICS (OGE)

Final Rule Stage

3728. ● EXECUTIVE BRANCH REGULATION GOVERNING REPORTS OF HONORARIA DONATED TO CHARITIES

Significance: Agency Priority

Legal Authority: 5 USC 102(a)(1)(A); 5 USC app IV

CFR Citation: 5 CFR 2632 (New)

Legal Deadline: None

Abstract: Interim regulation to govern reports by executive branch officials of honoraria donated to charities as provided in the Ethics in Government Act, as amended by the 1989 Ethics Reform Act (Pub. L. 101-194) and Pub. L. 101-280, effective January 1, 1991.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Karen L. Bovard, Staff Attorney, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917, 202 523-5757

RIN: 3209-AA13

3729. REGULATION GOVERNING EXECUTIVE BRANCH CONFIDENTIAL FINANCIAL DISCLOSURE REPORTS

Significance: Agency Priority

Legal Authority: 5 USC app III; 5 USC app IV; EO 12674

CFR Citation: 5 CFR 2633 (New); 5 CFR 735.401 to 735.412 (Revision)

Legal Deadline: None

Abstract: Regulation to supersede 5 CFR Part 735, Subpart D establishing a renewed system of confidential financial disclosure reporting for executive branch agency mid-level employees with sensitive duties and special Government employees.

Timetable:

Action	Date	FR Cite
NPRM	12/02/86	51 FR 43359
Interim Final Rule	11/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Karen L. Bovard, Staff Attorney, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917, 202 523-5757

RIN: 3209-AA01

3730. PUBLIC FINANCIAL DISCLOSURE AND QUALIFIED TRUSTS FOR EXECUTIVE BRANCH EMPLOYEES

Significance: Agency Priority

Legal Authority: 5 USC app III; 5 USC app IV; 26 USC 1043

CFR Citation: 5 CFR 2634 (New & Revision)

Legal Deadline: None

Abstract: Regulation revising the executive branch public financial disclosure report system for high-level officials in light of the changes to the Ethics in Government Act effected by the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended by Pub. L. 101-280. The new disclosure provisions will apply to reports filed beginning January 1, 1991.

OGE

Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Karen L. Bovard, Staff Attorney, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917, 202 523-5757

RIN: 3209–AA00

3731. PUBLIC FINANCIAL DISCLOSURE, CONFLICTS OF INTEREST, AND CERTIFICATES OF DIVESTITURE FOR EXECUTIVE BRANCH OFFICIALS

Significance: Agency Priority

Legal Authority: 5 USC app III; 5 USC app IV; 26 USC 1043

CFR Citation: 5 CFR 2634.1001 to 2634.1004

Legal Deadline: None

Abstract: Regulation implementing a new provision of the Ethics Reform Act of 1989, as amended by Pub. L. 101-280, providing for tax deferral if sale of property by an executive branch official (or related person) is deemed necessary to comply with conflict of interest requirements pursuant to a certificate of divestiture to be issued by the Office of Government Ethics.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/18/90	55 FR 14407
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Norman S. Smith, Staff Attorney, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917, 202 523-5757

RIN: 3209–AA06

OFFICE OF GOVERNMENT ETHICS (OGE)

Completed Actions

3732. POST EMPLOYMENT CONFLICT OF INTEREST: SUPPLEMENTAL 1990 DESIGNATION OF CERTAIN EXECUTIVE BRANCH SENIOR EMPLOYEE POSITIONS AND SEPARATE AGENCIES

Significance: Agency Priority

Legal Authority: 5 USC app III; 5 USC app IV; 18 USC 207

CFR Citation: 5 CFR 2637 (Revision)

Legal Deadline: None

Abstract: Additional updating designation regulation to reflect certain newly created separate, or merged, agencies in the executive branch and their Senior Employee positions for purposes of the post-government employment senior level conflicts constraints of 18 U.S.C. 207.

Timetable:

Action	Date	FR Cite
Final Action	06/19/90	55 FR 24855
Final Action Effective	06/19/90	55 FR 24855

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas F. Zorn, Chief, Program Development Branch, Monitoring and Compliance Division, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917, 202 523-5757

RIN: 3209–AA03

3733. CORRECTIVE ACTION AND REPORTING REQUIREMENTS RELATING TO EXECUTIVE AGENCY ETHICS PROGRAMS: IMPLEMENTATION OF THE OGE REAUTHORIZATION ACT OF 1988

Significance: Agency Priority

Legal Authority: 5 USC app III; 5 USC app IV

CFR Citation: 5 CFR 2638.501 to 2638.703

Legal Deadline: None

Abstract: Regulation implementing provisions of the Office of Government Ethics Reauthorization Act of 1988 (Pub. L. 100-598) regarding corrective actions, both as to executive branch agency ethics program deficiencies and individual executive officer or employee violations of ethics provisions other than statutes (remedial action can also be directed), as well as executive agency ethics program report requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/18/90	55 FR 1665
Final Action	05/30/90	55 FR 21845
Final Action Effective	05/30/90	55 FR 21845

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Leslie L. Wilcox, Staff Attorney, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917, 202 523-5757

RIN: 3209–AA02

[FR Doc. 90-22804 Filed 10-26-90; 8:45 am]

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Part XXXV

Office of Management and Budget

Semiannual Regulatory Agenda

OFFICE OF MANAGEMENT AND BUDGET (OMB)

OFFICE OF MANAGEMENT AND BUDGET

5 CFR Ch. III

Federal Regulations; OMB Circulars and Policy Letters Included in the Semiannual Agenda of Upcoming Activities

AGENCY: Office of Management and Budget.

ACTION: Publication of semiannual agenda.

SUMMARY: The Office of Management and Budget (OMB) is publishing its semiannual agenda of upcoming activities on OMB Circulars and Office of Federal Procurement Policy Letters (OFPP Policy Letters). This action is in accordance with OMB's internal procedures for implementing Executive Order No. 12291. OMB policy guidelines are issued under authority derived from several sources including: Subtitles I, II, and V of title 31, United States Code, Executive Order No. 11541, and other specific authority as cited. The agenda includes actions on issuances which are not guidelines, but which are of public interest. While it is presented in the standard Governmentwide format of prerule, proposed rule, and final rule stages, the entries are not rules.

OMB Circulars and OFPP Policy Letters are policy guidelines that communicate Governmentwide policy of a continuing nature. For purposes of this agenda, we have excluded directives that outline procedures to be followed in connection with the President's budget and legislative programs and directives that affect only the internal functions, management, or personnel of Federal agencies.

FOR FURTHER INFORMATION CONTACT: See agency person listed for each entry in the agenda c/o Office of Management and Budget, Washington, DC 20503. On the overall agenda, contact Darrell Johnson, (202) 395-7250, at the above address.

Dated: September 26, 1990.

Darrell A. Johnson,

Assistant Director for Administration.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3734	Policies on Government Publications (Circular No. A-3)	0348-AA77
3735	Management of Federal Audiovisual Activities (Circular No. A-114)	0348-AA84
3736	Policies on Management of Federal Information Resources (Circular No. A-130)	0348-AA76
3737	"Rule of Origin" Under the Buy American Act of 1933 as Amended	0348-AA88

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3738	Policy Governing Charges for Rental Quarters and Other Facilities (Circular No. A-45)	0348-AA85
3739	Writing and Administering Performance Work Statements (Part II of Supplement to Circular No. A-76)	0348-AA34
3740	Enhancing Governmental Productivity Through Competition (Circular No. A-76)	0348-AA45
3741	Statistical Policy Directives	0348-AA43

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3742	Federal Government User Charges Policy (Circular No. A-25)	0348-AA41
3743	Cost Principles for State and Local Governments (Circular No. A-87)	0348-AA83

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3744	Audits of Institutions of Higher Education and Other Nonprofit Organizations (Circular A-133)	0348-AA68
3745	Grants and Cooperative Agreements (OMB Circular No. A-XXX)	0348-AA89

OFFICE OF MANAGEMENT AND BUDGET (OMB)

Prerule Stage

3734. POLICIES ON GOVERNMENT PUBLICATIONS (CIRCULAR NO. A-3)

Legal Authority: 44 USC 1108

CFR Citation: None

Legal Deadline: None

Abstract: OMB Circular No. A-3, "Government Publications", last revised in May 1985, prescribes policies and procedures for approving funding for government periodicals to fulfill the requirements of 44 USC 1108, and for reporting periodicals and non-recurring publications. OMB is proposing to incorporate this Circular, with revisions, into OMB Circular No. A-130, "Management of Federal Information Resources", and published a proposed revision for comment on January 4, 1989. On June 15, 1989, OMB published a notice for comment summarizing comments on the January 1989 notice, presenting OMB reaction to comments, and further describing proposed revisions to Circular No. A-3. On August 18, 1989, OMB issued OMB Bulletin No. 89-15 which effected certain revisions to Circular A-3 in reporting requirements.

Timetable:

Action	Date	FR Cite
Begin Review	01/04/88	
Advance Proposal to Replace Circular	01/04/89	54 FR 214
Comment Period End	04/10/89	
Second Advance Proposal to Replace Circular	06/15/89	54 FR 25554
Third Advance Proposal to Replace Circular	12/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: J. Timothy Sprehe, Statistician, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, 202 395-4814

RIN: 0348-AA77

3735. MANAGEMENT OF FEDERAL AUDIOVISUAL ACTIVITIES (CIRCULAR NO. A-114)

Legal Authority: Budget and Accounting Act of 1950

CFR Citation: None

Legal Deadline: None

Abstract: OMB Circular No. A-114 was issued to produce policies governing the consolidation, use, and management of federal audiovisual resources. OMB is reviewing this Circular pursuant to the Sunset Review Provision of the Circular as revised on March 20, 1985.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/88	
Publish Draft Revision in FR for Public Comment	03/00/91	
End Review	12/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Linda Messros, Deputy Associate Administrator, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503, 202 395-3300

RIN: 0348-AA84

3736. POLICIES ON MANAGEMENT OF FEDERAL INFORMATION RESOURCES (CIRCULAR NO. A-130)

Significance: Agency Priority

Legal Authority: 44 USC 35; 5 USC 552a; 40 USC 759; 40 USC 487; 31 USC 11

CFR Citation: None

Legal Deadline: None

Abstract: OMB Circular No. A-130, "Management of Federal Information Resources", issued December 12, 1985, establishes policy for the management of Federal information resources, and provides certain procedural and analytic guidelines for implementing specific aspects of these policies. OMB is reviewing the Circular for consistency with the Computer Security Act of 1987 (PL 100-235). OMB published for comment on January 4, 1989, a proposed further policy on dissemination of information that includes electronic dissemination of information and user charges for government information products. On June 15, 1989, OMB published for comment a notice, presenting OMB reaction to comments, withdrawing the January 1989 notice, and outlining plans for revising Circular No. A-130.

Timetable:

Action	Date	FR Cite
Begin Review	01/04/88	
Advance Proposal of Changes	01/04/89	54 FR 214
Comment Period End	04/10/89	
Second Advance Proposal to Circular	06/15/89	54 FR 25554
Third Advance Proposal to Circular	12/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: J. Timothy Sprehe, Statistician, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, 202 395-4814

RIN: 0348-AA78

3737. "RULE OF ORIGIN" UNDER THE BUY AMERICAN ACT OF 1933 AS AMENDED

Significance: Agency Priority

Legal Authority: PL 100-418, Sec 7002

CFR Citation: None

Legal Deadline: Other, Statutory, February 1990.
OFPP must present a report to Congress by October 31, 1990, which includes policy guidance or recommended legislative changes on factors to be used in making determinations of country of origin.

Abstract: The Buy American Act (the Act) was enacted in 1933 to ensure Federal agencies gave domestic products priority in competition for government contracts. The Act provides that, unless it is inconsistent with the public interest or unreasonably costly, all materials and supplies purchased by any department of the Federal Government, and all materials and supplies furnished by contractors doing work for the Federal Government, be produced within the jurisdictional limits of the United States. In 1988, the Act was amended by several sections of Title VII of PL 100-418. Among other things, the 1988 amendments, directed the Administrator of Federal Procurement Policy to "conduct an assessment of the rules currently used this Act for making determinations of country of origin and alternatives to such rules." In conducting this

OMB — Prerule Stage

assessment, the administrator was directed to identify and evaluate reasonable alternative rules of origin, including one which requires that a determination be made on the basis of total cost. The results of this analysis, including policy guidance and recommended legislative changes, were to be submitted to designated committees of Congress (cont)

Timetable:

Action	Date	FR Cite
Report to Congress	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: Multiple

Additional Information: ABSTRACT CONT: by February 1990.

Agency Contact: William Coleman, Deputy Associate Administrator, Office of Management and Budget, Office of Federal Procurement Policy, 725 17th St., NW.; NEOB; Rm. 9025, Washington, DC 20503, 202 395-3501

RIN: 0348-AA88

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Proposed Rule Stage

3738. POLICY GOVERNING CHARGES FOR RENTAL QUARTERS AND OTHER FACILITIES (CIRCULAR NO. A-45)

Legal Authority: 5 USC 5911(f); EO 11609, Sec 9

CFR Citation: None

Legal Deadline: None

Abstract: OMB Circular No. A-45 was issued to provide policy guidance regarding charges for rental quarters and other Government facilities. OMB is reviewing this Circular pursuant to the provisions of paragraph 9 of the Circular, dated March 26, 1964.

Timetable:

Action	Date	FR Cite
Begin Review	07/01/88	
Draft Published for Comment	10/00/90	
Final Action	01/00/91	
End Review	01/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Richard A. Ong, Deputy Associate Administrator, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503, 202 395-6810

RIN: 0348-AA85

3739. WRITING AND ADMINISTERING PERFORMANCE WORK STATEMENTS (PART II OF SUPPLEMENT TO CIRCULAR NO. A-76)

Legal Authority: 31 USC 501 et seq; 41 USC 401 et seq

CFR Citation: None

Legal Deadline: None

Abstract: This document describes a systematic means for developing Performance Work Statements and Quality Assurance Surveillance plans for Government management of commercial activities. It also includes procedures for contracting personnel who develop, review, award, and administer service contracts.

Timetable:

Action	Date	FR Cite
Draft for Public Comment	12/00/90	
Final Action	03/00/91	
Final Action Effective	06/00/91	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Frances Clark, Office of Management and Budget, Washington, DC 20503, 202 395-5090

RIN: 0348-AA34

3740. ENHANCING GOVERNMENTAL PRODUCTIVITY THROUGH COMPETITION (CIRCULAR NO. A-76)

Legal Authority: 31 USC 501 et seq; 41 USC 401 et seq

CFR Citation: None

Legal Deadline: None

Abstract: OMB Circular No. A-76, last revised in August 1983, sets forth the policy of acquiring commercial products and services from the private sector, and provides guidance on the development of performance work statements and on comparing the cost of Government performance with contractor performance. This Circular is currently under revision to incorporate changes required by Executive Order No. 12615, and to provide more management flexibility to directly contract certain functions.

Timetable:

Action	Date	FR Cite
Draft for Public Comment	12/00/90	
Final Action	03/00/91	
Final Action Effective	06/00/91	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Frances Clark, Office of Management and Budget, Washington, DC 20503, 202 395-5090

RIN: 0348-AA45

3741. STATISTICAL POLICY DIRECTIVES

Legal Authority: 31 USC 1104 Budget & Accounting Procedures Act 1950 (Sec 103); PL 96-511 Paperwork Reduction Act of 1980; See preamble

CFR Citation: None

Legal Deadline: None

Abstract: The Directives give general policies for gathering, compiling, analyzing, publishing, and disseminating statistical information by the agencies in the Executive Branch of the Federal Government. A draft Circular was issued for public comment on January 20, 1988. The public comment period was subsequently extended to July 15, 1988. A revised draft circular is planned to be issued for public comment by October 1991. The final circular is planned for April 1992.

Timetable:

Action	Date	FR Cite
Draft Circular for Public Comment	01/20/88	53 FR 1542

OMB

Proposed Rule Stage

Action	Date	FR Cite
Revised Draft for Public Comment	10/00/91	
Final Circular	04/00/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Suzann K. Evinger, Statistical Policy Analyst, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, 202 395-3868

RIN: 0348-AA43

OFFICE OF MANAGEMENT AND BUDGET (OMB)

Final Rule Stage

3742. FEDERAL GOVERNMENT USER CHARGES POLICY (CIRCULAR NO. A-25)

Legal Authority: Title V of Independent Offices Appropriations Act of 1952; 31 USC 9701

CFR Citation: None

Legal Deadline: None

Abstract: General policies for Federal agencies on administering user charges and formulating legislative proposals regarding user charges are set forth in OMB Circular No. A-25. Public comments have been received on a revised draft of the Circular. They are currently being considered.

Timetable:

Action	Date	FR Cite
Draft Published for Comment	07/01/87	52 FR 24890
Public Comment Period End	09/01/87	
Final Publication	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Joel Friedman, Financial Economist, Office of Management and Budget, Budget Review Division, Fiscal Analysis Branch, Washington, DC 20503, 202 395-4574

RIN: 0348-AA41

3743. COST PRINCIPLES FOR STATE AND LOCAL GOVERNMENTS (CIRCULAR NO. A-87)

Legal Authority: 64 Stat 832; Budget and Accounting Act of 1921 as amended; Budget and Accounting Procedures Act of 1950 as amended; EO 11541; Office of Federal Procurement Policy Act of 1974 as amended

CFR Citation: None

Legal Deadline: None

Abstract: This review will update the circular.

Timetable:

Action	Date	FR Cite
Draft Circular Published for Public Comment	10/14/88	53 FR 40352
Circular to be Finalized	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Jimmie D. Brown, Chief, Financial Systems and Policy Branch, Office of Management and Budget, Financial Management Division, Washington, DC 20503, 202 395-3993

RIN: 0348-AA63

OFFICE OF MANAGEMENT AND BUDGET (OMB)

Completed Actions

3744. AUDITS OF INSTITUTIONS OF HIGHER EDUCATION AND OTHER NONPROFIT ORGANIZATIONS (CIRCULAR A-133)

Significance: Agency Priority

Legal Authority: 31 USC 65 et seq; 41 USC 401 et seq; See preamble; Budget and Accounting Act of 1921 as amended; Budget and Accounting Procedures Act of 1950 as amended; Reorganization Plan No.2 of 1970; EO 11541; Office of Federal Procurement Policy Act of 1974 as amended

CFR Citation: None

Legal Deadline: None

Abstract: The circular established requirements for "single audits" of universities and other nonprofit organizations.

Timetable:

Action	Date	FR Cite
Published in the Federal Register for Public Comment	11/06/85	50 FR 46244
Publish Revised Proposal for Comment	11/10/88	53 FR 45744
Final Action	03/16/90	55 FR 10019

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jimmie D. Brown, Chief, Financial Systems and Policy Branch, Office of Management and Budget, Financial Management Division, Washington, DC 20503, 202 395-3993

RIN: 0348-AA68

3745. GRANTS AND COOPERATIVE AGREEMENTS (OMB CIRCULAR NO. A-XXX)

Legal Authority: Budget and Accounting Act of 1921, as amended; Budget and Accounting Procedures Act of 1950, as amended; Reorganization Plan No. 2 of 1970; EO 11541; Federal Grant and Cooperative Agreement Act of 1977; Intergovernmental Cooperation Act of 1968; Office of Federal Procurement Policy Act of 1974 as amended

CFR Citation: None

Legal Deadline: None

OMB

Completed Actions

Abstract: The proposed circular would have replaced OMB Circulars No. A-102, "Grants and Cooperative Agreements with State and Local Governments", and No. A-110, "Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations", to contain guidance to Federal agencies on grants management issues which are internal to the Federal agencies. Based upon comments received, OMB no longer plans to merge these circulars.

Timetable:

Action	Date	FR Cite
Begin Review	06/15/87	
Invitation for Comments	06/24/87	52 FR 23729
Proposed Circular	11/04/88	53 FR 44710
End Review	06/24/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Jimmie D. Brown, Chief, Financial Systems and Policy Branch, Office of Management and Budget, Financial Management Division, Washington, DC 20503, 202 395-3993

RIN: 0348-AA69

[FR Doc. 90-23317 Filed 10-26-90; 8:45 am]

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Monday
October 29, 1990

Part XXXVI

Office of Personnel Management

Semiannual Regulatory Agenda

OFFICE OF PERSONNEL MANAGEMENT (OPM)

OFFICE OF PERSONNEL MANAGEMENT

5 CFR CH. I

Regulatory Agenda

AGENCY: Office of Personnel Management.

ACTION: Semiannual agenda of regulations.

SUMMARY: The following Office of Personnel Management regulations are scheduled for development or review from October 1, 1990 through September 30, 1991. This agenda carries out OPM's responsibilities to publish a semiannual agenda under Executive Order 12291, "Federal Regulation" and the Regulatory Flexibility Act (5 U.S.C. ch. 6). This publication in the Federal Register does not impose a binding obligation on the Office of Personnel Management with regard to any specific item on the agenda. Regulatory action, in addition to the items listed, is not precluded.

FOR FURTHER INFORMATION CONTACT: JoAnn G. Blackler, (202) 606-1973.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3746	Executive Assignment System	3206-AC03
3747	Suitability—Suitability Disqualification/Rating Actions	3206-AC19
3748	Personnel Security and Related Programs	3206-AC21
3749	Investigations	3206-AB92

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3750	Organization of the Government for Personnel Management; Personnel Management in Agencies	3206-AA66
3751	Performance Management System	3206-AD22
3752	Election to Retain FES Benefits	3206-AE06
3753	Executive and Management Development	3206-AC12
3754	Pay Administration Under the FLSA: Compliance	3206-AA40
3755	Processing Garnishment Orders for Child Support and/or Alimony	3206-AB42
3756	Nonforeign Area Cost-of-Living Allowance; Annual Review	3206-AE17
3757	Amendment to the Federal Equal Opportunity Recruitment Program	3206-AE05
3758	Disabled Veterans Affirmative Action Program (DVAAP)	3206-AE07
3759	Political Activity of Federal Employees	3206-AA47
3760	Agency Administrative Grievance System	3206-AD96
3761	Interim Relief	3206-AE16
3762	Retirement; Voluntary Contributions	3206-AE00
3763	Retirement; Credit and Deposits for Military Service	3206-AB73
3764	Retirement; CSRS Offset Service	3206-AD58
3765	Retirement; Credit for Military Service	3206-AD67
3766	Retirement; Refund Notification	3206-AE10
3767	Retirement; Spousal Court Orders	3206-AE14
3768	Retirement; FEGLI; Miscellaneous Amendments	3206-AD64
3769	Retirement; Reemployment of Annuitants	3206-AD60
3770	Retirement; Law Enforcement Officers and Firefighters	3206-AE12
3771	Retirement; MRA + 10 Retirement	3206-AE02
3772	Miscellaneous Federal Employees Health Benefits Program (FEHBP) Amendments	3206-AD55
3773	Voting Rights Program	3206-AD98
3774	OPM Procurement Regulations	3206-AB28
3775	Federal Employees' Group Life Insurance Acquisition Regulation	3206-AE04

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3776	Availability of Official Information	3206-AD83
3777	Employment (General); Employment Practices	3206-AB41

OPM

Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3778	Amendment to Selective Service Registration Requirements	3206-AD68
3779	Veterans Readjustment Appointment (VRA) Program	3206-AD80
3780	Recertification of Senior Executive Service Members	3206-AD92
3781	Prevailing Rate Systems	3206-AD70
3782	Pay Administration (General); Annual Premium Pay for Administratively Uncontrollable Overtime Work	3206-AD97
3783	Hazard Pay for General Schedule Employees; Exposure to Asbestos	3206-AE16
3784	Retirement; Implementing Regulations for Civil Service Retirement Spouse Equity Act of 1984	3206-AB75
3785	Retirement; Disability Retirement	3206-AB77
3786	Retirement; Implementing Regulations for Civil Service Retirement Spouse Equity Act of 1984	3206-AD48
3787	Retirement; Deposits for Military Service	3206-AB35
3788	Retirement; Crediting Personal Service Contract Service	3206-AD59
3789	Retirement; Alternative Forms of Annuity	3206-AE13
3790	Retirement; Federal Employees' Retirement System Act of 1986	3206-AD65
3791	Retirement; FERS—Annual Pay Computation for Less than Full-Time Employees	3206-AD83
3792	Retirement; Law Enforcement Officers and Firefighters	3206-AE15
3793	Retirement; FERS Coverage Elections	3206-AE01
3794	Federal Employees' Group Life Insurance; Annual Rates of Pay for Employees Who Work Less Than Full Time	3206-AD50
3795	Survivor Benefits, Health Benefits and Life Insurance for Certain Annuitants	3206-AD53
3796	Federal Employees Health Benefits Program; Coverage of Annuitants Upon Plan Termination	3206-AD99
3797	Direct Payment of FEHB Premiums for Civil Service Retirement System (CSRS) and Other Annuitants	3206-AE08
3798	Federal Employees Health Benefits Program; Waiving the Participation Requirement	3206-AE09
3799	Debarments, Civil Monetary Penalties and Assessments Imposed on Health Care Practitioners and Providers of Services or Supplies for Cited Offenses	3206-AD76
3800	Amendment to ALJ Regulations	3206-AD82
3801	Computer Security Training	3206-AD43

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3802	Employment in the Excepted Service	3206-AD73
3803	Noncompetitive Conversion of Personal Assistants to Employees with Disabilities	3206-AD93
3804	Pay Under the General Schedule; "Highest Previous Rate"	3206-AD44
3805	Absence and Leave; Coverage of D.C. Government Employees	3206-AC47
3806	Retirement; Bankruptcy Judges and Magistrates	3206-AD85
3807	Retirement; Determinations of Marital Status	3206-AE03
3808	Debt Collection	3206-AD88
3809	Retirement; Federal Employees' Retirement System Act of 1986	3206-AC94
3810	Retirement; Concurrent Entitlement to Retirement and Compensation Benefits	3206-AD89
3811	Retirement; FERS Cost-of-Living Adjustments	3206-AD62
3812	Retirement; Basic Employee Death Benefits under FERS	3206-AD85
3813	Retirement; FERS Disability Benefits	3206-AD61
3814	FEGLI; Equitable Entitlement Payments	3206-AD95
3815	Federal Employees Health Benefits for Former Spouses of CIA and Foreign Service Employees	3206-AD28
3816	Federal Employees Health Benefits Program/Withdrawal of Carrier and Plan Approval	3206-AD37
3817	Repeal of Reduction of Health Benefits Premiums for Medicare Eligible Individuals	3206-AD94
3818	Federal Employees Health Benefits Program; Temporary Continuation of Coverage	3206-AD96
3819	Modification of Federal Employees Health Benefits Acquisition Regulation (FEHBAR) Provisions and Clauses	3206-AD78

OFFICE OF PERSONNEL MANAGEMENT (OPM)

Prerule Stage

3746. EXECUTIVE ASSIGNMENT SYSTEM

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302; 5 USC 3324; EO 10577

CFR Citation: 5 CFR 305

Legal Deadline: None

Abstract: Review of regulations on executive assignment system (GS-16/18). Regulations need to be reviewed in light of the establishment of the Senior Executive Service, which incorporated most GS-16/18 positions, and delegations to agencies under the CSRA.

Timetable:

Action	Date	FR Cite
Begin Review	03/01/85	
End Review	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Neal Harwood, Personnel Management Specialist, Office of Executive Personnel, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415, 202 606-1810

RIN: 3206-AC03

3747. SUITABILITY—SUITABILITY DISQUALIFICATION/RATING ACTIONS

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 7301; EO 10577; EO 11222

CFR Citation: 5 CFR 731, Subparts B and C

Legal Deadline: None

Abstract: Comprehensive review of suitability standards. Current revision of personnel security program by Presidential task force will likely result in the need for conforming changes in personnel suitability standards.

Timetable:

Action	Date	FR Cite
Begin Review	11/01/85	
End Review	12/31/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frances A. Sclafani, Associate Director, Investigations Group, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415, 202 606-1999

RIN: 3206-AC19

3748. PERSONNEL SECURITY AND RELATED PROGRAMS

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 7312; 50 USC 403; EO 10450; EO 10577

CFR Citation: 5 CFR 732

Legal Deadline: None

Abstract: Comprehensive review of security standards. Current revision of personnel security program by Presidential task force will likely result in the need for conforming changes in personnel security standards.

Timetable:

Action	Date	FR Cite
Begin Review	11/01/85	
End Review	12/31/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frances A. Sclafani, Associate Director, Investigations Group, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415, 202 606-1999

RIN: 3206-AC21

3749. INVESTIGATIONS

Legal Authority: PL 93-579; 5 USC 552a

CFR Citation: 5 CFR 736

Legal Deadline: None

Abstract: Review of Governmentwide background investigations standards. Current revision of personnel security program by Presidential task force will likely result in the need for conforming changes in personnel investigations standards.

Timetable:

Action	Date	FR Cite
Begin Review	11/01/85	
End Review	12/31/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frances A. Sclafani, Associate Director, Investigations Group, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415, 202 606-1999

RIN: 3206-AB92

OFFICE OF PERSONNEL MANAGEMENT (OPM)

Proposed Rule Stage

3750. ORGANIZATION OF THE GOVERNMENT FOR PERSONNEL MANAGEMENT; PERSONNEL MANAGEMENT IN AGENCIES

Legal Authority: 5 USC 1104; 5 USC 1302; 5 USC 3301; 5 USC 3302; EO 10577

CFR Citation: 5 CFR 230; 5 CFR 250

Legal Deadline: None

Abstract: Deletes Part 230 and transfers its regulations to Part 250, to maintain parallel structure with 5 U.S.C. Combines material formerly in Part 230 with regulations now found in Part 250 to present all regulations on agencies' authorities for personnel management in a single part of the Code of Federal Regulations. Changes improve the technical integrity of the CFR by eliminating redundancies and improving the efficiency of OPM's regulations. No change in the coverage or substance of affected regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/20/83	48 FR 22725
NPRM	12/00/90	
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bruce Oland, Chief, Program Development Division, Agency Compliance and Evaluation, Office of Personnel Management, Personnel Systems and Oversight Group, 1900 E Street, NW., Washington, DC 20415, 202 606-2455

RIN: 3206-AA66

OPM

Proposed Rule Stage

3751. PERFORMANCE MANAGEMENT SYSTEM

Legal Authority: 5 USC Ch 43; 5 USC Ch 45; 5 USC Ch 53; 5 USC Ch 54; 5 USC 552; EO 12107; 5 USC 1103; 5 USC 1104; 5 USC 1302; 5 CFR 7.2; EO 9830

CFR Citation: 5 CFR 293; 5 CFR 430

Legal Deadline: None

Abstract: Revises requirements for the Performance Management Systems for General Schedule and Prevailing Rate employees. Regulations will be streamlined to eliminate impediments to management flexibility while still assuring pay-for-performance systems. The section on filing and transfer of performance records contains a technical change that would bring the Official Personnel Folder (OPF) subpart into conformance with the Employee Performance Folder (EPF) subpart, indicating that performance ratings of record, and the performance plans on which they are based, may be filed in either the OPF or the EPF.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
Final Action	09/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tim Dirks, Chief, Performance Management Division, Office of Pay and Performance, Office of Personnel Management, Personnel Systems and Oversight Group, 1900 E Street, NW., Washington, DC 20415, 202 606-2870

RIN: 3206–AD22

3752. ● ELECTION TO RETAIN SES BENEFITS

Legal Authority: 5 USC 3392(c)

CFR Citation: 5 CFR 317

Legal Deadline: None

Abstract: Under the Civil Service Reform Act of 1978, career employees of the Senior Executive Service (SES) who received Presidential appointments with Senate confirmation at level V of the Executive Schedule or higher could elect to retain certain SES benefits. The "Thrift Savings Plan Technical Amendments Act of 1990" extended this election coverage to other SES career employees appointed to Executive Schedule or equivalent positions (Pub. L. 101-334, July 17, 1990). It also provided that OPM shall prescribe regulations covering election by persons appointed between November 1986 and the effective date of the Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Neal Harwood, Personnel Management Specialist, Office of Executive Personnel, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415, 202 606-1610

RIN: 3206–AE00

3753. EXECUTIVE AND MANAGEMENT DEVELOPMENT

Legal Authority: 5 USC 3397

CFR Citation: 5 CFR 412

Legal Deadline: None

Abstract: Regulations to reconstruct executive and management development program authority.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas H. Loftis, Chief, Management and Oversight Division, Office of Personnel Management, Career Entry and Employee Development Group, 1121 Vermont Ave., NW; PO Box 7559, Washington, DC 20044, 202 632-6255

RIN: 3206–AC12

3754. PAY ADMINISTRATION UNDER THE FLSA: COMPLIANCE

Legal Authority: 29 USC 204(f); 5 USC 1103(a)(5)

CFR Citation: 5 CFR 551, Subpart F

Legal Deadline: None

Abstract: Proposed new regulation covering the FLSA Compliance Program and simplifying the FLSA claims handling process.

Timetable:

Action	Date	FR Cite
NPRM	09/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Tapping, Personnel Management Specialist, Office of Personnel Management, Personnel Systems and Oversight Group, 1900 E Street, NW., Washington, DC 20415, 202 606-2530

RIN: 3206–AA40

3755. ● PROCESSING GARNISHMENT ORDERS FOR CHILD SUPPORT AND/OR ALIMONY

Legal Authority: 42 USC 659; 42 USC 661; 42 USC 662; 15 USC 1673; EO 12105

CFR Citation: 5 CFR 581

Legal Deadline: None

Abstract: Update regulation in response to ongoing suggestions and corrections, especially changes to Appendix A which contains an obsolete list of agents designated to accept legal process.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Murray Meeker, Attorney, Office of Personnel Management, Office of the General Counsel, 1900 E St., NW.; Room 7544, Washington, DC 20415, 202 606-1900

RIN: 3206–AB42

3756. ● NONFOREIGN AREA COST-OF-LIVING ALLOWANCE; ANNUAL REVIEW

Legal Authority: 5 USC 5941(a)(1); EO 10000

CFR Citation: 5 CFR 591, Subpart B

Legal Deadline: None

Abstract: Proposed rule would publish the results of the annual review of nonforeign area cost-of-living allowances, as required by Executive Order 10000 and 5 CFR 591.211.

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OPM — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/30/90	
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald L. Paquin, Pay Specialist, Wage Systems Division, Office of Personnel Management, Personnel Systems and Oversight Group, 1900 E Street, NW., Washington, DC 20415, 202 606-2848

RIN: 3206–AE17

3757. ● AMENDMENT TO THE FEDERAL EQUAL OPPORTUNITY RECRUITMENT PROGRAM

Legal Authority: 5 USC 7201

CFR Citation: 5 CFR 720

Legal Deadline: None

Abstract: The Office of Affirmative Recruiting and Employment (OARE) is proposing to amend its regulations on the Federal Equal Opportunity Recruitment Program (FEORP) to simplify and reduce paperwork requirements and eliminate provisions that are not specifically required by law or are administratively burdensome.

Timetable:

Action	Date	FR Cite
NPRM	02/01/91	
Final Action	09/30/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Fox, Personnel Management Specialist, Career Entry and Employee Development Group, Office of Personnel Management, Affirmative Recruiting and Employment, Programs Division; 1900 E St., NW., Washington, DC 20415, 202 606-0870

RIN: 3206–AE05

3758. ● DISABLED VETERANS AFFIRMATIVE ACTION PROGRAM (DVAAP)

Legal Authority: 5 USC 7201

CFR Citation: 5 CFR 720, Subpart C

Legal Deadline: None

Abstract: The Office of Affirmative Recruiting and Employment (OARE) is proposing to amend its regulations on the Federal Equal Opportunity Recruitment Program (FEORP) to simplify and reduce paperwork requirements and eliminate provisions that are not specifically required by law or are administratively burdensome.

Timetable:

Action	Date	FR Cite
NPRM	02/01/91	
Final Action	09/30/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Carbonneau, Special Assistant for Veterans' Employment Program, Office of Personnel Management, Affirmative Recruiting and Employment Programs Division, 1900 E Street, NW., Washington, DC 20415, 202 606-0870

RIN: 3206–AE07

3759. POLITICAL ACTIVITY OF FEDERAL EMPLOYEES

Legal Authority: 5 USC 1308; 5 USC 3301; 5 USC 3302; 5 USC 7301; 5 USC 7321 to 7325; 5 USC 7327; 42 USC 2729; EO 10577, 3 CFR 1954-1958 Comp. p. 218; 5 USC 7701 et seq; EO 12107

CFR Citation: 5 CFR 733

Legal Deadline: None

Abstract: Prescribes (1) regulations under the Hatch Act and related provisions of law that restrict the political activity of Federal employees; (2) definitional and structural revisions; and (3) possible addition and/or recision of partial exceptions by the Director for municipalities or political subdivisions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: JoAnn Chabot, Attorney, Office of the General Counsel, Office of Personnel Management, 1900 E Street, NW., Room 7538, Washington, DC 20415, 202 606-1920

RIN: 3206–AA47

3760. AGENCY ADMINISTRATIVE GRIEVANCE SYSTEM

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302 7; 5 USC 7301; EO 9832; EO 11222

CFR Citation: 5 CFR 771

Legal Deadline: None

Abstract: Revises requirements for agency administrative grievance systems (AGS) to: (1) broaden and clarify the type of matters and categories of employees covered by the AGS (2) simplify AGS requirements, (3) require agencies to establish timeframes and other measures to ensure prompt consideration of grievances, (4) enhance employee perceptions of AGS fairness and responsiveness, (5) allow cancellation of improper or duplicative grievances, (6) clarify agency flexibility in tailoring their AGS to the dispute at hand, (7) encourage use of alternative forms of dispute resolution, and (8) require agencies to periodically examine the operation and effectiveness of their AGS.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marjorie Marks, Chief, Employee Relations Division, Office of Employees and Labor Relations, Office of Personnel Management, 1900 E Street, NW. Room 7412, Washington, DC 20415, 202 606-2154

RIN: 3206–AD96

3761. ● INTERIM RELIEF

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302; 5 USC 7301; PL 101-12

CFR Citation: 5 CFR 772

Legal Deadline: None

Abstract: Creates new Part 772, which along with simultaneous changes to Parts 531, 536, 540, 831, 843, 870, and 890, provides agencies with the authorities necessary to take conditional personnel actions providing "interim relief" pursuant to the Whistleblower Protection Act of 1989. These changes permit agencies to take such interim actions as well as to have the means to affect pay and benefits

OPM

Proposed Rule Stage

administration for employees (or former employees) who have prevailed in an appeal to the Merit Systems Protection Board.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marjorie A. Marks, Chief, Employee Relations Division, Office of Employee and Labor Relations, Office of Personnel Management, 1900 E Street, NW. Room 7412, Washington, DC 20415, 202 606-2920

RIN: 3206-AE16

3762. RETIREMENT; VOLUNTARY CONTRIBUTIONS

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, Subpart D

Legal Deadline: None

Abstract: These regulations will restructure the existing regulations governing voluntary contribution accounts under the Civil Service Retirement System. Rules on the accrual of interest on these accounts will be included for the first time.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
Final Action	05/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman, Paralegal Specialist, Office of Retirement and Insurance Policy, Office of Personnel Management, Retirement and Insurance Group, 1900 E St., NW., Washington, DC 20415, 202 606-0777

RIN: 3206-AE00

3763. RETIREMENT; CREDIT AND DEPOSITS FOR MILITARY SERVICE

Legal Authority: PL 97-253, Sec 308(b); PL 98-94, Sec 1257; PL 98-369, Sec 2205

CFR Citation: 5 CFR 831, Subparts C and U

Legal Deadline: None

Abstract: Public Laws 97-253, 98-94, and 98-369 amend the provisions of the retirement law that deal with crediting military service and making deposits for military service. Proposed regulations would revise the affected regulations to implement these laws.

Timetable:

Action	Date	FR Cite
NPRM	03/00/91	
Final Action	09/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Rochester, Paralegal Specialist, Office of Retirement and Insurance Policy, Office of Personnel Management, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 606-0777

RIN: 3206-AE73

3764. RETIREMENT; CSRS OFFSET SERVICE

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, Subpart J

Legal Deadline: None

Abstract: The Federal Employees' Retirement System Act of 1986 provided that certain employees would continue to be covered by both the Civil Service Retirement System and social security. Their CSRS deductions are offset by social security taxes (FICA), and, when they retire, their CSRS benefits are offset by the value of this service in their social security benefits. The regulations will implement this provision of law.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	
Final Action	07/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: H. T. Newland, Jr., Paralegal Specialist, Office of Retirement and Insurance Policy, Office of Personnel Management, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 606-0777

RIN: 3206-AD58

3765. RETIREMENT; CREDIT FOR MILITARY SERVICE

Legal Authority: 5 USC 8347; 5 USC 8461; PL 97-253, Sec 207

CFR Citation: 5 CFR 831, Subpart C; 5 CFR 842, Subpart C; 5 CFR 843, Subpart C

Legal Deadline: None

Abstract: These regulations govern credit for military service under FERS and CSRS in situations where annuitants have simultaneous entitlement to Social Security benefits.

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	
Final Action	08/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eugene R. Littlefield, Paralegal Specialist, Office of Retirement and Insurance Policy, Office of Personnel Management, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 606-0777

RIN: 3206-AD67

3766. ● RETIREMENT; REFUND NOTIFICATION

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 831, Subpart T; 5 CFR 843, Subpart B

Legal Deadline: None

Abstract: This regulation will revise the Civil Service Retirement System and the Federal Employees Retirement System rules governing notification of a refund applicant's current or former spouse of the refund application.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
Final Action	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold Siegelman, Paralegal Specialist, Office of Retirement and Insurance Policy, Office of Personnel Management, Retirement and Insurance Group, 1900 E Street,

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NW., Washington, DC 20415, 202 606-0777

RIN: 3206-AE10

3767. ● RETIREMENT; SPOUSAL COURT ORDERS

Legal Authority: 5 USC 8347; 5 USC 8461; PL 98-615

CFR Citation: 5 CFR 838

Legal Deadline: None

Abstract: This regulation would consolidate Civil Service Retirement System and Federal Employees Retirement System rules governing court orders that award retirement system benefits to an employee's former spouse. Thus, one set of regulations would govern both retirement systems. A new Part 838 will be created.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
Final Action	05/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold Stephman, Paralegal Specialist, Office of Retirement and Insurance Policy, Office of Personnel Management, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 606-0777

RIN: 3206-AE14

3768. RETIREMENT; FEGLI; MISCELLANEOUS AMENDMENTS

Legal Authority: 5 USC 8347; 5 USC 8424; 5 USC 8441; 5 USC 8442; 5 USC 8716

CFR Citation: 5 CFR 831, Subpart T; 5 CFR 843, Subpart B; 5 CFR 870, Subpart I; 5 CFR 873, Subpart F

Legal Deadline: None

Abstract: Regulations to amend CSRS, FERS and FEGLI to specify and make consistent the policy that only the federal employee or annuitant is eligible to make or change their designation of beneficiary. In addition, the regulations: (1) specify that certain retired judges are exempted from the reduction of Family Optional FEGLI, (2) provide for payment of CSRS, FERS and FEGLI proceeds to duly appointed representatives in so-called "Small Estate" cases, and (3) clarify the meaning of the term "final adjudication" in reference to date of receipt of the post retirement action form.

Timetable:

Action	Date	FR Cite
NPRM	09/00/91	
Final Action	03/00/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill Smith, Pay and Benefits Specialist, Office of Retirement and Insurance Policy, Office of Personnel Management, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 606-0780

RIN: 3206-AD84

3769. RETIREMENT; REEMPLOYMENT OF ANNUITANTS

Legal Authority: 5 USC 8461

CFR Citation: 5 CFR 841, Subpart K; 5 CFR 846

Legal Deadline: None

Abstract: Public Law 100-238, enacted January 3, 1988, amended the Federal Employees' Retirement System Act provisions concerning reemployment of FERS annuitants and CSRS annuitants who transfer to FERS. These regulations implement this provision of law.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	
Final Action	10/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eugene R. Littleford, Paralegal Specialist, Office of Retirement and Insurance Policy, Office of Personnel Management, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 606-0777

RIN: 3206-AD60

3770. ● RETIREMENT; LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS

Legal Authority: 5 USC 8461

CFR Citation: 5 CFR 842, Subpart H

Legal Deadline: None

Abstract: These regulations would amend the regulations governing the special provisions for law enforcement officers and firefighters under the Federal Employees Retirement System. Some of the changes are needed to implement subsequent legislation, such as Public Law 100-238 which, among other things, reduced the number of years (from 10 to 3) of rigorous service needed to continue coverage under the special provisions in a supervisory or administrative position. Other changes are needed to clarify certain provisions.

Timetable:

Action	Date	FR Cite
NPRM	08/00/91	
Final Action	02/00/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roderick T. Meader, Personnel Management Specialist, Office of Retirement and Insurance Policy, Office of Personnel Management, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 606-0777

RIN: 3206-AE12

3771. RETIREMENT; MRA + 10 RETIREMENT

Legal Authority: 5 USC 8461; 5 USC 8462

CFR Citation: 5 CFR 842, Subpart B; 5 CFR 843, Subpart C

Legal Deadline: None

Abstract: These proposed regulations would amend the rules governing the MRA + 10 and early deferred retirement provisions under FERS. They also would amend the rules concerning the basic employee death benefit under FERS.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
Final Action	05/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert M. Rosenblatt, Paralegal Specialist, Office of Retirement and Insurance Policy, Office of Personnel Management, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 606-0777

RIN: 3206-AE02

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3772. MISCELLANEOUS FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM (FEHBP) AMENDMENTS

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulations to establish earlier effective date of coverage for former spouses; to clarify the treatment of former spouse health benefits if former spouse is or becomes a Federal employee or is covered under the Federal enrollment of another; and to clarify the current provision on continued coverage while confined in a hospital at the time of change of plan.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Mercer, Pay and Benefits Specialist, Office of Retirement and Insurance Policy, Office of Personnel Management, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 606-0799

RIN: 3206-AD55

3773. VOTING RIGHTS PROGRAM

Legal Authority: 42 USC 1973(a) to 1973(e)

CFR Citation: 45 CFR 801

Legal Deadline: None

Abstract: The Voting Rights Act of 1965 places certain responsibilities on the Office of Personnel Management in order to effectuate the guarantees of the 15th Amendment. OPM is responsible, when so requested by the Attorney General, for opening and staffing examining offices in order to examine applicants to be registered to vote. Accordingly, when the Attorney General determines it is necessary, the Office may be requested to open offices in political subdivisions in various states to examine the qualifications of minorities or non-English speaking citizens to vote.

Timetable:

Action	Date	FR Cite
NPRM	12/20/90	30 FR 9059
Final Action	06/20/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephanie J. Peters, Law Clerk for Voting Rights, Administration Group, Office of Personnel Management, 1900 E St., NW., Washington, DC 20415, 202 606-2060

RIN: 3206-AD98

3774. OPM PROCUREMENT REGULATIONS

Legal Authority: 48 CFR Ch 1

CFR Citation: 48 CFR 17

Legal Deadline: None

Abstract: Regulations to implement and supplement the Federal Acquisition Regulations (FAR). The FAR were effective April 1, 1984.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Alfred F. Chatterton III, Acting Chief, Acquisition Division, Office of Personnel Management, Administration Group, 1900 E Street, NW., Washington, DC 20415, 202 606-2249

RIN: 3206-AB38

3775. FEDERAL EMPLOYEES' GROUP LIFE INSURANCE ACQUISITION REGULATION

Legal Authority: 5 USC 5716; 48 CFR 1.301

CFR Citation: 48 CFR Ch 20

Legal Deadline: None

Abstract: Proposed regulations to describe the method by which the U.S. Office of Personnel Management (OPM) implements and supplements the Federal Acquisition Regulations (FAR) for the Federal Employees' Group Life Insurance Program.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	
Final Action	09/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Mary Ann Mercer, Pay and Benefits Specialist, Office of Retirement and Insurance Policy, Office of Personnel Management, Retirement and Insurance Group, 1900 E St., NW., Washington, DC 20415, 202 606-0799

RIN: 3206-AE04

OFFICE OF PERSONNEL MANAGEMENT (OPM)

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3776. AVAILABILITY OF OFFICIAL INFORMATION

Legal Authority: 5 USC 552

CFR Citation: 5 CFR 294

Legal Deadline: None

Abstract: Revisions in response to the requirements of E.O. 12600 regarding confidential commercial information and revisions to the description of the Index to Information to clearly reflect OPM's practices.

Timetable:

Action	Date	FR Cite
NPRM	06/13/89	54 FR 25120
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: C. Ronald Trueworthy, Chief, Reports and Forms Management Branch, Office of Information Management, Office of Personnel Management, Administration

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Final Rule Stage

Group, 1900 E Street, NW., Washington, DC [illegible], [illegible]

RIN: 3206-AD81

3777. EMPLOYMENT (GENERAL); EMPLOYMENT PRACTICES

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 3304

CFR Citation: 5 CFR 300

Legal Deadline: None

Abstract: Clarification of the policy and appeal procedures used in developing and implementing employment practices in the recruitment, measurement and selection of individuals for appointments and promotion within the competitive service. The proposed amendments would remove a non-statutory appeal procedure which was created to provide a simple, streamlined administrative review procedure but which has, instead, become a time-consuming, convoluted process. Additionally, the proposed changes would avoid a duplicative enforcement procedure currently subject to review by OPM and MSPB, which is, more properly, within the sole jurisdiction of the EEOC.

Timetable:

Action	Date	FR Cite
EEOC Coordination	04/01/88	
NPRM	06/20/88	53 FR 23123
Notice of Withdrawal	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James S. Green, Deputy General Counsel, Office of Personnel Management, Office of the General Counsel, 1900 E Street, NW., Washington, DC 20415, [illegible]

RIN: 3206-AB41

3778. AMENDMENT TO SELECTIVE SERVICE REGISTRATION REQUIREMENTS

Legal Authority: 5 USC 3328

CFR Citation: 5 CFR 300, Subpart G

Legal Deadline: None

Abstract: We will issue a final rule delegating authority to agencies to determine whether a Federal job applicant's failure to register with the Selective Service System was knowing and willful. This change was authorized by an amendment to 5 USC 3328 which imposes the selective service registration requirement as a condition of employment in Federal executive agencies. The delegation will permit faster decisions for interested job seekers and reduce paperwork.

Timetable:

Action	Date	FR Cite
NPRM	04/29/88	53 FR 15400
Final Action	04/01/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas O'Connor, Personnel Staffing Specialist, Career Entry and Employee Development Group, Office of Personnel Management, Staffing Policy Division, 1900 E Street, NW., Washington, DC 20415, [illegible]

RIN: 3206-AD68

3779. VETERANS READJUSTMENT APPOINTMENT (VRA) PROGRAM

Legal Authority: 38 USC 2014

CFR Citation: 5 CFR 307; 5 CFR 316

Legal Deadline: None

Abstract: Final regulations will be issued to reflect the VRA extension and expansion to December 31, 1993, by Public Law 101-237, signed by the President on December 18, 1989.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/11/90	55 FR 13499
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Carbonneau, Special Assistant for Veterans Employment, Career Entry and Employee Development Group, Office of Personnel Management, Affirmative Recruiting and Employment, 1900 E Street, NW., Washington, DC 20415, [illegible]

RIN: 3206-AD60

3780. RECERTIFICATION OF SENIOR EXECUTIVE SERVICE MEMBERS

Significance: Regulatory Program

Legal Authority: 5 USC 3393a; 5 USC 3397

CFR Citation: 5 CFR 317; 5 CFR 359; 5 CFR 842

Legal Deadline: None

Abstract: Proposed regulations providing procedures for recertification of career members of the Senior Executive Service every third year, beginning in CY 1991. Recertification required by section 506 of the Ethics Reform Act of 1989 (Pub. L. 101-194, November 30, 1989).

Timetable:

Action	Date	FR Cite
NPRM	07/12/90	55 FR 28632
Final Action	10/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Neal Harwood, Personnel Management Specialist, Office of Executive Personnel, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, [illegible]

RIN: 3206-AD92

3781. PREVAILING RATE SYSTEMS

Legal Authority: 5 USC 5343; 5 USC 5346

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: Final rule would move material that is of a regulatory nature from FPM Supplements 532-1 and 532-2 to 5 CFR Part 532.

Timetable:

Action	Date	FR Cite
NPRM	02/27/90	55 FR 878
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phyllis Foley, Pay Specialist Wage Systems Division, Personnel Systems and Oversight Group, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415, [illegible]

RIN: 3206-AD70

3782. PAY ADMINISTRATION (GENERAL); ANNUAL PREMIUM PAY FOR ADMINISTRATIVELY UNCONTROLLABLE OVERTIME WORK

Significance: Regulatory Program

Legal Authority: 5 USC 5548(a); PL 101-173

CFR Citation: 5 CFR 550, Subpart A

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Legal Deadline: None

Abstract: Public Law 101-173, November 27, 1989, amended 5 U.S.C. 5545(c)(2), effective in October 1990, to remove the GS-10, step 1, limit on the base rate of pay used to compute annual premium pay for administratively uncontrollable overtime (AUO) work. Under the amendment, AUO pay will be computed as a percentage (up to 25 percent) of an employee's full rate of basic pay, regardless of salary level. This amendment will affect higher graded law enforcement employees and others who receive AUO pay.

Timetable:

Action	Date	FR Cite
NPRM	06/06/90	55 FR 23098
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Cahill, Chief, Pay Administration Branch, Personnel Systems and Oversight Group, Office of Personnel Management, Office of Pay and Performance, 1900 E St., NW., Washington, DC 20415, 202 606-2858

RIN: 3206-AD87

3783. ● HAZARD PAY FOR GENERAL SCHEDULE EMPLOYEES; EXPOSURE TO ASBESTOS

Legal Authority: 5 USC 5545(d)

CFR Citation: 5 CFR 550, Subpart I

Legal Deadline: None

Abstract: Proposed rule would establish a new hazard pay category for General Schedule employees exposed to asbestos, at a rate of 8 percent of basic pay.

Timetable:

Action	Date	FR Cite
NPRM	08/01/90	55 FR 31190
Final Action	12/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary R. Hacker, Pay Specialist, Wage Systems Division, Office of Personnel Management, Personnel Systems and Oversight Group, 1900 E Street, NW., Washington, DC 20415, 202 606-2848

RIN: 3206-AE18

3784. RETIREMENT; IMPLEMENTING REGULATIONS FOR CIVIL SERVICE RETIREMENT SPOUSE EQUITY ACT OF 1984

Legal Authority: 5 USC 8347; PL 98-615

CFR Citation: 5 CFR 831, Subparts F and T

Legal Deadline: None

Abstract: The Civil Service Retirement Spouse Equity Act of 1984 includes provisions for new benefits available to former spouses of deceased Federal employees and provisions governing survivor benefits for current spouses. These regulations are necessary to implement the Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/13/85	50 FR 20084
Interim Final Rule -- Revised	09/06/86	51 FR 31927
Interim Final Rule -- Revised	03/12/90	55 FR 9093
Final Action	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold Siegelman, Paralegal Specialist, Retirement and Insurance Group, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415, 202 606-0777

RIN: 3206-AB75

3785. RETIREMENT; DISABILITY RETIREMENT

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, Subpart L

Legal Deadline: None

Abstract: Comprehensive revision of disability retirement regulations to clarify (1) OPM'S authority to find a disability annuitant recovered from a disability when the annuitant is reemployed in the Federal service in a position equivalent in grade to the one from which he or she retired, and (2) the rules used to determine whether a disability annuitant has been restored to earning capacity.

Timetable:

Action	Date	FR Cite
NPRM	03/30/90	55 FR 11933
Final Action	07/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: H. T. Newland, Jr., Paralegal Specialist, Office of Retirement and Insurance Policy, Office of Personnel Management, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 606-0777

RIN: 3206-AB77

3786. RETIREMENT; IMPLEMENTING REGULATIONS FOR CIVIL SERVICE RETIREMENT SPOUSE EQUITY ACT OF 1984

Legal Authority: 5 USC 8347; PL 98-615

CFR Citation: 5 CFR 831, Subparts A and Q

Legal Deadline: None

Abstract: The Civil Service Retirement Spouse Equity Act of 1984 includes provisions for new benefits available to former spouses of deceased Federal employees and provisions governing survivor benefits for current spouses. These regulations are necessary to implement the Act and provide procedures when there are competing claims from applicants for survivor benefits. The regulations also establish age 18 as the age for direct payment of survivor annuity payments and clarify the definition of "employee" for certain purposes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/13/85	50 FR 20084
Interim Final Rule	09/06/86	51 FR 31927
NPRM	12/30/86	51 FR 47021
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Rochester, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW. Washington, DC 20415, 202 606-0777

RIN: 3206-AD48

3787. RETIREMENT; DEPOSITS FOR MILITARY SERVICE

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, Subpart U

Legal Deadline: None

Abstract: Final regulations to extend eligibility to make deposits for military service to separated individuals who

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were prevented from making a timely deposit due to administrative error or misinformation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/18/84	49 FR 20631
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Rochester, Paralegal Specialist, Office of Retirement and Insurance Policy, Office of Personnel Management, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 606-0777

RIN: 3206-AB35

3788. RETIREMENT; CREDITING PERSONAL SERVICE CONTRACT SERVICE

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 831; 5 CFR 842

Legal Deadline: None

Abstract: Public Law 100-238, enacted January 8, 1988, provides qualifying employees and annuitants with an opportunity to credit certain service performed under the auspices of a personal services contract with a Federal agency. These regulations will implement this provision of law.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/25/88	53 FR 42934
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eugene R. Littleford, Paralegal Specialist, Office of Retirement and Insurance Policy, Office of Personnel Management, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 606-0777

RIN: 3206-AD59

3789. ● RETIREMENT; ALTERNATIVE FORMS OF ANNUITY

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 831, Subpart V; 5 CFR 842, Subpart G

Legal Deadline: None

Abstract: Regulations to implement the provisions of 5 U.S.C. 8343a and 8420a dealing with the payment of the lump sum credit to retirees who elect an alternative form of annuity under the Civil Service Retirement System and the Federal Employees Retirement System.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/09/90	55 FR 4597
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert M. Rosenblatt, Paralegal Specialist, Office of Retirement and Insurance Policy, Office of Personnel Management, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 606-0777

RIN: 3206-AE13

3790. RETIREMENT; FEDERAL EMPLOYEES' RETIREMENT SYSTEM ACT OF 1986

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 841

Legal Deadline: None

Abstract: Final regulations to implement the statutory provision for a new Federal Employees' Retirement System and conforming changes to the current Civil Service Retirement System.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/13/87	52 FR 4472
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman, Paralegal Specialist, Office of Retirement and Insurance Policy, Office of Personnel Management, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 606-0777

RIN: 3206-AD65

3791. RETIREMENT; FERS—ANNUAL PAY COMPUTATION FOR LESS THAN FULL-TIME EMPLOYEES

Legal Authority: 5 USC 8461

CFR Citation: 5 CFR 841; 5 CFR 842

Legal Deadline: None

Abstract: These regulations provide a methodology for computing the amount of the basic employee death benefit under the Federal Employees' Retirement System (FERS) Act of 1986 for employees whose tour of duty is less than full time.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/10/88	53 FR 16535
Final Action	05/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lou Ann Francis, Paralegal Specialist, Office of Retirement and Insurance Policy, Office of Personnel Management, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 606-0777

RIN: 3206-AD63

3792. ● RETIREMENT; LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS

Legal Authority: 5 USC 8461

CFR Citation: 5 CFR 842, Subpart H

Legal Deadline: None

Abstract: This regulation would amend the interim regulations to allow limited redelegation by department heads of their authority to approve positions as law enforcement officer or firefighter positions under the Federal Employees Retirement System.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/90	
Final Action	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roderick T. Meader, Personnel Management Specialist, Office of Retirement and Insurance Policy, Office of Personnel Management, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 606-0777

RIN: 3206-AE15

3793. RETIREMENT; FERS COVERAGE ELECTIONS

Legal Authority: 5 USC 8461

CFR Citation: 5 CFR 846

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Legal Deadline: None

Abstract: Regulations to implement the provisions of the Federal Employees Retirement System Act of 1986, as amended, dealing with the election of Federal Employees Retirement System coverage by employees under the Civil Service Retirement System and certain other employees.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/21/87	52 FR 19235
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret J. Sears, Paralegal Specialist, Office of Retirement and Insurance Policy, Office of Personnel Management, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 606-0780

RIN: 3206–AE01

3794. FEDERAL EMPLOYEES' GROUP LIFE INSURANCE; ANNUAL RATES OF PAY FOR EMPLOYEES WHO WORK LESS THAN FULL TIME

Legal Authority: 5 USC 8716

CFR Citation: 5 CFR 870, Subpart C

Legal Deadline: None

Abstract: Regulations to establish a new method of arriving at annual rates of pay for life insurance purposes for employees on less than full-time schedules.

Timetable:

Action	Date	FR Cite
NPRM	10/14/88	53 FR 40232
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill Smith, Pay and Benefits Specialist, Office of Retirement and Insurance Policy, Office of Personnel Management, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 606-0780

RIN: 3206–AD50

3795. SURVIVOR BENEFITS, HEALTH BENEFITS AND LIFE INSURANCE FOR CERTAIN ANNUITANTS

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulations to clarify FEHBP enrollment process and "immediate annuity" for individuals eligible for a FERS annuity at the minimum retirement age with at least 10 years of service (MRA plus 10 provision).

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/11/90	55 FR 993
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Sears, Pay and Benefits Specialist, Office of Retirement and Insurance Policy, Office of Personnel Management, Retirement and Insurance Group, 1900 E Street, NW., Washington, DC 20415, 202 606-0780

RIN: 3206–AD53

3796. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; COVERAGE OF ANNUITANTS UPON PLAN TERMINATION

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulations to provide for continuing coverage under the Federal Employees Health Benefits Program for certain annuitants when the plan in which they are enrolled terminates.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/02/90	55 FR 3563
Final Action	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Sears, Pay and Benefits Specialist, Office of Retirement and Insurance Policy, Office of Personnel Management, Retirement and Insurance Group, 1900 E St., NW., Washington, DC 20415, 202 606-0780

RIN: 3206–AD90

3797. ● DIRECT PAYMENT OF FEHB PREMIUMS FOR CIVIL SERVICE RETIREMENT SYSTEM (CSRS) AND OTHER ANNUITANTS

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulations to implement Public Law 101-303 to permit CSRS and other annuitants to pay FEHB premiums directly to their retirement system when the amount of their health benefits premium exceeds the amount of their annuity.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/91	
Final Action	07/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Mercer, Pay and Benefits Specialist, Office of Retirement and Insurance Policy, Office of Personnel Management, Retirement and Insurance Group, 1900 E St., NW., Washington, DC 20415, 202 606-0780

RIN: 3206–AE06

3798. ● FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; WAIVING THE PARTICIPATION REQUIREMENT

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulations to give OPM broader discretion in applying its authority to waive the 5-year participation requirement under 5 U.S.C. 8905(b) for continuing health benefits coverage into retirement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/90	
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Sears, Pay and Benefits Specialist, Retirement and Insurance Group, Office of Personnel Management, Office of Retirement and Insurance Policy, 1900 E Street, NW., Washington, DC 20415, 202 606-0780

RIN: 3206–AE09

OPM — Final Rule Stage

3795. DEBARMENTS, CIVIL MONETARY PENALTIES AND ASSESSMENTS IMPOSED ON HEALTH CARE PRACTITIONERS AND PROVIDERS OF SERVICES OR SUPPLIES FOR CITED OFFENSES

Significance: Regulatory Program

Legal Authority: 5 USC 8913; PL 100-654

CFR Citation: 5 CFR 890, Subpart J

Legal Deadline: None

Abstract: Regulations to implement title I of Public Law 100-654, the "Federal Employees Health Benefits Amendments Act of 1988." Title I of Pub. L. 100-654 permits OPM to exclude from further participation in the FEHB Program any health care provider (1) convicted of fraud or various other cited examples of unethical professional conduct, or (2) determined by OPM to have committed various cited offenses against the FEHB Program. The above cited debarment authority is for an offense committed on or after January 1, 1989.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/30/89	54 FR 43939
Final Action	09/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Ray, Pay and Benefits Specialist, Retirement and Insurance Group, Office of Personnel Management, Office of Retirement and Insurance Policy, 1900 E Street, NW., Washington, DC 20415, 202 606-0799

RIN: 3206-AD76

3800. AMENDMENT TO ALJ REGULATIONS

Legal Authority: 5 USC 1104(a)(2); 5 USC 1305; 5 USC 3105; 5 USC 3323(b); 5 USC 3344; 5 USC 4301(2)(D); 5 USC 5335(a)(B); 5 USC 5372; 5 USC 7521

CFR Citation: 5 CFR 930, Subpart B

Legal Deadline: None

Abstract: OPM is proposing to amend its regulations governing the appointment, pay, and removal of administrative law judges. The proposed amendment would permit an administrative law judge to transfer to another agency before completing 1 year of service. If the gaining and losing agency agree to the transfer before the usually required 1 year of service following appointment is completed, such transfers should be permitted under the regulations so that the gaining agency does not have to request a variation from established regulations to effect the transfer.

Timetable:

Action	Date	FR Cite
NPRM	07/25/89	54 FR 30898
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Craig B. Pettibone, Assistant Director, Administrative Law Judges, Office of Personnel Management, Career Entry and Employee Development Group, 1900 E Street, NW., Room 2433, Washington, DC 20415, 202 606-0819

RIN: 3206-AD82

3801. COMPUTER SECURITY TRAINING

Legal Authority: PL 100-235

CFR Citation: 5 CFR 930, Subpart C

Legal Deadline: Final, Statutory, July 10, 1988.

Abstract: Regulations for government-wide training requirement in computer security.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/13/89	53 FR 26562
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas H. Loftis, Chief, Management and Oversight Division, Career Entry and Employee Development Group, Office of Personnel Management, 1121 Vermont Avenue, NW., P.O. Box 7559, Washington, DC 20044, 202 632-0255

RIN: 3206-AD43

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Completed Actions

3802. EMPLOYMENT IN THE EXCEPTED SERVICE

CFR Citation: 5 CFR 302

Completed:

Reason	Date	FR Cite
Final Action	03/14/90	55 FR 9407
Final Action Effective	04/13/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald L. Helms 202 632-6817

RIN: 3206-AD73

3803. NONCOMPETITIVE CONVERSION OF PERSONAL ASSISTANTS TO EMPLOYEES WITH DISABILITIES

CFR Citation: 5 CFR 315

Completed:

Reason	Date	FR Cite
Final Action	09/18/90	55 FR 37855
Final Action Effective	10/15/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Fernando Ramirez 202 606-0870

RIN: 3206-AD93

3804. PAY UNDER THE GENERAL SCHEDULE; "HIGHEST PREVIOUS RATE"

CFR Citation: 5 CFR 531

Completed:

Reason	Date	FR Cite
Final Action	04/19/90	55 FR 14827
Final Action Effective	05/21/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Gatewood 202 606-2858

RIN: 3206-AD44

OPM

Completed Actions

3805. ABSENCE AND LEAVE; COVERAGE OF D.C. GOVERNMENT EMPLOYEES

CFR Citation: 5 CFR 630

Completed:

Reason	Date	FR Cite
Final Action	02/26/90	55 FR 6595
Final Action Effective	03/26/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joe Cerio 202 606-2858

RIN: 3206-AC47

3806. RETIREMENT; BANKRUPTCY JUDGES AND MAGISTRATES

CFR Citation: 5 CFR 831; 5 CFR 841

Completed:

Reason	Date	FR Cite
Withdrawn	08/14/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: H.T. Newland, Jr. 202 606-0777

RIN: 3206-AD66

3807. RETIREMENT; DETERMINATIONS OF MARITAL STATUS

CFR Citation: 5 CFR 831, Subpart F; 5 CFR 843, Subparts A and C

Completed:

Reason	Date	FR Cite
Withdrawn	08/14/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman 202 606-0777

RIN: 3206-AE03

3808. DEBT COLLECTION

CFR Citation: 5 CFR 835

Completed:

Reason	Date	FR Cite
Withdrawn	08/14/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia A. Rochester 202 606-0777

RIN: 3206-AD68

3809. RETIREMENT; FEDERAL EMPLOYEES' RETIREMENT SYSTEM ACT OF 1986

CFR Citation: 5 CFR 842

Completed:

Reason	Date	FR Cite
Final Action	03/10/89	54 FR 10135
Final Action Effective	04/10/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert M. Rosenblatt 202 606-0608

RIN: 3206-AC94

3810. RETIREMENT; CONCURRENT ENTITLEMENT TO RETIREMENT AND COMPENSATION BENEFITS

CFR Citation: 5 CFR 841

Completed:

Reason	Date	FR Cite
Withdrawn	08/14/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert M. Rosenblatt 202 606-0777

RIN: 3206-AD89

3811. RETIREMENT; FERS COST-OF-LIVING ADJUSTMENTS

CFR Citation: 5 CFR 841, Subpart G

Completed:

Reason	Date	FR Cite
Final Action	04/17/90	55 FR 14229
Final Action Effective	05/17/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman 202 606-0777

RIN: 3206-AD62

3812. RETIREMENT; BASIC EMPLOYEE DEATH BENEFITS UNDER FERS

CFR Citation: 5 CFR 843, Subpart C

Completed:

Reason	Date	FR Cite
Withdrawn	08/14/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman 202 606-0777

RIN: 3206-AD85

3813. RETIREMENT; FERS DISABILITY BENEFITS

CFR Citation: 5 CFR 844

Completed:

Reason	Date	FR Cite
Final Action	02/26/90	55 FR 6596

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: H. T. Newland, Jr. 202 606-0777

RIN: 3206-AD61

3814. FEGLI; EQUITABLE ENTITLEMENT PAYMENTS

CFR Citation: 5 CFR 870

Completed:

Reason	Date	FR Cite
Withdrawn	08/14/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eleanor Goodwin, Chief 202 606-0750

RIN: 3206-AD95

3815. FEDERAL EMPLOYEES HEALTH BENEFITS FOR FORMER SPOUSES OF CIA AND FOREIGN SERVICE EMPLOYEES

CFR Citation: 5 CFR 890

Completed:

Reason	Date	FR Cite
Final Action	04/11/90	55 FR 13501

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Mercer 202 606-0750

RIN: 3206-AD28

OPM

Completed Actions

3916. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM/WITHDRAWAL OF CARRIER AND PLAN APPROVAL

CFR Citation: 5 CFR 890

Completed:

Reason	Date	FR Cite
Final Action	03/12/90	55 FR 9107
Final Action Effective	04/11/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Mercer 202 606-0730

RIN: 3206-AD37

3917. REPEAL OF REDUCTION OF HEALTH BENEFITS PREMIUMS FOR MEDICARE ELIGIBLE INDIVIDUALS

CFR Citation: 5 CFR 890

Completed:

Reason	Date	FR Cite
Final Action	03/23/90	55 FR 10395
Final Action Effective	01/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen Leibach 202 606-0759

RIN: 3206-AD04

3918. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; TEMPORARY CONTINUATION OF COVERAGE

Significance: Regulatory Program

CFR Citation: 5 CFR 890, Subpart K

Completed:

Reason	Date	FR Cite
Final Action	06/06/90	55 FR 22889
Final Action Effective	07/06/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Sears 202 606-0780

RIN: 3206-AD66

3919. MODIFICATION OF FEDERAL EMPLOYEES HEALTH BENEFITS ACQUISITION REGULATION (FEHBAR) PROVISIONS AND CLAUSES

Significance: Regulatory Program

CFR Citation: 48 CFR 16

Completed:

Reason	Date	FR Cite
Final Action	07/02/90	55 FR 27406

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Mercer 202 606-0730

RIN: 3206-AD78

[FR Doc. 90-21471 Filed 10-26-90; 8:45 am]

BILLING CODE 6325-01-T

Monday
October 29, 1990

Part XXXVII

Office of Special Counsel

Semiannual Regulatory Agenda

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OFFICE OF SPECIAL COUNSEL (OSC)

OFFICE OF SPECIAL COUNSEL

5 CFR Ch. VIII

Regulatory Agenda

AGENCY: Office of Special Counsel.

ACTION: Semiannual agenda of regulations.

SUMMARY: The following Office of Special Counsel (OSC) regulations are scheduled for review or development from October 1, 1990, to September 30, 1991. They are submitted herein for publication in the Unified Agenda of Federal Regulations, E.O. 12291.

Regulatory action may not be limited to the items listed.

FOR FURTHER INFORMATION CONTACT: Robert A. Lane, (202) or FTS 653-7137.

Erin McDonnell,

Acting Special Counsel.

OFFICE OF SPECIAL COUNSEL (OSC)

Final Rule Stage

5620. IMPLEMENTATION OF THE WHISTLEBLOWER PROTECTION ACT

Significance: Agency Priority

Legal Authority: PL 101-12, Sec 3; 5 USC 552(a)(3); 5 USC 552(a)(4); 5 USC 552a(b)

CFR Citation: 5 CFR 1800.1; 5 CFR 1800.2; 5 CFR 1800.3; 5 CFR 1820.1; 5 CFR 1820.2; 5 CFR 1820.3; 5 CFR 1820.4; 5 CFR 1820.5; 5 CFR 1820.6; 5 CFR 1820.7; 5 CFR 1820.8; 5 CFR 1820.9; 5 CFR 1830.1; 5 CFR 1830.2; 5 CFR 1840.1; ...

Legal Deadline: None

Abstract: The Whistleblower Protection Act of 1989 establishes the Office of Special Counsel as an independent agency. Regulations are planned to implement the new law. Also, certain other regulations, such as those on the Freedom of Information Act and the Privacy Act, are being republished.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/14/89	54 FR 47341
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Robert A. Lane, Attorney, Office of Special Counsel, Suite 1100, 1120 Vermont Avenue, NW., Washington, DC 20005, 202 653-8982

RIN: 3255–AA00

[FR Doc. 90-22606 Filed 10-26-90; 8:45 am]

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October 29, 1990

Part XXXVIII

Panama Canal Commission

Semiannual Regulatory Agenda

PANAMA CANAL COMMISSION (PANAMA)

PANAMA CANAL COMMISSION

22 CFR Ch. I

Unified Agenda of Federal Regulations

AGENCY: Panama Canal Commission.

ACTION: Publication of semiannual agenda of regulations.

SUMMARY: The purpose of this agenda is to report the proposed rulemaking activities of the Panama Canal Commission. This information will allow the public to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: For information about a particular regulatory project, contact the person listed in the subheading "Agency Contact" for that project. For general information, contact Michael Rhode, Jr., Secretary, Panama Canal Commission, 2000 L Street NW., Suite 550, Washington, DC 20036-4998, (202) 634-6441 TDD; or John L. Haines, Jr., Esquire, General Counsel, Panama Canal Commission, APO Miami 34011-5000.

SUPPLEMENTARY INFORMATION: Executive Order 12291 "Federal Regulation" and the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, require that executive agencies publish in the Federal Register a semiannual notice of regulations which are under development or review or for which action has been completed. The Panama Canal Commission agenda contains certain regulations which are limited in public impact, but they are included to increase public awareness of Commission activities and to allow for increased public participation in the agency's regulatory review and development process. This agenda was prepared pursuant to the guidelines established by the Office of Management and Budget.

Dated: August 27, 1990.

Michael Rhode, Jr.,

Secretary, Panama Canal Commission.

PANAMA CANAL COMMISSION (PANAMA) — Prerule Stage

3821. RULES FOR MEASUREMENT OF VESSELS

Significance: Agency Priority

Legal Authority: PL 96-70, Sec 1601

CFR Citation: 35 CFR 135

Legal Deadline: None

Abstract: In July 1982, 48 nations, representing more than 80 percent of world shipping, began implementing a new uniform method for tonnage determination in accordance with the International Convention on Tonnage Measurement of Ships, 1969. Final implementation is scheduled for July 1994. The present Panama Canal measurement system is based upon the old national tonnage measurement system. The Panama Canal Commission is currently studying the possibility of adapting its tonnage measurement system to one which is compatible with the 1969 Convention. This would eliminate the need for vessels to be measured twice, once under the new system and again under the old system for Panama Canal assessment purposes. While no timetable for rulemaking has been established, tentative plans are to target any possible change to the Panama Canal measurement rules to the July 1994 final implementation of the 1969 Convention.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael Rhode, Jr., Assistant to the Chairman and Secretary, Panama Canal Commission, 2000 L Street, NW., Suite 550, Washington, DC 20036-4998, 202 634-6441

RIN: 3207-AA23

3822. ORGANIZATION, FUNCTIONS, AND AVAILABILITY OF RECORDS

Significance: Agency Priority

Legal Authority: EO 12600; 5 USC 552; 22 USC 3611

CFR Citation: 35 CFR 9 (Revision)

Legal Deadline: None

Abstract: This proposed rule will implement the procedural requirements of Executive Order 12600 of June 23, 1987, governing the disclosure to the public of information that may be of a commercially confidential nature.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Carolyn H. Twohy, Chief, Administrative Services Division, Panama Canal Commission, APO Miami, FL 34011-5000, 202 634-6441

RIN: 3207-AA27

PANAMA CANAL COMMISSION (PANAMA) — Proposed Rule Stage

3823. EMPLOYEE RESPONSIBILITIES AND CONDUCT

Legal Authority: 22 USC 3622

CFR Citation: 35 CFR 255, (Revision)

Legal Deadline: None

Abstract: The Panama Canal Commission proposes to amend its regulations to implement the Ethics in Government Act, the Commission's Code of Conduct as approved by its Board of Directors, and supplementary regulations that clarify certain provisions of the Code of Conduct.

PANAMA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carolyn H. Twohy, Chief, Administrative Services Division, Panama Canal Commission, APO Miami, FL 34011-5000, 282 634-6441

RIN: 3207–AA16

PANAMA CANAL COMMISSION (PANAMA)

Final Rule Stage

3524. DANGEROUS CARGOES RADIO COMMUNICATION

Significance: Agency Priority

Legal Authority: 22 USC 3811; EO 12215

CFR Citation: 35 CFR 111.3(m) (New); 35 CFR 113.28 (Revision); 35 CFR 113.29(c) (Revision); 35 CFR 113.43(c) (Revision); 35 CFR 113.45 (Revision); 35 CFR 113.50(d) (Revision); 35 CFR 123.4(a) (Revision); 35 CFR 123.4(b) (Revision)

Legal Deadline: None

Abstract: The Panama Canal Commission is proposing to make minor technical changes and clarifications, including additional definitions of terms.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Capt. Vernon O. Eschenburg, Special Assistant to Marine Director, Panama Canal Commission, Marine Bureau, APO Miami, FL 34011-5000, 282 634-6441

RIN: 3207–AA26

PANAMA CANAL COMMISSION (PANAMA)

Completed Actions

3825. ● TECHNICAL AMENDMENTS TO TITLE 35, CODE OF FEDERAL REGULATIONS

Significance: Agency Priority

Legal Authority: 22 USC 3811; 44 USC 3501

CFR Citation: 35 CFR 101; 35 CFR 103; 35 CFR 105; 35 CFR 109; 35 CFR 111

Legal Deadline: None

Abstract: The Panama Canal Commission amends its regulations in Title 35, Code of Federal Regulations in order to reflect an organizational change of functions within the Marine Bureau of the Commission.

Timetable:

Action	Date	FR Cite
Final Action	03/30/90	55 FR 11908
Final Action Effective	03/30/90	55 FR 11908

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael Rhode, Jr., Secretary, Panama Canal Commission, 2000 L Street, NW., Suite 550, Washington, DC 20036-4996, 282 634-6441

RIN: 3207–AA28

[FR Doc. 90-21472 Filed 10-26-90; 8:45 am]
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Part XXXIX

Peace Corps

Semiannual Regulatory Agenda

PEACE CORPS (PEACE)

PEACE CORPS

22 CFR Ch. III

Executive Order 12291, Federal Regulation, Semiannual Agenda of Regulations

AGENCY: Peace Corps.

ACTION: Publication of semiannual agenda.

SUMMARY: This agenda announces the regulations the Peace Corps will have under development during the 12-month period from October 1, 1990, through september 30, 1991. The purpose for publishing this agenda is to give notice of any regulatory activity by the Agency in order to allow the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: The public is encouraged to contact the Agency official listed for the particular agenda item. For other information concerning Peace Corps' regulations or this semiannual agenda, contact Ms. Kirby Mullen, Associate General Counsel, U.S. Peace Corps 1990 K Street NW., Washington, DC 20526, (202) 606-3114.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12291, "Federal Regulation" and the Regulatory Flexibility Act (5 U.S.C. 605), executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year. The regulations being considered by U.S. Peace Corps are not "major" rules within the meaning of E.O. 12291, and no Regulatory Impact Analysis is required. The U.S. Peace Corps has has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public and that the regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Analysis is required under 5 U.S.C. 602.

Dated: August 15, 1990.

Collins Reynolds,

Associate Director for Management.

PEACE CORPS (PEACE) — Proposed Rule Stage

3626. IMPLEMENTATION OF REHABILITATION ACT OF 1973, PART 504—HANDICAPPED DISCRIMINATION PROHIBITION

Legal Authority: 29 USC 794

CFR Citation: 22 CFR 311

Legal Deadline: None

Abstract: The regulation implements section 504 of the Rehabilitation Act of 1973 (29 USC 794) which prohibits discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the Postal Service.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John Scales, General Counsel, Peace Corps, 1990 K Street, NW., Room 8302, Washington, DC 20526, 202 606-3114

RIN: 0420-AA03

PEACE CORPS (PEACE) — Final Rule Stage

3627. ● NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: PL 101-121, sec 319

CFR Citation: 22 CFR 311

Legal Deadline: Final, Statutory, December 23, 1989.

Abstract: These regulations implement Section 319 of PL 101-121, which generally prohibits recipients of Federal contracts, grants and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a Federal contract, grant, or loan.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Kirby Mullen, Associate General Counsel, Peace Corps, 1990 K Street, NW., Washington, DC 20526, 202 606-3114

RIN: 0420-AA06

PEACE CORPS (PEACE) — Completed Actions

3628. ● DRUG-FREE WORKPLACE (GRANTS)

Significance: Regulatory Program

Legal Authority: EO 12549; Sec 5151-5160 of the Drug-Free Workplace Act of 1988; PL 100-690, Title V Subtitle D; 22 USC 2503

CFR Citation: 22 CFR 310

Legal Deadline: Other, Statutory, February 17, 1989.
Deadline is for interim final rule.

PEACE

Completed Actions

Abstract: These regulations pertain to contractors and grantees who are recipients of Federal funds and their responsibilities for maintaining a drug-free workplace.

Timetable:

Action	Date	FR Cite
Final Action	05/25/90	55 FR 21679
Final Action Effective	07/24/90	55 FR 21679

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Kirby Mullen, Associate General Counsel, Peace Corps, 1990 K Street, NW., Washington, DC 20526, [illegible]

RIN: 0420-AA05

[FR Doc. 90-21473 Filed 10-26-90; 8:45 am]

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Part XL

Pennsylvania Avenue Development Corporation

Semiannual Regulatory Agenda

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION (PADC)

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

36 CFR Ch. IX

Unified Agenda of Federal Regulations

AGENCY: Pennsylvania Avenue Development Corporation (PADC).

ACTION: Unified Agenda of Federal Regulations.

SUMMARY: This document sets forth the Pennsylvania Avenue Development Corporation's regulatory agenda issued under Executive Order 12291 and the Regulatory Flexibility Act. The agenda lists regulations currently under rulemaking review that PADC expects to have as a final rule during the next 12 months.

FOR FURTHER INFORMATION CONTACT: Talbot J. Nicholas II, Attorney, Office of the General Counsel, Pennsylvania Avenue Development Corporation, Suite 1220 North, 1331 Pennsylvania Avenue NW., Washington, DC 20004, (202) 724-9068.

Dated: August 24, 1990.

M.J. Brodie,

Executive Director, Pennsylvania Avenue Development Corporation.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION (PADC) — Prerule Stage

3329. PROCEDURES AND UNIFORM STANDARDS FOR PUBLIC USE OF PARKS AND PLAZAS

Legal Authority: 40 USC 875(5)

CFR Citation: 36 CFR 912

Legal Deadline: None

Abstract: The Pennsylvania Avenue Development Corporation (PADC) has received an increasing number of requests for public use of parks and plazas within the Pennsylvania Avenue Development Area. The proposed regulations would ensure equality of opportunity for use of PADC parks and plazas while protecting public property, safety, and tranquility.

Timetable:

Action	Date	FR Cite
Next Action Undetermined.		

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Madeleine B. Schaller, Deputy General Counsel, Pennsylvania Avenue Development Corporation, Suite 1220 North, 1331 Pennsylvania Avenue, NW., Washington, DC 20004, 202 724-9068

RIN: 3206-AA01

3330. DEVELOPMENT POLICIES AND PROCEDURES

Legal Authority: 40 USC 875(5)

CFR Citation: 36 CFR 911, (New)

Legal Deadline: None

Abstract: The Corporation is studying ways to apply past experience to update its development policies and procedures.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Madeleine B. Schaller, Deputy General Counsel, Pennsylvania Avenue Development Corporation, 1331 Pennsylvania Avenue, NW., Suite 1220 North, Washington, DC 20004, 202 724-9068

RIN: 3206-AA06

[FR Doc. 90-22606 Filed 10-26-90; 8:45 am]

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federal register

Monday
October 29 1990

Part XLI

Pension Benefit Guaranty Corporation

Semiannual Regulatory Agenda

PENSION BENEFIT GUARANTY CORPORATION (PBGC)

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Ch. XXVI

Agenda of Regulations Under Development

AGENCY: Pension Benefit Guaranty Corporation (PBGC).

ACTION: Agenda of regulations.

SUMMARY: This document sets forth the Pension Benefit Guaranty Corporation's regulatory agenda issued under Executive Order 12291 and the Regulatory Flexibility Act. The agenda lists regulations that are currently under development or that PBGC expects to have under development during the next 12 months. The effect of this agenda is to advise the public of PBGC's current and future regulatory activities.

ADDRESS: Office of the General Counsel, Code 22500, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact J. Ronald Goldstein, Attorney, Office of the General Counsel, (202) 778-8850. For information about a specific regulation project listed on the agenda, contact the person designated in the agenda for that regulation.

SUPPLEMENTARY INFORMATION: Under the President's Order on Federal Regulation, Executive Order 12291, 46 FR 13193, each agency is required to publish in April and October an agenda of regulations currently or soon to be under development. The Executive order requires that the agenda also include those currently effective regulations that are being reviewed by the Agency pursuant to the Executive order. The Regulatory Flexibility Act, Pub. L. 96-354, 5 U.S.C. 601, has a similar agenda requirement. Under that law, the agenda must list any regulation that is likely to have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has issued guidelines prescribing the form and content of the regulatory agenda. Under those guidelines, the agenda must list all regulatory activities being conducted or reviewed in the next 12 months and provide certain specified information on each regulation. All of the items on this agenda are current or projected rulemakings.

James B. Lockhart III,

Executive Director, Pension Benefit Guaranty Corporation.

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Proposed Rule Stage

3831. PLAN RULES FOR REDUCTION OR WAIVER OF COMPLETE WITHDRAWAL LIABILITY

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1387(b)

CFR Citation: 29 CFR 2647 (Amendment)

Legal Deadline: None

Abstract: Under section 4207(a) of ERISA, the PBGC has issued a regulation (29 CFR Part 2647) providing for the reduction or waiver of an employer's liability for complete withdrawal upon the employer's resumption of participation under the plan from which it withdrew. The statute also requires the PBGC to prescribe procedures and standards under which multiemployer plans may adopt their own rules abating complete withdrawal liability upon an employer's return to the plan (section 4207(b)).

The purpose of letting plans adopt their own abatement rules is obvious: a specific rule adopted by a plan may well work better under the facts and circumstances of that particular plan than the broad rules adopted by the PBGC. This regulation will permit a plan to fashion the rules it needs to encourage the return of withdrawn employers, while at the same time protecting the plan from the loss of withdrawal liability payments without a compensating resumption of contributions to the plan by a formerly withdrawn employer. The PBGC is unable to (cont)

Timetable:

Action	Date	FR Cite
NPRM	05/00/91	
NPRM Comment Period End	09/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: quantify the benefits and costs of this regulation because it cannot predict how many plans will exercise the authority conferred by this regulation.

Agency Contact: J. Ronald Goldstein, Senior Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW., Washington, DC 20006, 202 778-8850

RIN: 1212-AA38

3832. PAYMENT OF BENEFITS IN PBGC-TRUSTEED PLANS

Legal Authority: 29 USC 1302(b)(3); 29 USC 1322; 29 USC 1342

CFR Citation: 29 CFR 2624

Legal Deadline: None

Abstract: When the PBGC assumes trusteeship of a terminated pension plan pursuant to sections 4041 and 4042 of ERISA, it pays benefits to participants pursuant to plan provisions and section 4022 of ERISA. This regulation will contain rules and policies relating to the payment of such benefits. The regulation will enable the PBGC to process and administer PBGC-trusteed plans more efficiently with resultant cost savings. It also will reduce costs to the public and the PBGC by providing payment rules, thereby reducing the number of requests for administrative review. Subsequent to issuance of its October 1989 regulatory agenda, the PBGC has decided to reduce the scope of this regulation. As originally conceived, the regulation was to include all rules and procedures with respect to payment of benefits in trusteed plans, so that it would be the single source for members of the public for all questions dealing with PBGC benefit payment. Thus, many of the provisions in the regulation

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were included only for the sake of completeness and not because they were matters required by law to be issued in a regulation. (cont)

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	
Interim Final Rule	04/00/91	
NPRM Comment Period End	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: The PBGC has now concluded that the provisions (most of which are procedural in nature) can be written in a manner that would be more easily understood by plan participants and beneficiaries if they were removed from the regulation and its various legal structural and stylistic requirements. Accordingly, work on this regulation has been delayed while PBGC staff identify those provisions that can be dropped from the regulation and decide on how best to convey this material to the public, e.g., pamphlets or form letters to be distributed to retirees and other participants when PBGC trustees a plan.

Therefore, the proposed regulation that will be issued will be much narrower in scope, dealing only with those matters on which public rulemaking is required or appropriate.

Agency Contact: Mrs. Renae R. Hubbard, Special Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW., Washington, DC 20006, 202 778-8850

RIN: 1212-AA35

3433. PAYMENTS BY PBGC OF UNFUNDED NONGUARANTEED BENEFITS

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1322(c) (Supp. V 1987)

CFR Citation: 29 CFR Not yet determined

Legal Deadline: None

Abstract: The Pension Protection Act repealed ERISA section 4049 and 4062(c). Those provisions established new employer liability to plan participants and beneficiaries in the event of a distress termination or involuntary termination by the PBGC of a plan without sufficient assets to pay all benefit commitments; the section 4049 trust was the vehicle for collecting and distributing these liability amounts. This system proved flawed in several respects, however, and Congress therefore created a new scheme by which to channel employer liability recoveries to plan participants and beneficiaries, amended ERISA section 4022(c).

Under section 4022(c), participants no longer have a direct claim for employer liability. Instead, the PBGC's claim covers both its shortfall (unfunded guaranteed benefits) and participants' losses (unfunded benefit liabilities in excess of guaranteed benefits). In turn, the PBGC is to pay a portion of its employer liability recovery to participants and beneficiaries. The amount to be paid is based on the PBGC "recovery ratio" (as defined in amended sec. 4022(c)(3)).(cont)

Timetable:

Action	Date	FR Cite
NPRM	08/00/91	
NPRM Comment Period End	10/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This new statutory rule contains several ambiguities and also leaves to the PBGC the development of specific rules and procedures necessary to make this system work. The regulation will, for example, contain rules on how the PBGC will value its employer liability recoveries for purposes of computing the recovery ratio, whether the allocation of amounts payable under this provision will be done as part of the regular section 4044 asset allocation, and whether the PBGC will pay these benefits by increasing the amount of annuity payments it is making to participants or making lump sum payments.

Agency Contact: Mr. Harold J. Ashner, Senior Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW., Washington, DC 20006, 202 778-8820

RIN: 1212-AA34

3434. RETIREMENT EQUITY ACT AMENDMENTS - VALUATION OF PLAN BENEFITS

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1341 (Supp. V 1987)

CFR Citation: 29 CFR 2619

Legal Deadline: None

Abstract: The Retirement Equity Act of 1984 ("REA") requires plans to provide certain benefits, prohibits the elimination of benefit options and certain early retirement benefits and retirement- type subsidies, and mandates the range of interest rates that may be used in calculating the amount of a non-consensual lump sum benefit. The Tax Reform Act of 1986 ("TRA '86") slightly modified the interest rate restrictions and extended them to the calculation of all lump sum benefits.

These rules necessitate several amendments to the PBGC's valuation of benefits regulation (29 CFR Part 2619). The major changes will address the rules on determining the form of benefit to be valued on plan termination and the interest rate rules for lump sum payments in standard terminations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	
Interim Final Rule	04/00/91	
NPRM Comment Period End	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ms. Deborah Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW., Washington, DC 20006, 202 778-8824

RIN: 1212-AA55

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Final Rule Stage

3836. REDUCTION OR WAIVER OF PARTIAL WITHDRAWAL LIABILITY

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1386(a)(3)

CFR Citation: 29 CFR 2648

Legal Deadline: None

Abstract: Section 4208 of ERISA provides for the reduction or elimination under certain circumstances of an employer's partial withdrawal liability arising from a 70 percent reduction in contribution base units. That section also authorizes the PBGC to prescribe rules for the reduction or elimination of partial withdrawal liability under other conditions. The regulation will provide for the abatement of partial withdrawal liability arising from the cessation of the obligation to contribute under a collective bargaining agreement or with respect to a facility. Section 4208 also requires the PBGC to issue a regulation under which a multiemployer plan may adopt rules for the reduction or elimination of partial withdrawal liability. This regulation will allow plans to ease the statutory partial withdrawal liability rules where, for example, the rules are harmful to the plan because they discourage an employer from increasing its participation under the plan, or where the statutory rules create administrative burdens which outweigh the protections afforded by the rules.

Timetable:

Action	Date	FR Cite
NPRM	06/05/87	52 FR 21319
NPRM Comment Period End	08/04/87	
Final Action	01/00/91	
Final Action Effective	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ms. Debra Bisco, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW., Washington, DC 20006, 202 778-8824

RIN: 1212-AA21

3838. ADJUSTMENT OF WITHDRAWAL LIABILITY FOR A WITHDRAWAL SUBSEQUENT TO A PARTIAL WITHDRAWAL

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1386(b)

CFR Citation: 29 CFR 2649

Legal Deadline: None

Abstract: Under section 4206(b) of ERISA, if an employer partially or completely withdraws from a multiemployer plan subsequent to an earlier partial withdrawal from that plan, the employer's liability for the second withdrawal must be reduced by the amount of its liability for the earlier partial withdrawal. The purpose of this credit is to avoid plans double-charging employers for the same unfunded liabilities. Section 4206(b) also requires the PBGC to prescribe regulations adjusting this credit to ensure that the employer's liability for its second withdrawal properly reflects the employer's share of liability with respect to the plan.

The need for this adjustment to the credit can be seen from the following example. In a plan that uses the rolling-5 allocation method, an employer's withdrawal liability is based on its last five years' participation in the plan. If an employer's second withdrawal occurs more than five years after its partial withdrawal, the liability for the second withdrawal is based solely on plan participation subsequent to the partial (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/06/87	52 FR 37329
NPRM Comment Period End	12/07/87	
Final Action	01/00/91	
Final Action Effective	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: withdrawal. Thus, there is no double-charging with respect to the old liabilities and no reason to give the employer a credit against its liability for the second withdrawal. However, without this regulation, the employer would get that credit under the statute. There are many other possible situations in which the employer's credit should similarly be reduced in order to ensure equitable treatment of the withdrawing employer vis-a-vis the other employers still contributing to the plan. This regulation will result in some shifting of liabilities among employers contributing to a multiemployer plan. An employer that has another withdrawal following a partial withdrawal may incur greater liability for the second withdrawal because of the reduction in the credit for the prior partial withdrawal. However, this increase in liability would reduce the unfunded vested benefits allocable to other employers that withdraw thereafter. In the aggregate, the regulation will impose no new costs.

Agency Contact: Ms. Debra Bisco, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW., Washington, DC 20006, 202 778-8824

RIN: 1212-AA37

3837. DETERMINATION OF WITHDRAWAL LIABILITY FOLLOWING A MERGER

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1391(f)

CFR Citation: 29 CFR 2642 (Amendment)

Legal Deadline: None

Abstract: The merger of two multiemployer plans creates a problem as to how the successor plan's unfunded vested benefits are to be allocated in order to determine withdrawal liability for post-merger withdrawals. Frequently, the two plans will have been using different allocation methods prior to the merger. Even if they were using the same method, if they had different plan years, that would create different allocations.

For this reason, section 4211(f) of ERISA requires the PBGC to issue regulations prescribing rules for the post-merger allocation of unfunded vested benefits. The PBGC proposes to establish rules that parallel the statutory allocation methods: i.e., there would be a presumptive allocation method that would apply to plans unless they chose otherwise, and plans would be permitted to adopt certain modifications to this presumptive method without the PBGC's approval and other more significant modifications with the PBGC's approval. (cont)

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Timetable:

Action	Date	FR Cite
NPRM	11/09/87	52 FR 43082
NPRM Comment Period End	01/08/88	
Final Action	02/00/91	
Final Action Effective	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: This regulation will remove a significant impediment to multiemployer plan mergers by eliminating employers' concern and confusion over how their withdrawal liability would be calculated after a merger. Plan mergers are generally to be encouraged since a larger plan is typically a stronger plan because of its broader contribution base, and because portability of benefits is increased. This regulation will impose no new costs.

Agency Contact: Ms. Deborah Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW., Washington, DC 20006, 202 778-8824

RIN: 1212-AA39

3838. DISTRESS TERMINATIONS OF SINGLE-EMPLOYER PLANS

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1341(c) (Supp. V 1987)

CFR Citation: 29 CFR 2616

Legal Deadline: None

Abstract: The Single-Employer Pension Plan Amendments Act of 1986 substantially revised ERISA section 4041 dealing with the voluntary termination of single-employer pension plans. Under amended section 4041, a plan may voluntarily terminate only if the termination satisfies the statutory conditions for a standard or distress termination. These rules were further modified by the 1987 Pension Protection Act, which increased the benefits that must be provided, or for which the employer maintaining the plan is liable, upon plan termination. Thus, under current law, unless a plan has sufficient assets to satisfy all plan benefit liabilities, it may voluntarily terminate only in a "distress" termination; i.e., a termination in which the plan sponsor and all members of its controlled group are able to demonstrate either such financial hardship or unduly burdensome pension costs that, as a practical matter, they are unable to continue to maintain the plan. (cont)

Timetable:

Action	Date	FR Cite
NPRM	09/02/87	52 FR 33318
NPRM Comment Period End	11/02/87	
Final Action	01/00/91	
Final Action Effective	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: The statutory rules and procedures for distress terminations are substantially different from the prior rules and procedures for terminating insufficient plans. Therefore, it is necessary to revise the PBGC's plan termination regulations to reflect these new rules and procedures. This regulation covering distress terminations and a companion rule covering standard terminations (to be codified in Part 2617) will replace the PBGC's principal termination regulations on notices of intent to terminate and termination of sufficient plans (existing Parts 2616 and 2617).

Although the notice of proposed rulemaking for this regulation was issued prior to enactment of the Pension Protection Act, the final rule will reflect the relevant statutory changes from that Act.

Agency Contact: J. Ronald Goldstein, Senior Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW., Washington, DC 20006, 202 778-8850

RIN: 1212-AA41

3839. STANDARD TERMINATIONS OF SINGLE-EMPLOYER PLANS

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1341(b) (Supp. V 1987); 29 USC 1344 (Supp. V 1987)

CFR Citation: 29 CFR 2617

Legal Deadline: None

Abstract: Under ERISA Section 4041, as amended by the Single-Employer Pension Plan Amendments Act of 1986 and the Pension Protection Act, absent a showing of financial hardship or unduly burdensome pension costs that would satisfy the requirements for a distress termination, a single-employer plan may be voluntarily terminated only if it is sufficient for all benefit liabilities (i.e., all benefits provided under the plan on the termination date, whether or not vested). This is referred to as a "standard" termination. SEPPAA also modified many of the termination rules and procedures that applied under prior law, both to increase the protections afforded plan participants and beneficiaries and to simplify and expedite the PBGC's processing of these sufficient plan terminations. It is, therefore, necessary to promulgate this new regulation implementing the new rules and procedures for standard terminations. This regulation and its companion regulation covering distress terminations (to be codified in Part 2616) will replace the PBGC's principal termination regulations on notices of intent to terminate and termination of sufficient plans (existing Parts 2616 and 2617).

Timetable:

Action	Date	FR Cite
NPRM	09/02/87	52 FR 33318
NPRM Comment Period End	11/02/87	
Final Action	01/00/91	
Final Action Effective	02/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: J. Ronald Goldstein, Senior Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW., Washington, DC 20006, 202 778-8850

RIN: 1212-AA47

3840. MISCELLANEOUS SEPPAA/PPA AMENDMENTS

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b); 29 USC 1322; 29 USC 1341 to 1344 (Supp. V 1987); 29 USC 1362 to 1364 (Supp. V 1987); 29 USC 1367 to 1368 (Supp. V 1987)

CFR Citation: 29 CFR 2606; 29 CFR 2615; 29 CFR 2622; 29 CFR 2623

Legal Deadline: None

Abstract: The Single-Employer Pension Plan Amendments Act of 1986

PBGC — Final Rule Stage

("SEPPAA") and the Pension Protection Act ("PPA") made several changes in Title IV rules and procedures that affect and, in some cases, override portions of several PBGC regulations. For this reason, these regulations - administrative review of agency decisions, benefit reductions in terminated plans, reportable events and employer liability - must be amended to conform them to the current law. For example, because SEPPAA altered the determinations that the PBGC may make with respect to voluntary plan terminations, the list in 29 CFR 2008.1(b) of determinations subject to agency review must be amended.

Similarly, SEPPAA contained, for distress terminations, specific benefit cutback rules. These rules differ somewhat from those set forth in 29 CFR Part 2623 and, therefore, conforming amendments to Part 2623 are required. SEPPAA and the PPA significantly changed the rules on employer liability to the PBGC in distress and involuntary terminations. Now, an employer is liable to the PBGC for the total plan underfunding, (cont)

Timetable:

Action	Date	FR Cite
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: i.e., for all unfunded benefit liabilities. Further, the 30 percent of net worth limitation is now relevant only in determining the amount subject to PBGC's statutory lien and the status of PBGC's claim in bankruptcy. The employer liability regulation needs to be amended to reflect these changes.

Agency Contact: Mr. Harold J. Ashner, Senior Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW., Washington, DC 20006, 202 778-8820

RIN: 1212-AA50

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Completed Actions

3041. NOTICE OF UNPAID CONTRIBUTIONS

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1082(f)

CFR Citation: 29 CFR 2615

Legal Deadline: None

Abstract: As part of its pension plan funding reforms, the Omnibus Budget Reconciliation Act of 1987 amended Section 302 of the Employee Retirement Income Security Act of 1974, as amended (ERISA) and Section 412 of the Internal Revenue Code of 1986 (IRS) to give a pension plan a lien for missed contributions. The lien, which is against the assets of the contributing sponsor (and all members of the contributing sponsor's controlled group) if the sponsor fails to make required contributions and the total of missed contributions and interest thereon exceeds $1 million (ERISA Section 302(f), IRC Section 412(n)). The lien arises on the 60th day following the due date of the missed contribution. This lien may be perfected and enforced only by the Pension Benefit Guaranty Corporation (PBGC) (or, at its direction, by the contributing sponsor). In order to enable the PBGC to carry out this function, the law requires a contributing sponsor that is subject to the lien to notify the PBGC within 10 days after the due date of an unpaid contribution. The law does not, however, specify the contents of this notice. This regulation will establish the contents of the notice.

Timetable:

Action	Date	FR Cite
Withdrawn ; will be implemented by issuing a new reporting form.	09/24/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ms. Judith Neibrief, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 2020 K St., NW., Washington, DC 20006, 202 778-8833

RIN: 1212-AA56

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federal register

Monday
October 29, 1990

Part XLII

Railroad Retirement Board

Semiannual Regulatory Agenda

RAILROAD RETIREMENT BOARD (RRB)

RAILROAD RETIREMENT BOARD

20 CFR Ch. II

Semiannual Agenda of Regulations Under Development or Review

AGENCY: Railroad Retirement Board.

ACTION: Agenda of regulations under development or review.

SUMMARY: This agenda contains lists of regulations that the Board is developing or proposes to develop in the next 12 months and regulations that are scheduled to be reviewed in that period.

ADDRESS: 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Steven A. Bartholow, Deputy General Counsel, Railroad Retirement Board, (312) 751-4935 (FTS 386-4935).

SUPPLEMENTARY INFORMATION: Regulations that are routine in nature or pertain solely to internal agency management have not been included in the agenda. Current regulations that are proposed to be modified based on a completed review of the regulations are listed in the agenda.

Dated: August 24, 1990.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3842	Eligibility for an Annuity	3220-AA15
3843	Recovery of Overpayments	3220-AA44
3844	Employers Under the Railroad Retirement Act; Employers Under the Railroad Unemployment Insurance Act	3220-AA51
3845	Computing Employee, Spouse, and Divorced Spouse Annuities	3220-AA58
3846	Survivor Annuity Computations	3220-AA59
3847	Social Security Overall Minimum	3220-AA60
3848	Reduction and Nonpayment of Annuities by Reason of Work	3220-AA61
3849	Medicare	3220-AA64
3850	Exhaustion of Rights to Benefits	3220-AA67
3851	Remuneration	3220-AA68
3852	Monthly Compensation Base	3220-AA72
3853	Initial Determinations Under the Railroad Unemployment Insurance Act and Reviews of and Appeals from Such Determinations	3220-AA73
3854	Voluntary Quit	3220-AA75
3855	Employers' Contributions and Contribution Reports	3220-AA79
3856	Determination of Daily Benefit Rates	3220-AA82
3857	Incompetence	3220-AA83
3858	Nongovernmental Plans for Unemployment and Sickness Benefits	3220-AA84
3859	Extended Unemployment and Sickness Benefits	3220-AA85

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3860	Determining Disability	3220-AA01
3861	Employees Under the Railroad Retirement Act	3220-AA52
3862	Railroad Employers' Reports and Responsibilities; Lump-Sum Payments	3220-AA69
3863	Qualified Employee; Miscellaneous	3220-AA71
3864	Initial Determinations Under the Railroad Unemployment Insurance Act and Reviews of and Appeals From Such Determinations; Recovery of Benefits	3220-AA77

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3865	Military Service	3220-AA70
3866	Employee Protection Benefits	3220-AA86

RAILROAD RETIREMENT BOARD (RRB)

Proposed Rule Stage

3842. ELIGIBILITY FOR AN ANNUITY

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 216

Legal Deadline: None

Abstract: Part 216 is being revised to incorporate changes required as a result of amendments to the Railroad Retirement Act of 1974 made by the Omnibus Budget Reconciliation Act of 1981 and the Railroad Retirement Solvency Act of 1983.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA15

3843. RECOVERY OF OVERPAYMENTS

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 255

Legal Deadline: None

Abstract: Part 255 is being revised to clarify when and how erroneous payments must be recovered under the Railroad Retirement Act.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA44

3844. EMPLOYERS UNDER THE RAILROAD RETIREMENT ACT; EMPLOYERS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT

Legal Authority: 45 USC 231f; 45 USC 362(l)

CFR Citation: 20 CFR 202; 20 CFR 301

Legal Deadline: None

Abstract: The Board's regulations with respect to employer status have not been updated in recent years and may, in some respects, be obsolete. Parts 202 and 301 are being amended to conform them to current law, delete obsolete provisions, and to simplify and clarify the language of these parts.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 40 Railroad Transportation

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA51

3845. COMPUTING EMPLOYEE, SPOUSE, AND DIVORCED SPOUSE ANNUITIES

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 226

Legal Deadline: None

Abstract: The Railroad Retirement Board's regulations on the computation of employee, spouse, and divorced spouse annuities must be updated to conform to the Railroad Retirement Act of 1974 and to amendments to the Act made by the Omnibus Budget Reconciliation Act of 1981 and the Railroad Solvency Act of 1983.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA58

3846. SURVIVOR ANNUITY COMPUTATIONS

Legal Authority: 45 USC 231f(f)(5)

CFR Citation: 20 CFR 228

Legal Deadline: None

Abstract: The Railroad Retirement Board (Board) proposes to add 20 CFR Part 228 to describe how survivor annuities are computed in accordance with the Railroad Retirement Act of 1974, and amendments to that Act made in 1981 and 1983.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA59

3847. SOCIAL SECURITY OVERALL MINIMUM

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 229

Legal Deadline: None

Abstract: The Railroad Retirement Board (Board) proposes to add 20 CFR Part 229 to describe when the Social Security overall minimum annuity computation applies and how it is computed for retirement annuities under the Railroad Retirement Act of 1974.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA60

3848. REDUCTION AND NONPAYMENT OF ANNUITIES BY REASON OF WORK

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 230

Legal Deadline: None

Abstract: The Railroad Retirement Board (Board) proposes to amend 20 CFR Part 230 to explain how annuity deductions on account of work are assessed in accordance with current law.

RRB

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA61

3849. MEDICARE

Legal Authority: 45 USC 231f(d)

CFR Citation: 20 CFR 338

Legal Deadline: None

Abstract: The Board proposes to add this part to explain its role in the administration of Medicare benefits to qualified railroad retirement beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA64

3850. EXHAUSTION OF RIGHTS TO BENEFITS

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 336

Legal Deadline: None

Abstract: This proposed amendment will remove obsolete provisions and clarify the meaning of the term extended benefit period as provided for in section 2(c) of the Railroad Unemployment Insurance Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA67

3851. REMUNERATION

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 322

Legal Deadline: None

Abstract: The Railroad Retirement Board proposes to amend Part 322 of its regulations under the Railroad Unemployment Insurance Act to remove obsolete language and to clarify the meaning of remuneration in light of recent legal opinions.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, General Attorney, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA68

3852. MONTHLY COMPENSATION BASE

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 328

Legal Deadline: None

Abstract: This new Part explains how the monthly compensation base is computed under the Railroad Unemployment Insurance Act and its effect on benefits under that statute.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, General Attorney, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA72

3853. INITIAL DETERMINATIONS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT AND REVIEWS OF AND APPEALS FROM SUCH DETERMINATIONS

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 320

Legal Deadline: None

Abstract: Part 320 is being revised to provide for employer intervention rights provided for by the Railroad Unemployment Insurance and Retirement Improvement Act of 1988, PL 100-647.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA73

3854. VOLUNTARY QUIT

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 318

Legal Deadline: None

Abstract: A new Part 318 is being added to explain when unemployment insurance benefits are not payable because the employee voluntarily left employment.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA75

3856. EMPLOYERS' CONTRIBUTIONS AND CONTRIBUTION REPORTS

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 345

Legal Deadline: None

RRB — Proposed Rule Stage

Abstract: Part 345 is being revised to reflect experience rating as provided for in the Railroad Unemployment Insurance and Retirement Improvement Act of 1988, P.L. 100-647.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA79

3856. DETERMINATION OF DAILY BENEFIT RATES

Legal Authority: 45 USC 362(i); 45 USC 362(l)

CFR Citation: 20 CFR 330

Legal Deadline: None

Abstract: The Railroad Retirement Board proposes to amend Part 330 of its regulations under the Railroad Unemployment Insurance Act. Part 330 sets forth the Board's procedures for computing (1) an employee's daily benefit rate for a given benefit year, and (2) the maximum daily benefit rate authorized by the Railroad Unemployment Insurance and Retirement Improvement Act of 1988, PL 100-647.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Walter P. Wilkovich, Regulations and Legal Specialist, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4759

RIN: 3220-AA82

3857. INCOMPETENCE

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 266

Legal Deadline: None

Abstract: Part 266 is being revised to more clearly delineate the accounting requirements imposed upon representative payees.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA83

3858. NONGOVERNMENTAL PLANS FOR UNEMPLOYMENT AND SICKNESS BENEFITS

Legal Authority: 45 USC 351(j); 45 USC 362(l)

CFR Citation: 20 CFR 323

Legal Deadline: None

Abstract: Adds a new part which explains when an employer-financed plan or policy to provide for supplemental unemployment or sickness benefits qualifies as a nongovernmental plan under the Railroad Unemployment Insurance Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA84

3859. ● EXTENDED UNEMPLOYMENT AND SICKNESS BENEFITS

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 337

Legal Deadline: None

Abstract: New Part 337 explains how an employee may qualify for extended benefits under the Railroad Unemployment Insurance Act after exhausting normal benefits as provided for in 20 CFR Part 338.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Arthur A. Arls, General Attorney, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, 312 751-4345

RIN: 3220-AA85

RAILROAD RETIREMENT BOARD (RRB) — Final Rule Stage

3860. DETERMINING DISABILITY

Significance: Regulatory Program

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 220; 20 CFR 306; 20 CFR 230; 20 CFR 260

Legal Deadline: None

Abstract: The Board's regulations with respect to disability determinations had not been updated for several years and they are, in certain respects, obsolete. As revised, this regulation should ease the administration of disability benefits and result in greater consistency in making disability determinations.

Timetable:

Action	Date	FR Cite
NPRM	08/04/89	54 FR 32164
NPRM Comment Period End	10/03/89	54 FR 32164
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: None

Agency Contact: Grace Koestler, Regulations Project Director, Bureau of Hearings and Appeals, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4783

RIN: 3220-AA01

RRB — Final Rule Stage

3661. EMPLOYEES UNDER THE RAILROAD RETIREMENT ACT

Legal Authority: 45 USC 231f; 45 USC 362(l)

CFR Citation: 20 CFR 203

Legal Deadline: None

Abstract: The Board's regulations with respect to employee status have not been updated in recent years and may, in some respects, be obsolete. Part 203 is being amended to conform it to current law, delete obsolete provisions, and to simplify and clarify the language of this part.

Timetable:

Action	Date	FR Cite
NPRM	01/05/89	54 FR 318
NPRM Comment Period End	02/06/89	54 FR 318
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Federal

Sectors Affected: 40 Railroad Transportation

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA52

3662. RAILROAD EMPLOYERS' REPORTS AND RESPONSIBILITIES; LUMP-SUM PAYMENTS

Legal Authority: 45 USC 231(f)

CFR Citation: 20 CFR 200; 20 CFR 209; 20 CFR 234

Legal Deadline: None

Abstract: Provides for payment of a new lump-sum benefit as authorized by the Railroad Unemployment Insurance and Retirement Improvement Act of 1988, PL 100-647.

Timetable:

Action	Date	FR Cite
NPRM	05/11/90	55 FR 19743
NPRM Comment Period End	06/11/90	55 FR 19743
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA69

3663. QUALIFIED EMPLOYEE; MISCELLANEOUS

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 302; 20 CFR 348

Legal Deadline: None

Abstract: New Part 302 explains how an individual qualifies for benefits under the Railroad Unemployment Insurance Act. The two sections of Part 348 are incorporated into Part 302; therefore, Part 348 is removed and reserved.

Timetable:

Action	Date	FR Cite
NPRM	07/26/90	55 FR 30470
NPRM Comment Period End	08/27/90	55 FR 30470
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA71

3664. INITIAL DETERMINATIONS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT AND REVIEWS OF AND APPEALS FROM SUCH DETERMINATIONS; RECOVERY OF BENEFITS

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 320; 20 CFR 340

Legal Deadline: None

Abstract: Parts 320 and 340 are being revised to further define when waiver of an overpayment will be required under the Railroad Unemployment Insurance Act.

Timetable:

Action	Date	FR Cite
NPRM	06/20/89	54 FR 25877
NPRM Comment Period End	07/20/89	54 FR 25877
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA77

RAILROAD RETIREMENT BOARD (RRB) — Completed Actions

3665. MILITARY SERVICE

CFR Citation: 20 CFR 212

Completed:

Reason	Date	FR Cite
Final Action	05/17/90	55 FR 20454
Final Action Effective	05/17/90	55 FR 20454

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas W. Sadler 312 751-4513

RIN: 3220-AA70

3666. @ EMPLOYEE PROTECTION BENEFITS

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 395; 20 CFR 396; 20 CFR 397; 20 CFR 398

Legal Deadline: None

Abstract: Title 20 CFR Subchapter I, consisting of Parts 395, 396, 397, and 398, is removed and reserved as the parts contained therein have been determined to be obsolete.

Timetable:

Action	Date	FR Cite
Final Action	09/25/90	55 FR 39147
Final Action Effective	09/25/90	

Small Entities Affected: None

RRB

Completed Actions

Government Levels Affected: None

Agency Contact: Marguerite P. Dadabo, General Attorney, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, 312 751-4945

RIN: 3220-AA56

[FR Doc. 90-21474 Filed 10-26-90; 8:45 am]

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Monday
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Part XLIII

Selective Service System

Semiannual Regulatory Agenda

SELECTIVE SERVICE SYSTEM (SSS)

SELECTIVE SERVICE SYSTEM

32 CFR Ch. XVI

Regulatory Agenda

AGENCY: Selective Service System.

ACTION: Regulatory agenda.

SUMMARY: The purpose of this agenda is to report the proposed rulemaking activities of the Selective Service System that might affect the processing of registrants under the Military Selective Service Act (50 U.S.C. App. 451 *et seq.*). This information will allow the public to participate in the System's decision-making at an early stage.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel, Selective Service System, Washington, DC 20435; telephone (202) 724-1167.

SUPPLEMENTARY INFORMATION: The agenda is published in accord with the requirements of E.O. 12291. Selective Service regulations appear in 32 CFR Chapter XVI.

Dated: July 17, 1990.

Samuel K. Lessey, Jr.,

Director of Selective Service.

SELECTIVE SERVICE SYSTEM (SSS)

Prerule Stage

3967. SELECTIVE SERVICE REGULATIONS

Legal Authority: 50 USC app 451 et seq Military Selective Service Act

CFR Citation: 32 CFR Chapter XVI

Legal Deadline: None

Abstract: Various sections of 32 CFR Chapter XVI will be revised to increase clarity of expression or change procedures for registrant processing.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Henry N. Williams, General Counsel, Selective Service System, 1023 31st Street, NW., Washington, DC 20435, 202 724-1167

RIN: 3240-AA01

[FR Doc. 90-21475 Filed 10-26-90; 8:45 am]

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Monday
October 29, 1990

Part XLIV

Small Business Administration

Semiannual Regulatory Agenda

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SMALL BUSINESS ADMINISTRATION (SBA)

SMALL BUSINESS ADMINISTRATION

13 CFR Ch. I

Improving Government Regulations; Semiannual Agenda

AGENCY: Small Business Administration.

ACTION: Publication of the semiannual agenda of regulations under review or development by the Small Business Administration.

SUMMARY: This is SBA's 23rd semiannual agenda of regulations. Although not a regulatory agency, SBA has attempted to draft agendas that meet both the criteria and the spirit of the regulatory review process. This agenda is published pursuant to Executive Order 12291, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and Public Law 96-354, effective January 1, 1981.

FOR FURTHER INFORMATION CONTACT: For further information on agenda items, the public is encouraged to contact the individual agency official listed for the particular item.

For information concerning SBA's overall Regulatory Review and Development Program or general semiannual agenda questions, contact Patricia R. Forbes, Chief Counsel for Legislation, Small Business Administration, 1441 L Street NW., Washington, DC 20416, (202) 653-6573.

SUPPLEMENTARY INFORMATION: The SBA agenda contains many regulations which are limited in public impact, but they are included to increase public knowledge of all SBA regulatory activities and allow for increased public participation in the review and development process.

Public comments on SBA's previous agendas have been general, and all were positive. None were directed at specific contents, nor were any changes suggested or recommended.

The agenda format has four parts. Part I, Pre-Rulemakings, includes investigations and reviews to be conducted prior to deciding whether or not to propose a rule or rule change. Part II, Proposed Rules, includes rulemaking which will be proposed during the 12-month period covered by the agenda. Part III, Final Rules, includes proposed rules which will be finalized during the period covered by the agenda. Part IV, Completed Actions, includes regulations completed or withdrawn and reviews completed since the preceding agenda.

Publication of this agenda does not impose any binding obligation on SBA with regard to any specific item in the agenda. Additional regulatory action not listed on the agenda is not precluded.

Dated: August 30, 1990.

Susan Engeleiter,

Administrator.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3868	Policies of General Application	3245-AC00

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3869	Small Business Investment Companies	3245-AB29
3870	Loans to State and Local Development Companies	3245-AB35
3871	Nondiscrimination in Federally Assisted Programs	3245-AB36
3872	Nondiscrimination in Financial Assistance Programs	3245-AB37
3873	User Fees for SBA Programs	3245-AB44
3874	Procurement: Subcontracting Limitations	3245-AB62
3875	Accrual of Interest Payable by SBA in Secondary Market	3245-AB69
3876	Small Business Size Regulations	3245-AB87
3877	Small Business Size Standards; SIC Major Groups 20, 32, 39, 49, 52, 53, 70, 72, and 75	3245-AC02
3878	Loans to State and Local Development Companies	3245-AC03
3879	Small Business Size Standards; Wholesale Trade Industries	3245-AC10
3880	Small Business Size Standards; Computer Services Industries	3245-AC11
3881	Small Business Size Standards; Footnotes to Size Standards	3245-AC12
3882	Small Business Size Standards; Petroleum Refining	3245-AC14
3883	Small Business Size Standards; Motor Vehicle Parts and Accessories Industry	3245-AC15
3884	Small Business Size Standards; Chicken Egg Industry	3245-AC16
3885	Disclosure of Information and Privacy Act of 1974 Amendments	3245-AC18
3886	Disadvantaged Business Status Protest and Appeals Procedures Amendments	3245-AC19
3887	Amendments to Administration Regulations	3245-AC20
3888	Small Business Investment Companies, Portfolio Valuation	3245-AC25

SBA

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3889	Certificate of Competency	3245-AA74
3890	Small Business Investment Companies	3245-AB12
3891	Small Business Development Centers	3245-AB17
3892	Uniform Administrative Requirements for Grants and Cooperative Agreements; Proposed Revision of Circular A-110	3245-AB67
3893	Small Business Size Regulation	3245-AB86
3894	Homestead Protection for Farmers	3245-AB91
3895	Small Business Size Standards for Natural Gas Distribution	3245-AB94
3896	Business and Disaster Loans	3245-AB99
3897	Breakout Procurement Center Representative Program	3245-AC01
3898	Governmentwide Restrictions on Lobbying	3245-AC07
3899	Regulations for the Implementation of New 301(d) SBIC Funding Authority and Terms Contained in Public Law 101-162	3245-AC09
3900	Small Business Size Standards; Surety Bond Guarantee Program Size Standards	3245-AC13
3901	Nonmanufacturer Rule, Waiver Procedures; Small Business Size Standards	3245-AC17
3902	Business Loans, Alter Ego	3245-AC21
3903	Business Loans, Referral Fees to Third Parties	3245-AC22
3904	Small Business Investment Companies; Auditing Procedures	3245-AC24
3905	Small Business Investment Companies	3245-AC26

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3906	Regulations Applying Small Business Size Standards	3245-AA84
3907	Small Business Investment Company Regulations: Compliance Audits	3245-AB07
3908	Surety Bond Guarantee	3245-AB77
3909	Business Loan Policy; Preferred Lenders Program (PLP) Loans	3245-AB84
3910	State and Local Development Companies	3245-AB90
3911	Disaster Loans	3245-AB97
3912	Certified Development Company Debenture Guarantees	3245-AC04
3913	Business Loan Policy	3245-AC05
3914	Minority Small Business and Capital Ownership Development Program	3245-AC06
3915	Drug-Free Workplace Requirements	3245-AC08

SMALL BUSINESS ADMINISTRATION (SBA)

Prerule Stage

3868. POLICIES OF GENERAL APPLICATION

Significance: Agency Priority

Legal Authority: PL 100-707, Sec 204

CFR Citation: 13 CFR 116

Legal Deadline: None

Abstract: This rule implements the Great Lakes Coastal Barrier Act of 1988, Section 204 of Pub. L. 100-707, approved November 23, 1988 (102 Stat. 4718), by adding to the coastal barrier areas in which SBA financial assistance is prohibited, the coastal barrier areas of the Great Lakes under United States jurisdiction.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Charles R. Hertzberg, Assistant Administrator for Financial Assistance, Small Business Administration, 1441 L Street, NW., Washington, DC 20416, 202 653-6574

RIN: 3245-AC00

SMALL BUSINESS ADMINISTRATION (SBA) — Proposed Rule Stage

3869. SMALL BUSINESS INVESTMENT COMPANIES

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: Major revision to Part 107 of title 13 governing Small Business Investment Companies. The regulation will cover changes to ownership or control of a licensee, definition of private capital, deposits and investments of idle funds, other permissible financing, leverage for Section 301(d) SBICs, definition of small business concern, control of small concern, operational requirements, cost of money, funds to licensee, conflicts of interest provisions, redemptions, commitments, the purchase, sale or guarantee of securities evidencing leverage, and the filing of SBA Form 468.

Timetable:

Action	Date	FR Cite
NPRM	09/27/90	55 FR 39422
NPRM Comment Period End	11/27/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph L. Newell, Director, Office of Investment, Small Business Administration, 1441 L Street, NW., Room 608, Washington, DC 20416, 202 653-6584

RIN: 3245–AB29

3870. LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 108

Legal Deadline: None

Abstract: Complete revision of the Section 502 local development company rules.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: LeAnn Oliver, Deputy Director for Program Development, Office of Economic Development, Small Business Administration, 1441 L Street, NW., Room 720, Washington, DC 20416, 202 653-6416

RIN: 3245–AB35

3871. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Legal Authority: 15 USC 634(b)(6); 42 USC 2000d-1

CFR Citation: 13 CFR 112

Legal Deadline: None

Abstract: Technical amendment to SBA's current regulation to clarify that if recipients of assistance under any of SBA's programs are found to have discriminated, SBA is authorized to take certain actions such as withholding further assistance.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: George Robinson, Director, Equal Employment Opportunity & Compliance, Small Business Administration, 1441 L Street, NW., Room 501, Washington, DC 20416, 202 653-6559

RIN: 3245–AB36

3872. NONDISCRIMINATION IN FINANCIAL ASSISTANCE PROGRAMS

Legal Authority: 15 USC 634(b)(6); PL 85-536; 15 USC 633; 15 USC 634; 15 USC 687; 15 USC 1691; 20 USC 1681, et seq; 29 USC 794

CFR Citation: 13 CFR 113

Legal Deadline: None

Abstract: Technical amendment to SBA's current regulation to clarify that if a beneficiary of one of SBA's financial assistance programs is found to have discriminated, SBA is authorized to take certain actions such as withholding further assistance or accelerating a loan.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: George Robinson, Director, Equal Employment Opportunity & Compliance, Small Business Administration, 1441 L Street, NW., Room 501, Washington, DC 20416, 202 653-6559

RIN: 3245–AB37

3873. USER FEES FOR SBA PROGRAMS

Legal Authority: 15 USC 687(c); 15 USC 687d; 15 USC 687g; 15 USC 694a; 15 USC 694b; 5 USC app 1; 15 USC 632(a); 15 USC 634(b)(6); 15 USC 637(a); 15 USC 631; 15 USC 637(b); 15 USC 636(i); 15 USC 636(j); PL 93-113

CFR Citation: 13 CFR 101; 13 CFR 107; 13 CFR 115; 13 CFR 121; 13 CFR 124; 13 CFR 125; 13 CFR 129

Legal Deadline: None

Abstract: Establishment or modification of user fees for the following: use of SBA's Office of Advocacy database, guaranty of debentures issued by Small Business Investment Companies, guaranty of surety bonds, appeals of size determinations and standard industrial classification code designations, application to the Minority Small Business (Section 8(a)) Program, training sponsored by the Service Corps of Retired Executives (SCORE), SBA's Office of Women's Business Ownership, and SBA's Office of Veterans Affairs, counseling by Small Business Institutes and application for a Certificate of Competency.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SBA will not publish a final rule on user fees prior to October 1990. The promulgation of regulations pertaining to user fees will be assessed in fiscal year 1991.

Agency Contact: Ramona Powell, Attorney Adviser, Small Business Administration, 1441 L Street, NW., Room 722, Washington, DC 20416, 202 653-6427

RIN: 3245–AB44

SBA

Proposed Rule Stage

3674. PROCUREMENT: SUBCONTRACTING LIMITATIONS

Legal Authority: PL 99-591; PL 99-661; 15 USC 634(b)(6)

CFR Citation: 13 CFR 125

Legal Deadline: None

Abstract: Guidelines for application of subcontracting limitations imposed by Public Laws 99-591 and 99-661.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Robert J. Moffitt, Associate Administrator for Procurement Assistance, Small Business Administration, 1441 L Street, NW., Room 600, Washington, DC 20416, 202 653-6635

RIN: 3245-AB82

3675. ACCRUAL OF INTEREST PAYABLE BY SBA IN SECONDARY MARKET

Legal Authority: 15 USC 634(f); 15 USC 634(g); 15 USC 634(h); 15 USC 634(b)(6); 15 USC 636(a)

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: The proposed regulation would spell out the process of calculating accrued interest payable by SBA to an investor. The payment by SBA is triggered by a borrower defaulting on an SBA guaranteed loan.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Agency Contact: Allan S. Mandel, Assistant Deputy Associate Administrator for Financial Assistance, Small Business Administration, 1441 L Street, NW., Room 804, Washington, DC 20416, 202 653-6665

RIN: 3245-AB89

3676. SMALL BUSINESS SIZE REGULATIONS

Significance: Agency Priority

Legal Authority: 15 USC 634(b)(6); PL 100-590

CFR Citation: 13 CFR 121

Legal Deadline: NPRM, Statutory, March 15, 1989. Final, Statutory, May 3, 1989.

Abstract: The rule would clarify the eligibility of nonprofit organizations operated for the benefit of the blind and severely handicapped for Federal procurements restricted to small businesses.

Timetable:

Action	Date	FR Cite
NPRM	03/15/89	
Interim Final Rule	01/31/90	55 FR 3201
NPRM	10/05/90	55 FR 40847
NPRM Comment Period End	11/05/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Robert J. Moffitt, Associate Administrator for Procurement Assistance, Small Business Administration, 1441 L Street, NW., Room 600, Washington, DC 20416, 202 653-6635

RIN: 3245-AB87

3677. SMALL BUSINESS SIZE STANDARDS; SIC MAJOR GROUPS 20, 32, 33, 49, 52, 63, 70, 72, AND 75

Significance: Agency Priority

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: A review of size standards for industries within the major groups listed above may lead to a revision of size standards in one or more industries in order to achieve a more equitable relationship among industry size standards within each major group.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
NPRM Comment Period End	11/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Gary M. Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW., Washington, DC 20416, 202 653-6373

RIN: 3245-AC02

3678. LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

Significance: Agency Priority

Legal Authority: 15 USC 687(c); 15 USC 696; 15 USC 696; 15 USC 697; 15 USC 697a; 15 USC 697b; 15 USC 697c; PL 100-590

CFR Citation: 13 CFR 108

Legal Deadline: None

Abstract: Clarification of conflict of interest rule and to require 503 companies to attend SBA sponsored meetings in order to continue in good standing.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: LaAnn M. Oliver, Deputy Director for Program Development, Office of Economic Development, Small Business Administration, 1441 L Street, NW., Room 720-A, Washington, DC 20416, 202 653-6416

RIN: 3245-AC03

3679. SMALL BUSINESS SIZE STANDARDS; WHOLESALE TRADE INDUSTRIES

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); PL 100-656

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Proposal to modify size standards table to wholesale trade industries to include size standard for nonmanufacturers.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

SBA

Proposed Rule Stage

Agency Contact: Gary M. Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW., Room 932, Washington, DC 20416, 202 653-6373

RIN: 3245-AC10

3880. ● SMALL BUSINESS SIZE STANDARDS; COMPUTER SERVICES INDUSTRIES

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); PL 100-656

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Proposal to revise the size standard for computer integrated systems design, computer programming services, and other computer-related services. Depending on the specific industry, size standards of $7 million to $12.5 million in average annual receipts are presently established.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Gary M. Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW., Room 932, Washington, DC 20416, 202 653-6373

RIN: 3245-AC11

3881. ● SMALL BUSINESS SIZE STANDARDS; FOOTNOTES TO SIZE STANDARDS

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); PL 100-656

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Proposal to simplify and clarify existing footnotes to size standards.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Gary M. Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW., Room 932, Washington, DC 20416, 202 653-6373

RIN: 3245-AC12

3882. ● SMALL BUSINESS SIZE STANDARDS; PETROLEUM REFINING

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); PL 100-656

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Proposal to revise the Petroleum Refining industry size standard. A small refining firm is presently defined as a small business if it has 1,500 employees or less, and a 50,000 barrel per day capacity or less.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Gary M. Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW., Room 932, Washington, DC 20416, 202 653-6373

RIN: 3245-AC14

3883. ● SMALL BUSINESS SIZE STANDARDS; MOTOR VEHICLE PARTS AND ACCESSORIES INDUSTRY

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); PL 100-656

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Proposal to revise the size standard for the Motor Vehicle Parts and Accessories Industry. The standard is presently 500 employees.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Gary M. Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW., Room 932, Washington, DC 20416, 202 653-6373

RIN: 3245-AC15

3884. ● SMALL BUSINESS SIZE STANDARDS; CHICKEN EGG INDUSTRY

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); PL 100-656

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Proposal to revise the size standard for the Chicken Egg Industry. The standard is presently $1 million in average annual receipts.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Gary M. Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW., Room 932, Washington, DC 20416, 202 653-6373

RIN: 3245-AC16

3885. ● DISCLOSURE OF INFORMATION AND PRIVACY ACT OF 1974 AMENDMENTS

Legal Authority: 5 USC 552; 44 USC 35; 5 USC 552a; 31 USC 1 et seq; 31 USC 67 et seq

CFR Citation: 13 CFR 102

Legal Deadline: None

Abstract: This regulation would make revisions to 13 CFR Part 102 dealing with Freedom of Information Act rules. Specifically, this regulation would revise prenotification procedures to providers of commercial information under exemption four of the Freedom of Information Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: John R. Barnett, Assistant Administrator for Hearings and Appeals, Small Business Administration, 2100 K Street, NW.,

Room 300, Washington, DC 20416, 202 653-7715

RIN: 3245-AC18

3886. ● DISADVANTAGED BUSINESS STATUS PROTEST AND APPEALS PROCEDURES AMENDMENTS

Legal Authority: 15 USC 634(b)(6); 15 USC 636(j); 15 USC 637(d); PL 99-661, Sec 1207; PL 100-656; PL 101-37

CFR Citation: 13 CFR 124, Subpart B

Legal Deadline: None

Abstract: This rule is an amendment to the program regulations governing the processing of protests and appeals of self-certifications of disadvantaged status made in connection with the 8(d) program, the Small Disadvantaged Business (SDB) program of the Department of Defense and other programs that require SBA to determine disadvantaged status as a condition of eligibility.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Erline M. Patrick, Associate Administrator for Minority Small Business and Capital Ownership Development, Small Business Administration, 1441 L Street, NW., Room 602, Washington, DC 20416, 202 653-6407

RIN: 3245-AC19

3887. ● AMENDMENTS TO ADMINISTRATION REGULATIONS

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 101

Legal Deadline: None

Abstract: General revision of 13 CFR, Part 101, Administration

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Richard L. Osbourn, Director of Personnel, Small Business Administration, 1441 L Street, NW., Room 300, Washington, DC 20416, 202 653-6759

RIN: 3245-AC20

3888. ● SMALL BUSINESS INVESTMENT COMPANIES, PORTFOLIO VALUATION

Legal Authority: 15 USC 661 et seq; PL 100-590; PL 101-162

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: This rule amends two sections of Appendix I to Part 107 in order to clarify SBA requirements regarding valuation of SBIC portfolio securities. Specifically, the rule clarifies the role of the independent public accountant in the valuation process.

Timetable:

Action	Date	FR Cite
NPRM	09/27/90	55 FR 39421
NPRM Comment Period End	10/29/90	
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas C. Brennan, Staff Accountant, Small Business Administration, 1441 L Street, NW., Room 806, Washington, DC 20416, 202 653-6388

RIN: 3245-AC25

SMALL BUSINESS ADMINISTRATION (SBA)

Final Rule Stage

3889. CERTIFICATE OF COMPETENCY

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 125.5

Legal Deadline: None

Abstract: Overall revision to Certificate of Competency regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/13/88	53 FR 22015
NPRM Comment Period End	08/12/88	
Final Action	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert J. Moffitt, Associate Administrator for Procurement Assistance, Small Business Administration, 1441 L Street, NW., Room 600, Washington, DC 20416, 202 653-6522

RIN: 3245-AA74

3890. SMALL BUSINESS INVESTMENT COMPANIES

Significance: Agency Priority

Legal Authority: 15 USC 320

CFR Citation: 13 CFR 107

Legal Deadline: Other, Statutory, June 7, 1988.

Abstract: Establishment of mechanism for selling to the public certificates of interest backed by pools of SBIC guaranteed debentures and of a system of registration of such sales.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/12/86	51 FR 21484
Final Action	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Bernard Kulik, Associate Administrator, Small Business Administration, 1441 L Street, NW., Room 806, Washington, DC 20416, 202 653-6948

RIN: 3245-AB12

3891. SMALL BUSINESS DEVELOPMENT CENTERS

Significance: Agency Priority

Legal Authority: PL 96-302; PL 98-395

CFR Citation: 13 CFR 129

Legal Deadline: None

SBA

Final Rule Stage

Abstract: Comprehensive regulations governing the Small Business Development Center Program.

Timetable:

Action	Date	FR Cite
NPRM	10/23/86	51 FR 37580
Comment period extended to 1/21/87	11/24/86	51 FR 42255
NPRM Comment Period End	01/27/87	

Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: The Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act of 1990 (PL 101-162) prohibits the Small Business Administration from using appropriated funds to adopt or implement any rules or regulations for the Small Business Development Center program. Therefore, no action will be taken on this rule at this time. Future actions will depend upon FY 91 Appropriations legislation.

Agency Contact: Janice Wolfe, Associate Administrator for Small Business Development Centers, Small Business Administration, 1441 L Street, NW., Room 317, Washington, DC 20416, 202 653-6768

RIN: 3245-AB17

3992. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS; PROPOSED REVISION OF CIRCULAR A-110

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 143

Legal Deadline: None

Abstract: This regulation establishes a uniform administrative rule for the SBA's grants and cooperative agreements.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44719
NPRM Comment Period End	01/03/89	
Final Action	12/00/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Patricia R. Forbes, Chief Counsel for Legislation, Small Business Administration, 1441 L Street, NW., Room 722, Washington, DC 20416, 202 653-6573

RIN: 3245-AB67

3993. SMALL BUSINESS SIZE REGULATION

Legal Authority: 15 USC 634(b)(6); PL 100-656

CFR Citation: 13 CFR 121

Legal Deadline: Final, Statutory, August 15, 1989.

Abstract: Rule to establish procedures for requesting/granting waivers to the nonmanufacturers rule when there are no small business manufacturers in the Federal market.

Timetable:

Action	Date	FR Cite
NPRM	05/17/90	55 FR 20457
NPRM Comment Period End	06/18/90	
Final Action	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Robert J. Moffitt, Associate Administrator for Procurement Assistance, Small Business Administration, 1441 L Street, NW., Room 600, Washington, DC 20416, 202 653-6635

RIN: 3245-AB68

3994. HOMESTEAD PROTECTION FOR FARMERS

Legal Authority: 7 USC 2000; 15 USC 634(b)(6)

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: Amendments to 13 CFR 120 necessitated by amendments to 7 USC 2000 which provide exemptions from foreclosure to farmers on qualified homestead property.

Timetable:

Action	Date	FR Cite
NPRM	02/21/90	55 FR 5998
NPRM Comment Period End	04/23/90	
Final Action	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Granville Craddock, Acting Director, Office of Portfolio Management, Small Business Administration, 1441 L Street, NW., Room 816, Washington, DC 20416, 202 653-6560

RIN: 3245-AB91

3995. SMALL BUSINESS SIZE STANDARDS FOR NATURAL GAS DISTRIBUTION

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); PL 96-500; PL 99-661

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: SBA is imposing a size standard of 500 employees for a new 8(a) program for the recently deregulated natural gas distribution industry firms which now compete for Federal natural gas contracts.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/25/88	53 FR 47663
Final Action	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Gary M. Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW., Room 601, Washington, DC 20416, 202 653-6373

RIN: 3245-AB94

3996. BUSINESS AND DISASTER LOANS

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); 15 USC 636(b); 15 USC 636(c); 15 USC 636(f); 15 USC 636(h); PL 100-590; 31 USC 3717(e)

CFR Citation: 13 CFR 120; 13 CFR 123

Legal Deadline: None

Abstract: This rule would allow SBA to recover its collection costs from borrowers who have failed to satisfy their loan agreements and to assess additional penalties permitted by law.

Timetable:

Action	Date	FR Cite
NPRM	08/28/89	54 FR 35489
NPRM Comment Period End	09/27/89	
Final Action	10/00/90	

SBA

Final Rule Stage

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Charles R. Hertzberg, Assistant Administrator for Financial Assistance, Small Business Administration, 1441 L Street, NW., Washington, DC 20416, 202 653-6574

RIN: 3245-AB99

3897. BREAKOUT PROCUREMENT CENTER REPRESENTATIVE PROGRAM

Significance: Agency Priority

Legal Authority: 15 USC 634(b)(6); 15 USC 637; 15 USC 643; PL 98-577; PL 100-590

CFR Citation: 13 CFR 125

Legal Deadline: None

Abstract: These regulations would implement the passage of the Small Business and Federal Procurement Competition Enhancement Act of 1984, which authorized the placement of Small Business Administration (SBA) Breakout Procurement Center Representatives (BPCRs) at major procurement centers and the Small Business Administration Reauthorization and Amendment Act of 1988, which further expanded the authority of such personnel. The purpose of these proposed regulations is to advise Government personnel of the division of responsibilities that must be performed to implement the law. The current regulations in 13 CFR Part 125-6, Government Prime Act Contracts Assistance, addresses only one portion of the procurement center representatives (PCR) program as it relates to those PCRs known as Traditional PCRs. This group of individuals is basically responsible for the small business set-aside program versus the mandate to BPCRs to breakout acquisitions for full and open competition. The Federal Acquisition Regulations contain basic regulations for the breakout (cont)

Timetable:

Action	Date	FR Cite
NPRM	05/10/90	55 FR 19633
NPRM Comment Period End	06/11/90	
Final Action	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: ABSTRACT CONT: program. SBA's regulation should reflect all of their program areas. This proposed rule will correct this void.

Agency Contact: Roy Rodgers, Director, Office of Prime Contracts, Small Business Administration, 1441 L Street, NW., Washington, DC20416, 202 653-6826

RIN: 3245-AC01

3898. GOVERNMENTWIDE RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: PL 101-121, Sec 319; 15 USC 634(b)(6)

CFR Citation: 13 CFR 146

Legal Deadline: NPRM, Statutory, December 23, 1989.
OMB published a government-wide interim final guidance on this subject December 20, 1989. 54 FR 52305, thereby meeting the statutory deadline.

Abstract: Section 319 of Pub. L. 101-121 generally prohibits recipients of Federal contracts, grants or loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant or loan. Section 319 also requires that each person who requests or receives a Federal contract, grant, cooperative agreement, loan, or a Federal commitment to insure or guarantee a loan, must disclose lobbying activities. This Office of Management and Budget crafted common rule will implement this law.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Interim Final Rule Effective Date	02/26/90	55 FR 6736
Interim Final Rule Comment Period End	04/27/90	55 FR 6736
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Patricia R. Forbes, Chief Counsel for Legislation, Office of General Counsel, Small Business Administration, 1441 L Street, NW., Washington, DC 20416, 202 653-6579

RIN: 3245-AC07

3899. ● REGULATIONS FOR THE IMPLEMENTATION OF NEW 301(D) SBIC FUNDING AUTHORITY AND TERMS CONTAINED IN PUBLIC LAW 101-162

Legal Authority: 15 USC 661 et seq, as amended; PL 100-590; PL 101-162

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: This rule changes the present regulations governing the Small Business Investment Company (SBIC) program in order to implement amendments made to the Small Business Investment Act (15 USC 661 et seq) by Public Laws 100-590 and 101-162 with regard to funds invested in private capital, provisions followed by SBA to buy down leverage in 301(d) SBIC and to set the interest rate on preferred securities purchased by SBA after November 20, 1989.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/10/90	55 FR 28166
Final Action	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Joseph L. Newell, Director, Office of Investment, Small Business Administration, 1441 L Street, NW., Room 610, Washington, DC 20416, 202 653-6384

RIN: 3245-AC09

3900. ● SMALL BUSINESS SIZE STANDARDS; SURETY BOND GUARANTEE PROGRAM SIZE STANDARDS

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); PL 100-656

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Final rule adopting revised size standards for the Surety Bond Guarantee Program. The revised standards affect all industries except the construction and services industries, where the standard of $8.5 million in average annual receipts remains in effect.

SBA

Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/25/90	55 FR 17419
Final Action	10/00/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Gary M. Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW., Room 932, Washington, DC 20416, 202 653-6373

RIN: 3245-AC13

3901. ● NONMANUFACTURER RULE, WAIVER PROCEDURES; SMALL BUSINESS SIZE STANDARDS

Legal Authority: PL 100-656

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Amendments to SBA regulations to provide for procedures for granting of waivers of the so-called "nonmanufacturer rule."

Timetable:

Action	Date	FR Cite
NPRM	05/17/90	55 FR 20467
NPRM Comment Period End	06/18/90	
Final Action	10/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Catherine Thomas, Program Manager, Size Determinations Program, Office of Procurement Policy and Liaison, Small Business Administration, 1441 L Street, NW., Room 600, Washington, DC 20416, 202 653-6566

RIN: 3245-AC17

3902. ● BUSINESS LOANS, ALTER EGO

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); 15 USC 638(h)

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: Proposed rule would allow an alter ego holding company to be eligible for financial assistance under business loan program, if a lease between alter ego and operating concern (used as collateral) includes options exercisable exclusively by the operating concern and remainder of alter ego regulations requirements are met.

Timetable:

Action	Date	FR Cite
NPRM	05/03/90	55 FR 18614
NPRM Comment Period End	07/02/90	
Final Action	10/00/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Charles R. Hertzberg, Assistant Administrator for Financial Assistance, Small Business Administration, 1441 L Street, NW., Room 804, Washington, DC 20416, 202 653-6574

RIN: 3245-AC21

3903. ● BUSINESS LOANS, REFERRAL FEES TO THIRD PARTIES

Legal Authority: 15 USC 634(b)(6); 15 USC 636(g); 15 USC 636(h)

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: SBA has proposed to allow an SBA participating lender to pay fees to third parties which refer applicant borrowers to such lender provided the lender meets certain requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/24/90	55 FR 17280
NPRM Comment Period End	06/25/90	
Final Action	10/00/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Charles R. Hertzberg, Assistant Administrator for Financial Assistance, Small Business Administration, 1441 L Street, NW., Room 804, Washington, DC 20416, 202 653-6574

RIN: 3245-AC22

3904. ● SMALL BUSINESS INVESTMENT COMPANIES; AUDITING PROCEDURES

Legal Authority: 15 USC 681 et seq; PL 100-590; PL 101-162

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: This rule amends 13 CFR 107.1002(c) and Appendix I to Part 107 in order to adopt government auditing standards as the standards of auditing for all independent audits of small business investment companies.

Timetable:

Action	Date	FR Cite
NPRM	08/23/90	55 FR 34850
NPRM Comment Period End	09/24/90	
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas C. Bresnan, Staff Accountant, Small Business Administration, 1441 L Street, NW., Room 806, Washington, DC 20416, 202 653-6369

RIN: 3245-AC24

3905. ● SMALL BUSINESS INVESTMENT COMPANIES

Legal Authority: 15 USC 661 et seq; PL 100-590; PL 101-162

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: This rule would raise the minimum amount of private paid-in capital from $1,000,000 to $3,000,000 for a 301(c) SBIC and $2,000,000 for a 301(d) Licensee. Further, this rule would require a Licensee to have at least five directors.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/02/90	55 FR 40356
Interim Final Rule Comment Period End	11/01/90	
Final Action	03/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph L. Newell, Director, Office of Investment, Small Business Administration, 1441 L Street, NW., Room 806, Washington, DC 20416, 202 653-6584

RIN: 3245-AC26

SMALL BUSINESS ADMINISTRATION (SBA)

Completed Actions

3906. REGULATIONS APPLYING SMALL BUSINESS SIZE STANDARDS

Significance: Regulatory Program

Legal Authority: 15 USC 632(a)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Revision of substantive rules governing compliance with small business size standards.

Timetable:

Action	Date	FR Cite
NPRM	08/31/87	52 FR 32870
NPRM Comment Period End	10/30/87	
Final Action	12/21/89	54 FR 52634
Final Action	09/20/90	55 FR 38663
Final Action Effective	10/23/90	

Sections 121.403 and 121.1202(a)

Interim Final Rule 12/21/89 (54 FR 52634)

Final Action 09/20/90 (55 FR 38663)

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David R. Kohler, Associate General Counsel, Small Business Administration, 1441 L Street, NW., Room 706, Washington, DC 20416, 202 653-6869

RIN: 3245-AA84

3907. SMALL BUSINESS INVESTMENT COMPANY REGULATIONS: COMPLIANCE AUDITS

Legal Authority: 15 USC 687(b)

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: Establishment of new system of periodic compliance audits of small business investment companies by independent certified public accountants.

Timetable:

Action	Date	FR Cite
Withdrawn	07/12/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel Peyser, Counsel to the Inspector General, Small Business Administration, 1441 L Street, NW., Room 1018, Washington, DC 20416, 202 653-6370

RIN: 3245-AB07

3908. SURETY BOND GUARANTEE

Significance: Regulatory Program

Legal Authority: 15 USC 634(b)(6); 15 USC 687(c); 15 USC 694(d); PL 100-590

CFR Citation: 13 CFR 115

Legal Deadline: Final, Statutory, May 2, 1989.

Abstract: This regulation implements changes necessitated by the Preferred Surety Bond Guarantee Program Act of 1988, Title II of Pub. L. 100-590. That law authorizes SBA to appoint selected companies meeting its criteria to affix SBA's guarantee to their bonds for qualifying small concerns without further SBA approval. This program is designed to bring the larger, so-called standard surety firms into the SBA program and to improve access to surety bonds for small and small disadvantaged business concerns.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/09/89	54 FR 47166
Final Action	03/20/90	55 FR 10224
Final Action Effective	03/20/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Robert C. Tallon, Acting Director, Office of Surety Guarantees, Small Business Administration, 4040 N. Fairfax Drive, Suite 500, Arlington, VA 22203, 703 235-2900

RIN: 3245-AB77

3909. 504 BUSINESS LOAN POLICY; PREFERRED LENDERS PROGRAM (PLP) LOANS

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); 15 USC 636(h)

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: On January 22, 1990, the SBA published a final rule (55 FR 2040) which prohibits a Preferred Lender from selling all of any part of the unguaranteed portion of a Preferred Lenders Program (PLP) loan. This final rule clarifies that such prohibition applies only to the 20 percent of the PLP loan which is not guaranteed.

Timetable:

Action	Date	FR Cite
Final Action	07/02/90	55 FR 27197
Final Action Effective	07/02/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Charles R. Hertzberg, Assistant Administrator for Financial Assistance, Small Business Administration, 1441 L Street, NW., Room 804, Washington, DC 20416, 202 653-6574

RIN: 3245-AB84

3910. STATE AND LOCAL DEVELOPMENT COMPANIES

Legal Authority: PL 100-590

CFR Citation: 13 CFR 108

Legal Deadline: None

Abstract: This regulation defines "rural" areas pursuant to PL 100-590. Further, the deposit required on loan applications is increased and self-dealing by borrowers is prohibited. Alter ego leases are permitted to be divided into an initial period plus options to save recordation fees for long-term leases. Finally, certified development companies are permitted to be compensated for work performed.

Timetable:

Action	Date	FR Cite
NPRM	09/14/89	54 FR 37945
Final Action	03/12/90	55 FR 9110
Final Action Effective	03/12/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: LeAnn M. Oliver, Deputy Director for Program Development, Office of Economic Development, Small Business Administration, 1441 L Street, NW., Room 720-A, Washington, DC 20416, 202 653-6416

RIN: 3245-AB90

3911. DISASTER LOANS

Legal Authority: PL 100-590; 15 USC 634(b)(6)

CFR Citation: 13 CFR 123

Legal Deadline: None

SBA

Completed Actions

Abstract: Amend disaster loan regulations to incorporate the amendments made by PI 100-590 and certain other changes, including dropping the Real Estate Settlement Procedures Act (RESPA) requirements pursuant to an exemption, clarifying certain portions of the regulations, and eliminating the requirement for disaster victims seeking State grants to first obtain a certificate of ineligibility from SBA.

Timetable:

Action	Date	FR Cite
NPRM	12/22/89	54 FR 52620
Final Action	06/06/90	55 FR 23072
Final Action Effective	06/06/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Alfred E. Judd, Acting Assistant Administrator for Disaster Assistance, Small Business Administration, 1441 L Street, NW., Room 820, Washington, DC 20416, 202 653-6879

RIN: 3245-AE07

3912. CERTIFIED DEVELOPMENT COMPANY DEBENTURE GUARANTEES

Significance: Agency Priority

Legal Authority: PL 85-536, Sec 4; 15 USC 633 and 634, as amended; PL 85-699, Sec 308; 15 USC 687, as amended; PL 93-386, Sec 5(b)(11); 5 USC 552; PL 85-536, Sec 5

CFR Citation: 13 CFR 101

Legal Deadline: None

Abstract: This regulation increases the overall project size allowable under delegation of authority from $1.5 million to $2 million.

Timetable:

Action	Date	FR Cite
Final Action	11/08/89	54 FR 47075
Final Action Effective	11/09/89	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: LeAnn M. Oliver, Deputy Director for Program Development, Office of Economic Development, Small Business Administration, 1441 L Street, NW., Room 720-A, Washington, DC 20416, 202 653-6416

RIN: 3245-AC04

3913. BUSINESS LOAN POLICY

Significance: Agency Priority

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: The Small Business Administration (SBA) does not guarantee a loan to a close relative of designated persons. Under this proposed rule, SBA would clarify that such close relative would be ineligible regardless of whether he or she was a member of the household of such designated person.

Timetable:

Action	Date	FR Cite
NPRM	04/20/89	54 FR 15952
Withdrawn SBA has decided not to pursue any further regulatory action	07/26/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles R. Hertzberg, Assistant Administrator for Financial Assistance, Small Business Administration, 1441 L Street, NW., Washington, DC 20416, 202 653-6574

RIN: 3245-AC05

3914. MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT PROGRAM

Significance: Agency Priority

Legal Authority: PL 100-656

CFR Citation: 13 CFR 124

Legal Deadline: None

Abstract: The proposed rule would amend the Minority Small Business and Capital Ownership Development Program (8(a) Program) regulations as they relate to program participation by concerns owned by Indian tribes including those owned by Alaska Native corporations (ANCs). These amendments are intended to encourage participation of tribally-owned concerns in the 8(a) Program and to facilitate implementation of special Indian tribe exemptions including the joint venture authority established by Congress in the Business Opportunity Development Reform Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	05/03/90	55 FR 18615
NPRM Comment Period End	06/04/90	
Final Action	08/20/90	55 FR 33894
Final Action Effective	08/20/90	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Erline Patrick, Associate Administrator for Minority Small Business and Capital Ownership Development, Small Business Administration, 1441 L Street, NW., Washington, DC, 202 653-6407

RIN: 3245-AC06

3915. ● DRUG-FREE WORKPLACE REQUIREMENTS

Significance: Regulatory Program

Legal Authority: EO 12549; PL 100-690

CFR Citation: 13 CFR 145

Legal Deadline: None

Abstract: This governmentwide common rule requires that all grantees receiving Federal grants from any Federal agency certify to that agency that they will maintain a drug-free workplace, or, in the case of a grantee who is an individual, certify to the agency that his or her conduct of grant activity will be drug-free.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 4947
Final Action	05/25/90	55 FR 21681
Final Action Effective	07/24/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Christopher Holleman, Attorney-Advisor, Small Business Administration, 1441 L Street, NW., Room 700, Washington, DC 20416, 202 653-6169

RIN: 3245-AC08

[FR Doc. 90-22606 Filed 10-26-90; 8:45 am]

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federal register

Monday
October 29, 1990

Part XLV

Tennessee Valley Authority

Semiannual Regulatory Agenda

TENNESSEE VALLEY AUTHORITY (TVA)

TENNESSEE VALLEY AUTHORITY

18 CFR Ch. XII

Regulatory Agenda

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Regulatory agenda.

SUMMARY: As a nonregulatory agency, TVA originates very few regulations. However, TVA has four regulations under development, has published a notice of intent with regard to a fifth regulation, and has published a notice of proposed rulemaking with regard to a sixth regulation. In addition, TVA has published an interim final common rule with regard to a seventh regulation. TVA is therefore publishing a regulatory agenda in voluntary compliance with Executive Order 12291.

FOR FURTHER INFORMATION CONTACT: For further information please contact the person listed.

W. F. Willis,

Executive Vice President and Chief Operating Officer.

TENNESSEE VALLEY AUTHORITY (TVA)

Proposed Rule Stage

3016. PROTECTION OF ARCHAEOLOGICAL RESOURCES

Legal Authority: 16 USC 470aa to 470mm

CFR Citation: 18 CFR 1312

Legal Deadline: None

Abstract: The planned regulations will implement provisions of the Archaeological Resources Protection Act of 1979 by providing protection of archaeological resources on public lands in TVA custody and control. TVA will seek to protect such resources through permits authorizing excavation or removal of resources, through civil penalties for unauthorized excavation or removal, through preservation of archaeological resource collections and data, and through assuring confidentiality of information about resources when disclosure would threaten the resources. The planned regulations will supplement existing uniform regulations by assigning specific responsibilities within TVA.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maxwell D. Ramsey, Manager, Cultural Resources, Tennessee Valley Authority, 236 Natural Resources Building, Norris, TN 37828, 615 632-1585

RIN: 3316–AA02

3017. ALTERNATIVE PROGRAM FOR SHARING PATENT-RELATED INCOME

Legal Authority: 15 USC 3710, amended by PL 99-502

CFR Citation: 18 CFR Not yet determined

Legal Deadline: Final, Statutory, October 1988.

The royalty-sharing program under the statute must be implemented if the alternative program has not been implemented by October 1988; however, the statute does not preclude (cont)

Abstract: Pursuant to new section 14 of the Stevenson-Wydler Act, TVA has elected to promulgate regulations providing for an alternative program for sharing royalties and other patent-related income with its employee-inventors.

Timetable:

Action	Date	FR Cite
ANPRM	01/14/87	52 FR 1469
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: LEGAL DEADLINE CONT: implementations of an alternative program at a later date.

Agency Contact: H. Brown Wright, Program Coordinator Manager, Manufacturing Technology Utilization, Tennessee Valley Authority, 501 West Summit Hill Drive, OCH 2D 46B-K, Knoxville, TN 37902-1499, 615 632-6435

RIN: 3316–AA05

3018. NONDISCRIMINATION ON THE BASIS OF SEX IN FEDERALLY ASSISTED EDUCATIONAL PROGRAMS

Legal Authority: 20 USC 1682; 16 USC 831 to 831dd

CFR Citation: 18 CFR Not yet determined

Legal Deadline: None

Abstract: This regulation implements 20 USC 1681 which assures nondiscrimination on the basis of sex in educational programs or activities receiving financial assistance from Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Freddie L. Hogan, Manager, Contracts and Community Assistance, Tennessee Valley Authority, CEB 4E 417-B, Muscle Shoals, AL 35660, 205 386-2949

RIN: 3316–AA13

3019. PROTECTION OF ARCHAEOLOGICAL RESOURCES; UNIFORM REGULATIONS

Legal Authority: 16 USC 470aa to 470mm

CFR Citation: 18 CFR 1312

Legal Deadline: None

Abstract: The proposed rule would amend the sections in the final uniform regulations to implement recent amendments to the Archaeological Resources Protection Act of 1979. Principally, these changes address public awareness programs, archaeological surveys and schedules, and guidance to Federal agencies on the disposition of human remains and directly associated objects found at archaeological sites. No direct costs to the public are anticipated, as the proposed rule would deal primarily with management and protection of archaeological resources by Federal agencies.

TVA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maxwell D. Ramsey, Manager, Cultural Resources, Tennessee Valley Authority, 236 Natural Resources Building, Norris, TN 37828, 615 632-1585

RIN: 3316-AA16

TENNESSEE VALLEY AUTHORITY (TVA)

Final Rule Stage

3920. PROTECTION OF ARCHAEOLOGICAL RESOURCES; UNIFORM REGULATIONS

Legal Authority: 16 USC 470ii(a)

CFR Citation: 18 CFR 1312

Legal Deadline: None

Abstract: The proposed rule would revise the prohibited acts section of the uniform regulations to conform to recent amendments to the Archaeological Resources Protection Act, thus enabling Federal land managers to assess civil penalties for the attempt to excavate, remove, damage, alter, or otherwise deface archaeological resources. The proposed rule would thus affect persons who make unauthorized use of archaeological resources or attempt to do so.

Timetable:

Action	Date	FR Cite
NPRM	01/29/90	55 FR 2848
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maxwell D. Ramsey, Manager, Cultural Resources, Tennessee Valley Authority, 236 Natural Resources Building, Norris, TN 37828, 615 632-1585

RIN: 3316-AA14

3921. NEW RESTRICTIONS ON LOBBYING

Significance: Regulatory Program

Legal Authority: 16 USC 831 to 831dd; 31 USC 1352

CFR Citation: 18 CFR 1315, (New)

Legal Deadline: None

Abstract: By this regulation the Tennessee Valley Authority adopts a common interim final rule issued in response to Section 319 of Public Law 101-121. Section 319 generally prohibits recipients of Federal contracts, cooperative agreements, grants, and loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, cooperative agreement, grant, or loan. Section 319 also requires that each person who requests or receives a Federal contract, cooperative agreement, grant, loan, or a Federal commitment to insure or guarantee a loan must disclose lobbying.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Charles L. Young, Senior Attorney, Office of the General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville, TN 37902-1499, 615 632-7386

RIN: 3316-AA17

3922. ADOPTION OF PROCEDURES - PROGRAM FRAUD CIVIL REMEDIES ACT

Legal Authority: 16 USC 831 to 831dd; 31 USC 1352

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: In accordance with the requirements of Section 319 of Public Law 101-121, the Tennessee Valley Authority is required to apply certain requirements of the Program Fraud Civil Remedies Act to the imposition and collection of civil penalties under Section 319 for violations of its restrictions on lobbying and its disclosure requirements. These regulations establish administrative procedures for imposition and collection of civil penalties in accordance with the Program Fraud Civil Remedies Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles L. Young, Senior Attorney, Office of the General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville, TN 37902-1499, 615 632-7386

RIN: 3316-AA18

[FR Doc. 90-21476 Filed 10-26-90; 8:45 am]

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federal register

Monday
October 29, 1990

Part XLVI

Department of Defense
General Services Administration
National Aeronautics and Space Administration

Federal Acquisition Regulation;
Semiannual Regulatory Agenda

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Ch. 1

Semiannual Agenda

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Semiannual agenda.

SUMMARY: This agenda provides summary descriptions of regulations being developed by the Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council, in compliance with Executive Order 12291, Federal Regulation. This agenda is being published to allow interested persons an opportunity to participate in the rulemaking process.

The FAR Secretariat has attempted to list all regulations pending at the time of publication, except for minor and routine or repetitive actions, however, unanticipated requirements may result in the issuance of regulations that are not included in this agenda. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the dates shown.

FOR FURTHER INFORMATION CONTACT: Ms. Sharon A. Kiser, FAR Secretariat, (202) 501-4755.

SUPPLEMENTARY INFORMATION: DoD, GSA, and NASA, under their several statutory authorities, jointly issue and maintain the Federal Acquisition Regulation (FAR) and prescribe the FAR system. Revisions to the FAR are made through periodic issuance of Federal Acquisition Circulars (FACs). None of the regulations listed in this agenda are considered major under Executive Order 12291, Federal Regulation.

Dated: August 31, 1990.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3923	Amendment to Federal Acquisition Regulation (FAR Case 89-6)	9000-AC19
3924	Amendment to Federal Acquisition Regulation (FAR Case 89-15)	9000-AC26
3925	Amendment to Federal Acquisition Regulation (FAR Case 89-31)	9000-AC43
3926	Amendment to Federal Acquisition Regulation (FAR Case 89-47)	9000-AC58
3927	Amendment to Federal Acquisition Regulation (FAR Case 89-56)	9000-AC67
3928	Amendment to Federal Acquisition Regulation (FAR Case 89-64)	9000-AC75
3929	Amendment to Federal Acquisition Regulation (FAR Case 89-66)	9000-AC77
3930	Amendment to Federal Acquisition Regulation (FAR Case 89-70)	9000-AC80
3931	Amendment to Federal Acquisition Regulation (FAR Case 89-12)	9000-AC90
3932	Amendment to Federal Acquisition Regulation (FAR Case 89-13)	9000-AC91
3933	Amendment to Federal Acquisition Regulation (FAR Case 89-14)	9000-AC92
3934	Amendment to Federal Acquisition Regulation (FAR Case 89-18)	9000-AC96
3935	Amendment to Federal Acquisition Regulation (FAR Case 89-19)	9000-AC97
3936	Amendment to Federal Acquisition Regulation (FAR Case 89-21)	9000-AC99
3937	Amendment to Federal Acquisition Regulation (FAR Case 89-23)	9000-AD01
3938	Amendment to Federal Acquisition Regulation (FAR Case 89-24)	9000-AD02
3939	Amendment to Federal Acquisition Regulation (FAR Case 89-25)	9000-AD03
3940	Amendment to Federal Acquisition Regulation (FAR Case 89-30)	9000-AD08
3941	Amendment to Federal Acquisition Regulation (FAR Case 89-31)	9000-AD09
3942	Amendment to Federal Acquisition Regulation (FAR Case 89-34)	9000-AD12
3943	Amendment to Federal Acquisition Regulation (FAR Case 89-36)	9000-AD14
3944	Amendment to Federal Acquisition Regulation (FAR Case 89-37)	9000-AD15
3945	Amendment to Federal Acquisition Regulation (FAR Case 89-38)	9000-AD16
3946	Amendment to Federal Acquisition Regulation (FAR Case 89-40)	9000-AD18
3947	Amendment to Federal Acquisition Regulation (FAR Case 89-42)	9000-AD20
3948	Amendment to Federal Acquisition Regulation (FAR Case 89-43)	9000-AD21
3949	Amendment to Federal Acquisition Regulation (FAR Case 89-45)	9000-AD23
3950	Amendment to Federal Acquisition Regulation (FAR Case 89-54)	9000-AD32
3951	Amendment to Federal Acquisition Regulation (FAR Case 89-55)	9000-AD33
3952	Amendment to Federal Acquisition Regulation (FAR Case 89-56)	9000-AD34
3953	Amendment to Federal Acquisition Regulation (FAR Case 89-58)	9000-AD36
3954	Amendment to Federal Acquisition Regulation (FAR Case 89-59)	9000-AD37
3955	Amendment to Federal Acquisition Regulation (FAR Case 89-61)	9000-AD43
3956	Amendment to Federal Acquisition Regulation (FAR Case 89-68)	9000-AD51
3957	Amendment to Federal Acquisition Regulation (FAR Case 89-70)	9000-AD53
3958	Amendment to Federal Acquisition Regulation (FAR Case 89-71)	9000-AD54
3959	Amendment to Federal Acquisition Regulation (FAR Case 89-73)	9000-AD56
3960	Amendment to Federal Acquisition Regulation (FAR Case 89-74)	9000-AD57

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Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3961	Amendment to Federal Acquisition Regulation (FAR Case 89-75)	9000-AD58
3962	Amendment to Federal Acquisition Regulation (FAR Case 89-76)	9000-AD59
3963	Amendment to Federal Acquisition Regulation (FAR Case 89-78)	9000-AD61
3964	Amendment to Federal Acquisition Regulation (FAR Case 89-82)	9000-AD65
3965	Amendment to Federal Acquisition Regulation (FAR Case 89-83)	9000-AD66
3966	Amendment to Federal Acquisition Regulation (FAR Case 89-87)	9000-AD70
3967	Amendment to Federal Acquisition Regulation (FAR Case 89-88)	9000-AD71
3968	Amendment to Federal Acquisition Regulation (FAR Case 89-89)	9000-AD72
3969	Amendment to Federal Acquisition Regulation (FAR Case 89-90)	9000-AD73
3970	Amendment to Federal Acquisition Regulation (FAR Case 89-93)	9000-AD76
3971	Amendment to Federal Acquisition Regulation (FAR Case 89-94)	9000-AD77
3972	Amendment to Federal Acquisition Regulation (FAR Case 90-6)	9000-AD78
3973	Amendment to Federal Acquisition Regulation (FAR Case 90-7)	9000-AD79
3974	Amendment to Federal Acquisition Regulation (FAR Case 90-9)	9000-AD81
3975	Amendment to Federal Acquisition Regulation (FAR Case 90-10)	9000-AD82
3976	Amendment to Federal Acquisition Regulation (FAR Case 90-11)	9000-AD83
3977	Amendment to Federal Acquisition Regulation (FAR Case 90-12)	9000-AD84
3978	Amendment to Federal Acquisition Regulation (FAR Case 90-13)	9000-AD85
3979	Amendment to Federal Acquisition Regulation (FAR Case 90-14)	9000-AD86
3980	Amendment to Federal Acquisition Regulation (FAR Case 90-15)	9000-AD87
3981	Amendment to Federal Acquisition Regulation (FAR Case 90-16)	9000-AD88
3982	Amendment to Federal Acquisition Regulation (FAR Case 90-17)	9000-AD89
3983	Amendment to Federal Acquisition Regulation (FAR Case 90-18)	9000-AD90
3984	Amendment to Federal Acquisition Regulation (FAR Case 90-19)	9000-AD91
3985	Amendment to Federal Acquisition Regulation (FAR Case 90-20)	9000-AD92
3986	Amendment to Federal Acquisition Regulation (FAR Case 90-21)	9000-AD93
3987	Amendment to Federal Acquisition Regulation (FAR Case 90-22)	9000-AD94
3988	Amendment to Federal Acquisition Regulation (FAR Case 90-23)	9000-AD95
3989	Amendment to Federal Acquisition Regulation (FAR Case 90-24)	9000-AD96
3990	Amendment to Federal Acquisition Regulation (FAR Case 90-25)	9000-AD97
3991	Amendment to Federal Acquisition Regulation (FAR Case 90-26)	9000-AD98
3992	Amendment to Federal Acquisition Regulation (FAR Case 90-27)	9000-AD99
3993	Amendment to Federal Acquisition Regulation (FAR Case 90-28)	9000-AE00
3994	Amendment to Federal Acquisition Regulation (FAR Case 90-29)	9000-AE01
3995	Amendment to Federal Acquisition Regulation (FAR Case 90-30)	9000-AE02
3996	Amendment to Federal Acquisition Regulation (FAR Case 90-31)	9000-AE03
3997	Amendment to Federal Acquisition Regulation (FAR Case 90-32)	9000-AE04
3998	Amendment to Federal Acquisition Regulation (FAR Case 90-33)	9000-AE05
3999	Amendment to Federal Acquisition Regulation (FAR Case 90-34)	9000-AE06
4000	Amendment to Federal Acquisition Regulation (FAR Case 90-35)	9000-AE07
4001	Amendment to Federal Acquisition Regulation (FAR Case 90-36)	9000-AE08
4002	Amendment to Federal Acquisition Regulation (FAR Case 90-37)	9000-AE09
4003	Amendment to Federal Acquisition Regulation (FAR Case 90-38)	9000-AE10
4004	Amendment to Federal Acquisition Regulation (FAR Case 90-39)	9000-AE11
4005	Amendment to Federal Acquisition Regulation (FAR Case 90-40)	9000-AE12
4006	Amendment to Federal Acquisition Regulation (FAR Case 90-41)	9000-AE13
4007	Amendment to Federal Acquisition Regulation (FAR Case 90-42)	9000-AE14
4008	Amendment to Federal Acquisition Regulation (FAR Case 90-43)	9000-AE15
4009	Amendment to Federal Acquisition Regulation (FAR Case 90-46)	9000-AE16
4010	Amendment to Federal Acquisition Regulation (FAR Case 90-48)	9000-AE17
4011	Amendment to Federal Acquisition Regulation (FAR Case 90-49)	9000-AE18
4012	Amendment to Federal Acquisition Regulation (FAR Case 90-50)	9000-AE19

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4013	Amendment to Federal Acquisition Regulation (FAR Case 87-13)	9000-AB73
4014	Amendment to Federal Acquisition Regulation (FAR Case 88-60)	9000-AC71
4015	Amendment to Federal Acquisition Regulation (FAR Case 88-67)	9000-AC78

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Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
4016	Amendment to Federal Acquisition Regulation (FAR Case 88-58)	9000-AC79
4017	Amendment to Federal Acquisition Regulation (FAR Case 89-17)	9000-AC85
4018	Amendment to Federal Acquisition Regulation (FAR Case 89-29)	9000-AD06
4019	Amendment to Federal Acquisition Regulation (FAR Case 89-29)	9000-AD07
4020	Amendment to Federal Acquisition Regulation (FAR Case 89-32)	9000-AD10
4021	Amendment to Federal Acquisition Regulation (FAR Case 89-44)	9000-AD22
4022	Amendment to Federal Acquisition Regulation (FAR Case 89-47)	9000-AD25
4023	Amendment to Federal Acquisition Regulation (FAR Case 85-32)	9000-AD39
4024	Amendment to Federal Acquisition Regulation (FAR Case 87-46)	9000-AD42
4025	Amendment to Federal Acquisition Regulation (FAR Case 89-79)	9000-AD62
4026	Amendment to Federal Acquisition Regulation (FAR Case 89-81)	9000-AD64
4027	Amendment to Federal Acquisition Regulation (FAR Case 89-84)	9000-AD67
4028	Amendment to Federal Acquisition Regulation (FAR Case 89-85)	9000-AD68
4029	Amendment to Federal Acquisition Regulation (FAR Case 89-86)	9000-AD69
4030	Amendment to Federal Acquisition Regulation (FAR Case 89-91)	9000-AD74
4031	Amendment to Federal Acquisition Regulation (FAR Case 89-92)	9000-AD75
4032	Amendment to Federal Acquisition Regulation (FAR Case 90-8)	9000-AD80

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Final Rule Stage

3923. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-6)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 17; 48 CFR 37; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to clarify procedures applicable when converting an acquisition from sealed bidding to negotiation.

Timetable:

Action	Date	FR Cite
NPRM	02/09/88	53 FR 3614
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AC19

3924. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-15)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 32

Legal Deadline: None

Abstract: To amend the FAR to allow the contracting officer the authority to limit progress payments on first article work by a stated dollar amount or percentage.

Timetable:

Action	Date	FR Cite
NPRM	03/16/88	53 FR 8734
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AC28

3925. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-31)

Legal Authority: 19 USC 2511 to 2518; 3 USC 301

CFR Citation: 48 CFR 5; 48 CFR 14; 48 CFR 15; 48 CFR 17; 48 CFR 25

Legal Deadline: Final, Statutory, February 14, 1988.

Abstract: To amend the FAR to incorporate changes necessitated by a major renegotiation of the Government Procurement Code by the U.S. Trade Representative.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/20/88	53 FR 27480
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F

FAR

Final Rule Stage

Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AC43

3926. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-47)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 42; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to permit contracting officers to authorize shipment of material FOB origin on prepaid commercial bills of lading and for contractors to be reimbursed for transportation costs.

Timetable:

Action	Date	FR Cite
NPRM	09/30/88	53 FR 38656
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AC58

3927. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-55)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 47; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to clarify standards for procedures governing Commercial Bills of Lading (CBL's) documentation, payment, and audit.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45742
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AC67

3928. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-64)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 9; 48 CFR 22; 48 CFR 23; 48 CFR 36; 48 CFR 37; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to revise coverage concerning hazardous material and add a new subpart and clause concerning radioactive material.

Timetable:

Action	Date	FR Cite
NPRM	01/30/90	55 FR 3174
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AC75

3929. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-66)

Legal Authority: PL 100-656, Title VII

CFR Citation: 48 CFR 19

Legal Deadline: None

Abstract: To amend the FAR to implement the joint Office of Federal Procurement Policy and Small Business Administration policy directive implementing Title VII of the Business Opportunity Development Act of 1988 (Pub. L. 100-656).

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 5052
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AC77

3930. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-70)

Legal Authority: PL 100-449

CFR Citation: 48 CFR 25; 48 CFR 52

Legal Deadline: Other, Statutory, January 1, 1989.

Abstract: To amend the FAR to implement the United States-Canada Free-Trade Agreement and the United States-Canada Free-Trade Implementation Act of 1988, which added requirements with respect to acquisitions from Canada.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/30/88	53 FR 53340
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AC80

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3931. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-12)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 30; 48 CFR 31

Legal Deadline: None

Abstract: To amend the FAR to bring the cost principle on unfunded pension costs in line with Cost Accounting Standard 412.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/29/89	54 FR 13022
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, [illegible] 501-4755

RIN: 9000-AC90

3932. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-13)

Legal Authority: PL 100-456

CFR Citation: 48 CFR 31; 48 CFR 37; 48 CFR 52

Legal Deadline: Other, Statutory, March 28, 1989.

Abstract: To amend the FAR to assure that severance payments to foreign nationals employed under a service contract performed outside the United States do not exceed the typical rate of severance pay in the United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/29/89	54 FR 13022
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AC91

3933. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-14)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 15; 48 CFR 42; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to emphasize responsibilities regarding certification of final indirect cost rate proposals.

Timetable:

Action	Date	FR Cite
NPRM	03/09/89	54 FR 10133
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AC92

3934. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-16)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 45

Legal Deadline: None

Abstract: To amend the FAR to clarify the policy that, regardless of the type of contract used, profit or fee will not be paid for facilities purchased for the account of the Government.

Timetable:

Action	Date	FR Cite
NPRM	03/23/89	54 FR 12128
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AC96

3935. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-19)

Legal Authority: PL 100-700

CFR Citation: 48 CFR 31

Legal Deadline: Other, Statutory, April 17, 1989.

Abstract: To amend the FAR regarding the allowability of litigation costs and certain other costs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/29/89	54 FR 13022
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AC97

3936. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-21)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 46

Legal Deadline: None

Abstract: To amend the FAR to more clearly define under what circumstances the Government should rely on inspection and testing by

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contractors when acquiring commercial off-the-shelf supplies.

Timetable:

Action	Date	FR Cite
NPRM	04/20/89	54 FR 16094
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AC09

3937. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-23)

Legal Authority: 41 USC 423

CFR Citation: 48 CFR 1; 48 CFR 3; 48 CFR 4; 48 CFR 9; 48 CFR 15; 48 CFR 37; 48 CFR 43; 48 CFR 52

Legal Deadline: Other, Statutory, July 16, 1989.

Abstract: To amend the FAR to implement the procurement integrity requirements of section 27 of the OFPP Act.

Timetable:

Action	Date	FR Cite
NPRM	03/27/89	54 FR 12556
Interim Final Rule	05/11/89	54 FR 20488
Suspension of Interim Rule	12/08/89	54 FR 50718
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD01

3938. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-24)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 36

Legal Deadline: None

Abstract: To amend the FAR pertaining to Architect-Engineer performance evaluations.

Timetable:

Action	Date	FR Cite
NPRM	04/14/89	54 FR 15132
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD02

3939. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-25)

Legal Authority: PL 100-679

CFR Citation: 48 CFR 36

Legal Deadline: None

Abstract: To amend the FAR to clarify the definitions of Architect-Engineer services.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/31/89	54 FR 13332
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD03

3940. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-30)

Legal Authority: 50 USC app 2410a

CFR Citation: 48 CFR 25; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to add coverage pertaining to sanctions (Toshiba/Kongsberg) for violations of export controls.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/08/89	54 FR 19812
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD08

3941. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-31)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to clarify that the Government takes title in the form of "ownership" rather than a lien when progress payments are made under the progress payments clause at FAR 52.232-16.

Timetable:

Action	Date	FR Cite
NPRM	05/01/89	54 FR 18631
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which

these is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD09

3942. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-34)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 30; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to clarify the procedures for submission of cost impact proposals and the authority of the ACO to withhold a portion of payments when the contractor does not submit the cost impact proposal in a timely manner.

Timetable:

Action	Date	FR Cite
NPRM	05/16/89	54 FR 25086
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD12

3943. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-36)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to extend the period for which a contractor would be liable for loss or damage to household goods.

Timetable:

Action	Date	FR Cite
NPRM	06/02/89	54 FR 23861
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD14

3944. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-37)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 15; 48 CFR 32; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to contractually require contractors to pay interest on overpayments made by the Government resulting from contractor defective pricing.

Timetable:

Action	Date	FR Cite
NPRM	06/13/89	54 FR 25206
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD15

3945. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-38)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 33

Legal Deadline: None

Abstract: To amend the FAR to provide a standard time frame for filing agency level protests and establish the minimum requirements for the content of these protests.

Timetable:

Action	Date	FR Cite
NPRM	01/10/90	55 FR 990
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD16

3946. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-40)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 42

Legal Deadline: None

Abstract: To amend the FAR to provide additional guidance on the use of quick closeout procedures described in FAR 42.708.

Timetable:

Action	Date	FR Cite
NPRM	06/13/89	54 FR 25211
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD18

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3947. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-42)

Legal Authority: PL 100-656, Sec 304

CFR Citation: 48 CFR 19; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to require a prime contractor to pay liquidated damages upon a lack of good faith effort to meet its small business subcontracting goals.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/21/89	54 FR 30703
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD20

3948. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-43)

Legal Authority: PL 100-590, Sec 133

CFR Citation: 48 CFR 19; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to authorize participation of public or private organizations for the handicapped in small business set-asides during fiscal years 1989 through 1993.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/12/89	54 FR 25060
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD21

3949. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-45)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52; 48 CFR 53

Legal Deadline: None

Abstract: To amend the FAR to provide that forms prescribed by the FAR or by agency supplements may be computer generated by the public.

Timetable:

Action	Date	FR Cite
NPRM	08/22/89	54 FR 26303
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD23

3950. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-54)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 15; 48 CFR 43; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to permit contracting officers to include the clause at FAR 52.243-6, Change Order Accounting, in construction contracts.

Timetable:

Action	Date	FR Cite
NPRM	07/11/89	54 FR 29296
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD32

3951. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-55)

Legal Authority: PL 100-590, Sec 124

CFR Citation: 48 CFR 53

Legal Deadline: None

Abstract: To amend the FAR to revise the SF 295 to add the requirement for contractors to report subcontract awards to women-owned businesses.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/21/90	55 FR 25522
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD33

3952. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-56)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 47; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to provide an exception for heavy or bulky freight to a requirement in FAR 47.303-6 and the clause at 52.247-34, FOB Destination, that supplies be delivered to the truck's tailgate.

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Timetable:

Action	Date	FR Cite
NPRM	07/17/89	54 FR 29984
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD34

3953. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-58)

Legal Authority: PL 99-550; 31 USC 1344

CFR Citation: 48 CFR 45; 48 CFR 51; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to implement PL 99-550 which specifies that Government-owned or leased passenger carriers are to be used for official purposes only, and to clarify the methodology to be used by contractors when ordering from Government sources.

Timetable:

Action	Date	FR Cite
NPRM	06/07/89	54 FR 32424
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD36

3954. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-59)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 44

Legal Deadline: None

Abstract: To amend the FAR to add clarification concerning the extent to which notification and consent to subcontract have been resolved during negotiations and, therefore, need not be addressed by the ACO during the course of contract administration.

Timetable:

Action	Date	FR Cite
NPRM	08/07/89	54 FR 32422
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD37

3955. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-61)

Legal Authority: PL 99-145; PL 100-180; PL 100-456; PL 100-700

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: To amend the FAR to add coverage on the allowability of costs incurred under Federal contracts with educational institutions, state and local governments, Federally recognized Indian tribal governments, and nonprofit organizations.

Timetable:

Action	Date	FR Cite
NPRM	07/28/89	54 FR 31480
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD43

3956. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-68)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 37; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to revise the prescription for the clause at 52.237-2, Continuity of Services, to limit its use and to provide examples of proper usage.

Timetable:

Action	Date	FR Cite
NPRM	10/12/89	54 FR 41941
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD51

3957. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-70)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 15; 48 CFR 31; 48 CFR 32

Legal Deadline: None

Abstract: To amend the FAR to set forth a new rule on the allowability of postretirement benefits other than pensions on U.S. Government contracts.

Timetable:

Action	Date	FR Cite
NPRM	11/09/89	54 FR 47162
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD53

3958. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-71)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: To amend the FAR to set out a rule on the allowability of the Superfund Tax.

Timetable:

Action	Date	FR Cite
NPRM	10/19/89	54 FR 43032
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD54

3959. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-73)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 29; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to revise the coverage in FAR Parts 29 and 52 regarding taxes.

Timetable:

Action	Date	FR Cite
NPRM	10/31/89	54 FR 46037
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD56

3960. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-74)

Legal Authority: PL 100-656, Sec 407

CFR Citation: 48 CFR 19; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to require that contracting officers terminate a section 8(a) contract for convenience when requested to do so by the Small Business Administration as a result of a transfer of ownership or control of the 8(a) concerns. The contracting officer actually may request a waiver if the termination of the contract could severely impair attainment of the agency's program objectives.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/05/90	55 FR 3878
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD57

3961. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-75)

Legal Authority: PL 100-656, Sec 301(b)

CFR Citation: 48 CFR 19; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to acknowledge the Small Business Administration's authority to exempt section 8(a) contracts from provisions of the Walsh-Healey Act and performance and payment bond requirements of the Miller Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/05/90	55 FR 3876
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD58

3962. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-76)

Legal Authority: PL 100-656, Sec 201(a); PL 100-656, Sec 207; PL 100-656, Sec 405; PL 99-272

CFR Citation: 48 CFR 19; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to (1) provide for imposition of penalties for the misrepresentation of the status of a concern or person as a small or small disadvantaged business; (2) add Native Hawaiian Organizations to groups presumed to be socially disadvantaged; and (3) recognize the establishment of the Small Business Administration's Division of Program of Certification and Eligibility, which is responsible for deciding protests regarding the status of a concern as a disadvantaged concern for purposes of any program conducted under the authority of section 8(d) of the Small Business Act.

FAR

Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/05/90	55 FR 3870
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD59

3963. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-78)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 15; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to prescribe the solicitation provision at 52.215-30, Preparation of Offers-Construction, for use in all negotiated construction solicitations in lieu of the provision at 52.215-13, Preparation of Offers, prescribed in 15.407(d)(1). Alternate I is added to the provision at 52.215-16, Contract Award, prescribed in 15.407(d)(4). The provision at 52.215-39, Preparation of Offers-Construction, prescribed in 15.407(i) is also added.

Timetable:

Action	Date	FR Cite
NPRM	12/05/89	54 FR 50337
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD61

3964. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-82)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 3

Legal Deadline: None

Abstract: To amend the FAR to state that individuals appointed as special Government employees serving as advisors or consultants, or on advisory committees, are not Government employees for purposes of FAR 3.601 unless the contract arises directly out of the activity for which they are special Government employees or, if in the individual's capacity as a special Government employee, the individual is in a position to influence the award of the contract.

Timetable:

Action	Date	FR Cite
NPRM	12/15/89	54 FR 51730
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD65

3965. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-83)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 16; 48 CFR 17

Legal Deadline: None

Abstract: To amend the FAR to remove the implied proscription on the use of requirements contracts and indefinite quantity contracts for other than commercial or commercial-type products, and to clarify policy concerning options for items available on the open market.

Timetable:

Action	Date	FR Cite
NPRM	01/23/90	55 FR 2356
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD66

3966. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-87)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 19; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to increase or eliminate certain thresholds.

Timetable:

Action	Date	FR Cite
NPRM	01/23/90	55 FR 2358
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD70

3967. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-88)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 49

Legal Deadline: None

Abstract: To amend the FAR to clarify the allowability of costs for unaccepted

value engineering change proposals. The allowability of the costs will be determined in accordance with FAR Part 31.

Timetable:

Action	Date	FR Cite
NPRM	01/04/90	55 FR 416
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AD71

3968. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-69)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 9

Legal Deadline: None

Abstract: To amend the FAR to clarify the extent to which procurement orders placed under indefinite delivery type contractual arrangements, basic agreements, and basic ordering agreements constitute a contract for purposes of debarment/suspension.

Timetable:

Action	Date	FR Cite
NPRM	01/04/90	55 FR 416
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AD72

3969. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-60)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: To amend the FAR to set forth new rules regarding the allowability of foreign selling costs on U.S. Government contracts.

Timetable:

Action	Date	FR Cite
NPRM	01/16/90	55 FR 1554
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AD73

3970. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-93)

Legal Authority: PL 101-121, Sec 319

CFR Citation: 48 CFR 3; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to implement section 319 of PL 101-121, which added a new section 1352 to title 31 USC entitled "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions." Section 319 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, grant, or loan. Section 319 also requires that each person who requests or receives a Federal contract, grant, or cooperative agreement, in excess of $100,000, or a loan or Federal commitment to insure or guarantee a loan, in excess of $150,000, must disclose lobbying with other than appropriated funds.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/30/90	55 FR 3190
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AD76

3971. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-94)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to increase the threshold level from $10,000 or five percent to $25,000 or five percent for withholding payment amounts when production progress reports are delayed.

Timetable:

Action	Date	FR Cite
NPRM	02/05/90	55 FR 3798
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AD77

3972. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-6)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

FAR

Final Rule Stage

CFR Citation: 48 CFR 42; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to provide guidance concerning the treatment of contractors who enter into bankruptcy. The purpose of such guidance is to enable the Government to deal with potentially significant events in a contractor's operation that could impact on the Government's ability to obtain the requisite contract performance and to provide procedural guidance for addressing such situations.

Timetable:

Action	Date	FR Cite
NPRM	03/05/90	55 FR 3794
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD78

3973. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-7)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 49

Legal Deadline: None

Abstract: To amend the FAR to increase or eliminate thresholds in FAR Subpart 49.1.

Timetable:

Action	Date	FR Cite
NPRM	02/14/90	55 FR 5344
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD81

3974. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-9)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 44; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to increase certain thresholds from $25,000 to $100,000 for the contracting officer prior review of certain subcontracts under fixed-price contracts.

Timetable:

Action	Date	FR Cite
NPRM	03/05/90	55 FR 7870
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD80

3975. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-10)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 6

Legal Deadline: None

Abstract: To amend the FAR to be consistent with the requirements of 17.207(f) by providing that contract modifications to effect the exercise of a priced option that was evaluated as part of the initial competition are not subject to the requirements of FAR Part 6.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD82

3976. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-11)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 4; 48 CFR 53

Legal Deadline: None

Abstract: To amend the FAR to illustrate the new edition of Standard Form 279, Individual Contract Action Report, and to clarify that while the Federal Procurement Data System (FPDS) forms are not mandatory for use by the agencies, they do provide the mandatory format for submitting the data to the FPDS.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD83

3977. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-12)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 45; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to raise or delete various dollar thresholds that are outdated and to clarify existing policy in FAR Part 45.

FAR

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	06/09/90	55 FR 32586
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AD84

3978. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-13)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 9

Legal Deadline: None

Abstract: To amend the FAR to clarify the definition of "contractor" to make it clear that the definition includes persons or entities that contract with the Government or indirectly through others or who may reasonably be expected to act as agents or representatives for another contractor.

Timetable:

Action	Date	FR Cite
NPRM	05/01/90	55 FR 18296
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AD85

3979. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-14)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to revise the clause at 52.219-14, Limitations on Subcontracting, to clarify that the clause does not apply to the unrestricted portion of a partial set-aside.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AD86

3980. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-15)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 19

Legal Deadline: None

Abstract: To amend the FAR to add to the list of postaward responsibilities of the contracting officer the requirement to take action to enforce the terms of the contract upon notice from the ACO that the contractor is failing to comply in good faith with the subcontracting plan.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AD87

3981. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-16)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 19

Legal Deadline: None

Abstract: To amend the FAR to add the provision of technical assistance as an example of unique contractor effort which could be incentivized to increase subcontract awards to small or small disadvantaged businesses.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AD88

3982. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-17)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 8; 48 CFR 15; 48 CFR 31; 48 CFR 52; 48 CFR 53

Legal Deadline: None

Abstract: To amend the FAR to address the requirement for claiming and granting catalog price exemptions from the requirements for submission of certified cost or pricing data, and the policies regarding price negotiation.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

FAR

Final Rule Stage

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD90

3983. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-18)

Legal Authority: PL 100-463, Sec 8141

CFR Citation: 48 CFR 9; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to establish policy and procedures relating to conflict of interest standards for persons who provide consulting services to the Government and to its contractors, and promote compliance with the standards.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD89

3984. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-19)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 20

Legal Deadline: None

Abstract: To amend the FAR to restructure 20.201 and to remove the reference to DFARS for unique instructions concerning LSA set-asides.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD91

3985. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-20)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 19; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to add 19.302(d) and a clause at 52.219-19 to provide a uniform method for including the standard industrial classification and small business size standard in solicitations.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD92

3986. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-21)

Legal Authority: PL 101-189, Sec 817; PL 101-189, Sec 818

CFR Citation: 48 CFR 6

Legal Deadline: None

Abstract: To amend the FAR to indicate that, for DoD, NASA, and the Coast Guard, the requirement for justification for use of other than full and open competition for acquisitions under the international agreement exception (FAR 6.302-4) and the approval levels for such justifications are different than those stated in the FAR.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD93

3987. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-22)

Legal Authority: PL 101-189, Sec 813

CFR Citation: 48 CFR 32

Legal Deadline: None

Abstract: To amend the FAR to provide that funds, which otherwise expire, will remain available for obligation for a period of 90 days following resolution of a protest.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD94

FAR

Final Rule Stage

3988. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-23)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 4

Legal Deadline: None

Abstract: To amend the FAR to require the contracting officer to annotate the contractor's Taxpayer Identification Number on the contract forwarded to the paying office.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD95

3989. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-24)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 19

Legal Deadline: None

Abstract: To amend the FAR to add references to the procedures established by the Small Business Administration for handling protests of a subcontractor's size or disadvantaged status.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD96

3990. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-25)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 28; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to allow each agency to set its own conditions for use of the clause at 52.228-7, Insurance-Liability to Third Parties, as well as other limitations on indemnification through agency prescribed contract provisions.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD97

3991. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-26)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: To amend the FAR to clarify the maximum allowable contractor per diem travel costs.

Timetable:

Action	Date	FR Cite
NPRM	06/18/90	55 FR 24068
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD98

3992. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-27)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 9

Legal Deadline: None

Abstract: To amend the FAR to provide procedural guidance for contracting officers to follow when they receive a bid from a firm on the List of Parties Excluded from Procurement Programs.

Timetable:

Action	Date	FR Cite
NPRM	05/31/90	55 FR 22284
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD99

3993. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-28)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 14; 48 CFR 15; 48 CFR 25; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to include provisions and prescriptions for the submission of offers in the English language and to require offers in terms of U.S. dollars.

FAR — Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	06/14/90	55 FR 24208
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AE00

3994. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-29)

Legal Authority: PL 96-577, Sec 501

CFR Citation: 48 CFR 15

Legal Deadline: None

Abstract: To amend the FAR to exclude the clause at 52.215-26, Integrity of Unit Prices, from solicitations and contracts, and expand a DoD and NASA exemption to allow all federal agencies to exempt catalog or market priced items from the requirement to ensure unit prices are in proportion to an item's base cost.

Timetable:

Action	Date	FR Cite
NPRM	06/28/90	55 FR 26600
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AE01

3995. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-30)

Legal Authority: PL 101-189, Sec 311(a)

CFR Citation: 48 CFR 37; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to make unallowable the costs of severance payments to foreign nationals if the termination of employment is the result of the closing of, or the curtailment of activities at, a U.S. facility in a country at the request of the government of that country.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AE02

3996. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-31)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 25

Legal Deadline: None

Abstract: To amend the FAR to require that challenges to an offeror's certification under the Trade Agreements Act be referred to the Treasury Department.

Timetable:

Action	Date	FR Cite
NPRM	06/27/90	55 FR 26342
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AE03

3997. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-32)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 13

Legal Deadline: None

Abstract: To amend the FAR to provide general policy guidelines, and prescribe agency responsibilities and conditions for use of Government credit cards in the place of certain purchase orders and imprest funds draw-downs.

Timetable:

Action	Date	FR Cite
NPRM	06/27/90	55 FR 26342
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AE04

3998. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-33)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 27; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to raise the threshold from $5,000 to $25,000 in Alternate III of the clause at 52.227-3, Patent Indemnity, and remove the clause at 52.227-8, Reporting of Royalties (Foreign).

Timetable:

Action	Date	FR Cite
NPRM	06/27/90	55 FR 26343
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

FAR

Final Rule Stage

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE05

3999. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-34)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 45

Legal Deadline: None

Abstract: To amend the FAR to ensure that Government property is transferred and documented properly upon termination or completion of a contract.

Timetable:

Action	Date	FR Cite
NPRM	06/27/90	55 FR 26344
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE06

4000. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-35)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 15

Legal Deadline: None

Abstract: To amend the FAR to require that debriefings of unsuccessful offerors take place as soon as possible.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE07

4001. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-36)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 15

Legal Deadline: None

Abstract: To amend the FAR to require the consideration of the type of proposed subcontracts on the Government's interests when evaluating prospective contractors' make-or-buy programs.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE08

4002. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-37)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 9

Legal Deadline: None

Abstract: To amend the FAR to include quality as a criteria in determining contract performance and to make other editorial changes.

Timetable:

Action	Date	FR Cite
NPRM	07/26/90	55 FR 30670
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE09

4003. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-38)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 12; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to allow the contracting officer to include the clauses at 52.212-1, Time of Delivery, and 52.212-2, Desired and Required Time of Delivery, in all contracts and solicitation types except for construction and architect-engineering procurements.

Timetable:

Action	Date	FR Cite
NPRM	07/26/90	55 FR 30670
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AE10

FAR — Final Rule Stage

4004. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-39)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 7; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to require the Government to provide a list of employees, displaced as a result of conversion to contract performance, to the successful contractor within 10 days of contract award.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AE11

4005. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-40)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 8

Legal Deadline: None

Abstract: To amend the FAR to revise the number of schedule price lists to be reviewed prior to placing an order, and adjust the threshold for file documentation concerning orders placed with other than the lowest priced item reviewed to the price reasonableness threshold at 13.106.

Timetable:

Action	Date	FR Cite
NPRM	07/26/90	55 FR 30671
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AE13

4007. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-42)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 5

Legal Deadline: None

Abstract: To amend the FAR to provide for more explicit instructions on how to prepare synopses for publication in the Commerce Business Daily.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AE14

4008. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-43)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 33

Legal Deadline: None

Abstract: To amend the FAR to provide the awards of attorney's fees and bid and proposal costs under a GSBCA proceeding would be paid out of the judgment fund (31 USC 1304) instead of the agency's procurement appropriations.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AE15

4009. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-45)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 6

Legal Deadline: None

Abstract: To amend the FAR to add coverage to provide procedures when changes occur or additional information becomes available prior to award

which significantly alters the Justification and Approval (J&A).

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AE16

4010. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-48)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 15

Legal Deadline: None

Abstract: To amend the FAR to provide guidance on matters which should be considered when a price analysis is performed.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AE17

4011. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-49)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 15

Legal Deadline: None

Abstract: To amend the FAR to add a requirement to tailor requests for field pricing support (audit) to ask only for the minimum required information.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AE18

4012. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-50)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 15

Legal Deadline: None

Abstract: To amend the FAR to add a requirement to include in the price negotiation memorandum the status of all contractor management systems, such as estimating, accounting and compensation systems, in addition to the current requirement to discuss the purchasing system.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AE19

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Completed Actions

4013. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-13)

Legal Authority: PL 99-500, Sec 922

CFR Citation: 48 CFR 5; 48 CFR 13; 48 CFR 19; 48 CFR 52

Legal Deadline: Final, Statutory, April 16, 1987.

Abstract: To amend the Federal Acquisition Regulation to (1) raise the threshold for publicizing proposed acquisitions, other than sole source acquisitions, from $10,000 to $25,000, (2) require posting of notices of solicitations expected to exceed $10,000 but not to exceed $25,000, and (3) raise the limitation for small business, small purchase set-asides from $10,000 to $25,000.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/09/87	52 FR 21885
Final Action	06/21/90	55 FR 25522

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AB73

FAR

Completed Actions

4014. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-60)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 53

Legal Deadline: None

Abstract: To amend the FAR to revise Standard Form 294, Subcontracting Report for Individual Contracts, and Standard Form 295, Summary Subcontract Report.

Timetable:

Action	Date	FR Cite
NPRM	11/30/89	53 FR 48495
Final Action	06/21/90	55 FR 25522

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AC71

4015. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-67)

Legal Authority: 41 USC 701 to 707

CFR Citation: 48 CFR 9; 48 CFR 33; 48 CFR 52

Legal Deadline: Other, Statutory, February 16, 1989.

Abstract: To amend the FAR to implement the requirements of the Drug-Free Workplace Act (Pub. L. 100-690).

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/89	54 FR 4967
Final Action	05/25/90	55 FR 21706

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AC78

4016. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-68)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 9; 48 CFR 14; 48 CFR 15

Legal Deadline: None

Abstract: To amend the FAR to provide notice to offerors and guidance to Government contracting personnel concerning unbalanced bids and proposals.

Timetable:

Action	Date	FR Cite
NPRM	01/27/89	54 FR 4230
Final Action	06/21/90	55 FR 25522

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AC79

4017. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-17)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 32; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to provide an alternate contract clause for use when advance payments are authorized, but a special bank account is not authorized.

Timetable:

Action	Date	FR Cite
NPRM	03/23/89	54 FR 12126
Final Action	06/21/90	55 FR 25522

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AC95

4018. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-26)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: To amend the FAR to set forth new rules on the allowability of costs resulting from business combinations.

Timetable:

Action	Date	FR Cite
NPRM	05/01/89	54 FR 18634
Final Action	06/21/90	55 FR 25522

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD06

4019. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-29)

Legal Authority: PL 96-520

CFR Citation: 48 CFR 1; 48 CFR 27; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to implement the contractual aspects of a final rule issued by the Department of Commerce on March 13, 1987 (52 FR 855) concerning commerce patents.

FAR

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Timetable:

Action	Date	FR Cite
Interim Final Rule	06/12/89	54 FR 25060
Final Action	06/21/90	55 FR 25522

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AD07

4020. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-32)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 13

Legal Deadline: None

Abstract: To amend the FAR to establish a threshold at which price reasonableness must be verified and quotations solicited from a reasonable number of sources. The revision proposes to increase the threshold from $1,000 to 10 percent of the small purchase limitation (presently at $25,000).

Timetable:

Action	Date	FR Cite
NPRM	05/04/89	54 FR 19339
Final Action	06/21/90	55 FR 25522

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AD10

4021. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-44)

Legal Authority: PL 100-656, Sec 303(h)

CFR Citation: 48 CFR 19; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to permit small business regular dealers to offer any domestically produced or manufactured product under a small business set-aside or award under section 8(a) of the Small Business Act when the acquisition is for a product in a class which SBA has determined that there are no small business manufacturers or processors in the Federal market.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/12/89	54 FR 25060
Final Action	06/21/90	55 FR 25522

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AD22

4022. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-47)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 7; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to include technical corrections needed to comply with recent changes to OMB Circular A-76.

Timetable:

Action	Date	FR Cite
NPRM	06/13/89	54 FR 25214
Final Action	06/21/90	55 FR 25522

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AD25

4023. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-32)

Legal Authority: PL 99-577, Sec 204; PL 98-525; PL 99-591

CFR Citation: 48 CFR 14; 48 CFR 15; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to require contractors who sell certain spare parts to certify that their prices to the Government do not exceed the lowest commercial prices unless an explanation of the differences is provided.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/03/85	50 FR 27580
Additional NPRM	11/18/88	53 FR 46792
Final Action	06/21/90	55 FR 25522

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000–AD30

4024. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-46)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 3

Legal Deadline: None

Abstract: To amend the FAR to require the use of a certificate of independent price determination in certain overseas procurements. Prior to this proposed

FAR

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revision, the certificate was specifically excluded from these procurements.

Timetable:

Action	Date	FR Cite
NPRM	01/04/88	53 FR 100
Final Action	06/21/90	55 FR 25522

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD62

4025. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-79)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 25

Legal Deadline: None

Abstract: To amend the FAR to add an item, microprocessor chips (brought to the Government construction site for incorporation into building systems for construction or repair and alteration projects), to the Buy American List of Exempt Items.

Timetable:

Action	Date	FR Cite
Final Action	06/21/90	55 FR 25522

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD62

4026. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-81)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 8

Legal Deadline: None

Abstract: To amend the FAR to delete the requirement for the contracting officer to obtain certifications of fuel efficiency and availability from the requiring activity before leasing motor vehicles for less than 60 days.

Timetable:

Action	Date	FR Cite
Final Action	06/21/90	55 FR 25522

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD64

4027. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-84)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 6

Legal Deadline: None

Abstract: To amend the FAR to require that justifications for other than full and open competition based on the urgency exception that are prepared after contract award be prepared and approved within a reasonable time.

Timetable:

Action	Date	FR Cite
Final Action	06/21/90	55 FR 25522

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD67

4028. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-85)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 45

Legal Deadline: None

Abstract: To amend the FAR to require contractors to mark Government-owned special tooling and special test equipment in their possession with a serial number and an indication of government ownership, as opposed to agency ownership.

Timetable:

Action	Date	FR Cite
Final Action	06/21/90	55 FR 25522

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD68

4029. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-86)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 45

Legal Deadline: None

Abstract: To amend the FAR to require contractor's property control systems to include procedures to ensure property is returned to the supplier for appropriate credit whenever feasible. Additionally, the reference to verification that contractors have endeavored to return excess property has been deleted from FAR 45.606-3(b).

Timetable:

Action	Date	FR Cite
Final Action	06/21/90	55 FR 25522

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD69

4030. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 88-91)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to clarify current policy concerning payment of overtime premiums.

Timetable:

Action	Date	FR Cite
Final Action	06/21/90	55 FR 25522

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD74

4031. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 89-92)

Legal Authority: PL 96-342, Sec 208

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: To revise the independent research and development and bid proposal cost thresholds in FAR 31.205-18(c)(1) to $5,400,000 for companies and $675,000 for profit centers.

Timetable:

Action	Date	FR Cite
Final Action	06/21/90	55 FR 25522

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD75

4032. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 90-8)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 14; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to eliminate the $10,000 threshold for certain provisions of clauses in construction contracts, thereby standardizing sealed bid packages regardless of dollar amount, and to eliminate the provision at 52.214-8, Parent Company and Identifying Data.

Timetable:

Action	Date	FR Cite
Final Action	06/21/90	55 FR 25522

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sharon A. Kiser, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW., Washington, DC 20405, 202 501-4755

RIN: 9000-AD80

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Part XLVII

Commodity Futures Trading Commission

Semiannual Regulatory Agenda

COMMODITY FUTURES TRADING COMMISSION (CFTC)

COMMODITY FUTURES TRADING COMMISSION

17 CFR Ch. I

Regulatory Flexibility Agenda

AGENCY: Commodity Futures Trading Commission.

ACTION: Publication of regulatory flexibility agenda.

SUMMARY: The Commodity Futures Trading Commission, in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of significant rules, which the Commission expects to propose or promulgate over the next year. The Commission welcomes comments from small entities and others on the agenda.

ADDRESSES: Comments should be sent to: Gerry Smith, Special Assistant to the Executive Director, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, [202] 254-6080.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* (RFA), sets forth a number of requirements for agency rulemaking. Among other things, the RFA requires that:

(a) During the months of April and October of each year, each agency shall publish in the Federal Register a regulatory flexibility agenda which shall contain:

(1) A brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;

(2) a summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) the name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1).

5 U.S.C. 602(a). Accordingly, the Commission has prepared an agenda of significant rules, which it presently expects may be considered during the course of the next year, irrespective of their potential impact on small entities.[1]

The Commission's agenda represents its best estimate of significant rules, which will be considered over the next 12 months.[2] In this regard, section 602(d) of the RFA, 5 U.S.C. 602(d), provides: "Nothing in [section 602] precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda or requires an agency to consider or act on any matter listed in such agenda."

The Commission is publishing its October 1990 regulatory flexibility agenda as part of the Unified Agenda of Federal Regulations. The Unified Agenda of Federal Regulations is coordinated by the Office of Management and Budget pursuant to Executive Order 12291. While participation by executive agencies in the Agenda is mandatory, independent agencies, such as the Commission, participate in the Unified Agenda on a voluntary basis.

The Commission's October 1990 regulatory flexibility agenda is set forth below.

Issued in Washington, DC, on September 10, 1990, by the Commission.

Jean A. Webb,

Secretary of the Commission.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4033	Orders From Another Exchange Member on the Floor	3038-AA69
4034	Opening and Closing Procedures	3038-AA72
4035	Review of Commission Disclosure Requirements Concerning Commodity Trading Advisors and Commodity Pool Operators	3038-AA74
4036	Delegation of Authority to Publish Exchange Rule Amendments	3038-AA76

[1] The Commission has published its definition of small entity to be used by the Commission in connection with rulemaking proceedings. 47 FR 18618 (April 30, 1982). Pursuant to these definitions, the Commission is not required to list many of the agenda items contained in this regulatory flexibility agenda. *See* 5 U.S.C. 602(a)(1). Moreover, the Commission has previously certified, pursuant to section 605 of the RFA, 5 U.S.C. 605, that certain items contained in this agenda will not have a significant economic impact on a substantial number of small entities. Accordingly, listing of an event in this regulatory flexibility agenda should not, in any event, be taken as a determination that a rule, when proposed or promulgated, will in fact require a regulatory flexibility analysis. However, the Commission hopes that the publication of an agenda, which includes significant rules, regardless of their potential impact on small entities, may serve the public generally by providing an early and meaningful opportunity to participate in and comment on the formulation of new or revised regulations.

[2] In addition to publishing the regulatory flexibility agenda, the Commission also makes available to the public, on a monthly basis, a calendar and, on a weekly basis, an advisory which list rules that the Commission is considering or will consider in the near future.

CFTC

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4037	Minimum Financial and Related Reporting Requirements for Futures Commission Merchants	3038-AA10
4038	Distribution of "Risk Disclosure Statement" by Futures Commission Merchants and Introducing Brokers	3038-AA64
4039	Registration Requirements	3038-AA76
4040	Procedures for Involuntary Bulk Transfers or Liquidations of Customer Accounts	3038-AA77

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4041	Rules Relating to Commission Review of Registered Futures Association Decisions in Disciplinary, Membership Denial, Registration and Member Responsibility Actions	3038-AA57
4042	Broker Associations	3038-AA71
4043	Proposed Rule Concerning Restriction on Dual Trading by Floor Brokers	3038-AA73

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4044	Trading Card and Submission of Trading Records; Amendments to Commission Regulation 1.35	3038-AA67
4045	Committee Membership Eligibility	3038-AA70

COMMODITY FUTURES TRADING COMMISSION (CFTC)

Prerule Stage

4033. ORDERS FROM ANOTHER EXCHANGE MEMBER ON THE FLOOR

Legal Authority: 7 USC 6; 7 USC 6g; 7 USC 7; 7 USC 7a; 7 USC 12a

CFR Citation: 17 CFR 1.35

Legal Deadline: None

Abstract: Currently, regulation 1.35 (a-1) (3) exempts a member receiving an order from another member on the floor from the requirement that an order ticket be prepared and time stamped upon receipt, if the member receiving such order notes on his trading card or other record the time of execution to the nearest minute. The anticipated proposed regulation will amend existing regulation 1.35 to require that an order ticket be prepared for orders placed by members on the floor of an exchange with another member for execution (CTI 3 trades) as is presently required for all other orders. Alternatively, the proposed regulation may require other audit trail improvements for such orders. The proposed amendment is intended to improve the available audit trail for such orders so that trading activity may be better monitored. The proposed regulation will contain an exemption for certain inter-commodity or futures/option spread transactions to preserve the efficient execution of such orders.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: De'Ana Hamilton, Staff Attorney, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, 202 254-8955

RIN: 3038-AA09

4034. OPENING AND CLOSING PROCEDURES

Legal Authority: 7 USC 6b; 7 USC 6c; 7 USC 12a

CFR Citation: 17 CFR 1.64

Legal Deadline: None

Abstract: The anticipated proposed regulation may require exchanges to implement special procedures for the execution of customer orders on the open and close, such as an average price order procedure, to improve quality of execution during those time periods.

Timetable:

Action	Date	FR Cite
ANPRM	12/31/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John C. Lawton, Associate Director, Commodity Futures

CFTC — Prerule Stage

Trading Commission, 2033 K Street, NW., Washington, DC 20581, 202 254-9955

RIN: 3038-AA72

4035. ◆ REVIEW OF COMMISSION DISCLOSURE REQUIREMENTS CONCERNING COMMODITY TRADING ADVISORS AND COMMODITY POOL OPERATORS

Legal Authority: 7 USC 2; 7 USC 6b; 7 USC 6c; 7 USC 6l; 7 USC 6m; 7 USC 6n; 7 USC 6o; 7 USC 12a

CFR Citation: 17 CFR 4.21; 17 CFR 4.31

Legal Deadline: None

Abstract: The Commission will review its requirements concerning disclosure materials to be provided customers of commodity trading advisors and commodity pool operators with a view toward simplifying the disclosure process, reducing any unnecessary disclosure burdens, and harmonizing the Commission's disclosure requirements with those of other domestic and international regulators.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara S. Gold, Assistant Chief Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, 202 254-9955

RIN: 3038-AA74

4036. ◆ DELEGATION OF AUTHORITY TO PUBLISH EXCHANGE RULE AMENDMENTS

Legal Authority: 7 USC 4; 7 USC 7; 7 USC 8

CFR Citation: 17 CFR 140.96

Legal Deadline: None

Abstract: The Commission is amending Part 140 of its rules to add a provision delegating to the Director of the Division of Trading and Markets, and to the Director of the Division of Economic Analysis, with the concurrence of the General Counsel authority to publish in the Federal Register for public comment proposed exchange rule amendments when publication of the proposed rule amendments is in the public interest and will assist the Commission in considering the views of interested persons. Currently, Commission regulations do not provide for delegated authority for publication of such proposals. This regulation would further the Commission goal of streamlining exchange rule review procedures.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John C. Lawton, Associate Director, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, 202 254-9955

RIN: 3038-AA76

COMMODITY FUTURES TRADING COMMISSION (CFTC) — Proposed Rule Stage

4037. MINIMUM FINANCIAL AND RELATED REPORTING REQUIREMENTS FOR FUTURES COMMISSION MERCHANTS

Legal Authority: 7 USC 6c; 7 USC 6f; 7 USC 6g; 7 USC 12a

CFR Citation: 17 CFR 1.12; 17 CFR 1.17

Legal Deadline: None

Abstract: The Commission adopted two amendments to its minimum financial and related requirements for futures commission merchants (FCMs). One amendment preserves the one-day grace period for debit/ deficit accounts unless the account had been in debit/deficit status on the previous business day and the previous day's debit or deficit was not timely satisfied in its entirety by the deposit of new funds. The second amendment is an enhancement of the financial early warning system which requires an FCM to notify its designated self-regulatory organization and the Commission immediately when it determines that an account it is carrying is undermargined by an amount which exceeds its adjusted net capital. The Commission also reproposed a rule to clarify the requirements for and treatment of a guaranteed account.

Timetable:

Action	Date	FR Cite
NPRM	06/25/80	45 FR 42633
NPRM	12/01/80	45 FR 79496
NPRM	06/06/85	50 FR 31612
NPRM	07/29/87	52 FR 28281
NPRM Comment Period End	09/28/87	52 FR 28281

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Two final rules published 7/29/87, 52 FR 28246 and 52 FR 28248. Effective date: 8/28/87. Guaranteed account rule reproposed on 7/29/87, 52 FR 28281.

Agency Contact: Lawrence Patent/Gary Miller, Assoc. Chief Counsel/Asst. Chief Acct., Commodity Futures Trading Commission, Division of Trading and Markets, 2033 K Street, NW., Washington, DC 20581, 202 254-9955

RIN: 3038-AA10

4038. DISTRIBUTION OF "RISK DISCLOSURE STATEMENT" BY FUTURES COMMISSION MERCHANTS AND INTRODUCING BROKERS

Legal Authority: 7 USC 6(b); 7 USC 6b; 7 USC 6g(1); 7 USC 6o; 7 USC 12a(5); 7 USC 24

CFR Citation: 17 CFR 1.55; 17 CFR 30.6; 17 CFR 33.7; 17 CFR 190.10

Legal Deadline: None

Abstract: The Commission is considering whether to amend Rule 1.55, its basic rule with respect to risk disclosure by futures commission merchants and introducing brokers. Any such amendments would be designed to further simplify risk disclosure with respect to trading of domestic and foreign futures and options products so as to reduce the number of separate risk disclosure documents required by the Commission,

CFTC — Proposed Rule Stage

the National Futures Association and other self-regulatory organizations (SROs), including foreign SROs. The CFTC will also review its disclosure requirements concerning futures and options transactions to identify potential means by which new trading systems can be accommodated without creating undue disclosure burdens.

Timetable:

Action	Date	FR Cite
NPRM	12/13/90	
NPRM Comment Period End	02/11/91	
Final Action	06/30/91	
Final Action Effective	01/02/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, 202 254-8955

RIN: 3038-AA84

4039. ● REGISTRATION REQUIREMENTS

Legal Authority: 7 USC 2; 7 USC 2(a)(1); 7 USC 4; 7 USC 6a; 7 USC 6b; 7 USC 6c; 7 USC 6d; 7 USC 6e; 7 USC 6f; 7 USC 6g; 7 USC 6h; 7 USC 6i; 7 USC 6k; 7 USC 6n; 7 USC 6o

CFR Citation: 17 CFR 3

Legal Deadline: None

Abstract: The Commission will undertake a rulemaking proceeding to revise its rules relating to procedures concerning the denial, conditioning, suspension, restriction or revocation of registration of industry professionals and firms subject to a statutory disqualification. The purpose of these rule amendments is to provide all persons subject to a statutory disqualification, whether the person is an applicant for registration or a registrant, with the same procedural rights, in line with the recent Commission decision --In the Matter of Elizabeth A. Kangles and In the Matter of Mark W. Chamberlain -- CFTC Docket No. SD-88-4 and SD-88-6 (June 6, 1990). The Commission may also revise certain other of its rules relating to registration of industry professionals.

Timetable:

Action	Date	FR Cite
NPRM	11/30/90	
NPRM Comment Period End	01/29/91	
Final Action	06/05/91	
Final Action Effective	07/05/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence B. Patent, Associate Chief Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, 202 254-8955

RIN: 3038-AA75

4040. ● PROCEDURES FOR INVOLUNTARY BULK TRANSFERS OR LIQUIDATIONS OF CUSTOMER ACCOUNTS

Legal Authority: 7 USC 6d; 7 USC 6f; 7 USC 6g; 7 USC 6k; 7 USC 12a

CFR Citation: 17 CFR 1.64

Legal Deadline: None

Abstract: The CFTC will undertake a rulemaking proceeding to establish requirements concerning procedures to be followed by futures commission merchants and introducing brokers when bulk transfers or liquidations of customer accounts are made due to cessation or suspension of business or other special circumstances affecting the registrant. Such requirements may address such matters as what constitutes appropriate notice to affected customers, commission arrangements in connection with account transfers, the necessity for new account documentation in connection with bulk transfers, transfers of associated persons, the effect of cessation of business upon guarantee arrangements, and required notices to the Commission.

Timetable:

Action	Date	FR Cite
NPRM	01/11/91	
NPRM Comment Period End	03/12/91	
Final Action	06/25/91	
Final Action Effective	07/31/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Lawrence B. Patent, Associate Chief Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, 202 254-8955

RIN: 3038-AA77

COMMODITY FUTURES TRADING COMMISSION (CFTC) — Final Rule Stage

4041. RULES RELATING TO COMMISSION REVIEW OF REGISTERED FUTURES ASSOCIATION DECISIONS IN DISCIPLINARY, MEMBERSHIP DENIAL, REGISTRATION AND MEMBER RESPONSIBILITY ACTIONS

Legal Authority: 7 USC 21(h); 7 USC 21(i); 7 USC 21(o)(2); 7 USC 12(a)(5); 7 USC 4a

CFR Citation: 17 CFR 3; 17 CFR 171

Legal Deadline: None

Abstract: The Commission proposes to adopt rules establishing standards and procedures for Commission review of decisions of registered futures associations such as the National Futures Association ("NFA"). The Commission is proposing specific standards of review for decisions by NFA in four types of actions - disciplinary actions, membership denial actions, registration actions and member responsibility actions. The proposed rules would establish a common procedure for seeking review and a stay of a final decision by NFA in disciplinary, membership denial and registration actions. The proposed rules would also establish a procedure for seeking review and a stay of a final decision by NFA in member responsibility actions. In proposing these rules, the CFTC seeks to promulgate standards for review that will permit NFA to exercise its expertise and independent judgment in the proceedings subject to these rules

CFTC — Final Rule Stage

while providing a person aggrieved by the result of NFA's action an effective means to obtain relief from prejudicial errors in NFA's determination. The Commission also seeks to establish an appellate process that is comprehensive, balanced, efficient and fair.

Timetable:

Action	Date	FR Cite
NPRM	08/15/90	55 FR 24254
NPRM Comment Period End	09/14/90	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Susan Nathan, Attorney, Office of General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, 202 254-9880

RIN: 3038-AA57

4042. BROKER ASSOCIATIONS

Legal Authority: 7 USC 6; 7 USC 7a; 7 USC 12a; 7 USC 6b; 7 USC 6c; 7 USC 7(b); 7 USC 12(a)(5)

CFR Citation: 17 CFR 1; 17 CFR 156

Legal Deadline: None

Abstract: The Commission proposes to develop regulations to assure the availability of adequate information to monitor the trading activity among members of a broker association which may include a definition of such associations and a requirement that exchanges implement registration procedures for such entities.

Timetable:

Action	Date	FR Cite
NPRM	04/11/90	55 FR 13545
NPRM Comment Period End	06/11/90	
Final Action	12/20/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Christopher Bowen, Staff Attorney, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, 202 254-8955

RIN: 3038-AA71

4043. PROPOSED RULE CONCERNING RESTRICTION ON DUAL TRADING BY FLOOR BROKERS

Legal Authority: 7 USC 6; 7 USC 6b; 7 USC 6c; 7 USC 6e; 7 USC 6g; 7 USC 6j; 7 USC 7; 7 USC 7a; 7 USC 12a

CFR Citation: 17 CFR 155.5

Legal Deadline: None

Abstract: The proposed regulation would restrict, on a phased-in-basis, beginning with an implementation plan, dual trading by floor members in certain markets, subject to stated exceptions. Specifically, a floor broker would be prohibited from (i) trading or placing an order for a futures or option contract for his own account, an account over which he had trading discretion, or an account in which he had a significant interest and (ii) holding or executing an order for a futures or option contract in the same commodity for a customer, during the same trading session, except to the extent permitted by contract market rules. The proposed regulation is intended to promote integrity of futures markets by limiting potential illegal conduct resulting from the ability to trade in two capacities.

Timetable:

Action	Date	FR Cite
NPRM	01/11/90	55 FR 1047
NPRM Comment Period End	07/09/90	55 FR 13288
Final Action	03/15/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Michael B. Sundel, Staff Attorney, Commodity Futures Trading Commission, 2033 K Street, NW., Washington,DC 20581, 202 254-8955

RIN: 3038-AA73

COMMODITY FUTURES TRADING COMMISSION (CFTC) — Completed Actions

4044. TRADING CARD AND SUBMISSION OF TRADING RECORDS; AMENDMENTS TO COMMISSION REGULATION 1.35

CFR Citation: 17 CFR 1.35 (d); 17 CFR 1.35 (j); 17 CFR 1.35(a-1)

Completed:

Reason	Date	FR Cite
Final Action	09/07/90	55 FR 8127
Final Action Effective	05/07/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Brian Regan 202 254-8955

RIN: 3038-AA67

4045. COMMITTEE MEMBERSHIP ELIGIBILITY

CFR Citation: 17 CFR 1.63

Completed:

Reason	Date	FR Cite
Final Action	02/27/90	55 FR 7884
Final Action Effective	04/05/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David P. Van Wagner 202 254-8955

RIN: 3038-AA70

[FR Doc. 90-22609 Filed 10-26-90; 8:45 am]

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federal register

Monday
October 29, 1990

Part XLVIII

Consumer Product Safety Commission

Semiannual Regulatory Agenda

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

Regulatory Flexibility Act; Semiannual Regulatory Flexibility and Unified Agendas

AGENCY: Consumer Product Safety Commission.

ACTION: Publication of regulatory flexibility and unified agendas.

SUMMARY: The Regulatory Flexibility Act (RFA) requires each Federal agency to publish, twice each year, a regulatory flexibility agenda listing the rules expected to be proposed or promulgated which are likely to have a significant economic impact on a substantial number of small entities, including small businesses, small organizations, and small governmental units. In this document, the Commission publishes its semiannual regulatory flexibility agenda.

Additionally, although not required to do so, the Commission has elected to comply voluntarily with those provisions of Executive Order 12291 which require executive agencies to publish an agenda of regulatory actions expected to be under development or review by the agency during the succeeding 12 months and which further provide that such an agenda may be combined with an agency's regulatory flexibility agenda published in accordance with the RFA.

DATES: The Commission welcomes comments on each subject area of the agenda, particularly from small entities. Written comments concerning the agenda should be received in the Office of the Secretary by December 31, 1990.

ADDRESSES: Comments on the regulatory flexibility agenda should be sent to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 492-6800, and should be titled "Regulatory Flexibility Agenda."

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact: Allen F. Brauninger, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 492-6980. For further information regarding a particular item on the agenda, consult the individual listed in the column headed "Contact" for that particular item.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, 5 U.S.C. 601-612, contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small businesses, small governmental organizations, and other small entities. Section 602 of the Act, 5 U.S.C. 602, requires each agency to publish, twice each year, a regulatory flexibility agenda containing a brief description of the subject area of any rule expected to be proposed or promulgated which is likely to have a "significant economic impact" on a "substantial number" of small entities. The agency must also provide a summary of the nature of the rule, the objectives and legal basis for the rule, and a schedule for acting on each rule for which the agency has issued a notice of proposed rulemaking. The Regulatory Flexibility Agenda shall also contain the name and address of the agency official knowledgeable about the items listed. Further, agencies are required to provide notice of their agendas to small entities and to solicit their comments by direct notification or by inclusion in publications likely to be obtained by such entities.

In addition, Executive Order 12291 requires executive agencies to publish, twice each year, a regulatory agenda of proposed regulations under development or current regulations under review and further states that such an agenda may be combined with an agenda published under the RFA. While the Commission, as an independent regulatory agency, is not required to follow Executive Order 12291, the Commission is complying voluntarily with those provisions concerning publication of a regulatory agenda.

The regulatory flexibility agenda published below lists, for a 12-month period, the regulatory activities expected to be under development or review. These include all such activities, not only those which may have a significant economic impact on a substantial number of small entities.

The agenda contains a brief description and summary of each regulatory activity, including the objectives and legal basis for each; an approximate schedule of target dates, subject to revision, for the development or completion of each activity; and the name and telephone number of a knowledgeable agency official concerning particular items on the agenda. All agency contacts have the same address: Consumer Product Safety Commission, Washington, DC 20207.

Dated: September 6, 1990.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4046	Rule Review	3041-AA24
4047	Rule Review	3041-AA25
4048	All-Terrain Vehicles	3041-AA53
4049	Requirements to Make Cigarette Lighters Child-Resistant	3041-AA73
4050	Petition CP 89-4 for Labeling Rule Applicable to Water Beds	3041-AA89
4051	Petition HP 90-1 Requesting Issuance of a Rule to Ban Cribs with Corner Post Extensions	3041-AA92
4052	Choking Hazards Associated with Balloons	3041-AA96
4053	Petition CP 90-1 for a Rule to Set Safety Standards for Bicycle Helmets	3041-AB01
4054	Petition HP 90-2 for Amendments to Regulations on Clacker Balls	3041-AB02

CPSC

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4055	Requirements for the Special Packaging of Household Substances; Revision of Test Protocol for Child-Resistant Packaging	3041-AA22
4056	Proposed Rule to Exempt Electronic Video Games from Electrical Toy Regulations	3041-AA41
4057	Household Substances Containing Methylene Chloride; Status as Hazardous Substances; Proposed Rule	3041-AA59
4058	Choking Hazards Associated with Small Balls	3041-AA97
4059	Choking Hazards Associated with Marbles	3041-AA98
4060	Choking Hazards Associated with Toys and Articles Intended for Children Three Years of Age and Older	3041-AA99
4061	Reloadable Tube Aerial Shell Fireworks Devices	3041-AB00
4062	Proposed Rules to Require Child-Resistant Packaging for Certain Topical Prescription and Non-Prescription Preparations Containing Lidocaine or Dibucaine	3041-AB03
4063	Proposed Rule to Require Child-Resistant Packaging for Oral Drug Preparations Containing Ibuprofen	3041-AB04
4064	Labeling of Hazardous Art Materials, Proposed Rules	3041-AB05

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4065	Application for Exemption from Preemption; Proposed Rule	3041-AA82
4066	Proposed Rules to Require Child-Resistant Packaging for Products Containing Acetonitrile or Sodium Bromate or Potassium Bromate	3041-AA86
4067	Test Methods for Simulating Use and Abuse of Toys, Games, and Other Articles Intended for Use by Children	3041-AA93
4068	Protection of Human Subjects	3041-AA95

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4069	Poison Prevention Packaging Act Requirements for Certain Effervescent Acetaminophen Tablets, Proposed Amendment of Exemption	3041-AA69
4070	Poison Prevention Packaging Act Requirements for Certain Unflavored Aspirin in Powder Form, Proposed Amendment of Exemption	3041-AA70
4071	Poison Prevention Packaging Act Requirements for Certain Medroxyprogesterone Acetate Tablets, Proposed Amendment of Exemption	3041-AA71
4072	Proposed Rule to Exempt Medroxyprogesterone Acetate Tablets from Poison Prevention Packaging Act Requirements for Child-Resistant Packaging	3041-AA77
4073	Petition CP 89-2 Requesting Development of a Standard for Electric Heat Tape	3041-AA78
4074	Petition HP 89-1 for Rule to Ban Certain Crib Toys	3041-AA83
4075	Petition CP 89-1 for Safety Standard for Saunas	3041-AA85
4076	Choking Hazards Associated with Toys and Children's Articles	3041-AA94

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Prerule Stage

4046. RULE REVIEW

Legal Authority: 5 USC 610 Regulatory Flexibility Act; 15 USC 1471 Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700; 16 CFR 1701; 16 CFR 1702; 16 CFR 1704

Legal Deadline: Other, Statutory, December 31, 1990.

Abstract: On January 30, 1990, the Commission published a Federal Register notice listing four (4) rules and standards issued under the Poison Prevention Packaging Act and soliciting comments on those rules. The Commission will review these rules under the provisions of the Regulatory Flexibility Act to determine if the rules should be revoked, amended, or continued in effect without change.

CPSC — Prerule Stage

Timetable:

Action	Date	FR Cite
Notice to Solicit Comments	01/30/90	55 FR 3071
Public Comment Period End	04/02/90	55 FR 3071
End Review	11/30/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Allen Brauninger, Attorney, Consumer Product Safety Commission, Office of General Counsel, Washington, DC 20207, 301 492-6980

RIN: 3041–AA24

4047. RULE REVIEW

Legal Authority: 5 USC 610 Regulatory Flexibility Act; 15 USC 1261 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500; 16 CFR 1501; 16 CFR 1505; 16 CFR 1507; 16 CFR 1508; 16 CFR 1509; 16 CFR 1510; 16 CFR 1511; 16 CFR 1512

Legal Deadline: Other, Statutory, December 31, 1990.

Abstract: On February 22, 1984, the Commission published a Federal Register notice listing nine (9) rules and standards issued under the Federal Hazardous Substances Act and soliciting comments on those rules. The Commission will review these rules under provisions of the Regulatory Flexibility Act to determine if the rules should be revoked, amended, or continued in effect without change.

Timetable:

Action	Date	FR Cite
Notice to Solicit Comments	02/22/84	49 FR 6504
Public Comment Period End	04/23/84	49 FR 6504
End Review	11/30/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Allen Brauninger, Attorney, Consumer Product Safety Commission, Office of General Counsel, Washington, DC 20207, 301 492-6980

RIN: 3041–AA25

4048. ALL-TERRAIN VEHICLES

Legal Authority: 15 USC 2051 et seq Consumer Product Safety Act; 15 USC 1262(f) Federal Hazardous Substances Act

CFR Citation: 16 CFR 00

Legal Deadline: None

Abstract: On May 31, 1985, the Commission published an advance notice of proposed rulemaking to announce its preliminary determination that an unreasonable risk of injury may be associated with all-terrain vehicles. An all-terrain vehicle (ATV) is a three- or four-wheeled motorized machine, designed for off-road use, and intended to be ridden by one person. A consent decree in the U.S. District Court for the District of Columbia in U.S. v. American Honda Motor Co. et al. (Civil Act No. 87-3525 GAG), approved on April 28, 1988, required ATV manufacturers to attempt in good faith to reach agreement on a voluntary standard for the Commission's consideration. The Commission accepted that standard, along with an industry agreement concerning lateral stability, on October 28, 1988. Except for lateral stability and youth models, the Commission decided to defer consideration of rulemaking until the voluntary standard could be adopted by the American National Standards Institute, which occurred on February 1, 1990. Also, the Commission concluded that for labeling, manuals, age recommendations, advertising, training, (cont)

Timetable:

Action	Date	FR Cite
ANPRM	05/31/85	50 FR 23139
ANPRM Comment Period End	09/30/85	50 FR 31391
Staff to Send Briefing Package to Commission	02/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: point-of-purchase and other material aspects of manufacturing and marketing of ATVs which are controlled by the consent decree, rulemaking is no longer required. In February 1991, the staff will transmit a briefing package to the Commission concerning options for regulatory action.

Agency Contact: Carl Blechschmidt, Program Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, D. C. 20207, 301 492-6554

RIN: 3041–AA53

4049. REQUIREMENTS TO MAKE CIGARETTE LIGHTERS CHILD-RESISTANT

Legal Authority: 15 USC 2051 et seq Consumer Product Safety Act; 15 USC 1261 et seq Federal Hazardous Substances Act; 15 USC 1471 et seq Poison Prevention Packaging Act

CFR Citation: 60 CFR 00

Legal Deadline: None

Abstract: On March 3, 1988, the Commission published an Advance Notice of Proposed Rulemaking (ANPRM) to announce its preliminary determination that unreasonable risks of death and injury may be associated with cigarette lighters because they are not sufficiently resistant to operation by children. The Commission staff has developed a test protocol to measure the resistance of lighters to operation by children. That test protocol has been used to determine the child-resistance of some lighters currently on the market. The staff expects to transmit a proposed standard incorporating that test protocol to the Commission in December 1990.

Timetable:

Action	Date	FR Cite
ANPRM	03/03/88	53 FR 6833
ANPRM Comment Period End	05/02/88	53 FR 6833
Staff Sends Briefing Package on NPRM to Commission	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James F. Hoebel, Program Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041–AA73

CPSC

Prerule Stage

4050. PETITION CP 89-4 FOR LABELING RULE APPLICABLE TO WATER BEDS

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 2051 Consumer Product Safety Act

CFR Citation: 00 CFR 00

Legal Deadline: None

Abstract: On July 10, 1989, the Commission received a petition from the New York State Attorney General and others requesting initiation of a proceeding for issuance of a labeling rule applicable to adult- sized water beds. The petition asserts that adult-sized water beds are associated with risks of death and injury by suffocation to infants and physically handicapped children, and requests issuance of a rule to require labeling of adult-sized water beds and point-of-sale information to warn of these risks. The Commission staff is preparing a briefing package for consideration by the Commission when deciding whether to grant or deny the petition. If the Commission grants the petition, it will begin a proceeding under the Consumer Product Safety Act to issue the requested labeling rule.

Timetable:

Action	Date	FR Cite
Staff Sends Briefing Package to Commission	09/17/90	
Commission Decision	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert P. Guenette, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041–AA69

4051. PETITION HP 90-1 REQUESTING ISSUANCE OF A RULE TO BAN CRIBS WITH CORNER POST EXTENSIONS

Legal Authority: 5 USC 552(e) Administrative Procedure Act; 15 USC 1261 Federal Hazardous Substances Act; 15 USC 1262 Federal Hazardous Substances Act; 15 USC 2079(a) Consumer Product Safety Act

CFR Citation: 16 CFR 1508; 16 CFR 1509

Legal Deadline: None

Abstract: On August 22, 1990, the Danny Foundation and others petitioned the Commission to issue a rule banning cribs with corner post extensions or other "catch points." The petition alleges that cribs with corner post extensions or other "catch points" present risks of death and serious injury to children from strangulation because children's neck cords, shirt straps, and clothing can become entangled on the corner post extensions or "catch points." If the Commission grants the petition, it will begin a rulemaking proceeding under the Federal Hazardous Substances Act.

Timetable:

Action	Date	FR Cite
Staff Sends Briefing Package to Commission	11/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Elaine A. Tyrrell, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041–AA92

4052. ● CHOKING HAZARDS ASSOCIATED WITH BALLOONS

Legal Authority: 15 USC 1261 Federal Hazardous Substances Act; 15 USC 2079(a) Consumer Product Safety Act

CFR Citation: 00 CFR 00

Legal Deadline: None

Abstract: In the Federal Register of June 26, 1990, the Commission published an Advance Notice of Proposed Rulemaking beginning a proceeding to address the choking hazards associated with balloons. This proceeding could result in labeling or other requirements designed to reduce the risk of death to children from choking on deflated balloons or balloon fragments. The Commission has reports of 63 children who choked to death on deflated balloons or balloon fragments between 1980 and 1989.

Timetable:

Action	Date	FR Cite
ANPRM	06/25/90	55 FR 25977
ANPRM Comment Period End	09/10/90	55 FR 25977
Staff Sends Briefing Package on Proposed Rule to Commission	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This RIN was previously reported as part of RIN 3041-AA94.

Agency Contact: David W. Thome, Program Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041–AA96

4053. ● PETITION CP 90-1 FOR A RULE TO SET SAFETY STANDARDS FOR BICYCLE HELMETS

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 1261 Federal Hazardous Substances Act; 15 USC 1262 Federal Hazardous Substances Act; 15 USC 2051 Consumer Product Safety Act

CFR Citation: 16 CFR 1500.18

Legal Deadline: None

Abstract: On May 15, 1989, several member groups of the Safe Kids Coalition submitted a request to the Commission to establish mandatory safety standards for bicycle helmets. On May 30, 1990, the Commission voted to docket this matter as a petition for rulemaking. The submission contends that the use of a bicycle helmet significantly reduces the chances of having a serious head injury and that a mandatory standard is needed because there are two different voluntary standards, neither of which addresses a number of safety concerns about the performance of helmets.

Timetable:

Action	Date	FR Cite
Staff Sends Briefing Package on Petition to Commission	01/31/91	

CPSC — Prerule Stage

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Elaine Tyrrell, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041-AB01

4054. ⊙ PETITION NP 90-2 FOR AMENDMENTS TO REGULATIONS ON CLACKER BALLS

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 1261 Federal Hazardous Substances Act; 15 USC 1262 Federal Hazardous Substances Act; 15 USC 2079(d) Consumer Product Safety Act

CFR Citation: 16 CFR 1500.18(a)(7); 16 CFR 1500.86(a)(5)

Legal Deadline: None

Abstract: On August 9, 1988, William G. Hones petitioned the Commission to amend regulations codified at 16 CFR 1500.18(a)(7) and 1500.86 (a)(5) which ban certain toys called "clacker balls." The petition requests that the Commission modify the definition of the term "clacker balls" in the regulations to specifically exclude certain products which are similar to clacker balls but do not present the same risk of injury.

Timetable:

Action	Date	FR Cite
Staff Sends Briefing Package on Petition to Commission	12/17/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David W. Thome, Program Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041-AB02

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Proposed Rule Stage

4055. REQUIREMENTS FOR THE SPECIAL PACKAGING OF HOUSEHOLD SUBSTANCES; REVISION OF TEST PROTOCOL FOR CHILD-RESISTANT PACKAGING

Legal Authority: 15 USC 1472 Poison Prevention Packaging Act; 15 USC 1473 Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.20

Legal Deadline: None

Abstract: On January 19, 1988, the Commission published an Advance Notice of Proposed Rulemaking soliciting comments on ways to amend the existing requirements for child-resistant packaging to improve the effectiveness and efficiency of these requirements. In June 1985, the Commission staff completed testing to determine the feasibility of using some of the alternate procedures for evaluation of child-resistant packaging described in the ANPRM. In August 1987, the Commission considered the comments received in response to the ANPRM and the staff's recommendations regarding revision of existing requirements for child-resistant packaging. The Commission directed the staff to prepare draft proposals to amend the test protocols used to evaluate the effectiveness of child-resistant packaging. On August 16, 1990, the Commission voted to propose specific revisions of the child test protocol and the adult test protocol.

Timetable:

Action	Date	FR Cite
ANPRM	01/19/83	48 FR 2369
ANPRM Comment Period End	03/21/83	48 FR 2369
Staff Briefs Commission	07/20/90	
NPRM	09/00/90	
NPRM Comment Period End	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Virginia A. White, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041-AA22

4056. PROPOSED RULE TO EXEMPT ELECTRONIC VIDEO GAMES FROM ELECTRICAL TOY REGULATIONS

Legal Authority: 15 USC 1261 Federal Hazardous Substances Act; 15 USC 1262 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1505

Legal Deadline: None

Abstract: In correspondence dated December 21, 1983, the Consumer Electronic Group of the Electronic Industries Association petitioned the Commission to amend the regulation on electrical toys to exempt electronic video games from its coverage. The Commission granted the petition on September 27, 1988, and expects to publish a proposed exemption later in 1990.

Timetable:

Action	Date	FR Cite
NPRM	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David Thome, Program Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041-AA41

4057. HOUSEHOLD SUBSTANCES CONTAINING METHYLENE CHLORIDE; STATUS AS HAZARDOUS SUBSTANCES; PROPOSED RULE

Legal Authority: 15 USC 1261 Federal Hazardous Substances Act; 15 USC 1262 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500.12(a)(2)

Legal Deadline: None

Abstract: On August 20, 1988, the Commission proposed a rule to declare that household products containing methylene chloride are hazardous substances under the Federal Hazardous Substances Act. These products include some paint strippers and spray paints. The Commission's concern arises from animal tests

nowing that methylene chloride is a carcinogen by inhalation and studies indicating a significant human exposure as a result of reasonably foreseeable use of products containing methylene chloride. The initiation of this rulemaking proceeding granted one part of a petition (HP 85-1) from the Consumer Federation of America. The staff provided an analysis of the comments on the proposed rule to the Commission in June 1987. In August 1987, the Commission determined that there was insufficient controversy over the status of methylene chloride as a hazardous substance; therefore, the Commission suspended the rulemaking and issued a statement of enforcement policy stating the Commission's view that household products that contain methylene chloride and that expose consumers to significant levels of methylene chloride are (cont.)

Timetable:

Action	Date	FR Cite
NPRM	06/20/86	51 FR 29778
NPRM Comment Period End	10/20/86	51 FR 29778
Policy Published	09/14/87	52 FR 34698

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: subject to the FHSA's labeling requirements. The rulemaking proceeding is suspended pending a determination of the extent of compliance with the enforcement policy and the resultant reduction in cancer risk.

Agency Contact: Sandra Eberle, Program Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041-AA59

4058. ● CHOKING HAZARDS ASSOCIATED WITH SMALL BALLS

Legal Authority: 15 USC 1261 Federal Hazardous Substances Act; 15 USC 2079(a) Consumer Product Safety Act

CFR Citation: 00 CFR 00

Legal Deadline: None

Abstract: In the Federal Register of June 28, 1990, the Commission published an Advance Notice of Proposed Rulemaking beginning a proceeding to address the choking hazards associated with small balls. This proceeding could result in labeling or other requirements designed to reduce the risk of death to children from choking on small balls. The Commission has reports of 32 children who choked to death on small balls between 1980 and 1989.

Timetable:

Action	Date	FR Cite
ANPRM	06/26/90	55 FR 26080
ANPRM Comment Period End	09/10/90	55 FR 26080
Staff Sends Briefing Package on Proposed Rule to Commission	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This RIN was previously reported as part of RIN 3041-AA94.

Agency Contact: David W. Thome, Program Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041-AA97

4059. ● CHOKING HAZARDS ASSOCIATED WITH MARBLES

Legal Authority: 15 USC 1261 Federal Hazardous Substances Act; 15 USC 2079(a) Consumer Product Safety Act

CFR Citation: 00 CFR 00

Legal Deadline: None

Abstract: In the Federal Register of June 28, 1990, the Commission published an Advance Notice of Proposed Rulemaking beginning a proceeding to address the choking hazards associated with marbles. This proceeding could result in labeling or other requirements designed to reduce the risk of death to children from choking on marbles. The Commission has reports of 8 children who choked to death on marbles between 1980 and 1989.

Timetable:

Action	Date	FR Cite
ANPRM	06/26/90	55 FR 26084
ANPRM Comment Period End	09/10/90	55 FR 26084
Staff Sends Briefing Package on Proposed Rule to Commission	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This RIN was previously reported as part of RIN 3041-AA94.

Agency Contact: David W. Thome, Program Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041-AA96

4060. ● CHOKING HAZARDS ASSOCIATED WITH TOYS AND ARTICLES INTENDED FOR CHILDREN THREE YEARS OF AGE AND OLDER

Legal Authority: 15 USC 1261 Federal Hazardous Substances Act; 15 USC 2079(a) Consumer Product Safety Act

CFR Citation: 00 CFR 00

Legal Deadline: None

Abstract: In the Federal Register of June 28, 1990, the Commission published an Advance Notice of Proposed Rulemaking beginning a proceeding to address the choking hazards associated with toys intended for children over three. This proceeding could result in labeling or other requirements designed to reduce the risk of death to children younger than three years of age from choking on toys and other products intended for children over three. Choking hazards associated with products intended for children under three are already covered by requirements issued under the Federal Hazardous Substances Act.

Timetable:

Action	Date	FR Cite
ANPRM	06/26/90	55 FR 26082
ANPRM Comment Period End	09/10/90	55 FR 26082

CPSC — Proposed Rule Stage

Action	Date	FR Cite
Staff Sends Briefing Package on Proposed Rule to Commission	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This RIN was previously reported as part of RIN 3041-AA88.

Agency Contact: David W. Thorne, Program Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041–AA89

4061. ● RELOADABLE TUBE AERIAL SHELL FIREWORKS DEVICES

Legal Authority: 15 USC 1261 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500; 16 CFR 1507

Legal Deadline: None

Abstract: On July 31, 1990, the Commission published an Advanced Notice of Proposed Rulemaking (ANPRM) to announce its preliminary determination that an unreasonable risk of injury may be associated with reloadable tube aerial shell fireworks devices with shells larger than 1.75 inches in diameter. The notice also addresses smaller shells with explosive power exceeding that of a 1.75 inch shell. The Commission staff will analyze comments received in response to the ANPRM and determine appropriate measurements of explosive force. The outcome of the proceeding could be an amendment to existing fireworks regulations to ban reloadable shells larger than 1.75 inches or with an explosive force greater than 1.75 inch shells. Alternatively, the Commission could require additional labeling or establish design or performance criteria for reloadable shells.

Timetable:

Action	Date	FR Cite
ANPRM	07/31/90	55 FR 31089
ANPRM Comment Period End	09/20/90	55 FR 31089
NPRM	11/00/90	
NPRM Comment Period End	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John D. Rogers, Compliance Officer, Consumer Product Safety Commission, Directorate for Compliance & Admin. Lit., Washington, DC 20207, 301 492-6554

RIN: 3041–AB00

4062. ● PROPOSED RULES TO REQUIRE CHILD-RESISTANT PACKAGING FOR CERTAIN TOPICAL PRESCRIPTION AND NON-PRESCRIPTION PREPARATIONS CONTAINING LIDOCAINE OR DIBUCAINE

Legal Authority: 5 USC 553 Administrative Procedure Act; 15 USC 1471 Poison Prevention Packaging Act; 15 USC 2079(a) Consumer Product Safety Act

CFR Citation: 16 CFR 1700.14

Legal Deadline: None

Abstract: In November, 1990, the staff will send a briefing package to the Commission recommending that the Commission propose rules to require child-resistant packaging for certain prescription and non-prescription topical preparations containing lidocaine or dibucaine.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	
NPRM Comment Period End	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Virginia White, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041–AB03

4063. ● PROPOSED RULE TO REQUIRE CHILD-RESISTANT PACKAGING FOR ORAL DRUG PREPARATIONS CONTAINING IBUPROFEN

Legal Authority: 5 USC 553 Administrative Procedure Act; 15 USC 1471 Poison Prevention Packaging Act; 15 USC 2079(a) Consumer Product Safety Act

CFR Citation: 16 CFR 1700.14

Legal Deadline: None

Abstract: In September 1990, the staff will send a briefing package to the Commission recommending that the Commission propose a rule to require child-resistant packaging for certain over-the-counter drug preparations containing ibuprofen. The Commission will consider the staff recommendation in October 1990.

Timetable:

Action	Date	FR Cite
NPRM	11/00/90	
NPRM Comment Period End	02/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Virginia White, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041–AB04

4064. ● LABELING OF HAZARDOUS ART MATERIALS, PROPOSED RULES

Legal Authority: 15 USC 1269 Federal Hazardous Substances Act; 15 USC 1277 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500

Legal Deadline: Final, Statutory, November 18, 1989.

Abstract: In 1988, Congress added provisions to the Federal Hazardous Substances Act (FHSA) which direct the Commission to issue guidelines to specify criteria for determining when any customary or reasonably foreseeable use of an art material can result in a chronic hazard. The Commission will publish proposed rules to explain the principles to be used by the Commission staff in making those determinations and to specify conditions under which an art material would be determined to contain a carcinogen, a developmental or reproductive toxicant, or neurotoxin. The proposed rule will also explain certain principles to be used in evaluating the risk resulting from hazardous art materials. Because the substance of the guidelines specified by the 1988 amendment of the FHSA applies not only to art materials, but also other materials regulated under the

CPSC

Proposed Rule Stage

FHSA, these rules are being proposed as rules to aid in the enforcement of the FHSA in general under the authority of section 10 of the FHSA (15 USC 1269).

Timetable:

Action	Date	FR Cite
NPRM	09/00/90	
NPRM Comment Period End	11/00/90	
Public Hearing	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sandra Eberle, Program Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041-AB05

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Final Rule Stage

4065. APPLICATION FOR EXEMPTION FROM PREEMPTION; PROPOSED RULE

Legal Authority: 15 USC 2075 Consumer Product Safety Act; 15 USC 1261n Federal Hazardous Substances Act; 15 USC 1203 Flammable Fabrics Act; 15 USC 1476 Poison Prevention Packaging Act

CFR Citation: 16 CFR 1061; 16 CFR 1604; 16 CFR 1704

Legal Deadline: None

Abstract: In the Federal Register of December 28, 1988, the Commission published a proposed regulation to establish procedures for submission and consideration of applications by state and local governments for exemption from preemption by statutes, standards, and regulations of the Consumer Product Safety Commission. The proposed regulation would implement provisions of the Consumer Product Safety Act, the Federal Hazardous Substances Act, the Flammable Fabrics Act, and the Poison Prevention Packaging Act which authorize state and local governments to petition the Commission for exemption from preemption of state and local laws by requirements enforced by the Consumer Product Safety Commission, and specify the conditions under which the Commission may grant such petitions.

Timetable:

Action	Date	FR Cite
NPRM	12/29/88	53 FR 52432
NPRM Comment Period End	01/27/89	53 FR 52432
Final Action	12/31/90	

Small Entities Affected: None

Government Levels Affected: Local, State

Agency Contact: Stephen Lamberg, Assistant General Counsel, Consumer Product Safety Commission, Office of the General Counsel, Washington, DC 20207, 301 492-6980

RIN: 3041-AA82

4066. PROPOSED RULES TO REQUIRE CHILD-RESISTANT PACKAGING FOR PRODUCTS CONTAINING ACETONITRILE OR SODIUM BROMATE OR POTASSIUM BROMATE

Legal Authority: 5 USC 553 Administrative Procedure Act; 15 USC 1471 Poison Prevention Packaging Act; 15 USC 2051 Consumer Product Safety Act

CFR Citation: 16 CFR 1700.14

Legal Deadline: None

Abstract: In the Federal Register of January 16, 1990, the Commission proposed rules to require child-resistant packaging for household glue removers in liquid form containing more than 500 milligrams of acetonitrile in a single container; and for home permanent neutralizers in liquid form containing more than 600 milligrams of sodium bromate in a single container, or more than 50 milligrams of potassium bromate in a single container. The Commission proposed these rules after it preliminarily determined that child-resistant packaging is required to protect children younger than five years of age from serious personal injury and serious illness resulting from ingestion of any of the substances which would be subject to their requirements. The Commission is expected to consider comments received on the proposed rules in September, and to issue final rules in October, 1990.

Timetable:

Action	Date	FR Cite
NPRM	01/16/90	55 FR 1456
NPRM Comment Period End	04/02/90	55 FR 1456
Final Action	10/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Virginia White, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041-AA86

4067. TEST METHODS FOR SIMULATING USE AND ABUSE OF TOYS, GAMES, AND OTHER ARTICLES INTENDED FOR USE BY CHILDREN

Legal Authority: 5 USC 553 Administrative Procedure Act; 15 USC 1269 Federal Hazardous Substances Act; 15 USC 2079 Consumer Product Safety Act

CFR Citation: 16 CFR 1500.51; 16 CFR 1500.52; 16 CFR 1500.53

Legal Deadline: None

Abstract: In the Federal Register of December 21, 1989, the Commission proposed amendments of regulations issued under the Federal Hazardous Substances Act to prescribe tests simulating use and abuse of toys and children's articles. The proposed amendments specify asbestos-free vinyl tile for the surface to be used for impact testing rather than asbestos-vinyl tile, which currently is required by the regulations. The Commission has proposed these amendments because vinyl-asbestos tile is no longer generally available, and many manufacturers, importers, and sellers of toys and children's articles want to be able to duplicate the equipment used by the Commission for conducting the use and abuse tests specified by the regulations.

CPSC

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/21/89	54 FR 52416
NPRM Comment Period End	03/06/90	54 FR 52416
Final Action	11/30/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elaine A. Tyrrell, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041-AA93

4063. © PROTECTION OF HUMAN SUBJECTS

Significance: Regulatory Program

Legal Authority: 5 USC 301; 42 USC 300v-1(b)

CFR Citation: 16 CFR 1028

Legal Deadline: None

Abstract: On November 10, 1988, the Commission proposed to amend its regulations which govern protection of human subjects. The proposed amendment incorporates the provisions of the Model Federal Policy for the Protection of Human Research Subjects developed by the Office of Science and Technology Policy. If the proposed amendment is issued on a final basis, the Commission's regulations governing protection of human subjects will be consistent with those of other agencies which have adopted the model Federal policy.

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	53 FR 45668
NPRM Comment Period End	01/09/89	53 FR 45668
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Albert E. Esch, MD, Medical Director, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, DC 20207, 301 492-6477

RIN: 3041-AA95

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Completed Actions

4068. POISON PREVENTION PACKAGING ACT REQUIREMENTS FOR CERTAIN EFFERVESCENT ACETAMINOPHEN TABLETS, PROPOSED AMENDMENT OF EXEMPTION

CFR Citation: 16 CFR 1700.14

Completed:

Reason	Date	FR Cite
Final Action	04/09/90	55 FR 13125
Final Action Effective	04/09/90	55 FR 13125

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Virginia White 301 492-6554

RIN: 3041-AA69

4070. POISON PREVENTION PACKAGING ACT REQUIREMENTS FOR CERTAIN UNFLAVORED ASPIRIN IN POWDER FORM, PROPOSED AMENDMENT OF EXEMPTION

CFR Citation: 16 CFR 1700.14

Completed:

Reason	Date	FR Cite
Final Action	04/09/90	55 FR 13123
Final Action Effective	04/09/90	55 FR 13123

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Virginia White 301 492-6554

RIN: 3041-AA70

4071. POISON PREVENTION PACKAGING ACT REQUIREMENTS FOR CERTAIN MEDROXYPROGESTERONE ACETATE TABLETS, PROPOSED AMENDMENT OF EXEMPTION

CFR Citation: 16 CFR 1700.14

Completed:

Reason	Date	FR Cite
Withdrawn	04/09/90	55 FR 13157

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Virginia White 301 492-6554

RIN: 3041-AA71

4072. PROPOSED RULE TO EXEMPT MEDROXYPROGESTERONE ACETATE TABLETS FROM POISON PREVENTION PACKAGING ACT REQUIREMENTS FOR CHILD-RESISTANT PACKAGING

CFR Citation: 16 CFR 1700.14

Completed:

Reason	Date	FR Cite
Final Action	04/09/90	55 FR 13127
Final Action Effective	04/09/90	55 FR 13127

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Virginia White 301 492-6554

RIN: 3041-AA77

4073. PETITION CP 89-2 REQUESTING DEVELOPMENT OF A STANDARD FOR ELECTRIC HEAT TAPE

CFR Citation: 00 CFR 00

Completed:

Reason	Date	FR Cite
Petition Denied	07/26/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Linda Glatz 301 492-6554

RIN: 3041-AA78

4074. PETITION HP 89-1 FOR RULE TO BAN CERTAIN CRIB TOYS

CFR Citation: 16 CFR 1500.18

CPSC — Completed Actions

Completed:

Reason	Date	FR Cite
Petition Granted	09/18/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Elaine A. Tyrrell 301 492-6554

RIN: 3041–AA83

4075. PETITION CP 89-1 FOR SAFETY STANDARD FOR SAUNAS

CFR Citation: 00 CFR 00

Completed:

Reason	Date	FR Cite
Petition Denied	09/28/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James F. Hoebel 301 492-6554

RIN: 3041–AA85

4076. CHOKING HAZARDS ASSOCIATED WITH TOYS AND CHILDREN'S ARTICLES

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Split into new RINs 3041-AA96, 3041-AA97, 3041-AA98, and 3041-AA99	09/24/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David W. Thorne 301 492-6554

RIN: 3041–AA94

[FR Doc. 90-22610 Filed 10-26-90; 8:45 am]

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October 29, 1990

Part XLIX

Farm Credit Administration

Semiannual Regulatory Agenda

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FARM CREDIT ADMINISTRATION (FCA)

FARM CREDIT ADMINISTRATION

12 CFR Ch. VI

Unified Agenda of Federal Regulations

AGENCY: Farm Credit Administration.

ACTION: Department unified agenda of regulations and review list.

SUMMARY: The Farm Credit Administration (FCA), as an independent regulatory agency in voluntary compliance with Executive Order 12291, sets forth the following agenda of regulations, which it will have under development and review during the period of October 1990 through April 1991.

FOR FURTHER INFORMATION CONTACT: Cindy R. Nicholson, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, (703) 883-4020, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small entities. The FCA is an independent regulatory agency that is exempt from the provisions of Executive Order 12291. Additionally, FCA regulations, which apply to Farm Credit banks and associations and certain other federally chartered entities, generally do not and will not have a substantial impact on "small entities" as that term is defined in the Regulatory Flexibility Act.

While FCA is an independent agency exempt from Executive Order 12291, we believe that participating in this joint publication will further the public interest by including FCA in a single source of information concerning current and projected rulemaking and reviews of existing regulations.

Dated: August 24, 1990.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4077	Releasing Information; Fees Imposed on Information Requests	3052-AA05
4078	Organization; Conservatorships and Receiverships	3052-AA92
4079	Debt Collection Act	3052-AB02
4080	Personnel Administration; Human Resources Management	3052-AB08
4081	Loan Policies and Operations	3052-AB09
4082	Eligibility and Scope of Financing	3052-AB10
4083	Application Procedures for Awarding of Costs in Administrative Proceedings	3052-AB11
4084	Organization; Reorganization Authorities for System Institutions	3052-AB12
4085	Loan Policies and Operations; Appraisal Standards, Participations, and Lending Limits	3052-AB13
4086	Technical Corrections in all Sections	3052-AB17
4087	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations	3052-AB18
4088	Assessments and Apportionment of Operating Expenses	3052-AB19
4089	Disclosure to Shareholders and Investors	3052-AB20

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4090	Organization; Director Compensation	3052-AA09
4091	Organization; Service Corporations	3052-AB14

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4092	Eligibility and Scope of Financing; Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Coordination; General Provisions; Definitions	3052-AA94
4093	Corrections in Numerous Sections	3052-AB15
4094	Asset/Liability Management	3052-AB16

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FARM CREDIT ADMINISTRATION (FCA)

Proposed Rule Stage

4077. RELEASING INFORMATION; FEES IMPOSED ON INFORMATION REQUESTS

Legal Authority: 12 USC 2243; 12 USC 2252; 5 USC 552; EO 12600

CFR Citation: 12 CFR 602

Legal Deadline: None

Abstract: Clarify existing policies and procedures with respect to the release of information and/or documents obtained in or resulting from the conduct of official business by employees of the Farm Credit Administration and the Farm Credit System.

Timetable:

Action	Date	FR Cite
NPRM	01/05/90	55 FR 440
NPRM Comment Period End	02/05/90	55 FR 440

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Ronald H. Erickson, Freedom of Information Officer, Office of Congressional and Public Affairs, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4115

RIN: 3052-AA05

4078. ORGANIZATION; CONSERVATORSHIPS AND RECEIVERSHIPS

Legal Authority: 12 USC 2011; 12 USC 2021; 12 USC 2071; 12 USC 2091; 12 USC 2121; 12 USC 2142; 12 USC 2183; 12 USC 2203; 12 USC 2221; 12 USC 2243; 12 USC 2244; 12 USC 2252; 12 USC 2279a to 2279f-1; PL 100-233, Sec 411; PL 100-233, Sec 412

CFR Citation: 12 CFR 611

Legal Deadline: None

Abstract: Resolicitation of comments on a proposed amendment to the definition of insolvency.

Timetable:

Action	Date	FR Cite
NPRM	10/31/88	53 FR 43697
NPRM Comment Period End	11/21/88	53 FR 43697

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: G. Michael Dew, Chief, Special Projects Division, Office of Regulatory Enforcement, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4447

RIN: 3052-AA92

4079. DEBT COLLECTION ACT

Legal Authority: 12 USC 2252(a)(10)

CFR Citation: 12 CFR Not yet determined

Legal Deadline: None

Abstract: Regulations are needed to implement authorities of the Debt Collection Act of 1982.

Timetable:

Action	Date	FR Cite
NPRM	12/31/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Robert J. Taylor, Chief, Fiscal Operations Branch, Fiscal Resources Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4122

RIN: 3052-AB02

4080. PERSONNEL ADMINISTRATION; HUMAN RESOURCES MANAGEMENT

Legal Authority: 12 USC 2243; 12 USC 2252

CFR Citation: 12 CFR 612

Legal Deadline: None

Abstract: Establishes a broader description of the responsibilities and requirements for human resources management in the Farm Credit System.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Stephen Gilbreath, Chief, Human Resources Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4136

RIN: 3052-AB06

4081. LOAN POLICIES AND OPERATIONS

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2096; 12 USC 2121; ...

CFR Citation: 12 CFR 614

Legal Deadline: None

Abstract: Clarify existing policies and procedures for the establishment of a funding relationship between the Farm Credit banks and their affiliated direct lending institutions. Provide uniform guidelines upon which the general financing agreements, associated with such lending relationships, shall be developed and executed.

Timetable:

Action	Date	FR Cite
NPRM	11/03/88	53 FR 44438
NPRM Comment Period End	12/05/88	53 FR 44438

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office

of General Counsel, Farm Credit Administration 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Dennis Carpenter, Senior Credit Specialist, Financial Analysis and Standards Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4498

RIN: 3052-AB09

4082. ELIGIBILITY AND SCOPE OF FINANCING

Legal Authority: 12 USC 2013; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2019; 12 USC 2073; 12 USC 2075; 12 USC 2092; 12 USC 2122; 12 USC 2128; 12 USC 2129; 12 USC 2183; 12 USC 2243; 12 USC 2252

CFR Citation: 12 CFR 613

Legal Deadline: None

Abstract: Clarify existing policies and procedures with respect to borrower eligibility and scope of financing as provided for in the Farm Credit Act of 1971, as amended.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Dennis Carpenter, Senior Credit Specialist, Financial Analysis and Standards Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4498

RIN: 3052-AB10

4083. APPLICATION PROCEDURES FOR AWARDING OF COSTS IN ADMINISTRATIVE PROCEEDINGS

Legal Authority: 5 USC 504(c)(1)

CFR Citation: 12 CFR 615

Legal Deadline: None

Abstract: Establish procedures for the submission and consideration of applications for an award of fees and other expenses incurred in adversary adjudications before the Farm Credit Administration pursuant to the Equal Access to Justice Act of 1980, as amended.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Anthony N. Torres, Attorney, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4020

RIN: 3052-AB11

4084. ORGANIZATION, REORGANIZATION AUTHORITIES FOR SYSTEM INSTITUTIONS

Legal Authority: 12 USC 2011; 12 USC 2021; 12 USC 2071; 12 USC 2091; 12 USC 2121; 12 USC 2142; 12 USC 2183; 12 USC 2203; 12 USC 2221; 12 USC 2243; 12 USC 2244; 12 USC 2252; 12 USC 2279a to 2279f-1; PL 100-233, Sec 411; PL 100-233, Sec 412

CFR Citation: 12 CFR 611

Legal Deadline: None

Abstract: Establish regulations under which a Farm Credit institution can terminate its charter.

Timetable:

Action	Date	FR Cite
ANPRM	12/18/89	54 FR 51763
ANPRM Comment Period End	01/31/90	54 FR 51763
NPRM	07/12/90	55 FR 28639
NPRM Comment Period End	08/13/90	55 FR 28639
Comment Period Extension NPRM	08/21/90	55 FR 34024

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Larry Edwards, Division Director, Special Examination Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4225

RIN: 3052-AB12

4085. LOAN POLICIES AND OPERATIONS; APPRAISAL STANDARDS, PARTICIPATIONS, AND LENDING LIMITS

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2096; 12 USC 2121

CFR Citation: 12 CFR 614

Legal Deadline: None

Abstract: Revisions to various regulations addressing Farm Credit institution loan collateral appraisal requirements, loan purchase and sale requirements including existing participation authorities, and revised lending limit provisions for existing and newly created Farm Credit institutions.

Timetable:

Action	Date	FR Cite
NPRM	11/03/88	53 FR 44436
NPRM Comment Period End	12/05/88	53 FR 44436

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Dennis Carpenter, Senior Credit Specialist, Financial Analysis and Standards Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4498

RIN: 3052-AB13

FCA — Proposed Rule Stage

4066. TECHNICAL CORRECTIONS IN ALL SECTIONS

Legal Authority: PL 92-181; PL 100-233; PL 100-399

CFR Citation: 12 CFR 600 to 624

Legal Deadline: None

Abstract: Agricultural Credit Act of 1987, other statutory changes, and organizational changes have resulted in numerous inconsistencies and technical errors which need to be corrected.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist Office of General Counsel Farm Credit Administration 1501 Farm Credit Drive McLean, Virginia 22102-5090 (703) 883-4020 TDD (703) 883-4444

Agency Contact: Patricia W. DiMuzio, Assistant Chief, Financial Analysis and Standards Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4498

RIN: 3052–AB17

4067. FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS

Legal Authority: PL 92-181

CFR Citation: 12 CFR 615

Legal Deadline: None

Abstract: Update capital regulations to address changing conditions including capital requirements for loans sold by Farm Credit institutions to Farmer Mac, and other technical changes.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist Office of General Counsel Farm Credit Administration 1501 Farm Credit Drive McLean, Virginia 22102-5090 (703) 883-4020 TDD (703) 883-4444

Agency Contact: Robert S. Child, Credit Specialist, Financial Analysis and Standards Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4159

RIN: 3052–AB18

4068. ● ASSESSMENTS AND APPORTIONMENT OF OPERATING EXPENSES

Legal Authority: 12 USC 2250; 12 USC 2252

CFR Citation: 12 CFR 607

Legal Deadline: None

Abstract: FCA is required to determined annual administrative costs and apportion such costs by assessment among Farm Credit System institutions on an equitable basis.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Rob A. Bennett, Chief, Fiscal Resources Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4121

RIN: 3052–AB19

4069. ● DISCLOSURE TO SHAREHOLDERS AND INVESTORS

Legal Authority: 12 USC 2252

CFR Citation: 12 CFR 620

Legal Deadline: None

Abstract: Agency intends to review existing disclosure requirements regarding annual and quarterly reports to shareholders and propose new regulations concerning the Farm Credit System's Reports to Investors.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Thomas J. Holland, Chief, Accounting Standards Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4483

RIN: 3052–AB20

FARM CREDIT ADMINISTRATION (FCA) — Final Rule Stage

4090. ORGANIZATION; DIRECTOR COMPENSATION

Legal Authority: PL 92-181; PL 98-592; 12 USC 2211; 12 USC 2252(a)(10); PL 99-205

CFR Citation: 12 CFR 611

Legal Deadline: None

Abstract: Agricultural Credit Act of 1987 requires revision of FCA regulations to ensure the rights of shareholders to obtain a copy of the district board policy regarding compensation of district directors and also to inspect and copy the supporting records.

Timetable:

Action	Date	FR Cite
NPRM	11/09/87	52 FR 43081
NPRM Comment Period End	01/08/88	52 FR 43081
Final Action	01/00/91	

Small Entities Affected: None

Government Levels Affected: None

FCA — Final Rule Stage

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: James T. Judge, Assistant Chief, Human Resources Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4135

RIN: 3052-AA09

4091. ORGANIZATION; SERVICE CORPORATIONS

Legal Authority: 12 USC 2011; 12 USC 2031; 12 USC 2071; 12 USC 2096; 12 USC 2121; 12 USC 2142; 12 USC 2183; 12 USC 2203; 12 USC 2221; 12 USC 2243; 12 USC 2244; 12 USC 2252; 12 USC 2279a to 2279f-1; 12 USC 2279aa to 5(e); PL 100-233, Sec 411

CFR Citation: 12 CFR 611

Legal Deadline: None

Abstract: Would accommodate the organization of service corporations under section 4.25 to exercise authority granted under Title VIII of the Farm Credit Act of 1971 to act as a certified mortgage facility to pool and securitize agricultural real estate loans and to exempt such corporations from the requirement of existing regulations that corporation stock be owned only by System banks.

Timetable:

Action	Date	FR Cite
NPRM	03/12/90	55 FR 9138
NPRM Comment Period End	03/31/90	55 FR 9138

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist Office of General Counsel Farm Credit Administration 1501 Farm Credit Drive McLean, Virginia 22102-5090 (703) 883-4020 TDD (703) 883-4444

Agency Contact: John C. Moore, Deputy Director, Financial Analysis and Standards Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4402

RIN: 3052-AB14

FARM CREDIT ADMINISTRATION (FCA) — Completed Actions

4092. ELIGIBILITY AND SCOPE OF FINANCING; LOAN POLICIES AND OPERATIONS; FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS; COORDINATION; GENERAL PROVISIONS; DEFINITIONS

Legal Authority: 12 USC 2013; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2019; 12 USC 2073; 12 USC 2075; 12 USC 2093; 12 USC 2122; 12 USC 2128; 12 USC 2129; 12 USC 2143; 12 USC 2243; 12 USC 2252; 12 USC 2279a

CFR Citation: 12 CFR 613; 12 CFR 614; 12 CFR 615; 12 CFR 616; 12 CFR 618; 12 CFR 619

Legal Deadline: None

Abstract: Revise due to Agricultural Credit Act of 1987.

Timetable:

Action	Date	FR Cite
NPRM	11/03/88	53 FR 44438
NPRM Comment Period End	12/05/88	53 FR 44438
Final Action Eligibility/Lending Authority	06/19/90	55 FR 24861
Correction Eligibility/Lending Authority	06/22/90	55 FR 25773
Correction Eligibility/Lending Authority	07/11/90	55 FR 28511
Correction Eligibility/Lending Authority	07/16/90	55 FR 28985
Final Action Effective	07/30/90	55 FR 30903

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Dennis Carpenter, Senior Credit Specialist, Financial Analysis & Standards Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4498

RIN: 3052-AA94

4093. CORRECTIONS IN NUMEROUS SECTIONS

Legal Authority: PL 100-233

CFR Citation: 12 CFR Not yet determined

Legal Deadline: None

Abstract: Agency intends to review prior approval requirements remaining in regulations and to remove those inconsistent with FCA's role as an arm's length regulator. Where appropriate the agency will substitute specific direction through regulatory standards.

Timetable:

Action	Date	FR Cite
Withdrawn Issues being addressed in various other RINs.	08/24/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist Office of General Counsel Farm Credit Administration 1501 Farm Credit Drive McLean, Virginia 22102-5090 (703) 883-4020 TDD (703) 883-4444

Agency Contact: John C. Moore, Deputy Director, Financial Analysis and Standards Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4402

RIN: 3052-AB15

FCA

Completed Actions

4094. ASSET/LIABILITY MANAGEMENT

Legal Authority: PL 92-181; PL 100-460; 12 USC 2252(a)(10)

CFR Citation: 12 CFR 615

Legal Deadline: None

Abstract: The Farm Credit Administration is reviewing interest rate risk exposures and asset/liability management practices of Farm Credit institutions.

Timetable:

Action	Date	FR Cite
Withdrawn Requirements not to be promulgated by regulation.	08/24/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist Office of General Counsel Farm Credit Administration 1501 Farm Credit Drive McLean, Virginia 22102-5090 (703) 883-4020 TDD (703) 883-4444

Agency Contact: Greg Yowell, Senior Financial Analyst, Financial Analysis and Standards Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4371

RIN: 3052-AB16

[FR Doc. 90-21478 Filed 10-26-90; 8:45 am]
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Part L

Federal Communications Commission

Semiannual Regulatory Agenda

FEDERAL COMMUNICATIONS COMMISSION (FCC)

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

Unified Agenda of Federal Regulations; October 1990

AGENCY: Federal Communications Commission.

ACTION: Publication of the Unified Agenda of Federal Regulations.

SUMMARY: Twice a year, the Commission publishes a list in the Unified Agenda of those major items and other significant proceedings under development or review that pertain to the Regulatory Flexibility Act. The agenda also provides the CFR citations and legal authorities which govern these proceedings. The Regulatory Flexibility Act (94 Stat. 1167: 5 U.S.C. 605) includes notations on the applicability of the Regulatory Flexibility Act to each item. The Unified Agenda is published in the Federal Register in April and October of each year.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Tenecia Moncrief, Office of Managing Director, (202) 632-0923.

SUPPLEMENTARY INFORMATION:

Unified Agenda of Major and Other Significant Proceedings

The Commission encourages public participation in the FCC rulemaking process. To help keep the public informed of significant rulemaking proceedings, the Commission has prepared an agenda of important proceedings now in progress. OMB publishes the Unified Agenda in the Federal Register in April and October of each year.

The following terms may be helpful in understanding the status of the proceedings included in this report:

A Docket Number - is assigned to a proceeding if the Commission has issued either a Notice of Proposed Rulemaking or a Notice of Inquiry in regard to the matter under consideration. Since January 1, 1978, the Commission has used docket numbers which consist of the last two digits of the calendar year in which the docket was established plus a sequential number which begins at 1 with the first docket initiated during a calendar year (e.g., Docket 80-1 or Docket 83-1). The abbreviation for the responsible Bureau usually precedes the docket number, as in "MM Docket 79-164," which indicates that the responsible Bureau is the Mass Media Bureau. When a docket number consists of only five digits (e.g., Docket 29622), this indicates that the docket was established before January 1, 1978.

Notice of Inquiry (NOI) - issued by the Commission when it is seeking information on a broad subject or trying to generate ideas on a given topic. A comment period is specified during which all interested parties may submit comments.

Notice of Proposed Rulemaking (NPRM) - issued by the Commission when it is proposing a specific change to the FCC Rules and Regulations. Before any changes are actually made, interested parties may submit written comments on the proposals.

Memorandum Opinion and Order (MO&O) - issued by the Commission to deny a petition for rulemaking, conclude an inquiry, modify a decision, or deny a petition for reconsideration of a decision.

Rulemaking (RM) Number - assigned to a proceeding after the appropriate Bureau/Office has reviewed a petition for rulemaking but before the Commission has taken action on the petition.

Report & Order (R&O) - issued by the Commission to state a new or amended rule or state that the FCC Rules will not be changed.

Donna R. Searcy,

Secretary, Federal Communications Commission.

COMMON CARRIER BUREAU—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4095	Juriedictional Separation Procedures: Central Office Equipment (Circuit Equipment) and Cable and Wire Facilities	3060-AE14

COMMON CARRIER BUREAU—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4096	Juriedictional Separations Procedures: Central Office Equipment Category 3, Local Switching Equipment	3060-AE06
4097	Juriedictional Separations Procedures: Reconsideration of the Decision to Exclude Access Revenues From the Allocation of Marketing Expenses	3060-AE07
4098	Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313	3060-AE38
4099	Access to Telecommunications Equipment and Services by the Hearing Impaired and Other Disabled Persons	3060-AE39
4100	Cellular Resale Policies	3060-AE57
4101	In the Matter of Regulation of the Interstate, Long-Distance Market	3060-AE69

FCC

COMMON CARRIER BUREAU—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4102	Satellite Communications	3060-AD70
4103	Telephone Company Cable Television Cross-Ownership Rules Sections 63.54-63.56	3060-AE40
4104	Billing Protection	3060-AE70

OFFICE OF ENGINEERING AND TECHNOLOGY—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4105	900 MHZ G/NG Fixed Service	3060-AD95
4106	Part 15 Revision	3060-AD98
4107	Cordless Telephones	3060-AD95
4108	Alternative Type Acceptance Procedure	3060-AD99
4109	Verification of Parts 73, 74, and Devices	3060-AE00
4110	Proposal to Create a New Air-to-Ground Public Switched Telephone Network (PSTN) Interconnected Service	3060-AE36
4111	Part 15 Measurement Procedures	3060-AE37
4112	Part 15 Measurement Procedures	3060-AE54
4113	Cordless Phone Channel Split	3060-AE51
4114	Personal Communications Technology and Services	3060-AE55
4115	Spread Spectrum Systems	3060-AE56
4116	Preference Rules to Foster New Technology	3060-AE57
4117	Digital LMSS in L-Band Spectrum	3060-AE58
4118	Phonic Ear	3060-AE79
4119	Authorization of Plug-in CPU Cards	3060-AE80
4120	Digital Audio Broadcasting	3060-AE81
4121	Low Earth Orbiting Satellites	3060-AE82
4122	Emergency Position Indicating Radio Beacons (EPIRB) Test Procedure	3060-AE83

OFFICE OF ENGINEERING AND TECHNOLOGY—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4123	Lo-Jack Vehicle Recovery System	3060-AE55

OFFICE OF ENGINEERING AND TECHNOLOGY—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4124	LTTS Reallocation	3060-AD67
4125	Cellular Flexibility	3060-AE15

FIELD OPERATIONS BUREAU—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4126	In the Matter of an Automatic Transmitter Identification System (ATIS) for Radio Transmitting Equipment (Gen. Doc. #86-337)	3060-AE25

FCC

MASS MEDIA BUREAU—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4127	Broadcast EEO: Reconsideration	3060-AD73
4128	Satellite Television Stations	3060-AD79
4129	AM Improvement: Expanded Band	3060-AD92
4130	Wireless Cameras	3060-AE10
4131	FM Translators: Moody Bible: 2nd R&O	3060-AE11
4132	FM Directional Antennas: Reconsideration	3060-AE12
4133	Channels 14/69 Interference: R&O/FNPRM	3060-AE13
4134	FM Translators	3060-AE23
4135	Advanced Television Systems	3060-AE24
4136	Comparative Renewal Criteria: 3rd FNOI/NPRM	3060-AE27
4137	FM Zone Consolidation	3060-AE30
4138	Transfer of Control of Non-stock Entities	3060-AE31
4139	Cable System Definition	3060-AE34
4140	AM: Enhanced Nighttime Operation	3060-AE35
4141	Syndex for TVROs	3060-AE53
4142	Cable Television Effective Competition	3060-AE71
4143	Transmitter Remote Control Rule Clarification	3060-AE72
4144	MMDS: Amend Rules Re MMDS, OFS and ITFS	3060-AE73
4145	Class A Power Increase: Reconsideration	3060-AE85
4146	Financial Interest and Syndication Rules	3060-AE86
4147	Comparative New Application Settlement Agreements	3060-AE87
4148	TV Satellites: FNOI/NPRM	3060-AE88

MASS MEDIA BUREAU—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4149	AM Improvement: Skywave Propagation	3060-AE28
4150	AM Improvement: Groundwave Propagation	3060-AE29
4151	AM Improvement: Negotiated Interference Reduction	3060-AE51
4152	Comparative New Criteria	3060-AE52

PRIVATE RADIO BUREAU—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4153	Special Emergency Radio Private Carriers	3060-AE49
4154	PR Docket 89-45, Private Carrier Eligibility-Expansion of Eligibility to Permit Licensing of Private Carriers Below 800MHz	3060-AE59
4155	Frequency Coordination-alternatives and Options to the Present Frequency Coordination System	3060-AE60
4156	Use of 200 Channels Outside of DFAs	3060-AE62
4157	Use of 220-222 MHz Band	3060-AE63
4158	Personal Emergency Locator Transmitter Service (PELTS)	3060-AE64
4159	ABNA Short Space	3060-AE74
4160	Todd Petition-Distribution of Video Entertainment Material	3060-AE75
4161	MAS Grandfathering	3060-AE76
4162	Revision of the High Frequency (HF) Channels for the Maritime Mobile Service to Implement the Final Acts of the World Administrative Radio Conference for the Mobile Services	3060-AE77
4163	Marine VHF Transmitter Timers	3060-AE78

FCC

PRIVATE RADIO BUREAU—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4164	National Public Safety Plans	3060-AE43
4165	Wireline Common Carriers-Operation of SMRS	3060-AE46
4166	Trunking of Conventional Channels (800 MHz and Above)	3060-AE47
4167	Harris Petition-2.5 Channelization Plan	3060-AE58

FEDERAL COMMUNICATIONS COMMISSION (FCC)
COMMON CARRIER BUREAU

Prerule Stage

4095. JURISDICTIONAL SEPARATION PROCEDURES: CENTRAL OFFICE EQUIPMENT (CIRCUIT EQUIPMENT) AND CABLE AND WIRE FACILITIES

Significance: Agency Priority

Legal Authority: 47 USC 221(c); 47 USC 403; 47 USC 410

CFR Citation: 47 CFR 36; 47 CFR 69

Legal Deadline: None

Abstract: With the issuance of this Order inviting comments and requests for data, we are seeking information concerning the jurisdictional separations treatment of investment in Cable and Wire Facilities and in Circuit Equipment.

Timetable:

Action	Date	FR Cite
Order Inviting Comments	05/07/86	51 FR 21000
R&O	05/01/87	52 FR 17226
Order Inviting Comments	10/15/87	52 FR 43206
Other	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CC Docket No. 78-72 CC Docket No. 80-286 CC Docket No. 86-297

Agency Contact: Michael Wilson, Chief, Cost Analysis Branch, Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554, 202 632-7999

RIN: 3060-AE14

FEDERAL COMMUNICATIONS COMMISSION (FCC)
COMMON CARRIER BUREAU

Proposed Rule Stage

4096. JURISDICTIONAL SEPARATIONS PROCEDURES: CENTRAL OFFICE EQUIPMENT CATEGORY 3, LOCAL SWITCHING EQUIPMENT

Significance: Agency Priority

Legal Authority: 47 USC 221(c); 47 USC 403; 47 USC 410

CFR Citation: 47 CFR 36

Legal Deadline: None

Abstract: We are seeking comments on the development of other relative use allocators, including Switched Minutes of Use (SMOU) to allocate Central Office Equipment investment included in the Local Switching Equipment Category in the Part 36 Separations Manual.

Timetable:

Action	Date	FR Cite
Order Inviting Comments	05/07/86	51 FR 21000
Recom. Decision and Order	04/08/87	
Report and Order	05/01/87	52 FR 17226
NPRM	12/00/90	
Other	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Additional Information: CC Docket 80-286

Agency Contact: Michael Wilson, Chief, Cost Analysis Branch, Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554, 202 632-7999

RIN: 3060-AE06

4097. JURISDICTIONAL SEPARATIONS PROCEDURES: RECONSIDERATION OF THE DECISION TO EXCLUDE ACCESS REVENUES FROM THE ALLOCATION OF MARKETING EXPENSES

Significance: Agency Priority

Legal Authority: 47 USC 221(c); 47 USC 403; 47 USC 410

CFR Citation: 47 CFR 36; 47 CFR 69

Legal Deadline: None

Abstract: We are addressing the petitions for reconsideration filed by parties urging the FCC to reconsider its decision to exclude access revenues from the allocation factor for marketing expenses. We also are initiating a further proceeding to reexamine the separations treatment of marketing expenses.

FCC—CCB

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CC Docket 78-72 CC Docket 80-286 CC Docket 86-297

Agency Contact: Michael Wilson, Chief, Cost Analysis Branch, Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554, 202 632-7999

RIN: 3060-AE07

4096. POLICY AND RULES CONCERNING RATES FOR DOMINANT CARRIERS, CC DOCKET NO. 87-313

Significance: Agency Priority

Legal Authority: 47 USC 154(j); 47 USC 154(i); 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 303(r); 47 USC 403; 5 USC 553

CFR Citation: 47 CFR 1.773; 47 CFR 61.3; 47 CFR 61.32; 47 CFR 61.33; 47 CFR 61.38; 47 CFR 61.39; 47 CFR 61.41; 47 CFR 61.42; 47 CFR 61.43; 47 CFR 61.44; 47 CFR 61.45; 47 CFR 61.47; 47 CFR 61.58; 47 CFR 65.701; 47 CFR 65.1; ...

Legal Deadline: None

Abstract: The Commission has adopted final rules that implement price cap regulation for AT&T, and has proposed rules to implement price cap regulation for local exchange carriers' interstate rates. Price cap rules replace rate of return regulation, which sets limits on carriers' earnings, with a system of regulation that directly limits the prices carriers can charge for service. The Commission found price cap regulation will provide incentives for carriers to become more efficient and innovative. Consumers share in efficiency gains through rate reductions. The proposed rules for local exchange carriers also require carriers that are able to generate high profits under price caps to share a portion of those profits with ratepayers in the form of rate reduction.

Timetable:

Action	Date	FR Cite
NPRM	08/21/87	52 FR 33982
NPRM Comment Period End	02/17/88	
R&O	03/16/89	54 FR 19636
Second FNPRM	05/26/89	54 FR 19646
Supplemental NPRM	03/12/90	55 FR 12536
Second R&O	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Brown, Senior Attorney, Tariff Division, Federal Communications Commission, 202 632-5550

RIN: 3060-AE38

4099. ACCESS TO TELECOMMUNICATIONS EQUIPMENT AND SERVICES BY THE HEARING IMPAIRED AND OTHER DISABLED PERSONS

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 155; 47 USC 303

CFR Citation: 47 CFR 68.4; 47 CFR 68.112

Legal Deadline: Final, Statutory, May 16, 1989. Other, Statutory, July 27, 1989. Hearing Aid Compatibility Act of 1988. Telecommunications Accessibility Enhancement Act of 1988

Abstract: In response to a petition for partial reconsideration of its Order adopted May 4, 1989 dealing with hearing aid compatibility the FCC on April 12, 1990, issued a combined MO&O and FNPRM. The MO&O amends Secs. 68.4 and 68.112 of the rules to require that telephones in common areas of the workplace and all credit card telephones be hearing aid compatible by May 1, 1991. The FNPRM proposes that all workplace, hotel and motel, hospital, and other telephones in "confined areas" not already hearing aid compatible be made so by May 1, 1992.

Timetable:

Action	Date	FR Cite
FNPRM	02/28/89	
R&O Phase One - Effective 8/16/89	05/04/89	
FNPRM Phase Two	07/27/89	
MO&O FNPRM - 55 FR 28781	04/12/90	55 FR 28762

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Phil Chellik, Electronics Engineer, Federal Communications Commission, 202 634-1837

RIN: 3060-AE39

4100. CELLULAR RESALE POLICIES

Significance: Agency Priority

Legal Authority: 47 USC 201(a); 47 USC 201(b)

CFR Citation: None

Legal Deadline: None

Abstract: The Commission will determine whether to continue to apply its previous resale policies to resale by cellular entities.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Abraham Leib, Chief, Legal Branch, Mobile Svcs. Div., Federal Communications Commission, 1919 M St., NW., Washington, DC 20554, 202 632-6450

RIN: 3060-AE57

4101. IN THE MATTER OF REGULATION OF THE INTERSTATE, LONG-DISTANCE MARKET

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 211; 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205

CFR Citation: 47 CFR 61; 47 CFR 63

Legal Deadline: None

Abstract: Reexamination of FCC regulation of interstate long-distance market

Timetable:

Action	Date	FR Cite
NPRM	04/30/90	55 FR 18007
NPRM Comment Period End	09/04/90	
R&O	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: James D. Schlichting, Acting, Chief, CCB, Policy & Program Planning Division, Federal Communications Commission, 1919 M

FCC—CCB

Proposed Rule Stage

St., NW., Rm 544, Washington, DC 20554, 202 632-6347

RIN: 3060-AE80

FEDERAL COMMUNICATIONS COMMISSION (FCC)
COMMON CARRIER BUREAU

Final Rule Stage

4102. SATELLITE COMMUNICATIONS

Significance: Agency Priority

Legal Authority: 47 USC 303; 47 USC 553

CFR Citation: 47 CFR 25

Legal Deadline: None

Abstract: The Commission seeks to develop a record and to solicit comments on the proposed rules. These proposed rules are designed to implement recommendations made by the joint industry/government Advisory Committee on 2 degree satellite spacing; and they will codify basic applications requirements for satellite services. The proposed rules would apply to all entities including small entities who seek authorization under Part 25 of the Commission's rules to construct and operate Fixed-Satellite communications facilities. The proposed rules would establish operational and technical procedures designed to alleviate adjacent satellite interference and may increase the reporting and cost burdens on all satellite licensees. The rules codifying basic applications requirements are codifications of existing policies. Will impose no additional burdens, and may, in fact, reduce the burden by eliminating several current requirements. In order to be effective, these rules must apply to all licensees and thus there is no significant alternative.

Timetable:

Action	Date	FR Cite
ANPRM	09/01/87	52 FR 6175
ANPRM Comment Period End	11/01/87	
Order	12/00/90	
Final Action	12/00/90	
Final Action Effective	02/00/91	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Agency Contact: Rosalee Gorman or Fern Jarmulnek, Staff Attorneys, Federal Communications Commission, 2025 M Street, NW., Room 6324, Washington, DC 20554, 202 634-1824

RIN: 3060-AD70

4103. TELEPHONE COMPANY CABLE TELEVISION CROSS-OWNERSHIP RULES SECTIONS 63.54-63.56

Significance: Agency Priority

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 215; 47 USC 218; 47 USC 220; 47 USC 309(e) to 309(h); 47 USC 313; 47 USC 405; 47 USC 412; 47 USC 522

CFR Citation: 47 CFR 63.54; 47 CFR 63.55; 47 CFR 63.56; 47 CFR 63.57; 47 CFR 63.58

Legal Deadline: None

Abstract: This proceeding addresses the statutory restrictions which prohibit telephone companies from providing cable television service within their telephone service areas. The FCC has tentatively concluded that the statutory restrictions should be repealed. The Commission solicited comments and will decide whether to recommend to Congress whether the restrictions should be repealed. The Commission also issued an NPRM to modify the standards of affiliation between cable companies and telephone companies.

Timetable:

Action	Date	FR Cite
FNOI and NPRM	09/22/88	53 FR 36042
R&O	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patrick J. Donovan, Attorney, Federal Communications Commission, 2025 M St., NW., RM 6008, Washington, DC 20554, 202 634-1862

RIN: 3060-AE40

4104. BILLING PROTECTION

Legal Authority: 47 USC 154; 47 USC 155; 47 USC 303

CFR Citation: 47 CFR 68.314(h)

Legal Deadline: None

Abstract: Reconsideration in this proceeding indicates telephone companies are not receiving revenue for certain DID calls to PBXs and PBX-like CPE, due to the failure of this CPE to return answer supervision. Part 68 of the rules was established to ensure that CPE directly attached to the telephone network causes no harm, including malfunctioning of telephone companies billing equipment. The proposed rule will minimize the number of completed DID calls which are not detected.

Timetable:

Action	Date	FR Cite
NPRM	09/01/88	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James M. Talens, Chief, Domestic Svcs. Branch, Federal Communications Commission, 202 634-1818

RIN: 3060-AE70

FEDERAL COMMUNICATIONS COMMISSION (FCC)
OFFICE OF ENGINEERING AND TECHNOLOGY

Proposed Rule Stage

4105. 900 MHZ G/NG FIXED SERVICE

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 1; 47 CFR 21; 47 CFR 22; 47 CFR 74; 47 CFR 94

Legal Deadline: None

Abstract: Development of operating rules and sharing arrangement for use of the 932-935 and 941-944 MHz bands for G/NG fixed services.

Timetable:

Action	Date	FR Cite
NPRM	11/25/86	
NPRM Comment Period End	11/02/87	
R&O	02/29/89	
MO&O	03/15/90	
FNPRM	09/29/90	
R&O	12/00/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: 82-243

Agency Contact: Rodney Small, Federal Communications Commission, 2025 M Street, NW., Room 7332, Washington, DC 20554, 202 653-8116

RIN: 3060-AD55

4106. PART 15 REVISION

Significance: Agency Priority

Legal Authority: 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 4(i)

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: A comprehensive revision of Part 15 which proposes to allow marketing and use of a greater variety of devices, and to reduce the regulatory burden on the public.

Timetable:

Action	Date	FR Cite
NPRM	10/02/87	
NPRM Comment Period End	05/09/88	
R&O	04/18/89	
MO&O	02/28/90	
MO&O	03/30/90	
MO&O	06/29/90	
MO&O	07/31/90	
MO&O	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket 87-389

Agency Contact: John Reed, Federal Communications Commission, 2025 M Street, NW., Room 7122, Washington, DC 20554, 202 653-7313

RIN: 3060-AD68

4107. CORDLESS TELEPHONES

Significance: Agency Priority

Legal Authority: 47 USC 301

CFR Citation: 47 CFR 15; 47 CFR 68

Legal Deadline: None

Abstract: Disposition of proposal made in response to TIA petition to require use of coding to address the problem of false dialing.

Timetable:

Action	Date	FR Cite
NPRM	12/29/89	
R&O	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: 89-605

Agency Contact: George Harenberg, Federal Communications Commission, 2025 M Street, NW., Washington, DC 20554, 202 653-7314

RIN: 3060-AD95

4108. ALTERNATIVE TYPE ACCEPTANCE PROCEDURE

Significance: Agency Priority

Legal Authority: 47 USC 4(i); 47 USC 303(r)

CFR Citation: 47 CFR 2; 47 CFR 22; 47 CFR 90

Legal Deadline: None

Abstract: That proceeding in Docket No. 85-171 proposed a new technique that would allow maximum flexibility in getting innovative new equipment designs into the marketplace. This proposal will be a new approach to solve some of the technical and administrative problems identified in Docket 85-171.

Timetable:

Action	Date	FR Cite
NPRM	02/25/88	
NPRM Comment Period End	02/25/88	
R&O	12/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: 85-171

Agency Contact: Hector Davis, Federal Communications Commission, 7435 Oakland Mills Road, Guilford, MD 21045, 301 725-1585

RIN: 3060-AD99

4109. VERIFICATION OF PARTS 73, 74, AND DEVICES

Significance: Agency Priority

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 73; 47 CFR 74; 47 CFR 78

Legal Deadline: None

Abstract: Proposal for relaxation of the rules to change the equipment authorization procedure for certain devices subject to Parts 73, 74, and 78 from notification to the less burdensome verification procedure.

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	
NPRM Comment Period End	02/01/88	
R&O	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: 87-552

Agency Contact: George Harenberg, Federal Communications Commission, 2025 M Street, NW., Washington, DC 20554, 202 653-8107

RIN: 3060-AE00

4110. PROPOSAL TO CREATE A NEW AIR-TO-GROUND PUBLIC SWITCHED TELEPHONE NETWORK (PSTN) INTERCONNECTED SERVICE

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 22; 47 CFR 90

Legal Deadline: None

Abstract: The Commission proposes to amend Parts 2 and 22 and/or Parts 2 and 90 of its rules to permit use of four megahertz of reserve spectrum at 849/851/894-896 MHz for an air-to-ground telephone service. This action also proposes licensing policies and technical guidelines for the air-to-ground service.

FCC—OET

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/27/88	
NPRM Comment Period End	04/27/88	
R&O	06/15/90	
MO&O	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: 88-96

Agency Contact: Rodney Small, Federal Communications Commission, 202 653-8116

RIN: 3060-AE36

4111. PART 15 MEASUREMENT PROCEDURES

Significance: Agency Priority

Legal Authority: 47 USC 302

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: Proposal to revise the Commission's Measurement Procedure (MP-4) recommended for testing of computing devices, based on the Part 15 revision in Docket No. 87-389, and on a proposal by CBEMA to revise the MP.

Timetable:

Action	Date	FR Cite
NPRM	03/07/89	
FNPRM	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: 89-44

Agency Contact: Art Wall, Federal Communications Commission, 202 725-1585

RIN: 3060-AE37

4112. PART 15 MEASUREMENT PROCEDURES

Significance: Agency Priority

Legal Authority: 47 USC 302

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: In support of the revision of Part 15, MP-12 (intentional radiators above 30 MHz); MP-14 (unintentional radiators above 30 MHz); and MPs 1 and 11 (remote control and security devices) will be revised to conform with the new format and prepared as separate NPRMs.

Timetable:

Action	Date	FR Cite
NPRM	06/29/89	
R&O	06/00/91	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: 89-116,89-117,89-118

Agency Contact: Art Wall, Federal Communications Commission, 202 725-1585

RIN: 3060-AE54

4113. CORDLESS PHONE CHANNEL SPLIT

Significance: Agency Priority

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: Proposal to permit cordless telephone operation on channels that are offset from currently specified channels.

Timetable:

Action	Date	FR Cite
NPRM	01/17/90	
R&O	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: 89-628

Agency Contact: Ray LaForge, Federal Communications Commission, 301 653-8117

RIN: 3060-AE61

4114. PERSONAL COMMUNICATIONS TECHNOLOGY AND SERVICES

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 22; 47 CFR 90

Legal Deadline: None

Abstract: Cellular 21, Inc. and PCN America, Inc. petitions, seeking changes to the rules to provide allocations and operating rules to provide allocations and operating rules for new personal communication technologies and services. Cellular 21 requests allocation of 940-941 MHz for CT-2 services and PCN America (Millicom) requests allocations in the 1700-2300 MHz band for personal communications network operations.

Timetable:

Action	Date	FR Cite
NOI	06/26/90	
NPRM	06/30/91	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: 90-314

Agency Contact: Fred Thomas, Federal Communications Commission, 202 653-8112

RIN: 3060-AE65

4115. SPREAD SPECTRUM SYSTEMS

Significance: Agency Priority

Legal Authority: 47 USC 302; 47 USC 303; 47 USC 304; 47 USC 307

CFR Citation: 47 CFR 15; 47 CFR 2

Legal Deadline: None

Abstract: Amendment of Part 15 of the rules to modify rules for the unlicensed operation of spread spectrum systems. Changes to technical standards will provide additional flexibility to designers of these systems and clarify the Commission's intention for their operation.

Timetable:

Action	Date	FR Cite
NPRM	08/16/89	
R&O	06/12/90	
Other	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: 89-354

Agency Contact: Joe McNulty, Federal Communications Commission, 301 725-1585

RIN: 3060-AE66

4116. PREFERENCE RULES TO FOSTER NEW TECHNOLOGY

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: Geller/Lampert application for review of Chief Engineer's dismissal of a petition seeking to explore changes

FCC—OET

Proposed Rule Stage

In the Commission's Rules that could foster introduction and development of new communications technologies by providing preference in licensing to their developers.

Timetable:

Action	Date	FR Cite
NPRM	05/22/90	
R&O	03/20/91	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: 90-217

Agency Contact: Rodney Small, Federal Communications Commission, 202 653-8116

RIN: 3060-AE87

4117. DIGITAL LMSS IN L-BAND SPECTRUM

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: Geostar Messaging Corp. petition to establish a Digital Land Mobile Satellite Service in the L-Band maritime-mobile-satellite spectrum. Geostar proposes an exclusively digital LMSS in the 1530-1544/1626.5-1645.5 MHz bands.

Timetable:

Action	Date	FR Cite
NPRM	02/06/90	
R&O	08/28/91	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: 90-56

Agency Contact: Damon Ladson, Federal Communications Commission, 202 653-8126

RIN: 3060-AE68

4118. ● PHONIC EAR

Significance: Agency Priority

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: Petitioner requests revision of the rules to permit the use of auditory assistance devices under Part 15 on frequencies previously precluded for such use. The proposed revision results from a change in the international table of frequency allocations.

Timetable:

Action	Date	FR Cite
NPRM	01/01/91	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: John Reed, Federal Communications Commission, 202 653-8288

RIN: 3060-AE79

4119. ● AUTHORIZATION OF PLUG-IN CPU CARDS

Significance: Agency Priority

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: IBM/CBEMA petition for reconsideration of the new Part 15 regulations requesting the single authorization of plug-in cards for use in several different computers. Current rules require authorizations for each particular CPU and power supply/enclosure combination.

Timetable:

Action	Date	FR Cite
NPRM	10/01/90	
R&O	02/00/91	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: 87-389

Agency Contact: John Reed, Federal Communications Commission, 202 653-8288

RIN: 3060-AE80

4120. ● DIGITAL AUDIO BROADCASTING

Significance: Agency Priority

Legal Authority: 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 304; 47 USC 307

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: Inquiry into the development and implementation of new digital audio broadcasting into the U.S. The Commission is seeking info that will assist it to develop technical standards and regulatory policies for the possible introduction of such new digital radio services.

Timetable:

Action	Date	FR Cite
NOI	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Ray LaForge, Federal Communications Commission, 202 653-8117

RIN: 3060-AE81

4121. ● LOW EARTH ORBITING SATELLITES

Significance: Agency Priority

Legal Authority: 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 304; 47 USC 307

CFR Citation: 47 CFR 2; 47 CFR 25

Legal Deadline: None

Abstract: Inquiry or proposal on how best to implement inexpensive communications via low earth orbiting satellite systems.

Timetable:

Action	Date	FR Cite
NOI	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: RM-7399

Agency Contact: Ray LaForge, Federal Communications Commission, 202 653-8117

RIN: 3060-AE82

4122. ● EMERGENCY POSITION INDICATING RADIO BEACONS (EPIRB) TEST PROCEDURE

Significance: Agency Priority

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: Establishment of a test procedure for EPIRBs (TP-8) which outlines the testing method necessary to

FCC—OET

Proposed Rule Stage

determine if these devices comply with FCC technical standards in Part 80.

Timetable:

Action	Date	FR Cite
NPRM	01/17/90	
NPRM Comment Period End	04/11/90	
R&O	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: 88-623

Agency Contact: Thomas Phillips, Federal Communications Commission, 301 725-1585

RIN: 3060-AE83

FEDERAL COMMUNICATIONS COMMISSION (FCC)
OFFICE OF ENGINEERING AND TECHNOLOGY

Final Rule Stage

4123. LO-JACK VEHICLE RECOVERY SYSTEM

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 90

Legal Deadline: None

Abstract: In response to petition from Lo-Jack Corporation, allocate 173.075 MHz for a stolen vehicle recovery system.

Timetable:

Action	Date	FR Cite
NPRM	12/21/88	
R&O	10/16/89	
MO&O	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: 88-506

Agency Contact: Fred Thomas, Federal Communications Commission, 202 653-8112

RIN: 3060-AE56

FEDERAL COMMUNICATIONS COMMISSION (FCC)
OFFICE OF ENGINEERING AND TECHNOLOGY

Completed Actions

4124. LTTS REALLOCATION

Significance: Agency Priority

CFR Citation: 47 CFR 2; 47 CFR 74

Completed:

Reason	Date	FR Cite
Final Action deleted re: agency decision.	06/01/89	
Final Action Effective	06/01/89	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ray LaForge 202 653-8117

RIN: 3060-AD87

4125. CELLULAR FLEXIBILITY

Significance: Agency Priority

CFR Citation: 47 CFR 22

Completed:

Reason	Date	FR Cite
Terminated re: agency decision	02/28/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Rodney Small 202 653-8116

RIN: 3060-AE15

FEDERAL COMMUNICATIONS COMMISSION (FCC)
FIELD OPERATIONS BUREAU

Proposed Rule Stage

4126. IN THE MATTER OF AN AUTOMATIC TRANSMITTER IDENTIFICATION SYSTEM (ATIS) FOR RADIO TRANSMITTING EQUIPMENT (GEN. DOC. #86-337)

Significance: Agency Priority

Legal Authority: 47 USC 154(i); 47 USC 154(j); 47 USC 302; 47 USC 303; 47 USC 403

CFR Citation: 47 CFR 25

Legal Deadline: None

Further Notice of Proposed Rulemaking

Abstract: This proceeding looks to establish a means by which all radio emissions might be encoded with a distinct automatically transmitted identifier. Such a system would benefit the orderly management of the spectrum. It would be especially effective in preventing bogus maydays on VHF marine channels, phantom controllers on aircraft channels and general harassment on police and fire channels. While safety channels offer the most dramatic examples of need for automatic identification, other services, including all the land, mobile, and amateur services, have similar needs.

Timetable:

Action	Date	FR Cite
NPRM	06/07/86	51 FR 32223
Further NPRM	07/09/87	52 FR 26538
R&O	05/25/90	55 FR 21560
NOI (notice of inquiry)	12/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

FCC—FOB

Proposed Rule Stage

Government Levels Affected: Local, State, Federal

Agency Contact: John Hudak, Chief, Signal Analysis Branch, Federal Communications Commission, Enforcement Division, Room 744, 1919 M St., NW., Washington, DC 20554, 202 632-6977

RIN: 3060-AE25

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Proposed Rule Stage

MASS MEDIA BUREAU

4127. BROADCAST EEO: RECONSIDERATION

Significance: Agency Priority.

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73.2080

Legal Deadline: None

Abstract: The Commission has adopted new Equal Employment Opportunity (EEO) rules and reporting requirements for broadcasters that emphasize a licensee's overall EEO efforts rather than the numerical composition of its workforce. Reconsideration requested.

Timetable:

Action	Date	FR Cite
NPRM	10/31/86	
R&O	04/18/87	
MO&O	12/00/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: mmb-290 NPRM mm-85-350 FNPRM

Agency Contact: Marcia Glauberman, Federal Communications Commission, 202 632-6302

RIN: 3060-AD73

4128. SATELLITE TELEVISION STATIONS

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 73.3555

Legal Deadline: None

Abstract: Report and Order to establish policy with respect to television satellite stations.

Timetable:

Action	Date	FR Cite
NPRM	01/15/87	
NPRM Comment Period End	01/15/87	
FNPRM	09/01/90	
R&O	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: mmb-421 NPRM

Agency Contact: Andrew Rhodes, Federal Communications Commission, 202 632-7792

RIN: 3060-AD79

4129. AM IMPROVEMENT: EXPANDED BAND

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 2.106; 47 CFR 90.17

Legal Deadline: None

Abstract: NPRM proposing rules for implementing broadcast service on 1,605- 1,705 kHz added to the AM radio band pursuant to changes made to the frequency allocation tables of the International Radio Regulations by the 1979 World Administrative Radio Conference and the subsequent Regional Agreement and associated Broadcasting Plan included in the Final Acts of the Second Session of the Regional Administrative Radio Conference on the expanded AM band.

Timetable:

Action	Date	FR Cite
FNOI	02/25/88	
NPRM	04/12/90	
R&O	03/31/91	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: William Hassinger, Federal Communications Commission, 2025 M Street, NW., Washington, DC 20554, 202 632-6569

RIN: 3060-AD82

4130. WIRELESS CAMERAS

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 74.602; 47 CFR 74.604; 47 CFR 74.636; 47 CFR 74.637; 47 CFR 74.802

Legal Deadline: None

Abstract: Proposal to permit low power wireless cameras to operate on vacant UHF and VHF TV channels.

Timetable:

Action	Date	FR Cite
NPRM	05/04/87	
NPRM Comment Period End	05/04/87	
FNPRM	05/04/87	
R&O	12/00/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: MM-85-38(a)

Agency Contact: Hank Van Deursen, Federal Communications Commission, 2025 M Street, NW., Washington, DC 20554, 202 632-6969

RIN: 3060-AE10

4131. FM TRANSLATORS: MOODY BIBLE: 2ND R&O

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 74.501; 47 CFR 74.531; 47 CFR 74.532; 47 CFR 74.1231

Legal Deadline: None

Abstract: This proceeding addresses the possible use of satellite and microwave facilities to deliver signals to noncommercial FM translators that are owned and operated by parties other than their primary station.

Timetable:

Action	Date	FR Cite
NPRM	03/24/88	
FNPRM	02/24/90	
2nd R&O	12/00/90	

Small Entities Affected: Organizations

Government Levels Affected: Federal

Additional Information: mmb-511 RM-5219

Agency Contact: Tatsu Kondo, Federal Communications Commission, 2025 M Street, NW., Washington, DC 20554, 202 632-6302

RIN: 3060–AE11

4132. FM DIRECTIONAL ANTENNAS: RECONSIDERATION

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 73.315; 47 CFR 73.316

Legal Deadline: None

Abstract: The Commission will address concerns expressed in six petitions for reconsideration. Four petitions request minor changes in the technical rules adopted in this proceeding. Two others completely oppose the new rules.

Timetable:

Action	Date	FR Cite
NPRM	03/25/88	
R&O	12/12/88	
MO&O	12/00/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Bernard Gorden, Federal Communications Commission, 2025 M Street, NW., Washington, DC 20554, 202 632-6302

RIN: 3060–AE12

4133. CHANNELS 14/69 INTERFERENCE: R&O/FNPRM

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 304

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: In the Report and Order the Commission will consider spacing criteria for TV applicants for channel 14 or 69 in order to protect adjacent band land mobile operations. The Further Notice would propose rules to permit flexible use of channels 14 and 69.

Timetable:

Action	Date	FR Cite
NPRM	10/20/87	
NPRM Comment Period End	10/20/87	
NOI/NPRM	10/20/87	
FNPRM/R&O	12/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Marilyn Mohrman-Gillis, Federal Communications Commission, 2025 M Street, NW., Washington, DC 20554, 202 632-7792

RIN: 3060–AE13

4134. FM TRANSLATORS

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 74.1202; 47 CFR 74.1203; 47 CFR 74.1231; 47 CFR 74.1232; 47 CFR 74.1235

Legal Deadline: None

Abstract: The NOI in this proceeding initiated a study of the role of FM translators in the radio broadcast service. The objective of this proceeding is to examine and, where necessary or appropriate, to revise FCC policy regarding the authorization and operation of FM translators consistent with the Commission's overall allocations plan. In this NPRM, the Commission will consider modification of the FM translator rules.

Timetable:

Action	Date	FR Cite
NOI	03/24/88	
NPRM	03/08/90	
R&O	12/00/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Judy Herman, Federal Communications Commission, 202 632-6302

RIN: 3060–AE23

4135. ADVANCED TELEVISION SYSTEMS

Significance: Agency Priority

Legal Authority: 47 USC 4(i); 47 USC 303(g); 47 USC 303(r)

CFR Citation: 47 CFR 73.622; 47 CFR 73.682; 47 CFR 73.687

Legal Deadline: None

Abstract: FCC will consider whether it should make final the six tentative findings of the 1st FNOI and its decision to mandate a single transmission standard. FCC will also seek comment on the advantages and disadvantages of: protecting existing LPTV/TV translator spectrum allocated for educational TV expansion; reserving spectrum for future advances in ATV if an EDTV system is ultimately selected; setting ATV receiver standards; and restricting eligibility for supplemental ATV spectrum.

Timetable:

Action	Date	FR Cite
Tentative Decision/FNOI	09/01/88	
Policy Statement/2nd FNOI	12/00/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Undetermined

Additional Information: RM-5811 NOI

Agency Contact: William Hassinger, Federal Communications Commission, 202 632-6402

RIN: 3060–AE24

4136. COMPARATIVE RENEWAL CRITERIA: 3RD FNOI/NPRM

Significance: Agency Priority

Legal Authority: 47 USC 311(d); 47 USC 309(e)

CFR Citation: 47 CFR 73.3525; 47 CFR 73.3594

Legal Deadline: None

Abstract: FNOI/FNPRM seeking comment on a content-independent standard for renewal expectancy and other comparative criteria for use in comparative hearings for license renewal.

Timetable:

Action	Date	FR Cite
FNOI	06/23/88	
Policy Statement	03/30/89	
FNOI/FNPRM	09/18/90	
R&O	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Federal

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Agency Contact: M. Mohrman-Gillis, Federal Communications Commission, 202 632-7792

RIN: 3060-AE27

4137. FM ZONE CONSOLIDATION

Significance: Agency Priority

Legal Authority: 47 USC 303(e); 47 USC 303(f)

CFR Citation: 47 CFR 73.207; 47 CFR 73.210; 47 CFR 73.211; 47 CFR 73.506; 47 CFR 73.1660

Legal Deadline: None

Abstract: FCC will consider elimination of zone distinctions between classes FM station nationwide, thereby providing additional opportunities for incremental upgrades. Class B and B1 station antenna height would be increased. Class A maximum power would be 6kW. Proceeding would restore engineering integrity to the allotment/assignment standards.

Timetable:

Action	Date	FR Cite
NPRM	06/20/88	
NPRM Comment Period End	08/20/88	
R&O	03/30/89	
FNPRM	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Local, State, Federal

Agency Contact: Julie Pendergast, Federal Communications Commission, 202 632-0000

RIN: 3060-AE30

4138. TRANSFER OF CONTROL OF NON-STOCK ENTITIES

Significance: Agency Priority

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: The Commission will consider a Notice of Inquiry concerning Commission treatment of corporations and other organizational structures that are not traditional commercial corporations.

Timetable:

Action	Date	FR Cite
NOI	02/16/89	
NPRM	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Marilyn Mohrman-Gillis, Federal Communications Commission, 202 632-7792

RIN: 3060-AE31

4139. CABLE SYSTEM DEFINITION

Significance: Agency Priority

Legal Authority: 47 USC 303; 47 USC 522(a); 47 USC 522(b)

CFR Citation: 47 CFR 76.5

Legal Deadline: None

Abstract: The Commission will consider a Report and Order determining whether to change its definition of a CATV system.

Timetable:

Action	Date	FR Cite
NPRM	12/01/88	
NPRM	02/02/89	
R&O	12/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, Federal

Agency Contact: Barrett Brick, Federal Communications Commission, 202 254-3697

RIN: 3060-AE34

4140. AM: ENHANCED NIGHTTIME OPERATION

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73.21

Legal Deadline: None

Abstract: Proposal to permit Class II and III stations to enhance nighttime operations by establishing a separate nighttime antenna system at a daytime site or at a new site without having to comply with city-coverage or minimum operating hour requirements imposed on primary service stations.

Timetable:

Action	Date	FR Cite
NPRM	10/19/88	
NPRM Comment Period End	10/19/88	
R&O	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steve Selwyn, Federal Communications Commission, 202 632-0000

RIN: 3060-AE35

4141. SYNDEX FOR TVROS

Significance: Agency Priority

Legal Authority: 47 USC 712

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Commission will consider the feasibility of imposing syndicated programming exclusivity rules for satellite carriage of broadcast signals and to adopt such rules if feasible.

Timetable:

Action	Date	FR Cite
NPRM	05/30/89	
NPRM Comment Period End	05/30/89	
R&O	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David Horowitz, Federal Communications Commission, 202 632-7792

RIN: 3060-AE53

4142. CABLE TELEVISION EFFECTIVE COMPETITION

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303; 47 USC 543(b)(3)

CFR Citation: 47 CFR 76.33

Legal Deadline: None

Abstract: Reexamination of the effective competition standard for the regulation of Cable Television basic service rates.

Timetable:

Action	Date	FR Cite
NPRM	01/11/90	
R&O	12/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, Federal

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FCC—MMB

Proposed Rule Stage

Agency Contact: Marcia Glauberman, Federal Communications Commission, 202 632-6302

RIN: 3060-AE71

4143. TRANSMITTER REMOTE CONTROL RULE CLARIFICATION

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 73.1350; 47 CFR 73.1410; 47 CFR 73.1500; 47 CFR 73.1550; 47 CFR 73.1580

Legal Deadline: None

Abstract: Proceeding will clarify transmitter remote control and monitoring responsibilities. The Commission will consider relaxing the rule pertaining to the distance a transmitter must be from the duty operator.

Timetable:

Action	Date	FR Cite
NPRM	12/00/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: H. VanDeursen, Federal Communications Commission, 202 632-6600

RIN: 3060-AE72

4144. MMDS: AMEND RULES RE MMDS, OFS AND ITFS

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 21; 47 CFR 43; 47 CFR 74; 47 CFR 78; 47 CFR 94

Legal Deadline: None

Abstract: NPRM to modify rules in the MDS, OFS and ITFS services in order to enhance the commercial availability of MDS service and its competitiveness in the video entertainment marketplace.

Timetable:

Action	Date	FR Cite
NPRM	02/06/90	
R&O	12/00/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, State

Additional Information: Gen 90-113 PR 86-191

Agency Contact: B. Romano, Federal Communications Commission, 202 632-9356

RIN: 3060-AE73

4145. ◆ CLASS A POWER INCREASE: RECONSIDERATION

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: Petition for reconsideration filed by the United Class A Broadcasters Coalition objecting to notification/concurrence & site availability requirements adopted in the 2nd R&O. UCABC also requests that 2nd and 3rd adjacent channel facilities not be considered. NAB & CBS also requested clarification of the rules adopted.

Timetable:

Action	Date	FR Cite
MO&O	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Julie Pendergast, Federal Communications Commission, 202 632-9660

RIN: 3060-AE85

4146. ◆ FINANCIAL INTEREST AND SYNDICATION RULES

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73.658

Legal Deadline: None

Abstract: R&O considering modification of the Commission's policy regarding the financial interest and syndication rules.

Timetable:

Action	Date	FR Cite
R&O	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Judith Herman, Federal Communications Commission, 202 632-6302

RIN: 3060-AE86

4147. ◆ COMPARATIVE NEW APPLICATION SETTLEMENT AGREEMENTS

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: The Commission will consider a R&O implementing limitations on settlement agreements involving comparative new applications.

Timetable:

Action	Date	FR Cite
R&O	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: mm-87-314

Agency Contact: Andrew Rhodes, Federal Communications Commission, 202 632-7792

RIN: 3060-AE87

4148. ◆ TV SATELLITES: FNOI/FNPRM

Significance: Agency Priority

Legal Authority: 47 USC 4; 47 USC 303

CFR Citation: 47 CFR 73.3555

Legal Deadline: None

Abstract: FNOI/FNPRM to request additional comment in light of regulatory changes since the release of the NOI/NPRM in this proceeding regarding policies and rules for TV satellite stations.

Timetable:

Action	Date	FR Cite
R&O	12/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: MM-87-8

Agency Contact: Michael Ruger, Federal Communications Commission, 202 632-6302

RIN: 3060-AE88

FEDERAL COMMUNICATIONS COMMISSION (FCC)
MASS MEDIA BUREAU

Completed Actions

4148. AM IMPROVEMENT: SKYWAVE PROPAGATION

Significance: Agency Priority

CFR Citation: 47 CFR 73.190

Completed:

Reason	Date	FR Cite
Final Action : R&O adopted.	04/12/90	
Final Action Effective	04/12/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John McNally 202 632-9660

RIN: 3060-AE28

4149. AM IMPROVEMENT: GROUNDWAVE PROPAGATION

Significance: Agency Priority

CFR Citation: 47 CFR 73.183; 47 CFR 73.184

Completed:

Reason	Date	FR Cite
Final Action ; R&O adopted.	04/12/90	
Final Action Effective	04/12/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John McNally 202 632-9660

RIN: 3060-AE29

4151. AM IMPROVEMENT: NEGOTIATED INTERFERENCE REDUCTION

Significance: Agency Priority

CFR Citation: 47 CFR 73

Completed:

Reason	Date	FR Cite
Final Action ; R&O adopted.	04/12/90	
Final Action Effective	04/12/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Undetermined

Agency Contact: Robert Hayneer 202 634-6530

RIN: 3060-AE51

4152. COMPARATIVE NEW CRITERIA

Significance: Agency Priority

CFR Citation: 47 CFR 73.3584; 47 CFR 1.1601

Completed:

Reason	Date	FR Cite
Final Action ; Order adopted.	05/10/90	
Final Action Effective	05/10/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Andrew J. Rhodes 202 632-7792

RIN: 3060-AE52

FEDERAL COMMUNICATIONS COMMISSION (FCC)
PRIVATE RADIO BUREAU

Proposed Rule Stage

4153. SPECIAL EMERGENCY RADIO PRIVATE CARRIERS

Significance: Agency Priority

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 90.35

Legal Deadline: None

Abstract: The FCC adopted a proposal allowing private carriers to be licensed in the Special Emergency Radio Service. Petitions have been filed to reconsider private carrier aspect and modify MED channel restriction.

Timetable:

Action	Date	FR Cite
NPRM	09/04/87	52 FR 35281
NPRM Comment Period End	09/18/87	
R&O	05/18/88	53 FR 25807
MO&O	12/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State

Agency Contact: Irene Bleiweiss, Federal Communications Commission, 202 634-2443

RIN: 3060-AE49

4154. PR DOCKET 89-45, PRIVATE CARRIER ELIGIBILITY-EXPANSION OF ELIGIBILITY TO PERMIT LICENSING OF PRIVATE CARRIERS BELOW 800MHZ

Significance: Agency Priority

Legal Authority: 47 USC 154i

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: Expansion of eligibility to permit licensing of private carriers in any service below 806 MHz.

Timetable:

Action	Date	FR Cite
NPRM	02/22/89	54 FR 14109
NPRM Comment Period End	04/07/89	
R&O	12/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Agency Contact: Irene Bleiweiss, Federal Communications Commission, 202 634-2443

RIN: 3060-AE59

4155. FREQUENCY COORDINATION-ALTERNATIVES AND OPTIONS TO THE PRESENT FREQUENCY COORDINATION SYSTEM

Significance: Agency Priority

Legal Authority: 47 USC 154i

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: Proposals or options to change present frequency coordination system.

Timetable:

Action	Date	FR Cite
NPRM	05/02/89	
R&O	12/00/90	

FCC—PRB

Proposed Rule Stage

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Freda Thyden, Federal Communications Commission, 202 634-2443

RIN: 3060–AE60

4156. USE OF 200 CHANNELS OUTSIDE OF DFAS

Significance: Agency Priority

Legal Authority: 47 USC 154(i)

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: The Commission is proposing to amend the rules to facilitate more flexible use of the 200 channels allocated in the 200 MHz band.

Timetable:

Action	Date	FR Cite
NPRM	11/28/89	55 FR 744
NPRM Comment Period End	01/09/90	
R&O	06/00/91	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Agency Contact: Joseph Levin, Federal Communications Commission, 202 632-6497

RIN: 3060–AE62

4157. USE OF 220-222 MHZ BAND

Significance: Agency Priority

Legal Authority: 47 USC 154(i)

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: The Commission is proposing to amend Part 90 to provide for the use of 220-222 MHz band. This proceeding proposes service rules for the band.

Timetable:

Action	Date	FR Cite
NPRM	11/28/89	55 FR 328
NPRM Comment Period End	01/04/90	
R&O	06/00/91	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Agency Contact: Eugene Thomson, Federal Communications Commission, 202 634-2443

RIN: 3060–AE63

4158. PERSONAL EMERGENCY LOCATOR TRANSMITTER SERVICE (PELTS)

Significance: Agency Priority

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 95

Legal Deadline: None

Abstract: The FCC is proposing to amend its rule to establish a Personal Emergency Locator Transmitter Services to provide individuals in remote areas with a means of alerting others of an emergency situation and helping search and rescue personnel locate those in distress.

Timetable:

Action	Date	FR Cite
NPRM	12/12/89	55 FR 315
NPRM Comment Period End	01/04/90	
R&O	03/00/91	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: James Shaffer, Industry Analyst, Federal Communications Commission, 202 632-7197

RIN: 3060–AE64

4159. ● ASNA SHORT SPACE

Significance: Agency Priority

Legal Authority: 47 USC 154i

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: The FCC proposed to amend the rules to expedite the processing of license applications for trunked Specialized Mobile Radio (SMR) systems located less than 70 miles from co-channel systems.

Timetable:

Action	Date	FR Cite
NPRM	01/25/90	55 FR 8966
NPRM Comment Period End	01/25/90	
R&O	03/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Irene Bleiweiss, Federal Communications Commission, 202 634-2443

RIN: 3060–AE74

4160. ● TODD PETITION-DISTRIBUTION OF VIDEO ENTERTAINMENT MATERIAL

Significance: Agency Priority

Legal Authority: 47 USC 154i

CFR Citation: 47 CFR 94

Legal Deadline: None

Abstract: The FCC has proposed to amend the rules to allow OFS licensees to use the 6 mHz channels in the 17.7-19.7 GHz band for the distribution of video entertainment material.

Timetable:

Action	Date	FR Cite
NPRM	01/11/90	55 FR 3241
NPRM Comment Period End	05/21/90	
R&O	03/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Karen Kincaid, Federal Communications Commission, 202 634-2443

RIN: 3060–AE75

4161. ● MAS GRANDFATHERING

Significance: Agency Priority

Legal Authority: 47 USC 154i

CFR Citation: 47 CFR 94

Legal Deadline: None

Abstract: The FCC proposed to amend the rules to modify previously adopted provisions in order to require that all licensees on MAS frequencies comply with the current channelization plan.

Timetable:

Action	Date	FR Cite
NPRM	05/07/90	55 FR 22036
NPRM Comment Period End	05/07/90	
R&O	06/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

FCC—PRB

Proposed Rule Stage

Agency Contact: Irene Bleiweiss, Federal Communications Commission, 202 634-2443

RIN: 3060-AE76

4162. ● REVISION OF THE HIGH FREQUENCY (HF) CHANNELS FOR THE MARITIME MOBILE SERVICE TO IMPLEMENT THE FINAL ACTS OF THE WORLD ADMINISTRATIVE RADIO CONFERENCE FOR THE MOBILE SERVICES

Significance: Agency Priority

Legal Authority: 47 USC 154i; 47 USC 303r

CFR Citation: 47 CFR 2; 47 CFR 80

Legal Deadline: None

Abstract: The FCC is proposing to revise the rules regarding the high frequency (HF) bands that are allocated exclusively to the maritime mobile services. This action is necessary to implement the Final Acts of the World Administrative Radio Conference for Mobile Services, 1987 into the Commission's Rules.

Timetable:

Action	Date	FR Cite
NPRM	03/09/90	55 FR 11407
NPRM Comment Period End	03/29/90	
R&O	03/31/91	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Katy Hosford, Federal Communications Commission, 202 632-7197

RIN: 3060-AE77

4163. ● MARINE VHF TRANSMITTER TIMERS

Significance: Agency Priority

Legal Authority: 47 USC 154i; 47 USC 303r

CFR Citation: 47 CFR 80

Legal Deadline: None

Abstract: The FCC is proposing to amend its rules to require that VHF transmitters aboard ships to be equipped with an automatic timing device that deactivates the transmitter after an uninterrupted transmission of more than three minutes, and a device that indicates that the time has deactivated the transmitter.

Timetable:

Action	Date	FR Cite
NPRM	01/22/90	55 FR 4886
NPRM Comment Period End	02/12/90	
R&O	12/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Agency Contact: Joy Alford, Federal Communications Commission, 202 632-7175

RIN: 3060-AE78

FEDERAL COMMUNICATIONS COMMISSION (FCC)

PRIVATE RADIO BUREAU

Completed Actions

4164. NATIONAL PUBLIC SAFETY PLANS

Significance: Agency Priority

CFR Citation: 47 CFR 90

Completed:

Reason	Date	FR Cite
Final Action ; agency decision	08/15/90	
Final Action Effective	08/15/90	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Agency Contact: Maureen Cesaitis 202 632-6497

RIN: 3060-AE43

4165. WIRELINE COMMON CARRIERS-OPERATION OF SMRS

Significance: Agency Priority

CFR Citation: 47 CFR 90

Completed:

Reason	Date	FR Cite
Final Action ; agency decision	08/15/90	
Final Action Effective	08/15/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Freda Thyden 202 634-2443

RIN: 3060-AE46

4166. TRUNKING OF CONVENTIONAL CHANNELS (800 MHZ AND ABOVE)

Significance: Agency Priority

CFR Citation: 47 CFR 90

Completed:

Reason	Date	FR Cite
Final Action ; R&O	06/14/90	55 FR 28028
Final Action Effective	06/15/90	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: John Borkowski 202 634-2443

RIN: 3060-AE47

4167. HARRIS PETITION-2.5 CHANNELIZATION PLAN

Significance: Agency Priority

CFR Citation: 47 CFR 94

Completed:

Reason	Date	FR Cite
Final Action – R&O	07/09/90	55 FR 30908
Final Action Effective	07/09/90	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Mike Lewis 202 634-2443

RIN: 3060-AE58

[FR Doc. 90-21479 Filed 10-26-90; 8:45 am]

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federal register

Monday
October 29, 1990

Part LI

Federal Deposit Insurance Corporation

Semiannual Regulatory Agenda

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Ch. III

Semiannual Agenda of Regulations

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Publication of semiannual agenda of regulations.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is hereby publishing items for the October 1990 regulatory agenda. The agenda contains information about FDIC's current and projected rulemakings, existing regulations under review, and completed rulemakings.

FOR FURTHER INFORMATION CONTACT: Persons identified under regulations listed in the agenda. The address for all FDIC staff identified in the agenda is Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: Twice each year, the FDIC publishes an agenda of regulations to inform the public of its regulatory actions and to enhance public participation in the rulemaking process. Publication of the agenda is in accordance with both the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and the FDIC statement of policy entitled, "Development and Review of FDIC Rules and Regulations" (44 FR 31007, May 30, 1979; 44 FR 32353, June 6, 1979; 44 FR 76858, December 28, 1979; 49 FR 7288, February 28, 1984).

The FDIC amends its regulations under the general rulemaking authority prescribed in section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) and under specific authority granted by the Act and other statutes.

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), which was enacted on August 9, 1989, contains reforms that significantly restructure Federal deposit insurance and the regulation of financial institutions. As a consequence, many of the regulations included in this agenda are in response to FIRREA.

Interested persons may petition the FDIC for the issuance, amendment, or repeal of any regulation by submitting a written petition to the Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429. Petitioners should include complete and concise statements of their interest in the subject matter and reasons why the petitions should be granted.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4165	12 CFR 355 Procedures to Offset Salary of Federal Employees Indebted to the United States	3064-AA93

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4169	12 CFR 336 Insider Transactions—Conflicts of Interest	3064-AA94
4170	12 CFR 344 Recordkeeping Requirements for Securities Transactions	3064-AA30
4171	12 CFR 328 Advertisement of Membership	3064-AA95
4172	12 CFR 334 Contracts Adverse to Safety and Soundness of Insured Depository Institutions	3064-AB06
4173	12 CFR 326 Minimum Security Procedures	3064-AA77
4174	12 CFR 325 Capital Maintenance	3064-AA82

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4175	12 CFR 325 Capital Maintenance - Mortgage Servicing Rights	3064-AB04
4176	12 CFR 303 Change in Senior Executive Officer or Board of Directors	3064-AB02
4177	12 CFR 354 Deposit Liabilities	3064-AA92
4178	12 CFR 312 Assessment of Fees Upon Entrance to or Exit From the Bank Insurance Fund or the Savings Association Insurance Fund	3064-AA99
4179	12 CFR 345 Community Reinvestment Act	3064-AB09

FDIC

Completed Actions

Sequence Number	Title		Regulation Identifier Number
4180	12 CFR 303	Applications and Notices by Savings Associations	3064-AB03
4181	12 CFR 337	Brokered Deposits in Undercapitalized Insured Depository Institutions	3064-AB90
4182	12 CFR 357	Determination of Economically Depressed Regions	3064-AB08
4183	12 CFR 323	Real Estate Appraisal Standards	3064-AB05
4184	12 CFR 304	Prior Notice of Rapid Growth in Insured Banks	3064-AA88
4185	12 CFR 330	Deposit Insurance Coverage	3064-AB91
4186	12 CFR 304	Prior Notice by Insured Banks of Intent To Directly or Indirectly Engage in a New Banking Activity and of Intent To Acquire or Establish a Subsidiary	3064-AA29
4187	12 CFR 327	Assessments	3064-AA96

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Prerule Stage

4168. PROCEDURES TO OFFSET SALARY OF FEDERAL EMPLOYEES INDEBTED TO THE UNITED STATES

Legal Authority: 5 USC 5514; 12 USC 1819

CFR Citation: 12 CFR 355

Legal Deadline: None

Abstract: The FDIC plans to propose new regulations implementing salary offset procedures required by 5 USC 5514 and 5 CFR 550, Subpart K. The proposal would set out procedures to be used by the FDIC to offset the salary of any FDIC employee who is indebted to the United States and refuses to pay voluntarily. The proposal would also enumerate procedures through which the FDIC may request another agency to offset the salary of one of its employees to satisfy a debt that employee may owe the FDIC.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Catherine N. Lundblad, Personnel Management Specialist, Office of Personnel Management, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3857

RIN: 3064-AA93

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Proposed Rule Stage

4169. INSIDER TRANSACTIONS—CONFLICTS OF INTEREST

Legal Authority: 12 USC 1818; 12 USC 1819; 12 USC 1831(g)

CFR Citation: 12 CFR 350

Legal Deadline: None

Abstract: This proposed rule would ensure that business dealings (other than extensions of credit) between insured nonmember banks and state licensed insured branches of foreign banks and their "insiders" are conducted in an arms-length fashion so that insiders do not improperly abuse their position for personal gain.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pamela E.F. LeCren, Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington DC 20429, 202 898-3730

RIN: 3064-AA94

4170. RECORDKEEPING REQUIREMENTS FOR SECURITIES TRANSACTIONS

Legal Authority: 12 USC 1817; 12 USC 1818; 12 USC 1819

CFR Citation: 12 CFR 344

Legal Deadline: None

Abstract: The FDIC expects to propose an amendment to 12 CFR Part 344, which governs an insured nonmember bank's recordkeeping and confirmation requirements for securities transactions. The proposed amendment would expand an existing exception under Part 344 for low activity. The exception would be increased to allow banks which effect an average of fewer than 1,000 securities transactions per year to be exempt from certain recordkeeping and written policymaking requirements. The current "low-activity" threshold is 200 transactions per year. The amendment is needed to eliminate unnecessary paperwork burden and is intended to reduce the impact of FDIC's regulation on insured nonmember banks

FDIC

Proposed Rule Stage

that engage in a low number of securities transactions per year.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John F. Harvey, Review Examiner (Trust Specialist), Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6762

RIN: 3064-AA50

4171. ADVERTISEMENT OF MEMBERSHIP

Legal Authority: 12 USC 1819; 12 USC 1828(a); PL 101-73, Sec 221

CFR Citation: 12 CFR 328

Legal Deadline: None

Abstract: The FDIC has issued a final rule amending its regulation regarding advertisement of membership in order to comply with the requirements of section 221 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") (see 54 FR 33669, August 16, 1989). Because the FDIC acted under a statutory deadline, the final rule established only those requirements that were considered to be the minimum necessary to comply with FIRREA. The FDIC is now considering additional amendments to the regulation.

Timetable:

Action	Date	FR Cite
ANPRM	08/16/89	54 FR 33716
ANPRM Comment Period End	10/16/89	
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Valerie J. Best, Senior Attorney, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3812

RIN: 3064-AA05

4172. CONTRACTS ADVERSE TO SAFETY AND SOUNDNESS OF INSURED DEPOSITORY INSTITUTIONS

Legal Authority: 12 USC 1818; 12 USC 1819; 12 USC 1831g

CFR Citation: 12 CFR 334

Legal Deadline: None

Abstract: The proposed rule would implement section 225 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") that requires the FDIC to prescribe regulations as may be necessary to prevent any insured depository institution from entering into contracts that adversely affect the safety or soundness of the institution.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael D. Jenkins, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6909

RIN: 3064-AB06

4173. ● MINIMUM SECURITY PROCEDURES

Legal Authority: 12 USC 1881 to 1884

CFR Citation: 12 CFR 326

Legal Deadline: None

Abstract: This proposed rule requires insured nonmember banks to designate a security officer who will administer a written security program. The security program will: (1) establish procedures for opening and closing for business and for safekeeping valuables; (2) establish procedures that will assist in identifying persons committing crimes against the bank; (3) provide for initial and periodic training of employees in their responsibilities under the security program; and (4) provide for selecting, testing, operating and maintaining security devices. In addition, the proposed rule would require the security officer to report at least annually to the bank's board of directors on the effectiveness of the security program.

This rule would amend an existing rule relating to security. The existing rule recommends use of specific types of security devices. The proposed rule would avoid the necessity of constantly updating the existing technology-based rule by taking a more flexible approach.

Timetable:

Action	Date	FR Cite
NPRM	09/17/90	55 FR 38079
NPRM Comment Period End	11/16/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eugene Seitz, Review Examiner, Special Activities Section, Division of Supervision, Federal Deposit Insurance Corporation, 202 898-6793

RIN: 3064-AA77

4174. ● CAPITAL MAINTENANCE

Legal Authority: 12 USC 1464; 12 USC 1815; 12 USC 1816; 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: The proposed rule would revise the leverage standards for capital for state nonmember banks.

Timetable:

Action	Date	FR Cite
NPRM	09/26/90	55 FR 39288
NPRM Comment Period End	11/13/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen G. Pfeifer, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-8904

RIN: 3064-AA82

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

Final Rule Stage

4175. CAPITAL MAINTENANCE - MORTGAGE SERVICING RIGHTS

Legal Authority: 12 USC 1464; 12 USC 1815; 12 USC 1816; 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 3907; 12 USC 3909; PL 101-73, Sec 301

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This proposed rule would restrict the amount of purchased mortgage servicing rights that savings associations can recognize when calculating the amount of regulatory capital under the tangible capital standard issued by the Office of Thrift Supervision. The proposed rule would also place restrictions on the amount of purchased mortgage servicing rights that state nonmember banks can recognize in their regulatory capital calculations. The rule would implement section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA").

Timetable:

Action	Date	FR Cite
NPRM	02/09/90	55 FR 4616
NPRM Comment Period End	04/10/90	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen G. Pfeifer, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6904

RIN: 3064-AB04

4176. CHANGE IN SENIOR EXECUTIVE OFFICER OR BOARD OF DIRECTORS

Legal Authority: 12 USC 378; 12 USC 1813; 12 USC 1815; 12 USC 1816; 12 USC 1817(j); 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 1829; 15 USC 1607; 12 USC 1831(i); 15 USC 78w; 5 USC 504

CFR Citation: 12 CFR 303; 12 CFR 308

Legal Deadline: None

Abstract: This interim rule implements section 914 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") by requiring insured nonmember banks which fall within specified categories to file a notice with the FDIC prior to adding or replacing a member of the board of directors or employing or changing the responsibilities of an individual to a position as a senior executive officer.

Timetable:

Action	Date	FR Cite
Interim Rule	12/27/89	54 FR 53040
Interim Rule Effective	12/27/89	
Interim Rule Comment Period End	02/26/90	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karl R. Krichbaum, Chief, Special Situations and Applications Section, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-8758

RIN: 3064-AB02

4177. DEPOSIT LIABILITIES

Legal Authority: 12 USC 1813; 12 USC 1819

CFR Citation: 12 CFR 354

Legal Deadline: None

Abstract: The FDIC issued for public comment a proposed regulation expanding the definition of the term "deposit." The proposed rule would find that a bank's liability on a promissory note, bond, acknowledgement of advance, or similar obligation that is issued or undertaken by the insured bank as a means of obtaining funds is a deposit liability for insurance and assessment purposes.

Timetable:

Action	Date	FR Cite
NPRM	11/25/88	53 FR 47723
NPRM Comment Period End	01/24/89	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roger A. Hood, Assistant General Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3681

RIN: 3064-AA92

4178. ASSESSMENT OF FEES UPON ENTRANCE TO OR EXIT FROM THE BANK INSURANCE FUND OR THE SAVINGS ASSOCIATION INSURANCE FUND

Legal Authority: 12 USC 1815(d); 12 USC 1819

CFR Citation: 12 CFR 312

Legal Deadline: None

Abstract: The FDIC adopted interim rules that prescribe entrance and exit fees to be paid by insured depository institutions that participate in certain "conversion transactions" authorized by section 205(a)(7) of the FIRREA (12 USC 1815(d)). Conversion transactions involve transfers or switches between the two deposit insurance funds: the Bank Insurance Fund ("BIF") and the Savings Association Insurance Fund ("SAIF"). One rule, published on October 2, 1989 at 54 FR 40377, set entrance fees for "SAIF-to-BIF" conversion transactions. Another rule, published on December 28, 1989 at 54 FR 52923, established the fee structure for "BIF-to-SAIF" conversion transactions. A third rule, published on March 21, 1990 at 55 FR 10486, prescribes the exit fee and amends the previously prescribed entrance fee for "SAIF" to "BIF" conversion transactions. Final rules will be issued following the expiration of the public comment periods.

Timetable:

Action	Date	FR Cite
Interim Rule/Request for Comments for Entrance Fees - "SAIF-to-BIF"	10/02/89	54 FR 40377
Interim Rule/Request for Comments for Entrance/Exit Fees - "BIF-to-SAIF"	12/28/89	54 FR 52923
Interim Rule/Request for Comments for Exit Fees - "SAIF-to-BIF"	03/21/90	55 FR 10486
Final Rule	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Valerie J. Best, Senior Attorney, Legal Division, Federal

FDIC — Final Rule Stage

Deposit Insurance Corporation, Washington, DC 20429, 202 898-3812

RIN: 3064–AA89

4178. ● COMMUNITY REINVESTMENT ACT

Legal Authority: 12 USC 2901

CFR Citation: 12 CFR 345

Legal Deadline: None

Abstract: This rule requires institutions to place the CRA Performance Evaluation and CRA rating in a public comment file, which they are already required to maintain, within 30 business days of receipt from the FDIC. The institution will be required to make the evaluation and rating available for public inspection, and to provide copies of the evaluation, upon request, and will be permitted to charge a reasonable fee for reproduction and mailing costs.

The temporary rule is effective July 1, 1990. Comments must be received on or before August 27, 1990. A final rule is anticipated by December 31, 1990.

Timetable:

Action	Date	FR Cite
Joint Temporary Rule With Request For Comment	06/26/90	55 FR 26624
Comment Period End	08/27/90	
Final Rule	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia A. McCormick, Fair Lending Analyst, Office of Consumer Affairs, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3536

RIN: 3064–AB09

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Completed Actions

4180. APPLICATIONS AND NOTICES BY SAVINGS ASSOCIATIONS

Legal Authority: 12 USC 378; 12 USC 1815; 12 USC 1816; 12 USC 1817(j); 12 USC 1818; 12 USC 1819; 12 USC 1828; 15 USC 1607; PL 101-73, Sec 221; 12 USC 1831(e); 12 USC 1813

CFR Citation: 12 CFR 303

Legal Deadline: None

Abstract: This rule implements sections 221 and 222 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") by establishing application and notice procedures that impose new restrictions on savings and loan association powers.

Timetable:

Action	Date	FR Cite
Interim Rule	12/29/89	54 FR 53540
Interim Rule Effective	12/29/89	
Interim Rule Comment Period End	02/28/90	
Final Action	09/17/90	55 FR 38037
Final Action Effective	09/17/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel E. Austin, Review Examiner, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6774

RIN: 3064–AB00

4181. BROKERED DEPOSITS IN UNDERCAPITALIZED INSURED DEPOSITORY INSTITUTIONS

Legal Authority: 12 USC 1816; 12 USC 1818(a); 12 USC 1818(b); 12 USC 1819; 12 USC 1821(f); 12 USC 1828(j)(2); 12 USC 1831(f)

CFR Citation: 12 CFR 337

Legal Deadline: None

Abstract: Section 224 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") prohibits the acceptance or renewal of brokered deposits by any undercapitalized insured depository institution (bank or thrift) after December 7, 1989, except on specific application to and waiver of the prohibition by the FDIC. This rule provides guidance and further detail on when an institution is considered undercapitalized, when certain deposits are considered "brokered" for purposes of the prohibition, and the circumstances under which a waiver from the prohibition may be granted.

Timetable:

Action	Date	FR Cite
Interim Rule	12/12/89	54 FR 51012
Interim Rule Effective	12/12/89	
Interim Rule Comment Period End	02/12/90	
Extension of Effectiveness of Interim Rule	06/07/90	55 FR 23186
Extension of Effectiveness of Interim Rule	07/16/90	55 FR 28984
Final Action	09/25/90	55 FR 39135
Final Action Effective	10/25/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Hrindac, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6982

RIN: 3064–AB00

4182. ● DETERMINATION OF ECONOMICALLY DEPRESSED REGIONS

Legal Authority: 12 USC 1819; 12 USC 1823(k)(5)

CFR Citation: 12 CFR 357

Legal Deadline: None

Abstract: The FDIC is required by law to consider proposals for direct financial assistance by BAIF members whose offices are located in an "economically depressed region" and which satisfy certain other specified criteria. This rule designates "economically depressed regions" in order that the FDIC may implement its policy of open thrift assistance.

FDIC

Completed Actions

Timetable:

Action	Date	FR Cite
Interim Rule With Request For Comment	03/27/90	55 FR 11160
Final Action	09/17/90	55 FR 38043
Final Action Effective	10/17/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Arthur Murton, Chief, Financial and Industry Analysis, Division of Research and Statistics, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3938

RIN: 3064–AB08

4183. REAL ESTATE APPRAISAL STANDARDS

Legal Authority: 12 USC 1819; PL 101-73, Sec 1101 to 1122

CFR Citation: 12 CFR 323

Legal Deadline: NPRM, Statutory, February 9, 1990. Final, Statutory, August 9, 1990.

Abstract: This rule implements the mandate of section 1110 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") that requires each Federal financial institutions regulatory agency and the Resolution Trust Corporation to prescribe appropriate standards for the performance of real estate appraisals in connection with federally related transactions under the jurisdiction of each such agency or instrumentality. These standards must be in conformance with the provisions of title XI (Real Estate Appraisal Reform Amendments) of FIRREA.

Timetable:

Action	Date	FR Cite
NPRM	02/22/90	55 FR 6286
NPRM Comment Period End	04/23/90	
Final Action	08/20/90	55 FR 33879
Final Action Effective	09/19/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert F. Miailovich, Assistant Director, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6918

RIN: 3064–AB05

4184. PRIOR NOTICE OF RAPID GROWTH IN INSURED BANKS

Legal Authority: 5 USC 552; 12 USC 1817; 12 USC 1818; 12 USC 1819; 12 USC 1820

CFR Citation: 12 CFR 304

Legal Deadline: None

Abstract: Banks must give the FDIC 30 days' notice when planning to increase their assets 7.5 percent or more over any three month period through the solicitation, in any combination, of fully insured brokered deposits, fully insured out-of-territory deposits, or secured borrowings, including repurchase agreements.

Timetable:

Action	Date	FR Cite
NPRM	04/05/89	54 FR 13693
NPRM Comment Period End	06/05/89	
Final Action	05/22/90	55 FR 21010
Final Action Effective	07/23/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Hrindac, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6892

RIN: 3064–AA88

4185. DEPOSIT INSURANCE COVERAGE

Legal Authority: 12 USC 1813; 12 USC 1817; 12 USC 1819; 12 USC 1821; 12 USC 1822; PL 101-73, Sec 402(c)(3)

CFR Citation: 12 CFR 330; 12 CFR 331

Legal Deadline: Final, Statutory, May 19, 1990.

Abstract: The FDIC has amended its existing deposit insurance regulations (12 CFR Parts 330 and 331) to clarify and define the extent of insurance coverage afforded by the FDIC to deposit accounts maintained with FDIC-insured banks. These amendments were proposed pursuant to section 402(c)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA").

Timetable:

Action	Date	FR Cite
NPRM	12/21/89	54 FR 52309
NPRM Comment Period End	02/20/90	
Final Action	05/15/90	55 FR 20111
Final Action Effective	05/15/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Claude A. Rollin, Senior Attorney, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3985

RIN: 3064–AB01

4186. PRIOR NOTICE BY INSURED BANKS OF INTENT TO DIRECTLY OR INDIRECTLY ENGAGE IN A NEW BANKING ACTIVITY AND OF INTENT TO ACQUIRE OR ESTABLISH A SUBSIDIARY

Legal Authority: 12 USC 1816; 12 USC 1817; 12 USC 1818(a); 12 USC 1818(b); 12 USC 1819; 12 USC 1820; 12 USC 1821(f)

CFR Citation: 12 CFR 304; 12 CFR 332

Legal Deadline: None

Abstract: The FDIC considered amending its regulations to require any insured State nonmember bank to provide 30-day prior written notice to the regional director of the FDIC region in which the bank is located of the bank's intent to engage in a new banking activity and of its intent to acquire or establish a subsidiary. The amendment would also have required notice to the regional director not more than 10 days after the activity started or the subsidiary was established or acquired.

Timetable:

Action	Date	FR Cite
Withdrawn	07/23/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pamela E.F. LeCren, Senior Attorney, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3730

RIN: 3064–AA29

4187. ● ASSESSMENTS

Legal Authority: 12 USC 1441; 12 USC 1817 to 1819

FDIC

Completed Actions

CFR Citation: 12 CFR 327

Legal Deadline: Final, Statutory, September 30, 1995.

Abstract: This final rule amends Part 327 in two ways. It increases the assessment paid by Bank Insurance Fund ("BIF") members during calendar year 1991, and sets forth the rate in Part 327. It also publishes the rates to be paid by Savings Association Insurance Fund ("SAIF") members in 1991 and later years. This publication is for information purposes only; the SAIF rates are fixed by statute until 1995.

Timetable:

Action	Date	FR Cite
NPRM	08/20/90	55 FR 33918
NPRM Comment Period End	09/19/90	
Final Action	10/05/90	55 FR 40814
Final Action Effective	10/05/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alvin Kitchen, Associate Director, Accounting and Corporate Services, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-8844

RIN: 3064-AA96

[FR Doc. 90-21480 Filed 10-26-90; 8:45 am]

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federal register

Monday
October 29, 1990

Part LII

Federal Energy Regulatory Commission

Semiannual Regulatory Agenda

FEDERAL ENERGY REGULATORY COMMISSION (FERC)

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Semiannual Regulatory Agenda

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Semiannual regulatory agenda.

SUMMARY: In accordance with guidance issued by the OMB, the Federal Energy Regulatory Commission voluntarily submits information about rulemakings under development. Of the 12 rulemakings listed, 8 are current and projected rulemakings and 4 are completed actions.

DATES: The dates provided represent goals, not commitments, and may be revised due to shifts in workload, change in priorities, or extensive public comments. See the various dates listed for each specific rulemaking.

ADDRESSES: Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426

FOR FURTHER INFORMATION CONTACT: Person listed for each specific rulemaking.

Lois D. Cashell,

Secretary.

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Proposed Rule Stage

4186. REVISIONS TO REGULATIONS GOVERNING CERTIFICATES FOR CONSTRUCTION

Significance: Agency Priority

Legal Authority: 15 USC 717 to 717w Natural Gas Act; 15 USC 3301 to 3432 Natural Gas Policy Act of 1978

CFR Citation: 18 CFR 2; 18 CFR 157; 18 CFR 284

Legal Deadline: None

Abstract: This rulemaking will consider amendments to various Commission regulations that govern certificate authority for construction of natural gas pipeline facilities. Docket No. RM90-1-000.

Timetable:

Action	Date	FR Cite
NPRM	08/13/90	55 FR 33027
NPRM Comment Period End	10/31/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Connie Feuchtenberger, Attorney Adviser, Pipeline Certificates, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, 202 208-1022

RIN: 1902-AB15

4188. ● REVISIONS TO REGULATIONS GOVERNING TRANSPORTATION UNDER SECTION 311 OF THE NATURAL GAS POLICY ACT OF 1978 AND BLANKET TRANSPORTATION CERTIFICATES

Significance: Agency Priority

Legal Authority: 15 USC 717 to 717w (1982) Natural Gas Act; 15 USC 3301 to 3432 Natural Gas Policy Act of 1978

CFR Citation: 18 CFR 157; 18 CFR 284

Legal Deadline: None

Abstract: This rulemaking proposes to revise its regulations governing transportation by intrastate pipelines and interstate pipelines under section 311 of the Natural Gas Policy Act of 1978 and transportation by interstate pipelines under blanket certificates issued pursuant to sec. 284.221 of the Commission's regulations. (Docket No. RM90-7-000)

Timetable:

Action	Date	FR Cite
NPRM	08/13/90	55 FR 33017
NPRM Comment Period End	10/31/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack O. Kendall, Attorney Adviser, Pipeline Certificates, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, 202 208-1022

RIN: 1902-AB16

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Final Rule Stage

4190. CALCULATION OF CASH WORKING CAPITAL ALLOWANCE FOR PUBLIC UTILITIES

Legal Authority: 16 USC 791a to 828c

CFR Citation: 18 CFR 35

Legal Deadline: None

Abstract: The proposed rule would provide that the cash working capital requirements of a public utility that files an electric rate schedule will be presumed to be zero dollars, and thus will not affect the utility's rate base, unless the utility shows there is a significant difference between the time it pays certain current operating expenses and the time it receives revenues from ratepayers. The proposed rule would establish a threshold standard that must be met to support a cash working capital adjustment to a utility's rate base, the expense elements to be considered in calculating cash working capital adjustments to rate base, and criteria applicable to studies submitted in support of a request for an adjustment to rate base. Docket No. RM84-9-000.

Timetable:

Action	Date	FR Cite
NPRM	04/05/84	49 FR 14384
NPRM Comment Period End	06/04/84	49 FR 14384
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel L. Larcamp, Assistant General Counsel, Electric Rates and Corporate Regulation, Federal Energy Regulatory Commission,

FERC

Final Rule Stage

625 North Capitol Street, NE., Washington, DC 20426, 202 208-2068

RIN: 1902-AA93

4191. REGULATIONS GOVERNING BIDDING PROGRAMS

Significance: Agency Priority

Legal Authority: 42 USC 7101 to 7352 (1982); EO 12009 3 CFR 142 (1978); 31 USC 9701 (1982); 16 USC 7919 to 8252 (1982); 16 USC 2601 to 2645 (1982)

CFR Citation: 18 CFR 35; 18 CFR 293

Legal Deadline: None

Abstract: The Commission proposed to adopt regulations providing guidelines for state regulatory authorities and nonregulated electric utilities to implement bidding procedures as a means of establishing rates for power purchases from qualifying facilities (QFs) under section 210 of PURPA. Docket No. RM88-5-000.

Timetable:

Action	Date	FR Cite
NPRM	03/16/88	53 FR 9323
NPRM Comment Period End	06/14/88	53 FR 9323
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel L. Larcamp, Assistant General Counsel, Electric Rates and Corporate Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, 202 208-2068

RIN: 1902-AA96

4192. REGULATIONS GOVERNING INDEPENDENT POWER PRODUCERS

Significance: Agency Priority

Legal Authority: PL 99-509, Sec 3401; 42 USC 7101 to 7352 (1982); EO 12009 3 CFR (1978) Comp., p. 142; 5 USC 551 to 557 (1982); 15 USC 717 to 717w (1982); 16 USC 791a to 828c (1982); 15 USC 3301 to 3432 (1982); 16 USC 2601 to 2645 (1982); 49 USC 1 to 27 (1976)

CFR Citation: 18 CFR 38; 18 CFR 382

Legal Deadline: None

Abstract: The Commission proposed to streamline regulation of a class of non-traditional utility suppliers, called independent power producers (IPPs). The proposed regulations would: (1) authorize rates for IPPs to be determined through competitive bidding or rate negotiation subject to a price cap, thereby freeing IPPs from cost-based ratemaking while ensuring that rates fall within a zone of reasonableness; (2) authorize IPPs to file rate schedules without having to provide extensive cost support; (3) exempt IPPs from cost-related accounting, reporting and recordkeeping requirements; (4) streamline the corporate and financial regulation of IPPs; (5) provide the blanket prior authorizations to engage in certain corporate activities; and (6) adopt certification procedures to qualify as an IPP. Docket No. RM88-4-000.

Timetable:

Action	Date	FR Cite
NPRM	03/16/88	53 FR 9327
NPRM Comment Period End	06/16/88	53 FR 9327
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel L. Larcamp, Assistant General Counsel, Electric Rates and Corporate Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, 202 208-2068

RIN: 1902-AA99

4193. ADMINISTRATIVE DETERMINATION OF FULL AVOIDED COSTS, SALES OF POWER TO QUALIFYING FACILITIES AND INTERCONNECTION FACILITIES

Significance: Agency Priority

Legal Authority: PL 99-495; 42 USC 7101 to 7352 (1982); EO 12009 3 CFR (1978) Comp., p. 142; 31 USC 9701 (1982); 16 USC 791a to 825r (1982); 16 USC 2601 to 2645 (1982)

CFR Citation: 18 CFR 292

Legal Deadline: None

Abstract: The Commission proposed to amend its regulations governing purchases and sales of electricity between electric utilities and qualifying cogeneration facilities and qualifying small power production facilities (QFs). Docket No. RM 88-6-000.

Timetable:

Action	Date	FR Cite
NPRM	03/16/88	53 FR 9331
NPRM Comment Period End	06/14/88	53 FR 9331
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel L. Larcamp, Assistant General Counsel, Electric Rates and Corporate Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, 202 208-2068

RIN: 1902-AB00

4194. REGULATIONS GOVERNING THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

Significance: Agency Priority

Legal Authority: 42 USC 7101 to 7352 (1982) Dept. of Energy Organ. Act; EO 12009, 3 CFR 1978, Comp., p. 142; 31 USC 9701 (1982) Independent Offices Approp. Act; 16 USC 791a to 825r (1982) Federal Power Act; 16 USC 2601 to 2645 (1982) Public Util. Regulatory Pol. Act

CFR Citation: 18 CFR 292

Legal Deadline: None

Abstract: Under this notice of proposed rulemaking, the Commission proposed to amend its regulations governing the implementation of Title II of the Public Utility Regulatory Policies Act of 1978 (PURPA). This rule addresses problems with the criteria and procedures under Section 201 of PURPA by which qualifying small power production and cogeneration facilities can obtain PURPA benefits. Docket No. RM88-17-000.

Timetable:

Action	Date	FR Cite
NPRM	07/29/88	53 FR 31021
NPRM Comment Period End	10/27/88	53 FR 31021
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel L. Larcamp, Assistant General Counsel, Electric Rates and Corporate Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, 202 208-2068

RIN: 1902-AB07

FERC — Final Rule Stage

4195. REGULATIONS GOVERNING SUBMITTAL OF PROPOSED HYDROPOWER LICENSE CONDITIONS, AND OTHER MATTERS

Significance: Agency Priority

Legal Authority: 16 USC 792a et seq (1982 and Supp. 1987) Federal Power Act; 16 USC 661 et seq (1982) Fish and Wildlife Coordination Act; 42 USC 4321 et seq (1982) National Environmental Policy Act

CFR Citation: 18 CFR 1

Legal Deadline: None

Abstract: This rulemaking will propose improvements in the coordination between the Commission and Federal and State fish and wildlife agencies concerning appropriate conditions and other measures to be taken in proceedings on the granting of licenses to applicants for hydroelectric facilities subject to the Commission's jurisdiction. Docket No. RM89-7-000.

Timetable:

Action	Date	FR Cite
NPRM	03/16/90	55 FR 9894
Comment Period Extended	06/28/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Merrill Hathaway, Attorney Adviser, Hydroelectric Licensing, Federal Energy Regulatory Commission, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, 202 208-0633

RIN: 1902-AB12

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Completed Actions

4196. STANDARDS OF CONDUCT

Significance: Agency Priority

CFR Citation: 18 CFR 3c

Completed:

Reason	Date	FR Cite
No action expected in the next 12 months.	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Denise O'Brien 202 208-0457

RIN: 1902-AB01

4197. 5-YEAR TAKE-OR-PAY MAKE-UP PROVISIONS IN NATURAL GAS PRODUCER-PIPELINE CONTRACTS

Significance: Agency Priority

CFR Citation: 18 CFR 154

Completed:

Reason	Date	FR Cite
No action expected in the next 12 months.	06/24/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Susan Court 202 208-0448

RIN: 1902-AB11

4198. BLANKET SALES CERTIFICATES FOR FIRST SELLERS OF NATURAL GAS

Significance: Agency Priority

CFR Citation: 18 CFR 270; 18 CFR 271

Completed:

Reason	Date	FR Cite
No action expected in the next 12 months.	06/24/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Susan Court 202 208-0448

RIN: 1902-AB09

4199. REGULATIONS IMPLEMENTING THE NATURAL GAS WELLHEAD DECONTROL ACT OF 1989

Significance: Agency Priority

CFR Citation: 18 CFR 272.103

Completed:

Reason	Date	FR Cite
Final Action	04/18/90	55 FR 17425
Final Action Effective	04/18/90	55 FR 17425

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Mattingly 202 208-2294

RIN: 1902-AB14

[FR Doc. 90-21481 Filed 10-26-90; 8:45 am]

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federal register

Monday
October 29, 1990

Part LIII

Federal Housing Finance Board

Semiannual Regulatory Agenda

FEDERAL HOUSING FINANCE BOARD (FHFB)

FEDERAL HOUSING FINANCE BOARD

12 CFR CH. IX

[90-96]

Agenda of Federal Regulations

AGENCY: Federal Housing Finance Board.

ACTION: Publication of agenda items.

SUMMARY: The Federal Housing Finance Board (FHFB) hereby publishes items for the Unified Agenda of Federal Regulations. These items reflect the status of the regulatory agenda of the FHFB as of August 24, 1990.

The FHFB is an independent agency in the executive branch of government. It was created in 1989 to succeed the former Federal Home Loan Bank Board as the regulator of the Federal Home Loan Bank System and the Financing Corporation. The FHFB proposes to promulgate regulations concerning its organizational structure and channeling of functions, public meetings of its governing Board of Directors, and request and disclosure of FHFB records under the Freedom of Information Act.

As a new agency the FHFB has an ongoing need to adopt various regulations dealing with its internal administration, in addition to regulations affecting the Federal Home Loan Bank System.

ADDRESS: Executive Secretariat, Room 518, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006; (202) 408-2574.

FOR FURTHER INFORMATION CONTACT: Charles Szlenker, Attorney, Office of General Counsel, Room 324, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, (202) 408-2554.

Dated: September 11, 1990.

By the Federal Housing Finance Board

Leonard H.O. Spearman, Jr.,

Executive Secretary.

FEDERAL HOUSING FINANCE BOARD (FHFB) — Prerule Stage

4200. COMMUNITY INVESTMENT PROGRAM

Significance: Agency Priority

Legal Authority: 12 USC 1422A; 12 USC 1422B; 12 USC 1430(i)

CFR Citation: 12 CFR 961

Legal Deadline: None

Abstract: Pursuant to section 721 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub. L. 101-73, 103 Stat. 423, the Federal Home Loan Banks must establish a Community Investment Program ("Program") which will provide funds, through Bank advances (loans) to a Bank's member institutions at interest rates equal to interest rates on Federal Home Loan Bank consolidated bonds or notes having comparable maturity dates with the advances. These advances will be used by the member institutions to provide funding for community-oriented development projects or housing. These regulations will continue the commitment of the Federal Home Loan Banks to community development lending.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local

Agency Contact: Steve Johnson, Attorney-Adviser, Office of Housing Finance Programs, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006, 202 408-2847

RIN: 3069-AA05

4201. BANK REQUEST FOR INFORMATION

Significance: Agency Priority

Legal Authority: 12 USC 1422A; 12 USC 1422B; 12 USC 1442

CFR Citation: 12 CFR 931.15

Legal Deadline: None

Abstract: Section 719 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub. L. 101-73, 103 Stat. 422, amended Section 22 of the Federal Home Loan Bank Act (12 USC 1442) and mandates that the Federal Deposit Insurance Corporation, Board of Governors of the Federal Reserve System, Office of Thrift Supervision, Comptroller of the Currency, National Credit Union Administration and the Treasury Department share examination reports or other records or data, in confidence, with the Federal Home Loan Banks at their request. The FHFB is proposing to promulgate regulations which will establish a procedure regarding the confidentiality of these examination reports and other records or data while in the possession of a Federal Home Loan Bank.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Szlenker, Attorney, Office of General Counsel, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006, 202 408-2554

RIN: 3069-AA06

4202. ADVANCES TO MEMBERS

Significance: Agency Priority

Legal Authority: 12 USC 1430; 12 USC 1422B

CFR Citation: 12 CFR 935.1; 12 CFR 935.6; 12 CFR 935.7

Legal Deadline: None

Abstract: The FHFB proposes to amend its regulations pertaining to advances (loans) made by the Federal Home Loan Banks ("Banks") to their member institutions. The proposed regulations will carry forward certain of the prior policy statements and regulations and also, implement new provisions of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA"), Pub. L. 101-73, 103 Stat. 183 (1989). However, long-term advances may only be made for the purposes of providing funds for residential housing

FHFB

Prerule Stage

finance. Advances will be secured by eligible collateral consisting of (1) fully disbursed, whole first mortgages on improved residential property, or securities representing such mortgages; (2) securities issued or guaranteed by the United States Government or any agency thereof; (3) deposits in a Federal Home Loan Bank; and (4) certain other real estate related collateral. Advances available to members that are not Qualified Thrift Lenders, pursuant to FIRREA, are limited to advances for the purpose of residential housing finance.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas Sheehan, Office of Bank Operations, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006, 202 408-2870

RIN: 3069-AA08

4203. ● AVAILABILITY AND CHARACTER OF RECORDS

Significance: Agency Priority

Legal Authority: 5 USC 552; 12 USC 1422B

CFR Citation: 12 CFR 904

Legal Deadline: None

Abstract: The FHFB proposes to issue regulations governing disclosure of documents and records of the FHFB to the public. These regulations will implement the FHFB's responsibilities under the Freedom of Information Act.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Szlenker, Attorney, Office of General Counsel, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006, 202 408-2554

RIN: 3069-AA10

4204. ● ORGANIZATION AND CHANNELING OF FUNCTIONS

Significance: Agency Priority

Legal Authority: 12 USC 1422B

CFR Citation: 12 CFR 900

Legal Deadline: None

Abstract: The FHFB proposes to promulgate regulations establishing its internal organization and describing the duties and functions of its administrative units. These regulations will also state the statutory duties and responsibilities of the FHFB and the Federal Home Loan Bank System, as well as a general statement regarding procedures and forms.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Szlenker, Attorney, Office of General Counsel, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006, 202 408-2554

RIN: 3069-AA11

4205. ● PUBLIC INFORMATION REGARDING MEETINGS OF THE BOARD OF DIRECTORS OF FEDERAL HOUSING FINANCE BOARD

Significance: Agency Priority

Legal Authority: 12 USC 1422B; 5 USC 552b

CFR Citation: 12 CFR 906

Legal Deadline: None

Abstract: The FHFB proposes to promulgate regulations governing public meetings and notice of meetings for its governing Board of Directors. These regulations are issued pursuant to the requirements of the Government in The Sunshine Act.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Szlenker, Attorney, Office of General Counsel, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006, 202 408-2554

RIN: 3069-AA12

FEDERAL HOUSING FINANCE BOARD (FHFB)

Final Rule Stage

4206. ELECTION OF DIRECTORS OF THE FEDERAL HOME LOAN BANKS: ELIGIBILITY REQUIREMENTS

Significance: Agency Priority

Legal Authority: 12 USC 1422B; 12 USC 1427

CFR Citation: 12 CFR 932.14

Legal Deadline: None

Abstract: The FHFB is amending its rules governing eligibility requirements for directors of the Federal Home Loan Banks ("Banks"). These changes are being implemented in order to comply with the recently enacted provisions of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub. L. 101-73, 103 Stat. 183, which substantially changed the eligibility requirements for appointive and elective directors. Bank directors appointed by FHFB may no longer have a financial interest in a member institution of a Bank. Bank directors elected by the member institutions must come from member institutions that meet their applicable minimum regulatory capital requirements. The regulations also address eligibility requirements and financial procedures for both elected, appointed and the new positions of community interest directors.

The FHFB adopted its regulations as an interim rule on January 5, 1990. It will promulgate a final rule by the close of 1990.

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FHFB — Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	01/05/90	
Interim Final Rule	01/16/90	55 FR 1393
Interim Final Rule Comment Period End	03/15/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Amy Manwell, Deputy Director, Office of Bank Operations, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006, 202 408-2882

RIN: 3069-AA03

4297. AFFORDABLE HOUSING PROGRAMS

Significance: Agency Priority

Legal Authority: 12 USC 1422A; 12 USC 1422B; 12 USC 1430; 12 USC 1441B

CFR Citation: 12 CFR 960

Legal Deadline: None

Abstract: The Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA") Pub. L. 101-73, 103 Stat. 183, enacted on August 9, 1989, requires that each Federal Home Loan Bank ("Bank") establish an Affordable Housing Program ("Program"). The FIRREA added a new section 10(j) to the Federal Home Loan Bank Act, providing that each Bank establish a program to give advances (loans) to its members at subsidized, lower than market rate, interest rates if such advances are used by the Bank's member institutions to lend funds for long-term mortgages on very low-, low- or moderate-income, owner occupied housing or affordable rental housing. The Programs established pursuant to FIRREA are designed to strengthen the traditional commitment of the Federal Home Loan Bank System to the nation's housing needs by providing subsidized advances (loans) to its member lending institutions for the purpose of passing those subsidies to borrowers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/02/90	55 FR 7479
Interim Final Rule Effective	03/02/90	
Interim Final Rule Comment Period End	05/01/90	
Final Action	11/00/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, State

Agency Contact: Richard Tucker, Deputy Director, Office of Housing Finance Programs, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006, 202 408-2848

RIN: 3069-AA04

[FR Doc. 90-22611 Filed 10-26-90; 8:45 am]
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Monday
October 28, 1991

federal register

Part LIV

Federal Maritime Commission

Semiannual Regulatory Agenda

FEDERAL MARITIME COMMISSION (FMC)

FEDERAL MARITIME COMMISSION

46 CFR Ch. IV

Unified Regulatory Agenda

AGENCY: Federal Maritime Commission.

ACTION: Unified Agenda of Federal Regulations.

SUMMARY: Pursuant to section 5 of Executive Order 12291 and the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Commission anticipates having under consideration during the period from September 1, 1990, to August 31, 1991, actions in the areas listed below.

FOR FURTHER INFORMATION CONTACT: For further information concerning Commission rulemaking proceedings or the status of any matter listed below, contact: Joseph C. Polking, Secretary, 1100 L Street NW., Washington, DC 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: Section 602 of the Regulatory Flexibility Act (5 U.S.C. 602) requires the publication of an agenda of items for which regulatory agencies may propose or promulgate a rule which is likely to have a significant economic impact on a substantial number of small entities. Section 5 of Executive Order 12291 also requires executive agencies to publish a regulatory agenda; the Commission voluntarily complies with this section.

The agendas include information on regulatory activities being conducted or reviewed during the succeeding 12 months by the Commission.

The following is the Commission's unified regulatory agenda. The agenda does not necessarily include all petitions for rulemakings which are under staff review.

In addition, the Commission maintains a compilation of the status of pending rulemaking proceedings and a listing of rules that have become final since the publication of the most recent regulatory agenda. This will be made available to the public, including the press and interested persons.

Joseph C. Polking,
Secretary.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4208	Automated Tariff Filing	3072-AA81
4209	User Fees to Recover Agency Costs	3072-AA70
4210	Financial Reports of Vessel Operating Common Carriers by Water in the Domestic Offshore Trades	3072-AA93
4211	Rates, Charges and Services Provided at Marine Terminal Facilities	3072-AB17
4212	Petition of Agriculture Ocean Transportation Coalition for Action Prescribing Standards for Terminal Handling Charges and Other Surcharges	3072-AB30

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4213	Definition of "Shipper" and Availability of Mixed Commodity Rates	3072-AB18
4214	Public Information - Docket No. 90-17	3072-AB29

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4215	Practices of Ocean Common Carriers Regarding Effective Date of Rate Changes - Docket No. 88-19	3072-AB04
4216	Cancellation of Tariffs for Failure to Either File Anti-Rebate Certifications or Publish Appropriate Notices in Tariffs - Docket No. 90-11	3072-AB09
4217	Equipment Interchange Agreements - Tariff Publication of Free Time and Detention Charges - Docket No. 89-4	3072-AB14
4218	Petition for Tariff Rule To Eliminate "Per Container" Rates (P4-89)	3072-AB19
4219	Petition for Tariff Rule on Maximum Container Weights (P3-89)	3072-AB20
4220	Miscellaneous Amendments to Rules of Practice and Procedure	3072-AB23
4221	Security for the Protection of the Public—Maximum Required Performance Amount	3072-AB24
4222	Exemption for Vehicles	3072-AB26

FEDERAL MARITIME COMMISSION (FMC)

Prerule Stage

4208. AUTOMATED TARIFF FILING

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 816; 46 USC app 817; 46 USC app 841a; 46 USC app 1707; 46 USC app 1708; 46 USC app 1715; 46 USC app 1716; 46 USC app 1717; 31 USC 9701

CFR Citation: 46 CFR 515; 46 CFR 550; 46 CFR 580; 46 CFR 581

Legal Deadline: None

Abstract: The Commission is developing an Automated Tariff Filing and Information System (ATFI), whereby tariff data can be filed, processed and retrieved electronically. This action is being considered to establish regulations governing the system and appropriate user fees.

Timetable:

Action	Date	FR Cite
Begin Review	09/01/84	
Notice of Intent to Form Advisory Committee	04/12/85	50 FR 14453
Notice of Second Meeting	05/19/86	51 FR 18376
Notice of Third Meeting	10/21/86	51 FR 37347
Notice of Inquiry on System Functionality	12/22/87	52 FR 48504
Further Notice	06/13/88	53 FR 22048
Second Report on System Functionality	12/29/88	53 FR 52785
ANPRM	08/01/90	55 FR 31199
ANPRM Comment Period End	10/15/90	55 FR 31199
End Review	01/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, 202 523-5725

RIN: 3072-AA61

4209. USER FEES TO RECOVER AGENCY COSTS

Significance: Agency Priority

Legal Authority: 5 USC 552 to 553

CFR Citation: 46 CFR 503.43

Legal Deadline: None

Abstract: The Commission is reviewing existing fees for services in order to determine whether they are adequate to recover costs.

Timetable:

Action	Date	FR Cite
Begin Review	01/25/85	
End Review	06/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, 202 523-5725

RIN: 3072-AA70

4210. FINANCIAL REPORTS OF VESSEL OPERATING COMMON CARRIERS BY WATER IN THE DOMESTIC OFFSHORE TRADES

Legal Authority: 5 USC 553; 46 USC app 817(a); 46 USC app 820; 46 USC app 841a; 46 USC app 843; 46 USC app 844; 46 USC app 845a; 46 USC app 847

CFR Citation: 46 CFR 522

Legal Deadline: None

Abstract: Current rule providing for domestic rate-making and justification methodology is being reviewed to determine if requirements can be made less stringent.

Timetable:

Action	Date	FR Cite
Begin Review	01/09/86	
End Review	06/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, 202 523-5725

RIN: 3072-AA93

4211. RATES, CHARGES AND SERVICES PROVIDED AT MARINE TERMINAL FACILITIES

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 814; 46 USC app 816; 46 USC app 817(a); 46 USC app 820; 46 USC app 821; 46 USC app 833a; 46 USC app 841a; 46 USC app 1701 to 1707; 46 USC app 1708 to 1710; 46 USC app 1712; 46 USC app 1714 to 1717

CFR Citation: 46 CFR 515; 46 CFR 525; 46 CFR 530; 46 CFR 560; 46 CFR 572

Legal Deadline: None

Abstract: Docket No. 90-6. Action would adopt certain recommendations of the report in Fact Finding No. 17 and solicits public comment on a potential restructuring of marine terminal operator regulations.

Timetable:

Action	Date	FR Cite
ANPRM	02/16/90	55 FR 5626
Fact Finding Investigation No. 17 Discontinued	02/16/90	55 FR 5656
ANPRM Comment Period End	05/17/90	55 FR 10259
End Review	11/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert G. Drew, Director, Bureau of Domestic Regulation, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, 202 523-5796

RIN: 3072-AB17

4212. ● PETITION OF AGRICULTURE OCEAN TRANSPORTATION COALITION FOR ACTION PRESCRIBING STANDARDS FOR TERMINAL HANDLING CHARGES AND OTHER SURCHARGES

Legal Authority: 5 USC 553

CFR Citation: 46 CFR 580; 46 CFR 581

Legal Deadline: None

Abstract: Action requested would define "surcharge" and proscribe carriers from imposing a surcharge in excess of carrier's actual cost.

Timetable:

Action	Date	FR Cite
Notice of Petition (Comments by 09/07/90)	07/13/90	55 FR 28928

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

FMC — Prerule Stage

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, 202 523-5725

RIN: 3072-AB30

FEDERAL MARITIME COMMISSION (FMC) — Final Rule Stage

4213. DEFINITION OF "SHIPPER" AND AVAILABILITY OF MIXED COMMODITY RATES

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 1707; 46 USC app 1708; 46 USC app 1709; 46 USC app 1716

CFR Citation: 46 CFR 580; 46 CFR 581

Legal Deadline: None

Abstract: Docket No. 89-20. Action implements report in Fact Finding Investigation No. 15 and would define "Shipper" and govern the availability of mixed commodity rates.

Timetable:

Action	Date	FR Cite
NPRM	10/04/89	54 FR 40891
NPRM Comment Period End	01/03/90	54 FR 50001
Final Action	01/00/91	

Action	Date	FR Cite
Final Action Effective	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert G. Drew, Director, Bureau of Domestic Regulation, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, 202 523-5796

RIN: 3072-AB18

4214. ● PUBLIC INFORMATION - DOCKET NO. 90-17

Legal Authority: 5 USC 552; 5 USC 552a; 5 USC 552b; EO 12356

CFR Citation: 46 CFR 503

Legal Deadline: None

Abstract: Action updates and clarifies existing rules to reflect current agency organization and practice and also clarifies when FOIA procedures apply to record requests.

Timetable:

Action	Date	FR Cite
NPRM	07/17/90	55 FR 29071
NPRM Comment Period End	09/16/90	55 FR 29071
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, 202 523-5725

RIN: 3072-AB29

FEDERAL MARITIME COMMISSION (FMC) — Completed Actions

4215. PRACTICES OF OCEAN COMMON CARRIERS REGARDING EFFECTIVE DATE OF RATE CHANGES - DOCKET NO. 88-19

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 1707

CFR Citation: 46 CFR 580

Legal Deadline: None

Abstract: Requested rule would state that tariff rates and rules may not be applicable to cargo that is received by the carrier or its agent prior to the effective date of the tariff provision.

Timetable:

Action	Date	FR Cite
Petition for Rulemaking	12/30/87	52 FR 49205
End Review	06/01/88	
NPRM	06/30/88	53 FR 33153
Extend time for comments to 11/01/88	10/04/88	53 FR 38989
NPRM Comment Period End	10/14/88	
Final Action	05/10/89	54 FR 20127
Effective Date Stayed Until Further Notice	07/11/89	54 FR 29036
Final Action - petition for reconsideration denied - stay lifted	08/27/90	55 FR 34929
Final Action Effective	10/26/90	55 FR 34929

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, 202 523-5725

RIN: 3072-AB04

4216. CANCELLATION OF TARIFFS FOR FAILURE TO EITHER FILE ANTI-REBATE CERTIFICATIONS OR PUBLISH APPROPRIATE NOTICES IN TARIFFS - DOCKET NO. 90-11

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 1707; 46 USC app 1709; 46 USC app 1714; 46 USC app 1716

CFR Citation: 46 CFR 510; 46 CFR 580; 46 CFR 582

Legal Deadline: None

Abstract: Rule would minimize noncompliance with the requirements to file Anti-Rebate Certifications (46 CFR 582) and to publish anti-rebate provisions in tariffs (46 CFR 580.5(c)(2)).

Timetable:

Action	Date	FR Cite
Begin Review	12/27/87	
NPRM	04/10/90	55 FR 13293

FMC

Completed Actions

Action	Date	FR Cite
NPRM Comment Period End	05/25/90	55 FR 13293
Final Action	08/29/90	55 FR 35316
Final Action Effective	09/28/90	55 FR 35316

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, 202 523-5725

RIN: 3072-AB09

4217. EQUIPMENT INTERCHANGE AGREEMENTS - TARIFF PUBLICATION OF FREE TIME AND DETENTION CHARGES - DOCKET NO. 89-4

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 812; 46 USC app 814; 46 USC app 815; 46 USC app 817(a); 46 USC app 820; 46 USC app 833a; 46 USC app 841; 46 USC app 843; 46 USC app 845a; 46 USC app 847; 46 USC app 1702 to 1707; 46 USC app 1709; 46 USC app 1712; 46 USC app 1714 to 1716; ...

CFR Citation: 46 CFR 550; 46 CFR 580; 46 CFR 581

Legal Deadline: None

Abstract: Action would provide guidelines for filing equipment interchange agreement tariffs and similar provisions in service contracts. This will simplify the filing of equipment interchange agreements. Action arose out of Docket No. 85-19.

Timetable:

Action	Date	FR Cite
Extend Effective Date to 07/20/90 or 08/19/90 (Parts)	05/17/90	55 FR 20457
NPRM	02/03/89	54 FR 5506
Extension of Comment Period	03/17/89	54 FR 11249
NPRM Comment Period End	03/20/89	54 FR 5507
Comment Period End	04/04/89	
Stay Lifted in Docket No. 85-19	03/20/90	55 FR 10328
Final Action	03/20/90	55 FR 10328
Final Action Effective	08/19/90	55 FR 20457

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Legal Authority Cont: 46 USC app 1718

Agency Contact: Robert G. Drew, Director, Bureau of Domestic Regulation, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, 202 523-5796

RIN: 3072-AB14

4218. PETITION FOR TARIFF RULE TO ELIMINATE "PER CONTAINER" RATES (P4-89)

Legal Authority: 5 USC 553

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Commission has received a petition for a tariff rule to eliminate "per container" rates from the TransPacific Westbound Freight Agreement, American Trucking Associations, and ATA Intermodal Council.

Timetable:

Action	Date	FR Cite
Notice of Petition	08/24/89	54 FR 35246
Final Action - petition denied	06/05/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, 202 523-5725

RIN: 3072-AB19

4219. PETITION FOR TARIFF RULE ON MAXIMUM CONTAINER WEIGHTS (P3-89)

Legal Authority: 5 USC 553

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Commission has received a petition for a tariff rule on maximum container weights from the South Europe/USA Freight Conference, American Trucking Associations, and ATA Intermodal Council.

Timetable:

Action	Date	FR Cite
Notice of Petition	08/24/89	54 FR 35246
Final Action - petition denied	06/05/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, 202 523-5725

RIN: 3072-AB20

4220. MISCELLANEOUS AMENDMENTS TO RULES OF PRACTICE AND PROCEDURE

Legal Authority: 5 USC 504; 5 USC 551 to 553; 5 USC 559; 12 USC 1141j(a); 16 USC 207; 28 USC 501(c)(3); 28 USC 2112(a); 46 USC app 817; 46 USC app 820 to 821; 46 USC app 826; 46 USC app 841a; 46 USC app 1114(b); 46 USC app 1705; 46 USC app 1707 to 1716; EO 11222 (May 8, 1965)

CFR Citation: 46 CFR 502; 46 CFR 587

Legal Deadline: None

Abstract: Docket No. 89-24. Action would amend Commission's Rules of Practice and Procedure to clarify: the filing fee for petitions for rulemaking; procedure for service of documents in rulemaking proceedings; verification of complaints; use of facsimile documents; and number of copies of documents. The action would also outline requirements and procedures for confidential filings and testimony.

Timetable:

Action	Date	FR Cite
NPRM	11/24/89	54 FR 48648
NPRM Comment Period End	01/26/90	55 FR 315
Final Action	07/11/90	55 FR 28398
Final Action Effective	08/10/90	55 FR 28398

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, 202 523-5725

RIN: 3072-AB23

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Completed Actions

4221. SECURITY FOR THE PROTECTION OF THE PUBLIC—MAXIMUM REQUIRED PERFORMANCE AMOUNT

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 817e; 46 USC app 820(a); 46 USC app 841a; 46 USC app 1714; 46 USC app 1716

CFR Citation: 46 CFR 540

Legal Deadline: None

Abstract: Docket No. 90-1. Action would eliminate the $10,000,000 ceiling for the maximum required performance amount of financial responsibility for passenger vessels.

Timetable:

Action	Date	FR Cite
NPRM	01/19/90	55 FR 1650
NPRM Comment Period End	04/04/90	55 FR 6907
Final Action	08/23/90	55 FR 34584
Final Action Effective	02/19/91	55 FR 35983

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert G. Drew, Bureau of Domestic Regulation, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, 202 523-5796

RIN: 3072-AB24

4222. EXEMPTION FOR VEHICLES

Legal Authority: 5 USC 553

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Petition of Motor Vehicle Manufacturers Association for section 16 exemption of motorized vehicles in lots of more than a certain number of vehicles from tariff and service contract provisions. P6-89

Timetable:

Action	Date	FR Cite
Notice of Petition	10/05/89	54 FR 41161
Final Action - petition denied	03/19/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, 202 523-5725

RIN: 3072-AB28

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October 29, 1990

federal register

Part LV

Federal Reserve System

Semiannual Regulatory Agenda

FEDERAL RESERVE SYSTEM (FRS)

FEDERAL RESERVE SYSTEM

12 CFR Ch. II

Semiannual Regulatory Flexibility Agenda

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Semiannual agenda.

SUMMARY: The Board is issuing this agenda under the Regulatory Flexibility Act and the Board's Statement of Policy Regarding Expanded Rulemaking Procedures. The Board anticipates having under consideration regulatory matters as indicated below during the period from October 1, 1990 through April 1, 1991. The next semiannual agenda will be published in April 1991.

DATES: Comments about the form or content of the agenda may be submitted any time during the next six months.

ADDRESSES: Comments should be addressed to William W. Wiles, Secretary of the Board, Board of Governors of the Federal Reserve System, Washington, DC 20551.

FOR FURTHER INFORMATION CONTACT: A staff contact for each item is indicated with the regulatory description below.

SUPPLEMENTARY INFORMATION: The Board is publishing its October 1990 agenda as part of the October 1990 Unified Agenda of Federal Regulations, which is coordinated by the Office of Management and Budget under Executive Order 12291. Participation by the Board in the Unified Agenda is on a voluntary basis.

The Board's agenda is divided into three sections. The first, Proposed Rule Stage, reports on matters the Board may consider for public comment during the next six months. The second section, Final Rule Stage, reports on matters that have been proposed and are under Board consideration. A third section, Completed Actions, reports on regulatory matters the Board has completed or is not expected to consider further.

A dot (●) preceding an entry indicates a new matter that was not a part of the Board's previous agenda and which the Board has not completed.

Barbara R. Lowrey,

Associate Secretary of the Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4223	Regulation: E - Electronic Fund Transfers	7100-AA77
4224	Regulation: G - Securities Credit by Persons Other Than Banks, Brokers, or Dealers; and Regulation: U - Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks	7100-AA99
4225	Regulation: Y - Bank Holding Companies and Change in Bank Control	7100-AB09
4226	Private Sector Presentment (Docket Number: R-0631)	7100-AA96

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4227	Regulation: D - Reserve Requirements of Depository Institutions (Docket Number: R-0571)	7100-AA62
4228	Regulation: H - Membership of State Banking Institutions in the Federal Reserve System (Docket Number: R-0696)	7100-AB10
4229	Regulation: H - Membership of State Banking Institutions; and Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0616)	7100-AA88
4230	Regulation: J - Collection of Checks and Other Items and Wire Transfers of Funds by Federal Reserve Banks (Docket Number: R-0697)	7100-AB11
4231	Regulation: K - International Banking Operations (Docket Number: R-0703)	7100-AA96
4232	Regulation: P - Minimum Security Devices and Procedures for Federal Reserve Banks and State Member Banks (Docket Number: R-0688)	7100-AA89
4233	Regulation: Q - Interest on Deposits (Docket Number: R-0514)	7100-AA56
4234	Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0537)	7100-AA52
4235	Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0652)	7100-AA41
4236	Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0684)	7100-AB03
4237	Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0686)	7100-AB07
4238	Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0694)	7100-AB12
4239	Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0698)	7100-AB13
4240	Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0699)	7100-AB14
4241	Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0700)	7100-AB15
4242	Regulation: Z - Truth in Lending (Docket Number: R-0687)	7100-AB05
4243	Regulation: BB - Community Reinvestment (Docket Number: R-0691)	7100-AB16
4244	Proposals to Modify the Payments System Risk Reduction Program (Docket Numbers: R-0661, R-0668, R-0669, R-0670)	7100-AA76
4245	Proposals to Modify the Payments System Risk Reduction Program (Docket Number: R-0662)	7100-AB17

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Completed Actions

Sequence Number	Title	Regulation Identifier Number
4246	Regulation: H - Membership of State Banking Institutions and Regulation: Y - Bank Holding Companies and Change in Control (Docket Number: R-0665)	7100-AB06
4247	Regulation: H - Membership of State Banking Institutions; and Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0683)	7100-AB08
4248	Regulation: T - Credit by Brokers and Dealers (Docket Number: R-0675)	7100-AA72
4249	Regulation: CC - Availability of Funds and Collection of Checks (Docket Number: R-0679)	7100-AB01

FEDERAL RESERVE SYSTEM (FRS)

Proposed Rule Stage

4223. REGULATION: E - ELECTRONIC FUND TRANSFERS

Legal Authority: 15 USC 1693 et seq Electronic Fund Transfer Act

CFR Citation: 12 CFR 205

Legal Deadline: None

Abstract: The Board is conducting a review of Regulation E, which implements the Electronic Fund Transfer Act, and establishes the basic rights, liabilities, and responsibilities of consumers who use electronic fund transfer services and of financial institutions that offer these services (whether or not these institutions hold the consumer's account). The review will consider whether any provisions of the regulation are in need of updating and whether any substantive changes are necessary because of technological and other developments. The Board will also consider whether to make any legislative recommendations for statutory changes.

Public comment will be requested on any regulatory proposals that may be developed following the review. It is not anticipated that the revisions would have a significant economic impact on a substantial number of small banks.

Timetable:

Action	Date	FR Cite
Board may consider revisions to Regulation E	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dolores S. Smith, Assistant Director, Federal Reserve System, Division of Consumer and Community Affairs, 202 452-2412

RIN: 7100-AA77

4224. REGULATION: G - SECURITIES CREDIT BY PERSONS OTHER THAN BANKS, BROKERS, OR DEALERS; AND REGULATION: U - CREDIT BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING MARGIN STOCKS

Legal Authority: 15 USC 78g Securities Exchange Act of 1934, as amended; 15 USC 78w Securities Exchange Act of 1934, as amended

CFR Citation: 12 CFR 207; 12 CFR 221

Legal Deadline: None

Abstract: During the next four months, the Board may address the ability of lenders subject to Regulations G and U to transfer a credit between these two types of lenders without treating the transaction as creating a new extension of credit. The regulations currently permit a transfer only between lenders subject to the same regulation. Several law firms have expressed an interest in such a deregulatory amendment.

It is not anticipated that this proposal will affect a significant portion of the overall lending activities of a substantial number of small firms.

Timetable:

Action	Date	FR Cite
Board may address transfer provisions in Regulations G and U	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Laura Homer, Securities Credit Officer, Federal Reserve System, Div. of Banking Supervision and Regulation, 202 452-2781

RIN: 7100-AA99

4225. ● REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

Legal Authority: 12 USC 1843; 12 USC 1844(b)

CFR Citation: 12 CFR 225

Legal Deadline: None

Abstract: The Board will consider issuing for public comment a proposal to add full service brokerage and financial advisory activities to the laundry list in Regulation Y. The Board has previously determined by order that bank holding companies may provide these activities.

Adoption of the proposal would not result in any significant economic impact on bank holding companies. Following review of public comments, the Board is expected to adopt the revision by year-end.

Timetable:

Action	Date	FR Cite
Board will issue proposal for comment by	10/00/90	
Final Board action by	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Scott Alvarez, Assistant General Counsel, Federal

FRS

Proposed Rule Stage

Reserve System, Legal Division, 202 452-3583

RIN: 7100-AB09

4226. PRIVATE SECTOR PRESENTMENT (DOCKET NUMBER: R-0631)

Legal Authority: 12 USC 4008(c)

CFR Citation: None

Legal Deadline: None

Abstract: In April 1988, the Board requested comment on whether it should require paying banks to pay for checks presented by private sector collecting banks before 2:00 p.m. in same-day funds and without imposing presentment fees (53 FR 11911, April 11, 1988). The purpose of such a regulation would be to speed the forward collection of checks by requiring paying banks to accept checks without charging a fee later in the day, thus increasing the number of checks that can be collected that day. It would give private sector collecting banks the same rights vis-a-vis paying banks as the Federal Reserve Banks now have.

The Board has not yet made a specific proposal to amend its regulation in this regard. Rather, it merely requested comment on the idea of same-day payment in private sector presentments. If such a regulation were to be adopted, small entities that might be affected include small banks and State and local governments.

The Board has conferred with an industry task force and is expected to propose specific regulations within the next six months.

Timetable:

Action	Date	FR Cite
Board requests comment	04/11/88	53 FR 11911
Board extends comment period to December 1, 1988	07/21/88	53 FR 27585
Board will propose specific regulations	02/00/91	

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Agency Contact: Louise L. Roseman, Assistant Director, Federal Reserve System, Div. of Federal Reserve Bank Operations, 202 452-3874

RIN: 7100-AA98

FEDERAL RESERVE SYSTEM (FRS)

Final Rule Stage

4227. REGULATION: D - RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (DOCKET NUMBER: R-0671)

Legal Authority: 12 USC 248(k); 12 USC 461(a)

CFR Citation: 12 CFR 204

Legal Deadline: None

Abstract: In May 1988, the Board issued for comment rules to clarify the definition of "deposit" in Regulation D to include the interest or liability associated with a borrowing in the form of certain sales of assets and related transactions by a depository institution (51 FR 16855, May 7, 1986). These transactions include a sale of assets that involves a full guarantee by the institution that, in effect, substitutes the institution's credit standing for that of the ultimate borrower and in which the institution retains the risk of borrower default after the asset is sold.

Further, the regulation currently treats obligations of an affiliate as deposits of the depository institution to the extent the proceeds are provided to the depository institution. The Board proposes to exclude proceeds received from a sale of assets without recourse to the affiliate. The proposal also would clarify the application of Regulation D to certain of these transactions involving organizations effectively controlled by the depository institution even though not formally affiliated. Finally, the proposal would (cont)

Timetable:

Action	Date	FR Cite
Board proposed revisions to Regulation D	05/07/86	51 FR 16855
Comment period extended	07/10/86	51 FR 25069
Further Board action by	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: clarify how the Board measures the "maturity" of an obligation for the purposes of Regulation D. The proposal requests comment on any alternatives that the public believes may be preferable to the Board's proposed amendments. Suggested alternatives will be considered when comments are analyzed.

The proposed rule would apply to all depository institutions. It is not anticipated that the proposal will have a negative impact on the ability of small depository institutions to attract deposits.

The Board will review the comments and is expected to take further action.

Agency Contact: John Harry Jorgenson, Senior Attorney, Federal Reserve System, Legal Division, 202 452-3778

RIN: 7100-AA82

4228. ● REGULATION: H - MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (DOCKET NUMBER: R-0698)

Legal Authority: 12 USC 58; 12 USC 60; 12 USC 248(j); 12 USC 324

CFR Citation: 12 CFR 208

Legal Deadline: None

Abstract: In May 1990, the Board approved issuing for comment a proposed amendment to Regulation H that would change the way State member banks calculate their legal dividend-paying capacity and clarify the circumstances under which these banks must seek the approval of the Board to pay dividends (55 FR 23941, June 13, 1990). Under the proposed amendments, which are also being considered by the Office of the Comptroller of the Currency, banks would be required to calculate dividend-paying capacity in accordance with generally accepted accounting practices (GAAP). This is intended to provide a more accurate measure of an institution's true dividend-paying

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capacity and to maintain parity between state member and national banks.

The proposal is not expected to have a significant economic impact on a substantial number of small banks. Following review of the public comments, the Board is expected to take further action within the next four months.

Timetable:

Action	Date	FR Cite
Board requested public comment	06/13/90	55 FR 23941
Further Board action by	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence Stewart, Attorney, Federal Reserve System, Legal Division, 202 452-3513

RIN: 7100-AB10

4229. REGULATION: H - MEMBERSHIP OF STATE BANKING INSTITUTIONS; AND REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0616)

Legal Authority: 12 USC 1843(c)(8); 12 USC 371c; 12 USC 3901

CFR Citation: 12 CFR 225.13(b)(1); 12 CFR 225, Appendix; 12 CFR 208.14

Legal Deadline: None

Abstract: In November 1987, the Board requested comment on whether, in evaluating proposals submitted under section 3 of the Bank Holding Company Act, the Board should consider the impact of real estate activities of the bank to be acquired by the bank holding company on the financial condition of the bank and bank holding company, and, where appropriate, should prohibit banks and savings banks that are acquired by bank holding companies from directly engaging in real estate investment and development activities (52 FR 42301, November 4, 1987).

The Board also requested comment on whether member banks that are not in a bank holding company should be made subject to the interaffiliate lending restrictions of section 23A of the Federal Reserve Act in their dealings with real estate investment and development subsidiaries of the bank.

Finally, the Board requested comment on whether the Board should impose special capital requirements on real estate subsidiaries of banks in a bank holding company, under the Board's authority in the International Lending Supervision Act. These three proposals supplement the Board's earlier (cont)

Timetable:

Action	Date	FR Cite
Board requested public comment	11/04/87	52 FR 42301
Further Board action indefinite	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: request for comment in December 1986 regarding whether the Board should permit bank holding companies to engage in real estate investment activities.

This proposal is not expected to have a significant economic impact on small companies because the Board believes that very few small banks are currently engaged in real estate investment and development activities, and bank holding companies are not generally permitted to engage in these activities.

It is not expected that the Board would take action on this proposal until after resolution of pending rulemaking regarding the current Regulation Y provision permitting bank holding companies to acquire, through their subsidiary State banks, shares of companies engaged in activities that the bank is permitted to conduct under State law, so-called operations subsidiaries (R-0652).

Agency Contact: Scott G. Alvarez, Assistant General Counsel, Federal Reserve System, Legal Division, 202 452-3583

RIN: 7100-AA68

4230. ◎ REGULATION: J - COLLECTION OF CHECKS AND OTHER ITEMS AND WIRE TRANSFERS OF FUNDS BY FEDERAL RESERVE BANKS (DOCKET NUMBER: R-0697)

Legal Authority: 12 USC 248(i); 12 USC 248(j); 12 USC 248(o); 12 USC 342; 12 USC 464

CFR Citation: 12 CFR 210, Subpart B

Legal Deadline: None

Abstract: In May 1990, the Board approved issuing for public comment a proposed revision to Subpart B of Regulation J so as to apply Article 4A of the Uniform Commercial Code to funds transfers handled by Federal Reserve Banks, subject to a limited number of modifications and clarifications that are consistent with the purposes of Article 4A, and that generally could be made by a private funds-transfer system by means of a funds-transfer system rule under Article 4A (55 FR 23208, June 7, 1990). This revision to Subpart B would: (1) provide a more comprehensive set of rules for funds transfers involving Federal Reserve Banks than is currently provided by Subpart B; (2) make Subpart B consistent with State laws applicable to funds transfers as States adopt Article 4A; and (3) help ensure that, subject to their central banking responsibilities, Federal Reserve Banks compete on an equitable basis with private sector providers of funds-transfer services, and concurrently minimize any significant economic impact of the proposed rule on small entities.

Although the proposed rule potentially affects all depository institutions, and any individual or business that may (cont)

Timetable:

Action	Date	FR Cite
Board approved proposal for comment	05/07/90	55 FR 23208
Further Board action by	10/00/90	

Small Entities Affected: None

Government Levels Affected: Local, State, Federal

Additional Information: ABSTRACT CONT: send or receive a funds transfer through Fedwire, the Board does not believe that complying with the proposed Subpart B rules will impose a significant cost on depository institutions, including small institutions.

Following review of the public comments, the Board is expected to take further action within the next two months.

Agency Contact: Oliver Ireland, Associate General Counsel, Federal

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Reserve System, Legal Division, 202 452-3625

RIN: 7100-AB11

4231. REGULATION: K - INTERNATIONAL BANKING OPERATIONS (DOCKET NUMBER: R-0703)

Legal Authority: 12 USC 221 et seq; 12 USC 1841 et seq; 12 USC 3101 et seq

CFR Citation: 12 CFR 211

Legal Deadline: Other, Statutory, December 1989.
Section 9(b) of the International Banking Act of 1978 requires that Board review and revise Subpart A of Regulation K every five years, beginning in 1979.

Abstract: In July 1990, the Board approved issuing for comment revisions to Regulation K in a number of areas dealing with the U.S. and foreign operations of Edge and Agreement corporations, member banks, bank holding companies, and foreign banking organizations (55 FR 32424, August 9, 1990).

The Board proposes to increase the authority of foreign subsidiaries of bank holding companies and Edge corporations to underwrite equity securities outside the United States from the current limit of $15 million to an amount that is the lesser of $60 million or 25 percent of capital. The limits for dealing in equity securities are proposed to be increased to the lesser of $30 million or 10 percent of capital. Restrictions on the percentage of an issuer's shares that may be underwritten would be eliminated.

Other major areas in which the Board requested comment include expanding the list of permissible activities abroad to include underwriting life, accident, and health insurance; increasing the amount limits under which an organization may invest in a foreign company without prior notification to the Board; (cont)

Timetable:

Action	Date	FR Cite
Board proposed revisions	08/09/90	55 FR 32424
Board will take further action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: clarifying the portfolio investment authority; requesting comment on expanding the list of customers for which Edge corporations may provide full banking services in the United States; and clarifying the standards for exemption as a qualifying, foreign banking organization.

It is not expected that any revisions would have an adverse impact on a substantial number of small banking organizations. Following review of the public comments, the Board is expected to take further action by year-end.

Agency Contact: Kathleen O'Day, Senior Counsel, Federal Reserve System, Legal Division, 202 452-3786

RIN: 7100-AA98

4232. REGULATION: P - MINIMUM SECURITY DEVICES AND PROCEDURES FOR FEDERAL RESERVE BANKS AND STATE MEMBER BANKS (DOCKET NUMBER: R-0566)

Legal Authority: 12 USC 1881 to 1884

CFR Citation: 12 CFR 216

Legal Deadline: None

Abstract: In December 1989, the Board approved issuing for public comment a zero-based review of Regulation P, the regulation which implements the Bank Protection Act of 1968, and establishes minimum security standards for Federal Reserve Banks and for State member banks (55 FR 12850, April 6, 1990). The review considers whether any provisions of the regulation are outdated and whether any substantive changes are necessary because of new technological developments. The regulation will also be reorganized and revised for simplicity and clarity. It is not anticipated that the revised regulation will have a significant economic impact on a substantial number of small banks. Following review of comments, the Board will consider changes in the regulation within the next six months.

Timetable:

Action	Date	FR Cite
Board approved issuing revisions for comment	12/15/89	55 FR 12850
Further Board action by	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas A. Durkin, Regulatory Planning and Review Director, Federal Reserve System, Office of the Secretary, 202 452-2326

RIN: 7100-AA69

4233. REGULATION: Q - INTEREST ON DEPOSITS (DOCKET NUMBER: R-0514)

Legal Authority: 12 USC 371b

CFR Citation: 12 CFR 217

Legal Deadline: None

Abstract: In January 1986, the Board issued for comment proposals to clarify, update, and simplify the advertising provisions of Regulation Q (51 FR 1379, January 13, 1986). The revisions incorporate and supersede the proposals of March 1984 concerning advertising of split-rate deposits and IRA/Keogh (HR 10) Plan accounts. The proposal is not expected to have a significant adverse effect on small banks.

The Board will review the comments and is expected to take further action within the next six months.

It is also anticipated that the Board will consider at that time various options with regard to providing written disclosures to consumers about their accounts.

Timetable:

Action	Date	FR Cite
Board proposed revisions	01/13/86	51 FR 1379
Further Board action by	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patrick J. McDivitt, Attorney, Federal Reserve System, Legal Division, 202 452-3818

RIN: 7100-AA56

4234. REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0537)

Legal Authority: 12 USC 1841 Bank Holding Company Act; 12 USC 221 Federal Reserve Act; 12 USC 3901 International Lending Supervision Act of 1983

CFR Citation: 12 CFR 225

Legal Deadline: None

Abstract: In December 1986, the Board requested public comment on a proposal to permit bank holding companies to engage in real estate investment activities within certain limits (52 FR 543, January 7, 1987). The proposed limits are designed to ensure that conduct of the activity does not result in unsafe or unsound practices, unfair competition, conflicts of interest or other adverse effects.

The Board requested public comment on a number of specific items, including whether real estate investment activities may be deemed to be closely related to banking and a proper incident thereto for purposes of Section 4(c)(8) of the Bank Holding Company Act; whether the proposed limits on the size, scope, and manner in which the activity would be conducted are appropriate; whether nonbank companies owned by holding company banks should be prohibited from conducting these activities; and whether the Board should establish special capital requirements for bank holding companies that control banks directly engaged in these activities.

The proposal, if adopted, would permit bank holding (cont)

Timetable:

Action	Date	FR Cite
ANPRM	01/31/85	50 FR 4519
Board issues proposal for public comment	01/07/87	52 FR 543
Further Board action indefinite	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: companies to engage in limited real estate investment activities that bank holding companies are not now permitted to conduct and would not impose more burdensome requirements on bank holding companies than are currently applicable. Moreover, the proposal includes provisions designed to permit small bank holding companies to participate meaningfully in the proposed activities. The proposal does not impose any limitations on the direct real estate investment activities of holding company banks. (See Docket Number R-0615, for additional information on proposed real estate investment limitations.)

It is not expected that the Board would take action on this proposal until after resolution of pending rulemaking regarding the current Regulation Y provision permitting bank holding companies to acquire, through their subsidiary State banks, shares of companies engaged in activities that the bank is permitted to conduct under State law, so-called operations subsidiaries (R-0652).

Agency Contact: Scott G. Alvarez, Assistant General Counsel, Federal Reserve System, Legal Division, 202 452-3583

RIN: 7100-AA52

4234. REGULATION Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0652)

Legal Authority: 12 USC 1843 Bank Holding Company Act; 12 USC 1844(b) Bank Holding Company Act

CFR Citation: 12 CFR 225

Legal Deadline: None

Abstract: A provision of Regulation Y permits a State bank subsidiary of a bank holding company to engage through a nonbank subsidiary in any activity that is permissible under State law for the bank subsidiary itself, subject to the same limits as if the bank engages in the activity directly. (A similar rule applies to national bank subsidiaries regarding activities permissible for such banks under Federal law.) The Board received comments on this provision in connection with its general request for comments in May 1983 regarding the proposed revision of Regulation Y. Some of the commenters challenged the Board's authority to issue this provision, although it has been part of Regulation Y since 1971. In taking final action on the revision of Regulation Y, the Board deferred consideration of the comments on this provision and allowed the existing rule to remain in effect in the interim (49 FR 794, January 5, 1984).

In December 1988, the Board requested public comment regarding whether this rule, as it applies to nonbanking companies owned by State banks in a holding company system, continues to be valid and appropriate in light of enactment of the (cont)

Timetable:

Action	Date	FR Cite
Board requested comments	05/25/83	48 FR 23520
Board allows existing rule to remain in effect	01/05/84	49 FR 794
Board requested comments	12/05/88	53 FR 48915
Further Board action to be determined	04/00/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ABSTRACT CONT: Garn-St Germain Act and certain recent court decisions (53 FR 48915, December 5, 1988). The Board also held an informal public hearing on this matter on April 7, 1989. The Board has not proposed revising its current rule regarding subsidiaries of national banks in a holding company. A determination to reverse the Board's State bank rule could have an adverse impact on small banks that are subsidiaries of holding companies because they might be required to restructure their nonbanking activities or to take other action. The Board has not determined what further action is appropriate.

Agency Contact: Scott G. Alvarez, Assistant General Counsel, Legal Division, Federal Reserve System, 202 452-3583

RIN: 7100-AA61

4235. REGULATION Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0664)

Legal Authority: 12 USC 1843(c)(8)

CFR Citation: 12 CFR 225

Legal Deadline: None

Abstract: In December 1988, the Board requested public comment on an application by a bank holding company to provide armored car transportation services to nonaffiliated customers and on whether the proposed armored car activities may be deemed to be closely related to banking and a proper incident thereto for purposes of section 4(c)(8) of the Bank Holding Company Act (53 FR 50292, December 14, 1988).

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The National Armored Car Association submitted comments in opposition to the application and requested a hearing on whether the proposal would meet section 4(c)(8) of the Bank Holding Company Act. A formal, public hearing before a hearing officer was held on June 18 and July 11, 1989, at the offices of the Board in Washington, D.C. On January 23, 1990, the hearing officer recommended that the application be denied, based on his determination that the proposed armored car services were not closely related to banking under section 4(c)(8). On June 18, 1990, the Board reversed this finding and remanded the case to the hearing officer for a recommended decision on whether the proposed services were a "proper incident" to banking. (cont)

Timetable:

Action	Date	FR Cite
Board issued proposal for comment	12/14/88	53 FR 50282
Board will review further	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: The application, if approved, would permit a small bank holding company that currently operates an armored car for internal automatic teller machine servicing to utilize excess capacity in the armored car to serve nonaffiliated financial institutions and other customers in the East Moline, IL, trading area, an activity not currently permitted under 12 CFR 225.

Agency Contact: Katherine H. Wheatley, Senior Attorney, Legal Division, Federal Reserve System, 202 452-3779

RIN: 7100-AB03

4237. REGULATION Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0686)

Legal Authority: PL 101-73, 103 Stat 183

CFR Citation: 12 CFR 225, Subpart H

Legal Deadline: None

Abstract: In February 1990, the Board approved issuing for public comment a proposed regulation, which implements section 914 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, requiring banks and bank holding companies to provide notice to the Federal Reserve System 30 days before adding any individual to the institution's board of directors or employing any individual as a senior executive officer under certain circumstances (55 FR 6787, February 27, 1990). Notice would be required if the institution is failing to meet minimum capital standards or is otherwise in a troubled condition, has undergone a change in control within the past two years, or has received a bank charter within the past two years. The regulation defines "senior executive officer," "troubled condition," and "change in control."

The proposal is not expected to have a significant economic impact on a substantial number of small business entities. State member banks and bank holding companies will be affected if they meet one of the criteria that triggers the notice requirements. Following review of public comments, the Board is expected (cont)

Timetable:

Action	Date	FR Cite
Board approved proposal for comment	02/09/90	55 FR 6787
Further Board action by	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: to take further action within the next two months.

Agency Contact: Scott G. Alvarez, Assistant General Counsel, Federal Reserve System, Legal Division, 202 452-3583

RIN: 7100-AB07

4238. ● REGULATION Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0684)

Legal Authority: 12 USC 1843(c)(8)

CFR Citation: 12 CFR 225, Subpart C

Legal Deadline: None

Abstract: In May 1990, the Board approved issuing for comment a proposal to amend the provision in Regulation Y governing leasing transactions by bank holding companies to relax the limitation on reliance on the residual value of leasing property (55 FR 22348, June 1, 1990). The Board is proposing to raise the maximum estimated residual value of leased personal property on which bank holding companies may rely for their compensation in recovering the full cost of leasing transactions from 20 percent to up to 100 percent of the acquisition cost of the leased property. Section 108 of the Competitive Equality Banking Act of 1987 granted similar authority to national banks subject to a volume limitation. These higher residual value leasing transactions by bank holding companies would also be subject to certain volume limitations and would remain subject to the prudential limitations currently set forth in Regulation Y. The proposal is not expected to have a significant economic impact on a substantial number of small business entities. Following review of public comments, the Board is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board Requested comment	06/01/90	55 FR 22348
Further Board action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas M. Corsi, Attorney, Federal Reserve System, Legal Division, 202 452-3275

RIN: 7100-AB12

4239. ● REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0698)

Legal Authority: 12 USC 1841 et seq

CFR Citation: 12 CFR 225.125

Legal Deadline: None

Abstract: In June 1990, the Board approved issuing for comment a proposed revision to a Board interpretation of the Glass-Steagall Act and the Bank Holding Company Act that would permit bank holding companies to broker and recommend shares of investment companies that are advised by a bank holding company or its subsidiaries (55 FR 25849, June 25, 1990). The revision would permit bank holding companies the authority to perform greater services to investment companies and brokerage customers.

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The proposal would enable bank holding companies to enhance competition in the brokerage industry by clarifying permissible activities for bank holding companies.

The proposal is not expected to have a significant economic impact on a substantial number of small business entities. Following review of the public comments, the Board is expected to take further action within the next three months.

Timetable:

Action	Date	FR Cite
Board approved proposal for comment	06/25/90	55 FR 25849
Further Board action by	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brendan T. Gormley, Attorney, Federal Reserve System, Legal Division, 202 452-3721

RIN: 7100-AB13

4240. ● REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0699)

Legal Authority: 12 USC 1971(1)

CFR Citation: 12 CFR 225, Subpart A

Legal Deadline: None

Abstract: In June 1990, The Board issued for comment a proposal to revise section 225.4(d) of Regulation Y to provide a limited exemption from the tie-in prohibitions in section 106 of the Bank Holding Company Act Amendments of 1970 (55 FR 26453, June 28, 1990). The proposed amendment to Regulation Y would permit a bank owned by a bank holding company to vary the consideration (including interest rates and fees) charged in connection with extensions of credit pursuant to a credit card offered by the bank (including a credit card bank) on the basis of the condition or requirement that a customer also would obtain a traditional banking service from a bank or savings association of the card-issuing bank's parent holding company. However, both the credit card and the traditional banking service in the tying arrangement will be required to be separately available for purchase by the customer. Moreover, the Board may modify or terminate a bank holding company's exemption in the event that facts develop to indicate that the tying arrangement has resulted in anticompetitive practices.

This proposal is not expected to have a significant (cont)

Timetable:

Action	Date	FR Cite
Board requested public comment	06/28/90	55 FR 26453
Further Board action by	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: economic impact on a substantial number of small entities that would be subject to the regulation. The proposed regulation would make this exemption, recently approved by the Board in the context of two requests for an exemption by bank holding companies, available to bank holding companies generally, without the need for Federal Reserve System action on individual requests.

Following review of the public comments, the Board will take further action within the next two months.

Agency Contact: Robert deV. Frierson, Senior Attorney, Federal Reserve System, Legal Division, 202 452-3711

RIN: 7100-AB14

4241. ● REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0700)

Legal Authority: 12 USC 1817(j)

CFR Citation: 12 CFR 225, Subpart E

Legal Deadline: None

Abstract: In June 1990, the Board requested comment on a proposed amendment to Regulation Y designed to minimize the burden on persons who are subject to the Change in Bank Control Act (Control Act) (55 FR 28216, July 10, 1990). Currently, the Board requires an individual to file a notice under the Control Act when he or she acquires voting shares of a bank or bank holding company and will have between 10 and 25 percent of the shares of any class of stock after the acquisition. The proposal will allow such an individual to increase the percentage of ownership up to 25 percent without filing additional notices once approval has been received to acquire at least 10 percent of the voting shares of the bank or bank holding company. The change in existing procedures is not expected to have any adverse economic impact on small entities. The filing burdens on such entities will be minimized by this proposal.

This action is appropriate because, in the Board's experience, the requirement for additional filings by a person who has already been subject to regulatory review and seeks to control less than 25 percent of the shares of a bank or bank (cont.)

Timetable:

Action	Date	FR Cite
Board requested comment	07/10/90	55 FR 28216
Further Board action by	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: holding company imposes significant burdens on the acquiring person without identifying significant financial, managerial, competitive, or other problems.

The Board will review the public comments and is expected to take further action within the next six months.

Agency Contact: Mark J. Tenhundfeld, Attorney, Federal Reserve System, Legal Division, 202 452-3612

RIN: 7100-AB15

4242. REGULATION: Z - TRUTH IN LENDING (DOCKET NUMBER: R-0697)

Legal Authority: 12 USC 1604, as amended, Truth in Lending Act

CFR Citation: 12 CFR 226

Legal Deadline: None

Abstract: In March 1990, the Board solicited comment on whether to amend Regulation Z to prohibit creditors from suspending advances of credit for their home equity plans if the maximum rate cap is reached (55 FR 10465, March 21, 1990). This action was taken as a result of questions that have arisen in a recent lawsuit. It is not anticipated that this proposal would have any significant impact on small institutions.

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Following review of the public comments, the Board is expected to take further action in the near future.

Timetable:

Action	Date	FR Cite
Board issued proposal for comment	03/21/90	55 FR 10485
Further Board action by	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leonard Chanin, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs, 202 452-3667

RIN: 7100-AB05

4243. ◆ REGULATION: BB - COMMUNITY REINVESTMENT (DOCKET NUMBER: R-0691)

Legal Authority: 12 USC 2901 et seq

CFR Citation: 12 CFR 228

Legal Deadline: Final, Statutory, July 1, 1990.

Abstract: In June 1989, the Board (along with the Department of the Treasury, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, and the Office of Thrift Supervision) issued a temporary rule amending Regulation BB (and the other agencies' respective regulations) to implement changes in the Community Reinvestment Act contained in Title XII of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (55 FR 26623, June 28, 1990). Although the temporary rule is effective upon publication, the Board and other agencies are requesting comment prior to adopting final regulations. The amendments are intended to establish and set forth requirements for the institutions supervised by the Federal Reserve System regarding the public availability of the public section of the Community Reinvestment Act Performance Evaluations and CRA ratings of the institutions as prepared by the Federal Reserve Banks. The temporary rule requires institutions to place the CRA Performance Evaluation and CRA rating in a public comment file within 30 business days of receipt from the Federal Reserve Banks. The temporary rule, if adopted as a final rule, is (cont)

Timetable:

Action	Date	FR Cite
Board adopted temporary rule	06/28/89	55 FR 26623
Final Board action by	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: not expected to have a significant economic impact on a substantial number of small entities; it imposes only minor burdens on all institutions, regardless of size. Following review of the public comments, the Board is expected to adopt final amendments by year-end.

Agency Contact: Jeffrey Semanchik, Review Examiner, Federal Reserve System, Division of Consumer and Community Affairs, 202 452-2048

RIN: 7100-AB18

4244. PROPOSALS TO MODIFY THE PAYMENTS SYSTEM RISK REDUCTION PROGRAM (DOCKET NUMBERS: R-0661, R-0662, R-0669, R-0670)

Legal Authority: 12 USC 221 et seq

CFR Citation: None

Legal Deadline: None

Abstract: In June 1989, the Board requested comment on several proposals that would modify its payments system risk reduction program (54 FR 26669, June 21, 1989). The proposals concerned pricing of daylight overdrafts, net debit caps, and measures of capital (R-0662), book-entry securities transactions (R-0669), and foreign bank agencies and branches (R-0670). In addition, as another facet of its risk reduction program, in March 1989, the Board requested comment on changes in the way the Federal Reserve Banks treat automated clearing house transactions Docket R-0661 (54 FR 8622, March 2, 1989).

In May 1990, the Board adopted in final form those elements of its risk reduction policy concerning net debit caps, measures of capital, book-entry securities transactions, and foreign bank agencies and branches [55 FR 22067, May 31, 1990]. The Board is expected to take action on daylight overdraft pricing within the next six months and on automated clearinghouse transactions within the next twelve months. It is not expected that these actions will have a significant economic impact on a substantial number of small entities, because small (cont)

Timetable:

Action	Date	FR Cite
Board requested comment	06/21/89	54 FR 26090
Adoption of policies (R-0669, R-0670, and part of R-0658)	05/31/90	55 FR 22067
Further Board action by	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: entities do not usually participate in large-dollar wire transfer systems.

Agency Contact: Edward C. Stein, Deputy Director, Federal Reserve System, Division of Research and Statistics, 202 452-3368

RIN: 7100-AA76

4245. ◆ PROPOSALS TO MODIFY THE PAYMENTS SYSTEM RISK REDUCTION PROGRAM (DOCKET NUMBER: R-0693)

Legal Authority: 12 USC 221 et seq

CFR Citation: None

Legal Deadline: None

Abstract: In May 1990, as part of its payments system risk reduction program, the Board requested comment on a proposed risk reduction policy that would prohibit bankers' banks and Edge corporations from incurring funds or book-entry overdrafts on Fedwire (55 FR 22066, May 31, 1990). The Board proposed that Reserve Banks assess a penalty fee when these or other institutions with imposed zero caps incur inadvertent daylight or overnight overdrafts on Fedwire.

It is not expected that these proposals would have a significant economic impact on a substantial number of small entities because they do not usually participate in large-dollar wire transfer systems. Furthermore, this proposal is limited to a small subset of Fedwire participants.

Following review of the public comments, the Board is expected to

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Final Rule Stage

take further action within the next four months.

Timetable:

Action	Date	FR Cite
Board requested comment	05/31/90	55 FR 22086
Further Board action by	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edward C. Ettin, Deputy Director, Federal Reserve System, Division of Research and Statistics, 202 452-3368

RIN: 7100-AB17

FEDERAL RESERVE SYSTEM (FRS)

Completed Actions

4246. REGULATION: H - MEMBERSHIP OF STATE BANKING INSTITUTIONS AND REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN CONTROL (DOCKET NUMBER: R-0585)

Legal Authority: 12 USC 3310; 12 USC 3931 to 3351

CFR Citation: 12 CFR 208; 12 CFR 225

Legal Deadline: Final, Statutory, August 9, 1990.

Abstract: In January 1990, the Board requested public comment on a proposed regulation that prescribes standards for the performance of real estate appraisals in connection with federally related transactions. This regulation, which applies to real estate transactions entered into or regulated by the Federal financial institutions regulatory agencies, is mandated by Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). The member agencies of the FFIEC and the Resolution Trust Corporation are required by FIRREA to propose their appraisal regulations by February 9, 1990, and adopt them in final form by August 9, 1990.

FIRREA contemplates a two-step phase-in of the provisions of Title XI, reflected in the proposed regulation. The first step requires that as of August 9, 1990, all appraisals rendered in connection with federally related transactions must be performed in accordance with the appraisal standards of the Appraisal Foundation and any additional standards adopted by the agencies. The second step requires that as of July 1, 1991, all such appraisals must be performed by appraisers either (cont)

Timetable:

Action	Date	FR Cite
Board requested public comment	02/09/90	55 FR 4810
Board adopted proposal	07/05/90	55 FR 27762

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: ABSTRACT CONT: certified or licensed by the States in a manner consistent with Title XI.

In June 1990, following review of the public comments, the Board adopted a final regulation (55 FR 27762, July 5, 1990). The Board made a number of significant changes to the initial proposal that should help to reduce costs, particularly for smaller institutions, and to focus the regulation on those transactions where appraisal standards are most important.

Agency Contact: Michael O'Rourke, Senior Attorney, Federal Reserve System, Legal Division, 202 452-3288

RIN: 7100-AB00

4247. REGULATION: H - MEMBERSHIP OF STATE BANKING INSTITUTIONS; AND REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0583)

Legal Authority: 12 USC 1844(b); 12 USC 3909

CFR Citation: 12 CFR 208, app A and B; 12 CFR 225, app A, B and D

Legal Deadline: None

Abstract: In December 1989, the Board requested public comment on proposed transition capital guidelines to be applied through the end of 1990, as well as guidelines for a proposed new leverage constraint.

Under the proposal, State member banks and bank holding companies may choose up to the end of 1990 to conform to either the existing minimum capital adequacy ratios (5.5 percent primary capital and 6 percent total capital to total assets) or to the 7.25 percent year-end 1990 risk-based capital standards. In addition, the Board proposed to establish and apply during this period a minimum ratio of Tier 1 capital to total assets (leverage ratio). For leverage purposes, Tier 1 would be defined consistent with the year-end 1992 risk-based capital guidelines. The Board also proposed to drop the existing 5.5 percent primary and 6 percent total capital to total assets leverage ratios after year-end 1990. The Tier 1 leverage ratio would then constitute the minimum capital to total assets standards for banking organizations. Under the Board's proposal, these standards would be minimum requirements. (cont)

Timetable:

Action	Date	FR Cite
Board requested public comment	01/05/90	55 FR 581
Board adopted guidelines	06/20/90	55 FR 32827

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: In June 1990, following review of the public comments, the Board adopted the guidelines in substantially the form proposed (55 FR 32827, August 10, 1990).

It is not expected that adoption of this proposal will have a significant economic impact on a substantial number of small banking organizations. Rather than requiring all banking organizations to raise additional capital, the guidelines are directed at institutions whose capital positions are less than fully adequate in relation to their risk and leverage profiles. In addition, these guidelines generally will

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Completed Actions

not apply to bank holding companies with consolidated assets of less than $150 million.

Agency Contact: Michael O'Rourke, Senior Attorney, Federal Reserve System, Legal Division, 202 452-3288

RIN: 7100-AB08

4248. REGULATION: T - CREDIT BY BROKERS AND DEALERS (DOCKET NUMBER: R-0678)

Legal Authority: 15 USC 78g Securities Exchange Act of 1934, as amended; 15 USC 78w Securities Exchange Act of 1934, as amended

CFR Citation: 12 CFR 220

Legal Deadline: None

Abstract: In September 1988, the Board proposed for public comment several amendments to Regulation T to accommodate settlement and clearance of foreign securities. The amendments would: (1) permit certain foreign debt and equity securities to be eligible for margin at broker-dealers on the same basis as domestic margin securities; (2) eliminate the current dollar-only accounting requirement for margin accounts; (3) tie the time for customer payment for foreign securities to the foreign settlement date; and (4) allow a registered broker-dealer to arrange credit on foreign securities. In March 1990, following review of the public comments, the Board adopted the amendments in substantially the form proposed (55 FR 11158, March 21, 1990). It is not anticipated that any proposals in this area will affect a significant portion of the overall lending activities of a substantial number of small firms.

Timetable:

Action	Date	FR Cite
Board proposed amendments to Regulation T	09/29/88	54 FR 41454
Board adopted amendments	03/21/90	55 FR 11158

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Laura Homer, Securities Credit Officer, Federal Reserve System, Div. of Banking Supervision and Regulation, 202 452-2781

RIN: 7100-AA72

4249. REGULATION: CC - AVAILABILITY OF FUNDS AND COLLECTION OF CHECKS (DOCKET NUMBER: R-0679)

Legal Authority: 12 USC 4001 et seq

CFR Citation: 12 CFR 229

Legal Deadline: None

Abstract: In December 1989, the Board requested comment on proposed amendments to its Regulation CC, governing availability of funds and collection of checks. The proposals included shortening the time requirements for giving notice of nonpayment, proposed changes to the model forms, and other technical and clarifying modifications to the regulation and its commentary. In addition, the Board also proposed revisions to the deposit deadlines for the Federal Reserve notice of nonpayment service that would take effect if the time requirements for notice of nonpayment were to be shortened (Docket Number R-0680).

Following review of the comments, the Board determined that, on balance, the operational difficulties associated with shortening the time for notice of nonpayment outweigh the risks resulting from the current requirement. Therefore, the Board did not amend the notice of nonpayment provision, nor did it adopt the modified Federal Reserve notice of nonpayment service. The Board did adopt model form changes and other technical and clarifying amendments (55 FR 21848, May 30, 1990). Adoption of the amendments should not result in any significant economic (cont)

Timetable:

Action	Date	FR Cite
Board requested comment	12/15/89	54 FR 51405
Final amendments adopted	05/30/90	55 FR 21848

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: impact on a substantial number of small entities.

Agency Contact: Stephanie Martin, Attorney, Federal Reserve System, Legal Division, 202 452-3198

RIN: 7100-AB01

[FR Doc. 90-21483 Filed 10-26-90; 8:45 am]

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federal register

Monday
October 29, 1990

Part LVI

Federal Trade Commission

Semiannual Regulatory Agenda

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FEDERAL TRADE COMMISSION (FTC)

FEDERAL TRADE COMMISSION

16 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Trade Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following agenda of Commission proceedings is published in accordance with section 22(d)(1) of the Federal Trade Commission Act, 15 U.S.C. 57b-3(d)(1), and section 610(c) of the Regulatory Flexibility Act, 5 U.S.C. 610(c). Each projected date reflects an assessment by the FTC staff of the likelihood that the specified event will occur during the coming year. No Commission determination on the need for or the substance of a trade regulation rule or any other procedural option should be inferred from the notation of projected events in this agenda.

Several agenda items concern rulemaking proceedings that may affect a substantial number of small businesses as that term is used in the Regulatory Flexibility Act. Whether any such proceeding is likely to have a significant economic impact on such entities will depend upon the Commission's final determinations respecting the need for and the substance of a trade regulation rule.

Except for notice of completed actions, the information in this agenda represents the judgment of Commission staff based upon information now available. These views should not be regarded as a final staff position nor should they be attributed to the Commission itself. The Commission will independently address the issues presented on the rulemaking record in each proceeding.

Agenda items include the projected timing of certain future actions. In most instances, the dates of future events are listed by month, not by a specific day. Acquisition of new information, change of circumstances, or changes in the law may alter the information set forth in this agenda.

FOR FURTHER INFORMATION CONTACT: Further details may be obtained from the agency contact person listed for each particular proceeding.

By direction of the Commission.

Donald S. Clark,

Secretary.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4250	Review of Trade Regulation Rule Concerning Preservation of Consumers Claims and Defenses ("Holder-in-Due Course Rule")	3084-AA08
4251	Mail Order Merchandise	3084-AA19
4252	Informal Dispute Settlement Procedures	3084-AA30
4253	Franchise Rule	3084-AA35

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4254	Review of the Funeral Industry Practices Rule	3084-AA05
4255	Games of Chance in the Food Retailing and Gasoline Industries Rule	3084-AA24
4256	Appliance Labeling Rule—Energy Policy and Conservation Act	3084-AA26
4257	Regulations Under the Comprehensive Smokeless Tobacco Health Education Act of 1986	3084-AA40

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4258	Review of the Premerger Notification Rules and Report Form	3084-AA23

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4259	Transistor Rule	3084-AA37
4260	Sewing Machine Rule	3084-AA39

FTC

Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
4251	Review of the Amplifier Rule	3084-AA41
4252	Review of the Quick-Freeze Aerosol Spray Rule	3084-AA42

FEDERAL TRADE COMMISSION (FTC)

Prerule Stage

4250. REVIEW OF TRADE REGULATION RULE CONCERNING PRESERVATION OF CONSUMERS CLAIMS AND DEFENSES ("HOLDER-IN-DUE COURSE RULE")

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 57(a) Federal Trade Commission Act

CFR Citation: 16 CFR 433

Legal Deadline: None

Abstract: The Holder-In-Due Course Rule affects many sales that are financed by closed-end or open-end consumer credit; therefore, it may have a significant effect on a substantial number of small entities. The Commission has solicited comments and data on this issue and, if the Rule has had an effect, whether it should be amended to minimize what kinds of costs the Rule has imposed on small entities, how the Rule has affected the availability and cost of credit for small entities and how creditors and sellers have adapted to the Rule. This information will be used to determine whether the Commission should amend or repeal the Rule.

Timetable:

Action	Date	FR Cite
Begin Reg Flex Review	11/03/89	53 FR 44458
Commission Consideration of Staff Recommendations	02/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: John F. LeFevre, Federal Trade Commission, Division of Credit Practices, Bureau of Consumer Protection, Washington, DC 20580, 202 326-3259

RIN: 3084-AA08

4251. MAIL ORDER MERCHANDISE

Legal Authority: 15 USC 41 et seq Federal Trade Commission Act

CFR Citation: 16 CFR 435

Legal Deadline: None

Abstract: The Commission's rule concerning mail order merchandise was promulgated on October 22, 1975. The rule requires mail order sellers to possess a reasonable basis for any claims made concerning shipping dates or, in the absence of any specifically stated date, to ship the ordered merchandise within thirty (30) days of receipt of an order. In the event of delays in shipment, the rule establishes notification procedures whereby buyers have the option either to agree to the delay or to cancel the order and receive a prompt refund. The Commission's rule is designed to address a number of significant consumer problems described on the record of the rulemaking proceeding, including failure to deliver ordered merchandise, unexplained delays in delivery, failure to make prompt (or any) refunds upon cancellation of an order, and inability to obtain responses to inquiries about pending orders. The rule enables consumers to obtain ordered merchandise within a reasonable time period or, if delays occur, to cancel the order and obtain a prompt refund, so that losses due to undelivered merchandise, delays, and inadequate or nonexistent refunds can be avoided. By subjecting sellers (cont)

Timetable:

Action	Date	FR Cite
Rule Promulgated	10/22/75	40 FR 49492
Begin Reg Flex Act Review	10/20/83	
End Reg Flex Review	06/10/86	51 FR 20991
ANPRM	10/27/88	53 FR 43448
NPRM Published	11/28/89	54 FR 48968
Commission Consideration of Staff Recommendations	03/00/91	
Final Action	09/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ABSTRACT CONT: who solicit orders they cannot fill within a reasonable time to the risk of cancellation, the rule may provide competitive benefits, since buyers may shift their business to more efficient merchants. Costs relating to the rule may include the cost of establishing a system for monitoring and recording orders, shipments, delays, cancellations, consents to delays, and refunds; the costs of complying with the rule's notification requirements regarding delays (printing, postage, etc.); the cost of processing refunds; and additional inventory costs. On October 11, 1989, the Commission commenced a rulemaking to amend the rule to cover orders placed by telephone, and to change the rule's definition of "properly completed order" for credit sales to the time the seller receives sufficient information to charge the buyer's account. The Notice of Proposed Rulemaking was published November 28, 1989. The deadline for filing written comments was January 29, 1990. Public hearings were held March 28, 1990 and April 19, 1990. The record closed June 15, 1990. After analyzing the rulemaking

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record, staff will recommend that the Commission either adopt the proposed amendments or end the inquiry.

Agency Contact: Joel N. Brewer, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, 202 326-2967

RIN: 3084-AA19

4252. INFORMAL DISPUTE SETTLEMENT PROCEDURES

Legal Authority: 15 USC 2309; 15 USC 2310(a)(2) Magnuson-Moss Warranty--FTC Improvements Act

CFR Citation: 16 CFR 703

Legal Deadline: None

Abstract: The Magnuson-Moss Warranty Act, enacted on January 4, 1975, requires that the Federal Trade Commission promulgate a rule prescribing the minimum requirements for any informal dispute settlement procedure which is incorporated into the terms of a written warranty subject to the Act. Because warrantors are not required to incorporate such procedures into warranties, the rule applies only to warrantors who choose to do so. The present rule sets forth detailed procedural, recordkeeping, and reporting requirements for dispute settlement mechanisms designed to insure their fairness. To assess whether any changes are needed, the Commission conducted a regulatory negotiation process in which an advisory committee was charged to recommend to the Commission revisions to the rule that would facilitate the Congressional (cont)

Timetable:

Action	Date	FR Cite
Promulgation of Original Rule	12/31/75	
Initial Notice of Intent to Form Advisory Committee	02/12/86	51 FR 5205
Convene Advisory Committee	09/22/86	
Facilitator Report to Commission	12/10/87	
Commission Issuance of ANPR	05/16/89	54 FR 21070
Comment Period Extended	07/17/89	54 FR 29910
Comment Period Ends	09/15/89	
Comment Period Extended	09/19/89	54 FR 38529
Comment Period Extended for Rebuttal Comments	11/09/89	54 FR 47091
Comment Period Ends	12/15/89	
Commission Consideration of Staff Recommendations	10/01/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: objective of encouraging warrantors to establish and participate in informal dispute settlement mechanisms. The committee met for the last time on June 17, 1987, and failed to reach a consensus on rule revisions. The Commission and its staff will continue to monitor the impact of the current informal dispute settlement procedures rule. On April 11, 1988, the FT received a petition from the Motor Vehicle Manufacturers Association and the Automobile Importers Association to amend this rule in order to preempt certain state "lemon" laws. The Commission has issued an Advance Notice of proposed rulemaking requesting public comment on whether to initiate a review of the Rule and on the issues raised in the petition. The comment period closed November 15, 1989, but was extended for rebuttal comments until December 15, 1989.

Agency Contact: Gary Laden, Federal Trade Commission, Division of Marketing Practices, Federal Trade Commission, Washington, DC 20580, 202 326-3118

RIN: 3084-AA30

4253. FRANCHISE RULE

Legal Authority: 15 USC 41 et seq, Federal Trade Commission

CFR Citation: 16 CFR 436

Legal Deadline: None

Abstract: On December 21, 1978, the Commission issued a trade regulation rule applicable to franchises and other business opportunity ventures. The franchise rule took effect on October 21, 1979. The rule requires franchisors to give pre-sale disclosures to prospective investors before they pay money or become legally bound to pay. The disclosures provide material information and are designed to assure that potential investors have the information they need to investigate the franchise offer so they can make an informed investment decision. The Commission is considering whether to amend its trade regulation rule concerning franchises and business opportunity ventures. In particular, the Commission is considering whether to amend the rule's earnings claim and preemption provisions.

Timetable:

Action	Date	FR Cite
ANPRM	02/16/89	54 FR 7041
Staff Recommendations to Commission	09/00/90	
Commission Consideration of Staff Recommendations	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Craig Tregillus, Franchise Rule Coordinator, PC-H-238, Federal Trade Commission, Division of Marketing Practices, Washington, DC 20580, 202 326-2970

RIN: 3084-AA38

FEDERAL TRADE COMMISSION (FTC)

Proposed Rule Stage

4254. REVIEW OF THE FUNERAL INDUSTRY PRACTICES RULE

Legal Authority: 15 USC 45; 15 USC 46(g); 15 USC 57(a)

CFR Citation: 16 CFR 453

Legal Deadline: None

Abstract: The funeral industry practices rule, which became fully effective on April 30, 1984, seeks to increase consumer access to accurate information about prices and legal requirements prior to and at the time of purchase of funeral goods and services. The Rule: (1) requires funeral directors to provide consumers with written itemized pre-sale disclosures; (2) prohibits misrepresentation of legal and cemetery requirements and the preservative or protective value of embalming, caskets, and vaults; (3) prohibits funeral directors from requiring a casket for cremations, or any other tie-in arrangements; (4) prohibits funeral directors from charging for goods and services not specifically ordered, such as embalming, unless required by law; and (5) requires funeral directors to give, on request, price information over the telephone. The Rule provides that no later than four years after its effective date, the Commission will begin a rulemaking proceeding to determine whether the Rule should be amended or terminated. (cont)

Timetable:

Action	Date	FR Cite
Rule Promulgated	09/24/82	47 FR 42260
Prohibitions Effective Date	01/01/84	
Affirmative Requirements Effective Date	04/30/84	
ANPRM	12/09/87	52 FR 46706
NPRM	05/31/88	53 FR 19864
Hearings Ended	02/03/89	
Staff Report	06/29/90	
FR Notice Inviting Public Comment	07/30/90	55 FR 30925
Presiding Officer's Report	07/30/90	55 FR 30925
Comment Period Ends	10/15/90	
Final Staff Recommendation	11/15/90	
Commission Consideration of Staff Recommendations	12/00/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ABSTRACT CONT: The Commission has issued the Notice of Proposed Rulemaking for public comment and held informal public hearings in the cities of Washington, Chicago, and San Francisco. The staff's recommendation and presiding officer's report have been published, and public comments on those reports are being submitted. The subsequent steps include the staff's final recommendation to the Commission and oral presentations to the Commission by interested parties. Thereafter, the Commission will make its final determination.

Agency Contact: Matthew Daynard, Federal Trade Commission, Division of Service Industry Practices, Bureau of Consumer Protection, Washington, DC 20580, 202 326-3291

RIN: 3084-AA05

4255. GAMES OF CHANCE IN THE FOOD RETAILING AND GASOLINE INDUSTRIES RULE

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 57(a) Federal Trade Commission Act

CFR Citation: 16 CFR 419

Legal Deadline: None

Abstract: The Commission's trade regulation rule concerning games of chance became effective on October 17, 1969. The rule establishes requirements for food and gasoline retailers in conducting and advertising games of chance by requiring disclosure of odds-of-winning and prize information in broadcast and print advertisements, as well as in point of sale information. In January, 1983, the Commission granted a temporary partial exemption to allow supermarkets and gas stations to advertise their games on radio and television without disclosing full information on prizes and odds-of-winning. In addition, the Commission also published an advance notice of proposed rulemaking on whether to make the broadcast exemption permanent. Finally, the Commission has proposed to reduce the recordkeeping requirements of the rule from three years to one year in keeping with the goals of the Paperwork Reduction Act, and requested public comment on other possible areas where amendments to the rule may be appropriate. The rule benefits consumers by allowing contestants to enter games of chance with full knowledge of all material information to enable equal competition for (cont)

Timetable:

Action	Date	FR Cite
Promulgation of Original Rule	09/19/69	34 FR 13302
ANPRM	01/04/83	48 FR 265
Temporary Partial Exemption	01/10/83	48 FR 1046
NPRM	07/07/88	53 FR 25503
Staff Report	10/26/90	
Presiding Officer's Report	12/14/90	
Commission Consideration of Staff Recommendation	04/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ABSTRACT CONT: prizes. The major costs to industry are the possible burdensomeness of the electronic media disclosure and recordkeeping provisions of the rule, both of which have been reconsidered. The Commission issued an NPRM on July 7, 1988 to consider amendments that would reduce the burden of the rule's recordkeeping and disclosure requirements.

Agency Contact: John M. Mendenhall, Federal Trade Commission, Cleveland Regional Office, Suite 520A, 668 Euclid Ave., Cleveland, Ohio 44114, 216 522-4207

RIN: 3084-AA24

4256. APPLIANCE LABELING RULE—ENERGY POLICY AND CONSERVATION ACT

Legal Authority: 42 USC 6294 National Energy Conservation Policy Act; PL 94-163 Energy Policy and Conservation Act, Sec 324, 1975

CFR Citation: 16 CFR 305

Legal Deadline: None

Abstract: The Energy Policy and Conservation Act (EPCA) required the Commission to consider labeling rules for the disclosure of energy information, based on standard test procedures prescribed by the Department of Energy, for at least 13 categories of major household appliances. The Commission adopted a labeling rule for

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seven appliance categories: (1) refrigerators and refrigerator- freezers; (2) freezers; (3) dishwashers; (4) clothes washers; (5) water heaters; (6) room air conditioners; and (7) furnaces. The Commission exempted five other categories of appliances. In 1987, the Commission amended the rule to include central air conditioners and heat pumps and to include two new types of furnace under the rule's coverage. The provisions took effect on June 7, 1988. Since the Commission's rule implements the requirements of EPCA, most of the costs imposed on industry members may not be attributable to the rule. The rule applies mainly to manufacturers of household appliances but does impose some burdens on distributors and retailers. Some of those entities may be small businesses under section 610 of the Regulatory Flexibility Act. Therefore, the Commission (cont)

Timetable:

Action	Date	FR Cite
NPRM (comprehensive review)	06/13/88	53 FR 22022
Commission Review of Staff Recommendations (comprehensive review)	10/00/90	
Commission Action (comprehensive review)	03/00/91	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ABSTRACT CONT: has reviewed the rule to determine whether it has had a significant economic effect on a substantial number of small entities. The Commission has terminated that review and has begun another rulemaking to consider several amendments that would make the rule's energy usage disclosure scheme more efficient for consumers and business. Pursuant to recent amendments to EPCA, the Commission also issued a rule prescribing labeling requirements for fluorescent lamp ballasts.

Agency Contact: James Mills, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, 202 326-3035

RIN: 3084–AA26

4257. REGULATIONS UNDER THE COMPREHENSIVE SMOKELESS TOBACCO HEALTH EDUCATION ACT OF 1986

Legal Authority: 15 USC 4401

CFR Citation: 16 CFR 307

Legal Deadline: NPRM, Judicial, July 31, 1989.

Abstract: On July 31, 1989, the Commission issued a NPR to amend its regulations under the Comprehensive Smokeless Tobacco Act of 1986, 15 U.S.C. 4401, and sought public comment. In 1986, the Commission had issued final regulations implementing the Act's requirements for the display of health warnings in the labeling and advertising of smokeless tobacco products and for the submission of plans specifying the method used to rotate, display, and distribute the mandated health warnings. The regulations exempted utilitarian objects that are sold or given to consumers for their personal use, that display the brand name, logo, or selling message of a smokeless product. The Commission's exemption of these items from the regulation's requirements was challenged in court and the Commission was ordered to delete this exemption. This proposed amendment deletes the previous exemption and proposes a method for the display of the mandated health warnings on utilitarian objects.

Timetable:

Action	Date	FR Cite
Rule Promulgated	11/04/88	51 FR 40004
NPRM	07/31/89	54 FR 31541
Comment Period Ends	08/30/89	
Comment Period Extended	09/07/89	54 R 37117
Comment Period Ends	10/16/89	
Comment Period Reopened	03/12/90	55 FR 9142
Comment Period Ends	04/11/90	
Commission Consideration of Staff Recommendations	11/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anne V. Maher, Federal Trade Commission, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580, 202 326-2987

RIN: 3084–AA40

FEDERAL TRADE COMMISSION (FTC) — Final Rule Stage

4254. REVIEW OF THE PREMERGER NOTIFICATION RULES AND REPORT FORM

Significance: Agency Priority

Legal Authority: 15 USC 18a Clayton Act

CFR Citation: 16 CFR 801; 16 CFR 802; 16 CFR 803; 16 CFR 803, (Appendix)

Legal Deadline: None

Abstract: The Premerger Notification Rules and the Antitrust Improvements Act Notification and Report Form were adopted pursuant to Section 7A of the Clayton Act. Section 7A requires firms of a certain size contemplating mergers or acquisitions of a specified size to file notification with the Federal Trade Commission (FTC) and the Department of Justice (DOJ) and to wait a designated period before consummating the transaction. It also requires the FTC, with the concurrence of the Assistant Attorney General for Antitrust, to promulgate rules requiring that notification be in a form and contain information necessary to enable the FTC and DOJ to determine whether the proposed acquisition may, if consummated, violate the antitrust laws. These rules are continually reviewed in order to improve the program's effectiveness and reduce the paperwork burden on the business community. In September 1988, the Commission proposed to amend these rules to exempt or otherwise facilitate the acquisition of small percentages of an issuer's voting securities. The Commission plans to consider this

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fiscal year what action if any, to take (cont)

Timetable:

Action	Date	FR Cite
Begin Review	09/30/81	
NPRM -- Ordinary Course	09/24/85	50 FR 38742
NPRM -- De Minimis Exemption	09/22/88	53 FR 36831
ANPRM -- Partnerships	02/24/89	54 FR 7960
Comm. Consid. of Staff Rec. re: Partnerships	11/00/90	
NPRM - HSR Form	12/00/90	
Comm. Consid. of Staff Rec. re: Acquisitions in Ord. Course	05/00/91	
Comm. Consid. of Staff Rec. re: Con. Partnerships and Nonprofits	07/00/91	
Comm. Consid. of Staff Rec. re: De Minimis Exemption	07/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: on these proposed amendments. In February 1989, the Commission issued an ANPR seeking comments on options for amending the rules to modify their treatment of transactions involving partnerships. In the first quarter of fiscal year 1991, the Commission expects to determine what action, if any, to take on possible amendments regarding such acquisitions. The Commission also plans to propose modifications to the Premerger Notification and Report form during the first part of this fiscal year. In September 1985, the Commission proposed to amend the Rule's treatment of acquisition of goods or realty made in the ordinary course of business. The Commission expects to reconsider, this spring, what action, if any, to take on possible amendments regarding such acquisitions. The Commission also expects to consider in fiscal year 1991 what action, if any, to take on possible amendments regarding mergers and consolidations of partnerships and non-profit organizations.

Agency Contact: Roberta S. Baruch, Deputy Assistant Director, Federal Trade Commission, Bureau of Competition, Washington, DC 20580, 202 326-3661

RIN: 3084-AA23

FEDERAL TRADE COMMISSION (FTC) — Completed Actions

4259. TRANSISTOR RULE

Legal Authority: 15 USC 41 et seq, Federal Trade Commission Act

CFR Citation: 16 CFR 414

Legal Deadline: None

Abstract: The Transistor Count Rule states that it is an unfair method of competition and an unfair or deceptive act or practice in connection with the sale of radio receivers (including transceivers) to represent that a radio set contains a specified number of transistors when the transistors counted do not function to detect, amplify, or receive radio signals. The rule was adopted May 4, 1968 and became effective on December 10, 1968. The Commission sought comment on whether or not changes in technology and marketing over the last twenty years have rendered the rule obsolete and therefore no longer in the public interest. The Commission issued an NPR asking for comment on the continued viability of the rule and whether it should be repealed. The Commission, based on the rulemaking record, determined that the rule was no longer in the public interest and repealed it.

Timetable:

Action	Date	FR Cite
ANPRM	02/01/89	54 FR 5090
NPRM	06/06/89	54 FR 24191
NPRM Comment Period End	10/20/89	
Recommendations	02/26/90	
Final Action	06/20/90	55 FR 25091
Final Action Effective	06/20/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Robert E. Easton, Special Assistant - Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580, 202 326-3629

RIN: 3084-AA37

4250. SEWING MACHINE RULE

Legal Authority: 15 USC 41-58

CFR Citation: 16 CFR 401

Legal Deadline: None

Abstract: On June 30, 1965, the Commission promulgated the Sewing Machine Rule. The Rule states that the use of the word "automatic" or terms of similar import to describe a household sewing machine is an unfair or deceptive act. The need for the Rule, stated at the time of promulgation, was that use of the word automatic as a description of a sewing machine led consumers "to believe that merely by the twist of a dial or the flick of a lever they will be able to perform sewing operations." On April 19, 1989, the Commission initiated a rulemaking proceeding to determine whether or not the Sewing Machine Rule should remain in effect without changes or should be repealed. In a Notice of Proposed Rulemaking, the Commission sought public comment on whether sewing machine technology and marketing have changed so that the Rule is no longer needed, and whether the Rule still provides any benefit. The Commission, based on the rulemaking record, determined that the rule was no longer in the public interest and repealed it.

Timetable:

Action	Date	FR Cite
ANPRM	05/03/89	54 FR 18906
Comment Period Ends	06/06/89	
NPRM	09/20/89	54 FR 38693
Comment Period Ends	10/20/89	
Recommendations	01/07/90	

FTC

Completed Actions

Action	Date	FR Cite
Final Action	06/13/90	55 FR 23600
Final Action Effective	06/13/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert E. Easton, Special Assistant - Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580, 202 326-3029

RIN: 3084-AA39

4261. REVIEW OF THE AMPLIFIER RULE

Legal Authority: 15 USC 45-58

CFR Citation: 16 CFR 432

Legal Deadline: None

Abstract: On May 3, 1974, the Commission promulgated the Amplifier Rule. The Rule states that any representation of performance characteristics in connection with the advertisement of sound power amplification equipment manufactured or sold for home entertainment purposes, must clearly and conspicuously make certain disclosures pertaining to power output. The Commission published a Federal Register notice seeking public comment on whether the Amplifier Rule should be amended to minimize any significant impact upon small economic entities. The Commission concluded, based on the Regulatory Flexibility Act review, that there is no reason to believe that the Rule has had a significant impact on a substantial number of small entities but that there is a continued need for the Rule.

Timetable:

Action	Date	FR Cite
Begin Reg Flex Review	10/25/89	54 FR 43435
FR Notice Extending Comment Period	12/11/89	54 FR 50771
Comment Period Ends	01/26/90	
Recommendations	05/17/90	
End Review	06/11/90	55 FR 23545

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Robert E. Easton, Special Assistant - Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580, 202 326-3029

RIN: 3084-AA41

4262. REVIEW OF THE QUICK-FREEZE AEROSOL SPRAY RULE

Legal Authority: 15 USC 41-58

CFR Citation: 16 CFR 417

Legal Deadline: None

Abstract: On February 20, 1968, the Commission promulgated the Quick-Freeze Aerosol Spray Rule. The Rule states that it is an unfair or deceptive act or practice to fail to provide a clear and conspicuous warning on the labels of aerosol spray products sold for the purpose of frosting cocktail glasses that inhalation of the product may result in injury or death. The Commission published a Federal Register Notice seeking public comment on whether the Quick-Freeze Aerosol Spray Rule should be amended to minimize any significant impact upon small economic entities. The Commission concluded, based on the Regulatory Flexibility Act review, that there is no reason to believe that the Rule has had a significant impact on a substantial number of small entities but that there is a continued need for the Rule.

Timetable:

Action	Date	FR Cite
Begin Reg Flex Review	10/25/89	54 FR 43435
Comment Period Ends	11/25/89	
Recommendations	01/07/90	
End Review	05/17/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Robert E. Easton, Special Assistant - Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580, 202 326-3029

RIN: 3084-AA42

[FR Doc. 90-21464 Filed 10-26-90; 8:45 am]

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Monday
October 29, 1990

Part LVII

Interstate Commerce Commission

Semiannual Regulatory Agenda

INTERSTATE COMMERCE COMMISSION (ICC)

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. 420 (Sub-No. 19)]

Semiannual Regulatory Agenda

AGENCY: Interstate Commerce Commission.

ACTION: Notice of semiannual regulatory agenda to be part of a Unified Agenda of Federal Regulations.

SUMMARY: Pursuant to instructions from OMB issued to implement the provisions of section 5 of Executive Order 12291 concerning regulatory agendas, the Commission is publishing an agenda of: (1) Current and projected rulemakings and (2) existing regulations being reviewed to determine whether to propose modifications through rulemaking. Listed below are the regulatory actions to be developed or reviewed during the next 12 months. Following each rule identified is a brief description of the rule, including its purpose and legal basis.

FOR FURTHER INFORMATION CONTACT: A contact person is identified for each of the rules listed below.

SUPPLEMENTARY INFORMATION: A list of proceedings appears below containing information about subject areas in which the Commission is currently conducting rulemaking proceedings or may institute such proceedings in the near future. It also contains information about existing regulations being reviewed to determine whether to propose modifications through rulemaking.

The agenda also identifies regulations likely to have a significant economic impact on a substantial number of "small entities." Accordingly, this information will satisfy the requirements of section 602 of the Regulatory Flexibility Act, 5 U.S.C. 602.

Finally, this agenda will comprise part of a Unified Agenda of Federal Regulations compiled by the Office of Management and Budget, which is to be published in a single issue of the Federal Register in October 1990. The purpose of the Unified Agenda is to provide the public with more comprehensive documentation of the Federal Government's current regulatory plans and to provide a systematic means of monitoring regulatory activity in each agency.

This notice is issued pursuant to 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: August 17, 1990.
By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Lamboley, and Emmett.

Sidney L. Strickland, Jr.,
Secretary.

INTERSTATE COMMERCE COMMISSION (ICC) — Prerule Stage

4263. REVIEW OF CAR-HIRE REGULATION, EX PARTE NO. 334 (SUB-NO. 6)

Legal Authority: 49 USC 10321; 49 USC 10706; 49 USC 10734; 49 USC 11122; 5 USC 553

CFR Citation: 49 CFR 1033; 49 CFR 1036

Legal Deadline: None

Abstract: The Commission is considering whether regulation of railroad car-hire charges (except charges for boxcars) should be retained, modified, or eliminated.

Timetable:

Action	Date	FR Cite
ANPRM	04/29/85	50 FR 16724
ANPRM Comment Period End	08/28/85	50 FR 27031
Supplemental Comment Period	02/07/86	50 FR 52972
Comments under Internal Review	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This proceeding embraces the proposals and record developed in Zone of Reasonableness for Car-Hire Charges, Ex Parte No. 334 (Sub-No. 5), RIN 3120-AA13. In a related proceeding, Ex Parte No. 334 (Sub-No. 7), Suspension of Car-Hire Updates, all further updates of car-hire charges have been suspended pending completion of Review of Car-Hire Regulation, Ex Parte No. 334 (Sub-No. 6). Notice of suspension appeared at 51 FR 263 on 01/03/86.

Agency Contact: Joseph H. Dettmar, Deputy Director, Rail Section, Interstate Commerce Commission, Room 2144, Washington, DC 20423, 202 275-7245

RIN: 3120-AA13

4264. EXEMPTION OF DEMURRAGE FROM REGULATION, EX PARTE NO. 462

Significance: Agency Priority

Legal Authority: 49 USC 10505; 49 USC 10750; 49 USC 11121 to 11122; 5 USC 553

CFR Citation: 49 CFR 1033

Legal Deadline: None

Abstract: The Commission is considering whether to exempt in whole or in part rail demurrage from regulation.

Timetable:

Action	Date	FR Cite
ANPRM	12/18/85	50 FR 51565
ANPRM Comment Period End	01/17/86	50 FR 51565
Extension of Public Comment Period	01/21/86	51 FR 2740
Comment Period End	03/18/86	51 FR 2740
Internal Review of Comments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar, Deputy Director, Rail Section, Interstate Commerce Commission, Room 2144, 12th & Constitution Avenue, NW., Washington, DC 20423, 202 275-7245

RIN: 3120-AB35

4265. CLASS EXEMPTION FOR RAIL CONSTRUCTION, EX PARTE NO. 392 (SUB-NO. 3)

Significance: Agency Priority

Legal Authority: 49 USC 10321; 49 USC 10505; 49 USC 10901; 5 USC 553; 5 USC 559; 5 USC 704

ICC

Prerule Stage

CFR Citation: 49 CFR 1150.35

Legal Deadline: None

Abstract: The Commission is considering whether to exempt from regulation all applications under 49 USC 10901 for construction and operation of new lines of railroad.

Timetable:

Action	Date	FR Cite
ANPRM	09/02/87	52 FR 20632
ANPRM Comment Period End	07/02/87	52 FR 20632
Comments under evaluation	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar, Deputy Director, Rail Section, Interstate Commerce Commission, Room 2144, 12th & Constitution Avenue, NW., Washington, DC 20423, 202 275-7245

RIN: 3120-AB50

4264. ● ASSOCIATION OF AMERICAN RAILROADS—PETITION TO EXEMPT INDUSTRIAL DEVELOPMENT ACTIVITIES FROM 49 USC 10761(A), 10762(A) (1), 11902, 11903, AND 11904(A), EX PARTE NO. 346 (SUB-NO. 25)

Significance: Agency Priority

Legal Authority: 49 USC 10505; 49 USC 10761(a); 49 USC 10762(a)(1); 49 USC 11902; 49 USC 11903; 49 USC 11904(a); 5 USC 553

CFR Citation: 49 CFR 1039

Legal Deadline: None

Abstract: Petitioner seeks an exemption from the Elkins Act, now codified at 49 USC 10761(a), 49 USC 10762(a)(1), 49 USC 11902, 49 USC 11903, and 49 USC 11904(a), for railroads' industrial and market development activities. The sought exemption would apply whenever a rail carrier provides payments or services for industrial development activities or makes commitments regarding future transportation services.

Timetable:

Action	Date	FR Cite
ANPRM	06/13/90	55 FR 24132
ANPRM Comment Period End	07/13/90	
Comments Under Review	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar, Deputy Director, Rail Section, Interstate Commerce Commission, Room 2144, 12th & Constitution Avenue, NW., Washington, DC 20423, 202 275-7245

RIN: 3120-AB65

INTERSTATE COMMERCE COMMISSION (ICC)

Proposed Rule Stage

4267. RATE GUIDELINES—NONCOAL PROCEEDINGS, EX PARTE NO. 347 (SUB-NO. 2)

Significance: Agency Priority

Legal Authority: 49 USC 10301; 49 USC 10321; 49 USC 10328; 49 USC 10701a; 49 USC 10704; 49 USC 10707; 49 USC 11701; 5 USC 553

CFR Citation: None

Legal Deadline: None

Abstract: Proposal to adopt maximum rate reasonableness guidelines for captive noncoal commodities. Request for comments on alternative guidelines for small shippers including small coal shippers.

Timetable:

Action	Date	FR Cite
Notice of Proposed Policy Statement	05/22/86	51 FR 18611
Notice of Intent to Participate Due	06/02/86	
Comments Due	07/21/86	
Begin Review	07/24/87	
End Review	09/30/87	
Comments Under Internal Evaluation	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Leslie J. Selzer, Assistant to the Director, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, DC 20423, 202 275-7627

RIN: 3120-AB41

4268. CLASS EXEMPTION FOR THE CONSTRUCTION OF CONNECTING TRACKS UNDER 49 USC 10901, EX PARTE NO. 392 (SUB-NO. 2)

Significance: Agency Priority

Legal Authority: 5 USC 553; 49 USC 10321; 49 USC 10901; 49 USC 10505

CFR Citation: 49 CFR 1150

Legal Deadline: None

Abstract: The Commission proposes to exempt from the prior approval requirements of 49 USC 10901, the construction of rail connecting tracks, except those construction projects that would result in a major market extension as defined at 49 CFR 1180.3(c).

Timetable:

Action	Date	FR Cite
NPRM	07/24/86	51 FR 26563
NPRM Comment Period End	08/25/86	
Internal Review of Comments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar, Deputy Director, Rail Section, Interstate Commerce Commission, Room 2144, 12th & Constitution Avenue, NW., Washington, DC 20423, 202 275-7245

RIN: 3120-AB43

4269. ENVIRONMENTAL DOCUMENTATION IN RAIL PROCEEDINGS, EX PARTE NO. 55 (SUB-NO. 22A)

Significance: Agency Priority

Legal Authority: 49 USC 10321; 49 USC 10505; 49 USC 10901; 49 USC 10903 to 10908; 16 USC 470f; 16 USC 1451; 16

ICC

Proposed Rule Stage

USC 1531; 42 USC 4332; 42 USC 6362(b); 5 USC 553; 5 USC 559

CFR Citation: 49 CFR 1105; 49 CFR 1106; 49 CFR 1150; 49 CFR 1152

Legal Deadline: None

Abstract: The proposed rules are designed to assure adequate consideration of environmental and energy factors in the Commission's decisionmaking process. They implement the National Environmental Policy Act (NEPA), 49 USC 4332; and the Energy Policy and Conservation Act (EPCA), 42 USC 6362(b); and require information that enables the Commission to comply with related laws, including the National Historic Preservation Act, 16 USC 470f; the Coastal Zone Management Act, 16 USC 1451; and the Endangered Species Act, 16 USC 1531.

Timetable:

Action	Date	FR Cite
NPRM	03/30/90	55 FR 11973
NPRM Comment Period End	06/29/90	55 FR 20810
Comments Under Internal Review	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elaine K. Kaiser, Section Chief, Office of Transportation Analysis, Interstate Commerce Commission, Room 2144, 12th & Constitution Avenue, NW., Washington, DC 20423, 202 275-7692

RIN: 3120-AB53

4270. ● REVISION OF REGULATIONS GOVERNING INSURANCE AND SURETY COMPANIES MAKING ICC FILINGS, EX PARTE NO. MC-6 (SUB-NO. 11)

Legal Authority: 49 USC 10101; 49 USC 10321; 49 USC 11701; 49 USC 10927; 5 USC 553

CFR Citation: 49 CFR 1043.8; 49 CFR 1084.6

Legal Deadline: None

Abstract: The Commission is instituting a rulemaking proceeding to clarify and consider whether it should change its regulations, which set forth the eligibility requirements for insurance and surety companies to write coverage for ICC-regulated motor carriers, brokers, and freight forwarders. In particular, the Commission will consider the circumstances under which it will allow insurance and surety bonds to be provided by companies that are authorized to write insurance only on an excess/surplus line basis.

Timetable:

Action	Date	FR Cite
NPRM	07/16/90	55 FR 28920
NPRM Comment Period End	09/14/90	55 FR 32650
Comments Under Internal Review	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Alice K. Ramsay, Chief, Insurance Branch, Interstate Commerce Commission, 12th & Consitution Avenue, NW., Room 4117, Washington, DC 20423, 202 275-0854

RIN: 3120-AB63

4271. ● RAIL GENERAL EXEMPTION AUTHORITY: LUMBER AND WOOD PRODUCTS EX PARTE NO. 346 (SUB-NO. 25)

Legal Authority: 49 USC 10321; 49 USC 10505; 49 USC 10709; 49 USC 10762; 49 USC 11105; 5 USC 553

CFR Citation: 49 CFR 1039

Legal Deadline: None

Abstract: The Commission is seeking public comment on whether to exempt the transportation by rail of lumber, plywood, and treated wood products from its regulation. If exempted, these commodities would be added to the list of exempt commodities identified in 49 CFR Part 1039, as set forth below. The effect of this proposed exemption would be to treat the movement of these products on flatcars and other railroad equipment in the same way that they are currently treated when moving in boxcars.

Timetable:

Action	Date	FR Cite
NPRM	04/03/90	55 FR 12392
NPRM Comment Period End	06/07/90	55 FR 26715
Comments Being Reviewed	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Lundy, Economist, Interstate Commerce Commission, Room 3219, 12th & Constitution Avenue, NW., Washington, DC 20423, 202 275-6780

RIN: 3120-AB64

4272. ● REVISION OF FEEDER RAILROAD DEVELOPMENT RULES, EX PARTE NO. 395 (SUB-NO. 2)

Significance: Agency Priority

Legal Authority: 49 USC 10910; 5 USC 553

CFR Citation: 49 CFR 1151

Legal Deadline: None

Abstract: The Commission has proposed changing its present procedures in 49 CFR 1151 by (1) issuing a Federal Register notice within 30 days of accepting an initial application and within 15 days of accepting a competing application; (2) beginning the procedural schedule at the time the application is accepted rather than at the time it is filed; (3) removing the 140-day internal deadline for issuing a final decision; and (4) making several minor changes. The Commission is also reviewing its policy of automatically rejecting feeder line applications where all or any portion of the line is the subject of a previously filed abandonment case.

Timetable:

Action	Date	FR Cite
NPRM	01/11/90	55 FR 1067
NPRM Comment Period End	02/12/90	
Comments Under Review	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar, Deputy Director, Rail Section, Interstate Commerce Commission, Room 2144, 12th & Constitution Avenue, NW., Washington, DC 20423, 202 275-7245

RIN: 3120-AB66

INTERSTATE COMMERCE COMMISSION (ICC)

Final Rule Stage

4273. ELECTRONIC FILING OF TARIFFS, EX PARTE NO. 444

Legal Authority: 49 USC 10321; 49 USC 10708; 49 USC 10761; 49 USC 10762; 5 USC 553

CFR Citation: 49 CFR 1312; 49 CFR 1314

Legal Deadline: None

Abstract: The ICC lifted a stay it had previously imposed in this proceeding in order to consider petitions for reconsideration. The result was that regulations which were previously adopted at 54 FR 6403 became effective for rail carriers only. Rail carriers are now permitted to file electronic tariffs as an alternative to printed tariffs. Rail carriers are required to accompany their electronic tariffs with identical printed tariffs until November 8, 1990. With respect to other modes, the effective date of adopted regulations is stayed pending consideration of a petition to reopen.

Timetable:

Action	Date	FR Cite
ANPRM	03/08/83	48 FR 9672
ANPRM Comment Period End	04/26/83	48 FR 18861
NPRM	10/22/87	52 FR 39549
NPRM Comment Period End	02/19/88	53 FR 5022
Final Action	02/10/89	54 FR 6403
Effective Date Stayed	03/13/89	54 FR 10533
Final Action Effective	03/13/89	54 FR 6403
Stay Lifted in Part for Rail Carriers	10/19/89	54 FR 42959
Petition to Reopen Under Review	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Although final rules have been adopted in this proceeding, their effective date has been stayed pending disposition of a petition to reopen.

Agency Contact: Charles E. Langyher, Chief, Section of Tariffs, Bureau of Traffic, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, DC 20423, 202 275-7729

RIN: 3120-AA99

INTERSTATE COMMERCE COMMISSION (ICC)

Completed Actions

4274. ADOPTION OF UNIFORM RAIL COSTING SYSTEM FOR DETERMINING VARIABLE COST FOR JURISDICTIONAL THRESHOLD AND SURCHARGE PURPOSES (URCS), EX PARTE NO. 431

Significance: Agency Priority

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Withdrawn - Proceeding discontinued by decision of Board 06/07/90.	06/08/90	55 FR 23489

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: William T. Bono 202 275-7354

RIN: 3120-AA63

4275. PRACTICES OF MOTOR COMMON CARRIERS OF HOUSEHOLD GOODS (REVISION OF OPERATIONAL REGULATIONS), EX PARTE NO. MC-19 (SUB-NO. 36)

CFR Citation: 49 CFR 1056

Completed:

Reason	Date	FR Cite
Withdrawn Proceeding discontinued.	04/09/90	55 FR 13298

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Patricia M. Schulze 202 275-7841

RIN: 3120-AB17

4276. IDENTIFICATION OF MOTOR VEHICLES—EX PARTE NO. MC-41 (SUB-NO. 1)

CFR Citation: 49 CFR 1057; 49 CFR 1058

Completed:

Reason	Date	FR Cite
Withdrawn Proceeding discontinued.	07/10/90	55 FR 28419

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John W. Fristoe 202 275-7844

RIN: 3120-AB59

4277. RAIL ABANDONMENTS—NATIONAL TRAILS SYSTEM IMPROVEMENTS ACT, EX PARTE NO. 274 (SUB-NO. 13A)

Significance: Agency Priority

CFR Citation: 49 CFR 1152

Completed:

Reason	Date	FR Cite
Final Action	08/03/90	55 FR 31600
Final Action Effective	09/02/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar 202 275-7245

RIN: 3120-AB60

4278. PRACTICES OF MOTOR COMMON CARRIERS OF HOUSEHOLD GOODS (LIMITATIONS OF LIABILITY), EX PARTE NO. MC-19 (SUB-NO. 41)

CFR Citation: 49 CFR 1056

Completed:

Reason	Date	FR Cite
Final Action	07/25/90	55 FR 30235
Final Action Effective	07/25/90	55 FR 30235

Small Entities Affected: Businesses

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Completed Actions

Government Levels Affected: None

Agency Contact: Heber P. Hardy 202 275-7148

RIN: 3133–AB61

4279. CARGO LIABILITY INSURANCE, SURETY BONDS OR OTHER SECURITY REQUIRED BY MOTOR COMMON CARRIERS OF PROPERTY AND FREIGHT FORWARDERS, EX PARTE NO. MC-5 (SUB-NO. 10)

CFR Citation: 49 CFR 1003; 49 CFR 1043; 49 CFR 1084

Completed:

Reason	Date	FR Cite
Withdrawn Proceeding discontinued.	05/03/90	55 FR 18741

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Alice K. Ramsey 202 275-0854

RIN: 3120–AB62

[FR Doc. 90-21485 Filed 10-26-90; 8:45 am]

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federal register

Monday
October 29, 1990

Part LVIII

National Credit Union Administration

Semiannual Regulatory Agenda

NATIONAL CREDIT UNION ADMINISTRATION (NCUA)

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch. VII

Semiannual Agenda of Regulations

AGENCY: National Credit Union Administration (NCUA).

ACTION: Semiannual agenda of regulations.

SUMMARY: Pursuant to its ongoing policy of reviewing regulations, NCUA is publishing a list of current and projected rulemaking, reviews of existing regulations, and completed actions as of July 31, 1990. NCUA will also include this agenda in the Unified Agenda of Federal Regulations

DATES: This information is current as of July 31, 1990.

ADDRESS: National Credit Union Administration, 1776 G Street NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: For each regulation listed, the person(s) named in the listing at the above address or listed telephone number.

SUPPLEMENTARY INFORMATION: The purpose of this agenda is to enable credit unions and the public to follow regulatory development and review at NCUA and to enable interested parties to more effectively participate in that process. The agenda is divided into three parts: (1) Actions completed since the last agenda; (2) actions proposed but not completed; and (3) actions planned but not yet proposed by the NCUA Board.

The agenda is published pursuant to NCUA Interpretive Ruling and Policy Statement Number 87-2 ("Developing and Reviewing Government Regulations," 54 FR 35231, September 18, 1987). Executive Order 12291 does not require independent executive agencies such as NCUA to publish a regulatory agenda, but NCUA has voluntarily decided to do so by including this agenda in the Office of Management and Budget's next publication of its Unified Agenda of Federal Regulations.

Approved by the NCUA Board on August 21, 1990

Becky Baker,

Secretary of the Board

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4280	Investment and Deposit Activities	3133-AA87
4281	Insurance	3133-AB15
4282	Liquidations	3133-AB17
4283	Real Estate Lending	3133-AB19

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4284	Management Interlocks	3133-AA19
4285	Corporate Credit Unions	3133-AB06
4286	Fees Paid by Federal Credit Unions	3133-AB16

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4287	Loan Participation	3133-AA49
4288	Purchase, Sale and Pledge of Eligible Obligations	3133-AA50
4289	Employee Responsibility and Conduct	3133-AA64
4290	Share, Share Draft and Share Certificate Accounts	3133-AA82
4291	Credit Union Service Contracts	3133-AA95
4292	Reporting Requirements for Newly-Chartered and Troubled Credit Unions	3133-AB12
4293	Uninsured Membership Shares	3133-AB18

NCUA

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4284	Records Preservation Programs	3133-AA58
4285	Retirement Benefits for Employees of Federal Credit Unions	3133-AA66
4286	Administrative Actions, Adjudicative Hearings and Rules of Practice and Procedure	3133-AB04
4287	Trustees and Custodians of Pension Plans	3133-AB06
4288	Appraisals	3133-AB10
4289	Share Insurance	3133-AB14

NATIONAL CREDIT UNION ADMINISTRATION (NCUA)

Prerule Stage

4280. INVESTMENT AND DEPOSIT ACTIVITIES

Legal Authority: 12 USC 1757; 12 USC 1766

CFR Citation: 12 CFR 703

Legal Deadline: None

Abstract: NCUA staff is undertaking a review of FCU investment authority in light of changes in the marketplace.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Staff plans to present recommendations to the NCUA Board in 1990.

Agency Contact: D. Michael Riley, Director, Office of Examination Insurance, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW., Washington, DC 20456, 202 682-9630

RIN: 3133–AA87

4281. ● INSURANCE

Legal Authority: 12 USC 1766; 12 USC 1781; 12 USC 1789

CFR Citation: 12 CFR 745

Legal Deadline: None

Abstract: The FDIC recently issued final rules on deposit insurance. The rules differ in some respects from NCUA's current rules and/or policies. NCUA staff will be analyzing the changes and clarifications to deposit insurance coverage rules made by the FDIC, in order to determine whether changes in NCUA's insurance regulation are warranted.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James J. Engel, Deputy General Counsel, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW., Washington, DC 20456, 202 682-9630

RIN: 3133–AB15

4282. ● LIQUIDATIONS

Legal Authority: 12 USC 1766; 12 USC 1786; 12 USC 1787; 12 USC 1789

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: FIRREA authorized NCUA to promulgate regulations setting out liquidation procedures, and required that such regulations provide, at a minimum, for expedited relief and alternative dispute resolution procedures. Staff is working on a proposal which would set out the powers of the liquidating agent, claims procedures, procedures for expedited relief and alternative dispute resolution procedures, and a priority schedule.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Staff expects to present a proposal to the NCUA Board within the next six months.

Agency Contact: Allan Meltzer, Associate General Counsel, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW., Washington, DC 20456, 202 682-9630

RIN: 3133–AB17

4283. ● REAL ESTATE LENDING

Legal Authority: 12 USC 1757; 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 701.21(f) to 701.21(h)

Legal Deadline: None

Abstract: Staff is currently reviewing various issues in real estate lending, including documentation, construction loans and interest rate risk, to determine whether any changes in the regulation are necessary.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Staff plans to complete its review and make recommendations to the NCUA Board within the next six months.

Agency Contact: D. Michael Riley, Director, Office of Examination and Insurance, National Credit Union

NCUA — Prerule Stage

Administration, 1776 G Street, NW., Washington, DC 20456, 202 682-9640
RIN: 3133-AB19

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Proposed Rule Stage

4284. MANAGEMENT INTERLOCKS

Legal Authority: 12 USC 3201 et seq

CFR Citation: 12 CFR 711

Legal Deadline: None

Abstract: This part, which implements the provisions of the Depository Institution Management Interlocks Act, prohibits certain overlaps by officials of various financial institutions. The rule is uniform with those of other Federal financial regulators.

Timetable:

Action	Date	FR Cite
ANPRM	10/24/88	53 FR 41614
ANPRM Comment Period End	01/22/89	53 FR 41614

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: No immediate action is contemplated.

Agency Contact: Michael McKenna, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW., Washington, DC 20456, 202 682-9630
RIN: 3133-AA19

4285. CORPORATE CREDIT UNIONS

Legal Authority: 12 USC 1781

CFR Citation: 12 CFR 704.8

Legal Deadline: None

Abstract: A proposed rule was issued limiting to ten percent of reserves the amount that a corporate credit union may invest in fixed assets without the express written permission of NCUA. NCUA staff is currently making a broader review of Part 704 to determine whether additional changes should be made.

Timetable:

Action	Date	FR Cite
NPRM	03/29/90	55 FR 11608
NPRM Comment Period End	05/29/90	
NPRM	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: D. Michael Riley, Director, Office of Examination & Insurance, National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456, 202 682-9630
RIN: 3133-AA19

4286. ● FEES PAID BY FEDERAL CREDIT UNIONS

Legal Authority: 12 USC 1755

CFR Citation: 12 CFR 701.6

Legal Deadline: None

Abstract: NCUA is considering a restructuring of the operating fee scale for Federal credit unions from the current fourteen-tier scale to a scale with only two rates.

Timetable:

Action	Date	FR Cite
ANPRM	07/23/90	55 FR 29857
ANPRM Comment Period End	09/17/90	55 FR 29857
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Herbert S. Yolles, Controller, National Credit Union Administration, 1776 G Street, NW., Washington, DC, 202 682-9711
RIN: 3133-AB16

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Final Rule Stage

4287. LOAN PARTICIPATION

Legal Authority: 12 USC 1757; 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 701.22

Legal Deadline: None

Abstract: The proposed rule would make some changes in the regulation governing FCUs entering into participation arrangements.

Timetable:

Action	Date	FR Cite
ANPRM	10/24/88	53 FR 41613
ANPRM Comment Period End	01/23/89	53 FR 41613
NPRM	01/19/90	55 FR 1827
NPRM Comment Period End	04/19/90	54 FR 1827
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hattie M. Ulan, Associate General Counsel, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW., Washington, DC 20456, 202 682-9630
RIN: 3133-AA49

4288. PURCHASE, SALE AND PLEDGE OF ELIGIBLE OBLIGATIONS

Legal Authority: 12 USC 1757; 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 701.23

Legal Deadline: None

Abstract: The proposed rule clarifies that loans of members purchased under Section 701.23, but subsequently refinanced so that they are loans the

NCUA

Final Rule Stage

FCU is empowered to grant, are not subject to the five percent limitation imposed by the FCU Act. Other technical changes are proposed.

Timetable:

Action	Date	FR Cite
ANPRM	10/24/88	53 FR 41613
ANPRM Comment Period End	01/23/89	53 FR 41613
NPRM	01/18/90	55 FR 1827
NPRM Comment Period End	04/19/90	55 FR 1827
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hattie M. Ulan, Associate General Counsel, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW., Washington, DC 20456, 202 682-9630

RIN: 3133–AA50

4289. EMPLOYEE RESPONSIBILITY AND CONDUCT

Legal Authority: EO 11222; 5 CFR 735.104; 12 USC 1766

CFR Citation: 12 CFR 796

Legal Deadline: None

Abstract: This regulation sets forth the rules governing NCUA employees. The rule does not affect credit unions.

Timetable:

Action	Date	FR Cite
NPRM	10/25/88	53 FR 42955
NPRM Comment Period End	01/23/89	53 FR 42955
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The NCUA Board approved a final rule that was submitted to the Office of Government Ethics, OPM, for approval, in June 1988. The rule was reviewed by OPM and recommended changes have been made. In April 1989, the Board adopted a final package, designated as Part 796, as agency policy and guidelines. The package will not become a final rule until after OPM adopts its own new rules and approves Part 796 as a final regulation.

Agency Contact: James J. Engel, Deputy General Counsel, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW., Washington, DC 20456, 202 682-9630

RIN: 3133–AA64

4290. SHARE, SHARE DRAFT AND SHARE CERTIFICATE ACCOUNTS

Legal Authority: 12 USC 1752; 12 USC 1757; 12 USC 1759; 12 USC 1766; 12 USC 1782; 12 USC 1789

CFR Citation: 12 CFR 701.35

Legal Deadline: None

Abstract: An FCU's payment of dividends on share, share draft, and share certificate accounts is limited to available earnings and cannot be guaranteed in advance. Staff is considering whether a statement to this effect should be included in NCUA's share account regulation, in light of problems which NCUA has encountered with certain liquidated credit unions.

Timetable:

Action	Date	FR Cite
NPRM	05/05/90	55 FR 21618
NPRM Comment Period End	07/24/90	55 FR 21618
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hattie M. Ulan, Associate General Counsel, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW., Washington, DC 20456, 202 682-9630

RIN: 3133–AA82

4291. CREDIT UNION SERVICE CONTRACTS

Legal Authority: 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 701.26

Legal Deadline: None

Abstract: The proposed rule clarifies the limits on the authority for an FCU to provide services and activities to other credit unions.

Timetable:

Action	Date	FR Cite
NPRM	11/21/89	54 FR 48110
NPRM Comment Period End	02/20/90	54 FR 48110
Final Action	12/00/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Margaret R. Sunberg, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW., Washington, DC 20456, 202 682-9630

RIN: 3133–AA85

4292. REPORTING REQUIREMENTS FOR NEWLY-CHARTERED AND TROUBLED CREDIT UNIONS.

Legal Authority: 12 USC 1761

CFR Citation: 12 CFR 701.14; 12 CFR 744.07

Legal Deadline: None

Abstract: The proposed rule, promulgated pursuant to FIRREA, requires certain categories of federally insured credit unions to file a notice with NCUA prior to adding or replacing members of the board of directors, committee members, or senior staff members. The rule also authorizes NCUA to disapprove the proposed additions or replacements.

Timetable:

Action	Date	FR Cite
NPRM	04/06/90	55 FR 12852
NPRM Comment Period End	05/05/90	55 FR 12852
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: D. Michael Riley, Director, Office of Examination and Insurance, National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456, 202 682-9640

RIN: 3133–AB12

4293. ● UNINSURED MEMBERSHIP SHARES

Legal Authority: 12 USC 1757; 12 USC 1766; 12 USC 1781 to 1790; PL 101-73

CFR Citation: 12 CFR 741.13

Legal Deadline: None

Abstract: The proposed rule would prohibit federally insured credit unions from issuing uninsured membership shares.

Timetable:

Action	Date	FR Cite
NPRM	05/03/90	55 FR 18613
NPRM Comment Period End	07/01/90	55 FR 18613
Final Action	12/00/90	

NCUA — Final Rule Stage

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Michael McKenna, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW., Washington, DC 20456, 202 682-9630
RIN: 3133-AB16

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Completed Actions

4294. RECORDS PRESERVATION PROGRAMS

Legal Authority: 12 USC 1766; 12 USC 1789
CFR Citation: 12 CFR 749
Legal Deadline: None

Abstract: The final rule makes a technical change to the existing regulation and adds to the list of records that each federally insured credit union is required to store.

Timetable:

Action	Date	FR Cite
NPRM	11/22/89	54 FR 48271
NPRM Comment Period End	02/20/90	54 FR 48271
Final Action	07/25/90	55 FR 30211
Final Action Effective	08/24/90	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Margaret R. Sunberg, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW., Washington, DC 20456, 202 682-9630
RIN: 3133-AA56

4296. RETIREMENT BENEFITS FOR EMPLOYEES OF FEDERAL CREDIT UNIONS

Legal Authority: 12 USC 1766; 12 USC 1761b
CFR Citation: 12 CFR 701.19; 12 CFR 724
Legal Deadline: None

Abstract: Section 701.19 sets forth an FCU's authority to provide retirement benefits to employees and officers.

Timetable:

Action	Date	FR Cite
Final Action	07/25/90	55 FR 30198
Final Action Effective	07/25/90	

Part 724
NPRM 11/21/89 (54 FR 48112)
NPRM Comment Period End 02/20/90 (54 FR 48112)
Section 701.19
ANPRM 11/21/89 (54 FR 48111)
ANPRM Comment Period End 02/20/90 (54 FR 48111)

Small Entities Affected: Undetermined
Government Levels Affected: Undetermined
Agency Contact: Michael McKenna, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW., Washington, DC 20456, 202 682-9630
RIN: 3133-AA26

4295. ADMINISTRATIVE ACTIONS, ADJUDICATIVE HEARINGS AND RULES OF PRACTICE AND PROCEDURE

Legal Authority: 12 USC 1766; 12 USC 1784; 12 USC 1786; 12 USC 1787; 12 USC 1789; 12 USC 1995C
CFR Citation: 12 CFR 747
Legal Deadline: None

Abstract: The final rule, issued pursuant to FIRREA, sets forth detailed procedures under which Board investigations are conducted.

Timetable:

Action	Date	FR Cite
NPRM	10/24/89	54 FR 43299
NPRM Comment Period End	12/26/89	54 FR 43299
Final Action	02/16/90	55 FR 5587
Final Action Effective	02/16/90	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Richard Schulman, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456, 202 682-9630
RIN: 3133-AB04

4297. TRUSTEES AND CUSTODIANS OF PENSION PLANS

Legal Authority: 12 USC 1766
CFR Citation: 12 CFR 724
Legal Deadline: None

Abstract: The final rule authorizes Federal credit unions to offer self-directed IRA and Keogh accounts and act as custodians of such accounts. The final rule was added to reflect the guidance in Interpretive Ruling and Policy Statement Number 85-1.

Timetable:

Action	Date	FR Cite
NPRM	11/21/89	54 FR 48112
NPRM Comment Period End	02/20/90	54 FR 48112
Final Action	07/25/90	55 FR 30210
Final Action Effective	07/25/90	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Michael McKenna, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456, 202 682-9630
RIN: 3133-AB06

4298. APPRAISALS

Legal Authority: 12 USC 1757(5)
CFR Citation: 12 CFR 722
Legal Deadline: NPRM, Statutory, February 9, 1990. Final, Statutory, August 9, 1990.

Abstract: The final rule, issued pursuant to FIRREA, was promulgated jointly with the other Federal financial regulators (FRB, OTS, RTC, OCC & FDIC). The rule identifies transactions that require an appraisal and sets forth standards for performing appraisals.

Timetable:

Action	Date	FR Cite
NPRM	02/16/90	55 FR 5614
NPRM Comment Period End	04/17/90	55 FR 5614
Final Action	07/25/90	55 FR 30199
Final Action Effective	08/09/90	

Small Entities Affected: None
Government Levels Affected: None

NCUA

Completed Actions

Agency Contact: Michael McKenna, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456, 202 682-9630

RIN: 3133–AB10

4289. SHARE INSURANCE

Legal Authority: 12 USC 1766; 12 USC 1781; 12 USC 1787; 12 USC 1789

CFR Citation: 12 CFR 745

Legal Deadline: None

Abstract: The final rule, issued pursuant to FIRREA, details procedures for the payment of share insurance, the initial determination with respect to uninsured funds, requests for reconsideration of the initial determination, and appeals to the NCUA Board.

Timetable:

Action	Date	FR Cite
NPRM	10/24/89	54 FR 43297
NPRM Comment Period End	12/28/89	54 FR 43297
Final Action	02/16/90	55 FR 5584
Final Action Effective	02/16/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allan Meltzer, Associate General Counsel, Office of General Counsel, National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456, 202 682-9630

RIN: 3133–AB14

[FR Doc. 90-21486 Filed 10-26-90; 8:45 am]

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Monday
October 29, 1990

Part LIX

Nuclear Regulatory Commission

Semiannual Regulatory Agenda

NUCLEAR REGULATORY COMMISSION (NRC)

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

Regulatory Agenda

AGENCY: Nuclear Regulatory Commission.

ACTION: Semiannual publication of NRC regulatory agenda.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing its semiannual regulatory agenda in accordance with Public Law 96-354, "The Regulatory Flexibility Act," and Executive Order 12291 "Federal Regulation." The agenda is a compilation of all rules on which the NRC has recently completed action or has proposed or is considering action. This issuance updates any action occurring on rules since publication of the last semiannual agenda on April 23, 1990 (55 FR 17160).

ADDRESSES: Comments on any rule in the agenda may be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555; Attention: Docketing and Service Branch. Comments may also be hand delivered to the One White Flint North Building, 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m., Federal workdays. Comments received on rules for which the comment period has closed will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closure dates specified in the agenda.

The agenda and any comments received on any rule listed in the agenda are available for public inspection and copying at a cost of ten cents per page at the Nuclear Regulatory Commission's Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC 20555. Single copies of the NRC quarterly agenda can be purchased from the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013-7082. Customers may call (202) 275-2060 or (202) 275-2171.

FOR FURTHER INFORMATION CONTACT: For further information concerning NRC rulemaking procedures or the status of any rule listed in this agenda, contact Michael Lesar, Chief, Rules Review Section, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone (301) 492-7758. Persons outside the Washington, DC, metropolitan area may call, toll-free: (800) 368-5642. For further information on the substantive content of any rule listed in the agenda, contact the individual listed under the heading "Agency Contact" for that rule.

SUPPLEMENTARY INFORMATION: Although publication of the agenda is only required semiannually in April and October, the NRC has chosen to update and publish its agenda each quarter. However, the information contained in this semiannual publication is updated to reflect any action which has occurred on rules since publication of the last NRC semiannual agenda on April 23, 1990 (55 FR 17160).

Within each group, the rules are ordered according to the Regulation Identifier Number (RIN).

The information in this agenda has been updated through August 24, 1990. The date under the heading "Timetable," for the next scheduled action, is the date the rule is scheduled to be published in the Federal Register. The date is considered tentative and is not binding on the Commission or its staff. The regulatory agenda is intended to provide the public early notice and opportunity to participate in the NRC rulemaking process. However, the NRC may consider or act on any rulemaking even though it is not included in the regulatory agenda.

Rulemakings Approved by the Executive Director for Operations (EDO)

The EDO initiated a procedure for review of the regulations being prepared by staff offices that report to him to ensure that staff resources are allocated most effectively to achieve NRC's regulatory priorities. This procedure requires EDO approval before staff resources may be expended on the development of any new rulemaking. Furthermore, all existing rules must receive EDO approval prior to the commitment of additional resources.

The NRC agenda lists rulemaking actions. Of these, no rulemaking items are considered to be priority or major as defined in section 1(b) of Executive Order 12291.

Seven rules potentially will have a "significant economic impact on a substantial number of small entities" as defined in the Regulatory Flexibility Act.

Dated at Bethesda, Maryland, this 13th day of August 1990.

For the Nuclear Regulatory Commission.

David L. Meyer,

Chief, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4300	Night Firing Qualifications for Security Guards at Nuclear Power Plants	3150-AC80
4301	Conduct of Employees; Miscellaneous Amendments	3150-AD15
4302	License Renewal for Nuclear Power Plants; Scope of Environmental Effects	3150-AD63

NRC

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4303	Amendment to 10 CFR 51.51 and 51.52, Tables S-3 and S-4, Addition of Radon-222 and Technetium-99 Radiation Values, and Addition of Appendix B, "Table S-3 Explanatory Analysis"	3150-AA31
4304	Proposed Revisions to the Criteria and Procedures for the Reporting of Defects and Noncompliance and Conditions of Construction Permits	3150-AA68
4305	Criteria for an Extraordinary Nuclear Occurrence	3150-AA01
4306	Revised Rules of Practice for Domestic Licensing Proceedings	3150-AA96
4307	Safety Related and Important to Safety in 10 CFR Part 50	3150-AB09
4308	NRC Acquisition Regulation (NRCAR)	3150-AC01
4309	Elimination of Inconsistencies between NRC Regulations and EPA HLW Standards	3150-AC03
4310	Availability of Official Records	3150-AC07
4311	Radioactive Waste Below Regulatory Concern; Generic Rulemaking	3150-AC35
4312	Transportation Regulations: Compatibility With the International Atomic Energy Agency (IAEA)	3150-AC41
4313	Comprehensive Quality Assurance in Medical Use and a Standard of Care	3150-AC62
4314	Enforcement of Nondiscrimination on the Basis of Handicap in Federally Assisted Programs	3150-AC64
4315	Revision of Definition of Meeting	3150-AC76
4316	Codes and Standards for Nuclear Power Plants (ASME Code, Section XI, Division 1, Subsection IWE and Subsection IWL)	3150-AC93
4317	Licensing and Radiation Safety Requirements for Large Irradiators	3150-AC96
4318	Medical Use of Byproduct Material: Training and Experience Criteria	3150-AC99
4319	Minor Amendments to Physical Protection Requirements	3150-AD03
4320	Nuclear Plant License Renewal	3150-AD04
4321	Codes and Standards for Nuclear Power Plants (ASME Code, 1986/1987/1988 Addenda)	3150-AD05
4322	Clarification of General Physical Protection Requirements	3150-AD16
4323	Day Firing Qualifications and Physical Fitness Programs for Security Personnel at Category I Fuel Cycle Facilities	3150-AD20
4324	Emergency Response Data System	3150-AD22
4325	Low-Level Waste Manifest Information and Reporting	3150-AD23
4326	Requirements for Possession of Industrial Devices Containing Byproduct Material	3150-AD24
4327	Import and Export of Radioactive Wastes	3150-AD36
4328	Willful Misconduct by Unlicensed Persons	3150-AD38
4329	Emergency Telecommunications System Upgrade	3150-AD39
4330	Clarification of Emergency Preparedness Regulations	3150-AD40
4331	Salary Offset Procedures for Collecting Debts Owed by Federal Employees to the Federal Government	3150-AD44
4332	Iridium-192 Wire for Interstitial Treatment of Cancer	3150-AD46
4333	Emergency Planning Regulations for Part 52 Licensing	3150-AD48
4334	Reinvestigation of Individuals Granted Unescorted Access to Nuclear Power Plants	3150-AD49
4335	Reppository Operations Criteria	3150-AD51
4336	Revisions to Procedures to Issue Orders	3150-AD53
4337	Operator's Licenses	3150-AD55
4338	Material Control and Accounting Requirements for Uranium Enrichment Plants	3150-AD56
4339	Fracture Toughness and Reactor Vessel Material Surveillance Requirements	3150-AD57
4340	Revisions to Procedures to Issue Orders: Challenges to Orders that are Made Immediately Effective	3150-AD60
4341	Fitness-for-Duty Programs	3150-AD61
4342	Clarification of Statutory authority for Purposes of Criminal Enforcement	3150-AD62
4343	Import and Export of Nuclear Equipment and Material	3150-AD64
4344	Residual Radioactivity Criteria for Unrestricted Release of Lands and Structures	3150-AD65
4345	Timeliness in Conduct of Decommissioning of Material Facilities	3150-AD66
4346	Decommissioning Regulations: Recordkeeping and Termination for Decommissioning, Documentation Additions	3150-AD67
4347	Fitness-for-Duty Programs for Category I Fuel Facilities and Shipments	3150-AD68
4348	Use of Radiopharmaceuticals for Medical Research, Use of Biologics Containing Byproduct Material, and Compounding Radiopharmaceuticals	3150-AD69
4349	Program Fraud Civil Remedies Act	3150-AD71

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4350	Procedures Involving the Equal Access to Justice Act: Implementation	3150-AA01
4351	Standards for Protection Against Radiation	3150-AA59
4352	Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors	3150-AA95
4353	Personnel Access Authorization Program	3150-AA20

NRC

Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
4354	Disposal of Waste Oil by Incineration from Nuclear Power Plants	3150-AC14
4355	Custody and Long-Term Care of Uranium and Thorium Mill Tailings Disposal Sites	3150-AC56
4356	Reasserting NRC's Sole Authority for Approving Onsite Low-Level Waste Disposal in Agreement States	3150-AC57
4357	Basic Quality Assurance Program, Records and Reports of Misadministrations or Events Relating to the Medical Use of Byproduct Material	3150-AC65
4358	Notifications of Incidents	3150-AC91
4359	Ensuring the Effectiveness of Maintenance Programs for Nuclear Power Plants	3150-AD00
4360	Fracture Toughness Requirements for Protection Against Pressurized Thermal Shock Events	3150-AD01
4361	Acceptance of Products Purchased for Use in Nuclear Power Plant Structures, Systems, and Components	3150-AD10
4362	Procedures Applicable to Proceedings for the Issuance of Licenses for the Receipt of High-Level Radioactive Waste at a Geologic Repository	3150-AD27
4363	ASNT Certification of Industrial Radiographers(Phase I)	3150-AD35
4364	Discrimination on the Basis of Sex	3150-AD50
4365	Material Approved for Incorporation by Reference; Maintenance and Availability	3150-AD58
4366	Annual Fees for Power Reactor Operating Licenses; Partial Refund	3150-AD70

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4367	Storage of Spent Nuclear Fuel in NRC-Approved Storage Casks at Nuclear Power Reactor Sites	3150-AC76
4368	Debt Collection Procedures	3150-AC87
4369	Informal Hearing Procedures for Nuclear Reactor Operator Licensing Adjudications	3150-AD17
4370	Export of Heavy Water to Canada	3150-AD20
4371	Revision of Fee Schedules: Radioisotope Licenses	3150-AD29
4372	Consideration of Environmental Impacts of Temporary Storage of Spent Fuel After Cessation of Reactor Operation	3150-AD26
4373	Amendments to Part 60 to Delineate Anticipated Processes and Events and Unanticipated Processes and Events	3150-AD31
4374	Clarifying Amendment Relating to Enforcement Activities	3150-AD41
4375	Suspension of Access Authorization and/or Employment Clearance; Delegation of Authority to Deputy Executive Directors	3150-AD42
4376	Authorization to Prepare Radiopharmaceutical Reagent Kits and Elute Radiopharmaceutical Generators; Use of Radiopharmaceuticals for Therapy	3150-AD43
4377	Freedom of Information Act, Privacy Act, Production or Disclosure in Response to Subpoena or Demands of Courts or Other Authorities; Office of the Inspector General	3150-AD45
4378	Standard Specifications for the Granting of Patent Licenses	3150-AD54
4379	Export of Specially Designed or Prepared Gaseous Diffusion Enrichment Plant Components	3150-AD59
4380	Fingerprint Cards: Increase in Fee	3150-AD72

NUCLEAR REGULATORY COMMISSION (NRC)

Prerule Stage

4300. NIGHT FIRING QUALIFICATIONS FOR SECURITY GUARDS AT NUCLEAR POWER PLANTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 73

Legal Deadline: None

Abstract: The rulemaking would ensure that security force effectiveness at nuclear power plants is not dependent on the time of day. Security guards currently are required to perform night firing for familiarization only. There is no requirement for standards to measure their effectiveness. The rule would change that by requiring that security guards at nuclear power plants qualify for night firing. The only alternative to rulemaking is to retain the current status.

Part 73, Appendix B, Part IV, will be amended to require reactor security guards to qualify annually in an NRC-approved night firing course with their assigned weapons. The amendment will standardize training and qualification in night firing and prepare power reactor guard forces to respond more effectively in the event of an incident occurring in limited lighting conditions. The cost to industry should be relatively modest since licensees already operate daylight firing training and qualification facilities and programs. The costs to NRC will also be minimal because it will only require minor licensing, inspection and other regulatory actions. (cont)

NRC

Prerule Stage

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT:

It is estimated that 0.4 staff-years of effort over 2 years by the NRC will be required for the rulemaking. There is no occupational exposure.

Agency Contact: Sher Bahadur, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3775

RIN: 3150-AC88

4301. CONDUCT OF EMPLOYEES; MISCELLANEOUS AMENDMENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 000

Legal Deadline: None

Abstract: The rule would clarify and correct typographical errors in 10 CFR Part 0 concerning acts affecting a personal financial interest; confidential statement of employment and financial interests; and restriction against ownership of certain security interests by Commissioners, certain staff members, and other related personnel. This rule is on hold pending the development of new regulations by the Office of Government Ethics and their review of the NRC regulations in 10 CFR Part 0.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Susan Fonner, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1632

RIN: 3150-AD15

4302. ● LICENSE RENEWAL FOR NUCLEAR POWER PLANTS; SCOPE OF ENVIRONMENTAL EFFECTS

Legal Authority: 42 USC 2201; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 051

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking (ANPRM) would amend the Commission's regulations to add provisions concerning the scope of environmental effects which would be addressed by the Commission in conjunction with applications for license renewal for nuclear power plants. Changes to Part 51 will be based on the findings of a generic environmental impact statement (GEIS). The NRC is soliciting comments on the scope of environmental issues to be covered in the rulemaking and GEIS and on the ways the results of the GEIS would be incorporated into the rulemaking on Part 51.

NRC believes that a generic Part 51 rulemaking could address potential environmental impacts from the relicensing and extended operation of nuclear power plants. This rulemaking would define the potential environmental impacts which need to be reviewed as part of the relicensing of individual nuclear power plants. The NRC is, therefore, undertaking a study to assess which environmental impacts may occur, under what circumstances, and their possible level of significance.

Timetable:

Action	Date	FR Cite
ANPRM	07/23/90	55 FR 29964
ANPRM Comment Period End	10/22/90	
NPRM	05/00/91	
Final Action	04/00/92	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald P. Cleary, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3836

RIN: 3150-AD63

NUCLEAR REGULATORY COMMISSION (NRC)

Proposed Rule Stage

4303. AMENDMENT TO 10 CFR 51.51 AND 51.52, TABLES S-3 AND S-4, ADDITION OF RADON-222 AND TECHNETIUM-99 RADIATION VALUES, AND ADDITION OF APPENDIX B, "TABLE S-3 EXPLANATORY ANALYSIS"

Legal Authority: 42 USC 2011; 42 USC 2201; 42 USC 4321; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 51

Legal Deadline: None

Abstract: The proposed rule amends the Table of Uranium Fuel Cycle Environmental Data (Table S-3) by adding new estimates for releases of technetium-99 and radon-222, and by updating other estimates. The proposed rule's Appendix B to Subpart A (narrative explanation), also describes the basis for the values contained in Table S-3, explains the environmental effects of these potential releases from the LWR Fuel Cycle, and postulates the potential radiation doses, health effects, and environmental impacts of these releases. The proposed rule also amends 10 CFR 51.52 to modify the enrichment value of U-235 and the maximum level of average fuel irradiation (burnup in megawatt-days of thermal power per metric ton of uranium). The narrative explanation also addresses important fuel cycle impacts and the cumulative impacts of the nuclear fuel cycle for the whole nuclear power industry so that it may be possible to consider these impacts generically rather than repeatedly in individual licensing proceedings, thus reducing litigation time and costs for both NRC and applicants.

Timetable:

Action	Date	FR Cite
NPRM	03/04/81	46 FR 15154
NPRM Comment Period End	05/04/81	46 FR 15154

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: The proposed revision of 10 CFR 51.51 and the addition of Appendix B was published for public review and comment on March 4, 1981 (46 FR 15154). The final rulemaking was deferred pending the outcome of a suit (Natural Resources Defense Council, et al. v. NRC, No. 74-1486) in the U.S. Circuit Court of Appeals. The U.S. Court of Appeals (D.C. Circuit) decision on April 27, 1982, invalidated the entire Table S-3 rule. The Supreme Court reversed this decision on June 6, 1983.

The proposed rule to provide an explanatory narrative for Table S-3 has been revised to reflect new modeling developments during the time the rulemaking was deferred. Final action on the Table S-3 rule was held in abeyance until new values for radon-222 and technetium-99 could be added to the table and covered in the narrative explanation. The rule is being reissued as a proposed rule because the scope has been expanded to include radiation values for radon-222 and technetium-99 and the narrative explanation has been extensively revised from that published on March 4, 1981 (46 FR 15154).

Agency Contact: Stanley Turel, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3729

RIN: 3150-AA31

4304. PROPOSED REVISIONS TO THE CRITERIA AND PROCEDURES FOR THE REPORTING OF DEFECTS AND NONCOMPLIANCE AND CONDITIONS OF CONSTRUCTION PERMITS

Legal Authority: 42 USC 2201; 42 USC 2232; 42 USC 5841; 42 USC 5846

CFR Citation: 10 CFR 21; 10 CFR 50

Legal Deadline: None

Abstract: This proposed rule would amend Part 21 and sec. 50.55(e), both of which require the reporting of safety defects by operating license (OL) holders and construction permit (CP) holders. In addition, Part 21 requires reporting of safety defects by non-licensee vendors. The proposed amendments were prompted by the TMI Action Plan Task II.J.4 and NRC staff experience with Part 21 and sec. 50.55(e) reporting. The main objectives of the rulemaking effort are: (1) reduction of duplicate evaluation and reporting of safety defects; (2) establishment of a consistent threshold for safety defect reporting in Part 21 and sec. 50.55(e); (3) establishment of a consistent, uniform content of reporting under Part 21 and sec. 50.55(e); and (4) establishment of consistent time frames for reporting of defects in Part 21 and sec. 50.55(e).

Approximately 200 reports are submitted to the Commission annually under Part 21. Approximately 750 sec. 50.55(e) reports are submitted annually. These reports identify both plant-specific and generic safety defects requiring further NRC evaluation and regulatory action. (cont)

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44594
NPRM Comment Period End	01/03/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: Under the current Part 21 and sec. 50.55(e), these reports have formed the basis for NRC issuance of numerous NRC generic communications.

The proposed rulemaking will reduce duplicate reporting and evaluation of safety defects which now exist. The rulemaking will establish a more coherent regulatory framework that is expected to reduce the industry reporting and evaluation burden significantly without any reduction in reporting safety defect information.

Current annual costs of reporting under Part 21 and sec. 50.55(e) are estimated at approximately $6 million dollars for industry and $680,000 for NRC evaluations. It is anticipated that the annual industry reporting burden should be reduced by approximately $600,000 while the NRC burden will be slightly reduced.

Agency Contact: William R. Jones, Nuclear Regulatory Commission, Office of Analysis and Evaluation of Operational Data, Washington, DC 20555, 301 492-4442

RIN: 3150-AA86

4305. CRITERIA FOR AN EXTRAORDINARY NUCLEAR OCCURRENCE

Legal Authority: 42 USC 2201; 42 USC 2210; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 140

Legal Deadline: None

Abstract: The proposed rule would revise the criteria for an extraordinary nuclear occurrence (ENO) to eliminate the problems encountered in the Three Mile Island ENO determination. It is desirable to get revised criteria in place in the event they are needed.

There are no alternatives to this rulemaking, as the current ENO criteria are already embodied in Subpart E of 10 CFR Part 140. The only way to modify these criteria, as this rule seeks to do, is through rulemaking.

There is no safety impact on public health or safety. The ENO criteria provide legal waivers of defenses. Industry (insurers and utilities) claims that a reduction in the ENO criteria could cause increases in insurance premiums. The final rule would also be responsive to PRM-140-1.

It is estimated that approximately 1.0 staff year of NRC time will be required to process the final rule.

Timetable:

Action	Date	FR Cite
NPRM	04/09/85	50 FR 13978
NPRM Comment Period End	09/06/85	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Harold Peterson, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3640

RIN: 3150-AB01

4306. REVISED RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 5841; 05 USC 552

CFR Citation: 10 CFR 0; 10 CFR 1; 10 CFR 2; 10 CFR 9; 10 CFR 50

Legal Deadline: None

NRC

Proposed Rule Stage

Abstract: The proposed rule would shorten and simplify existing Commission procedural rules applicable to domestic licensing proceedings by comprehensively restating, revising and reorganizing the statement of those rules to reflect current practice. The changes in this proposed rule would enable the Commission, directly and through its adjudicatory offices, to render decisions in a more timely fashion, eliminate the stylistic complexity of the existing rules, and reduce the burden and expense to the parties participating in agency proceedings. In 1987, the Commission deferred consideration of this proposal which would have revised the Commission's procedural rules governing the conduct of all adjudicatory proceedings other than export licensing proceedings under 10 CFR Part 110, pending consideration of other, more limited revisions to the rules of practice. In 1989, former Chairman Zech requested that this proposed rule be updated and re-submitted for re-consideration by the Commission.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: C. Sebastian Aloot, Nuclear Regulatory Commission, Atomic Safety and Licensing Board Panel, Washington, DC 20555, 301 492-7787

RIN: 3150-AB88

4307. SAFETY RELATED AND IMPORTANT TO SAFETY IN 10 CFR PART 50

Legal Authority: 42 USC 5841; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would clarify in the Commission's regulations the use of the terms "important to safety" and "safety related" by adding definitions of these two terms and of "facility licensing documents" to 10 CFR Part 50 and by discussing how these definitions will be applied in NRC licensing reviews. Significant issues concerning the meaning of these terms as they are used in this part have arisen in Commission licensing proceedings. This proposed rule would define these terms and clarify the nature and extent of their effect on quality assurance requirements, thereby resolving these issues.

Rulemaking was chosen as the method of resolving this issue as a result of the Commission's directive to resolve the issue by rulemaking contained in the Shoreham licensing decision (CLI-84-9, 19 NRC 1323, June 5, 1984).

A position paper requesting approval of the staff proposed definitions and additional guidance from the Commission was signed by the EDO on May 29, 1986. In addition to rulemaking, the position paper discusses the alternative of the Commission (cont)

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: issuing a policy statement concerning the definitions and their usage.

Since the proposed rule is only clarifying existing requirements, there is no impact on the public or the industry as a result of this rulemaking.

Agency Contact: Jerry N. Wilson, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3729

RIN: 3150-AB88

4308. NRC ACQUISITION REGULATION (NRCAR)

Legal Authority: 42 USC 2201; 41 USC 401

CFR Citation: 48 CFR 020

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to establish provisions unique to the NRC concerning the acquisition of goods and services. The NRC Acquisition Regulation is necessary to implement and supplement the governmentwide Federal Acquisition Regulation. This action is necessary to ensure that the regulations governing the procurement of goods and services within the NRC satisfy the needs of the agency. The NRC Acquisition Regulation implements the Federal Acquisition Regulation within the agency and includes additional policies, procedures, solicitation provisions, or contract clauses needed to meet specific NRC needs.

Timetable:

Action	Date	FR Cite
NPRM	10/02/89	54 FR 40420
NPRM Comment Period End	12/01/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Mary Lynn Scott, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555, 301 492-8700

RIN: 3150-AC01

4309. ELIMINATION OF INCONSISTENCIES BETWEEN NRC REGULATIONS AND EPA HLW STANDARDS

Legal Authority: 42 USC 10101

CFR Citation: 10 CFR 60

Legal Deadline: None

Abstract: The proposed rule would eliminate several inconsistencies with the EPA standards to be developed for the disposal of HLW in deep geologic repositories. The Nuclear Waste Policy Act of 1982 (NWPA) directs NRC to promulgate criteria for the licensing of HLW geologic repositories. Section 121(c) of this Act states that the criteria for the licensing of HLW geologic repositories must be consistent with these standards. The proposed rule is needed in order to eliminate several inconsistencies with the EPA standards, thus fulfilling the statutory requirement.

Because the NWPA directs NRC to eliminate inconsistencies between Part 60 and the EPA standard, the alternatives to the proposed action are limited by statute.

The public, industry, and NRC will benefit from eliminating inconsistencies in Federal HLW regulations. NRC

NRC

Proposed Rule Stage

resources needed would be several staff-years but will not include contract resources.

Because the Federal Court invalidated the EPA standards, action on this rule, which is in response to the EPA standards, is undetermined.(cont)

Timetable:

Action	Date	FR Cite
NPRM	06/19/86	51 FR 22288
NPRM Comment Period End	08/18/86	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT:

The proposed rule entitled, "Amendments to Part 60 to Delineate Anticipated Processes and Events and Unanticipated Processes and Events," was incorporated into this proposed rule on June 19, 1990. The objective of the rulemaking is to improve the licensing process for the geologic repository program.

Agency Contact: Malvin Silberberg, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3818

RIN: 3150-AC03

4310. AVAILABILITY OF OFFICIAL RECORDS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 2

Legal Deadline: None

Abstract: The proposed amendment would conform the NRC's regulations pertaining to the availability of official records to existing case law and agency practice. The amendment would reaffirm that the terms of 10 CFR 2.790(c) provide submitters of information a qualified right to have their information returned upon request. This amendment informs the public of three exceptions to the right to withdraw, pursuant to 10 CFR 2.790(c) of the NRC's regulations, i.e., information submitted in a rulemaking proceeding that subsequently forms the basis for the final rule, information which has been made available to an advisory committee or was received at an advisory committee meeting, and information that is subject to a pending Freedom of Information Act request.

Additionally, the proposed amendment would add a notice statement to 10 CFR Part 2 that submitters of documents and information to the NRC should be careful in submitting copyrighted works. The agency in receiving submittals and making its normal distributions routinely photocopies submittals, makes microfiche of such submittals and insures that these (cont)

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT:

fiche are distributed to the PDR, LPDRs, all appropriate internal offices, and to the National Technical Information Service Center. This broad distribution and reproduction is made to satisfy the congressional mandate of Section 142(b) of the Atomic Energy Act by increased public understanding of the peaceful uses of atomic energy. Accordingly, copyright owners are on notice that their act of submitting such works to the agency will be considered as the granting to the NRC an implied license to reproduce and distribute according to normal agency practice. Naturally, this notice does not prevent submitters from applying 10 CFR 2.790(b)(1) procedures to information that contains trade secrets or privileged or confidential commercial or financial information (proprietary information) and it is recognized that some information in those categories may be copyrighted. The key factor is that it is their proprietary information status that exempts them from public disclosure and not their copyright designation. A proposal is being prepared to submit to agency staff for comment.

Agency Contact: Catherine Holzle, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1500

RIN: 3150-AC07

4311. RADIOACTIVE WASTE BELOW REGULATORY CONCERN; GENERIC RULEMAKING

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 2; 10 CFR 20

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking (ANPRM) sought comments on a proposal to amend NRC regulations to address disposal of radioactive wastes that contain sufficiently low quantities of radionuclides that their disposal does not need to be regulated as radioactive.

The NRC has already published a policy statement providing guidance for filing petitions for rulemaking to exempt individual waste streams (August 29, 1986; 51 FR 30839). It is believed that generic rulemaking could provide a more efficient and effective means of dealing with disposal of wastes below regulatory concern. Generic rulemaking would supplement the policy statement which was a response to Section 10 of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (Pub. L. 99-240). The public was asked to comment on 14 questions. The ANPRM requested public comment on several alternative approaches that the NRC could take. The evaluation of public comment together with the results from a proposed research contract will help to determine whether and how NRC should proceed on the matter. (cont)

Timetable:

Action	Date	FR Cite
ANPRM	12/02/86	51 FR 43367
ANPRM Comment Period End	03/02/87	51 FR 43367

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT:

The action on this rule is dependent on the issuance of a broad Commission policy statement on exemptions from regulatory control.

Agency Contact: Robert Meck, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3737

RIN: 3150-AC35

4312. TRANSPORTATION REGULATIONS: COMPATIBILITY WITH THE INTERNATIONAL ATOMIC ENERGY AGENCY (IAEA)

Legal Authority: 42 USC 2073; 42 USC 2093; 42 USC 2111; 42 USC 2232; 42 USC 2233; 42 USC 2273; 42 USC 5842

CFR Citation: 10 CFR 71

Legal Deadline: None

Abstract: The proposed rule would, in conjunction with a corresponding rule change by the U.S. Department of Transportation, make the United States Federal regulations for the safe transportation of radioactive material consistent with those of the International Atomic Energy Agency (IAEA). The IAEA regulations can be found in IAEA Safety Series No. 6 "Regulations for the Safe Transport of Radioactive Material," 1985 Edition.

Consistency in transportation regulations throughout the world facilitates the free movement of radioactive materials between countries for medical, research, industrial, and nuclear fuel cycle purposes. Consistency of transportation regulations throughout the world also contributes to safety by concentrating the efforts of the world's experts on a single set of safety standards and guidance (those of the IAEA) from which individual countries can develop their domestic regulations. In addition, the accident experience of every country that bases its domestic regulations on those of the IAEA can be applied by every other country with consistent regulations to improve its safety program. The action will be handled as a routine (cont)

Timetable:

Action	Date	FR Cite
NPRM	06/06/88	53 FR 21550
DOT Proposed Rule Published	11/14/89	54 FR 47454
NPRM Comment Period End	02/09/90	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: updating of NRC transportation regulations. There is no reasonable alternative to rulemaking action. These changes should result in a minimal increase in costs to affected licensees. Proposed changes to 10 CFR Part 71, based on current IAEA regulations, have been issued for public comment. The task will consume 2-3 staff-years of effort depending on the number and difficulty of conflicts to be resolved.

Agency Contact: Donald R. Hopkins, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3784

RIN: 3150-AC41

4313. COMPREHENSIVE QUALITY ASSURANCE IN MEDICAL USE AND A STANDARD OF CARE

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 35

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking (ANPRM) would amend the Commission's regulations to require a comprehensive quality assurance program for medical licensees using byproduct materials. The purpose of this rulemaking action is to address each source of error that can lead to a misadministration. An ANPRM was published to request public comment on the extent to which in addition to the basic quality assurance procedures (being addressed by another rulemaking action, entitled "Basic Quality Assurance Program for Medical Use of Byproduct Material"), a more comprehensive quality assurance requirement is needed and invites advice and recommendations on about 20 questions that will have to be addressed in the rulemaking process.

Timetable:

Action	Date	FR Cite
ANPRM	10/02/87	52 FR 36949
ANPRM Comment Period End	12/31/87	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anthony Tse, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3787

RIN: 3150-AC42

4314. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED PROGRAMS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 004

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations concerning enforcement of Section 504 of the Rehabilitation Act of 1973, as amended, in Federally assisted programs or activities to include a cross-reference to the Uniform Federal Accessibility Standards (UFAS). Because some facilities subject to new construction or alteration requirements under Section 504 are also subject to the Architectural Barriers Act, government wide reference to UFAS will diminish the possibility that recipients of Federal financial assistance would face conflicting enforcement standards. In addition, reference to UFAS by all Federal funding agencies will reduce potential conflicts when a building is subject to the Section 504 regulations or more than one Federal agency. The U.S. Department of Justice (DOJ) is the lead agency in proposing this amendment. The U.S. Nuclear Regulatory Commission is joining DOJ and other Federal agencies in the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	03/08/89	54 FR 9966
NPRM Comment Period End	05/08/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Edward Tucker, Nuclear Regulatory Commission, Office of Small and Disadvantaged Business Utilization/Civil Rights, Washington, DC 20555, 301 492-7188

RIN: 3150-AC84

4315. REVISION OF DEFINITION OF MEETING

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 9

Legal Deadline: None

NRC

Proposed Rule Stage

Abstract: The proposed rule would return the definition of "meeting" to its pre-1985 wording. The proposal is based on a study of comments submitted on an interim final rule published on May 21, 1985 (50 FR 20889), and the 1987 recommendations and report of the American Bar Association (ABA). Since the pre-1985 wording of the definition of meeting is fully adequate to permit the types of non-Sunshine Act discussions that the NRC believes would be useful, the proposal calls for the NRC to reinstitute its pre-1985 definition of meeting, with the intention of conducting its non-Sunshine Act discussions in accordance with the guidelines recommended by the ABA.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Peter Crane, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1634

RIN: 3150-AC78

4316. CODES AND STANDARDS FOR NUCLEAR POWER PLANTS (ASME CODE, SECTION XI, DIVISION 1, SUBSECTION IWE AND SUBSECTION IWL)

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would incorporate by reference Subsection IWE, "Requirements for Class MC Components of Light-Water Cooled Power Plants," and Subsection IWL, "Requirements for Class CC Concrete Components of Light-Water Cooled Power Plants," of Section XI (Division 1) of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code). Subsection IWE provides the rules and requirements for inservice inspection, repair, and replacement of Class MC pressure retaining components and their integral attachments, and of metallic shell and penetration liners of Class CC pressure retaining components and their integral attachments in light-water cooled power plants. Subsection IWL provides the rules and requirements for inservice inspection and repair of the reinforced concrete and post tensioning systems of class CC components.

Incorporation by reference of Subsection IWE and Subsection IWL will provide systematic examination rules for containment structure for meeting Criterion 53 of the General Design Criteria (Appendix A of 10 CFR Part 50) and Appendix J of 10 CFR Part 50. (cont)

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: Age-related degradation of containments has occured, and additional and potentially more serious degradation mechanisms can be anticipated as nuclear power plants age.

If the NRC did not take action to endorse the Subsection IWE and Subsection IWL rules, the NRC position on examination practices for containment structure would have to be established on a case-by-case basis and improved examination practices for steel containment structures might not be implemented. The other alternatives of incorporating these detailed examination practices for steel containment structures might not be implemented. The other alternatives of incorporating these detailed examination requirements into the American National standard ANSI/ANS 56.8-1981 or into Appendix J are not feasible.

Adoption of the proposed amendment would permit the use of improved methods for containment inservice inspection.

Agency Contact: Wallace E. Norris, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3805

RIN: 3150-AC93

4317. LICENSING AND RADIATION SAFETY REQUIREMENTS FOR LARGE IRRADIATORS

Legal Authority: 42 USC 2073; 42 USC 2093; 42 USC 2111; 42 USC 2232; 42 USC 2233; 42 USC 2273; 42 USC 5842

CFR Citation: 10 CFR 036

Legal Deadline: None

Abstract: The proposed rule would develop regulations to specify radiation safety requirements and license requirements for the use of licensed radioactive materials in large irradiators. Irradiators use gamma radiation to irradiate products to change their characteristics in some way. The requirements would apply to large panoramic irradiators (those in which the radioactive sources and the material being irradiated are in a room that is accessible to personnel while the source is shielded) and certain large self-contained irradiators in which the source always remains under water. The rule would not cover small self-contained irradiators, instrument calibrators, medical uses of sealed sources (such as teletherapy), or non-destructive testing (such as industrial radiography).

The alternative to a regulation is continuing to license irradiators on a case-by-case basis using license conditions. The formalization would make the NRC's requirements better understood and possibly speed the licensing of irradiators. Development of the rule will require 2 staff-years.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	07/00/91	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Stephen A. McGuire, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3757

RIN: 3150-AC98

4318. MEDICAL USE OF BYPRODUCT MATERIAL: TRAINING AND EXPERIENCE CRITERIA

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 035

NRC

Proposed Rule Stage

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking (ANPRM) would amend the Commission's regulations concerning training and experience criteria for individuals involved in medical use of byproduct material. Rulemaking may be needed to reduce the chance of misadministrations. The Commission may proceed with rulemaking, assist in the development of national voluntary training standards, or issue a policy statement recommending increased licensee attention to training. If the Commission proceeds with rulemaking, the NRC could publish training and experience criteria in its regulations or indicate that it will recognize medical specialty certificates. The NRC requested cost/benefit comments as part of the May 1988 ANPRM. The contractor study of training, accreditation, and certification programs that are now in place has been completed. The NRC has analyzed the contractor's report and the comments received in response to the ANPRM. This analysis will be presented to the Advisory Committee on Medical Uses of Isotopes (ACMUI) for comment on the benefits and impacts of changing or extending NRC regulations on training and experience criteria. (cont)

Timetable:

Action	Date	FR Cite
ANPRM	05/25/88	53 FR 18845
ANPRM Comment Period End	08/24/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT:

The NRC will then make recommendations on proceeding with rulemaking, or some other course of action, based on its analysis of the ACMUI comments, ANPRM comments, and the contractor's report.

Agency Contact: Larry Camper, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 492-3417

RIN: 3150-AC99

4319. MINOR AMENDMENTS TO PHYSICAL PROTECTION REQUIREMENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 070; 10 CFR 072; 10 CFR 073; 10 CFR 075

Legal Deadline: None

Abstract: The proposed rule amends the Commission's regulations dealing with physical protection requirements that are out of date, susceptible to differing interpretations, or in need of clarification. These problems were identified by a systematic review of the agency's safeguards regulations and guidance documents conducted by the Safeguards Interoffice Review Group (SIRG). In addition, the staff has identified other areas in the regulations where minor changes are warranted. In response to these efforts, specific amendments to the regulations are being proposed. The proposed changes would: (1) add definitions for common terms not currently defined, (2) delete action dates that no longer apply, (3) correct outdated terms and cross references, (4) clarify wording that is susceptible to differing interpretations, (5) correct typographical errors, and (6) make other minor changes. (cont)

Timetable:

Action	Date	FR Cite
NPRM	08/15/89	54 FR 33570
NPRM Comment Period End	09/29/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: The alternative to rulemaking would be to allow the status quo to continue. These minor amendments affect the public, industry and the NRC only in so far as they make the regulations easier to understand, implement, and enforce. It is estimated that 0.4 staff-years of NRC effort over 2 years will be required for the rulemaking.

Agency Contact: Stan Dolins, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3745

RIN: 3150-AD03

4320. NUCLEAR PLANT LICENSE RENEWAL

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 002; 10 CFR 050; 10 CFR 054

Legal Deadline: None

Abstract: This rulemaking is scheduled for completion prior to the anticipated submittal of license renewal applications for Yankee Rowe and Monticello. The rule will provide the basis for development and review of these two "lead plant" applications and the concurrent development of implementing regulatory guidance. Timely completion of the rule is critical for establishing standards or continued safe operation of power reactors during the license renewal term and providing the regulatory stability desired by utilities in determining whether to prepare for license renewal or pursue alternative sources of generating capacity.

License renewal rulemaking to provide regulatory requirements for extending nuclear power plant licenses beyond 40 years was initiated in response to the Commission's 1986 and 1987 policy and planning guidance. Current regulatory provisions permit license renewal but do not provide requirements for the form and content of a license renewal application nor the standards of acceptability against which the application will be reviewed.

Timetable:

Action	Date	FR Cite
ANPRM	08/29/88	53 FR 32919
ANPRM Comment Period End	10/28/88	
NPRM	07/17/90	55 FR 29043
NPRM Comment Period End	10/15/90	
Final Action	06/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: George Sege, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3817

RIN: 3150-AD04

NRC

Proposed Rule Stage

4321. CODES AND STANDARDS FOR NUCLEAR POWER PLANTS (ASME CODE, 1988/1987/1989 ADDENDA)

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would incorporate by reference the 1988 Addenda, the 1987 Addenda, the 1988 Addenda, and the 1989 Edition of Section III, Division 1, and Section XI, Division 1, with a specified modification, of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code). Also, the proposed amendment would impose augmented examination of reactor vessel shell welds and would separate the requirements for inservice testing from those for inservice inspection by placing the requirements for inservice testing in a separate paragraph. The ASME Code provides rules for the construction of light-water-reactor nuclear power plant components in Section III, Division 1, and provides rules for the inservice inspection and inservice testing of those components in Section XI, Division I.

The proposed rule would update the existing reference to the ASME Code and would thereby permit the use of improved methods for the construction, inservice inspection, and inservice testing of nuclear power plant components. Incorporating by reference the latest addenda of the ASME Code would save (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	10/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: applicants/licensees and the NRC staff both time and effort by providing uniform detailed criteria against which the staff could review any single submission. In addition, the proposed rule would require licensees to augment their reactor vessel examination by implementing the expanded reactor vessel shell weld examinations specified in the 1989 Edition of Section XI and would clarify the existing requirements in the regulation for inservice inspection and inservice testing.

This action will be handled as a routine updating of 10 CFR 50.55a of the NRC regulations. There is no reasonable alternative to rulemaking action. The proposed amendment will be issued for public comment. The task to develop and publish the proposed amendment is scheduled for a period of 7.5 months with an estimated staff effort of 400 p-hrs.

Agency Contact: Gilbert C. Millman, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3848

RIN: 3150-AD05

4322. CLARIFICATION OF GENERAL PHYSICAL PROTECTION REQUIREMENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 073

Legal Deadline: None

Abstract: The proposed rule would amend the regulations regarding general physical protection for fixed sites to clarify the intent that physical protection against sabotage or theft, or both, must be provided only as required by specific sections of 10 CFR Part 73 which apply to designated classes of facilities or material. This action is necessary because the Atomic Safety and Licensing Board, in a recent ruling issued an interpretation of this provision which is different from the Commission's intent and application.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Philip Cota, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, 301 492-1280

RIN: 3150-AD16

4323. DAY FIRING QUALIFICATIONS AND PHYSICAL FITNESS PROGRAMS FOR SECURITY PERSONNEL AT CATEGORY I FUEL CYCLE FACILITIES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 073

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to require that security personnel qualify and requalify annually on specific standardized day firing courses using all assigned weapons. Current regulations require day firing qualification using a national police course or equivalent for handguns and an NRA or nationally recognized course for semiautomatic weapons. A firing course specified for shotguns is in need of revision. Recent amendments to Part 73 added a requirement for night firing qualification using specific, designated firing courses. To ensure uniformity, the current day firing requirements should be compatible.

Additionally, current regulations specify that security personnel shall have no physical weaknesses that would adversely affect their performance of assigned job duties. However, no regulatory standards exist for assuring that security personnel are physically fit to perform their duties. Requirements for a physical fitness program and fitness standards at Category I fuel cycle facilities for security personnel need to be added to the regulations in order to provide a uniform, (cont)

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	
Final Action	02/00/92	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: enforceable program. Guidance will be developed to ensure that such a program will not, at the same time, endanger the health of those participating in it.

The proposed rule would amend 10 CFR Part 73, Appendix H, to include day firing qualification courses in each type of required weapon as well as a standardized physical fitness training course and fitness standards for security personnel. Alternatives to the

rulemaking would be to allow the status quo to continue. Standardization of day firing courses to be consistent with those established for night firing would be of negligible cost to the 3-4 affected licensees and to the NRC because day firing qualification using a variety of firing courses is already being done. Physical fitness training programs would incur moderate costs to the licensees in the area of personnel time and limited physical fitness equipment. The cost to the NRC would be in the area of licensing and inspection activities. Neither area of rulemaking affects occupational exposure.

Agency Contact: H. Tovmassian, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3834

RIN: 3150-AD30

4324. EMERGENCY RESPONSE DATA SYSTEM

Legal Authority: 42 USC 2131; 42 USC 2133; 42 USC 2134; 42 USC 2135; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 2236; 42 USC 2239; 42 USC 2282; 42 USC 5841; 42 USC 5843; 42 USC 5846

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by requiring the implementation of the NRC-approved Emergency Response Data System (ERDS) at all licensed nuclear power plants. The primary role of the Nuclear Regulatory Commission during an emergency at a licensed nuclear power facility is one of monitoring the licensee to assure that appropriate recommendations are made with respect to necessary offsite actions to protect public health and safety. In order to adequately perform its role during an emergency, the NRC requires accurate and timely data on four types of parameters: (1) the reactor core and coolant system conditions to assess the extent or likelihood of core damage; (2) the conditions inside the containment building to assess the likelihood of its failure; (3) the radioactivity release rates to assess the immediacy and degree of public danger; and (4) the data from the plant's meteorological tower to assess the distribution of potential or actual impact on the public. (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	07/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: The rule would require that the licensees provide the required hardware and software to transmit the data in a format specified by the NRC. The NRC would require that the licensee activate the ERDS as soon as possible following the declaration of an alert condition. Based on a site survey of 80 percent of licensed facilities, the current estimates of licensee costs are $20K-50K for software and $0-100K for hardware. The current estimated cost to NRC is $2.6 million. The proposed changes to 10 CFR Part 50 will be issued for public comment. The rulemaking task will be scheduled over a 2-year period ending March 1991 and will consume 2-3 staff-years of effort depending on the number and difficulty of conflicts to be resolved.

Agency Contact: Markley Au, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3748

RIN: 3150-AD32

4325. LOW-LEVEL WASTE MANIFEST INFORMATION AND REPORTING

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 020; 10 CFR 061

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to: (1) improve information contained in manifests accompanying shipments of waste to low-level waste (LLW) disposal facilities licensed under Part 61; (2) develop a uniform manifest for national use; (3) require that operators of these disposal facilities store portions of this manifest information in onsite computer recordkeeping systems; and (4) require that operators periodically submit, in an electronic format, reports of shipment manifest information.

To ensure safe disposal of LLW, the NRC must understand the mechanisms and rates by which radioactivity can be released from LLW and into the environment. To do this, the NRC must understand the chemical, physical, and radiological characteristics of LLW. This task is greatly complicated by the heterogeneous nature of LLW; it exists in a variety of chemical and physical forms and contains roughly 200 different radionuclides in concentrations that can range from a few microcuries to several hundred curies per cubic foot. Each year there are thousands of shipments to LLW disposal sites. (cont)

Timetable:

Action	Date	FR Cite
NPRM	02/00/91	
Final Action	02/00/92	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT:

The rulemaking will help ensure the availability of a complete, detailed national LLW computer data base, operated by DOE or the NRC if necessary, that contains information about waste disposed in all LLW sites, those regulated by NRC as well as by Agreement States. The rulemaking, through development of a uniform manifest, would also improve safe and expeditious movement of LLW from generators through brokers to disposal facilities. Emergency accident procedures would be enhanced through use of a single uniform manifest.

We expect that the rulemaking will slightly increase disposal costs. The rulemaking is a budgeted activity cited in the NRC 5-year plan.

Agency Contact: Mark Haisfield, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3877

RIN: 3150-AD33

4326. REQUIREMENTS FOR POSSESSION OF INDUSTRIAL DEVICES CONTAINING BYPRODUCT MATERIAL

Legal Authority: 42 USC 2111; 42 USC 2114; 42 USC 2201

CFR Citation: 10 CFR 031; 10 CFR 032

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations for the possession of industrial devices

NRC

Proposed Rule Stage

containing byproduct material to require device users to report to the NRC on a periodic basis. The proposed report would indicate that the device is still in use or to whom the device has been transferred. The proposed rule would be the most efficient method, considering the number of general licensees and the number of devices currently in use, for assuring that devices are not improperly transferred or inadvertently discarded. The proposed rule is necessary to avoid unnecessary radiation exposure to the public that may occur when an improperly discarded device is included in a batch of scrap metal for reprocessing. The proposed rule would also avoid the unnecessary expense involved in retrieving the manufactured items fabricated from contaminated metal. The proposed rule would impose a small burden on device users and the NRC.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	06/00/91	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Joseph J. Mate, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3785

RIN: 3150-AD34

4327. IMPORT AND EXPORT OF RADIOACTIVE WASTES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 110

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking (ANPRM) would consider amending the Commission's regulations by reexamining the existing NRC regulations for the import and export of radioactive wastes. This action is necessary to respond to concerns that international transfers of radioactive wastes, in particular low-level radioactive wastes, may not be properly controlled. Various options for establishing a Commission policy on the import and export of radioactive wastes are being considered. The Commission is publishing this ANPRM to seek comments from the public, industry, and other government agencies on various regulatory options and issues developed thus far.

Timetable:

Action	Date	FR Cite
ANPRM	02/07/90	55 FR 4181
ANPRM Comment Period End	04/24/90	55 FR 10786

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William R. Lahs, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3774

RIN: 3150-AD36

4328. WILLFUL MISCONDUCT BY UNLICENSED PERSONS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 030; 10 CFR 040; 10 CFR 050; 10 CFR 060; 10 CFR 061; 10 CFR 070; 10 CFR 072; 10 CFR 110; 10 CFR 150

Legal Deadline: None

Abstract: The proposed rule would amend the Commissions regulations to put licensed persons on notice that they may be held accountable for willfully causing violations of the Commission's requirements or for other willful misconduct that arises out of activities within the Commission's jurisdiction and places in question the NRC's reasonable assurance that licensed activities will be conducted in a manner that provides adequate protection to the public health and safety. The proposed rule would subject a person who violates the substantive prohibition to enforcement action under existing regulations. The proposed rule will enable the Commission to better address willful misconduct that undermines, or calls into question, adequate protection of the public health and safety.

Timetable:

Action	Date	FR Cite
NPRM	04/03/90	55 FR 12374
NPRM Comment Period End	06/18/90	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Geoffrey Cant, Nuclear Regulatory Commission, Office of Enforcement, Washington, DC 20555, 301 492-3283

RIN: 3150-AD38

4329. EMERGENCY TELECOMMUNICATIONS SYSTEM UPGRADE

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to require the implementation of the NRC's Emergency Telecommunications System (ETS) upgrade at all licensed nuclear power plants and selected fuel cycle facilities. The NRC's primary role in an emergency at a licensed nuclear facility is one of monitoring the licensee to ensure that appropriate recommendations are made with respect to offsite actions to protect public health and safety. In order to adequately perform this function, the NRC requires reliable communications with the licensee and the regional offices. Experience with the currently installed ETS had indicated that a sufficient number of problems exist to warrant a system upgrade.

The ETS upgrade will be comprised of a satellite network to transmit between the NRC Operations Center, the Regions, the Technical Training Center (TTC), and the licensee sites with a land-based telephone exchange backup system. This design is expected to provide the necessary emergency telecommunications functions with sufficient redundancy to ensure availability even under the challenging (cont)

Timetable:

Action	Date	FR Cite
NPRM	06/00/91	
Final Action	06/00/92	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: communication conditions that were existing during a nuclear emergency. The licensees will be required to provide the hardware, logistics, operational and maintenance

support to implement the ETS upgrade at their sites.

It is estimated that about 2-3 staff-years of effort will be required for this rulemaking action.

Agency Contact: Markley Au, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3749

RIN: 3150-AD39

4330. CLARIFICATION OF EMERGENCY PREPAREDNESS REGULATIONS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by clarifying the linkage between the need for "reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency" indicated in Section 50.47(a) and 16 planning standards outlined in Section 50.47(b). In addition, the rulemaking will clarify the term "range of protective" actions. Other issues to be clarified include monitoring of evacuees, actions for recovery and reentry, notification of the public, evacuation time estimates, and exercise frequency.

In a December 23, 1988, memorandum to the EDO from SECY, the staff was directed to review the "...NRC's emergency planning regulations and propose revisions designed to eliminate ambiguity and clarify the regulations to include what constitutes the exercise scope prior to the full power licensing...." The staff outlined the proposed rulemaking in a memorandum from the EDO to the Commission dated June 29, 1989. (cont)

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	
Final Action	12/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: It is estimated that 2 staff-years of effort over 2 years will be required for this rulemaking.

Agency Contact: Michael T. Jamgochian, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3918

RIN: 3150-AD40

4331. SALARY OFFSET PROCEDURES FOR COLLECTING DEBTS OWNED BY FEDERAL EMPLOYEES TO THE FEDERAL GOVERNMENT

Legal Authority: 05 USC 5514; 31 USC 3711; 31 USC 3716; 31 USC 3717; 31 USC 3718; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 016

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to establish collection procedures enabling the NRC to recover certain debts (by deductions from pay) which are owned by Federal employees to the NRC or other Federal agencies. The proposed rule is necessary to conform NRC regulations to the Debt Collection Act of 1982 which requires each agency to establish a salary offset program for the collection of these debts. The proposed action is intended to allow the NRC to improve its collection of debts due to the United States. In August 1989, OPM alerted NRC that its proposed salary offset regulations had not been submitted for review and approval and requested that they be submitted as soon as possible. The procedures must be submitted to OPM for review and approval prior to becoming a final rule. Because the proposed regulation is necessary to implement the Debt Collection Act of 1982, there is no suitable alternative to rulemaking for this action. The proposed rule has no impact on the public and negligible impact on NRC resources to implement.

Timetable:

Action	Date	FR Cite
NPRM	09/26/90	55 FR 39285
NPRM Comment Period End	10/26/90	
Final Action	12/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Diane B. Dandois, Nuclear Regulatory Commission, Office of the Controller, Washington, DC 20555, 301 492-7558

RIN: 3150-AD44

4332. IRIDIUM-192 WIRE FOR INTERSTITIAL TREATMENT OF CANCER

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 035

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations governing the medical uses of byproduct material. The proposed amendment would add iridium-192 wire to the list of brachytherapy sources permitted for use in interstitial treatment of cancer. Under current NRC regulations, users must have their licenses amended before they may use this brachytherapy source. The proposed rule has been developed in response to a petition for rulemaking (Docket No. PRM-35-8) submitted by Amersham Corporation.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anthony N. Tse, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3787

RIN: 3150-AD46

4333. EMERGENCY PLANNING REGULATIONS FOR PART 52 LICENSING

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations concerning those portions of emergency plans which cannot be exercised prior to issuance of a Part 52 combined license. This rulemaking will be accomplished on a "high priority basis" as directed in a staff requirements memorandum dated September 12, 1989.

NRC

Proposed Rule Stage

It is estimated that 2 staff-years of effort over 2 years will be required for this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	
Final Action	08/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Michael T. Jamgochian, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3913

RIN: 3150-AD48

4334. REINVESTIGATION OF INDIVIDUALS GRANTED UNESCORTED ACCESS TO NUCLEAR POWER PLANTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 073

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to require periodic updates of FBI fingerprint checks for reinvestigation of individuals granted unescorted access to nuclear power plants or access to safeguards information. The current regulations require each licensee who is authorized to operate a nuclear power plant under Part 50 to submit fingerprint cards to the NRC for those individuals who are permitted unescorted access to a nuclear power facility or to safeguards information and who are not exempted under 10 CFR 73.57(b)(2). Fingerprints are used to secure a review of the individual's criminal history record by the FBI. Information received from the FBI is reviewed by the licensee in order to determine whether further unescorted access to the facility or to safeguards information should continue to be granted or denied. The current regulations do not include a reinvestigation element.

In order to address the question of periodic reinvestigation, 10 CFR 73.57, "Requirements for Criminal History Checks of Individuals Granted Unescorted Access to a Nuclear Power Facility or Access to Safeguards Information by Power (cont)

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT:

Reactor Licensees," would be amended. The amendment would require that licensees who operate a nuclear power plant submit fingerprint cards for applicable personnel to the NRC for criminal history checks every 5 years. Authorization for unescorted access would be retained by an individual pending results of the criminal history check on that individual's fingerprints. The alternative is to allow the status quo to continue, with no reinvestigation of utility personnel required.

This rulemaking will have a minimal impact on the NRC because of the NRC's limited participation in processing the reinvestigations. The impact on industry will include the cost of fingerprinting and submitting fingerprint cards through the NRC to the FBI for criminal history checks. The current regulation requires payment of $21 per investigation, payable by the industry. It is expected that this rate would also apply for each reinvestigation and would constitute full reimbursement to the government. It is estimated that 0.5 staff-years over 2 years will be required for the rulemaking.

Agency Contact: Sandra Frattali, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3773

RIN: 3150-AD49

4335. REPOSITORY OPERATIONS CRITERIA

Legal Authority: 42 USC 10101

CFR Citation: 10 CFR 060

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations concerning additional preclosure regulatory requirements for high-level waste geologic repositories. Several issues associated with preclosure regulatory requirements have been raised due to different interpretations of the rulemaking record for 10 CFR Part 60. These involve: (a) the lack of clearly prescribed requirements for the establishment of a controlled use area intended to protect public health and safety in the event of a postulated radionuclide release and (b) the definition of structures, systems, and components important to safety for which certain design and quality assurance criteria apply. In order to meet the milestones mandated by the Nuclear Waste Policy Act of 1982, as amended, and milestones pertaining to DOE's production schedule in the Mission Plan amendments, guidance is needed from NRC on these matters to enable DOE to proceed with the siting of a geologic repository. (cont)

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT:

The proposed amendments would require the establishment of a controlled use area, based on radiation dose criteria, for the siting of geologic repositories. In addition, a new definition of structures, systems, and components important to safety would be added that would be similar to one in 10 CFR Part 72. It is estimated that 3.2 staff-years over a 2-year period will be required to complete the rulemaking.

Agency Contact: Morton Fleishman, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3794

RIN: 3150-AD51

4336. ● REVISIONS TO PROCEDURES TO ISSUE ORDERS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 002

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's procedures for issuing orders to include persons not licensed by the Commission but who are otherwise subject to the Commission's jurisdiction. The proposed revisions would more accurately reflect the Commission's existing statutory authority to issue

orders than is presently the case. The proposed revision also would identify the types of Commission orders to which hearing rights attach.

Timetable:

Action	Date	FR Cite
NPRM	04/03/90	55 FR 12370
NPRM Comment Period End	06/18/90	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary E. Wagner, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1563

RIN: 3150-AD53

4337. ● OPERATOR'S LICENSES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 002; 10 CFR 055

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to require that compliance with the conditions and cut off levels of fitness-for-duty programs (10 CFR Part 26) be a condition of an operator license or a senior-operator license. The proposed rule would also make a conforming modification to the Commissions enforcement policy, Appendix C to 10 CFR Part 2. This proposed rule was initiated in response to a staff requirements memorandum dated March 22, 1989. The proposed amendments would give operators full notice of the gravity of any violation of the cutoff levels for substances described in Part 26 and would reflect enforcement sanctions for operators who violate these cutoff levels.

Timetable:

Action	Date	FR Cite
NPRM	04/17/90	55 FR 14288
NPRM Comment Period End	07/02/90	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David J. Lange, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, 301 492-3172

RIN: 3150-AD55

4338. ● MATERIAL CONTROL AND ACCOUNTING REQUIREMENTS FOR URANIUM ENRICHMENT PLANTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 074

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to establish material control and accounting requirements for special nuclear material of low strategic significance at uranium enrichment plants, including requirements to detect and prevent enrichment above a specified maximum. There appears to be serious commercial interest in the construction and operation of a gas centrifuge plant that would produce low-enriched uranium for the commercial market. Such a plant would be licensed chiefly under Part 50. Although the plant would be authorized to produce only low-enriched uranium, the interest of the common defense and security demands that the NRC regulate the plant so as to assure with highest confidence that no centrifuge machine is used to produce uranium in an enrichment higher than that authorized. This a new and unique problem never before faced by the NRC. Accordingly, no NRC regulation is explicitly designed to deal with the problem. (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: (Abstract Cont)

A new section 74.33, Nuclear Material Control and Accounting for Special Nuclear Material of Low Strategic Significance at Uranium Enrichment Plants, will be developed. The new section 74.33 will include material control and accountability requirements similar to those now required under section 74.31, together with new requirements to assure that no enrichment facility is used to enrich uranium above a specified limit.

Agency Contact: G. Gundersen, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3808

RIN: 3150-AD56

4339. ● FRACTURE TOUGHNESS AND REACTOR VESSEL MATERIAL SURVEILLANCE REQUIREMENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would amend the Commissions's regulations by updating the list of editions of E 185 that are incorporated to include the 1990 edition, which is now in the final balloting stages. Another purpose is to change the ASME Code Appendix that is referenced in Appendix G, 10 CFR Part 50, from Appendix G of Section III, the construction code, to Appendix G in the 1989 Edition of Section XI, the inservice inspection code. At present the two appendices are identical. The reason for adding an Appendix G in the 1989 Edition of Section XI was to put it under the jurisdiction of a working group whose members were taking an active interest in fracture issues as a consequence of working with the problems of operating plants. Updating is expected to include advances in fracture analysis, because the original Appendix G of Section III has been in use since 1972. (cont)

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: [Abstract Cont]

The proposed rule would also delete paragraph IV.B of Appendix G, which requires that reactor vessels be designed to permit annealing if they are predicted to undergo embrittlement to specified levels. This action is needed to conform to the Commission's position as stated in the Supplementary Information for the PTS rule published in 1985.

The added costs to licensees to implement these changes in requirements will be minimal--even a cost savings in many cases. No significant increase in staff time to implement the changes introduced by

NRC

Proposed Rule Stage

these proposed amendments is anticipated. It is estimated that 0.5 staff years of effort over 2 years will be required for the rulemaking.

Agency Contact: P. Randall, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3842

RIN: 3150-AD57

4340. ◉ REVISIONS TO PROCEDURES TO ISSUE ORDERS: CHALLENGES TO ORDERS THAT ARE MADE IMMEDIATELY EFFECTIVE

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 002

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations governing orders to provide for the expeditious consideration of challenges to orders that are made immediately effective. The proposed amendments specifically allow challenges to the immediate effectiveness of an order to be made at the outset of a proceeding and provide procedures for the expedited consideration and disposition of these challenges. The proposed amendments also require that challenges to the merits of an immediately effective order be heard expeditiously, except where good cause exists for delay.

Timetable:

Action	Date	FR Cite
NPRM	07/05/90	55 FR 27645
NPRM Comment Period End	09/04/90	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Cha, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC [illegible], 301 492-1585

RIN: 3150-AD60

4341. ◉ FITNESS-FOR-DUTY PROGRAMS

Legal Authority: 42 USC 5841; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 026

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to clarify the Commission's intent concerning the unacceptability of taking action against an individual based solely on preliminary drug test results. The proposed rule would inform licensee management that preliminary test results cannot be used as a basis for management action absent corroborative evidence of impairment or safety hazard.

Timetable:

Action	Date	FR Cite
NPRM	08/31/90	55 FR 35648
NPRM Comment Period End	10/30/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Loren Bush, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, 301 492-0944

RIN: 3150-AD61

4342. ◉ CLARIFICATION OF STATUTORY AUTHORITY FOR PURPOSES OF CRIMINAL ENFORCEMENT

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 019; 10 CFR 020; 10 CFR 021; 10 CFR 025; 10 CFR 030; 10 CFR 031; 10 CFR 032; 10 CFR 033; 10 CFR 034; 10 CFR 035; 10 CFR 039; 10 CFR 040; 10 CFR 050; 10 CFR 055; 10 CFR 061; ...

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations in order to eliminate uncertainty concerning the authority for application of criminal sanctions under Title 10. The authority citations accompanying some of the regulations need to be amended to more clearly identify those violations which, if willfully violated, may subject the violator to potential criminal penalties. The NRC has been unable to refer some cases to the Department of Justice (DOJ) or the DOJ has had difficulty in prosecuting cases as a result of the gaps and inconsistencies in the existing authority citations. The proposed rule would create no new potential liabilities. The proposed rule would specify which regulations were issued under subparagraph "b", "i", or "o" of Section 161 of the Atomic Energy Act. These amendments would ensure that persons subject to the Commission's regulations are put on notice as to which regulations, if willfully violated, may subject them to criminal sanctions pursuant to Section 223 of the Atomic Energy Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Geoffrey Cant, Nuclear Regulatory Commission, Office of Enforcement, Washington, DC 20555, 301 492-3283

RIN: 3150-AD62

4343. ◉ IMPORT AND EXPORT OF NUCLEAR EQUIPMENT AND MATERIAL

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 110

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations governing the import and export of nuclear equipment and material. Miscellaneous changes are proposed in several areas of Part 110. The Commission has reviewed its processing of nuclear export license applications and has determined that (1) license applications for the export of any quantity of heavy water to Canada do not raise issues that require Commission review, and (2) license applications for the export of low-enriched uranium to EURATOM and to Japan for enrichment to no more than 5% U-235. The Executive Branch agencies also reviewed their processing of nuclear export license applications and have determined that for these license applications Executive Branch review will not be required.

In addition, the NRC has identified several other areas where minor changes are warranted. These proposed changes would: (1) permit the expedited import and export of certain nuclear material where no significant proliferation risks are involved, (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: (Abstract Cont)

(2) clarify the wording of the coverage of some nuclear commodities, (3) streamline the procedures for public participation in NRC's licensing process, (4) delete from the list of restricted destinations those countries that recently have signed the Non-Proliferation Treaty, (5) add Namibia to the general license for the import into the United States of Namibian origin uranium in any form, (6) add definitions for terms not currently defined, and (7) make other minor changes. There is no acceptable alternative to rulemaking because the amendments to the regulations are necessary to ensure the orderly and efficient administration of NRC's import and export responsibilities without incurring any national security or proliferation risks. The rule should benefit the NRC, industry, and the public by making the regulations easier to understand, implement, and enforce and by expediting the review process for certain kinds of applications.

Agency Contact: Elaine O. Hemby, Nuclear Regulatory Commission, Office of Governmental and Public Affairs, Washington, DC 20555, 301 492-0341

RIN: 3150-AD04

4344. ● RESIDUAL RADIOACTIVITY CRITERIA FOR UNRESTRICTED RELEASE OF LANDS AND STRUCTURES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 020

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to codify the basic principles and criteria which would allow residually contaminated lands and structures to be released for unrestricted public use. The rule would reflect Commission views as defined in the Below Regulatory concern Policy Statement which was published in the Federal Register on July 3, 1990 (55 FR 27522). For example, lands and structures would be considered suitable for release for unrestrictive use if the licensee demonstrates that the action will comply with the exemption policy's individual and collective dose criteria and other policy conditions. In the final rule on General Requirements for Decommissioning Nuclear Facilities (53 FR 24108) dated June 27, 1988, the need and urgency for guidance with respect to residual contamination criteria was expressed. At that time, it was anticipated that an interagency working group organized by the Environmental Protection Agency would develop necessary Federal guidance. However, in the absence of significant progress by the interagency working group the Commission has directed that the NRC expedite (cont)

Timetable:

Action	Date	FR Cite
NPRM	11/00/91	
Final Action	11/00/92	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, State, Federal

Additional Information: ABSTRACT CONT:

a residual radioactivity rulemaking because the requirements, once final, will provide licensees with an incentive to complete site decommissionings.

The rule would codify the basic principles and criteria expressed in the anticipated Below Regulatory Concern Policy Statement. Measurables, in the form of surface and volume radioactivity concentrations and site radioactivity inventory values, would be provided in supporting regulatory guidance. These combined activities should benefit the public industry and the NRC by providing a risk-based framework upon which decommissioning activities and license terminations can be accomplished. The framework will assure adequate protection of public health and safety and identify residual radioactivity criteria upon which licensees can confidently develop reasonable and responsible decommissioning plans.

Agency Contact: William Lahs, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3774

RIN: 3150-AD65

4345. ● TIMELINESS IN CONDUCT OF DECOMMISSIONING OF MATERIAL FACILITIES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 030; 10 CFR 040; 10 CFR 070; 10 CFR 072

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to require decontamination and decommissioning of material facilities within a fixed period of time after cessation of operations.

Current regulations allow material licensees considerable discretion as to the timing of decontamination and decommissioning. This has allowed some licensees to remain inactive without decommissioning on the basis that operations may resume sometime in the future. Similarly, licensees are not required to decontaminate promptly, in step-by-step fashion, portions of their facilities that become inactive as their operations evolve. This allows licensees to postpone heavy decommissioning costs by simply continuing sufficient controls, monitoring, and surveillance to meet minimal safety requirements.

The rulemaking will result in publication of specific criteria for timeliness in the decontamination and decommissioning of material facilities. This rulemaking will provide a more substantial planning base for the industry and result in timely decontamination and decommissioning of material facilities.(cont)

Timetable:

Action	Date	FR Cite
NPRM	04/00/91	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: (Abstract cont)

The resulting timely decontamination and decommissioning of materials facilities will reduce the potential radiological risk to the public and the environment from contaminated materials sites. The rulemaking is not expected to substantially affect licensee costs.

It is estimated that 1.5 staff years of effort and $100K in contractual assistance over 2 years will be required for the rulemaking.

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NRC

Proposed Rule Stage

Agency Contact: James Malaro, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3764

RIN: 3150–AD66

4346. ● DECOMMISSIONING REGULATIONS: RECORDKEEPING AND TERMINATION FOR DECOMMISSIONING, DOCUMENTATION ADDITIONS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 030; 10 CFR 040; 10 CFR 050; 10 CFR 070; 10 CFR 072

Legal Deadline: None

Abstract: The proposed rule, in conjunction with the decommissioning rule published on June 27, 1988 (53 FR 24018), would modify the Commission's decommissioning regulations to make them more specific and more easily implemented. Current regulations require recordkeeping provisions as well as termination plans or their equivalent with the Commission at cessation of operations. However, no explicit requirements are specified in current rules pertaining to a listing of the land, structures, and equipment of the licensed facility; nor are any explicit requirements specified pertaining to submittal of an operating history at the time of submittal of final plans as well as prior to license termination. This type of information is important to ensure that all features and aspects of the facility and its attendant activities that could have potential for resulting in radioactive contamination have been dealt with in the decommissioning process and that a record exists that can be stored for future reference which contains the relevant features of the license termination process requirements. (cont)

Timetable:

Action	Date	FR Cite
NPRM	05/00/91	
Final Action	04/00/92	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Additional Information: Abstract cont.

There does not appear to be any reasonable alternative to rulemaking action. However, it is expected that most of the information explicitly required in the proposed amendments will already, or with minimal effort, be available (based on the existing rule recordkeeping requirements). While proposed amendments will affect all licensees, it is anticipated that the requirements will place minimal burden on them. Moreover, ensuring that the information is explicitly available should help expedite NRC approval of licensee decommissioning activities and may reduce the overall licensee and NRC efforts required to terminate a license.

Proposed changes to the regulations will be issued for public comment. The task will consume 1-2 staff-years of effort depending on the number and difficulty of conflicts to be resolved.

Agency Contact: Carl Feldman, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3883

RIN: 3150–AD67

4347. ● FITNESS-FOR-DUTY PROGRAMS FOR CATEGORY I FUEL FACILITIES AND SHIPMENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 026

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's fitness-for-duty regulations to include Category I fuel facilities and Category I shipments. This action is necessary to ensure fitness for duty of employees: (1) who have direct access to larger quantities of special nuclear material (SNM); (2) who are largely responsible for the protection of the material; and (3) who transport the material. The proposed rule is expected to lead to compatibility with equivalent DOE programs.

The central issue for Category I-type facilities and shipments is the risk of theft or diversion of high-enriched SNM due to drug-related pressures which, in turn, could pose a significant risk to the health, safety, or security of large populations. Current regulations only cover nuclear power plants and need to be expanded to include Category I facilities and shipments. There is no alternative to rulemaking which would accomplish the objectives of the rulemaking. (cont)

Timetable:

Action	Date	FR Cite
NPRM	07/00/91	
Final Action	06/00/92	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Abstract cont.

The rulemaking will address the fitness-for-duty programs as they pertain to the type of facility or mode of shipment. The rulemaking will address the following aspects of the fitness for duty programs--general performance objectives, program elements and procedures, inspections, records and reports, audits, and enforcement.

The impact of the rule on the NRC licensing inspection and enforcement program will be approximately 1 staff-year per year. The NRC resources required to develop the rulemaking are estimated to be 0.5 staff-years of effort over 2 years. The cost to industry will include chemical testing and operating costs.

Agency Contact: Stanley Turel, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3739

RIN: 3150–AD68

4348. ● USE OF RADIOPHARMACEUTICALS FOR MEDICAL RESEARCH, USE OF BIOLOGIES CONTAINING BYPRODUCT MATERIAL, AND COMPOUNDING RADIOPHARMACEUTICALS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 035

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations related to the compounding of radiopharmaceuticals, the use of biologies containing byproduct material, and the medical research uses of radiopharmaceuticals. A proposed rule would be promulgated in partial response to a petition for rulemaking submitted by the American College of Nuclear Physicians and the Society of Nuclear Medicine (PRM-35-9). This proposed amendment may be necessary to allow health professionals to provide medical results not otherwise possible while continuing to protect public

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health and safety adequately. This task is expected to consume about 2 staff-years of effort depending on the number of public comments received and the difficulty of the issues to be resolved.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anthony Tse, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3797

RIN: 3150-AD69

4348. ◉ PROGRAM FRAUD CIVIL REMEDIES ACT

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 013

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to implement the Program Fraud Civil Remedies Act of 1986. The Act authorizes certain Federal agencies, including the Nuclear Regulatory Commission, to impose, through administrative adjudication, civil penalties and assessments against any person who makes, submits, or presents a false, fictitious, or fraudulent claim or written statement to the agency. The proposed regulations establish the procedure the Commission will follow in implementing the provisions of the Act and specifies the hearing and appeal rights of persons subject to penalties and assessments under the Act.

Timetable:

Action	Date	FR Cite
NPRM	09/25/90	55 FR 39158
NPRM Comment Period End	11/24/90	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: John Cho, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1585

RIN: 3150-AD71

NUCLEAR REGULATORY COMMISSION (NRC) — Final Rule Stage

4350. PROCEDURES INVOLVING THE EQUAL ACCESS TO JUSTICE ACT: IMPLEMENTATION

Legal Authority: 5 USC 504

CFR Citation: 10 CFR 1; 10 CFR 2

Legal Deadline: None

Abstract: The proposed rule would implement the Equal Access to Justice Act (EAJA) by providing for the payment of fees and expenses to certain eligible individuals and businesses that prevail in agency adjudications when the agency's position is determined not to have been substantially justified. This proposed regulation is modeled after rules issued by the Administrative Conference of the United States (ACUS) and has been modified to conform to NRC's established rules of practice. The proposed rule would further the EAJA's intent to develop government-wide, "uniform" agency regulations and would describe NRC procedures and requirements for the filing and disposition of EAJA applications. A draft final rule was sent to the Commission in June 1982, but Commission action was suspended pending a decision by the Comptroller General on the availability of funds to pay awards to intervenor parties. This issue was also the subject of litigation in Business and Professional People for the Public Interest v. NRC, 793 F.2d 1366 (D.C. Cir. 1986). (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/28/81	46 FR 53189
NPRM Comment Period End	11/28/81	46 FR 53189

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT:

Additionally, in August 1985, the President signed into law, Pub. L. No. 99-80, an enactment renewing and revising the EAJA after its expiration under a statutory sunset requirement. The rule is being reevaluated to determine the agency adjudications that fall within the EAJA's coverage.

Agency Contact: John Cho, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1585

RIN: 3150-AA01

4351. STANDARDS FOR PROTECTION AGAINST RADIATION

Legal Authority: 42 USC 2073; 42 USC 2093; 42 USC 2095; 42 USC 2111; 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2273; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 20

Legal Deadline: None

Abstract: Radiation protection philosophy and technology have changed markedly since the present Part 20 was promulgated nearly thirty years ago. Since Part 20 contains the NRC standards for protection against radiation that are used by all licensees and affects exposures of workers and members of the public, it should be the most basic of the NRC's regulations. However, because the present Part 20 has become outdated, most radiation protection actions occur through licensing actions independent of Part 20. A complete revision is necessary to provide better assurance of protection against radiation; establish a clear health protection basis for the limits; reflect current information on health risk, dosimetry, and radiation protection practices and experience; provide NRC with a health protection base from which it may consider other regulatory actions taken to protect public health; be consistent with recommendations of world authorities; International Commission on Radiological Protection (ICRP); and apply to all licensees in a consistent manner.

NRC

Final Rule Stage

Alternatives to the complete revision considered were no action, delay for further guidance, and partial revision [cont]

Timetable:

Action	Date	FR Cite
ANPRM	09/20/80	45 FR 18023
ANPRM Comment Period End	09/18/80	45 FR 18023
NPRM	12/20/85	50 FR 51992
NPRM Comment Period End	10/31/86	
Final Action	10/00/90	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: of the standards. These were rejected as ignoring scientific advancements, being unresponsive to international and national guidance, and correcting only some of the recognized problems with the present Part 20.

Benefits would include updating the regulations to reflect contemporary scientific knowledge and radiation protection philosophy; implementing regulations which reflect the ICRP risk-based rationale; reducing lifetime doses to individuals receiving the highest exposures; implementing provisions for summation of doses from internal and external exposures; providing clearly identified dose limits for the public; and providing an understandable health-risk base for protection.

The cost of implementing the revision is estimated to be $33 million for all NRC and Agreement State licensees in the initial year and about $8 million in each subsequent year. This cost does not include any savings which might also be realized by the revision.

Agency Contact: Harold Peterson, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3849

RIN: 3150-AA38

4362. PRIMARY REACTOR CONTAINMENT LEAKAGE TESTING FOR WATER-COOLED POWER REACTORS

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would update and revise the 1973 criteria for preoperational and periodic pressure testing for leakage of primary containment boundaries of water-cooled power reactors. Problems have developed in application and interpretation of the existing rule. These result from changes in testing technology, test criteria, and a relevant national standard that needs to be recognized. The proposed revisions would make the rule current and improve its usefulness.

The revision is urgently needed to resolve continuing conflicts between licensees and NRC inspectors over interpretations, current regulatory practice which is no longer being reflected accurately by the existing rule, and endorsement in the existing regulation of an obsolete national standard that was replaced in 1981.

The benefits anticipated include elimination of inconsistencies and obsolete requirements, and the addition of greater usefulness and a higher confidence in the leak-tight integrity of containment system boundaries under post-loss-of-coolant accident conditions.(cont)

Timetable:

Action	Date	FR Cite
NPRM	10/26/88	51 FR 39538
NPRM Comment Period End	04/24/87	52 FR 2416
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT:

A detailed analysis of costs, benefits, and occupational exposures is available in the Public Document Room, and indicates possible savings to industry of $14 million to $300 million and an increase in occupational exposure of less than 1 percent per year per plant due to increased testing.

Agency Contact: Gunter Arndt, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3814

RIN: 3150-AA88

4353. PERSONNEL ACCESS AUTHORIZATION PROGRAM

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050; 10 CFR 073

Legal Deadline: None

Abstract: The Commission has concluded that it is appropriate for each licensee who operates a nuclear power plant to establish an access authorization program to ensure that individuals who require unescorted access to protected areas or vital areas of their facilities are trustworthy, reliable, emotionally stable, and do not pose a threat to commit radiological sabotage. Accordingly, the NRC published a proposed rule on August 1, 1984, which would require an access authorization program at nuclear power plants (42 FR 30726).

An alternative proposal by the Nuclear Utility Management and Resource Committee (NUMARC) was submitted as a public comment on this proposed rule. The alternative proposed a voluntary industry commitment to implement an access authorization program at nuclear power plants based upon industry guidelines. Major provisions of this program include background investigation, psychological evaluation, and behavioral observation. (cont)

Timetable:

Action	Date	FR Cite
Proposed Policy Statement Published	03/09/88	53 FR 7534
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT:

On June 18, 1986, the Commission approved developing a policy statement endorsing industry guidelines as an alternative to the proposed rulemaking. Commitments to adhere to these guidelines would be formalized through amendments to the physical security plans and be subject to inspection and enforcement by NRC.

On March 9, 1988 (53 FR 7534), the NRC published a proposed policy statement endorsing the NUMARC guidelines. In the Federal Register notice, the Commission specifically requested

public comments as to whether the access authorization program should be a rule or a policy statement.

On April 19, 1989, the Commission decided to go forward with a final rule which would require all licensees to have an access authorization program and would specify the major attributes of the program. The NRC would also issue a regulatory guide which would endorse, with appropriate exceptions, the applicable industry guidelines, as an acceptable way of complying with the rule.

Agency Contact: Sandra Frattali, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3773

RIN: 3150-AA90

4354. DISPOSAL OF WASTE OIL BY INCINERATION FROM NUCLEAR POWER PLANTS

Legal Authority: 42 USC 2201; 42 USC 2167; 42 USC 2073

CFR Citation: 10 CFR 20

Legal Deadline: None

Abstract: The proposed rule, which is being initiated in partial response to a petition filed by Edison Electric Institute and Utility Nuclear Waste Management Group (PRM-20-15, dated July 31, 1984), would amend NRC regulations to allow onsite incineration of waste oil at nuclear power plants subject to specified conditions. Currently, the only approved disposal method for low-level, radioactively contaminated waste oil from nuclear power plants involves absorption or solidification, transportation to, and burial at a licensed disposal site. There is a clear need to allow, for very low activity level wastes, the use of alternative disposal methods which are more cost effective from a radiological health and safety standpoint and which conserve the limited disposal capacity of low-level waste burial sites.

Increased savings to both the public and the industry could thereby be achieved without imposing additional risk to the public health and safety. (cont)

Timetable:

Action	Date	FR Cite
NPRM	06/29/88	53 FR 32914
NPRM Comment	10/28/88	
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: Alternatives to this rulemaking action are to maintain the status quo or to wait until the Environmental Protection Agency develops standards on acceptable levels of radioactivity which may be released to the environment on an unrestricted basis. It is estimated that approximately 1-2 person years of NRC staff time will be required to process this rule.

Agency Contact: Catherine R. Mattsen, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3838

RIN: 3150-AC14

4355. CUSTODY AND LONG-TERM CARE OF URANIUM AND THORIUM MILL TAILINGS DISPOSAL SITES

Legal Authority: 42 USC 5841; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 40

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to include a procedure for licensing a custodian for the post-closure, long-term control of uranium mill tailings sites required by the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA). This amendment would establish a general license for custody and long-term care of uranium mill tailings by the Department of Energy, other designated Federal agencies, or States when applicable. The general license would be formulated so that it would become effective for a particular site when (1) NRC concurs in the determination that the site has been properly reclaimed or closed and (2) a Long-Term Surveillance Plan that meets the requirements of the general license has been received by NRC. No significant impact to the public or industry is expected as a result of this proposed action.

Timetable:

Action	Date	FR Cite
ANPRM	08/25/88	53 FR 32396
ANPRM Comment Period End	10/24/88	
NPRM	02/06/90	55 FR 3870
NPRM Comment Period End	04/23/90	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Mark Haisfield, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3877

RIN: 3150-AC56

4356. REASSERTING NRC'S SOLE AUTHORITY FOR APPROVING ONSITE LOW-LEVEL WASTE DISPOSAL IN AGREEMENT STATES

Legal Authority: 42 USC 2201; 42 USC 2021; 42 USC 5841

CFR Citation: 10 CFR 150

Legal Deadline: None

Abstract: The proposed rule would establish NRC as the sole authority for approving onsite disposal of very low-level waste at all NRC licensed reactors and at Part 70 facilities. After further evaluation of the issues and consideration of the public comments received, the NRC believes that the decommissioning issue is more a long term recordkeeping function than a health and safety issue. Consequently, the reassertion of NRC's authority for onsite disposal in Agreement States does not appear to be necessary. Therefore, the proposed rule is being withdrawn.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Harry S. Tovmassian, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3834

RIN: 3150-AC57

4357. BASIC QUALITY ASSURANCE PROGRAM, RECORDS AND REPORTS OF MISADMINISTRATIONS OR EVENTS RELATING TO THE MEDICAL USE OF BYPRODUCT MATERIAL

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 35

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations concerning the medical use of byproduct material. The proposed amendments would require medical use licensees to establish and implement a written basic quality assurance program to prevent, detect, and correct the cause of errors in the administration of byproduct material. The proposed action is necessary to provide for improved patient safety. The proposed amendment, which is intended to prevent errors in medical use, would primarily affect hospitals, clinics, and individual physicians. Modification of reporting and recordkeeping requirements for diagnostic and therapy events or misadministration are also proposed in this rulemaking. This amendment would be a matter of compatibility for Agreement States.

Timetable:

Action	Date	FR Cite
NPRM	01/16/90	55 FR 1439
NPRM Comment Period End	04/12/90	
Final Action	04/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Anthony Tse, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3787

RIN: 3150-AC85

4358. NOTIFICATIONS OF INCIDENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 20; 10 CFR 30; 10 CFR 40; 10 CFR 70

Legal Deadline: None

Abstract: This rulemaking would amend 10 CFR 20.403(a) and (b) to revise the licensees' reporting requirements for material licensees and research and test reactors. In addition, new sections will be developed and added to Parts 30, 40, and 70. While 10 CFR 20.403(a) and (b) are reasonably clear in terms of licensee reporting requirements for events involving "exposures" and "releases" of radioactive materials, these sections are not clear concerning events involving "loss of operation" and "damage to property." The staff believes these criteria are not indicative of events that pose a hazard to public health and safety or the environment. The periodic loss of operation of a facility due to age or normal wear is expected and usually poses no additional hazard to the public or environment. The same is true for the cost of repairing damage which may be high because of extenuating circumstances and not due to the extent of the damage or its effect on any licensed material. The deleted sections will be replaced with new criteria which will be added to Parts 30, 40, and 70. The staff believes the new requirements to those parts are more indicative of potentially (cont)

Timetable:

Action	Date	FR Cite
NPRM	05/14/90	55 FR 19900
NPRM Comment Period End	07/30/90	
Final Action	02/28/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: significant events affecting the health and safety of the public and the environment. In addition, the rulemaking also defines "immediate" in actual time, e.g., within 4 hours, for reporting requirements.

This rulemaking action will revise a current Commission regulation; there is no other appropriate procedure to accommodate the clarification.

The health and safety of the public will be better protected because improved reporting requirements will reduce the potential risk of exposure to radiation. Revising the reporting requirements will also simplify regulatory functions and free the staff from unnecessary additional investigation and, at the same time, protect the industry from unnecessary and unexpected fines.

Agency Contact: Joseph J. Mate, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3795

RIN: 3150-AC91

4359. ENSURING THE EFFECTIVENESS OF MAINTENANCE PROGRAMS FOR NUCLEAR POWER PLANTS

Legal Authority: 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The final rule, if adopted, would provide requirements for the maintenance of nuclear power plants. The final rule would apply to all components, systems, and structures important to safety for nuclear power plants and would be applicable to existing and future plants. The final rule would also require each licensee to develop, implement, and maintain a maintenance program. The Commission has further directed the staff by memorandum dated May 23, 1990, to prepare two separate rulemaking packages. Should the Commission determine that a rule is necessary these two options will be available for their consideration.

The scope of maintenance activities addressed in either version of the final rule will be within the framework of the Commission's Policy Statement on Maintenance of Nuclear Power Plants, issued on March 23, 1988 (53 FR 9430) and revised on December 8, 1989 (54 FR 50611). Programmatic guidance will be included in the first rulemaking package. The second rulemaking package will be similar to the first, but it will not contain any programmatic guidance.

Timetable:

Action	Date	FR Cite
NPRM	11/26/88	53 FR 47822
NPRM Comment Period End	02/27/89	53 FR 52716
Final Action	06/00/91	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Robert Riggs, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3732

RIN: 3150-AD00

NRC Final Rule Stage

4360. FRACTURE TOUGHNESS REQUIREMENTS FOR PROTECTION AGAINST PRESSURIZED THERMAL SHOCK EVENTS

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule revises the Pressurized Thermal Shock (PTS) rule, published on July 23, 1985, which established a screening criterion, a limit on the degree of radiation embrittlement of PWR reactor vessel beltline materials beyond which operation cannot continue without additional plant-specific analysis. The PTS rule prescribed how to calculate the degree of embrittlement as a function of the copper and nickel contents of the controlling material and the neutron fluence. The proposed amendment revises the calculative procedures to be consistent with that given in Revision 2 of Regulatory Guide 1.99. This guide, which was published in final form in May 1988, provides an updated correlation of embrittlement data.

The need to amend the PTS rule to be consistent with the guide became apparent when it was found that some medium-copper, high-nickel materials embrittlement is worse now than predicted using the PTS rule. A number of PWR's will reach the screening criterion sooner than previously thought, and three plants will need to make plant-specific analyses in the next 10 years. (cont)

Timetable:

Action	Date	FR Cite
NPRM	12/26/89	54 FR 52946
NPRM Comment Period End	03/12/90	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: Therefore, a high priority is being given to this effort.

Immediate costs to industry will be those required for each utility to update the January 23, 1986, submittal required by the PTS rule, using fluence estimates that take account of flux reduction efforts in the interim and using the new procedure for calculating RT/PTS. In addition, three to five plants will need to make the expenditure of an estimated 2.5 million dollars for the plant-specific analysis in the 1990s instead of 10 to 15 years later.

Agency Contact: Pryor N. Randall, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3842

RIN: 3150-AD01

4361. ACCEPTANCE OF PRODUCTS PURCHASED FOR USE IN NUCLEAR POWER PLANT STRUCTURES, SYSTEMS, AND COMPONENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking (ANPRM) would develop regulations requiring enhanced receipt inspection and testing of products purchased for use in nuclear power plant structures, systems, and components. This ANPRM is published to solicit public comments on the need for additional regulatory requirements and to obtain an improved understanding of alternatives to regulatory requirements. The staff intends to withdraw this ANPRM in October 1990.

Timetable:

Action	Date	FR Cite
ANPRM	03/06/89	54 FR 9229
ANPRM Comment Period End	07/05/89	
Final Action	10/00/90	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Phillip Cota, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, 301 492-1200

RIN: 3150-AD10

4362. PROCEDURES APPLICABLE TO PROCEEDINGS FOR THE ISSUANCE OF LICENSES FOR THE RECEIPT OF HIGH-LEVEL RADIOACTIVE WASTE AT A GEOLOGIC REPOSITORY

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 002

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations governing the licensing proceeding on the disposal of high-level radioactive waste at a geologic repository (HLW proceeding). The proposed revisions are intended to facilitate the Commission's ability to comply with the schedule for the Commission's decision on the construction authorization for the repository, while providing for a through technical review of the license application and the equitable treatment of the parties to the hearing. The proposed rule would establish a new standard for the admission of initial contentions, would define "late contentions" as any contention proposed after the initial contentions were submitted, would require parties to present direct testimony on contentions, would establish a compulsory hearing schedule, and would eliminate sua sponte review by the Commission's adjudicatory boards.

Timetable:

Action	Date	FR Cite
NPRM	09/26/89	54 FR 39367
NPRM Comment Period End	11/27/89	
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Kathryn Winsberg, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1637

RIN: 3150-AD27

4363. ASNT CERTIFICATION OF INDUSTRIAL RADIOGRAPHERS(PHASE I)

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 034

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations on licenses for radiography and radiation safety requirements for radiographic operations to permit applicants for a license to indicate that all of their active radiographers are certified in radiation safety by the American Society for Nondestructive Testing (ASNT).

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Current NRC sealed source radiography licensing requirements specify that an applicant will have an adequate program for training radiographers and will submit a schedule or description of the program including initial training, periodic retraining, on-the-job training, and the means to be used by the licensee to determine the radiographer's knowledge and understanding of, and ability to comply with, Commission regulations and licensing requirements, and the operating and emergency procedures of the applicant. The NRC is proposing to permit applicants to affirm, in lieu of submitting descriptions of their initial radiation safety training and radiographer qualification program, that all individuals acting as radiographers are or will be certified in radiation safety through the Industrial Radiography (cont)

Timetable:

Action	Date	FR Cite
NPRM	11/08/89	54 FR 47069
NPRM Comment Period End	02/17/90	
Final Action	11/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT:

Radiation Safety Personnel Program of the ASNT. Contingent upon analysis of costs and benefits and demonstrated success of the ASNT certification program, the NRC is planning to initiate a subsequent rulemaking which would require third-party certification of all radiographers.

The ASNT program will offer certification for both isotope and x-ray users. Certification would be valid for 5 years, with retesting required for renewal. The staff expects use of a certification program by licensees will not affect licensee training costs since the ASNT eligibility requirements include documented training. Some small reduction in cost will be associated with the application process because, if a radiography licensee applicant elects to have his or her staff certified, he or she will not have to submit a detailed description of a planned radiation safety training and testing program. The total cost to the industry would be $6 million over a 5-year certification period, or $1.2 million per year.

Agency Contact: Donald Nellis, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3828

RIN: 3150-AD35

4364. DISCRIMINATION ON THE BASIS OF SEX

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 002; 10 CFR 019

Legal Deadline: None

Abstract: The final rule would amend the Commission's regulations dealing with discrimination against persons who, on the grounds of sex, are excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity licensed by the NRC. The Commission has decided that Section 401 of the Energy Reorganization Act, which prohibits sex discrimination, applies only to the Commission and does not apply to NRC licensees and/or applicants. Since this decision invalidates 10 CFR 19.32 and 10 CFR 2.111, action is being taken to amend these sections and to incorporate appropriate language to clarify that these sections do not apply to licensee employees.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anthony DiPalo, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3758

RIN: 3150-AD60

4365. ● MATERIAL APPROVED FOR INCORPORATION BY REFERENCE; MAINTENANCE AND AVAILABILITY

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 034; 10 CFR 035; 10 CFR 050; 10 CFR 070

Legal Deadline: None

Abstract: The final rule would amend the Commission's regulations to make a needed clarification to previously published requirements governing the availability of material approved for incorporation by reference. The amendment clarifies that copies of material which has been approved for incorporation by reference are maintained and available for public inspection at the NRC Library.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alsonia W. Shepard, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555, 301 492-7851

RIN: 3150-AD58

4366. ● ANNUAL FEES FOR POWER REACTOR OPERATING LICENSES; PARTIAL REFUND

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 171

Legal Deadline: None

Abstract: The final rule would amend the Commission's regulations to provide that partial refunds of Part 171 fees be made in the event that collections under Parts 170 and 171 for a given fiscal year exceed the established percentage recovery of the budget as specified by Congress.

Timetable:

Action	Date	FR Cite
Final Action	10/00/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: H. Lee Miller, Nuclear Regulatory Commission, Office of the Controller, Washington, DC 20555, 301 492-7535

RIN: 3150-AD70

NUCLEAR REGULATORY COMMISSION (NRC) — Completed Actions

4367. STORAGE OF SPENT NUCLEAR FUEL IN NRC-APPROVED STORAGE CASKS AT NUCLEAR POWER REACTOR SITES

Legal Authority: 42 USC 10153; 42 USC 10198

CFR Citation: 10 CFR 050; 10 CFR 072; 10 CFR 170

Legal Deadline: None

Abstract: The final rule provides for the storage of spent nuclear fuel under a general license on the site of any nuclear power reactor provided the reactor licensee notifies the NRC, only NRC-certified casks are used for storage, and the spent fuel is stored under conditions specified in the cask's certificate of compliance. This final rule also provides procedures and criteria for obtaining NRC approval of spent fuel storage cask designs.

Timetable:

Action	Date	FR Cite
Final Action	07/18/90	55 FR 29181
Final Action Effective	08/17/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: John Telford, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3796

RIN: 3150-AC76

4368. DEBT COLLECTION PROCEDURES

Legal Authority: 31 USC 3711; 31 USC 3717; 31 USC 3718; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 015

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations concerning the procedures that the NRC uses to collect its debts. The amendments are necessary to conform NRC regulations to the amended procedures contained in the Federal Claims Collection Standards issued by the General Accounting Office and the U.S. Department of Justice.

Timetable:

Action	Date	FR Cite
Final Action	08/08/90	55 FR 32575
Final Action Effective	09/10/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Diane Dandois, Nuclear Regulatory Commission, Office of the Controller, Washington, DC 20555, 301 492-7226

RIN: 3150-AC87

4369. INFORMAL HEARING PROCEDURES FOR NUCLEAR REACTOR OPERATOR LICENSING ADJUDICATIONS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 002

Legal Deadline: None

Abstract: The final rule amends NRC regulations to provide rules of procedure for informal adjudicatory hearings in nuclear power reactor operator licensing proceedings. The Atomic Energy Act of 1954 requires that the NRC, in any proceeding for the granting, suspending, revoking, or amending of an NRC license, including licensing as an operator or senior operator at a nuclear power plant, afford an interested person, upon request, a "hearing." This final rule amends an existing rule which provides for informal hearing procedures for materials licensing proceedings to include reactor operator licensing proceedings as well.

Timetable:

Action	Date	FR Cite
NPRM	04/26/89	54 FR 17961
NPRM Comment Period End	06/25/89	
Final Action	09/07/90	55 FR 36901
Final Action Effective	10/09/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Roger Davis, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1627

RIN: 3150-AD17

4370. EXPORT OF HEAVY WATER TO CANADA

Legal Authority: 42 USC 3201; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 110

Legal Deadline: None

Abstract: The final rule would amend the Commission's regulations concerning the import and export of nuclear equipment and material in 10 CFR Part 110. This rulemaking has been incorporated into the proposed rule entitled "Import and Export of Nuclear Equipment and Material (RIN 3150-AD64)." The proposed rule is scheduled to be published in October 1990.

Timetable:

Action	Date	FR Cite
Terminated	09/25/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Elaine O. Hemby, Nuclear Regulatory Commission, Office of Governmental and Public Affairs, Washington, DC 20555, 301 492-0241

RIN: 3150-AD29

4371. REVISION OF FEE SCHEDULES; RADIOISOTOPE LICENSES

Legal Authority: 31 USC 9701; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 170

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations governing licensing and inspection fees for radioisotope licenses (small programs licensed under the provisions of 10 CFR Parts 30, 40, and 70). The final rule establishes a ceiling of $50,000 for Topical Reports, updates the schedule of fees for small byproduct material applications for decommissioning, changes the cost per professional staff hour for NRC services based on the FY 1990 budget, deletes certain exemption provisions and clarify others for ease of administration, adds a new exemption to provide that Indian tribes and Indian organizations will be exempt from the payment of fees, and requests that bills in excess of $5,000 be paid by electronic fund transfer in accordance with U.S. Department of the Treasury cash management initiatives.

Timetable:

Action	Date	FR Cite
Final Action	05/23/90	55 FR 21173
Final Action Effective	07/02/90	

Small Entities Affected: None

NRC

Completed Actions

Government Levels Affected: Undetermined

Agency Contact: Lee Hiller, Nuclear Regulatory Commission, Office of the Controller, Washington, DC 20555, 301 [illegible]

RIN: 3150–AD03

4372. CONSIDERATION OF ENVIRONMENTAL IMPACTS OF TEMPORARY STORAGE OF SPENT FUEL AFTER CESSATION OF REACTOR OPERATION

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 051

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations by revising the generic determination concerning the timing of availability of a geologic repository for commercial high-level radioactive waste and spent fuel and the environmental impacts of storage of spent fuel at reactor sites after the expiration of reactor operating licenses. The final amendments reflect proposed findings of the Commission reached in a five-year update and supplement to its 1984 "Waste Confidence" rulemaking proceeding which was published in the Federal Register on September 28, 1989 (54 FR 39767).

Timetable:

Action	Date	FR Cite
NPRM	09/28/89	54 FR 39765
NPRM Comment Period End	12/27/89	
Final Action	09/18/90	55 FR 38472
Final Action Effective	10/18/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Kathryn Winsberg, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 [illegible]

RIN: 3150–AD26

4373. AMENDMENTS TO PART 60 TO DELINEATE ANTICIPATED PROCESSES AND EVENTS AND UNANTICIPATED PROCESSES AND EVENTS

Legal Authority: 42 USC 10101

CFR Citation: 10 CFR 060

Legal Deadline: None

Abstract: In 10 CFR Part 60, licensing requirements for disposal of radioactive wastes in geologic repositories, certain performance requirements for the repository are based on an assumption of the occurrence of anticipated processes and events. The specific meaning and use of this term, and unanticipated processes and events, needs further clarification. This rulemaking would modify the definition of this term in Section 60.2, modify Section 60.113, which describes the use of this term and modify the definition of "geologic setting" in Section 60.2, and modify the use of that term in Section 60.102.

The objective of the rulemaking is to improve the licensing process for the geologic repository program. It would have no adverse effects on the licensee or the public. It is expected that the resources expended by NRC on the rulemaking would be more than offset by resources saved during the licensing process. (cont)

Timetable:

Action	Date	FR Cite
Terminated	06/12/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Abstract cont:

The amendments that were under consideration in this rule will be considered as part of the proposed rule entitled, "Elimination of Inconsistencies Between NRC Regulations and EPA HLW Standards" (RIN: 3150-AC03).

Agency Contact: Melvin Silberberg, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3810

RIN: 3150–AD31

4374. CLARIFYING AMENDMENT RELATING TO ENFORCEMENT ACTIVITIES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 051

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations concerning compliance with the procedural requirements of the National Environmental Policy Act of 1969, as amended (NEPA). This rule makes it clear that the provision excluding NRC enforcement activities from NEPA requirements not only encompasses formal enforcement actions but also encompasses informal administrative mechanisms relating to enforcement such as bulletins, information notices, generic letters, notices of deviation, notices of nonconformance, and confirmatory action letters.

Timetable:

Action	Date	FR Cite
Final Action	10/26/89	54 FR 43576
Final Action Effective	10/26/89	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stuart A. Treby, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1636

RIN: 3150–AD41

4375. SUSPENSION OF ACCESS AUTHORIZATION AND/OR EMPLOYMENT CLEARANCE; DELEGATION OF AUTHORITY TO DEPUTY EXECUTIVE DIRECTORS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 010

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to permit a Deputy Executive Director to suspend an individual's access authorization and/or employment clearance. The amendment provides greater flexibility in responding to questions concerning the continued eligibility of an individual's access authorization and/or employment clearance.

Timetable:

Action	Date	FR Cite
Final Action	01/02/90	55 FR 4
Final Action Effective	01/02/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Royal Voegele, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1562

RIN: 3150–AD42

4376. AUTHORIZATION TO PREPARE RADIOPHARMACEUTICAL REAGENT KITS AND ELUTE RADIOPHARMACEUTICAL GENERATORS; USE OF RADIOPHARMACEUTICALS FOR THERAPY

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 035

Legal Deadline: None

Abstract: The interim final rule amends the Commission's regulations relating to the preparation of radiopharmaceuticals and the therapy uses of radiopharmaceuticals. The amendment permits medical use licensees: (1) to depart from manufacturer's instructions for preparing radiopharmaceuticals from generators and reagent kits; and (2) to depart from the package insert instructions regarding indications and method of administration for therapeutic use of radiopharmaceuticals, provided the licensee meets certain conditions and limitations. The interim final rule has been developed in response to certain issues raised in a petition for rulemaking submitted by the American College of Nuclear Physicians and the Society of Nuclear Medicine (Docket No. PRM-35-9).

Timetable:

Action	Date	FR Cite
Final Action	08/23/90	55 FR 34513
Final Action Effective	08/23/90 to 08/23/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anthony Tse, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-3767

RIN: 3150-AD43

4377. FREEDOM OF INFORMATION ACT, PRIVACY ACT, PRODUCTION OR DISCLOSURE IN RESPONSE TO SUBPOENA OR DEMANDS OF COURTS OR OTHER AUTHORITIES; OFFICE OF THE INSPECTOR GENERAL

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 009

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to reflect the establishment of the Office of the Inspector General. This amendment permits the Office of the Inspector General to make independent disclosure determinations on (1) records originating in its office that are responsive to Freedom of Information Act requests, and (2) records located in its office that are responsive to Privacy Act requests. The final rule also requires personnel in the Office of the Inspector General to obtain the Inspector General's approval, instead of the General Counsel's approval, before responding to subpoenas or demands of courts or other authorities for the production or disclosure of NRC information.

Timetable:

Action	Date	FR Cite
Final Action	08/17/90	55 FR 33645
Final Action Effective	08/17/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donnie H. Grimsley, Nuclear Regulatory Commission, Office of Administration, Washington, Dc 20555, 301 492-7211

RIN: 3150-AD45

4378. ● STANDARD SPECIFICATIONS FOR THE GRANTING OF PATENT LICENSES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 081

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations regarding Office of Management and Budget (OMB) clearance pursuant to the Paperwork Reduction Act of 1980.

Timetable:

Action	Date	FR Cite
Final Action	08/08/90	55 FR 23422
Final Action Effective	08/08/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ronald M. Smith, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-1948

RIN: 3150-AD54

4379. ● EXPORT OF SPECIALLY DESIGNED OR PREPARED GASEOUS DIFFUSION ENRICHMENT PLANT COMPONENTS

Legal Authority: 42 USC 2201; 42 USC 5841; 42 USC 2201

CFR Citation: 10 CFR 110

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to cover certain additional gaseous diffusion enrichment plant components. This action is necessary to conform NRC's export regulations to the recent decision of the multilateral Non-Proliferation treaty Nuclear Exporters Group (Zangger Committee) to clarify its Trigger list entry for gaseous diffusion enrichment plant components by adding ten new definitions. The Zangger Committee's "Trigger List" is the internationally accepted export control list for nuclear equipment and material. Current NRC regulations define three specially designed or prepared components for gaseous diffusion enrichment plants. The Zangger Committee has determined that the new entries will give additional assurance that there are adequate export controls for this category of components. This rule should benefit the NRC and the public by further clarifying to U.S. exporters those components used in gaseous diffusion enrichment plants. There is no acceptable alternative to this rulemaking.

Timetable:

Action	Date	FR Cite
Final Action	07/26/90	55 FR 30449
Final Action Effective	07/26/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elaine O. Hemby, Nuclear Regulatory Commission, Office of Governmental and Public Affairs, Washington, DC 20555, 301 492-0344

RIN: 3150-AD59

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NRC — Completed Actions

4393. ● FINGERPRINT CARDS: INCREASE IN FEE

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 073

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to reflect an administrative change pertaining to an increase in the fee that is charged for processing nuclear power plant fingerprint cards which are associated with granting unescorted access to an operating reactor site, or access to Safeguards Information. This amendment is necessary to reflect a fee schedule change imposed by the FBI.

Timetable:

Action	Date	FR Cite
Final Action	08/31/90	55 FR 35563
Final Action Effective	10/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: R. B. Manili, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, 301 492-0949

RIN: 3150-AD72

[FR Doc. 90-21487 Filed 10-26-90; 8:45 am]

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Part LX

Oversight Board

Semiannual Regulatory Agenda

OVERSIGHT BOARD (OB)

OVERSIGHT BOARD

12 CFR Ch. XV

Unified Regulatory Agenda

AGENCY: Oversight Board.

ACTION: Publication of agenda items.

SUMMARY: The Oversight Board is hereby publishing items for the October 1990 Unified Agenda of Federal Regulations.

ADDRESSES: Comments should be addressed to the Secretary, Oversight Board, 1777 F Street, NW., Washington, DC 20232.

FOR FURTHER INFORMATION CONTACT: A staff contact for each item is indicated below.

Dated: August 24, 1990.

Oversight Board.

Peter H. Monroe,

President.

OVERSIGHT BOARD (OB) — Proposed Rule Stage

4381. PUBLIC AVAILABILITY OF INFORMATION; FREEDOM OF INFORMATION ACT REGULATIONS

Legal Authority: 12 USC 1441a; 5 USC 552

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: "FIRREA" provides that the Oversight Board shall be considered to be an agency for that portion of title 5 of the United States Code that contains the Freedom of Information Act. That Act requires agencies to promulgate implementing regulations. The cost of this action is undetermined.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth Markison, Attorney, Oversight Board, 1777 F Street, NW., Washington, DC 20232, 202 786-9661

RIN: 3203–AA00

4382. WOMEN AND MINORITY OUTREACH PROGRAM

Legal Authority: 12 USC 1833e

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: "FIRREA" requires the Oversight Board to "prescribe regulations to establish and oversee a minority outreach program... to ensure inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women..." in all contracts entered into by the Oversight Board. The cost of this action is undetermined.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth Markison, Attorney, Oversight Board, 1777 F Street, NW., Washington, DC 20232, 202 786-9661

RIN: 3203–AA01

4383. EQUAL EMPLOYMENT OPPORTUNITY

Legal Authority: 12 USC 1833e

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: "FIRREA" directs that the Oversight Board is subject to EO 11478 providing for equal employment opportunity in the Federal Government. These rules will implement this program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth Markison, Attorney, Oversight Board, 1777 F Street, NW., Washington, DC 20232, 202 786-9661

RIN: 3203–AA02

4384. ● RECORDS MAINTAINED ON INDIVIDUALS; PRIVACY ACT REGULATIONS

Legal Authority: 12 USC 1441a; 5 USC 552a

CFR Citation: 12 CFR Not yet determined

Legal Deadline: None

Abstract: In implementation of the Privacy Act, the Oversight Board will establish procedures concerning the maintenance of records on individuals.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Yeeleng Rothman, Attorney, Oversight Board, 1777 F Street, NW., Washington, DC 20232, 202 786-9661

RIN: 3203–AA05

OVERSIGHT BOARD (OB)

Final Rule Stage

4385. EMPLOYEE RESPONSIBILITIES AND CONDUCT

Legal Authority: 12 USC 1441a

CFR Citation: 12 CFR 1505

Legal Deadline: Final, Statutory, February 5, 1990.

Abstract: "FIRREA" requires, within 180 days after enactment, the promulgation of standards of responsibility and ethical conduct to which all employees of the Oversight Board must adhere. The cost of this action is negligible while the benefit is to attempt to ensure ethical and proper conduct on the part of all employees.

Timetable:

Action	Date	FR Cite
NPRM	01/09/90	55 FR 820
NPRM Comment Period End	02/08/90	
Interim Final Rule	02/14/90	55 FR 5358
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence Hayes, Deputy General Counsel, Oversight Board, 1777 F Street, NW., Washington, DC 20232, 202 786-9681

RIN: 3203–AA03

4386. ● RESOLUTION FUNDING CORPORATION OPERATIONS

Legal Authority: 12 USC 1441b

CFR Citation: 12 CFR 1510.10

Legal Deadline: None

Abstract: Revision of Oversight Board regulation concerning reserves established by deficient Federal Home Loan Banks to reimburse other such Banks for purchases of stock of the Resolution Funding Corporation made by such other Banks on behalf of deficient Banks.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence Hayes, Deputy General Counsel, Oversight Board, 1777 F Street, NW., Washington, DC 20232, 202 786-9681

RIN: 3203–AA06

[FR Doc. 90-21468 Filed 10-26-90; 8:45 am]

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Part LXI

Resolution Trust Corporation

Semiannual Regulatory Agenda

RESOLUTION TRUST CORPORATION (RTC)

RESOLUTION TRUST CORPORATION

12 CFR Ch. III

Semiannual Agenda of Regulations

AGENCY: Resolution Trust Corporation.

ACTION: Publication of semiannual agenda of regulations.

SUMMARY: The Resolution Trust Corporation (RTC) is hereby publishing items for the October 1990 Regulatory Agenda. The agenda contains information about the RTC's current and completed rulemakings.

FOR FURTHER INFORMATION CONTACT: Persons identified under regulations listed in the agenda. Except as indicated, the address for all staff identified in the agenda is Resolution Trust Corporation, 801 17th Street NW., Washington, DC 20434-0001.

SUPPLEMENTARY INFORMATION: The RTC was created on August 9, 1989, as an instrumentality of the United States by title V of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). Under FIRREA, the RTC was given the power to adopt such rules, regulations, standards, policies, procedures, guidelines, and statements as the Corporation considers necessary or appropriate to carry out its mission. Twice each year, the RTC publishes an agenda of regulations to inform the public of its regulatory actions and to enhance public participation in the rulemaking process. Publication of the agenda is in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Interested persons may petition the RTC for the issuance, amendment, or repeal of any regulation by submitting a written petition to the Executive Secretary, Resolution Trust Corporation, Washington, DC 20434-0001. Petitioners should include complete and concise statements of their interest in the subject matter and reasons why the petitions should be granted.

Dated: August 2, 1990.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

RESOLUTION TRUST CORPORATION (RTC)

Completed Actions

4387. ● AFFORDABLE HOUSING DISPOSITION PROGRAM

Legal Authority: PL 101-73, Sec 501

CFR Citation: 12 CFR 1609

Legal Deadline: None

Abstract: The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") requires the RTC to provide homeownership and rental housing opportunities for moderate income, lower income and very low income families and individuals, through a ninety day marketing period for eligible properties. This rule implements that mandate.

Timetable:

Action	Date	FR Cite
Effective Date	04/16/90	
Interim Rule/Request for Comments	04/16/90	55 FR 14081
Comment Period End	06/15/90	
Final Action Effective	08/21/90	
Final Action	08/31/90	55 FR 35564

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen S. Allen, Director, Affordable Housing Disposition Program, Resolution Trust Corporation, Washington, DC 20434-0001, 202 416-7348

RIN: 3205–AA03

4388. REAL ESTATE APPRAISAL STANDARDS

Legal Authority: PL 101-73, Sec 1101 to 1122; 12 USC 1441; 12 USC 1821

CFR Citation: 12 CFR 1608

Legal Deadline: NPRM, Statutory, February 9, 1990. Final, Statutory, August 9, 1990.

Abstract: This rule implements the mandate of section 1110 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") that requires each Federal financial institutions regulatory agency and the Resolution Trust Corporation to prescribe appropriate standards for the performance of real estate appraisals in connection with federally related transactions under the jurisdiction of each such agency or instrumentality. These standards must be in conformance with the provisions of title XI (Real Estate Appraisal Reform Amendments) of FIRREA.

Timetable:

Action	Date	FR Cite
NPRM	02/22/90	55 FR 6283
NPRM Comment Period End	04/23/90	
Final Action	08/22/90	55 FR 34219
Final Action Effective	09/21/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David R. Wiley, Review Appraiser, Asset and Real Estate Management Division, Resolution Trust Corporation, Washington, DC 20434-0001, 202 416-7159

RIN: 3205–AA02

4389. ● RETENTION OF THRIFT BRANCHES ACQUIRED BY BANKS IN EMERGENCY ACQUISITIONS

Legal Authority: PL 101-73, Sec 501

CFR Citation: 12 CFR 1611

Legal Deadline: None

Abstract: This rule permits insured banks to retain and operate branches of failed or failing thrifts acquired pursuant to the emergency acquisition provisions of section 13 (k) of the Federal Deposit Insurance Act, despite provisions of State law that would limit their ability to do so.

Timetable:

Action	Date	FR Cite
NPRM	04/11/90	55 FR 13543
NPRM Comment Period End	05/11/90	
Final Action	06/01/90	55 FR 22323

RTC **Completed Actions**

Action	Date	FR Cite
Final Action Effective	06/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Martha L. Coulter, Senior Attorney, Federal Deposit Insurance Corporation, Washington, DC 20434-0001, [illegible]

RIN: 3205-AA04

[FR Doc. 90-21469 Filed 10-26-90; 8:45 am]

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Part LXII

Securities and Exchange Commission

Semiannual Regulatory Agenda

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SECURITIES AND EXCHANGE COMMISSION (SEC)

SECURITIES AND EXCHANGE COMMISSION

17 CFR Ch. II

[Release Nos. 33-6878, 34-28630, 35-25184, 39-2282, IC-17794, IA-1288; File No. S7-17-90]

Regulatory Flexibility Agenda and Rules Scheduled for Review

AGENCY: Securities and Exchange Commission.

ACTION: Publication of regulatory flexibility agenda and rules scheduled for review.

SUMMARY: The Securities and Exchange Commission is today publishing an agenda of its open and anticipated rulemaking actions pursuant to chapter 6 of the Administrative Procedure Act and according to guidance given by the Office of Management and Budget. The agenda is a general announcement to the public intended to provide advance notice of rulemaking actions which may have a significant economic impact on a substantial number of small entities. The Commission invites questions and public comment on individual agenda entries.

DATE: Public comments are due by December 31, 1990.

ADDRESSES: Persons wishing to submit written views should file three copies with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street NW., Room 6184, Stop 6-9, Washington, DC 20549. All submissions should refer to File No. S7-17-90 and will be available for public inspection at the Commission's Public Reference Room, Room 1026, at the same address.

FOR FURTHER INFORMATION CONTACT: William J. Atkinson, Office of Economic Analysis, Securities and Exchange Commission, 450 5th Street NW., Room 9200, Stop 9-1, Washington, DC 20549 (202-272-7100). The names of persons to contact concerning particular rules are identified with each entry.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA) (Pub. L. No. 96-354, 94 Stat. 1164 [September 19, 1980]) requires each Federal agency, during April and October of each year, to publish in the Federal Register a regulatory flexibility agenda identifying rules which the agency expects to propose or adopt that are likely to have a significant economic impact on a substantial number of small entities.[1]

The RFA also requires the Commission to publish a plan for the periodic review of all rules issued by the agency which have or will have a significant economic impact on a substantial number of small entities.[2] The Commission published such a plan in 1981.[3] The plan provides for the review of all rules in effect on January 1, 1981, within 10 years of that date and for the review of all rules adopted thereafter within 10 years of their adoption as final rules.

The RFA further requires publication, each year, of a list of those rules which are to be reviewed during the succeeding 12 months.[4] The Commission's continuing review of its rules, begun before the effective date of the statute (January 1, 1981), extends beyond the requirements of the RFA. Consequently, some completed rule reviews listed in the agenda may not be subject to RFA review requirements. The Commission lists them here simply to inform the public that they have been reviewed.

The statute specifically provides that the agenda does not preclude the Commission from considering or acting on any matter not included, nor is the Commission requried to consider or act on any matter which is included.[5] Furthermore, the inclusion of a rule in the Commission's agenda reflects only the staff's preliminary judgment that the rule, if adopted or as it exists, may have a significant economic impact on a substantial number of small entities.[6] This preliminary judgment may be changed upon further analysis.

The Commission's agenda includes new entries as well as items carried over from the April 1990 publication.[7] New entries have a bullet next to the Sequence Number. Priority items are identified under the heading "Significance," followed by the words "Agency Priority." The agenda also lists the rulemaking actions which have been completed (or withdrawn) since the last RFA release was published.

The Commission invites public comment on the individual entries in its regulatory agenda.

By the Commission.

Dated: October 11, 1990.

Margaret H. McFarland,

Deputy Secretary.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4290	17 CFR 240 Proxy Rules	3235-AE12
4291	17 CFR 200, (Revision) Rules and Forms to Reflect Amendments to the Trust Indenture Act of 1939	3235-AE13
4292	Comprehensive Study of the Investment Company Act of 1940	3235-AD89
4293	17 CFR 270.6c-5(T) Review of Rule 6c-5(T) under the Investment Company Act of 1940 Temporary Exemptions for Certain Money Market Funds and Certain Affiliated Persons Thereof	3235-AE04
4294	17 CFR 270.26b-1 Review of Rule 26b-1 under the Investment Company Act of 1940	3235-AE05
4295	17 CFR 270.6c-4(T) Review of Rule 6c-4(T) Under the Investment Company Act of 1940 Temporary Exemption for Certain Money Market Funds and Other Persons and Companies	3235-AE06

[1] 5 U.S.C. 602(a).

[2] 5 U.S.C. 610(a).

[3] Securities Act Release No. 6825 [June 24, 1981] [46 FR 33327].

[4] 5 U.S.C. 610(c).

[5] 5 U.S.C. 602(d).

[6] The agenda relies on the definitions of the term "small entity" for purposes of the RFA, which were adopted by the Commission for the various categories of regulated entities. *See* Securities Act Release No. 6380 [January 28, 1982] [47 FR 5215].

[7] Unified Agenda of Federal Regulations, April 1990 [April 23, 1990] [55 FR 17126].

SEC

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4396	17 CFR 210.9-03(7)(e) Financial Statement Disclosure by Bank Holding Companies About Loans to Related Parties	3235-AB45
4397	17 CFR 210 Request for Timely Review of Quarterly Financial Information	3235-AD31
4398	17 CFR 230 Rulemaking for Operational EDGAR System	3235-AC48
4399	17 CFR 230.153 Rule 153 Definition of Preceded by a Prospectus as Used in Section 5(b)(2) in Relation to Certain Transactions	3235-AC61
4400	17 CFR 230 Classification of Small Issuers for Reporting Purposes	3235-AC66
4401	17 CFR 230.801(New) Rule 801	3235-AD44
4402	17 CFR 249.308 Disclosure Requirements Applicable to Blank Check Offerings	3235-AD54
4403	17 CFR 230.415 Shelf Offerings Pursuant to Rule 415 Under the Securities Act of 1933	3235-AD67
4404	17 CFR 230 Sales Literature and the Securities Act of 1933	3235-AD68
4405	17 CFR 240.14e-5 Debt Tender Offers	3235-AD69
4406	17 CFR 210.3-20 Reporting Currency in Financial Statements under Rule 3-20 of Regulation S-X	3235-AD70
4407	17 CFR 240.12g3-2 Foreign Issuer Reporting Under Rule 12g3-2(b) of the Securities Exchange Act of 1934	3235-AD72
4408	17 CFR 230.251 Regulation A	3235-AD66
4409	17 CFR 210.3-19 Special Provisions as to Age of Financial Statements for Foreign Private Issuers Under Regulation S-X	3235-AD96
4410	Multijurisdictional Tender and Exchange Offers	3235-AD97
4411	17 CFR 229.401 Disclosure of Legal Proceeding Involving Management	3235-AE14
4412	17 CFR 240.15c2-11 Initiation or Resumption of Quotations Without Specified Information	3235-AD94
4413	17 CFR 240.15c3-1 Net Capital Requirements for Brokers or Dealers	3235-AD95
4414	17 CFR 240.15c2-9 Account Statements for Purchasers of Certain Securities	3235-AE09
4415	17 CFR 240.15c2-6 Broker-Dealer Disclosure Document Regarding Low-Priced Securities	3235-AE10
4416	17 CFR 240.10b-7 Stabilizing to Facilitate a Distribution	3235-AE11
4417	17 CFR 240.14a-1 to 240.14a-102 Revision of Investment Company Proxy Rules	3235-AA89
4418	17 CFR 274.11A N-1A Technical Amendments	3235-AC25
4419	Advertising by Unit Investment Trusts	3235-AC70
4420	17 CFR 270.6c-12 (New) Proposed Rule 6c-12 Under the Investment Company Act of 1940	3235-AC84
4421	17 CFR 275 Revisions to the Registration and the Annual Supplement Forms Used by Investment Advisers	3235-AD21
4422	17 CFR 270.17f-6 Custody of Investment Company Assets with Registered Futures Commission Merchants	3235-AD34
4423	17 CFR 275.203(b)(1)-1 Exemption from Registration Under the Advisers Act for Certain Smaller Investment Advisers	3235-AD36
4424	17 CFR 270.24f-1 Registration under the Securities Act of 1933 of an Indefinite Number of Certain Investment Company Securities	3235-AD64
4425	17 CFR 270 Rulemaking for Investment Company Filing on Operational EDGAR System	3235-AD92
4426	17 CFR 270.6c-9 Proposed Amendments to Rule 6c-9 and Form N-6c9 under the Investment Company Act of 1940	3235-AD93
4427	17 CFR 250 Rulemaking for Public Utility Holding Companies Filing on Operational EDGAR System	3235-AD98

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4428	17 CFR 210 Independent Accountants - Mandatory Peer Review	3235-AC79
4429	17 CFR 229 Report of Management's Responsibilities	3235-AD29
4430	17 CFR 210 Technical Amendments to Regulation S-X	3235-AD32
4431	17 CFR 229.405 (New) Reports of Directors, Officers and Principal Stockholders	3235-AB14
4432	17 CFR 210 Multijurisdictional Disclosure	3235-AC84
4433	17 CFR 230.433(New) Prospectus Delivery Requirements in Firm Commitment Underwritten Offerings of Securities Made for Cash (Rule 433)	3235-AC80
4434	17 CFR 240.13d-1 Regulation 13D-G	3235-AD09
4435	17 CFR 240.13d-101 Disclosure of Significant Equity Participants in Control Transactions	3235-AD42
4436	17 CFR 230 Summary Prospectuses	3235-AD90
4437	17 CFR 240.15c2-11 Initiation or Resumption of Quotations Without Specified Information	3235-AA48
4438	17 CFR 15c2-10 Rule 15c2-10	3235-AC94
4439	17 CFR 240.15c3-3 Customer Protection Reserves and Custody of Securities	3235-AD80
4440	17 CFR 240.15c3-1 Net Capital Requirements for Brokers or Dealers	3235-AD62
4441	17 CFR 240.15c3-1 Net Capital Requirements for Brokers or Dealers	3235-AD79
4442	17 CFR 240.12a-7 Exemption of Stock Contained in Standardized Market Baskets from Section 12(a) of the Securities Exchange Act of 1934	3235-AD84
4443	17 CFR 240.14e-4 Prohibited Transactions in Connection with Partial Tender Offers	3235-AE06

SEC

Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
4444	17 CFR 239.16 Simplification of Registration Statements Filed by Unit Investment Trusts	3235-AA47
4445	17 CFR 239.14 Amendments to Form N-2	3235-AB40
4446	17 CFR 270.24f-3 Registration Under the Securities Act of 1933 of an Indefinite Number of Certain Investment Company Securities	3235-AC10
4447	17 CFR 230.134 Disclosure of Security Ratings in Registration Statements of Money Market Funds	3235-AC24
4448	17 CFR 250.17 Diversification by Exempt Holding Companies	3235-AD39
4449	17 CFR 270.31a-2 Amendment to Rule 31a-2 under the Investment Company Act of 1940	3235-AD66
4450	17 CFR 274.11a Disclosure and Analysis of Mutual Funds Performance Information; Portfolio Manager Disclosure	3235-AD61
4451	17 CFR 230.482 Money Market Fund Rule Proposals	3235-AD91

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4452	17 CFR 210.5-02 Proposals Regarding Industry Segment and Other Interim Financial Reporting Matters, Management's Discussion and Analysis, and Off Balance Sheet Financing Disclosures	3235-AB15
4453	17 CFR 240.13e-2(New) Acquisitions of Substantial Amounts of Securities and Related Activities During and Following a Tender Offer for Those Securities	3235-AA50
4454	17 CFR 239.16b Form S-8 Registration Statement under the Securities Act of 1933	3235-AB79
4455	17 CFR 230.144A(New) Resale of Restricted Securities; Changes to Method of Determining Holding Period of Restricted Securities	3235-AC86
4456	17 CFR 230.134 Communications Not Deemed a Prospectus	3235-AD22
4457	17 CFR 230.901 to 230.909 (New) Regulation S - Rules Governing Offers and Sales Made Outside the United States Without Registration Under the Securities Act of 1933	3235-AD23
4458	17 CFR 230.480(New) Automatically Effective Post-Effective Amendments for Acquisitions by Certain Limited Partnerships	3235-AD24
4459	17 CFR 240.14a-7 Shareholder Lists	3235-AD41
4460	17 CFR 230.112(New) Lock-Box Rules	3235-AD43
4461	17 CFR 228.7(b)(New) Disclosure of the Bases for a Board of Directors' Evaluation of an Extraordinary Corporate Transaction	3235-AD53
4462	17 CFR 249.220f Foreign Issuer Reporting on Form 20-F Under the Securities Exchange Act of 1934	3235-AD71
4463	17 CFR 240.15c2-8 Prospectus Delivery Requirements under Rule 15c2-8	3235-AD89
4464	17 CFR 240.15Aa-1 Rules 15Aa-1 and 15Aj-1 of the Securities Exchange Act of 1934	3235-AE00
4465	17 CFR 270.6c-11(New) Proposed Rule 6c-11 Under the Investment Company Act of 1940	3235-AC09
4466	17 CFR 270.12d3-1 Proposed Amendments to Rule 12d3-1 under the Investment Company Act of 1940	3235-AD19
4467	17 CFR 270.27a-1 Review of Rules 27a-1, 27a-2, 27a-3, 27c-1 and 27d-2 under the Investment Company Act of 1940	3235-AE01
4468	17 CFR 270.27g-1 Review of Rule 27g-1 and 27h-1 under the Investment Company Act of 1940	3235-AE02
4469	17 CFR 270.17j-1 Review of Rule 17j-1 under the Investment Company Act of 1940	3235-AE03
4470	17 CFR 270.27d-1 Review of Rule 27d-1 under the Investment Company Act of 1940	3235-AE07

SECURITIES AND EXCHANGE COMMISSION (SEC)

Prerule Stage

Disclosure Rules

4398. ● PROXY RULES

Significance: Agency Priority

Legal Authority: 15 USC 34

CFR Citation: 17 CFR 240

Legal Deadline: None

Abstract: The staff is reviewing proposals submitted to the Commission seeking certain revisions to the Commission's proxy rules. Based on that review, the staff will consider whether to recommend Commission action regarding the proxy rules.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Catherine T. Dixon, Deputy Chief, Office of Tender Offers,

Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-3097

RIN: 3235-AE12

4391. ● RULES AND FORMS TO REFLECT AMENDMENTS TO THE TRUST INDENTURE ACT OF 1939

Legal Authority: 15 USC 77sss(a); 15 USC 77eee; 15 USC 77ggg; 15 USC 77ddd(d); 15 USC 77eee(b); 15 USC 77jjj(a)(i); 15 USC 77jjj(b); 15 USC 77(e)(e)(e)(b)(3)

CFR Citation: 17 CFR 200, (Revision); 17 CFR 260, (Revision); 17 CFR 269, (Revision)

Legal Deadline: None

Abstract: Upon adoption of the Trust Indenture Act reform legislation pending in Congress, the staff would consider recommending that the Commission propose rules and forms applicable to that legislation.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Impact Analysis

Agency Contact: Felicia Smith, Special Counsel, Office of Chief Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-2573

RIN: 3235-AE13

Investment Management Rules

4392. COMPREHENSIVE STUDY OF THE INVESTMENT COMPANY ACT OF 1940

Significance: Agency Priority

Legal Authority: 15 USC 80a-6(c); 15 USC 77s(a); 15 USC 80b-11(a); 15 USC 80a-37; 15 USC 78w

CFR Citation: None

Legal Deadline: None

Abstract: The Division of Investment Management, together with the Divisions of Corporation Finance and Market Regulation, is undertaking a year-long comprehensive study of the Investment Company Act of 1940 in an effort to modernize the existing regulatory structure governing investment companies. The study will consider a broad range of issues including: possible alternative regulatory structures for certain investment vehicles; corporate governance; distribution; securitization of assets; internationalization of the securities markets; issues arising under the Securities Act of 1933; issues related to tax law; issues related to the entry of banks into the investment company business; insurance products; and other matters. Proposed amendments to Rules 12b-1 and 17d-3 and proposed rule 6c-10, all under the Investment Company Act of 1940, and Mutual Fund Governance, were formerly separate items on the agenda that have been merged with this item.

Timetable:

Action	Date	FR Cite
ANPRM	06/21/90	55 FR 25322

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Matthew A. Chambers, Assistant Director, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W. (Stop 10-4), Washington, DC 20549, 202 453-3048

RIN: 3235-AD69

4393. ● REVIEW OF RULE 6c-5(T) UNDER THE INVESTMENT COMPANY ACT OF 1940 TEMPORARY EXEMPTIONS FOR CERTAIN MONEY MARKET FUNDS AND CERTAIN AFFILIATED PERSONS THEREOF

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.6c-5(T)

Legal Deadline: None

Abstract: Review of Rule 6c-5(T) under the Investment Company Act of 1940 was begun by the Commission's staff on August 15, 1990. The staff expects to complete the review by April 30, 1991.

Timetable:

Action	Date	FR Cite
Begin Review	08/15/90	
End Review	04/30/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carolyn A. Miller, Senior Financial Analyst, Office of Financial Analysis and Inspections, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW., Washington, DC 20549, 202 272-2762

RIN: 3235-AE04

4394. ● REVIEW OF RULE 28b-1 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-28(b); 15 USC 80a-38

CFR Citation: 17 CFR 270.28b-1

Legal Deadline: None

Abstract: Review of Rule 28b-1 under the Investment Company Act was begun by the Commission's staff on August 15, 1990. The staff expects to complete the review by April 30, 1991.

Timetable:

Action	Date	FR Cite
Begin Review	08/15/90	
End Review	04/30/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carolyn A. Miller, Senior Financial Analyst, Office of Financial Analysis and Inspections, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW., Washington, DC 20549, 202 272-2762

RIN: 3235-AE05

4395. ● REVIEW OF RULE 6c-4(T) UNDER THE INVESTMENT COMPANY ACT OF 1940 TEMPORARY EXEMPTION FOR CERTAIN MONEY MARKET FUNDS AND OTHER PERSONS AND COMPANIES

Legal Authority: 15 USC 80a-37(a); 15 USC 80a-6(c)

CFR Citation: 17 CFR 270.6c-4(T)

Legal Deadline: None

Abstract: Review of Rule 6c-4(T) under the Investment Company Act of 1940 was begun by the Commission's staff on August 15, 1990. The staff expects to complete the review by April 30, 1991.

SEC — Prerule Stage

Timetable:

Action	Date	FR Cite
Begin Review	05/15/90	
Final Review	04/30/91	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carolyn A. Miller, Senior Financial Analyst, Office of Financial Analysis and Inspections, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW., Washington, DC 20549, 202 272-2762

RIN: 3235–AE06

SECURITIES AND EXCHANGE COMMISSION (SEC) — Proposed Rule Stage

Accounting Rules

4396. FINANCIAL STATEMENT DISCLOSURE BY BANK HOLDING COMPANIES ABOUT LOANS TO RELATED PARTIES

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s(a); 15 USC 77aa(25); 15 USC 77aa(26); 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o(d); 15 USC 78w(a)

CFR Citation: 17 CFR 210.9-03(7)(e)

Legal Deadline: None

Abstract: The staff is considering whether to recommend that the Commission propose amendments to its rules in Article 9 of Regulation S-X requiring disclosure by bank holding companies about loans to related parties. The staff will consider whether the accumulation of the required information may be unreasonably costly.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Greg W. Norwood, Professional Accounting Fellow, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street, NW., Washington, DC 20549, 202 272-2130

RIN: 3235–AH45

4367. REQUEST FOR TIMELY REVIEW OF QUARTERLY FINANCIAL INFORMATION

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s(a); 15 USC 77aa(25) and (26); 15 USC 78l; 15 USC 78n; 15 USC 78o(d); 15 USC 78w(a); 15 USC 79e(b); 15 USC 79n; 15 USC 79t(a); 15 USC 80a-8; 15 USC 80a-29; ...

CFR Citation: 17 CFR 210; 17 CFR 229

Legal Deadline: None

Abstract: The Commission has issued a concept release soliciting comments on whether the Commission's rules should be amended to require independent public accountants to review interim financial information before it is filed with the Commission.

Timetable:

Action	Date	FR Cite
ANPRM	06/20/89	54 FR 27023
ANPRM Comment Period End	09/25/89	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Robert F. Lavery, Assistant Chief Accountant, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street, NW., Washington, DC 20549, 202 272-2130

RIN: 3235–AD31

Disclosure Rules

4368. RULEMAKING FOR OPERATIONAL EDGAR SYSTEM

Significance: Agency Priority

Legal Authority: 15 USC 77a to 77aa; 15 USC 78a to 78ii; 15 USC 79 to 79z-6; 15 USC 77aaa to 77bbb; 15 USC 80a-1 to 80a-52

CFR Citation: 17 CFR 230; 17 CFR 240; 17 CFR 260; 17 CFR 270

Legal Deadline: None

Abstract: The Commission has issued a concept release requesting public comment on rule changes necessary to accommodate electronic filing in the operational EDGAR system, as well as to update the rules to take advantage of the efficiencies of electronic filing and processing. The staff intends to recommend that the Commission propose specific rules in this area.

Timetable:

Action	Date	FR Cite
ANPRM	07/02/86	51 FR 24155
ANPRM Comment Period End	09/05/86	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William H. Carter, Special Counsel, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-2589

RIN: 3235–AC48

4369. RULE 153 DEFINITION OF PRECEDED BY A PROSPECTUS AS USED IN SECTION 5(B)(2) IN RELATION TO CERTAIN TRANSACTIONS

Legal Authority: 15 USC 77e

CFR Citation: 17 CFR 230.153

Legal Deadline: None

Abstract: The prospectus delivery requirement for certain transactions effected on a national securities exchange may be satisfied by delivery to the exchange. The staff is considering whether to recommend to the Commission that this procedure should be available for certain transactions on the NASDAQ Inter-Dealer Quotation System.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard K. Wulff, Chief, Office of Small Business Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-2644

RIN: 3235-AC61

4403. CLASSIFICATION OF SMALL ISSUERS FOR REPORTING PURPOSES

Legal Authority: 15 USC 78l; 15 USC 78m

CFR Citation: 17 CFR 230; 17 CFR 240; 17 CFR 244; 17 CFR 260

Legal Deadline: None

Abstract: The staff is considering whether to recommend that the Commission propose other appropriate criteria to establish the threshold level for companies to enter into the Securities Exchange Act of 1934 reporting system, that would supplement or replace the present size criteria of at least 500 shareholders and total assets of $5 million.

Timetable:

Action	Date	FR Cite
ANPRM	07/08/88	53 FR 25968
ANPRM Comment Period End	09/30/88	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard K. Wulff, Chief, Office of Small Business Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-2644

RIN: 3235-AC66

4401. RULE 801

Legal Authority: 15 USC 77c(b); 15 USC 77s

CFR Citation: 17 CFR 230.801(New)

Legal Deadline: None

Abstract: The staff is considering whether to recommend that the Commission propose rules that would provide an exemption from the registration requirements of the Securities Act of 1933 for certain rights offerings to the existing security holders of non-reporting issuers.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mary E.T. Beach, Associate Director, Office of International Corporate Finance, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-2565

RIN: 3235-AD44

4402. DISCLOSURE REQUIREMENTS APPLICABLE TO BLANK CHECK OFFERINGS

Legal Authority: 15 USC 78l; 15 USC 78m; 15 USC 78o; 15 USC 78x(a)

CFR Citation: 17 CFR 249.308

Legal Deadline: None

Abstract: The staff is considering whether to recommend that the Commission amend disclosure requirements applicable to blank check offerings to require the reporting of certain significant business acquisitions at the time such acquisitions become probable.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard K. Wulff, Chief, Office of Small Business Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-2644

RIN: 3235-AD54

4403. SHELF OFFERINGS PURSUANT TO RULE 415 UNDER THE SECURITIES ACT OF 1933

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77j; 15 USC 77s

CFR Citation: 17 CFR 230.415

Legal Deadline: None

Abstract: The staff is considering whether to recommend that the Commission propose amendments to Rule 415 to expand the availability of the use of the rule under the Securities Act of 1933, address current market conditions and transactions.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Abigail Arms, Deputy Chief Counsel, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-2589

RIN: 3235-AD57

4404. SALES LITERATURE AND THE SECURITIES ACT OF 1933

Legal Authority: 15 USC 77s

CFR Citation: 17 CFR 230

Legal Deadline: None

Abstract: The staff is considering whether to recommend that the Commission propose rules that would address the use of sales literature in connection with securities offerings registered pursuant to the Securities Act of 1933.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann D. Wallace, Chief, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-2589

RIN: 3235-AD58

4405. DEBT TENDER OFFERS

Legal Authority: 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 77ss(12); 15

SEC

Proposed Rule Stage

USC 781; 15 USC 78o(d); 15 USC 78w; 15 USC 78(e)

CFR Citation: 17 CFR 240.14e-5

Legal Deadline: None

Abstract: The Divisions of Corporation Finance and Market Regulation are jointly considering whether to recommend that the Commission issue proposals to amend its rule applicable to debt tender offers. The agency contact for the Division of Corporation Finance is listed below under "Agency Contact." The agency contact for the Division of Market Regulation is Nancy J. Sanow, Assistant Director, Office of Trading Practices (202 272-2848).

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David A. Sirignano, Chief, Office of Tender Offers, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-2987

RIN: 3235-AD69

4406. REPORTING CURRENCY IN FINANCIAL STATEMENTS UNDER RULE 3-20 OF REGULATION S-X

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 77aa(25) and (26); 15 USC 78l; 15 USC 78n; 15 USC 78o(d); 15 USC 78w(a); 15 USC 79e(b); 15 USC 79n; 15 USC 79k(a); 15 USC 80a-8; 15 USC 80a-29; ...

CFR Citation: 17 CFR 210.3-20

Legal Deadline: None

Abstract: The staff is considering whether to recommend that the Commission propose revisions to Rule 3-20 of Regulation S-X that would clarify provisions allowing a foreign private issuer to state its financial statements in a currency other than that of the country in which it is incorporated or organized. In lieu of that rule's present reference to the issuer's primary economic environment, the revised rule would identify characteristics of the issuer that would guide the selection of a reporting currency.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert A. Bayless, Chief Accountant, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-2553

RIN: 3235-AD70

4407. FOREIGN ISSUER REPORTING UNDER RULE 12g3-2(B) OF THE SECURITIES EXCHANGE ACT OF 1934

Legal Authority: 15 USC 78l; 15 USC 78w

CFR Citation: 17 CFR 240.12g3-2; 17 CFR 249

Legal Deadline: None

Abstract: The staff is considering whether to recommend that the Commission propose revisions to clarify the requirements of Rule 12g3-2(b) and provide forms for use by persons furnishing information under that Rule.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mary E.T. Beach, Associate Director, Office of International Corporate Finance, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-2586

RIN: 3235-AD72

4408. REGULATION A

Legal Authority: 15 USC 77c(6)

CFR Citation: 17 CFR 230.251; 17 CFR 230.252; 17 CFR 230.253; 17 CFR 230.254; 17 CFR 230.255; 17 CFR 230.256; 17 CFR 230.257; 17 CFR 230.258; 17 CFR 230.259; 17 CFR 230.260; 17 CFR 230.261; 17 CFR 230.262; 17 CFR 230.263; 17 CFR 230.264

Legal Deadline: None

Abstract: Regulation A provides a general exemption from registration requirements of the Securities Act. The staff is reviewing Regulation A for purposes of possible modernization. Upon completion of this review, the staff will consider whether to recommend that the Commission propose amendments to this Regulation.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard K. Wulff, Chief, Office of Small Business Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-2644

RIN: 3235-AD68

4409. ● SPECIAL PROVISIONS AS TO AGE OF FINANCIAL STATEMENTS FOR FOREIGN PRIVATE ISSUERS UNDER REGULATION S-X

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 77a(25) and (26); 15 USC 78l; 15 USC 78n; 15 USC 78o(d); 15 USC 78w(a); 15 USC 79e(b); 15 USC 79n; 15 USC 79k(a); 15 USC 80a-8; 15 USC 80a-29

CFR Citation: 17 CFR 210.3-19

Legal Deadline: None

Abstract: The staff is considering revisions to Rule 3-19 of Regulation S-X which would accommodate offerings of securities by foreign issuers that customarily prepare financial information only on a semi-annual basis.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert A. Bayless, Chief Accountant, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-2553

RIN: 3235-AD96

4410. ● MULTIJURISDICTIONAL TENDER AND EXCHANGE OFFERS

Significance: Agency Priority

Legal Authority: 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 78l(h); 15 USC 78m; 15 USC 78N(d); 15 USC 78N(e); 15 USC 78w

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Commission issued a concept release exploring means to address the problem of the exclusion of U.S. investors from multinational tender offers. The purpose of the rulemaking project is to determine whether it would be appropriate to allow takeover bids and exchange offers for the securities of foreign entities to proceed on the bases of foreign tender offer regulation when a small amount of the target's shares are held in the U.S.

Timetable:

Action	Date	FR Cite
ANPRM	06/06/90	55 FR 23751
ANPRM Comment Period End	09/21/90	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David Sirignano, Chief, Office of Tender Offers, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-2567

RIN: 3235-AD97

4411. ● DISCLOSURE OF LEGAL PROCEEDING INVOLVING MANAGEMENT

Legal Authority: 15 USC 77s; 15 USC 78w

CFR Citation: 17 CFR 229.401; 17 CFR 239.90; 17 CFR 240.12d-101; 17 CFR 240.13e-100; 17 CFR 240.14d-100

Legal Deadline: None

Abstract: The staff is considering whether to recommend that the Commission propose modifications to disclosure requirements that would expand mandated disclosure of legal proceedings involving management.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James R. Budge, Attorney, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-2589

RIN: 3235-AE14

Securities Markets and Securities Industry Rules

4412. ● INITIATION OR RESUMPTION OF QUOTATIONS WITHOUT SPECIFIED INFORMATION

Significance: Agency Priority

Legal Authority: 15 USC 78w; 15 USC 78c; 15 USC 78j(b); 15 USC 78o(c); 15 USC 78q(a); 15 USC 78w(a)

CFR Citation: 17 CFR 240.15c2-11

Legal Deadline: None

Abstract: Rule 15c2-11 governs the submission and publication of quotations by brokers or dealers for certain over-the-counter securities. Currently, the rule applies principally to the initiation or resumption of quotations in the National Daily Quotation Service, which is also known as the "pink sheets." The Division is considering recommending that the Commission propose amendments to the rule that would eliminate the piggyback exception, so that all broker-dealers generally would be required to obtain and review the specified information before submitting a quotation for a covered security. An additional amendment would encourage the creation of one or more central information repositories by permitting broker-dealers, under certain conditions, to rely on the presence of required issuer internally. The amendments would further the Commission's efforts to combat fraud and manipulative conduct in the penny stock market.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Nancy J. Sanow, Assistant Director, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, N.W. (STOP 5-1), Washington, DC 20549, 202 272-2848

RIN: 3235-AD94

4413. ● NET CAPITAL REQUIREMENTS FOR BROKERS OR DEALERS

Significance: Agency Priority

Legal Authority: 15 USC 78o(c)(3); 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: In light of the recent bankruptcy of Drexel Burnham Lambert Group Inc., the Division of Market Regulation proposed for comment amendments to the net capital rule that would: (1) provide notification to the Commission of large withdrawals of capital from a broker-dealer by a parent or affiliate; (2) add an additional early warning level to the net capital rule based on a firm's proprietary securities positions; and (3) give the Commission the authority to, by order, restrict withdrawals of capital from broker-dealers in certain circumstances.

Timetable:

Action	Date	FR Cite
NPRM	06/30/90	
NPRM Comment Period End	10/30/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Roger Coffin, Staff Attorney, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, N.W. (STOP 5-1), Washington, DC 20549, 202 272-2908

RIN: 3235-AD95

SEC

Proposed Rule Stage

4414. ● ACCOUNT STATEMENTS FOR PURCHASERS OF CERTAIN SECURITIES

Legal Authority: 15 USC 78c; 15 USC 78j; 15 USC 78o; 15 USC 78w

CFR Citation: 17 CFR 240.15c2-6

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose for comment Rule 15c2-6 which would require generally that broker-dealers that sell certain non-NASDAQ securities to their customers provide the customers with regular account statements containing market value information.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John M. Ramsay, Attorney, Office of Chief Counsel, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, N.W. (STOP 5-1), Washington, DC 20549, 202 272-2848

RIN: 3235-AE09

4415. ● BROKER-DEALER DISCLOSURE DOCUMENT REGARDING LOW-PRICED SECURITIES

Legal Authority: 15 USC 78w; 15 USC 78c; 15 USC 78j; 15 USC 78o

CFR Citation: 17 CFR 240.15c2-6

Legal Deadline: None

Abstract: The Division is considering whether to recommend to the Commission an amendment to Rule 15c2-6 under the Securities Exchange Act of 1934 that would require certain broker-dealers to furnish customers with a disclosure document containing a standardized statement discussing the risks of investment in, and the market for, low-priced, non-NASDAQ over-the-counter securities. The disclosure document would be distributed by broker-dealers as part of the account approval process. The document is intended to alert potential investors to the special risks of investing in penny stocks.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy J. Sconyers, Assistant Director, Office of Trading Practices, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, N.W. (STOP 5-1), Washington, DC 20549, 202 272-2848

RIN: 3235-AE10

4416. ● STABILIZING TO FACILITATE A DISTRIBUTION

Legal Authority: 15 USC 78i(a)(6); 15 USC 78j(b); 15 USC 78q(a); 15 USC 78w(a); 15 USC 78dd(a)

CFR Citation: 17 CFR 240.10b-7

Legal Deadline: None

Abstract: The Division is considering whether to recommend that the Commission propose amendments to Rule 10b-7, which regulates stabilizing activities to facilitate an offering. The proposed amendments would permit the stabilizing price in an offering of a foreign security to reflect the price of the security in the foreign market that is the principal market for such security, if the stabilizing activity otherwise complies with the rule. Adjustments of stabilizing bids based on exchange rate fluctuations between the currencies of the markets on which the security is being stabilized would also be permitted. The amendments would also deem foreign stabilizing transactions during an offering of a foreign security in the U.S. made in compliance with comparable foreign regulations not to be in violation of Rule 10b-7.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy J. Sconyers, Assistant Director, Office of Trading Practices, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, N.W. (STOP 5-1), Washington, DC 20549, 202 272-2848

RIN: 3235-AE11

Investment Management Rules

4417. REVISION OF INVESTMENT COMPANY PROXY RULES

Legal Authority: 15 USC 78n; 15 USC 78w; 15 USC 80a-20; 15 USC 80a-37

CFR Citation: 17 CFR 240.14a-1 to 240.14a-102; 17 CFR 240.14b-1; 17 CFR 240.14c-1 to 240.14c-101; 17 CFR 270.20a-1; 17 CFR 270.20a-2; 17 CFR 270.20a-3

Legal Deadline: None

Abstract: Absent an exception, every solicitation of a proxy, authorization or consent with respect to any security issued or to be issued by a registered investment company, is subject to rules adopted pursuant to the Securities Exchange Act of 1934 and the Investment Company Act of 1940 concerning solicitations of proxies. Solicitations to which the rules apply may not commence unless each person solicited is furnished or has previously been furnished with a proxy statement containing specified information prepared in accordance with certain rules and the material has been filed with the Commission. The existing proxy rules were adopted in piecemeal fashion and have been the subject of frequent changes. This has led to some duplicative and, in certain cases, complex requirements. To the extent that a proxy statement contains repetitive material or is overly complicated and difficult to read, it may not effectively perform its intended function of communicating meaningful information to security holders in order that they may make informed voting decisions. In order to update the proxy regulations and, in doing so, improve the (cont)

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: readability of proxy statements and eliminate unnecessary disclosure costs, the staff has commenced a

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comprehensive review of the proxy regulations as they relate to investment companies. There does not currently exist a basis upon which to quantify the reduced costs and burdens of the revisions, if any, that might result from the staff review. However, if revisions were proposed that applied to all registered investment companies soliciting proxies, unless the solicitation is excepted, such revisions could have a significant economic impact on a substantial number of small entities.

Agency Contact: Kenneth J. Berman, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-2107

RIN: 3235–AA69

4418. N-1A TECHNICAL AMENDMENTS

Legal Authority: 15 USC 80a-8(b)

CFR Citation: 17 CFR 274.11A

Legal Deadline: None

Abstract: The staff is considering several modifications to Form N-1A including: reducing the number of copies to be filed with the Commission; conforming the language of Form N-1A with Forms N-3 and N-4; and clarifying many of the current disclosure requirements.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Larisa Dobriansky, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, DC 20549, 202 272-2107

RIN: 3235–AC25

4419. ADVERTISING BY UNIT INVESTMENT TRUSTS

Significance: Agency Priority

Legal Authority: 15 USC 77j; 15 USC 77s; 15 USC 80a-37(a)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Currently, unit investment trusts advertise their performance by means of an "estimated current return," which shows estimated cash flow. However, in a market environment characterized by fluctuating interest rates, estimated current return may not accurately convey the yield of UITs. The staff is undertaking to develop for recommendation to the Commission a rule proposal setting forth a uniform method of computing UIT yields. A uniform method of computation would permit investors to make more informed investment decisions by enabling them to compare the performance of different trusts. The staff is studying a proposal for a uniform method of computing UIT yields submitted by the Investment Company Institute.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Eli A. Nathans, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW., Washington, DC 20549, 202 272-2821

RIN: 3235–AC70

4420. PROPOSED RULE 6C-12 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-6(c)

CFR Citation: 17 CFR 270.6c-12 (New)

Legal Deadline: None

Abstract: The staff is considering whether to recommend that the Commission propose a rule that would codify many exemptions from provisions of the Investment Company Act granted to two-tier real estate limited partnerships. Exemptions pursuant to Section 6(c) of the Act have generally been granted where: 1) the two-tier partnership invests in limited partnerships engaged in the development and building of housing for low and moderate income persons; 2) the limited partnership interests are sold only to suitable investors; and 3) requirements for fair dealing by the general partner of the issuer with the limited partners of the issuer are included in the basic organizational documents of the partnership. The regulation would reduce the number of exemptive relief applications received by the Office of Investment Company Regulation.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Pfordte, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW., (Stop 5-2), Washington, DC 20549, 202 272-2048

RIN: 3235–AC84

4421. REVISIONS TO THE REGISTRATION AND THE ANNUAL SUPPLEMENT FORMS USED BY INVESTMENT ADVISERS

Legal Authority: 15 USC 78o(b)(1); 15 USC 78w(a); 15 USC 80b-3; 15 USC 80b-4; 15 USC 80b-6A; 15 USC 80b-11; 15 USC 80b-1

CFR Citation: 17 CFR 275; 17 CFR 279

Legal Deadline: None

Abstract: The staff is considering whether to recommend that the Commission revise Form ADV, the investment adviser registration form, in connection with its possible inclusion in either the Commission's Edgar System or the National Association of Securities Dealers' CRD System. Either approach would permit advisers to make "one stop filing" of the form and periodic updates with the Commission and the states.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert E. Plaza, Assistant Director, Securities and Exchange Commission, Division of Investment Management, 450 5th Street,

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NW., Washington, DC 20549, 202 272-2107

RIN: 3235-AD21

4422. CUSTODY OF INVESTMENT COMPANY ASSETS WITH REGISTERED FUTURES COMMISSION MERCHANTS

Legal Authority: 15 USC 80a-37

CFR Citation: 17 CFR 270.17f-6

Legal Deadline: None

Abstract: The staff is considering whether to recommend that the Commission propose a rule to permit registered investment companies to maintain initial and excess variation margin in the custody of certain futures commission merchants if appropriate conditions can be developed to ensure the safety and integrity of the assets thus maintained.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Diana C. Sheard, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W.(Stop 10-6), Washington, DC 20549, 202 272-2068

RIN: 3235-AD01

4423. EXEMPTION FROM REGISTRATION UNDER THE ADVISERS ACT FOR CERTAIN SMALLER INVESTMENT ADVISERS

Legal Authority: 15 USC 80b-6A

CFR Citation: 17 CFR 275.203(b)(1)-1; 17 CFR 275.203(b)(3)-2

Legal Deadline: None

Abstract: The Commission has proposed rules that would exempt smaller investment advisers from most federal adviser regulation, other than the general antifraud provisions, if the advisers are registered in all states in which they do business. The proposed exemptions should significantly diminish the costs and paperwork associated with dual federal and state regulation of small advisory businesses. The proposed rules would rely on the states to assume responsibility for the detailed regulation that, at the federal level, would no longer be applicable to small advisers exempt under these rules. The proposed rules, which include both an interstate and an intrastate exemption, would determine eligibility for the exemptions by reference to the size of the adviser's business; whether the adviser has custody of client funds or securities; and whether the adviser is registered as an adviser in the state or states in which it does business. The proposed exemptions, together with the amendment of several rules, would eliminate costs of registration and reporting as well as compliance with the brochure rule, the recordkeeping rule, the performance fee rule, the cash (cont)

Timetable:

Action	Date	FR Cite
NPRM	09/23/88	53 FR 36997
NPRM Comment Period End	11/22/88	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: solicitation rule, the advertising rule, and the Act's regulation of principal and agency cross transactions for advisers exempt under the proposed rules that choose not to register or to deregister with the Commission.

Agency Contact: Kenneth J. Berman, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW., Washington, DC 20549, 202 272-2107

RIN: 3235-AD36

4424. REGISTRATION UNDER THE SECURITIES ACT OF 1933 OF AN INDEFINITE NUMBER OF CERTAIN INVESTMENT COMPANY SECURITIES

Legal Authority: 15 USC 80a-37; 15 USC 80a-24

CFR Citation: 17 CFR 270.24f-1; 17 CFR 270.24f-2

Legal Deadline: None

Abstract: Rules 24f-1 and 24f-2 under the Investment Company Act of 1940, respectively, permit certain investment companies to register securities sold in excess of the number of shares included in a registration under the Securities Act of 1933. The changes proposed will clarify operation of certain provisions of the rules with respect to time periods provided therein (by changing the measurement of the time periods from months to days) and by clarifying the filing requirements of Rule 24f-2 in the context of investment company reorganizations.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Kenneth J. Berman, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW., Washington, DC 20549, 202 272-2107

RIN: 3235-AD04

4425. ● RULEMAKING FOR INVESTMENT COMPANY FILING ON OPERATIONAL EDGAR SYSTEM

Significance: Agency Priority

Legal Authority: 15 USC 77a to 77aa; 15 USC 78a to 78jj; 15 USC 80a-1 to 80a-52; 15 USC 80b-1 to 80b-21

CFR Citation: 17 CFR 270; 17 CFR 274; 17 CFR 275; 17 CFR 249

Legal Deadline: None

Abstract: The staff intends to recommend that the Commission issue a release requesting public comment on proposed rule and form amendments to implement the operational phase of the EDGAR system to the extent EDGAR involves filings by investment companies, business development companies, and institutional investment managers.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dorothy M. Donohue, Attorney, Office of Disclosure Policy and Review, Securities and Exchange

SEC

Proposed Rule Stage

Commission, Division of Investment Management, 450 5th Street, NW., Washington, DC 20549, 202 272-7714

RIN: 3235-AD82

4426. ● PROPOSED AMENDMENTS TO RULE 6C-9 AND FORM N-6C9 UNDER THE INVESTMENT COMPANY ACT OF 1940

Significance: Agency Priority

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.6c-9; 17 CFR 274.304

Legal Deadline: None

Abstract: The Commission has proposed to modify rule 6c-9 and Form N-6C9 to: (1) make the rule available for the offer and sale of securities beyond the debt and non-voting preferred stock currently permitted under the rule; (2) make the rule available to a broader range of issuers than the foreign banks and their finance subsidiaries now permitted under the rule; and (3) ease the filing requirements for Form N-6C9. Such modifications would make the rule available under some circumstances to which issuers must now file exemptive applications under section 6(c) of the Investment Company Act of 1940.

Timetable:

Action	Date	FR Cite
NPRM	09/28/90	55 FR 39669
NPRM Comment Period End	11/27/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann Glickman, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th St. N.W. (STOP 9-1), Washington, DC 20549, 202 272-2062

RIN: 3235-AD93

4427. ● RULEMAKING FOR PUBLIC UTILITY HOLDING COMPANIES FILING ON OPERATIONAL EDGAR SYSTEM

Significance: Agency Priority

Legal Authority: 15 USC 79c; 15 USC 79t

CFR Citation: 17 CFR 250; 17 CFR 259

Legal Deadline: None

Abstract: The staff intends to recommend that the Commission issue a release requesting public comment on proposed rule and form amendments to implement the operational phase of the EDGAR System to the extent EDGAR involves filings under the Public Utility Holding Company Act of 1935.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mary Kay Shineberry, Attorney, Securities and Exchange Commission, Office of Public Utility Regulation, 450 5th Street, NW., Washington, DC 20549, 202 272-7568

RIN: 3235-AD98

SECURITIES AND EXCHANGE COMMISSION (SEC)

Final Rule Stage

Accounting Rules

4428. INDEPENDENT ACCOUNTANTS - MANDATORY PEER REVIEW

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s(a); 15 USC 77aa(25) to 77aa(26); 15 USC 78l; 15 USC 78m; 15 USC 78o(d); 15 USC 78w(a); 15 USC 79e(b); 15 USC 79n; 15 USC 79t(a); 15 USC 80a-8; 15 USC 80a-29

CFR Citation: 17 CFR 210

Legal Deadline: None

Abstract: The Commission has proposed amendments to its rules that would require that accountants' reports included in Commission filings be signed by an independent accountant who has undergone a peer review of its accounting and audit practice within the past three years.

Timetable:

Action	Date	FR Cite
NPRM	04/01/87	52 FR 11095
NPRM Comment Period End	05/01/87	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Burns, Chief Counsel, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street, NW., Washington, DC 20549, 202 272-2130

RIN: 3235-AC79

4429. REPORT OF MANAGEMENT'S RESPONSIBILITIES

Significance: Agency Priority

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s(a); 15 USC 77aa(25) and (26); 15 USC 78l; 15 USC 78m; 15 USC 78o(d); 15 USC 78w(a); 15 USC 79e(b); 15 USC 79n; 15 USC 79t(a); 15 USC 80a-8; 15 USC 80a-29; ...

CFR Citation: 17 CFR 228; 17 CFR 229; 17 CFR 249; 17 CFR 270; 17 CFR 274

Legal Deadline: None

Abstract: The Commission has proposed rules to require registrants to include a report of management's responsibilities in Forms 10-K and N-SAR and annual reports to security holders. The management report would contain a description or statement of management's responsibilities for the preparation of the registrant's financial statements and other financial information and for establishing and maintaining a system of internal control directly related to financial reporting, with management's assessment of the effectiveness of the registrant's internal control system.

SEC

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Timetable:

Action	Date	FR Cite
NPRM	07/19/88	53 FR 26909
NPRM Comment Period End	10/24/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John W. Albert, Associate Chief Accountant, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street, NW., Washington, DC 20549, 202 272-2130

RIN: 3235-AD29

4430. TECHNICAL AMENDMENTS TO REGULATION S-X

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s(a); 15 USC 77aa(25) and (26); 15 USC 78l; 15 USC 78n; 15 USC 78o(d); 15 USC 78w(a); 15 USC 79(e)(b); 15 USC 79n; 15 USC 79t(a); 15 USC 80a-8; 15 USC 80a-29

CFR Citation: 17 CFR 210

Legal Deadline: None

Abstract: The Commission has proposed amendments to Regulation S-X to conform that regulation to recently adopted changes in generally accepted accounting principles.

Timetable:

Action	Date	FR Cite
NPRM	02/27/89	54 FR 8202
NPRM Comment Period End	04/28/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John W. Albert, Associate Chief Accountant, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street, NW., Washington, DC 20549, 202 272-2130

RIN: 3235-AD32

Disclosure Rules

4431. REPORTS OF DIRECTORS, OFFICERS AND PRINCIPAL STOCKHOLDERS

Significance: Agency Priority

Legal Authority: 15 USC 78m(d); 15 USC 78p(a); 15 USC 78p(b); 15 USC 78p(c); 15 USC 78p(e); 15 USC 78w(a)

CFR Citation: 17 CFR 229.405 (New); 17 CFR 240.12b-2; 17 CFR 240.14a-101; 17 CFR 240.16a-1 to 240.16a-11; 17 CFR 240.16b-1 to 240.16b-11; 17 CFR 240.16c-1 to 240.16c-4 (New); 17 CFR 240.16e-1; 17 CFR 249.103; 17 CFR 249.104; 17 CFR 249.105 (New); 17 CFR 249.310; 17 CFR 270.30f-1; 17 CFR 274.101

Legal Deadline: None

Abstract: The Commission has published for comment a revised set of proposals that would provide a comprehensive revision of its rules promulgated under Section 16 of the Securities Exchange Act. The reproposed rules would define certain key terms, change trade reporting obligations, change exemptions from Section 16(b) short-swing profit recovery, and promulgate new forms and instructions.

Timetable:

Action	Date	FR Cite
Original NPRM	12/02/88	53 FR 49997
Original NPRM Comment Period End	03/13/89	
NPRM	06/16/89	54 FR 35667
NPRM Comment Period End	11/01/89	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Brian J. Lane, Special Counsel, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-2589

RIN: 3235-AB14

4432. MULTIJURISDICTIONAL DISCLOSURE

Significance: Agency Priority

Legal Authority: 15 USC 77e; 15 USC 77f; 15 USC 77g; 15 USC 77j; 15 USC 77s(a); 15 USC 77ddd; 15 USC 77eee; 15 USC 77fff; 15 USC 78c(b); 15 USC 78j; 15 USC 78l; 15 USC 78m; 15 USC 78w; 15 USC 78x

CFR Citation: 17 CFR 210; 17 CFR 230; 17 CFR 239; 17 CFR 240; 17 CFR 249; 17 CFR 260

Legal Deadline: None

Abstract: The Commission has proposed a multijurisdictional disclosure system that would permit Canadian issuers that, depending on the nature of the offering, meet market value, public float and Canadian reporting history tests to register securities in the United States using disclosure documents prepared according to the requirements of Canadian regulatory authorities. Certain Canadian issuers would also be able to use such documents to meet U.S. periodic disclosure requirements. Companies subject to U.S. proxy requirements could use Canadian documents for certain solicitations. Canadian insider reports could be filed with the Commission. Additionally, tender offers for Canadian companies could be made in accordance with Canadian rules where a limited number of shareholders reside in the United States. In connection with this project, the staff will consider whether to recommend that the Commission propose revisions to Form 20-F to permit its use by Canadian issuers in all circumstances.

Timetable:

Action	Date	FR Cite
ANPRM	02/28/85	50 FR 9281
ANPRM Comment Period End	07/15/85	
NPRM	07/26/89	54 FR 32226
NPRM Comment Period End	10/31/89	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Mary E.T. Beach, Associate Director, Office of International Corporate Finance, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-2585

RIN: 3235-AC84

4433. PROSPECTUS DELIVERY REQUIREMENTS IN FIRM COMMITMENT UNDERWRITTEN OFFERINGS OF SECURITIES MADE FOR CASH (RULE 433)

Legal Authority: 15 USC 77b(10); 15 USC 77s(a); 15 USC 77j(a)(4); 15 USC 77j(d)

CFR Citation: 17 CFR 230.433(New)

SEC

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Legal Deadline: None

Abstract: The Commission proposed two alternative versions of a new Rule 433 that would provide a safe harbor from the requirement to deliver a final prospectus prior to or contemporaneously with a confirmation of sale in a firm commitment offering of securities for cash. Both proposals would permit, if all conditions of the rule were satisfied, the sending of a final prospectus no later than five business days after a confirmation of sale was sent to an investor in such an offering.

Timetable:

Action	Date	FR Cite
NPRM	09/06/87	52 FR 29200
NPRM Comment Period End	10/05/87	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Ann D. Wallace, Chief, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-2589

RIN: 3235-AC80

4434. REGULATION 13D-G

Legal Authority: 15 USC 78m(d); 15 USC 78m(g); 15 USC 78m(a)

CFR Citation: 17 CFR 240.13d-1; 17 CFR 240.13d-2; 17 CFR 240.13d-7; 17 CFR 240.13d-101; 17 CFR 240.13d-102

Legal Deadline: None

Abstract: The Commission has proposed revisions to Regulation 13D-G to improve the meaningfulness to investors of filings on Schedule 13D, while at the same time reducing the reporting obligations of non-institutional investors that have a passive investment purpose. In connection with this project, a review of Rules 13d-1 through 13d-7 and Schedules 13D and 13G for Regulatory Flexibility Act purposes will be conducted.

Timetable:

Action	Date	FR Cite
NPRM	03/14/89	54 FR 10552
NPRM Comment Period End	05/15/89	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David A. Sirignano, Chief, Office of Tender Offers, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-2987

RIN: 3235-AD09

4435. DISCLOSURE OF SIGNIFICANT EQUITY PARTICIPANTS IN CONTROL TRANSACTIONS

Legal Authority: 15 USC 78c(b); 15 USC 78m(d); 15 USC 78n; 15 USC 78v

CFR Citation: 17 CFR 240.13d-101; 17 CFR 240.13e-100; 17 CFR 240.14a-102; 17 CFR 240.14d-100

Legal Deadline: None

Abstract: The Commission has proposed amendments to Exchange Act Schedules, which are intended to require disclosure of information concerning the identity and background of limited partners and other participants holding significant investments in limited partnerships or other closely held entities or groups of such entities involved with major acquisitions of securities, tender offers, proxy contests and going private transactions.

Timetable:

Action	Date	FR Cite
NPRM	03/13/89	54 FR 10360
NPRM Comment Period End	05/12/89	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: David A. Sirignano, Chief, Office of Tender Offers, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-2987

RIN: 3235-AD42

4436. ● SUMMARY PROSPECTUSES

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77j; 15 USC 77s

CFR Citation: 17 CFR 230; 17 CFR 239

Legal Deadline: None

Abstract: The Commission has proposed amendments to Rule 498 under the Securities Act of 1933 which would revise the issuer criteria and pre-filing requirements for use of summary prospectuses. Further, the information requirements applicable to summary prospectuses are proposed to be amended to include a summary of management's discussion and analysis of the issuer's financial condition and results of operations and disclosure regarding the risks associated with investment in the securities being offered.

Timetable:

Action	Date	FR Cite
NPRM	06/22/90	55 FR 22612

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Martin Dunn, Attorney Advisor, Office of Chief Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-2573

RIN: 3235-AD90

Securities Markets and Securities Industry Rules

4437. INITIATION OR RESUMPTION OF QUOTATIONS WITHOUT SPECIFIED INFORMATION

Significance: Agency Priority

Legal Authority: 15 USC 78w; 15 USC 78c; 15 USC 78j(b); 15 USC 78o(c); 15 USC 78q(a); 15 USC 78w(a)

CFR Citation: 17 CFR 240.15c2-11

Legal Deadline: None

Abstract: Rule 15c2-11 governs the submission and publication of quotations by brokers or dealers for certain over-the-counter securities. The rule applies principally to the initiation or resumption of quotations in the National Daily Quotation Service, which is also known as the "pink sheets." The Commission has proposed amendments to the rule that are intended to clarify and enhance a broker-dealer's obligation to obtain and maintain information before commencing or resuming quotations in the pink sheets. The proposed amendments will further the

SEC

Final Rule Stage

Commission's efforts to combat fraud and manipulative conduct in the penny stock market.

Timetable:

Action	Date	FR Cite
NPRM	09/15/89	54 FR 38194
NPRM Comment Period End	12/01/89	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Nancy J. Sanow, Assistant Director, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, N.W. (Stop 5-1), Washington, DC 20549, 202 272-2848

RIN: 3235-AA48

4438. RULE 15C2-10

Legal Authority: 15 USC 78b; 15 USC 78c; 15 USC 78k(a)-1; 15 USC 78o(c)(1); 15 USC 78o(c)(2); 15 USC 78w(a); 15 USC 78q; 15 USC 78q-1

CFR Citation: 17 CFR 15c2-10

Legal Deadline: None

Abstract: The Commission has proposed for comment a rule that would govern the operation of proprietary securities trading systems that are not operated as facilities of a national securities association or exchange.

Timetable:

Action	Date	FR Cite
NPRM	04/30/89	54 FR 15429
NPRM Comment Period End	09/02/89	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gordon K. Fuller, Special Counsel, Securities and Exchange Commission, Division of Market Regulation, 450 Fifth St., NW., Washington, DC 20549, 202 272-2414

RIN: 3235-AC94

4439. CUSTOMER PROTECTION RESERVES AND CUSTODY OF SECURITIES

Legal Authority: 15 USC 78o(c)(3); 15 USC 78w

CFR Citation: 17 CFR 240.15c3-3

Legal Deadline: None

Abstract: Because the borrowing of government securities plays an important role in the government securities market, the Commission believes that, for purposes of the customer protection rule, the categories of instruments that broker-dealers can provide to customer lenders of government securities should be expanded to include certain instruments currently not listed in the rule. Therefore, the Commission has proposed an amendment to the customer protection rule that would allow broker-dealers to provide, in addition to the instruments currently listed in the rule, certain government securities as the collateral in government securities borrowings.

Timetable:

Action	Date	FR Cite
NPRM	03/15/89	54 FR 10680
NPRM Comment Period End	05/01/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerry Carpenter, Special Counsel, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, NW., Washington, DC 20549, 202 272-2972

RIN: 3235-AD60

4440. NET CAPITAL REQUIREMENTS FOR BROKERS OR DEALERS

Legal Authority: 15 USC 78o(c)(3); 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: In response to the October 1987 market break and as a part of its comprehensive market break study, the Division of Market Regulation examined the specialist financial responsibility rules and specialist financial surveillance systems of the various exchanges. As a result, the Commission has proposed amendments to the net capital rule that, among other things, will make the rule applicable to certain specialists that are now exempt from the rule. In addition to the consequential overall financial accountability and discipline that results from the application of the net capital rule, the Commission believes it would be desirable to have a uniform measure whereby it may review the financial health and liquidity of all specialists at all exchanges.

Timetable:

Action	Date	FR Cite
NPRM	01/05/89	54 FR 315
NPRM Comment Period End	04/03/89	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jerry Carpenter, Special Counsel, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, NW., Washington, DC 20549, 202 272-3128

RIN: 3235-AD62

4441. NET CAPITAL REQUIREMENTS FOR BROKERS OR DEALERS

Significance: Agency Priority

Legal Authority: 15 USC 78o(c)(3); 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: In response to the October 1987 market break and as a part of its comprehensive market break study, the Division of Market Regulation examined the appropriate levels of minimum net capital required of registered broker-dealers. As a result, the Commission has proposed amendments to the net capital rule that, among other things, would raise the minimum net capital required of various classes of registered broker-dealers. The Commission believes that these higher levels of required net capital are justified based upon the risks posed by undercapitalized firms to customers and to the securities system as a whole.

Timetable:

Action	Date	FR Cite
NPRM	10/02/89	54 FR 40395
NPRM Comment Period End	12/18/89	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Michael Jamros, Branch Chief, Securities and Exchange Commission, Division of Market

SEC

Final Rule Stage

Regulation, 450 5th Street, N.W. (Stop 5-1), Washington, DC 20549, 202 272-2372

RIN: 3235-AD79

4442. EXEMPTION OF STOCK CONTAINED IN STANDARDIZED MARKET BASKETS FROM SECTION 12(A) OF THE SECURITIES EXCHANGE ACT OF 1934

Legal Authority: 15 USC 78a et seq; 15 USC 78c; 15 USC 78f; 15 USC 781; 15 USC 78w

CFR Citation: 17 CFR 240.12a-7

Legal Deadline: None

Abstract: The Commission has proposed Rule 12a-7, which would exempt from registration under Section 12(a) of the Securities Exchange Act of 1934 securities that are traded as part of a market basket transaction, provided that each component security otherwise is a national market system security, is listed and registered on another national securities exchange or quoted on the National Association of Securities Dealers Automated Quotation System and is part of a standardized market basket containing at least 100 securities. The proposed rule, if adopted, would reduce costs to national securities exchanges because without the exemption such exchanges would either have to apply for unlisted trading privileges, or register, under Section 12 of the Act securities that are only traded on their exchange as part of a market basket. In addition, the proposed rule should not have any significant economic impact on small issuers because the trading of stocks solely as part of a market basket should not impact the primary market for the individual securities comprising the market basket.

Timetable:

Action	Date	FR Cite
NPRM	03/28/90	55 FR 11387
NPRM Comment Period End	04/27/90	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Lawson, Special Counsel, Division of Market Regulation, Securities and Exchange Commission, 450 5th Street, N.W. (Stop 5-1), Washington, DC 20549, 202 272-2436

RIN: 3235-AD04

4443. ◉ PROHIBITED TRANSACTIONS IN CONNECTION WITH PARTIAL TENDER OFFERS

Legal Authority: 15 USC 78c(b); 15 USC 78j(a); 15 USC 78n(e); 15 USC 78o(c); 15 USC 78w(a); 15 USC 78j(b)

CFR Citation: 17 CFR 240.14e-4

Legal Deadline: None

Abstract: The staff is considering whether to recommend that the Commission adopt final amendments to Rule 10b-4, governing short tendering, to clarify the determination of a person's net long position and to redesignate the rule as Rule 14e-4. Rule 14e-4 will continue to prohibit both short and hedged tendering. The amendments are not intended to effect any substantive change in the operation of current Rule 10b-4.

Timetable:

Action	Date	FR Cite
NPRM	03/15/89	54 FR 10675
NPRM Comment Period End	05/14/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy J. Sanow, Assistant Director, Office of Trading Practices, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, N.W. (STOP 5-1), Washington, DC 20549, 202 272-2848

RIN: 3235-AE08

Investment Management Rules

4444. SIMPLIFICATION OF REGISTRATION STATEMENTS FILED BY UNIT INVESTMENT TRUSTS

Significance: Agency Priority

Legal Authority: 15 USC 80a-8; 15 USC 77g; 15 USC 77j

CFR Citation: 17 CFR 239.16; 17 CFR 274.12

Legal Deadline: None

Abstract: On March 9, 1987, the Commission reproposed for public comment Form N-7, a new form for registering unit investment trusts("UITS") and their securities under the Investment Company Act of 1940 and the Securities Act of 1933. Form N-7 was originally proposed by the Commission on May 14, 1985. Adoption of Form N-7 would (i) codify the disclosure requirements for UITS into one form; (ii) codify the disclosure standards that have been developed for UITS; and (iii) shorten and simplify the prospectus used in connection with the sale of units in both the initial offering and in the secondary market maintained by the sponsor. The requirement for audited financial statements would be eliminated under certain circumstances. Under the reproposal, the requirement that registrants include certain third party financial statements in the registration statement would be extended to insurers as well as guarantors of portfolio securities of the trust.

Timetable:

Action	Date	FR Cite
NPRM	05/23/85	50 FR 21282
NPRM Comment Period End	12/31/87	
Final Action	12/31/90	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT:

Agency Contact: Jill Nathans, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-2060

RIN: 3235-AA47

4445. AMENDMENTS TO FORM N-2

Legal Authority: 15 USC 80a-8 Investment Company; 15 USC 77g Securities Act; 15 USC 77j Securities Act

CFR Citation: 17 CFR 239.14; 17 CFR 274.11a-1

Legal Deadline: None

Abstract: Form N-2 is the registration statement form under the Investment Company Act of 1940 and the Securities Act of 1933 for closed-end management investment companies other than small business investment companies and companies that issue periodic payment plan certificates or are sponsors or depositors of companies issuing such

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certificates. Included within the registration statement are the companies' prospectuses used in offering their securities to the public. The Commission has proposed a simplified three-part form because current prospectuses have become too cumbersome for the average investor to understand and current requirements result in the disclosure of much information that is not necessarily material to an investment decision.

Timetable:

Action	Date	FR Cite
NPRM	08/11/89	54 FR 32957
NPRM Comment Period End	10/20/89	
Final Action	12/31/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ruth S. Hanson, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, DC 20549, 202 272-2107

RIN: 3235-AB40

4446. REGISTRATION UNDER THE SECURITIES ACT OF 1933 OF AN INDEFINITE NUMBER OF CERTAIN INVESTMENT COMPANY SECURITIES

Legal Authority: 15 USC 80a-37; 15 USC 80a-24

CFR Citation: 17 CFR 230.24f-3

Legal Deadline: None

Abstract: The Commission has published for public comment proposed Rule 24f-3 under the Investment Company Act of 1940 that would simplify filing requirements under Section 24(f) of the Investment Company Act by allowing a unit investment trust to register an indefinite number of securities solely for secondary market purposes and to pay no registration fee on secondary market sales.

Timetable:

Action	Date	FR Cite
NPRM	03/13/87	52 FR 8202
NPRM Comment Period End	05/15/87	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kenneth Berman, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, DC 20549, 202 272-2107

RIN: 3235-AC10

4447. DISCLOSURE OF SECURITY RATINGS IN REGISTRATION STATEMENTS OF MONEY MARKET FUNDS

Legal Authority: 15 USC 77(g); 15 USC 77(i); 15 USC 77(s)(a)

CFR Citation: 17 CFR 230.134; 17 CFR 230.436; 17 CFR 230.482

Legal Deadline: None

Abstract: The Commission has proposed amendments to Rules 134, 436, and 482 under the Securities Act of 1933. The amendments, if adopted, would permit certain investment companies to use in their statutory and omitting prospectuses a security rating assigned by a nationally recognized statistical rating organization (NRSRO) without first obtaining the NRSRO's consent to being named pursuant to Section 7 of the Securities Act. In connection with proposing amendments to Rule 2a-7, the Commission has requested additional comments on this proposal.

Timetable:

Action	Date	FR Cite
NPRM	07/17/90	51 FR 9838

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kenneth Berman, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 Fifth Street, N.W. (Stop 5-2), Washington, DC 20549, 202 272-2107

RIN: 3235-AC24

4448. DIVERSIFICATION BY EXEMPT HOLDING COMPANIES

Legal Authority: 15 USC 79c(a)(1); 15 USC 79t(a)

CFR Citation: 17 CFR 250.17; 17 CFR 250.2; 17 CFR 259.402

Legal Deadline: None

Abstract: Proposed Rule 17 clarifies under what conditions diversification into non-utility enterprises would not be deemed detrimental to the public interest or the interest of investors or consumers within the meaning of the "unless and except" clause of Section 3(a)(1) of the Public Utility Holding Company Act of 1935. The rule would provide two alternative "safe harbors". A companion proposed amendment to Rule 2 under the Act would require that, in order for a claim of exemption under Rule 2 to be effective, the claimant must meet one of the safe harbor provisions of Rule 17. Also proposed is an amendment to Form U-3A-2, the statement filed annually by holding companies claiming exemptions under Rule 2, that would request information necessary to determine whether a Rule 2 claim of exemption by an intrastate holding company was meritorious in light of the requirement added to Rule 2. These proposals could significantly increase regulatory compliance costs for those intrastate public utility holding companies that have diversified operations, or that intend to do so. The proposals could require such a company to forego acquisition of (cont)

Timetable:

Action	Date	FR Cite
NPRM	02/07/89	54 FR 6761
NPRM Comment Period End	05/15/89	54 FR 29739
Final Action	03/31/91	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: ABSTRACT CONT: an unrelated non-utility interest or to divest such an interest previously acquired; or alternatively, to seek enactment by the legislature in its state of organization of a utility holding company statute that addresses diversification activities.

Agency Contact: William C. Weeden, Assistant Director, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW., Washington, DC 20549, 202 272-7689

RIN: 3235-AD39

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4449. AMENDMENT TO RULE 31A-2 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 31(a); 15 USC 38; 15 USC 40

CFR Citation: 17 CFR 270.31a-2

Legal Deadline: None

Abstract: Rule 31a-2 specifies where and how long books and records, required to be maintained by United States registered investment companies and other persons, must be preserved. The Commission has proposed for public comment an amendment to the rule that is intended to remove uncertainty regarding the location and language aspects of the recordkeeping requirements for United States registered investment companies, particularly those investment companies investing in foreign securities.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Rochelle G. Kauffman, Senior Staff Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W.(Stop 5-2), Washington, DC 20549, 202 272-2048

RIN: 3235–AD66

4450. DISCLOSURE AND ANALYSIS OF MUTUAL FUNDS PERFORMANCE INFORMATION; PORTFOLIO MANAGER DISCLOSURE

Significance: Agency Priority

Legal Authority: 15 USC 80a-29(b); 15 USC 80a-37(a); 15 USC 80a-30

CFR Citation: 17 CFR 274.11a; 17 CFR 230.485(b); 17 CFR 270.34b-1; 17 CFR 270.31a-1; 17 CFR 270.31a-2; 17 CFR 239.23

Legal Deadline: None

Abstract: The Commission has proposed amendments to the disclosure requirements for mutual funds, that would include alternative amendments for providing investors information about the investment results achieved by funds. The first proposal would require management to discuss and analyze the mutual fund's performance during its previous fiscal year and the techniques used to achieve that performance in light of the fund's objectives. The second proposal would require a comparison of fund performance over certain time periods to the performance of an appropriate securities index over the same periods. The proposed amendments also would require disclosure about persons who significantly contribute to the investment advice relied on by funds. Finally, the proposed amendments would shorten and simplify the per share table contained in the prospectus.

Timetable:

Action	Date	FR Cite
NPRM	01/16/90	55 FR 1460
NPRM Comment Period End	03/12/90	
Final Action	12/31/90	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Larisa Dobriansky, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, DC 20549, 202 272-2107

RIN: 3235–AD81

4451. ● MONEY MARKET FUND RULE PROPOSALS

Significance: Agency Priority

Legal Authority: 15 USC 80a-2(a)(41); 15 USC 80a-6(c); 15 USC 80a-33(b)(1); 15 USC 80a-34(b); 15 USC 80a-36(a); 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77s; 15 USC 78m; 15 USC 78n; 15 USC 78w; 15 USC 78; 15 USC 80a-37

CFR Citation: 17 CFR 230.482; 17 CFR 239.15A17270.2a-7; 17 CFR 270.34b-1; 17 CFR 274.11A; 17 CFR 274.11c

Legal Deadline: None

Abstract: The proposals would address the problems caused by developments in the money markets since 1983, and the fact that a small group of money market funds are not subject to the conditions of rule 2a-7. The proposals would tighten the conditions of the rule relating to the diversity and quality of money market investments and would require all money market funds to meet certain conditions of the rule. The alternatives considered included the simplification of compliance and reporting requirements under rule 2a-7 and exempting small money market funds from one or more conditions of the rule. The proposals will only add an estimated one hour of additional compliance time for each of the 467 money market funds, and will benefit public investors by increasing the likelihood that a money market fund will be able to maintain a stable net asset value.

Timetable:

Action	Date	FR Cite
NPRM	07/25/90	55 FR 30239
NPRM Comment Period End	09/24/90	
Final Action	11/30/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard Pfordte, Senior Attorney, Securities and Exchange Commission, 450 5th Street, N.W. (STOP 5-2), Investment Management, Washington, DC 20549, 202 272-2811

RIN: 3235–AD91

SECURITIES AND EXCHANGE COMMISSION (SEC) — Completed Actions

4452. PROPOSALS REGARDING INDUSTRY SEGMENT AND OTHER INTERIM FINANCIAL REPORTING MATTERS, MANAGEMENT'S DISCUSSION AND ANALYSIS, AND OFF BALANCE SHEET FINANCING DISCLOSURES

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s(a); 15 USC 77aa(25) to 77aa(26); 15 USC 78l; 15 USC 78m; 15 USC 78o(d); 15 USC 78w(a); 15 USC 78s(b); 15 USC 78x; 15 USC 79t(a); 15 USC 80a-8; 15 USC 80a-29

CFR Citation: 17 CFR 210.5-02; 17 CFR 210.10-01; 17 CFR 210.11-02; 17 CFR 229.303

Legal Deadline: None

Abstract: The Commission proposed amendments to require: (1) presentation of certain industry segment information for interim periods; (2) a discussion of reportable segments in management's discussion and analysis; and (3) modifications of other miscellaneous interim reporting requirements. The release also provided advance notice of possible future rulemaking requiring (1) additional segment reporting disclosures and (2) uniform disclosure of off balance sheet financing arrangements. The proposals were designed to enhance analysis of financial information. They may entail some new recordkeeping, but the costs, if any, associated with the additional recordkeeping have not been determined. The Commission's interim reporting rules will be reviewed as part of this project.

Timetable:

Action	Date	FR Cite
NPRM	02/15/84	49 FR 6737
NPRM Comment Period End	05/16/84	
Withdrawn	10/11/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John W. Albert, Associate Chief Accountant, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street, NW., Washington, DC 20549, 202 272-2130

RIN: 3235-AB15

4453. ACQUISITIONS OF SUBSTANTIAL AMOUNTS OF SECURITIES AND RELATED ACTIVITIES DURING AND FOLLOWING A TENDER OFFER FOR THOSE SECURITIES

Legal Authority: 15 USC 78c(b); 15 USC 78m(e); 15 USC 78n(d); 15 USC 78w(a); 15 USC 78o(c); 15 USC 78t(b)

CFR Citation: 17 CFR 240.13e-2(New); 17 CFR 240.14d-11(New)

Legal Deadline: None

Abstract: The Commission proposed Rules 13e-2 and 14d-11 that would require that, subject to certain exceptions, purchases, offers to purchase, arrangements or understandings to purchase and solicitations of offers to sell securities undertaken during and shortly after a tender offer that would increase any person's ownership of the class of securities subject to the tender offer by 10% or more of the class be made in compliance with the statutory provisions and rules applicable to tender offers. The proposed rules would have applied to all persons from the formal commencement of a tender offer until 10 business days after the scheduled expiration date. The proposal also would have subjected a bidder to the same requirements from the time it commenced a tender offer by public announcement until it either formally commenced a tender offer by some other means or 30 business days after it made a subsequent public announcement stating that it had determined not to continue with the tender offer.

Timetable:

Action	Date	FR Cite
ANPRM	07/31/86	51 FR 28006
ANPRM Comment Period End	12/01/86	
NPRM	10/01/87	52 FR 37472
NPRM Comment Period End	12/07/87	
Withdrawn	09/22/90	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: David A. Sirignano, Chief, Office of Tender Offers, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-2887

RIN: 3235-AA50

4454. FORM S-8 REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

Significance: Agency Priority

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77j; 15 USC 77s(a); 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78w(a)

CFR Citation: 17 CFR 239.16b

Legal Deadline: None

Abstract: The Commission has adopted major revisions to the procedures for registering employee benefit plan securities on Form S-8. The revisions reduce costs to registrants by eliminating the need to prepare and file separate documents for Federal securities law purposes that duplicate information otherwise provided to plan participants, while assuring timely delivery of information necessary for participants to make informed investment decisions.

Timetable:

Action	Date	FR Cite
NPRM	06/12/89	54 FR 25038
NPRM Comment Period End	08/15/89	
Final Action	08/13/90	55 FR 23909
Final Action Effective	08/13/90	55 FR 23909

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Elizabeth M. Murphy, Special Counsel, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-2589

RIN: 3235-AB79

4455. RESALE OF RESTRICTED SECURITIES; CHANGES TO METHOD OF DETERMINING HOLDING PERIOD OF RESTRICTED SECURITIES

Significance: Agency Priority

Legal Authority: 15 USC 77d(1); 15 USC 77d(3); 15 USC 77s(a)

CFR Citation: 17 CFR 230.144A(New); 17 CFR 230.144; 17 CFR 230.145

Legal Deadline: None

Abstract: The Commission adopted Rule 144A, which provides a safe harbor exemption from the registration requirements of the Securities Act of 1933 for "qualified institutional buyers" as defined in the Rule. The Commission also adopted amendments to Rules 144 and 145 under the Securities Act, which redefine the required holding period for restricted securities, whether acquired pursuant to Rule 144 or otherwise.

Timetable:

Action	Date	FR Cite
Original NPRM	10/25/88	53 FR 44016
Extension of Comment Period	12/08/88	53 FR 50009
NPRM	07/11/89	54 FR 30076
NPRM Comment Period End	09/12/89	
Final Action	04/30/90	55 FR 17933
Final Action Effective	04/30/90	55 FR 17933

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mary E.T. Beach, Associate Director, Office of International Corporate Finance, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-2555

RIN: 3235-AC65

4455. COMMUNICATIONS NOT DEEMED A PROSPECTUS

Legal Authority: 15 USC 77b; 15 USC 77s

CFR Citation: 17 CFR 230.134

Legal Deadline: None

Abstract: The staff was considering whether to recommend that the Commission propose amendments to Rule 134 of the Commission's rules and regulations under the Securities Act of 1933 that would permit direct participation programs such as limited partnerships to include additional information in their Rule 134 tombstone advertisements. The staff is no longer considering the proposal.

Timetable:

Action	Date	FR Cite
Withdrawn	08/22/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William E. Morley, Associate Director, Chief Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-2573

RIN: 3235-AD22

4457. REGULATION S - RULES GOVERNING OFFERS AND SALES MADE OUTSIDE THE UNITED STATES WITHOUT REGISTRATION UNDER THE SECURITIES ACT OF 1933

Significance: Agency Priority

Legal Authority: 15 USC 77b; 15 USC 77d; 15 USC 77s

CFR Citation: 17 CFR 230.901 to 230.909 (New)

Legal Deadline: None

Abstract: The Commission adopted Regulation S, which is intended to clarify the extraterritorial application of the registration provisions of the Securities Act of 1933. The Regulation generally provides that any offer or sale that occurs outside the United States is not subject to Section 5. Additionally, the Regulation provides two "safe harbors" for specified transactions. Offers and sales meeting all of the conditions of the applicable safe harbor are deemed to be outside the United States, and, therefore, not subject to Section 5.

Timetable:

Action	Date	FR Cite
Original NPRM	08/10/88	53 FR 22661
Extension of comment period	09/24/88	53 FR 37147
NPRM	07/11/89	54 FR 30068
NPRM Comment Period End	09/12/89	
Final Action	05/02/90	55 FR 18306
Final Action Effective	05/02/90	55 FR 18306

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Mary E.T. Beach, Associate Director, Office of International Corporate Finance, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-2555

RIN: 3235-AD23

4458. AUTOMATICALLY EFFECTIVE POST-EFFECTIVE AMENDMENTS FOR ACQUISITIONS BY CERTAIN LIMITED PARTNERSHIPS

Legal Authority: 15 USC 77b; 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s

CFR Citation: 17 CFR 230.485(New); 17 CFR 230.424; 17 CFR 229.501(c); 17 CFR 230.408

Legal Deadline: None

Abstract: The Commission proposed for comment two alternative forms of a new Rule 485 that would provide for the automatic effectiveness of post-effective amendments filed by limited partnerships during the distribution period, provided that such amendments relate to significant acquisitions and contain required financial statements, financial information and textual information. The staff is no longer considering the proposal.

Timetable:

Action	Date	FR Cite
NPRM	07/06/88	53 FR 25714
NPRM Comment Period End	08/12/88	
Withdrawn	08/22/90	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Elizabeth M. Murphy, Special Counsel, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-2589

RIN: 3235-AD24

4459. SHAREHOLDER LISTS

Legal Authority: 15 USC 78n; 15 USC 78w(a)

CFR Citation: 17 CFR 240.14a-7; 17 CFR 240.14d-5

Legal Deadline: None

Abstract: The staff is considering in connection with its review of the Commission's proxy rules (as noted in the portion of this agenda discussing the Commission's review of the proxy rules) whether to recommend that the Commission propose amendments to give a security holder the right, under specified circumstances, to obtain a list of the names, addresses and holdings of certain of the registrant's shareholders. Therefore, this item is no longer being

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considered by the staff as a separate rulemaking proposal.

Timetable:

Action	Date	FR Cite
Withdrawn	08/22/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann D. Wallace, Chief, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-2589

RIN: 3235–AD41

4460. LOCK-BOX RULES

Legal Authority: 15 USC 77s(a); 15 USC 78w(a); 15 USC 77f

CFR Citation: 17 CFR 230.112(New); 17 CFR 240.0-12(New); 17 CFR 230.456; 17 CFR 201

Legal Deadline: None

Abstract: The staff was considering whether to recommend that the Commission propose procedures regarding payment of fees to the lock-boxes designated at 17 CFR 202.3a. The Commission's Office of the Executive Director is considering this proposal. Accordingly, the Division of Corporation Finance is no longer considering this proposal.

Timetable:

Action	Date	FR Cite
Withdrawn	09/22/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Anne M. Krauskopf, Special Counsel, Office of Chief Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-2573

RIN: 3235–AD43

4461. DISCLOSURE OF THE BASES FOR A BOARD OF DIRECTORS' EVALUATION OF AN EXTRAORDINARY CORPORATE TRANSACTION

Legal Authority: 15 USC 78m; 15 USC 78n; 15 USC 78w

CFR Citation: 17 CFR 229.703(New); 17 CFR 240.13e-100; 17 CFR 240.13e-101; 17 CFR 240.14a-101; 17 CFR 240.14d-1 to 240.14f-1

Legal Deadline: None

Abstract: The staff is considering whether to recommend that the Commission propose rules that would promote shareholder analysis of extraordinary corporate transactions recommended or approved by the board of directors of the subject company. Amendments would be proposed to Rule 13e-3 and Schedule 13E-3 to apply those provisions to transactions where it is anticipated that management will have a significant interest in the transaction, such as an equity interest in the surviving entity. The proposals also would adopt enhanced disclosure requirements, similar to those of Rule 13e-3 for a broader class of extraordinary transactions. The objective of the proposals would be to provide investors with more information concerning the transaction (including the values inherent in the transaction) and the evaluation processes of the board of directors. In connection with this rulemaking project, a review of Rules 13e-3 and 14d-1 through 14f-1 and Schedule 13E-3 for Regulatory Flexibility Act purposes will be conducted.

Timetable:

Action	Date	FR Cite
Withdrawn	10/11/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David A. Sirignano, Chief, Office of Tender Offers, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-2097

RIN: 3235–AD53

4462. FOREIGN ISSUER REPORTING ON FORM 20-F UNDER THE SECURITIES EXCHANGE ACT OF 1934

Legal Authority: 15 USC 77s; 15 USC 78w

CFR Citation: 17 CFR 249.220f

Legal Deadline: None

Abstract: In connection with its multijurisdictional disclosure rulemaking project (as noted in the portion of this agenda discussing that project) the staff will continue to consider whether to recommend that the Commission propose revisions to Form 20-F to permit its use by Canadian issuers in all circumstances. Therefore, this item is no longer being considered by the staff as a separate rulemaking proposal.

Timetable:

Action	Date	FR Cite
Withdrawn	08/22/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mary E.T. Beach, Associate Director, Office of International Corporate Finance, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW., Washington, DC 20549, 202 272-2585

RIN: 3235–AD71

4463. ● PROSPECTUS DELIVERY REQUIREMENTS UNDER RULE 15C2-8

Legal Authority: 15 USC 78o; 15 USC 78w

CFR Citation: 17 CFR 249.15c2-8

Legal Deadline: None

Abstract: Review of the prospectus delivery requirements under Rule 15c2-8 was completed by the Commission's staff on August 15, 1990.

Timetable:

Action	Date	FR Cite
End Review Review of existing rule completed	08/15/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Sheila Slevin, Attorney, Office of Trading Practices, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, N.W. Stop 5-1, Washington, DC 20549, 202 272-2848

RIN: 3235–AD99

4464. ● RULES 15AA-1 AND 15AJ-1 OF THE SECURITIES EXCHANGE ACT OF 1934

Legal Authority: 15 USC 78o-3

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CFR Citation: 17 CFR 240.15Aa-1; 17 CFR 240.15Aj-1

Legal Deadline: None

Abstract: Review of Rules 15Aa-1 and 15Aj-1 was completed by the Commission's staff on August 7, 1990.

Timetable:

Action	Date	FR Cite
End Review Review of existing rule completed	08/07/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark P. Barracca, Law Clerk, Office of Trading Practices, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, NW., Washington, DC 20549, 202 272-2853

RIN: 3235-AE00

4465. PROPOSED RULE 6C-11 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.6c-11(New)

Legal Deadline: None

Abstract: The staff is considering this proposal in the context of a comprehensive study of the Investment Company Act of 1940. The staff is no longer considering the proposal as a separate rulemaking proposal.

Timetable:

Action	Date	FR Cite
Withdrawn	09/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Pfordte, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, DC 20549, 202 272-2511

RIN: 3235-AC03

4466. PROPOSED AMENDMENTS TO RULE 12D3-1 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37

CFR Citation: 17 CFR 270.12d3-1

Legal Deadline: None

Abstract: The Commission had proposed, and received comments on, amendments to rule 12d3-1 that would facilitate the acquisition by investment companies of the equity securities of foreign securities firms. The staff is now considering this proposal in the context of a comprehensive study of the Investment Company Act of 1940. The staff is no longer considering the proposal as a separate rulemaking proposal.

Timetable:

Action	Date	FR Cite
NPRM	08/11/89	54 FR 33027
NPRM Comment Period End	10/10/89	
Withdrawn	09/30/90	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Diane C. Blizzard, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W.(Stop 10-4), Washington, D. C. 20549, 202 272-2048

RIN: 3235-AD19

4467. ● REVIEW OF RULES 27A-1, 27A-2, 27A-3, 27C-1 AND 27D-2 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.27a-1; 17 CFR 270.27a-2; 17 CFR 270.27a-3; 17 CFR 270.27c-1; 17 CFR 270.27d-2

Legal Deadline: None

Abstract: Review of Rules 27a-1, 27a-2, 27a-3, 27c-1 and 27d-2 under the Investment Company Act of 1940 was completed by the Commission's staff on August 15, 1990.

Timetable:

Action	Date	FR Cite
End Review Review of existing rule - no change	08/15/90	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Carolyn A. Miller, Senior Financial Analyst, Office of Financial Analysis and Inspections, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW., Washington, DC 20549, 202 272-2762

RIN: 3235-AE01

4468. ● REVIEW OF RULE 27G-1 AND 27H-1 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.27g-1; 17 CFR 270.27h-1

Legal Deadline: None

Abstract: Review of Rules 27g-1 and 27h-1 under the Investment Company Act of 1940 was completed by the Commission's staff on August 15, 1990.

Timetable:

Action	Date	FR Cite
End Review Review of existing rule - no change	08/15/90	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Carolyn A. Miller, Senior Fiancial Analyst, Office of Financial Analysis and Inspections, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW., Washington, DC 20549, 202 272-2762

RIN: 3235-AE02

4469. ● REVIEW OF RULE 17J-1 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-17(j); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17j-1

Legal Deadline: None

Abstract: Review of Rule 17j-1 under the Investment Company Act of 1940 was completed by the Commission's staff on August 15, 1990.

Timetable:

Action	Date	FR Cite
End Review Review of existing rule - no change	08/15/90	

Small Entities Affected: Businesses

SEC

Completed Actions

Government Levels Affected: None

Agency Contact: Carolyn A. Miller, Senior Financial Analyst, Office of Financial Analysis and Inspections, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW., Washington, DC 20549, 202 272-2782

RIN: 3235-AE07

4470. ● REVIEW OF RULE 27D-1 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.27d-1

Legal Deadline: None

Abstract: Review of Rule 27d-1 under the Investment Company Act of 1940 was completed by the staff on August 15, 1990.

Timetable:

Action	Date	FR Cite
End Review Review of existing rule - no change	08/15/90	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carolyn A. Miller, Senior Financial Analyst, Office of Financial Analysis and Inspections, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW., Washington, DC 20549, 202 272-2782

RIN: 3235-AE07

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Rules and Regulations

Federal Register
Vol. 55, No. 210
Tuesday, October 30, 1990

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 40

RIN 3150-AC56

Custody and Long-Term Care of Uranium and Thorium Mill Tailings Disposal Sites

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations by issuing general licenses that will permit NRC to license the custody and long-term care of reclaimed or closed uranium or thorium mill tailings sites after remedial action or closure under the Uranium Mill Tailings Radiation Control Act has been completed. The intended effect of this action is to provide a surveillance procedure to ensure continued protection of the public health and safety and the environment. This action is necessary to meet the requirements of Titles I and II of the Uranium Mill Tailings Radiation Control Act.

EFFECTIVE DATE: November 29, 1990.

FOR FURTHER INFORMATION CONTACT: Mark Haisfield, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Mail Stop NLS-260. Telephone (301) 492-3877.

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II. Summary of Final Rule
III. Uranium Mill Tailings Remedial Action Amendments Act of 1988
IV. The Stabilization and Long-Term Care Program (Title I and Title II)
V. The Long-Term Surveillance Plan (Title I and Title II)
VI. Future Uses of the Disposal Site
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I. Background

In the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA), the Congress recognized that uranium mill tailings may pose a potentially significant radiation health hazard to the public. One of the measures enacted by Congress to control this hazard is to place the long-term care of the uranium or thorium mill tailings disposal site, after completion of all remedial actions or closure, in the hands of State or Federal government.

Title I of UMTRCA defines the statutory authority and roles of the Department of Energy (DOE) and the NRC with regard to the remedial action program for inactive uranium mill tailings sites. Title I requires that, upon completion of the remedial action program by DOE, the permanent disposal sites be cared for by the DOE or other Federal agency designated by the President, under a license issued by the Commission. Title II of UMTRCA contains similar requirements for NRC licensing of presently active uranium or thorium mill tailings sites following their closure and license termination. These disposal sites would be licensed by the Commission upon their transfer to the Federal Government or the State in which they are located, at the option of the State. These regulations will complement other UMTRCA required regulations which have been completed and cover activities through closure.

An Advance Notice of Proposed Rulemaking was issued on August 25, 1988 (53 FR 32396). The proposed rule was issued on February 6, 1990 (55 FR 3970).

II. Summary of Final Rule

The regulatory additions to 10 CFR part 40 will provide for two new general licenses. The general licenses in § 40.27 and § 40.28 will correspond to Title I and Title II of UMTRCA, respectively. The provisions in § 40.27 would apply to inactive sites and the provisions in § 40.28 would apply to active sites. Although the requirements in § 40.27 and § 40.28 will differ somewhat due to the differences in Title I and Title II of the Act, the goals to be achieved by the long-term care licensee are the same.

These regulations deal only with uranium or thorium mill tailings sites after remedial actions (for Title I) or closure activities (for Title II) have been completed to meet applicable closure standards. UMTRCA stipulates the Federal government (normally DOE) as the long-term care licensee, and thereby the owner, except in the case of a Title II disposal site where the State may elect to be the long-term care licensee. In lieu of any such State election, the Federal government will become the long-term care licensee. The NRC will receive a detailed Long-Term Surveillance Plan (LTSP) from DOE or an appropriate State which will discuss ownership (whether Federal or State), disposal site conditions, the surveillance program, required follow-up inspections, and how and when emergency repairs and, if necessary planned maintenance, will be accomplished. Unless the Commission is formally notified by the appropriate State, the DOE will submit the LTSP and will be the long-term care licensee. (See the section entitled "The Long-Term Surveillance Plan.") The general license will become effective for each individual Title I or Title II disposal site upon NRC receipt of an LTSP that meets the requirements of the general license and either NRC concurrence in completion of remedial actions (Title I site) or termination of the Title II site license.

For disposal sites governed by the provisions of § 40.27 (Title I sites), the general license applies only to the DOE or another Federal agency designated by the President. For disposal sites governed under the provisions of § 40.28 (Title II sites), DOE, or another Federal agency, will prepare and submit the LTSP, unless the State, at its option, decides to take custody of the site and be included in the general license. In the latter case the State would prepare and submit the LTSP. The authority to grant a long-term care license is reserved to the NRC. States may be the long-term care agency, but are not authorized to grant this type of license. (See section 83 b(1)(A) of the Atomic Energy Act of 1954, as amended, and 10 CFR 150.15a(b)(5)).

The general licensees for long-term care are exempted from 10 CFR parts 19, 20, and 21. These parts cover notices, instructions, notifications to workers, and inspection in part 19, standards for protection against radiation in part 20, and reporting of defects and noncompliance in part 21. These parts deal with operational activities. A general license for long-term care covers activities after the operation and clean-up of the site has been completed. Under normal circumstances the long-term care licensee will spend a day or two at each disposal site each year to confirm that the site's conditions are as expected. The disposal site will comply with 40 CFR part 192, subparts A, B, and C (for Title I sites) and 10 CFR part 40 Appendix A criteria (for Title II sites), which essentially eliminate direct radiation and air particulates and control radon releases within specified limits. Disposal site closure will, therefore, eliminate the need for specific radiation controls as specified in parts 19, 20, and 21 under normal conditions.

If damage to the disposal site requires significant repairs, then the long-term care licensee must notify NRC and describe the necessary repairs. Since worker radiation protection and occupational exposure reporting may be necessary during such repair efforts, the long-term care licensee will identify the appropriate requirements of 10 CFR parts 19, 20, and 21 to be applied. NRC may then impose appropriate portions of the above parts or regulations by order on a site specific basis depending upon the damage and the type of repairs necessary.

A minor administrative change is being made to 10 CFR part 40 appendix A Criterion 12 to allow for a more efficient reporting program. Criterion 12 states that inspection results must be reported to the Commission within 60 days following each inspection. Because each long-term care licensee, primarily the Department of Energy, will most likely have multiple disposal sites, this rule will allow annual reports that cover all of these sites under their jurisdiction. Any disposal site where unusual damage or disruption is discovered during the inspection, however, will require a preliminary inspection report to be submitted within 60 days. The timing for submittal of the annual report will be based on when the long-term care licensee will be doing the inspections and will be submitted within 90 days of the date of the annual inspection of the last site inspected.

Criterion 12 currently deals with Title II licensees. It is being amended to include Title I licensees. Provisions in § 40.27 (Title I disposal sites) will reference Criterion 12 so that the same reporting requirements for Title II licensees will apply for Title I licensees.

There are some differences in requirements for mill tailings located on Indian lands. Where the disposal site is on Indian tribal lands, the tribes retain ownership. An exception is provided in Section 105(b) of UMTRCA, which states that in those cases where the residual radioactive material from processing sites on Indian land is relocated to a permanent disposal area not on Indian land, the DOE shall acquire title to the residual radioactive material and the disposal site. The NRC and DOE have generally agreed that disposal sites on Indian lands should be handled in the same manner as other Title I disposal sites, including conduct of surveillance under proposed § 40.27. We also understand that DOE and the appropriate Indian tribes have agreed that DOE would provide for long-term care. Four of the 24 Title I processing sites are on Indian lands. Three of these sites will also serve as disposal sites (the residual radioactive material from two of these locations will be consolidated at one disposal site).

For Title II disposal sites on Indian lands it is not clear who will be responsible for monitoring, maintenance, and emergency measures at the site. Currently, the Western Nuclear Sherwood Uranium Mill located in the State of Washington is the only site that falls into this category. UMTRCA provides that long-term surveillance will be done by the Federal government and that the licensee will be required to enter into arrangements with the Commission to ensure this surveillance. However, UMTRCA was not explicit as to which Federal agency is responsible for the disposal site, and should this site ever require emergency measures, additional authorizations may be required. The basic obligations for this site have already been codified in 10 CFR part 40, Appendix A, Criterion 11F, and are not part of this rulemaking. NRC is providing flexibility in this area and will work out long-term care arrangements for these disposal sites on a case-by-case basis.

Both § 40.27 and § 40.28 allow for potential future uses of the disposal sites. As provided in UMTRCA, any future use would require a separate Commission license to assure that the site remains or is restored to a safe and environmentally sound condition. See the "Future Uses of the Disposal Site" section.

The rulemaking provides for a general license to governmental bodies for custody and long-term care of uranium or thorium mill tailings sites after closure, pursuant to statute. Therefore, this rulemaking has no significant impact upon the private sector. However, the staff recognizes that there may be cases where communication and sharing of information between the current licensee and the future long-term care licensee may be appropriate. This communication will allow the long-term care licensee to better prepare the Long-Term Surveillance Plan by having more knowledge of how site closure was accomplished.

III. Uranium Mill Tailings Remedial Action Amendments Act of 1988 (Amendments Act)

The Amendments Act was signed by the President on November 5, 1988, and provides among other things an extension of the UMTRCA Title I program. It allows the Department of Energy until September 30, 1994 (previously 1990) to perform remedial actions at designated uranium mill tailings sites and vicinity properties. There is one major exception to the 1994 deadline. The authority to perform ground water restoration activities is extended without limitation. However, to meet the current proposed Environmental Protection Agency (EPA) ground water standard, compliance with the ground water protection provisions at the disposal site would still need to be accomplished by the 1994 date.

The reason for the extension to 1994 is to allow DOE enough time to complete remedial actions at all designated processing sites. The ground water restoration extension was provided due to the potential that it may take DOE decades to comply with EPA ground water standards for some processing sites. EPA is currently issuing new ground water standards in response to a September 3, 1985 decision by the 10th Circuit Court of Appeals in which the ground water provisions of the EPA uranium mill tailings standards (40 CFR 192. 20(a)(2-3)) for Title I processing sites were set aside and remanded to EPA. Based on the proposed EPA standards (52 FR 36000; September 24, 1987), the DOE believes that ground water restoration activities will take significantly more time than originally planned. The new standards have not yet been made final. Until final ground water standards are promulgated, UMTRCA requires that implementing agencies use the available proposed standards.

As a result of the Amendments Act, the NRC is planning to allow licensing of Title I disposal sites, where the tailings

are not being moved, to occur in two steps, if needed. The first step would allow DOE, if necessary, to do all remedial actions, which include complying with the ground water protection standards addressing the design and performance at the disposal site for closure and licensing. The Amendments Act requires this to be completed prior to September 1994. The second step, which can go on for many more years, would deal with existing ground water restoration. When ground water restoration is completed, the Long-Term Surveillance Plan would be appropriately amended. Until the EPA standards are finalized, and DOE and NRC evaluate the sites based on these standards, we will not know how many sites would likely be involved in this two step licensing process.

The Amendments Act itself did not address the potential delay of licensing Title I disposal sites due to the ground water provisions in EPA's proposed standards requiring monitoring after NRC has concurred in completion of remedial action. NRC's options ranged from a case-by-case use of EPA's supplemental standards provisions to exempt such disposal sites entirely from performance monitoring to the inflexible consequence of delaying all such licensing until completion of the ground water performance monitoring program. Such a delay could extend for up to 30 years or more. Based on interaction with other Federal agencies and the Congressional legislative history, the NRC has selected the two step approach discussed above to optimize flexibility.

NRC comments to EPA on their proposed standards suggested ways to remedy the situation. The final EPA standards may resolve this issue, but could also introduce new uncertainties. Because the proposed EPA standards are legally binding until final rules are issued, this rule is designed to have flexibility to address various situations.

IV. The Stabilization and Long-Term Care Program (Title I and Title II)

Although the end result for long-term care licensing for Title I or Title II disposal sites is similar, the processes leading up to closure of Title I or Title II sites are different. The following provides background on these processes, as well as some of the differences between Title I and Title II licensing.

Title I (24 sites)

UMTRCA charged the EPA with the responsibility for promulgating remedial action standards for inactive uranium mill sites. The purpose of these standards is to protect the public health and safety and the environment from radiological and non-radiological hazards associated with radioactive materials at the sites. The final standards were promulgated with an effective date of March 7, 1983 (48 FR 602; January 5, 1983). See 40 CFR part 192-Health and Environmental Protection for Uranium Mill Tailings, Subparts A, B, and C.

The Department of Energy will select and execute a plan of remedial action that will satisfy the EPA standards and other applicable laws and regulations. All remedial actions must be selected and performed with the concurrence of the NRC. The required NRC concurrence with the selection and performance of proposed remedial actions and the licensing of long-term care of disposal sites will be for the purpose of ensuring compliance with UMTRCA.

The portion of the EPA standards dealing with ground water requirements has been remanded by court action, and is currently being finalized by EPA (see the previous section for more details). DOE continues to perform remedial action at the inactive processing sites in accordance with NRC's concurrence with the remedial action approach. Delaying implementation of the remedial action program would be inconsistent with Congress' intent of timely completion of the program. Modifications of disposal sites after completion of the remedial action to comply with EPA's final ground water protection standards may be unnecessarily complicated and expensive and may not yield commensurate benefits in terms of human and environmental protection. Therefore, the Commission believes that sites where remedial action has been essentially completed prior to EPA's promulgation of final ground water standards will not be impacted by the final ground water standards. Although additional effort may be appropriate to assess and cleanup contaminated ground water at these sites, the existing designs of the disposal sites should be considered sufficient to provide long-term protection against future ground water contamination. NRC does not view UMTRCA as requiring the reopening of those sites that have been substantially completed when NRC concurred with the selection of remedial action in accordance with applicable EPA standards, proposed or otherwise in place at the time such NRC concurrence was given.

The stabilization and long-term care program for each site has four distinct phases. In the first phase DOE selects a disposal site and design. This phase includes preparation of an Environmental Assessment or an Environmental Impact Statement, and a Remedial Action Plan. The Remedial Action Plan is structured to provide a comprehensive understanding of the remedial actions proposed at that site and contains specific design and construction requirements. NRC and State/Indian tribe concur in the Remedial Action Plan to complete the first phase.

The second phase is the performance phase. In this phase the actual remedial action (which includes decontamination, decommissioning, and reclamation) at the site is done in accordance with the Remedial Action Plan. The NRC and the State/Indian tribe, as applicable, must concur in any changes to this plan. At the completion of reclamation activities at the site, NRC concurs in DOE's determination that the activities at the site have been completed in accordance with the approved plan. Prior to licensing, the next phase, title to the disposed tailings and contaminated materials must be transferred to the United States and the land upon which they are disposed of must be in Federal custody to provide for long-term Federal control, at Federal expense. Disposal sites on Indian land will remain in the beneficial ownership of the Indian tribe.

NRC concurrence in the DOE determination that remedial action at the processing site has been accomplished in accordance with the approved plan may be accomplished in two steps where residual radioactive material is not being moved from the processing site to a different disposal site. The Uranium Mill Tailings Remedial Action Amendments Act of 1988 allows for a two step approach for Title I disposal sites. The Amendments Act will allow DOE to do all remedial actions, other than ground water restoration, for the first step of closure and licensing. The second step, which can go on for many years, will deal with existing ground water restoration. When ground water restoration is completed, the LTSP will be appropriately amended. For sites that are being moved, licensing will occur in one step. There is no ground water restoration at the disposal site and the processing site will not be licensed after completion of remedial action. See the earlier discussion on this law for more details.

The third phase is the licensing phase. The general license is effective following (1) NRC concurrence in the DOE determination that the disposal site has been properly reclaimed and (2) the formal receipt by NRC of an acceptable Long-Term Surveillance Plan. NRC concurrence with DOE's performance of

the remediation indicates that DOE has demonstrated that the remedial action complies with the provisions of the EPA standards in 40 CFR part 192, Subparts A, B, and C. This NRC concurrence may be completed in two steps as discussed above. There is no termination date for the general license.

Public involvement has been and will continue to be provided through DOE's overall remedial action program for Title I sites and NRC's licensing program for Title II sites. The local public will have an opportunity to comment on the remedial action or closure plans proposed and implemented by DOE or the Title II licensee and to raise concerns regarding final stabilization and the degree of protection achieved. NRC fully endorses State and public input in all stages of the program, especially in the planning stages of remedial action when such input can be most effective in identifying and resolving issues affecting long-term care. At the time the LTSP is submitted, the NRC will consider the need for a public meeting in response to requests and public concerns. Therefore, NRC encourages State and public participation early in the remedial action and closure process and will provide additional opportunities, as needed, later in the process.

The final phase of the program is surveillance and monitoring and begins after NRC accepts the LTSP. In this phase DOE and NRC periodically inspect the disposal site to ensure its integrity. The Long-Term Surveillance Plan will require the DOE to make repairs, if needed.

One of the requirements in the EPA standards is that control of the tailings should be designed to be effective for up to 1000 years without active maintenance. Although the design of the stabilized pile is such that reliance on active maintenance should be minimized or eliminated, the NRC license will require emergency repairs as necessary. In the event that significant repairs are necessary, a determination will be made on a site specific basis regarding the need for additional National Environmental Policy Act (NEPA) actions, and health and safety considerations from parts 19, 20, and 21.

Title II

UMTRCA also charged EPA with the responsibility for promulgating standards for active uranium or thorium mill tailings sites. EPA completed this in Subparts D and E of 40 CFR part 192 on October 7, 1983 (48 FR 45946).

Title II processing sites have active NRC or Agreement State licenses. Each licensee is responsible for having a closure plan that is approved by the NRC or an Agreement State. This plan describes how the licensee will close the site to meet all applicable standards after completion of operations.

Before the NRC, or an Agreement State, terminates a license the site must be closed in a manner which meets applicable standards. These include the requirements contained within 10 CFR part 40 — Domestic Licensing of Source Material, or similar Agreement State requirements. In addition, 10 CFR 150.15a requires that prior to the termination of any Agreement State license for byproduct material, the Commission shall have made a determination that all applicable standards and requirements have been met. Once the future long-term care licensee has submitted a suitable LTSP, the general license takes effect when either NRC terminates the current specific license or when NRC concurs with an Agreement State's termination of the current specific license. This rulemaking provides the Commission with two options to maintain control over disposal sites in the unexpected situation when: (1) an acceptable LTSP has not been submitted; (2) the current specific license is ready to be terminated; (3) NRC had determined that the disposal site has been closed in accordance with applicable standards; and (4) disposal site custody has been transferred to the long-term care licensee. The Commission could delay termination of the specific license until an acceptable LTSP is submitted or issue an order requiring surveillance by the custodian of the disposal site, who will become the long-term care licensee under the general license. The Commission considers either of these actions to be sufficient to ensure that the disposal site will be under surveillance and control during the transition period from the specific to the general license. The Commission will not unnecessarily delay the termination of the specific license solely on the basis that an acceptable LTSP has not been received. In such cases, the prime option would be to issue appropriate orders. The Commission, however, does not want to preclude the option of not terminating the specific license if this wereappropriate for a relatively short period.

The general license approach for Title II sites is similar to the process used for Title I sites. The most significant differences are:

1. A State, at its option, may take over long-term care of a Title II disposal site instead of the DOE.

2. In some rare cases, such as may occur with deep burial where no ongoing site surveillance will be required, surface land ownership transfer requirements may be waived for a Title II disposal site.

3. Potential future uses of a Title I disposal site are limited to subsurface rights, whereas, a Title II disposal site could also potentially allow the usage of surface rights. (See the section entitled "Future Uses of the Disposal Site").

4. Title II licensees are required to pay a minimum charge of $250,000 (1978 dollars) to cover the costs of long-term surveillance. This charge must be paid to the general treasury of the United States or to an appropriate State agency prior to the termination of a uranium or thorium mill license. The minimum charge may be adjusted based on site specific requirements in excess of those specified in Criterion 12 of appendix A. (See the section entitled "The Long-Term Surveillance Plan", Title II, for additional details).

5. The determination that remedial action at Title I sites has beencompleted may be done in two steps, whereas the determination of acceptable closure for Title II sites will be done only once before license termination.

6. There is an additional Title II requirement when a license in an Agreement State is terminated and the disposal site transferred to the United States for long-term care. All funds collected by the State for long-term surveillance will be transferred to the United States. This requirement has already been codified in part 150 and is not part of this rulemaking.

7. Title I covers designated inactive uranium mill tailings sites. Title II covers sites licensed as of January 1, 1978 and new uranium and thorium mill tailings sites.

Twenty-seven of the 29 conventional mills licensed by NRC or Agreement Sites are not currently operating. Most of these have no plans to restart operations, and closure activities have either been started or are in planning.

V. The Long-Term Surveillance Plan (Title I and Title II)

DOE, or the appropriate State, will submit a disposal site Long-Term Surveillance Plan to the NRC to coincide with completion of remedial actions (Title I) or license termination (Title II). DOE, or the appropriate State, will be responsible for preparing the LTSP since this document will clearly define their responsibilities under the general license. As discussed previously, the LTSP for Title I disposal sites will allow a two step approach as provided in the

Uranium Mill Tailings Remedial Action Amendments Act of 1988. The Amendments Act will allow DOE to do all remedial actions, other than ground water restoration, for the first step of closure and licensing. The first step includes any performance or design features necessary to satisfy ground water protection standards, except for ground water restoration. The second step which can go on for many years, will deal with existing ground water restoration. When ground water restoration is completed, the LTSP will be appropriately modified.

Title I

The DOE has developed a "Guidance for UMTRA Project Surveillance and Maintenance" document issued in January 1986. Copies of this document are available from the U.S. Department of Energy, UMTRA Project Office, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, New Mexico, 87115. This document, which was developed with NRC staff coordination, provides detailed generic guidance for what information should be considered in designing an LTSP for Title I disposal sites.

The DOE guidance document addresses five primary activities. These activities, which are discussed in the following paragraphs, are:

1. Definition and characterization of final disposal site conditions.
2. Disposal site inspections.
3. Ground water monitoring, if necessary.
4. Aerial photography.
5. Contingency (or emergency) repair, and planned maintenance if necessary.

DOE indicated that final disposal site conditions should be defined and characterized prior to the completion of remedial actions at a site. As-built drawings should be compiled, a final topographic survey should be performed, a vicinity map should be prepared, and ground and aerial photographs should be taken. Survey monuments, site markers, and signs should be established. If the disposal site LTSP specifies that ground water monitoring is required, then a network of monitoring wells should be identified and new wells established if needed.

DOE describes three types of disposal site inspections: Phase I, Phase II and contingency inspections. Annually scheduled 1 to 2-day phase I inspections would be conducted by a small team to identify any changes in conditions that may affect design integrity. Phase II inspections would be unscheduled and dependent upon potential problems identified during a Phase I inspection. Team members of a Phase II inspection should be specialists in the potential problem areas (e.g., geotechnical engineer for settlement). Contingency inspections would also be unscheduled and occur when information has been received that indicates that site integrity has been, or may be, threatened by natural events (e.g., severe earthquake) or other means.

The need to monitor ground water conditions should be determined on a site specific basis. If it is determined that ground water monitoring is required for the long-term care at the disposal site, then it should be conducted in two phases, screening monitoring and evaluative monitoring. Screening monitoring will be designed to detect changes in ground water quality attributable to the tailings. If a significant change is apparent, evaluative monitoring should be initiated. Evaluative monitoring will be more extensive and will quantify the rate and magnitude of the change of conditions. When EPA finalizes the ground water protection standards, modifications may be necessary. See the discussion on the Uranium Mill Tailings Remedial Action Amendments Act of 1988 for more details.

Aerial photographs of the Title I disposal sites should be taken immediately upon completion of the construction and after the permanent surveillance features have been installed. The photographs will be used to prepare the final topographic map and as-built drawings and will be kept in the permanent site file for future reference, should a problem develop at the site. In the unlikely event that a problem (such as erosion) should occur, the photographs provide baseline information about site conditions. New aerial photographs would be taken if it becomes necessary to monitor a problem over a long period of time.

The LTSP should also describe the procedures the long-term licensee would follow if contingency or emergency repairs were needed at the disposal site due to extreme natural events or purposeful intrusion.

The conduct of custodial activities such as grass mowing or fence repair are not precluded. If the long-term care licensee desires to conduct this type of custodial activity (termed "planned maintenance" in the DOE guidance document), the activities should be described in the LTSP. However, it should be noted that planned maintenance of this type cannot be relied upon to ensure compliance with the EPA standards.

Title II

Much of the guidance described for Title I disposal sites can be applied to the Title II disposal sites. However, the DOE guidance document includes additional information and recommendations for which the applicability must be evaluated on a site specific basis for Title II disposal sites. Specific requirements for Title II sites are addressed in Appendix A of 10 CFR part 40. For Title II sites, criterion 10 of Appendix A requires the existing licensee to pay a minimum charge of $250,000 (1978 dollars) to cover the costs of long-term surveillance. The minimum charge was based on an annual inspection by the governmental agency retaining custody of the site to confirm the integrity of the stabilized tailings and to determine the need, if any, for maintenance and/or monitoring. The actual amount of this charge will be set based on a site specific evaluation, which should be included as part of the existing licensee's reclamation plan for the site. This charge is not intended to cover the cost of contingency (emergency) repairs. Because the tailings and wastes should be disposed of without the need for any active maintenance, the annual inspection should be completed in 1 to 2 days per site. Post-closure maintenance activities that are relied upon to comply with Appendix A closure standards can only be authorized by considerations of alternatives under Section 84(c) of the Atomic Energy Act of 1954, as amended. In such cases, the minimum charge for long-term surveillance to the existing licensee will be increased accordingly to provide for this maintenance. The basis for the minimum charge and the annual inspection is discussed in detail in the Final Generic Environmental Impact Statement on uranium milling (NUREG-0706)[1].

The custodial agency will prepare an LTSP for each disposal site using input from the existing licensee's reclamation plan, including the evaluation of long-term surveillance needs. Thus, important site information will be transferred from the existing licensee to the custodial agency. The existing licensee, however, will not be required to prepare the LTSP. In addition the LTSP will not affect the

[1]Copies of NUREG-0706 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013-7082. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. A copy is also available for public inspection and/or copying at the NRC Public Document Room, 2120 L Street NW. (Lower Level) of the Gelman Building, Washington, DC.

long-term surveillance charge paid by the existing licensee (the LTSP may also reflect additional site-specific activities which are not to be reflected in the long-term care charge, but are voluntarily committed to by the custodial agency).

VI. Future Uses of the Disposal Site

UMTRCA provides for potential future uses of the disposal site. For a Title I disposal site, it provides that the Secretary of the Interior, with the concurrence of both the Secretary of Energy and the NRC, may dispose of any subsurface mineral rights. If this occurs, the NRC will issue a specific license to the Secretary of the Interior to assure that the tailings are not disturbed, or if disturbed are restored to a safe and environmentally sound condition. At a Title I processing site, when tailings are moved, once the surface remedial actions are completed, surface rights will be available as long as the use does not impede future ground water restoration activities.

For a Title II disposal site the same provisions as above apply with the following two differences. First, surface as well as subsurface estates may be available for use. Second, although the request to use these rights may be received from any person, if permission is granted, the person who transferred the land to the Federal or State Government shall receive the right of first refusal with respect to this use of the land.

Environmental impacts will be evaluated prior to any action granting the use of surface or subsurface estates.

VII. Comments on the Proposed Rulemaking

The Commission received six (6) letters commenting on the proposed rule. Copies of these letters and an analysis of the comments are available for public inspection and copying for a fee at the NRC Public Document Room at 2120 L Street, NW. (Lower Level), Washington, DC. Comments were received from two States, a company having uranium interests, and three Federal Agencies (the Department of Energy, the Environmental Protection Agency, and the Department of the Interior). The most significant comments are summarized below.

There was concern that a current licensee may be placed in a position of having to delay final closure and turnover of its disposal site to the Federal government if an acceptable Long-Term Surveillance Plan has not been submitted. This could cause increased costs to the licensee and thereby have a significant impact on the private sector.

The proposed rule package discussed two options available to the Commission to maintain regulatory control of the disposal site in the above situation. The NRC could delay termination of the license or could issue specific orders to the intended custodial agency. We agree with the commenter that an indefinite delay in terminating the license could increase the impacts to an existing licensee. Therefore, we have clarified the rule to acknowledge that if significant financial impacts are anticipated due to lack of action on the custodial agency's part, issuing an order would be our prime option. However, the Commission wants to retain the option of not terminating the existing license, if this might be appropriate for a relatively short period.

A State commenter was concerned that the rule does not provide for explicit State concurrence in an LTSP prepared by the Federal government.

The proposed rule did not provide for specific State concurrence in the NRC licensing actions, because the State has no regulatory authority under the Atomic Energy Act during the long-term care period. The State, as a member of the general public, may comment on any action to be taken by the NRC. We would like to note that, for the Title II sites, the State, at its option, can be the custodial governmental agent and, therefore, become the responsible party to prepare and implement the LTSP under the general license issued by the NRC.

If significant environmental consequences occur at either Title I or Title II disposal sites in the future, the failure will not likely be as a result of the LTSP, but will most likely be as a result of inadequate design or construction. The States have been and will continue to be integrally involved in the design and construction phase of remedial action or closure. The commenter appears to over estimate the purpose of the LTSP which is the surveillance of the reclaimed or closed site, not the performance of significant maintenance work. The performance of significant work at licensed disposal sites under this regulation requires specific authorization from the NRC.

The Department of Energy indicated that the proposed rule was not clear regarding how the two step licensing process (Title I only) works in relationship to processing sites that are stabilized in place versus those that are relocated.

There will be a difference in how the two-step licensing approach will be used depending upon whether the residual radioactive material has been stabilized in place or moved. The two-step approach, as it will apply for this LTSP and licensing, will only be used for materials stabilized in place. For materials that are moved to a separate disposal site there will be no ground water restoration at the new site under normal, expected conditions and the old site will not have an LTSP or license associated with it. When DOE moves a site, the original processing site will be cleaned-up to meet EPA standards for unrestricted use. NRC will not license these processing sites.

For residual radioactive materials stabilized in place and requiring additional ground water restoration, the LTSP will cover all the elements identified in the rule, except for detailed ground water restoration actions. The LTSP may still require ground water monitoring to ensure that actions taken for ground water restoration are not affecting the integrity of the stabilized pile. For example, if ground water restoration activities are impacting leaching through the pile, monitoring under the LTSP should be able to identify this and trigger any necessary corrective actions.

In summary, regardless of whether residual radioactive material is relocated or not, the custodial agency will be an NRC general licensee at the disposal site only. If ground water restoration at the processing site is necessary when the material is relocated, this will have no impact on the general license for the disposal site. If ground water restoration is necessary for a site stabilized in place, then licensing will be done in two steps.

DOE requested that reporting requirements for Title I sites be comparable to those for Title II sites -- 10 CFR part 40 Appendix A, Criterion 12. The wording in the proposed rule provided DOE with flexibility in developing reporting requirements for Title I sites. However, since DOE requested this change and it would provide for reports at least as frequently as under the proposed rule, it has been added to the final rule.

In the Advance Notice of Proposed Rulemaking, the Commission indicated that before the general license could become effective at a disposal site the NRC must "receive" an LTSP. In the proposed rule, the wording was changed to show that the Commission must "accept" the LTSP. DOE did not support this change. NRC has made this change to provide a better level of control over the licensing process. If the NRC receives an acceptable LTSP, the long-term care licensee would not be impacted in any way. If an unacceptable LTSP is received, this provision provides

the NRC an opportunity to work with the long-term care licensee to correct the deficiencies prior to licensing.

NRC adopted a number of DOE recommendations that provide additional clarity in the notice and rule. These changes included, for example, clarifying when the word "site" specifically refers to a disposal or processing site, providing additional information for Title I sites on Indian lands, using the term "remedial action" for Title I sites, noting in the rule that there is no termination date to the general licenses, clarifying the use of aerial photographs, and other wording changes that provided more specific information.

VIII. EPA Clean Air Act Activities

EPA has published new air effluent regulations for radon and other radioactive effluents from uranium mill tailings as part of the voluntary remand of standards developed under section 112 of the Clean Air Act (CAA) (54 FR 51654, December 15, 1989). The EPA regulations include a radon emission standard that would apply to both Title I and Title II disposal sites after closure that must be confirmed by measurement. Other NRC and EPA regulations are design standards. Once measurements confirm that the site meets CAA standards and long-term stabilization has been completed, the tailings are no longer subject to EPA regulations under the CAA. Prior to closure, it isentirely possible that the CAA standards could result in EPA ordered modifications to sites that already meet current design standards. The potential for conflicting EPA and NRC/Agreement State regulatory programs prior to the long-term care period will require close coordination between the two agencies and with States, depending on CAA delegations.

IX. Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR part 51, that this rule is not a major Federal action significantly affecting the quality of the human environment and therefore an environmental impact statement is not required. The rule establishes general licenses for long-term care of uranium or thorium mill tailings disposal sites by another Federal agency or State. The licensing action will be done after remedial action or site closure is completed, and would ensure that disposal sites remain in good condition. If unexpected repairs are ever required, the long-term care licensee will be responsible to make the necessary repairs. The Commission will evaluate at the time such action is deemed necessary whether there is a need to prepare a separate environmental assessment.

The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the environmental assessment and finding of no significant impact are available from Mark Haisfield, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Mail Stop NLS-260. Telephone (301) 492-3877.

X. Paperwork Reduction Act Statement

This proposed rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget approval number 3150-0020.

XI. Regulatory Analysis

The Commission has prepared a regulatory analysis for this regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the analysis may be obtained from Mark Haisfield, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Mail Stop NLS-260.

XII. Regulatory Flexibility Certification Statement

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule does not have a significant economic impact upon a substantial number of small entities. This rule will apply only to a Federal agency or an appropriate State. Although small entities may be requested to consult with government agencies in developing LTSPs, effort associated with such consultation is required under the criteria in Appendix A to 10 CFR part 40, which were previously promulgated by the Commission. Therefore, a Regulatory Flexibility Analysis is not required and has not been prepared.

XIII. Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule, and therefore, a backfit analysis is not required for this final rule because these amendments do not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 40

Criminal penalty, government contracts, Hazardous materials-transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, and Uranium.

Under the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, 5 U.S.C. 552 and 553, and the Uranium Mill Tailings Radiation Control Act of 1978, as amended, the NRC is adopting the following amendments to 10 CFR part 40.

PART 40 - DOMESTIC LICENSING OF SOURCE MATERIAL

1. The authority citation for part 40 continues to read as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95-604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); secs. 274, Pub. L. 86-373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846). Sec. 275, 92 Stat. 3021, as amended by Pub. L. 97-415, 96 Stat. 2067 (42 U.S.C. 2022).

Section 40.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 40.3, 40.25(d)(1)-(3), 40.35(a)-(d), 40.41(b) and (c), 40.46, 40.51(a) and (c), and 40.63 are issued under sec. 161b, 68 Stat. 948, as amended, (42 U.S.C. 2201(b)); and §§ 40.5, 40.9, 40.25(c) and (d)(3) and (4), 40.26(c)(2), 40.35(e), 40.42, 40.61, 40.62, 40.64, and 40.65 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Section 40.1 is revised to read as follows:

§ 40.1 Purpose.

(a) The regulations in this part establish procedures and criteria for the issuance of licenses to receive title to, receive, possess, use, transfer, or deliver source and byproduct materials, as defined in this part, and establish and

provide for the terms and conditions upon which the Commission will issue these licenses. These regulations also provide for the disposal of byproduct material and for the long-term care and custody of byproduct material and residual radioactive material. The regulations in this part also establish certain requirements for the physical protection of import, export, and transient shipments of natural uranium. (Additional requirements applicable to the import and export of natural uranium are set forth in part 110 of this chapter.)

(b) The regulations contained in this part are issued under the Atomic Energy Act of 1954, as amended (68 Stat. 919), Title II of the Energy Reorganization Act of 1974, as amended (88 Stat. 1242), and Titles I and II of the Uranium Mill Tailings Radiation Control Act of 1978, as amended (42 U.S.C. 7901).

3. In § 40.2a, paragraph (a) is revised to read as follows:

§ 40.2a Coverage of inactive tailings sites.

(a) Prior to the completion of the remedial action, the Commission will not require a license pursuant to 10 CFR Chapter I for possession of residual radioactive materials as defined in this part that are located at a site where milling operations are no longer active, if the site is covered by the remedial action program of Title I of the Uranium Mill Tailings Radiation Control Act of 1978, as amended. The Commission will exert its regulatory role in remedial actions primarily through concurrence and consultation in the execution of the remedial action pursuant to Title I of the Uranium Mill Tailings Radiation Control Act of 1978, as amended. After remedial actions are completed, the Commission will license the long-term care of sites, where residual radioactive materials are disposed, under the requirements set out in § 40.27.

* * * * *

4. Section 40.3 is revised to read as follows:

§ 40.3 License requirements.

A person subject to the regulations in this part may not receive title to, own, receive, possess, use, transfer, provide for long-term care, deliver or dispose of byproduct material or residual radioactive material as defined in this part or any source material after removal from its place of deposit in nature, unless authorized in a specific or general license issued by the Commission under the regulations in this part.

5. In § 40.4, the definition *Residual radioactive material* is added in alphabetical order to read as follows:

§ 40.4 Definitions.

* * * * *

Residual radioactive material means: (1) Waste (which the Secretary of Energy determines to be radioactive) in the form of tailings resulting from the processing of ores for the extraction of uranium and other valuable constituents of the ores; and (2) other waste (which the Secretary of Energy determines to be radioactive) at a processing site which relates to such processing, including any residual stock of unprocessed ores or low-grade materials. This term is used only with respect to materials at sites subject to remediation under Title I of the Uranium Mill Tailings Radiation Control Act of 1978, as amended.

6. In § 40.7, paragraph (f) is revised to read as follows:

§ 40.7 Employee protection.

* * * * *

(f) The general licenses provided in §§ 40.21, 40.22, 40.25, 40.27, and 40.28 are exempt from paragraph (e) of this section.

7. Section 40.20 is revised to read as follows:

§ 40.20 Types of licenses.

(a) Licenses for source material and byproduct material are of two types: general and specific. Licenses for long-term care and custody of residual radioactive material at disposal sites are general licenses. The general licenses provided in this part are effective without the filing of applications with the Commission or the issuance of licensing documents to particular persons. Specific licenses are issued to named persons upon applications filed pursuant to the regulations in this part.

(b) Section 40.27 contains a general license applicable for custody and long-term care of residual radioactive material at uranium mill tailings disposal sites remediated under Title I of the Uranium Mill Tailings Radiation Control Act of 1978, as amended.

(c) Section 40.28 contains a general license applicable for custody and long-term care of byproduct material at uranium or thorium mill tailings disposal sites under Title II of the Uranium Mill Tailings Radiation Control Act of 1978, as amended.

8. New §§ 40.27 and 40.28 are added to read as follows:

§ 40.27 General license for custody and long-term care of residual radioactive material disposal sites.

(a) A general license is issued for the custody of and long-term care, including monitoring, maintenance, and emergency measures necessary to protect public health and safety and other actions necessary to comply with the standards promulgated under section 275(a) of the Atomic Energy Act of 1954, as amended, for disposal sites under Title I of the Uranium Mill Tailings Radiation Control Act of 1978, as amended. The license is available only to the Department of Energy, or another Federal agency designated by the President to provide long-term care. The purpose of this general license is to ensure that uranium mill tailings disposal sites will be cared for in such a manner as to protect the public health, safety, and the environment after remedial action has been completed.

(b) The general license in paragraph (a) of this section becomes effective when the Commission accepts a site Long-Term Surveillance Plan (LTSP) that meets the requirements of this section, and when the Commission concurs with the Department of Energy's determination of completion of remedial action at each disposal site. There is no termination of this general license. The LTSP may incorporate by reference information contained in documents previously submitted to the Commission if the references to the individual incorporated documents are clear and specific. Each LTSP must include--

(1) A legal description of the disposal site to be licensed, including documentation on whether land and interests are owned by the United States or an Indian tribe. If the site is on Indian land, then, as specified in the Uranium Mill Tailings Radiation Control Act of 1978, as amended, the Indian tribe and any person holding any interest in the land shall execute a waiver releasing the United States of any liability or claim by the Tribe or person concerning or arising from the remedial action and holding the United States harmless against any claim arising out of the performance of the remedial action;

(2) A detailed description, which can be in the form of a reference, of the final disposal site conditions, including existing ground water characterization and any necessary ground water protection activities or strategies. This description must be detailed enough so that future inspectors will have a baseline to determine changes to the site and when these changes are serious enough to require maintenance or repairs. If the disposal site has continuing aquifer restoration requirements, then the licensing process will be completed in two steps. The first step includes all items other than ground water restoration. Ground water monitoring, which would be addressed in the LTSP, may still be required in this first step to assess performance of the

tailings disposal units. When the Commission concurs with the completion of ground water restoration, the licensee shall assess the need to modify the LTSP and report results to the Commission. If the proposed modifications meet the requirements of this section, the LTSP will be considered suitable to accommodate the second step.

(3) A description of the long-term surveillance program, including proposed inspection frequency and reporting to the Commission (as specified in Appendix A, criterion 12 of this part), frequency and extent of ground water monitoring if required, appropriate constituent concentration limits for ground water, inspection personnel qualifications, inspection procedures, recordkeeping and quality assurance procedures;

(4) The criteria for follow-up inspections in response to observations from routine inspections or extreme natural events; and

(5) The criteria for instituting maintenance or emergency measures.

(c) The long-term care agency under the general license established by paragraph (a) of this section shall –

(1) Implement the LTSP as described in paragraph (b) of this section;

(2) Care for the disposal site in accordance with the provisions of the LTSP;

(3) Notify the Commission of any changes to the LTSP; the changes may not conflict with the requirements of this section;

(4) Guarantee permanent right-of-entry to Commission representatives for the purpose of periodic site inspections; and

(5) Notify the Commission prior to undertaking any significant construction, actions, or repairs related to the disposal site, even if the action is required by a State or another Federal agency.

(d) As specified in the Uranium Mill Tailings Radiation Control Act of 1978, as amended, the Secretary of the Interior, with the concurrence of the Secretary of Energy and the Commission, may sell or lease any subsurface mineral rights associated with land on which residual radioactive materials are disposed. In such cases, the Commission shall grant a license permitting use of the land if it finds that the use will not disturb the residual radioactive materials or that the residual radioactive materials will be restored to a safe and environmentally sound condition if they are disturbed by the use.

(e) The general license in paragraph (a) of this section is exempt from parts 19, 20, and 21 of this chapter, unless significant construction, actions, or repairs are required. If these types of actions are to be undertaken, the licensee shall explain to the Commission which requirements from these parts apply for the actions and comply with the appropriate requirements.

§ 40.28 General license for custody and long-term care of uranium or thorium byproduct materials disposal sites.

(a) A general license is issued for the custody of and long-term care, including monitoring, maintenance, and emergency measures necessary to protect the public health and safety and other actions necessary to comply with the standards in this part for uranium or thorium mill tailings sites closed under Title II of the Uranium Mill Tailings Radiation Control Act of 1978, as amended. The licensee will be the Department of Energy, another Federal agency designated by the President, or a State where the disposal site is located. The purpose of this general license is to ensure that uranium and thorium mill tailings disposal sites will be cared for in such a manner as to protect the public health, safety, and the environment after closure.

(b) The general license in paragraph (a) of this section becomes effective when the Commission terminates, or concurs in an Agreement State's termination of, the current specific license and a site Long-Term Surveillance Plan (LTSP) meeting the requirements of this section has been accepted by the Commission. There is no termination of this general license. If the LTSP has not been formally received by the NRC prior to termination of the current specific license, the Commission may issue a specific order to the intended custodial agency to ensure continued control and surveillance of the disposal site to protect the public health, safety, and the environment. The Commission will not unnecessarily delay the termination of the specific license solely on the basis that an acceptable LTSP has not been received. The LTSP may incorporate by reference information contained in documents previously submitted to the Commission if the references to the individual incorporated documents are clear and specific. Each LTSP must include--

(1) A legal description of the disposal site to be transferred (unless transfer is exempted under provisions of the Atomic Energy Act, § 83(b)(1)(A)) and licensed;

(2) A detailed description, which can be in the form of a reference of the final disposal site conditions, including existing ground water characterization. This description must be detailed enough so that future inspectors will have a baseline to determine changes to the site and when these changes are serious enough to require maintenance or repairs;

(3) A description of the long-term surveillance program, including proposed inspection frequency and reporting to the Commission (as specified in appendix A, Criterion 12 of this part), frequency and extent of ground water monitoring if required, appropriate constituent concentration limits for ground water, inspection personnel qualifications, inspection procedures, recordkeeping and quality assurance procedures;

(4) The criteria for follow-up inspections in response to observations from routine inspections or extreme natural events; and

(5) The criteria for instituting maintenance or emergency measures.

(c) The long-term care agency who has a general license established by paragraph (a) of this section shall –

(1) Implement the LTSP as described in paragraph (b) of this section;

(2) Care for the disposal site in accordance with the provisions of the LTSP;

(3) Notify the Commission of any changes to the LTSP; the changes may not conflict with the requirements of this section;

(4) Guarantee permanent right-of-entry to Commission representatives for the purpose of periodic site inspections; and

(5) Notify the Commission prior to undertaking any significant construction, actions, or repairs related to the disposal site, even if the action is required by a State or another Federal agency.

(d) Upon application, the Commission may issue a specific license, as specified in the Uranium Mill Tailings Radiation Control Act of 1978, as amended, permitting the use of surface and/or subsurface estates transferred to the United States or a State. Although an application may be received from any person, if permission is granted, the person who transferred the land to DOE or the State shall receive the right of first refusal with respect to this use of the land. The application must demonstrate that--

(1) The proposed action does not endanger the public health, safety, welfare, or the environment;

(2) Whether the proposed action is of a temporary or permanent nature, the site would be maintained and/or restored to meet requirements in

Appendix A of this part for closed sites; and

(3) Adequate financial arrangements are in place to ensure that the byproduct materials will not be disturbed, or if disturbed that the applicant is able to restore the site to a safe and environmentally sound condition.

(e) The general license in paragraph (a) of this section is exempt from parts 19, 20, and 21 of this Chapter, unless significant construction, actions, or repairs are required. If these types of actions are to be undertaken, the licensee shall explain to the Commission which requirements from these parts apply for the actions and comply with the appropriate requirements.

(f) In cases where the Commission determines that transfer of title of land used for disposal of any byproduct materials to the United States or any appropriate State is not necessary to protect the public health, safety or welfare or to minimize or eliminate danger to life or property (Atomic Energy Act, § 83(b)(1)(A)), the Commission will consider specific modifications of the custodial agency's LTSP provisions on a case-by-case basis.

9. Appendix A, Criterion 12 is revised to read as follows:

Appendix A to part 40 - Criteria Relating to the Operation of Uranium Mills and the Disposition of Tailings or Wastes Produced by the Extraction or Concentration of Source Material From Ores Processed Primarily for Their Source Material Content

* * * * *

Criterion 12--The final disposition of tailings, residual radioactive material, or wastes at milling sites should be such that ongoing active maintenance is not necessary to preserve isolation. As a minimum, annual site inspections must be conducted by the government agency responsible for long-term care of the disposal site to confirm its integrity and to determine the need, if any, for maintenance and/or monitoring. Results of the inspections for all the sites under the licensee's jurisdiction will be reported to the Commission annually within 90 days of the last site inspection in that calendar year. Any site where unusual damage or disruption is discovered during the inspection, however, will require a preliminary site inspection report to be submitted within 60 days. On the basis of a site specific evaluation, the Commission may require more frequent site inspections if necessary due to the features of a particular disposal site. In this case, a preliminary inspection report is required to be submitted within 60 days following each inspection.

* * * * *

Dated at Rockville, Maryland this 24th day of October, 1990.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 90-25612 Filed 10-29-90; 8:45 am]

BILLING CODE 7590-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-NM-83-AD; Amdt. 39-6786]

Airworthiness Directives; British Aerospace Model BAe/DH/BH/HS 125 Series Airplanes, Post-Modification 255840

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain British Aerospace Model BAe/DH/BH/HS 125 series airplanes, which requires replacement of all main landing gear (MLG) door aluminum forward hinge fittings every 6,000 landings. This amendment is prompted by reports of in-service failures of the hinge fitting door jack attachment lugs. This condition, if not corrected, could result in the main landing gear (MLG) door failing to close when retracting the landing gear and subsequently exceeding the landing gear door design loads.

EFFECTIVE DATE: December 4, 1990.

ADDRESSES: The applicable service information may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 227-2148. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to certain British Aerospace Model BAe/DH/BH/HS 125 series airplanes, which requires replacement of all main landing gear (MLG) aluminum forward hinge fittings every 6,000 landings, was published in the **Federal Register** on June 1, 1990 (55 FR 22355).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supported the rule, but stated that the proposed 400-landing compliance time for replacement of aluminum forward hinge fittings that have exceeded 6,000 landings is not consistent with the compliance time specified in British Aerospace Service Bulletin 32-218, dated July 28, 1988. The FAA partially concurs. The service bulletin recommends that hinge fittings be replaced upon the accumulation of 6,000 landings, or within approximately one year for those that have exceeded 6,000 landings; and that repetitive visual inspections for cracks be conducted at 300-landing intervals until parts are available for replacement. British Aerospace had previously advised the FAA that the highest time Model BAe-125 in the United States has accumulated approximately 3,200 landings, and that these airplanes average approximately 400 landings per year. Therefore, the compliance time of 400 landings in this AD action was selected in order to be equivalent to the one-year compliance time recommended in the service bulletin for replacement of the hinge fittings that had exceeded 6,000 landings. The FAA determined that repetitive inspections to allow operation until parts are available need not be included in this AD, since U.S. operators will replace the fittings prior to accumulating 6,000 landings and there is no evidence at this time that there will be a parts availability problem. Should a parts availability problem arise in the future, the individual operator always has the option to request an alternate means of compliance in accordance with paragraph C. of this AD.

Paragraph C. of the final rule has been revised to specify the current procedure for submitting requests for approval of an alternate means of compliance.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule with the change noted above. The FAA has determined that this change will neither increase the economic burden on any operator, nor increase the scope of the rule.

It is estimated that 420 airplanes of U.S. registry will be affected by this AD, that it will take approximately 32 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The estimated cost for required parts is $7,260. Based on these figures, the total

cost impact of the AD on U.S. operators is estimated to be $3,586,800.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace: Applies to all Model BAe/DH/BH/HS 125 series airplanes, post-modification 255640, certified in any category. Compliance is required as indicated, unless previously accomplished.

To ensure proper operation of the main landing gear (MLG) door, accomplish the following:

A. Prior to the accumulation of 6,000 landings on the right and left MLG door aluminum forward hinge fittings, or within the next 400 landings after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 6,000 landings, replace the aluminum forward hinge fittings in accordance with British Aerospace Service Bulletin 32–218, dated July 28, 1988.

B. Replacement of an aluminum hinge fitting with a new stainless steel hinge fitting, in accordance with British Aerospace Service Bulletin 32–220–3176A, B, and C, dated September 2, 1988, terminates the requirements for the replacement of the hinge fittings required by paragraph A. of this AD.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM–113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM–113.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041–0414. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment becomes effective December 4, 1990.

Issued in Renton, Washington, on October 18, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–25586 Filed 10–29–90; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 90–ASO–12]

Establishment of Control Zone, Glynco Jetport, Brunswick, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: The effective date of the final rule as published in the **Federal Register** on October 16, 1990 (55 FR 41853) contained a typographical error. In lieu of December 13, 1991, the correct date is December 13, 1990.

Issued in East Point Georgia, on October 19, 1990.

Don Cass,

Acting Manager, Air Traffic Division Southern Region

[FR Doc. 90–25590 Filed 10–29–90; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 90–ASO–16]

Revision of Transition Area, Wilkesboro, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the Wilkesboro, NC, transition area. On June 18, 1990, the old Wilkes County Airport was closed concurrent with opening the new Wilkes County Airport. The new airport is located approximately 6.7 nautical miles northeast of the old site and will be served by a localizer standard instrument approach procedure (SIAP) to Runway 1. This action will center the transition area on the new airport and provide an arrival area extension to the south to provide controlled airspace protection for instrument flight rules (IFR) aircraft executing the SIAP.

EFFECTIVE DATE: 0901 u.t.c., December 13, 1990.

FOR FURTHER INFORMATION CONTACT: James G. Walters, Airspace Section, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 763–7646.

SUPPLEMENTARY INFORMATION:

History

On August 29, 1990, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Wilkesboro, NC, transition area (55 FR 35322). The proposed action would center the transition area on the new Wilkes County Airport and provide an arrival area extension for airspace protection of IFR aircraft executing the planned localizer SIAP to Runway 1. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6F, dated January 2, 1990.

The Rule

This amendment to part 71 of the Federal Aviation Regulations revises the Wilkesboro, NC, transition area. The transition area will be centered on the new Wilkes County Airport which is approximately 6.7 nautical miles northeast of the old airport which has been closed. An arrival area extension south of the airport will provide

additional airspace protection for IFR aircraft executing the localizer SIAP to Runway 1.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Public Law 97-449, January 12, 1983); 14 CFR 11.69.

2. Section 71.181 is amended as follows:

§ 71.181 [Amended]

Wilkesboro, NC [Revised]

That airspace extending upward from 700 feet above the surface within a 12.5-mile radius of Wilkes County Airport (latitude 36°13'21"N, longitude 81°05'56"W); within 3.5 miles each side of the Runway 1 localizer course, extending from the 12.5-mile radius area to 9.5 miles south of the LOM (latitude 36°06'46"N, longitude 81°05'54"W), excluding those portions that coincide with the West Jefferson and Elkin, NC, transition areas.

Issued in East Point, Georgia, on October 19, 1990.

Don Case,

Acting Manager, Traffic Division, Southern Region.

[FR Doc. 90-25501 Filed 10-29-90; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 34-28576]

Delegation of Authority to Director of Division of Market Regulation

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its rules governing delegation of authority to permit the Director of the Division of Market Regulation to disclose directly to the Department of Treasury certain confidential information and documents regarding possible laundering of money through or by brokers or dealers, including broker-dealer compliance with the Currency and Foreign Transaction Reporting Act of 1970. With this authority, the Division can increase the effectiveness and efficiency of the Commission's role in the implementation of the Currency and Foreign Transaction Reporting Act of 1970.

EFFECTIVE DATE: October 30, 1990.

FOR FURTHER INFORMATION CONTACT: Joseph M. Furey or Michael T. Dorsey, Office of Self-Regulation Inspections, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, telephone (202) 272-7385.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Securities and Exchange Commission today has announced an amendment to Rule 30-3(a),[1] governing delegation of authority to the Director of the Division of Market Regulation ("Division Director") under the Securities Exchange Act of 1934 ("Exchange Act").[2] The amendment delegates to the Division Director authority to disclose to the Department of Treasury ("Treasury") certain information or documents deemed confidential by Rule 0-4 under the Exchange Act.[3] With this authority, the Division will be able to increase the effectiveness of the Commission's role in the implementation of the Currency and Foreign Transaction Reporting Act of 1970 ("Act" or "Bank Secrecy Act").[4]

II. Discussion

Under the Bank Secrecy Act, the Commission has the responsibility of assuring that broker-dealers comply with the Act.[5] To that end, the Commission promulgated Rule 17a-8 under the Exchange Act to require broker-dealers to comply with the reporting, recordkeeping and records retention requirements of the Act, as well as the related Treasury regulations.[6]

As part of its responsibilities, the Commission reports periodically to the Treasury on the status of broker-dealer compliance. Compliance with Rule 17a-8 and the Bank Secrecy Act is determined through the examination programs of the Commission and certain Self-Regulatory Organizations ("SROs") of which the broker-dealers are members.[7] The findings of these examinations are made available to Treasury by the Commission staff to the extent permitted by Rule 0-4. If Treasury requests more specific information or if the Commission staff determines that certain confidential information or documents should be referred to Treasury immediately, under Rule 0-4 the staff must obtain authorization from the Commission or the General Counsel.

III. Delegation of Authority

In the interest of efficiency, the Commission is amending Rule 30-3(a) under its rules concerning Organization and Program Management to delegate authority to the Division Director to disclose to the Treasury information and documents regarding possible laundering of money through or by brokers or dealers, including broker-dealer compliance with the Bank Secrecy Act. To the extent that the information or documents are obtained through the Division's broker-dealer examination program under section 17 of the Exchange Act, Rule 0-4 prohibits

[1] 17 CFR 200.30-3(a).

[2] 15 U.S.C. 78a *et seq.*

[3] 17 CFR 240.0-4. Rule 0-4 prohibits the Commission staff from making public information or documents obtained by officers or employees in the course of broker-dealer examinations or investigations unless authorized by the Commission or the General Counsel, acting pursuant to delegated authority.

[4] Pub. L. 91-508, 84 Stat. 1114, 12 U.S.C. 1730d, 1829b, 1951-1959, 31 U.S.C. 1051-1122.

[5] *See* 31 U.S.C. 5318 and 31 CFR 103.46(b)(6).

[6] 17 CFR 240.17a-8. *See* Recordkeeping by Brokers and Dealers, Securities Exchange Act Release No. 18321 (Dec. 10, 1981), 46 FR 61454 (Dec. 17, 1981).

[7] The Self-Regulatory Organizations principally involved in the Commission's determination of broker-dealer compliance with Rule 17a-8 and the Bank Secrecy Act are the New York Stock Exchange, Inc., and the National Association of Securities Dealers, Inc.

the direct transfer of the information or the documents to Treasury. Before the information and documents can be sent to Treasury, the Commission or the General Counsel must determine that such a transfer is not contrary to the public interest.

Delegating the Division Director the authority to furnish directly to Treasury information and documents concerning money laundering and Act compliance, otherwise deemed confidential by Rule 0–4, will enable the Commission staff to cooperate with the Treasury more effectively. In addition, the amendment will help conserve the resources of the Commission and the Division as the staff may avoid the time consuming process of seeking Commission authorization before reporting more specifically on broker-dealer compliance with the Bank Secrecy Act.

In accordance with section 553(b)(A) of the Administrative Procedure Act,[5] the Commission finds that this amendment relates solely to agency organization, procedure or practice and does not relate to a substantive rule. Accordingly, notice and opportunity for public comment are unnecessary, as well as publication of the amendment before its effective date.

List of Subjects in 17 CFR Part 200

Administrative practice and procedure; Freedom of information; Privacy; and Securities.

IV. Statutory Basis and Text of Proposed Rule Amendments

For the reasons set out in the preamble, the Commission is amending part 200 of chapter II of title 17 of the Code of Federal Regulations as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Subpart A—Organization and Program Management

1. The authority citation for part 200, subpart A, continues to read as follows:

Authority: Secs. 19, 23, 48 Stat. 85, 901, as amended; sec. 20, 49 Stat. 833; sec. 319, 53 Stat. 1173; secs. 38, 211, 54 Stat. 841, 855; sec. 308, 101 Stat. 1254 (15 U.S.C. 77s, 78d–1, 78d–2, 78w, 79t, 77sss, 80a–37, 80b–11), unless otherwise noted.

2. By revising paragraph (a)(38) to § 200.30–3 to read as follows:

§ 200.30–3 Delegation of authority to Director of Division of Market Regulation.

* * * * *

(a) * * *

(38) To disclose:

(i) To the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the state banking authorities, information and documents deemed confidential regarding registered clearing agencies and registered transfer agents; and

(ii) To the Department of Treasury, information and documents deemed confidential regarding possible laundering of money through or by brokers or dealers, including compliance by brokers or dealers with the Currency and Foreign Transactions Reporting Act of 1970, as amended.

* * * * *

By the Commission.

Dated: October 24, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–25572 Filed 10–29–90; 8:45 am]

BILLING CODE 8010–01–M

[5] 5 U.S.C. 553(b)(A).

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 111

Annual Users Fee for Customs Broker's Permit

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of due date of broker's user fee.

SUMMARY: This document advises Customs brokers that for 1991 the annual user fee of $125 that is assessed for each permit held by an individual, partnership, association, or corporate broker is due by January 2, 1991. This announcement is being published to comply with the Tax Reform Act of 1986.

DATES: Due date for fee: January 2, 1991.

FOR FURTHER INFORMATION CONTACT: Raymond R. Janiszewski, Chief, Broker Compliance and Evaluation Branch (202) 566–5307.

SUPPLEMENTARY INFORMATION:

Background

Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99–272) established that an annual user fee of $125 is to be assessed for each Customs broker's permit held by an individual, partnership, association, or corporate broker. This fee is set forth in the Customs Regulations in section 111.96 (19 CFR 111.96).

Section 111.96, Customs Regulations, provides that the fee is payable for each calendar year in each district where a broker has a permit to do business by the due date which will be published in the **Federal Register** annually.

Section 1893 of the Tax Reform Act of 1986 (Pub. L. 99–514), provides that notices of the date on which payment is due of the user fee for each broker permit shall be published by the Secretary of the Treasury in the **Federal Register** by no later than 60 days before such due date.

This document notifies brokers that for 1991 the due date for payment of the user fee is January 2, 1991. It is expected that annual user fees for brokers for subsequent years will be due on or about the first of January each year.

Dated: October 24, 1990.

Michael H. Lane,

Acting Commissioner of Customs.

[FR Doc. 90–25592 Filed 10–29–90; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 925

Missouri Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM) Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing approval, with certain exceptions, of a proposed amendment to the Missouri permanent regulatory program (hereinafter referred to as the "Missouri program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment was submitted to OSM on July 21, 1989, and pertains to previously mined areas, permit application minimum requirements for information on environmental resources, permit application minimum requirements for reclamation and operation plans, requirements for permits for special categories of mining and reclamation, approval of permit applications, underground mining application requirements for reclamation and operation plans, definitions, State employee financial interests, and individual civil penalty assessments. The amendment revises the State program to be consistent with corresponding Federal standards.

EFFECTIVE DATE: October 30, 1990.

BEST COPY AVAILABLE

FOR FURTHER INFORMATION CONTACT: Jerry R. Ennis, Director, Kansas City Field Office, Office of Surface Mining Reclamation and Enforcement, 934 Wyandotte Street, room 500, Kansas City, Missouri 64105, telephone: (816) 374-6405.

SUPPLEMENTARY INFORMATION:

I. Background on the Missouri Program

The Secretary of the Interior conditionally approved the Missouri program on November 21, 1980. Information pertinent to the general background and revisions to the Missouri program, as well as the Secretary's findings, the disposition of comments, and the conditions of approval, can be found in the November 21, 1980, Federal Register (45 FR 77017). Subsequent actions concerning amendments to the program are codified at 30 CFR 925.12, 925.15, and 925.16.

II. Submission of Amendment

On July 21, 1989, Missouri submitted to OSM proposed regulatory revisions to its approved program (Administrative Record No. 454). Missouri proposed regulatory revisions to Division 40 (Land Reclamation Commission) title 10 (Department of Natural Resources) of the Missouri Code of State Regulations (CSR). Specifically it proposes to revise 10 CSR 40–4.060(1) and (2), Previously Mined Areas; 10 CSR 40–6.040(11)(E), Minimum Requirements for Information on Environmental Resources; 10 CSR 40–6.050(5)(C), Surface Mining Permit Application—Minimum Requirements for Reclamation and Operations Plan; 10 CSR 40–6.060(2)(B) and (C), Requirements for Permits for Special Categories of Surface Coal Mining and Reclamation Operations; 10 CSR 40–6.070(7)(A)3 and (8)(M), Review, Public Participation and Approval of Permit Applications and Permit Terms and Conditions; 10 CSR 40–6.120(11), Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan; 10 CSR 40–8.010(1)(A), Definitions; 10 CSR 40–8.045, Individual Civil Penalty Assessment to the Directors, Officers, or Agents of a Corporation; and 10 CSR 40–8.060(8)(B), State Employees Financial Interest.

The amendment proposed by Missouri responds to a November 3, 1988, letter (Administrative Record No. MO–406) from OSM in accordance with 30 CFR 732.17(d) stating the inadequacy of certain program areas.

OSM announced receipt of the proposed amendment in the August 18, 1989, Federal Register (54 FR 34190) and, in the same notice, opened the public comment period and provided opportunity for a public hearing on the substantive adequacy of the proposed amendment. No public comments were received by September 18, 1989, the close of the comment period. The public hearing, scheduled for September 12, 1989, was not held because no one requested an opportunity to testify.

On October 27, 1989, following a thorough review of the proposed amendment, OSM notified Missouri of several concerns it had with the proposed regulations (Administrative Record No. MO–479). The concerns included assurance that: (1) All sediment control structures are designed to meet effluent limits in a manner no less effective than the Federal regulations; (2) the Endangered Species Act of 1973 as amended is met; and (3) the definition of previously mined area be no less effective than the Federal regulation. On November 3, 1989, Missouri informed OSM that it would address these concerns in a future rulemaking (Administrative Record No. MO–483).

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.15 and 732.17, that with certain exceptions, the amendment submitted by Missouri on July 21, 1989, meets the requirements of SMCRA and 30 CFR chapter VII as discussed below.

1. Substantive Revisions to Missouri's Proposed Regulations That Are Substantially Identical to the Counterpart Federal Regulations

Missouri proposed revisions to the following regulations that are substantive in nature and contain language substantially identical to the corresponding Federal regulations: 10 CSR 40–4.060 (1) and (2), counterpart Federal regulations at 30 CFR 816.106—backfilling and grading previously mined areas; 10 CSR 40–6.040(11)(E) 2. and 3., counterpart Federal regulations at 30 CFR 784.21(a)(2) (ii) and (iii)—fish and wildlife resource information; 10 CSR 40–6.050(5)(C), counterpart Federal regulations at 30 CFR 780.14(c)—operation plan-maps and plans; 10 CSR 40–6.060(2) (B) and (C), counterpart Federal regulations at 30 CFR 785.15 (b) and (c)—steep slope mining; 10 CSR 40–6.070(7)(A)3. and (8)(M), counterpart Federal regulations at (respectively) 30 CFR 780.16(c)—fish and wildlife information; and 773.15(c)(11)—review of permit applications; 10 CSR 40–6.120(11), counterpart Federal regulations at 30 CFR 784.20—subsidence control plan; 10 CSR 40–8.060(8)(B), counterpart Federal regulations at 30 CFR 705.4(d)—employee financial interests and responsibilities; and 10 CSR 40–8.045, counterpart Federal regulations at 30 CFR part 846—individual penalties. The Director, therefore, finds that these proposed revisions to Missouri's regulations are no less effective than the corresponding Federal regulations, and is approving the proposed revisions.

2. Fish and Wildlife Resource Information

At 10 CSR 40–6.040(11)(E), Missouri proposes regulations that would require site-specific resource information on species or habitats when the permit or adjacent area is likely to include: (1) Listed or proposed endangered or threatened species of plants or animals or their critical habitats listed by the Secretary under the Endangered Species Act of 1973 (16 U.S.C. 153[illegible] *et seq.*) or species or habitats protected by the State of Missouri as listed in the current publication of *Rare and Endangered Species of Missouri*, (2) habitats of unusually high value for fish and wildlife such as important streams, wetlands, riparian areas, cliffs supporting raptors, areas offering special shelter or protection, migration routes or reproduction and wintering areas, or (3) other species or habitats identified through agency consultation as requiring special protection under State or Federal law.

The Federal regulations at 30 CFR 784.21(a)(2) place these same substantive requirements. However, Missouri's citation to the Endangered Species Act of 1973 at subsection (1)(E)1. fails to include "as amended (16 U.S.C. 1531 *et seq.*)" per the Federal regulation at 30 CFR 784.21(a)(2)(i). This makes Missouri's citation more limiting as it does not assure that amendments to that Act would be included. In its November 3, 1989, reply to the OSM letter of October 27, 1989, Missouri agreed to correct the citation in future rulemaking.

The Director therefore finds Missouri's proposed regulation to be less effective than the Federal regulation in that it does not provide "as amended (16 U.S.C. 1531 *et seq.*)" at its citation of the Endangered Species Act of 1973. The Director is requiring Missouri to amend its regulation at 10 CSR 40–6.040(11)(E)1. to make it no less effective than the Federal regulations.

3. Definitions

(a) Missouri's rule at 10 CSR 40–8.010(1)(A)5. presently states, in pertinent part, that: "The affected area shall include every road used for the purpose of access to, or for hauling coal

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to or from, surface coal mining and reclamation operations, unless the road—A. Was designated as a public road pursuant to the laws of the jurisdiction in which it is located; B. Is maintained with public funds and constructed in a manner similar to other public roads of the same classification within the jurisdiction; and C. There is substantial (more than incidental) public use." Missouri proposes to delete this language, and in its stead proposes to add the following: "Public roads may be included in the affected area and regulated on a case-by-case basis, as determined by the extent of mining-related use."

The language that Missouri proposes to delete is identical to the Federal definition of "affected area" at 30 CFR 701.5. However, in the case of *In re: Permanent Surface Mining Regulation Litigation*, 620 F. Supp. 1519 (D.D.C. 1985), *modified sub nom., National Fed'n* v. *Hodel*, 839 F.2d 694 (DC Cir. 1988), the above language was challenged to the extent that it imposed, at subparagraph (c), the "more than incidental public use" test in determining whether a road falls outside of the definition of "affected area". As a result of this challenge, the court remanded the rule and stated that in determining whether a public road should be permitted, the extent of mining-related use rather than the public use should be considered, and that if the effect of the mining-related use is only *de minimis*, or relatively minor, then the public road is not part of the surface coal mining operation and does not have to be permitted. *See* 620 F. Supp. 1519, 1582. In response to the court's ruling, on November 20, 1986, OSM suspended its definition of "affected area" at 30 CFR 701.5 "to the extent that it excludes public roads which are included in the definition of "surface coal mining operations". 51 FR 41925, 41953. OSM has since stated that the determination of whether a particular public road is included in the definition of "surface coal mining operations" must be made on a case-by-case basis. 53 FR 45190, 45193, November 8, 1988. For these reasons, the Director is approving Missouri's proposed definition; *however*, this approval is conditioned upon Missouri interpreting its proposed definition ("roads *may* by included," emphasis added) as requiring the regulatory authority to analyze whether roads in the vicinity of the mine must be regulated on the basis of the criteria set forth in its definition at 10 CSR 40–8.010(1)(A)5. as explicated above. Provided Missouri interprets its proposed definition in this manner, the Director finds the proposed definition of "affected area" to be no less effective than the corresponding Federal definition as modified by *In re: Permanent Surface Mining Regulation Litigation* and is approving the proposed change.

(b) At 10 CSR 40–8.010(1)(A)18., Missouri proposes to modify its definition of "coal processing plant" or "coal preparation plant" to mean "a facility where coal is subject to chemical or physical processing or cleaning, concentrating or other processing or preparation. It includes facilities associated with coal preparation activities, including, but not limited to, the following: loading facilities; storage and stockpile facilities; sheds, shops and other buildings; water treatment and water storage facilities; settling basins and impoundments; coal processing and other waste disposal areas; and roads, railroads and other transport facilities."

The modifications proposed by Missouri make its definition substantively the same as the Federal definition of "coal preparation plant" at 30 CFR 701.5. The Director finds that Missouri's proposed definition of "coal processing plant" or "coal preparation plant" at 10 CSR 40–8.010(1)(A)18. is no less effective than the Federal definition of "coal preparation plant" at 30 CFR 701.5. The Director also finds that Missouri has satisfied a required program amendment at 30 CFR 925.16(m)(4), (discussed in the October 31, 1988, **Federal Register** (53 FR 43866)) requiring the State to provide a definition as effective as the Federal regulation requirements. The Director is therefore removing this required program amendment, and is approving Missouri's proposed definition as being no less effective than the Federal regulations.

(c) At 10 CSR 40–8.010(1)(A)71., Missouri proposes to define "previously mined areas" to mean "land previously mined or disturbed to facilitate mining on which there were no surface coal mining operations subject to the standards of the surface coal mining law." Missouri's proposed definition of "previously mined area" contains language substantively identical to that of the Federal definition at 30 CFR 701.5. However, in the case of *National Wildlife Fed'n* v. *Lujan*, 733 F. Supp. 419 (D.D.C. 1990), the court remanded the Federal definition because of two concerns. The first was whether "previously mined" means that mining occurred (1) Before the date Congress enacted SMCRA (August 3, 1977), or (2) before the various dates that SMCRA's substantive requirements began to apply to specific mining operations or sites. This issue is important because pursuant to 30 CFR 816.106(b), 817.106(b), and 819.19(b), operators remining previously mined areas do not need to completely eliminate reaffected or enlarged highwalls if there is not enough reasonably available spoil to do the job. Rather, in such situations, the operator's duty is to eliminate the highwalls only to the "maximum extent technically practical." Given this limited exception to the requirement to completely remove all highwalls, the second related concern was that the current definition might allow an operator to remine an area that had once been fully and satisfactorily reclaimed, and then leave the area only partially reclaimed by not completely eliminating any remined or reaffected highwalls.

The court found that "a definition using the date of SMCRA's enactment more closely conforms to the Act and the court's previous ruling on the issue." 733 F. Supp. at 438. Consequently, the court held that the date of enactment of SMCRA (August 3, 1977), "must be the time from which the temporal concepts of 'preexisting' and 'previous' are measured." *Id.* at 441–442. With respect to the second issue, the court held that a "definition cannot stand that lets full reclamation be undone for a later partial effort. The definition must be rewritten to make this impossible." *Id.* at 441. Accordingly, the court remanded "the definition of previously mined area to the Secretary to correct both of the flaws identified above." *Id.* at 442.

Although OSM has not yet actually suspended the above definition, OSM may not, because of the court's remand, use the existing Federal definition of "previously mined area" at 30 CFR 701.5 in evaluating the sufficiency of Missouri's proposed definition. Accordingly, OSM has evaluated the proposed amendment based upon its consistency with the appropriate provisions of SMCRA as interpreted by the court. Since Missouri's language is similar to the Federal regulation, it suffers from the same defects as the Federal regulation. Therefore, the Director finds the State's proposed definition to be inconsistent with SMCRA as interpreted by the court, and is not approving it to the extent that it (1) Provides or could be interpreted as providing that the reference date for "previously mined" is any date other than August 3, 1977 (the date of enactment of SMCRA), or (2) allows or could be interpreted as allowing lands which have once been fully and satisfactorily reclaimed to be reminded

and then only partially reclaimed. The Director will, pursuant to 30 CFR 732.17(d), inform Missouri of further regulatory changes after the Secretary promulgates a new definition.

IV. Public and Agency Comments

OSM solicited public comments and provided opportunity for a public hearing on the proposed amendment. No comments were received, and since no one requested an opportunity to testify at a public hearing, no hearing was held.

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h), comments were also solicited from various State and Federal agencies with an actual or potential interest in the Missouri program. The Missouri Division of Parks, Recreation, and Historic Preservation responded by stating that it had no objection to the proposed amendment (Administrative Record No. MO–466). The U.S. Environmental Protection Agency responded from both its Washington DC and Region VII offices (Administrative Record Nos. MO–473 and 459), by stating that it had no comment. No other State or Federal agencies offered any comments.

V. Director's Decision

Except for those provisions discussed in findings 2 and 3(c), the Director is approving Missouri's July 21, 1989, proposed amendment.

As discussed in finding 2 of this rule, the Director is requiring a program amendment at 30 CFR 925.16(d) concerning fish and wildlife resources information.

The Federal regulations at 30 CFR part 925 codifying decisions concerning the Missouri program are being amended to implement this decision. This approval is contingent upon the State's promulgation of the proposed revisions in the identical form submitted for OSM's review and approval. However, the Director may require further changes in the future as a result of Federal regulatory revisions, court decisions, or OSM oversight of the Missouri program. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary of the Interior. The Federal regulations at 30 CFR 732.17(a) require that any alteration of an approved State program must be submitted to OSM as a program amendment. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved State programs. Thus, any changes to a State program are not enforceable by the State until approved by the Director. In the oversight of the Missouri program, the Director will recognize only statutes, regulations, and other materials that have been approved, together with any consistent implementing policies, directives, or other materials, and will require the enforcement by Missouri of only such provisions.

VII. Procedural Determinations

1. National Environmental Policy Act

The Secretary of the Interior has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order No. 12291 for actions directly related to approval or conditional approval of State regulatory programs. Accordingly, for this action, OSM is exempt from the requirement to prepare a regulatory impact analysis, and this action does not require regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the OMB under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 925

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 19, 1990.

Raymond L. Lowrie,

Assistant Director, Western Support Center.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T, of the Code of Federal Regulations is amended as set forth below.

PART 925—MISSOURI

1. The authority citation of part 925 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 925.15 is amended by adding paragraph (1) to read:

§ 925.15 Approval of regulatory program amendments.

* * * * *

(1) With the exception of 10 CSR 40–6.040(11)(E)1., concerning fish and wildlife resources information, and 10 CSR 40–8.010(1)(A)71., concerning the definition of previously mined area, the following provisions of the Missouri Code of State Regulations (CSR) as submitted by Missouri on July 21, 1989, are approved effective October 30, 1990: 10 CSR 40–4.060 (1) and (2), previously mined areas; 10 CSR 40–6.040(11)(E) 2. and 3., fish and wildlife resources information; 10 CSR 40–6.050(5)(C), operations plan-maps and plans; 10 CSR 40–6.060(2) (B) and (C), steep slope mining; 10 CSR 40–6.070(7)(A)3. and 8(M), review of permit applications; 10 CSR 40–6.120(11), subsidence control plan; 10 CSR 40–8.010(1) (A)5. and (A)18., definitions; 10 CSR 40–8.045, individual civil penalty assessment to the directors, officers or agents of a corporation; and 10 CSR 40–060(8)(B), state employees financial interest.

3. Section 925.16 is amended by adding paragraph (d) and removing and reserving paragraph (m) to read:

§ 925.16 Required program amendments.

* * * * *

(d) By December 31, 1990, to be consistent with the Federal regulations at 30 CFR 784.21(a)(2)(i), Missouri must amend its program at 10 CSR 40–6.040(11)(E)1. to include in its cite of the Endangered Species Act of 1973 the reference "as amended (16 U.S.C. 1531 *et seq.*)."

* * * * *

[FR Doc. 90–25597 Filed 10–29–90; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–3856–6]

Michigan; Schedule of Compliance for Modification of Michigan's Hazardous Waste Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of Michigan's compliance schedule to adopt program modifications.

SUMMARY: On September 22, 1986, U.S. EPA promulgated amendments to the deadlines for State program modifications and published requirements for States to be placed on a compliance schedule to adopt necessary program modifications. U.S. EPA is today publishing a compliance schedule for Michigan to modify its program, in accordance with 40 CFR 271.21(g), to adopt Federal program modifications.

EFFECTIVE DATE: October 30, 1990.

FOR FURTHER INFORMATION CONTACT: Judy Greenberg, Michigan Regulatory Specialist, Office of RCRA, U.S. EPA, Region V, 230 South Dearborn Street, 5HR–JCK–13, Chicago, Illinois 60604, (312) 886–4179, (FTS: 8–886–4179).

SUPPLEMENTARY INFORMATION:

A. Background

Final authorization to implement the Federal hazardous waste program within the State is granted by U.S. EPA, if the Agency finds that the State program: (1) Is "equivalent" to the Federal program; (2) is "consistent" with the Federal program and other State programs; and (3) provides for adequate enforcement (section 3006(b), 42 U.S.C. 6926(b)). U.S. EPA regulations for final authorization appear at 40 CFR 271.1–271.25. In order to retain authorization, a State must revise its program to adopt new Federal requirements by the cluster deadlines and procedures specified in 40 CFR 271.21. See 51 FR 33712, September 22, 1986, for a complete discussion of these procedures and deadlines.

B. Michigan

Michigan received final authorization of its hazardous waste program on October 30, 1986 (see 51 FR 36804, October 16, 1986). Effective January 23, 1990, EPA granted authorization to Michigan for revisions to its hazardous waste program (see 54 FR 48608). Today, U.S. EPA is publishing a compliance schedule for Michigan to complete program revisions for the following Federal regulations:

—List (Phase I) of Hazardous Constituents for Ground-Water Monitoring, 52 FR 25942–25953, July 9, 1987.
—Identification and Listing of Hazardous Waste, 52 FR 26012, July 10, 1987.
—Liability Requirements for Hazardous Waste Facilities; Corporate Guarantee, 52 FR 44314–44321, November 18, 1987. (Note this is an optional requirement, but the State intends to adopt it as part of this rulemaking.)
—Hazardous Waste Miscellaneous Units, 52 FR 46946–46965, December 10, 1987.
—Technical Corrections; Identification and Listing of Hazardous Waste, 53 FR 13382–13393, April 22, 1988.

The adoption deadline under 40 CFR 271.21 for these Federal regulations was July 1, 1989. However, the State's rulemaking has been delayed to address public concerns about portions of the rules. The State has taken the following steps so far in regards to promulgating the rule package:

1. An informal hearing on the proposed rules was held on April 27, 1989.
2. The proposed rule package and notice of the dates for public hearings was published in the October 1989 "Michigan Register".
3. Notice of the dates for public hearings was published in seven Michigan newspapers on November 28, 1989.
4. A public hearing was held on January 4, 1990, in Lansing, Michigan.
5. Public hearings were also held on January 9, 1990, in Marquette and Grayling, Michigan.
6. The public comment period closed on January 23, 1990. The Department of Natural Resources received 128 comments on the proposed rule package.
7. A report to the Joint Committee on Administrative Rules was completed on July 9, 1990, which summarized: (a) The actions taken by the Department of Natural Resources on the proposed rule package; (b) public comments received; and (c) the Department of Natural Resources' response to the public comments.
8. The Department of Natural Resources submitted the proposed rule package to the State Legislative Service Bureau on September 14, 1990.

The State has agreed to complete the needed program revisions to its authorized program according to the following schedule:

1. The Legislative Service Bureau will submit the proposed rule package to the Michigan Department of the Attorney General by November 1, 1990.
2. The Michigan Department of the Attorney General will submit the rule package to the legislative Joint Committee on Administrative Rules by December 1, 1990.
3. The Joint Committee on Administrative Rules will conduct a committee hearing and issue a determination. If the proposed rules are approved by the Joint Committee on Administrative rules, the rules will be submitted to the Michigan Secretary of State for codification in the Act 64 administrative rules by January 1, 1991.

Michigan expects to submit an application to U.S. EPA requesting authorization for the Federal regulations listed above by March 1, 1991.

Authority: This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the RCRA of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: October 5, 1990.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 90–25636 Filed 10–29–90; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 302–6

[FTR Amendment 11]

Federal Travel Regulation; Increase in Maximum Reimbursement Limitations for Real Estate Sale and Purchase Expenses

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal Travel Regulation to increase the maximum dollar limitations on reimbursement for allowable real estate sale and purchase expenses incident to a change of official station. The law (5 U.S.C. 5724a(a)(4)(B)) requires that the dollar limitations be updated effective October 1 of each year based on the percent change, if any, in the Consumer Price Index for All Urban Consumers, United States City Average, Housing Component, for December of the preceding year over December of the second preceding year. This final rule will have a favorable impact on Federal employees authorized to relocate in the interest of the Government since it increases relocation allowance maximums.

EFFECTIVE DATE: This final rule is effective October 1, 1990, and applies to employees whose effective date of transfer is on or after October 1, 1990. For purposes of this regulation, the effective date of transfer is the date on which the employee reports for duty at the new official station.

FOR FURTHER INFORMATION CONTACT: Raymond F. Price, Travel Management Division (FBT), FTS 557–1253 or Commercial (703) 557–1253.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major

rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 302–6

Government employees, Relocation allowances and entitlements, Transfers.

For the reasons set out in the preamble, 41 CFR part 302–6 is amended as set forth below.

PART 302–6—ALLOWANCE FOR EXPENSES INCURRED IN CONNECTION WITH RESIDENCE TRANSACTIONS

1. The authority citation for part 302–6 continues to read as follows:

Authority: 5 U.S.C. 5721–5734; 20 U.S.C. 905(a); E.O. 11609, July 22, 1971 (36 FR 13747).

2. Section 302–6.2 is amended by revising paragraphs (g) (1) and (2) to read as follows:

§ 302–6.2 Reimbursable and nonreimbursable expenses.

* * * * *

(g) *Overall limitations.* The total amount of expenses that may be reimbursed is as follows:

(1) In connection with the sale of the residence at the old official station, reimbursement shall not exceed 10 percent of the actual sale price or $19,249, whichever is the lesser amount; and

(2) In connection with the purchase of a residence at the new official station, reimbursement shall not exceed 5 percent of the purchase price or $9,624, whichever is the lesser amount.

* * * * *

Dated: October 9, 1990.

Richard G. Austin,

Administrator of General Services.

[FR Doc. 90–25561 Filed 10–29–90; 8:45 am]

BILLING CODE 6820–24–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90–177; RM–7116]

Radio Broadcasting Services; Susanville, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 242C2 to Susanville, California, as that community's second local FM broadcast service, in response to a petition for rule making filed by Susan M. Ciborosky. *See* 55 FR 12869, April 6, 1990. Coordinates used for Channel 242C2 at Susanville are 40–26–55 and 120–44–20. With this action, the proceeding is terminated.

DATES: Effective December 10, 1990; the window period for filing applications on Channel 242C2 at Susanville, California, will open on December 11, 1990, and close on January 10, 1991.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530. Questions related to the window application filing process should be addressed to the Audio Services Division, FM Branch, Mass Media Bureau, (202) 632–0394.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90–177, adopted September 28, 1990, and released October 24, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Channel 242C2 at Susanville.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–25551 Filed 10–29–90; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 89–463; RM–6896]

Radio Broadcasting Services; Boyce, LA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 272C3 for Channel 272A at Boyce, Louisiana, and modifies the license for Station KBCE (FM) to specify operation on the new channel in response to a petition filed by Trinity Broadcasting Corporation. *See* 54 FR 45772, October 31, 1989. The coordinates for Channel 272C3 are 31–22–21 and 92–36–41.

EFFECTIVE DATE: December 10, 1990.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–463, adopted September 28, 1990, and released October 25, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Louisiana, is amended by removing Channel 272A and adding Channel 272C3 at Boyce.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25660 Filed 10-29-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-572; RM-7020]

Radio Broadcasting Services; Canaan, VT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes FM Channel 231C3 for Channel 231A at Canaan, Vermont, and modifies the construction permit for Station WKNW(FM) to specify the higher class channel, in response to a petition filed by Four Seasons Communications, Inc. *See* 54 FR 52424, December 21, 1989. Concurrence of the Canadian government for Channel 231C3 at Canaan, as a specially negotiated short-spaced allotment, has been obtained at coordinates 45-01-20 and 71-25-05.

EFFECTIVE DATE: December 10, 1990.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-572, adopted September 29, 1990, and released October 25, 1990. The full text of this Commission's decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Vermont, is amended by removing Channel 231A and adding Channel 231C3 at Canaan.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25661 Filed 10-29-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-601; RM-7072]

Radio Broadcasting Services; Chase City, VA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 260C3 for Channel 260A to specify operation on the higher class channel, in response to a petition filed by Patricia B. Wagstaff. *See* 55 FR 885, January 10, 1990. The coordinates for Channel 260C3 are 36-48-13 and 78-21-02.

EFFECTIVE DATE: December 7, 1990.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-601, adopted September 27, 1990, and released October 23, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Virginia, is amended by removing Channel 260A and adding Channel 260C3 at Chase City.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25550 Filed 10-29-90; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 91046-0006]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of apportionment; request for comments.

SUMMARY: The Secretary of Commerce (Secretary) announces that amounts of the reserve are needed in domestic annual processing (DAP) operations for various fisheries and are being apportioned to these operations in the Bering Sea and Aleutian Islands Management (BSAI) Area. The species and species groups involved in this action are: Arrowtooth flounder, "other species," Atka mackerel, and squid. This action is necessary to promote optimum use of groundfish in the BSAI Area. It is intended to carry out the management objectives contained in the Bering Sea/Aleutian Islands Groundfish Fishery Management Plan (FMP).

DATES: *Effective* from noon, Alaska local time, October 24, 1990. *Comments* are invited on or before November 9, 1990.

ADDRESSES: Comments should be mailed to Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802, or be delivered to the Federal Building Annex, Suite 6, 9109 Mendenhall Mall Road, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, Resource Management Specialist, NMFS, 907-586-7229.

SUPPLEMENTARY INFORMATION: The FMP governs the groundfish fishery in the exclusive economic zone within the BSAI Area under the Magnuson Fishery Conservation and Management Act (Magnuson Act). The FMP was developed by the North Pacific Fishery Management Council and is implemented by regulations codified at 50 CFR 611.93 and part 675.

Section 675.20(a)(1) of the implementing regulations establishes an optimum yield (OY) range of 1.4 to 2.0 million metric tons (mt) for all groundfish species in the BSAI Area. Total allowable catches (TACs) for target species and the "other species" category are specified annually within

the OY range and apportioned by subarea under § 675.20(a)(2).

Under § 675.20(a)(3), 15 percent of the TAC for each target species and the "other species" category is placed in a reserve, which is not designated by species or species group, and the remaining 85 percent of the TAC for each target species and the "other species" category is apportioned between domestic annual harvest (DAH) and total allowable level of foreign fishing (TALFF).

Under § 675.20(b)(1)(i), the Secretary will apportion reserve amounts to a target species or the "other species" category as needed, provided that the apportionments do not result in overfishing.

The initial specifications for each of these species were published in the **Federal Register** on January 16, 1990 (55 FR 1434). The TACs for these species or species groups were augmented by apportionments from the reserve as follows: Arrowtooth flounder (55 FR 26208, June 27, 1990), "other species" (55 FR 26208, June 27, 1990), and Atka mackerel (55 FR 26450, June 28, 1990).

Under § 675.20(b)(1)(i), the Secretary now finds that the DAP fishery in the BSAI Area requires the following additional amounts for the remainder of the year: arrowtooth flounder, 2,000 mt; "other species", 20,000 mt; Atka mackerel, 2,500 mt; and squid, 500 mt. Therefore, he apportions 25,000 mt for DAP fisheries in the BSAI Area as listed in Table 1. The apportionment to Atka mackerel does not reopen this fishery. The revised DAP fishery amounts are less than or equal to the acceptable biological catch (ABC) for the species listed; therefore, overfishing of those same species will not occur.

Under provisions of the Magnuson Act, DAP fisheries may harvest, without respecification of TAC within DAH, any amount of remaining DAH. In the BSAI, TAC equals DAH. Table 1 shows the apportionment of reserves under this action to DAH and the amounts of groundfish available for harvest by DAP.

Classification

The Assistant Administrator for Fisheries, NOAA, finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment or to delay the effective date of this notice. Immediate effectiveness of this notice is necessary to benefit U.S. fishermen participating in DAP fisheries operations who would otherwise be prohibited from fishing due to a premature closure. However, interested persons are invited to submit comments in writing to the previously cited address on or before November 9, 1990.

This action is taken under § 675.20(b)(1)(i), and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 675

Fish, Fisheries, Recordkeeping and reporting requirements.

Authority: 16 U.S.C. 1801, *et seq.*

Dated: October 24, 1990.

Richard H. Schaefer,

Director of Office of Fisheries Conservation and Management, National Marine Fisheries Service.

TABLE 1.—APPORTIONMENT OF RESERVES IN THE BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA

[values are in metric tons]

Species		Current	This action	Revised
Arrowtooth flounder:				
ABC=106,500	DAP	7,800	+2,000	9,800
TAC=10,535	JVP	733	0	733
"Other species":				
ABC=55,000	DAP	4,250	+20,000	24,250
TAC=31,798	JVP	4,334	0	4,334
Atka mackerel:				
ABC=24,000	DAP	21,000	+2,500	23,500
TAC=23,500	JVP	0	0	0
Squid:				
ABC=10,000	DAP	425	+500	925
TAC=925	JVP	0	0	0
Total (BSAI):				
ABC=2,938,500	DAP	1,708,720	+25,000	1,733,720
TAC=2,000,000	JVP	257,992	0	257,992
	Reserves	33,288	−25,000	8,288

[FR Doc. No. 90-25621 Filed 10-25-90; 12:01 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 210
Tuesday, October 30, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 360

[Docket No. 90-217]

Noxious Weeds; Notice of Public Meetings; Change in Meeting Dates

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Rescheduling of public meetings.

SUMMARY: We are rescheduling two public meetings that will be held to obtain information concerning whether melaleuca should be designated as a Federal noxious weed.

DATES: Consideration will be given only to comments received on or before November 24, 1990. The public meetings will be held on November 16, 1990, in Fort Lauderdale, Florida, and on November 20, 1990, in San Francisco, California.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 90-158. Comments received may be inspected at USDA, Room 1141, South Building, 14th and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

The public meetings will be held in Room 422 of the Broward County Governmental Center, 115 South Andrews Avenue, Fort Lauderdale, Florida, on November 16, 1990; and in Room 1415, 630 Sansome Street, San Francisco, California, on November 20, 1990.

FOR FURTHER INFORMATION CONTACT: Thomas G. Flanigan, Operations Officer, Domestic and Emergency Operations, Plant Protection and Quarantine, APHIS, USDA, Room 646, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8247.

SUPPLEMENTARY INFORMATION: In a document published in the Federal Register on September 24, 1990 (55 FR 39010-39011, Docket Number 90-158), we gave notice of two public meetings, to be held on October 29 and 31, for the purpose of obtaining information concerning whether *Melaleuca quinquenervia* (cav.) should be designated as a Federal noxious weed. We have received a request to reschedule the meetings to allow participation by certain interested persons who would not be able to attend on the previously announced dates. We are granting this request, since it appears that rescheduling the meetings will allow fuller participation by interested individuals. The new meeting dates are listed under the "DATES" section of this document. The meeting locations and the time of the meetings are unchanged.

Authority: Secs. 4, 10; 88 Stat. 2149, 2151; 7 U.S.C. 2803, 2809; 41 FR 4251.

Done in Washington, DC, this 25th day of October 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-25631 Filed 10-29-90; 8:45 am]

BILLING CODE 3410-34-M

Federal Grain Inspection Service

7 CFR Part 800

Fees for Official Inspection and Official Weighing Services

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Federal Grain Inspection Service (FGIS) published a notice of proposed rulemaking in the Federal Register on Monday, October 1, 1990, (55 FR 43136), outlining its intention to increase fees for official inspection and official weighing services, as performed in the United States under the United States Grain Standards Act (USGSA), as amended, by 13.5 percent. The notice provided an opportunity for interested persons to forward written comments to FGIS until October 31, 1990, concerning any changes and/or revisions to the proposed fee increase. As a result of requests from the grain industry, FGIS is extending the comment period to provide interested persons with additional time in which to comment.

DATES: Comments must be submitted on or before November 30, 1990.

ADDRESSES: Written comments must be submitted to Paul D. Marsden, Federal Grain Inspection Service, USDA, room 0628-S, Box 96454, Washington, DC 20090-6454. Telemail users may respond to [IRSTASFF/FGIS/USDA] telemail; telex users may respond to Paul D. Marsden, TLX: 7607351, ANS: FGIS UC; and telecopier users may send responses to the automatic telecopier machine at (202) 447-4628.

All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Paul D. Marsden, address as above, telephone (202) 475-3428.

SUPPLEMENTARY INFORMATION: FGIS published a notice of proposed rulemaking in the Federal Register on October 1, 1990, (55 FR 40136) with the intent to obtain public comment on a proposal to increase fees or official inspection and official weighing services (7 CFR 800.71). The proposed increase is intended to cover, as nearly as practicable, the FGIS operating costs, including related supervisory and administrative costs. The comment period of 30 days from the date of publication was to close on October 31, 1990.

As a result of requests from the grain industry to allow time for additional comments, the comment period is hereby extended until November 30, 1990.

Authority: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: October 24, 1990

D. R. Gallart,

Acting Administrator.

[FR Doc. 90-25631 Filed 10-29-90; 8:45 am]

BILLING CODE 3410-EN-M

Agricultural Marketing Service

7 CFR Part 1005

[Docket No. AO-388-A4, DA-90-032]

Milk in the Carolina Marketing Area; Notice of Hearing on Proposed Amendment to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider a proposal by a cooperative association and a dairy processor to amend the Carolina Federal milk marketing order. The proposal would revise the pool distributing plant qualifications to permit unit pooling of two or more plants. Proponents contend that the proposed change is needed to maintain orderly marketing conditions.

DATES: The hearing will convene at 1 p.m. on November 8, 1990.

ADDRESSES: The hearing will be held at Ramada Inn, 515 Clanton Rd., Charlotte, North Carolina 28217 (704) 527-3000.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P. O. Box 96456, Washington, DC 20090-6456 (202) 447-2089.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at Ramada Inn, 515 Clanton Rd., Charlotte, North Carolina 28217, beginning at 1 p.m., on November 8, 1990, with respect to a proposed amendment to the tentative marketing agreement and to the order regulating the handling of milk in the Carolina marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Evidence also will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR 900.12(d)) with respect to proposal No. 1.

Actions under the Federal milk order program are subject to the Regulatory Flexibility Act (Pub. L. 98-354). This Act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purposes of the Act, a dairy farm is a "small business" if it has an annual gross revenue of less than $500,000, and a dairy products manufacturer is a "small business" if it has fewer than 500 employees. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

Interested parties who wish to introduce exhibits should provide the Presiding Officer at the hearing with 4 copies of such exhibits for the Official Record. Also, it would be helpful if additional copies are available for the use of other participants at the hearing.

List of Subjects in 7 CFR Part 1005

Milk marketing orders.

PART 1005—[AMENDED]

The authority citation for 7 CFR part 1005 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Southern Milk Sales, Inc., and Hunter Jersey Farms, Inc.

Proposal No. 1

§ 1005.7 Pool plant.

* * * * *

(a) * * *

(2) The total quantity of fluid milk products, except filled milk, disposed of in Class I is not less than 60 percent in each of the months of August through November and January and February, and 40 percent in each of the other months, of the total quantity of fluid milk products, except filled milk, physically received at such plant or diverted therefrom pursuant to § 1005.13, subject to the following conditions:

(i) Two or more plants operated by the same handler may be considered as a unit for the purpose of meeting the total Class I requirement percentages specified in paragraph (a)(2) of this section if each plant in the unit meets the in-area route disposition requirement specified in paragraph (a)(1) of this section, and if such handler requests that the plants be so considered before the first day of the month in which the plants are to be considered as a unit. If such a handler wishes to add or remove plants from consideration as a unit, such a request must be made before the first day of the month for which it is to be effective.

(ii) The applicable percentages in paragraph (a)(2) of this section may be increased or decreased up to 10 percentage points by the Director of the Dairy Division if the Director finds such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the Director shall investigate the need for revision either at the Director's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the Director shall issue a notice stating that the revision is being considered and invite data, views, and arguments.

* * * * *

Proposed by the Dairy Division, Agricultural Marketing Service

Proposal No. 2

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, Arnold Stallings, USDA/AMS/Dairy Division, P. O. Box 18030, Louisville, Kentucky 40218-0030, or from the Hearing Clerk, room 1083, South Building, United States Department of Agriculture, Washington, DC 20250, or may be inspected there.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition

applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington office only)
Office of the Market Administrator, Carolina Marketing Area

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, DC, on October 24, 1990.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 90-25580 Filed 10-29-90; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 90-AGL-18]

Proposed Alteration to Transition Area; Staples, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the existing Staples, MN, transition area to accommodate a revised NAB Runway 14 Standard Instrument Approach Procedure (SIAP) to Staples Municipal Airport, Staples, MN. The intended effect of this action is to ensure segregation of the aircraft using approach procedures under instrument flight rules from other aircraft operating under visual flight rules in controlled airspace.

DATES: Comment must be received on or before December 4, 1990.

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL-7, Attn: Rules Docket No. 90-AGL-18, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Air Traffic Division, System Management Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Douglas F. Powers, Air Traffic Division, System Management Branch, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Planes, Illinois 60018, telephone (312) 694-7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate to this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 90-AGL-18". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter the designated transition area airspace near Staples, MN. The present transition area would be modified to accommodate a revised NDB Runway 14 SIAP to Staples Municipal Airport, Staples, MN. The modification to the existing airspace would consist of a 3-mile width each side of the 317° bearing from Staples Municipal Airport, extending from the existing 5-mile radius area to 8.5 miles northwest of the airport.

The revised procedure requires that the FAA alter the designated airspace to insure that the procedure would be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined area which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Staples, MN [Revised]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Staples Municipal Airport (lat. 46°22'48" N., long. 94°48'06" W.); and within 3 miles each side of the 317° bearing from Staples Municipal Airport extending from the 5-mile radius to 8.5 miles northwest of the airport.

Issued in Des Plaines, Illinois, on October 15, 1990.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 90-25587 Filed 10-29-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 90-ASO-17]

Proposed Alteration of Jet Route; Charleston, SC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the description of Jet Route J-121 located in the vicinity of Charleston, SC. Under the current route alignment, a minimum en route altitude (MEA) signal gap exists in the route segment between Charleston, SC, and Norfolk, VA. This action would eliminate this gap by adding the Kinston, NC, VOR, to the description of J-121, thereby improving navigation in the area.

DATES: Comments must be received on or before December 10, 1990.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASO-500, Docket No. 90-ASO-17, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8250.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 90-ASO-17." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 75 of the Federal Aviation Regulations (14 CFR part 75) to alter the description of Jet Route J-121 located in the vicinity of Charleston, SC, by adding the Kinston, NC, VOR, to the route alignment between Charleston and Norfolk, VA. Under the current alignment of this segment, an MEA signal gap exists. Adding Kinston, NC, VOR, to the route segment would eliminate this signal problem. Section 75.100 of part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposed to amend part 75 of the Federal Aviation Regulations (14 CFR part 75) as follows:

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

1. The authority citation for part 75 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 75.100 [Amended]

2. Section 71.100 is amended as follows:

§ J-121 [Amended]

By removing the words "Charleston, Norfolk, VA;" and substituting the words "Charleston, Kinston, NC; Norfolk, VA;"

Issued in Washington, DC, on October 19, 1990.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 90-25588 Filed 10-29-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 808

[Docket No. 88P-0314]

Exemption From Preemption of State and Local Hearing Aid Requirements; Vermont

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; notice of opportunity for hearing.

SUMMARY: The Food and Drug Administration (FDA), in response to an application from Vermont, is proposing that a Vermont statute concerning the sale of hearing aids be exempted from Federal preemption. The agency is also giving notice to interested persons of an opportunity to request an oral hearing on this proposal.

DATES: Written comments by December 31, 1990; requests for an oral hearing by November 29, 1990. FDA intends that if a final rule is issued based on this proposal, it shall be effective by November 29, 1990.

ADDRESSES: Written comments and requests for a hearing to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Center for Devices and Radiological Health (HFZ-84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

SUPPLEMENTARY INFORMATION:

I. Background

On July 21, 1989, Vermont applied for exemption from Federal preemption under section 521 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360k) for 26 V.S.A. chapter 67, Section 3283a. This section states:

> To the extent permitted by Federal law, no hearing aid may be sold to a person who does not own a hearing aid at the time of sale without a written statement signed by a licensed physician that states that the patent's hearing loss has been medically evaluated and the patient may be considered a candidate for a hearing aid. The medical evaluation must have taken place within the preceding six months.

II. FDA Regulation

The FDA regulation (21 CFR 801.421) prohibits a hearing aid dispenser from selling a hearing aid unless the prospective user has presented to the dispenser a statement signed by a licensed physician stating that the patient's hearing loss has been evaluated medically, and that the patient may be considered a candidate for a hearing aid. The medical evaluation must have taken place within the 6 months preceding the sale. An informed adult, 18 years of age or older, may waive the medical evaluation requirement by signing a written statement. The hearing aid dispenser is prohibited from activity encouraging the prospective user to waive the medical evaluation.

III. Section 521 of the Act

Section 521(a) of the act provides that no State or local government may establish or continue in effect any requirement with respect to the safety and effectiveness of a device or any other requirement applicable to the device under the act if such requirement is different from, or in addition to, a requirement which is applicable to the device under the act. Section 521(b) of the act provides that the Commissioner of Food and Drugs may, upon application of a State or local government, exempt a requirement from preemption, if the State or local requirement for the device is more stringent than the requirement under the act, or if the requirement is necessitated by compelling local conditions and compliance with it would not cause the device to be in violation of a requirement under the act

Under section 521(a) of the act, Vermont section 3283a is preempted because it is different from the FDA regulation in that it does not permit a waiver of the medical evaluation requirement for a first-time purchaser. Under section 521(b) of that act, the Vermont provision is eligible for exemption because it is more stringent than the FDA regulation.

IV. Vermont Application

Vermont is requesting exemption for section 3283a, because it believes that it is more stringent than the Federal requirements in that it has a more limited waiver provision and that it is required by compelling local conditions because FDA's waiver provision is widely abused in Vermont and its section 3283a would not cause hearing aids to be in violation of the Federal act.

The Vermont application is supported by data compiled by Vermont's Office of the Attorney General, which inspected the records of 10 Vermont hearing aid dispensers for sales records for the period of January 1986 to June 1988. These dispensers sold approximately 2,601 hearing aids during this period. (Some sales figures were estimated.)

The investigators inspected the records of 858 of these sales (33 percent). Of these 858 sales, 63 (7 percent) had physicians' statements, 647 (75 percent) had waiver statements, and 132 (15 percent) had neither. (FDA requires that these records be maintained for 3 years after the sale.) Vermont believes that these figures show that Vermont hearing aid dispensers are violating the spirit of the FDA regulations in that FDA states that it is not in the best interest of the purchaser to exercise the waiver.

V. FDA's Evaluation

In two separate documents published in the Federal Register of October 10, 1990 (45 FR 67325 and 67328), FDA issued a final rule responding to 21 applications for exemption from preemption for hearing aid requirements. At that time, FDA denied exemption from preemption for several State requirements similar to that for which Vermont now seeks exemption. FDA denied these applications, saying that, while it believed that a medical evaluation should be obtained, it also believed that an informed adult should be permitted to waive the medical evaluation requirement for religious and personal reasons. At that time, however, experience with the FDA regulation was somewhat limited and no State submitted information similar to that which Vermont has submitted. FDA now believes that Vermont has submitted sufficient information to grant an exemption.

States whose applications for exemption for similar requirements were denied in the past may apply again, if they can present documentation similar to that submitted by Vermont.

VI. Effect of Exemption

FDA emphasizes that, when it grants an exemption to a State or local requirement, the granting of the exemption does not in any manner affect FDA requirements under the act. FDA requirements continue in full force and effect regardless of whether comparable or related State or local requirements are preempted or exempted from preemption. For example, the Vermont statute applies only when a person does not own a

hearing aid at the time of sale: The FDA regulation will continue to apply whether or not the purchaser owns a hearing aid at the time of sale.

VII. Oral Hearing

Interested persons may on or before November 29, 1990, submit requests for an oral hearing to the Dockets Management Branch (address above). Two copies of any request should be submitted except that individuals may submit one copy. Requests should be identified with the docket number found in brackets in the heading of this document.

If the agency determines that an oral hearing should be held, it will announce the time, date, and place of the hearing in a Federal Register notice. The procedures that will govern any such hearing are those applicable to a public hearing before the Commissioner of Food and Drugs under part 15 (21 CFR part 15).

VIII. Environmental Impact

The agency has determined under 21 CFR 25.24(e)(8) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IX. Economic Impact

FDA has carefully analyzed the economic effects of this proposed rule and has determined that the proposed rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act. In accordance with section 3(g)(1) of Executive Order 12291, the impact of this proposed rule has been carefully analyzed, and it has been determined that the proposed rule does not constitute a major rule as defined in section 1(b) of the Executive Order. Hearing aid dispensers are already required under the FDA rule to keep either a physician's statement or a waiver. Under the Vermont statute, they would be permitted to keep only a physician's statement in some cases. Therefore, no additional economic burden is being imposed on the dispensers. Using Vermont's figures, it is estimated that there are approximately 1,300 hearing aids sold in Vermont in a year. If each sale required a physician's evaluation and an evaluation cost $100, the total yearly cost would be $130,000. However, every sale does not require the physician's evaluation, as some sales are to persons who already own a hearing aid. There is no breakdown as to how many sales would require the evaluation. Furthermore, there is an apparent cost savings attendant to a physician's evaluation in that many people cannot benefit from using a hearing aid and a physician is best positioned to make this determination. A hearing aid can cost in excess of $400 and so the savings can be substantial. FDA invites further information on the costs that would be imposed by this proposal.

Interested persons may, on or before December 31, 1990, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 808

Intergovernmental relations, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 808 be amended as follows:

PART 808—EXEMPTIONS FROM FEDERAL PREEMPTION OF STATE AND LOCAL MEDICAL DEVICE REQUIREMENTS

1. The authority citation for 21 CFR part 808 continues to read as follows:

Authority: Secs. 521, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360k, 371).

2. Section 808.95 is added to Subpart C to read as follows:

§ 808.95 Vermont.

The following Vermont medical device requirement is enforceable notwithstanding section 521(a) of the act because the Food and Drug Administration has exempted it from preemption under section 521(b) of the act: 26 V.S.A., chapter 67, section 3283a, on the condition that it is enforced in addition to the applicable requirements of this chapter.

Dated: October 12, 1990.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-25603 Filed 10-29-90; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S-760-B]

RIN 1218-AB27

Accreditation of Training Programs for Hazardous Waste Operations

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Proposed rule; cancellation and rescheduling of informal public hearing.

SUMMARY: On July 27, 1990, the Occupational Safety and Health Administration (OSHA) published a document in the Federal Register (55 FR 30720) scheduling informal public hearings to begin on October 2, 1990, and reopening the written comment period for its proposed rule on Accreditation of Training Programs for Hazardous Waste Operations published in the Federal Register January 26, 1990 (55 FR 2776). On September 14, 1990, OSHA published another notice in the Federal Register (55 FR 37902) that reopened the comment period, cancelled the October hearings and rescheduled the hearings to begin on February 5, 1991. It has become necessary for OSHA to change the week of hearings scheduled for February 5–8, 1991 to now take place January 29–February 1, 1991 in Washington, DC. The hearing scheduled for February 12–14, 1991 in Cincinnati, OH will be held as previously scheduled. The dates for submission of comments, notices of intention to appear and testimony remain unchanged.

DATES: 1. The informal public hearing for OSHA's Accreditation of Training Programs for Hazardous Waste Operations rulemaking scheduled for February 5, 1991 through February 8, 1991 in Washington, DC is cancelled and rescheduled to begin at 9:30 a.m. January 29, 1991 through February 1, 1991 in Washington, DC.

The hearing announced on September 14, 1990 (55 FR 37902) scheduled for February 12, 1991 through February 14, 1991 in Cincinnati, OH will be held as planned starting at 9:30 a.m.

2. Notices of intention to appear must be postmarked by December 17, 1990. Written comments, testimony and all other evidence which will be offered into the hearing record must be postmarked by January 21, 1991.

ADDRESSES: 1. Four copies of the notice of intention to appear, testimony, and documentary evidence which will be introduced into the hearing record must

be sent to Mr. Tom Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, room N–3649, U.S. Department of Labor, Washington, DC 20210. Previously submitted comments submitted in response to OSHA's January 26, 1990, or July 27, 1990, notices; or notices of intention to appear, testimony, and evidence submitted in response to OSHA's July 27, 1990, or September 14, 1990, notices need not be resubmitted and will be considered and used in scheduling the January hearing in Washington. Those parties who have previously filed notices of intention to appear at the previously scheduled hearings need only let OSHA know if they still intend to appear and their preferred dates to appear at the new hearing. They do not need to resubmit all of their supporting data unless it has changed.

2. The location of the rescheduled hearing will remain the Frances Perkins Building Auditorium, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210. The location of the informal public hearing to be held in Cincinnati, OH will remain the Omni Netherland Plaza, 35 W. Fifth Street, Cincinnati, OH 45202 (513) 421–9100.

3. Written comments on the proposed standard should be submitted in quadruplicate to the Docket Office, Docket No. S–760–B, OSHA room N–2625, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, room N–3649, U.S. Department of Labor, Washington, DC 20210. (202) 523–8615.

SUPPLEMENTARY INFORMATION: On October 10, 1990 OSHA received a formal request from the representative of some of the unions interested in participating in the training accreditation hearings to reschedule the hearings announced on September 14, 1990 (55 FR 37902). OSHA was requested to reschedule the hearings for another date anytime before February 1, 1991 or immediately after February 21, 1991. The reason for the request was that the experts and officials of the unions who were knowledgeable in this area had made previous commitments for the time period during which OSHA had rescheduled its hearings and it would be very difficult for them to participate in the proceeding.

OSHA considers the testimony to be offered by these individuals to be significant and necessary for the development of the final rule on training accreditation. In order to accommodate these individuals, OSHA has cancelled the hearing scheduled to begin on February 5, 1991 in Washington and has rescheduled that hearing to begin on January 29, 1991 in Washington. The hearing presently scheduled to begin on February 12, 1991 in Cincinnati, OH will remain as scheduled in the September 14, 1990 notice and reiterated herein.

OSHA recognizes the need to allow all individuals the necessary time and opportunity to present their testimony particularly when the individuals can be significantly impacted by a rulemaking. Since these hearings have previously been rescheduled with some inconvenience to many interested parties, OSHA is limiting its second rescheduling of the hearings to the Washington hearing. OSHA believes that there will be sufficient time and opportunity at the Washington hearing for the presentations of the individuals requesting a second rescheduling.

Public Participation

Comments

Interested persons are invited to submit written data, views, and arguments with respect to this proposed standard. These comments must be postmarked by January 21, 1991, and submitted in quadruplicate to the Docket Officer, Docket No. S–760–B, room N–2625, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Comments limited to 10 pages or less also may be transmitted by facsimile to (202) 523–5046 or (for FTS) 8–523–5046, provided the original and 3 copies are sent to the Docket Officer thereafter. There is no need to resubmit comments already submitted.

Written submissions must clearly identify the provisions of the proposal which are addressed and the position taken with respect to each issue. The data, views, and arguments that are submitted will be available for public inspection and copying at the above address. All timely written submissions will be made a part of the record of the proceeding.

Oral Testimony

Pursuant to section 6(b)(3) of the Act, an opportunity to submit oral testimony concerning the issues raised by the proposed standard including economic and environmental impacts, will be provided at two informal public hearings scheduled to begin at 9:30 a.m. on dates as follows: January 29, 1991, in Washington, DC and on February 12, 1991, in Cincinnati, OH. The hearing in Washington will be held in the Auditorium, Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC, 20210. The hearing in Cincinnati, OH will be held at Omni Netherland Plaza, 35 W. Fifth Street, Cincinnati, OH 45202, (513) 421–9100.

Notice of Intention To Appear

All persons desiring to participate at the hearing must file in quadruplicate a Notice of Intention to Appear, postmarked on or before December 17, 1990, addressed to Mr. Tom Hall, OSHA Division of Consumer Affairs, Docket No. S–760–B, room N–3649, U.S. Department of Labor, Third Street and Constitution Avenue, NW., Washington, DC 20210; telephone 202–523–8615. A Notice of Intention to Appear also may be transmitted by facsimile to 202–523–5986 or to 8–523–5986 (for FTS), provided the original and 3 copies of the Notice are sent to the above address thereafter.

The Notices of Intention to Appear, which will be available for inspection and copying at the OSHA Technical Data Center, Docket Office (room N–2625), telephone 202–523–7894, must contain the following information:

(1) The name, address, and telephone number of each person to appear;

(2) The capacity in which the person will appear;

(3) The approximate amount of time requested for the presentation;

(4) The specific issues that will be addressed;

(5) A statement of the position that will be taken with respect to each issue addressed;

(6) Whether the party intends to submit documentary evidence, and if so, a brief summary of that evidence; and

(7) At which hearing the party wishes to testify.

Filing of Testimony and Evidence Before Hearing

Any party requesting more than 10 minutes for a presentation at the hearings, or who will submit documentary evidence, must provide in quadruplicate the complete text of his or her testimony, including any documentary evidence to be presented at the hearing, to the OSHA Division of Consumer Affairs. This material must be postmarked on or before January 21, 1991. The material will be available for inspection and copying at the Technical Data Center Docket Office. Each such submission will be reviewed in light of the amount of time requested in the Notice of Intention to Appear. In those instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be

allocated and the participant will be notified of that fact.

Any party who has not substantially complied with this requirement may be limited to a 10-minute presentation, and may be requested to return for questioning at a later time. Any pary who has not filed a Notice of Intention to Appear may be allowed to testify, as time permits, at the discretion of the Administrative Law Judge.

OSHA emphasizes that the hearing is open to the public, and that interested persons are welcome to attend. However, only persons who have filed proper Notices of Intention to Appear at the hearing will be entitled to ask questions and otherwise participate fully in the proceedings.

Persons who have already submitted notices of intention to appear, or testimony and evidence need not resubmit it. However, they need to notify Mr. Tom Hall of OSHA at the address given above of the dates that they wish to testify. Persons wishing to participate in the hearings on this rulemaking should see OSHA's procedures for the conduct of public hearings published in the Federal Register on July 27, 1990 (55 FR 30720).

Authority

Authority: Sections 4, 6(b), 8(c) and 8(g) of the Occupational Safety and Health Act of 1970, Pub. L. 91-596, 84 stat. 1593, 1599, 1600; (29 U.S.C. 653, 655, 657), 29 CFR part 1911 and Secretary of Labor's Order Nos. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736) or 1-90 (55 FR 9033) as applicable.

This document was prepared under the direction of Gerard F. Scannell, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 24th day of October 1990.

Gerard F. Scannell,

Assistant Secretary of Labor.

[FR Doc. 90-25577 Filed 10-29-90; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

Utah Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; Public Comment Period and Opportunity for Public Hearing on Proposed Amendment.

SUMMARY: OSM is announcing the receipt of a proposed amendment to the Utah permanent regulatory program (hereinafter, the "Utah program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment consists of proposed changes to title 40, chapter 10 of the Utah Coal Annotated (U.C.A. 1953), otherwise known as the Utah Coal Mining and Reclamation Act. The amendment pertains to rulemaking authority and procedures, deadline for review and proposal of revision of rules, and deadline for revision of rules. In the amendment, Utah re-proposes State-initiated provisions that it previously withdrew from another amendment.

This notice sets forth the times and locations that the Utah program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received by 4 p.m., m.s.t. November 29, 1990. If requested, a public hearing on the proposed amendment will be held on November 26, 1990. Requests to present oral testimony at the hearing must be received by 4 p.m., m.s.t. on November 14, 1990.

ADDRESSES: Written comments should be mailed or hand-delivered to Robert H. Hagen at the address listed below.

Copies of the Utah program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Albuquerque Field Office.

Robert H. Hagen, Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 625 Silver Avenue, SW., suite 310, Albuquerque, New Mexico 87102, Telephone: (505) 766-1486.

Utah Division of Oil, Gas and Mining, 355 West North Temple, 3 Triad Center, suite 350, Salt Lake City, Utah 84180-1203, Telephone: (801) 538-5340.

FOR FURTHER INFORMATION CONTACT: Robert H. Hagen, Director, Albuquerque Field Office, on telephone number (505) 766-1486.

SUPPLEMENTARY INFORMATION:

I. Background on the Utah Program

On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program. General background information on the Utah program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Utah program can be found in the January 21, 1981, Federal Register (46 FR 5899). Subsequent actions concerning Utah's program and program amendments can be found at 30 CFR 944.15, 944.16, and 944.30.

II. Proposed Amendment

By letter dated October 10, 1990 (administrative record No. UT-569), Utah submitted a proposed amendment to its program pursuant to SMCRA. In the amendment, Utah re-proposes State-initiated provisions that it previously withdrew (administrative record No. UT-566) from another amendment (administrative record No. UT-540). Specifically, Utah proposes to add provisions to the Utah Coal Mining and Reclamation Act at U.C.A. 40-10-6.5 (rulemaking authority and procedures) and U.C.A. 40-10-6.6 (1) and (2) (deadline for review and proposal of revision of rules, and deadline for revision of rules).

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Utah program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the Albuquerque Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by 4 p.m., m.s.t. on November 14, 1990. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber.

Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions. The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under "FOR FURTHER INFORMATION CONTACT." All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under "ADDRESSES." A written summary of each meeting will be made a part of the Administrative Record.

List of Subjects in 30 CFR Part 944

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 19, 1990.

Raymond L. Lowrie,

Assistant Director Western Support Center.

[FR Doc. 90-25598 Filed 10-29-90; 8:45 am]

BILLING CODE 4310-05-M

National Park Service

36 CFR Part 7

RIN 1024-AB76

Sequoia and Kings Canyon National Parks; Fishing Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rulemaking would simplify existing fishing regulations in Sequoia and Kings Canyon National Parks. The rule changes would terminate closures on 42 miles of streams and provide for fishing in almost all streams and lakes throughout these parks. The parks' research and monitoring programs have identified a need to restore the natural distribution and abundance of native species, and to help retard expansion of introduced species.

The proposed changes to the regulations address these concerns and will provide, on an annual basis, for adjustments based upon additional research and monitoring. With the proposed changes, the Superintendent will be able to annually incorporate season opening and closing dates and other provisions issued by the State of California as well as to make other necessary modifications with respect to fishing restrictions. Such changes will be annually documented in the compendium of Superintendent's Orders and made available to the public.

The effects of these rules on the public would be minimal. Anglers would have to be able to identify fish to make appropriate keep or release decisions. They would also be expected to make reasonably accurate decisions with respect to elevation in back country areas.

DATES: Written comments will be accepted through November 29, 1990.

ADDRESSES: Comments should be addressed to: Superintendent Sequoia and Kings Canyon National Parks, Three Rivers, California 93271.

FOR FURTHER INFORMATION CONTACT: Harold Werner, Fish and Wildlife Biologist, Sequoia and Kings Canyon National Parks, Three Rivers, California 93271, Telephone: (209) 565-3341, Extension 221.

SUPPLEMENTARY INFORMATION:

Background

Recreational fishing is a valid visitor activity in Sequoia and Kings Canyon National Parks. It is recognized as such by National Park Service policy and mandated by statute at 16 U.S.C. 45b enacted in 1926. The present special fishing regulations for these parks are codified in 36 CFR 7.8(b). They serve the exclusive purpose of identifying approximately 45 miles of streams that are closed to fishing. the proposed rulemaking would open 42 miles of streams currently closed to fishing. Less than three miles of stream in the Soda Springs drainage would remain closed to protect a threatened species, the Little Kern golden trout.

The pristine distribution of trout in Sequoia and Kings Canyon National Parks has been obscured by a long history of fish introduction that began in the 1850's and became widespread by the 1870's. Available information indicates that the parks' high elevation lakes and streams were barren of fish, although in some areas native trout did range upwards to 9,000 feet. Rainbow trout were native to the streams on the west side of these parks, and golden trout were found at the south side of Sequoia National Park.

As a result of fish introduction rainbow and golden trout became established parkwide. In addition the eastern brook trout and brown trout, which were also introduced, soon became established throughout park streams. Brook trout dominate many of the parks' high lakes and brown trout are widespread in rivers and streams below 10,000 feet.

Monitoring of fish populations in the Kaweah River drainage from 1980 through 1985 showed a significant displacement of native trout by introduced brown trout as a proportion of the fish population. During that five-year period, brown trout increased from five percent to 12 percent of the surveyed population. The impact was greatest at low elevations, particularly where roadways make rivers easily accessible. Rainbow trout were impacted least in areas closed to fishing. It is believed this resulted because rainbow trout are easier to catch and thus harvested disproportionately more than brown trout, and because of predation on rainbow trout by large brown trout.

The objectives of the fishery management program in Sequoia and Kings Canyon National Parks.

(a) Protect and restore native fish populations, and meet the requirements of the Endangered Species Act.

(b) Permit and maintain quality fishing opportunities consistent with National Park Service policies and specific statutory mandates contained in the early legislation of Sequoia National Park.

Attainment of these objectives requires that angler harvests help restore a survival advantage to rainbow and golden trout within their pristine range and retard or eliminate continued expansion of introduced brown trout. Regulations to serve this objective, and to assure a high quality angling experience, include:

(1)Restrictions on the species and numbers of fish taken;

(2) Bait and terminal gear regulation; and

(3) Differing restrictions at various sites and elevations based upon native fish distribution patterns and human developments.

Ongoing monitoring and research will continue to measure the effectiveness of these regulations in terms of meeting fisheries management objectives. When a change is required the Superintendent will be able to respond quickly to protect this resource and meet recreational goals. In the absence of this proposed regulation approximately eight months will elapse before even minor changes can be made in special regulations contained in 36 CFR 7.8(b).

This process involves extensive review at various levels in the National Park Service and the Department of the Interior, and also includes a period set aside for public review and comment.

The proposed fishing regulation provides the Superintendent the ability to make routine changes in the regulations locally and in a timely manner, using discretionary authority documented in the general regulations of the National Park Service at 36 CFR 1.5.

This proposal would afford greater protection to the parks' fishery resources, provide for quicker and more effective response to visitor needs and public input and provide the Superintendent with greater flexibility to respond to specific situations. Public notice of restrictions established by the Superintendent in accordance with this proposed regulation would be made through signs, maps, brochures, newspaper notices or other appropriate methods as required by 36 CFR 1.7. Detailed information pertaining to the nature and extent of fishing restrictions will be readily available to anglers in the parks. The fishing regulations will be reviewed at least annually and made a part of the Superintendent's annual compendium.

Public Participation

The policy of the National Park Service is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding these proposed rules to the address noted at the beginning of this rulemaking.

Drafting Information

The primary author of this regulation is Harold Werner, Fish and Wildlife Biologist, Sequoia and Kings Canyon National Parks.

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance With Other Laws

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291, and certified that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The proposed rulemaking should have some minor effect on the types, but not quantity, of fishing supplies sold in the immediate area.

The National Park Service has reviewed this rule as directed under Executive Order 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights," to determine if this rule has "policies that have taking implications." The Service has determined that the proposed rule does not have taking implications since it regulates activities on federal land.

In accordance with the requirements of the National Environmental Policy Act, 42 U.S.C. 4321, *et seq.*, an environmental assessment for fisheries management alternatives was prepared and placed on public review from March 12, 1987, until June 30, 1987. Of the 54 responses, 70 percent supported the preferred alternative and an additional 15 percent supported the preferred alternative with minor modifications. Responses indicated strong group interest on the part of flyfishing organizations. The Finding of No Significant Impact was approved on December 14, 1987. The proposed rulemaking is intended to provide the Superintendent with the authority and flexibility necessary to implement the various elements of the selected action.

List of Subjects in 36 CFR Part 7

National parks, Reporting and recordkeeping requirements. In consideration of the foregoing, it is proposed to amend 36 CFR chapter 1 as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation for part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 462(k); Section 7.96 also issued under D.C. Code 8–137 (1981) and D.C. Code 40–721 (1981).

2. By revising § 7.8 paragraph (b) to read as follows:

§ 7.8 Sequoia and Kings Canyon National Parks.

* * * * *

(b) *Fishing.* (1) Fishing regulations, based on management objectives described in the Resources Management Plan, are established annually by the Superintendent.

(2) The Superintendent may impose closures and establish conditions or restrictions, in accordance with the criteria and procedures of §§ 1.5 and 1.7 of this chapter, on any activity petaining to fishing including, but not limited to, species of fish that may be taken, seasons and hours during which fishing may take place, methods of taking, size, location and elevation, and possession limits.

(3) Fishing in violation of a condition or restriction established by the Superintendent is prohibited.

(4) Soda Springs Creek drainage is closed to fishing.

* * * * *

Dated July 20, 1990.

Scott Sewell,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 90–25658 Filed 10–29–90; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 8

RIN 2900–AD74

Authority of Fiduciaries To Conduct Insurance Transactions

AGENCY: Department of Veterans Affairs.

ACTION: Proposed regulations; correction.

SUMMARY: On Pages 33140–33141 of the Federal Register of August 14, 1990 (55 FR 33140), the Department of Veterans Affairs published a proposed rule to amend its regulations to clarify and enunciate the right and authority of fiduciaries to conduct insurance transactions on behalf of government life insurance policyholders and beneficiaries. In § 8.119, paragraph (b) of the proposed rule (page 33141), three words were inadvertently omitted (i.e., it should have also stated that a guardian of an insured or beneficiary shall have the authority to *apply for insurance*). To avoid any confusion, VA is published the correct paragraph (b).

VA regrets the error which is corrected by this notice.

FOR FURTHER INFORMATION CONTACT: Mr. Paul F. Koons, (215) 951–5360.

Dated October 23, 1990.

Charles A. Fountaine, III,

Records Management Service.

38 CFR part 8, National Service Life Insurance, proposed § 8.119, paragraph (b) is corrected and its authority citation is republished to read as follows:

§ 8.119 Guardian: definition and authority.

* * * * *

(b) *Authority.* For the purpose of this part, a guardian of an insured or beneficiary shall have authority to: Apply for insurance; apply for conversion of a policy or change of plan; reinstate a policy; withdraw dividends

held on deposit or credit; select or change a dividend option; obtain a policy loan; cash surrender a policy; authorize a deduction from benefits or allotment from military retired pay to pay premiums; apply for and receive payment of the proceeds on a matured policy; select or change the premium payment option; apply for waiver of premiums and total disability income benefits; select or change settlement options for beneficiaries; assign a beneficiary's interest as provided under section 718 of title 83, United States Code.

(Authority: 38 U.S.C. 708)

[FR Doc. 90-25533 Filed 10-29-90; 8:45 am]

BILLING CODE 8320-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90-460; RM-7377]

Radio Broadcasting Services; Van Buren, AR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of LKR Communications, Inc., licensee of Station KLSZ-FM, Van Buren, Arkansas, seeking the substitution of FM Channel 274C2 for Channel 272A and modification of its license accordingly. The proposal is conditioned upon the issuance of a license to cover the construction permit issued to Station KHOZ-FM, Harrison, Arkansas. Coordinates used for Channel 274C2 at Van Buren are 35-17-55 and 94-25-28.

DATES: Comments must be filed on or before December 17, 1990, and reply comments on or before January 2, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Frank R. Jazzo and Robert D. Primosch, Esqs., Fletcher, Heald & Hildreth, 1225 Connecticut Ave., NW., Suite 400, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-460, adopted September 28, 1990, and released October 24, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25557 Filed 10-29-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-463, RM-7371]

Radio Broadcasting Services; Coleraine, MN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Lew Latto requesting the allotment of Channel 241C1 to Coleraine, Minnesota, as that community's first FM broadcast service. There is a site restriction 8.6 kilometers (5.3 miles) north of the community. Canadian concurrence will be requested at coordinates 47-21-24 and 93-25-47.

DATES: Comments must be filed on or before December 17, 1990, and reply comments on or before January 2, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: John J. McVeigh, Fisher, Wayland, Cooper and Leader, 1255 Twenty-third Street, NW., suite 800, Washington, DC 20037-1125.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-463, adopted September 27, 1990, and released October 24, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 37

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25554 Filed 10-29-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-461; RM-7378]

Radio Broadcasting Services; Gardnerville-Minden, NV

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Carson Valley Radio, Inc. seeking the substitution of Channel 256C3 for Channel 257A at Gardnerville-Minden, Nevada, and the modification of its license for Station KGVM to specify operation on the higher powered channel. Channel 256C3 can be allotted

to Gardnerville-Minden in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for this allotment are North Latitude 39–50–24 and West Longitude 119–45–30. In accordance with Section 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest in use of Channel 298C3 at Gardnerville-Minden or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before December 17, 1990, and reply comments on or before January 2, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Carson Valley Radio, Inc., P.O. Box 2108, Minden, Nevada 89423 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–461, adopted September 28, 1990, and released October 24, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–25556 Filed 10–29–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–462, RM–7467]

Radio Broadcasting Services; Banks, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Robert Anthony Fogal, d/b/a Common Ground Broadcasting, seeking the substitution of Channel 298C3 for Channel 298A at Banks, Oregon, and the modification of his construction permit for a new station on the Class A channel to specify the higher powered Channel 298C3. Channel 298C3 can be allotted to Banks in compliance with the Commission's minimum distance separation requirements and can be used at the site specified in petitioner's outstanding construction permit. The coordinates for Channel 298C3 at Banks are North Latitude 45–30–57 and West Longitude 123–00–35. Canadian concurrence in the allotment is required since Banks is located within 320 kilometers (200 miles) of the U.S.-Canadian border. In accordance with § 1.420 of the Commission's Rules, we will not accept competing expressions of interest in use of Channel 298C3 at Banks or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before December 17, 1990, and reply comments on or before January 2, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: John H. Midlen, Jr., Esq., Gregory H. Guillot, Esq., Midlen & Guillot, Chartered, 3238 Prospect Street, NW., Washington, DC 20007 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–462, adopted September 28, 1990, and released October 24, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–25555 Filed 10–29–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–464; RM–7470]

Radio Broadcasting Services; Clarendon, PA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by John W. Lyle seeking the allotment of Channel 296A to Clarendon, Pennsylvania, as the community's first local FM service. Channel 296A can be allotted to Clarendon in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates North Latitude 41–46–48 and West Longitude 79–05–36. Canadian concurrence in the allotment is required since Clarendon is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

DATES: Comments must be filed on or before December 17, 1990, and reply comments on or before January 2, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Eric S. Kravetz, Esq., Stephen E. Coran, Esq., Brown Finn & Nietert, Chartered, 1920 N Street, NW., suite 660, Washington, DC 20036 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–464, adopted September 28, 1990, and released October 24, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–25552 Filed 10–29–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–465, RM–7276]

Radio Broadcasting Services; Chippewa Falls, WI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Jay Lellman proposing the allotment of Channel 280C3 to Chippewa Falls, Wisconsin, as that community's second FM broadcast service. The channel is site restricted 21 kilometers (13 miles) northwest of the community at coordinates 45–06–56 and 91–33–44.

DATES: Comments must be filed on or before December 17, 1990, and reply comments on or before January 2, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows:

Jay Lellman, 901½ Oxford Avenue, Eau Claire, Wisconsin 54702 (Petitioner).

Larry G. Fuss, Contemporary Communications, Post Office Box 159, Fayetteville, Georgia 30214 (Consultant to the petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–465, adopted September 28, 1990, and released October 24, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–25553 Filed 10–29–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–466, RM–7428]

Radio Broadcasting Services; Tuscaloosa, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of New South Radio, Inc., licensee of Station WACT–FM, Channel 288A, Tuscaloosa, AL, seeking the substitution of FM Channel 288C3 for Channel 288A and modification of its license accordingly. Coordinates for this proposal are 33–20–00 and 87–25–36.

DATES: Comments must be filed on or before December 17, 1990, and reply comments on or before January 2, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Peter Gutmann, Esq., Pepper & Corazzini, 200 Montgomery Building, 1776 K Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–466, adopted September 28, 1990, and released October 25, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

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List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25665 Filed 10-29-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-466, RM-7360]

Radio Broadcasting Services; Wickenburg and Lake Havasu City, AZ

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed on behalf of Kenyon Communications, licensee of Station KTIM-FM, Wickenburg, Arizona, seeking the substitution of Channel 287C1 for Channel 287C2 and modification of its license accordingly. Additionally, Channel 283C2 is proposed as a substitute for Channel 286C2 at Lake Havasu City, Arizona, licensed to Station KZUL-FM. An *Order to Show Cause* is being issued to Mad Dog Wireless, Inc., licensee of Station KZUL-FM. Coordinates for Channel 287C1 at Wickenburg, Arizona, are 34-14-02 and 112-50-13, while those for Channel 283C2 at Lake Havasu City are 34-29-10 and 114-13-06.

DATES: Comments must be filed on or before December 17, 1990, and reply comments on or before January 2, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Steven A. Lerman and Sally A. Buckman, Esqs., Leventhal, Senter & Lerman, 2000 K St., NW., suite 600, Washington, DC 20006-1809.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-466, adopted September 28, 1990, and released October 25, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25664 Filed 10-29-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-467, RM-7443]

Radio Broadcasting Services; Gualala, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rulemaking filed on behalf of Dr. Gerhard Hanneman, seeking the allotment of FM Channel 246B1 to Gualala, California, as that community's first local broadcast service. Coordinates for this proposal are 38-50-06 and 123-35-13.

DATES: Comments must be filed on or before December 17, 1990, and reply comments on or before January 2, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: David M. Silverman, Esq., Cole, Raywid & Braverman, 1919 Pennsylvania Ave., NW., suite 200, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-467, adopted September 28, 1990, and released October 25, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, al *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Divison, Mass Media Bureau.

[FR Doc. 90-25663 Filed 10-29-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-470, RM-7374]

Radio Broadcasting Services; Laurel, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Jubilee Radio Network of Montana proposing the allotment of Channel 269C to Laurel, Montana, as that community's first FM broadcast service. The coordinates for Channel 269C are 45-40-24 and 108-46-18.

DATES: Comments must be filed on or before December 17, 1990, and reply comments on or before January 2, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: A. Wray Fitch III, Gammon & Grange, 1925 K Street, NW., suite 300, Washington, DC 20006 (Counsel for the petitioner).

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FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.2

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–470, adopted September 28, 1990, and released October 25, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the mattter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–25666 Filed 10–29–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–466, RM–7227]

Radio Broadcasting Services; Hondo, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Radio Medina, Inc., permittee of Station KRBH(FM), Channel 253A, Hondo, Texas, proposing the substitution of Channel 254C3 for Channel 253A at Hondo, and the modification of its construction permit for Station KRBH(FM) to specify operation on the higher powered channel. The proposed site for Channel 254C3 is 29–20–54 and 99–08–38.

DATES: Comments must be filed on or before December 17, 1990, and reply comments on or before January 2, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: A. Wray Fitch III, Gammon & Grange, 1925 K Street, NW., suite 300, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–466, adopted September 28, 1990, and released October 25, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–25662 Filed 10–29–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 80

[DA 90–1463]

Maritime Services; Use of Synthesized Voice for Emergency Distress Messages; Declaratory Ruling Request

AGENCY: Federal Communications Commission.

ACTION: Request for comments.

SUMMARY: Notice is given that Robert Tendler of Emergency Vessel Location System, has filed a *Request for Issuance of Declaratory Ruling* asking the Commission to interpret part 80 of the Commission's Rules, 47 CFR part 80, to allow a synthesized voice for emergency distress messages. The Commission seeks comment on this issue.

DATES: Comments must be received by December 31, 1990, and reply comments on or before January 15, 1990.

FOR FURTHER INFORMATION CONTACT: Susan Jones, Federal Communications Bureau, Private Radio Bureau, 2025 M Street, Washington, DC 20554, (202) 632–7175.

SUPPLEMENTARY INFORMATION:

Authority: 47 CFR Part 80: Maritime service.

Emergency Vessel Location System Requests that a Synthesized Voice Used for Emergency Messages be Interpreted as Complying With Part 80 of the Commission Rules

October 24, 1990.

On September 28, 1990, Robert Tendler filed a *Request for Issuance of Declaratory Ruling* requesting that the Commission interpret part 80 of the Commission's Rules, 47 CFR part 80, to include a synthesized voice as appropriate for emergency voice messages. In his request, Mr. Tendler suggests that, pursuant to section 553 of the Administrative Procedure Act, 5 U.S.C. 553, and relevant Circuit Court decisions, a declaratory ruling is appropriate when the Commission interprets an existing rule. Here, Mr. Tendler argues that because the Commission's Rules do not explicitly determine the acceptability of a synthesized voice, the matter is left to interpretation by the Commission. Thus, Mr. Tendler seeks a Commission declaratory ruling that interprets part 80 to allow for a synthesized voice for emergency messages.

The Private Radio Bureau seeks comment on this issue. To file comments, please file an original and two copies at the following address: Chief, Special Services Division, Federal Communications Commission, 2025 M Street, NW., room 5322, Washington, DC 20554. Comments should be filed by December 31, 1990. Reply Comments should be filed by January 15, 1991. Comments and reply comments should refer to: Emergency Vessel Location System Declaratory Ruling Request.

Copies of Emergency Vessel Location System's *Request for Issuance of*

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Declaratory Ruling, as well as any documents filed in this matter, may be obtained from the Commission's copy contractor, International Transcription Services, Inc., at the following address and telephone number: ITS, Inc., 2100 M Street, NW., suite 140, Washington, DC 20037, (202) 857–3800. These documents may also be inspected at room 5322, noted above.

For further information, please contact Susan Jones at (202) 632–7175.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90–25559 Filed 10–29–90; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 55, No. 210
Tuesday, October 30, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 90-192]

Receipt of a Permit Application for Release into the Environment of Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an application for a permit to release a genetically engineered organism into the environment is being reviewed by the Animal and Plant Health Inspection Service. The application has been submitted in accordance with 7 CFR part 340, which regulates the introduction of certain genetically engineered organisms and products.

FOR FURTHER INFORMATION CONTACT: Mary Petrie, Program Analyst, Biotechnology, Biologics, and Environmental Protection, Biotechnology Permits, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 844, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7612.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There is Reason to Believe Are Plant Pests," require a person to obtain a permit before introducing (importing, moving interstate, or releasing into the environment) in the United States, certain genetically engineered organisms and products that are considered "regulated articles." The regulations set forth procedures for obtaining a permit for the release into the environment of a regulated article, and for obtaining a limited permit for the importation or interstate movement of a regulated article.

Pursuant to these regulations, the Animal and Plant Health Inspection Service has received and is reviewing the following application for a permit to release a genetically engineered organism into the environment:

Application No.	Applicant	Date received	Organism	Field test location
90-249-01	Calgene, Inc	09-05-90	Tomato plants genetically engineered to contain the antisense Polygalacturonase gene.	California

Done in Washington, DC, this 25th day of October 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-25632 Filed 10-29-90; 8:45 am]

BILLING CODE 3410-34-M

[Docket No. 90-213]

Scrapie Negotiated Rulemaking Advisory Committee; Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA

ACTION: Notice of meeting

SUMMARY: The purpose of this notice is to announce the sixth meeting in a series of sessions of the Scrapie Negotiated Rulemaking Advisory Committee.

PLACE, DATES, AND TIME OF MEETING: The meeting will be held on November 15 and 16, 1990, from 9 a.m. to 5 p.m. each day. The meeting will be held at the Embassy Square Suites, 2000 N Street NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: David Galbreath, Planning and Risk Analysis Systems, PPD, APHIS, USDA, room 806, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8017.

SUPPLEMENTARY INFORMATION: In a **Federal Register** notice published on February 26, 1990 (55 FR 6662-6663, Docket No. 89-139), we announced our intent to establish a Scrapie Negotiated Rulemaking Advisory Committee (Committee), chartered under the Federal Advisory Committee Act (5 U.S.C. App., Pub. L. No. 92-463). The Committee will develop alternatives to the current regulatory program designed to control scrapie in sheep and goats. The first meeting of the Committee was held on May 8 and 9, 1990, with four subsequent meetings in July, August, September, and October, 1990. This notice announces the sixth meeting in a series of sessions of the Committee.

The purpose of the meeting is to bring together members of the Animal and Plant Health Inspection Service, representatives of the sheep industry, and representatives of other parties with a definable stake in scrapie issues to frame a recommended rulemaking proposal as an alternative to the current regulatory program for the control of scrapie.

The tentative agenda for the sixth meeting of the Committee is as follows:

First Day

Morning session—9 a.m.
- Review of minutes of last meeting
- Discussion of draft Scrapie Certification and Control Plan

Afternoon session—1 p.m.
- Discussion of draft Scrapie Certification and Control Plan
- Public Comments

Second Day

Morning session—9 a.m.
- Discussion of draft Scrapie Certification and Control Plan

Afternoon session—1 p.m.
- Committee Administration Issues
- Discussion of Future Committee Meeting Agendas
- Public Comments

The meetings will be open to the public. Public participation at the meetings will be allowed during periods announced at the meeting for this

purpose. Anyone who wants to file a written statement with the Committee may do so before, at the time of the meeting, or after the meeting by sending the statement on or before November 30, 1990, to Helen Wright, Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to the Scrapie Negotiated Rulemaking Advisory Committee.

This notice of meeting is given in compliance with the Federal Advisory Committee Act (5 U.S.C. App., Pub. L. No. 92-463).

Done in Washington, DC, this 25th day of October 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-25633 Filed 10-29-90; 8:45 am]

BILLING CODE 3410-34-M

Forest Service

Kern River and/or WyCal Natural Gas Pipeline(s), Wasatch-Cache National Forest, Davis County, Utah, Fishlake National Forest, Millard County, Utah, Dixie National Forest, Washington County, Utah

AGENCY: Forest Service, USDA.

ACTION: Notice of availability of records of decision.

SUMMARY: Pursuant to 40 CFR 1506.3 notice is given that the Forest Service has adopted the Final Environmental Impact Statement (FEIS) for the Mojave—Kern River—El Dorado Natural Gas Pipeline Projects and the Final Supplement to the FEIS for the Wyoming California Pipeline Project as they relate to National Forest lands in Utah.

DATES: Adoption of the FEIS was considered official when the Records of Decision were signed—October 9, 1990 for the Fishlake National Forest, October 10, 1990 for the Dixie National Forest, and October 17, 1990 for the Wasatch-Cache National Forest. Implementation of the project will be by December 14, 1990.

SUPPLEMENTARY INFORMATION: In May 1985, Kern River Gas Transmission Company (Kern River) filed an application with the Federal Energy Regulatory Commission (FERC) for a certificate to construct a 837 mile 36 inch diameter natural gas pipeline from Opal, Wyoming to Kern County, California. The FERC, as a joint lead agency with the California State Lands Commission and with the Forest Service and BLM as cooperating agencies, completed the Final Environmental Impact Statement (FEIS) in December 1987.

In August 1987 Wyoming-California Pipeline Company (WyCal) filed an application with the FERC for a certificate to construct a pipeline along the same route using the Wasatch Variation. A supplement to the FEIS analyzing alternatives to the Wasatch Variation was completed in October 1988.

The Environmental Impact Statement and Supplement have been completed and the Wasatch Variation selected as the most environmentally acceptable route of those analyzed. An administrative law judge issued a decision that the FEIS and Supplement were adequate and from an environmental standpoint a pipeline could be constructed in an acceptable manner if the required mitigation measures were followed. That decision has been accepted by FERC and the FEIS and Supplement have been upheld in the Washington, DC Circuit Court of Appeals.

The decisions documented are the decision of the Forest Supervisor of the Wasatch-Cache National Forest to amend the Forest Land and Resource Management Plan to allow the Kern River and/or WyCal natural gas pipeline(s) across the Wasatch Variation route, the decision of the Forest Supervisor of the Fishlake National Forest to allow the construction of the pipeline(s) through the Scipio Pass utility corridor established in the Fishlake National Forest Land and Resource Management Plan, and the decision of the Forest Supervisor of the Dixie National Forest to allow the construction of the pipeline(s) along the mainline route through the New Castle to Veyo utility corridor established in the Dixie National Forest Land and Resource Management Plan.

October 18, 1990.

Susan Giannettino,

Forest Supervisor.

[FR Doc. 90-25607 Filed 10-29-90; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Post Enumeration Survey—Interview Questionnaire—21st Decennial Census—1990.

Form Number(s): D-1300, D-1300.1, D-1300.2(L).

Agency Approval Number: 0607-0666.

Type of Request: Revision of a currently approved collection.

Burden: 40,850 hours.

Number of Respondents: 180,556.

Avg Hours Per Response: 14 minutes.

Needs and Uses: This revision will permit the use of the Post Enumeration Survey Interview Questionnaire in a special survey to evaluate the imputation methodology of approximately 1,100 unresolved match status cases from the 1990 Decennial Census Post Enumeration Survey.

Affected Public: Individuals or households.

Frequency: One time.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Marshall Mills, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Clearance Officer, (202) 377-3271, Department of Commerce, Room 5312, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Marshall Mills, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 24, 1990.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 90-26555 Filed 10-29-90; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

Short-Supply Determination; Certain Steel Plate

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice of short-supply determination: certain steel plate.

SHORT-SUPPLY REVIEW NUMBER: 23.

SUMMARY: The Secretary of Commerce ("Secretary") hereby grants a request for a short-supply allowance of 38,238.2 net tons of certain steel plate for the fourth quarter of 1990 under Article 8 of the U.S.-E.C. steel arrangement.

EFFECTIVE DATE: October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Norbert Gannon or Richard O. Weible,

Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230, (202) 377–0159.

SUPPLEMENTARY INFORMATION: On September 13, 1990, Berg Steel Pipe Corporation ("Berg") submitted an adequate petition requesting a short-supply allowance for 38,238.2 net tons of steel plate, 130.297–130.966 inches in width and 0.417–0.630 inch in thickness that meets or exceeds API specification X–70, to be delivered during the fourth quarter of 1990. This steel plate will be used by Berg to manufacture certain 42-inch diameter pipe. The request was made under Article 8 of the Arrangement Between the European Coal and Steel Community and the European Economic Community, and the Government of the United States of America Concerning Trade in Certain Steel Products. Berg's petition alleges that no mill in the United States is capable of meeting the required specifications for this plate and that the two qualified foreign mills for this material do not have sufficient available quota to supply this order. The Secretary conducted this short-supply review pursuant to section 4(b)(4)(A) of the Steel Trade Liberalization Program Implementation Act, Public Law No. 101–221, 103 Stat. 1886 (1989) ("the Act"), and § 357.102 of the Commerce's Short-Supply Regulations (19 CFR 357.102).

Action

On September 13, 1990, the Secretary established an official record on this short-supply request (Case Number 23) in the Central Records Unit, Room B–099, Import Administration, U.S. Department of Commerce at the above address. On September 18, 1990, the Secretary published a notice in the **Federal Register** announcing its review of this request and soliciting comments from interested parties. Comments were required to be received no later than September 25, 1990, and interested parties were invited to file replies to any comments not later than September 30, 1990. In order to determine whether this product could be supplied to Berg during the fourth quarter of 1990, the Secretary sent questionnaires to Bethlehem Steel Corporation ("Bethlehem"), Oregon Steel Corporation ("Oregon Steel"), and USX Corporation ("USX"), the three potential U.S. producers of this product. The Secretary received questionnaire responses from all three companies and no comments to the **Federal Register** notice.

Questionnaire Responses

Bethlehem, USX, and Oregon Steel indicated that they would not be viable suppliers of the subject plate during the fourth quarter of 1990. Bethlehem and USX both indicated that they could not produce the requested product and Oregon Steel noted because of other commitments, it could not meet Berg's needs during this period.

Conclusion

The three potential domestic suppliers of X–70 grade steel plate are either unwilling or unable to supply this material to Berg during the required time frame or cannot meet the necessary specifications. Furthermore, sufficient quota is unavailable to the foreign suppliers for this steel plate. Therefore, the Secretary determines that short-supply exists with respect to the requested product. Pursuant to section 4(b)(4)(A) of the Act, and § 357.102 of Commerce's Short-Supply Regulations (19 CFR 357.102), the Secretary grants Berg a short-supply allowance for 38,238.2 net tons of the requested plate for the fourth quarter of 1990.

Dated: October 1, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90–25654 Filed 10–29–90; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Coastal Zone Management; Federal Consistency Appeal by Mobil Exploration & Producing U.S. Inc.

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of Appeal and Public Hearing and Request for Comments.

On July 31, 1990, Mobil Exploration & Producing U.S. Inc. (Mobil or Appellant) filed with the Secretary of Commerce (Secretary) a notice of appeal pursuant to section 307(c)(3)(B) of the Coastal Zone Management Act of 1972 (CZMA), as amended, 16 U.S.C. 1451 *et seq.* and the Department of Commerce's implementing regulations, 15 CFR part 930, subpart H. The appeal is taken from an objection by the State of North Carolina (State) to the Appellant's consistency certification for a National Pollution Discharge Elimination System (NPDES) permit for the Manteo Block 467 exploratory drilling project off the coast of North Carolina.

The CZMA provides that a timely objection by a state to a consistency certification precludes any Federal agency from issuing licenses or permits for the activity unless the Secretary of Commerce finds that the activity is either "consistent with the objectives" of the CZMA (Ground I) or "necessary in the interest of national security" (Ground II). Section 307(c)(3)(B). To make such a determination, the Secretary must find that the proposed project satisfies the requirements of 15 CFR 930.121 or 930.122.

The Appellant requests that the Secretary override the State's consistency objections based on Ground I and Ground II. To make the determination that the proposed activity is "consistent with the objectives" of the CZMA, the Secretary must find that (1) the proposed activity furthers one or more of the national objectives or purposes contained in sections 302 or 303 of the CZMA, (2) the adverse effects of the proposed activity do not outweigh its contribution to the national interest, (3) the proposed activity will not violate the Clean Air Act or the Federal Water Pollution Control Act, and (4) no reasonable alternative is available that would permit the activity to be conducted in a manner consistent with the State's coastal management program. 15 CFR 930.121. To make the determination that the proposed activity is "necessary in the interest of national security," the Secretary must find that a national defense or other national security interest would be significantly impaired if the proposed activity is not permitted to go forward as proposed.

A public hearing has been scheduled to address the findings the Secretary must make for each appeal as set forth in the regulations at 15 CFR 930.121 and 930.122. The public hearing will be held on Thursday, December 13, 1990, from 4:30 p.m. until 10 p.m., at Manteo High School, 616 Wigina Avenue, Manteo, North Carolina. Persons interested in speaking at the hearing regarding any of the above criteria are required to register on the day of the hearing at the high school. Registration of speakers will begin at 3:30 p.m. Oral comments from public interest/lobbyist groups will be recognized on a first-come-first-serve basis and will be limited to five minutes. Oral comments from the general public will be recognized on a first-come-first-serve basis and will be limited to three minutes. Written comments will be accepted at the public hearing.

In addition, written comments on the findings the Secretary must make for each appeal may be sent to Ms. Margo E. Jackson, Assistant General Counsel

for Ocean Services, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, 1825 Connecticut Avenue NW., Suite 603, Washington, DC 20235. Comments are due by December 27, 1990. Copies of comments should also be sent to Ms. Robin W. Smith, Assistant Attorney General, State of North Carolina, P.O. Box 629, Raleigh, North Carolina 27602–0629.

All nonconfidential documents submitted in this appeal are available for public inspection during business hours at the offices of the State and the Office of the Assistant General Counsel for Ocean Services, NOAA.

FOR ADDITIONAL INFORMATION CONTACT: Ms. Margo E. Jackson, Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, 1825 Connecticut Avenue NW., Suite 603, Washington DC 20235, (202) 673–5200.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

Dated: October 24, 1990.

Thomas A. Campbell,

General Counsel.

[FR Doc. 90–25610 Filed 10–29–90; 8:45 am]

BILLING CODE 3510-08-M

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Gulf of Mexico Fishery Management Council will hold a public meeting of its Scientific and Statistical Committee (SSC) on November 7–8, 1990, at the Omni Tampa Hotel at Westshore, 700 North Westshore Boulevard, Tampa, FL. The SSC will review Amendment #3 to the Reef Fish Fishery Management Plan (FMP), which would extend the recovery period for red snapper stocks. The SSC also will discuss Amendment #5 to the Shrimp FMP; Amendment #4 to the Stone Crab FMP; Amendment #5 to the Spiny Lobster FMP, and Amendment #1 to the Billfish FMP, which provides an overfishing definition.

On November 7 the SSC will begin its meeting at 1 p.m., to discuss the reef fish fishery and recess at 5 p.m. On November 8 the SSC will reconvene at 8 a.m. to discuss the shrimp, stone crab, and spiny lobster fisheries. The SSC will begin discussion of the billfish fishery at 1 p.m. and adjourn at 2 p.m.

For more information contact Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 881, Tampa, FL; telephone: (813) 228–2815.

Dated: October 24, 1990

David S. Crestin,

Deputy Director Office of Fisheries Conservation and Management National Marine Fisheries Service.

[FR Doc. 90–25582 Filed 10–29–90; 8:45 am]

BILLING CODE 3510-16-M

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council's (Council) ad hoc technical review committee will hold a public meeting on November 5–6, 1990, at the Council's Office, Metro Center, Suite 320, 2000 S.W. First Avenue, Portland, OR, to review the limited entry amendment #6 to the Council's Groundfish Fishery Management Plan. On November 5 the committee will begin the meeting at 1 p.m. to conduct a technical review of a draft of the Supplemental Environmental Impact Statement/Regulatory Impact Review/ Initial Regulatory Flexibility Analysis for the limited entry amendment. The Committee will adjourn the meeting at 4 p.m. on November 6.

For more information contact Lawrence D. Six, Executive Director, Pacific Fishery Management Council, 2000 S.W. First Avenue, Portland, OR 97201; telephone: (503) 326–6352.

Dated: October 24, 1990.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90–25583 Filed 10–29–90; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's Pelagics Plan Monitoring Team will hold public meetings on October 30–31, 1990, at the Honolulu Laboratory, Conference Room, 2570 Dole Street, Honolulu, HI. The meeting will begin at 9 a.m., on October 30.

The Council will, at this meeting: (1) Review the need to limit fishing effort in the Hawaii longline fishery, (2) develop alternative means of limiting fishing effort in light of the needs identified above; (3) discuss alternative means for resolving conflicts between longliners and trollers and handliners; (4) consider the draft overfishing definition amendment; (5) determine data needs for monitoring the preformance of fisheries for pelagic species; (6) and conduct other business.

For more information contact Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1405, Honolulu, HI 96813; telephone: (808) 523–1368.

Dated: October 26, 1990.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90–25616 Filed 10–29–90; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Navy

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Naval Research Advisory Committee will meet on November 29–30, 1990. The meeting will be held at the Pentagon, Washington, DC and the Naval Submarine Base, Kings Bay Georgia. The meeting will commence at 8:15 a.m. and terminate at 5 p.m. on November 29 and 30, 1990. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to provide briefings and demonstrations for the committee members on undersea warfare missions and operations. The agenda will include briefings, demonstrations and discussions related to strategic command, control and communications, The Trident II (D–5) missile, and SSBN security and intelligence. These briefings and discussions will contain classified information that is specifically authorized under criteria established by Executive Order to be kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive Order. The classified and non-classified matters to be discussed are so inextricably interwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander John Hrenko, U.S. Navy, Office of Naval Research, 800 North Quincy Street, Arlington, VA 22217–5000, Telephone Number: (202) 696–4870.

Dated: October 17, 1990.

Wayne T. Baucino,

Lieutenant, JAGC, U.S. Navy Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 90–25608 Filed 10–29–90; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before November 29, 1990.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs Attention: Dan Chenok, Desk Office, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to James O'Donnell, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: James O'Donnell (202) 708–5174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Acting Director, Office of Information Resources Management, pubishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the request are available from James O'Donnell at the address specified above.

Dated: October 23, 1990.

James O'Donnell,

Acting Director, for Office of Information Resources Management.

Office of Educational Research and Improvement

Type of Review: New
Title: Beginning Postsecondary Students Longitudinal Study 1990–1992
Frequency: Biennially
Affected Public: Individuals or households; Businesses or other for-profit; Non-profit institutions; small businesses or organizations
Reporting Burden:
Responses: 4304
Burden Hours: 1829
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: The purpose of this study is to collect information about first-year postsecondary students. This information will be used to report statistical analysis on the conditions of education in the United States.

[FR Doc. 90–25567 Filed 10–29–90; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Award of a Cooperative Agreement, Noncompetitive Financial Assistance; University of Nevada-Reno

AGENCY: U.S. Department of Energy (DOE), Yucca Mountain Project Office (Project Office).

ACTION: Notice of noncompetitive financial assistance.

SUMMARY: DOE, Project Office announces that pursuant to the DOE Financial Assistance Rules, 10 CFR 600.7(b)(2), it intends to award a cooperative agreement on a noncompetitive basis to the University of Nevada-Reno (UNR) to facilitate participation in the Yucca Mountain repository program.

The Nuclear Waste Policy Act of 1982 (NWPA) implemented a federal policy decision to concentrate DOE disposal and research efforts in the development of a mind geologic repository. The Nuclear Waste Policy Amendment Act of 1987 restrict DOE efforts in site characterization to the Yucca Mountain site in Nevada.

UNR has been involved since the onset of the repository related work being conducted. The role of UNR has included work in geology and seismology as well as other areas of concern. UNR's position in the Nevada academic community creates an environment in which dedicated participation in the current nuclear waste repository process is a logical and necessary accompaniment to the DOE effort.

PROJECT SCOPE: It will be the responsibility of the recipient to establish a program to educate students of all ages to be more scientifically literate in order to make rational decisions about energy and mineral resource development, environmental pollution, nuclear and alternate power sources needed in the 21st Century. Contact between Project Office participants and UNR faculty and staff is anticipated to be extensive. Activities undertaken by the recipient over the five year life of the agreement will reflect a changing emphasis on particular aspects of the project as progress continues toward a fully operational nuclear waste disposal facility. Areas chosen for academic pursuit include areas in which DOE has a vital interest and can provide extensive technical assistance as provided for under the NWPA.

The project period for the cooperative agreement is a five year period expected to begin November 30, 1990. The total estimated cost of this award is $1,250,000 over the total project period.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Yucca Mountain Project Office, Attn: Birdie Hamilton-Ray, P.O. Box 98608, Las Vegas, NV 89193–8608.

Issued in Las Vegas, Nevada, on October 19, 1990.

Nick C. Aquilina,

Manager Nevada Operation Office.

[FR Doc. 90-25851 Filed 10-29-90; 8:45 am]

BILLING CODE 6450-01-M

Secretary of Energy Advisory Board, Task Force on the Department of Energy National Laboratories; Open and Closed Meetings

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770, as amended), notice is hereby given of the following advisory committee task force meetings:

Name: Secretary of Energy Advisory Board Task Force on the Department of Energy National Laboratories.

Dates and times: Monday, November 12, 1990, 8:30 am–5:00 pm—Closed; Tuesday, November 13, 1990, 8:30 am–4:00 pm—Open.

Place: Tuesday, November 13, 1990—Open. Scripps Institution of Oceanography, Martin Johnson House (T–29), University of California at San Diego, 8602 La Jolla Shores Drive, La Jolla, CA 92093, Telephone: (619) [illegible]

Contact: Dr. Robert M. Simon, Designated Federal Officer, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: (202) [illegible]

Purpose: The Task Force will provide advice to the Secretary of Energy on the research, development, energy, and national defense responsibilities, activities, and operations of the Department of Energy's (DOE) National Laboratories and the Department's management of those laboratories.

Tentative Agenda

Monday, November 12, 1990

8:30 am Closed Meeting

Tuesday, November 13, 1990

8:30 am Presentations by National Laboratory Directors
11:00 Noon Lunch Break
1:00 pm Presentations by National Laboratory Directors (continued)
3:45 pm Public Comment Period
4:00 pm Adjournment

Public participation: The meeting on November 13, 1990, is open to the public from 8:30 am to 4:00 pm. The Chairman of the Task Force is empowered to conduct the meeting in a fashion that will, in the Chairman's judgment, facilitate the orderly conduct of business.

Persons wishing to attend the meeting on November 13, 1990, should contact Patti Parsons, Office of the Director, Scripps Institution of Oceanography, (619) 534–2828, to arrange for permission to park.

Any member of the public who wishes to make an oral statement pertaining to agenda items should contact the Designated Federal Officer at the address or telephone number listed above. Requests must be received before 5 p.m. (e.s.t.) Wednesday, November 7, 1990, and reasonable provision will be made to include the presentation during the public comment period. It is requested that oral presenters provide 15 copies of their statements at the time of their presentations.

Written testimony pertaining to agenda items may be submitted prior to the meeting. Written testimony must be received by the Designated Federal Officer at the address shown above before 5 p.m. (e.s.t.) Wednesday, November 7, 1990, to assure it is considered by Task Force members during the meeting.

Closed meeting: Pursuant to section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II (1982)), part of this advisory committee meeting concerns matters listed in 5 U.S.C. 522b(c) (1) and (9) and, accordingly, on November 12, 1990, the meeting will be closed to the public.

Minutes: A transcript of the November 13, 1990 public meeting will be available for public review and copying approximately 30 days following the meeting at the Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 9:00 am and 4:00 pm, Monday through Friday except Federal holidays.

Issued: Washington, DC, on: October 25, 1990.

J. Robert Franklin,
Deputy Advisory Committee Mangement Officer.

[FR Doc. 90–25652 Filed 10–29–90; 8:45 am]
BILLING CODE 6450–01–M

Office of Fossil Energy

[FE Docket No. 90–81–NG]

Access Energy Corp.; Application for Blanket Authorization to Import Natural Gas from Canada and Mexico

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to import natural gas from Canada and Mexico.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on September 19, 1990, of an application by Access Energy Corporation (Access) for blanket authority to import up to 296 Bcf of natural gas, including liquefied natural gas (LNG), from Canada and Mexico and other countries, over a two-year term from the date of first delivery. If granted, this authorization would supersede Access' existing short-term blanket import authority under DOE/ERA Opinion and Order No. 294 (Order 294), issued January 11, 1989. All transactions contemplated under the new Access import proposal would utilize existing facilities and would be subject to FE's reporting requirements.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t., November 29, 1990.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:
Xavier Puslowski, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3H–087, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4706.
Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: Access, a Delaware corporation with its principal place of business in Dublin, Ohio, is engaged in the marketing of natural gas throughout the U.S. and Canada. Access asserts that the blanket authorization requested to import competitively priced natural gas will enable it to make alternative supplies of gas available to a wide range of markets in the United States, including pipelines, local distribution companies and commercial and industrial end-users. Approval of the application also will avoid interruption of existing import arrangements if they extend beyond the December 31, 1990, expiration date of Access' current authorization to import natural gas.

The decision on the application for import authority will be made consistent with the DOE's natural gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines for the requested import authority. The applicant asserts that imports made under this requested arrangement will be competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

All parties should be aware that if this blanket import application is granted, the authorization may permit the import of the gas at any international border point where existing facilities are located.

NEPA Compliance

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) requires the DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until the DOE has met its NEPA responsibilities.

Public Comment Procedures

A decision on Access' request for expedited treatment will not be made until all responses to this notice have been received and evaluated. The decision on application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In reviewing natural gas import applications, issues determined to be appropriate in a particular case are considered, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment in their responses on these matters as they relate to the requested import authority. The applicant asserts that this import arrangement will be competitive and therefore is in the public interest. Parties opposing this arrangement bear the burden of overcoming this assertion.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' witten comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, a notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Access' application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 24, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary For Fuels Programs, Office of Fossil Energy.

[FR Doc. 90–25653 Filed 10–29–90; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 90–80–NG]

Czar Gas Corporation, Inc.; Order Granting Blanket Authorization To Import and Export Natural Gas From and to Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of an order granting blanket authorization to import and to export natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Czar Gas Corporation, Inc. (Czar Inc.) blanket authorization to import up to 146 Bcf of Canadian natural gas and export to Canada up to 146 Bcf of natural gas over a two-year term beginning on the date of first delivery of the import or export.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 24, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90–25647 Filed 10–29–90; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. 90–51–NG]

ICG Utilities (Ontario) Ltd.; Amendment of Authorization To Import Natural Gas from and Export Natural Gas to Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of order amending authorization to import natural gas from and export natural gas to Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it has issued an order amending ICG Utilities (Ontario) Ltd's existing import and export authorization to increase the volumes which ICG is authorized to import from Canada and subsequently export back to Canada from up to 8,267 MMcf per year to up to 10,220 MMcf per year over a term beginning on November 1, 1990, and ending on October 31, 2005. ICG's import/export arrangement provides a means by which ICG transports gas from western Canada across the State of Minnesota to eastern Canada to use as system supply and to fuel a proposed new cogeneration facility at Fort Frances, Ontario, Canada. This order amends DOE/FE Opinion and Order No. 332, issued September 12, 1989, in DOE/FE Docket No. 89–12–NG.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket room, room 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 24, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90–25649 Filed 10–29–90; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 90–16–NG]

Inter-City Minnesota Pipelines Ltd., Inc., Northern Minnesota Utilities, and ICG Utilities (Ontario) Ltd.; Order Granting Authorizations To Import and Export Natural Gas and Vacating Authorization

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of an order granting authorizations to import and export natural gas from and to Canada and

vacating authorization to import and export natural gas from and to Canada.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order on a joint application filed in FE Docket No. 90-16-NG. First, it authorized ICG Utilities (Ontario) Ltd until November 1, 1990, to import from Canada into the United States and subsequently export back to Canada up to 5,502 MMcf of natural gas (less quantities received since October 31, 1989), solely for consumption in Canada. Second, it authorized Northern Minnesota Utilities (NMU) to import through October 31, 2002, up to 11,445 MMcf annually of Canadian natural gas (up to 560 MMcf of this volume for sale in western Minnesota), and then export back to Canada and reimport up to 10,885 MMcf annually for resale in eastern Minnesota. NMU was also authorized to import, export, and reimport up to 33.2 MMcf per year of additional interruptible supplies for resale in Minnesota. Third, the authority previously granted to Inter-City Minnesota Pipelines Ltd. to import and export natural gas from and to Canada was vacated because it was no longer needed.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 24, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-25650 Filed 10-29-90; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 90-85-NG]

TexPar Energy, Inc.; Order Granting Blanket Authorization To Import and Export Natural Gas, Including Liquefied Natural Gas

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of an order granting blanket authorization to import and to export natural gas, including liquefied natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting TexPar Energy, Inc. (TexPar) blanket authorization to import and export up to a combined total of 70 Bcf of natural gas, including liquefied natural gas, from and to Canada, Mexico, and other countries, over a two-year period beginning on the date of the first import or export.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 24, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-25648 Filed 10-29-90; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. EL90-35-000, et al.]

Georgia Power Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

October 22, 1990.

Take notice that the following filings have been made with the Commission:

1. Georgia Power Co.

[Docket No. EL90-35-000]

Take notice that on October 10, 1990, Georgia Power Company (Georgia Power) tendered for filing additional information concerning the rate of proposed buyout cost recovery and modifications to its proposed fuel contract buyout/buydown cost recovery mechanism in its FERC Electric Tariffs, Original Volume No. 1 (full requirements) and Original Volume No. 2 (partial requirements).

Georgia Power states that the modification is designed to assure that at the end of the recovery period, Georgia Power will refund the amount, if any, by which cumulative costs recovered exceed cumulative actual savings.

Georgia Power renews its request for an effective date of April 1, 1987. Georgia Power states that it has served copies of its filing on its two full requirements and three partial requirements customers.

Comment date: November 6, 1990, in accordance with Standard Paragraph E at the end of this notice.

2. PJM Group—NEH Transmission Service Agreement

[Docket No. ER90-20-000]

Take notice that on October 10, 1990, the office of the Pennsylvania-New Jersey-Maryland (PJM) Interconnection on the behalf of the members of the PJM Interconnection (PJM) Group) and with the concurrence of the New England Hydro-Transmission Electric Company, Inc. (NEH) tendered for filing as an initial rate schedule under section 205(c) of the Federal Power Act and Part 35 of the regulations issued thereunder, a Transmission Service Agreement between the PJM Group and NEH dated October 5, 1990.

The filing party states that the Agreement sets forth the terms and conditions under which the PJM Group will provide Unscheduled Transmission Service (UTS) to NEH and the procedure for compensating the PJM Group for the service provided. Such service results from the adjustment of the PJM Group's operations at the request of NEH, on behalf of the New England Power Pool, whenever the level of electric power imports from Hydro-Quebec over the high voltage DC transmission facilities recently extended into Massachusetts, require such adjustment to meet criteria for system reliability of the PJM Group. UTS was initially provided by the PJM Group on September 28, 1990, at the request of NEH. Therefore, in order for the PJM Group to be compensated for that and any subsequent UTS provided, the filing party has requested that the Commission waive its customary notice period and allow the Agreement to become effective on September 28, 1990.

Comment date: November 6, 1990, in accordance with Standard Paragraph E at the end of this notice.

3. Consumer Power Co.

[Docket No. ER91-31-000]

Take notice that on October 16, 1990, Consumers Power Company (Consumers Power) tendered for filing an "Agreement for the Supply of Generating Capability and Energy Banking Service by Consumers Power Company for Toledo Edison Company dated January 1, 1990" an initial rate schedule. The Agreement calls for payment of $8,670,000 annually, subject to adjustment, for energy banking service, the terms and costs of which are based on the characteristics and costs of operating the Ludington Pumped Storage Plant, which is jointly owned by Consumers Power and the Detroit Edison Company.

Copies of the filing were served upon the Toledo Edison Company, the Ohio

Public Utilities Commission and the Michigan Service Commission.

Comment date: November 6, 1990, in accordance with Standard Paragraph E at the end of this notice.

4. Gulf States Utilities Co.

[Docket No. ER90-578-000]

Take notice that Gulf States Utilities Company (Gulf States) on September 7, 1990, tendered for filing a description of an oral agreement between Gulf States and Alabama Electric Cooperative, Inc. (AEC) for the short-term sale of up to 200 MW of replacement energy at a rate of 21.54 mills/kwh beginning September 8, 1990. On September 26, 1990, Gulf States supplemented this filing by tendering for filing a copy of a letter agreement between Gulf States and AEC memorializing the terms of the oral agreement. October 12, 1990, Gulf States further supplemented this filing by tendering for filing temporary terms and conditions of service for the transaction.

Gulf States states that it and AEC are currently negotiating an Interchange Agreement which, among other things, would provide for the sale and purchase of replacement energy. However, the negotiation of the Interchange Agreement will not be completed in time to allow for the short-term transaction beginning September 8, 1990.

Pursuant to § 35.11 of the Commission's regulations, Gulf States requests an effective date for the letter agreement of September 8, 1990, the date on which the short-term sale began. Gulf States requests a waiver of the notice requirements of the Federal Power Act and the Commission's regulations to allow this effective date.

Copies of the filing were served on Alabama Electric Cooperative, Inc.

Comment date: November 6, 1990, in accordance with Standard Paragraph E end of this notice.

3. Timothy Guzzle

[Docket No. ID-2509-000]

Take notice that on October 12, 1990, Timothy L. Guzzle (Applicant) tendered for filing an application under section 205(b) of the Federal Power Act to hold the following positions:

Director, Tampa Electric Company.
Director, NCNB National Bank of Florida.

Comment date: November 8, 1990, in accordance with Standard Paragraph E at the end of this notice.

6. Edward L. Flom

[Docket No. ID-2508-000]

Take notice that on October 12, 1990, Edward L. Flom (Applicant) tendered for filing an application under section 205(b) of the Federal Power Act to hold the following positions:

Director, Tampa Electric Company.
Director, NCNB National Bank of Florida.

Comment date: November 8, 1990, in accordance with Standard Paragraph E at the end of this notice.

7. Guy Bostick

[Docket No. ID-2511-000]

Take notice that on October 15, 1990, Guy Bostick (Applicant) tendered for filing an application under section 205(b) of the Federal Power Act to hold the following positions:

Director, Tampa Electric Company.
Director, First Union National Bank of Florida.
Director, First Union Corporation of Florida.

Comment date: November 8, 1990, in accordance with Standard Paragraph E at the end of this notice.

8. Arizona Public Service Co.

[Docket Nos. ER89-205-007 and EL89-28-005]

Take notice that on October 12, 1990, Arizona Public Service Company (APS) tendered for filing a Compliance Refund Report in accordance with the Commission's letter of approval dated September 19, 1990.

Copies of this filing have been served on all affected customers and each state commission within whose jurisdiction the wholesale customers distribute and sell electric energy at retail.

Comment date: November 6, 1990, in accordance with Standard Paragraph E end of this notice.

9. PSI Energy, Inc.

[Docket No. ER91-29-000]

Take notice that PSI Energy, Inc. (PSI) on October 15, 1990, formerly named Public Service Company of Indiana, Inc. tendered for filing proposed changes in its Electric Rate Schedule FERC No. 223. Such change in rates is the result of a wholesale ratemaking revenue credit methodology negotiated between PSI and Wabash Valley Power Association, Inc. (Wabash Valley).

The same ratemaking revenue credit methodology was accepted by the Commission in Docket No. ER90-380-000 for PSI's other wholesale customers as follows:

1. Cities and Towns (meaning the municipal utilities who are direct customers of PSI).
2. City of Logansport, Indiana.
3. Henry and Jackson County Rural Electric Membership Corporations.
4. Indiana Municipal Power Agency.

The reason for the wholesale ratemaking revenue credit methodology is to provide the wholesale customers with a revenue credit methodology similar to that of PSI's retail customers as approved by the Indiana Utility Regulatory Commission in Cause Nos. 37414-S2 and 38809. Such ratemaking revenue credit methodologies are for the demand-related revenues for sales of Interim Scheduled Power Agreement, dated May 24, 1989, between PSI and Wabash Valley Power Association, Inc., which has been accepted for filing in Docket No. ER89-526-000 and designated PSI's Rate Schedule FERC No. 241.

As part of the negotiations between the parties, PSI has requested the following:

1. Waiver of the notice requirements under § 25.3 of the Commission's Regulations under the Federal Power Act and an affective date of May 1, 1990, without suspension.
2. Waiver of the requirements under § 35.12 of the Commission's Regulations under the Federal Power Act not specifically addressed or complied with in the filing.

Copies of the filing were served upon Wabash Valley and the Indiana Utility Regulatory Commission.

Comment date: November 6, 1990, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-25569 Filed 10-29-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP91-168-000, et al.]

U-T Offshore System, et al.; Natural Gas Certificate Filings

October 22, 1990.

Take notice that the following filings have been made with the Commission:

1. U–T Offshore System

[Docket Nos. CP91–168–000 and CP91–169–000]

Take notice that on October 16, 1990, U–T Offshore System (UTOS), P.O. Box 1396, Houston, Texas 77251, filed in Docket Nos. CP91–168–000 and CP90–169–000 requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on an interruptible basis pursuant to UTOS's Rate Schedule IT on behalf of various shippers under UTO's blanket certificate issued by the Commission's Order No. 509, pursuant to section 7 of the Natural Gas Act, corresponding to the rates, terms and conditions filed in Docket Nos. RP88–14–001 and RM88–15–000, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.[1]

Information applicable to each transaction, including the identity of the shipper, the peak day, average day and annual volumes, and the initiation service dates and related docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by UTOS and is summarized in the attached appendix. It is explained that the receipt points would be West Cameron Blocks 116 and 167, offshore Louisiana. The delivery points would be the interconnection between the facilities of U–TOS and the facilities of other pipelines at the Johnson's Bayou Plant, Cameron Parish, Louisiana.

Comment date: December 10, 1990, in accordance with Standard Paragraph G at the end of this notice.

[1] These prior notice requests are not consolidated.

Docket No.	Shipper	Volumes—Mcf, peak day, average, annual	Related docket [1]	Commencement date
CP91–168–000	Associated Gas, Inc.	200,000 200,000 73,000,000	ST90–4805	Aug. 18, 1990.
CP91–169–000	Mobil Natural Gas, Inc.	200,000 200,000 73,000,000	ST90–4804	Aug. 18, 1990.

[1] UTOS reported the 120-day transportation service in the referenced ST dockets.

2. High Island Offshore System

[Docket Nos. CP91–174–000; CP91–175–000; CP91–176–000; CP91–177–000]

Take notice that on October 17, 1990, High Island Offshore System (HIOS), c/o ANR Pipeline Company, 500 Renaissance Center, Detroit, Michigan 48243, filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.303 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under the authorizations issued in Docket Nos. RM88–14–001 and RM88–15–000 issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.[2]

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicant and is included in the attached appendix.

The Applicant also states that it would provide the service for each shipper under an executed transportation agreement, and that the Applicant would charge rates and abide by the terms and conditions of the referenced transportation rate schedule(s).

Comment date: December 10, 1990, in accordance with Standard Paragraph G at the end of this notice.

[2] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name	Peak day [1], average, annual	Points of Receipt	Points of Delivery	Start up date, rate schedule	Related [2] dockets
CP91–174–000 10–17–90	Power Authority of the State of New York.	110,000 110,000 40,150,000	Off TX, Off LA	Off LA	8–20–90, IT	ST90–4536–000.
CP91–175–000 10–17–90	Ponchartrain Natural Gas System.	140,000 140,000 51,100,000	Off TX, Off LA	Off TX, Off LA	8–20–90, IT	ST90–4530–000.
CP91–176–000 10–17–90	Illinois Power Company	835,000 835,000 304,775,000	Off TX, Off LA	Off TX, Off LA	8–20–90, IT	ST90–4531–000.
CP91–177–000 10–17–90	Graham Energy Marketing Corporation.	75,000 75,000 27,375,000	Off TX, Off LA	Off TX, Off LA	8–16–90, IT	ST90–4532–000.

[1] Quantities are shown in Mcf.
[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

3. U–T Offshore System

[Docket Nos. CP91–186–000, CP91–187–000, CP91–188–000, CP91–189–000, CP91–190–000, CP91–191–000]

Take notice that on October 18, 1990, U–T Offshore System (U–TOS), P.O. Box 1396, Houston, Texas 77251, filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued by the Commission's Order No. 509 corresponding to the rates, terms and conditions filed in Docket No. RP89–99–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[3]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by U–TOS and is summarized in the attached appendix.

Comment date: December 10, 1990, in accordance with Standard Paragraph G at the end of this notice.

[3] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual Mcf	Receipt points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91–186–000 (10–18–90)	Illinois Power Company (LDC).	200,000 200,000 73,000,000	Offshore Louisiana	Cameron Parish, Louisiana.	7–1–90, IT, Interruptible.	ST90–4732–000, 8–20–90.
CP91–187–000 (10–18–90)	Power Authority of the State of N.Y. (End-user).	110,000 110,000 40,150,000	Offshore Louisiana	Cameron Parish, Louisiana.	7–1–90, IT, Interruptible.	ST90–4797–000, 8–20–90.
CP91–188–000 (10–18–90)	Pontchartrain Natural Gas System (LDC).	100,000 100,000 36,500,000	Offshore Louisiana	Cameron Parish, Louisiana.	7–1–90, IT, Interruptible.	ST90–4736–000, 8–20–90.
CP91–189–000 (10–18–90)	BP Gas, Inc. (Marketer)	220,000 220,000 80,300,000	Offshore Louisiana	Cameron Parish, Louisiana.	7–1–90, IT, Interruptible.	ST90–4739–000, 8–21–90.
CP91–190–000 (10–18–90)	EP Operating Company (Producer).	10,000 10,000 3,650,000	Offshore Louisiana	Cameron Parish, Louisiana.	7–1–90, IT, Interruptible.	ST90–4815–000, 8–21–90.
CP91–191–000 (10–18–90)	Calcasieu Gas Gathering System (Marketer).	100,000 100,000 36,500,000	Offshore Louisiana	Cameron Parish, Louisiana.	7–1–90, IT, Interruptible.	ST90–4803–000, 8–21–90.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 130 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 90–25570 Filed 10–29–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ91–1–51–000]

Great Lakes Transmission Co.; Proposed Changes in F.E.R.C. Gas Tariff Purchased Gas Adjustment Clause Provisions

October 23, 1990.

Take notice that Great Lakes Gas Transmission Company ("Great Lakes") on October 19, 1990, tendered for filing Second Revised Thirtieth Revised Sheet Nos. 57(i) and 57(ii) and Second Revised Sixteenth Revised Sheet No. 57(v) to its FERC Gas Tariff, First Revised Volume No. 1.

The above tariff sheets reflected revised current PGA rates for the month of October, 1990. The tariff sheets were filed as an Out of Cycle PGA to reflect the latest estimated gas cost as provided to Great Lakes by its sole supplier of natural gas, TransCanada PipeLines Limited ("TransCanada"). These pricing arrangements were the result of contract renegotiation between each of Great Lakes' resale customers and the supplier.

Great Lakes requested waiver of the notice requirements of the provisions of § 154.309 of the Commission's Regulations and any other necessary waivers so as to permit the above tariff sheets to become effective October 1, 1990, in order to implement the gas pricing agreements between Great Lakes' resale customers and TransCanada on a timely basis.

Any person desiring to be heard or to protest said filing should file a Motion to Intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before October 30, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 90–25571 Filed 10–29–90; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Cases Filed; Week of September 7 through September 14, 1990

During the Week of September 7 through September 14, 1990, the applications for refund or other relief listed in the appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: October 23, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

REFUND APPLICATIONS RECEIVED

[Week of September 7 through September 14, 1990]

Date received	Name of refund proceeding/name of refund applicant	Case No.
9/5/90	Edna L. Schmidt	RF307-10149
9/20/90	Carmichael's Exxon	RF307-10150
9/10/90	Brinkman's ARCO	RF304-11980
9/10/90	William Baker	RC272-97
9/10/90	Wooten Oil Co.	RF324-3
9/11/90	Virg's ARCO Service	RF304-11981
9/10/90	Estate of Edward Schmidt	RF307-10148
9/11/90	Mystic Fuel	RF323-13
9/12/90	Newell Fuel & Lumber Co.	RF323-14
9/13/90	Tollgate Exxon	RF307-10151
9/7/90 thru 9/14/90	Crude Oil refund, applications received	RF272-81359 thru RF272-81591
9/7/90 thru 9/14/90	Gulf Oil refund, applications received	RF300-11909 thru RF300-12044
9/7/90 thru 9/14/90	Texaco refund, applications received	RF321-9447 thru RF321-9578
9/7/90 thru 9/14/90	Shell Oil refund, applications received	RF315-10039 thru RF315-10046

[FR Doc. 90-25644 Filed 10-29-90; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of September 10 through September 14, 1990

During the week of September 10 through September 14, 1990, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Paul I. Noel, 9/11/90, LFA-0064

Paul I. Noel filed an Appeal from a denial by the Oak Ridge Operations Office of a Freedom of Information Request. Noel had sought records concerning an aircraft engine that he had removed from a U-2 aircraft during 1957. Noel stated that the engine, which he believes was contaminated with radiation, was sent to Oak Ridge. In its determination, the Operations Office stated that it could not locate any records concerning any aircraft engine. Noel argued that responsive documents must exist and asked that the Operations Office be directed to conduct an additional search for responsive documents. The DOE found that the Operations Office had conducted a thorough search of the records of Oak Ridge, and that there were no responsive documents at that facility. However, since a contaminated aircraft might have been deposited in a radioactive waste repository, the matter was remanded for a search of DOE-operated radioactive waste facilities. Accordingly, the Appeal was granted in part.

Refund Applications

Central Gulf Lines, Inc., Holland America Lines-Westours, Hawaiian Tug & Barge Corp., 9/12/90, RF272-0293, RF272-0295, RF272-0297, RD272-0293, RD272-0295, RD272-0297

Central Gulf Lines, Inc., Holland America Lines-Westours and Hawaiian Tug & Barge Corp. (collectively "the Applicants"), filed respective Applications for Refund from the Subpart V crude oil overcharge monies based upon their purchases of marine bunker and diesel during the period August 19, 1973 through January 27, 1981 (price control period). A group of 30 States and two Territories of the United States (collectively referred to as "the States") filed objections to these Applications. The States claimed that, as a result of regulations administered by the Federal Maritime Commission (FMC) and Interstate Commerce Commission (ICC), the Applicants were able to pass through in their fares any crude oil overcharges they incurred. In connection with these objections, the States also filed a Motion for Discovery in each of the refund proceedings. In considering the States' objections, the DOE determined that: (i) the States had not established that each of the Applicants was even subject to either FMC or ICC jurisdiction, and (ii) in any event, neither the FMC nor ICC regulations cited by the States constituted a means to automatically pass through increased fuel costs in the Applicants' fares. On the basis of these determinations, the DOE further determined that the States had failed to justify discovery with respect to the Applicants' refund claims. Accordingly, the Applications for Refund were approved and the States' Motions for Discovery were denied. The total of the refunds granted in this decision is $302,652.

Mid Kansas Construction Co., Inc., Johnson Bros. Corp., 9/13/90, RF272-01036, RD272-01036, RF272-01531

The DOE issued a Decision and Order granting refund monies from crude oil overcharge funds to the Mid Kansas Construction Co., Inc. and the Johnson Bros. Corp. based upon the applicants' purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981. The applicants

used the petroleum products in their highway and heavy construction operations. The applicants were end-users of the products they claimed and were therefore presumed injured. A consortium of 28 States and two Territories of the United States (collectively referred to as "the States") filed virtually identical Statements of Objection with respect to the two applicants' claims. In addition, the States filed a Motion for Discovery with respect to the claim of Mid Kansas Construction Co., Inc. The DOE found that the States' filings were insufficient to rebut the presumption of injury for end-users in these cases. Therefore, the Applications for Refund were granted and the Motion for Discovery was denied. The refund granted to the Mid Kansas Construction Co., Inc. is $10,858 and the refund granted to the Johnson Bros. Corp. is $9,248.

Standard Oil Co. (Indiana)/South Dakota, Standard Oil Co. (Indiana)/South Dakota, 9/12/90, RM21-222, RM251-223

The DOE issued a Decision and Order granting a Motion for Modification filed by the State of South Dakota. South Dakota requested permission to transfer $27,706 in *Amoco II* interest and $4,810 in *Amoco I* funds to a previously-approved Energy Conservation Grant program for non-profit organizations. This program provides matching grants to non-profit organizations for the installation of energy conservation equipment. The DOE determined that extending this program would provide restitution to injured South Dakota consumers because participating non-profit organizations would consequently have more funds available to use for providing charitable services to the public. Accordingly, the program was approved.

Texaco Inc./Saratoga Texas, 9/13/90, RF321-9522

The DOE issued a Supplemental Order in the Texaco Inc. special refund proceeding regarding Saratoga Texaco (Saratoga) (RF321-2845). In *Texaco Inc./Tiger Texaco,* Case Nos. RF321-2602 *et al.* (August 10, 1990), Saratoga was granted a refund of $5,276 based on its purchases of Texaco refined petroleum products. However, due to an ownership dispute, the refund granted to Saratoga was rescinded until the issue can be resolved.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Case name	Case number	Date
Anglen Food Service	RC272-86	9/13/90
Atlantic Richfield Co./Graham Oil Co., *et al.*	RF304-4016	9/12/90
Atlantic Richfield Co./Virg's Arco Service.	RF304-11961	9/13/90
Church of Jesus Christ of Latter-Day Saints.	RF272-56106	9/11/90
Fresno county, *et al.*	RF272-30420	9/13/90
Glacier Refrigerated Express, Inc., *et al.*	RF272-70178	9/14/90
Gulf Oil Corp./Coastal Corporation.	RF300-9019	9/11/90
Gulf Oil Corp./Kentucky Utilities Co.	RF300-11784	9/13/90
Northeast Petroleum Industries/Merritt Park Service.	RF264-19	9/11/90
Shell Oil Co./Kingsport Fuels, Inc.	RF315-3566	9/10/90
Texaco Inc./Baker's Texaco.	RF321-4248 RF321-4567	9/13/90
Texaco Inc./Bowden's Texaco.	RF321-3370 RF321-8401	9/10/90
Texaco Inc./Dave's Texaco.	RF321-4000 RF321-6469	9/11/90
Texaco Inc./Gibson's Texaco.	RF321-290 RF321-7250	9/12/90
Texaco Inc./Hamilton Oil Company, *et al.*	RF321-3048	9/13/90
Texaco Inc./Hanna's Texaco, *et al.*	RF321-1793	9/11/90
Texaco Inc./Hiway Texaco.	RF321-1539 RF321-8451	9/12/90
Texaco Inc./L.M. Chvatal Oil Co.	RF321-568 RF321-8630	9/10/90
Texaco Inc./Leo's Texaco Service.	RF321-2095 RF321-5542	9/10/90
Texaco Inc./Mac's Texaco.	RF321-5250 RF321-7220	9/12/90
Texaco Inc./Tumwater Texaco.	RF321-3872 RF321-6087	9/10/90
Texaco Inc./Wade Lee Groce Texaco Station, W.L. Groce Texaco.	RF321-1467 RF321-5877	9/12/90
Texaco Inc./Walker's Texaco.	RF321-1992 RF321-4611	9/13/90
Texaco Inc./Ye Olde Town Pump.	RF321-3455 RF321-9311	9/10/90

Dismissals

The following submissions were dismissed:

Name	Case no.
A. Duda and Sons, Inc.	RD272-41555
Bob's Texaco	RF321-852
Boise School Bus Co., Inc.	RF272-60196
Gene Lively Texaco Station	RF321-281
Joe John Tsormins	RF272-70095
Juliano Oil Service	RF307-4679
Lehman-Roberts	RD272-54624
McGuire & Hester	RF272-33533
Oscar's Fuel Service	RF304-5164
Parkville Esso	RF307-5023
Ramirez Brothers Texaco	RF321-5944
Simpson's Exxon	RF307-1818
T.L. James & Co.	RD272-20226
Taylor's Arco Service Station	RF304-4929
Texas Instruments, Inc.	RD272-58116
Valley Oil Co., Inc.	RF304-4606

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines,* a commercially published loose leaf reporter system.

Dated: October 23, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 90-25045 Filed 10-29-90; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of September 17 through September 21, 1990

During the week of September 17 through September 21, 1990, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Dale R. Callaghan, 09/19/90, LAF-0067

Dale R. Callaghan filed a Freedom of Information Act/Privacy Act Appeal of a partial information request denial by the Albuquerque Operations Office (Albuquerque) of the Department of Energy (DOE). The DOE held that the deleted material constituted information that would reveal the identity of a source who furnished information to the government under an express promise that its identity would be held in confidence. Exemption (k)(5) expressly exempts this type of material from the access provisions of the Privacy Act. Accordingly, Mr. Callaghan's Appeal was denied.

Rockwell International, 09/19/90, LFA-0083

Rockwell International filed an Appeal from a determination issued by the Savannah River Operations Office of the Department of Energy of a request for information which the firm had submitted under the Freedom of

Information Act. In considering the Appeal, the DOE found that the portions of the document which Savannah River withheld pursuant to Exemption 5 were predecisional and deliberative material and the disclosure of such material would not be in the public interest. Rockwell also appealed the adequacy of the search, contending that the enclosures referred to in the body of one of the released documents should have been documents considered as part of the FOIA request. The DOE therefore remanded this aspect of the FOIA request to Savannah River for a new search. Accordingly the Appeal was granted in part.

Rockwell International, 09/19/90, LFA–0069

Rockwell International filed an Appeal from a determination issued by the Albuquerque Operations Office of the Department of Energy of a request for information which the firm had submitted under the Freedom of Information Act. Rockwell appealed the adequacy of the search conducted by Albuquerque with respect to documents which were seized by the Federal Bureau of Investigation. The DOE determined that the search was reasonable and calculated to locate documents if they had been retained in Albuquerque's possession. Rockwell's appeal was therefore denied.

Roy P. Lessy, Jr., 09/19/90, LFA–0066

Roy P. Lessy (Lessy) filed an Appeal from a partial denial by the DOE's Oak Ridge Operations Office (ORO) of a request for information under the Freedom of Information Act. Lessy had sought copies of documents relating to the DOE's use of cesium capsules, an incident involving a leaking capsule, and DOE investigations into that incident. The ORO had determined that eleven responsive documents were exempt from mandatory disclosure pursuant to Exemption 5 of the Act. Lessy challenged both the sufficiency of the ORO's reply and its determination that the withheld documents fall within the scope of Exemptions 5. Seven of the eleven documents were drafts of sections of the final investigative report into the leaking cesium capsule. An eighth document was a draft of a letter which had been released to the appellant in final form. The DOE found that draft documents, by their very nature, are predecisional and deliverative and determined that these documents were not statements of final agency policy, but rather the predecisional deliberations of their authors. Thus, they were properly withheld under Exemption 5. The DOE found that one of the remaining documents was protected by the attorney-client privilege and that the other two were properly withheld as inter-agency memoranda. The DOE also found that none of the eleven documents contained reasonably segregable factual material that could be released without compromising other properly withheld material or exposing the deliverative process. Finally, the DOE determined that any public interest in the contents of the final DOE investigative report did not extend to the preliminary drafts and working papers withheld. Accordingly, the Appeal was denied.

The National Security Archive, 09–19–90, LFA–0068

The National Security Archives (NSA) filed an Appeal from a denial by the Assistant Secretary, Office of Nuclear Energy, of a Request for Information which the firm had submitted under the Freedom of Information Act (FOIA). NSA had requested information concerning a Ford Foundation paper entitled "Nuclear Power Issues and Choices." In considering the Appeal, the Department of Energy (DOE) found that the procedures used to search for documents responsive to NSA's request were reasonable and that no responsive documents could be located in DOE's possession. Accordingly, NSA's Appeal was denied.

Refund Applications

American Nuclear Corporation, 09–20–90, RF272–4152, RD272–4152

The DOE issued a Decision and Order concerning an Application for Refund filed by American Nuclear Corporation (ANC) from the crude oil overcharge funds being disbursed by the DOE. The DOE rejected a challenge to ANC's refund claim filed by a group of States, finding that the States failed to support their assertion that ANC did not absorb the crude oil overcharges. The DOE also denied a Motion for Discovery filed by the States. ANC was granted a refund of $8,101.

Exxon Corp./Whitaker Oil Co., 09/18/90, RF307–10144

In a prior Decision and Order, the DOE granted Whitaker Oil Company (Whitaker) a refund of $3,360 in the Exxon Corporation special refund proceeding, but withheld the funds from the firm because it was the respondent in a pending enforcement proceeding. In the present Supplemental Order, the DOE disburses the refund to Whitaker, since the enforcement proceeding has been settled, the settlement document makes no disposition of the refund, and the firm made a timely payment of its first installment of the settlement amount.

New Jersey Bell Telephone Co., 09/19/90, RF272–36245

New Jersey Bell Telephone Company, a public telephone utility, filed an Application for Refund in the Subpart V crude oil refund proceeding. A group of 23 States and two Territories filed objections to Bell's Application, claiming that Bell was not an injured end-user. The DOE rejected the States' arguments, finding that Bell, as a public telephone utility, should be considered an end-user of petroleum products. Therefore, the DOE found that Bell was entitled to receive a refund using the end-user presumption of injury, and that it would not be required to pass through this refund to its customers. Accordingly, Bell was granted a refund of $51,583.

Parker Leasing, Inc., 09/21/90, RF272–14565

The DOE issued a Decision and Order granting an Application for Refund in the crude oil refund proceeding filed by Parker Leasing, Inc., an end-user of refined petroleum products. In considering the claim, the DOE found that the waiver signed by the American Trucking Association and accompanying an Application for Refund from the Surface Transporters' Escrow Fund was unauthorized and therefore invalid. Accordingly, Parker was granted a refund of $4,480.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Case name	Case number	Date
Atlantic Richfield Co./ Hiller Arco.	RF305–11962 RF305–11963	09/21/90
Exxon Corporation/ W.C. Bascom, Inc..	RF307–6656	09/19/90
Marcolina Construction *et al.*	RF272–60084	09/19/90
The Permian Corporation.	RF272–54267	09/19/90
Shell Oil Company/ Amer Oil Company *et al.*	RF315–1163	09/21/90
Shell Oil Company/ Freeman Oil Company, Inc. *et al.*	RF315–7015	09/21/90
Shell Oil Co./Mehran Pejooh *et al.*	RF315–5071	09/18/90
Texaco Inc./Cole's Petroleum Bulk, Inc. *et al.*	RF321–3400	09/21/90

Case name	Case number	Date
Texaco Inc./ Gottschalk Lakeside Texaco *et al.*	RF321-304	09/20/90
Texaco, Inc./La Cumbre Texaco *et al.*	RF321-589	09/18/90
Texaco Inc./Paul's Texaco.	RF321-3164 RF321-4485	09/20/90
Texaco Inc./Pete's Texaco Star *et al.*	RF321-1506	09/20/90
Texaco Inc./Swain's Texaco.	RF321-8039 RF321-9048	09/20/90
Urban Management, Inc. *et al.*	RF272-48007	09/21/90

Dismissal

The following submissions were dismissed:

Name	Case No.
Bud & Walt's Exxon	RF307-9742
FCX, Inc.	RF307-9791
Geo. Stone Texaco	RF321-5056
Kenneth Strickland	RF272-78559
Leroy Laiser	RF272-78601
Mountain Petro/Pikeville Oil	RF321-6788
North Hills Texaco	RF321-5326
Pioneer Exxon Service Center	RF307-9743
S & J Grocery	RF307-9790
Sunset Exxon Service	RF307-9765
Sweetwater Drilling Co.	RF307-9752
Umphres Texaco Station #1	RF321-5332
Umphres Texaco Station #2	RF321-5333
Umphres Texaco Station #3	RF321-5334

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: October 23, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 90-25646 Filed 10-29-90; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3858-3]

Transfer of Data to Contractors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intended transfer of confidential business information to contractors.

SUMMARY: The Environmental Protection Agency (EPA) intends to transfer confidential business information (CBI) collected from the pulp, paper, and paperboard, pharmaceuticals manufacturing, wood preserving and other industries listed below to EPA contractors and subcontractors. Transfer of the information will allow the contractors and subcontractors to assist EPA in developing effluent limitations guidelines and standards under the Clean Water Act (CWA), and in developing or evaluating the need for regulations under the Clean Air Act (CAA), the Resource Conservation and Recovery Act (RCRA), and the Toxic Substances Control Act (TSCA). The information being transferred was collected or will be collected under the authority of section 308 of the Clean Water Act. Interested persons may submit comments on this intended transfer of information to the address noted below.

DATES: Comments on the transfer of data are due November 9, 1990.

ADDRESSES: Comments may be sent to Donald F. Anderson, Industrial Technology Division (WH-552), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald F. Anderson, Industrial Technology Division (WH-552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382-7137.

For information regarding uses of CBI under RCRA authority contact Alexander McBride, Office of Solid Waste (OS-331), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382-4761, and James Lounsbury, Office of Solid Waste (OS-302), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382-4807. For information regarding uses of CBI under CAA authority contact Susan Wyatt, Office of Air Quality Planning and Standards (MD-13), Environmental Protection Agency, Research Triangle Park, NC 27711, (919) 541-5674. For information regarding uses of CBI under TSCA authority contact Dwain Winters, Office of Toxic Substances (TS-792), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382-6907.

SUPPLEMENTARY INFORMATION:

1. *Information currently held by ABB Environmental Services, Inc.* EPA intends to have information previously submitted by businesses to the Agency, including CBI, transferred from the Agency's past contractor, ABB Environmental Services, Inc. of Portland, Maine (formerly E.C. Jordan Company), where it is currently being held, to new EPA contractors and subcontractors. The information being transferred consists primarily of information previously collected to support the development by EPA's Office of Water Regulations and Standards (OWRS) of effluent limitations guidelines and standards under the Clean Water Act for the pulp, paper, and paperboard, pharmaceuticals manufacturing, and wood preserving industries. In addition, information, including CBI, collected for the development of effluent limitations guidelines and standards for the following industries also may be transferred: Dairies, feedlots, fish hatcheries, foundries, fruits and vegetables, glass manufacturing, ink formulating, meat products and rendering, paint formulating, poultry processing, printing and publishing, seafood processing, sugar processing, textile manufacturing, and water supply.

More specifically, the information being transferred to the new contractors and subcontractors includes the following information previously collected under the authority of section 308 of the CWA: Questionnaire data collected for the pulp, paper, and paperboard rulemaking records in the late 1970's, 1982, and 1986, and a detailed pretest questionnaire in 1989-90; all joint EPA-industry studies, site visit reports, monitoring data, and sampling episode reports involving the pulp, paper, and paperboard industry generated in 1988-90; site visit notes, presampling visit reports, and site episode reports (including analytical results) obtained during EPA's 1988-89 study of the wood preserving industry; information collected in the late 1970's in connection with past pharmaceutical rulemaking, as well as information collected by the 1989-1990 pharmaceutical screener questionnaire and a detailed pretest questionnaire; the 1983 and 1986 pharmaceutical rulemaking records; and site visit reports, sampling episode reports, and monitoring data submissions from pharmaceutical plants generated since 1984. The information being transferred also includes similar types of information and data, such as questionnaire responses, site visit reports, analytical data, and sampling episode reports, previously collected by EPA to support rulemaking activities for the other industry categories listed above.

ABB Environmental Services was provided access to this information in order to perform its work under EPA Contract No. 68-03-3412, which ended on July 10, 1990. Radian Corporation of Herndon, Virginia and its

subcontractors (Science Applications International Corporation (SAIC); Abt Associates, Inc.; ABB Environmental Services, Inc.; Westat Inc.; VIGYAN, Inc.; and Amendola Engineering, Inc.) and its consultant, J. Floyd Byrd, have been awarded EPA Contract No. 68-CO-0032 to continue the work begun by ABB Environmental Services under EPA Contract No. 68-03-3412. In accordance with 40 CFR part 2, subpart B, all of the previously collected information (including CBI data) will be transferred from the offices of ABB Environmental Services, Inc. in Portland, Maine, to the offices of Radian Corporation in Herndon, Virginia, and the offices of Radian's subcontractors and consultant as listed below.

This information, including CBI, also will be transferred to other OWRS contractor locations as necessary for these contractors to complete their respective work assignments (e.g., technical data for statistical analyses by SAIC, McLean, Virginia; financial data for economic impact analyses by Eastern Research Group, Arlington, Massachusetts; and pollutant discharge data for environmental assessments by Versar, Springfield, Virginia, and by TetraTech, Fairfax, Virginia). This transfer of information will enable these contractors and subcontractors to carry out the work required under their contracts by assisting EPA in performing the technical, environmental, and economic analyses that will support the Agency's establishment of new and revised effluent limitations guidelines and standards for the pulp, paper, and paperboard, pharmaceutical manufacturing, and wood preserving industries.

Under their contracts, these OWRS contractors also may be supporting EPA's efforts to address new or revised effluent limitations guidelines and standards for the other industrial categories listed above at later dates in conjunction with EPA's regular reviews of rulemaking priorities under section 304(m) of the CWA, and also may assist with other program support requirements (e.g., special studies mandated by Congress, etc.).

Analyses the Agency and its contractors will perform in developing effluent limitations guidelines and standards for these industries include: Evaluating existing data within an industry and comparisons with other industries that generate similar contaminants; evaluating a profile of the industry; reviewing the existing subcategorization; gathering additional data including sampling and analytical data; and developing cost data for alternate pollution control options.

2. *Transfer of information from EPA or ABB Environmental Services, Inc. for development of regulations under authorities other than the Clean Water Act.* Some of the data collected under CWA section 308 and currently held by EPA or ABB Environmental Services, Inc. concerns air emissions from pulp, paper, and paperboard and pharmaceutical manufacturing industry facilities. EPA uses these data in revising the effluent limitations guidelines and standards under the CWA to evaluate the nonwater quality environmental impacts of air emissions associated with the various regulatory options being considered. EPA's Office of Air and Radiation (OAR) also may use these data to support development under the CAA of Control Techniques Guideline documents and to evaluate the need for a New Source Performance Standard (NSPS) and a National Emission Standard for Hazardous Air Pollutants (NESHAP) under the CAA for air emissions from pulp, paper and paperboard and pharmaceutical manufacturing industries.

Some of the collected data concerns sludge production and disposal practices for the pulp, paper, and paperboard, pharmaceutical manufacturing, and wood preserving industries. EPA collects these data because a facility's costs of complying with the revised effluent guidelines may be significantly affected by the degree to which the guidelines result in new or increased wastewater treatment sludge production and disposal operations. EPA's Office of Solid Waste (OSW) also may use this information to evaluate whether regulatory action under the Resource Conservation and Recovery Act (RCRA) is needed with respect to sludge disposal practices.

In addition, some of the data collected concerns the potential for exposure of workers at production facilities to environmental hazards, including exposure to pollutants contained in wastewaters (e.g., volatile organic compounds) and in wastewater treatment sludges (e.g., dioxins and other chlorinated organics). EPA's Office of Toxic Substances (OTS) may use this information to evaluate the need for further regulatory action, including the possibility of action under the Toxic Substances Control Act (TSCA) or other statutes.

In accordance with 40 CFR part 2, subpart B, these other EPA program offices (OAQPS, OSW, OTS) and their supporting contractors and subcontractors as listed below may be provided access to information (including CBI) collected previously under CWA section 308 and described above. This transfer will allow the contractors to carry out the work required by their contracts thereby assisting these program offices in the efforts described above. This information and data which now resides at the offices of EPA or ABB Environmental Services, Inc. in Portland, Maine, will be transferred as necessary (e.g., air emissions information and data to Radian Corporation, Research Triangle Park, North Carolina; sludge disposal information and data to Research Triangle Institute, Research Triangle Park, North Carolina, to SAIC, McLean, Virginia, and to Abt Associates, Cambridge, Massachusetts; worker exposure and related data to PEI, Cincinnati, Ohio, and to Versar, Inc., Springfield, Virginia).

3. *Information collected in the future.* EPA also intends to transfer to Radian Corporation and the other OWRS contractors listed in this notice all information, of the type described above (including CBI) that may be collected in the future under the authority of CWA section 308, as is necessary to enable Radian Corporation and the other OWRS contractors to carry out the work required by their contracts to support EPA's development of effluent limitations guidelines and standards for the industries listed above. In addition, EPA intends to transfer to the supporting contractors of other EPA offices (as listed in this notice) all information gathered in the future under the authority of CWA section 308, of the type described above that is pertinent to the regulatory evaluations and rulemaking efforts of those other offices, in order for the contractors to carry out the work required by their contracts.

4. *List of EPA program offices and supporting contractors and subcontractors.* The following table presents the contractors and subcontrators that will be providing support to EPA during the development of the regulations cited above, and to whom the information described above is therefore being transferred. The EPA program offices identified in the table are as follows:

1. Office of Water (OW)

Office of Water Regulations and Standards (OWRS)
- Analysis and Evaluation Division (AED)
- Assessment and Watershed Protection Division (AWPD)
- Industrial Technology Division (ITD)

2. Office of Solid Waste and Emergency Response (OSWER)

Office of Solid Waste (OSW)
- Characterization and Assessment Division (CAD)
- Municipal Solid Waste Management Program (MSWMP)

3. Office of Pesticides and Toxic Substances (OPTS)

Office of Toxic Substances (OTS)

Economics and Technology Division (ETD)
Exposure Evaluation Division (EED)
4. Office of Air and Radiation (OAR)
Office of Air Quality Planning and Standards (OAQPS)
Emissions Standards Division (ESD)

EPA office receiving support	Contractor (P=Prime contractor S=Subcontractor	Contract No.	Type of support
OW/OWRS/ITD	Radian Corp. (P) Herndon, VA	68-C0-0032	Technical.
	ABB Environmental Services (S) Portland, ME	68-C0-0032	Do.
	Amendola Engineering (S) Cleveland, OH	68-C0-0032	Do.
	SAIC (S) McLean, VA	68-C0-0032	Do.
	Westat, Inc. (S) Rockville, MD	68-C0-0032	Do.
	Abt Associates (S) Cambridge, MA	68-C0-0032	Do.
	VIGYAN Research Associates, Inc. (S) Washington, DC	68-C0-0032	Do.
	J. Floyd Byrd, Consultant Lawrenceburg, IN	68-C0-0032	Do.
	VIAR and Co. (P) Alexandria, VA	68-C9-0019	Analytical Scheduling and Tracking.
	Interface Inc. (S) Ft. Collins, C9	68-C0-0019	Analytical.
OW/OWRS/AED	Research Triangle Institute (P) Research Triangle Park, NC	68-C8-0064	Economic.
	Eastern Research Group (S) Arlington, MA	68-C8-0064	Do.
	SAIC (P) McLean, VA	68-C0-0035	Statistical.
OW/OWRS/AWPD	TetraTech, Inc (P) Fairfax, VA	68-C8-0013	Environmental.
Institute (S)	Research Triangle, Research Triangle Park, NC	68-C9-0013	Do.
	Versar, Inc. (P) Springfield, VA	68-D0-0166	Environmental.
OAR/OAQPS/ESD	Radian Corp. (P) Research Triangle Park, NC	68-02-4378	Technical.
OTS/ETD	PEI (P) Cincinnati, OH	68-D8-0112	Do.
OTS/EED	Versar, Inc. (P) Springfield, VA	68-D9-0166	Do.
OSW	SAIC (P) McLean, VA	68-W0-0027 and 68-W0-0025.	Do.
	Abt Associates (P) Cambridge, MA	68-D0-0020/1	Do.
	Research Triangle Institute (P), Research Triangle Park, NC	68-W0-0032	Do.

5. *Security Plan for CBI.* OWRS has adopted CBI Data Security Plans for Radian Corporation and its subcontractors for information to be collected for the pulp, paper, and paperboard, and pharmaceutical manufacturing industries. The procedures in these plans also will be extended to CBI information previously gathered by OWRS and to CBI information that may be gathered in the future for the other industries identified above. Personnel of these contractors are required to sign non-disclosure agreements and be briefed on appropriate security procedures before they are permitted access to CBI. No person is automatically granted access to CBI; a *need to know* must exist. Similarly, OWRS will limit access of EPA personnel from other program offices and personnel of their supporting contractors and subcontractors to only that CBI information and data needed for their respective statutory activities. All EPA contractors and subcontractors and their personnel are bound by the requirements and sanctions contained in their contracts and EPA's confidentiality regulations found at 40 CFR part 2, subpart B.

Dated: October 5, 1990.

Robert H. Wayland III,

Acting Assistant Administrator for Water.

[FR Doc. 90-25638 Filed 10-29-90; 8:45 am]

BILLING CODE 6560-50-M

[OPP-00297; FRL-3839-2]

State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committee on Ground Water Protection and Pesticide Disposal; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committee on Ground Water Protection and Pesticide Disposal will hold a 2-day meeting, beginning on October 29, 1990, and ending on October 30, 1990. This notice announces the location and times for the meeting and sets forth tentative agenda topics. The meeting is open to the public.

DATES: The SFIREG Working Committee will meet on Monday, October 29, 1990, from 8:30 a.m. to 5 p.m. and on Tuesday, October 30, 1990, beginning at 8:30 a.m. and adjourning at approximately 1 p.m.

ADDRESSES: The meeting will be held at the Days Hotel-Crystal City, 2000 Jefferson Davis Highway, Arlington, VA, (703) 920-3600.

FOR FURTHER INFORMATION CONTACT: By mail: Arty Williams, Office of Pesticide Programs (H7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1007, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 557-5017.

SUPPLEMENTARY INFORMATION: The tentative agenda includes the following topics:

1. –Ground water survey status report.
2. –Pesticides and Ground Water Strategy status report.
3. –Discussion on use of FIFRA sections 24(b) and 24(c) in implementation of State Management Plans for ground water protection.
4. –Discussion of household exemption from disposal requirements and quantity triggers for secondary containment.
5. –Agricultural chemical site remediation, techniques and clean-up objectives.
6. –Other topics as appropriate.

Dated: October 22, 1990.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 90-25721 Filed 10-29-90; 11:30 a.m.]

BILLING CODE 6560-50-F

BEST COPY AVAILABLE

[FRL-3868-8]

Issuance of National Discharge Elimination System (NPDES) Permit for Occidental Chemical Company's Kenton, Ohio Facility

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given, in accordance with 40 CFR parts 121, 122 and 124 and applicable guidelines and regulations of the Clean Water Act (CWA), that a National Pollutant Discharge Elimination System (NPDES) permit was issued by the U.S. Environmental Protection Agency (U.S. EPA) Region V for the Occidental Chemical Corporation's Kenton, Ohio facility (NPDES No. OH0006769) on September 28, 1990. Requests for an evidentiary hearing on this action must be submitted within thirty (30) days following the service of notice of the Regional Administrator's final permit decision on the permittee. Any such requests shall be filed in accordance with the procedures specified in 40 CFR 124.74.

DATES: This action is effective as of October 28, 1990, and expires on November 1, 1992.

ADDRESSES: Copies of the administrative record for the permit, including the final issued permit, are available for inspection upon request at the following location: U.S. EPA, Region V, Water Division, Permits Section, 230 S. Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Denise Steurer of the U.S. EPA Region V's Water Division, Permits Section at the address given above, (312) 886-2446.

SUPPLEMENTARY INFORMATION: On August 13, 1986, the Ohio Environmental Protection Agency (OEPA) public noticed an NPDES permit for the Occidental-Kenton facility. U.S. EPA informed the OEPA that it did not receive adequate information to make a determination on the permit in a timely fashion, and that U.S. EPA would not concur with the issuance of the permit as drafted. On September 30, 1986, the Ohio EPA issued an NPDES permit for the Occidental-Kenton facility which did not correct the deficiencies cited in the August 13, 1986, letter. As that permit failed to impose effluent limitations and other conditions necessary to meet the requirements of the CWA, however, U.S. EPA filed, under 40 CFR 123.44(b)(2), its specific objection to the issuance of the permit on December 10, 1986. Because the State did not resubmit a permit revised to meet U.S. EPA's objections, and no public hearing was requested, exclusive authority to issue the Occidental-Kenton permit passed to U.S. EPA, Region V. The Region's draft permit, which was prepared with the assistance of the Ohio EPA, was public noticed on March 28, 1990.

The permit was issued after taking into consideration comments received by Occidental as well as revisions in Ohio's Water Quality Standards.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 90-25639 Filed 10-29-90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

October 23, 1990.

The Federal Communications Commission has submitted the following information collection requirement to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. 3507.

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on this information collection should contact Bruce McConnell, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395-3785.

OMB number: 3060-0069.

Title: Application for Commercial Radio Operator License.

Form number: FCC Form 756.

Action: Revision.

Respondents: Individuals or households.

Frequency of response: On occasion.

Estimated annual burden: 30,000 responses; 0.3 hours average burden per response; 9,000 hours total annual burden.

Needs and uses: The FCC Form 756 is used to issue radio operator licenses to those persons found to be qualified. To properly identify those qualified persons, it is necessary to collect the full name, date of birth and physical description of each applicant. The physical description of the applicant is placed on the Marine Radio Operator Permit licenses to guard against possible fraudulent usage. Collection of photographs of applicants for radiotelegraph licenses and physical descriptions are in accordance with the international Radio Regulations.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-25558 Filed 10-29-90; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Agency Information Collection Activity Under Review by the Office of Management and Budget

ACTION: Notice: Form F-53 Submitted for Review to the Office of Management and Budget.

The Federal Mediation and Conciliation Service (FMCS) has submitted to the Office of Management and Budget (OMB) a request for review of FMCS Form F-53, Notice to Federal Mediation and Conciliation Service. The request seeks OMB approval to extend the expiration date of Form F-53 from August 31, 1990 to February 28, 1991. The request was submitted pursuant to the Paperwork Reduction Act (44 U.S.C. chapter 35).

Form F-53 is used to notify FMCS of a dispute in the Federal sector; that is between a Federal agency and the union representing that agencies employees. The information supplied allows FMCS to contact the parties and provide assistance. Information pertaining to Form F-53 is as follows:

Agency: Federal Mediation and Conciliation Service.

Title: Notification to Federal Mediation and Conciliation Service.

Form Number: Agency Form F-53 OMB No. 3076-0005.

Type of Request: Extension of expiration date of a currently approved collection without any change in the substance or in the method of collection.

Authority: 5 U.S.C. 7119(a) and 29 CFR part 1425.

Burden: Approximately 600 responses per year. Generally, a Form F-53 is filled out only once, the time needed to fill out the Form is about 10 minutes and the reporting burden is 100 hours per year.

Needs and Uses: The need for this Form is to obtain the name, address, phone number of the parties and the type of dispute so that this information may be used to respond to requests for FMCS assistance.

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Affected Parties: Federal agencies, and labor organizations representing agency employees.

Respondents Obligation: Voluntary.

Frequency: On occasion, as needed by the parties.

Comments regarding the burden estimate given above, or any other aspects of this information collection, including suggestions for reducing the burden, should be sent to:

Diana Rowen, OMB Desk Officer, 725 17th Street, NW., Room 3001, Washington, DC 20503 (202) 395–6880

and

Ted M. Chaskelson, General Counsel, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20427 (202) 653–5305.

Dated: October 22, 1990.

Bernard E. DeLury,

Director.

[FR Doc. 90–25584 Filed 10–29–90; 8:45 am]

BILLING CODE 6372-01-M

FEDERAL RESERVE SYSTEM

Nyle E. Barlow, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 13, 1990.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missiouri 64198:

1. *Nyle E. Barlow,* Broomfield, Colorado; to acquire an additional 5.55 percent (totalling 28.32 percent) of the voting shares of Front Range Capital Corporation, Lafayette, Colorado, parent of Bank VII, Lafayette, Lafayette, Colorado.

2. *Donald E. Imel,* Boulder, Colorado; to acquire an additional 5.18 percent (totalling 28.01 percent) of the voting shares of Front Range Capital Corporation, Lafayette, Colorado, parent of Bank VII, Lafayette, Lafayette, Colorado.

Board of Governors of the Federal Reserve System, October 24, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90–25595 Filed 10–29–90; 8:45 am]

BILLING CODE 6210-01-M

Larimer Bancorporation, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice the applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than November 21, 1990.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Larimer Bancorporation, Inc.,* Fort Collins, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of First Interstate Bank of Fort Collins, Fort Collins, Colorado.

Board of Governors of the Federal Reserve System, October 24, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90–25596 Filed 10–29–90 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

[Docket Nos. 9227; 9238; and 9239]

Chain Pharmacy Association of New York State, Inc., et al.; Proposed Consent Agreements With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreements.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, the five consent agreements, accepted subject to final Commission approval, would prohibit, among other things, the two pharmacy chains, Melville and Rite Aid (D–9227), from entering into any agreement with other pharmacy firms to withdraw from or to refuse to enter into any participation agreement. For ten years, the two chains would also be prohibited from communicating to another pharmacy firm their decision or intention to enter or to refuse to enter into such a participation agreement, and for eight years, from advising any pharmacy firm on whether to enter into any participation agreement.

The two trade associations, Empire State Pharmaceutical Society (D–9238) and Capital Area Pharmaceutical Society (D–9239), along with Alan Kadish, would be prohibited from organizing or encouraging any agreement among pharmacy firms to refuse to enter into or to withdraw from any third-party prescription plan. The consent agreements, among other things, would also prohibit the respondents, for a period of ten years, from continuing any meeting at which representatives of pharmacy firms exchange information concerning the firms' intention to enter into, refuse to enter into, or withdraw from any third-party prescription plan, and from communicating to any firm any information concerning any other pharmacy firm's intention to enter into, refuse to enter into, or to withdraw from any existing or proposed third-party prescription plan.

DATES: Comments must be received on or before December 31, 1990.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Michael McNeely, FTC/S–3306, Washington, DC 20580. (202) 326–2904.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's

rules of practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreements containing consent orders to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, have been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice (16 CFR 4.9(b)(6)(ii)).

In the Matter of Chain Pharmacy Association of New York State, Inc., a corporation; Fay's Drug Co., Inc., a corporation; Kinney Drugs, Inc., a corporation; Melville Corp., a corporation; Peterson Drug Co. of North Chili, New York, Inc., a corporation; Rite Aid Corp., a corporation; and James E. Krakulec, an individual.

Docket No. 9227

Agreement Containing Order To Cease and Desist

The agreement herein, by and between Melville Corporation, a corporation, hereinafter sometimes referred to as "Melville" or respondent, by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Respondent Melville Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at _____ One Theall Road _____ in the City of _____ Rye _____, State of New York 10580.

2. Respondent has been served with a copy of the complaint issued by the Federal Trade Commission charging it with violation of section 5 of the Federal Trade Commission Act, and has filed an answer to said complaint denying said charges.

3. Respondent admits all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. Respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it will be placed on the public record for a period of sixty (60) days and information with respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify respondent, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in said copy of the complaint issued by the Commission.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's Rules, the Commission may, without further notice to respondent, (1) Issue its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to respondent's address, as stated in this agreement, shall constitute service. Respondent waives any right it might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

8. Respondent has read the complaint and the order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

For purposes of the order, the following definitions shall apply:

A. *Melville* means Melville Corporation, its directors, officers, agents, employees, divisions, subsidiaries, successors and assigns;

B. *Third-party payer* means any person or entity that provides a program or plan pursuant to which such a person or entity agrees to pay for prescriptions dispensed by pharmacies to individuals described in such plan or program as eligible for such coverage ("Covered Persons"), and includes, but is not limited to, health insurance companies; prepaid hospital, medical, or other health service plans, such as Blue Cross and Blue Shield plans; health maintenance organizations; preferred provider orgainzations; prescription service administrative organizations; and health benefit programs for government employees, retirees or dependents;

C. Participation agreement means any existing or proposed agreement, oral or written, in which a third-party payer agrees to reimburse a pharmacy for the dispensing of prescription drugs to Covered Persons, and the pharmacy agree to accept such payment from the third-party payer for such prescriptions dispensed during the term of the agreement;

D. Pharmacy firm means any partnership, sole proprietorship or corporation, including all of its subsidiaries, affiliates, divisions and joint ventures, that owns, controls or operates one or more pharmacies, including the directors, officers, employees, and agents of such partnership, sold proprietorship or corporation as well as the directors, officers, employees, and agents of such partnership's, sole proprietorship's or corporation's subsidiaries, affiliates, divisions and joint ventures, but excludes any partnership, sole proprietorship or corporation, including all of its subsidiaries, affiliates, divisions and joint ventures, which own, are owned by, control or are under common control with Melville. The words "subsidiary", "affiliate", and "joint venture" refer to any firm in which there is partial (10% or more) or total ownership or control between corporations.

II

It is ordered that Melville, directly, indirectly, or through any corporate or other device, in or in connection with its pharmacy operations and activities,

including but not limited to those of its CVS division, in or affecting commerce, as "commerce" is defined in section 4 of the Federal Trade Commission Act, shall forthwith cease and desist from:

A. Agreeing or combining, attempting to agree or combine, or taking Aany action in furtherance of any agreement or combination, advocating an agreement, or organizing or cooperating with any Pharmacy Firm(s) to (1) boycott, refuse to enter into, withdraw from, or not participate in, any Participation Agreement or (2) threaten to boycott, threaten to refuse to enter into, threaten to withdraw from, or threaten not to participate in, any participation agreement;

B. For a period of ten (10) years after the date this order becomes final, stating or communicating in any way to any pharmacy firm the intention or decision of Melville with respect to entering into, refusing to enter into, threatening to refuse to enter into, participating in, threatening to withdraw from, or withdrawing from any existing or proposed participation agreement into which Melville and the other pharmacy firm have entered, could enter or are considering entering;

C. For a period of eight (8) years after the date this order become final, advising any pharmacy firm with respect to entering into, refusing to enter into, participating in, or withdrawing from any existing or proposed participation agreement into which Melville and the other pharmacy firm have entered, could enter or are considering entering.

Provided that nothing in this order shall prevent Melville from:

(1) Exercising rights permitted under the First Amendment to the United States Constitution to petition any federal or state government executive agency or legislative body concerning legislation, rules or procedures, or to participate in any federal or state administrative or judicial proceeding;

(2) Subcontracting, preparing joint bids, or otherwise jointly undertaking with pharmacy firms to provide prescription drug services under a participation agreement if requested to do so in writing by the third-party payer; or

(3) Communicating to the public truthful, nondeceptive statements concerning any existing or proposed participation agreement.

III

It is further ordered that Melville:

A. Provide a copy of this order within thirty (30) days after the date this order becomes final to each officer, director, employee pharmacist who is employed in New York state, and each employee whose responsibilities include recommending or deciding whether to enter into any participation agreement, and each employee who regularly attends meetings on Melville's behalf that include representatives of other pharmacies; and

B. For a period of five (5) years after the date this order becomes final, provide each new director and each employee who enters a position described in Paragraph A a copy of the order within ten (10) days of the date the employee or director assumes the new position.

IV

It is further ordered that Melville:

A. File a verified, written report with the Commission within ninety (90) days after the date this order becomes final, and annually thereafter for five (5) years on the anniversary of the date this order becomes final, and at such other times as the Commission may, by written notice to Melville, require, setting forth in detail the manner and form in which it has complied and is complying with this order;

B. For a period of five (5) years after the date this order becomes final, maintain and make available to Commission staff for inspection and copying upon reasonable notice all documents generated by Melville or that come into Melville's possession, custody, or control regardless of source, that embody, discuss or refer to the decision or upon which Melville relies in deciding whehter to enter into any participation agreement in which Melville participates, has participated, or has considered participating; and

C. Notify the Commission at least thirty (30) days prior to any proposed change in Melville such as, assignment or sale resulting in the emergency of a successor corporation or association, change of name, change of address, dissolution, the creation, sale or dissolution of a subsidiary, or any other change that may affect compliance with this order.

In the Matter of Chain Pharmacy Association of New York State, Inc., a corporation; Fay's Drug Co., Inc., a corporation; Kinney Drugs, Inc., a corporation; Melville Corp, a corporation; Peterson Drug Co., of North Chili, New York, Inc., a corporation; Rite Aid Corp., a corporation; and James E. Krahulec, an individual.

Agreement Containing Order To Cease and Desist

Docket No. 9227

The agreement herein, by and between Rite Aid Corporation, a corporation, hereinafter sometimes referred to as "Rite Aid" or respondent, by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Respondent Rite Aid Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at Railroad Avenue and Trindle Road, in the City of Shiremanstown, State of Pennsylvania, 17011.

2. Respondent has been served with a copy of the complaint issued by the Federal Trade Commission charging it with violation of section 5 of the Federal Trade Commission Act, and has filed an answer to said complaint denying said charges.

3. Respondent admits all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. Respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and concusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it will be placed on the public record for a period of sixty (60) days and information with respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify respondent, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in said copy of the complaint issued by the Commission.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's rules, the Commission

may, without further notice to respondent, (1) issue its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to respondent's address, as stated in this agreement, shall constitute service. Respondent waives any right it might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

8. Respondent has read the complaint and the order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

For purposes of the order, the following definitions shall apply:

A. *Rite Aid* means Rite Aid Corporation, its directors, officers, agents, employees, divisions, subsidiaries, successors and assigns;

B. *Third-party payer* means any person or entity that provides a program or plan pursuant to which such a person or entity agrees to pay for prescriptions dispensed by pharmacies to individuals described in such plan or program as eligible for such coverage ("Covered Persons"), and includes, but is not limited to, health insurance companies; prepaid hospital, medical, or other health service plans, such as Blue Cross and Blue Shield plans; health maintenance organizations; preferred provider organizations; prescription service administrative organizations; and health benefit programs for government employees, retirees or dependents;

C. *Participation agreement* means any existing or proposed agreement, oral or written, in which a third-party payer agrees to reimburse a pharmacy for the dispensing of prescription drugs to Covered Persons, and the pharmacy agrees to accept such payment from the third-party payer for such prescriptions dispensed during the term of the agreement;

D. *Pharmacy firm* means any partnership, sole proprietorship or corporation, including all of its subsidiaries, affiliates, divisions and joint ventures, that owns, controls or operates one or more pharmacies, including the directors, officers, employees, and agents of such partnership, sole proprietorship or corporation as well as the directors, officers, employees, and agents of such partnership's, sole proprietorship's or corporation's subsidiaries, affiliates, divisions and joint ventures, but excludes any partnership, sole proprietorship or corporation, including all of its subsidiaries, affiliates, divisions and joint ventures, which own, are owned by, control or are under common control with Rite Aid. The words "subsidiary", "affiliate", and "joint venture" refer to any firm in which there is partial (10% or more) or total ownership or control between corporations.

II

It is ordered that Rite Aid, directly, indirectly, or through any corporate or other device, in or in connection with its activities in or affecting commerce, as "commerce" is defined in section 4 of the Federal Trade Commission Act, shall forthwith cease and desist from:

A. Agreeing or combining, attempting to agree or combine, or taking any action in furtherance of any agreement or combination, advocating an agreement, or organizing or cooperating with any Pharmacy Firm(s) to (1) Boycott, refuse to enter into, withdraw from, or not participate in, any Participation Agreement or (2) threaten to boycott, threaten to refuse to enter into, threaten to withdraw from, or threaten not to participate in, any participation agreement;

B. For a period of ten (10) years after the date this order becomes final, stating or communicating in any way to any pharmacy firm the intention or decision of Rite Aid with respect to entering into, refusing to enter into, threatening to refuse to enter into, participating in, threatening to withdraw from, or withdrawing from any existing or proposed participation agreement into which Rite Aid and the other pharmacy firm have entered, could enter or are considering entering;

C. For a period of eight (8) years after the date this order becomes final, advising any pharmacy firm with respect to entering into, refusing to enter into, participating in, or withdrawing from any existing or proposed participation agreement into which Rite Aid and the other pharmacy firm have entered, could enter or are considering entering.

Provided that nothing in this order shall prevent Rite Aid from

(1) Exercising rights permitted under the First Amendment to the United States Constitution to petition any federal or state government executive agency or legislative body concerning legislation, rules or procedures, or to participate in any federal or state administrative or judicial proceeding;

(2) Subcontracting, preparing joint bids, or otherwise jointly undertaking with pharmacy firms to provide prescription drug services under a participation agreement if requested to do so in writing by the third-party payer;

(3) Communicating to the public truthful, nondeceptive statements concerning any existing or proposed participation agreement.

III

It is further ordered that Rite Aid:

A. Provide a copy of this order within thirty (30) days after the date this order becomes final to each officer, director, employee pharmacist who is employed in New York state, and each employee whose responsibilities include recommending or deciding whether to enter into any participation agreement, and each employee who regularly attends meetings on Rite Aid's behalf that include representatives of other pharmacies; and

B. For a period of five (5) years after the date this order becomes final, provide each new director and each employee who enters a position described in. Paragraph A a copy of the order within ten (10) days of the date the employee or director assumes the new position.

IV

It is further ordered that Rite Aid:

A. File a verified, written report with the Commission within ninety (90) days after the date this order becomes final, and annually thereafter for five (5) years on the anniversary of the date this order becomes final, and at such other times as the Commission may, by written notice to Rite Aid, require, setting forth in detail the manner and form in which it has complied and is complying with this order;

B. For a period of five (5) years after the date this order becomes final, maintain and make available to Commission staff for inspection and copying upon reasonable notice all

documents generated by Rite Aid or that come into Rite Aid's possession, custody, or control regardless of source, that embody, discuss or refer to the decision or upon which Rite Aid relies in deciding whether to enter into any participation agreement in which Rite Aid participates, has participated, or has considered participating; and

C. Notify the Commission at least thirty (30) days prior to any proposed change in Rite Aid such as, assignment or sale resulting in the emergence of a successor corporation or association, change of name, change of address, dissolution, the creation, sale or dissolution of a subsidiary, or any other change that may affect compliance with this order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, agreements to a proposed consent order from Melville Corporation ("Melville") and Rite Aid Corporation ("Rite Aid") ("respondents").

The proposed consent orders have been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will decide whether it should withdraw from the agreements or make final the agreements' proposed orders.

Description of Complaint

A complaint that the Commission issued on April 19, 1989, alleges that respondents agreed with others to refuse to participate in the New York State Employees Prescription Program ("Program"). The complaint alleges that the agreement coerced the State of New York into raising the prices paid to pharmacies. More specifically, the complaint alleges the following facts.

Melville operated a chain of drug stores under the name CVS, including approximately 115 stores in New York State, in 1986. The allegations of the complaint with respect to Melville are based on the activities of the CVS division ("CVS") of Melville. Rite Aid operated approximately 260 pharmacies in New York State in 1986. CVS and Rate Aid were both members of the Chain Pharmacy Association of New York State ("Chain Association").

Customers often receive prescriptions through health benefit programs under which third-party payers compensate the pharmacy according to a predetermined formula. The Program is a prescription drug benefit plan that covers approximately 500,000 beneficiaries. New York State selected PAID Prescription, Inc. to administer the Program. Pharmacies that participate in the Program accept as payment in full a reimbursement of the ingredient cost of the drug and a professional fee for dispensing the drug. In 1986, respondents participated in many prescription drug benefit plans, including the Program as it existed prior to July 1.

The complaint alleges that, in May 1986, PAID Prescriptions, Inc. solicited pharmacies to participate in the Program under terms that would go into effect on July 1, 1986. Among the proposed terms were changes in the reimbursement for ingredent costs, an increase in the professional fee, and the offer of additional reimbursement for the use of generic drugs. The proposed terms were intended to reduce the price the State paid for the Program, and thus minimize costs, and yet to offer reimbursement high enough to attract a sufficient number of participating pharmacies. Each respondent purchased prescription drugs at an average cost that was below the level of reimbursement for ingredients costs that was offered. Each respondent would have suffered a loss of customers if its competitors had participated in the program at a time when it was not participating.

The complaint alleges that during or before March 1986, the State of New York informed the Chain Association of the proposed terms of the Program. The Chain Association then informed respondents and other pharmacies of the proposed terms. The Chain Association told its members that the extent to which pharmacies participated in the Program could affect state officials' consideration of the Program's reimbursement level. The Chain Association held meetings at which some members stated that they would not participate in the Program. Respondents and other pharmacy firms also discussed their intentions regarding participation in the Program outside of Chain Association meetings. The complaint further alleges that through these exchanges of information and other acts, respondents agreed with others to refuse to participate in the Program to coerce the State of New York to increase the level of reimbursement under the Program.

The complaint alleges that the agreement to refuse to participate in the Program injured consumers in New York State by reducing competition among pharmacy firms with respect to third-party prescription plans. Furthermore, the conspiracy by respondents and others forced New York State to pay sustantial additional sums for prescription drugs provided to beneficiaries of the Program.

Description of the Proposed Consent Orders

The proposed orders would require each respondent to cease and desist from entering into any agreement among pharmacy firms to withdraw from or refuse to enter into any participation agreement. The proposed order would also prohibit each respondent, for a period of ten years, from communicating to any pharmacy firm the respondent's decision or intention to enter into or refuse to enter into any participation agreement. The proposed order would also prohibit each respondent, for a period of eight years, from advising any pharmacy firm with respect to entering into or refusing to enter into any participation agreement.

The orders would not prohibit either respondent from: (a) Petitioning the government on matters involving legislation, rules or procedures; (b) jointly undertaking with other pharmacy firms to provide prescription drug services so long as the third-party payer requests in writing that the respondent do so; or (c) making truthful and nondeceptive public statements about existing or proposed participation agreements. The orders would permit respondents to provide comments or advice to pharmacy firms concerning the desirability or appropriateness of a third-party prescription plan as part of a genuine effort to petition the government, as long as the comments or advice did not have the purpose or effect of encouraging an agreement to withdraw from or refuse to enter into the third-party prescription plan. For example, a respondent could suggest arguments to present to legislators in criticizing a government-sponsored third-party prescription plan in order to encourage pharmacy firms to lobby for changes in the terms of the plan, so long as it did not do so as a sham to encourage pharmacy firms to boycott a third-party prescription plan.

The orders would require each respondent to distribute a copy of the order to certain employees and others, to file compliance reports, to retain certain documents, and to notify the Commission of certain changes in its corporate structure.

The purpose of this analysis is to facilitate public comment on the proposed orders, and is not intended to constitute an official interpretation of the agreements and proposed orders or to modify their terms in any way.

The proposed consent orders have been entered into for settlement

purposes only and do not constitute an admission by either respondent that the law has been violated as alleged in the complaint.

Docket No. 9238

Agreement Containing Consent Order To Cease and Desist

In the Matter of Empire State Pharmaceutical Society, Inc., a corporation.

The agreement herein, by and between Empire State Pharmaceutical Society, Inc., a corporation, by its duly authorized officer, hereinafter sometimes referred to as respondent, and its attorney, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Respondent is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its office and principal place of business at 12 West 23rd Street, New York, New York 10010.

2. Respondent has been served with a copy of the complaint issued by the Federal Trade Commission charging it with violation of section 5 of the Federal Trade Commission Act, 15 U.S.C. 15.

3. Respondent admits all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. Repsondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it will be placed on the public record for a period of sixty (60) days and information with respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify respondent, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in the said copy of the complaint issued by the Commission.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's Rules, the Commission may, without further notice to respondent, (1) Issue its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to respondent's address, as stated in this agreement, shall constitute service. Respondent waives any right it might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

8. Respondent has read the complaint and the order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

For purposes of this Order, the following definitions shall apply:

A. *Empire* means the Empire State Pharmaceutical Society, Inc. and its directors, committees, officers, representatives, agents, employees, successors and assigns;

B. *Third-party payer* menas any person or entity that provides a program or plan pursuant to which such a person or entity agrees to pay for prescriptions dispensed by pharmacies to individuals described in such plan or program as eligible for such coverage ("Covered Persons"), and includes, but is not limited to, health insurance companies; prepaid hospital, medical, or other health service plans, such as Blue Cross and Blue Shield plans; health maintenance organizations; preferred provider organizations; prescription service administrative organizations; and health benefits programs for government employees, retirees and dependents;

C. *Participation agreement* means any existing or proposed agreement, oral or written, in which a third-party payer agrees to reimburse a pharmacy for the dispensing of prescription drugs to Covered Persons, and the pharmacy agrees to accept such payment from the third-party payer for such prescriptions dispensed during the term of the agreement;

D. *Pharmacy firm* means any partnership, sole proprietorship or corporation, including all of its subsidiaries, affiliates, divisions and joint ventures, that owns, controls or operates one or more pharmacies, including the directors, officers, employees, and agents, of such partnership, sole proprietorship or corporation as well as the directors, officers, employees, and agents of such partnership's, sole proprietorship's or corporation's subsidiaries, affiliates, divisions and joint ventures. The words "subsidiary", "affiliate", and "joint venture" refer to any firm in which there is partial (10% or more) or total ownership or control between corporations.

II

It is ordered that Empire, directly, indirectly, or through any corporate or other device, in or in connection with its activities in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, shall forthwith cease and desist from:

A. Entering into, threatening or attempting to enter into, organizing, encouraging, continuing, cooperating in, or carrying out any agreement between or among pharmacy firms, either express or implied, to withdraw from, threaten to withdraw from, refuse to enter into, or threaten to refuse to enter into, any participation agreement;

B. For a period of ten (10) years after the date this order becomes final, continuing a formal or informal meeting of representatives of pharmacy firms after (1) any person makes any statement concerning one or more firms' intentions or decisions with respect to entering into, refusing to enter into, threatening to refuse to enter into, participating in, threatening to withdraw from, or withdrawing from any existing or proposed participation agreement and Empire fails to eject such person from the meeting, or (2) two persons make such statements;

C. For a period of ten (10) years after the date this order becomes final, communicating to any pharmacist or pharmacy firm any information concerning any other pharmacy firm's intention or decision with respect to entering into, refusing to enter into, threatening to refuse to enter into, participating in, threatening to withdraw from, or withdrawing from any existing or proposed participation agreement; and

D. For a period of eight (8) years after the date this order becomes final, providing comments or advice to any pharmacist or pharmacy firm on the desirability or appropriateness of participating in any existing or proposed participation agreement. However, nothing in this paragraph shall prohibit Empire from communicating purely factual information describing the terms and conditions of any participation agreement or operations of any third-party payers.

Provided that nothing in this order shall be construed to prevent Empire from exercising rights permitted under the First Amendment to the United States Constitution to petition any federal or state government executive agency or legislative body, concerning legislation, rules, programs or procedures, or to participate in any federal or state administrative or judicial proceeding.

III

It is further ordered that Empire:

A. Publish this order and the accompanying complaint in an issue of the Empire newsletter or in any successor publication published no later than sixty (60) days after the date this order becomes final, in the same type size normally used for articles that are published in the Empire Newsletter or successor publication;

B. For a period of five (5) years after the date this order becomes final, provide each new Empire member, at the time the member is accepted into membership, with a copy of the Empire newsletter in which this order and the accompanying complaint was published as required by Paragraph III.A.;

C. File a verified, written report with the Commission within ninety (90) days after the date this order becomes final, and annually thereafter for five (5) years on the anniversary of the date this order becomes final, and at such other times as the Commission may, by written notice to Empire, require, setting forth in detail the manner and form in which it has complied and is complying with the order;

D. For a period of five (5) years after the date this order becomes final, maintain and make available to Commission staff for inspection and copying upon reasonable notice, records adequate to describe in detail any action taken in connection with the activities covered by Parts II and III of this order, including, but not limited to, all documents generated by Empire or that come into Empire's possession, custody, or control regardless of source, that embody, discuss or refer to the terms or conditions of any participation agreement; and

E. Notify the Commission at least thirty (30) days prior to any proposed change in Empire such as assignment or sale resulting in the emergence of a successor corporation or association, change of name, change of address, dissolution, or any other change that may affect compliance with this order.

Analysis of Proposed Consent Orders to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to proposed consent order. The agreement is from the Empire State Pharmaceutical Society ("Empire").

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Description of Complaint

The complaint issued by the Commission on March 15, 1990, alleges that members of Empire agreed to refuse to participate in the New York State Employees Prescription Program ("Program"). The complaint alleges that the agreements coerced the State of New York into raising the prices paid to pharmacies. More specifically, the complaint alleges the following facts:

Empire is an association of pharmacy owners in the State of New York.

Customers often receive prescriptions through health benefit programs under which third-party payers compensate the pharmacy according to a predetermined formula. The Program is a prescription drug benefit plan that covers approximately 500,000 beneficiaries. New York State selected PAID Prescriptions, Inc. to administer the Program. Pharmacies that participate in the Program accept as payment in full a reimbursement of the ingredient cost of the drug and a professional fee for dispensing the drug. In 1986, members of Empire participated in many prescription drug benefit plans, including the Program as it existed prior to July 1.

The complaint alleges that, in May 1986, PAID Prescriptions, Inc. solicited pharmacies to participate in the Program under terms that would go into effect on July 1, 1986. Among the proposed terms were changes in the reimbursement for ingredient costs, an increase in the professional fee, and the offer of additional reimbursement for the use of generic drugs. The proposed terms were intended to reduce the price the State paid for the Program, and thus minimize costs, and yet to offer reimbursement high enough to attract a sufficient number of participating pharmacies. Members of Empire would have suffered a loss of customers if their competitors had participated in the Program at a time when they were not participating.

The complaint alleges that, during 1986, New York State informed Empire of the proposed terms of the Program and Empire then communicated this information to its members. Thereafter, Empire held a meeting at which owners of pharmacy firms informed other owners of pharmacy firms that they would not participate in the Program. Empire exhorted pharmacy owners to refuse to participate in the Program. The complaint further alleges that through these exchanges of information and other acts, and through the activities of Empire, members of Empire and other owners of pharmacy firms agreed to refuse to participate in the Program at the proposed reimbursement level, for the purpose of increasing the level of reimbursement offered by the State of New York under the Program.

The complaint alleges that the agreements to refuse to participate in the Program injured consumers in New York by reducing competition among pharmacy firms with respect to third-party prescription plans. Furthermore, the agreements to refuse to participate in the Program forced New York State to pay substantial additional sums for prescription drugs provided to beneficiaries of the Program.

Description of the Proposed Consent Orders

The proposed order would require Empire to cease and desist from organizing or encouraging any agreement among pharmacy firms to withdraw from or refuse to enter into a third-party prescription plan, such as the Program. The proposed order would prohibit Empire, for ten years, from continuing any meeting at which representatives of pharmacy firms exchange information about whether they will enter into or refuse to enter

into any third-party prescription plan. The proposed order would also prohibit Empire, for ten years, from communicating to any pharmacy firm the decision or intention of any other pharmacy firm to enter into or refuse to enter into any third-party prescription plan. The proposed order would also prohibit Empire, for eight years, from providing comments or advice to any pharmacy firm on the desirability or appropriateness of entering into or refusing to enter into any third-party prescription plan. The proposed order would allow Empire to communicate purely factual information describing the terms and conditions of any third-party prescription plan.

The proposed order would not prohibit Empire from petitioning the government on matters involving legislation, rules, programs or procedures. The order also would permit Empire to provide comments or advice to pharmacy firms concerning the desirability or appropriateness of a third-party prescription plan as part of a genuine effort to petition the government, as long as the comments or advice did not have the purpose or effect of encouraging an agreement to withdraw from or refuse to enter into the third-party prescription plan. For example, Empire could suggest arguments to present to legislators in criticizing a government-sponsored third-party prescription plan in order to encourage pharmacy firms to lobby for changes in the terms of the plan, so long as it did not do so as a sham to encourage pharmacy firms to boycott the third-party prescription plan.

The proposed order would require Empire to distribute a copy of the order to certain employees and others. The proposed order also would require Empire to file compliance reports, to retain certain documents, and to notify the Commission of changes that may affect compliance with the orders.

The purpose of this analysis is to facilitate public comment on the proposed order, and is not intended to constitute an official interpretation of the agreement and proposed order or to modify their terms in any way.

The proposed consent order has been entered into for settlement purposes only, and does not constitute an admission by Empire that the law has been violated as alleged in the complaint.

Agreement Containing Consent Order to Cease and Desist

Docket No. 9239

In the Matter of Capital Area Pharmaceutical Society, a corporation.

The agreement herein, by and between Capital Area Pharmaceutical Society, a corporation, by its duly authorized officer, hereafter sometimes referred to as respondent, and its attorney, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Respondent is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business at Pine West Plaza IV, Washington Avenue Extension, Albany, New York 12205.

2. Respondent has been served with a copy of the complaint issued by the Federal Trade Commission charging it with violation of section 5 of the Federal Trade Commission Act, 15 U.S.C. 15.

3. Respondent admits all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. Respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it will be placed on the public record for a period of sixty (60) days and information with respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify respondent, in which event it will take such action as it may consider appropriate, or issue and serve its decision in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in the said copy of the complaint issued by the Commission.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's Rules, the Commission may, without further notice to respondent, (1) Issue its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to respondent's address, as stated in this agreement, shall constitute service. Respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

8. Respondent has read the complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after the order becomes final.

Order

I

For purposes of this Order, the following definitions shall apply:

A. *CAPS* means the Capital Area Pharmaceutical Society and its directors, committees, officers, representatives, agents, employees, successors and assigns;

B. *Third-party payer* means any person or entity that provides a program or plan pursuant to which such a person or entity agrees to pay for prescriptions dispensed by pharmacies to individuals described in such plan or program as eligible for such coverage ("Covered Persons"), and includes, but is not limited to, health insurance companies; prepaid hospital, medical, or other health service plans, such as Blue Cross and Blue Shield plans; health maintenance organizations; preferred provider organizations; prescription service administrative organizations; and any of the above which contract with the State of New York or other governmental units to provide health benefits programs for government employees, retirees and dependents;

C. *Participation agreement* means any existing or proposed agreement, oral or

written, in which a third-party payer agrees to reimburse a pharmacy for the dispensing of prescription drugs to Covered Persons, and the pharmacy agrees to accept such payment from the third-party payer for such prescriptions dispensed during the term of the agreement;

D. *Pharmacy firm* means any partnership, sole proprietorship or corporation, including all of its subsidiaries, affiliates, divisions and joint ventures, that owns, controls or operates one or more pharmacies, including the directors, officers, employees, and agents, of such partnership, sole proprietorship or corporation as well as the directors, officers, employees, and agents of such partnership's, sole proprietorship's or corporation's subsidiaries, affiliates, divisions and joint ventures. The words "subsidiary", "affiliate", and "joint venture" refer to any firm in which there is partial (10% or more) or total ownership or control between corporations.

II

It is ordered that CAPS, directly, indirectly, or through any corporate or other device, in or in connection with its activities in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, shall forthwith cease and desist from:

A. Entering into, threatening or attempting to enter into, organizing, encouraging, continuing, cooperating in, or carrying out any agreement between or among pharmacy firms, either express or implied, to withdraw from, threaten to withdraw from, refuse to enter into, or threaten to refuse to enter into, any participation agreement;

B. For a period of ten (10) years after the date this Order becomes final, organizing, sponsoring, or facilitating a meeting that CAPS expects or reasonably should expect will facilitate communications concerning one or more firms' intentions or decisions with respect to entering into, refusing to enter into, threatening to refuse to enter into, participating in, threatening to withdraw from, or withdrawing from any existing or proposed participation agreement, or from continuing a meeting of representatives of pharmacy firms at which: (1) CAPS fails to eject from the meeting a person who makes any such communication; or (2) two persons make any such communications;

C. For a period of ten (10) years after the date this Order becomes final, communicating to any pharmacist or pharmacy firm any information concerning any other pharmacy firm's intention or decision with respect to entering into, refusing to enter into, threatening to refuse to enter into, participating in, threatening to withdraw from, or withdrawing from any existing or proposed participation agreement;

D. For a period of eight (8) years after the date this Order becomes final, providing comments or advice to any pharmacist or pharmacy firm on the desirability or appropriateness or participating in any existing or proposed participation agreement. However, nothing in this paragraph shall prohibit CAPS from communicating purely factual information describing the terms and conditions of any participation agreement or operations of any third-party payers; and

Provided that nothing in this Order shall be construed to prevent CAPS from exercising rights permitted under the First Amendment to the United States Constitution to petition any federal or state government executive agency or legislative body, concerning legislation, rules, programs or procedures, or to participate in any federal or state administrative or judicial proceeding.

III

It is further ordered that CAPS:

A. Distribute by first-class mail a copy of this Order and the accompanying complaint to each of its members within thirty (30) days after the date this Order becomes final;

B. Publish this Order and the accompanying complaint in an issue of the CAPS newsletter or in any successor publication published no later than sixty (60) days after the date this Order becomes final, in the same type size normally used for articles that are published in the CAPS Newsletter or successor publication;

C. For a period of five (5) years after the date this Order becomes final, provide each new CAPS member with a copy of this Order at the time the member is accepted into membership;

D. File a verified, written report with the Commission within ninety (90) days after the date this Order becomes final, and annually thereafter for five (5) years on the anniversary of the date this Order becomes final, and at such other times as the Commission may, by written notice to CAPS, require, setting forth in detail the manner and form in which it has complied and is complying with the Order;

E. For a period of five (5) years after the date this Order becomes final, maintain and make available to Commission staff for inspection and copying upon reasonable notice, records adequate to describe in detail any action taken in connection with the activities covered by Parts II and III of this order, including, but not limited to, all documents generated by CAPS or that come into CAPS's possession, custody, or control regardless of source, that embody, discuss or refer to the terms or conditions of any participation agreement; and

F. Notify the Commission at least thirty (30) days prior to any proposed change in CAPS such as, assignment or sale resulting in the emergence of a successor corporation or association, change of name, change of address, dissolution, or any other change that may affect compliance with this Order.

Agreement Containing Consent Order To Cease and Desist As To Respondent Alan Kadish

Docket No. 9239

In the Matter of Capital Area Pharmaceutical Society, a corporation; and Alan Kadish, an individual.

The agreement herein, by and between Alan Kadish, an individual, hereafter sometimes referred to as respondent, and his attorney, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Mr. Kadish resides at 24 Quincy Court, Goldens Bridge, New York 10526. His office and principal place of business are at Kadish Pharmacy, 670 North Broadway, White Plains, New York 10603.

2. Respondent has been served with a copy of the complaint issued by the Federal Trade Commission charging him with violation of section 5 of the Federal Trade Commission Act.

3. Respondent admits all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. Respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it will be placed on the public record for a period of sixty (60)

days and information with respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify respondent, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in said copy of the complaint issued by the Commission.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's rules, the Commission may, without further notice to respondent, (1) issue its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to respondent's address, as stated in this agreement, shall constitute service. Respondent waives any right he might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

8. Respondent has read the complaint and the order contemplated hereby. He understands that once the order has been issued, he will be required to file one or more compliance reports showing that he has fully complied with the order. Respondent further understands that he may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

For purposes of this Order, the following definitions shall apply:

A. *Mr. Kadish* means Alan Kadish, his representatives, agents, and employees;

B. *Third-party payer* means any person or entity that provides a program or plan pursuant to which such a person or entity agrees to pay for prescriptions dispensed by pharmacies to individuals described in such plan or program as eligible for such coverage ("Covered Persons"), and includes, but is not limited to, health insurance companies; prepaid hospital, medical, or other health service plans, such as Blue Cross and Blue Shield plans; health maintenance organizations; preferred provider organizations; prescription service administrative organizations; and health benefits programs for government employees, retirees and dependents;

C. *Participation agreement* means any existing or proposed agreement, oral or written, in which a third-party payer agrees to reimburse a pharmacy for the dispensing of prescription drugs to Covered Persons, and the pharmacy agrees to accept such payment from the third-party payer for such prescriptions dispensed during the term of the agreement;

D. *Pharmacy firm* means any partnership, sole proprietorship or corporation, including all of its subsidiaries, affiliates, divisions and joint ventures, that owns, controls or operates one or more pharmacies, including the directors, officers, employees, and agents of such partnership, sole proprietorship or corporation as well as the directors, officers, employees, and agents of such partnership's sole proprietorship's or corporation's subsidiaries, affiliates, divisions and joint ventures. The words "subsidiary", "affiliate", and "joint venture" refer to any firm in which there is partial (10% or more) or total ownership or control between corporations.

II

It is ordered that Mr. Kadish, directly, indirectly, or through any device, in or in connection with his activities in or affecting commerce, as "commerce" is defined in section 4 of the Federal Trade Commission Act, shall forthwith cease and desist from:

A. Entering into, threatening or attempting to enter into, organizing, encouraging, continuing, cooperating in, or carrying out any agreement between or among pharmacy firms, either express or implied, to withdraw from, threaten to withdraw from, refuse to enter into, or threaten to refuse to enter into, any participation agreement;

B. For a period of ten (10) years after the date this order becomes final, continuing to attend, in the capacity of an officer or a director of any society or association of pharmacists or pharmacy firms, a formal or informal meeting of representatives of pharmacy firms not owned or controlled by Mr. Kadish or Mr. Kadish's employer after (1) any person makes any statement concerning one or more firms' intentions or decisions with respect to entering into, refusing to enter into, threatening to refuse to enter into, participating in, threatening to withdraw from, or withdrawing from any existing or proposed participation agreement and such person is not ejected from the meeting, or (2) two persons make such statements;

C. For a period of ten (10) years after the date this order becomes final, communicating to any pharmacist not employed by Mr. Kadish or Mr. Kadish's employer or any pharmacy firm not owned or controlled by Mr. Kadish or Mr. Kadish's employer any information concerning any pharmacy firm's intention or decision with respect to entering into, refusing to enter into, threatening to refuse to enter into, participating in, threatening to withdraw from, or withdrawing from any existing or proposed participation agreement; and

D. For a period of eight (8) years after the date this order becomes final, providing comments or advice to any pharmacist not employed by Mr. Kadish or Mr. Kadish's employer or to any pharmacy firm not owned or controlled by Mr. Kadish or Mr. Kadish's employer on the desirability or appropriateness of participating in any existing or proposed participating agreement. However, nothing in this paragraph shall prohibit Mr. Kadish from communicating purely factual information describing the terms and conditions of any participation agreement or operations of any third-party payers.

Provided that nothing in this Order shall be construed to prevent Mr. Kadish from exercising rights permitted under the First Amendment to the United States Constitution to petition any federal or state government executive agency or legislative body, concerning legislation, rules, programs or procedures, or to participate in any federal or state administrative or judicial proceeding.

III

It is further ordered that Mr. Kadish:

A. Shall file a verified, written report with the Commission within ninety (90) days after the date this order becomes final, and annually thereafter for five years on the anniversary of the date this order was served, and at such other times as the Commission may, by written notice to Mr. Kadish, require, setting forth in detail the manner and form in which he has complied and is complying with the order;

B. For a period of five (5) years after the date of service of this order, maintain and make available to Commission staff for inspection and copying upon reasonable notice, records adequate to describe in detail any action taken in connection with the activities covered by Part II of the order, including, but not limited to, all documents generated by Mr. Kadish or that come into his possession, custody, or control regardless of source, that embody, discuss or refer to the terms or conditions of any participation agreement; and

C. Notify the Commission within thirty (30) days of any change that may affect compliance with the order.

Analysis of Proposed Consent Orders to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, two agreements to proposed consent orders. The agreements are from the Capital Area Pharmaceutical Society ("CAPS"), and Alan Kadish, an individual ("Kadish") ("respondents").

The proposed consent orders have been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the commission will decide whether it should withdraw from the agreements or make final the agreements' proposed orders.

Description of Complaint

The complaints issued by the Commission on March 15, 1990, allege that members of CAPS and Kadish agreed to refuse to participate in the New York State Employees Prescription Program ("Program"). The complaint alleges that the agreements coerced the State of New York into raising the prices paid to pharmacies. More specifically, the complaint alleges the following facts:

CAPS is an association of pharmacists who practice or reside in the Albany, New York area. In 1988, CAPS was affiliated with other local, county, and specialty pharmacy societies, including the Pharmaceutical Society of the State of New York ("PSSNY") Alan Kadish was President of PSSNY in 1988.

Customers often receive prescriptions through health benefit programs under which third-party payers compensate the pharmacy according to a predetermined formula. The Program is a prescription drug benefit plan that covers approximately 500,000 beneficiaries. New York State selected PAID Prescriptions, Inc. to administer the Program. Pharmacies that participate in the Program accept as payment in full a reimbursement of the ingredient cost of the drug and a professional fee for dispensing the drug. In 1988, members of CAPS participated in many prescription drug benefit plans, including the Program as it existed prior to July 1.

The complaint alleges that, in May 1988, PAID Prescriptions, Inc. solicited pharmacies to participate in the Program under terms that would go into effect on July 1, 1988. Among the proposed terms were changes in the reimbursement for ingredient costs, an increase in the professional fee, and the offer of additional reimbursement for the use of generic drugs. The proposed terms were intended to reduce the price the State paid for the Program, and thus minimize costs, and yet to offer reimbursement high enough to attract a sufficient number of participating pharmacies. Members of CAPS would have suffered a loss of customers if their competitors had participated in the Program at a time when they were not participating.

The complaint alleges that during 1988, New York State informed PSSNY and Kadish in his capacity as President of PSSNY of the propposed terms of the Program and PSSNY communicated this information to its affiliated societies, including CAPS. CAPS held meetings at which owners of pharmacy firms informed other owners of pharmacy firms that they would not participate in the Program. Respondents communicated to pharmacists and pharmacy owners information regarding the intentions of pharmacy firms located throughout the state concerning participation in the Program. Kadish exhorted pharmacy owners to refuse to participate in the Program. The complaint further alleges that through these exchanges of information and other acts, and through the activities of CAPS and Kadish, members of CAPS and Kadish and other owners of pharmacy firms agreed to refuse to participate in the Program at the proposed reimbursement level, for the purpose of increasing the level of reimbursement offered by the State of New York under the Program.

The complaint alleges that the agreements to refuse to participate in the Program injured consumers in New York by reducing competition among pharmacy firms with respect to third-party prescription plans. Furthermore, the agreements to refuse to participate in the Program forced New York State to pay substantial additional sums for prescription drugs provided to beneficiaries of the Program.

Description of the Proposed Consent Orders

The proposed orders would require CAPS and Kadish to cease and desist from organizing or encouraging any agreement among pharmacy firms to withdraw from or refuse to enter into a third-party prescription plan, such as the Program. the proposed orders would prohibit CAPS, for ten years, from continuing any meeting and Kadish, in his capacity as an officer or director of a society, for ten years, from continuing to attend any meeting at which representatives of pharmacy firms exchange information about whether they will enter into or refuse to enter into any third-party prescription plan. The proposed orders would also prohibit CAPS and Kadish, for ten years, from communicating to any pharmacy firm the decision or intention of any other pharmacy firm to enter into or refuse to enter into any third-party prescription plan. The proposed orders would also prohibit CAPS and Kadish, for eight years, from providing comments or advice to any pharmacy firm on the desirability or appropriateness of entering into or refusing to enter into any third-party prescription plan. The proposed orders would allow respondents to communicate purely factual information describing the terms and conditions of any third-party prescription plan.

The proposed orders would not prohibit CAPS or Kadish from petitioning the government on matters involving legislation, rules, programs or procedures. The orders also would permit respondents to provide comments or advice to pharmacy firms concerning the desiriability or appropriateness of a third-party prescription plan as part of a genuine effort to petition the government, as long as the comments or advice did not have the purpose or effect of encouraging an agreement to withdraw from or refuse to enter into the third-party prescription plan. For example, a respondent could suggest arguments to present to legislators in criticizing a government-sponsored third-party prescription plan in order to encourage pharmacy firms to lobby for changes in the terms of the plan, so long as it did not do so as a sham to encourage pharmacy firms to boycott the third-party prescription plan.

The proposed CAPS order would require CAPS to distribute a copy of the order to certain employees and others. The proposed orders would require each respondent to file compliance reports, to retain certain documents, and to notify

the Commission of changes that may affect compliance with the orders.

The purpose of this analysis is to facilitate public comment on the proposed orders, and is not intended to constitute an official interpretation of the agreements and proposed orders or to modify their terms in any way.

The proposed consent orders have been entered into for settlement purposes only, and do not constitute an admission by either of the respondents that the law has been violated as alleged in the complaint.

By the Commission, Commissioner Azcuenaga dissenting.

Donald S. Clark,

Secretary.

[FR Doc. 90-25620 Filed 10-29-90; 8:45 am]

BILLING CODE 6750-01-M

[Dkt. C-3307]

Twin Star Productions, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, an infomercial marketing corporation and six individuals, all based in Scottsdale, Arizona, from making specified representations regarding the efficacy of certain purported weight loss, baldness and impotence products; from making unsubstantiated efficacy claims concerning weight loss, baldness and importence for any products or services; from using endorsements, unless the respondents have good reason to believe that the endorsements reflect the honest opinion or belief of the endorser; from disseminating four different infomercials, including a 30-minute advertisement for a book; and from misrepresenting that their commercials are independent programs and not paid advertising. In addition, the consent order requires the corporation and five of the six individuals to pay a total of $1.5 million in consumer redress.

DATES: Complaint and Order issued October 2, 1990.[1]

FOR FURTHER INFORMATION CONTACT: Tracy Thorleifson, Seattle Regional Office, Federal Trade Commission, 2806 Federal Bldg., 915 Second Ave., Seattle, WA 98174. (206) 442-4656.

SUPPLEMENTARY INFORMATION: On Wednesday, April 26, 1990, there was published in the **Federal Register**, 55 FR 17494, a proposed consent agreement with analysis In the Matter of Twin Star Productions, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Donald S. Clark,

Secretary.

[FR Doc. 90-25619 Filed 10-29-90; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 90F-0321]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 1,3,5-tris (3,5-di-*tert*-butyl-4-hydroxybenzyl)-*s*-triazine-2,4,6-(1H, 3H, 5H) trione as an antioxidant for polymethylpentene homopolymers used in contact with food.

FOR FURTHER INFORMATION CONTACT: Marvin D. Mack, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (section 409 (b)(5) (21 U.S.C. 348(b)(5))), notice is given that Ciba-Geigy Corp., Seven Skyline Dr., Hawthorne, NY 10532-2188, has filed a petition (FAB 0B4219) proposing that the food additive regulations be amended to provide for the safe use of 1,3,5-tris (3,5-di-*tert*-butl-4-hydroxybenzyl)-*s*-triazine-2, 4, 6-(1H, 3H, 5H) trione as an antioxidant for polymethylpentene homopolymers used in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: October 23, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90-25600 Filed 10-29-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90F-0310]

The Goodyear Tire and Rubber Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that The Goodyear Tire and Rubber Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 1,11-(3,6,9-trioxaundecyl)bis-3-(dodecylthio)propionate as an antioxidant for can and cements used in contact with food.

FOR FURTHER INFORMATION CONTACT: Marvin D. Mack, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (section 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that The Goodyear Tire and Rubber Co., Akron, OH 44316-0001, has filed a petition (FAP 0B4223), proposing that the food additive regulations be amended to provide for the safe use of 1,11-(3,6,9-trioxaundecyl)bis-3-(dodecylthio)propionate as an antioxidant for can and cements used in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be

published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c).

Dated: October 23, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90-25601 Filed 10-29-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90F-0443]

Hoechst Celanese Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Hoechst Celanese Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of acesulfame potassium as a nonnutritive sweetener in baked goods and baking mixes.

FOR FURTHER INFORMATION CONTACT: Laura M. Tarantino, Center for Food Safety and Applied Nutrition (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that Hoechst Celanese Corp., Route 202-206 North, Somerville, NJ 08876, has filed a petition (FAP OA4225) proposing that the food additive regulations in § 172.800 *Acesulfame potassium* (21 CFR 172.800) be amended to provide for the safe use of acesulfame potassium as a nonnutritive sweetener in baked goods and baking mixes.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c).

Dated: October 23, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90-25601 Filed 10-29-90; 8:45 am]

BILLING CODE 4160-01-M

Office of Human Development Services

Federal Council on the Aging; Meeting

AGENCY HOLDING THE MEETING: Federal Council on the Aging, HHS.

TIME AND DATE: Meeting begins at 9 a.m. and ends at 5 p.m. on Wednesday, November 14, 1990, and begins at 9 a.m. and ends at 5 p.m., on Thursday, November 15, 1990.

PLACE: On Wednesday, November 14 and Thursday, November 15, from 9 a.m. to 5 p.m., in (Conference room to be announced) of the Holiday Inn-Capitol, 550 C Street, SW., Washington, DC 20024.

STATUS: Meeting is open to the public.

CONTACT PERSON: Kevin W. Parks, room 4280, Wilbur Cohen Federal Building, 330 Independence Avenue, SW., Washington, DC 20201, (202) 619-2451.

The Federal Council on the Aging was established by the 1973 Amendments to the Older Americans Act of 1965 (Pub. L. 93-29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health and Human Services, the Commissioner on Aging and the Congress on matters relating to the special needs of older Americans.

Notice is hereby given to the Federal Advisory Committee Act (Pub. L. 92-453, 5 U.S.C. App. 1, Sec. 10, 1976) that the Council will hold its first quarterly meeting for FY 91 on November 14 and 15, 1990, from 9 a.m.to 5 p.m. respectively at the Holiday Inn-Capitol, 550 C Street, SW., Washington, DC 20024.

The agenda will include: The Council's regular business meeting during the morning session on November 14 from 9 to 10:30 a.m. and a presentation by the Nutritionist from the Texas Department on Aging and others about the Older Americans Act Nutrition program from 10:30 a.m. to 12 noon. The afternoon session will begin at 1:30 p.m. and end at 5 p.m. and will be devoted to background information about the evolution of the Older Americans Act and the 1991 Amendment issues. Congressional Aging Committee staff and representatives from various national aging organizations will make presentations about current issues and concerns.

On Thursday, November 15, the day long session will be devoted to a discussion about model mental health programs and methods for assisting older persons and their caregivers in accessing community based mental health services.

Dated: October 23, 1990.

Ingrid C. Azvedo,

Chairperson, Federal Council on the Aging.

[FR Doc. 90-25568 Filed 10-29-90; 8:45 am]

BILLING CODE 4130-01-M

National Institutes of Health

National Institute of Allergy and Infectious Diseases; AIDS Research Advisory Committee; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Clinical Research Subcommittee of the AIDS Research Advisory Committee, National Institute of Allergy and Infectious Diseases, on December 3-4, 1990, in the Regency Room at the Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland 20852.

The entire meeting will be open to the public from 9 a.m. on December 3 to adjournment at 5 p.m. on December 4. The committee will discuss the status of parallel track, review the AIDS Clinical Trails Group Recompetition plan, examine the role of the committee in the evalution of unproven therapies, and plan for the next meeting. Attendance by the public will be limited to space available.

Ms. Patricia Randall, Office of Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301-496-5717) will provide a summary of the meeting and a roster of the committee members upon request.

Jean S. Noe, Executive Secretary, AIDS Research Advisory Committee, Division of Acquired Immunodeficiency Syndrome, NIAID, NIH, Control Data Building, Room 201N, telephone (301-496-0545), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855 Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health).

Dated: October 22, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-25545 Filed 10-29-90; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

National Toxicology Program; Chemicals (10) Nominated for Toxicological Studies; Request for Comments

SUMMARY: On September 12, 1990, the Chemical Evaluation Committee (CEC) of the National Toxicology Program (NTP) met to review ten chemicals nominated for in-depth toxicological studies, and to recommend the types of studies to be performed, if any. With this notice, the NTP solicits public comments on the chemicals.

FOR FURTHER INFORMATION CONTACT: Dr. Victor A. Fung, Chemical Selection Coordinator, National Toxicology Program, Room 2B55, Building 31, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-3511.

SUPPLEMENTARY INFORMATION: As part of the chemical selection process of the National Toxicology Program, nominated chemicals which have been reviewed by the NTP Chemical Evaluation Committee (CEC) are published with request for comment in the **Federal Register**. The CEC is composed of representatives from the agencies participating in the NTP. This is done to encourage active participation in the NTP chemical evaluation process, thereby helping the NTP to make more informed decisions as to whether to select, defer or reject chemicals for toxicology study. Comments and data submitted in response will be reviewed by NTP technical staff for use in the further evaluation of the chemicals for NTP toxicological studies. The NTP chemical nomination and selection process is summarized in the **Federal Register**, April 1981 (46 FR 21828), and also in the NTP FY 1989 Annual Plan, pages 17–20.

On September 12, 1990, the CEC met to evaluate ten chemicals nominated to the NTP for in-depth toxicological studies. The following table lists the chemicals, their Chemical Abstract Service (CAS) registry numbers, and the types of toxicological studies recommended by the CEC at the meeting.

Chemical	CAS registry No.	Committee recommendations
p,p'-Dichlorodiphenyl sulfone.	80-07-9	Subchronic studies, Mutagenicity.
Dicyclopentadiene.	77-73-6	Carcinogenicity, Reproductive, Teratogenicity.
Ethoxyquin.	91-53-2	Carcinogenicity, Reproductive, Teratogenicity, Comparative chemical disposition studies in rodents and other animal species.
Methylene Blue.	61-73-4; 7220-79-3	Carcinogenicity, Reproductive, Teratogenicity, Determine whether Neurotoxicity studies are needed.
Phosphine.	7803-51-2	No testing.
Propylene glycol t-butyl ether.	57018-52-7	Carcinogenicity, Chemical disposition studies by dermal and oral routes, Reproductive, Teratogenicity.
Calcium naphthenate.	61789-67-3	Defer.
Cobalt naphthenate.	61789-51-3	Defer.
Copper naphthenate.	1338-02-9	Defer.
Sodium naphthenate.	61790-13-4	Defer.

It was reported at the meeting that data from acute and prechronic studies on some naphthenates might be available from an industry association. Therefore, the CEC deferred calcium naphthenate, cobalt naphthenate, copper naphthenate, and sodium naphthenate pending the retrieval and evaluation of this information.

Two of the chemicals, dicyclopentadiene and ethoxyquin, were previously tested in *Salmonella* by the NTP and were found to be nonmutagenic in this assay. In addition, the NTP is currently conducting a chemical disposition study of cobalt administered as cobalt naphthenate.

Interested parties are requested to submit pertinent information. The following types of data are of particular relevance:

(1) Modes of production, present production levels, and occupational exposure potential.

(2) Uses and resulting exposure levels, where known.

(3) Completed, ongoing and/or planned toxicologic testing in the private sector including detailed experimental protocols and results, in the case of completed studies.

(4) Results of toxicological studies of structurally related compounds.

Please submit all information in writing by December 7, 1990, to Dr. Fung. Any submissions received after the above date will be accepted and utilized where possible.

Dated: October 23, 1990.

David G. Hoel,

Acting Director, National Toxicology Program.

[FR Doc. 90-25548 Filed 10-29-90; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-90-3165]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Scott Jacobs, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and

hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 19, 1990.

John T. Murphy,

Director, Information Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Annual Inspection of Insured Projects.

Office: Housing.

Description of the need for the Information and its Proposed Use: The Department's mortgage insurance programs require mortgagees to annually inspect each insured project and provide the Department and the project owner a report on that inspection. This format establishes standards which all mortgagees must comply with when conducting these inspections.

Form Number: HUD–9822.

Respondents: Businesses or Other For-Profit and Non-Profit Institutions.

Frequency of Submission: Annually.

Reporting Burden:

	No. of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
HUD–9822	15,000		1		2		30,000

Total Estimated Burden Hours: 30,000.

Status: Extension.

Contact: Eugene R. Fogel, HUD (202) 708–4162, Scott Jacobs, OMB, (202) 395–6880.

Dated: October 19, 1990

[FR Doc. 90–25530 Filed 10–29–90; 8:45 am]

BILLING CODE 4210–01–M

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N–90–3051; FR–2800–N–02]

Single Room Occupancy Announcement of Funding Awards; White River, AK, et al.

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Announcement of funding awards.

SUMMARY: The purpose of this Notice is to announce the awarding of $73.1 million in rental assistance funds for Single Room Occupancy (SRO) Dwellings for Homeless Individuals. The $73 million—$7.3 million a year for 10 years—is being awarded to 33 public housing authorities (PHAs) around the country to support 1,612 single room occupancy units of permanent housing for homeless individuals. Under the Section 8 Moderate Rehabilitation Program, funds are awarded to PHAs selected through a national competition.

FOR FURTHER INFORMATION CONTACT: Mary Maher, Moderate Rehabilitation Branch, Office of Elderly and Assisted Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755–4969. A telecommunications device for deaf persons (TDD) is available at (202) 708–4594. (These numbers are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: In a Notice published on May 10, 1990 (55 FR 19704) the public was informed of the availability of $73 million appropriated for the program by the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1990 (Pub. L. 101–144, approved November 9, 1989). The SRO program is authorized by section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401), as amended by the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Pub. L. 100–628, approved November 7, 1988).

A total of 71 PHAs submitted applications in this funding round: the 33 selected in the competitive process best demonstrated a need for the assistance and the ability to undertake the program and carry it out expeditiously.

The competitive process is specifically designed to ensure the selection of feasible projects that meet the special needs of the single homeless population. (A different process applies to regular Moderate Rehabilitation funds, which are allocated on a "fair share" basis to PHAs in areas of greatest need.)

In their applications, PHAs were required to identify the sponsors of the proposed projects, specific structures to be rehabilitated, prospective sources of acquisition or rehabilitation financing, and a plan for providing supportive services for homeless individuals to be housed in the units.

Under the program, rental assistance payments made by HUD cover the difference between 30 percent of the tenant's income and the rent for the SRO dwelling. Rents are determined by the PHA, within limits established by HUD. SRO dwellings are those which may lack food preparation or sanitary facilities, or both, within the individual unit.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989), the Department is publishing the city, state, number of units, and amount of these awards, as follows:

SINGLE ROOM OCCUPANCY AWARDS

Location	No. of units	Ten-year budget authority
White River, AK	100	$2,544,000
Berkeley, CA	106	5,869,360
Los Angeles, CA	125	6,930,000
Oakland, CA	94	5,223,640
San Francisco, CA	80	3,969,000
Pueblo, CO	19	647,520
Waterbury, CT	100	4,152,000
Washington, DC	6	314,640
Savannah, GA	40	1,195,200
Twin Falls, ID	24	769,120
Chicago, IL	29	1,315,440
Dubuque, IA	11	357,720
Baltimore, MD	26	1,032,720
Amesbury, MA	24	1,218,240
Boston, MA	114	6,976,800
Somerville, MA	12	734,400
Duluth, MN	15	493,200
Minneapolis, MN	51	2,068,560
Manchester, NH	24	1,060,000
Camden, NJ	8	335,040
Newark, NJ	57	2,665,980
Passaic, NJ	40	2,424,000
Albuquerque, NM	12	480,600
Bronx, NY	42	1,884,960
Brooklyn, NY	53	2,378,640
Chappaqua, NY	15	695,760
New York, NY	55	2,562,060
Stutsman, ND	12	342,720
Toledo, OH	21	725,760
Lehigh, PA	20	717,600
Philadelphia, PA	43	2,010,240
San Juan, PR	49	1,693,440
Nashville, TN	100	3,492,000
Austin, TX	49	1,840,440
Tacoma, WA	42	1,375,920
Totals	1,612	73,162,920

Dated: October 24,1990.

Arthur J. Hill,

Acting Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 90-25532 Filed 10-29-90; 8:45 am]

BILLING CODE 4210-27-M

[Docket No. D-90-634]

Charleston Office; Designation

AGENCY: Department of Housing and Urban Development.

ACTION: Designation of order of succession.

SUMMARY: The Manager is designating officials who may serve as Acting Manager during the absence, disability or vacancy in the position of the Manager.

EFFECTIVE DATE: This designation is effective immediately.

FOR FURTHER INFORMATION CONTACT: Peter M. Campanella, Regional Counsel, Philadelphia Regional Office, Department of Housing and Urban Development, Liberty Square Building, 105 South 7th Street, Philadelphia, PA 19106-3392. Phone number (215) 597-2655 (This is not a toll-free number).

DESIGNATION: Each of the officials appointed to the following positions is designated to serve as Acting Manager during the absence, disability or vacancy in the position of the Manager, with all the powers, functions and duties redelegated or assigned to the Manager; Provided: That no official is authorized to serve as Acting Manager unless all preceding listed officials in this designation are unavailable to act by reason of absence, disability, or vacancy in the position:

1. Director, Housing Division,
2. Chief, Assisted Housing Management Branch,
3. Chief, Housing Development Branch,
4. Chief, Loan Management and Property Disposition Branch.

This designation supersedes the designation effective 12/1/83.

Authority: Delegation of Authority by the Secretary, 50 FR 18742, May 2, 1985.

Dated: October 1, 1990.

Michael P. Kullick,

Manager, Charleston Field Office.

[FR Doc. 90-25529 Filed 10-29-90; 8:45 am]

BILLING CODE 4210-01-M

Office of the Secretary

[Docket No. N-90-3186; FR 2924-N-01]

The Performance Review Board

AGENCY: Office of the Secretary, Department of Housing and Urban Development.

ACTION: Notice of appointments.

SUMMARY: The Department of Housing and Urban Development announces the appointments of Jerry R. Pierce as Acting Vice-Chairperson, Eleanor M. Clark and Laurence D. Pearl as members, and Michael B. Janis as an alternate member to the Departmental Performance Review Board. Their address is: Department of Housing and Urban Development, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Persons desiring any further information about the Performance Review Board and its members may contact Donald J. Keuch, Jr., Director, Office of Personnel and Training, Department of Housing and Urban Development, Washington, DC 20410, telephone (202) 708-2000. (This is not a toll-free number.)

Dated: October 22, 1990.

Jack Kemp,

Secretary.

[FR Doc. 90-25531 Filed 10-29-90; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF THE INTERIOR

Privacy Act of 1974, Revision of Systems of Records

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior proposes to revise two notices describing records maintained by the U.S. Geological Survey. All changes are editorial in nature, clarify and update existing statements, and reflect organization, address, and other miscellaneous administrative revisions which have occurred since the previous publication of the material in the Federal Register. The two notices being revised, which are published in their entirety below, are:

1. Personnel Investigations Records-Interior, USGS-23; (previously published on December 19, 1988; 53 FR 51016).
2. Employee Work Report Edit and Individual Employee Production Rates-Interior, USGS-24; (previously published on Febraury 16, 1988; 53 FR 4468).

In one notice (USGS-23), the existing storage and safeguard statements are revised to accurately reflect the manner in which the records are maintained. In one notice (USGS-24), the existing system manager(s) and address statement is revised to reflect the correct title and address of one system manager.

Since these changes do not involve any new or intended use of the information in the systems of records, the notices shall be effective October 30, 1990. Additional information regarding these revisions may be obtained from the Department Privacy Act Officer, Office of the Secretary (PMI), Room 2242, Main Interior Building, U.S. Department of the Interior, Washington, D.C. 20240.

Dated: October 22, 1990.

Oscar W. Mueller, Jr.,

Director, Office of Management Improvement.

INTERIOR/USGS-23

SYSTEM NAME:

Personnel Investigations Records—Interior, USGS-23.

SYSTEM LOCATION:

Security Office, Office of Facilities and Management Services, Administrative Division, U.S. Geological Survey, National Center, Mail Stop 150, Reston, VA 22092.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1. Current Geological Survey employees who (a) are granted access to classified information; (b) are filing sensitive positions not requiring access to classified information; (c) are being considered either for access to classified information or for filling sensitive positions not requiring access to classified information; and (d) are found unsuitable for access to classified information or filling sensitive positions because unfavorable information was revealed during the conduct of their security investigations.

2. Former Geological Survey employees who (a) were granted access to classified information; (b) were filling sensitive positions not requiring access to classified information; and (c) were found unsuitable for access to classified information or filling sensitive positions because unfavorable information was revealed during the conduct of their security investigations.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain investigative information regarding an individual's character, conduct, and behavior in the community where he or she lives or lived; arrests and convictions for any violations against the law; reports of interviews with present and former

supervisors, co-workers, associates, educators, etc.; reports about the qualifications of an individual for a specific position; reports of inquiries with or from law enforcement agencies, employers, and educational institutions attended; foreign affiliations which may affect his or her loyalty to the United States; and other information developed from the above.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The contents of these records and files may be disclosed and used as follows: (1) to designated officials, officers, and employees of the USGS, DOI, OPM, DOE, CIA, FBI, and all other agencies and departments of the Federal Government who in the performance of their duties have an interest in the individual for employment purposes, including a security clearance or access determination, and a need to evaluate qualifications, suitability, and loyalty to the United States Government; (2) to the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the Government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (3) to disclose pertinent information to an appropriate Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, regulation, rule, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (4) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All investigative records are maintained in file folders stored in locked file cabinets in a secure office using an off-master key system.

RETRIEVABILITY:

All records are indexed by surname in alphabetical order.

SAFEGUARDS:

The card index for this system of records is contained in a metal cabinet with a secure key locking device. All containers and cabinets are further secured in a windowless room having one doorway which is secured by a key locking device. Access to all key locking devices is under stringent security controls.

RETENTION AND DISPOSAL:

(a) OPM background investigative files supporting secret-sensitive decompartmented information and top secret-infrequent access to sensitive compartmented information are retained until the awarded security clearance or employment is terminated. All other OPM investigative files are routinely destroyed within 90 days after receipt or upon completion of the adjudication action, whichever occurs last. Disposition of files is made in accordance with the Bureau Records Disposition Schedule, RCS/Item 306–15b.

(b) All information, supplementing the above OPM investigative files, originated by the Geological Survey, is retained for two years following termination of awarded security clearance or employment, whichever occurs first, and is then destroyed. Disposition of files is made in accordance with the Bureau Records Disposition Schedule, RCS/Item 306–15a.

SYSTEM MANAGER(S) AND ADDRESS:

Security Officer/Alternate Security Officer, Office of Facilities and Management Services, Administrative Division, U.S. Geological Survey, National Center, Mail Stop 150, Reston, Virginia 22092.

NOTIFICATION PROCEDURE:

Written inquiries to the System Manager are required and must include the following information in order to positively identify the individual whose records are requested: (1) Full name, (2) date of birth, (3) place of birth, (4) any available information regarding the type of record requested. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

An individual can obtain information on the procedures for gaining access to and contesting the records from the above System Manager. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES

Same as above. See 43 CFR 2.71

RECORD SOURCE CATEGORIES:

Information contained in this system is obtained from the following categories of sources: (1) Applications and other personnel and security forms furnished by the individual, (2) Results of investigations and other material furnished by Federal agencies.

INTERIOR-USGS-24

SYSTEM NAME:

Employee Work Report Edit and Individual Employee Production Rates—Interior, USGS–24.

SYSTEM LOCATIONS:

1. Eastern Mapping Center, National Mapping Division, U.S. Geological Survey, National Center, Stop 567, Reston, Virginia 22092.

2. Mid-Continent Mapping Center, National Mapping Division, U.S. Geological Survey, 1400 Independence Road, Rolla, Missouri 65401.

3. Rocky Mountain Mapping Center, National Mapping Division, U.S. Geological Survey, Box 25046, Mail Stop 510, Denver, Colorado 80225.

4. Western Mapping Center, National Mapping Division, U.S. Geological Survey, 345 Middlefield Road, Menlo Park, California 94025.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Production employees in Mapping Centers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains name, social security number, cost and production rates, hours, and square miles mapped by individual production employees in each of the offices listed above, as well as Geological Survey professionals (geographers, cartographers, etc.) who conducted research and investigations for which results are published in Geological Survey reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 3010; 43 U.S.C. 31, 1467.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is for analysis of cost and production rates for individual employees and for units of National Mapping Division. Disclosure outside the Department of the Interior may be made: (1) to the U.S. Department of Justice or in a proceeding before a court of adjudicative body when (a) the United States, the Department of the Interior, a component of the Department or, when represented by the Government, an employee of the

Department is party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies, responsible for investigating or prosecuting the violation or for enforcing or implementing the statue, rule, regulation, order or license; (3) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefits; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or issuance or a security clearance, license, contract, grant, or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on punched cards, magtape, and disc.

RETRIEVABILITY:

By name:

SAFEGUARDS:

Access restricted to authorized persons only from locked storage.

RETENTION AND DISPOSAL:

Retained and disposed of according to Bureau Records Disposition Schedule, RCS/Item 102–01.

SYSTEM MANAGER(S) AND ADDRESS:

1. Chief, Branch of Program Management, Eastern Mapping Center, National Mapping Division, U.S. Geological Survey, National Center, Mail Stop 567, Reston, Virginia 22092.

2. Chief, Branch of Program Management, Mid-Continent Mapping Center, National Mapping Division, U.S. Geological Survey, 1440 Independence Road, Rolla, Missouri 65401.

3. Chief, Branch of Program Management, Rocky Mountain Mapping Center, National Mapping Division, U.S. Geological Survey, Box 25046, Mail Stop 510, Denver, Colorado 80225.

4. Assistant Chief, Western Mapping Center, National Mapping Division, U.S. Geological Survey, 345 Middlefied Road, Mail Stop 531, Menlo Park, California 94025.

NOTIFICATION PROCEDURE:

A request for notification shall be addressed to the appropriate System Manager. See 43 CFR 2.60 for submission requirements.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the appropriate System Manager. See 43 CFR 2.63 for submission requirements.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the appropriate System Manager. See 43 CFR 2.71 for submission requirements.

RECORD SOURCE CATEGORIES:

Data from work prepared by individuals.

[FR Doc. 90–25560 Filed 10–29–90; 8:45 am]
BILLING CODE 4310–31–M

Geological Survey

Establishing the Closing Date for Transmittal of Application Under the National Earthquake Hazards Reduction Program (NEHRP) for Fiscal Year (FY) 1992.

Applications are invited for research projects under the NEHRP.

Authority for this program is contained in the Earthquake Hazards Reduction Act of 1977, Public Law 95–124. (42 U.S.C. 7701, et. seq.)

The purpose of this program is to support research in earthquake hazards and earthquake prediction to provide earth-science data and information essential to mitigate earthquake losses.

Applications may be submitted by educational institutions, private firms, private foundations, individuals, and agencies of State or local governments.

Closing Date for Transmittal of Applications: Applications must be received on or before January 24, 1991.

Program Information: This program supports research related to the following general areas of national interest: (1) Current tectonic and earthquake potential studies—analysis of regional seismic network data, identification of source zone characteristics and earthquake potential estimates; (2) earthquake prediction research—prediction methodology and evaluation, focused earthquake prediction experiments, and theoretical, laboratory and fault zone studies; and (3) regional earthquake hazards assessments—geologic and seismic hazard evalution and synthesis, implementation, loss estimation, and communication.

Application Forms: The program announcement is expected to be available on or about November 15, 1990. You may obtain a copy of announcement 7740 by writing to Mary Burkett, U.S. Geological Survey, Office of Procurement and Contracts—MS 205C, 12201 Sunrise Valley Drive, Reston, VA 22092.

Organizations that applied for a FY 1991 award and organizations that requested to be retained on the mailing list since the last announcement, will be mailed a copy of the program announcement.

Further Information: For further information contact Dr. Elaine Padovani, Deputy Chief, External Research Program, Office of Earthquakes, Volcanoes, and Engineering—MS 905, U.S. Geological Survey, 12201 Sunrise Valley Drive, Reston VA 22092. Telephone: 703–648–6722.

(Catalog of Federal Domestic Assistance Number 15.807)

Dated: October 24, 1990.

Jack J. Stassi,

Assistant Director for Administration.

[FR Doc. 90–25585 Filed 10–29–90; 8:45 am]
BILLING CODE 4310–31–M

Bureau of Indian Affairs

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Paperwork Reduction Project 1076–0121, Washington, DC 20503, telephone 202–395–7340.

Title: Annual Notification of Rights, 25 CFR 43.4.

Abstract: Elementary, secondary, and post-secondary schools funded by the Bureau of Indian Affairs, whether operated under contract or otherwise, are required to give parents and eligible students notice of the types of student records maintained and rights to access.

Bureau Form Number: Not applicable.
Frequency: Annually.
Description of Respondents: Elementary, secondary and postsecondary schools funded by the Bureau of Indian Affairs.
Annual Responses: 84.
Annual Burden Hours: 91.
Bureau Clearance Officer: Gail Sheridan (202) 208–2685.

Joe Christie,
Deputy to the Assistant Secretary—Indian Affairs/Director, (Indian Education Programs).

[FR Doc. 90–25609 Filed 10–29–90; 8:45 am]
BILLING CODE 4310–02–M

Bureau of Land Management

[AK–910–01–4830–02–ADVB]

Northern Alaska Advisory Council; Meeting

The Northern Alaska Advisory Council will hold a public meeting November 29, 1990, at BLM's Fairbanks Office Building, 1150 University Avenue, Fairbanks, Alaska. The meeting will begin at 8:30 a.m., public comment will be taken from 1 to 2 p.m., and the meeting will end at 5 p.m.

Topics of discussion will be (1) BLM-Alaska's revised planning schedule, (2) the FY91 budget overview, (3) the Fort Egbert Cultural Resource Management Plan, and (4) subsistence.

For information, contact the Public Affairs Office, Bureau of Land Management, 1150 University Avenue, Fairbanks, Alaska 99709, telephone (907) 474–2231.

Dated: October 23, 1990.

Roger Bolstad,
Designated District Manager.

[FR Doc. 90–25622 Filed 10–29–90; 8:45 am]
BILLING CODE 4310–JA–M

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget (OMB) for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to OMB for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau Clearance Officer at the telephone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer, Minerals Management Service; Mail Stop 2300; 381 Elden Street; Herndon, Virginia 22074–4817 and to the Office of Management and Budget; Paperwork Reduction Project (1010–0066); Washington, DC 20503, telephone (202) 395–7340, with copies to Gerald D. Rhodes; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 4700; Minerals Management Service; 381 Elden Street; Herndon, Virginia 200740–4817.

Title: Subpart P, Sulphur Operations, 30 CFR part 250.
OMB Approval Number: 1010–0066.
Abstract: This information is needed to ascertain the conditions of a drilling site. This is necessary to mitigate the hazards inherent in drilling operations and to increase the margin of safety of personnel and the environment. The information collection requirements are being modified to clarify the information the lessees are required to document concerning blowout preventer tests.
Bureau Form Number: None.
Frequency: On occasion.
Description of Respondents: Federal Outer Continental Shelf sulphur lessees.
Estimated Completion Time: 6.9 hours.
Annual Responses: 18.
Recordkeeping Hours: 298.
Annual Burden Hours: 422.
Bureau Clearance Officer: Dorothy Christopher, (703) 787–1239.

Dated: September 7, 1990.

Ed Cassidy,
Deputy Director, Minerals Management Service.

[FR Doc. 90–25564 Filed 10–29–90; 8:45 am]
BILLING CODE 4310–MR–M

National Park Service

Prohibition of Same Day Airborne Wolf Hunting in National Preserves in Alaska

AGENCY: National Park Service, Interior.
ACTION: Notice.

SUMMARY: Notice is hereby given that same day airborne wolf hunting continues to be prohibited by Alaska State regulation and, consequently, by Federal regulation, in national preserves within the State of Alaska.

DATES: The Alaska State prohibition on same day airborne hunting in national preserves has been in effect since March 14, 1990.

FOR FURTHER INFORMATION CONTACT: Paul Haertel, Associate Regional Director, Resource Services, Alaska Regional Office, National Park Service, 2525 Gambell Street, room 107, Anchorage, Alaska 99503; telephone 907/257–2664.

SUPPLEMENTARY INFORMATION: On March 14, 1990, the State of Alaska effectuated regulations providing for same day airborne wolf hunting in certain parts of the State, but specifically stating that such activities were not allowed in national preserves. *See* 5 AAC 92.085(8), Alaska Register 113 (March 14, 1990).

On August 12, 1990, the current State of Alaska same day airborne wolf hunting regulation—5 AAC 92.085(8)—became effective:

5 AAC 92.085. Unlawful Methods of Taking Bag Game; Exceptions

(8) No person who has been airborne may take or assist in taking a big game animal until after 3 a.m. following the day in which the flying occurred; however, this paragraph does not apply to

(A) Taking deer;

(B) Taking wolves under 5 AAC 92.038 during August 10—March 31 in the portions of Units 9, 11, 12, 13 (excluding that portion of Unit 13(E) west of the Parks Highway), 17, 19, 20, 21, 24, 25(B), 25(C), and 25(D) that are not in a national preserve;

(C) A person flying on a regularly scheduled commercial jet aircraft flight;

* * * * *

5 AAC 92.058(8), Alaska Register 115, (October, 1990)

Sport hunting, and hunting for subsistence uses as defined by the Alaska National Interest Lands Conservation Act, are generally allowable in national preserves in Alaska. *See* 16 U.S.C. 410hh–2, 3201; 36 CFR 2.2(b)(1), 13.21(d), and, 13.48. Non-conflicting state laws governing hunting activities are incorporated as a part of applicable National Park Service regulations. *See* 36 CFR 2.2(b)(4), 13.21(d), and 13.48. Hunting in violation of the above stated provisions of 5 AAC 92.085 is also a violation of 36 CFR 2.2(a)(1) which prohibits the taking of wildlife in national park areas except in accordance with applicable state laws.

The Alaska State regulation does not add to or affect the already existing Federal regulatory prohibition on aircraft use related to subsistence hunting in national parks and monuments in Alaska. Certain national parks and monuments in Alaska are only open to hunting for subsistence uses as specified in the Alaska National

BEST COPY AVAILABLE

Interest Lands Conversation Act. *See* 16 U.S.C. 410hh–2. National Park Service regulations generally prohibit "the use of aircraft for access to or from lands and waters within a national park or monument for purposes of taking fish or wildlife for subsistence uses * * *" 36 CFR 13.45.

Boyd Evison,

Regional Director, Alaska Region, National Park Service.

[FR Doc. 90–25667 Filed 10–29–90; 8:45 am]

BILLING CODE 4310–70–M

General Management Plan, John Muir National Historic Site; Availability of Draft Finding of no Significant Impact

SUMMARY: The National Park Service proposes to adopt the proposed General Management Plan, identified as Alternative A in the draft General Management Plan/Environmental Assessment that was made available for public review between June 13 and July 31, 1990. Minor modifications of Alternative A have been made to recognize grazing as a possible tool in vegetation management and to reduce the proposed level of development at the "gravesite tract". A draft Finding of No Significant Impact (FONSI) has been prepared as the final step in adopting the plan.

DATES: Written comments on the draft FONSI will be accepted until November 29, 1990.

ADDRESSES: Requests for copies of the draft FONSI and any written comments should be directed to: Superintendent, John Muir National Historic Site, 4202 Alhambra Ave., Martinez, California 94553.

Dated: October 19, 1990.

Lewis Albert,

Acting Regional Director, Western Region.

[FR Doc. 90–25669 Filed 10–29–90; 8:45 a.m.]

BILLING CODE 4310–70–M

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 20, 1990. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by November 14, 1990.

Carol D. Shull,

Chief of Registration, National Register.

CONNECTICUT

Hartford County

Humphrey, John, House, 115 E. Weatogue St., Simsbury vicinity, 90001755

Tolland County

Ellington Center Historic District, Roughly, Maple St. from Berr Ave. to just W of the High School & Main St. from Jobs Hill Rd. to East Green, Ellington, 90001754

LOUISIANA

Rapides Parish

Rapides Lumber Company Sawmill Manager's House, jct. of US 165 & Castor Plunge Rd., Woodworth, 90001753

West Feliciana Parish

Weyanoke, Sligo Rd., 5 mi. N of jct. with LA 66, Weyanoke vicinity, 90001750

MASSACHUSETTS

Norfolk County

Needham Town Hall Historic District, Great Plain Ave. between Highland Ave. & Chapel St., Needham, 90001756

Suffolk County

Textile District, Roughly, Essex St. from Phillips Sq. to Columbus St. & Chauncy St. from Phillips Sq. to Rowe Pl., Boston, 90001757

TENNESSEE

Hamblen County

Watkins-Witt House, 6622 W. Andrew Johnson Hwy., Talbott vicinity, 90001752

Sevier County

Walker Mill Hydroelectric Station (Pre-TVA Hydroelectric Development in Tennessee MPS), W Prong, Little Pigeon R. just off US 441, Sevierville vicinity, 90001751

[FR Doc. 90–25659 Filed 10–29–90; 8:45 am]

BILLING CODE 4310–70–M

Bureau of Reclamation

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the telephone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the bureau clearance officer and to the Office of Management and Budget, Paper Reduction Project (1006–0001, Washington, DC 20503, telephone 202–395–7340.

Title: Water User Census.

OMB approval number: 1006–0001.

Abstract: Crop census information on all operating Bureau of Reclamation projects is needed as a tool in the administration, management, and evaluation of the Federal Reclamation program. These data are used for economic analysis, program evaluation, and responding to Congressional and other inquiries. Respondents are water users on Bureau of Reclamation projects.

Bureau Form Number: 7–332.

Frequency: Annual.

Description of Respondents: Water users on Bureau of Reclamation projects.

Annual Responses: 22,200.

Annual Burden Hours: 7,400.

Bureau Clearance Officer: Carolyn Hipps—303–236–6769.

Dated: July 27, 1990.

D.W. Webber,

Acting Deputy Commissioner, Bureau of Reclamation.

[FR Doc. 90–25604 Filed 10–29–90; 8:45 am]

BILLING CODE 4310–09–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 388 (Sub-No. 27)]

Intrastate Rail Rate Authority; Oregon

AGENCY: Interstate Commerce Commission.

ACTION: Extension of certification.

SUMMARY: By decision served September 24, 1985, the State or Oregon, through the Oregon Public Utility Commissioner, was certified to regulate intrastate rail rates, practices, and procedures for a five-year period ending on October 24, 1990. Pursuant to a request from Oregon, the Commission extends the certification for 180 days so that Oregon can complete modifications of its standards and procedures and prepare an application for recertification in compliance with *State Intrastate Rail Rate Authority*, 5 I.C.C. 2d 680 (1989).

DATES: Oregon's certification is extended for 180 days from October 24, 1990.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245, [TDD for hearing impaired: (202) 275–1721].

Decided: October 24, 1990.

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By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-25629 Filed 10-29-90; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to CERCLA in United States v. American Medical Systems, Inc., et al.

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on October 15, 1990, a proposed Consent Decree in *United States* v. *American Medical systems, Inc., et al.* Civil Action No. 90-2203 was lodged with the United States District Court for the Western District of Arkansas.

The Complaint in this enforcement action was filed on October 15, 1990, against under section 107 of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 U.S.C. 9607, seeking reimbursement of costs incurred by the United States in responding to the release or threat of release of a hazardous substance from the Allen Transformer Site located in Fort Smith, Arkansas.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States* v. *American Medical Systems, Inc., et al.* D.J. No. 90-11-3-383.

The proposed Consent Decree may be examined at the office of the United States Attorney, Western District of States Environmental Protection Agency, Region VI, 1445 Ross Avenue, Dallas, Texas 75202-2733. Copies of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, room 1521, U.S. Department of Justice, 9th and Pennsylvania Avenue, NW., Washington, DC 20530. In requesting a copy please enclose a check in the amount of $17.00 payable to the Treasurer of the United States.

Richard B. Stewart,

Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 90-25562 Filed 10-29-90; 8:45 am]

BILLING CODE 4410-01-M

Mottolo et al.; Lodging of Consent Decree

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on October 22, 1990 a proposed Partial Consent Decree as to Defendant K.J. Quinn & Co., Inc. Regarding Past United States' Response Costs ("Consent Decree") in *United States* v. *Mottolo, et al.*, Civil Action No. 83-547-D, was lodged with the United States District Court for the District of New Hampshire. The proposed Consent Decree concerns the Mottolo site in Raymond, New Hampshire. The proposed Consent Decree requires defendant K.J. Quinn & Co., Inc. ("Quinn") to pay the United States $1,500,000 plus prejudgment interest from May 1, 1990 until the date of actual payment, in settlement of Quinn's liability for past response costs incurred by the United States through May 1, 1990 relating to the Mottolo site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Mottolo, et al.*, D.J. Ref. 90-11-2-17.

The proposed Consent Decreee may be examined at the office of the United States Attorney, District of New Hampshire, 409 Federal Building, 55 Pleasant Street, Concord, New Hampshire 03301 and at the Region I Office of the Environmental Protection Agency, One Congress Street, Boston, Mass. 02203. The proposed Consent Decree may be examined at the Environmental Enforcement Section Document Center, 1333 F Street, NW., suite 600, Washington, DC 20004, 202/347-2072. A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $4.25 (25 cents per page reproduction cost), payable to Consent Decree Library.

Richard B. Stewart,

Assistant Attorney General, Environment and National Resources Division.

[FR Doc. 90-25563 Filed 10-29-90; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of recordkeeping/reporting requirements under review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/

PWBA/VETS), Office of Management and Budget, Room 3208, Washington, DC 20503 (Telephone (202) 395–6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New Collection

Bureau of Labor Statistics
Point of Purchase Survey (CPP)—Computer Assisted Telephone Interviewing (CATI)
CPP CATI Feasibility Test Instrument; CPP CATI Advance Letter; Interview 1
One Time Only
Individuals or Households
8430 respondents; 3099 hours; 20 minutes per response; no paper forms.

We will use CPP CATI to gather information on the type of outlets at which consumers shop for selected consumer items. CPP data are used to periodically update the Nation's Consumer Price Index (CPI). This phase is a feasibility test to determine if these data can be collected cost-effectively by computer assisted telephone interviewing.

Extension

OSHA
1,2-Dibrom-3-Chloropropane (DBCP)
1218–0101
On Occasion
Business or other for-profit; small business or organizations
Respondents *0*; *1* total hours; *0* hours per response; *0* form

The purpose of this standard and its information collection requirements is to provide protection for employees from the adverse health effects associated with occupational exposure to 1,2-Dibromo-3-Chloropropane (DBCP). The standard requires employers to notify OSHA of regulated areas and of emergencies. The standard also requires that OSHA have access to various records to ensure that employers are complying with disclosure provisions of the DBCP standard. The production of DBCP in the United States is negligible and therefore, the agency is assuming 1 hour burden.

Extension

Mine Safety and Health Administration
Roof Control Plans (30 CFR 75.220, 75.221 and 75.223(b))
1219–0004
Annually
Businesses or other for-profit; Small businesses or organizations
2,179 respondents; 13,259 total burden hours; 6.0086 average hours per response

Falls of roof, face and rib continue to be a leading cause of injuries and death in underground coal mines. All underground coal mine operators would be required to develop and submit roof control plans to MSHA for evaluation and approval. These plans would be evaluated to determine if they are adequate for prevailing mining conditions.

Escapeways and Escape Facilities (30 CFR 75.1704–2)
1219–0052
Weekly
Businesses or other for-profit; Small businesses or organizations
1,979 respondents; 148,029 total burden hours; 74.8 average hours per response

Requires that escapeway routes from underground coal mines be examined in their entirety once each week and that a record be kept of the results of the examination. The records are used to determine that the integrity of the escapeways is being maintained.

Ventilation System and Methane and Dust Control Plan (30 CFR 75.316 and 75.316–1)
1219–0084
On occasion; semi-annually
Businesses or other for-profit; Small businesses or organizations
2,179 respondents; 13,474 total burden hours; 3.2405 average hours per response

Requires coal mine operators to submit a detail ventilation system and methane and dust control plan, including an up-to-date map of the mine, to MSHA for approval. The information is used to ensure that a system is developed and used that will effectively ventilate the mine.

Signed at Washington, DC this 24th day of October; 1990.

Paul E. Larson,
Departmental Clearance Officer.

[FR Doc. 90–25627 Filed 10–29–90; 8:45 am]
BILLING CODE 4510–43–M

Employment and Training Administration

Drug-Free Workplace

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: Governmentwide final rules issued by the Office of Management and Budget (OMB), implementing the November 18, 1988, Drug-Free Workplace Act of 1988, require Department of Labor (DOL) grantees and contractors to certify that they will provide drug-free workplaces as a precondition of receiving a grant or contract from DOL. The rules are explained in a Training and Employment Information Notice (TEIN) No. 15–90 issued October 16, 1990, and published at the end of this document. Attachment No. 2 to the TEIN, a **Federal Register** Notice, is not reprinted with this notice.

EFFECTIVE DATE: October 16, 1990.

FOR FURTHER INFORMATION CONTACT: James MacDonald, Division of Debt Management, Office of Grants and Contracts Management, Employment and Training Administration, Department of Labor, room N–4671, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 535–0704.

SUPPLEMENTARY INFORMATION: The final rules for grantees were effective as of July 24, 1990, except for the certification requirement applicable to 29 CFR 98.630 (c) and (d) for States and State agencies which was effective June 25, 1990. The final rules, published May 25, 1990, in the **Federal Register** at 55 FR 21677, are incorporated as an amendment to the governmentwide common rules pertaining to nonprocurement debarment and suspension. The Department of Labor's rules were published on the same date in the **Federal Register** at 55 FR 21696 and codified at 29 CFR part 98, subpart F. The final rules relating to contracts are detailed in amendments to the Federal Acquisition Regulation published May 25, 1990, in the **Federal Register** at 55 FR 21706 and codified at 48 CFR parts 1, 9, 23, 42, and 52. The final rules require grantees to make a drug-free certification as a precondition to the awarding of a grant. Additionally, section B of the drug-free certification requires grantees either to submit to the Grant Office or keep on file for Federal inspection a list of the sites for the performance of work done in connection with the specific grant. A grantee which is a State or State agency may elect to make a single annual certification which would be retained on file in its central office with a copy being submitted for each grant or award. This notice summarizes and announces the issuance of the Training and Employment Information Notice No. 15–90.

Signed at Washington, DC, this sixteenth day of October 1990.

Roberts T. Jones,

Assistant Secretary of Labor.

Training and Employment Information Notice No. 15–90

To: State JTPA Liaisons, State Employment Security Agencies.

From: Roberts T. Jones, Assistant Secretary of Labor.

Subject: Drug-Free Workplace Regulatory Requirements.

1. *Purpose.* To explain the responsibilities of the Employment and Training Administration (ETA) and its grantees under the Drug-Free Workplace Act regulatory requirements. This information notice updates and replaces Training and Employment Information Notice (TEIN) No. 1–89, and transmits a sample certification and the **Federal Register** Notice, Part II, Drug-Free Workplace Requirements; Notice and Final Rules dated May 25, 1990.

2. *References.* Drug-Free Workplace Act of 1988 (Pub. L. 100–690, title V, subtitle D; 41 U.S.C. 701 *et seq.*); 29 CFR part 98 (54 FR 4946) and (55 FR 21679); Training and Employment Information Notice (TEIN) No. 21–88; and TEIN No. 1–89.

3. *Background.* On November 18, 1988, Congress enacted the Drug-Free Workplace Act requiring Federal agency contractors and grantees to certify that they will provide a drug-free workplace as a pre-condition of receiving a contract or a grant from a Federal agency after March 18, 1989.

The Office of Management and Budget (OMB) coordinated the participation of over 30 Federal agencies, including the Department of Labor, in the development of regulatory requirements to ensure prompt compliance, prompt issuance of final rules, and uniform government-wide implementation of the Act.

The government-wide rule was issued as an interim final rule, published Tuesday, January 31, 1989, Vol. 54, No. 19 **Federal Register**, and was added as a new subpart F to the Department's nonprocurement debarment and suspension regulations at 29 CFR part 98. As an interim final rule, this regulation was fully in effect and binding after its effective date of March 18, 1989. Comments were solicited.

The government-wide rule was then issued as a final rule, published in the Friday, May 25, 1990, Vol. 55, No. 102 **Federal Register**. This final rule amends the interim final rule in response to public comment. The final rule was effective July 24, 1990, with the exception of an effective date of June 25, 1990 for certification by those States and State agencies that planned to certify under subsections 29 CFR 98.630 (c) and (d).

The Federal Acquisition Regulation (FAR) rules for contracts are contained in the same **Federal Register** notice but are not covered in this information notice which is addressed only to State grantee organizations. The requirements for individuals are not covered for the same reason.

The Drug-Free Workplace common rule for grants amends the government-wide Nonprocurement debarment and suspension common rule at 29 CFR part 98 to allow agencies to make use of existing debarment and suspension remedies as sanctions for non-compliance with the requirements of the Drug-Free Workplace Act. It should be noted that, in contrast to the debarment common rule, the drug-free common rule applies only to prime grantees and does not extend to subgrantees.

These requirements were effective for all grants awarded on or after March 18, 1989 or for grants existing prior to March 18, 1989 if modified "in such a manner that it would be considered a new commitment." Grantees are not required to make a certification in order to continue receiving funds under a grant awarded before March 18, 1989, or under a no cost time extension of such a grant. (See also section No. 6(B)(2) of this TEIN, Frequency of Certification, and section No. 11, Exemptions.)

4. *Definitions Controlled substance* means a controlled substance as it is used in schedules I through V of sections 202 of the Controlled Substances Act (21 U.S.C. 812), and as further defined by regulation at 21 CFR 1300.11 through 1300.15. Neither the regulations nor this TEIN expand upon the definition.

Grant means an award of financial assistance, including a cooperative agreement, in the form of money, or property in lieu of money, by a Federal agency directly to a grantee. The term grant includes block grant and entitlement grant programs, whether or not exempted from coverage under the grants management government-wide common rule on uniform administrative requirements for grants and cooperative agreements. (See also section No. 10 of this TEIN, Coverage, and 29 CFR 98.605(b)(7) for the complete definition.)

Grantee means a person who applies for or receives a grant directly from a Federal agency.

Person is defined in the debarment regulations at 29 CFR 98.105(n) as "any individual, corporation, partnership, association, unit of government or legal entity, however organized * * *."

In the final rule, the definition of "employee" has been made more specific. The term employee includes persons hired by the grantee to manage the program and serve participants but does not include the program participants. Whether or not the person is on the payroll of the grantee is key to this definition. It includes all "direct charge" employees and all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant. It includes temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll, even if not paid from grant funds.

This definition does not include workers not on the payroll of the grantee, such as employees of a subcontractor, even if their physical place of employment is in the grantee's covered workplace.

5. *Requirements.* After March 18, 1989, the ETA is not allowed to award a grant or to modify a grant that involves a new award, unless it has received a certification (or in the case of States, a copy of the certification) that the potential grantee will maintain a drug-free workplace. The ETA Grant Officer must be satisfied that this certification requirement has been fulfilled by the potential grantee prior to making an award.

As a pre-condition to receiving a grant, a potential grantee shall certify to the ETA that it will maintain a drug-free workplace by (*see* 29 CFR part 98 appendix C for the exact text):

(a) Publishing and distributing to each employee a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace, and specifying the action that will be taken against employees for violation of such prohibition.

(b) Establishing an on-going drug-free awareness program to inform employees about (1) The dangers of drug abuse in the workplace, (2) the grantee's drug-free workplace policy, (3) any available drug counseling, rehabilitation, and employee assistance programs, and (4) the penalties for drug-abuse violations occurring in the workplace.

(c) Providing each employee with a statement including language required by (a) above and

(d) Notifying the employee that, as a condition of employment, the employee is to abide by the statement and is to notify the grantee within five calendar days if he or she is convicted for a

violation of a criminal drug statute which occurred in the workplace.

(e) Notifying the Grant Officer in writing within 10 calendar days of receiving notice of any drug violation conviction. Such notifications shall be sent to the appropriate ETA Grant Officer and shall include the identification number(s) of each affected grant and the employee's position title. If the ETA was notified at the time of the violation through the Incident Report system, a supplemental report should be submitted at the time of notice of conviction.

(f) Within 30 calendar days of receiving notice of a conviction, taking one of the following actions, with respect to the employee conviction, (1) A personnel action against the employee up to and including termination (consistent with the requirements of the Rehabilitation Act of 1973), or (2) requiring such employee to participate satisfactorily in a drug-abuse assistance or rehabilitation program. (See the attached regulations and certification for more specific language on all of the above requirements.)

Neither the Act nor the rules authorizes drug testing of employees. On the other hand, drug testing in response to other Federal or State legislation is not prohibited.

6. *Frequency of certification.* Under the interim final rules published January 31, 1989, the certification requirements, especially for States and State agencies, were not clear and were at times confusing. The final rule expands the options available to States and attempts to clarify the requirements.

(A) All grantees, other than States and State agencies, are required to make the drug-free certification for each grant. [The use of the word "State" in this section should be understood to include State agencies unless otherwise indicated.]

(B) A grantee, which is a State, has a number of different options to choose from in order to certify that it will maintain a drug-free workplace (see 29 CFR 98.630).

(1) A State or State agency may always elect to make a drug-free certification for each grant or award. The certification should be submitted to the ETA Grant Officer responsible for making the awards under the grant prior to the award of the grant.

(2) A State or State agency receiving a mandatory formula grant or entitlement that has no application process (no formal application), shall submit a one-time certification in order to continue receiving awards (29 CFR 98.630(b)). This one-time certification agrees to maintain an ongoing drug-free workplace program that continues throughout the life of the grant or as long as the grantee continues to receive the mandatory award. This "one time" certification will only satisfy the requirement for mandatory awards (e.g. JTPA Title II A/B and III Formula grants). A State or State agency, receiving a mandatory formula grant(s), is required to make a one-time certification using the format published in appendix C of the final rule (attached). This certification, using the new format, is required even if the State or State agency has previously submitted an annual certification. This certification need not be repeated in subsequent fiscal years as long as the content of the certification to which the State has certified does not change. The certification should be submitted to the ETA Grant Officer responsible for making the mandatory award(s) under the grant. These "one time" certifications were due July 24, 1990.

A State or State agency which receives a mandatory formula grant and other non-mandatory awards from the DOL will not be able to fulfill all its certification requirements with the "one-time" certification.

(3) The requirements for States and State agencies under the following single annual-certification option are slightly different and so are presented separately.

(A) *Statewide.* A State may elect to make one statewide certification in each Federal fiscal year which would cover all State agencies. The regulations required States to make a certification for FY 1990 by June 30, 1990 (29 CFR 98.630(c)). States which have made a certification in FY 1990 under the Interim Final Rule are not required to re-certify for FY 1990.

For FY 1991 and all subsequent fiscal years, each State electing the single annual Federal fiscal year option shall sign a statewide certification prior to the beginning of the subject fiscal year in order to submit a copy of the certification with applications for grants that run concurrently with or during the fiscal year. Certifications are to be signed by the Governor or by a State official authorized to commit the State and its agencies to the requirements of the Drug-Free Workplace regulations. The certification shall follow the format published in appendix C of the final rule (attached). The original of the certification itself is to be retained in the Governor's office. A copy of the certification must be submitted to the ETA Grant Officer responsible for making the awards under each grant prior to the discretionary award.

The interim final rule permitted grantees to submit one annual certification to a central DOL location. The final rule, however, requires the submission of a copy of the annual certification be submitted individually with respect to each grant, *unless* the Federal agency designates a central location for submission. The DOL and the ETA have decided *not* to designate a central location for submission. Therefore, States are to submit copies of the certification to the appropriate ETA Grant Officer prior to the award.

The Governor of a State may exclude certain state agencies from the statewide certification and authorize those agencies to submit their own certifications to Federal agencies. The statewide certifications shall name any State agencies so excluded.

(B) *State agencywide.* A State agency to which the statewide certification does not apply or a State agency in a State that does not have a statewide certification, may elect to make one agencywide certification in each Federal fiscal year.

The regulations required State agencies to make a Drug-Free Workplace certification for FY 1990 by June 30, 1990. State agencies which have made a certification in FY 1990 under the Interim Final Rule are not required to re-certify for FY 1990.

For FY 1991 and all subsequent fiscal years, each State agency electing the single annual Federal fiscal year option shall sign the agencywide certification prior to the beginning of the subject fiscal year in order to submit a copy of the certification with applications for grants that run concurrently with or during the fiscal year.

Certifications are to be signed by a State official authorized to commit the agency to the requirements of the Drug-Free Workplace regulations. Certifications shall follow the format published in appendix C of the final rule (attached). The certification itself is to be retained in the central office of the State agency. A copy of the certification must be submitted to the Grant Office responsible for making the awards under each grant prior to the award. (The DOL and the ETA have decided *not* to designate a central location for submission. See (3)(A) above.)

7. *Listing of worksites.* Federal agencies in order to audit grantee compliance, must have access to the addresses or locations of workplaces to which Drug-free Workplace requirements apply. The final rule amended the listing of workplace requirements so that grantees may elect one of three available options.

Grantees shall: (1) List the locations of workplaces on the certification document; or (2) list the locations of workplaces on the grant application or submit a separate list of workplaces prior to the award, if there is no application; or (3) maintain a list of workplace on file and available for inspection by Federal agencies in the office of the Governor or State agency. The list of worksites is to be updated annually at the time of certification or on the anniversary of the certification, for those grantees with a one-time certification. These lists must identify the street address or location of the workplace(s) in those instances in which work is to be performed at specific sites. In other situations, it may be necessary to use a categorical identification instead of specific sites.

The common rule defines, in relevant part, Drug-free workplace as a "site for the performance of work done in connection with a specific grant * * *" [29 CFR 98.605(b)(4)]. In the preamble to the interim common rule, it stated that the term "site for the performance of work" is taken directly from the statute and it is intended that the grantee will determine what the "site for the performance of work" is and specify such in the grantee's certification—amended by the final rule to certification, application, or in a list on file with the grantee.

In determining the number of "site(s) for performance of work," to be listed, it should be noted that only the "prime grantee," and not "subgrantees," are covered by requirements under this subpart. Although not specifically addressing the number of site to be listed, the preamble to the interim final rule stated that, if a Federal agency provides financial assistance to a State agency, which in turn passes through the assistance to several local agencies, only the State agency that receives the assistance directly from the Federal agency receives the "grant." Consequently, it is only the State agency that is required to make a drug-Free workplace certification under the regulation (Section by Section Analysis—54 FR 4948).

Again, emphasizing the limits of the requirements, the preamble to the interim final rule states that only "prime grantees" and not "subgrantees" are covered by requirements under the new subpart F (Section by Section Analysis—54 FR 4949).

8. *Grounds for suspension, termination or debarment.* Grantees determined to be in violation of any of the following will be subject to the imposition of sanctions set forth in the Act:

(a) Submission of a false certification;

(b) Failure to comply with the requirements of the certification; and

(c) Failure by the grantee to make a good faith effort to maintain a drug-free workplace. Lack of a good faith effort would be indicated by such a number of the grantee's employees having been convicted under criminal drug statutes for violations occurring in the workplace. Circumstances of grantees vary widely so that the actual number of violations will be determined on a case by case basis.

The preamble to the interim final rule specifically states that criminal drug violations by employees not occurring in the workplace are not grounds for a sanction. Likewise, evidence of drug abuse by employees in the workplace that does not result in a criminal conviction is not a ground for a sanction.

9. *Sanctions.* Sanctions set forth in the Drug-Free Workplace Requirements include: (a) Suspension (i.e., withholding) of payments under the grant; (b) Suspension or termination of the grant; and (c) Suspension or debarment of the grantee. The decision of which sanction or sanctions to apply in a particular case is left to the discretion of the Federal grantor agency. In determining the level of organization at which a sanction should be imposed in case of a violation of the certification requirements, the regulation, where appropriate, focuses on the "department, division, or other unit" of the grantee responsible for performance under the grant. For example, if several different organizational units of a State agency receive grants from a Federal agency, and one of the State organizational units violates a requirement of the regulation, sanctions should be imposed on that organizational unit, not on the entire State agency. On the other hand, where it is appropriate, in the context of a particular Federal grant program, to view the entire grantee organization as responsible for the implementation of drug-free workplace requirements under this rule, the entire organization could be subject to sanctions.

If the third sanction, debarment, is exercised, the debarred grantee is ineligible for the award of any grant from any Federal agency for a period, to be specified in the final decision, not to exceed five years. The rules include a provision which allows the agency head to issue a written waiver of any of these sanctions, if the agency head determines that such a waiver would be in the public interest. The determination of the "public interest" is within the discretion of the agency head (i.e., in the DOL, the Secretary of Labor) and this waiver authority may not be delegated.

The review and administrative appeal available to grantees can be found in the debarment procedures at 29 CFR 98.310. The debarment regulations at 29 CFR 98.200 state that debarment or suspension does not affect a person's (organization's) eligibility for statutory entitlements or mandatory awards. * * *

10. *Coverage.* For the purpose of the Drug-Free Workplace Act, grants include block grants and entitlement grant programs, whether or not they are exempted from coverage under the grants management common rule (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments). Subgrantees are not required to make a drug-free workplace certification under the regulation.

11. *Exemptions.* Exemptions include grants providing technical assistance in the form of in-kind services; other assistance in the form of loans, loan guarantees, interest subsidies, insurance; direct appropriations; and any veterans' benefits to individuals. Current grantees, whose grants were approved and awarded prior to March 18, 1989, are not required to make certifications in order to continue receiving payments under existing grants. Grantees are not required to make a certification prior to a no-cost time extension of an existing grant.

12. *Costs.* A grantee's costs incurred specifically to comply with these requirements are allowable costs under the grant, provided that the costs meet the usual criteria for allowability. Grantees are not required by the common rule to provide or pay for rehabilitation programs.

13. *Effective date.* This Training and Employment Information Notice shall be effective as of the date of issuance.

14. *Rescission.* Training and Employment Information Notice No. 1–89.

15. *Inquiries.* Questions concerning this information notice should be directed to James MacDonald on (202) 535–0704. Grantees may also contact their respective ETA Grant Officers regarding specific certification questions.

16. *Attachments* (1) Federal Register Notice—"Drug-Free Workplace Requirements; Notice and Final Rules," and (2) Sample certification format.

Instructions For The Attached

(Source: Federal Register Vol. 55, No. 102, Friday, May 25, 1990)

Please read the instructions carefully. By signing the accompanying document, the grantee is providing the assurance that it will fulfill the requirements set forth by the Drug-Free Workplace Act of 1988 and its implementing regulations codified at 29 CFR Part 98 subpart F.

The certification set out below is a material representation of fact upon which reliance is placed when the Federal agency awards the grant. If it is determined that the grantee knowingly rendered a false certification, or otherwise violated the requirements of the Drug-Free Workplace Act, the Employment and Training Administration (ETA), in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

Workplaces under grants need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and available for Federal inspection. Failure to identify all known workplace constitutes a violation of the grantee's drug-free workplace requirements. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g. all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios). If the workplace identified by the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplace in question. Definitions of terms in the NonProcurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant and (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (*e.g.* volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll or employees of subrecipients or subcontractors in covered workplaces).

(Sample format)

Drug-Free Workplace Requirements Certification

Alternate I. (Grantees Other Than Individuals)

Pursuant to the The Drug-Free Workplace Act of 1988, and its implementing regulations codified at 29 CFR Part 98, subpart F, I, _____, the undersigned, in representation of _____ the grantee, *attest and certify* that the grantee will provide a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

2. Establishing an ongoing drug-free awareness program to inform employees about:

(a) The dangers of drug abuse in the workplace;

(b) The grantee's policy of maintaining a drug-free workplace;

(c) Any available drug counseling, rehabilitation, and employee assistance programs; and

(d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (1);

4. Notifying the employee in the statement by paragraph (1) that, as a condition of employment under the grant, the employee will:

(a) Abide by the terms of the statement; and

(b) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

5. Notifying the agency in writing ten calendar days after receiving notice under subparagraph (4)(b) from an employee or otherwise receiving actual notice of such conviction. We will provide such notice of convicted employees, including position title, to every grant officer on whose grant activity the convicted employee was working. The notice shall include the identification number(s) of each affected grant.

6. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (4)(b), with respect to any employee who is so convicted:

(a) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973 as amended; or

(b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (1), (2), (3), (4), (5) and (6).

8. Notwithstanding it is not required to provide the workplace addresses under the grant, as of today the specific sites are known and we have decided to provide the specific addresses with the understanding that if any of the identified places change during the performance of the grant, we will inform the agency of the changes. The following are the sites for the performance of work done in connection with the specific grant including street address, city, county, state, and zip code:

_____

_____

_____

_____

Check ( ) if there are workplaces on file that are not identified here.

Check ( ) if an additional page was required for the listing of the workplaces.

I declare, under penalty of perjury under the laws of the United States, and under the penalties set forth by the Drug-Free Workplace Act of 1988, that this certification is true and correct.

_____

Signature (Typed Name and Title)

I, _____ (Signer Name), certify that I am the _____ (Official Title) of _____(Grantee Name), the grantee; that I who sign this Drug-Free workplace certification on behalf of the grantee, do so by the authority given by _____ (Source of Authority), and such signing is within the scope of my power.

Executed on: _____ (Authorized Signature)

[FR Doc. 90-25625 Filed 10-29-90; 8:45 am]

BILLING CODE 4510-30-M

Pension and Welfare Benefits Administration

[Application No. D-7764]

Proposed Exemption for Certain Transactions Involving Aetna Life Insurance Company (Aetna) Located in Hartford, Connecticut

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1986 (the Code). The proposed exemption would exempt certain transactions that may occur as a result of the sharing of real estate investments among various Accounts managed by Aetna and its insurance company affiliates, including the Aetna general account and the general accounts of Aetna's affiliates which are insurance companies licensed to do business in at least one state (collectively, the General Account), and the ERISA-Covered Accounts with respect to which Aetna is a fiduciary. As an aknowledged investment manager and fiduciary, Aetna is primarily responsible for the acquisition, management and disposition of the assets allocated to the ERISA-Covered Accounts.

DATES: Written comments and request for the public hearing must be received by the Department on or before December 31, 1990.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Exemption Determinations, Pension and Welfare Benefits Administration, Room N-5671, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Application Nos. D-7764, D-7765 and D-7766. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N-5507, 200 Constitution Avenue, NW., Washington, DC 20210.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by Aetna pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemption of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

1. Aetna is organized under the laws of Connecticut. Among the many insurance products and financial services Aetna offers are funding, asset management and other services for thousands of employee benefit plans subject to the provision of Title I of the Act. Aetna has substantial experience in managing real estate investments. Aetna is a wholly-owned subsidiary of Aetna Life and Casualty Company. Of the more than $24 billion in real estate assets managed by Aetna and its affiliates at year-end 1987, Aetna's general account and those of its affiliates held $19.6 billion in real estate mortgage loans and $800 million in real estate equity positions. Aetna's various separate accounts held more than $3.5 billion in equity and participating mortgages at year-end 1987.

2. Aetna maintains many Pooled Accounts in which pension, profit sharing and thrift plans participate. Aetna also has several single customer accounts and investment advisory accounts for which Aetna manages the assets of several large plans. A number of these accounts (the ERISA-Covered Accounts) may participate in the sharing of real estate investments. These include Aetna's open-end separate accounts, its closed-end accounts, and various of its real estate single customer accounts and investment advisory accounts. In addition, Aetna's general accounts and the general accounts of one or more of Aetna's affiliates which are insurance companies licensed to do business in at least one of the fifty states, accounts maintained for overseas clients, limited partnerships and other non-plan investors, and other pooled and single customer accounts that may be formed in the future (collectively, the Accounts), may also participate in the sharing of real estate investments. The Accounts all have portfolio managers who are officers of Aetna. These portfolio managers are responsible for the investments of the Accounts.

3. Aetna's general real estate investment strategy is set by its senior management. Within these pre-determined parameters, its real estate acquisitions and underwriting professionals seek quality real estate investments for its various accounts. These potential equity investments are evaluated through a team approach. An acquisition specialist heads the team, which includes an asset manager, an attorney, an accountant, an engineer, an economic researcher, a risk management specialist, and a construction lending specialist. Each member of the team must sign off on the investment before it is presented for approval to Aetna's real estate mortgage or equity committee. Once this approval has been granted, larger investments must be presented to Aetna's real estate investment committee (the Investment Committee). The Investment Committee, which consists of seven vice presidents of Aetna, must approve all residential/commercial mortgage loan packages in excess of $35 million and all equity investments in excess of $20 million. Approval of the investment requires a concurrence of at least two-thirds of the members of the Investment Committee voting. All equity, land purchase-leaseback participating mortgages or mortgage investments in excess of $40 million must also be approved by Aetna's chairman, vice chairman, president, executive vice president or senior vice president of investments. Any real estate investment above $50 million must be individually reviewed and approved by the Finance Committee of the Board of Directors of Aetna.

4. Aetna represents that it has procedures in place which provide a system of fair and equitable allocation of investments to the separate accounts and the General Account. Each account has written predetermined investment volume objectives. These objectives and defined investment guidelines (such as product mix and geographic diversification standards) are generally established for at least a one-year period. However, they may be modified by the account's portfolio manager if appropriate.

An investment whose size or other characteristics qualify it for only one account will be allocated to that account. An investment whose size and other characteristics qualify it for allocation to more than one account will be allocated to the eligible account with the greatest percentage of its investment funding objective that is unfilled. Investments of a size exceeding eligible account capacities may be shared.

5. Aetna seeks to make investments in real estate on a shared basis for those accounts which it manages. Aetna represents that an inherent advantage of shared investments in real estate is the opportunity to enhance the diversity of investments available to the accounts and their participating plans. By investing on a shared basis, the accounts can obtain the advantage of interests in a larger number of high quality properties, regardless of cost. Further, shared investments frequently result in substantial savings associated with administrative and start-up costs.

6. Aetna frequently structures investments as partnerships, in which a third party (usually a real estate developer) participates in partnership with Aetna. Aetna may then allocate its interest to more than one account. Partnership investments typically involve several particular features (by virtue of the terms and conditions of their partnership agreements) that may, in the case of shared investments, result in possible violations of section 406(a) or (b) of the Act. Therefore, an exemption for such partnerships is necessary.

7. During the course of Aetna's holding of a real estate investment, certain situations may arise which require a decision to be made with regard to the management or disposition of the investment. For example, there may be a need for additional contributions of operating capital, or there may be an offer to purchase the investment by a third party or a joint venture partner. When Aetna shares these investments among more than one Account, a potential for conflict arises since the same decision may not be in the best interest of each Account. Therefore, the applicant has submitted a framework of proposed safeguards to protect the interests of any participating ERISA-Covered Account in the resolution of potential or actual conflicts.

8. Each plan contractholder participating in an ERISA-Covered Account that shares or proposes to share real estate investments must be furnished with a written description of the transactions that may occur involving such investments which might raise questions under the conflict of interest prohibitions of the Act with respect to Aetna's involvement in such transactions and which are the subject of this proposed exemption. This description must discuss the reasons why such conflicts of interest may be present (*i.e.*, because the General Account participates in the investment and may benefit from the transaction or because the interests of the various Accounts participating in the investment may be adverse with respect to the transaction). The description must also disclose the principles and procedures to be used to resolve anticipated impasses, as will be outlined below. In addition, each contractholder in an ERISA-Covered Account that currently shares investments must receive a copy of this notice of pendency within thirty days of its publication, and a copy of the exemption when granted.

9. With respect to new contractholders in an ERISA-Covered Account that currently participates in the sharing of investments, each prospective contractholder must be provided with the above mentioned written description, a copy of the notice of pendency and a copy of the exemption as granted before the contractholder begins to participate in the Account. With respect to contractholders who are already in an ERISA-Covered Account that proposes to participate in the sharing of investments in the future, each such contractholder must be provided with the description outlined above, a copy of the notice of pendency and a copy of the exemption as granted before the Account begins to participate in the sharing of investments.

Withdrawals from pooled, open-end Accounts are made, at the written request of the plan, at market value, subject to the availability of cash. Aetna is not obligated to liquidate investments to meet withdrawal requests. If cash available for withdrawals is insufficient to meet all the withdrawal requests on any valuation date, available cash is paid to each customer on a pro rata basis. With respect to closed-end Accounts, the actual cash flow, including amounts received from the sale of investments, is paid out until all assets of the Account have been liquidated. Prior to liquidation of the Account, contractholders have the right, subject to Aetna's agreement which cannot be unreasonably withheld, to sell their interests in the Account. For single customer Accounts, the contractholder with respect to wholly-owned properties can cause Aetna to liquidate the investment or transfer it to a successor investment manager.

10. An independent fiduciary or independent fiduciary committee must be appointed on behalf of each ERISA-Covered Account participating in the sharing of investments. The independent fiduciary, acting on behalf of the ERISA-Covered Account, shall have the responsibility and authority to approve or reject recommendations made by Aetna regarding the allocation of shared real estate investments to the ERISA-Covered Account and recommendations concerning those transactions occuring subsequent to the allocation which are the subject of this proposed exemption. The independent fiduciary is informed of the procedures set forth in the proposed exemption for the resolution of anticipated impasses prior to his or its acceptance of the appointment. Aetna shall provide the independent fiduciary with the information and materials necessary for the independent fiduciary to make an informed decision on behalf of the ERISA-Covered Account. No allocation or transaction which is the subject of the proposed exemption will be undertaken prior to the rendering of such informed decision by the independent fiduciary. The independent fiduciary shall also review on an as-needed basis, but not less than twice annually, the shared real estate investments in the ERISA-Covered Account's portfolio to determine whether the shared real estate investments are held in the best interest of the ERISA-Covered Account.[1]

11. The independent fiduciary must be unrelated to Aetna or its affiliates. The independent fiduciary may not be, or consist of, any officer, director or employee of Aetna, or be affiliated in any way with Aetna or any of its affiliates. The independent fiduciary must be either (1) a business organization which has at least five years of experience with respect to commercial real estate investments, (2) a committee comprised of one or more individuals who each have at least five years of experience with respect to commercial real estate investments, or (3) the plan sponsor (or its designee) of a plan or plans that is the sole participant in an ERISA-Covered Account. An organization or individual may not serve as an independent fiduciary for an

[1] For example, in the case of an investment shared by the General Account and an ERISA-Covered Account, if the independent fiduciary of the ERISA-Covered Account determined, after its review of the account's shared investment portfolio and financial information relating thereto, that the ERISA-Covered Account's interest in the shared investment should be disposed of, Aetna would be required to carry out the decision of the independent fiduciary. If the portfolio manager of the General Account agreed that its interest in the shared investment should also be disposed of, then Aetna would sell the entire shared investment. If the portfolio manager of the General Account did not agree that its interest in the shared investment should be sold, Aetna would first try to sell only the ERISA-Covered Account's interest in the shared investment. However, to the extent that it is not feasible or possible to sell the ERISA-Covered Account's interest alone, the entire shared investment would be sold notwithstanding the non-acquiescence of the General Account.

ERISA-Covered Account for any fiscal year if the gross income (other than fixed, non-discretionary retirement income and cost of living increases thereon) received by such organization or individual (or any partnership or corporation of which such organization or individual is an officer, director, or ten percent or more partner or shareholder) from Aetna and its affiliates for that fiscal year exceeds five percent of its or his annual gross income from all sources for the prior fiscal year. If such organization or individual had no income for the prior fiscal year, the five percent limitation shall be applied with reference to the fiscal year in which such organization or individual serves as an independent fiduciary. The income limitation will include services rendered to the Accounts as independent fiduciary under any prohibited transaction exemptions granted by the Department. In addition, no organization or individual who is an independent fiduciary, and no partnership or corporation of which such organization or individual is an officer, director or ten percent or more partner or shareholder, may (i) acquire any property from, sell any property to, or borrow any funds from, Aetna, its affiliates, or any Account managed by Aetna or its affiliates, during the period that such organization or individual serves as an independent fiduciary and continuing for a period of six months after such organization or individual ceases to be an independent fiduciary, or (ii) negotiate any such transaction during the period that such organization or individual serves as independent fiduciary. A plan sponsor (or its designee) of a plan participating in an ERISA-Covered Account may not serve as independent fiduciary with respect to any pooled ERISA-Covered Account. A business organization or committee member may not serve as an independent fiduciary of more than one ERISA-Covered Account.

12. In the case of a single customer EIRSA-Covered Account, if the plan sponsor or its designee decides not to act as the independent fiduciary, the independent fiduciary or independent fiduciary committee will be selected initially by Aetna. The independent fiduciary must be approved by the plan sponsor or another plan fiduciary prior to the commencement of its fiduciary responsibilities on behalf of the ERISA-Covered Account. In the case of a closed-end pooled ERISA-Covered Account, the appropriate plan fiduciary of each participating plan will be required to approve the initial selection of the independent fiduciary proposed by Aetna prior to the commencement of its fiduciary responsibilities on behalf of the ERISA-Covered Account. In the case of an open-end pooled ERISA-Covered Account, the independent fiduciary or the independent fiduciary committee will be selected initially by Aetna. The applicant represents that because these Accounts often include a significant number of plan contractholders, the independent fiduciary will not be approved initially by plan contractholders. The selection of the independent fiduciary, however, must be approved by a majority of the contractholders in such an Account within twelve months after the selection has been made.

13. For both single customer and pooled ERISA-Covered Accounts, prior to the making of any decision to approve the selection of an independent fiduciary, plan contractholders must be furnished appropriate biographical information pertaining to the independent fiduciary or members of the independent fiduciary committee. This biography must set forth the background and qualifications of the fiduciary (or fiduciaries) to serve in that capacity. In the case of any biographical information furnished after the date of this proposed exemption, the information must also disclose the total amount of compensation received by the fiduciary (or each member of a fiduciary committee) from Aetna or an Aetna affiliate during the preceding year, incluidng pension or other deferred compensation paid to fiduciaries who may be former employees of Aetna, and compensation for any business services performed by the fiduciary or any affiliate for Aetna or its affiliates. The disclosure relating to compensation must be updated annually thereafter. Subsequent disclosures must also include the amount of fees and expenses paid for independent fiduciary services. The plans will be able to use this information to determine whether to approve Aetna's initial selection of the fiduciary committee and whether to continue such approval each year thereafter.[2]

14. Once and independent fiduciary is appointed, the independent fiduciary will continue to serve subject to an annual nomination by Aetna and vote by each of the plans participating in the ERISA-Covered Account. An independent fiduciary may be removed by a majority vote of the Account's contractholders. Aetna will not have the authority to remove an independent fiduciary during the term of that independent fiduciary. If a vacancy occurs by virtue of the death, resignation or removal of an independent fiduciary, a replacement independent fiduciary will be nominated by Aetna and approved by a majority vote of the Account's contractholders. Possible replacements may also be nominated by any of the Account's contractholders.

15. The independent fiduciary will normally be compensated by the ERISA-Covered Account. However, upon advance notice to the independent fiduciary and to the Account's contractholders, Aetna (or the Plan Sponsor in the case of a Single Customer Account) may pay such fees itself. Aetna will indemnify any independent fiduciary or members of an independent fiduciary committee with respect to any action or threatened action to which such person is made a party by reason of his or her service as an independent fiduciary. Indemnification will be provided as permitted under the laws of the State of Connecticut and subject to the requirement that such person acted in good faith and in a manner he or it reasonably believed to be solely in the interests of the participants and beneficiaries of the plans participating in the Account.

16. The independent fiduciary will record in writing all decisions made by him or it in such capacity. In addition to such decisions of such independent fiduciary, the rationale and support thereof must also be set forth in writing and maintained by Aetna pursuant to the recordkeeping requirements outlined in the General Conditions below. An independent fiduciary committee will be required to make its decisions on the basis of a two-thirds majority.

17. The independent fiduciary of each ERISA-Covered Account is required to approve any recommendation by Aetna involving a shared investment. Situations may arise where a conflict of interest may develop and the independent fiduciaries of the ERISA-Covered Accounts may not agree on what the appropriate course of action should be with respect to a proposed transaction. In such cases, Aetna will make recommendations, which may be outlined as alternatives, to the independent fiduciaries regarding the proposed transaction. If an alternative couse of action is not found that is acceptable and the independent fiduciaries of such Accounts are in effect stalemated, a procedure has been

[2] Aetna represents that the contractholders in its single customer and pooled closed-end real estate Accounts are knowledgeable and sophisticated investors who fully understand the operation of the ERISA-Covered Accounts.

developed by Aetna to ensure that a decision can be made.

18. This stalemate procedure is designed to provide a result that is the same as would be followed in comparable situations where unrelated parties to a transaction were dealing at arm's length. This means that the action that will be taken in such cases is the one that does not require an ERISA-Covered Account to invest new money and will not change the terms of an existing agreement or the existing relationship between the Accounts. For example, in the case of a proposed modification to a debt investment shared by two ERISA-Covered Accounts, if the independent fiduciaries cannot agree on such modification, no modification will be made. Rather, the terms of the loan agreement, as originally stated, will be carried out. Or, in the case of a partnership interest shared by two ERISA-Covered Accounts, the exercise of a buy-sell provision in the partnership agreement by a co-partner will require the two ERISA-Covered Accounts which share Aetna's interest in the partnership to either sell their partnership interest to the co-partner at a stated price, as determined by the partnership agreement, or buy the co-partner's interest at the stated price. If the independent fiduciaries cannot agree on the action to be taken and no alternative course of action is found to be acceptable, the ERISA-Covered Accounts will be required to sell their interest to the co-partner. This action would be taken because the other (purchase) option would require the expenditure of additional funds by an objecting Account.

In addition, situations may arise where an ERISA-Covered Account and a non-ERISA-Covered Account (other than the General Account) wish to pursue different courses of action. In such situations the decision on behalf of the non-ERISA-Covered Account will be made by persons independent of Aetna and its affiliates.[3]

Specific Transactions

I. Direct Real Estate Investments

(a) *Transfers between Accounts.* 19. Following the initial sharing of investments, it may be in the best interests of the Accounts participating in the investment for one Account to sell its interest to the other(s). Such a situation may arise, for example, when one Account experiences a need for liquidity in order to satisfy the cash needs of the plans participating in the Account, while for the other Account(s) the investment remains appropriate. One possible means of reconciling this situation is for the "selling" Account to sell its interest in the shared investment of the remaining participating Account(s) or to another Account(s) at current fair market value. Such sales may not, however, be appropriate in all circumstances. An inter-Account transfer will only be permitted when it is determined to be in the best interests of each Account that would be involved in the transaction. Where two or more separate accounts are involved in such a transfer, the transfer would also be subject to the approval of the Connecticut Insurance Department. In addition, Aetna has determined that no such transfers will be permitted between the General Account and an ERISA-Covered Account. Because Aetna would be acting on behalf of both the "buying" and "selling" Accounts in such an inter-Account transfer, the transfer might be deemed to constitute a prohibited transaction under section 406 of the Act. Accordingly, exemptive relief is requested herein for the sale or transfer of an interest in a shared real estate investment by one ERISA-Covered Account to another Account of which Aetna is a fiduciary. Such transfers would have to be at fair market value and approved by the independent fiduciary for each ERISA-Covered Account involved in the transfer. See Section I(a).

(b) *Joint Sales of Property.* 20. In situations involving shared real estate investments, an opportunity may arise to sell the entire investment to a third party, and it may be determined for all of the participating Accounts that the sale is desirable. When the General Account is participating in the investment, and the sale is therefore determined to be in the best interests of the General Account (in addition to being in the interests of the other Account(s)), the sale might be deemed to constitute a prohibited transaction under section 406 of the Act and section 4975 of the Code.[4] Similarly, Aetna may be acting on behalf of two ERISA-Covered Accounts or an ERISA-Covered Account and a non-ERISA-Covered Account other than the General Account. Accordingly, exemptive relief is requested for these joint sales. The sales would have to be approved by the independent fiduciary for each ERISA-Covered Account involved in the sale. See section I(b).

(c) *Additional Capital Contributions.* 21. On occasion, commercial real estate investments require infusions of additional capital in order to fulfill the investment expectations of the property. For example, developmental real estate investments sometimes require additional capital in order to complete the construction of the property. In addition, the cash flow to improve or operate completed buildings may also result in the need for additional capital. Such additional capital is frequently provided by the owners of the property. In the case of a property that is owned entirely by Aetna on behalf of the Accounts, it is contemplated that needed additional capital will ordinarily be contributed in connection with the investment in the form of an equity capital contribution made by each participating Account in an amount equal to such Account's existing percentage equity interest in the shared investment; [5] that is, in the first instance, each Account would be afforded the opportunity to contribute additional capital on a fully proportionate basis. In the case of ERISA-Covered Accounts, all decisions regarding the making of additional capital contributions must be approved by the independent fiduciary for the Account. The making of an additional capital contribution could be deemed to involve a prohibited transaction under section 406 of the Act. If one of more participating Accounts in a shared investment is unable to provide its share of the needed additional capital, various alternatives may be appropriate, including having the other Account(s) make a disproportionate contribution. For example, where the General Account and an ERISA-Covered Account participate in a shared investment and the need for additional capital arises, it might be determined for liquidity reasons or other factors involving the ERISA-Covered Account that the additional contribution should not be made by that Account. As a result, the additional equity capital may be provided entirely by the General Account with the further consequence that the General Account would thereafter have a larger interest in the investment and, therefore, a larger share in the appreciation and income to be

[3] In this regard, Aetna represents that persons independent of Aetna and its affiliates will make the decisions on behalf of non-ERISA-Covered Accounts pursuant to Section I(e)(2) and Sections II (b)(2), (c)(2) (d)(2) of the proposed exemption.

[4] The Department notes that all future references to the provisions of the Act shall be deemed to include the parallel provisions of the Code.

[5] In any case where the General Account participates in a shared investment with one or more ERISA-Covered Accounts and a call for additional capital is made, the General Account will always contribute at least its pro rata share of such capital.

derived from the property.[6] Such an adjustment in ownership interests might be deemed to constitute a prohibited (indirect sales) transaction under section 406 of the Act. In addition, these situations could also occur where two ERISA-Covered Accounts are involved or an ERISA-Covered Account and a non-ERISA-Covered Account. Accordingly, the applicant is requesting exemptive relief that would permit the contribution of additional equity capital for a shared investment by Accounts participating in the investment (including the General Account). Any decision made or action taken by an ERISA-Covered Account (*i.e.*, the contribution of either no additional capital, the Account's pro rata share of additional capital, less than or more than the Account's pro rata share, etc.) must be approved by such independent fiduciary. See section I(c).

(d) *Leading of Funds to Meet Additional Capital Requirements.* 22. If the General Account and an ERISA-Covered Account participate in a shared investment that experiences the need for additional capital, and it is determined that the ERISA-Covered Account does not have sufficient funds available to meet the call for additional capital, the General Account might be willing and able to loan the required funds to the ERISA-Covered Account. Prior to any loan being made, it must be approved by the independent fiduciary for the ERISA-Covered Account. Such loan will be unsecured and non-recourse, will bear interest at a rate that will not exceed the prevailing interest rate on 90-day Treasury Bills, will not be callable at any time by the General Account, and will be prepayable at any time without penalty at the discretion of the independent fiduciary of the ERISA-Covered Account. See section I(d).

(e) *Shared Debt Investments.* 23. Aetna occasionally makes real estate investments consisting of interim construction loans or medium or long-term mortgage loans on a property. In some intances, Aetna may have the opportunity to obtain an equity ownership interest in the underlying real property upon maturity of the debt or at the election of Aetna. It is possible that shared real estate debt investments might raise questions under section 406 of the Act in essentially two situations: (1) A material modification in the terms of a loan agreement, or (2) a default on a loan. From time to time, the terms of outstanding real estate loans need to be modified to take into account new developments. Such modifications may commonly include extensions of the terms of the loan, revised interest rates, revised repayment schedules, changes in covenants or warranties to permit, for example, additional financing to be provided by others, and the provision of additional financing to the borrower by Aetna. These situations require a decision on behalf of the lender whether it would be in its own interest to make the modifications in question. Similarly, when a borrower commits an act of default under a loan agreement, the lender must determine, in its own interest, what action, if any, it wishes to take. Such action might involve foreclosure on the loan, a restructuring of the loan arrangement, or, in some cases as appropriate, no action at all. When a debt investment is shared among Accounts, a decison must be made on behalf of each Account with respect to the action to be taken when a loan modification on loan default situation occurs. In some cases, moreover, it is conceivable that different actions might be desired by different Accounts. Normally, however, only one unified course of action is possible in the situation. Since Aetna manages each of these Accounts, the action it decides to take for the particularly Accounts may raise questions under section 406 of the Act. Accordingly, exemptive relief is being requested that will permit Aetna on behalf of the Accounts to take appropriate action with respect to the modification of the material terms of a loan, or with respect to a default situation when the loan is a shared investment involving one or more ERISA-Covered Accounts, or with respect to the acquisition of additional debt. Each such action would require approval of the independent fiduciary for each ERISA-Covered Account and Aetna or the client for each non-ERISA-Covered Account. If there is an agreement among the independent fiduciaries and the non-ERISA-Covered Accounts as to the course of action to follow with regard to a proposed loan modification, or an adjustment in the rights upon default, such modification or adjustment will be implemented. If, upon full discussion of the matter, no course of action can be agreed upon by the independent fiduciaries and the non-ERISA-Covered Accounts, no modification of the terms of the loan or adjustment in the rights upon default would be made. The terms of the loan agreement as originally stated would be carried out. With respect to shared debt investments involving ERISA-Covered Accounts and non-ERISA-Covered Accounts (other than the General Account), decisions on behalf of the non-ERISA-Covered Accounts will be made by persons independent of Aetna and its affiliates. See Section I(e).

II. Partnership Investments

24. Many real estate investments are structured as partnership arrangements (rather than 100 percent ownership interest in property) in which Aetna and another party, such as a real estate developer or manager, participate as co-partners. Generally, Aetna's co-partner acts as managing partner of the joint venture. Aetna, in turn, may allocate its interest in the partnership to more than one Aetna account. Partnership investments typically involve several particular features by virtue of the terms and conditions of the partnership agreements that may, when Aetna's partnership interest is shared, result in possible violations of section 406 of the Act.

(a) *Additional Capital Contributions to Joint Ventures.* 25. As in the case of investments made entirely by Aetna, partnership real estate investments sometimes require additional operating capital. Typically, the partnership agreements entered into by Aetna and many other real estate investors provide for a capital call by the general partner of the partnership to be made to each partner and that each partner provide the needed capital on a pro rate basis either in the form of an equity contribution or a loan to the partnership. In one partner refuses to contribute its pro rata equity share of the capital call, the other partner(s) may contribute additional capital to cover the short-fall and thereby "squeeze down" the interst in the venture of the non-contributing partner.[7] Alternatively, if sufficient

[6] In the case of shared real estate investments owned entirely by Aetna accounts, if an Account contributes capital equalling less than its pro rata interest in the investment (or makes no contribution at all), that Account's equity interest will be re-adjusted and reduced based on the change in the fair market value of the property caused by the infusion of new capital.

[7] In the case of a call for additional capital invovling a typical partnership arrangement entered into between parties dealing at arm's-length, the partnership agreement may commonly provided that the equity interest of any non-contributing partner be re-adjusted, or "squeezed down", on a capital interest basis. This invovles re-adjusting the equity interests of the partners solely on the basis of the percentage of total capital contributed without taking into account any appreciation on the underlying property. This "capital interest" adjustment can substantially diminish the equity interest of the non-contributing partner in the actual current market value of the underlying property. Thus, this type of re-adjustment is intended to provide an incentive to all partners to make their proportionate capital contributions so that improvements can be made and the operation of a property continued without burdening the other partners.

additional capital is not provided by the partners, other financing may be sought, or the partnership may be liquidated. In the case of a capital call where Aetna's partnership interest is shared by two or more Accounts, a determination must be made on behalf of each Account participating in the shared investment with respect to whether it is appropriate for the Account to provide its proportionate share of additional capital requested by the partnership. The general rule that Aetna will follow is that each Account will be given the opportunity to provide its pro rata share of the capital call, but for some Accounts it may be determined to be appropriate to provide less than a full share or no additional capital at all. In such cases, the interest of the Account would be reduced proportionately on a fair market basis. In the case of ERISA-Covered Accounts, all decisions regarding the making of additional capital contributions must be approved by the independent fiduciary for the Account. In addition to situations where some Accounts participating in the ownership of Aetna's partnership interest may not be in a position to provide their share of a capital call, other situations may arise where a partner is unable to make its additional capital contributions. Both of these situations may result in prohibited transactions under section 406 of the Act.

26. *Aetna Shortfall.* In situations where the General Account and an ERISA-Covered Account are sharing an investment in a partnership, the General Account and an ERISA-Covered Account may experience a capital call from the general partner of the partnership for either an additional equity or debt contribution. If it is determined that the ERISA-Covered Account does not have sufficient funds available to meet its contribution requirement,[8] the General Account may make an additional equity contribution to the partnership to cover the ERISA-Covered Account's shortfall. However, in any case where the General Account contributes an ERISA-Covered Account's shortfall, the ERISA-Covered Account's share of the partnership interest will be readjusted and reduced based upon the change in the fair market value of the partnership interest held by Aetna which is caused by the infusion of new capital, thus recognizing any appreciation in the investment. There is no "capital basis squeeze down" effect under these circumstances as there might be under the partnership agreement should Aetna (in its role as a partner) fail to meet a call for additional capital. See section II(a)(1). Additionally, the General Account may make a loan to the ERISA-Covered Account to enable the ERISA-Covered Account to make its required pro rata capital contribution. Accordingly, subject to the conditions of the proposed exemption, section II(a)(2) would provide relief for loans of this type. Prior to any loan being made, it would have to be approved by the independent fiduciary for the ERISA-Covered Account. Such loan will be unsecured and non-recourse, will bear interest at a rate that will not exceed the prevailing interest rate on 90-day Treasury Bills, will not be callable at any time by the General Account, and will be prepayable at any time without penalty at the discretion of the independent fiduciary of the ERISA-Covered Account. In this way, the needed capital may be provided without causing a "squeeze down" in the equity interest of the participating ERISA-Covered Account. A similar situation may arise where two ERISA-Covered Accounts, or an ERISA-Covered and a non-ERISA Covered Account, other than the General Account, participate in a partnership investment. If one Account is unable or unwilling to provide its proportionate share of a capital call, the other Account (but not the General Account) may be interested in making up the shortfall. This might be accomplished by means of an equity contribution with a resulting re-adjustment on a current fair market value basis in the equity ownership interests of the participating Accounts. Thus, any of these disproportionate contribution situations between Accounts (other than the General Account) might result in a violation of section 406(b)(2) of the Act. Subject to the generally applicable conditions of this proposed exemption, Section II(a)(3) provides limited relief for these disproportionate contributions.

27. *Co-Partner Shortfall.* In some cases, Aetna's partner in a partnership investment may be unable to meet its additional capital obligation, and Aetna may deem it advisable for some or all of the participating Accounts to contribute capital in excess of the pro rata share of Aetna's Accounts in the partnership in order to finance the operation of the property (and thereby squeeze down the equity interest of the partner).[9] The applicant is requesting exemptive relief that would permit additional capital contributions to be made by participating Accounts (including the General Account) on a non-proportionate basis if the need arises. Any instance involving the infusion of additional capital to a partnership will be considered by the independent fiduciary for each ERISA-Covered Account participating in the investment and any action to be taken by the Account must be approved by the independent fiduciary. These actions might include contributing a pro rata share of additional equity capital (including a capital contribution that squeezes down the interest of a partner on the basis provided in the partnership agreement), contributing more or less than a pro rata share, or contributing no additional capital. See Section II(a)(4).

(b) *Third Party Purchase of Partnership Properties.* 28. Under the terms of certain partnership agreements entered into by Aetna and other real estate investors, if an offer is received from a third party to purchase the assets of the partnership, and one partner (irrespective of the percentage ownership interest of the partner) wishes to accept the offer the other partner must either (1) Also accept the offer, or (2) buy out the first partner's interest at the portion of the offer price that is proportionate to the first partner's share of the partnership. For example, if Aetna on behalf of the Accounts and a real estate developer are partners in a property and an offer is received from another person to acquire the entire property that the developer wants to accept, Aetna on behalf of the Accounts would be obligated either to sell its interest also to the third party or to buy out the interest of the developer at the portion of the price offered by the third party proportionate to the developer's share of the partnership. When Aetna's interest in a real estate partnership is shared by two or more Accounts, it is likely that the same decision will be appropriate for each Account in any third-party purchase situation. See Sections I(b) and II(b)(1). It is also possible, however, that it might be in the interests of some Acounts to reject the offer and buy-out the partner,

[8] In any case where the General Account and one or more ERISA-Covered Accounts share Aetna's interest in a partnership, the General Account will always make a capital contribution that is at least equivalent proportionately to the highest capital contribution made by an ERISA-Covered Account (but not higher than the General Account's pro rata share of the required additional capital except, as described in paragraph 27, in the event of a co-venturer shortfall). Thus, the General Account will never be the cause as between the Accounts of a capital contribution shortfall by Aetna that would result in a capital basis squeeze down by a partner.

[9] In any case involving a shared partnership interest held by the General Account and an ERISA-Covered Account, if it is determined that the ERISA-Covered Account will contribute its pro rata share of extra capital the General Account would also contribute at least its pro rata share of such capital.

while other Accounts might not have the funds to do so or, for some other reason, would elect to sell to the third party. The partnership agreements typically require, however, that Aetna on behalf of the Accounts provide its co-partner with a buy or sell reply. Thus, in making a buy or sell decision in any of these cases involving an ERISA-Covered Account, Aetna might be deemed to be acting in violation of section 406 of the Act. Further, in order to resolve situations where the same reply is not appropriate for all participating Accounts, various alternatives may be adopted. For example, the Account(s) that wishes to continue owning the property may be willing and able itself to buy-out not only the co-partner, but also the other participating Account(s) that wishes to accept the third party offer to sell. The General Account, however, will not participate in the buy-out of another Account(s). Or, one Account may itself be willing and able to buy-out the co-partner while the other Account chooses to continue holding its original interest in the property. Alternatively, all of the Accounts may choose to participate in the buy-out, but on a basis that is not in proportion to their existing ownership interests. Such alternatives, when an ERISA-Covered Account is involved, while all possibly desirable from case to case, may also raise questions under section 406 of the Act, whether or not the General Account is a participant in the investment. Accordingly, the applicant is requesting exemptive relief that would permit Aetna to respond to third-party property purchase offers as appropriate under the circumstances. Such a reponse might involve acceptance of the offer on behalf of all participating Accounts, a buy-out of a partner by some or all of the participating Accounts on a pro rata or non-pro rata basis, or a buy-out of the interest of one participating Account (and of the co-partner) by other participating Accounts. Any action by any ERISA-Covered Account in these situations will be required to be approved by the independent fiduciary for the Account. Further, in any case involving the sharing of a partnership interest between the General Account and an ERISA-Covered Account, Aetna has determined that the action taken by the General Account in such third-party purchase offer situations will not be inconsistent with the action approved for the ERISA-Covered Account by the independent fiduciary for such Account. For example, where Aetna recommends that a third-party purchase offer be accepted and the independent fiduciary nevertheless determines that the interest of the co-partner should be bought out, both Accounts will buy out the interest of the co-partner on a proportionate basis, unless a disproportionate buy-out is agreeable to both Aetna and the independent fiduciary. However, where an offer to sell is acceptable to the co-partner (and Aetna has the option of seling to the third party or buying out the co-partner) and it is determined that the General Account is willing and able alone to buy out the co-partner's interest, the independent fiduciary may elect that the ERISA-Covered Account retain its existing ownership interest. In such case, the General Account may buy out the co-partner pursuant to section II(b)(1). In any case in which more than one ERISA-Covered Acocunt participates in a shared partnership investment and there is a lack of agreement among the independent fiduciaries with respect to whether to accept a "sell" offer or to buy-out a co-partner, Aetna, as indicated above, must nevertheless provide a unified response to the co-partner on behalf of all participating Accounts. Accordingly, in these instances, all participating Accounts will be required to accept the "sell" offer, unless the Account or Accounts that prefer the buy-out can buy-out both the co-partner's and the "selling" Account's interest, or unless one Account elects to retain its original ownership interest while the other Acocunt(s) alone buys out the co-partner's interest. The applicant represents that this action is preferred because the purchase option would require the expenditure of additional funds by an objecting Account.[10] See Section II(b).

(c) *Rights of First Refusal in Partnership Agreements.* 29. Under the terms of certain partnership agreements entered into by Aetna and other real estate investors, if a partner wishes to sell its interest in the partnership to a third party, the other partner must be given the opportunity to exercise a right of first refusal to purchase the first partner's interest at the price offered by the third party. For example, if Aetna and a real estate developer are joint venture partners and the developer decided to sell its interest to a third party, Aetna would have the right to purchase the developer's interest at the price offered by the third party. In the case of shared real estate partnerships, the decision by Aetna on behalf of the Accounts with respect to whether or not to exercise a right of first refusal might raise questions under section 406 of the Act since each Account participating in the investment might be affected differently by such decision. Because, under the terms of the partnership agreement, only one option (exercise or not exercise) may be chosen by Aetna on behalf of the Accounts, exemptive relief is being requested that would permit Aetna to exercise or not exercise a right of first refusal as may be appropriate under the circumstances. Any action taken on behalf of an ERISA-Covered Account regarding the exercise of such a right would have to be approved by the independent fiduciary. Further, under the requested exemption, if the General Account and an ERISA-Covered Account share a partnership investment, even though Aetna may initially decide on behalf of the General Account not to make a purchase under a right of first refusal option, the General Account will be required to participate in the purchase of the other partner's interest if the independent fiduciary determines that it is appropriate for the ERISA-Covered Account to participate in the exercise of the right of first refusal on at least a pro rata basis. If, however, two Accounts other than the General Account participate in a shared partnership interest and agreement cannot be reached on behalf of the Accounts on whether to exercise a right of first refusal, the right will not be exercised and the partner will be permitted to sell its interest to the third party, unless one Account decides to buy-out the partner alone. In this regard, it is conceivable that some participating Accounts may elect to take advantage of a right of first refusal opportunity and buy-out a co-partner without other participating Accounts taking part in the transaction. For example, in the case of a shared partnership investment involving the General Account (or any other Account) and an ERISA-Covered Account, if the co-partner wishes to accept an offer to sell its interest and the independent fiduciary of the ERISA-Covered Account decides not to have the account participate in purchasing that partner's interest, the General Account (or other participating Account) would be free to make the purchase on its own. The exercise of a right of first refusal on such a disproportionate basis might also raise questions under section 406 of the Act for which exemptive relief may be needed. See Section II(c).

[10] Similarly, in any case involving an ERISA-Covered Account and a non-ERISA-Covered Account, if there is a lack of agreement between the independent fiduciary and, for example, the trustees of a foreign or public plan (or Aetna in the case of a discretionary non-ERISA-Covered Account), all participating Accounts will be required to accept the "sell" offer unless an alternative accommodation as described above is made.

(d) *Buy-Sell Provisions in Partnership Agreements.* 30. Certain partnership agreements entered into by Aetna may provide that one partner may demand that the other partner either sell its interest to the first partner at a price as determined by the terms of the partnership agreement or buy out the interest of the first partner at such price. If the other partner refuses to exercise either option within a specified period, it must sell its interest to the first partner at the stated price. These "buy-sell" provisions are generally used to resolve serious difficulties or impasses in the operation of a partnership, but generally a partnership agreement permits the buy-sell provision to be exercised at any time. As in the situations discussed above, the decision by Aetna on behalf of the Accounts to make a buy-sell offer, or its reaction to such an offer made by a co-partner, may affect various participating Accounts differently. Accordingly, any decision made by Aetna in these cases involving ERISA-Covered Accounts might raise questions under section 406 of the Act. The applicant is requesting exemptive relief that would permit Aetna to make an appropriate decision under the circumstances on behalf of all participating Accounts to make buy-sell offer to a co-partner or to react to a buy-sell offer from a co-partner. Any such decision must be approved by the independent fiduciary for each ERISA-Covered Account participating in the investment. Further, under the requested exemption, if Aetna decides to exercise (i.e., initiate) a buy-sell option with repsect to the co-partner's interest and the indedpendednt fiduciary of a participating ERISA-Covered Account objects, the buy-sell option will not be exercised. Similarly, if the buy-sell option is initated by the co-partner and there is a split among the independent fiduciaries of participating ERISA-Covered Accounts with respect to whether to buy or sell, all such Accounts will be required to sell, unless the Account(s) that wishes to buy-out the co-partner (or the co-partner and the other participating Account) can do so without the participation of the other Accounts. Also, where a buy-sell option is initiated by the co-partner and Aetna determines that the General Account should purchase the co-partner's interest, if the independent fiduciary of a participating ERISA-Covered Account determines that, as between "buy" or "sell", such Account's interest should be sold, Aetna's entire partnership interest will be sold unless the independent fiduciary agrees that it would be preferable for the ERISA-Covered Account to retain its share of the partnership interest and Aetna determines that the General Account is willing and able to purchase the entire interest of the co-partner. Any such disproportionate purchases may, however, also raise questions under section 406 of the Act. See section II(d).

(e) *Transactions with Partnership Party in Interest.* 31. The applicant represents that when the General Account holds a 50 percent or more interest in a partnership, the partnership itself may be deemed to be a party in interest under section 3(14)(G) of the Act. Thus, any subsequent transaction involving the partnership and a separate account or investment advisory account that is also participating in the partnership (*e.g.*, an additional contribution of capital) may be deemed to be a transaction between the plans participating in an ERISA-Covered Account and a party in interest (the partnership itself) in violation of section 406. Also, as a result of the partnership becoming a party in interest under section 3(14)(G) of the Act, other partners in the partnership having a ten percent or more interest may be parties in interest under section 3(14)(I). Therefore, transactions such as buy-outs, sales of property, leases, etc., may occur which involve possible violations of section 406. Accordingly, the applicant is requesting exemptive relief from the restrictions of section 406(a) of the Act, only, which would permit: (1) Any additional equity or debt capital contributions to a partnership by an ERISA-Covered Account which is participating in an interet in the partnership, where the partnership is a party in interest solely by reason of the ownership on behalf of the General Account of a 50 percent or more interest in such partnership; (2) any material modification in the terms of, or action taken upon default with respect to, a loan to the partnership in which the ERISA-Covered Account has an interest as a lender; or (3) other transactions with the co-partners which arise in connection with the operation of the partnership. Any such action would be conditioned upon the approval of the independent fiduciary for the ERISA-Covered Account. In addition, the transactions would be conducted on a totally arm's-length basis, and the party in interest involved would have no power or authority to influence any of the transactions engaged in by Aetna on behalf of any of the Accounts managed by Aetna. See section III.

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Initial Proportionate Allocations

Pending review by the Department of the investment structure and post-initial allocation transactions described in this notice, the applicant, Aetna, has not requested exemptive relief for the initial allocation of shared real estate investments by Aetna among two or more Accounts, at least one of which is an ERISA-Covered Account, where each of the Accounts participating in a real estate investment participates in the debt and equity interests in the same relative proportions. It is the applicant's position that the initial sharing of a real estate investment pursuant to the described allocation by two or more accounts maintained by Aetna (which may include both the General Account and one or more ERISA Accounts) does not involve a *per se* violation of sections 406(a)(1)(D) and 406 (b)(1) and (b)(2) of the Act.

Regulations under section 406(b)(2) of the Act (29 CFR 2550.406b–2(e)) provide that the prohibitions of section 406(b) are imposed on fiduciaries to deter them from exercising the authority, control or responsibility which makes them fiduciaries when they have interests which may conflict with the interests of the plans for which they act. In such cases, the regulation states that the fiduciaries have interests in the transactions which may affect the exercise of their best judgment as fiduciaries. It is the Department's view, however, that a fiduciary does not violate section 406(b)(1) with respect to a transaction involving the assets of a plan if he does not have an interest in the transaction that may affect his best judgment as a fiduciary.

Similarly, a fiduciary does not engage in a violation of section 406(b)(2) in a transaction involving the plan if he represents or acts on behalf of a party whose interests are not adverse to those of the plan. Nonetheless, if a fiduciary causes a plan to enter into a transaction where, by the terms or nature of that transaction, a conflict of interest between the plan and the fiduciary exists or will arise in the future, that transaction would violate either section 406 (b)(1) or (b)(2) of the Act. Moreover, if, during the course of a transaction which, at its inception, did not involve a violation of section 406(b)(1) or 406(b)(2), a divergence of interests develops between the plan and the fiduciary, the fiduciary must take steps to eliminate the conflict of interest in order to avoid engaging in a prohibited transaction.

In the view of the Department, the mere investment of assets of a plan on

identical terms with a fiduciary's investment for its own account and in the same relative proportions as the fiduciary's investment would not, in itself, cause the fiduciary to have an interest in the transaction that may affect its best judgment as a fiduciary. Therefore, such an investment would not, in itself, violate section 406(b)(1). In addition, such shared investment, or an investment by a plan with another account maintained by a common fiduciary, pursuant to reasonable procedures established by the fiduciary would not cause the fiduciary to act on behalf of [or represent] a party whose interests are adverse to those of the plan, and therefore, would not, in itself, violate section 406(b)(2).[11]

With respect to section 406(a)(1)(D) of the Act which prohibits the transfer to, or use by or for the benefit of a party in interest (including a fiduciary) of the assets of a plan, it is the opinion of the Department that a party in interest does not violate that section merely because he derives some incidental benefit from a transaction involving plan assets. We are assuming, for purposes of this analysis, that the fiduciary does not rely upon and is not otherwise dependent upon the participation of plans in order to undertake its share of the investment.

Thus, with respect to the investment of plan assets in shared investments which are made simultaneously with investments by a fiduciary for its own account on identical terms and in the same relative proportions, it is the view of the Department that any benefit that the fiduciary might derive from such investment under these circumstances is incidental and would not violate section 406(a)(1)(D) of the Act.

Accordingly, since it appears that the method by which the interests in the real estate investments are allocated to the Accounts maintained by Aetna does not result in *per se* prohibited transactions under the Act, the Department has not proposed exemptive relief with respect to the initial sharing of these investments.

Notice to Interested Persons

Those persons who may be interested in the pendency of the requested exemption include fiduciaries and participants of plans investing in ERISA-Covered Accounts which are engaging in transactions described in the proposed exemption. Because of the number of affected persons, the Department has determined that the only practical form of providing notice to interested persons is the distribution, by Aetna, of the notice of proposed exemption as published in the Federal Register to the plan sponsor of each plan described above. The distribution will occur within 30 days of the publication of the notice of proposed exemption in the Federal Register.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Section I—Exemption for Certain Transactions Involving the Management of Investments Shared by Two or More Acounts Managed by Aetna

If the exemption is granted, as indicated below, the restrictions of certain sections of the Act and the sanctions resulting from the application of certain parts of section 4975 of the Code shall not apply to the following transactions if the conditions set forth in section IV are met:

(a) *Transfers Between Accounts*—The restrictions of section 406(b)(2) of the Act shall not apply to the sale or transfer of an interest in a shared investment (including a shared partnership interest) between two or more Accounts (except the General Account), provided that each ERISA-Covered Account pays no more, or receives no less, than fair market value for its interest in a shared investment.

(b) *Joint Sales of Property*—The restrictions of section 406(a), 406(b)(1), and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale to a third party of the entire interest in a shared investment (including a shared partnership interest) by two or more Accounts, provided that each ERISA-Covered Account receives no less than fair market value for its interest in the shared investment.

(c) *Additional Capital Contributions.*—The restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply either to the making of a proportionate equity capital contribution by one or more of the Accounts to a shared investment; or to the making of a Disproportionate (as defined in section V(e)) equity capital contribution (or the failure to make such additional contribution) by one or more of such Accounts which results in an adjustment in the equity ownership interests of the Accounts in the shared investment on

[11] This analysis does not address any issues which may arise under section 406(b)(2) where investments are shared solely by two or more separate accounts maintained by a common fiduciary and the participation of one account is relied upon to support the initial investment of the other account.

the basis of the fair market value of such interests subsequent to such contribution, provided that each ERISA-Covered Account is given an opportunity to make a proportionate contribution.

(d) *Lending of Funds*—The restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the lending of funds from the General Account to an ERISA-Covered Account to enable the ERISA-Covered Account to make an additional proportionate capital contribution, provided that such loan—

(A) Is unsecured and non-recourse with respect to participating plans,

(B) Bears interest at a rate not to exceed the prevailing rate on 90-day Treasury Bills,

(C) Is not callable at any time by the General Account, and

(D) Is prepayable at any time without penalty.

(e) *Shared Debt Investments*—In the case of a debt investment that is shared between two or more Accounts, including one or more of the ERISA-Covered Accounts, (1) the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to any material modification in the terms of the loan agreement resulting from a request by the borrower or any decision regarding the action to be taken, if any, on behalf of the Accounts in the event of a loan default by the borrower, (2) the restrictions of section 406(b)(2) of the Act shall not apply to any decision by Aetna on behalf of one or more ERISA-Covered Accounts: (A) not to modify a loan agreement as requested by the borrower; or (B) to exercise any rights provided in the loan agreement in the event of a loan default by the borrower, even though the independent fiduciary for one or more of such ERISA-Covered Accounts has approved such modification or has not approved the exercise of such rights and (3) the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply either to the proportionate acquisition of additional debt by one or more of the Accounts to a shared debt investment, or to the acquisition of Disproportionate additional debt (or the failure to acquire such additional debt) by one or more of such Accounts which results in an adjustment in the amount of debt held by the Accounts in the shared investment provided that each ERISA-Covered Account is given an opportunity to acquire additional debt on a proportionate basis.

Section II—Exemption for Certain Transactions Involving the Management of Partnership Interests Shared by Two or More Accounts Managed by Aetna

If the exemption is granted, the restrictions of certain sections of the Act and the sanctions resulting from the application of certain parts of section 4975 of the Code shall not apply to the following transactions resulting from the sharing of an investment in a real estate partnership between two or more Accounts, if the conditions set forth in section IV are met:

(a) *Additional Capital Contributions*—(1) The restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply either to the making of additional proportionate equity capital contributions by one or more Accounts participating in the partnership; or to the making of Disproportionate (as defined section V(e)) equity capital contributions by one or more of such Accounts which results in an adjustment in the equity ownership interest of the Accounts in the shared partnership investment on the basis of the fair market value of such interests subsequent to such contributions, provided that each ERISA-Covered Account is given an opportunity to make a proportionate contribution.

(2) The restrictions of section 406(a) and 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the lending of funds from the General Account to an ERISA-Covered Account to enable the ERISA-Covered Account to make an additional proportionate capital contribution, provided that such loan—

(A) Is unsecured and non-recourse with respect to the participating plans,

(B) Bears interest at a rate not to exceed the prevailing rate on 90-day Treasury Bills,

(C) Is not callable at any time by the General Account, and

(D) Is prepayable at any time without penalty.

(3) The restrictions of section 406(b)(2) of the Act shall not apply to the making of Disproportionate additional equity capital contributions (or the failure to make such additional contributions) to the partnership by Accounts other than the General Account which result in an adjustment in the equity ownership interests of the ERISA-Covered Accounts in the partnership on the basis of the fair market value of such partnership interests subsequent to such contributions, provided that each ERISA-Covered Account is given an opportunity to provide its proportionate share of the additional equity capital contributions; and

(4) In the event a co-partner fails to provide all or any part of its proportionate share of an additional equity capital contribution, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the making of Disproportionate additional equity capital contributions to the partnership by an Account up to the amount of such contribution not provided by the co-partner which result in an adjustment in the equity ownership interests of the Accounts in the partnership on the basis provided in the partnership agreement, provided that such ERISA-Covered Account is given an opportunity to participate in all additional equity capital contributions on a proportionate basis.

(b) *Third Party Purchase Offers*—(1) In the case of an offer by a third party to purchase any property owned by the partnership, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the acquisition by the Accounts, including one or more ERISA-Covered Account(s), on either a proportionate or Disproportionate basis of a co-partner's interest in the partnership in connection with a decision on behalf of such Accounts to reject such purchase offer, provided that each ERISA-Covered Account is first given an opportunity to participate in the acquisition on a proportionate basis; and

(2) The restrictions of section 406(b)(2) of the Act shall not apply to any acceptance by Aetna on behalf of two or more Accounts, including one or more ERISA-Covered Account(s), of an offer by a third party to purchase a property owned by the partnership even though the independent fiduciary for one or more of such ERISA-Covered Account(s) has not approved the acceptance of the offer (where all of the Accounts (other than the General Account) participating in such investment are not in agreement

on how to proceed with respect to such offer), provided that the declining Accounts(s) are first afforded the opportunity to buy out both the co-partner and "selling" Accounts's interests in the partnership.

(c) *Rights of First Refusal*—(1) In the case of the right to exercise a right of first refusal described in a partnership agreement to purchase a co-partner's interest in the partnership at the price offered for such interest by a third party, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the acquisition by such Accounts, including one or more ERISA-Covered Account(s), on either a proportionate or Disproportionate basis of a co-partner's interest in the partnership in connection with the exercise of such a right of first refusal, provided that each ERISA-Covered Account is first given an opportunity to participate on a proportionate basis; and

(2) The restrictions of section 406(b)(2) of the Act shall not apply to any decision by Aetna on behalf of the ERISA-Covered Accounts not to exercise such a right of first refusal even though the independent fiduciary for one or more of such ERISA-Covered Accounts has approved the exercise of the right of first refusal (where all of the Accounts participating in such investment (other than the General Account) are not in agreement on how to proceed with respect to such right of first refusal), provided that the Accounts that approved the exercise of the right of first refusal are offered the opportunity to buy-out the co-partner on their own.

(d) *Buy-Sell Options*—(1) In the case of the exercise of a buy-sell option set forth in the partnership agreement, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the acquisition by one or more of the Accounts on either a proportionate or Disproportionate basis of a co-partner's interest in the partnership in connection with the exercise of such a buy-sell option, provided that each ERISA-Covered Account is first given the opportunity to participate on a proportionate basis; and

(2) The restrictions of section 406(b)(2) of the Act shall not apply to any decision by Aetna on behalf of two or more Accounts, including one or more ERISA-Covered Account(s), to sell the interest of such Accounts in the partnership to a co-partner even though the independent fiduciary for one or more of such ERISA-Covered Account(s) has not approved such sale (where all of the Accounts participating in such investment (other than the General Account) are not in agreement on how to proceed with respect to the buy-sell option), provided that such disapproving Account is first afforded the opportunity to purchase the entire interest of the co-partner.

Section III—Exemption for Transactions Involving a Partnership or Persons Related to a Partnership

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply, if the conditions in Section IV are met, to any additional equity or debt capital contributions to a partnership, or any transaction with the co-partner which arises in connection with the operation of the partnership, by an ERISA-Covered Account that is participating in an interest in the partnership, or to any material modification in the terms of, or action taken upon default with respect to, a loan to the partnership in which the ERISA-Covered Account has an interest as a lender, where the partnership is a party in interest solely by reason of the ownership on behalf of the General Account of a 50 percent or more interest in such joint venture.

Section IV—General Conditions

(a) The decision to participate in any ERISA-Covered Account that shares real estate investments must be made by plan fiduciaries who are totally unrelated to Aetna and its affiliates. This condition shall not apply to plans covering employees Aetna and its affiliates.

(b) Each contractholder or prospective contractholder in an ERISA-Covered Account which shares or proposes to share real estate investments is provided with a written description of potential conflicts of interest that may result from the sharing, a copy of the notice of pendency, and a copy of the exemption as granted.

(c) An independent fiduciary must be appointed on behalf of each ERISA-Covered Account participarting in the sharing of investments. The independent fiduciary shall be either

(1) a business organization which has at least five years of experience with respect to commercial real estate investments,

(2) a committee comprised of one or more individuals who each have at least five years of experience with respect to commercial real estate investments, or

(3) the plan sponsor (or its designee) of a plan (or plans) that is the sole participant in an ERISA-Covered Account.

(d) The independent fiduciary or independent fiduciary committee member shall not be or consist of Aetna or any of its affiliates.

(e) No organization or individual may serve as an independent fiduciary for an ERISA-Covered Account for any fiscal year if the gross income (other than fixed, non-discretionary retirement income and any cost of living increases thereon) received by such organization or individual (or any partnership or corporation of which such organization or individual is an officer, director, or ten percent or more partner or shareholder) from Aetna, its affiliates, and the ERISA-Covered Accounts for that fiscal year exceeds five percent of its or his annual gross income from all sources for the prior fiscal year. If such organization or individual had no income for the prior fiscal year, the five percent limitation shall be applied with reference to the fiscal year in whch such organization or individual serves as an independent fiduciary. The income limitation will include income for services rendered to the Accounts as independent fiduciary under any prohibited transaction exemption(s) granted by the Department. However, such income limitation shall not include any income for services rendered to a Single Customer ERISA-Covered Account by an independent fiduciary selected by the Plan Sponsor to the extent determined by the Department in any subsequent prohibited transaction proceeding.

In addition, no organization or individual who is an independent fiduciary, and no partnership or corporation of which such organization or individual is an officer, director or ten percent or more partner or shareholder, may acquire any property from, sell any property to, or borrow any funds from Aetna, its affiliates, or any Account managed by Aetna or its affiliates, during the period that such organization or individual serves as an independent fiduciary and continuing for a period of six months after such organization or individual ceases to be an independent fiduciary, or negotiate any such transaction during the period that such organization or individual serves as independent fiduciary.

(f) The independent fiduciary acting on behalf of an ERISA-Covered Account shall have the responsibility and authority to approve or reject

recommendations made by Aetna or its affiliates for each of the transactions in this proposed exemption. Aetna and its affiliates shall involve the independent fiduciary in the consideration of contemplated transactions prior to the making of any decisions, and shall provide the independent fiduciary with whatever information may be necessary in making its determinations.

In addition, the independent fiduciary shall review on an as-needed basis, but not less than twice annually, the shared real estate investments in the ERISA-Covered Account to determine whether the shared real estate investments are held in the best interest of the ERISA-Covered Account.

(g) Aetna maintains for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (h) of this Section to determine whether the conditions of this exemption have been met, except that a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Aetna or its affiliates, the records are lost or destroyed prior to the end of the six-year period.

(h)(1) Except as provided in paragraph (2) of this subsection (h) and notwithstanding any provisions of subsection (a)(2) and (b) of section 504 of the Act, the records referred to in subsection (g) of this section are unconditionally available at their customary location for examination during normal business hours by—

(A) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(B) Any fiduciary of a plan participating in an ERISA-Covered Account who has authority to acquire or dispose of the interests of the plan, or any duly authorized employee or representative of such fiduciary,

(C) Any contributing employer to any plan participating in an ERISA-Covered Account or any duly authorized employee or representative of such employer, and

(D) Any participant or beneficiary of any plan participating in an ERISA-Covered Account, or any duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described in subparagraphs (B) through (D) of this subsection (h) shall be authorized to examine trade secrets of Aetna, any of its affiliates, or commercial or financial information which is privileged or confidential.

Section V—Definitions

For the purposes of this exemption:

(a) An *affiliate* of Aetna includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with Aetna,

(2) Any officer, director or employee of Aetna or person described in section V(a)(1), and

(3) Any partnership in which Aetna is a partner.

(b) An *Account* means any account managed by Aetna, including the General Account, ERISA-Covered Accounts, Pooled Accounts and Single Customer Accounts, as well as combinations of accounts other than the General Account which are consolidated for investment management purposes as if they were a single account.

(c) The *General Account* means the general asset account of Aetna and any of its affiliates which are insurance companies licensed to do business in at least one State as defined in section 3(10) of the Act.

(d) An *ERISA-Covered Account* means any Account (other than the General Account) in which employee benefit plans subject to Title I or Title II of the Act participate.

(e) *Disproportionate* means not in proportion to an Account's existing equity ownership interest in an investment, partnership or partnership interest or interest in a debt.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consumated pursuant to the exemption.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Signed at Washington, DC, this 25th day of October, 1990.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 90–25656 Filed 10–29–90; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–8448 et al.]

Proposed Exemptions: Anthony Limoncelli, M.D., P.A. Defined Benefit Pension Plan and Trust, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this Federal Register notice. Comments and request for a hearing should state the reasons for the writer's interest in pending exemption.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, room N–5671, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, room N–5507, 200 Constitution Avenue, NW., Washington, DC. 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the Federal Register. Such notice shall include a copy of the notice of pendency of the exemption as published in the Federal Register and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Anthony Limoncelli, M.D., P.A. Defined Benefit Pension Plan and Trust (the Plan) Located in Port Charlotte, Florida

[Application No. D-8448]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed cash sale by the Plan of certain land (the Land) to Anthony Limoncelli, M.D. (Dr. Limoncelli), a party in interest with respect to the Plan; provided that the Plan receives the greater of $375,000 or the fair market value at the time of the sale as determined by an independent qualified appraiser.

Summary of Facts and Representations

1. The Plan, established on November 17, 1981, is a defined benefit plan with 10 participants. As of October 31, 1989, the Plan had $678,991 in total assets. The sponsor of the Plan is Anthony Limoncelli, M.D., P.A., a Florida medical corporation which specializes in eye care (the Employer). The trustee of the Plan is Dr. Limoncelli, who is also the sole shareholder of the Employer.

2. The Land, located in Port Charlotte, Florida, is a vacant commercial .979 acre site. The Land was purchased on June 4, 1986, for $327,480 from an unrelated third party. The adjacent .82 acre parcel of land was purchased on the same date by Dr. Limoncelli, personally, for $218,320 from the same unrelated party. The Land is not encumbered by any debt.[1]

3. Dr. Limoncelli proposes to buy the Land from the Plan in a one time cash transaction in which all costs of the sale will be paid by Dr. Limoncelli. The applicant submitted two appraisals of the Land prepared by independent qualified appraisers. The first appraisal (the First Appraisal) of the Land was prepared on February 10, 1990, by Jeffrey Fehr (Mr. Fehr), an independent qualified appraiser with All County Appraisal & Consulting. Mr. Fehr used the market value appraisal approach and determined that the current fair market value appraisal approach and determined that the current fair market value of the Land is $375,000. In an update to the appraisal, performed August 23, 1990, Mr. Fehr concluded that the adjacency of the Land to the property owned by Dr. Limoncelli did not merit a premium above the fair market value of the Land.

4. The second appraisal (the Second Appraisal) of the Land was prepared by Alphus R. Clark, CREA, CRS, GRI (Mr. Clark), an independent licensed Florida real estate broker and salesman with Remax Realty. Mr. Clark also used the market value appraisal approach and determined that the fair market value of the Land as of June 30, 1990, was $371,000. Because the value provided by the Second Appraisal was lower than the value provided by the First Appraisal, Dr. Limoncelli in this transaction will pay the Plan $375,000 in cash, which is the higher of the two fair market values provided by the Appraisals.

5. The applicant represents that the transaction is desirable for the Plan as the sale will increase the liquidity of the Plan's investment portfolio. The applicant represents that the transaction is protective of the Plan because both of the fair market values of the Land have been determined by independent qualified appraisers. Furthermore, the applicant maintains that economic hardship will be sustained if the transaction is denied because the Plan will soon have five more participants and as such will require a diversified investment portfolio which will permit the funding of additional retirement benefits.

6. In summary, the applicant represents that the transaction satisfies the statutory criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because:

(a) The proposed sale will be a one-time cash transaction and the Plan will pay no costs associated with the sale;

(b) The price paid to the Plan will be the greater of $375,000 or the fair market value of the Land as determined at the time of the sale by an independent qualified appraiser; and

(c) The sale will allow the Plan to liquidate its investment portfolio.

For Further Information Contact: Ekaterina A. Uzlyan of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

[1] The Department is providing no opinion as to whether the Plan's acquisition and holding of the Land violated any provision of part 4 of title I of the Act.

Citicorp (Citicorp) Located in New York, New York

[Application No. D-8487]

Proposed Exemption

I. Transactions

A. Effective January 1, 1988, the restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the following transactions involving trusts and certificates evidencing interests therein:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and an employee benefit plan when the sponsor, servicer, trustee or insurer of a trust, the underwriter of the certificates representing an interest in the trust, or an obligor is a party in interest with respect to such plan;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.A.(1) or (2).

Notwithstanding the foregoing, section I.A. does not provide an exemption from the restrictions of sections 406(a)(1)(E), 406(a)(2) and 407 for the acquisition or holding of a certificate on behalf of an Excluded Plan by any person who has discretionary authority or renders investment advice with respect to the assets of that Excluded Plan.[2]

B. Effective January 1, 1988, the restrictions of sections 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(E) of the Code shall not apply to:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and a plan when the person who has discretionary authority or renders investment advice with respect to the investment of plan assets in the certificates is (a) an obligor with respect to 5 percent or less of the fair market value of obligations or receivables

[2] Section I.A. provides no relief from sections 406(a)(1)(E), 406(a)(2) and 407 for any person rendering investment advice to an Excluded Plan within the meaning of section 3(21)(A)(ii) and regulation 29 CFR 2510.3-21(c).

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contained in the trust, or (b) an affiliate of a person described in (a); if:

(i) The plan is not an Excluded Plan;

(ii) Solely in the case of an acquisition of certificates in connection with the initial issuance of the certificates, at least 50 percent of each class of certificates in which plans have invested is acquired by persons independent of the members of the Restricted Group and at least 50 percent of the aggregate interest in the trust is acquired by persons independent of the Restricted Group;

(iii) A plan's investment in each class of certificates does not exceed 25 percent of all of the certificates of that class outstanding at the time of the acquisition; and

(iv) Immediately after the acquisition of the certificates, no more than 25 percent of the assets of a plan with respect to which the person has discretionary authority or renders investment advice are invested in certificates representing an interest in a trust containing assets sold or serviced by the same entity.[3] For purposes of this paragraph B.(1)(iv) only, an entity will not be considered to service assets contained in a trust if it is merely a subservicer of that trust;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates, provided that the conditions set forth in paragraphs B.(1)(i), (iii) and (iv) are met; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.B.(1) or (2).

C. Effective January 1, 1988, the restrictions of sections 406(a), 406(b) and 407(a) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c) of the Code, shall not apply to transactions in connection with the servicing, management and operation of a trust; provided:

(1) Such transactions are carried out in accordance with the terms of a binding pooling and servicing arrangement; and

(2) The pooling and servicing agreement is provided to, or described in all material respects in the prospectus or private placement memorandum provided to, investing plans before they purchase certificates issued by the trust.[4]

Notwithstanding the foregoing, section I.C. does not provide an exemption from the restrictions of section 406(b) of the Act or from the taxes imposed by reason of section 4975(c) of the Code for the receipt of a fee by a servicer of the trust from a person other than the trustee or sponsor, unless such fee constitutes a "qualified administrative fee" as defined in section III.S.

D. Effective January 1, 1988, the restrictions of sections 406(a) and 407(a) of the Act, and the taxes imposed by sections 4975(a) and (b) of the Code by reason of sections 4975(c)(1)(A) through (D) of the Code, shall not apply to any transactions to which those restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest or disqualified person (including a fiduciary) with respect to a plan by virtue of providing services to the plan (or by virtue of having a relationship to such service provider described in section 3(14)(F), (G), (H) or (I) of the Act or section 4975(e)(2) (F), (G), (H) or (I) of the Code), solely because of the plan's ownership of certificates.

II. General Conditions

A. The relief provider under part I is available only if the following conditions are met:

(1) the acquisition of certificates by a plan is on terms (including the certificate price) that are at least as favorable to the plan as they would be in an arm's length transaction with an unrelated party;

(2) The rights and interests evidenced by the certificates are not surbordinated to the rights and interests evidenced by other certificates of the same trust;

(3) The certificates acquired by the plan have received a rating at the time of such acquisition that is in one of the three highest generic rating categories from either Standard & Poor's Corporation (S&P's), Moody's Investors Service, Inc. (Moody's), Duff & Phelps Inc. (D&P) or Fitch Investors Service, Inc. (Fitch);

(4) The trustee is not an affiliate of any member of the Restricted Group. However, the trustee shall not be considered to be an affiliate of a servicer solely because the trustee has succeeded to the rights and responsibilities of the servicer pursuant to the terms of a pooling and servicing agreement providing for such succession upon the occurrence of one or more events of default by the servicer;

(5) The sum of all payments made to and retained by the underwriters in connection with the distribution or placement of certificates represents not more than reasonable compensation for underwriting or placing the certificates; the sum of all payments made to and retained by the sponsor pursuant to the assignment of obligations (or interests therein) to the trust represents not more than the fair market value of such obligations (or interests); and the sum of all payments made to and retained by the servicer represents not more than reasonable compensation for the servicer's services under the pooling and servicing agreement and reimbursement of the servicer's reasonable expenses in connecting therewith; and

(6) The plan investing in such certificates is an "accredited investor" as defined in Rule 501(a)(1) of Regulation D of the Securities and Exchange Commission under the Securities Act of 1933.

B. Neither any underwriter, sponsor, trustee, servicer, insurer, or any obligor, unless it or any of its affiliates has discretionary authority or renders investments advice with respect to the plan assets used by a plan to acquire certificates, shall be denied the relief provided under part I, if the provision of subsection II.A.(6) above is not satisfied with respect to acquisition or holding by a plan of such certificates, provided that (1) such condition is disclosed in the prospectus or private placement memorandum; and (2) in the case of a private placement of certificates, the trustee obtains a representation from each initial purchaser which is a plan that it is in compliance with such condition, and obtains a covenant from each initial purchaser to the effect that, so long as such initial purchaser (or any transferee of such initial purchaser's certificates) is required to obtain from its transferee a representation regarding compliance with the Securities Act of 1933, any such transferees will be required to make a written representation regarding compliance with the condition set forth in subsection II.A.(6) above.

III. Definitions

For purposes of this exemption:

A. *Certificate* means:

(1) A certificate

[3] For purposes of this exemption, each plan participating in a commingled fund (such as a bank collective trust fund or insurance company pooled separate account) shall be considered to own the same proportionate undivided interest in each asset of the commingled fund as its proportionate interest in the total assets of the commingled fund as calculated on the most recent preceding valuation date of the fund.

[4] In the case of a private placement memorandum, such memorandum must contain substantially the same information that would be disclosed in a prospectus if the offering of the certificates were made in a registered public offering under the Securities Act of 1933. In the Department's view, the private placement memorandum must contain sufficient information to permit plan fiduciaries to make informed investment decisions.

(a) That represents a beneficial ownership interest in the assets of a trust; and

(b) That entitles the holder to pass-through payments of principal, interest, and/or other payments made with respect to the assets of such trust; or

(2) A certificate denominated as a debt instrument—

(a) That represents an interest in a Real Estate Mortgage Investment Conduit (REMIC) within the meaning of section 860D(a) of the Internal Revenue Code of 1986; and

(b) That is issued by and is an obligation of a trust; with respect to certificates defined in (1) and (2) for which Citicorp or any of its affiliates is either (i) the sole underwriter or the manager or co-manager of the underwriting syndicate, or (ii) a selling or placement agent. For purposes of this exemption, references to "certificates representing an interest in a trust" include certificates denominated as debt which are issued by a trust.

B. *Trust* means an investment pool, the corpus of which is held in trust and consists solely of:

(1) either

(a) Secured consumer receivables that bear interest or are purchased at a discount (including, but not limited to, home equity loans and obligations secured by shares issued by a cooperative housing association);

(b) Secured credit instruments that bear interest or are purchased at a discount in transactions by or between business entities (including, but not limited to, qualified equipment notes secured by leases, as defined in section III.T);

(c) Obligations that bear interest or are purchased at a discount and which are secured by single-family residential, multi-family residential and commercial real property, (including obligations secured by leasehold interests on commercial real property);

(d) Obligations that bear interest or are purchased at a discount and which are secured by motor vehicles or equipment, or qualified motor vehicle leases (as defined in section III.U);

(e) *Guaranteed governmental mortgage pool certificates*, as defined in 29 CFR 2510.3–101(i)(2);

(f) Fractional undivided interests in any of the obligations described in clauses (a)–(e) of this section B.1);

(2) Property which had secured any of the obligations described in subsection B.(1);

(3) Undistributed cash or temporary investments made therewith maturing no later than the next date on which distributions are to made to certificate holders; and

(4) Rights of the trustee under the pooling and servicing agreement, and rights under any insurance policies, third-party guarantees, contracts of suretyship and other credit support arrangement with respect to any obligations described in subsection B.(1).

Notwithstanding the foregoing, the term "trust" does not include any investment pool unless: (i) The investment pool consists only of assets of the type which have been included in other investment pools, (ii) certificates evidencing interests in such other investment pools have been rated in one of the three highest generic rating categories by S&P's, Moody's, D&P, or Fitch for at least one year prior to the plan's acquisition of certificates pursuant to this exemption, and (iii) certificates evidencing interests in such other investment pools have been purchased by investors other than plans for at least one year prior to the plan's acquisition of certificates pursuant to this exemption.

C. *Underwriter* means:

(1) Citicorp;

(2) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with Citicorp; or

(3) Any member of an underwriting syndicate or selling group of which Citicorp or a person described in (2) is a manager or co-manager with respect to the certificates.

D. *Sponsor* means the entity that organizes a trust by depositing obligations therein in exchange for certificates.

E. *Master Servicer* means the entity that is a party to the pooling and servicing agreement relating to trust assets and is fully responsible for servicing, directly or through subservicers, the assets of the trust.

F. *Subservicer* means an entity which, under the supervision of and on behalf of the master servicer, services receivables contained in the trust, but is not a party to the pooling and servicing agreement.

G. *Servicer* means any entity which services receivables contained in the trust, including the master servicer and any subservicer.

H. *Trustee* means the trustee of the trust, and in the case of certificates which are denominated as debt instruments, also means the trustee of the indenture trust.

I. *Insurer* means the insurer or guarantor of, or provider of other credit support for, a trust.

Notwithstanding the foregoing, a person is not an insurer solely because it holds securities representing an interest in a trust which are of a class subordinated to certificates representing an interest in the same trust.

J. *Obligor* means any person, other than the insurer, that is obligated to make payments with respect to any obligation or receivable included in the trust. Where a trust contains qualified motor vehicle leases or qualified equipment notes secured by leases, "obligor" shall also include any owner of property subject to any lease included in the trust, or subject to any lease securing an obligation included in the trust.

K. *Excluded Plan* means any plan with respect to which any member of the Restricted Group is a "plan sponsor" within the meaning of section 3(16)(B) of the Act.

L. *Restricted Group* with respect to a class of certificates means:

(1) Each underwriter;

(2) Each insurer;

(3) The sponsor;

(4) The trustee;

(5) Each servicer;

(6) Any obligor with respect to obligations or receivables included in the trust constituting more than 5 percent of the aggregate unamortized principal balance of the assets in the trust, determined on the date of the initial issuance of certificates by the trust; or

(7) Any affiliate of a person described in (1)–(6) above.

M. *Affiliate* of another person includes:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(2) Any officer, director, partner, employee, relative (as defined in section 3(15) of the Act), a brother, a sister, or a spouse of a brother or sister of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner.

N. *Control* means the power to exercise a controlling influence over the management or policies of a person other than an individual.

O. A person will be "independent" of another person only if:

(1) Such person is not an affiliate of that other person; and

(2) The other person, or an affiliate thereof, is not a fiduciary who has investment management authority or renders investment advice with respect to any assets of such person.

P. *Sale* includes the entrance into a forward delivery commitment (as defined in section Q below), provided

(1) The terms of the forward delivery commitment (including any fee paid to the investing plan) are no less favorable to the plan than they would be in an arm's length transaction with an unrelated party;

(2) The prospectus or private placement memorandum is provided to an investing plan prior to the time the plan enters into the forward delivery commitment; and

(3) At the time of the delivery, all conditions of this exemption applicable to sales are met.

Q. *Forward delivery commitment* means a contract for the purchase or sale of one or more certificates to be delivered at an agreed future settlement date. The term includes both mandatory contracts (which contemplate obligatory delivery and acceptance of the certificates) and optional contracts (which give one party the right but not the obligation to deliver certificates to, or demand delivery of certificates from, the other party).

R. *Reasonable compensation* has the same meaning as that term is defined in 29 CFR 2550.408c-2.

S. *Qualified Administrative Fee* means a fee which meets the following criteria:

(1) The fee is triggered by an act or failure to act by the obligor other than the normal timely payment of amounts owing in respect of the obligations;

(2) The servicer may not charge the fee absent the act or failure to act referred to in (1);

(3) The ability to charge the fee, the circumstances in which the fee may be charged, and an explanation of how the fee is calculated are set forth in the pooling and servicing agreement; and

(4) The amount paid to investors in the trust will not be reduced by the amount of any such fee waived by the servicer.

T. *Qualified Equipment Note Secured By A Lease* means an equipment note:

(a) Which is secured by equipment which is leased;

(b) Which is secured by the obligation of the lessee to pay rent under the equipment lease; and

(c) With respect to which the trust's security interest in the equipment is at least as protective of the rights of the trust as the trust would have if the equipment note were secured only by the equipment and not the lease.

U. *Qualified Motor Vehicle Lease* means a lease of a motor vehicle where:

(a) The trust holds a security interest in the lease;

(b) The trust holds a security interest in the leased motor vehicle; and

(c) The trust's security interest in the leased motor vehicle is at least as protective of the trust's rights as the trust would receive under a motor vehicle installment loan contract.

V. *Pooling and Servicing Agreement* means the agreement or agreements among a sponsor, a servicer and the trustee establishing a trust. In the case of certificates which are denominated as debt instruments, "Pooling and Servicing Agreement" also includes the indenture entered into by the trustee of the trust issuing such certificates and the indenture trustee.

EFFECTIVE DATE: This exemption, if granted, will be effective for transactions occurring on or after January 1, 1988.

Summary of Facts and Representations

1. Citicorp, a bank holding company incorporated in Delaware on December 4, 1967, is an entity that conducts worldwide financial services through its various subsidiaries and affiliates. Citicorp's principal subsidiaries are Citibank, N.A. (Citibank); Citicorp Securities Markets, Inc., a registered broker-dealer; Citicorp Mortgage Securities, Inc. (CMSI); CitiMortgages, Inc.; and Citcorp National Services, Inc. Affiliates of Citicorp include, but are not limited to Citibank; Citibank (New York State); and Citibank Federal Savings Bank. These subsidiaries and affiliates of Citicorp have, or intend to issue, asset-backed securities to qualified investors.[5]

Citicorp represents that it has the legal authority to underwrite asset-backed securities. In orders dated April 30, 1987 and July 14, 1987, the Federal Reserve Board granted CSMI the power to underwrite and deal in residential mortgage-related and consumer-receivable-related securities, subject to the condition that CSMI does not derive more than 5 percent of its total gross revenues from such activities. However, CSMI was not initially empowered, pursuant to the above-mentioned orders, to underwrite or deal in securities representing interests in, or secured by, obligations originated or sponsored by its affiliates. This restriction was removed by the Federal Reserve Board in an order dated September 21, 1989, which also increased the total gross revenues limitation to 10 percent. Also, pursuant to that same order, Citicorp's bank subsidiaries have the power to sell interests in their own assets in the form of asset-backed securities.

Trust Assets

2. Citicorp seeks exemptive relief to permit plans to invest in pass-through certificates representing undivided interests in the following categories of trusts: (1) Single and multi-family residential or commercial mortgage investment trusts; [6] (2) motor vehicle receivable investment trusts; (3) consumer or commercial receivables investment trusts; and (4) guaranteed governmental mortgage pool certificate investment trusts.[7]

3. Commercial mortgage investment trusts may include mortgages on ground leases of real property. Commercial mortgages are frequently secured by ground leases on the underlying property, rather than by fee simple interests. The separation of the fee simple interest and the ground lease interest is generally done for tax reasons. Properly structured, the pledge of the ground lease to secure a mortgage provides a lender with the same level of security as would be provided by a pledge of the related fee simple interest. The terms of the ground leases pledged to secure leasehold mortgages will in all cases be at least ten years longer than the term of such mortgages.[8]

[5] As described herein, the term "Citicorp" refers to Citicorp and its affiliates unless the context otherwise requires.

[6] The Department notes that Prohibited Transaction Exemption (PTE) 83-1 (48 FR 895, January 7, 1983) a class exemption for mortgage pool investment trusts, would generally apply to trusts containing single-family residential mortgages, provided that the applicable conditions of PTE 83-1 are met. Citicorp and its affiliates request relief for single-family residential mortgages in this exemption because it would prefer one exemption for all trusts of similar structure.

[7] Guaranteed governmental mortgage pool certificates are mortgage-backed securities with respect to which interest and principal payable is guaranteed by the Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), or the Federal National Mortgage Association (FNMA). The Department's regulation relating to the definition of plan assets (29 CFR 2510.3-101(i)) provides that where a plan acquires a guaranteed governmental mortgage pool certificate, the plan's assets include the certificate and all of its rights with respect to such certificate under applicable law, but do not, solely by reason of the plan's holding of such certificate, include any of the mortgages underlying such certificate. The applicant is requesting exemptive relief for trusts containing guaranteed governmental mortgage pool certificates because the certificates in the trusts may be plan assets.

[8] Trust assets may also include obligations that are secured by leasehold interests on residential real property. See PTE 90-32 involving Prudential-Bache Securities, Inc. (55 FR 23147, June 6, 1990) at 23150.

4. Each trust is established under a pooling and servicing agreement between a sponsor, a servicer and a trustee. The sponsor or servicer of a trust selects assets to be included in the trust. These assets are receivables which may have been originated, in the ordinary course of business, by a sponsor or servicer of the trust, an affiliate of the sponsor or servicer, or by an unrelated lender and subsequently acquired by the trust sponsor or servicer.

On or prior to the closing date, the sponsor acquires legal title to all assets selected for the trust, establishes the trust and designates an independent entity as trustee. On the closing date, the sponsor conveys to the trust legal title to the assets, and the trustee issues certificates representing fractional undivided interests in the trust assets. Citicorp, or one or more broker-dealers (which may include Citicorp), acts as underwriter or placement agent with respect to the sale of the certificates. All of the public offerings of certificates made to date and all of the public offerings of certificates presently contemplated have been or are to be underwritten on a firm commitment basis. In addition, Citicorp has privately placed certificates on both a firm commitment and an agency basis. Citicorp may also act as the lead underwriter for a syndicate of securities underwriters.

Certificateholders are entitled to receive monthly, quarterly or semi-annual installments of principal and/or interest, or lease payments due on the receivables, adjusted, in the case of payments of interest, to a specified rate—the pass-through rate—which may be fixed or variable.

5. Some of the certificates will be multi-class certificates. Citicorp requests exemptive relief for two types of multi-class certificates: "Strip" certificates and "fast-pay/slow-pay" certificates. Strip certificates are a type of security in which the stream of interest payments on receivables is split from the flow of principal payments and separate classes of certificates are established, each representing rights to disproportionate payments of principal and interest.[9]

"Fast-pay/slow-pay" certificates involve the issuance of classes of certificates having different stated maturities or the same maturities with different payment schedules. Interest and/or principal payments received on the underlying receivables are distributed first to the class of certificates having the earliest stated maturity of principal and/or earlier payment schedule, and only when that class of certificates has been paid in full (or has received a specified amount) will distributions be made with respect to the second class of certificates. Distributions on certificates having later stated maturities will proceed in like manner until all the certificateholders have been paid in full. The only difference between this multi-class pass-through arrangement and a single-class pass-through arrangement is the order in which distributions are made to certificateholders. In each case, certificateholders will have a beneficial ownership interest in the underlying assets. In neither case will the rights of a plan purchasing certificates be subordinated to the rights of another certificateholder in the event of default on any of the underlying obligations. In particular, if the amount available for distribution to certificateholders is less than the amount required to be so distributed, all senior certificateholders will share in the amount distributed on a pro rata basis.[10]

6. For tax reasons, the trust must be maintained as an essentially passive entity. Therefore, both the sponsor's discretion and the servicer's discretion with respect to assets included in a trust are severely limited. Pooling and servicing agreements provide for the substitution of receivables by the sponsor only in the event of defects in documentation discovered within a short time after the issuance of trust certificates (within 120 days, except in the case of obligations having an original term of 30 years, in which case the period will not exceed two years). Any receivable so substituted is required to have characteristics substantially similar to the replaced receivable and will be at least as creditworthy as the replaced receivable.

In some cases, the affected receivable would be repurchased, with the purchase price applied as a payment on the affected receivable and passed through to certificateholders.

Parties to Transactions

7. The *originator* of a receivable is the entity that initially lends money to a borrower (obligor), such as a homeowner or automobile purchaser, or leases property to a lessee. The originator may either retain a receivable in its portfolio or sell it to a purchaser, such as a trust sponsor.

Originators of receivables included in the trusts will be entities that originate receivables in the ordinary course of their business, including finance companies, for whom such origination constitutes the bulk of their operations, financial institutions for whom such origination constitutes a substantial part of their operations, and any kind of manufacturer, merchant, or service enterprise for whom such origination is an incidental part of its operations. Each trust may contain assets of one or more originators. The originator of the receivables may also function as the trust sponsor or servicer.

8. The *sponsor* will be one of three entities: (i) A special-purpose corporation unaffiliated with the servicer, (ii) a special-purpose or other corporation affiliated with the servicer, or (iii) the servicer itself. Where the sponsor is not also the servicer, the sponsor's role will generally be limited to acquiring the receivables to be included in the trust, establishing the trust, designating the trustee, and assigning the receivables to the trust.

9. The *trustee* of a trust is the legal owner of the obligations in the trust. The trustee is also a party to or beneficiary of all the documents and instruments deposited in the trust, and as such is responsible for enforcing all the rights created thereby in favor of certificateholders.

The trustee will be an independent entity, and therefore will be unrelated to Citicorp, the trust sponsor or the servicer. Citicorp represents that the trustee will be a substantial financial institution or trust company experienced in trust activities. The trustee receives a fee for its services, which will be paid by the sponsor or servicer. The method of compensating the trustee will be specified in the pooling and servicing agreement and disclosed in the prospectus or private placement memorandum relating to the offering of the certificates.

10. The *servicer* of a trust administers the receivables on behalf of the certificateholders. The servicer's functions typically involve, among other things, notifying borrowers of amounts due on receivables, maintaining records of payments received on receivables

[9] It is the Department's understanding that where a plan invests in REMIC "residual" interest certificates to which this exemption applies, some of the income received by the plan as a result of such investment may be considered unrelated business taxable income to the plan, which is subject to income tax under the Code. The Department emphasizes that the prudence requirement of section 404(a)(1)(B) of the Act would require plan fiduciaries to carefully consider this and other tax consequences prior to causing plan assets to be invested in certificates pursuant to this exemption.

[10] If a trust issues subordinate certificates, holders of such subordinate certificates may not share in the amount distributed on a pro rata basis. The Department notes that the exemption does not provide relief for plan investment in such subordinated certificates.

and instituting foreclosure or similar proceedings in the event of default. In cases where a pool of receivables has been purchased from a number of different originators and deposited in a trust, it is common for the receivables to be "subserviced" by their respective originators and for a single entity to "master service" the pool of receivables on behalf of the owners of the related series of certificates. Where this arrangement is adopted, a receivable continues to be serviced from the perspective of the borrower by the local subservicer, while the investor's perspective is that the entire pool of receivables is serviced by a single, central master servicer who collects payments from the local subservicers and passes them through to certificateholders.

Receivables of the type suitable for inclusion in a trust invariably are serviced with the assistance of a computer. After the sale, the servicer keeps the sold receivables on the computer system in order to continue monitoring the accounts. Although the records relating to sold receivables are kept in the same master file as receivables retained by the originator, the sold receivables are flagged as having been sold. To protect the investors' interest, the servicer ordinarily convenants that this "sold flag" will be included in all records relating to the sold receivables, including the master file, archives, tape extracts, and printouts.

The sold flags are invisible to the obligor, and do not affect the manner in which the servicer performs the billing, posting, and collection procedures relating to the sold receivables. However, the servicer uses the sold flag to identify the receivables for the purpose of reporting all activity on those receivables after their sale to the investors.

Depending on the type of receivable and the details of the servicer's computer system, in some cases the servicer's internal reports can be adapted for investor reporting with little or no modification. In other cases, the servicer may have to perform special calculations to fulfill the investor reporting responsibilities. These calculations can be performed on the servicer's main computer, or on a small computer with data supplied by the main system. In all cases, the numbers produced for the investors are reconciled to the servicer's books and reviewed by public accountants.

The *underwriter* will be a registered broker-dealer that acts as underwriter or placement agent with respect to the sale of the certificates. Public offerings of certificates are generally made on a firm commitment or agency basis. Private placements of certificates may be made on a firm commitment or agency basis.

It is anticipated that the lead or co-managing underwriter will make a market in certificates offered to the public.

In some cases, the originator and servicer of receivables to be included in a trust and the sponsor of the trust (though they themselves may be related) will be unrelated to Citicorp. However, affiliates of Citicorp may originate or service receivables included in a trust, or may sponsor a trust.

Certificate Price, Pass-Through Rate and Fees

11. In some cases, the sponsor will obtain the receivables from various originators pursuant to exising contracts with such originators under which the sponsor continually buys receivables. In other cases, the sponsor will purchase the receivables at fair market value from the originator or a finance company pursuant to a purchase and sale agreement related to the specific offering of certificates. In other cases, the sponsor will originate the receivables itself.

As compensation for the receivables transferred to the trust, the sponsor receives cash, or certificates representing the entire beneficial interest in the trust. The sponsor sells some or all of these certificates for cash to investors or securities underwriters.

12. The price of the certificates, both in the initial offering and in the secondary market, is affected by market forces including investor demand, the pass-through interest rate on the certificates in relation to the rate payable on investments of similar types and quality, expectations as to the effect on yield resulting from prepayment of underlying receivables, and expectations as to the likelihood of timely payment.

The pass-through rate for certificates is equal to the interest rate on receivables included in the trust minus a specified servicing fee.[11] This rate is generally determined by the same market forces that determine the price of a certificate. The price of a certificate and its pass-through, or coupon rate, together determine the yield to investors. If an investor purchases a certificate at less than par, that discount augments the stated pass-through rate; conversely, a certificate purchased at a premium yields less than the stated coupon.

13. As compensation for performing its servicing duties, the servicer (who may also be the sponsor or an affiliate thereof, and receive fees for acting as sponsor) will retain the difference between payments received on the receivables in the trust and payments payable (at the pass-through rate) to certificateholders, except that in some cases a portion of the payments on receivables may be paid to a third party, such as a fee paid to a provider of credit support. The servicer may receive additional compensation by having the use of the amounts paid on the receivables between the time they are received by the servicer and the time they are due to the trust (which time is set forth in the pooling and servicing agreement). The servicer, typically, will be required to pay the administrative expenses of servicing the trust, including in some cases the trustee's fee, out of its servicing compensation.

The servicer is also compensated to the extent it may provide credit enhancement to the trust or otherwise arrange to obtain credit support from another party. This "credit support fee" may be aggregated with other servicing fees, and is either paid in a lump sum at the time the trust is established, or out of the interest income received on the receivables in excess of the pass-through rate.

14. The servicer may be entitled to retain certain administrative fees paid by a third party, usually the obligor. These administrative fees fall into these categories:

(a) Prepayment fees; (b) late payment and payment extension fees; and (c) expenses, fees and charges associated with foreclosure or repossession, or other conversion of a secured position into cash proceeds, upon default of an obligation.

Compensation payable to the servicer will be set forth or referred to in the pooling and servicing agreement and described in reasonable detail in the prospectus or private placement memorandum relating to the certificates.

15. Payments on receivables may be made by obligors to the servicer at various times during the period preceding any date on which pass-through payments to the trust are due. In some cases, the pooling and servicing agreement may permit the servicer to place these payments in non-interest bearing accounts in itself or to commingle such payments with its own funds prior to the distribution dates. In these cases, the servicer would be

[11] The pass-through rate on certificates representing interests in trusts holding leases is determined by breaking down lease payments into "principal" and "interest" components based on an implicit interest rate.

entitled to the benefit derived from the use of the funds between the date of payment on a receivable and the pass-through date. Commingled payments may not be protected from the creditors of the servicer in the event of the servicer's bankruptcy or receivership. In those instances when payments on receivables are held in non-interest bearing accounts or are commingle with the servicer's own funds, the servicer is required to deposit these payments by a date specified in the pooling and servicing agreement into an account from which the trustee makes payments to certificateholders.

16. The underwriter will receive a fee in connection with the securities underwriting or private placement of certificates.

In a firm commitment underwriting, this fee would consist of the difference between what the underwriter receives for the certificates that it distributes and what it pays the sponsor for those certificates. In a private placement, the fee normally takes the form of an agency commission paid by the sponsor. In a best efforts underwriting in which the underwriter would sell certificates in a public offering on an agency basis, the underwriter would receive an agency commission rather than a fee based on the difference between the price at which the certificates are sold to the public and what it pays and sponsor. In some private placements, the underwriter may buy certificates as principal, in which case its compensation would be the difference between what it receives for the certificates that it sells and what it pays the sponsor for these certificates.

Purchase of Receivables by the Servicer

17. The applicant represents that as the principal amount of the receivables in a trust is reduced by payment, the cost of administering the trust generally increases, making the servicing of the trust prohibitively expensive at some point. Consequently, the pooling and servicing agreement generally provides that the servicer may purchase the receivables included in the trust when the aggregate unpaid balance payable on the receivables is reduced to a specified percentage (usually between 5 and 10 percent) of the initial balance.

The repurchase price for such an option is set at a level such that the certificateholders will receive the full amount on all of the receivables held by the trust plus the accured interest at the pass-through rate plus the full amount of property, if any, that has been acquired by the trust through collection on or liquidations of the receivables.

Certificate Ratings

18. The certificates will have received one of the three highest ratings available from either S&P's, Moody's, D&P or Fitch. Insurance or other credit support (such as overcollateralization, surety bonds, letters of credit or guarantees) will be obtained by the trust sponsor to the extent necessary for the certificates to attain the desired rating. The amount of this credit support is set by the rating agencies at a level that is a multiple of the worst historical net credit loss experience for the type of obligations included in the issuing trust.

Provision of Credit Support

19. In some cases, the master servicer, or an affiliate of the master servicer, may provide credit support to the trust (i.e., act as an insurer). In these cases, the master servicer, in its capacity as servicer, will first advance funds to the full extent that it determines that such advances will be recoverable (a) out of late payments by the obligors, (b) from the credit support provider (which may be itself) or, (c) in the case of a trust that issues subordinated certificates, from amounts otherwise distributable to holders of subordinated certificates, and the master servicer will advance funds in a timely manner. In some transctions, the master servicer may not be obligated to advance funds, but instead would be called upon to provide funds to cover defaulted payments to the full extent of its obligations as insurer. Morever, a master servicer typically can recover advances either from the provider of credit support or from the future payment stream. When the servicer is the provider of the credit support and provides its own funds to cover defaulted payments, it will do so either on the initiative of the trustee, or on its own initiative on behalf of the trustee, but in either event it will provide such funds to cover payments to the full extent of its obligations under the credit support mechanism.

If the master service fails to advance funds, fails to call upon the credit support mechanism to provide funds to cover defaulted payments, or otherwise fails in its duties, the trustee would be required and would be able to enforce the certificateholders' rights, as both a party to the pooling and servicing agreement and the owner of the trust estate, including rights under the credit support mechanism. Therefore, the trustee, who is independent of the servicer, will have the ultimate right to enforce the credit support arrangement.

When a master servicer advances funds, the amount so advanced is recoverable by the master servicer out of future payments on receivables held by the trust to the extent not covered by credit support. However, where the master servicer provides credit support to the trust, there are protections in place to guard against a delay in calling upon the credit support to take advantage of the fact that the credit support declines proportionally with the decrease in the principal amount of the obligations in the trust as payments on receivables are passed through to investors. These safeguards include:

(a) There is often a disincentive to postponing credit losses because the sooner repossession or foreclosure activities are commenced, the more value that can be realized on the security for the obligation;

(b) The master servicer has servicing guidelines which include a general policy as to the allowable delinquency period after which an obligation ordinarily will be deemed uncollectible. The pooling and servicing agreement will require the master servicer to follow its normal servicing guidelines and will set forth the master servicer's general policy as to the period of time after which delinquent obligations ordinarily will be considered uncollectible;

(c) As frequently as payments are due on the receivables included in the trust (monthly, quarterly, or semi-annually as set forth in the pooling and servicing agreement), the master servicer is required to report to the independent trustee the amount of all past-due payments and the amount of all servicer advances, along with other current information as to collections on the receivables and draws upon the credit support. Further, the master servicer is required to deliver to the trustee annually a certificate of an executive officer of the master servicer stating that a review of the servicing activities has been made such officer's supervision, and either stating that the master servicer has fulfilled all of its obligations under the pooling and servicing agreement or, if the master servicer has defaulted under any of its obligations, specifying any such default. The master servicer's reports are reviewed at least annually by independent accountants to ensure that the master servicer is following its normal servicing standards and that the master servicer's reports conform to the master servicer's internal accounting records. The results of the independent accountants' review are delivered to the trustee:

(d) The credit support has a "floor" dollar amount that protects investors against the possibility that a large amount that protects investors against

the possibility that a large number of credit losses might occur towards the end of the life of the trust, whether due to servicer advances or any other cause. Once the floor amount has been reached, the master servicer lacks an incentive to postpone the recognition of credit losses because the credit support amount becomes a fixed dollar amount, subject to reduction only for actual draws. From the time that the floor amount is effective until the end of the life of the trust, there are no proportionate reductions in the credit support amount caused by reduction in the pool principal balance. Indeed, since the floor is a fixed dollar amount, the amount of credit support ordinarily increases as a percentage of the pool principal balance during the period that the floor is in effect. The protection provided by a floor dollar amount to the credit support applies particularly where the master servicer and the insurer are affiliated or are the same entity. (An entity should not be considered an insurer solely because it holds subordinated certificates.)

Disclosure

20. In connection with the original issuance of certificates, the prospectus or private placement memorandum will be furnished to investing plans. The prospectus or private placement memorandum will contain information material to a fiduciary's decision to invest in the certifications, including:

(a) Information concerning the payment terms of the certificates, the rating of the certificates, and any material risk factors with respect to the certificates;

(b) A description of the trust as a legal entity and a description of how the trust was formed by the seller/servicer or other sponsor of the transaction;

(c) Identification of the independent trustee for the trust;

(d) A description of the receivables contained in the trust, including the types of receivables, the diversification of the receivables, their principal terms and their material legal aspects;

(e) A description of the sponsor and servicer;

(f) A description of the pooling and servicing agreement, including a description of the seller's principal representations and warranties as to the trust assets and the trustee's remedy for any breach of thereof; a description of the procedures for collection of payments on receivables and for making distribution to investors, and a description of the accounts into which such payments are deposited and from which such distributions are made; identification of the servicing compensation and any fees for credit enhancement that are deducted from payments on receivables before distributions are made to investors; a description of periodic statements provided to the trustee, and provided to or made available to investors by the trustee; and a description of the events that constitute events or default under the pooling and servicing contract and a description of the trustee's and the investors' remedies incident thereto;

(g) A description of the credit support;

(h) A general discussion of the principal federal income tax consequences of the purchase, ownership and disposition of the pass-through securities by a typical investor;

(i) A description of the underwriters plan for distributing the pass-through securities to investors; and

(j) Information about the scope and nature of the secondary market, if any, for the certificates.

21. Reports indicating the amount of payments of principal and interest are provided to certificateholders at least as frequently as distributions are made to certificateholders. Certificateholders will also be provided with periodic information statements setting forth material information concerning the underlying assets, including, where applicable, information as to the amount and number of delinquent and defaulted loans or receivables.

22. In the case of a trust that offers and sells certificates in a registered public offering, the trustee, the servicer or the sponsor will file such periodic reports as may be required to be filed under the Securities Exchange Act of 1934. Although some trusts that offer certificates in a public offering will file quarterly reports on Form 10–Q and Annual Reports on Form 10–K, many trusts obtain, by application to the Securities and Exchange Commission, a complete exemption from the requirement to file quarterly reports on Form 10–Q and a modification of the disclosure requirements for annual reports on Form 10–K. If such an exemption is obtained, these trusts normally would continue to have the obligation to file current reports on Form 8–K to report material developments concerning the trust and the certificates. While the Securities and Exchange Commission's interpretation of the periodic reporting requirements is subject to change, periodic reports concerning a trust will be filed to the extent required under the Securities Exchange Act of 1934.

23. At or about the time distributions are made to certificateholders, a report will be delivered to the trustees as to the status of the trust and its assets, including underlying obligations. Such report will typically contain information regarding the trust's assets, payments received or collected by the servicer, the amount of prepayments, delinquencies, servicer advances, defaults and foreclosures, the amount of any payments made pursuant to any credit support, and the amount of compensation payable to the servicer. Such reports also will be delivered to or made available to the rating agency or agencies that have rated the trust's certificates.

In addition, promptly after each distribution date, certificateholders will receive a statement prepared by the trustee summarizing information regarding the trust and its assets. Such statement will include information regarding the trust and its assets, including underlying receivables. Such statement will typically contain information regarding payments and prepayments, delinquencies, the remaining amount of the guaranty or other credit support and a breakdown of payments between principal and interest.

Forward Delivery Commitments

24. Citicorp represents that, to date, it has not entered into any forward delivery commitments in connection with the offering of pass-through certificates. However, Citicorp, states that it is presently contemplating entering into such commitments. Citicorp notes that the utility of forward delivery commitments has been recognized with respect to the offering of similar certificates backed by pools of residential mortgages. As such, Citicorp states that it may find it desirable in the future to enter into such commitments for the purchase of certificates.

Secondary Market Transactions

25. It is Citicorp's normal policy to attempt to make a market for securities for which it is lead or co-managing underwriter. Citicorp has made, and anticipates that it will continue to make, a market in certificates.

Retroactive Relief

26. Citicorp represents that it has not engaged in transactions related to mortgage-backed and asset-backed securities based on the assumption that retroactive relief would be granted. However, since January 1, 1988, it is possible that some transactions may have occurred that would be prohibited. For example, because many certificates are held in street or nominee name, it is not always possible to identify whether the percentage interest of plans in a

trust is or is not "significant" for purposes of the Department's regulation relating to the definition of plan assets (29 CFR 2510.3–101(f)). These problems are compounded as transactions occur in the secondary market. In addition, with respect to the "publicly-offered security" exception contained in that regulation (29 CFR 2510.3–101(b)), it is difficult to determine whether each purchaser of a certificate is independent of all other purchasers.

Summary

27. In summary, the applicant represents that the transactions for which exemptive relief is requested satisfy the statutory criteria of section 408(a) of the Act due to the following:

(a) The trusts contain "fixed pools" of assets. There is little discretion on the part of the trust sponsor to substitute receivables contained in the trust once the trust has been formed;

(b) Certificates in which plans invest will have been rated in one of the three highest rating categories by S&P's, Moody's, D&P or Fitch. Credit support will be obtained to the extent necessary to attain the desired rating;

(c) All transactions for which Citicorp seeks exemptive relief will be governed by the pooling and servicing agreement, which is made available to plan fiduciaries for their review prior to the plan's investment in certificates;

(d) Exemptive relief from sections 406(b) and 407 for sales to plans is substantially limited; and

(e) Citicorp has made or caused to be made, and anticipates that it will continue to make, a secondary market in certificates.

Discussion of Proposed Exemption

I. Differences Between Proposed Exemption and Class Exemption PTE 83–1

The exemptive relief proposed herein is similar to that provided in PTE 81–7 (46 FR 7520, January 23, 1981), Class Exemption for Certain Transactions Involving Mortgage Pool Investment Trusts, amended and restated as PTE 83–1 (48 FR 895, January 7, 1983).

PTE 83–1 applies to mortgage pool investment trusts consisting of interest-bearing obligations secured by first or second mortgages or deeds of trust on single-family residential property. The Exemption provides relief from section 406(a) and 407 for the sale, exchange or transfer in the initial issuance of mortgage pool certificates between the trust sponsor and a plan, when the sponsor, trustee or insurer of the trust is a party-in-interest with respect to the plan, and the continued holding of such certificates provided that the conditions set forth in the exemption are met. PTE 83–1 also provides exemptive relief from section 406(b)(1) and (b)(2) of the Act for the above-described transactions when the sponsor, trustee or insurer of the trust is a fiduciary with respect to the plan assets invested in such certificates, provided that additional conditions set forth in the exemption are met. In particular section 406(b) relief is conditioned upon the approval of the transaction by an independent fiduciary. Moreover, the total value of certificates purchased by a a plan must not exceed 25 percent of the amount of the issue, and at least 50 percent of the aggregate amount of the issue must be acquired by persons independent of the trust sponsor, trustee or insurer. Finally, PTE 83–1 provides conditional exemptive relief from section 406(a) and (b) of the Act for transactions in connection with the servicing and operation of the mortgage trust.

Under PTE 83–1, exemptive relief for the above transactions is conditioned upon the sponsor and the trustee of the mortgage trust maintaining a system for insuring or otherwise protecting the pooled mortgage loans and the property securing such loans, and for indemnifying certificateholders against reductions in pass-through payments due to defaults in loan payments or property damage. This system must provide such protection and indemnification up to an amount not less than the greater of one percent of the aggregatge principal balance of all trust mortgages or the principal balance of the largest mortgage.

The exemptive relief proposed herein differs from that provided by PTE 83–1 in the following major respects: (1) The proposed exemption provides individual exemptive relief rather than class relief; (2) The proposed exemption covers transactions involving trusts containing a broader range of assets than single-family residential mortgages; (3) Instead of requiring a system for insuring the pooled receivables, the proposed exemption conditions relief upon the certificates having received one of the three highest ratings available from S&P's, Moody's, D&P or Fitch (insurance or other credit support would be obtained only to the extent necessary for the certificates to attain the desired rating); and (4) The proposed exemption provides more limited section 406(b) and section 407 relief for sales transactions.

II. Ratings of Certificates

After consideration of the representations of the applicant and information provided by S&P's Moody's, D&P and Fitch, the Department has decided to condition exemptive relief upon the certificates having attained a rating in one of the three highest ratings available from S&P's, Moody's, D&P or Fitch. The Department believes that the rating condition will permit the applicant flexibility in structuring trusts containing a variety of mortgages and other receivables while ensuring that the interests of plans investing in certificates are protected. The Department also believes that the ratings are indicative of the relative safety of investments in trusts containing secured receivables. The Department is conditioning the proposed exemptive relief upon each particular type of asset-backed security having been rated in one of the three highest rating categories for at least one year and having been sold to investors other than plans for at least one year.[12]

III. Limited Section 406(b) and Section 407(a) Relief for Sales

Citicorp represents that in some cases a trust sponsor, trustee, servicer, insurer, and obligor with respect to receivables contained in a trust, or an underwriter of certificates may be a pre-existing party in interest with respect to an investing plan.[13] In these cases, a direct or indirect sale or certificates by that party in interest to the plan would be a prohibited sale or exchange of property under section 406(a)(1)(A) of the Act.[14]

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[12] In referring to different "types" of asset-backed securities, the Department means certificates representing interests in trusts containing different "types" of receivables, such as single family residential mortgages, multi-family residential mortgages, commercial mortgages, home equity loans, auto loan receivables, installment obligations for consumer durables secured by purchase money security interests, etc. The Department intends this condition to require that certificates in which a plan invests are of the type that have been rated (in one of the three highest generic rating categories by S&P's, D&P, Fitch or Moody's) and purchased by investors other than plans for at least one year prior to the proposed exemption. In this regard, the Department does not intend to require that the particular assets contained in a trust must have been "seasoned" (*e.g.*, originated at least one year prior to the plan's investment in the trust).

[13] In this regard, we note that the exemptive relief proposed herein is limited to certificates with respect to which Citicorp or any of its affiliates is either (a) the sole underwriter or manager or comanager of the underwriting syndicate, or (b) a selling or placement agent.

[14] The applicant represents that where a trust sponsor is an affiliate of Citicorp, sales to plans by the sponsor may be exempt under PTE 75–1, part II (relating to purchases and sales of securities by broker-dealers and their affiliates), if Citicorp is not a fiduciary with respect to plan assets to be invested in certificates.

Likewise, issues are raised under section 406(a)(1)(D) of the Act where a plan fiduciary causes a plan to purchase certificates where trust funds will be used to benefit a party in interest.

Additionally, Citicorp represents that a trust sponsor, servicer, trustee, insurer, and obligor with respect to receivables contained in a trust, or an underwriter of certificates representing an interest in a trust may be a fiduciary with respect to an investing plan. Citicorp represents that the exercise of fiduciary authority by any of these parties to cause the plan to invest in certificates representing an interest in the trust would violate section 406(b)(1), and in some cases section 406(b)(2), of the Act.

Moreover, Citicorp represents that to the extent there is a plan asset "look through" to the underlying assets of a trust, the investment in certificates by a plan covering employees of an obligor under receivables contained in a trust may be prohibited by sections 406(a) and 407(a) of the Act.

After consideration of the issues involved, the Department has determined to provide the limited sections 406(b) and 407(a) relief as specified in the proposed exemption.

For further information contact: Ms. Jan Broady of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 24th day of October 1990.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 90-25578 Filed 10-29-90; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 90-73; Exemption Application No. D-8204 et al.]

Grant of Individual Exemptions; Waste Management, Inc. and Chemical Waste Management, Inc. Pension Plan, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices states that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Waste Management, Inc. and Chemical Waste Management, Inc. Pension Plan (the Plan) Located in Oak Brook, IL

[Prohibited Transaction Exemption 90-73; Exemption Application No. D-8204]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed: (1) Purchase by the Plan of certain improved real property (the Property), for $5.8 million, from Chemical Waste Management, Inc. (CWM), a party in interest with respect to the Plan; (2) the leasing of the Property by the Plan to CWM under the provisions of a written lease (the Lease); (3) the possible future purchase of the Property by CWM pursuant to a right of first refusal or a call option provision contained in the Lease; (4) the possible sharing by the Plan and CWM in the appreciation of the Property as a result of CWM's construction of Improvements on the Property; and (5) the guarantee by Waste Management, Inc., CWM's parent and the Plan's sponsor, of the Plan's cost basis in the Property upon a sale, assignment or disposition of the

Property to CWM, its assigns or to an unrelated party; provided the terms of the transactions are at least as favorable to the Plan as those obtainable in arm's length transactions with unrelated parties.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 28, 1990 at 55 FR 35198.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Dennis Calvert & Associates, Inc. Amended Plan and Trust (the Plan) Located in Memphis, Tennessee

[Prohibited Transaction Exemption 90–74; Exemption Application No. D–8317]

Exemption

The sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale to Dennis Calvert and Patricia Calvert, disqualified persons with respect to the Plan, of certain unimproved real property (the Property); provided that the sales price is the greater of (i) the fair market value of the Property as determined by a qualified independent appraiser at the time of the sale or (ii) the Plan's aggregate cost of the acquisition and holding of the Property through the date of the sale.[1]

For a more complete statement of facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on September 6, 1990, at 55 FR 36712.

FOR FURTHER INFORMATION CONTACT: Ms. Kay Madsen of the Department, telephone (202) 523–8881. (This is not a toll-free number).

Pathology and Laboratory Medicine, P.C. Profit Sharing Plan and Dekalb-Gwinnett Pathologists, P.C. Profit Sharing Plan (collectively, the Plans) Located in Atlanta, Georgia

[Prohibited Transaction Exemption 90–75; Exemption Application Nos. D–8363 & D–8364]

Exemption

The restrictions of section 406(a)(1)(D) and (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (B), (D), and (E) of the Code, shall not apply to the loans (the Loans) by certain individually directed accounts of the Plans (the Accounts) in amounts totaling $390,000 to PLINC Partners; provided that no more than 25% of the assets of any of the Accounts is involved in the Loans and provided further that the terms of the Loans are and remain at least as favorable to any of the Accounts as terms negotiated at arm's length with unrelated third parties.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on September 12, 1990 at 55 FR 37588.

FOR FURTHER INFORMATION CONTACT: Angelena C. Le Blanc of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

StarMark, Inc. Profit Sharing Plan and Trust (the Plan) Located in Sioux Falls, South Dakota

[Prohibited Transaction Exemption 90–76; Exemption Application No. D–8352]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) The purchase by the Plan of certain leases of equipment (the Leases) from StarMark, Inc. (the Employer); (2) the agreement by the Employer to indemnify the Plan against any loss relating to the Leases and also to repurchase any Leases that are in default in accordance with paragraph (C) below; and (3) the repurchase by the Employer of the equipment subject to a Lease at the termination of such Lease pursuant to the purchase price option contained in the Lease; provided that the following conditions are met:

A. Any sale of Leases to the Plan will be on terms at least as favorable to the Plan as an arm's-length transaction with an unrelated third party.

B. The acquisition of a Lease from the Employer shall not cause the Plan to hold immediately following the acquisition: (i) More than 25 percent of the current value of Plan assets in Leases sold by the Employer; (ii) more than 3% of Plan assets in a single Lease; or (iii) more than 5 percent of Plan assets in Leases of any one lessee.

C. Upon default by a lessee on any payment due under a Lease, the Employer agrees to indemnify the Plan against any loss resulting from such default and also agrees to repurchase such Lease at full face value, without discount, and repurchase the equipment underlying the Lease at the present value of that equipment based on its value at the end of the Lease. A Lease shall be deemed to be in default for purposes of this section if: (1) A payment due under the terms and conditions of the Lease is past due for a period of 45 days; (2) a lessee defaults in the performance of any other term or condition of the Lease for a period of 45 days; or (3) in the event the lessee shall become insolvent, commit an act of bankruptcy, make an assignment for the benefit of creditors or a liquidating agent, offer a composition or extension to creditors, make a bulk sale; or in the event any proceeding, suit or action at law, in equity or under any of the provisions of the Bankruptcy Act or of amendments thereto for reorganization, composition, extension, arrangements, receivership, liquidation, or dissolution shall be begun by or against the lessee; or in the event of the appointment under any jurisdiction at law or in equity of any receiver of the lessee; or in the event the condition of affairs of the lessee shall so change as to, in the opinion of the Trustee or other appropriate Plan fiduciaries, impair its security or increase its credit risks.

D. The Plan receives adequate security for the property underlying the Lease. For purposes of this exemption, the term adequate security means that the property is secured by a perfected security interest in the property leased so that, if there is a default on the Lease, and the security is foreclosed upon, or otherwise disposed of, the value and liquidity of the security is such that it may reasonably be anticipated that the Plan will experience no loss.

E. Insurance against loss or damage to the leased property from fire or other hazards will be procured and maintained by the lessee and the proceeds from such insurance will be assigned to the Plan.

F. The Plan shall maintain for the duration of any Lease which is sold to the Plan pursuant to this exemption, records necessary to determine whether the conditions of this exemption have been met. The records referred to above must be unconditionally available at their customary location for examination, for purposes reasonably

[1] Pursuant to 29 CFR 2510.3–3(b), there is no jurisdiction under Title I of the Act for the sale because Dennis Calvert is the sole participant of the Plan. However, there is jurisdiction under Title II of the Act pursuant to section 4975(c)(2) of the Code.

related to protecting rights under the Plan, during normal business hours by the Internal Revenue Service, the Department of Labor, Plan participants, any employee organization any of whose members are covered by the Plan, or any duly authorized employee or representative of the above described persons.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 14, 1990 at 55 FR 33190.

Notice to Interested Persons: The applicant represents that all interested persons were notified of the proposed exemption within the time period specified in the **Federal Register** notice published on August 14, 1990, and were told that they had a right to comment or request a hearing on the proposed exemption by September 28, 1990. However, interested persons were inadvertently provided with the wrong address for submitting comments or requests for a hearing to the Department. The applicant states that all interested persons were renotified and provided with the correct address by September 14, 1990. Interested persons were advised that they had until October 15, 1990 to comment or request a hearing on the proposed exemption.

Temporary Nature of Exemption: This exemption will not apply to any purchase of Leases by the Plan which occurs after five years from the date on which the Final Grant of this exemption is published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mr. E.F. Williams of the Department at (202) 523–8883. (This is not a toll-free number.)

Gordon Food Service, Inc. Profit Sharing Plan and the Gordon Food Service, Inc. Security Plan (collectively, the Plans) Located in Grand Rapids, MI

[Prohibited Transaction Exemption 90–77; Exemption Application No. D–8367]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed cash sale by a group trust (the Group Trust) in which the Plans invest, of an unsecured promissory note (the Note) to Gordon Food Service, Inc., provided the Group Trust receives an amount representing the greater of the fair market value of the Note as of the date of the sale or the outstanding principal balance of the Note plus accrued interest at the time the transaction is consummated.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on September 6, 1990 at 55 FR 36722.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is subject to the exemption.

Signed at Washington, DC, this 24th day of October, 1990.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 90–25579 Filed 10–29–90; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (90–89)]

NASA Advisory Council (NAC), Space Science and Applications Advisory Committee (SSAAC), Solar System Exploration Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science and Applications Advisory Committee, Solar System Exploration Subcommittee.

DATES: November 12, 1990, 9 a.m. to 4:30 p.m.; and November 13, 1990, 8:30 a.m. to 12 Noon.

ADDRESSES: Holiday Inn-Capitol, Columbia Room B, 550 C Street, SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Dr. Wesley T. Huntress, Jr., Code SL, National Aeronautics and Space Administration, Washington, DC 20546 (202/453–1588).

SUPPLEMENTARY INFORMATION: The Space Science and Applications Advisory Committee consults with and advises the NASA Office of Space Science and Applications (OSSA) on long-range plans for, work in progress on, and accomplishments of NASA's Space Science and Applications programs. The Solar System Exploration Subcommittee provides advice to the Solar System Exploration Division concerning long-range planning in solar system exploration. The Subcommittee will meet to discuss the Fiscal Year 1991 Budget, Operating Missions, and Strategic Planning. The Subcommittee is chaired by Dr. Laurence Soderblom and is composed of 23 members. The meeting will be open to the public up to the seating capacity of the room (approximately 50 people including members of the Subcommittee). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

TYPE OF MEETING: Open

Agenda:

Monday, November 12

9 a.m.—Fiscal Year 1991 Budget Status.

9:30 a.m.—Comet Rendezvous Asteroid Flyby (CRAF)/Cassini Program.

11 a.m.—Mars Observer Development Status.
11:30 a.m.—Status of Operating Missions.
1 p.m.—Magellan Update.
1:45 p.m.—U.S./U.S.S.R. Joint Working Group.
2:30 p.m.—Research and Analysis (R&A) Programs.
3:30 p.m.—Subcommittee Discussion.
4:30 p.m.—Adjourn.

Tuesday, November 13
8:30 a.m.—Lunar Observer and Mesur Missions.
9:30 a.m.—Strategic Planning.
12 Noon—Adjourn.

Dated: October 23, 1990.

John W. Gaff,
Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 90-25843 Filed 10-29-90; 8:45 am]
BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-255]

Consumers Power Co., Palisades Plant; Issuance of Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Provisional Operating License No. DPR-20 issued to Consumers Power Company (the licensee or CPCo), for operation of the Palisades Nuclear Generating Plant (Palisades) located in Van Buren County, Michigan.

Identification of Proposed Action

The amendment would consist of a conversion of the Provisional Operating License (POL) No. DPR-20 to a Full-Term Operating License (FTOL) with an expiration date for the FTOL to be 40 years from the date of issuance of the construction permit. The construction permit for Palisades was issued on March 14, 1967; therefore, the expiration date for the FTOL is March 14, 2007.

The amendment to the license is in response to the licensee's application dated January 22, 1974 for the conversion. The NRC staff has prepared an Environmental Assessment of the Proposed Action, "Environmental Assessment by the Office of Nuclear Reactor Regulation Relating to the Conversion of the Provisional Operating License to a Full-Term Operating License," Consumers Power Company, Palisades Plant, Docket No. 50-255 dated October 22, 1990.

Summary of Environmental Assessment

The NRC staff has reviewed the potential environmental impact of the proposed conversion of the POL to an FTOL for Palisades. This evaluation considered the previous environmental studies, including the "Final Environmental Statement (FES) Related to Operation of Palisades Nuclear Generating Plant," issued in June 1972, a Final Addendum to the FES (NUREG-0343), issued in February 1978, and more recent NRC policy.

Radiological Impacts

The staff concludes that the exclusion area, the low population zone and the nearest population center distances will likely be unchanged from those described in June 1972 Final Environmental Statement and the February 1978 Final Addendum to the FES. The area adjacent to the site is primarily agricultural land and is sparsely populated. The low population zone (LPZ), as defined by 10 CFR 100, extends a distance of 4,820 meters, or 3 miles, from the plant site. The minimum exclusion area distance to an uncontrolled area is 677 meters (2200 feet). The minimum exclusion area and LPZ distances form the bases for the site evaluation in accordance with 10 CFR part 100 (FSAR Section 2.0). There are approximately 432 acres within the site boundary, all currently owned by Consumers Power Company. Consumers Power Company has sole control of the area within the site boundary for the purpose of excluding personnel or property.

Section 2.1.2 of the Palisades FSAR discusses the population density in and around the Palisades Plant. Table 2.10 of the Palisades FSAR provides current and estimated population density for all counties within a 50-mile radius of the Palisades Plant through the year 2000. A comparison of the FSAR data and the most current census and population growth estimates indicate that the data presented in Table 2.10 of the FSAR accurately estimated population changes to date. Although there are no reliable estimates for the population in the three counties (Berrien, Van Buren, and Allegan) immediately adjacent to the Palisades Plant site for the years between 2000 and 2007, recent population growth and economic trends for southwestern Michigan do not indicate any significant change in population growth trends or to the economic composition of the area.

The probable off-site radiation exposure received by a member of the general public from the operation of the Palisades Plant was assessed and is documented in the Palisades FSAR and the FES. This assessment was based on the assumed 40-year life for the plant. The FES concluded that the operation of the Palisades Plant will contribute only an extremely small increment to the radiation dose that area residents receive from natural background. The FES also noted: "Since fluctuations of the natural background dose may be expected to exceed the small dose increment contributed by the Plant, this increment will be unmeasurable in itself and will constitute no demonstrable meaningful risk. . . ." To ensure that exposure of members of the general public to radioactive material released by the operation of the Palisades Plant is kept as low as is reasonably achievable, the Plant maintains a radiological environmental monitoring program in compliance with the requirements of section IV of appendix I to 10 CFR part 50.

Based on the operating history of the Palisades Plant and the conclusions of the FES, the total radiation dose to any member of the general public is not expected to be significantly affected by the conversion of the POL to a FTOL.

All plant employees are exposed to radiation caused by plant operation. The total exposure received by individual employees depends to a great extent upon the work assignment of the employee. To ensure that employee exposure is minimized, the Palisades Plant has implemented an effective exposure ALARA (As Low As Reasonably Achievable) Program. In addition, the plant has instituted administrative limits that require that the exposure received by individual employees remain within the guidelines of 10 CFR part 20. It is not expected that the issuance of the FTOL will materially affect employee exposure.

Accordingly, annual radiological impacts on man, both off-site and on-site, are not more severe than previously estimated in the FES and our previous cost-benefit conclusions remain valid.

Non-Radiological Impacts

The staff reevaluated the non-radiological aspects of operation of the plant and transmission facilities. The effects of cooling system operation, fish impingement, thermal discharge effects, chemical discharge effects, endangered and threatened species, land use, terrestrial ecology, and transmission lines were evaluated. Effluent limitation and water quality monitoring at power plants are imposed by the EPA through the National Pollutant Discharge Elimination System (NPDES) Permit issued for each facility. An NPDES

Permit for Palisades was issued by the State of Michigan and the staff's discussions in the environmental assessment rely on the findings made by the State in its impact review.

The staff also verified that the original cost/benefit analysis provided in the Final Environmental Statement and Final Addendum to the FES, and discussions with respect to commitment of resources and alternatives, are still valid.

Finding of No Significant Impact

The staff has reviewed the proposed conversion of the POL to an FTOL for Palisades relative to the requirements set forth in 10 CFR part 51. Based upon the environmental assessment, the staff concluded that there are no significant radiological or non-radiological impacts associated with the proposed action and that the proposed license amendment will not have a significant effect on the quality of the human environment. Therefore, the Commission has determined, pursuant to 10 CFR 51.31, not to prepare an environmental impact statement for the proposed amendment.

For further details with respect to this action, see (1) the application for amendment dated January 22, 1974, (2) the Final Environmental Statement Related to Operations of Palisades Nuclear Generating Plant, issued June 1972, (3) the Final Addendum to the FES, issued February 1978, and (4) the Environmental Assessment Dated October 22, 1990. These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555 and at the Van Zoeren Public Library, Hope College, Holland, Michigan 49423.

Dated at Rockville, Maryland, this 22nd day of October 1990.

For the Nuclear Regulatory Commission.

Dominic C. Dilanni,

Acting Director, Project Directorate III-1, Division of Reactor Projects—III, IV, V & Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90-25616 Filed 10-29-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-315 and 50-316]

Indiana Michigan Power Co., Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2; Withdrawal of Application for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Indiana Michigan Power Company (the licensee) to withdraw its December 5, 1989, application for proposed amendment to Facility Operating License Nos. DPR-58 and DPR-74 for the Donald C. Cook Nuclear Power Plant, Unit Nos. 1 and 2, located in Berrien County, Michigan.

The proposed amendment would have revised Technical Specification (TS) definition 1.4, "Operational Mode," to clarify the definition of Mode 6 (refueling). A number of other TS changes were included to clarify equipment operability requirements to depending on whether the reactor vessel contains fuel.

The Commission had previously issued a Notice of Consideration of Issuance to Amendment published in the Federal Register on April 4, 1990 (55 FR 12596). However, by letter dated September 21, 1990, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated December 5, 1989, and the licensee's letter dated September 21, 1990 which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Date at Rockville, Maryland this 22nd day of October 1990.

For the Nuclear Regulatory Commission.

Timothy G. Colburn, Sr.,

Project Manager, Project Directorate III-1 Division of Reactor Projects—III, IV, V & Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90-25615 Filed 10-29-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-338 and 50-339]

Virginia Electric and Power Co.; Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed no Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF-4 and NPF-7 issued to Virginia Electric and Power Company (the licensee) for operation of the North Anna Power Station, Units 1 and 2 (NA-1&2) located in Louisa County, Virginia.

The proposed change to the NA-1&2 TS 6.3 specifies an exception to ANS-3.1 (12/79 Draft) and would allow the Supervisor Shift Operations to be the individual specified for holding the management-level Senior Reactor Operator's (SRO) license in lieu of the Superintendent Operations. Also, a proposed change to the NA-1&2 TS 6.2.3 and 6.4.1 would change the title of the Nuclear Safety Engineering (NSE) group to Station Nuclear Safety (SNS) to reflect a change in the title of the safety review group at NA-1&2.

ANS-3.1 (12/79 Draft), which is cited in the NA-1&2 TS 6.3 for establishing the qualification requirements of the plant's staff, requires that the individual fulfilling the function of the "Operations Manager" hold a current SRO license. The Superintendent Operations is the equivalent position in the licensee's organization and therefore that position has been filled by persons holding SRO licenses.

The SRO requirement makes it difficult for the Superintendent Operations to perform certain management functions. Specifically, the ability to monitor the quality of operating shift qualification and requalification programs is substantially impaired. The superintendent is not free to fully examine the training programs in progress because he is also a trainee and is thus restricted from obtaining certain information. In addition, a substantial part of the Superintendent Operations' time is consumed in maintaining the SRO license in an active status and requires 60 days of requalification time each year. Therefore, to relieve the Superintendent Operations of this burden and yet satisfy the requirement for an "Operations Manager," a position would be instituted directly subordinate to the Superintendent Operations that has cognizance over all of the NA-1&2 plant operating shifts. The incumbent in this position would be required to maintain a current and active SRO license and would fulfill the functional and qualification requirements of the "Operations Manager" as required by ANS-3.1 (12/79 Draft).

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the request for amendment involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously

evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed change request against the standards provided above and has determined that:

(1) The changes to the NA–1&2 TS 6.3 will not result in a significant increase in the probability or consequences of an accident previously evaluated. These changes are made only to the staff organization position of the individual designated to perform the "Operations Manager" functions as described in ANS–3.1 (12/79 Draft) without changing the required levels of training and qualification for that individual. The levels of responsibility and authority of the "Operations Manager" will remain as the individual immediately superior to the operating shift supervisors. The changes will not have any effect on the operation of the plant or any plant components or equipment.

The changes to TS 6.2.3 and 6.4.1 will not create the possibility of a new or different kind of accident. These changes are administrative in nature reflecting only a change in nomenclature. The changes will not have any effect on the operation of the plant or any plant components or equipment.

(3) The changes to the NA–1&2 TS 6.3 will not result in a signficant reduction in the margin of safety. These changes are made only to the staff organzation position of the individual designated to perform the "Operations Manager" functions as described in ANS–3.1 (12/79 Draft) without changing the required levels of training and qualification for that individual. The levels of responsibility and authority of the "Operations Manager" will remain as the individual immediately superior to the operating shift supervisors. The changes will not have any effect on the operation of the plant or any plant components or equipment.

The changes to TS 6.2.3 and 6.4.1 will not result in a significant reduction in the margins of safety. These changes are administrative in nature reflecting only a change in nomenclature. The changes will not have any effect on the operation of the plant or any plant components or equipment.

The NRC staff has made a preliminary review of the licensee's analyses of the proposed changes and agrees with the licensee's conclusion that the three standards in 10 CFR 50.92(c) are met. Therefore, the staff proposes to determine that the proposed amendments to do not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to room P–223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By November 28, 1990, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local Public Document Room located at the Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903–2498. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the request for amendment involves no significant hazards consideration, the Commission may issue the amendments and make them effective, notwithstanding the request for a

hearing. Any hearing held would take place after issuance of the amendments.

If a final determination is that the amendments involve a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Herbert N. Berkow: (petitioner's name and telephone number), (date petition was mailed), (plant name), and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Michael W. Maupin, Esq., Hunton and Williams, P.O. Box 1535, Richmond, Virginia 23212, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated August 22, 1990, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room located at the Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Dated at Rockville, Maryland, this 24th day of October 1990.

For the Nuclear Regulatory Commission.

Bart C. Buckley,

Project Manager, Project Directorate II-2 Division of Reactor Projects—I/II Office of Nuclear Reactor Regulation.

[FR Doc. 90-25614 Filed 10-29-90; 8:45 am]

BILLING CODE 7590-01-M

Privacy Act of 1974; Establishment of a System of Records

AGENCY: Nuclear Regulatory Commission.

ACTION: Establishment of a system of records.

SUMMARY: Discrimination Cases, NRC-6, is being formally established to track complaints filed with the Department of Labor (DOL) alleging violation of section 210 of the Energy Reorganization Act of 1974, as amended, which prohibits discrimination against whistleblowers with respect to the nuclear industry. This system is used by the NRC Office of Enforcement to stay informed of investigations and decisions made by the DOL with respect to allegations that relate directly to NRC concerns, specifically, violations of relevant NRC regulations and the potential for a chilling effect on other persons who may report safety concerns as a result of the perceived climate of discrimination against whistleblowers. To avoid duplicate effort and conserve Government resources, the NRC may use this DOL investigatory information to take enforcement action without actually conducting an investigation of its own.

DATES: The system of records will take effect without further notice on December 31, 1990, unless comments received on or before that date cause a contrary decision. If, based on NRC's review of comments received, changes are made, NRC will publish a new final notice.

ADDRESSES: Send comments to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Comments may be hand-delivered to Lower Level, Gelman Building, 2120 L Street, NW., Washington, DC, between 7:30 a.m. and 4:15 p.m.

FOR FURTHER INFORMATION CONTACT: Donnie H. Grimsley, Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301-492-7211.

SUPPLEMENTARY INFORMATION: The NRC's enforcement authority is drawn from the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974. Sections 84, 147, and 234 of the Atomic Energy Act authorize the NRC to issue civil penalties for violations of the Act. Under Commission regulations, a violation of section 210 of the Energy Reorganization Act may result in imposition of a civil penalty.

The records in this system of records include those received from DOL concerning complaints filed concerning violations of section 210 of the Energy Reorganization Act, investigations conducted by DOL with respect to these complaints, and decisions issued by DOL in each case. Information regarding action the NRC takes may be publicly disseminated in order to deter future violations

A report of this system of records, required by 5 U.S.C. 552a(r), as implemented by OMB Circular A-130, has been sent to the Chairman, Committee on Government Operations, U.S. House of Representatives; the Chairman, Committee on Governmental Affairs, U.S. Senate; and the Office of Management and Budget.

1. The following system of records, NRC-6, Discrimination Cases—NRC, is being proposed for adoption by the NRC.

NRC-6

SYSTEM NAME:

Discrimination Cases—NRC.

SYSTEM LOCATION:

Primary system—Office of Enforcement, NRC, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems may exist, in whole or in part, in enforcement coordinators' offices at NRC Regional Offices at the addresses listed on Addendum I, Part 2. These duplicate systems would ordinarily be limited to the cases filed in each Region.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed complaints with the Department of Labor (DOL) concerning alleged acts of discrimination in violation of section 210(a) of the Energy Reorganization Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of files arranged numerically in accordance with a system established by the DOL ("ERA" numbers) to track complaints filed by individuals pursuant to section 210 of the Energy Reorganization Act. These files include documents related to, and provided by, the DOL, including copies of complaints, correspondence between the parties, and decisions by DOL Area Directors, Administrative Law Judges, and the Secretary of Labor. The system includes a computerized database with alphabetical and numerical indices, by complainants' names and ERA numbers, respectively.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201; 42 U.S.C. 2282; 42 U.S.C. 5851 (1982); 10 CFR 30.7, 40.7, 50.7, 60.9, 61.9, 70.7, and 72.10.

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used for any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information contained in this system is stored in hard copy and on computer disks.

RETRIEVABILITY:

Information is retrieved by the name or ERA number of the individual or his/her case.

SAFEGUARDS:

The files are maintained in an area for which access is controlled by keycard and limited to those with a need for access to the work area, and in a building to which access is controlled by a security guard force. These files are under visual control during duty hours. After duty hours, access to the building is controlled by a security guard force and access to each floor is controlled by keycard.

RETENTION AND DISPOSAL:

The files are retained indefinitely for historical purposes and for later comparison with other cases to ensure consistency of applications of enforcement.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification Procedure." Information received from the Department of Labor is treated by DOL as public information and subject to disclosure in accordance with applicable laws.

CONTESTING RECORD PROCEDURES:

Same as "Notification Procedure."

RECORD SOURCE CATEGORIES:

Individuals to whom the record pertains, attorneys for these individuals, union representatives serving as advisors to these individuals, NRC licensees, NRC, and DOL.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Dated at Rockville, MD, this 17th day of October 1990.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 90-25617 Filed 10-29-90; 8:45 am]

BILLING CODE 7590-01-M

PRESIDENT'S COMMISSION ON THE FEDERAL APPOINTMENT PROCESS

Meeting

AGENCY: President's Commission on the Federal Appointment Process.

ACTION: Notice of open meeting.

SUMMARY: The Commission will be holding an open meeting to encourage anyone interested in addressing issues related to the appointment process to share his or her thoughts with members of the Commission.

DATES: November 9, 1990, from 2 p.m. to 3 p.m.

ADDRESSES: The meeting will be held in Conference Room 4830, Department of Commerce, 14th and Constitution, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Alvin S. Felzenberg, Executive Director, President's Commission on the Federal Appointment Process, Room 502, Old Executive Office Building, Washington, DC 20500, (202) 456-6490.

SUPPLEMENTARY INFORMATION: The Commission was established by Executive Order 12719 to advise the President on the best means of simplifying the Presidential appointment process through reducing the number and complexity of forms to be completed by Presidential nominees. The Commission's mandate is to give special attention to achieving coordination between forms required in the executive branch clearance process and forms required by Senate Committees for confirmation hearings.

Alvin S. Felzenberg,

Executive Director.

[FR Doc. 90-25599 Filed 10-29-90; 8:45 am]

BILLING CODE 3910-17-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-28574; File No. SR-GSCC-90-05]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving a Proposed Rule Change Relating to the Authority of GSCC to Pledge and Assign Collateral

The Government Securities Clearing Corporation ("GSCC"), on March 6, 1990, filed a proposed rule change (File No. SR-GSCC-90-05) with the Securities and Exchange Commission ("Commission") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposal was published in the Federal Register on July 18, 1990, to solicit comments from interested persons.[2] No comments were received. This order approves the proposal.

I. Description of the Proposal

The proposed rule change involves technical revisions and additions to GSCC Rule 4 (Clearing Fund and Loss Allocation) and GSCC Rule 12 (Securities Settlement) to clarify and confirm GSCC's authority to pledge, hypothecate, or assign collateral (securities, letters of credit, and other interest) in GSCC's possession of control in connection with the financing of GSCC's payment and delivery obligations. GSCC asserts that the rule change would help ensure GSCC's ability to obtain credit on a timely basis

[1] 15 U.S.C. 78s(b)(1).

[2] *See* Securities Exchange Act Release No. 28196 (July 11, 1990), 55 FR 29285.

and to the extent needed. GSCC emphasizes that the proposal would not alter GSCC's existing obligations to its members to: (1) To return or to allow substitution for or withdrawal of cash, securities and letters of credit held by GSCC; and (2) to deliver securities held overnight to members, under the circumstances and within the time frames specified in GSCC's Rules.

II. Rationale for the Proposal

GSCC believes that the proposed rule change will help ensure the ability of GSCC to obtain temporary credit on a timely basis and in a manner consistent with preserving the rights of its members to their collateral and that, accordingly, the proposal is consistent with the requirements of section 17A of the Act.

GSCC states in its filing that the rules proposal was recommended by its counsel, Cleary, Gottlieb, Steen & Hamilton ("Cleary Gottlieb"), in order to confirm GSCC's existing authority to pledge and assign collateral to banks that clear securities for GSCC or that provide financing to GSCC in the event of a member default. In support of its proposal, GSCC has incorporated in its filing an opinion letter from Cleary Gottlieb which concludes that GSCC's proposal is in accord with applicable state law.[3] Additionally, Cleary Gottlieb states in its letter that, under section 9–207 and related provisions of the Uniform Commercial Code, as construed by New York case law, and assuming appropriate documents have been executed by authorized persons, GSCC may pledge assets in the form of letters of credit and securities (whether book-entry or certificated) that it hold on deposit and that the pledgees in such transactions would have valid and perfected security interests in the assets.

III. Discussion

The Commission believes that the proposal is consistent with the Act, particularly section 17A(b)(3) of the Act,[4] because it will facilitate GSCC's efforts in obtaining short-term financing to satisfy GSCC's payment obligations in connection with the processing of securities transactions. Accordingly, the Commission is approving the proposal.

GSCC acts as the central counterparty to settle its member's transactions in Government securities through netting by novation. As the central counterparty, GSCC is liable to its members in event of a member default or insolvency for any unsettled, guaranteed delivery or payment obligations. In such an event, GSCC could be required to pay the defaulting member's transaction adjustment payments [5] or to hold securities that GSCC would otherwise have delivered to the defaulting member.[6] Although GSCC attempts to protect against this risk by requiring members to deposit cash, government securities or letters of credit, the defaulting member's individual deposit may be inadequate or illiquid to satisfy that member's payment obligation. In that case, GSCC could be required to borrow funds from GSCC's clearing fund (which consists of other member deposits) or from third parties. Assuming available clearing fund cash is insufficient, GSCC would attempt to borrow funds from banks with whom GSCC has previously arranged credit facilities, using non-defaulting member required clearing fund contributions as initial collateral.[7] In order to facilitate such financing, GSCC must be able to assure potantial bank creditors that they will have a perfected security interest in the collateral GSCC may provide. The proposal would facilitate this result by clarifying GSCC's authority to transfer a security interest in assets GSCC would use as collateral for these loans.

IV. Conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the requirements of the Act, particularly section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change (File No. SR–GSCC–90–05) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–25576 Filed 10–29–90; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–28573; File No. SR–NSCC–90–14]

October 23, 1990.

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Granting Accelerated Approval of a Proposed Rule Change by National Securities Clearing Corporation Regarding a Modification to its Fund/SERV Rules

On August 16, 1990, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. NSCC–90–14) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] The purpose of the proposed rule change is to provide for the automated processing of mutual fund underwritings and tender offers through NSCC's Fund/SERV service. On September 12, 1990, NSCC amended the filing to provide for Commission review pursuant to section 19(b)(2), rather than section 19(b)(3)(A), of the Act.[2] Notice of the amended proposed rule change appeared in the **Federal Register** on October 1, 1990.[3] No comments were received regarding the proposed rule change. This order approves the proposed rule change.

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[3] See letter from Sydney M. Cone, III, Partner, Cleary, Gottlieb to Security Pacific National Trust Co., dated March 29, 1990.

[4] Section 17A(b)(3) of the Act requires that a clearing agency have the capacity to safeguard funds and securities in its possession and control and facilitate the prompt and accurate clearance and settlement of securities transactions.

[5] The transaction adjustment payment generally reflects the difference between the contract value of all of a clearing member's netted trades and the value GSCC assigned to the securities underlying those contracts in the netting system.

[6] GSCC routinely instructs its clearing bank to deliver securities from one clearing member to another clearing member when those securities are received. Those allocations are not binding on GSCC members and reflect an allocation of GSCC's securities inventory as a result of its netting operation. *See* Securities Exchange Act Release No. 27008 (July 7, 1989), 54 FR 29798. In the event of a member default or insolvency prevented GSCC from delivering securities it had received as originaly allocated, GSCC may not be able to reallocate some or all of those securities to other, non-defaulting members. Accordingly, the proposal would clarify GSCC's authority to pledge those securities to a bank for funds necessary to hold those securities until GSCC could allocate them to another member or sell those securities.

[7] GSCC has established credit facilities with its clearing agent banks. In addition to receiving and delivering securitities in accordance with GSCC's instructions, these banks also will maintain possession, for GSCC's account, clearing fund assets, such as Government securities. This arrangement facilities prompt funding of any loans because the collateral for any loan will be readily available.

The pledge of non-defaulting clearing members' required clearing fund deposits, however, would not affect an allocation of any losses GSCC might incur as a result of the default. GSCC would allocate such losses, ordinarily on the day after a default, in accordance with its rules. See, *e.g.*, Securities Exchange Act Release No. 27008 (July 7, 1989), 54 FR 29798.

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1) (1989).

[2] *See* letter from Alison Hoffman, Associate Counsel, NSCC, to Ester Saverson, Branch Chief, Division of Market Regulation, Commission, dated September 12, 1990.

[3] *See*, Securities Exchange Act Release No. 28456 (September 20, 1990), 55 FR 40026 (October 1, 1990).

I. Description of the Proposal

This proposal modifies the Fund/SERV system to accommodate underwritings and tender offers on an automated basis.[4] The proposal will amend NSCC's rules to enable Fund/SERV members to submit expressions of interest during an underwriting period [5] and redemption orders during a tender offer.[6]

Under the proposed rule change, a mutual fund will be required to submit to the NSCC the details of the underwriting or tender offer.[7] The mutual fund must submit the end date [8] or ticketing date,[9] settlement date, and restrictions on participation and types of transactions.[10] NSCC will reject purchases and tenders submitted by members that do not meet the pre-established parameters.[11]

Under the proposal, members may submit orders to tender securities and expressions of interest in an underwriting until the end date or ticketing date. During this period, NSCC will forward the orders and expressions of interest to the mutual fund. Members, however, may delete any expression of interest until ticketing date and may withdraw tendered shares until the end date.[12] After ticketing date or end date, expressions of interest become firm commitments and tender offers not withdrawn become firm offers to tender. Within two days after the ticketing date or end date, the mutual fund must confirm, correct or reject the orders to tender securities and offers involving an underwriting. Confirmed items will pend in the system and will settle on the date specified by the mutual fund. Thereafter, normal Fund/SERV processing timeframes and procedures will apply.

NSCC will settle underwriting orders and orders pursuant to tenders on the date specified by the mutual fund, usually five days after end date. Under the proposal, the mutual fund may cancel the underwriting or tender, or may change the ticketing date, the end date or the settlement date of the underwriting or tender offer up until 12:00 noon, three days prior to settlement date.[13] NSCC will not process changes or cancellations of an underwriting or tender offer received after 12:00 noon, three days prior to settlement.

The proposed rule change will make certain technical corrections to the Fund/SERV rules when physical certificates remain outstanding. In these circumstances, the certificate evidencing the security will not have been delivered, and any redemption proceeds must be withheld. Accordingly, NSCC will require the mutual fund to issue a release before completing the redemption process and releasing the proceeds.

According to NSCC, it already processes in Fund/SERV many of the transactions covered by the proposed rule change because members currently enter those orders in Fund/SERV five days prior to settlement. Thus, NSCC believes the proposal will not significantly add additional order flow in the system and it has represented that the system has sufficient capacity to accommodate any increase.

II. NSCC's Rational

NSCC believes that the proposed rule change is consistent with Section 17A of the Act since the proposed rule change facilitates the prompt and accurate clearance and settlement of securities transactions for which NSCC is responsible.

III. Discussion

The Commission believes that NSCC's proposal is consistent with section 17A of the Act. Specifically, sections 17A(b)(3) (A) and (F) of the Act provide that a clearing agency be so organized to facilitate and its rules be designed to promote the prompt and accurate clearance and settlement of securities transactions and must assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[14]

Currently, participants must transmit their tender offers and expressions of interest directly to the mutual fund and then enter their orders to the Fund/SERV system five days before settlement. The proposal provides participants with the ability to tender securities and submit expressions of interest, have those transactions pend in the system until the end of the tender offer or underwriting period, and settle those transactions, all through Fund/SERV. Thus, the Commission believes that the proposal provides participants a more efficient means of processing orders of mutual fund underwritings and tender offers and will further enhance the prompt and accurate clearance and settlement of mutual fund transactions.

Processing of underwriting and tender instructions will be governed by the same rules and safeguards currently employed for other Fund/SERV transactions. Moreover, bringing mutual fund underwritings and tender offers into a centralized and automated environment will reduce the risk of failed deliveries, inadequate transaction records and operational errors. Thus, the Commission believes the proposal will enhance the safeguarding of mutual fund securities and funds.

Under NSCC's procedures, NSCC will not process changes to or cancellation of an underwriting or tender offer received

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[4] In 1986, NSCC implemented Fund/SERV, a centralized and automated order entry, confirmation and settlement system for mutual funds. *See*, Securities Exchange Act Release No. 22928 (February 20, 1986), 51 FR 6954 (February 27, 1986); Securities Exchange Act Release No. 25146 (November 20, 1987) 52 FR 45418 (November 27, 1987).

In an effort to provide members and mutual funds greater efficiencies through enhanced automated functions, NSCC has continuously expanded the services provided under Fund/SERV. *See*, Securities Exchange Act Release No. 26376 (December 20, 1988), 53 FR 52544 (December 28, 1988), which approved "Networking," a service designed to enable the transmission of customer account data between NSCC's broker-dealer and mutual fund processing members.

[5] Underwritings usually have an extended time period during which an individual may express an interest to purchase the shares. In underwritings, shares can be offered on a preliminary basis prior to registration. Orders placed during this time are considered "expressions of interest." The orders do not become firm commitments until "ticketing date." Prior to ticketing date, expressions of interest can be withdrawn.

[6] In mutual fund "tender offers" there is an extended period during which a shareholder may place a redemption order at a certain price, which can be withdrawn up until the "end date." These "tender offers" usually involve trust companies that continuously offer their securities for sale but do not redeem their securities, except on a periodic basis through published offers to redeem outstanding shares. For purposes of the federal securities laws, particularly the Investment Company Act of 1940, 15 U.S.C. 80a–1, these issuers are treated as close-end investment companies.

[7] The mutual fund must submit the information on a written form at least five days before the beginning of the underwriting or tender offer. *See* letter from Alison Hoffman, Associate Counsel, NSCC, to Anthony Bosch, Staff Attorney, Division of Market Regulation, Commission, dated October 17, 1990.

[8] The "end date" is the last date shareholders may tender shares under a tender offer.

[9] The "ticketing date" is the date on which expressions of interest or indications of interest become firm commitments to purchase securities.

[10] Issuers may place certain restrictions on participation in an underwriting or tender offer. For example, certain broker-dealers may be ineligible to purchase shares during the offering period or for a time after the offering period (called the "cooling off period" for underwriting), purchases of additional shares during the cooling off period may be prohibited, and exchanges following the tender period may not be allowed.

[11] The mutual fund is responsible for establishing the parameters of the tender offer or underwriting. If discrepancies exist in the restrictions on participation and types of transactions, it is the responsibility of the mutual fund and members, not NSCC, to resolve any discrepancies.

[12] A member may withdraw tendered shares by submitting a "correction" instruction to NSCC. NSCC will correct the tender by instructing the mutual fund that the number of shares tendered has been reduced to zero.

[13] *See* letter from Alison Hoffman, *supra*, f.n. 7.

[14] 15 U.S.C. 78q–1(b)(3) (A) and (F) (1989).

after 12:00 noon, three days prior to settlement. NSCC states that to cancel or change a settlement date after three days prior to settlement would be extremely difficult because the orders are submitted for netting that evening and would require that such transactions be manually exited from the system. The failure to cancel an underwriting or a tender offer might require NSCC members to settle transactions for an underwriting or tender offer that have been cancelled, including transactions of an underwriting that may not be part of a valid offering under the Investment Company Act of 1940 or the rules thereunder. NSCC, however, has stated that in a case of a late cancellation of an underwriting or a tender offer NSCC would attempt to exit the transactions from the system manually before settlement date.[18] Because late cancellations of mutual fund underwritings and tender offers are rare and because NSCC has indicated it will attempt to exit the transactions associated with a late cancellation of an underwriting of tender offer, the Commission believes that NSCC has reached a reasonable balance between efficient settlement of mutual fund securities and the appropriate accommodations to mutual funds to allow tender offerings and underwritings to be processed through an automated and centralized system.

The Commission believes "good cause" exists under section 19(b)(2) of the Act for approving the proposal prior to the thirtieth day after publication of notice. The proposal will allow NSCC members to submit tender offers and expressions of interest prior to the fifth day prior to settlement. Except for the pending of transactions prior to the end of the tender offer or underwriting period, these transactions will be processed essentially the same as other Fund/SERV transactions. Moreover, the Commission believes the inclusion of these transactions in Fund/SERV will increase the efficient, prompt, and accurate settlement of underwritings and tender offers. Thus, the Commission finds that good cause exists, pursuant to section 19(b)(2) of the Act, for approving the proposal prior to the thirtieth day after the date of publication of the notice in the Federal Register.

[18] A late cancellation of a mutual fund underwriting or tender offer occurring two days after the end of a underwriting or tender offer period is rare. NSCC has indicated that it has never received a request to exit an underwriting or a tender offer from the system after three days prior to settlement.

IV. Conclusion

For the reasons discussed above, the Commission finds that the proposed rule change is consistent with the Act and, in particular, Section 17A.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR-NSCC-90-14) be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-25024 Filed 10-29-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17819; 812-7226]

The PNC Fund et al.; Notice of Application

October 24, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("Act").

APPLICANTS: The PNC Fund (formerly NCP Funds) (the "Fund"), Provident Institutional Management Corporation ("PIMC"), and TBC Funds Distributor, Inc. ("TBC").

RELEVANT 1940 ACT SECTIONS: Exemption requested under section 6(C) from section 18(f)(1), 18(g), and 18(i).

SUMMARY OF APPLICATION: Applicants seek a conditional order to permit the issuance and sale of two classes of securities representing interests in the Money Market Portfolio, the Tax-Free Money Market Portfolio, and the Government Money Market Portfolio of the Fund (collectively, the "Money Market Portfolios"). Both classes would be indentical in all respects except for differences related to rule 12b-1 plan expenses, shareholder services plan expenses, transfer agency expenses, and voting rights.

FILING DATE: The application was filed on January 25, 1989 and was amended on August 7, 1989, April 13, 1990, June 20, 1990, and October 12, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 19, 1990, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. PNC Fund and PIMC, Bellevue Corporate Center, 103 Bellevue Parkway, Wilmington, Delaware 19809. TBC, One Boston Place, Boston, Massachusetts 02108.

FOR FURTHER INFORMATION CONTACT: Jeremy N. Rubenstein, Branch Chief, at (202) 272-3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 738-1400).

Applicants' Representations

1. The Fund is registered under the Act as an open-end management investment company, and has registered shares representing interests in eight investment portfolios, including the three Money Market Portfolios. The Fund proposes to issue two classes of shares in each of the three Money Market Portfolios. One class of shares in each Money Market Portfolio (the "Sower Class") will be offered and sold to institutional investors ("Institutions") acting on behalf of their customers who maintain accounts with the Institutions. The other class of shares in each Money Market Portfolio (the "Cash Class") will be offered and sold to investors generally, whether or not they have an account relationship with an Institution.

2. Applicants request that the relief extend to any other investment portfolio of the Fund that in the future declares dividends on a daily basis and calculates its net asset value under the amortized cost method of valuation under Rule 2a-7 under the Act. The Money Market Portfolios and any other investment portfolios of the Fund to which relief can be extended are collectively called "Daily Dividend Portfolios."

3. PIMC serves as the Fund's investment adviser. Provident National Bank serves as the Fund's custodian and the sub-adviser to the Money and Government Portfolios. The Central Trust Company, N.A. serves as the sub-

adviser to the Tax-Free Portfolio. TBC serves as the Fund's Distributor.

4. Shares of each Daily Dividend Portfolio will be sold and redeemed daily at net asset value without a sales or redemption charge imposed by the Fund. The net asset value per share of each Money Market Portfolio will be calculated based on the amortized cost method of valuation and will be determined twice daily on each day the New York Stock Exchange and the Federal Reserve Bank of Philadelphia are open. The net investment income of each Money Market Portfolio will be declared daily and paid monthly as a dividend to shareholders.

5. Except for class designation, exchange privileges, and the allocation of certain expenses and voting rights as described below, each class of a Daily Dividend Portfolio will be identical in all respects. Among other things, each Daily Dividend Portfolio's Shares will be subject to the saame investment objective, policies and limitations. The two classes will differ, however, in that: (a) The Sower Class of a Daily Dividend Portfolio will be offered to Institutions in connection with a shareholder services plan (the "Shareholder Services Plan") and the Cash Class will be offered to individual investors in connection with a distribution plan adopted pursuant to rule 12b–1 under the Act (the "12b–1 Plan") (the Shareholder Services Plan and 12b–1 Plan are collectively called the "Plans"); (b) each Sower Class and Cash Class will bear the expenses incurred pursuant to the terms of the Plan applicable to that class ("Plan Payments"); (c) each Sower Class and Cash Class will also bear transfer agency expenses directly attributable to the class; and (d) only the holders of the shares of the Cash Class or Cash Classes involved will be entitled to vote on matters pertaining to the 12b–1 Plans, and any related agreements, relating to such class or classes (for example, the adoption, amendment or termination of a Plan) in accordance with the provisions of Rule 12b–1. The Sower Class and Cash Class of a Daily Dividend Portfolio may also differ with respect to exchange privileges; currently only the Cash Class has an exchange privilege. It is anticipated that shares of a Cash Class of a particular investment portfolio would be exchangeable for Cash Class shares of another investment portfolio and shares of a non-money market portfolio.

6. The purpose of the Shareholder Services Plan will be to provide support services to customers of Institutions ("Service Organizations") who from time to time beneficially own shares of the Sower Class. Such support services will be provided pursuant to servicing agreements entered into with the Service Organizations. Applicants state that the provision of support services under the proposed Shareholder Services Plan will not duplicate the services that are currently provided to the Fund by its service contractors (*e.g.*, its investment adviser, sub-adviser, co-administrators, transfer agent, custodian, and distributor).

7. The 12b–1 Plan will provide not only for support services, but also for certain expenses incurred in connection with the distribution of shares of the Cash Classes. In contrast to the Shareholder Services Plan, which is designed to provide support services in situations where it is anticipated that neither the Service Organization nor the Fund's distributor will engage in significant distribution activities justifying the reimbursement of distribution-related expenses, an explicit purpose of the 12b–1 Plan will be to finance distribution activities in connection with the sale of Cash Class shares. The 12b–1 Plan also will permit the Fund to pay for support services by Institutions, such as those described above in connection with the Shareholder Services Plan.

8. Under the current Shareholder Services Plan, a Daily Dividend Portfolio will pay Service Organizations an amount not to exceed .30% (annualized) of the average daily net asset value of the portfolio's outstanding Sower Class shares. Payments by a Daily Dividend Portfolio under the current 12b–1 Plan will not exceed .55% (annualized) of the average daily net asset value of the Portfolio's outstanding Cash Class shares. The 12b–1 Plan, as well as any related agreements, will be subject to all of the provisions of Rule 12b–1 under the Act. In addition, the Shareholder Services Plan will be adopted by the Fund's board of trustees pursuant to procedures offering the major protections to investors provided by Rule 12b–1, except that shareholders will not enjoy the voting rights specified in Rule 12b–1.

9. By offering Sower Class shares and Cash Class shares, the Fund expects to achieve added flexibility in meeting the service and investment needs of shareholders and future investors. The Fund believes that the expense of the payments made with respect to a particular Sower Class or Cash Class appropriately should be borne by the shareholders of such class because the benefits of the Plans will accrue to them. It would be inefficient, and in some instances economically or operationally unfeasible, to organize a separate Daily Dividend Portfolio for each Sower Class and Cash Class.

10. The net asset value of all outstanding shares representing interests in the same Daily Dividend Portfolio will be computed on the same days and at the same times by adding the value of all portfolio securities and other assets belonging to the Daily Dividend Portfolio involved, subtracting the liabilities charged to such Daily Dividend Portfolio, and dividing the result by the number of such outstanding shares. Further, the gross income of a Daily Dividend Portfolio will be allocated on a pro rata basis to each outstanding share in the Daily Dividend Portfolio regardless of class, and all expenses incurred by the Daily Dividend Portfolio will be borne on a pro rata basis by such outstanding shares, except that Plan Payments and transfer agency expenses will be allocated according to class.

11. Because of the Plan Payments and transfer agency expenses, the net income of (and dividends payable to) each class will be somewhat different than that net income of (and dividends payable to) the other class in the same Daily Dividend Portfolio. Dividends paid to each class in a Daily Dividend Portfolio will, however, be declared and paid on the same days and at the same times, and, except as noted with respect to the expense of Plan Payments and transfer agency expenses, will be determined in the same manner and paid in the same amounts.

Applicant's Legal Analysis

1. Applicants request an exemptive order pursuant to section 6(c) of the Act to permit the propose issuance and sale of Sower Class shares and Cash Class shares representing interests in Daily Dividend Portfolios to the extent that the issuance and sale of such shares, including the allocation of voting rights thereto and the payment of dividends thereon as described above, might be deemed: (a) To result in a "senior security" within the meaning of section 18(g) of the Act and to be prohibited by section 18(f)(1) of the Act; and (b) to violate the equal voting provisions of section 18(i) of the Act. The proposed allocation of expenses and voting rights in the manner described is equitable and will not discriminate against any group of shareholders. Investors purchasing Sower Class shares or Cash Class shares, and receiving the services provided under the Plan and the transfer agency services associated with the particular shares, will bear the costs associated with such services. Investors

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also will enjoy exclusive shareholder voting rights with respect to matters affecting their Plan.

2. The proposed arrangement does not involve borrowings and does not affect the Fund's existing assets or reserves. Nor will the proposed arrangement increase the speculative character of the shares in a Daily Dividend Portfolio, because all shares in a Daily Dividend Portfolio will participate pro rata in all of the Daily Dividend Portfolio's income and expenses (with the exception of the Plan Payments and transfer agency expenses). Accordingly, the requested exemption is appropriate in the public interest and is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief shall be subject to the following conditions:

1. Each Sower Class and Cash Class of Daily Dividend Portfolio will represent interests in the same portfolio of investments of the Fund, and be identical in all respects, except as set forth below. The only differences between the Sower Class and Cash Class shares of the Fund representing interests in the same Daily Dividend Portfolio will relate soley to: (a) The impact of Plan Payments, the transfer agency expenses attributable to each such class, and any other incremental expenses subsequently identified that should be properly allocated to one class which shall be approved by the SEC pursuant to an amended order; (b) the fact that the classes will vote separately with respct to the Fund's 12b–1 Plan and Shareholder Services Plan: (c) the different exchange privileges of such classes; and (d) the designation of each such class.

2. The trustees of the Fund, including a majority of the independent trustees, will approve the dual distribution system by an affirmative vote prior to the implementation of the dual distribution system. The minutes of the meetings of the trustees of the Fund regarding the deliberations of the trustees with respect to the approvals necessary to implement the dual distribution system will reflect in detail the reasons for the trustee's determination that the proposed dual distribution system is in the best interests of both the Fund and its shareholders and such minutes will be available for inspection by the SEC staff and will be preserved for a period of not less than six years, the first two years in an easily accessible place.

3. On an ongoing basis, the trustees of the Fund, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor the Fund for the existence of any material conflicts between the interests of the Sower and Cash Classes. The trustees, including a majority of the independent trustees, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. PIMC and TBC will be responsible for reporting any potential or existing conflicts to the trustees. If a conflict arises, PIMC and TBC at their own cost will remedy such conflict up to and including establishing a new registered management investment company.

4. The 12b–1 Plan relating to the sale of shares of Cash Classes will be approved and reviewed by the Fund's trustees in accordance with the requirements and procedures set forth in Rule 12b–1, both currently and as that rule may be amended in the future. The Fund's 12b–1 Plan will be submitted to the republic shareholders of the Cash Class for approval at the next meeting of shareholders after the initial issuance of shares of such class. Such meeting is to be held within one year from the date that such shares are initially issued. Any other series relying in the future on the order granted on the application will hold a meeting of shareholders within one year of the first date that more than one Class is issued and outstanding and will submit its 12b–1 Plan for the separate approval of the public holders of each affected Cash Class at such meeting; provided that the approval of a particular Cash Class of shareholders shall not be necessary if the existing 12b–1 Plan has already been submitted for the approval of the public shareholders of such class.

5. The Shareholder Services Plan will be adopted and operated in accordance with the procedures set forth in Rule 12b–1 (b) through (f) as if the expenditures made thereunder were subject to Rule 12b–1, except that shareholders will not enjoy the voting rights specified in Rule 12b–1. In evaluating the Shareholder Services Plan, the trustees will specifically consider whether (a) the Shareholder Services Plan is in the best interest of the applicable Sower Classes and their respective shareholders, (b) the services to be performed pursuant to the Shareholder Services Plan are required for the operation of the applicable Sower Classes, (c) the service organizations can provide services at least equal, in nature and equality, to those provided by others, including the Fund, providing similar services, and (d) the fees for such services are fair and reasonable in light of the usual and customary charges made by other entities, especially non-affiliated entities, for services of the same nature and quality.

6. Each shareholder service agreement entered into pursuant to the Shareholder Service Plan will contain a representation by the service provider that any compensation payable to the service provider in connection with the investment of its customers' assets in shares of a Sower Class (a) will be disclosed by it to its customers, (b) will be authorized by its customers, and (c) will not result in an excessive fee to the service provider.

7. Each shareholder services agreement entered into pursuant to the Shareholder Service Plan will provide that, in the event an issue pertaining to the Shareholder Services Plan is submitted for shareholder approval, the service provider will vote any shares held for its own account in the same proportion as the vote of those shares held for its customer's accounts.

8. The trustees of the Fund will receive quarterly and annual statements concerning distribution and shareholder servicing expenditures for the Sower and Cash Classes complying with paragraph (b)(3)(ii) of Rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale or servicing of a particular class of shares will be used to justify any distribution or servicing fee charged to that class. Expenditures not related to the sale or servicing of a particular class will not be presented to the trustees to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent trustees in the exercise of their fiduciary duties.

9. Dividends paid by the Fund with respect to each class of a Daily Dividend Portfolio, to the extent any dividends are paid, will be calculated in the same manner, at the same time, on the same day, and will be in the same amount as dividends paid by the Fund with respect to the other class in the same Portfolio, except that any Plan Payments and transfer agency expenses relating to a class will be borne exclusively by that class.

10. The methodology and procedures for calculating the net asset value, dividends and distributions of the Sower and Cash Classes and the proper allocation of expenses between those classes has been reviewed by an expert (the "Expert") who has rendered a

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report to the Fund, which has been provided to the staff of the SEC, that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upn such review, will render at least annually a report to the Fund that the calculations and allocations are being made properly. The reports of the Expert shall be filed as part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the Expert with respect to such reports, following request by the Fund (which the Fund agrees to provide), will be available for inspection by the SEC staff upon the written request to the Fund for such work papers by a senior member of the Division of Investment Management, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director and any Regional Administrators or Associate and Assistant Administrators. The initial report of the Expert is a "Special Purpose" report on the "Design of a System" and the ongoing reports will be "Special Purpose" reports on the "Design of a System and Certain Compliance Tests" as defined and described in SAS No. 44 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

11. The Fund has adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value, dividends and distributions of the Sower and Cash Classes of Shares and the proper allocation of expenses between such Classes of Shares and this representation has been concurred with by the Expert in the initial report referred to in condition (10) above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in condition (10) above. Applicants will take immediate corrective measures if this representation is not concurred in by the Expert or appropriate substitute Expert.

12. The prospectus for each Daily Dividend Portfolio with more than one class will contain a statement to the effect that a salesperson and any other person entitled to receive compensation for selling or servicing Fund shares may receive different compensation with respect to one particular class of shares over another class in the same Daily Dividend Portfolio.

13. The Fund's distributor will adopt compliance standards, substantially in the form of Exhibit E to the application, as to when each Sower and Cash Class of shares may appropriately be sold to particular investors. Applicants will require all persons selling Sower and Cash Shares to agree to conform to such standards.

14. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the trustees of the Fund with respect to the dual distribution system will be set forth in guidelines which will be furnished to the trustees.

15. Each Daily Dividend Portfolio will disclose the respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads, and exchange privileges applicable to shares of Sower and Cash Classes of the same Daily Divided Portfolio in every prospectus, regardless of whether such classes of shares are offered through each prospectus. Each Daily Dividend Portfolio will disclose the respective expenses and performance data applicable to all classes or shares of the same Daily Dividend Portfolio in every shareholder report. To the extent any advertisement or sales literature describes the expenses or performance data applicable to any class of shares, it will also disclose the respective expenses and/or performance data applicable to all classes of shares in the same Daily Dividend Portfolio. The information provided by the Fund for publication in any newspaper or similar listing of a Daily Dividend Portfolio's net asset value and public offering price will present each class of shares in the same Daily Dividened Portfolio separately.

16. Each Daily Dividend Portfolio will have more than one class of shares outstanding only when and for so long as such Daily Dividend Portfolio declares its dividends on a daily basis, accrues its payments for the 12b–1 Plan, Shareholder Services Plan, and transfer agency services daily, and has received undertakings from the persons that are entitled to receive payments under the Plans and for transfer agency services waiving such portion of any such payments to the extent necessary to assure that payments (if any) required to be accrued by any such class of shares on any day not exceed the income to be accrued to such class on that day. In this manner, the net asset value per share for all shares in a Daily Dividend Portfolio will remain the same.

17. Applicants acknowlege that the grant of the exemptive order requested by the application will not imply SEC approval, authorization or acquiescene in any particular level of Plan Payments that the Fund may make in reliance on the exemptive order.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–25625 Filed 10–29; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–28577; File No. 10–100]

Self-Regulatory Organizations; Wunsch Auction Systems, Inc.; Application for Limited Volume Exemption From Registration as an Exchange Under Section 5 of the Securities and Exchange Act; Request for Comments

October 24, 1990.

I. Introduction

Wunsch Auction Systems Inc. ("WASI") owns and proposes to operate a computerized, "single-price" auction system ("Wunsch System") designed to facilitate secondary market trading of certain equity and fixed income securities. By letter, dated October 3, 1990, WASI filed with the Commission, pursuant to section 5 of the Securities Exchange Act of 1934 ("Act"), an application for exemption for both WASI and the Wunsch System from registration as a national securities exchange under section 6 of the Act by reason of the fact that WASI anticipates that the Wunsch System will account for limited volume in trading of securities.[1] Although section 5 does not require publication of such a request for exemption, this is the first such request in 54 years; [2] accordingly, the

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[1] *See* letter from Kristen N. Geyer, Cadwalader, Wickersham & Taft, counsel for WASI, to Jonathan G. Katz, Secretary, dated October 3, 1990, contained in Public File No. 10–100. In a related matter, WASI has requested that the staff take a no-action position with respect to: (1) The non-registration of WASI and the Wunsch System as a broker-dealer under section 15(a) of the Act; (2) the non-registration of a brokerage subsidiary of Bankers Trust New York Corporation, BT Brokerage, as a national securities exchange under the Section 6 of the Act; and (3) the non-registration of WASI, the Wunsch System, and BT Brokerage as a securities information processor, transfer agent, and clearing agency under sections 11A and 17A of the Act, respectively. Letter from Daniel T. Brooks, Cadwalader, Wickersham & Taft, counsel for WASI, to John M. Ramsey, Attorney, dated August 28, 1990.

[2] As discussed *infra* note 12, the Commission has granted Section 5 exemptions on other than a temporary basis to seven exchanges. The applications of those exempted exchanges were made available to the public.

Commission has determined, in its discretion, to publish this notice in order to solicit the views of interested persons on this application.

II. Description of the Wunsch System [3]

The Wunsch System, through electronic facilities owned and operated by WASI, will permit institutional and broker-dealer participants [4] to enter buy and sell orders for particular securities selected by WASI and offered through an auction format; by bringing those buy and sell orders together at one point in time, the System will arrive at a single, "equilibrium" price at which the securities offered in the auction will be sold.[5] By means of linkages form the customers' terminals to the main computer,[6] customers will enter limit orders through their terminals until a previously established cutoff time; once logged into the System, the customers will be able to view the order books for the auction of any security and place orders in such auctions. Bids and offers, their prices and volumes, separately and in the aggregate, are displayed. Prior to the acution cutoff time, customers may at any time replace or cancel orders by referencing a screen montague showing continuously updated indications of the auction price and volume based on current ordes in the system.[7]

Immediatley after each auction cutoff time, the System will commence a review of orders entered to determine the price at which the largest volume could be traded, which is also the price at which buying and selling interest is most nearly equal. That price would be the "auction price." The customers that entered bids above, and offers below, the auction price will be entitled to executions at the auction price. Limit orders equal to the acution price will be filled on the basis of time priority to the extent that counterparties are available. To consummate auction trades to provide each customer with a known counterparty with credit-standing, a broker-dealer [8] will, at its option, either execute all orders as agent obligated to complete the trade or purchase form each "in the money" offeror and sell to each "in the money" bidder the requisite amount of securities at the auction price.[9] A bank subsidieary of Bankers Trust ("bank subsidiary") will clear and settle, and facilitate the comparison of, trades executed in the Wunsch System through an account established by the bank subsidiary at the Depository Trust Company ("DTC"), a clearing agency registered with the Commission under section 17A of the Act.

III. Exemption Standards

Section 5 of the Act effectively requires that all exchanges subject to the jurisdiction of the United States either register with the Commission as national securities exchanges or obtain a Commission exemption from that requirement.[10] Section 5 authorizes the Commission to grant an exemption from registration if the Commission finds that, "by reason of the limited volume of transactions effected on [the] exchange, it is not practicable and not necessary or appropriate in the public interest or for the protection of investors" to require such registration.[11]

In its release proposing Rule 15c2–10 under the Act ("Rule 15c2–10 release"),[12] the Commission discussed the standards for determining whether an exchange is entitled to a low volume exemption and solicited comment on those suggested standards. Specifically, the Commission requested comment on whether it should interpret the term "limited volume" as employed in Section 5 of the Act to take into account all, or a combination of, the following characteristics, among others that might be suggested by the commentators: (1) The dollar volume and/or number of transactions effected through the system, expressed as a percentage of all trading effected in the market of which that particular system is a part; (2) the number and characteristics of participants or subscribers permitted to trade in the system; and (3) the characteristics of the instruments traded, or transactions allowed, in the system.

The Commission received three comments addressing the proper interpretation of the term "limited volume." [13] CBOE suggested that the term "limited volume" should be defined in terms of a maximum dollar volume or percentage share of the relevant market, whichever is the lower standard;[14] it staed that the number and characteristics of the participants, as well as the characteristics of the instruments traded, would be relevant to determining the appropriate dollar volume or percentage share. CBOE further suggested that the maximum threshold for a limited volume exemption should be either 1 percent of the relevant market or a previously established dollar volume amount, whichever is lower. In other words, the CBOE felt that the overall concept of a limited volume was meant to be a *de minimis* or insignificant amount of volume. Instinet noted that it trades approximately 10 million shares a day compared with the NYSE, which in 1989 traded closer to 200 million shares a day, or the National Association of

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[3] This description is based upon the material representatons made by WASI in its letter requesting the exemption, *see supra* note 1.

[4] The System's institutional customers would include both so called "buy-side" firms, such as privated and public pension funds, endowments, foundations, money managers, bank trust departments and insurance companies, and so-called "sell-side"firms, such as broker-dealers, including "upstairs" members of exchanges and exchange specialists.

[5] WASI contemplates that, initially, the auctions will take place three times a week, outside the trading hours of the New York Stock Exchange ("NYSE"). Each auction will last approximately one-half hour.

[6] Customers' terminals will be linked to the main computer by direct lines, modems, or public data networks, at the discretion of the customer. The main computer, located in WASI's data center in Minneapolis, Minnesota, operates on a uninterruptable power supply and is serviced by the manufacturer under a contract to repair any failure on the day in which it occurs. The Wunsch system has sufficient capacity to handle simultaneously up to 5,000 separate securities, and to process up to 500 orders per second. WASI has adopted a system of passwords (one password for logging in, another for order entry), a proprietary communications protocol, data encryption, error detection and other security measures designed to protect the system against unauthorized entry.

[7] In order to discourage the cancellation of orders, WASI proposed to charge customers two commissions, on both the buy and sell side, for each cancelled order. Customers may replace orders with more aggressive orders (*i.e.*, higher bids or lower offers) without penalty, but will be penalized for replacing an order with a less aggressive one (*i.e.*, a lower bid or higher offer).

[8] A broker-dealer subsidiary of Bankers Trust New York Corporation, BT Brokerage, will perform this function. WASI will not assume positions or handle customer funds.

[9] In a procedure that WASI believes constitutes compliance with the off-board trading rule adopted by the NYSE (*i.e.*, rule 390), BT Brokerage may route orders executed by BT Brokerage in New York City to one or more overseas affiliates of the broker-dealer for time-stamping in the appropriate overseas market, *e.g.*, the International Stock Exhcnage in London, or the Singapore Stock Exchange.

[10] 15 U.S.C. 78e (1988).

[11] *Id.*

[12] *See* Securities Exchange Act Release No. 26708 (April 11, 1989), 54 FR 15429. In seven instances the Commission has granted section 5 exemptions to exchanges on other than a temporary basis. *See* Securities Exchange Act Release Nos. 415, November 14, 1935 (exempting the Honolulu and Minneapolis-St. Paul Stock Exchanges and the Milwaukee Grain and Stock Exchange); 432, December 2, 1935 (exempting the Richmond and Wheeling Stock Exchanges); 472, February 3, 1936 (exempting the Colorado Springs Stock Exchange); and 589, April 10, 1936 (exempting the Seattle Stock Exchange).

[13] Letters from: (1) Alger B. Chapman, Chairman, Chicago Board Options Exchange ("CBOE"), to the Commission, dated August 7, 1989 ("CBOE letter"); (2) Daniel T. Brooks, Cadwalader, Wickersham & Taft, counsel for Instinet Corporation, to the Commission, dated August 2, 1989 ("Instinet letter"); and (3) Thomas R. Donovan, President, Board of Trade of the City of Chicago ("CBT"), to the Commission, dated July 19, 1989 ("CBT letter"). These letters are contained in Public File No. S7–13–89.

[14] CBOE letter, at 8–13.

Securities Dealers ("NASD"), which traded close to 150 million shares a day.[15] Finally, CBT stated that all three elements of the test proposed by the Commission could be relevant to a determination to grant an exemption to a particular exchange; however, CBT cautioned that, in applying those factors, the Commission should not "swallow the exchange registration rule" and thus defeat Congress' purpose.[16]

As a separate matter, the Commission also noted that it could, as it has in the past, impose conditions on registration exemptions if they are granted. For example, in prior exemptive orders the Commission has imposed on exempted exchanges recordkeeping and reporting requirements, and requirements to comply and to enforce compliance with the Act. Similarly, the Commission noted that future exemptions could be conditioned on exempted exchanges' being required to file plans and plan amendments with the Commission, and to submit to: (1) Commission review of action taken by the exchanges denying access to the system to current or prospective members; and (2) Commission jurisdiction to amend the rules of the exchange if the public interest so requires. Comments received indicated that an exemption could be conditioned on compliance with a rule or requirements substantially equivalent to those encompassed in proposed Rule 15c2–10.[17]

IV. Solicitation of Comment on the Wunsch System

While not specifically discussed in the Rule 15c2–10 proposal, consideration of an application for exemption submitted by an exchange with no previous operating history requires the Commission to make a prediction of likely trading volume. As a preliminary matter, the Commission believes that the facts that the Wunsch System will conduct auctions only three times a week, and the absence of any participation in the System of broker-dealers with market-making obligations, strongly suggest that the dollar and share volume traded through the Wunsch System, expressed in absolute terms or as a percentage of other markets, will be limited.[18]

Moreover, the Commission expects to impose the following minimum conditions upon WASI as a condition of any such exemption: (1) Continued registration of BT Brokerage as a broker-dealer under section 15(a) of the Act and the continued membership of BT Brokerage in the NASD; (2) the Wunsch System's supplying to the Commission, on a quarterly basis, or on a more frequent basis, if deemed necessary, data describing: (a) The number and identity of participants that have signed participation agreements and of applicants that have been denied application, and the reasons for such denial; (b) the number of auctions conducted and the identity of securities included in each auction; (c) the prices at which particular blocks of securities were sold during the auction; (d) the number and volume of any transactions that fail to settle after an auction and the identity of defaulting parties; and (e) the daily dollar and share volume of business transacted through the system; (3) an undertaking by WASI to cooperate with any investigation of trading on the Wunsch System conducted by any self-regulatory organization ("SRO") or by the Commission, and to provide SROs and the Commission with any requested information pertaining to trading on the Wunsch System; and (4) the provision of 30 days prior notice of any material changes in the operation of the auction. The Commission, of course, reserves the right to apply further conditions as it deems necessary for the protection of investors and the public interest.

In light of the novelty of determining whether the Commission should grant WASI a limited volume exemption from registration as a national securities exchange under section 5 of the Act, the Commission requests comment on whether: (1) The Commission should grant WASI the exemption it seeks; and (2) if so, the conditions that should apply to such exemption.

V. Comment Period

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of all submissions filed with the Commission will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC. All submissions should refer to the file number in the caption above and should be submitted by November 29, 1990.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR 90–25623 Filed 10–29–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–17818; 811–4284]

RNC Income Fund, Inc.; Application

October 24, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: RNC Income Fund, Inc.

RELEVANT 1940 ACT SECTIONS: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on August 20, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 19, 1990, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing request should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC. 450 5th Street, NW., Washington, DC 20549. Applicant, 10601 Wilshire Boulevard, Penthouse Floor, Los Angeles, California 90025.

FOR FURTHER INFORMATION CONTACT: Barabra Chretien-Dar, Staff Attorney, at (202) 272–3022, or Stephine M. Monaco, Branch Chief, at (202) 272–3030 (Office

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[15] Instinet letter, at 44–5. In 1989, the actual average daily share volume traded on the NYSE was 165.5 million shares; the average daily share volume traded on the NASD's automated quotation system ("NASDAQ") was 133.1 million shares.

[16] CBT letter, at 5.

[17] *See* CBOE letter, at 8.

[18] The Commission does not believe in this context (*i.e.*, an application for exemption submitted by a new exchange) that it is necessary to delineate comprehensive criteria for determining what is *de minimis*. Nonetheless, the Commission would at a minimum expect to revisit any exemption granted the Wunsch System if it achieves, on a regular basis, a share of NASDAQ or consolidated NYSE share or dollar volume in excess of the current share of active proprietary trading systems. Currently, Instinet's average daily volume, expressed in shares traded, is approximately 1.4 percent of the average daily volume of the NYSE; the average daily volume of trading in the Portfolio System for Institutional Trading ("POSIT") expressed in shares traded, is 1 percent of NYSE's average daily volume.

of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or from the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 738-1480).

Applicant's Representations

1. According to SEC records, Applicant, and open-end investment company organized under Maryland law, registered under the 1940 Act on April 23, 1985. On the same date, it filed a registration statement with respect to an indefinite number of shares under the Securities Act of 1933, which registration statement was declared effective on April 11, 1986.

2. On December 4, 1989, Applicant's board of directors approved the transfer of all assets of Applicant to ProvidentMutual Total Return Trust ("ProvidentMutual") in exchange for shares of ProvidentMutual. At a special meeting of shareholders of Applicant on May 29, 1990, the proposed asset purchase and Applicant's subsequent liquidation were approved.

3. On June 20, 1990, Applicant transferred substantially all of its assets to ProvidentMutual in exchange for ProvidentMutual shares based on the relative net asset values of Applicant and ProvidentMutual as of June 19, 1990. As of that date, Applicant had 560,378.438 shares outstanding and its net asset value per share was $9.1. Applicant's shareholders received the equivalent aggregate net asset value in shares of ProvidentMutual in return for all of Applicant's shares (approximately .762 ProvidentMutual shares for each of Applicant's shares).

4. RNC Capital Management Co., Applicant's investment adviser, paid approximately $10,000 in expenses incurred in connection with the reorganization and liquidation. Applicant incurred no other expenses.

5. Applicant intends to dissolve under Maryland law. Applicant retains no assets and has not further liabilities. Applicant is not a party to any litigation or administrative proceeding. Appplicant has no remaining shareholders.

6. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

7. Applicant has filed a Form N-SAR for the six-month period ended March 31, 1990 reflecting the winding up of its operations.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-25574 Filed 10-29-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17818; 811-4136]

RNC Regency Fund, Inc.; Application

October 24, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: RNC Regency Fund, Inc.

RELEVANT 1940 ACT SECTIONS: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on August 20, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 19, 1990, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 11601 Wilshire Boulevard, Penthouse Floor, Los Angeles, California 90025.

FOR FURTHER INFORMATION CONTACT: Barbara Chretien-Dar, Staff Attorney, at (202) 272-3022, or Stephanie M. Monaco, Branch Chief, at (202) 272-3030 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or from the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 738-1480).

Applicant's Representations

1. Applicant, an open-end investment company organized under Maryland law, registered under the 1940 Act on October 25, 1984. On the same date, it filed a registration statement with respect to an indefinite number of shares under the Securities Act of 1933, which registration statement was declared effective on August 8, 1985.

2. On December 4, 1989, Applicant's board of directors approved the transfer of all assets of Applicant to ProvidentMutual Investment Shares, Inc. ("ProvidentMutual") in exchange for shares of ProvidentMutual. At a special meeting of shareholders of Applicant on May 29, 1990, the proposed asset purchase and Applicant's subsequent liquidation were approved.

3. On June 20, 1990, Applicant transferred substantially all of its assets to ProvidentMutual in exchange for ProvidentMutual shares based on the relative net asset values of Applicant and ProvidentMutual as of June 19, 1990. As of that date, Applicant had 624,350.228 shares outstanding and its net asset value per share was $15.89. Applicant's shareholders received the equivalent aggregate net asset value in shares of ProvidentMutual in return for all of Applicant's shares (approximately 1.826 ProvidentMutual shares for each of Applicant's shares).

4. RNC Capital Management Co., Applicant's investment adviser, paid approximately $10,000 in expenses incurred in connection with the reorganization and liquidation. Applicant incurred no other expenses.

5. Applicant intends to dissolve under Maryland law. Applicant retains no assets and has no further liabilities. Applicant is not a party to any litigation or administrative proceedings. Applicant has no remaining shareholders.

6. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

7. Applicant has filed a Form N-SAR for the six-month period ended March 31, 1990 reflecting the winding up of its operations.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-25575 Filed 10-29-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17817; 811-4837]

RNC Westwind Fund, Inc.; Application

October 24, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: RNC Westwind Fund, Inc.

RELEVANT 1940 ACT SECTIONS: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on August 20, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 19, 1990, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW, Washington, DC 20549. Applicant, 11601 Wilshire Boulevard, Penthouse Floor, Los Angeles, California 90025.

FOR FURTHER INFORMATION CONTACT: Barbara Chretien-Dar, Staff Attorney, at (202) 272-3022, or Stephanie M. Monaco, Branch Chief, at (202) 272-3030 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or from the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 738-1400).

Applicant's Representations

1. According to SEC records, Applicant, an open-end investment company organized under Maryland law, registered under the 1940 Act on September 11, 1986. On the same date, it filed a registration statement with respect to an indefinite number of shares of its initial series, RNC Westwind Fund (the "Westwind Series") under the Securities Act of 1933, which registration statement was declared effective on December 8, 1986. Applicant filed a post-effective amendment registering an indefinite number of shares of a second series, RNC Short/Intermediate Government Securities Fund (the "Government Series"). The post-effective amendment became effective on July 11, 1988.

2. On December 4, 1989, Applicant's board of directors approved the transfer of all assets of the Westwind Series to Provident Mutual U.S. Government Fund ("Total Return") and the transfer of all assets of the Government Series to ProventMutual U.S. Government Fund For Income, Inc. ("U.S. Fund") in exchange for shares of Total Return and U.S. Fund. At a special meeting of shareholders of each of the Westwind Series and of the Government Series on May 29, 1990, the proposed asset purchases were approved.

3. On June 20, 1990, the Westwind Series transferred substantially all of its assets to Total Return in exchange for Total Return shares based on the relative net asset values of the Westwind Series and Total Return. The Government Series transferred substantially all of its assets to U.S. Fund in exchange for shares of U.S. Fund based on the relative net asset values of the Government Series and of U.S. Fund. The net asset values were determined as of June 19, 1990. As of that date, the Westwind Series had 355,152.891 shares outstanding, the Government Series had 116,070.059 shares outstanding, and their net asset value per share was $11.28 and $9.97 respectively. Shareholders of each of Applicant's series received the equivalent aggregate net asset value in shares of Total Return or of U.S. Fund in return for all of each series' outstanding shares (approximately .944 Total Return shares for each Westwind Series share and approximately .88 U.S. Fund shares for each Government Series share).

4. RNC Capital Management Co., Applicant's investment adviser, paid approximatley $10,000 in expenses incurred in connection with the reorganization and liquidation of each series, totalling $20,000. Applicant incurred no other expenses.

5. Applicant intends to dissolve under Maryland law. Applicant retains no assets and has no further liabilities. Applicant is not a party to any litigation or administrative proceedings. Applicant has no remaining shareholders.

6. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

7. Applicant has filed a Form NSAR for the six-month period ended March 31, 1990 reflecting the winding up of its operations.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-25573 Filed 10-29-90; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Fitness Determination of Dawn Air, Inc.

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 90-10-38, order to show cause.

SUMMARY: The Department of Transportation is proposing to find Dawn Air, Inc., fit, willing, and able to provide commuter air service under section 419(e) of the Federal Aviation Act.

RESPONSES: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their response with the Air Carrier Fitness Division, P-56, Department of Transportation, 400 Seventh Street, SW., Room 6401, Washington, DC 20590, and serve them on all persons listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Carol A. Woods, Air Carrier Fitness Division (P-56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-2340.

Dated: October 24, 1990.

Patrick V. Murphy, Jr.,

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 90-25618 Filed 10-29-90; 8:45 am]

BILLING CODE 4910-28-M

Federal Aviation Administration

Proposed Advisory Circular 120-XX; Air Carrier Internal Evaluation Programs

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of proposed Advisory Circular (AC) 120-XX, and request for comments.

SUMMARY: This proposed AC describes the process of voluntary disclosure of infractions of the Federal Aviation Regulations (FAR) and the establishment of internal evaluation programs for use by FAR part 121 and part 135 certificate holders.

DATES: Comments must be received on or before December 31, 1990.

ADDRESSES: Send all comments on the proposed AC to Federal Aviation Administration, Air Transportation Division, AFS-200, 800 Independence Avenue, SW., Washington, DC 20591. Comments may be inspected at the above address between 9 a.m. and 4 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: David Potter, AFS-201, at the above address, telephone: (202) 267-8166.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the draft AC may be obtained by contacting the person named above under "FOR FURTHER INFORMATION CONTACT." Interested persons are invited to comment on the proposed AC by submitting such written data, views, or arguments as they may desire. Commenters should identify AC 120-XX and submit comments, in duplicate, to the address specified above. All communications received on or before the closing date for comments will be considered by the Air Transportation Division before issuing the final AC.

The Proposed Advisory Circular

The adoption of the Air Carrier Internal Evaluation Program as a part of the FAA's compliance and enforcement policy was announced by Administrator James Busey on March 27, 1990. Since that announcement, the agency has developed detailed implementing procedures and has conducted training of safety inspectors from every FAA region. The draft AC has been developed to advise certificate holders of the procedures for voluntary disclosure of infractions of the regulations, development of a company internal evaluation program, and coordination with the FAA on inspection, recordkeeping, and reporting of information. The FAA Office of the Chief Counsel has not completed its review of the draft at this time, and the draft is not considered final. A working draft of the proposed AC is being made available for public review and comment in order to expeditiously obtain the fullest public input in development of the final document. While the final version of the AC will continue to reflect the general policy announced on March 27, specific provisions of the working draft now available may be changed in the final version. Comments are specifically requested on the practicality of the procedures described in the draft and the clarity of the terminology and provisions used.

Issued in Washington, DC, on October 23, 1990.

Thomas C. Accardi,

Acting Director, Flight Standards Service.

[FR Doc. 90-25611 Filed 10-29-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 90-83]

Suspension of Individual Broker's License No. 4900; Kay Bennett

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: Notice is hereby given that the Secretary of the Treasury on July 26, 1990, in accordance with the settlement of the disciplinary proceedings instituted under 19 U.S.C. 1641 by the U.S. Customs Service on July 1, 1989, suspends the individual broker's license (No. 4900) issued to Kay Bennett for a period of 150 days.

Dated: October 23, 1990.

Victor G. Weeren,

Director, Office of Trade Operations.

[FR Doc. 90-25580 Filed 10-29-90; 8:45 am]

BILLING CODE 4820-02-M

Fiscal Service

Treasury Current Value of Funds Rate

AGENCY: Fiscal Service, Treasury.

ACTION: Notice of rate for use in Federal debt collection and discount evaluation.

SUMMARY: Pursuant to section 11 of the Debt Collection Act of 1982 (31 U.S.C. 3717), the Secretary of the Treasury is responsible for computing and publishing the percentage rate to be used in assessing interest charges for outstanding debts on claims owed the Government. Treasury's Cash Management Regulations (I TFM 6-8000) also prescribe use of this rate by agencies as a comparison point in evaluating the cost-effectiveness of a cash discount. Notice is hereby given that the applicable rate is 8 percent for calendar year 1991.

DATES: The rate will be in effect for the period beginning on January 1, 1991 and ending on December 31, 1991.

FOR FURTHER INFORMATION CONTACT: Inquiries should be directed to the Cash Management Division (Program Compliance Branch), Financial Management Service, Department of the Treasury, 401 14th Street, SW., Washington, DC 20227 (Telephone: (202) 287-0745).

SUPPLEMENTARY INFORMATION: The rate reflects the current value of funds to the Treasury for use in connection with Federal Cash Management systems and is based on investment rates set for purposes of Public Law 95-147, 91 Stat. 1227. Computed each year by averaging investment rates for the 12-month period ending every September 30 for applicability effective January 1, the rate is subject to quarterly revisions if the annual average, on a moving basis, changes by 2 per centum. The rate in effect for calendar year 1991 reflects the average investment rates for the 12-month period ended September 30, 1990.

Dated: October 19, 1990.

Michael T. Smokowicz,

Assistant Commissioner, Federal Finance.

[FR Doc. 90-25665 Filed 10-29-90; 8:45 am]

BILLING CODE 4810-35-M

DEPARTMENT OF VETERANS AFFAIRS

Conversion of Federal Supply Schedule Item, Hospital Stretcher (Adjustable Back Rest), From a Multiple Award Schedule to a Single Award Schedule

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Notice is hereby given that Department of Veterans Affairs (VA) is proposing to convert a Hospital Stretcher (adjustable back rest) currently under Federal Supply Schedule Group 65, part II from a Multiple Award Schedule (MAS) to a Single Award Schedule (SAS).

DATES: Written comments must be received on or before November 29, 1990, and should include consideration of potential impact on small business concerns. Comments will be available for public inspection until December 10, 1990.

ADDRESSES: Interested persons are invited to submit written comments suggestions, or objections regarding this change to the Secretary of Veterans Affairs (271A), Department of Veterans

Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 132 at the above address, between the hours of 8:30 a.m and 4:30 p.m., Monday through Friday, (except holidays), until December 10, 1990.

FOR FURTHER INFORMATION CONTACT: Pat Rhoades, Customer Service Division (904C), Department of Veterans Affairs Marketing Center (708) 216–2478.

SUPPLEMENTARY INFORMATION: The item proposed for conversion from a Multiple Award Schedule (MAS) to a Single Award Schedule (SAS) is: Hospital Stretcher (adjustable back rest). This proposed action is published in accordance with General Services Administration Handbook, Supply Operations, chapter 38 (FSS P2901.2A), and Federal Acquisition Regulation (FAR) 38.2.

Dated: October 18, 1990.

Edward J. Derwinski,

Secretary of Veterans Affairs.

[FR Doc. 90–25668 Filed 10–29–90; 8:45 am]

BILLING CODE 6820–01–M

Summary of Legal Interpretation of the General Counsel-Precedent Opinion 82–90; Congenital/Developmental Conditions Under 38 CFR 3.303(c)

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—In view of the provisions of 38 CFR 3.303(c), under what circumstances, if any, may service-connection be granted for disorders of congenital or developmental origin?

EFFECTIVE DATE: July 16, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–2159.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel. (This, opinion, previously issued as General Counsel Opinion I–85, dated March 5, 1985, is reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text of the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.)

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 82–90, Congenital/Developmental Conditions under 38 CFR 3.303(c), requested by Chairman, Board of Veterans Appeals, is as follows:

Held: Service-connection may be granted for diseases (but not defects) of congential, developmental or familial origin. In the instant cases, service connection is warranted if the evidence as a whole establishes that the familial conditions in question were incurred or aggravated during service within the meaning of VA law and regulations.

Dated: August 27, 1990.

Raoul L. Carroll,

General Counsel.

[FR Doc. 90–25540 Filed 10–29–90; 8:45 am]

BILLING CODE 8320–01–M

Summary of Legal Interpretation of the General Counsel-Precedent Opinion 83–90; Course Substitution by Institutions

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—Does 38 U.S.C. 1782, which bars the VA from exercising supervision or control over any educational institution or State approval agency, prohibit the VA from questioning the reasonableness of course substitutions approved by either? If not, may the VA withhold benefit payments in such cases?

EFFECTIVE DATE: July 18, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW; Washington, DC 20420, (202) 233–2159.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issued but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel. (This, opinion, previously issued as General Counsel Opinion 12–83, dated September 20, 1983, is reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text of the opinion remains unchanged from the original except for certain format the clerical changes necessitiated by the aforementioned regulatory provisions.)

VA published summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 83–90, Course Substitution By Institutions, requested by Chief Benefits Director, is as follows:

Held: (1) The VA has the authority to independently determine that the courses or subject approved by the state approval agency (SAA) and which constitute the veteran's program of education lead to an identified professional, vocational or educational objective. If they do not, no benefits for such courses or subjects may be paid, unless they may properly form the basis of a different program of education and the veteran meets all criteria for an appropriate change of program.

(2) Only the veteran may seek a change of program and he or she must do so affirmatively by making application to the VA.

(3) The school may not, in any case, independently exercise the veteran's right to an optional change of program.

(4) The VA will not pay benefits to a veteran for any portion of training received in a new program of education unless an application for the change of program is received within 1 year of the actual training, just as in any other case for which the beneficiary is required to apply.

(5) Applications by a school to a SAA for approval of a new course must be in writing only if the course is nonaccredited. In all other cases the existing law and regulations would seem to permit the SAA to entertain in informal application such as submission by the school of a revised catalogue listing different unit courses or subjects than were submitted for the original approval. We are of the opinion, however, that the SAA can and should require written applications.

(6) If a school or the SAA delays requesting or approving a course (so that the VA does not receive the approval within 60 days of the effective date of the approval), under existing rules and regulations the VA may only pay benefits from the date VA receives the notice of approval from the SAA, even thought the approval is made effective by the SAA for an earlier date, except when a waiver is granted by the VA for the delay. The date of receipt of the notice of approval would always be later than the effective date of the approval in such cases. If a waiver of dely in notifying the VA is granted, the VA may pay from the effective date of the approval as determined by the SAA.

(7) The existing regulations regarding such a waiver do not impose a specific period of delay (from the date the SAA determines to be the effective date of approval until the VA is notified) which would be considered inordinate, but, rather, impose an equitable test of good faith of the parties. A revised regulation could set a specific period of delay beyond which no waiver would be allowed, however. We would suggest 1 year would be a reasonable rule.

Dated: August 27, 1990.

Raoul L. Carrol,

General Counsel.

[FR Doc. 90-25541 Filed 10-29-90; 8:45 am]

BILLING CODE 8320-01-M

Summary of Legal Interpretation of the General Counsel—Precedent Opinion 84-90; Statute of Limitation on Education Loan

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—When does the statute of limitations start to run on education loans?

EFFECTIVE DATE: July 18, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-2159.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel. (This opinion, previously issued as General Counsel Opinion 5-81, dated August 6, 1981, is reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text of the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.)

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 84-90, Statute of Limitation on Education Loan, requested by Chief Benefits Director, is as follows:

Held: The cause of action in the case of a defaulted education loan accrues on the date of default. DVB Circular 20-78-44 places the date of default at 30 days after the date of the second request to the borrower. Therefore, the statute of limitations begins to run 30 days after the date of FL 4-322 to the veteran. It should be noted that a payment on the loan after the default date tolls the statute and starts it running again.

Dated: August 27, 1990.

Raoul L. Carroll,

General Counsel.

[FR Doc. 90-25542 Filed 10-29-90; 8:45 am]

BILLING CODE 8320-01-M

Summary of Legal Interpretation of the General Counsel-Precedent Opinion 86-90; Entitlement to Service-Connected Disability Benefits for Heart Attack Sustained During Inactive Duty Training

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—Does a myocardial infarction, sustained during the course of mandatory heavy exertion during inactive duty training, constitute "an injury" within the meaning of 38 U.S.C. 101(24) so as to establish incurrence of a disability during such duty, or aggravation by injury of a preexisting disorder?

EFFECTIVE DATE: July 18, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–2158.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel. (This, opinion, previously issued as General Counsel Opinion 1–81, dated February 9, 1981, is reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text of the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.)

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 86–90, Entitlement to Service-Connected Disability Benefits for Heart Attack Sustained during Inactive Duty Training, requested by Chairman, Board of Veterans Appeals, is as follows:

Held: The question presented [Does a myocardial infarction, sustained during the course of mandatory heavy exertion during inactive duty training, constitute "an injury" within the meaning of 38 U.S.C. 101(24) so as to establish incurrence of a disability during such duty, or aggravation by injury of a preexisting disorder?] is answered in the negative.

Dated: August 27, 1990.

Raoul L. Carroll,

General Counsel.

[FR Doc. 90–25544 Filed 10–29–90; 8:45 am]

BILLING CODE 8320–01–M

Summary of Legal Interpretation of the General Counsel-Precedent Opinion 76–90, Income From Lands Held in Trust by Federal Government for Indian Tribes—Countability for VA Pension Purposes

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—(1) Whether income from lands held in trust by the Federal Government for a veteran as a member of an Indian tribe should be counted as income for improved pension and section 306 pension purposes, and (2) whether such lands should be considered as part of the veteran's net worth for pension purposes.

EFFECTIVE DATE: July 18, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–2158.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel. (This, opinion, previously issued as General Counsel Opinion 8–87, dated October 2, 1987, is reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text of the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.)

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated OG.C. Prec. 76–90, Income from Lands Held in Trust by Federal Government for Indian Tribes—countability for VA Pension Purposes, requested by Chief Benefits Director, is as follows:

Held: The veteran's rental income from land held in trust by the Federal Government for the veteran as a member of an Indian tribe must be included as "income" under 38 U.S.C. 503(a), but that trust itself, pursuant to 38 U.S.C. 1408, is an excludable resource for purposes of determining the veteran's net worth under 38 U.S.C. 522(a). In view of the similarity between the improved pension and section 306 pension statutes as they apply to this issue, and the unrestricted scope of section 1408, the same result would apply under the section 306 pension program.

Dated: August 27, 1990.

Raoul L. Carroll,

General Counsel.

[FR Doc. 90–25534 Filed 10–29–90; 8:45 am]

BILLING CODE 8320–01–M

Summary of Legal Interpretation of the General Counsel-Precedent Opinion 77–90; Period of Eligibility for Insurance

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—When does a grant of service connection for a disability on a secondary basis establish a new period of eligibility to apply for Service Disabled Veterans (RH) Insurance (SDVI)?

EFFECTIVE DATE: July 18, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–2159.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel. (This opinion, previously issued as General Counsel Opinion 5–87, dated July 27, 1987, is reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.507. The text of the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.)

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 77–90, Period of Eligibility for Insurance, requested by Chairman, Board of Veterans Appeals, is as follows:

Held: In accordance with the language of 38 U.S.C. 722(a), its legislative history, and the pertinent regulations and their development, we conclude that a finding of service connection for a secondary disability establishes a new period for filing an application for insurance under that section. This is so even if the newly recognized disability is a result of the same disease responsible for earlier-manifested, different disabilities. In the instant case, the October 1983 rating awarded service connection for a "disability" (visual impairment) not previously service connected, and, accordingly, established a new period of eligibility for the veteran to apply for SDVI.

Dated: August 27, 1990.

Raoul L. Carroll,

General Counsel.

[FR Doc. 90–25535 Filed 10–29–90; 8:45 am]

BILLING CODE 8320–01–M

Summary of Legal Interpretation of the General Counsel-Precedent Opinion 81–90, Review of Opinions Concerning Mineral Lease Proceeds

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—Whether royalty and other payments associated with a mineral lease represent income of the lessor for pension purposes.

EFFECTIVE DATE: July 18, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Libarary, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–2159.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel. (This opinion, previously issued as General Counsel Opinion 3–85, dated June 19, 1985, is reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.507. The text of the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.)

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 81–90, Review of Opinions Concerning Mineral Lease Proceeds, requested by Waco District Counsel, is as follows:

Held: Mineral lease royalties must be considered proceeds of the sale of property and are properly excludable from income for pension purposes. However, such payments are relevant to evaluation of the corpus of a claimant's estate for purposes of the net worth limitation in the pension statutes. Also, bonus payments and delay rentals received in connection with a mineral lease must be considered income of the lessor for pension purposes.

Dated: August 27, 1990.

Raoul L. Carroll,

General Counsel.

[FR Doc. 90–25539 Filed 10–29–90; 8:45 am]

BILLING CODE 8320–01–M

Summary of Legal Interpretation of the General Counsel-Precedent Opinion 79–90, Offset of Survivors' Benefits

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—Whether the amount of dependency and indemnity compensation (DIC) to be withheld pursuant to 38 U.S.C. 351 to offset a tort recovery against the United States for a veteran's death is dependent on the legal status in which the tort claimant recovers.

EFFECTIVE DATE: July 18, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810

Vermont Avenue, NW., Washington, DC 20420, (202) 233–2159.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel. (This, opinion, previously issued as General Counsel Opinion 1–87, dated November 14, 1986, is reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text of the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.)

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 79–90, Offset of Survivors' Benefits under 38 U.S.C. 351, requested by Baltimore District Counsel, is as follows:

Held: The legal status under which a claimant recovers on a claim under the FTCA based on death is relevant to determination of the amount to be offset from DIC benefits pursuant to 38 U.S.C. 351. Such status will generally be dependent on the nature of the damages recovered. Amounts recovered by an individual under a typical wrongful-death statute may be offset against DIC otherwise payable to that individual, even if damages are actually paid to a nominal party as trustee for the survivors. Each survivor receiving damages under a wrongful-death statute is subject to offset only to the extent of sums included in the judgment or settlement to compensate for harm suffered by that individual. Damages recovered by a personal representative under a survival statute are not subject to recovery by offset under section 351, although the personal representative to whom payment is made may be the surviving spouse of the decedent. We will advise personnel of the Office of the General Counsel responsible for FTCA matters of the need for specificity in FTCA judgments and settlements to identify the capacities in which claimants receive damages and the sums awarded to each party.

Dated: August 27, 1990.

Raoul L. Carroll,

General Counsel.

[FR Doc. 90–25537 Filed 10–29–90; 8:45 am]

BILLING CODE 8320-01-M

Summary of Legal Interpretation of the General Counsel—Precedent Opinion 85–90, Waived Income for Pension Purposes

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Departmentof Veterans Affairs (VA) is publishing a summary of legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claims matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—Does a withdrawn application for Social Security benefits constitute a waiver of income?

EFFECTIVE DATE: July 18, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–2159.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel. (This, opinion, previously issued as General Counsel Opinion 3–81, dated April 22, 1981, is reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text of the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.)

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinion, with personal identifiers deleted, may obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 85–90, Waived Income for Pension Purposes, requested by Chief Benefits Director, is as follows:

Held: The withdrawal of a Social Security application after a finding of entitlement, under circumstances indicating that the purpose of such withdrawal is to maintain eligibility for an unreduced Social Security benefit upon attainment of a certain age, should not be regarded as a waiver under section 503(a) nor should the Social Security benefit that would be received but for the withdrawal be counted as income for purposes of the Improved Pension program.

Dated: August 27, 1990.

Raoul L. Carroll,

General Counsel.

[FR Doc. 90–25543 Filed 10–29–90; 8:45 am]

BILLING CODE 3320-01-M

Summary of Legal Interpretation of the General Counsel-Precedent Opinion 80–90, Interpretation

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—May the surviving spouse of a veteran entitled to receive disability compensation continuously at the 100-percent rate for 10 or more years under 38 U.S.C. 351, whose death was neither

service-connected nor due to the disability for which compensation was paid under section 351, qualify to receive Dependency and Indemnity Compensation (DIC) under 38 U.S.C. 410(b)(1)ff

EFFECTIVE DATE: July 18, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–2158.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel. (This opinion, previously issued as General Counsel Opinion 5–86, dated January 31, 1986, is reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text of the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.)

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 80–90, Interpretation of 38 U.S.C. 410(b)(1) in Relation to 38 U.S.C. 351, requested by Chairman, Board of Veterans Appeals, is as follows:

Held: The surviving spouse of a veteran entitled to receive disability compensation continuously at the 100-percent rate for 10 or more years under 38 U.S.C. 351, whose death was neither service connected nor due to the disability for which compensation was paid under section 351, may qualify to receive DIC under 38 U.S.C. 410(b)(1).

Dated: August 27, 1990.

Raoul L. Carroll,

General Counsel.

[FR Doc. 90–25535 Filed 10–29–90; 8:45 am]

BILLING CODE 8320–01–M

Summary of Legal Interpretation of the General Counsel-Precedent Opinion 78–90, Effect of Veteran's Election to Receive Military-Retirement Pay on Surviving Spouse's Entitlement to DIC

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—The legal question presented is whether a surviving spouse is entitled to death benefits at the dependency and indemnity compensation (DIC) rates when the veteran's service-connected pulmonary tuberculosis was rated totally disabling by the VA more than 10 years before the veteran's nonservice-connected death, but the veteran had not received disability compensation due to an election to receive military-retirement pay. We are asked to consider, as a corollary question, whether the result would be different if the reason there had been no reduction in the veteran's disability rating prior to death had been Veterans Administration error in not conducting a physical examination since such examination might have concluded in diagnosis of "inactive" tuberculosis.

EFFECTIVE DATE: July 18, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–2158.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel. (This opinion, previously issued as General Counsel Opinion 4–87, dated July 17, 1987, is reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text of the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.).

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contracting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 78–90, Effect of Veteran's Election to Receive Military-Retirement Pay on Surviving Spouse's Entitlement to DIC under 38 U.S.C. 410(b), requested by Chairman, Board of Veterans Appeals, is as follows: HELD: In the case of a veteran who has elected to receive military-retirement pay in lieu of VA disability compensation, the VA is not authorized to pay DIC benefits to a surviving spouse merely on the basis of a 100% rating extant for 10 years immediately preceding death. Rather, the literal terms of 38 U.S.C. 410(b) necessitate that the VA make a posthumous determination whether the 100% rating was warranted "at the time of death," and for the requisite duration theretofore (ordinarily, 10 years).

Dated: August 27, 1990.

Raoul L. Carroll,

General Counsel.

[FR Doc. 90–25536 Filed 10–29–90; 8:45 am]

BILLING CODE 8320–01–M

Privacy Act of 1974; New System of Records; Extension of Comment Period

AGENCY: Department of Veterans Affairs.

ACTION: Notice of extension of comment period.

SUMMARY: The Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) requires that all agencies publish in the Federal Register a notice of the existence and character

of their systems of records. Accordingly, the Department of Veterans Affairs (VA) published a notice of the addition of a new system of records entitled "Health Care Provider Credentialing and Privileging Records—VA" (77VA11), which appeared on pages 30790 through 30793 of the Federal Register of July 27, 1990 (55 FR 30790). The notice provided a 30-day comment period for this system of records which was to end on August 27, 1990. If no comments were received during that period of time, the routine uses in the system of records were to be effective on August 27, 1990. Due to comments received during the 30-day comment period and indications that many more individuals would like the opportunity to comment on a system of records which directly affects them, the VA is hereby providing notice that, while the rest of the system notice was effective upon publication on July 27, 1990, the routine uses set forth in the system of records will not be considered effective on August 27, 1990, and that the comment period is reopened and extended for an additional 30-day period. All written comments previously received will be considered and need not be resubmitted.

DATES: Interested persons are invited to submit written comments, suggestions or objections regarding the proposed routine uses contained in the system of records to the Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All relevant material received on or before November 29, 1990, will be considered. All written comments received will be available for public inspection only in Room 132 of the above address between the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday, except holidays, until (Insert 40 days after date of publication in Federal Register).

Following the close of the extended comment period, the VA will publish a notice in the Federal Register addressing the comments received and setting forth the System of Records Notice in its entirety and an effective date for the routine uses therein.

FOR FURTHER INFORMATION CONTACT: Susan J. Brennan, Director, Professional Affairs, Office of the Assistant Chief Medical Director for Clinical Affairs, (202) 233–3118.

Approved: October 22, 1990.

Edward J. Derwinski,

Secretary of Veterans Affairs.

[FR Doc. 90–25667 Filed 10–29–90; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 210
Tuesday, October 30, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, November 1, 1990.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED: Compliance Status Report.

The staff will brief the Commission on various compliance matters.

For a Recorded Message Containing the Latest Agenda Information, Call: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, MD. 20207 301–492–6800.

Dated: October 25, 1990.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 90–25771 Filed 10–26–90; 1:33 pm]

BILLING CODE 6355–01–M

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: October 22, 1990, 55 FR 43675.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: October 24, 1990, 10:00 a.m.

CHANGE IN THE MEETING: The following Docket Numbers have been added to the Agenda scheduled for October 24, 1990:

Item No., Docket No., and Company

CAG–3—CP90–2154–000, RP85–177–000, RP88–67–039, RP89–255–002 and RP90–119–003, Texas Eastern Transmission Corporation

CAG–4—RP90–104–000 and RP88–115–000, Texas Gas Transmission Corporation

Lois D. Cashell,

Secretary.

[FR Doc. 90–25805 Filed 10–26–90; 3:50 pm]

BILLING CODE 6717–01–M

FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 55 FR 43256—October 26, 1990.

PREVIOUSLY ANNOUNCED DATE AND TIME OF THE MEETING: October 31, 1990—10:00 a.m.

CHANGE IN THE MEETING: Withdrawal of Item from the open session of the meeting.

Subject: Docket No. 90–06—*Notice of Inquiry—Marine Terminal Operator Regulations*—Consideration of Comments

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Secretary, (202) 523–5725.

Joseph C. Polking,

Secretary.

[FR Doc. 90–25788 Filed 10–26–90; 2:54 pm]

BILLING CODE 6730–01–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

October 24, 1990.

PREVIOUSLY ANNOUNCED TIME AND DATE: 10:00 a.m., Thursday, October 25, 1990.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open.

CHANGES IN THE MEETING: The following item will not be considered by the Commission and the meeting is cancelled.

1. *Medusa Cement Company*, Docket No. SE 89–109–M. (Issues include whether the judge erred in concluding that Medusa Cement violated 30 CFR § 56.14211(d)).

It was determined by the Commission that this meeting should be cancelled and no earlier announcement of the cancellation was possible.

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653–5629/(202) 708–9300 TDD.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 90–25791 Filed 10–26–90; 3:03 pm]

BILLING CODE 6735–01–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

October 24, 1990.

TIME AND DATE: 10:00 a.m., Thursday, November 1, 1990.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Joseph G. Delisio v. Mathies Coal Company*, Docket No. PENN 89–8–D. (Issues include whether the judge erred in sustaining Delisio's complaint of discrimination filed pursuant to Section 105(c) of the Mine Act. 30 U.S.C. 815(c).)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653–5629/(202) 708–9300 TDD Relay 1–800–877–8339 (Toll Free).

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 90–25792 Filed 10–26–90; 3:03 pm]

BILLING CODE 6735–01–M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, November 5, 1990.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 26, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–25800 Filed 10–26–90; 3:31 pm]

BILLING CODE 6210–01–M

INTERSTATE COMMERCE COMMISSION

Commission Voting Conference

TIME AND DATE: 10:00 a.m., Tuesday, November 6, 1990.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th &

Constitution Avenue, NW., Washington, DC 20423.

STATUS: The purpose of the conference is for the Commission to discuss among themselves, and to vote on, the agenda items. Although the conference is open for the public observation, no public participation is permitted.

MATTERS TO BE DISCUSSED:

Finance Docket No. 31562, *Union Pacific Railroad Company and Missouri Pacific Railroad Company—Trackage Rights Over Lines of Chicago and North Western Transportation Company Between Fremond, NE/Council Bluffs, IA and Chicago, IL*

Docket No. 39639, *Vulcan Materials Company v. Alton and Southern Railroad Company, et al.* and Docket No. 39812, *Vulcan Materials Company v. Alton and Southern Railroad Company, et al.*

Docket No. AB–12 (Sub-No. 118X), *Southern Pacific Transportation Company—Exemption—Abandonment of Service in San Mateo County, CA*

CONTACT PERSON FOR MORE INFORMATION:

A. Dennis Watson, Office of External Affairs, Telephone: (202) 275–7252 TDD: (202) 275–1721.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90–25628 Filed 10–25–90; 1:22 pm]

BILLING CODE 7035–01–M

NATIONAL CREDIT UNION ADMINISTRATION

Meeting

TIME AND DATE: 10:00 a.m., Monday, November 5, 1990.

PLACE: Filene Board Room, 7th Floor, 1776, G Street, NW., Washington, DC 20456.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Office Space Evaluation. Closed pursuant to exemptions (2) and (9)(B).

2. Administrative Action under section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 682–9600.

Becky Baker,

Secretary of the Board.

[FR Doc. 90–25753 Filed 10–26–90; 1:06 pm]

BILLING CODE 7535–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m., Thursday, November 1, 1990.

PLACE: Conference Room 8A, B, C, Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Aviation Accident Report: United Airlines DC–10 Accident, Sioux City, Iowa, July 19, 1989.

News Media Contact: Ted Lopatkiewicz 382–6600

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382–6525.

Dated: October 26, 1990.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 90–25754 Filed 10–26–90; 1:09 pm]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of October 29, November 5, 12, and 19, 1990.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of October 29

Monday, October 29

10:00 a.m.
Briefing on Issues Raised by the Provision Requiring Title Transfer of Low Level Waste (Public Meeting)

Tuesday, October 30

10:00 a.m.
Briefing on Nonprescriptive Nuclear Safety Regulation (Public Meeting)

Wednesday, October 31

10:00 a.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of November 5—Tentative

Thursday, November 8

10:00 a.m.
Briefing on Progress of Research in the Area of Organization and Management (Public Meeting)

2:00 p.m.
Periodic Meeting with the Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)

3:30 p.m.
Affirmative/Discussion and Vote (Public Meeting) (if needed)

Week of November 12—Tentative

Friday, November 16

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of November 19—Tentative

Wednesday, November 21

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To verify the status of meetings call (recording)—(301) 492–0292

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492–1661.

Dated: November 25, 1990.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 90–25782 Filed 10–26–90; 2:23 pm]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of October 29, 1990.

A closed meeting will be held on Tuesday, October 30, 1990, at 2:30 p.m.

The Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A), and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Lochner, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, October 30, 1990, at 2:30 p.m., will be:

Formal orders of investigation.

Regulatory matter regarding financial institution.

Institution of injunctive action.

Institution of administrative proceedings of an enforcement nature.

Settlement of administrative proceeding of an enforcement nature.
Settlement of injunctive action.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Daniel Gray at (202) 272–2300.

Dated: October 25, 1990.
Jonathan G. Katz,
Secretary.
[FR Doc. 90–25747 Filed 10–26–90; 1:07 pm]
BILLING CODE 6210-01-M

VOL 55 ISS 210 OCT 30 1990 UMI

federal register

Tuesday
October 30, 1990

Part II

Department of Transportation

National Highway Traffic Safety Administration

49 CFR Parts 571, et al.

Federal Motor Vehicle Safety Standards; Side Impact Protection; Rules

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 88-06; Notice 8]

RIN 2127-AB95

Federal Motor Vehicle Safety Standards; Side Impact Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This notice amends Standard No. 214, *Side Door Strength*, to upgrade its test procedures and performance requirements for passenger cars. For many years, the standard has measured performance statically in terms of the ability of each door to resist a piston pressing a rigid steel cylinder inward against the door. These amendments require in addition that each passenger car must protect its occupants in a full-scale dynamic crash test in which the car is struck on either side by a moving deformable barrier simulating another vehicle. Instrumented test dummies are positioned in the target car to measure the potential for injuries to an occupant's thorax and pelvis.

Two alternative compliance schedules are established, the choice of which is at the option of the manufacturer Under one, the requirement will be phased-in by an annually increasing percentage of each manufacturer's production over a three-year period beginning on September 1, 1993, with full implementation effective September 1, 1996. Under the other, no compliance will be required during the production year beginning September 1, 1993, but full implementation will be required effective September 1, 1994. In separate notices in today's **Federal Register**, the agency is establishing specifications for the new side impact test dummy and moving deformable barrier, as well as reporting requirements related to compliance with the phase-in of the new side impact requirements.

DATES: The amendments made by this rule to the text of the Code of Federal Regulations are effective November 29, 1990. The incorporation by reference of certain publications listed in the regulation is approved by the Director of the Federal Register as of November 29, 1990.

PERCENT COMPLIANCE REQUIRED DURING PRODUCTION YEAR BEGINNING

	Schedule one (percent)	Schedule two (percent)
9/1/93	10	0
9/1/94	25	100
9/1/95	40	100
9/1/96	100	100

Petitions for reconsideration of this final rule must be filed by November 29, 1990.

ADDRESSES: Petitions for reconsideration should refer to the docket and notice numbers set forth above and be submitted to the Administrator, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. William Boehly, Office of Vehicle Safety Standards, room 5320, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202-366-0842).

SUPPLEMENTARY INFORMATION:

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I. Background

NHTSA's current standard for side impact protection is Federal Motor Vehicle Safety Standard No. 214, *Side Door Strength* (49 CFR 571.214) The standard specifies performance requirements for each side door in a passenger car, to mitigate occupant injuries in side impacts by reducing the extent to which the side structure of a car is pushed into the passenger compartment during a side impact. The standard requires each door to resist crush forces that are applied by a piston pressing a steel cylinder inward against the door's outside surface in a laboratory test. The standard does not attempt to regulate directly the level of crash forces on an occupant who strikes or is struck by the car's interior during a side impact crash. Since the standard became effective on January 1, 1973, vehicle manufacturers have generally chosen to meet its performance requirements by reinforcing the side doors with metal beams.

NHTSA's analysis of real-world crash data has shown that the strengthening of the side doors with metal beams is indeed effective, but primarily in single car side impacts. The agency's November 1982 study, "An Evaluation of Side Structure Improvements in Response to Federal Motor Vehicle Safety Standard 214" (DOT HS 806-314), estimated that 480 lives have been saved and 9,500 fewer hospitalizations have occurred per year as a result of the standard. The study also found that while single vehicle occupant fatalities were reduced by 14 percent, the standard had little effect on reducing fatalities in multi-car collisions.

Because of the large number of fatalities and injuries which continue to result from side impact crashes, the agency initiated a research program to upgrade the current standard. This effort focused primarily on thoracic protection, since data indicate that contact between the thorax and the side interior is a major source of serious injuries and fatalities.

The agency has conducted research on improved side impact protection since the late 1970's. Much information has been acquired not only from agency research but also from industry and research groups throughout the world. The agency has presented its findings and has communicated with groups in

numerous meetings and conferences such as Society for Automotive Engineers (SAE), Stapp Car Crash Conferences, Experimental Safety Vehicle Conferences (ESV), International Research Council on Biokinetics of Impacts (IRCOBI), and NHTSA sponsored public meetings (1979 and 1986). NHTSA has sought to address pertinent aspects of the side impact protection issue, which cover the test procedure, side impact dummy, injury criteria, and characteristics of those crashes as they occur in the real world.

Based on that research, on January 27, 1988, NHTSA published in the **Federal Register** (53 FR 2240), a notice of proposed rulemaking (NPRM) to upgrade the standard by using a test procedure which simulates a two-vehicle side crash representative of an injurious side crash. The proposed test uses a moving deformable barrier (MDB), weighing approximately 3,000 pounds, to represent a vehicle which is traveling at 30 mph and strikes the side of another vehicle which is traveling at 15 mph. To measure the magnitude of the threat of injury resulting from the side impact collision, the agency proposed to use a specially developed side impact dummy (SID). NHTSA proposed to use two of these dummies in a test, with one being placed on the front outboard seat and the other on the rear outboard seat, on the struck side of the car. The agency proposed specifications for the SID in a separate NPRM issued at the same time as the NPRM to upgrade Standard No. 214 (53 FR 2254).

NHTSA stated that its side impact proposal would complement the existing standard, which is primarily effective in single vehicle side impact accidents, by providing additional protection in multi-vehicle side impacts. As indicated above, the existing standard does not directly assess the injury probabilities associated with different vehicle designs in a specific impact, but instead uses the ability of the side doors to resist intrusion as a surrogate measure of the potential for injury.

In the NPRM, the agency proposed to establish specific performance criteria which must be met to reduce the possibility of thoracic side impact injuries without increasing harm to the pelvis. The notice proposed to require passenger cars not to exceed specified performance limits for the thorax and the pelvis. For the thorax, the proposed performance limit used an injury criterion known as the Thoracic Trauma Index (dummy) or TTI(d). This injury criterion represents the average of peak acceleration values measured on the lower spine and the greater of the acceleration values of the upper and lower ribs of the test dummy. NHTSA requested comments on the appropriateness of setting a TTI(d) limit ranging from 80 to 115 g's (where "g" is defined as the acceleration due to gravity). In addition, the notice requested comments on the appropriateness of setting limits, ranging from 130 to 190 g's, on the peak acceleration that the pelvis should experience during the impact. Finally, to reduce the possibility of occupant ejection, the agency proposed to require that each door in the struck vehicle remain closed during the crash test.

To provide manufacturers with sufficient leadtime to design their passenger cars to meet the proposed performance requirements, NHTSA proposed to phase-in the new requirements in accordance with the following implementation schedule:

10 percent of each manufacturer's cars manufactured during the first full production year (September 1 to August 31) beginning more than 24 months after the issuance of the final rule;

25 percent of each manufacturer's cars manufactured during the second full year beginning after that 24-month period;

40 percent of each manufacturer's cars manufactured during the third full year after that 24-month period; and

All cars manufactured on or after the beginning of the fourth full year after that 24-month period.

In addition to issuing the January 1988 NPRM to improve thoracic protection in passenger car side impacts, NHTSA has also, during the past several years, been involved in several other efforts to improve side impact protection. These efforts cover both passenger cars and light trucks, vans and multipurpose passenger vehicles (MPV's).

On August 19, 1988, the agency published in the **Federal Register** (53 FR 31712) an advance notice of proposed rulemaking (ANPRM) concerning requirements for passenger cars intended to reduce the risk of head and neck injuries and ejections, in side impact crashes between vehicles and in other crashes where the side protection of the vehicle is a relevant factor. The ANPRM also sought comments on whether additional requirements should be considered to address side impacts with poles and trees.

NHTSA's efforts to improve side impact protection for light trucks, vans and MPV's (collectively referred to as "LTV's") largely correspond to its efforts for passenger cars. On August 19, 1988, the agency published in the **Federal Register** (53 FR 31716) an ANPRM regarding possible requirements for LTV's in each of the areas where requirements have been established, or are under consideration, for passenger cars. In summary, the ANPRM addressed: (1) Extension to LTV's of Standard No. 214's existing requirements, i.e., measuring performance in terms of the ability of each door to resist a piston pressing a rigid steel cylinder inward against the door, (2) developing dynamic test procedures and performance requirements for LTV's, corresponding to those proposed in the January 1988 NPRM for passenger cars, and (3) developing requirements for LTV's intended to reduce the risk of head and neck injuries and ejections, corresponding to those addressed in the August 1988 ANPRM for passenger cars.

On December 22, 1989, NHTSA published in the **Federal Register** (54 FR 52826) an NPRM to extend the existing requirements of Standard No. 214 to LTV's. Of the various potential side impact requirements for LTV's that were addressed in the ANPRM, the agency was the furthest advanced in analyzing the extension of Standard No. 214's existing requirements to those vehicles As indicated in the NPRM, NHTSA decided to go forward with rulemaking on that issue separately, since addressing all of the potential requirements together could result in unnecessary delays.

II. Public Comments on the January 1988 NPRM

NHTSA received comments from auto manufacturers, manufacturer organizations, consumer groups, insurance organizations, governmental organizations, international organizations, and private individuals. A brief summary of the most significant public comments is provided in this section. Subsequent portions of the preamble discuss the issues and present the agency's position and response to the public comments. The comments are discussed at greater length in those sections of the preamble. Because of the large number of public comments, NHTSA has provided, throughout the preamble, a representative sample of the comments made and the commenters who made them. Some of the comments relate to more than one issue. The agency analyzes and responds to the comments in more detail in its Final Regulatory Impact Analysis (FRIA), which is being issued along with this final rule.

Auto manufacturers unanimously opposed adoption of the proposed side impact requirements, challenging numerous aspects of the proposed performance requirements and test procedure. The auto manufacturers argued against adoption of the TTI(d) injury criterion. A number of manufacturers argued that TTI(d) cannot reliably predict thoracic injury

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risk in a crash because it lacks a biomechanical basis and is test-condition-dependent. Some manufacturers argued that TTI(d) is fundamentally flawed because it is acceleration-based and does not take thoracic compression into account. Several manufacturers argued that the use of TTI(d) could lead to designs which provide little or no safety benefit, or even degrade occupant safety by leading to the installation of padding that is overly stiff.

Numerous manufacturers argued that NHTSA should regulate side impact protection by means of component tests instead of a full scale crash test. Those commenters argued that component tests would be less expensive to conduct, could be utilized early in the design stage of a vehicle, and would promote international harmonization.

Manufacturers also presented numerous objections to the proposed SID and MDB. The agency notes that while it proposed specifications for the MDB as part of its primary side impact NPRM, the MDB is covered in a separate notice for purposes of a final rule. Therefore, comments concerning the MDB are addressed in that notice. Similarly, comments on the NPRM concerning the SID are addressed in the SID final rule.

The Insurance Institute for Highway Safety (IIHS) stated that it strongly supports the agency's proposal, including specification of a full scale crash test and use of TTI(d). That commenter argued that the proposed amendment is an important and long overdue first step toward the larger goal of reducing all types of serious injuries in side impacts. The American Insurance Association stated that it supports NHTSA's efforts to improve side impact protection and urges promulgation and implementation of a final rule as quickly as possible.

The Center for Auto Safety and Public Citizen argued that the proposed requirements are not sufficiently stringent. Those commenters argued that NHTSA should have considered much more stringent alternatives, such as 60 degree impact angles, higher impact masses, and higher speeds. They also opposed the phase-in of the requirements.

On October 19, 1989, 19 members of the Senate Committee on Commerce, Science and Transportation sent a letter to Secretary Skinner urging action on the proposed side impact rulemaking. The letter noted the history of NHTSA's rulemaking on side impact protection, including issuance of the January 1986 NPRM. The letter stated:

> The full Senate recently passed, without opposition, legislation to require DOT rulemakings to improve side-impact protection in passenger automobiles, and to extend that standard to minivans and light trucks. Mr. Secretary, this is a basic protection that should be afforded to all Americans, no matter what type of passenger vehicle they drive. NHTSA has gained valuable information over the past ten years on ways to improve side-impact protection. Further, the Department has the authority to require these improvements. We urge you to move forward now with a rulemaking to improve side-impact protection in passenger cars, light trucks and minivans.

III. Summary of the Final Rule

After a thorough review of the issue of side impact protection, including the comments on the NPRM and extensive studies, analyses, and data on the subject, NHTSA has decided to adopt a final rule based on its January 1988 proposal. NHTSA has decided to adopt TTI(d) limits of 85 g for 4-door cars and 90 g for 2-door cars. The pelvic acceleration limit is being set at 130 g for all cars. The requirements apply both to front and rear seats.

The performance levels established in this rule will achieve the optimum level of safety consistent with the statutory requirements for a safety standard. The levels will protect motor vehicle occupants against an unreasonable risk of injury in a side crash, while ensuring that the countermeasures necessary to achieve these levels are practicable. The agency expects considerable reductions in side impact fatalities and injuries to accrue because of this rule. As in other rulemaking evaluations, NHTSA will carefully monitor the benefits associated with this rule. Based on the performance of vehicles in laboratory crash tests, injury risk reductions determined from real-world crash data, improvements in available countermeasure technology and other factors, NHTSA will determine whether further rulemaking concerning side impact crash protection is warranted.

Two alternative compliance schedules are established, the choice of which is at the option of the manufacturer. Under the first schedule, each manufacturer will have to meet the new side impact performance requirements based on the following phase-in schedule:

10 percent of automobiles it manufactures during the 12 month period beginning September 1, 1993;

25 percent of automobiles it manufactures during the 12 month period beginning September 1, 1994;

40 percent of automobiles it manufactures during the 12 month period beginning September 1, 1995; and

All automobiles it manufactures on or after September 1, 1996.

Under the other schedule, no compliance will be required during the production year beginning September 1, 1993, but full implementation will be required effective September 1, 1994.

The rear seat requirements will not apply to cars which have rear seating areas that are so small that the SID dummy cannot be accommodated according to the specified positioning procedures. Only a very small number of sport cars are believed to be in this category. NHTSA has also decided not to apply the rear seat requirements to passenger cars with a wheelbase greater than 130 inches, since the rear seats are so far back from the MDB impact point that the side impact protection provided for those seating positions cannot appropriately be evaluated by the test procedure. The wheelbases of all production passenger cars are less than 130 inches, so this will only affect the rear seats of stretch limousines.

The bases for the agency's decision, and its response to the comments, are set forth below.

IV. The Safety Problem

NHTSA has separately analyzed the fatality and injury experience of passenger car occupants involved in side impact crashes. As discussed below, the data show that side impacts account for an average of almost 8,000 fatalities and more than 24,000 serious injuries, annually. These figures represent 30 percent of all passenger car occupant fatalities and 34 percent of the serious injuries that occur in passenger cars.

A. Fatalities.

NHTSA reviewed available crash data from 1978 to the present to determine the number of fatalities in side impact crashes. That review showed that side impacts resulted in an average of 7,730 fatalities per year over that period. The review further showed that, while side impact fatalities declined steadily from about 8,300 in 1978 to about 7,000 in 1982, they increased again to about 8,000 in 1986 and 7,900 in 1987. The percentage of side impact fatalities as a percentage of all occupant fatalities averaged 30.6 percent over this ten year period. That percentage remained fairly constant from 1978–1982, at about 29 percent, but has averaged 32 percent since 1983.

The agency also examined the data on fatal crashes to identify the first harmful event in fatal side impact accidents. Based on a review of data from crashes in 1982–1987, the agency found that 67 percent of all side impact fatalities result from vehicle-to-vehicle side

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impacts. Pole type impacts (poles, posts, fire hydrants, and trees) result in an additional 18 percent, and impacts with other fixed objects (boulders, culverts, embankments, bridge abutments, guard rails, etc.) together comprise approximately 10 percent of all side impact fatalities.

The agency also examined its data files to determine what areas of the body were being injured in side impacts. Since the Fatal Accident Reporting System (FARS) does not provide information on the body region injured or the injury contact points, the agency examined data from the 1979–1987 National Accident Sampling System (NASS) and the 1977–1979 National Crash Severity Study (NCSS) on fatalities in which the most severe damage to the fatality victim's vehicle was a left side or right side deformation. Only model year 1973 and later vehicles were included in this analysis, to ensure that the data reflected the effect of side door beams, which were required by NHTSA beginning January 1, 1973, and appeared in many cars prior to that date. The data show that, for all types of side impact accidents including occupant ejections, head injuries are the most frequent sources of side impact fatalities (45%), followed by chest (29%), neck/spine (11%), and abdominal injuries (9%).

While head injuries are the most prevalent cause of side impact fatalities, NHTSA is aware that those injuries are not significantly addressed by this final rule. This rulemaking addresses thoracic and pelvic injuries, which are a large percentage of side impact fatalities and injuries, because the agency is further along in developing countermeasures to protect these body regions than it is in developing means of protecting the head. The agency is addressing head protection in a separate rulemaking. On August 19, 1988, NHTSA published in the **Federal Register** (43 FR 31712) an advance notice of proposed rulemaking that addressed head protection.

The performance test set forth in today's final rule simulates a lateral impact on a flat surface without ejection or rollover. Injuries to the chest and abdomen from contacting side surfaces are the major injury categories in this type of side impact crash. About 26 percent of side impact fatalities are relevant to the new performance requirements. This percentage includes only those cases where the chest or abdomen contacting the side interior or side hardware/armrest is the most severe injury. The requirements should also help reduce head and other injuries resulting from ejections, since the requirement that all doors of a tested car remain closed during the crash test will reduce the possibility of ejection in an actual crash.

B. Injuries

In addition to examining the data on side impact related fatalities, the agency also reviewed data on the number of injuries in non-fatal side impact crashes. NHTSA estimated the average number of injuries, by deformation location and the maximum Abbreviated Injury Scale (AIS) level per survivor occupant, that would have occurred in 1982–87 if all cars in the fleet were MY 1973 and later cars—that is, if they all had side door beams. (The Abbreviated Injury Scale is used to rank injuries by level of severity. An AIS 1 injury is a minor one, while an AIS 6 injury is one that is currently untreatable and fatal.) The total estimated number of AIS 3–5 injuries (serious to critical injuries) to passenger car occupants from all crash modes is about 68,600 annually, based on data from the 1982–87 NASS file. That analysis showed that side impacts resulted in a total of about 24,400 AIS 3–5 injuries annually, or 35.6 percent of all AIS 3–5 injuries. This percentage is slightly higher than the percentage of side impact fatalities (31.6 percent) in the same six years. The analysis also showed that the side interior and side hardware/armrests accounted for 53 percent of the maximum AIS 3–5 injuries to front seat occupants sitting near the struck side of the vehicle, and for 68 percent of the maximum AIS 3–5 injuries to rear seat occupants sitting near the struck side of the vehicle.

V. Performance Requirements

A. Thorax

1. TTI(d) Performance Criterion

To assess the probability of an injury to the thorax in a side impact, NHTSA developed a new injury measure called the Thoracic Trauma Index (TTI). The TTI is a formula which can be used to predict the probability of injury for persons of different ages and weights. It uses the age and weight of each test subject, along with the average of the lower thoracic spine and upper or lower rib accelerations. (For rib accelerations, the higher of the acceleration responses from the upper and lower ribs is used.)

The TTI was developed from and evaluated with test data obtained from a sample of 84 cadaver tests conducted over a 10-year period. The results of those tests represent the largest biomechanical data base that has been used to support a NHTSA rulemaking action. In these instrumented cadaver tests, NHTSA was able to compare the acceleration measured on the cadaver's ribs and spine with the severity of the thoracic injury received by the cadaver during the impact. These tests showed that the occurrence of injuries to the hard thorax, which includes both the ribs and the internal organs protected by the ribs, is strongly related to the average of the peak lateral acceleration experienced by the struck side rib cage and the lower thoracic spine.

TTI can be measured on a test dummy and used as a surrogate for side impact safety performance of passenger cars. Performance requirements for such performance can be specified in terms of a combination of peak rib and spine accelerations measured on the dummy and called the Thoracic Trauma Index (dummy) or TTI(d). This injury criterion represents the average of peak acceleration values measured on the lower spine and the greater of the acceleration values of the upper and lower ribs of the test dummy. The benefits associated with a requirement specifying a particular level of TTI(d) can be predicted by using the TTI to assess changes across the entire population of vehicle occupants.

Included in the 84 cadaver tests mentioned above were a number of tests at the University of Heidelberg that were sponsored by the Forschungsvereinigung Automobiltechnik (FAT), an association of some 30 German motor vehicle and equipment manufacturers. These tests were designed to study lateral impacts to human cadavers, as well as to three different designs of dummies, seated in actual car bodies. Using the cadaver injury data, NHTSA evaluated the performance of the TTI in predicting the severity level of injuries resulting from lateral impacts.

In the FAT tests, which were conducted on a sled, a deformable barrier developed under the auspices of the Committee of Common Market Automobile Constructors (CCMC) was propelled into an Opel Kadett "body in white" in which the test subject (a human cadaver) was seated in the front seat on the struck side. Each car body was struck twice at an angle of 90°, once on the left side, and once on the right side. The speed of the barrier was either 40, 45, 50, or 60 km/hr. Each cadaver was subjected to one crash test. NHTSA's review of the test results, which is contained in the Society of Automotive Engineers paper entitled "Side Impact—The Biofidelity of NHTSA's Proposed ATD and Efficacy of TTI" (SAE Paper No. 881877, Oct. 1988), again showed that TTI effectively distinguished different levels of injury

risk. That is, the higher the value of the TTI calculated for the test, the greater was the probability of serious injury to the cadaver.

Despite the extensive support provided by NHTSA for TTI(d) in the NPRM and PRIA, numerous commenters expressed significant concerns about the proposed thoracic injury criterion. Some commenters argued that NHTSA has not demonstrated a good correlation between the TTI and the risk of injury. Peugeot expressed concern about NHTSA's use of data from cadaver tests performed by FAT. That commenter stated that it was evident that a given TTI value could be associated with any "hard thorax" AIS value, ranging from 0 to 5. Peugeot also stated that there was very poor correlation with either abdominal injuries or rib cage injuries. CCMC submitted a comment raising a number of the same concerns as Peugeot.

Honda commented that while NHTSA argued that TTI is able to distinguish injury level according to AIS, an International Organization for Standardization (ISO) document reveals that TTI data overlap different AIS's. Honda cited an ISO resolution concluding that the TTI cannot be considered as an acceptable thoracic protection criterion.

GM stated that when cadaver data published by NHTSA were studied using discriminant analysis techniques, the TTI erroneously predicted injury risk for 20 (43 percent) of 47 possible cases. That company also expressed concern that TTI(d) omits age and weight factors. GM stated that cadaver data published by NHTSA indicate that age accounted for about 40 percent of the magnitude of TTI in the cadaver tests. According to GM, TTI(d) cannot be relied upon to predict injury risk since it ignores a major percentage of the correlation function (TTI) which itself did not correlate for 43 percent of the cases upon which it was based.

Ford argued that although the curves of probability of injury versus TTI presented in NHTSA's PRIA indicate a continuous, sharp decrease in injury for decreasing values of TTI, the actual test data show considerable overlap in regions where the corresponding injuries are of markedly different severity. That company stated that TTI provides virtually no differentiation between AIS 0 and 1, between AIS 2 and 3, and between AIS 4 and 5. Ford also asserted that NHTSA had found it necessary to "arbitrarily" adjust the probability of injury versus TTI curves on the basis of slight logical inconsistencies. According to Ford, before adjustment, the curves indicate that for all TTI greater than 151, the probability of AIS greater than or equal to 4 exceeds the probability of greater than or equal to 3, a logical absurdity. Ford asserted that these curves demonstrate that the TTI is fundamentally deficient in predicting injury severity.

NHTSA believes that the TTI is a good predictor of risk of thoracic injury. The development and efficacy of TTI as an injury index is documented in detail at pp. IIIB–16 to IIIB–28 of the PRIA. The TTI relates the probability of an individual receiving a thoracic/abdominal injury of severity greater than AIS 3, 4, or 5, depending on the individual's weight and age, as well as the peak rib and spine acceleration responses recorded during the impact event. There is a monotonically increasing relationship between the TTI and the severity of the maximum thoracic/abdominal injury. (Monotonicity refers to a mathematical relationship in which the dependent variable (Y) increases as the independent variable (X) increases, regardless of linearity or non-linearity.)

It should be noted that each TTI level relates to an injury probability distribution. For example, at TTI=150 g, there is a 75 percent chance of an AIS–3 or greater injury, a 20 percent chance of an AIS–4 or greater injury, and a 0 percent chance of an AIS–5 or greater injury. This is consistent with the variability found in cadaver testing and reflects the range of human injury tolerance in impacts. Thus, NHTSA does not share commenters' concern that a single TTI level can represent several different AIS levels of injury, as that simply reflects the real-world validity of TTI.

GM did not provide sufficient details of its analysis for NHTSA to fully evaluate that company's argument that TTI erroneously predicted injury risk for 20 of 47 possible cases. However, GM's assertion suggests a misunderstanding of what is predicted by TTI. As indicated above, each TTI level predicts an injury probability distribution. It is incorrect to argue that a particular TTI level predicts a particular AIS level injury. This can be illustrated by considering the probability distribution cited above for TTI=150 g. At that TTI level, there is a 75 percent chance of an AIS–3 or greater injury and a 20 percent chance of an AIS–4 or greater injury. While the probability of an AIS–3 or greater injury is considerably higher than the probability of an AIS–4 or greater injury, it would be incorrect to state that TTI=150 g predicts an AIS–3 injury. Since GM's analysis appears to incorrectly assume that TTI predicts a single AIS level injury in each case, the agency does not agree with the analysis.

NHTSA also does not agree with GM's argument that the omission of age and weight from the TTI(d) means that it cannot be relied upon to predict injury risk. The likelihood of injury in a crash differs depending upon a person's age and weight, but for any particular age and weight, TTI(d) correlates with actual injury, i.e., risk of injury increases as TTI(d) increases.

The agency disagrees with Peugeot's contention that poor correlation of the TTI with either abdominal injuries or rib cage injuries indicates that there is a problem with the TTI. The TTI was developed to predict injuries to the hard thorax. Efforts to find relationships with individual portions of this body region may well fail because the TTI accounts for the threat to another part of the hard thorax that has been excluded from such an analysis.

NHTSA disagrees with Ford's suggestion that it "arbitrarily" adjusted the probability of injury versus TTI curves based on slight logical inconsistencies. The implication of Ford's comment is that the agency modified the data to prevent the curves from indicating that the probability of AIS greater than or equal to 4 exceeds than the probability of AIS greater than or equal to 3. Ford's statements are incorrect for several reasons. The data were not modified; rather the procedure for calculating the injury probability curve was constrained to avoid this impossible situation. Further, that company's comments were based on the curves generated in a 1984 NHTSA paper which used Probit analysis. TTI as proposed in the NPRM was derived in 1986 and is based on a Weibull analysis. (The terms Probit and Weibull refer to statistical techniques.) As discussed in section IIIB of the FRIA, NHTSA believes that the Weibull distribution is the most appropriate function for describing injury probability from the type of data in question. When Weibull analysis was used in the 1986 analysis (which included many tests of Opel vehicles), none of the inappropriate relationships (injury probability of AIS greater than or equal to 4 exceeding the probability of greater than or equal to 3) were found.

Some commenters argued that the TTI lacks a biomechanical basis and is test-condition-dependent. GM argued that the TTI cannot be relied upon to reliably predict human thoracic injury risk in side impacts because it lacks a biomechanical basis. That company stated that the agency's assertion that

the TTI correlates to injury is at best correct only for the narrow conditions under which tests were conducted, since statistical correlations cannot be relied upon when conditions vary from those upon which the correlation is based. According to GM, because many factors influence injury risk in a side impact (e.g., door stiffness, contour of door interior, vehicle size, velocity, and others), it is vital that the injury risk function be viable for the entire range of vehicles and impacts for which countermeasures are sought.

BMW stated that it is very difficult to find a physical relationship of the TTI with the injury mechanism. That commenter stated that momentary high accelerations of the ribs can lead to fractures, yet transfer little energy to the thoracic vertebrae. According to BMW, since the TTI is the average of the maximums of rib and spine accelerations at different moments in time, the ribs can be broken, while the TTI still remains within the limit specified in the rule because the value for spine acceleration is low.

Mercedes-Benz stated that the theory of the TTI is based on the assumption that the injury mechanism of the thorax and lower ribcage protected abdominal organs (liver, spleen, kidney) is equally determined by the behavior of the thoracic skeleton. That commenter stated that this theory is not confirmed by injuries from side-impact collisions or by the results of FAT tests. Mercedes stated that anatomically logical separation of thorax and abdomen is valid for injury protection and must be reached through appropriate separate protection criteria.

Peugeot commented that it is difficult to conceive how adding the peak rib acceleration as measured very early in the impact phase to the peak acceleration of the spine as measured in the late stages of the impact can be related to the mechanism of rib and organ injury. Peugeot also argued that although advocates of TTI may consider it to be a good predictor of thoracic injury because a quasi-statistical correlation was found between the TTI values calculated from cadaver tests and the resulting thoracic injury levels, regression analysis produces substantially different relationships for each test condition, suggesting that the TTI is test-condition-dependent. That commenter also argued that accident analysis does not support the TTI. According to Peugeot, the TTI mistakenly presupposes a strong relationship between abdominal and thoracic injuries. Peugeot stated that such a link exists, but only for 17 percent of cases.

NHTSA acknowledges that the TTI represents an empirical formulation as opposed to an injury criterion primarily derived from biomechanical theory. The agency believes that use of an empirical formulation in this instance is acceptable and appropriate for a number of reasons.

The TTI formula was derived from a data base of 84 tests performed on human cadavers in over 20 different test conditions (including speed conditions and impact environments). These tests included pendulum tests, rigid and padded wall sled tests, and full scale vehicle tests ranging in speed from 10 to 40 mph. Padded wall conditions included a variety of materials of various thicknesses. The cadavers ranged in age from 17 years old to 84 years old. NHTSA believes that the test conditions underlying the TTI span and encompass the spectrum of anticipated impact conditions in the full-scale side impact crash test procedure proposed by NHTSA, which itself is representative of real world crashes.

The agency notes that, while the general relationship between TTI and the probability of different AIS level injuries can be seen when all of the cadaver tests are used, the final TTI formulation was derived using the 36 tests in which the cadaver was struck on the left and where both rib accelerations were available. For a more complete discussion of the data underlying TTI, see the Society of Automotive Engineers paper cited above, "Side Impact—The Biofidelity of NHTSA's Proposed ATD and Efficacy of TTI." (SAE Paper No. 861877, Oct., 1986).

Given the data base underlying TTI, the agency is confident that the relationship between TTI(d) and injury risk is valid for the entire range of vehicles and impacts for which countermeasures must be designed in order to meet the dynamic side impact test requirements. This makes TTI(d) appropriate as an injury criterion in a side impact crash test, even though it is based on statistical correlation.

NHTSA notes that the TTI(d) is only valid for lateral impact conditions, the condition specified in the side impact test procedure. NHTSA does not intend that the TTI(d) be used in any test condition other than lateral impacts.

NHTSA also notes that, in addition to being predictive of actual injury, the TTI is consistent with observations pertaining to impacted bodies. For example, TTI is consistent with the fact that the elderly and larger/heavier persons are more prone to injury for a given level of rib and spine acceleration, and with the fact that persons are more prone to injury when exposed to higher accelerations.

Since the TTI is an empirical formulation, the agency does not agree with the assertion of Mercedes-Benz that the theory of the TTI is based on the assumption that the injury mechanism of the thorax and lower ribcage-protected abdominal organs is equally determined by the behavior of the thoracic skeleton. With respect to that commenter's argument that separate protection criteria are needed for the thorax and the abdomen, NHTSA notes that the proposed requirements were not intended to address all abdominal injuries. As discussed below, the agency believes that lateral abdominal compression measurement has not yet been perfected as an injury criterion. However, many abdominal injuries are addressed by protection of the hard thorax, and are predicted by TTI(d).

NHTSA disagrees with Peugeot's claim that regression analysis suggests that TTI is test-condition-dependent. According to Peugeot, such analysis shows different relationships for each test condition. That company's analysis consisted of producing subsets of the NHTSA side impact data based on test conditions (e.g., one subset for padded sled tests, another for vehicle tests, yet another for pendulum tests, etc.) and then looking for the relationship between the reported injury level and the reported TTI value. NHTSA analyzed the cadaver test data, which it broke into sub-sets. NHTSA believes that it used the same data as Peugeot, although Peugeot did not submit their analysis with their comments. NHTSA performed regression analysis of the data for different test conditions. The regression analysis shows similar trends in the overall correlation of TTI and injuries for each test condition. The agency, therefore, does not accept Peugeot's conclusions.

NHTSA also disagrees with Peugeot's arguments that a standard based on TTI(d) cannot offer abdominal protection. NHTSA notes that the lower rib accelerometer and the lower spine accelerometer (used on the dummy to measure TTI(d)) are located close to where abdominal organs such as the liver, spleen, and kidneys are found on a human. In addition, NHTSA has found a relationship between the probability of AIS injuries and TTI. This is significant because AIS injuries 4+ and 5+ include injuries to three abdominal organs (i.e., the liver, spleen, and kidneys). Further, the agency believes that company's own

data contradict its claims. Assuming that pelvis protection is offered as well as thoracic protection, Peugeot's data show that 78 percent of the abdominal injuries were accompanied by rib fractures (that company did not analyze other thoracic injuries), pelvis fractures, or fractures to both pelvis and ribs.

While rib deflection is not directly reflected in the TTI, the agency notes that the TTI correlates with the number of rib fractures. As discussed in the FRIA, NHTSA examined this relationship, using rigid and padded wall cadaver data, and found a strong correlation. The agency therefore concludes that the use of TTI(d) as a performance criterion can significantly limit and control the number of fractured ribs caused by lateral impacts in vehicle collisions. NHTSA therefore does not share BMW's concern that ribs can be broken while TTI remains under the required limit because the value for spine acceleration is low.

A number of commenters argued that the TTI is fundamentally flawed because it is acceleration-based. According to GM, the TTI relates poorly to injury risk because peak accelerations do not relate well to important mechanisms of human chest and abdominal injury. That company acknowledged that acceleration does have some relationship to the overall severity of a crash, but argued that simply combining peak accelerations at two skeletal points, at two instants of time, is insufficient to discriminate between thoracic injuries for a variety of exposures.

Ford asserted that there is "worldwide biomechanical disagreement" with NHTSA concerning TTI, based on the inability of TTI(d) or any other acceleration-based injury criterion to represent quantitatively the likelihood of injury to organs in the human chest.

MVMA noted that accelerations used to calculate TTI are measured by accelerometers attached to the ribs and spine. That commenter stated that since the human chest is not totally rigid but instead consists of various flexible components, measuring acceleration of the rigid dummy spine or ribs will not reliably predict injury to the viscous organs within the chest. MVMA also stated that if "whole body loading" does not occur (i.e., if a concentrated load is applied), acceleration of the spine or ribs may be small and thus fail to predict injuries which occur due to chest compression.

Peugeot commented that transversal acceleration measured at the rib is at best only an indication of violence but in no case an acceptable indicator of thoracic lesion. That commenter also stated that thoracic acceleration alone does not enable one to account for both deformation of the car side-wall and deformation of the thorax. Peugeot commented that the same thoracic acceleration value can be obtained with a not-very-rigid side-wall and a too-rigid dummy thorax, or with a too-rigid side wall and a very deformed dummy thorax, and therefore predict the same level of thoracic injury.

The requirements proposed by NHTSA were designed to reduce hard thorax (includes skeleton as well as organs like the liver, kidney, heart and spleen) and pelvic injuries associated with accelerations. Acceleration is one of a number of possible measures of the severity of the injury that occurs to a person in a crash. NHTSA believes that the critical question is whether the TTI(d) injury criterion, consisting of acceleration measurements, can discriminate the risk of hard thorax injury in simulations of real-world side impact crashes. The agency believes that available evidence indicates that TTI(d) can do so. In other words, as TTI(d) is reduced, the risk of injury is also reduced. A reduction in TTI(d) signifies that the severity of injury to a person in a crash, as measured by acceleration, is reduced. Severity of injury as measured by other means, such as compression, may also be reduced, although it is not measured as part of TTI(d). As long as the TTI(d) injury criterion can discriminate risk of thoracic injury, the agency believes that the precise injury mechanism (acceleration, compression, some combination of forces, etc.) is not critical.

NHTSA disagrees with MVMA's contention that accelerometers attached to the ribs and spine cannot reliably be related to injury to the viscous organs within the chest. Since accelerometers on the ribs and spine are located close to the viscous organs within the chest, they measure parameters that may cause viscous organ injuries. Countermeasures that result in reduced accelerations on the ribs and spine will also generally result in reduced severity of injury to the nearby viscous organs, reducing the risk of injury.

With respect to MVMA's argument that TTI(d) might not discriminate a concentrated load, NHTSA notes that full body loading is typical of side impact crashes. Acceleration measurements taken from the rib and spine indicate the severity of injury involved in impacts such as those caused by armrests.

NHTSA does not agree with Peugeot's concern that the same thoracic acceleration value can be obtained with a not-very-rigid side-wall and a too-rigid dummy thorax, or with a too-rigid side wall and a very deformed thorax. By specifying an appropriate test dummy (an issue which is addressed in the separate notice on SID), and hence establishing the stiffness of the dummy, the agency can ensure that the TTI(d) measured in a crash test is comparable to what would be experienced by persons in real world crashes. NHTSA notes that Peugeot's comment is related to the argument raised by a number of commenters that the SID chest is overly stiff. A full discussion of that issue is presented in the separate notice on SID.

Several commenters argued that the TTI may not suggest appropriate countermeasures since it does not describe the time when injury to the thorax occurs. MVMA noted that the peak spine and peak rib accelerations do not necessarily occur at the same time. Consequently, according to that commenter, TTI(d) does not necessarily represent the actual risk of injury.

NHTSA notes that, while TTI correlates well with the occurrence and severity of injuries, this does not mean that the occurrence of either peak acceleration response corresponds exactly in time to the occurrence of body injury. Parameters measured on the skeleton, such as acceleration, do not necessarily give the precise time of peak local stress or strain to the hard thorax or whatever mechanism causes a local injury. While the exact time of injury occurrence may be desirable from a researcher's perspective, it is unnecessary for purposes of regulation. In establishing a performance requirement that meets the need for safety, NHTSA is concerned whether an injury criterion predicts the probability of differing levels of overall thoracic injury that a person would experience in a real-world crash, and not whether it can be used to determine the mechanism or exact timing of such injury.

Several commenters argued that the use of the TTI could lead to designs which provide little or no safety benefits. GM cited the results of armrest tests in support of this argument. SID dummies and anesthetized swine were impacted using a six-inch-diameter pendulum fitted with simulated armrests of different stiffnesses. According to GM, the SID/TTI results indicated that the stiffest armrest posed the least risk, while the swine/TTI results indicated that the softest armrest was preferable. That company stated that autopsies of the swine showed similar soft tissue liver lacerative injuries for each case,

indicating that all of the armrests posed similar risks.

NHTSA notes that GM's armrest tests involved applying a concentrated load to the SID dummies and swine. However, as indicated above, side impact crashes typically involve full body loading, and TTI(d) predicts thoracic injury risk in such impacts.

The agency does not wish to imply that armrest design is unimportant for side impacts. Accident data indicate that armrests cause injury to both the pelvis and the abdomen. While the EuroSID and BioSID (other side impact dummies being developed by the European Economic Community and the Society of Automotive Engineers, respectively) were designed with abdominal load sensors, the SID dummy was not. The EuroSID and BioSID dummies are discussed further in the separate notice covering SID. NHTSA has conducted experiments with frontal abdominal injury sensors and developed injury criteria for the Hybrid III dummy and believes that direct lateral abdominal measurement has not yet been perfected as a compliance tool. Some armrest injuries are addressed through the measurements of TTI(d) with the SID. The TTI(d) criterion is based on injuries to the hard thorax, which includes some but not all abdominal organ injuries. Also, the limit on pelvic acceleration addresses armrest injuries to the pelvis. Moreover, even though some armrest injuries are not addressed, armrests are not likely to become more aggressive as a result of the TTI(d) or pelvic g requirements. The agency also notes that, as discussed further below, the fact that the proposed test procedure does not completely address armrest injuries is a reason to retain the existing armrest requirements of Standard No. 201, *Occupant Protection in Interior Impact*.

BMW stated that since the TTI is comprised of maximum acceleration values only, it necessarily reacts very sensitively to damping. That commenter stated that it is possible that, in some cases, through the use of padding, the TTI value will be reduced without a corresponding increase in real-world safety. BMW cited a study showing that with a damping material which reduced the energy input by less than nine percent, the injury risk as measured by TTI was reduced from 63 percent to 20 percent. That commenter expressed doubt that the actual injury risk for human occupants is reduced to this extent. Chrysler raised similar concerns.

As indicated above, TTI correlates well with the occurrence and severity of injuries. NHTSA believes that the addition of interior padding can often result in a significant reduction of injury risk. Depending on TTI(d) level and AIS level of injury, the agency considers it likely that a small reduction in energy input may make the difference in whether a person receives a serious injury or not.

GM and Ford each argued that the use of TTI(d), coupled with what they consider to be the excessive stiffness and excessive mass of the SID chest, could lead to the use of interior padding that is overly stiff and could actually degrade occupant safety, particularly that of the elderly. Honda stated that since the bone condition factor (bone flexibility) is not taken into consideration for TTI, the severity of injury in the real world may possibly be increased by countermeasures aimed at decreasing TTI.

NHTSA disagrees that the use of TTI(d) and the SID would lead to the use of interior padding that is so stiff that it would increase injuries to the elderly or any other group of persons. Any padding that is added to a car to reduce TTI(d) would be less stiff than the interior car door and make a contribution to improving occupant safety for persons of all ages. As indicated above, for persons of any particular age, TTI(d) correlates well with the occurrence and severity of injuries. Ford appears to be concerned that very stiff padding might be necessary to meet the proposed requirements, whereas softer padding might provide even greater benefits to the elderly. NHTSA notes that one potential answer for this concern is for the manufacturers to utilize a combination of structure and padding to meet the test requirements.

NHTSA notes that, as part of research comparing SID with two side impact dummies still in the research stage, EuroSID and BioSID, the agency recently conducted a series of tests to examine the effect of padding stiffness upon the injury hazard measurements of these dummies when subjected to a given test condition. Each of these dummies was exposed to a series of 20 mph lateral impacts into a rigid wall which was padded with three inch thick foam padding of varying stiffnesses. The padding stiffness varied from very soft to nearly as stiff as the rigid wall. Using TTI(d), all three dummies indicated that the very soft and very stiff padding are the most hazardous in impact situations. There was very little difference between the three dummies in the choice of an optimal padding. The optimal padding stiffness determined by the three dummies ranged approximately from 15 to 25 pounds per square inch, measured at 35 percent compression. For BioSID, a slightly stiffer padding was selected for V*C than for TTI(d). (V*C is a compression-based injury criterion advocated by GM and other commenters as an alternative to TTI(d) where V is velocity of chest compression and C is lateral chest displacement.) While, as discussed below, the data supporting V*C are limited, NHTSA observes that to the extent that it is a valid injury criterion, these BioSID results contradict the argument that use of TTI(d) would cause manufacturers to select overly stiff padding. A further response to this issue, particularly with respect to concerns about effects relating to the stiffness and mass of the SID chest, is provided in the separate notice on SID.

Nissan expressed concern that, in tests it conducted using SID dummies, the correlation trend for door padding material hardness and TTI(d) was different from the correlation trend for V*C and chest compression. That company stated that the padding hardness required to minimize TTI(d) values on the one hand, and to minimize V*C and rib deflection values on the other, did not match. Nissan stated that it thinks padding is effective for minimizing dummy readings in side impacts, but that the appropriate padding hardness has not yet been identified.

NHTSA notes that SID was not designed to measure V*C or rib deflection. In order for a test dummy to produce human-like readings of V*C or rib deflection, the dummy must have biofidelity for chest compression. However, SID was not designed to have biofidelity for chest compression. It was designed for biofidelity in measuring TTI(d), which the agency found to be a measure strongly related to thoracic injury. Therefore, the agency believes that SID cannot be validly used to develop a correlation trend for V*C or rib deflection.

Nissan also stated that it had compared the TTI to driver fatality rates in side impacts using 1986 FARS data and did not find a close correlation. Ford commented that while NHTSA had tested production cars with its proposed test procedure, it had not shown that the test results are correlated with human injuries in traffic accidents in those same cars.

NHTSA notes that it tried to correlate the TTI(d) from 12 models it tested with fatality and injury rates in side impacts, and found a poor correlation. However, NHTSA does not believe that this calls into question the reliability of TTI(d). Staged testing often does not correlate well with real world crashes. With a limited number of models to compare,

the number of cases found are small and of differing speeds and circumstances. The chances of finding a reliable correlation are thus very small.

The agency has, however, compared accident data for 2-door and 4-door cars, which have different average TTI(d) levels, to determine whether the differences are reflected in the accident data. As discussed in section IIIC of the FRIA, the average driver TTI(d) measurements in a 2-door car are about 14 percent higher than in a 4-door car, while the rear passenger readings are about 14 percent lower. The results of the 2-door/4-door accident data comparisons are directionally consistent with what would be expected from 2-door/4-door TTI(d) comparisons, and relatively close to TTI(d) differences found in matched pair 2-door/4-door side impact testing. After adjusting for age, 2-door cars have higher injury rates in the front seat and lower injury rates in the rear seat than 4-door cars. In this respect, test results are representative of real world accident data.

Ford stated that it urged in 1980 (in a comment on a side impact ANPRM) that NHTSA conduct accident reconstruction-restaging studies to relate field injuries to dummy responses in simulated accidents. That company recommended at the same time that NHTSA should conduct full vehicle dynamic side impact tests with cadavers on board the target vehicle instead of dummies. Ford noted that the cadaver results could then be compared to accelerations previously measured on the SID to confirm dummy-cadaver injury relationships under actual compliance conditions. Ford stated that it still believes NHTSA should perform such studies and tests before issuing a final side impact rule.

While NHTSA does not disagree that the testing suggested by Ford would be relevant, there are limits to how much testing can be conducted to support a particular rulemaking. It would be difficult and expensive to conduct additional full scale vehicle tests with cadavers on board. NHTSA notes that the FAT tests, discussed above, did involve testing actual car bodies with cadavers. NHTSA believes that the results of those tests, along with other tests, make additional cadaver testing unnecessary. The agency notes that regardless of how many tests and studies it conducts, it would always be possible to do more. NHTSA believes that the tests and studies it has conducted in support of this rulemaking are fully adequate.

2. Estimated Benefits of the TTI(d) Performance Criterion

NHTSA explained in the NPRM that, as part of its side impact protection research program, it had conducted 20 crash tests of 12 production passenger cars using the proposed test conditions and SID. To evaluate the effects of meeting a specified thorax performance criterion, the agency analyzed the probability of thoracic injury for each of the cars in the 20 tests, using the TTI and other factors, and compared this to the level of injury that would occur for each of the alternative values of the proposed TTI(d) thorax criterion. The estimated benefits for the different levels of the proposed TTI(d) thoracic injury criterion were calculated, based on the assumption that the production vehicles tested by NHTSA were representative of the total fleet of new cars. That is, all cases exceeding a particular chosen maximum TTI(d) were reduced to the specified level, while all vehicles having lower values retained their original values. Injury distributions were then recalculated using the altered TTI(d) values.

Subsequent to issuance of the NPRM, the agency conducted eight additional production vehicle tests, using eight different models. One model was also tested by Transport Canada. In addition, the agency received, as part of comments, test data on 25 additional models from four different motor vehicle manufacturers. NHTSA notes that the data from the manufacturers were submitted under claims of confidentiality.

In estimating benefits, NHTSA's FRIA uses only data from those more recently designed models (model year 1984 and later). These data include 23 models, 10 2-door models and 13 4-door models. The FRIA assumes, among other things, that the 23 models are representative of the current fleet of vehicles on the road and of the fleet of vehicles that will be produced in the near future. Results, which take into account the increased safety belt usage seen in recent years and expected for the future, are shown in Table 1. As with any requirements for new vehicles, the benefits accrue over the 10–15 year life of the model year fleets affected. For additional explanation of the data underlying Table 1, see chapter IV of the FRIA.

TABLE 1.—THORAX BENEFITS FOR DIFFERENT MAXIMUM LEVELS OF TTI(D) PERFORMANCE IN THE BASELINE FLEET

TTI(d)	Two-Doors		Four-Doors		Total Fleet	
	AIS 3–5	Fatals	AIS 3–5	Fatals	AIS 3–5	Fatals
80	1,922	504	681	218	2,603	722
85	1,714	450	399	117	2,113	567
90	1,450	381	178	49	1,628	430
95	1,130	290	63	22	1,193	312
100	765	203	0	0	765	203
105	422	123	0	0	422	123
110	100	37	0	0	100	37
115	43	20	0	0	43	20

The methodology used in the FRIA for estimating benefits is essentially the same as that utilized in the PRIA, with some minor adjustments. The estimated benefits are somewhat lower because they rely on new data from more recently designed models. These data indicate that the average TTI(d) of vehicles in the new car fleet is lower than previous data supporting the calculations in the PRIA suggested. NHTSA believes that the new data reflect the improvements by a number of manufacturers to the side impact protection of their vehicles over the past several years, while this rulemaking has been progressing.

3. Alternative Thoracic Injury Criteria

General Motors has developed what is known as the viscous injury criterion (V*C) for use in analyzing soft tissue injuries in frontal impacts. This injury criterion is based on the product of the instantaneous thorax compression (C) and the rate of thorax compression (V) that occurs during the impact.

In the NPRM, the agency stated that while it believed that the work GM has done with the V*C shows that such an approach may be promising, there were insufficient data to support adopting V*C as a criterion for assessing vehicle safety in side impacts. The agency also stated that there were no dummies designed with biofidelity for measurement of lateral V*C. NHTSA noted that, in contrast to the V*C criterion, the agency has a substantial amount of cadaver impact tests that indicate that TTI(d) is a reliable predictor for thoracic injuries, as well as a fully developed and validated test dummy.

Many commenters argued that a compression-based injury criterion, such as V*C or rib deflection, would be superior to TTI(d) or other acceleration-based injury criteria. GM noted that acceleration has long been used as a criterion of some merit because it provides some indication of the forces which are imposed on the body. According to that company, however, more recent studies have shown that thoracic compression is an essential discriminator of injury potential, particularly as regards the soft organs of the chest. GM stated that, in general, the more the chest is compressed, the greater the potential for injury, particularly at low rates of compression.

Since the NPRM was published, GM has continued its work with respect to V*C, including the development of a new dummy, called BioSID, designed to measure chest compression and to derive V*C. Also, GM conducted a series of 14 cadaver tests, the results of which, according to that company, indicate that V*C relates closely to the injury patterns observed with the cadavers.

Ford commented that it and others believe that injury criteria based on the compression of the chest during a crash impact have a greater potential to predict the likelihood of chest injury in a side impact crash than does TTI(d). According to that commenter, the ability of compression-based injury criteria to predict injury has been well substantiated by experiments with human cadavers and live animals, and is supported by biomechanical theory. Ford stated that it believes that some combination of chest compression and velocity of chest compression will likely emerge as the most suitable criterion. That company argued that NHTSA should not promulgate a final rule until an injury criterion and test device based on chest compression is developed and evaluated.

After considering the comments, NHTSA is not persuaded that V*C or a similar approach should be used in this rulemaking. As discussed above, the agency believes that TTI(d) is a reliable predictor for thoracic injury and the agency has a fully developed and validated dummy for measuring the TTI(d). The data supporting V*C are much more limited than those supporting TTI(d). Also, while GM has made considerable progress with BioSID, SID has been the subject of an NPRM and seen much wider use. NHTSA does not believe that V*C is necessarily any better an injury predictor than TTI(d) and notes that further work in validating V*C would significantly delay the rulemaking. Since TTI(d) and SID are ready now, and a final rule specifying TTI(d) can result in significant safety benefits, the agency believes it is appropriate now to go to a final rule using TTI(d). If V*C or another injury criterion should later be shown to offer additional benefits, and to be measurable by appropriate test dummies, the agency can then consider specifying such a criterion in addition to, or in place of, TTI(d) at that time.

B. Pelvis

As discussed in the NPRM, NHTSA has done research to develop criteria to limit pelvic injury in side impacts. The research, which has been published in a paper, "Synthesis of Pelvic Fracture Criteria for Lateral Impact Loading," presented at the Tenth International Technical Conference on Experimental Safety Vehicles, reviewed data from the above-mentioned 84 cadaver impact tests which measured the acceleration of the pelvis. As a result of that review, the agency developed estimates of the probability of pelvic fracture for different acceleration levels measured in the pelvis of the cadavers.

NHTSA is concerned that certain vehicle design modifications could reduce thoracic response in side impact crashes by shifting the load path into the pelvis. A pelvic injury criterion was proposed to prevent the concomitant worsening of pelvic protection.

The NPRM explained that, in order to evaluate the effects of requiring cars to meet various maximum pelvis acceleration levels, the agency estimated the probability of pelvic injury for each of the 12 production passenger cars that were crash tested in the agency's research programs. The agency then calculated the expected benefits derived from having vehicles comply with various limits on pelvic acceleration levels.

NHTSA's FRIA uses the same approach for calculating benefits for the pelvis. However, the FRIA uses the above-referenced data from the 23 more recently designed vehicle models. Results, which take into account the increased safety belt usage seen in recent years and expected for the future, are shown in Table 2.

TABLE 2.—ESTIMATED PELVIC FRACTURE INJURY REDUCTION

Alternative levels of peak pelvic G's	Nonfatal fractures
130	774
150	316
170	40
190	0

C. Prohibiting Door Openings

The potential benefits of requiring the doors to remain closed during a side impact consist of reducing the number of persons who are ejected from a car through a door and strike an object outside the car. NHTSA stated in the NPRM that its review of the results of the 12 vehicle crash tests showed that a door on four of the vehicles opened during the crash. The agency then estimated the number of ejections that occur in side impacts and evaluated the potential effectiveness of keeping the door closed in reducing occupant deaths and injuries. NHTSA tested eight additional models after issuing the NPRM. None of the additional vehicles had a door open during the crash test.

The FRIA estimates that the requirement prohibiting door openings will eliminate 14 fatalities and 13 serious-to-critical injuries each year. These estimates take into account the increased safety belt usage seen in recent years and expected for the future. The estimated benefits are lower than estimated in the PRIA, based upon the use of data from additional crash tests. In addition, as discussed below, the agency decided not to include near-side ejections in its benefits analysis.

NHTSA anticipates that the improvements that might be made to keep doors from opening during the side impact test would also be of benefit in frontal, rear, or rollover crashes, but these potential benefits are not included in the FRIA's estimates.

Ford requested clarification of some of the proposed requirements prohibiting door opening. The proposed language for section S5.3.2.2 (S4.3.2.2 in the NPRM) stated that neither the latch nor the hinge systems of the door shall separate. Ford stated that the meaning of the word "separate" is unclear. That commenter asked what parts are not to separate from one another. NHTSA notes that the meaning of the word

"separate" is disengagement or release from attachment and/or connection. This provision requires that the latch must not separate from the striker, and the hinge components must not separate from each other or from their attachment to the vehicle. NHTSA has modified the wording of this provision to make this clear.

The proposed language for section S5.3.2.3 (S4.3.2 3 in the NPRM) stated that neither the latch nor the hinge systems of the door shall pull out of the anchorage. Ford stated that the meaning of "the anchorage" is unclear. That company stated that inasmuch as at least two components are mentioned, i.e., the latch and the hinge systems, it is not clear to which component "the anchorage" pertains. NHTSA has modified the wording of this provision to state that neither the latch nor the hinge systems of the door shall pull out of their anchorages. The agency notes that the word "anchorage" refers to the provision for transferring latch and/or hinge loads to the vehicle structure. The term "anchorage" includes, but is not necessarily limited to, the attachment hardware used to attach these components to the vehicle structure.

D. Comments on Benefits Analysis

NHTSA received numerous comments arguing that the benefits estimated by the agency were overstated. The more significant comments are discussed below, with the exception of concerns about the SID, the TTI versus risk of injury curve, and the MDB. While those concerns are relevant to benefits, they are addressed elsewhere in this preamble or in the separate notices addressing the SID and the MDB. A more complete discussion of comments concerning benefits is provided in appendix IV–A of the FRIA.

Many commenters argued that the agency included inappropriate crashes or injuries in its benefits analysis. CCMC argued that although the NPRM was supposed to address car-to-car impacts, the injury data base used by the agency included all types of obstacles with which a car would collide. That commenter stated that the analysis should have excluded truck-to-car, or car-to-pole/tree accidents which generally produce severe-to-fatal head injuries. GM also argued that the agency should not include benefits for single vehicle impacts, since this is not the focus of the rulemaking.

NHTSA included in its benefits analysis only those cases in which the most serious injury occurred in the chest, abdomen, or pelvis. Head injuries were not included. The agency does not believe that there is any reason to limit the benefits to car-to-car impacts. The addition of padding or structure should be of benefit to occupants no matter what type of vehicle or fixed object is impacted. NHTSA notes that it has conducted one set of pole tests that indicated similar benefits from countermeasures as in the barrier tests.

CCMC expressed concern, with respect to direct impact to the pelvis, that all near-side occupants are considered without taking into account the pattern and risk of injury or whether the occupant is directly hit or not by the striking car. NHTSA does not believe there is any need to limit the benefits to those cases where the occupant compartment is struck or to exclude those cases where intrusion injured the occupant. The agency believes that the countermeasures, especially padding, will be just as effective even if the rear side of the car is struck, although these impacts rarely involve the more serious injuries. In terms of intrusion, no benefits are assumed above 35 mph delta V, which eliminates some of the more serious intrusion cases. (The term delta V refers to the change in velocity experienced during an impact. The delta V experienced by the target car during the proposed full scale dynamic side impact crash test ranges from about 12.5 mph for a large car to 17 mph for a small car.) The new requirements will limit injury, but not necessarily intrusion, in a fairly severe impact. CCMC suggested a cutoff at a closing speed of 18 mph. The agency believes that 18 mph is too low of a cutoff. NHTSA has performed tests demonstrating the effectiveness of structure and padding countermeasures as high as 21.2 mph delta V.

Ford stated that the agency should not have included rollover and ejection crashes in the analysis of thorax/pelvic injury benefits. That commenter stated that NASS data indicate that 20 percent of car occupants with moderate or worse injury in side impacts were ejected from the car, and that an additional seven percent of these occupants were involved in a rollover but not ejected. Ford argued that these 27 percent should not have been included in the agency's benefits analysis.

NHTSA's benefits analysis examines the most severe injury to the occupant by injury source and includes only those chest, abdominal, upper arm and shoulder injuries that resulted from contact with the interior door or door hardware/armrest. All occupants that suffered their most severe injury outside of the car are excluded from the benefits analysis because the countermeasures that will be implemented in response to this rule will only benefit occupants who remain in the struck car. Occupants who were involved in a rollover but not ejected are included if they had injuries to the chest, abdomen, upper arm or shoulder that resulted from contact with the interior door or door hardware/armrest. To the extent that padding is the countermeasure utilized. NHTSA believes that these occupants would benefit from the padding. While it is not as clear whether such occupants would get the same level of benefits from structural changes, this group of occupants is a very small part of the target population.

Ford also argued that near-side ejections should not be included in the analysis of door retention benefits. That company stated that the proposed dynamic side impact test confirms door retention on the far side only, since the near side door is pinned in by the barrier and cannot open. The agency's original analysis, however, considered benefits for all door ejections. After considering Ford's comment, NHTSA decided to take a conservative position on this issue and exclude the near side ejections from its benefits calculations for reducing side door openings. Since the side impact test procedure does not represent an oblique collision, where the corner of a striking vehicle could impact one edge of the door, causing the other end to open, manufacturers will not be required to design for such a collision. That change is reflected in the FRIA's benefits estimates cited above. However, although the near side door is trapped shut in the test, the agency believes that a small amount of benefits due to reduced ejections are likely to result from the upgrading of hinges and latches, in near side crashes where the occupant's door is not trapped shut.

NHTSA also received a number of comments criticizing its benefits analysis for reasons other than the merits of including particular types of crashes or injuries. GM argued that NHTSA had incorrectly assumed a constant countermeasure effectiveness at all crash severities. That commenter stated that padding does not have the same effectiveness at all speeds. According to GM, padding that is designed for a range of impacts will be less effective at speeds below the range because all of its energy absorption potential will not be used. At higher speeds it will be less effective because the padding can "bottom-out" before the impact is complete. GM also argued that the severity of the proposed crash test is too severe to address the greatest number of injury exposures. According to that company, the proposed crash test discourages countermeasures which

could be more effective at lower impact speeds, where a greater number of injuries occur.

NHTSA notes that, as discussed in the FRIA, available data indicate the same countermeasure effectiveness at delta V's from 13.3 mph to 21.2 mph. Most injuries occur below 21 mph delta V. The agency assumed no effectiveness above 35 mph delta V. While effectiveness may vary somewhat for different speeds, the agency does not have any data to make specific adjustments. Thus, NHTSA implicitly assumes that the differences in effectiveness, some higher and some lower, would balance out over the range of injuries. NHTSA did not select a lower speed because it wants to reduce the incidence of the most severe injuries and fatalities, rather than merely reducing the incidence of minor injuries such as bruised ribs.

GM also argued that because many fatalities involve very high speed impacts and significant deformations of side structures, about 70 percent of the nearside occupant fatalities that result from chest and abdominal injuries are unpreventable by practical design changes. NHTSA believes that this estimate is overly high. In the agency's 1984 analysis of the potential benefits of automatic restraints, about 40 percent of all fatalities were believed to be unsurvivable with any restraint system. These unsurvivable cases had either catastrophic intrusion into the passenger compartment or delta V greater than 45 mph. While the percentage could be higher in side impact crashes, the agency does not believe that it would approach 70 percent. The FRIA, in appendix IV–A, evaluates available NASS data as a test of GM's 70 percent estimate. The agency examined cases cited by GM and other cases with similar delta V's and compartment intrusion. In those cases, NHTSA found that there were more survivors than fatalities. Thus, NHTSA disagrees with GM's assertion that 70 percent of the cases in this category are unsurvivable.

GM also cited a hypothetical benefits comparison in support of its contention that the agency overestimated benefits. That company argued that if side improvements are 20 percent as effective as air bags are in frontal impacts (assumed to be 30 percent effective), then only 96 fatal chest and abdominal injuries in multi-vehicle side impacts could be prevented. NHTSA does not agree with GM's assumption that air bags are only 30 percent effective in frontal impacts. The agency has previously estimated that air bags are 20 to 40 percent effective overall. Since overall air bag effectiveness derives principally from frontal impacts, which represent about 50 percent of fatalities, NHTSA estimates air bag effectiveness to be 40 to 80 percent in frontal impacts. Also, GM did not offer any basis for its assumption that side improvements will be only 20 percent as effective as air bags. Thus, NHTSA does not agree with GM's analysis.

CCMC commented that NHTSA's estimation of benefits does not take into account the age of occupants. However, contrary to that commenter's belief, occupant age is included in the analysis by including the probability of occupant thoracic injury by age and by weighting occupants in side impacts by age.

VI. Test Procedure

A. Speed, Angle and Point of Impact

In developing the NPRM, the agency examined the data in the National Crash Severity Study (NCSS) to establish the appropriate impact velocities and impact point to be used in the Standard No. 214 crash test. By using the NCSS data, NHTSA determined the median speed of side impact accidents (28 mph striking vehicle/13 mph struck vehicle), and the median speed of accidents that caused serious injuries or death (35 mph/17.5 mph). Based on its analysis of accident data and its judgment about the threshold speed of serious injury accidents, NHTSA tentatively decided that the threshold speed of serious injury (30 mph/15 mph) was the most appropriate test speed.

The agency also reviewed the angle of orientation between the longitudinal axis of the striking and struck vehicles and determined that 90 degree impacts were the most frequent. In view of the potential difficulty of conducting tests in which both the target and striking vehicles are moving and in which the first contact must be made at a specified location on the target vehicle, NHTSA devised a test in which only the striking "vehicle" is moving. Using vector analysis, the agency combined the impact speed and impact angle and determined that the dynamics and forces of a crash in which a vehicle traveling at 30 mph perpendicularly striking the side of a vehicle traveling at 15 mph could be represented by a test configuration in which:

- The test vehicle is stationary;
- The longitudinal centerline of the moving deformable barrier (MDB) is perpendicular to the longitudinal centerline of the test vehicle;
- The front and rear wheels of the MDB are "crabbed" at an angle of 27 degrees to the right of its longitudinal centerline in a left side impact and to the left of that centerline in a right side impact; and
- The MDB moves at that angle and at a speed of 33.5 mph into the side of the struck vehicle.

NHTSA examined crashes involving serious to fatal injuries to determine the median value of the impact points. The impact reference point describes the relative positions of the striking vehicle and the struck vehicle at the time of impact. In particular, the agency defined the impact reference point, for the purpose of a left side impact, as the position of the left forward edge (corner) of the striking vehicle when contact is first made with the left side of the struck vehicle. This definition is based on crash data which included documentation of the damage that occurred to the side of the struck vehicle. A value of 37 inches forward of the center line of the wheelbase of the struck vehicle was determined. This means that for a left side impact, the left edge of the striking vehicle would be 37 inches forward of the mid-point of the wheelbase of the struck vehicle at the time of initial contact.

GM argued that the proposed impact speed is too severe. According to that commenter, designing a door for a test at 30 mph may provide only limited improvement at some other speeds, and will provide diminished protection at the lower speeds at which most preventable injuries occur. That company argued that the importance of impact speed is enhanced by its findings that older people are overrepresented in side impact injury statistics. GM noted that impact tolerance for older occupants is lower at all speeds than it is for younger occupants, and stated that it follows that the use of softer energy absorption materials should be considered.

NHTSA disagrees with GM's argument that the proposed test impact speed is too severe. As indicated above, the basis for the proposed test impact speed is NCSS crash data, and the proposed test condition represents one of the most predominant real world crash conditions. The 30/15 mph velocity combination represents a crash severity associated with a 15 percent probability of sustaining a serious-to-fatal thorax injury. Therefore, this test condition is realistic.

Countermeasures designed for the 30 mph/15 mph condition will likely have positive effectiveness over the range of impact speeds. For example, as noted above, available data indicate the same countermeasure effectiveness at delta V's from 13.3 mph to 21.2 mph. The purpose of proposed side impact requirements is to prevent serious

injuries and fatalities, rather than to address minor injuries. If the agency selected too low a test speed, the countermeasures used by manufacturers might not be effective at the higher speeds where more serious injuries are likely. For example, if very soft padding were selected, the padding would likely "bottom out" in a moderate impact and provide little protection.

NHTSA also does not agree that the proposed test speed would lead to countermeasures that are inappropriate for older occupants. As discussed above, any padding that is added to a car to reduce TTI(d) would clearly be less stiff than the interior of the car door and make a contribution to improving occupant safety for persons of all ages.

Numerous commenters objected to the crabbed wheel test condition, arguing that a perpendicular MDB impact would be less complex and introduce less test variability. Commenters also indicated that a perpendicular impact would promote harmonization, since Europe and Japan are investigating that test condition.

GM stated that, based upon MVMA crash tests, the crabbed configuration does not affect dummy responses significantly. That company expressed concern that when the MDB strikes the test vehicle, it slides some distance along its side before appreciable deformation occurs. GM argued that in the interest of eliminating what it considered a needless artifact which compromised objectivity, a perpendicular impact collision simulation should be used.

Ford argued that the dynamic effects influencing the kinematics of the struck car resulting from the crabbed motion of the barrier happen only after the dummy's maximum accelerations have been recorded and have no effect on chest or pelvic acceleration or on chest compression. That commenter stated that uncrabbed perpendicular impact at 30 mph by the barrier would produce essentially the same results without the complication of accurately driving the barrier in crabbed motion. Ford also argued that eliminating the crabbed motion of the barrier would reduce test-to-test variability and promote international harmonization of side impact regulations, as well as simplify mathematical modeling of the crash test during vehicle design and development.

As indicated above, in typical real-world side impacts, both vehicles are moving. In order to make the proposed crash test as representative as possible, the agency wanted to simulate that condition. Recognizing the difficulties associated with having more than one vehicle moving in a crash test, the agency proposed a test that would represent that condition without requiring movement of both vehicles. Given that the test car remains stationary, the crabbed wheel test condition is more representative of real-world side impacts than a perpendicular test. In particular, the crabbed configuration produces longitudinal loading on the struck vehicle, as would happen if both vehicles were moving. Therefore, NHTSA does not believe that this proposed test condition should be changed, absent strong reasons.

An additional reason to maintain the crabbed wheel condition is that it facilitates testing side impact protection for both the front and rear seating positions in a single test. If the MDB were used in a perpendicular mode, a smaller area of the target car would be struck, and separate tests might be needed to assess front and rear performance.

NHTSA is not persuaded from the comments that the crabbed wheel test is difficult to run or introduces significant variability. The procedural steps for running a crabbed wheel test or non-crabbed wheel test are essentially the same, and NHTSA and a number of manufacturers have successfully conducted crabbed wheel tests. Indeed, NHTSA is aware of over 100 side impact tests conducted around the world. The agency has little data to compare the variability of crabbed versus non-crabbed test conditions. However, the agency is satisfied with repeatability of the crabbed test condition. NHTSA notes that in May 1990, Ford provided data from a recently completed side impact crash test program conducted to evaluate variability in test results. The study consisted of crashing six similar Ford Taurus vehicles using the proposed dynamic test procedure, including crabbed wheels. The data show that the crabbed test procedure is very repeatable.

Ford stated that many test facilities, including its own, cannot pull a crabbed cart through its center of gravity during guided travel. That company stated that this creates a greater tendency for a crabbed cart to deviate from its assigned path during the coast phase, increasing impact point variability. However, NHTSA has not experienced this problem at any of its contractor facilities.

Some commenters suggested that NHTSA specify a different impact point, the R-point (projection of the dummy's H-point), which is used in the European test procedure. GM stated that the impact point proposed by NHTSA is one of many which could be selected that are similarly credible, and suggested that specification of the R-point would promote international harmonization. EEVC stated that the R-point was selected for the European test procedure based on an accident survey conducted in France. That commenter believed that the R-point would be the most effective in the United States as well.

NHTSA compared center line of the barrier and the proposed impact point in its procedure to the European R-point. The agency found that the European R-point was generally behind the center line of the barrier and the proposed impact point. Thus, if NHTSA were to specify the R-point as the impact point, with the crabbed procedure, the barrier would not engage the A-pillars of some vehicles and would not cause a full impact loading of the dummy.

The agency believes that its proposed impact point is well-justified. For a further discussion of the basis for the proposed point, see chapter III, section A.8 of the FRIA. NHTSA agrees with GM that the proposed impact point is one of several which could have been selected. The agency does not believe that selecting the R-point would have any impact on international harmonization, given other more significant differences between the new Standard No. 214 test procedure and the European procedure. For example, harmonizing on the precise impact point would not provide any meaningful benefits when very different moving barriers are specified. In addition, different impact points may affect test results. Therefore, one reason not to change the impact point is that such a change could reduce the value of the many side impact tests which have been conducted to date, for compliance and other purposes. Since NHTSA does not see any reason to specify the R-point, it is not making that change.

NHTSA has decided to make one minor change to the proposed impact point. Since the impact point is based on the center line of the wheel base of the struck car. NHTSA is concerned that the impact point for cars with very long wheel bases might be too far toward the rear of the car This could result in the front dummy/door impact occurring after the barrier has slid past the dummy, with the dummy not experiencing the full impact. The largest car NHTSA has tested in its side impact test program had a wheel base of 114 inches. For that vehicle, the impact point was 20 inches behind the front axle. For cars with wheelbases greater than 114 inches, the agency has decided to specify that the leading edge of the MDB make initial contact 20 inches behind the front axle. This will ensure that the

impact point is not too far back, relative to the front seat.

Ford and BMW provided very different comments concerning impact point tolerance. Ford argued that impact point tolerance is very important since the test results are significantly affected by whether the MDB contacts or misses the A-pillar. That commenter stated that while the NPRM did not specify an impact point tolerance, other agency documents specify ±3 inches. Ford argued that this should be reduced to ±1 inch. According to that company, a ±3 inch tolerance is believed to contribute to what it considers to be an unacceptable level of rear seat dummy response variability. Ford argued that a lower impact point tolerance could reduce test-to-test variability.

BMW argued for a larger impact point tolerance, on the order of magnitude of ±5 inches. That commenter stated that the MDB, because its wheels are crabbed and it is accelerated on a long path, cannot realistically be exactly aligned with the impact point at the moment of impact due to yaw forces acting on the barrier during its acceleration run. BMW stated that this is especially true in view of the fact that the wheels must be individually adjusted to achieve a barrier orientation within a permitted tolerance of ±1°, with respect to the 27° impact angle.

As a general matter, NHTSA agrees with Ford that tolerances should be as small as possible, in order to keep variability as low as possible. In establishing tolerances, however, the agency must also take into account the fact that too small tolerances may have the effect of invalidating test results, if the actual impact point falls outside the specified tolerance. NHTSA has reviewed recently-conducted testing and believes that a tolerance of ±2 inches is readily obtainable with current testing protocol. In response to Ford's comment, the agency has therefore decided to specify a tolerance of ±2 inches, instead of ±3 inches. This tolerance is set forth in section S6.12. The agency is not adopting a higher tolerance, as suggested by BMW, because a higher tolerance would unnecessarily increase test variability. The agency is not adopting a tolerance as low as ±1 inch, as suggested by Ford, because such a low tolerance could be difficult to meet and could have the effect of invalidating test results.

GM expressed concern that impact point repeatability may be difficult to achieve because MDB tracking is influenced by tire pressure. According to that company, the MDB tends to bounce to one side of the tow system when the tire pressure exceeds 30 psi. GM stated that this could result in the center of the MDB striking the vehicle at a point more than four inches away from the intended impact point That company did not provide any data in support of its concern about this issue.

NHTSA notes that one of the MDB assembly drawings specifies that tire pressure is to be maintained at 32 psi. Except for the last few feet, the MDB's position relative to the struck vehicle is controlled by a rail. As discussed in the FRIA, the agency has conducted 28 full scale production vehicle tests, in addition to many research tests, with tires at 32 psi. The agency has not had difficulty achieving repeatability of the impact point. In addition, MVMA conducted 16 Ford LTD tests and Transport Canada conducted four tests using the agency's test procedure with tires at 32 psi without impact point variability problems. Given the agency's experience and that of MVMA and Transport Canada, and the lack of data in support of GM's position, NHTSA is not persuaded that there is a problem with respect to impact point variability.

B. Alternative Composite Test Procedure

In the NPRM, the agency noted that component test procedures may eventually be possible alternatives to full scale crash tests. The agency reviewed some of the work that has been conducted in this area and indicated that, while it believed the concept needs additional research, it encouraged the further development of this approach. NHTSA specifically solicited comments on this subject.

Numerous commenters, including U.S., European and Japanese manufacturers, argued that the agency should not adopt a full scale crash test but instead pursue a laboratory compliance procedure such as the European Composite Test Procedure (CTP). The CTP was developed by Volkswagen and proposed by CCMC in Europe. It is based on the concept of using a mathematical model to predict human response to vehicle crashes. The CTP utilizes a three-step quasi-static crush of the inner and outer side surfaces of a vehicle, combined with a lumped, two-mass computer model of the occupant to simulate the full scale crash and to predict injury risk.

Commenters argued that the CTP offers several advantages over a full scale crash test. These include potentially lower costs, the ability to use CTP early in the design process of a vehicle, and greater opportunity for harmonization.

After considering the comments, NHTSA believes that neither the CTP, nor a similar approach is appropriate for this rulemaking. The CTP is a relatively new test procedure that is still in its developmental and validation stages. NHTSA believes that it would take at least several years to complete the development, validation and evaluation of this approach. The pursuit of this approach as an alternative to the full scale crash test proposed by NHTSA would thus result in at least a several year delay in improved side impact protection, a consequence that the agency does not consider acceptable. Moreover, NHTSA believes that a full scale crash test is the best means of testing the real world performance of a vehicle.

C. Dummy Seating Procedure and Use of Safety Belts

NHTSA proposed detailed procedures for positioning the SID in crash tests. Among other things, the agency proposed that a test dummy be restrained during a test only if that dummy is located in a seating position that is equipped with an automatic safety belt. This provision was proposed because, although belt usage is increasing as a result of the passage of mandatory use laws and a growing awareness of safety on the part of consumers, restraint usage is unlikely to reach 100 percent. NHTSA indicated that it desired to assure protection for unrestrained occupants. The agency noted in the NPRM that recent accident data analyses indicate that belt restraints may be somewhat beneficial in side impacts.

The agency also noted that the unrestrained dummy is generally propelled to the far side of the vehicle in a side impact test, thus creating the potential of causing the far side door to open. Leaving the dummy unrestrained would thus aid in evaluating the capability of the far side door to remain closed during a side impact crash. The agency specifically sought comments on whether and why compliance testing should be conducted with restrained or unrestrained dummies.

Numerous commenters argued that test dummies should be restrained whenever any type of safety belt is provided. Some commenters argued that safety belt use is a more representative test condition. Volvo argued that tests with belts would better simulate reality, noting that the PRIA estimated belt use to range between 40 and 70 percent in 1995. Honda commented that safety belt use is representative of recommended use conditions, that both government and manufacturers are strongly recommending usage of safety belts, and

that many states now enforce mandatory use laws. Ford stated that testing with all dummies restrained is consistent with the widespread adoption of mandatory usage laws and other activities intended to encourage belt use in the United States. That company expressed concern that by testing without belts, NHTSA could send a message to consumers that belt use is unimportant. Ford also expressed concern that the proposed test condition encourages installation of automatic belts instead of air bags, since a test dummy would be restrained only in a seating position for which there is an automatic belt restraint.

Some commenters argued that leaving a test dummy unrestrained would, in any event, not have a significant effect on the injury criteria. Volvo stated that its testing shows that the belt is loaded late in the crash event at a time when the injury criteria maximum has already been reached. Austin Rover stated that the impact of the dummy on the far side of the vehicle would not likely cause the door to open, since the dummy does not strike the door with sufficient force to open a door which has not unlatched, and any other unlatching forces or accelerations would have diminished before the dummy had traveled across the vehicle.

Honda argued that use of the unrestrained dummy is not a satisfactory way to evaluate opening of the far side door. That company stated that the unrestrained dummy is not always propelled and does not always impact the far side door in a side impact test, and that it is unclear how the dummy impact affects door opening.

Ford commented that the use of the restraint system during testing reduces the potential for dummy damage resulting from adverse dummy kinematics after the dummy/car side interior interactions are completed. IIHS, however, argued that test dummies should not be restrained even for some types of automatic belts, since the usage of some such belts is relatively low.

After considering the comments, NHTSA has decided to specify use of all available belt restraints in side impact testing. The agency is persuaded that since the side impact test dummy accelerations used to calculate the TTI(d) and pelvic injury criteria occur before the belt system tightens to restrain the occupant, belt use or non-use does not make a significant difference with respect to the test criteria. The agency also believes that the use of all available safety belts is most consistent with its belt use policy and with state belt use laws. Finally, given increased belt usage, the agency believes that use of all available belts is more representative of the real world.

NHTSA received a number of other comments concerning the proposed dummy positioning procedure. GM stated that three of the proposed requirements cannot be met simultaneously. These include placing the adjustable seat back in the manufacturer's recommended position, keeping the dummy's head level, and resting the dummy's upper torso against the seat back. GM stated that, for its tests, it considered the most important requirement to be that the head remain level. It stated that to do this, the upper torso was placed against the seat back, and the seat back angle was adjusted until the dummy head was level.

NHTSA agrees that the three conditions cited by GM cannot be met simultaneously. The agency notes that keeping the dummy's head level was not included in the proposed dummy positioning procedure, as corrected in a Federal Register notice published on March 17, 1988 (53 FR 8782). Since the purpose of the dynamic side impact crash test procedure is to evaluate thoracic and pelvic protection, NHTSA believes that the pelvic angle is more important for assessing thoracic and pelvic protection than is a head leveling requirement. The agency therefore is not adopting the head leveling specification.

Ford commented that further clarification is needed concerning positioning of dummies in the rear seat. That company noted that, under the proposal, if possible, the rear dummy's midsagittal plane (i.e., a vertical plane through the center of the dummy) was to be the same distance outboard as the front dummy's midsagittal plane. If this condition could not be met, however, the rear dummy was to be positioned so that the outermost skin of its upper torso just touched the adjoining innermost surface of the vehicle. Ford stated that this alternative would be impossible to meet in some cases, because the location of some rear seat armrests preclude positioning the dummy's upper torso against the upper quarter panel surface while still positioning the dummy's midsagittal plane vertically. Ford also stated that it is not clear whether the term "innermost surface" means the broad trim panel surface or a smaller, localized trim feature.

In response to Ford's comment, NHTSA has modified the rear dummy positioning procedure for situations where the rear dummy's midsagittal plane cannot be positioned the same distance outboard as the front dummy's midsagittal plane. The procedure now specifies that, in such situations, the test dummy is positioned so that some portion of the test dummy just touches, at or above the seat level, the side surface of the vehicle, such as the upper quarter panel, an armrest, or any interior trim (i.e., either the broad trim panel surface or a smaller, localized trim feature).

NHTSA notes that the proposed rear dummy positioning procedure was developed for bench seats and is not appropriate for bucket or contoured seats. The agency has added a procedure for rear bucket and contoured seats. The procedure is similar to that proposed for front bucket seats. It specifies that (1) the upper torso of the test dummy rests against the seat back, and (2) the midsagittal plane of the test dummy is vertical and parallel to the vehicle's longitudinal centerline, and coincides with the longitudinal centerline of the bucket or contoured seat.

Several commenters raised concerns about whether there is sufficient room in the rear seats of some cars to position the SID according to the proposed requirements. Ford stated, with reference to specifications for positioning the dummy's torso, that it believes there may be current or future vehicles which cannot accommodate the specified dummy or the SAE-826 H-point device (i.e., the device that would be used to locate the H-point for positioning the dummy) in the rear seat. That company suggested that NHTSA develop an alternative test procedure or exempt such vehicles from the requirement for testing with a rear-seated dummy. Porsche, in objecting to including rear-seat dummies in the test procedure, commented that there is not enough room in some cars for the dummies to be placed or to be positioned correctly. BMW commented that in certain small cars (e.g., 2 + 2 coupes), a 50th percentile SID cannot be accommodated according to the proposed requirements, due to inadequate space, although a smaller occupant could utilize such a seating position.

Volkswagen stated that, in some small vehicles, it may not be possible to position the proposed dummy in the rear seat in a natural position even though the rear seats contain "designated seating positions" capable of accommodating a person at least as large as a 5th percentile adult female. Volkswagen provided photographs which it says show that the head of the SID placed in a current vehicle rear seat interferes with the roof when positioned according to the proposed procedure. It provided other photographs which it says show positions where the roof does

not interfere with the head, but the dummy is still in an unnatural and unrealistic position and the H-point is not within the proposed limit.

NHTSA notes that in some vehicles where the roof has a steep slope, the dummy head may interfere with the roof. In such instances, the dummy head can be tilted so as to accommodate the test dummy without changing the specified orientation of the thorax midsagittal plane, or affecting the H-point. NHTSA does not believe that tilting the test dummy's head would have any impact on the ability of the dynamic side impact crash test procedure to evaluate thoracic and pelvic protection.

NHTSA has concluded, however, that there are some sport cars with rear seating areas that are so small that the SID dummy cannot be accommodated according to the specified positioning procedures, even if the head is adjusted fore-aft. The agency attempted to position the SID dummy in two cars identified by manufacturers as having potential problems in this area: A Volkswagen Corrado and an Audi Coupe Quattro. While NHTSA did not have difficulty in positioning the SID dummy in the rear of the Audi Coupe Quattro, it could not position the SID dummy in the Volkswagen Corrado according to the specified procedures.

Since it is necessary that standards be appropriate for all vehicle types to which they apply, NHTSA has decided not to apply the rear seat requirements to vehicles which have rear seating areas that are so small that the SID dummy cannot be accommodated according to the specified positioning procedures.

Based on review of vehicle sales data, the agency believes that less than one-half of one percent of passenger cars cannot accommodate the SID dummy in the rear seats. These excluded seating areas account for less than one fatality per year. While a relatively small safety problem, and while not subject to the requirements of this rule, the agency, nevertheless, believes that these seating positions will have improved levels of crash protection as a result of its action. Based on analysis of laboratory crash test data, when a vehicle is designed to provide side crash protection to the front seat occupant, the countermeasures also enhance rear seat crash protection. This occurs because the crash environment is more severe for the front seat occupant compared to the rear seat occupant. Thus, countermeasures to provide protection for the front seat will also enhance rear seat crash protection. Accordingly, the population of rear seat occupants in excluded vehicles, while small, will also benefit from the improved side crash protection required by this rule.

Volkswagen also commented that the rear seat dummy poses additional positioning problems which are unique to the rear seat. It stated that, in two-door vehicles, control of the dummy H-point is only possible on the in-board side. According to that commenter, the proposed positioning procedure does not specify from which side to control the H-point (or whether it should be controlled from both sides, which would in some cases be impracticable). Volkswagen stated that placing the one accessible side within the proposed H-point tolerance rotates the dummy and produces a variable and unreproducible seating position.

NHTSA assumes that the H-point would ordinarily be controlled from the outboard side. The agency has been able to control the H-point within the specified tolerance from the outboard side in its tests. However, the agency does not believe there is any reason that the H-point location cannot also be controlled from the inboard side, within the specified tolerance, if the test dummy is positioned correctly. Since NHTSA and manufacturers other than Volkswagen have been able to conduct a number of side impact tests without difficulties in controlling the H-point, the agency does not believe that it is a problem.

D. Variability

NHTSA has evaluated test procedure repeatability (same test replicated at the same site) and reproducibility (same test replicated at different sites). A certain amount of variability will always exist when different vehicles of the same make/model are subjected to a crash test. A portion of the variability is due to vehicle variability. Some variability can also result from aspects of the test procedure, including the dummy, the impact point, and the MDB honeycomb face. Because of test site variations (e.g., instrumentation), it is generally accepted that site-to-site test variability (non-reproducibility) is usually greater than the same site test variability (non-repeatability).

In the PRIA, the agency considered repeatability in terms of coefficients of variation (CV, the standard deviation divided by the mean) for available test data. As discussed in the PRIA, one set of tests relevant to repeatability was sponsored by MVMA. Sixteen full scale crash tests were conducted using 1985 Ford LTD's and NHTSA's side impact test procedure. While certain changes were made to the vehicles, and dummies were only placed in the front passenger seating position, the tests indicated that the repeatability of NHTSA's side impact test procedure was fully acceptable.

The PRIA also discussed the results of three matched sets of test data from NHTSA's full scale crash test series, two Chevrolet Citations, three Nissan Sentras and three Honda Civics.

Subsequent to issuance of the NPRM, the agency obtained additional test data relevant to repeatability, most of it from commenters. Some of the test results submitted by manufacturers are subject to claims of confidentiality.

Ford commented that, while few of the cars it has tested have been identical in their front seat configurations, it conducted tests of five compact 2-door, five mid-size 4-door and four mid-size 2-door vehicles (14 cars total) which had identical rear seat configurations and were tested in an identical manner. As discussed below, Ford cited data for these 14 cars in arguing that rear seat test dummy TTI(d) is extremely unpredictable. In light of its concerns about variability, Ford subsequently crashed six similar Ford Taurus vehicles using the proposed test procedure, as a controlled repeatability test program to estimate front and rear variability, and provided the results to the agency.

As part of an effort to assess the full scale test comparability of SID and BioSID, MVMA crashed 12 model year 1990 Pontiac 6000's, alternating the BioSID and SID in the front and rear seat positions, as well as in baseline and padded test conditions. The SID data from these tests are relevant to the repeatability of the proposed test procedure.

GM and Mercedes-Benz each submitted data for two vehicles of the same model. The agency also has data, for three other pairs of cars, where one was tested by NHTSA and the other by the manufacturer.

Ford tested 14 cars, five 2-door compacts, five 4-door mid-size vehicles, and four 2-door mid-size vehicles. For the three vehicles classes, the CV for rear seat TTI(d) ranged from 17.0 to 23.1 percent (and averaged 20.4 percent). The CV for rear seat pelvic g's ranged from 7.0 to 14.2 percent (and averaged 11.3 percent). Ford stated that because of the unpredictability of the rear seat dummy responses, it has serious concerns about being able to comply with the proposed requirements. That company argued that it would have to design its vehicles to achieve values well below the requirements of the standard to have reasonable confidence that production vehicles would pass compliance tests.

Ford claimed, for example, that if NHTSA establishes an 85 TTI(d) limit, Ford would have to design the rear seats of their vehicles to achieve a TTI(d) level of 52 to ensure that the vehicle, if tested, would comply at the 20.4 percent variability that Ford has identified for the rear seat test dummy response. That company expressed concern that under these circumstances, it could not meet the proposed requirements with reasonable and practicable design changes to its product line. Ford also stated that in focusing on variability at the rear seating position, it did not mean to imply that it was satisfied that the test procedure is capable of producing adequately predictable test result measurements for the front seat dummy.

NHTSA notes that the Department addressed the issue of repeatability at length in its rulemaking adding automatic crash protection requirements for passenger cars to Standard No. 208, *Occupant Crash Protection*. See 49 FR 28962, 29004–29006 (July 17, 1984). Like the proposed side impact requirements, the Standard No. 208 requirements involve a full scale crash test using instrumented test dummies. The standard requires that the head injury criterion (HIC), calculated from measurements taken on the dummy, not exceed 1,000.

Ford's arguments about excessive variability in the proposed side impact test procedure are similar to the arguments made by manufacturers in the Standard No. 208 rulemaking. As discussed in the July 1984 notice adopting the current version of Standard No. 208, auto manufacturers argued that because large test result differences are encountered in repeated tests of the same car, they cannot be certain that all their production vehicles would be in compliance even when their development tests show passing results. The manufacturers argued that the test result variances are essentially due to deficiencies in the test procedures themselves as well as in the prescribed test dummy. They also argued that the only way they could assure compliance is to "overdesign" their vehicles, which they argued would result in excessive costs without safety benefit. The manufacturers argued that the standard was neither "objective" nor "practicable," citing several court decisions.

The Department concluded that Standard No. 208 was both objective and practicable, noting that manufacturers had not supplied data to support their claims of excessive test variability, nor demonstrated that the bulk of any variability is due to the test procedures and instruments and not due to vehicle-to-vehicle differences.

In their arguments on Standard No. 208, manufacturers cited NHTSA tests of 12 Chevrolet Citations under the agency's New Car Assessment Program (NCAP). The manufacturers focused on the CV of the driver HIC values—21 percent—and claimed that this was too large. They argued that with this large a CV, they would have to design their vehicles to achieve a HIC no higher than 560 to assure that 95 percent of their cars, when tested, would have HIC values below 1000.

The Department concluded that the manufacturers' argument was faulty. The Department noted that variability by itself is not a crucial factor for a manufacturer to be concerned about. Rather, it is the combination of variability and the mean (or average) value which can be cause for concern. Data showed that HIC's for both automatic belts and air bags would be sufficiently low as to make variability a moot issue for Standard No. 208.

The FRIA reassessed repeatability/reproducibility using the newly available data, as well as earlier data, where appropriate. Two data sets available to the agency were not used in the assessment: (1) NHTSA's Citation, Sentra, and Civic data and (2) Ford's data for five compact 4-door, five mid-size 4-door and four mid-size 2-door vehicles with identical rear seat configurations.

The three NHTSA data sets were not used because there were changes in the SID and the seating procedure between vehicle tests. These changes may have influenced the test results.

The Ford data sets (from the 14 cars) were not used because there were differences in front doors and front seats between tests. In order to be a reliable test of repeatability, the cars and test conditions must be identical, to the extent possible, for each test. NHTSA does not consider tests using cars with different front doors and different front seats to be valid repeatability tests for rear seat results, even if rear seat configurations are the same, since the differences in the front doors and front seats may affect the rear seat results. The agency therefore rejects the 20.4 percent CV figure cited by Ford as an estimate of rear seat TTI(d) variability.

Ford was aware that the 14 tests that it used to estimate variability were not identical, because the cars were different. However, Ford claimed that it examined the tested vehicles, the high-speed crash test films and electronically recorded data, for each of the 14 cars and found no evidence of vehicle performance differences, such as unusual structural deformation, that could have affected test-to-test variability. As indicated above, NHTSA does not accept the tests in question as valid repeatability tests, given the differences in the front doors and front seats. The agency also notes that even without unusual structural deformations, vehicle-to-vehicle differences that are not apparent from films can also cause differences in test results.

1. Front Seat Variability

As discussed in the FRIA, the MVMA data for model year 1985 Ford LTD's indicate that for front TTI(d) and front pelvic g's the maximum CV ranged from 0.6 to 9.4 percent. The MVMA data for three baseline model year 1990 Pontiac 6000's indicate a CV of 9.15 percent for front TTI(d) and 8.38 for front pelvic g's. For three Pontiac 6000's with added padding, the data indicate a CV of 7.78 percent for front TTI(d) and 5.84 percent for front pelvic g's. For the six Ford Tauruses tested by Ford, the data indicate a CV of 4.99 percent for front TTI(d) and 8.34 percent for front pelvic g's. All of the Pontiac 6000 tests were conducted at the same test site. The agency notes, however, that at least two SID dummies were used for the Pontiac 6000 tests, and at least four SID dummies made by two different manufacturers were used for the Taurus tests. Since different dummies are one of the differences that may exist between test sites, the use of different dummies helps demonstrate reproducibility.

The agency also has data for five pairs of other vehicles. The data were either provided in pairs or as a single test conducted under identical conditions to one performed by NHTSA. Two of the pairs involved tests conducted at the same test site. For two Mercedes-Benz's, the data indicate a CV of 0.65 percent for front TTI(d) and 6.17 percent for front pelvic g's. For another pair of vehicles, the CV figures are 0.00 percent and 10.34 percent, respectively.

The other three pairs involved tests at different test sites and are, therefore, useful for evaluating reproducibility. The front TTI(d) CV figures for these pairs are 1.14, 4.33 and 11.23 percent. The pelvic g's CV figures for these pairs are 5.00, 7.47 and 10.33 percent.

NHTSA believes the available data demonstrate high repeatability for front TTI(d) and front pelvic g's. As a general matter, the agency considers CV of less than 10 percent to demonstrate high repeatability. For the vehicle groups where there are more than two cars, the CV of both front TTI(d) and front pelvic

g's are below 10 percent. For the pairs of vehicles, which represent more limited data sets, the CV of front TTI(d) and front pelvic g's is in several cases well below 10 percent and never significantly exceeds 10 percent.

2 Rear Seat Variability

As indicated above, the repeatability tests conducted by MVMA using model year 1985 Ford LTD's did not include any rear seat dummies. The MVMA data for three baseline model year 1990 Pontiac 6000's indicate CV of 8.19 percent for rear TTI(d) and 4.55 for rear pelvic g's. For three Pontiac 6000's with added padding, the data indicate a CV of 7.76 percent for rear TTI(d) and 16.52 percent for rear pelvic g's. For the six Ford Tauruses tested by Ford, the data indicate a CV of 6.32 percent for rear TTI(d) and 15.51 percent for rear pelvic g's.

The tests of the pair of Mercedes-Benz's did not include rear seat data. For the other pair of vehicles where testing was conducted at a single test site, the CV figures are 0.54 percent for rear TTI(d) and 0.27 percent for rear pelvic g's.

For the three pairs involving tests at different test sites, the rear TTI(d) CV figures are 0.80 percent, 12.56 percent, and 16.06 percent. The rear pelvic g's CV figures are 11.75 percent, 12.06 percent, and 13.65 percent.

NHTSA believes that available data indicate acceptable repeatability for rear TTI(d). For the three vehicle groups where there are more than two cars, the CV for rear TTI(d) is well under 10 percent. For the four pairs of vehicles, the CV for rear TTI(d) is well under 10 percent in two cases, somewhat above 10 percent in another case, and as high as 16 percent in the fourth case. In assessing repeatability, the agency places greater weight on the groups of vehicles with more than two cars (n=6 for Ford Taurus and n=3 for the two Pontiac 6000 groups), since a pair of vehicles (n=2) represents an extremely limited data set. The agency notes that the 16 percent CV was measured for a single pair of vehicles and that there was a much lower CV for all of the other data sets. Given that the CV for rear TTI(d) is below 10 percent for all three vehicle groups, where there are more than two cars, and for two of the four pairs of vehicles, and that CV for the third pair is not very far above 10 percent, NHTSA considers rear TTI(d) variability to be very close to that for front TTI(d) and front pelvic g's

NHTSA recognizes that repeatability appears to be somewhat lower for rear pelvic g's, but still considers it to be acceptable. While the CV was well below 10 percent for one of the three vehicle groups involving more than two cars, it was 15.51 percent and 16.52 percent for the other two vehicle groups. Also, while the CV was well below 10 percent for two of the four pairs of vehicles, it was 11.75 and 13.65 for the other two pairs. Based on the limited available data, it appears that while CV for front TTI(d), front pelvic g's, and rear TTI(d) are generally below 10 percent, CV for rear pelvic g's may sometimes be as high as 15 to 16 percent.

NHTSA has never attempted to quantify what represents acceptable variability versus unacceptable variability. In the Standard No. 208 rulemaking, the Department requested comments on what level of variability was deemed "reasonable," given that some variability will always exist. Only Renault provided a quantitative answer, saying that "the variation coefficient must not exceed a maximum of 10 percent." Although Renault provided no justification for its recommendation, the Department noted that it was nearly identical to the variation contributed by the Standard No. 208 test procedures and dummy, according to Volvo and GM.

NHTSA considers the repeatability for both side impact injury criteria measurements in both front and rear seating positions to be acceptable. As discussed above, the agency believes that the available data indicate acceptable repeatability for front TTI(d), front pelvic g's, and rear TTI(d), as the available CV measurements for those three are, for the most part, below 10 percent. The agency believes that the available data indicate that the repeatability for rear pelvic g's is well within the acceptable range.

The agency also considered the repeatability data considered by the Department in the Standard No. 208 rulemaking. NHTSA notes that the CV for several groups of cars considered in that rulemaking were similar to or higher than the 15 to 16 percent CV experienced by some cars for rear pelvic g's. See Table III–7 of the Final Regulatory Impact Analysis for Standard No. 208, July 11, 1984. (While that table does not provide calculations of CV values, it does report the mean, standard deviation, and number of cars tested for each group, the terms from which CV is calculated.) Based on all available data, the agency considers the repeatability for both side impact injury criteria measurements in both front and rear seating positions to be similar to, or possibly better than, that considered and found acceptable by the Department for Standard No. 208. Moreover, manufacturers have now been complying with that standard's automatic crash protection requirements for several years, without any difficulties.

Given the above variability, NHTSA examined the practicability of the performance requirements adopted by this final rule, i.e., TTI(d) limits of 85 g for 4-door cars and 90 g for 2-door cars, with a pelvic acceleration limit of 130 g for all cars. Application of the effectiveness values set forth in the FRIA for various countermeasures to the 23 make/models used for estimating benefits indicates that the TTI(d) and pelvic g values can be brought below the limits being established in this final rule.

In light of Ford's particular concern about rear dummy variability, and the fact that available data indicate greater variability for the rear than the front (especially for pelvic g's), NHTSA also examined the relationship between the front and rear dummy responses. Based on NHTSA's 28 full scale tests, rear pelvic acceleration was 25 g's lower on average than front pelvic acceleration, and rear TTI(d) was 14 g's lower on average than front TTI(d). The agency believes these data indicate that it is easier to achieve lower pelvic g's and TTI(d) in the rear than in the front, which reduces the impact of the somewhat higher variability.

Finally, as was the case in the Standard No. 208 rulemaking, manufacturers have not demonstrated that the bulk of variability for any of the side impact criteria for the front and rear seating positions is due to the test procedures and instruments as opposed to vehicle-to-vehicle differences.

E. Test Surface

NHTSA also received a comment concerning specification of the test surface. GM argued that specification of the coefficient of friction of the tire/road interface is important for full scale vehicle crash tests, but was not specified by NHTSA in the NPRM.

NHTSA does not agree that a coefficient of friction must be specified in the regulation since the side impact crash forces greatly exceed the magnitude of tire/road sliding friction forces. Thus, variations in the coefficient of friction would have an insignificant or minor impact compared to other factors. For example, one load cell barrier test using the NHTSA MDB at 25 mph and a 26 degree crabbed impact angle produced a barrier face resultant load of 84,679 pounds. Assuming a sliding coefficient of 0.50, the lateral friction forces on the 3,000 pound car would be 1,500 pounds. In this example, the crash force level is over 50 times higher than

the tire/road friction forces for the struck vehicle. Even if the MDB-to-car resultant force were less than than that load cell resultant force (e.g., about 60,000 pounds), this force level would still be many times greater than the tire/road friction forces.

Further, the side impact crash sequence takes place in a small fraction of a second, and is over before the vehicle motion relative to the "driving" surface occurs. As a result, the friction forces have an insignificant effect on the test dummy measurements.

NHTSA concludes that the tire/road friction forces are an insignificant or minor effect in side impact crash testing. When compared to crash forces, they are negligible across the full range of peak and sliding coefficients of friction. For the above reasons, NHTSA does not believe that the coefficient of friction of the test surface needs to be specified in the rule.

VII. International Harmonization

As the automotive industry has become an increasingly worldwide industry, interest in harmonized safety standards has increased. With harmonized standards, manufacturers can more easily build the same product to sell in different parts of the world, and cost savings can be achieved in areas of vehicle design, production, inventory, and certification.

Many commenters expressed concern that the proposed side impact dynamic crash test requirements are substantially different than those being developed in Europe. Those commenters argued that NHTSA should give greater weight to harmonization.

NHTSA is committed to international harmonization where practical. As in other areas, NHTSA has considered the issue of harmonization for this rulemaking. The agency notes that the United States has generally been ahead of Europe in the area of dynamic side impact test requirements, both in terms of developing a dynamic side impact test procedure, and now in adopting a regulation based on that procedure.

NHTSA notes that harmonization would likely have been easier had Europe not developed a different test dummy, different barriers, and a different injury criterion than those developed in the United States. The agency has, however, carefully considered the European approach to determine whether it would be appropriate for a Federal motor vehicle safety standard.

One concern NHTSA has about the European approach is that the two European barriers are not representative of the striking vehicles in side impact crashes in the United States. The European barriers appear to be more representative of the lighter and smaller European passenger cars. As discussed in the separate notice on the MDB, the NHTSA MDB is representative of passenger cars and light trucks that are likely to be the striking vehicle in side impact collisions in the United States. In order to ensure that the new side impact dynamic crash test requirements result in appropriate countermeasures, and hence reduced fatalities and injuries in the real world, NHTSA believes the MDB should be representative of striking vehicles in the United States rather than representative of vehicles used in other nations.

NHTSA also notes that there are a number of characteristics associated with the European test procedure that make it inappropriate, at this time, for a U.S. safety standard. The European test dummy (EuroSID), while capable of assessing injury potential and providing insight into side impact crash occupant protection, needs further refinement before it can be used as a regulatory tool. These ongoing efforts include the development of biofidelity response corridors to assure the EuroSID responds in a human-like manner, the evaluation of the repeatability and reproducibility of the test dummy, and the demonstration of its durability in full-scale crash tests. The EuroSID is progressing in all of these areas. Additionally, the urethane foam face of the European barrier appears to break down and bottom out, creating unexpectedly high dummy acceleration responses due to the unrealistic crash conditions it imposes. Further, it is still unclear whether Europe itself will adopt side impact requirements based on a full scale dynamic crash test.

NHTSA remains committed to international harmonization where practical. However, NHTSA believes that pursuit of harmonization as an alternative to the proposed requirements would result in at least a several year delay in improved side impact protection, a consequence that the agency does not consider acceptable. For all of the above reasons, NHTSA does not believe that harmonization considerations should preclude the agency from issuing a final rule based on its proposal. However, as Europe continues to develop its side impact standards and test procedures, NHTSA will consider whether further rulemaking is appropriate.

VIII. Feasibility of "Countermeasures"

As discussed in the NPRM, NHTSA has performed a substantial number of vehicle crash tests both to examine the existing side impact performance of many cars, as evidenced by measurements of the TTI(d) and pelvic acceleration on the side impact test dummy, and to evaluate the effectiveness of various techniques ("countermeasures") to improve side impact performance. In particular, the research programs have concentrated on making production-feasible structural changes and adding additional padding to the interior surface of the vehicle's side door to improve side impact protection. As discussed in more detail below, this research has shown that either the use of structural modifications in combination with padding or the use of padding alone can significantly reduce the probability of thoracic and pelvic injuries.

The following discussion highlights several of the more important side impact research programs conducted by NHTSA. The details of these and other agency research programs are discussed more fully in the PRIA and FRIA. In 1977, NHTSA began a program to improve the side structure integrity for lightweight subcompact cars, using a 2-door Volkswagen Rabbit. The agency decided to concentrate its research efforts on light vehicles, because it anticipated having the greatest difficulty in improving the level of side impact protection in those vehicles. The agency also believed that any countermeasures developed for those vehicles could be adapted for use in larger and heavier vehicles. NHTSA chose the VW Rabbit after testing the side impact performance of three small front wheel drive vehicles. The peak thoracic and pelvic accelerations measured on the side impact test dummy seated in the Rabbit indicated the Rabbit to be an "average" performer in its class.

The research program, involving the Budd Company, developed four levels of structural modifications to the 2-door VW Rabbit, to investigate the effect of increased side strength on intrusion. Those levels were categorized by the weight that the modifications added to the car and were designated as lightweight, middleweight, heavyweight and "optimized" (the "optimized" version used parts that had performed well in tests of the three other designs, but had been reduced in weight). These structural additions focused on the front seat area; no structure was added to the rear quarter panel or in the C-pillar areas. Intrusion was reduced by a factor of nearly 50 percent (from approximately 20 inches to 10 inches) with the heavy and optimized weight designs, but the dummy peak

accelerations were not significantly altered.

Concurrently with its programs to improve structural integrity, NHTSA also conducted research at its Vehicle Research and Test Center in East Liberty, Ohio to select and evaluate interior padding. The interior padding was an "add-on" feature, so that the door structure did not require alteration to accommodate the padding. The agency assumed that manufacturers would incorporate these features in production vehicles by using the door structure itself and part of the door thickness so as to minimize the space taken from the occupant compartment.

In January 1981, NHTSA began another research effort, which was conducted in two parts. This was called the modified integrated vehicle (MIV) program. One part was conducted by VW to improve the side impact protection of a 4-door VW Rabbit and the other part was conducted by MCR Technology Inc., using the Chevrolet Citation. The program evaluated both structural modifications and padding changes, independently and in combination. The first phase of the research effort concentrated on developing "production feasible" improvements, which would add little weight to the vehicle. To evaluate the performance of the modifications, the agency conducted a series of tests on the Rabbit simulating a vehicle moving at 22 mph striking another vehicle moving at 11 mph. The impact angle was 60 degrees. The agency's MDB was used as the striking vehicle. These tests involved an unmodified VW Rabbit, a structurally unmodified Rabbit with additional interior padding, a structurally modified Rabbit with no additional interior padding, and finally, a structurally modified Rabbit with additional interior padding.

In the second phase of the MIV program, the agency tested the structurally modified and padded Rabbit in two additional impact configurations. The configurations simulated a vehicle moving at 30 mph striking another vehicle moving at 15 mph at impact angles of 60 degrees and 90 degrees. In these tests, a Chevrolet Citation was used as the striking vehicle. The results of these tests are discussed in the FRIA.

In summary, NHTSA's testing shows that it is possible to develop "production feasible" countermeasures that can reduce potential thorax and pelvic injuries in side impacts. Based on the results obtained in this testing, NHTSA has, as discussed below, developed estimates of the effectiveness of different side impact countermeasures in reducing injuries.

IX. Estimate of Portion of the Vehicle Fleet Needing Improvement To Achieve Compliance

NHTSA explained in the NPRM that, in addition to the testing which was done on the modified and unmodified Rabbits and Citations, the agency had also conducted a series of 20 tests on 12 different unmodified production passenger cars. The PRIA used the results from the tests of the production vehicles to estimate the percentage of the passenger car fleet that currently meets the proposed alternative levels of the standard.

After issuing the NPRM, the agency conducted eight additional production vehicle tests, using eight different models. One model was also tested by Transport Canada. In addition, the agency received test data on 25 additional models from four different motor vehicle manufacturers. The FRIA uses only data from the more recently designed models (model year 1984 and later) to estimate what percent of the fleet currently meets alternative side impact performance levels. There are data available on 23 models: 10 2-door models and 13 4-door models.

In assessing the changes needed in current vehicles to meet the standard, the agency has not calculated the effectiveness of modifications that only involve structural changes. There were six cases of comparable baseline versus "structure alone" tests. In three of these tests for the driver, the TTI(d) went up and in three tests, the TTI(d) went down. A number of other tests have shown relatively little or no benefit from structure alone countermeasures. Because of these results, the agency does not consider the structural countermeasure it developed to be a consistent means of reducing side impact injuries. This does not mean that countermeasures using only structural modifications will not work. It simply means that the approaches evaluated by the agency did not consistently work.

Table 3 shows the percentage of the current new model passenger car fleet that meets the various alternative levels of TTI(d) at different seating positions in a car. For additional explanation of the data underlying Table 3 and the other tables presented in this section, see chapter III, section C of the FRIA.

TABLE 3.—PERCENT OF THE FLEET MEETING ALTERNATIVE TTI(D) LEVELS

TTI(d)	Driver			Rear passenger		
	2-Dr.	4-Dr.	Total	2-Dr.	4-Dr.	Total
80	0.0	61.5	34.8	30.0	53.8	43.5
85	10.0	69.2	43.5	40.0	61.5	52.2
90	10.0	84.6	52.2	50.0	69.2	60.9
95	10.0	84.6	52.2	50.0	92.3	73.8
100	20.0	100.0	65.2	50.0	100.0	78.3
105	20.0	100.0	65.2	70.0	100.0	87.0
110	70.0	100.0	87.0	70.0	100.0	87.0
115	90.0	100.0	95.7	80.0	100.0	91.3

Table 4 presents estimates of the percentage of the fleet that would need various countermeasures to meet the alternative levels of TTI(d). The percentage of the fleet is derived by assuming the effectiveness of the countermeasures as follows: for drivers—padding is approximately 21 percent effective (i.e., padding reduces TTI(d) by 21 percent), structure and padding is about 30 percent effective, and heavyweight structure and padding is 43 percent effective. For rear passengers, padding alone is assumed to be 35 percent effective. The agency derived these effectiveness estimates from its research on the performance improvements resulting from the use of various side impact protection countermeasures in cars. The agency then applied these effectiveness estimates to the TTI(d) values obtained for each of the 23 production cars that were tested to determine which countermeasure would be needed for each vehicle at the alternative TTI(d) levels proposed for the standard.

TABLE 4.—PERCENT OF THE FLEET NEEDING VARIOUS COUNTERMEASURES TO MEET ALTERNATIVE TTI(D) LEVELS

TTI(d)	Driver				Rear passenger		
	None	Padding	Structure and padding	heavyweight structure and padding	None	padding	Structure and padding
				Two-Door Models			
80	0.0	20.0	70.0	10.0	30.0	60.0	10.0
85	10.0	20.0	70.0	0.0	40.0	50.0	10.0

TABLE 4.—PERCENT OF THE FLEET NEEDING VARIOUS COUNTERMEASURES TO MEET ALTERNATIVE TTI(D) LEVELS—Continued

TTI(d)	Driver				Rear passenger		
	None	Padding	Structure and padding	heavyweight structure and padding	None	padding	Structure and padding
80	10.0	80.0	10.0	0.0	50.0	40.0	10.0
85	10.0	90.0	0.0	0.0	50.0	50.0	0.0
90	20.0	80.0	0.0	0.0	50.0	50.0	0.0
95	20.0	80.0	0.0	0.0	70.0	30.0	0.0
100	70.0	30.0	0.0	0.0	70.0	30.0	0.0
105	90.0	10.0	0.0	0.0	80.0	20.0	0.0
110				Four-Door Models			
115	61.5	38.5	0.0	0.0	53.8	46.2	0.0
80	69.2	30.8	0.0	0.0	61.5	38.5	0.0
85	84.6	15.4	0.0	0.0	69.2	30.8	0.0
90	84.6	15.4	0.0	0.0	92.3	7.7	0.0
95	100.0	0.0	0.0	0.0	100.0	0.0	0.0
100	100.0	0.0	0.0	0.0	100.0	0.0	0.0
105	100.0	0.0	0.0	0.0	100.0	0.0	0.0
110				Combined Fleet			
115	34.8	26.1	34.8	4.3	43.5	52.2	4.3
80	43.5	21.7	34.8	0.0	52.2	43.5	4.3
85	52.2	43.5	4.3	0.0	60.9	34.8	4.3
90	52.2	47.8	0.0	0.0	73.9	26.1	0.0
95	65.2	34.8	0.0	0.0	78.3	21.7	0.0
100	65.2	34.8	0.0	0.0	87.0	13.0	0.0
105	87.0	13.0	0.0	0.0	87.0	13.0	0.0
110	95.7	4.3	0.0	0.0	91.3	8.7	0.0
115							

Table 5 indicates the estimated percentage of the current fleet meeting various alternative standards for pelvic g's.

TABLE 5.—PERCENT OF FLEET MEETING ALTERNATIVE LEVELS FOR PELVIC ACCELERATION

Level	Driver			Rear passenger		
	2-Dr.	4-Dr.	Weighted total	2-Dr.	4-Dr.	Weighted total
130	30.0	91.7	63.6	80.0	69.2	78.3
150	60.0	100.0	81.8	90.0	92.3	95.7
170	90.0	100.0	95.5	100.0	92.3	95.7
190	100.0	100.0	100.0	100.0	92.3	95.7

Table 6 presents the percentage of the fleet that would need padding to meet the alternative levels of the pelvic g's standard being analyzed. Since for drivers, padding alone is approximately 35 percent effective, there is no need for any additional countermeasure. Similarly, for rear passengers, padding alone is approximately 33 percent effective, which is sufficient to meet the standard for all cars at all of the proposed pelvic g levels.

TABLE 6.—PERCENT OF FLEET NEEDING PADDING TO MEET ALTERNATIVE LEVELS OF THE STANDARD FOR PELVIC ACCELERATION

Pelvic g's	Driver		Rear passenger	
	None	Padding	None	Padding
130			Two-Door Models	
150	30.0	70.0	80.0	20.0
170	60.0	40.0	90.0	10.0
190	90.0	10.0	100.0	0.0
	100.0	0.0	100.0	0.0
130			Four-Door Models	
150	91.7	8.3	69.2	30.8
170	100.0	0.0	92.3	7.7
190	100.0	0.0	92.3	7.7
	100.0	0.0	92.3	7.7
130			Combined Fleet	
150	63.6	36.4	78.3	21.7
170	81.8	18.2	95.7	4.3
190	95.5	4.5	95.7	4.3
	100.0	0.0	95.7	4.3

X. Costs

As a part of its research program on side impacts, NHTSA has done several major studies of the potential costs associated with improving side impact protection. The first cost study was based on work begun in 1980 with the Budd Company to develop several structural modifications for improving the side impact design of subcompact two-door sedans. As discussed earlier in this notice, the Budd Company developed four alternative side structure designs based on the 1976/1977 VW Rabbit two-door passenger sedan. The production version VW Rabbit was used as a baseline for comparing the weight, cost, and crash impact performance of the four modified design versions.

The four design concepts were categorized by the total added weight of the modifications to the car and were designated as a lightweight design, middleweight design, heavyweight design and an "optimized" design. The crash test results for the lightweight and middleweight designs showed that none of the structural modifications described above sufficiently improved side impact protection as measured by reductions in thoracic acceleration. The heavyweight and optimized designs showed promise of reducing side impact injuries and, consequently, the agency used those designs in calculating the costs associated with this rulemaking.

Subsequent to Budd's completion of this work, NHTSA sponsored several studies to analyze the costs and manufacturing feasibility of structural modifications and increased padding to improve side impact protection. These studies have concentrated on examining approaches that involve vehicle construction techniques and sophisticated tools used in efficient high-volume production. These studies found that the vehicle modifications examined by the agency could be simplified if a vehicle manufacturer planned to incorporate side impact protection features into a new vehicle design. In particular, the studies found that many of the parts used in the agency's original research program could be modified, combined, eliminated, or incorporated into a vehicle's basic structural members.

In addition to examining the costs of structural improvements, the agency has also analyzed the costs associated with the addition of padding. Both the costs and the weight changes derived from the modified vehicle tests conducted several years ago represent relatively high values. The primary purpose of the modifications tested was to reduce side door intrusion. However, as discussed above, the test results showed that structural improvements alone did not necessarily result in significant reductions in thoracic acceleration, as measured by TTI(d).

The agency believes that a more effective and efficient approach for reducing occupant thorax and pelvis injury in side impacts is to provide "equivalent padding" (either actual padding or modified, energy-absorbing sheet-metal structure) as necessary in the door area. This should be more cost-effective than making structural changes for these types of injuries. This has been demonstrated by actual production vehicles. For example, the 1987 Nissan Sentra incorporated significant improvements, at a cost of apparently less than $100 per vehicle over the earlier version of this model, to improve considerably both the frontal and side impact safety performance of the vehicle. Also, there are some cars tested by NHTSA that already have relatively good side impact performance for the driver (e.g., Spectrum 2-door with TTI(d) of 83.5 g, Caprice 4-door with TTI(d) of 57.5). Since a number of cars demonstrate very good side impact performance without adding special countermeasures, the agency believes that other vehicles could also be redesigned to improve performance at lower increases in consumer costs than shown in the analysis.

NHTSA has combined the estimates of the vehicle modification costs, including the fuel economy and secondary weight costs, associated with different types of side impact protection modifications, and the estimates of the percentage of the fleet that would need modifications to meet various thorax and pelvis acceleration levels. These total costs are summarized in Table 7. For additional explanation of the data underlying Table 7, see chapter V of the FRIA.

TABLE 7.—ESTIMATED COST SUMMARY, FRONT AND REAR SEAT OCCUPANTS—COMBINED FLEET

	Total vehicle cost in 1990 dollars including lifetime fuel cost penalties (without secondary weight effects)	Total vehicle cost in 1990 dollars including lifetime fuel cost penalties (with secondary weight effects)
	Per-Car Weighted Average	
80	83.5	120.8
85	72.4	104.8
90	35.2	48.8
95	17.0	22.2
100	13.2	17.2
105	11.7	15.0
110	5.8	7.6
115	2.7	3.6

The actual costs of the new requirements are expected to be lower than the estimates shown in Table 7, which are derived from the agency's somewhat outdated cost studies. The NHTSA tests showed that some existing vehicles could meet various levels of side impact safety performance with little modification. This suggests there are less costly ways of upgrading side impact protection.

Considering that most of the vehicles NHTSA has tested are not likely to be in the fleet 5 years after implementation of the final rule when the standard becomes fully effective, and that a phase-in schedule is being established, the agency believes that it is reasonable to assume that manufacturers would incorporate side impact safety improvements in the "clean-sheet design" of their new vehicle models to comply with the standard before or at the time of full implementation. This approach will likely entail research and development, engineering, and testing expenses in order to meet the standard, but perhaps, with a lessened variable cost per vehicle than the approach of making improvements to existing models.

NHTSA notes that its estimate of the average cost to achieve improved side impact crash protection does not apply to every vehicle. The agency-determined

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countermeasures required to achieve a specific level of improved side impact crash protection depends on the level of protection in the current production car and its overall design. As would be expected, the cost and complexity to achieve a specific level is typically greater for current production vehicles with higher levels of TTI. The agency established the TTI levels in the rule based on balancing the safety benefits of improving side impact crash protection with the practicability of the countermeasures necessary to achieve the improvement.

The agency has not designed and tested countermeasures to prevent door openings during the compliance tests. Thus, specific cost estimates for measures to meet this provision are not available. However, based on its November 1982 evaluation of Standard No. 214, the agency believes that reductions in the possibility of door openings are feasible through structural improvements made to reduce the TTI(d) and pelvic g's. The 1982 evaluation found that the inclusion of side door beams reduced the incidence of door openings by 20–40 percent in single vehicle crashes and by 10–30 percent in multi-vehicle crashes. The agency believes that further reductions are possible as a by-product of measures adopted to comply with the injury criteria. Thus, the costs of reducing door openings are believed to be included in the above-mentioned costs, or, in the alternative, are estimated to be relatively small, on the order of $2–$4 per vehicle affected. It is estimated that only a small portion of the fleet would be so affected.

Ford commented that NHTSA assumed incorrectly in the NPRM that, because some current cars "nearly" meet the proposed requirements, it will be relatively easy and inexpensive to adapt other cars to meet the proposed regulation simply by copying the thick door designs of the cars that nearly meet the requirements. That commenter stated that, based on an extensive test program, it believes that compliance with the proposed requirements will be neither easy nor inexpensive. Ford argued further that "thicker doors" are not a practicable design solution for side impact protection in smaller, i.e., subcompact and compact, passenger cars.

Ford noted that it has conducted 24 full vehicle side impact crash tests and has participated in numerous similar tests conducted by MVMA. That company stated that when test-to-test variability is considered, vehicles must be designed to meet a TTI(d) of no more than 69 to be reasonably confident that a production vehicle, tested at random, would achieve a TTI(d) of 85 or less. Ford stated that only four of 24 Ford tests resulted in a TTI(d) of 69 or less. That commenter also stated that available test data indicate that dummy accelerations measured in small cars are substantially higher than those measured in large cars.

Ford stated that, based on its current knowledge, it has very low confidence of being able to achieve TTI(d)'s in the 80 to 100 range in its small cars in the foreseeable future (six years or less). That company stated that it does not know what design countermeasures can be used in a small car to attain such TTI(d) values without unacceptably increasing the car's width and/or decreasing its interior space. Ford also stated that the high variability in test data provided by the rear seat in small cars makes it questionable whether Ford could ever have high confidence in rear seat compliance test results for small cars. Ford stated that it was unable to comment accurately on the agency's cost and weight estimates until designs were identified for each of its car lines that could meet the various levels of TTI(d) and pelvic acceleration specified in the proposal. It indicated, however, that it believed the agency's cost estimates were low.

NHTSA notes that Ford's comment bears on a number of issues that are separately discussed in this notice. That company's concern about variability is discussed above in the section on test procedure repeatability. Ford's comment also bears on feasibility of the methods of compliance, on the agency's estimate of the portion of the vehicle fleet needing improvement to achieve compliance, and on costs. For convenience, the agency is responding to Ford's comment concerning these latter issues together.

As discussed above, NHTSA engaged in significant side impact research programs to make "production feasible" structural changes and add additional padding to the interior surface of a vehicle's side door to improve side impact protection. The program concentrated on small cars, because the agency anticipated that it would be particularly difficult to improve the level of side impact protection in those vehicles.

The results of the agency's research program were discussed in the NPRM and documented in detail in the PRIA. Among other things, the data presented in the PRIA indicate that TTI(d) and pelvic g levels below the limits established in this final rule can be achieved for small cars. See, for example, the data for modified Volkswagen Rabbits. Ford did not discuss the agency's extensive research program in its comments. Since NHTSA believes that its research program clearly demonstrated the feasibility of the "countermeasures" to meet the new side impact requirements, for small cars as well as large cars, it does not agree with the concerns expressed by Ford in this area.

Ford further asserted that it must design vehicles to meet a TTI(d) of no more than 69 to be reasonably confident that a production vehicle, tested at random, would achieve a TTI(d) of 85 or less. The agency notes that it is customary for a manufacturer to account for variation in a vehicle's design in any case where a specific test value must be met. The specific design values will vary among vehicles and among manufacturers. As discussed above in the section on repeatability, manufacturers have not demonstrated that they cannot obtain sufficiently low front/rear TTI(d) and pelvic g values as to eliminate concerns about variability. Moreover, application of the effectiveness values cited by the FRIA for various countermeasures to the 23 make/models used for estimating benefits indicates that the front/rear TTI(d) and pelvic g values can be reduced below the limits being established in this final rule.

The agency notes that to the extent that manufacturers design to levels below the specified limits, an additional number of vehicles could be affected by design changes. This could result in somewhat greater costs. However, there would also be additional benefits, since benefits continue to accrue at TTI(d) and pelvic g levels below the specified limits.

In addition to the costs associated with designing and producing the countermeasures needed to meet the new performance requirements, today's rule will also result in some test equipment costs. The SID dummy is basically a part 572 dummy with a modified thorax that uses thoracic and pelvic acceleration to measure impact loads. A SID dummy purchased new costs $26,250. This does not include approximately $6,000 of instrumentation, bringing the total cost to $32,250.

In addition to the cost of the dummy, there are costs associated with calibrating the dummy, purchasing replacement parts and performing the dynamic crash test. NHTSA estimates the total incremental cost per dummy per test application to be approximately $3,490. In addition, the estimated cost of

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the NHTSA MDB is approximately $26,200 with instrumentation. This does not include the expendable aluminum honeycomb face and bumper. This item currently must be replaced after each test and is estimated to cost approximately $1,700, if purchased in quantities of 60 or more.

XI. Consumer Reaction to Side Door Padding

The PRIA reported the results of a study conducted to evaluate consumer reaction to side door padding. The study tested driver performance in both baseline Volkswagen Rabbits and Rabbits with increased side padding. In addition, the drivers in the study were asked about comfort. A survey was also taken of potential car buyers concerning the acceptability of additional padding. The PRIA concluded, in view of the existing limited data, that the majority of the population in smaller than average cars will be able to drive normally and ride in comfort with up to three inches of additional padding.The PRIA further concluded that consumers would accept the concept of such increased side door padding.

Several commenters raised issues concerning the representativeness of the test car and the drivers. As discussed in the FRIA, NHTSA believes that the Volkswagen Rabbit was reasonably representative and that the agency did a reasonable job of testing with individuals who are likely to have the most difficulty with additional padding, and that the conclusion that up to three inches of padding will not affect driving performance for most individuals is accurate.

XII. Selection of TTI(d) and Pelvic Acceleration Limits

NHTSA proposed a fairly wide range of values for side impact performance criteria. For TTI(d), the agency proposed a range of 80 to 115. For pelvic acceleration, the agency proposed a range of 130 to 190 g.

The Insurance Institute for Highway Safety (IIHS) urged NHTSA to adopt a TTI(d) limit of 80, stating that the agency's analysis indicated that TTI(d) of 80 would have a much greater effect than TTI(d) of 85 in reducing severe injuries and deaths. With respect to pelvic acceleration, that organization stated that the agency should not set a limit that would allow a significant degradation in existing performance. That commenter stated that a review of NHTSA's crash tests shows that the measured pelvic accelerations in unmodified production cars varied widely, with many accelerations exceeding the upper range proposed by the agency. However, IIHS also contended that the test data show that existing production cars can meet pelvic acceleration limits of less than 90 g's. IIHS recommended that NHTSA set a pelvic acceleration limit toward the lower end of the 90 to 130 g's range.

The Center for Auto Safety and Public Citizen (CFAS/PC) urged NHTSA to set limits for both TTI(d) and pelvic acceleration below the levels of the ranges proposed by the agency. Those organizations recommended an initial TTI(d) limit of 70, which they contend NHTSA's research has demonstrated to be feasible, and also recommended that the limit be reduced to 60 in two years. CFAS/PC recommended a pelvic acceleration limit of 90 g's, which they also believe NHTSA has demonstrated to be feasible.

Greater reductions in fatalities and serious injuries are associated with more stringent (lower) limits on TTI(d) and pelvic acceleration. Since the purpose of this rulemaking is to address the serious side impact safety problem, NHTSA generally favors lower, as opposed to higher, TTI(d) and pelvic acceleration limits. However, in selecting specific values for the final rule, the agency must consider both the increased costs associated with more stringent requirements and the technological feasibility of achieving lower limits for all subject cars.

In determining the appropriate levels for a final rule, the agency has specifically analyzed four combined alternatives for the thorax and pelvis, all of which represent TTI(d) and pelvic acceleration values at the lower ends of the proposed ranges.

The first alternative is TTI(d) = 80 and pelvic g's = 130. These are the most stringent values proposed by NHTSA. The FRIA estimates that 31.8 percent of all cars currently meet these levels at the driver's position. Only one out of the 23 models tested would need heavyweight structure and padding modification to meet these levels.

The second alternative is TTI(d) = 85 and pelvic g's = 130. The FRIA estimates that the TTI(d) level of 85 is currently being met by 36.4 percent of the fleet at the driver's position. No existing cars would need heavyweight structure and padding to achieve 85 TTI(d).

The third alternative is TTI(d) = 90 and pelvic g's = 130. The FRIA estimates that the TTI(d) level of 90 is currently being met by 40.9 percent of all cars at the driver's position. Most cars can achieve this level using only padding.

The fourth alternative is TTI(d) = 95 and pelvic g's = 150. The TTI(d) level of 95 can be achieved with padding alone by all cars. A pelvic g limit of 150 is currently being met by 81.8 percent of the cars at the driver's position and 95.7 percent of the cars at the rear passenger position.

The agency's estimates of costs and benefits for the four alternatives are presented in Tables 8 through 10. For a further explanation of the data underlying these tables, see chapter VII of the FRIA.

TABLE 8.—COSTS AND BENEFITS OF COMBINATIONS OF ALTERNATIVES (1989 DOLLARS) TWO-DOORS AND FOUR-DOORS COMBINED

TTI(d)	Pel. g's	Benefits		Costs per vehicle	
		Fatals	AIS 3-5 [1]	Without secondary weight	With secondary weight
Front and Rear Seats Combined					
1. 80	130	736	3,390	$93.5	$120.8
2. 85	130	581	2,900	72.4	104.8
3. 90	130	444	2,415	35.2	49.6
4. 95	150	328	1,522	17.0	22.2
Front Seats					
1. 80	130	554	3,071	96.6	97.2
2. 85	130	521	2,657	56.2	82.5
3. 90	130	369	2,244	20.7	36.2
4. 95	150	291	1,401	12.4	16.1

TABLE 18.—COSTS AND BENEFITS OF COMBINATIONS OF ALTERNATIVES (1989 DOLLARS) TWO-DOORS AND FOUR-DOORS COMBINED—Continued

TTI(d)	Pol. g's	Benefits		Costs per vehicle	
		Fatals	AIS 3-5 [1]	Without secondary weight	With secondary weight
REAR SEATS					
1. 80	130	82	319	16.9	23.7
2. 85	130	60	243	16.2	22.7
3. 90	130	45	171	14.5	20.4
4. 95	150	35	121	4.6	6.1

[1] Note: Included in the AIS 3-5 totals are AIS 2 pelvic fractures.

TABLE 9—COSTS AND BENEFITS OF COMBINATIONS OF ALTERNATIVES (1989 DOLLARS) TWO, DOORS

TTI(d)	Pol. g's	Benefits		Costs per vehicle	
		Fatals	AIS 3-5 [1]	Without secondary weight	With secondary weight
Front and Rear Seats Combined					
1. 80	130	510	2,658	$179.2	$263.7
2. 85	130	456	2,450	155.4	228.7
3. 90	130	387	2,186	67.3	94.3
4. 95	150	296	1,445	35.6	46.3
Front Seats					
1. 80	130	459	2,451	151.9	224.5
2. 85	130	411	2,279	129.9	192.0
3. 90	130	347	2,047	43.7	60.1
4. 95	150	262	1,338	26.3	34.0
Rear Seats					
1. 80	130	51	207	27.3	39.2
2. 85	130	45	172	25.5	36.7
3. 90	130	40	139	23.6	34.2
4. 95	150	34	109	9.3	12.3

[1] Note: Included in the AIS 3-5 totals are AIS 2 pelvic fractures.

TABLE 10.—COSTS AND BENEFITS OF COMBINATIONS OF ALTERNATIVES (1989 DOLLARS) FOUR-DOORS

TTI(d)	Pol. g's	Benefits		Costs per vehicle	
		Fatals	AIS 3-5 [1]	Without secondary weight	With secondary weight
Front and Rear Seats Combined					
1. 80	130	226	732	$19.7	$25.7
2. 85	130	125	450	17.1	22.4
3. 90	130	57	229	13.8	18.1
4. 95	150	30	77	4.7	6.1
Front Seats					
1. 80	130	195	620	9.7	12.4
2. 85	130	110	379	7.1	9.1
3. 90	130	52	197	5.3	6.9
4. 95	150	29	65	3.2	4.1
Rear Seats					
1. 80	130	31	112	10.0	13.3
2. 85	130	15	71	10.0	13.3
3. 90	130	5	32	8.5	11.2
4. 95	150	1	12	1.5	2.2

[1] Note: Included in the AIS 3-5 totals are AIS 2 pelvic fractures.

In considering alternatives, NHTSA notes that there are large differences in cost as the TTI(d) level decreases. The largest difference in TTI(d) is from 90 g to 85 g. This occurs because about 70 percent of the two-door models need structure and padding to achieve 85 g, while only 10 percent need these countermeasures to achieve a TTI(d) of 90 g.

While costs increase as TTI(d) decreases, benefits also increase. Given the greater reductions in fatalities and serious injuries that occur as TTI decreases (e.g., benefits at TTI = 80 g include 736 fewer fatalities, as compared to 561 fewer fatalities at TTI = 85 g, and 444 fewer fatalities at TTI = 90 g), NHTSA favors the lower ends of the proposed ranges even after taking into account the higher costs.

Another important issue, however, is technological feasibility. In particular, based on its review of the record,

NHTSA is concerned about the ability of manufacturers to achieve TTI(d) lower than 90 g for all of their two-door cars, and lower than 85 g for all of their four-door cars.

NHTSA believes that it is generally more difficult for manufacturers to achieve lower TTI(d) for two-door cars than for four-door cars. The reason for this is that the side structure and geometry of two-door cars is different from four-door cars. For example, since the door on a two-door model is typically wider than on a four-door model, it is more difficult to design as strong a structure for the door on the two-door model. Taking into account the confidential data submitted by the manufacturers and other available data, the agency has six sets of data on two-door and four-door versions of the same model. These data indicate that the driver dummy injury measurements in a two-door car are about 14 percent higher than in a four-door car. NHTSA also observes that of 22 two-door cars for which the agency has data, only one had driver TTI(d) less than 80 g, only two had less than 85 g, and only five had less than 90 g.

The agency also believes that variability should be taken into account in selecting performance limits. As discussed above in the section on repeatability, a certain amount of variability (both vehicle-to-vehicle variability and test procedure variability) will always exist when different vehicles of the same make/model are subjected to a crash test. Moreover, since each vehicle is required to meet a specified performance limit, it is normal for a manufacturer to account, in a vehicle's design, for such variation. While the specific design values will vary among vehicles and among manufacturers, vehicles will generally be designed to values somewhat below those specified by a particular standard.

The issue of variability is related to actual costs and benefits. As indicated above, to the extent that manufacturers design to levels below the specified limits, there could be somewhat greater costs. However, there would also be additional benefits, since benefits continue to accrue at TTI(d) and pelvic g levels below the specified limits.

NHTSA does not agree with CFAS/PC's argument (for TTI(d) and pelvic acceleration) and IIHS's argument (for pelvic acceleration) that the agency's research demonstrates that performance limits could be set far below the levels of the proposed ranges. In setting performance limits that must be met by all cars, the agency must consider all available data and not focus exclusively on test results for a very small number of cars. Also, since each car must meet a specified performance limit, the agency must take variability into account.

Based on its review of all available data, NHTSA has decided to adopt a TTI(d) limit of 85 g for 4-door cars and 90 g for 2-door cars. The pelvic acceleration limit is being set at 130 g for all cars. This represents a combination of the second and third alternatives discussed above. These requirements will result in significant safety benefits, and the agency is convinced that all cars can be designed to meet the requirements. The agency is not adopting less stringent requirements in view of the smaller benefits that would result. NHTSA believes the record does not justify setting more stringent requirements at this time, given uncertainties as to whether manufacturers could meet such requirements for all of their cars.

Given the possible additional safety benefits that could result from lower TTI(d) limits, however, NHTSA plans in the future to reevaluate the feasibility of lower TTI(d) limits. Both the agency and manufacturers will then have considerably more information about the countermeasures that can be used to improve side impact protection and their effectiveness. The agency therefore plans to conduct such an evaluation at that time.

NHTSA's estimates of costs and benefits for the performance requirements being adopted today are presented in Table 11. For a further explanation of the data underlying this table, see chapter VII of the FRIA.

TABLE 11.—Costs and Benefits of Final Rule

(1989 dollars)

	Benefits		Costs per Vehicle	
	Fatals	AIS 3-5 [1]	Without secondary weight	With secondary weight
Total benefits (2-doors and 4-doors combined/front and rear seats combined)	512	2,636	$37.1	$51.2
2-doors and 4-doors combined/front seats	457	2,426	21.7	29.6
2-doors and 4-doors combined/rear seats	55	210	15.4	21.7
2-doors/front and rear seats combined	287	2,196	67.8	94.3
2-doors/front seats	341	2,047	43.7	60.1
2-doors/rear seats	40	139	23.6	34.2
4-doors/front and rear seats combined	125	450	17.1	22.4
4-doors/front seats	110	379	7.1	9.1
4-doors/rear seats	15	71	10.0	13.3

[1] Note: Included in the AIS 3-5 totals are AIS 2 pelvic fractures.

XIII. Inclusion of Rear Seat Performance Requirements

Numerous commenters argued that NHTSA should not include rear seat performance requirements in a final rule. The main reason cited by commenters relates to the low occupancy of rear seats, and hence to the lower benefits of rear seat as compared to front seat requirements. Toyota argued, for example, that studies of accident data demonstrate that of the total number of occupant side impact injuries, the percentage of rear seat occupants is small, and that it is therefore not cost-effective to require side impact protection in rear seats. Volkswagen stated that a NHTSA study of safety belt use indicated that the left rear and right rear seats in passenger cars are occupied in only 2.0 and 1.7 percent of trips by cars, respectively. That commenter stated that NHTSA has not identified or justified the rear seating position as requiring additional protection. Volkswagen expressed concern that a second dummy doubles the complexity of data collection and the potential for lost channels. That company also cited dummy positioning problems, a subject addressed above, as a reason to eliminate rear seat performance requirements. Rolls-Royce

stated that the structural countermeasures provided for the front seating position are likely also to be effective for rear seats, and that the interior padding countermeasures required for the front compartment will most likely be similarly provided for the rear compartment, both as good engineering practice and for reasons of design symmetry and style.

NHTSA recognizes that the benefits of improved side impact performance are considerably lower for rear seats than front seats, given the low occupancy of rear seats. The costs are also lower, however. As indicated in Table 11, above, the costs per vehicle associated with the alternative requirements being adopted today are about $22 for front seats versus $15 for rear seats. (With secondary weight, the costs are about $30 and $22, respectively.) Moreover, NHTSA believes that the benefits associated with rear seat requirements are considerable, 55 fewer fatalities and 210 fewer serious-to-critical injuries each year. While Rolls-Royce speculates that manufacturers would provide similar protection in rear seats as for the front seats, such similar protection would not be ensured without requiring it in the final rule. The agency concludes that rear seat side impact performance requirements are justified.

XIV. Leadtime/Phase-in

The leadtime needed to meet the new side impact requirements varies depending upon what countermeasures are necessary for particular models. As discussed in the NPRM, for vehicles needing "padding only" countermeasures, NHTSA estimates that the normal leadtime to design, tool and test new interior trim panels and armrests is approximately 14 to 18 months. For vehicles requiring either structure and padding or heavyweight structure and padding, greater leadtime is required. In cases involving only relatively minor changes in design and tooling to the doors, "A" and "B" pillars, side rails, etc., needed leadtime probably will not exceed two years. However, some structure/padding upgrade designs may require complete new body structural designs. For these models, four to five years of leadtime may be necessary in order to minimize diversions of engineering resources from normal planned product decisions, interruption of planned new model changes, and retooling and production costs.

NHTSA stated in the NPRM that it believed that the best approach to addressing the varying leadtime requirements was to phase-in the standard. The agency noted that this would allow manufacturers that can use the relatively straightforward padding approach in some of their models to adopt that countermeasure in the early years of the phase-in, while providing sufficient time for manufacturers to design, develop, and produce significant structural modifications for those vehicles that need major changes.

NHTSA proposed that the new requirements be phased-in according to the following implementation schedule:

10 percent of all cars manufactured during the first full production year (September 1 to August 31) beginning more than 24 months after the issuance of the final rule;

25 percent of all cars manufactured during the second full year beginning after that 24-month period;

40 percent of all cars manufactured during the third full year after that 24-month period; and

100 percent of all cars manufactured on or after the beginning of the fourth full year after that 24-month period.

While the proposed regulatory text did not specify the terms of the phase-in, NHTSA indicated that it contemplated adding regulatory text along the lines used to adopt the phase-in of Standard No. 208, *Occupant Crash Protection*. The agency requested comments on that approach.

Manufacturers supported a phase-in. Ford recommended that provisions like those in Standard No. 208 relating to production volumes (see S4.1.3.2.2), carry-forward credits (see S4.1.3.4(b), (c) and (d)), and cars produced by more than one manufacturer (see S4.1.3.5) be adopted.

Honda argued that a longer phase-in should be provided. That commenter stated that it is not appropriate to apply the same phase-in as was specified for Standard No. 208, since neither NHTSA nor manufacturers have the experience regarding the determination of energy absorption and the relationship between the internal wall of the vehicle and the dummy that was available with respect to Standard No. 208. Honda suggested that at least one more step be provided in the phase-in.

Peugeot argued that the proposed phase-in schedule would in reality require those manufacturers who have only one model on the American market to comply in 100 percent of their vehicles sold in the first year of the phase-in, only two years after the final rule has been promulgated. That company stated that protection in side impacts is much more difficult to insure than in frontal impacts, because the available space to absorb the energy is smaller. Peugeot stated that, depending on the levels adopted for the proposed performance requirements, five years leadtime might be required. Peugeot suggested that an alternative phase-in schedule be provided for manufacturers which comply with 100 percent of their vehicles at initial application. Similar concerns were expressed by Austin Rover and Rolls-Royce.

NHTSA disagrees that a longer phase-in is needed than for Standard No. 208. While Honda argued that neither the agency nor manufacturers have as much experience in this area, NHTSA believes that its research program has sufficiently identified the kinds of countermeasures that are necessary to meet the new requirements. Further, the agency believes that the phase-in provides adequate time for manufacturers to add padding and make structural changes, as necessary, and to certify compliance for their vehicles.

NHTSA believes that the proposed phase-in schedule can be viewed as being not necessarily any more difficult for single line manufacturers than for large manufacturers. Since the proposed phase-in schedule requires at least 10 percent of a manufacturer's cars to comply with the new side impact requirement in the first year of the phase-in, in practice each manufacturer must bring at least one model into compliance for that year. Viewed in this way, the burden on a manufacturer with only one model in the U.S. market to bring one model into compliance for the first year may be regarded as not being any different than that of a manufacturer which sells many models. NHTSA further notes that the phase-in for Standard No. 208 had similar provisions and that manufacturers with a limited number of models in the U.S. market were able to comply with that Standard. No manufacturer provided evidence that it could not meet the proposed requirements for at least one model with two years leadtime.

On the other hand, the agency recognizes that a single model represents all of a single line manufacturer's production and only a small portion of a multi-line manufacturer's production. It also recognizes that a greater portion of a single line manufacturer's engineering expertise and other resources will be called upon to bring that single line into compliance than a multi-line manufacturer will have to use to achieve compliance for a single line. The same points are true, albeit to a lesser extent, for a multi-line foreign manufacturer importing only a single model line into the United States.

The agency has identified an alternative compliance schedule which it believes would help meet the concerns

of single line manufacturers, while also being consistent with the need for motor vehicle safety. Under this option, a manufacturer would not need to meet the new requirements for any cars during the first year of the phase-in, but would then be required to meet the requirements for all of its cars beginning with the second year of the phase-in. A manufacturer choosing this option would thus have three years leadtime to meet the new requirements. While this option would be available to all manufacturers, the agency believes that it would not be feasible for the larger manufacturers to comply with it. NHTSA believes that the option would be consistent with the need for motor vehicle safety, since the number of cars meeting the new requirements during the three-year phase-in period would be considerably higher under this option than under the other schedule.

CFAS/PC argued that the proposed phase-in schedule is an example of NHTSA being "far too solicitous of the wishes of auto company managements and far too indifferent to the safety needs of the public." Those commenters questioned whether there needs to be any phase-in at all, stating that the agency has not made an adequate case for the lengthy phase-in it proposed. They also argued that if there is a phase-in, small and medium size cars should be phased in first since the fatality rates in side impact crashes for those cars is twice the fatality rate in large cars.

NHTSA notes that one reason a phase-in is appropriate is that most manufacturers have many models subject to the new requirements. These manufacturers must design and produce the necessary modifications to meet the new requirements for each of their models. However, the same engineering resources and testing facilities may be needed for all of the models, and cannot be used simultaneously. Given the complexity of the new side impact requirements, the agency believes that the length of the proposed phase-in is appropriate. With respect to CFAS/PC's suggestion that the requirements be phased in for smaller cars first, NHTSA notes that the requirements are generally more difficult to meet for small cars than large cars. If the requirements were phased in for smaller cars first, it might therefore be necessary to begin the phase-in at a later time. The agency believes it is appropriate to permit manufacturers flexibility in this area.

After considering the comments, NHTSA has decided to adopt the proposed phase-in schedule, while also providing the alternative compliance schedule discussed above. More specifically, each manufacturer's passenger cars manufactured on or after September 1, 1993, for sale in the United States, will have to meet the new side impact performance requirements based on the following phase-in schedule:

10 percent of automobiles manufactured during the 12 month period beginning September 1, 1993;
25 percent of automobiles manufactured during the 12 month period beginning September 1, 1994;
40 percent of automobiles manufactured during the 12 month period beginning September 1, 1995; and
All automobiles manufactured on or after September 1, 1996.

Under the alternative compliance schedule, no compliance will be required during the production year beginning September 1, 1993, but full implementation will be required effective September 1, 1994.

NHTSA notes that while the final rule establishes different TTI(d) limits for two-door cars and four-door cars, manufacturers need not meet the phase-in requirements separately for these two types of cars. For example, during the first year of the phase-in, a manufacturer does not need to have 10 percent of its two-door cars and 10 percent of its four-door cars meet the new requirements. The 10 percent requirement applies to the manufacturer's fleet as a whole, and could be met entirely by two-door cars or four-door cars, or by a combination of the two types of cars.

As suggested by Ford, the agency has included provisions similar to those in Standard No. 208 for production volumes and cars produced by more than one manufacturer. In cases where passenger cars are manufactured by two or more companies, manufacturers may determine, by contract, which of them will count such vehicles. Two rules of attribution apply in the absence of such a contract. First, a passenger car which is imported for purposes of resale is attributed to the importer, which will be responsible for meeting the percentage phase-in requirements and for making the necessary reports. This applies, of course, to both direct importers as well as importers authorized by the vehicle's original manufacturer. (In this context, direct importation refers to the importation of cars which are originally manufactured for sale outside the U.S. and which are then imported without the manufacturer's authorization into the U.S. by an importer for purposes of resale. The Vehicle Safety Act requires that such vehicles be brought into conformity with Federal motor vehicle safety standards.) Under the second attribution rule, a passenger car manufactured in the United States by more than one manufacturer, one of which also markets the vehicle, is attributed to the manufacturer which markets the vehicle. These two attribution rules generally attribute a vehicle to the manufacturer which is most responsible for the existence of the vehicle in the United States, i.e., by importing the vehicle or by manufacturing the vehicle for its own account as part of a joint venture, and marketing the vehicle.

NHTSA has decided not to include provisions for carry-forward credits. For the Standard No. 208 phase-in, the agency decided that it would be appropriate to permit manufacturers that exceeded the minimum phase-in requirements in earlier years to "count" those extra vehicles toward meeting the minimum percentage requirements of later years. The agency concluded that such a credit would encourage the early introduction of larger numbers of automatic restraints. One difference between the Standard No. 208 phase-in and the side impact phase-in is that almost all cars needed the addition of automatic belts or air bags in order to meet Standard No. 208, while many vehicles do not need any changes to meet the new side impact requirements. If carry-forward credit provisions were established for the side impact phase-in, manufacturers might be able to build up credits during the early years of the phase-in by using cars which already meet the standard and thereby avoid making the necessary changes to meet the full percentage requirements in the later years of the phase-in. For this particular rulemaking, the agency therefore concludes that carry-forward credit provisions would be inappropriate.

XV. Retention of Related Requirements in Standard No. 214 and Other Standards

In the NPRM, the agency requested comments on retaining the existing requirements of Standard No. 214 if the proposed new performance requirements were adopted. For many years, the standard has required each side door to resist crush forces that are applied by a piston pressing a steel cylinder against the door's outside surface in a laboratory test. NHTSA's research has shown that the existing requirements of the standard have been effective in reducing fatalities and injuries in single vehicle impacts. The agency believes that the primary reason for the effectiveness of the current standard is that it reduces intrusion in the vehicle. In particular, the added side

door beam helps to keep a pole, tree, guardrail or other fixed object from intruding into the occupant's seating position and from hitting the occupant. Given the effectiveness of the existing requirements, the agency indicated that it contemplated retaining them.

Numerous commenters argued that the existing requirements of Standard No. 214 should be deleted as superfluous if dynamic test requirements become effective. Some commenters argued that the existing requirements are not the best means for addressing pole impacts. Commenters also suggested that the retention of the existing requirements might make it more difficult to meet the new requirements.

Ford argued that the existing Standard No. 214 provisions should be retained because they have proven effective in reducing injuries and fatalities resulting from single vehicle side impacts into poles and trees. That company stated that the proposed full vehicle crash testing does not address concentrated loading, such as by poles and trees, which account for approximately a quarter of side impacts. Ford also argued, however, that changes should be made in the existing requirements to make them more realistic.

After considering the comments, NHTSA has decided to retain the existing requirements of Standard No. 214. The agency concludes that the existing requirements have proven to be effective and to provide benefits in single vehicle crashes that would not necessarily be provided by the new dynamic requirements. NHTSA is not aware of any evidence indicating that compliance with the existing requirements will make it difficult to meet the new requirements. Moreover, those current models which already meet the new requirements also meet the existing requirements. NHTSA does not consider changes to the existing requirements or alternative ways of addressing pole impacts to be within the scope of the NPRM.

The NPRM also requested comments on whether to retain the requirements of Standard No. 201, *Occupant Protection in Interior Impact*, concerning armrests. That standard sets forth various requirements for armrests, including ones which require armrests to be constructed with energy-absorbing material.

Several commenters argued that it is unnecessary to retain the armrest requirements of Standard No. 201 once a dynamic side impact test requirement becomes effective. Those commenters argued that the armrest requirements would be duplicative.

After considering the comments, however, NHTSA has decided to retain the Standard No. 201 requirements. The new dynamic requirements primarily address hard thorax injuries, which include some, but not all abdominal injuries. NHTSA believes that the Standard No. 201 requirements provide benefits that might not be provided by the dynamic test requirements of Standard No. 214. As indicated above, the SID dummy was not designed with an abdominal load sensor. Therefore, the proposed test procedure might not pick up a concentrated load applied to the abdomen, such as might occur from an armrest impacting an occupant in a crash. NHTSA therefore believes that it is appropriate to continue to specify separate requirements for armrests to help ensure that they are not overly aggressive in crashes.

XVI. Limitation on Intrusion

In the NPRM, the agency requested comments on whether it should adopt a separate limitation on the intrusion that occurs during the proposed dynamic side impact test.

Manufacturers argued that the agency should not adopt a limitation on intrusion. Ford stated that compliance with the current Standard No. 214 test requirement and the proposed test requirements would inherently limit the amount of intrusion. That commenter argued that there is no need for an additional requirement that is design restrictive. Nissan stated that there is no need for superimposing an intrusion restriction upon that of dummy readings. That company stated that since NHTSA's real intent is to lower dummy readings, the manufacturers should be provided with design flexibility. Volvo stated that, according to its tests, the amount of intrusion does not directly translate to injuries measured in the occupants. That commenter stated that it is the dynamic behavior of the deformation and the amount of intrusion during the first 30 milliseconds of the side impact crash that is of importance for the injury criteria levels and that it is not evident that the amount of residual deformation correlates to the dynamic event. Volvo expressed concern that adding a requirement on the amount of deformation could create a risk of sub-optimization for TTI(d) or pelvic G's. Austin Rover stated that a limit on intrusion would not serve a useful purpose. That company stated that the injuries sustained by occupants in the proposed test are due to the occupant being accelerated sideways by the inside surface of the vehicle. Austin Rover argued that injuries sustained by intrusion would more likely be caused by crushing the occupant between the side of the vehicle and some other fixed part of the vehicle. That commenter stated that in practice the intrusion seen in the test is not sufficient for this to occur.

IIHS noted that the agency had proposed to retain the existing crush resistance requirements of Standard No. 214, but urged NHTSA to supplement those requirements with an intrusion limit in the new barrier-into-car test. That commenter stated that the purpose of the intrusion limit should be to reduce the possibility of localized intrusion, which might cause penetrating injuries that would not be measured by the proposed TTI(d) performance criterion. The Center for Auto Safety and Public Citizen recommended that NHTSA specify a maximum intrusion distance such as the 18 inches in the present static standard which would protect against injuries not measured by the proposed TTI(d) or pelvic g's performance criteria.

After considering the comments, NHTSA has decided not to adopt a limitation on intrusion. The agency notes that an 18-inch limitation on intrusion would not appear to add any protection because intrusion is generally less than 18 inches in side impact tests using the proposed procedure. Localized intrusion does not occur in the test because the uniform MDB face loads the door laterally, as the MDB slides toward the rear, and there are no protruding structures on the barrier face to cause such intrusion. Moreover, intrusion in the dynamic side impact test has not been correlated to injury, and an intrusion limitation might not serve any purpose.

XVII. Stretch Limousines

Superior Coaches, an alteration manufacturer of limousines, expressed concern that the proposed requirements would result in economic hardship for it. That company indicated that it manufactures limousines by altering various makes of complete, certified passenger cars. All of the passenger cars are purchased as four-door sedans. The original vehicle is cut transversely behind the center pillar, and the underbody and roof construction are extended. Additional right and left center pillars and right and left side doors are added. Superior Coaches indicated that it altered several different models of cars and expressed concern that it would have to crash test each model.

NHTSA has considered whether it should apply the new dynamic crash requirements to stretch limousines.

These vehicles differ from other passenger cars in two ways: (1) They are considerably longer, and (2) they have a variety of rear seating configurations.

The agency has concluded that the new requirements are appropriate for the front seats of stretch limousines. The front seats of these vehicles are no different than the front seats of other passenger cars. Moreover, the test procedure evaluates the side impact protection of the front seats in the same manner as for any other passenger car.

NHTSA has concluded that the test procedure is not appropriate for the rear seats of stretch limousines. After the stretching, the primary rear seats are typically so far back from the MDB impact point that the side impact protection provided for those seating positions cannot appropriately be evaluated by the test procedure. The variety of seating configurations provided in the rear of stretch limousines also make the test procedure inappropriate. NHTSA has therefore decided not to apply the rear seating requirements to passenger cars with a wheelbase greater than 130 inches. The agency notes that the wheelbases of the longest current production (i.e., unaltered) passenger cars are several inches shorter than 130 inches.

The agency estimates that there are about 40 alterers that modify production vehicles into stretch limousines. These alterers are generally small businesses.

Alterers are required to certify that the altered vehicle continues to comply with all applicable Federal motor vehicle safety standards. This should not create a significant burden on limousine manufacturers. First, the production cars used for limousines will be certified to comply with the new requirements before the alteration. Alterers will generally not remove padding from the front doors that might be provided in light of the requirements. Since stretch limousines generally have wheelbases longer than 130 inches, the rear seat requirements would not apply. Thus, alterers would not need to add any countermeasures to limousines to ensure that the vehicles would pass the new requirements. However, they would have to make certain, through conducting or sponsoring engineering analysis and/or testing as needed, that their alterations do not weaken the front seat side impact protection provided by the original manufacturer.

Limousine manufacturers should already have considerable experience in certifying that their altered vehicles continue to comply with standards that specify crash test requirements, since several existing standards that include crash test requirements for passenger cars do not exclude limousines. These standards include Standard No. 208, *Head Impact Protection for the Driver from the Steering Control System;* Standard No. 204, *Steering Control Rearward Displacement;* Standard No. 208, *Occupant Crash Protection;* Standard No. 202, *Windshield Mounting;* Standard No. 219, *Windshield Zone Intrusion;* and Standard No 301, *Fuel System Integrity.* NHTSA does not believe that it should be more burdensome for alterers to certify that their altered vehicles continue to meet the new side impact requirements than it is for them to certify that the vehicles continue to meet other standards which specify crash tests. This is particularly true with respect to Standard No. 301, which requires that vehicles pass a lateral moving barrier crash test.

XVIII. Regulatory Impacts

A. Executive Order 12291

NHTSA has examined the impact of this rulemaking action and determined that it is major within the meaning of Executive Order 12291, and significant within the meaning of the Department of Transportation's regulatory policies and procedures. The agency has prepared a Final Regulatory Impact Analysis describing the economic and other effects of this rulemaking action. The analysis is being placed in the docket.

B. Regulatory Flexibility Act

NHTSA has also considered the impacts of this rulemaking action under the Regulatory Flexibility Act. I hereby certify that it would not have a significant economic impact on a substantial number of small entities. Accordingly, the agency has not prepared a regulatory flexibility analysis.

The primary cost effect of this rule is on passenger car manufacturers. Few, if any, passenger car manufacturers would qualify as small entities.

NHTSA estimates that there are about 40 alterers that modify production passenger cars into stretch limousines. These alterers are generally small businesses. Alterers are required to certify that the altered vehicle continues to comply with all applicable Federal motor vehicle safety standards. As discussed above, this rule should not create a significant burden on limousine manufacturers. Alterers would not need to add any countermeasures to limousines to ensure that the vehicles would pass the new requirements. However, they would have to make certain, by conducting or sponsoring engineering analysis and/or testing as needed, that their alterations do not weaken the front seat side impact protection provided by the original manufacturer. The agency does not believe that it should be more burdensome for alterers to certify that their altered vehicles meet the new side impact requirements than it is for them to certify that the vehicles meet other applicable standards which specify crash tests.

Other manufacturers which would qualify as small entities, small organizations and governmental units would be affected by this rule to the extent that they purchase passenger cars. They will not be significantly affected, since the potential increases associated with this action should only slightly affect the purchase price of new motor vehicles.

C. Environmental Effects

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The addition of padding and structure will result in increased material usage by manufacturers, primarily plastic and metal. There could also be increased material usage associated with possible secondary weight. The agency estimates that cars could increase in average curb weight by 0.8 percent to 1.4 percent, depending on whether secondary weight is included. Such added weight would result in a very slight increase in fuel consumption. After considering these impacts, the agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

D. Impact on Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the requirements do not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 49 CFR Part 571

Imports, Incorporation by reference, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—[AMENDED]

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

1. The authority citation for part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

2. Section 571.214 is amended by revising S1, S2, and S3 and adding S5 through S8.4.2 to read as follows:

§ 571.214 [Amended]

S1. Scope and purpose.

(a) *Scope.* This standard specifies performance requirements for protection of occupants in side impact crashes.

(b) *Purpose.* The purpose of this standard is to reduce the risk of serious and fatal injury to occupants of passenger cars in side impact crashes by specifying vehicle crashworthiness requirements in terms of accelerations measured on anthropomorphic dummies in test crashes, by specifying strength requirements for side doors, and by other means.

S2. *Application.* This standard applies to passenger cars.

S3. *Requirements.*

(a) Each vehicle shall be able to meet the requirements of either, at the manufacturer's option, S3. 1 or S3.2 when any of its side doors that can be used for occupant egress are tested according to S4.

(b) When tested under the conditions of S6, each passenger-car manufactured on or after September 1, 1996 shall meet the requirements of S5.1, S5.2, and S5.3 in a 33.5 miles per hour impact in which the car is struck on either side by a moving deformable barrier. Part 572, subpart F test dummies are placed in the front and rear outboard seating positions on the struck side of the car. However, the rear seat requirements do not apply to passenger cars with a wheelbase greater than 130 inches, or to passenger cars which have rear seating areas that are so small that the part 572, subpart F dummies cannot be accommodated according to the positioning procedure specified in S7.

(c) Except as provided in paragraph (d) of this section, from September 1, 1993 to August 31, 1996, a specified percentage of each manufacturer's yearly passenger car production, as set forth in S8, shall, when tested under the conditions of S6, meet the requirements of S5.1, S5.2, and S5.3 in a 33.5 miles per hour impact in which the car is struck on either side by a moving deformable barrier. Part 572, subpart F test dummies are placed in the front and rear outboard seating positions on the struck side of the car. However, the rear seat requirements do not apply to passenger cars with a wheelbase greater than 130 inches, or to passenger cars which have rear seating areas that are so small that the part 572, subpart F dummies cannot be accommodated according to the positioning procedure specified in S7.

(d) A manufacturer may, at its option, comply with the requirements of this paragraph instead of paragraph (c) of this section. When tested under the conditions of S6, each passenger car manufactured from September 1, 1994 to August 31, 1996 shall meet the requirements of S5. 1, S5.2, and S5.3 in a 33.5 miles per hour impact in which the car is struck on either side by a moving deformable barrier. Part 572, subpart F test dummies are placed in the front and rear outboard seating positions on the struck side of the car. However, the rear seat requirements do not apply to passenger cars with a wheelbase greater than 130 inches, or to passenger cars which have rear seating areas that are so small that the part 572, subpart F dummies cannot be accommodated according to the positioning procedure specified in S7.

* * * * *

S5. *Dynamic performance requirements.*

S5.1 *Thorax.* The Thoracic Trauma Index (TTI(d)) shall not exceed 85 g for passenger cars with four side doors, and shall not exceed 90 g for passenger cars with two side doors, when calculated in accordance with the following formula:

$$TTI(d) = \tfrac{1}{2}(G_R + G_{LS})$$

The term "G_R" is the greater of the peak accelerations of either the upper or lower rib, expressed in g's and the term "G_{LS}" is the lower spine (T12) peak acceleration, expressed in g's. The peak acceleration values are obtained in accordance with the procedure specified in S6.13.5.

S5.2 *Pelvis.* The peak lateral acceleration of the pelvis, as measured in accordance with S6.13.5, shall not exceed 130 g's.

S5.3 *Door opening.*

S5.3.1 Any side door, which is struck by the moving deformable barrier, shall not separate totally from the car.

S5.3.2 Any door (including a rear hatchback or tailgate), which is not struck by the moving deformable barrier, shall meet the following requirements:

S5.3.2.1 The door shall not disengage from the latched position;

S5.3.2.2 The latch shall not separate from the striker, and the hinge components shall not separate from each other or from their attachment to the vehicle.

S5.3.2.3 Neither the latch nor the hinge systems of the door shall pull out of their anchorages.

S6. *Test conditions.*

S6.1 *Test weight.* Each passenger car is loaded to its unloaded vehicle weight, plus its rated cargo and luggage capacity, secured in the luggage area, plus the weight of the necessary anthropomorphic test dummies. Any added test equipment is located away from impact areas in secure places in the vehicle. The car's fuel system is filled in accordance with the following procedure. With the test vehicle on a level surface, pump the fuel from the vehicle's fuel tank and then operate the engine until it stops. Then, add Stoddard solvent to the test vehicle's fuel tank in an amount which is equal to not less than 92 percent and not more than 94 percent of the fuel tank's usable capacity stated by the vehicle's manufacturer. In addition, add the amount of Stoddard solvent needed to fill the entire fuel system from the fuel tank through the engine's induction system.

S6.2 *Vehicle test attitude.* Determine the distance between a level surface and a standard reference point on the test vehicle's body, directly above each wheel opening, when the vehicle is in its "as delivered" condition. The "as delivered" condition is the vehicle as received at the test site, filled to 100 percent of all fluid capacities and with all tires inflated to the manufacturer's specifications listed on the vehicle's tire placard. Determine the distance between the same level surface and the same standard reference points in the vehicle's "fully loaded condition." The "fully loaded condition" is the test vehicle loaded in accordance with S6.1. The load placed in the cargo area is centered over the longitudinal centerline of the vehicle. The pretest vehicle attitude is equal to either the as delivered or fully loaded attitude or between the as delivered attitude and the fully loaded attitude.

S6.3 *Adjustable seats.* Adjustable seats are placed in the adjustment position midway between the forward most and rearmost positions, and if separately adjustable in a vertical direction, are at the lowest position. If an adjustment position does not exist midway between the forwardmost and rearmost positions, the closest adjustment position to the rear of the midpoint is used.

S6.4 *Adjustable seat back placement.* Place adjustable seat backs in the manufacturer's nominal design riding position in the manner specified by the manufacturer. If the position is not specified, set the seat back at the first detent rearward of 25° from the vertical. Place each adjustable head restraint in its highest adjustment position. Position adjustable lumbar supports so that they are set in their released, i.e., full back position.

S6.5 *Adjustable steering wheels.* Adjustable steering controls are adjusted so that the steering wheel hub

is at the geometric center of the locus it describes when it is moved through its full range of driving positions.

S6.6 *Windows.* Movable vehicle windows and vents are placed in the fully closed position on the struck side of the vehicle.

S6.7 *Convertible tops.* Convertibles and open-body type vehicles have the top, if any, in place in the closed passenger compartment configuration.

S6.8 *Doors.* Doors, including any rear hatchback or tailgate, are fully closed and latched but not locked.

S6.9 *Transmission and brake engagement.* For a vehicle equipped with a manual transmission, the transmission is placed in second gear. For a vehicle equipped with an automatic transmission, the transmission is placed in neutral. For all vehicles, the parking brake is engaged.

S6.10 *Moving deformable barrier.* The moving deformable barrier conforms to the dimensions shown in Figure 1 and specified in part 587.

S6.11 *Impact reference line.* For vehicles with a wheelbase of 114 inches or less, on the side of the vehicle that will be struck by the moving deformable barrier, place a vertical reference line which is 37 inches forward of the center of the vehicle's wheelbase. For vehicles with a wheelbase greater than 114 inches, on the side of the vehicle that will be struck by the moving deformable barrier, place a vertical reference line which is 20 inches rearward of the centerline of the vehicle's front axle.

S6.12 *Impact configuration.* The test vehicle (vehicle A in Figure 2) is stationary. The line of forward motion of the moving deformable barrier (vehicle B in Figure 2) forms an angle of 63 degrees with the centerline of the test vehicle. The longitudinal centerline of the moving deformable barrier is perpendicular to the longitudinal centerline of the test vehicle when the barrier strikes the test vehicle. In a test in which the test vehicle is to be struck on its left (right) side: All wheels of the moving deformable barrier are positioned at an angle of 27±1 degrees to the right (left) of the centerline of the moving deformable barrier; and the left (right) forward edge of the moving deformable barrier is aligned so that a longitudinal plane tangent to that side passes through the impact reference line within a tolerance of±2 inches when the barrier strikes the test vehicle.

S6.13 *Anthropomorphic test dummies.*

S6.13.1 The anthropomorphic test dummies used for evaluation of a vehicle's side impact protection conform to the requirements of subpart F of part 572 of this chapter. In a test in which the test vehicle is to be struck on its left side, each dummy is to be configured and instrumented to be struck on its left side, in accordance with subpart F of part 572. In a test in which the test vehicle is to be struck on its right side, each dummy is to be configured and instrumented to be struck on its right side, in accordance with subpart F of part 572.

S6.13.2 Each part 572, subpart F test dummy specified is clothed in formfitting cotton stretch garments with short sleeves and midcalf length pants. Each foot of the test dummy is equipped with a size 11EE shoe which meets the configuration size, sole, and heel thickness specifications of MIL–S–13192 (1976) (incorporated by reference; see section 571.5) and weighs 1.25±0.2 pounds.

S6.13.3 Limb joints are set at between 1 and 2 g's. Leg joints are adjusted with the torso in the supine position.

S6.13.4 The stabilized temperature of the test dummy at the time of the side impact test shall be at any temperature between 66 degrees F. and 78 degrees F.

S6.13.5 The acceleration data from the accelerometers mounted on the ribs, spine and pelvis of the test dummy are processed with the FIR100 software specified in 49 CFR 572.44(d). The data are processed in the following manner:

S6.13.5.1 Filter the data with a 300 Hz, SAE Class 180 filter;

S6.13.5.2 Subsample the data to a 1000 Hz sampling rate;

S6.13.5.3 Remove the bias from the subsampled data, and

S6.13.5.4 Filter the data with the FIR100 software specified in 49 CFR 572.44(d), which has the following characteristics—

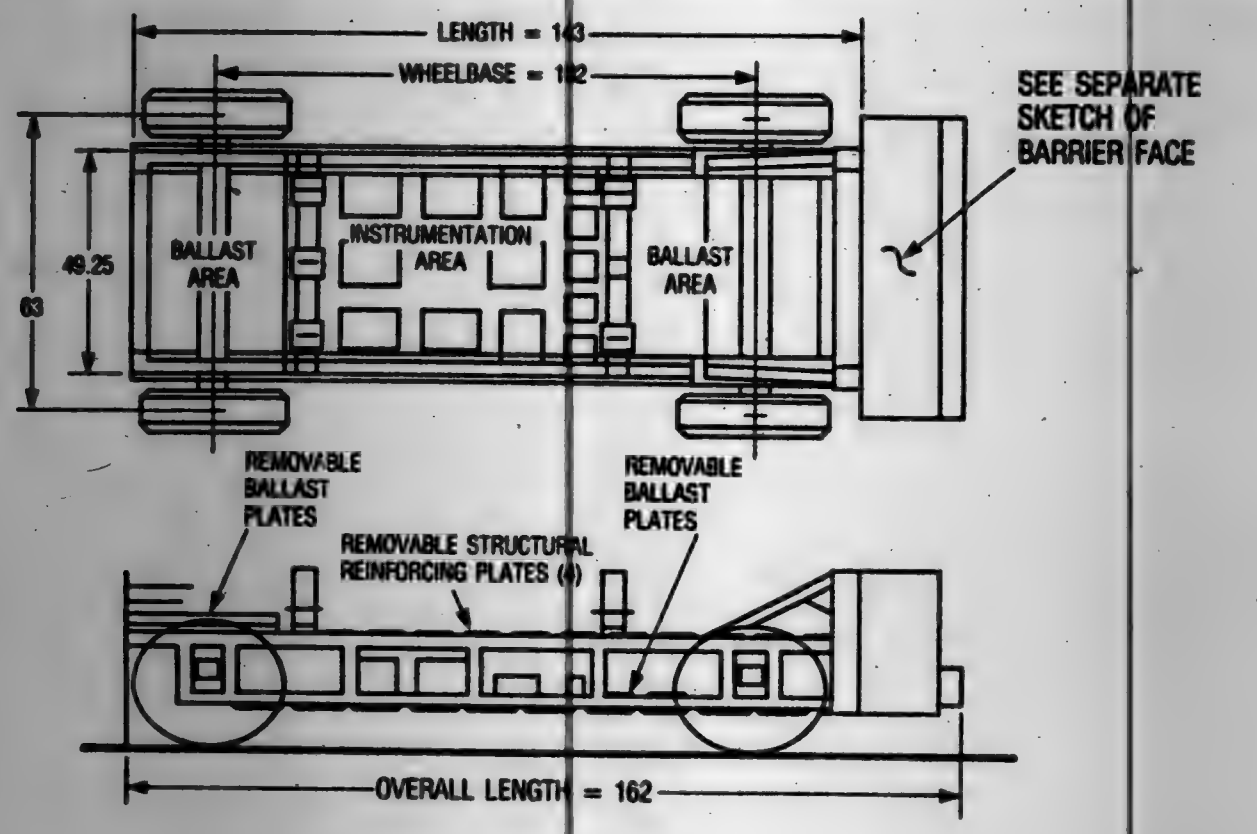
S6.13.5.4.1 Passband frequency 100 Hz.

S6.13.5.4.2 Stopband frequency 180 Hz.

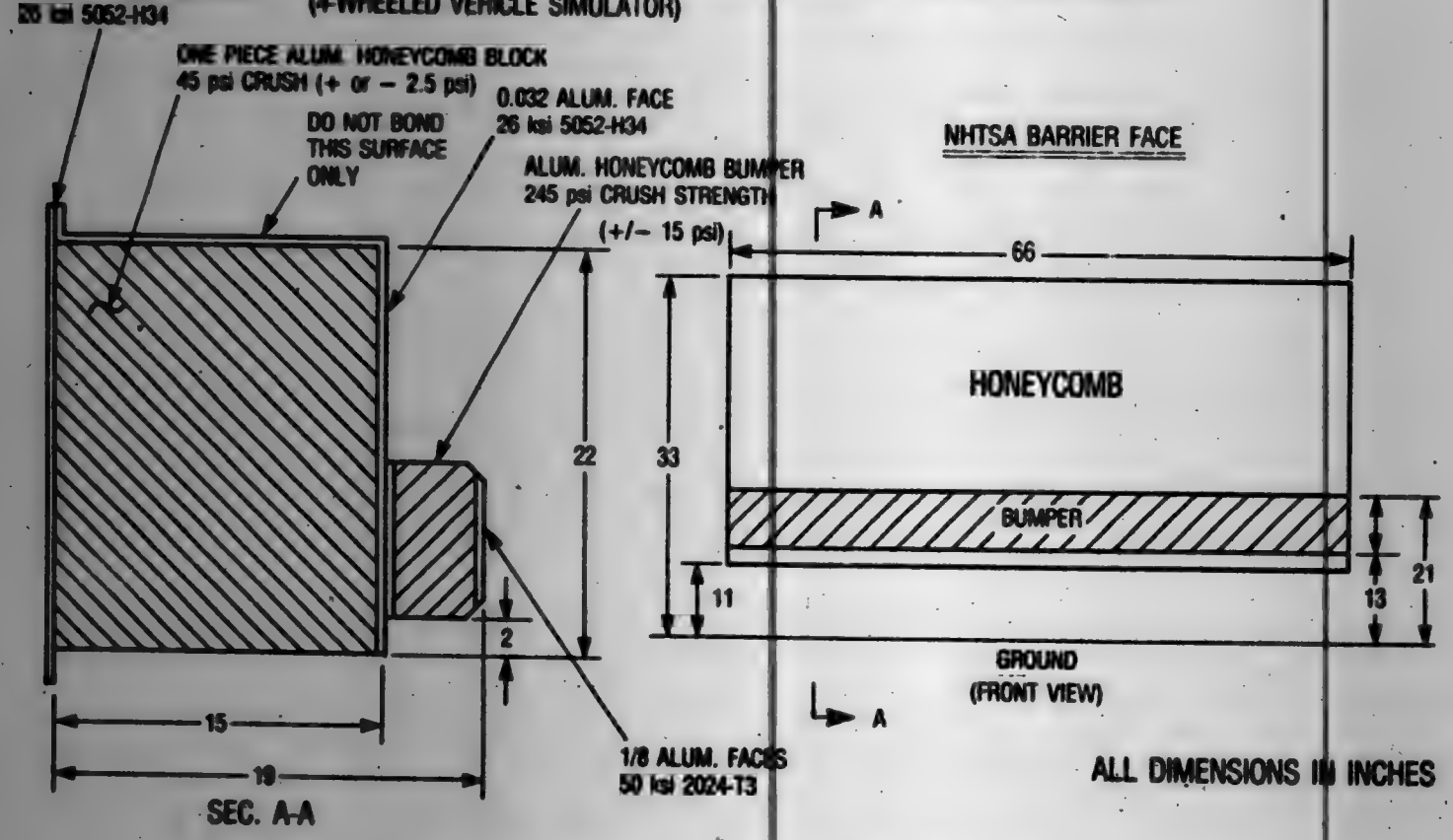
S6.13.5.4.3 Stopband gain −50 db.

S6.13.5.4.4 Passband ripple 0.0225 db.

BILLING CODE 4910-59-M

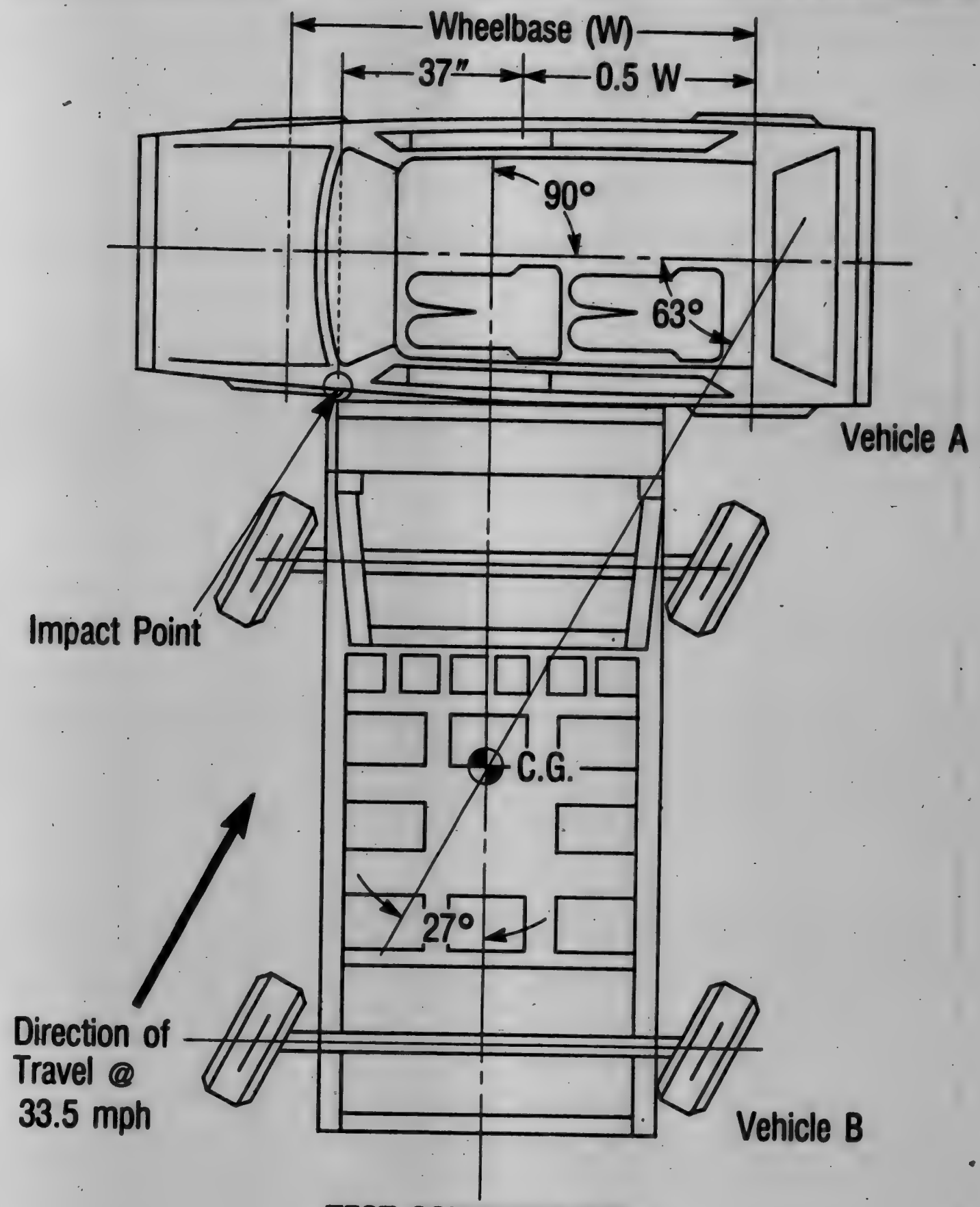


NHTSA VEHICLE CONFIGURATION — MOVING BARRIER SIDE IMPACTOR CONCEPT
(4-WHEELED VEHICLE SIMULATOR)



NHTSA side impactor — moving deformable barrier

FIGURE 1



TEST CONFIGURATION

Figure 2

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S7. *Positioning procedure for the Part 572 Subpart F Test Dummy.* Position a correctly configured test dummy, conforming to subpart F of part 572 of this chapter, in the front outboard seating position on the side of the test vehicle to be struck by the moving deformable barrier and position another conforming test dummy in the rear outboard position on the same side of the vehicle, as specified in S7.1 through S7.4. Each test dummy is restrained using all available belt systems in all seating positions where such belt restraints are provided. In addition, any folding armrest is retracted.

S7.1 *Torso.*

S7.1.1 *For a test dummy in the driver position.*

(a) *For a bench seat.* The upper torso of the test dummy rests against the seat back. The midsagittal plane of the test dummy is vertical and parallel to the vehicle's longitudinal centerline, and passes through the center of the steering wheel.

(b) *For a bucket seat.* The upper torso of the test dummy rests against the seat back. The midsagittal plane of the test dummy is vertical and parallel to the vehicle's longitudinal centerline, and coincides with the longitudinal centerline of the bucket seat.

S7.1.2 *For a test dummy in the front outboard passenger position.*

(a) *For a bench seat.* The upper torso of the test dummy rests against the seat back. The midsagittal plane of the test dummy is vertical and parallel to the vehicle's longitudinal centerline, and the same distance from the vehicle's longitudinal centerline as would be the midsagittal plane of a test dummy positioned in the driver position under S7.1.1.

(b) *For a bucket seat.* The upper torso of the test dummy rests against the seat back. The midsagittal plane of the test dummy is vertical and parallel to the vehicle's longitudinal centerline, and coincides with the longitudinal centerline of the bucket seat.

S7.1.3 *For a test dummy in either of the rear outboard passenger positions.*

(a) *For a bench seat.* The upper torso of the test dummy rests against the seat back. The midsagittal plane of the test dummy is vertical and parallel to the vehicle's longitudinal centerline, and, if possible, the same distance from the vehicle's longitudinal centerline as the midsagittal plane of a test dummy positioned in the driver position under S6.1.1. If it is not possible to position the test dummy so that its midsagittal plane is parallel to the vehicle longitudinal centerline and is at this distance from the vehicle's longitudinal centerline, the test dummy is positioned so that some portion of the test dummy just touches, at or above the seat level, the side surface of the vehicle, such as the upper quarter panel, an armrest, or any interior trim (i.e., either the broad trim panel surface or a smaller, localized trim feature).

(b) *For a bucket or contoured seat.* The upper torso of the test dummy rests against the seat back. The midsagittal plane of the test dummy is vertical and parallel to the vehicle's longitudinal centerline, and coincides with the longitudinal centerline of the bucket or contoured seat.

S7.2 *Pelvis.*

S7.2.1 *H-point.* The H-points of each test dummy coincide within ½ inch in the vertical dimension and ½ inch in the horizontal dimension of a point ¼ inch below the position of the H-point determined by using the equipment for the 50th percentile and procedures specified in SAE J826 (1980) (incorporated by reference; see § 571.5), except that Table 1 of SAE J826 is not applicable. The length of the lower leg and thigh segments of the H-point machine are adjusted to 16.3 and 15.8 inches, respectively.

S7.2.2 *Pelvic angle.* As determined using the pelvic angle gauge (GM drawing 78051–532 incorporated by reference in part 572, subpart E of this chapter) which is inserted into the H-point gauging hole of the dummy, the angle of the plane of the surface on the lumbar-pelvic adaptor on which the lumbar spine attaches is 23 to 25 degrees from the horizontal, sloping upward toward the front of the vehicle.

S7.3 *Legs.*

7.3.1 *For a test dummy in the driver position.* The upper legs of each test dummy rest against the seat cushion to the extent permitted by placement of the feet. The left knee of the dummy is positioned such that the distance from the outer surface of the knee pivot bolt to the dummy's midsagittal plane is six inches. To the extent practicable, the left leg of the test dummy is in a vertical longitudinal plane.

7.3.2 *For a test dummy in the outboard passenger positions.* The upper legs of each test dummy rest against the seat cushion to the extent permitted by placement of the feet. The initial distance between the outboard knee clevis flange surfaces is 11.5 inches. To the extent practicable, both legs of the test dummies in outboard passenger positions are in vertical longitudinal planes. Final adjustment to accommodate placement of feet in accordance with S7.4 for various passenger compartment configurations is permitted.

S7.4 *Feet.*

S7.4.1 *For a test dummy in the driver position.* The right foot of the test dummy rests on the undepressed accelerator with the heel resting as far forward as possible on the floorpan. The left foot is set perpendicular to the lower leg with the heel resting on the floorpan in the same lateral line as the right heel.

S7.4.2 *For a test dummy in the front outboard passenger position.* The feet of the test dummy are placed on the vehicle's toeboard with the heels resting on the floorpan as close as possible to the intersection of the toeboard and floorpan. If the feet cannot be placed flat on the toeboard, they are set perpendicular to the lower legs and placed as far forward as possible so that the heels rest on the floorpan.

S7.4.3 *For a test dummy in either of the rear outboard passenger positions.* The feet of the test dummy are placed flat on the floorpan and beneath the front seat as far as possible without front seat interference. If necessary, the distance between the knees can be changed in order to place the feet beneath the seat.

S8. *Phase-in of dynamic test and performance requirements.*

S8.1 *Passenger cars manufactured on or after September 1, 1993 and before September 1, 1994.*

S8.1.1 The number of passenger cars complying with the requirements of S3(c) shall be not less than 10 percent of:

(a) The average annual production of passenger cars manufactured on or after September 1, 1990, and before September 1, 1993, by each manufacturer, or

(b) The manufacturer's annual production of passenger cars during the period specified in S8.1.

S8.2 *Passenger cars manufactured on or after September 1, 1994 and before September 1, 1995.*

S8.2.1 The number of passenger cars complying with the requirements of S3(c) shall be not less than 25 percent of:

(a) The average annual production of passenger cars manufactured on or after September 1, 1991, and before September 1, 1994, by each manufacturer, or

(b) The manufacturer's annual production of passenger cars during the period specified in S8.2.

S8.3 *Passenger cars manufactured on or after September 1, 1995 and before September 1, 1996.*

S8. 3.1 The number of passenger cars complying with the requirements of S3(c) shall be not less than 40 percent of:

(a) The average annual production of passenger cars manufactured on or after September 1, 1992, and before

September 1, 1995, by each manufacturer, or

(b) The manufacturer's annual production of passenger cars during the period specified in S8.3.

S8.4 *Passenger cars produced by more than one manufacturer.*

S8.4.1 For the purposes of calculating average annual production of passenger cars for each manufacturer and the number of passenger cars manufactured by each manufacturer under S8.1, S8.2, and S8.3, a passenger car produced by more than one manufacturer shall be attributed to a single manufacturer as follows, subject to S8.4.2:

(a) A passenger car which is imported shall be attributed to the importer.

(b) A passenger car manufactured in the United States by more than one manufacturer, one of which also markets the vehicle, shall be attributed to the manufacturer which markets the vehicle.

S8.4.2 A passenger car produced by more than one manufacturer shall be attributed to any one of the vehicle's manufacturers specified by an express written contract, reported to the National Highway Traffic Safety Administration under 49 CFR part 596, between the manufacturer so specified and the manufacturer to which the vehicle would otherwise be attributed under S8.4.1.

Issued on October 24, 1990.

Jerry Ralph Curry,

Administrator.

[FR Doc. 90-25391 Filed 10-24-90; 11:15 am]

BILLING CODE 4910-59-M

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49 CFR Part 572

[Docket No 88-07, Notice 3]

RIN 2127-AA48

Anthropomorphic Test Dummy; Side Impact Protection.

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This notice establishes specifications for the side impact dummy that is to be used in the full-scale dynamic crash test specified under amendments to Standard No. 214, *Side Door Strength,* which appear elsewhere in today's **Federal Register**. The specifications for the side impact dummy are set forth in a new subpart F of part 572, *Anthropomorphic Test Dummies.* The agency is specifying the side impact dummy (SID) that it proposed in January 1988. The agency notes that two alternative dummies, BioSID and EuroSID, are under development. The agency believes that these dummies may become available as regulatory test devices in the future. These dummies can measure the same injury criteria as SID, but also offer the advantage of measuring additional injury criteria. If ongoing studies demonstrate that one or both of these dummies compare satisfactorily to the SID, the agency will consider proposing such dummies as alternative devices in the future.

DATES: The amendments made by this rule to the Code of Federal Regulations are effective November 29, 1990. The incorporation by reference of certain publications listed in the regulation is approved by the Director of the Federal Register as of November 29, 1990. The new Standard No. 214 requirements which specify use of the side test dummy are phased in over a three-year period, beginning on September 1, 1993. Petitions for reconsideration of this final rule must be filed by November 29, 1990.

ADDRESSES: Petitions for reconsideration should refer to the docket and notice numbers set forth above and be submitted to Administrator, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. William Boehly, Office of Vehicle Safety Standards, Room 5320, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202-366-0842).

SUPPLEMENTARY INFORMATION:

Background

On January 27, 1988, NHTSA published in the **Federal Register** (53 FR 2239) a notice of proposed rulemaking (NPRM) to add procedures and performance requirements for a new dynamic test to Standard No. 214, *Side Door Strength.* In the proposed additional test, a passenger car must provide protection in a full-scale crash test in which the car (known as the "target" car) is struck in the side by a moving deformable barrier simulating another vehicle.

The proposed test procedure included placing anthropomorphic test dummies in the outboard front and rear seats of the target car to measure the potential for injuries to an occupant's thorax and pelvis. For the thorax, the proposed performance limit used an injury criterion known as the Thoracic Trauma Index (dummy) or TTI(d). This injury criterion is based on a combination of peak acceleration values measured in g's on the lower spine and the greater of the acceleration values of the upper and lower ribs of the test dummy. NHTSA requested comments on the appropriateness of a TTI(d) limit ranging from 80 to 115 g's. In addition, the notice requested comments on the appropriateness of limits, ranging from 130 to 190 g's, on the peak acceleration that the pelvis should experience during the impact.

In conjunction with the NPRM to amend Standard No. 214, NHTSA published a separate notice proposing specifications for the side impact test dummy (SID) to be used in the full-scale crash test. 53 FR 2254, January 27, 1988.

Elsewhere in today's **Federal Register**, NHTSA publishes a final rule adopting the dynamic test amendments to Standard No. 214.

This notice establishes specifications for SID. As described in detail later in this notice, the agency conducted a substantial number of tests to develop a test dummy that would be appropriate for use in the upgraded side impact standard. The SID adopted in this notice is based on the part 572, subpart B anthropomorphic test device that is used in existing occupant protection safety standards.

Summary of the Final Rule

The specifications for SID consist of a drawing package containing all of the technical details of the dummy parts and dummy assembly, and a set of master patterns for all molded and cast parts of the dummy. Those patterns make possible the rapid reproduction of those parts. In addition, there is a SID user's manual containing disassembly, inspection, and assembly procedures; external dimensions and weight; and a dummy drawing list. These drawings and specifications ensure that the dummies would vary little from each other in their construction. Performance criteria serve as calibration checks and further assure the uniformity of dummy assembly, construction, and instrumentation.

The dummy is instrumented with accelerometers for measurement of accelerations in the chest and pelvis during impacts. The rule specifies the manner and location of installation of the instrumentation to reduce variability in their measurements resulting from differences in location and mounting.

Drawings and specifications for the side impact test dummy are available for examination in the NHTSA Docket Section. Copies of those materials and the SID user's manual can be obtained from the Rowley-Scher Reprographics, Inc., 1111 14th Street NW., Washington,

DC 20005, telephone (202) 628–6667 or 408–6780. In addition, patterns for all cast and molded parts are available on a loan basis from the NHTSA Office of Vehicle Safety Standards.

Description

The SID is identical to the existing part 572, subpart B test dummy used in Standard No. 208, with several exceptions. The thorax and pelvis have been redesigned to produce human-like acceleration responses in the lateral direction. Also, the dummy has provision to mount accelerometers for ribs, spine and pelvis; a shock absorber between the ribcage and the spine; and a hinge where the ribs attach to the spine. Further, to keep the design of the SID as simple as possible, the test device does not have articulating arms or shoulders. Instead, the mass of the arms has been incorporated into the mass of the thorax, and urethane foam 'stump' arms have been added for the appropriate biofidelity characteristics. The agency determined early in the development and testing of the SID that the presence of separate physical arms and shoulder structure introduces considerable response variability into the test results. In addition, the use of an articulating arm and shoulder sub-assembly might introduce unnecessary mechanical complications in the construction and assembly of the test dummy.

Biofidelity

In developing SID, NHTSA sought to develop a test dummy that would be an appropriate human surrogate for measuring injury risk in a side impact. The agency considered whether the human injury risk of the particular impact situation could be determined from measurement of responses obtained from SID, and whether those specific responses possess biofidelity of response with human beings. The term "biofidelity" refers to how well a test dummy duplicates the responses of a human being in an impact.

Based on cadaver tests, the agency developed two empirical criteria for measuring injury risk in side impacts: TTI(d) and pelvic acceleration. The bases for these injury criteria are fully discussed in the separate notice adding the dynamic test requirements to Standard No. 214. The agency believes that TTI(d), which is calculated using peak rib and spinal accelerations measured in g's, predicts the probability of differing levels of thoracic injury that a person would experience in a real-world crash. The agency similarly believes that pelvic acceleration predicts the probability of pelvic fracture that a person would experience in a real-world crash. The TTI(d) and pelvic g's injury criteria are based on a large data base containing information on 84 individual cadaver impacts. It should be noted that the two injury criteria do not address all types of injuries in a side impact. For example, they do not address head injuries or some types of abdominal injuries.

In order for SID, or any other test dummy, to be considered an appropriate human surrogate for measuring TTI(d) and pelvic acceleration in the side impact test procedure, the TTI(d) and pelvic acceleration measurements obtained from the dummy must be correlated to those which would be obtained if a human being were subjected to the same impact conditions.

During the development of the SID, NHTSA examined the biofidelity of the SID's thorax (rib/spine) and pelvic acceleration responses in simulated vehicle crash tests.

One primary set of data used by NHTSA in evaluating the biofidelity of the SID was from a series of tests sponsored by the Forschungsvereinigung Automobiltechnik (FAT), an association of German vehicle manufacturers (SAE paper 861877). In those tests, a moving barrier was attached to a sled buck and accelerated down a track so that it impacted the side of a subcompact automobile. A total of 35 three-point belt restrained cadavers and 5 SID test devices were used in this test series. The vehicles containing the cadaver test subjects were struck at speeds ranging from 40–60 kmh (25–37 mph), while the vehicles containing the SID were struck at 50 kmh (31 mph).

In analyzing the results of those tests, the agency compared the cumulative variance of the test dummy responses to the cumulative variance of the cadaver responses. The results, which were discussed in more detail on pages IIIB–8–9 of the Preliminary Regulatory Impact Analysis, indicated that the responses of the upper and lower ribs, the lower spine and the pelvis of the SID correspond well with the responses of the cadavers in similar impacts.

The agency also compared average peak acceleration values of cadavers and the SID in sled tests in which the occupant impacted a padded or rigid wall. These results showed that, for the rigid wall impact condition, the SID thorax and pelvis responses were greater than those of cadavers. This reflects the fact that the SID structure is made of steel and is, naturally, less compliant than the human skeletal structure. However, for the padded wall impact condition, which is more similar to the interior of a car, the SID responses were similar to the cadaver responses.

During the year before the NPRM was issued, NHTSA made a slight revision in the SID thorax design to accommodate a new rib damping material produced by United-McGill. The agency had learned that the damping material used in earlier versions of the SID was being phased out of production. While the proposed SID reflected the new damping material, the tests discussed above used SID dummies with the earlier damping material.

In an addendum to the PRIA, the agency reassessed biofidelity in light of the new damping material. Based on a comparison of peak acceleration values of the thorax in cadavers and the modified SID in 17 mph rigid wall sled tests and 23 mph padded wall sled tests, the agency concluded that the biofidelity of the proposed SID appeared to be better than the earlier SID design as the peak g's were closer to the baseline side impact cadaver data. As discussed in the PRIA, a comparison of the cumulative variance of the test dummy responses to the cumulative variance of the cadaver responses indicated that biofidelity was well within the range of acceptability.

The agency noted in the NPRM that although testing indicates that the SID experiences higher accelerations than a cadaver in a rigid wall impact, such a test environment is not typical of the occupant-to-door interior impacts experienced in side crashes. In tests with a padded structure, which will be more typical of the interior of a door, the SID responses are close to those of cadavers. This is true for both the earlier version of SID and the proposed SID.

In the process of developing the side impact test procedure, NHTSA also compared the force-time loading characteristics of the SID to cadavers in rigid and padded wall impact tests. The purpose of this comparison was to see whether the SID experiences a dynamic impact event in a way which is similar to the one in which a human being experiences such an event. In the NPRM, the agency stated that for rigid wall impacts at 23 mph, the SID thorax and pelvis responded with higher force levels compared to cadavers, but that for padded wall impact conditions, the responses were very similar. NHTSA recognizes, however, that even for the padded wall impacts, the SID experienced a somewhat higher peak force level than cadavers.

As discussed in the FRIA, the United-McGill damping material modifications made prior to issuance of the NPRM

increased the force-time response and the impulse response.

NHTSA believes that examination of the impulse responses, which are shown in the FRIA, indicate that SID experiences the same basic dynamic event as a cadaver. For padded wall impacts, which are more similar to the conditions SID will experience in cars, the shape of the curves are generally similar. The duration of the event is similar for SID and cadavers, and the peak force occurs at essentially the same time. The agency's comparison of the acceleration responses of SID and cadavers indicates that the higher peak force experienced by SID does not translate into different acceleration responses. To the extent that the higher peak force is associated with a higher effective chest mass for SID than cadavers, the agency has, as discussed further below, studied the influence of the higher SID chest mass in selecting optimum countermeasures and determined that there is no significant effect.

Numerous commenters argued that SID lacks biofidelity in a number of areas. GM argued that SID is not a credible tool for predicting human response in a side impact because it lacks the following five essential human characteristics: proper chest deflection, proper chest mass, field relevant arm position, credible shoulder load path, and abdominal biofidelity and injury assessment capability.

GM stated that NHTSA's development of SID and a lateral thoracic injury criterion was based on the assumption that the acceleration and force responses of cadavers are sufficient to describe the risk of human thoracic injury in side impacts. That company argued that this is inaccurate, and that deflection is critical to assessing chest injury risk. GM stated that because SID was not designed with correct force versus deflection properties, it is fundamentally invalid as a human simulator.

According to GM, SID cannot reproduce human rib and spine accelerations for the relevant range of real world impact conditions. That commenter argued that the accelerations of the ribs and spine are necessarily dependent upon the compliance of the dummy components which interconnect them. GM argued that without human compliance properties, the acceleration responses cannot be human-like.

GM also argued that the SID thoracic rib mass is not representative of humans. That company stated that the rib mass of SID is about 10 times greater than the rib mass of Hybrid III. According to GM, the thorax of the SID experiences forces during impact that are due primarily to the inertial effects of its overly massive ribs. GM stated that the agency has indicated that the mass of the SID was selected to match the desired TTI values derived for specific test conditions. That company argued that SID may produce accelerations comparable to the human for one single test condition, but its incorrect inertial properties will cause erroneous responses if the test conditions vary.

Ford commented that there are two major issues regarding SID—its structure, i.e., its stiffness and weight, and its performance, i.e., how human-like is its response. That company argued that the SID thorax is too heavy, too stiff, and does not provide a response which is adequately human-like. Ford argued that the excessive stiffness and greater mass, coupled with the acceleration-based injury criterion TTI(d), have the potential to lead to vehicle design countermeasures (primarily interior door padding) that are too stiff and could actually degrade occupant safety, especially that of the elderly.

Chrysler stated that test dummy biofidelity and Thorasic Trauma Index (TTI) have been the center of controversy since NHTSA's public meeting on side impact protection held in May 1986. (Here, TTI refers to the cadaver responses. It is different from TTI(d), which is the acceleration measurement on the dummy). That company expressed concern that use of an inappropriate test dummy and injury criterion may result in vehicle designs which meet the requirements, but produce little real world benefits.

BMW argued that SID has inadequate biofidelity, which can lead to erroneous development of injury-reducing measures. According to that commenter, SID reacts more strongly to padding/damping material than do cadavers or real occupants. BMW stated that the rib mass of SID is too high. It argued that the mass of the "missing" arms should not be added to that of the ribs, because this does not represent a real occupant. BMW stated that neither from a biomechanical standpoint, nor from the consideration of a normal seating position, does this appear to be permissible. According to that company, the resulting excessive rib mass results in different inertia forces and effects than would be seen with humans. BMW argued that the inertia forces directly influence the required stiffness of damping materials and, in addition, the dummy kinematics will be influenced by the mass distribution, with additional potential to erroneously influence the development of protective measures.

BMW also expressed concern that force/deflection characteristics were not used in the development of the SID thorax. That company stated that these characteristics have great influence in side impacts, since here a direct interaction of the penetrating structure of the vehicle and the thorax area of the occupant occurs and is responsible for injuries. BMW also argued that peak rib and spine accelerations occur at different times during cadaver testing, but at the same time when SID is tested, which it considers to be another example of the inadequate biofidelity of SID.

A number of commenters cited the results of tests conducted according to procedures developed by the ISO to evaluate the biofidelity of side impact dummies, in support of the argument that SID lacks biofidelity. CCMC stated, based on its testing, that SID does not meet the requirements for 23 responses out of 36. This means that these SID responses differed from the required response by more than 20 percent. Of the remaining 13 responses, seven were exactly in the range prescribed by ISO, and the other six differed from the required ones by less than 20 percent. JAMA stated, based on its testing, that SID failed to meet all of the ISO requirements.

After considering the comments, NHTSA continues to believe that SID has adequate biofidelity. As indicated above, the agency believes that the relevant inquiry is whether SID can provide human-like measurements of the injury criteria specified in the side impact final rule, TTI(d) and pelvic acceleration, under conditions that are representative of real world side impact crashes.

Many commenter criticisms concerning SID biofidelity, including arguments that SID does not meet the ISO corridors for biofidelity, are irrelevant to SID's ability to provide human-like measurements of TTI(d) and pelvic acceleration. The ISO has adopted a very different approach than the agency in evaluating biofidelity. Based on a combination of pendulum, body-drop, and sled tests, it has defined biomechanical response corridors for the thorax, spine, pelvis, head, neck, chest displacement, shoulder and abdomen. In designing SID, NHTSA only sought to ensure biofidelity with respect to TTI(d) and pelvic acceleration. While the agency recognizes that biofidelity in other areas might increase dummy usefulness for purposes of research, it is unnecessary

for purposes of a regulatory test device which is intended to measure potential for injury in specific body parts of an occupant under specified impact conditions.

With respect to BMW's assertion that peak rib and spine accelerations occur at different times during cadaver testing than when SID is tested, NHTSA's examination of test data indicates that, for a majority of test conditions, the peak rib and spine accelerations in the SID occurred at about the same time as for cadavers. However, precise agreement of the time of peak acceleration is not important. As long as peak acceleration values are similar, TTI(d) will be similar.

With respect to commenter concerns that the SID thorax is stiffer than that of humans, NHTSA notes that since SID was designed to measure acceleration-based injury criteria in vehicle environments, it was unnecessary for the agency to design SID with biomechanically correct thorax deflection or stiffness based on local area responses such as in pendulum tests.

The agency disagrees with the contention of several commenters that SID is an invalid human surrogate because it was not designed with correct force versus deflection characteristics. First, as discussed at length in the main side impact notice, NHTSA believes that TTI(d), calculated using peak rib and spinal accelerations, adequately predicts the risk of thoracic injury. Thus, while the agency does not disagree that deflection might be relevant to chest injury risk under certain impact conditions, it does not accept the argument that deflection is critical. Second, NHTSA disagrees with the argument that because the SID thorax is stiffer than that of humans, the SID acceleration responses cannot be human-like. The agency believes that its biofidelity testing, discussed above, demonstrates that SID acceleration responses are close to those of humans, especially in test conditions which are representative of car interiors.

As discussed in the FRIA, analysis using the Department of Transportation side impact sensitivity model indicates that selection of optimum padding is not sensitive to variations in SID stiffness, and that paddings that optimize the SID response will also provide near optimum benefits for human occupants.

With respect to comments concerning the mass of the SID chest, NHTSA notes that, statically, the mass of 65.8 pounds is not significantly different from that of humans. The agency has found that the apparent effective thorax mass (dynamically) is about 18 percent higher than that of a 50th percentile male. As discussed in the FRIA, analysis using modelling indicates that SID's higher apparent effective thorax mass will not affect the selection of optimum padding.

The conclusions that the mass and stiffness of the SID chest will not significantly affect padding selection are supported by recent research comparing SID with two alternative side impact test dummies, EuroSID and BioSID. As part of this research, the agency conducted a series of tests to examine the effect of padding stiffness upon the injury hazard measurements of these dummies when subjected to a given test condition. All three dummies are known to have different thorax mass and thorax stiffness characteristics. Each of the dummies was exposed to a series of 20 mph lateral impacts into a rigid wall which was padded with three inch thick foam padding of various stiffness. The padding stiffness varied from a very low value representative of a soft foam to nearly as stiff as the rigid wall. All three devices selected essentially the same optimum material, and all three dummies ranked the materials almost identically from softest to hardest. Thus, differences in chest mass and stiffness between the different dummies did not have any significant effect on padding selection.

The agency also notes that in recent tests conducted by MVMA, using Pontiac 6000's with and without padding, the SID and BioSID indicated similar padding effectiveness, i.e., percent reduction in TTI(d). This was in spite of the differences in chest mass and stiffness between the two dummies.

Since differences in thorax mass and stiffness of SID as compared to humans do not affect padding selection, the agency rejects the argument that the use of SID could lead to padding that is so stiff that it would increase injuries to the elderly or any other group of persons. NHTSA also notes that it is obvious that any padding that is added to a car to reduce TTI(d) as measured by SID would clearly be less stiff than the interior car door, and, therefore, make a contribution to improving occupant safety for persons of all ages.

NHTSA is not persuaded by GM's concern that while SID may produce accelerations comparable to those for humans for one single type or level of exposure, its incorrect inertial properties will cause erroneous responses if the test conditions vary. As discussed above, SID does experience higher accelerations than a cadaver in a rigid wall impact. NHTSA believes it is important that SID experience human-like responses in the regulated environment. In car interior tests, and in tests with a padded structure, the SID responses are close to those of cadavers. Thus, in the regulated environment, SID testing will result in human-like responses. The SID/BioSID test results cited above also refute GM's claim, since differences in chest mass and stiffness between the two dummies did not lead to different evaluations of padding effectiveness.

The agency disagrees with GM's arguments that SID lacks credible shoulder load path or field relevant arm position. From early development tests, the agency found that an articulating arm and shoulder sub-assembly introduced test variability and mechanical reliability problems. In order to keep the design of SID as simple as possible, the agency designed it without articulating arms or shoulders. Instead, the mass of the arms and shoulders were built into the mass of the thorax, and urethane "stump" arms were added to attain the proper biofidelity characteristics.

As discussed in the FRIA, although the SID does not have an anatomically replicated shoulder structure and arms that can be articulated, there is strong evidence that the "stump" arm design appropriately incorporates the characteristics of the arm and shoulder into the thoracic structure, thus providing a credible shoulder load path. In NHTSA's rigid and padded wall sled tests, the shoulder area of the SID was a load bearing contact point as was the shoulder of the cadaver. There was a strong agreement between the SID and human specimen thorax responses. Also, pendulum tests conducted at 19 mph show reasonable force-time fidelity for the shoulder area of the SID.

GM's argument concerning arm position was based on a study of films indicating left arm position of drivers as they approached a stop sign at an intersection and as they started to leave the interection. That company stated that while the driver used the arm rest 34.4 percent of the time in the open road, the armrest was used only 10.6 percent of the time at intersections. GM argued that because serious side impact injuries occur most frequently in intersection crashes, design improvements of the side interior should focus on the direct loading of the chest and abdomen. Direct loading of the chest and abdomen occurs when the arms are up. GM argued that SID's incorporation of the shoulder and arm into the chest structure replicates an arms down condition, which it believes is inappropriate based on observations of normal driving behavior.

The films utilized by GM were from an Insurance Institute for Highway Safety (IIHS) study concerning shoulder belt use and were taken at all-way stop sign intersections. As discussed in the FRIA, the agency examined the same films and had difficulty in determining arm position in many cases, as well as determining when a vehicle was entering an intersection. The films take a picture of the license plate and then of the occupants to determine belt position. The films generally do not follow the vehicle into the intersection unless a picture was not taken of the front license plate, which made it necessary to take a picture of the rear license plate. NHTSA found that about 40 percent of the drivers' arms were down, which is not significantly different from the number found by GM for drivers approaching an intersection. However, the agency could not determine the drivers' arm position for vehicles entering the intersection with any certainty, contrary to the GM claim.

Given the difficulties in determining the drivers' arm position when entering the intersection, NHTSA does not accept GM's claim that the films indicate that drivers' arms are down only about 10 percent of the time in intersections. In developing the side impact test procedure, NHTSA sought to specify conditions that are representative of a significant number of crashes. NHTSA believes that an arms-down approach is reasonable. As indicated above, the agency found that about 40 percent of the drivers' arms were down in the films cited by GM. Moreover, as discussed in the FRIA, the agency performed an informal survey at a Washington, DC intersection of 125 right front seat passengers and found that about 77 percent had their arms down. Finally, even if a driver's arms are up on the steering wheel, the thorax may be partially covered by the upper arm, depending on the length of the driver's arm and the position of the seat in relation to the steering wheel. In addition, the GM argument pertains only to drivers and not passengers. About 25 percent of side impact fatalities and injuries occur to passengers.

Volkswagen argued that shortfalls of SID with respect to biofidelity are demonstrated by full scale crash tests conducted by the Motor Vehicle Manufacturers Association (MVMA) with redundant accelerometers. According to that company, the MVMA data show differences as high as 32 percent in maximum acceleration readings from accelerometers placed next to each other. Volkswagen argued that these differences must be addressed and resolved if the proposed standard is to meet the test of objectivity and reproducibility required of a safety standard.

NHTSA examined the MVMA test data to assess Volkswagen's concern. The agency notes that differences as high as 32 percent occur in certain cars well after the primary peak acceleration has been recorded. For the peak acceleration values which are used in calculating TTI(d), differences between primary and redundant acceleration data are within a normal range of variability. Since the primary and redundant accelerometers are located at slightly different spots, some differences should be expected. The agency also notes that redundant accelerometers are not used in calculating TTI(d).

Durability and Reliability

In the NPRM, NHTSA explained that it had gained considerable experience regarding the SID's durability and reliability from 20 full scale production vehicle tests conducted for the agency by the Transportation Research Center (TRC) of Ohio and from 18 modified 1985 Ford LTD tests, also conducted by TRC of Ohio for MVMA (Society of Automotive Engineers (SAE) paper 871115). These full scale vehicle tests were conducted with the SID unrestrained and simulated typical two vehicle perpendicular impacts, using the MDB at a speed of 33.5 mph. In NHTSA's tests, the relative velocity of the SID and the inner door surface at contact ranged up to 25 mph, based on analysis of the door and SID accelerometer responses.

NHTSA stated in the NPRM that these tests, in combination with rigid wall sled tests, cover what is considered to be the range of impact environments to be encountered by the SID when it is used by vehicle manufacturers in upgrading the side impact performance of their automobiles. The agency stated that at one end of the scale, the rigid wall sled tests conducted at 23 mph are considered to be the most severe of impact environments. At the other end of the scale, the modified 1985 Ford LTD tests conducted by MVMA represent what is considered to be the least severe test condition (with respect to the thorax and pelvis).

While NHTSA's test program covering the first 19 production vehicles was underway, NHTSA identified several changes that would increase the durability of the SID. Those changes, which were incorporated into the dummy and discussed in the NPRM, included: (1) Replacing the leather rib hinge of the SID with a rubber impregnated transmission belt to eliminate a fatigue failure problem, (2) adding a universal joint to the end of the thorax shock absorber to prevent shock absorber piston rod bending as the chest rotated about the spine box, and (3) building plastic hinges into the femurs to stop the breakage of the aluminum knee castings caused by lower leg bending moment during side structure deformation. Since changing the rib hinges could potentially affect the acceleration measurements made with the SID, the agency studied the influence of the new hinge material on thoracic response. The agency determined that only insignificant differences in responses occurred.

The agency has also done considerable work to overcome two other durability problems that developed during the first 19 production vehicle tests. Those two problems involved the delamination of the damping material from the ribs of the SID thorax and the presence of approximately one-half inch of permanent deflection in the rib cage following severe impacts. Delamination of the rib damping material could allow mechanically generated signals to interfere with rib acceleration signals and permanent deflection set within the ribcage could significantly alter the geometry of the SID so that errors could occur in the thoracic responses. NHTSA has studied the influence of both of these failure modes on the production vehicle test results and found that the thoracic responses were not significantly altered by either damping material delamination or the permanent set of the ribs. However, to reduce the possibility of any adverse effects, the agency has developed a new method of attaching the damping material to both inner and outer surfaces of the ribs to reduce delamination. Further, NHTSA has adopted the United-McGill damping material used in the Hybrid III dummy. In addition, the SID drawings package shows the dimensions and configuration of the ribs and the SID user's manual specifies a tolerance for the allowable deviation from the specified rib configuration. Together, these will ensure that the test dummy's ribs do not experience excessive permanent deflection after repeated use.

In the PRIA addendum, NHTSA stated that it had determined that the 23 mph rigid wall condition is too severe for testing durability, with TTI(d)'s in excess of 200, far exceeding the full scale production car range. For the proposed SID, incorporating the United-McGill damping material, a 17 mph rigid wall test was selected for durability testing. This sled test condition

corresponds more closely with the upper end of the TTI(d) results that occur in full scale crash tests. In a number of tests discussed in the PRIA addendum, no damping material delamination occurred, and permanent rib bending did not exceed .125 inches.

The agency stated in the NPRM that, overall, it expects the durability of the SID to equal or exceed that of the Hybrid III test dummy. One of the primary reasons for this expectation is that the SID is based on the existing part 572 subpart B test dummy, which is durable enough to be used in 70 full scale, unrestrained, 30 mph frontal crash tests.

As discussed in the FRIA, with the exception of the ribs and pelvis, which are anticipated to last eight crash tests before needing major replacement parts, NHTSA anticipates that the number of SID full scale side impact crash applications will exceed at least 30 tests without needing major repairs.

NHTSA conducted eight additional full scale tests after issuance of the NPRM. In its testing with the SID, the agency did not experience any problems relating to durability. Further, MVMA and Ford did not note any problems relating to durability in their testing with SID.

Mercedes-Benz commented that a weak-point built into the SID upper thigh, which it assumed to be for protection of the dummy, required repair after each test. It recommended installation of a shear-pin at this connection to prevent damage to other dummy components. That company also suggested that installation of a six-channel force transducer at the thigh be considered in lieu of a shear pin, in order to allow measurement of the moments about this joint.

NHTSA notes that its experience with the SID in testing has been different from that of Mercedes. When an earlier version of SID had a shear pin in its leg, the legs were damaged in tests. The agency revised the design in 1984 and, since then, has not experienced any leg durability problems. Since NHTSA has not specified any leg injury criterion, it has not included any moment measurement in the leg joint.

Reliability

Reliability is closely related to durability in that both affect the ability of the tester to achieve valid and repeatable test results. NHTSA considers reliability to be a measure of the ability of the dummy to achieve valid test results when the dummy is properly calibrated and in good working order. NHTSA considers the term durability, on the other hand, to mean the longer term ability of the dummy to remain in calibration, coupled with the ability of the individual dummy components to resist failure.

The agency explained in the NPRM that, for 20 production vehicle tests, there were a total of 160 primary channels of test data collected. In those tests, there were only 3 cases of lost data used for TTI(d) computations and 5 cases of data missing in pelvis acceleration readings. These test results indicated an overall SID data acquisition reliability of 93 percent for TTI(d) and a reliability of 88 percent with respect to pelvis acceleration. The reliability of SID in the additional eight tests conducted after issuance of the NPRM remained consistent.

In reviewing the results of the NHTSA and MVMA full scale tests, the agency concludes that SID is just as reliable as the Hybrid III dummy or the part 572, subpart B dummy.

Repeatability and Reproducibility

As discussed in the NPRM, NHTSA has carefully studied the repeatability and reproducibility of the SID using two methods. The control of the variation of dummy responses for the same device (called repeatability) and among different SID devices (called reproducibility) has been a primary goal of the agency during development of the side impact test dummy.

The agency has used a number of methods to evaluate the repeatability and reproducibility of the SID. In work done for the agency by Calspan, the agency used a statistically-based approach called the Normalized Integrated Squared Error Method in which the amplitude, phase, and shape of the deviations of each individual acceleration-time response curve of the SID is compared to the mean value for all the curves (SAE Paper 831624). The second method used by the agency involved comparing the coefficient of variation for a sample of pendulum data and 23 mph sled test data (Safety Research Laboratory (SRL)–102).

In its study, Calspan established, based on its engineering judgment, a 6 percent range of acceptable variance for repeatability and an 8 percent range of acceptability for reproducibility for the phase, amplitude, and shape of the response acceleration-time curves (SAE Paper 831624). Calspan evaluated a group of six SIDs in a series of 14 and 20 fps pendulum impacts. The results obtained in those tests are representative of the SID test devices used in the early development phases of the agency's side impact program. The results showed that the repeatability and reproducibility of the test dummies were well within the two ranges of variability.

NHTSA's Vehicle Research and Test Center conducted a series of 14 fps pendulum impacts and 23 mph sled tests with some of the SID dummies being used in the 19 full scale production vehicle test program. The coefficients of variance for the 14 fps pendulum qualification tests conducted on two of the test dummies ranged from 4.8 percent to 6.9 percent for one test dummy and 3.8 percent to 4.1 percent for the other, well within the range of acceptability.

The agency also examined the repeatability and reproducibility of the test dummies in 23 mph sled tests. Those tests showed that, for the thorax, spine, and pelvis responses, the repeatability is very high, with coefficient of variation values of 2.9 percent maximum for the ribs, 7.7 percent for the lower spine and 1.7 percent for the pelvis. With respect to reproducibility, the coefficients of variance values for the same three responses among the three SIDs tested were maximums of 2.4, 6.2 and 2.5 percent, respectively. By comparison, the Hybrid III repeatability coefficient of variation values ranged from 2.7 percent to 6.2 percent while reproducibility coefficient of variation values varied from 3.4 percent to 5.2 percent.

In the PRIA addendum, the agency presented repeatability/reproducibility data, derived from sled tests, for SID dummies incorporating the United-McGill damping material. The data indicated that the repeatability of all the proposed SID responses were as good, if not better, than the earlier SID. Except for the pelvis of the proposed SID at 17 mph rigid wall, the reproducibility of the proposed SID appeared to be about the same as the earlier SID. While pelvic reproducibility was not as good for the 17 mph rigid wall condition, with a coefficient of variation of 13 percent, pelvic reproducibility was excellent for the 23 mph padded wall condition, with a coefficient of variation of only 2 percent. Since the agency believes that a padded wall condition is more representative of a car interior, the agency considered the overall reproducibility of the pelvis to be acceptable.

Several commenters argued, notwithstanding the analysis presented in the NPRM and PRIA, that SID lacks repeatability and reproducibility. JAMA argued that its data from five impactor tests indicated that SID lacks repeatability. According to that organization, the coefficient of variation for the SID upper spine acceleration was 10.1 percent. JAMA also argued that SID

lacks reproducibility, even for dummies produced by the same manufacturer. According to that commenter, data from five impactor tests conducted on a pair of SID dummies resulted in a coefficient of variation of 17.7 percent for lower rib acceleration.

Nissan commented that reproducibility even among dummies from the same manufacturer proved unacceptably poor in its tests, which it said were carried out in accordance with the proposed NHTSA procedures. That company stated that it is not satisfied that the data presented by NHTSA has laid to rest the issue of dummy reproducibility, and argued that further testing by the agency is warranted.

CCMC commented that wide calibration tolerances for SID, such as the proposed tolerance of ±20 percent for the pelvis acceleration, are too great to ensure reproducible test results. That commenter argued that under otherwise identical test conditions, widely deviating results, with a range of 40 g to 60 g, can be expected with dummies which perform at the upper or lower limit.

Volkswagen expressed similar concerns to those of CCMC and recommended that the regulation specify that the existence of a manufacturer's development or certification test data at a specific dummy calibration require evidence of conflicting data at the same calibration before a noncompliance investigation can begin. Volkswagen stated that "another result of the physical limitations of the material used to construct the SID is the spread of certain calibration corridors. Wide calibration corridors may provide unintended and unnecessary risks of non-compliance for manufacturers who performed good faith tests indicating compliance with the standard. If certification testing and compliance testing are coincidently conducted with dummies which fall into opposite ends of the allowable calibration spectrum, conflicting results are likely to occur. For example, the calibration tolerances of ±20 percent for the pelvis accelerations are too great to assure reproducible test results. Under otherwise identical test conditions, widely deviating results with a range of 40–60 g's are expected with dummies which perform at the upper or lower limit. This tolerance is not acceptable for a regulatory compliance test device."

Volvo also expressed concern about the proposed calibration tolerance bands. That company noted that the agency proposed tolerance bands of ±11 percent for rib acceleration, ±20 percent for pelvis acceleration, and ±19 percent for lower spinal acceleration. Volvo stated that for most other dummies used in development and compliance testing, including three part 572 dummies, the accepted calibration tolerance bands are approximately ±10 percent for measurements from which injury criteria are calculated. That commenter stated that it is not acceptable that tolerance bands as wide as ±20 percent exist on measurements used in the calculation of TTI and pelvic acceleration.

Toyota argued, based on calibration tests of five SID dummies produced by two manufacturers, that repeatability was poor even for one dummy, and that there were marked differences between individual dummies made by the same manufacturer as well as differences between the two manufacturers' dummies. That company also argued that the proposed calibration tolerances are so large as to make objective testing impossible. Toyota argued that if it is too difficult to narrow the measurement range, it will be necessary to have the means to compensate for the test results by employing the calibration results.

Toyota also stated that it believes that if there is to be satisfactory repeatability in full scale testing, the differences in the impact response characteristics of the individual dummy parts must be minimized. Toyota stated that it discovered great differences in the force-crush characteristics of the arm foam of the five SID dummies, and argued that the agency should set clear SID component performance parameters for critical SID components, i e., arm foam, ribs, rib wrap, etc.

After considering the comments, NHTSA continues to believe that SID has adequate repeatability and reproducibility. The agency notes that commenter concerns about SID repeatability/reproducibility were for the most part based either on the results of calibration tests conducted according to the proposal, or on the proposed calibration tolerance bands.

In addressing those comments, the agency believes it appropriate to first discuss the purpose of the proposed calibration tests. Before a test dummy can be used in a vehicle crash test, it must be examined to determine whether it conforms to all of the specifications set out in the blueprints for the dummy. In addition, the dummy must be carefully examined to make sure that it has been correctly assembled. Finally, the test dummy must pass a series of calibration tests, which are also referred to as qualification tests. The purpose of a qualification test is to measure the performance of the test dummy in a well-controlled laboratory impact test to determine whether the test dummy's responses are within specifications and thus the test dummy will provide objective results.

The agency proposed two calibration tests for the side impact test dummy. The first is a 14 fps pendulum impact to the center of the side of the thorax on the side to be struck. The purpose of that test is to measure the response of the upper and lower rib and the lower spine. The proposed qualification limits in those tests were that the upper rib must experience an acceleration that is not less than 37 g's and not more than 46 g's, the lower rib must experience between 37 and 46 g's and the lower spine 15 to 22 g's. The other test involves a 14 fps pendulum impact to the pelvis to measure the pelvic responses. The proposed limits were that the acceleration measured in the pelvis shall be not less than 40 g's and not more than 60 g's. In addition, the acceleration-time curve must be unimodal and lie at or above the +20 g level for not less than 3 milliseconds and not more than 7 milliseconds.

While NHTSA has considered various pendulum tests, including calibration tests, in evaluating repeatability/reproducibility, it does not consider them to be the most reliable tests for such evaluation. The energy imparted into a dummy in calibration testing is much lower than the energy that the dummy will receive in full scale testing. The dummy is a device made up of many mechanical components and built in frictions which will vary from dummy to dummy. This will affect how the dummies respond in the low energy calibration tests to a far greater degree than the high energy of full scale testing. This produces higher variance in low speed calibration tests than will be experienced in higher severity full scale tests. This is illustrated by the fact that in a repeatability test series conducted by NHTSA under its New Car Assessment Program (for frontal protection, using a different dummy), differences in dummy calibration results had "no * * * correlation to dummy response results in the vehicle crash event." SAE paper 840201, February 1984. NHTSA believes that the proposed calibration tests for SID, with their present spread, ensure that the dummies being delivered are built alike and that they will give like responses during full scale tests.

The agency believes that the best tests for evaluating dummy repeatability are sled tests at a speed equivalent to full scale test inner door impact speeds. Sled tests can be better than vehicle tests for this purpose because sled tests

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eliminate full scale vehicle test variability. The results of such a series of sled tests, cited above, indicated that SID has good repeatability/reproducibility.

NHTSA also notes that full scale side impact test data, discussed in the main side impact notice, indicate good repeatability/reproducibility. Since dummy repeatability/reproducibility is reflected in full scale test results, the full scale data support the conclusion that SID has good repeatability/reproducibility.

Since sled test data and full scale crash test data indicate that SID has good repeatability/reproducibility, NHTSA concludes that the inherently greater variability found in calibration tests is not a problem. The agency similarly concludes that the proposed calibration tolerance bands will not result in poor repeatability/reproducibility.

With respect to Toyota's claim that additional component performance parameters should be established for critical SID components, NHTSA notes that extensive specifications have already been provided for the SID, as well as qualification tests. The agency does not believe that company has demonstrated that additional specifications are needed to ensure repeatability/reproducibility in the side impact full scale test.

Qualification Tests

NHTSA notes that the proposed qualification tests are discussed at some length in the preceding section on repeatability/reproducibility,and that discussion will not be repeated.

NHTSA explained in the NPRM that, with one exception, both proposed qualification tests utilize readily available compliance test equipment, instrumentation and procedures that are already used in qualification testing of other test dummies. The one exception is the use of a Finite Impulse Response (FIR) filter to process the acceleration data measured in the test. The agency proposed the use of the FIR filtering methodology to process acceleration signals, rather than the standard SAE practice, since the FIR filtering technique was used with the cadaver impact data and with the sled and vehicle test data. Some additional steps are needed in handling the thorax response data. A special Fortran software package, called FIR100, developed by the agency is necessary to process the data (see Docket No. 79-04-N02-018). Based on its experience, NHTSA does not anticipate that crash data processing would be significantly affected by requiring the use of the FIR filter by the manufacturers and compliance test laboratories.

The agency noted that the two specified qualification tests for the SID require less labor and are less expensive compared to the tests used with the part 572 subpart B and the Hybrid III in a Standard No. 208 compliance test. The part 572, subpart B test dummy must pass 10 qualification tests and the Hybrid III must pass 9 tests. Although the SID has significantly fewer qualification requirements, hence lower labor costs per test, some of that benefit may be offset, for example, in replacing ribs or sections of ribs if the qualification corridors are not met. The SID chest appears to be more complicated than the Hybrid III thorax and could be more labor intensive if repairs are needed.

As discussed above, a number of commenters argued that the proposed calibration tolerances for SID are too wide to ensure repeatable test results. The concerns about repeatability are addressed above. NHTSA is not narrowing the calibration limits, since to do so would make it more difficult to calibrate the dummies. The calibration limits are based on consideration of a large amount of test data.

Toyota stated that it believes the 4.27 m/s speed in the calibration test, compared to the 10 to 12 m/s secondary collision speed in the full scale test is too low. It argued that the speed must be raised if dummy performance is to be assured in full scale testing.

NHTSA notes that the calibration tests are not the primary means for ensuring repeatability/reproducibility in full scale testing. The primary means involve detailed specification of all dummy parts. The calibration tests serve as a final check on uniformity of construction, assembly and instrumentation. The tests also help indicate if a dummy has been damaged in a prior test. NHTSA believes that the proposed speeds are adequate for these purposes. If higher speeds were selected, the calibration tests themselves could potentially result in damage to the dummy, because of the concentrated loading in such tests.

Toyota stated that it conducted calibration tests on five SID dummies, three produced by ARL and two produced by Humanoid, and was not able to calibrate them. It stated that this problem can be attributed to variations in dummy manufacture, and expressed concern that it and other auto manufacturers could be forced to spend time and money on dummy adjustment, procurement of components and retesting before any SID could be used in actual certification testing.

Nissan stated that it conducted calibration tests using four assemblies of SID, and none of the assemblies satisfied the proposed calibration requirements.

When a new SID dummy is purchased, the purchaser should check it carefully to ensure that it meets the specifications established by NHTSA. Also, adjustments to the dummy may be necessary to bring it within the specified calibration bands.

The agency is aware that some SID dummies have been delivered with materials that do not meet specifications. For example, inspections of dummies by NHTSA staff have revealed such things as rib hinges mounted with the wrong orientation, rib damping material extending too far along the rib at the spine end, and rib wrap and arm parts made from the wrong foam. NHTSA considers it unfortunate that these types of manufacturing deficiencies sometimes occur. Some of the deficiencies may be attributable to start-up problems in producing a new dummy, and are not different from the problems experienced with other new dummies. However, dummy purchasers can resolve these sorts of problems by careful inspection of the dummies and by working with the dummy manufacturer. By taking these actions, and making appropriate dummy adjustments, users can bring their dummies within the specified calibration bands.

Temperature Sensitivity

As discussed in the NPRM, the agency developed the side impact test procedure, and the application of the SID dummy, around a 66 °F to 78 °F interior occupant temperature range, the same as required for the part 572 subpart B dummy used in Standard No. 208 tests. The similarity in construction of the chests of the SID, part 572, subpart B, and Hybrid III have made the agency particularly aware of response variations due to changes in temperature and of the importance of a practicable test temperature range for side impact compliance tests.

The test procedure specifies that the SID be placed in a controlled temperature environment for at least four hours within a 66-78 °F temperature range prior to each crash test. In addition, the SID is to be maintained within this temperature range during the crash test. NHTSA has found in its crash testing of production vehicles that it is possible to maintain the temperature of the test dummy within the required range prior to the test by using a portable heating or air conditioning unit,

as necessary. In cases of extremely low or high temperatures, the agency has found that the use of a portable garage can provide a controlled ambient temperature of approximately 72 °F.

At the time of the NPRM, the agency did not have temperature sensitivity data. Since that time, the agency has conducted a test series, and the temperature sensitivity of the SID appears to be superior to that of Hybrid III and comparable to the part 572 subpart B dummy. The FRIA presents data comparing SID sensitivity with the part 572 subpart B and the Hybrid III dummy.

FIR Filter

The FIR filter is used in the side impact test procedure to select rib, spine and pelvis responses from acceleration signals.

Ford commented that FIR filter differences need to be resolved. That company stated that, for use in compliance testing, the FIR filter procedure must be specified in detail. Ford stated that, in particular, the agency must specify the type of SAE Class 180 prefilter that must be used (i.e., Butterworth, Chebyshev, etc.), how bias is handled, subsample rate and the digital software coding. That company stated that it believes the present FIR filter specification could lead to significant differences in test results between different testing laboratories.

In light of Ford's concerns about possible variability, NHTSA is specifying use of its own computer program called FIR100. See Docket No. 79-04, Notice 2, item 18.

Alternative Dummies

As part of its side impact rulemaking, NHTSA has considered two alternative dummies to SID, EuroSID and BioSID. As discussed in the NPRM, the EuroSID dummy was developed by a group of European research organizations under the auspices of the European Experimental Vehicles Committee (EEVC). Subsequent to issuance of the NPRM, GM developed the BioSID dummy, in cooperation with the Society of Automotive Engineers.

NHTSA tested a prototype or pre-production EuroSID dummy and concluded that it was well designed and durable for the conditions tested, possessed "good" repeatability, and could be used to assess potential countermeaures. The biofidelity was equivalent to the SID in both pendulum and sled tests and was essentially equivalent to the SID in terms of acceleration responses, wall loading, and TTI(d) computation.

One of the advantages of the EuroSID is that it measures chest deflection and velocity and can therefore be used to measure Viscous Injury Criterion (V*C) as well as TTI(d). (A discussion of alternative thoracic injury criteria, including V*C, is provided in the main side impact notice.)

One of the problems discovered in NHTSA's EuroSID sled tests was that the ribs were bottoming out, which may have invalidated the V*C measurements being made. This condition was characterized by a flat spot on the displacement-time history curve, while the acceleration-time history curve showed an increase with time until the peak g was reached. Although considerable attempts were made to correlate V*C and TTI(d), the deflection data collected continued to be questionable. The EuroSID specifications also have changed since NHTSA tested the prototype. In view of this, NHTSA returned one of two EuroSIDs so that it could be retrofitted in accordance with its latest specifications.

In 1988, MVMA conducted a full scale crash test series using the prototype EuroSID dummy in a variety of test configurations: (1) NHTSA test procedure and the EuroSID dummy, (2) NHTSA test procedure with EEVC barrier face and the EuroSID dummy, and (3) the European test procedure. In the MVMA data set, the same rib deflection bottoming phenomenon was observed calling into question the validity of the V*C measures that were made. TTI(d) measurements were also taken in that test program. See Docket No. 88-06-N01-069.

NHTSA recently conducted a series of 20 mph sled tests comparing the ability of the retrofitted EuroSID, SID and BioSID to discriminate between padding types using the TTI(d). The results indicate that as an acceleration based tool, the EuroSID is comparable to the other side impact dummies.

The BioSID dummy was designed to conform to the ISO biofidelity corridors and can measure rib deflection for the computation of V*C. NHTSA purchased two pre-production BioSIDs, and as discussed above, has conducted a 20 mph sled test series to compare the ability of BioSID and the other two dummies to discriminate between different types of padding material using the TTI(d). As discussed in the FRIA, BioSID's performance was equivalent to the SID and the EuroSID in selecting the optimum padding using TTI(d) as the injury criterion. NHTSA has initiated an independent test program to further study the BioSID and evaluate its suitability as an alternative side impact dummy (e.g., sled tests and full scale crash tests). In addition, MVMA has recently completed a full scale crash test program at the GM Proving Grounds using the BioSID and the SID to establish full scale crash comparability between the two test devices.

NHTSA recognizes that BioSID and EuroSID have potential advantages over SID to the extent that they can measure V*C or other compression-based injury criteria in addition to TTI(d). Specification of EuroSID as an alternate test device could also promote international harmonization.

However, the agency does not believe that these potential advantages should lead to a delay in this rulemaking for further consideration of alternate dummies. NHTSA believes that TTI(d) is a reliable predictor for thoracic injury and that SID is fully developed and validated. Since SID is ready now, and a final rule specifying SID can result in significant safety benefits, the agency believes it is appropriate to now go to a final rule using the SID.

Assuming that NHTSA's review of the BioSID is satisfactory, the agency intends to propose the use of the BioSID as an alternate test device. Europe is continuing to work on the EuroSID. If the agency obtains data showing that EuroSID compares satisfactorily with SID, it may also propose that dummy as an alternate test device.

Drawing Package

As indicated earlier in this notice, the specifications for SID consist of a drawing package containing all of the technical details of the dummy parts and dummy assembly, and a set of master patterns for all molded and cast parts of the dummy. There is also a SID user's manual containing disassembly, inspection, and assembly procedures; external dimensions and weight; and a dummy drawing list. The drawings and specifications are provided to ensure that the dummies will not significantly vary in their construction.

Regulatory Impacts

As indicated at the beginning of this preamble, this final rule supplements a separate final rule being published elsewhere in this issue of the Federal Register that amends Standard No. 214 to establish a new dynamic test requirement for passenger cars. This final rule for the specifications and qualification requirements for the new side impact test dummy is part of that rulemaking. As such, it is major within the meaning of Executive Order 12291, and significant within the meaning of the Department of Transportation's

regulatory policies and procedures. The agency has prepared a single Final Regulatory Impact Analysis (FRIA) which describes the economic and other effects of the entire rulemaking. The analysis is available in the docket for the dynamic test requirement final rule.

NHTSA has also considered the impacts of this rulemaking action under the Regulatory Flexibility Act. I hereby certify that it would not have a significant economic impact on a substantial number of small entities. Accordingly, the agency has not prepared a regulatory flexibility analysis.

The primary cost effect of this rule is on passenger car manufacturers. Few, if any, passenger car manufacturers would qualify as small entities. Manufacturers which would qualify as small entities, small organizations and governmental units should not be significantly affected since the potential increases associated with this action should only slightly affect the purchase price of new motor vehicles.

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the requirements do not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 49 CFR Part 572

Incorporation by reference, Motor vehicle safety.

PART 572—[AMENDED]

In consideration of the foregoing, 49 CFR part 572 is amended as follows:

1. The authority citation for part 572 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, and 1407; delegation of authority at 49 CFR 1.50.

2. A new subpart F, consisting of sections 572.40 through 572.44, is added to read as follows:

Subpart F—Side Impact Dummy 50th Percentile Male

Sec.
572.40 Incorporated materials.
572.41 General description.
572.42 Thorax.
572.43 Lumber spine and pelvis.
572.44 Instrumentation and test conditions.

Subpart F—Side Impact Dummy 50th Percentile Male

§ 572.40 Incorporated materials.

(a) The drawings, specifications, manual, and computer program referred to in this regulation that are not set forth in full are hereby incorporated in this part by reference. These materials are thereby made part of this regulation. The Director of the Federal Register has approved the materials incorporated by reference. For materials subject to change, only the specific version approved by the Director of the Federal Register and specified in the regulation are incorporated. A notice of any change will be published in the Federal Register. As a convenience to the reader, the materials incorporated by reference are listed in the Finding Aid Table found at the end of this volume of the Code of Federal Regulations.

(b) The materials incorporated in this part by reference are available for examination in the general reference section of Docket 79–04, Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC. Copies may be obtained from Rowley-Scher Reprographics, Inc., 1111 14th Street, NW., Washington, DC. 20005, telephone (202) 628–6667 or 408–8789.

§ 572.41 General description.

(a) The dummy consists of component parts and component assemblies (SA–SID–M001 and SA–SID–M001A) which are described in approximately 250 drawings and specifications that are set forth in part 572.5(a) of this chapter with the following changes and additions which are described in approximately 85 drawings and specifications (incorporated by reference; see § 572.40):

(1) The head assembly consists of the assembly specified in subpart B (§ 572.6(a)) and conforms to each of the drawings subtended under drawing SA 150 M010 and drawings specified in SA–SID–M010, dated August 13, 1987.

(2) The neck assembly consists of the assembly specified in subpart B (§ 572.7(a)) and conforms to each of the drawings subtended under drawing SA 150 M020 and drawings shown in SA–SID–M010, dated August 13, 1987.

(3) The thorax assembly consists of the assembly shown as number SID–053 and conforms to each applicable drawing subtended by number SA SID–M030, dated August 13, 1987.

(4) The lumber spine consists of the assembly specified in subpart B (§ 572.9(a)) and conforms to drawing SA 150 M050 and drawings subtended by SA–SID–M050, dated August 13, 1987.

(5) The abdomen and pelvis consist of the assembly specified in subpart B (§ 572.9) and conform to the drawings subtended by SA 150 M060 and drawings subtended by SA–SID–M060, dated August 13, 1987.

(6) The lower limbs consist of the assemblies specified in subpart B (§ 572.10) shown as SA 150 M080 and SA 150 M081 in Figure 1 and SA–SID–M080 and SA–SID–M081, both dated August 13, 1987, and conform to the drawings subtended by those numbers.

(b) The structural properties of the dummy are such that the dummy conforms to the requirements of this subpart in every respect both before and after being used in vehicle tests specified in Standard No 214 §571.214 of this chapter.

(c) Disassembly, inspection, and assembly procedures; external dimensions and weight; and a dummy drawing list are set forth in the Side Impact Dummy (SID) User's Manual, dated July 1990 (incorporated by reference; see § 572.40).

§ 572.42 Thorax.

(a) When the thorax of a completely assembled dummy (SA–SID–M001A), appropriately assembled for right or left side impact, is impacted by a test probe conforming to § 572.44(a) at 14 fps in accordance with paragraph (b) of this section, the peak accelerations at the location of the accelerometers mounted on the thorax in accordance with § 572.44(b) shall be:

(1) For the accelerometer at the top of the Rib Bar on the struck side (LUR or RUR) not less than 37 g's and not more than 46 g's.

(2) For the accelerometer at the bottom of the Rib Bar on the struck side (LLR or RLR) not less than 37 g's and not more than 46 g's.

(3) For the lower thoracic spine (T12) not less than 15 g's and not more than 22 g's.

(b) Test Procedure. (1) Adjust the dummy legs as specified in § 572.44(f). Seat the dummy on a seating surface as specified in § 572.44(h) with the limbs extended horizontally forward.

(2) Place the longitudinal centerline of the test probe at the lateral side of the chest at the intersection of the centerlines of the third rib and the Rib Bar on the desired side of impact. This is the left side if the dummy is to be used on the driver's side of the vehicle and the right side if the dummy is to be used on the passenger side of the vehicle. The probe's centerline is perpendicular to thorax's midsagittal plane.

(3) Align the test probe so that its longitudinal centerline coincides with

the line formed by the intersection of the transverse and frontal planes perpendicular to the chest's midsagittal plane passing through the designated impact point.

(4) Position the dummy as specified in § 572.44(h), so that the thorax's midsagittal plane and tangential plane to the Hinge Mounting Block (Drawing SID–034) are vertical.

(5) Impact the thorax with the test probe so that at the moment of impact at the designated impact point, the probe's longitudinal centerline falls within 2 degrees of a horizontal line perpendicular to the dummy's midsagittal plane and passing through the designated impact point.

(6) Guide the probe during impact so that it moves with no significant lateral, vertical or rotational movement.

(7) Allow a time period of at least 20 minutes between successive tests of the chest.

§ 572.43 Lumbar spine and pelvis.

(a) When the pelvis of a fully assembled dummy (SA–SID–M001A) is impacted laterally by a test probe conforming to § 572.44(a) at 14 fps in accordance with paragraph (b) of this section, the peak acceleration at the location of the accelerometer mounted in the pelvis cavity in accordance with § 57–2.44(c) shall be not less than 40g and not more than 60g. The acceleration-time curve for the test shall be unimodal and shall lie at or above the +20g level for an interval not less than 3 milliseconds and not more than 7 milliseconds.

(b) Test Procedure. (1) Adjust the dummy legs as specified in § 572.44(f). Seat the dummy on a seating surface as specified in § 572.44(h) with the limbs extended horizontally forward.

(2) Place the longitudinal centerline of the test probe at the lateral side of the pelvis at a point 3.9 inches vertical from the seating surface and 4.8 inches ventral to a transverse vertical plane which is tangent to the back of the dummy's buttocks.

(3) Align the test probe so that at impact its longitudinal centerline coincides with the line formed by intersection of the horizontal and vertical planes perpendicular to the midsagittal plane passing through the designated impact point.

(4) Adjust the dummy so that its midsagittal plane is vertical and the rear surfaces of the thorax and buttocks are tangent to a transverse vertical plane.

(5) Impact the pelvis with the test probe so that at the moment of impact the probe's longitudinal centerline falls within 2 degrees of the line specified in paragraph (b)(3) of this section.

(6) Guide the test probe during impact so that it moves with no significant lateral, vertical or rotational movement.

(7) Allow a time period of at least 2 hours between successive tests of the pelvis.

§ 572.44 Instrumentation and test conditions.

(a) The test probe used for lateral thoracic and pelvis impact tests is a 6 inch diameter cylinder that weighs 51.5 pounds including instrumentation. Its impacting end has a flat right angle face that is rigid and has an edge radius of 0.5 inches.

(b) Three accelerometers are mounted in the thorax for measurement of lateral accelerations with each accelerometer's sensitive axis aligned to be closely perpendicular to the thorax's midsagittal plane. The accelerometers are mounted in the following locations:

(1) One accelerometer is mounted on the Thorax to Lumbar Adaptor (SID–005) by means of a T12 Accelerometer Mounting Platform (SID–009) and T12 Accelerometer Mount (SID–038) with its seismic mass center at any distance up to 0.4 inches from a surface point on the Thorax to Lumbar Adaptor where two perpendicular planes aligned with the adaptor's vertical and horizontal center lines intersect.

(2) Two accelerometers are mounted, one on the top and the other at the bottom part of the Rib Bar (SID–024) on the struck side. Their seismic mass centers are at any distance up to .4 inches from a point on the Rib Bar surface located on its longitudinal center line .75 inches from the top for the top accelerometer and .75 inches from the bottom, for the bottom accelerometer.

(c) One accelerometer is mounted in the pelvis for measurement of the lateral acceleration with its sensitive axis perpendicular to the pelvic midsagittal plane. The accelerometer is mounted on the rear wall of the instrument cavity (Drawing SID–087), with its seismic mass center located up to 0.30 inches from the point of intersection of the cover plate centerlines and 0.34 inches rearward of the rear wall of the instrument cavity.

(d) Instrumentation and sensors used must conform to the SAE J–211 (1980) recommended practice requirements (incorporated by reference; see § 572.40). The outputs of the accelerometers installed in the dummy are then processed with the software for the Finite Impulse Response (FIR) filter (FIR 100 software). The FORTRAN program for this FIR 100 software (FIR100 Filter Program, Version 1.0, July 16, 1990) is incorporated by reference in this Part (see § 572.40). The data are processed in the following manner:

(1) Analog data recorded in accordance with SAE J–211 (1980) recommended practice channel class 1000 specification.

(2) Filter the data with a 300 Hz, SAE Class 180 filter;

(3) Subsample the data to a 1600 Hz sampling rate;

(4) Remove the bias from the subsampled data, and

(5) Filter the data with the FIR100 Filter Program (Version 1.0, July 16, 1990), which has the following characteristics—

(i) Passband frequency, 100 Hz.

(ii) Stopband frequency, 189 Hz.

(iii) Stopband gain, −50 db.

(iv) Passband ripple, 0.0225 db.

(e) The mountings for the spine, rib and pelvis accelerometers shall have no resonance frequency within a range of 3 times the frequency range of the applicable channel class.

(f) Limb joints of the test dummy are set at the force between 1–2 g's, which just supports the limbs' weight when the limbs are extended horizontally forward. The force required to move a limb segment does not exceed 2 g's throughout the range of limb motion.

(g) Performance tests are conducted at any temperature from 66 °F to 78 °F and at any relative humidity from 10 percent to 70 percent after exposure of the dummy to these conditions for a period of not less than 4 hours.

(h) For the performance of tests specified in §§ 572.42 and 572.43, the dummy is positioned as follows:

(1) The dummy is placed on a flat, rigid, clean, dry, horizontal smooth aluminum surface whose length and width dimensions are not less than 16 inches, so that the dummy's midsagittal plane is vertical and centered on the test surface. The dummy's torso is positioned to meet the requirements of § 572.42 and § 572.43. The seating surface is without the back support and the test dummy is positioned so that the dummy's midsagittal plane is vertical and centered on the seat surface.

(2) The legs are positioned so that their centerlines are in planes parallel to the midsagittal plane.

(3) Performance pre-tests of the assembled dummy are separated in time by a period of not less than 20 minutes unless otherwise specified.

(4) Surfaces of the dummy components are not painted except as specified in this part or in drawings subtended by this part.

Issued on October 24, 1990.

Jerry Ralph Curry,

Administrator.

[FR Doc. 90-25393 Filed 10-24-90; 11:15 am]

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49 CFR Part 586

[Docket No. 88-06; Notice 10]

RIN 2127-AB96

Reporting Compliance With Phasing-in of Dynamic Side Impact Test Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This notice establishes reporting and recordkeeping requirements necessary for NHTSA to enforce the phasing-in of the new dynamic test requirements in the amended Standard No. 214, *Side Impact Protection*, which appears elsewhere in today's Federal Register. NHTSA proposed on January 27, 1988 to establish such reporting requirements.

DATES: The amendments made by this final rule to the Code of Federal Regulations are effective November 29, 1990, except for the information collection requirements in §§ 586.5 and 586.6. These information collection requirements have not been approved by the Office of Management and Budget (OMB) and the requirements in §§ 586.5 and 586.6 are not effective until OMB has approved them. NHTSA will issue a notice in the future establishing an effective date for the information collection requirements. Petitions for reconsideration of this final rule must be filed by November 29, 1990.

ADDRESSES: Petitions for reconsideration of this final rule should refer to the docket and notice number of this notice and be submitted to Administrator, room 5220, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. It is requested that 10 copies be submitted.

FOR FURTHER INFORMATION CONTACT: Mr. William Boehly, Office of Motor Vehicle Safety Standards, room 5320, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202-366-0842)

SUPPLEMENTARY INFORMATION:

I. Background

On January 27, 1988, NHTSA proposed to amend Standard No. 214 to supplement the existing quasi-static test procedures and performance requirements with dynamic test procedures and performance requirements for passenger cars. The proposed test procedure was a dynamic simulation of a vehicle striking a car in the side in a typical intersection side impact crash. Elsewhere in today's Federal Register, NHTSA adopts the final rule amending Standard No. 214. Two alternative compliance schedules are established, the choice of which is at the option of the manufacturer. Under the first schedule, each manufacturer of passenger cars will have to meet the new side impact performance requirements based on the following phase-in schedule:

10 percent of automobiles manufactured during the 12 month period beginning September 1, 1993;

25 percent of automobiles manufactured during the 12 month period beginning September 1, 1994;

40 percent of automobiles manufactured during the 12 month period beginning September 1, 1995; and

All automobiles manufactured on or after September 1, 1996.

Under the other schedule, no compliance will be required during the production year beginning September 1, 1993, but full implementation will be required effective September 1, 1994.

NHTSA stated in the preamble of the proposed side impact rule that it was proposing to adopt reporting and recordkeeping requirements to facilitate implementation of the dynamic side impact requirements. NHTSA further stated that the proposed reporting and recordkeeping requirements would be similar to those adopted in connection with the phase-in of the automatic restraint requirements for passenger cars in Standard No. 208, *Occupant Crash Protection*. NHTSA did not receive any comments regarding the proposed reporting and recordkeeping requirements for the side impact phase-in.

II. Description of the Final Rule

NHTSA is adopting reporting and recordkeeping requirements almost identical to those adopted for Standard No. 208. Under this rule, manufacturers are required to submit reports to NHTSA for each of the side impact phase-in periods. Each report, covering production during a 12-month period beginning September 1 and ending August 31, would be required to be submitted within 60 days after the end of that period. Three reports would have to be filed. The filing deadlines would be 60 days after (1) August 31, 1994, (2) August 31, 1995, and (3) August 31, 1996.

Information required in each report includes a statement regarding whether or not the manufacturer complied with the phase-in and the basis for that statement. If a manufacturer chooses the second compliance option (i.e., none of their fleet must meet the requirements the first year of the phase-in, but all of their fleet must meet the requirements the second and third years of the phase-in), the manufacturer would state this in the report due 60 days after August 31, 1994. Manufacturers would also have to include the following information in their reports (except the report due 60 days after August 31, 1994 for manufacturers who choose the second compliance option): the number of passenger cars manufactured for sale in the United States for each of the three previous 12-month production periods; the actual number of passenger cars manufactured during the reporting production period that meet the requirements of the amended Standard No. 214; and brief information about any express written contracts in which manufacturers of passenger cars produced by more than one manufacturer determine which manufacturer would count the cars as its own during a given year of the phase-in of Standard No. 214.

The reporting requirements adopted in this rule are necessary for the three-year period of the phase-in of the new test procedures and performance requirements under Standard No. 214. The information specified by the requirements will enable the agency to carry out its statutory duty to monitor compliance with the Federal motor vehicle safety standards. During the phase-in, only a certain percentage of vehicles are required to meet the new requirements of Standard No. 214. It would be virtually impossible for NHTSA to determine if the appropriate percentage of passenger cars has met the new requirements of Standard No. 214 unless manufacturers provide production information to the agency. Thus, NHTSA is requiring manufacturers to report information on both the total number of cars produced and the number of cars produced that meet the requirements of the revised Standard No. 214. NHTSA is requiring reporting of the number of cars manufactured for sale in the United States during each of the three previous 12-month production periods because Standard No. 214 allows manufacturers the option of using the average production volume during the last three production years to determine the number of cars that must meet the requirements of the revised Standard No. 214. Manufacturers are required to provide a statement regarding whether

or not they complied with the phase-in and the basis for that statement. This provision requires a manufacturer to show that they produced the requisite percentage of cars that meet the dynamic testing and performance requirements of the revised Standard No. 214. This percentage could be based on either that 12-month production volume or the average production volume for the three previous 12-month production periods.

This rule also requires manufacturers to report brief information about any express written contracts concerning passenger cars produced by more than one manufacturer. In the revised Standard No. 214, published elsewhere in today's **Federal Register**, NHTSA explains which company generally will be considered the manufacturer of a car that is manufactured by two or more companies or manufactured by one company and imported by another. The Standard generally attributes a car to the manufacturer which is most responsible for the existence of the vehicle in the United States. Thus, a car is generally attributed to the company which imported the vehicle; manufactured the vehicle for its own account as part of a joint venture; or marketed the vehicle. However, NHTSA also gives manufacturers the flexibility to determine contractually which manufacturer would count the car as its own toward the required percentage for a given year of the phase-in. That provision of Standard No. 214 is based on an almost identical provision in Standard No. 208.

This rule also includes a provision allowing manufacturers to request an extension of the deadline for filing a report. This provision is identical to that in the rule establishing reporting for Standard No. 208. NHTSA does not believe that complying with the requirement that reports be submitted within 60 days after the end of each production year will be a problem for manufacturers (including importers), except in extreme situations. However, to accommodate those situations, NHTSA is allowing manufacturers to seek an extension of the deadline for filing a report, by submitting a request for extension at least 15 days before the report is due. As provided in the rule, the filing of a request for an extension does not automatically extend the time for filing a report. The rule provides that NHTSA will grant such an extension only if the petitioner shows good cause for the extension and if the extension is consistent with the public interest.

The recordkeeping provisions in this final rule require manufacturers to maintain records of the Vehicle Identification Number (VIN) for each passenger car which meets the new dynamic testing and performance requirements of the amended Standard No. 214. This provision is almost identical to one adopted in connection with Standard No. 208. NHTSA is requiring that the information be maintained by manufacturers until December 31, 1998. The purpose of this requirement is to ensure that such information will be available until the completion of any agency enforcement action begun after the final phase-in report is filed in 1996. Manufacturers are not required to keep the VIN information in a separate file. As long as the VIN information is retrievable, it may be stored in any manner that is convenient to a manufacturer.

III. Regulatory Impacts

A. Executive Order 12291

As indicated earlier in this preamble, this rule supplements a separate final rule establishing new test procedures and performance requirements for side impact under Standard No. 214. This rule establishing reporting and recordkeeping requirements in connection with the phase-in of the new requirements of Standard No. 214 is part of that rulemaking. As such, it is considered a major rule within the meaning of Executive Order 12291. It is also considered to be significant within the meaning of the Department of Transportation's regulatory policies and procedures. NHTSA has prepared a Final Regulatory Impact Analysis, which describes the economic and other effects of the entire rulemaking. This analysis is available in the docket for the side-impact rulemaking. NHTSA anticipates that the reporting and recordkeeping requirements will have a minimal impact on manufacturers.

B. Regulatory Flexibility Act

NHTSA has also considered the effects of this rulemaking under the Regulatory Flexibility Act. I hereby certify that this final rule will not have a significant economic impact on a substantial number of small entities. Therefore, NHTSA has not prepared a regulatory flexibility analysis.

Few, if any, passenger car manufacturers are considered small entities. Small organizations or governmental units will not likely be significantly affected. Any price increases associated with this final rule will be modest and should not affect the purchasing of new cars by these entities. Accordingly, no regulatory flexibility analysis has been prepared. The impact of the rest of the side impact rulemaking is discussed in other notices.

C. Paperwork Reduction Act

The reporting and recordkeeping requirements in this rule are considered to be information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR part 1320. Accordingly, these requirements have been submitted to the OMB for its approval under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). A notice will be published in the **Federal Register** when OMB makes its decision on this request.

D. Environmental Impacts

In accordance with the National Environmental Policy Act of 1969, NHTSA has considered the environmental impacts of this final rule. The agency has determined that the final rule will not have a significant impact on the quality of the human environment.

E. Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. NHTSA has determined that the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 49 CFR Part 586

Reporting and recordkeeping requirements.

In consideration of the foregoing, chapter V, title 49, Transportation, the Code of Federal Regulations is amended by adding a new part 586 to read as follows:

PART 586—SIDE IMPACT PHASE-IN REPORTING REQUIREMENTS

Sec.
586.1 Scope.
586.2 Purpose.
586.3 Applicability.
586.4 Definitions.
586.5 Reporting requirements.
586.6 Records.
586.7 Petition to extend period to file report.

Authority: 15 U.S.C. 1392, 1401, 1407; delegation of authority at 49 CFR 1.50.

§ 586.1 Scope.

This section establishes requirements for passenger car manufacturers to submit a report, and maintain records related to the report, concerning the number of passenger cars manufactured that meet the dynamic test procedures and performance requirements of

Standard No. 214, *Side Impact Protection* (49 CFR 571.214).

§ 586.2 Purpose.

The purpose of the reporting requirements is to aid the National Highway Traffic Safety Administration in determining whether a passenger car manufacturer has complied with the requirements of Standard No. 214 of this Chapter (49 CFR 571.214) concerning dynamic test procedures and performance requirements concerning side impact protection.

§ 586.3 Applicability.

This part applies to manufacturers of passenger cars.

§ 586.4 Definitions.

(a) All terms defined in section 102 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1391) are used in their statutory meaning.

(b) *Passenger car* is used as defined in 49 CFR 571.3.

(c) *Production year* means the 12-month period between September 1 of one year and August 31 of the following year, inclusive.

§ 586.5 Reporting requirements.

(a) *General reporting requirements.* Within 60 days after the end of each of the production years ending August 31, 1994, August 31, 1995, and August 31, 1996, each manufacturer shall submit a report to the National Highway Traffic Safety Administration concerning its compliance with the requirements of S3(c) of Standard No. 214 for its passenger cars produced in that year. Each report shall—

(1) Identify the manufacturer;

(2) State the full name, title, and address of the official responsible for preparing the report;

(3) Identify the production year being reported on;

(4) Contain a statement regarding whether or not the manufacturer complied with the dynamic testing and performance requirements of the amended Standard No. 214 for the period covered by the report and the basis for that statement;

(5) Provide the information specified in § 586.5(b), except that this information need not be submitted with the report due 60 days after August 31, 1994 if the manufacturer chooses the compliance option specified in S3(d) of 49 CFR 571.214;

(6) Be written in the English language; and

(7) Be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590.

(b) *Report content*—(1) *Basis for phase-in production goals.* Each manufacturer shall provide the number of passenger cars manufactured for sale in the United States for each of the three previous production years, or, at the manufacturer's option, for the current production year. A new manufacturer that is, for the first time, manufacturing passenger cars for sale in the United States must report the number of passenger cars manufactured during the current production year.

(2) *Production.* Each manufacturer shall report for the production year being reported on, and each preceding production year, to the extent that cars produced during the preceding years are treated under Standard No. 214 as having been produced during the production year being reported on, information on the number of passenger cars that meet the dynamic test procedure and performance requirements of S5 and S6 of Standard No. 214.

(3) *Passenger cars produced by more than one manufacturer.* Each manufacturer whose reporting of information is affected by one or more of the express written contracts permitted by S8.4.2 of Standard No. 214 shall:

(i) Report the existence of each contract, including the names of all parties to the contract, and explain how the contract affects the report being submitted.

(ii) Report the actual number of passenger cars covered by each contract.

§ 586.6 Records.

Each manufacturer shall maintain records of the Vehicle Identification Number for each passenger car for which information is reported under § 586.5(b)(2) until December 31, 1997.

§ 586.7 Petition to extend period to file report.

A petition for extension of the time to submit a report must be received not later than 15 days before expiration of the time stated in § 586.5(a). The petition must be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. The filing of a petition does not automatically extend the time for filing a report. A petition will be granted only if the petitioner shows good cause for the extension and if the extension is consistent with the public interest.

Issued on October 24, 1990.

Jerry Ralph Curry,

Administrator.

[FR Doc. 90-25394 Filed 10-24-90; 11:15 am]

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49 CFR Part 587

[Docket No. 88-06; Notice 9]

RIN 2127-AB88

Side Impact Protection; Moving Deformable Barrier

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This notice establishes specifications for the weight, dimensions, stiffness, and other attributes of the moving deformable barrier that is to be used in the dynamic, barrier-to-car crash test specified under the amendments to Standard No. 214, *Side Impact Protection*, which appear elsewhere in today's Federal Register. NHTSA proposed the specifications for the moving deformable barrier on January 27, 1988.

DATES: The amendments made by this final rule to the Code of Federal Regulations are effective November 29, 1990. However, the substantive requirements of the revised Standard No. 214 are phased in over a three-year period beginning on September 1, 1993. Compliance will be required for all new cars manufactured on or after September 1, 1996. The incorporation by reference of certain publications listed in the regulation is approved by the Director of the Federal Register as of November 29, 1990. Petitions for reconsideration of this final rule must be filed by November 29, 1990.

ADDRESSES: Petitions for reconsideration of this final rule should refer to the docket and notice number of this notice and be submitted to Administrator, Room 5220, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. It is requested that 10 copies be submitted.

FOR FURTHER INFORMATION CONTACT: Mr. William Boehly, Office of Vehicle Safety Standards, Room 5320, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202-366-0842).

SUPPLEMENTARY INFORMATION:

I. Background

On January 27, 1988, NHTSA proposed to amend Standard No. 214 to supplement the existing quasi-static test procedures and performance requirements with dynamic test procedures and performance requirements for passenger cars. The proposed test procedure was a dynamic simulation of a vehicle striking a car in the side in a typical intersection side impact crash. That notice also proposed to use a moving deformable barrier (MDB) developed by NHTSA in the proposed test procedure The barrier was described in the preamble of the proposed rule and complete design drawings of the MDB were placed in a rulemaking docket and were available for public comment.

Elsewhere in today's **Federal Register**, NHTSA publishes a final rule adopting the dynamic test amendments to Standard No. 214. Under that rule, two alternative compliance schedules are established, the choice of which is at the option of the manufacturer. Under the first schedule, each manufacturer of passenger cars will have to meet the new side impact performance requirements based on the following phase-in schedule:

10 percent of automobiles manufactured during the 12 month period beginning September 1, 1993;
25 percent of automobiles manufactured during the 12 month period beginning September 1, 1994;
40 percent of automobiles manufactured during the 12 month period beginning September 1, 1995; and
All automobiles manufactured on or after September 1, 1996.

Under the other schedule, no compliance will be required during the production year beginning September 1, 1993, but full implementation will be required effective September 1, 1994.

This notice describes the MDB that is to be used for the new test procedures established as part of the amendments to Standard No. 214. The description of the MDB will be codified in a new part 587, *Moving Deformable Barrier*. The MDB adopted in this final rule is the same as the one described in the January 27, 1988 proposal to amend Standard No. 214.

II. Description of the Moving Deformable Barrier

The MDB described in this rule is a steel structure with a 102 inch wheelbase, a 63 inch track width, and two aluminum honeycomb blocks on the front. This latter feature is to simulate the energy absorption characteristics of a striking vehicle. One block has a high compression strength of 245 pounds per square inch (psi), is 4 inches by 8 inches by 66 inches and its centerline is mounted 17 inches above the ground to simulate the bumper/frame of the striking vehicle. The other honeycomb block has considerably lower compressive strength (45 psi), is 15 inches by 22 inches by 66 inches, and is used to simulate the softer, front-end structure of the striking vehicle. The front and rear wheels of the MDB can be turned to accommodate the impact angle specified in amended Standard No. 214.

The following are the inertial properties of the NHTSA MDB in configuration 2 (with two cameras and camera mounts and a light trap vane and ballast reduced). The weight is 3,015 pounds, the track width is 63 inches, and the wheelbase is 102 inches.

The center of gravity is as follows:

X=44.2 inches rear of front axle
Y=0.3 inches left of longitudinal center line
Z=19.7 inches from ground.

The moments of inertia are as follows:

Pitch=1669 ft-lb-sec^2
Roll=375 ft-lb-sec^2
Yaw=1897 ft-lb-sec^2

The drawings and specifications for the MDB, which are incorporated by reference in the final rule, specify the use of Narmco 117 bonding film, or an equivalent, for bonding the honeycomb structure of the MDB. NHTSA understands that Narmco 117 bonding film meets the minimum requirements for Type I, Class 2 adhesives under the Military Specification for Adhesive, Film Form, Metallic Structural Sandwich Construction (MIL–A–25463b, March 31, 1982). Any adhesive which has characteristics equivalent to those of the Narmco 117 bonding film may be used for bonding the honeycomb structure. This would include, but is not necessarily limited to, those adhesives which meet the Type I, Class 2 requirements under the Military Specification.

III. Brief Summary of Comments on Proposed MDB

NHTSA received many comments concerning the MDB. The following briefly summarizes those comments. NHTSA more fully summarizes and responds to the comments later in this notice and in the Final Regulatory Impact Analysis.

A number of commenters advocated the adoption of one of the barriers developed in Europe instead of the NHTSA MDB. Some commenters favored the barrier developed by the European Experimental Vehicle Committee (EEVC), while others favored the barrier developed by the Committee of Common Market Automobile Constructors (CCMC).

A number of commenters suggested a different weight for the MDB. Some commenters thought that the weight should be increased to be more consistent with the weight of the average light truck. Others supported a lower barrier weight, more consistent with the weight of the barriers developed in Europe.

Some commenters suggested a different height for the bumper of the MDB. Some recommended a bumper height similar to that of a light truck.

A number of commenters criticized the dimensions of the MDB's honeycomb face. Some commenters suggested a different width or height above the ground. Others preferred the shape and dimensions of a barrier face developed in Europe.

Some commenters were concerned about the stiffness of the aluminum honeycomb barrier face. Some believed that the barrier was stiffer than the majority of passenger cars and thought that the barrier should be more representative of passenger cars. Others suggested that NHTSA consider a rigid moving barrier. Some commenters also believed that the bumper of the MDB was too stiff.

Some commenters supported a dynamic force-deflection specification for the MDB barrier face. A few commenters stated that the variability of the barrier face stiffness can be significant.

IV. Barrier Weight

NHTSA proposed a side impact compliance test procedure which simulates a typical two-vehicle side impact collision and employs a 3,000 pound MDB as the striking or "bullet" vehicle. As discussed in the proposal, NHTSA set the weight of the barrier to be representative of the weight of future vehicles expected to be involved as the striking vehicle in side impact crashes in the United States. In the proposal, NHTSA stated that in multiple vehicle accidents resulting in serious injuries and fatalities, passenger cars and light/medium/heavy trucks are about equally likely to be the striking vehicle. As stated in the proposal, NHTSA derived the weight of the barrier from the median curb weight of passenger cars (3,127 pounds in 1986) and light trucks (3,813 pounds in 1986). This resulted in a weighted average of 3,423 pounds, which was adjusted downward to account for the projected lower weight of vehicles in the 1990's. Based on these considerations, NHTSA derived a barrier weight of 3,000 pounds.

representing a 2,700 pound vehicle and 300 pounds for passengers and cargo.

NHTSA believes that it is appropriate to use a barrier weight that is based, in part, on the higher weight of light trucks since light trucks are involved as the striking vehicle in a significant percentage of side impact collisions. NHTSA analyzed Fatal Accident Reporting System (FARS) data from 1984 to 1988 for fatal side impact collisions in which a passenger car was the struck vehicle. Based on this analysis, NHTSA determined that collisions involving passenger cars as the striking vehicle type accounted for 47.4 percent of the fatalities, while striking light trucks/vans (LTV's) accounted for 31.3 percent, and striking medium/heavy duty vehicles accounted for 19 percent of the fatalities. In addition, the percentage of fatalities from side impact collisions with an LTV as the striking vehicle has been increasing. The percentage has grown from 28.7 percent of the fatalities in 1984 to 35.5 percent in 1988. Similarly, LTV's as the striking vehicle accounted for 31 percent of the side impact collision injuries classified as Abbreviated Injury Scale (AIS) 3 or greater in 1988. This percentage has increased from 14.7 percent in 1983.

NHTSA received a number of public comments concerning barrier weight, with a number of commenters suggesting a weight different from that proposed. The Center for Auto Safety and Public Citizen suggested increasing the weight of the MDB to 3,500 pounds to be consistent with the higher average light truck weight. Rolls-Royce stated that, if the MDB is intended to represent the aggressiveness of a light truck, a higher weight would be needed. The European Experimental Vehicles Committee (EEVC) supported a lower barrier weight of about 2,425 pounds (1,100 kilograms), closer to the weight of the MDB developed in Europe. The Commission of the European Communities suggested a weight of 950 kilograms (2,095 pounds). Ford stated that the MDB weight should represent the weight of the U.S. vehicle fleet. However, in the interest of harmonization, Ford suggested a compromise weight of 2,425 pounds. The Motor Vehicle Manufacturers Association (MVMA) noted that different barrier weights within the range of 2,000 to 3,000 pounds do not show a significant influence on test results. Jaguar questioned how the mass of the barrier was determined, asking if the average weight of the U.S. passenger car fleet had been weighted for the number of vehicles in the vehicle class. Chrysler stated that it did not object to the 3,000 pound weight.

NHTSA reexamined the barrier weight issue, using R.L. Polk registration data and vehicle test weight information from the New Car Assessment Program (NCAP) from 1979 to 1988. The NCAP data base consists of domestically manufactured, European, and Japanese cars, all of which are sold in the U.S. market and represent potential striking vehicles. NHTSA derived registration-weighted average and median fleet weights for 1988, which are stated below. The weight includes vehicle curb weight, two part 572(B) dummies weighing 164 pounds each, and simulated cargo of 50 to 150 pounds. The average weight of passenger cars was 3,189 pounds, while the median weight was 3,067 pounds. For light trucks, the average weight was 3,868 pounds, while the median weight was 3,791 pounds. For the combined fleet of passenger cars and light trucks, the average weight was 3,317 pounds and the median weight was 3,250 pounds.

NHTSA also examined the individual and combined equivalent test weights of 1989 domestic and imported passenger cars and light trucks used in EPA's fuel economy driving cycle. Equivalent test weight is defined as curb weight plus 300 pounds to account for two occupants and cargo. The average equivalent test weight for various vehicle types in model year 1989 is shown below:

TABLE I

Vehicle type	Average Equivalent test weight
Passenger cars (PC)	3,161 pounds
PC (imports only)	2,580 pounds
Light trucks and vans (LTV)	3,956 pounds
LTV (imports only)	3,462 pounds
PC and LTV	3,423 pounds

Various European commenters expressed concern about the weight of the MDB proposed by NHTSA. The barrier designs of the European Experimental Vehicles Committee (EEVC) and the Committee of Common Market Automobile Constructors (CCMC) weigh about 1,000 pounds less than the MDB proposed by NHTSA. The European barrier is based on European vehicles, which are often smaller and lighter than U.S. vehicles. Thus, the European barrier at 2,095 pounds is not representative of the U.S. passenger car and light truck fleet, which had an average equivalent test weight of about 3,423 pounds in model year 1989.

In the proposal, NHTSA predicted that the average combined weight (curb weight plus 300 pounds) of the passenger car and light truck fleet would be about 3,000 pounds in the mid 1990's. However, the average combined weight of the passenger car and light truck fleet may be higher than this in the mid 1990's. According to EPA figures, the average combined weight of passenger cars and light trucks has stabilized over the last six years at about 3,423 pounds.

After analyzing the comments and the information discussed above, NHTSA concludes that 3,000 pounds is an appropriate weight for the MDB and is representative of the weight of passenger cars and light trucks in the United States fleet. Based on data from NCAP, weighted to reflect registration figures, and 1989 EPA data, weighted to reflect sales, the MDB is six percent lighter than the average passenger car (domestic and imported) and 11 to 14 percent lighter than the average for passenger cars and light trucks combined. If passenger car and light truck weights decline in the future, the MDB weight would be even more representative.

In addition, the difference between a barrier weight of 3,000 pounds and the average combined fleet weight of 3,317 to 3,423 pounds may not be significant. Theoretically, the lighter the striking vehicle, the less the kinetic energy which must be absorbed and the less the momentum that will be transferred to the struck vehicle. These reductions generally result in lower dummy responses and, thus, lower Thoracic Trauma Index (dummy) or TTI(d) values. However, NHTSA examined the sensitivity of side impact dummy responses and TTI(d) to differences in MDB weight for the proposed rule. Comparing the 3,000 pound barrier to an average 3,423 pound weight for the combined passenger car/light truck population, a Department of Transportation computer model (which this notice refers to as the "side impact sensitivity model"), discussed in detail in Section D of the Preliminary Regulatory Impact Analysis, showed that, with a Volkswagen Rabbit as the struck vehicle, rib responses would remain unchanged and the spine and pelvis acceleration responses would be reduced only four percent. Overall, NHTSA expects that the effect on dummy responses of a somewhat lower barrier weight would be negligible.

V. Barrier Shape and Dimensions

The dimensions of the barrier described in the proposal were established using 1979 model year vehicles. The minimum and maximum bumper heights correspond to the sales-weighted median heights for 1979 two-

door sedans. Other barrier dimensions were based on sales-weighted dimensions from the highest sales volume 1979 model passenger cars, the Ford Fairmont, Oldsmobile Cutlass, Chevrolet Citation, and Chevrolet Impala.

Commenters expressed concern about the bumper height, barrier height, and barrier width of the MDB. In the Preliminary Regulatory Impact Analysis, NHTSA stated that these dimensions of the barrier were important because the above ground height and location of the stiffer honeycomb component (the bumper) controls engagement with the door sill of the struck vehicle, the distance below the window opening or barrier height influences the inner and outer door energy absorption and the deflection characteristics needed to lower thorax responses, and the width of the barrier controls front fender and rear quarter panel engagement.

A. Barrier Bumper Height

NHTSA received a number of comments concerning the barrier bumper height. The Insurance Institute for Highway Safety (IIHS), the Center for Auto Safety, and Public Citizen recommended a bumper height similar to that of a light truck. Rolls-Royce stated that if the MDB is as stiff as a light truck, then it should also have a higher bumper height, like a light truck.

The MDB described in the proposal has an upper edge that is 21 inches off the ground and a bottom edge that is 13 inches off the ground. This represents an eight-inch high bumper surface, which protrudes four inches from the barrier face. As mentioned in the proposal, the bumper face vertical height (the distance between the upper and lower bumper edges) ranged from 4.9 to 7.5 inches for the ten best selling passenger car models in 1984.

NHTSA reexamined the bumper height issue in light of several sets of current vehicle bumper height data. In two studies, NHTSA measured the distance from the bottom of the bumper to the ground of (1) 19 popular passenger cars from model years 1976 to 1983 and (2) 12 light trucks from model years 1984 to 1988. For the 19 passenger cars, the average measurements were 14.4 inches from the ground to the bottom of the bumper and 20.7 inches from the ground to the top of the bumper. For the 12 light trucks, the average measurements were 16.7 inches from the ground to the bottom of the bumper and 25.8 inches from the ground to the top of the bumper. This compares to the NHTSA MDB, which measures 13.0 inches to the bottom of the bumper and 21.0 inches to the top of the bumper. Based on this data set, the distance to the top edge of the MDB bumper is consistent with the distance to the top edge of the average passenger car bumper, but lower than the average distance for light truck bumpers by 4.8 inches. Based on the same data set, the lower edge of NHTSA's bumper is 1.4 inches lower than the average for passenger cars and 2.7 inches lower than the average for light trucks.

The average vertical height of the NHTSA MDB bumper is 8.0 inches, which compares to an average vertical height of 6.1 inches for the 19 passenger cars and 9.1 inches for the 12 light trucks. Based on this data set, the vertical height of the MDB bumper is within the range of popular passenger cars and light trucks.

In addition, NHTSA examined a sample of 36 popular 1987 passenger cars and light trucks and found an average height of 20.8 inches to the top of the bumper. This is consistent with the upper-edge height of the MDB bumper (21.0 inches). NHTSA believes that a larger sample would yield the same results since the Bumper Standard (49 CFR part 581) specifies a 16, to 20, inch vertical impact position for the pendulum impact strength test for passenger cars.

NHTSA concludes that the upper edge distance of the proposed MDB bumper is consistent with the vehicle population it is intended to represent. NHTSA acknowledges that the vertical height of the MDB bumper may be two to three inches greater than that of the bumper on a typical passenger car. However, NHTSA believes that this is necessary to represent the range of bumper-to-side-structure engagement. NHTSA believes that the MDB bumper will engage the sill and reinforcing structure of a struck vehicle in the same manner as the bumper of a typical striking passenger car or light truck, even if the MDB bumper has a slightly greater vertical height (i.e., the width of the bumper is slightly greater) than the bumper of a typical passenger car or light truck. Damage patterns of the sills in vehicles struck by the NHTSA MDB are similar to those observed in actual side impact crashes.

B. Barrier Height and Width

A number of commenters criticized the dimensions of the MDB's honeycomb face. For example, comments addressed its overall width and height above the ground. General Motors (GM) claimed that the barrier height specifications were ambiguous. The commenter stated that the four specified dimensions cannot be achieved simultaneously because of build tolerance in the barrier face and its attachment. The Commission of the European Communities (CEC) disagreed with the shape and dimensions of the barrier face. The International Standards Organization (ISO) preferred the shape and dimensions of the EEVC barrier face as being more representative of the average front-end size of world passenger cars. The EEVC stated that it would be easier to meet the requirements of the revised Standard No. 214 with the proposed MDB than with the EEVC barrier, because the stronger parts of the car (e.g., pillars) would be struck by the proposed MDB's barrier face. They stated that this would be because the EEVC barrier is not as wide and they were concerned that the EEVC barrier would result in a more severe test, especially with a more rearward positioned point of impact compared to that proposed by NHTSA. The Japanese Automobile Standards Internationalization Center (JASIC) stated that the barrier face should represent the average dimensions of cars throughout the world. The U.S. Technical Research Company, representing Peugeot and Citroen, was concerned that the barrier face geometry did not represent the front face of a light truck.

In response to GM's comment, NHTSA added more information concerning specifications. NHTSA notes that several MDB's have been built and tested by manufacturers and testing organizations without apparent difficulties.

NHTSA believes that the MDB should be representative of cars and light trucks in the United States, rather than of world passenger cars. Since the MDB is designed to represent the striking vehicle in a side impact collision in the United States, it is appropriate for it to represent the vehicles likely to be involved in such crashes in the United States.

NHTSA analyzed whether the MDB dimensions are representative of passenger cars and light trucks in the United States. NHTSA compared the width and height of the MDB to the width and height of passenger cars and light trucks. NHTSA used bumper width measurements from NCAP test vehicles from 1979 to 1988 to reexamine the barrier width issue. The data were weighted to represent 1988 vehicle registrations. NHTSA found that passenger cars had a weighted average width of 67.0 inches and a median width of 66.6 inches. Light trucks had a weighted average width of 71.8 inches and a median width of 70.4 inches. For passenger cars and light trucks

combined, the weighted average width was 67.6 inches and the median width was 66.8 inches. This is nearly identical to the NHTSA barrier face width of 66 inches.

NHTSA also compared the height of the MDB to the height of passenger cars and light trucks. NHTSA compared the distance from the top edge of the barrier to the ground, to the distance from the upper hood edge to the ground, in a sample of 36 popular passenger cars and light trucks selected to be representative of 1987 model year passenger cars and light trucks in the United States. In this sample, the upper hood edge averaged 32.2 inches from the ground. The sales weighted average for the upper hood edge height was 33.2 inches. This is nearly identical to the MDB distance of 33 inches.

Based on the above data, NHTSA concludes that the barrier height and width are representative of the average combined passenger car and light truck population. NHTSA further concludes that it is appropriate for the barrier height and width to represent the combined passenger car and light truck population since light trucks are the striking vehicle in a large percentage of side impact collisions.

VI. Barrier Stiffness

The MDB described in the proposal was designed to have the stiffness or crush characteristics of a 1981 Chevrolet Citation striking another vehicle in the side at an angle of 60 degrees. The stiffness or crush characteristics of the MDB are controlled by two aluminum honeycomb blocks. As stated in the preamble to the proposal, these blocks give the MDB an average stiffness of about 10,000 pounds per inch of deflection for a large magnitude of crush at a 90 degree impact angle. NHTSA acknowledged in the proposal that this value is at the upper end of the passenger vehicle scale. However, many light trucks, which represent a significant portion of the striking vehicle population, are in this range of stiffness. In the proposal, NHTSA tentatively concluded that the MDB front face stiffness should be higher than the stiffness of typical passenger car front structures and more like the stiffness of light trucks. This was because light/medium/heavy trucks, as striking vehicles, are responsible for nearly as many serious injuries and fatalities as are passenger cars. NHTSA received many comments concerning barrier stiffness.

A. Overall Barrier Face Stiffness

Many commenters were concerned about the stiffness of the aluminum honeycomb barrier face. Their primary criticism was that the MDB face is too stiff. General Motors commented that a barrier face which is stiffer than the typical car or light truck will result in different interactions with the test vehicles. As an example, GM stated that the deformation of the barrier has been less than five inches in full scale tests conducted by GM. According to GM, this indicates that the purpose of having a deformable barrier is compromised. GM also stated that twice the energy is required to deform the MDB five inches than to deform the GM Astro, the GM Blazer, or the Mazda B–2000 the same amount. According to GM, this is because the MDB is much stiffer than those vehicles during the first five inches of crush. GM also stated that the NHTSA MDB was stiffer than the GM Oldsmobile Delta 88. GM asserted that further work is necessary to make the barrier more representative. Toyota stated that the proposed barrier exceeded the stiffness of full size cars and trucks. Nissan and Porsche also stated that the MDB is too stiff.

Many commenters stated that the stiffness of the barrier should be like that of a passenger car, not that of a light truck. Some commenters stated that the barrier was stiffer than the majority of passenger cars. The Automobile Importers of America (AIA) stated that the barrier should represent the world passenger car fleet. Nissan, the Japanese Automobile Manufacturers Association (JAMA), and Austin-Rover encouraged NHTSA to consider a rigid moving barrier.

GM was the only commenter to submit data generated at its own test facilities concerning barrier stiffness. GM performed 30 mph frontal rigid barrier impact tests and submitted force-deflection curves that it asserted showed that the proposed NHTSA MDB face is stiffer than the front end of the Oldsmobile Delta–88.

In view of these comments, NHTSA reexamined barrier stiffness. In the Final Regulatory Impact Analysis, NHTSA compares the average frontal stiffness (i.e., the average of the stiffness measured over 10 to 12 inches of displacement) and initial frontal stiffness (i.e., stiffness measured during the first five inches of displacement) of the MDB with that of a selected set of passenger cars and light trucks assessed under the agency's New Car Assessment Program (NCAP). NHTSA also examined the front-end stiffness estimates (using NCAP data) at 4, 6, and 8 inches of displacement for a larger set of passenger cars and light trucks provided by CCMC and JAMA in their comments. The frontal stiffness measurements and estimates were based on fixed rigid barrier tests. For the makes and models analyzed, the MDB average stiffness is greater than that of the average passenger car, but less than that of the average light truck. The initial MDB stiffness is greater than that of both the average passenger car and the average light truck.

As explained in the Final Regulatory Impact Analysis, NHTSA also reexamined barrier stiffness using the root-energy method employed in the damage algorithm in the CRASH3 accident reconstruction model. The modeling shows that the stiffness of the proposed MDB is 45 percent greater than the mean passenger car stiffness and 17 percent greater than the mean LTV stiffness. NHTSA discusses this modeling data in further detail in the Final Regulatory Impact Analysis.

NHTSA agrees that the initial stiffness (i.e., average stiffness during the first five inches of displacement) of the MDB is greater than that of a Chevy Astro, a Chevy Blazer, a Mazda B–2000, or an Oldsmobile Delta 88. However, neither the barrier nor striking vehicles have a constant frontal stiffness. In addition, the frontal stiffness does not change in a linear fashion. When average stiffness is derived from the actual force-deflection curve (which is non-linear) over a 10 to 12 inch crush distance, the first three vehicles are as stiff or stiffer than the NHTSA MDB.

While the MDB has greater initial frontal stiffness than the average car or light truck when measured in a fixed rigid barrier test, NHTSA does not believe that the MDB will always produce higher occupant injury responses in crash tests than passenger cars or light trucks with lesser stiffness. NHTSA believes that this will depend upon the relative stiffness of the struck vehicle. The Department of Transportation side impact sensitivity model predicts that the higher stiffness of NHTSA's MDB may produce TTI(d) responses up to 25 percent higher in certain test vehicles. However, as explained in the Final Regulatory Impact Analysis, NHTSA believes that the side impact sensitivity model has limitations and, therefore, should only be used to investigate general trends of dummy responses rather than to make precise predictions of those responses.

Therefore, NHTSA also analyzed experimental and empirical data to study the impact of the stiffness of the MDB. First, photographs and slides from accident investigation reports show that the front-ends of striking vehicles in side impact collisions do not crush or absorb a great deal of energy. Nearly all of the

kinetic energy of the striking vehicle is generally absorbed in the side of the struck vehicle. The NHTSA MDB behaves similarly, yielding very little and absorbing only four to five percent of the crash energy.

Second, Transport Canada conducted a series of side impact crash tests using Chevrolet Cavaliers as the struck vehicle to examine and compare the proposed NHTSA and European side impact test procedures. One test by Transport Canada was car-to-car, where the striker was a 1988 Ford Taurus (weighing 3,003 pounds and crabbed at 26 degrees) and the struck vehicle was a Cavalier. NHTSA plotted the Cavalier's side deformation (plan or top view) caused by NHTSA's proposed MDB and compared it to the deformation caused by the Ford Taurus at five different levels (i.e., low door sill, occupant H-point, mid-door height, window sill, and top of the window opening). NHTSA found that they were very similar. These data demonstrate the comparability of the Taurus front-end and the MDB with respect to aggressiveness and stiffness. (As used here, aggressiveness describes the amount of deformation or damage caused by the striking vehicle in the side of the struck vehicle. Aggressiveness is also associated with stiffness, i.e., something that is stiffer is also more aggressive.) The nearly congruent deformation patterns in the Cavalier show that the MDB and the Taurus absorbed about equal amounts of energy. In addition, the front-end of the Ford Taurus showed very little damage, similar to the MDB face.

In view of this empirical data, NHTSA questions the relevancy of frontal stiffness data derived from fixed rigid barrier tests to the frontal stiffness of a striking vehicle in a side impact crash. Relative to the side of a passenger car, front-ends of a striking vehicle (both passenger cars and LTV's) are very aggressive, deform very little, and absorb very little energy. In short, the front-ends of striking vehicles are much stiffer than the sides of struck vehicles.

NHTSA agrees with Ford that the MDB crushes very little in a full scale side impact crash. However, as discussed above, a striking vehicle in a side impact crash also crushes very little.

GM stated that the NHTSA MDB is stiffer than an Oldsmobile Delta-88 and is not representative of typical passenger car frontal stiffness. NHTSA agrees that the NHTSA MDB is stiffer than the average frontal stiffness of a passenger car, measured using a fixed rigid barrier. However, NHTSA believes that this measure of frontal stiffness is not relevant to frontal stiffness in a side impact, where little front-end crush occurs in a striking vehicle. In addition, NHTSA believes that it is somewhat academic whether the proposed NHTSA MDB is stiffer than the Oldsmobile Delta-88. NHTSA believes that the important issue is the relative stiffness of the NHTSA MDB and the front structures of striking vehicles compared to that of struck vehicle side structures. The NHTSA MDB and the front structures of passenger cars and light trucks are all significantly stiffer than the side structure of a struck vehicle. The NHTSA MDB, while having greater frontal stiffness in a fixed rigid barrier test, behaves very much like the front-end of a striking car or light truck in a side impact crash environment.

Many commenters stated that the MDB should be softer. The commenters generally believed that the softer barrier would produce less severe results in a crash test. Based on analysis of test data, NHTSA does not agree with the commenters. First, as part of its research and development program, NHTSA examined the influence of a softer (25 psi) honeycomb barrier face. NHTSA tested the 25 psi honeycomb along with the 45 psi honeycomb specified for the MDB in side impact tests with Volkswagen Rabbits. The agency concluded from these experimental tests that a significant reduction in barrier stiffness would not significantly change occupant injury probability.

Second, Transport Canada compared the softer and lighter EEVC barrier with the proposed NHTSA barrier in tests using the EuroSID dummy. Transport Canada tested the two barriers with 1988 models of the Chevrolet Cavalier, Pontiac Bonneville, and Hyundai Excel. For these vehicles, the EEVC barrier produced EuroSID responses ranging from 39 to 46 percent higher than those produced by the NHTSA MDB. However, the MVMA also conducted tests with a Ford LTD to compare the NHTSA MDB to the EEVC barrier. These tests demonstrated no difference in responses between the two barriers.

The Transport Canada data, with a higher occupant response with the softer and lighter EEVC barrier face, is contrary to what was predicted by the Department of Transportation's side impact sensitivity model. NHTSA notes that the EEVC barrier tests were run by Transport Canada in the uncrabbed mode. NHTSA is further investigating why the softer and lighter EEVC barrier produced higher occupant responses than the NHTSA MDB in the Transport Canada tests. NHTSA discusses various theories for this in the Final Regulatory Impact Analysis.

NHTSA has also considered comments advocating a rigid moving barrier. NHTSA acknowledges that there would be cost savings with such a barrier, since persons would not have to replace the honeycomb barrier face after each test. However, NHTSA believes that a rigid moving barrier would increase the stringency of the test procedure and result in higher occupant responses as measured by TTI(d). Further, NHTSA believes that a moving rigid barrier would not be representative of actual crash environments. First, the rigid moving barrier would not absorb any energy in a crash and the struck vehicle would, therefore, experience higher side intrusion. Second, in a crash test, the interaction between the occupant and the inner-door might be different because of the greater side intrusion with a rigid moving barrier. In addition, NHTSA believes that a rigid moving barrier would be much stiffer than the MDB. As discussed above, NHTSA received comments complaining about the alleged excessive stiffness of the MDB.

NHTSA concludes that the stiffness of the proposed MDB is appropriate for the final rule. While the MDB is stiffer than the average passenger car or light truck, as measured in a fixed frontal barrier test, NHTSA believes that there are significant differences between the barrier test and the side impact crash environment. Volvo recognized this in its comments where it stated that "all these judgments are based on front characteristics measured against a flat fixed barrier. Thus they have limited validity regarding side impact against a car."

In a side impact crash, the front-end of the striking vehicle absorbs very little energy and crushes very little because of its greater relative stiffness compared to the side of the struck vehicle. The NHTSA MDB behaves similarly. The aggressiveness of the MDB was close to the aggressiveness of the Ford Taurus, a popular mid-size passenger car, in the Transport Canada side impact tests using a Chevrolet Cavalier as the struck vehicle. While the NHTSA MDB has a higher frontal stiffness than the Ford Taurus, when measured in a fixed rigid barrier test, both were equally aggressive and created the same deformation pattern in tests with the Cavalier. In addition, the NHTSA MDB produced lower occupant responses in the Cavalier (with the EuroSID dummy) in the Transport Canada tests than did the Ford Taurus. On the basis of the empirical tests discussed above and the above analysis, NHTSA concludes that the MDB face stiffness is reasonable.

B. Bumper Stiffness

NHTSA received a number of comments concerning the stiffness of the MDB bumper. The EEVC stated that requiring tests with the bumper simulation on the proposed barrier face could lead to the wrong car modifications. Ford suggested softening the bumper on the proposed NHTSA barrier face to make it more car-like. Porsche stated that the barrier is too stiff, especially the bumper.

The MDB bumper is constructed of a 245 psi crush strength aluminum honeycomb designed to simulate the stiffness of the hard points in the front structure of a striking vehicle, i.e., the frame rails and engine, planing laterally across the side of the struck vehicle. Thus, the MDB bumper is highly aggressive and does not undergo a great deal of yielding during a crash. This is similar to the front structure of an automobile or light truck in a side impact collision. NHTSA has found that the localized regions of a vehicle's front structure appear to be the dominant factor in the deformation patterns observed on the sides of struck vehicles in actual crashes. These regions are generally associated with the frame rails and the engine. As shown above, the NHTSA MDB, as a whole, behaves like a typical passenger car or light truck striking vehicle in a side impact crash. The barrier face loads the struck vehicle in much the same way that a typical passenger car or light truck would. For the above reasons, NHTSA believes that the stiffness of the MDB bumper is appropriate and that tests using the MDB bumper will properly assess side impact crash protection.

C. Dynamic vs. Static Barrier Face Properties

NHTSA received a number of comments supporting a dynamic force-deflection specification for the MDB barrier face. The proposed rule provided only static crush characteristics of the aluminum honeycomb (45 plus or minus 2.5 psi and 245 plus or minus 15 psi). Nissan commented that the dynamic performance characteristics of the barrier face need to be specified. According to Nissan, specifying the characteristics rather than a type of material would allow a manufacturer to use cost-effective materials in the barrier face. Toyota stated that a honeycomb face produced in Japan to NHTSA's specified static properties differed in dynamic characteristics. It further stated that the energy absorbing material used for a honeycomb face should be specified by dynamic characteristics. The Japanese Automobile Standards Internationalization Center (JASIC) urged that the energy absorbing performance of the barrier face material be stipulated in terms of its characteristics, rather than the type of material (i.e., they requested that NHTSA establish a dynamic certification test). Ford was concerned that the barrier face specifications do not apply to the initial and highest force levels found in crushing the barrier face (i.e., the static crush specification does not establish initial and highest force levels.

NHTSA does not believe that it is necessary to specify the dynamic crush characteristics, including the initial and the highest force levels, of the honeycomb in this rule. NHTSA already specifies the static properties of the barrier. In addition, dynamic force measurements are not as accurate as static measurements. NHTSA believes that it would be both costly and time consuming to develop dynamic certification tests for the MDB faces. Further, this type of certification would have low practicality and questionable effectiveness, since it would require the destruction of the MDB face being certified.

NHTSA acknowledges that a benefit of specifying dynamic crush characteristics would be to allow manufacturers to use alternative materials (e.g., a foam face) for the honeycomb if they are within the dynamic specifications. However, NHTSA has not identified any material other than the aluminum honeycomb that gives consistent performance.

NHTSA believes that it is most appropriate to specify the static crush characteristics since they can be measured more precisely than the dynamic properties. The side impact test procedure already defines a method for certification of the 45 psi aluminum honeycomb material's static properties so that the crash test results are repeatable. See Aluminum Honeycomb Crush Strength Certification Procedures. Essentially, three samples of aluminum honeycomb material (six inches by six inches by one inch) are cut and crush tested at a rate of 0.20 inches per minute. Measurements of load and deflection are made at three sections between 0.25 inches and 0.65 inches of the one inch sample. The range of acceptability is 42.5 to 47.5 psi. NHTSA has not developed a certification procedure for the 245 psi bumper honeycomb material because the bumper is a flexion member which develops its strength based on the material properties of the front and back aluminum plates that sandwich the honeycomb. NHTSA believes that its design specifications for the bumper and specifications of bumper crush strength are adequate to assure MDB repeatability.

Further, test data indicate that the NHTSA test procedure provides acceptable dynamic repeatability even though the dynamic characteristics of the honeycomb barrier face are not specified. NHTSA conducted load cell barrier tests on three samples of aluminum honeycomb barrier face material. The three resultant test results indicate excellent dynamic repeatability. The dynamic force deflection curves, which show the dynamic repeatability, are provided in the Final Regulatory Impact Analysis. Further, as discussed more fully in the Final Regulatory Impact Analysis, the side-impact test procedure has acceptable repeatability. The variability found in the testing comes from a number of sources (e.g., the test dummy, the test site, the test procedure, and the test vehicle). Since the dynamic variability of the aluminum honeycomb is but a small part of the overall test procedure variability and since the overall variability is acceptable, NHTSA concludes that the dynamic variability of the honeycomb is acceptable. Since the MDB requirements provide repeatable test results, NHTSA does not believe that the additional expenditures of time and money for dynamic certification tests are necessary.

VII. Barrier Face Variability

NHTSA received a number of comments concerning barrier face stiffness variability. GM stated that the variability of the aluminum honeycomb stiffness can be significant. In its comments, Ford attributed test result variability to manufacturing variations in the aluminum honeycomb material. Ford tested undeformed portions of several barrier faces that had been used in crash tests. Although the faces all were certified by the manufacturers as meeting NHTSA's proposed force-deflection specification, Ford stated that the stiffnesses varied widely and many of the barrier faces fell outside the NHTSA specification. Ford also commented that, in a test it conducted, the initial stiffness of the barrier was four times higher than stated in the proposal and that the honeycomb crush distance was very small (i.e., less than two inches). Chrysler stated that, in a test it conducted, the stiffness of the proposed barrier exceeded the 10,000 pounds per inch design target.

NHTSA tested samples of the 45 psi honeycomb material at the NHTSA Vehicle Research and Test Center (VRTC) following the specified procedure. NHTSA found that the different samples of the material performed in a very similar way and were well within the proposed specifications. While the permitted variation is 45 psi plus or minus 2.5 psi (5.55 percent), the variation in the sample was 46.6 psi plus or minus 0.75 percent. This is well within the acceptable range of 42.5 to 47.5 psi specified by NHTSA. Further details concerning these tests and a table of test results are provided in the Final Regulatory Impact Analysis.

Discussions that NHTSA personnel had with Ford personnel indicated that Ford was not cutting the sample of material correctly. Ford's cutting procedure was causing crush damage to the thin honeycomb wall of the samples, which introduced variability. As a result of this, NHTSA has added blade and cutting specifications to the above procedure.

Ford and Chrysler's comments that their measurements of the initial stiffness of the MDB differ from NHTSA's measurements can in part be explained by the difficulty of measuring dynamic force and deflection. It is more difficult to measure crush characteristics (i.e., force and deflection) dynamically than statically. As discussed above, NHTSA has adopted a static crush test methodology, rather than a dynamic certification test, for certification of the honeycomb barrier face material. Further, as discussed in the main side impact notice, NHTSA is satisfied with the overall side impact test procedure variability and believes that the dynamic variability of the honeycomb material has a small effect on overall variability.

NHTSA has also reviewed GM's assertion that honeycomb variability can be significant. NHTSA notes that GM only stated the permissible tolerances specified by NHTSA rather than presenting test data. NHTSA believes that the range of tolerance must be allowed in the specifications if the honeycomb is to be manufactured at a reasonable cost. Further, with the current tolerance specifications, the barrier produces consistent test results. In the test discussed previously, NHTSA selected three samples of aluminum honeycomb barrier face material and conducted load cell barrier tests at 14.7 miles per hour (mph), with a crabbed impact angle of 19 degrees. NHTSA recognizes that these conditions were not identical to those in the side impact test procedure. However, the three test results indicate acceptable dynamic repeatability. The dynamic force deflection curves, which show the dynamic variability, are provided in the Final Regulatory Impact Analysis. NHTSA does not believe that the permissible tolerances will cause noticeable differences in test results.

VIII. Inertial and Dynamic Properties

NHTSA received one comment concerning the inertial and dynamic properties of the MDB described in the proposal. GM stated that the center of gravity and the front-to-rear mass ratio of the barrier were not specified in the NPRM. GM stated that these inertial properties of the barrier are needed because they affect how the barrier rotates and, therefore, how the struck vehicle is crushed. NHTSA has included information concerning the center of gravity coordinates and the inertial properties of the MDB in the regulatory text. Information concerning the barrier's inertial properties may also be found in Unit II of this preamble and in the Final Regulatory Impact Analysis.

While the MDB's center of gravity coordinates and inertial properties were not specified in the NPRM, that information is listed in a document added to the public docket during the comment period in July, 1988 (Docket item 88–06–NOI–013). All information relating to inertial properties is either provided in the public docket submission or can be calculated from the data provided in the document. The weight, wheelbase, location of the center of gravity, pitch, roll, and yaw moments of inertia are specified in the document. The front-to-rear mass ratio can be calculated from the data concerning center of gravity and weight provided in the public docket submission.

It is important to note that GM did not claim that the inertial properties of the NHTSA MDB were not representative, only that they were not specified in the NPRM. However, NHTSA compared the inertial properties of the barrier (with and without camera equipment) to an aggregate sample of 50 passenger cars and 82 light trucks. The sample, while dominated by later model years, represents a cross section of vehicles manufactured and sold during the 1980's. As shown in the Final Regulatory Impact Analysis, the inertial properties of the NHTSA MDB are all reasonably close to the average inertial properties of the combined sample of 132 passenger cars and light trucks.

IX. Alternative Side Impact Barriers

The proposed rule and the Preliminary Regulatory Impact Analysis discussed barriers developed by the Committee of Common Market Automobile Constructors (CCMC) and the European Experimental Vehicles Committee (EEVC). NHTSA stated in the proposed rule that it was concerned about using either of those barriers because they did not appear to be representative of the striking vehicles in side impact crashes in the United States. The NHTSA MDB is about 50 percent heavier and has a larger barrier face than the European ones. The European barriers appear to be more representative of the lighter and smaller European and Japanese passenger cars. In addition, the NHTSA barrier is made of different material and has a stiffer face than those proposed in Europe.

The NHTSA test procedure, using the NHTSA MDB, delivers about 113,000 foot-pounds of energy, compared with the European procedure, which delivers only 62,960 foot-pounds of energy. NHTSA estimates that only about four to five percent of this crash energy is absorbed by the NHTSA MDB, whereas the EEVC barrier face appears to disintegrate, making estimates of crash energy absorption impossible. The NHTSA, CCMC, and EEVC barriers all must be replaced after each test. A more detailed comparison of the NHTSA MDB with the CCMC and EEVC barriers is contained in the Final Regulatory Impact Analysis.

NHTSA received comments advocating the use of one of the European barriers. The Commission of the European Communities favored the barrier face and barrier front stiffness of the EEVC barrier. Volvo stated that the CCMC barrier, with minor modifications, would have the best characteristics to simulate a car-to-car impact. MVMA stated that the EEVC barrier face should be adopted because it is more representative of the average front-end stiffness characteristics and size of world passenger cars. Austin Rover also stated that the EEVC barrier is more representative of actual world cars. USTRC stated that the different results obtained for the CCMC barrier compared to the NHTSA barrier show that the NHTSA MDB is not representative. The EEVC was concerned that the NHTSA barrier face, made of aluminum, will cost four times as much as the European barrier face, which is made of polyurethane. These comments were generally addressed in prior units of this preamble, but will be addressed further below.

NHTSA has reviewed the results of side impacts tests using both the EEVC barrier and the NHTSA barrier. The 2,095 pound EEVC barrier was tested by Transport Canada using the EEVC urethane foam barrier face and the European test procedure of a 90-degree impact angle and the EuroSID dummy. The NHTSA barrier was also tested using the EuroSID dummy. When both barriers were tested with a Chevrolet Cavalier as the struck vehicle, TTI(d) values were 46 percent higher for the EEVC barrier than for the NHTSA barrier. When both barriers were tested with a Hyundai Excel and a Pontiac Bonneville as struck vehicles, and the EuroSID dummy, the Transport Canada tests found TTI(d) values to be 39 percent higher in each case for the EEVC barrier compared to the NHTSA MDB.

These results are not consistent with more recent tests by MVMA. In these tests, MVMA compares the EEVC barrier and procedure to the NHTSA barrier and procedure using the EuroSID dummy and a Ford LTD as the struck vehicle. NHTSA discusses these tests in more detail in the Final Regulatory Impact Analysis.

The results of the Transport Canada tests, where the higher occupant response (as measured with TTI(d) and pelvic g's) was with the softer and lighter EEVC barrier face, are contrary to what was predicted by the Department of Transportation's side impact sensitivity model. NHTSA is further investigating why the softer and lighter EEVC barrier produced higher occupant responses than the NHTSA MDB in the Transport Canada tests. NHTSA discusses various theories for this in the Final Regulatory Impact Analysis.

NHTSA also studied the variability of the European side impact test procedure, with the EEVC barrier face and the EuroSID dummy, using data generated by MVMA. NHTSA compared the results to the results of the tests MVMA conducted using NHTSA's test procedure (including the SID dummy). The variability comparisons between the test procedures are shown in the table below.

TABLE II.—TEST PROCEDURE VARIABILITY RANGE COMPARISON

[In percent]

	U.S./NHTSA (CV) [1]	European/ EEVC (CV) [2]
1. Baseline, No Padding	±2.94 to 7.55	±0.8 to 7.1
2. Baseline, w/ Padding	±2.82 to 7.07	±3.9 to 10.8
3. Modif. Struct., No Padding	±0.58 to 9.39	±1.3 to 11.2
4. Modif. Struct., w/ Padding	±0.81 to 5.00	±0.1 to 7.4

[1] MVMA n=16
[2] MVMA n=8

Based on these results, NHTSA concludes that the variability of the European side impact test procedure based on a 90 degree impact angle, EuroSID, and the EEVC barrier is slightly greater than NHTSA's crabbed side impact test procedure using the NHTSA MDB and the SID. Some of the difference in variability of the procedures may be attributed to the differences between the EuroSID and the SID dummies as well as differences in variability of the deformable barrier faces.

Concerning the comment about the cost of the NHTSA barrier face, NHTSA acknowledges that assembled barrier faces are currently available only from Hexcel Corporation at a cost of about $1,700 each, if purchased in quantity. NHTSA also acknowledges that the barrier faces must be replaced after each test. However, NHTSA has not identified any other barrier face material that gives consistent performance in crash tests.

As discussed in earlier units of this preamble, NHTSA believes that the NHTSA MDB is sufficiently representative (in terms of weight, dimensions, inertia, and stiffness) of passenger cars and light trucks that are likely to be the striking vehicle in side impact collisions in the United States. NHTSA also believes that it is appropriate that the MDB be representative of such vehicles rather than representative of vehicles used in other nations. NHTSA further believes that the European barriers, because of their light weight, are not representative of vehicles in the United States. In addition, NHTSA would be reluctant to adopt the EEVC barrier as a compliance testing device because of its inconsistent behavior in the Transport Canada tests.

X. Conclusions Concerning the NHTSA MDB

Based on the above discussion, NHTSA concludes that the NHTSA MDB is representative of the average passenger car and LTV population in the United States. NHTSA also concludes that it is appropriate for the NHTSA MDB to be representative of both the passenger car and LTV population in the United States. As discussed above and in the Final Regulatory Impact Analysis. LTV sales have increased dramatically in the last ten years and LTV registrations are increasing as a percentage of total light vehicle registrations. LTV's, as the striking vehicle, accounted for over 35 percent of side impact collision fatalities and for over 30 percent of the side impact collision injuries classified as AIS 3 or greater in 1988. Further, NHTSA has shown above that the MDB weight and stiffness do not make the test procedure more stringent than appropriate to simulate the impact of a striking passenger car or LTV. In addition, NHTSA has shown that the dimensions of the MDB correspond to average specifications for the combined passenger car and LTV fleet. Finally, NHTSA concludes that the NHTSA barrier is superior to the CCMC and EEVC barriers for purposes of this rule. The NHTSA MDB is more representative of the striking vehicles in side impact collisions in the United States.

XI. Regulatory Impacts

A. Executive Order 12291

As indicated earlier in this preamble, this rule supplements a separate final rule establishing new dynamic test procedures and performance requirements for side impact under Standard No. 214. This rule concerning the MDB is part of that rulemaking. As such, it is considered a major rule within the meaning of Executive Order 12291. It also is considered to be significant within the meaning of the Department of Transportation's regulatory policies and procedures. NHTSA has prepared a Final Regulatory Impact Analysis, which describes the economic and other effects of the entire rulemaking. The analysis is available in the docket for the side impact rulemaking. NHTSA estimates that the MDB specified by this rule will cost about $26,200. The barrier frame itself will last indefinitely. The expendable aluminum honeycomb face and bumper, which must be replaced after each test, costs about $1,700 per unit, if purchased in quantities of 60 or more. NHTSA expects that about 20 manufacturers will purchase MDB's, at a total cost of about $558,000.

B. Regulatory Flexibility Act

NHTSA has also considered the impacts of this rulemaking under the

Regulatory Flexibility Act. I hereby certify that it will not have a significant economic impact on a substantial number of small entities. Therefore, NHTSA has not prepared a regulatory flexibility analysis.

First, few, if any, passenger car manufacturers are considered small entities. Second, small organizations or governmental units will not likely be significantly affected. Any price increases associated with this final rule will be modest and should not affect the purchasing of new cars by these entities. Accordingly, no regulatory flexibility analysis has been prepared. The impact of the rest of the side impact rulemaking is discussed in other notices.

C. Environmental Impacts

In accordance with the National Environmental Policy Act of 1969, NHTSA has considered the environmental impacts of this final rule. The agency has determined that the final rule will not have a significant impact on the quality of the human environment. NHTSA does not believe that production of the MDB involves processes that are particularly harmful to the environment. In addition, the agency believes that the aluminum parts of the barrier can be recycled.

D. Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. NHTSA has determined that the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 49 CFR Part 587

Incorporation by reference, Motor vehicle safety.

In consideration of the foregoing, chapter V, title 49, Transportation, the Code of Federal Regulations is amended by adding a new Part 587 to read as follows:

PART 587–SIDE IMPACT MOVING DEFORMABLE BARRIER

Sec.

587.1 Scope.
587.2 Purpose.
587.3 Applicability.
587.4 Definitions.
587.5 Incorporated materials.
587.6 General description.

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 587.1 Scope.

This part describes the moving deformable barrier that is to be used for testing compliance of motor vehicles with motor vehicle safety standards.

§ 587.2 Purpose.

The design and performance criteria specified in this part are intended to describe measuring tools with sufficient precision to give repetitive and correlative results under similar test conditions and to reflect adequately the protective performance of a motor vehicle or item of motor vehicle equipment with respect to human occupants

§ 587.3 Applicability.

This part does not in itself impose duties or liabilities on any person. It is a description of tools that measure the performance of occupant protections systems required by the safety standards that incorporate it. It is designed to be referenced by, and become a part of, the test procedures specified in motor vehicle safety standards, such as Standard No. 214, *Side Impact Protection.*

§ 587.4 Definitions.

All terms defined in section 102 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1391) are used in their statutory meaning.

§ 587.5 Incorporated materials.

(a) The drawings and specifications referred to in this regulation that are not set forth in full are hereby incorporated in this part by reference. These materials are thereby made part of this regulation. The Director of the Federal Register has approved the materials incorporated by reference. For materials subject to change, only the specific version approved by the Director of the Federal Register and specified in the regulation are incorporated. A notice of any change will be published in the Federal Register. As a convenience to the reader, the materials incorporated by reference are listed in the Finding Aid Table found at the end of this volume of the Code of Federal Regulations.

(b) The drawings and specifications incorporated in this part by reference are available for examination in the general reference section of Docket 79–04, Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. Copies may be obtained from Rowley-Scher Reprographics, Inc., 1111 14th Street, NW., Washington, DC 20005, telephone (202) 628–6667 or (202) 408–8789. The drawings and specifications are also on file in the reference library of the Office of the Federal Register, National Archives and Records Administration, Washington, D.C.

§ 587.6 General description.

(a) The moving deformable barrier consists of component parts and component assemblies which are described in drawings and specifications that are set forth in this § 587.6 of this chapter (incorporated by reference; see § 587.5).

(b) The moving deformable barrier specifications are provided in the drawings shown in DSL–1278 through DSL–1287, except DSL–1282 (DSL–1278 through DSL–1287, except for DSL–1282, are incorporated by reference; see § 587.5)

(1) The specifications for the final assembly of the moving deformable barrier are provided in the drawings shown in DSL–1281, dated August 20, 1980.

(2) The specifications for the frame assembly of the moving deformable barrier are provided in the drawings shown in DSL–1281, dated August 20, 1980.

(3) The specifications for the face of the moving deformable barrier are provided in the drawings shown in DSL–1285 and DSL 1286, both dated August 20, 1980.

(4) The specifications for the ballast installation and details concerning the ballast plate are provided in drawings shown in DSL–1279 and DSL–1280, both dated August 20, 1980.

(5) The specifications for the hub assembly and details concerning the brake are provided in drawings shown in DSL–1283, dated August 20, 1980.

(6) The specifications for the rear guide assembly are provided in drawings shown in DSL–1284, dated August 20, 1980.

(7) The specifications for the research axle assembly are provided in drawings shown in DSL–1287, dated November 20, 1980.

(c) In configuration 2 (with two cameras and camera mounts, a light trap vane, and ballast reduced), the moving deformable barrier, including the impact surface, supporting structure, and carriage, weighs 3,015 pounds, has a track width of 63 inches, and a wheelbase of 102 inches.

(d) In configuration 2, the moving deformable barrier has the following center of gravity:

X = 44.2 inches rear of front axle
Y = 0.3 inches left of longitudinal center line

Z = 19.7 inches from ground.

(c) The moving deformable barrier has the following moment of inertia:

Pitch = 1669 ft-lb-sec ^{2}
Roll = 375 ft-lb-sec ^{2}
Yaw = 1897 ft-lb-sec ^{2}

Issued on October 24, 1990.

Jerry Ralph Curry,

Administrator.

[FR Doc. 90-25382 Filed 10-24-90; 11:15 am]

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Part III

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 201

Warning Statements Required for Over-the-Counter Drugs Containing Water-Soluble Gums as Active Ingredients; Proposed Rule

VOL 55 ISS 210 OC 30 1990 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 201

[Docket No. 90N-0320]

RIN 0905-AA26

Warning Statements Required for Over-the-Counter Drugs Containing Water-Soluble Gums as Active Ingredients

AGENCY: Food and Drug Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing a notice of proposed rulemaking requiring a warning in the labeling of all over-the-counter (OTC) drug products containing as active ingredients water-soluble gums, e.g., guar gum, karaya gum, plantago seed (psyllium), tragacanth, and xanthan gum. This warning would alert users of these products to consume adequate fluid and to avoid using such products if the person has previously experienced any difficulty in swallowing. FDA is issuing this notice of proposed rulemaking after receiving reports of esophageal obstruction and asphyxiation involving OTC drug products containing water-soluble gums as active ingredients. Water-soluble gums are used primarily in OTC laxative and weight control drug products. These ingredients are under review in the ongoing rulemakings for OTC laxative and weight control drug products as part of FDA's OTC drug review. FDA has determined that implementation of a warning for these ingredients should not await completion of the OTC drug review process. Therefore, a warning is being proposed now to support the safe use of OTC drug products containing water-soluble gums. The proposed warning will be incorporated into the pertinent OTC drug monographs as the rulemakings for these drug products are completed.

DATES: Written comments, objections, or requests for oral hearing on the proposed rulemaking before the Commissioner of Food and Drugs by December 31, 1990. Written comments on the agency's economic impact determination by December 31, 1990.

ADDRESSES: Written comments, objections, new data, or requests for oral hearing to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD–210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8000.

SUPPLEMENTARY INFORMATION: FDA is proposing to amend 21 CFR part 201, Subpart G, *Specific Labeling Requirements for Specific Drug Products*, to include a warning for all OTC drug products containing water-soluble gums as active ingredients. The warning would state: (Select one of the following, as appropriate: "Take" or "Mix") "this product with at least 8 ounces (a full glass) of water or other fluid. Taking this product without adequate fluid may cause it to swell and block your throat or esophagus and may cause choking. Do not take this product if you have ever had difficulty in swallowing or have any throat problems. If you experience chest pain, vomiting, or difficulty in swallowing or breathing after taking this product, seek immediate medical attention." The agency considers this warning necessary because water-soluble gums used as active ingredients in certain orally-administered OTC drug products have been associated with esophageal obstruction and asphyxiation.

Water-soluble gums are primarily used in OTC bulk laxative and weight control drug products. The ingredients involved are natural or semisynthetic hydrocolloid gums including, but not limited to, agar, alginic acid, carboxymethylcellulose sodium, carrageenin, glucomannan,[1] guar gum, karaya gum, kelp,[2] methylcellulose, plantago seed (psyllium),[3] polycarbophil, tragacanth, and xanthan gum. The ingredients polycarbophil and polycarbophil calcium are also used in OTC antidiarrheal drug products.

Because of the hydrophilic nature of water-soluble gums, when water is added to the gum it swells and increases in bulk. If inadequate water is added, a viscous, semi-solid mass forms. The rate and degree of swelling, as well as the viscosity and adhesiveness of the mass, vary from product to product depending on the amount of gum present. When orally-administered OTC drug products containing a high level of one of these gums are used by individuals who have difficulty in swallowing, or when such products are taken with an inadequate amount of water or other fluid, there is a risk that the product will swell and form a viscous adhesive mass that can block the throat or esophagus. The type and degree of adverse effects are influenced by the amount of fluid taken with the product.

Esophageal obstruction and asphyxiation associated with the ingestion of water-soluble gums have been reported in the literature since the 1930's, although such reports were relatively rare. However, in recent years FDA has become aware of an increased number of reports. FDA is aware of at least 113 cases of esophageal obstruction and 4 cases of asphyxia associated with orally-administered OTC laxative and weight control products containing these ingredients. Death occurred in six of these cases.

I. Background

As part of FDA's OTC drug review, water-soluble gums were reviewed as OTC bulk laxatives by the Advisory Review Panel on OTC Laxative, Antidiarrheal, Emetic and Antiemetic Drug Products (Laxative Panel) and as OTC weight control drug products by the Advisory Review Panel on OTC Miscellaneous Internal Drug Products (Miscellaneous Internal Panel).

The Laxative Panel, in its report published in the Federal Register of March 21, 1975 (40 FR 12902), classified five water-soluble gums in Category I (safe and effective)—carboxymethylcellulose sodium, karaya gum, methylcellulose, polycarbophil, and psyllium. Three additional water-soluble gums were classified in Category III (insufficient effectiveness data)—agar, carrageenan, and guar gum. In its discussion of these bulk laxative ingredients, the Laxative Panel acknowledged the risk of esophageal obstruction from water-soluble gums (40 FR 12902 at 12907) and specifically noted with respect to psyllium:

> Esophageal, gastric, small intestinal and rectal obstruction due to accumulation of mucilaginous derivatives of psyllium preparations have been described on several occasions. The common denominator in most cases has been insufficient water intake or underlying organic disease which resulted in compromise of the intestinal lumen. (40 FR 12908).

The Laxative Panel recommended that labeling for bulk laxative ingredients stress the importance of adequate fluid

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[1] Glucomannan is the commonly used name for the glucose/mannose polymer (B-1,4 linked) polymannose acetate.

[2] The panel that evaluated this ingredient as part of FDA's OTC drug review designated it "sea kelp." However, "kelp" is the official name for this ingredient in the "USAN and the USP dictionary of drug names, 1990."

[3] The panel that evaluated the ingredients "plantago ovata husks, plantago seeds, psyllium hemicellulose, psyllium hydrophilic mucilloid, psyllium seed, and psyllium seed husks" as part of FDA's OTC drug review designated these ingredients as "psyllium." However, "plantago seed" is the official name for these ingredients in the "USAN and the USP dictionary of drug names, 1990."

intake, i.e., 8 ounces (oz) of liquid, with each dose.

After reviewing the recommendations of the Laxative Panel and considering public comments received following publication of its report, FDA published a tentative final monograph on OTC laxative drug products in the Federal Register of January 15, 1985 (50 FR 2124). The risk of esophageal obstruction from certain bulk laxative ingredients, including water-soluble gums, and the need for adequate fluid intake (8 oz) with each dose of these ingredients was again discussed in comments 36 and 37 of the tentative final monograph (50 FR 2124 at 2131 and 2132).

In an amendment to the tentative final monograph on OTC laxative drug products, published in the Federal Register of October 1, 1986 (51 FR 35136), FDA proposed that bulk laxative ingredients be administered in divided doses rather than a single daily dose. This action was taken because it was noted that: "* * * the maximum daily dose of some bulk laxatives is so large that it may pose a risk of esophageal obstruction if taken at one time," (51 FR 35136). In response to these proposals, a major manufacturer of psyllium-containing bulk laxatives commented in support of the FDA's recommendation regarding adequate fluid intake (8 oz) with each dose of a bulk laxative. This manufacturer recommended that all bulk laxatives bear the following warning (Ref. 1):

> Bulk forming agents have the potential to block the esophagus, particularly in the presence of esophageal narrowing or when consumed with insufficient fluid. Patients with esophageal narrowing should not use this product. If you observe symptoms of esophageal blockage, including chest pain/pressure, regurgitation and difficulty swallowing, seek immediate medical attention.

The Miscellaneous Internal Panel, in its report on OTC weight control drug products published in the Federal Register of February 26, 1982 (47 FR 8466), classified the water-soluble gums alginic acid, carboxymethylcellulose sodium, carrageenin, chondrus,[4] guar gum, karaya gum, methylcellulose, psyllium, sea kelp, and xanthan gum in Category III. The Miscellaneous Internal Panel noted, with respect to carboxymethylcellulose sodium and methylcellulose, that occasional cases of esophageal obstruction have occurred when these ingredients are chewed or swallowed without liquid (47 FR 8466 at 8477 and 8478). While concluding that the water-soluble gums listed above are safe, the Miscellaneous Internal Panel recommended that directions for these products state: "Take a full glass of water (8 ounces) with each dose," (47 FR 8477 to 8479).

[4] Chondrus was classified in Category III as a separate ingredient by the Miscellaneous Internal Panel; however, chondrus is but one of several sources of carrageenin.

II. Adverse Reactions Associated With Water-Soluble Gums

During 1984 and 1985, 7 cases of esophageal obstruction caused by the swelling of tablets containing glucomannan were reported to the Australian Adverse Drug Reactions Advisory Committee (Ref. 2). All of the subjects were women between the ages of 18 and 62 years who were taking glucomannan-containing products for weight control. None had esophageal disease. Obstruction was complete in 5 of the 7 cases. In all but one case the obstruction was caused by a swollen mass resulting from a single tablet. Esophagoscopy was needed to remove the obstruction in 5 cases. One subject suffered esophageal perforation requiring hospitalization for 2 months (Ref. 2).

FDA's spontaneous reporting system has recently received 17 reports of esophageal obstruction (16 between June 1988 and August 1989) resulting from the use of one of these drug products (Ref. 3). The product contained 500 milligrams (mg) guar gum per tablet, with directions to start with 4 tablets 30 minutes before each meal on the first day and to increase up to 10 tablets 30 minutes before each meal on the 15th day and thereafter. This dosage regimen eventually results in a maximum dose of 15 grams (g) of guar gum per day. Ten of the cases of esophageal obstruction required hospitalization, and one person eventually died as an indirect result of the obstruction. This person developed massive pulmonary emboli one week after open chest surgery to repair an esophageal tear sustained during removal of the guar gum obstruction.

This potential for esophageal obstruction represents a serious hazard for an OTC drug, and the 17 cases are presumed to represent a substantial underreporting. OTC drugs of this type, i.e., those without approved applications, are not subject to mandatory reporting requirements, and reports such as the above 17, which were voluntarily submitted by health professionals, normally account for only about 10 percent of all reports in the agency's spontaneous reporting system.

There has also been a report in the literature of an esophageal obstruction resulting from another guar gum product, this one composed of guar gum and grapefruit fiber (Ref. 4). In that case, a middle-aged man was unable to eat or drink for 12 hours after taking one weight control tablet composed of an unspecified amount of guar gum and grapefruit fiber. Endoscopy revealed a soft, fibrous mass impacted in the esophagus; it was broken apart by the endoscope. The agency is also aware of a report in which a 63-year-old diabetic suffered an esophageal obstruction after taking an OTC product containing guar gum. The obstruction required removal with biopsy tongs (Ref. 5). In another report, a 59-year-old male suffered esophageal obstruction after taking a product containing guar gum (Ref. 6). Esophagoscopy was required to remove the obstruction.

Between 1975 and 1988, FDA received 61 adverse reaction reports of esophageal obstruction from OTC laxative drug products containing a high concentration of psyllium (Ref. 7). These cases involved subjects ranging in age from 8½ months to 85 years. In at least 4 of the 61 cases, inadequate amounts of fluid were administered with the products. In 13 of the cases, there was evidence of esophageal narrowing or swallowing dysfunction. Death due to asphyxia occurred in 4 cases.

The agency is also aware of reports in which 3 individuals between 56 and 75 years of age suffered esophageal obstruction after taking a psyllium-containing laxative with "a few sips" or "a single swallow" of water. In two of these cases, esophagoscopy was required to remove the obstruction (Refs. 8, 9, and 10).

Noble and Grannis (Ref. 11) report the case of an 81-year-old male, with a history of swallowing dysfunction, who suffered an esophageal obstruction after taking a psyllium-containing laxative with an inadequate amount of water. He required esophagoscopy to remove the mass. The authors mention 21 episodes of esophageal obstruction due to this particular laxative product within a 3-year period.

The agency is aware of two reports of esophageal obstruction from OTC drug products containing karaya gum. In one case, a 76-year-old woman experienced an obstruction that had to be removed by a Foley catheter (Ref. 12). In the second case, an 80-year-old woman died from an esophageal obstruction after taking an OTC laxative drug product with an inadequate amount of water (Ref. 13).

The agency is also aware of one case of esophageal obstruction resulting from a methylcellulose-containing laxative. A 42-year-old woman suffered an obstruction after taking a methylcellulose-containing laxative with

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only a small sip of juice. The resulting obstruction had to be pushed downward into the stomach with a gastroscope (Ref. 14).

Although there is little, if any, current use in this country of OTC drug products containing tragacanth as an active ingredient, the agency is aware of two reports of esophageal obstruction that occurred a number of years ago from an OTC laxative drug product containing this ingredient (Refs. 15 and 16). A 59-year-old woman (Ref. 15) and a 47-year-old man (Ref. 16) suffered an obstruction following ingestion of the same product with a small amount of water. In both cases, esophagoscopy was necessary to remove the obstruction.

References

(1) Comment No. C00100, Docket No. 76N–036L, Dockets Management Branch.

(2) Henry, D.A., et al., "Glucomannan and Risk of Oesophageal Obstruction," *British Medical Journal*, 292: 391–392, 1986.

(3) Adverse Drug Reaction Reports, Reference No. 3 in OTC Volume AF, Docket No. 90N–0200, Dockets Management Branch.

(4) Gebhard, R.L., and J. Albrecht, "The Diet Pill that Worked," *The New England Journal of Medicine*, 322:702, 1990.

(5) Ranft, K., and W. Imhof, "Bolusobstruktion des Distalen Osophagus Durch Pflanzliche Quellstoffe (Guarmehl)," *Deutsche Medizinische Wochenschrift*, 108: 1966–1969, 1983.

(6) Sorensen, A.J., and O.R. Rasmussen, "Synkestop Efter Indtagelse af Fiberholding Helsekostprodukt Lej-Guar," *Ugeskrift For Laeger*, 145:171–172, 1983.

(7) Adverse Drug Reaction Reports, Reference No. 7 in OTC Volume AF, Docket No. 90N–0200, Dockets Management Branch.

(8) Hinkel, C.L., "Complete Obstruction of the Esophagus Following Serutan Ingestion," *Journal of the American Medical Association*, 146:1129–1131, 1951.

(9) Roden, V., "Esophageal Obstruction Due to Serutan," *Journal of the American Medical Association*, 147:777, 1951.

(10) Melamed, A., and A. Marck, "Esophageal Obstruction Due to Serutan," *Journal of the American Medical Association*, 152:318, 1953.

(11) Noble, J.A., and F.W. Grannis, "Acute Esophageal Obstruction by a Psyllium-based Bulk Laxative," *Chest*, 86:800, 1984.

(12) Voinchet, O., and A. Mouchet, "Obstruction de l'Oesophage Par Mucilage," *La Nouvelle Presse Medicale*, 3:1223–1225, 1974.

(13) Sandeman, D.R., et al., "Oesophageal Obstruction Due to Hygroscopic Gum Laxative," *Lancet*, 1:364–365, 1980.

(14) Roesch, W., and R. Ottenjann, "Impacted Methylcellulose—Foreign Body Simulating Esophageal Carcinoma," *Endoscopy*, 3:189–191, 1970.

(15) Waltz, M.R., "Esophageal Obstruction Resulting From an Injudicious Method of Ingesting a Hygroscopic Gum Laxative (SARAKA)," *Journal of the American Medical Association*, 112:229, 1939.

(16) Goldman, J.L., "Esophageal Obstruction From a Hygroscopic Gum Laxative (SARAKA)," *Journal of the American Medical Association*, 108:1408–1409, 1937.

III. The Agency's Conclusions on the Safety of Water-Soluble Gums in Orally-Administered OTC Drug Products

The Safety and proper labeling of water-soluble gums in orally-administered OTC drug products is being considered as part of FDA's ongoing review of all OTC drugs, specifically in the OTC laxative and weight control drug products rulemakings. Howevers, these rulemakings are still pending.

Esophageal obstruction and asphyxiation due to orally-administered OTC drug products containing water-soluble gums, hydrophilic gums, and hydrophilic mucilloids as active ingredients are significant health risks when these products are taken without adequate fluid or when they are used by individuals with esophageal narrowing or dysfunction, or with difficulty in swallowing. Therefore, prior to completion of the OTC drug review, the agency is proposing to require a warning for all OTC drug products containing water-soluble gums, hydrophilic gums, or hydrophilic mucilloids as active ingredients. These ingredients include, but are not limited to, agar, alginic acid, carboxymethylcellulose sodium, carrageenan, chondrus, glucomannan, guar gum, karaya gum, kelp, methylcellulose, plantago seed (psyllium), polycarbophil, tragacanth, and xanthan gum. (NOTE: Although some of these ingredient names are no longer official, they do appear in the labeling of some products. Therefore, the agency is including all ingredient names, whether official or not, in the proposed regulation.)

Because of the potential serious health risk involved the agency is proposing that this warning appear in bold print and capital letters. The required warning would state the following:

WARNING: (Select one of the following, as appropriate: TAKE or MIX) THIS PRODUCT WITH AT LEAST 8 OUNCES (A FULL GLASS) OF WATER OR OTHER FLUID. TAKING THIS PRODUCT WITHOUT ADEQUATE FLUID MAY CAUSE IT TO SWELL AND BLOCK YOUR THROAT OR ESOPHAGUS AND MAY CAUSE CHOKING. DO NOT TAKE THIS PRODUCT IF YOU HAVE EVER HAD DIFFICULTY IN SWALLOWING OR HAVE ANY THROAT PROBLEMS.

IF YOU EXPERIENCE CHEST PAIN, VOMITING, OR DIFFICULTY IN SWALLOWING OR BREATHING AFTER TAKING THIS PRODUCT, SEEK IMMEDIATE MEDICAL ATTENTION.

This warning in § 201.319, which would be required on the effective date of a final rule, would eventually be incorporated into the labeling contained in the individual applicable OTC drug monographs (e.g., laxative drug products and weight control drug products) as they are finalized. However, it would be an unacceptable health risk to delay implementation until these rulemakings are completed. Manufacturers are encouraged to comply voluntarily with this proposed rule at the earliest possible date.

The agency has examined the regulatory impact and regulatory flexibility implications of the proposed rule in accordance with Executive Order 12291 and the Regulatory Flexibility Act. The proposal would impose direct one-time costs associated with changing product labels, but that cost is estimated to total less than $1 million.

Because the agency has not previously invited specific comment on the economic impact of a requirement of interim labeling of OTC drug products containing water-soluble gums as active ingredients, a period of 60 days from the date of publication of this proposed rulemaking in the Federal Register will be provided for comments on this subject to be developed and submitted. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Interested persons may, on or before December 31, 1990, submit to the Dockets Management Branch (address above) written comments, objections, or requests for oral hearing before the Commissioner on the proposed regulation. A request for an oral hearing must specify points to be covered and time requested. Written comments on the agency's economic impact determination may be submitted on or before December 31, 1990. Three copies of all comments, objections, and requests are to be submitted, except that individuals may submit one copy. Comments, objections, and requests are to be identified with the docket number found in brackets in the heading of this

document, and may be accompanied by a supporting memorandum or brief. Comments, objections, and requests may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. Any scheduled oral hearing will be announced in the Federal Register.

List of Subjects in 21 CFR Part 201

Drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act, it is proposed that subchapter C of chapter I of title 21 of the Code of Federal Regulations be amended in part 201 as follows:

PART 201—LABELING

1. The authority citation for 21 CFR part 201 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 506, 506, 507, 508, 510, 512, 701, 704, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 358, 360, 360b, 371, 374, 376); secs. 215, 301, 351, 354–360F, 361 of the Public Health Service Act (42 U.S.C. 216, 241, 262, 263b–263n, 264).

2. Section 201.319 is added to read as follows:

§ 201.319 Water-soluble gums, hydrophilic gums, and hydrophilic mucilloids (including but not limited to agar, alginic acid, carboxymethylcellulose sodium, carrageenan, chondrus, glucomannan ((B–1,4 linked) polymannose acetate), guar gum, karaya gum, kelp, methylcellulose, plantago seed (psyllium), polycarbophil, tragacanth, and xanthan gum); required warning.

(a) Reports in the medical literature and data accumulated by the Food and Drug Administration indicate that esophageal obstruction and asphyxiation have been associated with the ingestion of water-soluble gums, hydrophilic gums, and hyrophilic mucilloids including but not limited to agar, alginic acid, carboxymethylcellulose sodium, carrageenan, chondrus, glucomannan ((B–1,4 linked) polymannose acetate), guar gum, karaya gum, kelp, methylcellulose, plantago seed (psyllium), polycarbophil, tragacanth, and xanthan gum. Esophageal obstruction and asphyxiation due to orally-administered drug products containing water-soluble gums, hydrophilic gums, and hydrophilic mucilloids as active ingredients are significant health risks when these products are taken without adequate fluid or when they are used by individuals with esophageal narrowing or dysfunction, or with difficulty in swallowing.

(b) Any drug products containing water-soluble gums, hydrophilic gums, and hydrophilic mucilloids for human use in oral dosage forms are misbranded within the meaning of section 502 of the Federal Food, Drug, and Cosmetic Act unless their labeling bears the following warning in bold print and capital letters:

Warning: (Select one of the following, as appropriate: TAKE or MIX) THIS PRODUCT WITH AT LEAST 8 OUNCES (A FULL GLASS) OF WATER OR OTHER FLUID. TAKING THIS PRODUCT WITHOUT ADEQUATE FLUID MAY CAUSE IT TO SWELL AND BLOCK YOUR THROAT OR ESOPHAGUS AND MAY CAUSE CHOKING. DO NOT TAKE THIS PRODUCT IF YOU HAVE EVER HAD DIFFICULTY IN SWALLOWING OR HAVE ANY THROAT PROBLEMS. IF YOU EXPERIENCE CHEST PAIN, VOMITING, OR DIFFICULTY IN SWALLOWING OR BREATHING AFTER TAKING THIS PRODUCT, SEEK IMMEDIATE MEDICAL ATTENTION.

Dated: September 1, 1990.

James S. Benson,

Acting Commissioner of Food and Drugs.

[FR Doc. 90–25482 Filed 10–29–90; 8:45 am]

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Part IV

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 357

Weight Control Drug Products for Over-the-Counter Human Use; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

21 CFR Part 357

[Docket No. 81N-0022]

RIN 0905-AA26

Weight Control Drug Products for Over-the-Counter Human Use; Proposed Rulemaking

AGENCY: Food and Drug Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing a notice of proposed rulemaking stating that certain ingredients in over-the-counter (OTC) weight control drug products are not generally recognized as safe and effective and are misbranded (nonmonograph status). FDA is issuing this notice of proposed rulemaking after considering the report and recommendations of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products and the public comments on an advance notice of proposed rulemaking that was based on those recommendations. Based on the absence of substantive comments in opposition to the Panel's proposed nonmonograph status for these ingredients as well as the failure of interested parties to submit new data or information to FDA pursuant to 21 CFR 330.10(a)(6)(iv), FDA has determined that the presence of these ingredients in an OTC weight control drug product would result in that drug product not being generally recognized as safe and effective or would result in misbranding. This proposal is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments, objections, or requests for oral hearing on the proposal before the Commissioner of Food and Drugs by December 31, 1990. Written comments on the agency's economic impact determination by December 31, 1990.

ADDRESSES: Written comments, objections, or requests for oral hearing to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8000

SUPPLEMENTARY INFORMATION: In the Federal Register of February 26, 1982 (47 FR 8466), FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC weight control drug products, together with the recommendations of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products (Miscellaneous Internal Panel), which was the advisory review panel responsible for evaluating data on the active ingredients in this drug class. The Miscellaneous Internal Panel classified a total of 113 OTC weight control drug product ingredients. Two ingredients were classified in Category I (safe and effective for OTC use): Phenylpropanolamine hydrochloride and benzocaine. One hundred ingredients were classified in Category II (not safe and effective for OTC use) (see table I below). Eleven ingredients were classified in Category III (insufficient data to classify in Category I or Category II, more studies are needed) (see table II below). The ingredients classified in Category II included all of the ingredients listed in the call-for-data notice published in the Federal Register of August 27, 1975 (40 FR 38179) for which the Panel was not able to locate, and was not aware of, any significant body of data demonstrating the safety and effectiveness of use for weight control (47 FR 8466 at 8471). Of the 11 ingredients that the Panel classified in Category III, no data were submitted on 6 ingredients: carrageenan, chondrus, guar gum, karaya gum, sea kelp, and psyllium, all hydrophilic colloids. The Panel received safety and effectiveness data on the ingredients alginic acid, carboxymethylcellulose sodium, methylcellulose, sodium bicarbonate (in combination with bulking agents), and xanthan gum. Although the effectiveness data were insufficient, the Panel classified all of these hydrophilic colloids in Category III, stating that these ingredients may act as bulking agents and should be provided an opportunity to demonstrate their effectiveness for weight control use (47 FR 8477). The Panel did not question the safety of bulking agents because "they have been in use for years as food additives and some have had medicinal use."

Interested persons were invited to submit comments on the Panel's recommendations by May 27, 1982. Reply comments in response to comments filed in the initial comment period could be submitted by June 28, 1982. In a notice published in the Federal Register of April 23, 1982 (47 FR 17578), the agency advised that it had extended the comment period until July 26, 1982, and the reply comment period until August 27, 1982.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were placed on public display in the Dockets Management Branch (address above), after deletion of a small amount of trade secret information. In response to the advance notice of proposed rulemaking, 6 drug manufacturers, 1 drug manufacturers' association, 1 clinical consulting firm, 6 professional associations, 8 physicians, 1 nutritionist, 1 health department, 2 Congressmen, 1 consumer organization, and 10 individuals submitted comments. No comments were submitted on OTC weight control drug products containing any ingredient that the Panel had classified as nonmonograph (Category II or Category III). Copies of the comments received are on public display in the Dockets Management Branch.

This proposed rulemaking encompasses all ingredients classified as Category II and Category III in the advance notice of proposed rulemaking for OTC weight control drug products. No significant comments or new data have been submitted to upgrade the status of these ingredients. Under the OTC drug review administrative procedures (21 CFR 330.10(a)(7)(ii)), the Commissioner may publish a separate tentative order covering active ingredients that have been reviewed and may propose that these ingredients be excluded from an OTC drug monograph on the basis of the Commissioner's determination that they would result in a drug product not being generally recognized as safe and effective or would result in misbranding. This order may include active ingredients for which no substantial comments in opposition to the advisory panel's proposed classification and for which no new data and information were received pursuant to § 330.10(a)(6)(iv) (21 CFR 330.10(a)(6)(iv)).

As mentioned, no substantive comments or new data were submitted to support reclassification of any of these 111 Category II and Category III OTC weight control ingredients to monograph status. Comments and new data were received on the proposed Category I ingredients, phenylpropanolamine hydrochloride and benzocaine, and on the labeling proposed for this class of OTC drug

products. Before issuing a tentative final monograph on OTC weight control drug products that addresses proposed Category I ingredients and labeling issues, the Commissioner is issuing a separate notice proposing that these 111 Category II and III ingredients be found not generally recognized as safe and effective. Any OTC weight control drug product containing any of these 111 ingredients would not be allowed to continue to be initially introduced or initially delivered for introduction into interstate commerce unless it is the subject of an approved application. FDA has elected to act on these 111 ingredients in advance of finalization of other monograph conditions in order to expedite completion of the OTC weight control drug product review. Manufacturers are encouraged to comply voluntarily at the earliest possible date.

This proposal does not constitute a reopening of the administrative record or an opportunity to submit any new data to the OTC weight control rulemaking. Should an interested person submit a comment indicating that substantive comments or new data were previously submitted to the administrative record, the agency will review the record for the OTC weight control drug product rulemaking and make a determination whether the affected ingredient shall continue to be evaluated under this rulemaking or be included in the final rule that will issue pursuant to this proposed rule.

FDA advises that the active ingredients discussed in this document (see tables I and II below) will not be included in the tentative final monograph on OTC weight control drug products, to be published in a future issue of the **Federal Register**, because they have not been shown to be generally recognized as safe and effective for their intended use. The agency further advises that these ingredients should be eliminated from OTC weight control drug products 6 months after the date of publication in the **Federal Register** of a final rule regarding their status, regardless of whether further testing is undertaken to justify future use. The OTC drug review administrative procedures provide that any new data and information submitted after the administrative record has closed following publication of a tentative final monograph (notice of proposed rulemaking), but prior to the establishment of a final monograph, will be considered by the Commissioner only after a final monograph has been published in the **Federal Register**, unless the Commissioner finds that good cause has been shown that warrants earlier consideration. (See 21 CFR 330.10(a)(7)(v).)

The agency points out that publication of a final rule under this proceeding does not preclude a manufacturer's testing an ingredient. New, relevant data can be submitted to the agency at a later date as the subject of a new drug application (NDA) that may provide for prescription or OTC marketing status. (See 21 CFR part 314.) As an alternative, where there are adequate data establishing general recognition of safety and effectiveness, such data may be submitted in an appropriate citizen petition to amend or establish a monograph, as appropriate. (See 21 CFR 10.30.)

I. OTC Weight Control Drug Category II and III Ingredients

Based on the criteria discussed above, FDA is proposing that the following ingredients are not generally recognized as safe and effective and are misbranded when labeled for use in OTC weight control drug products:

TABLE I.—Ingredients Classified by the Panel as Category II Weight Control Active Ingredients

Alcohol
Alfalfa
Anise oil
Arginine
Ascorbic acid[1]
Bearberry[1]
Biotin
Bone marrow, red[2]
Buchu
Buchu, potassium extract
Caffeine
Caffeine citrate
Calcium
Calcium carbonate
Calcium caseinate
Calcium lactate
Calcium pantothenate[4]
Cholecalciferol[5]
Choline
Citric acid
Cnicus benedictus
Copper
Copper gluconate
Corn oil
Corn syrup
Corn silk, potassium extract
Cupric sulfate
Cyanocobalamin (vitamin B_{12})
Cystine
Dextrose
Docusate sodium[6]
Ergocalciferol[7]
Ferric ammonium citrate
Ferric pyrophosphate
Ferrous fumarate

TABLE I.—Ingredients Classified by the Panel as Category II Weight Control Active Ingredients—Continued

Ferrous gluconate
Ferrous sulfate (iron)
Flax seed
Folic acid
Fructose
Histidine
Hydrastic canadensis
Inositol
Iodine
Isoleucine
Juniper, potassium extract
Lactose
Lecithin
Leucine
Liver concentrate
Lysine[8]
Lysine hydrochloride[8]
Magnesium
Magnesium oxide
Malt
Maltodextrin
Manganese citrate
Mannitol
Methionine
Mono- and di-glycerides[10]
Niacinamide
Organic vegetables
Pancreatin[11]
Pantothenic acid
Papain
Papaya enzymes
Pepsin
Phenacetin
Phenylalanine
Phosphorus
Phytolacca[12]
Pineapple enzymes
Potassium citrate
Pyridoxine hydrochloride (vitamin B_6)
Riboflavin
Rice polishings
Saccharin
Sea minerals
Sesame seed
Sodium
Sodium caseinate
Sodium chloride (salt)
Soybean protein[13]
Soy meal
Sucrose
Thiamine hydrochloride (vitamin B_1)
Thiamine mononitrate (vitamin B_1 mononitrate)
Threonine
Tricalcium phosphate
Tryptophan
Tyrosine
Uva ursi, potassium extract
Valine
Vegetable
Vitamin A
Vitamin A acetate
Vitamin A palmitate
Vitamin E
Wheat germ
Yeast

[1] The Panel designated this ingredient "ascorbic acid (vitamin C)." However, "ascorbic acid" is the official name for this ingredient in the "USAN and the USP dictionary of drug names, 1990."

[8] The Panel designated this ingredient "uva ursi." However, "bearberry" is the official name for this ingredient in the Center for Drug Evaluation and Research dictionary of drug names.

[9] The Panel designated this ingredient "bone marrow-red-glycerin extract." However, "bone marrow, red" is the official name for this ingredient in the Center for Drug Evaluation and Research dictionary of drug names.

[4] The Panel designated this ingredient "calcium pantothenate (D-calcium pantothenate)." However, "calcium pantothenate" is the official name for this ingredient in the "USAN and the USP dictionary of drug names, 1990."

[5] The Panel designated this ingredient "vitamin D." However, "cholecalciferol" is the official name for this ingredient in the "United States Pharmacopeia XXII—National Formulary XVII," 1990.

[6] The Panel designated this ingredient "dioctyl sodium sulfosuccinate." However, "docusate sodium" is the official name for this ingredient in the "USAN and the USP dictionary of drug names, 1990."

[7] The Panel designated this ingredient "vitamin D_2." However, "ergocalciferol" is the official name for this ingredient in the "United States Pharmacopeia XXII—National Formulary XVII," 1990.

[8] The Panel designated this ingredient "L-lysine." However, "lysine" is the official name for this ingredient in the "USAN and the USP dictionary of drug names, 1990."

[9] The Panel designated this ingredient "L-lysine monohydrochloride." However, "lysine hydrochloride" is the official name for this ingredient in the "USAN and the USP dictionary of drug names, 1990."

[10] The Panel designated these ingredients "glycerides (mono and di)." However, "mono- and diglycerides" is the official name for this ingredient in the "United States Pharmacopeia XXII—National Formulary XVII," 1990.

[11] The Panel designated this ingredient "pancreatin enzymes." However, "pancreatin" is the official name for this ingredient in the "USAN and the USP dictionary of drug names, 1990."

[12] The Panel designated this ingredient "phytolacca berry juice." However, "phytolacca" is the official name for this ingredient in the Center for Drug Evaluation and Research dictionary of drug names.

[13] The Panel designated this ingredient "soy bean protein." However, "soybean protein" is the official name for this ingredient in the Center for Drug Evaluation and Research dictionary of drug names.

TABLE II—Ingredient Classified by the Panel as Category III Weight Control Active Ingredients

Alginic acid
Carboxymethylcellulose sodium
Carrageenan
Chondrus
Guar gum
Karaya gum
Kelp[14]
Methylcellulose
Plantago seed[15]
Sodium bicarbonate
Xanthan gum

[14] The Panel designated this ingredient "sea kelp." However, "kelp" is the official name for this ingredient in the "USAN and the USP dictionary of drug names, 1990."

[15] The Panel designated this ingredient "psyllium." However, "plantago seed" is the official name for this ingredient in the "USAN and the USP dictionary of drug names, 1990."

As noted above, no data were submitted to the Panel on the ingredient guar gum. Since the Panel's report was published in 1982, FDA's spontaneous reporting system has received 17 reports of esophageal obstruction (16 between June 1985 and August 1989) resulting from the use of an OTC weight control drug product containing guar gum (Ref. 1). The product contained 500 milligrams (mg) guar gum per tablet, with directions to start with 4 tablets 30 minutes before each meal on the first day and to increase up to 10 tablets 30 minutes before each meal on the 15th day and thereafter. This dosage regimen eventually results in a maximum dose of 15 grams (g) of guar gum per day. Ten of the cases of esophageal obstruction required hospitalization, and one person eventually died as an indirect result of the obstruction, developing massive pulmonary emboli one week after open chest surgery to repair an esophageal tear sustained during removal of the guar gum obstruction.

This potential for esophageal obstruction represents a serious hazard for an OTC drug, and the 17 cases are presumed to represent a substantial underreporting. OTC drugs of this type, i.e., those without approved applications, are not subject to mandatory reporting requirements, and reports such as the above 17, which were voluntarily submitted by health professionals, normally account for only about 10 percent of all reports in the agency's spontaneous reporting system.

There has also been a report in the literature of an esophageal obstruction resulting from another guar gum product, this one composed of guar gum and grapefruit fiber (Ref. 2). In that case, a middle-aged man was unable to eat or drink for 12 hours after taking one weight control tablet composed of an unspecified amount of guar gum and grapefruit fiber. Endoscopy revealed a soft, fibrous mass impacted in the esophagus; it was broken apart by the endoscope. The agency is also aware of a report in which a 63-year-old diabetic suffered an esophageal obstruction after taking an OTC product containing guar gum. The obstruction required removal with biopsy tongs (Ref. 3). In another report, 59-year-old male suffered esophageal obstruction, requiring esophagoscopy to remove the obstruction, after taking a product containing guar gum (Ref. 4).

The agency is also aware that the United Kingdom has banned (effective June 13, 1989) the sale of "slimming pills" containing more than 15 percent guar gum (Ref. 5). That action was taken by the Ministry of Agriculture, Fisheries and Food on the recommendation of the Committee on Toxicity of Chemicals in Food, Consumer Products, and the Environment (COT) and the Food Advisory Committee. The two committees advised that these products pose a health risk because the gum tends to swell rapidly when swallowed and can lodge in the throat. The COT has also advised that the restrictions on substances used in the slimming products should also be extended to cover the sale of all formulations containing dehydrated products which could swell and create a blockage in the throat. The United Kingdom Ministry of Agriculture, Fisheries and Food is currently considering that recommendation

In the consumer information provided with the guar gum weight control drug product involved in the adverse drug reactions reported to FDA, the manufacturer cites three references in the literature in support of the effectiveness of guar gum as a weight control drug product ingredient (Refs. 6, 7, and 8). These references were not reviewed by the Miscellaneous Internal Panel. The agency has reviewed the references and finds that they are inadequate to support the effectiveness of guar gum as an ingredient in OTC weight control drug products.

The first publication (Ref. 6) reports on two studies. One study involved nine obese female subjects recruited from an outpatient obesity clinic. The subjects were studied primarily to examine the acute effects of a single dose of guar gum on post-prandial glucose levels and insulin, by they were also studied for long-term effects, including weight loss, for a period of 8 weeks, taking 10 g guar gum twice daily. All subjects received the experimental therapy; there was no concurrent control group. The subjects were asked explicitly not to alter their normal diet or energy intake during the trial period. The subjects were reported to have lost an average of 4.3 kilograms (kg) after 8 weeks (said to be a statistically significant change), but in the absence of a control group, the agency does not consider this result to be persuasive evidence of effectiveness. The investigator's direction to the subjects not to alter their normal dietary habits does not alter the fact that these were obese subjects who were aware that the study was examining cholesterol and obesity. The agency believes that these circumstances would make the subject more conscious of their diet than they were prior to their entry into this study and that this awareness might well have led them to alter their eating patterns. The study does not rule out the possibility that guar gum can contribute to weight loss, but in the absence of a concurrent control, or an explicit historical control, the study is not considered to be an adequate and well-controlled study. Additionally, the number of subjects in this study is too small to provide sufficient information

to support the effectiveness of this ingredient.

The second study involved 21 subjects (2 males and 19 females), also recruited from an outpatient obesity clinic. The subjects were given either 10 g of wheat bran or 10 g of guar gum twice daily for a week and then switched to the other therapy. This procedure was repeated a total of 10 times for the patients who completed the study. Body weight was measured each week before treatment, and hunger ratings were also examined. The author's description of the study, with respect to the number of subjects completing the study and the fate of individual subjects, is not well described. It appears that only 7 of the 21 entered subjects completed all 10 weeks of the study. In those subjects, there was a mean weight loss of 7 kg. The fate of the other 14 subjects is not clear; however, a table in the publication provides information on 9 subjects who the author describes as having completed the 10-week study. In this table, the average weight loss each week is presented according to whether the subjects were on guar gum or wheat bran. The mean weekly weight loss of 0.94 kg on guar gum was not signficantly different from the weight loss of 0.64 kg on wheat bran ($p < 0.1$). How the 9 subjects in this analysis differ from the 7 subjects in the other analysis is not clear from the information provided. Even if one ignores potential carryover effects and the impossibility of determining which subjects were included in the results and why, the two treatments were not significantly different. Although the results of this study do not rule out a possible effect of guar gum, the study does not support an effect of guar gum on weight control because no significant difference in weight loss between the groups was found and because the conduct of the study was not described adequately.

The second publication (Ref. 7) involved an open, uncontrolled study in 11 hyperlipidemic subjects (4 men and 7 women) (Ref. 7). The study focused predominantly on blood lipids. The subjects were treated for 8 weeks with guar-containing crispbread—not the product described above, but one that might be considered somewhat related. The subjects had a mean weight loss of 2.4 kg over the 8-week period. As pointed out above, the agency believes that subjects who are conscious of being in a lipid trial might well be more attentive to the proper diet and fat content of their meals, and may lose weight in the absence of any medical treatment. A concurrent control group is essential to evaluate the effectiveness of such a therapy. Although the agency again recognizes that the study does not rule out the possibility that guar gum-containing products might contribute to weight loss, it does not provide evidence that they do.

The third publication (Ref. 8) appears to be a reasonably well-designed trial of guar gum, 15 g/day, compared with a placebo (wheat flour containing no fiber), and with no treatment. Thirty three middle-aged women were identified as hypercholesterolemic during screening for the prevention of coronary heart disease. Eleven subjects each were randomized to 1 of 3 treatment groups: Guar gum, placebo, or no treatment. One subject dropped out of the guar gum treatment group, and her data were not included in any analyses. Thus, there were 10, 11, and 11 subjects in the guar gum, placebo, and no-treatment groups, respectively. The guar gum was administered as 5 g of granules (equivalent to 3.65 g pure guar gum) three times a day before meals. The placebo treatment, consisting of 5 g of wheat flour with no fiber, was also given three times a day before meals. Baseline measurements of blood lipid profiles, body weight, and blood pressure were taken every 4 weeks for a total of 3 times. Subjects were instructed to decrease their intake of saturated fats, simple carbohydrates, and excessive alcohol. Subjects in the 2 treatment groups appear to have been seen once a month for 4 months; the no-treatment group appears to have been seen only at the end of 4 months.

Individual subjects data were not provided. Mean body weights at baseline were given as 62.9 kg (±6.6 kg), 66.1 kg (±13.3 kg), and 63.3 kg (±9.6 kg), respectively. After 4 months, the guar gum group had a mean weight of 60.4 kg (±9.5 kg), a 2.5 kg decrease. The decreases seen in the placebo and no-treatment groups were 0.4 and 0.6 kg, with final weights of 65.7 kg (±17.9 kg) and 62.7 kg (±13.6 kg), respectively. The authors did not compare treatments. Instead, they did within-treatment comparisons of baseline and month 4 body weight. They concluded that month 4 body weight was signficantly lower than baseline only in the guar gum group. However, when guar gum treatment is compared with placebo treatment, there is no significant difference between the two groups (independent sample t-test, $p = .413$).

Although body weight did decrease more in the guar gum group over 4 months than in the other groups, the study does not demonstrate the effectiveness of guar gum as a weight loss agent, as there was no statistically significant difference between guar gum and either placebo or no treatment. In addition, the study was not specifically designed to study weight loss and was not done solely in obese subjects. Therefore, the results, even if favorable, would not necessarily be applicable to the population of interest. Further, because the study was not intended to study weight loss, this raises the problem of making comparisons with unrelated data and drawing invalid conclusions from the data.

The agency concludes that the results of the three cited studies are not adequate to support the effectiveness of guar gum as an ingredient in OTC weight control drug products. Two of the reports provided data from uncontrolled, poorly-designed studies (Refs. 6 and 7), and the one well-designed study did not show a significant difference in weight loss when the guar gum group was compared with either the control or the no-treatment group (Ref. 8).

Based on the above information, the agency concludes that there are not adequate data to support the effectiveness of guar gum as an ingredient in OTC weight control drug products. Further, there are data indicating a safety hazard of esophageal obstruction from the use of weight control drug products containing this ingredient. Recently, the agency issued a number of regulatory letters (Refs. 9 and 10) to manufacturers of weight control drug products containing guar gum. The agency stated that such products are new drugs within the meaning of section (201(p) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(p)), and that the products are misbranded in that their labeling is false and misleading by representing and suggesting that there is substantial scientific evidence to establish that the products are safe and effective for use as weight control drugs. Furthers, these products do not have approved new drug applications filed pursuant to section 505(b) of the act (21 U.S.C. 355(b)). Accordingly, FDA requested the manufacturers to cease distribution of such products. Therefore, FDA concludes that guar gum-containing weight control drug products are not appropriate for OTC use. Accordingly, the agency is reclassifying guar gum for use in OTC weight control drug products from Category III to Category II.

References

(1) Adverse Drug Reaction Reports, in OTC Volume 17ETFR, Docket No. 81N-0022, Dockets Management Branch.

(2) Gebhard, R. L., and J. Albrecht, "The Diet Pill That Worked," Letter to the Editor,

The New England Journal of Medicine, 322:702, 1990.

(3) Raaft, K., and W. Imhof, "Bolusobstruktion des Distalen Oesophagus Durch Pflanzliche Quellstoffe (Guarmehl)," Deutsche Medizinische Wochenschrift, 108," 1983–1985, 1983.

(4) Sorensen, A.J., And O. R. Rasmussen, "Synkentop Efter Indtagelse af Fiberholding Helsekostprodukt Lej-Gaar," *Ugeskrift for Laeger*, 146;171–172,–1983.

(5) News Release, United Kingdon Ministry of Agriculture, Fisheries and Food, "Macgregor Bans Health Risk Slimming Pills," 212/90, May 23, 1990.

(6) Krotkiewski, M., "Effect of Guar Gum on Body-Weight, Hunger Ratings and Metabolism in Obese Subjects," *British Journal of Nutrition*, 52:97–105, 1984.

(7) Jenkins, D. J., et al., "Dietary Fiber and Blood Lipids: Treatment of Hypercholesterolemia with Guar Crispbread," *American Journal of Clinical Nutrition*, 33:575–581, 1980.

(8) Tuomilehto, J., et al., "Effect of Guar Gum on Body Weight and Serum Lipids in Hypercholesterolemic Females," *Acta Medical Scandinavica*, 208:45–48, 1980.

(9) Letter from R. G. Chesemore, FDA, to Health Care Products, Inc., in OTC Volume 17ETFR, Docket No. 81N–0022, Dockets Management Branch.

(10) Letter from D. L. Michels, FDA, to Universal Nutrition Corporation, Nutrition Headquarters, Fat Busters, Inc., in OTC Volume 17ETFR, Docket No. 81N–0022, Dockets Management Branch.

The Panel identified caffeine and caffiene citrate as ingredients having a stimulant effect but no anorectic effect (47 FR 8466 at 8472). The Panel reviewed one study on a combination product containing phenylpropanelamine hydrochloride and caffeine as an anorectic only. Although the study showed a greater weight loss for the combination than when using the phenylpropanolamine alone, the results were not statistically significant because the study was not long enough and did not contain a sufficient number of subjects (47 FR 8476). Based on the Panel's evaluation, the agency is classifying caffeine and caffeine citrate as Category II ingredients for weight control use in this document.

II. The Agency's Tentative Conclusions on Category II and III Ingredients in OTC Weight Control Drug Products

The agency has determined that no substantive comments or additional data have been submitted to the OTC drug review to support any of the ingredients listed above as being generally recognized as safe and effective in OTC weight control drug products. Based on the agency's procedural regulations (21 CFR 330.10(a)(7)(ii)), the agency has determined that these ingredients should be found to be not generally recognized as safe and effective for OTC use before a final monograph for OTC weight Control drug products is established. Accordingly, any drug product containing any of these ingredients and labeled for OTC use as a weight control drug product will be considered nonmonograph and misbranded under section 502 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 352) and a new drug under section 201(p) of the act (21 U.S.C. 321(p)) for which an approved application under section 505 of the act (21 U.S.C. 355) and 21 CFR part 314 of the regulation is required for marketing. As an alternative, where there are adequate data establishing general recognition of safety and effectiveness, such data may be submitted in a citizen petition to amend or establish a monograph for OTC weight control drug products to include any of the above ingredients. (See 21 CFR 10.30.) Any OTC weight control drug product containing any of the above ingredients initially introduced or initially delivered for introduction into interstate commerce after the effective date of final rule that removes these Category II and III ingredients from the market and that is not the subject of an approved application will be in violation of sections 502 and 505 of the act (21 U.S.C. 352 and 355) and, therefore, subject to regulatory action. Further, any OTC drug product subject to the final rule that is repackaged or relabeled after the effective date of the rule would be required to be in compliance with the rule regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the rule at the earliest possible date.

The agency has examined the economic consequences of this proposed rulemaking in accordance with Executive Order 12291 and the Regulatory Flexibility Act (Pub. L. 96–354). The agency invited public comment in the advance notice of proposed rulemaking on OTC weight control drug products regarding any impact that this rulemaking would have on OTC weight control drug products (47 FR 8466 at 8469). No comments on economic impacts were received. Moreover, manufacturers of products containing these ingredients have not provided any substantive data to support their continued marketing. Accordingly, the agency concludes that there is no basis for the continued marketing of these ingredients for OTC use in weight control drug products. Further, there are ingredients recommended by the Panel which manufacturers can use to reformulate affected products. As a result of this proposal, manufacturers may need to reformulate or discontinue marketing some products prior to promulgation of the final monograph on OTC weight control drug products. If reformulation is chosen, there will be no additional costs because reformulation will be required, in any event, when the final monograph is published.

Early finalization of the nonmonograph status of the ingredients listed in this notice will benefit both consumers and manufacturers. Consumers will benefit from the early removal from the marketplace of ingredients for which safety and effectiveness have not been established. This will result in a direct economic savings to consumers. Manufacturers will benefit from being able to use alternative ingredients that a Panel has recommended be found to be generally recognized as safe and effective without incurring the additional expense of clinical testing for these ingredients. Based on the above, the agency has determined that this proposed rule is not a major rule under Executive Order 12291. Further, the agency certifies that this proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities.

Any comments on the agency's initial determination of the economic consequences of this proposed rulemaking should be submitted by December 31, 1990. Such comments should be submitted to the Dockets Management Branch (address above) and identified with the docket number found in brackets in the heading of this document. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

The agency has determined under 21 CFR 25.24(C)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Interested persons may, on or before December 31, 1990, submit to the Dockets Management Branch (address above) written comments, objections, or requests for oral hearing before the Commissioner on the proposed rulemaking. A request for an oral hearing must specify points to be covered and time requested. Written comments on the agency's economic impact determination may be submitted on or before December 31, 1990. Three

copies of all comments, objectons, and requests are to be submitted, except that individuals may submit one copy. Comments, objejctions, and requests are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Comments, objections, and requests may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. Any scheduled oral hearing will be announced in the Federal Register.

Dated, September 1, 1990.

James S. Benson,

Acting Commissioner of Food and Drugs.

[FR Doc. 90-25483 Filed 10-29-90; 8:45 am]

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523–6641. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202–275–3030).

H.R. 4757/Pub. L. 101–462

To provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police. (Oct. 25, 1990; 104 Stat. 1079; 1 page) Price: $1.00

H.J. Res. 214/Pub. L. 101–463

Designating the week of October 22 through 28, 1990, as "Eating Disorders Awareness Week". (Oct. 25, 1990; 104 Stat. 1080; 1 page) Price: $1.00

H.J. Res. 518/Pub. L. 101–464

Designating October 13 through 20, 1990 as "American Textile Industry Bicentennial Week". (Oct. 25, 1990; 104 Stat. 1081; 1 page) Price: $1.00

S.J. Res. 159/Pub. L. 101–465

Designating October 21 through October 27, 1990, as "World Population Awareness Week". (Oct. 25, 1990; 104 Stat. 1082; 2 pages) Price: $1.00

Note: In the List of Public Laws printed in the **Federal Register** on October 25, 1990, H.R. 5070, Public Law 101–449, was incorrectly printed as H.R. 5078. It should read as follows:

H.R. 5070/Pub. L. 101–449

To amend the John F. Kennedy Center Act to authorize appropriations for maintenance, repair, alteration and other services necessary for the John F. Kennedy Center for the Performing Arts, and for other purposes. (Oct. 22, 1990; 104 Stat. 1050; 2 pages) Price: $1.00

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Rules and Regulations

Federal Register
Vol. 55, No. 211
Wednesday, October 31, 1990

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 948

Irish Potatoes Grown in Washington; Handling Regulations

CFR Correction

In title 7 of the Code of Federal Regulations, parts 900 to 999, revised as of January 1, 1990, on page 516, in § 946.336 paragraph (c)(2) was inadvertently omitted and should be added to read as follows:

§ 946.336 [Corrected]

* * * * *

(c) * * *

(2) *Export.* Potatoes packed in 50-pound cartons shall be U.S. No. 1 grade or better.

* * * * *

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 102 and 161

[Docket No. 84N-0249]

Canned Tuna; Amendment of the Standard of Identity

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the standard of identity for canned tuna to provide for (1) the optional use of vegetable oil or partially hydrogenated vegetable oil as seasoning or flavoring ingredients in canned tuna in water, and (2) the use of any suitable form of emulsifying and suspending agents that has been affirmed as generally recognized as safe (GRAS) or approved as a food additive to aid in dispersion of the oil. The maximum level of use of the oil will be 5 percent of the volume capacity of the can. The action responds to a petition filed by Ralston Purina Co. The agency is also updating the scientific nomenclature for species' names in the common or usual name regulation for bonito and the standard for canned tuna. FDA believes that these amendments will promote honesty and fair dealing in the interest of consumers.

DATES: Effective December 31, 1990; written objections and requests for a hearing by November 30, 1990.

ADDRESSES: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, room 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: James F. Lin, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0122.

SUPPLEMENTARY INFORMATION: In the Federal Register of August 14, 1987 (52 FR 30367), FDA proposed to amend the standard of identity for canned tuna in 21 CFR 161.190(a)(6) to permit the use of vegetable oil or partially hydrogenated vegetable oil, with or without safe and suitable emulsifying and suspending agents, as optional seasoning or flavoring ingredients in canned tuna in water in an amount not to exceed 5 percent of the volume capacity of the can. FDA also proposed that § 161.190(a)(6) be amended to provide for the use of the phrase "seasoned with oil" when vegetable oil is used as seasoning or flavoring in tuna in water, and to provide for label declaration of any optional emulsifying and suspending agents used in the food. These proposed amendments were in response to a petition submitted by the Ralston Purina Co.

On its own initiative, FDA proposed that the lists of species in the common or usual name regulation for bonito in 21 CFR 102.47 and in the standard of identity for canned tuna in § 161.190(a)(2) be updated to reflect current scientific nomenclature and corresponding trivial names. The agency also requested information on whether other species should be added to either of the lists. Interested persons were given until October 13, 1987, to submit comments.

I. Comments

The agency received two letters, each containing one or more comments from academia and a Federal agency in response to the proposal. The comments offered suggestions with respect to the proposed update of the lists of bonito and tuna species. A summary of the comments and the agency's responses are discussed below:

1. *Bonito species.* The National Marine Fisheries Service (NMFS) pointed out that the preferred scientific name for striped bonito is *Sarda orientalis* and not *Sarda velox.* NMFS requested that FDA include in its updated list of "bonito" or "bonito fishes" four additional species of the genus *Sarda,* i.e., *Sarda australis,* Australian bonito; *Sarda chiliensis,* Pacific bonito; *Sarda orientalis,* striped bonito; and *Sarda sarda,* Atlantic bonito; which are harvested, processed, and marketed internationally as "bonito" or "bonito fish."

Another comment requested that FDA include seven additional species of the tribe *Sardini,* i.e., *Cybiosarda elegans,* leaping bonito; *Gymnosarda unicolor,* Dogtooth tuna; *Orcynopsis unicolor,* plain bonito; and four species of the genus *Sarda* (cited above) in its updated list of "bonito" or "bonito fishes." The comment pointed out that by expanding the list, all members of the tribe *Sardini,* or bonito species, will be included. This list reflects the most up-to-date understanding of the phylogenetic relationship within the family of Scombridae. In listing the trivial names of the four species of the genus *Sarda,* the comment cited "Eastern Pacific bonito" as the name for *Sarda chiliensis* (Ref. 1).

The agency agrees with the reasons presented in the NMFS comment that the name *Sarda velox* should be replaced by *Sarda orientalis.* FDA accepts the trivial name "Eastern pacific bonito," as suggested in the second comment, because it more accurately defines the species *Sarda chiliensis* (Ref. 1). The agency also believes that it is reasonable to include in the list of "bonito" or "bonito fishes" the seven suggested species of the tribe *Sardini,* i.e., *Cybiosarda elegans,* leaping bonito; *Gymnosarda unicolor,* Dogtooth tuna;

and *Orcynopsis unicolor*, plain bonito; *Sarda australis*, Australian bonito; *Sarda chiliensis*, Eastern Pacific bonito; *Sarda orientalis*, striped bonito; and *Sarda sarda*, Atlantic bonito, and has amended 21 CFR 102.47, accordingly.

2. *Tuna species.* NMFS requested that FDA revise three of the fish names in the listing of scientific and common names of the tuna fishes as follows: (1) *Thunnus thynnus*—bluefin tuna; (2) *Thunnus maccoyi*—southern bluefin tuna; and (3) *Euthynnus pelamis*—skipjack tuna.

The agency believes that the three tuna names, as published in the proposal, are the correct names and therefore, no change is necessary. The trivial name for *Thunnus thynnus* was listed in the proposal as "northern bluefin tuna" wherein the word "northern" was added to differentiate it from "southern bluefin tuna," the trivial name for *Thunnus maccoyii*. The preferred spelling of the scientific name for southern bluefin tuna in 21 CFR 161.190, in both the current and proposed species listing is *Thunnus maccoyii* (Refs. 1 and 5), not *Thunnus maccoyi* as mentioned in the NMFS comment. The scientific name for skipjack tuna is *Katsuwonus pelamis* (Refs. 2, 3, and 5), and not *Euthynnus pelamis* as mentioned in the NMFS comment. The names *Thunnus maccoyii* and *Katsuwonus pelamis* are also used in "The Fish List" (1988), which was developed by FDA in cooperation with NMFS (Ref. 4).

One comment requested that FDA include three additional species, *Allothunnus fallai*—slender tuna, *Auxis rochei*—bullet tuna, and *Auxis thazard*—frigate tuna, in its updated list of tuna fishes. According to the comment, global stocks of slender tuna and the two species of *Auxis* are considerable, but not fully utilized, while the stocks of the principal market species of tunas, with the exception of the skipjack, are either overexploited or fully utilized. The comment further stated that neither *Allothunnus* nor *Auxis* could be rejected because of inferior organoleptic properties. The comment maintained that although the two species of *Auxis* are relatively small and may have to be harvested with fishing gear different from that used for the principal market species, the listing of the species in the canned tuna standard may prompt development of that gear. The comment further noted that no mention is made in the existing canned tuna standard that a given species of tuna has to be a prescribed size; thus, a northern bluefin tuna weighing 2 pounds or 1,000 pounds may be canned as tuna.

The agency believes adequate support for inclusion of the additional species has been provided and is including the three species, i.e., *Allothunnus fallai*—slender tuna, *Auxis rochei*—bullet tuna, and *Auxis thazard*—frigate tuna, in the tuna list of species in 21 CFR 161.190(a)(2).

Another comment suggested that the common name "black skipjack," as listed in the proposal, be replaced with the name "black skipjack tuna" which parallels "skipjack tuna" that is also referred to as "white skipjack" or "white skipjack tuna." The comment also suggested that the trivial name for *Euthynnus alletteratus* be changed from "little tunny," as listed in the proposal, to "spotted tunny." The comment explained that since the names "tuna" and "tunny" are synonymous in English usage, the appellation "little tunny" often proves a source of confusion, being accepted as a description of size and not as a fish name.

The agency concurs with the reasons given in the comment and has replaced black skipjack with "black skipjack tuna" as the trivial name of *Euthynnus lineatus;* and "little tunny" with "spotted tunny" as the trivial name of *Euthynnus alletteratus* in 21 CFR 161.190(a)(2).

3. *Scientific nomenclature.* To avoid ambiguity in the identity of listed species, one comment requested that the agency adhere to the internationally accepted rules of scientific nomenclature, wherein each of the scientific names is accompanied by the author's name to assure that a given species cannot be confused with any other species which has been mistakenly referred to in the literature by the same scientific name. For example, (Cuvier, 1831) following the name *Sarda chiliensis* denotes that Cuvier published the description of the species in the indicated year. The comment included the listing of species' names according to the current scientific nomenclature along with trivial names for both bonito fishes (21 CFR 102.47) and tuna fishes (21 CFR 161.190(a)(2)).

The agency recognizes the necessity in scientific nomenclature for reference to the author of the original description of each species so confusion will not arise as to precise identification. Therefore, the agency concurs with the comment that each of the scientific names be accompanied by the name of the author of the original species description. Furthermore, the agency considers that the lists, as proposed in the comment, are adequate for updating the species' names for bonito fishes (21 CFR 102.47) as well as for tuna fishes (21 CFR 161.190(a)(2)) and is including the cited references in the revised regulations.

For the convenience of the readers, FDA is including a chart comparing the current list (1990 CFR) of tuna species' names with that of the updated list set forth in the document, including a reference to each original author's name.

1990 CFR	Revised list
Thunnus thynnus—Bluefin tuna.	*Thunnus thynnus* (Linnaeus, 1758)—Northern bluefin tuna.
Thunnus maccoyii—Southern bluefin tuna.	*Thunnus maccoyii* (Castelnau, 1872)—Southern bluefin tuna.
Thunnus orientalis—Oriental tuna.	(Name deleted—same as *Thunnus* thynnus).
Thunnus germo—Albacore.	*Thunnus alalunga* (Bonnaterre, 1788)—Albacore.
Thunnus atlanticus—Blackfin tuna.	*Thunnus atlanticus* (Lesson, 1830)—Blackfin tuna.
Parathunnus mebachi—Bigeye tuna.	*Thunnus obesus* (Lowe, 1839)—Bigeye tuna.
Neothunnus macropterus—Yellowfin tuna.	*Thunnus albacores* (Bonnaterre, 1788)—Yellowfin tuna.
Neothunnus ravus—Northern bluefin tuna.	*Thunnus tonggol* (Bleeker, 1851)—Longtail tuna.
Katsuwonus pelamis—Skipjack.	*Katsuwonus pelamis* (Linnaeus, 1758)—Skipjack tuna.
Euthynnus alletteratus—Little tunny.	*Euthynnus alletteratus* (Rafinesque, 1810)—Spotted tunny.
Euthynnus lineatus—Little tunny.	*Euthynnus lineatus* (Kishinouye, 1920)—Black skipjack tuna.
Euthynnus yaito—Kawakawa.	*Euthynnus affinis* (Cantor, 1849)—Kawakawa.
	Allothunnus fallai (Serventy, 1948)—Slender tuna.
	Auxis rochei (Risso, 1810)—Bullet tuna.
	Auxis thazard (Lacepede, 1800)—Frigate tuna.

II. References

1. Collette, B. B. et al., "Scombroidei: Development and Relationships" in "Ontogeny and Systematics of Fishes," Special Publication No. 1, American Society of Ichthyologists and Herpetologists, pp. 591–620, 1984.

2. Joseph, J., W. L. Klawe, and P. Murphy, "Tuna And Billfish," Inter-American Tropical Tuna Commission, Scripps Institute of Oceanography, La Jolla, CA 92037, 1980.

3. Collette, B.B., and C. E. Nauen, "Scombrids of the World," Food and Agricultural Organization (FAO) Species Catalogue, Vol. 2, in FAO Fisheries Synopsis, No. 125, Vol. 2, 1983.

4. "The Fish List," Anonymous, U.S. Department of Health and Human Services, Food and Drug Administration, Center for Food and Drug Administration, Center for Food Safety and Applied Nutrition, 1988, for sale by the Superintendent of Documents, U.S. Government Printing Office.

Washington, DC 20402, GPO Stock No. 017-012-00041-9.

5. Klawe, W.L., "What Is A Tuna," Paper 1268 from Marine Fisheries Review, No. 11, 39:1-5, November 1977.

Accordingly, after consideration of all of the comments, the agency is revising the standards of identity for canned tuna by amending 21 CFR 161.190(a)(6) to permit the use of vegetable oil, partially hydrogenated vegetable oil, with or without safe and suitable emulsifying agents, as optional seasoning or flavoring ingredients in canned tuna in water; and by amending 21 CFR 161.190(a)(8) to provide for use of the phrase "seasoned with oil" when vegetable oil or partially hydrogenated vegetable oil is used for seasoning or flavoring in canned tuna in water and to require label declaration of any optional oil or emulsifying and suspending agents used in the food.

The agency is also updating the lists of species of bonito and tuna in 21 CFR 102.47 and 161.190(a)(2) to include current scientific nomenclature and corresponding trivial names.

III. Economic Impact

In the preamble to the proposal (52 FR 30387), the impact of the proposed amendments on small entities, including small businesses, was reviewed in accordance with the Regulatory Flexibility Act (Pub. L. 96-354; 5 U.S.C. 601). FDA concluded that this action would not result in a significant economic impact on a substantial number of small entities. No comments were received to alter the review presented. Therefore, FDA certifies, in accordance with section 605(b) of the Regulatory Flexibility Act, that no significant economic impact on a substantial number of small entities will derive from this action.

IV. Objections

Any person who will be adversely affected by this regulation may at any time on or before November 30, 1990, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection for which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 102

Beverages, Food grades and standards, Food labeling, Frozen foods, Fruit juices, Oils and fats, Onions, Potatoes, Seafood.

21 CFR Part 161

Food grades and standards, Frozen foods, Seafood.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 102 and 161 are amended as follows:

PART 102—COMMON OR USUAL NAME FOR NONSTANDARDIZED FOODS

1. The authority citation for 21 CFR part 102 continues to read as follows:

Authority: Secs. 201, 403, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 343, 371).

2. Section 102.47 is revised to read as follows:

§ 102.47 Bonito.

"Bonito" or "bonito fish" is the common or usual name of the following food fishes:

Cybiosarda elegans (Whitely, 1935)—Leaping bonito

Gymnosarda unicolor (Ruppell, 1838)—Dogtooth tuna

Orcynopsis unicolor (Geoffroy St. Hilaire, 1817)—Plain bonito

Sarda australis (Macleay, 1880)—Australian bonito

Sarda chiliensis (Cuvier, 1831)—Eastern Pacific bonito

Sarda orientalis (Temminck and Schlegel, 1844)—Striped bonito

Sarda sarda (Bloch, 1793)—Atlantic bonito

PART 161—FISH AND SHELLFISH

3. The authority citation for 21 CFR part 161 continues to read as follows:

Authority: Secs. 201, 401, 403, 406, 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 343, 346, 371, 376).

4. Section 161.190 is amended by revising paragraphs (a)(2) and (a)(4)(i), by adding new paragraph (a)(6)(ix), and by revising paragraph (a)(8)(vi) to read as follows:

§ 161.190 Canned tuna.

(a) * * *

(2) The fish included in the class known as tuna fish are:

Thunnus thynnus (Linnaeus, 1758)—Northern bluefin tuna

Thunnus maccoyii (Castelnau, 1872)—Southern bluefin tuna

Thunnus alalunga (Bonnaterre, 1788)—Albacore

Thunnus atlanticus (Lesson, 1830)—Blackfin tuna

Thunnus obesus (Lowe, 1839)—Bigeye tuna

Thunnus albacores (Bonnaterre, 1788)—Yellowfin tuna

Thunnus tonggol (Bleeker, 1851)—Longtail tuna

Katsuwonus pelamis (Linnaeus, 1758)—Skipjack tuna

Euthynnus alletteratus (Rafinesque, 1810)—Spotted tunny

Euthynnus lineatus (Kishinouye, 1920)—Black shipjack tuna

Euthynnus affinis (Cantor, 1849)—Kawakawa

Allothunnus fallai (Serventy, 1948)—Slender tuna

Auxis rochei (Risso, 1810)—Bullet tuna

Auxis thazard (Lacepede, 1800)—Frigate tuna

* * * * *

(4) * * *

(i) *White.* This color designation is limited to the species *Thunnus alalunga* (albacore), and is not darker than Munsell value 6.3.

* * * * *

(6) * * *

(ix) Edible vegetable oil or partially hydrogenated vegetable oil, excluding olive oil, used alone or in combination, in an amount not to exceed 5 percent of the volume capacity of the container, with or without any suitable form of emulsifying and suspending ingredients that has been affirmed as GRAS or approved as a food additive to aid in dispersion of the oil, as seasoning in canned tuna packed in water.

* * * * *

(8) * * *

(vi) Where the canned tuna contains one or more of the ingredients provided for in paragraph (a)(6) of this section, the label shall bear the statement "Seasoned with _____", the blank being filled in with the name or names

of the ingredient or ingredients used, except that if the ingredient designated in paragraph (a)(6)(vi) of this section is used, the blank shall be filled in with the term "vegetable broth", and if the ingredients designated in paragraph (a)(6)(ix) of this section are used, the blank may be filled in with the term "oil", and if the ingredient designated in paragraph (a)(6)(v) of this section is used alone, the label may alternatively bear either the statement "spiced" or the statement "with added spice"; and if salt is the only seasoning ingredient used, the label may alternatively bear any of the statements "salted", "with added salt", or "salt added". If the flavoring ingredients designated in paragraph (a)(6)(viii) of this section are used, the words "lemon flavored" or "with lemon flavoring" shall appear as part of the name on the label; for example, "lemon flavored chunk light tuna". Citric acid and any optional solubilizing and dispersing agent used as specified in paragraph (a)(6)(viii) of this section in connection with lemon flavoring ingredients or emulsifying and suspending ingredients used as specified in paragraph (a)(6)(ix) of this section shall be designated on the label by their common or usual name.

* * * * *

Dated: October 24, 1990.

Ronald G. Chesmore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-25705 Filed 10-30-90; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 510

Animal Drugs, Feeds, and Related Products; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations, at the request of the sponsor, to reflect the change of sponsor name and address for Lypho-Med, Inc.

EFFECTIVE DATE: October 31, 1990.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV-130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1414.

SUPPLEMENTARY INFORMATION: Lypho-Med, Inc., has informed FDA of a change of sponsor name and address from Lypho-Med, Inc., 2045 North Cornell Ave., Melrose Park, IL 60160, to Lyphomed, Division of Fujisawa USA, Inc., Deerfield, IL 60015-2548. The agency is amending the regulations in 21 CFR 510.600 (c)(1) and (c)(2) to reflect the sponsor name and address change.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 376).

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) in the entry for "Lypho-Med, Inc." and in the table in paragraph (c)(2) in the entry for "000469" by removing "Lypho-Med, Inc., 2045 North Cornell Ave., Melrose Park, IL 60160" and replacing it with "Lyphomed, Division of Fujisawa USA, Inc., Deerfield, IL 60015-2548".

Dated: October 19, 1990.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 90-25703 Filed 10-30-90; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 334

Naval Restricted Area, Chesapeake Bay off Fort Monroe, VA

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The Corps of Engineers is amending the regulations which establish a restricted area in the waters of the Chesapeake Bay off Fort Monroe, Virginia. The change to the restricted area reduces the size to allow for the construction of a new range light by the Coast Guard and the relocation of the Norfolk Harbor Federal Project Channel.

EFFECTIVE DATE: November 30, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Harrell at (804) 441-7653 or Mr. Ralph Eppard at (202) 272-1783.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and chapter XIX of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3), the Corps of Engineers is amending the regulations in 33 CFR 334.360 which establishes a restricted area in the waters of the Chesapeake Bay off Fort Monroe, Virginia. The intent of the change is to reduce the size of the restricted area to allow for the construction of a new front and rear range light to be erected by the Coast Guard in its aids-to-navigation improvement program and the relocation of a 1,000-foot wide section of the Norfolk Harbor Federal Project Channel. The regulations which prescribe the use and navigation within the area will not change as a result of these amendments.

We published this change and the amendment of two existing danger zone regulations in the Notice of Proposed Rulemaking Section of the Federal Register on June 14, 1990 (55 FR 24115-24116), with the comment period expiring on July 16, 1990. There were no objections received with respect to the restricted area and accordingly, these amendments are published as proposed. Final rules amending the danger zone regulations are being held in abeyance to address a comment which was received regarding the Corps jurisdiction.

Economic Assessment and Certification

This rule is being issued with respect to a military function of the Department of Defense and the provisions of E.O. 12291 do not apply. I hereby certify that this rule will have no significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 334

Navigation (water), transportation, danger zones. In consideration of the above, the Corps of Engineers is amending part 334 of title 33 as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266; (33 U.S.C. 1) and 40 Stat. 892; (33 U.S.C. 3)

2. Section 334.360(a) is revised to read as follows:

§ 334.360 Chesapeake Bay off Fort Monroe, Virginia; restricted area, U.S. Naval Base and Naval Surface Weapon Center.

(a) *The area.* Beginning at latitude 37°00'30"N, longitude 76°18'05"W; thence to latitude 37°00'36"N, longitude 76°17'42"W; thence to latitude 37°00'39"N; longitude 76°16'11"; thence to latitude 36°59'18"N, longitude 76°17'52"W; thence to latitude 37°00'05"N, longitude 76°18'17"W; and thence north along the seawall to the point of beginning.

* * * * *

Dated: October 4, 1990.

Patrick J. Kelly,

Major General, USA, Director of Civil Works.

[FR Doc. 90-25676 Filed 10-30-90; 8:45 am]

BILLING CODE 3710-92-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[AD-FRL-3855-7]

Preparation, Adoption, and Submittal of State Implementation Plans; Corrections to PM-10 Areas of Concern

AGENCY: Environmental Protection Agency (EPA).

ACTION: Technical corrections to the areas of concern for certain Group I and II areas.

SUMMARY: The EPA published national ambient air quality standards (NAAQS) and implementation policies for particulate matter (PM) with an aerodynamic diameter of a nominal 10 microns or less (PM-10) on July 1, 1987 (52 FR 24634 and 52 FR 24672). A notice identifying areas with very high probabilities (Group I) and moderate probabilities (Group II) of violating the PM-10 standards was published on August 7, 1987 (52 FR 29383). A notice that the grouping of three of these areas had been modified was published on March 28, 1989 (54 FR 12820). Work to develop State implementation plans (SIP's) to attain the PM-10 NAAQS began immediately for the Group I areas. Ambient PM-10 concentrations have been monitored in the Group II areas since 1987.

The EPA is, by this notice, clarifying the descriptions of certain Group I and Group II areas of concern listed in the August 7, 1987 notice. This action is being taken because the areas were only generally described in 1987 as cities, counties, or planning areas. The States were given guidance in the PM-10 SIP Development Guideline (EPA-450/2-86-002, June 1987) on how to further define the extent of areas violating the PM-10 standards in the process of developing PM-10 SIP's. Therefore, some States have provided EPA with more detailed descriptions of certain Group I and Group II areas of concern.

DATES: These corrections are effective October 31, 1990.

ADDRESSES: Information supporting the Group I and Group II area descriptions can be obtained from the respective EPA Regional Office which services that particular State. The addresses of the Regional Offices are:

- State Air Programs Branch, EPA Region I, J.F.K. Federal Building, Boston, MA 02203-2211.
- Air Programs Branch, EPA Region II, 26 Federal Plaza, New York, NY 10278.
- Air Programs Branch, EPA Region III, 841 Chestnut Building, Philadelphia, PA 19107.
- Air Programs Branch, EPA Region IV, 345 Courtland Street, NE., Atlanta, GA 30365.
- Air and Radiation Branch, EPA Region V, 230 South Dearborn Street, Chicago, IL 60604.
- Air Programs Branch, EPA Region VI, 1445 Ross Avenue, Dallas, TX 75202-2733.
- Air Branch, EPA Region VII, 726 Minnesota Avenue, Kansas City, KS 66101.
- Air Programs Branch, EPA Region VIII, 999 18th Street, Denver Place—suite 500, Denver, CO 80202-2405.
- Air Programs Branch, EPA Region IX, 1235 Mission Street, San Francisco, CA 94103.
- Air Programs Branch, EPA Region X, 1200 Sixth Avenue, Seattle, WA 98101.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Woodard, Particulate Matter Programs Section, Air Quality Management Division (MD-15), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

SUPPLEMENTARY INFORMATION:

1. Background

On July 1, 1987, the EPA promulgated revised NAAQS for PM (52 FR 24634). The standards incorporate a new indicator of PM that includes only those particles with an aerodynamic diameter less than or equal to a nominal 10 microns.

Simultaneously, EPA published revised requirements for SIP's to attain and maintain the standards (52 FR 24672). In order to focus Federal and State resources on implementing the PM-10 NAAQS first in those areas of the country believed to be violating the standards, EPA classified all areas of the Nation into one of three groups. Group I areas were those having a very high probability of violating the PM-10 standards based on ambient air quality data available for 1984 through 1987 for PM-10 and total suspended PM. Group II areas had a moderate probability of violating the standards, and Group III areas were those believed to be currently attaining the standards.

A list of Group I and II areas in each State was published in the **Federal Register** on August 7, 1987 (52 FR 29383). The remaining portion of any State not listed as Group I or II in the August 7 notice was classified in Group III.

A subsequent notice, published on March 28, 1989 (54 FR 12820), announced that three revisions had been made to the list of Group I and II areas. Sandpoint, Idaho, was changed from Group I to Group II, effective August 31, 1987 following a determination that the area lacked sufficient ambient data to justify a Group I classification. Porter County, Indiana, was changed from Group I to Group II, effective November 29, 1988 as a result of a settlement agreement negotiated with Bethlehem Steel Corporation (see *Bethlehem Steel Corporation* v. *Thomas*), 87-2476 (7th Cir.). Mono Basin, California, was changed from Group III to Group II, effective June 8, 1988 following review of the information used for the initial classification.

2. Today's Action

The EPA is, by this notice, providing technical corrections to clarify the descriptions of several Group I and II areas of concern. The EPA described the areas of concern generally as cities, towns, counties, or planning areas in the August 7, 1987 notice and stated that these descriptions were only initial definitions of the areas to be investigated in the PM-10 SIP development process. The EPA had previously provided guidance on procedures for determining the boundaries of areas not attaining the standards in section 2.5 of the PM-10 SIP Development Guideline and in section 6.3 of Procedures for Estimating Probability of Nonattainment of a PM-10 NAAQS Using Total Suspended Particulate or PM-10 Data, EPA-450/4-86-017, December 1986.

State air pollution control agencies, in developing SIP's for Group I and certain Group II areas over the past 3 years, have been collecting data on source emissions and ambient PM-10 concentrations, identifying control measures, and predicting future PM-10 concentrations using dispersion models. Consequently, EPA can now more clearly define the extent of certain

Group I and II areas. However, many of the area descriptions published in the August 7, 1987 notice remain unchanged.

3. Group I Area Descriptions

The list of Group I areas of concern published in the August 7, 1987 Federal Register notice is revised to read as follows:

GROUP I AREAS [1,2,3]

State and counties	Area of concern
Alaska:	
Anchorage	Community of Eagle River.
Juneau	City of Juneau: Mendenhall Valley area.
Arizona:	
Cochise	Paul Spur/Douglas planning area: Township 23 south, Range 25 east (T23S, R25E) T23S, R26E; T23S, R27E; T23S, R28E; T24S, R25E; T24S, R26E; T24S, R27E; T24S, R28E.
Pima	Rillito planning area: Townships: T11S, R9E; T11S, R10E; T11S, R11E; T11S, R12E; T12S, R8E; T12S, R9E; T12S, R10E; T12S, R11E; T12S, R12E;
Maricopa and Pinal	Phoenix planning area: The rectangle determined by, and including, T6N, R3W; T6N, R7E; T2S, R3W; T2S, R7E; T1N, R8E.
Yuma	Yuma planning area: Townships: T7S–R21W, R22W; T8S–R21W, R22W, R23W, R24W; T9S–R21W, R22W, R23W, R24W, R25W; T10S–R21W, R22W, R23W, R24W, R25W.
Pinal and Gila	Hayden/Miami planning area: Townships: T4S, R16E; T5S, R16E, T6S, R16E; plus the portion of Township T3S, R16E, that does not lie on the San Carlos Indian Reservation, and the rectangle formed by, and including, Townships T1N, R13E; T6S, R13E; T1N, R15E; T6S, R15E.
California:	
Inyo	Owens Valley planning area: Hydrologic Unit #18090103.
San Bernardino, Inyo, and Kern	Searles Valley planning area: Hydrologic Unit #18090205.
Mono	Mammoth Lake planning area: Includes the following sections: a. Sections 1–12, 17, and 18 of Township T4S, R28E; b. sections 25–36 of Township T3S, R28E; c. Sections 25–36 of Township T3S, R27E; d. Sections 1–18 of Township T4S, R27E; and e. Sections 25 and 36 of Township T3S, R26E.
Fresno, Kern, Kings, and Tulare	San Joaquin Valley planning area.
Riverside, Los Angeles, Orange and San Bernardino	South Coast Air Basin.
Riverside	Coachella Valley planning area.
Imperial	Imperial Valley planning area.
Colorado:	
Archuleta	Pagosa Springs.
Adams, Denver, Arapahoe, Jefferson, Douglas and Boulder	Denver Metropolitan area: All of Denver, Jefferson, and Douglas Counties, Boulder County (excluding the Rocky Mountain National Park) and the Colorado automobile inspection and readjustment program portions of Adams and Arapahoe Counties.
San Miguel	Telluride.
Prowers	Lamar.
Pitkin	Aspen.
Fremont	Canon City.
Connecticut:	
New Haven	City of New Haven.
Idaho:	
Ada	Boise: Northern Boundary—Beginning at a point in the center of the channel of the Boise River, where the line between sections 15 and 16 in township 3 north (T3N), range 4 east (R4E), crosses said Boise River; thence west down the center of the channel of the Boise River to a point opposite the mouth of More's Creek; thence, in a straight line north 44 degrees and 30 minutes west until the said line intersects the north line of T5N (12 Ter. Ses. 67); thence west to the northwest corner T5N, R1W; Western Boundary—Thence, south to the northwest corner of T3N, R1W; thence east to the northwest corner of section 4 of T3N, R1W; thence south to the southeast corner of section 32 of T2N, R1W; thence west to the northwest corner of T1N, R1W; thence, south to the southwest corner of section 32 of T2N, R1W, thence, west to the northwest corner of T1N, R1W; thence south to the southwest corner of T1N, R1W; Southern Boundary—Thence, east to the southwest corner of section 33 of T1N, R4E; Eastern Boundary—Thence, north along the north and south center line of Townships T1N, R4E, T2N, R4E, and T3N, R4E, Boise Meridian to the beginning point in the center of the channel of the Boise River.
Shoshone	City of Pinehurst.
Bannock and Power	City of Pocatello.
Illinois:	
Cook	a. Lyons Township; b. The area bounded on the north by 79th Street, on the west by Route 57, on the south by Sibley Boulevard and on the east by the Illinois/Indiana State line.
Madison	Granite City Township and Nameoki Township.
Indiana: Lake	Cities of East Chicago, Hammond, Whiting, and Gary.
Maine: Aroostook	City of Presque Isle.
Michigan: Wayne	The area bounded by Michigan Avenue from its intersection with I-75 west to I-94, I-94 southwest to Greenfield Road, Greenfield Road south to Schaefer Road, Schaefer Road south and east to Jefferson Avenue, Jefferson Avenue south (Biddle Avenue through the city of Wyandotte) to Sibley Avenue, Sibley Avenue west to Fort Street, Fort Street south to King Road, King Road east to Jefferson Avenue, Jefferson Avenue south to Helen Road, Helen Road east extended to Trenton Channel, Trenton Channel north to the Detroit River, the Detroit River north to the Ambassador Bridge, Ambassador Bridge to I-75, I-75 to Michigan Avenue.
Minnesota: Ramsey	The area bound by the Mississippi River from Lafayette to Route 494, Route 494 east to Route 61, Route 61 north to I-94, I-94 west to Lafayette, and Lafayette south to the Mississippi River.

GROUP I AREAS [1,2,3]—Continued

State and counties	Area of concern
Montana:	
Flathead	The area bounded by lines from Universal Transmercator (UTM) coordinate 700000mE, 5347000mN, east to 704000mE, 5347000mN, south to 704000mE, 5341000mN, west to 703000mE, 5341000mN, south to 703000mE, 5340000mN, west to 702000mE, 5340000mN, south to 702000mE, 5339000mN, east to 703000mE, 5339000mN, south to 703000mE, 5338000mN, east to 704000mE, 5338000mN, south to 704000mE, 5336000mN, west to 702000mE, 5336000mN, south to 702000mE, 5335000mN, west to 700000mE, 5335000mN, north to 70000mE, 5340000mN, west to 695000mE, 5340000mN, north to 695000mE, 5345000mN, east to 700000mE, 5345000mN, north to 700000mE, 5347000mN.
Lincoln	Libby.
Lake	Ronan, Polson.
Missoula	Township T13N, R19W, sections 2, 8, 11, 14, 15, 16, 17, East 19, 20, 21, 22, 23, 24, 27, 28, 29, East 1/2 30, East 1/2 31, 32, 33, 34, and T12N, R19W, section 4, 5, 6, 7.
Rosebud	Lame Deer.
Silver Bow	Butte
Nevada:	
Washoe	Reno planning area: Hydrographic area 87.
Clark	Las Vegas planning area: Hydrographic Area 212.
New Mexico: Dona Ana	The area bounded by Anthony Quadrangle, Anthony, New Mexico—Texas, SE/4 La Mesa 15 ' Quadrangle, N3200—W10630/7.5, Township 26S, Range 3E, Sections 35 and 36 as limited by the New Mexico—Texas State line on the south.
Ohio:	
Cuyahoga	County.
Jefferson	The portion of the City of Steubenville south to Market Street, plus the area bounded on the north by the southern boundary of the City of Steubenville, on the west by Ohio Route #7, on the south by the southern border of Steubenville Township, and on the east by the Ohio/West Virginia border.
Oregon:	
Jackson	Medford-Ashland air quality maintenance area (including White City)
Josephine	Grants Pass: The area within the urban growth boundary.
Lane	Eugene/Springfield: The area within the urban growth boundary.
Klamath	Klamath Falls: The area within the urban growth boundary.
Texas: El Paso	City of El Paso.
Utah:	
Salt Lake	County.
Utah	County.
West Virginia: Brooke	Follansbee area bounded on the north by the Market Street Bridge, on the east by West Virginia Route #2, on the south by the extension of the southern boundary of Steubenville Township in Jefferson County, Ohio, and on the west by the Ohio/West Virginia border.
Washington:	
King	The portion of the City of Seattle bounded on the east by I-5/East Duwamish Greenbelt, on the south by 104th Street, on the west by the West Duwamish Greenbelt north to Fairmont Avenue, SW., north on Fairmont to Elliott Bay, and Dearborn Street from Elliott Bay to I-5; The city of Kent and a portion of the Green River valley bounded on east and west by the 100-foot contour, on the north by South 212th Street, and on the south by Highway 516.
Pierce	Tacoma metropolitan area bounded on the north by Marine View Drive from Commencement Bay east to the 100-foot contour, southeast along the 100-foot contour to 64th Avenue East, south along 64th Avenue East extended to I-5, I-5 west to the 100-foot contour near Pacific Avenue, and north along the 100-foot contour to Commencement Bay.
Spokane	The area bounded on the south by a line from Universal Transmercator (UTM) coordinate 469000mE, 5271000mN, west to 458000mE, 5271000mN, thence north along a line to coordinate 458000mE, 5288000mN, thence east to 463000mE, 5288000mN, thence north to 463000mE, 5292000mN, thence east to 481000mE, 5292000mN, thence south to 481000mE, 5288000mN, thence east to 469000mE, 5288000, thence south to the beginning coordinate 469000mE, 5271000mN.
Yakima	The area bounded on the south by a line from Universal Transmercator (UTM) coordinate 694000mW, 5157000mN, west to 681000mW, 5157000mN, thence north along a line to coordinate 681000mN, 5172000mN, thence east to 694000mW, 5172000mN, thence south to the beginning coordinate 694000mW, 5157000mN.
Thurston	Cities of Olympia, Tumwater, and Lacey.
Walla Walla	Walluls.
Wyoming: Sheridan	City of Sheridan.

[1] For convenience, the entire list of Group I areas, as revised is published above.
[2] When cities or towns are shown, the area of concern is defined by the municipal boundary limits as of the date of this notice.
[3] When a planning area is shown, the area of concern includes the entire planning area unless the area is further defined (e.g., by township, range, and/or section).

4. Group II Area Descriptions

As a result of additional information acquired by the States the descriptions of certain areas of concern published in the August 7, 1987 **Federal Register** notice are revised to read as follows:

GROUP II AREAS [1, 2, 3]

State and counties	Area of concern
Alabama: Jefferson	North Birmingham and Leeds.
Alaska: Fairbanks	Fairbanks.
Arizona:	
Coconino	Flagstaff planning area.
Graham	Safford planning area.
Navajo	Show Low and Joseph City planning areas.
Apache	Show Low planning area.
Santa Cruz	Nogales planning area; [4] The portions of the following Townships which are within the State of Arizona and lie east of 111° longitude: T23S, R13E; T23S, R14E; T24S, R13E; T24S, R14E.
Pima	Ajo planning area; [4] Township T12S, R6W, and the following sections of Township T12S, R5W: a. Sections 6–8, b. Sections 17–20, and c. Sections 29–32.
Pima	Tucson planning area.
Cochise	Tucson planning area.
Pinal	Casa Grande planning area.
California:	
Santa Clara	County.
San Joaquin and Stanislaus	San Joaquin Valley planning area.[4].
Kern	Southeast Desert Air Basin.
Los Angeles	Southeast Desert Air Basin.
Mono	Mono Basin.
Colorado:	
Adams	Brighton.
Boulder	Longmont.
Delta	Delta.
Eagle	Vail.
El Paso	Colorado Springs.
Garfield	Glenwood Springs, Rifle.
Gunnison	Crested Butte.
Routt	Steamboat Springs.
Mesa	Grand Junction, Fruita.
Weld	Greeley.
Miami: Ma	County.
Idaho:	
Bonner	County.[4].
Caribou	Conda.
Illinois:	
LaSalle	Oglesby [4] including the following townships, ranges, and sections: T32N, R1E, S1; T32N, R2E, S6; T33N, R1E, S24; T33N, R1E, S25; T33N, R2E, S31; and T33N, R1E, S36.
Randolph	Baldwin.
Macon	Decatur.
Rock Island	Rock Island, Moline.
Will	Joliet.
St. Clair	East St. Louis.
DuPage	Addison.
Indiana:	
Marion	Subpart of Indianapolis.
Vigo	Terre Haute.
Porter	County.
Iowa:	
Camp Dando	Mason City.
Linn	Cedar Rapids.
Polk	Des Moines.
Kansas: Wyandotte	Kansas City.
Kentucky: Boyd	Cattlesburg and Ashland.
Maryland: Baltimore	Baltimore.
Michigan:	
Saginaw	Carrollton.
Monroe	Monroe.
Minnesota:	
Hennepin	Minneapolis.
St. Louis	Duluth and Iron Range.
Itasca	Iron Range.
Lake	Two Harbors Township.
Stearns	St. Cloud Township.
Montana:	
Blaine	Hays.
Flathead	Columbia Falls; [4] Township T30N, R20W, Sections 7, 8, 9, 16, and 17.
Deer Lodge	Anaconda.
Lewis & Clark	Helena.
Sanders	Thompson Falls.
Lincoln	Eureka.
Nebraska:	
Cass	Weeping Water.
Douglas	Omaha.
Nevada:	
Lander, Humbolt, Elko, & Eureka	Battle Mountain area.
New Jersey:	
Hudson	Jersey City.
Camden	Camden.
New York: Onondaga	Solvay.

GROUP II AREAS [1, 2, 3]—Continued

State and counties	Area of concern
New Mexico:	
Bernalillo	County.[6].
Grant	County.
Santa Fe	County.
Sandoval	County.
Taos	County
Ohio:	
Wyandot	Carey.
Scioto	New Boston.
Trumbull	Warren, Howland Township.
Lorain	Sheffield Township.
Butler	Middletown.
Seneca	Thompson Township.
Sandusky	Jackson Township.
Belmont	Martins Ferry.
Columbiana	East Liverpool.
Franklin	Columbus.
Hamilton	Cincinnati.
Mahoning	Youngstown.
Montgomery	Dayton.
Richland	Mansfield.
Stark	Canton.
Summit	Akron.
Oklahoma: Comanche	County.
Oregon:	
Deschutes	Bend.
Multnomah	Portland.
Union	LaGrande: [4] the area within the urban growth boundary.
Lane	Oakridge: [4] the area within the urban growth boundary.
Pennsylvania:	
Allegheny	a. The triangular area bounded on the north by an east-west line passing through the North Braddock monitor (at 600 Anderson Street) and intersecting the center line of the Monongahela River, and on the east by a north-south line passing through the East Pittsburgh monitor (at the intersection of Cliff Street and Draper Street) and intersecting the center line of the Monongahela River; b. The area including Liberty, Lincoln, Port Vue, and Glassport Boroughs and the City of Clairton.[4]
Philadelphia	Bridesburg—Port Richmond.
Erie	County.
Lawrence	County.
Mercer	County.
Puerto Rico: San Juan	San Juan.
South Dakota: Pennington	Rapid City.
Texas:	
Dallas	That portion of the City of Dallas enclosed by Loop 12 Highway.
Harris	The area bounded on the north side by a line extending eastward from Bennet Street starting at the Southern Pacific Railroad tracks at the intersection of Bennet Street and Clinton Drive and ending at the intersection of Bennet and Legget Streets, on the east side, along Legget Street southward to Clinton Drive, thence eastward to the intersection of Mayo Shell Road, and thence southward again to the Ship Channel, on the south side, westward along the south edge of the Ship Channel, including Brady Island, to East Erath Street and connecting with the Southern Pacific railroad, on the west side, northward along the southern Pacific Railroad to the intersection of Clinton Drive and Bennet Street.
Lubbock	That portion of the City of Lubbock [4] enclosed by Loop 289 Highway.
Nueces	That portion of the City of Corpus Christi, bounded by Nueces Bay on the north, Ocean Drive on the east, Highway 44 on the south, and a line due north from Highway 44 at the intersection of Highway 358 to Nueces Bay on the west.
Virginia: Buchanan	County.
Washington:	
Benton	County.[5]
King	Bellevue.
West Virginia:	
Hancock	City of Wierton.[5]
Brooke	Remainder of county.
Wisconsin:	
Brown	DePere.
Milwaukee	Milwaukee.
Waukesha	Waukesha.
Douglas	Superior.
Dane	Madison.
Wyoming: Fremont	Lander.

[1] For convenience, the entire list of Group II areas, as revised, is published above.
[2] When cities or towns are shown, the area of concern is defined by the municipal boundary limits as of the date of this notice.
[3] When a planning area is shown, the area of concern includes the entire planning area unless the area is further defined (e.g., by township, range, and/or section).
[4] The State has recorded violations of the PM-10 NAAQS based upon air quality data through December 31, 1988.
[5] The State has recorded violations of the PM-10 NAAQS based upon air quality data through December 31, 1989.

Authority: Sections 110 and 301 of the Clean Air Act give the Administrator authority to adopt policies necessary to implement NAAQS.

Dated: October 22, 1990.

William G. Rosenberg,

Assistant Administrator for Air and Radiation.

[FR Doc. 90-25518 Filed 10-30-90; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 61

[AD-FRL-3826-4]

National Emission Standards for Hazardous Air Pollutants; Benzene Emissions From Chemical Manufacturing Process Vents, Industrial Solvent Use, Benzene Waste Operations, Benzene Transfer Operations, and Gasoline Marketing System; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This document clarifies the applicability of § 61.300(a) of the National Emission Standard for Benzene Transfer Operations which was promulgated in the **Federal Register** on Wednesday, March 7, 1990 (55 FR 8341). This action is necessary to clarify that the benzene transfer rule does not apply to the loading of crude oil, natural gas liquids or petroleum distillates such as fuel oil, diesel or kerosene. It was never EPA's intent that the benzene transfer rule apply to crude oil, natural gas liquids or petroleum distillates. The benzene content of these materials is well below the 70 percent cutoff in the regulation and will never approach this cutoff.

This notice also changes the applicability date of § 61.300(e) of the regulation as it applies to the loading of benzene into marine vessels. This change is necessary to allow facilities adequate time to design, purchase and install vapor control systems that comply with the U.S. Coast Guard standards that were issued June 21, 1990 (55 FR 25396) and that are effective July 23, 1990. This correction is consistent with EPA's intent to provide an industry-wide waiver of 1 year so that facilities can take into consideration the Coast Guard standards that address safe design, installation and operation of marine vessel vapor control systems.

EFFECTIVE DATE: March 7, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Doug Bell at (919) 541-5568 or Ms. Laura Butler, (919) 541-5267, Standards Development Branch, ESD (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Dated: October 23, 1990.

Michael Shapiro,

Acting Assistant Administrator for Air and Radiation.

For reasons set out in the preamble, title 40, chapter I, part 61 of the Code of Federal Regulations is amended as follows:

PART 61—[AMENDED]

1. The authority citation for part 61 continues to read as follows:

Authority: Secs. 101, 112, 114, 116, 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7412, 7414, 7416, 7601).

2. Section 61.300 is amended by revising paragraphs (a) and (e) to read as follows:

§ 61.300 Applicability.

(a) The affected facility to which this subpart applies is the total of all loading racks at which benzene is loaded into tank trucks, railcars, or marine vessels at each benzene production facility and each bulk terminal. However, specifically exempted from this regulation are loading racks at which only the following are loaded: Benzene-laden waste (covered under subpart FF of this part), gasoline, crude oil, natural gas liquids, petroleum distillates (e.g., fuel oil, diesel, or kerosene), or benzene-laden liquid from coke by-product recovery plants.

* * * * *

(e) The owner or operator of an affected facility, as defined in § 61.300(a) that loads a marine vessel shall be in compliance with the provisions of this subpart on and after July 23, 1991. If an affected facility that loads a marine vessel also loads a tank truck or railcar, the marine vessel loading racks shall be in compliance with the provisions of this subpart on and after July 23, 1991, while the tank truck loading racks and the railcar loading racks shall be in compliance as required by § 61.12.

[FR Doc. 90-25731 Filed 10-30-90; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 761

[OPTS-62035J; FRL 3801-2]

Polychlorinated Biphenyls in Electrical Transformers; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: EPA issued a final rule on polychlorinated biphenyls (PCBs) in electrical transformers published in the **Federal Register** issue of July 19, 1988 (53 FR 27322). In the codified text of § 761.30(a)(1)(v), EPA inadvertently omitted subparagraphs (A), (B), and (C). This document corrects that error by reinserting these subparagraphs.

EFFECTIVE DATE: This correction is effective October 31, 1990.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543B, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION:

EPA issued a final rule on PCBs in electrical transformers published in the **Federal Register** issue of July 19, 1988 (53 FR 27322), in which § 761.30(a)(1)(v) was revised. It was not EPA's intent to delete subparagraphs (A), (B), and (C) from paragraph (a)(1)(v) when the **Federal Register** notice was published. EPA intended only to revise the introductory text of paragraph (a)(1)(v). This document corrects § 761.30(a)(1)(v) by reinserting subparagraphs (A), (B), and (C).

List of Subjects in 40 CFR Part 761

Environmental protection, Hazardous substances, Labeling, Polychlorinated biphenyls, Reporting and recordkeeping requirements.

Dated: September 10, 1990.

Charles L. Elkins,

Director, Office of Toxic Substances.

Therefore, 40 CFR part 761 is amended as follows:

PART 761—[AMENDED]

1. The authority citation for part 761 continues to read as follows:

Authority: 15 U.S.C. 2605, 2607, 2611, 2614, and 2616.

2. In § 761.30 by correctly revising paragraph (a)(1)(v) to read as follows:

§ 761.30 Authorizations.

* * * * *

(a) * * *

(1) * * *

(v) As of October 1, 1990, all radial PCB Transformers with higher secondary voltages (480 volts and above, including 480/277 volt systems)

in use in or near commercial buildings must, in addition to the requirements of paragraph (a)(1)(iv)(A) of this section, be equipped with protection to avoid transformer ruptures caused by sustained low current faults.

(A) Pressure and temperature sensors (or other equivalent technology which has been demonstrated to be effective in early detection of sustained low current faults) must be used in these transformers to detect sustained low current faults.

(B) Disconnect equipment must be provided to insure complete deenergization of the transformer in the event of a sensed abnormal condition (e.g., an overpressure or overtemperature condition in the transformer), caused by a sustained low current fault. The disconnect equipment must be configured to operate automatically within 30 seconds to 1 minute of the receipt of a signal indicating an abnormal condition from a sustained low current fault, or can be configured to allow for manual deenergization from a manned on-site control center upon the receipt of an audio or visual signal indicating an abnormal condition caused by a sustained low current fault. Manual deenergization from a manned on-site control center must occur within 1 minute of the receipt of the audio or visual signal indicating an abnormal condition caused by a sustained low current fault. If automatic operation is selected and a circuit breaker is utilized for disconnection, it must also have the capability to be manually opened if necessary.

(C) The enhanced electrical protective system required for the detection of sustained low current faults and the complete and rapid deenergization of transformers must be properly installed, maintained, and set sensitive enough (in accordance with good engineering practices) to detect sustained low current faults and allow for rapid and total deenergization prior to PCB Transformer rupture (either violent or non violent rupture) and release of PCBs.

* * * * *

[FR Doc. 90-25720 Filed 10-30-90; 8:45 am]
BILLING CODE 6560-50-F

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6812

[AZ-930-4214-10; A-22647]

Withdrawal of National Forest System Land for the Smithsonian Institution—Fred Lawrence Whipple Observatory; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 40 acres of National Forest System land from entry and location under the mining laws for a period of 20 years for use by the Smithsonian Institution as a base camp site for its Fred Lawrence Whipple Observatory. The area described in this order is located entirely within the boundaries of the Coronado National Forest. The land has been and will remain open to land laws applicable to National Forest System land and to mineral leasing.

EFFECTIVE DATE: October 31, 1990.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM, Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, 602-640-5509.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described National Forest System land is hereby withdrawn from entry and location under the mining laws (30 U.S.C. ch. 2), and reserved for use by the Smithsonian Institution to protect the Fred Lawrence Whipple Observatory Base Camp Site:

Gila and Salt River Meridian

Coronado National Forest

T. 20 S., R. 14 E.,
Sec. 19, S½N½NE¼SW¼,S½NE¼SW¼,N½N½SE¼SW¼.

The area described contains 40 acres in Santa Cruz County.

2. The withdrawal made by this order does not alter the applicability of those land laws governing the use of National Forest System land under lease, license, or permit, or governing the disposal of its mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

Dated: October 23, 1990.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-25708 Filed 10-30-90; 8:45 am]
BILLING CODE 4310-32-M

43 CFR Public Land Order 6813

[AK-932-00-4214-10; AA-6994]

Partial Revocation of Public Land Order No. 829, as Amended; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a public land order insofar as it affects approximately 100 acres of National Forest System land which had been withdrawn for the Ward Cove Water Supply System. The land is no longer needed for the purpose for which it was withdrawn. The land has either been conveyed out of Federal ownership or is within an overlapping withdrawal. The land within the overlapping withdrawal will continue to be closed to mining, but has been and will remain open to mineral leasing.

EFFECTIVE DATE: October 31, 1990.

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513-7599, 907-271-3342.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988) it is ordered as follows:

1. Public Land Order No. 829, as amended, which withdrew land in the Tongass National Forest is hereby revoked insofar as it affects the following described land:

Copper River Meridian (Partially Surveyed)

T. 74 S., R. 90 E.
That portion within secs. 20, 27, 34, and 35 which overlaps Public Land Order No. 3795 and U.S. Survey No. 3400.

The area described, including both public and non-public land, contains a total of approximately 100 acres.

2. The land described in paragraph 1 which is within Public Land Order No. 3795 remains withdrawn from appropriation under the mining laws and is subject to any other withdrawals of record.

Dated: October 23, 1990.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-25707 Filed 10-30-90; 8:45 am]

BILLING CODE 4310-AA-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-461; RM-6881]

Radio Broadcasting Services; Lafayette, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document, at the request of Brian Mitchell Rowland, substitutes Channel 280C2 for Channel 280A at Lafayette, Florida, and modifies the construction permit for Station WQHI–FM to specify operation on the higher powered channel. See 54 FR 45772, October 31, 1989. Channel 280C2 can be allotted to Lafayette in compliance with the Commission's minimum distance separation requirements with a site restriction of 20.8 kilometers (12.9 miles) southeast to accommodate petitioner's desired transmitter site, and in order to avoid a short-spacing to Station WOOF(FM), Channel 259C1, Dothan, Alabama. The coordinates for this allotment are North Latitude 30–18–21 and West Longitude 84–03–09. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 10, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–461, adopted September 11, 1990, and released October 26, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service (202) 857–3800, 2100 M Street NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended by removing Channel 280A and adding Channel 280C2 at Lafayette, Florida.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25775 Filed 10-30-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-199; RM-7098]

Radio Broadcasting Services; Beattyville, KY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 271A for Channel 272A at Beattyville, Kentucky, and modifies the license of Station WLJC(FM) to specify operation on the alternate Class A channel, at the request of Hour of Harvest, Inc. See 55 FR 17463, April 25, 1990. Channel 271A can be allotted to Beattyville in compliance with the Commission's minimum distance separation requirements at Station WLJC's currently licensed site, with a site restriction of 3.9 kilometers (2.4 miles) northwest of the community. The coordinates for Channel 271A at Beattyville are North Latitude 37–36–23 and West Longitude 83–41–16. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 10, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90–199, adopted September 27, 1990, and released October 26, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service (202) 857–3800, 2100 M Street NW., suite 140, Washington, DC. 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Kentucky, is amended by removing Channel 272A and adding Channel 271A at Beattyville.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25776 Filed 10-30-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-528; RM-7045]

Radio Broadcasting Services; Hatteras, NC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Heart of Dixie Broadcasting, Inc., allots Channel 232A to Hatteras, North Carolina, as the community's second local FM service. See 54 FR 50005, December 4, 1989. Channel 232A can be allotted to Hatteras in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 232A at Hatteras are North Latitude 35–12–54 and West Longitude 75–41–30. With this action, this proceeding is terminated.

DATES: Effective December 10, 1990. The window period for filing applications will open on December 11, 1990, and close on January 10, 1991.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–528, adopted September 28, 1990, and released October 26, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments under North Carolina, is amended by adding Channel 232A at Hatteras.

Federal Communications Commission.
Kathleen B. Levitz,
Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25777 Filed 10-30-90; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-484; RM-6972]

Radio Broadcasting Services; Edinboro, PA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of WinCapp Broadcasting, Inc., substitutes Channel 250B1 for Channel 250A at Edinboro, Pennsylvania, and modifies its license for Station WXTA to specify operation on the higher powered channel. See 54 FR 48285, November 22, 1989. Channel 250B1 can be allotted to Edinboro in compliance with the Commission's minimum distance separation requirements and can be used at Station WXTA's presently licensed transmitter site. The coordinates for Channel 250B1 at Edinboro are North Latitude 41-57-59 and West Longitude 80-06-40. Canadian concurrence has been received. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 10, 1990.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-484, adopted September 28, 1990, and released October 26, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments under Pennsylvania, is amended by removing Channel 250A and adding Channel 250B1 at Edinboro.

Federal Communications Commission.
Kathleen B. Levitz,
Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25779 Filed 10-30-90; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-488; RM-6985]

Radio Broadcasting Services; Barnwell, SC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Radio WBAW, Inc., substitutes Channel 256C3 for Channel 256A at Barnwell, South Carolina, and modifies its license for Station WBAW-FM to specify operation on the higher powered channel. See 54 FR 47668, November 16, 1989. Channel 256C3 can be allotted to Barnwell in compliance with the Commission's minimum distance separation requirements and can be used at the present transmitter site of Station WBAW-FM. The coordinates for Channel 256C3 are North Latitude 33-13-25 and West Longitude 81-21-35. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 10, 1990.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-488, adopted September 28, 1990, and released October 26, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments under South Carolina, is amended by removing Channel 256A and adding Channel 256C3 at Barnwell.

Federal Communications Commission.
Kathleen B. Levitz,
Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25778 Filed 10-30-90; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

47 CFR Part 300

Incorporation by Reference of the Manual of Regulations and Procedures for Federal Radio Frequency Management

AGENCY: National Telecommunications and Information Administration (NTIA), Commerce.

ACTION: Final rule.

SUMMARY: This final rule gives notice of current revisions to the May 1988 Manual of Regulations and Procedures for Federal Radio Frequency Management (NTIA Manual) that have been published and forwarded to all holders of the manual. The revisions cover the changes in various government policies relating to the United States Government use of the radio frequency spectrum. These changes have been adopted by the Interdepartment Radio Advisory Committee (IRAC) and approved by the National Telecommunications and Information Administration.

EFFECTIVE DATE: October 31, 1990.

FOR FURTHER INFORMATION CONTACT: Edwin E. Dinkle, National Telecommunications and Information Administration, Department of Commerce, room H1605, 14th and Constitution Avenue, NW., Washington, DC 20230; (202) 377-0569.

SUPPLEMENTARY INFORMATION: The President by Reorganization Plan No. 1

BEST COPY AVAILABLE

of 1977 and Executive Order 12046 of March 27, 1978 delegated to the Secretary of Commerce authority to act for the President or under the President's authority in the discharge of certain Presidential telecommunication functions under the Communications Act of 1934, as amended, and the Communications Satellite Act of 1962.

The Secretary of Commerce has delegated this Presidential authority to the Assistant Secretary of Commerce for Communications and Information (the Assistant Secretary). The Manual of Regulations and Procedures for Federal Radio Frequency Management (NTIA Manual) is issued by the Assistant Secretary and is specifically designed to detail the Assistant Secretary's frequency management responsibilities.

List of Subjects in 47 CFR Part 300

Incorporation by reference, Radio.

For the reasons set out in the preamble, title 47, chapter III, part 300 of the Code of Federal Regulations is amended as set forth below.

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: E.O. 12046 (March 27, 1978), 43 FR 13349, 3 CFR 1978 Comp., P. 158.

2. Section 300. 1(b) is revised to read as follows:

§ 300.1 Incorporation by reference of the Manual of Regulations and Procedures for Federal Radio Frequency Management.

* * * * *

(b) The Federal agencies shall meet the requirements set forth in the May 1989 edition of the NTIA Manual, as amended by revisions dated May 1990, which is incorporated by reference with the approval of the Director, Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

* * * * *

Richard D. Parlow,

Associate Administrator, Office of Spectrum Management.

[FR Doc. 90-25680 Filed 10-30-90; 8:45 am]

BILLING CODE 3510-60-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 3, 4, 9, 14, 15, 37, 52, and 53

Federal Acquisition Regulation (FAR); Procurement Integrity

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule; extension of comment period.

SUMMARY: Federal Acquisition Circular (FAC) 84-60 which amended the FAR with respect to Procurement Integrity, was published as an interim rule with request for comment on September 6, 1990 (55 FR 36782). The original date for submission of comments was November 6, 1990. The Councils have decided to extend the period for public comments on the FAR coverage for Procurement Integrity to accommodate the requests of interested parties.

DATES: Comments on the interim FAR coverage for Procurement Integrity should be submitted to the FAR Secretariat by November 21, 1990, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., room 4041, Washington, DC 20405. Please cite FAC 84-60 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Sharon A. Kiser, FAR Secretariat, room 4041, GS Building, Washington, DC 20405, (202) 501-4755. Please cite FAC 84-60.

Dated: October 25, 1990.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

[FR Doc. 90-25679 Filed 10-30-90; 8:45 am]

BILLING CODE 6820-34-M

48 CFR Parts 9, 52, and 53

[Federal Acquisition Circular 90-1]

Federal Acquisition Regulation (FAR); Consultants—Conflict of Interest; Optional Form 333, Procurement Integrity Certification for Procurement Officials

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule; correction.

SUMMARY: This document corrects Federal Acquisition Circular (FAC) 90-1 published in the Federal Register on Monday, October 22, 1990 (55 FR 42684).

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill, Office of Federal Acquisition Policy, GS Building, Washington, DC 20405, (202) 501-3856. Please cite FAC 90-1 correction.

SUPPLEMENTARY INFORMATION: In FR Doc. 90-24969, the background statement for Item I and the interim rule were inconsistent. The second sentence of the background statement incorrectly states that apparent successful offerors on all advisory and assistance contracts over $200,000, who employ marketing consultants, must provide a certification * * *. The sentence should be deleted in part and revised to read as follows: Under the regulation, apparent successful offerors to all solicitations expected to exceed $200,000 (other than by sealed bids) who employ marketing consultants, must provide a certification * * *.

This correction provides consistency between the background statement and the regulation at 9.507-1(b).

Dated: October 26, 1990.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

[FR Doc. 90-25687 Filed 10-30-90; 8:45 am]

BILLING CODE 6820-34-M

Proposed Rules

Federal Register
Vol. 55, No. 211
Wednesday, October 31, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 731, 732, 736

Intent To Revise Suitability, Personnel Security and Related Programs, and Investigations Regulations

AGENCY: Office of Personnel Management.

ACTION: Intent to revise regulations.

SUMMARY: The Office of Personnel Management (OPM), under its authorities in 5 U.S.C. 3301; E.O. 10450, Security Requirements for Government Employment; E.O. 10577 (codified at 5 CFR part 5), Office of Management and Budget Circular No. A–130, Management of Federal Information Resources, and its appendix III, Security of Federal Automated Information Systems, etc., intends to revise 5 CFR parts 731, 732, and 736, and related guidance. The changes and adjustments will more clearly delineate the distinctions among suitability, computer/ADP security, and national security. Procedural requirements will also be changed, where appropriate. The changes will affect suitability screening procedures, position sensitivity designation procedures, and investigation requirements, including the use of investigative forms. Part 731, Suitability, will focus on positions having no national security aspect and will deal with general suitability, public trust and computer/ADP aspects of positions. OPM will provide requirements for such positions with defined risk levels. The investigative forms will include the SF 85, Questionnaire for Non-Sensitive Positions, for low risk positions, and a new form, SF 85P, Questionnaire for Public Trust Positions, for higher risk positions. Questions will be appropriate to the risk levels involved. The SF 85P will be established as a new information collection; respondents would have heretofore completed the SF 86.

Part 732, retitled National Security Positions, will focus on positions with national security duties and classified information access requirements. It will retain the present four security sensitivity levels (non-sensitive, noncritical sensitive, critical sensitive, and special sensitive). The investigative forms will continue to be SF 85, Questionnaire for Non-Sensitive Positions, and SF 86, Questionnaire for Sensitive Positions.

Part 736, Personnel Investigations, will continue to cover processing of personnel investigations and will supplement the requirements in both parts 731 and 732.

The investigative forms, SF 85, SF 85P, and SF 86, are subject to OMB clearance under the Paperwork Reduction Act and were the subject of a separate notice in the **Federal Register** (55 FR 39533, September 27, 1990).

FOR FURTHER INFORMATION, CONTACT: Vernon B. Parker, Counselor to the Director, U.S. Office of Personnel Management, 1900 E. Street NW., Room 5524, Washington, DC 20045, (202) 606–1000.

Constance Berry Newman,

Director.

[FR Doc. 90–25284 Filed 10–30–90; 8:45 am]

BILLING CODE 6325–01–M

FEDERAL ELECTION COMMISSION

[Notice 1990–18]

11 CFR Parts 109 and 114

Corporate and Labor Organization Expenditures

AGENCY: Federal Election Commission.

ACTION: Extension of comment period

SUMMARY: On October 3, 1990, the Federal Election Commission published an additional request for comments on what changes to its regulations are warranted following the Supreme Court opinions in *Austin* v. *Michigan Chamber of Commerce*, ___ U.S. ___, 110 S. Ct. 1391 (1990) ("*Austin*"), and other recent judicial decisions regarding section 441b of the Federal Election Campaign Act, 2 U.S.C. 441b. The Commission has now decided to extend the comment period until November 30, 1990.

DATE: Comments must be received on or before November 30, 1990.

ADDRESSES: Comments must be in writing and addressed to: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463, (202) 376–5690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Commission has initiated a rulemaking to determine what changes, if any, should be to made its regulations at 11 CFR parts 109 and 114 following the Supreme Court's decisions in *Federal Election Commission* v. *Massachusetts Citizens for Life*, 479 U.S. 238 (1986) ("*MCFL*"). *See* 53 FR 40070, 53 FR 416 and 52 FR 16275. On October 3, 1990 the Commission sought additional comments in light of the Supreme Court's more recent opinion in *Austin* v. *Michigan Chamber of Commerce*, ___ U.S. ___, 110 S. Ct. 1391 (1990) ("*Austin*"). *See* 55 FR 40397 (Oct. 3, 1990). This additional comment period was scheduled to end on November 2, 1990, which is four days before the 1990 general elections. The Commission notes that commenters who are engaged in 1990 election activities may find it difficult to submit timely comments. Accordingly, the Commission has now concluded that it would be appropriate to extend the comment period until November 30, 1990 to allow commenters sufficient time after the elections to prepare their comments and suggestions.

Dated: October 25, 1990.

Lee Ann Elliott,

Chairman, Federal Election Commission.

[FR Doc. 90–25740 Filed 10–30–90; 8:45 am]

BILLING CODE 6715–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Ohio Permanent Regulatory Program; Revision of Administrative Rules and the Ohio Revised Code

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing the receipt of proposed Program Amendment Number 46 to the Ohio

permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments are intended to revise three Ohio administrative rules and one section of the Ohio Revised Code to be consistent with the corresponding Federal regulations regarding the extraction of coal incidental to the extraction of other minerals.

This notice sets forth the times and locations that the Ohio program and proposed amendments to that program will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received on or before 4 p.m. on November 30, 1990. If requested, a public hearing on the proposed amendments will be held at 1 p.m. on November 26, 1990. Requests to present oral testimony at the hearing must be received on or before 4 p.m. on November 15, 1990.

ADDRESSES: Written comments and requestes to testify at the hearing should be mailed or hand-delivered to Ms. Nina Rose Hatfield, Director, Columbus Field Office, at the address listed below. Copies of the Ohio program, the proposed amendments, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive, free of charge, one copy of the proposed amendments by contacting OSM's Columbus Field Office.

Office of Surface Mining Reclamation and Enforcement, Columbus Field Office, 2242 South Hamilton Road, Room 202, Columbus Ohio 43232, Telephone: (614) 866–0578

Ohio Department of Natural Resources, Division of Reclamation, 1855 Fountain Square Court, Building H–3, Columbus, Ohio 43224, Telephone: (614) 265–6675

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office, (614) 866–0578.

SUPPLEMENTARY INFORMATION:

I. Background

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. Information on the general background of the Ohio program submission, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program, can be found in the August 10, 1982 Federal Register (47 FR 34688). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11, 935.12, 935.15, and 935.16.

II. Discussion of the Proposed Amendments

By letter dated February 7, 1990 (Administrative Record No. OH–1383), the Director of OSM notified the Ohio Department of Natural Resources, Division of Reclamation (Ohio) that OSM had recently promulgated new Federal regulations concerning exemptions for coal extraction incidental to the extraction of other minerals. The Director required Ohio to modify its regulatory program to remain consistent with the new Federal requirements.

By letter dated April 5, 1990 (Administrative Record No. OH–1384), Ohio responded with questions concerning the Director's February 7, 1990 letter. OSM provided responses to Ohio's questions by letter dated May 1, 1990 (Administrative Record No. OH–1385).

By letter dated May 31, 1990 (Administrative Record No. OH–1386), Ohio requested an extension until August 1, 1990 to submit an amendment to the Ohio program concerning incidental coal extraction. By letter dated August 2, 1990 (Administrative Record No. OH–1387), Ohio submitted additional questions concerning OSM's new regulations on incidental coal extraction. OSM responded to Ohio's second set of questions by letter dated September 6, 1990 (Administrative Record No. OH–1390).

By letter dated October 12, 1990 (Administrative Record No. OH–1393), Ohio submitted formal Program Amendment No. 46. The amendment proposes changes to three Ohio administrative rules and one section of the Ohio Revised Code regarding the extraction of coal incidental to the extraction of other minerals.

Numerous nonsubstantive changes are proposed throughout the revised rules to correct paragraph letter notations and to make other minor revisions. The substantive changes proposed by Ohio in the Ohio Administrative Code (OAC) and in the Ohio Revised Code (ORC) are discussed briefly below:

1. *OAC 1501:13–4–16.* Ohio is adding this new rule to establish the requirements for the exemption of incidental coal extraction from the normal requirements for coal mining and reclamation operations under the Ohio regulatory program. This new rule would contain sections dealing with the following topics:

(A) Applicability of the rule.
(B) Definitions.
(C) Application requirements and procedures.
(D) Contents of requests for exemption.
(E) Public availability of information.
(F) Requirements for exemption.
(G) Conditions of exemption.
(H) Stockpiling of minerals.
(I) Reporting requirements.

2. *OAC 1501:13–5–03.* Ohio is adding this new rule to establish the procedures for revocation of exemption for incidental coal extraction. The Chief of the Ohio Department of Natural Resources, Division of Reclamation (the Chief) shall conduct an annual review of operators' compliance with each approved exemption. If the Chief has reason to believe that a specific mining area was not exempt, is not exempt, or will be unable to satisfy the exemption criteria at the end of the current reporting period, the Chief shall notify the operator that the exemption may be revoked and the reason(s) therefore. The Chief will provide the operator with 30 days to demonstrate that the mining area in question should continue to be exempt. Upon revocation of an exemption, an operator shall stop conducting coal mining operations until Ohio issues a permit to conduct those mining operations. The operator shall also comply with the reclamation standards of the Ohio regulatory program with regard to the areas affected at the time of the Chief's revocation of the exemption.

3. *OAC 1501:13–14–01(H).* Ohio is adding this paragraph to authorize representatives of the Chief to conduct inspections of operations claiming the exemption for incidental coal extraction.

4. *ORC 1513.01(G)(1)(e).* Under the definition of "operation" or "coal mining operation," Ohio is revising the provision excluding incidental coal extraction from the activities included under that definition. Under the definition, the weight of incidental coal must be less than one-sixth of the total weight of all minerals removed. Ohio is deleting the provision in the definition that the Chief may require a license and a permit before the removal of minerals whenever those minerals are removed for use as fill.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking

comment on whether the amendments proposed by Ohio satisfy the applicable program approval criteria of 30 CFR 732.15. If the amendments are deemed adequate, they will become part of the Ohio program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Columbus Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "FOR FURTHER INFORMATION CONTACT" by 4 p.m. on November 15, 1990. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the Columbus Field Office by contacting the person listed under "FOR FURTHER INFORMATION CONTACT." All such meetings shall be open to the public and, if possible, notices of the meetings will be posted at the locations listed under "ADDRESSES." A written summary of each public meeting will be made a part of the Administrative Record.

List of Subjects in 30 CFR Part 935

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: October 22, 1990.

Carl C. Close,

Assistant Director, Eastern Support Center.

[FR Doc. 90-25718 Filed 10-30-90; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 946

Virginia Regulatory Program; Regulatory Reform Review III and Incidental Coal Extraction Exemption

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Virginia permanent regulatory program (hereinafter, referred to as the Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Virginia proposes to amend its rules to meet OSM's Regulatory Reform Review III and the regulations concerning the exemption for coal extraction incidental to the extraction of other minerals removed for purposes of commercial use or sale. Virginia also is proposing changes to its program pertaining to prime farmlands and coal preparation plants not located within the permit area of a mine.

This notice sets forth the times and locations that the Virginia program and proposed amendment to the program are available for public inspection, the comment period during which interested parties may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is required.

DATES: Written comments must be received on or before 4 p.m. on November 30, 1990. If requested, a public hearing on the proposed amendment will be held on November 26, 1990; requests to present testimony at the hearing must be received on or before 4 p.m. November 15, 1990.

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand delivered to Douglas E. Stone, Acting Director, Big Stone Gap Field Office at the first address listed below. If a hearing is requested, it will be held at the same address.

Copies of the Virginia program, proposed amendments and all written comments received in response to this notice will be available for review at the locations listed below during normal business hours Monday through Friday, excluding holidays. Each requestor may receive, free of charge, one single copy of the proposed amendment by contacting the OSM Big Stone Gap Field Office.

Office of Surface Mining Reclamation and Enforcement, Big Stone Gap Field Office, P.O. Drawer 1216, Powell Valley Square Shopping Center, Room 220, Route 23, Big Stone Gap, Virginia 24219, Telephone (703) 523-4303.

Virginia Division of Mined Land Reclamation, P.O. Drawer U, 622 Powell Avenue, Big Stone Gap, Virginia 24219, Telephone (703) 523-8100.

FOR FURTHER INFORMATION CONTACT: Douglas E. Stone, Acting Director, Big Stone Gap Field Office, Telephone (703) 523-4303.

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of the Interior approved the Virginia program on December 15, 1981. Information pertinent to the general background and revisions to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval can be found in the December 15, 1981 Federal Register (46 FR 61085-61115). Subsequent actions concerning the conditions of approval and proposed amendments are identified at 30 CFR 946.12, 946.13, 946.15, and 946.16.

II. Discussion of Amendments

By letter dated October 1, 1990, Virginia submitted a proposed amendment to its program pursuant to SMCRA (Administrative Record No. VA-765). This proposed amendment includes Virginia's response to two 30 CFR 732.17(f)(1) notifications and other changes to its program (Administrative Record Nos. VA-743 and VA-749). Virginia proposes to revise its program pertaining to OSM's Regulatory Reform Review III that includes regulation changes concerning revegetation standards for success, siltation structures and impoundments, termination of jurisdiction, roads and support facilities, coal exploration, probable hydrologic consequences determination, and permitting obligations relative to reclamation. Also changed are regulations concerning the exemption for coal extraction incidental to the extraction of other minerals removed for purposes of commercial use or sale, and regulations concerning prime farmland and coal preparation plants that are not located within the permit area of a mine. A brief description of the proposed changes is outlined below.

A. Revegetation Standards for Success

Sections 480–03–19.816.116(b)(3)(i) and 480–03–19.816.117(b)(3)(i): Virginia proposes to amend its regulations to require that minimum stocking and planting arrangements for areas developed for fish and wildlife habitat, recreation, shelterbelts, or forest products be specified by the Division after consultation with and approval by the State agencies responsible for the administration of forestry and wildlife programs. Consultation and approval may occur either on a programmatic or a permit-specific basis.

Sections 480–03–19.816.116(b)(3)(ii) and 480–03–19.816.117(b)(3)(ii): Virginia proposes to amend its regulations to require that, at the time of final bond release, at least 80 percent of all trees and shrubs used to determine revegetation success have been in place for at least 60 percent of the applicable minimum period of responsibility.

Sections 480–03–19.816.116(b)(3)(iv)(C) and 480–03–19.816.117(b)(3)(iv)(C): Virginia proposes to add new regulations to specify stocking rates and planting arrangements for wildlife enhancement.

Sections 480–03–19.816.116(b)(3)(v)(A) and 480–03–19.816.117(b)(3)(v)(A): Virginia proposes to amend its regulations to remove the reference area requirement for determining tree and shrub stocking success.

Sections 480–03–19.816.116(b)(3)(v)(C) and 480–03–19.816.117(b)(3)(v)(C): Virginia proposes to amend its regulations to specify stocking rates and planting arrangements for wildlife enhancement.

Sections 480–03–19.816.116(c)(2) and 480–03–19.817.116(c)(2): Virginia proposes to amend its regulations to require revegetation success standards for cropland and grazing or pastureland be met during at least 2 years of the responsibility period. These measurements may be taken during any 2 years of the responsibility period except the first year. For all other land uses the revised rules require that revegetation success standards be met during at least the last year of the responsibility period.

Sections 480–03–19.816.116(c)(3) and 480–03–19.817.116(c)(3): Virginia proposes to amend its regulations to require that all normal husbandry practices be approved.

B. Permanent and Temporary Impoundments

Sections 480–03–19.780.25(c) and 480–03–19.784.16(c): Virginia proposes to amend its regulations to require that each plan for an impoundment meeting the criteria of 30 CFR 77.216(a) comply with the requirements of 30 CFR 77.216–1 and 77.216–2. The plan submitted to the MSHA District Manager shall be the same plan submitted as part of the permit application.

Sections 480–03–19.816.46(c)(2) and 480–03–19.817.46(c)(2): Virginia proposes to amend its regulations to provide that sedimentation ponds must include either a combination of principal and emergency spillways or a single spillway constructed according to certain specifications.

Sections 480–03–19.816.49(a)(1) and 480–03–19.817.49(a)(1): Virginia proposes to amend its regulations to remove the permitting requirements for impoundment plans meeting the size and other criteria of 30 CFR 77.216(a) from the performance standards.

Sections 480–03–19.816.49(a)(3), (a)(5) and 480–03–19.817.49(a)(3), (a)(5): Virginia proposes to amend its regulations to provide minimum stability standards for impoundments located where failure would be expected to cause loss life or serious property damage. These regulations also provide stability requirements for small, low-hazard impoundments. In lieu of stability calculations, specific engineering design and construction standards to ensure comparable stability are to be included.

Sections 480–03–19.816.49(a)(8), and 480–03–19.817.49(a)(8): Virginia proposes to amend its regulations to revise the spillway design event standards to be consistent with the Federal rules and the standards for sedimentation ponds.

Sections 480–03–19.816.49(a)(9), and 480–03–19.817.49(a)(9): Virginia proposes to amend its regulations to more closely track the Federal general requirements for inspections of impoundments.

Sections 480–03–19.816.49(c)(2), and 480–03–19.817.49(a)(2): Virginia proposes to amend its regulations to revise the spillway design event standards to be consistent with the Federal rules and the standards for sedimentation ponds.

Sections 480–03–19.816.84(b)(2), (f) and 480–03–19.817.84(b)(2), (f): Virginia proposes to amend its regulations to require that structures meeting the criteria of 30 CFR 77.216(a) and either constructed of coal mine waste or intended to impound coal mine waste have sufficient spillway and/or storage capacity to safely pass or control the runoff from the probable maximum precipitation of a 6-hour or greater precipitation event.

Sections 480–03–19.816.84(f), and 480–03–19.817.84(f): Virginia proposes to amend its regulations to require that, for impounding structures constructed of or impounding coal mine waste, at least 90 percent of the water stored during a design precipitation event must be removed within a 10-day period following that event.

C. Termination of Jurisdiction

Sections 480–03–19.700(d): Virginia proposes to add a new regulation establishing procedures and clarifying the conditions under which the Division may terminate its jurisdiction over sites mined and reclaimed under an initial or permanent regulatory program permit for surface coal mining and reclamation operations and coal exploration activities. Under this new rule, the Division must make a written determination that all applicable reclamation requirements have been met before jurisdiction over initial program and coal exploration sites may be terminated. Also, before terminating jurisdiction over permitted and bonded permanent program sites, the Division must issue a final decision fully releasing the performance bond. In addition, this new rule requires that, in either case, jurisdiction must be reasserted if it is demonstrated that the written findings or bond release were based upon fraud, collusion, or misrepresenation of a material fact.

D. Roads

Sections 480–03–19.700.5: Virginia proposes to amend its regulations to change the definition of road to mean a surface right-of-way constructed, used, reconstructed, improved, or maintained for travel by land vehicles, including mining equipment, used in surface coal mining and reclamation operations or coal exploration. The term encompasses all appurtenant structures used or built within the right-of-way and includes rights-of-way by coal-hauling vehicles to reach transfer, processing, and storage areas. However, the definition does not include ramps and routes of travel within the immediate mining area or excess spoil or coal mine waste disposal areas. Pioneer roads (roads constructed for the purpose of providing the access needed to construct a primary or ancillary road) are not included since they are merely part of the process of constructing a primary or ancillary road; however, such activities are subject to the performance standards applicable to completed primary or ancillary roads.

Sections 480–03–19.780.37 and 480–03–19.784.24: Virginia proposes to amend its regulations to require that the permit application include plans and drawings containing certain specific information for each road to be constructed, used, or maintained within the proposed permit area.

Sections 480-03-19.780.37(b) and 480-03-19.784.24(b): Virginia proposes to add new regulations to require that the plans and drawings for each primary road be prepared by, or under the direction of, and certified by a qualified registered professional engineer with experience in the design and construction of roads as meeting the requirements of this chapter, current prudent engineering practices, and any design criteria established by the Division.

Sections 480-03-19-816.150(a) and 480-03-19-817.150(a): Virginia proposes to amend its regulations to establish classification criteria for mine roads. Primary roads are defined as any roads: (1) Used for transporting coal or spoil, (2) frequently used for access or other purposes for a period in excess of six months, or (3) to be retained as part of an approved postmining land use. An ancillary road is any road not classified as a primary road.

Sections 480-03-19-816.150(b) and 480-03-19-817.150(b): Virginia proposes to amend its regulations to clarify that road dust created by vehicular traffic and dust occurring on other exposed surfaces must be classified and regulated as air pollution attendant to erosion.

Sections 480-03-19-816.150(c) and 480-03-19-817.150(c): Virginia proposes to amend its regulations to require, among other things, that roads be designed and constructed or reconstructed in accordance with current, prudent engineering practices.

Sections 480-03-19-816.150(d) and Section 480-03-19-817.150(d): Virginia proposes to amend its regulations to prohibit the placement of any part of a road in the channel of an intermittent or perennial stream unless the Division specifically approves such an action in accordance with applicable Sections 480-03-19.816.41 through 480-03-19.816.43 and 480-03-19.816.57.

Sections 480-03-19-816.150(e) and 480-03-19-817.150(e): Virginia proposes to amend its regulations to provide that roads shall be maintained to meet performance standards.

Sections 480-03-19-816.150(f) and 480-03-19-817.150(f): Virginia proposes to amend its regulations to require that a road which is not to be retained as part of the postmining land use be reclaimed in accordance with the approved reclamation plan as soon as practicable after it is no longer needed for mining and reclamation operations. The required reclamation activities include removing or otherwise disposing of road-surfacing materials that are incompatible with the postmining land use and the revegetation plan. Also, the roadbed is required to be scarified or ripped.

Sections 480-03-19-816.151 and 480-03-19-817.151: Virginia proposes to amend its regulations to require that the construction or reconstruction of primary roads be certified in a report to the regulatory authority by a qualified registered professional engineer with experience in the design and construction of roads. The report shall certify that the primary road has been constructed or reconstructed as designed and in accordance with the approved plan. These rules also require that each primary road be constructed (or reconstructed) and maintained to provide adequate control of surface water drainage. This drainage control system shall be designed to safely pass the peak runoff from a 10-year, 6-hour or greater precipitation event.

Sections 480-03-19-816.152 and 480-03-19-817.152: Virginia proposes to amend its regulations to revise the waiver for design requirements for existing roads.

E. Support Facilities

Sections 480-03-19-780.38 and 480-03-19-784.30: Virginia proposes to amend its regulations to require each applicant for a surface or underground coal mining and reclamation permit to submit a description of (and plans and drawings for) each support facility to be constructed, used, or maintained within the proposed permit area. The plans and drawings shall include a map, appropriate cross sections, design drawings, and specifications sufficient to demonstrate how each facility will comply with the applicable performance standards.

Section 480-03-19-700.5: Virginia proposes to amend its regulations to remove the definition for support facilities.

F. Coal Exploration

Section 480-03-19.815.15(b): Virginia proposes to amend its regulations to change the sections referenced by this rule.

Section 480-03-19.772.11(a): Virginia proposes to amend its regulations to require any person who intends to conduct coal exploration operations removing 250 or fewer tons of coal to file a notice of intent to explore and require an exploration notice for collecting environmental data.

Section 480-03-19.772.11(b): Virginia proposes to amend its regulations to require additional information for obtaining a coal exploration notice.

Section 480-03-19.772.12: Virginia proposes to amend its regulations to more closely track the Federal requirements for permit requirements for exploration.

Section 480-03-19.772.14(a): Virginia proposes to amend its regulations to expand the requirements to obtain a surface coal mining permit for both the commercial use and sale of coal. Thus, except as provided under 30 CFR 772.14(b) and 700.11(a)(5), any person who intends to commercially use or sell coal extracted under an exploration permit must first obtain a surface coal mining and reclamation operation permit.

Section 480-03-19.772.14(b): Virginia proposes to add new regulations to require that the person conducting the exploration file an application demonstrating that testing is necessary for the development of a surface coal mining operation for which a permit application is to be submitted in the near future. The application also must demonstrate that the proposed commercial use or sale is solely for testing purposes. It must include specific information identifying the tests to be used, the testing firm, testing locations, reasons for the tests, and the amount of coal necessary for the tests. The applicant must supply evidence that sufficient coal reserves are available to support a mine and that the coal to be removed for testing purposes does not constitute the total minable reserves within the exploration area. Also, the application must include an explanation of why other means of exploration are not adequate to determine the quality of the coal.

Section 480-03-19.815.2: Virginia proposes to add new regulations to clarify that Section 480-03-19.772 establishes the notice and permit information requirements for coal exploration.

G. Probable Hydrologic Consequences Determination

Sections 480-03-19.780.21(f) and 480-03-19.784.14(e): Virginia has submitted a policy statement with this program amendment. This policy statement states that Virginia interprets its regulations to require that probable hydrologic consequence determinations address all proposed mining within the permit area, not just those activities expected to occur during the term of the permit. Therefore, no change to its regulations is necessary.

H. Permitting Obligations Relative to Reclamation

Section 480-03-19.701.11(a)-(c): Virginia proposes to amend its regulations to provide clarification that

permits are required only when surface coal mining is conducted.

Section 480–03–19.773.11(a): Virginia proposes to amend its regulations to provide clarification that reclamation is an obligation that is not affected by the existence of a permit.

Section 480–03–19.800.60(b): Virginia proposes to amend its regulations to require liability insurance to remain in effect for the full term of the operator's responsibility period for reclamation.

Section 480–03–19.843.11(a)(2): Virginia proposes to amend its regulations to specify that only surface coal mining operations conducted without a permit are subject to immediate cessation.

I. Prime Farmland

Section 480–03–19.785.17(e)(5): Virginia proposes to amend its regulations to include this proposed regulation specifying that water bodies may be created within the post-reclamation, non-prime farmland.

Section 480–03–19.823.11(b): Virginia proposes to amend its regulations to allow coal mine waste from underground mines to be disposed on prime farmland when this material is not technologically and economically feasible to store in underground mines or on non-prime farmland.

Section 480–03–19.823.12(c)(2): Virginia proposes to amend its regulations to allow an exception to removing the B and C soil horizons for prime farmland.

Section 480–03–19.823.14(d): Virginia proposes to amend its regulations to allow the Division to require deep tilling or other means to restore soil capabilities in areas where the B and C horizons were not removed.

J. Preparation Plants not Located Within the Permit Area of a Mine

Sections 480–03–19.785.21(a) and 480–03–19.821.1: Virginia proposes to amend its regulations to clarify that coal preparation plants operated in connection with a coal mine, that are outside the permit area for a specific mine, are regulated.

Section 480–03–19.827.1: Virginia proposes to amend its regulations to provide the requirements for coal preparation plants operating outside of a specific mine site.

K. Coal Extraction Incidental to the Extraction of Other Minerals

Section 480–03–19.700.11(a)(4): Virginia proposes to amend its regulations to provide the reference to a new Section 480–03–19.702 governing the exemption for extracting coal that is incidental to the extraction of other minerals.

Section 480–03–19.702: Virginia proposes to add a new Part governing the extraction of coal incidental to the extraction of other minerals to its regulations.

Section 480–03–19.702.5: Virginia proposes to add new regulations to provide definitions of cumulative measurement period, cumulative production, cumulative revenue, mining area, and other minerals as these terms are used in reference to the exemption for incidental coal extraction.

Section 480–03–19.702.11: Virginia proposes to add new regulations to provide the application requirements and procedures for the exemption for incidental coal extraction.

Section 480–03–19.702.12: Virginia proposes to add new regulations to provide the content requirements for applications for an exemption for incidental coal extraction.

Section 480–03–19.702.13: Virginia proposes to add new regulations to provide the requirements for availability of information to the public for a site granted an exemption for incidental coal removal.

Section 480–03–19.702.14: Virginia proposes to add new regulations to establish the requirements for determining if incidental coal extraction activities are exempt from the Act.

Section 480–03–19.702.15: Virginia proposes to add new regulations to provide the conditions of the exemption that must be observed by persons conducting activities covered by an exemption for incidental coal removal.

Section 480–03–19.702.16: Virginia proposes to add new regulations to provide the requirements applicable to the stockpiling of coal and other minerals under an exemption for incidental coal removal.

Section 480–03–19.702.17: Virginia proposes to add new regulations to provide enforcement procedures and the process for revocation of exemptions for incidental coal removal activities.

Section 480–03–19.702.18: Virginia proposes to add new regulations to require reporting requirements for operations which have received an approval of an exemption for incidental coal removal.

III. Public Comments Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendments proposed by Virginia satisfy the applicable program approval criteria of 30 CFR 732.15. If the amendments are deemed adequate, they will become part of the Virginia program.

Writen Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the Big Stone Gap Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by close of business on November 15, 1990. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment, and who wish to do so, will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held.

Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the Big Stone Gap Field Office by contacting the person listed under "**FOR FURTHER INFORMATION CONTACT**". All such meetings will be open to the public and, if possible, notices of meetings will be posted in advance at the locations listed under "**ADDRESSES**". A written summary of each public meeting will be made part of the Administrative Record.

List of Subjects in 30 CFR Part 946

Coal Mining, Intergovernmental relations, Surface mining, and Underground mining.

Dated: October 22, 1990.

Carl C. Close,

Assistant Director, Eastern Support Center.

[FR Doc. 90–25719 Filed 10–30–90; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Ch. I

Open Meeting on Conflicts of Interest in Clinical Evaluation of Commercial Products

AGENCIES: National Institutes of Health Alcohol, Drug Abuse and Mental Health Administration, HHS.

ACTION: Notice of public meeting.

SUMMARY: The Public Health Service (PHS) recognizes the need to issue regulations addressing conflict-of-interest issues that arise when investigators conducting PHS-supported clinical evaluations of commercial products have financial interests in those products. Before proceeding with rule-making, the PHS invites members of the public to attend a meeting to discuss principles and questions relevant to such regulations.

DATES: November 30, 1990, 8:30 a.m. to 4:30 p.m.

ADDRESSES: Masur Auditorium, Clinical Center, (Building 10), National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

FOR FURTHER INFORMATION CONTACT: George Galasso, Ph.D., Associate Director for Extramural Affairs, NIH, Building 1, Room 152, 9000 Rockville Pike, Bethesda, Maryland 20892, Phone: (301) 496–5356.

SUPPLEMENTAL INFORMATION: The (PHS) supports clinical trials that involve the evaluation of commercial products such as drugs, vaccines, and devices. The efficient transfer of these research results into commerce is essential to improve health care and economic competitiveness. In generating new knowledge about a commercial product, the PHS-supported research may affect the product's value either favorably or adversely. To the extent that participating investigators have financial interests related to commercial products they are evaluating in clinical trials, the risk of apparent or actual conflicts of interest must be addressed by the PHS and the research community it supports. Financial holdings of investigators must not influence the design, conduct, or reporting of such clinical trials.

The PHS has already issued regulations dealing with misconduct in science to protect PHS-supported biomedical and behavioral research against falsification, fabrication, plagiarism or other practices that seriously deviate from commonly accepted practices within the scientific community. PHS is considering issuance of additional rules to promote the integrity of PHS-supported clinical trials where investigators may have financial interests that could affect or give the appearance of affecting their objectivity. Before doing so, the PHS and its component agencies, the National Institutes of Health (NIH) and the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA) will conduct a public meeting to discuss one approach to addressing the issues involved, as well as other alternatives.

The proposed approach is outlined in this notice. In developing the outline, NIH/ADAMHA have taken into consideration the comments received on the earlier proposed Guidelines published in the *NIH Guide for Grants and Contracts*, vol. 18, No. 32 September 15, 1989. The meeting will provide a forum for public comments on the proposed approach and the various issues which it attempts to address, as well as an opportunity for alternative suggestions.

The meeting will be held on November 30, 1990 in Masur Auditorium on the campus of the NIH. Registration is requested as seating is limited to approximately 500 attendees. To assure that your comments will be considered in the event that you may not be able to present them orally, written comments may be submitted at the resgistration desk. Interested parties may register by contacting: Ms. Bonnie Kaps, National Institutes of Health, Building 31, Room 5B35, Bethesda, Maryland 20892, Telephone (301) 402–0654, Fax (301) 496–0185.

Discussion Topics—Clinical Product Evaluation

General Principles

- Efficient transfer of research results into commerce is an will continue to be essential if the United States is to maintain and enhance health care and economic competitiveness.
- Pertinent Federal statutes provide generally that tax-financed research institutions will give high priority to ensuring commercialization of their scientists' results wherever appropriate.
- The research community will not maintain public confidence without rules that harmonize the national interest, institutional interests, and individual interests.
- There is an apparent need for rules on conflict of interest that will protect the integrity of PHS-sponsored clinical trials and ensure that financial interests of investigators will not compromise the conduct or reporting of such research.
- At the same time, the PHS must strive to ensure that procedures for protection against conflict of interest do not stifle the advancement of research and technology transfer, which are key aspects of the PHS mission.
- The proposed approach is to address potential conflicts of interest in clinical trials of commercial products because of the near term significance for patient care.

Proposed Approach

- Require institutions to establish procedures that ensure that clinical trials supported by PHS are not compromised by inappropriate financial interests on the part of investigators.
- Covered individuals would include investigators responsible for designing, conducting or reporting research and their spouses, dependents and business partners.
- Institutions must solicit and review disclosures of financial interests of investigators who will receive PHS finding for clinical trials of commercial products and where necessary, take action to eliminate or prevent inappropriate financial interests, particularly financial interests in firms that manufacture, sell, or otherwise have property rights in the product under study.
- A financial interest in the product under study may be approved by the institution if it is judged unlikely to compromise the design, conduct, or reporting of the study. The institution should impose requirements to minimize even perceived conflict, for example, by requiring disclosure of interests in resulting publications.
- Investigators/institutions must disclose to the PHS all sources of support for the PHS-supported clinical trial (before the award of PHS funds and after the award when changes occur).

Issues

- The overarching issue is how best to protect the integrity of research while promoting technology transfer.
- Should the basic regulatory approach (a) require disclosure and allow flexibility for institutions to take appropriate action, (b) state specific prohibitions, or (c) require disclosure and decisions on appropriateness by the funding agency?
- To what extent should conflict of interest rules applicable to Federal employees, including those applicable to NIH/ADAMHA study section members, serve as a model in developing the proposed requirements? (See 45 CFR part 73.)

- Are there regulatory frameworks not specific to PHS (e.g. Federal Securities Laws) that are applicable to the topic?
- Who are the most appropriate parties to determine a conflict of interest?
- Should all forms of financial interests be reviewed, for example, equity, salary, other payment for services, honoraria, and gifts?
- Are there minimal levels of financial interests which would not create an actual or apparent conflict of interest?
- Should PHS require submission and approval of institutional policies in order to ensure consistency and provide technical assistance where necessary?
- Should PHS require disclosure to the funding agency of approved financial interests, if any?
- Should there be a requirement for public disclosure of financial interests, for example, in publications?
- Should there be disclosure of the investigators' financial interests as part of the document seeking the research subjects' informed consent to participation in clinical trials? (In this regard, see the decision in *Moore* v. *Regents of University of California*, 271 Cal. Rpt. 146, 793, P2d 475, 19 USPQ2d 1753 California Supreme Court, July 9, 1990).
- Should institutional financial interests be considered?
- What should the remedies be for violations?

Conflict of Interest

Clinical Evaluation of Products, November 30, 1990, Masur Auditorium, Clinical Center, NIH, Public Meeting.

8:30–9:00 Introduction and Opening Remarks
9:00–10:30 Presentations
9:00–10:00 Four Presentees—15 minutes each
10:00–10:30 General questions and answers
10:30–11:00 Coffee
11:00–12:30 Comments from the audience concerning all aspects of this issue including, but not limited to:

General Policy—Basic regulatory approach; responsibilities of PHS and institutions; reporting and disclosures of financial interests; resolution of conflicts of interest.

Restrictions—Types of financial interests; minimal levels; waivers.

Remedies and Sanctions—Federal oversight and role with respect to institutions; enforcement against investigators.

Audience comments—3–5 minutes each.

12:30–1:30 Lunch
1:30–2:45 Comments continued
2:45–3:15 Coffee
3:15–4:15 Comments continued
4:15 Conclusion

Dated: October 26, 1990.

James O. Mason,

Assistant Secretary for Health, PHS.

[FR Doc. 90-25827 Filed 10-30-90; 8:45 am]

BILLING CODE 4140-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 13 and 80

[PR Docket No. 90-480; FCC 90-343]

Maritime Radio Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Amendments of parts 13 and 80 are proposed to implement the Global Maritime Distress and Safety System (GMDSS) in the Commission's Rules. The new system will change international distress communications from manual ship-to-ship system based on 500 kHz Morse code telegraphy to a fully automated ship-to-shore system based on satellites and digital technology. New carriage requirements are proposed for cargo ships of 300 gross tons and over and passenger ships that carry more than 12 passengers irrespective of size that sail in the open sea. In accordance with international provisions, a seven year transition period, from February 1, 1992, to February 1, 1999, is proposed. During the transition period, both the present manual Morse code system and the new automated GMDSS will be operational.

DATES: Comments must be received on or before January 7, 1991, and reply comments on or before February 6, 1991.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kathryn S. Hosford, Special Services Division, Private Radio Bureau, Federal Communications Commission, Washington, DC 20554; or telephone (202) 632-7197.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, PR Docket No. 90-480, adopted October 11, 1990, and released October 25, 1991. The complete text of the Notice of Proposed Rule Making is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The full text also may be purchased from the Commission's copy contractor: International Transcription Service, 2100 M Street NW., suite 140, Washington, DC 20037; telephone 202-857-3800.

Summary of Notice of Proposed Rule Making

1. The Notice of Proposed Rule Making (Notice) sets forth the proposed amendments that are necessary to implement the Global Maritime Distress and Safety System (GMDSS) in the United States. Changes adopted by the International Maritime Organization (IMO) in the fall of 1988, together with revisions to the Radio Regulations adopted by the World Administrative Radio Conference for Mobile Services in 1987 (1987 Mobile WARC), provided for the introduction of the GMDSS internationally.[1]

2. The Notice proposes that ships subject to the Safety of Life at Sea (SOLAS) Convention or title III, part II of the Communications Act of 1934, as amended, conform to the GMDSS provisions. Ships subject to the SOLAS Convention are required to carry certain radio equipment for safety purposes and are termed "compulsory" ships. Other ships, fitted with the same equipment, are termed "voluntary" ships. Under the SOLAS Convention, compulsory ships include all passenger ships that carry more than twelve passengers and all cargo ships of 300 gross tons and over engaged on international voyages. Similarly, title III, part II of the Communications Act of 1934, as amended, (title III, part II of the Act) specifies that it is unlawful for these ships to navigate in the open sea unless equipped with manual Morse code radiotelegraphy equipment. This proceeding addresses only those ships that are subject to either the SOLAS Convention or title III, part II of the Act, (*i.e.*, compulsory ships which includes all passenger ships that carry more than 12 passengers irrespective of size and cargo ships of 300 gross tons and over). Small ships, such as private fishing vessels and recreational yachts, are not affected by the proposed changes.

[1] Because of the magnitude of the revisions to the Radio Regulations adopted by the 1987 Mobile WARC, changes to the Commission's Rules are being implemented through three proceedings. The first proceeding addressed changes to the Table of Frequency Allocations and certain maritime requirements that entered into force on October 3, 1989. *See* Report and Order, GEN Docket No. 89-103, 4 FCC Rcd 7903 (1989). The second proceeding addressed those revisions that pertained to the maritime mobile HF bands between 4000–27500 kHz. *See Notice of Proposed Rule Making*, PR Docket No. 90-123, 5 FCC Rcd 1638 (1990). This, the final proceeding in this series, focuses on those changes necessary to implement the GMDSS in the maritime mobile service rules.

3. The present distress and safety is primarily based on a manually operated, ship-to-ship system whose effectiveness depends on the location of the nearest vessel and with communications quality that varies based upon propagation conditions. The GMDSS essentially replaces the existing manual Morse code ship-to-ship radiotelegraphy system with a fully automatic ship-to-shore distress alerting system using advanced satellite and terrestrial data communication systems. The basic concept of the GMDSS is that search and rescue authorities ashore, as well as shipping in the immediate vicinity of the ship in distress, can be rapidly alerted to a distress incident so they can assist in coordinated search and rescue operations with minimum delay. The reliability of communications to bring assistance to vessels in distress using the GMDSS is significantly improved when compared to the present system.

4. The GMDSS provides that the search and rescue operation be coordinated from shore by a Rescue Coordination Center. In accordance with arrangements made under the IMO by the International Convention on Maritime Search and Rescue (SAR Convention) adopted in 1979, Rescue Coordination Centers will provide the communication network to establish a coordinated search and rescue operation. The SAR Convention established an agreed international procedure for conducting search and rescue operations. The rescue will be coordinated by a SAR organization, or through the cooperation of neighboring SAR organizations. The Rescue Coordination Center will usually be connected through public switched networks or dedicated circuits with other Rescue Coordination Centers via coast stations or coast earth stations. In the United States, the U.S. Coast Guard is the designated maritime SAR organization and will operate the necessary Rescue Coordination Centers.

5. The GMDSS consists of several communication systems, some of which are new, but many of which have been in operation for several years. Satellite distress alerting is possible using the 406 MHz emergency position-indicating radiobeacon (EPIRB) of the Cospas–Sarsat system.[2] Satellite communications will be conducted through the use of the International Maritime Satellite Organizations's (Inmarsat) maritime mobile satellite system. Inmarsat provides a full range of distress alerting and communications capabilities, including voice, telex, and facsimile. Although satellites will be an important part of the GMDSS, new automated terrestrial data systems, as well as existing systems, will be combined into one overall system. The form of terrestrial communications will change. No longer will Morse code be used for distress alerting or traffic. Instead, automatic distress alerting will be conducted using digital selective calling (DSC). After the initial DSC distress alert and acknowledgement, subsequent distress and safety communications will be by narrow-band direct-printing or radiotelephony using existing terrestrial systems.

6. In accordance with international provisions, the Notice proposes that the GMDSS be phased in from February 1, 1992, to February 1, 1999. During this 7 year period, both the present distress and safety system and the new GMDSS will be operational. The implementation dates are as follows:

February 1, 1992: voluntary compliance, any ship may be GMDSS equipped;

February 1, 1995: new compulsory ships must be GMDSS equipped; and

February 1, 1999: all compulsory ships must be GMDSS equipped.

Additionally, all compulsory ships must be equipped as of August 1, 1993, with a satellite EPIRB and a Navtex receiver.

7. Ship carriage requirements. The Notice proposes that U.S. compulsory ships be required to carry equipment to perform in accordance with GMDSS provisions. The GMDSS is based on providing a distress signal to shore facilities. The specific type of equipment used to perform this function varies and is determined by the area in which the ship operates. The areas have been defined as:

Sea area A1. An area within the radiotelephone coverage of at least one VHF coast station in which continuous DSC alerting is available. (This would extend 20–30 miles from shore.)

Sea area A2. An area, excluding sea area A1, within the radiotelephone coverage of at least one MF coast station in which continuous DSC alerting is available. (This would extend 75–150 miles from shore.)

Sea area A3. An area, excluding sea areas A1 and A2, within the coverage of an Inmarsat maritime mobile geostationary satellite in which continuous alerting is available. (This would cover an area between 70° N Latitude and 70° S Latitude, which is within the footprint of the Inmarsat system.)

Sea area A4. An area outside sea areas A1, A2, and A3. (This would be essentially the polar regions.)

Sea areas are defined by individual countries and notified to the IMO. A sea area is established by equipping shore-based facilities with appropriate VHF, MF, HF, or satellite equipment to "cover" particular segments of ocean. The IMO is in the process of developing a Master Plan of Shore-based Facilities for the GMDSS that will delineate the geographic extent of the various sea areas worldwide. It is expected that additional sea areas will be incorporated into the GMDSS Master Plan as various shore-based stations are upgraded.[3]

8. The proposals would apply to all compulsory vessels, *i.e.*, cargo ships 300 gross tons and over and all passenger ships that carry more than twelve passengers regardless of size as specified in the SOLAS Convention or Title III, part II of the Act. Operationally, the proposed set of equipment must perform the following functions: (1) Transmitting ship-to-shore distress alerting by two independent means; (2) receiving of shore-to-ship distress alerts; (3) transmitting and receiving ship-to-ship distress alerts; (4) transmitting and receiving search and rescue coordinating communications; (5) transmitting and receiving on-scene communications; (6) transmitting and receiving locating signals; (7) transmitting and receiving maritime safety information; (8) transmitting and receiving shore-based general communications; and (9) transmitting and receiving bridge-to-bridge communications between ships.

9. The particular complement of equipment to perform these functions varies by sea area and each function has several equipment options. The full equipment requirements are not detailed here but are set out in § 80.1065 through § 80.1093 of the Notice's appendix. As a general matter, most compulsory U.S.

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[2] COSPAS–SARSAT is a combined Russian-English acronym for a joint international satellite-based search and rescue system established by Canada, France, USSR, and the United States to locate emergency radiobeacons transmitting on 121.5 MHz and 406 MHz. The U.S. built satellites in this system operate on 243 MHz also. (COSPAS is the acronym for the Russian equivalent of Space System for Search of Distress Vessels and Sarsat is the acronym for Search and Rescue Satellite-Aided Tracking.)

[3] Sea areas A1 and A2 have been established along portions of the European coast. The U.S. Coast Guard has plans to establish an area A1 and, at least a partial A2 area, within United States waters. They also plan to install a trial operational MF/HF DSC system at the Boston communications station in 1991, and if successful, at one or two Pacific locations in 1992.

ships would be required to carry the following set of radio equipment: A VHF radio installation capable of DSC and radiotelephony transmission, a MF radio installation capable of DSC and radiotelephony transmissions a INMARSAT-A or INMARSAT-C ship earth station (or a HF radio installation capable of DSC, narrow-band direct-printing, and radiotelephony transmissions), a satellite EPIRB, a NAVTEX receiver, a 9 GHz radar transponder, and, until February 1, 1999, a 2182 kHz watch receiver and auto alarm device. Radio equipment for survival craft normally would consist of three two-way VHF radiotelephones and two 9 GHz radar transponders (one of which may be the ship radar transponder).

10. A few of these requirements are discussed here. First, in accordance with GMDSS provisions, every compulsory ship would have two separate and independent means of performing the alerting function. Further, these two methods of alerting must be performed using different radiocommunications systems. That is, a ship must be capable of transmitting a distress alert using two of the following three systems: Terrestrial, INMARSAT, or COSPAS-SARSAT. There are two exceptions to this rule. Area A1 ships may be equipped with both a VHF primary transmitter and a VHF EPIRB where both means of alerting would be dependent upon VHF terrestrial service. Likewise, area A3 ships may be equipped with a ship earth station and an L-band EPIRB; again both means of alerting are dependent upon one system, the highly reliable INMARSAT system.

11. Under the GMDSS provisions, the required primary radio equipment is dependent upon the ship's area of operation. Ships may be required to carry VHF, MF, or HF radio equipment, a ship earth station, or a combination of these. All ships are required to carry VHF radio equipment capable of operating on VHF distress frequencies: DSC frequency 156.525 MHz (Channel 70), and radiotelephony frequencies 156.3 MHz (Channel 6), 156.650 MHz (Channel 13), and 156.8 MHz (Channel 16). A VHF radio installation capable of operating on these VHF distress frequencies plus a DSC Channel 70 watch receiver will be referred to as VHF safety equipment.[4] Generally, ships that operate only in waters where a sea area A1 has been established must carry a VHF radio installation capable of general VHF communications in addition to the VHF safety equipment noted above. Ships sailing in areas A1 and A2 must carry the VHF safety equipment, and MF radio equipment that is capable of general MF communications and operation on DSC frequency 2187.5 kHz and radiotelephony frequency 2182 kHz, plus a DSC 2187.5 kHz watch receiver. Ships sailing in areas A1, A2, and A3 must carry VHF and MF safety equipment and either an INMARSAT ship earth station or a MF/HF radio installation. Ships sailing into area A4 must carry VHF and MF safety equipment plus a MF/HF radio installation. The Notice proposes to require U.S. compulsory ships to carry the primary radio equipment as specified by the GMDSS provisions and listed in the appendix. By providing for the full range of radio equipment, U.S. ships will have the flexibility to exercise all aspects of the GMDSS as the system matures.

12. In addition to the primary equipment noted above, the Notice proposes that all compulsory ships be required to carry an EPIRB, a NAVTEX receiver, a 9 GHz radar transponder, and, until February 1, 1999, a 2182 kHz watch receiver/auto alarm. In accordance with GMDSS provisions, it proposes that ships be equipped with a satellite EPIRB and NAVTEX receiver as of August 1, 1993. (The other equipment will follow the 7 year transition period.)

13. In accordance with GMDSS provisions, the Notice proposes that the satellite EPIRB be either the 406 MHz or L-band EPIRB. In the case of area A1 ships, it also proposes that a Channel 70 EPIRB be permitted as an alternative to the satellite EPIRBs. At present, only the 406 MHz EPIRB is in operation. The L-band EPIRB is in pre-operational testing and the Channel 70 EPIRB has not been developed. To provide for the options permitted under the GMDSS, however, it proposes to permit the use of all three EPIRBs. This would allow the L-band and Channel 70 EPIRBs to be used upon equipment authorization by the Commission.

14. The Notice also proposes that all compulsory ships be equipped with a NAVTEX receiver to receive maritime safety information. The GMDSS provisions permit ships that operate in non-NAVTEX service areas to be equipped with alternative maritime safety information receivers (*i.e.*, INMARSAT or HF band). The U.S. Coast Guard has established NAVTEX service along the East, West, and Gulf coasts of the United States. Consequently, it proposes that all compulsory ships be equipped with NAVTEX receivers because all will eventually sail in NAVTEX service areas. In addition to the NAVTEX receiver, it proposes that ships sailing outside NAVTEX areas but within INMARSAT coverage areas also be equipped with a radio facility for receiving INMARSAT maritime safety information, unless the voyage is exclusively within areas where HF maritime safety information is provided. Ships that sail exclusively in areas where HF maritime safety information is provided, may use, in addition to NAVTEX receivers, HF equipment in lieu of INMARSAT equipment to receive the safety broadcasts.

15. In accordance with GMDSS provisions, the Notice proposes to require compulsory ships to be equipped with a 9 GHz radar transponder that is stowed where it can be used easily and placed rapidly into survival craft. This requirement will assist rescue units to locate ships and survival craft during search and rescue operations. The GMDSS also provides for continued use of international distress frequency 2182 kHz as a link between the existing ship-to-ship system and the new ship-to-shore system during the transition phase from 1992 to 1999. Consequently, the proposed rules would require all compulsory ships, except for area A1 ships, to carry a 2182 kHz watch receiver and an automatic alarm device until February 1, 1999. Under the GMDSS, compulsory ships would no longer be required to carry Morse code (500 kHz) radiotelegraphy equipment but would continue to carry radio equipment capable of operating on VHF distress Channel 16 (see discussion above).

16. The Notice proposes that survival craft be equipped with two-way VHF radiotelephones and 9 GHz radar transponders. The GMDSS provisions require three VHF radiotelephones and two radar transponders (one of which may be the ship radar transponder) for all passenger ships regardless of size and cargo ships over 500 gross tons and only two VHF radiotelephones and one transponder for cargo ships between 300–500 gross tons. The proposed rules listed in the Notice's appendix reflect these requirements.

17. *Equipment standards and authorization.* To ensure the performance of equipment for distress and safety communications, the International Radio Consultative

[4] The GMDSS provisions allow ships that continue the manual watch on VHF Channel 16 to defer fitting the automated Channel 70 encoder and watch receiver until February 1, 1997. The Notice does not propose to incorporate this option into the Commission's Rules. This option is not in keeping with U.S. objectives because it promotes the aural watch requirement rather than the early implementation of automation.

Committee (CCIR) and IMO have established performance standards for the required equipment. The GMDSS provisions also require that the radio equipment be approved before use. The Notice proposes that all GMDSS equipment be type accepted by the Commission, except equipment used in the INMARSAT system. It proposes that INMARSAT equipment be notified by the Commission.[5] Because the INMARSAT equipment is type approved by INMARSAT, notification should be sufficient to ensure performance. The proposed rules require all GMDSS equipment to meet the IMO and CCIR standards and incorporate the standards into the Commission's Rules by reference. Non-INMARSAT equipment would be type accepted by the Commission for compliance with the IMO and CCIR performance standards based on the representations and test data submitted by the applicant. For INMARSAT equipment, applicants must attest that the equipment meets the IMO and CCIR performance standards and include a copy of the INMARSAT type approval certificate.[6] Finally, current Commission Rules require that applicants for type acceptance of compulsory equipment, except for radar equipment, submit with their application a working unit of the type for which type acceptance is required. The Notice proposes that GMDSS equipment not be submitted unless specifically requested by the Commission.

18. *Operating procedures.* The Notice proposes to amend the Commission's maritime distress and safety rules to incorporate the operating procedures provided for under the GMDSS. For GMDSS fitted vessels, the proposed rules would replace the manual method of sending a Morse code "SOS" or radiotelephone "MAYDAY" call and distress message with a simple and automatic means of distress alerting. Ships would transmit a distress alert (1) through satellites either with absolute priority on general communication channels or on exclusive distress and safety frequencies; or (2) on the distress and safety frequencies in the VHF, MF, or HF bands using DSC. The DSC distress alert will automatically identify the station in distress and its position and provide other information that might facilitate rescue. A distress alert will normally be activated and acknowledge manually. When a ship sinks, however, a float-free satellite EPIRB would be automatically activated. Subsequent to the distress alert, search and rescue and on-scene communications would be conducted by narrow-band direct-printing or radiotelephony. The GMDSS provisions do not provide for transmission of distress and safety information using Morse code radiotelegraphy. The proposed rules reflect this change.

19. Under the GMDSS, ship stations will continue to maintain a watch for distress alerts, but the use of automatic equipment would remove the burden currently associated with these watches. Thus, the Notice proposes to delete the manual Morse code watch on 500 kHz and require that ship stations maintain watches in accordance with GMDSS provisions. Depending upon the equipment fitted, compulsory ships would be required to maintain a continuous automatic watch on DSC safety frequencies Channel 70, 2187.5 kHz, 8414.5 kHz, and one other HF DSC distress and safety frequency. A watch for satellite shore-to-ship distress alerts also would be required if the ship is fitted with an Inmarsat ship earth station. Further, every ship would be required to maintain an automated watch for maritime safety information. Finally, ships would continue to maintain a manual watch on Channel 16 and to use an automated watch receiver on 2182 kHz until February 1, 1999. This requirement is necessary to maintain a link with the current distress and safety system until full implementation of the GMDSS.

20. For public coast stations, the Notice proposes no changes to their watch requirements. They would continue their radiotelegraphy safety watch on 500 kHz and the radiotelephony safety watches on Channel 16 and 2182 kHz.[7] Also, it proposes no additional GMDSS watches be required for public coast stations. As the GMDSS is defined, only certain coast stations (and coast earth stations) are designated to maintain the DSC fequency watches. As currently planned, no United States public coast stations are contemplated to provide safety watches under the GMDSS. Nevertheless public coast stations may become aware of distress alerts during their general operation.[8] In those situations, it proposes that public coast stations defer their response so that a Rescue Coordination Center may acknowledge, and, where an acknowledgement is not forthcoming in a timely manner (*i.e.*, 3 minutes), that the coast station ensure that the distress alert is routed to a Rescue Coordination Center and provide whatever assistance is requested by the U.S. Coast Guard.

21. For coast earth stations, the Notice does propose new requirements. Inmarsat is an integral part of the GMDSS, and in the United States, coast earth stations are licensed under the Commission's Rules to Communications Satellite Corporation (Comsat), the U.S. signatory to Inmarsat. Thus, it proposes, in accordance with GMDSS provisions, to require coast earth stations to relay a distress alert as soon as possible to a Rescue Coordination Center. Further, it proposes that no charge be made for the transmission of distress messages and replies thereto in connection with situations involving the safety of life and property at sea (see 47 U.S.C. 357(d)), but seek comment on the definition and scope of this traffic as set forth at § 80.1119(b) in the Notice's appendix.[9] This similar to the present

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[5] Type acceptance and notification are procedures by which the Commission issues equipment authorizations. *See* 47 CFR 2.901. For type acceptance, the applicant makes measurements and submits to the Commission certain representations and test data that demonstrate compliance with the technical standards. For notification, the applicant makes measurements and attests that the measurements demonstrate compliance with the technical standards. Test data are not submitted unless specifically requested by the Commission. In both cases, an identification (FCC ID) number is issued by the Commission.

[6] INMARSAT equipment currently in use, such as the INMARSAT–A ship earth station, might not meet the performance standards adopted by IMO and CCIR although type-approved by INMARSAT. Under the proposed rules, the equipment must be tested by the manufacturer for conformance with the IMO and CCIR standards and notified by the Commission that it is approved for use. Compulsory ships that equip with INMARSAT equipment under the GMDSS must use equipment that has FCC ID numbers, which indicates compliance with IMO and CCIR performance standards. Voluntary ships may continue to use existing ship earth stations but without assurances that they meet GMDSS standards.

[7] These watches are necessary to maintain the present distress and safety system in effect during the transition period. Further, these frequencies most likely will continue to be used by smaller non-GMDSS vessels, such as recreational and fishing vessels, for some time. Although the Notice does not propose that ships other than compulsory ships be required to equip with the new GMDSS equipment, it does encourage the owners of other ships, and particularly new owners or those that sail on extensive trips, to consider voluntarily fitting their vessels with approved GMDSS radio equipment. It notes, for example, the smaller Inmarsat-C ship earth station would enhance safety by giving access to the GMDSS for a minimal cost. IMO estimates that the current cost of installing an Inmarsat-C ship earth station to be $5,000.

[8] A public coast station may receive distress alerts on Channel 70 because it is used for both general calling and distress alerting.

[9] Section 80.1119 proposes that no charge be made for distress alerts, urgency, and safety messages, or related traffic that is preceded by the signals: Mayday, Pan Pan, or Securite. The IMO is currently developing provisional funding arrangements for GMDSS communications.

requirement for public coast stations carrying distress and safety messages (see 47 CFR 80.95).

22. *Radio operators and maintainers.* The Notice proposes to follow the IMO requirements regarding the operation of radio equipment on-board ships. For radio operator licenses, it proposes to add a new GMDSS endorsement to the Commission's Rules that reflects the skills necessary to operate the GMDSS equipment. This endorsement would be based on the requirements contained in the General Operator's and Restricted Operator's Certificates adopted by the 1987 Mobile WARC. The GMDSS endorsement would be affixed to the First or Second Class Radiotelegraph Operator's Certificates (T–1 or T–2), General Radiotelephone Operator License (G), or Marine Radio Operator Permit (MP) after an operator has demonstrated, through a written examination given by the Commission, satisfactory knowledge of the GMDSS practices and procedures.[10] It further proposes that GMDSS compulsory ships (*i.e.*, ships subject to the SOLAS Convention or title III, part II of the Act that equip in accordance with the proposed subpart W) carry personnel that hold a GMDSS endorsed certificate. No GMDSS endorsement is proposed for ships that are voluntarily-fitted with GMDSS equipment. These ships would continue to be governed by the radio operator provisions of 47 CFR 80.165.

23. For maintenance, the Notice proposes to allow our licensees the choice of duplication of equipment, shore-based maintenance, or at-sea maintenance, as prescribed in the Final Acts of the 1988 IMO Conference.[11] In sea areas A3 and A4, a combination of at least two of these methods would be required. Because both shore-based maintenance and duplication of equipment are basically straightforward, it indicates that no further requirements or licensing are necessary. The requirement is simply that all distress equipment must be functioning when the ship leaves port. It notes that at-sea maintenance is different and states that certainly some training and minimal electronics skill is required for the individual providing the at-sea maintenance, especially since extensive facilities and technical expertise are not as conveniently available at sea as on shore. It requests comments on whether a certificate is needed for at-sea maintainers to assure the functioning of equipment during a distress situation. Although shore-based maintenance and duplication of equipment appear to be the best methods for ensuring that equipment is available for distress communications, it notes that the rules should allow U.S. ship owners the flexibility of at-sea maintenance that is permitted under international provisions. Comments should address whether the maintainer should be licensed and whether the Commission, the U.S. Coast Guard, or private schools should issue the license. Would an electronics engineering degree be acceptable? Comments should also indicate whether specific standards should be defined in the Commission's Rules and what they might be. Finally, comments should address whether at-sea maintenance is a viable option considering the complexity of some of the advanced equipment and the apparent difficulty in making repairs.

24. *Conclusion.* The proposed rules for the GMDSS are set forth in a separate subpart, subpart W. Because it is the Commission's intention to have a "self-contained" subpart in the Rules solely devoted to the GMDSS during the transition period, the maritime rules (47 CFR part 80) will have redundant sections for many requirements, such as ship carriage requirements, technical standards, and equipment authorization. Where a requirement is not specifically denoted in the proposed subpart W, then the existing requirements would continue. For example, neither the IMO or CCIR performance standards proposed for incorporation by reference specify a limit for spurious emissions of transmitters. Thus, the existing requirement listed in 47 CFR 80.211 (subpart E, General Technical Requirements) would govern and transmitters used in the GMDSS must be in compliance before type-acceptance is issued. In cases where a new requirement is specified in the subpart W, such as a sample unit is not required to be submitted for type-acceptance, the proposed rules would supersede existing requirements for GMDSS equipment only.

25. The Notice further indicated that newly constructed or existing vessels that wish to install the GMDSS equipment as of February 1, 1992, would be required to carry dual sets of equipment and Morse code radiotelegraph operators dedicated to radio operations if the Communications Act is not amended. Thus, it is expected that few owners will fit their ships voluntarily unless the Communications Act is amended since incurring this cost in addition to the cost of the radiotelegraphy operator would place U.S. ships at a competitive disadvantage. The operational costs to U.S. shipping companies required to carry currently required equipment and personnel is estimated to be millions of dollars per year. The GMDSS would significantly reduce operating costs by providing for the use of automated systems and eliminating the dedicated radio operator requirement while increasing safety. Thirteen countries with strong merchant marines already have authorized their vessels to equip with GMDSS equipment.

26. In accordance with section 605(b) of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that these rules would not, if promulgated, have a significant economic impact on a substantial number of small entities. As discussed above, the proposed rules would apply to cargo ships of 300 gross tons and over and passenger ships that carry more than twelve passengers engaged on international voyages subject to the SOLAS Convention or voyages in the open sea subject to title III, part II of the Act. The proposed rules would not apply to smaller vessels, such as recreational or fishing vessels. Cargo or passenger ships licensed by the United States that travel on the open sea or on international voyages typically are not owned or operated by small entities. Accordingly, the proposed rules would not affect a substantial number of small entities.

27. The proposals contained herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection, or recordkeeping, labeling, disclosure, or record retention requirements, and will not increase or decrease burden hours imposed on the public.

28. This is a nonrestricted notice and comment rule making proceeding. *See* 47 CFR 1.1206(a) for the rules governing permissible *ex parte* contacts.

29. The proposals may have an impact on both U.S. firms doing business in foreign countries and foreign firms doing business in the United States. Therefore, pursuant to the 1989 Canada-United States Trade Agreement (Public Law 100–449, 102 Stat. 1851) the Commission will provide a seventy-five day comment period. Pursuant to applicable procedures set forth in §§ 1.415 and

[10] It requests comments on whether T–1 or T–2 radio operators that have a 6 month endorsement may be grandfathered or whether they must take the examination. If grandfathering is acceptable, for what period of time should it be permitted?

[11] Duplication of equipment means that compulsory ships would need to be equipped with certain equipment critical to distress communications rather than a complete second set of all equipment required under the GMDSS system. The IMO is developing further guidance on the maintenance options.

1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before January 7, 1991, and reply comments on or before February 6, 1991. All relevant and timely comments will be considered by the Commission before taking final action in this proceeding.

30. In order to avoid unduly burdening the Federal Register and to save the approximate $3,500 in printing costs, we are publishing a summary of this Notice of Proposed Rule Making in the Federal Register without the appendices that contain the proposed rules. Copies of the entire document are available from the Commission's duplication contractor: International Transcription Service, Inc., suite 140, 2100 M Street NW., Washington, DC 20037; telephone 202–857–3800. This procedure satisfies notice requirements as well as the needs of the public while saving the Commission significant printing costs.

31. *It is Ordered,* That a copy of this Notice shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 13

Commercial radio operator licenses, Radio.

47 CFR Part 80

Coast stations, Communications equipment, Marine safety, Radio, Ship stations, Telegraph, Telephone.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90–25686 Filed 10–30–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–471, RM–7432]

Radio Broadcasting Services; Cadillac, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by MacDonald Broadcasting Company proposing the substitution of Channel 244C3 for Channel 244A at Cadillac, Michigan, and modification of its license for Station WWLZ(FM) to specify operation on Channel 244C3. Canadian concurrence will be requested at coordinates 44–20–25 and 85–35–34.

DATES: Comments must be filed on or before December 17, 1990, and reply comments on or before January 2, 1991.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Richard Hildreth, Fletcher, Heald & Hildreth, 1225 Connecticut Avenue, NW., suite 400, Washington, DC 20036–2679.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–471, adopted September 27, 1990, and released October 26, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–25780 Filed 10–30–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–472, RM–7342]

Radio Broadcasting Services; Rock Valley and Sibley, Iowa, Pipestone, Minnesota, Blair, Nebraska, and Sioux Falls and Vermillion, South Dakota

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition jointly filed by Wallace Christensen, licensee of Station KISD, Pipestone, Minnesota, and Vermillion Radio, Inc., licensee of Station KVRF, Vermillion, South Dakota. Christensen seeks the substitution of Channel 254C for Channel 254C1 at Pipestone and the modification of its license for Station KISD to specify operation on the higher powered-channel. The channel allotment at Pipestone requires the substitution of Channel 233A for Channel 252A at Sioux Falls, South Dakota, licensed to Station KCFS. Vermillion Radio seeks the substitution of Channel 282C1 for Channel 292A at Vermillion and the modification of its license for Station KVRF to specify operation on the higher powered channel. The allotment of Channel 292C1 at Vermillion requires the substitution of Channel 248A for Channel 292A at Blair, Nebraska, licensed to Station KBWH, the substitution of Channel 261A for unoccupied but applied for Channel 295A at Rock Valley, Iowa, and the substitution of Channel 282A for unoccupied and unapplied for Channel 282A at Sibley, Iowa. In accordance with § 1.420 of the Commission's rules, we will not accept competing expressions of interest in use of Channel 292C1 at Vermillion, South Dakota, or Channel 254C at Pipestone, Minnesota, or require the petitioners to demonstrate the availability of an additional equivalent class channel for use by such parties. The licensees of Stations KBHW, Blair, Nebraska, and KCFS, Sioux Falls, South Dakota, have been ordered to show cause as to why their licenses should not be modified as described above.

DATES: Comments must be filed on or before December 17, 1990, and reply comments on or before January 2, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Dennis F. Begley, Esq., Reddy, Begley & Martin, 2033 M Street, NW., Washington, DC 20036 (Counsel to petitioners).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making and Order to Show Cause, MM Docket No. 90–472, adopted September 27, 1990, and released October 26, 1990. The full text of this Commission decision is available

for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

All of the channels under consideration herein can be allotted in compliance with the Commission's minimum distance separation requirements. Channel 254C an be allotted to Pipestone with a site restriction of 33.8 kilometers (21 miles) east to accommodate Christensen's desired transmitter site, at coordinates North Lattitude 43–53–01 and West Longitude 95–55–44. Channel 233A can be allotted to Sioux Falls, South Dakota, at Station KCFS' present transmitter site, at coordinates 43–31–57 and 96–44–20. Channel 292C1 can be allotted to Vermillion with a site restriction of 32.1 kilometers (20 miles) north to accommodate Vermillion Radio's desired transmitter site, at coordinates 43–03–00 and 96–47–12. Channel 248A can be allotted to Blair, Nebraska, at Station KBWH's present transmitter site, at coordinates 41–37–03 and 96–04–23. Channel 282A can be allotted to Sibley, Iowa, with a site restriction of 4 kilometers (2.5 miles) west to avoid a short-spacing to Station KUOO, Channel 280C2, Spirit Lake, Iowa, at coordinates 43–24–16 and 95–47–43. Channel 261A can be allotted to Rock Valley, Iowa, without the imposition of a state restriction, at coordinates 43–12–12 and 96–17–30, and can also be used at the transmitter sites proposed by the two applicants, Robert M. Mason (BPH–890324MI) and Iowa Communications [BPH–890411MC].

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–25781 Filed 10–30–90; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket No. PS–117; Notice 1]

RIN 2137–AB 86

Transportation of a Hazardous Liquid in Pipelines Operating at 20 Percent or Less of Specified Minimum Yield Strength.

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: By exception (49 CFR 195.1(b)(3), the Federal pipeline safety standards governing hazardous liquid pipelines do not apply to pipelines operated at 20 percent or less of the specified minimum yield strength (SMYS) of the pipe. In this Advance Notice of Proposed Rulemaking (ANPRM), the Research and Special Programs Administration (RSPA) is soliciting comments and information for evaluation in determining whether and to what extent to remove the exception from the regulations. The other exceptions in § 195.1(b) would not be affected. RSPA expects that this rulemaking will determine whether the application of the pipeline safety regulations to such pipelines would assure public safety and environmental protection by minimizing the possibility of accidents.

DATES: Comments must be received by December 31, 1990. Late filed comments will be considered to the extent practicable.

ADDRESSES: Send comments in duplicate to the Dockets Unit, room 8417, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Identify the docket and notice number stated in the heading of this notice. All comments and docketed material will be available for inspection and copying in room 8419 between 8:30 a.m. and 5 p.m. each business day.

FOR FURTHER INFORMATION CONTACT: G. Joseph Wolf, (202) 366–4560, regarding the subject matter of this ANPRM or to request a copy of the ANPRM questionnaire in 8½ x 11 inch format. Contact the Dockets Unit (202) 366–4453, for copies of the ANPRM or other docket material. Contact the Transportation Safety Institute, Pipeline Safety Division, 6500 South MacArthur Boulevard, Oklahoma City, OK 73123, (405) 680–4643, for a copy of 49 CFR part 195.

SUPPLEMENTARY INFORMATION:

Background

When the Federal pipeline safety regulations applicable to transportation of hazardous liquids by pipeline (49 CFR part 195) were issued in 1969, pipelines operated at 20 percent or less of SMYS were excepted from the regulations because these pipelines were thought to pose no unreasonable risk to public safety on the basis of their low operating stress. Since then, however, accidents that have occurred on low stress level pipelines provide reasons to reconsider the exception. One recent failure of such a pipeline, described later in this notice, resulted in extensive harm to the environment. Accordingly, RSPA is re-evaluating the need to regulate these pipelines.

Recommendations to DOT

In a resolution sent to RSPA on August 4, 1988, the National Association of Pipeline Safety Representatives (NAPSR), an association of state representatives participating in the cooperative Federal/State pipeline safety program, proposed that Part 195 be amended to remove the exception for hazardous liquid pipelines operating at 20 percent or less of SMYS. NAPSR based its resolution on an interstate petroleum products pipeline in Iowa and Nebraska that leaked and was found to be in poor condition. The pipeline right of way included a crossing of the Missouri River. Because it operated at less than 20 percent SMYS, it was not subject to Part 195. The State environmental agency required the operator to develop a plan to assure timely recovery and cleanup.

On October 17, 1988, RSPA accepted the NAPSR recommendation. RSPA further stated that the subject would be addressed by a DOT Safety Review Task Force (Task Force) which was nearing the end of an in-depth review of the pipeline safety program. The Task Force had been established by the Secretary of Transportation to review the adequacy of all of the safety programs of the Department. RSPA stated that the Task Force was expected to complete its report later that year and that RSPA would await the Task Force

report before proceeding with a rulemaking.

On January 12, 1989, the Task Force presented its report. The Task Force stated that many pipeline accidents have little or nothing to do with the relative strength of the pipe, and that many accidents result from third party damage and corrosion. The report included the recommendation that:

> RSPA should reassess the blanket exemption from safety regulations for hazardous liquid pipelines that operate at less than 20 percent of their specified minimum yield strength and should initiate rulemaking to revoke the exemption in whole or in part.

On February 10, 1989, RSPA accepted the Task Force recommendation and indicated that a basis for rulemaking would be established by developing information through a technical study and an Advance Notice of Proposed Rulemaking (ANPRM). RSPA determined that it has insufficient information to conduct a Technical Study and proceeded with this ANPRM in order to gather comments and information.

Pipeline Accident

On January 1, 1990, an incident occurred which strongly supports the need to obtain data regarding hazardous liquid pipelines operating at or less than 20 percent SMYS. A 12-inch diameter, 6.7 mile pipeline between New Jersey and Staten Island, N.Y. spilled over 500,000 gallons of fuel oil into the Arthur Kill waterway. The Arthur Kill and its connecting waterways traverse both densely industrialized and wildlife areas. The spill resulted in environmental damage of millions of dollars. According to a report by Battelle dated April 20, 1990, an underwater leak in the pipeline resulted from fatigue cracking subsequent to outside force damage which occurred possibly months or even years earlier.

One control on the pipeline was a negative deviation leak detection system. Leak detection was based on comparing volume flowing past both ends of the pipeline. When the volume delivered during a preset time interval was less than the volume shipped by more than a pre-set amount, a negative deviation signal automatically operated an alarm and began to shut down the pipeline. Prior to the leak, pipeline personnel had been responding to repeated false negative deviation alarms by resetting the system's automatic shut down device. When the system began to shut down the pipeline at the time of the leak, pipeline personnel reset it. As a result, oil was pumped through the leaking pipeline for about six hours before it was shut down.

Because it was operated at less than 20 percent of SMYS, the pipeline under the Arthur Kill was not subject to the hazardous liquid pipeline regulations or to periodic oversight by Federal pipeline inspectors for compliance with those regulations. Had the pipeline been subject to the equipment and operating procedure requirements of the Federal regulations, the spill might have been minimized.

Congressional Action

Legislation has been introduced in Congress which specifically would require that pipelines operating at 20 percent or less of SMYS be subject to the regulations (See Congressional Record of March 22, 1990, pages 3099–3101, which reports the introduction of bills cosponsored by New Jersey Senators Lautenberg and Bradley). Among its provisions, the proposed legislation would permit exemptions on a case-by-case basis; however, it would require that the owner or operator of the exempted pipeline annually certify continuing compliance with the conditions under which the exemption was granted.

National Transportation Policy

Consideration of this rulemaking is consistent with the elements of the National Transportation Policy that seek to ensure the integrity of the nation's transportation infrastructure, public safety, and environmental protection.

Current Requirements

Section 195.1 (b)(3) states that part 195 does not apply to "Transportation of a hazardous liquid through pipelines that operate at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe;". For clarification, the pipelines excepted are those in which the stress does not exceed 20 percent SMYS at any point along the length of the pipeline. The other current exceptions to regulation would remain in effect if RSPA publishes a rule change.

It should be noted that § 195.8 states that "No person may transport any hazardous liquid through a pipe that is constructed after October 1, 1970, of material other than steel * * *". The section also contains provisions for notification to the Secretary of the intention to use a pipeline constructed of pipe material other than steel and for the Secretary to make a determination regarding the hazard of using the proposed pipe material for the specific application proposed. However, this ANPRM addresses only pipelines constructed of steel pipe and operated at 20 percent or less of SMYS.

Discussion

Most hazardous liquid pipelines are operated at a pressure creating a stress in excess of 20 percent of SMYS of the pipe because it is not economical to construct and operate pipelines to operate at a low stress. To maximize economy, many pipelines are operated at the maximum pressure permitted by part 195, which is equivalent to 72 percent SMYS.

Some pipelines are operated at 20 percent or less of SMYS for varying reasons. RSPA is unable to estimate the number of these pipelines. However, RSPA believes that such pipelines typically move hazardous liquids to or from petrochemical complexes such as refineries, manufacturing plants, and hazardous liquid terminals, and that these pipelines are relatively short. Low stress operation is adequate to move the liquid to or from the complex at the rate required for operation. The operators of petrochemical complexes usually do not operate other pipelines subject to part 195, and therefore may not be familiar with its requirements. Piping within petrochemical complexes is not regulated under 49 CFR part 195 and is not the subject of this ANPRM.

Many gathering lines in non-rural areas are operated at 20 percent or less of SMYS. As set forth in § 195.1, gathering lines in nonrural areas are subject to part 195, while gathering lines in rural areas are not subject to those rules.

Also, RSPA believes that there may be a limited number of pipelines that transport hazardous liquids for long distances at pressures equivalent to 20 percent or less of SMYS. RSPA believes that these pipelines are operated at low stress typically because they are old and potentially in poor condition.

Regardless of the stress at which they are operated, pipelines are vulnerable to damage from the two principal causes of pipeline failure—excavation (outside force) and corrosion. Admittedly, pipelines which are operated at lower stresses may survive damage from excavation and corrosion for a longer period before failure than will high stress pipelines, but the risk of failure is present nevertheless.

RSPA Is considering the modification or deletion of § 195.1(b)(3), so that some or all hazardous liquid pipelines operated at 20 percent or less of SMYS would no longer be excepted from regulation under part 195. As stated above, this ANPRM is only applicable to the construction and operation of

pipelines made of steel pipe because the use of other material is permitted only upon notice to the Secretary and upon review of the details of the notice by the Secretary.

If a rulemaking is proposed that applies part 195 to pipelines operating at 20 percent or less of SMYS, existing pipelines would be subject to all subparts of part 195 except Subpart C—Design Requirements, and Subpart D—Construction. Although the requirements of Subpat E—Hydrostatic Testing currently would not apply to non-HVL pipelines constructed before dates specified in the regulations, the issuance of a rule presently being considered would require the hydrostatic testing of those pipelines or, alternativley, a restriction of their operating pressure. All sections of part 195 would apply to pipelines constructed after publication of a regulation. Any rulemaking resulting from this ANPRM would not apply to hazardous liquid pipelines presently excepted by the other subparagraphs of § 195.1(b).

Information Acquisition

Because pipelines operated at 20 percent or less of SMYS have been excepted from Federal regulation (§ 195.1(b)(3)), owners and operators are excepted from filing reports with RSPA. Consequently, RSPA Lacks specific information about such pipelines. Therefore, this notice contains a questionnaire for the purpose of gathering information to make a decision regarding rulemaking. The owners or operators of hazardous liquid pipelines (1) operated at 20 percent or less of SMYS and (2) not otherwise excepted under § 195.1(b) are requested to complete the questionnaire for each such pipeline and return it by December 31, 1990. RSPA needs the information requested in the questionnaire to estimate the extent of low stress pipelines, to perform a cost/benefit analysis, and to develop and consider alternatives that would ensure the safe operation of low stress pipelines.

It is important that all owners or operators of pipelines potentially affected by such a rulemaking respond to the extent possible so that RSPA is aware of the impact of the change being considered. Partially completed questionnaires will have value. It is especially important that owners and operators respond to question 1. Pipeline owners and operators and other interested and affected parties are invited to comment on the subject of this ANPRM. In addition, state and local governments are invited to provide information as may be available to them about pipelines operated at 20 percent or less of SMYS that are located within their jurisdictions.

Definitions

For the purpose of responding to the questionnaire, the following definitions are provided:

Accident means a failure in a pipeline system for which a report is required in accordance with § 195.50.

Environmentally sensitive area means any onshore area where a loss of hazardous liquid could reasonably be expected to pollute any water crossing that is more than 100 feet wide from high water mark to high water mark, any reservoir holding water for human consumption, and any offshore area.

Hazardous liquid means petroleum, petroleum products, or anhydrous ammonia.

Highly volatile liquid or *HVL* means a hazardous liquid which will form a vapor cloud when released to the atmosphere and which has a vapor pressure exceeding 276 kpa (40 psia) at 37.8 °C (100 °F).

Limit of operating Pressure or *LOP* means the normal maximum limit of internal pressure in the pipeline during operation except for surges and other variations from normal operations. To qualify as a pipeline operated at 20 percent or less of SMYS, the LOP cannot be greater than a pressure equivalent to 20 percent of SMYS. *Major spill* means a release from the pipeline of 500 or more barrels of liquid; an escape to the atmosphere of 50 or more barrels per day of highly volatile liquid; the death of a person; or property damage to the property of the operator or others, or both, exceeding $50,000.

Navigable waterways means those waters that have been determined to be navigable waterways by the United States Coast Guard (USCG). A list of navigable waterways is available at the appropriate USCG District Office.

Pipeline means all parts of a pipeline facility through which a hazardous liquid moves in transportation, including, but not limited to, line pipe, valves and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping units, metering and delivery stations and fabricated assemblies therein, and breakout tanks.

Populated area means any area other than a rural area.

Rural area means outside the limits of any incorporated or unincorporated city, town, village, or any any other designated residential or commercial area such as a subdivision, a business or shopping center, or community development.

Questionnaire

Pipelines transporting petroleum, petroleum products, or anhydrous ammonia are regulated under 49 CFR part 195, Transportation of Hazardous Liquids by Pipeline. The owners or operators of hazardous liquid pipelines (1) operated at 20 percent or less of SMYS and (2) not otherwise excepted under § 195.1(b) are requested to complete the questionnaire for each such pipeline and return it by December 31, 1990. A copy of the questionnaire in 8½ x 11 inch format may be requested from G. Joseph Wolf (202) 366–4560).

Complete a separate questionnaire for each pipeline reported. This questionnaire is only applicable to the operation of pipelines made of steel pipe. Pipelines to be reported include all hazardous liquid pipelines operating at 20 percent or less of SMYS throughout the entire length of the separate pipeline including gathering lines in non-rural areas and pipelines between plants at petrochemical complexes, but excluding piping within a single plant property. It is important that all owners or operators of such pipelines respond to the extent possible so that RSPA is aware of the impact of a change being considered. Partially completed questionnaires will have value. It is especially important that owners and operators respond to question 1.

See the ANPRM for definitions of terms used in this questionnaire.

1. Pipeline Identification and Description

a. Name or number (Provide the name or number by which the pipeline is commonly identified in company records.)

_____

b. Is this pipeline presently operated under 49 CFR Part 195? Yes____ No____.

c. Length_____ miles.

d. Volume of each liquid transported (bbl/year):

	1987	1988	1989
Non-HVL			
HVL			
Anhydrous ammonia			

e. Steel Pipe Type (Method of Manufacture):

Electric resistance weld _____

Other (specify) _____ _____

Unknown _____ _____

f. Date(s) of installation

_____

2. Limit of Operating Pressure (LOP)

a. LOP is: _____ psig; _____ Percent SMYS.

b. Indicate the method on which LOP is based. If LOP is not based on one of the four listed alternatives, describe the method in comments attached to the questionnaire.

—Calculated internal design pressure with a safety factor of 0. _____ times SMYS.

—_____ percent of the test pressure for any part of the pipeline which has been hydrostatically tested.

—_____ The design or test pressure of a pipeline component.

—_____ The documented highest operating pressure of the pipeline.

3. Testing

If this pipeline has been hydrostatically tested, list the date it was tested: _____. List the minimum value of test pressure divided by LOP at any point in the pipeline: test pressure ÷ LOP × 100 = _____ percent.

4. Performance

a. Tabulate estimated average annual costs of accidents which have occurred in the years 1986 through 1990.

Cost of repair or replacement	
Cost of product lost	
Costs attributed to loss of use of the pipeline	
Cost of damage to property other than the pipeline	
Cost of bodily harm and/or loss of life. Loss of life valued at $1,500,000. Bodily harm reportable per § 195.50(e) valued at $450,000.	
Cost of environmental clean-up, whether or not paid by the operator	
Estimated cost of damage to the environment, exclusive of clean-up	
Cost of litigation	
Other costs	
Total costs	

b. List and identify by date incidents that resulted in a major spill. Estimate costs on the same basis as in Question 4.a. If more than two major spills have occurred, list on an attachment to the questionnaire.

Date	Barrels spilled	Cause	Total cost

5. Risk Exposure

a. Indicate, in miles, what portion of the pipeline is located:

—within 220 yards of populated areas._____ miles

—under or over a navigable waterway._____ miles

—within an environmentally sensitive area._____ miles.

6. Cost of Compliance

a. Estimate the one-time costs that must be incurred to bring the pipeline into compliance with the requirements of Part 195.

Review, design and planning	$
Materials and construction	
Documentation and paperwork	
Operational and maintenance training	
Other (specify)	
Total	

b. Estimate the continuing additional annual costs necessary to operate the pipeline in compliance with 49 CFR Part 195.

Operational expense	$
Maintenance expense	
Operational and maintenance training	
Documentation and Paperwork	
Other (specify)	
Total	

7. Small Business

a. Is the operator a small business according to the guidelines of the Small Business Administration?

Yes ____ No ____ If yes, answer b. and c.

b. Furnish the pipeline's number of employees: _____

c. Furnish the pipeline's total revenue for the years:

1987 _____ 1988 _____ 1989 _____

Issued in Washington, DC on October 26, 1990.

George W. Tenley, Jr.,

Associate Administrator for Pipeline Safety.

[FR Doc. 90-25729 Filed 10-30-90; 8:45 am]

BILLING CODE 4910-60-M

National Highway Traffic Safety Administration

49 CFR Part 553

[Docket No. 90-25; Notice 1]

RIN 2127-AD78

Reconsideration of Rules; Effect on Judicial Review

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: NHTSA is proposing to amend one provision of its procedural regulations that apply to the issuance, amendment, and revocation of rules under the Motor Vehicle Information and Cost Savings Act and the National Traffic and Motor Vehicle Safety Act. The provision at issue addresses the time within which affected persons may seek judicial review of a final rule if a petition for agency reconsideration of that rule has been filed. The proposed revision would make the regulation consistent with the judicial review provisions of the two statutes and with recent judicial decisions.

DATES: Comment closing date: Comments on this notice must be received on or before December 17, 1990.

Proposed effective date: If adopted as a final rule, these amendments would be effective November 30, 1990.

ADDRESSES: All comments on this notice should refer to Docket No. 90-25; Notice 1 and be submitted to the following: Docket Section, room 5109 National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Docket hours are 9:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Kenneth Weinstein, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-5263.

SUPPLEMENTARY INFORMATION: The Motor Vehicle Information and Cost Savings Act ("Cost Savings Act") and the National Traffic and Motor Vehicle Safety Act ("Safety Act") each contain provisions authorizing judicial review of rules and standards issued thereunder. Section 504(a) of the Cost Savings Act, 15 U.S.C. 2004(a), provides that any person who may be adversely affected by any rule prescribed under sections 501, 502, 503, or 506 of that Act (relating to automobile fuel economy) may, at any time prior to 60 days after such rule is prescribed, file a petition for judicial review of the rule in an appropriate United States Court of Appeals. Section 610 of the Cost Savings Act, 15 U.S.C 2030, provides that persons who may be adversely affected by any standard or rule under title VI of that Act (relating to theft protection for automobiles) may obtain judicial review in accordance with section 504 of the Act. Similarly, section 103(a) of the Cost Savings Act, 15 U.S.C. 1913(a), provides that persons who may be adversely affected by a rule issued under section 102 of that Act (relating to automobile bumper standards) may, at any time prior to 60 days after such rule is issued, file a petition for judicial review of the rule in

an appropriate United States Court of Appeals.

Section 105(a) of the Safety Act, 15 U.S.C. 1394(a), provides that any person who will be affected by an order issued under section 103 of that Act (which authorizes the issuance, amendment, and revocation of Federal motor vehicle safety standards) may at any time prior to the sixtieth day after such order is issued file a petition for judicial review of the order in an appropriate United States Court of Appeals.

Since these statutory time limitations are jurisdictional, courts cannot expand or alter them. *Natural Resources Defense Council* v. *N.R.C.*, 666 F.2d 595 (DC Cir. 1981); *Northside Sanitary Landfill, Inc.* v. *Thomas*, 804 F.2d 371, 378 (7th Cir. 1986). Similarly, an agency may not, through its regulations, expand the jurisdiction of the Federal courts beyond that established by Congress. *City of Tacoma* v. *Taxpayers of Tacoma*, 357 U.S. 320, 336 (1957); *City of Rochester* v. *Bond*, 603 F.2d 927, 931 (DC Cir. 1979).

Neither the Cost Savings Act nor the Safety Act require parties to seek administrative reconsideration prior to filing a petition for judicial review. However, NHTSA has authorized the filing of petitions for reconsideration of standards and rules issued under the two statutes in its regulations establishing procedures applicable to the issuance, amendment, and revocation of rules prusuant to those statutes. 49 CFR 553.35. Time limits and other procedures applicable to such petitions are set forth in 49 CFR 553.35–553.37.

Part 553 includes a provision (§ 553.39) that purports to address the effect that a timely petition for reconsideration would have on the period within which persons adversely affected by NHTSA rules could seek judicial review:

> The filing of a timely petition for reconsideration of any rule issued under this part postpones the expiration of the 60-day period in which to seek judicial review of that rule, as to every person adversely affected by the rule. Such a person may file a petition for judicial review at any time from the issuance of the rule in question until 60 days after publication in the Federal Register of the Administrator's disposition of any timely petitions for reconsideration.

Section 553.39 was adopted with the intent of minimizing litigation regarding final rules issued by the agency. 35 FR 19288 (December 19, 1970). However, recent case law has convinced NHTSA that several aspects of § 553.39 are not sustainable. First, the regulation refers to a "60-day period in which to seek judicial review." However, the language of both statutes provides that a petition for review must be filed "prior to" the sixtieth day. The District of Columbia Circuit has construed this language to require that petitions must filed on or before the fifty-ninth day after issuance of a rule issued under the Safety Act. *Center for Auto Safety* v. *Lewis*, No. 81–1636 (DC Cir., July 2, 1981) (unreported). Thus, NHTSA has tentatively determined that it would be appropriate to revise § 553.39 to be consistent with this decision. The proposed revised language would refer to "the statutory period in which to seek judicial review" rather than a 60-day period.

Section 553.39 also provides that the filing of a timely petition for agency reconsideration will postpone the expiration of the limitations period for judicial review "as to every person adversely affected by the rule." It is well settled that the filing of a timely petition for administrative reconsideration stays the running of the limitations period as to the petitioner. *ICC* v. *Brotherhood of Locomotive Engineers*, 482 U.S. 270 (1987); *Outland* v. *CAB*, 284 F.2d 224, 227 (DC Cir. 1960). The basis for this result is that the filing of the petition renders the action in question nonfinal (for purposes of judicial review) with respect to the filing party. *West Penn Power Co.* v. *EPA*, 860 F.2d 581, 584 (3d Cir. 1988). Thus, a party seeking reconsideration cannot simultaneously file a petition for judicial review, since review of nonfinal agency action is beyond the jurisdiction of the Federal courts. *Id.*

The rule or order under reconsideration, however, remains final with respect to nonpetitioning parties, who may seek judicial review without waiting for the completion of the administrative reconsideration.

American Farm Lines v. *Black Ball Freight Service*, 397 U.S. 532, 541 (1970); *ICG Concerned Workers Association* v. *United States*, 888 F.2d 1455, 1457–1458 (DC Cir. 1989); *West Penn Power Co., supra*, 860 F.2d at 586; *Winter* v. *ICC*, 851 F.2d 1056, 1062 (8th Cir.), *cert. denied*, 109 S.Ct. 308 (1988). Thus, persons who have not sought administrative reconsideration must comply with the statutory time limitations for judicial review, and may not rely upon another person's petition to extend the limitations period.

NHTSA's rulemaking regulation currently states that the statutory time limitation for petitions for judicial review will be postponed as to persons other than those who filed a petition for reconsideration. Therefore, to conform the regulation to the case law discussed above, NHTSA is proposing to amend § 553.39 to replace the words "as to every person adversely affected by the rule" with the phrase "as to the petitioner." In addition, the second sentence of current § 553.39 purports to authorize the filing of a petition for judicial review by a person who has sought administrative reconsideration prior to the completion of the administrative reconsideration. Since review at that time is clearly precluded under the case law discussed above, the agency is proposing to revise the sentence to clarify that, for such a person, the period for seeking judicial review will commence at the time the agency takes final action upon his or her petition for reconsideration.

NHTSA has evaluated this proposal to amend the regulations concerning requests for reconsideration of a rule and determined that it is neither "major" with the meaning of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation regulatory policies and procedures. The costs associated with these proposed amendments would be minimal because the changes are only procedural in nature. Thus, the amendments would not have an impact on the economy in excess of $100 million. Similarly, they would not result in a major change in costs or prices for consumers, individual industries, governments, or any geographic region. Nor would this action significantly affect competition. The agency has further determined that the costs associated with this proposal would be so minimal that preparation of a regulatory evaluation would not be warranted under Department of Transportation procedures.

The agency has also reviewed this proposal in accordance with the Regulatory Flexibility Act. For the reasons discussed above, I certify that this rule would not have a significant impact on a substantial number of small entities within the meaning of the statute.

Further, this rulemaking action has been analyzed in accordance with the principles and criteria in Executive Order 12612. NHTSA has determined that this action has no Federalism implication that warrants preparation of a Federalism report.

Finally, NHTSA has reviewed this proposal under the National Environmental Policy Act. The agency has determined that the environmental consequences of the proposed change would be of such limited scope that they clearly would not have a significant effect on the quality of the human environment.

NHTSA is soliciting public comment on these proposed amendments.

although they are procedural in nature, and an opportunity for public comment is therefore not required. It is requested but not required that 10 copies of all comments be submitted.

Comments must not exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

NHTSA does not anticipate that a commenter will make a claim of confidentiality in connection with any comment on this proposal. However, if a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 553

Imports, Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements.

PART 553—[AMENDED]

In consideration of the foregoing, it is proposed that 49 CFR part 553 be amended as follows:

1. The authority citation for part 553 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1407, 1912, 1941, 1988, 2001; delegation of authority at 49 CFR 1.50.

2. Section 553.39 would be revised to read as follows:

§ 553.39 Effect of petition for reconsideration on time for seeking judicial review.

The filing of a timely petition for reconsideration of any rule issued under this part postpones the expiration of the statutory period in which to seek judicial review of that rule only as to the petitioner. For such a person, the period for seeking judicial review will commence at the time the agency takes final action upon the petition for reconsideration.

Issued on October 26, 1990.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 90-25755 Filed 10-30-90; 8:45 am]

BILLING CODE 4910-59-M

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49 CFR Part 571

[Docket No. 90-26; Notice 1]

RIN 2127-AD44

Federal Motor Vehicle Safety Standards; Seat Belt Assembly Anchorages

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: In response to questions that have arisen during the agency's compliance tests, this notice solicits comments on a proposal to amend Standard No. 210, *Seat Belt Assembly Anchorages*, to clarify the definition of "seat belt anchorage". The proposed definition would explicitly state that any vehicle part or component that bears the loads imposed by safety belt systems, other than the safety belt webbing, is part of the anchorage.

DATES: Comments must be received by December 31, 1990. If adopted as final this amendment would become effective on September 1, 1992, after publication of that rule in the **Federal Register.**

ADDRESSES: Comments should refer to the docket and notice number of this notice and be submitted to: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. [Docket Room hours are 9:30 a.m.–4 p.m., Monday through Friday].

FOR FURTHER INFORMATION CONTACT: Mr. Clarke B. Harper, NRM–12, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: [202] 366–4916.

SUPPLEMENTARY INFORMATION: Federal Motor Vehicle Safety Standard No. 210, *Seat Belt Assembly Anchorages*, specifies performance requirements for safety belt anchorages to reduce the likelihood of the anchorage's failure in a crash. The requirements, which apply to passenger cars, trucks, buses, and multipurpose passenger vehicles, specify the forces that an anchorage must be capable of withstanding during a static strength test.

The anchorage for a safety belt system must transfer the loads imposed on the safety belt system in a crash to the vehicle structure. This function can be accomplished in most instances by locating the anchorage directly on some part of the vehicle structure, such as the floor or side pillars, with no intervening components other than the attachment hardware and attachment bolts for the safety belt system. However, in some cases, the anchorage for a safety belt system is located on vehicle components, such as seats, which, in turn, are attached to the vehicle structure. These latter types of anchorages have raised questions about the scope of Standard No. 210.

In the agency's compliance testing of seat-mounted anchorages, there have been instances in which the attachment of the seat to the vehicle floor has broken or otherwise failed before the required load had been applied to the anchorage. Since the attachment of the safety belt system to the seat had remained intact, it was not clear, under the existing provisions of Standard No. 210, whether failures of the seat attachment to the vehicle were non-compliances with the standard.

This notice proposes to amend Standard No. 210 to address such failures. The strength requirements of Standard No. 210 are intended to ensure that the safety belt system will remain attached to the vehicle and not break free, even when exposed to severe crash forces. This intent is not effectuated when the safety belt system remains attached to the seat, but the seat separates from the vehicle. Hence, this notice proposes to amend the definition of "anchorage" to make clear that any vehicle part or component that bears the loads imposed by safety belt systems,

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other than the safety belt webbing, is part of the anchorage. The definition would expressly provide that the anchorage includes, but is not limited to, the attachment hardware for the safety belt system, seat frames, seat pedestals, and parts of the vehicle structure itself.

The agency does not intend this definition to include safety belt buckles which are part of the safety belt system, unless the buckle is used to attach the safety belt webbing to the vehicle structure. This distinction is accomplished by the phrase in the definition "separation of the belt from the vehicle structure". If a buckle is not used to attach the safety belt webbing to the vehicle structure, its failure would not cause separation of the safety belt from the vehicle, but failure of the belt itself. Essentially, the agency is proposing to require that the safety belt system must remain attached to the vehicle during Standard No. 210 compliance testing.

Economic and Other Impacts

NHTSA has examined the impact of this rulemaking action and determined that it is not major within the meaning of E.O. 12291 or significant within the meaning of the Department of Transportation's regulatory policies and procedures. The agency has also determined that the economic and other impacts of this rulemaking action are so minimal that a full regulatory evaluation is not required. The amendment is intended to clarify the current definition.

NHTSA has also considered the impacts of this rulemaking action under the Regulatory Flexibility Act. I hereby certify that it would not have a significant economic impact on a substantial number of small entities.

Few, if any, passenger car manufacturers would qualify as small entities. Small organizations and governmental units should not be significantly affected since the amendment should not affect the purchase price of new motor vehicles. Accordingly, the agency has not prepared a preliminary regulatory flexibility analysis.

NHTSA has also analyzed this rulemaking action for the purpose of the National Environmental Policy Act. The agency has determined that implementation of this action would not have any significant impact on the quality of the human environment.

Finally, NHTSA has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612, and the agency has determined that this proposal does not have significant federalism implications to warrant the preparation of a Federalism Assessment.

Submission of Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Station. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, it is proposed that 49 CFR part 571 be amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

2. Section 571.210, S3 would be revised to read as follows:

§ 571.210 Standard No. 210; Seat belt assembly anchorages.

* * * * *

S3. Definition. *Seat belt anchorage* means any component, other than the safety belt webbing, involved in transferring seat belt assembly loads to the vehicle structure, including, but not limited to, the attachment hardware, seat frames, seat pedestals, the vehicle structure itself, and any part of the vehicle whose failure causes separation of the belt from the vehicle structure.

* * * * *

Issued on October 26, 1990.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 90-25756 Filed 10-30-90; 8:45 am]

BILLING CODE 4910-59-M

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Notices

Federal Register
Vol. 55, No. 211
Wednesday, October 31, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 90-208]

Receipt of a Permit Application for Release into the Environment of Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an application for a permit to release a genetically engineered organism into the environment is being reviewed by the Animal and Plant Health Inspection Service. The application has been submitted in accordance with 7 CFR part 340, which regulates the introduction of certain genetically organisms and products.

FOR FURTHER INFORMATION CONTACT: Mary Petrie, Program Analyst, Biotechnology, Biologics, and Environmental Protection, Biotechnology Permits, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 844, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7612.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which are Plant Pests or Which There is Reason to Believe Are Plant Pests," require a person to obtain a permit before introducing (importing, moving interstate, or releasing into the environment) in the United States, certain genetically engineered organisms and products that are considered "regulated articles." The regulations set forth procedures for obtaining a permit for the release into the environment of a regulated article, and for obtaining a limited permit for the importation or interstate movement of a regulated article.

Pursuant to these regulations, the Animal and Plant Health Inspection Service has received and is reviewing the following application for a permit to release a genetically engineered organism into the environment:

Application No.	Applicant	Date received	Organism	Field test location
90-274-05	The Upjohn Co.	10-01-90	Soybean plants genetically engineered to contain a marker gene that expresses the enzyme of beta-glucuronidase, and a gene that expresses the enzyme of phosphinothricin acetyltransferase for tolerance to bialaphos herbicides.	Puerto Rico.

Done in Washington, DC, this 25th day of October 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-25739 Filed 10-30-90; 8:45 am]

BILLING CODE 3410-34-M

Forest Service

American Sports Kids Association, Little Green Valley Camp, San Bernardino National Forest, San Bernardino County, CA; Intent to Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service, will prepare an Environmental Impact Statement (EIS) for an American Sports Kids Association (ASKA) proposal to refurbish and expand the organization camp at Little Green Valley and rename it Sports Kids University. The proposal envisions use of the camp as a year-round headquarters for its operations and as a venue for a variety of children's educational activities. The Forest Service will serve as the lead Federal agency in meeting the requirements of the National Environmental Policy Act (NEPA).

ASKA purchased the improvements on the site from the Los Angeles YMCA and the special use permit to operate and maintain the camp has been transferred to ASKA. The San Bernardino National Forest Land and Resource Management Plan (Plan) provides for the continuation of existing organization camps but directs that they not be allowed to expand outside permit boundaries when the expansion can be reasonably accommodated within existing boundaries or on private land. It is known that camps, both on private land and on National Forest System land, are available for sale elsewhere within the San Bernardino National Forest and, thus, the proposed expansion of the camp beyond the existing boundaries conflicts with direction in the Plan. The EIS will determine if the proposed expansion is in the best interest of the public and can be made compatible with the environmental needs of the land and resources.

In addition to the proposed expansion of the camp boundaries, new activities are planned for the camp.

ISSUES IDENTIFIED: Previous local scoping and discussions within the Forest Service have identified the following issues: Threatened and endangered species, wildlife, road location, water quality, ground water, riparian area encroachment, aesthetics, and the need for recreational and educational benefits to be provided by this proposal.

Five alternatives have been identified: (1) Eliminate Little Green Valley as an organization camp site and return the site to a natural condition, (2) no action, leave site and improvements as they are and do not allow any occupancy as an organization camp site, (3) refurbish with only minor improvements to bring developments up to current standards and take measures to correct

environmental problems, (4) revise site plan to eliminate developments in the southern portions (meadow area) and relocate existing administration building to northern section of camp and eliminate target shooting, horses, and chapel and (5) ASKA proposal as of September 15, 1990.

SUPPLEMENTARY INFORMATION: The additional activities proposed for the camp are: (1) Earth Games America—a series of twelve week-long sessions of sports and environmental education for 5 to 12 year old children, (2) Kamp Komfort—a series of six one-week sessions in the spring and six one-week sessions in the fall for battered children with attendees selected by social services agencies coordinated by Child Help USA. (3) Sports Kids—The TV Show—30 minute weekly series filmed on location at Little Green Valley Camp will house the administrative staff for this and other camps which ASKA is now operating or plans to operate in the future.

The Draft EIS (DEIS) is expected to be available for public review by December 1990 and comments will be received for a period of 45 days following the date that the notice of its availability is published in the **Federal Register**. It is important that those interested in the management of the San Bernardino National Forest participate at that time. To be most helpful, comments on the draft EIS should be as specific as possible and may address the adequacy of the document or the merits of the alternatives discussed (see The Council on Environmental Quality Regulations For Implementing The Procedural Provisions Of The National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal Court decisions have established that reviewers of DEISs must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions, (Vermont Nuclear Power Corp. v. NRDC, 435 U.S. 519, 553 (1978)), and that environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final EIS, (Wisconsin Heritages, Inc. v. Harris, 490 F. Supp. 1338 (E.D. Wisc. 1980)). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service when they can meaningfully consider them and respond to them in the final document. All comments will be considered and analyzed in preparing the final EIS, which is scheduled to be completed by February 1991. The responsible official will document the decision in the Record of Decision which will be subject to appeal under the provisions of 36 CFR Part 217.

DATES: Comments are requested on this notice concerning the scope of analysis of the draft EIS. Comments must be received within 30 days of the publication date of this notice.

PUBLIC MEETING: The Forest Service will conduct a public meeting to provide information on the project to the public on November 17, 1990 at 10 a.m. at the Hoffman Elementary School on Highway 18 in Running Springs, CA.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis for the American Sports Kids Association, Little Green Valley Camp proposal to Charles H. Irby, Forest Supervisor, San Bernardino National Forest, 1824 S. Commercenter Circle, San Bernardino, CA 92408–3430.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and preparation of the EIS to Gail van der Bie, Recreation Officer at the above address or call (714) 383–5696.

Dated: October 24, 1990.

Charles H. Irby,

Forest Supervisor.

[FR Doc. 90–25671 Filed 10–30–90; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

[Docket No. 051–389]

Gary Gentile, Hearing

In the Matter of Gary Gentile, Respondent.

The informal hearing provided for in 924.8(c) of the regulations (15 CFR 924.8(c)) relating to the denial of appellant's request to conduct underwater photography or similar activities within the Monitor National Marine Sanctuary, will be held in Hearing Room 2409 at 401 M Street, SW., Washington, DC at 9 a.m. on November 2, 1990.

Dated: October 25, 1990.

Hugh J. Dolan,

Administrative Law Judge.

[FR Doc. 90–25670 Filed 10–30–90; 8:45 am]

BILLING CODE 3510-CW-M

Bureau of Export Administration

Telecommunications Equipment Technical Advisory Committee; Closed Meeting

Federal Register citation of previous announcement: pp. 41368–9 October 11, 1990.

Previously announced time of meeting: 9:30 a.m., November 1, 1990. Changes in meeting: 9:30 a.m., November 28, 1990, Herbert C. Hoover Building, Room 1629, 14th Street and Pennsylvania Avenue, NW., Washington, DC Fully closed.

Dated: October 25, 1990.

Betty Ferrell,

Director, Technical Advisory Committee Unit.

[FR Doc. 90–25712 Filed 10–30–90; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

[A–357–405]

Barbed Wire and Barbless Fencing Wire From Argentina; Intent To Revoke Antidumping Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of intent to revoke antidumping order.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping order on barbed wire and barbless fencing wire from Argentina. Interested parties who object to this revocation must submit their comments in writing not later than November 30, 1990.

EFFECTIVE DATE: October 31, 1990.

FOR FURTHER INFORMATION CONTACT: Alfredo Montemayor or Maureen Flannery, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377–2923.

SUPPLEMENTARY INFORMATION:

Background

On November 13, 1983, the Department of Commerce ("the Department") published an antidumping order on barbed wire and barbless fencing wire from Argentina [49 FR 49126). The Department has not received a request to conduct an administrative review of this order for the most recent four consecutive annual anniversary months.

The Department may revoke an order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations (19 CFR 353.25(d)(4)), we are notifying the public of our intent to revoke this order.

Opportunity to Object

Not later than November 30, 1990, interested parties, as defined in § 353.2(k) of the Department's regulations (19 CFR 353.2(k)), may object to the Department's intent to revoke this antidumping order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review by November 30, 1990, in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by November 30, 1990, we shall conclude that the order is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: October 26, 1990.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 90-25784 Filed 10-30-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-815]

Preliminary Determination of Sales at Less Than Fair Value: Gray Portland Cement and Clinker from Japan

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that grat portland cement and clinker (cement and clinker) from Japan are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to suspend liquidation of all entries of cement and clinker from Japan, as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by January 8, 1991.

EFFECTIVE DATE: October 31, 1990.

FOR FURTHER INFORMATION CONTACT: Louis Apple, V. Irene Darzenta or David C. Smith, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202 377-1769, 377-0186, 377-3798, respectively.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We preliminary determine that cement and clinker from Japan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the notice of initiation on June 15, 1990 (55 FR 24295), the following events have occurred. On July 11, 1990, the ITC preliminarily determined that there is a reasonable indication that an industry in the United States is being materially injured by reason of imports of cement and clinker from Japan (55 FR 28465).

On July 2, 1990, the Department presented its questionnaire to two companies that accounted for more than 60 percent of exports by volume to the United States during the period of investigation (POI): Nihon Cement Company, Ltd. (Nihon) and Onoda Cement Company, Ltd. (Onoda), in accordance with § 353.42(b) of the Commerce Department's regulations (19 CFR 353.42(b) (1989)) (the Department's regulations). Responses to the questionnaire was due on July 30, 1990. At the request of respondents, the response deadline was extended to August 20 and August 28, 1990, for Onoda and Nihon, respectively.

Respondents submitted replies to our questionnaire on August 20 and August 28, 1990. The Department issued deficiency letters to Onoda and Nihon on September 18 and September 19, 1990, respectively. Responses to these deficiency letters and supplemental responses were filed by Onoda on October 2 and by Nihon on October 3. A supplemental response was filed by Onoda on October 5, 1990.

On June 22, 1990, petitioner filed a first amendment to the petition adding certain co-petitioners. On July 9, 1990, petitioners filed a second amendment to the petition alleging critical circumstances (*see* "Critical Circumstances" section of this notice). On September 10, 1990, petitioners alleged that Nihon was selling cement in the home market at prices below the cost of production. On the same date, petitioners also alleged that Onoda was selling clinker to a third country at prices below the cost of production. Petitioners withdrew their sales below cost allegation against Nihon on September 20, 1990. On October 3, 1990, the Department rejected petitioners' cost allegation against Onoda as insufficient for purposes of initiating a cost of production investigation.

Scope of the Investigation

The products covered by this investigation are gray portland cement and clinker. Gray portland cement is a hydraulic cement and the primary component of concrete. Clinker, an intermediate material produced when manufacturing cement, has no use other than grinding into finished cement.

Gray portland cement is currently classifiable under HTS item number 2523.29, and clinker is currently classifiable under HTS number 2523.10. Gray portland cement has also been entered under number 2523.90 as "other hydraulic cements." The HTS subheadings are provided for convenience and U.S. Customs Service purposes. The written description remains dispositive as to the scope of the product coverage.

Period of Investigation

The period of investigation is December 1, 1989 through May 31, 1990.

Such or Similar Comparisons

Pursuant to section 771(16) of the Act, we established two categories of "such or similar" merchandise: Cement and clinker. Product comparisons were made within each such or similar category on the basis of the following criteria: (1) Product type, (2) chemical composition and (3) technical specifications. Where there were no sales of indentical merchandise in the foreign market with which to compare merchandise were compared on the basis of the characteristics described above. We used home market or third country sales as the basis for foreign market value (FMV), as described in the "Foreign Market Value" section of this notice.

For both respondents, we compared U.S. sales of bulk cement to home market sales of bulk cement. For Onoda, we also compared U.S. sales of cement which was further manufactured into ready-mix to home market sales of bulk cement, and U.S. sales of clinker to a third country sale of clinker. Both Nihon and Onoda reported that they sold a small quantity of bagged cement to the United States during the POI. Because of the small volumes involved, we did not require respondents to report these sales.

Product comparisons were made on the basis of standards established by the American Society for Testing and

Materials (ASTM standards). All of the cement sold in the United States during the POI fell within two ASTM standards: Type I and Type II. Onoda sold both Type I and Type II cement in the United States; Nihon sold only Type II in the United States. Both respondents sold at least three types of cement in the home market during the POI: Ordinary portland cement (NC), moderate heat cement (MC), and high early strength cement (VC). At our request, respondents provided documents indicating the chemical composition and technical specifications for each cement type sold in the home market during the POI.

Both petitioners and respondents agree that NC is most similar to Type I and, therefore, we have made product comparisons on this basis. Based on our review of the information submitted on the record, and the Department's finding in the 1983 investigation (*see Final Determination of Sales at Less Than Fair Value; Portland Hydraulic Cement from Japan*, 48 FR 41059, September 13, 1983), we have preliminarily determined that MC is the home market cement type which is most similar to Type II for comparison purposes.

Fair Value Comparisons

To determine whether sales of cement and clinker from Japan to the United States were made as less than fair value, we compared the United States price to the foreign market value, as specified in the " United States Price" and "Foreign Market Value" sections of this notice.

United States Price

For Onoda, we based United States price on purchase price where sales were made directly to unrelated parties prior to importation into the United States, in accordance with section 772(b) of the Act. Where sales to the first unrelated purchaser took place after importation into the United States, we based United States price on exporter's sales price (ESP), in accordance with section 772(c) of the Act. For Nihon, we based United States price on purchase price because all sales were made directly to unrelated parties prior to importation into the United States.

A. Onoda

For Onoda, we calculated purchase price based on f.o.b. Japanese port prices. We made deductions, where appropriate, for discounts and loading charges, in accordance with section 772(d)(2) of the Act. In accordance with section 772(d)(1)(C) of the Act, we added to the United States price the amount of value added tax (VAT) that would have been collected if the merchandise had not been exported.

We calculated ESP based on c.i.f. picked up or delivered prices. We made deductions, where appropriate, for discounts, loading charges in Japan, ocean freight, marine insurance, harbor and Customs user fees, U.S. terminal and unloading charges, U.S. inland freight and inland insurance. In accordance with section 772(e)(1) and (2) of the Act, we made additional deductions, where appropriate, for credit expenses, commissions, advertising and warranty expenses, and indirect selling expenses consisting of technical services, dispatcher costs, product liability expenses, inventory carrying costs and general indirect selling expenses incurred in Japan and the United States. We made additions, where appropriate, for additional revenue obtained from certain sales of bulk cement.

For ready-mix sales, in accordance with section 772(e)(3) of the Act, we deducted value added resulting from assembly performed on the imported merchandise after its importation. This value added comprised two parts: The process of assembly (also referred to as "further manufacturing"); and the portion of total profit attributable to further manufacturing (also referred to as "allocated profit"). For purposes of this investigation, we determined that, in addition to the cost of materials, further manufacturing included the labor and overhead costs attributable to the materials; and selling expenses, general and administrative (G&A) expenses, and movement charges attributable to the further manufacturing process.

In accordance with section 772(d)(1)(C) of the Act, we added to the United States price the amount of VAT that would have been collected on the export sale had it been subject to the tax.

We found certain inconsistencies between the data reported in Onoda's ESP database and the narrative description provided in its August 20 and October 2, 1990 responses. Based on the information submitted in the narrative portions of Onoda's responses, we recalculated credit, inventory carrying costs, divisional advertising and G&A expenses for ready-mix sales, and general U.S. indirect selling expenses.

For both purchase price and ESP sales, Onoda reported quality control expenses as direct selling expenses. We have preliminarily determined that these expenses are more appropriately classified as costs of manufacturing. Therefore, we have not made any adjustment to United States price.

B. Nihon

For Nihon, we calculated purchase price based on the f.o.b. Japanese port price (Kamiiso). We made deductions for foreign brokerage. In accordance with section 772(d)(1)(C) of the Act, we added to the United States price the amount of VAT that would have been collected if the merchandise had not been exported.

Foreign Market Value

In order to determine whether there were sufficient sales of cement and clinker in the home market to serve as a viable basis for calculating FMV, we compared the volume of home market sales of cement and clinker to the volume of third country sales of cement and clinker, in accordance with section 773(a)(1) of the Act. Both respondents had viable home markets with respect to sales of cement made during the POI. For Onoda's sales of clinker, the volume of home market sales was less than five percent of the aggregate volume of third country sales. Therefore, in accordance with § 354.48 of the Department's regulations, we determined that home market sales of clinker did not constitute a viable basis for calculating FMV.

In selecting which third country market to use for comparisons of clinker, we determined which third country had an "adequate" volume of sales, within the meaning of § 353.49(b)(1) of the Department's regulations. We determined that the volume of sales to a third country market was adequate if the sales of such or similar merchandise exceeded or was equal to five percent of the volume sold to the United States. In selecting which third country market was the most appropriate for comparison purposes, we selected the third country market with the most similar merchandise and the largest volume of sales, in accordance with § 353.49(b)(2) of the Department's regulations.

A. Onoda

For Onoda, we calculated FMV of cement sales based on ex-factory, c.i.f. terminal or delivered prices to unrelated and related customers in the home market. We used the related party sales because the prices to related parties were determined to be at arm's-length, in accordance with § 353.45(a) of the Department's regulations. We made deductions, where appropriate, for discounts, rebates, inland freight and insurance, and tanker freight. We have

not made a deduction for claimed distribution terminal costs because some of the reported amounts appeared inaccurate.

Pursuant to § 353.56 of the Department's regulations, we made circumstance of sale adjustments, where appropriate, for differences in credit expenses and revenue obtained from late-paying customers. We made further adjustments, where appropriate, for differences in commissions when incurred in both markets, in accordance with § 353.56(a)(2) of the Department's regulations. Where commissions were paid in one market and not in the other, we allowed an adjustment for indirect selling expenses incurred in the other market to offset commissions, in accordance with § 353.56(b) of the Department's regulations.

We made a circumstance of sale adjustment for VAT incurred on home market sales and not on export sales. We computed the VAT adjustment based on a U.S. price net of discounts.

For comparisons to ESP sales, we made further deductions for home market indirect selling expenses, comprised of advertising, technical services, general indirect selling expenses, inventory carrying costs, and other selling expenses associated with distribution terminal scrap and disposal of obsolete equipment. We capped the amount deducted for home market indirect selling expenses by the amount of indirect selling expenses incurred on sales in the U.S. market, in accordance with § 353.56(b)(2) of our regulations.

Where appropriate, we made further adjustments to FMV to account for differences in physical characteristics of the merchandise, in accordance with § 353.57 of the Department's regulations.

We calculated FMV of clinker sales based on f.o.b. Japanese port prices. We made deductions, where appropriate, for discounts and loading charges. We also made an addition for special revenue associated with movement charges. Pursuant to § 353.56 of the Department's regulations, we made a circumstance of sale adjustment, where appropriate, for differences in credit expenses. We recalculated third country and U.S. credit expenses based on gross prices net of discounts.

For both home market and third country sales, Onoda reported quality control expenses as direct expenses. We have preliminarily determined that these expenses are more appropriately classified as costs of manufacturing. Therefore, we have not made any adjustment to FMV.

B. Nihon

For Nihon, we calculated FMV based on ex-factory, c.&f. terminal or delivered prices to related and unrelated customers in the home market. We used the related party sales because the prices to related parties were determined to be at arm's length, in accordance with § 353.45(a) of the Department's regulations. We made deductions, where appropriate, for discounts, rebates, inland freight, and loading and unloading costs.

We made circumstance of sale adjustments, where appropriate, for differences in credit expenses pursuant to § 353.56 of the Department's regulations. We recalculated home market and U.S. credit expenses using the average short-term borrowing rate reported for the POI. We made adjustments to FMV for home market selling expenses consisting of general indirect selling expenses and inventory carrying costs, pursuant to § 353.56(b) of the Department's regulations. We recalculated home market inventory carrying costs using the average short-term borrowing rate reported for the POI.

We made a circumstance of sale adjustment for VAT incurred on home market sales and not on export sales. We computed the VAT adjustment based on U.S. price.

Critical Circumstances

Petitioners allege that "critical circumstances" exist with respect to imports of cement and clinker from Japan. Section 733(e)(1) of the Act provides that critical circumstances exist when we determine that there is a reasonable basis to believe or suspect the following:

(1) That there is a history of dumping of the same class or kind of merchandise, or that the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise at less than fair market value, and

(2) That there have been massive imports of the subject merchandise over a relatively short period.

To determine whether imports have been massive over a relatively short period, we based our analysis on respondents' shipment data for equal periods immediately preceding and following the filing of the petition.

Pursuant to § 353.16 (f) and (g) of our regulations, we examined the period beginning in the month in which the petition was filed and ending in the month prior to that in which we published our preliminary determination. We selected May 1990 (the month in which the petition was filed) as the beginning of the base period, and used September and October 1990, for Onoda and Nihon, respectively (the latest months for which respondents could provide shipment data) as the end of the base period.

We then compared the quantity of imports during the base period for each respondent over the imports during the immediately preceding period of comparable duration for each of the respondents. We found that shipments from none of the respondents had increased by at least 15 percent during the base period. Based on the above and in accordance with § 353.16(f)(2) of the Department's regulations, we preliminarily find that imports of gray portland cement and clinker from Japan have not been massive over a relatively short period.

Since we do not find that there have been massive imports, we need not consider whether there is a history of dumping or whether importers of this merchandise knew or should have known that such merchandise was being sold at less than fair value. Therefore, for purposes of the preliminary determination, we find that there is no reasonable basis to believe or suspect that critical circumstances exist with respect to imports of cement and clinker from Japan.

Verification

As provided in section 776(b) of the Act, we will verify all information used in making our final determination.

Suspension of Liquidation

In accordance with section 773(d)(1) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of cement and clinker from Japan, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated preliminary dumping margin, as shown below. The suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Manufacturer/producer/exporter	Margin percentage
Onoda Cement Co., Ltd.	46.07
Nihon Cement Co., Ltd.	67.68
All Others	50.21

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms in writing that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

If our final determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry before the later of 120 days after the date of this preliminary determination or 45 days after our final determination.

Public Comment

In accordance with § 353.38(b) of the Department's regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment in case or rebuttal briefs. The hearing will be held on December 28, 1990, at 9:30 a.m. at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Interested parties who wish to participate in the hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, room B-099, within ten days of the publication of this notice in the Federal Register. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed. In addition, ten copies of the business proprietary and five copies of the nonproprietary versions of the case briefs or other written comments must be submitted to the Department at the address above in accordance with § 353.38 of the Department's regulations. Case briefs or other written comments must be submitted no later than December 21, 1990, and rebuttal briefs no later than December 24, 1990. In accordance with § 353.38(b) of the Department's regulations, oral presentations will be limited to issues raised in the briefs.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. § 1677b(f) and § 353.15 of the Department's regulations (19 CFR 353.15).

Dated: October 25, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-25765 Filed 10-30-90; 8:45 am]

BILLING CODE 3510-DS-M

[C-333-502]

Deformed Steel Concrete Reinforcing Bar (Rebar) From Peru; Intent To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of intent to revoke countervailing duty order.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the countervailing duty order on rebar from Peru. Interested parties who object to this revocation must submit their comments in writing not later that November 30, 1990.

EFFECTIVE DATE: October 31, 1990.

FOR FURTHER INFORMATION CONTACT: Beth Chalecki or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On November 27, 1985, the Department of Commerce ("the Department") published a countervailing duty order on rebar from Peru (40 FR 48819). The Department has not received a request to conduct an administrative review of the countervailing duty order on rebar form Peru for four consecutive annual anniversary months. This is the fifth anniversary.

In accordance with 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no interested party objects to revocation or requests an administrative review by the last day of the fifth anniversary month. Accordingly, as required by § 355.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this order.

Opportunity to Object

Not later than November 30, 1990, interested parties, as defined in § 355.2(i) of the Department's regulations, may object to the Department's intent to revoke this countervailing duty order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review or object to the Department's intent to revoke by November 30, 1990, we shall conclude that the order is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 355.2(d).

Dated: October 25, 1990.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 90-25766 Filed 10-30-90; 8:45 am]

BILLING CODE 3510-DS-M

[C-357-048]

Certain Textiles and Textile Products From Argentina; Intent to Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of intent to revoke countervailing duty order.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the countervailing duty order on certain textiles and textile products from Argentina, specifically men's and boy's woolen garments. Interested parties who object to this revocation must submit their comments in writing not later than November 30, 1990.

EFFECTIVE DATE: October 31, 1990.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1978, the Department of Commerce ("the Department") published a countervailing duty order on certain textiles and textile products from Argentina (48 FR 53421). The Department has not received a request to conduct an administrative review of the countervailing duty order on certain textiles and textile products from Argentina for more than four consecutive annual anniversary months.

In accordance with 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties

and will revoke the order if no interested party objects to revocation or requests an administrative review by the last day of the fifth anniversary month. Accordingly, as required by § 355.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this order.

Opportunity to Object

Not later than November 30, 1990, interested parties, as defined in § 355.2(i) of the Department's regulations, may object to the Department's intent to revoke this countervailing duty order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review or object to the Department's intent to revoke by November 30, 1990, we shall conclude that the order is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 355.25(d).

Dated: October 25, 1990.

Ronald L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 90–25767 Filed 10–30–90; 8:45 am]

BILLING CODE 3510–DS–M

Short-Supply Review; Certain Cold Heading Quality Steel Billets

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice of short-supply review and request for comments; certain cold heading quality steel billets.

SUMMARY: The Secretary of Commerce ("Secretary") hereby announces a review and request for comments on a short-supply request for 15,500 net tons of certain cold heading quality steel billets for the first quarter of 1991 under Article 8 of the Arrangement Between the Government of Australia and the Government of the United States of America Concerning Trade in Certain Steel Products ("the U.S.-Australia Arrangement").

SHORT-SUPPLY REVIEW NUMBER: 28.

SUPPLEMENTARY INFORMATION: Pursuant to section 4(b)(3)(B) of the Steel Trade Liberalization Program Implementation Act, Public law 101–221, 103 Stat. 1886 (1989) ("the Act"), and § 357.104(b) of the Department of Commerce's Short-Supply Procedures (19 CFR 357.104(b)) ("Commerce Short Supply Procedures"), the Secretary hereby announces that a short-supply determination is under review with respect to certain cold heading quality steel billets for use in the manufacture of wire rod used to make various types of fastners continuous welding wire. On October 22, 1990, the Secretary received an adequate petition from American Steel and Wire Corporation ("ASW") requesting a short-supply allowance for 15,500 net tons of this product during the first quarter 1991 under Article 8 of the U.S.-Australia Arrangement. ASW is requesting a short-supply allowance because its qualified domestic supplier has expressed an unwillingness to meet ASW's needs for the subject material during this period and its qualified foreign supplier has no regular export licenses available.

The requested material meets the following specifications:

Dimensions (and tolerances): 130 mm square (±2 mm)× 9.4–10.3 meters (no shorts);
Surface condition: Seams, laps, and other linear defects shall not exceed 6.35 mm as a general guideline. Harmful scabs, slivers and other point defects must be kept to an absolute minimum;
Twist: 5 degree max/length of billets;
Straightness: 13 mm max out-of-straight in any 1.5 meters, max 76 mm out-of-straight over full billet length, no hooked ends;
Squareness: Rhomboid sections with uneven diagonals more than 8 mm are unacceptable;
Ends: Perpendicular to longitudinal axis. Tapered cuts are unacceptable. Detachable saw burrs, fins, or shear lips must be minimized. Mushroomed ends must not exceed 6 mm/side, no open or split ends;
Grades: 1005 AK, 1010 AK, 1022 MOD CG, 10B24 FG, 1038 CG, 1541H FG;
Rolled billets can be produced from ingots or bloom cast, and include controlled and certified product chemical analyses. All grades have a copper residual limit of 0.10 max.

Section 4(b)(4)(B)(ii) of the Act and § 357.106(b)(2) of Commerce's Short-Supply Procedures require the Secretary to make a determination with respect to a short-supply petition not later than the 30th day after the petition is filed, unless the Secretary finds that one of the following conditions exist:

(1) The raw steelmaking capacity utilization in the United States equals or exceeds 90 percent; (2) the importation of additional quantities of the requested steel product was authorized by the Secretary during each of the two immediately preceding years; or (3) the requested steel product is not produced in the United States. The Secretary finds that none of these conditions exist with respect to the requested product, and therefore, the Secretary will determine whether this product is in short supply not later than November 21, 1990.

COMMENTS: Interested parties wishing to comment upon this review must send written comments not later than November 7, 1990, to the Secretary of Commerce, Attention: Import Administration, room 7866, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230. Interested parties may file replies to any comments submitted. All replies must be filed not later than 5 days after November 7, 1990. All documents submitted to the Secretary shall be accompanied by four copies. Interested parties shall certify that the factual information contained in any submission they make is accurate and complete to the best of their knowledge.

Any person who submits information in connection with a short-supply review may designate that information, or any part thereof, as proprietary, thereby requesting that the Secretary treat that information as proprietary. Information that the Secretary designates as proprietary will not be disclosed to any person (other than officers or employees of the United States Government who are directly concerned with the short-supply determination) without the consent of the submitter unless disclosure is ordered by a court of competent jurisdiction. Each submission of proprietary information shall be accompanied by a full public summary or approximated presentation of all proprietary information which will be placed in the public record. All comments concerning this review must reference the above noted short-supply review number.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible or Norbert O. Gannon, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, room 7866, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230 (202) 377–0159 or (202) 377–4037.

Dated: October 24, 1990.

Marjorie A. Chorlins,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 90–25843 Filed 10–30–90; 8:45 am]

BILLING CODE 3510–DS–M

Short-Supply Review: Certain Steel Plate

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice of short-supply review and request for comments: certain steel plate.

SUMMARY: The Secretary of Commerce ("Secretary") hereby announces a review and request for comments on a short-supply request for 10,999.8 net tons of certain steel plate for the balance of 1990 under Article 8 of the U.S.-EC steel arrangement.

SHORT-SUPPLY REVIEW NUMBER: 29.

SUPPLEMENTARY INFORMATION: Pursuant to section 4(b)(3)(B) of the Steel Trade Liberalization Program Implementation Act, Public Law 101–221, 103 Stat. 1886 (1989) ("the Act"), and § 357.104(b) of the Department of Commerce's Short-Supply Procedures (19 CFR 357.104(b)) ("Commerce's Short-Supply Procedures"), the Secretary hereby announces that a short-supply determination is under review with respect to certain steel plate for use in the manufacture of large diameter pipe (LDP). On October 23, 1990, Berg Steel Pipe Corporation submitted an adequate petition to the Secretary requesting a short-supply allowance under Article 8 of the Arrangement Between the European Coal and Steel Community and the European Economic Community, and the Government of the United States of America Concerning Trade in Certain Steel Products, for 10,999.8 net tons of American Petroleum Institute grade X–60 (modified) steel plate 73.918 inches in width and 0.576 inch in thickness, to be delivered during the balance of 1990. Berg is requesting a short-supply allowance because it believes this product is not produced in the United States and its potential foreign supplier has no regular export licenses available.

Section 4(b)(4)(B)(ii) of the Act and § 357.106(b)(2) of Commerce's Short-Supply Procedures require the Secretary to make a determination with respect to a short-supply petition not later than the 30th day after the petition is filed, unless the Secretary finds that one of the following conditions exist:

(1) The raw steelmaking capacity utilization in the United States equals or exceeds 90 percent; (2) the importation of additional quantities of the requested steel product was authorized by the Secretary during each of the two immediately preceding years; or (3) the requested steel product is not produced in the United States. The Secretary finds that none of these conditions exist with respect to the requested product, and therefore, the Secretary will determine whether this product is in short supply not later than November 22, 1990.

COMMENTS: Interested parties wishing to comment upon this review must send written comments not later than November 7, 1990, to the Secretary of Commerce, Attention: Import Administration, room 7866, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW., Washington, DC 20230. Interested parties may file replies to any comments submitted. All replies must be filed not later than 5 days after November 7, 1990. All documents submitted to the Secretary shall be accompanied by four copies. Interested parties shall certify that the factual information contained in any submission they make is accurate and complete to the best of their knowledge.

Any person who submits information in connection with a short-supply review may designate that information, or any part thereof, as proprietary, thereby requesting that the Secretary treat that information as proprietary. Information that the Secretary designates as proprietary will not be disclosed to any person (other than officers or employees of the United States Government who are directly concerned with the short-supply determination) without the consent of the submitter unless disclosure is ordered by the court of competent jurisdiction. Each submission of proprietary information shall be accompanied by a full public summary or approximated presentation of all proprietary information which will be placed in the public record. All comments concerning this review must reference the above noted short-supply review number.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible or Norbert Gannon, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230 (202) 377–0159 or (202) 377–4037.

Dated: October 26, 1990.

Marjorie A. Chorlins,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 90–25844 Filed 10–30–90; 8:45 am]

BILLING CODE 3510-DS-M

Short-Supply Review; Certain Welding Quality Steel Billets

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice of short-supply review and request for comments; certain welding quality steel billets.

SUMMARY: The Secretary of Commerce ("Secretary") hereby announces a review and request for comments on a short-supply request for 10,900 net tons of certain welding quality steel billets for the fourth quarter of 1990 under Article 8 of the Arrangement Between the Government of Australia and the Government of the United States of America Concerning Trade in Certain Steel Products ("the U.S.-Australia Arrangement").

SHORT-SUPPLY REVIEW NUMBER: 27.

SUPPLEMENTARY INFORMATION: Pursuant to section 4(b)(3)(B) of the Steel Trade Liberalization Program Implementation Act, Public Law No. 101–221, 103 Stat. 1886 (1989) ("the Act"), and § 357.104(b) of the Department of Commerce's Short-Supply Procedures (19 CFR 357.104(b)) ("Commerce's Short Supply Procedures"), the Secretary hereby announces that a short-supply determination is under review with respect to certain welding quality steel billets for use in the manufacture of wire rod used to make continuous welding wire. On October 22, 1990, the Secretary received an adequate petition from American Steel and Wire Corporation ("ASW") requesting a short-supply allowance for 10,900 net tons of this product during the fourth quarter 1990 under Article 8 of the U.S.-Australia Arrangement. ASW is requesting a short-supply allowance because one of its major foreign suppliers is unable to fully meet its commitment to supply the subject material to ASW and viable domestic supplies are unavailable.

The requested material meets the following specifications:

Dimensions (and tolerances): 130 mm square (±)2 mm) × 9.4–10.3 meters (no shorts);
Surface condition: Seams, laps, and other linear defects shall not exceed 6.35 mm as a general guideline. Harmful scabs, slivers and other point defects must be kept to an absolute minimum;
Twist: 5 degrees max/length of billets;
Straightness: 13 mm max out-of-straight in any 1.5 meters, max 70 mm out-of-straight over full billet length, no hooked ends;
Squareness: Rhomboid sections with uneven diagonals more than 3 mm are unacceptable;

Ends: Perpendicular to longitudinal axis. Tapered cuts are unacceptable. Detachable saw burrs, fins, or shear lips must be minimized. Mushroomed ends must not exceed 6 mm/side, no open or split ends;

Deoxidization practice and grain size: Silicon killed, coarse grain;

Grades: ER 70S–6 and 70S–7;

Rolled billets can be produced from ingots or bloom cast, and include controlled and certified product chemical analyses, and possess the following copper residual limits: Grade ER 70S–6, 0.05 max. and Grade 70S–7, 0.07 max.

Section 4(b)(4)(B)(ii) of the Act and § 357.106(b)(2) of Commerce's Short-Supply Procedures require the Secretary to make a determination with respect to a short-supply petition not later than the 30th day after the petition is filed, unless the Secretary finds that one of the following conditions exist: (1) The raw steelmaking capacity utilization in the United States equals or exceeds 90 percent; (2) the importation of additional quantities of the requested steel product was authorized by the Secretary during each of the two immediately preceding years; or (3) the requested steel product is not produced in the United States. The Secretary finds that none of these conditions exist with respect to the requested product, and therefore, the Secretary will determine whether this product is in short supply not later than November 21, 1990.

COMMENTS: Interested parties wishing to comment upon this review must send written comments not later than November 7, 1990, to the Secretary of Commerce, Attention: Import Administration, room 7866, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230. Interested parties may file replies to any comments submitted. All replies must be filed not later than 5 days after November 7, 1990. All documents submitted to the Secretary shall be accompanied by four copies. Interested parties shall certify that the factual information contained in any submission they make in accurate and complete to the best of their knowledge.

Any person who submits information in connection with a short-supply review may designate that information, or any part thereof, as proprietary, thereby requesting that the Secretary treat that information as proprietary. Information that the Secretary designates as proprietary will not be disclosed to any person (other than officers or employees of the United States Government who are directly concerned with the short-supply determination) without the consent of the submitter unless disclosure is ordered by a court of competent jurisdiction. Each submission of proprietary information shall be accompanied by a full public summary or approximated presentation of all proprietary information which will be placed in the public record. All comments concerning this review must reference the above noted short-supply review number.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible or Norbert O. Gannon, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, room 7866, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230 (202) 377–0159 or (202) 377–4037.

Dated: October 24, 1990.

Marjorie A. Chorlins,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 90–25842 Filed 10–30–90; 8:45 am]

BILLING CODE 3510–DS–M

Montana State University: Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4204, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 90–097. *Applicant:* Montana State University, Bozeman, MT 59717. *Instrument:* Sonic Fineness Tester, Model B. *Manufacturer:* Paton Scientific Pty., Ltd., Australia. *Intended Use:* See notice at 55 FR 28080, July 9, 1990.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides in situ measurement of wool fibers for samples as small as 2.0 grams and uses a top loading balance.

The U.S. Department of Agriculture advises that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 90–25768 Filed 10–30–90; 8:45 am]

BILLING CODE 3510–DS–M

Tufts University, et al.: Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4204, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 90–004. *Applicant:* Tufts University, Boston, MA 02111. *Instrument:* SIRA 10 Mass Spectrometer Acessory. *Manufacturer:* VG Isotech, United Kingdom. *Intended Use:* See notice at 55 FR 3439, February 1, 1990. *Advice Submitted by:* National Institutes of Health, June 26, 1990.

Docket Number: 90–022. *Applicant:* The Connecticut Agricultural Experiment Station, New Haven, CT 06504. *Instrument:* Emitter-Detector Unit for P700 Absorbance Measurement, Model ED 800T. *Manufacturer:* H. Walz Co., West Germany. *Intended Use:* See notice at 55 FR 8164, March 7, 1990. *Advice Submitted by:* National Institutes of Health, July 26, 1990.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments, for the purposes for which the instruments are intended to be used, is being manufactured in the United States. *Reasons:* These are compatible accessories for instruments previously imported for the use of applicants. In each case, the instrument and accessory were made by the same manufacturer. NIH advises us that the accessories are pertinent to the intended uses and that it knows of no comparable domestic accessories.

We know of no domestic accessories which can be readily adapted to the previously imported instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 90–25769 Filed 10–30–90; 8:45 am]

BILLING CODE 3510–DS–M

Vanderbilt University School of Medicine, et al.: Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4204, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 90–073. *Applicant:* Vanderbilt University School of Medicine, Nashville, TN 37232–2175. *Instrument:* Micromanipulator, Model MK1. *Manufacturer:* Singer Instrument Co., Ltd., United Kingdom. *Intended Use:* See notice at 55 FR 19295, May 9, 1990. *Reasons:* The foreign instrument provides a pantograph balance mechanism for accurate reproduction of hand movements scaled down by a factor of five with rapid 3–D operation. *Advice Submitted by:* National Institutes of Health, August 30, 1990.

Docket Number: 90–078. *Applicant:* Yale University, New Haven, CT 06510. *Instrument:* Magnetic Cell Sorter. *Manufacturer:* Miltenyl Biotech, GmbH, West Germany. *Intended Use:* See notice at 55 FR 20503, May 17, 1990. *Reasons:* The foreign instrument can identify and recover magnetically marked T cells from mixed cell populations. *Advice Submitted by:* National Institutes of Health, August 30, 1990.

Docket Number: 90–080. *Applicant:* The University of Michigan, Ann Arbor, MI 48109–2214. *Instrument:* 3-Dimensional Motion Analysis System, Model Optotrak. *Manufacturer:* Northern Digital, Inc., Canada. *Intended Use:* See notice at 55 FR 21420, May 24, 1990. *Reasons:* The foreign instrument performs real-time analysis of motion with a spatial resolution of 0.1 mm and a sampling rate of 1000 Hz with one marker. *Advice Submitted by:* National Institutes of Health, August 30, 1990.

Docket Number: 90–082. *Applicant:* The Johns Hopkins University, Baltimore, MD 21218. *Instrument:* Flash Lamp System, Model JML–E. *Manufacturer:* Optoelektronik, West Germany. *Intended Use:* See notice at 55 FR 20503, May 17, 1990. *Reasons:* The foreign instrument provides focusing optics and pulse shaping optimized for initiating contractile events in muscle fibers. *Advice Submitted by:* National Institutes of Health, August 30, 1990.

The National Oceanic and Atmospheric Administration and National Institutes of Health advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 90–25770 Filed 10–30–90; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. QF91–10–000]

Haverstraw Limited; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

October 23, 1990.

On October 15, 1990, Haverstraw Limited, of 15508 Wright Brothers Drive, Addison, Texas 75224 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in West Haverstraw, New York. The facility will consist of five gasfired engine generators. The electric power production capacity will be 775 Kilowatts. The primary energy source will be biomass in the form of landfill gas. There is no planned usage of natural gas, coal or oil by the facility. Operation of the facility is expected to begin on February 1, 1991.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–25669 Filed 10–30–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ER90–564–000, et al.]

New England Power Pool, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

October 24, 1990.

Take notice that the following filings have been made with the Commission:

1. New England Power Pool

[Docket No. ER90–564–000]

Take notice that on October 19, 1990, New England Power Pool (NEPOOL) tendered for filing additional materials to be included as part of the Supplement filed in this docket on August 29, 1990. NEPOOL states that this additional information provides some technical background for the tables shown in appendix C of the Supplement.

Comment date: November 8, 1990, in accordance with Standard Paragraph E at the end of this notice.

2. Florida Power & Light Company

[Docket No. ER91–39–000]

Take notice that on October 22, 1990, Florida Power & Light Company (FP&L) tendered for filing a Notice of Cancellation of sevice to Tampa Electric under Rate Schedule FERC No. 106. FP&L requests an effective date of October 12, 1990.

Comment date: November 8, 1990, in accordance with Standard paragraph E at the end of this notice.

3. Wisconsin Power & Light Company

[Docket No. ER91–30–000]

Take notice that on October 15, 1990, Wisconsin Power & Light Company (WP&L) tendered for filing an amendment to the Wholesale Power Contract between the City of Elkhorn and WP&L.

Comment date: November 8, 1990, in accordance with Standard Paragraph E at the end of this notice.

4. Logan Energy, L.P.

[Docket No. ER91-36-000]

Take notice that on October 19, 1990, Logan Energy, L.P., organized under the laws of the State of New Jersey, submitted for filing, pursuant to Rule 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.207, an initial rate schedule for sales of 100 MW to Jersey Central Power & Light Company and an initial rate schedule which is a tariff governing sales of the remaining 81 MW from its facility in Logan Township, New Jersey.

Comment date: November 8, 1990, in accordance with Standard Paragraph E at the end of this notice.

5. Virginia Turbo Power Systems—II, L.P.

[Docket No. ER91-37-000]

Take notice that on October 19, 1990, Virginia Turbo Power Systems—II, L.P., organized under the laws of the State of Delaware, submitted for filing, pursuant to Rule 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.207, an initial rate schedule for sales to Virginia Electric and Power Company.

Comment date: November 8, 1990, in accordance with Standard Paragraph E at the end of this notice.

6. Vista Energy, L.P.

[Docket No. ER91-35-000]

Take notice that on October 19, 1990, Vista Energy, L.P. organized under the laws of the State of New Jersey, submitted for filing, pursuant to Rule 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.207, an initial rate schedule for sales of 100 MW to Jersey Central Power & Light Company and an initial rate schedule which is a tariff governing sales of the remaining 81 MW from its facility in Logan Township, New Jersey.

Comment date: November 8, 1990, in accordance with Standard Paragraph E at the end of this notice.

7. Virginia Turbo Power Systems—I, L.P.

[Docket No. ER91-38-000]

Take notice that on October 19, 1990, Virginia Turbo Power Systems—I, L.P., organized under the laws of the State of Delaware, submitted for filing, pursuant to Rule 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.207, an initial rate schedule for sales to Virginia Electric and Power Company.

Comment date: November 8, 1990, in accordance with Standard Paragraph E at the end of this notice.

8. Detroit Edison Company

[Docket No. ER91-33-000]

Take notice that on October 17, 1990, Detroit Edison Company (Detroit Edison) tendered for filing an Agreement for the Lease of a Portion of Generating Capability of Ludington Pumped Storage Hydroelectric Generating Plant by the Detroit Edison Company to the Toledo Edison Company dated January 1, 1990.

The Agreement provides for the lease by Detroit Edison to the Toledo Edison Company of one sixth of Detroit Edison's 49% share of the generating capability of the Lundington hydroelectric plant which is jointly owned by Detroit Edison and Consumers Power Company.

Comment date: November 8, 1990, in accordance with Standard Paragraph E at the end of this notice.

9. PacifiCorp Electric Operations

[Docket No. ER90-512-000

Take notice that PacifiCorp Electric Operations (PacifiCorp), on October 22, 1990, tendered for filing, in accordance with section 35 of the Commission's Regulations, a Supplemental Filing to the Electric Supply Agreement (Agreement) between PacifiCorp and Utah Municipal Power Agency (UMPA) filed with the Commission by letter dated July 19, 1990 under FERC Docket No. ER90-512-000. This Supplemental Filing provides additional cost support information.

PacifiCorp states that copies of the filing were supplied to the Oregon Public Utilities Commission, Utah Public Service Commission and UMPA.

Comment date: November 8, 1990, in accordance with Standard Paragraph E at the end of this notice.

10. Northern States Power Co. (Minnesota); Northern States Power Co. (Wisconsin)

[Docket No. EL91-2-000]

Take notice that on October 22, 1990, Northern States Power Company (Minnesota) (NSP(M)) and Northern States Power Company (Wisconsin) (NSP(W)) (collectively Companies) tendered for filing in accordance with §§ 35.14(a)(10) and 385.207 of the Commission's regulations a request for waiver of the Commission's fuel clause regulations.

Companies state that this waiver is sought in order to obtain Commission approval of the recovery through the Companies' fuel adjustment clauses of certain anticipated surface final reclamation payments under a coal supply contract between NSP(M) and one of its coal suppliers.

Comment date: November 8, 1990, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene of protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-25699 Filed 10-30-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP91-170-000, et al.]

Mississippi River Transmission Corp., et al.; Natural Gas Certificate Filings

October 23, 1990.

Take notice that the following filings have been made with the Commission:

1. Mississippi River Transmission Corporation

[Docket No. CP91-170-000]

Take notice that on October 16, 1990, Mississippi River Transmission Corporation (MRT), 9900 Clayton Road, St. Louis, Missouri 63124, filed a request with the Commission in the above referenced docket, pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA), for authorization to transport natural gas for AmGas, Inc., a shipper, under the blanket certificate issued in Docket No. CP89-1121-000 pursuant to section 7 of the NGA, all as more fully set forth in the requests which are open to public inspection.

MRT proposes an interruptible natural gas transportation service of up to a maximum of 5,300 MMBtu of natural gas per day from receipt points in Arkansas, Texas, Louisiana, and Illinois to a delivery point located in Missouri. It is stated that the average and annual

volumes would be 342 MMBtu and 125,000 MMBtu, respectively. It is also stated that the transportation service commenced on August 15, 1990, as reported in Docket No. ST90-4717-000, pursuant to § 284.223 of the Regulations.

Comment date: December 7, 1990, in accordance with Standard Paragraph G at the end of this notice.

2. United Gas Pipe Line Co.

[Docket Nos. CP89-193-000; CP91-194-000; CP91-195-000]

Take notice that on October 18, 1990, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77251-1478, filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. CP88-6-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.[1]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by Applicant and is summarized in the attached appendix.

Applicant states that each of the proposed services would be provided under an executed transportation agreement, and that Applicant would charge rates and abide by the terms and conditions of the referenced transportation rate schedule(s).

Comment date: December 7, 1990, in accordance with Standard Paragraph G at the end of this notice.

[1] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name	Peak day,[2] average annual	Points of		Start up date, rate schedule, service type	Related[3] docket, contract date
			Receipt	Delivery		
CP91-193-000 (10-18-90)	Oxy U.S.A. Inc.	2,575 2,575 939,875	TX	TX	9-17-90, ITS Interruptible.	ST91-73-000, 1-6-88.[4]
CP91-194-000 (10-18-90)	International Paper Company.	3,090 3,090 1,127,850	LA, TX	LA, AL	8-1-90, ITS, Interruptible.	ST91-154-000, 7-1-90.
CP91-195-000 (10-18-90)	Ashton Energy Company.	20,600 20,600 7,519,000	LA, TX	LA, TX	8-10-90, ITS, Interruptible.	ST90-4465-000, 10-17-88.[4]

[1] If an ST docket is shown, 120-day transportation service was reported in it.
[2] Quantities are shown in MMBtu.
[3] Amended 7-31-90.
[4] Amended 8-8-88.

3. Stingray Pipeline Co., Natural Gas Pipeline Co. of America, Natural Gas Pipeline Co. of America

[Docket Nos. CP90-171-000[2]; CP91-172-000; CP91-173-000]

Take notice that on October 17, 1990, Applicants filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under their respective blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction including the Applicants' address, the contract number, the docket number of the blanket certificate, the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicants and is included in the attached appendix.

The Applicants also state that each would provide the service for each shipper under an executed transportation agreement, and that the Applicants would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: December 7, 1990, in accordance with Standard Paragraph G at the end of this notice.

[2] These prior notice requests are not consolidated.

Docket No. (contract No.)	Applicant	Shipper name	Peak day,[1] average annual	Points of		Start up date, rate schedule, service type	Related[2] dockets
				Receipt	Delivery		
CP91-171-000 (IGP-7255)	Stingray Pipeline Company, 701 East 22nd Street, Lombard, Illinois 60148.	Shell Gas Trading Company.	200,000 75,000 27,375,000	LA, OK, LA & TX	LA & OK, TX	8-8-90, ITS, Interruptible.	Order No. 509, RM88-7B-000, ST90-4714-000.
CP91-172-000 (IGP-2836)	Natural Gas Pipeline Co. of America, 701 East 22nd Street, Lombard, Illinois 60148.	Marathon Oil Company.	29,000 15,000 5,475,000	OK, TX	OK, TX	8-10-90, ITS, Interruptible.	CP85-582-000, ST90-4886-000.

Docket No. (contract No.)	Applicant	Shipper name	Peak day, [1] average annual	Points of		Start up date, rate schedule, service type	Related [2] dockets
				Receipt	Delivery		
CP91-172-000 (IGP-2606)	Natural Gas Pipeline Co. of America.	Centran Corporation.	30,000 15,000 5,475,000	Various existing points.	Various existing points.	8-9-90, ITS, Interruptible.	CP88-532-000, ST90-4584-000.

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] The CP and RM docket numbers and the order number correspond to applicant's blanket transportation certificate. The ST docket number represents that a 120-day transportation service was reported in it.

4. Trunkline Gas Co.

[Docket No. CP91-166-000]

Take notice that on October 16, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP91-166-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a firm transportation service provided for Amoco Gas (Amoco) in Docket No. CP84-760-000, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Trunkline states that pursuant to Rate Schedule T-92 of its FERC Gas Tariff, Original Volume No. 2, it transported up to 5,000 Mcf of natural gas per day on a firm basis for Amoco's account from a point of receipt in South Timbalier Block 161, Platform C, offshore Louisiana, to the point of interconnection between the facilities of Amoco and Trunkline in Abstract 203, Waller County, Texas.

It is stated that Trunkline and Amoco mutually agreed by written statement to terminate the agreement effective April 1, 1989. Trunkline states that Amoco's remaining gas reserves are currently transported on an interruptible basis under Trunkline's Rate Schedule PT.

Comment date: November 13, 1990, in accordance with Standard Paragraph F at the end of this notice.

5. Texas Eastern Transmission Corporation

[Docket No. CP91-203-000]

Take notice that on October 19, 1990, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77252-2521 filed in Docket No. CP91 203 000 a request pursuant to § 157.205) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Nortech Energy Corporation (Nortech), a marketer, under Texas Eastern's blanket certificate issued in Docket No. CP88-136-000 pursuant to section 7 of the Natural Gas Act, and authorization pursuant to § 157.211 to effect transportation through delivery points originally installed under section 311 of the Natural Gas Policy Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Eastern proposes to transport, on an interruptible basis, up to 50,000 MMBtu of natural gas per day for Nortech. Texas Eastern states that construction of facilities would not be required to provide the proposed service.

Texas Eastern states that the maximum day, average day, and annual transportation volumes would be approximately 50,000 MMBtu and 18,250,000 MMBtu of natural gas respectively.

Texas Eastern advises that service under § 284.223(c) commenced August 31, 1990, as reported in Docket No. ST90-5297-000.

Comment date: December 7, 1990, in accordance with Standard Paragraph G at the end of this notice.

Columbia Gulf Transmission Co.

[Docket Nos. CP91-197-000; CP91-198-000]

Take notice that on October 19, 1990, Columbia Gulf Transmission Company (Applicant), P.O. Box 683, Houston, Texas 77001, filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. CP86-239-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.[3]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by Applicant and is summarized in the attached appendix.

Applicant states that each of the proposed services would be provided under an executed transportation agreement, and that Applicant would charge rates and abide by the terms and conditions of the referenced transportation rate schedule(s).

Comment date: December 7, 1990, in accordance with Standard Paragraph G at the end of this notice.

[3] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name	Peak Day,[2] Average, annual	Points of [3]		Start up date, rate schedule, service type	Related [1] docket, contract date
			Receipt	Delivery		
CP91-197-000 (10-19-90)	Rangeline Corporation	20,000 10,000 3,650,000	LA, OLA	LA, MS, TN	9-14-90, ITS-1 & ITS-2, Interruptible.	ST91-46-000-2-1-90.[4]
CP91-198-000 (10-19-90)	Eagle Natural Gas Company.	30,000 10,000 3,650,000	LA, OLA	LA, MS, TN	9-5-90, ITS-1 & ITS-2, Interruptible.	ST91-47-000, 9-15-90.[5]

[1] If an ST docket is shown, 120-day transportation service was reported in it.
[2] Quantities are shown in MMBtu.
[3] Offshore Louisiana and Offshore Texas are shown as OLA and OTX.
[4] ITS-1 and ITS-2 amended 6-24-90.
[5] ITS-2 agreement amended 9-25-90.

7. Texas Eastern Transmission Corp.

[Docket No. CP91-204-000]

Take notice that on October 19, 1990, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77252-2521 filed in Docket No. CP91-204-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Ensearch Gas Company (Ensearch) under Texas Eastern's blanket certificate issued in Docket No. CP88-136-000 pursuant to section 7 of the Natural Gas Act, and authorization pursuant to § 157.211 to effect transportation through delivery points originally installed under section 311 of the Natural Gas Policy Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Eastern proposes to transport, on an interruptible basis, up to 145,261 MMBtu of natural gas per day for Ensearch. Texas Eastern states that construction of facilities would not be required to provide the proposed service.

Texas Eastern states that the maximum day, average day, and annual transportation volumes would be approximately 145,261 MMBtu, 145,261 MMBtu and 53,020,265 MMBtu of natural gas respectively.

Texas Eastern advises that service under § 284.223(c) commenced September 8, 1990, as reported in Docket No. ST91-0068-000.

Comment date: December 7, 1990, in accordance with Standard Paragraph G at the end of this notice.

8. El Paso Natural Gas Co.

[Docket No. CP91-181-000]

Take notice that on October 17, 1990, El Paso Natural Gas Company, P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP91-181-000, a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act, to construct and operate a meter station, to be located in El Paso County, Texas, in order to permit the delivery of natural gas to Southern Union Gas Company (SUG); all as more fully set forth in the request on file with the Commission and open to public inspection.

El Paso indicates that it has received a written request from SUG for natural gas service at a point on its existing 16" O.D. Jal-El Paso "A" Line in El Paso County. El Paso also states that it has been advised by SUG that the requested volumes of natural gas will be utilized to serve the firm industrial natural gas requirements of the El Paso Public Service Board in El Paso County.

In order to accommodate SUG's request, Specifically, El Paso proposes to construct and operate a 4" O.D. sales meter station consisting of one tap and value assembly and one Daniels orifice-type meter, with appurtenances, at an estimated cost of $37,484. SUG estimates annual requirements of 217,543 Mcf and peak day requirements of 193 Mcf in the third year for the El Paso Public Service Board.

Further, El Paso states that the quantities of natural gas to be delivered will be sold by El Paso to SUG for resale at the Southeast Treatment Plant.

Comment date: December 7, 1990, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 90-25691 Filed 10-30-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP91-183-000, et al.]

Trunkline Gas Company, et al.; Natural Gas Certificate Filings

October 24, 1990.

Take notice that the following filings have been made with the Commission:

1. Trunkline Gas Co.

[Docket No. CP91-183-000]

Take notice that on October 17, 1990, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP91-183-000 a request pursuant to section 7(b) of the Natural Gas Act for permission and approval to partially abandon a transportation service for Chevron Chemical Company (Chevron), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

It is stated that pursuant to Trunkline's Rate Schedule T-66 of its FERC Gas Tariff, Trunkline provides transportation service for Chevron under a transportation agreement dated September 26, 1977, as amended January 11, 1985, in Docket No. CP85-316-000. Under this agreement, Trunkline and

Natural Gas Pipeline Company of America (NGPL) agreed to transport, on behalf of Chevron, gas which Chevron is purchasing offshore Louisiana. Chevron contracted with Trunkline and NGPL to transport on a firm basis up to 10,000 Mcfd. Trunkline transports 25 percent of the total or up to 2,500 per day. NGPL transports the remaining 75 percent.

Chevron has given notice of its election to reduce the daily contract demand level from 10,000 Mcfd to 5,000 Mcfd commencing November 5, 1990.

Trunkline requests to reduce Chevron's daily contract demand level from 10,000 Mcfd to 5,000 Mcfd pursuant to Article II of Rate Schedule T-96, effective on November 5, 1990. This would reduce Trunkline's volume to transport from 2,500 Mcfd to 1,250 Mcfd on a firm basis for Chevron. It is asserted that no facilities would be abandoned.

Comment date: November 14, 1990, in accordance with Standard Paragraph F at the end of this notice.

2. U-T Offshore System, U-T Offshore System, U-T Offshore System, Southern Natural Gas Co.

[Docket Nos. CP91-217-000; CP91-218-000; CP91-219-000; CP91-220-000]

Take notice that U-T Offshore System, P.O. Box 1396, Houston, Texas 77251, and Southern Natural Gas Company, P.O. Box 2563, Birmingham, Alabama 35202-2563 (Applicants), filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under the blanket certificates issued by the Commission's Order No. 509 corresponding to the rates, terms and conditions filed in Docket No. RP88-99-000 and in Docket No. CP88-316-000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[1]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

Comment date: December 10, 1990, in accordance with Standard Paragraph G at the end of this notice.

[1] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual Mcf	Receipt points[1]	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-217-000 (10-22-90)	Public Service Electric and Gas Company (LDC).	300,000 300,000 109,500,000	Offshore Louisiana	Cameron Parish, Louisiana.	7-1-90, IT, Interruptible.	ST90-4802-000, 8-22-90.
CP91-218-000 (10-22-90)	P.S.I., Inc. (Marketer)	100,000 100,000 36,500,000	Offshore Louisiana	Cameron Parish, Louisiana.	7-1-90, IT, Interruptible.	ST90-4799-000, 8-21-90.
CP91-219-000 (10-22-90)	Coast Energy Group, Inc. (Marketer).	250,000 250,000 91,250,000	Offshore Louisiana	Cameron Parish, Louisiana.	7-1-90, IT, Interruptible.	ST90-4938-000, 8-22-90.
CP91-220-000 (10-23-90)	Superior Natural Gas Corporation (Marketer).	50,000 25,000 9,125,000	OTX, OLA, TX, LA, MS, AL.	GA, SC, TN	8-23-90, IT, Interruptible.	ST90-5231-000, 8-31-90.

[1] Offshore Louisiana and offshore Texas are shown as OLA and OTX.
[2] Southern's quantities are in MMBtu.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 90-25692 Filed 10-30-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC91-9-003]

Texas Gas Transmission Corp.; Tariff Sheet Filing

October 24, 1990.

Take notice that on October 1, 1990, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42302, filed in Docket No. TC91-9-003 the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

First Revised Sheet No. 91
First Revised Sheet No. 92
First Revised Sheet No. 93
First Revised Sheet No. 94
First Revised Sheet No. 95
Second Revised Sheet No. 96
First Revised Sheet No. 97

The tariff sheets proposed to be effective April 1, 1991 are filed pursuant to section 4 of the Natural Gas Act and would replace Texas Gas' existing curtailment plan currently in effect by Commission order issued April 19, 1983, in Docket No. TC91-9-000, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Texas Gas asserts that the filing of these revised tariff sheets and the proposed revision to the existing curtailment plan was made in compliance with Article VIII of the Stipulation and Agreement (S&A) approved by the Commission's April 19, 1983 order in Docket TC91-9-000 and a June 1, 1990 notice expressing Texas Gas' intent to terminate the S&A and

reopen the curtailment plan effective April 1, 1991.

Texas Gas states that the revised tariff sheets set forth sections 10.2 through 10.7 of Texas Gas' tariff which, together with the Index of Quantity Entitlements and the end-use, priority of service data for each customer, would constitute Texas Gas' new curtailment plan. Texas Gas explains that the proposed changes would place essential agricultural end users into priority 2 category and provide for the periodic updating of Quantity Entitlements at least every three years. Texas Gas further states that it intends to supplement this filing, Docket No. TC81–9–003, prior to April 1, 1991, by filing a revised Index of Quantity Entitlements which would reflect current customer entitlements. Texas Gas indicated that a Data Verification Committee has already begun the process of reviewing and verifying updated customer entitlement nominations.

Any person desiring to be heard or to make any protest with reference to said tariff sheet filing should on or before November 14, 1990, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protests parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Secretary.

[FR Doc. 90–25693 Filed 10–30–90; 8:45 am]

BILLING CODE 6717–01–M

Office of Energy Research

Continuation of Solicitation for Special Research Grants and Research Opportunity Announcement for Research Contracts, No. 91–1

AGENCY: Department of Energy, Office of Energy Research.

ACTION: Annual notice of continuation of availability of research grants and contracts.

SUMMARY: The Office of Energy Research (ER) of the Department of Energy hereby announces its continuing interest in receiving applications/proposals for Special Research Grants or Research Contracts supporting work in the following ER program offices: Basic Energy Sciences, Health and Environmental Research, Fusion Energy, Scientific Computing, Field Operations Management, Superconducting Super Collider, University and Science Education Programs, and High Energy and Nuclear Physics. Information about submission of applications/proposals, eligibility, limitations, evaluation and selection processes, and other policies and procedures are specified, for grants, in 10 CFR part 605 which was published in the Federal Register on March 19, 1990 (55 FR 10035) and, for contracts, in the Research Opportunity Announcement published on November 8, 1988 (53 FR 45234). The Catalog of Federal Domestic Assistance number is 81.049.

DATES: Applications and proposals may be submitted at any time in response to this Notice of Availability but in all cases must be received by DOE on or before October 31, 1991.

ADDRESSES: Applicants/proposers may obtain forms and additional information from Director, Acquisition and Assistance Management Division, Office of Energy Research, ER–64, U.S. Department of Energy, Washington, DC 20585, (301) 353–5544. Completed applications or proposals must be sent to this same address.

SUPPLEMENTARY INFORMATION: As mentioned above, the solicitations for Special Research Grants and the Research Opportunity Announcement for research contracts were published in the Federal Register. Those solicitations specify the policies and procedures which govern the application/proposal, evaluation, and selection processes for research grants and contracts. It is anticipated that approximately 506 million dollars will be available for award in FY 1991. DOE is under no obligation to pay for any costs associated with the preparation or submission of applications/proposals. DOE reserves the right to fund, in whole or in part, any, all, or none of the applicants/proposals submitted in response to this notice.

Issued in Washington, DC on October 17, 1990.

D.D. Mayhew,

Deputy Director for Management, Office of Energy Research.

[FR Doc. 90–25763 Filed 10–30–90; 8:45 am]

BILLING CODE 6450–01–M

Office of Environmental Restoration and Waste Management

Environment Restoration: Alternate Business Strategy; Inquiry

AGENCY: Department of Energy, Office of Environmental Restoration and Waste Management.

ACTION: Notice of intent to develop an environmental restoration alternate business strategy.

SUMMARY: The objective of this notice is to notify interested firms and the public of the intent of the Department of Energy (DOE) to develop an alternate business strategy relating to Environmental Restoration at DOE facilities. This strategy calls for an Environmental Restoration Management Contractor (ERMC) to assist DOE in managing all the environmental restoration work at each Department of Energy (DOE) Operations Office. This is a function currently being performed by the DOE's Management and Operating (M&O) contractors.

DATES: A meeting is planned on November 15, 1990, to introduce and explain this business strategy with interested firms and the general public. The meeting title will be Alternate Business Strategy for DOE's Office of Environmental Restoration. The meeting will be held at the: Orlando Marriott, 8001 International Drive, Orlando, FL 32819, (407) 351–2420.

If you plan to attend, please notify Mr. Owen Robertson in writing by c.o.b. November 9, 1990 (facsimile: 301–353–3868).

The agenda for this meeting is as follows:

8:30–9:00 a.m.
- Introduction: Paul D. Grimm, Deputy Director, Office of Environmental Restoration and Waste Management
- Overview of Alternate Business Strategy, R.P. Whitfield, Associate Director, Office of Environmental Restoration

9:00–10:00 a.m.—Detailed Presentation of Alternate Business Strategy Owen Robertson, Office of Environmenatl Restoration
10:00–10:30 a.m.—Break
10:30–12:00 noon—Comments by Public
12:00–1:30 p.m.—Lunch
1:30–3:00 p.m.—Continuation of Comments by Public.

At this meeting, comments by the public should be limited to five minutes or less. An effort will be made to hear all who wish to make comments at this meeting, but because of time constraints, DOE reserves the right to limit the

number of persons participating. Those who wish to make oral comments should bring 5 hard copies of their comments to the meeting. Any additional written comments will be considered if received by November 30, 1990.

ADDRESS AND FURTHER INFORMATION CONTACT: Written comments and inquiries should be addresseed to: Owen C. Robertson, U.S. Department of Energy, Office of Environmental Restoration, EM–442, Rm B213, Washington, D.C. 20585, (301) 353–2393.

SUPPLEMENTAL INFORMATION:

Background

The objective of this strategy is to implement an alternate contracting approach that has a "management only" contractor to subcontract and assist DOE in managing the Environmental Restoration (ER) program at each of the DOE Operations Offices. The purpose of this change is to:

—Bring more contractors with Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)/Resource Conservation and Recovery Act (RCRA) expertise into the DOE system;
—Reduce potential conflict of interest (or the appearance thereof);
—Improve management control of the ER Program;
—Reduce cleanup costs by reducing overhead layering, by reducing the number of people requiring security clearances, and by encouraging the issuance of fixed priced contracts;
—Enhance technology exchanges throughout the ER Program;
—Facilitate a more time restoration of DOE facilities.

Conceptually, each DOE Operations Office will have an Environmental Restoration Management Contractor (ERMC). An Integration Management (INC) contractor will be located at DOE Headquarters to coordinate the various activities of the ERMCs.

Environmental Restoration Management Contractor Guidelines

The ERMCs responsibilities would include subcontracting in accordance with DOE Operations Offices' site requirements, evaluating their own subcontractors' performance, reviewing their own subcontractors deliverables and assisting the DOE Operations Offices in their ER compliance activities. The ERMCs would also be responsible for reporting and coordination with the INC. The following guidelines apply to the ERMC:

—The ERMCs are not to interface directly with the regulators nor to make decisions with regard to the regulatory processes. However, they may perform certain activities related to this function.
—The ERMCs will be management contractors only.
—There will only be one ERMC per Operations Office.
—The ERMCs are not to perform budget development but may prepare factual program data as requested by the DOE Operations Offices.
—Although the ERMCs cannot perform any assessment or remediation work at their assigned Operations Office, they can be a cleanup subcontractor to another ERMC at a different Opearations Office or Offices.
—It would not be prohibited for an ERMC to be awarded a contract at another Operations Office as long as activities were limited to managing subcontractors and the contractor had sufficient and qualified personnel to staff two Operations Office contracts.
—DOE's facility management and operating (M&O) contractors may participate as ERMCs at other locations or become a subcontractor to another ERMC at a different Operations Office. The M&O contractors, however, are precluded from particpating as the ERMC for the Operations Office with responsibilities for the facilities the M&O contractor operates. The M&O contractors are also precluded from participating as an ERMC or as a subcontractor to an ERMC when any contractor interest or relationship would exist.

The expertise required by the ERMCs can be summarized as follows:

—The ERMCs must have a contracting system that is congizant of Federal contracting procedures.
—The ERMCs must have a project management system that includes engineering and construction management, project control, quality assurance and quality control.
—The ERMCs must have regulatory knowledge of the environmental laws and experience in the CERCLA/RCRA activities.

Integration Contractor Guildelines.

The INC will be an information management support services contractor and will require a different mix of technical and managerial skills as compared to the ERMCs. The INC will be responsible for analyses of technical and project management reports prepared by the ERMCs and preparing summary reports for EM–HQs. The INC will develop and maintain a computerized data system that allows the electronic access to the reports, compliance deadlines, budget data, etc., that is required by EM–HQs and the Operations Offices to manage the ER Program.

Another requirement of the computerized system is the online generation of activity data sheets and other documents.

The INC will develop a knowledge of the ERMCs activities in an effort to reduce duplication of effort between the various sites. The INC will also develop a knowleged of subcontractor activities and prepare factual perfomance information for use by the Operations Offices.

It is imperative that the INC be a disinterested party; therefore, the INC cannot be an ERMC or an assessment/remediation subcontractor to an ERMC.

Comments.

All written comments received as well as a transcript of the workshop will be available for public inspection in the DOE Reading Room, Room IE–190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Between the hours of 8 a.m and 4 p.m., Monday through Friday, except Federal Holidays.

Issued in Washington, DC on October 18, 1990.

Paul D. Grimm,

Acting Director, Office of Environmental Restoration and Waste Management.

[FR Doc. 90–25670 Filed 10–30–90; 8:45 am]

BILLING CODE 6450–01–M

Office of Fossil Energy

[FE Docket No. 90–55–NG]

Western Gas Marketing U.S.A. Ltd.; Blanket Authorization To Import Natural Gas From and Export Natural Gas To Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of order granting blanket authorization to import natural gas from and export natural gas to Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it has issued an order granting Western Gas Marketing U.S.A. Ltd (Western) blanket authorization to import up to 300 Bcf of Canadian natural gas and to export up to 100 Bcf of natural gas over a two-year period beginning on the date of first delivery after the expiration of Western's existing blanket export authorization.

Western's existing blanket export authorization expires October 31, 1990.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, room 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 24, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-25782 Filed 10-30-90; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30308; FRL 3797-8]

Azinphos-Methyl; Deletion of Certain Uses and Directions for Use for Agricultural Crops

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete certain uses and directions for use.

SUMMARY: This notice announces that Mobay Chemical Corporation, one of the four producers of the technical active ingredient azinphos-methyl in the United States has requested to amend its registrations of Guthion Technical (EPA reg. no. 3125-108), Guthion 25% Wettable Powder Insecticide for Repackaging of an Insecticide (EPA reg. no. 3125-153), Guthion 22 Concentrate (EPA reg. no. 3125-223), Guthion Garden Spray Insecticide for Repackaging of an Insecticide Only (EPA reg. no. 3125-225), Guthion 50% Wettable Powder (EPA reg. no. 3125-193), Guthion 50% Wettable Powder in Water Soluble Packets (EPA reg. no. 3125-301), Guthion 35% Wettable Powder (EPA reg. no. 3125-378), Guthion 35% Wettable Powder in Water Soluble Packets (EPA reg. no. 3125-179), Guthion 2L (EPA reg. no. 3125-102), and Guthion 2S (EPA reg. no. 3125-123) by deleting all uses and directions for use on the following 22 agricultural crops: apricots, barley, beans, blackberries, boysenberries, broccoli, brussels sprouts, cabbage, cauliflower, celery, clover, grass mixture, loganberries, oats, pasture grasses, peas, raspberries, rye, soybeans, spinach, tobacco, and wheat. EPA is at this time soliciting comments on the proposed amendments.

DATES: Written comments must be submitted on or before November 30, 1990. Q02

ADDRESSES: Send three copies of your written comments identified by the docket control number OPP-30308, to: Public Docket and Freedom of Information Branch, Field Operations Division (H7504C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 246, CM# 2, 1921 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: By mail: Richard W. King, Special Review and Reregistration Division (H7508C), Environmental Protection Agency 401 M St., SW., Washington, DC 20460. Office location and telephone number: Reregistration Branch, Crystal Station 1, WF32F6, 2805 Jefferson Davis Highway, Arlington, Virginia, 703-308-8052.

SUPPLEMENTARY INFORMATION: Azinphos-methyl is the commonly accepted name for *O,O*-dimethyl-*S*-[(4-oxo-1,2,3-benzotriazin-3 (4H)-yl)methyl]phosphordithioate. It is a broad spectrum organophosphate insecticide that was initially registered as a pesticide under FIFRA in 1957 by Mobay Chemical Corporation. Azinphos-methyl is primarily used in the formulation of insecticide products for use on terrestrial food crops and terrestrial non-food crops. Azinphos-methyl is marketed by Mobay Chemical Corporation under the trade name Guthion. Mobay, one of the four registrants of technical grade azinphos-methyl, has requested to amend their registrations for Guthion products by deleting all uses and directions for use on the 22 crops listed in this notice. EPA intends to approve this request. Since there will no longer be Guthion manufacturing use products available from which to formulate registered end-use azinphos-methyl products on the 22 crops, the other three registrants, Aceto Chemical Company, Makhteshim-Agan (America) Inc., and Gowan Company, are being notified by certified mail that they are being given the opportunity to generate data in support of the reregistration of azinphos-methyl for the 22 crops listed in this notice. End-use registrants of azinphos-methyl are being notified by certified mail that their generic data exemption is not valid for these uses. In the event that Aceto Chemical Company, Makhteshim-Agan (America) Inc., or Gowan Company, do not generate the data necessary to reregister the use of azinphos-methyl for the 22 crops listed in this notice, end-use registrants will be given opportunity to generate data in support of these uses. EPA is now soliciting comments on the proposed amendments. Interested persons are invited to submit written comments to the address given above.

Authority: 7 U.S.C. 136.

Dated: October 12, 1990.

Edwin F. Tinsworth,

Director, Special Review and Reregistration Division.

[FR Doc. 90-25640 Filed 10-30-90; 8:45 am]

BILLING CODE 6560-50-F

[FRL-3856-8]

Proposed Settlement Under Section 122(g) of the Comprehensive Environmental Response, Compensation and Liability Act; Accra Pac, Inc. et al.

AGENCY: Environmental Protection Agency.

ACTION: Request for public comment.

SUMMARY: The U.S. Environmental Protection Agency is proposing to enter into a de minimis settlement under section 122(g) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9622(g). This proposed settlement is intended to resolve the liabilities under CERCLA of five de minimis parties for response costs incurred and to be incurred at the I. Jones Recycling, Clinton Street facility in Fort Wayne, Indiana.

DATES: Comments must be provided on or before November 30, 1990.

ADDRESSES: Comments should be addressed to the Docket Clerk, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois, 60604, and should refer to: In Re I. Jones Recycling Site in Fort Wayne, Indiana, U.S. EPA Docket No. V-W-89C-018.

FOR FURTHER INFORMATION CONTACT: Thomas J. Krueger, U.S. Environmental Protection Agency, Office of Regional Counsel, 5CS-TUB-7, 230 South Dearborn Street, Chicago, Illinois, 60604, (312) 886-0562

Notice of De Minimis Settlement: In accordance with section 122(i)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1984, as amended (CERCLA), notice is hereby given of a proposed administrative settlement concerning the I. Jones Recycling hazardous waste site at 3651 Clinton Street in Fort Wayne, Indiana. The present agreement was proposed by EPA Region V on January 2, 1990. Subject to review by the

public pursuant to this Notice, the agreement has been approved by the United States Department of Justice and the Department of the Interior. The proposed order was issued to the following parties, who have executed binding certifications of their consent to participate in the settlement: Accra Pac, Inc.; Arco Industries Corporation; Dolco Packaging Corporation; Kem Krest Co., Inc.; and The Par-Tee Company.

The terms of this settlement are identical in all but one respect to the terms of the *de minimis* settlement for the same site in U.S. EPA Docket No. V–W–89C–009. That initial settlement was finalized on October 25, 1989. All of the parties to the present settlement were eligible for the initial settlement, and expressed a timely interest in participating in the terms of that settlement. In addition, all of the parties to the present settlement demonstrated to U.S. EPA that they were financially unable to pay their obligations under the initial settlement in a lump sum as required therein. Accordingly, the present settlement permits these five parties to pay their obligations, plus statutory interest, in specified installments. The present settlement therefore represents a supplemental to the initial settlement.

These parties have begun paying their obligations under the settlement, subject to the contingency that EPA may elect not to complete the settlement based on matters brought to its attention during the public comment period established by this Notice. These parties will pay a total of $215,814.88, plus interest. Of the principal amount, $167,765.31 would reimburse EPA for a portion of its past response costs at the I. Jones Recycling site. The remainder of the settlement payments would represent settlement of the potential liability of certain settling parties for penalties related to EPA's July 27, 1988, unilateral order concerning the site.

EPA is entering into this agreement under the authority of section 122(g) and 107 of CERCLA. Section 122(g) authorizes early settlements with *de minimis* parties to allow them to resolve their liabilities at Superfund sites without incurring substantial transaction costs. Under this authority, the agreement proposes to settle with certain parties in the I. Jones case, each of whom are responsible for less than .3 percent of the volume of hazardous substances at the site. The proposed settlement reflects, and was agreed to based on, conditions as known to the parties as of the time of U.S. EPA's settlement offer. Settling Parties will be required to pay their volumetric share of the Government's past response costs and the then-estimated future response costs at the site. Settling parties will also be required to pay a settlement premium on the then-expected future response costs to compensate for the risks that are posed by settling before all costs are known. Settling parties had the option to choose between two different premiums. Settling parties Accra Pac, Kem Krest and Par-Tee have chosen to pay a premium of approximately 1.5 times the share of expected future response costs in exchange for a release from further civil or administrative liabilities for the site, including Federal natural resource damage liabilities, which would be reopened if total site response costs exceeded $10.5 million. Settling parties Arco and Dolco have chosen to pay a premium of approximately 2.5 times the share of expected future response costs in exchange for a complete release from further civil or administrative liabilities for the site, including Federal natural resource damage liabilities. In addition, because the settling parties did not fully comply with the EPA's July 27, 1988, unilateral cleanup order for the I. Jones Recycling Clinton Street site, they will be required to pay an additional amount, equal to their volumetric share of expected future response costs, in settlement of their potential liability for noncompliance penalties related to that order.

The Environmental Protection Agency will receive written comments relating to this agreement for 30 days from the date of publication of this notice.

A copy of the proposed administrative settlement agreement may be obtained in person or by mail from the EPA's Region V Office of Regional Counsel, 230 South Dearborn Street, Chicago, Illinois, 60604. Additional background information relating to the settlement is available for review at the EPA's Region V Office of Regional Counsel.

Authority: The Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9601–9675.

Todd A. Cayer,

Acting Regional Administrator.

[FR Doc. 90–25732 Filed 10–30–90; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–51754; FRL 3830–1]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of 131 such PMNs and provides a summary of each.

DATES: Close of Review Periods:

P 90–1801, 90–1802, 90–1803, 90–1804, November 12, 1990.

P 90–1805, 90–1806, November 13, 1990.

P 90–1807, 90–1808, 90–1809, 90–1810, 90–1811, 90–1812, 90–1813, 90–1814, 90–1815, 90–1816, November 14, 1990.

P 90–1817, 90–1818, 90–1819, 90–1820, 90–1821, 90–1822, 90–1823, 90–1824, 90–1825, 90–1826, 90–1827, 90–1828, 90–1829, 90–1830, 90–1831, November 17, 1990.

P 90–1832, 90–1834, 90–1835, 90–1836, 90–1837, 90–1838, 90–1839, 90–1840, November 18, 1990.

P 90–1841, November 20, 1990.

P 90–1842, 90–1843, 90–1844, 90–1845, 90–1846, November 18, 1990.

P 90–1847, 90–1848, 90–1849, November 19, 1990.

P 90–1853, 90–1854, 90–1855, 90–1856, November 20, 1990.

P 90–1858, October 29, 1990.

P 90–1859, 90–1860, 90–1861, November 20, 1990.

P 90–1862, 90–1863, 90–1864, November 21, 1990.

P 90–1865, 90–1866, 90–1867, 90–1868, 90–1869, 90–1870, 90–1871, 90–1872, 90–1873, 90–1874, 90–1875, 90–1876, 90–1877, November 25, 1990.

P 90–1878, 90–1879, 90–1880, 90–1881, 90–1882, 90–1883, 90–1884, 90–1885, 90–1886, 90–1887, 90–1888, 90–1889, 90–1890, 90–1891, 90–1892, 90–1893, 90–1894, 90–1895, 90–1896, 90–1897, 90–1898, 90–1899, November 26, 1990.

P 90–1900, 90–1901, November 27, 1990.

P 90–1902, 90–1903, November 28, 1990.

P 90–1904, 90–1905, 90–1906, 90–1907, 90–1908, December 2, 1990.

P 90–1909, November 28, 1990.

P 90–1910, 90–1911, 90–1912, 90–1913, December 3, 1990.

P 90–1914, December 1, 1990.

P 90–1915, December 2, 1990.

P 90–1916, 90–1917, December 3, 1990.

P 90–1918, November 21, 1990.

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P 90-1919, 90-1920, 90-1921, 90-1922, 90-1923, December 5, 1990.

P 90-1925, 90-1926, 90-1927, 90-1928, 90-1929, 90-1930, 90-1931, 90-1932, 90-1933, 90-1934, 90-1935, 90-1936, 90-1937, December 8, 1990.

Written comments by:

P 90-1901, 90-1902, 90-1903, 90-1904, October 13, 1990.

P 90-1905, 90-1906, October 14, 1990.

P 90-1907, 90-1908, 90-1909, 90-1910, 90-1911, 90-1912, 90-1913, 90-1914, 90-1915, 90-1916, October 15, 1990.

P 90-1917, 90-1918, 90-1919, 90-1920, 90-1921, 90-1922, 90-1923, 90-1924, 90-1925, 90-1926, 90-1927, 90-1928, 90-1929, 90-1930, 90-1931, October 18, 1990.

P 90-1932, 90-1934, 90-1935, 90-1936, 90-1937, 90-1938, 90-1939, 90-1940, October 19, 1990.

P 90-1941, October 21, 1990.

P 90-1942, 90-1943, 90-1944, 90-1945, 90-1946, October 19, 1990.

P 90-1947, 90-1948, 90-1949, October 20, 1990.

P 90-1953, 90-1954, 90-1955, 90-1956, October 21, 1990.

P 90-1950, September 29, 1990.

P 90-1958, 90-1960, 90-1961, October 21, 1990.

P 90-1962, 90-1963, 90-1964, October 22, 1990.

P 90-1965, 90-1966, 90-1967, 90-1968, 90-1969, 90-1970, 90-1971, 90-1972, 90-1973, 90-1974, 90-1975, 90-1976, 90-1977, October 26, 1990.

P 90-1978, 90-1979, 90-1980, 90-1981, 90-1982, 90-1983, 90-1984, 90-1985, 90-1986, 90-1987, 90-1988, 90-1989, 90-1990, 90-1991, 90-1992, 90-1993, 90-1994, 90-1995, 90-1996, 90-1997, 90-1998, 90-1999, October 27, 1990.

P 90-2000, 90-2001, October 28, 1990.

P 90-2002, 90-2003, October 29, 1990.

P 90-2004, 90-2005, 90-2006, 90-2007, 90-2008, November 2, 1990.

P 90-2009, October 29, 1990.

P 90-2010, 90-2011, 90-2012, 90-2013, November 3, 1990.

P 90-2014, November 1, 1990.

P 90-2015, November 2, 1990.

P 90-2016, 90-2017, November 3, 1990.

P 90-2018, October 22, 1990.

P 90-2019, 90-2020, 90-2021, 90-2022, 90-2023, November 5, 1990.

P 90-2025, 90-2026, 90-2027, 90-2028, 90-2029, 90-2030, 90-2031, 90-2032, 90-2033, 90-2034, 90-2035, 90-2036, 90-2037, November 9, 1990.

ADDRESS: Written comments, identified by the document control number "(OPTS-51755)" and the specific PMN number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, 401 M Street, SW., Room L-100, Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room EB-44, 401 M Street, SW., Washington, DC 20460 (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the Public Reading Room NE-G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

P 90-1901

Manufacturer. Confidential.

Chemical. (G) Hydroxy acid functional acrylic polymer.

Use/Production. (S) Polymer polyol for polyurethane foam. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (Rat). Acute dermal toxicity: LD50 > 2 g/kg species (Rabbit). Inhalation toxicity: LC50 > 191 mg/l.Eye irritation: moderate species (Rabbit). Skin irritation: negligible species (Rabbit). Skin sensitization: negative species (Guinea Pig).

P 90-1902

Importer. Confidential.

Chemical. (G) Copolymer of acrylate esters modified with heterocyclic ring N-groups.

Use/Import. (S) Coating additive used in paint formulation. Import range: Confidential.

P 90-1903

Importer. Confidential.

Chemical. (G) Copolymer of acrylate esters modified with heterocyclic ring N-groups.

Use/Import. (S) Coating additive used in paint formulation. Import range: Confidential.

P 90-1904

Importer. Confidential.

Chemical. (G) Metalic borate alkanoate.

Use/Import. (G) Additive to improve interfacial adhesion. Import range: Confidential.

P 90-1905

Importer. Nachem, Inc.

Chemical. (G) Photopolymer based on dimethylmalein-imide-system.

Use/Import. (S) Copolymer for coating of metal plate. Import range: Confidential.

P 90-1906

Importer. Basf Corporation.

Chemical. (G) Diamino-isoindoline derivative.

Use/Import. (G) Colorant. Import range: Confidential.

Toxicity Data. Inhalation toxicity: LC50 > 5.8 mg/l species (Rat). Static acute toxicity: time LC50 > 1,000 mg/l species (Orange-Red Killifish). Eye irritation: none species (Rabbit).Skin irritation: negligible species (Rabbit). Mutagenicity: negative. Skin sensitization: negative species (Guinea Pig).

P 90-1907

Manufacturer. Confidential.

Chemical. (G) Acrylic polymer.

Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (Rat). Acute dermal toxicity: LD50 > 5 g/kg species (Rabbit). Eye irritation: strong species (Rabbit). Skin irritation: moderate species (Rabbit).

P 90-1908

Manufacturer. Pfister Chemical, Inc.

Chemical. (S) 2,5-diethoxy-4-(4-morpholinyl)benzenamine $(H_2SO_4)_X$.

Use/Production. (S) Intermediate for manufacture of diazonium salts. Prod. range: Confidential.

P 90-1909

Manufacturer. Pfister Chemical, Inc.

Chemical. (S) 2,5-diethoxy-4-(4-morpholinyl)benzenamine H_2SO_4)X.

Use/Production. (S) Intermediate for manufacture of diazonium salts. Prod. range: Confidential.

P 90-1910

Manufacturer. Confidential.

Chemical. (G) Hydroxy functional acrylic polymer.

Use/Production. (S) Spray applied coating. Prod. range: Confidential.

P 90-1911

Manufacturer. Confidential.

Chemical. (G) Hydroxy functional acrylic polymer.

Use/Production. (S) Spray applied coatings. Prod. range: Confidential.

P 90-1912

Manufacturer. Confidential.

Chemical. (G) Hydroxy functional acrylic polymer.

Use/Production. (S) Spray applied coatings. Prod. range: Confidential.

P 90-1913

Manufacturer. Confidential.

Chemical. (G) Hydroxy functional acrylic polymer.

Use/Production. (S) Spray applied coatings. Prod. range: Confidential.

P 90-1814

Manufacturer. Confidential.
Chemical. (G) Hydroxy functional acrylic polymer.
Use/Production. (S) Spray applied coatings. Prod. range: Confidential.

P 90-1815

Manufacturer. Confidential.
Chemical. (G) Hydroxy functional acrylic polymer.
Use/Production. (S) Spray applied coatings. Prod. range: Confidential.

P 90-1816

Manufacturer. Confidential.
Chemical. (G) Hydroxy functional acrylic polymer.
Use/Production. (S) Spray applied coatings. Prod. range: Confidential.

P 90-1817

Manufacturer. Confidential.
Chemical. (G) Aliphatic polyester polyurethane.
Use/Production. (G) Polish binder. Prod. range: Confidential.

P 90-1818

Importer. Confidential.
Chemical. (G) Polyether polyol (aliphatic polyhydric alchol and alkylene oxide) with methyl end cap.
Use/Import. (G) Polyglycol lubricant. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 2,000 kg/yr species (Rat). Inhalation toxicity: LC50 > 3.55 mg/l species (Rat). Eye irritation: none species (Rabbit). Mutagenicity: negative.Skin irritation: slight species (Rabbit). Skin sensitization: negative species (Guinea Pig).

P 90-1819

Manufacturer. Confidential.
Chemical. (G) Modified acrylic polymer.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 50 ml/kg species (Rat). Static acute toxicity: time EC50 100 mg/l species (Daphnia Magna). Skin irritation: negligible species (Rabbit).

P 90-1820

Manufacturer. Schering Berlin Polymers Inc.
Chemical. (G) Aliphatic ketimine.
Use/Production. (G) Destructive use. Prod. range: Confidential.

P 90-1821

Manufacturer. Schering Berlin Polymers, Inc.
Chemical. (G) Epoxy curing agent.
Use/Production. (G) Epoxy curing agent. Prod. range: Confidential.

P 90-1822

Manufacturer. Ciba-Geigy Corporation.
Chemical. (S) Acetic acid, hydroxyphosphono-, disodium salt.
Use/Production. (S) Corrosion inhibitor. Prod. range: Confidential.

P 90-1823

Importer. Confidential.
Chemical. (S) 2,4-toluene diisocyanate; hydroxy ethyl acrylate; furane, tetrahydro 3-methyl polymer with tetrahydro furane.
Use/Import. (S) Radiation cure coating for industrial use. Import range: 1,000–10,000 kg/yr.

P 90-1824

Importer. Confidential.
Chemical. (S) 2,4-toluene diisocyanate; hydroxy ethyl acrylate; furan, tetrahydro 3-methyl polymer with tetrahydro furane.
Use/Import. (S) Radiation cure coating for industrial use. Import range: 1,000–10,000 kg/yr.

P 90-1825

Importer. Confidential.
Chemical. (S) 2,4-toluene duiisocyanate; hydroxy ethyl acrylate; furane, tetrahydro 3-methyl polymer with tetrahydro furane.
Use/Import. (S) Radiation cure coating for industrial use. Import range: 1,000–10,000 kg/yr.

P 90-1826

Importer. Confidential.
Chemical. (S) 2,4-toluene duiisocyanate; hydroxy ethyl acrylate; furane, tetrahydro 3-methyl polymer with tetrahydro furane.
Use/Import. (S) Radiation cure coating for industrial use. Import range: 1,000–10,000 kg/yr.

P 90-1827

Importer. Confidential.
Chemical. (S) 2,4-toluene duiisocyanate; hydroxy ethyl acrylate; furane, tetrahydro 3-methyl polymer with tetrahydro furane.
Use/Import. (S) Radiation cure coating for industrial use. Import range: Confidential.

P 90-1828

Importer. Confidential.
Chemical. (S) 2,4-toluene duiisocyanate; hydroxy ethyl acrylate; furane, tetrahydro 3-methyl polymer with tetrahydro furane.
Use/Import. (S) Radiation cure caoting for industrial use. Import range: 1,000–10,000 kg/yr.

P 90-1829

Manufacturer. Confidential.
Chemical. (G) Styrene acrylic latex.
Use/Production. (G) Latex for coatings. Prod. range: Confidential.

P 90-1830

Manufacturer. Champion Technologies, Inc.
Chemical. (G) Alkyl carbamodithioic acid compound.
Use/Production. (S) Nonpotable water coagulant and floculant. Prod. range: 49,000–80,000 kg/yr.
Toxicity Data. Skin sensitization: negative species (guinea pig).

P 90-1831

Manufacturer. Pacific Anchor Chemical Corp.
Chemical. (G) Polymer of aryl alkyl epoxy compund with dibasic fatty acid, monobasic fatty acid, triethylenetetramine, phenol and an aldehyde.
Use/Production. (S) Curing for epoxy resin surface coating systems. Prod. range: Confidential.

P 90-1832

Importer. Confidential.
Chemical. (G) Epoxy resin.
Use/Import. (G) Epoxy resin. Import range: Confidential.

P 90-1834

Importer. Shell Oil Company.
Chemical. (G) Maleimide resin.
Use/Import. (S) Electrical laminated. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rabbit). Eye irritation: slight species (Rabbit).Skin irritation: negligible species (Rabbit). Skin sensitization: negative species (Guinea Pig).

P 90-1835

Manufacturer. Confidential.
Chemical. (G) Alkyl naphthalene.
Use/Production. (G) Industrial lubricant. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (Rat). Acute dermal toxicity: LD50 > 2 g/kg species (Rabbit). Eye irritation: slight species (Rabbit). Skin irritation: negligible species (Rabbit).

P 90-1836

Manufacturer. Bedoukian Research, Inc.
Chemical. (S) Cyclopentanone, 2-(2-hexenyl)-.
Use/Production. (S) Fragrace, soap, and detergent component. Prod. range: Confidential.

P 90-1837

Manufacturer. Bedoukian Research, Inc.

Chemical. (S) Cyclopentanol, 2-(2-hexenyl)-.

Use/Production. (S) Fragrace, soap, and detergent component. Prod. range: Confidential.

P 90-1838

Manufacturer. Bedoukian Research, Inc.

Chemical. (S) Cyclopentanol, 2-(2-hexenyl)-, acetate.

Use/Production. (S) Fragrance, soap, and detergent component. Prod. range: Confidential.

P 90-1839

Manufacturer. Keil Chemical Div. Ferro Corporation.

Chemical. (G) Dialkyldithiophosporic acid, aliphate aminesalt.

Use/Production. (S) Oil additive. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 g/kg species (Rat). Acute dermal toxicity: LD50 > 2,000 g/kg species (Rabbit).

P 90-1840

Manufacturer. E.I. DuPont & De Nemours & Co., Inc.

Chemical. (G) Aromatic aminoether.

Use/Production. (G) Isolated intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: ALD 690 mg/kg species (Rat). Static Acute toxicity: LC50 14 mg/l 96H species (Fathead Minnow). Eye irritation: slight species (Rabbit). Skin irritation: negligible species (Rabbit).

P 90-1841

Manufacturer. The Dow Chemical Company.

Chemical. (G) Halogenated biphenols.

Use/Production. (G) Electrical/electronic applications. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 1,000 mg/kg species (Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rabbit). Skin irritation: negligible species (Rabbit).

P 90-1842

Manufacturer. The Dow Chemical Company.

Chemical. (G) Halogenated bisphenols.

Use/Production. (G) Electrical/electronic applications. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 1,000 mg/kg species (Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rabbit). Skin irritation: negligible species (Rabbit).

P 90-1843

Manufacturer. The Dow Chemical Company.

Chemical. (G) Halogenated biphenols.

Use/Production. (G) Electrical/electronic applications. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 1,000 mg/kg species (Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rabbit). Skin irritation: negligible species (Rabbit).

P 90-1844

Manufacturer. The Dow Chemical Company.

Chemical. (G) Halogenated biphenyl glycidyl ether.

Use/Production. (G) Electrical/electronic applications. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 1,000 mg/kg species (Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rabbit). Skin irritation: negligible species (Rabbit).

P 90-1845

Manufacturer. The Dow Chemical Company.

Chemical. (G) Halogenated bophenyl glycidyl ether.

Use/Production. (G) Electrical/electronic applications. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 1,000 mg/kg species (Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rabbit). Skin irritation: negligible species (Rabbit).

P 90-1846

Importer. The Dow Chemical Company.

Chemical. (G) Halogenated biphenyl glycidyl ether.

Use/Import. (G) Electrical/electronic applications. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 1,000 mg/kg species (Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rabbit). Skin irritation: negligible species (Rabbit).

P 90-1847

Manufacturer. Basf Corporation.

Chemical. (G) Polyoxyalkylate of methanol.

Use/Production. (G) Rinse aid. Prod. range: Confidential.

P 90-1848

Manufacturer. WCR, Inc.

Chemical. (G) Acryltrialkoxysilane.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 90-1849

Manufacturer. Confidential.

Chemical. (G) Acrylic copolymers.

Use/Production. (G) Dispersive use. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (Rat). Acute dermal toxicity: LD50 > 2 g/kg species (Rabbit).

P 90-1853

Importer. Confidential.

Chemical. (G) Substituted aromatic hetercycle.

Use/Import. (S) Chemical intermediate. Import range: Confidemtial.

Toxicity Data. Eye irritation: moderate species (Rabbit). Skin irritation: negligible species (Rabbit).

P 90-1854

Manufacturer. Confidential.

Chemical. (G) Substituted aromatic heterocycle.

Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (Rat). Eye irritation: moderate species (Rabbit). Skin irritation: slight species (Rabbit).

P 90-1856

Manufacturer. Confidential.

Chemical. (G) Aromatic ether.

Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: negligible species (Rabbit).

P 90-1857

Manufacturer. Confidential.

Chemical. (G) Substituted carboxylic acid.

Use/Production. (G) Intermediate (destructive). Prod. range: Confidential.

P 90-1858

Manufacturer. The Gryphin Co.,Inc.

Chemical. (S) Liquid modified phenolic resin.

Use/Production. (G) Paint additive. Prod. range: Confidential.

P 90-1860

Manufacturer. Confidential.

Chemical. (G) Aliphatic polyester polyacid.

Use/Production. (G) Additive in an openly-used coating. Prod. range: Confidential.

P 90-1899

Manufacturer. Confidential.

Chemical. (G) Aliphatic polyester polyacid.

Use/Production. (G) Additive in an openly-used coating. Prod. range: Confidential.

P 90-1861

Manufacturer. Confidential.

Chemical. (G) Aliphatic polyester polyacid.

Use/Production. (G) Additive in an openly-used coating. Prod. range: Confidential.

P 90-1862

Manufacturer. Confidential.

Chemical. (G) Polyester polyurethane acrylate.

Use/Production. (S) Radiation cure coating. Prod. range: Confidential.

P 90-1863

Manufacturer. Confidential.

Chemical. (G) Fumarated, phenolic rosin ester.

Use/Production. (G) Ink vehicle. Prod. range: Confidential.

P 90-1864

Manufacturer. Angus Chemical Company.

Chemical. (S) 7*a*-Ethyldihydro-3,5-bis(1-methylethyl)-1*H*,3*H*,5*H*-oxazolo (3,4-*c*)oxazole.

Use/Production. (S) Urethane adhesive. Prod. range: 32,000–45,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (Rat). Acute dermal toxicity: LD50 > 2 g/kg species (Rabbit). Eye irritation: moderate species (Rabbit). Skin irritation: slight species (Rabbit).

P 90-1865

Importer. Schering Berlin Polymers, Inc.

Chemical. (G) Metal alkyl chloride.

Use/Import. (G) Catalyst. Import range: Confidential.

P 90-1866

Importer. Schering Berlin Polymers, Inc.

Chemical. (G) Metal alkyl chloride.

Use/Import. (G) Catalyst. Import range: Confidential.

P 90-1867

Manufacturer. Dow Chemical U.S.A.

Chemical. (G) Complex phenyl aliphatic ester.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 11,000 mg/kg species (Rat). Static acute toxicity: time LC50 96H1,000 mg/l species (Fathead Minnow). Eye irritation: none species (Rabbit). Skin irritation: slight species (Rabbit).

P 90-1868

Manufacturer. Dow Chemical U.S.A.

Chemical. (G) Complex phenyl aliphatic ester.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 11,000 mg/kg species (Rat). Static acute toxicity: time LC50 96H11,000 mg/l species (fathead minnow). Eye irritation: none species (Rabbit). Skin irritation: slight species (Rabbit).

P 90-1869

Manufacturer. Dow Chemical U.S.A.

Chemical. (G) Complex phenyl aliphatic ester.

Use/Production. (G) Chemical intermrdiate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 11,000 mg/kg. Static acute toxicity: time LC50 96H1,000 mg/l species (Fathead Minnow). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit).

P 90-1870

Manufacturer. Dow Chemical U.S.A.

Chemical. (G) Complex phenyl aliphatic ester.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 11,000 mg/kg species (Rat). Static acute toxicity: time LC50 1,000 mg/l species (Fathead Minnow). Eye irritation: none species (Rabbit). Skin irritation: slight species (Rabbit).

P 90-1871

Importer. Rhom Tech Inc.

Chemical. (G) Higher alkyl methacrylates copolymer.

Use/Import. (G) Mineral oil additive. Import range: Confidential.

P 90-1872

Importer. Hoechst Celanese Corp.

Chemical. (S) Montan wax fatty acids, componds with diethanolamine.

Use/Import. (S) Component of coatings for thermocarbon ribbons. Import range: 5,000–10,000 kg/yr.

P 90-1873

Manufacturer. Bedoukian Research, Inc.

Chemical. (S) 4-Hepten-1-ol, (2)-.

Use/Production. (G) Fragrance, soap, and detergent component. Prod. range: Confidential.

P 90-1874

Manufacturer. Bedoukian Research, Inc.

Chemical. (S) 1-Penten-3-ol, 1-(2,6,-trimethyl-1-cyclohexen-1-yl)-.

Use/Production. (G) Fragrance, soap, and detergent component. Prod. range: Confidential.

P 90-1875

Manufacturer. Confidential.

Chemical. (G) Polyester resin.

Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 90-1876

Manufacturer. Confidential.

Chemical. (G) Polyacrylate.

Use/Production. (G) Adhesive. Prod. range: Confidential.

P 90-1877

Importer. Confidential.

Chemical. (G) Tridecadinenitrile.

Use/Import. (G) Additives for consumer products. Import range: Confidential.

Toxicity Data. Eye irritation: slight species (Rabbit). Skin irritation: slight species (Rabbit). Mutagenicity: negative. Skin sensitization: negative species (Guinea Pig).

P 90-1878

Manufacturer. Confidential.

Chemical. (G) Modified acrylic resin.

Use/Production. (S) Polyurethane. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 6.450 species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: slight species (Rabbit).

P 90-1879

Manufacturer. Confidential.

Chemical. (G) Modified acrylic resin.

Use/Production. (S) Polyurethane. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 6.450 species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: slight species (Rabbit).

P 90-1880

Manufacturer. Confidential.

Chemical. (G) Modified acrylic resin.

Use/Production. (S) Polyurethane. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 6.450 species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: slight species (Rabbit).

P 90-1881

Manufacturer. Confidential.

Chemical. (G) Modified acrylic resin.

Use/Production. (S) Polyurethane. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 6.450 species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: slight species (Rabbit).

P 90-1882

Manufacturer. Confidential.

Chemical. (G) Modified acrylic resin.

Use/Production. (S) Polyurethane. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 6.450 species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: slight species (Rabbit).

P 90-1883
Manufacturer. Confidential.
Chemical. (G) Modified acrylic resin.
Use/Production. (S) Polyurethane. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 6.450 species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: slight species (Rabbit).

P 90-1884
Manufacturer. Confidential.
Chemical. (G) Modified acrylic resin.
Use/Production. (S) Polyurethane. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 6.450 species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: slight species (Rabbit).

P 90-1885
Manufacturer. Confidential.
Chemical. (G) Modified acrylic resin.
Use/Production. (S) Polyurethane. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 6.450 species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: slight species (Rabbit).

P 90-1886
Manufacturer. Confidential.
Chemical. (G) Modified acrylic resin.
Use/Production. (S) Polyurethane. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 6.450 species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: slight species (Rabbit).

P 90-1887
Manufacturer. Confidential.
Chemical. (G) Modified acrylic resin.
Use/Production. (S) Polyurethane. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 6.450 species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: slight species (Rabbit).

P 90-1888
Manufacturer. Confidential.
Chemical. (G) Modified acrylic resin.
Use/Production. (S) Polyurethane. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 6.450 species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: slight species (Rabbit).

P 90-1889
Importer. Unichema Chemicals, Inc.
Chemical. (G) Modified acrylic resin.
Use/Import. (S) Skin care emollient; coemulsifier in cosmetics. Import range: Confidential.

P 90-1891
Manufacturer. Rheox, Inc.
Chemical. (G) Modified acrylic resin.
Use/Production. (G) Paint and adhesive additive. Prod. range: Confidential.

P 90-1892
Manufacturer. Organic Dyestuffs Corporation.
Chemical. (G) Reactive red 141.
Use/Production. (G) Physical mixtures with other shading colors. Prod. range: Confidential.

P 90-1893
Manufacturer. Confidential.
Chemical. (S) Alkyl naphthalene disulfonic acid, sodium salt.
Use/Production. (G) Chlorine competible wetting agent. Prod. range: 140,000–420,000 kg/yr.

P 90-1894
Manufacturer. Sika Corporation.
Chemical. (G) Reaction product of aromatic isocyanate and polyols.
Use/Production. (S) Adhesive for laminating compounds of transportation vehicles. Prod. range: Confidential.

P 90-1895
Manufacturer. Confidential.
Chemical. (G) Modified acrylic copolymer.
Use/Production. (G) Coatings. Prod. range: Confidential.

P 90-1896
Manufacturer. Hoechst Celanese Corporation.
Chemical. (G) 4-Butoxyacetophenone.
Use/Production. (G) Plastic additive. Prod. range: Confidential.

P 90-1897
Manufacturer. Allied-Signal, Inc.
Chemical. (G) Modified ethylene-based polymer.
Use/Production. (G) Plastics additive. Prod. range: Confidential.

P 90-1898
Importer. Confidential.
Chemical. (G) Acrylate polymer.
Use/Import. (S) Polyurethane finish. Import range: Confidential.

P 90-1899
Manufacturer. Confidential.
Chemical. (G) Modified acrylic resin.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 90-1900
Importer. Marubeni America Corporation.
Chemical. (G) Methyl methacrylate-glycidyl metharcylate copolymer.
Use/Import. (G) Compatibilizing agent for polymer blends. Prod. range: Confidential.

P 90-1901
Manufacturer. Confidential.
Chemical. (G) Polymer of an aromatic anhydride with a fatty acid oil, aromatic acid and alkane polyols.
Use/Production. (G) Open, nondispersive use coating. Prod. range: Confidential.

P 90-1902
Manufacturer. Confidential.
Chemical. (G) Aliphatic epoxy ester anhydride polymer.
Use/Production. (G) Convertible epoxy resin for preparation of specialty articles. Prod. range: Confidential.

P 90-1903
Manufacturer. Angus Chemical Company.
Chemical. (S) 4-ethyl-2-(1-methylethyl)-oxazolidine.
Use/Production. (S) Moisture scavenger for urethane coatings. Prod. range: 11,400–68,000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 1.6 g/kg species (Rat). Acute dermal toxicity: LD50 > 2 g/kg species (Rabbit). Eye irritation: moderate species (Rabbit). Mutagenicity: negative. Skin irritation: moderate species (Rabbit).

P 90-1904
Manufacturer. Confidential.
Chemical. (G) Unsaturated polyester.
Use/Production. (G) Isolated intermediate. Prod. range: Confidential.

P 90-1905
Manufacturer. Confidential.
Chemical. (G) Unsaturated polyester/alkyl ether urethane.
Use/Production. (G) Ingredient in an openly used coating. Prod. range: Confidential.

P 90-1906
Manufacturer. Confidential.
Chemical. (G) Amide acid amine / base salt.
Use/Production. (G) Component of treatment with open nondispersive use. Prod. range: Confidential.

P 90-1907
Manufacturer. Confidential.
Chemical. (G) Amide acid amine / base salt.

Use/Production. (G) Component of treatment with open nondispersive use. Prod. range: Confidential.

P 90-1908

Manufacturer. Confidential.

Chemical. (G) Amide acid amine / base salt.

Use/Production. (G) Component of treatment with open nondispersive use. Prod. range: Confidential.

P 90-1909

Importer. Confidential.

Chemical. (G) Alkylnaphthalene sulfonic acid, polymer with formaldehyde, sodium salt.

Use/Import. (G) Dyebath auxiliaries for natural and synthetic fibers. Import range: Confidential.

P 90-1910

Manufacturer. Confidential.

Chemical. (S) Polymer of neopentyl glycol, 1,4-cyclohexanedimethanol, trimethylolethane, adipic acid, isophthalic acid, and terephthalic acid.

Use/Production. (S) Polymer for coil coating. Prod. range: Confidential.

P 90-1911

Manufacturer. American Cyanamid Company.

Chemical. (G) Modified polyacrylamide.

Use/Production. (G) Mineral floculent. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rabbit). Eye irritation: slight species (Rabbit). Static acute toxicity: time LC50 48H1.5 mg/l species (Daphnia Magna). Skin irritation: moderate species (Rabbit). Mutagenicity: negative. Skin sensitization: negative species (Guinea Pig).

P 90-1912

Manufacturer. American Cyanamid Company.

Chemical. (G) Modified polyacrylamide.

Use/Production. (G) Mineral floculent. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rabbit). Eye irritation: slight species (Rabbit). Static acute toxicity: time LC50 48H1.5 mg/l species (Daphnia Magna). Skin irritation: moderate species (Rabbit). Mutagenicity: negative. Skin sensitization: positive species (Guinea Pig).

P 90-1913

Manufacturer. American Cyanamid Company.

Chemical. (G) Modified polyacrylamide.

Use/Production. (G) Mineral floculent. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rabbit). Eye irritation: slight species (Rabbit). Static acute toxicity: time LC50 1.5 mg/l species (Daphnia Magna). Skin irritation: moderate species (Rabbit). Mutagenicity: negative. Skin sensitization: positive species (Guinea Pig).

P 90-1914

Manufacturer. Monsanto Company Inc.

Chemical. (G) Sulfonate aromatic acid with diamine.

Use/Production. (G) Nylon polymer additive. Prod. range: Confidential.

P 90-1915

Manufacturer. Confidential.

Chemical. (G) Magnesium salt.

Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 90-1916

Manufacturer. Minnesota Mining & Manufacturing (3M).

Chemical. (G) Modified polyvinylbutyral.

Use/Production. (G) Polymeric coating. Prod. range: Confidential.

P 90-1917

Manufacturer. Minnesota Mining & Manufacturing (3M).

Chemical. (G) Modified polyvinylbutyral.

Use/Production. (G) Polymeric coating. Prod. range: Confidential.

P 90-1918

Manufacturer. Confidential.

Chemical. (G) Polymer of cellulose and carboxylic acids,.

Use/Production. (G) Component in consumer and commercial products. Prod. range: Confidential.

Toxicity Data. Static acute toxicity: LC50 > 1,000 mg/l 96H species (Fathead Minnow). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit). Mutagenicity: negative. Skin sensitization: negative species (Guinea Pig).

P 90-1919

Manufacturer. Confidential.

Chemical. (G) Silylated aliphatic alicyclic polyester.

Use/Production. (G) Dispersively applied coating. Prod. range: Confidential.

P 90-1920

Manufacturer. Confidential.

Chemical. (G) Polyester.

Use/Production. (G) Ingredient in a coating with an open, nondispersive use. Prod. range: 28,500–114,000 kg/yr.

P 90-1921

Importer. Rhone-Poulenc Incorporated.

Chemical. (G) Modified bismaleimide resin.

Use/Import. (S) Matrix resin for production of circuit boards. Import range: 11,100–27,750 kg/yr.

P 90-1922

Importer. Rhone-Poulenc Incorporated.

Chemical. (G) Modified bismaleimide resin.

Use/Import. (S) Matrix resin for production of circuit boards. Import range: 11,100–27,750 kg/yr.

P 90-1923

Importer. Rhone-Poulenc Incorporated.

Chemical. (G) Modified bismaleimide resin.

Use/Import. (S) Matrix resin for production of circuit boards. Import range: 11,100–27,750 kg/yr.

P 90-1925

Importer. Confidential.

Chemical. (G) Hydroxy terminated polyacrylate.

Use/Import. (G) Automotive repair finishes. Import range: Confidential.

P 90-1926

Importer. Reichhold Chemicals, Inc.

Chemical. (G) Polyester modified styrene-acrylic copolymer.

Use/Import. (G) Industrial coatings. Import range: Confidential.

P 90-1927

Importer. Reichhold Chemicals, Inc.

Chemical. (G) Fluoroolefin copolymer.

Use/Import. (G) Resin for exterior coatings. Import range: Confidential.

P 90-1928

Manufacturer. Westvaco Corporation.

Chemical. (G) Shellac, acrylic copolymer, ammonium salt.

Use/Production. (G) Resin for water based ink. Prod. range: Confidential.

P 90-1929

Manufacturer. Dow Chemical Company.

Chemical. (G) Modified ethylene-octene polymer.

Use/Production. (G) Adhesive. Prod. range: Confidential.

P 90-1930

Manufacturer. Confidential.

Chemical. (G) Polyether polyurethane pre-polymer.

Use/Production. (G) Coatings, polymer intermediate. Prod. range: Confidential.

P 90-1931

Manufacturer. Confidential.

Chemical. (G) Acrylic polyether; polyurethane copolymer.

Use/Production. (G) Coatings. Prod. range: Confidential.

P 90-1932

Manufacturer. Confidential.

Chemical. (G) Acrylic polyether; polyurethane copolymer.

Use/Production. (G) Coatings. Prod. range: Confidential.

P 90-1933

Manufacturer. Confidential.

Chemical. (G) Acrylic polyether; polyurethane copolymer.

Use/Production. (G) Coatings. Prod. range: Confidential.

P 90-1934

Manufacturer. Confidential.

Chemical. (G) Polyester.

Use/Production. (G) Paint. Prod. range: Confidential.

P 90-1935

Manufacturer. Confidential.

Chemical. (G) Acrylated polyester.

Use/Production. (G) Acrylated polyester. Prod. range: Confidential.

P 90-1936

Manufacturer. Confidential.

Chemical. (G) Polyester.

Use/Production. (G) Paint. Prod. range: Confidential.

P 90-1937

Manufacturer. Confidential.

Chemical. (G) Caprolactam derivative.

Use/Production. (G) Intermediate. Prod. range: Confidential.

Dated: October 24, 1990.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 10-25723, Filed 10-30-90; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

Agency Information Collection Activities Under OMB Review

October 25, 1990.

The following information collection requirements have been approved by the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, (44 U.S.C. 3507). For further information contact Judy Boley, Federal Communications Commission, (202) 632-7513.

OMB No.: 3060-0080.
Title:
Part 1—Registration of Canadian Radio Station Licensee and Application for Permit to Operate;
Part 2—Certificate of Registration of Canadian Radio Station Licensee and Permit for Operation in the United States.
Form No.: FCC 410.

The approval on FCC 410 has been extended through 10/31/93. The February 1989 edition with the previous OMB expiration date of 9/30/90 is obsolete. The current edition is October 1990.

OMB No.: 3060-0113.
Title: Broadcast Equal Employment Opportunity Program Report.
Form No.: FCC 396.

The approval on FCC 396 has been extended through 9/30/93. The January 1988 edition with the previous OMB expiration date of 9/30/90 will remain in use until updated forms are available.

OMB No.: 3060-0120.
Title: Broadcast Equal Employment Opportunity Model Program Report.
Form No.: FCC 396-A.

The approval on FCC 396-A has been extended through 9/30/93. The January 1988 edition with the previous OMB expiration date of 9/30/90 will remain in use until updated forms are available.

OMB No.: 3060-0130.
Title: Private Fixed, Mobile, and Radiolocation Services Supplementary Information to FCC Form 574.
Form No.: FCC 574-B.

The approval on FCC 574-B has been extended through 9/30/93. The October 1982 edition with the previous OMB expiration date of 9/30/90 will remain in use until updated forms are available.

OMB No.: 3060-0390.
Title: Broadcast Station Annual Employment Report.
Form No.: FCC 395-B.

A revised report form FCC 395-B has been approved for use through 9/30/93. The February 1990 edition with the previous OMB expiration date of 9/30/90 will remain in use until updated forms are available.

OMB No.: 3060-0444.
Title: 800 MHz Construction Letter.
Form No.: FCC 800-A.

A revised form letter, FCC 800-A, has been approved for use through 8/31/93. The April 1990 edition with the previous OMB expiration date of 6/30/93 is obsolete. The current edition is July 1990.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-25694 Filed 10-30-90; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed; United States Atlantic and Gulf/Venezuela Freight Association

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-006190-055.
Title: United States Atlantic and Gulf/Venezuela Freight Association.
Parties: Companhia Anonima Venezolana De Navegacion, American Transport Lines, Inc., Venezuelan Container Service, King Ocean Service de Venezuela, S.A., Maritima Aragua, S.A. Consorcio Naviero de Occidente, C.A.

Synopsis: The proposed amendment would (1) change the name of the Agreement from United States Atlantic/Venezuela Steamship Conference to United States Atlantic and Gulf/Venezuela Freight Association, (2) add U.S. Gulf Coast ports to the geographic scope, (3) clarify the definition of alternate port service, (4) expand the number of ratemaking sections and (5) republish the Agreement.

Agreement No.: 202–011207–007.

Title: Turkey/United States Atlantic and Gulf Rate Agreement.

Parties: Farrell Lines, Inc., Levant Line, S.A., Lykes Bros. Steamship Co., Inc., Pharos Lines, S.A. Sea-Land Service, Inc.

Synopsis: The proposed modification would reduce the notice period required for any party to take independent action on any rate or service item from 10 days to 48 hours.

Dated: October 25, 1990.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 90–25685 Filed 10–30–90; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

James M. Forrest; Change in Bank Control; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than November 16, 1990.

A. Federal Reserve Bank of Chicago (David S. Epistein, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *James M. Forrest,* Gilman, Illinois; to acquire 38.18 percent of the voting shares of Iroquois Bancorp, Inc., Gilman, Illinois, and First National Bank of Gilman, Gilman, Illinois.

Board of Governors of the Federal Reserve System, October 25, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–25686 Filed 10–30–90; 8:45 am]

BILLING CODE 6210–01–M

Greenwood National Bancorporation; Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President), 701 East Byrd Street, Richmond, Virginia 23261:

1. *Greenwood National Bancorporation,* Greenwood, South Carolina; to engage *de novo* in providing management consulting services to clients banks, pursuant to § 225.25(b)(11) of the Board's Regulation Y.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 21, 1990.

Board of Governors of the Federal Reserve System, October 25, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–25689 Filed 10–30–90; 8:45 am]

BILLING CODE 6210–01–M

Sterling Bancorp, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The Companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 22, 1990.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President), 701 East Byrd Street, Richmond, Virginia 23261:

1. *Sterling Bancorp,* Baltimore, Maryland; to become a bank holding company by acquiring 100 percent of the voting shares of Sterling Bank & Trust Co., Baltimore, Maryland.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Central Bancshares of the South, Inc.,* Birmingham, Alabama, and Compass Bancshares, Inc., Houston, Texas; to acquire 100 percent of the voting shares of River Oak Bancshares, Inc., Houston, Texas, and thereby indirectly acquire River Oaks Bank, Houston, Texas. Applicant also proposes to merge River Oaks Bancshares with and into Compass Bancshares.

C. Federal Reserve Bank of Chicago (David S. Epstein, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Preston Bancshares, Inc.*, Preston, Iowa; to acquire 100 percent of the voting shares of Chadwick Bancshares, Inc., Chadwick, Illinois, and Farmers State Bank, Chadwick and Mount Carroll, Mount Carroll, Illinois.

2. *Southwestern Wisconsin Bancshares, Inc.*, Highland, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of Highland State Bank, Highland, Wisconsin.

D. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President), 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Chandler Bancshares, Inc.*, Chandler, Minnesota; to become a bank holding company by acquiring 84.76 percent of the voting shares of State Bank of Chandler, Chandler, Minnesota.

E. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *Bancwest Bancorp, Inc.*, Austin, Texas; to acquire 100 percent of the voting shares of The Bank of the West, Austin, Texas.

Board of Governors of the Federal Reserve System, October 25, 1990.

[redacted],

Associate Secretary of the Board.

[FR Doc. 90-25700 Filed 10-30-90; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

1991 Cost-of-Living Increase and Other Determinations

AGENCY: Social Security Administration, HHS.

ACTION: Notice.

SUMMARY: The Secretary has determined—

(1) A 5.4 percent cost-of-living increase in benefits under title II, effective for December 1990 (the Old-Age, Survivors, and Disability Insurance (OASDI) fund ratio, determined to be 74.7 percent for 1990, does not affect this cost-of-living increase);

(2) An increase in the Federal Supplemental Security Income (SSI) (title XVI) monthly benefit amounts for 1991 to $407 for an eligible individual, $610 for an eligible individual with an eligible spouse, and $204 for an essential person;

(3) The average of the total wages for 1989 to be $20,099.55;

(4) The amount of earnings a person must have to be credited with a quarter of coverage in 1991 to be $540;

(5) The monthly exempt amounts under the Social Security retirement earnings test for taxable years ending in calendar year 1991 to be $810 for beneficiaries age 65 through 69 and $590 for beneficiaries under age 65;

(6) The "bend points" used in the benefit formula for workers who become eligible for benefits in 1991 and in the formula for computing maximum family benefits;

(7) The deemed average wages total for 1989 to be $20,466.23;

(8) The Social Security contribution and benefit base to be $53,400 for remuneration paid in 1991 and self-employment income earned in taxable years beginning in 1991; and

(9) The "old-law" contribution and benefit base to be $39,600 for 1991.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Kunkel, Office of the Actuary, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (301) 965-3013.

SUPPLEMENTARY INFORMATION: The Secretary is required by the Social Security Act (the Act) to publish within 45 days after the close of the third calendar quarter of 1990 the benefit increase percentage and the revised table of "special minimum" benefits (section 215(i)(2)(D)). Also, the Secretary is required to publish before November 1 the average of the total wages for 1989 (section 215(i)(2)(C)(ii)) and the OASDI fund ratio for 1990 (section 215(i)(2)(C)(ii)). Finally, the Secretary is required to publish on or before November 1 the contribution and benefit base for 1991 (section 230(a)), the amount of earnings required to be credited with a quarter of coverage in 1991 (section 213(d)(2)), the monthly exempt amounts under the Social Security retirement earnings test for 1991 (section 203(f)(8)(A)), the formula for computing a primary insurance amount for workers who first become eligible for benefits or die in 1991 (section 215(a)(1)(D)), and the formula for computing the maximum amount of benefits payable to the family of a worker who first becomes eligible for old-age benefits or dies in 1991 (section 203(a)(2)(C)).

OASDI Fund Ratio

General. Section 215(i) of the Act provides for automatic cost-of-living increases in OASDI benefit amounts. This section also includes a "stabilizer" provision that can limit the automatic OASDI benefit increase under certain circumstances. If the combined assets of the OASI and DI Trust Funds, as a percentage of annual expenditures, are below a specified threshold, the automatic benefit increase is equal to the lesser of (1) the increase in average wages or (2) the increase in prices. The threshold specified for the OASDI fund ratio is 20.0 percent for benefit increases for December of 1989 and later. The amendments also provide for subsequent "catch-up" benefit increases for beneficiaries whose previous benefit increases were affected by this provision. "Catch-up" benefit increases can occur only when trust fund assets exceed 32.0 percent of annual expenditures.

Computation. Section 215(i) specifies the computation and application of the OASDI fund ratio. The OASDI fund ratio for 1990 is the ratio of (1) the combined assets of the OASI and DI Trust Funds at the beginning of 1990, including advance tax transfers for January 1990, to (2) the estimated expenditures of the OASI and DI Trust Funds during 1990, excluding transfer payments between the OASI and DI Trust Funds, and reducing any transfers to the Railroad Retirement Account by any transfers from that account into either trust fund.

Ratio. The combined assets of the OASDI and DI Trust Funds at the beginning of 1990 (including advance tax transfers for January 1990) equaled $188,864 million, and the expenditures are estimated to be $252,906 million. Thus, the OASDI fund ratio for 1990 is 74.7 percent, which exceeds the applicable threshold of 20.0 percent. Therefore, the stabilizer provision does not affect the benefit increase for December 1990. Although the OASDI fund ratio exceeds the 32.0-percent threshold for potential "catch-up" benefit increases, no past benefit increase has been reduced under the stabilizer provision. Thus, no "catch-up" benefit increase is required.

Cost-of-Living Increases

General. The cost-of-living increase is 5.4 percent for benefits under titles II and XVI of the Act.

Under title II, old-age, survivors, and disability insurance benefits will

increase by 5.4 percent beginning with the December 1990 benefits, which are payable on January 3, 1991. This increase is unaffected by the stabilizer provision, as described above. This increase is based on the authority contained in section 215(i) of the Act (42 U.S.C. 415(i)).

Under title XVI, Federal SSI payment levels will also increase by 5.4 percent effective for payments made for this month of Janaury 1991 but paid on December 31, 1990. This is based on the authority contained in section 1617 of the Act (42 U.S.C. 1382f). The percentage increase effective January 1991 is the same as the title II benefit increase and the annual payment amount is rounded, when not a multiple of $12, to the next lower multiple of $12. (The stabilizer provision does not affect SSI payment levels.)

Automatic Benefit Increase Computation. Under section 215(i) of the Act, the third calendar quarter of 1990 is a cost-of-living computation quarter for all the purposes of the Act. The Secretary is, therefore, required to increase benefits, effective with December 1990, for individuals entitled under section 227 or 228 of the Act, to increase primary insurance amounts of all other individuals entitled under title II of the Act, and to increase maximum benefits payable to a family. For December 1990, the benefit increase is the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers from the third quarter of 1989 through the third quarter of 1990. The December 1990 benefit increases is not affected by the stabilizer provision because the OASDI fund ratio for 1990 exceeds the 20.0 percent threshold fixed by statute.

Section 215(i)(1) of the Act provides that the Consumer Price Index for a cost-of-living computation quarter shall be the arithmetic mean of this index for the 3 months in that quarter. The Department of Labor's Consumer Price Index for Urban Wage Earners and Clerical Workers for each month in the quarter ending September 30, 1989, was: for July 1989, 123.2; for August 1989, 123.2; and for September 1989, 123.6. The arithmetic mean for this calendar quarter is 123.3 (after rounding to the nearest 0.1). The corresponding Consumer Price Index for each month in the quarter ending September 30, 1990 was: For July 1990, 128.7; for August 1990, 129.9; and for September 1990, 131.1. The arithmetic mean for this calendar quarter is 129.9. Thus, because the Consumer Price Index for the calendar quarter ending September 30, 1990, exceeds that for the calendar quarter ending September 30, 1989 by 5.4 percent, a cost-of-living benefit increase of 5.4 percent is effective for benefits under title II of the Act beginning December 1990.

Title II Benefit Amounts. In accordance with section 215(i) of the Act, in the case of insured workers and family members for whom eligibility for benefits (i.e., the worker's attainment of age 62, or disability or death before age 62) occurred before 1991, benefits will increase by 5.4 percent beginning with benefits for December 1990 which are payable on January 3, 1991. In the case of first eligibility after 1990, the 5.4 percent increase will not apply.

For eligibility after 1978, benefits are generally determined by a benefit formula provided by the Social Security Amendments of 1977 (Pub. L. 95–216), as described later in this notice.

For eligibility before 1979, benefits are determined by means of a benefit table. In accordance with section 215(i)(4) of the Act, the primary insurance amounts and the maximum family benefits shown in this table are revised by (1) increasingly by 5.4 percent the corresponding amounts established by the last cost-of-living increase and the last extension of the benefit table made under section 215(i)(4) (to reflect the increase in the contribution and benefit base for 1990); and (2) by extending the table to reflect the higher monthly wage and related benefit amounts now possible under the increased contribution and benefit base for 1991, as described later in this notice. A copy of this table may be obtained by writing to: Social Security Administration, Office of Public Affairs, Office of Public Inquiries, 4100 Annex, Baltimore, MD 21235.

Section 215(i)(2)(D) of the Act also requires that, when the Secretary determines an automatic increase in Social Security benefits the Secretary shall publish in the **Federal Register** a revision of the range of the primary insurance amounts and corresponding maximum family benefits based on the dollar amount and other provisions described in section 215(a)(1)(C)(i). These benefits are referred to as "special minimum" benefits and are payable to certain individuals with long periods of relatively low earnings. In accordance with section 215(a)(1)(C)(i), the table below shows the revised range of primary insurance amounts and corresponding maximum family benefit amounts after the 5.4 percent benefit increase.

SPECIAL MINIMUM PRIMARY INSURANCE AMOUNTS AND MAXIMUM FAMILY BENEFITS

Special minimum primary insurance amount payable for December 1989	Number of years required at minimum earnings level	Special minimum primary insurance amount payable for December 1990	Special minimum family benefit payable for December 1990
$21.90	11	$23.00	$34.70
43.60	12	45.90	69.20
65.60	13	69.10	104.00
87.40	14	92.10	138.30
109.30	15	115.20	172.80
131.20	16	138.20	207.80
153.10	17	161.30	242.30
175.00	18	184.40	276.80
196.90	19	207.50	311.40
218.80	20	230.40	345.90
240.60	21	253.80	380.80
262.50	22	276.80	415.20
284.50	23	299.90	450.30
306.40	24	322.90	484.80
328.20	25	345.80	519.00
350.30	26	369.20	554.20
372.20	27	392.20	588.70
393.20	28	415.10	623.10
415.70	29	438.10	657.90
437.60	30	461.20	692.20

Section 227 of the Act provides flat-rate benefits to a worker who became age 72 before 1969 and was not insured under the usual requirements, and to his or her spouse or surving spouse. Section 228 of the Act provides similar benefits at age 72 for certain uninsured persons. The current monthly benefit amount of $159.00 for an individual under sections 227 and 228 of the Act is increased by 5.4 percent to obtain the new amount of $167.50. The present montly benefit amount of $79.60 for a spouse under section 227 is increased by 5.4 percent to $83.80.

Title XVI Benefit Amounts. In accordance with section 1617 of the Act, Federal SSI benefit amounts for the aged, blind, and disabled are increased by 5.4 percent effective January 1991. Therefore, the yearly Federal SSI benefit amounts of $4,632 for an eligible individual, $6,948 for an eligible individual with an eligible spouse, and $2,316 for an essential person, which became effective January 1990, are increased, effective January 1991, to $4,884, $7,320, and $2,448, respectively, after rounding. The corresponding monthly amounts for 1991 are determined by dividing the yearly amounts by 12, giving $407, $610, and $204, respectively. The monthly amount is reduced by subtracting monthly countable income. In the case of an eligible individual with an eligible spouse, the amount payable is further divided equally between the two spouses.

Averages of the Total Wages for 1988

General. Under provisions of the Act, several amounts are scheduled to increase automatically for 1991. These include (i) the contribution and benefit base, (ii) the "old law" contribution and benefit base (as determined under section 230 of the Act as in effect before the 1977 amendments), (iii) the amount of earnings required for a worker to be credited with a quarter of coverage, (iv) the retirement test exempt amounts, and (v) the "bend points" in the PIA and maximum family benefit formulas. Normally, all of these amounts are based on the increase in the average of the total wages.

However, section 10208 of Pub. L. 101–239 (the Omnibus Budget Reconciliation Act of 1989) requires that the contribution and benefits base and the "old law" contribution and benefit base be determined under a "transitional rule" using deemed average wage amounts. The deemed average wages and the resulting bases are determined later in this notice.

The determination of the average wage figure for 1989 is based on the 1988 average wage figure of $19,334.04 announced in the **Federal Register** on October 31, 1989 (54 FR 45801), along with the percentage increase in average wages from 1988 to 1989 measured by annual wage data tabulated by the Social Security Administration (SSA). The average amounts of wages calculated directly from this data were $18,274.38 and $18,997.93 for 1988 and 1989, respectively. To determine an average wage figure for 1989 at a level that is consistent with the series of average wages for 1951 through 1977 (published December 29, 1978, at 43 FR 61016), we multiplied the 1988 average wage figure of $19,334.04 by the percentage increase in average wages from 1988 to 1989 (based on SSA-tabulated wage data) as follows (with the result rounded to the nearest cent): Average wage for 1989 = $19,334.04 × $18,997.93 ÷ $18,274.38 = $20,099.55. Therefore, the average wage for 1989 is determined to be $20,099.55.

Quarter of Coverage Amount

General. The 1991 amount of earnigns required for a quarter of coverage is $540. A quarter of coverage is the basic unit for determining whether a worker is insured under the Social Security program. For years before 1978, an individual generally was credited with a quarter of coverage for each quarter in which wages of $50 or more were paid, or an individual was credited with 4 quarters of coverage for every taxable year in which $400 or more of self-employment income was earned. Beginning in 1978, wages generally are no longer reported on a quarterly basis; instead, annual reports are made. With the change to annual reporting, section 352(b) of the Social Security Amendments of 1977 (Pub. L. 95–216) amended section 213(d) of the Act to provide that a quarter of coverage would be credited for each $250 of an individual's total wages and self-employment income for calendar year 1978 (up to maximum of 4 quarters of coverage for the year).

Computation. Under the prescribed formula, the quarter of coverage amount for 1991 shall be equal to the 1978 amount of $250 multiplied by the ratio of (1) the average amount, per employee, of total wages for calendar year 1989 to (2) the average amount of those wages reported for calendar year 1976. The section further provides that if the amount so determined is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Average Wages. The average wage for calendar year 1976 was previously determined to be $9,226.48. This was published in the **Federal Register** on December 29, 1978, at 43 FR 61016. The average wage for calendar year 1989 has been determined to be $20,099.55 as stated above.

Quarter of Coverage Amount. The ratio of the average wage for 1989, $20,099.55, compared to that for 1976, $9,226.48, is 2.1784635. Multiplying the 1978 quarter of coverage amount of $250 by the ratio of 2.1784635 produces the amount of $544.62, which must then be rounded to $540. Accordingly, the quarter of coverage amount is determined to be $540 for 1991.

Retirement Earnings Test Exempt Amounts

(a) *Beneficiaries Aged 70 or Over.* Beginning with months after December 1982, there is no limit on the amount an individual aged 70 or over may earn and still receive Social Security benefits.

(b) *Beneficiaries Aged 65 through 69.* The retirement earnings test monthly exempt amount for beneficiaries aged 65 through 69 is stated int he Act of section 203(f)(8)(D) for years 1978 through 1982. A formula is provided in section 203(f)(8)(B) for computing the exempt amount applicable for years after 1982. The monthly exempt amount for 1990 was determined by this formula to the $780. Under the formula, the exempt amount for 1991 shall be the 1990 exempt amount multiplied by the ratio of (1) the average amount, per employee, of the total wages for calendar year 1989 to (2) the average amount of those wages for calendar year 1988. The section further provides that if the amount so determined is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Average Wages. The average wage for 1989, as determined above, is $20,099.55. Therefore, the ratio of the average wages for 1989, $20,099.55, compared to that for 1988, $19,334.04, is 1.0395939.

Exempt Amount for Beneficiaries Aged 65 through 69. Multiplying the 1990 retirement earnings test monthly exempt amount of $780 by the ratio of 1.0395939 produces the amount of $810.88. This must then be rounded to $810. The retirement earnings test monthly exempt amount for beneficiaries aged 65 through 69 is determined to be $810 for 1991. The corresponding retirement earnings test annual exempt amount for these beneficiaries is $9,720.

(c) *Beneficiaries Under Age 65.* Section 203 of the Act provides that beneficiaries under age 65 have a lower retirement earnings test monthly exempt amount than those beneficiaries aged 65 through 69. The exempt amount for beneficiaries under age 65 is determined by a formula provided in section 203(f)(8)(B) of the Act. Under the formula, the monthly exempt amount for beneficiaries under age 65 is $570 for 1990. The formula provides that the exempt amount for 1991 shall be the 1990 exempt amount for beneficiaries under age 65 multiplied by the ratio of (1) the average amount, per employee, of the toal wages for calendar year 1989 to (2) the average amount of those wages for calendar year 1988. The section further provides that if the amount so determined is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Average Wages. The average wage for 1989, as determined above, is $20,099.55. Therefore, the ratio of the average wages for 1989, $20,099.55, compared to that of 1988, $19,334.04, is 1.0395939.

Exempt Amount for Beneficiaries Under Age 65. Multiplying the 1990 retirement earnings test monthly exempt amount of $570 by the ratio 1.03955939 produces the amount of $592.57. This must then be rounded to $590. The retirement earnings test monthly exempt amount for beneficiaries under age 65 is thus determined to be $590 for 1991. The corresponding retirement earnings test annual exempt amount for these beneficiaries is $7,080.

Computing Benefits After 1978

General. The Social Security Amendments of 1977 provided a new

method for determining an individual's primary insurance amount. This method uses a formula based on "wage indexing" and was fully explained with interim regulations and final regulations published in the Federal Register on December 29, 1978, at 43 FR 60877 and July 15, 1982, at 47 FR 30731 respectively. It generally applies when a worker after 1978 attains age 62, becomes disabled, or dies before age 62. The formula uses the worker's earnings after they have been adjusted, or "indexed," in proportion to the increase in average wages of all workers. Using this method, we determine the worker's "average indexed monthly earnings." We then compute the primary insurance amount, using the worker's average indexed monthly earnings. The computation formula is adjusted automatically each year to reflect changes in general wage levels.

Average Indexed Monthly Earnings. To assure that a worker's future benefits reflect the general rise in the standard of living that occurs during his or her working lifetime, we adjust or "index" the worker's past earnings to take into account the change in general wage levels that has occurred during the worker's years of employment. These adjusted earnings are then used to compute the worker's primary insurance amount.

For example, to compute the average indexed monthly earnings for a worker attaining age 62, becoming disabled, or dying before attaining age 62, in 1991, we divide the average of the total wages for 1989, $20,099.55, by the average of the total wages for each year prior to 1989 in which the worker had earnings. We then multiply the actual wages and self-employment income as defined in section 211(b) of the Act credited for each year by the corresponding ratio to obtain the worker's adjusted earnings for each year. After determining the number of years we must use to compute the primary insurance amount, we pick those years with highest indexed earnings, total those indexed earnings and divide by the total number of months in those years. This figure is rounded down to the next lower dollar amount, and becomes the average indexed monthly earnings figure to be used in computing the worker's primary insurance amount for 1991.

Computing the Primary Insurance Amount. The primary insurance amount is the sum of three separate percentages of portions of the average indexed monthly earnings. In 1979 (the first year the formula was in effect), these portions were the first $180, the amount between $180 and $1,085, and the amount over $1,085. The dollar amounts in the formula which govern the portions of the average indexed monthly earnings are frequently referred to as the "bend points" of the formula. Thus, the bend points for 1979 were $180 and $1,085.

The bend points for 1991 are obtained by multiplying the corresponding 1979 bend-point amounts by the ratio between the average of the total wages for 1989, $20,099.55, and for 1977, $9,779.44. These results are then rounded to the nearest dollar. For 1991, the ratio is 2.0552864. Multiplying the 1979 amounts of $180 and $1,085 by 2.0552864 produces the amounts of $369.95 and $2,229.99. These must then be rounded to $370 and $2,230. Accordingly, the portions of the average indexed monthly earnings to be used in 1991 are determined to be the first $370, the amount between $370 and $2,230, and the amount over $2,230.

Consequently, for individuals who first become eligible for old-age insurance benefits or disability insurance benefits in 1991, or who die in 1991 before becoming eligible for benefits, we will compute their primary insurance amount by adding the following:

(a) 90 percent of the first $370 of their average indexed monthly earnings, plus

(b) 32 percent of the average indexed monthly earnings over $370 and through $2,230, plus

(c) 15 percent of the average indexed monthly earnings over $2,230.

This amount is then rounded to the next lower multiple of $.10 if it is not already a multiple of $.10. This formula and the adjustments we have described are contained in section 215(a) of the Act (42 U.S.C. 415(a)).

Maximum Benefits Payable to a Family

General. The 1977 Amendments continued the long established policy of limiting the total monthly benefits which a worker's family may receive based on his or her primary insurance amount. Those amendments also continued the then existing relationship between maximum family benefits and primary insurance amounts but did change the method of computing the maximum amount of benefits which may be paid to a worker's family. The Social Security Disability Amendments of 1980 (Pub. L. 96-265) established a new formula for computing the maximum benefits payable to the family of a disabled worker. This new formula is applied to the family benefits of workers who first become entitled to disability insurance benefits after June 30, 1980, and who first become eligible for these benefits after 1978. The new formula was explained in a final rule published in the Federal Register on May 8, 1981, at 46 FR 25601. For disabled workers initially entitled to disability benefits before July 1980, or whose disability began before 1979, the family maximum payable is computed the same as the old-age and survivor family maximum.

Computing the Old-Age and Survivor Family Maximum. The formula used to compute the family maximum is similar to that used to compute the primary insurance amount. It involves computing the sum of four separate percentages of portions of the worker's primary insurance amount. In 1979, these portions were the first $230, the amount between $230 and $332, the amount between $332 and $433, and the amount over $433. The dollar amounts in the formula which govern the portions of the primary insurance amount are frequently referred to as the "bend points" of the family-maximum formula. This, the bend points for 1979 were $230, $332, and $433.

The bend points for 1991 are obtained by multiplying the corresponding 1979 bend-point amounts by the ratio between the average of the total wages for 1989, $20,099.55, and the average for 1977, $9,779.44. This amount is then rounded to the nearest dollar. For 1991, the ratio is 2.0552864. Multiplying the amounts of $230, $332, and $433 by 2.0552864 produces the amounts of $472.72, $682.36, and $889.94. These amounts are then rounded to $473, $682, and $890. Accordingly, the portions of the primary insurance amounts to be used in 1991 are determined to be the first $473, the amount between $473 and $682, the amount between $682 and $890, and the amount over $890.

Consequently, for the family of a worker who becomes age 62 or dies in 1991, the total amount of benefits payable to them will be computed so that it does not exceed:

(a) 150 percent of the first $473 of the worker's primary insurance amount, plus

(b) 272 percent of the worker's primary insurance amount over $473 through $682, plus

(c) 134 percent of the worker's primary insurance amount over $682 through $890, plus

(d) 175 percent of the worker's primary insurance amount over $890.

This amount is then rounded to the next lower multiple of $.10 if it is not already a multiple of $.10. This formula and the adjustments we have described are contained in section 203(a) of the Act (42 U.S.C. 403(a)).

Deemed Average of the Total Wages Under Transitional Rule

Section 10206 of Public Law 101–239, which amended section 209 of the Act (42 U.S.C. 409), provides a transitional rule for computing the average of the total wages used in the formula for determining the contribution and benefit base and the "old-law" contribution and benefit base. The transitional rule was used to determine the bases for 1990 and will be used to determine the bases for 1991 and 1992. The determination of the 1990 bases was published as a notice in the **Federal Register** on December 29, 1989, at 54 FR 53751, and superseded the determination as a notice in the **Federal Register** on October 31, 1989, at 54 FR 45801.

Computation. Under the transitional rule, the deemed average of the total wages for 1989 is equal to the average of the total wages for 1989, as determined above, plus 2 percent of the average wage amount determined for 1988.

Amount. The average wage amount announced above for 1989 was $20,099.55. The average wage amount announced for 1988 in the **Federal Register** on October 31, 1989 (54 FR 45801), was $19,334.04. Two percent of $19,334.04 is $386.68, and the sum of this amount and $20,099.55 is $20,486.23. Therefore, the deemed average wage under the transitional rule for 1989, as used below to determine the bases for 1991, is $20,486.23.

Contribution and Benefit Base

General. The contribution and benefit base is $53,400 for remuneration paid in 1991 and self-employment income earned in taxable years beginning in 1991.

The contribution and benefit base serves two purposes:

(1) It is the maximum annual amount of earnings on which Social Security taxes are paid.

(2) It is the maximum annual amount used in determining a persons' Social Security benefits.

Computation. Section 230(c) of the Act provides a table with the contribution and benefit base for each year 1978, 1979, 1980, and 1981. For years after 1981, section 230(b) of the Act contains a formula for determining the contribution and benefit base. This formula was amended by section 10206 of Public Law 101–239 to substitute deemed average wage amounts for average wage amounts. Under the prescribed formula, the contribution and benefit base for 1991 shall be equal to the 1990 base of $51,300 multiplied by the ratio of (1) the deemed average amount, per employee, of total wages for the calendar year 1989 to (2) the deemed average amount of those wages for the calendar year 1988. Section 230(b) further provides that if the amount so determined is not a multiple of $300, it shall be rounded to the nearest multiple of $300.

Deemed Average Wages. The deemed average wage for calendar year 1988 was previously determined to be $19,702.57. That determination was published as a notice in the **Federal Register** on December 29, 1989, at 54 FR 53751. The deemed average wage for calendar year 1989 has been determined to be $20,486.23, as stated above.

Amount. The ratio of the deemed average wage for 1989, $20,486.23, compared to the deemed average wage for 1988, $19,702.57, is 1.0397745. Multiplying the 1990 contribution and benefit base amount of $51,300 by the ratio of 1.0397745 produces the amount of $53,340.43 which must then be rounded to $53,400. Accordingly, the contribution and benefit base is determined to be $53,400 for 1991.

"Old-Law" Contribution and Benefit Base

General. The 1991 "old-law" contribution and benefit base is $39,600. This is the base that would have been effective under the Act without the enactment of the 1977 amendments. The base is computed under section 230(b) of the Act as it read prior to the 1977 amendments.

The "old-law" contribution and benefit base is used by:

(1) The Railroad Retirement program to determine certain tax liabilities and tier II benefits payable under that program to supplement the tier I payments which correspond to basic Social Security benefits.

(2) The Pension Benefit Guaranty Corporation to determine the maximum amount of pension guaranteed under the Employee Retirement Income Security Act (as stated in section 230(d) of the Act), and

(3) Social Security to determine a "year of coverage" in computing the "special minimum" benefit and in computing benefits for persons who are also eligible to receive pensions based on employment not covered under section 210 of the Act.

Computation. The base is computed using the automatic adjustment formula in section 230(b) of the Act as it read prior to the enactment of the 1977 amendments, but as amended by section 10206 of Public Law 101–239. Under the formula, the "old-law" contribution and benefit base shall be the "old-law" 1990 base multiplied by the ratio of (1) the deemed average amount, per employee, of total wages for the calendar year of 1989 to (2) the deemed average amount of those wages for the calendar year of 1988. If the amount so determined is not a multiple of $300, it shall be rounded to the nearest multiple of $300.

Deemed Average Wages. The deemed average wage for calendar year 1988 was previously determined to be $19,702.57. The deemed average wage for calendar year 1989 has been determined to be $20,486.23, as stated above.

Amount. The ratio of the deemed average wage for 1989, $20,486.23, compared to the deemed average wage for 1988, $19,702.57, is 1.0397745. Multiplying the 1990 "old-law" contribution and benefit base amount of $38,100 by the ratio of 1.0397745 produces the amount of $39,615.41 which must then be rounded to $39,600. Accordingly, the "old-law" contribution and benefit base is determined to be $39,600 for 1991.

(Catalog of Federal Domestic Assistance Programs Nos. 93.802–93.805, and 93.807 Social Security Programs)

Dated: October 25, 1990.

Louis W. Sullivan,

Secretary of Health and Human Services.

[FR Doc. 90–25714 Filed 10–30–90; 8:45 am]

BILLING CODE 4190–29–M

Food and Drug Administration

[Docket No. 88N–0394]

Generic Animal Drug and Patent Term Restoration Act; Sixth Policy Letter; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a sixth policy letter, dated October 17, 1990, on the implementation of the Generic Animal Drug and Patent Term Restoration Act. The letter contains policy statements prepared by the Center for Veterinary Medicine (CVM) regarding withdrawal periods for generic animal drugs and eligibility of a new salt or ester of a pioneer animal drug for an abbreviated new animal drug application (ANADA). The agency is soliciting comments on the letter.

DATES: Written comments may be submitted at any time regarding this or previous policy letters or implementation of the Generic Animal Drug and Patent Term Restoration Act in general.

ADDRESSES: Submit written requests for single copies of the sixth policy letter to

the Industry Information Staff (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, Rm. 7–85, 5600 Fishers Lane, Rockville, MD 20857. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on the policy letter to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. The policy letter and received comments are available for public examination in the Dockets Management Branch between 9 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Robert C. Livingston, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4313.

SUPPLEMENTARY INFORMATION: On November 16, 1988, the President signed into law the Generic Animal Drug and Patent Term Restoration Act (the new law) (Pub. L. 100–670). The new law amends the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 *et seq.*) by extending the generic approval system to copies of new animal drugs that were approved after October 1962, and provides patent extension of certain animal drugs.

FDA has published five policy letters concerning implementation of the new law. See the Federal Register of June 18, 1990 (55 FR 24645), for a list of the dates and topics of those policy letters. FDA is now announcing the availability of a sixth policy letter dated October 17, 1990. This letter contains two policy statements. One concerns withdrawal periods for generic animal drugs, and the other concerns eligibility of a new salt or ester of a pioneer animal drug for an ANADA. The first of these two policy statements is a revision of, and supercedes, a policy statement that was issued with the August 2, 1989 policy letter (54 FR 35534; August 28, 1989).

The agency anticipates that changes in these policy statements may occur in the future. When and if changes are made, copies of the revised policy statements will be placed on display in the Dockets Management Branch (address above) and a notice of availability will be published in the Federal Register.

In addition, the subjects contained in these policy statements may be addressed in the regulations that will implement the new law. Comments submitted in response to this notice will be considered in the drafting of the proposed regulations.

Dated: October 25, 1990.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 90–25704 Filed 10–30–90; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

Reconsideration of Disapproval of Oklahoma State Plan Amendment (SPA); Hearing

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on December 12, 1990, in room 1945, 1200 Main Tower, Dallas, Texas 75202 to reconsider our decision to disapprove Oklahoma State Plan Amendment 89–18.

CLOSING DATE: Requests to participate in the hearing as a party must be received by the Docket Clerk by November 15, 1990.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, HCFA Hearing Staff, Suite 110, Security Office Park, 7000 Security Blvd., Baltimore, Maryland 21207, telephone: (301) 597–3013.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove Oklahoma State Plan amendment (SPA) number 89–18.

Section 1116 of the Social Security Act (the Act) and 42 CFR part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

Oklahoma SPA 89–18 relates to the State Medicaid plan for payment of inpatient hospital services. The amendment would establish an inflation factor of 5.9 percent in order to update inpatient hospital rates. The State has requested an effective date of July 1, 1989, for this amendment.

The issues in this matter are whether the proposed effective date violates: (1) The yearly Department of Health and Human Services appropriations enactments which limit the retroactivity of plan amendments that result in increased Federal financial participation to the beginning of the quarter in which an approvable plan amendment is submitted; and (2) Medicaid regulations at 42 CFR 447.253(f). These regulations require the State Medicaid agency to comply with the public notice requirements in § 447.205 when it is proposing significant changes to its methods and standards for setting payment rates for inpatient hospital and long-term care facility services.

The State's letter of April 24, 1990, indicated that the requested effective date of July 1, 1989, is acceptable. It does so because § 430.20(b)(2) provides the Health Care Financing Administration with the authority to approve a new plan with an effective date earlier than the first day of the calendar quarter in which the amendment is submitted. However, the yearly Department of Health and Human Services appropriations enactments limit the retroactivity of plan amendments that result in increased Federal financial participation to the beginning of the quarter in which an approvable plan amendment was submitted. Since the State submitted its amendment on December 12, 1989, the earliest possible effective date of this amendment would have been October 1, 1989, not July 1, 1989, if the State had met the public notice requirements.

In addition, in accordance with Federal regulations at 42 CFR 447.205(d)(1), the Medicaid agency must provide public notice before the proposed effective date of the change. Sections 447.205 (c) and (d) set forth additional requirements regarding the content and publication of the notice.

Specifically, the provision at § 447.205(d)(2) requires that notice appear in a State register similar to the Federal Register or in the newspaper of widest circulation in each city in the State with a population over 50,000. In the event that the State has no State register or city with a population of

50,000 or more, the public notice must appear in the newspaper with the widest circulation in the State.

The State's letter of June 14, 1990, indicated that, on May 4, 1989, the Secretary of State furnished notice of the proposed change under SPA 89-18 to only the provider groups on the open meetings mailing list. However, HCFA disapproved the amendment because it believes that notice of the proposed change to the provider groups was insufficient, but that the State must provide public notice in accordance with § 447.253(f), prior to the effective date of the plan amendment. Consequently, HCFA believes the earliest approvable effective date of this plan amendment will be the day following the date on which the notice is published pursuant to the applicable Federal regulations.

The notice to Oklahoma announcing an administrative hearing to reconsider the disapproval of its State plan amendment reads as follows:

Mr. Phil Watson,
Director, Department of Human Services, Sequoyah Memorial Office Building, P.O. Box 25352, Oklahoma City, Oklahoma 73125

Dear Mr. Watson: I am responding to your request for reconsideration of the decision to disapprove Oklahoma State Plan Amendment SPA 89-18.

The issues in this matter are whether the proposed effective date violates: 1) the yearly Department of Health and Human Services appropriations enactments which limit the retroactivity of plan amendments that result in increased Federal financial participation to the beginning of the quarter in which an approvable plan amendment was submitted; and 2) Federal regulations at 42 CFR 447.253(f). These regulations require the State Medicaid agency to comply with the public notice requirements in § 447.205 when it is proposing significant changes to its methods and standards for setting payment rates for inpatient hospital and long-term care facility services.

I am scheduling a hearing on your request, for reconsideration to be held on December 12, 1990, at 10:00 a.m. in Room 1945, 1200 Main Tower, Dallas, Texas. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed at 42 CFR part 430.

I am designating Mr. Stanley Krostar as the presiding officer. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 597-3013.

Sincerely,

Gail R. Wilensky, Ph.D.
Administrator.

Authority: Sec. 1116 of the Social Security Act (42 U.S.C. 1316); 42 CFR 430.18.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: October 23, 1990.

Gail R. Wilensky,
Administrator, Health Care Financing Administration.

[FR Doc. 90-25717 Filed 10-30-90; 8:45 am]
BILLING CODE 4120-03-M

Health Resources and Services Administration

Advisory Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of November 1990.

Name: Advisory Commission on Childhood Vaccines.

Date and Time: November 29, 1990, 9 a.m.-5 p.m.

Place: Conference Room G & H, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

The meeting is open to the public.

Purpose: The Commission: (1) Advises the Secretary on the implementation of the Program, (2) on its own initiative or as the result of the filing of a petition, recommends changes in the Vaccine Injury Table, (3) advises the Secretary in implementing the Secretary's responsibilities under section 2127 regarding the need for childhood vaccination products that result in fewer or no significant adverse reactions, (4) surveys Federal, State, and local programs and activities relating to the gathering of information on injuries associated with the administration of childhood vaccines, including the adverse reaction reporting requirements of section 2125(b), and advises the Secretary on means to obtain, compile, publish, and use credible data related to the frequency and severity of adverse reactions associated with childhood vaccines, and (5) recommends to the Director of the National Vaccine Program research related to vaccine injuries which should be conducted to carry out the National Vaccine Injury Compensation Program.

Agenda: Agenda items for the meeting will include but not be limited to: Status report on the Vaccine Injury Compensation Program; status reports from the National Vaccine Program; and presentations from various vaccine manufacturers and insurance companies on how the National Childhood Vaccine Injury Act has impacted their respective area of vaccine responsibility.

Public comment will be permitted at the end of the day. Oral presentations will be limited to 5 minutes per public speaker. Persons interested in providing an oral presentation should submit a written request, along with a copy of their presentation, by November 16 to Ms. Rosemary Havill, Vaccine Injury Compensation Programs, Bureau of Health Professions, Health Resources and Services Administration, room 7-02, 6001 Montrose Road, Rockville, Maryland 20852, Telephone (301) 443-6593.

Requests should contain the name, address, telephone number, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative. The allocation of time may be adjusted to accommodate the level of expressed interest. The Vaccine Injury Compensation Program will notify each presenter by mail or telephone of their assigned presentation time. Persons who do not file an advance request for presentation, but desire to make an oral statement, may sign up in Conference Room G & H before 10 a.m., November 29. These persons will be allocated time as time permits.

Anyone requiring information regarding the subject Council should contact Ms. Rosemary Havill, Vaccine Injury Compensation Program, Bureau of Health Professions, room 7-02, 6001 Montrose Road, Rockville, Maryland 20852, Telephone (301) 443-6593.

Agenda items are subject to change as priorities dictate.

Dated: October 26, 1990.

Jackie E. Baum,
Advisory Committee Management Officer, HRSA.

[FR Doc. 90-25786 Filed 10-30-90; 8:45 am]
BILLING CODE 4160-15-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Paperwork Reduction Project 1076-0122, Washington, DC 20503, telephone (202) 395-7340.

Title: 25 CFR 31, Subchapter E. Federal Schools for Indians.

Abstract: The student enrollment application is needed to determine a student's enrollment eligibility for Indian students desiring to attend Bureau operated or Bureau funded schools. The application contains background information on students,

such as schools previously attended, tribe affiliation, enrollment number degree of Indian blood, and language spoken in the home. The information collection will involve individual students, parents and/or guardians. Bureau Form Number: BIA–6248.

Frequency: Upon enrollment.

Description of Respondents: Students, parents or guardians.

Annual Responses: 15,000.

Annual Burden Hours: 7,504.

Bureau Clearance Officer: Gail Sheridan (202) 208–2685.

Dated: September 4, 1990.

Joe Christler,

Deputy to the Assistant Secretary—Indian Affairs/Director (Indian Education Programs).

[FR Doc. 90–25675 Filed 10–30–90; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[ID–943–01–4214–10; IDI–3378]

Partial Termination of Proposed Withdrawal and Reservation Lands; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Withdrawal Application Termination.

SUMMARY: The Bureau of Reclamation has partially relinquished a withdrawal application affecting lands within the Targhee National Forest. The purpose of the withdrawal was to protect the lands for possible future construction of a dam and reservoir on the South Fork of the Snake River. The Bureau of Reclamation has determined the lands are no longer needed for this purpose. This action terminates the segregative effect of the application insofar as it affects the lands described below. The land will remain temporarily closed to surface entry and mining by a Forest Service exchange application.

EFFECTIVE DATE: November 5, 1990.

FOR FURTHER INFORMATION CONTACT: William E. Ireland, Idaho State Office, 3LM, 3380 Americana Terrace, Boise, Idaho 83706, (208) 334–1597.

1. Notice of an application, serial number IDI–3378, for withdrawal and reservation of lands was posted in the Land Office records on January 26, 1970. The application agency has cancelled its application insofar as it affects those lands described below:

Boise Meridian

T 3 N., R. 42 E.,
Sec. 6, lot 21;
Sec. 7, lot 19.

The area described contains 5.22 acres in Bonneville County.

2. Pursuant to the regulations contained in 43 CFR subpart 2091, the lands described above will be at 9 a.m. on November 5, 1990, relieved of the segregative effect of the above mentioned application. The lands remain closed to surface entry and mining due to a pending Forest Service exchange application.

Dated: October 23, 1990.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 90–25710 Filed 10–30–90; 8:45 am]

BILLING CODE 4310–06–M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirements should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1029–0054), Washington, DC 20503, telephone (202) 395–7340.

Title: Abandoned Mine Reclamation Funds—30 CFR 872.

OMB Number: 1029–0054.

Abstract: 30 CFR 872 establishes requirements for information collection to be used by the regulatory authority to determine whether delays in the use of allocated funds were due to unavoidable delays in program approval or are not necessary to carry out approved reclamation activities. These requirements serve as safeguards to protect States/Indian tribes against automatic or indiscriminate funds withdrawal.

Bureau Form Number: None.

Frequency: As required.

Description of Respondents: State and Indian tribes.

Estimated Completion Time: One hour.

Annual Responses: One.

Annual Burden Hours: One.

Bureau Clearance Office: Andrew F. DeVito (202) 343–5150.

Dated: October 9, 1990.

John P. Mosesso,

Chief, Division of Technical Services

[FR Doc. 90–25677 Filed 10–30–90; 8:45 am]

BILLING CODE 4310–05–M

Valid Existing Rights Within the Wayne National Forest

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Notice of Decision.

SUMMARY: This notice announces the decision of the Office of Surface Mining Reclamation and Enforcement (OSM) regarding a determination of Valid Existing Rights (VER) to conduct surface coal mining operations under the provisions of section 522(e)(2) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The applicant, Belville Mining Company (BMC), has requested a determination that it has VER to extract coal by surface mining methods on the tracts of land known as the Jenkins, Simmering, and Bauer properties within the boundaries of the Wayne National Forest in Ohio. Under the applicable VER standard, OSM has determined that BMC has not demonstrated VER to extract coal by surface mining methods.

ADDRESSES: Documents comprising the administrative record are available for public review and copying during regular business hours at the address below:

Administrative Record Room, room 5131L, Office of Surface Mining Department of Interior, 1100 L Street NW., Washington, DC 20240.

Copies of the Director's decision and of relevant notices may be obtained at the same location.

FOR FURTHER INFORMATION CONTACT: Richard Miller, Office of the Deputy Director for Operations and Technical Services, 1951 Constitution Ave., NW., Washington, DC 20240, (202) 208–2818.

SUPPLEMENTARY INFORMATION:

I. VER Requirement

Section 522(e) of SMCRA provides that:

> After the enactment of this Act and subject to valid existing rights no surface coal mining operations except those which exist on the date of enactment of this Act shall be permitted * * * on any Federal lands within the boundaries of any national forest: * * *

Under the Federal regulations at 30 CFR 740.4(a)(4) and 745.13(c), the Secretary of the Interior retains responsibility for making VER

determinations on Federal lands within the boundaries of any areas specified in section 522 (e)(1) or (e)(2) of SMCRA. Under these rules, the Secretary may not delegate this responsibility to a State.

Consequently, OSM must make determinations regarding whether parties seeking to undertake surface mining on Federal lands within the areas specified in section 533(e)(1) and 522(e)(2) have VER to conduct surface coal mining operations within these areas. Under 30 CFR 740.11(a), the approved State regulatory program is applicable to Federal lands in a State. Therefore, OSM uses the State program definition of VER on section 522(e) (1) and (2) Federal lands in States with approved regulatory programs.

II. The Belville Mining Company VER Application

On September 4, 1985, BMC submitted an application for a VER determination on lands in the Wayne National Forest.

The lands consisted of five properties totaling approximately 5440 acres. The five properties are known as "The McMullen Property", "The Culbertson Property", "The Jenkins Property", "The Bauer Property", and "The Simmering Property".

OSM reviewed the material submitted by BMC in support of its VER application and on December 2, 1986, notified BMC that based on the information provided, OSM was unable to grant VER on the lands applied for. The letter also requested BMC to provide additional information should it wish to pursue the matter further.

On August 15, 1988, BMC requested OSM to reconsider its December 3, 1986 decision. On December 23, 1988, OSM notified BMC that it had determined that BMC had a valid existing right to conduct surface coal mining activities on the five properties listed above. This decision effectively reversed the December 3, 1986 determination by OSM that earlier submissions by BMC were insufficient to establish VER for the five properties in question.

Following its December 23, 1988 determination that BMC had a valid existing right to mine on these properties, OSM reviewed recent actions it had taken concerning VER determinations and concluded that the administrative record of the December 23, 1988 VER determination did not provide sufficient information to assure that OSM's determination regarding BMC's possession of VER had been made properly. Consequently, OSM made the decision to review and reconsider its December 23, 1988 determination on BMC's VER application.

On August 24, 1989, OSM sent a letter to BMC outlining the reasons for reconsidering the determination of VER. In the letter, OSM stated that based on its review of OSM VER matters, indications existed that OSM may not have followed its own internal procedures for processing VER requests, that the December 23, 1988 decision was made without the development of a sufficient administrative record, and that there was no record of any opportunity for other parties to assert any competing property rights, claims, or interests in this matter.

The letter further stated that the record did not indicate the extent to which OSM considered substantive issues regarding the nature of the rights reserved in the deeds for the five properties or whether the agency had correctly applied the State standard for VER and whether OSM had expressly considered the issue on whether VER is transferrable under Ohio law.

The letter also informed BMC that the effect of OSM's action to reconsider the decision of December 23, 1988, was to stay that decision and that OSM would consider the VER application as a whole, and would proceed with a determination regarding the land known as the "McMullen property" on an expedited basis. VER determinations for the remaining four properties would follow the initial decision on the McMullen property.

In a notice appearing in the Federal Register on August 30, 1989 (54 FR 35945), OSM announced its reconsideration of the 1988 VER determination and the reopening of the administrative record to receive additional information from the public. Any additional information received would be used to develop an administrative record which will support a final determination regarding Belville's VER.

Reopening the record did not have the effect of reinstating the original determination of December 3, 1986, which had denied BMC's request for VER.

On September 8, 1989, OSM requested BMC to provide additional information regarding its application for VER. At the same time, OSM requested that the United States Forest Service (USFS) and the Ohio Department of Natural Resources (ODNR) also provide additional information for the administrative record. On October 20, 1989, BMC provided additional information which has been included in the administrative record of this decision. (BMC Submission October 20, 1989) On November 1, 1989, ODNR provided additional information concerning the Ohio VER standard (ODNR November 1, 1989) and on November 13, 1989, the Forest Service provided a title opinion and report concerning BMC's interest in the McMullen and Culbertson properties. (USFS Title Report November 13, 1989).

By further notice appearing in the Federal Register on November 14, 1989 (54 FR 47418), OSM extended the period in which the public could submit relevant information until such time as OSM made a determination regarding BMC's VER. Subsequently, a notice appeared in the Federal Register on November 17, 1989, which stated that the period for the public to submit information on the BMC VER application would close on November 29, 1989 (54 FR 47861).

In a December 21, 1989 Federal Register notice, OSM issued its determination regarding the McMullen property and the Culbertson property. OSM concluded that BMC had not demonstrated that it had the necessary VER for the two properties in question under applicable standards and regulations. (54 FR 52465)

III. The Jenkins, Simmering and Bauer Properties

As part of its earlier submission, BMC provided property descriptions and copies of the deeds in the abstracts of title for these tracts. These documents have been entered into the administrative record and were reviewed by the USFS in its capacity as the surface managing agency.

IV. United States Forest Service Title Opinion

OSM has now received a title report from the Forest Service regarding the Jenkins, Simmering, and Bauer properties.

These title reports and accompanying documents from the Forest Service have been included in the administrative record for this determination.

A. The Jenkins Property

In a June 27, 1990 letter to OSM, the Forest Service expressed the view that "* * * the minerals in the Jenkins tract reverted to the United States by operation of the deed on December 31, 1989, therefore no mining rights exist to this tract."

B. The Simmering Property

BMC obtained the reserved mineral rights through a deed dated November 27, 1982. According to the title conclusions provided to OSM by the Forest Service, when the Forest Service acquired the land in question the

purchase price of the property was reduced by 20 per cent to account for the destruction of surface values that would result from the mineral reservation. The Forest Service manual in effect at the time of the transaction provided a table for per cent reductions in value for mineral reservations. For mining by means other than hydraulic, a 20 per cent reduction was taken. For hydraulic and surface mining methods, a reduction of 40 per cent was required in all cases. The Forest Service also noted that strip and hydraulic mining were listed together, and assigned the same reduction in value as destructive of surface values. They conclude that "* * * this would very strongly imply that stripping, which has the same effect as hydraulic mining, would be prohibited under the reservation language." The Forest Service report concludes that thus surface mining was not a contemplated method of mining at the time of the mineral reservation, and that shaft or tunnel mining only was intended on the Simmering tract.

C. The Bauer Property

BMC acquired reserved mineral rights by contract dated July 3, 1986. The Forest Service states that the factors discussed above apply equally to the Bauer property. The mineral reservation for the Bauer tract included essentially the same wording as was found in the Simmering tract. "The only significant difference in the "Bauer" tract is that it was reduced 30 per cent instead of 20 per cent. According to the table on deductions for reserved minerals, the "Bauer" tract minerals could be removed by open excavations and mines subject to collapse. Stripping was not intended."

V. State VER Provisions

A. Ohio Regulatory Program History

On August 10, 1982, the Secretary of Interior conditionally approved the permanent program submission of the State of Ohio.

This approval and the background on the Ohio program submission appeared in the **Federal Register** on August 10, 1982 (47 FR 34688–35718).

The conditional approval stated that the Ohio regulation defining VER (OAC 1501:13–3–02(A)(1)), as modified by the State on May 7, 1982, was consistent with the two-part test established under the Federal rules at 30 CFR 761.5, and no less effective than the Federal regulation.

Ohio resubmitted its regulatory program for approval on May 16, 1986, and on July 17, 1987, OSM reapproved the Ohio regulatory program (52 FR 26972), including the VER test.

B. The Ohio Regulatory Program Definition of VER

1. Ohio's definition of VER, which is currently codified at ORC 1501:13–1–02(FFFFFF) is as follows:

'Valid Existing Rights' means;

(1) Except for haul roads

(a) Those property rights of the applicant in existence on August 3, 1977, that were created by a legally binding conveyance, lease, deed, contract, or other document which authorizes the applicant, any subsidiary, affiliate or persons controlled by or under common control with the applicant, to produce coal by a mining operation; and

(b) The persons proposing to conduct surface coal mining operations on such lands either:

(i) Had been validly issued, on or before August 3, 1977, all State and Federal permits necessary to conduct such operations on those lands; or

(ii) Can demonstrate to the chief that the coal is both needed for, and immediately adjacent to, an ongoing surface coal mining operation for which all mine plan approvals and permits were obtained prior to August 3, 1977.

(2) For haul roads;

(a) A right-of-way or easement recorded prior to August 3, 1977, or a coal mining permit issued prior to August 3, 1977; or (b) Any road in existence as of August 3, 1977.

(3) Where an area comes under the protection of division (d) of § 1513.073 of the Revised Code, valid existing rights shall be found if, on the date the protection comes into existence, a validly authorized coal mining operation exists on that area.

(4) Interpretation of the terms of the document relied upon to establish valid existing rights shall be based upon the usage and custom at the time and place where it came into existence and upon a showing by the applicant that the parties to the document actually contemplated a right to conduct the same underground or surface mining activities for which the applicant claims a valid existing right.

(5) "Valid Existing Rights" does not mean mere expectation of a right to conduct surface coal mining operations or the right to conduct underground coal mining. Examples of rights which alone do not constitute valid existing rights include, but are not limited to, coal exploration permits or licenses, applications or bids for leases, or when a person has only applied for a permit.

C. Ohio Policy on Transferability of VER

In its letter responding to OSM's letter of September 8, 1989 requesting information on the current interpretation and application of the State of Ohio rule for determining VER, the Ohio Department of Natural Resources replied that:

> The Ohio Department of Natural Resources, Division of Reclamation has always taken the position that VER is not transferable.

ODNR also stated that:

> Although at first glance VER may appear to be solely a property right, careful reading of the entire definition indicates that VER is a personal right in existence on August 3, 1977, which right runs to the applicant. Such a right is evaluated only at the time the potential coal operator becomes an applicant for a permit which, again, is based on a clear reading of the above language. [The language in the Ohio definition of VER]. (ODNR November 1, 1989).

Ohio argues that its "interpretation of its regulatory language is consistent with earlier OSM comments (see 44 FR 14991, March, 1979) and is entirely consistent with legislative concern with the taking of property which could have occurred at the time of the enactment of SMCRA." Under Ohio's interpretation of its program, Ohio conceptualizes prohibitions and VER as it would zoning restrictions and nonconforming uses. An owner who possesses VER but does not exercise it could be viewed as having abandoned the nonconforming use. Once abandoned, any subsequent property owner must comply with the land use restrictions imposed by chapter 1513 (ODNR November 1, 1989).

OSM will accept the Ohio policy on transferability of VER as a policy which may be more stringent than the analogous Federal provision, as provided in SMCRA section 505; and as an interpretation which is not inconsistent with the terms of the Ohio provision or with the Secretary's approval of the Ohio regulatory program. This VER determination does not reach the issue of whether VER is transferable under SMCRA section 522(e) and the Federal regulations. Ohio has requested an opinion from the Ohio attorney general as to the State's authority for the policy of nontransferability. However, OSM does not foresee the need to revisit this

specific issue, whether or not the Ohio attorney general opinion is that VER is lawfully nontransferable. That finding is unlikely to affect the outcome of this determination, as discussed below, because the determination for the three tracts is supportable on alternative bases.

VI. Application of VER Standard

OSM has determined that the appropriate criteria for VER with respect to BMC's current request is the standard in the approved Ohio program. However, OSM intends to apply the Ohio VER test on Federal lands consistent with the District Court's 1980 suggestion in *In re* that a good faith effort to obtain all permits should suffice for meeting the VER test.

VII. Conclusion

Based on a review on the title report's conclusions, OSM has determined that at the present time, there exists a dispute between the applicant and the USFS regarding the nature of the property rights held by BMC on the tracts in question. Because BMC has not documented that the property rights dispute is resolved, OSM finds that BMC has not demonstrated the necessary property rights to mine by the method intended.

OSM further has determined that even if BMC had demonstrated the necessary property rights to mine the three tracts by the method intended, BMC has not demonstrated VER because (1) BMC did not own the necessary property rights on August 3, 1977; (2) BMC had not applied for or obtained the necessary permits for a surface coal mining operation by August 3, 1977; and (3) even if VER were transferable under the Ohio VER provisions, BMC has not demonstrated that its predecessors in interest had obtained or attempted to obtain the necessary permits for a surface coal mining operation by August 3, 1977.

VIII. Appeals

Any person who is or may be adversely affected by this decision may appeal to the Interior Board of Land Appeals under 43 CFR 4.1390 *et seq.* (1988) Notice of the intent to appeal must be filed within 30 days from the date of publication of this decision.

Dated: October 22, 1990.

W. Hord Tipton,

Acting Director.

[FR Doc. 90-25772 Filed 10-30-90; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL TRADE COMMISSION

[332-298]

Assessment of Rules of Origin Under the Caribbean Basin Economic Recovery Act

AGENCY: United States International Trade Commission.

ACTION: Institute of investigation and scheduling of hearing.

EFFECTIVE DATE: October 22, 1990.

FOR FURTHER INFORMATION CONTACT: Lawrence A. DiRicco, Office of Tariff Affairs and Trade Agreements, U.S. International Trade Commission, Washington, DC 20436 (telephone 202-252-1582 through November 30, 1990, thereafter 202-205-2606).

BACKGROUND AND SCOPE OF INVESTIGATION: The Commission instituted investigation No. 332-298, Assessment of Rules of Origin Under the Caribbean Basin Economic Recovery Act, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), as required by section 223 of the Customs and Trade Act of 1990 (the Act) which was enacted on August 20, 1990. Section 223(a)(1) of the Act requires the Commission to conduct an investigation for the purpose of assessing whether revised rules of origin for products of countries designated as beneficiary countries under the Caribbean Basin Economic Recovery Act (CBERA) are appropriate, and states that if the Commission makes an affirmative assessment, it is to develop recommended revised rules of origin. Section 223(a)(2) of the Act directs the Commission to submit a report on the results of its investigation, together with the text of recommended rules, if any, to the President and the Congress no later than 9 months after the date of the enactment of the Act.

The Commission has received a joint letter from Congressman Dan Rostenkowski, Chairman of the House Committee on Ways and Means, and from Senator Lloyd Bentsen, Chairman of the Senate Committee on Finance, which describes in greater detail the information that the Committees would like included in the report. More specifically, the Committee chairmen asked that the Commission assess the existing rules of origin with regard to their uniform and consistent application and determine the extent, if any, to which the achievement of the goals of CBERA would be furthered by appropriate improvements, and to consider modifications that would improve their predictability of result, as well as their uniform and consistent administration. The Committee chairmen also stated that the Commission should seek the views of the private sector, particularly firms which import goods from beneficiary countries, and U.S. Government agencies as well as consider holding a public hearing in Washington, DC, to facilitate the receipt of views.

The Commission will review the present rules of origin under CBERA with respect to administerability, particularly with regard to complexity of implementation, uniformity of application and consistency of determination.

The Commission will also consider whether the rules should be revised, and whether such revision should take into account other means of determining origin adopted or proposed by the United States since the enactment of CBERA. In this regard the Commission may consider whether other United States rules of origin (e.g., a change of heading rule such as that used under the U.S.-Canada Free Trade Agreement) could be adapted to or incorporated in whole or in part into the CBERA rules of origin. If the Commission determines that revised rules are necessary, it will provide recommended revised rules. The report will be submitted to President and the Congress by May 20, 1991.

PUBLIC HEARING: A public hearing in connection with this investigation will be held in the Hearing Room of the U.S. International Trade Commission, 500 E Street, SW, Washington, DC., on January 16, 1991, at 9:30 a.m. All persons shall have the right to appear by counsel or in person, to present information and to be heard. Requests to appear at the public hearing should be filed with the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC., 20436, not later than noon, December 18, 1990. Written prehearing comments (original and 14 copies) should be filed not later than noon, December 19, 1990. Post-hearing comments must be submitted by no later than January 30, 1991.

WRITTEN SUBMISSIONS: Interested parties (including other Federal agencies) are invited to submit written statements concerning the subject of the report. Such statements must be submitted by no later than December 19, 1990, in order to be considered by the Commission. Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at

the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on 202-252-1809.

Issued October 24, 1990.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-25724 Filed 10-30-90; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-302- (Final) and 731-TA-454 (Final)]

Fresh and Chilled Atlantic Salmon From Norway

AGENCY: United States International Trade Commission.

ACTION: Institution of a final antidumping investigation and scheduling of a hearing to be held in connection with both the subject investigations.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731-TA-454 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Norway of fresh and chilled Atlantic salmon,[1] provided for in subheading 0302.12.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce, in a preliminary determination, to be sold in the United States at less than fair value (LTFV). The Commission also gives notice of the scheduling of a hearing in connection with this antidumping investigation and with the countervailing duty investigation regarding imports of fresh and chilled Atlantic salmon from Norway, investigation No. 701-TA-302 (Final), which the Commission instituted effective June 26, 1990 (55 FR 31246, August 1, 1990). The schedules for the subject investigations will be identical, pursuant ot Commerce's alignment of the final countervailing duty and LTFV determinations (55 FR 32107, August 7, 1990). Commerce is scheduled to make its final countervailing duty and LTFV determinations on or before February 8, 1991, and the Commission will make its final injury determinations within 45 days after receipt of Commerce's final determinations (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673(b))).

For further information concerning the conduct of these investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR part 207), and part 201, subparts A through E (19 CFR part 201).

EFFECTIVE DATE: October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Rebecca Woodings, (202-252-1192), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION:

Background.—The subject antidumping investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of fresh and chilled Atlantic salmon from Norway are being sold in the United States at less than fair value within the meaning of section 733 of the act (19 U.S.C. 1673b). The Commission instituted the subject countervailing duty investigation on June 26, 1990. The investigations were requested in a petition filed on February 26, 1990, by the Coalition for Fair Atlantic Salmon Trade. In response to that petition the Commission conducted preliminary countervailing duty and antidumping investigations and, on the basis of information developed during the course of those investigations, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (55 FR 17567, April 25, 1990).

Participation in the investigations.—Any person having already filed an entry of appearance in the countervailing duty investigation is considered a party in the antidumping investigation. Any other persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary of the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Public service list.—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each public document filed by a party to the investigations must be served on all other parties to the investigations (as identified by the public service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Limited disclosure of business proprietary information under a protective order and business proprietary information service list.—Pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)), the Secretary will make available business proprietary information gathered in these final investigations to authorized applicants under a protective order, provided that the application be made not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. Any person having already been authorized to receive business proprietary information in the countervailing duty investigation need not reapply to receive such information in the antidumping investigation. A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under a protective order. The Secretary will not accept any submission by parties containing business proprietary

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[1] Atlantic salmon is the species Salmo salar. The product "fresh and chilled Atlantic salmon" refers to fresh whole or nearly whole Atlantic salmon, typically (but not necessarily) marketed gutted, bled, and cleaned, with the head on, and packed in fresh-water ice ("chilled"). Excluded are fresh Atlantic salmon that has been cut into fillets, steaks, and other cuts; Atlantic salmon that is frozen, canned, smoked, or otherwise processed; and other species of fish, including other species of salmon.

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information without a certificate of service indicating that it has been served in all the parties that are authorized to receive such information under a protective order.

Staff report.—The prehearing staff report in these investigations will be placed in the nonpublic record on January 25, 1991, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with these investigations beginning at 9:30 a.m. on February 14, 1991 at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on February 4, 1991. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on February 7, 1991 at the U.S. International Trade Commission Building. Pursuant to § 207.22 of the Commission's rules (19 CFR 207.22) each party is encouraged to submit a prehearing brief to the Commission. The deadline for filing prehearing briefs is also February 7, 1991. If prehearing briefs contain business proprietary information, a nonbusiness proprietary version is due on February 8, 1991.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonbusiness proprietary summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any business proprietary materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2))).

Written submissions.—Prehearing briefs submitted by parties must conform with the provisions of § 207.22 of the Commission's rules (19 CFR 207.22) and should include all legal arguments, economic analyses, and factual materials relevant to the public hearing. Posthearing briefs submitted by parties must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on February 20, 1991. If posthearing briefs contain business proprietary information, a nonbusiness proprietary version is due February 21, 1991. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before February 20, 1991.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for business proprietary data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of § 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)) may comment on such information in their prehearing and posthearing briefs, and may also file additional written comments on such information no later than February 25, 1991. Such additional comments must be limited to comments on business proprietary information received in or after the posthearing briefs. A nonbusiness proprietary version of such additional comments is due February 26, 1991.

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: October 24, 1990.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-25727 Filed 10-30-90; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-457 (Final)]

Heavy Forged Handtools From the People's Republic of China

AGENCY: United States International Trade Commission.

ACTION: Institution of a final antidumping investigation and scheduling of a hearing to be held in connection with investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731-TA-457 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the People's Republic of China of heavy forged handtools,[1] provided for in subheadings 8201.30.00, 8201.40.60, 8205.20.60, and 8205.59.30 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce, in preliminary determinations, to be sold in the United States at less than fair value (LTFV). Unless the investigation is extended, Commerce will make its final LTFV determinations on or before December 26, 1990, and the commission will make its final injury determination by February 11, 1991 (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR part 207), and part 201, subparts A through E (19 CFR part 201).

EFFECTIVE DATE: October 15, 1990.

FOR FURTHER INFORMATION CONTACT: Woodley Timberlake (202-252-1188), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

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[1] For purposes of this investigation, the term "heavy forged handtools" covers the following products, finished or unfinished, with or without handles: (1) hammers and sledges with heads over 1.5 kilograms (3.25 pounds) each (hammers and sledges); (2) bars over 18 inches in length, track tools and wedges (bars and wedges); (3) picks and mattocks; and (4) axes, adzes and similar hewing tools (axes and adzes). This investigation does not include hammers and sledges with heads 1.5 kilograms (3.25 pounds) in weight and under, hoes and rakes, or bars 18 inches in length and under.

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SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted as a result of affirmative preliminary determinations by the Department of Commerce that imports of heavy forged handtools from the People's Republic of China are being sold in the United States at less than fair value within the meaning of section 733 of the act (19 U.S.C. 1673b). The investigation was requested in a petition filed on April 4, 1990, by Woodings-Verona Tool Works, Inc., Verona, PA. In response to that petition the Commission conducted a preliminary antidumping investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (55 FR 22109 (May 31, 1990)).

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Public service list.—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each public document filed by a party to the investigation must be served on all other parties to the investigation (as identfied by the public service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Limited disclosure of business proprietary information under a protective order and business proprietary information service list.—Pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)), the Secretary will make available business proprietary information gathered in this final investigation to authorized applicants under a protective order, provided that the application be made not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under a protective order. the Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that it has been served on all the parties that are authorized to receive such information under a protective order.

Staff report.—The prehearing staff report in this investigation will be placed in the nonpublic record on December 13, 1990, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on January 3, 1991, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on December 21, 1990. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on December 27, 1990, at the U.S. International Trade Commission Building. Pursuant to § 207.22 of the Commission's rules (19 CFR 207.22) each party is encouraged to submit a prehearing brief to the Commission. The deadline for filing prehearing briefs is December 24, 1990. If prehearing briefs contain business proprietary information, a nonbusiness proprietary version is due December 26, 1990.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonbusiness proprietary summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any business proprietary materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2))).

Written submissions.—Prehearing briefs submitted by parties must conform with the provisions of § 207.22 of the Commission's rules (19 CFR 207.22) and should include all legal arguments, economic analyses, and factual materials relevant to the public hearing. Posthearing briefs submitted by parties must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on January 9, 1991. If posthearing briefs contain business proprietary information, a nonbusiness proprietary version is due Janaury 10, 1991. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before January 9, 1991.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for business proprietary data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)) may comment on such information in their prehearing and posthearing briefs, and may also file additional written comments on such information no later than January 14, 1991. Such additional comments must be limited to comments on business proprietary information received in or after the posthearing briefs. A nonbusiness proprietary version of such additional comments is due January 15, 1991.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: October 23, 1990.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-25728 Filed 10-30-90; 8:45 am]

BILLING CODE 7020-02-M

Certain Pressure Transmitters; Limited Exclusion Order

[Inv. No. 337-TA-304]

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has issued a limited exclusion order under subsection (d) of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337(d)) to prevent the unauthorized importation and sale of pressure sensors and pressure transmitters which are manufactured abroad by SMAR Equipment of Sao Paulo Brazil using a process that is covered by claims 1–4 of U.S. Letters Patent 3,800,413.

ADDRESSES: Copies of the limited exclusion order and all other non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–252–1000.

FOR FURTHER INFORMATION CONTACT: Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–252–1104. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810.

SUPPLEMENTARY INFORMATION: On September 15, 1989, Rosemount, Inc. (Rosemount) filed a complaint with the Commission alleging a violation of section 337 in the importation and sale of certain pressure transmitters covered by claims 1–4 of U.S. Letters Patent 3,800,413, owned by Rosemount. Pressure transmitters are devices use to measure flow rates in industrial processes. On October 20, 1989, the Commission published notice of an investigation based on Rosemount's complaint and named SMAR Equipment of Sao Paulo, Brazil and SMAR International Corp. of Ronkonkoma, New York as respondents. 54 FR 43145.

On July 2, 1990, the presiding administrative law judge (ALJ) issued an initial determination (ID) finding a violation of section 337 in the above-captioned investigation. The Commission adopted the ID with minor modifications. 55 FR 34627 (August 23, 1990). Having determined that there was a violation of section 337, the Commission requested that the parties and interested members of the public file submissions on the issues of remedy, the public interest, and bonding. *Id.* Complainant, respondents, and the Commission investigative attorney filed submissions.

After considering the submissions, the Commission determined that the public interest considerations listed in subsection (d) of section 337 do not preclude issuance of a limited exclusion order and that while the order is under review by the President pursuant to subsection (j) of section 337 (19 U.S.C. 1337), the excluded articles will be entitled to enter the United States under a bond in the amount of 38 percent of their entered value.

This action is taken under authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and § 210.563 through 58 of the Commission's interim rules (19 CFR § 210.53–.58).

Issued: October 22, 1990.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 90–25725 Filed 10–30–90; 8:45 am]

BILLING CODE 7020–02–M

[Investigations Nos. 731–TA–465 and 468 (Final)]

Sodium Thiosulfate From the Federal Republic of Germany and the United Kingdom

AGENCY: United States International Trade Commission

ACTION: Institution of final antidumping investigations and scheduling of a hearing to be held in connection with the investigations.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigations Nos. 731–TA–465 and 468 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the Federal Republic of Germany and the United Kingdom of sodium thiosulfate, provided for in subheading 2832.30.10 of the Harmonized Tariff Schedule of the United States that have been found by the Department of Commerce, in a preliminary determination, to be sold in the United States at less than fair value (LTFV). Unless the investigations are extended, Commerce will make its final LTFV determinations on or before December 26, 1990, and the Commission will make its final injury determinations by February 12, 1991 (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673d(b))).

For further information concerning the conduct of these investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR part 207), and part 201, subparts A through E (19 CFR parts 201).

EFFECTIVE DATE: October 16, 1990.

FOR FURTHER INFORMATION CONTACT: Bruce Cates (202–252–1187), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–252–1000.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted as a result of affirmative preliminary determinations by the Department of Commerce that imports of sodium thiosulfate from the Federal Republic of Germany and the United Kingdom are being sold in the United States at less than fair value within the meaning of section 733 of the act (19 U.S.C. 1673b). The investigation was requested in a petition filed on July 9, 1990, by Calabrian Corp., Houston, TX. In response to that petition the Commission conducted preliminary antidumping investigations and, on the basis of information developed during the course of those investigations, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (55 FR 35373, August 29, 1990).

Participation in the investigations.—Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Public service list.—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a public service list containing

the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expirationof the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each public document filed by a party to the investigations must be served on all other parties to the investigation (as identified by the public service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Limited disclosure of business proprietary information under a protective order and business proprietary information service list.—Pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)), the Secretary will make available business proprietary information gathered in these final investigations to authorized applicants under a protective order, provided that the application be made not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under a protective order. The Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that it has been served on all the parties that are authorized to receive such information under a protective order.

Staff report.—The prehearing staff report in these investigations will be placed in the nonpublic record on December 18, 1990, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with these investigations beginning at 9:30 a.m. on January 4, 1991, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on December 31, 1990. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on January 3, 1991, at the U.S. International Trade Commission Building. Pursuant to § 207.22 of the Commission's rules (19 CFR 207.22) each party is encouraged to submit a prehearing brief to the Commission. The deadline for filing prehearing briefs is December 28, 1990. If prehearing briefs contain business proprietary information, a nonbusiness proprietary version is due December 31, 1990.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonbusiness proprietary summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any business proprietary materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)((2))).

Written submissions.—Prehearing briefs submitted by parties must conform with the provisions of § 207.22 of the Commission's rules (19 CFR 207.22) and should include all legal arguments, economic analyses, and factual materials relevant to the public hearing. Posthearing briefs submitted by parties must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on January 10, 1991. If posthearing briefs contain business proprietary information, a nonbusiness proprietary version is due January 11, 1991. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before January 10, 1991.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for business proprietary data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)) may comment on such information in their prehearing and posthearing briefs, and may also file additional written comments on such information no later than January 15, 1991. Such additional comments must be limited to comments on business proprietary information received in or after the posthearing briefs. A nonbusiness proprietary version of such additional comments is due January 16, 1991.

Authority. These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: October 25, 1990.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-25720 Filed 10-30-90; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Agency Information Collection Activities Under OMB Review

The following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) were submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Darlene Proctor (202) 275-7322. Comments regarding this information collection should be addressed to Darlene Proctor, Interstate Commerce Commission, room 2121, Washington, DC 20423 and to Wayne Brough, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503.

Type of Clearance: New Collection.
Bureau/Office: Bureau of Accounts.
Title of Form: Classification Survey Form for Motor Carriers of Property which do not file an Annual Report with the Commission.
OMB Form Number: 3120-____ (to be assigned by OMB).
Agency Form No.: ACAA-21.
Frequency: Annually.
No. of Respondents: 40,656.
Total Burden Hours: 10,164.

Type of Clearance: New Collection.
Bureau/Office: Bureau of Accounts.
Title of Form: Classification Survey Form for Motor Carriers of Passengers

which do not file an Annual Report with the Commission.
OMB Form Number: 3120-____ (to be assigned by OMB).
Agency Form No.: ACAA-22.
Frequency: Annually.
No. of Respondents: 3,744.
Total Burden Hours: 936.
Sidney L. Strickland, Jr.,
Secretary.
[FR DOC. 90-25757 Filed 10-30-90; 8:45 am]
BILLING CODE 7035-01-M

[I.C.C. Order No. P-199]

Passenger Train Operation: Chicago Central & Pacific Railroad Co.

The National Railroad Passenger Corporation (AMTRAK) has established through passenger train service between Chicago, Illinois and Seattle, Washington, Train Nos. 7 & 8, the Empire Builder. These train operations require the use of tracks and other facilities of the Soo Line Railroad Company (SL). A portion of the SL tracks between La Crosse and Tomah, Wisconsin are out of service because of track work. An alternate route is available over the Burlington Northern Railroad Company that requires the use of the Chicago Central & Pacific Railroad Company tracks between East DuBuque and Portage, Illinois.

It is the opinion of the Commission that such an operation is necessary in the interest of the public and the commerce of the people; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to authority vested in me by order of the Commission decided January 13, 1966, and of the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), Chicago Central & Pacific Railroad Company is directed to operate trains of the National Railroad Passenger Corporation between East Dubuque and Portage, Illinois in order to permit a rerouting utilizing the Burlington Northern Railroad Company.

(b) In executing the provisions of this order, the common carriers involved shall proceed even if no agreements or arrangements may now exist between them with reference to the compensation terms and conditions applicable to said operations. The compensation terms and conditions shall be, during the time this order remains in force those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(d) *Effective date.* This order shall become effective at 12:01 a.m. (CDT), September 24, 1990.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m. (CDT), September 24, 1990, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon the Chicago Central & Pacific Railroad Company and the National Railroad Passenger Corporation, and a copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, DC, September 20, 1990, by Heber P. Hardy, Agent.
Sidney L. Strickland, Jr.,
Secretary.
[FR Doc. 90-25758 Filed 10-30-90; 8:45 am]
BILLING CODE 7035-01-M

INTERSTATE COMMERCE COMMISSION EXEMPTION

[Finance Docket No. 31697]

BGM Equipment Co., Inc.—Acquisition Exemption—Montana Department of Commerce

The BGM Equipment Co., Inc. (BGM), has filed a notice of exemption to acquire approximately 30 miles of railroad owned by the State of Montana (through its Department of Commerce). The track consists of the following three lines in Silver Bow and Deer Lodge Counties, MT: (1) A line that extends between Butte (milepost 0.0) and Anaconda (milepost 25.29) and then extends to a point approximately 4.7 miles west of Anaconda; (2) the 0.84-mile Mill Creek Branch; and (3) the 0.42-mile Stoart Branch.[1] After the acquisition, the current operator of the line, the Rarus Railway Company, will continue to provide service over the line, which it has been operating under a lease from the State. The transaction is expected to be consummated on or before January 31, 1991.

Any comments must be filed with the Commission and served on: Stephen W. McVearry, Weiner, McCaffrey Brodsky, Kaplan & Levin, P.C., suite 800, 1350 New York Avenue, NW., Washington, DC 20005-4797.

BGM shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the line that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470.[2]

This notice is file under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: October 24, 1990.
By the Commission, David M. Konschnik, Director, Office of Proceedings.
Sidney L. Strickland, Jr.,
Secretary.
[FR Doc. 90-25759 Filed 10-30-90; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 31610]

Chicago West Pullman Corp. and Chicago West Pullman Transportation Corp.—Control Exemption—Iowa Interstate Railroad Ltd.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 11343, *et seq.*, Chicago West Pullman Corporation's and Chicago West Pullman Transportation Corp.'s acquisition of control of Iowa Interstate Railroad Ltd., subject to standard labor protective conditions.

DATES: The exemption will be effective on November 10, 1990. Petitions for reconsideration must be filed by November 20, 1990.

ADDRESSES: Send pleadings referring to Finance Docket No. 31610 to:

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[1] BGM's owners, two noncarrier individuals, have also filed a petition for exemption from the prior review and approval requirements of 49 U.S.C. 11343 for their control of BGM, Rarus Railway Company, and Montana Western Railway Co., Inc., in Finance Docket No. 31696.

[2] Applicant certifies that it has identified for the appropriate State Historic Preservation Office all sites and structures 50 years old or older that will be transferred as a result of this transaction

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
(2) Petitioners' representative: Peter A. Greene, 1920 N Street, NW., suite 700, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 275-7245 [TDD for hearing impaired (202) 275-1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 275-1721.]

Decided: October 23, 1990.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Emmett, and McDonald.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-25760 Filed 10-30-90; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31659]

Wisconsin Central Ltd.—Trackage Rights Exemption—The Baltimore and Ohio Chicago Terminal Railroad Company, Consolidated Rail Corporation, Illinois Central Railroad Company, and Chicago and North Western Transportation Company

The Baltimore and Ohio Chicago Terminal Railroad Company (B&O), Consolidated Rail Corportion (Conrail), Illinois Central Railroad Company (IC), and the Chicago and North Western Transportation Company (CNW) have agreed to grant overhead trackage rights to Wisconsin Central Ltd. (WCL), within the Chicago Terminal District.

B&O will grant rights between: (1) Its Altenheim Subdivision milepost 37.4, at Forest Park, IL, and its Blue Island Subdivision milepost 15.2, at Blue Island Junction, Chicago, IL, a distance of 22.2 miles; (2) a point 97 feet east of the east line of South Halsted Street, Chicago, and its connection with the St. Charles Air Line, a distance of 0.75 miles; and (3) over approximately 2.9 miles of its McCook Branch in Franklin Park, IL, extending between IHB mileposts 37.0 and 38.8, and thence to its connection with the Soo Line Railroad at IHB milepost 39.9.

Conrail will grant rights over its Chicago River and Indiana Branch Line Between Brighton Park, IL, at approximately milepost 2.75±, and the point of connection between Conrail and the Chicago, Western & Indiana Railroad (currently operated by Chicago Rail Link) west of Princeton Avenue, at valuation station 294+00, including the north leg of Conrail's 40th Street and Normal Avenue Wye Track, at approximately milepost 0.25±, Chicago, a distance of approximately 2.8 miles.

IC will grant rights between its Markham Yard facility in Hazel Crest, IL, and its connection with CNW near 16th Street in Chicago, a distance of approximately 22 miles.

CNW will grant rights between a point 112 feet west of Roosevelt Rd., Chicago, and its connection with the St. Charles Air Line, Chicago, a distance of 3.05 miles. The trackage rights were to become effective 7 days after filing.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commisison and served on: Janet Gilbert, Wisconsin Central Ltd., 6250 North River Road, suite 9000, Rosemont, IL 60018.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: October 23, 1990.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-25630 Filed 10-30-90; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on October 16, 1990 a proposed Partial Consent Decree in *United States* v. *Bethlehem Steel Corporation*, Civil Action No. 87-5438 was lodged with the United States District Court for the Eastern District of Pennsylvania. The Complaint in this case alleged violations of the Clean Air Act ("Act") and the Indiana State Implementation Plan ("SIP") relating to visible emissions at two coke oven batteries at Bethlehem's Burns Harbor steel mill, and additional violations at steel mills in Bethlehem and Johnstown, Pennsylvania.

The proposed Partial Consent Decree, which settles claims for violations alleged at the Burns Harbor mill, requires that Bethlehem take specified actions to comply with the Act and the SIP. The proposed Decree also provides that Bethlehem will pay the United States a civil penalty of $600,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Bethlehem Steel Corporation*, DOJ Ref. No. 90-5-2-1-1023.

The proposed Consent Decree may be examined at the Offices of the United States Attorney, Eastern District of Pennsylvania, 13th Floor, 615 Chestnut Street, Philadelphia, Pa. 19106, at the Region V Office of the United States Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, and at the Environmental Enforcement Section Document Center, 1333 F Street, NW., suite 600, Washington, DC 20004, 202-347-7829. A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $5.00 (25 cents per page reproduction costs) payable to "Consent Decree Library."

Richard B. Stewart,

Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 90-25711 Filed 10-30-90; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-24,440]

H & H Manufacturing Corp. Statham, GA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 27, 1990, applicable to all workers of H & H Manufacturing Corporation Statham, Georgia. The notice was published in the Federal Register on August 9, 1990 (55 FR 32504).

At the request of the State Agency the Department reviewed the certification for H & H Manufacturing Corporation and found that several workers were retained for close out operations after the July 31, 1990 termination date. Therefore, the certification is amended by deleting the July 31, 1990 termination date and inserting a new termination date of October 1, 1990. The amended notice applicable to TA–W–24,440 is hereby issued as follows:

"All workers of H & H Manufacturing Corporation, Statham, Georgia who became totally or partially separated from employment on or after May 16, 1989 and before October 1, 1990 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974."

Signed at Washington, DC this 19th day of October 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90–25742 Filed 10–30–90; 8:45 am]

BILLING CODE 4510–30–M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period October 1990.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–24,751; KY and J Shake Co., Chehalis, WA

TA–W–24,652; Sue Frocks, Inc., Tamaqua, PA

TA–W–24,707; Barclay Furniture Co, Hickory Flat, MS

TA–W–24,761; Northwest Cedar, Inc., Burlington, WA

TA–W–24,722; S. Kostenbaum & Co., New York, NY

TA–W–24,708; Beloit Corp., Beloit, WI

TA–W–24,709; Beloit Corp., South Beloit, WI

TA–W–24,678; Advanced Monobloc Corp., Canbury, NJ

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA–W–24,778; ELW, Lafayette, GA

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–24,768; W & W Design Manufacturing Co., Linden, NJ

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–24,634; Bull HN, Edina, MN

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–24,856; Land & Marine Rental Co., Vernal, UT

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–24,762; Ranger Well Service, Inc., Kilgore, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–24,753; Larson Manufacturing Co., Newark, NJ

The investigation revealed that criterion (2) has not been met. Sales of production did not decline during the relevant period as required for certification.

TA–W–24,766; TXO Production Corp, Corpus Christi, TX

The investigation revealed that criterion (1) has not been met. A significant number or proportion of the workers did not become totally or partically separated as required for certification. The investigation also revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–24,745; Helmerich & Payne, IDC, Oklahoma City, OK

The investigation revealed that criterion (1) has not been met. A significant number or proportion of the workers did not become totally or partially separated as required for certification. The investigation also revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

Affirmative Determinations

TA–W–24,748; Instrumentation Laboratory, Spokane, WA

A certification was issued covering all workers separated on or after July 31, 1989.

TA–W–24,695; Patton Industries, Inc., Patton, PA

A certification was issued covering all workers separated on or after July 25, 1989.

TA–W–24,805; Taunton Silversmith, Ltd, Taunton, MA

A certification was issued covering all workers separated on or after August 16, 1989.

TA–W–24,763; RB & W Corp., Cleveland, OH

A certification was issued covering all workers separated on or after August 10, 1989.

TA–W–24,711; F.R. Knitting Mills, Inc., Fall River, MA

A certification was issued covering all workers separated on or after August 2, 1989.

TA–W–24,723; Steffy Shoe Co., Lebanon, PA

A certification was issued covering all workers separated on or after August 3, 1989.

TA–W–24,743; H & H Star Energy, DBA Petrostar Energy, Traverse City, MI

A certification was issued covering all workers separated on or after January 1, 1990.

TA–W–24,746; Hodes Dress Co., Inc., Plainfield, NJ

A certification was issued covering all workers separated on or after August 9, 1989.

TA–W–24,732; Canton Sewing, Canton, OH

A certification was issued covering all workers separated on or after August 9, 1989.

TA–W–24,738; Florian Fashions, Inc., Cleveland, OH

A certification was issued covering all workers separated on or after August 9, 1989.

TA–W–24,738A; Jerrie Lurie Sewing Co., Cleveland, OH

A certification was issued covering all workers separated on or after August 9, 1989.

I hereby certify that the aforementioned determinations were issued during the month of October 1990. Copies of these determinations are available for inspection in room C4318, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210 during normal business hours or will be mailed to persons to write who the above address.

Dated: October 23, 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90-25743 Filed 10-30-90; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-24,617 and TA-W-24,627]

Oklahoma Pipe Threaders, Wynnewood, OK; Valley Enterprises, Wynnewood, OK: Dismissal of Application for Reconsideration

Pursuant of 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Oklahoma Pipe Threaders, Wynnewood, Oklahoma and at Valley Enterprises, Wynnewood, Oklahoma. The reviews indicated that the applications contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of applications were issued.

TA-W-24,617; Oklahoma Pipe Threaders, Wynnewood, Oklahoma (October 23, 1990)

TA-W-24,627; Valley Enterprises, Wynnewood, Oklahoma (October 23, 1990)

Signed at Washington, DC this 23rd day of October 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90-25746 Filed 10-30-90; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-90-150-C]

Peabody Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Peabody Coal Company, Inc., P.O. Box 373, St. Louis, Missouri 63166, has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Eagle No. 2 Mine (I.D. No. 11-00598) located in Gallatin County, Illinois. The petition if filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that aircourses be examined in their entirety on a weekly basis.

2. Application of the standard would result in a diminution of safety to the miners.

3. As an alternate method, petitioner proposes to establish six evaluation points and monitor for dangerous and harmful mine gases.

4. In support of this request, petitioner states that:

(a) Examinations would occur weekly, and the results of the examinations would be recorded in a book to be maintained at each location.

(b) Persons assigned to monitor the air would be trained in the procedure for sampling and notifying appropriate officials in the event of detecting harmful or dangerous mine gases.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 30, 1990. Copies of the petition are available for inspection at that address.

Dated: October 24, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-25744 Filed 10-30-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-90-151-C]

Toney's Branch Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Toney's Branch Coal Company, P.O. Box 8, Beaver, West Virginia 25813, has filed a petition to modify the application of 30 CFR 75.1710-1 (cabs and canopies) to its Crooked Run No. 3 Mine (I.D. No. 46-07442) located in Boone County, West Virginia. The petition if filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that canopies be installed on the mine's electric face equipment at certain heights.

2. Due to changes in the coal seam and bottom conditions, the use of canopies would result in a diminution of safety because canopies would:

(a) Dislodge roof support;

(b) Decrease the operator's visibility; and

(c) Create discomfort to the operator.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 30, 1990. Copies of the petition are available for inspection at that address.

Dated: October 24, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-25745 Filed 10-30-90; 8:45 am]

BILLING CODE 4510-43-M

Office of Federal Contract Compliance Programs

Reinstatement of Feature Enterprises, Inc. (formerly Feature Ring)

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Notice of Reinstatement, Feature Enterprises, Inc. (formerly Feature Ring).

SUMMARY: This notice advises that Feature Enterprises, Inc. (formerly Feature Ring), has been reinstated as an eligible bidder on Federal contracts and subcontracts.

FOR FURTHER INFORMATION CONTACT: Carl M. Domingues, Director, Office of Federal Contract Compliance Programs, U.S. Department of Labor, 200 Constitution Avenue, NW. room C-3325, Washington, DC 20210 (202-523-9475).

SUPPLEMENTARY INFORMATION: Feature Enterprises, Inc. (formerly Feature Ring), New York, New York, is, as of this date, reinstated as an eligible bidder on Federal contracts and subcontracts.

Signed: October 22, 1990, Washington, DC.
Carl M. Domingues,
Director.
[FR Doc. 90-25741 Filed 10-30-90; 8:45 am]
BILLING CODE 4510-27-M

Pension and Welfare Benefits Administration

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on November 8, 1990, in room S-4215, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

The purpose of the Sixty-Sixth meeting of the Secretary's ERISA Advisory Council which will begin at 9:30 a.m., is to have each working group i.e., Annuities; Pension Fund Investment Behavior; Enforcement, present its report to the Council for review, discussion and finalization, and to invite public comment on any aspect of the administration of ERISA.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before November 6, 1990 to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, suite N-5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals, or representatives of organizations wishing to address the Advisory Council should forward their request to the Executive Secretary or telephone (202) 523-8753. Oral presentations will be limited to ten minutes, but an extended statement may be submitted for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statement should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before November 6, 1990.

Signed at Washington, DC, this 26th day of October, 1990.

David George Ball,
Assistant Secretary for Pension and Welfare Benefits Administration.
[FR Doc. 90-25761 Filed 10-30-90; 8:45 am]
BILLING CODE 4510-29-M

MERIT SYSTEMS PROTECTION BOARD

Advisory Committee on Federal Workforce Quality Assessment; Meeting

AGENCY: Merit Systems Protection Board.

ACTION: Notice of advisory committee meeting.

SUMMARY: The Merit Systems Protection Board and Office of Personnel Management are holding an open meeting of the jointly sponsored advisory committee. According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Advisory Committee on Federal Workforce Quality Assessment will be held on November 15, 1990, from 8:30 a.m. to 4 p.m. at the Office of Personnel Management, room 1350, 1900 E Street, NW., Washington, DC. The committee will review the progress of effors made by OPM and MSPB so far to assess the quality of the federal workforce and discuss a proposed quality assessment model.

FOR FURTHER INFORMATION CONTACT: Katherine Naff, Office of Policy and Evaluation, Merit Systems Protection Board, 1120 Vermont Avenue, NW., Washington, DC 20419, (202) 653-7833.

Dated: October 26, 1990.

Robert E. Taylor,
Clerk of the Board.
[FR Doc. 90-25752 Filed 10-30-90; 8:45 am]
BILLING CODE 7400-01-M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from October 5, 1990, through October 19, 1990. The last biweekly notice was published on October 17, 1990 (55 FR 42091).

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, D.C. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By November 30, 1990, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who

wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C. 20555 and at the Local Public Document Room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (Project Director): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C., and at the local public document room for the particular facility involved.

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendment request: January 20, 1989, as supplemented on June 30, 1989, and October 4, 1990.

Description of amendment request: The proposed changes would revise the auxiliary feedwater (AFW) actuation delay time in Technical Specification Table 3.3-5, Item 10, of the Engineered Safety Features Response Times. The proposed amendments would change the response (delay) time from less than

or equal to 54.5 seconds to less than or equal to 180 seconds. The proposed response time is applicable to the steam driven and motor-driven AFW pumps.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92.

The licensee has evaluated the proposed amendments against the standards provided above and has determined that operation of the facilities in accordance with the proposed amendments would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated:

The longer response in AFW initiation affects only mitigative hardware, not operating hardware involving plant operation. This will not increase the likelihood of any accident. The supporting analysis demonstrates that the increased response time will not result in the depletion of the steam generator (SG) liquid inventory during a Loss of Feedwater Event. Therefore, the consequence of this event will not be significantly increased.

(2) Create the possibility of a new or different type of accident from any accident previously evaluated:

The proposed change does not affect any normal hardware involved in plant operation. The Updated Final Safety Analysis Report has been reviewed and the only accident of concern is the Loss of Feedwater Event. This change will not create any new accident sequence initiators or present any new or different challenges to safety systems. The method for operating and testing the systems will not be altered. This proposed change will not create a new or different type of accident from any previously evaluated.

(3) Involve a significant reduction in a margin of safety:

The analysis shows that the SGs do not dry out as a result of this change. No loss of heat sink will occur. Therefore, no significant reduction in a margin of safety is involved.

The staff has reviewed and agrees with the licensee's analysis of the significant hazards consideration determination. Based on the review and the above discussion, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Calvert County Library, Prince Frederick Maryland.

Attorney for licensee: Jay E. Silbert, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, DC 20037.

NRC Project Director: Robert A. Capra

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: September 21, 1990

Description of amendments request: The licensee installed six cooling units in the drywells of Units 1 and 2, as part of a commitment to the NRC. This was accomplished to restore design redundancy to the drywell ventilation system. Technical Specification 3/4.8.3.2, "Primary Containment Penetration Conductor Overcurrent Protective Devices," established requirements for the operability of these devices. The licensee proposes to add to Table 3.8.3.2-1 the new overcurrent protective devices associated with the new cooling units to assure they are properly controlled and tested. Also to clarify the Bases for 3/4.8.3, "Electrical Equipment Protective Devices," it is proposed to identify the electrical devices as medium and high voltage (6.9kv, 4.16kv and 480 volt).

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has provided the following analysis of no significant hazards consideration using the Commission's standards.

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because:

This amendment proposal is an administrative change to extend the existing technical specification requirements for primary containment penetration conductor overcurrent protection devices to the fault protection breakers for primary containment coolers installed during a recent plant modification. The modification was completed as part of a commitment to the NRC to restore the design redundancy of the primary containment cooling system. Although the installations have been seismically designed and analyzed, the modification is classified as non-safety related and does not interface with safety related equipment in a manner that has not previously been evaluated in the LaSalle Station UFSAR. The corrections to Table 3.8.3.2-1 do not change the intent of the technical specifications but merely correct the identification numbers for the primary containment ventilation supply fans.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because:

The existing conditions and accident analysis of the UFSAR are unchanged. The single failure events and design basis accidents are not affected. Extension of the existing technical specification requirements to the new overcurrent protective devices helps to ensure that the occurrence of a new or different kind of accident from any previously evaluated will remain unlikely.

(3) Involve a significant reduction in the margin of safety because:

Extension of the existing technical specification requirements to the new overcurrent protective devices helps to maintain the margin of safety already existing.

Based on the previous discussions, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated; does not create the possibility of a new or different kind of accident from any accident previously evaluated; and does not involve a reduction in the required margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. The staff, therefore, proposes to determine that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois 61348.

Attorney to licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

NRC Project Director: Richard J. Barrett

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of amendment request: September 28, 1990

Description of amendment request: The proposed amendment would modify the Component Cooling System Technical Specification to reflect changes made to the power feeds for the Component Cooling Pumps, increase the Emergency Diesel Generator (EDG) short term rating, and increase the EDG fuel oil minimum storage requirements.

The proposed amendment would also clarify the text with respect to the EDG nameplate rating, the tanks designated to store the 7 day minimum EDG fuel oil inventory, and the 138/345 kv feeds at the Buchanan Substation.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92.

The licensee has evaluated the proposed amendment against the standards provided above and has supplied the following information:

The Commission has provided guidance concerning the application of the standards for determining whether a "Significant Hazards Consideration" exists by providing examples in 51 FR 7751 (dated March 5, 1986). Example (i) of the Commission's Examples of Amendments That Are Considered Not Likely to Involve Significant Hazards Considerations relates to an administrative change. This is the case with the proposed changes to Technical Specifications 3.7.A.5, 3.7.D.1.e, 3.7.D.2.f and Technical Specification Basis 3.7 with respect to fuel oil storage location. The existing text is erroneous, while the proposed text clearly references the location of the additional 29,000 gallons of fuel oil. The proposed change would correct the Technical Specifications wording to be consistent with IP-2 FSAR [Final Safety Analysis Report] Section 8.2.3.2. This is also the case with the proposed changes to Technical Specification 4.6.A.2 with respect to the EDG nameplate rating. Thus, the above discussed changes are similar to Example (i).

Example (ii) of the Commission's Examples of Amendments that Are Considered Not Likely to Involve Significant Hazards Considerations relates to a change which constitutes a more stringent surveillance requirement. The proposed revisions to Technical Specifications 3.3.E.1.a and 3.3.E.2.a and Technical Specification Basis 3.3 with respect to the component cooling pumps and to Technical Specifications 3.7.A.5, 3.7.D.1.e, 3.7.D.2.f and 4.6.B; and Technical Specification Basis 3.7 and 4.6 with respect to minimum required fuel oil inventory are such changes.

In accordance with the requirements of 10 CFR 50.92, the proposed changes to Technical Specifications 3.3.E.1.a and 3.3.E.2.a with respect to component cooling pump (CCPs) on busses supplied by different diesels are deemed not to involve a "Significant Hazards Consideration" because operation of Indian Point Unit No. 2 in accordance with this change would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The current power feed configuration to CCPs 21, 22 and 23 has EDG 21 feeding CCP 21 and EDG 22 feeding both CCPs 22 and 23. The subject technical specification addresses the availability of pumps, not by specific tag number, but by their EDG supply busses. Since both CCP 22 and 23 are powered off the same EDG, their operable status, should CCP 21 be out of service, would not satisfy the requirements of Technical Specification 3.3.E.1.a in its current form.

In addition, power cables for CCP 21 and 22 are routed in the same cable tray compromising the independence of having two EDGs providing power. Due to the above circumstances CCP 22 cannot be taken credit for in determining the operable status of the component cooling system, should CCP 21 or 23 be inoperable. As a result of the limitations discussed above, a modification will be performed to 1) re-route the power feed for CCP 23 from EDG 22 to 23 and 2) provide adequate separation between the feeder cables for CCP 21 and 22. This modification is an enhancement of the existing component cooling system since it increases the level of redundancy and independence of the CCPs. Technical Specification Basis 3.3 states that "following a loss-of-coolant accident, only one of the three component cooling pumps is required for minimum safeguards." The proposed modification as discussed above will enable any one of the three CCPs to be credited for in meeting minimum safeguards requirements. The proposed changes to Technical Specifications 3.3.E.1.a and 3.3.E.2.a with respect to CCPs deleting "on busses supplied by different diesels," constitutes a more stringent surveillance requirement since now, a third CCP (i.e., CCP 22) can be credited for meeting minimum safeguards. Therefore, the proposed changes to Technical Specifications 3.3.E.1.a and 3.3.E.2.a do not involve a significant increase in the probability or consequence of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The modification is an enhancement of the existing component cooling system since it increases the level of redundancy and independence of the CCPs. No mechanical changes to the CCPs are required with respect to these proposed changes. All changes are electrical in nature and/or are associated with providing for the physical separation of cables. Therefore, the proposed changes to Technical Specifications 3.3.E.1.a and 3.3.E.2.a with respect to CCPs, deleting "on busses supplied by different diesels," does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The modification is an enhancement of the existing component cooling system since it increases the level of redundancy and independence of the CCPs. The re-establishment of continuous motor-driven AFW pump operation will maintain the margin of safety as defined in the FSAR with respect to minimum safeguards equipment. Technical Specification Basis 3.3 and the IP-2 FSAR define the availability of one CCP during the recirculation phase as required for minimum safeguards. The modifications to the component cooling system will not reduce the margin of safety as described in the Technical Specifications. Therefore, the proposed changes to Technical Specifications 3.3.E.1.a and 3.3.E.2.a with respect to CCPs, deleting "on busses supplied by different diesels," does not involve a significant reduction in a margin of safety.

In accordance with the requirements of 10 CFR 50.92, the proposed changes to Technical Specifications 3.7.A.5, 3.7.D.1.e, 3.7.D.2.f and 4.6.B and Technical Specification Bases 3.7 and 4.6 with respect to minimum required fuel oil inventory are deemed not to involve a "Significant Hazards Consideration" because operation of Indian Point Unit No. 2 in accordance with this change would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

Since this proposed change is only an increase in the minimum required amount of fuel oil stored on-site (from 41,000 gallons to 48,000 gallons), since there are no physical changes being made to the fuel oil storage tanks with respect to this proposed change and since there is no impact on IPPSS [the Indian Point Probabilistic Safety Study], there is no increase in the probability of an accident previously evaluated.

With respect to a significant increase in the consequences of an accident previously evaluated, it is important to note that the proposed change increases the minimum required amount of additional fuel oil stored at the Buchanan Substation (via the use of the most conservative calculation possible) to assure that the minimum required 2 EDGs can operate for a minimum of 7 days prior to replenishing the fuel supply. Since this is and has been the requirement of Indian Point 2, this proposed change does not increase the consequences of an accident previously evaluated.

Therefore, these proposed changes to Technical Specifications 3.7.A.5, 3.7.D.1.e, 3.7.D.2.f and 4.6.B and Technical Specification Bases 3.7 and 4.6 with respect to minimum required fuel oil inventory do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change provides for an increase in the minimum required fuel oil inventory on-site (from 41,000 gallons to 48,000 gallons). No physical changes to the fuel oil storage tanks are required with respect to these proposed changes. Therefore, the proposed changes to Technical Specifications 3.7.A.5, 3.7.D.1.e, 3.7.D.2.f and 4.6.B and Technical Specification Basis 3.7 and 4.6 with respect to the minimum required fuel oil inventory do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

At Indian Point 2, Con Edison [Consolidated Edison] is required to provide sufficient on-site fuel oil storage to power 2 EDGs (the minimum required) for 7 days (168 hours). A diesel fuel oil calculation used the maximum load profile for the 2 EDGs. This load profile assumed that the 2 EDGs ran continuously for 7 days and that the first 2 hours of every 24 hours was at 2100 kW followed by a 1/2 hour at 2300 kW and the

remaining 21.5 at 1750 kW. Since the EDGs are rated at 1750 kW continuous and 2300 kW for 2 hours in any 24 hours of operation and 2360 kW for a 1/2 hour in any 24 hours of operation, the above utilized load profile envelopes the postulated accident load profile and is thus conservative. The result of the calculation showed the need of a minimum fuel oil inventory of 40,243 gallons. Therefore, a minimum requirement of 40,000 gallons is proposed, which includes a 9 percent margin. Finally it has been determined that this increase in the fuel oil inventory from 41,000 gallons to 48,000 gallons has no impact on EPSS.

Due to the increase in the fuel oil requirements discussed above, the minimum required inventory of the additional fuel oil stored at the Buchanan Substation has been increased from 12,000 gallons to 29,000 gallons. The fuel consumption rates were provided by the EDG manufacturer, ALCO, based upon the proposed upgraded engine and were used to determine how long the 19,000 gallons in the storage tanks and the 29,000 gallons stored at Buchanan would each last. Assuming 7 days continuous operation of 2 EDGs, with the first 2 hours of every 24 hours at 2100 kW followed by a 1/2 hour at 2300 kW and the remaining 21.5 hours at 1750 kW, it was determined that these supplies would last at least 73 hours and 112 hours respectively.

Thus, based on the conservative assumptions used in the diesel fuel oil calculation the margin of safety has either been maintained (i.e., the 7 day fuel oil supply requirement), or has been increased (i.e., the 41,000 gallons to 48,000 gallons increase in the minimum required diesel fuel oil inventory). Therefore, the proposed changes to Technical Specifications 3.7.A.5, 3.7.D.1.e, 3.7.D.2.f and 4.6.B and Technical Specification Bases 3.7 and 4.6 with respect to minimum required fuel oil inventory do not involve a significant reduction in a margin of safety.

Based on the above discussion, Con Edison has determined that the proposed changes to Technical Specifications 3.3.E.1.a and 3.3.E.2.a with respect to the component cooling pumps and to Technical Specifications 3.7.A.5, 3.7.D.1.e, 3.7.D.2.f and 4.6.B and Technical Specification Bases 3.7 and 4.6 with respect to minimum required fuel oil inventory are similar to Example (ii) and do not involve a "Significant Hazards Consideration."

Therefore, since these proposed changes to Technical Specification 3.3.E, 3.7.A, 3.7.D, 4.6.A and 4.6.B and Technical Specification Bases 3.7 and 4.6 satisfy the criteria specified in 10 CFR 50.92, are similar to examples for which "No Significant Hazards Consideration" exists, and are not similar to examples for which "Significant Hazards Consideration" exists, Con Edison has determined that these changes to not involve a "Significant Hazards Consideration."

The staff has reviewed and agrees with the licensee's analysis of the significant hazards consideration determination. Based on the review and the above discussion, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Attorney for licensee: Brent L. Brandenburg, Esq., 4 Irving Place, New York, New York 10003

NRC Project Director: Robert A. Capra

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: August 21, 1990

Description of amendment request: The proposed amendment would replace the specific requirements in Technical Specification (TS) 4.5.1 with a general statement which states that the Integrated Leak Rate Test (ILRT), will meet the 10 CFR 50, Appendix J, type A test requirements as approved exemptions. A minor related correction to the TS basis is also proposed.

TS Section 4.5.1 contains ILRT requirements. Currently, a half pressure test is required by TS. This change will allow the ILRT to be conducted at full pressure in accordance with 10 CFR 50, Appendix J. The licensee plans on conducting a full pressure test during their current refueling outage.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee provided an analysis that addressed the above three standards in the amendment application:

1. This change to the Technical Specification will not affect the probability or consequences of an accident previously evaluated. The Technical Specifications change does not affect the integrated leak rate testing program except to allow the option for the test to be conducted at calculated peak containment pressure instead of requiring a reduced pressure test at about 28 psig. The surveillance test will still meet 10 CFR 50, Appendix J requirements. Removal of the requirement to report results of the leak test of the recirculation heat removal (RHR) systems, and the changes to the Basis Statements also have no effect on probability or consequences of an accident.
2. As above, the change to the Technical Specifications will allow the option for the ILRT to be conducted at peak containment pressure in accordance with 10 CFR 50, Appendix J requirements. The ILRT will be conducted in accordance with appropriate test procedures. Therefore, the change will not create a new or different type of accident. Furthermore, the change to the RHR systems leak test reporting requirement and the changes to the Basis do not create a new or different type of accident.
3. The change to the ILRT surveillance test requirements by allowing the option for a test at peak containment pressure in accordance with 10 CFR 50, Appendix J requirements, the minor Basis changes and the deletion of the RHR systems leak test reporting requirement do not affect the margin of safety. The ILRT results provide the assurance that the containment is meeting its design leakage rate requirement thus assuring that the margin of safety has not been reduced.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussions the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esq., Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: Robert Pierson.

Consumer's Power Company, Docket No. 50-255, Palisades Plant, Van Buren County Michigan

Date of amendment request: August 31, 1990

Description of amendment request: The proposed amendment would allow the use of both the ANFP DNB correlation (Departure for Nucleate Boiling correlation for high thermal performance fuel) and the XNB DNB correlation (Exxon Nuclear DNB correlation for PWR fuel designs) for the cycle 9 fuel reload. The upcoming fuel reload is high thermal performance fuel design. The spacer grids and intermediate flow mixers increase subchannel mixing. Therefore, a new DNB correlation is necessary to represent the thermal performance of the new fuel design.

Specifically, TS 2.1 would be updated to reference the new DNB correlation

and the Minimum Departure from Nucleate Boiling Ratio (MDNBR). Additionally, the basis of TS 2.1 and 3.1 would be revised to reflect the new correlation.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee provided an analysis that addressed the above three standards in the amendment application:

1. This change only allows use of a different DNB correlation and MDNBR. It does not effect plant hardware, plant operation limits nor limiting conditions of operation. Therefore, it does not increase the probability or consequences of an accident previously evaluated.
2. This change does not effect plant operations or hardware. Therefore it does not create the possibility of a new or different kind of accident from any accident previously evaluated.
3. The existing margin of safety is a 95% probability that 95% of the fuel rods in the core are protected against experiencing transition heat transfer conditions. The DNB correlation safety limits for both the previously used XNB DNB correlation and the ANFP DNB correlation will assure, with a 95% probability, that 95% of the fuel rods will be protected against experiencing transition heat transfer conditions. Thus, the margin of safety is not reduced.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussions, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esq., Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: Robert Pierson.

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: October 31, 1989, as supplemented August 10, 1990.

Description of amendment request: With respect to the present Technical Specifications (TS), the proposed amendment would add a limiting condition for operation (LCO) for low temperature overpressurization protection (LTOP) features, allow two high pressure injections pumps to be deactivated in Modes 3 and 4, and add a note to the power operated relief valve (PORV) TS to indicate that PORV operability is required by the LTOP TS. The application also proposes to modify the improved TS which are not yet in place, and therefore those proposed changes will not be addressed here.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed change request against the standards provided above, as follows:

Florida Power Corporation (FPC) proposes the addition of a Low Temperature Overpressurization Protection (LTOP) Features Technical Specification does not involve a significant hazards consideration. The addition of a Technical Specification requirement to maintain the LTOP features ensures the reactor coolant pressure boundary is protected against a non-ductile failure at low reactor coolant temperatures.

Based on the above, FPC concludes this change will not:

1. Involve a significant increase in the probability or consequence of an accident previously evaluated since there are currently no LTOP requirements in the Technical Specifications. This change represents additional requirements necessary to preclude an LTOP event from occurring. These additional requirements also provide protection for all pressure and temperature combinations for which an LTOP event may be postulated. Overall, these requirements provide a level of protection greater than or equivalent to existing requirements.
2. Create the possibility of a new or different kind of accident from any previously evaluated because the addition of an LTOP Technical Specification does not require modification to the plant nor does it create a new mode of plant operation, with the exception of the small increase in reactor coolant temperature at which the high pressure injection system is deactivated. This is considered acceptable based on the small amount of time the plant is operated in this temperature region and the low probability of a loss of coolant accident (LOCA) requiring immediate high pressure injection flow at the reactor coolant temperatures in this region. In the unlikely event a LOCA does occur, high pressure injection would be available following operator restoration of the system. Reactor coolant makeup flow would be available in the interim to provide core cooling requirements.
3. Involve a significant reduction in the margin of safety. Any reduction in the margin of safety will be insignificant and offset by the safety benefit gained through the additional requirements placed on plant operation to preclude a low temperature overpressurization event.

In addition, the note added to the PORV TS simply alerts the operator that the PORV operability is also required by the new LTOP TS, and is not a change to the PORV TS itself.

The NRC staff has reviewed the licensee's no significant hazards determination and agrees with the licensee's analysis. Therefore, the staff purposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 32629

Attorney for licensee: A. H. Stephens, General Counsel, Florida Power Corporation, MAC - A5D, P. O. Box 14042, St. Petersburg, Florida 33733

NRC Project Director: Herbert N. Berkow

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of amendment request: August 20, 1990

Description of amendment request: The amendments would modify the Technical Specifications (TSs) and Environmental Technical Specifications (ETSs), Appendices A and B, respectively, to the operating licenses for Hatch Units 1 and 2 to make the following editorial changes: (1) Unit 2 TS

Table 3.3.2-1, replace the master parts list (MPL) for Item 1.f from 2U82-P004 through P006 to 2U81-P004 through P004, and for Item 4.g from 2E47 to 2E51; (2) Unit 1 TS Table 4.2-2, correct the spelling of "Emergency" under Reference No. 8; Unit 2 TS Table 3.3.6.1-1, correct the measurement range for the off-gas post-treatment monitors from 10^{-1} to 10^{-6} cps to 10^{-1} to 10^{6} counts per second; change surveillance requirement 4.6.6.1.1.d.3 to incorporate a plus/minus sign for the range of heat dissipated by the standby gas treatment subsystem heaters (16.5 27 1.5 kW); and delete the list of Figures in the ETS Table of Contents for Units 1 and 2 since Figure 5.2-1 is the only figure listed, and it was deleted in Amendments 145 and 89 for Units 1 and 2, respectively; and (3) Unit 2 TS 3.8.2.5, replace the word "Circuit" with "Breaker," for Items a, b, and c, change breaker number 25 and 32 to 25 and 34, respectively, for Item c, and change "Compartment" to "Frame" for Item d; TS Table 3.8.2.8-1, relocate items c.3 and c.4 to another page in the table, correct the labels for drywell cooling unit breakers, correct table sequential lettering for Type 6 and Type 7, and make other editorial corrections to reflect current equipment designation and make the terminology consistent with other plant design documents.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazard consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendments would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee's August 20, 1990, submittal provided an evaluation of the proposed changes with respect to these three standards.

Proposed change 1: This proposed change would allow editorial revisions to Unit 2 TS Table 3.3.2-1, Items 1.f and 4.g. The licensee has provided the following evaluation:

The proposed change will not significantly increase the probability or consequences of an accident previously evaluated. The change is administrative in nature and does not affect the operation of the turbine building area temperature switches/indicators, the suppression pool area temperature timer relays, or any other plant component or system.

The plant will continue to operate as it did prior to the implementation of change; therefore, all FSAR analyses will remain valid and bounding. This change reflects a change in panel MPL numbers; however, the temperature switches in the new panels will continue to operate as designed, with the same number of switches. The suppression pool area temperature timer relays will also continue to operate as they did prior to the implementation of the change. For these reasons, the response of the plant to previously evaluated accidents will remain unchanged, as will the probability of occurrence of such accidents.

The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. Since no change is being made to the design, operation, maintenance, or testing of the plant, a new mode of failure is not created. Therefore, a new or different kind of accident will not occur as a result of this change.

The proposed change does not significantly reduce a margin of safety, since changing the MPL numbers is an editorial change. The systems and components will continue to operate as they did prior to the implementation of the change.

Proposed change 2: This proposed change would make editorial changes to the Unit 1 and Unit 2 TSs and ETSs to correct typographical errors and to delete a list which could have been deleted with Amendments 145 and 89. The licensee has provided the following evaluation:

The proposed change will not significantly increase the probability or consequences of an accident previously evaluated. The change is editorial in nature and involves no physical alteration of the plant or changes to setpoints or operating parameters. The change does not affect plant operation, and the response of the plant to previously evaluated accidents will remain unchanged.

The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. Since no change is being made to the design, operation, maintenance, or testing of the plant, a new mode of failure is not created. Therefore, a new or different kind of accident will not occur as the result of this change.

The proposed change does not significantly reduce a margin of safety, since the change is editorial in nature. Safety analysis assumptions and equipment performance are not changed in any way.

Proposed change 3: This proposed change would make editorial changes to Unit 2 TS 3.8.2.5 and Table 3.8.2.8-1. The licensee has provided the following evaluation:

The proposed change will not significantly increase the probability or consequences of an accident previously evaluated. The change is editorial in nature and involves no physical alteration of the plant or changes to setpoints or operating parameters. The change does not affect operation, maintenance, or testing of the plant. For these reasons, the response of the plant to previously evaluated accidents will remain unchanged.

The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. Since no change is being made to the operation, maintenance, or testing of the plant, a new mode of failure is not created. The design changes reflected in this revision were approved and implemented previously. Therefore, a new or different kind of accident will not occur as the result of this change.

The proposed change does not significantly reduce a margin of safety, since the change is editorial in nature. Safety analysis assumptions and equipment performance are not changed in any way.

The Commission's staff has considered the proposed changes and agrees with the licensee's evaluations with respect to the three standards.

On this basis, the Commission has determined that the requested amendments meet the three standards and, therefore, has made a proposed determination that the amendment application does not involve a significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: David B. Matthews

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of amendment request: September 28, 1990

Description of amendment request: The proposed amendment would modify the approval requirements for procedures and programs important to nuclear safety in Technical Specification (TS) 6.5.2.1, "Technical Review and Control." The proposed amendment would allow the manager/department head responsible for the program or activity to approve procedures. Currently only the Plant Manager, Assistant Plant Managers, and the Director-Radiological Programs are allowed to approve procedures.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a

significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee provided an analysis that addressed the above three standards in the amendment application.

1. The proposed change would not increase the probability or consequences of a previously evaluated accident because:

The proposed changes are administrative in nature and do not affect assumptions contained in any safety analyses nor do they affect Technical Specifications that preserve safety analysis assumptions. Additionally, these changes do not modify the physical design or operation of the plant.

2. The proposed change would not create the possibility of a new or different kind of accident from any previously evaluated because:

These proposed changes affect administrative controls on the River Bend Station Technical Specifications and do not affect plant equipment or physical features. Specific operational requirements are required elsewhere in the Technical Specifications that bear more directly on operational safety than procedure approvals.

3. The proposed change would not involve a significant reduction in the margin of safety because:

The changes being proposed are administrative in nature and do not relate to or modify the safety margin defined in or required and maintained by Technical Specifications. The provision to allow managers/department heads to approve procedures within their own area of responsibility will not decrease the effectiveness of these procedure reviews.

The staff has reviewed the amendment request and the licensee's no significant hazards consideration determination. Based on the review and the above discussions, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Attorney for licensee: Mark Wetterhahn, Esq., Bishop, Cook, Purcell and Reynolds, 1401 L Street, N.W., Washington, DC 20005

NRC Project Director: James C. Linville, Acting

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50-498 and 50-499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: August 22, 1990

Description of amendment request: The proposed amendment would change Technical Specification (TS) 3.3.3.6 regarding the action to be taken in the event that one of the four steam generator level, narrow range post-accident monitoring channels is inoperable. The change would eliminate the requirement to shut down the plant if one of the four channels is inoperable. The shutdown requirement would be retained for the condition of two operable channels.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee provided an analysis that addressed the above three standards in the amendment application.

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. Eliminating the shutdown requirement in the action statement for loss of one of four channels of post-accident monitoring instrumentation does not affect the probability of an accident because monitoring instrumentation does not contribute to accident probability. The accident mitigation function of the subject instrumentation is addressed by other Technical Specifications, which are unaffected by this proposed change. Additionally, three channels of Steam Generator Level, narrow range instrumentation can monitor the steam generator level in a post-accident mode and provides one more channel than the redundancy specified in Regulatory Guide 1.97. The consequences of an accident are not affected by the proposed change.
2. The proposed change does not create the possibility of a new or different kind of accident from that previously evaluated. The proposed change involves no changes to the station or its design bases nor does it impose any new accident scenarios.
3. The proposed change does not involve a significant reduction in a margin of safety. There is no change to the margin of safety since there is no change to the station or its design bases.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussions, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room Location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488

Attorney for licensee: Jack R. Newman, Esq., Newman & Holtzinger, P.C., 1615 L Street, NW, Washington, DC 20036

NRC Project Director: James C. Linville, Acting

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50-498 and 50-499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: August 22, 1990

Description of amendment request: The proposed amendment would change Technical Specification (TS) 3.3.3.6 regarding the action to be taken in the event of one of the four containment pressure post-accident monitoring channels becoming inoperable. The change would eliminate the requirement to shut down the plant if one of the four channels is inoperable. The shutdown requirement would be retained for the condition of two inoperable channels.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee provided an analysis that addressed the above three standards in the amendment application.

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. Eliminating the shutdown requirement in the action statement for loss of one of four channels of post-accident monitoring instrumentation does not affect the probability of an accident because monitoring instrumentation does not contribute to

accident probability. The accident mitigation function of the subject instrumentation is addressed by other Technical Specifications, which are unaffected by this proposed change. Additionally, three channels of Containment Pressure Instrumentation can monitor the Containment pressure in a post-accident mode and provides one more channel than the redundancy specified in Regulatory Guide 1.97. The consequences of an accident are not affected by the proposed change.

2. The proposed change does not create the possibility of a new or different kind of accident from that previously evaluated. The proposed change involves no changes to the station or its design bases nor does it impose any new accident scenarios.
3. The proposed change does not involve a significant reduction in a margin of safety. There is no change to the margin of safety since there is no change to the station or its design bases.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussions, the staff proposes to determine that the proposed changes do not involve a significant hazards condition.

Local Public Document Rooms Location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton Texas 77488

Attorney for licensee: Jack R. Newman, Esq., Newman & Holtzinger, P.C., 1615 L Street, NW, Washington, DC 20036

NRC Project Director: James C. Linville, Acting

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50-498 and 50-499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: August 22, 1990

Description of amendment request: The proposed amendment would change Technical Specification (TS) 3.3.3.6 regarding the action to be taken in the event of one of the four steamline pressure post-accident monitoring channels becoming inoperable. The change would eliminate the requirement to shut down the plant if one of the four channels is inoperable. The shutdown requirements would be retained for the condition of two inoperable channels.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee provided an analysis that addressed the above three standards in the amendment application.

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. Eliminating the shutdown requirement in the ACTION statement for loss of one of four channels of post-accident monitoring instrumentation does not effect the probability of an accident because monitoring instrumentation does not contribute to accident probability. The accident mitigation function of the subject instrumentation is addressed by other Technical Specifications, which are unaffected by this proposed change. Additionally, three channels of Steam Line Pressure Instrumentation can monitor the Steam Generator pressure in a post-accident mode and provides one more channel than the redundancy specified in Regulatory Guide 1.97. The consequences of an accident are not affected by the proposed change.
2. The proposed change does not create the possibility of a new or different kind of accident from that previously evaluated. The proposed change involves no changes to the station or its design bases nor does it impose any new accident scenarios.
3. The proposed change does not involve a significant reduction in a margin of safety. There is no change to the margin of safety since there is no change to the station or its design bases.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussions, the staff proposes to determine that the proposed changes do not involve a significant hazards determination.

Local Public Document Rooms Location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488

Attorney for licensee: Jack R. Newman, Esq., Newman & Holtzinger, P.C., 1615 L Street, NW, Washington, DC 20036

NRC Project Director: James C. Linville, Acting

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: September 28, 1990

Description of amendment request: The amendment proposes to revise Cooper Nuclear Station Technical Specification 3.9.A.1.a to include the 161 kV line from the Omaha Public Power District as an off-site power source available to Cooper to power the auxiliary electrical equipment.

Basis for proposed no significant hazards consideration determination: In accordance with the requirements of 10 CFR 50.92, the licensee has submitted the following no significant hazards determination:

1. Does the proposed license amendment involve a significant increase in the probability or consequence of an accident previously evaluated?

Evaluation

The proposed amendment would revise the Technical Specifications to recognize an additional existing source of off-site power, available to supply the emergency buses. This additional full capacity, independent source of off-site power significantly improves the reliability and flexibility of the Cooper Nuclear Station auxiliary electrical system. The probability of a loss of voltage or degraded voltage to the station emergency buses is significantly reduced. The proposed amendment will require the availability of at least one off-site source prior to allowing reactor criticality. In addition the 69 kV emergency line will still be required to be operational as currently specified in the existing Technical Specifications. Therefore, this change has no effect on the probability of loss of off-site power or reliability of the power supply to plant emergency buses and equipment, and there is no increase in the probability or the consequences of an analyzed accident.

2. Does the proposed [license] amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Evaluation

The proposed Technical Specification change deals exclusively with the off-site electrical power sources for the Cooper Nuclear Station. This proposed change reflects the addition of a full capacity, independent off-site source of electrical power to the plant. Cooper Nuclear Station is designed to respond to design basis accidents assuming the coincident loss of off-site power, and analyses contained in Section XIV of the Updated Safety Analysis Report (USAR) reflect this assumption.

The intent of the additional full capacity, independent off-site source is to improve the reliability of off-site power. No new or different kind of accident from any accident previously evaluated would be created since the loss of off-site power is already assumed.

3. Does the proposed amendment involve a significant reduction in the margin of safety?

Evaluation

The proposed Technical Specification wording change will recognize the addition to the plant of another full capacity, independent, source of off-site electrical power. This source will significantly improve the reliability and availability of off-site power sources capable of supplying power to the emergency buses. However, Cooper Nuclear Station is designed to respond to design basis accidents assuming a coincident loss of all off-site power. Therefore, this proposed change will not involve a reduction in the margin of safety.

As previously described, the Technical Specification change reflects the addition of the 161 kV electrical source which will provide an additional source of off-site power available to the plant. The installation process for the AC power source involved standard industry practices related to transmission system equipment. The overall effect of the change is to improve plant safety.

Based on the previous discussion, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability of a new or different kind of accident from any accident previously evaluated; nor create the possibility of a new or different kind of accident from any accident previously evaluated; nor involve a significant reduction in the required margin of safety. The NRC staff has reviewed the licensee's no significant hazards considerations determination and agrees with the licensee's analysis. The staff has, therefore, made a proposed determination that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305

Attorney for licensee: Mr. G.D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68602-0499

NRC Project Director: Theodore R. Quay, Acting

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: September 28, 1990

Description of amendment request: This proposed amendment adds Limiting Conditions for Operation and Surveillance Requirements for the reactor vessel overfill protection system.

Basis for proposed no significant hazards consideration determination: In accordance with the requirements of 10 CFR 50.92, the licensee has submitted the following no significant hazards determination:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Evaluation:

CNS currently has in place a feedwater pump trip system that provides protection against reactor vessel overfill. This system actuates on a 2-out-of-3 initiation logic sensed by three reactor vessel level transmitters. The District performs appropriate surveillance to ensure availability of this system; however, no Limiting Conditions for Operation and surveillance requirements for this function presently exist in the CNS Technical Specifications.

This change consists only of adding to the CNS Technical Specifications, the existing surveillance schedule as well as Limiting Conditions for Operation. No design changes [or] hardware modifications are associated with this change. Therefore, this proposed change does not in any way involve an increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed license amendment create the possibility for a new or different kind of accident from any accident previously evaluated?

Evaluation:

As discussed above, this proposed license amendment does not involve any plant modifications. This proposed amendment incorporates existing surveillance requirements into the CNS Technical Specifications, and adds Limiting Conditions for Operations. Therefore, this proposed change does not create the possibility for a new or different kind of accident.

3. Does the proposed amendment involve a significant reduction in the margin of safety?

Evaluation:

This proposed change includes in the CNS Technical Specification requirements for administering appropriate surveillance procedures and adds Limiting Conditions for Operation to provide an acceptable time limit for operation with less than two of three feedwater trip channels available. This proposed change would serve only to improve the margin of safety. Therefore, this change does not result in a significant reduction in the margin of safety.

Based on the previous discussion, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability of a new or different kind of accident from any accident previously evaluated; nor create the possibility of a new or different kind of accident from any accident previously evaluated; nor involve a significant reduction in the required margin of safety. The NRC staff has reviewed the licensee's no significant hazards considerations determination and agrees with the licensee's analysis. The staff has, therefore, made a proposed determination that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Attorney for licensee: Mr. G.D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68602-0499

NRC Project Director: Theodore R. Quay, Acting

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: October 4, 1990

Description of amendment request: The proposed amendment would revise the Technical Specifications to (a) correct editorial and typographical errors made in previous amendments, and (b) update bases to reflect previous actions.

Basis for proposed no significant hazards consideration determination: 10 CFR 50.92 states that a proposed amendment does not involve a significant hazards consideration if it does not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

In accordance with the requirements of 10 CFR 50.91(a), the licensee has provided an analysis, using the standards of 10 CFR 50.92, of the issue of no significant hazards consideration. The licensee's analysis states that the proposed changes are administrative changes serving only to correct editorial and administrative errors in the Technical Specifications.

The staff has reviewed the licensee's analysis and made a proposed determination that no significant hazards considerations exist.

Because no Limiting Conditions for Operation, Safety Limits, Surveillance Requirements, Limiting Safety Systems Settings or Administrative Controls will be affected, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated, create the possibility of a new or different kind of accident from any accident previously evaluated, or involve a significant reduction in a margin of safety.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Robert C. Pierson

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: Septebmer 28, 1990

Description of amendment request: The proposed amendment would revise the Fort Calhoun Station, Unit 1, Technical Specifications by deleting in their entirety, Specifications 3.6(3) Pumps and 3.6(4) Valves. The proposed changes would delete redundant surveillance requirements and an error contained in the Technical Specifications. In addition, Specification 3.6(5) is renumbered to reflect the deletion of Specifications 3.6(3) and 3.6(4).

The redundancy comes from the fact that Specification 3.3(1)a states that inservice testing of ASME Code Class 1, Class 2, and Class 3 pumps and valves shall be in accordance with Section XI of the ASME Boiler and Pressure Vessel Code as required by 10 CFR Part 50, Section 50.55a(g), except where specific relief has been granted by the Commission. For both the pump and valves, Specifications 3.6(3) and 3.6(4) surveillance requirements are met by the requirements of Specification 3.3(1)a. Therefore, the surveillance requirements required by the Technical Specifications are redundant and Specifications 3.6(3) and 3.6(4) are being deleted.

The error in the Technical Specifications is that Specification 3.6(3) requires the starting of the pumps be alternated between the control room panel and the local panel. The problem is that there is no local panel installed at the Fort Calhoun Station and there is no current design requirement or licensing basis for a local panel. Therefore, this statement is being deleted.

Finally, since Specifications 3.6(3) and 3.6(4) are being deleted, Specification 3.6(5) is renumbered to 3.6(3) to account for these deletions.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee provided an analysis that addressed the above three standards in the amendment application.

The proposed change does not involve a significant hazards consideration because operation of Fort Calhoun Station Unit 1 in accordance with this change would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

This change merely eliminates redundant administrative requirements contained within the Technical Specifications concerning the surveillance requirements of the safety injection and containment cooling pumps and valves and corrects an error concerning a requirement for a panel which is not present at the Station. Therefore[,] this change cannot increase the probability or consequences of an accident.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

It has been determined that no new or different kind of accident will be possible due to this change. No new or different modes of operation are proposed for the plant as a result of this change. The elimination of redundant administrative requirements and deletion of a requirement for equipment that is not present at the Station does not create the possibility of a new or different kind of accident.

(3) Involve a significant reduction in a margin of safety.

Elimination of redundant administrative requirements and the deletion of a requirement for equipment that is not present at the Station will not reduce the margin of safety.

The NRC staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Attorney for licensee: LeBoeuf, Lamb, Leiby, and MacRae, 1333 New Hampshire Avenue, N.W., Washington, DC 20036

NRC Project Director: Theodore R. Quay, Acting

Virginia Electric and Power Company, Docket No. 50-281, Surry Power Station, Unit No. 2, Surry County, Virginia.

Date of amendment request: September 14, 1990

Description of amendment request: The proposed changes add an administrative footnote to the Unit 2 Technical Specifications Surveillance Requirements. The footnote documents a one-time exemption from local leak rate testing (LLRT) surveillance interval requirements for certain valves tested under 10 CFR Part 50, Appendix J, Section III.D.3. This section requires LLRT at intervals no greater than 2 years. An exemption to this requirement was granted on September 26, 1990 (55 FR 40488). The exemption extends the permitted surveillance interval from September 18, 1990 to April 30, 1991.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Virginia Electric and Power Company (VEPCO, or the licensee) has provided a significant hazards evaluation that operation of the Surry Power Station, Unit No. 2 in accordance with the proposed change will not:

1. Involve a significant increase in the probability of occurrence or consequences of any accident or malfunction of equipment which is important to safety and which has been evaluated in the UFSAR because extending the LLRTs does not affect the probability of occurrence of accidents, nor does projected degradation of equipment occur that would change the consequences of an accident.
2. Create the possibility of a new or different type of accident from those previously evaluated in the safety analysis report. Physical plant modifications are not being made and plant operations are not being changed. Consequently the systems' ability to perform its intended function will be maintained, no new accident precursors are being generated and therefore no new or different kind of accident is created.
3. Involve a significant reduction in the margin of safety. Plant operations are not being changed nor are any of the accident analysis assumptions being modified or exceeded by this change. The deferral of the LLRTs will not result in significant degradation of equipment in that the equipment will be in service for about the same time as a normal 18 month operating cycle. The projected leakage rate (92 [standard cubic feet per

hour] SCFH) is well below the 0.6 La (180 SCFH) acceptance criterion. Therefore, the accident analysis assumptions remain bounding and safety margins remain unchanged.

Furthermore, the proposed change is administrative. The change documents the exemption granted on September 28, 1990, and is consistent with the Safety Evaluation provided for that exemption.

Based on the staff's review of the licensee's evaluation, the staff proposes to determine that the proposed amendment does not involve significant hazards considerations.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Project Director: Herbert N. Berkow

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of application for amendment: October 12, 1990

Brief description of amendment request: The proposed amendment would revise Technical Specification Table 3.8.4.1-1, "Primary Containment Penetration Conductor Overcurrent Protection Devices," Sections C.1 and C.4 to reflect the removal of a load from Section C.1 and the addition of the load to Section C.4. The new circuit breaker in Section C.4 will provide primary containment penetration conductor overcurrent protection for the larger Reactor Water Cleanup (RWCU) precoat pump which is being installed to improve RWCU filter and system performance.

Date of individual notice in **Federal Register:** October 18, 1990 (55 FR 42295)

Expiration date of individual notice: November 19, 1990

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Projects.

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: July 10, 1987, as supplemented on August 31, 1990, and August 3, 1990.

Brief description of amendments: These amendment add Technical Specifications (TS) relating to surveillance, operability, and reporting requirements for the reactor vessel level monitoring system (RVLMS) to the Calvert Cliffs Nuclear Power Plant, Units 1 and 2, TS 3/4.3.3.6, "Post Accident Instrumentation," including TS Tables 3.3-10 and 4.3-10, and TS 6.9.2, "Special Reports." In addition, the applicable Bases sections of the TS are updated to reflect the proposed changes.

Date of issuance: September 28, 1990

Effective date: September 28, 1990

Amendment Nos.: 147, Unit 1; 128, Unit 2

Facility Operating License Nos. DPR-53 and DPR-69. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** Initially noticed May 18, 1988, (53 FR 17777) and renoticed on August 22, 1990 (55 FR 34364). The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated September 28, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: June 16, 1988, as supplemented on September 20, 1989, and August 3, 1990.

Brief description of amendments: The initial request, as supplemented, proposes the addition of Technical Specifications (TS) operability and surveillance requirements for the core exit thermocouple (CET) systems at the Calvert Cliffs Nuclear Power Plant, Units 1 and 2, TS Table 3.3-10, "Post-Accident Monitoring Instrumentation" and Table 4.3-10, "Post Accident Monitoring Instrumentation Surveillance Requirements."

Date of issuance: October 12, 1990

Effective date: October 12, 1990

Amendment Nos.: Unit 1 No. 148; Unit 2 No. 128

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Facility Operating License Nos. DPR-53 and DPR-62. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: Initially noticed October 19, 1988 (53 FR 40996), and renoticed on September 5, 1990 (55 FR 36338). The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated October 12, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: March 8, 1990

Brief description of amendment: This amendment changes the technical specification for the Logic System Function Testing (LSFT) surveillance interval from 6 months to 18 months. The bases for Section 4.2 are also changed.

Date of issuance: October 15, 1990

Effective date: Effective as of the date of issuance and shall be implemented within 30 days.

Amendment No.: 130

Facility Operating License No. DPR-35: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 2, 1990 (55 FR 18407) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 15, 1990.

No significant hazards consideration comments received: Yes - Mr. Joseph Kriesberg, Director, Massachusetts Citizens for Safe Energy, Boston, Massachusetts responded to Federal Register Notice in the form of seven questions on the Logic System Functional Testing Surveillance. NRC responded to this inquiry by letter dated August 9, 1990 in question and answer format.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: July 9, 1990, as supplemented August 16, August 21 and September 18, 1990.

Brief Description of amendments: The amendment add a footnote to Action Requirement 3.8.1.1a that allows the flexibility required to perform extended maintenance on an offsite circuit. Additional changes to Technical Specifications (TS) 3.8.1.1 and 3.8.1.2 are also being made to clarify the existing AC source operability requirements.

Date of issuance: October 5, 1990

Effective date: October 5, 1990

Amendment Nos.: 145 and 176

Facility Operating License Nos. DPR-71 and DPR-62. Amendments revise the Technical Specifications.

Date of initial notice in Federal Register: September 4, 1990 (55 FR 35971) The September 18, 1990, letter provided clarifying information that did not change the initial determination of no significant hazards consideration as published in the Federal Register. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 5, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: February 28, 1990, as supplemented May 8, 1990, September 21, and September 27, 1990.

Brief Description of amendments: The amendments revise the Technical Specifications (TS) Section 3.7.1.2 to clarify and expand the service water pump operability requirements during various plant operational conditions, thereby reflecting the plant design in a clearer manner. A change to the Bases Section 3/4.7.1 are also made reflecting the proposed change. The February 28, 1990, submittal required at least two operable nuclear service water pumps per site while in Operational Condition 4 or 5. The May 8, 1990, revision corrected discrepancies in the earlier submittal between the letter, the proposed bases and the proposed TS. The correction changed the required number of nuclear service water pumps from two to three when the units are in Operational Condition 4 or 5.

Date of issuance: October 11, 1990

Effective date: October 11, 1990

Amendment Nos.: 146 and 177

Facility Operating License Nos. DPR-71 and DPR-62. Amendments revise the Technical Specifications.

Date of initial notice in Federal Register: May 2, 1990 (55 FR 18410) and August 8, 1990 (55 FR 32323). The September 21, 1990, and September 27, 1990, submittals provided updated Technical Specification pages and did not change the initial determination of no significant hazards consideration as published in the Federal Register. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 11, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Commonwealth Edison Company, Docket Nos. STN 50-454 and STN 50-455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Docket Nos. STN 50-456 and STN 50-457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: April 20, 1990 (published in the Federal Register as April 26, 1990).

Brief description of amendments: The amendments to Technical Specification 3/4.6.3, Containment Isolation Valves, would delete the requirement for Type C leakage testing for specified steam generator blowdown isolation valves and insert a requirement for the Type C leakage test for the 1/2 SI 8968 safety injection valves.

Date of issuance: October 17, 1990

Effective date: October 17, 1990

Amendment Nos.: For Byron, 39 and 39; for Braidwood, 26 and 26

Facility Operating License Nos. NPF-37, NPF-66, NPF-72 and NPF-77: The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: June 13, 1990 (55 FR 23995) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 17, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: For Byron, the Byron Public Library, 109 N. Franklin, P. O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

NRC Project Director: Richard J. Barrett

Consumers Power Company, Docket No. 50-155, Big Rock Point Plant, Charlevoix County, Michigan

Date of application for amendment: January 10, 1990 and January 23, 1990 and supplemented August 22, 1990.

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Brief description of amendment: This amendment revises Technical Specification Section 4.1.1(i)4 by providing specific reference to Figures 4-1(a), 4-1(b), and 4-1(c). The figures were revised to satisfy the requirements of 10 CFR Part 50, Appendix G by incorporating the methodology of Regulatory Guide 1.99, Revision 2.

Date of issuance: October 11, 1990

Effective date: October 11, 1990

Amendment No.: 103

Facility Operating License No. DPR-6. The amendment revises the Technical Specifications.

Date of initial notice in Federal Register: February 21, 1990 (55 FR 6104). The August 22, 1990 submittal provided clarifying information and did not change the initial nonsignificant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 11, 1990. No significant hazards consideration comments received: No.

Local Public Document Room location: North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770.

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of application for amendment: December 22, 1988, as supplemented May 31, 1989.

Brief description of amendment: This amendment revises the Technical Specification (TS) by adding Section 3/4.3.11 to the TS with Limiting Conditions for Operation and Surveillance Requirements for the Alternative Shutdown System, installed to mitigate the effects of a fire in the control room complex.

Date of issuance: October 4, 1990

Effective date: October 4, 1990

Amendment No.: 59

Facility Operating License No. NPF-43. The amendment revises the Technical Specifications.

Date of initial notice in Federal Register: July 25, 1990 (55 FR 30294) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 4, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of application for amendment: February 1, 1989

Brief description of amendment: This amendment revises the Technical Specification (TS) by changing Trip Setpoints and Allowable Values for Isolation Actuation Instrumentation which are listed in TS Table 3.3.2-2, Isolation Actuation Instrumentation Setpoints.

Date of issuance: October 12, 1990

Effective date: October 12, 1990

Amendment No.: 60

Facility Operating License No. NPF-43. The amendment revises the Technical Specifications.

Date of initial notice in Federal Register: August 22, 1990 (55 FR 34388) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 12, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Entergy Operations, Inc., Docket No. 50-313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: March 2, 1990

Brief description of amendment: The amendment added requirements to Specification 4.21.1 for surveillance testing of the Hallway El 372 (Zone 98-J) Sprinkler System and the Condensate Demineralizer Area Sprinkler System. The amendment also standardizes the surveillance requirements for all of the sprinkler systems in Specification 4.21.1.

Date of issuance: October 18, 1990

Effective date: 30 days from the date of issuance.

Amendment No.: 136

Facility Operating License No. DPR-51. Amendment revised the Technical Specifications/license.

Date of initial notice in Federal Register: May 2, 1990 (55 FR 18407) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 18, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: July 6, 1990.

Brief description of amendment: The amendment revises the ANO-2 Technical Specification 3.4.2 to include a note which would allow both pressurizer code safety valves to be removed during Mode 5. The amendment allows the licensee to conduct testing and/or maintenance with both valves simultaneously removed from the pressurizer provided that the required overpressure protection is maintained at an equivalent level to that of the existing specification.

Date of issuance: October 17, 1990

Effective date: October 17, 1990

Amendment No.: 109

Facility Operating License No. NPF-A Amendment revised the Technical Specifications/license.

Date of initial notice in Federal Register: August 8, 1990 (55 FR 32327). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 17, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Mississippi Power & Light Company, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: August 10, 1990 as revised August 20, 1990.

Brief description of amendment: The amendment changes the TS by adding a note to TS Table 4.8.2.1-1 "Battery Surveillance Requirements," to allow a battery charging current less than 2 amps to be used to determine battery operability when on float charge following a battery service or discharge test. The associated Bases for the TS are also changed.

Date of issuance: October 9, 1990

Effective date: October 9, 1990

Amendment No: 71

Facility Operating License No. NPF-29. Amendment revises the Technical Specifications.

Date of initial notice in Federal Register: September 5, 1990 (55 FR 36342). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 9, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of application for amendment: December 21, 1988

Description of amendment request: The amendment revised Table 3.3.2-1 to more accurately reflect the channel/trip logic configuration of the containment exhaust radiation trip channels listed under Part 1, Item h.

Date of issuance: October 4, 1990

Effective date: October 4, 1990

Amendment No.: 50

Facility Operating License No. NPF-62. The amendment revised the Technical Specifications.

Date of initial notice in Federal Register: February 21, 1990 (55 FR 6105) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 4, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: The Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of application for amendment: April 27, 1990

Description of amendment request: This amendment revised the pressure-temperature limits in the Clinton Technical Specifications in response to recommendations in NRC Generic Letter 88-11.

Date of issuance: October 18, 1990

Effective date: October 18, 1990

Amendment No.: 51

Facility Operating License No. NPF-62. The amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 22, 1990 (55 FR 34372) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 18, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: The Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit No. 2, Scriba, New York

Date of application for amendment: July 19, 1990

Brief description of amendment: This amendment revises Table 3.6.3-1, "Primary Containment Isolation Valves," to permit hydrostatic leak rate testing of the Emergency Core Cooling System and Reactor Core Isolation Cooling System Suppression Pool Isolation Valves in lieu of the leak rate air testing.

Date of issuance: October 11, 1990

Effective date: October 11, 1990

Amendment No.: 21

Facility Operating License No. NPF-69: Amendment revises the Technical Specifications.

Date of initial notice in Federal Register: August 8, 1990 (55 FR 32328) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 11, 1990. Significant hazards consideration comments received: No

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit No. 2, Scriba, New York

Date of application for amendment: November 9, 1989, as superseded April 10, 1990.

Brief description of amendment: This amendment revises Technical Specification Sections 5.3.1 and 5.3.2 on Design Features to replace the specific description of fuel assemblies and control rod assemblies design features by a more generic description. This amendment, in conjunction with Amendment No. 117 issued on June 19, 1990, addresses in its entirety the changes requested by the licensee in the April 10, 1990, application.

Date of issuance: October 12, 1990

Effective date: October 12, 1990

Amendment No.: 23

Facility Operating License No. NPF-69: Amendment revises the Technical Specifications.

Date of initial notice in Federal Register: May 16, 1990 (55 FR 20362) and renoticed August 22, 1990 (55 FR 34375). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 12, 1990. Significant hazards considertion comments received: No

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: June 26, 1990 as supplemented August 1, 1990.

Brief description of amendment: The amendment modifies Technical Specifications that have cycle-specific paramenter limits by replacing the values of those limits with a reference to a Core Operating Limits Report (COLR) for the values of those limits. The changes also include the addition of the COLR to the Definitions section and to the reporting requirements of the Administrative Controls section of the Technical Specifications.

Date of issuance: October 12, 1990

Effective date: October 12, 1990

Amendment No.: 148

Facility Operating License No. DPR-65. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 25, 1990 (55 FR 30304) The August 1,1990 submittal provided additional clarifying information and did not change our initial determination of the significant hazards consideration.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 12, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: July 31, 1990

Brief description of amendment: The amendment revises the minimum diesel oil storage level from 28,250 gallons to 32,500 gallons and clarifies that a diesel generator full load is 2500 KW.

Date of issuance: October 12, 1990

Effective date: October 12, 1990

Amendment No.: 75

Facility Operating License No. DPR-22. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: September 5, 1990 (55 FR 36347) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 12, 1990. No significant hazards consideration comments received: No.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: January 26, 1990, as supplemented May 10, June 18, and August 2, 1990.

Brief description of amendment: The amendment modified the Technical Specifications to: (1) Increase the refueling boron concentration from 1800 to 1900 ppm; (2) Suspend certain sampling during periods when the fuel has been removed from the reactor vessel; (3) Revise the storage requirements of the spent fuel pool Region 2; (4) Allow discharge of fuel assemblies from the core directly to the spent fuel pool Region; and (5) Delete the requirement to provide a fuel performance report at the end of each cycle.

Date of issuance: October 12, 1990

Effective date: October 12, 1990

Amendment No.: 133

Facility Operating License No. DPR-40. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 25, 1990 (55 FR 30305). The August 2, 1990 submittal made a correction to Technical Specification pages 3-18 and 3-19 to include an omitted Greek letter micro in one of its units.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 12, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Philadelphia Electric Company, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: July 13, 1990

Brief description of amendments: The amendments revised the Administrative Controls section (Section 6.0) of the Technical Specifications, including the addition of a new TS Section 6.5.3, to reflect the implementation of a Station Qualified Reviewer Program for review and approval of new station programs, procedures, and changes thereto.

Date of issuance: October 4, 1990

Effective date: For Units 1 and 2, 90 days from date of issuance.

Amendment Nos. 47 and 10

Facility Operating License Nos. NPF-39 and NPF-85. The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: August 22, 1990 (55 FR 34380) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 4, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

United States Department of Commerce, National Institute of Standards and Technology, Docket No. 50-184, NIST Test Reactor

Date of application for amendment: July 27, 1990

Brief description of amendment: This amendment revises the Technical Specifications to delete the reference to the type and quantity of heat exchangers but leaves the reference to the need for heat exchangers intact.

Date of issuance: October 9, 1990

Effective date: October 9, 1990

Amendment No.: 7

Facility Operating License No. TR-5: This amendment revises the Technical Specifications.

Date of initial notice in Federal Register: September 5, 1990 (55 FR 36357) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 9, 1990.

No significant hazards consideration comments received: No

Local Public Document Room: N/A

Virginia Electric and Power Company, Docket No. 50-280, Surry Power Station, Unit No. 1, Surry County, Virginia.

Date of application for amendment: June 28, 1990

Brief description of amendment: The amendment eliminates the present operational restrictions on the main control room and emergency switchgear room air handling units.

Date of issuance: October 11, 1990

Effective date: Prior to Cycle 11 Startup

Amendment No. 145

Facility Operating License No. DPR-32: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 25, 1990 (55 FR 30321) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 11, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia.

Date of application for amendments: June 25, 1990

Brief description of amendments: These amendments extend operation of Surry Units 1 and 2 to Cycle 11 with the pressurizer safety valve setpoint of 2485 psig and a tolerance of +5/-1 percent, which is currently allowed for Cycle 10 operation.

Date of issuance: October 5, 1990

Effective date: October 5, 1990

Amendment Nos. 144, 141

Facility Operating License Nos. DPR-32 and DPR-37: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: July 25, 1990 (55 FR 30321) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 5, 1990

No significant hazards consideration comments received: No

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: May 15, 1990

Brief description of amendment: The amendment revised the Technical Specifications (TS) 3.3.c.2, 3.6.b.1, 3.6.b.2, and 3.12.b to change the action statements for the containment cooling, shield building ventilation, auxiliary building ventilation and control room postaccident recirculation systems.

Date of issuance: October 16, 1990

Effective date: October 16, 1990

Amendment No.: 86

Facility Operating License No. NPF-30. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: June 27, 1990 (55 FR 26296) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 16, 1990. No significant hazards consideration comments received: No.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing. For exigent circumstances, the Commission has either issued a Federal Register notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C., and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By November 30, 1990, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, DC 20555 and at the Local Public Document Room for the particular facility involved.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also

provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (Project Director): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: October 5, 1990

Brief description of amendment: The amendment adds a footnote to Technical Specification 3.5.3.3, Table 3.5-7, Items 3.a and 3.b, Required Action b, which provides a one time change during Refueling Outage 13 to allow continued effluent releases (purging from the reactor containment vessel with radiation monitors RMS-11 and RMS-12 and their associated backup monitors RMS-14 and RMS-34 out of service. The amendment allows containment purging only with no fuel in containment and containment integrity not required.

Date of issuance: October 16, 1990

Effective date: October 16, 1990

Amendment No. 130

Facility Operating License No. DPR-23: Amendment revises the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No. The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated October 16, 1990.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535

Attorney for licensee: Mr. R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh North Carolina 27602

NRC Project Director: Elinor G. Adensam

Carolina Power & Light Company, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: September 27, 1990, as supplemented September 28, 1990.

Brief description of amendment: This emergency Technical Specification change request revises Surveillance Requirement 4.7.1.2.1.a.1 associated with the monthly testing on a staggered test basis of the two motor-driven auxiliary feedwater pumps (AFW). Specifically, this change revises Surveillance Requirement 4.7.1.2.1.a.1. to require that the motor-driven AFW pumps be verified to develop a differential pressure that (when temperature compensated to 70 degrees F) is greater than or equal to 1556 psid at a recirculation flow of greater than or equal to 50 gpm.

Date of issuance: October 5, 1990

Effective date: October 5, 1990

Amendment No. 22

Facility Operating License No. NPF-63. Amendment revises the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No. The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated October 5, 1990.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Attorney for licensee: Mr. R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

Dated at Rockville, Maryland, this 24th day of October 1990.

For the Nuclear Regulatory Commission

Steven A. Varga,

Director, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation

[Doc. 90-25613 Filed 10-30-90; 8:45 am]

BILLING CODE 7590-01-D

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Issuance of Policy Guidance on the Acceptance of "Bonus Bids" When Contracting for Stenographic Reporting Services

AGENCY: Executive Office of the President, Office of Management and Budget, Office of Federal Procurement Policy.

ACTION: Notice of Issuance of Policy Guidance on the Acceptance of "Bonus Bids" When Contracting for Stenographic Reporting Services, and request for comments.

Background:

Earlier this year, one of the Federal Government's regulatory commissions received an adverse decision from a U.S. District Court regarding the commission's refusal to consider a bid.

The bid in question was for stenographic reporting services of regulatory hearings in which the bidder offered to pay the Government to perform the contract. The bidder had submitted this "bonus bid" with the intent of recouping the money paid to the Government from profits earned by selling copies of transcripts to the public. The invitation for bids did not provide for the evaulation of prices charged to the public for these copies. Consequently, there was no procedure to ensure that these prices were fair and reasonable.

The commissions' refusal to consider receipt of payment and the publicity it generated prompted an inquiry from Congress regarding the extent to which "bonus bids" are, or should be, used. This Office was requested to consider establishing Government-wide guidelines to address this issue.

Research into "bonus bids" and discussions with selected Federal agencies and regulatory commissions revealed two salient facts. First, the situation appears to be unique and, second, there is no current Government-wide guidance on the acceptance of "bonus bid" in the acquisition of stenographic reporting services which involve dissemination of information to the public. However, there are existing requirements which apply to these acquisitions, such as:

- OMB Circular A–130, Management of Federal Information Resources, which requires that prices charged to the public when disseminating information are reasonable; and
- 31 U.S.C. 3302, Custodians of Money, which requires agencies to deposit any money received from outside sources into the Treasury and prohibits them from using the money for their own purposes.

In addition, this Office would like to determine whether "bonus bid" policy guidance covering more than stenographic reporting services may be required.

Accordingly, this Office has developed the following policy guidance memorandum. It provides Government-wide guidance on the acceptance of "bonus bids" when contracting for stenographic reporting services which involve dissemination of information to the public.

Although the memorandum is intended to be implemented immediately, this Office is seeking comments. Any comments should be submitted by the date specified.

DATES: Comments on the memorandum must be received on or before November 30, 1990.

ADDRESSES: Comments should be submitted to the Office of Management and Budget, Office of Federal Procurement Policy, room 9001, New Executive Office Building, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Stanley Kaufman, Deputy Associate Administrator, Office of Federal Procurement Policy, 725 17th Street, NW., Washington, DC 20503, telephone 202–395–6803.

Dated: October 20, 1990.

Allan V. Burman,

Administrator.

Dated: October 22, 1990.

Memorandum for Agency Procurement Executives

From: Allan V. Burman, Administrator
Subject: Acceptance of "Bonus Bids" When Contracting for Stenographic Reporting Services

Earlier this year, one of the Federal Government's regulatory commissions received an adverse decision form a U.S. District Court regarding the commission's refusal to consider a bid (U.S. District Court for the District of Columbia, Civil Action No. 90–0287). The bid in question was for stenographic reporting services of regulatory hearings in which the bidder offered to pay the Government to perform the contract. The commission's refusal to consider receipt of payment and the publicity it generated prompted an inquiry from Congress regarding the extent to which "bonus bids" are, or should be, used. This Office was requested to consider establishing Government-wide guidelines to address this issue.

The purpose of this memorandum is to provide guidelines to be used by agencies when contracting for stenographic reporting services when there is a potential for receiving "bonus bids". A "bonus bid" is a bid or offer in which the offeror would pay the Government to perform a contract which would, under normal circumstances, be expected to be paid for by the Government from appropriated funds. A "bonus bid" situation would most likely occur when the payment offered to the Government would be recouped through profits from selling transcript copies to the public.

Agency selection of the method for solicitation and evaluation when acquiring stenographic reporting services need not be arbitrarily restricted by the possibility of receiving "bonus bids." Depending on an agency's mission and the nature of the requirement, sealed bidding and negotiation are both acceptable methods for solicitation and evaluation.

While the likelihood of receiving a "bonus bid" for stenographic reporting services should not be widespread, agencies shall not determine "bonus bids" to be nonresponsive. However, when contracting with firms responding to solicitations with "bonus bids," agencies must:

(1) determine that prices of transcript copies charged to the public will be fair and reasonable, and

(2) deposit any contractor payments received into the U.S. Treasury.

When the acquisition of stenographic reporting services involves dissemination of information to the public through the sale of hearing or meeting transcripts, agencies shall comply with OMB Circular A–130, Management of Federal Information Resources. The Circular provides, in appendix IV, section 8, paragraph a.(11)(a), that "When agencies use private sector contractors to accomplish dissemination, they must take care that they do not permit contractors to exercise monopolistic controls in ways that defeat the agencies' information dissemination obligations, for example, by setting unreasonably high prices."

Therefore, agencies shall prevent contractors from recovering their "bonus bids" by charging the public excessive costs for transcript copies. Agencies shall, at a minimum, specify in the solicitation document that prices of transcript copies charged to the public will be evaluated on the basis of reasonableness, and that award will not be made to a firm that charges unreasonably high prices to the public.

For example, when sealed bidding is used, prices charged to the public can be directly evaluated by being included in the "prices" section of the invitation for bids and/or the responsibility determination required by FAR 14.407–2, Responsible Bidder—Reasonableness of Price. When negotiation is used, appropriately weighted evaluation factors and/or the determination of price reasonableness performed in accordance with FAR 15.608(a)(1) can be used to ensure prices charged to the public are reasonable. In all instances, agencies shall ensure that the prices charged to the public are incorporated into the resulting contracts.

The statute governing miscellaneous receipts, 31 U.S.C. 3302, Custodians of Money, requires agencies to deposit any money received from outside sources into the general funds of the U.S. Treasury and not into the agencies' own accounts, barring statutory authority to the contrary.

It is possible that "bonus bids" may occur in situations other than stenographic reporting services where contractors, in performing Government contracts, obtain something of value which they may, in turn, sell to other parties for a profit. For purposes of this memorandum, these could also include requirements which contractors are willing to perform for free or token amounts, but exclude contracts which do not evolve from the appropriations process (e.g., sales and concessions). Agencies shall inform this Office of any such situations involving other than stenographic reporting services. This information will be used to determine whether additional guidance is needed on this matter.

These guidelines shall be implemented immediately. Any questions, comments or information regarding this approach should be referred to Mr. Stanley Kaufman, Deputy Associate Administrator. Mr. Kaufman may be reached at (202) 395-6803.

[FR. Doc. 90-25666 Filed 10-30-90; 8: 45 am]

BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer—Kenneth Fogash (202) 272-2142

Upon written request copy available from: Securities and Exchange Commission, Public Reference Branch, Washington, DC 20549-1002.

Form F-7, File No. 270-331
Form F-8, File No. 270-332
Form F-9, File No. 270-333
Form F-10, File No. 270-334
Form 40-F, File No. 270-335
Form F-X, File No. 270-336
Form T-5, File No. 270-337
Sch. 14D-1F, File No. 270-338
Sch. 14D-9F, File No. 270-339
Sch. 13E-4F, File No. 270-340

Notice is hereby given pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), that the Securities and Exchange Commission ("Commission") has submitted for OMB approval revised forms and schedules under the Securities Act of 1933 (1933 Act), the Securities Exchange Act of 1934 (1934 Act), and the Trust Indenture Act of 1939, to be adopted as part of the Commission's multijurisdictional disclosure system. The reproposed forms and schedules are as follows:

Paperwork project no.

3235-0383 Form F-7, registration of securities offered upon the exercise of rights granted to existing security holders of the registrant, (1933 Act),

3235-0378 Form F-8, registration of securities to be issued in an exchange offer or in connection with a business combination, (1933 Act),

3235-0377 Form F-9, registration of investment grade debt or preferred securities, (1933 Act),

3235-0380 Form F-10, general registration of securities, (1933 Act),

3235-0379 Form F-X, appointment of agent for service of process, (1933 Act),

3235-0381 Form 40-F, registration and annual reporting form, (1934 Act)

3235-0376 Schedules 14D-1F, third-party tender offer form, (1934 Act)

3235-0382 14D-9F, tender offer target response form, (1934 Act)

3235-0375 13E-4F, issuer tender offer form, (1934 Act), and

3235-0384 Form T-5, application form for exemption filed pursuant to Rule 4d-1 under the Trust Indenture Act of 1939.

The staff estimates that up to 220 Canadian companies may avail themselves of the new forms and schedules per year at an estimated average burden of two hours per response per form or schedule. The estimated average burden hours are made solely for purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

General comments regarding the estimated burden hours should be directed to Gary Waxman at the address below. Any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms should be directed to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549-6004 and Gary Waxman, Clearance Officer, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 23, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-25748 Filed 10-30-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-28580; File Nos. SR-AMEX-90-20; SR-MSE-90-10; SR-NYSE-90-43; SR-PHLX-90-33]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Midwest Stock Exchange, Inc.; New York Stock Exchange, Inc.; and Philadelphia Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval to Proposed Rule Changes Relating to Market Circuit Breaker Proposals

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] the American Stock Exchange, Inc. ("Amex"), Midwest Stock Exchange, Inc. ("MSE"), New York Stock Exchange, Inc. ("NYSE"), and Philadelphia Stock Exchange, Inc. ("PHLX") (collectively, the "Exchanges") have filed with the Securities and Exchange Commission ("Commission") proposed rule changes to extend the effectiveness of their respective rules that implement certain procedures that will be activated during volatile market conditions.

In 1988, the Commission approved circuit breaker proposals by the Exchanges.[3] In general, the circuit breaker rules provide that trading in all markets would halt for one hour if the Dow Jones Industrial Average ("DJIA") declines 250 or more points from its previous day's closing level and, thereafter, trading would halt for an additional two hours if the DJIA declines 400 points from the previous day's close.[4] Such circuit breaker proposals were an important part of the measures adopted by the Exchanges to address market volatility concerns in the wake of the October 1987 Market Break.

The Commission approved the Amex, Boston Stock Exchange ("BSE"), MSE, NYSE and PHLX as well as National Association of Securities Dealers ("NASD") circuit breaker proposals on a pilot program basis. Subsequently, in

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1989).

[3] *See* Securities Exchange Act Release Nos. 26366 (December 22, 1988) 53 FR 52904 (PHLX); 26218 (October 26, 1988) 53 FR 44137 (MSE); 26198 (October 19, 1988) 53 FR 41637 (Amex and NYSE).

[4] If the 250-point trigger is reached within one hour of the scheduled close of trading for a day, or if the 400-point trigger is reached within two hours of the scheduled close of the trading day, trading will halt for the remainder of the day. If, however, the 250-point trigger is reached between one hour and one-half hours before the scheduled closing, or if the 400-point trigger is reached between two hours and one hour before the scheduled closing, the Exchanges would retain the power to use abbreviated reopening procedures either to permit trading to reopen before the scheduled closing or to establish closing prices.

1989, the Exchanges and the NASD filed, and the Commission approved, proposals to extend their respective pilot programs.[5] Those proposals are nearing their expiration dates and the Exchanges have filed with the Commission proposals to extend further their respective pilot programs until October 31, 1991.[6] The circuit breaker proposals of the Chicago Board Options Exchange, Inc. ("CBOE"),[7] the Pacific Stock Exchange, Inc. ("PSE") [8] and the Cincinnati Stock Exchange, Inc. ("CSE") [9] were proposed by these exchanges, and approved by the Commission, on a permanent basis rather than as a pilot program.

The circuit breaker mechanisms were enacted in the wake of the October 1987 Market Break. Both the "Report of the Presidential Task Force on Market Mechanisms" ("Brady Report") and the Working Group's Interim Report [10] recommended that coordinated trading halts and reopening procedures be developed that would be implemented in all U.S. markets for equity and equity related products during large rapid market declines.[11] In response, the SROs submitted proposals to implement circuit breaker procedures that are designed to substitute planned trading halts for unplanned and destabilizing market closings. In addition, the stock index futures exchanges have implemented parallel circuit breakers that were approved by the Commodity Futures Trading Commission on a permanent basis.

Since the Commission approved these proposals in October 1988, the DJIA has not experienced a one day 250 point decline that would trigger a market halt. Nevertheless, the Commission continues to believe that circuit breaker procedures are desirable to deal with potential strains that may develop during periods of extreme market volatility, and, accordingly, the Commission believes that the pilot programs should be extended. The Commission also believes that circuit breakers represent a reasonable means to retard a rapid, one day market decline that can have a destabilizing effect on the nation's financial markets and participants.

Accordingly, the Commission finds that the proposed rule changes filed by the Exchanges are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule changes prior to the thirtieth day after the date of publication of the proposals in the **Federal Register** because there are no changes being made to the current provisions, which originally were subject to the full notice and comment procedures, and accelerated approval would enable the pilots to continue on an uninterrupted basis. Due to the importance of these circuit breakers for market confidence, soundness, and integrity, it is necessary and appropriate that these procedures continues on an uninterrupted basis.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filings also will be available for inspection and copying at the principal office of each respective exchange. All submissions should refer to file number SR–AMEX–90–20, SR–MSE–90–16, SR–PHLX–90–33 or SR–NYSE–90–43, and should be submitted by November 21, 1990.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[12] that the proposed rule changes are approved until October 31, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Dated: October 25, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–25750 Filed 10–30–90; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–28579; File No. SR–DTC–90–10]

Self-Regulatory Organizations; Amendment to a Proposed Rule Change by the Depository Trust Company Relating to the Repo Tracking System[1]

October 25, 1990.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, as amended, ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 14, 1990, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the amendment ("Amendment No. 1") to the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission previously published notice of the proposed rule change (SR–DTC–90–10) on August 1, 1990,[2] to solicit comments on the proposed rule change from interested persons. The Commission is publishing this notice to solicit comments on Amendment No. 1 from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Amendment to the Proposed Rule Change

Amendment No. 1 consists of proposed revisions to portions of DTC's Rules 9, "Money Payments," 10, "Discretionary Termination," and 12, "Insolvency."

DTC distributed the text of the proposed rule changes to its

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[5] *See* Securities Exchange Act Release No. 27370 (October 20, 1989) 54 FR 43861 (Order approving extension of Amex, BSE, MSE, NASD, NYSE AND PHLX circuit breaker rules).

[6] The BSE pilot program does not expire until October 31, 1991. Therefore, the BSE has not filed to extend its pilot program.

[7] *See* Securities Exchange Act Release No. 26198 (October 19, 1988), 53 FR 41637.

[8] *See* Securities Exchange Act Release No. 26308 (December 16, 1988) 53 FR 51042.

[9] *See* Securities Exchange Act Release No. 26440 (January 10, 1989) 54 FR 1830.

[10] The Working Group on Financial Markets was established by the President in March 1988 to provide a coordinating framework for consideration, resolution, recommendation, and action on the complex issues raised by the market break in October 1987. The Working Group consists of the chairmen of the Commission, Board of Governors of the Federal Reserve System and the Commodity Futures Trading System, and the Under Secretary for Finance of the Department of the Treasury.

[11] In particular, the Working Group recommended a one-hour trading halt if the DJIA declined 250 points from its previous day's closing level, and a subsequent two-hour trading halt if the DJIA declined 400 points below its previous day's closing level. The Working Group also recommended that the NYSE use reopening procedures, similar to those used on Expiration Fridays, that are designed to enhance the information made public about market conditions.

[12] 15 U.S.C. 78s(b)(2) (1982).

[13] 17 CFR 200.30–3(a)(12) (1988).

[1] The "Repo Tracking System" ("RTS") is DTC's system to enable distributions on securities sold subject to a repurchase agreement to be paid to the proper party. For a more detailed discussion of RTS, *see* Securities Exchange Act No. 28258 (July 24, 1990), 55 FR 31282.

[2] *Id.*

Participants, Pledgees and Depository Facilities on August 24, 1990. The terms of substance are summarized below.

This Amendment No. 1 supplements File No. SR–DTC–90–10 filed June 26, 1990,[3] but does not change proposed rule change SR–DTC–90–10 in any way. That previous filing proposed a Repo Tracking System ("RTS") offering three new instructions for Participants to use to direct DTC to effect automatic allocation of distributions on securities sold pursuant to repurchase agreements: A "Repo Deliver Order," a "Repo Reclaim" instruction, and a "Repo Adjustment" instruction.[4] RTS will also provide a variety of inquiry functions and reports to Participants.

The revisions to the second paragraph of *section 1* of Rule 9.(A) authorize DTC to establish, and require it to effect, the new RTS Repo Deliver Order and Repo Reclaim instructions from Participants, subject to DTC's right to cease to act for a Participant. Similarly, the revisions to the third paragraph of *section 1* of Rule 9.(A) authorize DTC to establish, and require it to effect, the new RTS Repo Adjustment instruction from Participants, subject to DTC's right to cease to act for a Participant.[5] While it might reasonably be argued that the cited paragraphs of existing Rule 9 are sufficient to authorize the new RTS instructions, it could also be argued that the authorization in the existing second and third paragraphs is limited to instructions directing a single credit/debit pair that is netted into each of the two Participants' DTC Settlement accounts for that day without any book-entry movement of securities. DTC's Board of Directors therefore elected to approve the proposed revisions because the new RTS instructions contemplate more than one debit/credit pair,[6] will affect Settlement Accounts on dates after the instruction,[7] and sometimes include book-entry transfer of securities in the instruction.[8]

The revisions to *section 3* and to *section 4* of Rule 10 add to the existing Rule concerning DTC's ceasing to act for a Participant. The additions propose authority for DTC to establish procedures ("unwind procedures") for use after ceasing to act. The "unwind procedures" would eliminate any DTC obligations to automatically allocate future distributions created by RTS transactions with the terminated Participant (without affecting the counterparties' legal obligations or rights with respect to the terminated Participant).[9]

The revisions to *section 6* of Rule 12 add to the existing Rule concerning the Time of Insolvency of a Participant. The additions propose authority for DTC to establish "unwind procedures" for use from and after the Time of Insolvency of a Participant.

II. Self-Regulatory Organization's Statement of the Purpose of the Amendment to the Proposed Rule Change

DTC states that the purpose of the amendment is to revise DTC's Rules to provide for RTS, that Amendment No. 1 does not change the purpose of or basis for RTS, that Amendment No. 1 does not change the purpose of or basis for RTS, and that DTC's Board of Directors has approved the proposed revisions to Rules 9, 10, and 12. As mentione above, DTC distributed the text of Amendment No. 1 to its Participants, Pledgees and Depository Facilities on August 24, 1990. No written comments have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to the file number SR–DTC–90–10 (Amendment No. 1) and should be submitted by November 21, 1990.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–25751 Filed 10–30–90; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–28581; File No. 87–8–90]

Self-Regulatory Organizations; Order Granting Temporary Registration as a Securities Information Processor to National Association of Securities Dealers, Inc. for Market Services, Inc.

On March 28, 1990, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 11A(b)(2) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 11Ab2–1 thereunder,[2] an application for registration of its subsidiary, Market Services, Inc. ("MSI"), as an exclusive securities information processor ("SIP") [3] for the

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[3] Securities Exchange Act No. 28258 (July 24, 1990), 55 FR 31282.

[4] For a more detailed discussion of RTS instructions, *see* Securities Exchange Act No. 28258 (July 24, 1990), 55 FR 31282.Capitalized terms have the meaning that they have in DTC's existing Rules.

[5] Previously, the second paragraph of *section 1* of existing Rule 9.(A) authorized DTC to establish, and required DTC to effect, instructions such as the Securities Payment Order ("SPO") and Premium Payment Order ("PPO"), where the instructing Participant causes DTC to credit its account with a cash amount debited from another Participant's account without book-entry movement of securities. The existing third paragraph of that Rule authorizes DTC to effect cash movement in the other direction (from the instructing Participant to another Participant) without securities movement.

[6] Therefore, the insertion "or amounts."

[7] Therefore, the insertions "currently or in the future," "at that time," "at the time or times specified," and "at the same time."

[8] Therefore, the insertion "in accordance with the Procedures."

[9] For a more detailed discussion of DTC's RTS "unwind procedures," *see* Securities Exchange Act No. 28258 (July 24, 1990), 55 FR 31282.

[1] 15 U.S.C. 78k–1 (1987).

[2] *See* letter to Jonathan G. Katz, Secretary, SEC, from Frank J. Wilson, Executive Vice-President and General Counsel, NASD, dated March 28, 1990. The Notice of Application for Registration was published in Securities Exchange Act Release No. 27957, April 27, 1990.

[3] MSI is a securities information processor within the definition of section 3(a)(22)(A) of the Act and an exclusive processor within the definition of section 3(a)(22)(B) of the Act.

operation of the PORTAL Market.[4] On April 27, 1990, the Commission granted the NASD a temporary exemption from registration as a SIP to allow the NASD to operate the PORTAL Market while the Commission completed its review of the securities information processor application.[5] In the same release the Commission requested comment on the SIP application. No comment letters were received concerning this application.

Section 11A(b)(1) of the Act provides in pertinent part that "it shall be unlawful for any securities information processor unless registered in accordance with this subsection, directly or indirectly, to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of a securities information processor."[6] Rule 11Ab2-1(a) provides that applications for registration as securities information processors shall be filed on Form SIP. Further, Paragraph (b) of Rule 11Ab2-1 provides that if any information contained in items 1 through 13 or item 21 of Form SIP becomes inaccurate for any reason, the securities information processor shall promptly file an amendment to Form SIP correcting such information.

The Commission has reviewed the MSI SIP application, as well as the operation of the NASD's PORTAL system. As part of its submissions, the NASD represents that it has considered the implications of the new system on the capacity of the NASD's other systems,[7] the adequacy of the PORTAL system's capacity to process the expected traffic in PORTAL itself, and the adequacy of the PORTAL system's protection against unauthorized access, computer viruses and other internal or external intrusions. The NASD represented that its capacity and security plans are designed to provide adequate protections that are comparable to those generally in use for similar systems.[8] The Commission also has examined the information and documents contained in the NASD's submissions with regard to standards and procedures for collection, processing, distribution and publication of information with respect to quotations for, and transactions in securities; personnel qualifications; financial condition; and such other matters as the Commission has determined to be germane to the provisions of the Act and the rules and regulations thereunder.

Because the PORTAL Market is the first NASD service operated on Stratus computers, the NASD stated that it has not had the opportunity to develop the drivers and traffic generators required to conduct a formalized stress test of the PORTAL Market. A capacity test was performed by simulating actual operation of the PORTAL Market through manual input of typical transactions. From this simulated production test, the NASD represented that the system has sufficient capacity to support the PORTAL Market through early expansion and growth in user traffic. It further represents that the system can be upgraded with little or no impact on continuous operation. The NASD also stated that at the initial phase of the PORTAL Market there will be no backup system available, but that all available system resources are being applied to handle potential PORTAL Market capacity. The NASD stated that it will assess, during the next year, the additional equipment and cost attendant to the implementation of a backup system.

The Commission notes with concern the lack of a back-up system for the PORTAL Market and the inability of the NASD to perform formalized stress tests of the system. The Commission believes, however, that temporary registration is appropriate in view of the low-volume that can reasonably be expected during the first year of operation. The Commission will monitor closely the development of the PORTAL Market and six-months after the date of this order will begin to assess whether the volume in PORTAL is such that it necessitates the implementation of a back-up system and stress test capabilities. At that time, the NASD will be required to submit to the Commission statistics on the volume of activity in the PORTAL system, and a plan for the implementation of a back-up system and stress test capabilities.

The Commission, therefore, finds, pursuant to section 11A(b)(3) of the Act, that, based on the NASD's representations and on the performance of the PORTAL system to date, as well as the Commission's belief that for an initial start-up phase, the PORTAL Market should experience fairly low volume, MSI is so organized, and has the capacity, to be able to assure the prompt, accurate, and reliable performance of its functions as a securities information processor, comply with the provisions of the Act and the rules and regulations thereunder, carry out its functions in a manner consistent with the purposes of section 11A, and insofar as it is acting as an exclusive processor, operate fairly and efficiently.

It is therefore ordered, pursuant to section 11A(b)(1) of the Act, that the application of the NASD for the registration of MSI as a securities information processor be, and hereby is, granted for a one-year period from the date of this order.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.30-3(a)(49).

Dated: October 25, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-25749 Filed 10-30-90; 8:45 am]

BILLING CODE 8010-01-M

[4] The PORTAL Market is a screen-based system for primary placements and secondary trading of Rule 144A securities. The Commission, in separate releases, adopted Rule 144A under the Securities Act of 1933 and approved an NASD proposed rule change to implement the PORTAL Market under the Exchange Act. *See* Securities Act Release No. 6862, April 23, 1990; and Securities Exchange Act Release No. 27956, April 27, 1990.

[5] *See* Securities Exchange Act Release No. 27957, (April 27, 1990). 55 FR 19140. On July 30, 1990, the Commission granted the NASD a 60-day extension of the temporary exemption from registration. *See* Securities Exchange Act Release No. 28283, (July 30, 1990). 55 FR 31666.

[6] 15 U.S.C. 78k-1(b)(1) (1987).

[7] At present the PORTAL Market is the only NASD service operated on Stratus equipment. The NASD represented that the Stratus equipment and applications operate independently of other NASDAQ processing equipment and applications, so that the operation of the PORTAL Market cannot affect the processing capacity of the NASDAQ system. While PORTAL utilizes the same communications network used by the NASDAQ system, there is sufficient capacity in this network to handle the increase in message traffic reasonably anticipated in the near future from PORTAL market activity.

[8] The PORTAL market would be subject to outage in the event of total loss of the primary NASDAQ facility because the Stratus processing equipment and applications are not separately backed up. The Stratus equipment, however, is fault tolerant and the NASD's back-up power capability is fully available to support the operation of the PORTAL Market in the event of a power outage.

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 90-10-39, Docket 46880]

Application of Warbelow's Air Ventures, Inc. for Certificate Authority Under Subpart Q

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Notice of order to show cause.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Warbelow's Air Ventures, Inc., fit and award it a

certificate of public convenience and necessity to engage in domestic scheduled air transportation of persons, property and mail.

DATES: Persons wishing to file objections should do so no later than November 5, 1990.

ADDRESSES: Objections and answers to objections should be filed in Docket 46860 and addressed to the Documentary Services Division (C–55, room 4107), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Carol A. Woods, Air Carrier Fitness Division (P–56, room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2340.

Dated: October 25, 1990.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 90–25730 Filed 10–30–90; 8:45 am]

BILLING CODE 4910–62–M

Maritime Administration

[Docket S–372]

American President Lines, Ltd.; Application for Written Permission Granted Pursuant to Section 805(a) of the Merchant Marine Act, 1936, as Amended

Notice is hereby given that American President Lines, Ltd. (APL) by letter dated October 18, 1990, has requested written permission under section 805(a) of the Merchant Marine Act, 1936, as amended (Act) and, Article II–13 of Operating-Differential Subsidy Agreement No. MA/MSB–417, for Samuel Zell and Rod F. Dammeyer to become members of the American President Companies, Ltd. (APC) Board of Directors. APL advises that its request arises from the requirement of section 805(a) that permission be obtained in order that a director of an operating-differential subsidy contractor may own "any pecuniary interest" in any concern that operates vessels in domestic intercoastal or coastwise service. APL states that since the "pecuniary interest" of Messrs. Zell and Dammeyer in activities that might be considered to fall within section 805(a) are wholly remote from APL, it filed the instant application to ensure that it is in full compliance with section 805(a).

Messrs. Zell and Dammeyer are, respectively, Chairman and President of Itel Corporation (Itel), a New York Stock Exchange listed corporation. In addition, Mr. Zell owns or jointly controls approximately 20% and Mr. Dammeyer owns less than 1% of the outstanding common stock of Itel. Itel also owns slightly less than 21% of the outstanding common stock of APC, which in turn owns all of the stock of APL. Itel purchased the APC stock commencing in 1988, and has continually stated that its acquisition of APC shares has been for investment purposes only. Itel, APL continues, has also stated no present intention of purchasing additional APC shares. Moreover, APC believes that it can benefit by having Messrs. Zell and Dammeyer, the principal executives of this large APC stockholder, on the APC Board.

APL, in support of its instant application, contends that the issue under section 805(a)—if one should exist—arises for Itel's ownership of all outstanding stock in Great Lakes International, Inc. ("Great Lakes"). Great Lakes owns all of the outstanding stock, or a controlling interest, in a group of companies (Great Lakes Dredge and Dock Company, North American Trailing Company, Tidewater Dredging Corporation, and Dawson Leasing Company), and a 50% interest in another company (Amboy Aggregates, Inc.), which in turn own a fleet of U.S. documented vessels, principally barges and tugs, which are used in performing marine dredging and mining, and marine construction activities, in U.S. and foreign waters. Great Lakes has been in business for 100 years, and has been a subsidiary of Itel since 1985. Attachments A and B to APL's application summarize the principal activities performed by Great Lakes and the nature of its fleet.

APL asserts that it does not believe the above referenced activities of Great Lakes to constitute domestic intercoastal or coastwise service within the meaning of section 805(a) so as to require the requested permission. However, Great Lakes has very recently commenced performing on a limited basis towing services for third parties. It employs five recently acquired tugs under long-term contracts with two distributors of rock and aggregate to tow their barges within Long Island Sound and adjacent waterways. APL goes on to say that these activities by Great Lakes could arguably constitute domestic intercoastal or coastwise service, thus necessitating section 805(a) permission in order that Messrs. Zell and Dammeyer be elected to the APC Board.

Any person, firm or corporation having any interest (within the meaning of section 805(a)) in APL's request and desiring to submit comments concerning the request must by 5 p.m. on 11/13/90 file written comments in triplicate with the Secretary, Maritime Administration, together with petition for leave to intervene. The petition shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petition for leave to intervene is received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 20.804 (Operating-Differential Subsidies))

By Order of the Maritime Administrator.

Dated: October 25, 1990.

James E. Saari,

Secretary, Maritime Administration.

[FR Doc. 90–25674 Filed 10–30–90; 8:45 am]

BILLING CODE 4910–81–M

Research and Special Programs Administration

International Standards on the Transport of Dangerous Goods; Public Meeting

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation.

ACTION: Notice of public meeting.

SUMMARY: This notice is to advise interested persons that RSPA, in conjunction with the International Regulations Committee (INTEREC) of the Hazardous Materials Advisory Council (HMAC), will conduct a public meeting to exchange views on proposals submitted to the sixteenth session of the United Nation's Committee of Experts on the Transport of Dangerous Goods.

DATES: November 27, 1990 at 9:30 a.m.

ADDRESSES: Room 3444, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Frits Wybenga, International Standards Coordinator, Office of Hazardous Materials Transportation, Department of Transportation, Washington, DC 20590; [202] 366-0656.

SUPPLEMENTARY INFORMATION: This meeting will be held in preparation for the sixteenth session of the Committee of Experts on the Transport of Dangerous Goods to be held December 3 to 12, 1990 in Geneva. During this meeting the U.S. position on proposals submitted to the sixteenth session of the Committee will be discussed. Topics to be covered include various issues relating to explosives; classification and grouping criteria for self-reactive substances; application of performance packaging test requirements to minor variations of previously tested combination packages; requirements for infectious substances; revision of the classification and grouping criteria for gases; adoption of a generic classification system for all classes of dangerous goods; classification of specific dangerous goods; and other proposed amendments to the United Nations Recommendations on the Transport of Dangerous Goods.

Documents that will be discussed may be obtained for a nominal fee from HMAC, suite 250, 1110 Vermont Ave., NW., Washington DC 20005; (202) 728-1480.

Issued in Washington, DC, on October 25, 1990.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 90-25673 Filed 10-30-90; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: October 24, 1990.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New.
Form Number: SWR-667; SWR-687-A; SWR-687-B.
Type of Review: New Collection.
Title: Forms Availability Survey.
Description: Objective: To provide taxpayers with forms, instructions, and/or publications needed to comply with Federal Tax Law Regulations. Need to know the level of public awareness concerning where they can obtain tax forms, etc. *Uses:* To make decisions concerning the channels of distribution.
Respondents: Randomly selected taxpayers telephoning in orders for tax forms, instructions, and/or publications.
Respondents: Individuals or households, Businesses or other for-profit.
Estimated Number of Respondents: 9,700.
Estimated Burden Hours Per Response: 3 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 337 hours.
OMB Number: 1545-0416.
Form Number: 5302.
Type of Review: Extension.
Title: Employee Census.
Description: This form is used in conjunction with Forms 5300 and 5307 when applying to IRS for a determination letter stating the pension or profit-sharing plan of the employer meets the requirements of section 401(a) of the Internal Revenue Code. The data submitted allows the IRS to determine that the plan does not discriminate in favor of the prohibited group.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 52,000.
Estimated Burden Hours Per Response/Recordkeeping:
Recordkeeping—10 hours, 31 minutes.
Learning about the law or the form—42 minutes.
Preparing, copying, assembling, and sending the form to IRS—54 minutes.
Frequency of Response: On occasion.
Estimated Total Recordkeeping/Reporting Burden: 829,720 hours.
Clearance Officer: Garrick Shear, (202) 535-4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports, Management Officer.

[FR Doc. 90-25682 Filed 10-30-90; 8:45 am]

BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 211
Wednesday, October 31, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

NATIONAL SCIENCE FOUNDATION

Notice of Meetings

NAME: Special Emphasis Review Panel Meetings for the Division of Materials Research (DMR) 1991 Presidential Young Investigator (PYI) Awards Program.

TYPE OF MEETING: Closed.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552B(c), Government in the Sunshine Act.

PURPOSE OF MEETINGS: To provide advice and recommendations concerning support for DMR 1991 PYI Awards Program.

CONTACT: Dr. Robert J. Reynik, Head, Office of Special Programs in Materials, Division of Materials Research, room 408, National Science Foundation, Washington, DC 20550. Telephone (202) 357–9791.

MEETING LOCATION: Division of Materials Research, room 408, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Meeting dates	Time	Proposal areas
Nov. 15–16, 1990	8:30 am–5:00 pm	Solid State Chemistry & Polymers.
Dec. 03–04, 1990	8:30 am–5:00 pm	Condensed Matter Physics.
Dec. 06–07, 1990	8:30 am–5:00 pm	Metals, Ceramics, Electronic Materials.
Dec. 10–11, 1990	8:30 am–5:00 pm	Materials Theory.

Dated: October 29, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90–25913 Filed 10–29–90; 4:07 pm]

BILLING CODE 7555-01-M

NATIONAL SCIENCE FOUNDATION

Notice of Meetings

NAME: Special Emphasis Panel in Materials Research: MRL Site Visits.

TYPE OF MEETING: Closed.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

PURPOSE OF MEETINGS: To provide advice and recommendations concerning support for Materials Research Laboratories.

CONTACT: Dr. W. Lance Haworth, Program Director, Materials Research Laboratories, Division of Materials Research, Room 408, National Science Foundation, Washington, DC 20550. Telephone (202) 357–9791.

MEETING LOCATIONS AND SCHEDULES:

Massachusetts Institute of Technology	11/13/90	7 pm–8 pm
Center for Materials Science and Engineering	11/14/90	8 am–9 pm
Cambridge, MA 02139	11/15/90	8 am–5 pm
University of Massachusetts at Amherst	12/03/90	7 pm–8 pm
Materials Research Laboratory	12/04/90	8 am–9 pm
Amherst, MA 01003	12/05/90	8 am–4 pm

Dated: October 29, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90–25914 Filed 10–29–90; 4:07 pm]

BILLING CODE 7555-01-M

RESOLUTION TRUST CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Board of Directors of the Resolution Trust Corporation will meet in open session at 10 a.m. on Friday, November 2, 1990 to consider the following matters:

Summary Agenda:

No Cases

Discussion Agenda:

A. *Memorandum re:* Memorandum of Understanding Between the Resolution Trust Corporation and the U.S. Fish and Wildlife Service to authorize the Executive Director to enter into a Memorandum of Understanding establishing procedures for the U.S. Fish and Wildlife Service to act as a technical consultant on environmental wetlands, floodplains, and coastal barrier issues dealing with fish and wildlife resources.

B. *Memorandum re:* Delegations of Authority for Administrative Expenses for the Chairman, Executive Director, Division Directors, Office Directors, and Regional Directors. The delegations will cover existing budget allocations, expenditures exceeding available account balances, noncompetitive procurements, and other administrative requirements.

C. *Memorandum re:* Proposed Regulation Governing Priority of Distribution of Claims Against RTC as Receive to establish the priority of distribution for certain claims by the RTC in its corporate capacity against the RTC as receiver for failed savings associations.

The meeting will be held in the Board Room on the sixth floor of the FDIC

Building located at 550—17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. John M. Buckley, Jr., Executive Secretary of the Resolution Trust Corporation, at (202) 416–7282.

Dated: October 25, 1990.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Executive Secretary.

[FR Doc. 90–25825 Filed 10–29–90; 10:00 am]

BILLING CODE 6714-01-M

VOL 55 ISS 211 OC 31 1990 UMI

federal register

Wednesday
October 31, 1990

Part II

Department of Defense

48 CFR Part 206, et al.
Department of Defense Acquisition Regulations; Miscellaneous Amendments; Proposed Rule

DEPARTMENT OF DEFENSE

48 CFR Parts 208, 216, 222, 232, 235, 236, 247, 249, 252, 253, Appendices B and R

Department of Defense Acquisition Regulations; Miscellaneous Amendments

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: The Defense Federal Acquisition Regulation Supplement (DFARS) is being rewritten in its entirety as a result of a Defense Management Review initiative. The rewrite is designed to eliminate text and clauses that are unnecessary (e.g., duplicate FAR or other directives, add no value, etc.); eliminate or modify, where possible, thresholds, certifications, approval levels, and other regulatory burdens on contracting officers and contractors; and rephrase remaining text and clauses in plain English. The rewrite is being published for public comment in four increments. This is the third increment. The first increment was published on August 14, 1990 (55 FR 33218). The second increment was published on September 28, 1990 (55 FR 39788).

DATES: Comments must be submitted on or before December 31, 1990.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulatory Council, ATTN: Ms. Lucile Hughes, DAR Council, ODASD(P)/DARS, c/o OASD(P&L)(M&RS), Room 3D139, Pentagon, Washington, DC 20301–3062. Please cite DAR Case 90–743 in all correspondence concerning this proposed rule.

FOR FURTHER INFORMATION CONTACT: (703) 697–7266. Barbara Young, for parts 208, 216, 222, 235, Appendix B, Appendix R; Eric Mens for part 232; Valorie Lee for parts 236, 247; and Charles Lloyd for part 249.

SUPPLEMENTARY INFORMATION:

A. Background

The Secretary of Defense's July 1989 Defense Management Report to the President concluded that much of the stifling burden of DoD regulatory guidance, including the Defense Federal Acquisition Regulation Supplement (DFARS), is self-imposed. To correct this situation, the DoD formed a Regulatory Relief Task Force to review DFARS and lower level supplements and to recommend revisions. As a result, the Defense Acquisition Regulatory System, under the direction of the Deputy Assistant Secretary of Defense for Procurement, has undertaken the complete rewrite of DFARS. The rewrite is designed to: Eliminate text and clauses that are unnecessary (e.g., duplicate FAR or other directives, add no value, etc.); eliminate or modify, where possible, thresholds, certifications, approval levels, and other regulatory burdens on contracting officers and contractors; and rephrase remaining text and clauses in plain English.

The rewritten DFARS is being published for public comment in four monthly increments. This publication of DFARS parts 208, 216, 222, 232, 235, 236, 247, 249, their attendant clauses in part 252, their attendant forms instructions in part 253, Appendices B and R is the third increment. All public comments received in response to this notice will be considered in developing the final rule, which is planned for publication in February 1991. Parties responding to this notice are requested to separate their comments by DFARS part. Comments submitted in response to this notice are subject to release to the public under the Freedom of Information Act.

The rewritten DFARS is addressed to the contracting officer. Every attempt has been made to remove extraneous material which, though informative, was guidance addressed to others in the acquisition process, e.g., program managers, requirements personnel, small business specialists, etc. Text which was unnecessary or redundant has been removed. Some text has been moved to the FAR and some additional text in this proposed rule may be moved to the FAR before the rule is finalized. Text has been rearranged, and in some instances, moved to other parts, to more closely align the DFARS text with the FAR text it implements or supplements. The rewritten DFARS includes some policy and procedural changes. These are identified in the following discussion of revisions by part. Unless specifically identified as a change, the rewritten version of the part is not intended as a change in current policy or procedure.

Part 208, Required Sources of Supplies and Services. Subparts 208.73, 208.74, 208.75, 208.76, 208.78, and 208.79 and their attendant clauses in 252.208–7000, 252.208–7001, 252.208–7002, 252.208–7003, 252.208–7005, and 252.208–7006 have been moved to part 225. Subparts 208.70 and 208.71 have been combined, but the Coordinated Acquisition assignments which were listed in subpart 208.71 have been moved to a new Appendix B. Instructions on preparation of a military interdepartmental purchase request have been moved to part 253. Eliminated the requirement to obtain approval two levels above contracting officer before the requiring department can purchase items assigned for integrated material management, when the acquisition is between $1,000 and $5,000.

Part 216, Types of Contracts. Deleted restrictions in subpart 216.3 on use of cost-plus-fixed-fee contracts for acquisitions categorized as either engineering development or operational system development for systems or equipment which have completed the validation phase. Deleted the requirement in 216.104(S–71) for the contracting officer to include a statement in the contract file describing the rationale for contract type when awarding a contract for research and development. Deleted the requirement in 216.203–70 (a) and (b) for chief of the contracting office approval to exceed a ten percent price adjustment.

Part 222, Application of Labor Laws to Government Acquisitions. Lowered the approval level from the Deputy Assistant Secretary of Defense to the agency head for: (1) Major policy decisions on labor relations matters such as plant seizure or injunctive action on potential or actual work stoppages; (2) removal of material from a contractor's facility during a labor dispute; and (3) exclusion of all or part of the requirements of Executive Order 11246, equal employment opportunity. Added a new clause at 252.222–7000 to inform offerors that a wage determination is pending that will affect the solicitation.

Part 232, Contract Financing. Eliminated five thresholds associated with progress payments under contracts funded with FY 87 appropriations, approval of unusual, unliquidated progress payments, and transfer of contract debt. Eliminated a reporting requirement for guaranteed loans. Simplified administration of advance payment pools. Deleted three clauses: 252.232–7005, Payments Under Fixed-Price Construction Contracts; 252.232–7006, Payments Under Fixed-Price Architect-Engineer Contracts; and 252.232–7007, Progress Payments.

Part 235, Research and Development Contracting. Eliminated specific file documentation requirements associated with consideration of small businesses, historically black colleges and universities, and minority institutions. Eliminated requirement for contractor certification that animals used in research are cared for in accordance with the Animal Welfare Act. Added a new clause at 252.235–7000, Distribution of Final Scientific or Technical Report. Partially moved the list of clauses for

use in short form research contracts from 252.235–7005 to 235.015–71(i). Deleted some of the clauses currently included under 252.235–7005 and redesignated the rest as 252.235–7006, 252.235–7007, 252.235–7008, 252.235–7009, and 252.235–7010.

Part 236, Construction and Architect-Engineer Contracts. Eliminated the requirement for head of the contracting activity approval to use sealed bidding for construction overseas. Eliminated ten clauses, i.e., 252.236–7000, Composition of Contractor; 252.236–7004, Contract Prices-Bidding Schedules; 252.236–7005, Salvage Materials and Equipment; 252.236–7008, Superintendence of Subcontractors; 252.236–7012, Contractor-Prepared Network Analysis System; 252.236–7013, Government-Prepared Network Analysis System; 252.236–7014, Statement of Work; 252.236–7016, Direct Payments; 252.236–7017, Approved Construction Plant; and 252.236–7019, Accident Prevention.

Part 247, Transportation. Deleted three clauses, i.e., 252.247–7001, Schedule of Rates; 252.247–7008, Employees of Contractor; and 252.247–7108, Facilities. Combined one solicitation provision and two clauses into one clause, i.e., 252.247–7202, 252.247–7203, and 252.247–7204, which has been redesignated as 252.247–7023, Extent of Transportation of Supplies by Sea.

Part 249, Termination of Contracts. Revised follow-up reporting requirement on terminations from quarterly to semiannually.

Part 252, Solicitation Provisions and Contract Clauses. Revisions in provisions/clauses are identified in the discussion of the part which prescribes use of the provision or clause.

Part 253, Forms. Revisions in this part are identified in the discussion of the part which prescribes use of the form.

Appendix B, Coordinated Acquisition Assignments. The coordinated acquisition assignments which currently appear in DFARS Subpart 208.71 have been moved to this new appendix.

Appendix R, (an excerpt from Title 41—Public Contracts, Property Management). This appendix is deleted.

B. Regulatory Flexibility Act

Parts 208, 216, 222, 236, 247, 249, the provisions/clauses in part 252 prescribed by these parts, the instructions in part 253 on forms prescribed by these parts, Appendix B and Appendix R. These proposed rules do not constitute significant revisions within the meaning of Public Law 98–577; therefore, the Regulatory Flexibility Act does not apply.

Parts 232, 235, and the provisions/clauses in part 252 prescribed by these parts. These proposed rules are not expected to have a significant economic impact on a substantial number of small entities because the basic policies remain unchanged and with few exceptions, the procedural changes are internal agency operating procedures. An Initial Regulatory Flexibility Analysis has not been performed. Comments are solicited from small business and other interested parties and will be considered in development of the final rule.

C. Paperwork Reduction Act

Parts 208, 216, 222, 249, the provisions/clauses in part 252 prescribed by these parts, the instructions in part 253 on forms prescribed by these parts, Appendix B, and Appendix R. These proposed rules do not change or impose any record keeping or information collection requirements beyond that for which OMB approval has previously been obtained.

Parts 232, 235, 236, 247, and the provisions/clauses in part 252 prescribed by these parts. These proposed rules revise recordkeeping and information collection requirements and require approval of OMB under 44 U.S.C. 3501, et seq. Requests for paperwork clearance are being prepared for submission to OMB.

List of Subjects in 48 CFR Parts 208, 216, 222, 232, 235, 236, 247, 249, 252, and 253.

Government procurement.

Claudia L. Naugle,

Executive Editor, Defense Acquisition Regulatory System.

Adoption of Amendments

Therefore, it is proposed that 48 CFR Parts 208, 216, 222, 232, 235, 236, 247, 249, 252, 253, and Appendices B and R be amended as follows:

1. Part 208 is revised to read as follows:

PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

Sec.

208.001 Priorities for use of Government supply sources.
208.002 Use of other Government supply sources.

Subpart 208.3—Acquisition of Utility Services

208.300 Scope of subpart.

Subpart 208.4—Ordering from Federal Supply Schedules

208.404 Using schedules.
208.404–1 Mandatory use.
208.404–2 Optional use.
208.405 Ordering office responsibilities.
208.405–2 Order placement.

Part 208.7—Acquisition from the Blind and Other Severely Handicapped.

208.705 Procedures.

Subpart 208.70—Coordinated Acquisition.

208.7000 Scope of subpart.
208.7001 Definitions.
208.7002 Assignment authority.
208.7002–1 Acquiring department responsibilities.
208.7002–2 Requiring department responsibilities.
208.7003 Applicability.
208.7003–1 Assignments under integrated material management (IMM).
208.7003–2 Assignments under coordinated acquisition.
208.7004 Procedures.
208.7004–1 Purchase authorization from requiring department.
208.7004–2 Acceptance by acquiring department.
208.7004–3 Use of advance MIPRs.
208.7004–4 Cutoff dates for submission of Category II MIPRs.
208.7004–5 Notification of inability to obligate on Category II MIPRs.
208.7004–6 Cancellation of requirements.
208.7004–7 Termination for default.
208.7004–8 Transportation funding.
208.7004–9 Status reporting.
208.7005 MIPRs.
208.7006 Coordinated acquisition assignments.

Subpart 208.71—Acquisition for National Aeronautics and Space Administration (NASA)

208.7100 Authorization.
208.7101 Policy.
208.7102 Procedures.
208.7103 Purchase request and acceptance.
208.7104 Changes in estimated total prices.
208.7105 Inquiries.
208.7106 Payments.

Subpart 208.72—Industrial Preparedness Production Planning

208.7201 Definitions.
208.7202 General.
208.7203 Procedures.

Subpart 208.73—Use of Government-Owned Precious Metals

208.7301 Definitions.
208.7302 Policy.
208.7303 Procedures.
208.7304 Refined precious metals.
208.7305 Contract clause.

Authority: 5 U.S.C. 301,10 U.S.C. 2202, DoD Directive 5000.35, FAR subpart 1.3.

208.001 Priorities for use of Government supply sources.

(a)(1)(v) See subparts 208.70 and 208.71.

(2)(iii) Information on General Services Administration (GSA) schedules for maintenance, repair, and rehabilitation of personal property is in Section I of the GSA supply catalog. The types of personal property for which

GSA, Federal Supply Service has schedule contracts for maintenance, repair, and/or rehabilitation are—

(1) Furniture (office, household, quarters, institutional, and hospital type);

(2) Typewriters (manual, electric, and electronic);

(3) Repair and maintenance of Government owned vehicles; and

(4) Tire retreading and repair (except aircraft).

208.003 Use of other Government supply sources.

(f) Detailed information on strategic and critical materials in excess of national stockpile requirements (e.g., metals, ores, chemicals) is available from the Defense National Stockpile Center, 16th and F Streets, NW., Washington, DC 20406.

(g) Acquire helium (Pub. L. 87-777)—

(i) In bulk from—

(A) The Department of Interior (Bureau of Mines); or

(B) Eligible private helium distributors. A list of eligible private helium distributors is maintained by the Bureau of Mines, Helium Field Operations, 1100 South Fillmore Street, Amarillo, 79101.

(ii) In cylinders or trailers, from—

(A) The Department of Interior (Bureau of Mines); or

(B) Through GSA Federal Supply Schedule contracts.

Subpart 208.3—Acquisition of Utility Services

208.300 Scope of subpart.

DoD policies and procedures are in DFARS Supplement 5.

Subpart 208.4—Ordering from Federal Supply Schedules

208.404 Using schedules.

208.404-1 Mandatory use.

The DoD will not be a mandatory user of any schedule unless individual DoD activities elect to provide annual requirements estimates to GSA and become mandatory users.

Examples of areas where this approach may be applied are:

(1) Group 68-gases and chemicals;

(2) Group 26-pneumatic tires and inner tubes;

(3) Maintenance, repair, and/or rehabilitation of personal property; and

(4) "Just-in-time" arrangements for delivery of material directly from vendors to users.

208.404-2 Optional use.

Use the schedules unless competition would be in the best interest of the Government in terms of quality, responsiveness, or cost.

208.405 Ordering office responsibilities.

208.405-2 Order placement.

(1) Ordering offices may use DD Form 1155, Order for Supplies or Services, to order items from schedules.

(2) Orders may be placed orally if—

(i) The order does not exceed the small purchase threshold at FAR 13.000;

(ii) The contractor agrees to furnish a delivery ticket for each shipment under the order (in the number of copies required by the ordering office). The ticket must include the—

(A) Contract number;

(B) Order number under the contract;

(C) Date of order;

(D) Name and title of person placing order;

(E) Itemized listing of supplies or services furnished; and

(F) Date of delivery or shipment.

(iii) Invoicing procedures are agreed upon. Optional methods of submitting invoices for payment are permitted, such as—

(A) An individual invoice with a receipted copy of the delivery ticket;

(B) A summarized monthly invoice covering all oral orders made during the month, with receipted copies of the delivery tickets (this option is preferred if there are many oral orders); or

(C) A contracting officer statement that the Government has received the supplies.

(3) For purchases where cash payment is an advantage, the use of imprest funds (see FAR subpart 13.4) is authorized when—

(i) The order does not exceed the threshold at FAR 13.404(a); and

(ii) The contractor agrees to the procedure.

Subpart 208.7—Acquisition From the Blind and Other Severely Handicapped

208.705 Procedures.

Ordering offices may use DD Form 1155, Order for Supplies or Services, to place orders with central nonprofit agencies or workshops.

Subpart 208.70—Coordinated Acquisition

208.7000 Scope of subpart.

This subpart prescribes policy and procedures for acquisition of items for which contracting responsibility is assigned to one or more of the departments/agencies or the General Services Administration. Contracting responsibility is assigned through—

(a) The Coordinated Acquisition Program (assignments are listed in Appendix B); or

(b) The Integrated Material Materiel Management Program (assignments are in DoD 4140.26-M, Integrated Materiel Management for Consumable Items).

208.7001 Definitions.

For purposes of this subpart—

Acquiring department means the department, agency, or General Services Administration which has contracting responsibility under the Coordinated Acquisition Program.

Integrated materiel management means assignment of acquisition management responsibility to one department, agency, or the General Service Administration for all of DoD's requirements for the assigned item. Acquisition management normally includes computing requirements, funding, budgeting, storing, issuing, cataloging, standardizing, and contracting functions.

Requiring department means the department or agency which has the requirement for an item.

208.7002 Assignment authority.

(a) Under the DoD Coordinated Acquisition Program, contracting responsibility for certain commodities is assigned to a single department, agency, or the General Services Administration (GSA). Commodity assignments are made—

(1) To the departments and agencies, by the Assistant Secretary of Defense (Production and Logistics);

(2) To the GSA, through agreement with GSA, by the Assistant Secretary of Defense (Production and Logistics);

(3) Outside the continental U.S., by the Unified Commanders; and

(4) For acquisitions to be made in the U.S. for commodities not assigned under paragraphs (a) (1), (2), or (3) of this section, by department or agency heads (10 U.S.C. 2308).

(i) Agreement may be on either a one-time or a continuing basis. The submission of a military interdepartmental purchase request (MIPR) by a requiring activity and its acceptance by the contracting activity of another department, even though based on an oral communication, establishes a one-time agreement

(ii) Consider repetitive delegated acquisition responsibilities for coordinated acquisition assignment. If not considered suitable for coordinated acquisition assignment, formalize continuing agreements and distribute them to all activities concerned.

(b) Under the Integrated Materiel Management Program, assignments are made by the Assistant Secretary of Defense (Production and Logistics)—

(1) To the departments and agencies; and

(2) To the GSA, through agreement with GSA.

208.7002-1 Acquiring department responsibilities.

The acquiring department generally is responsible under coordinated acquisition for—

(a) Acquisition planning (Phasing the submission of requirements to contracting, consolidating or dividing requirements, analyzing the market, and determining patterns for the phased placement of orders to avoid unnecessary production fluctuations and meet the needs of requiring departments at the lowest price);

(b) Purchasing;

(c) Performing or assigning contract administration, including follow up and expediting of inspection and transportation; and

(d) Acquiring licenses under patents and settling patent infringement claims arising out of the acquisition. (Acquiring departments must obtain approval from the department whose funds are to be charged for acquiring licenses or settling claims.)

208.7002-2 Requiring department responsibilities.

The requiring department is responsible for—

(a) Ensuring compliance with the order of priority in FAR 8.001 for use of Government supply sources before submitting a requirement to the acquiring department for contracting action.

(b) Providing the acquiring department—

(1) The complete certified documentation required by FAR 6.303-2(b). A requiring department official, equivalent to the appropriate level in FAR 6.304, must approve the documentation before submission of the military interdepartmental purchase request (MIPR) to the acquiring department;

(2) Any additional supporting data which the acquiring department contracting officer requests (e.g., the results of any market survey or why none was conducted, and actions the requiring department will take to overcome barriers to competition in the future);

(3) The executed determination and findings specified in FAR 6.302-7(c)(1), when applicable;

(4) When a requiring department requests an acquiring department to contract for supplies or services using full and open competition after exclusion of sources, all data required by FAR 6.202(b)(2);

(5) When the requiring department specifies a foreign end product, the applicable exception, and the determination that a domestic source end product is not available, if required by FAR 25.108 or FAR 25.302;

(6) A list (or copies) of specifications, drawings, and other data required for the acquisition. The requiring department need not furnish Federal, military, departmental, or other specifications or drawings or data which are available to the acquiring department;

(7) Justification for any option quantities included in the MIPR;

(8) A statement as to whether used or reconditioned material, former Government surplus property, or residual inventory will be acceptable, and if so—

(i) A list of any supplies that need not be new; and

(ii) The basis for determining the acceptability of such supplies, including an analysis of the factors at FAR 10.010(b);

(9) A statement as to whether the acquiring department may exceed the total MIPR estimate, and if so, by what amount;

(10) Unless otherwise agreed between the departments, an original and six copies of each MIPR and its attachments (except specifications, drawings, and other data); and

(11) A list of all persons who have had access to proprietary or source selection information (see FAR 3.104-8(f)).

208.7003 Applicability.

208.7003-1 Assignments under integrated materiel management (IMM).

(a) All items assigned for IMM must be acquired from the IMM manager except—

(1) Items the IMM manager assigns a supply system code for local purchase;

(2) When purchase by the requiring department is in the best interest of the Government in terms of the combination of quality, timeliness, and cost that best meets the requirement. This exception does not apply to items—

(i) Necessary for war reserve or war mission requirements, required for unit deployment, or to support the industrial base;

(ii) Directly related to the operation of a weapon system or its support equipment;

(iii) With special security characteristics; or

(iv) Which are dangerous (e.g., explosives, munitions);

(b) When an item assigned for IMM is to be acquired by the requiring department under one of the exceptions in paragraphs (a)(2) of this subsection, the contracting officer must—

(1) Document the contract file for an acquisition over $100 per line item; and

(2) Obtain a waiver from the IMM manager for an acquisition over $5,000 per line item, if the IMM assignment is to GSA, the Defense Logistics Agency (DLA), or the Army Tank-Automotive Command (TACOM). Submit requests for waiver to—

(i) For GSA: Commissioner (F), Federal Supply Service, Washington, DC 20406.

(ii) For DLA: Director, Defense Logistics Agency, ATTN: DLA-OS, Alexandria, VA 22305-6100.

(iii) For TACOM: U.S. Army Tank-Automotive Command, ATTN: AMSTA-FHC, Warren, MI 48397-5000.

208.7003-2 Assignments under coordinated acquisition.

Requiring departments must submit to the acquiring department all contracting requirements for items assigned for coordinated acquisition, except—

(a) Items obtained through the sources in FAR 8.001(a)(1) (i) through (vii);

(b) Items obtained under 208.7003-1(a);

(c) Small dollar requirements not in excess of the small purchase threshold in FAR 13.000, when contracting by the requiring department is in the best interest of the Government;

(d) In an emergency. When an emergency purchase is made, the requiring department must send one copy of the contract and a statement of the emergency to the contracting activity of the acquiring department;

(e) Requirements for which the acquiring department's contracting activity delegates contracting authority to the requiring department;

(f) Items in a research and development stage (as described in FAR part 35). Under this exception, the military departments may contract for research and development requirements, including quantities for testing purposes and items undergoing in-service evaluation (not yet in actual production, but beyond prototype). Generally, this exception applies only when research and development funds are used.

(g) Items peculiar to nuclear ordnance material where design characteristics or test-inspection requirements are

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controlled by the Department of Energy (DoE) or by DoD to ensure reliability of nuclear weapons.

(1) This exception applies to all items designed for and peculiar to nuclear ordnance regardless of agency control, or to any item which requires test or inspection conducted or controlled by DoE or DoD.

(2) This exception does not cover items used for both nuclear ordnance and other purposes if the items are not subject to the special testing procedures.

(h) Items to be acquired under FAR 6.302–6 (national security requires limitation of sources);

(i) Items to be acquired under FAR 6.302–1 (supplies available only from the original source for follow-on contract);

(j) Items directly related to a major system and which are design controlled by and acquired from either the system manufacturer or a manufacturer of a major subsystem;

(k) Items subject to rapid design changes, or to continuous redesign or modification during the production and/or operational use phases, which require continual contact between industry and the requiring department to ensure that the item meets the requirements:

(1) This exception permits the requiring department to contract for items of highly unstable design. For use of this exception, it must be clearly impractical, both technically and contractually, to refer the acquisition to the acquiring department. Neither a number of design changes nor a negotiated contract is valid reason for using this exception.

(2) This exception also applies to items requiring compatibility testing, provided such testing requires continual contact between industry and the requiring department;

(l) Containers acquired only with items for which they are designed;

(m) One-time buy of a noncataloged item.

(1) This exception permits the requiring departments to contract for a nonrecurring requirement for a noncataloged item. This exception could cover a part or component for a prototype which may be stock numbered at a later date.

(2) This exception does not permit acquisitions of recurring requirements for an item, based solely on the fact that the item is not stock numbered, nor may it be used to acquire items which have only slightly different characteristics from previously cataloged items.

208.7004 Procedures.

208.7004–1 Purchase authorization from requiring department.

(a) Requiring departments send their requirements to acquiring departments for contracting action on either a DD Form 448, Military Interdepartmental Purchase Request (MIPR), or a DD Form 416, Requisition for Coal, Coke or Briquettes. A MIPR or a DD Form 416 is the acquiring department's authority to acquire the supplies or services on behalf of the requiring department.

(b) The acquiring department is authorized to create obligations against the funds cited in a MIPR without further referral to the requiring department. The acquiring department has no responsibility to determine the validity of a stated requirement in an approved MIPR, but it should bring apparent errors in the requirement to the attention of the requiring department.

(c) Changes that affect the contents of the MIPR must be processed as a MIPR amendment regardless of the status of the MIPR. The requiring department may initially transmit changes electronically or by some other expedited means, but must confirm changes by a MIPR amendment.

(d) The requiring department must submit requirements for additional line items of supplies or services not provided for in the original MIPR as a new MIPR. The requiring department may use a MIPR amendment for increased quantities only if—

(1) The original MIPR requirements have not been released for solicitation; and

(2) The acquiring department agrees.

208.7004–2 Acceptance by acquiring department.

(a) Acquiring departments formally accept a MIPR by DD Form 448–2, Acceptance of MIPR, as soon as practicable, but no later than 30 days after receipt of the MIPR. If the 30 day time limit cannot be met, the acquiring department must inform the requiring department of the reason for the delay, and the anticipated date the MIPR will be accepted. The acquiring department must accept Category I MIPRs in writing before expiration of the funds.

(b) The acquiring department in accepting a MIPR will determine whether to use Category I or Category II methods of funding.

(1) Category I method of funding is used under the following circumstances and results in citing the funds of the acquiring department in the contract—

(i) Delivery is from existing inventories of the acquiring department;

(ii) Delivery is by diversion from existing contracts of the acquiring department;

(iii) Production or assembly is through Government work orders in Government-owned plants;

(iv) Production quantities are allocated among users from one or more contracts, and the identity of specific quantities of the end item to individual contracts is not feasible at the time of MIPR acceptance;

(v) Acquisition of the end items involves separate acquisition of components to be assembled by the acquiring department;

(vi) Payments will be made without reference to deliveries of end items (e.g., cost-reimbursement type contracts and fixed price contracts with progress payment clauses); or

(vii) Category II method of funding is not feasible and economical.

(2) Category II method of funding is used in circumstances other than those in paragraph (b)(1) of this subsection. Category II funding results in citation of the requiring department's funds and MIPR number in the resultant contract.

(c) When the acquiring departments accepts a MIPR for Category I funding—

(1) The DD Form 448–2, Acceptance of MIPR, is the authority for the requiring department to record the obligation of funds;

(2) The acquiring department will annotate the DD Form 448–2 if contingencies, price revisions, or variations in quantities are anticipated. The acquiring department will periodically advise the requiring department, prior to submission of billings, of any changes in the acceptance figure so that the requiring department may issue an amendment to the MIPR, and the recorded obligation may be adjusted to reflect the current price;

(3) If the acquiring department does not qualify the acceptance of a MIPR for anticipated contingencies, the price on the acceptance will be final and will be billed at time of delivery;

(4) Upon receipt of the final billing (SF 1080, Voucher for Transferring Funds), the requiring department may adjust the fiscal records accordingly without authorization from or notice to the acquiring department.

(d) When the MIPR is accepted for Category II funding, a conformed copy of the contract is the authority to record the obligation. When all awards have been placed to satisfy the total MIPR requirement, any unused funds remaining on the MIPR become excess to the acquiring department. The acquiring department will immediately

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notify the requiring department of the excess funds by submitting a MIPR amendment (DD Form 448–2). This amendment is authorization for the requiring department to withdraw the funds. The acquiring department is prohibited from further use of such excess funds.

(e) When the acquiring department requires additional funds to complete the contracting action for the requiring department, the request for additional funds must identify the exact items involved, and the reason why additional funds are required. The requiring department shall act quickly to—

(1) Provide the funds by an amendment of the MIPR; or

(2) Reduce the requirements.

(f) The accepting activity of the acquiring department shall remain responsible for the MIPR even though that activity may split the MIPR into segments for action by other contracting activities.

208.7004–3 Use of advance MIPRs.

(a) An advance MIPR is an unfunded MIPR provided to the acquiring department in advance of the funded MIPR so that initial steps in planning the contract action can begin at an earlier date.

(b) In order to use an advance MIPR, the acquiring department and the requiring department must agree that its use will be beneficial. The departments may execute a blanket agreement to use advance MIPRs.

(c) The requiring department shall not release an advance MIPR without obtaining proper approval of the requirement.

(d) When advance MIPRs are used, mark "ADVANCE MIPR" prominently on the DD Form 448.

(e) For urgent requirements, the advance MIPR may be transmitted electronically.

(f) On the basis of an advance MIPR, the acquiring department may take the initial steps toward awarding a contract, such as obtaining internal coordination and preparing an acquisition plan. Acquiring departments may determine the extent of these initial actions but shall not award contracts on the basis of advance MIPRs.

208.7004–4 Cutoff dates for submission of Category II MIPRs.

(a) Unless otherwise agreed between the departments, May 31 is the cutoff date for the receipt of MIPRs citing expiring appropriations which must be obligated by September 30 of that fiscal year. If circumstances arise which require the submission of MIPRs citing expiring appropriations after the cutoff date, the requiring department will communicate with the acquiring department before submission to find out whether the acquiring department can execute a contract or otherwise obligate the funds by the end of the fiscal year. Acquiring departments will make every effort to obligate funds for all such MIPRs accepted after the cutoff date. However, acceptance of a late MIPR does not constitute assurance by the acquiring department that all such funds will be obligated.

(b) Nothing in these instructions is intended to restrict the processing of MIPRs when the acquiring department is capable of executing contracts or otherwise obligating funds before the end of the fiscal year.

(c) The May 31 cutoff date does not apply to MIPRs citing continuing appropriations.

208.7004–5 Notification of inability to obligate on Category II MIPRs.

On August 1, the acquiring department will advise the requiring department of any Category II MIPRs on hand citing expiring appropriations they will be unable to obligate prior to the fund expiration date. If an unforeseen situation develops after August 1 which will prevent execution of a contract, the acquiring department will notify the requiring department as quickly as possible and return the MIPR. The letter of transmittal returning the MIPR will authorize purchase by the requiring department and state the reason that the acquisition could not be accomplished.

208.7004–6 Cancellation of requirements.

(a) *Category I MIPRs.* The requiring department will notify the acquiring department by electronic or other immediate means when cancelling all or part of the supplies or services requested in the MIPR. Within 30 days, the acquiring department will notify the requiring department of the quantity of items available for termination and the amount of funds in excess of the estimated settlement costs. Upon receipt of this information, the requiring department will issue a MIPR amendment to reduce the quantities and funds accordingly.

(b) *Category II MIPRs.* The requiring department will notify the acquiring department electronically or by other immediate means when cancelling all or any part of the supplies or services requested in the MIPR.

(1) If the acquiring department has not entered into a contract for the supplies or services to be cancelled, the acquiring department will immediately notify the requiring department. Upon receipt of such notification, the requiring department shall initiate a MIPR amendment to revoke the estimated amount shown on the original MIPR for the cancelled items.

(2) If the items to be cancelled have already been placed under contract—

(i) As soon as practicable, but in no event more than 45 days after receipt of the cancellation notice from the requiring department, the contracting officer shall issue a termination data letter to the requiring department (original and four copies) containing, as a minimum, the following information:

SUBJECT: Termination Data Re:
Contract No.———————————
Termination No. ———————————
Contract———————————

(a) As termination action is now in progress on the above contract, the following information is submitted:

(1) Brief Description of items terminated.

(2) You are notified that the sum of $____ is available for release under the subject contract. This sum represents the difference between $____, the value of items terminated under the contract, and $____, estimated to be required for settlement of the terminated contract. The estimated amount available for release is allocated by the appropriations cited on the contract as follows:
MIPR NO.____ ACCOUNTING CLASSIFICATION____ AMOUNT____
Total available for release at this time $____

(b) Request you forward an amendment to MIPR____ on DD Form 448–2 to reflect the reduced quantity and amount of funds available for release.

(c) Periodic reviews (not less than 60 days) will be made as termination proceedings progress to redetermine the Government's probable obligation.

———————————
Contracting Officer

(ii) The termination contracting officer (TCO) will review the proceedings at least every 60 days to reassess the Government's probable obligation. If any additional funds are excess to the probable settlement requirements, or if it appears that previous release of excess funds will result in a shortage of the amount which will be required for settlement, the TCO will promptly notify the contracting office which will amend the termination data letter. The requiring department will process a MIPR amendment to reflect the reinstatement of funds within 30 days after receiving the amended termination data letter.

(iii) Upon receipt of a copy of the termination settlement agreement, the requiring department will prepare a MIPR amendment, if required, to remove any remaining excess funds.

208.7004–7 Termination for default.

(a) When the acquiring department terminates a contract for default, they will ask the requiring department if the

supplies or services to be terminated are still required so that repurchase action can be started.

(b) The requiring department will not obligate funds on a contract terminated for default until receipt of a settlement modification or other written evidence from the acquiring department authorizing release of funds.

(c) On the repurchase action, the acquiring department will not exceed the unliquidated funds on the defaulted contract without receiving additional funds from the requiring department.

208.7004-8 Transportation funding.

The requiring department will advise the acquiring department or the transportation officer in the contract administration office of the fund account to be charged for transportation costs. The requiring department may cite the fund account on each MIPR or provide the funding cite to the transportation officer at the beginning of each fiscal year for use on Government bills of lading. When issuing a Government bill of lading, show the requiring department as the department to be billed and cite the appropriate fund account.

208.7004-9 Status reporting.

(a) The acquiring department will maintain a system of MIPR follow up to inform the requiring department of the current status of its requests. In addition, the contract administration office will maintain a system of follow up in order to advise the acquiring department on contract performance.

(b) If requested by the requiring department, the acquiring department will furnish the requiring department a copy of the solicitation when the MIPR is satisfied through Category II funding.

(c) Any reimbursement billings, shipping document, contractual documents, project orders, or related documentation furnished to the requiring department will identify the requiring department's MIPR number, quantities of items, and funding information.

208.7005 MIPRs.

Instructions on preparation and use of DD Form 448, Military Interdepartmental Purchase Request, and DD Form 448-2, Acceptance of MIPR, are in 253.208.

208.7006 Coordinated acquisition assignments.

See Appendix B for coordinated acquisition assignments.

Subpart 208.71—Acquisition for National Aeronautics and Space Administration (NASA)

208.7100 Authorization.

NASA is authorized by Pub. L. 85-568 to use the acquisition services, personnel, equipment, and facilities of DoD departments and agencies with their consent, with or without reimbursement, and on a similar basis to cooperate with the departments/agencies in the use of acquisition services, equipment, and facilities.

208.7101 Policy.

Departments and agencies will—

(a) Cooperate fully with NASA in making acquisition services, equipment, personnel, and facilities available on the basis of mutual agreement.

(b) Not claim reimbursement for administrative costs incident to acquisitions for NASA, unless agreed otherwise prior to the time services are performed.

208.7102 Procedures.

(a) When contracting or performing field service functions for NASA, the departments and agencies will use their own methods, except when otherwise required by the terms of the agreement.

(b) Departments and agencies normally will use their own funds when contracting for or performing services for NASA and will not cite NASA funds on any defense obligation or payment document.

208.7103 Purchase request and acceptance.

(a) NASA will use NASA Form 523, NASA-Defense Purchase Request, to request acquisition of supplies or services.

(b) Except as provided in paragraph (d) of this section, departments and agencies will respond within 30 days to a NASA purchase request by forwarding DD Form 448-2, Acceptance of MIPR. Forward each DD Form 448-2 in quadruplicate and indicate action status as well as the name and address of the DoD acquisition activity for future use by the NASA initiator.

(c) To the extent feasible, all documents related to the NASA action will reference the NASA-Defense Purchase Request number and the item number when appropriate.

(d) Departments and agencies are not required to accept NASA-Defense Purchase Requests for common-use standard stock items which the supplying department has on hand or on order for prompt delivery at published prices.

208.7104 Changes in estimated total prices.

When a department or agency determines that the estimated total price (Block 6F, NASA Form 523) for NASA items is not sufficient to cover the required reimbursement, or is in excess of the amount required, the department/agency will forward a request for amendment to the NASA originating office. Indicate in the request a specific dollar amount, rather than a percentage, and include justification for any upward adjustment requested. Upon approval of a request, NASA will forward an amendment of its purchase request to the contracting activity.

208.7105 Inquiries.

Departments and agencies will direct inquiries and correspondence regarding the NASA purchase to the NASA originating office.

208.7106 Payments.

Departments and agencies will submit SF 1080, Voucher for Transferring Funds, billings to the NASA office designated in Block 9 of the NASA-Defense Purchase Request, except where agreements provide that reimbursement is not required. Departments and agencies will support billings in the same manner as billings between departments and agencies.

Subpart 208.72—Industrial Preparedness Production Planning

208.7201 Definitions.

As used in this subpart—

Industrial base means that part of the total privately-owned and Government-owned industrial production and maintenance capacity of the U.S. and Canada, which will be available during national emergencies to manufacture and repair items required by the departments.

Industrial preparedness production planning means planning designed to maintain an adequate industrial base to support DoD requirements for selected essential military items in a national emergency.

National emergency means a condition declared by the President or congress which authorizes certain emergency action in the national interest, including partial or total mobilization of national resources.

Planned item means any item selected for industrial preparedness planning under the criteria of DoDI 4005.3, Industrial Preparedness Planning.

Planned producer means an industrial firm which has shown its willingness to produce specified military items in a national emergency by completing DD

Form 1519, Industrial Preparedness Program Production Planning Schedule.

208.7202 General.

(a) Under the Industrial Preparedness Production Planning (IPPP) program, DoD components and industry work together to ensure essential military items are available during an emergency.

(b) Departments and agencies select weapon systems and items for planning in accordance with DoDI 4005.3, Industrial Preparedness Planning. Planning is conducted only with U.S. or Canadian sources.

(c) The use of privately-owned facilities is preferred to minimize the need for Government investment. Departments and agencies will include Government-owned production facilities in the industrial base only when—

(1) Private industry is unable to provide the facilities necessary to support DoD requirements; or

(2) The facilities are necessary—

(i) For reasons of national security; or

(ii) To ensure a quick response capability to meet fluctuating demands.

208.7203 Procedures.

(a) Planned producers shall be solicited for all acquisitions of their planned items, when the acquisition is over the small purchase threshold in FAR 13.000, except as provided in FAR subpart 19.5.

(b)The contracting officer may contract for industrial planning efforts for selected essential military items. These efforts may include, but are not limited to, the maintenance of Government-owned industrial facilities (real and personal property) or production data packages. These planning efforts may be acquired through an individual service contract or as a line item on a contract for a planned item.

Subpart 208.73—Use of Government-Owned Precious Metals

208.7301 Definitions.

As used in this subpart—

Defense Industrial Supply Center (DISC) means the Defense Logistics Agency field activity located at 700 Robbins Avenue, Philadelphia, PA 19111–5096, which is the assigned commodity integrated material manager for refined precious metals and is responsible for the storage and issue of such material.

Dual pricing evaluation procedure means a procedure where offerors submit two prices for precious metals bearing items—one based on Government-furnished precious metals and one based on contractor-furnished precious metals. The contracting officer evaluates the prices to determine which is in the Government's best interest.

Precious Metals Indicator Code (PMIC) means a single digit, alpha-numeric code assigned to national stock numbered items in The Defense Integrated Data System Total Item Record used to indicate the presence or absence of precious metals in the item. PMICs and the content value of corresponding items are listed in DoDD 4100.39M, Defense Integrated Data System (DIDS) Procedures Manual, Chapter 10, Table 160.

Refined precious metal means recovered silver, gold, platinum, palladium, iridium, rhodium, or ruthenium, in bullion, granulation or sponge form, which has been purified to at least .999 percentage of fineness.

208.7302 Policy.

DoD policy is for maximum participation in the Precious Metals Recovery Program (PMRP). DoD components shall furnish recovered precious metals contained in the DISC inventory to production contractors rather than use contractor-furnished precious metals whenever the contracting officer determines it to be in the Government's best interest. (See DoDD 4160.22, Recovery and Utilization of Precious Metals, and DoDI 4140.41, Government-Owned Material Assets Utilized as Government-Furnished Materiel for Major Acquisition Programs.)

208.7303 Procedures.

(a) Item managers and contracting officers will use the PMIC and/or other relevant data furnished with a purchase request to determine the applicability of this subpart.

(b) When an offeror advises of a precious metals requirement, the contracting officer shall use the procedures in Chapter X of DoD 4160.21–M, Defense Utilization and Disposal Manual, to determine availability of required precious metal assets and current government-furnished materiel (GFM) unit prices. If the precious metals are available, the contracting officer shall evaluate offers and award the contract on the basis of the offer which is in the best interest of the Government.

(c) When the clause prescribed by 208.7305 is included in a solicitation, the contracting officer will ensure that Section B, Schedule of Supplies or Services and Prices, is structured to—

(1) Permit insertion of alternate prices for each deliverable contract line item number that uses precious metals; and

(2) Use dual pricing evaluation procedures.

208.7304 Refined precious metals.

The following refined precious metals are currently managed by DISC:

Precious metal	National stock number (NSN)
Silver Bullion/Granules	9660-00-108-6432
Gold Bullion/Granules	9660-00-042-7733
Platinum Granules	9660-00-042-7766
Platinum Sponge	9660-00-151-4050
Palladium Granules	9660-00-042-7765
Rhodium Sponge	9660-01-011-3625
Iridium Sponge	9660-01-011-1637
Ruthenium Sponge	9660-01-009-0313

208.7305 Contract clause.

(a) Use the clause at 252.208–7000, Intent to Furnish Precious Metals as Government-Furnished Material, in all solicitations and contracts except—

(1)When the contracting officer has determined that the required precious metals are not available from DISC;

(2) When the contracting officer knows that the items being acquired do not require precious metals in their manufacture; or

(3) For acquisitions below the small purchase threshold in FAR 13.000.

(b) To make the determination in paragraph (a)(1) of this section, the contracting officer shall consult with the end item inventory manager and comply with the procedures in Chapter X, DoD 4160.21–M, Defense Utilization and Disposal Manual.

2. Part 216 is revised to read as follows:

PART 216—TYPES OF CONTRACTS

Sec.

Subpart 216.1—Selecting Contract Types

216.104 Factors in selecting contract types.
216.104–70 Research and development.

Subpart 216.2—Fixed-Price Contracts

216.203 Fixed-price contracts with economic price adjustment.
216.203–4 Contract clauses.
216.203–4–70 Additional clauses.

Subpart 216.4—Incentive Contracts

216.402 Application of predetermined, formula-type incentives.
216.402–2 Technical performance incentives.
216.403 Fixed-price incentive contracts.
216.403–2 Fixed-price incentive (successive targets) contracts.
216.404 Cost-reimbursement incentive contracts.
216.404–1 Cost-plus-incentive-fee contracts.
216.404–2 Cost-plus-award-fee contracts.

Subpart 216.5—Indefinite-Delivery Contracts

216.501 General.
216.506 Ordering.

Subpart 216.6—Time-And-Materials, Labor-Hour, and Letter Contracts

216.603 Letter contracts.
216.603-3 Limitations.

Subpart 216.7—Agreements

216.702 Basic agreements.
216.703 Basic ordering agreements.

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, FAR subpart 1.3.

Subpart 216.1—Selecting Contract Types

216.104 Factors in selecting contract types.

(d) Design stability may also influence subordinate considerations, such as the adequacy and firmness of specifications, the availability of historical pricing data, prior production experience, and the adequacy of the contractor's estimating system.

216.104-70 Research and development.

(a) *General.* (1) There are several categories of research and development (R&D) contracts: research, exploratory development, advanced development, engineering development, and operational systems development (see 235.001 for definitions). Each category has a primary technical or functional objective. Different parts of a project may fit several categories. The contract type must fit the work required, not just the classification of the overall program.

(2) Obtain the recommendations of cognizant technical personnel before selecting contract type.

(3) Where appropriate, R&D solicitations should permit offerors to propose an alternative contract type. The offeror must provide rationale to support any alternative proposed.

(b) *Research and exploratory development.* (1) Price is not necessarily the primary factor in determining the contract type.

(2) The nature of the work to be performed will usually result in a cost-plus award fee, cost-plus fixed fee term, cost-no-fee, or cost-sharing contract.

(3) If the Government and the contractor can identify and agree upon the level of contractor effort required, the contracting officer may select a firm fixed-price level-of-effort contract.

(4) If the Government and the contractor agree that an incentive arrangement is desirable and capable of being evaluated after completion of the work, the contracting officer may use an incentive type contract.

(c) *Advanced development.* (1) The nature of the work to be performed often results in a cost-plus fixed fee completion type contract.

(2) Contracting officers may select incentive contracts if—

(i) Realistic and measurable targets are identified; and

(ii) Program success is predictable with a reasonable degree of accuracy.

(3) Contracting officers should not use contracts with only cost incentives where—

(i) There will be a large number of major technical changes; or

(ii) Actions beyond the control of the contractor may influence the determination of the contractor's achievement.

(d) *Engineering development and operational systems development.* (1) When selecting contract types, also consider—

(i) The definitiveness of the project and the impact of the type of contract on the accuracy of cost estimates;

(ii) The need for effort that will overlap that of earlier stages;

(iii) The need for firm technical direction by the Government; and

(iv) The degree of configuration control the Government will exercise.

(2) For development efforts, particularly for major defense systems, the preferred contract type is cost reimbursement.

(3) Contracting officers should use fixed-price type contracts when risk has been reduced to the extent that realistic pricing can occur; e.g., when a program has reached the final stages of development and technical risks are minimal, except see 235.006.

Subpart 216.2—Fixed-Price Contracts

216.203 Fixed-price contracts with economic price adjustment.

216.203-4 Contract clauses.

(a) *Adjustment based on established prices-standard supplies.* Generally, use the clause at FAR 52.216-2, Economic Price Adjustment-Standard Supplies only when—

(i) The total contract price is over the small purchase threshold in FAR 13.000; and

(ii) Delivery will not be completed within 6 months after the contract date.

(b) *Adjustment based on established prices-semistandard supplies.* Generally, use the clause at FAR 52.216-3, Economic Price Adjustment-Semistandard Supplies, only when—

(i) The total contract price is over the small purchase threshold in FAR 13.000; and

(ii) Delivery will not be completed within 6 months after the contract date.

(c) *Adjustments based on actual cost of labor or material.* (i) Limit use of the clause at FAR 52.216-4, Economic Price Adjustment-Labor and Material, to contracts in which the price exceeds $50,000 and the period of performance exceeds 6 months, unless otherwise approved by the chief of the contracting office. Use an appropriate modification of the clause in sealed bidding. The contracting officer may increase the 10 percent limit on aggregate increases specified in paragraph (c)(4) of the clause upon approval of the chief of the contracting office.

(d) *Adjustments based on cost indexes of labor or material.* Use the following guidelines—

(i) Do not make the clause unnecessarily complex.

(ii) Normally, the clause should not provide either a ceiling or a floor for adjustment unless adjustment is based on indices below the four digit level of the Bureau of Labor Statistics—

(A) Producer Price Index;

(B) Employment Cost Index wages and salaries, benefits, and compensation costs for aerospace industries; or

(C) Wage and Income Series by Standard Industrial Classification (Labor).

(iii) Normally, the clause should cover all potential economic fluctuations within the original contract period of performance.

(iv) The clause must accurately identify the index(es) upon which adjustments will be based.

(A) It also must provide appropriate economic fluctuation in the event publication of the movement of the designated index is discontinued. This might include the substitution of another index if the time remaining would justify doing so and an appropriate index is reasonably available, or some other method for repricing the remaining portion of work to be performed.

(B) Normally, there should be no need to make an adjustment if computation of the identified index is altered. However, it may be appropriate to provide for adjustment of the economic fluctuation computations in the event there is such a substantial alteration in the method of computing the index that the original intent of the parties is negated.

(C) When an index to be used is subject to revision (e.g., the Bureau of Labor Statistics Producer Price Indexes), the economic price adjustment clause must specify that any economic price adjustment will be based on the revised index.

(v) Construct the index to encompass a large sample of relevant items while still bearing a logical relationship to the

type of contract costs being measured. The basis of the index should not be so large and diverse that it is significantly affected by fluctuations not relevant to contract performance, but it must be broad enough to minimize the effect of any single company, including the anticipated contractors.

(vi) Construction of an index is largely dependent upon three general series published by the U.S. Department of Labor, Bureau of Labor Statistics (BLS). These are the—

(A) Industrial Commodities portion of the Producer Price Index;

(B) Employment Cost Index wages and salaries, benefits, and compensation costs for aerospace industries; and

(C) Wage and Income Series by Standard Industrial Classification (Labor). Since there is no BLS published series currently available that relates directly to total prices of delivered DoD aircraft, ships, missiles, electronics, etc., it will be necessary to construct composite indices from major portions of the three series identified.

(vii) Normally, do not use more than two indices, i.e., one for labor (direct and indirect) and one for material (direct and indirect).

(viii) The clause must establish and properly identify a base period comparable to the contract periods for which adjustments are to be made as a reference point for application of an index.

(ix) The clause should not provide for an adjustment beyond the original contract performance period. The start date for the adjustment may be the beginning of the contract or a later time, as appropriate, based on the projected rate of expenditures.

(x) The expenditure profile for both labor and material should be based on a predetermined rate of expenditure (expressed as the percentage of material or labor usage as it relates to the total contract price) in lieu of actual cost incurred.

(A) If the clause is to be used in a competitive acquisition, determine the labor and material allocations, with regard to both mix of labor and material and rate of expenditure by percentage, in a manner which will, as nearly as possible, approximate the average expenditure profile of all companies to be solicited so that all companies may compete on an equal basis.

(B) If the clause is to be used in a noncompetitive acquisition, the labor and material allocations may be subject to negotiation and agreement.

(C) For multiyear contracts, establish predetermined expenditure profile tables for each of the annual increments in the multiyear buy. Each of the second and subsequent year tables must be cumulative to reflect the total expenditures for all increments funded through the latest multiyear funding.

(xi) The clause should state the percentage of the contract price subject to price adjustment.

(A) Normally, do not apply adjustments to the profit portion of the contract.

(B) Examine the labor and material portions of the contract to exclude any areas that do not require adjustment. For example, it may be possible to exclude—

(*1*) Subcontracting for short periods of time during the early life of the contract which could be covered by firm priced subcontracting;

(*2*) Certain areas of overhead, e.g., depreciation charges, prepaid insurance costs, rental costs, leases, certain taxes, and utility charges;

(*3*) That portion of labor for the period of time for which a definitive union agreement exists; and

(*4*) Those costs not likely to be affected by fluctuation in the economy.

(C) Allocate the portion of the contract determined proper for economic fluctuation protection to specific periods of time (e.g., quarterly, semiannually, etc.) based on the most probable expenditure or commitment basis (expenditure profile).

(xii) The clause should provide for definite times or events that trigger price adjustments. Adjustments should be of a frequency to afford the contractor appropriate economic relief without creating a burdensome administrative effort. The adjustment period should normally range from quarterly to annually.

(xiii) When the contract contains cost incentives, any sums paid to the contractor on account of economic price adjustment provisions must be subtracted from the total of the contractor's allowable costs for the purpose of establishing the total costs to which the cost incentive provisions apply. If the incentive arrangement is cited in percentage ranges, rather than dollar ranges, above and below target costs, structure the economic price adjustment clause to maintain the original contract incentive range in dollars.

(xiv) The economic price adjustment clause should provide that once the labor and material allocations have been established, they remain fixed through the life of the contract and shall not be modified except in the event of partial termination of the contract. The clause should state that pricing actions pursuant to the Changes clause or other provisions of the contract will be priced as though there were no provisions for economic price adjustment.

(xv) Consistent with the factors in paragraph (d) (i) through (xiv) of this subsection, it may also be appropriate to provide in the prime contract for certain economic price adjustment arrangements between the prime contractor and subcontractors to allocate risks properly.

(xvi) When economic price adjustment clauses are included in contracts that do not require submission of cost or pricing data as provided for in 215.804–3, the contracting officer must obtain adequate information to establish the baseline from which adjustments will be made. The contracting officer may require verification of the data submitted to the extent necessary to permit reliance upon the data as a reasonable baseline.

216.203–4–70 Additional clauses.

(a) *Price adjustment for basic steel, aluminum, brass, bronze, or copper mill products.* (1) The price adjustment clause at 252.216–7000, Economic Price Adjustment—Basic Steel, Aluminum, Brass, Bronze, or Copper Mill Products, may be used in fixed-price supply contracts for basic steel, aluminum, brass, bronze, or copper mill products, such as sheets, plates, and bars, when an established catalog or market price—

(i) Exists for the particular product being acquired; and

(ii) Has been verified in accordance with the criteria at 215.804–3(c).

(2) Do not make an adjustment under this clause until the adjustment has been verified in accordance with the criteria set forth in FAR 15.804–3 and paragraph (d)(4) of the clause.

(b) *Price adjustment for nonstandard steel items.* (1) The price adjustment clause at 252.216–7001, Economic Price Adjustment—Nonstandard Steel Items, may be used in fixed-price supply contracts when—

(i) The contractor is a steel producer and actually manufactures the standard steel mill item referred to in the "base steel index" definition of the clause; and

(ii) The items being acquired are nonstandard steel items made wholly or in part of standard steel mill items.

(2) When this clause is included in invitations for bids, omit Note 6 of the clause and all references to Note 6.

(3) Solicitations shall instruct offerors to complete all blanks in accordance with the applicable notes.

(4) When the clause is to provide for adjustment based on the contractor's "established price" (see paragraphs (a) and (f) and Note 6 of the clause), verify

the established price before contract award in accordance with 215.804–3.

(5) When the clause is to provide for adjustment on a basis other than "established price" (see Note 6 of the clause), that price must be verified.

(6) Make no adjustment in contract price under this clause until the requested adjustment has been verified in accordance with the criteria in FAR 15.804–3 (but see Note 6 of the clause) and as required by paragraph (f) of the clause.

Subpart 216.4—Incentive Contracts

216.402 Application of predetermined, formula-type incentives.

216.402–2 Technical performance incentives.

(1) "Performance" includes not only the performance of the article being acquired, but also the performance of the contractor.

(2) Contractor performance incentives should relate to specific performance areas of milestones, such as delivery or test schedules, quality controls, maintenance requirements, and reliability standards.

216.403 Fixed-price incentive contracts.

(b) *Application.* (3) Individual line items may have separate incentive provisions; e.g., when dissimilar work calls for separate formulas.

(c) *Limitations.* The contractor's accounting system must furnish reliable financial information for preparing the quarterly limitation on payments statement required under the clauses at FAR 52.216–16, Incentive Price Revision-Firm Target, and 52.216–17, Incentive Price Revision-Successive Targets. In computing overpayments or underpayments, use the following formula when—

(i) Actual costs for individual items delivered are not available; and

(ii) The necessary cost data are available from an accounting system that meets the cost schedule control systems criteria.

FORMULA FOR COMPUTING OVERPAYMENT/UNDERPAYMENT

COID = Cost of items delivered
TCID = Target cost of items delivered
ACWP = Actual cost of work performed
BCWP = Budgeted cost of work performed
BMR = Budgeted management reserve
BTD = Billings to date
TEP = Total estimated price of the contract
TP = Target profit on items delivered
IP = Incentive profit on items delivered
COID = TCID×ACWP/BCWP+(BMR×BTD/TEP)
Adjusted price = COID + TP + IP
Overpayment/Underpayment = Amount Invoiced—Adjusted Price

216.403–2 Fixed-price incentive (successive targets) contracts.

(a) *Description.* (1)(iii) The formula does not apply for the life of the contract. It is used to fix the firm target profit for the contract. To provide an incentive consistent with the circumstances, the formula should reflect the relative risk involved in establishing an incentive arrangement where cost and pricing information were not sufficient to permit the negotiation of firm targets at the outset.

216.404 Cost-reimbursement incentive contracts.

216.404–1 Cost-plus-incentive-fee contracts.

(a) *Application.* (3) Give appropriate weight to basic acquisition objectives in negotiating the range of fee and the fee adjustment formula. For example—

(A) In an initial product development contract, it may be appropriate to provide for relatively small adjustments in fee tied to the cost incentive feature, but to provide for significant adjustments if the contractor meets or surpasses performance targets.

(B) In subsequent development and test contracts, it may be appropriate to negotiate an incentive formula tied primarily to the contractor's success in controlling costs.

216.404–2 Cost-plus-award-fee contracts.

The "award amount" portion of the fee may be used in other types of contracts under the following conditions—

(1) The Government wishes to motivate and reward a contractor for management performance in areas which cannot be measured objectively and where normal incentive provisions cannot be used. For example, logistics support, quality, timeliness, ingenuity, and cost effectiveness are areas under the control of management which may be susceptible only to subjective measurement and evaluation.

(2) The "base fee" (fixed amount portion) is not used.

(3) The chief of the contracting office approves the use of the "award amount."

(4) An award review board and procedures are established for conduct of the evaluation.

(5) The administrative costs of evaluation do not exceed the expected benefits.

(b) *Application.* (1) The cost-plus-award-fee (CPAF) contract is also suitable for level of effort contracts where mission feasibility is established but measurement of achievement must be by subjective evaluation rather than objective measurement.

(2)(A) The contract shall identify the criteria to be used in evaluating the contractor's performance to arrive at the award fee.

(B) The contract must explicitly exclude from the operation of the Disputes clause any dispute over the amount of the award fee.

(3) The contracting activity may—

(A) Establish a board to—

(*1*) Evaluate the contractor's performance; and

(*2*) Determine the amount of the award; or

(*3*) Recommend an amount to the contracting officer.

(B) Afford the contractor an opportunity to present information on its own behalf.

(c) *Limitations.* The CPAF contract shall not be used—

(i) To avoid—

(A) Establishing CPFF contracts when the criteria for CPFF contracts apply, or

(B) Developing objective targets so a CPIF contract can be used.

(ii) For either engineering development or operational system development acquisitions which have undergone contract definition, except a CPAF contract may be used for individual engineering development or operational system development acquisitions ancillary to the development of a major weapon system or equipment, where—

(A) It is more advantageous; and

(B) The purpose of the acquisition is clearly to determine or solve specific problems associated with the major weapon system or equipment.

(2)(A) Do not apply the weighted guidelines method to CPAF contracts for either the base (fixed) fee or the award fee.

(B) The base fee shall not exceed 3 percent of the estimated cost of the contract exclusive of the fee. The maximum fee (base fee plus award fee) shall not exceed the limitations of FAR 15.903.

Subpart 216.5—Indefinite-Delivery Contracts

216.501 General.

(a)(i) For items with a shelf-life of less than 6 months, consider the use of indefinite delivery type contracts with orders to be placed either—

(A) Directly by the users; or

(B) by central purchasing offices with deliveries direct to users.

(ii) Whenever an indefinite delivery contract is issued, the issuing office must furnish all ordering offices sufficient information for the ordering office to complete its contract reporting

responsibilities under 204.670–2. This data must be furnished to the ordering activity in sufficient time for the activity to prepare its report for the action within 3 working days of the order.

(c) If fast pay is desired, the contracting officer shall modify the clause at FAR 52.213–1, Fast Payment Procedure, to apply only to delivery orders of less than $25,000.

216.506 Ordering.

Orders placed under indefinite delivery contracts may be issued on DD From 1155, Order for Supplies or Services.

Subpart 216.6—Time-and-Materials, Labor-Hour, and Letter Contracts

216.603 Letter contracts.

216.603–3 Limitations.

See 217.75 for additional limitations on the use of letter contracts.

Subpart 216.7—Agreements

216.702 Basic agreements.

(a) *Description.* Basic agreements shall contain a set of "General Provisions." These general provisions shall include two groups of clauses, which shall be separately identified.

(i) "Part A" shall include all clauses required for negotiated contracts by statute, executive order, the FAR, and DFARS.

(ii) "Part B" shall include other clauses prescribed in DFARS or agency supplements that the parties agree to include, as applicable to the particular acquisition.

(iii) Adapt the following format to fit the circumstances:

BASIC AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND _____

This Agreement is entered into on the _____ day of _____, 19 ____, between the United States of America (the "Government"), represented by (*contracting officer*), and _____ (the "Contractor"), a corporation organized and existing under the laws of the State of _____.

The parties agree to include the clauses and provisions of Parts A and B in negotiated _____ type contracts and in letter contracts contemplating conversion to _____ type contracts entered into on or after the date of this Agreement and prior to its termination.

The clauses and provisions in Part A are mandatory clauses. They shall be incorporated in each contract awarded under this Agreement by reference or by attachment.

The clauses and provisions in Part B will be incorporated only when applicable and as agreed by the parties for each individual contract.

This Agreement may be amended only by mutual agreement of the parties. The Agreement may be terminated by either party upon 30 days written notice to the other party. The Government may terminate this Agreement at any time if the parties fail to agree upon any change to this Agreement that is required by statute, executive order, the FAR, or the Defense FAR Supplement. Neither any change to, nor the termination of, this Agreement shall affect any contracts incorporating this Agreement by reference that were entered into before the date of the change or termination.

This Agreement shall be reviewed at least annually, before the anniversary of its effective date, and revised to conform to all requirements of statutes, executive orders, the FAR, or the Defense FAR Supplement. Any revision will be reflected either by modifying this Basic Agreement or by issuing a superseding Basic Agreement.

The Contractor shall not refer to this Agreement in response to invitations for bids. No contract placed as a result of that process shall incorporate this Agreement.

IN WITNESS WHEREOF, the parties named above have executed this Agreement as of the date stated:

UNITED STATES OF AMERICA

By _____

(Contracting Officer)

_____

(Name of Company)

By _____

_____

(Title)

(b) *Application.* (i) If a letter contract is entered into under a basic agreement which is later superseded or supplemented, incorporate the superseding basic agreement or the supplemental agreement, as applicable, in the definitized contract.

(ii) If the basic agreement has been terminated without being superseded or has expired, incorporate the clauses required by statute, executive order, or regulation in the definitized contract.

(d) *Contracts incorporating basic agreements.* (1) Do not use the reference "Basic Agreement No. ____, as amended."

§ 216.703 Basic ordering agreements.

(c) *Limitations.* The period during which orders may be placed against a basic ordering agreement may not exceed 3 years. The contracting officer, with the approval of the chief of the contracting office, may grant extensions for up to 2 years. No single extension shall exceed 1 year.

(1)(vi) When fast pay is desired on orders less than $25,000, modify the clause at FAR 52.213–1 to apply only to orders of less than $25,000. See subpart 217.75 for additional limitations on undefinitized orders under basic ordering agreements.

(d) *Orders.* (i) The contracting officer issuing an order under a basic ordering agreement shall be responsible for ensuring compliance with the provisions and limitations of this section.

(ii) Individual orders under a basic ordering agreement shall be individually closed following completion of the orders (see FAR 4.804).

(1)(iii) The office issuing the agreement shall furnish all authorized ordering offices—

(*1*) Sufficient information for the ordering office to complete its contract reporting responsibilities under 204.670–2 or, in the case of civilian agencies, the Federal Procurement Data System reporting requirement. Data furnished to civilian agencies must contain uncoded information about the data elements and the meanings of the codes to permit these users to translate the data into the federal format. This data must be furnished to the ordering activity in sufficient time for the activity to prepare its report for the action within 3 working days of the order.

(*2*) If a contract administration office is authorized to issue orders (see FAR 42.202(c))—

(*i*) A copy of the synopsis required by FAR 5.201(a); or

(*ii*) A copy of the exception determination specified at FAR 5.202 (a) or (b); and

(*iii*) A copy of the justification and approvals required by FAR 6.303 and 6.304.

(2)(i) Any activity named may issue orders on DD Form 1155, Order for Supplies or Services, or Standard Form 26, Award/Contract.

(3) Incentive provisions consistent with this part are permitted.

3. Part 222 is revised to read as follows:

PART 222—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

Sec.

222.001 Definition.

Subpart 222.1—Basic Labor Policies

222.101 Labor relations.
222.101–1 General.
222.101–3 Reporting labor disputes.
222.101–3–70 Impact of labor disputes on Defense programs.
222.101–4 Removal of items from contractors' facilities affected by work stoppages.
222.101–70 Acquisition of stevedoring services during labor disputes.
222.102 Federal and State labor requirements.
222.102–1 Policy.
222.103 Overtime.
222.103–4 Approvals.

Subpart 222.4—Labor Standards for Contracts Involving Construction

222.403 Statutory and regulatory requirements.
222.403-4 Department of Labor regulations.
222.404 David-Bacon Act wage determinations.
222.404-2 General requirements.
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222.7000 Scope of subpart.
222.7000-1 General.
222.7002 Waivers.
222.7003 Contract clause.

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, FAR subpart 1.3.

222.001 Definition.

Labor advisor, as used in this part, means the departmental or agency headquarters, labor advisor.

Subpart 222.1—Basic Labor Policies

222.101 Labor relations.

222.101-1 General.

(a) Contracting offices shall—

(i) Obtain departmental approval before contacting a national office of a labor organization, a Government agency headquarters, or any other organization on a labor relations matter;

(ii) Notify departmental headquarters as required in departmental procedures when contacted by the national office of any labor organization or Government agency headquarters;

(iii) Obtain the approval of the agency head on major policy decisions regarding labor relations matters such as recommendations for plant seizure or injunctive action relating to potential or actual work stoppages; and

(iv) Address questions involving FAR part 22 or other contractor labor relations matters to the labor advisor.

222.101-3 Reporting labor disputes.

The contract administration office shall—

(1) Notify the labor advisor, the contracting officer, and the head of the contracting activity when interference is likely;

(2) Disseminate information on labor disputes in accordance with departmental procedures; and

(3) File an initial labor dispute report using DD Form 1507, Work Stoppage Report, when a work stoppage is imminent or when a work stoppage occurs. File a follow-up report when a significant change occurs in the dispute. This reporting requirement is assigned RCS DD I&L (AR) 1153.

222.101-3-70 Impact of labor disputes on Defense programs.

(a) Each department and agency shall determine the degree of impact of potential or actual labor disputes on its own programs and requirements. In making these determinations, consider, for example—

(1) Whether the dispute involves a product, project (including construction), or service which must be obtained in order to meet schedules for urgently needed military programs or requirements; and

(2) Whether alternative sources of supply for the product, project, or service are reasonably available to fulfill the requirement or program in time to maintain essential military schedules.

(b) Each contracting activity involved shall obtain and develop data reflecting the impact of a labor dispute on its requirements and programs. Upon determining the impact, the head of the contracting activity shall submit a report of findings and recommendations to the labor advisor. The report must be in narrative form and include—

(1) Location of dispute and name of contractor or subcontractor involved;

(2) A description of the impact, including how the specific items or services affect the specific programs or requirements;

(3) Identity of alternate sources available to furnish the supply or service within the time required; and

(4) A description of any action taken to reduce the impact.

(c) Submit impact reports to the agency head when—

(1) Specifically requested; or

(2) The department or agency considers the impact to be of sufficient urgency to warrant the attention of the agency head.

(d) The labor advisor will expand the report submitted under paragraph (c) of this subsection by addressing the following, as appropriate—

(1) *Description of military program, project, or service.* Identify item, project, or service which will be or is being affected by the work stoppage. Describe its normal use and current functions in combat, combat support, or deterrent operations. For components or raw materials, identify the end item(s) for which they are used.

(2) *Requirements and assets.* Identify requirements and assets in appropriate detail in terms commonly used by the DoD component.

(i) For production programs, include requirements for each using military service. Where applicable, state in detail production schedule, inventory objectives, assets against these objectives, and critical shortages. For spares and highly expendable items, such as ground and air ammunition, show usage (consumption) rates and assets in absolute terms and in terms of daily, weekly, or monthly supplies. For components, include requirements for spares.

(ii) For projects, describe the potential adverse effects of a delay in meeting schedules, and its impact on the national security.

(iii) For services, describe how a loss or interruption affects the ability to support Defense operations in terms of traffic requirements, assets, testing programs, etc.

(3) *Possible measures to minimize strike impact.* Describe—

(i) Capabilities, if any, to substitute items or to use alternate sources and indicate the number of other facilities available and the relative capabilities of

such facilities in meeting total requirements;

(ii) How much time would be required to replace the loss of the facilities or service affected by a work stoppage; and

(iii) The feasibility of transferring assets from theater to theater to relieve deficits in some areas of urgency.

(4) *Conclusion.* (i) Describe the impact on operations of a 15–30, 30–60, and a 60–90 day work stoppage.

(ii) Project the degree of criticality of a program, project, or service resulting from a work stoppage on a calender basis, indicating the increased impact, if any, as the stoppage lengthens. Criticality is measured by the number of days required for the work stoppage to have an effect on operational capability. This time must be stated in terms of days.

222.101–4 Removal of items from contractors' facilities affected by work stoppages.

(a) When a contractor is unable to deliver urgent and critical items because of a work stoppage at its facility, the contracting officer, before removing any items from the facility, shall—

(i) Before initiating any action, contact the labor advisor to obtain the opinion of the national office of the Federal Mediation and Conciliation Service or other mediation agency regarding the effect movement of the items would have on labor negotiations. Normally removals will not be made if they will adversely affect labor negotiations.

(ii) Upon the direction of the labor advisor, provide a written request for removal of the material to the cognizant contract administration office. Include the following information in the request—

(A) Contract number;

(B) A statement as to the urgency and criticality of the item needed;

(C) A description of the items to be moved (nature of the item, amount, approximate weight and cubic feet, item number, etc.);

(D) Mode of transportation by which the items are to be moved, if different than in the contract, and whether by Government or commercial bill of lading; and

(E) Destination of the material, if different than in the contract.

(iii) With the assistance of the labor advisor or the commander of the contract administration office, attempt to have both the management and the labor representatives involved agree to shipment of the material by normal means.

(iv) If agreement for removal of the needed items cannot be reached following the procedures in paragraphs (a)(i) through (iii) of this subsection, the commander of the contract administration office, after obtaining approval from the labor advisor, may seek the concurrence of the parties to the dispute to permit movement of the material by military vehicles with military personnel. On receipt of such concurrences, the commander may proceed to make necessary arrangements to move the material.

(v) If agreement for removal of the needed items cannot be reached following any of the procedures in paragraphs (a)(i) through (iv) of this subsection, refer the matter to the labor advisor with the information required by 222.101–3–70(b). If the labor advisor is unsuccessful in obtaining concurrence of the parties for the movement of the material and further action to obtain the material is deemed necessary, refer the matter to the agency head. Upon review and verification that the items are urgently or critically needed and cannot be moved with the consent of the parties, the agency head, on a nondelegable basis, may order removal of the items from the facility.

222.101–70 Acquisition of stevedoring services during labor disputes.

(a) Use the following procedures only in the order listed when a labor dispute delays performance of a contract for stevedoring services which are urgently needed.

(1) Attempt to have management and labor voluntarily agree to exempt military supplies from the labor dispute by continuing the movement of such material.

(2) Divert vessels to alternate ports able to provide necessary stevedoring services.

(3) Consider contracting with reliable alternative sources of supply within the stevedoring industry.

(4) Utilize civil service stevedores to perform the work performed by contract stevedores.

(5) Utilize military personnel to handle the cargo which was being handled by contract stevedores prior to the labor dispute.

(b) Notify the labor advisor when a deviation from the procedures in paragraph (a) of this subsection is required.

222.102 Federal and State labor requirements.

222.102–1 Policy.

(1) The Department of Labor is responsible for the administration and enforcement of the Occupational Safety and Health Act (OSHA). Contracting officers shall—

(i) Direct all inquiries from contractors or contractor employees regarding the applicability or interpretation of the OSHA regulations to the Department of Labor; and

(ii) Upon request, provide the address of the appropriate field office of the Occupational Safety and Health Administration of the Department of Labor.

(2) Do not initiate any application for the suspension or relaxation of labor requirements without prior coordination with the labor advisor.

222.103 Overtime.

222.103–4 Approvals.

(a) The department/agency approving official shall—

(i) Obtain the concurrence of other appropriate approving officials; and

(ii) Seek agreement as to the contracts under which overtime premiums will be approved when—

(A) Two or more contracting offices have current contracts at the same contractor facility; and

(B) The approval of overtime by one contracting office will affect the performance or cost of contracts of another office. In the absence of evidence to the contrary, a contracting officer may rely on a contractor's statement that approval of overtime premium pay for one contract will not affect performance or payments under any other contract.

Subpart 222.4—Labor Standards for Contracts Involving Construction

222.403 Statutory and regulatory requirements.

222.403–4 Department of Labor regulations.

Direct all questions regarding Department of Labor regulations to the labor advisor.

222.404 Davis-Bacon Act wage determinations.

Not later than April 1 of each year, each department and agency shall furnish the Administrator, Wage and Hour Division, with a general outline of its proposed construction program for the coming year. The Department of Labor uses this information to determine where general wage determination surveys will be conducted.

(1) Indicate by individual project of $500,000 or more—

(i) The anticipated type of construction;

(ii) The estimated dollar value; and

(iii) The location in which the work is to be performed (city, town, village, county, or other civil subdivision of the state).

(2) The report format is contained in Department of Labor All Agency Memo 144, December 27, 1965.

(3) The report control number is 1671–DOL–AN.

22.404-2 General requirements.

(c)(5) Information concerning the proper application of wage rate schedules to the type or types of construction involved shall be obtained from the appropriate district commander, Corps of Engineers, for the Army; from the cognizant Naval Facilities Engineering Command division for the Navy; from the appropriate Regional Industrial Relations Office for the Air Force; and from the appropriate Defense Contract Management District, ATTN: Industrial Labor Relations Office, for the Defense Logistics Agency.

222.404-3 Procedures for requesting wage determinations.

(b) *Requests for project wage determinations.* Submit requests for project wage determinations directly to the Department of Labor.

222.404-11 Wage determination appeals.

Send a copy of a petition for review filed by the contracting agency to the labor advisor.

222.406 Administration enforcement.

222.406-1 Policy.

(a) *General.* The program shall also include—

(i) Training appropriate contract administration, labor relations, inspection, and other labor standards enforcement personnel in their responsibilities; and

(ii) Periodic review of field enforcement activities to ensure compliance with applicable regulations and instructions.

(b) *Preconstruction letters and conferences.* (1) Promptly after award of the contract, the contracting officer shall provide a preconstruction letter to the prime contractor. This letter should accomplish the following, as appropriate—

(A) Indicate that the labor standards requirements contained in the contract are based on the following statutes and regulations—

(*1*) Davis-Bacon Act;

(*2*) Contract Work Hours and Safety Standards Act;

(*3*) Copeland (Anti-Kickback) Act;

(*4*) Parts 3 and 5 of the Secretary of Labor's Regulations (parts 3 and 5, subtitle A, title 29, CFR); and

(*5*) Executive Order 11246 (Equal Employment Opportunity);

(B) Call attention to the labor standards requirements in the contract which relate to—

(*1*) Employment of foremen, laborers, mechanics, and others;

(*2*) Wages and fringe benefits payments, payrolls, and statements;

(*3*) Differentiation between subcontractors and suppliers;

(*4*) Additional classifications;

(*5*) Benefits to be realized by contractors and subcontractors in keeping complete work records;

(*6*) Penalties and sanctions for violations of the labor standards provisions; and

(*7*) The applicable provisions of FAR 22.403; and

(C) Ensure that the contractor sends a copy of the preconstruction letter to each subcontractor.

(ii) Before construction begins, the contracting officer shall confer with the prime contractor and any subcontractor designated by the prime to emphasize their labor standards obligations under the contract when—

(A) The prime contractor has not performed previous Government contracts;

(B) The prime contractor experienced difficulty in complying with labor standards requirements on previous contracts; or

(C) It is necessary to determine whether the contractor and its subcontractors intend to pay any required fringe benefits in the manner specified in the wage determination or to elect a different method of payment. If the latter, inform the contractor of the requirements of FAR 22.406–2.

222.406-6 Payrolls and statements.

(a) *Submission.* Contractors who do not use Department of Labor Form WH 347 or its equivalent must submit a DD Form 879, Statement of Compliance, with each payroll report.

222.406-8 Investigations.

(a) The following guidance and procedures apply to investigations conducted by the contracting activity.

(i) *Beginning of the investigation.* The investigator shall—

(A) Inform the contractor of the investigation in advance;

(B) Verify the exact legal name of the contractor, its address, and the names and titles of its principal officers;

(C) Inform the contractor that the names of the employees to be interviewed will not be divulged to the contractor;

(D) Outline the general scope of the investigation and that it includes examining pertinent records and interviewing employees; and

(E) When requested, provide a letter from the contracting officer verifying the investigator's authority.

(ii) *Conduct of the investigation.—(A) Review of the contract.* (*1*) Ensure that all required labor standards and provisions and the wage determination are included in the contract.

(*2*) Review the following items in the contract file, if applicable—

(*i*) List of subcontractors;

(*ii*) Payroll statements for the contractor and subcontractors;

(*iii*) Approvals of additional classifications;

(*iv*) Data regarding apprentices and trainees as required by FAR 22.406–4;

(*v*) Daily inspector's report or other inspection reports;

(*vi*) Employee interview statements; and

(*vii*) SF 1413, Statement and Acknowledgment.

(B) *Interview of the complainant.* Interview the complainant except when this is impractical. The interview shall cover all aspects of the complaint to ensure that all pertinent information is obtained. Whenever an investigation does not include an interview of the complainant, explain such omission in the investigator's report.

(C) *Interview of employees and former employees.* (*1*) Interview a sufficient number of employees or former employees, who represent all classifications, to develop information regarding the method and amount of payments, deductions, hours worked, and the type of work performed.

(*2*) Interview employees at the job site if the interviews can be conducted privately and in such a manner so as to cause the least inconvenience to the employer and employees.

(*3*) Former employees may be interviewed elsewhere.

(*4*) Do not disclose to any employee any information, finding, recommendation, or conclusion relating to the investigation except to the extent necessary to obtain required information.

(*5*) Do not disclose any employee's statement to anyone, except a Government representative working on the case, without the employee's written permission.

(*6*) Obtain information by mail when personal interviews are impractical.

(*7*) Use SF 1445, Labor Standards Interview, for employee interviews.

(*8*) Request employees to sign their statements and to initial any changes.

(*9*) Provide an evaluation of each employee's credibility.

(D) *Interview of foremen.* Interview foremen to obtain information concerning the contractor's compliance with the labor standards provisions with respect to employees under the

foreman's supervision and the correctness of the foreman's classification as a supervisory employee. All procedures established for the conduct of employee interviews, and the recording and use of information obtained, apply to foremen interviews.

(E) *Interview of the contractor.* (*1*) Interview the contractor whenever the investigation indicates the possibility of a violation.

(*2*) Inform the contractor that—

(*i*) The interview does not mean that a violation has been found or that a requirement for corrective action exists; and

(*ii*) The purpose of the interview is to obtain only such data as the contractor may desire to present in connection with the investigation.

(*3*) Do not disclose the identity of any individual who filed a complaint or was interviewed.

(F) *Review of contractor and subcontractor records.* (*1*) Review contractor and subcontractor records such as basic time cards, books, cancelled payroll checks, fringe benefits, and payment records. Compare them with submitted payrolls. When discrepancies are found, include pertinent excerpts or copies of the records in the investigation report with a statement of the discrepancy and any explanation the investigator obtains. When wages include contributions or anticipated costs for fringe payments requiring approval of the Secretary of Labor, examine the contractor records to ensure such approval has been obtained and that any requirements specified in the approval have been met. (See FAR 22.406–2(a)(3)).

(*2*) Review contractor's and subcontractor's weekly payrolls and payroll statements for completeness and accuracy regarding the following—

(*i*) Identification of employees, payroll amount, the contract, contractor, subcontractor, and payroll period;

(*ii*) Inclusion of only job classifications and wage rates specified in the contract specifications, or otherwise established for the contract or subcontract;

(*iii*) Computation of daily and weekly hours;

(*iv*) Computation of time-and-one half for work in excess of 40 hours per week in accordance with FAR 22.406–2(c);

(*v*) Gross weekly wages;

(*vi*) Deductions;

(*vii*) Computation of net weekly wages paid to each employee;

(*viii*) Ratio of helpers, apprentices, and trainees to laborers and mechanics;

(*ix*) Apprenticeship and trainee registration and ratios; and

(*x*) Computation of fringe benefits payments.

(*3*) Transcribe the contractor's records whenever they contain information at variance with payrolls or other submitted documents.

(*i*) Make the transcriptions in sufficient detail to permit them to be used to check computations of restrictions and to determine amounts to be withheld from the contractor.

(*ii*) Follow the form used by the contractor.

(*iii*) Place comments or explanations concerning the transcriptions on separate memoranda or in the narrative report.

(*iv*) Determine whether the wage determination, any modifications of the determination, and any additional classifications are posted as required.

(iii) *Submission of the report of investigation.* The investigator shall submit a report of the investigation in accordance with agency procedures. Each report shall include at least the—

(A) Basis for the investigation, including the name of the complainant;

(B) Names and addresses of prime contractors and subcontractors involved, and names and titles of their principle officers;

(C) Contract number, date, dollar value of prime contract, and date and number of wage determination included in the contract;

(D) Description of the contract and subcontract work involved;

(E) Summary of the findings with respect to each of the items listed in 222.406–8(a);

(F) Concluding statement concerning—

(*1*) The types of violations, including the amount of kickbacks under the Copeland Act, underpayments of basic hourly rates and fringe benefits under the Davis-Bacon Act, or underpayments and liquidated damages under the Contract Work Hours and Safety Standards Act;

(*2*) Whether violations are considered to be willful or due to the negligence of the contractor or its agent;

(*3*) The amount of funds withheld from the contractor; and

(*4*) Other violations found.

(G) Exhibits indexed and appropriately tabbed, including copies of the following, when applicable—

(*1*) Complaint letter;

(*2*) Contract wage determination;

(*3*) Preconstruction letter and memorandum of preconstruction conference;

(*4*) Payrolls and statements indicating violations;

(*5*) Transcripts of pertinent records of the contractor, and approvals of fringe benefit payments;

(*6*) Employee interview statements;

(*7*) Foreman interview statements;

(*8*) Statements of others interviewed, including Government personnel;

(*9*) Detailed computations showing kickbacks, underpayments, and liquidated damages;

(*10*) Summary of all payments due to each employee or to a fund plan or program, and liquidated damages; and

(*11*) Receipts and cancelled checks.

(c) *Notification to the contractor.* (*1*) Notify the contractor by certified mail of any finding that it is liable for liquidated damages under the Contract Work Hours and Safety Standards Act (CWHSSA) and that it has 60 days after receipt of such notice to appeal the assessment of the liquidated damages. Process the appeal in accordance with agency regulations and ensure that it demonstrates that the violations did not occur, occurred inadvertently notwithstanding the exercise of due care, or that the assessment was computed improperly.

(d) *Contracting officer's report.* (1) In accordance with agency procedures, the contracting officer shall forward a detailed enforcement report or summary report in duplicate. These reports shall include at least the following—

(A) SF 1446, Labor Standards Investigation Summary Sheet;

(B) Contracting officer's findings;

(C) Statement as to the disposition of any contractor rebuttal to the findings;

(D) Statement as to whether the contractor has accepted the findings and has paid any restitution or liquidated damages;

(E) Statement as to the disposition of funds available;

(F) Recommendations as to disposition or further handling of the case (when appropriate, include recommendations as to the reduction, waiver, or assessment of liquidated damages, whether the contractor should be debarred, and whether the file should be referred for possible criminal prosecution); and

(G) When applicable the following exhibits—

(*1*) Investigator's report;

(*2*) Copy of the contractor's written rebuttal or a summary of the contractor's oral rebuttal of the contracting officer's findings;

(*3*) Copies of correspondence between the contractor and contracting officer, including a statement of specific violations found, corrective action requested, and the contractor's letter of acceptance or rejection;

(4) Evidence of the contractor's payment of restitution or liquidated damages. (Copies of receipts, cancelled checks, or supplemental payrolls); and

(5) Letter from the contractor requesting relief from the liquidated damage provisions of the CWHSSA.

222.406-8 Withholding from or suspension of contract payments.

(a) *Withholding from contract payments.* The contracting officer shall contact the labor advisor for assistance when payments due a contractor are not available to satisfy that contractor's liability for Davis-Bacon or CWHSSA wage underpayments or liquidated damages.

(c) *Disposition of contract payments withheld or suspended.*—(1) *Forwarding wage underpayments to the Comptroller General.* Send SF 1093, Schedule of Withholdings Under the Davis-Bacon Act (40 U.S.C. 276a) and/or The Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), to: U.S. General Accounting Office, Claims Group/GGD, Payment Branch, 441 G Street, NW., Washington, DC 20548.

(3) *Limitation on forwarding or returning funds.* When disposition of withheld funds remains the final action necessary to close out a contract, the Department of Labor has given blanket approval to forward withheld funds to the Comptroller General pending completion of an investigation or other administrative proceedings.

(4) *Liquidated damages.* (A) The agency head may adjust liquidated damages of $500 or less when the amount assessed is incorrect or waive the assessment when the violations—

(1) Were nonwillful or inadvertent; and

(2) Occurred notwithstanding the exercise of due care by the contractor or its agent.

(B) The agency head may recommend to the Administrator, Wage and Hour Division, that the liquidated damages over $500 be adjusted because the amount assessed is incorrect. The agency head may also recommend the assessment be waived when the violations—

(1) Were nonwillful or inadvertent; and

(2) Occurred notwithstanding the contractor's exercise of due care.

222.406-10 Disposition of disputes concerning construction contract labor standards enforcement.

(d) Forward the contracting officer's findings and the contractor's statement through the labor advisor.

222.406-13 Semiannual enforcement reports.

Forward these reports through the head of the contracting activity to the labor advisor within 15 days following the end of the reporting period. These reports shall not include information from investigations conducted by the Department of Labor. These reports shall contain the following information, as applicable, for construction work subject to the Davis-Bacon Act and the CWHSSA—

(1) Period covered;

(2) Number of prime contracts awarded;

(3) Total dollar amount of prime contracts awarded;

(4) Number of contractors/subcontractors against whom complaints were received;

(5) Number of investigations conducted;

(6) Number of contractors/subcontractors found in violation;

(7) Amount of wage restitution found due under—

(i) Davis-Bacon Act

(ii) CWHSSA;

(8) Number of employees due wage restitution under—

(i) Davis-Bacon Act

(ii) CWHSSA;

(9) Amount of liquidated damages assessed under the CWHSSA—

(i) Total amount

(ii) Number of contracts involved;

(10) Number of employees and amount paid/withheld under—

(i) Davis-Bacon Act

(ii) CWHSSA

(iii) Copeland Act; and

(11) Preconstruction activities—

(i) Number of compliance checks performed

(ii) Preconstruction letters sent.

222.407 Contract clauses.

In contracts with a State or political subdivision, use the contract clauses prescribed in FAR 22.407, but preface these clauses with the following:

The contractor agrees to comply with the requirements of the Contract Work Hours and Safety Standards Act and to insert the following clauses in all subcontracts under this contract with private persons or firms.

Subpart 222.6—Walsh-Healey Public Contracts Act

222.604 Exemptions.

222.604-2 Regulatory exemptions.

(c) Submit all applications for such exemptions through contracting channels to the labor advisor.

Subpart 222.8—Equal Employment Opportunity

222.804 Affirmative actions programs.

222.804-2 Construction.

(b) Contracting officers forward requests for instructions directly to the servicing Office of Federal Contract Compliance Programs (OFCCP) regional office.

222.806 Inquiries.

(b) Refer inquiries through the labor advisor.

222.807 Exemptions.

(c) Submit the request for exemption with a justification through contracting channels to the labor advisor who will forward them to the agency head. If the request is submitted under FAR 22.807(a)(1), the agency head shall act on the request. If the exemption is granted, the agency head shall notify the Director, OFCCP of such action within 30 days. If the request is submitted under FAR 22.807(a)(2) or (b)(5), the agency head will forward it to the Director, OFCCP for action.

Subpart 222.10—Service Contract Act of 1965, As Amended

222.1003 Applicability.

222.1003-7 Questions concerning applicability of the Act.

Contracting officers may contact the labor advisor by telephone for informal advice. Submit requests for formal determinations as to the Act's applicability to the labor advisor in writing through appropriate channels.

222.1006 Clauses for contracts over $2,500.

Use the clause at 252.222-7000, Wage Determination Information, in all solicitations for which the Department of Labor has not issued a wage determination in time for inclusion in the solicitation. Use the basic clause or its Alternate I, as appropriate.

222.1008 Procedures for preparing and submitting Notice (SF 98/98a).

222.1008-2 Preparation of SF 98a.

(b)(1) The contracting officer shall secure the assistance of cognizant customer/technical personnel to ensure maximum use of the Service Contract Act Directory of Occupations (Directory) and incorporation of all service employee classes (Directory and nondirectory) expected to be utilized.

(2)(A) When the statement of work job title, for which there is a Directory equivalent, differs from the Directory job title, make a written cross-reference

either directly on the SF 98a file copy or on an attached sheet to the SF 98a file copy.

(B) Include and note as such any classifications and minimum hourly wage rates conformed under any predecessor contract. Where a previously conformed classification is not included in the Directory, attach the job description to the SF 98a.

222.1008-7 Required time of submission of Notice.

(d) Submit requests for immediate wage determination responses for emergency acquisitions through the labor advisor. If the request is justified, the labor advisor will contact Department of Labor headquarters officials.

222.1014 Delay of acquisition dates over 60 days.

Send update requests in writing directly to the Wage and Hour Division and provide a copy to the labor advisor. The update request shall—

(1) State that one or more dates on the original notice have been delayed more than 60 days;

(2) List the new dates; and

(3) Include a copy of the original notice and SF 98a as enclosures.

Subpart 222.13—Special Disabled and Vietnam Era Veterans

222.1303 Waivers.

(c) The contracting officer shall submit a waiver request through contracting channels to the labor advisor. If the request is justified, the labor advisor will endorse the request and forward it for action to—

(i) The agency head for waivers under FAR 22.1303(a); or

(ii) The Secretary of Defense, without the power of redelegation, for waivers under FAR 22.1303(b).

222.1306 Complaint procedures.

The contracting officer shall—

(1) Forward each complaint received as indicated in FAR 22.1306; and

(2) Notify the complainant of the referral. The contractor in question shall not be advised in any manner or for any reason of the complainant's name, the nature of the complaint, or the fact that the complaint was received.

Subpart 222.14—Employment of the Handicapped

222.1403 Waivers.

(c) The contracting officer shall submit a waiver request through contracting channels to the labor advisor. If the request is justified, the labor advisor will endorse the request and forward it for action to—

(i) The agency head for waivers under FAR 22.1403(a); or

(ii) The Secretary of Defense, without the power of redelegation, for waivers under FAR 22.1403(b).

222.1406 Complaint procedures.

The contracting officer shall—

(1) Forward each complaint received as indicated in FAR 22.1406 (see FAR 22.609 for a listing of Department of Labor regional/area offices); and

(2) Notify the complainant of such referral. The contractor in question shall not be advised in any manner or for any reason of the complainant's name, the name of the complaint, or the fact that the complaint was received.

Subpart 222.70—Restrictions on the Employment of Personnel for Work on Construction/Service Contracts in Alaska and Hawaii

222.7000 Scope of subpart.

(a) This subpart implements Section 8078 of the 1986 Defense Appropriations Act, Pub. L. 99-190, and similar sections in subsequent Defense Appropriations Acts.

(b) This subpart applies only—

(1) To construction and service contracts to be performed in whole in part within the states of Alaska or Hawaii; and

(2) When the unemployment rate in the state is in excess of the national average rate of unemployment as determined by the Secretary of Labor.

222.7001 General.

A contractor awarded a contract subject to this subpart must employ for the purpose of performing that portion of the contract work within the state, individuals who are residents of that state, and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills to perform the contract.

222.7002 Waivers.

Waivers may be granted at a level no lower than the Assistant Secretary of any department.

222.7003 Contract clause.

Use the clause at 252.222-7001, Restrictions on Employment of Personnel, in all solicitations and contracts subject to this subpart.

4. Part 232 is revised to read as follows:

PART 232—CONTRACT FINANCING

Subpart 232.1—General

Sec.

232.102 Description of contract financing methods.
232.102-70 Provisional delivery payments.
232.106 Financial consultation.
232.170 Responsibilities.
232.171 Contract Finance Committee.
232.172 Financial responsibility of contractors.
232.172-1 Required financial reviews.
232.172-2 Appropriate information.
232.172-3 Cash flow forecasts.

Subpart 232.2—Loan Guarantees for Defense Production

232.302 Authority.

Subpart 232.4—Advance Payments

232.404 Exclusions.
232.409 Contracting officer action.
232.409-1 Recommendation for approval.
232.410 Findings, determination, and authorization.
232.412 Contract clause.
232.412-70 Additional clauses.
232.470 Advance payment pool.

Subpart 232.5—Progress Payments Based on Costs

232.501 General.
232.501-1 Customary progress payment rates.
232.501-2 Unusual progress payments.
232.501-3 Contract price.
232.502 Preaward matters.
232.502-1 Use of customary progress payments.
232.502-1-70 Customary foreign military sale progress payments.
232.502-1-71 Customary flexible progress payments.
232.502-4 Contract clauses.
232.502-4-70 Additional clauses.
232.503 Postaward matters.
232.503-6 Suspension or reduction of payments.
232.503-15 Application of Government title terms.

Subpart 232.6—Contract Debts

232.605 Responsibilities and cooperation among Government officials.
232.606 Debt determination and collection.
232.610 Demand for payment of contract debt.
232.616 Compromise actions.
232.617 Contract clause.
232.670 Transfer of responsibility for debt collection.
232.671 Bankruptcy reporting.

Subpart 232.8—Assignment of Claims

232.803 Policies.
232.806 Contract clause.

Subpart 232.9—Prompt Payment

232.905 Invoice payments.
232.906 Contract financing payments.

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, FAR subpart 1.3.

Subpart 232.1—General

232.102 Description of contract financing methods.

(e)(2) Progress payments based on percentage or stage of completion are authorized only for contracts for construction (as defined in FAR 36.102), shipbuilding, and ship conversion, alteration, or repair.

232.102-70 Provisional delivery payments.

(a) The contracting officer may establish provisional delivery payments to pay contractors for the costs of supplies and services delivered to and accepted by the Government under the following undefinitized contract actions—

(1) Letter contracts contemplating a fixed-price contract;

(2) Orders under basic ordering agreements;

(3) Spares provisioning documents annexed to contracts; and

(4) Unpriced equitable adjustments on fixed-priced contracts.

(b) Provisional delivery payments shall be—

(1) Used sparingly;

(2) Priced conservatively; and

(3) Reduced by liquidating previous progress payments.

(c) Provisional delivery payments shall not—

(1) Include profit;

(2) Exceed funds obligated for the undefinitized contract action; or

(3) Influence the definitized contract price.

232.106 Financial consultation.

Department/agency contract financing offices are—

(1) Army—Chief of Contract Financing, Office of the Comptroller;

(2) Navy—Executive comptroller for Banking, Cash Management, Contract Financing and Compensation Systems, Assistant Comptroller of the Navy for Financial Management;

(3) Air Force—Chief of Banking and Contract Financing, Directorate of Accounting, Air Force Accounting and Finance Center;

(4) Defense Logistics Agency—Comptroller; and

(5) Other Defense agencies—Office of the agency comptroller.

232.170 Responsibilities.

(a) The Deputy Assistant Secretary of Defense (Procurement) (DASD(P)) is responsible for ensuring uniform administration of DoD contract financing, including DoD contract financing policies and important related procedures.

(b) The departments and agencies are responsible for their day-to-day contract financing operations. Refer specific cases involving financing policy or important procedural issues to DASD(P) for consideration (see also 201.24 for deviation request and approval procedures).

232.171 Contract Finance Committee.

(a) The Contract Finance Committee consists of—

(1) A representative of the DASD(P), serving as chairman;

(2) A representative of the Assistant Secretary of Defense (Comptroller); and

(3) Two representatives of each military department and the Defense Logistics Agency (one representing the contracting and one representing the contract finance office).

(b) The Committee—

(1) Advises and assists the DASD(P) in ensuring proper and uniform application of policies, procedures, and forms;

(2) Is responsible for formulating, revising, and promulgating uniform contract financing regulations;

(3) May recommend to the Secretary of Defense through the DASD(P) further policy directives on financing; and

(4) Meets at the request of the Chair or a member.

232.172 Financial responsibility of contractors.

Use the policies and procedures in this section in determining the financial capability of current or prospective contractors.

§ 232.172-1 Required financial reviews.

The contracting officer shall perform a financial review—

(a) Prior to award of a contract, when—

(1) The contractor is on a list requiring preaward clearance or other special clearance before award;

(2) The contractor is listed on the Consolidated List of Contractors Indebted to the Government (Hold-Up List), or is otherwise known to be indebted to the Government;

(3) The contractor may receive Government assets such as contract financing payments or Government property;

(4) The contractor is experiencing performance difficulties on other work;

(5) The contractor is a new company or a new supplier of the item; or

(6) The contracting officer does not otherwise have sufficient information to make a positive determination of financial responsibility.

(b) At periodic intervals after award of a contract, when—

(1) Any of the conditions of paragraph (a) (2) through (5) of this subsection are applicable; or

(2) There is any other reason to question the contractor's ability to finance performance and completion of the contract.

§ 232.172-2 Appropriate information.

(a) The contracting officer shall obtain whatever type and depth of financial and other information is required to establish a contractor's financial capability or disclose a contractor's financial condition. While the contracting officer should not request information that is not necessary for the protection of the Government's interests, the contracting officer must insist upon obtaining that information which is necessary. The unwillingness or inability of a contractor to present reasonably requested information in a timely manner, especially information that a prudent business person would be expected to have and use in the professional management of a business, may be a material fact in the determination of the contractor's responsibility and prospects for contract completion.

(b) Obtain the following information to the extent required to protect the Government's interest. In addition, if the contracting officer concludes that information not listed below is required to comply with 232.172-1, that information should be requested. The information must be for the person(s) who are legally liable for contract performance. If the contractor is not a corporation, obtain the required information for each individual/joint venturer/partner—

(1) Balance sheet and income statements for the most recent fiscal year and preferably, for the two preceding fiscal years. This should be certified by an independent public accountant or by an appropriate officer of the firm;

(2) Summary history of the contractor and its principal managers, disclosing any previous insolvencies—corporate or personal, and describing its products or services;

(3) Statement of all affiliations disclosing—

(i) Material financial interests of the contractor;

(ii) Material financial interest in the contractor;

(iii) Material affiliations of owners, officers, directors, major stockholders; and

(iv) The major stockholders if the contractor is not a widely-traded, publicly-held corporation;

(4) Statement of all forms of compensation of each officer, manager,

partner, joint venturer, or proprietor, as appropriate—

(i) Planned for the current year; and

(ii) Paid during the past 2 years.

(5) Business base and forecast which—

(i) Shows, by significant markets, existing contracts and outstanding offers, including those under negotiation; and

(ii) Is reconcilable to indirect cost rate projections.

(6) Cash forecast for the duration of the contract (see 232.172–3).

(7) Financing arrangement information which discloses—

(i) Availability of cash to finance contract performance;

(ii) Contractor's exposure to financial crisis from creditor's demands;

(iii) Degree to which credit security provisions could conflict with Government title terms under contract financing;

(iv) Clearly stated confirmations of credit with no unacceptable qualifications; and

(v) Unambiguous written agreement by a creditor if credit arrangements include deferred trade payments or creditor subordinations/repayment suspensions.

(8) Statement of all state, local, and Federal tax accounts, including special mandatory contributions, e.g., environmental superfund.

(9) Description and explanation of the financial effect of issues such as—

(i) Leases, deferred purchase arrangements, patent or royalty arrangements;

(ii) Insurance, when relevant to the contract;

(iii) Contemplated capital expenditures, changes in equity, or contractor debt load;

(iv) Pending claims either by or against the contractor;

(v) Contingent liabilities such as guarantees, litigation, environmental, or product liabilities;

(vi) Validity of accounts receivable and actual value of inventory, as assets; and

(vii) Status and aging of accounts payable.

232.172–3 Cash flow forecasts.

(a) A contractor must be able to sustain a sufficient cash flow to perform the contract. Whenever there is a doubt about the sufficiency of a contractor's cash flow, the contracting officer should require the contractor to submit a cash flow forecast covering the duration of the contract.

(b) A contractor's inability or refusal to prepare and provide cash flow forecasts or to reconcile actual cash flow with previous forecasts is a strong indicator of serious managerial deficiencies or potential contract cost or performance problems.

(c) Single or one-time cash flow forecasts are of limited forecasting power. As such, they should be limited to preaward survey situations. Satisfactory reliability on cash flow forecasts can be achieved only by comparing a series of previous actual cash flows with the corresponding forecasts and examining the causes of any differences.

(d) Cash flow forecasts must—

(1) Show the origin and use of all material amounts of cash within the entire business unit responsible for contract performance, period by period, for the length of the contract (or until the risk of a cash crisis ends); and

(2) Provide an audit trail to the data and assumptions used to prepare it.

(e) The contracting officer should review the assumptions underlying the cash flow forecasts. In determining the reasonableness and realism of the assumptions, the contracting officer should consult with—

(1) The contractor;

(2) Government personnel in the areas of finance, engineering, production, cost, and price analysis; or

(3) Prospective supply, subcontract, and loan or credit sources.

(f) Cash flow forecasts can be no more reliable than the assumptions on which they are based. Most important of these assumptions are—

(1) Estimated amounts and timing of purchases and payments for materials, parts, components, subassemblies, and services;

(2) Estimated amounts and timing of payments for purchase or production of capital assets, test facilities, and tooling;

(3) Amounts and timing of fixed cash charges such as debt installments, interest, rentals, taxes, and indirect costs;

(4) Estimated amounts and timing of payments for projected labor, both direct and indirect;

(5) Reasonableness of projected manufacturing and production schedules;

(6) Estimated amounts and timing of billings to customers (including progress payments), and customer payments;

(7) Estimated amounts and timing of cash receipts from lenders or other credit sources, and liquidation of loans; and

(8) Estimated amounts and timing of cash receipts from other sources.

Subpart 232.3—Loan Guarantees for Defense Production

232.302 Authority.

(a) The use of guaranteed loans as a contract financing mechanism requires the availability of certain congressional authority. The DoD has not requested such authority in recent years, and none is now available.

Subpart 232.4—Advance payments

232.404 Exclusions.

(a)(9) The requirements of FAR Subpart 32.4 do not apply to advertisements in high school and college publications for military recruitment efforts under 10 U.S.C. 503 when the contract cost does not exceed $500.

232.409 Contracting officer action.

232.409–1 Recommendation for approval.

To ensure uniform application of this subpart (see FAR 32.402(e)(1)), the departmental/agency contract financing office shall prepare the documents required by FAR 32.409–1 (e) and (f)

232.410 Findings, determination, and authorization.

(b) If an advance payment procedure is used without a special bank account, replace paragraph (a)(4) of the Findings, Determination, and Authorization for Advance Payments at FAR 32.410 with: "(4) The proposed advance payment clause contains appropriate provisions as security for advance payments. These provisions include a requirement that the outstanding advance payments will be liquidated from cost reimbursements as they become due the contractor. This security is considered adequate to protect the interest of the Government."

232.412 Contract clause.

232.412–70 Additional clauses.

(a) Use the clause at 252.232–7000, Advance payment Pool, in any contract that will be subject to the terms of an advance payment pool agreement with a nonprofit organization or educational institution. Normally, use the clause in all cost reimbursement type contracts with the organization or institution.

(b) Use the clause at 252.232–7001, Disposition of Payments, in contracts when payments under the contract are to be made by a disbursing office not designated in the advance payment pool agreement.

232.470 Advance payment pool.

(a) An advance payment pool agreement—

(1) Is a means of financing the performance of more than one contract held by a single contractor;

(2) Is especially convenient for the financing of cost-type contracts with nonprofit educational or research institutions for experimental or research and development work when several contracts require financing by advance payments. When appropriate, pooled advance payments may also be used to finance other types of contracts held by a single contractor; and

(3) May be established—

(i) Without regard to the number of appropriations involved;

(ii) To finance contracts for one or more department(s) or contracting activity(ies); or

(iii) In addition to any other advance payment pool agreement at a single contractor location when it is more convenient or otherwise preferable to have more than one agreement.

Subpart 232.5—Progress Payment Based on Costs

232.501 General.

In DoD, customary progress payments may be either uniform or flexible (FAR 32.501–1(a)). See also 232.501–1 and 232.502–1–71.

232.501–1 Customary progress payment rates.

(a)(i) For single contracts using multiple progress payment rates, see FAR 32.502–4(d). For contracts funded with FY87 and other fiscal year appropriations, the contracting officer may—

(A) Apply the customary uniform progress payment rate for FY87 appropriations to all contract line items (see Table at 232.205–1–71(a)(7)); or (B) Apply the customary uniform rate for FY87 appropriations to only those contract line items funded with FY87 appropriations, applying the different customary uniform rate to all other line items, provided the requirements of FAR 32.502–4(d) are met.

(ii) For foreign military sales, apply either the DoD customary uniform or flexible progress payment rate.

(iii) For customary flexible progress payments, determine the appropriate rate using the appropriate CASH computer program (see 232.502–1–70).

232.501–2 Unusual progress payments.

(a) Contracting officers shall submit all unusual progress payment provisions to the department or agency contract financing office for approval and coordination with the Contract Finance committee (232.171).

232.501–3 Contract price.

(b) The contracting officer may approve progress payments when the contract price exceeds the funds obligated under the contract; provided, the contract contains an appropriate Limitation of Funds clause. However, the contracting officer shall limit such payments to the lesser of—

(i) The applicable percentage of the contract (i.e., the progress payment rate, the liquidation rate, or the loss-ratio adjusted rate); or

(ii) 100 percent of the funds obligated.

232.502 Preaward matters.

232.502–1 Use of customary progress payments.

232.502–1–70 Customary foreign military sale progress payments.

(a) Foreign military sale (FMS) progress payments apply to DoD acquisitions on behalf of foreign governments or international organizations (Section 22 of the Arms Export Control Act).

(b) FMS progress payments do not apply to acquisitions—

(1) For replenishing U.S. Government inventories or stocks; and

(2) Made under DoD cooperative logistic support arrangements.

232.502–1–71 Customary flexible progress payments.

(a) *General.* (1) Progress payments reduce contractor investment in work in process inventory. In addition to progress payments, other factors influence a contractor's actual investment in work in process inventory, e.g., delivery schedules, cash management practices, and Government payment practices.

(2) Progress payment amounts that are determined by using customary uniform rates are insensitive to the other factors influencing contractor investment in work in process inventory. Consequently, contractor investments in work in process inventory vary among contractors and contracts.

(3) Flexible progress payment rates are designed to tailor the progress payment rate to more closely match the contractor's cash needs for financing contract performance. The flexible rate is expressed as a percentage which is applied to costs to determine the amount payable as a progress payment, in the same manner as customary uniform rates are applied.

(4) For flexible progress payments cash needs are measured and projected based on the investment required for the work in process inventory over the life of the contract. Total investment is measured by a weighted average of total costs paid by the contractor. The contractor's investment is the weighted average of the amount not paid by the Government.

(5) DoD, as a matter of policy, requires contractors to retain a minimum investment level in work in process inventory over the life of the contract (see table at 232.502–1–71(a)(7)). This minimum investment level is based on the customary uniform progress payment rate and its related investment percentage. Accordingly, the DoD will make progress payments at the rate (expressed as a whole number) that is the highest rate which yields a corresponding investment by the contractor in work in process inventory of not less than the minimum investment percentage.

(6) The customary flexible progress payment rate will be determined by using the DoD Cash Flow Computer Model. The rate computed shall not—

(i) Exceed 100 percent; or

(ii) Be less than the customary uniform progress payment rate that would have been applied to the contract in the absence of customary flexible progress payments.

(7) The following table shows the customary uniform progress payment rates, minimum contractor investment (except for contracts funded with FY87 appropriations), and the applicable DoD Cash Flow Computer Model. For contracts funded with FY87 appropriations, a contractor must retain at least a 25 percent investment in work in process inventory over the life of the contract.

Contract award date	Uniform rate (percent)	Investment percentage	Cash flow model
Prior to May 1, 1985.	90	5	CASH–II.
May 1, 1985 to October 18, 1986.	80	15	CASH–III.
October 19, 1986 to October 1, 1988.	75	25	CASH–IV.
After October 1, 1988.	80	20	CASH–V.

(b) *Using customary flexible progress payments.* (1) Use a flexible progress payment rate instead of the customary uniform rate if—

(i) The contractor requests flexible progress payments;

(ii) The contractor agrees to the requirements of this section; and

(iii) The criteria in paragraphs (b) (2) and (3) of this subsection are met.

(2) Do not use flexible progress payments for—

(i) Sealed bid contracts;

(ii) Undefinitized contract actions; or

(iii) Contracts awarded and performed entirely outside of the U.S., its possessions and territories.

(3) Contractors who submit certified cost or pricing data, as defined in FAR 15.804–2, for negotiated fixed-price contracts in excess of $1 million may request flexible progress payments.

(4) Subcontractors who request flexible progress payments, meet the criteria in paragraph (b)(3) of this subsection, and agree to the requirements of this subsection are to receive flexible progress payments. The prime contractor determines the flexible progress payment rate without regard to the rate in the prime contract. In determining the appropriate customary flexible rate, the prime contractor will use the DoD Cash Flow Computer Model and review the cash flow data provided by the subcontractor.

(5) Prior to contract award, determine the customary flexible progress payment rate by applying the appropriate version of the DoD Cash Flow Computer Model. The model takes into account key cash flow factors including contract cost profile, delivery schedules, subcontractor progress payments, liquidation rates, and payment/reimbursement cycles. For contracts funded with FY87 appropriations, use the CASH–IV model.

(c) *Contractor cash flow and cost information.* (1) Contractors shall furnish to the contracting officer cash flow data in the form and context specified for use in the DoD Cash Flow Computer Model. This data includes—

(i) Actual and projected incurred cost, broken down by element of cost and by month, for the duration of the contract;

(ii) Float times for each element of cost;

(iii) Dates and lag times of actual and projected progress payment and delivery payment receipts; and

(iv) Associated contract price and profit percentage.

(2) Contracting officers shall verify the cash flow data using the procedures normally used to verify contractor cost and pricing data, and establish the customary flexible progress payment rate during the negotiation of the contract price.

(3) If any customary flexible progress payment rate is later determined to be overstated because factual data submitted in support of the rate computation was not current, accurate, or complete at the time the rate was established, the flexible progress payment clause at 252.232–7003 provides for—

(i) Reduction of the flexible progress payment rate; and

(ii) Contractor payment of interest.

(4) The contracting officer will assess the interest charge on the amount of the overpayment resulting from facts that were not current, accurate, or complete, whether or not the overpayment has been liquidated. Calculate the interest from the date of the overpayment to the date of liquidation of the overpayment. In determining the amount of interest, the contracting officer may determine an average overpayment amount and duration as the basis for the interest computation. Interest rates change periodically; therefore, calculate average amounts and durations separately for each interest period that has a different interest rate.

(5) Administrative contracting officers are encouraged to establish advance agreements at contractor locations for payment float and lag times which are common to several contracts. Float and lag times may vary significantly at different payment offices due to variances in efficiency at different payment offices or due to differing procedures for high dollar versus low dollar value contracts. It may, therefore, be appropriate to establish advance agreements on several different float and lag profiles to suit different contract situations.

(d) *Rate review.* (1) The flexible progress payment clause at 252.232–7003 provides for redetermination of the customary flexible progress payment rate whenever the computed investment percentage is more than two points above or below the specific minimum investment in work in process inventory (see Table at 232.502–1–71(a)(7)). When such a redetermination is made—

(i) Apply the new customary flexible progress payment rate to the next contractor progress payment request; and

(ii) Adjust the unliquidated progress payment balance.

(2) Either the Government or the contractor may request a rate review at any time to determine if the computed investment percentage in work in process inventory is outside of the investment tolerance in paragraph (d)(1) of this subsection. For contracts funded with FY87 appropriations, the investment range is 23 to 27 percent with a target of 25 percent.

(3) The administrative contracting officer shall assess changes in the following factors during each periodic review required by FAR 32.503–5 and shall review the customary flexible progress payment rate whenever there has been—

(i) A significant change in the float or lag factors;

(ii) A significant change in the delivery schedule; or

(iii) Substantial work added to or deleted from the contract.

232.502–4 Contract clauses.

232.502–4–70 Additional clauses.

(a) Use the clause at 252.232–7002, Progress Payments for Foreign Military Sales Acquisitions, in any contract that provides for progress payments and contains foreign military sale requirements.

(b) Use the clause at 252.232–7003, Flexible Progress Payments, in contracts using a customary flexible progress payment rate.

232.503 Postaward matters.

232.503–6 Suspension or reduction of payments.

(g) *Loss contracts.* Use the following loss ratio adjustment procedures for making adjustments required by FAR 32.503–6 (f) and (g)—

(i) Except as provided in paragraph (g)(ii) of this subsection, prepare a supplementary analysis of the contractor's request for progress payments and calculate the loss ratio adjustment using the procedures in FAR 32.503–6(g).

(ii) The contracting officer may request the contractor to prepare the supplementary analysis as an attachment to the progress payment request when the contracting officer determines that the contractor's methods of estimating the "Costs to Complete" are reliable, accurate, and not susceptible to improper influences.

(iii) To maintain an audit trail and permit verification of calculations, do not make the loss ratio adjustments by altering or replacing data on the contractor's original request for progress payment (SF 1443, Contractor's Request for Progress Payment, or computer generated equivalent).

232.503–15 Application of Government title terms.

(d) An administrative contracting officer (ACO) determination that the contractor's material management and accounting system conforms to the standard at 242.7206(b)(7) constitutes the contracting officer approval requirement of FAR 32.503–15(d). Prior to granting blanket approval of cost transfers between contracts, the ACO should determine that—

(i) The contractor retains records of the transfer activity that took place in the prior month;

(ii) The contractor prepares, at least monthly, a summary of the transfer activity that took place in the prior month; and

(iii) The summary report includes as a minimum, the total number and dollar value of transfers.

Subpart 232.6—Contract Debts

232.606 Responsibilities and cooperation among Government officials.

(b) Disbursing officers are those officials designated to make payments under a contract or to receive payments of amounts due under a contract. At installations where integrated accounting is in effect, the finance and accounting officer is a disbursing officer. The disbursing officer is responsible for determining the amount and collecting contract debts whenever overpayments or erroneous payments have been made. The disbursing officer also has primary responsibility when the amounts due and dates for payments are contained in the contract, and a copy of the contract has been furnished to the disbursing officer with notice to collect as amounts become due.

232.608 Debt determination and collection.

(c)(9)(vii) Upon transfer of a case to the contract financing office, the contracting officer shall close the debt record by reference to the date of transfer.

232.610 Demand for payment of contract debt.

(a)(i) For contract debts resulting from other than a termination for default, the office which first determines an amount due, whether it be the contract administration office, the contracting office, the disbursing office, or the selling office/agency, shall—

(A) Make a demand for payment; and

(B) Provide a copy of the demand to the payment office cited in the contract.

(ii) For contract debts resulting from a termination for default, the contracting officer shall make the demand and direct the debtor to make payment to an office of the contracting department or agency. When payment to other than the payment office cited in the contract is required, the administrative contracting officer shall modify the contract to designate the new payment office.

(b)(3) The contracting office shall forward deferment requests to the contract financing office of the contracting department or agency for a decision on granting the deferment.

232.616 Compromise actions.

Only the department/agency contract financing offices (232.108) are authorized to compromise debts covered by this subpart.

232.617 Contract clause.

(a) The DoD Contract Finance Committee, with the approval of the DASD(P), may exempt the contracts in FAR 32.617(a)(2) through (5) and other contracts, in exceptional circumstances, from the administrative interest charges required by this subpart.

(a)(7) Other exceptions—

(A) Contracts for instructions of military or ROTC personnel at civilian schools, colleges, and universities;

(B) Basic agreements with telephone companies for communications services and facilities, and purchase under such agreements; and

(C) Transportation contracts with common carriers for common carrier services.

232.670 Transfer of responsibility for debt collection.

Disbursing officers will transfer responsibility for debt collection to departmental/agency contract financing offices in accordance with comptroller regulations. Notwithstanding the transfer of the debt collection responsibility, contracting officers shall continue to provide assistance as requested by the debt collection office.

232.671 Bankruptcy reporting.

(a) For those debts covered by this subpart, the department or agency which awarded the contract shall furnish the Department of Justice any claims in bankruptcy, insolvency, or in proceedings for reorganization or arrangement. Furnish claims which—

(1) Have been transferred to a contract financing office;

(2) Are on the way to a contract financing office at the inception of bankruptcy or insolvency proceedings;

(3) Are pending and not forwarded to a contract financing office at the inception of bankruptcy or insolvency proceedings; and

(4) Are the result of bankruptcy or insolvency proceedings.

(b) The contract financing office or other office designated within a department or agency will furnish proof of claims to the Department of Justice.

(c) The office of origin of a debt will provide, as soon as possible, information on a bankruptcy, insolvency, reorganization, or rearrangement to the office designated within a department/agency to receive this information.

(d) The information and proof of claim requirements in paragraphs (b) and (c) of this section do not apply to debts of less than $600

Subpart 232.8—Assignment of Claims

232.803 Policies.

(b) Only contracts for personal services may prohibit the assignment of claims.

(d) Under 50 U.S.C. 1651(a)(4) and (5), a national emergency exists for contract purposes. Nevertheless, if departments/agencies decide it is in the Government's interest, they may exclude the no-setoff commitment.

(e) The assignee shall forward the notice and instrument of assignment—

(i) To the administrative contracting officer (ACO), a true copy of the instrument of assignment and an original and three copies of the notice of assignment. The ACO shall acknowledge receipt by signing and dating all copies of the notice of assignment and shall—

(A) File the true copy of the instrument of assignment and the original of the notice in the contract file;

(B) Forward two copies of the notice to the disbursing officer of the payment office cited in the contract;

(C) Return a copy of the notice to the assignee; and

(D) Advise the contracting officer of the assignment.

(ii) To the surety or sureties, if any, a true copy of the instrument of assignment and an original and three copies of the notice of assignment. The surety shall return three acknowledged copies of the notice to the assignee, who shall forward two copies to the disbursing officer designated in the contract.

(iii) To the disbursing officer of the payment office cited in the contract, a true copy of the instrument of assignment and an original and one copy of the notice of assignment. The disbursing officer shall acknowledge and return to the assignee the copy of the notice and shall file the true copy of the instrument and original notice.

232.806 Contract clause.

(a)(2) The contracting officer shall use Alternate I with the clause at FAR 52.232–23, Assignment of Claims, unless otherwise authorized under 232.800(d).

Subpart 232.9—Prompt Payment

232.905 Invoice payments.

In most cases, Government acceptance or approval can occur within the 7 day constructive acceptance period or for construction contract

progress payments, within the 14 day constructive acceptance period, specified in the respective FAR Prompt Payment clauses. While the contracting officer may specify a longer period because the period specified in the contract is not reasonable or practical, such change should be coordinated with the Government office responsible for the acceptance or approval function. Reasons for specifying a longer period include but are not limited to: the nature of the work or supplies or services, inspection or testing requirements, shipping and acceptance terms, and resources available at the acceptance activity. A constructive acceptance period of less than the cited 7 or 14 days is not authorized.

232.906 Contract financing payments.

(a)(i) DoD policy is to make contract financing payments as quickly as possible. Generally, the contracting officer shall insert the standard due dates of 7 days for progress payments and 14 days for interim payments on cost type contracts in subparagraphs (b)(2) of the Prompt Payment clauses at FAR 52.232–25, 52.2322–26, and 52.232–27.

(ii) The contracting officer should coordinate payment terms with offices that will be involved in the payment process to ensure that terms specified can be met. Where justified, the contracting officer may insert a due date greater than but not less than the standard. In determining payment terms, consider—

(A) Geographical separation;

(B) Workload;

(C) Contractor ability to submit a proper request; and

(D) Other factors that could affect timing of payment.

5. Part 235 is revised to read as follows:

PART 235—RESEARCH AND DEVELOPMENT CONTRACTING

Sec.

235.001 Definitions.
235.002 General.
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235.070–3 Contract clauses.
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Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, FAR subpart 1.3.

235.001 Definitions.

As used in this part, the terms relating to "research and development" have the meaning given in DoD 7110–1–M, Budget Guidance Manual, as follows—

Advanced development means all effort directed toward projects which have moved into the development of hardware for test. The prime proof of this type of effort is proof of design concept rather than the development of hardware. Projects in this category have a potential military application.

Engineering development means those projects in full-scale engineering development but which have not yet received approval for production or had production funds included in the DoD budget submission for the budget or subsequent fiscal year. This area is characterized by major line item projects where program control is exercised by review of individual projects.

Exploratory development means all effort directed toward the solution of specific military problems, short of major development projects. This type of effort may vary from fairly fundamental applied research to quite sophisticated bread-board hardware, study, programming, and planning efforts. It would thus include studies, investigations, and minor development effort. The dominant characteristic of this category of effort is that it be pointed toward specific military problem areas with a view toward developing and evaluating the feasibility and practicability of proposed solutions and determining their parameters.

Management and support means all effort directed toward support of installations and operations required for general research and development use. This includes military construction of a general nature unrelated to specific programs, maintenance support of laboratories, operation and maintenance of test ranges, and maintenance of test aircraft and ships. Costs of laboratory personnel, either in-house or contracted, would be assigned to projects or as a line item in the research, exploratory development, or advanced development program areas, as appropriate. Management and support is not "research and development" except in exceptional cases. For example, construction of recreational facilities at an installation is not "research and development" work, even if the installation is used only for research and development work.

Operational system development means those projects still in full-scale engineering development, but which have received approval for production through Defense Acquisition Board or other action, or production funds have been included in the DoD budget submission for the budget or subsequent year. All items in this area are major line item projects which appear as RDT&E costs of weapons systems elements in other programs. Program control is exercised by review of the individual projects.

Research means all effort of scientific study and experimentation directed toward increasing knowledge and understanding in those fields of the physical, engineering, environmental, and life sciences related to long-term national security needs. It provides fundamental knowledge required for the solution of military problems. It forms a part of the base for—

(1) Subsequent exploratory and advanced developments in Defense related technologies; and

(2) New or improved military functional capabilities in areas such as communications, detection, tracking, surveillance, propulsion, mobility, guidance and control, navigation, energy conversion, materials and structures, and personnel support.

Research and development ordinarily covers only the following categories—

(1) Research;

(2) Exploratory development;

(3) Advanced development;

(4) Engineering development; and

(5) Operational systems development.

235.002 General.

Contracts for services or the use of facilities for research or development may be for a term of not more than 5 years and may be extended for a term of not more than 5 years.

235.003 Policy.

(b) *Cost sharing.* Consider cost sharing—

(i) Unless the Government, rather than the contractor, specifies the research goal or scope of the effort

(ii) When the research effort or results are likely to enhance the contractor's capability, expertise, or competitive position

(iii) For either direct or indirect costs

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235.006 Contracting methods and contract type.

(b)(i) A fixed-price type contract shall not be awarded for a development program effort unless—

(A) The level of program risk permits realistic pricing;

(B) The use of a fixed-price type contract permits an equitable and sensible allocation of program risk between the Government and the contractor; and

(C) A written determination that the criteria of paragraphs (b) (i) and (ii) of this section have been met is executed—

(*1*) By the Under Secretary of Defense for Acquisition (USD(A)) for—

(*i*) Research and development, if the contract is a fixed-price type contract over $25,000,000;

(*ii*) The lead ship of a class;

(*iii*) The development of a major system (as defined in FAR 34.001) or subsystem thereof, if the contract is over $10,000,000 and is a fixed-price type funded with FY 90 funds (Pub. L. 101-165, section 9048).

(*2*) By the contracting officer for all fixed-price type contracts for any development not covered by paragraphs (b)(i)(C)(*1*) of this section.

(ii) Before award, submit the Government's prenegotiation position, and the proposed (and unexecuted) agreement with the contractor to the USD(A) for any action which is—

(A) An increase of more than $250,000,000 in the price of a fixed-price type development contract, or a fixed-price type contract for the lead ship of a class;

(B) A reduction in the amount of work under a fixed-price type development contract or a fixed-price type contract for the lead ship of a class, when the contract action is valued at more than $100,000,000; or

(C) A repricing of fixed-price type production options to a development contract, or a contract for the lead ship of a class, which increases the price by more than $250,000,000 for equivalent quantities.

(iii) Notify the USD(A) of an intent not to exercise a fixed-price production option on a development contract for a major weapon system reasonably in advance of the expiration of the option exercise period.

235.007 Solicitations.

(g) To ensure that prospective offerors fully understand the details of the work, the contracting officer may include the Government's estimate of the man-year effort under a research contract.

235.010 Scientific and Technical Reports.

(b) The Defense Technical Information Center (DTIC)—

(A) Has eligibility requirements for use of its services. Requests for information on eligibility should be addressed to DTIC-FDRB.

(B) Requires registration for use of its services. Instructions for registration are in Defense Logistics Agency Regulation 4185.10, Certification and Registration for Access to DoD Scientific and Technical Information.

235.010-70 Contract clause.

Use the clause at 252.235-7000, Distribution of Final Scientific or Technical Report, in solicitations and contracts for research or development.

235.015 Contracts for research with educational institutions and nonprofit organizations.

(b) *Basic agreements.* (1)(A) The Office of Naval Research has responsibility on behalf of all of DoD for negotiating these basic agreements, except for basic agreements with Federally Funded Research and Development Centers;

(B) When using a basic agreement—

(*1*) Incorporate it by reference in section I of the contract; and

(*2*) Incorporate any special clause requirements in Section H.

235.015-70 Special use allowances for research facilities acquired by educational institutions.

(a) *Definitions.* As used in this subsection—

(1) *Research facility* means—

(i) Real property, other than land; and

(ii) Includes structures, alterations, and improvements, acquired for the purpose of conducting scientific research under contracts with departments and agencies of the DoD.

(2) *Special use allowance* means a negotiated direct or indirect allowance—

(i) For construction or acquisition of buildings, structures, and real property, other than land; and

(ii) Where the allowance is computed at an annual rate exceeding the rate which normally would be allowed under FAR subpart 31.3.

(b) *Policy* (1) Educational institutions are to furnish the facilities necessary to perform Defense contracts. FAR subpart 31.3 governs how much the Government will reimburse the institution for the research programs. However, in extraordinary situations, the Government may give special use allowances to an educational institution when the institution is unable to provide the capital for new laboratories or expanded facilities needed for Defense contracts.

(2) Decisions to provide a special use allowance must be made on a case-by-case basis, using the criteria in paragraph (c) of this subsection.

(c) *Authorization for special use allowance.* The head of a contracting activity may approve special use allowances only when all of the following conditions are met—

(1) The research facility is essential to the performance of DoD contracts;

(2) Existing facilities, either Government or nongovernment, cannot meet program requirements practically or effectively;

(3) The proposed agreement for special use allowances is a sound business arrangement;

(4) The Government's furnishing of Government-owned facilities is undesirable or impractical; and

(5) The proposed use of the research facility is to conduct essential Government research which requires the new or expanded facilities.

(d) *Application of the special use allowance.* (1) In negotiating a special use allowance—

(i) Compare the needs of DoD and of the institution for the research facility to determine the amount of the special use allowance;

(ii) Consider rental costs for similar space in the area where the research facility is or will be located to establish the annual special use allowance;

(iii) Do not include or allow—

(A) The costs of land; or

(B) Interest charges on capital;

(iv) Do not include maintenance, utilities, or other operational costs;

(v) The period of allowance generally will be—

(A) At least 10 years; or

(B) A shorter period if the total amount to be allowed is less than the construction or acquisition cost for the research facility;

(vi) Generally, provide for allocation of the special use allowance equitably among the Government contracts using the research facility;

(vii) Special use allowances apply only in the years in which the Government has contracts in effect with the institution. However, if in any given year there is a reduced level of Government research effort which results in the special use allowance being excessive compared to the Government research funding, a separate special use allowance may be negotiated for that year;

(viii) Special use allowances may be adjusted for the period before construction is complete if the facility is

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partially occupied and used for Government research during that period.

(2) A special use allowance may be based on either total or partial cost of construction or acquisition of the research facility.

(i) When based on total cost neither the normal use allowance nor depreciation will apply—

(A) During the special use allowance period; and

(B) After the educational institution has recovered the total construction or acquisition cost from the Government or other users.

(ii) When based on partial cost, normal use allowance and depreciation—

(A) Apply to the balance of costs during the special use allowance period to the extent negotiated in the special use allowance agreement; and

(B) Do not apply after the special use allowance period, except for normal use allowance applied to the balance.

(3) During the special use allowance period, the research facility—

(i) Shall be available for Government research use on a priority basis over nongovernment use; and

(ii) Cannot be put to any significant use other than that which justified the special use allowance, unless the head of the contracting activity, which approved the special use allowance, consents.

(4) The Government will pay only an allocable share of the special use allowance when the institution makes any substantial use of the research facility for parties other than the Government during the period when the special use allowance is in effect.

235.015–71 Short form research contract (SFRC).

(a) *Scope.* This section prescribes procedures for contracting within the U.S. for research on a cost-reimbursement basis with educational institutions or nonprofit organizations whose primary purpose is the conduct of scientific research.

(b) *Definitions.* As used in this section—

(1) *Educational institution* means an institution of higher learning which—

(i) Provides facilities for teaching and research; and

(ii) Is authorized to grant academic degrees.

(2) *Nonprofit organization* means—

(i) Organizations of the type—

(A) Described in section 501(c)(3) and (d) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)); and

(B) Exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)); or

(ii) Any nonprofit scientific organization qualified under a state nonprofit organization statute.

(3) *Research* includes all effort described as research in 235.001, including that part of exploratory development applicable to applied research.

(c) *Applicability.* (1) Do not use the SFRC for any purpose other than as described in this section.

(2) The procedures in this section may be used if—

(i) The principle purpose of the acquisition is research from an educational institution or a nonprofit organization;

(ii) The effort will be on a cost-reimbursement basis;

(iii) The basis for award is—

(A) A basic research proposal responding to a broad agency announcement (FAR 6.102(d)(2)); or

(B) An unsolicited research proposal (FAR 6.302–1); or

(C) A proposal establishing or maintaining an essential engineering, research, or development capability (FAR 6.302–3); and

(iv) The contract requires the delivery of designs, drawings, or reports as end items.

(d) *Content of research proposal.* Research proposals submitted under this section must contain—

(1) All the information in FAR 15.505;

(2) A statement of work complying with FAR 35.005, and a breakdown of the time the principle investigator and any associates will devote to the contract (see FAR 35.015(a)). The breakdown will be by man-days, man-months, or man-years;

(3) The executed representations on DD Form 2222–1, Representations and Certifications from Offerors Submitting Proposals Under DFARS 235.70. (Representations and certifications submitted on a one-time basis to each contracting office are valid for all SFRC contract awards made by that office only if the offeror in each proposal references the one-time submission and confirms its validity.);

(4) A statement that the Government may award a contract under the procedures of this section;

(5)(i) Identification of property in the Contractor-Acquired Property clause by showing for each item, when possible—

(A) The description of the property; and

(B) The estimated or known cost;

(ii) The description of the property should be detailed enough to enable the contracting officer—

(A) To determine whether the Government will furnish such property under FAR 35.014 and FAR 45–302–1; and

(B) For property which may be contractor-acquired (versus Government-furnished)—

(*1*) To accept it as advance notification required by FAR 52.244–2; and

(*2*) To authorize acquisition at time of award;

(iii) If the offeror proposes to acquire facilities (FAR 45.301), the offeror shall include a written statement which—

(A) Explains why acquiring these items with contract funds is necessary; and

(B) Expresses the offeror's unwillingness or financial inability to acquire the items with the offeror's own resources;

(iv) Special test equipment or components proposed. Individual items of less than $1,000 may be grouped by category (FAR 45.307–2);

(6) A SF 1411, Contract Pricing Proposal Cover Sheet, or acceptable substitute. FAR 52.244–2(b) prescribes information required for subcontracts;

(7) Markings complying with FAR 15.509 of the title page and each restricted sheet if the proposal includes data that the offeror does not want disclosed for any purpose other than evaluation. In addition, the offeror should state in the offer or check Block A on page 2 of the DD Form 2222–2 if the offeror grants the Government permission to have nongovernment evaluators review the proposal;

(8) The following statement:

> This proposal incorporates by reference, and makes a part thereof, all applicable clauses in DFARS 235.015–71(i) in effect on the effective date of the contract or such other dates as may be mutually agreed upon.

(9) Any other applicable FAR or DFARS clauses agreed to by the parties;

(10) Monthly expenditure estimates by which incremental funding periods may be calculated; and

(11) An executed DD Form 2222–2, Short Form Research Contract Research Proposal Cover Page.

(e) *Contracting procedures.* (1) Contracting officer may award a SFRC under full and open competition (FAR subpart 6.1) when the proposal—

(i) Is in response to a broad agency announcement under FAR 6.102(d)(2);

(ii) Contains the information required by 235.015–71(c); and

(iii) Has been recommended for award under the peer or scientific review procedures of FAR 6.102(d)(2).

(2) The contracting officer may award an SFRC under other than full and open competition (FAR subpart 6.3) when—

(i) The proposal is an unsolicited research proposal submitted, evaluated, and accepted under FAR subpart 15.5, which meets the criteria of FAR 6.302–1; or

(ii) Award is necessary to establish or maintain an essential engineering research or development capability under FAR 6.302–1.

(3) When a research proposal (solicited or unsolicited) is satisfactory to the Government, the contracting officer should accept the proposal by executing a SFRC incorporating—

(i) The proposal by reference, or

(ii) The statement of work by reference.

(4) When acceptance of the entire research proposal is not advantageous to the Government, the contracting officer should use the acceptable parts of the research proposal. These parts may be either attached or incorporated by reference to develop a contract for execution by both parties.

(5) The contractor must sign the SFRC before the Government signs.

(6) Use the DD Form 2222, Short Form Research Center (SFRC) Modification, to effect modifications.

(7) The initial dollar amount and period of performance specified in the award document shall include the initial research program only. The SFRC shall identify separately the options, periods, and costs, if appropriate.

(8) FAR 35.014 applies to vesting of title in property to organizations, defined in 235.015–71(b). DD Form 2222 shall identify property, title to which is not vested in the contractor, or for which a determination of title is deferred.

(9) The offeror's submission of its proposal under this section 235.015–71 constitutes the offeror's agreement to be bound by all terms and conditions of the resulting contract.

(f) *Advance payments.* The contracting officer shall ensure that SFRCs awarded to institutions and organizations authorized to receive advance payments under FAR subpart 32.4 are clearly marked to read "Advance Payment Pool Contract."

(g) *Method of funding.* If incrementally funded, the SFRC shall specify—

(1) The total estimated cost for the full period of the research program, both funded and unfunded; and

(2) The amount of funds currently obligated.

(h) *Uniform contract format.* The SFRC is exempt from uniform contract format requirements (FAR 15.406).

(i) *SFRC clauses.* (1) The following clauses should be incorporated by reference in all SFRC awards of $25,000 or more. Clauses with a single asterisk (*) apply to educational institutions only. Clauses with a double asterisk (**) apply to nonprofit organizations only.

FAR 52.203–1	Definitions.
FAR 52.203–1	Officials not to benefit.
FAR 52.203–3	Gratuities.
FAR 52.203–5	Covenant against contingent fees.
FAR 52.203–7	Anti-kickback procedures.
DFARS 252.203–7000	Statutory prohibition on compensation to former Department of Defense employees (applies to all contracts of $100,000 or more awarded to major defense contractors aggregating $10 million or more during the previous Government fiscal year. Does not apply to state and local governments.)
DFARS 252.204–7006	Overseas distribution of defense subcontracts (applies only when contract action exceeds $500,000, or when any modification increases contract amount to more than $500,000.)
FAR 52.215–1	Examination of records by Comptroller General.
FAR 52.215–2	Audit—Negotiation.
FAR 52.215–22	Price reduction for defective cost or pricing data (applies to cost-plus-fixed fee contracts exceeding $100,000; applies to subcontracts under cost-no-fee prime contracts if contract exceeds $100,000.)
FAR 52.215–24	Subcontractor cost or pricing data (applies only if FAR 52.215–22 applies.)
FAR 52.215–26	Integrity of unit price (applies when contract exceeds $25,000.)
**FAR 52.215–30	Facilities capital cost of money (applies as set forth in the clause.)
**FAR 52.215–31	Waiver of facilities capital cost of money (applies as set forth in the clause.)
FAR 52.215–33	Order of precedence.
DFARS 252.215–7000	Aggregate pricing adjustment (applies only if contract exceeds $10,000 and FAR 52.215–22 applies.)
FAR 52.216–7	Allowable cost and payment.
**FAR 52.216–8	Fixed fee (applies only in cost-plus-fixed-fee contracts.)
FAR 52.216–11 and Alternate I	Cost contract—no fee (Alternate I deletes paragraph (b) of the basic clause.)
FAR 52.216–12 and Alternate I	Cost-sharing contract—no fee (Alternate I deletes paragraph (b) of the basic clause.)
*FAR 52.216–15	Predetermined indirect cost rates (applies only when the contractor has an executed negotiation agreement with the cognizant contract administration office.)
FAR 52.219–8	Utilization of small business and small disadvantaged business concerns.
FAR 52.219–13	Utilization of women-owned small businesses.
FAR 52.222–2	Payment for overtime premiums (note: the word "zero" is inserted in the blank space indicated by an asterisk.)
FAR 52.222–3	Convict labor.
FAR 52.222–26	Equal opportunity (add Alternate I as a special provision when Alternate I applies.)
FAR 52.222–35	Affirmative action for special disabled and Vietnam era veterans.
FAR 52.222–36	Affirmative action for handicapped workers.
FAR 52.223–2	Clean air and water (applies only if contract action exceeds the dollar amount set forth in the preamble to the clause.)
FAR 52.227–1 and Alternate I	Authorization and consent.
FAR 52.227–2	Notice and assistance regarding patent and copyright infringement.
FAR 52.227–11	Patent rights—retention by the contractor (short form)
DFARS 252.227–7013 and Alternate I	Rights in technical data and computer software.

DFARS 252.227-7014	Contract items requiring experimental, developmental or research work.
DFARS 252.227-7018	Restrictive markings on technical data.
DFARS 252.227-7029	Identification of technical data.
**DFARS 252.227-7030	Technical data—withholding of payment.
DFARS 252.227-7034	Patents—subcontracts.
FAR 52.228-7	Insurance—liability to third persons (Alternates I and II apply under the circumstances set forth.)
**FAR 52.230-3	Cost accounting standards.
**FAR 52.230-4	Administration of cost accounting standards (applies only if contract action exceeds $100,000 and the contract is not exempt under FAR 30.301.)
**FAR 52.230-5	Disclosure and consistency of cost accounting practices (applies only if contract action exceeds $100,000 and the contract is not exempt under FAR 30.301.)
DFARS 252.231-7000	Supplemental cost principles (applies to nonprofit institutions only when allowability of costs is determined under FAR subpart 31.2.)
DFARS 252.231-7001	Penalties for unallowable costs (applies when contract action exceeds $100,000.)
**FAR 52.232-9	Limitation on withholding of payments.
FAR 52.232-20	Limitation of cost (applies only when contract action is fully funded.)
FAR 52.232-22	Limitation of funds (applies only when contract action is incrementally funded.)
FAR 52.232-23	Assignment of claims.
FAR 52.233-1	Disputes.
FAR 52.233-3 and Alternate I	Protest after award.
DFARS 252.235-7000	Progress reports.
DFARS 252.235-7001	Final scientific or technical report requirements.
DFARS 252.235-7002	Acknowledgement of support and disclaimer.
DFARS 252.235-7003	Publication of project results.
DFARS 252.235-7004	Absence or change in principal investigator or project director.
DFARS 252.235-7007	Animal welfare.
FAR 52.242-1	Notice of intent to disallow costs.
DFARS 252.242-7003	Certification of indirect cost.
**FAR 52.243-2 and Alternate V	Changes—cost-reimbursement.
FAR 52.244-2	Subcontracts under cost-reimbursement and letter contracts.
FAR 52.244-5	Competition in subcontracting.
FAR 52.245-5 and Alternate I	Government property (cost-reimbursement, time-and-material, or labor-hour contracts.)
FAR 52.247-63	Preference for U.S.-flag air carriers.
FAR 52.249-5	Termination for Government convenience of the Government (educational and other nonprofit institutions) (applies as set forth in the clause preamble.)
**FAR 52.249-6	Termination (cost-reimbursement) (applies only to cost-plus-fixed-fee contracts.)
**FAR 52.249-14	Excusable delays (applies only to contracts to which FAR clause 52.249-6 applies.)
FAR 52.251-1	Government supply sources.
DFARS 252.251-7000	Ordering from Government supply sources.

(2) Use the following clauses in all SFRC contracts over $25,000—

(i) The Clause at 252.235-7005, Option to Extend the Term of the Contract;

(ii) The Clause at 252.235-7006, Contractor-Acquired Property;

(iii) The Clause at 252.235-7007, Title to Contractor-Acquired Property;

(iv) The Clause at 252.235-7008, Advance Payments;

(v) The Clause at 252.235-7009, Inspection and Acceptance; and

(vi) The Clause at 252.235-7010, Restriction on Printing.

235.016 Broad agency announcement.

To help achieve the goals of section 1207 of Public Law 99-661 (see part 226), contracting officers shall—

(1) Whenever practicable, reserve discrete or severable areas of research interest contained in broad agency announcements for exclusive competition among historically black colleges and universities and minority institutions;

(2) Indicate such reservation—

(i) In the broad agency announcement; and

(ii) In the announcement synopsis (see 205.207(d)(v)).

235.070 Indemnification against unusually hazardous risks.

235.070-1 Indemnification under research and development contracts.

(a) Under 10 U.S.C. 2354 and if authorized by the Secretary concerned, or designee under 10 U.S.C. 2356, contracts for research and/or development may provide for indemnification of the contractor or subcontractors for—

(1) Claims by third persons (including employees) for death, bodily injury, or loss of or damage to property; and

(2) Loss of or damage to the contractor's property to the extent that the liability, loss, or damage—

(i) Results from a risk that the contract defines as "unusually hazardous;"

(ii) Arises from the direct performance of the contract; and

(iii) Is not compensated by insurance or other means.

(b) Clearly define the specific unusually hazardous risks to be indemnified. Submit this definition for approval with the request for authorization to grant indemnification. Include the approved definition in the contract.

235.070-2 Indemnification under contracts involving both research and development and other work.

These contracts may provide for indemnification under the authority of both 10 U.S.C. 2354 and Pub. L. 85-804. Pub. L. 85-804 will apply only to work to which 10 U.S.C. 2354 does not apply. Actions under Pub. L. 85-804 must also comply with FAR subpart 50.4.

235.070-3 Contract clauses.

When the contractor is to be indemnified in accordance with 235.070-1, use either—

(a) The clause at 252.235-7001, Indemnification Under 10 U.S.C. 2354—Fixed Price; or

(b) The clause at 252.235-7002, Indemnification Under 10 U.S.C. 2354—Cost-Reimbursement, as appropriate.

236.571 Contract clauses.

(a) Use the clause at 252.235–7003, Animal Welfare, in solicitations and contracts awarded in the U.S., its possessions, and Puerto Rico involving research on live vertebrate animals.

(b) Use the clause at 252.235–7004, Frequency Authorization, in solicitations and contracts for developing, producing, constructing, testing, or operating a device requiring a frequency authorization.

6. Part 236 is revised to read as follows:

PART 236—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Sec.

Subpart 236.1—General

236.102 Definitions.

Subpart 236.2—Special Aspects of Contracting for Construction

236.201 Evaluation of contractor performance.
236.203 Government estimate of construction costs.
236.206 Liquidated damages.
236.270 Expediting construction contracts.
236.271 Cost-plus-fixed fee contracts.
236.272 Prequalification of sources.
236.273 Network analysis systems.
236.274 Construction in foreign countries.

Subpart 236.3—Special Aspects of Sealed Bidding in Construction Contracting

236.303 Invitations for bids.
236.303–70 Additive or deductive items.

Subpart 236.4—Special Procedures for Negotiation of Construction Contracts

236.403 Cost-reimbursement contracts.

Subpart 236.5—Contract Clauses

236.570 Additional provisions and clauses.

Subpart 236.6—Architect-Engineer Services

236.601 Policy.
236.602 Selection of firms for architect-engineer contracts.
236.602–1 Selection criteria.
236.602–2 Evaluation boards.
236.602–4 Selection authority.
236.604 Performance evaluation.
236.606 Negotiations.
236.606–70 Statutory fee limitation.
236.609 Contract clauses.
236.609–70 Option for supervision and inspection services.

Subpart 236.7—Standard and Optional Forms for Contracting for Construction, Architect-Engineer Services, and Dismantling, Demolition, or Removal of Improvements

236.701 Standard and optional forms for use in contracting for construction or dismantling, demolition or removal of improvements.

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, FAR subpart 1.3.

Subpart 236.1—General

236.102 Definitions.

A–E means architect-engineer.

Construction activity means an activity—

(1) At any organizational level of the DoD;

(2) That is responsible for the architectural, engineering, and other related technical aspects of the—

(i) Planning;

(ii) Design; and

(iii) Construction of facilities; and

(3) Which receives its technical guidance from the—

(i) Army Office of the Chief of Engineers;

(ii) Naval Facilities Engineering Command; or

(iii) Air Force Directorate of Civil Engineering.

Subpart 236.2—Special Aspects of Contracting for Construction

236.201 Evaluation of contractor performance.

(a) *Preparation of performance evaluation reports.* (i) In Block 2 of the SF 1420, Performance Evaluation—Construction Contracts, enter the contractor establishment code from Item B5A of the DD 350, Contracting Action Report, Individual.

(ii) In Block 5 of the SF 1420, enter the telephone number of the Government office that will retain the official record copy of the report.

(b) *Distribution and use of performance reports.* (1) Send each contractor performance evaluation report to the central data base immediately upon its completion.

(A) The central data base is operated by—

U.S. Army Engineer Division, North Pacific, ATTN: CENPD–CT, P.O. Box 2870, Portland, OR 97208–2870, Telephone: (503) 326–3459/4910

(B) For computer access to the files, contact the North Pacific Division for user log-on and procedures.

(2) Use performance records when making responsibility determinations under FAR subpart 9.1.

(A) For each contract expected to exceed $1,000,000, retrieve all performance records on file in the central data base for all prospective contractors that have a reasonable chance of being selected for award. The central data base will provide—

(*1*) Overall current performance ratings;

(*2*) Descriptions of contracts on which ratings are based (e.g., type of facility, contract value, applicable performance elements); and

(*3*) A telephone number to obtain transcripts and documentation of pertinent evaluation details.

(B) Consider using the performance records in the data base—

(*1*) For lower value contracts; and

(*2*) To assess a contractor's performance record for reasons other than an award decision.

236.203 Government estimate of construction costs.

(c)(i) Designate the Government estimate as "For Official Use Only," unless the information is classified. If it is, handle the estimate in accordance with security regulations.

(ii) For sealed bid acquisitions—

(A) File a sealed copy of the Government estimate with the bids. (In the case of two-step acquisitions, this is done in the second step.)

(B) After the bids are read and recorded, remove the "For Official Use Only" designation and read and record the estimate as if it were a bid, in the same detail as the bids.

236.206 Liquidated damages.

See 212.104 for instructions on use of liquidated damages.

236.270 Expediting construction contracts.

(a) 10 U.S.C. 2858 requires agency head approval to expedite the completion date of a contract funded by a Military Construction Appropriations Act, if additional costs are involved. This approval authority may not be redelegated. The approval authority must—

(1) Certify that the additional expenditures are necessary to protect the National interest; and

(2) Establish a reasonable completion date for the project.

(b) The contracting officer may approve an expedited completion date if no additional costs are involved.

236.271 Cost-plus-fixed fee contracts.

Annual military construction appropriations acts restrict the use of cost-plus-fixed fee contracts for construction and A–E services. The Assistant Secretary of Defense (Production and Logistics) must specifically approve such contracts in writing when—

(a) They are estimated to exceed $25,000;

(b) They will be performed within the U.S., except Alaska; and

(c) They are funded by a military construction appropriation act.

236.272 Prequalification of sources.

(a) Prequalification procedures may be used when necessary to ensure timely and efficient performance of critical construcition projects. Prequalification—

(1) Results in a list of sources determined to be qualified to perform a specific construction contract; and

(2) Limits offerors to those with proven competence to perform in the required manner.

(b) The head of the contracting activity must—

(1) Authorize the use of prequalification by determining, in writing, that a construction project is of an urgency or complexity that requires prequalification; and

(2) Approve the prequalification procedures.

(c) For small businesses, the prequalification procedures must require the qualifying authority to—

(1) Request a preliminary recommendation from the appropriate Small Business Administration regional office, if the qualifying authority believes a small business is not responsible;

(2) Permit the small business to submit a bid or proposal if the preliminary recommendation is that the small business is responsible; and

(3) Follow the procedures in FAR subpart 19.6, if the small business is in line for award and is found nonresponsible.

236.273 Network analysis systems.

Use head of the contracting activity approved procedures for preparing and using network analysis systems, whether contractor prepared, or Government prepared.

236.274 Construction in foreign countries.

When a technical working agreement with a foreign government is required for a construction contract—

(a) Consider inviting the Army Office of the Chief of Engineers, or the Naval Engineering Facilities Command to participate in the negotiations.

(b) The agreement should, as feasible and where not otherwise provided for in other agreements, cover all elements necessary for the construction that are required by laws, regulations, and customs of the U.S. and the foreign government—

(1) Acquisition of all necessary rights;

(2) Expeditious, duty-free importation of labor, material, and equipment;

(3) Payment of taxes applicable to contractors, personnel, materials, and equipment;

(4) Applicability of workers' compensation and other labor laws to citizens of the U.S., the host country, and other countries;

(5) Provision of utility services;

(6) Disposition of surplus materials and equipment;

(7) Handling of claims and litigation; and

(8) Resolution of any other foreseeable problems which can appropriately be included in the agreement.

Subpart 236.3—Special Aspects of Sealed Bidding in Construction Contracting

236.303 Invitations for bids.

236.303-70 Additive or deductive items.

(a) If it appears that sufficient funds may not be available for all the desired construction features, consider using a bid schedule with—

(1) A first or base bid item covering the work generally as specified; and

(2) A list of priorities that contains one or more additive or deductive bid items which progressively add or omit specified features of the work in a stated order or priority.

(b) Prior to opening the bids, record in the contract file the amount of funds available for the project.

(c) Determine the low bidder and the bid items to be awarded as follows—

(1) Use the recorded amount of available funds to determine the low bidder, which will be the bidder that—

(i) Is otherwise eligible for award; and

(ii) Offers the lowest aggregate amount for the first or base bid item, plus or minus (in order of listed priority), those additive or deductive bid items that provide the most features within the funds available.

(2) Evaluate all bids on the basis of the same additive or deductive bid items.

(i) If adding another item from the bid schedule list of priorities would make the award exceed the available funds, skip that item and go to the next item from the list of priorities.

(ii) Add the next item if an award can be made that includes the item and is still within the available funds.

(3) Use the list of priorities only to determine the low bidder. After determining the low bidder, an award may be made on any combination if—

(i) It is in the best interests of the Government;

(ii) Funds are available at time of award; and

(iii) The low bidder's price for the combination is less than the price offered by any other responsive, responsible bidder.

Subpart 236.4—Special Procedures for Negotiation of Construction Contracts

236.403 Cost-reimbursement contracts.

(1) For cost-plus-fixed fee contracts, negotiate the fee for a prime contractor using departmental procedures approved by the Assistant Secretary of Defense (Production and Logistics).

(2) For cost-plus-incentive fee contracts, negotiate the target fee for a prime contractor using the criteria and fee schedule in departmental procedures to determine—

(i) The reasonableness of the target cost;

(ii) The maximum and minimum fees to be established; and

(iii) The fee adjustment formula.

Subpart 236.5—Contract Clauses

236.570 Additional provisions and clauses.

(a) Use the following clauses in all fixed-price construction solicitations and contracts—

(1) 252.236-7000, Modification Proposals-Price Breakdown; and

(2) 252.236-7001, Contract Drawings, Maps, and Specifications.

(b) Use the following provisions and clauses in fixed-price construction contracts and solicitations as applicable—

(1) 252.236-7002, Obstruction of Navigable Waterways, when the contract will involve work near or on navigable waterways.

(2) When the head of the contracting activity has approved use of a separate bid item for mobilization and preparatory work, use either—

(i) 252.236-7003, Payment for Mobilization and Preparatory Work. Use this clause for major construction contracts that require—

(A) Major or special items of plant and equipment; or

(B) Large stockpiles of material which are in excess of the type, kind, and quantity which would be normal for a contractor qualified to undertake the work; or

(ii) 252.236-7004, Payment for Mobilization and Demobilization. Use this clause for contracts involving major mobilization expense, or plant equipment and material (other than the situations covered in paragraph (b)(2)(i) of this section) made necessary by the location or nature of the work.

(A) Generally, allocate 60 percent of the lump sum price in paragraph (a) of the clause to the cost of mobilization.

(B) Vary this percentage to reflect the circumstances of the particular contract.

but in no event should mobilization exceed 80 percent of the payment item.

(3) 252.236–7005, Airfield Safety Precautions, when construction will be performed on or near airfields.

(4) 252.236–7006, Cost Limitations, if the solicitation's bid schedule contains one or more items subject to statutory cost limitations, and if a waiver has not been granted (FAR 36.205).

(5) 252.236–7007, Additive or Deductive Items, if the procedures in 236.303–70 are being used.

Subpart 236.6—Architect-Engineer Services

236.601 Policy.

(1) 10 U.S.C. 2807(b) requires notice to Congress 21 days before the initial obligation of funds if a contract is for—

(i) A–E services or construction design for military construction, military family housing, or restoration or replacement of damaged or destroyed facilities; and

(ii) An estimated total fee of $300,000 or more.

(2) During the 21 day period, synopsis of the proposed contract action and administrative actions leading to the award may be started.

236.602 Selection of firms for architect-engineer contracts.

236.602–1 Selection criteria.

(a)(i) Establish the evaluation criteria before making the public announcement required by FAR 5.205(c) and include the criteria in the announcement.

(ii) Use the information in the DD Form 1391, FY 19____ Military Construction Project Data, for the construction project, if applicable. In addition to the general considerations in FAR 36.602, the criteria should be specific regarding—

(A) Desired qualifications;

(B) Size and expertise of staff;

(C) Required past experience;

(D) Any esthetic considerations;

(E) Any special conceptual or design elements; and

(F) Related factors.

(6) Consider the volume of work previously awarded to the firm by the DoD, with the object of making an equitable distribution of DoD A–E contracts among qualified A–E firms, including small and small disadvantaged businesses, and those that have not had prior DoD contracts. In considering the volume of DoD work previously awarded an A–E firm—

(A) Use data from the Washington Headquarters Services/Defense Information Operations and Reports, which is compiled from DD Form 350, Contracting Action Report, data and indicates award volume during the previous 12 months. Do not use any other data.

(B) Do not consider awards to overseas offices of A–E firms covering projects outside the U.S., its territories and possessions.

(C) Treat an A–E subsidiary as an individual firm if it is not normally subject to the management decisions, bookkeeping, and policies of a holding or parent company. Assume that an incorporated subsidiary is in this category when it is operating under a firm name different from the parent company.

(D) Do not reject the overall most highly qualified firm solely in the interest of equitable distribution of awards.

236.602–2 Evaluation boards.

(a) Preselection boards are authorized, if the lists they develop are approved by the head of the construction activity. If used, preselection boards will—

(i) Be formally constituted;

(ii) Consist of at least three members; and

(iii) Prepare a preselection list of the maximum practicable number of qualified firms using data described in FAR 36.603, and any other pertinent information.

236.602–4 Selection authority.

(a)(i) The following selections require special approval—

(A) The estimated cost exceeds $500,000;

(B) The firm to be selected has already been awarded contracts totaling over $500,000 during the current calendar year by the construction activity; or

(C) Supplemental work added to an existing contract causes the total contract cost to exceed $500,000. Special approval is not, however, required for supplemental work added to a contract under the Changes clause at FAR 52.247–1.

(ii) Special approval means approval by the next higher organizational level above the construction activity and must be obtained prior to negotiation with the A–E firm.

(A) Selection by the Army Corps of Engineers requires approval by the Chief of Engineers.

(B) Selection by the Naval Facilities Engineering Command requires approval by the Commander, NAVFAC.

(C) Selection by the Air Force Directorate of Civil Engineering requires approval by the Director of Civil Engineering.

(c) A finding that some of the firms on the selection report are unqualified does not preclude approval of the report, provided that a minimum of three firms remains. The reasons for finding a firm or firms unqualified must be recorded.

236.604 Performance evaluation.

(c) *Distribution and use of performance reports.* (i) Forward each performance report to the central data base identified in 236.201(c) after completing the review. The procedures in 236.201 also apply to A–E contracts.

(ii) File and use the SF 1421, Performance Evaluation (Architect-Engineer), in a manner similar to the SF 254, Architect-Engineer and Related Services Questionnaire.

236.606 Negotiations.

236.606–70 Statutory fee limitation.

(a) 10 U.S.C. 2306(d) limits the contract price (or estimated cost and fee) for A–E contracts for the preparation of designs, plans, drawings, and specifications to 6 percent of the project's estimated construction cost. This fee limit also applies—

(1) To modifications involving work not initially included in the contract.

Apply the 6 percent limit to the revised total estimated construction cost; and

(2) If redesign is required and the contract is modified. Use the following method to ensure that the statutory limitation is not exceeded—

(i) Add the estimated cost of the redesign features to the original estimated construction cost;

(ii) Add the contract cost for the original design to the contract cost for redesign; and

(iii) Divide the total contract design cost by the total estimated construction cost. The resulting percentage may not exceed the 6 percent statutory limitation.

(b) If an A–E contract also covers services other than those listed in paragraph (a) of this subsection, that part of the contract price for the other services is not subject to the 6 percent limit.

236.609 Contract clauses.

236.609–70 Option for supervision and inspection services.

(a) Use the clause at 252.236–7008, Option for Supervision and Inspection Services, in solicitations and contracts for A–E services when—

(1) The contract will be fixed price; and

(2) Supervision and inspection services by the A–E may be required during construction.

(b) Include the scope of such services in Appendix A of the contract.

Subpart 236.7—Standard and Optional Forms for Contracting for Construction, Architect-Engineer Services, and Dismantling, Demolition, or Removal of Improvements

236.701 Standard and optional forms for use in contracting for construction or dismantling, demolition, or removal of improvements.

(c) Do not use Optional Form 347, Order for Supplies and Services, (see 213.505–2).

7. Part 247 is revised to read as follows:

PART 247—TRANSPORTATION

Sec.

Subpart 247.1—General

247.103 Transportation Documentation and Audit Regulation (TDA).
247.104 Government rate tenders under section 10721 of the Interstate Commerce Act.
247.104–3 Cost-reimbursement contracts.
247.104–5 Citations of Government rate tenders.
247.105 Transportation assistance.

Subpart 247.2—Contracts for Transportation or for Transportation-Related Services

247.270 Stevedoring contracts.
247.270–1 Scope of section.
247.270–2 Definitions.
247.270–3 Type of contract.
247.270–4 Technical provisions.
247.270–5 Evaluation of bids and proposals.
247.270–6 Award of contract.
247.270–7 Contract clauses.
247.271 Contracts for the preparation of personal property for shipment or storage.
247.271–1 Scope of section.
247.271–2 Policy.
247.271–3 Procedures.
247.271–4 Solicitation provisions, schedule formats, and contract clauses.

Subpart 247.3—Transportation in Supply Contracts

247.305 Solicitation provisions, contract clauses, and transportation factors.
247.305–10 Packing, marking, and consignment.
247.305–70 Returnable cylinders and other containers.
247.370 Use of Standard Form 30 for consignment instructions.
247.371 DD Form 1653, Transportation Data for Solicitations.
247.372 DD Form 1654, Evaluation of Transportation Cost Factors.

Subpart 247.5—Ocean Transportation by U.S.-Flag Vessels

247.570 Scope.
247.571 Policy.
247.572 Procedures.
247.572–1 Ocean transportation incidental to a contract for supplies, services, or construction.
247.572–2 Direct purchase of ocean transportation services.
247.573 Contract clause.

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, FAR subpart 1.3.

Subpart 247.1—General

247.103 Transportation Documentation and Audit Regulation (TDA).

(b)(2) Appendix J of the Defense Transportation Management Regulation lists the carriers and carrier associations that have agreed to provide transportation under commercial forms and procedures within CONUS.

247.104 Government rate tenders under section 10721 of the Interstate Commerce Act.

247.104–3 Cost-reimbursement contracts.

(a) Section 10721 rates do not apply to foreign military sale (FMS) shipments.

(i) On shipments of stock fund items from a contractor to a depot, when some of the items in a specific transportation unit are clearly for FMS—

(A) Section 10721 rates do not apply to FMS items shipped on a separate bill of lading; and

(B) Section 10721 rates do apply to the non-FMS items.

247.104–5 Citations of government rate tenders.

(a) See Section XI, chapter 32 of the Defense Transportation Management Regulation for instructions on converting commercial bills of lading to Government bills of lading within CONUS.

247.105 Transportation assistance.

(a)(1) Transportation assistance includes all transportation factors, such as—

(A) Freight rates (for evaluation of bids or routing purposes);

(B) Other transportation costs;

(C) Transit agreements;

(D) Time in transit;

(E) Port handling charges; and

(F) Port capabilities.

(ii) Within CONUS, the Military Traffic Management Command (MTMC), through its eastern and western area commands, is responsible for the performance of traffic management functions. These functions include the direction, control, and supervision of all functions incident to the acquisition and use of commercial freight and passenger transportation services. See Chapters 1 and 2 of the Defense Transportation Management Regulation for the locations and geographical areas of jurisdiction of each area headquarters.

(iii) For assistance with international shipments—

(A) Originating on CONUS, request assistance from the appropriate military activity; i.e., the Military Airlift Command (MAC), Military Sealift Command (MSC), or the military service sponsoring the cargo;

(B) For all modes of transportation originating overseas, request assistance from the overseas Theater Commander assigned responsibility for common-user, military-operated land transportation;

(C) Of bulk petroleum via ocean tanker, request assistance, rates, or other costs from the MSC;

(D) Of supplies between points outside the CONUS, including Alaska and Hawaii, request assistance, rates, or other costs from the military service sponsoring the cargo. Direct the requests to:

Army—Deputy Chief of Staff for Logistics, Department of the Army, ATTN: DALO–TSP, Washington, DC 20310–0570.
Navy—Naval Supply Systems Command, Code 051, Washington, DC 20376–5000.
Air Force—Applicable overseas Air Force Command, Pacific Air Forces/LGT, Hickam AFB, HI 96853, Space Command/LKT, Peterson AFB, CO 80914, U.S. Air Forces in Europe/LGT, APO NY 09012.
Marine Corps—Director, Transportation Division HQ, U.S. Marine Corps, COS Washington, DC 20380.

(E) When requesting rates and related costs for the evaluation of bids or proposals, include the bid opening or proposal due date and the expected date of initial shipment, if established.

Subpart 247.2—Contracts for Transportation or for Transportation-Related Services

247.270 Stevedoring contracts.

247.270–1 Scope of section.

This section contains procedures peculiar to stevedoring. Other portions of the FAR and DFARS dealing with service contracting also apply to stevedoring contracts.

247.270–2 Definitions.

Commodity rate is—

(a) The price quoted for handling a ton (weight or measurement) of a specified commodity.

(b) Computed by dividing the hourly stevedoring gang cost by the estimated number of tons of the specified commodity which can be handled in 1 hour.

Gang cost is—

(a) The total hourly wages paid to the workers in the gang, in accordance with the collective bargaining agreement between the maritime industry and the unions at a specific port; and

(b) Payments for workmen's compensation, social security taxes, unemployment insurance, taxes, liability and property damage insurance, general and administrative expenses, and profit.

Stevedoring is the—

(a) Loading of cargo from an agreed point of rest on a pier or lighter and its storage aboard a vessel; or

(b) Breaking out and discharging of cargo from any space in the vessel to an agreed point of rest dockside or in a lighter.

247.270-3 Type of contract.

Normally, use an indefinite-quantity type contract.

247.270-4 Technical provisions.

(a) Because conditions vary at different ports, and sometimes within the same port, it is not practical to develop standard technical provisions covering all phases of stevedoring operations.

(b) When including car loading and unloading or other dock and terminal work under a stevedoring contract, include these requirements as separate items of work.

247.270-5 Evaluation of bids and proposals.

Require that offers include and evaluate on the basis of—

(a) Tonnage or commodity rates which apply to the bulk of the cargo worked under normal conditions;

(b) Labor-hour rates which apply to services not covered by commodity rates, or to work performed under hardship conditions; and

(c) Rates for equipment rental.

247.270-6 Award of contract.

Make the award to the contractor that is otherwise eligible for award and offers the lowest overall acceptable bid or proposal after evaluating the—

(a) Total estimated cost of tonnage to be moved at commodity rates;

(b) Estimated cost at labor-hour rates; and

(c) Cost of equipment rental.

247.270-7 Contract clauses.

Use the following clauses in solicitations and contracts for stevedoring services as indicated—

(a) 252.247-7000, Hardship Conditions, as appropriate;

(b) 252.247-7001, Price Adjustment, when using sealed bidding;

(c) 252.247-7002, Revision of Prices, when using negotiation;

(d) 252.247-7003, Changes, in lieu of the clause at FAR 52.243-1, Changes—Fixed-Price;

(e) 252.247-7004, Termination, when it is desirable to permit either party to terminate the contract;

(f) 252.247-7005, Indefinite Quantities-Fixed Charges, when the contract will provide for the payment of fixed charges;

(g) 252.247-7006, Indefinite Quantities-No Fixed Charges, when the contract will not provide for the payment of fixed charges;

(h) 252.247-7007, Removal of Contractor's Employees; and

(i) 252.247-7008, Liability and Insurance.

247.271 Contracts for the preparation of personal property for shipment or storage.

247.271-1 Scope of section.

This section contains procedures peculiar to the preparation of personal property for shipment or storage, and for the performance of intra-area or intra-city movement. Other portions of the FAR and DFARS dealing with service contracting also apply to these services.

247.271-2 Policy.

(a) *Annual contracts.* Normally—

(1) Use requirements contracts awarded through sealed bidding to acquire services for the—

(i) Preparation of personal property for shipment or storage; and

(ii) Performance on intra-area movement.

(2) Award contracts on a calendar year basis.

(3) Include provisions for option years.

(4) Award contracts, or exercise option years, before November 1 of each year, if possible.

(b) *Areas of performance.* Define clearly in the solicitation each area of performance.

(1) Establish one or more areas; however, hold the number to a minimum consistent with local conditions.

(2) Each schedule may provide for the same or different areas of performance. Determine the areas as follows—

(i) Use political boundaries, streets, or any other features as lines of demarcation. Consider such matters as—

(A) Total volume;

(B) Size of overall area; and

(C) The need to service isolated areas of high population density.

(ii) Specifically identify frequently used terminals, and consider them as being included in each area of performance described in the solicitation.

(c) *Maximum requirements-minimum capability.* The contracting officer shall—

(1) Establish realistic quantities on the Estimated Quantities Report in DoD 4500.34R, Personal Property Traffic Management Regulation;

(2) Ensure that the Government's minimum acceptable daily capability—

(i) Will at least equal the maximum authorized individual weight allowance as prescribed by the Joint Federal Travel Regulations; and

(ii) Will not preclude bidding by small business firms.

247.271-3 Procedures.

(a) *CONUS military activities assigned multi-service personal property areas of responsibility.* (1) When two or more military installations or activities have personal property responsibilities in a given area, one activity shall contract for the estimated requirements of all activities in the area. The installation commanders concerned shall designate the activity by mutual agreement.

(2) The Commander, MTMC, shall designate the contracting activity when local commanders are unable to reach agreement.

(b) *Additional services and excess requirements.* (1) Excess requirements are those services which exceed contractor capabilities available under contracts. Use small purchase procedures to satisfy excess requirements.

(2) Additional services are those not specified in the bid items.

(i) Additional services may include—

(A) Hoisting or lowering of articles;

(B) Waiting time;

(C) Special packaging; and

(D) Stuffing or unstuffing of sea van containers.

(ii) Consider contracting for local moves that do not require drayage by using hourly rate or constructive weight methods. The rate will include those services necessary for completion of the movement, including—

(A) Packing and unpacking;

(B) Movement;

(C) Inventorying; and

(D) Removal of debris.

(iii) Each personal property shipping activity shall determine if local requirements exist for any additional services.

(iv) The contracting officer may obtain additional services by—

(A) Including them as items within the contract; provided, they are not used in the evaluation of bids (see 252.247-7009, Evaluation of Bids); or

(B) Using small purchase procedures.

(v) Either predetermine prices for additional services with the contractor, or negotiate them on a case-by-case basis.

(vi) The contracting officer must authorize the contractor to perform any additional services, other than attempted pick up or delivery, regardless of the contracting method.

(vii) To the maximum extent possible, identify additional services required that are incidental to an order before placing the order; or, when applicable, during the premove survey.

(c) *Contract distribution.* In addition to the distribution requirements of FAR subpart 4.2, furnish one copy of each contract as follows—

(1) CONUS personal property shipping activities shall send the copy to the Commander, Military Traffic Management Command, ATTN: MTPP-CI, room 408 5611 Columbia Pike, Falls Church, VA 22041–5050.

(2) In the European and Pacific areas, personal property shipping activities shall send the copy to either the Property Directorate, MTMC Europe, or the MTMC Field Office-Pacific.

(3) Other overseas personal property shipping activities shall send the copy to the Commander, Military Traffic Management Command, ATTN: MT-PPQ, 5611 Columbia Pike, Falls Church, VA 22041–5050.

247.271–4 Solicitation provisions, schedule formats, and contract clauses.

When acquiring services for the preparation of personal property for movement or storage, and for performance of intra-city or intra-area movement, use the following provisions, clauses, and schedules. Revise solicitation provisions and schedules, as appropriate, if using negotiation rather than sealed bidding. Overseas commands, except those in Alaska and Hawaii, may modify these clauses to conform to local practices, laws, and regulations.

(a) The provision at 252.247–7009, Evaluation of Bids. When adding "additional services" items to any schedule, use the basic clause with Alternate I.

(b) The provision at 252.247–7010, Award.

(c) In solicitations and resulting contracts, the schedules contained in DoD 4500.34–R, Personal Property Traffic Management Regulation, as provided by the installation personal property shipping office.

(1) When there is no requirement for an item or subitem in a schedule, indicate that item or subitem number, in its proper numerical sequence, and add the statement "No Requirement."

(2) With Schedules I (Outbound) and II (Inbound), item numbers are reserved to permit inclusion of additional items as required by local conditions.

(3) Overseas activities, except those in Alaska and Hawaii, may modify the schedules when necessary to conform with local trade practices, laws, and regulations.

(4) All generic terminology, schedule, and item numbers in proper sequence shall follow those contained in the basic format.

(5) When it is in the Government's best interest to have both outbound and inbound services within a given area of performance furnished by the same contractor, modify the schedule format to combine both services in a single schedule. However, items shall follow the same sequential order as in the basic format.

(6) Process any modification of schedule format, other than those authorized in paragraphs (c)(1) through (5) of this subsection, as a request for deviation through MTMC area commands/field offices to HQ MTMC.

(d) The clause at 252.247–7011, Scope of Contract.

(e) The clause at 252.247–7012, Period of Contract. When the period of performance is less than a calendar year, modify the clause to indicate the beginning and ending dates. However, the contract period shall not end later than December 31 of the year in which the contract is awarded.

(f) In addition to designating each ordering activity, as required by the clause at FAR 52.216–18, Ordering, identify by name or position title the individuals authorized to place orders for each activity. When provisions are made for placing oral orders in accordance with FAR 16.506(b), document the oral orders in accordance with departmental/agency instructions.

(g) The clause at 252.247–7013, Ordering Limitation.

(h) The clause at 252.247–7014, Contract Areas of Performance.

(i) When using the clause at FAR 52.216–21, Requirements, delete paragraph (f) of the clause and insert in its place paragraph (f) at 252.247–7015.

(j) The clause at 252.247–7016, Demurrage.

(k) The clause at 252.247–7017, Contractor Liability for Loss and Damage.

(l) The clause at 252.247–7018, Erroneous Shipments.

(m) The clause at 252.247–7019, Subcontracting.

(n) The clause at 252.247–7020, Drayage.

(o) The clause at 252.247–7021, Additional Services.

(p) The clauses at FAR 52.247–2, Permits, Authorities, or Franchises; FAR 52.247–8, Estimated Weight or Quantities Not Guaranteed; FAR 52.247–13, Accessorial Services-Moving Contracts; and FAR 52.247–17, Charges.

Subpart 247.3—Transportation in Supply Contracts

247.305 Solicitation provisions, contract clauses, and transportation factors.

247.305–10 Packing, marking, and consignment.

(b) Consignment instructions shall include, as a minimum—

(i) The clear text and coded MILSTRIP data as follows—

(A) Consignee code and clear text identification of consignee and destination as published in—

(*1*) DoD 4000.25–6–M, Department of Defense Activity Address Directory (DoDAAD);

(*2*) DoD 4000.25–8–M, Military Assistance Program Address Directory (MAPAD);

(*3*) Commercial and Government Entity (CAGE) Handbook H4/H8; or

(*4*) Transportation Control and Movement Document. Reporting procedures and instructions shall comply with DoD Regulation 4500.32–R, MILSTAMP.

(B) Project code, when applicable;

(C) Transportation priority;

(D) Required delivery date; and

(E) Coded MILSTRIP document number, demand/suffix code, a supplementary address and signal code.

(ii) Non-MILSTRIP shipments shall include data similar to paragraphs (b)(i)(A) through (D) of this subsection and the applicable portion of paragraph (b)(i)(E) with the notation "Non-MILSTRIP."

(iii) In amended shipping instructions include, in addition to the data requirements of paragraphs (b)(i)(A) through (E) of this subsection, the following, when appropriate—

(A) Name of the activity originally designated, from which the stated quantities are to be deducted; and

(B) Any other features of the amended instructions not contained in the basic contract.

(iv) If a contract is assigned for any contract administration function listed in FAR subpart 42.3, to any office listed in DoD 4105.59–H, DoD Directory of Contract Administration Services Components, then include in instructions the—

(A) Modification serial number; and, if a new line item is created by the issuance of shipping instructions;

(B) New line item number; and

(C) Existing line item number, if affected.

(v) For petroleum, oil and lubricant products, instructions for diversions need not include the modification serial number and new line item number, when the instructions are—

(A) For diversions overseas to new destinations;

(B) Issued by an office other than that issuing the contract or delivery order; and

(C) Issued by telephone, teletype, or telegram.

247.305-70 Returnable cylinders and other containers.

(a) Use the clause at 252.247-7022, Returnable Cylinders and Other Containers, if the contract will involve the purchase of any item in contractor-furnished returnable cylinders, and the contractor retains title to the cylinders.

(b) The contracting officer may modify the 30 day time period specified in the clause to comply with customary commercial practice.

247.370 Use of Standard Form 30 for consignment instructions.

When complete consignment instructions are not known initially, use the Standard Form 30, Amendment of Solicitation/Modification of Contract, to issue or amend consignment instructions, and when necessary, to confirm consignment instructions issued by telephone, teletype, or telegram.

(a) When using the SF 30 to confirm delivery instructions—

(1) Stamp or mark "CONFIRMATION" in block letters on the form, and specify in detail those instructions being confirmed.

(2) Do not change the instructions being confirmed.

(b) Process the confirming SF 30 as follows—

(1) For contracts assigned for any contract administration function listed in subpart 247.3 to any office listed in DoD 4105.59-H, DoD Directory of Contract Administration Services Components, within 5 working days;

(2) For diversions of petroleum, oil, and lubricant products overseas to new destinations, within 30 days of instruction being confirmed; and

(3) Other contracts—

(i) Telephone—within 5 working days; and

(ii) Teletype or telegraph—consolidated on a monthly basis.

247.371 DD Form 1653, transportation data for solicitations.

(a) The transportation specialist prepares the DD Form 1653 at the request of the contracting officer. The completed form will contain recommendations concerning f.o.b. terms best suited for a particular acquisition, and other suggested transportation provisions for inclusion in the solicitation.

(b) When appropriate, the DD Form 1653 will also include information on combined port handling and transportation charges for inclusion in the solicitation in connection with export shipments.

247.372 DD Form 1654, evaluation of transportation cost factors.

Contracting personnel may use the DD Form 1654 to furnish information to the transportation office for development of cost factors for use by the contracting officer in the evaluation of f.o.b. origin offers.

Subpart 247.5—Ocean Transportation by U.S.-Flag Vessels

247.570 Scope.

This subpart—

(a) Implements the Cargo Preference Act of 1904, 10 U.S.C. 2631, which applies to the ocean transportation of cargo owned by, or destined for use by, the DoD.

(b) Does not specifically implement the Cargo Preference Act of 1954, 46 U.S.C. 1241(b). The 1954 Act is applicable to the DoD, but DFARS coverage is not required because compliance with the 1904 Act historically has resulted in the DoD exceeding the 1954 Act's requirements.

(c) Is an approved class deviation from FAR subpart 47.5 in its entirety (but see 247.571(c)).

247.571 Policy.

(a) DoD contractors shall transport supplies, as defined in the clause at 252.247-7023, Transportation of Supplies by Sea, exclusively on U.S.-flag vessels unless—

(1) Those vessels are not available, and notices are given and approvals received in accordance with this subpart;

(2) The Secretary of the Navy determines that the freight charged is excessive or unreasonable; or

(3) The contracting officer finds that the charges to the Government are higher than charges to private persons for the transportation of like goods.

(b) Contracts shall provide for the use of Government-owned vessels when security classifications prohibit the use of other than Government-owned vessels.

(c) The Cargo Preference Act of 1904 does not apply to ocean transportation of—

(1) Products obtained for contributions to foreign assistance programs; or

(2) Products owned by agencies other than the DoD. In these cases, FAR subpart 47.5 applies.

247.572 Procedures.

247.572-1 Ocean transportation incidental to a contract for supplies, services, or construction.

(a) This subsection applies when ocean transportation is not the purpose of the contract.

(b) The contracting officer shall obtain assistance from the cognizant transportation activity (see 247.105), in developing—

(1) The Government estimate for transportation costs, irrespective of whether freight will be paid directly by the Government;

(2) Shipping instructions and delivery terms for inclusion in solicitations and contracts that may involve transportation of supplies by sea.

(c) The contracting officer shall ask each offeror whether it will transport supplies by sea if awarded the contract (see 247.573(a)). Even if the successful offeror responds that it does not anticipate sea transport of supplies, it may discover during contract performance that ocean transportation is required. In that event, the Act will apply to the contract, and it must—

(1) Notify the Government that it now intends to use ocean transportation;

(2) Use U.S.-flag vessels unless certain conditions exist (see 247.571(a)); and

(3) Comply with the other requirements of the clause at 252.247-7023, Transportation of Supplies by Sea.

(d) When the contracting officer is notified that the contractor or subcontractor considers that—

(1) No U.S.-flag vessels are available, the contracting officer shall request confirmation of the nonavailability from the Director, Office of Contracts and Business Management, Military Sealift Command (MSC).

(2) The freight charges to the Government, the contractor or any subcontractor, are higher than charges for transportation of like goods to private persons, the contracting officer may approve any request for a waiver of the requirement to ship on U.S.-flag vessels for a particular shipment.

(i) Prior to granting a waiver, the contracting officer shall request advice, oral or written, from the Commander, MSC.

(ii) In advising the contracting officer whether to grant the waiver, the Commander, MSC, shall consider, as appropriate, evidence from—

(A) Published tariffs;

(B) Industry publications;

(C) The Maritime Administration; and

(D) Any other available sources.

(3) The freight charged by U.S.-flag carriers is considered excessive or otherwise unreasonable, the contracting officer shall forward a report to the Commander, MSC, through the head of the contracting activity, and the Director, Office of Contracts and Business Management, MSC.

(i) The report shall be in determination and finding format, and—

(A) Take into consideration that the 1904 Act is, in part, a subsidy of the U.S.-flag commercial shipping industry that recognizes that lower prices may be available from foreign shippers;

(B) Consider, accordingly, not only excessive profits to the vessel owner, if ascertainable but also excessive costs (i.e., costs beyond the economic penalty normally incurred by excluding foreign competition) resulting from the use of U.S.-flag vessels in extraordinarily inefficient circumstances;

(C) Include, as appropriate—

(*1*) An analysis of whether the cost is excessive, taking into account factors such as the differential between freight charges by the U.S.-flag carrier and an estimate of what foreign-flag carriers would charge based upon a price analysis;

(*2*) A comparison of U.S.-flag rates charged on comparable routes;

(*3*) Efficiency of operation regardless of rate differential (i.e., suitability of the vessel for the required transportation in terms of cargo requirements/vessel capacity; the commercial reasonableness of vessel positioning required, etc.); and

(*4*) Any other relevant economic and financial considerations.

(D) Consider that the fact that it would be less expensive to use a foreign-flag vessel is not a sufficient basis, on its own, to determine that the freight rate proposed by the U.S.-flag carrier is excessive or otherwise unreasonable. However, such a differential may indicate a need for further review.

(ii) If the Commander, MSC, concurs with the contracting officer, the Commander will forward the report to the Secretary of the Navy, via ASN(RDA)(PP), for a determination as to whether the freight charges are excessive or otherwise unreasonable.

247.572-2 Direct purchase of ocean transportation services.

(a) This subsection applies when ocean transportation is the principal of the contract, including—

(1) Time charters;

(2) Voyage charters;

(3) Contracts of affreightment;

(4) Dedicated contractor contracts of affreightment; and

(5) Ocean bills of lading.

(b) Coordinate these acquisitions, as appropriate, with the MSC in accordance with DoDD 5160.10, Single Manager Assignment for Ocean Transportation.

(c) The Commander, MSC, is authorized to make any determination as to the availability of U.S.-flag vessels, in order to ensure the proper utilization of Government and private U.S. vessels.

(d) All solicitations for ocean transportation services for supplies owned by the military departments shall provide a preference for U.S.-flag vessels as an evaluation factor.

(e) The contracting officer shall not award a contract of the type described in paragraph (a) of this subsection for a foreign-flag vessel unless—

(1) The contracting officer determines that no U.S.-flag vessels are available, and obtains approval of the Commander, MSC; or

(2) The contracting officer determines that the freight charges proposed by U.S.-flag vessels to the Government are higher than charges to private persons for transportation of like goods, and obtains the approval of the Commander, MSC; or

(3) The Secretary of the Navy determines (see paragraph (f) of this subsection) that the freight charges for U.S.-flag vessels are excessive or otherwise unreasonable.

(f) When the contracting officer concludes, based solely on economic considerations, that the charge offered for a U.S.-flag vessel is excessive or otherwise unreasonable, the contracting officer will send a report through the head of the contracting activity to the commander, MSC.

(1) The fact that it would be less expensive to use a foreign-flag vessel is an insufficient basis, on its own, to determine that the freight rate proposed by the U.S.-flag carrier is excessive or otherwise unreasonable. However, such a differential may indicate a need for further review.

(2) The Commander, MSC, will forward the report, if in agreement with the contracting officer, to the Secretary of the Navy for a determination.

(3) The report shall be in determination and finding format; take into consideration the factors in 247.572-1(d)(3); and include, as appropriate—

(i) An analysis of the carrier's cost in accordance with FAR subpart 15.8, or profit in accordance with DFARS subpart 215.9. The costs or profit should not be so high as to make it unreasonable to apply the preference for U.S.-flag vessels;

(ii) A description of efforts taken pursuant to FAR 15.803(d), to negotiate a reasonable price. For the purpose of FAR 15.803(d), this report is the referral to higher authority; and

(iii) An analysis of whether the cost is excessive (i.e., cost beyond the economic penalty normally incurred by excluding foreign competition), taking into consideration such factors as—

(A) The differential between freight charges by the U.S.-flag carrier and an estimate of what foreign-flag carriers would charge based upon a price analysis;

(B) A comparison of rates charged by other U.S.-flag carriers on comparable routes;

(C) Efficiency of operation regardless of rate differential (i.e., suitability of the vessel capacity/cargo requirements; the commercial reasonableness of the vessel positioning required, etc.); and

(D) Any other relevant economic and financial considerations affecting the Government.

247.573 Contract clause.

Use the clause at 252.247-7023, Transportation of Supplies by Sea, in all solicitations and resultant contracts except those for direct purchase of ocean transportation services, or those with an anticipated value below the small purchase limitation in FAR 13.000.

8. Part 249 is revised to read as follows:

PART 249—TERMINATION OF CONTRACTS

Sec.

Subpart 249.1—General Principles

249.102 Notice of termination.
249.105 Duties of termination contracting officer after issuance of notice of termination.
249.105-1 Termination status report.
249.108 Settlement of subcontract settlement proposals.
249.108-4 Authorization for subcontract settlements without approval or ratification.
249.109 Settlement agreements.
249.109-7 Settlement by determination.
249.110 Negotiated memorandum.

Subpart 249.5—Contract Termination Clauses

249.501 General.
249.501-70 Special termination costs.

Subpart 249.70—Special Termination Requirements

249.7000 Terminated contracts with Canadian Commercial Corporation.
249.7001 Congressional notification on significant contract terminations.

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, FAR subpart 1.3.

Subpart 249.1—General Principles

249.102 Notice of termination.

Use Standard Form 30, Amendment of Solicitation/Modification of Contract, to confirm all notices and amendments of notices of termination.

249.105 Duties of termination contracting officer after issuance of notice of termination.

249.105-1 Termination status report.

When the contract administration office receives a termination notice, it will under DFARS:DD(I&L)(Q&AR)1411—

(i) Prepare a DD Form 1598, Contract Termination Status Report;

(ii) Send one copy to the purchasing office and one copy to the headquarters office to which the contract administration office is directly responsible;

(iii) Continue reporting semiannually to cover the 6 month periods ending March and September. The semiannual reports must be submitted within 30 days after the end of the reporting period; and

(iv) Submit a final report within 30 days after closing the termination case.

249.105 Settlement of subcontract settlement proposals.

249.105-4 Authorization for subcontract settlements without approval or ratification.

(a)(1)(ii) Industrial plant equipment included in the inventory—

(*1*) Is subject to the screening requirements in FAR 45.606.

(*2*) Shall not be disposed of until screening is complete when the cost of that equipment is used in determining the amount of the claim.

249.109 Settlement agreements.

249.109-7 Settlement by determination.

(a)(i) Use a Standard Form 30 (SF 30), Amendment of Solicitation/Modification of Contract, to settle a convenience termination by determination—

(A) When the contractor has lost its right of appeal because it failed to submit a timely settlement proposal; and

(B) To confirm the determination when the contractor does not appeal the termination contracting officer's decision.

(ii) The effective date of the SF 30 shall be the same as the date of the letter of determination. Do not sign a supplementary procurement instrument number to the letter of determination. Send three copies of the SF 30 to the contractor. Request the contractor sign and return the original and one copy.

249.110 Negotiated memorandum.

(a)(1) *Fixed price contracts.* Use of the following format for the termination contracting officer's settlement memorandum for fixed price contracts terminated for the convenience of the Government. Encourage contractors and subcontractors to use this format, appropriately modified, for subcontract settlements submitted for review and approval.

Part I—General Information

1. Identification. (Identify memorandum as to its purpose and content.)

a. Name and address of the contractor. Comment on any pertinent affiliation between prime and subcontractors relative to the overall settlement.

b. Names and title of both contractor and Government personnel who participated in the negotiation.

Description of terminated contract.

a. Date of contract and contract number.

b. Type of contract (e.g., fixed price, fixed price incentive).

c. General description of contract items.

d. Total contract price.

e. Furnish reference to the contract termination clause (cite FAR/DFARS designation or other special provisions).

3. Termination notice.

a. Reference termination notice and state effective date of termination.

b. Scope and nature of termination (complete or partial), items terminated, unit price and total price of items terminated.

c. State whether termination notice was amended, and explain any amendment.

d. State whether contractor stopped work on effective termination date, if not, furnish details.

e. State whether the contractor promptly terminated subcontracts.

f. Statement as to the diversion of common items and return of goods to suppliers, if any.

g. Furnish information as to contract performance and timely deliveries by the contractor.

4. Contractor's settlement proposal.

a. Date and amount. Indicate date and location claim was filed. State gross amount of claim. (If interim settlement proposals were filed, furnish information for each claim.)

b. basis of claim. State whether claim was filed on inventory, total cost or other basis. Explain approval in connection with submission on other than inventory basis.

c. Examination of proposal. State type or reviews made and by whom (audit, engineering, legal, or other).

Part II—Summary of Contractor's Claim and Negotiated Settlement

Prepare a summary substantially as follows:

Item claimed	Contractor's proposal	Dollars accepted	Costs questioned	Unresolved items	TCO Negotiated amount
1. Contractor's costs as set forth on settlement proposal: Metals, raw material, etc. Total					
2. Profit					
3. Settlement expenses					
4. Total					
5. Settlement with subs					
6. Acceptable furnished product					
7. Gross Total					
8. Disposal and other credits					
9. Net settlement					
10. Partial, progress and advanced payments					
11. Net payments requested					

Part III—Discussion of Settlement

1. Contractor's cost.

a. If the settlement was negotiated on the basis of individual items, specify the factors and consideration for each item.

b. In the case of a lump sum settlement, comment on the general basis for and major factors concerning each element of cost and profit included.

c. Comment on any important adjustments made to costs claimed or any significant amounts in relation to the total claim.

d. If a partial termination is involved, state whether the contractor has requested an equitable adjustment in the price of the continued portion of the contract.

e. Comment on any unadjusted contractual changes which are included in the settlement.

f. Comment on whether or not a loss would have been incurred and explain adjustment for loss, if any.

g. Furnish other information believed helpful to any reviewing authority in understanding the recommended settlement.

2. Profit. Explain the basis and factors considered in arriving at a fair profit.

3. Settlement expenses. Comment on and summarize those expenses not included in the audit review.

4. Subcontractor's settlements. Include the number of settlements and the net amount of each.

5. Partial payments. Furnish the total amount of partial payments, if any.

6. Progress or advance payments. Furnish the total of unliquidated amounts, if any.

7. Claims of the Government against the contractor included in settlement agreement reservations. List all outstanding claims, if any, which the Government has against the contractor in connection with the terminated contract or terminated portion of the contract.

8. Assignments. List any assignments, giving name and address of assignee.

9. Disposal credits. Furnish information as to applicable disposal credits and give dollar amounts of all disposal credits.

10. Plant clearance. State whether plant clearance action has been completed and all inventory sold, retained, or otherwise properly disposed of in accordance with applicable plant clearance regulations. Comment on any unusual matters pertaining to plant clearances. Attach consolidated closing plant clearance report.

11. Government property. State whether all Government property has been accounted for.

12. Special tooling. If involved, furnish comment on disposition.

13. Summary of settlement. Summarize the settlement in tabular form substantially as follows:

TABULAR SUMMARY FOR COMPLETE OR PARTIAL TERMINATION

	Amount claimed	Amount allowed
Prime contractors charges (before disposal credits):		
Plus:		
Subcontractor charges (after disposal credits)		
Gross settlement:		
Less:		
Disposal credits—Prime		
Net settlement:		
Less:		
Prior payments credits (this settlement)		
Previous partial settlements		
Other credits or deductions		
Total		
Net payment:		
Total contract price (complete termination):		
CPIT (for partial termination)		
Less:		
Total payments to date		
Net payment from this settlement		
Fund reserved for reservations		
Final contract price (terminated portion for partial termination)		
Reduction in contract price		

14. Exclusions. Describe any proposed reservation of rights to the Government or to the contractor.

15. Include statement that the gross settlement is fair and reasonable for the Government and the contractor. The contracting officer shall sign and date the memorandum.

(End of memorandum)

(ii) *Cost-reimbursement contracts.* Use Part I of the format in paragraph (a)(i) of this section and the following Part II for the termination contracting officer's settlement memorandum for cost-reimbursement contracts:

Part II—Summary of Settlement

1. Summary. Summarize the proposed settlement in tabular form substantially as shown in Tables I and II. Partial settlements may be summarized on Table II.

2. Comments. Explain tabular summaries.

a. Summary of final settlement (see Table I).

(1) Explain why the auditor's final report was not available for consideration, if applicable.

(2) Explain how the fixed fee was adjusted. Identify basis used such as percentage of completion. Include a description of factors considered and how they were considered. Include any tabular summaries and breakdowns deemed helpful to an understanding of the process. Factors which may be given consideration are outlined in FAR 49.305.

(3) Briefly identify matters included in liability for property and other charges against the contractor arising from the contract.

(4) Identify reservations included in the settlement that are other than standard reservations required by regulations and which are concerned with pending claims and refunds.

(5) Explain substantial or otherwise important adjustments made in cost figures submitted by the contractor in arriving at the proposed settlement.

(6) If unreimbursed costs were settled on a lump sum basis, explain the general basis for and the major factors considered in arriving at this settlement.

(7) Comment on any unusual items of cost included in the claim and on any phase of cost allocation requiring particular attention and not covered above.

(8) If auditor's recommendations for nonacceptance were not followed, explain briefly the main reasons why such recommendations were not followed.

(9) On items recommended for further consideration by the auditor, explain, in general, the basis for the action taken.

(10) If any cost previously disallowed by a contracting officer is included in the proposed settlement, identify and explain the reason for inclusion of such costs.

(11) Show number and amounts of settlements with subcontractors.

(12) Use the following summary where settlement includes costs and fixed fee in a complete termination:

Gross settlement		$
Less:		
Disposal credits		$
Net settlement		$
Less:		
Prior payments	$	
Other credits or deductions	$	

Total		$
Net payment		$
Total contract estimated cost plus fixed fee		$
Less:		
Net settlement	$	
Estimated reserve for exclusions	$	
Final contract price (Consisting of $___ for reimbursement of costs and $___ for adjusted fixed fee)	$	
Reduction in contract price (credit)		$

(13) Plant clearance. Indicate dollar value of termination inventory and state whether plant clearance has been completed. Attach consolidated plant clearance report (SF 1424, Inventory Disposal Report).

(14) Government property. State whether all Government property has been accounted for.

(15) Include a statement that the settlement is fair and reasonable to the Government and the contractor. Sign and date the memorandum.

(End of memorandum)

TABLE I.—SUMMARY OF SETTLEMENT

Allowed	Amount claimed	Amount
1. Previous reimbursed costs—prime and subs	$	$
2. Previous unreimbursed costs	$	$
3. Total cost settlement	$	$
4. Previous fees paid—prime	$	$
5. Previous fees unpaid—prime	$	$
6. Total fee settlement	$	$
7. Gross settlement	$	$
Less: Deductions not reflected in items 1–7		
a. Disposal credits	$	$
b. Other charges against contractor arising from contract	$	$
9. Net settlement		$
Less: prior payment credits		$
11. Net payment		
12. Recapitulation of previous settlements (insert number of previous partial settlements effected on account of this particular termination):		
Aggregate gross amount of previous settlements		$
Aggregate net amount of previous partial settlements		$
Aggregate net payment provided in previous partial settlements		$
Aggregate amount allowed for prime contractor acquired property taken over by the Government in connection with previous partial settlements		$

TABLE II.—UNREIMBURSED COSTS SUBMITTED ON SF 1437 *

Costs	Amounts claimed by contractor's proposal	Auditor's Recommendation		TCO's computation
		Cost questioned	Unresolved items	
1. Direct material				
2. Direct labor				
3. Indirect factory expense				
4. Dies, jigs, fixtures and special tools				
5. Other costs				
6. General and administrative expenses				
7. Fee:				
8. Settlement expense				
9. Settlement with subs				
10. Total costs (Items 1–9)				

*Expand the format to include recommendations of technical personnel as required.

Subpart 249.5—Contract Termination Clauses

249.501 General.

249.501-70 Special termination costs.

(a) The clause at 252.249-7000, Special Termination Costs, may be used in an incrementally funded contract when its use is approved by the agency head.

(b) Normally, use the clause when—

(1) The contract term is 2 years or more;

(2) The contract is estimated to require—

(i) Total RDT&E financing in excess of $25 million; or

(ii) Total production investment in excess of $100 million; and

(3) Adequate funds are available to cover the contingent reserved liability for special termination costs.

(c) The contractor and the contracting officer must agree upon an amount that represents their best estimate of the total termination costs to which the contractor would be entitled in the event of termination of the contract. Insert this amount in paragraph (c) of the clause.

(d)(1) Consider substituting an alternate paragraph (c) for paragraph (c) of the basic clause when—

(i) The contract covers an unusually long performance period; and

(ii) The contractor's cost risk associated with contingent special termination costs is expected to fluctuate extensively over the period of the contract.

(2) The alternate paragraph (c) should provide for periodic negotiation and adjustment of the amount reserved for special termination costs based on—

(i) The Government's incremental assignment of funds to the contract; or

(ii) The time when certain performance milestones are accomplished by the contractor.

Subpart 249.70—Special Termination Requirements

249.7000 Terminated contracts with Canadian Commercial Corporation.

(a) Terminate contracts with the Canadian Commercial Corporation in accordance with—

(1) The Letter of Agreement between the Department of Defense Production (Canada) and the U.S. DoD, "Canadian Agreement";

(2) Policies in the Canadian Agreement and part 249; and

(3) The Manual of Procedure on Termination of Contracts, Department of Supply and Services (Canada).

(b) Contracting officers shall ensure that the Canadian Commercial Corporation submits termination settlement proposals in the format prescribed in FAR 49.602 and that they contain the amount of settlements with subcontractors. The termination contracting officer (TCO) shall prepare an appropriate settlement agreement. (See FAR 49.603.) The letter transmitting a settlement proposal must certify—

(1) That disposition of inventory has been completed; and

(2) That the Contracts Settlement Committee of the Department of Supply and Services (Canada) has approved settlements with Canadian subcontractors when the Manual of Procedure on Termination of Contracts, Department of Supply and Services (Canada), requires such approval.

(c)(1) The Canadian Commercial Corporation will—

(i) Settle all Canadian subcontractor termination claims under the Canadian Agreement; and

(ii) Submit schedules listing serviceable and usable contractor inventory for screening to the TCO (see FAR subpart 45.6).

(2) After screening, the TCO must provide guidance to the Canadian Commercial Corporation for disposition of the contractor inventory.

(3) Settlement of Canadian subcontractor claims are not subject to the approval and ratification of the TCO. However, when the proposed negotiated settlement exceeds the total contract price of the prime contract, the TCO shall obtain from the U.S. contracting officer prior to final settlement—

(i) Ratification of the proposed settlement; and

(ii) A contract modification increasing the contract price and obligating the additional funds.

(d)(i) The Canadian Commercial Corporation should send all termination settlement proposals submitted by U.S. subcontractors and suppliers to the TCO (usually the DCMAO, Cleveland) for settlement. The Canadian Commercial Corporation is responsible for execution of the settlement agreement with these subcontractors.

(ii) The TCO shall inform the Canadian Commercial Corporation of the amount of the net settlement of U.S. subcontractors and suppliers so that this amount can be included in the termination proposal.

249.7001 Congressional notification on significant contract terminations.

(a) Congressional notification is required for any termination involving a reduction in employment of 100 or more contractor employees. Proposed terminations must be cleared through department/agency liaison offices before release of the termination notice, or any information on the proposed termination, to the contractor.

(b) Department and agency liaison offices will coordinate timing of the congressional notification and public release of the information with release of the termination notice to the contractor. Department and agency liaison offices are—

(1) Army—OSA, OCLL (SACLL), ASA (I&L)
(2) Navy—Chief of Legislative Affairs (OLA–N)
(3) Air Force—SAF/AQC
(4) Defense Logistics Agency—DLA–PP
(5) Defense Communications Agency—Contract Management Division (Code 280)
(6) Defense Nuclear Agency—Chief, Office of Procurement, OATR
(7) Defense Mapping Agency—DMA/LO
(8) National Security Agency/Central Security Service—Chief, Office of Contracting
(9) Defense Advanced Research Projects Agency—CMO
(10) Defense Intelligence Agency—RSQ
(11) On-Site Inspection Agency—Acquisition Management (ACQ)
(12) Strategic Defense Initiative Organization—Director of Contracts (Code CT)

(c) Request clearance to release information in accordance with departmental procedures as soon as possible after the decision to terminate is made. Until clearance has been obtained, treat this information as "For Official Use Only" unless the information is classified.

(d) Include the following in the request for clearance—

(1) Contract number, date, and type of contract;
(2) Name of the company;
(3) Nature of contract or end item;
(4) The reason for the termination;
(5) Contract price of the items terminated;
(6) Total number of contractor employees involved, including the Government's estimate of the number who may be discharged;
(7) Statement of anticipated impact on the company and the community;
(8) The area labor category, whether the contractor is a large or small business and any known impact on hard core disadvantaged employment programs;
(9) Total number of subcontractors involved and the impact in this area; and
(10) An unclassified draft of a suggested press release.

(e) To minimize termination costs, liaison offices will act promptly on all requests for clearances and provide a response not later than 2 working days after receipt of the request.

(f) This reporting requirement is assigned RCS:DD(I&L)(AR) 1412.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

9. The authority for 48 CFR part 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, FAR subpart 1.3.

252.208-7000 through 252.208-7003 [Removed]

10. Sections 252.208-7000 through 252.208-7003 are removed.

11. Section 252.208-7004 is redesignated as 252.208-7000 and revised to read as follows:

252.208-7000 Intent to Furnish Precious Metals as Government-Furnished Material

As prescribed in 208.7305(a), use the following clause:

Intent to Furnish Precious Metals as Government-Furnished Material (Feb 1991)

(a) The Government intends to furnish precious metals required in the manufacture

of items to be delivered under the contract if the Contracting Officer determines it to be in the Government's best interest. The use of Government-furnished silver is mandatory when the quantity required is one hundred troy ounces or more. The precious metal(s) will be furnished pursuant to the Government Furnished Property clause of the contract.

(b) The Offeror shall cite the type (silver, gold, platinum, palladium, iridium, rhodium, and ruthenium) and quantity of precious metals required in the performance of this contract (including precious metals required for any first article or production sample), and shall specify the national stock number (NSN) and nomenclature, if known, of the deliverable item requiring precious metals.

Precious Metal *	Quantity	Deliverable Item (NSN and nomenclature)

* If platinum or palladium, specify whether sponge or granules are required.

(c) Offerors shall submit two prices for each deliverable item which contains precious metals—one based on the Government furnishing precious metals, and one based on the Contractor furnishing precious metals. Award will be made on the basis which is in the best interest of the Government.

(d) The Contractor agrees to insert this clause, including this paragraph (d), in solicitations for subcontracts and purchase orders issued in performance of this contract, unless the Contractor knows that the item being purchased contains no precious metals.

(End of clause)

§ 252.208–7005 and 252.208–7006 [Removed]

12. Sections 252.208–7005 and 252.208–7006 are removed.

13. Section 252.216–7000 is revised to read as follows:

252.216–7000 Economic price adjustment—basic steel, aluminum, brass, bronze, or copper mill products.

As prescribed in 216.203–4–70(a), use the following clause:

Economic Price Adjustment—Basic Steel, Aluminum, Brass, Bronze, or Copper Mill Products (Feb 1991)

(a) Definitions.

As used in this clause, "Established price" means a price which—

(1) Is an established catalog or market price for a commercial item sold in substantial quantities to the general public; and

(2) Meets the criteria of FAR 15.804–3.

"Unit price" excludes any part of the price which reflects requirements for preservation, packaging, and packing beyond standard commercial practice.

(b) The Contractor warrants that the unit price stated for (*Identify the item*) is not in excess of the Contractor's established price in effect on the date set for opening of bids (or the contract date if this is a negotiated contract) for like quantities of the same item. This price is the net price after applying any applicable standard trade discounts offered by the Contractor from its catalog, list, or schedule price.

(c) The Contractor shall promptly notify the Contracting Officer of the amount and effective date of each decrease in any established price.

(1) Each corresponding contract unit price shall be decreased by the same percentage that the established price is decreased.

(2) This decrease shall apply to items delivered on or after the effective date of the decrease in the Contractor's established price.

(3) This contract shall be modified accordingly.

(4) The Contractor shall certify on each invoice that each unit price stated reflects all decreases required by this clause, or shall certify on the final invoice that all price decreases required by this clause have been applied as required.

(d) If the Contractor's established price is increased after the date set for opening of bids (or the contract date if this is a negotiated contract), upon the Contractor's written request to the Contracting Officer, the corresponding contract unit price shall be increased by the same percentage that the established price is increased, and this contract shall be modified accordingly, provided—

(1) The aggregate of the increases in any contract unit price under this contract shall not exceed 10 percent of the original contract unit price;

(2) The increased contract unit price shall be effective on the effective date of the increase in the applicable established price if the Contractor's written request is received by the Contracting Officer within 10 days of the change. If it is not, the effective date of the increased unit price shall be the date of receipt of the request by the Contracting Officer; and

(3) The increased contract unit price shall not apply to quantities scheduled for delivery before the effective date of the increased contract unit price unless the Contractor's failure to deliver before that date results from causes beyond the control and without the fault or negligence of the Contractor, within the meaning of the Default clause of this contract.

(4) The Contracting Officer shall not execute a modification incorporating an increase in a contract unit price under this clause until the increase is verified.

(e) Within 30 days after receipt of the Contractor's written request, the Contracting Officer may cancel, without liability to either party, any portion of the contract affectd by the requested increase and not delivered at the time of such cancellation, except as follows—

(1) The Contractor may after that time deliver any items which the Contractor certifies, by notice received by the Contracting Officer within 10 days after the Contractor receives the cancellation notice, were completed or in the process of manufacture at the time of receipt of the cancellation notice.

(2) The Government shall pay for those items at the contract unit price increased to the extent provided by paragraph (d) of this clause.

(3) Any standard steel supply item shall be deemed to be in the process of manufacture when the steel for that item is in the state of processing after the beginning of the furnace melt.

(f) Pending any cancellation of this contract under paragraph (e) of this clause, or if there is no cancellation, the Contractor shall continue deliveries according to the delivery schedule of the contract. The Contractor shall be paid for those deliveries at the contract unit price increased to the extent provided by paragraph (d) of this clause.

(End of clause)

14. Section 252.216–7001 is revised to read as follows:

252.216–7001 Economic price adjustment—nonstandard steel items.

As prescribed in 216.203–4–70(b), use the following clause:

Economic Price Adjustment—Nonstandard Steel Items (FEB 1991)

(a) *Definitions.*

As used in this clause—

"Base labor index" means the average of the labor indices for the 3 months which consist of the month of bid opening (or offer submission) and the months immediately preceding and following that month.

"Base steel index" means the Contractor's established price (see Note 6) including all applicable extras of $_____ per _____ (see Note 1) for _____ (see Note 2) on the date set for bid opening (or the date of submission of the offer).

"Current labor index" means the average of the labor indices for the month in which delivery of supplies is required to be made and the month preceding.

"Current steel index" means the Contractor's established price (see Note 6) for that item, including all applicable extras in effect _____ days (see Note 3) prior to the first day of the month in which delivery is required.

"Established price" is—

(1) A price which—

(i) Is an established catalog or market price of a commercial item sold in substantial quantities to the general public; and

(ii) Meets the criteria of FAR 15.804–3; and

(2) The net price after applying any applicable standard trade discounts offered by the Contractor from its catalog, list, or schedule price. (But see Note 6.)

"Labor index" means the average straight time hourly earnings of the Contractor's employees in the _____ shop of the Contractor's _____ plant (see Note 4) for any particular month.

"Month" means calendar month. However, if the Contractor's accounting period does not coincide with the calendar month, then that

accounting period shall be used in lieu of "month."

(b) Each contract unit price shall be subject to revision, under the terms of this clause, to reflect changes in the cost of labor and steel. For purpose of this price revision, the proportion of the contract unit price attributable to costs of labor not otherwise included in the price of the steel item identified under the "base steel index" definition in paragraph (a) of this clause shall be _____ percent, and the proportion of the contract unit price attributable to the cost of steel shall be _____ percent. (See Note 5.)

(c)(1) Unless otherwise specified in this contract, the labor index shall be computed by dividing the total straight time earnings of the Contractor's employees in the shop identified in paragraph (a) of this clause for any given month by the total number of straight time hours worked by those employees in that month.

(2) Any revision in a contract unit price to reflect changes in the cost of labor shall be computed solely by reference to the "base labor index" and the "current labor index."

(d) Any revision in a contract unit price to reflect changes in the cost of steel shall be computed solely by reference to the "base steel index" and the "current steel index."

(e)(1) Each contract unit price shall be revised for each month in which delivery of supplies is required to be made.

(2) The revised contract unit price shall apply to the deliveries of those quantities required to be made in that month regardless of when actual delivery is made.

(3) Each revised contract unit price shall be computed by adding—

(i) The adjusted cost of labor (obtained by multiplying _____ percent of the contract unit price by a fraction, of which the numerator shall be the current labor index and the denominator shall be the base labor index);

(ii) The adjusted cost of steel (obtained by multiplying _____ percent of the contract unit price by a fraction, of which the numerator shall be the current steel index and the denominator shall be the base steel index); and

(iii) The amount equal to _____ percent of the original contract unit price (representing that portion of the unit price which relates neither to the cost of labor nor the cost of steel, and which is therefore not subject to revision (see Note 5)).

(4) The revised contract unit price shall not exceed 10 percent of the original contract unit price.

(5) Computations shall be made to the nearest one-hundredth of one cent.

(f)(1) Pending any revisions of the contract unit prices, the Contractor shall be paid the contract unit price for deliveries made.

(2) Within 30 days after final delivery (or such other period as may be authorized by the Contracting Officer), the Contractor shall furnish a statement identifying and certifying the correctness of—

(i) The average straight time hourly earnings of the Contractor's employees in the shop identified in paragraph (a) of this clause that are relevant to the computations of the "base labor index" and the "current labor index;" and

(ii) The Contractor's established prices (see Note 6), including all applicable extras for like quantities of the item that are relevant to the computation of "base steel index" and the "current steel index."

(3) Upon request of the Contracting Officer, the Contractor shall make available all records used in the computation of the labor indices.

(4) Upon receipt of the certified statement, the Contracting Officer will compute the revised contract unit prices and modify the contract accordingly. No modification to this contract will be made pursuant to this clause until the Contracting Officer has verified the revised established price (see Note 6).

(g)(1) In the event any item of this contract is subject to a total or partial termination for convenience, the month in which the Contractor receives notice of the termination, if prior to the month in which delivery is required, shall be considered the month in which delivery of the terminated item is required for the purposes of determining the current labor and steel indices under paragraphs (c) and (d) of this clause.

(2) For any item which is not terminated for convenience, the month in which delivery is required under the contract shall continue to apply for determining those indices with respect to the quantity of the non-terminated item.

(3) If this contract is terminated for default, any price revision shall be limited to the quantity of the item which has been delivered by the Contractor and accepted by the Government prior to receipt by the Contractor of the notice of termination.

(h) If the Contractor's failure to make delivery of any required quantity arises out of causes beyond the control and without the fault or negligence of the Contractor, within the meaning of the clause of this contract entitled "Default," the quantity not delivered shall be delivered as promptly as possible after the cessation of the cause of the failure, and the delivery schedule set forth in this contract shall be amended accordingly.

Notes

1 Offeror insert the unit price and unit measure of the standard steel mill item to be used in the manufacture of the contract item.

2 Offeror identify the standard steel mill item to be used in the manufacture of the contract item.

3 Offeror insert best estimate of the number of days required for processing the standard steel mill item in the shop identified under the "labor index" definition.

4 Offeror identify the shop and plant in which the standard steel mill item identified under the "base steel index" definition will be finally fabricated or processed into the contract item.

5 Offeror insert the same percentage figures for the corresponding blanks in paragraphs (b), (e)(1), and (e)(2). In paragraph (e)(iii), insert the percentage representing the difference between the sum of the percentages inserted in paragraph (b) and 100 percent.

6 In negotiated acquisitions of nonstandard steel items, when there is no "established price" or when it is not desirable to use this price, this paragraph may refer to another appropriate price basis, e.g., an established interplant price.

(End of clause)

15. Section 252.222–7000 is added to read as follows:

252.222–7000 Wage Determination Information.

As prescribed in 222.1006, use the following clause:

Wage Determination Information (FEB 1991)

Less than 60 days (30 days if this work is an unknown, nonrecurring requirement) before issuance of the solicitation, the Contracting Officer requested from the Department of Labor a Service Contract Act wage determination. Upon receipt, the Contracting Officer shall incorporate the wage determination by amendment to this solicitation or by a bilateral modification of the resulting contract.

(End of clause)

Alternate I (Feb 1991)

As prescribed in 222.1006, substitute the following language for the language of the basic clause.

Less than 120 days but more than 60 days (30 days if this work is an unknown, nonrecurring requirement) before the issuance of the solicitation, the Contracting Officer requested from the Department of Labor a Service Contract Act wage determination. Upon receipt, the Contracting Officer shall incorporate the wage determination by amendment of this solicitation subject to the limitations of subsection 22.1012–2 of the Federal Acquisition Regulation.

16. Section 252.222–7002 is redesignated as section 252.222–7001 and revised to read as follows:

252.222–7001 Restrictions on employment of personnel.

As prescribed in 222.7003, use the following clause:

Restrictions on Employment of Personnel (Feb 1991)

(a) The Contractor shall employ, for the purposes of performing that portion of the contract work in the State of (insert appropriate State), individuals who are residents of the State, and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills to perform the contract.

(b) The Contractor agrees to insert the substance of this clause, including this paragraph (b), in each subcontract.

(End of clause)

17. Section 252.232–7001 is redesignated as section 252.232–7000 and revised to read as follows:

252.232–7000 Advance payment pool.

As prescribed in 232.412–70(a), use the following clause:

Advance Payment Pool (Feb 1991)

(a) Notwithstanding any other provision of this contract, advance payments will be made for contract performance in accordance with the Determinations, Findings, and Authorization for Advance payment dated _____.

(b) Payments made in accordance with this clause shall be governed by the terms and conditions of the Advance Payment Pool Agreement between the United States of America and (*insert the name of the contractor*). The Agreement is incorporated in the contract by reference.

(End of clause)

18. Section 252.232–7002 is redesignated as section 252.232–7001 and revised to read as follows:

252.232–7001 Disposition of payments.

As prescribed in 232.412–70(b), use the following clause:

Disposition of Payment (Feb 1991)

Payment will be by a dual payee Treasury check made payable to the contractor or the (*insert the name of the disbursing office in the advance payment pool agreement*), and will be forwarded to that disbursing office for appropriate disposition.

(End of clause)

19. Section 252.232–7003 is redesignated as 252.232–7002 and revised to read as follows:

252.232–7002 Progress payments for foreign military sales acquisitions.

As prescribed in 232.502–4–70(a), use the following clause:

Progress Payments for Foreign Military Sales Acquisitions (Feb 1991)

If this contract includes foreign military sales (FMS) requirements, the Contractor shall—

(a) Submit a separate progress payment request for each progress payment rate; and

(b) Submit a supporting schedule showing—

(1) The amount of each request distributed to each country's requirements; and

(2) Total price per contract line item applicable to each separate progress payment rate.

(c) Identify in each progress payment request the contract requirements to which it applies (i.e., FMS or U.S.);

(d) Calculate each request on the basis of the prices, costs (including costs to complete), subcontractor progress payments, and progress payment liquidations of the contract requirements to which it applies; and

(e) Distribute costs among contract line items and countries in a manner acceptable to the Administrative Contracting Officer.

(End of clause)

20. Section 252.232–7004 is redesignated as section 252.232–7003 and revised to read as follows:

252.232–7003 Flexible progress payments.

As prescribed in 232.502–4–70(b), use the following clause:

Flexible Progress Payments (Feb 1991)

(a) This contract is subject to flexible progress payment procedures as set forth in this clause and Defense Federal Acquisition Regulation Supplement (DFARS) 232.502–1–71.

(1) The progress payment rate of this contract is _____ percent. This percentage applies instead of the customary uniform progress payment rate and liquidation rate of the Progress Payments clause.

(2) The progress payment rate of this contract was determined by the DoD Cash Flow Computer Model (*name*) dated _____, using _____ percent as the minimum rate for the Contractor's investment (as a weighted average of costs) in its work in process inventory over the life of the contract.

(b) If actual and projected cash flow data generated during contract performance reveal that the customary flexible progress payment rate will result in a Contractor investment in work in process inventory more than 2 percentage points higher or lower than the minimum rate of Contractor investment specified in paragraph (a)(2) of this clause, the progress payment rate shall be redetermined by using the DoD Cash Flow Computer Model. Unless it contained an error, the version of the DoD Cash Flow Computer Model identified in paragraph (a)(2) of this clause shall be used for any redetermination. The customary flexible progress payment rate shall not be less than the customary uniform progress payment rate that would have applied to this contract absent flexible progress payment procedures, and the progress payment rate shall not be greater than 100 percent.

(c) Notwithstanding paragraph (b) of this clause, if at any time the flexible progress payment rate is determined to be overstated because any factual data submitted by the Contractor in support of the rate computation was not current, accurate, and complete at the time the flexible progress payment rate was established, the progress payment rate shall be reduced to the rate that should have been calculated using the model specified in paragraph (a)(2) of this clause. The Contractor shall pay interest in accordance with paragraph (d) of this clause on all resulting overpayments, computed from the date of the Government's overpayment, to the date of liquidation of the overpayment. Payment of any unliquidated overpayment and interest shall be due 30 days after the date of the first written demand for payment.

(d) Interest shall be simple interest at the rate established by the Secretary of the Treasury as provided in Section 12 of the Contract Disputes Act of 1978 (Pub. L. 95–563), which is applicable at the time the Government made the overpayment, and then at the rate applicable for each 6 month period as fixed by the Secretary, until the overpayment is liquidated.

(e) Flexible progress payment terms will be made available to subcontractors in accordance with paragraph (j) of the Progress Payments clause and DFARS 232.502–1–71(b)(4).

(End of clause)

252.232–7005 through 252.232–7007 [Removed]

21. Sections 252.232–7005 through 252.232–7007 are removed.

22–23. Sections 252.235–7000 and 252.235–7001 are redesignated as 252.235–7001 and 252.235–7002 respectively and revised and a new section 252.235–7000 is added to part 252 to read as follows:

252.235–7000 Distribution of final scientific or technical report.

As prescribed in 235.010–70, use the following clause:

Distribution of Final Scientific or Technical Report (Feb 1991)

(a) The Contractor shall submit two copies of the approved final scientific or technical report to: Defense Technical Information Center (DTIC), ATTN: DTIC–FDAC, Cameron Station, Alexandria, VA 22304–6145.

(b) If a SF 298, Report Documentation Page, is required to be submitted with the final scientific or technical report, the Contractor shall provide a copy of the SF 298 with each copy of the report provided to DTIC.

(End of clause)

252.235–7001 Indemnification under 10 U.S.C. 2354—fixed price.

As prescribed in 235.070–3, use the following clause:

Indemnification Under 10 U.S.C. 2354—Fixed Price (Feb 1991)

(a) This clause provides for indemnification under 10 U.S.C. 2354 if the Contractor meets all the terms and conditions of this clause.

(b) Claims, losses, and damages covered—

(1) Claims by third persons for death, bodily injury, sickness, or disease, or the loss, damage, or lost use of property. Claims include those for reasonable expenses of litigation or settlement. The term "third persons" includes employees of the contractor;

(2) The loss, damage, and lost use of the Contractor's property, but excluding lost profit; and

(3) Loss, damage, or lost use of the Government's property.

(c) The claim, loss, or damage—

(1) Must arise from the direct performance of this contract;

(2) Must not be compensated by insurance or other means, or be within deductible amounts of the Contractor's insurance;

(3) Must result from an unusually hazardous risk as specifically defined in the contract;

(4) Must not result from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, managers, superintendents, or other equivalent representatives who have supervision or direction of—

(i) All or substantially all of the Contractor's business;

(ii) All or substantially all of the Contractor's operations at any one plant or separate location where this contract is being performed; or

(iii) A separate and complete major industrial operation connected with the performance of this contract;

(5) Must not be a liability assumed under any contract or agreement (except for subcontracts covered by paragaph (h) of this clause), unless the Contracting Officer (or in contracts with the Department of the Navy, the Department) specifically approved the assumption of liability; and

(6) The Secretary of the department or designated representative certifies before payment that the amount of the payment is just and reasonable.

(d) The Contractor shall buy and maintain, to the extent available, insurance against unusually hazardous risks in the form, amount, period(s) of time, at the rate(s), and with such insurers, as the Contracting Officer (or, for Navy contacts, the Department) may from time to time require and approve. If the cost of this insurance is higher than the cost of the insurance the Contractor had as of the date of the contract, the Government shall reimburse the Contractor for the difference in cost, as long as it is properly allocable to this contract and is not included in the contract price. The Government shall not be liable for claims, loss, or damage if insurance was available and is either required or approved under this paragraph.

(e) A reduction of the insurance coverage maintained by the Contractor on the date of the execution of this contract shall not increase the Government's liability under this clause unless the Contracting Officer consents, and the contract price is equitably adjusted, if appropriate, to reflect the Contractor's consideration for the Government's assumption of increased liability.

(f) *Notice.*

The Contractor shall—

(1) Promptly notify the Contracting Officer of any occurrence, action, or claim that might trigger the Government's liability under this clause;

(2) Furnish the proof or evidence of any claim, loss, or damage in the form and manner that the Government requires; and

(3) Immediately provide copies of all pertinent papers that the Contractor receives or has received.

(g) The Government may direct, participate in, and supervise the settlement or defense of the claim or action. The Contractor shall comply with the Government's directions and execute any authorizations required.

(h) *Flowdown.*

The Government shall indemnify the Contractor if the Contractor has an obligation to indemnify a subcontractor under any subcontract at any tier under this contract for the unusually hazardous risk identified in this contract only if—

(1) The Contracting Officer gave prior written approval for the Contractor to provide in a subcontract for the Contractor to indemnify the subcontractor for unusually hazardous risks defined in this contract;

(2) The Contracting Officer approved those indemnification provisions;

(3) The subcontract indemnification provisions entitle the Contractor, or the Government, or both, to direct, participate in, and supervise the settlement or defense of relevant actions and claims; and

(4) The subcontract provides the same rights and duties, the same provisions for notice, furnishing of paper and the like, between the Contractor and the subcontractor, as exist between the Government and the Contractor under this clause.

(i) The Government may discharge its obligations under paragraph (h) of this clause by making payments directly to subcontractors or to persons to whom the subcontractors may be liable.

(j) The rights and obligations of the parties under this clause shall survive the termination, expiration, or completion of this contract.

(End of clause)

252.235-7002 Indemnification under 10 U.S.C. 2354—cost reimbursement.

As prescribed in 235.070-3, use the following clause:

Indemnification Under 10 U.S.C. 2354—Cost Reimbursement (Feb 1991)

(a) This clause provides for indemnification under 10 U.S.C. 2354 if the Contractor meets all the terms and conditions of this clause.

(b) Claims, losses, and damages covered—

(1) Claims by third persons for death, bodily injury, sickness, or disease, or the loss, damage, or lost use of property. Claims include those for reasonable expenses of litigation or settlement. The term "third persons" includes employees of the Contractor;

(2) The loss, damage, and lost use of the Contractor's property, but excluding lost profit; and

(3) Loss, damage, or lost use of the Government's property.

(c) The claim, loss, or damage—

(1) Must arise from the direct performance of this contract;

(2) Must not be compensated by insurance or other means, or be within deductible amounts of the Contractor's insurance;

(3) Must result from an unusually hazardous risk as specifically defined in the contract;

(4) Must not result from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, managers, superintendents, or other equivalent representatives who have supervision or direction of—

(i) All or substantially all of the Contractor's business;

(ii) All or substantially all of the Contractor's operations at any one plant or separate location where this contract is being performed; or

(iii) A separate and complete major industrial operation connected with the performance of this contract;

(5) Must not be a liability assumed under any contract or agreement (except for subcontracts covered by paragraph (i) of this clause), unless the Contracting Officer (or in contracts with the Department of the Navy, the Department) specifically approved the assumption of liability; and

(6) The Secretary of the department or designated representative certifies before payment that the amount of the payment is just and reasonable.

(d) A reduction of the insurance coverage maintained by the Contractor on the date of the execution of this contract shall not increase the Government's liability under this clause unless the Contracting Officer consents, and the contract price is equitably adjusted, if appropriate, to reflect the Contractor's consideration for the Government's assumption of increased liability.

(e) *Notice.*

The "Insurance—Liability to Third Persons" clause of this contract applies also to claims under this clause. In addition, the Contractor shall—

(1) Promptly notify the Contracting Officer of any occurrence, action, or claim that might trigger the Government's liability under this clause;

(2) Furnish the proof or evidence of any claim, loss, or damage in the form and manner that the Government requires; and

(3) Immediately provide copies of all pertinent papers that the contractor receives or has received.

(f) The Government may direct, participate in, and supervise the settlement or defense of the claim or action. The Contractor shall comply with the Government's directions, and execute any authorizations required.

(g) The "Limitation of Cost" clause of this contract does not apply to the Government's obligations under this clause. The obligations under this clause are excepted from the release required by the "Allowable Cost, Fee, and Payment" clause of this contract.

(h) Under this clause, a claim, loss, or damage arises from the direct performance of this contract if the cause of the claim, loss, or damage occurred during the period of performance of this contract or as a result of the performance of this contract.

(i) *Flowdown.*

The Government shall indemnify the Contractor if the Contractor has an obligation to indemnify a subcontractor under any subcontract at any tier under this contract for the unusually hazardous risk identified in this contract only if—

(1) The Contracting Officer gave prior written approval for the Contractor to provide in a subcontract for the Contractor to indemnify the subcontractor for unusually hazardous risks defined in this contract;

(2) The Contracting Officer approved those indemnification provisions;

(3) The subcontract indemnification provisions entitle the Contractor, or the Government, or both, to direct, participate in, and supervise the settlement or defense of relevant actions and claims; and

(4) The subcontract provides the same rights and duties, the same provisions for notice, furnishing of paper and the like, between the Contractor and the subcontractor, as exist between the Government and the Contractor under this clause.

(j) The Government may discharge its obligations under paragraph (i) of this clause by making payments directly to subcontractors or to persons to whom the subcontractors may be liable.

(k) The rights and obligations of the parties under this clause shall survive the

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termination, expiration, or completion of this contract.

[End of clause]

24. Section 252.235–7003 is revised to read as follows:

252.235–7003 Animal welfare.

As prescribed in 235.071(a), use the following clause:

Animal Welfare (FEB 1991)

(a) The Contractor shall give the Contracting Officer evidence that the Contractor registered with the Secretary of Agriculture of the United States in accordance with 7 U.S.C. 2316 and 9 CFR 2.25–2.28 before undertaking performance of any contract involving research on live vertebrate animals.

(b) The Contractor shall acquire vertebrate animals used in research from a dealer licensed by the Secretary of Agriculture under 7 U.S.C. 2316 and 9 CFR 2.1–2.11, or from a source that is exempt from licensing under those sections.

(c) The Contractor use and care of any live animals used or intended for use in the performance of this contract shall comply with—

(1) The "PHS Policy on Humane Care and Use of Laboratory Animals by Awardee Institutions";

(2) The "Guide for the Care and Use of Laboratory Animals," prepared by the Institute of Laboratory Animal Resources; and

(3) The pertinent laws and regulations of the United States Department of Agriculture (see 7 U.S.C. 2131 *et seq.* and 9 CFR chapter A, parts 1–4). In case of conflict among the standards, the most stringent standard shall be used.

(d) *Sanctions.*

(1) The Contracting Officer may immediately suspend, in whole or in part, work and further payments under this contract if the Contracting Officer, in consultation with the Office for Protection from Research Risks (OPRR), National Institutes of Health (NIH), determines that the Contractor is not in compliance with the requirements and/or standards stated in paragraphs (a) through (c) of this clause.

(i) Notice may be by telephone and confirmed in writing.

(ii) The Contracting Officer may in its written notice of suspension designate a period of time for the Contractor to correct its noncompliance.

(iii) The suspension will stay in effect until the Contractor complies with the requirements.

(2) The Contracting Officer, in consultation with the OPRR/NIH may terminate the contract, in whole or in part, if the Contractor fails to complete the corrective action within the time specified in the Contracting Officer's written notice.

(3) The Contractor's failure to comply within the designated time frame may also cause the removal of its name from the list of those contractors with approved Public Health Service Welfare Assurances.

(e) The Contractor may request registration of its facility and a current listing of licensed dealers from the Regional Office of the Animal and Plant Health Inspection Service (APHIS), United States Department of Agriculture, for the region where its research facility is located. Contact the Senior Staff Officer, Animal Care Staff, USDA/PHIS, Federal Center Building, Hyattsville, MD 20782, for the location of the appropriate APHIS regional office, as well as information concerning this program.

(End of clause)

25. Section 252.235–7004 is revised to read as follows:

252.235–7004 Frequency authorization.

As prescribed in 235.071(b), use the following clause:

Frequency Authorization (Feb 1991)

(a) The Contractor or subcontractor shall obtain authorization of radio frequencies required in support of this contract.

(b) For any experimental, developmental, or operational equipment for which the appropriate frequency allocation has not been made, the Contractor or subcontractor shall provide the technical operating characteristics of the proposed electromagnetic radiating device to the Contracting Officer during the initial planning, experimental, or developmental phase of contract performance.

(c) The Contracting Officer shall furnish procedures to follow in getting radio frequency authorization.

(d) The Contractor or subcontractor shall use DD Form 1494, Application for Frequency Allocation, when seeking a frequency authorization.

(End of clause)

26. Section 252.235–7005 is revised to read as follows:

252.235–7005 Option to Extend the Term of the Contract.

As prescribed in 235.015–71(i)(2), use the following clause:

Option To Extend the Term of the Contract (FEB 1991)

If the Contractor's proposal covers an additional period(s) which could be treated as an optional period(s), the Contracting Officer may—

(a) Add the additional period(s) to the contract as an option(s); and

(b) Exercise such option(s) by written notice of exercise at any time during the performance period or any extensions thereof.

(End of clause)

27. Sections 252.235–7006 through 252.235–7010 are added to part 252 to read as follows:

252.235–7006 Contractor-Acquired Property.

As prescribed in 235.015–71(i)(2), use the following clause:

Contractor-Acquired Property (FEB 1991)

(a) Definition.

"Property," as used in this clause, means all nonexpendable tangible personal property (except material)—

(1) Described in FAR 45.101, including automatic data processing equipment as defined in FAR 31.001, and facilities as defined in FAR 45.301;

(2) Which is acquired with funds provided under this contract for the conduct of research;

(3) Which the Contractor has specifically identified in its proposal; and

(4) Which the Contracting Officer has authorized the Contractor to acquire.

(b) The Contracting Officer may accept the identification and description in the Contractor's proposal of property to be Contractor-acquired property as advance notification required by subparagraphs (a) and (b) of the clause of this contract entitled "Subcontracts Under Cost-Reimbursement and Letter contracts."

(c) Except for those items specifically identified in the contract as required by Block 27a of the DD Form 2222 (Research Contract (SFRC)/Modification, Short Form), award of this contract constitutes the Contracting Officer's written consent to acquire property in the Contractor's proposal.

(d) The Contracting Officer will approve or disapprove subcontracts to acquire the items listed in Block 27a of the DD Form 2222 after the award of any contract resulting from this solicitation.

(End of clause)

252.235–7007 Title to Contractor-Acquired Property.

As prescribed in 235.015–71(i)(2), use the following clause:

Title to Contractor-Acquired Property (FEB 1991)

(a) Definition.

"Property," as used in this clause, has the meaning given in the "Contractor-Acquired Property" clause of this contract.

(b) Title shall vest in the Contractor without further obligation when the property—

(1) Has an acquisition cost of $1,000 or more;

(2) Was specfically identified in the Contractor's proposal; and

(3) Is property other than that property for which a determination of title is deferred. Property for which the determination of title is deferred shall be identified in Block 27b of the DD Form 2222, Research Contract (SFRC)/Modification, Short Form.

(c) Title in all property which—

(1) Has an acquisition cost of $1,000 or more; and

(2) Was not specifically identified in the Contractor's proposal; or

(3) Is property for which a determination of title is deferred, vests—

(i) In the Government under FAR 35.014;

(ii) In the Contractor, or

(iii) In the Contractor, subject to the right of the Government to direct transfer of the title back to the Government or third parties. The Government may exercise this right at any time up to and including the twelfth month after completion or termination of the contract. The Government at any time may remove an item of property from this category, give up the right to direct transfer of

the title back to the Government or third parties, and transfer title to the Contractor.

(d) Transfer of title back to the Government or third parties shall not be the basis for any claim by the Contractor. The Government Property (Cost-Reimbursement, Time and Material, or Labor Hour Contracts) clause and its Alternate I of this contract apply to any changes in property.

(e) Property acquired with funds made available under this contract shall be considered Government property subject to the Government Property clause until title to such property vests in the Contractor without right of the Government to direct transfer of the title back to the Government or third parties.

(f) Within 45 days following the end of the calendar year or the Contractor's fiscal year, the Contractor shall furnish the Contracting Officer a list of all property with an acquisition cost of $1,000 or more which the Contractor acquired under this contract during that year and to which title has not vested in the Contractor.

(End of clause)

252.235-7008 Advance Payments.

As prescribed in 235.015-71(i)(2), use the following clause:

Advance Payments (FEB 1991)

The advance payment pool agreement between the Contractor and one or more military departments which is in effect as of the date of, and applies to, this contract shall govern advance payments made under this contract. If such an agreement is not in effect as of the date of this contract, the "Allowable Cost and Payment" clause of this contract shall govern payments to the Contractor.

(End of clause)

252.235-7009 Inspection and Acceptance.

As prescribed in 235.015-71(i)(2), use the following clause:

Inspection and Acceptance (FEB 1991)

The Scientific Program Officer designated in Block 11 on the DD Form 2222 (Research Contract (SFRC)/Modification, Short Form) of this contract shall conduct inspection and acceptance of the final delivery. The Scientific Program Officer shall have at least 30 days after contractual delivery for acceptance.

(End of clause)

252.235-7010 Restriction on Printing.

As prescribed in 235.015-71(i)(2), use the following clause:

Restriction on Printing (FEB 1991)

The Contractor is authorized to reproduce reports, data, or other written materials, if required, provided the material produced does not exceed 5,000 production units of any page, and items consisting of multiple pages do not exceed 25,000 production units in the aggregate. The Contractor shall obtain the express prior written authorization of the Contracting Officer to reproduce material in excess of these quantities.

(End of clause)

252.236-7000 [Removed]

28. Section 252.236-7000 is removed.

29. Section 252.236-7001 is redesignated as 252.236-7000 and revised to read as follows:

252.236-7000 Modification Proposals—Price Breakdown.

As prescribed in 236.570(a), use the following clause:

Modification Proposals—Price Breakdown (Feb 1991)

(a) The Contractor shall furnish a price breakdown, itemized as required by the Contracting Officer, with any proposal for a contract modification.

(b) The price breakdown—

(1) Must include sufficient detail to permit an analysis of profit, and of all costs for—

(i) Material;

(ii) Labor;

(iii) Equipment;

(iv) Subcontracts; and

(v) Overhead; and

(2) Must cover all work involved in the modification, whether the work was deleted, added, or changed.

(c) The Contractor shall provide similar price breakdowns to support any amounts claimed for subcontracts.

(d) The Contractor's proposal shall include a justification for any time extension proposed.

(End of clause)

30. Section 252.236-7002 is redesignated as 252.236-7001 and revised to read as follows:

252.236-7001 Contract Drawings, Maps, and Specifications.

As prescribed in 236.570(a), use the following clause:

Contract Drawings, Maps, and Specifications (Feb 1991)

(a) The Government—

(1) Will provide the Contractor, without charge,_____sets (five unless otherwise specified) or large-scale contract drawings and specifications except publications incorporated into the technical provisions by reference;

(2) Will furnish additional sets on request, for the cost of reproduction; and

(3) May, at its option, furnish the Contractor one set of reproducibles, or half-size drawings, in lieu of the drawings in paragraph (a)(1) of this clause.

(b) The Contractor shall—

(1) Check all drawings furnished immediately upon receipt;

(2) Compare all drawings and verify the figures before laying out the work;

(3) Promptly notify the Contracting Officer of any discrepancies; and

(4) Be responsible for any errors which might have been avoided by complying with this paragraph (b).

(c) Large scale drawings shall, in general, govern small scale drawings. Figures marked on drawings shall, in general, be followed in preference to scale measurements.

(d) Omissions from the drawings or specifications or the misdescription of details of work which are manifestly necessary to carry out the intent of the drawings and specifications, or which are customarily performed, shall not relieve the contractor from performing such omitted or misdescribed details of the work, but shall be performed as if fully and correctly set forth and described in the drawings and specifications.

(e) The work shall conform to the specifications and the contract drawings identified on the following index of drawings:

Title File and Drawing No.

(End of clause)

31. Section 252.236-7006 is redesignated as 252.236-7002 and revised to read as follows:

252.236-7002 Obstruction of Navigable Waterways.

As prescribed in 236.570(b)(1), use the following clause:

Obstruction of Navigable Waterways (Feb 1991)

(a) The Contractor shall—

(1) Promptly recover and remove any material, plant, machinery, or appliance which the contractor loses, dumps, throws overboard, sinks or misplaces, and which, in the opinion of the Contracting Officer, may be dangerous to or obstruct navigation;

(2) Give immediate notice, with description and locations of any such obstructions, to the Contracting Officer; and

(3) When required by the Contracting Officer, mark or buoy such obstructions until the same are removed.

(b) The Contracting Officer may—

(1) Remove the obstructions should the Contractor refuse, neglect, or delay compliance with paragraph (a) of this clause; and

(2) Deduct the cost of removal from any monies due or to become due to the Contractor; or

(3) Recover the cost of removal under the Contractor's bond.

(c) The Contractor's liability for the removal of a vessel wrecked or sunk without fault or negligence is limited to that provided in Sections 15, 19, and 20 of the River and Harbor Act of March 3, 1899 (33 U.S.C. 410 *et.seq.*).

(End of clause)

252.236-7004 and 252.236-7005 [Removed]

32. Sections 252.236-7004 and 252.236-7005 are removed.

252.236-7006 [Removed]

33. Section 252.236-7006 is removed.

34. Section 252.236-7009(a) is redesignated as 252.236-7003 and revised to read as follows:

252.236-7003 Payment for Mobilization and Preparatory Work.

As prescribed in 236.570(b)(2), use the following clause:

Payment for Mobilization and Preparatory Work (Feb 1991)

(a) The Government will make payment to the Contractor under the procedures in this clause for mobilization and preparatory work under item no. _____.

(b) Payments will be made for actual payments by the Contractor on work preparatory to commencing actual work on the construction items for which payment is provided under the terms of this contract, as follows—

(1) For construction plant and equipment exceeding $25,000 in value per unit (as appraised by the Contracting Officer at the work site) acquired for the execution of the work;

(2) Transportation of all plant and equipment to the site;

(3) Material purchased for the prosecution of the contract, but not to be incorporated in the work;

(4) Construction of access roads or railroads, camps, trailer courts, mess halls, dormitories or living quarters, field headquarters facilities, and construction yards;

(5) Personal services; and

(6) Hire of plant.

(c) Requests for payment must include—

(1) A certified account of the Contractor's actual expenditures;

(2) Supporting documentation, including receipted bills or certified copies of payrolls and freight bills; and

(3) A Contractor's certificate—

(i) Showing that it has acquired the construction plant, equipment, and material free from all encumbrances;

(ii) Agreeing that the construction plant, equipment, and material will not be removed from the site; and

(iii) Agreeing that structures and facilities prepared or erected for the prosecution of the contract work will be maintained and not dismantled prior to the completion and acceptance of the entire work, without the written permission of the Contracting Officer.

(d) Upon receiving a request for payment, the Government will make payment, less any prescribed retained percentage, if—

(1) The Contracting Officer finds the—

(i) Construction plant, material, equipment, and the mobilization and preparatory work performed are suitable and necessary to the efficient prosecution of the contract; and

(ii) Preparatory work has been done with proper economy and efficiency.

(2) Payments for construction plant, equipment, material, and structures and facilities prepared or erected for prosecution of the contract work do not exceed—

(i) The Contractor's cost for the work performed less the estimated value upon completion of the contract; and

(ii) 100 percent of the cost to the contractor of any items having no appreciable salvage value; and

(iii) 75 percent of the cost to the contractor of items which do have an appreciable salvage value.

(e)(1) Payments will continue to be made for item no. _____, and all payments will be deducted from the contract price for this item, until the total deductions reduce this item to zero, after which no further payments will be made under this item.

(2) If the total of payments so made does not reduce this item to zero, the balance will be paid to the Contractor in the final payment under the contract.

(3) The retained percentage will be paid in accordance with the Payments to Contractor clause of this contract.

(f) The Contracting Officer shall determine the value and suitability of the construction plant, equipment, materials, structures and facilities. The Contracting Officer's determinations are not subject to appeal.

(End of clause)

35. Section 252.236–7009(b) is redesignated as 252.236–7004 and revised to read as follows:

252.236–7004 Payment for mobilization and demobilization.

As prescribed in 236.570(b)(2), use the following clause:

Payment for Mobilization and Demobilization (Feb 1991)

(a) The Government will pay all costs for the mobilization and demobilization of all of the Contractor's plant and equipment at the contract lump sum price for this item.

(1) _____ percent of the lump sum price upon completion of the contractor's mobilization at the work site.

(2) The remaining _____ percent upon completion of demobilization.

(b) The Contracting Officer may require the Contractor to furnish cost data to justify this portion of the bid if the Contracting Officer believes that the percentages in paragraphs (a) (1) and (2) of this clause do not bear a reasonable relation to the cost of the work in this contract.

(1) Failure to justify such price to the satisfaction of the Contracting Officer will result in payment, as determined by the Contracting Officer, of—

(i) Actual mobilization costs at completion mobilization;

(ii) Actual demobilization costs at completion of demobilization; and

(iii) The remainder of this item in the final payment under this contract.

(2) The Contracting Officer's determination of the actual costs in paragraph (b)(1) is not subject to appeal.

(End of clause)

252.236–7009 [Removed]

35a. The section heading of 252.236–7009 is removed.

36. Section 252.236–7011 is redesignated as 252.236–7005 and revised to read as follows:

252.236–7009 Airfield safety precautions.

As prescribed in 236.570(b)(3), use the following clause. At some airfields, the width of the primary surface is 1,500 feet (750 feet on each side of the runway centerline). In such instances, substitute the proper width in the clause.

Airfield Safety Precautions (Feb 1991)

(a) *Definitions.*

As used in this clause—

(1) "Landing areas" means—

(i) The primary surfaces, comprising the surface of the runway, runway shoulders, and lateral safety zones. The length of each primary surface is the same as the runway length. The width of each primary surface is 2,000 feet (1,000 feet on each side of the runway centerline);

(ii) The "clear zone" beyond the ends of each runway, i.e., the extension of the primary surface for a distance of 1,000 feet beyond each end of each runway;

(iii) All taxiways, plus the lateral clearance zones along each side for the length of the taxiways (the outer edge of each lateral clearance zone is laterally 250 feet from the far or opposite edge of the taxiway, e.g., a 75-foot-wide taxiway would have a combined width of taxiway and lateral clearance zones of 425 feet); and

(IV) All aircraft parking aprons, plus the area 125 feet in width extending beyond each edge all around the aprons.

(2) "Safety precaution areas" means those portions of approach-departure clearance zones and transitional zones where placement of objects incident to contract performance might result in vertical projections at or above the approach-departure clearance, or the transitional surface.

(i) The "approach-departure clearance surface" is an extension of the primary surface and the clear zone at each end of each runway, for a distance of 50,000 feet, first along an inclined (glide angle) and then along a horizontal plan, both flaring symmetrically about the runway centerline extended.

(A) The inclined plane (glide angle) begins in the clear zone 200 feet past the end of the runway (and primary surface) at the same elevation as the end of the runway. It continues upward at a slope of 50:1 (1 foot vertically for each 50 feet horizontally) to an elevation of 500 feet above the established airfield elevation. At that point the plane becomes horizontal, continuing at that same uniform elevation to a point 50,000 feet longitudinally from the beginning of the inclined plan (glide angle) and ending there.

(B) The width of the surface at the beginning of the inclined plane (glide angle) is the same as the width of the clear zone. It then flares uniformly, reaching the maximum width of 16,000 feet at the end.

(ii) The "approach-department clearance zone" is the ground area under the approach-departure clearance surface.

(iii) The "transitional surface" is a sideways extension of all primary surfaces, clear zones, and approach-departure clearance surfaces along inclined planes.

(A) The inclined plan in each case begins at the edge of the surface.

(B) The slope of the incline plane is 7:1 (1 foot vertically for each 7 feet horizontally). It continues to the point of intersection with the—

(*1*) Inner horizontal surface (which is the horizontal plane 150 feet above the established airfield elevation); or

(*2*) Outer horizontal surface (which is the horizontal plan 500 feet above the established airfield elevation), whichever is applicable.

(iv) The "transitional zone" is the ground area under the transitional surface. (It adjoins the primary surface, clear zone, and approach-departure clearance zone.)

(b) *General.*

(1) The Contractor shall comply with the requirements of this clause while—

(i) Operating all ground equipment (mobile or stationary);

(ii) placing all materials; and

(iii) Performing all work, upon and around all airfields.

(2) The requirements of this clause are in addition to any other safety requirements of this contract.

(c) The Contractor shall—

(1) Report to the Contracting Officer before initiating any work;

(2) Notify the Contracting Officer of proposed changes to locations and operations;

(3) Not permit either its equipment or personnel to use any runway for purposes other than aircraft operation without permission of the Contracting Officer, unless the runway is—

(i) Closed by order of the Contracting Officer, and

(ii) Marked as provided in paragraph (d)(2) of this clause;

(4) Keep all paved surfaces, such as runway, taxiways, and hardstands, clean at all times and, specifically, free from small stones which might damage aircraft propellers or jet aircraft;

(5) Operate mobile equipment according to the safety provisions of this clause, while actually performing work on the airfield. At all other time, the Contractor shall remove all mobile equipment to locations—

(i) Approved by the Contracting Officer.

(ii) At a distance of at least 750 feet from the runway centerline, plus any additional distance; and

(iii) Necessary to ensure compliance with the other provisions of this clause; and

(6) Not open a trench unless materials is on hand and ready for placing in the trench. As soon as practicable after material has been placed and work approved, the Contractor shall backfill and compact trenches as required by the contract. Meanwhile, all hazardous conditions shall be marked and lighted in accordance with the other provisions of this clause.

(d) *Landing areas.*

The Contractor shall—

(1) Place nothing upon the landing areas without the authorization of the Contracting Officer.

(2) Outline those landing areas hazardous to aircraft, using (unless otherwise authorized by the Contracting Officer) red flags, by day, and electric, battery-operated low-intensity red flasher lights by night;

(3) Obtain, at an airfield where flying is controlled, additional permission from the control tower operator every time before entering any landing area, unless the landing area is marked as hazardous in accordance with paragraph (d)(2) of this clause;

(4) Identify all vehicles it operates in landing areas by means of a flag on a staff attached to, and flying above, the vehicle. The flag shall be 3 of feet square, and consist of a checkered pattern of international orange and white squares of 1 foot on each side (except that the flag may vary up to 10 percent from each of these dimensions);

(5) Mark all other equipment and materials in the landing areas, using the same marking devices as in paragraph (d)(2) of this clause; and

(6) Perform work so as to leave that portion of the landing area which is available to aircraft free from hazards, holes, piles of material, and projection shoulders that might damage and airplane tire.

(e) *Safety percaution areas.*

The Contractor shall—

(1) Place nothing upon the safety precaution areas without authorization of the Contracting Officer.

(2) Mark all equipment and materials in safety precaution, areas, using (unless otherwise authorized by the Contracting Officer) red flag by day, and electric, battery-operated, low-intensity red flasher lights by night; and

(3) Provide all objects placed in safety precaution areas with a red light or red lantern at night, if the objects project above the approach-departure clearance surface or above the transitional surface.

(End of clause)

252.236-7010 [Removed]

37. Section 252.236-7010 is removed.

252.236-7012 through 252.236-7017 [Removed]

38. Sections 252.236-7012 through 252.236.7017 are removed.

39. Section 252.236-7061 is redesignated as 252.236-7006 and revised to read as follows:

252.236-7006 Cost Limitation.

As prescribed in 236.570(b)(4), use the following provision:

Cost Limitation (Feb 1991)

(a) Certain items in this solicitation are subject to statutory cost limitations. The limitations are stated in the Schedule.

(b) An offer which does not contain separate bid prices for the items identified in the Schedule are subject to a cost limitation may be considered nonresponsive.

(c) By signing its offer, the Offeror certifies that each price bid on items identified as subject to a cost limitation includes an appropriate apportionment of all costs, direct and indirect, overhead, and profit.

(d) Offers may be rejected which—

(1) Have been materially unbalanced for the purpose of bringing items within cost limitations; or

(2) Exceed the cost limitations, unless the limitations have been waived by the Government prior to award.

(End of provision)

40. Section 252.236-7062 is redesignated as 252.236-7007 and revised to read as follows:

252.236-7007 Additive or Deductive Items.

As prescribed in 236.570(b)(5), use the following provision:

Additive or Deductive Items (Feb 1991)

(a) The low offeror and the items to be awarded shall be determined as follows—

(1) Prior to the opening of bids, the Government will determine the amount of funds available for the project.

(2) The low offeror shall be the Offeror that—

(i) Is otherwise eligible for award; and

(ii) Offers the lowest aggregate amount for the first or base bid item, plus or minus (in the order stated in the list of priorities in the bid schedule) those additive or deductive items that provide the most features within the funds determined available.

(3) The Contracting Officer shall evaluate all bids on the basis of the same additive or deductive items.

(i) If adding another item from the bid schedule list of priorities would make the award exceed the available funds for all offerors, the Contracting Officer will skip that item and go to the next item from the bid schedule of priorities; and

(ii) Add that next item if an award may be made that includes that item and is within the available funds.

(b) The Contracting Officer will use the list of priorities in the bid schedule only to determine the low offeror. After determining the low offeror, an award may be made on any combination of items if—

(1) It is in the best interest of the Government;

(2) Funds are available at the time of award; and

(3) The low offeror's price for the combination is less than the price offered by any other responsive, responsible offeror.

(c) *Example.*

The amount available is $100,000. Offeror A's base bid and four additives (in the order stated in the list of priorities in the bid Schedule) are $85,000, $10,000, $8,000, $6,000, and $4,000. Offeror B's base bid and four additives are $80,000, $16,000 $9,000, $7,000, and $4,000. Offeror A is the low offeror. The aggregate amount of offeror A's bid for purposes of award would be $99,000, which includes a base bid plus the first and fourth additives. The second and third additive were skipped because each of them would cause the aggregate bid to exceed $100,000.

(End of provision)

41. Section 252.236-7018 is redesignated as 252.236-7008 and revised to read as follows:

252.236-7008 Option for Supervision and Inspection Services.

As prescribed in 236.609-70, use the following clause:

Option for Supervision and Inspection Services (Feb 1991)

(a) The Government may—

(1) At its option, direct the Contractor to perform any part or all of the supervision and inspection services for the construction contract as provided under Appendix A of this contract; and

(2) Exercise its option, by written order, at any time prior to 6 months after satisfactory

completion and acceptance of the work under this contract.

(b) Upon receipt of the Contracting Officer's written order, the Contractor shall proceed with the supervision and inspection services.

(End of clause)

252.236-7019 [Removed]

42. Section 252.236-7019 is removed.

43. Section 252.247-7000 is revised to read as follows:

252.247-7000 Hardship Conditions.

As prescribed in 247-270-7(a), use the following clause:

Hardship Conditions (Feb 1991)

(a) The Contractor shall promptly notify the Contracting Officer of unusual conditions associated with loading or unloading a particular cargo, which will work a hardship on the Contractor if loaded or unloaded at the basic commodity rates.

(b) Unusual conditions include, but are not limited to, inaccessibility of place of stowage to the ship's cargo gear, side port operations, and small quantities of cargo in any one hatch.

(c) The Contracting Officer shall investigate the conditions promptly after receiving the notice. If the Contracting Officer finds that the conditions are unusual and do materially affect the cost of loading or unloading, the Contracting Officer will authorize payment at the extra-labor rates set forth in the schedule of rates of this contract.

(End of clause)

252.247-7001 [Removal]

44. Section 252.247-7001 is removed.

45. Section 252.247-7002 is redesignated as 252.247-7001 and revised to read as follows:

252.247-7001 Price Adjustment.

As prescribed in 274.270-7(b), use the following clause:

Price Adjustment (Feb 1991)

(a) The Contractor warrants that the prices set forth in this contract—

(1) Are based upon the wage rates, allowances, and conditions set forth in the collective bargaining agreements between the Contractor and its employees, in effect as of (*insert date*), and which are generally applicable to the ports where work under this contract is performed;

(2) Apply to operations by the Contractor on non-Government work as well as under this contract; and

(3) Do not include any allowance for cost increases that may—

(i) Become effective under the terms of the collective bargaining agreements after the date in paragraph (a)(1) of this clause; or

(ii) Result from modification of the collective bargaining agreements after the date in paragraph (a)(1) of this clause.

(b) The Contractor shall notify the Contracting Officer within 60 days of receipt of notice of any changes (increase or decrease) in the wage rates, allowances, fringe benefits, and conditions that apply to its direct labor employees, if the changes—

(1) Are pursuant to the provisions of the collective bargaining agreements, or

(2) Are a result of effective modifications to the agreements; and

(3) Would change the Contractor's costs to perform this contract.

(c) The Contractor shall include in its notification—

(1) A proposal for an adjustment in the contract commodity, activity, or man-hour prices; and

(2) Data, in such form as the Contracting Officer may require, explaining the—

(i) Causes;

(ii) Effective date; and

(iii) Amount of the increase or decrease in the Contractor's proposal for the adjustment.

(d) Promptly upon receipt of any notice and data described in paragraph (c), the Contractor and the Contracting Officer shall negotiate an adjustment in the existing contract commodity, activity, or man-hour prices. However, no upward adjustment of the existing commodity, activity, or man-hour prices will be allowed in excess of _____ percent per year, except as provided in the Changes clause of this contract.

(1) Changes in the contract prices shall reflect, in addition to the direct and variable indirect labor costs, the associated changes in the costs for social security, unemployment compensation, taxes, and workman's compensation insurance.

(2) There will be no adjustment to increase the dollar amount allowances of the Contractor's profit.

(3) The agreed upon adjustment, its effective date, and the revised commodity, activity, or man-hour prices for services set forth in the schedule of rates, shall be incorporated in the contract by supplemental agreement.

(e) There will be no adjustment for any changes in the quantities of labor that the Contractor contemplated for each specific commodity, except as may result from modifications of the collective bargaining agreements. For the purpose of administering this clause, the Contractor shall submit to the Contracting Officer, within 5 days after award, the accounting data and computations the Contractor used to determine its estimated efficiency rate in the performance of this contract, to include the Contractor's computation of the costs apportioned for each rate set forth in the schedule of rates.

(f) Failure of the parties to agree to an adjustment under this clause will be deemed to be a dispute concerning a question of fact within the meaning of the Disputes clause of this contract. The Contractor shall continue performance pending agreement on, or determination of, any such adjustment and its effective date.

(g) The Contractor shall include with the final invoice submitted under this contract a certification that the Contractor has not experienced a decrease in rates of pay for labor, or that the Contractor has given notice of all such decreases in compliance with paragraph (b) of this clause.

(End of clause)

46. Section 252.247-7003 is redesignated as 252.247-7002 and revised to read as follows:

252.247-7002 Revision of Prices.

As prescribed in 247.270-7(c), use the following clause:

Revision of Prices (FEB 1991)

(a) *Definition.*

"Wage adjustment," as used in this clause, means a change in the wages, salaries, or other terms or conditions of employment which—

(i) Substantially affects the cost of performing this contract;

(ii) Is generally applicable to the port where work under this contract is performed; and

(iii) Applies to operations by the Contractor on non-Government work as well as to work under this contract.

(b) *General.*

The prices fixed in this contract are based on wages and working conditions established by collective bargaining agreements, and on other conditions in effect on the date of this contract. The Contracting Officer and the Contractor may agree to increase or decrease such prices in accordance with this clause.

(c) *Demand for negotiation.*

(1) At any time, subject to the limitations specified in this clause, either the Contracting Officer or the Contractor may deliver to the other a written demand that the parties negotiate to revise the prices under this contract.

(2) No such demand shall be made before 90 days after the date of this contract, and thereafter neither party shall make a demand having an effective date within 90 days of the effective date of any prior demand. However, this limitation does not apply to a wage adjustment during the 90 day period.

(3) Each demand shall specify a date (the same as or subsequent to the date of the delivery of the demand) as to when the revised prices shall be effective. The date is the effective date of the price revision.

(i) If the Contractor makes a demand under this clause, the demand shall briefly state the basis of the demand and include the statements and data referred to in paragraph (d) of this clause.

(ii) If the demand is made by the Contracting Officer, the Contractor shall furnish the statements and data within 30 days of the delivery of the demand.

(d) *Submission of data.*

At the times specified in paragraph (c)(3) (i) and (ii) of this clause, the Contractor shall submit—

(1) A new estimate and breakdown of the unit cost and the proposed prices for the services the Contractor will perform under this contract after the effective date of the price revision, itemized to be consistent with the original negotiations of the contract;

(2) An explanation of the difference between the original (or last proceding) estimate and the new estimate;

(3) Such relevant operating data, cost records, overhead absorption reports, and accounting statements as may be of

assistance in determining the accuracy and reliability of the new estimate;

(4) A statment of the actual costs of performance under this contract to the extent that they are available at the time of the negotiation of the revision of prices under this clause; and

(5) Any other relevant data usually furnished in the case of negotiations of prices under a new contract. The Government may examine and audit the Contractor's accounts, records, and books as the Contracting Officer considers necessary.

(e) *Negotiations.*

(1) Upon the filing of the statements and data required by paragraph (d) of this clause, the Contractor and the Contracting Officer shall negotiate promptly in good faith to agree upon prices for services the Contractor will perform on and after the effective date of the price revision.

(2) If the prices in this contract were established by competitive negotiation, they shall not be revised upward unless justified by changes in conditions occurring after the contract was awarded.

(3) The agreement reached after each negotiation will be incorporated into the contract by supplemental agreement.

(f) *Disagreements.*

If, within 30 days after the date on which statements and data are required pursuant to paragraph (c) of this clause, the Contracting Officer and the Contractor fail to agree to revised prices, the failure to agree shall be resolved in accordance with the Disputes clause of this contract. The prices fixed by the Contracting Officer will remain in effect for the balance of the contract, and the Contractor shall continue performance.

(g) *Retroactive changes in wages or working conditions.*

(1) In the event of a retroactive wage adjustment, the Contractor or the Contracting Officer may request an equitable adjustment in the prices in this contract.

(2) The Contractor shall request a price adjustment within 30 days of any retroactive wage adjustment. The Contractor shall support its request with—

(i) An estimate of the changes in cost resulting from the retroactive wage adjustment;

(ii) Complete information upon which the estimate is based; and

(iii) A certified copy of the collective bargaining agreement, arbitration award, or other document evidencing the retroactive wage adjustment.

(3) Subject to the limitation in paragraph (g)(2) as to the time of making a request, completion or termination of this contract shall not affect the Contractor's right under paragraph (g).

(4) In case of disagreement concerning any question of fact, including whether any adjustment should be made, or the amount of such adjustment, the disagreement will be resolved in accordance with the Disputes clause of this contract.

(5) The Contractor shall notify the Contracting Officer in writing of any request by or on behalf of the employees of the Contractor which may result in a retroactive wage adjustment. The notice shall be given within 20 days after the request, or if the request occurs before contract execution, at the time of execution.

(End of clause)

47. Section 252.247–7004 is redesignated as 252.247–7003 and revised to read as follows:

252.247–7003 Changes.

As prescribed in 247.270–7(d), use the following clause:

Changes (Feb 1991)

(a) The Contracting Officer may, at any time by written order, and without notice to the sureties, make changes within the general scope of this contract.

(b) If any such change causes an increase or decrease in the cost of the performance of any part of the work under this contract, the Contracting Officer and the Contractor shall negotiate an equitable adjustment in the contract price or the schedule of rates.

(c) The Contractor must claim any adjustment under this clause within 30 days of receipt of the notification of change. The Contracting Officer may decide to receive and act on any such claim at any time before final payment under this contract.

(d) Failure to agree to any adjustment shall be a dispute under the Disputes clause of this contract. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

(End of clause)

48. Section 252.247–7005 is redesignated as 252.247–7004 and revised to read as follows:

252.247–7004 Termination.

As prescribed in 247.270–7(e), use the following clause:

Termination (Feb 1991)

(a) Either the Contracting Officer or the Contractor may terminate this contract at any time upon 60 days (or such other number of days provided in the Schedule) written notice to the other. Termination under this clause does not affect any obligation or liability that may have accrued before the termination.

(b) Upon termination of this contract under either paragraph (a) or the Default clause of this contract, the Government shall pay the Contractor any amount due for services performed under this contract to the date of termination.

(c) In the event of partial termination, payment for services furnished under the portion of the contract not terminated shall be in accordance with the terms of this contract.

(d) Any payment under this clause shall be without prejudice to any Government claim against the Contractor. The Government has the right to offset any such claims against any such payment.

(End of clause)

49. Section 252.247–7006 is redesignated as 252.247–7005 and revised to read as follows:

252.247–7005 Indefinite Quantities—Fixed Charges.

As prescribed in 247.270–7(f), use the following clause:

Indefinite Quantities—Fixed Charges (Feb 1991)

The amount of work and services the Contractor may be ordered to furnish shall be the amount the Contracting Officer may order from time to time. In any event, the Government is obligated to compensate the Contractor the monthly lump sum specified in the Schedule entitled Fixed Charges, for each month or portion of a month the contract remains in effect.

(End of clause)

50. Section 252.247–7007 is redesignated as 252.247–7006 and revised to read as follows:

252.247–7006 Indefinite Quantities—No Fixed Charges.

As prescribed in 247.270–7(g), use the following clause:

Indefinite Quantities—No Fixed Charges (Feb 1991)

The amount of work and services the Contractor may be ordered to furnish shall be the amount the Contracting Officer may order from time to time. In any event, the Government shall order, during the term of this contract, work or services having an aggregate value of not less than $100.

(End of clause)

252.247–7008 [Removed]

51. Section 252.247–7008 is removed.

52. Section 252.247–7009 is redesignated as 252.247–7007 and revised to read as follows:

252.247–7007 Removal of Contractor's Employees.

As prescribed in 247.270–7(h), use the following clause:

Removal of Contractor's Employees (Feb 1991)

The Contractor agrees to use only experienced, responsible, and capable people to perform the work. The Contracting Officer may require that the Contractor remove from the job, employees who endanger persons or property, or whose continued employment under this contract is inconsistent with the interest of military security.

(End of clause)

53. Section 252.247–7010 is redesignated as 252.247–7008 and revised to read as follows:

252.247–7008 Liability and Insurance.

As prescribed in 247.270–7(i), use the following clause:

Liability and Insurance (Feb 1991)

(a) The Contractor shall be—

(1) Liable to the Government for loss or damage to property, real and personal,

owned by the Government or for which the Government is liable;

(2) Responsible for, and hold the Government harmless from, loss of or damage to property not included in paragraph (a)(1) of this clause; and

(3) Responsible for, and hold the Government harmless from, bodily injury and death of persons, resulting either in whole or in part from the negligence or fault of the Contractor, its officers, agents, or employees in the performance of work under this contract.

(b) For the purpose of this clause, all cargo or unloaded under this contract is agreed to be property owned by the Government or property for which the Government is liable.

(1) The amount of the loss or damage as determined by the Contracting Officer will be withheld from payments otherwise due the Contractor.

(2) Determination of liability and responsibility by the Contracting Officer will constitute questions of fact within the meaning of the Disputes clause of this contract.

(c) The general liability and responsibility of the Contractor under this clause are subject only to the following specific limitations. The Contractor is not responsible to the Government for, and does not agree to hold the Government harmless from, loss or damage to property or bodily injury to or death of persons if—

(1) The unseaworthiness of the vessel, or failure or defect of the gear or equipment furnished by the Government, contributed jointly with the fault or negligence of the Contractor in causing such damage, injury, or death, and

(i) The Contractor, his officers, agents, and employees, by the exercise of due diligence, could not have discovered such unseaworthiness or defect of gear or equipment; or

(ii) Through the exercise of due diligence could not otherwise have avoided such damage, injury, or death.

(2) The damage, injury, or death resulted solely from an act or omission of the Government or its employees, or resulted solely from proper compliance by officers, agents, or employees of the Contractor with specific directions of the Contracting Officer.

(d) The Contractor shall at its own expense acquire and maintain insurance during the term of this contract, as follows—

(1) Standard workmen's compensation and employer's liability insurance and longshoremen's and harbor worker's compensation insurance, or such of these as may be proper under applicable state or Federal statutes.

(i) The Contractor may, with the prior approval of the Contracting Officer, be a self-insurer against the risk of this paragraph (d)(1).

(ii) This approval will be given upon receipt of satisfactory evidence that the Contractor has qualified as a self-insurer under applicable provision of law.

(2) Bodily injury liability insurance in an amount of not less than $300,000 on account of any one occurrence.

(3) Property damage liability insurance (which shall include any and all property, whether or not in the care, custody, or control of the Contractor) in an amount of not less than $300,000 for any one occurrence.

(e) Each policy shall provide, by appropriate endorsement or otherwise, that cancellation or material change in the policy shall not be effective until after a 30 day written notice is furnished the Contracting Officer.

(f) The Contractor shall furnish the Contracting Officer with satisfactory evidence of the insurance required in paragraph (d) of this clause before performance of any work under this contract.

(g) The Contractor shall, at its own cost and expense, defend any suits, demands, claims, or actions, in which the United States might be named as a co-defendant of the Contractor, resulting from the Contractor's performance of work under this contract. This requirement is without regard to whether such suit, demand, claim, or action was the result of the Contractor's negligence. The Government shall have the right to appear in such suit, participate in defense, and take such actions as may be necessary to protect the interest of the United States.

(h) It is expressly agreed that the provisions in paragraph (d) through (g) of this clause shall not in any manner limit the liabilty or extend the liability of the Contractor as provided in paragraph (a) through (c) of this clause.

(i) The Contractor shall—

(1) Equitably reimburse the Government if the Contractor is indemnified, reimbursed, or relieved of any loss or damage to Government property;

(2) Do nothing to prevent the Government's right to recover against third parties for any such loss or damage; and

(3) Upon the request of the Contracting Officer, shall at the Government's expense, furnish the Government all reasonable assistance and cooperation in obtaining recovery, including the prosecution of suit and the execution of instruments of assignment in favor of the Government.

(End of clause)

54. Section 252.247–7100 is redesignated as 252.247–7009 and revised to read as follows:

252.247–7009 Evaluation of Bids.

As prescribed in 247.271–4(a), use the following provision:

Evaluation of bids (Feb 1991)

(a) The Government will, evaluate bids on the basis of total aggregate price of all items within an area of performance under a given schedule.

(1) An offeror must bid on all items within a specified area of performance for a given schedule. Failure to do so shall be cause for rejection of the bid for that area of performance of that Schedule. If there is to be no charge for an item, an entry such as "No Charge," or the letters "N/C" or "O," must be made in the unit price column of the Schedule.

(2) Any bid which stipulates minimum charges or graduated prices for any or all items shall be rejected for that area of performance within the Schedule.

(b) In addition to other factors, the Contracting Officer will evaluate bids on the basis of advantages or disadvantages to the Government that might result from making more than one award (multiple awards).

(1) In making this evaluation, the Contracting Officer will assume that the administrative cost to the Government for issuing and administering each contract awarded under this solicitation would be $500.

(2) Individual awards will be for the items and combinations of items which result in the lowest aggregate cost to the Government, including the administrative costs in paragraph (b)(1).

(c) When drayage is necessary for the accomplishment of any item in the bid schedule, the Offeror shall include in the unit price any costs for bridge or ferry tolls, road use charges or similar expenses.

(d) Unless otherwise provided in this solicitation, the Offeror shall state prices in amounts per hundred pounds on gross or net weights, whichever is applicable. All charges shall be subject to, and payable on, the basis of 100 pounds minimum weight for unaccompanied baggage and a 500 pound minimum weight for household goods, net or gross weight, whichever is applicable.

(End of provision)

Alternate I (Feb 1991)

As prescribed in 247.271–4(a), add the following paragraph (e) to the basic clause:

(e) Notwithstanding paragraph (a), when "additional services" are added to any schedule, such "additional services" items will not be considered in the evaluation of bids.

55. Section 252.247–7101 is redesignated as 252.247–7010 and revised to read as follows:

§ 252.247–7010 Award.

As prescribed in 247.271–4(b), use the following provision:

Award (Feb 1991)

(a) The Government shall make award by area to the qualified low bidder under each of the specified schedules to the extent of the bidder's stated guaranteed daily capability as provided in this solicitation and the Estimated Quantities Schedule.

(b) The Government reserves the right to make an award of two or more areas to a single bidder if such award will result in an overall lower estimated cost to the Government.

(c) The Government also reserves the right to award additional contracts, as a result of this solicitation, to the extent necessary to meet its estimated maximum daily requirements.

(End of provision)

252.247–7102 [Removed]

56. Section 252.247–7102 is removed.

57. Section 252.247–7103 is redesignated as 252.247–7011 and revised to read as follows:

252.247-7011 Scope of Contract.

As prescribed in 247.271-4(d), use the following clause:

Scope of Contract (Feb 1991)

(a) The Contractor shall furnish services and materials for the preparation of personal property (including servicing of appliances) for movement or storage, drayage and related services. Unless otherwise indicated in the Schedule, the Contractor shall—

(1) Furnish all materials except Government-owned containers (Federal Specification PPP-B-580), all equipment, plant and labor; and

(2) Perform all work in accomplishing containerization of personal property for overseas or domestic movement or storage, including—

(i) Stenciling;

(ii) Cooperage;

(iii) Drayage of personal property in connection with other services;

(iv) Decontainerization of inbound shipments of personal property; and

(v) The handling of shipments into and out of the Contractor's facility.

(b) Excluded from the scope of this contract is the furnishing of like services or materials which are provided incident to complete movement of personal property when purchased by the Through Government Bill of Lading or other method/mode of shipment or property to be moved under the Do-it-Yourself moving program or otherwise moved by the owner.

(End of clause)

58. Section 252.247-7104 is redesignated as 252.247-7012 and revised to read as follows:

252.247-7012 Period of Contract.

As prescribed in 247.271-4(e), use the following clause:

Period of Contract (Feb 1991)

(a) This contract begins January 1, 19____, and ends December 31, 19____, BOTH DATES INCLUSIVE. ANY WORK ORDERED BEFORE, AND NOT COMPLETED BY THE EXPIRATION DATE SHALL BE GOVERNED BY THE TERMS OF THIS CONTRACT.

(b) The Government will not place new orders under this contract that require that performance commence more than 15 days after the expiration date.

(c) The Government may place orders required for the completion of services (for shipments in the Contractor's possession) for 180 days past the expiration date.

(End of clause)

59. Section 252.247-7105 is redesignated as 252.247-7013 and revised to read as follows:

252.247-7013 Ordering Limitation.

As prescribed in 247.271-4(g), use the following clause:

Ordering Limitations (Feb 1991)

(a) The Government will place orders for items of supplies or services with the contractor awarded the initial contract to the extent of the contractor's guaranteed maximum daily capability. However, the contractor may accept an additional quantity in excess of its capability to accommodate a single order.

(b) Orders for additional requirements will be placed in a like manner with the next higher contractor to the extent of its guaranteed maximum daily capability. The Government will repeat this procedure until its total daily requirement is fulfilled.

(c) In the event the procedure in paragraphs (a) and (b) of this clause does not fulfill the Government's total daily requirement, the Government may offer additional orders under the contract to contractors without regard to their guaranteed maximum daily capability.

(End of clause)

60. Section 252.247-7106 is redesignated as 252.247-7014 and revised to read as follows:

252.247-7014 Contract Areas of Performance.

As prescribed in 247.271-4(h), use the following clause and complete paragraph (b) by defining each area of performance as required (see 247.271-2(b)):

Contract Areas of Performance (Feb 1991)

(a) The Government will consider all areas of performance described in paragraph (b) as including the Contractor's facility, regardless of geographical location.

(b) The Contractor shall perform services within the following defined areas of performance, which include terminals identified therein.

(End of clause)

61. Section 252.247-7107 is redesignated as 252.247-7015 and revised to read as follows:

252.247-7015 Requirements.

As prescribed in 247.271-4(i), substitute the following paragraph (f) for paragraph (f) of the basic clause at FAR 52.216-21.

Alternate (Feb 1991)

(f) Orders issued during the effective period of this contract and not completed within the time shall be completed by the Contractor within the time specified in the order. The rights and obligations of the Contractors and the Government for those orders shall be governed by the terms of this contract to the same extent as if completed during the effective period.

252.247-7108 [Removed]

62. Section 252.247-7108 is removed.

63. Section 252.247-7109 is redesignated as 252.247-7016 and revised to read as follows:

252.247-7016 Demurrage.

As prescribed in 247.271-4(j), use the following clause:

Demurrage (Feb 1991)

The Contractor shall be liable for all demurrage, detention, or other charges as a result of its failure to load or unload trucks, freight cars, freight terminals, vessel piers, or warehouses within the free time allowed under applicable rules and tariffs.

(End of clause)

64. Sections 252.247-7110 through 252.247-7114 are redesignated as 252.247-7017 through 252.247-7021 and revised to read as follows:

252.247-7017 Contractor liability for loss or damage.

As prescribed in 247.271-4(k), use the following clause:

Contractor Liability for Loss or Damage (Feb 1991)

(a) *Definitions.*

As used in this clause—

"Article" means any shipping piece or package and its contents.

"Schedule" means the level of service for which specific types of traffic apply as described in DoD 4500.34R, Personal Property Traffic Management Regulation.

(b) For shipments picked up under Schedule I, Outbound Services, or delivered under Schedule II, Inbound Services—

(1) If notified within 1 year after delivery that the owner has discovered loss or damage to the owner's property, the Contractor agrees to indemnify the Government for loss or damage to the property which arises from any cause while it is in the Contractor's possession. The Contractor's liability is—

(i) *Non-negligent damage.*

For any cause, other than the Contractor's negligence, indemnification shall be at a rate not to exceed sixty cents per pound per article.

(ii) *Negligent damage.*

When loss or damage is caused by the negligence of the Contractor, the liability is for the full cost of satisfactory repair or for the current replacement value of the article.

(2) The Contractor shall make prompt payment to the owner of the property for any loss or damage for which the Contractor is liable.

(3) In the absence of evidence or supporting documentation which places liability on a carrier or another contractor, the destination contractor shall be presumed to be liable for the loss or damage, if timely notified.

(c) For shipments picked up or delivered under Schedule III, Intra-City and Intra-Area—

(1) If notified of loss or damage within 75 days following delivery, the Contractor agrees to indemnify the Government for loss or damage to the owner's property.

(2) The Contractor's liability shall be for the full cost of satisfactory repair, or for the current replacement value of the article less depreciation, up to a maximum liability of $1.25 per pound times the net weight of the shipment.

(3) The Contractor has full salvage rights to damaged items which are not repairable and for which the Government has received compensation at replacement value.

(End of clause)

252.247-7018 Erroneous shipments.

As prescribed in 247.271-4(i), use the following clause:

Erroneous Shipments (Feb 1991)

(a) The Contractor shall—

(1) Forward to the rightful owner, articles of personal property inadvertently packed with goods of other than the rightful owner.

(2) Ensure that all shipments are stenciled correctly. When a shipment is sent to an incorrect address due to incorrect stenciling by the Contractor, the Contractor shall forward it to its rightful owner.

(3) Deliver to the designated air or surface terminal all pieces of a shipment, in one lot, at the same time. The Contractor shall forward to the owner any pieces of one lot not included in delivery, and remaining at its facility after departure of the original shipment.

(b) Forwarding under paragraph (a) of this clause shall be—

(1) With the least possible delay;

(2) By a mode of transportation selected by the Contracting Officer; and

(3) At the Contractor's expense.

(End of clause)

252.247-7019 Subcontracting.

As prescribed in 247.271-4(m), use the following clause:

Subcontracting (Feb 1991)

The Contractor shall not subcontract without the prior written approval of the Contracting officer. The facilities of any approved subcontractor shall meet the minimum standards required by this contract.

(End of clause)

252.247-7020 Drayage.

As prescribed in 247.271-4(n), use the following clause:

Drayage (Feb 1991)

(a) Drayage included for Schedule I, Outbound, applies in those instances when a shipment requires drayage to an air, water, or other terminal for onward movement after completion of shipment preparation by the Contractor. Drayage not included is when it is being moved from a residence or other pickup point to the Contractor's warehouse for onward movement by another freight company, carrier, etc.

(b) Drayage included for Schedule II, Inbound, applies in those instances when shipment is delivered, as ordered, from a destination Contractor's facility or other destination point to the final delivery point. Drayage not included is when shipment or partial removal of items from shipment is performed and prepared for a member's pickup at destination delivery point.

(c) The Contractor will reposition empty government containers—

(1) Within the area of performance;

(2) As directed by the Contracting Officer; and

(3) At no additional cost to the Government

(End of clause)

252.247-7021 Additional Services.

As prescribed in 247.271-4(o), use the following clause:

Additional Services (Feb 1991)

The Contractor shall provide additional services not included in the schedule, but required for satisfactory completion of the services ordered under this contract, at a rate comparable to the rate for like services as contained in tenders on file with the Interstate Commerce Commission, state regulatory bodies, or the Military Traffic Management Command, in effect at a time of order.

(End of clause)

252.247-7200 [Removed]

65. Section 252.247-7200 is removed.

66. Section 252.247-7201 is redesignated as 252.247-7022 and revised to read as follows:

252.247-7022 Returnable Cylinders and Other Containers.

As prescribed in 247.305-70, use the following clause:

Returnable Cylinders and Other Containers (Feb 1991)

(a) Cylinders/containers shall remain the Contractor's property but shall be loaned without charge to the Government for a period of 30 days after delivery to the f.o.b. point specified in the contract. Beginning with the first day after the loan period expires, to and including the day the cylinders/containers are delivered to the Contractor (if the original delivery was f.o.b. origin) or are delivered or are made available for delivery to the Contractor's designated carrrier (if the original delivery was f.o.b. destination), the Government shall pay the Contractor a rental of $_____ (Insert dollar amount for rental) per cylinder/container per day, regardless of type or capacity.

(b) This rental charge will be computed separately for cylinders/containers for each type, size, and capacity, and for each point of delivery named in the contract. A credit of 30 cylinder/container days will accrue to the Government for each cylinder/container, regardless of type or capacity, delivered by the Contractor. A debit of one cylinder/container day will accrue to the Government for each cylinder/container for each day after delivery to the f.o.b. point specified in this contract. At the end of the contract, if the debit total exceeds the credit total, rental shall be charged for the difference. If the credit total equals or exceeds the debit total, no rental shall be charged. No rental shall accrue to the Contractor in excess of replacement value per cylinder/container specified in pargraph (c) of this clause.

(c) For each cylinder/container lost or damaged beyond repair while in the Government's possession, the Government shall pay to the Contractor the replacement value as follows, less the allocable rental paid for that cylinder/container.

(Insert the cylinder/container types, sizes, capacities, and associated replacement values.)

(d) Cylinders/containers lost or damaged beyond repair and paid for by the Government shall become Government property, subject to the following:

If any lost cylinder/container is located within _____ (insert number of days) calendar days after payment of the Government, it may be returned to the Contractor by the Government, and the Contractor shall pay to the Government the replacement value, less rental computed in accordance with paragraph (a) of this clause, beginning at the expiration of the 30 day loan period specified in paragraph (a) of this clause, and continuing to the date on which the cylinder/container was delivered to the Contractor.

(End of clause)

252.247-7202 through 252.247-7004 [Removed]

67. Sections 252.247-7202 through 252.247-7204 are removed and section 252.247-7023 is added to read as follows:

252.247-7023 Extend of Transportation of Supplies by Sea.

As prescribed in 247.573, use the following clause:

Extent of Transportation of Supplies by Sea (FEB 1991)

(a) *Definitions.*

As used in this clause—

(1) "Components" means articles, materials, and supplies incorporated directly into end products at any level of manufacture, fabrication, or assembly by the contractor or any subcontractor.

(2) "Department of Defense" (DoD) means the Army, Navy, Air Force, Marine Corps, and Defense Agencies.

(3) "Foreign flag vessel" means any vessel that is not a U.S.-flag vessel.

(4) "Ocean transportation" means any transportation aboard a ship, vessel, boat, barge, or ferry through international waters.

(5) "Subcontractor" means a supplier, materialman, distributor, or vendor at any level below the prime contractor whose contractual obligation to perform results from, or is conditioned upon, award of the prime contract and who is performing any part of the work or other requirement of the prime contract.

(6) "Supplies" means all property, except land and interests in land, that is clearly identifiable for eventual use by or owned by the DoD at the time of transportation by sea.

(i) An item is clearly identifiable for eventual use by the DoD if, for example, the contract documentation contains a reference to a DoD contract number or a military destination.

(ii) "Supplies" includes (but is not limited to) public works; buildings and facilities; ships; floating equipment and vessels of every character, type, and description, with parts, subassemblies, accessories, and equipment; machine tools; material; equipment; stores of all kinds, end items; construction materials; and components of the foregoing.

(7) "U.S.-flag vessel" means a vessel of the United States or belonging to the United

States, including any vessel registered or having national status under the laws of the United States.

(b) *Representation.* The Offeror represents that it does (does not) anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

(c) The Contractor shall employ U.S.-flag vessels, and no others, in the transportation by sea of any supplies to be furnished in the performance of this contract. The Contractor and its subcontractors may request that the Contracting Officer authorize shipment in foreign-flag vessels, or designate available U.S.-flag vessels, if the Contractor or a subcontractor believes that—

(1) U.S.-flag vessels are not available for timely shipment;

(2) The freight charges are excessive or unreasonable; or

(3) Freight charges are higher than charges to private persons for transportation of like goods.

(d) The Contractor must submit any request for use of other than U.S.-flag vessels in writing to the Contracting Officer at least 45 days prior to the sailing date necessary to meet its delivery schedules. The Contracting Officer will process requests submitted after such date(s) as expeditiously as possible, but the Contracting Officer's failure to grant approvals to meet the shipper's sailing date will not of itself constitute a compensable delay under this or any other clause of this contract. Requests shall contain at a minimum—

(1) Type, weight, and cube of cargo;

(2) Required shipping date;

(3) Special handling and discharge requirements;

(4) Loading and discharge points;

(5) Name of shipper and consignee;

(6) Prime contract number; and

(7) A documented description of efforts made to secure U.S.-flag vessels, including points of contact (with names and telephone numbers) with at least two U.S.-flag carriers contacted. Copies of telephone notes, telegraphic and facsimile message or letters will be sufficient for this purpose.

(e) The Contractor shall, within 30 days after each shipment covered by this clause, provide the Contracting Officer and the Division of National Cargo, Office of Market Development, Maritime Administration, U.S. Department of Transportation, Washington, DC 20590, one copy of the rated on board vessel operating carrier's ocean bill of lading, which shall contain the following information—

(1) Prime contract number;

(2) Name of vessel;

(3) Vessel flag of registry;

(4) Date of loading;

(5) Port of loading;

(6) Port of final discharge;

(7) Description of commodity;

(8) Gross weight in pounds and cubic feet if available;

(9) Total ocean freight in U.S. dollars; and

(10) Name of the steamship company.

(f) The Contractor agrees to provide with its final invoice under this contract a representation that to the best of its knowledge and belief—

(1) No ocean transportation was used in the performance of this contract;

(2) Ocean transportation was used and only U.S.-flag vessels were used for all ocean shipments under the contract. Legible copies of shipping documents were submitted with the applicable invoices to the payment office, to the Contracting Officer, and to the Maritime Administration in accordance with paragraph (e) of this clause;

(3) Ocean transportation was used, and the Contractor had the written consent of the Contracting Officer for all non-U.S.-flag ocean transportation; or

(4) Ocean transportation was used and some or all of the shipments were made on non-U.S.-flag vessels without the written consent of the Contracting Officer. Described these shipments in the following format:

ITEM DESCRIPTION	CONTRACT LINE ITEM	QUANTITY
TOTAL		

(g) If the final invoice does not include the required representation, the Government will reject and return it to the Contractor as an improper invoice for the purposes of the Prompt Payment clause of this contract. In the event there has been unauthorized use of non-U.S.-flag vessels in the performance of this contract, the Contracting Officer is entitled to equitably adjust the contract, based on the unauthorized use.

(h) The Contractor shall include this clause, including this paragraph (h) in all subcontracts under this contract.

(End of clause)

68. Section 252.249–7000 is revised to read as follows:

252.249–7000 Special Termination Costs.

As prescribed in 249.501–70, use the following clause:

Special Termination Costs (Feb 1991)

(a) Definition.

"Special termination costs," as used in this clause means only costs in the following categories as defined in part 31 of the Federal Acquisition Regulation (FAR)—

(1) Severance pay, as provided in FAR 31.205–6(g);

(2) Reasonable costs continuing after termination, as provided in FAR 31.205–42(b);

(3) Settlement of expenses, as provided in FAR 31.205–42(g);

(4) Costs of return of field service personnel from sites, as provided in FAR 31.205–35 and FAR 31.205–46(c); and

(5) Costs in paragraphs (a) (1), (2), (3), and (4) of this clause to which subcontractors may be entitled in the event of termination.

(b) Notwithstanding the Limitation of Cost/Limitation of Funds clause of this contract, the Contractor shall not include in its estimate of costs incurred or to be incurred, any amount for special termination costs to which the Contractor may be entitled in the event this contract is terminated for the convenience of the Government.

(c) The Contractor agrees to perform this contract in such a manner that the Contractor's claim for special termination costs will not exceed $_____. The Government shall have no obligation to pay the Contractor any amount for the special termination costs in excess of this amount.

(d) In the event of termination for the convenience of the Government, this clause shall not be construed as affecting the allowability of special termination costs in any manner other than limiting the maximum amount of the costs payable by the Government.

(e) This clause shall remain in full force and effect until this contract is fully funded.

(End of clause)

PART 253—FORMS

69. The authority for 48 CFR part 253 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, FAR subpart 1.3.

Subpart 253.2—Prescription of Forms

70. Sections 253.208, 253.208–1 and 253.208–2 are added to read as follows:

253.208 Required sources of supplies and services.

253.208–1 DD Form 448, Military Interdepartmental Purchase Request.

(a) Use the DD Form 448 as prescribed in subpart 208.70.

(b) Prepare MIPR information in uniform contract format when possible. Overprint of fixed repetitive information is authorized.

(c) Instructions for completion of DD Form 448.

(1) BLOCK 5—MIPR NUMBER. Number the MIPR by using—

(i) The requiring department identification code as prescribed in DoD 4000.25–6–M, Department of Defense Activity Address Directory (DoDAAD);

(ii) The last digit of the fiscal year; and

(iii) The number of the particular MIPR (numbered consecutively by the requiring activity).

(2) BLOCK 6—AMEND NO. Assign a suffix number. Assign amendments of the same MIPR consecutive suffix numbers.

(3) BLOCK 9.

(i) Conduct interdepartmental screening of items in accordance with FAR 8.001. Requisition items which are available from stocks of other departments as follows:

(A) Obtain items within the scope of MILSTRIP (see DoD 4000.25–1–M, Military Standard Requisitioning and Issue Procedures (MILSTRIP)) by use of DD Form 1348 (Single Line Item Requisition System Document (Manual), DoD))/1348M (Single Line Item

Requisition System Document, DoD (Mechanical)).

(B) Obtain items not covered by MILSTRIP using DD Form 1149, Requisition and Invoice/Shipping Document.

(C) If, after receipt of a MIPR, it is determined the requested items are available from stock, the acquiring department shall use the MIPR to obtain the item.

(ii) Normally restrict a MIPR to one major end item, including its required spare parts, ground support equipment, and similar related items. For other than major end items, limit MIPRs to items within a single Federal supply class when possible.

(4) BLOCK 10.

(i) *Delivery Schedules.* (A) The requiring department must clearly state the required time of delivery or performance in each MIPR, taking into consideration the normal administrative lead time of the particular commodity. Delivery and performance schedules on MIPRs must be realistic (see FAR subpart 12.1). If the acquiring department cannot accept the delivery schedule in the MIPR, the acquiring department will note that on DD Form 448–2, Acceptance of MIPR. Changes in the requested delivery schedule must be made by MIPR amendment.

(B) When a short delivery schedule is mandatory, the requiring department shall mark the MIPR "URGENT" in bold letters and provide justification for the marking.

(ii) Requring activities must provide MILSTRIP requisition data prescribed in Appendix B of the MILSTRIP Manual for each line item which is to be delivered to each "ship to" address. Repetitive data applicable to all lines on the MIPR may be overprinted.

(iii) The requiring activity will furnish estimated weight, cube, and dimensions for each line item or a statement explaining why these data are not available.

(iv) The requiring activity shall include the name and telephone number of an individual who is thoroughly familiar with the MIPR, its attachments, and technical requirements.

(v) Prepare attachments to MIPRs in sufficient numbers so that each copy of a MIPR submitted to the acquiring department is complete with a copy of all attachments. "Ship To and Mark For" addresses in shipping instructions must include the clear text identification and DoDAAD code if assigned.

(5) BLOCK 12—TRANSPORTATION ALLOTMENT. Enter allotment data for transportation of supplies at Goverment expense if appropriate.

(6) BLOCK 13—MAIL INVOICES TO. Use this block to identify the name and address of the office to receive invoices and make payment.

(i) Complete the block only if—

(A) The resulting contract is not to be paid by the Defense Contract Management Command or the Defense Finance Center; and

(B) The office to receive invoices and make payment is known at the time of preparation of the MIPR.

(ii) If payment is to be made by an office designated to receive invoices, also enter the DoDAAD code of that office.

(iii) If payment is to be made by an office other than the office to which the invoice is to be mailed, include the name, address, and DoDAAD code of the payment office as an attachment to the MIPR.

(iv) If multiple offices are to receive invoices and make payment, include the names and addresses of those offices as an attachment to the MIPR. Also incude the DoDAAD code of each payment office.

(v) Whenever the payment office is included in an attachment, include a reference to the attachment in this block.

(vi) If the names and addresses of invoicing and payment offices are provided the acquiring department after submission of the MIPR, the requiring department also must provide the DoDAAD code for each payment office.

(7) BLOCK 14. Enter allotment data for the acquisition of supplies. Enter each citation in Item 14 in the appropriate space as follows—

(i) *Accounting Classification Reference Number (ACRN).* If the ACRN procedures of 204.7108 are used in the MIPR to relate allotment data to the MIPR item or delivery, enter the ACRN for each fund citation. (The acquiring department, when preparing the contract, is not required to use the ACRN assigned to a fund citation in the MIPR.)

(ii) *Appropriation.* Enter the ten positions as follows:

(A) First and second—Treasury Department number identifying the department or agency to which the appropriation applies or has been transferred.

(B) Third and fourth—Treasury Department number identifying the department or agency from which an appropriation has been transferred; leave blank if no transfer is involved.

(C) Fifth and sixth—Identify the appropriation fiscal year. For multiple-year appropriations, the fifth position shall be the last digit of the first year of availability, and the sixth position shall be the last digit of the final year of availability. For annual appropriations, the fifth position shall be blank, and the sixth position shall be the last digit of the fiscal year. For no-year (continuing) appropriations, the fifth position shall be blank, and the sixth position shall be "X."

(D) Seventh through tenth—Treasury Department appropriation serial number.

(iii) *Limit/Subhead.* Up to four characters; if less than four characters, leave empty spaces blank.

(iv) *Supplemental Accounting Classification Data.* Not to exceed 36 characters. Enter in accordance with departmental or agency regulations.

(v) *Accounting Station.* Enter the six character DoDAAD code of the accounting station (not used with Navy and Marine Corps funds).

(vi) *Amount.* Enter the amount for each fund citation if more than one allotment is cited.

(vii) *Additional Citations.* If space is required for additional fund citations, include as an attachment and reference the attachment on the form.

(d) When preparing a MIPR amendment, always fill out the basic information in Blocks 1 though 8. Fill out only those other blocks which vary from the data shown on the basic MIPR or a prior amendment. Insert "n/c" in items where there is no change.

(e) Change of a disbursing office cited on a DoD funded MIPR does not require a MIPR amendment when the resultant contract is assigned for administration to the Defense Contract Management Command. The administrative contracting office may issue an administrative change order, copies of which will be provided to the contracting officer for transmittal to the requiring activity.

253.208–2 DD Form 448–2, Acceptance of MIPR.

(a) Use the DD Form 448–2 as prescribed in subpart 208.70.

(b) Instructions for completion of DD Form 448–2. (Complete only the applicable blocks.)

(1) BLOCK 6. Check the specific terms under which the MIPR is being accepted.

(2) BLOCK 7. If any one of the MIPR line items is not accepted, check Block 7 and record the affected MIPR line item number and reason in Block 13.

(3) BLOCKS 8 AND 9. Use Blocks 8 and 9 only—

(i) When Block 6c acceptance is indicated (indicate the MIPR line item numbers that will be provided under each method of financing in Blocks 8a and 9a, respectively); or

(ii) If quantities or estimated costs cited in a MIPR require adjustment (list the affected MIPR line item numbers together with the adjusted quantities or estimated costs in the columns provided under Blocks 6 and 9, as appropriate).

(4) BLOCK 10. Whenever a MIPR is accepted in part or in total under Category II funding, forecast the estimated date of contract award.

(5) BLOCK 11. Enter the total amount of funds required to fund the MIPR items, as accepted.

(6) BLOCK 12.

(i) Complete this block only in those cases where the amount recorded in Block 11 is not in agreement with the amount recorded in Block 5. This will serve either—

(A) As a request to the requiring department to issue a MIPR amendment to provide the additional funds; or

(B) Authority for the requiring department to withdraw the available excess funds.

(ii) When funds of two or more appropriations are involved, provide proper breakdown information in Block 13.

(7) BLOCK 13. Use this block to record—

(i) Justification, by MIPR line item, for any additional funds required;

(ii) Explanation for rejection of MIPR whether in part or in total;

(iii) Appropriation and subhead data cited on the MIPR; and

(iv) Other pertinent data.

(c) Complete a DD Form 448–2 for all MIPR amendments involving an adjustment of funds or delivery schedule, or if requested by the requiring department.

(d) Unless otherwise agreed, provide the requiring department an original and three copies of each DD Form 448–2.

71. Appendix B to Chapter 2 is added to read as follows:

Appendix B to Chapter 2—Coordinated Acquisition Assignments

Part 1—Army Assignments
Part 2—Navy Assignments
Part 3—Air Force Assignments
Part 4—Defense Logistics Agency Assignments
Part 5—Defense Nuclear Agency Assignments
Part 6—General Services Administration Assignments

Part 1—Army Assignments

("P" after the FSC number indicates a partial FSC assignment)

Federal supply class code	Commodity
	Electronic Equipment. Each department is assigned acquisition responsibility for those items which the department either designed or for which it sponsored development. See FSC 5821 under Navy listings for assignment of certain commercially developed radio sets (i.e., developed without the use of Government funds).
1005 P*	Guns, through 30mm This partial assignment applies to guns, through 30mm, and parts and equipment therefor, as listed in Department of Army Supply Manuals/Catalogs. It does not apply to Navy ordnance type guns; MK 11 and MK 12, 20mm gun; and aircraft gun mounts.
1010P*	Guns, over 30mm up to 75mm. This partial assignment applies to guns, over 30mm and up to 75mm, and parts and equipment therefor, as listed in Department of the Army Supply Manuals/Catalogs. It does not apply to Naval ordnance type guns and aircraft gun mounts.
1015P*	Guns, 75mm through 125mm. This partial assignment applies to guns, 75mm through 125mm, and parts and equipment therefor, as listed in Department of Army Supply Manuals/Catalogs. It does not apply to Naval ordance type guns.
1020 P*	Guns over 125mm through 150mm
1025 P*	Guns over 150mm through 200mm
1030 P*	Guns over 200mm through 300mm
1035 P*	Guns over 300mm These partial assignments apply to guns, over 125mm, and parts and equipment therefor, as listed in Department of Army Supply Manuals/Catalogs: They do not apply to Navy ordnance type guns.
1040	Chemical Weapons and Equipment
1055 P*	Launchers, Rocket and Pyrotechnic This partial assignment applies to launchers, rocket and pyrotechnic, as listed in Department of Army Supply Manuals/Catalogs. It does not apply to Naval ordnance type and airborne type, with the exception of 2.75 inch rocket launchers which are included in this partial FSC assignment to the Department of the Army.
1090 P	Assemblies Interchangeable Between Weapons in Two or More Classes This partial assignment applies to the following items: *National stock number nomenclature* 1090–663–7232 Staff Section Class 1090–695–0633 Staff Section 1090–796–8760 Power Supply 1090–865–6451 Wrench Corrector 1090–986–9707 Reticle Assembly
1095 P*	Miscellaneous Weapons This partial assignment applies to miscellaneous weapons, and parts and equipment therefor, as listed in Department of Army Supply Manuals/Catalogs. It does not apply to Naval ordnance type; line throwing guns (which are under DoD Coordinated Acquisition assignment to the Department of the Navy); and aircraft type miscellaneous weapons.
1210 P*	Fire Control Directors
1220 P*	Fire Control Computing Sights and Devices
1230 P*	Fire Control Systems, Complete
1240 P*	Optical Sighting and Ranging Equipment
1250 P*	Fire Control Stabilizing Mechanisms
1260 P*	Fire Control Designating and Indicating Equipment
1265 P*	Fire Control Transmitting and Receiving Equipment, Except Airborne
1285 P*	Fire Control Radar Equipment, Except Airborne
1290 P*	Miscellaneous Fire Control Equipment The above nine partial FSC assignments apply to fire control equipment, as listed in Department of the Army Supply Manuals/Catalogs. They do not apply to Naval ordnance type and aircraft type.
1305 P*	Ammunition, through 30mm This partial assignment applies to ammunition through 30mm as listed in Department of Army Supply Manuals/Catalogs. It does not apply to Naval ordnance type and ammunition for the MK 11 and MK 12, 20mm gun.
1310 P*	Ammunition, over 30mm up to 75mm This partial assignment applies to ammunition, over 30mm up to 75mm, as listed in Department of Army Supply Manuals/Catalogs. It does not apply to Naval ordnance type and to 40mm ammunition (which is under DoD Coordinated Acquisition assignment to the Navy). The Army is responsible for the acquisition of fillers and the loading, assembling, and packing of toxicological, incapacitating riot control, smoke and incendiary munitions.
1315 P*	Ammunition, 75mm through 125mm This partial assignment applies to ammunition, 75mm through 125mm, as listed in Department of Army Supply Manuals/Catalogs. It does not apply to Navy ordnance type. The Army is responsible for the acquisition of fillers and the loading, assembling, and packing of toxicological, incapacitating riot control, smoke and incendiary munitions.
1320 P*	Ammunition, over 125mm This partial assignment applies to ammunition over 125mm, as listed in Department of Army Supply Manuals/Catalogs. It does not apply to Naval ordnance type. The Army is responsible for the acquisition of fillers and the loading, assembling, and packing of toxicological, incapacitating riot control, smoke and incendiary munitions.
1325 P	Bombs

Federal supply class code	Commodity
	This partial assignment applies to bombs as listed in Department of Army Supply Manuals/Catalogs. It does not apply to Navy assigned bombs as shown in list of assignments to the Navy; however, the Department of the Army is responsible for the acquisition of fillers and the loading, assembling, and packing of toxicological, incapacitating riot control, smoke and incendiary munitions, and for other loading, assembling, and packing in excess of Navy owned capacity.
1330	Grenades
1340 P	Rockets and Rocket Ammunition
	This partial assignment applies to:
	83mm Rocket, HEAT, M72
	2.75" Rocket FFAR, Service and Practice
	Heads MK5 and Mods (HEAT)
	HE, M151
	HE, XM229 (17 lb Warhead)
	HE, XM157 (Spotting Red)
	HE, XM156 (Spotting Yellow)
	MK61 Practice (5 lb Slug)
	XM229 Practice (10 lb)
	Motors MK4 and Mods (High Performance Aircraft)
	MK40 and Mods (Low Performance Aircraft)
	3.5 inch Rocket Heat, M35
	Practice, M36
	Smoke, WP, M30
	4.5 inch Motor, Drill, M24
	HE, M32
	Practice, M33
	Incendiary and toxicological rockets, as listed in Army Supply Bulletins
	R does not apply to Navy assigned rockets as shown in the list of assignments to the Navy. However, the Department of the Army is responsible for acquisition of filler and for filling of all smoke and toxicological rockets.
1345	Land Mines
1365	Military Chemical Agents
1370 P	Pyrotechnics
	This partial assignment does not apply to shipboard and aircraft pyrotechnics.
1375 P	Demolition Materials
	This partial assignment applies to Blasting Agents and supplies such as:
	Bangalore torpedo
	Blocks, demolition
	Caps, blasting, electronic and nonelectric
	Charge, cratering
	Charge, shaped and demolition
	Chests, demolition platoon and squad
	Cord detonating
	Demolition equipment sets, with ancillary items
	Detonators, all types
	Dynamite
	Firing devices
	Fuze, safety
	Kit, demolition
	Lighter, fuse
	Machine, blasting
	Primer, percussion cap
	R does not apply to Navy underwater demolition requirements.
1377 P	Bulk Explosives
	This partial assignment applies to solid propellants and explosives such as:
	Ammonium Picrate (Explosive D) JAN-A-166A
	Trinitrotoluene (TNT) MIL-T-248A
	Tetryl JAN-T-339
	Pentaerythrite Tetranitrate (PETN) JAN-P-387
	RDX
	Composition B
	Composition B-3
	Pentolite, 50
	Composition C-3
	Composition A-3
	Composition A-4
	Nitroguanidine (Picrate)
	It does not apply to production capacity for any of the above listed explosives at the U.S. Naval Propellant Plant, Indian Head, Maryland.
1377 P	Cartridge and Propellant Actuated Devices and Components.
	This partial assignment is reserved pending Services agreement as to items to be included in the assignment.
1380	Military Biological Agents
1390 P*	Fuzes and Primers
	This partial assignment applies to Fuzes and Primers for Army assigned ammunition. It does not apply to Naval ordnance type, which is under DoD Coordinated Acquisition assignment to the Department of the Navy; and guided missile fuzes.
2210	Locomotives
2220	Rail Cars
2240	Locomotive and Rail Car Accessories and Components
2250	Track Materials, Railroad
2310 P	Passenger Motor Vehicles
2320 P	Trucks and Truck Tractors
	These two partial assignments apply to tactical vehicles; trucks over 10,000 pounds gross vehicle weight (GVW); and the following types of vehicles:
	Bus, convertible to ambulance
	Truck, 4 x 4, convertible to ambulance
	Truck 4 x 4 dump, 9,000 GVW, with cut-down cab
	These assignments do not apply to tracked landing vehicles which are not under DoD Coordinated Acquisition assignment, and airport crash rescue vehicles, which are under DoD Coordinated Acquisition assignment to the Department of the Air Force. With the exception of the types enumerated above, these assignments do not apply to commercial passenger carrying vehicles and trucks up to 10,000 pounds GVW, which are assigned for DoD Coordinated Acquisition to the General Services Administration.
2330 P	Trailers
	This partial assignment does not apply to two wheel lubrication trailers, two wheel steam cleaning trailers, and troop transporter semitrailers which are not under DoD Coordinated Acquisition assignment, and airport crash rescue trailer units which are under DoD Coordinated Acquisition assignment to the Department of the Air Force.
2340 P	Motorcycles, Motor Scooters, and Bicycles
	This partial assignment does not apply to bicycles and tricycles.
2350	Tanks and Self-propelled Weapons
2340	Tractors, Track Laying, High-Speed
2510 P**	Vehicular Cab, Body, and Frame Structural Components
2520 P**	Vehicular Power Transmission Components
2530 P**	Vehicular Brake, Steering, Axle, Wheel, and Track Components
2540 P**	Vehicular Furniture and Accessories
2590 P**	Miscellaneous Vehicular Components
2610	Tires and Tubes, Pneumatic, except Aircraft
2630	Tires, solid and cushion
2640	Tire Rebuilding and Tire and Tube Repair Materials
2805 P**	Gasoline Reciprocating Engines, except Aircraft and Components
2910 P**	Engine Fuel System Components, Nonaircraft
2920 P**	Engine Electrical System Components, Nonaircraft
2930 P**	Engine Cooling System Components, Nonaircraft
2940 P**	Engine Air and Oil Filters, Strainers and Cleaners, Nonaircraft
2990 P**	Miscellaneous Engine Accessories, Nonaircraft
4210 P	Fire Fighting Equipment
	This partial assignment applies only to equipment developed by or under the sponsorship of the Department of the Army.
4230 P	Decontaminating and Impregnating Equipment
	This partial assignment applies only to items peculiar to chemical warfare.
4240 P	Safety and Rescue Equipment
	This partial assignment applies only to military respiratory protective equipment for chemical warfare.
5805 P	Telephone and Telegraph Equipment
	This partial assignment applies only to military (wire) equipment, field type.
5815 P	Teletype and Facsimile Equipment
	This partial assignment applies only to military (wire) equipment, field type.
5820 P	Radio and Television Communication Equipment, except Airborne
	This partial assignment applies to nontactical, off-the-shelf, commercially available radio and television equipment and supplies used by the Armed Forces Radio and Television Stations including equipment and supplies used by the Armed Forces for closed TV circuit educational and training programs.
5830 P	Intercommunication and Public Address Systems, except Airborne
	This partial assignment applies only to military (wire) equipment, field type.
6135 P	Batteries, Primary
	This partial assignment applies to Mil. type, dry cell batteries, only.
6625 P	Electrical and Electronic Properties Measuring and Testing Instruments
	This partial assignment applies only to instruments for testing military (wire) equipment, field type.
6645 P	Time Measuring Instruments
	This partial assignment applies to the following watches; aircraft instrument panel clocks; cases and spare parts therefor:

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Federal supply class code	Commodity
	Master navigation watches; pocket watches; stop watches; second setting wrist watches; wrist watches; athletic timers; aircraft clocks; aircraft panel clocks; mechanical aircraft clocks; navigation watch cases; pocket watch cases; watch holders; watch case assemblies and watch movements.
6730 **	Meteorological Instruments and Apparatus Each department is assigned acquisition responsibility for those systems, instruments and end items in FSC 6660 which the department either designed or sponsored development. For purposes of this assignment, the developing department is the department which awarded the developmental contract, notwithstanding that other departments may have provided funds for the development.
6665 P	Hazard-Detecting Instruments and Apparatus This partial assignment applies only to items peculiar to chemical warfare.
6685 P	Combination and Miscellaneous Instruments This partial assignment applies to jewel bearings only.
6820 P	Dyes This partial assignment applies only to items peculiar to chemical warfare.
6910 P	Training Aids This partial assignment applies only to items peculiar to Army assignments under weapons, fire control equipment, ammunition and explosives, and chemical and biological warfare.
6920 P	Armament Training Devices This partial assignment applies to armament training devices as listed in Department of Army Catalogs SC 6910, ML/IL and SC 6920 ML/IL. It does not apply to clay pigeons in Department of Army Catalogs SC 6910, ML/IL and SC 6920 ML/IL. It does not apply to clay pigeons.
6940 P	Communication Training Devices This partial assignment applies only to code training sets, code practice equipment, and other telephone and telegraph training devices.
8130 P	Reels and Spools This partial assignment applies only to reels and spools for military (wire) equipment, field type.
8140 P	Ammunication Boxes, Packages, and Special Containers This partial assignment applies only to boxes, packages, and containers peculiar to Army assignments under ammunitions, explosives, and chemical and biological warfare as listed in Department of Army Catalog SC 8140 IL and SC 8140 ML.

*For contracting purposes, Naval ordnance comprises all arms, armor, and armament for the Department of the Navy and includes all offensive and defensive weapons, together with their components, controlling devices and ammunitions used in executing the Navy's mission in National Defense (except small arms and those items of aviation ordnance acquired from the Army).

**These partial FSC assignments apply only to repair parts peculiar to combat and tactical vehicles. In addition, the assignment in FSC 2805 applies to military standards engines 1.5 HP through 20 HP and parts peculiar therefor. Balance of these FSCs are assigned to the Defense Logistics Agency (Defense Construction Supply Center).

Part 2—Navy Assignments

("P" after the FSC number indicates a partial PSC assignment).

Federal supply class code	Commodity
	Electronic Equipment Each department is assigned acquisition responsibility for those items which the department either designed or sponsored development. See FSC 5821 for assignment of certain commercially developed radio sets to the Department of the Navy (i.e., developed without the use of Government funds).
1095P	Miscellaneous Weapons This partial assignment applies to line throwing guns only.
1310P	Ammunition, over 30mm up to 75mm This partial assignment applies only to reels and spools for military
1325P	Bombs This partial assignment applies to armor-piercing; depth bombs; externally suspended low drag bombs; and components and practice bombs therefor, as listed in Ord Pamphlets, and the MK 43, Target Detecting Device. The Department of the Army is responsible for the acquisition of fillers and the loading, assembling, and packing of toxicological, incapacitating riot control, smoke and incendiary munitions, and for other loading, assembling, and packing in excess of Navy-owned capacity.
1340P	Rockets and Rocket Ammunition This partial assignment applies to: Fuze, Rocket, V.T., MK93–0 2.25 inch Rocket SCAP, Practice Heads MK3 and Mods Motors MK15 and Mods MK16 and Mods 5 inch Rocket HVAR, service and practice Heads MK2 and Mods (common) MK6 and Mods (GP) MK4 and Mods (smoke) MK25 and Mods (ATAR). Motors MK10 and Mods 5 inch Rocket FFAR service and practice Heads MK24 and Mods (General Purposes) MK32 and Mods (Shaped Charged) MK26 and Mods (Ilum) Motor MK16 and Mods The Department of the Army is responsible for acquisition of filler and for filling of all smoke and toxicological rockets.
1390P	Fuzes and Primers This partial assignment applies to fuzes and primers for Navy assigned ammunition.
1550P	Drones This partial assignment applies only to Drone, Model BQM34E.
1905P	Combat Ships and Landing Vessels This partial assignment applies to landing vessels only.
1910P	Transport Vessels, Passenger and Troop This partial assignment applies to ferryboats only.
1920	Fishing Vessels
1925	Special Service Vessels
1930	Barges and Lighters, Cargo
1935P	Barges and Lighters, Special Purpose This partial assignment does not apply to derricks, pile drivers, rock cutters, concrete mixing plants, mechanical bank grader barges, other bank revetment barges, and barge power plants.
1940	Small Craft
1945P	Pontoons and Floating Docks This partial assignment applies only to Naval Facilities Engineering Command type pontoons.
1950	Floating Drydocks
1990P	Miscellaneous Vessels This partial assignment applies to commercial sailing vessels only.
2010	Ship and Boat Propulsion Components
2020	Rigging and Rigging Gear
2030	Deck Machinery
2040	Marine Hardware and Hull Items
2060	Commercial Fishing Equipment
2090	Miscellaneous Ship and Marine Equipment
2920P	Steam Engines, Reciprocating and Components This partial assignment applies to marine main propulsion steam engines only.
2925P	Steam Turbines and Components This partial assignment applies to marine steam turbines only.
4210P	Fire Fighting Equipment This partial assignment applies only to fire fighting equipment developed by or under the sponsorship of the Department of Navy.
4410P	Industrial Boilers This partial assignment applies only to boilers for use aboard those ships assigned to the Navy for coordinated acquisition.
4420 P	Heat Exchangers and Steam Condensers This partial assignment applies only to heat exchangers for use aboard those ships assigned to the Navy for coordinated acquisition.
4925P	Ammunition Maintenance and Repair Shop Specialized Equipment This partial assignment applies to sets, kits, and outfits of tools and equipment for explosive ordnance as defined in military service regulations and documents.
5821P	Radio and Television Communication Equipment, Airborne This partial assignment applies only to the following commercially developed radio sets. (The term "commercially developed" means that no Government funds were provided for development purposes.) HF–101, 102, 103, 104, 105, 106, 107, 108, 109, 111, 113, ARC–94, 102, 105, 110, 112, 119, 120; MRC–95, 106; VC–102, 104, 105, 106, 109, 110; and components of the foregoing including the 490T antenna coupler.
6125P	Converters, Electrical, Rotating This partial assignment applies only to motor-generated sets for use aboard ships assigned to the Navy for coordinated acquisition.
6320P	Shipboard Alarm and Signal System

Federal supply class code	Commodity
	This partial assignment applies only to alarm systems, fire alarm systems, indicating systems, telegraph systems (signal and signaling) (less electronic type) for use aboard ships assigned to the Navy for coordinated acquisition.
6605P	Navigational Instruments This partial assignment applies only to lifeboat and raft compasses, aircraft sextants, hand leads (soundings), lead reels, sounding machines and pelorus stands for use aboard ships assigned to the Navy for coordinated acquisition.
6645P	Time Measuring Instruments This partial assignment applies only to the following, instruments, cases, and spare parts therefor: Chronometers including gimbal, padded and make break circuit Clocks, alarm, boat, deck, direct reading, electrical, floor, interval timer, marine, mechanical, master control, master program, master regulating, mechanical message center, nurses, program, shaft, stop, wall, watchman's Counters, time period Meters, engine running time, hour recording, and electrical time totalizing Timers; bombing, engine hours, sequential, stop, and program Program control instrument Cases; chronometer, including gimbal and padded, chronometer carrying; makebreak circuit chronometer Cans, chronometer shipping and storage Clock keys; clock movements, clock motors
6650P	Optical Instruments This partial assignment applies only to stands, telescope, for use aboard ships assigned to the Navy for coordinated acquisition.
6660P	Meteorological Instruments and Apparatus Each department is assigned acquisition responsibility for those systems, instruments, and end items in FSC 6660 for which the department either designed or sponsored development. For purposes of this assignment, the developing department is the department which awarded the developmental contract, notwithstanding that other departments may have provided funds for the development.
6665P	Hazard-Detecting Instruments and Apparatus This partial assignment applies only to hazard determining safety devices, for use aboard ships assigned to the Navy for coordinated acquisition.
8140P	Ammunition Boxes, Packages, and Special Containers This partial assignment applies only to boxes, packages, and containers for 40mm ammunition.

Part 3—Air Force Assignments

("P" after the FSC number indicates a partial FSC assignment).

Federal supply class code	Commodity
	Electronic Equipment Each department is assigned acquisition responsibility for those items which the department either designed or sponsored development. See FSC 5821 under Navy listing for assignment of certain commercially developed radio sets (i.e., developed without the use of Government funds).
1550 P	Drones This partial assignment applies only to the following model drones: Model 147 Model 154 BQM 34A MQM 34D
2320 P	Trucks and Truck Tractors This partial assignment applies only to airport crash rescue vehicles.
2330 P	Trailers This partial assignment applies only to airport crash rescue trailer units.
4210 P	Fire Fighting Equipment This partial assignment applies only to fire fighting equipment developed by or under the sponsorship of the Department of the Air Force.
6660 P	Meteorological Instruments and Apparatus Each department is assigned acquisition responsibility for those systems, instruments, and end items in FSC 6660 for which the department either designed or sponsored development. The developing department is the department which awarded the development contract, notwithstanding that other departments may have provided funds for the development.
6710P *	Cameras, Motion Picture This partial assignment does not apply to submarine periscope and underwater cameras.
6720 P*	Cameras, Still Picture This partial assignment does not apply to submarine periscope and underwater cameras.
6730 P*	Photographic Projection Equipment This partial assignment does not apply to 35mm theater projectors.
6740*	Photographic Development and Finishing Equipment
6750*	Photographic Equipment and Accessories
6780*	Photographic Sets, Kits, and Outfits
8820 P	Live Animals Not Raised for Food This partial assignment applies only to the following types of working dogs: Scout Sentry Patrol Mine/tunnel Tracker Detector-narcotic/contraband Sleds Bloodhound Water dog Patrol/detector

*This partial FSC assignment does not apply to photographic equipment controlled by the Congressional Joint Committee on Printing and Micro-Film Equipment and Supplies.

Part 4—Defense Logistics Agency Assignments

("P" after the FSC number indicates a partial FSC assignment)

Federal supply class code	Commodity	DLA center *
2230	Right of Way Construction and Maintenance Equipment, Railroad.	DCSC
2410	Tractor, Full Track, Low-Speed.	DCSC
2420	Tractor, Wheeled	DCSC
2510 P *	Vehicular Cab, Body, and Frame, Structural Components.	DCSC
2520 P *	Vehicular Power Transmission Components.	DCSC
2530 P *	Vehicular Brake, Steering, Axle, Wheel, and Track Components.	DCSC
2540 P *	Vehicular Furniture and Accessories.	DCSC
2590 P *	Miscellaneous Vehicular Components.	DCSC
2805 P *	Gasoline Reciprocating Engines, Except Aircraft; and Components.	DCSC
2815	Diesel Engines and Components.	DCSC
2895	Miscellaneous Engines and Components.	DCSC
2910 P *	Engine Fuel System Components, Nonaircraft.	DCSC
2920 P *	Engine Electrical System Components, Nonaircraft.	DCSC
2930 P *	Engine Cooling System Components, Nonaircraft.	DCSC
2940 P *	Engine Air and Oil Filters, Strainers and Cleaners, Nonaircraft.	DCSC
2990 P *	Miscellaneous Engine Accessories, Nonaircraft.	DCSC
3020	Gears, Pulleys, Sprockets and Transmission Chain.	DCSC
3030	Belting, Drive Belts, Fan Belts, and Accessories.	DCSC
3040	Miscellaneous Power Transmission Equipment.	DCSC
3110	Bearings, Antifriction, Unmounted.	DISC
3120	Bearings, Plane Unmounted	DISC
3130	Bearings, Mounted	DISC
3210	Sawmill and Planning Mill Machinery.	DGSC
3220	Woodworking Machines	DGSC
3230	Tools and Attachments for Woodworking Machinery.	DGSC
3405 P *	Saws and Filing Machines	DGSC
3406 P *	Machining Centers and Way-Type Machines.	DGSC
3410 P *	Electrical and Ultrasonic Erosion Machines.	DGSC
3411 P *	Boring Machines	DGSC
3412 P *	Broaching Machines	DGSC
3413 P *	Drilling and Tapping Machines.	DGSC
3414 P *	Gear Cutting and Finishing Machines.	DGSC
3415 P *	Grinding Machines	DGSC
3416 P *	Lathes	DGSC
3417 P *	Milling Machines	DGSC
3418 P *	Planers and Shapers	DGSC
3419 P *	Miscellaneous Machine Tools.	DGSC
3422 P *	Rolling Mills and Drawing Machines.	DGSC
3424 P *	Metal Heat Treating Equipment.	DGSC
3426 P *	Metal Finishing Equipment	DGSC

Federal supply class code	Commodity	DLA center [1]
3431	Electric Arc Welding Equipment.	DGSC
3432 P [2]	Electric Resistance Welding Equipment.	DGSC
3433 P [2]	Gas Welding, Heat Cutting & Metalizing Equipment.	DGSC
3436 P [2]	Welding Positioners and Manipulators.	DGSC
3438 P [2]	Miscellaneous Welding Equipment.	DGSC
3439 P [2]	Miscellanous Welding, Soldering and Brazing Supplies and Accessories.	DGSC
3441 P [2]	Bending and Forming Machines.	DGSC
3442 P [2]	Hydraulic and Pneumatic Presses, Power Driven.	DGSC
3443 P [2]	Mechanical Presses, Power Driven.	DGSC
3444 P [2]	Manual Presses	DGSC
3445 P [2]	Punching and Shearing Machines.	DGSC
3446 P [2]	Forging Machinery and Hammers.	DGSC
3447 P [2]	Wire and Metal Ribbon Forming Machinery.	DGSC
3448 P [2]	Riveting Machines	DGSC
3449 P [2]	Misc. Scondary Metal Forming and Cutting Machines.	DGSC
3450 P [2]	Machine Tool, Portable	DGSC
3455 P [2]	Cutting Tools for Machine Tools.	DGSC
3456 P [2]	Cutting Forming Tools for Secondary Metal Working Machines.	DGSC
3460 P [2]	Machine Tool Accessories	DGSC
3461 P [2]	Accessories for Secondary Metal Working Machinery.	DGSC
3465 P [2]	Production Jigs, Fixtures and Templates.	DGSC
3470 P [2]	Machine Shop Sets, Kits, and Outfits.	DGSC
3510	Laundry and Dry Cleaning Equipment.	DGSC
3520	Shoe Repairing Equipment	DGSC
3530	Industrial Sewing Machine & Mobile Textile Repair Shops.	DGSC
3610	Printing, Duplicating, and Bookbinding Equipment.	DGSC
3611 P [2]	Industrial Marking Machines	DGSC
3620 P [2]	Rubber and Plastics Working Machinery.	DGSC
3635 P [2]	Crystal and Glass Industries Machinery.	DGSC
3650 P [2]	Chemical & Parmaceutical Products Manufacturing Machinery.	DGSC
3655	Gas Generating and Dispensing System, Fixed or Mobile.	DGSC
3660 P [2]	Industrial Size Reduction Machinery.	DGSC
3680 P [2]	Foundry Machinery, Related Equipment and Supplies.	DGSC
3685 P [2]	Specialized Metal Container Manufacturing Machinery and Related Equipment.	DGSC
3693 P [2]	Industrial Assembly Machines.	DGSC
3694 P [2]	Clean Work Stations, Controlled Environment & Related Equipment.	DGSC
3695	Miscellaneous Special Industry Machinery.	DGSC
3710	Soil Preparation Equipment	DCSC
3720	Harvesting Equipment	DCSC
3740	Pest, Disease, and Froet Control Equipment.	DCSC
3770	Saddlery, Harness, Whips and Related Animal Furnishings.	DCSC
3805	Earth Moving and Excavating Equipment.	DCSC
3810	Cranes and Crane-Shoives	DCSC
3815	Crane and Crane-Shovel Attachments.	DCSC
3820	Minning, Rock Drilling, Earth Boring, and Related Equipment.	DCSC
3825	Road Clearing and Cleaning Equipment.	DCSC
3830	Truck and Tractor Attachments.	DCSC
3835	Petroleum Production and Distribution Equipment.	DCSC
3895	Miscellaneous Construction Equipment.	DCSC
3910	Conveyors	DCSC
3920	Materials Handling Equipment, Nonself-Propelled.	DGSC
3930	Warehouse Trucks and Tractors, Self-Propelled.	DCSC
3940	Blocks, Tackle, Rigging, and Slings.	DISC
3950	Winches, Hoists, Cranes, and Derricks.	DCSC
3990	Miscellaneous Materials Handling Equipment.	DGSC
4010	Chain and Wire Rope	DISC
4020	Fiber Rope, Cordage and Twine.	DISC
4030	Fittings for Rope, Cable, and Chain.	DISC
4110	Refrigeration Equipment	DGSC
4120	Air Conditioning Equipment	DGSC
4130	Refrigeration and Air Conditioning Components.	DGSC
4140	Fans, Air Circulators, and Blower Equipment.	DGSC
4210 P [2]	Fire Fighting Equipment	DCSC
4220	Marine Lifesaving and Diving Equipment.	DCSC
4310	Compressors and Vacuum Pumps.	DCSC
4320	Power and Hand Pumps	DCSC
4330	Centrifugals, Separators, and Pressure and Vacuum Filters.	DCSC
4440	Driers, Dehydrators, and Anhydrators.	DCSC
4450	Industrial Fan and Blower Equipment.	DCSC
4460	Air Purification Equipment	DCSC
4510	Plumbing Fixtures and Accessories.	DCSC
4520	Space Heating Equipment and Domestic Water Heaters.	DCSC
4530	Fuel Burning Equipment Units.	DCSC
4540	Miscellaneous Plumbing, Heating, and Sanitation Equipment.	DCSC
4610	Water Purification Equipment	DCSC
4620	Water Distillation Equipment, Marine and Industrial.	DCSC
4630	Sewage Treatment Equipment.	DCSC
4710	Pipe and Tube	DCSC
4720	Hose and Turbing, Flexible	DCSC
4730	Fittings and Specialties; Hose, Pipe, and Tube.	DCSC
4810	Valves, Powered	DCSC
4820	Valves, Nonpowered	DCSC
4930	Lubrication and Fuel Dispensing Equipment.	DCSC
5280	Sets, Kits, and Outfits of Measuring Tools.	DGSC
5305	Screws	DISC
5306	Bolts	DISC
5307	Studs	DISC
5310	Nuts and Washers	DISC
5315	Nails, Keys, and Pins	DISC
5320	Rivets	DISC
5325	Fastening Devices	DISC
5330	Packing and Gasket Materials.	DISC
5335	Metal Screening	DISC
5340	Miscellaneous Hardware	DISC
5355	Knobs and Pointers	DISC
5360	Coil, Flat and Wire Springs	DISC
5365	Rings, Shims, and Spacers	DISC
5410	Prefabricated and Portable Buildings.	DCSC
5420	Bridges, Fixed and Floating	DCSC
5430	Storage Tanks	DCSC
5440	Scaffolding Equipment and Concrete Forms.	DCSC
5445	Prefabricaid Tower Structures.	DCSC
5450	Miscellaneous Prefibricated structures.	DCSC
5510	Lumber and Related Basic Wood Materials.	DCSC
5520	Millwork	DCSC
5530	Plywood and Veneer	DCSC
5560	Fencing, Fences and Gagtes	DCSC
5660 P	Miscellaneous Construction Materials. This partial assignment applies only to airplane landing mat. (Also, see footnote 1 at end of list relative to purchase of DLA managed items in GSA assigned classes.).	DCSC
5905	Resistors	DESC
5910	Capacitors	DESC
5915	Filters and Networks	DESC
5920	Fuses and Lightning Arresters.	DESC
5925	Circuit Breakers	DESC
5930	Switches	DESC
5935	Connectors, Electrical	DESC
5940	Lugs, Terminals, and Terminals Strips.	DGSC
5945	Relays, Contractors, and Solenoids.	DESC
5950	Coils and Transformers	DESC
5955	Piezoelectric Crystals	DESC
5960	Electron Tubes and Associated Hardware.	DESC
5961	Semiconductor Devices and Associated Hardware.	DESC
5962	Microelectronic Circuit Devices.	DESC
5965	Headsets, Handsets, Microphones, and Speakers.	DESC
5970	Electrical Insulators and Insulating Materials.	DGSC
5975	Electrical Hardware and Supplies.	DGSC
5977	Electrical Contact Brushes and Electrodes.	DGSC
5985	Antennas, Waveguides, and Related Equipment.	DESC
5990	Synchors and Resolvers	DESC
5995	Cable, Cord, and Wire Assemblies; Communication Equipment.	DGSC
5999	Miscellaneous Electrical and Electronic Components.	DESC
6105	Motors, Electrical	DGSC
6110	Electrical Control Equipment	DGSC

Federal supply class code	Commodity	DLA center [5]
6115 P [6]	Generators and Generator Sets, Electrical.	DGSC
6120	Transformers; Distribution and Power Station.	DGSC
6145	Wire and Cable, Electrical	DISC
6150	Miscellaneous Electric Power and Distribution Equipment.	DGSC
6210	Indoor and Outdoor Electric Lighting Fixtures.	DGSC
6220	Electric Vehicular Lights and Fixtures.	DGSC
6230	Electric Portable and Hand Lighting Equipment.	DGSC
6240	Electric Lamps	DGSC
6250	Ballasts, Lampholders and Starters.	DGSC
6260	Nonelectrical Lighting Fixtures.	DGSC
6350	Miscellaneous Alarm and Signal Systems.	DGSC
6505 [1]	Drugs, Biologicals, and Official Reagents.	DPSC
6508 [1]	Medicated Cosmetic and Toiletries.	DPSC
6510 [4]	Surgical Dressing Materials	DPSC
6515 [4]	Medical and Surgical Instruments, Equipment and Supplies.	DPSC
6520 [4]	Dental Instruments, Equipment and Supplies.	DPSC
6525 [4]	X-Ray Equipment and Supplies; Medical, Dental and Veterinary.	DPSC
6530 [4]	Hospital Furniture, Equipment, Utensils, and Supplies.	DPSC
6532	Hospital and Surgical Clothing and Textile Special Purpose Items.	DPSC
6540 [4]	Opticians' Instruments, Equipment and Supplies.	DPSC
6545 [4]	Medical Sets, Kits, and Outfits.	DPSC
6630	Chemical Analysis Instruments.	DPSC
6635	Physical Properties Testing Equipment.	DGSC
6640	Laboratory Equipment and Supplies.	DPSC
6655	Geophysical and Astronomical Instrumetns.	DGSC
6670	Scales and Balances	DGSC
6675	Drafting, Surveying, and Mapping Instruments.	DGSC
6680	Liquid and Gas Flow, Liquid Level and Mechanical Motion Measuring Instruments.	DGSC
6750	Photographic Supplies	DGSC
6810 [7]	Chemicals	DFSC & DGSC
6820	Dyes	DGSC
6830	Gases; Compressed and Liquified.	DGSC
6840	Pest Control Agents and Disinfectants.	DGSC
6850 [7]	Miscellaneous Chemical Specialties.	DFSC & DGSC
7210	Household Furnishings	DPSC
7310	Food Cooking, Baking, and Serving Equipment.	DGSC
7320	Kitchen Equipment and Appliances.	DGSC
7360	Sets, Kits, and Outfits; Food Preparation and Serving.	DGSC
7610	Books and Pamphlets	DGSC
7690	Sheet and Book Music	DGSC
7690	Miscellaneous Printed Matter	DGSC
8110	Drums and Cans	DGSC
8120	Commerical and Industrial Gas Cylinders.	DGSC
8125	Bottles and Jars	DGSC
8305	Textile Fabrics	
	FSC 8305 does not include laminated cloth used exclusively in the repair of lighter than air envelopes.	DPSC
8310	Yarn and Thread	DPSC
8315	Notions and Apparel Findings.	
	FSC 8315 does not include coated cloth tape used exclusively in the repair of lighter than air envelopes.	DPSC
8320	Padding and Stuffing Materials.	DPSC
8325	Fur Materials	DPSC
8330	Leather	DPSC
8335	Shoe Findings and Soling Materials.	DPSC
8340	Tents and Tarpaulins	DPSC
8345	Flags and Pennants	DPSC
8405	Outerwear, Men's	DPSC
8410	Outerwear, Women's	DPSC
8415	Clothing, Special Purpose	
	FSC 8415 includes all submarine clothing.	DPSC
8420	Underwear and Nightwear, Men's.	DPSC
8425	Underwear and Nightwear, Women's.	DPSC
8430	Footwear, Men's	DPSC
8435	Footwear Women's	DPSC
8440	Hosiery, Handwear, and Clothing Accessories, Men's.	DPSC
8445	Hosiery, Handwear, and Clothing Accessories, Women's.	DPSC
8450	Children's and Infant's Apparel and Accessories.	DPSC
8455	Badges and Insignia	DPSC
8460	Luggage	DPSC
8465	Individual Equipment	DPSC
8470	Armor, Personal	DPSC
8475	Specialized Flight Clothing and Accessories.	DPSC
8905 [3]	Meat, Poultry, and Fish	DPSC
8910 [3]	Dairy Foods and Eggs	DPSC
891 [3]	Fruits and Vegetables	DPSC
8920 [3]	Bakery and Cereal Products	DPSC
8925 [3]	Sugar, Confectionery, and Nuts.	DPSC
8930 [3]	Jams, Jellies, and Preserves	DPSC
8935 [3]	Soups and Bouillons	DPSC
8940 [3]	Special Dietary Foods and Food Specialty Preparations.	DPSC
8945 [3]	Food Oils and Fats	DPSC
8950 [3]	Condiments and Related Products.	DPSC
8955 [3]	Coffee, Tea, and Cocoa	DPSC
8960 [3]	Beverages, Nonalcoholic	DPSC
8970 [3]	Composite Food Packages	DPSC
8975 [3]	Tobacco Products	DPSC
9110	Fuels, Solid	DFSC
9130	Liquid Propellants and Fuels, Petroleum Base.	DFSC
9140	Fuel Oils	DFSC
9150	Oils and Greases; Cutting, Lubricating, and Hydraulic.	DFSC
9160	Miscellaneous Waxes, Oils, and Fats.	DFSC
9320	Rubber Fabricated Materials	DGSC
9330	Plastic Fabricated Materials	DGSC
9340	Glass Fabricated Materials	DGSC
9360	Refractories and Fire Surfacing Materials.	DGSC
9390	Miscellaneous Fabricated Nonmetallic Materials.	DGSC
9420 P	Fibers; Vegetable, Animal, and Synthetic.	DPSC
	This partial FSC assignment applies only to raw cotton and raw wool.	
9430 P	Miscellaneous Crude Animal Products, Inedible.	DPSC
	This partial assignment applies only to crude hides.	
9505	Wire, Nonelectrical, Iron and Steel.	DISC
9510	Bars and Rods, Iron and Steel.	DISC
9515	Plate, Sheet, and Strip, Iron and Steel.	DISC
9520	Structural Shapes, Iron and Steel.	DISC
9525	Wire, Nonelectrical, Nonferrous Base Metal.	DISC
9530	Bars and Rods, Nonferrous Base Metal.	DISC
9535	Plate, Sheet, Strip, and Foil, Nonferrous Base Metal.	DISC
9540	Structural Shapes, Nonferrous Base Metal.	DISC
9545	Plates, Sheet, Strip, Foil and Wire, Precious Metal.	DISC
9620	Minerals, Natural and Synthetic.	DFSC
	This partial assignment applies only to crude petroleum and crudeil shale oil.	
9925	Ecclesiastical Equipment, Furnishings and Supplies.	DGSC
9930	Memorials, Cemeterial and Mortuary Equipmment and Supplies.	DGSC
9999	Miscellaneous Items	DGSC

Foootnotes:

[1] These assignments do not apply to items decentralized by the DLA Center Commander, i.e., designated for purchase by each military department, and to those items in DLA assigned federal supply classes, which may be assigned to GSA for supply management. In addition, see subpart 208.70 which describes conditions under which a military service may purchase (contract for) military service supply managed items in DLA assigned federal supply classes. See notes 2 and 3 for further exceptions pertaining to certain DLA assignments.

[2] DLA assignments in FSC 2510, 2520, 2530, 2540, 2590, 2805, 2910, 2920, 2930, 2940, and 2990 do not apply to repair parts peculiar to combat and tactical vehicles, which are assigned for coordinated acquisition to the Department of the Army. In addition, the assignment in FSC 2805 does not apply to military standard engines 1.5 HP through 20 HP and parts peculiar therefor, which are assigned for coordinated acquisition to the Department of the Army.

[3] This partial FSC assignment in FSC 4210 does not apply to Fire Fighting Equipment developed by or under the sponsorship of a military departemnt. The contracting responsibility for such equipment is assigned to the department which developed or sponsored its development.

[4] DLA has contracting responsibility for all the items in the classes of FS Group 65. In addition, DLA has contracting responsibility for all equipment and supplies related to the medical, dental, veterinary professions in Non-group 65 classes where the military medical services have the sole or prime interest in such items. The specific item coverage of these Non-group 65 items is published in the DOD section of the Federal Supply Catalog for medial materials C3-1 through C3-12, inclusive.

[5] This assignment includes health and comfort items listed in AR 700-23. It also includes resale items for commissionary stores (including brand name items).

[6] DLA centers are identified as follows—
DCSC—Defense Construction Supply Center

DESC—Defense Electronics Supply Center
DFSC—Defense Fuel Supply Center
DGSC—Defense General Supply Center
DISC—Defense Industrial Supply Center
DPSC—Defense Personnel Support Center

[7] DFSC is responsible for contracting for only petroleum base items in FSC 6810 and 6850.

[8] This partial assignment applies only to secondary items not identified as IPE. Such secondary items are listed in the applicable Federal Supply Catalog Management Data lists of each respective service.

[9] This partial FSC assignment in FSC 6115 does not apply to Mobile Electric Power Generating Source (MPEGS). The contracting direction responsibility for MPEGS is assigned to the DoD Project Manager, Mobile Electric Power, by DoDD 4120.11. DoD components desiring to use other than the DoD Standard Family of Generator Sets, contained in MIL-STD 633, shall process a Request for Deviation in accordance with Joint Operating Procedures, AR 700-101, AFR 400-50, NAVMATINST 4120.100A, MCO 11310.8c and DLAR 4120.7, Subject: Management and Standardization of Mobile Electric Power Generating Sources, prior to initiating an acquistion.

Part 5—Defense Nuclear Agency Assignments

Federal supply class code	*Commodity*
1105	Nuclear Bombs
1110	Nuclear Projectile
1115	Nuclear Warheads and Warhead Sections
1125	Nuclear Demolition Charges
1127	Nuclear Rockets
1130	Conversion Kits, Nuclear Ordance
1135	Fuzing and Firing Devices, Nuclear Ordnance
1140	Nuclear Components
1145	High Explosive Charges, Propellants, and Detonators; Nuclear Ordnance
1190	Specialized Test and Handling Equipment, Nuclear Ordnance
1195	Miscellaneous Nuclear Ordnance
	In addition to the above, assignments, to DNA include all items for which DNA has integrated management responsibility in accordance with DoD Directive 5105.31.

Part 6—General Services Administration Assignments

("P" after FSC number indicates partial FSC assignment.)

Federal supply class code	Commodity
	302
2310 P	Passenger Motor Vehicles
2320 P	Trucks and Truck Tractors
	These two partial assignments apply to all commercial passenger carrying vehicles and trucks up to 10,000 pounds Gross Vehicle Weight (GVW) except the following types which are assigned for DoD Coordinated Acquisition to the Department of the Army—
	Bus, convertible to ambulance
	Truck, 4x4, convertible to ambulance
	Truck, 4x4 dump, 9,000 pounds GVW, with cut-down cab
	(See Army Coordinated Acquisition assignments in FSC 2310 and 2320)
3540	Wrapping and Packaging Machinery
3550	Vending and Coin Operated Machines
3590	Miscellaneous Service and Trade Equipment
3750	Gardening Implements and Tools
5110	Hand Tools, Edged, Nonpowered
5120	Hand Tools, Nonedged, Nonpowered
5130	Hand Tools, Power Driven
5133	Drill Bits, Counterbores, and Countersinks; Hand and Machine
5136	Taps, Dies, and Collects; Hand and Machine
5140	Tool and Hardware Boxes
5180	Sets, Kits, and Outfits of Hand Tools
5210	Measuring Tools, Craftmen's
5345	Disks and Stones, Abrasive
5350	Abrasive Materials
5610	Mineral Construction Materials, Bulk
5620	Building Glass, Tile, Brick, and Block
5630	Pipe and Conduit, Nonmetallic
5640	Wallboard, Building Paper, and Thermal Insulation Materials
5650	Roofing and Siding Materials
5670	Architectural and Related Metal Products
5680 P*	Miscellaneous Construction Material
7105	Household Furniture
7110	Office Furniture
7125	Cabinets, Lockers, Bins, and Shelving
7195	Miscellaneous Furniture and Fixtures
7220	Floor Coverings
7230	Draperies, Awnings, and Shades
7240	Household and Commercial Utility Containers
7290	Miscellaneous Household and Commercial Furnishings and Appliances
7330	Kitchen Hand Tools and Utensils
7340	Cutlery and Flatware
7350	Tableware
7410	Punched Card System Machines
7420	Accounting and Calculating Machines
7430	Typewriters and Office-type Composing Machines
	This assignment does not apply to machines controlled by the Congressional Joint Committee on Printing
7450	Office-type Sound Recording and Reproducing Machines
7460	Visible Record Equipment
7490	Miscellaneous Office Machines
	This assignment does not apply to equipment controlled by the Congressional Joint Committee on Printing
7510	Office Supplies
	This assignment does not apply to office supplies, including special inks, when DoD requirements of such items are acquired through Government Printing Office channels
7520	Office Devices and Accessories
	This assignment does not apply to office devices and accessories when DoD requirements of such items are acquired through Government Printing Office channels
7530	Stationery and Record Forms
	This assignment does not apply to stationery and record forms when DoD requirements of such items are acquired through Government Printing Office channels including those items covered by term contracts issued by GPO for tabulating cards and marginally punched continuous forms.
7710	Musical Instruments
7720	Musical Instrument Parts and Accessories
7730	Phonographs, Radios, and Television Sets; Home Type
7740	Phonograph Records
7810	Athletic and Sporting Equipment
7820	Games, Toys, and Wheeled Goods
7830	Recreational and Gymnastic Equipment
7910	Floor Polishers and Vacuum Cleaning Equipment
7920	Brooms, Brushes, Mops, and Sponges
7930	Cleaning and Polishing Compounds and Preparations
8010	Paints, Dopes, Varnishes, and Related Products
8020	Paint and Artists Brushes
8030	Preservative and Sealing Compounds
8040	Adhesives
8105	Bags and Sacks
8115	Boxes, Cartons and Crates
8135	Packaging and Packing Bulk Materials
8510	Perfumes, Toilet Preparations and Powders
8520	Toilet Soap, Shaving Preparations and Dentifrices
8530	Personal Toiletry Articles
8540	Toiletry Paper Products
8710	Forage and Feed
8720	Fertilizers
8730	Seeds and Nursery Stock
9310	Paper and Paperboard
9905	Signs, Advertising Displays, and Identification Plates
9910	Jewelry
9915	Collector's Items
9920	Smokers' Articles and Matches

Footnotes:

These GSA assignments do not apply to items as described under FSC 7430, 7490, 7510, 7520, and 7530, and those items in the GSA assigned federal supply classes which have been retained for DLA supply management as listed in the applicable Federal Supply Catalog Management Data lists. In addition, see subpart 208.70 which describes conditions under which a military service may contract for military service managed items in GSA assigned federal supply classes.

*This partial FSC assignment does not include landing mats which are assigned to the Defense Logistics Agency.

Appendix R to Chapter 2—[Removed]

72. Appendix R to Chapter 2 is removed.

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October 31, 1990

Part III

Department of the Interior

Bureau of Indian Affairs

Liquor and Tobacco Sale of Distribution Ordinance: Apache Tribe of Oklahoma; Notice

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Liquor and Tobacco; Sale or Distribution Ordinance; Apache Tribe of Oklahoma

October 15, 1990.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. I certify that the Apache Tribe of Oklahoma Liquor Ordinance adopted on December 28, 1989, Relating to the Use and Distribution of Liquor was duly adopted by the Apache Tribe of Oklahoma by Resolution 89–3–HUD and amended by Resolution 90–22–HUD. The Ordinance provides for the regulation of possession, consumption and importation of alcohol into the area of the Apache Tribe of Oklahoma and the surrounding Indian Country under the jurisdiction of the Apache Tribe of Oklahoma.

DATES: This Ordinance is effective as of October 31, 1990.

FOR FURTHER INFORMATION CONTACT: Maria Mendoza, Management Analyst, Branch of Judicial Services, Division of Tribal Government Services, 1849 C Street, NW., Washington, DC 20240; telephone (202) 208–4400, (FTS) 268–4400.

SUPPLEMENTARY INFORMATION: The Ordinance reads as follows: The Apache Tribe of Oklahoma, acting in accordance with the customary law and practice of the Apache Tribal Community hereby adopts the following ordinance governing the possession, consumption and importation of alcohol into the Apache Tribal Community.

Section 1–01 Title and Purpose

1–01.01—This document shall be known as the Apache Tribe of Oklahoma Liquor Ordinance. These regulations are enacted to regulate the sale and distribution of liquor and beer products on Tribal Trust Lands of the Apache Tribe of Oklahoma and to generate revenue to fund needed tribal programs and services.

Section 1–02 Definitions

1–02–01—Unless otherwise required by the context the following words and phrases shall have the designated meanings:

(1). *Tribe* shall mean the Apache Tribe of Oklahoma, P.O. Box 1220, Anadarko, Oklahoma 73005.

(2). *Business Committee* shall mean the Apache Tribe of Oklahoma Business Committee as constituted by Article V of the Constitution and By-Laws of the Apache Tribe of Oklahoma.

(3). *Tribal Trust Lands* shall mean any lands and waters held in trust by the Federal Government within the jurisdiction of the Apache Tribe of Oklahoma. This is to mean Indian Country as defined by 18 U.S.C. 1151.

(4). *Member* shall mean any person whose name appears on the official roll of the Apache Tribe of Oklahoma.

(5). *Commercial Sale* shall mean the transfer, exchange or barter, in any or by any means whatsoever, for a consideration by any person, association, partnership, or corporation, or liquor and beer products.

(6). *Wholesale Price* shall mean the established price for which liquor and beer products are sold to the Apache Tribe of Oklahoma or any licensed operator by the manufacturer or distributor, exclusive of any discount or other reduction.

(7). *Alcohol* is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is produced by the fermentation or distillation of grain, starch, molasses or sugar, or other substances including all dilutions and mixtures of this substance.

(8). *Beer* means any beverage obtained by the alcohol fermentation of an infusion or decoction of pure hops, or pure extract of hops, and malt and sugar in pure water containing not more than 6 percent of alcohol by weight.

(9). *Liquor* shall mean an alcohol beverage made by distillation rather than by fermentation. A liquid substance such as broth or juice, produced by cooking.

(10). *Liquor Outlet* shall mean tribally licensed retail sale business selling liquor or beer on Tribal Trust Lands.

(11). *Operator* shall mean all enrolled members of twenty-one (21) years of age and over, of the Tribe or enrolled members of twenty-one (21) years of age and over, of another federally recognized tribe of American Indians, or other person twenty-one (21) years of age or older, properly licensed by the Tribe to operate a liquor and beer outlet.

Section 1.3 Licensing of Liquor and Beer Outlets

1–3.01 Licensing. The Apache Tribe of Oklahoma Business Committee shall be the Liquor and Beer Control Commission. The Commission is empowered to:

(1). Administer these regulations by exercising general control, management, and supervision of all liquor and beer sales, places of sale and sales outlets as well as exercising all powers necessary to accomplish the purposes of these regulations.

(2). Adopt and enforce rules and regulations in furtherance of the purpose of these regulations and in the performance of its administrative functions.

Section 1–4 Nature of Outlet

1–4.01 Nature of Outlet. Each liquor and beer outlet, license granted by the Commission, hereunder, shall be managed pursuant to section 1–7 of this Ordinance.

Section 1–5 Application for Liquor and Beer Outlet License

1–5.01 Application. Any enrolled member, twenty-one (21) years of age and older, of the Tribe or an enrolled member, twenty-one (21) years of age and older, of a federally recognized tribe or other person twenty-one (21) years of age or older, may apply to the Commission for a liquor and beer outlet license.

1–5.02 Licensing Requirements—The person applying for such permit must make a showing once a year, and must satisfy the Commission that he is a person of good moral character; that he has never been convicted of violating any of the laws prohibiting the traffic in any spirituous, vinous, fermented or malt liquors, or of any of the gambling laws of the state, or any other state of the United States, within three (3) years immediately preceding the date of his petition, or any of the laws commonly called "prohibition laws", or had any permit or license to sell nonintoxicating liquors revoked in any county of this state within twelve (12) months; and that, at the time of his petition for a license, he is not the holder of a retail liquor dealer's permit or license from the United States Government to engage in the sale of intoxicating liquor. Any license to wholesaler or retail dealer may be refused or removed by the Commission upon ten (10) days notice in writing to such wholesaler or retail dealer, and an opportunity to be heard shall be afforded, after which order of revocation may be issued by the Commission, and the same shall thereupon become final.

1–5.03 Processing of Application—The Tribal Secretary-Treasurer shall receive and process applications and be the official representative of the Tribe and Commission in matters relating to liquor and beer excise tax collections

and related matters. If the Commission or its authorized representative is satisfied that the applicant is suitable and a respectable person, the Commission or its authorized representative may issue a license for the sale of liquor and beer products.

1–5.04 Application Fee—Each application shall be accompanied by an application charge or a fee of twenty-five dollars ($25.00).

Section 1–6 Liquor and Beer Licenses

1–6.01 Upon approval of an application, the Commission shall issue the applicant a liquor and beer outlet license, for one year from the date of issuance, which shall entitle the operator to establish and maintain only the type outlet being permitted. This license shall not be transferable. The licensee must properly and publicly display the license in the place of business. It shall be renewable at the discretion of the Commission by submission of the licensee of subsequent application form and payment of application fee as provided in Section 1–5.

Section 1–7 Regarding Sales by Liquor Wholesalers and Transport of Liquors Upon Trust Lands

1–7.01 Right of commission to Scrutinize Suppliers—The operator of any licensed outlet shall keep the Commission informed, in writing, of the identity of suppliers and/or wholesalers who supply or are expected to supply liquor stocks to the outlet(s). The commission may, at its discretion, limit or prohibit the purchase of said stock from a supplier or wholesaler for the following reasons: Non-payment of Tribal taxes; bad business practices; or sale of unhealthy supplies. A ten day notice of stopping purchases will be given by the Commissioner whenever purchases from a supplier are to be discontinued unless there is a health emergency.

1–7.02 Freedom of Information From Suppliers—Operators shall in their purchase of stock and in their business relations with suppliers cooperate with and assist the free flow of information and data to the Commission from suppliers relating to the sales and business arrangements between the suppliers and operators. The Commission may, at its discretion, require the receipts from the suppliers of all invoices, bills of lading, billings or other documentary receipts of sales to the operators. All records shall be kept according to Section 1–8.08 of this Ordinance.

Section 1–8 Sales by Retail Operators

1–8.01 Commission Regulations—The Commission shall adopt procedures which shall supplement these regulations and facilitate their enforcement. These procedures shall include limitations on sales to minors, where liquor may be consumed, persons not allowed to purchase alcoholic beverages, hours, and days when outlets may be open for business, and other appropriate matters and controls.

1–8.02 Sales to Minors—No Tribal operator shall give, sell, or otherwise supply liquor to any person under twenty-one (21) years of age either for his or her own use or for the use of his or her parents or for the use of any other person.

1–8.03 Consumption of Liquor Upon Licensed Premises—No Tribal operator shall permit any person to open or consume liquor on his or her premises or any premises adjacent thereto and in his or her control: The Commission will allow the consumption of liquor and shall identify where liquor may be consumed on Tribal Trust lands.

1–8.04 Conduct on Licensed Premises.

(1) No Tribal operator shall be disorderly, boisterous, or intoxicated on the licensed premises or on any public premises adjacent thereto which are under his or her control, nor shall he or she permit any disorderly, boisterous, or intoxicated person to be thereon; nor shall he or she use or allow the use of profane or vulgar language thereon.

(2) No operator shall permit suggestive, lewd, or obscene conduct or acts on his or her premises. For the purpose of this section, suggestive, lewd or obscene acts or conduct shall be those acts or conduct identified as such by the laws of the State of Oklahoma.

1–8.05 Employment of Minors—No person under the age of twenty-one (21) years of age shall be employed in any service in connection with the sale or handling of liquor, either on a paid or voluntary basis, except as otherwise provided herein. Employees eighteen (18) years or older may sell or handle beer or wine provided that there is direct supervision by an adult twenty-one (21) years of age or older.

1–8.06 Operator's Premises open to Commission Inspection—the premises of all operators, including vehicles used in connection with liquor sales, shall be open at all times to inspection by the Commission or its designated representative.

1–8.07 Operator's Record—The originals or copies of all sales slips, invoices, and other memoranda covering all purchases of liquor by operators shall be kept in file in the retail premises of the operator purchasing the same for at least five (5) years after each purchase, and shall be filed separately and kept apart from all other records, and as nearly as possible shall be filed in consecutive order and each month's records kept separate so as to render the same readily available for inspection and checking. All cancelled checks, bank statements and books of accounting covering or involving the purchase of liquor, and all memoranda, if any, showing payment of money for liquor other than by check, shall be likewise preserved for availability for inspection and checking.

1–8.08 Records Confidential—All records of the Commission showing the purchase of liquor by any individual or group shall be confidential and shall not be inspected except by members of the Commission or its authorized representative. The Tribe has adopted a Privacy Act where all records and information are kept confidential.

1–8.09 Conformity with State Law—Operators shall comply with State of Oklahoma Liquor and Beer Control standards to the extent required by 18 U.S.C. 1161. However, the Tribe shall have concurrent jurisdiction, as applicable, with the Federal Government over the sale of liquor and beer products within the boundaries of Tribal Trust Lands.

Section 1–9 Tribal Excise Tax Imposed Upon Distribution of Liquor

1–9.01 Tribal Excise Taxes. The Commission shall have authority, as provided by Tribal law, to assess and collect tax on sales of liquor and beer products to the consumer or purchaser. Such tax shall be in amounts equal to at least 5 percent of all retail sales prices, but the Commission may establish tax rates in excess of that 5 percent for any given class of merchandise.

1–9.02 Added to Retail Price. The excise tax levied hereunder shall be added to the retail selling price of liquor and beer products sold to the ultimate consumer.

Section 1–10 Liability for Bills

1–10.01 Liability for bills—The Tribe shall have no legal responsibility for any unpaid bills owed by a liquor and beer outlet to a wholesale supplier or any other person. The Tribe does not waive any immunity it possesses.

Section 1–11 Other Business by Operator

1–11.01 Other Business by Operator—An operator may conduct another business simultaneously with

managing a liquor and beer outlet. PROVIDED, such other business must be approved prior to initiation by majority vote of the Commission. Said other business may be conducted on the same premises as a liquor and beer outlet, but the operator shall be required to maintain separate books of account for the other business.

Section 1–12 Tribal Liability and Credit

1–12.01 Operators are forbidden to represent or give the impression to any supplier or person with whom he or she does business that he or she is an official representative of the Tribe or the Commission authorized to pledge tribal credit or financial responsibility for any of the expenses of his or her business operation. The operator shall hold the Tribe harmless from all claims and liability of whatever nature. The Commission shall revoke operator's outlet license(s) if said outlet(s) is not operated in a businesslike manner or if it does not remain financially solvent or does not pay its operating expenses and bills before they become delinquent.

1–12.02 Insurance—The operator shall maintain at his or her expense adequate insurance covering liability, fire, theft, vandalism, and other insurable risks. The Commission may establish as a condition of any license, the required insurance limits and any additional coverages deemed advisable.

Section 1–13 Audit and Inspection

1–13.01 All of the books and other business records of the outlet shall be available for inspection and audit by the Commission or its authorized representative for any reasonable time.

1–13.02 Bond for Excise Tax—The excise tax together with reports on forms to be supplied by the Commission shall be remitted to the tribal office monthly unless otherwise specified in writing by the Commission. The operator shall furnish a satisfactory bond to the Tribe in an amount to be specified by the Commission guaranteeing his or her payment of excise taxes.

Section 1–14 Revocation of Operator's License

1–14.01 Revocation of Operator's License—Failure of an operator to abide by the requirements of these regulations and any additional regulations or requirements imposed by the Commission will constitute grounds for revocaton of the operator's license as well as enforcement of the penalties provided in 1–15.

Section 1–15 Violation—Penalties

1–15.01 Any person violating these regulations shall be guilty of an offense and subject to a fine of not less than fifty dollars ($50.00) and not to exceed a maximum of two hundred-fifty dollars ($250.00). The Bureau of Indian Affairs Court of Indian Offenses, Anadarko Agency, will have jurisdiction over the proceedings.

1–15.02 Any operator who violates the provisions set forth herein shall forfeit all of the remaining stock in the outlet(s). The Tribe shall be empowered to seize forfeited products.

Section 1–16 Separability

1–16.01 If any provision of the regulation in its application to any person or circumstance is held invalid, the remainder of the regulation and their application to other persons or circumstances is not affected.

Linda L. Richardson,

Acting Assistant Secretary, Indian Affairs.

[FR Doc. 90–25678 Filed 10–30–90; 8:45 am]

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Wednesday
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Part IV

Department of Education

34 CFR Part 12

Disposal and Utilization of Surplus Federal Real Property for Educational Purposes; Notice of Proposed Rulemaking

DEPARTMENT OF EDUCATION

34 CFR Part 12

RIN 1880-AA37

Disposal and Utilization of Surplus Federal Real Property for Educational Purposes

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations governing the Disposal and Utilization of Surplus Federal Real Property for Educational Purposes. These amendments are needed to clarify provisions in the current regulations that are vague. These regulations increase the accountability of recipients of surplus Federal real property to the United States in their use of that property and clarify the requirements of the program.

DATES: Comments must be received on or before November 30, 1990.

ADDRESSES: All comments concerning these proposed regulations should be addressed to David B. Hakola, U.S. Department of Education, Office of the Administrator for Management Services, (Room 1175, Mail Stop 4532), 400 Maryland Avenue, SW., Washington, DC 20202.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget (OMB) at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: David B. Hakola, (202) 401-0500.

SUPPLEMENTARY INFORMATION: The Disposal and Utilization of Surplus Federal Real Property for Educational Purposes regulations are authorized by the Federal Property and Administrative Services Act of 1949, as amended (Act). The Secretary is authorized to request the Administrator of the General Services Administration (GSA) to assign surplus Federal real property to the Secretary for sale or lease to eligible entities for educational purposes. As a credit against the fair market sale or lease value of the property, the transferee or lessee may be granted up to a 100% public benefit allowance (PBA) based upon the type of educational organization it is and the proposed educational use of the surplus Federal real property. Property is conveyed as either off-site or on-site surplus Federal real property. Off-site property is property capable of being removed from the land (e.g., improvements, small buildings, etc.) and does not include the underlying land. In contrast, on-site property generally consists of a parcel of land which is conveyed together with fixtures and other improvements thereon. The conveyance instrument used by the Secretary contains conditions, restrictions, reservations, and convenants with which the transferee or lessee must comply in order to retain title or possession of the surplus Federal real property. The Act directs the Secretary of Education to enforce compliance with the terms and conditions contained in the conveyance instrument and to take corrective action in the case of noncompliance. For on-site property, the Secretary's oversight responsibility may last up to 30 years, while for off-site property it lasts for the useful economic life of the property.

The major issues addressed in these proposed regulations are the following:

Full Use: The transferee or lessee will be required to make full use of the transferred surplus Federal real property. See § 12.12.

Public Benefit Allowance: The United States sells or leases the surplus Federal real property to eligible entities in return for educational uses of the property for a stated period of time. For sales, that period is usually thirty (30) years. In general, the United States receives 100% consideration through educational use of the surplus Federal real property for the stated period. In certain instances, however, the United States may require a portion of the payment for the property to be in cash. The public benefit allowance (PBA) table in appendix A is used to determine the portion of the payment which will be paid in cash. Appendix A indicates both the beginning or basic PBA granted to each type of eligible entity and all subsequent organizational and use allowances granted, depending upon the proposed use or need for the property. Thus, the basic PBA may be increased to a maximum of 100%, depending upon the type of educational use and need for the property. If an entity does not receive the maximum 100% PBA, then it must make payments in cash, in addition to the educational use for the stated period.

These proposed regulations revise the current PBA table in appendix A, to better and more fairly reflect current needs and priorities. Other changes were made in the PBA to remedy the appearance of preferential treatment being given to one type of applicant over another in the same category. In addition, these proposed regulations eliminate Exhibit B from the existing regulations. That Exhibit concerns the sale of surplus Federal real property for health and welfare purpose and is not applicable to the Department of Education.

Period of Restriction: Section 12.14 contains a provision permitting the Secretary to extend the period during which the restrictions in the deed apply to the surplus Federal real property. That extended period would be equivalent to the period during which the surplus Federal real property was not used for an approved use.

Current Need for Surplus Federal Real Property: Section 12.6 requires the applicant for the surplus Federal real property to demonstrate that it has a current need for the surplus Federal real property.

Leasing: Section 12.12 contains the terms and conditions for the leasing of surplus Federal real property by the Secretary.

Use of the Surplus Federal Real Property by Others: Section 12.13 contains the terms and conditions for the use of all or a portion of the transferred surplus Federal real property by entities other than those to whom the transfer of lease was made.

Executive Order 12291: These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification: The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. The small entities that would be effected by these regulations are small nonprofit organizations as defined by section 501(c)(3) of the Internal Revenue Code of 1954. However, the regulations would not have a significant impact on the affected small nonprofit organizations because the regulations do not impose excessive regulatory burdens or require unnecessary Federal supervision.

Paperwork Reduction Act of 1980: Sections 12.6, 12.11, and 12.12 contain information collection requirements. As required by section 3504(h) of the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these sections to the OMB for review.

(44 U.S.C. 3504(h)).

These regulations affect the following types of entities eligible to apply for surplus Federal real property for educational purposes: States, political subdivisions or instrumentalities of States, tax-supported institutions, nonprofit institutions, and any

combinations of these types of entities. The Department needs and uses the information to enable the Secretary to detemine an applicant's eligibility for the property and to increase the accountability of recipients.

Annual public reporting and recordkeeping burden for this collection of information is estimated to average 26 hours per response for 12 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Management and Budget, Office of Information and Regulatory Affairs, Room 3002, New Executive Office Building, Washington, DC 20503; Attention: Daniel J. Chenok.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in room 1175, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

To assist the Secretary in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 12

Education, Education Department, Federal buildings and facilities, Disposal and utilization of surplus real property, Property, Government property, Surplus government property, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Number 84.145 Federal Real Property Assistance Program.)

Dated: October 24, 1990.

Lauro F. Cavazos,

Secretary of Education.

The Secretary proposes to amend title 34 of the Code of Federal Regulations by revising part 12 to read as follows:

PART 12—DISPOSAL AND UTILIZATION OF SURPLUS FEDERAL REAL PROPERTY FOR EDUCATIONAL PURPOSES

Subpart A—General

Sec.

12.1 What is the scope of this part?
12.2 What definitions apply?
12.3 What other regulations apply to this program?

Subpart B—Distribution of Surplus Federal Real Property

12.4 How does the Secretary provide notice of availability of surplus Federal real property?
12.5 Who may apply for Surplus Federal real property?
12.6 What must an application for surplus Federal real property contain?
12.7 How is surplus Federal real property disposed of when there is more than one applicant?
12.8 What transfer or lease instruments does the Secretary use?
12.9 What warranties does the Secretary give?
12.10 How is a Public Benefit Allowance (PBA) calculated?

Subpart C—Conditions Applicable to Transfer or Leases

12.11 What statutory provisions and Executive Orders apply to transfers of surplus Federal real property?
12.12 What are the terms and conditions of transfers or leases of surplus Federal real property?
12.13 When is use of the transferred surplus Federal real property by entities other than the transferee permissible?

Subpart D—Enforcement

12.14 What are the sanctions for noncompliance with a term or condition of a transfer or lease of surplus Federal real property?

Subpart E—Abrogation

12.15 What are the procedures for securing an abrogation of the conditions and restrictions contained in the conveyance instrument?

Appendix A: Public Benefit Allowance for Transfer of Surplus Federal Real Property for Educational Purposes

Authority: 40 U.S.C. 471–488; 20 U.S.C. 3401 *et seq.*; 42 U.S.C. 2000d (1) *et seq.*; 20 U.S.C. 1681 *et seq.*; 29 U.S.C. 794 *et seq.*; 42 U.S.C. 4332.

Subpart A—General

§ 12.1 What is the scope of this part?

This part is applicable to surplus Federal real property located within any State that is appropriate for assignment to, or that has been assigned to, the Secretary by the Administrator for transfer for educational purposes, as provided for in section 203(k) of the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 377 (40 U.S.C. 471 *et seq.*).

(Authority: 40 U.S.C. 484(k))

§ 12.2 What definitions apply?

(a) *Definitions in the act.* The following terms used in this part are defined in section 472 of the Act:

Administrator.

Surplus property.

(b) *Definitions in the Education Department General Administrative Regulations (EDGAR).* The following terms used in this part are defined in 34 CFR 77.1:

Department.

Secretary.

State.

(c) *Other Definitions:* The following definitions also apply to this part:

Abrogation means the procedure the Secretary may use to release the transferee of surplus Federal real property from the covenants, conditions, reservations, and restrictions contained in the conveyance instrument before the term of the instrument expires.

Act means the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 377 (40 U.S.C. 471 *et seq.*).

Applicant means an eligible entity as described in § 12.5 that formally applies to be a transferee or lessee of surplus Federal real property, using a public benefit allowance (PBA) under the Act.

Lessee, except as used in § 12.14(a)(5), means an entity that is given temporary possession, but not title, to surplus Federal real property by the Secretary for educational purposes.

Nonprofit institution means any institution, organization, or association, whether incorporated or unincorporated—

(1) The net earnings of which do not inure or may not lawfully inure to the benefit of any private shareholder or individual; and

(2) That has been determined by the Internal Revenue Service to be tax-exempt under section 501(c)(3) of title 26.

Off-site property means surplus buildings and improvements—including any related personal property—that are capable of being removed from the underlying land and that are transferred by the Secretary without transferring the underlying real property.

On-site property means surplus Federal real property, including any

related personal property—other than off-site property.

Period of restriction means that period during which the surplus Federal real property transferred for educational purposes must be used by the transferee or lessee in accordance with covenants, conditions, and any other restrictions contained in the conveyance instrument.

Program and plan of use means the educational activities to be conducted by the transferee or lessee using the surplus Federal real property, as described in the application for that property.

Public benefit allowance ("PBA") means the credit, calculated in accordance with appendix A, to this part given to a transferee or lessee which is applied against the fair market value of the surplus Federal real property at the time of the transfer or lease of such property in exchange for the proposed educational use of the property by the transferee or lessee.

Related personal property means any personal property—

(1) That is located on and is an integral part of, or incidental to the operation of, the surplus Federal real property; or

(2) That is determind by the Administrator to be otherwise related to the surplus Federal real property.

Surplus Federal real property means the property assigned or suitable for assignment to the Secretary by the Administrator for disposal under the Act.

Transfer means to sell and convey title to surplus Federal real property for educational purposes as described in this part.

Transferee means that entity which has purchased and acquired title to the surplus Federal real property for educational purposes pursuant to section 203(k) of the Act.

(Authority: 40 U.S.C. 472 and 20 U.S.C. 3401 *et seq.*)

§ 12.3 What other regulations apply to this program?

The following regulations apply to this program:

(a) 34 CFR parts 100, 104, and 106.

(b) 41 CFR parts 101–47.

(c) 34 CFR part 85.

(Authority: 40 U.S.C. 484(k); 42 U.S.C. 2000d–1 *et seq.*; 29 U.S.C. 794 *et seq.*; 20 U.S.C 1681 *et seq.*; Executive Order 12549; and 20 U.S.C. 3474)

Subpart B—Distribution of Surplus Federal Real Property

§ 12.4 How does the Secretary provide notice of availability of surplus Federal real property?

The Secretary notifies potential applicants of the availabiliy of surplus Federal real property for transfer for educational uses in accordance with 41 CFR 101–47.308–4.

(Authority: 40 U.S.C. 484(k)(1))

§ 12.5 Who may apply for surplus Federal real property?

The following entities may apply for surplus Federal real property:

(a) A State.

(b) A political subdivision or instrumentality of a State.

(c) A tax-supported institution.

(d) A nonprofit institution.

(e) Any combination of these entities.

(Authority: 40 U.S.C. 484(k)(1)(A))

§ 12.6 What must an application for surplus Federal real property contain?

An application for surplus Federal real property must—

(a) Contain a program and plan for use;

(b) Contain a certification from the applicant that the proposed program is not in conflict with State or local zoning restrictions, building codes, or similar limitations;

(c) Demonstrate that the proposed program and plan to use of the surplus Federal real property is for a purpose that the applicant is authorized to carry out;

(d) Demonstrate that the applicant is able, willing, and authorized to assume immediate custody, use, care, and maintenance of the surplus Federal real property;

(e) Demonstrate that the applicant is able, willing, and authorized to pay the administrative expenses incident to the transfer or lease;

(f) Demonstrate that the applicant has the necessary funds, or the ability to obtain those funds immediately upon transfer or lease, to carry out the proposed program and plan of use for the surplus Federal real property;

(g) Demonstrate that the applicant has an immediate need and ability to use all of the surplus Federal real property for which it is applying;

(h) Demonstrate that the surplus Federal real property is needed for educational purposes at the time of application and that it is so needed for the duration of the period of restriction;

(i) Demonstrate that the surplus Federal real property is suitable or adaptable to the proposed program and plan of use; and

(j) Provide information requested by the Secretary in the notice of availability, include information of the effect of the proposed program and plan of use on the environment.

(Authority: 40 U.S.C. 484(k))

§ 12.7 How is surplus Federal real property disposed of when there is more than one applicant?

(a) If there is more than one applicant for the same surplus Federal real property, the Secretary transfers or leases the property to the applicant whose proposed program and plan of use the Secretary determines provides the greatest public benefit, using the criteria contained in appenix A, to this part that broadly address the weight given to each type of entity applying and its proposed program and plan to use. (See example in § 12.10(d)).

(b) If, after applying the criteria described in paragraph (a) of this section, two or more applicants are rated equally, the Secretary transfers or leases the property to one of the applicants after—

(1) Determining the need for each applicant's proposed educational use at the site of the surplus Federal real property;

(2) Considering the quality of each applicant's proposed program and plan of use; and

(3) Considering each applicant's ability to carry out its proposed program and plan of use.

(c) If the Secretary determines that the surplus Federal real property is capable of serving more than one applicant, the Secretary may apportion it to fit the needs of as many applicants as is practicable.

(d)(1) The Secretary generally transfers surplus Federal real property to a selected applicant that meets the requirements of this part.

(2) Alternatively, the Secretary may lease surplus Federal real property to a selected applicant that meets the requirements of this part if the Secretary determines that a lease will promote the most effective use of the property consistent with the purposes of this part or if having a lease is otherwise in the best interest of the United States, as determined by the Secretary.

(Authority: 40 U.S.C. 484(k))

§ 12.8 What transfer or lease instruments does the Secretary use?

(a) The Secretary transfers or leases surplus Federal real property using transfer or lease instruments that the Secretary prescribes.

(b) The transfer or lease instrument contains the applicable terms and

conditions described in this part and any other terms and conditions the Secretary or Administrator determines are appropriate or necessary.

(Authority: 40 U.S.C. 484(c))

§ 12.9 What warranties does the Secretary give?

The Secretary transfers or leases surplus Federal real property on an "as is, where is," basis without warranty of any kind.

(Authority: 40 U.S.C. 484(k)(1))

§ 12.10 How is a Public Benefit Allowance (PBA) calculated?

(a) The Secretary calculates a PBA in accordance with the provisions of appendix A to this part taking into account the nature of the applicant, and the need for, impact of, any type of program and plan of use for the property, as described in that appendix.

(b) The following are illustrative examples of how a PBA would be calculated and applied under appendix A to this part:

(1) Entity A is a specialized school that has had a building destroyed by fire, and that has existing facilities determined by the Secretary to be between 26 and 50% inadequate. It is proposing to use the surplus Federal real property to add a new physical education program. Entity A would receive a basic PBA of 70%, a 10% hardship organization allowance, a 20% allowance for inadequacy of existing school plant facilities, and a 10% utilization allowance for introduction of new instructional programs. Entity A would have a total PBA of 110%. If Entity A is awarded the surplus Federal real property, it would not be required to pay any cash for the surplus Federal real property, since the total PBA exceeds 100%.

(2) Entity B proposes to use the surplus Federal real property for nature walks. Because this qualifies as an outdoor educational program, Entity B would receive a basic PBA of 40%. If Entity B is awarded the surplus Federal real property, it would be required to pay 60% of the fair market value of the surplus Federal real property in cash at the time of the transfer.

(3) Entity C is an accredited university, has an ROTC unit, and proposes to use the surplus Federal real property for a school health clinic and for special education of the physically handicapped. Entity C would receive a basic PBA of 50% (as a college or university), a 20% accreditation organization allowance (accredited college or university), a 10% public service training organization allowance (ROTC), a 10% student health and welfare utilization allowance (school health clinic), and a 10% service to the handicapped utilization allowance (education of the physically handicapped). Entity C would have a total PBA of 100%. If Entity C is awarded the surplus Federal real property, it would not be required to pay any cash for the surplus Federal real property, since the total PBA is 100%.

(4) Entities A, B, and C all submit applications for the same surplus Federal real property. Unless the Secretary decides to apportion it, the Secretary transfers or leases the surplus Federal real property to Entity A, since its proposed program and plan of use has the highest total PBA.

(Authority: 40 U.S.C. 484(k)(1)(c))

Subpart C—Conditions Applicable to Transfers or Leases

§ 12.11 What statutory provisions and Executive Orders apply to transfers of surplus Federal real property?

The Secretary directs the transferee or lessee to comply with applicable provisions of the following statutes and Executive Orders prior to, or immediately upon, transfer or lease, as applicable:

(a) National Environmental Policy Act of 1969, 42 U.S.C. 4332.

(b) National Historic Preservation Act of 1966, 16 U.S.C. 470.

(c) National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*

(d) Floodplain Management, Exec. Order No. 11988, 42 FR 26951 (May 25, 1977).

(e) Protection of Wetlands, Exec. Order No. 11990, 42 FR 26961 (May 25, 1977).

(f) Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000(d)(1) *et seq.*

(g) Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 *et seq.*

(h) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794 *et seq.*

(i) Any other applicable Federal or State laws and Executive Orders.

(Authority: 40 U.S.C. 484(k))

§ 12.12 What are the terms and conditions of transfers or leases of surplus Federal real property?

(a) *General terms and conditions for transfers and leases.* The following general terms and conditions apply to transfers and leases of surplus Federal real property under this part:

(1) For the period provided in the transfer or lease instrument, the transferee or lessee shall use all of the surplus Federal real property it receives solely and continuously for its approved program and plan of use, in accordance with the Act and these regulations, except that—

(i) The transferee or lessee has twelve (12) months from the date of transfer to place this surplus Federal real property into use, if the Secretary did not, at the time of transfer, approve in writing construction of major new facilities or major renovation of the property;

(ii) The transferee or lessee has thirty-six (36) months from the date of transfer to place the surplus Federal real property into use, if the transferee or lessee proposes construction of major new facilities or major renovation of the property and the Secretary approves it in writing at the time of transfer; and

(iii) The Secretary may permit use of the surplus Federal real property at any time during the period of restriction by an entity other than the transferee or lessee in accordance with § 12.13.

(2) The transferee or lessee may not modify its approved program and plan of use without the prior written consent of the Secretary.

(3) The transferee or lessee may not sell, lease or sublease, rent, mortgage, encumber, or otherwise dispose of all or a portion of the surplus Federal real property or any interest therein without the prior written consent of the Secretary.

(4) A transferee or lessee shall pay all administrative costs incidental to the transfer or lease including, but not limited to—

(i) Transfer taxes;

(ii) Surveys;

(iii) Appraisals;

(iv) Inventory costs;

(v) Legal fees;

(vi) Title search;

(vii) Certificate or abstract expenses;

(viii) Decontamination costs;

(ix) Moving costs;

(x) Recordation expenses;

(xi) Other closing costs; and

(xii) Service charges, if any, provided for by an agreement between the Secretary and the applicable State agency for Federal Property Assistance.

(5) The transferee or lessee shall protect the residual financial interest of the United States in the surplus Federal real property by insurance or such other means as the Secretary directs.

(6) The transferee or lessee shall file with the Secretary reports on its maintenance and use of the surplus Federal real property and any other reports required by the Secretary in accordance with the transfer or lease instrument.

(7) Any other term or condition that the Secretary determines appropriate or necessary.

(b) *Additional terms and conditions for on-site transfers.* The terms and conditions in the transfer, including those in paragraph (a) of this section, apply for a period not to exceed thirty (30) years.

(c) *Additional terms and conditions for off-site transfers.*

(1) The terms and conditions in the transfer, including those in paragraph (a) of this section, apply for a period equivalent to the estimated economic life of the property conveyed for a transfer of off-site surplus Federal real property.

(2) In addition to the terms and conditions contained in paragraph (c) of this section, the Secretary may also require the transferee of off-site surplus Federal real property—

(i) To post performance bonds;

(ii) To post performance guarantee deposits; or

(iii) To give such other assurances as may be required by the Secretary of the holding agency to ensure adequate site clearance.

(d) *Additional terms and conditions for leases.* In addition to the terms and conditions contained in paragraph (a) of this section, the Secretary requires, for leases of surplus Federal real property, that all terms and conditions apply to the initial lease agreement, and any renewal periods, unless specifically excluded in writing by the Secretary.

(Authority: 40 U.S.C. 484 (k)(1))

§ 12.13 When is use of the transferred surplus Federal real property by entities other than the transferee or lessee permissible?

(a) *By eligible entities.* A transferee or lessee may permit the use of all or a portion of the surplus Federal real property by another eligible entity as described in § 12.5, only upon those terms and conditions the Secretary determines appropriate if—

(1) The Secretary determines that the proposed use would not substantially limit the program and plan of use by the transferee or lessee and that the use will not unduly burden the Department;

(2) The Secretary's written consent is obtained by the transferee or lessee in advance; and

(3) The Secretary approves the use instrument in advance and in writing.

(b) *By ineligible entities.* A transferee or lessee may permit the use of a portion of the surplus Federal real property by an ineligible entity, one not described in § 12.5, only upon those terms and conditions the Secretary determines appropriate if—

(1) In accordance with paragraph (a) of this section, the Secretary makes the required determination and approves both the use and the use instrument;

(2) The use is confined to a portion of the surplus Federal real property;

(3) The use does not interfere with the approved program and plan of use for which the surplus Federal real property was conveyed; and

(4) Any rental fees or other compensation for use are either remitted directly to the Secretary or are applied to purposes expressly approved in writing in advance by the Secretary.

(Authority: 40 U.S.C. 484(k)(4))

Subpart D—Enforcement

§ 12.14 What are the sanctions for noncompliance with a term or condition of a transfer or lease of surplus Federal real property?

(a) *General sanctions for noncompliance.* The Secretary imposes any or all of the following sanctions, as applicable, to all transfers or leases or surplus Federal real property:

(1) If all or a portion of, or any interest in, the transferred or leased surplus Federal real property is not used or is sold, leased or subleased, encumbered, disposed of, or used for purposes other than those in the approved program and plan of use, without the prior written consent of the Secretary, the Secretary may require that—

(i) All revenues and the reasonable value of other benefits received by the transferee or lessee directly or indirectly from that use, as determined by the Secretary, be held in trust by the transferee or lessee for the United States subject to the direction and control of the Secretary;

(ii) Title or possession to the transferred or leased surplus Federal real property and the right to immediate possession revert to the United States;

(iii) The surplus Federal real property be transferred or leased to another eligible entity as the Secretary directs;

(iv) The transferee or lessee abrogate the conditions and restrictions in the transfer or lease instrument in accordance with the provisions of § 12.15;

(v) The transferee or lessee place the surplus Federal real property into immediate use for an approved purpose and extend the period of restriction in the transfer or lease instrument for a term equivalent to the period during which the property was not fully and solely used for an approved use; or

(vi) The transferee or lessee comply with any combination of the sanctions described in paragraph (a)(1) or (a)(3) of this section.

(2) If a required report is received by the Secretary more than thirty (30) days after the due date, the Secretary may—

(i) Impose a late fee of $100 per day for each day after the expiration of the 30-day grace period that the report is not received by the Secretary;

(ii) Extend the period of restriction in the conveyance instrument for a term equivalent to the amount of time the report is late; or

(iii) Take both actions described in paragraphs (a)(2) (i) and (ii) of this section.

(3) If title or possession reverts to the United States for noncompliance or is voluntarily reconveyed, the Secretary may require the transferee or lessee—

(i) To reimburse the United States for the decrease in value of the transferred or leased surplus Federal real property not due to—

(A) Reasonable wear and tear;

(B) Acts of God; or

(C) Reasonable alterations made by the transferee or lessee to adapt the surplus Federal real property to the approved program and plan of use for which it was transferred or leased;

(ii) To reimburse the United States for any costs incurred in reverting title or possession;

(iii) To forfeit any cash payments made by the transferee or lessee against the purchase or lease price of surplus Federal property transferred;

(iv) To take any other action directed by the Secretary; or

(v) To comply with any combination of the provisions of paragraph (a)(3) of this section.

(4) If the transferee or lessee does not put the surplus Federal real property into use within the applicable time limitation in § 12.12(a), the Secretary may require the transferee or lessee to make cash payments to the Secretary equivalent to the current fair market rental value of the surplus Federal real property for each month during which the program and plan of use has not been implemented.

(Authority: 40 U.S.C. 484(k)(4))

(5) If the Secretary determines that a lessee of a transferee or a sublessee of a lessee is not complying with a term or condition of the lease, or if the lessee voluntarily surrenders the premises, the Secretary may terminate the lease.

(Authority: 40 U.S.C. 484(k)(4)(A))

(b) *Additional sanction for noncompliance with off-site transfer.* In addition to the sanctions in paragraph (a) of this section, if the Secretary determines that a transferee is not complying with a term or condition of a

transfer of off-site surplus Federal real property, the Secretary may require that the unearned PBA become immediately due and payable in cash to the United States.

(Authority: 40 U.S.C. 484(k)(4)(A))

Subpart E—Abrogation

§ 12.15 What are the procedures for securing an abrogation of the conditions and restrictions contained in the conveyance instrument?

(a) The Secretary may, in the Secretary's sole discretion, abrogate the conditions and restrictions in the transfer or lease instrument if—

(1) The transferee or lessee submits to the Secretary a written request that the Secretary abrogate the conditions and restrictions in the conveyance instrument as to all or any portion of the surplus Federal real property;

(2) The Secretary determines that the proposed abrogation is in the best interests of the United States;

(3) The Secretary determines the terms and conditions under which the Secretary will consent to the proposed abrogation; and

(4) The Secretary transmits the abrogation to the Administrator and there is no disapproval by the Administrator within thirty (30) days after notice to the Administrator.

(b) The Secretary abrogates the conditions and restrictions in the transfer or lease instrument upon a cash payment to the Secretary based on the formula contained in the transfer or lease instrument and any other terms and conditions the Secretary deems appropriate to protect the interest of the United States.

(Authority: 40 U.S.C. 484(k)(4)(A)(iii))

Appendix A.—Public Benefit Allowance for Transfer of Surplus Federal Real Property for Educational Purposes [1]

Classification	Percent allowed												
		Organization allowances							Utilization allowances				
	Basic public benefit allowance	Accreditation	Federal impact	Public service training	Hardship	Inadequacy of existing school plant facilities			Introduction of new instructional programs	Student health and welfare	Research	Service to handicapped	Maximum public benefit allowance [4]
						10–25%	26–50%	51–100%					
Elementary or high schools	70	10	10	10	10	10	10	10	10	10	10	10	100
Colleges or Universities	50	20		10	10	10	20	30	10	10	10	10	100
Specialized schools	70			10	10	10	20	30	10	10	10	10	100
Public libraries or educational museums	[2] 100												[3] 100
School outdoor education	40								10	[3] 10	10		70
Central administrative and/or service centers	90												90
Non-profit educational research organizations	50	20		10					10	10		10	100

[1] This Appendix applies to transfers of both on-site and off-site surplus property.

[2] Applicable when this is the primary use to be made of the property. The public benefit allowance for the overall program is applicable when such facilities are conveyed as a minor component of other facilities.

[3] This 10% may include an approvable recreation program which will be accessible to the public and entirely compatible with, but subordinate to, the educational program.

[4] This column establishes the maximum discount from the fair market value for payment due from the transferee at the time of the transfer. This column does not apply for purposes of ranking applicants to determine to which applicant the property will be transferred. Competitive rankings are based on the absolute total of public benefit allowance points and are not limited to the 100% ceiling.

Description of Terms used in this Appendix:

Elementary or High School means an elementary school (including a kindergarten), high school, junior high school, junior-senior high school or elementary or secondary school system, that provides elementary or secondary education as determined under State law. However, it does not include a nursery school even though it may operate as part of a school system.

College or University means a non-profit or public university or college, including a junior college, that provides postsecondary education.

Specialized School means a vocational school, area trade school, school for the blind, or similar school.

Public Library means a public library or public library service system, not a school library or library operated by non-profit, private organizations or institutions that may be open to the general public. School libraries receive the public benefit allowance in the appropriate school classification.

Educational Museum means a museum that conducts courses on a continuing, not *ad hoc*, basis for students who receive credits from accredited postsecondary education institutions or school systems.

School Outdoor Education means a separate facility for outdoor education as distinguished from components of a basic school. Components of a school such as playgrounds and athletic fields receive the basic allowance applicable for that type of school. The outdoor education must be located reasonably near the school system and may be open to and used by the general public, but only if the educational program for which the property is conveyed is given priority of use. This category does not include components of the school such as playgrounds and athletic fields, that are utilized during the normal school year, and are available to all students.

Central Administrative and/or Service Center means administrative office space, equipment storage areas, and similar facilities.

Description of Allowances

Basic Public Benefit Allowance means an allowance that is earned by an applicant that satisfies the requirements of § 12.10 of this part.

Organization Allowance

Accreditation means an allowance that is earned by any postsecondary educational institution, including a vocational or trade school, that is accredited by an accrediting agency recognized by the Secretary under 34 CFR part 602.

Federal Impact means an allowance that is earned by any local educational agency (LEA) qualifying for Federal financial assistance as the result of the impact of certain Federal activities upon a community such as the following under Public Law 81–874 and Public Law 81–815: to any LEA charged by law with responsibility for education of children who reside on, or whose parents are employed on, Federal property, or both; to any LEA to which the Federal Government has caused a substantial and continuing financial burden as the result of the acquisition of a certain amount of Federal property since 1938; or to any LEA that urgently needs minimum school facilities due to a substantial increase in school membership as the result of new or increased Federal activities.

Public Service Training means an allowance that is earned if the applicant has cadet or ROTC units or other personnel training contracts for the Federal or State governments. This is given to a school system only if the particular school receiving the property furnishes that training.

Hardship means an allowance earned by an applicant that has suffered a significant facility loss because of fire, storm, flood, other disaster, or condemnation. This allowance is also earned if unusual conditions exist such as isolation or economic factors that require special consideration.

Inadequacies of Existing Facilities means an allowance that is earned on a percentage basis depending on the degree of inadequacy considering both public and nonpublic facilities. Overall plant requirements are determined based on the relationship between the maximum enrollment accommodated in the present facilities, excluding double and night sessions and the anticipated enrollment if the facilities are transferred. Inadequacies may be computed for a component school unit such as a school farm, athletic field, facility for home economics, round-out school site, cafeteria, auditorium teacherages, faculty housing, etc., only if the component is required to meet State standards. In that event, the State Department of Education will be required to provide a certification of the need. Component school unit inadequacies may only be related to a particular school and not to the entire school system.

Utilization Allowances

Introduction of New Instructional Programs means an allowance that is earned if the proposed use of the property indicates that new programs will be added at a particular school. Examples of these new programs include those for vocational education, physical education, libraries, and similar programs.

Student Health and Welfare means an allowance that is earned if the proposed program and plan of use of the property provides for cafeteria, clinic, infirmary, bus loading shelters, or other uses providing for the well-being and health of students and eliminating safety and health hazards.

Research means an allowance that is earned if the proposed use of the property will be predominantly for research by faculty or graduate students under school auspices, or other primary educational research.

Service to Handicapped means an allowance that is earned if the proposed program and plan of use for the property will be for special education for the physically or mentally handicapped.

APPENDIX*—DISTRIBUTION TABLE

[Disposal and Utilization of Surplus Federal Real Property for Educational Purposes]

Old section	New section	Comments
12.1(a)	12.2(a)	
12.1(b)		Deleted.
12.1(c)	12.2(a)	
12.1(d)		Deleted.
12.1(e)	12.2(b)	
12.1(f)		Deleted.
12.1(g)		Deleted.
12.1(h)		Deleted.
12.1(i)		Deleted.
12.1(j)	12.2(c)	
12.1(k)	12.2(c)	
12.1(l)	12.2(c)	
12.1(m)	12.2(c)	
12.1(n)	12.2(c)	
12.1(o)	12.2(b)	
12.1(p)	12.2(b)	
12.1(q)	12.2(c)	
12.2	12.1	
12.3(a)		Deleted.
12.3(b)	12.5	
12.3(c)		Partially deleted.
12.3(c)	12.6 (g), (h) & (i), 12.12(a)(1) (i) & (ii).	
12.3(d)	12.6(b)	
12.3(e)	12.6(c)	
12.3(f)	12.6(a)	
12.4(a)	12.6(a) & 12.9	
12.4(b)		Deleted.
12.5	12.7	
12.6	12.8	
12.7	12.6(j)	
12.8(a)		Deleted.
12.8(b)(1)		Deleted.
12.8(b)(2)	12.6(d)	
12.8(b)(3)	12.6(e)	
12.8(b)(4)	12.6(f)	
12.9(a)	12.10	
12.9(b)		Deleted.
12.9(c)(1)	12.12(a)(1)	

APPENDIX*—DISTRIBUTION TABLE—Continued

[Disposal and Utilization of Surplus Federal Real Property for Educational Purposes]

Old section	New section	Comments
12.9(c)(2)	12.12(a)(3)	
12.9(c)(3)	12.12(a)(6)	
12.9(c)(4)	12.14(a)	
12.9(c)(5)		Partially deleted
12.9(c)(5)	12.12(a) (5) & (6)	
12.9(c)(6)	12.3(b) & 12.14(a)	
12.9(c)(7)	12.14 (a) & (b)	
12.9(c)(8)		Deleted.
12.9(c)(9)	12.12(b), (c)(1) & (d).	
12.9(d)	12.15	
12.9(e)		Deleted.
12.10(a)	12.11	
12.10(b)	12.11	
12.10(c)	12.11	
12.10(d)		Deleted.
12.11(a)	12.12(a)(4)	
12.11(b)	12.12(c)(2)	
12.11(c)		Deleted.
12.11(d)	12.12(a)(7)	
12.11(e)	12.12(a)(7)	
12.11(f)	12.12(a)(7)	
12.12(a)(1)	12.14(a)(1)(v)	
12.12(a)(2)	12.14(a)(1)(iii)	
12.12(a)(3)	12.14(a)(2)(i)(C)(iv)	
12.12(a)(4)	12.14(a)(1)(ii)	
12.12(a)(5)	12.14(a)(1) (i) & (iv).	
12.12(a)(6)	12.14(a)(4)	
12.12(b)	12.12(a)(2) & 12.13.	
12.13(a)	12.8	
12.13(b)	12.8	
12.14	12.12(a)(6)	
12.15		Deleted.
	12.7(d)(2)	New.
	12.10(b)	New.
	12.13(b)	New.
	12.14(a)(1)(v)	New.
	12.14(a)(1)(vi)	New.

*This Appendix is supplied to the reader as an aid to compare the current regulations with the proposed regulations. It will not be included in the final rulemaking document for these regulations or codified in the Code of Federal Regulations.

[FR Doc. 90-25684 Filed 10-30-90; 8:45 am]

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October 31, 1990

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Part 13

Rules of Practice for FAA Civil Penalty Actions; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 13

[Docket No. 25892; Amdt. No. 13-23]

Rules of Practice for FAA Civil Penalty Actions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: In a final rule issued in June 1990, the FAA revised the initiation procedures and the rules of practice for civil penalty actions brought under the agency's assessment authority. The revised procedures and rules were effective on August 2, 1990. In late July 1990, a commenter in the rulemaking proceedings submitted a letter to the FAA, noting what the commenter perceives to be errors or inconsistencies in the provisions of the final rule issued in June 1990. This final rule corrects two sections of the rules of practice in which changes were inadvertently omitted or material was unintentionally deleted when the rules were revised and republished. These corrections will ensure that the rules of practice accurately reflect the agency's intent in revising the rules and will promote clear understanding and consistent interpretation of the revised rules.

EFFECTIVE DATE: October 31, 1990.

FOR FURTHER INFORMATION CONTACT: Denise Daniels Ross, Special Counsel to the Chief Counsel (AGC-3), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3773.

SUPPLEMENTARY INFORMATION:

Availability of the Final Rule

Any person may obtain a copy of this final rule by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center (APA-430), 800 Independence Avenue, SW., Washington, DC 20591; or by calling (202) 267-3484. Communications must identify the amendment number of this final rule. Persons interested in being placed on the mailing list for future notices of proposed rulemaking also should request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

Background

In a notice of proposed rulemaking (NPRM) issued on April 17, 1990, the FAA solicited comment on the initiation procedures and the rules of practice that apply to civil penalty actions (1) not exceeding $50,000, for a violation of the Federal Aviation Act of 1958, or any rule, regulation, or order issued thereunder; and, (2) regardless of amount, for a violation of the Hazardous Materials Transportation Act, or any rule, regulation, or order issued thereunder. 55 FR 15134; April 20, 1990. On June 27, 1990, the FAA issued a final rule revising the initiation procedures and the rules of practice for civil penalty actions in response to the comments submitted to the NPRM. 55 FR 27548; July 3, 1990. The revised rules of practice were effective on August 2, 1990.

In a letter dated July 27, 1990, the Air Transport Association of America (ATA) suggests "technical corrections" to the final rule, and notes "several inconsistencies between the preamble and the final rule [* * *." ATA cites four issues, some of which it characterizes as inadvertent omissions, and some of which it believes should be added to the rules of practice. Those issues are: (1) Failure to amend the text of § 13.219(d) to reflect the longer time provided to file an interlocutory appeal; (2) clarification of the appropriate document in which a respondent should express a preferred location for a hearing; (3) deletion of language in § 13.220(k) regarding "separate and complete" responses to interrogatories; and (4) inclusion of a general "defense of timeliness" based on prejudicial delay in the rules of practice so that respondents are aware of this defense. ATA suggests that the FAA publish a "notice of correction" in the **Federal Register** to address its concerns. ATA's request did not arrive sufficiently in advance of the effective date to review and analyze the need for changes to the rules and to prepare and issue an appropriate notice in the **Federal Register** before August 2, 1990. By this notice however, the FAA is amending the rules of practice to correct and clarify two sections in which intended changes either were inadvertently omitted or language was unintentionally deleted.

Discussion

1. *Interlocutory appeals.* ATA correctly notes that the revised text of § 13.219(d) fails to reflect expressly the extended time within which to file an interlocutory appeal, a change suggested by several commenters to the April 1990 NPRM and adopted by the FAA in the June 1990 final rule. The FAA is correcting that omission in the text of § 13.219(d) to ensure that the rule accurately reflects the 10-day period within which to file a notice of interlocutory appeal and any supporting documents.

The agency's review of this section, prompted by ATA's request, highlights several other issues requiring clarification related to interlocutory appeals, issues not identified by ATA. Even as revised to reflect the increased time period, the first sentence of § 13.219(d) would read:

> A party shall file a notice of interlocutory appeal, with supporting documents, with the FAA decisionmaker and the hearing docket clerk, and shall serve a copy of the notice and supporting documents on each party and the administrative law judge, not later than 10 days *after the administrative law judge's decision forming the basis of the appeal.*

The italicized language in this sentence describes accurately the procedure to file a notice and supporting documents in the case of an interlocutory appeal *of right.* Upon review, however, the FAA is concerned that this section does not adequately address the filing of an interlocutory appeal *for cause,* permitted only if an administrative law judge grants a party's request to file such an appeal. In the case of an interlocutory appeal for cause, an administrative law judge would need time to review a party's request submitted pursuant to § 13.219(b). A party also would need time to prepare a notice of interlocutory appeal and supporting documents (i.e., a brief in support) if the law judge grants the party's request. Although the arguments and any material submitted to the law judge may be very similar to the arguments prepared for the Administrator, the rule should not operate to truncate either the time provided to a party to prepare arguments or the time provided to a law judge to review such arguments.

Therefore, the FAA is amending the first sentence in § 13.219(d). The amendment will ensure that a party has the full 10-day period within which to file the required documents with the Administrator if an administrative law judge grants a request for leave to file an interlocutory appeal for cause. Section 13.219(d) is revised by adding the italicized language and, as revised, the first sentence reads as follows:

> A party shall file a notice of interlocutory appeal, with supporting documents, with the FAA decisionmaker and the hearing docket clerk, and shall serve a copy of the notice and supporting documents on each party and the administrative law judge, *not later than 10 days after the administrative law judge's decision forming the basis of an interlocutory appeal of right or not later than 10 days after the administrative law judge's decision granting an interlocutory appeal for cause, whichever is appropriate.*

The agency's review of this section also discloses an inconsistency that should be corrected. The third sentence of § 13.219(d) states:

> If the FAA decisionmaker does not issue a decision on the interlocutory appeal or does not seek additional information *within 10 days of the filing of the appeal*, the stay of the proceedings is dissolved."

That provision, which describes the amount of time within which the Administrator must review an interlocutory appeal and issue a decision on that appeal before an automatic stay of the proceedings is dissolved by operation of the rule, was originally promulgated to ensure that an interlocutory appeal is resolved with dispatch and without undue delay to the remainder of the proceedings. However, in light of the extended time period in which to file a notice of interlocutory appeal and supporting documents, the stay of the proceedings under this provision would likely be dissolved automatically before a reply brief would be filed. Increasing the time within which to file an interlocutory appeal brief was not intended to affect any rights of an opposing party to submit written argument or to alter any time period within which the Administrator must resolve an interlocutory appeal. So that the rule does not result in such adverse affects, the FAA is deleting the quoted sentence to eliminate the automatic dissolution of the stay of the proceedings while an interlocutory appeal is pending.

Although previous commenters did not focus specifically on this issue or any apparent inconsistency, automatic dissolution of a stay of the underlying proceedings does not appear to be warranted. Both § 13.219(b) (interlocutory appeals for cause) and § 13.219(c) (interlocutory appeals of right) provide for an absolute stay of the proceedings until the Administrator has issued a decision on the interlocutory appeal. Such a stay seems to be appropriate and necessary for at least two reasons: (1) It encourages swift resolution of issues that may result in dismissal of a case or may otherwise be critical for proper disposition of the case; and (2) it protects the parties from procedural default during the pendency of any interlocutory appeal.

Without correcting the third sentence of § 13.219(d), automatic dissolution of a stay could force the Administrator to issue a decision without the benefit of an opposing party's reply brief or could place the parties in technical noncompliance with some other rule requirement. Because these results were neither intended nor contemplated when the rules were revised, the FAA believes that staying the underlying proceedings while an interlocutory appeal is pending is appropriate. A stay, without automatic dissolution by operation of the rule, serves the interests of both the adjudicators and the parties in these cases by conserving the resources of both the parties and adjudicators, and ensuring final resolution of an issue important enough to warrant interlocutory appeal. Therefore, rather than simply extending the time in which the stay would automatically dissolve to accommodate an extended briefing period, the FAA is deleting the third sentence in § 13.219(d). Thus, as revised, a law judge's decision granting a request for an interlocutory appeal for cause, or a party's filing an interlocutory appeal of right, will stay the proceedings until the Administrator issues a decision on the appeal. Because of the interests served by swift resolution of an interlocutory appeal and the automatic stay of the proceedings imposed by rule, the Administrator will act expeditiously to issue decisions on interlocutory appeals so as not to delay the underlying proceedings.

2. *Interrogatories.* The second issue ATA identifies for correction is § 13.220(k) regarding interrogatories and responses to interrogatories. ATA states that language requiring "separate and complete" responses to interrogatories "may have been inadvertently omitted along with the 'under the oath' language which was purposefully deleted." Because ATA states that it is aware of no previous objections to this language, and also believes that this language serves a "valid and useful" function, ATA urges the FAA to reinsert this language in the rule.

The FAA agrees that the omitted language assists the parties, both in responding to interrogatories and reviewing responses to interrogatories. Because this requirement serves the interests of the parties in full and complete discovery, the FAA is amending § 13.220(k). As revised by adding the italicized language, that section reads as follows:

> (k) *Interrogatories.* A party, the party's attorney, or the party's representative may sign the party's responses to interrogatories. *A party shall answer each interrogatory separately and completely in writing.* If a party objects to an interrogatory, the party shall state the objection and the reasons for the objection. An opposing party may use any part or all of a party's responses to interrogatories at a hearing authorized under this subpart to the extent that the response is relevant, material, and not repetitious.

Although not specifically raised by ATA in its letter, the FAA assumes that ATA and other commenters do not object to the requirement that interrogatory responses be made "in writing." So what seems to be the commenters' preference is reflected in the rule, the FAA is merely reinserting the sentence as it was promulgated in September 1988, omitting only the language "and under oath" as suggested by previous commenters and discussed in the June 1990 final rule.

3. *Location of hearings.* ATA believes that it is "appropriate and reasonable" for a respondent to suggest a location for a hearing when filing the answer to a complaint. In ATA's opinion, a respondent should not be required to suggest a location until after the specific factual allegations have "finally" been determined by the FAA in its complaint. In ATA's opinion, the allegations as stated in the complaint will "most likely suggest what location is most appropriate from the respondent's perspective."

In response to the agency's April 1990 NPRM, ATA objected to any involvement by the docket clerk in determining the location for a hearing and suggested revision to the rules of practice; the FAA adopted ATA's suggested revisions in the June 1990 final rule. ATA's current concern arises because the discussion of the revisions in the preamble to the June 1990 final rule referred to this issue in the context of filing a request for a hearing. ATA correctly notes, however, that § 13.16(f) of the initiation procedures does not impose such a requirement at that point in the proceedings. ATA does not suggest any revision or correction to the initiation procedures or the rules of practice in this regard, and none is required. The procedures and the rules, as revised in June 1990, accurately reflect the agency's intent with respect to a party's suggestion of a hearing location and the law judge's selection of an appropriate location. Notwithstanding the preamble's statement that a respondent is "required" to include a suggested location when filing a request for a hearing, a respondent is obligated to comply only with the initiation procedures and other procedures contained in the rules of practice, not a discussion in the preamble.

That is not to say, however, that a respondent is precluded from suggesting a desired hearing location in a request for a hearing. ATA believes that a law judge's "need to know the desires of the parties for hearing location does not arise until after a complaint and answer have been filed." However, it is possible that a respondent's interests would be well served by ensuring that the law

judge is aware at the earliest possible time of the hearing location preferred by the respondent. Such early notification also could assist the administrative law judge's expeditious scheduling of hearings.

Although ATA may prefer to wait until agency counsel has "finalized" the allegations by filing a complaint, the FAA does not believe that the complaint would be so drastically different from prior notices that it would significantly affect or alter a logical location for a hearing. The FAA also is not convinced that a respondent would gain any appreciable advantage by suggesting a hearing location in an answer rather than some document that may be filed earlier. Nevertheless, the initiation procedures and the rules of practice impose no contrary obligation and, so long as a respondent complies with the rules, the choice is left to the respondent.

4. *Prejudicial delay.* The final issue of concern to ATA is identified as the availability and codification of a "defense of timeliness." In both the April 1990 NPRM and the June 1990 final rule, the FAA expressed its view that a respondent's demonstration of actual prejudice resulting from unreasonable or excessive delay in initiation of a case could be asserted as a defense in an appropriate case.

ATA believes the agency's recognition of such a defense should be specifically referenced in the rules of practice. Failure to do so, in ATA's opinion, will make it "likely that a presumption of its unavailability will arise." ATA claims that the administrative law judges who hear these cases "may be likely to prohibit this defense from being raised as a matter of course absent its recognition" expressly in the rules of practice for civil penalty actions.

The FAA disagrees. The rules of practice governing proceedings before the National Transportation Safety Board (NTSB) do not contain a provision that codifies a "defense of timeliness" other than the "stale complaint" provisions in 49 CFR 821.33. Nevertheless, the NTSB has noted the potential availability of such a defense to respondents in certificate actions before the NTSB. For example, in *Administrator* v. *Shroder*, EA–3018 (October 16, 1989), the NTSB stated, *in dicta*, that even if the stale complaint rule does not apply, delay in prosecuting and enforcement action could warrant dismissal if the delay has demonstrably prejudiced a respondent's defense. *Shroder* at 7–8. The NTSB noted that a respondent may not simply claim that the passage of time has or may adversely affect preparation of a defense; instead, a respondent must show that any delay "* * * significantly undermines, in a way that can be objectively identified, [a respondent's] ability to prepare a defense." *Id.*

The administrative law judges employed by the Department of Transportation and the Administrator clearly have similar authority to consider such a claim in defense of a civil penalty action, and the agency believes that the adjudicators will exercise that authority in appropriate cases. As evidence of this belief, a recent decision of the Administrator in a civil penalty case recognizes the availability of this defense in the agency's civil penalty actions. See *In the Matter of Carroll*, FAA Order No. 90–21 (August 16, 1990), in which the Administrator noted his willingness to consider such a defense in an appropriate case. Pursuant to § 13.233(j)(3), a final decision and order of the Administrator is precedent in any other civil penalty action. Thus, the Administrator's express recognition of the availability of this defense certainly provides notice of the availability of a "timeliness defense," the Administrator's willingness to apply it in appropriate cases, and the authority of administrative law judges to consider this defense if it is asserted by a respondent in a civil penalty case before them. ATA's assertion that the administrative law judges will be hostile to such a defense in an appropriate case, simply because the defense is not "codified" in the rules, is belied by the *Carroll* decision. Indeed, the administrative law judge in that case recognized the defense of prejudicial delay, even before the Administrator had expressly recognized it in a decision.

Publication and Effective Date of the Final Rule

This final rule makes minor corrections and clarifications to the final rule issued on June 27, 1990. The amendments will convey more accurately the agency's intent, as expressed in the June 1990 final rule, and will not place any new restriction or requirement on persons or entities involved in a civil penalty action. This notice makes only minor, technical corrections to the revised rules adopted in June 1990, on which public comment was solicited in notices issued in February 1990 and April 1990. For these reasons, and because an additional period for comment would unduly delay correction and clarification of the rules, the initiation of new cases, and continued processing of cases already initiated, the FAA finds that further notice and opportunity for public comment under the Administrative Procedure Act (5 U.S.C. 553(b)) are unnecessary and contrary to the public interest.

It is important that these corrections and clarifications be issued and published as soon as possible so that the public is aware of the corrections. It also is important that these amendments be effective immediately to ensure that they are applied in new civil penalty actions initiated by the FAA and cases already initiated. The FAA also believes that these corrections will prevent public misunderstanding of procedural requirements, will ensure consistent interpretation of the rules, and will conserve the resources of the parties and the adjudicators in civil penalty actions initiated pursuant to the agency's assessment authority. Accordingly, the FAA finds that good cause exists to make these amendments effective less than 30 days after publication in the Federal Register.

Regulatory Evaluation

The FAA has determined that this final rule is not a major action under the criteria of Executive Order 12291; thus, the FAA is not required to prepare a regulatory impact analysis under either the Executive Order or the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034; February 26, 1979). In nonmajor rulemaking actions, procedures of the Department of Transportation require the FAA to analyze the economic consequences of regulations and quantify, to the extent practicable, the estimated costs and anticipated benefits and impacts of the regulations. The FAA discussed its analysis and evaluation of changes to the rules of practice adopted in June 1990. In that final rule document, the FAA concluded that the agency was not required to prepare a full regulatory evaluation of the changes because neither the commenters nor the FAA identified any specific economic consequences attributable to the revisions. 55 FR at 27573. This final rule makes only technical changes and minor corrections to two sections of the rules of practice that were revised in June 1990, actions that do not impose new obligations and do not result in any costs or appreciable benefits for respondents in civil penalty actions. For these reasons, the FAA has determined that preparation of a full regulatory evaluation is not required and revision of the analysis set forth in the June 1990 final rule is not necessary.

Conclusion

For the reasons stated above, the FAA has determined that this notice is not a major action under the criteria of Executive Order 12291 and is not a significant rule under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034; February 26, 1979). The FAA also has determined that this action does not warrant preparation of a regulatory evaluation, or revision of the evaluation previously set forth, because the action will have no impact on, or economic consequences to, persons or entities involved in civil penalty actions initiated pursuant to the agency's general assessment authority.

For the same reasons, the FAA certifies that the corrections noted herein will not have a significant economic impact, positive or negative, on a substantial number of small entities, as those terms are defined in the Regulatory Flexibility Act of 1980. There also will be no impact on trade opportunities for U.S. firms operating outside the United States or foreign firms operating within the United States. Moreover, these corrections will not have substantial direct effects on the States, the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, the FAA has determined that these amendments do not have sufficient Federalism implication to warrant preparation of a Federalism assessment.

List of Subjects in 14 CFR Part 13

Enforcement procedures, Investigations, Penalties.

The Amendments

Accordingly, the FAA amends part 13 of the Federal Aviation Regulations (14 CFR part 13) as follows:

PART 13—INVESTIGATIVE AND ENFORCEMENT PROCEDURES

1. The authority citation for part 13 continues to read as follows:

Authority: 49 U.S.C. App. 1354 (a) and (c), 1374(d), 1401–1406, 1421–1428, 1471, 1475, 1481, 1482 (a), (b), and (c), and 1484–1489, 1523 (Federal Aviation Act of 1958) (as amended, 49 U.S.C. App. 1471(a)(3) (Federal Aviation Administration Drug Enforcement Assistance Act of 1988); 49 U.S.C. App. 1475 (Airport and Airway Safety and Capacity Expansion Act of 1987); 49 U.S.C. App. 1655(c) (Department of Transportation Act, as revised 49 U.S.C.106(g)); 49 U.S.C. 1727 and 1730 (Airport and Airway Development Act of 1970); 49 U.S.C. 1808, 1809, and 1810 (Hazardous Materials Transportation Act); 49 U.S.C. 2218 and 2219 (Airport and Airway Improvement Act of 1982); 49 U.S.C. 2201 (as amended, 49 U.S.C. App. 2218, Airport and Airway Safety an Capacity Expansion Act of 1987)); 18 U.S.C. 6002 and 6004 (Organized Crime Control Act of 1970); 49 CFR § 1.47 (f), (k), and (q) (Regulations of the Office of the Secretary of Transportation).

2. Section 13.219 is amended by revising paragraph (d) to read as follows:

§ 13.219 Interlocutory appeals.

* * * * *

(d) *Procedure.* A party shall file a notice of interlocutory appeal, with supporting documents, with the FAA decisionmaker and the hearing docket clerk, and shall serve a copy of the notice and supporting documents on each party and the administrative law judge, not later than 10 days after the administrative law judge's decision forming the basis of an interlocutory appeal of right or not later than 10 days after the administrative law judge's decision granting an interlocutory appeal for cause, whichever is appropriate. A party shall file a reply brief, if any, with the FAA decisionmaker and serve a copy of the reply brief on each party, not later than 10 days after service of the appeal brief. The FAA decisionmaker shall render a decision on the interlocutory appeal, on the record and as a part of the decision in the proceedings, within a reasonable time after receipt of the interlocutory appeal.

* * * * *

3. Section 13.220 is amended by revising paragraph (k) to read as follows:

§ 13.220 Discovery.

* * * * *

(k) *Interrogatories.* A party, the party's attorney, or the party's representative may sign the party's responses to interrogatories. A party shall answer each interrogatory separately and completely in writing. If a party objects to an interrogatory, the party shall state the objection and the reasons for the objection. An opposing party may use any part or all of a party's responses to interrogatories at a hearing authorized under this subpart to the extent that the response is relevant, material, and not repetitious.

* * * * *

Issued in Washington, DC, on October 26, 1990.

James B. Busey,

Administrator.

[FR Doc. 90–25701 Filed 10–30–90; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Index of Administrator's Decisions and Orders in Civil Penalty Actions; Publication

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of publication.

SUMMARY: This notice constitutes the required publication of an index of the Administrator's decisions and orders in civil penalty cases. The FAA is publishing an index by order number, a subject-matter index, and case digests that contain identifying information about the final decisions and orders issued by the Administrator. These indexes and digests will increase the public's awareness of the Administrator's decisions and orders and will assist litigants and practitioners in their research and review of decisions and orders that may have precedential value in a particular civil penalty action. Publication of the index by order number ensures that the agency is in compliance with statutory indexing requirements.

FOR FURTHER INFORMATION CONTACT: James S. Dillman, Assistant Chief Counsel for Litigation (AGC-400), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3057.

SUPPLEMENTARY INFORMATION: In section 905 of the Federal Aviation Act, Congress authorized the Administrator of the Federal Aviation Administration (FAA) to assess civil penalties not to exceed $50,000 for violations of the Federal Aviation Act, or any rule, regulation, or order issued thereunder, after written notice and finding of violation by the Administrator. 49 U.S.C. app. 1475. As extended, this civil penalty assessment authority is effective through July 1992. Under the rules of practice governing hearings and appeals of civil penalty actions (14 CFR part 13, subpart G), the Administrator, or his delegate, is designated as the FAA decisionmaker to review and decide appeals of initial decisions issued by administrative law judges who hold adjudicatory hearings in these civil penalty actions. The Administrator, as the decisionmaker, issues the final decisions and order of the agency in those cases.

In the Federal Aviation Administration Drug Enforcement Assistance Act of 1988, Congress extended the Administrator's authority in section 901 to include the assessment of civil penalties, not to exceed $50,000, in the case of aircraft registration and recordation violations related to drug trafficking. 49 U.S.C. app. 1471(a)(3). This civil penalty assessment authority is identical to the authority under section 905 except that it is permanent. In addition, the Administrator is authorized to initiate and assess civil penalties, regardless of amount, for violations of the Hazardous Materials Transportation Act. 49 U.S.C. 1809. This assessment authority is also permanent.

Under the Administrative Procedure Act, Federal agencies are required to make available for public inspection and copying, or publish and offer for sale, certain specified materials, including all "final opinions and orders made in the adjudication of cases." 5 U.S.C. 552(a)(2)(A). In a notice issued on May 1, 1990, and published in the **Federal Register**, the FAA announced the public availability of the Administrator's final decisions and orders in civil penalty cases. *See* 55 FR 18430–18431; May 2, 1990.

The Administrative Procedure Act also requires Federal agencies to maintain and make available for public inspection and copying current indexes that contain identifying information as to those materials required to be made available or published. 5 U.S.C. 552(a)(2). In a notice issued on July 11, 1990, and published in the **Federal Register**, the FAA announced the public availability of several indexes and summaries that provide identifying information about the final decisions and orders issued by the Administrator in civil penalty actions. *See* 55 FR 29148; July 17, 1990. As described in that notice, and in accordance with the indexing requirements of the Administrative Procedure Act, the FAA maintains an index of the Administrator's decisions and orders, with identifying information about each decision or order, organized by order number. (The alphabetical arrangement of this index, which was made available in connection with the notice published in the **Federal Register** on July 17, 1990, is being discontinued as repetitive.) The FAA also maintains a subject-matter index, and digests of the Administrator's final decisions and orders in civil penalty cases. As noted at the beginning of each of these documents, *these indexes and digests do not constitute legal authority, and should not be cited or relied upon as such. The indexes and digests are not intended to serve as a substitute for proper legal research. Parties, attorneys, and other interested persons should always consult the full text of the Administrator's decisions before citing them in any context.*

The index arranged by order number lists the service date, the name and docket number of the case, and the regulations that were discussed in the Administrator's final decision and order. That index, which appears in full below, lists all final decisions and orders issued by the Administrator through September 30, 1990. The FAA will publish noncumulative supplements to this index on a quarterly basis (e.g., in October, January, April, and July of each year).

Civil Penalty Actions—Decisions Issued by Administrator, Index by Order Number (Current as of September 30, 1990)

This index does not constitute legal authority, and should not be cited or relied upon as such. This index is not intended to serve as a substitute for proper legal research. Parties, attorneys, and other interested persons should always consult the full text of the Administrator's decisions before citing them in any context.

Order No. (service date)	Name and docket No.	Regulations discussed in 14 CFR
89-0001 (11/13/89)	Humbert L. Gressani, CP89NE0103	13.233(c); 13.233(d)(2).
89-0002 (11/13/89)	Gail M. Lincoln-Walker, CP89NM0017	
89-0003 (11/13/89)	Steven G. Sitko, CP89NM0013	
89-0004 (11/13/89)	Richard Willford Metz, CP89CE0003	13.233(d)(1).
89-0005 (11/13/89)	Charles A. Schultz, CP89NM0092	13.232; 13.233(f); 107.21(a)(1).
89-0006 (12/21/89)	American Airlines, CP89GL0116, CP89GL0120, CP89GL0127, CP89GL0128.	13.202; 13.211(e); 13.218; 13.219(b); 13.220(d).
89-0007 (12/21/89)	Betty A. Zenkner, CP89NM0060	13.211(e); 13.233(d).
89-0008 (12/22/89)	Thunderbird Accessories, CP89SW0251	13.233(c).
90-0001 (1/19/90)	Robert J. Jibben, CP89CE0192	
90-0002 (1/19/90)	Clifford B. Smith, CP89CE0247	
90-0003 (1/29/90)	Richard Willford Metz, CP89CE0003	13.209; 13.211(e); 13.233(e).

Order No. (service date)	Name and docket No.	Regulations discussed in 14 CFR
90-0004 (1/19/90)	Richard C. Nordrum, CP89GL0109	
90-0005 (1/19/90)	Hy C. Sussman, CP89SO0210	
90-0006 (2/16/90)	Peter M. Dabaghian, CP89WP0277	
90-0007 (2/16/90)	Damita Lynn Steele, CP89SO0320	
90-0008 (2/16/90)	Jack L. Jenkins, CP89SO0173	
90-0009 (2/16/90)	Jessica S. Van Zandt, CP89WP0063	
90-0010 (3/19/90)	Merlin R. Webb, CP89WP0141	107.21(a)(1).
90-0011 (3/19/90)	Thunderbird Accessories, CP89SW0251	13.211(e); 13.212; 13.218; 13.233; 13.235; 43.13(a); 145.53; 145.61.
90-0012 (4/25/90)	Continental Airlines, CP89NE0031	13.201(a)(1); 13.203; 108.5(a); 108.5(b); 108.13; 121.367(a); Part 191.
90-0013 (3/14/90)	Tamara Ann O'Dell, CP89SW0172	
90-0014 (3/14/90)	Royce L. Miller, CP89CE0371	
90-0015 (3/19/90)	Budde Playter, CP89GL0257	13.209; 13.235; 91.9; 91.79.
90-0016 (4/5/90)	Rocky Mntn. Helicopter, CP89SO0498	13.16.
90-0017 (4/9/90)	Ernest Wilson, CP90SW0166, EAJA90SW0001	13.235; 14.05(e).
90-18 (8/22/90)	Continental Airlines, CP89NE0036	108.5(a); 108.7; 121.133(a).
90-20 (8/16/90)	Paul Degenhardt, CP89CE0389	13.205(a)(9); 13.232; 13.233; 107.1(b)(5); 107.21(a).
90-21 (8/16/90)	John J. Carroll, CP89NE0265	13.203; 13.208(d); 13.220(1)(3); 13.227; 136.87.
90-22 (8/16/90)	USAir, CP89SP0497	13.16(d); 13.16(e); 13.16(j)(2); 302.6(c).
90-23 (9/14/90)	Gordon B. Broyles, CP89SW0214	107.21(a); 108.11(c).
90-24 (9/14/90)	Marcia Bayer, CP89SO0130	107.20.
90-25 (9/14/90)	Lucious L. Gabbert, CP89WP0287	13.233(f); 43.15(a).
90-26 (9/25/90)	Frank Puleo, Jr., CP89SO0397	
90-29 (9/25/90)	John C. Sealander, CP89SO0473	
90-30 (9/27/90)	John A Steidinger, CP89NE0267	

The subject-matter index arranges final decisions and orders (identified by name and order number) by subject matter. Many decisions are listed under more than one subject heading or subheading. The subject-matter index, which appears in full below, is current as of September 30, 1990. The FAA will update and republish this index in full on a quarterly basis (e.g., in October, January, April, and July of each year).

Civil Penalty Actions—Decisions Issued by the Administrator, Subject Matter Index (Current as of September 30, 1990)

This index does not constitute legal authority, and should not be cited or relied upon as such. This index is not intended to serve as a substitute for proper legal research. Parties, attorneys, and other interested persons should always consult the full text of the Administrator's decisions before citing them in any context.

Administrative Law Judges—Power and Authority:
- Credibility Findings. — 90-21 Carroll.
- Discovery — 89-0006 American Airlines.
- Vacating Initial Decision. — 90-20 Degenhardt.

Aircraft Maintenance — 90-0011 Thunderbird Accessories.

Airports:
- Airport Operator Responsibilities. — 90-0012 Continental Airlines.

Amicus Curiae Briefs — 90-25 Gabbert.

Appeals:
- Briefs — 89-0004 Metz.
- Failure to Pefect Appeal. — 89-0001 Gressani; 90-0007 Zenkner; 90-0011 Thunderbird Accessories.
- Perfecting an Appeal Extension of Time for. What Constitutes. — 89-0008 Thunderbird Accessories.
- Timeliness of Notice of Appeal. — 89-0003 Metz.
- Waiver of Time Limit for Filing Brief. — 90-0003 Metz.
- Withdrawal of — 89-0002 Lincoln-Walter; 89-0003 Sittko; 90-0004 Nordrum; 90-0005 Sussman; 90-0006 Dabaghian; 90-0007 Steele; 90-0008 Jenkins; 90-0009 Van Zandt; 90-0013 O'Dell; 90-0014 Miller; 90-26 Puleo; 90-29 Sealander; 90-30 Steidinger.

"Attempt" — 89-0005 Schultz.

Adversary Adjudication. — 90-0017 Wilson.

Attorney Fees (See EAJA)

Civil Penalty Amount (see also, Sanction):
- Aggrevating Factors. — 90-0010 Webb.
- Mitigating Factors — 90-0010 Webb.
- Reduction of — 89-0005 Schultz; 90-0010 Webb.

Complaint:
- Complainant Bound by. — 90-0010 Webb.
- Failure to File Timely Answer to. — 90-0003 Metz; 90-0015 Playter.

Compliance & Enforcement Program:
- FAA Order 2150.3A. — 89-0005 Schultz; 89-0006 American Airlines.
- Sanction Guidance Table. — 89-0005 Schultz; 90-23 Broyles.

Concealment of Weapons. — 89-0005 Schultz.

Consolidation of Cases. — 89-0012 Continental Airlines; 90-18 Continental Airlines.

Continuance of Hearing. — 90-25 Gabbert.

Credibility of Witnesses:
- Deference of ALJ — 90-21 Carroll.

Deliberative Process Privilege. — 89-0006 American Airlines; 90-12 Continental Airlines; 90-18 Continental Airlines.

Deterrence — 89-0005 Schultz.

Discovery
- Deliberative Process Privilege. — 89-0006 American Airlines; 90-12 Continental Airlines; 90-18 Continental Airlines.
- Failure to Produce — 90-18 Continental Airlines.

Due Process:
- Violation of — 89-006 American Airlines; 90-0012 Continental Airlines.

Equal Access to Justice Act (EAJA). — 90-0017 Wilson.

Evidence:
- Circumstantial..... 90-0012 Continental Airlines.
- Preponderance..... 90-0011 Thunderbird Accessories; 90-0012 Continental Airlines.

Extension of Time:
- By Agreement of Parties. 89-0006 American Airlines.
- Dismissal by Decisionmaker. 89-0007 Zenkner.
- "Good Cause" for..... 89-0006 Thunderbird Accessories.
- Objection to..... 89-0006 Thunderbird Accessories.

Firearms (See Weapons)
First-time Offenders.... 89-0005 Schultz.
Guns (See Weapons)
Interlocutory Appeal... 89-0006 American Airlines.
Internal Agency Procedures. 89-0006 American Airlines; 90-0012 Continental Airlines.

Jurisdiction
- $50,000 Limit for Civil Penalty. 90-0012 Continental Airlines.
- NTSB..... 90-0011 Thunderbird Accessories.

Knowledge:
- Of Weapon Concealment. 89-0005 Schultz; 90-20 Degenhardt.

Laches (see Unreasonable Delay)
Mailing Rule..... 89-0007 Zenkner; 90-0003 Metz; 90-0011 Thunderbird Accessories.
Maintenance (See Aircraft Maintenance)
Maintenance Manual.. 90-0011 Thunderbird Accessories.
National Aviation Safety Inspection Program (NASIP). 90-0016 Rocky Mountain Helicopter.
National Transportation Safety Board (NTSB):
- Lack of jurisdiction.. 90-0011 Thunderbird Accessories; 90-0017 Wilson.

Notice of Proposed Civil Penalty:
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Order Assessing Civil Penalty:
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The digests of the Administrator's final decisions and orders are arranged by order number, and briefly summarize key points of the decision. The following compilation of digests includes all final decisions and orders issued by the Administrator as of September 30, 1990. The FAA will publish noncumulative supplements to this compilation on a quarterly basis (e.g., in October, January, April, and July of each year).

Civil Penalty Case Decisions Digests (Current as of September 30, 1990)

These digests do not constitute legal authority, and should not be cited or relied upon as such. These digests are not intended to serve as a substitute for proper legal research. Parties, attorneys, and other interested persons should always consult the full text of the Administrator's decisions before citing them in any context.

FAA v. *Humbert L. Gressani*, Order No. 89-0001 (11/13/89)

Failure to Perfect Appeal. Respondent failed to perfect appeal within the 50-day time period after entry of the ALJ's oral initial decision. The Administrator dismissed Complainant's appeal.

FAA v. *Gail M. Lincoln-Walker*, Order No. 89-0002 (11/13/89)

Withdrawal of Appeal. Complainant withdrew notice of appeal from an Order Assessing Civil Penalty recited in the inital decision issued by the ALJ at the conclusion of the hearing. The Administrator dismissed Complainant's appeal.

FAA v. *Steve G. Sittoko*, Order No. 89-0003 (11/13/89)

Withdrawal of Appeal. Complainant withdrew notice of appeal from an Order Assessing Civil Penalty recited in the inital decision issued by the ALJ at the conclusion of the hearing. The Administrator dismissed Complainant's appeal.

FAA v. *Richard Willford Metz*, Order No. 89-0004 (11/13/89)

Appeal Brief. The Administrator determined that Respondent's letter of July 28, 1989, satisfied the requirements for an appeal brief. Respondent's letter shall be regarded as both notice of appeal and a brief on the merits. FAA counsel is ordered to respond to Respondent's brief within 30 days of issuance of Order.

FAA v. *Charles A. Schultz*, Order No. 89-0005 (11/13/89)

Respondent appealed the ALJ's decision arguing that FAA did not prove that he had knowledge of the presence of the revolver in his carry-on baggage; that the judge erred in finding that the weapon was "concealed" because Respondent had not knowingly or intentionally concealed it, and that the penalty assessed is excessive.

Intent to carry a weapon. The Administrator affirmed the ALJ's decision on all counts. He said that Respondent should have known that he was carrying a personal firearm when he attempted to board a flight; that the FAA did not have to have proof of Respondent's intent to carry the weapon on an aircraft because it is not a required element of a violation of section 901(d) of the Act (49 U.S.C. 1471(d)), or of § 107.21(a)(1) of the FAR.

Sanction. The Administrator held that the $2000 civil penalty should not be further reduced. Respondent has not argued that he lack the ability to pay the penalty, the only relevant fctor not considered by the ALJ.

FAA v. *American Airlines, Inc.*, Order No. 89-0006 (12/21/89)

Respondent filed an interlocutory appeal from the written decision of the Administrative Law Judge (ALJ) issued denying Respondent's Motion to Compel. The ALJ held that Complainant's responses to Respondent's discovery requests were timely filed. He held that the information Respondent seeks pertaining to whether Complainant complied with its internal procedures is irrelevant to the matters alleged in the complaint and that the information is protected from discovery by the deliberative process privilege.

Interlocutory Appeals, in General. Generally speaking, law judges should not permit interlocutory appeals to resolve discovery matters.

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Timeliness of Discovery Responses. The Administrator held that Complainant's responses to Respondent's discovery requests were untimely. But Administrator held that FAA did not thereby waive its right to object. Although that sanction is sometimes imposed by Federal courts, the Administrator is not bound by Federal Rules of Civil Procedure. Also, Respondent did not argue that it has been prejudiced.

Relevance of Discovery Request. The Administrator agreed with the ALJ that internal deliberations of employees of the FAA pertaining to the selection of the sanction are irrelevant and that information sought by Respondent regarding internal deliberation is protected from discovery by the deliberative process privilege. That privilege was not overcome here by a showing that Respondent's need for disclosure outweighs the harm that could result from disclosure.

Completeness of Responses. Since the ALJ did not rule on the issue of the completeness of the Complainant's responses to Respondent's discovery request, he remanded the case to the ALJ for findings on that issue.

FAA v. *Betty A. Zenkner,* Order No. 89–0007 (12/21/89)

Failure to Perfect Appeal. Respondent filed a notice of appeal from an Order Assessing Civil Penalty recited in the oral initial decision of the Administrative Law Judge. At Respondent's request, a 20-day extension of time was granted. The Administrator dismissed Respondent's appeal for failure to file brief within the extended filing period.

FAA v. *Thunderbird Accessories, Inc.,* Order No. 89–0008 (12/22/89)

"Good Cause" for Extension of Time. Respondent requested an extension of time in which to file its appeal brief from the initial oral decision of the Administrative Law Judge (ALJ).

Rspondent states that the extension is necessary because Complainant has failed to provide color copies of photographs introduced into evidence at the hearing. Complainant opposed Respondent's request stating that Respondent should not have waited until one week before its brief was due before realizing that more information was needed to prepare its brief. Complainant failed to agree on disagree with Respondent's assertion that the ALJ had ordered the production of the color photographs. The Administrator granted Respondent's 10-day extension of time to file its appeal brief based on the "weak showing of good cause", but warned that a stronger showing may be required in the future.

FAA v. *Robert J. Jibben,* Order No. 90–0001 (01/19/90)

Withdrawal of Appeal. Complainant withdrew notice of appeal from an Order Assessing Civil Penalty recited in the initial decision at the conclusion of the hearing. The Administrator dismissed Complainant's appeal.

FAA v. *Clifford B. Smith,* Order No. 90–0002 (01/19/90)

Withdrawal of Appeal. Complainant withdrew notice of appeal from the Order Assessing Civil Penalty recited in the initial decision at the conclusion of the hearing. The Administrator dismissed Complainant's appeal.

FAA v. *Richard Willford Metz,* Order No. 90–0003 (01/29/90)

Administrator issued a previous order ordering Complainant to respond to Respondent's letter of July 28, 1989, which he determined satisfied the requirements for an appeal brief. Complainant filed a Motion for Reconsideration of the Decisionmaker's Order, or in the Alternative, Reply Brief. Complainant argues that Respondent's appeal was not timely and should be dismissed and that Respondent never filed an Answer to the Order of Civil Penalty and has never explained the reason for this failure.

Untimely Notice of Appeal. Administrator determined that Respondent's notice of appeal was late. But he waived the requirement for filing the notice of appeal timely for good cause—in that it appeared that Respondent was not provided a copy of the Rules of Practice or information from the ALJ regarding his appeal rights.

Untimely Answer to Complaint. Administrator determined that without a copy of the Rules of Practice or other guidance provided by the Complainant, Respondent had good cause for failing to file an Answer which contained specific denials to the allegations in the Complaint.

He remanded the matter to the ALJ for further proceedings and required that Complainant serve Respondent with a copy of the Rules of Practice. He ordered Respondent to file an Answer in accordance with the Rules of Practice within 30 days of receipt of the copy of the Rules.

FAA v. *Richard C. Nordrum,* Order No. 90–0004 (01/19/90/

Withdrawal of Appeal. Complainant withdrew notice of appeal from the ALJ's Order Dismissing Complaint and Canceling Hearing. The Administrator dismissed Complainant's appeal.

FAA v. *Hy C. Sassman,* Order No. 90–0005 (01/19/90)

Withdrawal of Appeal. Complainant withdrew notice of appeal from an Order Assessing Civil Penalty incorporated in a written order and decision of the ALJ. The Administrator dismissed Complainant's appeal.

FAA v. *Peter M. Dabeghian,* Order No. 90–0006 (02/16/90)

Withdrawal of Appeal. Complainant withdrew notice of appeal from the oral initial decision of the Administrative Law Judge issued at the conclusion of the hearing. Complainant's appeal is dismissed.

FAA v. *Darnita Lynn Steele,* Order No. 90–0007 (02/16/90)

Withdrawal of Appeal. Complainant withdrew notice of appeal from the oral initial decision of the ALJ issued at the conclusion of the hearing. Complainant's appeal is dismissed.

FAA v. *Jack L. Jenkins,* Order No. 90–0008 (02/16/90)

Withdrawal of Appeal. Complainant withdrew notice of appeal from the written initial decision of the ALJ. Complainant's appeal is dismissed.

FAA v. *Jessica S. Van Zandt,* Order No. 90–0009 (02/16/90)

Withdrawal of Appeal. Complainant withdrew notice of appeal of the ALJ's oral initial decision issued at the conclusion of the hearing. Complainant's appeal is dismissed.

FAA v. *Merlin R. Webb,* Order No. 90–0010 (03/19/90)

Complainant appealed from the oral initial decision of the ALJ's decision issued December 5, 1989. The ALJ held that Respondent had violated § 107.21(a)(1) of the Federal Aviation Regulations as alleged in the Complaint, but held that circumstances of this case did not warrant the maximum civil penalty, and he reduced the civil penalty from $1000 to $100.

Complainant argued that the ALJ erred in reducing the sanction to $100 because the maximum civil penalty in gun cases under the Act is $10,000, not $1,000, as stated by the ALJ.

Complainant Bound by Complaint. The Administrator determined that the ALJ's reduction in the amount of civil penalty was not inappropriate. Complainant failed to allege in the Complaint that Respondent violated section 901(d) of the Federal Aviation Act. Complainant only alleged violation of § 107.21(a)(1) of the Federal Aviation Regulations. Only a violation of section 901(d) of the Act can support a civil penalty of up to $10,000. The ALJ

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correctly stated that $1,000 is the maximum civil penalty for a violation of § 107.21 of the FAR alone. The Administrator agreed that the maximum civil penalty is not warranted in this case. The Administrator affirmed the ALJ's initial decision.

FAA v. *Thunderbird Accessories, Inc.*, Order No. 90-0011 (03/19/90)

Both Respondent and Complainant appealed from the oral initial decision of the Administrative Law Judge (ALJ) issued at the conclusion of the hearing. The ALJ found that Respondent violated 14 CFR 145.59 by performing maintenance on a Chrysler aircraft alternator for which it was not rated and 14 CFR 145.61 by failing to maintain adequate records of the work. He also found that the preponderance of evidence did not establish a violation of 14 CFR 43.13(a), which required maintenance to be performed in accordance with the manufacturer's maintenance manual. The ALJ reduced the civil penalty from $2,500 to $1,500.

Respondent's appeal alleged that Complainant's notice of appeal was untimely. Respondent's calculation of when Complainant's notice of appeal was due is incorrect because Respondent counted the day of the hearing in the 10-day filing period. Complainant appealed stating that Respondent's appeal brief was untimely filed; that the preponderance of evidence proves that Respondent violated § 43.13(a) of FAR and that the ALJ should not have dismissed the charge and should not have reduced the civil penalty.

Failure to Perfect Appeal. On the issue of the timeliness of Respondent's appeal brief, the Administrator determined that Respondent's brief was due on January 8, 1990. The brief was dated January 18, 1990 (postmarked January 22, 1990). Thus the brief was untimely filed. The Administrator dismissed Respondent's appeal.

Violation of Section 43.13(a). Administrator stated that the evidence clearly demonstrates that Respondent had not received approval for use of a procedure not prescribed in the current manufacturer's maintenance manual. Therefore, the procedure was not acceptable to the Administrator and in violation of § 43.13(a). Additionally, the ALJ appears to have reduced the penalty solely because he dismissed the allegation of § 43.13(a). The Administrator reversed the findings and reinstated the $2,500 civil penalty.

In the Matter of Continental Airlines, Inc., Order No. 90-0012 (04/25/90)

The ALJ held that Respondent had violated § 108.5(a)(1) of the Federal Aviation Regulations by failing to carry out a particular provision of the Standard Security Program which Respondent had adopted. Administrator denied Respondent's appeal and affirmed the ALJ's decision. Respondent is assessed a civil penalty in the amount of $10,000.

Consolidation of cases. There is no requirement under law or regulation that Complainant must consolidate in one civil penalty action all cases involving alleged security regulation violations which may have been initiated at or about the same time simply because they involve the same air carrier.

Rules of Procedure. It would be an inappropriate exercise of Administrator's decisionmaking authority to consider in this proceeding a challenge to rules which are not implicated in this proceeding. Federal Courts of Appeals constitute a more appropriate forum to attack administrative regulations as not consistent with the U.S. Constitution, the AP, and/or the agency's enabling act. Rules effective September 7, 1988, apply to this proceeding. Procedural regulations in force at the time administrative proceedings occur are the ones that govern, rather than the procedural rules in effect at the time the alleged violation occurred.

Discovery—Privilege. Information relating to FAA's decisionmaking process prior to the issuance of the complaint is irrelevant. Such information is protected from discovery by the deliberative process privilege. Moreover, in the absence of specific allegations of agency failure to comply with required separation of functions, there is no need to discover informatoin relating to agency's compliance.

Standard Security Program. Respondent's failure to implement (i.e., "carry out") its security program is a violation of 14 CFR 108.5(a).

Circumstantial evidence. A party may use circumstantial evidence to sustain its burden of proof.

FAA v. *Tamara Ann O'Dell*, Order No. 90-0013 (03/14/90)

Withdrawal of Appeal. Complainant withdrew notice of appeal from the oral initial decision of the ALJ issued at the conclusion of the hearing. Complainant's appeal is dismissed.

FAA v. *Royce L. Miller*, Order No. 90-0014 (03/14/90)

Withdrawal of Appeal. Complainant withdrew notice of appeal from the oral initial decision of the ALJ. Complainant's appeal is dismissed.

FAA v. *Buddie W. Playter*, Case No. 90-0035 (03/12/90)

Complainant appealed from the oral initial decision of the ALJ issued at the conclusion of the hearing. The ALJ found that Respondent did not violate § 91.79(a), 91.87(b), and 91.9 of the Federal Aviation Regulations as alleged in the complaint. He reversed the complaint seeking $3,000 in penalty.

Failure to File Answer. Complainant appealed stating that the ALJ should have deemed the allegations in the complaint admitted because Respondent failed to file an answer to the complaint. The Administrator reversed the ALJ's initial decision stating that because Respondent has not demonstrated good cause for his failure to file an answer, the allegations in the complaint are deemed admitted.

In the Matter of Rocky Mountain Helicopters, Inc., Order No. 90-0016 (04/05/90)

Withdrawal of Order Assessing Civil Penalty. This case is before the Administrator for the resolution of a dispute as to whether an Order Assessing Civil Penalty was properly issued against Respondent. Because of confusion resulting from a consolidated informal conference and the FAA attorney's letter regarding a settlement offer, the Administrator remanded this case to the Southern Region Counsel's office for withdrawal of the Order Assessing Civil Penalty and to give Respondent an opportunity to request a hearing on the allegations contained in the Notice of Proposed Civil Penalty.

In the Matter of Ernest Wilson, Order No. 90-0017 (04/09/90)

Counsel for FAA issued a Notice of Proposed Civil Penalty seeking $2,000 from Respondent for alleged violations of FAR. After an informal conference the agency attorney withdrew the Notice of Proposed Civil Penalty stating that the legal enforcement action was not warrented. Counsel for Respondent filed application for attorney fees and expenses under the Equal Access to Justice Act (EAJA) seeking $1,855 in attorney fees and 300.26 in expenses which were incurred in connection with the Notice of Civil Penalty.

Denial of Application for Attorney Fees. The Administrator denied Respondent's application for attorney fees and expenses stating that FAA rules implementing the EAJA states that fees may be awarded for work performed only after the issuance of an Order of Civil Penalty which serves as the complaint and which begins the adversary adjudication. Legal expenses

incurred before the adversary adjudication are not covered by the EAJA and the FAA regulations.

In the Matter of Continental Airlines, Inc., Order No. 90–18 (8/22/90)

Respondent's security screener failed to detect an FAA-approved test object during a no-notice test conducted by the FAA, as required by the Standard Security Program. The ALJ held that Respondent violated 14 CFR 108.5(a)(1) by failing to carry out a provision of the SSP which Respondent adopted pursuant to that regulation, and affirmed the $1,000 civil penalty sought by Complainant.

Consolidation of cases. There is no requirement that all cases involving alleged security violations be consolidated in one civil penalty action merely because they were initiated at or about the same time and involve the same air carrier. *Citing,* FAA Order No. 90–12.

Rules of Procedure. Respondent's attack on the procedural rules in effect at the time of the hearing fails to provide any basis for overturning the ALJ's decision in this case because Respondent does not demonstrate how it was prejudiced by any of those rules. Federal Courts of Appeals constitute a more appropriate forum in which to attack the rules as not consistent with the U.S. Constitution, the APA, and/or the agency's enabling act. *Citing,* FAA Order No. 90–12. Administrative proceedings are governed by the procedural regulations in force at the time the proceedings occur, not those in effect at the time of the alleged violation. *Citing,* FAA Order No. 90–12.

Discovery—Privilege. Information relating to the agency's decisionmaking process prior to the issuance of the complaint is irrelevant, and protected from discovery by the deliberative process privilege. *Citing,* FAA Order No. 90–12.

Standard Security Program. The FAA may take enforcement action against a carrier, such as Respondent, that fails to implement the provisions of its security program because carriers are specifically required under 14 CFR 108.5(a) to "adopt and *carry out* a security program that meets the requirements of § 108.7 * * * ." *Citing,* FAA Order No. 90–12. While it is true that 14 CFR 108.7 sets forth general requirements and identifies various types of procedures which must be described in a carrier's security program, it does not follow that a carrier's program is enforceable only under § 108.5 to the extent that it meets, but does not exceed, these minimum criteria.

The SSP has to be interpreted so as to permit tests of security checkpoints to be conducted in individual segments, each involving one component of the checkpoint. The agency attorney is not obligated to prove, as an element of the violation in this type of case, that test objects were rotated prior to the test at issue, or that the FAA test screeners rather than checkpoints. These issues are irrelevant to whether a violation occurred in this case. The test protocol is not intended to serve as a shield for the carrier in enforcement proceedings. The intended beneficiary is the traveling public.

Discovery—Effect of Failure to Produce. Complainant's failure to produce an intra-agency memorandum discussing agency policy on what civil penalty amounts should be sought in test object cases provides no basis for overturning the ALJ's decision in this case. Respondent was not prejudiced by Complainant's failure to produce the memorandum because: The agency attorney did provide another memorandum containing virtually identical sanction criteria; the criteria were not even followed in this case; and Respondent's counsel could have requested a continuance of the hearing in order to prepare a response if he felt it necessary.

Failure to Detect Test Object—Sanction. The policy of seeking a civil penalty for every failure to detect a test object is not arbitrary, capricious, or unreasonable. Each such failure is evidence of a weakness in the carrier's security screening procedures, and represents a potential threat to the safety of the traveling public.

Failure to Detect Test Object—Proof of Violation. Although there is no direct evidence that the test object was visible on the screen the first time it passed through the x-ray device, there is ample circumstantial evidence to establish that fact. Testimony that the test object was clearly discernible when it passed through the x-ray device immediately after the test failure raises a strong inference that the object was equally visible when it passed through the device during the test itself a few moments earlier. Respondent has not rebutted this strong circumstantial evidence. Accordingly, the preponderance of the evidence supports the ALJ's finding that Respondent, through its security screener, failed to detect an FAA-approved test object as required by its security plan, in violation of 14 CFR 108.5(a).

In the Matter of Paul Degenhardt, Order No. 90–20 (8/16/90)

The law judge held Respondent violated 14 CFR 107.21(a) when he attempted to pass through a security checkpoint with a package containing an unloaded rifle, and assessed a $1,000 civil penalty. However, the law judge stated he would vacate his decision upon appropriate motion if Respondent published a letter in a local newspaper in order to "raise awareness" on the issue of passengers' responsibility to ascertain the contents of packages which are carried onboard aircraft.

Intent to Carry a Weapon. Intent to carry a weapon is not a required element of a violation of § 107.21(a). That section is violated so long as a respondent knew or should have known that he had a weapon on or about his person or accessible property. Respondent in this case should have taken further steps to ascertain the contents of the package he was carrying and, accordingly, he should have known he was carrying a weapon.

Authority of Law Judge to Vacate Initial Decision. The law judge's offer to vacate his initial decision was improper. To the extent it goes beyond making findings of fact and conclusions of law with regard to the alleged violation before him, he exceeded his authority. The Rules of Practice do not empower a law judge to condition the assessment of a civil penalty on subsequent remedial conduct by the respondent, or to "vacate" a finding of violation, or otherwise dismiss a complaint, upon a showing of subsequent remedial conduct. A law judge loses jurisdiction over a case upon the issuance of the initial decision, and thereafter has no authority to entertain a motion to vacate. The initial decision issued by the law judge is affirmed to the extent that it finds a violation and upholds the agency's assessment of a $1,000 civil penalty, and it is reversed to the extent that it provides Respondent with an opportunity to move that the initial decision be vacated.

In the Matter of John J. Carroll, Order No. 90–21 (8/16/90)

The law judge found Respondent had flown with a piece of carry-on baggage in the aisle obstructing access to the exits and the aisle, in violation of 14 CFR 135.87(c)(4) and (8).

Inexcusable Delay in Initiating Case. FAA has expressed its willingness to consider a laches-type defense in civil penalty actions by allowing respondents who believe they have been prejudiced by the agency's delay in initiating their case to assert such prejudice as a defense in the administrative proceeding. The pace of the agency's

pursuit of this case against Respondent during the eight-month period between the subject incident and FAA's first notification to Respondent that it was investigating the matter, and the additional four months which passed before Respondent received the Notice of Proposed Civil Penalty, was not unreasonably or inexcusable dilatory. The 1-year interval between the alleged violation and notification to Respondent of the agency's proposed civil penalty did not constitute an unreasonable or inexcusable delay. Respondent has also failed to demonstrate that he was prejudiced by the FAA's delay in this case. He has not alleged that the delay resulted in a loss of evidence or witnesses supporting his position, or that he changed his position in a way that would not have occurred but for the delay.

ALJ's Credibility Findings. Because law judges are in the best position to evaluate the demeanor of witnesses in administrative proceedings, their credibility determinations are entitled to special deference on review by the agency. But an agency is not inextricably bound by its law judges' credibility determinations. It is free to substitute its own judgment for that of the law judge. In applying only a minimum of deference the Administrator finds no reason to question the law judge's credibility finding.

Validity of the Rule of Practice. The issue of whether the Rules of Practice were properly promulgated without prior notice and comment has already been disposed of in *Air Transport Association* v. *Department of Transportation*, 900 F.2d 369 (DC Cir. 1990), where the court ruled that pre-promulgation notice and comment was required. The court noted that respondents whose cases were initiated and partially prosecuted under the "old" rules can raise the defense that the FAA could not have successfully prosecuted the case "but for the agency's reliance on some aspect of the * * * Rules abandoned in the new scheme." The Administrator reviewed the case with that potential defense in mind and found nothing in the new rules that would have changed the result in this case. Respondent's argument that the rules were improperly promulgated without notice and comment, standing alone, provides no ground for reversal of the law judge's decision.

Respondent also argues that the Rules of Practice fail to separate investigative and prosecutorial functions from decisionmaking functions until after a notice of proposed civil penalty is issued. However, he has not alleged any actual breach of the required separation of functions and the Administrator finds none. In any event, 14 CFR 13.203 as originally promulgated did satisfy the requirements of the Administrative Procedure Act. Respondent also asserts that the rules violate the APA because "FAA decisions are [appealable] not to an independent United States District Court of Appeals [sic], but back to the FAA decisionmaker." However, the APA expressly contemplates intra-agency adjudication and appellate review.

In the Matter of USAir, Order No. 90–22 (8/16/90)

Respondent filed a "Petition to Reconsider" an Order Assessing Civil Penalty which was issued without a hearing due to Respondent's failure to timely respond to the Notice of Proposed Civil Penalty, arguing that its delay in responding to the NPCP was due to the agency's improper service of that document.

Effect of Changes in Rules of Procedure. Under the new procedural rules an Order Assessing Civil Penalty would not have been issued following Respondent's untimely response to the NPCP. Further, although it is impossible to say for certain whether the response to the NPCP would have been timely if it had been directed to a specific individual such as Respondent's president (as the rules now require), Respondent should be given the benefit of the new rules on this point. Accordingly, the Order Assessing Civil Penalty shall be withdrawn. If the agency attorney elects to re-initiate this case by the issuance of a new NPCP, the case shall be governed by the new initiation procedures and Rules of Practice.

In the Matter of Gordon Barrett Broyles, Order No. 90–23 (9/14/90)

ALJ found Respondent violated 14 CFR 108.11(c) by tendering a bag containing a loaded gun for transport as checked baggage and assessed a $500 civil penalty; Respondent did not appeal from this finding. ALJ also found Respondent violated 14 CFR 107.21(a) and 49 U.S.C. app. 1471(d) when Respondent (after retrieving his checked bag) attempted to carry the bag containing the loaded gun through a security checkpoint. But the ALJ reduced the $2,500 civil penalty sought in the complaint for those violations to a "token" $50 civil penalty in light of what the ALJ saw as the "unique situation" surrounding those violations. Complainant appealed from the reduction in sanction.

Effect of ATA Decision. Respondent contends that the assessment of any civil penalty in this case is improper in light of the court's decision in *ATA* v. *DOT*, 900 F.2d 369 (DC Cir. 1990). The court there held that a respondent whose case was initiated under the old rules could "raise the defense that the FAA could not have successfully prosecuted him but for the agency's reliance on some aspect of the * * * [r]ules abandoned in the new scheme," but Respondent does not point to any change in the rules that would have affected the result in this case. The holding in *ATA*, standing alone, does not require dismissal.

Sanction—Weapons Violations. The Sanction Guidance Table contained in FAA Order 2150.3A, Compliance and Enforcement Program, prescribes appropriate sanctions for violations involving concealment of a deadly or dangerous weapon which would be accessible in flight: $1,000 when the weapon is unloaded and ammunition is not accessible; $2,000 when the weapon is unloaded but ammunition is accessible; and $2,500 when, as in this case, the weapon is loaded. While other penalties in the Sanction Guidance Table are expressed in terms of a range of potential sanctions, and the agency attorney has discretion even to seek a sanction outside the prescribed range, the prescribed penalties for these weapons violations are fixed and there are no other mitigating or aggravating factors appropriate to consider. Accordingly, the Administrator held the ALJ's reduction of the penalty of this case was improper and reinstated the $2,500 civil penalty.

In the Matter of Marcia Bayer, Order No. 90–24 (9/14/90)

The ALJ apparently held that Respondent violated § 107.20 of the FAR by entering a sterile area without permission. (At the time in question, the Concourse to the gate areas were closed because part of the Concourse was under construction.) Respondent appealed from the ALJ's decision, arguing in pertinent part that she proved that she had submitted to screening. Respondent testified at the hearing that she had walked through the metal detector while the security agent was at a desk away from the device. The security agent testified that Respondent had walked around the metal detector and that she had not placed her purse on the x-ray device conveyor belt prior to entering the sterile area.

The Administrator remanded the case to the ALJ to resolve the critical factual dispute regarding whether Respondent

had walked through or around the metal detector and whether Respondent had a purse with her, and if so, did she put it on the conveyor belt. The Administrator explained that the ALJ had mistakenly focused on the issue of whether Respondent had permission to enter the sterile area. The issue (when the only regulation alleged to have been violated is 14 CFR 107.20) is whether or not Respondent submitted herself and her property, if any, to screening.

In the Matter of Lucious Laken Gabbert, Order No. 90–25 (9/14/90)

Respondent's attorney submitted a Petition to File Amicus Curiae Brief of Norman de Witte, asserting that Mr. de Witte "has testimony material to this case," but that he was unable to appear at the hearing in this case.

Amicus Curiae Brief. Respondent testified at the hearing that the aircraft involved in this case was regularly maintained by Mr. de Witte, and that Mr. de Witte was not present at the hearing because he "got called away." The hearing record contains no further mention of Mr. de Witte's relevance to this case, nor does it reflect any request by Respondent's counsel for a continuance of the hearing.

While 14 CFR 13.233(f) does not provide that the Administrator may allow any person to submit an amicus curiae brief, on the record before him the Administrator cannot find that Mr. de Witte has a substantial interest that is not represented by the parties to this case, or that an amicus curiae brief from Mr. de Witte is otherwise necessary for a proper disposition of this case.

In the Matter of Frank Puleo, Jr., Order No. 90–28 (9/25/90)

Withdrawal of Appeal. Complainant withdrew its notice of appeal of the oral initial decision. Complainant's appeal is dismissed.

In the Matter of John C. Sealander, Order No. 90–29 (9/25/90)

Withdrawal of Appeal. Complainant withdrew its notice of appeal of the oral initial decision. Complainant's appeal is dismissed.

In the Matter of John A. Steidinger, Order No. 90–30 (9/27/90)

Withdrawal of Appeal. Complainant withdrew its notice of appeal of the oral initial decision. Complainant's appeal is dismissed.

The Administrator's final decisions and orders, indexes, and digests are all available for public inspection and copying at the following location in FAA headquarters: FAA Hearing Docket, Federal Aviation Administration, 800 Independence Avenue, SW, room 924A, Washington, DC 20591; (202) 267–3641.

In addition, those materials are available at all FAA regional and center legal offices at the following locations:

Office of the Assistant Chief Counsel for the Aeronautical Center (AAC–7), Mike Monroney Aeronautical Center, 6500 South MacArthur, Oklahoma City, OK 73125; (405) 680–3296

Office of the Assistant Chief Counsel for the Alaskan Region (AAL–7), Alaskan Region Headquarters, 222 West 7th Avenue, Anchorage, AL 99513; (907) 271–5269

Office of the Assistant Chief Counsel for the Central Region (ACE–7), Central Region Headquarters, 601 East 12th Street, Federal Building, Kansas City, MO 64106; (816) 426–5446

Office of the Assistant Chief Counsel for the Eastern Region (AEA–7), Eastern Region Headquarters, JFK International Airport, Fitzgerald Federal Building, Jamaica, NY 11430; (718) 917–1035

Office of the Assistant Chief Counsel for the Great Lakes Region (AGL–7), Great Lakes Region Headquarters, O'Hare Lake Office Center, 2300 East Devon Avenue, Des Plaines, IL 60018; 312 (694–7106

Office of the Assistant Chief Counsel for the New England Region (ANE–7), New England Region Headquarters, 12 New England Executive Park, Burlington, MA 01803; (617) 273–7310

Office of the Assistant Chief Counsel for the Northwest Mountain Region (ANM–7), Northwest Mountain Region Headquarters, 18000 Pacific Highway South, Seattle, WA 98188; (206) 227–2007

Office of the Assistant Chief Counsel for the Southern Region (ASO–7), Southern Region Headquarters, 3400 Norman Berry Drive, East Point, GA 30344; (404) 763–7203

Office of the Assistant Chief Counsel for the Southwest Region (ASW–7), Southwest Region Headquarters, 4400 Blue Mound Road, Forth Worth, TX 76193; (817) 624–5707

Office of the Assistant Chief Counsel for the Technical Center (ACT–7), Federal Aviation Administration Technical Center, Atlantic City International Airport, Atlantic City, NJ 08405; (609) 484–6805

Office of the Assistant Chief Counsel for the Western-Pacific Region (AWP–7), Western-Pacific Region Headquarters, 15000 Aviation Boulevard, Hawthorne, CA 90261; (213) 297–1270

This notice constitutes the FAA's publication of an index of decisions and orders issued by the Administrator in the adjudication of civil penalty actions, as required by 5 U.S.C. 552(a)(2). This notice also publishes a subject-matter index and digests of decisions that provide identifying information about civil penalty cases decided by the Administrator. The FAA still is considering various means by which the Administrator's decision and orders, and the indexes and digests of those decisions, could be published and offered for sale, such as by subscription through either a public or private reporting service. If the FAA completes such subscription arrangements, the agency will provide further notice of such publication or sale in the Federal Register. The FAA may discontinue publication of the subject-matter index and the digests at some future time if a commercial reporting service publishes similar information and provides it to the public in a timely and accurate manner.

Issued in Washington, DC, on October 26, 1990.

Gregory S. Walden,

Chief Counsel.

[FR Doc. 90–25702 Filed 10–30–90; 8:45 am]

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federal register

Wednesday
October 31, 1990

Part VI

Environmental Protection Agency

40 CFR Part 721
Significant New Uses of Chemical Substances; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPTS-50631A; FRL-3799-2]

RIN 2070-AB27

Significant New Uses of Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is promulgating a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for several chemical substances which were the subject of premanufacture notices (PMNs), and are subject to TSCA section 5(e) consent orders issued by EPA. In addition EPA is promulgating an amendment to subpart B of 40 CFR part 721—Significant New Uses of Chemical Substances.

This rule requires certain persons who intend to manufacture, import, or process these substances for a significant new use to notify EPA at least 90 days before commencing the manufacturing or processing activity designated by this SNUR as a significant new use. The required notice would provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it can occur. The amendment to subpart B would add standard language to be used to designate significant new uses of chemical substances.

EFFECTIVE DATE: The effective date of this rule is December 31, 1990.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543-B 401 M St., SW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: This SNUR will require persons to notify EPA at least 90 days before commencing any activity designated by this SNUR as a significant new use. The supporting rationale and background to this rule are more fully set out in the preamble to EPA's first SNURs issued under the Expedited Follow-Up Rule and published at 55 FR 17376 on April 24, 1990. Consult that preamble for further information on the objectives, rationale, and procedures for the rules and on the basis for significant new use designations including provisions for developing test data. The amendment to subpart B will add standard language to § 721.72 (hazard communication program) which will be used to designate certain activities as significant new uses.

I. Authority

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. The mechanism for reporting under this requirement is established under 40 CFR 721.10.

II. Applicability of General Provisions

General provisions for SNURs appear under subpart A of 40 CFR part 721. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of rule to uses occurring before the effective date of the final rule. Rules on user fees appear at 40 CFR part 700. Persons subject to this SNUR must comply with the same notice requirements and EPA regulatory procedures as submitters of PMNs under section 5(a)(1)(A) of TSCA. In particular, these requirements include the information submission requirements of section 5(d)(1) and 5(b), the exemptions authorized by section 5(h)(1), (2), (3), and (5), and the regulations at 40 CFR part 720. Once EPA receives a SNUR notice, EPA may take regulatory action under sections 5(e), 5(f), 6, or 7 to control the activities on which it has received the SNUR notice. If EPA does not take action, EPA is required under section 5(g) to explain in the Federal Register its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR part 707.

III. Amendment to 40 CFR Part 721 Subpart B

EPA is amending § 721.72 (hazard communication program). This section establishes EPA's workplace hazard communication program and is cited when EPA determines it is necessary to inform workers of hazards and exposures in the workplace and how to protect themselves from these hazards. Section 721.72(g) provides standard language that EPA generally specifies for labels and material safety data sheets ("MSDSs"). The standard language in § 721.72(g) currently provides for the same hazard and precautionary statements on both the labels and MSDSs for a substance. In most cases, this is consistent with the terms of consent orders EPA issues under section 5(e). However, some section 5(e) orders require different statements on the label and MSDS. The amendment in this rule would add a new paragraph (h) to § 721.72 to match the terms of such section 5(e) orders. The amendment will allow EPA to include in SNUR requirements different hazard and precautionary statements on labels and MSDSs.

The amendment will also establish the following additional precautionary statements for labels and MSDSs not currently designated in § 721.72: (a) The health effects of this chemical substance have not been determined; (b) when using this substance, use skin protection; (c) use respiratory protection when there is a reasonable likelihood of exposure in the work area from dust, mist, or smoke from spray application; and (d) chemicals similar in structure to this substance have been found to cause cancer in laboratory animals.

IV. Background

The Agency proposed a SNUR for these substances which was published in the Federal Register of July 2, 1990 (55 FR 27257). The background of each PMN and the reasons for proposing the SNUR are set forth in the preamble to the proposed rule.

EPA received comments on two points. The first was a brief statement supporting the proposed SNUR by one commenter. The second was noted by three different commenters. It was a typographical error in each SNUR under section "(a)(2)(ii) Hazard communication program. Requirements as specified in § 721.72(h)(1)(v)." This provision requires that labels contain statements regarding environmental hazards which are not required in the underlying section 5(e) consent orders. This provision should be "(h)(1)(vi)", which requires the label to state "See MSDS for details" after each precautionary statement, and is consistent with the consent orders. The Agency has made the correction in the final rule.

V. Objectives and Rationale of the Proposed Rule

During review of the PMNs submitted for the chemical substances that would

be subject to this SNUR, EPA concluded, that for certain of the substances, regulation was warranted under section 5(e) of TSCA pending the development of information sufficient to make a reasoned evaluation of the health or environmental effects of the substance. The basis for such findings for these substances is outlined in the preamble of the proposed rule for these substances. Based on these findings, a section 5(e) consent order requiring the use of appropriate controls was negotiated with the PMN submitter, and the SNUR proposed for such substances is consistent with the provisions of the section 5(e) order.

EPA is promulgating this SNUR for 30 specific chemical substances which have undergone premanufacture review to ensure the following objectives: (1) EPA will receive notice of any company's intent to manufacture, import, or process a listed chemical substance for a significant new use before that activity begins; (2) EPA will have an opportunity to review and evaluate data submitted in a SNUR notice before the notice submitter begins manufacturing, importing, or processing a listed chemical substance for a significant new use; (3) when necessary to prevent unreasonable risks, EPA will be able to regulate prospective manufacturers, importers, or processors of a listed chemical substance before a significant new use of that substance occurs; and (4) all manufacturers, importers, and processors of the same chemical substance which is subject to a section 5(e) order are subject to similar requirements.

VI. Test Data and Other Information

EPA recognizes that section 5 of TSCA does not require persons to develop any particular test data before submission of a SNUR notice. Persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them. The studies specified in the section 5(e) order may not be the only means of addressing the potential risks of the substance. SNUR notice submitters should be aware that the Agency will be better able to evaluate SNUR notices which provide detailed information on: (1) Human exposure and environmental release that may result from the significant new use of the chemical substances; (2) potential benefits of the substances; and (3) information on risks posed by the substances compared to risks posed by potential substitutes.

VII. Procedural Determinations

EPA is establishing through this rule some significant new uses which have been claimed as CBI. EPA has decided it is appropriate to keep this information confidential to protect the interest of the original PMN submitter. EPA promulgated a procedure to deal with the situation where a specific significant new use is CBI. This procedure appears in 40 CFR 721.575(b)(1) and is similar to that in § 721.11 for situations where the chemical identity of the substance subject to a SNUR is CBI. This procedure is cross referenced in each of these SNURs.

A manufacturer or importer may request EPA to determine whether a proposed use would be a significant new use under this rule. Under the procedure incorporated from § 721.575(b)(1), a manufacturer or importer must show that it has a *bona fide* intent to manufacture or import the substance and must identify the specific use for which it intends to manufacture or import the substance. If EPA concludes that the person has shown a *bona fide* intent to manufacture or import the substance, EPA will tell the person whether the use identified in the *bona fide* submission would be a significant new use under the rule. Since most of the chemical identities of the substances subject to these SNURs are also CBI, manufacturers and processors can combine the *bona fide* submission under the procedure in § 721.575(b)(1) with that under § 721.11 into a single step.

VIII. Applicability of Proposed Rule to Uses Occurring Before Effective Date of the Final Rule

For a use to be a significant "new" use, EPA must determine that the use is not ongoing. When the PMN submitter begins manufacture or import of the substances, the submitter must send EPA a Notice of Commencement of Manufacture/Import and the substances will be added to the Inventory. In those cases where a section 5(e) order has been issued, the notice submitters are prohibited by the section 5(e) orders from undertaking activities which the Agency is designating as a significant new use. In addition, because most of these substances have CBI chemical identities and only a very few *bona fide* inquiries have been received for substances that have undergone PMN review, there is little chance that others are undertaking activities which the Agency is designating as a significant new use. Therefore, at this time, EPA has concluded that the uses are not ongoing. However, EPA recognizes in cases when chemical substances identified in this SNUR are added to the Inventory prior to the promulgation of the SNUR, the substances may be manufactured, imported, or processed by other persons for a significant new use as defined in this proposal before promulgation of the rule.

EPA has decided that the intent of section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of proposal rather than as of the effective date of the rule. If uses which had commenced between the date of proposal and the effective date were considered ongoing, rather than new, persons could defeat the SNURs by initiating a significant new use before the effective date. This would make it difficult for EPA to establish SNUR notice requirements.

Thus, persons who begin commercial manufacture, import, or processing of the substances regulated through this SNUR will have to cease any such activity before the effective date of this rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

EPA, not wishing to unnecessarily disrupt the activities of persons who begin commercial manufacture, import, or processing for a proposed significant new use before the effective date of the SNUR, has promulgated provisions to allow such persons to comply with this SNUR before it is promulgated. If a person were to meet the conditions of advance compliance as codified at § 721.45(h) (53 FR 28354, July 17, 1988), the person will be considered to have met the requirements of the final SNUR for those activities. If persons who begin commercial manufacture, import, or processing of the substance between proposal and the effective date of the SNUR do not meet the conditions of advance compliance, they must cease that activity before the effective date of the rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

IX. Economic Analysis

EPA has evaluated the potential costs of establishing significant new use notice requirements for potential manufacturers, importers, and processors of the chemical substances contained in this proposed rule. The Agency's complete economic analysis is available in the public record for this proposed rule (OPTS-60581A).

X. Comments Containing Confidential Business Information

Any person who submits comments claimed as confidential business information must mark the comments as "confidential," "trade secret," or other appropriate designation. Comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR part 2. Any party submitting comments claimed to be confidential must prepare and submit a public version of the comments that EPA can place in the public file.

XI. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS–50561A). The record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received.

EPA will accept additional materials for inclusion in the record at any time between proposal and designation of the complete record. EPA will identify the complete rulemaking record by the date of promulgation. A public version of this record, without any confidential business information, is available in the TSCA Public Docket Office from 8 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays. The TSCA Public Docket Office is located in Rm. NE–G004, 401 M St., SW., Washington, DC.

XII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this rule would not be a "major" rule because it would not have an effect on the economy of $100 million or more, and it would not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the total annual cost of compliance with this rule, EPA estimates that the cost for submitting a significant new use notice would be approximately $4,500 to $11,000, including a $2,500 user fee payable to EPA to offset EPA costs in processing the notice.

EPA believes that, because of the nature of the rule and the substances involved, there would be few significant new use notices submitted. Furthermore, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovation, that impact would be limited because such factors are unlikely to discourage an innovation that has high potential value.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this rule would not have a significant impact on a substantial number of small businesses. EPA has not determined whether parties affected by this rule would likely be small businesses. However, EPA expects to receive few SNUR notices for the substances. Therefore, EPA believes that the number of small businesses affected by this rule would not be substantial, even if all of the SNUR notice submitters were small firms.

C. Paperwork Reduction Act

Public reporting burden for this collection of information is estimated to vary from 30 to 170 hours per response, with an average of 100 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM–223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA."

List of Subjects in 40 CFR Part 721

Chemicals, Environmental protection, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: October 19, 1990.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances

Therefore, 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604 and 2607.

2. By adding new § 721.72(h) to read as follows:

§ 721.72 Hazard communication program.

* * * * *

(h) *Human health, environmental hazard exposure and precautionary statements.* (1) Whenever referenced in subpart E of this part for a substance, the following human health, environmental hazard, exposure, and precautionary statements shall appear on each label as specified in paragraph (b) of this section. Additional statements may be included as long as they are true and do not alter the meaning of the required statements.

(i) *Precautionary statements.* (A) The health effects of this chemical substance have not been determined.

(B) When using this substance, use skin protection.

(C) Use respiratory protection when there is a reasonable likelihood of exposure in the work area from dust, mist, or smoke from spray application.

(D) Chemicals similar in structure to this substance have been found to cause cancer in laboratory animals.

(ii) *Human health hazard statements.* This substance may cause:

(A) Skin irritation
(B) Respiratory complications
(C) Central nervous system effects
(D) Internal organ effects
(E) Birth defects
(F) Reproductive effects
(G) Cancer
(H) Immune system effects
(I) Developmental effects

(iii) *Human health hazard precautionary statements.* When using this substance:

(A) Avoid skin contact
(B) Avoid breathing substance
(C) Avoid ingestion
(D) Use respiratory protection
(E) Use skin protection

(iv) *Environmental hazard statements.* This substance may be:

(A) Toxic to fish
(B) Toxic to aquatic organisms

(v) *Environmental hazard precautionary statements.* Notice to Users:

(A) Disposal restrictions apply
(B) Spill clean-up restrictions apply
(C) Do not release to water.

(vi) *Additional statements.* Each human health or environmental precautionary statement identified in subpart E of this part for the label on the substance container must be followed by the statement, "See MSDS for details."

(2) Whenever referenced in subpart E of this part for a substance, the following human health, environmental hazard, exposure, and precautionary statements shall appear on each MSDS

as specified in paragraph (c) of this section. Additional statements may be included as long as they are true and do not alter the meaning of the required statements.

(i) *Precautionary statements.* (A) The health effects of this chemical substance have not been determined.

(B) When using this substance, use skin protection.

(C) Use respiratory protection when there is a reasonable likelihood of exposure in the work area from dust, mist, or smoke from spray application.

(D) Chemicals similar in structure to this substance have been found to cause cancer in laboratory animals.

(ii) *Human health hazard statements.* This substance may cause:

(A) Skin irritation
(B) Respiratory complications
(C) Central nervous system effects
(D) Internal organ effects
(E) Birth defects
(F) Reproductive effects
(G) Cancer
(H) Immune system effects
(I) Developmental effects

(iii) *Human health hazard precautionary statements.* When using this substance:

(A) Avoid skin contact
(B) Avoid breathing substance
(C) Avoid ingestion
(D) Use respiratory protection
(E) Use skin protection

(iv) *Environmental hazard statements.* This substance may be:

(A) Toxic to fish
(B) Toxic to aquatic organisms

(v) *Environmental hazard precautionary statements.* Notice to Users:

(A) Disposal restrictions apply
(B) Spill clean-up restrictions apply
(C) Do not release to water.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

3. By adding new § 721.273 to subpart E to read as follows:

§ 721.273 Aliphatic diurethane acrylate ester.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as aliphatic diurethane acrylate ester (PMN P–85–1013) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

4. By adding new § 721.275 to subpart E to read as follows:

§ 721.275 Alkyldicarboxylic acids, polymers with alkanepolyol and TDI, alkanol blocked, acrylate.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as akyldicarboxylic acids, polymers with alkanepolyol and TDI, alkanol blocked, acrylate (PMN P–89–77) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

5. By adding new § 721.278 to subpart E to read as follows:

§ 721.278 Amino acrylate monomer.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substances identified generically as amino acrylate monomers (PMNs P–85–296 and PMN P–85–298) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

6. By adding new § 721.289 to subpart E to read as follows:

§ 721.289 Alkenoic acid, trisubstituted-benzyl-disubstituted-phenyl ester.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkenoic acid, trisubstituted- benzyl-disubstituted-phenyl ester (PMN P–89–697) is subject to reporting under this section for the

significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e)(concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

7. By adding new § 721.290 to subpart E to read as follows:

§ 721.290 Alkenoic acid, trisubstituted-phenylalkyl-disubstituted-phenyl ester.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkenoic acid, trisubstituted- phenylalkyl-disubstituted-phenyl ester (PMN P–89–694) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

8. By adding new § 721.607 to subpart E to read as follows:

§ 721.607 Bisphenol A, epichlorohydrin, methylenebis (substituted carbomonocycle), polyalkylene glycol, alkanol, methacrylate polymer.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as Bisphenol A, epichlorohydrin, methylenebis (substituted carbomonocycle), polyalkylene glycol, alkanol, methacrylate polymer (PMN P–88–2380) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

9. By adding new § 721.759 to subpart E to read as follows:

§ 721.759 Caprolactone, polymer with hexamethylene diisocyanate, hydroxyalkyl acrylate ester, reaction products with substituted alkanoic acid and metal heteromonocycle.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as caprolactone, polymer with hexamethylene diisocyanate, hydroxyalkyl acrylate ester, reaction products with substituted alkanoic acid and metal heteromonocycle (PMN P–89–946) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

10. By adding new § 721.767 to subpart E to read as follows:

§ 721.767 Carbamic acid, (trialkyloxy silyalkyl)-substituted acrylate ester.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as carbamic acid, (trialkyloxy silyalkyl)-substituted acrylate ester (PMN P–89–424) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i),

(a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), (h)(2)(i)(D), and (h)(2)(ii)(b).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

11. By adding new § 721.960 to subpart E to read as follows:

§ 721.960 Acid modified acrylated epoxide.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substances identified generically as acid modified acrylated epoxides (PMN P–85–1169 and P–85–1170) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

12. By adding new § 721.1045 to subpart E to read as follows:

§ 721.1045 Trimethylolpropane fatty acid diacrylate.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as trimethylolpropane fatty acid diacrylate (PMN P–88–2463) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

13. By adding new § 721.1282 to subpart E to read as follows:

§ 721.1282 Reaction product of a monoalkyl succinic anhydride with an ω-hydroxy methacrylate.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as reaction product of a monoalkyl succinic anhydride with an ω-hydroxy methacrylate (PMN P–88–701) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

14. By adding new § 721.1285 to subpart E to read as follows:

§ 721.1285 Hydroxyalkyl methacrylate, alkyl ester.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as hydroxyalkyl methacrylate, alkyl ester (PMN P–89–507) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are

applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

15. By adding new § 721.1280 to subpart E to read as follows:

§ 721.1280 Substituted oxide-alkylene polymer, methacrylate.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as substituted oxide-alkylene polymer, methacrylate (PMN P-88-2566) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

16. By adding new § 721.1380 to subpart E to read as follows:

§ 721.1380 Methylenebis(4-isocyanato benzene), polymer with polycaprolactone triol and alkoxylated alkanepolyol, hydroxyalkyl methacrylate ester.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as methylenebis(4-isocyanato benzene), polymer with polycaprolactone triol and alkoxylated alkanepolyol, hydroxyalkyl methacrylate ester (PMN P-88-749) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

17. By adding new § 721.1500 to subpart E to read as follows:

§ 721.1500 Reaction product of hydroxyethyl acrylate and methyl oxirane.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified as reaction product of hydroxyethyl acrylate and methyl oxirane (PMN P-88-832) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

18. By adding new § 721.1612 to subpart E to read as follows:

§ 721.1612 Polymer of alkyl carbomonocycle diisocyanate with alkanepolyol polyacrylate.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as polymer of alkyl carbomonocycle diisocyanate with alkanepolyol polyacrylate (PMN P-88-73) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

19. By adding new § 721.1617 to subpart E to read as follows:

§ 721.1617 Polyalkylpolysilazane, bis(substituted acrylate).

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as polyalkyl polysilazane, bis(substituted acrylate) (PMN P–89–423) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), (h)(2)(i)(D), and (h)(2)(ii)(b).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

20. By adding new § 721.1700 to subpart E to read as follows:

§ 721.1700 Poly(oxy-1,4-butanediyl), α-(1-oxo-2-propenyl)-ω-[(1-oxo-2-propenyl)oxy]-.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified as poly(oxy-1,4-butanediyl), α-(1-oxo-2-propenyl)-ω-[(1-oxo-2propenyl)oxy]- (PMN P–84–274) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

21. By adding new § 721.1710 to subpart E to read as follows:

§ 721.1710 Polyol carboxylate ester.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as polyol, carboxylate ester (PMN P–84–27) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

22. By adding new § 721.1715 to subpart E to read as follows:

§ 721.1715 Alkoxylated alkane polyol, polyacrylate ester.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkoxylated alkane polyol, polyacrylate ester (PMN P–84–713) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o) and (q).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

23. By adding new § 721.1725 to subpart E to read as follows:

§ 721.1725 Polysubstituted polyol.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance

identified generically as polysubstituted polyol (PMN P-84-814) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

24. By adding new § 721.1740 to subpart E to read as follows:

§ 721.1740 Substituted acrylated alkoxylated aliphatic polyol.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as substituted acrylated alkoxylated aliphatic polyol (PMN P-88-340) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

25. By adding new § 721.1778 to subpart E to read as follows:

§ 721.1778 Poly(oxy-1,2-ethanediyl), α-(2-methyl-1-oxo-2-propenyl)-ω-hydroxy-, C_{10-16}-alkyl ethers.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified as poly(oxy-1,2-ethanediyl), α-(2-methyl-1-oxo-2-propenyl)-ω-hydroxy-, C_{10-16}-alkyl ethers (PMN P-86-586) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

26. By adding new § 721.1780 to subpart E to read as follows:

§ 721.1780 Poly(oxy-1,2-ethanediyl), α-(1-oxo-2-propenyl)-ω-hydroxy-, C_{10-16}-alkyl ethers.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified as poly(oxy-1,2-ethanediyl), α-(1-oxo-2-propenyl)-ω-hydroxy-, C_{10-16}-alkyl ethers (PMN P-86-554) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

27. By adding new § 721.1810 to subpart E to read as follows:

§ 721.1810 2-Propenoic acid, 2-hydroxybutyl ester.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified as 2-propenoic acid, 2-hydroxybutyl ester (PMN P-87-630) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

28. By adding new § 721.1814 to subpart E to read as follows:

§ 721.1814 2-Propenoic acid, 1-(hydroxymethyl) propyl ester.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified as 2-propenoic acid, 1-(hydroxymethyl) propyl ester (PMN P–87–931) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012]

29. By adding new § 721.1818 to subpart E to read as follows:

§ 721.1818 2-Propenoic acid, 2-methyl-, 1,1-dimethylethyl ester.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified as 2-propenoic acid, 2-methyl-, 1,1-dimethylethyl ester (PMN P–89–422) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xii), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (a)(6)(v), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012]

30. By adding new § 721.2555 to subpart E to read as follows:

§ 721.2555 Urethane acrylate.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as urethane acrylate (PMN P–85–301) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

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Part VII

Federal Communications Commission

47 CFR Part 1, et al.
Multipoint Distribution Service, etc.; Final Rule and Proposed Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 21, 43, 74, and 78

[Gen. Docket No. 90-54, Gen. Docket No. 90-113; FCC 90-341]

Multipoint Distribution Service, Multichannel Multipoint Distribution Service, Instructional Television Fixed Service, Private Operational-Microwave Fixed Service, and Cable Television Relay Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This *Report and Order* adopts a number of rule changes proposed in the *Notice of Proposed Rule Making and Notice of Inquiry* (*Notice*) [1] concerning wireless cable service. This *Report and Order*, together with a companion *Further Notice of Proposed Rulemaking* (also published in Part V of this issue), is intended to facilitate the development of wireless cable by unifying and updating the rules governing the various microwave radio channels that can be collectively used to provide wireless cable service. First, the *Report and Order* modifies several rules to increase the availability of Multipoint Distribution Service (MDS) channels for use in wireless cable systems. This action eliminates MDS ownership restrictions and simplifies various rules governing the application process, the initiation of service of new channels, and the modification of existing facilities, licenses, or applications to permit authorization of larger and more serviceable wireless cable systems. It also modifies equipment standards and other technical requirements to increase service capabilities and improve the quality of various aspects of wireless cable service. Finally, the Commission relaxes certain administrative requirements to reduce the burdens they impose.

EFFECTIVE DATE: November 30, 1990, except §§ 21.28(e), 21.901(d)(2), 21.912 and 21.914, effective on October 31, 1990, and §§ 11307(b), 21.901(d)(1), 21.902(i), 21.906(c), 21.911, 21.913, 74.903(a)(2), 74.961(c), and 74.985, effective on January 24, 1991.

FOR FURTHER INFORMATION CONTACT: Jane Hinckley, Mass Media Bureau, Policy and Rules Division (202) 632-7792; Bruce Romano, Mass Media Bureau, Policy and Rules Division (202) 632-5414; Lynne Milne, Common Carrier Bureau (202) 634-1772; or Mike Lewis, Private Radio Bureau (202) 632-6940.

SUPPLEMENTARY INFORMATION: The Federal Communications Commission has submitted the following information collection requirements to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act, as amended. (44 U.S.C. 3501 *et seq.*). Copies of the submission may be purchased from the Commission's copy contractor, International Transcription Service, suite 140, 210 M street, NW., Washington, DC 20037 (202) 857-3800.

Title: Amendment of parts 21, 43, 74, 78, and 94 of the Commission's Rules Governing Use of the Frequencies in the 2.1 and 2.5 GHz Bands Affecting: Private Operational-Fixed Microwave Service, Multipoint Distribution Service, Multichannel Multipoint Distribution Service, Instructional Television Fixed Service, and Cable Television Relay Service.

OMB Number: None.

Action: New and Modified Collections.

Respondents: Businesses (including small businesses), Individuals or households.

Frequency of Response: On Occasion; Annually for MDS Reports.

1. Section 21.901(d)(1)—Frequencies (ITFS Coordination Requirements).

a. Engineering Analysis.

Estimated Annual Burden: 6,000 responses; 240,000 on total industry, 40 hours each.

b. ITFS Service Notice.

Estimated Annual Burden: 6,000 responses; 2,000 hours on total industry, ⅓ hour each.

c. Diligent Efforts to Serve Notice.

Estimated Annual Burden: 2,000 responses; 1,000 hours on total industry, ½ hour each.

d. Late ITFS Service Notice.

Estimated Annual Burden: 1,000 responses; 333 hours on total industry, ⅓ hour each.

e. ITFS Petition to Deny.

Estimated Annual Burden: 2,000 responses; 80,000 hours on total industry, 40 hours each.

2. Section 21.902(i)—Frequency Interference.

Estimated Annual Burden: 10 responses; 100 hours on total industry, 10 hours each.

3. Section 21.902(j)—Frequency Interference.

Estimated Annual Burden: 100 responses; 33 hours on total industry, ⅓ hour each.

4. Section 21.911—Annual Reports.

Estimated Annual Burden: 100 responses; 100 hours total, 1 hour each.

5. Section 21.912—Cable Television Company Eligibility Requirements.

Estimated Annual Burden: 200 responses; 100 hours on total industry, ½ hour each.

6. Section 21.913—Signal Booster Stations.

Estimated Annual Burden: 100 responses; 200 hours on total industry, 2 hours each.

Needs and Uses: In fulfilling its obligation under the Communications Act of 1934, as amended, the Commission collects information from applicants and licensees for Multichannel Multipoint Distribution Service stations to determine eligibility and to ensure compliance with this Act and the Commission's regulations.

Estimated public reporting burdens for the collections of information are indicated above. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding these burden estimates or any other aspect of the collections of information, including suggestions for reducing the burden, to the Federal Communications Commission, Office of Managing Director, Washington, DC 20554, and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503.

Public reporting burden for the collection of information in § 74.985 is estimated to average 30 minutes per response. The burden for § 78.11 (3060-0339) is estimated to average 30 minutes yearly per recordkeeper and 30 minutes per notification. The burden for § 78.33 (3060-0288) is estimated to average 4 hours per response. The burden for FCC Form 327 (3060-0055) is estimated to average 3 hours per response. The burden for FCC Form 330 (3060-0062) is estimated to average 6 hours and 50 minutes per response. Each of these estimates includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates or any other aspect of these collections of information/recordkeeping requirements, including suggestions for reducing the burden, to the Federal Communications Commission, Office of Managing Director, Washington, DC 20554, and to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503. This is a synopsis of the Commission's *Report*

[1] 55 FR 7344, March 1, 1990.

and Order in Gen. Docket Nos. 90–54 and 80–113, adopted October 11, 1990, and released October 26, 1990. The complete text of this *Report and Order* is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services (202) 857–3800, 2100 M Street NW., suite 140, Washington, DC 20037.

Synopsis of Report and Order

1. This *Report and Order* modifies existing rules and adopts new rules relating to the various services that can be collectively used for the provision of wireless cable. Wireless cable is a service which provides multiple channels of video entertainment and informational programming using a combination of old and relatively new technologies. As we stated in the *Notice*, most of the rules at issue in this proceeding were established in the infancy of the various services they govern, long before the development of the wireless cable industry. Consequently, these rules not only contain possibly obsolete limitations but also vary substantially from service to service. Thus, the Commission takes this action to conform the rules in the affected services to afford wireless cable operators a more flexible regulatory framework.

2. This *Report and Order* enacts most of the rule changes proposed in the *Notice*. The Commission anticipates that the rule and policy changes adopted here, and the additional modifications proposed in the accompanying *Further Notice* will remove or reduce a number of barriers to the development of wireless cable service as a competitive force in the multichannel video marketplace.

3. Specifically, this *Report and Order* adopts the following rule changes proposed in the *Notice:*

(a) Elimination of the MDS multiple ownership restrictions; (b) acceleration and facilitation of the introduction of service on additional channels by permitting additional modifications to reduce interference for existing MDS stations by (c) simplifying procedures for notifing ITFS licensees of a proposed MDS station or station modification [2] and by (d) permitting MDS applicants use of the 0 dB interference standard at older ITFS sites where the MDS applicant will provide new equipment capable of operation at the interference level; (e) provision for the migration of point-to-point ITFS operations grandfathered on the MDS E and F channels; (f) elimination of some restrictions on the leasing of ITFS excess capacity; (g) prohibition of cable operators from holding licenses or leases for MDS or ITFS facilities in their franchise areas when they are sole cable service providers; (h) increase of permissible power limits and modification of the output power standard; (i) tightening of transmitter performance standards for new stations, including (j) tightening out-of-band emissions and (k) revising permissible aural power levels; (l) provision for the use of signal boosters to fill in areas of weak signals; (m) qualification of wireless cable operators to use auxiliary frequencies and the CARS band where necessary; and (n) adoption of a one-day filing procedure for MDS applicants.[3]

4. Finally, many of the rule changes adopted in this *Report and Order* affect ITFS service. The Commission emphasizes that its effort to facilitate the expansion of wireless cable service as a competitive multichannel source of programming should not be interpreted as diminishing its commitment to the further development of ITFS. The modifications adopted here should not jeopardize the current or future ability of ITFS to fulfill its primary intended purpose of providing educational material for instructional use. On the contrary, the Commission believes that these changes will enhance ITFS by improving service quality and potentially increasing the revenues received by ITFS entities through the leasing of excess capacity. In addition, the *Report and Order* avers that educational institutions should be treated differently than commercial entities in many situations due to limited financial and staff resources, governmental constraints, and similar factors. The Commission states that it has endeavored in this proceeding to compensate for these limitations and to afford ITFS licensees as much latitude as possible in designing and operating their systems.

Regulatory Flexibility Act Analysis

5. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that the adopted rules will have a significant impact on a substantial number of small entities by significantly reducing the amount and complexity of information required in annual reports from MDS common carrier operators. In addition, the Commission believes that by providing uniform, effective regulations for those services which can be used for wireless cable, this decision will not only increase channel availability for wireless cable operations, it will also ease the regulatory burden on those affected services.

6. The Secretary shall send a copy of this *Report and Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*, (1981)).

7. Accordingly, *it is ordered*, That pursuant to the authority contained in sections 4(i) and 303(r) or the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), parts 1, 21, 43, 74, and 78 of the Commission's Rules, 47 CFR 21, 43, 74, 78, are amended as set forth below.

8. *It is further ordered*, That General Docket No. 80–113 is terminated.

9. *It is further ordered*, That this *Report and Order* will be effective 30 days after publication in the **Federal Register**, except as follows:

(1) Sections 21.28(e), 21.901(d)(1), 21.912, and 21.914 of the Commission's Rules, 47 CFR 21.28(e), 21.901(d)(2), 21.912, 21.914, are effective upon publication of a summary of this *Report and Order* in the **Federal Register**; [4]

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[2] The changes to § 21.901(d) of the Commission's Rules, 47 CFR 21.901(d), adopted in this *Report and Order* become effective on January 24, 1991. Any MDS application for the E and F channels filed after that date must comply with this rule change. Any MDS application for the E and F channels filed between October 11, 1990, and January 24, 1991, must be amended no later than January 25, 1991, to include the ITFS interference analysis specified in this *Report and Order*. The applicant must mail the copies no later than January 25, 1991, and must file the written notice as to receipt of ITFS analysis no later than February 15, 1991. MDS applicants for the E and F channels filing before October 11, 1990, must file the specified ITFS interference analysis and notification after a conditional license is granted, but before construction commences.

[3] *See* § 21.914, *infra*. After this rule change is published in the **Federal Register**, this rule will apply to all pending applications that have not appeared on a public notice for competing applications. Current cut-off periods, however, will continue to run, so that pending applications which have appeared on public notice will be subject to any competing applications filed during an established cut-off period.

[4] The elimination of the ownership limitations is a substantive rule change which relieves a restriction, and therefore can be made effective on less than 30 days' notice. See 5 U.S.C. 553(d)(1). Moreover, we find good cause for making the rule change effective upon publication in the **Federal Register**. By doing so, we hope to conform this rule with the one-day MDS application filing procedure adopted in the *Report and Order*.

The shortening of the cut-off period for MDS applications is a procedural rule change, and therefore can be made effective on less than 30

Continued

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(2) Sections 1.1307(b), 21.901(d)(1), 21.902(i), 21.905(c), 21.911, 21.913, 74.903(b)(1), 74.961(c), and 74.985 of the Commission's Rules, 47 CFR §§ 1.1307(b), 21.901(d)(1), 21.902(i), 21.905(c), 21.911, 21.913, 74.903(a)(2), 74.961(c), and 74.985, are effective on January 24, 1991.

List of Subjects

47 CFR Part 1

Administrative practice and procedure.

47 CFR Part 21

Communications common carriers, Domestic public fixed radio services.

47 CFR Part 43

Communications common carriers, Reports of communication common carriers and Certain affiliates.

47 CFR Part 74

Television broadcasting, Experimental, auxiliary, and special broadcast and Other program distributional service.

47 CFR Part 78

Cable television, Cable television relay service.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Amendatory Text

Parts 1, 21, 43, 74, and 78 of chapter I of title 47 of the Code of Federal Regulations are amended as follows:

PART 1—PRACTICE AND PROCEDURE

1. The authority citation for part 1 continues to read as follows:

Authority: Secs. 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 303(r).

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days' notice. See 5 U.S.C. 553(d). In any event, we find good cause for making the rule change effective upon its publication in the Federal Register. By doing so, we hope to avoid the filing of numerous speculative applications that would hamper our processing efforts. After this effective date, this rule will apply to all second and subsequent applications if the first conflicting application did not appear on public notice on or before the effective date. However, if the first conflicting application appeared on public notice on or before the effective date, second and subsequent applications may be filed, and mutual exclusivity determinations will be made pursuant to 47 CFR 21.31.

In addition, we find good cause for making the rule restricting cable television ownership of wireless cable facilities effective upon its publication in the Federal Register. See 5 U.S.C. 553(d). By doing so, we will prevent the filing of applications by cable entities which would circumvent the limitation adopted here.

2. Section 1.227 is amended by revising paragraph (b)(4) to read as follows:

§ 1.227 Consolidations.

* * * * *

(b) * * *

(4) This paragraph applies when mutually-exclusive applications subject to section 309(b) of the Communications Act are filed in the Private Radio Services or when there are more such applications for initial licenses than can be accommodated on available frequencies. In such cases, the applications either will be consolidated for hearing or designated for random selection (see § 1.972 of this part). An application which is substantially amended (as defined by § 1.962(c) of this part) will, for the purpose of this section, be considered to be a newly-filed application as of the receipt date of the amendment. Except for applications filed under part 94, Private Operational Fixed Microwave Service, mutual exclusivity will occur if the later application or applications are received by the Commission's offices in Gettysburg, PA (or Pittsburgh, PA for applications requiring the fees set forth at part 1, subpart G of the rules) in a condition acceptable for filing within 30 days after the release date of public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing or within such other period as specified by the Commission. For applications in the Private Operational Fixed Microwave Service, mutual exclusivity will occur if two or more acceptable applications that are in conflict are filed on the same day.

* * * * *

3. Section 1.1307, paragraph (b), is amended by revising Note 1 to read as follows:

§ 1.1307 Actions which may have a significant environmental effect, for which Environmental Assessments (EAs) must be prepared.

* * * * *

(b) * * *

Note 1: Paragraph (b) shall apply to facilities and operations licensed or authorized under the following Parts of the Commission's Rules: 5, 21 (subpart K), 25, 73, 74 (subparts A, G, I, and L), and 80. With respect to part 21 (subpart K) and part 74 (subpart I), paragraph (b) is applicable only to MDS and ITFS stations transmitting with an equivalent isotropically radiated power (EIRP) in excess of 200 watts. With respect to part 74 (subpart L), paragraph (b) is applicable only to FM booster stations with a transmitter output power in excess of 10 watts. With respect to part 80, paragraph (b) is applicable only to ship earth stations. Facilities and operations licensed or authorized under all other Parts, Subparts, or Sections of the Commission's Rules shall be categorically excluded from consideration under paragraph (b).

* * * * *

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICES

4. The authority citation for part 21 continues to read as follows:

Authority: Secs. 4 and 303, 48 Stat. 1066, 1982, as amended, 47 U.S.C. 154, 303, unless otherwise noted.

5. Section 21.2 is amended by revising the definition for "Repeater station" and by adding definitions for "Equivalent Isotropically Radiated Power" and "Signal booster station," in alphabetical order to read as follows:

§ 21.2 Definitions.

* * * * *

Equivalent Isotropically Radiated Power (EIRP). The product of the power supplied to the transmitting antenna and the antenna gain in a given direction relative to an isotropic antenna radiator. This product may be expressed in watts or dB above 1 watt (dBW).

* * * * *

Repeater station. A fixed station established for the automatic retransmission of radiocommunications received from one or more stations and directed to a specified receiver site.

* * * * *

Signal booster station. A low-power repeater station automatically retransmitting on the same frequency as the received signal, and located within the protected service area of a Multipoint Distribution Service station.

* * * * *

6. Section 21.13 is amended by revising paragraph (a)(6) to read as follows:

§ 21.13 General application requirements.

(a) * * *

(6) Show compliance with the special requirements applicable to each radio service and make all special showings that may be applicable (*e.g.*, those required by §§ 21.100(d), 21.700, 21.706, 21.900, 21.912, 21.913 of this part, etc.).

* * * * *

7. Section 21.20 is amended by revising paragraph (b)(9) to read as follows:

§ 21.20 Defective applications.

* * * * *

(b) * * *

(9) The application is filed after the cutoff date prescribed in § 21.31 or § 21.914 of this part; or

* * * * *

8. Section 21.28 is amended by adding paragraph (e) to read as follows:

§ 21.28 Dismissal and return of applications.

* * * * *

(e) The Commission will dismiss an application filed by a cable television company which fails to comply with the provisions of § 21.912 of this part.

9. Section 21.30 is amended by revising paragraph (a)(4) to read as follows:

§ 21.30 Opposition to applications.

(a) * * *

(4) Except as provided in § 21.901(d)(1) of this part regarding Instructional Television Fixed Service licensees, be filed within thirty (30) days after the date of public notice announcing the acceptance for filing of any such application or major amendment thereto, or identifying the tentative selectee of a random selection proceeding in the Multichannel Multipoint Distribution Service (unless the Commission otherwise extends the deadline); and

* * * * *

10. Section 21.33 is amended by correcting the word "changes" in paragraph (b) to read the word "chances," and by revising paragraph (a) to read as follows:

§ 21.33 Grants by random selection.

(a) If an application for a license in the Digital Electronic Message Service (DEMS) is mutually exclusive with another such application and satisfies the requirements of § 21.31 of this part, the applicants may be included in the random selection process set forth in part 1, §§ 1.821, 1.822, and 1.825 of this chapter. If an application for a license in the Multichannel Multipoint Distribution Service (MMDS) is mutually exclusive with another such application and satisfies the requirements of §§ 21.31 and 21.914 of this part, the applicants may be included in the random selection process set forth in part 1, §§ 1.821, 1.822, and 1.824 of this chapter. Renewal applications shall not be included in a random selection process.

* * * * *

11. Section 21.41 is amended by revising paragraph (c)(1)(i) to read as follows:

§ 21.41 Special processing of applications for minor facility modifications.

* * * * *

(c) * * *

(1) * * *

(i) In all radio services other than Multipoint Distribution Service and Digital Electronic Message Service, any increase in transmitter output power is less than three dB over the previously authorized output power; and in Digital Electronic Message Service, any increase in transmitter output power is one and one-half dB or less over the previously authorized output power; and in the Multipoint Distribution Service, any increase in EIRP is one and one-half dB or less over the previously-authorized power value.

* * * * *

§ 21.101 [Amended]

12. Section 21.101 is amended by adding footnote 6 to the entries for "2,110 to 2,200" and "2,200 to 12,200" in the column titled "Frequency range (MHz)" in the table in paragraph (a) to read as follows:

[6] Beginning November 1, 1991, equipment authorized to be operated in the frequency bands 2150-2162 MHz and 2596-2644 MHz for use in the Multipoint Distribution Service shall maintain a frequency tolerance within ± 1 KHz of the assigned frequency.

* * * * *

§ 21.107 [Amended]

13. Section 21.107 is amended by revising footnote 1 to the table in paragraph (b) to read as follows:

[1] In the 2,150-2,162 MHz and 2,500-2,690 MHz frequency bands, when used for the Multipoint Distribution Service, EIRP up to 2000 watts may be authorized pursuant to § 21.904 of this part.

* * * * *

14. Section 21.901 is amended by revising paragraphs (d)(1) and (d)(2) to read as follows:

§ 21.901 Frequencies.

* * * * *

(d) * * *

(1) Each applicant for facilities in the 2596-2644 MHz frequency band must:

(i) Submit with its application an analysis demonstrating that operation of the applicant's transmitter will not cause harmful interference to any existing co-channel or adjacent-channel Instructional Television Fixed Service (ITFS) station with a transmitter site within 50 miles of the Multichannel Multipoint Distribution Service (MMDS) applicant's proposed transmitter site;

(A) This analysis may presume the displacement or discontinuation of a co-channel, grandfathered ITFS station, if such displacement or discontinuation is necessary for an analysis demonstrating the applicant's transmitter will not cause harmful interference to such ITFS station.

(B) This analysis may presume the displacement of any point-to-point operation of an ITFS station if such displacement or discontinuation is necessary for an analysis demonstrating the applicant's transmitter will not cause harmful interference to such ITFS station.

(C) In the alternative, an applicant for an MDS station on the E or F channels may submit a statement from the ITFS licensee stating that the ITFS licensee does not object to operation of the MDS station.

(ii) Serve a copy of the analysis described in paragraph (d)(1)(i) of this section on the licensee of each co-channel or adjacent-channel ITFS station with a transmitter site located within 50 miles of the MMDS applicant's proposed transmitter site;

(iii) Include in its application a certification of service demonstrating that, on or before the filing date of the application, a copy of the analysis described in paragraph (d)(1)(i) of this section was sent, certified mail, return receipt requested, to each licensee of a co-channel or adjacent-channel ITFS station with a transmitter site located within 50 miles of the MMDS applicant's proposed transmitter site; and

(iv) File with the Commission on or before the 20th day after the filing date of the application a written notice which contains the following:

(A) Caption—ITFS Service Notice;

(B) Applicant's name, address, proposed service area and channel group(s);

(C) A list of each licensee of a co-channel or adjacent-channel ITFS station with a transmitter site within 50 miles of the MMDS applicant's proposed transmitter site;

(D) A notation of the date each such ITFS licensee received a copy of the analysis described in paragraph (d)(1)(i) of this section, or a notation of lack of receipt by the ITFS licensee of a copy of the interference analysis as of such 20th day.

(v) Within 90 days of the day of filing of the MDS application, for each such ITFS licensee for which there is a notation of the lack of receipt of the analysis described in paragraph (d)(1)(i) of this section, the MDS applicant must submit a demonstration prior to grant of its application that it made diligent efforts for the ITFS licensee to receive the analysis.

(vi) Within 90 days of the day of filing of the MDS application, for each such ITFS licensee for which there is a notation in the ITFS Service Notice of the lack of receipt of the analysis described in paragraph (d)(1)(i) of this

section, and the ITFS licensee receives the analysis on or after the 20th day after the application filing date, the MDS applicant must submit a demonstration prior to grant of its application that the ITFS licensee received the analysis.

(vii) Notwithstanding the provisions of § 21.31(a)(4) of this part, any licensee of an existing co-channel or adjacent-channel ITFS station with a transmitter site within 20 miles of the MDS applicant's proposed transmitter site may file a petition to deny the application for an MDS station on the E or F channels within 30 days of the day of filing of the MDS application with the Commission. In the alternative, the ITFS licensee may file such petition to deny within 60 days of its receipt of the analysis described in paragraph (d)(1)(i) of this section.

(A) Except for the requirements as to the filing time deadline, this petition to deny must otherwise comply with the provisions of § 21.30 of this part.

(B) In addition, the ITFS licensee must demonstrate in its petition to deny that it made efforts to reach agreement with the MDS applicant but was unable to do so and must demonstrate by interference analysis that operation of the proposed MDS station on the E or F channels will cause harmful interference to its ITFS station. In cases where the MDS application is dependent on modification(s) to the ITFS facility, the ITFS licensee must demonstrate that the harmful interference cannot be avoided by the proposed substitution of new or modified equipment to be supplied and installed by the MDS applicant, at no expense to the ITFS licensee.

(C) The subject matter of this petition to deny filed by the ITFS licensee is limited to raising objections concerning the potential for harmful interference to its ITFS station or concerning a failure by the MDS applicant for the E or F channels to serve the ITFS licensee with a copy of the analysis described in paragraph (d)(1)(i) of this section.

(2) Each applicant for facilities in the 2596–2644 MHz frequency band may submit only a single application for the same channel group in each service area. The stockholders holding more than one percent of an entity's stock, the partners, the owners, the trustees, the beneficiaries, the officers, the directors, or any other person or entity holding a similar cognizable interest in one applicant for a service area and channel group, directly or indirectly, must not have a cognizable interest, directly or indirectly, in another applicant for that same service area and channel group.

* * * * *

15. Section 21.902 is amended by revising paragraphs (f)(2) and (i) and by adding paragraph (j) to read as follows:

§ 21.902 Frequency interference.

* * * * *

(f) * * *

(2) Adjacent channel interference is defined as the ratio of the desired signal to undesired signal present in an adjacent channel, at the output of a reference receiving antenna oriented to receive the maximum desired signal level. Harmful interference will be considered present when a free space calculation determines that this ratio is less than 0 dB. In the alternative, harmful interference will be considered present for an Instructional Television Fixed Service (ITFS) station constructed before May 26, 1983, when a free space calculation determines that this ratio is less than 10 dB, unless the license for a Multipoint Distribution Service station in the 2596–2644 MHz frequency band is conditioned on the proffer to the affected ITFS station licensee of equipment capable of providing a ratio of less than 0 dB at no expense to the ITFS station licensee, and also conditioned, if necessary, on installation of such equipment, absent a showing by the affected ITFS station licensee demonstrating good cause and that the proposed equipment will not provide a ratio of less than 0 dB or that installation of such equipment, at no expense to the ITFS station licensee, is not possible.

* * * * *

(i) If the initial application for facilities in the 2596–2644 frequency band was filed on September 9, 1983, an applicant proposing to modify such facilities must include with its modification application:

(1) An analysis demonstrating that the modification will not increase the size of the geographic area suffering harmful interference within the protected service area of existing or proposed co-channel or adjacent-channel facilities in the 2596–2644 MHz frequency band with a transmitter site within 50 miles of the modifying station's transmitter site if the initial application for the interfered-with station was filed on September 9, 1983; and

(2) An analysis demonstrating that the modification will not cause harmful interference to any new portion of the protected service area of existing or proposed co-channel or adjacent-channel facilities in the 2596–2644 frequency band with a transmitter site within 50 miles of the modifying station's transmitter site, if the initial application for the interfered-with station was filed on September 9, 1983.

(j) If an initial application for facilities in the 2596–2644 frequency band was filed on September 9, 1983, a licensee proposing to modify a constructed station may request exclusion from the interference analysis prescribed at § 21.902(c) (1) and (2) with respect to another specified application for E or F channel facilities, if the modifying licensee files as part of its modification application a demonstration that:

(1) The MDS application for which exclusion is requested was proposed by an initial application filed on September 9, 1983;

(2) The MDS application for which exclusion is requested is not yet perfected by the submission of the information necessary for processing, as of the date of filing of the modification application; and

(3) A copy of the licensee's modification application, including the demonstration specified in this paragraph, was served on the MDS applicant for which exclusion is requested, on or before the date of filing of the modification application.

16. Section 21.904 is revised in its entirety to read as follows:

§ 21.904 Transmitter power.

(a) The maximum equivalent isotropically radiated power (EIRP) of a transmitter station in this service shall not exceed 2000 watts (33 dBW) except as provided in paragraph (b) of this section.

(b) If a station uses a transmitting antenna with a non-omnidirectional horizontal plane radiation pattern, the maximum equivalent isotropically radiated power (EIRP) in dBW in a given direction shall be determined by the following formula:

EIRP = 33 dBW + 10 log (360/beamwidth)
[where 10 log (360/beamwidth) <6 dB].

Beamwidth is the total horizontal plane beamwidth of the transmitting antenna system in degrees, measured at the half-power points.

(c) An increase in station transmitter power, above currently-authorized or previously-proposed values, to the maximum values provided in paragraphs (a) and (b) of this section, may be authorized, if an applicant demonstrates that the requested power increase will not cause harmful interference to any authorized or previously-proposed co-channel or adjacent-channel station with a transmitter site within 50 miles of the applicant's transmitter site, or if an applicant demonstrates that:

(1) A station, that must be protected from interference, potentially could

suffer interference that would be eliminated by increasing the power of the interfered-with station; and

(2) That the interfered-with station may increase its own power consistent with the rules; and

(3) The applicant requesting authorization of a power increase agrees to pay all expenses associated with the increase in power to the interfered-with station.

(d) For television transmission if the authorized bandwidth is 4.0 MHz or more for the visual and accompanying aural signal, the peak power of the accompanying aural signal must not exceed 10 percent of the peak visual power of the transmitter. The Commission may order a reduction in aural signal power to diminish the potential for harmful interference.

17. Section 21.905 is amended by adding paragraph (c) to read as follows:

§ 21.905 Emissions and bandwidth.

* * * * *

(c) Any licensee of a station in the 2150–2162 MHz or 2569–2644 MHz frequency bands, after notice and opportunity for hearing, may be required to use the frequency offset technique to avoid or to minimize harmful interference to another licensed station in the 2150–2162 MHz and 2569–2644 MHz frequency bands or to make other changes as provided in §§ 21.100, 21.107, 21.900, 21.901, 21.902, 21.904, 21.905(a), 21.905(b), 21.906, 21.907, and 21.908 of this part.

18. Section 21.906 is revised in its entirety to read as follows:

§ 21.906 Television transmitting equipment.

(a) Except as otherwise provided in this section, the requirements of paragraphs (a), (b), (c), (d), and (e) of § 73.687 of this chapter shall apply to stations in this service transmitting standard television signals.

(b) On or after November 1, 1991, the maximum out-of-band power of a transmitter operating in the frequency bands 2150–2162 MHz and 2596–2644 MHz shall be attenuated 38 dB relative to the peak visual carrier at the channel edges and constant slope attenuation from this level to 60 dB relative to the peak visual carrier at 1 MHz below the lower band edge and 0.5 MHz above the upper band edge. All out-of-band emissions extending beyond these frequencies shall be attenuated at least 60 dB below the peak visual carrier power. However, should harmful interference occur as a result of emissions outside the assigned channel, additional attenuation may be required. A transmitter licensed prior to November 1, 1991, that remains at the station site initially licensed, and does not comply with this paragraph, may continue to be used for its life if it does not cause harmful interference to the operation of any other licensee. Any non-conforming transmitter replaced after November 1, 1991, must be replaced by a transmitter meeting the requirements of this paragraph.

(c) The requirements of § 73.687(c)(2) of this chapter will be considered to be satisfied insofar as measurements of operating power are concerned if the transmitter station is equipped with instruments for determining the combined visual and aural operating power. However, licensees must maintain the operating powers within the limits specified in § 21.904 of this part. Measurements of the separate visual and aural operating powers must be made at sufficiently frequent intervals to insure compliance with the rules, and in no event less than once a month.

(d) Television transmitting equipment designed for stations whose authorized bandwidth in 4 MHz or less for the visual and accompanying aural signal is subject to the provisions of § 21.101 of this part with respect to the frequency tolerance of the visual and aural carriers. Such equipment is also subject to paragraphs (a) and (b) of this section, except that the provisions of § 73.687 (a), (b), and (c)(1) of this chapter shall not apply.

(e) As a further exception to the other requirements of this section, transmitting equipment characteristics may vary from these requirements to the extent necessary to insure that transmitted information is not likely to be received in intelligible form by unauthorized subscribers or licensees, provided such variations permit recovery of the transmitted information without perceptible degradation as compared to the same information transmitted without such variations.

19. Section 21.911 is added to read as follows:

§ 21.911 Annual reports.

(a) No later than March 1 of each year for the preceding calendar year, each licensee in the Multipoint Distribution Service shall file with the Commission two copies of a report which must include the following:

(1) Name and address of licensee;

(2) Station(s) call letters and primary geographic service area(s);

(3) The following statistical information, preferably in tabular form, for the licensee's station (and each channel thereof):

(i) The total number of separate subscribers served during the calendar year;

(ii) The total hours of transmission service rendered during the calendar year to all subscribers;

(iii) The total hours of transmission service rendered during the calendar year in the following categories: entertainment, education and training, public service, data transmission, and other services;

(iv) A list of each period of time during the calendar year in which a station was not operational due to removal or alteration of equipment or facilities; and

(v) A list of each period of time during the calendar year in which the station rendered no service as authorized, if the time period was a consecutive period longer than 48 hours.

(b) The licensee, by an appropriate corporate officer, controlling partner, or individual proprietor, must certify this report as to the accuracy and completeness of the information contained therein.

(c) A copy of each year's report shall be retained in the principal office of the licensee and shall be readily available to the public for reference and inspection.

20. Section 21.912 is added to read as follows:

§ 21.912 Cable television company eligibility requirements.

(a) Notwithstanding the provisions of § 21.900 of this part, initial or modified authorizations for stations in the 2150–2162 MHz and 2596–2644 MHz frequency bands may not be granted to a cable television company if a portion of the Multipoint Distribution Service (MDS) station's protected service area is within the cable television company's franchise area, unless that cable television company is not the sole provider of cable television service in the franchise area. No cable television company may acquire such an authorization either directly, or indirectly through an affiliate owned, operated, controlled by, or under common control with the cable television company.

(b) No licensee of a station in this service may lease transmission time or capacity to a cable television company either directly, or indirectly through an affiliate owned, operated, controlled by, or under common control with a cable television company, if a portion of the Multiport Distribution Service (MDS) station's protected service area is within the cable television company's franchise area.

(c) Applications for new stations, station modifications, assignment, or transfer of control by cable television companies for stations in the 2150–2162 and 2596–2644 MHz frequency bands shall include a showing that no portion of the protected service area of the proposed MDS station is within the franchise area of the cable television company or of any entity indirectly affiliated, owned, operated, controlled, or under common control with the cable television company.

Note 1: (A) As used above, the terms "control" and "affiliate" bar any financial or business relationship whatsoever by contract or otherwise, directly or indirectly between the Multipoint Distribution Service (MDS) station applicant or licensee and the cable television company.

(B) Examples of situations in which an MDS applicant or licensee will be deemed to be controlled or to have a relationship include, among others:

(1) If one is the debtor or creditor of the other;

(2) If they have a common officer, director, or other employee at the management level;

(3) If there is any element of ownership or other financial interest by one in the other; and

(4) If any person or company has a financial interest in both.

Note 2: In applying the provisions of this section to the stockholders of a corporation which has more than 50 stockholders:

(A) Only those stockholders need be considered who are officers or directors or who directly or indirectly own 1 percent or more of the outstanding voting stock.

(B) Stock ownership by an investment company, as defined in 15 U.S.C. 80a–3 (commonly called a mutual fund), need be considered only if it directly or indirectly owns 3 percent or more of the outstanding voting stock or if officers or directors of the corporation are representatives of the investment company. Holdings by investment companies under common management shall be aggregated. If an investment company directly or indirectly owns voting stock in an intermediate company which in turn directly or indirectly owns 50 percent or more of the voting stock of the corporation, the investment company shall be considered to own the same percentage of outstanding shares of such corporation as it owns of the intermediate company: *Provided, however,* That the holding of the investment company need not be considered if the intermediate company owns less than 50 percent of the voting stock, but officers or directors of the corporation who are representatives of the intermediate company shall be deemed to be representatives of the investment company.

(C) In cases where record and beneficial ownership of voting stock is not identical (*e.g.*, bank nominees holding stock as record owners for the benefit of mutual funds, brokerage houses holding stock in street name for the benefit of customers, trusts holding stock as record owners for the benefit of designated parties), the party having the right to determine how the stock will be voted will be considered to own it for the purposes of this section.

21. Section 21.913 is added to read as follows:

§ 21.913. Signal booster stations.

(a) Authorizations for Multipoint Distribution Service (MDS) booster stations may be granted to an MDS applicant, conditional licensee or licensee, to an Instructional Television Fixed Service (ITFS) applicant, permittee or licensee, or to a third party with a fully-executed lease agreement with an MDS or ITFS applicant, conditional licensee, permittee, or licensee. A signal booster station may not extend service beyond the boundaries of an MDS station's protected service area. No booster station may be authorized for the retransmission of signals from an MDS, ITFS, or OFS station without the written consent of the licensee of the station whose signals are retransmitted.

(b) In addition to the other application requirements of this part and of Form 494, each application for a signal booster station that would retransmit an MDS signal must include a demonstration that the proposed booster station site is within the protected service area of the MDS station.

(c) In addition to the other application requirements of this Part and of Form 494, each application for a signal booster station that would retransmit an MDS signal must include a demonstration that the power flux density at the edge of the MDS protected service area does not exceed −75.8 dBW/m2.

(d) In addition to the other application requirements of this part and of Forms 494 and 330, each application for a signal booster station must include a demonstration that the proposed booster station will cause no harmful interference to co-channel and adjacent-channel existing or previously-proposed ITFS and MDS stations with transmitters within 50 miles of the proposed booster station's transmitter site.

(e) In addition to the other application requirements of this part and of Forms 494 and 330, each application must include a written consent statement of the licensee of each MDS, ITFS, and OFS station whose signal is retransmitted.

(f) The output power of the signal booster transmitter station must not exceed 18 dBW EIRP.

22. Section 21.914 is added to read as follows:

§ 21.914 Mutually-exclusive MDS applications.

Notwithstanding the provisions of § 21.31 (b)(2)(i) and (ii) of this part, to be entitled to be included in a random selection process or to comparative consideration with one or more conflicting applications, an application for frequencies at 2150–2162 MHz or 2596–2644 MHz must be received by the Commission in a condition acceptable for filing on the same calendar day as the first of the conflicting applications is received by the Commission in a condition acceptable for filing.

PART 43—REPORTS OF COMMUNICATION COMMON CARRIERS AND CERTAIN AFFILIATES

23. The authority citation for part 43 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 211, 219, 48 Stat. 1073, 1077, as amended; 47 U.S.C. 211, 219, 220.

§ 43.72 [Removed and reserved]

24. Section 43.72 is removed and reserved.

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

25. The authority citation for part 74 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended; 47 U.S.C. 301, 303, 307.

26. Section 74.832 is amended by adding paragraph (a)(6) to read as follows:

§ 74.832 Licensing requirements and procedures.

(a) * * *

(6) Licensees and conditional licensees of stations in the Multipoint Distribution Service and Multichannel Multipoint Distribution Service as defined in § 21.2 of this chapter, or entities that hold an executed lease agreement with an MDS or MMDS licensee or conditional licensee or with an Instructional Television Fixed Service licensee or permittee.

* * * * *

27. Section 74.901 is amended by adding definitions for "Equivalent Isotropically Radiated Power," "Point-to-point ITFS station," and "Studio to transmitter link" in alphabetical order to read as follows:

§ 74.901 Definitions.

* * * * *

Equivalent Isotropically Radiated Power (EIRP). The product of the power supplied to the antenna and the antenna gain in a given direction relative to an isotropic antenna radiator. This product may be expressed in watts or dB above 1 watt (dBW).

* * * * *

Point-to-point ITFS station. An ITFS station that transmits a highly directional signal from a fixed transmitter location to a fixed receive location.

* * * * *

Studio to transmitter link (STL). A directional path used to transmit a signal from a station's studio to its transmitter.

* * * * *

28. Section 74.902 is amended by adding new paragraph (h) to read as follows:

§ 74.902 Frequency assignments.

* * * * *

(h) On the E and F-channel frequencies, a point-to-point ITFS station may be displaced by an MDS licensee, provided that suitable alternative spectrum is available and that the MDS licensee bears the expenses of the migration.

29. Section 74.903 is amended by revising paragraph (a)(2) to read as follows:

§ 74.903 Interference.

(a)* * *

(2) Adjacent channel interference is defined as the ratio of the desired signal to undesired signal present in an adjacent channel, at the antenna input terminals of the affected receiver, when the ratio is less than 0 dB, except in cases where the stations were constructed before May 26, 1983. In such cases, the desired to undesired signal ratio shall not be less than 10 dB unless the individual receive site under consideration has been subsequently upgraded with up-to-date reception equipment, in which case the ratio shall not be less than 0 dB. Absent information presented to the contrary, the Commission will assume that reception equipment installation occurred simultaneously with original station equipment.

* * * * *

30. Section 74.911 is amended by revising paragraph (a)(1) to read as follows:

§ 74.911 Processing of ITFS station applications.

(a)* * *

(1) In the first group are applications for new stations or major changes in the facilities of authorized stations. These applications are subject to the provisions of paragraph (c) of this section. A major change for an ITFS station will be any proposal to add new channels, change from one channel (or channel group) to another, or increase transmitter output power. However, the Commission may, within 15 days after the acceptance of an application, or 15 days after the acceptance of any other application for modification of facilities, advise the applicant that such application is considered to be one for a major change, and subject to the provisions of paragraph (c) of this section.

* * * * *

31. Section 74.931 is amended by revising paragraph (e) to read as follows:

§ 74.931 Purpose and permissible service.

* * * * *

(e) A licensee may use excess capacity on each channel to transmit material other than the ITFS subject matter specified in paragraphs (a), (b), (c), and (d) of this section subject to the following conditions:

(1) The licensee must preserve at least 40 hours per week, including at least 6 hours per weekday (Monday through Friday), excluding holidays and vacations days, for ITFS purposes on that channel. The 40-hour preservation may consist of airtime strictly reserved for ITFS use and not used for non-ITFS programming, or of time used for non-ITFS programming but subject to ready recapture by the licensee for ITFS use with no economic or operational detriment of the licensee. At least 20 hours per week of the preserved time on each channel must be used for ITFS programming, including at least 3 hours per weekday, excluding holidays and vacation days, except that for the first two years of operation, an ITFS entity may lease excess capacity if it uses at least 12 hours per channel per week for ITFS programming, including up to four hours of ITFS usage per day. Only ITFS programming and preserved airtime scheduled between 8 a.m. and 10 p.m., Monday through Saturday, will qualify to meet these requirements.

(2) All of the capacity available on any subsidiary channel of any authorized channel may be used for the transmission of material to be used by others.

(3) When an ITFS licensee makes capacity available on a common carrier basis, it will be subject to common carrier regulation. A licensee operating as a common carrier is required to apply for the appropriate authorization and to comply with all policies and rules applicable to that service. Responsibility for making the initial determination of whether a particular activity is a common carriage rests with the ITFS licensee. Initial determinations by the licensees are subject to Commission examination and may be reviewed at the Commission's discretion.

(4) Leasing activity may not cause unacceptable interference to co-channel and adjacent-channel operations.

(5) No licensee of a station in this service may lease transmission time or capacity to any cable television company either directly, or indirectly through an affiliate owned, operated, controlled by, or under common control with the cable television company, if the ITFS station is within 20 miles of the cable television company's franchise area.

* * * * *

32. Section 74.935 is revised to read as follows:

§ 74.935 Power limitations.

(a) The maximum equivalent isotropically radiated power (EIRP) of a transmitter station in this service shall not exceed 2000 watts (33 dBW) except as provided in paragraph (b) of this section.

(b) If a station uses a transmitting antenna with a non-omnidirectional horizontal plane radiation pattern, the maximum equivalent isotropically radiated power (EIRP) in dBW in a given direction shall be determined by the following formula:

EIRP = 33 dBW + 10 log (360/beamwidth)
[where 10 log (360/beamwidth) <6 dB].

Beamwidth is the total horizontal plane beamwidth of the transmitting antenna system in degrees, measured at the half-power points.

(c) An increase in station transmitter power, above currently-authorized or previously-proposed values, to the maximum values provided in paragraphs (a) and (b) of this section, may be authorized, if an applicant demonstrates that the requested power increase will not cause harmful interference to any authorized or previously-proposed co-channel or adjacent-channel station with a transmitter site within 50 miles of the applicant's transmitter site, or if an applicant demonstrates that:

(1) A station, that must be protected from interference, potentially could suffer interference that would be eliminated by increasing the power of the interfered-with station; and

(2) That the interfered-with station may increase its own power consistent with the rules; and

(3) The applicant requesting authorization of a power increase agrees to pay all expenses associated with the increase in power to the interfered-with station.

(d) For television transmission, the peak power of the accompanying aural signal must not exceed 10 percent of the peak visual power of the transmitter. The Commission may order a reduction in aural signal power to diminish the potential for harmful interference.

33. Section 74.936 is amended by revising paragraphs (b) and (c) and adding new paragraph (d) to read as follows:

§ 74.936 Emissions and bandwidth.

* * * * *

(b) On or after November 1, 1991, the maximum out-of-band power of a transmitter operating in this service shall be attenuated 38 dB relative to the peak visual carrier at the channel edges and constant slope attenuation from this level to 60 dB relative to the peak visual carrier at 1 MHz below the lower band edge and 0.5 MHz above the upper band edge. All out-of-band emissions extending beyond these frequencies shall be attenuated at least 60 dB below the peak visual carrier power. However, should interference occur as a result of emissions outside the assigned channel, additional attenuation may be required. A transmitter licensed prior to November 1, 1991, that remains at the station site initially licensed, and does not comply with this paragraph, may continue to be used for its life if it does not cause harmful interference to the operation of any other licensee. Any non-conforming transmitter replaced after November 1, 1991, shall be replaced by a transmitter meeting the requirements of this paragraph.

(c) The requirements of § 73.687(c)(2) of this chapter will be considered to be satisfied insofar as measurements of operating power are concerned if the transmitter is equipped with instruments for determining the combined visual and aural operating power. However, licensees are expected to maintain the operating powers within the limits specified in § 74.935 of this part. Measurements of the separate visual and aural operating powers must be made at sufficiently frequent intervals to insure compliance with the rules, and in no event less than once a month.

(d) As a further exception to the other requirements of this section, transmitting equipment characteristics may vary from these requirements to the extent necessary to insure that transmitted information is not likely to be received in intelligible form by unauthorized subscribers or licensees, provided such variations permit recovery of the transmitted information without perceptible degradation as compared to the same information transmitted without such variations.

§ 74.938 [Amended]

34. Section 74.938(b) is removed and the paragraph designator for paragraph (a) is removed accordingly.

35. Section 74.950 is amended by revising paragraph (b) to read as follows:

§ 74.950 Equipment performance and installation.

* * * * *

(b) The overall attenuation characteristics of the transmitter may vary from those specified in § 73.687 of this chapter, provided that the provisions of § 74.936 of this part are met. However, care should be exercised in the adjustment of the transmitter to insure correct overall response of the transmitter for proper transmission of the upper and vestigial lower sideband.

* * * * *

36. Section 74.961 is revised to read as follows:

§ 74.961 Frequency tolerance.

(a) Beginning November 1, 1991, the frequency of the visual carrier shall be maintained within ± 1 KHz of the assigned frequency at all times when the station is in operation. Until that date, the frequency of the visual carrier shall be maintained within 60 KHz of the assigned frequency at all times when the station is in operation. A transmitter licensed prior to November 1, 1991, that remains at the station site initially licensed and does not comply with this paragraph may continue to be used for its life if it does not cause harmful interference to the operation of any other licensee. Any non-conforming transmitter replaced after November 1, 1991, must be replaced by a transmitter meeting the requirements of this paragraph.

(b) For television transmission, the peak power of the accompanying aural signal must not exceed 10 percent of the peak visual power of the transmitter.

(c) Any licensee with transmission equipment conforming to the transmitter tolerance standard of this section can be required to use frequency offset where it is demonstrated to be necessary to avoid harmful interference with another station.

37. Section 74.985 is added to read as follows:

§ 74.985 Signal booster stations.

(a) Authorizations for Instructional Television Fixed Service (ITFS) booster stations may be granted to an ITFS applicant, permittee or licensee, or to a third party with a fully-executed lease agreement with an ITFS applicant, permittee, or licensee. The eligibility requirements of § 74.932 of this part will not apply to such third-party booster station applicants. No booster station may be authorized for the retransmission of signals from an ITFS station without the written consent of the licensee of the station whose signals are retransmitted.

(b) In addition to the other application requirements of this part and of Form 330, each application for a signal booster station must include a demonstration that the proposed booster station will cause no harmful interference to co-channel and adjacent-channel existing or previously-proposed ITFS and MDS stations with transmitters within 50 miles of the proposed booster station's transmitter site.

(c) In addition to the other application requirements of this Part and of Form 330, each application must include a written consent statement of the licensee of each ITFS station whose signal is retransmitted.

(d) The output power of the signal booster transmitter station must not exceed 18 dBW EIRP.

PART 78—CABLE TELEVISION RELAY SERVICE

38. The authority citation for part 78 continues to read:

Authority: Secs. 2, 3, 4, 301, 303, 307, 308, 309, 48 Stat., as amended, 1064, 1065, 1066, 1081, 1082, 1083, 1084, 1085; 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309.

39. Section 78.3 is revised to read as follows:

§ 78.3 Other pertinent rules.

Other pertinent provisions of the Commission's rules and regulations relating to the cable television relay service (CARS) are included in the following parts of this chapter:

Part 0—Commission Organization.
Part 1—Practice and Procedure.
Part 2—Frequency Allocations and Radio Treaty Matters; General Rules and Regulations.
Part 17—Construction Marking and Lighting of Antenna Structures.
Part 21—Domestic Public Fixed Radio Services.
Part 74—Experimental, Auxiliary, and Special Broadcast, and Other Program Distribution Services.
Part 76—Cable Television Service.

40. Section 78.5 is amended by adding paragraph (j) to read as follows:

§ 78.5 Definitions.

* * * * *

(j) *Other eligible system.* A system comprised of microwave radio channels in the Multipoint Distribution Service and Multichannel Multipoint Distribution Services (as defined in § 21.2 of this chapter, and, on a part-time basis, in the Instructional Television Fixed Service (as defined in § 74.901 of this chapter) that delivers multichannel television service over the air to subscribers.

41. Section 78.11 is amended by revising paragraphs (a), (c), (d), (e), (f), and (g) to read as follows:

§ 78.11 Permissible service.

(a) CARS stations are authorized to relay TV broadcast and low power TV and related audio signals, the signals of AM and FM broadcast stations, signals of instructional TV fixed stations, and cablecasting intended for use by one or more cable television systems or other eligible systems. LDS stations are authorized to relay television broadcast and related audio signals, the signals of AM and FM broadcast stations, signals of instructional television fixed stations, cablecasting, and such other communications as may be authorized by the Commission. Relaying includes retransmission of signals by intermediate relay stations in the system. CARS licensees may interconnect their facilities with those of other CARS, common carrier, or television auxiliary licensees, and may also retransmit the signals of such CARS, common carrier, or television auxiliary stations, provided that the program material retransmitted meets the requirements of this paragraph.

* * * * *

(c) CARS station licenses may be issued to cable television owners or operators or other eligible system owners or operators, and to cooperative enterprises owned by cable television owners or operators or other eligible system owners or operators. Television translator licensees may be members of such cooperative enterprises.

(d) CARS systems shall supply program material to cable television systems, other eligible systems, and translator stations only in the following circumstances.

(1) Where the licensee of the CARS station or system is owner or operator of the cable television systems or other eligible systems supplied with program material; or

(2) Where the licensee of the CARS station or system supplies program material to cable television systems, other eligible systems, or television translator stations either without charge or on a non-profit, cost-sharing basis pursuant to a written contract between the parties involved which provides that the CARS licensee shall have exclusive control over the operation of the CARS stations licensed to him and that contributions to capital and operating expenses are accepted only on a cost-sharing, nonprofit basis, prorated on an equitable basis among all cable television systems or other eligible systems being supplied with program material in whole or in part. Charges for the programming material are not subject to this restriction and cable network-entities may fully charge for their services. Records showing the cost of the service and its nonprofit, cost-sharing nature shall be maintained by the CARS licensee and held available for inspection by the Commission.

(e) The license of a CARS pickup station authorizes the transmission of program material, and related communications necessary to the accomplishment of such transmission, from the scenes of events occurring in places other than a cable television studio or the studio of another eligible system, to the studio, headend, or transmitter of its associated cable television system or other eligible system, or to such other cable television or other eligible systems as are carrying the same program material. CARS pickup stations may be used to provide temporary CARS studio-to-headend links, studio-to-transmitter links, or CARS circuits consistent with this part without further authority of the Commission: *Provided, however,* That prior Commission authority shall be obtained if the transmitting antenna to be installed will increase the height of any natural formation or manmade structure by more than 20 feet and will be in existence for a period of more than 2 consecutive days: *And provided, further,* That if the transmitting equipment is to be operated for more than 1 day outside of the area to which the CARS station has been licensed, the Commission, the Engineer in charge of the district in which the station is licensed to operate, and the Engineer in charge of the district in which the equipment will be temporarily operated shall be notified at least 1 day prior to such operation. If the decision to continue operation for more than 1 day is not made until the operation has begun, notice shall be given to the Commission and the relevant Engineers in charge within 1 day after such decision. In all instances, the Commission and the relevant Engineers in charge shall be notified when the transmitting equipment has been returned to its licensed area.

(f) A cable network-entity may use CARS stations to transmit their own television program materials to cable television systems, other eligible systems, other cable network-entities, broadcast stations, and broadcast network-entities: *Provided, however,* That the bands 1990–2110 MHz, 6425–6525 MHz and 6875–7125 MHz may be used by cable network-entities only for CARS pick-up stations.

(g) The provisions of paragraph (d) of this section and § 78.13 of this part shall not apply to a licensee who has been licensed in the CARS service pursuant to § 21.709 of this chapter, except that paragraph (d) of this section shall apply with respect to facilities added or cable television and other eligible systems first served after February 1, 1966.

42. Section 78.13 is amended by adding paragraph (d) to read as follows:

§ 78.13 Eligibility for license.

* * * * *

(d) Licensees and conditional licensees of channels in the Multipoint Distribution Service and Multichannel Multipoint Distribution Service as defined in § 21.2 of this chapter, or entities that hold an executed lease agreement with an MDS or MMDS licensee or conditional licensee or with an Instructional Television Fixed Service licensee or permittee.

43. Section 78.27 is amended by revising paragraph (a) to read as follows:

§ 78.27 License conditions.

(a) Authorizations (including initial grants, modifications, assignments or transfers of control, and renewals) in the Cable Television Relay Service to serve cable television systems and other eligible systems, shall contain the condition that cable television systems shall operate in compliance with the provisions of part 76 (Cable Television Service) of this chapter and that other eligible systems shall operate in compliance with the provisions of part 21 and part 74 of this chapter.

* * * * *

44. Section 78.33 is amended by revising paragraph (b) to read as follows:

§ 78.33 Special temporary authority.

* * * * *

(b) Special temporary authority may also be requested to conduct a field survey to determine necessary data in connection with the preparation of a formal application for installation of a

radio system under this part. Such authority may be granted to equipment suppliers and others who are not operators of cable television systems or other eligible systems, as well as to cable operators or other eligible system operators, to conduct equipment, program, service, and path tests.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 21, 74, 78, and 94

[Gen. Docket No. 90-54; FCC 90-342]

Multipoint Distribution Service, Multichannel Multipoint Distribution Service, Instructional Television Fixed Service, Private Operational-Microwave Fixed Service, and Cable Television Relay Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission adopts a *Further Notice of Proposed Rulemaking (Further Notice)* inviting comment on several proposals to amend the rules and policies that govern use of the channels that collectively are utilized for provision of "wireless cable" service. Specifically, this *Further Notice* proposes (a) reallocation of the three Operational-Fixed Microwave Service (OFS) H channels to Multipoint Distribution Service (MDS); (b) reassignment of a number of the MDS, Instructional Television Fixed Service (ITFS), and OFS response channels; and (c) authorizations for the use of vacant ITFS channels by non-ITFS entities, subject to certain restrictions and obligations. The *Further Notice* also solicits comment on standards to be employed in: (a) Determining requests to permit involuntary station modifications; (b) migration of point-to-point ITFS facilities grandfathered on the MDS E and F channels; (c) cable operation of wireless cable facilities in rural areas; and (d) procedures to ease colocation of facilities. The *Further Notice* and an associated *Report and Order* in this proceeding, adopted at the same time (also published in Part V of this issue), aim to modernize and conform the rules in various services in order to reduce the impediments to and enhance the viability of MDS services offering multiple channels of premium video programming over-the-air directly into homes.

DATES: Comments are due by November 26, 1990, and reply comments are due by December 19, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Jane Hinckley, Mass Media Bureau, Policy and Rules Division (202) 632-7792; Bruce Romano, Mass Media Bureau, Policy and Rules Division (202) 632-5414; Lynne Milne, Common Carrier Bureau (202) 634-1772; or Mile Lewis, Private Radio Bureau (202) 632-6940.

SUPPLEMENTARY INFORMATION:

1. This is a synopsis of the Commission's *Further Notice of Proposed Rulemaking* in Gen. Docket No. 90-54, FCC 90-342 adopted October 11, 1990, and released October 26, 1990.

2. The complete text of this *Further Notice* is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. and also may be purchased from the Commission's copy contractor, International Transcription Services (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037.

Synopsis of Further Notice of Proposed Rulemaking

3. This proceeding was initiated by *Notice of Proposed Rule Making and Notice of Inquiry* (*Notice*) [1] to review, simplify, and update, wherever possible, the disparate technical, procedural, ownership, and other requirements and restrictions applicable to MDS, OFS, and ITFS stations, with the aim of facilitating wireless cable service.[2] The *Report and Order* associated with this *Further Notice* enacts several of the proposals presented in the *Notice*. This *Further Notice* seeks comment on a number of additional issues not resolved in the *Report and Order*.

4. First, the Commission proposes to reallocate the three H channels from OFS to MDS. It also proposes that a subsequent conversion to MDS use of any station already operating on such channels will initiate the application of MDS rules for that station. In this connection, the *Further Notice* seeks comment on whether current licenses or applications for H channels should be grandfathered, and whether the assignment or transfer of OFS stations should be permitted, unless they are used in conjunction with other MDS or ITFS stations or the licensee or applicant prefers application of the MDS rules.

5. Second, the Commission proposes: (1) That the response channels associated with the H channels be disassociated from those channels and remain allocated to OFS; (2) that half of the response channels associated with MDS channels and one quarter of those associated with ITFS channels be reallocated to OFS; (3) that unused response channels associated with primary chennels that are now in use be available for OFS use by OFS operators; and (4) that all applications for OFS use of the response channels, whether by OFS, MDS, or ITFS entities be subject to the prior frequency coordination procedures found in § 21.100(d) of the Commission's Rules (47 CFR 21.100(d)). The Commission also seeks comment on the procedures it should adopt to register existing operations for purposes of achieving grandfathered status, as well as for determining which channels should not be subject to the proposed reallocation and should remain available for OFS use on an individual basis.

6. The *Report and Order* determines that involuntary equipment modifications should be permitted in certain situations. First, as suggested in the *Notice*, the Commission will consider forced upgrades of ITFS operations by new applicants desiring to invoke the 0 dB interference protection standard and in conjunction with the revision of permissible aural power levels. Second, a station that is prevented from operating at 100 watts because the higher power will cause adjacent-channel or co-channel interference to another station may upgrade the interfered-with station to eliminate interference. Third, a licensee may upgrade another licensee's facility if the other licensee is unable to meet the revised transmitter tolerance or out-of-band emissions standards promulgated in the *Report and Order*. In all these situations, the *Further Notice* proposes to condition Commission approval of the initiating party's application upon completion of the facilities change.

The Commission also proposes that the initiating party be responsible for all necessary upgrades or modifications necessitated by its proposal, not just those it initially causes, and that the affected licensee must accept the modification unless it can demonstrate that the change would be impracticable. The *Further Notice* seeks comment regarding what standards should be used to determine impracticability in each of the above situations, what types of equipment are necessary to achieve the desired result, and what the role of the initiating party should be. Finally, the *Further Notice* seeks comment regarding what residual or continuing expenses will fall upon the upgraded or modified licensee as a result of the modification. In addition, the *Report and*

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[1] See 55 FR 7344, March 1, 1990.

[2] For purposes of this proceeding, references to "cable" systems, services or operators refer to systems that deliver their signals to subscribers by a closed transmission system as opposed to over the airwaves. In contrast, "wireless cable" uses the airwaves to provide subscribers with multiple channels of video entertainment and informational programming in conjunction with the standard broadcast television signals they already receive. By use of the term "wireless cable," we do not intend to suggest that these services constitute "cable" service for statutory or regulatory purposes.

Order modifies the Commission's Rules to permit MDS operations to displace ITFS point-to-point operations on the E and F channels, provided that suitable alternative spectrum is available and that the MDS station pays for the migration. We now request comment on what factors should be used to evaluate suitability of spectrum in determining whether displacement should occur.

7. The Commission also solicits comment on a number of issues relating to colocation of facilities. Section 21.42 of the Commission's Rules (47 CFR 21.42) defines certain types of modifications which do not require an interference analysis or any other showing. The *Further Notice* invites comment on a proposal by Mitchell Communications that additional types of modifications be added to that list. What types of changes should be considered *de minimis*? What additional steps could be taken to streamline the colocation process while protecting other licensees from interference? The Commission further requests comment on the suggestion of Hispanic Information and Telecommunications Network that an existing licensee be required to colocate if such colocation will not negatively affect its provision of service and another operator is willing to bear all expenses related to colocation. What limitations should there be in exposing an ITFS station to an involuntary colocation? What standards should apply in determining suitability of the new location? What types of expenses would ensue in implementing this proposal?

8. The *Report and Order* also prohibits cable systems that are sole providers in their franchise areas from holding licenses for MDS stations and from leasing time on MDS or ITFS stations. At the same time, the Commission created an exception allowing them to do so in areas that otherwise would remain unserved by wireless cable. In that regard, the *Further Notice* seeks comment on what factors should be considered in evaluating the cable operator's application and on whether the exception should be limited to areas with fewer than 2,500 residents, as established for telephone companies at 47 CFR 63.58. There is also the possibility that development by cable systems of locally produced programming will create a need for channels such as those available in the MDS, OFS, and ITFS services to simultaneously distribute such programming locally to multiple cable headends. The *Further Notice* seeks comment on the extent to which cable systems are planning or are likely to implement local programming that requires distribution to multiple points, and whether the existing spectrum available in the CARS service or other spectrum is sufficient, or whether cable access to these other channels is necessary or desirable. If such use is needed, how many channels might be required and would a specifically limited number of ITFS channels with excess capacity be sufficient to fulfill this demand? What types of uses should be permitted under such an exception?

9. Finally, the *Further Notice* advances a proposal for use of several vacant ITFS channels, emphasizing that it is not the Commission's intent to foreclose potential future ITFS uses of that spectrum. The Commission recognizes that the use of ITFS as an educational tool is growing, and that it is in the areas with the least current use of ITFS channels that one of the primary benefits of ITFS is most important—access to quality education materials for a variety of widely-scattered individuals. Accordingly, in order to preserve an opportunity for at least two different institutions to apply for ITFS facilities in the future, the *Further Notice* proposes to require that eight ITFS channels be left vacant in a community, but that a non-ITFS entity may apply for use of vacant channels beyond those eight. Should a non-ITFS applicant be limited to a total of eight ITFS channels? The Commission proposes that such applications be on ITFS application forms, with ITFS applications requirements and procedures followed, except for the eligibility requirement. It also proposes to put such applications on a 60-day cutoff period for the filing of mutually-exclusive ITFS applications. Mutually-exclusive non-ITFS applications must be filed on the same day to be considered, however, pursuant to the rule adopted in the *Report and Order* for the filing of MDS applications. Non-ITFS licensees of ITFS facilities will be entitled to the MDS protected service area. Should eligibility be limited to only those entities that already hold licenses or leases for a minimum number of MDS/MMDS channels in the same area? In order to further ensure the opportunity for ITFS entities to use facilities built for ITFS channels, the Commission proposes that non-ITFS licensees be required to provide and install up to four receive sites for each channel utilized by an ITFS entity. In order to permit orderly transition, the Commission also proposes that the licensee will not be required to provide for the ITFS service until 30 days after the ITFS service authorized.

Paperwork Reduction Act Statement

10. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980, and found to impose a new or modified information collection requirement on the public. Implementation of any new or modified requirement will be subject to approval by the Office of Management and Budget as prescribed by the Act.

Ex Parte Considerations

11. This is a non-restricted proceeding. See § 1.1231 of the Commission's Rules, 47 CFR 1.1231, for rules governing permissible *ex parte* contacts.

Comment Information

12. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before November 26, 1990, and reply comments on or before December 19, 1990. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

Initial Regulatory Flexibility Act Analysis

13. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, this proceeding is intended to improve wireless cable service by making the regulations governing that service as comprehensible and effective as possible, and as relevant as possible to the technology and conditions now existing in the wireless cable service. As part of this effort, the Commission proposes involuntary station modifications in certain situations. Additionally, one of the proposals in the *Further Notice* would require that all applications for use of Operational-Fixed Microwave Service response channels be subject to the precoordination procedures contained in 47 CFR 21.00(d). Public comment is requested on the initial regulatory flexibility analysis set out in full in the Commission's complete decision.

14. As required by section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Notice, but they must

have a separate and distinct heading designating them as responses to the Regulatory Flexibility Analysis. The Secretary shall send a copy of this Notice of Inquiry, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*, (1981)).

15. Accordingly, *it is ordered* That pursuant to sections 4 and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154 and 303, this *Further Notice of Proposed Rulemaking* is adopted.

List of Subjects

47 CFR Part 21

Communications common carriers, Domestic public fixed radio services.

47 CFR Part 74

Television broadcasting, Experimental, auxiliary, and special broadcast and other program distributional service.

47 CFR Part 78

Cable television, Cable television relay service.

47 CFR Part 94

Radio, Private operational-fixed microwave service.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 90–25774 Filed 10–30–90; 8:45 am]

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Part VIII

Environmental Protection Agency

40 CFR Parts 280 and 281

Underground Storage Tanks Containing Petroleum; Financial Responsibility Requirements; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 280 and 281

[FRL-3857-1]

Underground Storage Tanks Containing Petroleum; Financial Responsibility Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is today publishing a final rule to amend the financial responsibility regulations promulgated on October 26, 1988 (53 FR 43322) for underground storage tanks (USTs) containing petroleum. Specifically, EPA is modifying the compliance dates under 40 CFR 280.91(d). Under the modifications, all petroleum marketing firms owning 1 to 12 USTs (or fewer than 100 USTs at one facility) and nonmarketers whose net worth is less than $20 million will be required to comply with the requirements of 40 CFR part 280 subpart H—Financial Responsibility—as of October 26, 1991. Local government entities will be required to comply with these requirements one year from the date of publication of final regulations that will provide additional mechanisms that they may use to comply with financial responsibility requirements for USTs containing petroleum in 40 CFR part 280. These modifications establish two new deadlines, both extended from the original date of October 26, 1990. The amendments published today will provide additional time for the development of financial assurance mechanisms (especially state assurance funds and mechanisms for use by local governments) to enable these UST owners and operators to comply. The Agency is also modifying 40 CFR part 281.37(b) to allow approved state programs a comparable amount of time during which they must phase in their financial responsibility requirements.

DATES: The amendments to 40 CFR part 280.281 contained in this rulemaking are effective October 31, 1990.

ADDRESSES: The final rule, the proposed rule, and EPA's responses to comments on this rulemaking may be inspected in the public docket, located in room 2427 (Mail), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The docket is open from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline at (800) 424-9346 (toll free) or (202) 382-3000 in Washington, DC.

SUPPLEMENTARY INFORMATION: On October 26, 1988 EPA promulgated financial responsibility requirements applicable to owners and operators of underground storage tanks (USTs) containing petroleum (53 FR 43322). (These requirements are referred hereinafter as "the final rule.") In the final rule, EPA established a phased schedule of compliance for owners and operators of petroleum USTs. Petroleum marketing firms with 1 to 12 USTs (or fewer than 100 USTs at one facility), local government entities, and non-marketers whose net worth is less than $20 million were required to comply with the financial responsibility requirements by October 26, 1990. The principal reason for adopting the phased compliance approach in the final rule was to provide the time necessary for providers of financial assurance mechanisms (including private insurance companies and States intending to establish state assurance funds) to develop new policies and programs or conform their policies and programs to EPA requirements. (See 53 FR 43324.) The final rule required those organizations with the greatest ability to comply to obtain financial assurance first. Others, particularly smaller businesses and local governments, were allowed more time to obtain coverage. EPA has since proposed additional mechanisms for use by local government entities to comply with the financial responsibility requirements (55 FR 24692, June 18, 1990).

Since October 1988, EPA has monitored the development of financial assurance markets, especially (1) insurance for corrective action and third party liability, and (2) state assurance funds, to determine whether financial assurance mechanisms were becoming available to satisfy the needs of the regulated community. Based on this on-going review, EPA believes that tank owners required to comply by October 26, 1990 need additional time to meet insurers' standards for coverage. Also, States need additional time to develop state assurance funds, to submit them to EPA for review and approval as financial assurance mechanisms, and to make any modifications necessary for approval. On July 6, 1990, EPA published a proposed rule to extend the compliance deadline for these owners and operators by one year and invited comments on the proposed action (55 FR 27837).

After reviewing the comments submitted in response to the proposed rule, EPA is now extending the compliance date for owners and operators of 1 to 12 USTs, or fewer than 100 USTs at one facility, and non-marketers whose net worth is less than $20 million from October 26, 1990 to October 26, 1991. EPA is also deferring the compliance date for local government entities from October 26, 1990 to one year from the date of publication of final regulations for additional mechanisms for use by local government entities to comply with financial responsibility requirements for USTs containing petroleum in 40 CFR part 280. Publication of a final rule is now expected during the summer of 1991. The Agency believes that these extensions will provide adequate time for tank owners and operators to obtain assurance. EPA is also modifying the State Program Approval Objective (40 CFR part 281) to allow state programs approved to administer and enforce UST programs to modify their regulations to match the new federal standards.

I. Authority

These regulations are issued under the authority of sections 2002, 9001, 9002, 9003, 9004, 9005, 9006, 9007, 9009 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6912, 6991, 6991a, 6991b, 6991c 6991d, 6991e, 6991f, and 6991h).

II. Background

The financial responsibility regulations promulgated on October 26, 1988 (53 FR 43322) included a phased schedule for compliance by UST owners and operators. When devising the phased compliance approach, the Agency wanted to achieve the best balance between the need to ensure financial capability for cleaning up or redressing UST releases and the need to allow necessary time for owners and operators to obtain assurance mechanisms. The Agency attempted to establish compliance dates that were as early as possible, considering the type of assurance different types of facilities were likely to obtain. The Agency established four categories for purposes of setting compliance deadlines. Owners or operators in Category I (petroleum marketers owning or operating 1,000 or more USTs and non-marketers with more than $20 million in tangible net worth) were required to comply by January 24, 1989 based primarily on their ability to qualify for self-insurance. Of the remaining tank owners and operators, those in Category II (petroleum marketers with 100 to 999 USTs) were projected to be the most able to obtain insurance; some of them were also expected to qualify as self-insurers. These marketers were required

to comply by October 26, 1988. Owners or operators in Category III (petroleum marketers owning 13 to 99 USTs at more than one facility) which were estimated to be less likely to be able to obtain insurance than members of Category II compliance group, were originally required to comply by April 26, 1990; on May 2, 1990 the Agency published an Interim Final Rule (40 FR 18566) extending the compliance date of April 26, 1991. Owners or operators in Category IV (petroleum marketers owning or operating fewer than 13 USTs or owning or operating a single facility with fewer than 100 USTs, and UST owners and operators, including local government entities, that were not petroleum marketers) were required to comply by October 26, 1990. This group was expected to rely primarily on state assurance funds for compliance.

Through monitoring the development of financial assurance mechanisms, and as the Agency has learned more about the way insurers operate in the UST insurance market, EPA now believes that the original compliance date for owners or operators in Category IV did not allow adequate time for compliance. When devising the original phased compliance schedule, the Agency expected that members of this compliance group would rely on insurance and State funds. The Agency had believed that 24 months from promulgation of the final rule would provide adequate time for owners and operators to upgrade their USTs to meet insurers' requirements, for States to develop and submit funds to EPA, and for EPA to approve those funds meeting its criteria. Since promulgation of the final rule, however, EPA has learned that UST owners and operators require additional time to comply with conditions imposed by the insurance industry. Some of these conditions include having tanks younger than 15 years of age, a clean site, a reliable method of leak detection, etc. For example, some insurers have informed EPA that they have rejected UST coverage applications because of existing contamination, poor tank management, and inadequate leak detection monitoring. Many members of this compliance group may not be able to meet these standards by October 26, 1990 and thus would be required to seek an alternative financial assurance mechanism.

Consequently, the Agency believes that more members of this compliance group than the Agency had originally projected must rely on State assurance funds and other mechanisms, rather than on insurance, to demonstrate compliance with the financial responsibility requirements. In order for owners and operators to rely on State assurance funds as compliance mechanisms, States must submit their funds to EPA. Although owners and operators are deemed to be in compliance when the State funds are submitted, the Agency has not considered submitted funds when determining availability, because the funds ultimately could be disapproved. To date, fourteen State assurance funds have been approved by EPA to serve as compliance mechanisms. Eleven more States have submitted funds and some are in the process of making modifications necessary for approval. The remaining States either have not submitted their funds to EPA or have not yet developed assurance funds. Since many of the members of this compliance group must rely on State assurance funds to comply with the requirements, additional time is needed to allow States to develop, submit, and receive approval for the funds.

EPA is also in the process of developing several new mechanisms, including a self-insurance test, that could be used by local governments to meet the financial responsibility requirements. The Agency proposed some additional financial responsibility mechanisms on June 18, 1990 (55 FR 24692) for use by local governments. The Agency is in the process of responding to comments on the proposed rule and plans to promulgate a final rule in the summer of 1991. EPA believes that local governments will need additional time to comply with financial responsibility requirements, particularly any of the new mechanisms that EPA has proposed become final and local governments use them.

Today's rule accommodates these unanticipated delays in the development of the private insurance market, State funds, and financial responsibility mechanisms by extending the compliance deadline for UST owners and operators in Category IV. Marketers owning or operating 1 to 12 USTs (or fewer than 100 USTs at a single facility) and non-marketers with net worth of less than $20 million must comply by October 26, 1991. Local government owners or operators must comply within one year of promulgation of additional mechanisms for meeting the financial responsibility requirements. EPA proposed several new mechanisms on June 18, 1990 (55 FR 24692). Barring unanticipated delays, EPA now expects to promulgate a final rule during the summer of 1991.

The Agency reviews State UST programs based on criteria established in 40 CFR 281 and may approve them to operate in lieu of the Federal program if the State program is no less stringent than the requirements set out at 9004(a)(1–6) and the program provides for adequate enforcement of compliance with the requirements. Under 40 CFR 281.37(b), State programs must phase in their financial responsibility requirements within 21 months of the effective date of the Federal financial responsibility requirements, which is considered to be October 26, 1988. In the absence of an amendment to part 281, the effect of today's modifications to the final compliance date would be to require that State programs be more stringent than the Federal rules by requiring compliance with financial responsibility requirements sooner than the amended Federal Regulations. Consequently, the Agency is also amending 40 CFR 281.37 so that approved State programs may phase in their financial responsibility requirements on a schedule comparable to the Federal phase-in, as modified under today's amendment to 40 CFR 280.91. These changes do not require States to change any existing compliance schedule, because States may have more stringent requirements.

III. Analysis of Today's Rule

On July 6, 1990 the Agency proposed to amend the financial responsibility compliance dates under 40 CFR 280.91(d) and the schedule for phase-in of financial responsibility requirements for approved State programs under 40 CFR 281.37(b) (55 FR 27837). The Agency provided a 30-day comment period. The following section of the preamble describes the final rule, some of the major comments that were made on the proposed rule, and the rationale for the changes. A Comment/Response Document ("Summary of Comments and EPA's Response to Comments on the July 6, 1990, Proposed Amendments to the Financial Responsibility Rule for Petroleum Underground Storage Tanks") containing a detailed summary of all comments on the proposed rule and the Agency's responses to those comments has been placed in the public docket.

Today's rule extends the financial responsibility compliance deadline for UST owners or operators in Category IV of the final rule. Petroleum marketers owning 1 to 12 USTs, or owning fewer than 100 USTS at only one facility, and non-marketers whose net worth is less than $20 million must comply by one year from the previous date of October 26, 1990. Local government entities are

given an additional period of time to comply and are now required to demonstrate compliance within one year from the date of promulgation of additional mechanisms for use by local government entities to comply with financial responsibility requirements for USTs containing petroleum. Additional mechanisms were proposed on June 18, 1990, 55 FR 24692. The Agency believes that the extensions promulgated in today's rule will allow sufficient time for these UST owners to come into compliance. Specifically, the rule will have four effects: (1) Owners and operators will have additional time to meet insurers' standards, (2) States will have additional time to submit their state assurance funds to EPA for approval, (3) the Agency will have adequate time to complete work on alternative compliance mechanisms for local governments, and (4) local governments will have additional time to select and implement a compliance mechanism. Thus owners and operators will be able to make much greater use of all these mechanisms to comply with the financial responsibility requirements.

Comments on EPA's proposed rule were generally supportive of action to extend the compliance deadline for UST owners and operators in Category IV by one year, although some requested a longer extension and one supported a shorter extension. The major concerns expressed by commenters include the limited availability of private insurance, the lack of approved state assurance funds, the lack of financial responsibility mechanisms available to local governments, and the increasing cost of compliance with other regulatory requirements.

Several commenters indicated that the high cost, strict qualification requirements, and limited supply of private insurance providers are critically hampering owners and operators efforts to obtain pollution liability insurance. EPA acknowledges the validity of many of these points which justify today's extension of the original October 26, 1990 compliance deadline.

A number of commenters agreed that the proposed extension of the Category IV financial responsibility compliance deadline will afford the insurance industry the time necessary to respond to the needs of UST owners or operators with few USTs or those not engaged in petroleum marketing. A few commenters, however, suggested that EPA re-evaluate extending the compliance deadline beyond the proposed date of October 26, 1991. EPA believes that, barring any severe contraction of the pollution liability insurance market or slowdown in the progress of approval of state funds, one additional year will provide sufficient time for Category IV owners or operators, excluding local government entities, to obtain financial assurance and come into compliance. Currently, EPA is aware of at least 12 companies providing UST insurance to owners and operators, four of which offer policies in most or all States. In addition, another recently entered the market and is expected eventually to write policies across the country. Furthermore, 14 States currently have approved funds and another 11 States have funds that are under review and therefore tentatively approved. EPA understands that an additional 11 States have passed legislation establishing state funds, and that almost all remaining States are considering or have considered such legislation. EPA expects that both the availability of private insurance and the number of approved state funds will be higher by this time next year. Nonetheless, although EPA expects that the availability of private assurance mechanisms and state funds will improve sufficiently to accommodate Category IV owners or operators, EPA will continue to monitor the availability of assurance mechanisms.

The majority of the commenters conceded that state assurance funds are an increasingly important financial responsibility mechanism, and, likewise, supported the proposed extension of the financial responsibility compliance deadline. The Agency's primary intent in proposing the extend the financial responsibility compliance deadline for Category IV owners and operators was to provide additional time for the development of financial assurance mechanisms, particularly state assurance funds, to enable this group to comply. Toward this end, 14 state funds have been approved and another 11 funds have received tentative approval while they are under review. EPA continues to encourage States to enact trust fund legislation and submit state funds for review.

One commenter expressed concern that the approval of funds is occurring slowly. The commenter claims that EPA proceeds much too slowly on state assurance fund approval to allow marketers to use them as a financial responsibility mechanism. The commenter further indicated that some States have not been willing to consider enacting trust fund legislation to date and may never do so. For those States, the commenter believes that the existence of a deadline extension will have no affect on the State's willingness to develop a State assurance fund mechanism.

With respect to these comments, EPA believes that there is noticeable progress in the approval of state funds. Twenty-five States have submitted funds to EPA for review, and are providing at least temporary coverage for eligible owners and operators; fourteen of these States' funds have been formally approved by the Agency. EPA expects that more States will develop and submit funds for approval, and that more state funds will receive approval in the coming year. The rate of approval of these assurance mechanisms, however, is not based solely on the time necessary for EPA to approve funds, but it is also contingent on the time it takes for States to develop and submit funds to EPA for review. While the Agency plans to continue supporting States in their efforts to develop and implement assurance funds, EPA cannot guarantee that all States will choose to develop funds. Twelve States with legislation authorizing funds have not yet submitted them to EPA for review. It is EPA's understanding, however, that state fund legislation is or has been under consideration in virtually all other States. EPA believes that the extension of the compliance deadline will allow those States actively considering funds to develop and submit them to EPA for approval. Nevertheless, States are not required to establish assurance programs, and EPA does not have control over whether States develop or submit funds.

One commenter supported an extension of EPA's financial responsibility compliance deadline for local governments, claiming that EPA needs to allow itself sufficient time to develop financial responsibility mechanisms for local governments. However, the commenter maintains that the proposed compliance date of October 26, 1991 does not allow local governments sufficient time to review, select, and implement a sound compliance program. It was argued that the additional mechanism proposed by EPA for local governments, such as the creation of a dedicated fund, would require at least one full budget cycle to implement. The commenter, therefore, requests EPA to further extend the compliance date by one year from the date of publication of a final financial responsibility rule for local governments.

The Agency agrees with the commenter that additional time may be necessary for local governments to comply with the financial responsibility requirements, particularly if they are to

use any of the new mechanisms that EPA may promulgate. The Agency has concluded that the budgetary constraints under which local governments operate, and the current timetable for promulgating a final municipal test of self-assurance, justify granting them an exception to the deadline that will apply to the other members of this compliance group. The final rule, therefore, incorporates the commenter's suggestion for extending the compliance deadline for local governments by one year from the date of publication of a final regulations for additional mechanisms for use by local government entities to comply with financial responsibility requirements for USTs containing petroleum.

One commenter suggested extending the compliance date to December 22, 1991, remarking that the incremental UST regulatory compliance costs, in addition to costs imposed by other statutory mandates, make the financial responsibility requirements truly burdensome. The commenter stated that Reid vapor pressure controls, Stage II vapor recovery, community right-to-know and toxic reporting requirements, drug testing, and hazardous materials transportation programs are all imposing significant burdens on the independent segment of the petroleum marketing industry. The commenter stated that extending the compliance date to December 22, 1991 would alleviate some of the burden.

The Agency acknowledges that all new regulations have incremental costs. However, Congress gave no indication that other regulatory costs were to be considered in determining the dates for demonstrating financial responsibility compliance. Although complying with the financial responsibility requirements may pose an incremental burden for some owners or operators, EPA is not aware of any evidence that the additional two-month extension suggested will provide any additional significant relief over the one-year extension proposed.

IV. Economic and Regulatory Impacts

The Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) requires all Federal agencies to review the impact of their regulations to determine whether the regulations will have a significant economic impact on a substantial number of small entities. If so, the Agency must prepare a Regulatory Flexibility Analysis. EPA believes that this rule will not have a significant economic impact on a substantial number of small entities. The extension of the compliance date will provide regulatory relief to members of the Category IV compliance group by allowing them the additional time necessary to achieve compliance with the financial responsibility requirements. Accordingly, the Agency has concluded that the law does not require a Regulatory Flexibility Analysis, and certifies that this rule will not have a significant economic impact on a substantial number of small entities.

The information collection requirements of EPA's UST financial responsibility rule have been previously approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2050-0068. Because today's rule does not require collection of any information or change the paperwork burden, EPA has not amended the estimate of burden.

If you wish to submit comments regarding any aspect of this collection of information, including suggestions for reducing the burden, or if you would like a copy of the information collection request (please reference ICR #1359), contact Rick Westlund, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 (202-382-2745); and the Desk Officer for Underground Storage Tanks, Office of Management and Budget, Washington, DC 20503.

List of Subjects in 40 CFR 280 and 281

Administrative practice and procedure, Environmental protection, Hazardous materials insurance, Oil pollution, Penalties, Petroleum, Reporting and recordkeeping requirements, State program approval, Surety bonds, Underground storage tanks, Water pollution control.

Dated: October 25, 1990.

William Reilly,

Administrator.

For the reasons set out in the preamble, parts 280 and 281 of title 40 of the Code of Federal Regulations are amended as set forth below.

PART 280—TECHNICAL STANDARDS AND CORRECTIVE ACTION REQUIREMENTS FOR OWNERS AND OPERATORS OF UNDERGROUND STORAGE TANKS (UST)

1. The authority citation for part 280 is revised to read as follows:

Authority: 42 U.S.C. 6912, 6991, 6991a, 6991b, 6991c, 6991d, 6991e, 6991f, and 6991h.

2. Section 280.91 is amended by revising paragraph (d) and by adding paragraph (e) to read as follows:

§ 280.91 Compliance dates.

* * * * *

(d) All petroleum UST owners not described in paragraphs (a), (b), or (c) of this section, excluding local government entities; October 26, 1991.

(e) All local government entities; one year from the date of promulgation of additional mechanisms for use by local government entities to comply with financial responsibility requirements for underground storage tanks containing petroleum.

PART 281—APPROVAL OF STATE UNDERGROUND STORAGE TANK PROGRAMS

4. The authority citation for part 281 continues to read as follows:

Authority: Secs. 2002, 9004, 9005, 9006 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6912, 6991(c), 6991(d), 6991(e).

5. Section 281.37 is amended by revising paragraph (b) to read as follows:

§ 281.37 Financial responsibility for UST systems containing petroleum.

* * * * *

(b) Phase-in of requirements. Financial responsibility requirements for petroleum UST systems must, at a minimum, be scheduled to be applied at all UST systems on an orderly schedule that completes a phase-in of the financial responsibility requirements within the time allowed in the Federal regulations under 40 CFR 280.91.

* * * * *

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Part IX

Department of State

Bureau of Consular Affairs

22 CFR Part 41

Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act, As Amended; Final Rule

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DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 41

[1385]

Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended

AGENCY: Bureau of Consular Affairs, [DOS].

ACTION: Final rule.

SUMMARY: This final rule adds a new paragraph to § 41.112(d) to withdraw from Iraqi nationals the privilege of automatically extending the validity of nonimmigrant visas presently accorded to certain aliens who meet the criteria promulgated in § 41.112(d). The rule will adversely affect nationals of Iraq seeking readmission at ports of entry who, because of this rule, will be required to be in possession of valid nonimmigrant visas at the time of application for admission to the United States. Consequently, they will have to apply for a visa at a consular post abroad.

EFFECTIVE DATE: October 31, 1990.

FOR FURTHER INFORMATION CONTACT: Stephen K. Fischel, or Guida Evans-Magher, Legislation and Regulations Division, Visa Office, Washington, DC, 20522–0113, (202) 663–1204 or 663–1206.

SUPPLEMENTARY INFORMATION: Under present regulations at 22 CFR 41.112(d), an alien who departs the United States and is seeking readmission may have his or her visa automatically extended under very specific circumstances, thereby foregoing the necessity of applying for a new visa abroad. These regulations provide for the automatic extension of the expired nonimmigrant visa, if the alien has been absent from the United States not more than thirty days, is seeking readmission from travel only to territory contiguous to the United States, and is in possession of Form I–94 showing an unexpired period of initial admission or extension of stay endorsed by the Immigration and Naturalization Service. Presently, an Iraqi national whose visa has expired might benefit from the automatic extension of the visa validity by applying for readmission at a port of entry under 22 CFR 41.112(d).

In view of the current crisis involving Iraq, the Department has determined that it is in the security interests of the United States to withdraw from nationals of Iraq the privilege of the automatic extension of the validity of nonimmigrant visas at ports of entry.

The impact of the rule is that Iraqi nationals will be required to apply for issuance of a nonimmigrant visa at a consular post abroad and be fully documented in order to gain entry into the United States. Additionally, this rule will enable the Department, through normal visa procedures, to screen nationals of Iraq who may be seeking admission to the United States.

Compliance with the provisions of the Administrative Procedure Act, 5 U.S.C. 553, relative to notice of proposed rulemaking and delayed effective date is impracticable and contrary to the public interest in this instance since expeditious implementation of this rule is required by security considerations resulting from the crisis caused by the invasion of Kuwait by Iraq. This rule is not considered to be a major rule nor is it expected to have a significant impact on a substantial number of small entities.

List of Subjects in 22 CFR Part 41

Aliens, Nonimmigrants, Visas, Validity of Visa.

Accordingly, part 41 is amended to read:

PART 41—[AMENDED]

1. The authority citation for part 41 continues to read:

Authority: Sec. 104, 66 Stat. 174, 8 U.S.C. 1104; sec. 109(b)(1), 91 Stat. 847.

2. Paragraph (d)(3) is added to § 41.112 to read as follows:

§ 41.112 Validity of visa.

* * * * *

(d) *Automatic extension of validity of visa at ports of entry.* * * *

(3) The provisions in paragraphs (d)(1) and (d)(2) of this section shall not apply to nationals of Iraq.

Dated: October 18, 1990

Elizabeth M. Tamposi,

Assistant Secretary for Consular Affairs.

[FR Doc. 90–25925 Filed 10–30–90; 10:27 am]

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Wednesday
October 31, 1990

Part X

The President

Proclamation 6218—Italian-American Heritage and Culture Month, 1990

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Vol. 55, No. 211
Wednesday, October 31, 1990

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Title 3—

The President

Proclamation 6218 of October 26, 1990

Italian-American Heritage and Culture Month, 1990

By the President of the United States of America

A Proclamation

An estimated 12 million Americans proudly claim Italy as their ancestral homeland. Tracing their roots to the country that was once the center of the Roman Empire and, later, the birthplace of the Renaissance, these Americans have shared with their fellow citizens a rich and diverse heritage. During Italian-American Heritage and Culture Month we not only recognize the many contributions Italian-Americans have made to our country but also celebrate the enduring ties between the peoples of the United States and Italy.

Italian-Americans are heirs to a rich cultural and historic legacy, one marked by extraordinary achievements in virtually every field of endeavor. It is the acquired wisdom and unique experience of a country that has produced the literary brilliance of Dante, the inventive genius of Leonardo Da Vinci, the peerless compositions of Verdi, and the sublime artwork of Raphael and Michelangelo. The Italian peninsula—the birthplace of these great men and many other gifted artists, poets, and philosophers—also hosts the Holy See in Rome, the spiritual home of millions of people throughout the Nation and the world.

When the first Italians journeyed to this hemisphere nearly half a millennium ago, they not only brought with them a wealth of knowledge and experience but also helped to begin a long and fruitful series of exchanges between the Old World and the New. Indeed, all Americans owe a lasting debt of gratitude to the daring Italian navigators Amerigo Vespucci, Giovanni da Verrazano, and, of course, Christopher Columbus, the brave son of Genoa who landed on these shores in 1492.

Throughout our Nation's history, Italian immigrants and their descendants have been firmly devoted to the values and ideals on which the United States is founded. Since the days of the Revolutionary War, when they joined in the struggle for liberty and self-government, Americans of Italian descent have demonstrated a profound sense of patriotism and an unfailing love of freedom. They have also inspired their fellow Americans through their great faith in God, their devotion to family life, and their appreciation for the rewards of education and hard work.

Just as a mutual commitment to democratic ideals unites Italian-Americans with their fellow citizens, shared values and aspirations continue to form a strong link between the United States and Italy. For example, the United States and Italy are committed to maintaining a strong NATO, and we welcome the ongoing elimination of artificial barriers in Europe. This month, as we celebrate the deep cultural and familial ties between our two countries, we also reaffirm the importance of our partnership as members of the Atlantic Alliance.

The Congress, by Senate Joint Resolution 349, has designated the month of October 1990 as "Italian-American Heritage and Culture Month" and has authorized and requested the President to issue a proclamation in observance of this month.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the month of October 1990 as Italian-American Heritage and Culture Month. I invite all Americans to observe this month with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of October, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.

George Bush

[FR Doc. 90-25811
Filed 10-30-90; 11:42 am]
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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

In the List of Public Laws printed in the **Federal Register** on October 18, 1990, S 2806, Public Law 101–427, was incorrectly printed as S. 2886. It should read as follows:

S. 2806/Pub. L. 101–427

To redesignate The National System of Interstate and Defense Highways as The Dwight D. Eisenhower System of Interstate and Defense Highways. (Oct. 15, 1990; 104 Stat. 927; 1 page) Price: $1.00

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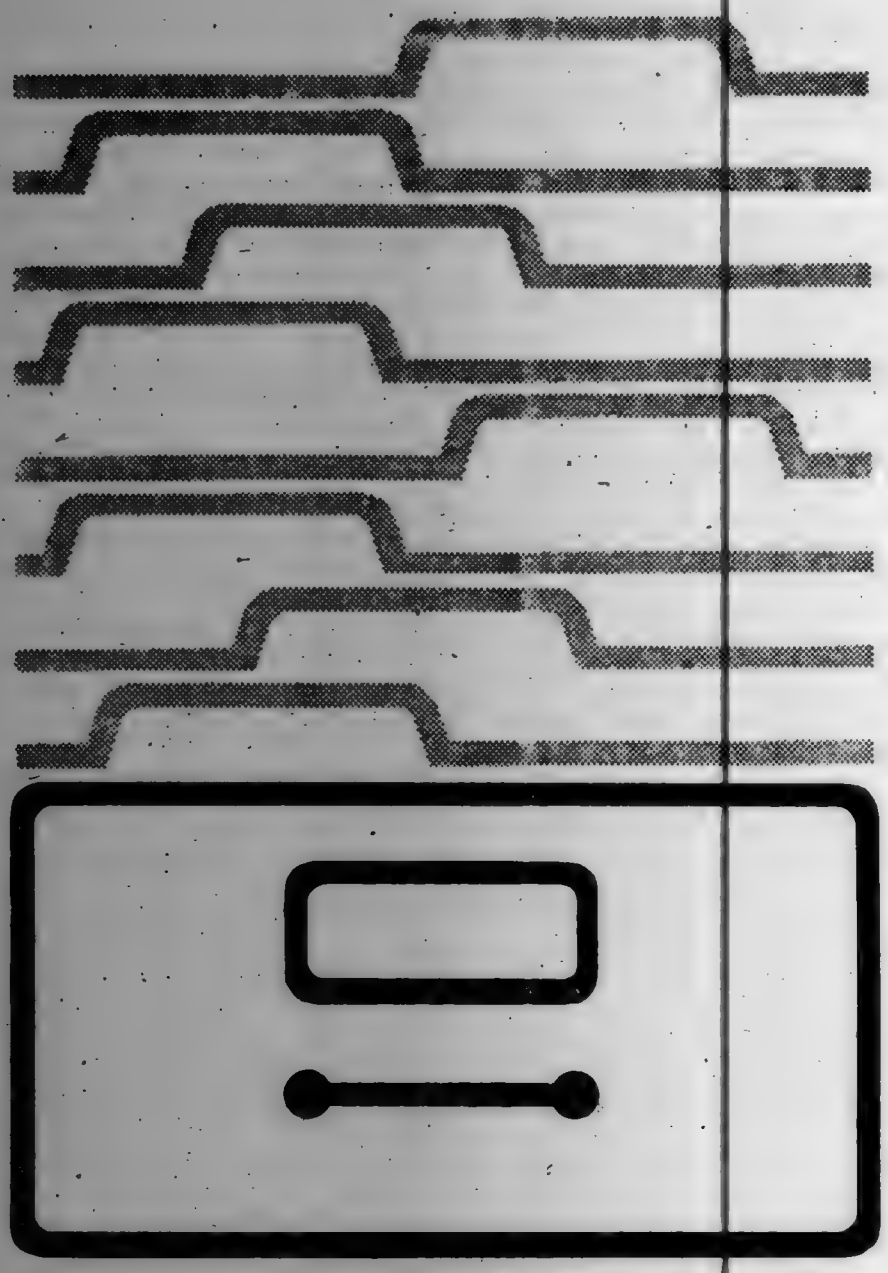

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in the Code of Federal Regulations (CFR)

GUIDE: Revised January 1, 1989
SUPPLEMENT: Revised January 1, 1990

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The various abstracts in the GUIDE tell the user (1) what records must be kept, (2) who must keep them, and (3) how long they must be kept.

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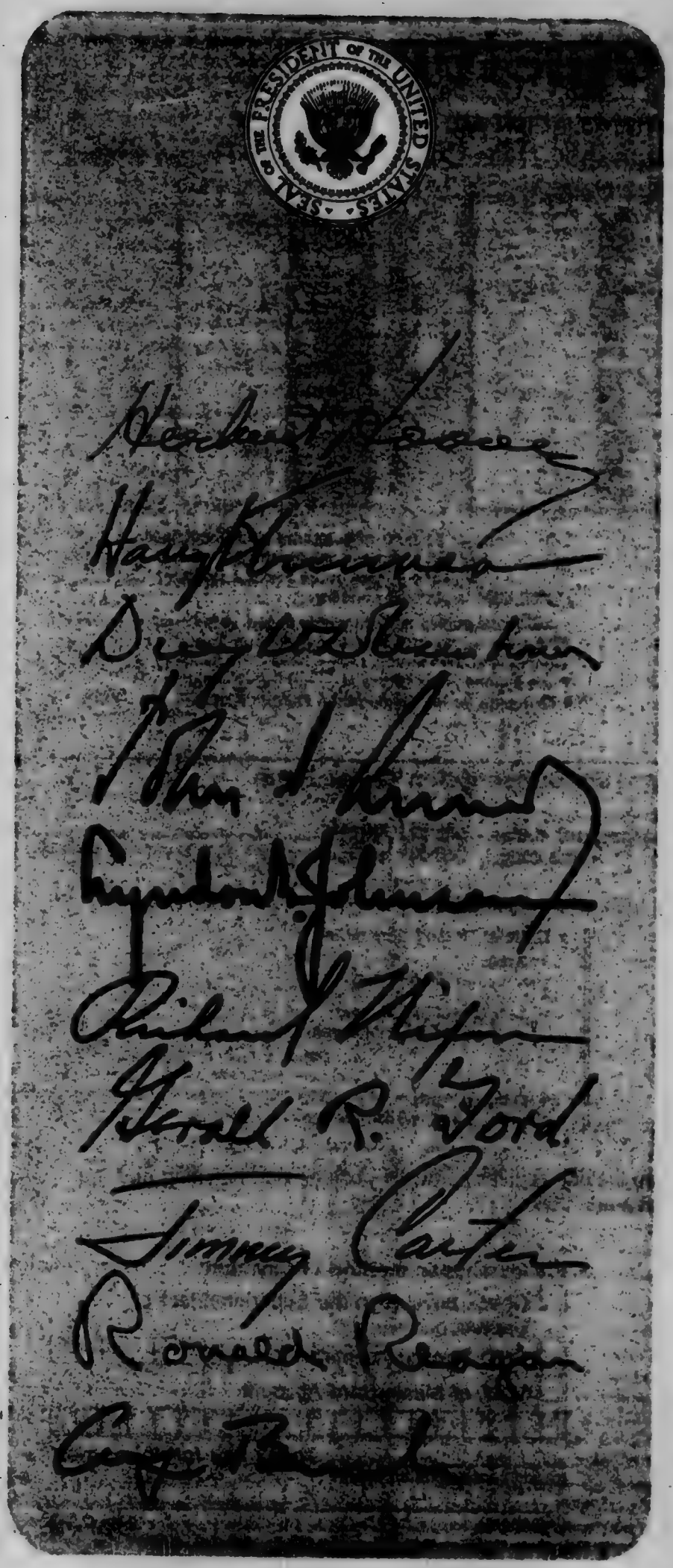

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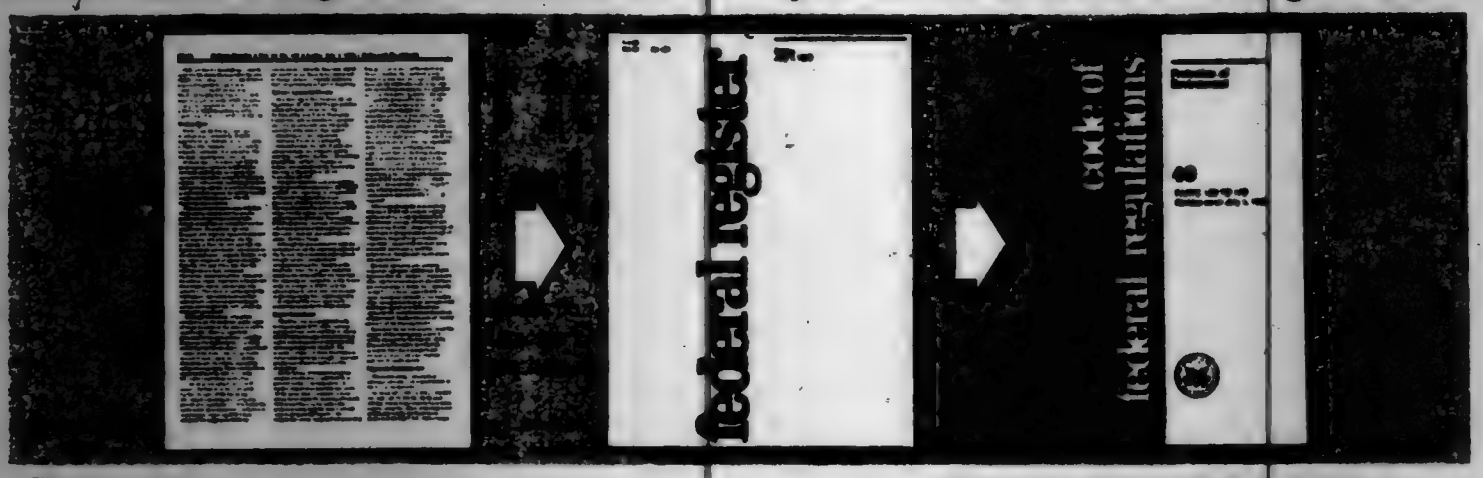

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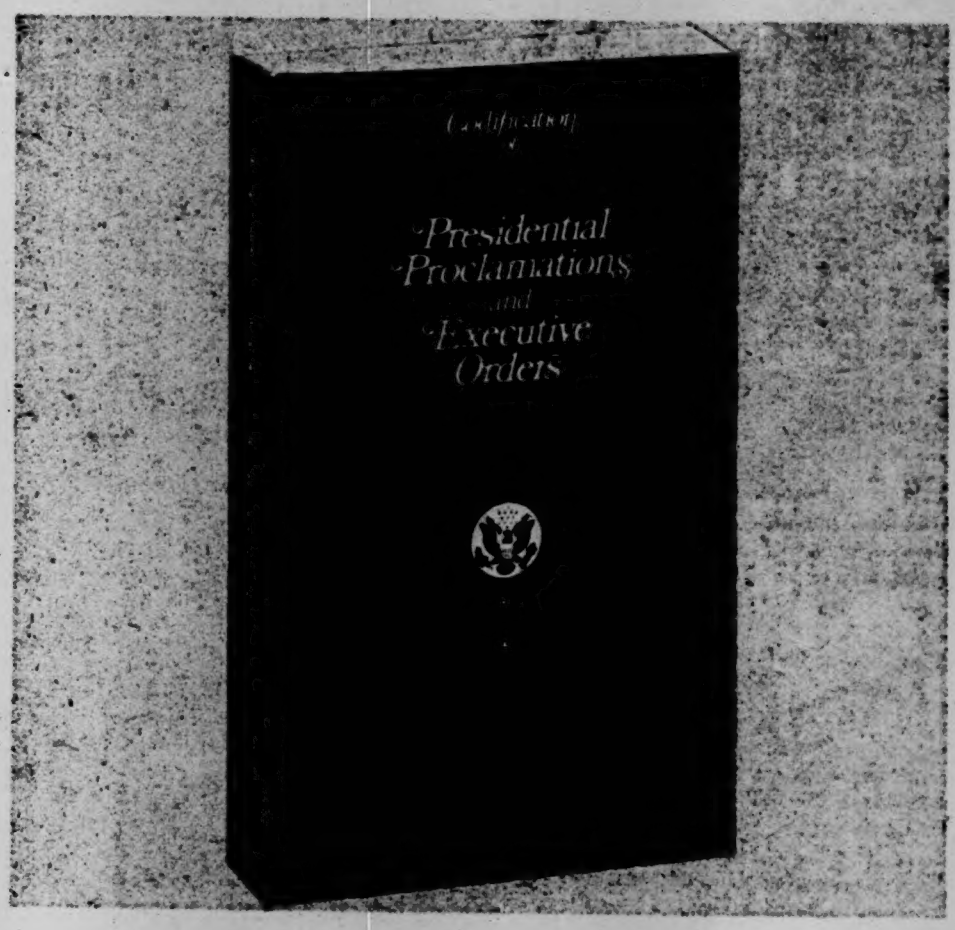

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